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| Monday | Tuesday | Wednesday | Thursday | Friday |
|---|---|---|---|---|
| NRC | USDA/ASCS | | NRC | USDA/ASCS |
| DOT/COAST GUARD | USDA/APHIS | | DOT/COAST GUARD | USDA/APHIS |
| DOT/NHTSA | USDA/FNS | | DOT/NHTSA | USDA/FNS |
| DOT/FAA | USDA/REA | | DOT/FAA | USDA/REA |
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# reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

**Rules Going Into Effect July 15, 1977**

DOT/CG—Drawbridge operation; revision of regulations at Dodge Island, Fla., Niantic River, Conn. and Dutch Kills, NY (3 documents).... 30178–30179; 6–13–77

FAA—Airworthiness directives; Agusta A–109A helicopters..... 33266; 6–30–77

FCC—FM broadcast station; table of assignments; Hobard, Okla..... 30371; 6–14–77

INTERIOR/NPS—National Park System; sale or distribution of printed matter; permit requirements.. 30501; 6–15–77

SEC—Securities Exchange Act; net capital uniform rule and customer protection rule..... 27221; 5–27–77

**Rules Going Into Effect July 16, 1977**

DOT/FAA—Airworthiness directives; Beech model 278 propellers.... 28873; 6–6–77

**Rules Going Into Effect Today**

DOT/FAA—Beech Models 60, A60 and B60 Airplanes; airworthiness directives..... 35634; 7–11–77

Standard instrument approach procedure..... 35641; 7–11–77

Standard instrument approach procedures..... 33273; 6–30–77

**List of Public Laws**

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.





# rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 10—Energy

## CHAPTER I—NUCLEAR REGULATORY COMMISSION

## PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

### Codification

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is issuing a statement of its organization and functions that sets out in codified form a description of the major program and staff components of the agency and their functions, lists the location of NRC offices, and describes the NRC seal and flag. This notice, which supersedes notices published on January 22, 1975, and December 11, 1975, complies with provisions of the Freedom of Information Act that each agency shall publish a description of its organization and a list of locations where the public may obtain information.

EFFECTIVE DATE: July 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Betty L. Wagman, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301–492–8133.

SUPPLEMENTARY INFORMATION: On January 22, 1975, the Nuclear Regulatory Commission (NRC) published in the FEDERAL REGISTER (40 FR 3520) a notice of the transition organization of its major program and staff components. This notice included a statement that "The organizational requirements of NRC are currently undergoing intensive review by the Commission and further refinements are expected in due course." On December 11, 1975, the NRC published a notice in the FEDERAL REGISTER (40 FR 57722), describing its official seal and restrictions on its use.

Notice is hereby given of a new Part 1 of the NRC regulations, entitled "Statement of Organization and General Information," which is issued pursuant to 5 U.S.C. 552(a)(1), the Freedom of Information Act. This notice supersedes the notices published on January 22, 1975, and December 11, 1975.

Because this notice relates to matters of agency organization and practice, general notice of proposed rulemaking and public procedure thereon are unnecessary.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following new Part 1 of Title 10, Chapter I, Code of Federal Regulations, is published as a document subject to codification.

A new Part 1 is added to read as follows:

**Subpart A—Introduction**

Sec
1.1 Creation and authority.
1.2 Sources of additional information.
1.3 Location of principal offices and regional offices.

**Subpart B—Headquarters**

1.10 The Commission.

PANELS, BOARDS, AND COMMITTEES

1.11 Atomic Safety and Licensing Board Panel.
1.12 Atomic Safety and Licensing Appeal Panel.
1.20 Advisory Committee on Reactor Safeguards.
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1.30 Office of Inspector and Auditor.
1.31 Office of Policy Evaluation.
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1.33 Office of the Secretary.
1.34 Office of Public Affairs.
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1.40 Office of the Executive Director for Operations.

STAFF OFFICES

1.41 Office of Administration.
1.42 Office of the Executive Legal Director.
1.43 Office of the Controller.
1.44 Office of Equal Employment Opportunity.
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PROGRAM OFFICES

1.60 Office of Nuclear Material Safety and Safeguards.
1.61 Office of Nuclear Reactor Regulation.
1.62 Office of Nuclear Regulatory Research.
1.63 Office of Standards Development.
1.64 Office of Inspection and Enforcement.

**Subpart C—NRC Seal and Flag**

1.80 Description and custody of NRC seal.
1.81 Use of NRC seal or replicas.
1.82 Establishment of official NRC flag.
1.83 Use of NRC flag.
1.84 Report of violations.

AUTHORITY: Sec. 161, Pub. L. 83–703, 68 Stat. 948 (42 U.S.C. 2201); secs. 201, 203, 204, 205, and 209, Pub. L. 93–438, 88 Stat. 1242, 1244, 1245, 1246, and 1248 (42 U.S.C. 5841, 5843, 5844, 5845, and 5849); Pub. L. 94–79, 89 Stat. 413; and 5 U.S.C. 552 and 553.

### Subpart A—Introduction

**§ 1.1 Creation and authority.**

(a) The Nuclear Regulatory Commission was established by the Energy Reorganization Act of 1974, as amended, Pub. L. 93–438, 88 Stat. 1233 (42 U.S.C. 5801 et seq.). This Act abolished the Atomic Energy Commission and, by section 201, transferred to the Nuclear Regulatory Commission all the licensing and related regulatory functions assigned to the Atomic Energy Commission by the Atomic Energy Act of 1954, as amended, Pub. L. 83–703, 68 Stat. 919 (42 U.S.C. 2011 et seq.). These functions included those of the Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Panel. The Energy Reorganization Act became effective January 19, 1975 (E.O. 11834).

(b) As used in this part, "Commission" means the five members of the Nuclear Regulatory Commission or a quorum thereof sitting as a body, as provided by section 201 of the Energy Reorganization Act of 1974, as amended. "NRC" means the Nuclear Regulatory Commission, the agency established by Title II of the Energy Reorganization Act of 1974, as amended, comprising the members of the Commission and all offices, employees, and representatives authorized to act in any case or matter.

**§ 1.2 Sources of additional information.**

(a) The definitive statement of the NRC's organization, policies, procedures, assignments of responsibility, and delegations of authority is in the Nuclear Regulatory Commission Manual and other elements of the NRC's Management Directives System, including local directives issued by Regional Offices. Copies of the Manual, other elements of the Management Directives System, and agency operating procedures that affect the public are available for public inspection and copying at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. and at each of NRC's Regional Offices. Information may also be obtained from the Office of Public Affairs or from Public Affairs Officers at the Regional Offices.

(b) Commission meetings are open to the public, as provided by the Government in the Sunshine Act, unless they fall within an exemption to the Act's openness requirement and the Commission also has determined that the public interest requires that those particular meetings be closed. Information concerning Commission meetings may be obtained from the Office of the Secretary.

(c) Information regarding the availability of NRC records under the Free-



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dom of Information Act and the Privacy Act of 1974 may be obtained from the Division of Rules and Records, Office of Administration. NRC's regulations are published in the FEDERAL REGISTER and codified in Title 10 of the Code of Federal Regulations. They are also published in "NRC Rules and Regulations," available on a subscription basis from the Superintendent of Documents, U.S. Government Printing Office. Final opinions made in the adjudication of cases are published in "Nuclear Regulatory Commission Issuances," available on a subscription basis from the National Technical Information Service, Springfield, Va. 22161.

### § 1.3 Location of principal offices and Regional Offices.

(a) The principal NRC offices are located in the Washington, D.C., area. Facilities for the service of process and papers are maintained within the District of Columbia at 1717 H Street NW. The mailing address for all NRC Headquarters offices is Washington, D.C. 20555. The locations of NRC offices in the Washington area are:

(1) Matomic Building, 1717 H Street NW., Washington, D.C.
(2) Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland.
(3) Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland.
(4) Landow Building, 7910 Woodmont Avenue, Bethesda, Maryland.
(5) Lugenbell Building, 4922 Fairmont Avenue, Bethesda, Maryland.
(6) East West Towers Building, 4350 East West Highway, Bethesda, Maryland.
(7) Nicholson Lane Building, 5650 Nicholson Lane, Rockville, Maryland.
(8) Willste Building, 7915 Eastern Avenue, Silver Spring, Maryland.

(b) The addresses of the NRC Regional Offices (see § 1.64) are:

Region I, USNRC, 631 Park Avenue, King of Prussia, Pennsylvania 19406.
Region II, USNRC, 230 Peachtree Street NW., Suite 1217, Atlanta, Georgia 30303.
Region III, USNRC, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.
Region IV, USNRC, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76012.
Region V, USNRC, 1990 North California Boulevard, Suite 202, Walnut Creek, California 94596.

## Subpart B—Headquarters

### § 1.10 The Commission.

(a) The Nuclear Regulatory Commission, composed of five members, one of whom is designated by the President as Chairman, is established pursuant to section 201 of the Energy Reorganization Act of 1974, as amended. The Chairman is the principal executive officer of the Commission, and exercises its executive and administrative functions with respect to appointment and supervision of personnel, except as otherwise provided by the Enargy Reorganization Act of 1974, as amended; distribution of business; use and expenditure of funds (except that the function of revising budget estimates and purposes is reserved to the Commission); and appointment, subject to approval of the Commission, of heads of major administrative units under the Commission.

(b) The following staff units and officials report directly to the Commission: Atomic Safety and Licensing Board Panel, Atomic Safety and Licensing Appeal Panel, Office of Inspector and Auditor, Office of Policy Evaluation, Office of the General Counsel, Office of the Secretary, Office of Public Affairs, Office of Congressional Affairs, the Executive Director for Operations, and other committees and boards which are authorized or established specifically by the Act. The Directors of the Offices of Nuclear Reactor Regulation, Nuclear Material Safety and Safeguards, and Nuclear Regulatory Research may communicate with and report directly to the Commission, under the provisions of section 209 of the Energy Reorganization Act of 1974. The Advisory Committee on Reactor Safeguards also reports directly to the Commission.

### PANELS, BOARDS, AND COMMITTEES

### § 1.11 Atomic Safety and Licensing Board Panel.

The Atomic Safety and Licensing Board Panel is the organizational group from which Atomic Safety and Licensing Boards are selected. These three-member boards, named in accordance with the provisions of section 191 of the Atomic Energy Act, conduct such hearings as the Commission may authorize or direct, make such intermediate or final decisions as the Commission may authorize in proceedings to grant, suspend, revoke, or amend licenses or authorizations, and perform such other regulatory functions as the Commission may specify. The Panel develops procedures and makes recommendations to the Commission regarding activities of the hearing boards.

### § 1.12 Atomic Safety and Licensing Appeal Panel.

The Atomic Safety and Licensing Appeal Panel is the organizational group from which Atomic Safety and Licensing Appeal Boards are selected. Under powers delegated by the Commission, these three-member Boards exercise the authority and perform the regulatory review functions which would otherwise be exercised and performed by the Commission. They perform these functions in proceedings on licenses under 10 CFR Part 50, and such other licensing proceedings as the Commission may specify, reviewing initial decisions and other issuances of Atomic Safety and Licensing Boards and other presiding officers.

### § 1.20 Advisory Committee on Reactor Safeguards.

The Advisory Committee on Reactor Safeguards was established by section 29 of the Atomic Energy Act of 1954, as amended, and transferred to the NRC pursuant to the Energy Reorganization Act of 1974, as amended. The Committee reviews safety studies, and applications for construction permits and operating licenses for production and utilization facilities, and makes reports thereon; advises the Commission with regard to the hazards of proposed or existing nuclear facilities and the adequacy of proposed reactor safety standards; and reviews matters specifically referred to it by the Commission, including generic issues and proposed amendments or changes to facility construction permits or operating licenses. The Committee on its own initiative may conduct reviews of specific generic matters or nuclear facility safety-related items.

### § 1.21 Other committees, boards, and panels.

Pursuant to section 161a. of the Atomic Energy Act of 1954, as amended, the Commission may establish advisory bodies to make recommendations to it. Currently only one such committee is in existence.

(a) The Advisory Committee on Medical Use of Isotopes (ACMI) was established by the Atomic Energy Commission in July 1958. The ACMI, composed of physicians and scientists, considers medical questions referred to it by the NRC staff, and renders expert opinion regarding medical uses of byproduct material. The ACMI also advises the NRC staff, as requested, on matters of policy regarding licensing of the medical uses of byproduct material.

### COMMISSION STAFF

### § 1.30 Office of Inspector and Auditor.

The Office of Inspector and Auditor: (a) develops policies and standards governing NRC's financial and management audit program; (b) plans and directs NRC's long-range comprehensive audit program; (c) conducts NRC's day-to-day internal audit activity; (d) conducts investigations and inspections to ascertain and verify the facts with regard to the integrity of all NRC operations; (e) investigates possible irregularities or alleged misconduct of NRC employees, equal employment opportunity and civil rights complaints, and claims for personal property loss or damage; (f) refers suspected or alleged criminal violations to the Department of Justice, after appropriately informing or consulting with the Office of General Counsel; except that in referrals requiring prompt field response (such as sabotage, terrorism, or theft of special nuclear material), the Office of Inspection and Enforcement shall make direct referral to the Federal Bureau of Investigation and thereafter coordinate with the Office of Inspector and Auditor; (g) under the Commission's "open door" policy, hears individual employee concerns regarding NRC operations and activities, and, as appropriate, investigates such concerns; (h) maintains liaison with the General Accounting Office and other audit organizations; (i) maintains liaison with the Department of Justice and other law enforcement agencies in criminal and other investigative matters; and (j) provides reports and recommendations to the Commission





on the results of its audits, investigations, and inspections.

### § 1.31 Office of Policy Evaluation.

The Office of Policy Evaluation: (a) provides for the Commission an independent evaluation of program policy objectives; (b) reviews staff issue papers and policy recommendations to determine if they are complete, balanced, and consistent with Commission guidance; (c) provides independent technical evaluation of selected cases presented to the Commission for adjudication; (d) conducts analyses and studies as requested by the Commission or on a self-initiated basis; (e) contributes technical and policy advice and guidance, as needed, for studies and projects being conducted and managed by other NRC offices or outside agencies.

### § 1.32 Office of the General Counsel.

The Office of the General Counsel: (a) provides legal advice and assistance to the Commission and Commission offices with respect to all activities of the NRC; (b) reviews Atomic Safety and Licensing Appeal Board decisions and rulings, decisions reached by staff offices under 10 CFR 2.206, petitions received from members of the public seeking direct Commission action, and rulemaking proceedings involving hearings; and prepares decisions, orders, and rulings for the Commission on these matters; (c) represents, and protects the interests of, the NRC in court proceedings, and in dealings with other government agencies, committees of Congress, foreign governments, and members of the public; (d) coordinates and prepares legislative materials in connection with legislation initiated by the NRC and legislations submitted to it for comment; (e) provides advice with respect to questions raised under the conflict of interest laws, Freedom of Information Act, Federal Advisory Committee Act, and Government in the Sunshine Act; (f) provides official written interpretations of the Commission's rules; and (g) performs other functions assigned by the Commission.

### § 1.33 Office of the Secretary.

The Office of the Secretary: (a) develops policies and procedures, and provides secretariat services for the conduct of Commission business and implementation of Commission decisions, including scheduling of Commission business and recording of meetings; (b) issues decisions, orders, and rulings of the Commission, and maintains the official docket of the Commission; and (c) directs and administers the NRC Public Document Room.

### § 1.34 Office of Public Affairs.

The Office of Public Affairs: (a) develops policies and administers programs at NRC headquarters and Regional Offices to inform the public and the news media about NRC policies, programs, and activities; (b) and keeps NRC management informed on media coverage of activities of interest to the agency.

### § 1.35 Office of Congressional Affairs.

The Office of Congressional Affairs: (a) provides advice and assistance to the Commission and NRC staff on all NRC relations with the Congress, and informs them concerning the views of Congress toward NRC policies, plans, and activities; (b) maintains liaison with congressional committees and members of Congress on matters of interest to NRC, and keeps Congress informed on NRC plans, policies, and activities; (c) serves as the contact point for all NRC communications with Congress, reviewing and concurring in all outgoing correspondence to members of Congress and congressional committees; and (d) monitors legislative matters of interest to NRC, and participates in planning and developing NRC's legislative programs.

### EXECUTIVE DIRECTOR

### § 1.40 Office of the Executive Director for Operations.

The Executive Director for Operations (EDO) is appointed by the Commission, pursuant to the Energy Reorganization Act of 1974, as amended, and performs such functions as the Commission may direct, including the following:

(a) Provides the Commission with assistance on policy, managment, and operational matters. Submits to the Commission for approval such appointments as the Commission shall designate, including Directors of certain divisions and offices. Submits for approval significant changes in the organization.

(b) Supervises and coordinates policy development and operational activities of the following line offices: The Office of Nuclear Reactor Regulation, the Office of Nuclear Material Safety and Safeguards, the Office of Nuclear Regulatory Research, the Office of Inspection and Enforcement, and the Office of Standards Development; and the following staff offices: the Office of Administration, the Office of International Programs, the Office of State Programs, the Office of the Controller, the Office of the Executive Legal Director, the Office of Planning and Analysis, the Office of Management Information and Program Control, the Office of Equal Employment Opportunity, and such other organizational units as shall be assigned by the Commission. The EDO is also responsible for implementation of the Commission's policy directives pertaining to these offices.

(c) Recommends to the Commission proposed regulations to protect public health and safety and the environment from effects associated with nuclear facilities and materials subject to licensing; to provide for security of licensed nuclear facilities and safeguarding of licensed radioactive materials; and to assure that activities under facility licenses would not be inconsistent with antitrust laws, as specified in section 105a. of the Atomic Energy Act of 1954, as amended.

(d) Issues proposed amendments to regulations and amendments in final form, where the amendments are corrective or of a minor or nonpolicy nature and do not substantially modify existing regulations; and issues amendments of regulations in final form, if no significant adverse comments or questions have been received on the notice of proposed rulemaking and no substantial changes in text are indicated.

(e) Makes determinations, pursuant to 10 CFR Parts 30, 40, 50, and 70, that exemptions of individual prime contractors or subcontractors of the Energy Research and Development Administration or the NRC from NRC licensing requirements are authorized by law.

(f) Makes for the Commission, after consultation with the Attorney General, the determinations provided for in section 105c.(8) of the Atomic Energy Act of 1954, as amended, in regard to applications for facility construction permits or operating licenses.

(g) Negotiates and signs agreements, arrangements, and contracts with represenstatives of foreign countries and international organizations.

(h) Designates which facilities, installations, and real property shall be subject to the prohibitions of 10 CFR Part 160, "Trespassing on Commission Property."

(i) Administers the contracting activities of the Commission.

(j) Administers the Commission's equal employment opportunity program.

(k) Develops and maintains the NRC financial management program.

(l) Acts for the Head of the Agency in making determinations required in administering the NRC labor relations program.

(m) Execrises final determination on appeals under the Privacy Act of 1974, and issues minor revisions of systems of records notices.

(n) Exercises final determination on appeals under the Freedom of Information Act except for those pertaining to the Office of the Executive Legal Director or to advisory committees, boards, panels, and offices reporting to the Commission.

### STAFF OFFICES

### § 1.41 Office of Administration.

The Office of Administration develops and directs polices and programs for personnel administration, organization and management analysis, security and security classification, building management and administrative services, document control, automatic data processing, rules and records, contracting and procurement, and facilities and material license fees.

(a) The Division of Organization and Personnel administers and directs policies, standards, and programs for organization and personnel management activities, including recruitment, training, executive development, staffing services and information, organization and management analysis, labor-management relations, and employee services.

(b) The Division of Security develops, administers, and directs the overall NRC security program; assures the safeguarding of Restricted Data, other National Security Information, and NRC sensi-



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tive unclassified matter including NRC telecommunications of significant intelligence value; assures the physical protection of NRC Headquarters buildings, Regional Offices and contractor facilities; and provides advice and assistance on security matters.

(c) The Division of Facilities and Operations Support is responsible for the planning and direction of support programs for facilities and administrative services, including building operations, property, supply, telecommunications, travel, mail, and messenger services.

(d) The Division of Document Control is responsible for planning and directing the production (exclusive of writing and editing) and control of NRC documents. Its responsibilities include: Typing services; publication and graphics; NRC management directives; and document evaluation, dissemination, storage, and retrieval.

(e) The Division of Automatic Data Processing Support Plans, coordinates, and directs development and utilization of NRC computer services and computer facilities for the storage, retrieval, analysis, and dissemination of information; advises and assists in the development and conversion of scientific and analytical programing and the interpretation of automatic data processing procedures; evaluates expected benefits and costs of computer applications; and provides systems development, programing and operation services for NRC offices.

(f) The Division of Rules and Records is responsible for: NRC implementation of the Freedom of Information Act, Privacy Act, and Federal Reports Act; directing and coordinating NRC local public document room activities; publishing "NRC Rules and Regulations" and "Nuclear Regulatory Commission Issuances"; and reviewing and preparing notices and amendments to NRC regulations, including the processing of petitions for rulemaking.

(g) The Division of Contracts develops and implements agency-wide contracting policies and procedures; directs and coordinates contracting and purchasing activities for NRC, including contractor selection, and negotiation, administration, and closeout of contracts; and provides advice and assistance to NRC program officials concerning procurement regulations and requirements.

(h) The License Fee Management Branch is responsible for collecting fees from licensees and applicants for licenses, as required by 10 CFR Part 170, which sets fees for licensing nuclear production and utilization facilities and nuclear materials. Responsibilities include: reviewing license applications to ensure appropriate fee payment, issuing Orders to Show Cause and Orders of Revocation where licensees violate Commission regulations by nonpayment of license fees, recommending license fee policy changes, and preparing amendments to license fee regulations for Commission approval.

**§ 1.42 Office of the Executive Legal Director.**

The Office of the Executive Legal Director provides legal advice and services to the Executive Director for Operations and offices reporting to that official, including interpretation of laws, regulations, and other sources of authority, advising on the legal form and content of proposed official actions and representing such offices in NRC administrative proceedings; prepares or concurs in contractual documents, interagency agreements, delegations of authority, regulations, orders, licenses, and other legal documents, and prepares legal interpretations thereof; reviews and directs patent law activities; and, except for those matters delegated to the General Counsel, represents the NRC in legal matters with other government agencies, foreign governments, or the public, and in proceedings before administrative bodies outside of NRC.

(a) The Regulations Division prepares, reviews, and advises on NRC regulations and amendments thereto for NRC staff, personnel of other Federal and State agencies, licensees, and others; initiates and drafts administrative procedures for licensing and regulation of the uses of nuclear energy; and provides legal advice on NRC nuclear materials licensing, safeguards, and export licensing matters.

(b) The Operations and Administration Division provides legal advice and assistance in areas of interagency and international agreements, research and technical assistance contracts, patents, proprietary information and other intellectual property, financial and budget matters, security, personnel, and equal employment opportunity, and the administration of the Freedom of Information Act and the Privacy Act.

(c) The Hearing Division acts as counsel for the NRC staff in public administrative proceedings before the Commission, Atomic Safety and Licensing Appeal Boards, Atomic Safety and Licensing Boards, and administrative law judges, in matters relating to licensing of nuclear facilities and materials; and provides legal advice to NRC staff concerning licensing and regulation of nuclear facilities.

(d) The Rulemaking and Enforcement Division acts as counsel for the NRC staff in public administrative proceedings before the Commission, Atomic Safety and Licensing Appeal Boards, Atomic Safety and Licensing Boards, special boards appointed by the Commission, and administrative law judges, in matters involving proposed NRC regulations and the enforcement of NRC license conditions and regulations; and advises the NRC staff regarding enforcement matters involving the amendment, suspension, or termination of licenses, and the imposition of civil penalties.

(e) The Antitrust Division acts as counsel for the NRC staff in public administrative proceedings before the Commission, Atomic Safety and Licensing Appeal Boards, Atomic Safety and Licensing Boards, and administrative law judges, in matters relating to antitrust aspects of applications for nuclear facility licenses; and provides legal advice regarding NRC antitrust responsibilities.

**§ 1.43 Office of the Controller.**

The Office of the Controller develops and maintains NRC's financial management program. Responsibilities include: Policies, procedures, and standards of accounting, budgeting, pricing, contract finance, automatic data processing equipment acquisition, accounting for capitalized property, and related reporting necessary for NRC direct and contract operations; administration of financial functions for NRC long-range fiscal planning; and liaison on fiscal matters with the General Accounting Office and the Office of Management and Budget and other government agencies, congressional committees (in coordination with the Office of Congressional Affairs), and industry.

(a) The Resources Planning and Evaluation Staff designs systems and develops criteria for NRC program planning and evaluation; evaluates relationships between resource allocation and program performance; and develops overall plans and procedures for measuring and enhancing productivity.

(b) The Division of Accounting develops, maintains, and applies overall policies, principles, standards, and procedures for financial and cost accounting and reporting, automatic data processing equipment acquisition, pricing, and financial arrangements under NRC contracts; is responsible for payroll and travel accounting and other fiscal services; and provides advice and assistance to the Commission, the Executive Director for Operations, and NRC offices on these matters.

(c) The Division of Budget coordinates the preparation of the NRC budget, directs funds controls, issues allotments and financial plans; monitors performance under approved budgets and administers NRC authorization and appropriation funding legislation; and maintains liaison with the Office of Management and Budget and (in coordination with the Office of Congressional Affairs) with congressional committees.

**§ 1.44 Office of Equal Employment Opportunity.**

The Office of Equal Employment Opportunity: (a) develops and recommends for approval by the Executive Director for Operations overall NRC policy providing for equal employment opportunity, without discrimination on the basis of race, color, creed, sex, national origin, age, physical handicap, political affiliation, or marital status; (b) monitors and evaluates NRC's affirmative action program, and recommends improvements or corrections needed to achieve its goals; (c) serves as the NRC contact with local and national public and private organizations on matters relating to equal employment opportunity; and (d) serves as the compliance office for matters relating to Title VI of the Civil Rights Act of 1964 and Title IV of the Energy Reorganization Act of 1974, and 10 CFR Part 4, "Nondiscrimination in Federally Assisted Programs."

**§ 1.45 Office of Planning and Analysis.**

The Office of Planning and Analysis assesses agency programs; conducts studies and evaluations of management effectiveness; analyzes and develops NRC policies; reviews the activities of offices reporting to and through the Executive Director for Operations; identifies strategies for accomplishing the agency's goals and objectives; and assures consistent implementation of agency policies on cost-benefit analyses.





**§ 1.46 Office of International Programs.**

The Office of International Programs is responsible for planning, developing, and coordinating staff implementation of NRC's international activities, and for coordinating these activities with those of other agencies. Responsibilities include: (a) Negotiating and implementing regulatory and safety information exchange agreements with other countries and international organizations; (b) coordinating NRC export-import policies and issuing licenses for import and export of nuclear materials and facilities as directed by the Commission; and (c) policy planning related to international safeguards and nonproliferation matters.

**§ 1.47 Office of State Programs.**

The Office of State Programs is responsible for developing and implementing plans, policies, and programs for the coordination and integration of Federal and State responsibilities in the regulation of nuclear materials and facilities; carrying out NRC's federally assigned "lead-agency" role in providing training and technical assistance to State and local governments to enhance their radiological emergency response planning and operations capabilities; developing NRC's national-level emergency preparedness program; administering the State Agreements program whereby qualified States assume certain NRC regulatory functions; and providing direct program support to NRC in all aspects of State-related activites, including the monitoring of all State legislation and activities affecting the agency.

**§ 1.48 Office of Management Information and Program Control.**

The Office of Management Information and Program Control provides integrated management information and control systems for program planning, and for reporting and analyzing schedules, manpower, budget, and performance of NRC programs; develops and maintains automatic data processing methods for management information systems; administers systems for nuclear plant reliability data collection, compilation, and dissemination of engineering, operational, and failure data; administers agency-wide manpower report system and performance appraisal reports; analyzes and reports on the operating experience of facilities licensed by NRC; and, in coordination with other NRC offices, develops and implements procedures and analyses for research utilization in regulatory judgments.

(a) The Operations Evaluation Division reviews and analyzes operating experience at licensed facilities; prepares computer summaries of events reported by licensees; prepares a quarterly report to Congress on abnormal occurrences; maintains the central repository on radiation exposures; and evaluates operating experience.

(b) The Division of Licensing Information Systems collects, processes, analyzes, and reports information used to appraise licensing program performance.

(c) The Division of Regulatory Information Systems collects, processes, analyzes, and reports information for program performance appraisal of regulatory research programs, operating reactors; nuclear construction and regulatory standards.

PROGRAM OFFICES

**§ 1.60 Office of Nuclear Material Safety and Safeguards.**

The Office of Nuclear Material Safety and Safeguards was establishd by the Energy Reorganization Act of 1974, as amended. Its functions are: To license and regulate facilities and materials associated with the processing, transport, and handling of nuclear materials; to license operators of production facilities; to review and assess provisions for safety and safeguards against threats, thefts, and sabotage; and to recommend research on safety and safeguards matters.

(a) The Division of Fuel Cycle and Material Safety performs those licensing and regulatory activities specified by the Atomic Energy Act of 1954, as amended, which pertain to the processing, transport, and handling of nuclear materials off the reactor site. These include: Performing safety and environmental reviews for production facilities other than those defined in 10 CFR 50.2(a)(1), licensing radioisotopes, certifying container designs for transportation of radioactive materials, developing and implementing a waste management program, assessing and improving the fuel cycle regulatory base, conducting generic studies on the nuclear fuel cycle, evaluating new technologies for improving safety and environmental protection, and identifying and coordinating related standards and research requirements.

(b) The Division of Safeguards develops, implements, and evaluates the overall nuclear safeguards program. This includes initiating NRC safeguards policies and developing, in coordination with the Office of Nuclear Reactor Regulation and other NRC offices, an agency-wide safeguards plan, reviewing the physical security and material control and accounting measures proposed by applicants for nuclear materials licenses; improving the effectiveness of existing domestic and international safeguards systems; planning long-range approaches and identifying associated research requirements; developing and implementing contingency plans to deal with threats, thefts, and sabotage of nuclear material and facilities; evaluating safeguards systems capabilities; and monitoring safeguards operations through information analysis.

**§ 1.61 Office of Nuclear Reactor Regulation.**

The Office of Nuclear Reactor Regulation, established by the Energy Reorganization Act of 1974, as amended, performs licensing functions associated with the construction and operation of nuclear reactors and with the receipt, possession, ownership, and use of special nuclear and byproduct material used at reactor facilities. It reviews applications and issues licenses for reactor facilities required to be licensed under the Atomic Energy Act of 1954, as amended, and evaluates the health, safety, and environmental aspects of facilities and sites; develops and administers regulations; licenses reactor operators; provides assistance in matters involving reactors or critical facilities exempt from licensing; analyzes reactor design concepts; evaluates methods of transporting nuclear materials and radioactive wastes on reactor sites; and monitors and tests operating reactors, recommending upgrading of facilities and modification of regulations as appropriate.

(a) The Division of Project Management carries out the reactor licensing process for utilization and production facilities other than fuel reprocessing and isotopic enrichment plants; is responsible for managing safety reviews of applications for construction permits and operating licenses for reactors and evaluations of standard plant designs; evaluates technical specifications, compliance with quality assurance criteria, financial qualifications, and plans for dealing with radiological emergencies and potential sabotage; examines and licenses candidates for reactor operator licenses; evaluates operational safety and design modifications of Government-owned nuclear systems and facilities that are exempt from licensing, and evaluates advanced reactor types; and issues, denies, and amends licenses and limited work authorizations.

(b) The Division of Site Safety and Environmental Analysis evaluates the safety and environmental aspects of proposed and existing sites for nuclear facilities. It assesses the environmental impact of construction and operation of proposed facilities, performs cost benefit analyses, evaluates consequences of postulated accidents, assesses radiological impacts, and evaluates site adequacy from the standpoints of geology, seismology, demography, meteorology, waste treatment, and other factors. It issues, denies, and amends limited work authorizations.

(c) The Division of Systems Safety carries out detailed safety reviews of reactor applications through the operating license stage; and develops and administers related safety programs and policies governing licensing and authorization of nuclear reactors other than for export. It performs technical reviews and analyses of mechanical, structural, and materials engineering aspects of reactor systems, core performance, auxiliary systems, control systems, me-



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chanical components, reactor structures, and power systems.

(d) The Division of Operating Reactors administers the regulatory program, including safety and environmental reviews, for all reactor facilities licensed for operation; evaluates applications and issues construction permits and operating licenses for nonpower reactors, and, as requested, evaluates operational and design modifications of operating facilities exempt from licensing, owned by the Energy Research and Development Administration and the Department of Defense; directs and supervises the processing of applications for license amendments for all licensed reactor facilities; issues, denies, and amends all permits and licenses for nonpower reactors, and amends operating power reactor licenses.

(e) The Antitrust and Indemnity Group conducts prelicensing reviews of applications for nuclear facilities to assure that issuance of a license will not create or maintain a situation inconsistent with the antitrust laws; and is responsible for ascertaining compliance with license conditions pertaining to antitrust matters. It administers the Commission's program for indemnification of licensees against public liability claims arising out of nuclear incidents; and executes indemnification agreements with licensees pursuant to sections 170c., 170k., and 170.1. of the Atomic Energy Act of 1954, as amended.

**§ 1.62 Office of Nuclear Regulatory Research.**

The Office of Nuclear Regulatory Research was established by the Energy Reorganization Act of 1974, as amended. It develops, for the Commission, policy options relative to nuclear regulatory research, and implements programs of confirmatory research which the Commission deems necessary for the performance of its licensing and related regulatory functions. Specifically, it sponsors research to establish methodologies, systems, and information to provide a systematic and comprehensive basis for NRC policies and programs; to improve methods and procedures for licensing review, inspection, and enforcement, and other regulatory actions; and to improve regulations and guides. The Office is responsible for implementing and managing research contracts, coordinating research and analytical needs with other Government agencies and private organizations, and coordinating with the Office of International Programs the policy aspects of any joint efforts with other countries or international organizations. It advises NRC staff of pertinent research findings.

(a) The Division of Reactor Safety Research plans, develops, coordinates, and supervises experimental and analytical programs to enable NRC to assess the safety of nuclear power reactors. It sponsors research programs dealing with light water reactors, liquid metal fast breeder reactors, high temperature gas reactors, and with related site safety issues.

(b) The Division of Safeguards, Fuel Cycle and Environmental Research plans, develops, coordinates, and supervises experimental and analytical programs of research on subjects including safeguards, threat analysis, accident prevention in fuel cycle facilities, and health and environmental research.

(c) The Probabilistic Analysis Branch assists the Office Director in planning, developing, coordinating, and supervising programs for the development and application of methods to quantify risk assessment of nuclear power reactors and fuel cycle facilities.

**§ 1.63 Office of Standards Development.**

The Office of Standards Development develops and recommends standards (e.g., technical regulations and regulatory guides) that NRC needs to regulate nuclear facilities and commercial uses of nuclear materials. These standards deal with radiological health and safety and environmental protection, materials and plant protection (safeguards), and antitrust review in accordance with the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended. The Office also coordinates NRC participation in national and international standards activities.

(a) The Division of Engineering Standards develops standards for nuclear safety in the design, construction, and operation of nuclear reactors and nuclear power plants, other production and utilization facilities, and facilities for the storage, processing, and use of nuclear materials; and for materials safety activities, including the production, use, and transportation of radioactive products; provides technical assistance to NRC staff regarding research, resolution of generic issues, and the development, evaluation, and application of standards to specific safety problems associated with nuclear reactors, nuclear power plants and fuel cycle facilities, transportation of nuclear materials, and the production and use of radioactive products; and, in its assigned areas of responsibility, maintains liaison with and provides technical input to other Federal agencies, the American National Standards Institute (ANSI), professional societies, international agencies (in coordination with the Office of International Programs), and other organizations.

(b) The Division of Siting, Health and Safeguards Standards develops standards for protection of licensees' employees, the public, and the environment from the effects of NRC-licensed activities in matters involving radiological protection, environmental effects, and safeguarding of nuclear materials and facilities; provides advice and technical assistance to NRC staff regarding research, resolution of generic issues, and the development, evaluation, and application of standards to specific licensing or other regulatory problems associated with nuclear materials or facilities; and on matters pertaining to its areas of responsibility, maintains liaison with and provides technical input to other Federal agencies, State agencies, ANSI, professional societies, international agencies (in coordination with the Office of International Programs), public interest groups, and other organizations.

**§ 1.64 Office of Inspection and Enforcement.**

The Office of Inspection and Enforcement develops policies and administers programs for: Inspecting licensees to ascertain whether they are complying with NRC regulations, rules, orders, and license provisions, and to determine whether these licensees are taking appropriate actions to protect nuclear materials and facilities, the environment, and the health and safety of the public; inspecting applicants for licenses, as a basis for recommending issuance or denial of a limited work authorization, construction permit, or an operating license; inspecting suppliers of safety-related services, components, and equipment to determine whether they have established quality assurance programs that meet NRC criteria; investigating incidents, accidents, allegations, and unusual circumstances including those involving loss, theft, or diversion of special nuclear material;[1] enforcing Commission orders, regulations, rules, and license provisions; recommending changes in licenses and standards, based on the results of inspections, investigations, and enforcement actions; and notifying licensees regarding generic problems so as to achieve appropriate precautionary or corrective action. Headquarters Divisions are responsible for developing the inspection program, assuring the technical adequacy of enforcement cases and investigations, preparing notifications to appropriate parties, providing technical management and support for NRC response to incidents, and monitoring and appraising performance of Regional Offices. NRC's five Regional Offices are responsible for carrying out inspections and investigations.

(a) The Division of Fuel Facilities and Materials Safety is responsible for those inspection and enforcement functions that pertain to radiological and environmental protection at reactors and fuel facilities and handling of licensed materials, and for criticality control at fuel facilities.

(b) The Division of Safeguards Inspection is responsible for those inspection and enforcement functions that pertain to protection of nuclear materials and reactors.

(c) The Division of Reactor Construction Inspection is responsible for those inspection and enforcement functions that pertain to reactor construction.

(d) The Division of Reactor Operations Inspection is responsible for those inspection and enforcement functions that pertain to reactor operations.

[1] Special nuclear material is defined in 10 CFR Part 70 as "plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission * * * determines * * *, but does not include source material * * *."





(e) The Executive Officer for Operations Support is responsible for developing requirements for enforcement and investigations; managing assigned investigations; assuring consistency of the enforcement program among the various offices; developing the program for response to incidents; and providing centralized administrative support.

(f) The Executive Officer for Management and Analysis is responsible for budgets, financial control, computer services, management information systems, planning, personnel management, contract administration, technology and inspection training, and management studies and analyses.

(g) Each Regional Office reports to the Director, Office of Inspection and Enforcement, and performs the following functions within its assigned geographical area: inspects applicants, licensees, and others subject to NRC jurisdiction; investigates incidents, accidents, allegations, and other unusual circumstances involving matters subject to NRC jurisdiction; evaluates licensee event reports, and provides response, as appropriate; recommends changes in NRC programs, based on the results of inspections and investigations; and takes enforcement action, to the extent delegated; or recommends enforcement actions to appropriate Headquarters Division of the Office.

**Subpart C—NRC Seal and Flag**

**§ 1.80 Description and custody of NRC seal.**

(a) Pursuant to section 201(a) of the Energy Reorganization Act of 1974, the Nuclear Regulatory Commission has adopted an official seal. Its description is as follows: An American bald eagle (similar to that on the Great Seal of the United States of America) of brown and tan with claws and beak of yellow, behind a shield of red, white, and blue, clutching a cluster of thirteen arrows in its left claw and a green olive branch in its right claw, positioned on a field of white, with the words "United States Nuclear Regulatory Commission" in dark blue and five gold stars outlined in dark blue encircling the eagle. The eagle represents the United States of America and its interests.

(b) The Official Seal of the Nuclear Regulatory Commission is illustrated as follows:




(c) The Secretary of the Commission is responsible for custody of the impression seals and of replica (plaque) seals.

**§ 1.81 Use of NRC seal or replicas.**

(a) The use of the seal or replicas is restricted to the following:

(1) NRC letterhead stationery.

(2) NRC award certificates and medals.

(3) Security credentials and employee identification cards.

(4) NRC documents, including agreements with States, interagency or intergovernmental agreements, foreign patent applications, certifications, special reports to the President and Congress, and, at the discretion of the Secretary of the Commission, such other documents as he finds appropriate.

(5) Plaques. The design of the seal may be incorporated in plaques for display at NRC facilities in locations such as auditoriums, presentation rooms, lobbies, offices of senior officials, on the fronts of buildings, and others designated by the Secretary.

(6) The NRC flag (which incorporates the design of the seal).

(7) Official films prepared by or for the NRC, if deemed appropriate by the Director of the Office of Public Affairs or his designee.

(8) Official NRC publications which represent an achievement or mission of NRC as a whole, or which are cosponsored by NRC and other Government departments or agencies.

(9) Such other uses as the Secretary of the Commission or his designee finds appropriate.

(c) Any person who uses the official seal in a manner other than as permitted by this section shall be subject to the provisions of 18 U.S.C. 1017, which provides penalties for the fraudulent or wrongful use of an official seal, and to other provisions of law as applicable.

**§ 1.82 Establishment of official NRC flag.**

The official flag is based on the design of the NRC seal. It is 50 inches by 66 inches in size with a 38-inch diameter seal incorporated in the center of a dark blue field with a gold fringe.

**§ 1.83 Use of NRC flag.**

(a) The use of the flag is restricted to the following:

(1) On or in front of NRC installations.

(2) At NRC ceremonies.

(3) At conferences involving official NRC participation (including permanent display in NRC conference rooms).

(4) At governmental or public appearances of NRC executives.

(5) In private offices of senior officials.

(6) As otherwise authorized by the Secretary of the Commission.

(b) The NRC flag must only be displayed together with the U.S. flag. When they are both displayed on a speaker's platform, the U.S. flag must occupy the position of honor and be placed at the speaker's right as he faces the audience, and the NRC flag must be placed at the speaker's left.

**§ 1.84 Report of violations.**

In order to ensure adherence to the authorized uses of the NRC seal and flag as provided herein, a report of each suspected violation of this part, or any questionable use of the NRC seal or flag, should be submitted to the Secretary of the Commission.

Effective date: This part becomes effective on July 18, 1977.

Dated at Washington, D.C., this 11th day of July, 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
*Secretary of the Commission.*

[FR Doc.77-20326 Filed 7-15-77;8:45 am]

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## REPORTS TO THE COMMISSION CONCERNING DEFECTS AND NONCOMPLIANCE

*Correction*

In FR Doc. 77-15987 appearing on page 28891 in the issue for Monday, June 6, 1977, on page 28894, § 21.3 (a)(3) should read as follows:

(3) the capability to prevent or mitigate the consequences of accidents which could result in potential offsite exposures comparable to those referred to in § 100.11 of this chapter.

Section 21.3(d)(1) should read as follows:

**§ 21.3 Definitions.**

* * * * *

(d) "Defect" means:

(1) A deviation (see § 21.3 (e)) in a basic component delivered to a purchaser for use in a facility or an activity subject to the regulations in this part if, on the basis of an evaluation (see § 21.3(g)), the deviation could create a substantial safety hazard; or

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## PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

### Codes and Standards for Nuclear Power Plants

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulation, "Codes and Standards," to incorporate by reference new addenda to specified published national codes and standards for the design, fabrication, construction, testing, and inspection of reactor components and systems. This would provide for improved methods of construction of nuclear reactor coolant systems.

EFFECTIVE DATE: August 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. A. Taboada, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-443-6929.

SUPPLEMENTARY INFORMATION: On March 31, 1977 the Nuclear Regulatory Commission published in the FEDERAL REGISTER (42 FR 17134) proposed amendments to its regulations, 10 CFR Part 50, "Licensing of Production and



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Utilization Facilities," which would incorporate by reference new addenda to specified published national codes and would clarify provisions in § 50.55a and Appendix G to Part 50.

The proposed amendments would have incorporated by reference the Addenda through the Winter 1976 Addenda to Section III, Division 1, "Rules for the Construction of Nuclear Power Plant Components," of the ASME Boiler and Pressure Vessel Code. The Winter 1975, Summer 1976, and Winter 1976 Addenda to Section XI, "Rules for inservice Inspection of Nuclear Power Plant Components," of the ASME Code were not referenced in the proposed amendments but are expected to be referenced with modifications in a subsequent amendment to the regulations.

Interested persons were invited to submit written comments for consideration in connections with the proposed amendment by May 2, 1977. A number of adverse comments and significant questions were received in response to the notice of proposed rule making relating to the proposed changes to footnote 4 to § 50.-55a and to Appendix G to Part 50. One comment suggested that, in order not to delay the entire amendment while the adverse comments are being evaluated, § 50.55a be amended in part to incorporate the Addenda through the Winter 1976 Addenda to Section III of the ASME Code as was proposed. After consideration of the comments the Commission has adopted the amendment to § 50.55a set forth below which incorporates by reference the Addenda through the Winter 1976 Addenda to Section III of the ASME Code. The comments and questions on the proposed clarifying amendments will be evaluated separately and appropriate action taken accordingly.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Part 50 are published as a document subject to codification.

In § 50.55a of 10 CFR Part 50, paragraph (b) is revised to read as follows:

**§ 50.55a Codes and standards.**

Each operating license for a boiling or pressurized water-cooled nuclear power facility shall be subject to the conditions in paragraph (g) and each construction permit for a utilization facility shall be subject to the following conditions in addition to those specified in § 50.55:

* * * * *

(b) As used in this section, references [1] to editions of Criteria, Codes and Standards include only those editions through 1974; references [1] to Addenda include only those Addenda through the Summer 1975 Addenda, except references [1] to Addenda of Section III, Division I, of the ASME Boiler and Pressure Vessel Code include those Addenda through the Winter 1976 Addenda.

* * * * *

Effective date: These amendments become effective on August 17, 1977.

(Secs. 103, 104, 1611, Pub. L. 83-703; 68 Stat. 936, 937, 948 (42 U.S.C. 2133, 2134, 2201(i)).)

Dated at Bethesda, Md., this 30th day of June 1977.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
*Executive Director for Operations.*

[FR Doc.77-20538 Filed 7-15-77;8:45 am]

[1] These incorporation by reference provisions were approved by the Director of the Federal Register on March 17, 1972 and May 4, 1973.

## Title 7—Agriculture

### CHAPTER VI—SOIL CONSERVATION SERVICE, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER F—SUPPORT ACTIVITIES

### PART 656—PROCEDURES FOR THE PROTECTION OF ARCHEOLOGICAL AND HISTORICAL PROPERTIES ENCOUNTERED IN SCS-ASSISTED PROGRAMS

AGENCY: U.S. Department of Agriculture, Soil Conservation Service.

ACTION: Final rule.

SUMMARY: This rule prescribes general guidelines for Soil Conservation Service implementation of the several historic preservation acts and executive orders in programs administered by this agency.

EFFECTIVE DATE: July 18, 1977.

FOR FURTHER INFORMATION CONTACT:

R. M. Davis, Administrator, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: On June 9, 1976, the Soil Conservation Service (SCS) published in the FEDERAL REGISTER (41 FR 23181) its interim final guidelines entitled Support Activities Part 656, Procedures for the Protection of Archeological and Historical Properties Encountered in SCS-assisted Programs.

Written comments were received from three (3) federal agencies, eleven (11) state agencies, and nine (9) societies and/or individuals on the interim fiscal SCS guidelines. The comments were given full consideration in developing the final guidelines. The full text of all comments received is on file and available for public inspection in Room 6105 South Building, U.S. Department of Agriculture, Washington, D.C.

Most suggestions made for clarification and improved editing were accepted. The more substantive comments received and their consideration are as follows:

1. Several commentators questioned why SCS considers compliance with the several historical laws differently in its Conservation Operations and Great Plains Conservation Programs from its Watersheds and Resource Conservation and Development Programs.

*Response.* The Watersheds and Resource Conservation and Development Programs (7 CFR Parts 622 and 623 and U.S.C. 1010-1011 and U.S.C. 590 a-f, q) are federally-assisted project undertakings where SCS provides direct financial assistance to a local sponsor. The Conservation Operations and Great Plains Conservation Programs (7 CFR Part 610 and 631) are federally-assisted nonproject actions where SCS provides consultation and recommendations to individual land users on nonfederal lands. Therefore, for the nonproject actions SCS will advise land users of legislation which calls for protection and preservation of archeological, historical, and other cultural resources. SCS further advises landowners to contact their state historic preservation officers when properties listed on the National Register of Historic Places (NRHP) or may be eligible for listing on the NRHP may be affected by the landowners installation of soil conservation measures on his land. SCS will further notify the National Park Service when it believes such cultural properties may be affected by a landowners activities. (§ 656.4(b)(1)(2).) SCS does not believe it would be physically possible or fiscally responsible to fund an archeological/historical survey of every farm in the U.S. prior to providing consultative technical assistance to an individual landowner. For example, during FY-1976 SCS provided approximately one million farmers with consultations and technical assistance. Since the nationwide average size farm is about 340 acres, and archeologists have informed SCS that such cultural resource surveys would cost approximately $5 per acre, it would have cost the Federal government more than $1.5 billion just to fund archeological/historical surveys of farmland. SCS does not believe this was the intent of Congress when the National Historic Preservation Act of 1966 was enacted. The magnitude of such funding would place historic preservation far above stream pollution, water quality, soil conservation, and all other environmental amenities in order of significance to the national interest.

2. Many commentators suggested that the National Environmental Policy Act of 1969 (NEPA) should be listed in § 656.2, and that NEPA require SCS to determine impacts of its project-assisted undertakings on cultural resources.

*Response.* We do not agree that NEPA should be referenced in § 656.2 since NEPA is not an archeological or historical law. We reference NEPA in § 656.4(c)(2) and further state in § 656.5(d) that archeological and historical resources are considered as a part of the environmental assessment which is accomplished early in the planning stage in SCS-assisted projects. We reference 7 CFR 650.5 since this is the part which describes environmental assessments made by SCS. It is not our purpose to duplicate that description in these guidelines. The two levels of archeological and historical investigations described in § 656.5(d) (1) and (2) are an integral part of the environmental assessment.

3. Many commentators stated that the SCS procedures were in conflict with the Advisory Council on Historic Preservation procedures, 36 CFR Part 800 or they stated that SCS should follow the 36 CFR Part 800 procedures.

*Response.* SCS has developed these final guidelines (7 CFR Part 656) in accordance with Section 1(3) of Executive Order 11593, using the 36 CFR 800 procedures as a guide.

4. Another area of concern noted by several commentators is that SCS expects the Secretary of the Interior (NPS) to undertake all detailed survey, recovery, protection, and preservation of cultural properties encountered in SCS-assisted project undertakings. They further stated that SCS is required to transfer one (1) percent of project construction funds to the Secretary of the Interior (NPS) for detailed survey, recovery, protection, and/or preservation.

*Response.* The Archeological and Historical Preservation Act of 1974 (16 U.S.C. 469 et seq.) authorizes a Federal agency responsible for a Federal construction project, or federally-licensed project, activity, or program to undertake, with funds appropriated to that agency, detailed survey, recovery, protection, and preservation of significant cultural properties which may be irrevocably lost or destroyed by actions undertaken or assisted by that agency. An agency may elect to transfer up to one percent of the construction cost appropriated for a construction project to the Secretary of the Interior (NPS) to assist in the detailed survey, recovery, protection, or preservation of significant cultural properties. SCS may transfer to the Secretary of the Interior (NPS) on a case-by-case basis, up to one percent of the construction cost of each measure(s) which would cause the irrevocable loss or destruction of a significant cultural property. This transfer of funds will assist the Secretary of the Interior (NPS) in carrying out the intent of Section 7(a) of the Archeological and Historical Preservation Act of 1974, (16 U.S.C. 496 c(a)). (See § 656.9.) However, on a case-by-case basis, SCS may choose to carry out detailed survey, recovery, protection, or preservation of cultural properties by contract or cooperative agreement. In either case, detailed survey, recovery, protection, and/or preservation will be accomplished prior to construction.

5. Another commentator suggested that SCS clarify the relationships among the Archeological and Historical Preservation Act of 1974 (AHPA) the National Historic Preservation Act of 1966 (NHPA), Executive Order 11593, and the National Environmental Policy Act of 1969 (NEPA). They contend that the AHPA of 1974 is only applicable after the NHPA of 1966, EO 11593, and NEPA have been complied with.

*Response.* SCS believes there is overlap among all of these laws and EO 11593. We believe that our investigations relative to NEPA are the starting point. However, the requirements of Section 106 of NHPA overlap with the requirements of NEPA. The notifications and surveys called for in the AHPA of 1974 also overlap with NEPA. EO 11593 is not a law, it simply directs Federal agencies regarding historic preservation on lands owned by them or otherwise under their control and jurisdiction. SCS's final rules (7 CFR Part 656) attempt to describe its responsibilities under all of these laws and Sections 1(3) and 2(c) of the Executive Order. We believe the National Park Service, the Advisory Council on Historic Preservation, the state historic preservation officers, and others interested in cultural resources should work together in a team effort to preserve those cultural properties that are truly in the national interest. We do not believe, for example, that the NPS should wait until planning is completed before they provide expertise in the preservation of cultural properties. We also believe the NPS should actively participate early in the field determinations of eligibility for cultural resources to be included in the National Register of Historic Places. We also believe state historic preservation officers could use a portion of the grants they receive from NPS for implementing the state historic preservation plan to assist SCS in the initial planninig stages of a project in deciding where we need to fund archeological and historical investigations.

6. Several commentators suggested that the two types of investigations carried out by SCS described in § 656.5(d) are not consistent with the "use of archeological terms of art." It is suggested that SCS be responsible for a third level of survey which is detailed and quite comprehensive.

*Response.* SCS believes its responsibility is to determine the location and relative importance of cultural properties that may be affected by SCS-assisted undertakings. When SCS is presented with evidence that cultural properties are likely to be affected by proposed project construction, a more detailed reconnaissance investigation will be made by a qualified archeologist or historian. The two levels of investigation which are described in § 656.5(d)(1), (2) are made during the environmental assessment stage of planning. Alternatives to avoid affecting cultural properties by SCS-assisted actions are developed. In those cases where it is not possible to avoid a cultural property, then and only then is a "mitigation" plan developed. This is where the third-level of survey is applicable. SCS considers this third-level of intensive survey a part of the implementation of the mitigation plan. (See § 656.9.) The results of the reconnaissance investigation will provide a valid basis for decisionmaking and the need for the detailed survey, recovery, protection, and/or preservation prior to construction. SCS, in consultation with the SHPO, will apply the Criteria for Evaluation (36 CFR 60.6) during the development of a mitigation plan. If there is disagreement on the significance of the cultural property, SCS will request the Secretary of the Interior (NPS) to make an official determination of eligibility for inclusion in the National Register. We believe that detailed and comprehensive survey is a part of recovery, protection, and/or preservation, and should be accomplished by either SCS or the Secretary of the Interior (NPS) under authority of the AHPA of 1974. (See response to Comment No. 4.)

7. Several commentators disagreed with the procedures for determining whether an SCS undertaking will have an adverse effect on identified cultural properties that may be eligible for inclusion in the National Register. (§656.-6(g)(2) and (3).)

*Response.* This section has been reworded in accordance with suggestions from the Advisory Council on Historic Preservation staff. The no adverse effect procedure was developed in consultation with the ACHP, NPS, and SCS.

8. Several commentators suggested that SCS include requirements for cultural data recovery, and qualifications for archeologists, historians, and other disciplines who might be involved in data recovery, survey, etc.

*Response.* SCS has limited expertise in archeology, history, historical architecture, etc., and looks to the National Park Service for detailed survey, data recovery, etc. When SCS contracts for archeological, historical, or other cultural surveys, NPS standards, qualifications, treatment of recovered materials, etc., to the extent possible, are used.

9. Several commentators suggested that peripheral or secondary impacts of SCS undertakings on cultural properties are required by NEPA.

*Response.* SCS agrees. As has been mentioned in an earlier response to a comment concerning NEPA responsibilities, SCS considers secondary effects, alternative locations, and many other planning elements as well as viable tradeoffs, during environmental assessments in project undertakings. However, SCS authority for survey, recovery, protection, and/or preservation is limited to areas of land disturbance and inundation.

SCS herewith publishes its final procedures which are to be effective on July 18, 1977.

(Catalog of Federal Domestic Assistance Programs numbered 10.900 (Great Plains), 10.901 (Resource Conservation and Development), 10.902 (Soil and Water Conservation), 10.904 (Watershed Protection and Flood Prevention), and 10.905 (Plant Materials))

NORMAN A. BERG,
*Associate Administrator, Soil Conservation Service.*

Sec.
656.1 Purpose.
656.2 Archeological and historical laws and executive orders applicable to SCS-assisted programs.
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656.5 SCS responsibilities for compliance with Section 106, Pub. L. 89-665, (16 U.S.C. 470f), Pub. L. 93-291 (16 U.S.C. 469 et seq.), and Section 1(3) of Executive Order 11593 in project-type actions.







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Sec.
656.6 Steps necessary to determine the effects of proposed SCS-assisted projects undertaking on archeological and historical properties occurring on nonfederal land during the environmental assessment. (§ 650.4 of this chapter.)
656.7 Determination of the course of action when cultural resources are discovered during construction.
656.8 Determination of the effects of proposed or planned actions on archeological and historical properties occurring on Federal land.
656.9 Detailed survey, recovery, protection, and/or preservation of significantly important archeological or historical properties which may be irrevocably lost or destroyed by construction in SCS-assisted undertakings.

AUTHORITY: 7 CFR 2.62; Sec. 1(3), Executive Order 11593, 36 FR 8921, 3 CFR 1971 Comp. p. 154.

**§ 656.1 Purpose.**

This part prescribes Soil Conservation Service (SCS) policy, procedures, and guidelines for the implementation of archeological and historical laws and appropriate executive orders for administering SCS programs.

**§ 656.2 Archeological and historical laws and executive orders applicable to SCS-assisted programs.**

(a) *The Act of June 27, 1960*, relating to the preservation of historical and archeological data, Pub. L. 86–523, 74 Stat. 220, as amended May 24, 1974; Pub. L. 93–291, 88 Stat. 174 (16 U.S.C. 469 et seq.), provides for the preservation of historical and archeological materials or data, including relics and specimens, that might otherwise be lost or destroyed as a result of any Federal or federally-assisted or licensed project, activity, or program.

(b) *The National Historic Preservation Act*, Pub. L. 89–665, 80 Stat. 915, as amended, (16 U.S.C. 470 et seq.) authorizes the Secretary of the Interior to maintain and expand a National Register of Historic Places (NRHP), including historic districts, sites, buildings, structures, and objects that are significant in American history, architecture, archeology, and culture. This law also establishes the Advisory Council on Historic Preservation (ACHP), to be appointed by the President. Section 106 of this Act (16 U.S.C. 470f), requires that prior to the approval of any Federal or federally-assisted or licensed undertaking, the Federal agency shall afford the ACHP a reasonable opportunity to comment, if properties listed in or eligible for listing in the NRHP, are affected.

(c) *Executive Order 11593 (36 FR 8921, 3 CFR 1971 Comp. P. 154), Protection and Enhancement of the Cultural Environment*, provides that the federal government shall furnish leadership in preserving, restoring, and maintaining the historical and cultural environment of the nation, and that Federal agencies shall administer the cultural properties under their control in a spirit of stewardship and trusteeship for future generations; initiate measures necessary to direct their policies, plans, and programs in such a way that federally owned sites, structures, and objects of historical, architectural, or archeological significance are preserved, restored, and maintained. Section 1(3) directs that agencies institute procedures to assure that federal plans and programs contribute to the preservation and enhancement of non-federally owned sites, structures, and objects of historical, architectural, or archeological significance in consultation with the ACHP.

**§ 656.3 Policy.**

(a) SCS recognizes that significant historical, archeological, and architectural resources are an important part of our national heritage, the protection of which requires careful consideration in this agency's project planning and implementation process.

(b) SCS will take reasonable precautions to avoid damaging any significant historic, cultural, or natural aspects of our national heritage and will work with the National Park Service (NPS) and the Advisory Council on Historic Preservation (ACHP) in identifying and seeking to avoid or mitigate adverse effects of SCS-assisted projects on the nation's significant cultural resources. The procedures contained in this part have been developed to comply with sections 1(3) and 2(c) of Executive Order 11593.

**§ 656.4 Applicability.**

(a) *Definitions.*—(1) *Significant cultural (historical, archeological, and architectural) resources.*—Mean districts, sites, buildings, structures, and objects which are of local, state, and national significance which are listed in or meet the eligibility criteria for inclusion in the National Register of Historic Places (NRHP) (16 U.S.C. 470a).

(2) *Undertaking.* As used in section 106 of the National Historic Preservation Act (16 U.S.C. 470f), for the purposes of these procedures means federally-assisted installation of structural measures in watershed and flood prevention projects (7 CFR Parts 622 and 623) and resource conservation and development projects (7 U.S.C. 1010–1011 and 16 U.S.C. 590 a–f, q), which are funded by direct SCS financial assistance to a sponsoring local organization. SCS actions to be taken in these programs are described in §§ 656.5 and 656.6. SCS technical and financial assistance to individual land users on nonfederal land under the Conservation Operations and Great Plains Conservation Programs (7 CFR Parts 610 and 631) is considered to be nonproject undertakings for the purposes of these procedures. SCS actions to be taken in these programs are described in § 656.4(b).

(b) *Nonproject technical and financial assistance programs administered by SCS.* (1) This section applies to SCS technical and financial assistance to land users on nonfederal lands under the Conservation Operations and Great Plains Conservation Programs.

(2) Each field office of SCS is to maintain a current listing of cultural properties on the NRHP. Prior to providing technical or financial assistance to a land user on nonfederal land, the SCS technician will determine if there is a National Register Property that may be affected by the land user as a result of SCS technical assistance. If it is determined that such action may affect a National Register Property, SCS will advise the National Park Service and recommend that the land user contact the state historic preservation officer (SHPO) before installing the conservation measure. SCS does not have authority to make a decision on the disposition of a cultural property on nonfederal land. This decision is the responsibility of the landowner.

(3) In addition to historical and archeological sites, structures, or objects listed in the NRHP, other significant cultural resources may be encountered. Such resources occurring on nonfederal land may be brought to the attention of SCS during the course of SCS technical assistance activities. If it develops that these sites may be affected by the installation of a conservation measure, and are not listed in the NRHP, the SCS will advise the NPS and recommend that the land user notify the SHPO. SCS does not have authority to make a decision on the disposition of the cultural resource. This decision is the responsibility of the landowner.

(c) *Project-type financial assistance programs administered by SCS.* (1) This section applies to SCS financial assistance to sponsoring local organizations in watershed and flood prevention projects 7 CFR Parts 622 and 623, resource conservation and development projects (RC&D), 7 U.S.C. 1010–1011, 16 U.S.C. 590a–f, q, and emergency watershed protection 7 CFR Part 624.

(2) In its implementation of the National Environmental Policy Act of 1969 (7 CFR Part 650), SCS determines environmental effects including archeological and historical impacts as an integral part of the environmental assessment process for proposed SCS-assisted project actions. The procedures for compliance with existing historic preservation laws and executive orders are contained in § 656.5.

**§ 656.5 SCS responsibilities for compliance with Section 106, Pub. L. 89–665 (16 U.S.C. 470f), Pub. L. 93–291 (16 U.S.C. 469 et seq.), and Section 1(3) of Executive Order 11593 in project-type actions.**

(a) *SCS national office.* The Administrator is responsible for establishing and maintaining necessary contacts with other agencies and councils at the national level, and for the preparation, and distribution of pertinent material and guidelines to state conservationists.

(b) *SCS state office.* The state conservationist is the responsible Federal official (RFO) for implementing the provisions of this section in his state. He is responsible for establishing and maintaining contacts with state agencies, preparing and distributing pertinent information to personnel under his jurisdiction, appraising situations and determining the course of action, and distributing current data from the NRHP to field offices with instructions on use.

(c) *Federal property under SCS control.* The SCS has inventoried all properties owned by or otherwise under SCS control or jurisdiction. None of the properties is listed on the NRHP. An inventory of SCS owned properties made in the fall of 1976, indicates that none of the properties contains cultural resources that are eligible for inclusion in the NRHP, with the possible exception of one Plant Materials Center. This property is undergoing extensive survey and if cultural properties eligible for inclusion in the NRHP are identified, SCS will undertake the nomination process. However, none of SCS's undertakings described in §§ 656.4 (b), (c) will involve property owned by or otherwise under the control or jurisdiction of SCS.

(d) *Types of archeological and historical investigations in SCS-assisted undertakings.* The SCS will identify cultural properties which may be affected by SCS-assisted undertakings by initiating investigations during, and as a part of the environmental assessment (§ 650.4 of this chapter). These investigations will be as follows:

(1) *Archeological and historical review.* This review will be made by SCS technicians as part of the field examination stage of environmental assessment and plan formulation in consultation with the SHPO, state and university archeologists, archeological and historical societies, nearby libraries, museums, and other professionals with expertise. It is primarily a literature search and summation of data currently known concerning the area being studied. It will include a brief field review of site(s) that appear to have archeological or historical value. This review is designed to provide the SCS with data concerning the need for additional, and more detailed investigations. Close coordination and consultation with agencies and professional organizations with expertise in cultural resources are essential. Results of the "Archeological and Historical Review" should be recorded in sufficient detail to document findings and conclusions. The presentation of evidence that significant cultural resources are likely to be irrevocably lost or destroyed by planned project construction activities by the SHPO, state archeologist, and/or historian, or others with expertise will provide a valid basis for decisionmaking by the RFO. He will determine the need for further, more intensive investigations.

(2) *Archeological and historical reconnaissance.* This investigation will be made by a professional archeologist/historian during the later stages of environmental assessment when it is determined that more detailed investigations are needed. This investigation will be accomplished by SCS archeologists/historians or by contract or cooperative agreement as required. This involves on-the-ground examination of selected portions of the area to be affected (specific sites and/or treatment areas) to assess the general nature and probable impact of the proposed measures on the archeological and historical resources. The "Reconnaissance" should include limited testing and an appraisal of identified archeological and historical properties. The reconnaissance is designed to provide a level of knowledge to permit predictions to be made about the location and probable significance of the resource. If it is determined that a more detailed survey is needed, a proposed plan for, and the estimated cost of such detailed survey and possible recovery, protection, and/or preservation of significant resources is prepared. The results of this investigation will include the opinion of the professional conducting the investigation as to whether the resource in question is of significant value to warrant inclusion in the NRHP. Detailed survey, recovery, protection, and/or preservation is described in § 656.9.





**§ 656.6 Steps necessary to determine the effects of proposed SCS-assisted project undertakings on archeological and historical properties occurring on nonfederal land during the environmental assessment (§ 650.4 of this chapter).**

(a) The RFO will conduct, in consultation with the SHPO, an "Archeological and Historical Review" early in the environmental assessment. Findings will be documented and a determination made as to the need for further, more detailed investigation.

(b) (1) If the SHPO, state archeologist, or appropriate historical or archeologist authority presents evidence in paragraph (a) of this section; that significant cultural properties are likely to be irrevocably lost or destroyed by proposed construction activities, and that further investigation is necessary; the RFO will decide whether to cause an "Archeological and Historical Reconnaissance" to be made. If it is determined that a reconnaissance investigation is necessary, it will be accomplished by SCS archeologists/historians or by contract or cooperative agreement during the late stages of environmental assessment.

(2) If the RFO enters into a contract or cooperative agreement for this investigation he will require the professional conducting the investigation to provide his written opinion on the eligibility of any identified cultural properties for inclusion in the NRHP. If the professional conducting the investigation recommends detailed survey, recovery, protection, and/or preservation of identified cultural properties, the contract or cooperative agreement should be broad enough to allow adequate testing of the sites to develop a proposed plan for such survey, recovery, protection, and/or preservation which will not adversely affect the cultural property.

(c) If no cultural properties are identified in paragraph (b) of this section as either listed in, or eligible for inclusion in the NRHP, SCS will inform the SHPO, document the reviewable record and proceed with the action.

(d) If the results of the investigation made in paragraph (b) of this section include an opinion by the professional archeologist and/or historian that identified cultural properties are of significant value, or may be eligible for inclusion in the NRHP, and may be irrevocably lost or destroyed by construction activities, the RFO will request the SHPO to render an opinion on eligibility for inclusion in the NRHP. The SHPO will be requested to respond within 45 days after receipt of the SCS request.

(e) If the SHPO does not concur in the findings described in the reconnaissance report, or fails to respond within 45 days that identified cultural properties are significant and may be eligible for inclusion in the NRHP, the RFO, after applying the Criteria for Evaluation, 36 CFR 60.6, may request an official determination of eligibility from the Secretary of the Interior (NPS). Address all requests for determination of eligibility to Director, Office of Archeology and Historic Preservation, National Park Service, Washington, D.C. 20240. However, if the SHPO concurs in the findings described in the reconnaissance report, the RFO may forward the proposed plan (paragraph (b) of this section) directly to the ACHP requesting a "no adverse effect" reply within 45 days. (See paragraph (g) of this section.)

(f) If the RFO requests the Secretary of the Interior to determine if identified cultural properties are eligible for inclusion in the NRHP and the Secretary of the Interior (NPS) determines that the identified sites are not of significant value to be eligible for inclusion in the NRHP, the RFO will inform the SHPO document the reviewable record, and proceed with the action. In this case, consultation with the ACHP is not required.

(g) (1) If the Secretary of the Interior, after having been requested by the RFO to make an official determination of eligibility determines that the identified cultural property(ies) is eligible for inclusion in the NRHP, the SCS will attach the proposed plan (see paragraph (b) of this section) for detailed survey, recovery, protection, and/or preservation, developed by the professional making the investigation, to the reconnaissance report and forward to the ACHP. A letter of concurrence from the SHPO and the determination by NPS should be included. The letter should afford the ACHP a reasonable opportunity to comment on the undertaking, in accordance with Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f. The letter should call attention to the fact that the cultural property(ies) is located on nonfederal land and there will be no change in existing responsibilities of any Federal agency under Executive Order 11593 with respect to control or ownership of land. The letter should indicate that the Secretary of the Interior (NPS) or SCS (decision to be made on a case-by-case basis) will implement the plan for de-



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tailed survey, recovery, protection, and/or preservation prior to construction.

(2) Adverse effects may occur when cultural properties are located within the proposed land disturbance area, including accress roads, borrow pits, and other support areas likely to be disrupted during or after construction. For above ground cultural properties, usually those of historical or architectural significance, adverse effects may occur when the project includes demolition or introduces visual, audible, or atmospheric elements that are out of character with the property or alter its setting and occur in near proximity to the cultural property.

(3) For archeological sites, a determination of no adverse effect may be made when:

(i) The property is not a National Historic Landmark, a National Historic Site in nonfederal ownership, or a property of national historical significance so designated with the NPS.

(ii) The SHPO has indicated that inplace preservation of the property is not necessary to fulfill purposes set forth in the State Historic Preservation Plan.

(iii) The SHPO and the SCS–RFO agree that:

(A) The property has minimal value as an exhibit in place for public understanding and enjoyment;

(B) Above and beyond its scientific value, the property is not known to have historic or cultural significance to a community, or to an ethnic, or social group that would be impaired by the retrieval of data;

(C) Currently available technology is such that the data retrieved from the property will make a significant contribution to the history or prehistory of the area:

(iv) Funds and time have been committed to adequately retrieve the data.

(4) The RFO's letter to the ACHP should request a response within 45 days and state that SCS considers implementation of the plan for recovery, constitutes no adverse effect on the cultural property.

(5) When the ACHP considers implementation of the plan for recovery constitutes an adverse effect, the RFO will cooperate with the ACHP in the conduct of necessary additional consultations, inspections, and meetings to further develop recovery plans to avoid or minimize adverse effects of proposed project construction activities.

(h) After the SCS has afforded the ACHP a reasonable opportunity to comment on the undertaking, the RFO will either request the Secretary of the Interior (NPS) to implement the proposed plan for a timely detailed survey, recovery, protection, and/or preservation of cultural values, or SCS will implement the plan by contract or cooperative agreement. If the NPS is requested to implement the plan, the RFO will forward the proposed plan for recovery, and necessary construction schedules to NPS in order to avoid any delays in construction

**§ 656.7 Determination of the course of action when cultural properties are discovered during construction.**

If cultural properties are discovered during construction, the RFO will immediately consult with the SHPO, and NPS (Atlanta, Denver, or San Francisco, Office of Archeology and Historic Preservation) to determine whether there is evidence to warrant a decision to undertake detailed survey and recovery. If the evidence is substantive, and at the request of NPS, construction should be delayed or modified to undertake immediate detailed survey, recovery, and/or preservation. (See NPS responsibilities, Section 4(C) Pub. L. 93–291, 16 U.S.C. 469a–2(c).) If the evidence is negative, construction should continue with caution. In the event that recovery, protection, and/or preservation is decided upon, the RFO and the sponsors should determine if the landrights covering project construction, are adequate to cover archeological surveys and recovery, and then proceed with the action.

**§ 656.8 Determination of the effects of proposed SCS-assisted project undertakings on archeological and historical properties occurring on Federal land.**

The steps outlined in § 656.6 are equally applicable for investigations on Federal land. However, when significant cultural properties are discovered on Federal land, the land managing agency having ownership or control of the land is responsible for the plan for detailed recovery, protection, and/or preservation.

**§ 656.9 Detailed survey, recovery, protection, and/or preservation of significantly important archeological or historical properties which may be irrevocably lost or destroyed by construction in SCS-assisted project undertakings.**

(a) *Nonfederal land.* If it is determined that properties included in or eligible for inclusion in the NRHP are likely to be irrevocably lost or destroyed by construction in a watershed project or RC&D measure, and occur on nonfederal land, the RFO will decide whether to request NPS to implement the recovery plan. If the RFO decides to request NPS to implement the plan, he will forward the plan (see § 656.6 (b) (2) and (g)) to the Atlanta, Denver, or San Francisco (as appropriate) Office of Archeology and Historic Preservation of NPS, and request in writing that detailed survey, recovery, protection, and/or preservation of the significant values be undertaken by the Department of the Interior (NPS), as specified in 16 U.S.C. 469a–1. When the RFO requests NPS to implement the recovery plan he may transfer up to one percent of the Federal share of the construction cost of each measure which would cause the irrevocable loss or destruction of a significant cultural property, to the NPS (Atlanta, Denver, or San Francisco) to assist NPS in the necessary detailed survey, recovery, protection, and/or preservation. The decision on the amount of fund transfer will be made by the RFO in consultation with NPS. Alternatively, the RFO may choose to implement the recovery plan by contract or cooperative agreement and may obligate up to a maximum of one percent of the Federal share of the construction cost for that measure. In either case, SCS will cause the recovery plan to be implemented prior to construction completion.

(b) *Federal land.* If properties included in or eligible for inclusion in the NRHP are likely to be irrevocably lost or destroyed by construction in a watershed project, or RC&D measure, and such cultural property occurs on federally owned or controlled land, the RFO, in consultation with the Federal agency managing the property will decide which Federal agency will implement the recovery plan. If it is decided to request NPS to implement the recovery plan (see § 656.6 (b) (2) and (g) the RFO will notify the Atlanta, Denver, or San Francisco (as appropriate) Office of Archeology and Historic Preservation of NPS. The RFO will request in writing that detailed survey, recovery, protection, and/or preservation of the significant values be undertaken by the Secretary of the Interior (NPS), as specified in the 16 U.S.C. 469a–1(a). When the RFO and the Federal land managing agency decide to request the NPS to implement the recovery plan, SCS may transfer up to one percent of the Federal share of the construction cost of that measure which would cause the irrevocable loss or destruction of a significant cultural property, to the NPS (Atlanta, Denver, or San Francisco) to assist NPS in the necessary detailed survey, recovery, protection, and/or preservation. Alternatively, the RFO and the Federal land managing agency may choose to implement the recovery plan by contract or cooperative agreement and may obligate up to a maximum of one percent of the Federal share of the construction cost of that measure which would cause the irrevocable loss or destruction of a significant cultural property. In either case, SCS will cause the recovery plan to be implemented prior to construction.

(c) *Notification of NPS in accordance with Section 1, Pub. L. 93–291 (16 U.S.C. 469a).* The RFO will notify the NPS (Atlanta, Denver, or San Franciso) as early as possible after project authorization, that he intends to assist with the construction of any dam that creates a reservoir of 40 surface-acres or any floodwater-retarding structure providing 5,000 acre-feet or more of detention capacity. Notification will not be made for smaller dams and reservoirs except as required in 16 U.S.C. 469a.

(d) *Information to be forwarded to NPS when detailed survey, recovery, protection, and/or preservation is called for.* Where it is determined that cultural properties are to be recovered, protected, and/or preserved, the RFO will notify the NPS as early as possible before construction starts. The notice will include site location, approximate area to be flooded, approximate area to be disturbed, archeologist's report, and such additional data as may be useful. When SCS requests the Secretary of the Interior (NPS), to undertake the recovery, protection, and preservation of data (see § 656.9(a)(b)) the Secretary of the Interior will be expected to initiate the detailed survey, recovery, protection, and/or preservation effort within 60 days after notification or within such other time as agreed upon (16 U.S.C. 469a–2(c)). The RFO will request the NPS to keep SCS informed at all times of the survey or recovery effort so there will be as little disruption or delay as possible. The detailed survey and recovery programs will terminate at a time established by the RFO in consultation with NPS.

(e) *Granting permission to survey and recover on nonfederal lands.* Prior to undertaking surveys and recovery operations on nonfederal lands, the SCS will assist the local sponsors in obtaining the consent of persons, associations, or public entities having a legal interest in the property involved. When the Secretary of the Interior (NPS) is to implement the recovery plan, he, in accordance with 16 U.S.C. 469a–2(d), is to compensate any person, association, or public entity damaged as a result of delays in construction or as a result of the temporary loss of the use of private or nonfederally owned lands. Survey or recovery work, will not be required which in the determination of the RFO will impede SCS's activities in connection with any emergency (16 U.S.C. 469a–2(b)).

(f) *Ownership and curation of artifacts.* The SCS does not own or otherwise control land on which financial assistance is provided. The SCS does not have authority to determine ownership of artifacts or other cultural resources discovered during SCS-assisted cultural resource investigations or surveys. Therefore, the ownership and curation of cultural resources discovered during SCS-assisted investigations is the responsibility of the landowner or land managing agency. The NPS and the SHPO will consult with the landowner or land managing agency to ascertain ownership of cultural artifacts.

[FR Doc.77–20450 Filed 7–15–77;8:45 am]





## CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Regulation 563, Amendment 1]

## PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

### Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period July 8–14, 1977. The amendment recognizes that demand for Valencia oranges has improved, since the regulation was issued. This action will increase the supply of oranges available to consumers.

DATES: Weekly regulation period July 8–14, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Valencia Orange Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of Valencia oranges as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the Valencia orange markets has improved since the regulation was issued. Amendment of the regulation in necessary to permit orange handlers to ship a larger quantity of Valencia oranges to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 100,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information became available upon which this amendment is based and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Valencia oranges.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i), and (ii) of § 908.863, Valencia Orange Regulation 563 (42 FR 34855) are hereby amended to read as follows:

**§ 908.863 Valencia Orange Regulation 563.**

* * * * * * *

(b) * * *

(1) * *

(i) District 1: 260,000 cartons;

(ii) District 2: 390,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C 601–674.)

Dated: July 13, 1977.

FLOYD F. HEDLUND,
*Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77–20553 Filed 7–15–77;8:45 am]

## CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER B—LOANS, PURCHASES AND OTHER OPERATIONS

## PART 1464—TOBACCO

### Subpart A—Tobacco Loan Program—Fluecured Tobacco

*Correction*

In FR Doc. 77–18209 appearing at page 32513 in the issue for Monday, June 27, 1977, the middle column, the first line of the table on page 32514 should read as follows:

| Grade | Loan rate | Grade | Loan rate | Grade | Loan rate |
|---|---|---|---|---|---|
| H5F..... | 124 | X2L..... | 128 | P2F..... | 108 |
| • | • | • | • | • | • |

## Title 8—Aliens and Nationality

## CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

## PART 282—FORMS FOR SALE TO PUBLIC

## PART 299—IMMIGRATION FORMS

### Forms for Sale to Public

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This order amends the regulations of the Immigration and Naturalization Service to include reference to additional Service application forms which have recently become available for purchase from the Superintendent of Documents, U.S. Government Printing Office. These amendments are being made as the result of continuing Service efforts to expand the number of forms available for purchase from the Superintendent of Documents and the intent of this order is to inform the interested public of the availability of these additional forms.

EFFECTIVE DATE: July 18, 1977.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536. (202–376–8373).



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SUPPLEMENTARY INFORMATION: This order amends 8 CFR 282.1 and 8 CFR 299.2 to add Form G–325A, "Biographic Information", and Form I–485, "Application for Status as Permanent Resident" to the lists of forms available for purchase from the Superintendent of Documents, U.S. Government Printing Office set forth in the above sections. The Service has been advised that the price for each form will be $7.25 per 100 sets.

These amendments are being published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383) as amended by Pub. L. 93–502 (88 Stat. 1561) and the authority contained in section 103 of the Immigration and Nationality Act (66 Stat. 173; 8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendments are editorial in nature in that they add additional forms to the listing.

In the light of the foregoing, Title 8 of Chapter I of the Code of Federal Regulations is hereby amended as set forth below.

In Part 282, § 282.1 is revised to read as follows:

**§ 282.1 Forms printed by the Public Printer.**

The Public Printer is authorized to print for sale to the public by the Superintendent of Documents the following forms prescribed by subchapter B of this chapter: G–28, G–325A, I–20, I–92, I–94, I–95, I–129B, I–130, I–131, I–140, I–408, I–418 and I–485.

In Part 299, § 299.2 is revised by adding Forms G–325A and I–485 to the listing of forms available from the Superintendent of Documents, U.S. Government Printing Office, and as revised § 299.2 reads as follows:

**§ 299.2 Forms available from the Superintendent of Documents.**

The following forms required for compliance with the provisions of subchapter B of this chapter may be obtained, upon prepayment, from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402: G–28, G–325A, I–20, I–92, I–94, I–95, I–129B, I–130, I–131, I–140, I–408, I–418 and I–485. A small supply of those forms shall be set aside by immigration officers for free distribution and official use.

(Sec. 103; 66 Stat. 173; 8 U.S.C. 1103.)

Effective date: The amendments contained in this order become effective on July 18, 1977.

Dated: July 13, 1977.

LEONEL J. CASTILLO,
*Commissioner of Immigration and Naturalization.*

[FR Doc.77–20530 Filed 7–15–77;8:45 am]

## Title 12—Banks and Banking

### CHAPTER II—FEDERAL RESERVE SYSTEM

### SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. B; Docket No. R–0107]

### PART 202—EQUAL CREDIT OPPORTUNITY

#### Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interpretation.

SUMMARY: In response to a request to determine whether an Alabama and a Nevada law are inconsistent with the Equal Credit Opportunity Act and Regulation B, and therefore preempted, the Board has issued an interpretation of its Regulation B, Equal Credit Opportunity. The Board has determined that laws that set a different age of majority for married and unmarried persons are not inconsistent with the Act and regulation.

EFFECTIVE DATE: July 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Anne Geary, Chief, Equal Credit Opportunity Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. (202–452–3946.)

SUPPLEMENTARY INFORMATION: Pursuant to its authority under section 705(f) of the Equal Credit Opportunity Act to determine whether State laws are inconsistent with the Act and Regulation B, the Board has issued the following interpretation of Regulation B, which implements the Act.

§ 202.1103—State laws setting different age of majority for married and unmarried persons not inconsistent with Equal Credit Opportunity Act

(a) The Board has been asked whether State laws that set a different age of majority for married and unmarried persons are inconsistent with the Equal Credit Opportunity Act and are therefore preempted. These laws, combined with other State laws making contracts unenforceable against persons who have not reached the age of majority, result in different treatment of persons who are the same age, depending upon their marital status. Specifically, the Board has been asked to determine whether Nevada Rev. Stat. 38 section 101 and Alabama Code 34 sections 76 and 76(1), which establish a younger age of majority for married persons than for unmarried persons, are inconsistent with the Equal Credit Opportunity Act. For the reasons set forth below, the Board has determined that these statutes are not inconsistent with the ECOA.

(b) The Equal Credit Opportunity Act prohibits discrimination in the granting of credit on several bases, including age and marital status, and authorizes the Board to determine whether any State laws are inconsistent with this mandate. The Board believes that the ECOA was not intended to preempt laws that provide rights and remedies in the event of default. Section 701(a)(1) of the Act prohibits discrimination on the basis of age, but specifically allows creditors to consider whether an applicant is old enough to execute an enforceable contract. In other words, a creditor may decline a credit application from a minor because, in the event of default, State contract law does not provide a means to enforce the contract. In addition, section 701(b)(1) allows creditors to ask marital status in order to ascertain "* * * the creditor's rights and remedies applicable to the particular extension of credit * * *."

(c) Accordingly, Regulation B, which in general prohibits the consideration of age or marital status, permits creditors to determine whether the applicant's age[1] or marital status[2] will affect the enforceability of the contract. Credit, therefore, may be denied if the creditor reasonably believes that, because of the age or marital status of the applicant, the credit contract would be unenforceable.

(d) Based upon this analysis, the Board has determined that Nevada Rev. Stat. 38 section 101 and Alabama Code 34 sections 76 and 76(1) are not inconsistent with the Equal Credit Opportuntiy Act and Regulation B. Creditors may, therefore, consider the effect of these laws without violating the Equal Credit Opportunity Act of Regulation B.

By order of the Board of Governors, effective July 8, 1977.

THEODORE E. ALLISON,
*Secretary of the Board.*

[FR Doc.77–20481 Filed 7–15–77;8:45 am]

[1] Section 202.6(b)(2)(1): * * * a creditor shall not take into account an applicant's age (*Provided*, The applicant has the capacity to enter into a binding contract) * * *.

[2] Section 202.6(b)(1), footnote 8: This provision does not prevent a creditor from considering the marital status of an applicant * * * for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit * * *.

## Title 14—Aeronautics and Space

### CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77–NW–13–AD; Amdt. 39–2969]

### PART 39—AIRWORTHINESS DIRECTIVES

#### Boeing Model 707–300/400/300B/300C Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On May 19, 1977, and May 27, 1977, telegraphic Airworthiness Directives (AD's) were issued and made effective immediately to all known U.S. operators of Boeing 707–300/400/300B/300C series airplanes. The AD's required inspections of the exposed portion of the rear spar upper chord of the right and left hand horizontal stabilizer for cracks. Such cracks could have caused the recent inflight separation of the rear horizontal stablizer from a Boeing 707–321C which subsequently crashed. These conditions still exist and the Airworthiness Directive is hereby published in the FEDERAL REGISTER to make it effective as to all persons.





DATES: The Airworthiness Directive was effective upon receipt of the telegram dated May 27, 1977, which contained this amendment. Initial compliance required inspections within the next 75 hours time-in-service or one week, whichever is sooner.

ADDRESSES: Boeing service bulletins specified in this directive may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT:

Harold N. Wantiez, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone 206–767–2516.

SUPPLEMENTARY INFORMATION: Preliminary information from the accident investigation of a Boeing 707–321C which crashed in Zambia, Africa, revealed that the right hand stabilizer separated from the empennage during final approach. Analysis of the fracture surfaces indicates that the upper rear spar chord of the rear horizontal stabilizer experienced a fatigue failure sometime prior to the fatal flight. On May 19, 1977, an AD was issued which required visual inspections of the stabilizer rear spar upper chord. This action was later found to be insufficient, since further investigations indicated that small cracks may exist in the stabilizer rear spar upper chord which are not detectable by visual means but are detectable by nondestructive testing methods (NDT). A superseding AD was issued on May 27, 1977, requiring NDT inspections of the chord. This amendment contains the inspection requirements contained in the superseding AD. The first AD will not be published in the FEDERAL REGISTER.

Approximately 427 Boeing 707–300/400/300B/300C airplanes are to be inspected and reported on as necessary. Since at the time the condition became known it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators by individual telegrams dated May 27, 1977. Since this condition is likely to exist in other 707–300/400/300B/300C airplanes, an Airworthiness Directive was issued requiring dye penetrant or high frequency eddy current or low frequency eddy current inspections of the horizontal stabilizer rear spar upper chord from the side of the body outboard to station 92.55, in accordance with Boeing Alert Service Bulletin No. 3313.

This rule was coordinated with the Boeing Company and the operators through the Air Transport Association (ATA) prior to issuance.

DRAFTING INFORMATION

The principal authors of this document are Harold N. Wantiez, Engineering and Manufacturing Branch, FAA Northwest Region, and Jonathan Howe, Regional Counsel, FAA Northwest Region.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure thereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

BOEING: Applies to all Boeing 707–300/400/300B/300C series airplanes with more than 30,000 hours time-in-service certificated in all categories. Compliance required as indicated unless already accomplished.

Within the next 75 hours time-in-service or one week after the effective date of this AD, whichever occurs sooner, unless accomplished after May 14, 1977, inspect the exposed portion of the horizontal stabilizer rear spar upper chord, right and left hand, from the side of the body to horizontal stabilizer station 92.55. Inspect in accordance with (1) The low frequency eddy current inspection as described in Boeing Alert Service Bulletin No. 3313, Revision 1 or; (2) The high frequency eddy current inspection as described in Boeing Alert Service Bulletin No. 3313 Revision 1 or; (3) Dye penetrant inspection after stripping paint from the upper rear spar chord. Airplanes found cracked are to be repaired prior to further flight, using an FAA approved repair provided by the Boeing Company. Cracks are to be reported to the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, noting airplane identification, hours time-in-service, crack location and magnitude. If inspections cannot be accomplished within one week, permission to ferry their airplane to a place where the inspection can be accomplished may be obtained from the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective July 27, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107

Issued in Seattle, Washington, on July 7, 1977.

J. H. TANNER,
*Acting Director, Northwest Region.*

NOTE.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.77–20459 Filed 7–15–77;8:45 am]

[Docket No. 77–WE–8–AD; Amdt. 39–2971]

### PART 39—AIRWORTHINESS DIRECTIVES

#### McDonnell Douglas Model DC–9, –10, –20, –30, –40, –50 Series and VC–9C(DC–9–32) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires specified inspections and rework of the engine pylon front spar structure and fasteners on certain McDonnell Douglas DC–9 airplanes. These inspections and rework are necessary to prevent reduction of spar strength below safe limits.

EFFECTIVE DATE: August 23, 1977. Initial compliance—Within the next 1,800 flight hours after the effective date of this AD, or before accumulating 9,800 total flight hours, whichever occurs later.

ADDRESS: Copies of Douglas DC–9 Service Bulletin 54–30 and All Operators Letter (A.O.L.) 9–835, may be obtained by writing to: McDonnell Douglas Aircraft Company, 3855 Lakewood Boulevard, Long Beach, California 90846. Attention: L. A. Eisenberg, CI–750, 54–60.

A copy of the service bulletin and A.O.L. for this amendment is contained in the Rules Docket in Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, 213–536–6351.

SUPPLEMENTARY INFORMATION: On April 18, 1977, the FAA proposed to amend Part 39 of the Federal Aviation Regulations (14 CFR Part 39) by adding a new AD applicable to certain McDonnell Douglas Model DC–9 airplanes (42 FR 20145). The AD requires inspection of the engine pylon front spar and fasteners and rework or replacement if necessary. Douglas Service Bulletin 54–30 and AOL 9–835 pertain to this AD.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all comments received in response to the notice. Except for editorial changes, and except as specifically discussed hereinafter, this amendment and the reasons therefore



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are the same as those contained in the notice.

Several commenters questioned the suitability of ultrasonic inspection, and further, whether the need for any type of inspection of the spar cap horizontal flange, inboard of the fuselage skin line was necessary. They stated that the ultrasonic inspection was not adequate since it did not provide positive or conclusive results; eddy current was utilized in a number of instances to verify or detect cracks or other damage. It was also stated that, in some cases, the location of the inspection area precluded the use of ultrasonic methods, since on certain airplane interior configurations, this area is sandwiched between either a galley or a lavatory or a combination and therefore is inaccessible.

Several commenters also questioned the need for inspection of the inboard section of the horizontal leg. They stated that, in none of the known spar cap failures to date, have there been any reports of detectable damage or failures of the inboard horizontal leg. Further, all of the failures have occurred or originated in, and have been confined to, the inner angle vertical leg, and in no case, has the outer, fail safe, angle incurred any detectable damage. They also commented that all failures, both inboard and outboard of the fuselage, including the outboard horizontal leg, have been detected by radiographic inspection.

The FAA agrees in part with these comments. Although the cracks and/or failures have occurred in only the vertical leg of the inboard section of the spar cap inner angle, there is sufficient supportive data to establish that it is possible for cracks to occur in the horizontal leg, similar to the type of cracks found in the horizontal leg outboard of the fuselage. Also in this regard, we have concluded that, provided proper access, the ultrasonic inspection method, together with the backup or alternate eddy current inspection method, as specified in Service Bulletin 54–30, should provide satisfactory results. The FAA recognizes that the inboard inspection area, particularly on certain interior configurations, is not readily accessible and that additional man-hours will be incurred as the result of removing the galley and lavatory units. The AD as adopted, requires inspection of the horizontal leg of the spar cap, inboard of the fuselage skin line. Equivalent inspection methods and modifications may be approved upon submission of adequate data.

Based upon information furnished in the comments by interested parties, the FAA has determined that the initial and repetitive inspection compliance time(s) of 1600 and 3200 flight hours, as proposed in the notice, may be extended while insuring a level of airworthiness commensurate with the intent of the Federal Aviation Regulations. The rule as adopted provides for initial and repetitive inspections at intervals not to exceed 1800 and 3600 flight hours, respectively.

DRAFTING INFORMATION

The principal authors of this document are Harry J. Irwin, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

In consideration of the comments received and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

McDONNELL DOUGLAS. Applies to Model DC–9–10, –20, –30, –40, –50 series and VC–9C (DC–9–32) airplanes certificated in all categories, fuselage numbers, F/N–1 through F/N–837, which correspond to the factory serial numbers listed in Douglas DC–9 Service Bulletin 54–30 dated January 19, 1977, or later FAA approved revisions.

Compliance required as indicated.

To detect fatigue cracks and/or failure of the engine pylon front spar attachments and upper cap, accomplish the following:

(a) Within the next 1,800 flight hours after the effective date of this AD, or before accumulating 9,800 total flight hours, whichever occurs later, unless already accomplished within the last 1,800 flight hours, and thereafter at intervals not to exceed 3,600 flight hours from the last inspection, accomplish radiographic and ultrasonic or eddy current inspections in accordance with the instructions in Douglas Service Bulletin 54–30, dated January 19, 1977, or later FAA approved revision.

For those operators who have conducted only the radiographic inspections per Douglas All Operators Letter, AOL 9–835, dated October 30, 1974, perform the ultrasonic or eddy current inspection, and thereafter, the radiographic and ultrasonic or eddy current inspection per the requirements of this AD, as applicable.

(b) If cracks or failures are found, before further flight, accomplish the modification described in Condition II in Douglas Service Bulletin 54–30 in accordance with the instructions in Douglas Service Bulletin 54–30, dated January 19, 1977, or later FAA approved revision.

(c) The inspections required by paragraph (a) may be discontinued for that pylon(s) upon accomplishment of either or both modifications (Condition I; Condition II) specified in Douglas Service Bulletin 54–30, dated January 19, 1977, or later FAA approved revision.

(d) Equivalent inspection procedures and modifications may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(e) Special flight permits may be issued in accordance with FARs 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this A.D.

This amendment becomes effective August 23, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Los Angeles, California, on July 7, 1977.

JAY R. ADSEN,
*Acting Director,*
*FAA Western Region.*

[FR Doc.77–20458 Filed 7–15–77;8:45 am]

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[Airspace Docket No. 77–SO–3]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Designation of Federal Airway Segment—Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In a rule published in the FEDERAL REGISTER of June 16, 1977, Volume 42, page 30606, the LaBelle VOR 120° radial was incorrectly stated. This correction reflects the correct radial of LaBelle as 121°.

EFFECTIVE DATE: July 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone: 202–426–3715.

SUPPLEMENTARY INFORMATION: FR Doc. 77–16826 was published on June 16, 1977 (42 FR 30606), with an effective date of August 11, 1977, and designates an east alternate to Victor Airway 97 between Miami, Fla., and LaBelle, Fla. An incorrect radial from the LaBelle VOR of 120° was inadvertently published. The correct radial should have been 121°. Action is taken herein to correct this error.

ADOPTION OF THE CORRECTION

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 77–16826, as published on June 16, 1977, page 30606, is amended by deleting "LaBelle 120°" and substituting "LaBelle 121°" therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Washington, D.C., on July 8, 1977.

WILLIAM E. BROADWATER,
*Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.77–20302 Filed 7–15–77;8:45 am]

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[Airspace Docket No. 77–SW–18]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of Transition Area: Pleasanton, Texas

AGENCY: Federal Aviation Administration (FAA), DOT.





ACTION: Final rule.

SUMMARY: This amendment alters the Pleasanton, Tex., transition area to provide controlled airspace for the change in the NDB approach course to the Pleasanton Municipal Airport from the 166° magnetic bearing to the 160° magnetic bearing. The change will improve the instrument approach to the airport.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW–535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817–624–4911, extension 302.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Pleasanton, Tex., transition area.

On May 16, 1977, a notice of proposed rule making was published in the FEDERAL REGISTER (42 FR 24752) stating that the Federal Aviation Administration proposed to alter the Pleasanton, Tex., transition area to provide controlled airspace for the change in the NDB approach course to the Pleasanton Municipal Airport from the 166° magnetic bearing to the 160° magnetic bearing to improve the instrument approach to the airport.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) is amended, effective 0901 GMT, October 6, 1977, as hereinafter set forth.

In Subpart G, 71.181 (42 FR 440), the Pleasanton, Tex., transition area is amended as follows:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Pleasanton Municipal Airport (Latitude 28°57'00" N., Longitude 98°31'20" W.) and within 3 miles each side of the 160° magnetic bearing from the Pleasanton NDB to 8 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)), and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Fort Worth, Tex., on July 8, 1977.

HENRY L. NEWMAN,
*Director, Southwest Region.*

[FR Doc.77–20460 Filed 7–15–77;8:45 am]

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## CHAPTER II—CIVIL AERONAUTICS BOARD

### SUBCHAPTER A—ECONOMIC REGULATIONS

[Regulation ER–1008, Amdt. 10]

## PART 207—CHARTER TRIPS AND SPECIAL SERVICES

### Charters by Air Freight Forwarders

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule amends the Board's regulations governing charters by certificated route air carriers by eliminating the requirement for prior consent, for inbound-U.S. charters to foreign air freight forwarders, which U.S.-flag air carriers operating scheduled service over the route of the charter now have. The rule implements a part of the Board's decision in the *Air Freight Forwarders' Charters Investigation*, Docket 23287, contained in Opinion and Order 77–7–25, adopted July 8, 1977.

DATES: Effective: September 11, 1977. Adopted: July 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Stephen Babcock, Rules Division, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202–673–5442.

Accordingly, the Board hereby revises paragraph (b)(3) of § 207.11 of its Economic Regulations (14 CFR 207.11(b)(3)) to read as follows:

**§ 207.11 Charter flight limitations.**

* * * * * * *

(b) * * *

(3) By an air freight forwarder or international air freight forwarder holding a currently effective operating authorization under Part 296 of this subchapter; by a person authorized by the Board to transport by air used household goods of personnel of the Department of Defense; with respect to flights from the United States in foreign air transportation, by a foreign air freight forwarder holding a currently effective permit issued by the Board under section 402 of the Act; and, with respect to flights to the United States in foreign air transportation, by any foreign air freight forwarder.

* * * * * * *

(Secs. 101(3), 204, 401, and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743, 754 (as amended), and 771; 49 U.S.C. 1301(3), 1324, 1371 and 1386).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77–20438 Filed 7–15–77;8:45 am]

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[Regulation ER–1009, Amdt. 10]

## PART 208—TERMS, CONDITIONS AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

### Charters by Air Freight Forwarders

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule amends the Board's regulations governing charters by certificated supplemental air carriers by eliminating the requirement of prior consent, for inbound-U.S. charters to foreign air freight forwarders, which U.S. flag air carriers operating scheduled service over the route of the charter now have. The rule implements a part of the Board's decision in the *Air Freight Forwarders' Charters Investigation*, Docket 23287, contained in Opinion and Order 77–7–25, adopted July 8, 1977.

DATES: Effective: September 11, 1977. Adopted: July 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Stephen Babcock, Rules Division, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. 202–673–5442.

Accordingly, the Board hereby revises paragraph (b)(3) of § 208.6 of its Economic Regulations (14 CFR 208.6(b)(3)) to read as follows:

**§ 208.6 Charter flight limitations.**

* * * * * * *

(b) * * *

(3) By an air freight forwarder or international air freight forwarder holding a currently effective operating authorization under Part 296 of this subchapter; by a person authorized by the Board to transport by air used household goods of personnel of the Department of Defense; with respect to flights from the United States in foreign air transportation, by a foreign air freight forwarder holding a currently effective permit issued by the Board under section 402 of the Act; and, with respect to flights to the United States in foreign air transportation, by any foreign air freight forwarder.

* * * * * * *

(Secs. 101(3), 204, 401, and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743, 754 (as amended), and 771; 49 U.S.C. 1301(3), 1324, 1371 and 1386).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77–20437 Filed 7–15–77;8:45 am]



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[Regulation ER-1010, Amdt. 20]

## PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

### Charters by Air Freight Forwarders

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule amends the Board's regulations governing charters by foreign route air carriers by eliminating the requirement of prior consent, for inbound-U.S. charters to foreign air freight forwarders, which U.S.-flag air carriers operating scheduled service over the route of the charter now have. The rule implements a part of the Board's decision in the Air Freight Forwarders' Charters Investigation, Docket 23287, contained in Opinion and Order 77-7-25, adopted July 8, 1977.

DATES: Effective: September 11, 1977. Adopted: July 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Stephen Babcock, Rules Division, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. 202-673-5442.

Accordingly, the Board hereby revised paragraph (a)(3) of § 212.8 of the Board's Economic Regulations (14 CFR 212.8(a)(3)) to read as follows:

**§ 212.8 Charter flight limitations.**

* * * * *

(a) * * *

(3) By an air freight forwarder or international air freight forwarder holding a currently effective operating authorization under Part 296 of this subchapter; by a person authorized by the Board to transport by air used household goods of personnel of the Department of Defense; with respect to flights from the United States in foreign air transportation, by a foreign air freight forwarder holding a currently effective permit issued by the Board under section 402 of the Act; and, with respect to flights to the United States in foreign air transportation, by any foreign air freight forwarder.

* * * * * *

(Secs. 101(3), 204, 402 and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743, 757 and 771; 49 U.S.C. 1301(3), 1324, 1372 and 1386).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-20436 Filed 7-15-77;8:45 am]

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[Reg. ER-1012, Amdt. 59; Docket 29387]

## PART 288—EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

### Fuel Surcharge Rates

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule amends the fuel surcharge rates (ER-989, March 7, 1977) applicable to the interim final minimum military charter rates (ER-962, July 27, 1976) for foreign and overseas air transportation services performed for the Department of Defense (DOD) and procured by the Military Airlift Command (MAC). The basis for issuing this surcharge amendment is the increase in average fuel price for the participating MAC carriers by 1.12 cents per gallon—from 40.58 cents per gallon reflected in the currently effective fuel surcharge rate to the currently reported average price of 41.70 cents per gallon.

DATES: Adopted: July 12, 1977. Effective: July 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Leonard S. Friedman, Postal and Military Rates Section, Bureau of Economics, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5368.

SUPPLEMENTARY INFORMATION: In accordance with established procedure and methodology, the Board has completed its monthly review of fuel prices reported on C.A.B. Form 41, Schedule P-12(a) for foreign and overseas MAC air transportation services for the month of May 1977, and is amending the surcharge provisions in Part 288 of its Economic Regulations (14 CFR Part 288) applicable to the rates established for those services.[1] The basis for issuing this surcharge amendment is the increase in average fuel price for the participating MAC carriers by 1.12 cents per gallon—from 40.58 cents per gallon reflected in the currently effective fuel surcharge rate[2] to the currently reported average price of 41.70 cents per gallon.

The Appendix[3] sets forth the results of the surcharge rate computation for the reported fuel price changes for commercial and military fuels consumed in military charter service for the month of May 1977, as reported on Schedule P-12(a), and the rate impact for the changes in current average fuel prices from those reflected in the base rates. Accordingly, we will revise the fuel surcharge rates effective July 12, 1977, to increase the long-range Category B and Category A rate from 2.72 to 3.96 percent.

In view of the continuing need for a fuel surcharge to the minimum rates set forth in Part 288, we find good cause exists to make these amendments effective on less than thirty (30) days' notice.

In consideration of the foregoing, the Board amends Part 288 of its Economic Regulations (14 CFR Part 288) effective July 12, 1977, as follows:

1. Amend § 288.7 in paragraph (a) by amending the third proviso following the table and in paragraph (d) by amending the proviso to subparagraph (1) and (2) to read:

**§ 288.7 Reasonable level of compensation.**

* * * * * *

(a) * * *: *Provided, however,* That effective July 12, 1977, the total minimum compensation pursuant to the rates set forth in subparagraph (1) above for (i) services performed with regular jet, wide-bodied jet, and DC-8F-61/63 aircraft, (ii) Pacific interisland services performed with B-727 aircraft, and (iii) all other services performed with B-727 aircraft shall be increased by surcharges of 3.96 percent, 3.57 percent, and 3.57 percent, respectively.[1]

* * * * * *

(d) For Category A transportation * * *

(1) * * *

(2) * * *

*Provided,* That effective July 12, 1977, the total minimum compensation pursuant to the rates specified in subparagraphs (1) and (2) of this paragraph shall be increased by a surcharge of 3.96 percent.

* * * * * *

(Secs. 204, 403, 416, Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 771, as amended (49 U.S.C. 1324, 1373, 1386))

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-20535 Filed 7-15-77;8:45 am]

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[Regulation ER-1011, Amdt. 3]

## PART 296—CLASSIFICATION AND EXEMPTION OF AIR FREIGHT FORWARDERS, AND COOPERATIVE SHIPPERS ASSOCIATIONS

### Charters by Air Freight Forwarders

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule amends the Board's regulations governing air freight forwarders by eliminating the requirement that international air freight forwarders must obtain the prior consent of all U.S.-flag air carriers operating scheduled service on a particular route before chartering an aircraft for a flight over the same route. The rule being amended applied to all charters by international air freight forwarders in foreign air transportation. This amendment implements a part of the Board's decision in the Air Freight Forwarders' Charters Investigation, Docket 23287, contained in Opinion and Order 77-7-25, adopted July 8, 1977.

DATES: Effective: September 11, 1977. Adopted: July 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Stephen Babcock, Rules Division, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. 202-673-5442.

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[1] ER-962, effective July 27, 1976.

[2] ER-989, effective March 7, 1977.

[3] Appendix filed as part of the original document.

[1] The surcharge provisions for services performed with B-727 aircraft will be applied to all other common-rated aircraft types





Accordingly, the Board hereby amends Part 296 of its Economic Regulations (14 CFR Part 296) as follows:

1. Amend the Table of Contents to Part 296 by revoking and reserving the listing for § 296.41, Charter trips in overseas and foreign air transportation over routes of a certificated carrier.

2. Revoke and reserve § 296.41.

(Secs. 101(3), 204 and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743 and 771; 49 U.S.C. 1301(3), 1324, and 1386).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-20439 Filed 7-15-77;8:45 am]

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### SUBCHAPTER D—SPECIAL REGULATIONS

[Regulation SPR-128, Amdt. 5; Docket No 29940]

## PART 371—ADVANCE BOOKING CHARTERS

### Amendment To Allow Fee for Substitutions

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule amends the Advance Booking Charter rule to allow charter operators to charge a fee of up to 25 dollars for making substitutions for withdrawing participants, except in the case of charters to certain European countries. The action was initiated by a petition from the Charter Travel Corporation.

DATES: Effective: August 14, 1977. Adopted: July 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard B. Dyson, Office of General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5444.

SUPPLEMENTARY INFORMATION: By SPDR-54, 42 FR 5367, January 28, 1977, the Board proposed to amend Part 371, Advance Booking Charters (ABC), to allow charter operators, when a substitute is found for a canceling participant, to charge the participant a fee to cover administrative expenses. The proposed amendment to § 371.14(a), in response to a petition by Charter Travel Corporation, would add an exception to the rule that all money must be refunded to a canceling participant if a substitute is found, to allow a fee of up to 25 dollars to cover the expenses involved in the substitution.

The reason for the proposal is that the present rule, by requiring charter operators to refund the entire charter price to a withdrawing participant, amounts to a disincentive for the operator to find substitutes and to some extent counteracts the intent of the substitution provision. The proposed amendment would exclude charters to countries of the European group for which the ABC rule has a longer booking period (Belgium, the Federal Republic of Germany, Finland, France, Ireland, Italy, the Netherlands, Switzerland, and the United Kingdom).

Comments were received from the Board's Office of the Consumer Advocate (OCA), Charter Travel/Brendan Tours, Gogo International, American Travel Abroad, California Holidays, Hawaiian Holidays, Unitours, and Duncan Travel Service. All of the comments generally supported the proposal to allow a substitution fee. While some agreed that the 25-dollar limit was reasonable, others argued that the rule should set no maximum on the fee, and that the amount should be a business decision of the charter operators. The Board does not agree with this position. Although the fees charged will be set forth in the operator-participant contracts, it seems likely that a substantial percentage of participants do not read the provisions carefully, do not fully understand them, do not adequately evaluate the possibility and the consequences of having to withdraw from the charter, or assume that charters are identical in this respect and are unwilling or unable to shop for the best terms. In these circumstances, a measure of consumer protection, limiting the fees to an amount that would cover reasonable costs, is found desirable.

OCA suggested that the allowed fee for ABC substitutions should, to avoid consumer confusion, be consistent with that for Travel Group Charters (14 CFR Part 372a), which is 5 percent of the charter price. As suggested in the proposal, the Board finds a flat maximum preferable to a percentage, since it is not clear that the expenses incurred in arranging substitutions vary according to the price of the charter. As for changing the TGC rule to conform to this ABC amendment, it does not appear justified at this time. The TGC rule differs from the ABC rule in various respects, including the obligation of participants to share the total cost of the charter price. Consequently, it is by no means clear that the TGC substitution charge should also be changed without instituting a separate rulemaking. Whether such a new proceeding is warranted appears doubtful, since in terms of volume, the TGC rule has largely been supplanted by the ABC rule.

Several commenters objected to the exclusion of "European" charters from the substitution fee allowance. The reasons for differing rules for charters to that group of countries were discussed in some detail in the preamble to the issuance of the ABC rule, SPR-110, 41 FR 37763, September 8, 1976. As stated in that issuance, "the Board believes that, in the interest of promoting travel and harmony in aviation relations with our principal European partners, the ABC rule should strive for international acceptability and commonality of charter rules with the European countries comprising the major charter destinations of United States travelers." 41 FR 37764-5. The proposed exclusion of European charters from the amendment to make substitution easier was based on a judgment by the Board that it would further these interests. The Board adheres to that position in this issuance.

ISSUANCE OF AMENDMENT

Accordingly, in 14 CFR Part 371, Advance Booking Charters, the Civil Aeronautics Board amends § 371.14(a) to read as follows:

**§ 371.14 Substitution for charter participants named on filed list.**

Substitutes may be arranged for charter participants at any time preceding departure, only in accordance with the following:

(a) The charter participant for whom a new participant is substituted shall receive a full refund of all monies paid to the charter operator with respect to the charter, except that, with respect to non-European charters, the charter operator may reserve the right to retain an administrative fee of not more than 25 dollars for effecting the substitution.

* * * * * *

(Secs. 101, 204, 401, 402, 416, Federal Aviation Act of 1958, as amended; 72 Stat. 737, 743, 754, 757, 771; 49 U.S.C. 1301, 1324, 1371, 1372, 1386.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-20549 Filed 7-15-77;8:45 am]

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### SUBCHAPTER D—SPECIAL REGULATIONS

[Regulation SPR-129, Amdt. 9; Docket No. 27145]

## PART 375—NAVIGATION OF FOREIGN CIVIL AIRCRAFT WITHIN THE UNITED STATES

### Transit Flights; Scheduled International Air Service Operations

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This amendment will require that foreign carriers by air desiring to operate transit flights pursuant to the terms of the International Air Services Transit Agreement (59 Stat. 1693) file a Notice of such proposed transit flights fifteen days prior to the commencement of such flights, and provides that the Board by Order of Notification may prevent inauguration or continuation of any such flights pending further procedures for consideration of any question which may exist as to the operation of those flights under the Agreement.

DATES: Effective: September 10, 1977. Adopted: July 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter B. Schwarzkopf, Assistant to the General Counsel, International Affairs, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5436.



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SUPPLEMENTARY INFORMATION: In notice of proposed rulemaking SPDR-39,[1] the Board proposed amendment of Part 375 of its Special Regulations (14 CFR Part 375) so as to revise the provisions of section 375.45 thereof which relate to authority for the navigation of foreign civil aircraft in scheduled international air services in transit over the United States. Section 375.45 presently grants a blanket authorization to foreign carriers, pursuant to the regulations, to perform transit flights in U.S. air space pursuant to the provisions of the International Air Services Transit Agreement (59 Stat. 1693), subject to the advance approval of the Administrator of the Federal Aviation Administration for the route proposed to be followed. Transit flights to be performed other than pursuant to the provisions of the International Air Services Transit Agreement require a special application and issuance of a Foreign Aircraft Permit pursuant to the provisions of section 375.70. The proposed amendment to section 375.45 would have required a specific application and issuance of a Foreign Aircraft Permit, pursuant to section 1108(b) of the Act, prior to commencement of any transit flights in U.S. air space, whether or not performed pursuant to the International Air Services Transit Agreement.

The Board pointed out in its rulemaking notice that under the existing section 375.45 provisions, it was contemplated that the Administrator of the Federal Aviation Administration would exercise the function of determining whether a particular operation did, in fact, fall within the scope of rights granted pursuant to the International Air Services Transit Agreement. However, it had recently come to the Board's attention that the Administrator construed his function under this regulation as strictly one of issuing safety or traffic control approval, and that an alternative administrative avenue was required in order to provide an orderly means for resolution of issues as to whether particular transit flights fall within the scope of the International Air Services Transit Agreement, or should otherwise be authorized.[2]

Comments in support of the proposed rule have been filed by the Air Transport Association on behalf of ten U.S. domestic carriers, Pan American World Airways, Inc., and the American Society of Travel Agents. Comments opposing the proposed rule have been filed by the Swiss Air Transport Company, Ltd. (Swissair), and Air Europe International, S.A. ("Air Europe"), a Luxembourg carrier by air which had previously proposed certain operations between Tijuana, Mexico and Luxembourg, in transit across United States air space.

[1] November 1, 1974, 39 FR 39293, November 6, 1974.

[2] The Board noted that in the usual case, where the applicant's home government was a signatory of the International Air Services Transit Agreement, it was anticipated that appropriate approval would be routinely granted.

The Department of State filed a comment which basically agrees that the United States Government should have a means to deal with the problem of transit flights unauthorized by the International Air Services Transit Agreement, but suggesting that alternative procedures be considered which would be less burdensome on foreign carriers legitimately exercising rights granted pursuant to that Agreement. A comment of the Department of Transportation similarly supports any appropriate effort by the Board to utilize procedures to prevent abuse of the International Air Services Transit Agreement, but also expresses concern with the Board's imposition of an unnecessary burden upon legitimate air transit operations.

Reply comments have been filed by the Air Transport Association and Pan American, emphasizing the need for control over foreign carrier transit operations, and urging the immediate adoption of the proposed rule.

Upon consideration of the comments, the Board finds merit in the concern expressed by the Department of State, the Department of Transportation, and Swissair, to the effect that the proposed rule may constitute an unnecessary burden upon legitimate transit services operated in full conformity with the International Air Services Transit Agreement and that other alternatives may provide an equally effective solution to the problem of questionable operations, while minimizing the burdens imposed. The Board retains its view, nevertheless, that appropriate procedures should be adopted pursuant to which the Board will have an opportunity to examine, and, to the extent necessary, to withhold authority for transit operations which appear to raise questions of legitimacy under the Transit Agreement, pending appropriate resolution of such questions. In this connection the Board notes that a proposed operation, allegedly under authority of the Transit Agreement, might raise questions whether such operations, even if between two foreign points, may be in air transportation, and hence not authorized pursuant to the Transit Agreement (at least in the absence of issuance of a section 402 permit authorizing such operations in accordance with the requirements of the Federal Aviation Act). It may also raise questions whether such authority should be withheld, pursuant to Section 5 of Article I of the Transit Agreement, "in any case where it (the Board) is not satisfied that substantial ownership and effective control are vested in nationals of a contracting State, or in case of failure of such air transport enterprise to comply with the laws of the State (United States) over which it operates, or to perform its obligations under this Agreement."

The Board has concluded, on the other hand, that the objective of the proposed regulations can be achieved by requiring a Notice of Proposed Transit Flights Pursuant to the International Air Services Transit Agreement to be filed with the Board (Director, Bureau of Operating Rights) not less than 15 days in advance of the proposed commencement of the transit flights, accompanied by certain minimal data which will permit the Board to make a preliminary determination as to whether any questions exist as to the legitimacy of the proposed operation. The Board will, therefore, revise the proposed rule to provide for the filing of such a Notice, and following such a timely filing, if no questions appear to exist, to permit the proposed operations to be conducted without further authorization from the Board. However, if on the basis of the Notice filing the Board concludes that a question exists as to whether (1) the proposed services are authorized pursuant to the terms of the International Air Services Transit Agreement; (2) substantial ownership and effective control are vested in nationals of a State party to the International Air Services Transit Agreement; (3) the proposed operations will be in compliance with the laws of the United States, the Board's regulations, or the provisions of of this section; or (4) the operator or its government have performed their obligations under the International Air Services Transit Agreement, the Board would issue an order notifying the carrier of the existence of such questions. Upon issuance of such order of notification, the carrier would be precluded from performing such operations unless or until the questions were resolved by further proceedings, the nature of which would be determined by the Board. The notification would, except as otherwise specified by the Board, preclude operation of any flights which had been proposed to be operated subsequent to the issuance of such order of notification pending the completion of such proceedings. The carrier would be authorized to commence or recommence such transit operations only upon issuance of a Foreign Aircraft Permit pursuant to the provisions of section 1108(b) of the Act, specifically authorizing the operations.[3]

The Board wishes to make it clear that the intent of the revised regulation is only to minimize the burden upon transit operators where it appears from the face of their Notice filing that there is no question as to the right of such carrier to perform the proposed transit operations pursuant to the provisions of the International Air Services Transit Agreement. The issuance of an order notifying the carrier that a question exists as to the legitimacy of the proposed operations should in no sense be considered a determination of such questions. Such an order would be a determination only that further inquiry is required to resolve the questions which had arisen. In this connection, carriers should be advised that the burden to establish clearly the existence of rights under the International Air Services Transit Agreement, and the absence of any circumstances pursuant to which such rights might appropriately

[3] In the event of issuance of such an order of notification, the carrier's Notice of Proposed Transit Flights would be treated as an application for a Foreign Aircraft Permit authorizing such transit operations.





be withheld or revoked pursuant to Section 5 of Article I of the International Air Services Transit Agreement, rests with such carriers. Therefore, it will be essential for a carrier to include in the advance Notice of Proposed Transit Flights Pursuant to the International Air Services Transit Agreement, all data that is necessary to remove any question as to the legitimacy or appropriateness of the proposed operations. The failure to include sufficient data in this respect could be expected to lead to issuance of an order notifying that a question exists, and would invite further procedures for resolution of such questions before such operations would be authorized.

The material to be included in the Notice of Proposed Transit Flights constitutes the minimum which the Board considers necessary to make the preliminary determination as to the legitimacy or appropriateness of the proposed operation. Thus, the notice will require a statement of nationality of any direct or indirect interest or stock ownership of the operator or carrier providing the services, but details need be provided only to the extent there exists nationality interests other than that of the State of incorporation or citizenship. Similarly, only such nonnational citizenship of corporate officers or directors need be disclosed. However, if any such nonnational citizenship does exist, with respect to any stock or other direct or indirect interest in the operator or carrier performing the service, or of a corporate officer or director, the nationality and full extent of such interest or corporate influence must be disclosed. Failure to make such full disclosure will inevitably require the issuance of a notice of the existence of a question, and further procedures for resolution of the question before operations can be commenced or continued. There will also be required to be included in the advance Notice filing copies of any advertisements or publications of the proposed service in the United States, since, obviously, such advertisements may constitute the basis of a holding out pursuant to which an air operation performed between two points wholly outside the United States might constitute "air transportation" to or from the United States. Changes in information required to be included in the Notice, with the exception of minor changes in schedules or routing, would also be filed.

The transit carrier may incorporate in a single Notice its proposals for scheduled service for a limited period or for indefinite duration. However, the failure of the Board to issue an order notifying the carrier that a question exists prior to the initial flight shall not be construed as an approval or condoning of any subsequent flight which, as noted, would require the prior specific issuance of a Foreign Aircraft Permit if operated at any time subsequent to issuance of an order notifying the carrier that a question exists. Operators of aircraft registered in countries not parties to the International Air Services Transit Agreement will be required to make special application to the Board under section 375.70, and to obtain a Foreign Aircraft Permit in advance of commencement of the proposed flights, in accordance with existing procedures.

We have considered the arguments of Air Europe and Swissair that the proposed regulation is inconsistent with the provisions of the International Air Services Transit Agreement, and respective bilaterals in effect between the United States and other countries. We find such arguments to have no merit. Apart from numerous other considerations, it is sufficient to point out that the specific right granted pursuant to Section 5 of Article I to withhold or revoke the transit authority on the basis of lack of satisfaction as to ownership or control, or compliance with United States laws (including the obtaining of any authorization required pursuant to the Federal Aviation Act, a provision specifically set forth in the standard bilateral agreement) necessarily contemplates that governments may require carriers to submit sufficient data to enable them to determine whether the provisions of the International Air Services Transit Agreement, or Section 5 of Article I thereof, are applicable. And we reiterate, in contrast to the position of Swissair, that we consider that the burden rests upon the carrier to establish that he is entitled to any rights which may be afforded by any applicable international agreements.

The Department of Transportation requests that the reference to approval by the Administrator be deleted from the regulation in order to avoid any implication that the Administrator would exercise a function other than safety air traffic control. We have deleted the reference as requested. However, carriers should be aware that the deletion does not in any way relieve them of the responsibility for full compliance with the Federal Air Regulations in conducting transit, or any other operations, as specifically set forth in section 375.22 of the regulations. The rule provides that a copy of the Notice of Proposed Transit Flights be served upon the Department of State and the Administrator of the Federal Aviation Administration. This will afford an opportunity for these Executive Departments to transmit to the Board any relevant matters pertaining to the proposed operation.

The rule will be made effective 60 days after the date of its adoption. This will provide ample opportunity for foreign carriers conducting existing transit operations to timely file the required Notice of Proposed Transit Flights 15 days prior to the effective date of the Rule.

We have considered all other contentions and have concluded that section 375.45 should be amended in the manner set forth below.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 375 of the Board's Special Regulations (14 CFR 375), effective September 10, 1977, as follows:

1. Amend the Table of Contents and the title to Subpart E by revising the title to Subpart E to read as follows:

**Subpart E—Operations Requiring Specific Preflight Authorization or Filing**

2. Amend § 375.45 to read as follows:

**§ 375.45 Transit flights; scheduled international air service operations.**

(a) *Requirement of notice.* Scheduled international air services proposed to be operated pursuant to the International Air Services Transit Agreement in transit across the United States may not be undertaken by foreign civil aircraft unless the operator[1] of such aircraft, and (if other than the operator) the carrier offering such service to the public, has, not less than 15 days prior to the date of commencement of such service, filed a Notice of Proposed Transit Flights Pursuant to the International Air Services Transit Agreement in accordance with the provisions of paragraphs (b) and (c) below.

(b) *Filing of the notice.* An original and two copies of the Notice shall be filed with the Director, Bureau of Operating Rights, Civil Aeronautics Board. Copies of the Notice shall be served upon the Department of State and the Administrator, Federal Aviation Administration. The filing date shall be the date of actual receipt by the Board.

(c) *Content of notice.* A "Notice of Proposed Transit Flights Pursuant to the International Air Services Transit Agreement" shall be clearly labled as such, and as a minimum shall set forth, with whatever detail may be necessary, the following information:

(1) The name, country of organization, and nationality of all ownership and control interests, of the operator; and, if other than the operator, of the carrier offering the services to the public. If any interest (direct or indirect) in the operator or offeror of services is held by nationals of a country other than the country of organization or citizenship, the nature and extent of such interest must be fully disclosed. If any officer or director of the operator or carrier offering the services is a national of a country other than the country of organization or citizenship, the position and duties of such officer or director, and his relevant position in relation to other officers and directors must similarly be fully disclosed.

(2) The State of Registration of the aircraft proposed to be operated.

(3) A full description of the proposed operations including the type of operations (passenger, property, mail, or combination), date of commencement, duration and frequency of flights, and routing (including each terminal and intermediate point to be served).

(4) A statement as to whether or not any advertisement or publication of the proposed operations has been made in the

[1] Any person leasing an aircraft with crew is considered to be an operator of such aircraft. See 14 CFR 218.



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United States. If there has been any advertisement or publication of the operations in the United States, copies of all such advertisements or publications should be included.

Any change with respect to these matters (minor changes in schedules or routing excepted), shall also be filed with the Board's Bureau of Operating Rights.

(d) *Authorized operations.* If the operator and the carrier offering services to the public (if different from the operator) have filed a "Notice of Proposed Transit Flights Pursuant to the International Air Services Transit Agreement," at least 15 days before the date of commencement of the proposed operations in accordance with paragraphs (a), (b) and (c) above, the described operations may be commenced and performed without further authorization from the Board, unless or until the Board issues an order notifying the operator and/or the carrier offering the services to the public that, considering the matters submitted in the Notice, the Board is of the view that a question may exist as to whether (1) the proposed services are authorized pursuant to the terms of the International Air Services Transit Agreement; (2) substantial ownership and effective control are vested in nationals of a State party to the International Air Services Transit Agreement; (3) the proposed operations will be in compliance with the laws of the United States, the Board's Regulations, or the provisions of this section; or (4) the operator or its government have performed their obligations under the International Air Services Transit Agreement.

(e) *Prohibited operations.* If the Board issues an order of notification as described in paragraph (d) above, neither the operator, nor the carrier offering the services to the public, shall commence the proposed operations, or, except as may be otherwise specified in the order, operate any flights subsequent to receipt of the order, unless or until the Board issues a Foreign Aircraft Permit pursuant to the provisions of section 1108(b) of the Act specifically authorizing such operations.

(f) *Foreign Aircraft Permit—Application and Procedures.* If the Board issues an Order of Notification as described in paragraph (d) above, the carriers' Notice of Proposed Transit Flights Pursuant to the International Air Services Transit Agreement shall be treated as an application for the required Foreign Aircraft Permit, and further procedures on such application shall be as directed by the Board.

(g) *Short notice filing.* Nothing in this section shall be construed as precluding the filing of an application for a Foreign Aircraft Permit to perform transit operations pursuant to the International Air Services Transit Agreement less than 15 days in advance of the proposed operation; *Provided:* That, no such flights shall be operated unless or until a specific Foreign Aircraft Permit authorization has been issued by the Board.

(h) *Nature of privilege conferred.* Air transportation is not authorized under this section, and the burden rests upon each operator and carrier to show that the contemplated operations will not constitute air transportation within the meaning of the Federal Aviation Act. In addition, each operator and carrier has the burden of demonstrating that the proposed operations are authorized pursuant to the International Air Services Transit Agreement, and that the appropriate authorization should not be withheld pursuant to Section 5 of Article I thereof. Stopovers for the convenience or pleasure of the passengers are not authorized under this section and stops other than for strictly operational reasons shall not be made. The consolidation on the same aircraft of an operation under this section with a service authorized under section 402 of the Act is not authorized by this section. Any authorization or permit granted by this section is nontransferable, and may be withheld, revoked, suspended, withdrawn, or cancelled by the Board, without notice or hearing, if required by the public interest. Operators of aircraft registered in countries not parties to the International Air Services Transit Agreement shall make special application to the Board under § 375.70.

(Sections 204(a) and 1108(b) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 798, 49 U.S.C. 1324, 1508.)

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-20550 Filed 7-15-77;8:45 am]

## Title 16—Commercial Practices

## CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

## PART 1025—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

### Interim Rules of Practice for Adjudicative Proceedings Under Consumer Product Safety Act and Flammable Fabrics Act

*Correction*

In FR Doc. 77-17690 appearing on page 31431, in the issue for Tuesday, June 21, 1977, on page 31437, the 3rd column, paragraph (e) should be corrected to read as follows:

**§ 1025.31 General provisions governing discovery.**

* * * * *

(e) *Sequence and timing of discovery.* Discovery may commence at any time after filing of the answer. Unless otherwise provided in these Rules or by order of the Presiding Officer, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery.

* * * * *

On page 31442, § 1025.48(a) should read as follows:

**§ 1025.48 Official docket.**

(a) The official docket in adjudicatory proceedings will be maintained in the Office of the Secretary and will be available for public inspection during normal working hours (8:30 a.m. to 5 p.m.) Monday through Friday.

* * * * *

## PART 1028—PROTECTION OF HUMAN SUBJECTS

### Issuance of Regulations

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: This rule prescribes procedures and requirements for the protection of human subjects applicable to all Commission contracts, grants, or other agreements supporting research or related activities in which human subjects are involved.

The rule is intended to assure that before work is performed under such an agreement, any risk to human subjects has been fully evaluated and demonstrated to be justified by the value of the information to be gained. Also the rule requires that the individual subjects or their legal representatives give consent to incurring the risk only after being fully apprised of all the circumstances and of all the risks.

EFFECTIVE DATE: August 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Albert F. Esch, M.D., Medical Director, Consumer Product Safety Commission, Washington, D.C. 20207. (301-492-6641.)

SUPPLEMENTARY INFORMATION: On September 2, 1976, the Consumer Product Safety Commission published for comment a proposed rule (41 FR 37120) to provide procedures and requirements for the protection of human subjects in research or related activities carried out under Commission grants, contracts, or similar agreements. Comments received are addressed below.

DISCUSSION OF COMMENTS

1. A few comments pointed out that §§ 1028.10(b) (1) and (2) of the proposed rule could be read to require that sample copies of consent forms, to be retained by organizational committees, must be copies of the executed consent form. The subsections have been changed. Only unsigned, but otherwise complete, samples are required to be retained in the committee's records. The executed consent form may be retained by an organization officer responsible for administering performance of the agreement.

2. One comment questioned whether § 1028.1(c), in stating that Part 1028 does not apply to opinion surveys, questionnaires, or to solicitation of information about past events, might disregard risks to the privacy of individuals and the confidentiality of information collected. The Commission believes that privacy and confidentiality for information collected as described in § 1028.1(c) are adequately protected by the terms of the Privacy Act and the Freedom of Information Act and the Commission rules thereunder (16 CFR Part 1015 and 16 CFR Part 1014 (42 FR 10491, February 22, 1977) respectively); Therefore, no change has been made in § 1028.1(c).

3. A few comments pointed out confusing language in §§ 1028.13 and 1028.14. This language has been eliminated as unnecessary. Other minor corrections of errors and language clarifications have been made throughout the rules in response to the comments.

4. Almost all of the comments received requested that the Commission accept institutional general assurances approved by the Department of Health Education, and Welfare under its Protection of Human Subjects Rules (45 CFR Part 46). The comments also requested that no special assurance be required of an institution which has had its general assurance approved. The basis of these requests was the avoidance of unnecessary duplication of paperwork. The Commission agrees with the comments, and changes have been made accordingly to §§ 1028.2(f), 1028.2(g), 1028.4, 1028.5, 1028.12, and 1028.16(b)(2).

5. One comment emphasized the burden of keeping general assurances continuously updated and on file with several government agencies and requested that organizations not be required to file a copy of a Department of Health, Education, and Welfare (DHEW)-approved general assurance with the Commission. The commenter apparently assumed that the Commission intends to maintain a duplicate of the entire DHEW file of assurances; this is not the case. The Commission believes that its activities which involve subjects at risk will be relatively infrequent and will never approach the number of comparable activities sponsored by the DHEW. Therefore, organizations should not submit copies and updates of DHEW-approved general assurances to the Commission as a matter of course. Copies of current DHEW-approved assurances should only be submitted in connection with a grant or contract proposal. Grantees or contractors will be expected to notify the Commission of changes in DHEW-approved general assurances only during the period of performance of the Commission grant or contract. Section 1028.4 has been changed to clarify this procedure.

6. One comment expressed the belief that no third person ought to be allowed to consent to exposure of another to nontherapeutic risks. This comment was directed at §§ 1028.3(b)(1) and 1028.10(b)(1) which would permit informed consent, by a legally authorized representative of the subject, to the undertaking of non-therapeutic risks when the risks are so outweighed by the importance of the information to be gained as to warrant a decision to allow the subjects to accept the risks. The comment also asserted that this procedure would violate the Constitution. The Commission has no doubt that the procedure is constitutionally valid and well established in the law. Persons who undertake some risks to themselves or to those for whom they are responsible, in order to improve the safety of the rest of the community, perform an irreplaceable service. The objective of the regulation is to make certain that the risks are well defined, are clearly justified in the circumstances, and are considered fully by the subjects or their legally authorized representatives. No changes have been made in response to the comment.

7. One comment suggested that submission of certifications, in connection with proposals by organizations which have general assurances, not be required at the time the proposal is submitted as normally required by § 1028.11. The comment pointed out that working constraints often make this deadline a difficult one to meet. The Commission believes that section 1028.11 presently contains sufficient discretion for its officers, in any particular case, to defer the due date for submission of certifications to any convenient date prior to award. The Commission expects that this discretion will be exercised to avoid undue burdens on those submitting proposals. No changes have been made to section 1028.11.

COMMENT BEYOND SCOPE

A comment was received from the Department of Health, Education, and Welfare. This comment suggested that the Commission procedures under the Poison Prevention Packaging Act of 1970 (PPPA), 16 CFR Part 1700, be amended to require informed consent and institutional review committee requirements for any testing data acquired by use of human subjects which is submitted to the Commission with a request for an exemption under the PPPA. The Commission will consider such an amendment. Since such an amendment would be beyond the scope of the proposed rule presently under consideration, no changes have been made in response to this comment.

Accordingly, 16 CFR Part 1028 is established as set forth below.

Effective date: This regulation shall become effective August 17, 1977.

Signed at Washington, D.C., on July 19, 1977.

RICHARD E. RAPPS,
*Secretary, Consumer Product Safety Commission.*

Sec.
1028.1 Applicability.
1028.2 Definitions.
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1028.9 Obligation to obtain informed consent; prohibition of exculpatory clauses.
1028.10 Documentation of informed consent.
1028.11 Certification; general assurances.
1028.12 Certification; special assurances.
1028.13 Proposals lacking definite plans for involvement of human subjects.
1028.14 Proposals submitted with the intent of not involving human subjects.
1028.15 Evaluation and disposition of proposals.
1028.16 Cooperative activities.
1028.17 Organization's executive responsibility.
1028.18 Organization's records.
1028.19 Reports.
1028.20 Early termination of awards; sanctions for noncompliance.
1028.21 Conditions.

AUTHORITY: Consumer Product Safety Act (15 U.S.C. 2051-81), the Federal Hazardous Substances Act (15 U.S.C. 1261-74), the Flammable Fabrics Act (15 U.S.C. 1191-1204), the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471-76), and the Refrigerator Safety Act (15 U.S.C. 1211-14).

**§ 1028.1 Applicability.**

(a) The requirements of this Part 1028 are applicable to all Consumer Product Safety Commission contracts or grants or other agreements supporting research or standards or regulations or related activities in which human subjects are involved.

(b) The Commission may on occasion by publication in the FEDERAL REGISTER, or by other appropriate means, designate activities, including specific programs, methods, or procedures, that necessarily fall within the scope of this Part 1028 or to which this Part 1028 is inapplicable.

(c) The requirements of this Part 1028 do not apply to opinion surveys, questionnaires, or to solicitation of information about past events.

**§ 1028.2 Definitions.**

(a) "Organization" means any public or private institution or agency, including Federal, State, and local government agencies.

(b) "Cooperative activity" means any activity which involves organizations in addition to the grantee, prime contractor under the Consumer Product Safety Act.

(c) "Subject at risk" means any individual who may be exposed to the possibility of injury, including physical or psychological injury, as a consequence of participation as a subject in any research, development or related activity.

(d) "Informed consent" means the knowing consent of an individual, or a legally authorized representative, able to exercise free power of choice without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion. The basic elements of information necessary for such consent include:

(1) A fair explanation (including the purpose) of the procedures to be followed, with identification of any experimental procedures.

(2) A description of any attendant discomforts and risks reasonably to be expected.







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(3) A description of any benefits reasonably to be expected.

(4) Disclosure of any appropriate alternative procedures that might be advantageous for the subject.

(5) An offer to answer any inquiries concerning the procedures.

(6) Instruction that the person is free at any time to withdraw his or her consent and discontinue participation in the project or activiy without prejudice to the subject at risk.

(e) "Commission" means the Consumer Product Safety Commission and any officer or employee of the Consumer Product Safety Commission to whom authority has been delegated.

(f) "Approved assurance" means a document that fulfills the requirements of this Part 1028 and is approved by the Commission or a document that fulfills the requirements of 45 CFR Part 46 and is approved by the Department of Health, Education, and Welfare.

(g) "Certification" means the official organizational notification to the Commission in accordance with the requirements of this Part 1028 that a project or activity involving human subjects at risk has been reviewed and approved by the organization in accordance with the "approved assurance" on file at the Commission or at the Department of Health, Education, and Welfare.

(h) "Legally authorized representative" means an individual authorized under applicable law to give consent on behalf of a prospective subject's participation in the particular activity or procedure.

(i) "Committee" means the committee of the organization established in compliance with § 1208.6(b)(2) of this Part 1028.

**§ 1028.3 Policy.**

(a) Safeguarding the rights and welfare of subjects at risk in activities supported by the Commission is primarily the responsibility of the organization that has received funds from or that is accountable to the Commission for the support of its activity. To provide for the adequate discharge of such responsibility by the organization, the Commission's policy is that no activity involving human subjects to be supported by the Commission shall be undertaken unless a committee of the organization has reviewed and approved such activity and the organization has submitted to the Commission a certification of such review and approval in accordance with the requirements of this Part 1028.

(b) The committee's review shall determine whether the human subjects will be placed at risk and, if risk is involved, whether:

(1) The risks to the subjects are so outweighed by the sum of the benefit to the subjects and the importance of the knowledge to be gained as to warrant a decision to allow the subjects to accept these risks.

(2) The rights and welfare of the subjects will be adequately protected.

(3) Legally effective informed consent will be obtained by adequate and appropriate methods in accordance with the provisions of this Part 1028.

(4) The conduct of the activity will be reviewed at timely intervals.

(5) A qualified psychologist, doctor of medicine, or other appropriate professional, having established emergency medical procedures, will oversee each test.

(c) No grant or contract or other agreement involving human subjects at risk shall be made to an individual unless he or she is affiliated with or sponsored by an organization that can and does assume responsibility for the subjects at risk involved.

**§ 1028.4 Submission of assurances.**

(a) Recipients or prospective recipients of Commission support under a grant or contract or other agreement involving subjects at risk shall provide written assurance complying with the requirements of this Part 1028. Each assurance shall embody:

(1) A statement of compliance with Commission requirements for initial and continuing guidelines, including identification of the committee and a description of its review procedures; or

(2) In the case of special assurances concerned with single activities or projects, a report of initial findings of the committee and of its proposed continuing procedures.

(b) Such assurance shall be executed by an individual authorized to act for the organization and to assume on behalf of the organization the obligations imposed by this Part 1028.

(c) If an organization has a general assurance on file with the Department of Health, Education, and Welfare, it need only notify the Commission of this fact and submit a copy of the approved general assurance to the Commission at the time it submits a proposal for a grant, contract, or other agreement. Recipients of such support must notify the Commission of any changes made to the DHEW-approved assurance during the period of performance of the agreement.

**§ 1028.5 Types of assurances.**

(a) *General assurances.* A general assurance describes the review and implementation procedures applicable to all Commission-supported activities conducted by an organization, regardless of the number, location, or types of its components or field activities. General assurances will be required from organizations having two or more concurrent Commission-supported projects or activities involving human subjects, Section 1028.6 prescribes the minimum requirements for general assurances.

(b) *Special assurances.* A special assurance describes the review and implementation procedures applicable to a single activity or project. A special assurance will not be solicited or accepted from an organization which has an approved general assurance on file at the Commission or at the Department of Health, Education, and Welfare. Section 1028.7 prescribes the minimum requirements for special assurances.

**§ 1028.6 Minimum requirements for general assurances.**

(a) General assurances shall be submitted in the form and manner as the Commission may require in "The Institutional Guide to CPSC's Policy on Protection of Human Subjects," which can be obtained, upon request, from the Commission.

(b) As part of its general assurance, the organization must include implementing guidelines that specifically provide for:

(1) A statement of principles that will govern the organization in the discharge of its responsibilities for protecting the rights and welfare of subjects. This may include appropriate existing codes or declarations, or statements formulated by the organization itself. It is to be understood that no such principles supersede Commission policy or applicable law.

(2) A committee that will conduct initial and continuing reviews in accordance with the policy outlined in § 1028.3. Such committee or committee structure shall meet the following requirements:

(i) The committee must be composed of not less than five persons with varying backgrounds to assure complete and adequate review of activities commonly conducted by the organization. The committee must be sufficiently qualified through the maturity, experience, and expertise of its members and diversity of its membership to insure respect for its advice and counsel for safeguarding the rights and welfare of human subjects. In addition to possessing the professional competence necessary to review specific activities, the committee must be able to ascertain the acceptability of proposals in terms of organizational commitments and regulations, applicable law, standards of professional conduct and practice, and community attitudes. The committee must therefore include persons whose concerns are in these areas.

(ii) The committee members shall be identified to the Commission, by name, earned degree (if any), position or occupation and representative capacity, and by other pertinent indications of experience such as board certification, licenses, etc., sufficient to describe each member's chief anticipated contributions to committee deliberations. Any employment or other relationship between each committee member and the organization shall be identified; for example, full-time employee, part-time employee, member of governing panel, or board, paid consultant, or unpaid consultant. Changes in committee membership shall be reported to the Commission in such form and at such times as the Commission may require.

(iii) No committee member shall be involved in either the initial or continuing review of an activity in which he or she has a conflicting interest, except to provide information requested by the committee.

(iv) The committee shall not consist entirely of persons who are officers, employees, or agents of, or who are otherwise associated with, the organization (apart from their membership on the committee).

(v) The committee shall not consist entirely of members of a single professional group.

(vi) The committee's quorum shall be defined and shall not be less than a majority of the members convened to carry out the committee's responsibilities under the terms of the assurance.

(3) The procedures the organization will follow in its initial and continuing review of proposals and activities.

(4) The procedures the committee will follow (i) to provide advice and counsel to activity directors and investigators with regard to the committee's actions and (ii) to insure prompt reporting to the committee of proposed changes in an activity and of unanticipated problems involving risk to subjects or others.

(5) The procedures the organization will follow to maintain an active and effective committee and to implement the committee's recommendations.

(6) A statement as to how often the committee will meet to provide for continuing review. Such review must occur at least annually.

**§ 1028.7 Minimum requirements for special assurances.**

(a) Special assurances shall be submitted in the form and manner prescribed by paragraph (b) of this section.

(b) An acceptable special assurance shall: (1) Identify the specific grant, contract, or developmental standard or regulation involved by its number (if known), its full title, and the name of the activity or project director, principal investigator, fellow, or other person immediately responsible for the conduct of the activity. The assurance shall be signed by the individual members of a committee that complies with the requirements of § 1028.6(b)(2) and shall be endorsed by an appropriate organization official.

(2) Describe the makeup of the committee and the training, experience, and background of its members in accordance with § 1028.6(b)(2)(ii).

(3)(i) Describe in general terms the risks to the subject that the committee recognizes as inherent in the activity and (ii) justify the committee's decision that these risks are so outweighed by the sum of the benefit to the subject and the importance of the knowledge to be gained as to warrant the committee's decision to permit the subject to accept these risks.

(4) Describe the informed-consent procedures to be used and attached documentation required by § 1028.10.

(5) Describe the procedures the committee will follow (i) to insure prompt reporting to the committee of any proposed changes in the activity and of any unanticipated problems involving risks to subjects or others and (ii) to insure that any such problems are promptly reported to the Commission.





**§ 1028.8 Evaluation and disposition of assurances.**

(a) All assurances submitted in accordance with §§ 1028.6 and 1028.7 shall be evaluated by the Commission through its officers and employees and such experts or consultants as it determines to be appropriate. The Commission's evaluation shall take into consideration, among other pertinent factors, the adequacy of the proposed committee in the light of the anticipated scope of the applicant organization's activities and of the types of subject populations likely to be involved, the appropriateness of the proposed initial and continuing review procedures in the light of the probable risks, and the size and complexity of the organization.

(b) On the basis of the evaluation of an assurance pursuant to paragraph (a) of this section, the Commission shall either approve the assurance, enter into negotiations to develop a more satisfactory assurance, or disapprove the assurance. The Commission may determine the period during which any particular approved assurance or class of assurances shall remain effective and/or may otherwise condition or restrict the approval. Pending completion of negotiations for a general assurance, the Commission may require an organization otherwise eligible for such an assurance to submit special assurances.

**§ 1028.9 Obligation to obtain informed consent; prohibition of exculpatory clauses.**

Any organization proposing to place any subject at risk is obligated to obtain and document legally effective informed consent. No such informed consent, oral or written, obtained under an assurance provided pursuant to this Part 1028 shall include any exculpatory language through which the subject is made to waive, or to appear to waive, any legal rights, including any release of the organization or its agents from liability for negligence.

**§ 1028.10 Documentation of informed consent.**

(a) The actual procedure utilized in obtaining legally effective informed consent and the basis for committee determinations that the procedures are adequate and appropriate shall be fully documented.

(b) The documentation of consent shall employ one of the following three forms:

(1) A written consent document embodying the basic elements of informed consent. This may be read to the subject or to a legally authorized representative, but in any event the subject or a legally authorized representative must be given adequate opportunity to read it. This document is to be signed by the subject or a legally authorized representative. Sample copies of the consent form as approved by the committee are to be retained in its records.

(2) A "short form" written consent document indicating that the basic elements of informed consent have been presented orally to the subject or a legally authorized representative. Written summaries of what is to be said to the participant shall be approved by the committee. The short form is to be signed by the subject or a legally authorized representative and by an auditor witness to the oral presentation and to the subject's or representative's signature. A copy of the approved summary, annotated to show any additions, is to be signed by the persons officially obtaining the consent and by the auditor witness. Sample copies of the consent form and of the summary as approved by the committee are to be retained in the committee's records.

(3) Modification of either of the primary procedures outlined in paragraph (b)(1) and (2) of this section. Granting permission to use modified procedures imposes additional responsibility upon the review committee and the organization to establish: (i) That the risk to any subject is minimal and (ii) that use of either of the primary procedures for obtaining informed consent would securely invalidate objectives of considerable immediate importance. The committee's reason for permitting the use of modified procedures must be individually and specifically documented in the committee's minutes and in reports of committee actions submitted to the files of the organization. All such modifications should be regularly reconsidered as a function of continuing review and as required for annual review, with documentation of reaffirmation, revision, or discontinuation, as appropriate.

**§ 1028.11 Certification; general assurances.**

(a) *Timely review.* Any organization having an approved general assurance shall indicate in each application or proposal for support of activities covered by this part that it has such an assurance on file with the Commission, or with the Department of Health, Education, and Welfare. Unless the Commission provides otherwise, all proposals involving human subjects submitted by organizations having approved general assurances must be reviewed and, when found to involve subjects at risk, approved by the organizational committee prior to submission to the Commission. If the Commission provides for the performance or organizational review of a proposal after its submission to the Commission, processing of such proposal by the Commission shall under no circumstances be completed until such organizational review and approval has been certified. Unless the organization determines that human subjects are not involved, the proposal should be appropriately certified in the spaces provided on forms or one of the following certifications, as appropriate, should be typed on the lower right-hand margin of the page bearing the name of an official authorized to sign or execute applications or proposals for the organization:



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Human Subjects: Reviewed, not at risk.
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(Date)
Human Subjects: Reviewed, at risk, approved---
(Date)
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(Signature)

(b) *Proposals not certified.* Proposals not properly certified, or submitted as not involving human subjects and found by the operating agency to involve human subjects, will be returned to the organization concerned.

**§ 1028.12 Certification; special assurances.**

(a) Organizations not having an approved general assurance must submit for each application or proposal involving human subjects a separate special assurance and certification of its review and approval.

(b) Such assurance and certification must be submitted within such time limit as the Commission may specify. An assurance and certification prepared in accordance with this Part 1028 and approved by the Commission shall be considered to have met the requirement for certification for the initial period concerned. If the terms of the grant, contract, or developmental standard or regulation recommend additional support periods, certification shall be provided by the organization with applications for continuation or renewal of support in the manner prescribed in § 1028.11(a).

**§ 1028.13 Proposals lacking definite plans for involvement of human subjects.**

Certain types of proposals are submitted with the knowledge that subjects probably will be involved within the project period but without definite plans for this involvement being included in the proposal. These include such activities as research, pilot, or developmental activities in which involvement depends upon such things as the completion of prior studies. Such proposals shall be reviewed and certified in the same manner as more definitive proposals. The initial certification indicates organizational approval of the applications as submitted and commits the organization to later review of the plans when completed. Such later review and certification to the Commission should be completed prior to the beginning of the budget period during which actual involvement of human subjects is to begin. Review and certification to the Commission must in any event be completed prior to involvement of human subjects.

**§ 1028.14 Proposals submitted with the intent of not involving human subjects.**

If a proposal's intent is not to involve human subjects, certification should not be included with the initial submission of the proposal. If in such a case, it later becomes appropriate to involve human subjects, the activity shall be reviewed and approved in accordance with the assurance of the organization prior to the involvement of subjects. In addition, no such activity shall be undertaken until the organization has submitted to the Commission (a) a certification that the activity has been reviewed and approved in accordance with this Part 1028 and (b) a detailed description of the proposed activity (including any protocol or similar document). Also, where Commission support is provided to project grants, contracts, or developmental standards or regulations, subjects shall not be involved prior to certification and organizational receipt of the Commission's approval and, in the case of contracts, prior to negotiation and approval of an amended contract description of work.

**§ 1028.15 Evaluation and disposition of proposals.**

(a) *Evaluation.* Notwithstanding any prior review, approval, and certification by the organization, all grants, contract proposals, and developmental standards or regulations involving human subjects at risk submitted to the Commission shall be evaluated by the Commission for compliance with this Part 1028 through its officers and employees and such experts or consultants as the Commission deems appropriate. This evaluation may take into account, among other pertinent factors, the apparent risks to the subjects, the adequacy of protection against the risks, the potential benefits of the activity to the subjects and others, and the importance of the knowledge to be gained.

(b) *Disposition.* On the basis of the evaluation of an application pursuant to paragraph (a) of this section and subject to such approval or recommendation by, or consultation with, appropriate councils, committees, or other bodies as may be required by law, the Commission shall either approve, defer for further evaluation, or disapprove support of the proposed activity in whole or in part. With respect to any approved grant, contract, or developmental standard or regulation, the Commission may impose conditions (such as restrictions on the use of certain procedures or subject groups, or requiring use of specified safeguards or informed consent procedures) when in its judgment such conditions are necessary for the protection of human subjects.

**§ 1028.16 Cooperative activities.**

(a) *Responsibility.* If in cooperative activities the grantee, prime contractor, or offeror under the Consumer Product Safety Act obtains access to some or all of the subjects involved through one or more cooperating organizations, the basic Commission policy applies and the grantee, prime contractor, or offeror remains responsible for safeguarding the rights and welfare of the subjects.

(b) *Organization with approved general assurance.* Initial and continuing review by the organization with approved general assurance may be carried out by one or a combination of procedures:

(1) *Cooperating organization with approved general assurance.* If the cooperating organization has on file with the Commission or with the Department of Health, Education, and Welfare an approved general assurance, the grantee, prime contractor, or offeror may carry out its own review or may request the cooperating organization to conduct its own review and report to the committee of the grantee, prime contractor, or offeror the cooperating organization's committee recommendations on those aspects of the activity that concern individuals for whom the cooperating organization has responsibility in accordance with its own assurance. At its discretion, the grantee, prime contractor, or offeror may concur with or further restrict the recommendations of the cooperating organization. It is the responsibility of the grantee, prime contractor, or offeror to maintain communication with the committees of the cooperating organization. The cooperating organization, however, shall promptly notify the grantee, prime contractor, or offeror whenever the cooperating organization finds the conduct of the project or activity within its purview to be unsatisfactory.

(2) *Cooperating organization with no approved general assurance.* If the cooperating organization does not have an approved general assurance, a general or special assurance to the Commission may be negotiated that, if approved, will permit the grantee, prime contractor, or offeror to follow the procedure outlined in paragraph (b)(1) of this section.

(3) *Interorganizational joint review.* The grantee, prime contractor, or offeror may wish to develop an agreement with cooperating organizations. Representatives of cooperating organizations may be appointed as ad hoc members of the existing review committee of the grantee, prime contractor, or offeror; appointments for extended periods may be made if cooperation is on a frequent or continuing basis, such as between a medical school and a group of affiliated hospitals. All such cooperative arrangements must be approved by the Commission as part of a general assurance or as an amendment to a general assurance.

(c) *Organization with approved special assurance—(1) Responsibility.* While responsibility for initial and continuing review necessarily lies with the grantee, prime contractor, or offeror with approved special assurance, the Commission will also require approved assurances from those cooperating organizations having immediate responsibility for subjects.

(2) *Cooperating organization with approved special assurance.* If the cooperating organization has on file with the Commission an approved special assurance, the grantee, prime contractor, or offeror shall request the cooperating organization to conduct its own review of those aspects of the project or activity that will involve human subjects for which it has responsibility. The request shall be in writing and should provide for direct notification of the committee of the grantee, prime contractor, or offeror in the event that the cooperating organization finds the conduct of the activity to be unsatisfactory.

(3) *Cooperating organization with no approved special assurance.* If the cooperating organization does not have an approved special assurance on file with the Commission, it must submit to the Commission a general or special assurance that will be determined by the Commission to comply with the provisions of this Part 1028.

**§ 1028.17 Organization's executive responsibility.**

Specific executive functions to be conducted by the organization include policy development, policy promulgation, and continuing indoctrination of personnel. Appropriate administrative assistance and support shall be provided for the committee's functions. Implementation of the committee's recommendations through appropriate administrative action and follow-up is a condition of Commission approval of an assurance. Committee approvals, favorable actions, and recommendations are subject to review and disapproval or further restriction by the organization. Committee disapprovals; restrictions, or conditions cannot be rescinded or removed except by action of a committee described in the assurance approved by the Commission.

**§ 1028.18 Organization's records.**

Copies of all documents presented or required for initial and continuing review by the organization's review committee (such as committee minutes, records of subjects' consent, transmittals on actions, instructions, and reports of conditions resulting from committee deliberations addressed to the activity director) are to be retained by the organization, subject to the terms and conditions of grant, contractor, and development awards.

**§ 1028.19 Reports.**

Each organization with an approved assurance shall provide the Commission with such reports and other information as the Commission may require.

**§ 1028.20 Early termination of awards; sanctions for noncompliance.**

(a) If in the judgment of the Commission, an organization has failed to comply with the terms of this Part 1028 with respect to a particular Commission grant, contract, or developmental standard or regulation, the Commission may require that said grant, contract, or standard or regulation be terminated or suspended in the manner prescribed in applicable grant or procurement regulations.

(b) If in the judgment of the Commission, an organization has failed materially to discharge its responsibility for the protection of the rights and welfare of subjects in its care, the Commission may, upon reasonable notice to the organization of the basis for its judgment and after providing the organization with an opportunity for an informal conference, terminate the organization's eligibility to receive further Commission support, subject to the provisions of this Part 1028. Such ineligibility shall continue until it is shown to the Commission's satisfaction that the reasons therefor no longer exist.

(c) If in the judgment of the Commission, an individual, who is serving in the capacity of principal investigator, program director, or other position having responsibility for the scientific and technical direction of an activity, has failed materially to discharge his or her responsibilities for the protection of the rights and welfare of human subjects in his or her care, the Commission may, upon reasonable notice to the individual and to any organization whose grant, contract, or developmental standard or regulation may be involved, and after providing the individual and the organization with an opportunity for an informal conference, terminate the individual's eligibility to serve in such capacity with respect to any activity subject to the provisions of this Part 1028. Such ineligibility shall continue until it is shown to the Commission's satisfaction that the reasons therefor no longer exist.

**§ 1028.21 Conditions.**

The Commission may with respect to any grant, contract, or developmental standard impose additional conditions prior to or at the time of any award when in its judgment such conditions are necesary for the protection of human subjects.

[FR Doc.77-20480 Filed 7-15-77;8:45 am]

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**SUBCHAPTER C—FEDERAL HAZARDOUS SUBSTANCE ACT REGULATIONS**

**PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATIVE AND ENFORCEMENT REGULATIONS**

**PART 1511—REQUIREMENTS FOR PACIFIERS**

**Banning of Hazardous Articles and Establishment of Safety Requirements**

*Correction*

In FR Doc. 18778 appearing on page 33276 in the issue of Thursday, June 30, 1977, the effective dates appearing on page 33279 should read, "February 26, 1978."

Section 1500.18(a)(8) should read as follows:

**§ 1500.18 Banned toys and other banned articles intended for use by children.**

* * * * *

(8) Any pacifier that does not meet the requirements of 16 CFR Part 1511 and that is introduced into interstate commerce after February 26, 1978.

* * * * *



**Title 29—Labor**

**CHAPTER XXV—PENSION AND WELFARE BENEFIT PROGRAMS**

**SUBCHAPTER F—EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974**

**PART 2550—RULES AND REGULATIONS FOR FIDUCIARY RESPONSIBILITY**

**Exemptions for the Provision of Services or Office Space to Employee Benefit Plans, the Investment of Plan Assets in Bank Deposits, the Provision of Bank Ancillary Services to Plans, and the Transitional Rule for the Provision of Services to Plans**

*Correction*

In FR Doc. 77-17895, appearing at page 32389 in the issue of Friday, June 24, 1977, make the following changes:

1. On page 32392, first column, the 14th line of § 2550.408b-4(a) should read, "or § 2550.408b-4(b)(2) are met. Section" and the 11th from bottom line of § 2550.408b-4(a) should read, "tion 404, or other provisions of law which".

2. On page 32392, third column, the first word in the 22nd line, now reading "half", should read "behalf".

3. On page 32393, third column, the first line should read, "Act are met, a person serving as a fiduciary".

4. On page 32394, second column, the second line should read "of section 414(c)(4) of the Act."

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**Title 47—Telecommunication**

**CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION**

[FCC 77-476]

**REREGULATION OF RADIO AND TELEVISION BROADCASTING**

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: As a result of continuing study of reregulation of broadcasting, rules for broadcast stations are amended to update certain rules, delete parts of others that are no longer necessary, and make corrections and editorial revisions for clarity.

DATES: Effective July 18, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Philip S. Cross, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: July 1, 1977.

Released: July 15, 1977.

1. As a result of its continuing study concerning the reregulation of broadcasting, the Commission has under con-





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sideration the matter of amending certain provisions in Parts 1, 73 and 74 of its Rules and Regulations. The amendments in this seventeenth reregulation *Order* will update certain rules, delete parts of others which are no longer necessary, and make corrections and revisions where indicated.

2. Section 1.531(a) of our Rules and Regulations provides in pertinent part that "Formal" application means any request for authorization where an FCC form for such request is prescribed. The prescription of an FCC form includes the implied requirement that the form used must be the proper one and not an obsolete one. Applications filed on obsolete FCC forms can be wasteful of time and work effort by both an applicant and the Commission. To stress the importance of avoiding obsolete forms, § 1.531 will be amended to add an express provision where it is now implied that the proper edition of the prescribed form must be used, and that formal applications on obsolete forms are subject to the provisions of § 1.565 concerning acceptance of applications and § 1.566 concerning defective applications.

3. Note 1 to § 1.573 (Part 1) concerning "Processing of FM and noncommercial educational FM broadcast applications" contains certain allocation standards, i.e., "Objectionable interference," "Directional antenna" and "Maximum and minimum facilities for stations on noncommercial educational FM channels," which, properly, should be included in Part 73, Subpart C, "Noncommercial educational FM broadcast stations." Also, the inclusion should reduce the number of inquiries to the Commission about where the allocation standards for noncommercial educational FM stations are located. The above-referenced allocation standards should be added to § 73.504 of Subpart C, Part 73. However, the headnote and the text of § 73.504 already contain a number of varied subjects which would be better organized in separate sections. Accordingly, § 73.504 will be amended into separate sections with the headnotes and series numbers conformed to those in Subpart B for commercial FM stations, and the above-referenced allocation standards will be added as §§ 73.509, 73.510 and 73.511. None of the substantive provisions is changed. Note 1 to § 1.573 contains certain restrictions pending further consideration of issues in Docket No. 14185 (now terminated, but which dealt with the general revision of FM Broadcast Rules and Regulations). Those issues are now under consideration in Docket No. 20735. Note 1 will be amended to include the reference to Docket No. 20735.

4. In § 73.187, subparagraph (a)(1) imposes certain signal radiation restrictions on Class II stations under some circumstances. The restrictions on radiation occur during the two hours after local sunrise and the two hours before local sunset. These periods of restricted operation are generally referred to in Commission documents and within the broadcast industry as "critical hours;" however, this term is not defined or explained within the rules for AM broadcast stations. A new § 73.13 is being added to define "critical hours" as follows:

> The term "critical hours" means the two hour period immediately following local sunrise and the two hour period immediately preceding local sunset.

The term "critical hours" is also being included in § 73.187(a) for clarification.

5. Existing § 73.40(b)(4) includes a reference to § 73.39; however, that section was deleted from the rules and replaced by § 73.1215 by the Order adopted August 24, 1976 (FCC 76–789). Editorial correction is being made in § 73.40(b)(4) to substitute the reference to § 73.1215.

6. The existing rules for AM stations have four sections covering procedures for modifications of existing transmitting equipment (§ 73.43: Changes in equipment; authority for, § 73.44: Other changes in equipment, § 73.61: New equipment; restrictions, § 73.62: Automatic frequency control equipment; authorization required). The FM and TV services each has single rule sections containing the procedural instructions for licenses to follow in obtaining authority, when necessary, to make certain modifications in the transmitting equipment. To conform the AM rules to the FM and TV rules, and to simplify and clarify the procedural requirements for making certain station changes, the existing §§ 73.43, 73.44, 73.61 and 73.62 are being deleted and replaced by a new § 73.43 titled "Changes in equipment and antenna system," similar to §§ 73.257 and 73.557 for FM stations and § 73.639 for TV stations. With this Order we are also simplifying authorization procedures which stations may use to install precision frequency control systems in existing transmitters. Precision frequency control systems to maintain the radiated carrier frequency to a high degree of accuracy and stability are becoming more frequently used within the broadcast industry. Under existing rules, a licensee must file a formal application for a construction permit to make any changes in the frequency control portions of the transmitter, and then subsequently file a notice of equipment tests and applications for program tests and a new station license. We believe that such a procedure now serves no useful purpose when a precision frequency control system is to be used, and therefore an informal application procedure is being provided both in the new § 73.43 being adopted for AM stations and also by amendments in §§ 73.257, 73.557 and 73.639 for FM, NCE–FM and TV stations.

7. In § 73.45 of the rules for AM stations, the headnote title "Radiating system" is being editorially changed to "Antenna system" to establish consistency of terminology with parallel rule sections for the FM and TV services, and with other sections of the AM station rules.

8. In an Order adopted May 25, 1976 (FCC 76–487) the Commission deleted the requirement in § 73.54 (AM) that devices used to dissipate radio frequency energy for restricting radiation be located at the same point in the circuit at which the antenna input current is measured. Section 73.51(b)(3) concerning the procedures for determining antenna input power also specifies that the input power shall be determined at the input terminals of the dissipative network. Since § 73.51(b)(3) is no longer consistent with the rule § 73.54 as amended in May 1976, the editorial corrections required are being made in this Order by deleting the requirement that the antenna input power must be measured at the input terminals of the dissipative network.

9. Sections 73.56, 73.253, 73.553, and 73.691 contain the requirements that AM, FM, NCE–FM and TV stations have type approved (aural) modulation monitors installed and in operating condition. There is a note at the end of paragraph (a) in each of these sections stating that type approved modulation monitors are included in the Commission's "Radio Equipment List," a published list of equipment acceptable for licensing prepared by the Office of the Chief Engineer. Broadcast modulation monitors, antenna monitors, and certain other type approved equipment are no longer being included in the published list. Therefore, the note in the rule sections is now incorrect and is being deleted from the rules.

10. On April 5, 1972, the Commission adopted amendments to Section 73.55 of the rules for AM stations limiting the use of positive modulation to peaks not exceeding 125% (FCC 72–327, Docket No. 18857). In the Report and Order it was pointed out that not all existing station modulation monitors had a sufficient range to indicate positive peak modulation to or exceeding 125%, and that pending the availability of type approved monitors for observing positive modulation to 125%, licensees may use other means such as an oscilloscope or composite device to insure proper modulation levels when positive modulation exceeded the range of their monitors. Type approved modulation monitors capable of indicating positive modulation peak levels of 125% or greater are now readily available, and therefore the use of composite devices or equipment other than type approved modulation monitors is no longer necessary. AM stations that elect to use asymmetric modulation with positive peaks exceeding 100% should have type approved modulation monitors capable of indicating the peak positive modulation levels transmitted. In conformity with the Report and Order in Docket 18857, we are amending § 73.56 of the rules to include the provision that the modulation monitor in use be capable of insuring that positive peak modulation levels of 125% are not exceeded. This does not mean that stations are required to replace an existing modulation monitor if the positive peak modulation levels transmitted do not exceed the peak indication range of their existing monitors. However, under the provisions of the Report and Order in Docket 18857, stations electing to use modulation with positive peaks to 125% must have modulation monitors capable of indicating peaks to that level in use by November 1, 1977.





11. Sections 73.98 (AM), 73.298(a) (FM), 73.597(a) (NCE–FM) and 73.675 (a) (TV) concerning "Operation during emergency" contain language which indicates incorrectly that emergency weather warnings and other emergency information may be transmitted only if necessary to safety of life and property in certain specified types of situations. The language indicating such a limitation on the broadcast of emergency information will be removed. Special provisions do apply with respect to point-to-point messages, Emergency Broadcast System operations and use by an AM station of its full daytime facilities during nighttime hours.

12. A number of stations holding Presunrise Service Authorizations are restricted to operation with antenna input powers substantially below the normal daytime power authorized. The rules for indicating instruments (see §§ 73.58 and 73.1215) require that the meters used in the transmission system will have normal indications falling within the upper 80 percent or 66.7 percent of the scale range, depending on the type of meter used. This requirement is included in the rules to assure that instruments will provide a certain standard of accuracy for determination of station operating power and antenna performance. For those stations operating under a Presunrise Service Authorization at low powers, the indications on the transmitter meters or other instruments may fall well below the normally acceptable scale ranges. We do not believe that it would either be desirable or practical to have a second set of meters for use only during presunrise operations when low power is used. However, we do require that stations have radio frequency antenna or common point ammeters for determining the operating power during operation under PSA's with the required scale ranges. We are therefore amending paragraph (h) of § 73.99 that contains certain exemptions for PSA operations to include an additional exemption of certain indicating instrument requirements. We have also been advised that in some cases it is impractical to obtain satisfactory operation of a directional antenna monitor when the PSA power is significantly lower than the nominal station operating power. In such cases we have advised licensees to obtain monitor readings by using an unmodulated carrier at the authorized daytime power immediately prior to reducing power to commence presunrise program operations. This procedure is also being incorporated into the amended paragraph (h) of § 73.99.

13. In the First Report and Order adopted on December 21, 1976 (FCC 76–1174, Docket 20403) establishing rules for the use of automatic transmission systems at certain AM and all FM stations, paragraph 26 contained a discussion of the use of the indirect method of power determination by FM stations and also by AM stations whenever the direct method could not be used. The adopted rules included in the Appendix B of the First Report and Order established the indirect method of power determination for FM stations using ATS, but inadvertently omitted that method for AM stations. Since it was clearly intended that all AM stations, including those using ATS, could use the indirect method of power determination under the specific circumstances given in rule § 73.51(d), subparagraph (b)(1) of § 73.142 is being modified by this Order to specifically include the indirect method of power determination as part of the AM automatic transmission system operating procedures.

14. Section 73.151 of the rules for AM stations describes the procedures for making and analyzing field strength measurements to establish the performance of directional antenna systems. Portions of subparagraph (a)(2) of that section include references to the station's "phase monitor," and to readings from a "thermoammeter." Since January, 1973, with the adoption of the Report and Order terminating Docket 18471, the term "antenna monitor" is used throughout the technical standards rules in lieu of "phase monitor." Further, numerous amendments in the rules during the past several years have provided for the use of modern electronic devices other than thermoammeters for measuring radio frequency current in antenna circuits. It is therefore appropriate that editorial changes be made in § 73.151 to delete the terms "phase monitor" and "thermoammeter."

15. In an Order adopted August 24, 1976 (FCC 76–789), the various rules for AM, FM and TV station indicating instruments were rearranged and brought up to date with present day broadcast technology. Parallel changes in the rules for noncommercial educational FM broadcast stations were inadvertently omitted from that Order. We are, therefore, at this time, amending the NCE–FM rule Section 73.558 to conform to the provisions of the amended § 73.258 applicable to commercial FM stations, with appropriate exceptions for the educational FM stations licensed to operate with transmitter output power of 10 watts or less. This amendment makes no changes in the requirements or procedures for use of transmission system indicating instruments, but only establishes uniformity of rule format and text for all of the broadcast services. Indicating instrument specifications for all broadcast services are included in a single rule, § 73.1215.

16. Section 73.600 concerning "Retention of audio recordings" should be redesignated as § 73.591. The rule requires each licensee of a noncommercial educational FM broadcast station which receives assistance pursuant to Section IV of the Communications Act of 1934, as amended, to retain an audio recording of any public affairs program in which an issue of public importance is discussed. The section number assigned § 73.600, is in the television series (600) and, accordingly, carried in the Table of Contents of Subpart E, "Television Broadcast Stations." The section number should be in the 500 series, Subpart C, "Noncommercial Educational FM Broadcast Stations." Section 73.600 will be redesignated as 73.591 (not now used).

17. In an Order adopted November 16, 1976 (FCC 76–1062), the Commission amended the rules for FM and NCE–FM stations regarding the establishment of the efficiency factor "F" of the transmitter in use for determining the station operating power by the indirect method. (Operating power is determined by the indirect method by calculating the product of the plate voltage and plate current of the transmitter final amplifier stage, and an efficiency factor, F.) Prior to the rule amendments, licensees were required to use an efficiency factor F, determined by the manufacturer at the time the transmitter was initially designed and tested for type accentance, although for a number of reasons, the value of F thus established may be highly inaccurate. The FM and NCE–FM rule amendments of November 1976 permit licensees to use any more recent measurements for determining the efficiency factor F used to calculate and maintain the operating power of the station. In this Order we are amending the rules for TV stations so that their licensees may also have alternative means of determining the efficiency factor of the aural TV transmitter used for maintaining the operating power by the indirect method. The amendments of Section 73.689 as shown in the Appendix, are parallel to the previous amendments to Sections 73.267 and 73.567 for FM and NCE–FM stations.

18. Existing subparagraph (a)(9) of § 73.682 concerning the technical standards for television picture transmissions reads as follows:

> (9) A carrier shall be modulated within a single television channel for both picture and synchronizing signals. For monochrome transmission, the two signals compromise different modulation ranges in amplitude, in accordance with the charts designated as Figures 5 and 7 of § 73.699 for stations operating on Channel 2–14 or Figures 5a and 7 for stations operating on Channels 15–83 and employing a transmitter with maximum peak visual power output of 1 kilowatt or less. For color transmission, the two signals comprise different modulation ranges in amplitude except where the chrominance penetrates the synchronizing region and the burst penetrates the picture region, in accordance with the charts designated as Figures 5 and 6 of § 73.699 for stations operating on Channels 2–14 or Figures 5a and 6 for stations operating on Channels 15–83 and employing a transmitter with maximum peak visual power out put of 1 kilowatt or less.

It has been pointed out to us that the rule, as worded, is seriously defective because it fails to prescribe the desired standards for either monochrome or color transmissions by stations operating on Channels 14 to 83 using transmitters with maximum peak visual power output over one kilowatt. It is intended that those stations are to meet the same



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transmission standards specified in the paragraph for all stations operating on Channels 2 to 14. It is necessary for such stations to have greater attenuation of the lower sideband energy than UHF stations using peak power of 1 kilowatt or less. It is also noted that the rule does not appear to permit transmission suppression of the lower sideband of video transmissions by UHF stations operating transmitters with output powers of one kilowatt or less. With this *Order* we are editorially rearranging § 73.692(a)(9) to correct the omission of the present rule as discussed above, and to clearly list the applicable waveform and signal transmission characteristics applicable to particular TV stations.

19. The restructured and revised rules for Remote Pickup Broadcast Stations adopted on June 29, 1976, by *Report and Order* in Docket 20189, provided for the type acceptance of new station transmitting equipment licensed or installed after September 1, 1977. Since there is now available a large variety of transmitting equipment type accepted for use in the land mobile services that will meet or exceed the standards for remote pickup stations, Section 74.451 of the adopted rules permitted broadcasters to use transmitters that were type accepted for use in certain other services. It has been pointed out to us that § 74.452(d) of the rules covering equipment changes at existing stations does not provide a similar provision for the use of transmitters type accepted for use in other services, whereas there seems to be no valid reason for permitting such use at new stations, but not at previously licensed stations. In this *Order*, we are correcting this anomaly by amending Section 74.452(d) covering equipment changes to conform it to the provisions of Section 74.451(a). We are also making a similar editorial amendment in paragraph (d) of the same section with respect to the marketing of transmitters for use at Remote Pickup Stations.

20. An intercity relay station carrying TV programs is permitted to transmit station identification by use of its own call sign, the call sign of its associated station, the call sign of the station being relayed, or the network identification when used as a direct network relay. Such stations may also use automatic identification by International Morse Code. An intercity relay station used by a radio broadcast station is now required to identify at sign-on and sign-off by its own call sign and other times by either the associated station call sign or, under limited circumstances, by the call sign of the station being relayed. Use of a network identification or automatic transmission of International Morse Code is not permitted. It is difficult to arrange for voice call sign identification when relaying programs from another station or from a direct network connection. We see no practical reason why radio intercity relay and STL stations should have less flexibility in the procedures used for station identification than similar stations used for the TV broadcast services. We are therefore amending the station identification requirement of Section 74.582 for the radio broadcast services to be parallel with the identification requirements of § 74.682 for TV services. At this same time we are conforming the intervals for station identification of these stations to the general identification requirements for broadcast stations. Under the present rule, the STL and intercity relay stations are required to observe a more rigid identification schedule than their associated broadcast stations, which is neither practical nor necessary. We are also, in this Order, deleting the requirements that TV auxiliary broadcast stations transmit station identification over transmitters operating with less than 1 watt power output. These small low powered TV auxiliary transmitters are usually of the portable type used for electronic news gathering or program pickup at the scene of a remote event. Operation of these transmitters is usually so intermittent or the transmissions are over such short distances that station identification is of no value for interference identification or for enforcement purposes.

21. We conclude that, for the reasons set forth above, adoption of these amendments will serve the public interest. Prior notice of rule making, effective date provisions, and public procedure thereon are unnecessary, pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B), inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose.

22. Therefore, *It is ordered*, That pursuant to sections 4(i) and 303 (j) and (r) of the Communications Act of 1934, as amended, Parts 1, 73, and 74 of the Commission's Rules and Regulations are amended as set forth below, effective July 18, 1977.

(Secs. 4, 303, 48 Stat., as amended, 1086, 1088; 47 U.S.C. 184, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

## PART 1—PRACTICE AND PROCEDURE

1. Section 1.531 is amended to read as follows:

**§ 1.531 Formal and informal applications.**

(a) "Formal application" means any request for authorization where an FCC form for such request is prescribed. The prescription of an FCC form includes the requirement that the proper edition of the form is used. Formal applications on obsolete forms are subject to the provisions of § 1.565 concerning acceptance of applications and § 1.566 concerning defective applications.

(b) "Informal application" means all other requests for authorization. Informal applications may be in letter form, but all such applications should contain a caption clearly indicating the nature of the request submitted herein.

(c) An informal application requesting modification of an outstanding authorization must comply with the requirements as to signing specified in §§ 1.511 and 1.513.

2. In § 1.573, the first paragraph of Note 1 is amended to read as follows:

**§ 1.573 Processing of FM and noncommercial educational FM broadcast applications.**

* * * * *

NOTE 1.—*Noncommercial educational stations.* Except where § 73.504(c) of this chapter is applicable, and pending further consideration of issues formerly in Docket No. 14185 and now in Docket No. 20735 (41 FR 16973) (dealing with the revision of the FM Broadcast Rules and Regulations), an application for a noncommercial educational FM broadcast authorization will be subject to the following, notwithstanding any other provision of the FM Broadcast Rules of this section:

* * * * *

## PART 73—RADIO BROADCAST SERVICES

3. New § 73.13 is added to read as follows:

**§ 73.13 Critical hours.**

The term "critical hours" means the two hour period immediately following local sunrise and the two hour period immediately preceding local sunset.

4. In § 73.40, paragraph (b)(4) introduction is amended, with paragraphs (i), (ii), and (iii) retained unchanged as follows:

**§ 73.40 Transmitter; design, construction, and safety of life requirements.**

* * * * *

(b) * * *

(4) Metering equipment shall meet the requirements of §§ 73.58, 73.1215 and the following:

* * * * *

5. Existing § 73.43 is deleted and the following new § 73.43 is added:

**§ 73.43 Changes in equipment and antenna system.**

Licensees of AM broadcast stations shall observe the following provisions with regard to changes in equipment and antenna system:

(a) No changes in equipment shall be made:

(1) That would result in the emission of signals outside of the authorized channel.

(2) That would result in the external performance of the transmitter being in disagreement with that prescribed in § 73.40.

(b) Specific authority, upon filing formal application (FCC Form 301 or Form 340 for stations operating as noncommercial educational) therefor, is required for a change in service area or for any of the following changes:

(1) Changes involving an increase or decrease in the power rating of the transmitter.

(2) A replacement of the transmitter as a whole, unless such transmitter is one which may be installed and utilized in accordance with the provisions of § 73.48(a)(5).

(3) Change in the location of the transmitting antenna.

(4) Changes in the antenna system (see § 73.45).

(5) [Reserved].

(6) Change in the antenna input power.

(7) Modification of the frequency control or modulation circuits.

(c) Specific authority, upon filing an information application is required for any of the following changes:

(1) [Reserved].

(2) [Reserved].

(3) Replacement of existing carrier frequency generator.

(4) In the type, number, or power rating of the power amplifier devices used in the last radio stage of the transmitter.

(d) An application for authority by an existing station to resume determination of power by the direct method shall be filed on FCC Form 302 immediately following changes in the antenna system whenever the measured antenna or common point resistance differs from that shown on the station authorization. The application shall include the information and measurement data specified in paragraph (e) of § 73.54.

(e) An informal application for authority by an existing station to resume determination of power by the direct method shall be filed immediately following changes in the antenna system when measurements show there has been no change in the antenna or common point resistance from that shown on the station authorization. The informal application shall include the information specified in subparagraphs (3) through (6) of paragraph (3) of § 73.54.

**§ 73.44 [Deleted]**

6. Section 73.44 is deleted and marked reserved.

7. In § 73.45, the headnote is amended to read as follows:

**§ 73.45 Antenna system.**

* * * * *

8. In § 73.51, subparagraph (b)(3) is amended to read as follows:

**§ 73.51 Antenna input power; how determined.**

* * * * *

(b) * * *

(3) In specific cases, it may be necessary to limit the radiated field to a level below that which would result if normal power were delivered to the antenna. In such cases, excess power may be dissipated in the antenna feed circuit, the transmitter may be operated with power output at a level which is less than the rated carrier power, or a combination of the two methods may be used, subject to the conditions given in paragraph (c) of this section.

* * * * *

9. In § 73.56, the note at the end of paragraph (a) is deleted, and a new paragraph (d) is added to read as follows:

**§ 73.56 Modulation monitors.**

* * * * *

(d) Positive modulation peaks to 125% is an absolute limit. Licensees using positive peaks exceeding 100% must have a type approved modulation monitor with an indicating range sufficient to indicate the peak modulation utilized to insure compliance at all times with the positive peak limitations of Section 73.55.

NOTE.—Provisions of paragraph (d) are effective November 1, 1977.

**§ 73.61 [Deleted]**

10. Section 73.61 is deleted and reserved.

**§ 73.62 [Deleted]**

11. Section 73.62 is deleted and reserved.

12. Section 73.98 is amended to read as follows:

**§ 73.98 Operation during emergency.**

(a) AM broadcast stations may, without further Commission authority, employ their full daytime facilities during nighttime hours to carry emergency weather warnings and other types of emergency information connected with the examples listed in paragraph (b) of this section when necessary to the safety of life and property, in dangerous conditions of a general nature and when adequate advance warning cannot be given with the facilities authorized. Because of skywave interference impact on other stations assigned to the same channel, such operation may be undertaken only if regular, unlimited-time service is nonexistent, inadequate from the standpoint of coverage, or not serving the public need. All operation under this paragraph must be conducted on a noncommercial basis. Recorded music may be used to the extent necessary to provide program continuity.

(b) Examples of situations which may warrant emergency operation pursuant to paragraph (a) are: Tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gases, widespread power failures, industrial explosions, and civil disorders. Transmission of information concerning school closings and changes in schoolbus schedules resulting from any of these conditions, is appropriate.

(c) If requested by responsible public officials, an AM station may, at its discretion, and without further Commission authority, transmit emergency point-to-point messages for the purpose of requesting or dispatching aid and assisting in rescue operations.

(d) Except as otherwise provided in paragraph (a) of this section, emergency operation shall be confined to the hours, frequencies, powers, and modes of operation specified in the license documents of the stations concerned.

(e) Any emergency operation undertaken in accordance with this section may be terminated by the Commission, if required in the public interest.

(f) Immediately upon cessation of an emergency during which broadcast facilities were used for the transmission of point-to-point messages under paragraph (c) of this section, or when daytime facilities were used during nighttime hours in accordance with paragraph (a) of this section, a report in letter form shall be forwarded to the Commission, in Washington, D.C., setting forth the nature of the emergency, the dates and hours of emergency operation, and a brief description of the material carried during the emergency period. A certification of compliance with the noncommercialization provision of paragraph (a) of this section must accompany the report where daytime facilities are used during nighttime hours, together with a detailed showing concerning the alternate service provisions of that paragraph.

(g) If the Emergency Broadcast System (EBS) is activated at the National-Level while non-EBS emergency operation under this section is in progress, the EBS shall take precedence. When emergency operation is conducted under a State-Level EBS Operational Plan, the attention signal described in § 73.906 may be employed.

13. In § 73.99, paragraph (h) is amended to read as follows:

**§ 73.99 Presunrise service authority.**

* * * * *

(h) The issuance of a PSA is intended to indicate the waiver of §§ 73.45, 73.182, and 73.188 where the operation might otherwise be considered as technically substandard. Further, the requirements of paragraphs (a)(5), (b)(2), (c)(2), and (d)(2) of § 73.1215 concerning the scale ranges of transmission system indicating instruments are waived for PSA operation except for the radio frequency ammeters used in determining antenna input power. A station having an antenna monitor incapable of functioning at the authorized PSA power when using a directional antenna shall take the monitor reading using unmodulated carrier at the authorized daytime power immediately prior to commencing PSA operations. Special conditions as the Commission may deem appropriate may be included in the PSA to insure operation of the transmitter and associated equipment in accordance with all phases of good engineering practice.

* * * * *

14. In § 73.142, subparagraph (b)(1) is amended to read as follows:

**§ 73.142 Automatic transmission system facilities.**

* * * * *

(b)(1) The control system must have devices to monitor and control the antenna input power by sampling and evaluating the antenna current without the effects of modulation. Antenna current is to be sampled at the same point in the antenna circuit as the antenna ammeter but below (transmitter side)







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the ammeter. The indirect method of power determination may also be used on a temporary basis under the provisions of Section 73.51(d) if the system has devices to monitor and control the antenna input power by that method.

• • • • • •

15. In § 73.151, paragraphs (a)(2) (ii) and (iii) are amended to read as follows:

**§ 73.151 Field strength measurements to establish performance of directional antennas.**

• • • • • •

(a) • • •

(2) • • •

(ii) The ratio of the amplitude of the current in each other element to the current in the reference element, as indicated on the station's antenna monitor.

(iii) The value of the radio frequency current at the base of each element, and the ratio of the current in each other element to the base current in the reference element. If there are substantial differences between the ratios established in subdivision (ii) of this subparagraph and the ratios computed in this subdivision (iii) and/or if there are substantial differences between the parameters established in subdivisions (i) and (ii) of this subparagraph and this subdivision (iii), and those used in the design of the standard radiation pattern, a full explanation of the reasons for these differences shall be given.

• • • • • •

16. In § 73.187, paragraph (a)(1) is amended to read as follows:

**§ 73.187 Limitation on daytime radiation.**

• • • • • •

(a) (1) Except as otherwise provided in paragraphs (2) and (3) of this paragraph, no authorization will be granted for Class II facilities if the proposed facilities would radiate during the period of critical hours (the 2 hours after local sunrise and the 2 hours before local sunset) toward any point on the 0.1 mV/m contour of a co-channel U.S. Class I station, at or below the pertinent vertical angle determined from Curve 4 of Figure 6a of § 73.190, values in excess of those obtained as provided in paragraph (b) of this section.

• • • • • •

**§ 73.253 [Amended]**

17. Section 73.253 is amended by deleting the note at the end of paragraph (a).

18. In § 73.257, new paragraphs (c) (3) and (4) are added and paragraph (d) is deleted, to read as follows:

**§ 73.257 Changes in equipment and antenna system.**

• • • • • •

(c) • • •

(3) Replacement of the carrier frequency generator with one of a different type.

(4) In the type, number, or power rating of the power amplifier devices used in the last radio stage of the transmitter.

19. Sections 73.298(a), 73.597(a) and 73.675(a) are amended to read identically as follows:

**§ 73.... Operation during emergency.**

(a) Emergency situations with respect to which the broadcast of information is considered as furthering the safety of life and property include, but are not limited to, the following: tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gases, widespread power failures, industrial explosions, civil disorders and school closing and changes in schoolbus schedules resulting from any of these conditions. If requested by responsible public officials, emergency point-to-point messages may be transmitted for the purposes of requesting or dispatching aid and assisting in rescue operations.

• • • • • •

20. Present § 73.504 is deleted, and present § 73.507 is redesignated as § 73.504. A new § 73.507 is added to read as follows:

**§ 73.507 Minimum distance separations between co-channel and adjacent-channel stations.**

(a) *Minimum distance separations.* No application for a new station, or change in channel or transmitter site or increase in facilities of an existing station, will be granted unless the proposed facilities will be located so as to meet the adjacent channel distance separations specified in § 73.207(a) for the class of station involved with respect to assignment on Channels 221, 222 and 223 listed in § 73.201 (except where in the case of an existing station the proposed facilities fall within the provisions of § 73.207(b)).

(b) Stations authorized as of September 10, 1962, which do not meet the requirements of paragraph (a) of this section and § 73.511, may continue to operate as authorized; but any application to change facilities will be subject to the provisions of this section.

(c) Stations separated in frequency by 10.6 or 10.8 MHz (53 or 54 channels) from stations or assignments on commercial channels will not be authorized unless they conform to the following separation table:

| Class of stations: | Required spacing | |
|---|---|---|
| | Kilometers | Miles |
| A to A | 8.1 | 5 |
| B to A | 16.1 | 10 |
| B to B | 24.2 | 15 |
| C to A | 32.2 | 20 |
| C to B | 40.3 | 25 |
| C to C | 48.3 | 30 |

NOTE.—Under the United States-Mexican FM Broadcasting Agreement, for stations and assignments separated in frequency by 10.6 to 10.8 MHz (53 or 54 channels), the following mileage separations (see paragraph (c) of this section) to Mexican allocations or assignments must be adhered to:

| Class of station: | Required spacing | |
|---|---|---|
| | Kilometers | Miles |
| C to D | 24.2 | 15 |
| B to D | 16.1 | 10 |
| A to D | 8.1 | 5 |
| D to D | 3.2 | 2 |

This note applies to noncommercial educational assignments and authorizations in the border area and for stations in the United States adjacent to assignments and stations in the border area.

21. Section 73.505 is amended by renumbering it as § 73.508, and a new § 73.505 is added to read as follows:

**§ 73.505 Zones.**

For the purpose of assignment of noncommercial educational FM stations, the United States is divided into three zones, Zone I, Zone I–A, and Zone II, having the boundaries specified in § 73.205.

22. Section 73.506 is amended by renumbering it as Section 73.513, and a new Section 73.506 is added to read as follows:

**§ 73.506 Classes of educational channels, and stations operating thereon.**

(a) Noncommercial educational stations operating on the channels specified in § 73.501 are divided into four classes, as follows:

(1) A Class D educational station is one operating with no more than 10 watts transmitter power output. Class D stations may be assigned in all zones, on any of the channels specified in § 73.501.

(2) Noncommercial educational stations with more than 10 watts transmitter output are clasified as Class A, Class B, or Class C, depending on the effective radiated power and antenna height above average terrain, and the zone in which the station's transmitter is located, on the same basis as provided in §§ 73.205, 73.206, and 73.211 for stations on the non-reserved FM channels. Where a station is authorized with more than 3 kilowatts (4.8 dBk) effective radiated power, or coverage greater than that obtained by the equivalent of 3 kilowatts effective radiated power and 91.5 meter (300 foot) antenna height above average terrain, it is classified as a Class B station if its transmitter is located in Zone I or Zone I–A, and as a Class C station if its transmitter is located in Zone II. Class A stations may be assigned in all zones.

(b) All classes of noncommercial educational stations may be assigned to any of the channels set forth in § 73.501.

23. A new § 73.509 is added to read as follows:

**§ 73.509 Protection from interference.**

No application for a facility on any channel specified in § 73.501 of this chapter will be accepted if the requested facility either would cause objectionable interference within the 1 mV/m contour of any co-channel or adjacent channel, or receive interference within the proposed 1 mV/m contour. The following





standards shall be used to determine the existence of objectionable interference:

(a) The distance to the 1 mV/m contour shall be determined by the use of Figure 1 of § 73.333 (F(50,50) curve) of this chapter (see § 73.313(c)(1)).

(b) The distance to the applicable interference contour shall be determined by the use of Figure 1a of § 73.333 (F(50,10) chart) of this chapter.

(c) Objectionable interference will be considered to exist if, on the basis of the curves referred to in this subparagraph, the ratio of undesired to desired signal exceeds: 1:10 for co-channel; 1:2 for first adjacent channel (200 kHz removed); 10:1 for second adjacent channel (400 kHz removed); and 100:1 for third adjacent channel (600 kHz removed).

24. A new § 73.510 is added to read as follows:

**§ 73.510 Antenna systems.**

(a) All noncommercial educational stations operating with more than 10 watts transmitter output power shall be subject to the provisions of § 73.316 concerning antenna systems contained in Subpart B of this part.

(b) *Directional antenna.* No application for a construction permit of a new station, or change in channel, or change in an existing facility on the same channel will be accepted for filing if a directional antenna with a maximum-to-minimum ratio of more than 15 dB is proposed.

25. A new § 73.511 is added to read as follows:

**§ 73.511 Power and antenna height requirements.**

(a) No provision as to a minimum facility for an FM broadcast station shall apply to a noncommercial educational station operating on a channel specified in § 73.501; and no provision as to a maximum facility shall apply to a noncommercial educational station on Channels 201 to 217, inclusive. However, any application specifying a facility either below the minimum or exceeding the maximum set forth in § 73.211 will not be necessarily granted; see Notice of Inquiry in Docket No. 14185 as concerns educational FM matters (5 F.C.C. 2d 587, 588, fn. 2 (1966); see also 13 F.C.C. 2d 751 (1968) and 17 F.C.C. 2d 496 (1969) and Docket 20735 (41 FR 16973)).

(b) On Channels 218, 219, and 220 specified in § 73.501, no Class B or Class C educational station will be authorized with effective radiated power greater than that specified in § 73.211(b)(1) for the respective class of station, and the maximum effective radiated power permissible shall also be subject to the provisions of § 73.211(b)(2).

26. In § 73.557, new paragraphs (c) (3) and (4) are added, and paragraph (d) is deleted, to read as follows:

**§ 73.557 Changes in equipment and antenna system.**

• • • • • •

(c) • • •

(3) Replacement of the carrier frequency generator with one of a different type.

(4) In the type, number of power rating of the power amplifier devices used in the last radio stage of the transmitter.

27. Section 73.558 is amended to read as follows:

**§ 73.558 Indicating instruments.**

(a) Each noncommercial educational FM broadcast station licensed for a transmitter power above 10 watts shall be equipped with indicating instruments which conform with the specifications described in § 73.1215 for determining the power by the indirect method; for indicating the relative amplitude of the transmission line radio frequency current, voltage, or power; and with such other instruments as are necessary for the proper adjustment, operation, and maintenance of the transmitting system.

(b) [Reserved]

(c) [Reserved]

(d) The function of each instrument shall be clearly and permanently shown in the instrument itself or on the panel immediately adjacent thereto.

(e) In the event that any of these indicating instruments becomes defective when no substitute which conforms with the required specifications is available, the station may be operated without the defective instrument pending its repair or replacement for a period not in excess of 60 days without further authority of the Commission: *Provided, That:*

(1) Appropriate entries shall be made in the maintenance log of the station showing the date and time the meter was removed from and restored to service.

(2) [Reserved].

(3) If the defective instrument is the transmission line meter of a station which determines the output power by the direct method, the operating power shall be determined by the indirect method in accordance with § 73.567(a)(2) during the entire time the station is operated without the transmission line meter.

(f) If conditions beyond the control of the licensee prevent the restoration of the meter to service within the above allowed period, informal request in accordance with § 1.549 of this chapter may be filed with the Engineer in Charge of the radio district in which the station is located for such additional time as may be required to complete repairs of the defective instrument.

**§ 73.600 [Redesignated]**

28. Section 73.600 is amended to be redesignated as § 73.591, with the headnote and text of its section to remain the same.

29. In § 73.639, paragraph (b) is amended, existing paragraph (c) is deleted and new paragraph (c) is added to read as follows:

**§ 73.639 Changes in equipment and antenna system.**

• • • • • •

(b) Specific authority, upon filing formal application therefor (FCC Form 301, or FCC Form 340 for stations operating as noncommercial educational), is required for any of the following:

• • • • • •

(5) [Reserved].

(6) Change in the power delivered to the antenna.

(7) Modification of the frequency control or modulation circuits.

(c) Specific authority, upon filing an informal application, is required for any of the following changes:

(1) [Reserved]

(2) [Reserved]

(3) Replacement of the carrier frequency generator with one of a different type.

(4) In the type, number, or power rating of the power amplifier devices used in the last radio stage of the transmitter.

30. In § 73.682, the headnote and paragraph (a)(9) are amended to read as follows:

**§ 73.682 Transmission standards.**

• • • • • •

(a) • • •

(9) A carrier shall be modulated within a single television channel for both picture and synchronizing signals. The two signals comprise different modulation ranges in amplitude in accordance with the following:

(i) Monochrome transmissions shall comply with synchronizing waveform specifications in Figure 7 of § 73.699.

(ii) Color transmissions shall comply with the synchronizing waveform specifications in Figure 6 of § 73.699.

(iii) All stations operating on Channels 2 through 14 and those stations operating on Channels 15 through 83 licensed for a peak visual transmitter output power greater than one kilowatt shall comply with the picture transmission amplitude characteristics shown in Figure 5 of § 73.699.

(iv) Stations operating on Channels 15 through 83 licensed for a peak visual transmitter output power of one kilowatt or less shall comply with the picture transmission amplitude characteristic shown in Figure 5 or 5a of § 73.699.

• • • • • •

31. In § 73.689, paragraph (a)(2)(iii) is amended and paragraph (a)(2)(iv) is added to read as follows:

**§ 73.689 Operating power.**

• • • • • •

(a) • • •

(2) • • •



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(iii) The value of the efficiency factor, *F*, shall be determined and a record kept thereof by one of the following methods listed in order of preference:

(A) Using the most recent measurement data for calibration of the transmission line meter according to the procedures described in paragraph (a)(1) of this paragraph, or the most recent measurements made by the licensee to establish the value of *F*. In the case of composite transmitters or those in which the final amplifier stages have been modified pursuant to Commission approval, the licensee shall furnish the Commission and retain with the station records the measurement data used as a basis for determining the value *F*.

(B) Using measurement data shown on the transmitter manufacturer's test data supplied to the licensee, provided that the measurements were made at the authorized frequency and transmitter output power.

(C) Using the transmitter manufacturer's measurement data submitted to the Commission for type-approval and as shown in the instruction book supplied to the licensee.

(iv) The value of *F* established for the authorized transmitter output power is to be used for maintaining the operating power pursuant to paragraph (b)(2) of this section.

* * * * *

§ 73.691 [Amended]

32. Section 73.691 is amended by deleting the note at the end of paragraph (a).

## PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

33. In § 74.451, paragraph (d) is amended and a Note is added to read as follows:

§ 74.451 Type acceptance of equipment.

* * * * *

(d) All transmitters marketed for use in the remote pickup broadcast service shall either be type accepted for use under this Subpart or under other Parts as specified in paragraph (a) of this section.

NOTE.—This paragraph becomes effective September 1, 1977.

* * * * *

34. In § 74.452, paragraph (d) is amended and a Note is added to read as follows:

§ 74.452 Equipment changes.

* * * * *

(d) All transmitters installed after August 31, 1977, must be type accepted for use in this service or other services as specified in § 74.451(a).

NOTE.—Prior to September 1, 1977, Commission approval must be obtained before replacing an authorized transmitter with a transmitter which has not been type accepted for use in the remote pickup broadcast service or other services as specified in § 74.451(a)

35. In § 74.482, paragraph (a) is amended to read as follows:

§ 74.482 Station identification.

(a) Each aural broadcast STL, or intercity relay station shall transmit station identification at the beginning and end of each period of operation, and hourly, as close to the hour as feasible, at a natural break in program offerings by one of the following means.

(1) Transmission of its own call sign by aural means or by automatic transmission of international Morse telegraphy.

(2) Aural transmission of the call sign of the radio broadcast station with which it is licensed as an STL or intercity relay station.

(3) Aural transmission of the call sign of the radio broadcast station whose signals are being relayed, or, when programs are obtained directly from network lines and relayed, the network identification.

* * * * *

36. In § 74.682, paragraph (a) is amended to read as follows:

§ 74.682 Station identification.

(a) Each television broadcast auxiliary station operating with a transmitter output power of 1 watt or greater shall transmit station identification at the beginning and end of each period of operation, and hourly, as close to the hour as feasible, at a natural break in program offerings by one of the following means:

* * * * *

[FR Doc.77-20358 Filed 7-15-77;8:45 am]

[Docket No. 21096; RM-2710]

## PART 73—RADIO BROADCAST SERVICES

### FM Broadcast Stations in Fargo and Mayville, North Dakota; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action herein substitutes Channel 288A for Channel 269A at Mayville, North Dakota, and assigns Class C FM Channel 270 to Fargo, North Dakota. Petitioner, Communications Properties, Inc., stated the Class C channel would provide a significant first and second FM service to a substantial area.

EFFECTIVE DATE: August 23, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER PROCEEDING TERMINATED

Adopted: July 5, 1977.

Released: July 13, 1977.

In the matter of amendment of § 73.202(b), *Table of Assignment*, FM Broadcast Stations. (Fargo, Mayville, North Dakota), Docket No. 21096, RM-2710.

1. The Commission herein considers the *Notice of Proposed Rule Making*, adopted January 26, 1977, 42 FR 6854, in the above-captioned proceeding instituted in response to a petition filed by Communications Properties, Inc. ("CPI"), licensee of AM Station KFGO, Fargo, North Dakota. The petition proposed the assignment of Class C FM Channel 270 to Fargo, North Dakota, and the substitution of Channel 288A for Channel 269A at Mayville, North Dakota. CPI was the only commenting party.

2. Fargo (pop. 53,365)[1], seat of Cass County (pop. 73,653) is described by petitioner as the largest city in the state of North Dakota. Fargo receives local service from four AM stations: two full-time facilities (KFGO, licensed to petitioner, and WDAY) and two daytime-only outlets (KQWB and KFNW); by two Class C FM stations (WDAY-FM, Channel 229, and KFNW-FM, Channel 250); and by noncommercial educational Station KDSU-FM, Channel 220, licensed to North Dakota State University.[2]

3. The assignment of Channel 270 to Fargo and the substitution of Channel 288A for Channel 269A at Mayville could be accomplished in conformity with the minimum distance separation requirements providing the transmitter site is located at least 26 kilometers (16 miles) northwest or 35 kilometers (22 miles) west-southwest of the community. Channel 269A in Mayville is presently occupied by Station KMAV-FM, and licensed to KMAV, Inc. The construction permit for the station was issued conditioned on the acceptance of a change in its channel if required by the outcome of this proceeding. Since KMAV, Inc. accepted the permit with the condition attached, no Order to Show Cause was issued and no reimbursement for any changes affecting Station KMAV-FM would be necessary.

4. Assignment of Channel 270 to Fargo and Channel 288A to Mayville would create considerable areas of co-channel and adjacent channel preclusion. Four communities[3] which are located in the preclusion areas do not have any FM channel assignments. However, in its supporting comments, CPI advised that there are alternate channels available for assignment to those communities. Therefore, preclusion is not an impediment to making the proposed changes.

[1] Population figures are taken from the 1970 U.S. Census.

[2] Fargo also receives aural service from broadcast stations located in Moorhead, Minnesota, directly adjacent to and east of Fargo. That service consists of one AM station, two commercial FM outlets and one noncommercial educational FM facility.

[3] *Minnesota:* Warren, Red Lake, Bagley; *North Dakota:* New Rockford.





5. CPI states that from a site approximately 42 kilometers (26 miles) southwest of Fargo, an FM station operating with 100 kW power and approximately 183 meters (600 feet) HAAT would provide a first FM service for 3,081 persons in an area of approximately 790 square kilometers (305 square miles), and a second FM service to nearly 8,000 persons in an area of 1,868 square kilometers (720 square miles). It would also provide a first aural nighttime service to 42 persons in an area of approximately 67 square kilometers (26 square miles), and a second aural nighttime service to 4,354 persons in an area of approximately 378 square kilometers (146 square miles). In response to a question in the Notice as to whether the petitioner could be relied upon to utilize this site, CPI has affirmed its intention to seek such a site and to employ a facility that would be equivalent to that specified in its proposal.

6. Since Fargo is of sufficient size in terms of population to warrant an additional broadcast facility and since the proposed channel would increase the diversity of listening opportunities to the public by providing a third FM service to a community of over 50,000 people, the Commission believes it would be in the public interest to make this assignment.

7. *Accordingly, it is ordered,* That effective August 23, 1977, the FM Table of Assignments (§ 73.202(b)) of the Commission's rules is amended with respect to the cities listed below, as follows:

| City: | Channel No. |
|---|---|
| Fargo, N. Dak | 229, 250, [1]270 |
| Mayville, N. Dak | 288A |

[1] Any application for this channel must specify an effective radiated power of 100 kW and antenna height of 183 meters (600 feet) above average terrain or equivalent.

8. Authority for the action taken herein is contained in sections 4(i), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

9. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
*Chief, Broadcast Bureau.*

[FR Doc. 77-20529 Filed 7-15-77;8:45 am]

[Docket No. 20496; FCC 77-480]

## PART 76—CABLE TELEVISION SERVICES

### Modifying or Eliminating Use of Signal Strength Contours for Purposes of Cable Television Systems Regulation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This decision has several effects. First, it makes a new more accurate method of predicting the service area of television stations applicable to the cable television. Wherever those rules rely on a station's predicted service area, this method will now be used instead of the old one. Second, it amends the rules to assure that this action will not result in any signals now available on cable television being deleted. Third, it amends the rules to allow a cable system to carry any UHF television station if the cable system is located within its service area. These actions resulted from (a) a decision that the new prediction method was more accurate and should be used in broadcast regulations, (b) concern that this change in use of an administrative tool not alter substantive rights and obligations presently being exercised and (c) an announced Commission goal of encouraging the development of UHF television. The intended result is adoption of a more accurate criterion and an increase in the amount and quality of UHF television available to the public.

EFFECTIVE DATE: August 26, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Tom Hendrickson, Cable Television Bureau, 632-6468.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER (PROCEEDING TERMINATED)

Adopted: July 7, 1977.

Released: July 15, 1977.

In the matter of: amendment of Part 76 of the Commission's rules and regulations to modify or eliminate the use of signal strength contours for purposes of Cable Television Systems Regulation, Docket No. 20496.

1. On May 29, 1975 (40 FR 53407) the Commission amended its rules to incorporate new and more accurate propagation curves for the prediction of television field strength contours. See "Report and Order in Dockets 16004 and 18052," FCC 75-636, 53 FCC 2d 855 (1975).[1] Due to the procedures adopted at that time, the predicted locations of Grade A and Grade B contours have been changed. In most cases the new curves cause a constriction of contour radii. The reduction effect on VHF television stations will be relatively minimal, with the most significant reductions (estimated to be up to 7 percent) occurring to VHF television stations with antenna heights in excess of 1000 feet. VHF stations with lower antenna heights, especially those under 500 feet, may actually realize predicted contours which somewhat exceed their former ones. The effects on UHF television stations, however, are more consequential. Generally, the total area included within the predicted contours of UHF stations will be substantially reduced. It is estimated that for these stations the distance to the predicted Grade B contour is 24-28 percent less using the new contours.

2. The Commission's Cable Television Rules presently put significant reliance on the use of contours and the changes adopted in predicting them have the potential to materially affect rights and obligations under the rules. Accordingly, on the same day the revised prediction procedures were adopted, the "Notice of Proposed Rule Making in Docket 20496," FCC 75-635, 53 FCC 2d 1009 (1975), was issued. The Notice stayed the applicability of the change in contour prediction for purposes of the cable television rules pending resolution of two issues:

(a) Should the Commission abandon or alter use of signal strength contours in our Cable Television Rules and rely instead on use of fixed mileage zones?

(b) Should the Commission take this opportunity to encourage expanded carriage of UHF stations on cable television systems?

We shall deal with the contour issue first.

3. Grade B contours have been used in cable regulation since the Commission first entered the field. These contours are designed to indicate the area within which a certain field intensity (the figure varies from 47 to 64 dbu depending on the channel assignment) is estimated to be found in 90 percent of the locations 50 percent of the time. However, their limitations have been recognized from the beginning. Predicted field intensity contours were developed as a statistical tool to indicate the approximate extent of coverage of a television station. The note following § 74.683 of the rules cautions that:

* * * the curves should be used with appreciation of their limitations in estimating levels of field intensity. Further, the actual extent of service will usually be less than indicated by these estimates due to interferences from other stations. Because of these factors, the predicted field intensity contours give no assurance of service to any specific percentage of receiver locations within the distances indicated.

4. Use of these contours has presented a number of problems in cable regulation. Where there are pockets of poor reception within a predicted Grade B contour or where the predictions appear to be inaccurate, parties are faced with expensive testing and much uncertainty in proving the actual signal strength. There have been administrative problems in that cable operators have had difficulties determining the exact extent of the predicted contours especially where the cable system is on the contour fringes. On the other hand, the practical service area of television stations is a key consideration in cable regulation. Signal strength contours, with all their limitations, are the best available indication of service areas.

5. In the *Notice, supra,* we offered for comment the use of fixed mileage zones in place of signal contours. Most commenting parties oppose this change. The

[1] Implementation of a portion of the new procedure (involving corrections based on the actual terrain roughness in a television station's service area) has been stayed. Order, FCC 75-1226, 56 FCC 2d 749 (1975); Order, FCC 77-304, ---- FCC 2d ---- (1977).



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arguments advanced include: (a) A fixed mileage zone is too arbitrary in individual cases, (b) it does not help the VHF–UHF disparity, (c) it will necessarily restrict the carriage rights of many stations, including UHF stations, (d) it breaks up the true coverage area of a station, (e) it penalizes those stations which have invested in equipment and towers giving better coverage and rewards those stations which have not made these investments, (f) use of a reference point based on city of license ignores the actual service area whose center is the transmitter location. The Commission acknowledges the problems associated with use of fixed mileage zones and accordingly we decline to substitute them wholesale wherever our rules presently use contours. We are faced with a choice between two tools, both of which have definite limitations and disadvantages. Each of our rules has slightly different concerns underlying it. In some cases fixed zones are sufficient to meet those concerns. In other cases the more easily administered fixed zones nevertheless fail as satisfactory substitutes for predicted contours.

6. Contours are still used in our rules in seven situations:

(i) Notice requirements (§ 76.13(a)(6), and (c)(4))

(ii) Broadcast-cable cross ownership (§ 76.501(a)(2))

(iii) Applicability of one technical standard (§ 76.605(a)(9))

(iv) Nonduplication protection for translator stations (§ 76.92(d))

(v) Carriage of duplicate signals where a translator or satellite station is involved (§ 76.55(c))

(vi) Carriage of noncommercial television stations on all cable systems (§§ 76.57(a)(1), 76.59(a)(2), and 76.61(a)(2))

(vii) Carriage of commercial stations on cable systems located in smaller television markets and outside of all markets. (§§ 76.57(a)(1) and 76.59(a)(3))

Each of these situations will be dealt with in turn but first we should address the proposal, urged by a number of commenting parties, that we continue use of the prior contour prediction method for cable television purposes, that is, make permanent the "interim" policy. On the surface this seems like a reasonable solution. However, it ignores two facts. First, to maintain a set of predicted contours just for cable purposes presents administrative problems. Television licensees would have to submit 2 sets of estimates. Confusion to cable operators and the public would certainly occur. The expenditure of Commission resources to administer this set of contours would be costly. And changes in broadcast facilities and the arrival of new television stations would further complicate the situation. The second consideration is even more important. The new contours were adopted because they are more accurate than the old ones. We do not believe it wise to continue use of an outdated method. Contours are used in the cable rules as an estimate of the geographic area in which a television signal is available. We now have a more accurate way to make that estimate, and wherever the rules utilize signal contours, we believe it highly desirable to apply the most accurate procedure.[2]

7. *Notice requirements.* Sections 76.13(a)(6), (b)(6) and (c)(4) of the rules require that applications for certificates of compliance contain a statement that certain basic information has been served on, *inter alia*, "the licensee or permittee of any television broadcast station within whose predicted Grade B contour or specified zone the community of the system is located, in whole or in part * * *" The purpose of these provisions is to assure that proper notice is given to television stations which may have rights under the rules or objections to the applications. Use of contours in this context has caused some administrative problems in the past. Failure to serve one or more stations is probably the most common application deficiency. However we do not feel that switching to a fixed mileage criteria is wise. The purpose of the notice requirement is to assure that parties with an interest in the application are aware of it in time to raise an objection. The Commission has used contours for this purpose on the assumption that television stations are keenly interested in cable activity within their service areas. Predicted contours are inherently more accurate in reflecting a station's service area than are fixed mileage zones. Furthermore it is not clear that use of mileage zones would significantly reduce the number of notice errors in applications. Perhaps most importantly, however, such a criterion may be making the rules more complex rather than simplifying them since this "Report and Order" concludes that use of predicted contours should be continued generally in the cable rules. It does not seem wise to introduce a new standard here when predicted contours will continue to be a familiar tool in cable regulation.

8. *Technical Standards.* Section 76.605(9) of the rules requires that "The ratio of visual signal level to system noise, and of visual signal level of any undesired cochannel television signal operating on proper offset assignment, shall be not less than 36 decibels * * *" Sections 76.605(9)(i) and (ii) state that this requirement only applies when the cable system picks up the signal within its predicted Grade B contour or when the cable system delivers the signal to subscribers within that contour. The Commission decided when it adopted this section that it was not wise to impose the requirement when the picture quality was predicted to be inferior to that of a Grade B signal. Consistent with the intent of the rule we will use the new prediction method in this context. It is important that we use the best presumption of actual signal quality available and not let administrative convenience concerns override that goal.

The likely result of course is that a few signals on some cable systems will no longer have to meet the standard. In rare instances cable systems previously within one or more Grade B contours may now be outside of all such contours and the standard will not apply to those systems at all. However, the real impact of this change will be minimal and at any rate, consonant with the purpose of the rule.

9. *Broadcast-cable cross-ownership.* Section 76.501(a)(2) prohibits cross-ownership of a cable television system and a "Television broadcast station whose predicted Grade B contour, computed in accordance with § 73.684 of this chapter, overlaps in whole or in part the service area of * * *" the cable system. This rule was designed to encourage diversity of media voices within a service area. Since the service area is the key consideration here we believe continued use of signal contours is advisable. Accordingly, we are not amending the wording of § 76.501 although of course this change in contour calculation does alter the effects of the rule. This cuts into the cross-ownership ban somewhat, but since the change represents more accuracy in our delineation of a station's service area, it furthers the policies being pursued.

10. *Nonduplication protection for translator stations.* Section 76.92(d) of the rules provides that certain translator stations are entitled to network program exclusivity if they are located within the predicted Grade B contour of the television station being translated and are carried on the cable system involved.[3] When the present network nonduplication rules were adopted it was decided that a distinction should be made between translators located within the parent station's local service area and those located outside it.[4] We shall not revisit that determination in this proceeding. Our basic emphasis on local broadcasting is the basis of this distinction. Since the service area is key here and few administrative poblems have surfaced, use of contours will be continued.

11. *Carriage of duplicating satellite or translator stations.* Section 76.55(c) of the rules provides that a cable system need not carry the signal of a translator if the system is located within the Grade B contour of the station being retransmitted and the system is carrying that station. Similarly, § 76.55(d) provides that if a cable system is located within the Grade B contour of both a satellite and its parent television station, the system need not carry both and may select between them. Neither of these rules has created administrative difficulties and we believe it appropriate to continue use of contours in these circumstances.

12. *Carriage of noncommercial educational stations.* Noncommercial educational television stations have "must carry" status on all cable television systems located within their Grade B contours. See §§ 76.57(a)(1), 76.59(a)(2), and 76.61(a)(2) of the rules. Comments were filed specifically addressing this issue by the Public Broadcasting System, the West Virginia Board of Regents, New York State Education Department and the Ohio Educational Network Television Commission. All of these parties urge a shift to mileage zones from contours, although with different variations. One difficulty affecting educational stations more than commercial ones concerns use of reference points instead of transmitter sites as the center of mileage zones. The Ohio Commission points out that educational stations are often less concerned with the financial and other support of a given community and more concerned with wide area coverage than are commercial stations. Thus their transmitters are more likely to be outside the city of license. PBS points out that 80 of the 250 public television stations (32 percent) have their transmitters 12 or more miles from their city of license, with 24 of these over 25 miles away. Thus use of the city of license reference point could create a zone which varied significantly from the station's actual coverage area.

13. The commenting parties are asking that mileage zones be used to expand carriage of educational stations. In effect, they are urging the Commission to benefit public broadcasting by mandating carriage on cable systems located outside a station's local service area. We remain sympathetic to the advancement of public broadcasting, but for administrative and philosophical reasons discussed further below we decline to adopt the use of fixed mileage zones for this purpose. Use of contours negates the problem of transmitter location, is more accurate than fixed zones and minimizes the very difficult problem of determining the actual availability of a signal for use on the cable system. We note that our rules will continue to encourage carriage of educational stations outside their Grade B contours, since these signals may always be imported absent a justified objection from a local educational station. We are merely declining to mandate carriage of stations which are not licensed to serve the population in question and whose signal availability is uncertain.

14. *Carriage of commercial stations.* In the top hundred markets, contours are not used for carriage, purposes. They apply to smaller markets and to systems outside all markets as follows:

(a) Cable systems located outside of all markets must carry, on request, the signal of any television station whose Grade B contour encompasses all or part of the cable community. See § 76.57(a)(1).

(b) Cable systems located in smaller television markets must carry, on request, the signal of any station whose Grade B contour encompasses all or part of the cable community, if the station is licensed to another smaller market. See § 76.59(a)(3).

Again, the concept underlying the rules is the television station's local service area. See paragraphs 81–83, "Cable Television Report and Order," FCC 72–108, 36 FCC 2d 143 (1972). In the case of cable systems located outside the specified zone of all television stations, the Commission has felt that a station whose Grade B contour reached the community was enough of a "local" station that its carriage should be ensured. We affirm that decision and will continue use of contours in this context. The same holds true in the case of cable systems located in smaller television markets. We found it wise in 1972 to ensure carriage of smaller market stations throughout their Grade B contours in most cases, even where the contours exceeded their 35-mile zones. We shall continue that concept, using the new prediction procedure.

15. *Grandfathering.* In its regulation of cable television the Commission has traditionally not required cable operators to delete signals already carried when regulatory policies have changed that would now preclude that carriage by new systems. The reason for this has been to avoid an undesired disruption of subscriber viewing habits. We see no reason to depart from that policy in this proceeding. This "grandfathering" from the cable operators point of view is not significant as to systems that are located outside of all television markets because the rules would in any case allow carriage of the signals in question even if their carriage is no longer mandatory. It would, however, allow cable systems in smaller television markets to continue carriage of signals from other smaller television markets even though these signals, as the result of contour shrinkage, were no longer subject to mandatory carriage.

16. Many broadcast parties to this proceeding have suggested that grandfathering should be a two-way street and that such grandfathering can be used as one means of assisting UHF stations. That is they would have us allow stations that had obtained cable carriage under these contours to continue to insist on their rights to carriage. Since this would assure that subscribers will not lose access to signals to which they have become accustomed, we are persuaded that the two-way grandfathering concept should be used. While grandfathering is traditionally a permissive concept which allows the status quo to remain rather than requiring it to, we feel it is in the public interest to mandate continued carriage in this context. Therefore the rules will be amended to provide that where a cable system is located in the area between a station's prior predicted Grade B contour and its new one, and is presently required to carry that signal by virtue of that contour's location, the rights of the cable system to continue its carriage and the rights of the station to demand continued carriage shall remain in force. This result seems to us particularly appropriate with respect to those UHF stations that developed with reasonable expectations of continued cable carriage in areas where our revisions in the contour prediction system would now deprive them of carriage rights. It seems likely that situations will arise where, due to limited channel capacity or for other reasons, continued carriage of such signals may conflict with other proposed uses for the cable channel. We shall deal with these and any other situations through our waiver and special relief procedures.

17. *Aid to UHF.* A major issue raised in the "Notice" was whether the signal carriage rules should be amended to increase carriage of UHF television stations. Comments on this issue were mixed. Most UHF licensees felt that the Commission should use its cable television rules to promote UHF stations. The cable interests generally argued against saddling cable with hardships to help another industry. The National Association of Broadcasters and many broadcast interests flatly argue that expanded carriage of "distant" signals actually would harm broadcasting in the long run.

18. If we are to increase UHF availability it can be done through a mandatory approach or a permissive one. Questions have been raised as to the propriety of requiring additional carriage for this purpose.[5] In addition it would cause serious administrative problems. This is primarily due to the inevitable disputes over the quality of the signal, the ability of the cable operator to obtain it, the cost involved, etc. Another argument against the mandatory approach deals with copyright liability. The new Copyright Law imposes liability on cable systems for use of signals whose carriage is not mandatory as of March 1976. It would be inconsistent in these circumstances for the federal government to demand carriage of a signal and then exact a copyright fee for that carriage. After careful consideration, we have concluded that mandatory carriage should not be used as a tool to aid UHF, as such.[6]

19. This conclusion does not, however, preclude use of the cable rules to encourage increased carriage of UHF television. It only means that use of mandatory rules is not contemplated. Therefore the next step is to decide whether increased UHF carriage is in the public interest. This is not as easy a question as it might first appear. It seems safe to

[2] We note that the terrain roughness corrections generally will improve the accuracy of contour predictions even more. Accordingly, when they are implemented, they will be used for this purpose also.

[3] See Newport Cablevision Inc., (Newport, Vt.) FCC 76–1140, 62 FCC 2d 104 (1976) Reconsideration denied in FCC 77–179, and Order, FCC 77–178, —— FCC 2d —— (1977), reconsideration pending.

[4] See Paragraph 27, Report and Order Dockets 19995 & 18785, FCC 75–413, 52 FCC 2d 519, 542 (1975).

[5] See, for example, the concurring statement issued by Commissioner Glen O. Robinson to the Notice of Proposed Rule Making in this proceeding.

[6] Of course, the form of grandfathering adopted here (Para. 15 and 16 *supra*) will mandate continued carriage of certain signals, whether VHF or UHF.







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say that more cable carriage in a UHF station's "fringe" area can help it financially. What is less clear is (1) how harmful the increased competition would be to stations now carried on these cable systems and (2) how the local UHF station would be affected by carriage of additional "distant" UHF stations on the cable systems where it is already carried. Whether the end result is a plus or minus will vary depending on the station's location, but the viewing public will have gained in terms of diversity. We feel that on the whole UHF television and the public would benefit from increased carriage within a station's service area.

The present rules allow carriage throughout a commercial station's Grade B contour only where the cable system is located outside of all markets or where the cable system is in a smaller market and the station in question is licensed to another smaller market. We are amending the rules today to allow carriage of all commercial UHF stations throughout their Grade B contours. The changes resulting from this action are as follows:

(A) Major market UHF stations can now be carried within their service area. The present rules base local carriage on a station's 35 mile zone and its status as "significantly viewed" in the area. The change extends their carriage to communities outside their 35 mile zone but within their Grade B contour where the station is not considered significantly viewed.

(B) Until now carriage of smaller market stations based on Grade B contours has been allowed only when the cable system is located either outside of all markets or within another smaller market. Today we are extending carriage to situations where the cable system is located in a major market.

This proposal will increase the amount of UHF television available to the public and while it will cause audience loss to some individual stations it should help UHF as a whole by increasing each stations access to audience within its service area. It is, moreover, consistent with other recent efforts to aid UHF reception.

20. The obvious question is how does this move square with our distant signal limitations. When the "Cable Television Report and Order,"[7] was issued in 1972 the Commission set a limit on the number of distant signals that it felt could safely be imported into various size television markets without significant impact on the local signals. We believe that the amendment adopted today is distinguishable from that policy determination because the extra UHF carriage being encouraged herein involves stations more "local" in character than "distant." In the case of distant signals there is the danger of adverse impact without appreciable offsetting benefits to the broadcasting system. In the case of extending the permissible carriage area of UHF stations we still have the danger of adverse impact but the offsetting benefits are significant. Not only is the nearby (and therefore locally oriented) station which can now be carried likely to increase its revenues but the larger goal of parity between UHF and VHF television is advanced.

21. We are, therefore, amending the cable television rules to allow carriage of any UHF station within its Grade B contour regardless of whether that station has mandatory carriage rights. We are aware that this amendment may change the permissible carriage on some cable systems and may even result in importation of an additional signal. This does not alarm us, however, since in those cases we are merely recognizing that the UHF station should have a more local status. In addition the harm is mitigated somewhat by our network nonduplication rules. Network affiliates will be able to claim protection against the majority of programming on a same-network UHF station being carried due to this amendment. We are amending the syndicated exclusivity rules, however, to recognize the local status of these stations. Thus they will not result in deletion of syndicated programming on any UHF station within its Grade B contour. This decision is consistent with our finding that these signals are available over-the-air to the majority of non-cable viewers who want to view them according to that system of prediction found most accurate after many years of study (Docket 16004) and thus cable carriage will reflect rather than distort off-the-air signal availability patterns.

22. *Effective date.* We have decided to continue use of predicted contours in some contexts but where we are switching to new contours there are administrative difficulties. The problem is one of timing. When the new prediction method was adopted it was decided that television stations should not be required to submit revised contour maps immediately. Instead they are being filed by each station at its first renewal of license subsequent to the rule change. As a result, Commission records will not contain revised contour maps for all television stations until June 1, 1978. We could simply delay the effective date of this document until then but it seems unwise to grant or deny waivers and authorizations based on a criteria we have decided to abandon, especially where the decision would go the other way if the new contours were applied. Accordingly we shall assume the validity of whatever contours are available but make clear that contours based on the new prediction method are determinative. If an objection is raised in individual proceedings to the use of an available contour whose prediction is based on the prior procedures, the burden will be on the party seeking to use the contour (cable operator seeking to prove a signal is local, or broadcaster requesting carriage) to submit a showing of the station's predicted contour under the new method. We realize that this may be a little awkward for the time remaining between now and June 1, 1978 but it is the most equitable solution. The difficulty is minimized somewhat since close to two thirds of the station licensees have already filed for renewal and submitted revised maps with their applications. Obviously, this number will steadily increase as time passes. Thus, whatever degree of difficulty we face now will become even less of a problem as time passes.

23. *Summary.* We have determined that it is in the public interest to institute the following changes:

(a) The stay currently in effect on cable use of the revised predicted contours is rescinded. Where the cable television rules make use of signal contours, the revised prediction methods will be applied.

(b) In those areas which are encompassed by the old Grade B contour prediction but not the new one, if a signal is presently being carried, the rights of both cable systems and television stations to continued carriage are being grandfathered.

(c) Cable systems located within the Grade B contour of any UHF television station will be permitted to carry the signal of such station.

Authority for the rule amendments adopted herein is contained in section 2, 4 (i) and (j), 303, 307, 308, and 309 of the Communications Act of 1934, as amended.

*Accordingly, it is ordered,* That effective August 26, 1977, Part 76 of the rules and regulations is amended as set forth below.

*It is further ordered,* That the revised contour predictions adopted in "Report and Order in Docket 16004 and 18052," are now in effect wherever the Cable Television rules make use of signal contours.

*It is further ordered,* That this proceeding is terminated.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089 (47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317).)

FEDERAL COMMUNICATIONS COMMISSION,[8]
VINCENT J. MULLINS,
*Secretary.*

Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In Part 76—Cable Television Service:

1. Section 76.59 is amended by the addition of paragraph (d) (5) which reads as follows:

**§ 76.59 Provisions for smaller television markets.**

* * * * * * *

(d) * * *

(5) Any commercial UHF television station within whose Grade B contours the community of the system is located, in whole or in part.

* * * * * * *

2. Section 76.61 is amended by the addition of paragraph (e) (5) which reads as follows:

[7] FCC 72-108, 36 FCC 2d 143 (1972).

[8] See attached joint statement of Commissioners Wiley, Chairman; Fogarty and White. Commissioner Quello concurring in the result.





**§ 76.61 Provisions for First 50 Major Television Markets.**

* * * * * * *

(e) * * *

(5) Any commercial UHF television station within whose Grade B contours the community of the system is located, in whole or in part.

* * * * * * *

3. Section 76.65 is amended by the addition of paragraph (c) which reads as follows:

**§ 76.65 Grandfathering provisions.**

* * * * * * *

(c) When, for purposes of ascertaining cable signal carriage rights or broadcast station rights to cable system carriage, reference is made to Grade B contours in §§ 76.57, 76.59, 76.61, or 76.63, such contours shall be the field intensity contours defined in § 73.683(a) of this chapter: *Provided, however,* That such rights as to signals carried or authorized for carriage on or before August 26, 1977, shall be determined by reference to the contour prediction rules adopted in the Sixth Report and Order in Dockets 8736, 8975, 8976 and 9175, 41 FCC 148 (1952) as amended by Report and Order in Docket 17253 FCC 70-345, 22 FCC 2d 354 (1970).

4. In § 76.151, paragraphs (a) and (b) and the NOTE are amended to read as follows:

**§ 76.151 Syndicated program exclusivity; extent of protection.**

* * * * * * *

Upon receiving notification pursuant to § 76.155: (a) No cable television system, operating in a community in whole or in part within one of the first 50 major television markets, shall carry a syndicated program, pursuant to § 76.61 (b), (c), (d), or (e) (1)-(e) (4), for a period of 1 year from the date that program is first licensed or sold as a syndicated program to a television station in the United States for television broadcast exhibition;

(b) No cable television system, operating in a community in whole or in part within a major television market, shall carry a syndicated program, pursuant to §§ 76.61 (b), (c), (d), or (e) (1)-(e) (4), or § 76.63(a) (as it refers to § 76.61 (b), (c), (d), or (e) (1)-(e) (4), while a commercial * * *

* * * * * * *

NOTE.—For purposes of § 76.151, a series will be treated as a unit, that is:

(1) No episode of a series (including an episode in a different package of programs in the same series) may be carried by a cable television system, pursuant to §§ 76.61 (b), (c), (d), or (e) (1)-(e) (4) or 76.63(a) (as it refers to § 76.61 (b), (c), (d), or (e) (1)-(e) (4)) while any episodes of the series are subject to exclusivity protection.

* * * * * * *

JOINT STATEMENT OF CHAIRMAN RICHARD E. WILEY; COMMISSIONER JOSEPH R. FOGARTY, AND COMMISSIONER MARGITA E. WHITE, DISSENTING IN PART

RE: REPORT AND ORDER IN DOCKET 20496

We cannot agree with that portion of the majority opinion which grandfathers, on a mandatory basis, existing UHF Grade B carriage rights. This decision, we believe, twists the Commission's longstanding concept of grandfathering as a permissive device to *allow* rather than to require the continuance of the status quo. Moreover, it appears to contradict the larger decision, with which we agree, that mandatory carriage of UHF television signals outside of the stations' service areas for the sole purpose of promoting UHF is not appropriate.

This statement is not to suggest, however, any disagreement on our part with the Commission's commitment to the development of UHF television. Indeed, we very strongly endorse this commitment. Moreover, we fully support the Commission's action in allowing carriage of all commercial UHF stations throughout their Grade B contours regardless of their market status under our cable rules. We believe that this right to permissive carriage may be a significant aid to UHF television's overall growth by increasing each station's access to the audience within its service area.

[FR Doc.77-20490 Filed 7-15-77;8:45 am]

## Title 50—Wildlife and Fisheries

## CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

### SUBCHAPTER C—MARINE MAMMALS

## PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

### Reporting of Information on Porpoise Mortality Levels

AGENCY: National Marine Fisheries Service.

ACTION: Final rule.

SUMMARY: Regulations are being amended to assure timely and accurate reporting of information on porpoise mortality levels.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Mr. William P. Jensen, Marine Mammal Program Manager, National Marine Fisheries Service, Washington, D.C. 20235, 202-634-7461.

SUPPLEMENTARY INFORMATION: On June 6, 1977, the National Marine Fisheries Service published (42 FR 28904) proposed amendments to modify 50 CFR 216.24(d) (2) (i) to assure that accurate information on the numbers of purse seine vessels at sea and the mortality levels of the individual porpoise stocks is reported to the National Marine Fisheries Service on a timely basis.

The amendments to the regulations would require reports from operators of all U.S. tuna seiners having a certificate holder onboard of their actual departure or arrival date to the Regional Director, Southwest Region, 300 South Ferry Street, Terminal Island, California, Area Code 714-233-5511 within 48 hours prior to departure from port and within 48 hours after arrival in port. Vessels having observers onboard, or vessels departing for or returning from regulated trips outside the Inter-American Tropical Tuna Commission (IATTC) area, are excluded from this requirement.

In addition, because of the small quota sizes on some stocks, it would be required that the National Marine Fisheries Service observers be allowed to periodically report certain information in coded form by radio.

One comment was received on the proposal requesting assurance that vessels excluded from this proposal comply under regulations promulgated elsewhere. Since this is the case, the amendments are hereby adopted by the National Marine Fisheries Service as originally proposed.

Accordingly, 50 CFR 216.24(d) (2) (i) is amended by redesignating § 216.24 (d) (2) (i) (B) as § 216.24(d) (2) (i) (C), and by adding a new § 216.24(d) (2) (i) (B) which reads as follows:

**§ 216.24 Taking and related acts incidental to commercial fishing operations.**

* * * * * * *

(d) * * *

(2) * * *

(i) * * *

(B) Each vessel having a certificate holder but not an observer onboard and not fishing on a IATTC regulated outside trip is required to notify the Regional Director, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731, Area Code 714-233-5511, within 48 hours prior to departure from port and within 48 hours after arrival in port, of their actual departure or arrival date, including any changes in schedules that may occur after the original notification. The notification shall include the name of the vessel and the location of the port of the scheduled departure or arrival. Reporting may be by either the certificate holder, owner, or managing owner of the vessel. Masters of all vessels carrying the National Marine Fisheries Service observers shall allow observers to periodically report the following information by radio in coded form:

1. Number of animals killed since the trip began;
2. Total tuna caught, all species, since the trip began;
3. Total yellowfin tuna caught on porpoise since the trip began; and
4. Total sets made, and total sets made on porpoise since the trip began.

Individual vessel names and their tuna catches associated with coded information reported by radio by the National Marine Fisheries Service observers shall remain confidential unless its release is authorized in writing by the master of the vessel, or his designated agent. The Regional Director, Southwest Region, will provide to the public a weekly quota status report summarizing the incidental porpoise mortality accumulated for all vessels by individual species and stocks.

Dated: June 29, 1977.

WINFRED H. MEIBOHM,
*Associate Director, National Marine Fisheries Service.*

[FR Doc.77-20488 Filed 7-15-77;8:45 am]



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# proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## FEDERAL ENERGY ADMINISTRATION

**[ 10 CFR Part 211 ]**

**MOTOR GASOLINE**

**Adjustments to Base Period Volumes; Withdrawal of Proposed Rules**

AGENCY: Federal Energy Administration.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: After consideration of all the written and oral presentations received in connection with the proposal of the Federal Energy Administration (FEA) to amend the Mandatory Petroleum Allocation Regulations for motor gasoline to provide for adjustments to base period volumes and to modify the rules governing the distribution of surplus product, FEA has determined to withdraw the proposed rulemaking.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (FEA Reading Room), 12th and Pennsylvania Avenue, NW., Room 2107, Washington, D.C. 20461, 202–566–9161.

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue, NW., Room 3104, Washington, D.C. 20461, 202–566–9833.

Mary B. Jones (Program Office), 2000 M Street, NW., Room 2314, Washington, D.C. 20461, 202–254–3234.

Kathleen C. Williams (Office of the General Counsel), 12th & Pennsylvania Avenue, NW., Room 7132, Washington, D.C. 20461, 202–566–2454.

SUPPLEMENTARY INFORMATION: On April 20, 1977, FEA gave notice (42 FR 20826, April 22, 1977) of a proposed rulemaking and public hearing to amend the Mandatory Petroleum Allocation Regulations to provide for adjustments to the base period volumes of motor gasoline. The proposed amendments provided for adjustments to the base period use of retail motor gasoline sales outlets, and bulk purchasers and wholesale purchaser-consumers which have allocation levels which are not one hundred percent of current requirements, to reflect actual purchases from base period suppliers in the corresponding month of the previous year. For wholesale purchaser-resellers other than retail sales outlets, the adjusted base period use was proposed as the sum of the adjusted base period uses of all their base period and assigned purchasers. In the proposed rulemaking, FEA also requested comments on several alternatives to restricting the proposed adjustments to purchases from base period suppliers.

FEA issued an amendment to the notice of proposed rulemaking on May 6, 1977 (42 FR 23859, May 11, 1977) requesting additional comments on the distribution of surplus motor gasoline. Specifically, FEA requested comments on whether the current regulations governing the distribution of surplus product should be revised to require public notice of the availability of surplus product and to include an explicit requirement that each wholesale purchaser-reseller be offered a pro-rata share of surplus product based on the proportion of its adjusted base period volume to the total adjusted base period volumes of all purchasers entitled to receive an allocation from the supplier.

The rulemaking proceeding was initiated by FEA because significant changes in demand patterns have occurred in the retail gasoline market and average volumes per station have shifted from base period uses as established and adjusted during 1974. Because there are limited means available under the regulations to effect adjustments in base period uses and because any shortages in the supplies of motor gasoline might result in dislocations in the market due to FEA regulations, FEA concluded that some mechanism to adjust base period volumes to reflect more accurately current market conditions was necessary. The additional comments on surplus product were solicited because FEA had been advised that the procedures for the distribution of surplus product were not being adhered to and some marketers were experiencing difficulty in obtaining surplus product from their base period suppliers.

A total of 159 comments both oral and written were submitted in connection with this proceeding. A majority of the comments received by FEA indicated that the regulations should not be changed, as proposed, immediately before the peak driving season because such a change would require extensive modifications in the distribution system which would be difficult to effect during the period of high demand. A period of at least several months was projected to be required to implement the proposed amendments. In addition, although almost all respondents agreed with FEA as to the need for updating base period volumes, there was little consensus on the most appropriate method for accomplishing such adjustments, and a further rulemaking proceeding appears to be necessary prior to issuing a final rule on adjustments to base period volumes. Finally, there was no clear indication in the comments received that the rules governing the distribution of surplus product require modification.

In light of the difficulties for the industry if these adjustment procedures were adopted this summer, FEA has concluded that adoption of the proposed adjustment procedures is not justified at this time and is hereby withdrawing its April 20, 1977 notice of proposed rulemaking, as amended on May 6, 1977.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, and Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended Pub. L. 94–385; E.O. 11790, 39 FR 23185).

In consideration of the foregoing, the proposal published in the FEDERAL REGISTER (42 FR 20826, April 22, 1977) entitled "Adjustments to Base Period Volumes for Motor Gasoline", as amended by a notice issued May 6, 1977 (42 FR 23859, May 11, 1977), is hereby withdrawn.

Issued in Washington, D.C., July 12, 1977.

ERIC J. FYGI,
*Acting General Counsel.*

[FR Doc.77-20479 Filed 7-13-77;1:02 pm]

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**[ 10 CFR Part 600 ]**

**ENERGY POLICY AND CONSERVATION ACT**

**Implementation of Coal Loan Guarantee Program**

AGENCY: Federal Energy Administration.

ACTION: Notice of inquiry (advance notice of proposed rulemaking).

SUMMARY: The Federal Energy Administration ("FEA") hereby requests public comment on certain issues and suggested procedures concerning FEA's implementation of the Coal Loan Guarantee Program, as authorized by the Energy Policy and Conservation Act (EPCA) (Pub. L. 94–163) and the Energy Conservation and Production Act (ECPA) (Pub. L. 94–385). Under this program FEA would be authorized to issue loan guarantees for the purpose of developing, expanding or reopening underground coal mines.

The preamble of this notice summarizes certain important features of the program, and requests public comment concerning the need, impact, and feasibility of the program and the FEA's preliminary proposed regulations to implement the program. The text of the authorizing legislation is reprinted at the end of the preamble for the sake of convenience. The preliminary program regulations suggesting the procedures under which FEA would operate the program, if implemented, are included at the end of the notice.

An Advance Notice of Proposed Rulemaking, rather than a Notice of Proposed Rulemaking, is issued now because FEA is still in the process of evaluating the feasibility and potential impact of the program. The purpose of the Advance Notice of Proposed Rulemaking is to enable FEA to obtain public comments assessing the need for this program as currently authorized by EPCA and ECPA. While the preliminary regulations contained in this Advance Notice of Proposed Rulemaking constitutes one possible approach to administering the program, FEA specifically requests comments on alternative approaches.

Applications for loan guarantees will not be accepted until FEA completes its evaluation of the comments received in response to this public notice, issues proposed program regulations, completes the programmatic environmental analysis, and promulgates final program regulations.

DATES: Comments by August 8, 1977, 4:30 p.m.

ADDRESS: All comments to Executive Communications, Room 3309, Federal Energy Administration, Box NY, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

David M. Phelan, 202–566–9934.

SUPPLEMENTARY INFORMATION:

A. Background.
B. Need, impact and feasibility of the program.
C. Text of the authorizing legislation.
D. Comment procedures.

### A. BACKGROUND

The Congress included section 102 in the Energy Policy and Conservation Act (EPCA) and Section 164 in the Energy Conservation and Production Act (ECPA) for the purpose of providing greater availability of low sulfur coal. This legislation authorizes the Administrator of the FEA to guarantee loans issued for the development of new underground coal mines, the expansion of existing underground coal mines, and the reopening of underground coal mines which had been previously closed.

The primary purposes for which the Coal Loan Guarantee Program was enacted were to encourage and assist small and medium sized coal producers in increasing coal production from low sulfur underground coal mines, to enhance competition among coal producers, and to encourage new market entry by small coal producers.

In addition, the program is likely to stimulate additional job opportunities in geographic areas where low sulfur underground coal reserves are located.

Underground mining is encouraged as a means of reducing the impact of coal production on the surrounding environment. Further, the program will also assist coal producers in acquiring the necessary funds to upgrade equipment and provide for better safety mechanisms as specified in the Federal Coal Mine Health and Safety Act.

No application for a loan guarantee would be considered unless evidence were provided which established that adequate financing could not be obtained without such a loan guarantee.

Priority consideration would be given loan guarantee applications for low sulfur underground coal mining projects, in accord with the legislative requirement contained in section 102(b)(3) of EPCA that 80 percent of the guarantees issued in any fiscal year be restricted to development of low sulfur coal production capacity.

It is anticipated that priority consideration would also be given those applications for projects having a plan of operation which indicates a reasonable likelihood of rapid production from proven reserves and which already have available such project infrastructure as access roads, rail systems and loading facilities.

It is not expected that guarantees would be made available for the mining of coal for metallurgical use.

The aggregate outstanding principal amount of loans guaranteed under this program could not at any time exceed $750,000,000, in accordance with section 102(b)(3) of EPCA.

The preliminary regulations suggest the procedures by which the FEA would administer its responsibilities to issue loan guarantees. The regulations outline suggested requirements for the filing and processing of applications and for the issuance and subsequent servicing of guaranteed loans. The documentation required to be submitted by the applicant, including certain site-specific environmental information described in application forms currently under development, would provide a basis upon which the Administrator could evaluate the application and determine whether to issue a loan guarantee.

### B. THE NEED, IMPACT AND FEASIBILITY OF THE PROGRAM

The FEA desires to obtain the public's views regarding the need for the Coal Loan Guarantee Program, its impact and its feasibility, as well as suggestions regarding program operating procedures.

Specific areas in which the FEA seeks comments and opinions include:

1. Increased underground production of low sulphur coal may be constrained by, among other factors, a lack of adequate financing for the development, expansion or reopening of underground mines by "small" coal producers. FEA has surveyed many lenders and small coal producers who believe such a financial constraint exists. Additionally, evidence such as the relatively low legal lending limits of even the largest commercial banks in most states with large deep mineable low sulfur coal reserves tends to substantiate this constraint. However, it may be the case that if the coal producer controls proven low sulfur coal reserves and has obtained the long term coal sales contract required by EPCA, then no Federal guarantee is required to secure adequate debt financing. To date, very few such actual low sulfur coal sales contracts obtained by small coal producers have been identified. Comments are solicited, therefore, which document either that a loan guarantee program as authorized by EPCA is needed, and/or that small underground coal producers with long term low sulfur coal sales contracts have obtained adequate debt financing without such a loan guarantee.

2. EPCA requires that a borrower under the Coal Loan Guarantee Program be unable to obtain adequate financing without a loan guarantee. Other Federal loan guarantee programs require borrowers to demonstrate, some formally and others informally, their inability to obtain adequate debt financing by being rejected by one or more lenders. Comments are solicited on recommended procedures to be used in this program to demonstrate that adequate debt financing is not available without a loan guarantee.

3. In preparing an application for a loan guarantee, borrowers would incur such costs as providing the coal reserves and developing the financial and other data required for a feasibility study. These costs may be significant and would be incurred prior to approval of a conditional commitment to guarantee or issuance of a loan guarantee. Comments are solicited, particularly from those experienced in coal mining and in proving mineral reserves, on the magnitude of these costs and to what extent they should be eligible costs for reimbursement from the proceeds of the guaranteed loan, subsequent to and contingent on issuance of a loan guarantee.

### C. TEXT OF THE AUTHORIZING LEGISLATION

For convenience, the text of the provisions in EPCA and ECPA authorizing the Coal Loan Guarantee Program has been reprinted below:

ENERGY POLICY AND CONSERVATION ACT

INCENTIVES TO DEVELOP UNDERGROUND COAL MINES

Sec. 102 (a) The Administrator may, in accordance with subsection (b) and rules prescribed under subsection (d), guarantee loans made to eligible persons described in subsection (c)(1) for the purpose of developing new underground coal mines.

(b)(1) A person may receive [sic] for a loan guarantee under subsection (a) only if the Administrator determines that——







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(A) Such person is capable of successfully developing and operating the mine with respect to which the loan guarantee is sought;

(B) Such person has provided adequate assurance that the mine will be constructed and operated in compliance with the provisions of the Federal Coal Mine Health and Safety Act and that no final judgment holding such person liable for any fine or penalty under such Act is unsatisfied;

(C) There is a reasonable prospect of repayment of the guaranteed loan;

(D) Such person has obtained a contract, of at least the duration of the period during which the loan is required to be repaid, for the sale or resale of coal to be produced from such mine to a person who the Administrator of the Environmental Protection Agency certifies will be able to burn such coal in compliance with all applicable requirements of the Clean Air Act, and of any applicable implementation plan (as defined in section 110 of such Act);

(E) The loan will be adequately secured;

(F) Such person would be unable to obtain adequate financing without such guarantee;

(G) The guaranteeing of a loan to such person will enhance competition or encourage new market entry; and

(H) Such person has adequate coal reserves to cover contractual commitments described in subparagraph (D).

(2) The total amount of guarantees issued to any person (including all persons affiliated with such person) may not exceed $30,000,000. The amount of a guarantee issued with respect to any loan may not exceed 80 percent of the lesser of (A) the principal balance of the loan or, (B) the cost of developing such new underground coal mine.

(3) The aggregate outstanding principal amount of loans which are guaranteed under this section may not at any time exceed $750,000,000. Not more than 20 percent of the amount of guarantees issued under this section in any fiscal year may be issued with respect to loans for the purpose of opening new underground coal mines which produce coal which is not low-sulfur coal.

(c) For purposes of this section—

(1) A person shall be considered eligible for a guarantee under this section if such person (together with all persons affiliated with such person)—

(A) Did not produce more than 1,000,000 tons of coal in the calendar year preceding the year in which he makes application for a loan guarantee under this section;

(B) Did not produce more than 300,000 barrels of crude oil or own an oil refinery in such preceding calendar year; and

(C) Did not have gross revenues in excess of $50,000,000 in such calendar year.

(2) A person is affiliated with another person if he controls, is controlled by, or is under common control with such other person, as such term may be further defined by rule by the Administrator.

(3) The term "low sulfur coal" means coal which, in a quantity necessary to produce one million British thermal units, does not contain sulfur or sulfur compounds the elemental sulfur content of which exceeds 0.6 pound. Sulfur content shall be determined after the application of any coal preparation process which takes place before sale of the coal by the producer.

(d) The Administrator shall prescribe such regulations as may be necessary or appropriate to carry out this section. Such rules shall require that each application for a guarantee under this section shall be made in writing to the Administrator in such form and with such content and other submissions as the Administrator shall require, in order reasonably to protect the interests of the United States. Each guarantee shall be issued in accordance with subsections (a) through (c), and—

(1) Under such terms and conditions as the Administrator, in consultation with the Secretary of the Treasury, considers appropriate;

(2) With such provisions with respect to the date of issue of such guarantee as the Administrator, with the concurrence of the Secretary of the Treasury, considers appropriate, except that the required concurrence of the Secretary of the Treasury may not, without the consent of the Administrator, result in a delay in the issuance of such guarantee for more than 60 days; and

(3) In such form as the Administrator considers appropriate.

(e) Each person who receives a loan guarantee under this section shall keep such records as the Administrator or the Secretary of the Treasury shall require, including records which fully disclose the total cost of the project for which a loan is guaranteed under this section and such other records as the Administrator or the Secretary of the Treasury determines necessary to facilitate an effective audit and performance evaluation. The Administrator, the Secretary of the Treasury, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers, and records of any person who receives a loan guarantee under this section.

ENERGY CONSERVATION AND PRODUCTION ACT

Sec. 164. Section 102 of the Energy Policy and Conservation Act is amended by adding at the end of subsection (c) the following new paragraph:

(4) The term "developing new underground coal mine" includes expansion of any existing underground coal mine in a manner designed to increase the rate of production of such mine, and the reopening of any underground coal mine which had previously been closed.

D. COMMENT PROCEDURES

Interested persons are invited to participate in this public inquiry by submitting data, views, or arguments, with respect to the proposals set forth in this notice, to Executive Communications, Room 3309, Box NY, Federal Energy Administration, Washington, D.C. 20461. Comments should be identified on the outside envelope and on documents submitted with the designation: Coal Loan Guarantee Program. All comments received by FEA will be available for public inspection in the FEA Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue, N.W., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

NOTE.—The FEA has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Energy Policy and Conservation Act, Pub. L. 94-163; Energy Conservation and Production Act, Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, FEA issues an advance notice of proposed rulemaking amending Title 10 of the Code of Federal Regulations by adding Part 600, as set forth below.

Issued in Washington, D.C., July 13, 1977.

ERIC J. FYGI,
*Acting General Counsel,*
*Federal Energy Administration.*

## PART 600—IMPLEMENTATION OF COAL LOAN GUARANTEE PROGRAM

Subpart A—General Provisions Purpose and Objectives

Sec.
600.02 Definitions.
600.03 General provisions.

Subpart B—Applications

600.20 Filing and processing fee.
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600.22 General application information requirements.
600.23 Financial and other application information requirements.
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Subpart C—Application Processing

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600.42 Personal and corporate guarantees.
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600.61 Assignment of transfer of guaranteed loan.
600.62 Termination of guarantee.

Subpart E—Default

600.80 Default.
600.81 Liquidation.
600.86 Share in recovery.
600.90 Disclosure.
600.92 Non-interference with Federal, State and local requirements.

AUTHORITY: Pub. L. 94-163; Pub. L. 94-385; Pub. L. 93-275; E.O. 11790.

### Subpart A—General Provisions

PURPOSE AND OBJECTIVES

FEA has included these regulations in this notice in order to indicate one possible set of procedures by which the program, if implemented, could be administered. While comments may be directed to these regulations, comments are specifically invited as to alternative approaches which FEA may wish to consider.

**§ 600.02 Definitions.**

For the purpose of this Part:

(a) "Act" means the Energy Policy and Conservation Act of 1975 (Pub. L. 94-163), as amended by the Energy Conservation and Production Act of 1976 (Pub. L. 94-385).

(b) "Administrator" means the Administrator of the Federal Energy Administration, his duly designated representative, or any officer of the United States designated by statute or executive order to succeed to his responsibilities.

(c) "Affiliate" means a person who directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with another specified person, where control means direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities by contract, or otherwise. (17 CFR 230.405).

(d) "Applicant for Guarantee" or "Applicant" means the lender who applies to FEA for a guarantee.

(e) "Application" means the written request of an applicant for a loan guarantee.

(f) "Borrower" means any party directly liable for repayment of any part of a loan guaranteed by FEA.

(g) "Conditional Commitment" means that document, issued by the FEA, which sets forth specifically or by reference, the terms and conditions under which the FEA will issue a guarantee.

(h) "Contract" means a written agreement or agreements for at least the duration of the period during which a guaranteed loan is required to be repaid, for the direct and indirect sale or resale of coal to be produced from the subject mine to a person who the Administrator of the Environmental Protection Agency certifies will be able to burn such coal in compliance with all applicable requirements of the Clean Air Act, and with any applicable implementation plan (as defined in section 110 of the Clean Air Act).

(i) "FEA" means the Federal Energy Administration.

(j) "Guarantee" means the document issued by FEA setting forth specifically or by reference FEA's undertaking to save from loss the lender of a guaranteed loan, or portion thereof, and the terms and conditions of the undertaking.

(k) "Holder" means the person other than the lender who has succeeded in due course to all or part of the right, title and interest in the guaranteed portion of the loan.

(l) "Lender" means any original source of financing, licensed or regulated by a State or the Federal Government or approved by FEA, which provides to a borrower funds to be guaranteed by the FEA. The Lender is also the Applicant.

(m) "Loan Agreement" means the written contract between the Borrower and Lender specifying the terms and conditions under which the Lender provides financing to the Borrower.

(n) "Low Sulfur Coal" means coal which, in a quantity necessary to produce one million British thermal units, does not contain sulfur or sulfur compounds the elemental sulfur content of which exceeds 0.6 pound. Sulfur content shall be determined after the application of any coal preparation process which takes place before the sale of the coal by the Borrower.

(o) "Obligation" means any loan, note, bond, or other evidence of indebtedness.

(p) "Project" means an undertaking by the Borrower which will produce coal by the development of new underground mines, expansion of existing mines in a manner designed to increase production of such mine, or the reopening of underground coal mines which had previously been closed.

**§ 600.03 General provisions.**

(a) The aggregate outstanding principal amount of loans guaranteed under Public Law 94-163, section 102, may not at any time exceed $750,000,000.

(b) The full faith and credit of the United States is pledged to the payment in cash or equivalent of all guarantees issued pursuant to section 102 of the Act. Any such guarantee issued by FEA shall be conclusive evidence that the guaranteed loan qualifies for such guarantee, and the validity of such guarantee so made shall be incontestable in the hands of a Holder, except for fraud or material misrepresentation on the part of such Holder.

(c) Not more than 20 percent of the total amount of guaranteed obligations issued in any fiscal year may be for the purpose of developing, expanding, or reopening underground mines that produce coal which is not low-sulfur coal.

(d) The Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the date of issue of any loan guarantee, except that this concurrence may not, without the consent of the Administrator, result in a delay in the issuance of a guarantee for more than 60 days.

### Subpart B—Applications

**§ 600.20 Filing and processing fee.**

The filing of each Application must be accompanied by a check or draft payable to the Administrator in the amount of $10,000 for a mine expansion or reopening application, or $20,000 for a new mine Application. Such fee shall be nonreimbursible. No subsequent application fee payment shall be required in the event the guarantee amount or other application items are amended after initial filing. Such amendments will be permitted until issuance of the guarantee.

**§ 600.21 Determination of eligibility.**

(a) Each Application must include a signed statement from the Borrower representing that the Borrower and any Affiliated Persons did not, in the calendar year preceding the year of application for a loan guarantee:

(1) Produce more than 1,000,000 tons of coal;

(2) Produce more than 300,000 barrels of crude oil;

(3) Own an oil refinery;

(4) Have gross revenue in excess of $50,000,000.

(b) The Applicant must also submit a signed statement from the Borrower representing that there is no final judgment unsatisfied that holds Borrower or any Affiliated Person liable for any fine or penalty pursuant to the Federal Coal Mine Health and Safety Act.

(c) The Lender will certify that none of its officers or directors, major stockholders, or other owners is an Affiliated Person of the Borrower. The Lender will certify that none of the Borrower's officers or directors, stockholders, or other owners has a substantial financial interest in the Lender.

**§ 600.22 General application information requirements.**

The Applicant must provide at the time of application the following:

(a) Evidence that the Borrower owns, leases, or otherwise controls sufficient economically recoverable coal reserves at the site described in the application to produce sufficient coal to permit the Borrower to honor any obligation under the contract;

(b) A letter of intent to purchase coal or a draft coal sales contract, for the sale or resale of the coal to be produced from the project;

(c) An estimate of the sulfur content of the coal reserves at the site described in the Application;

(d) Adequate assurance that the mine will be constructed and operated in compliance with the Federal Coal Mine Health and Safety Act;

(e) Evidence that the Borrower has been unable to obtain adequate financing without such guarantee. Such evidence may consist of a signed statement from the Applicant representing that he would not provide financing under the proposed terms without a Federal guarantee;

(f) A copy of the Mine Development Plan (normally the same plan submitted to Federal and State officials will suf-



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fice) which includes a description of the processes and methods the Borrower plans to use in the Project;

(g) A list of permits, licenses and other authorizations required by local, State or Federal authorities prior to opening of the proposed mine, with copies of any permits already issued and a schedule of expected dates of application for the remaining required permits;

(h) Certain environmental data to be specified, describing environmental characteristics of the Project site.

**§ 600.23 Financial and other application information requirements.**

(a) The Applicant shall provide information in support of the Application, such as prescribed below: This information shall be used as the basis for the Administrator's legislatively stipulated determination that the Borrower is capable of successfully developing and operating the mine.

(1) Full description of the scope, nature, extent, and location of the proposed Project;

(2) A description of the Borrower's organization and a copy of the business certificate, partnership agreement, or corporate charter, bylaws, and appropriate authorizing resolutions;

(3) A list identifying Affiliated Persons of the Borrower;

(4) Resumes of the Borrower's key employees which includes in reverse chronological order their business and managerial experience, with emphasis on history of recent experience in the coal industry;

(5) A description of any other Federal financial assistance (e.g., direct loans, guaranteed loans, grants, contracts) expected to be applied for or already obtained by the Borrower in connection with the Project;

(6) Itemized estimates of costs of the Project (see § 600.25);

(7) Summary of insurance coverage for the Project;

(8) A schedule of salaries (and other financal remuneration including profit sharing and stock options) to be paid to officers and key employees of the Borrower who are, or will be directly associated with the Project;

(9) An analysis of the Project's economic and financial feasibility including:

(a) Recoverable coal reserves quantity estimate;

(b) Estimated thickness and pitch of seam(s);

(c) Physical analysis of coal quality;

(d) Estimated production volume;

(e) Shaft design, if applicable;

(f) Ventilation plan;

(g) Description of major equipment and facilities requirements;

(h) Roof and ground cutting plans;

(i) Coal handling and processing plan;

(j) Location of openings;

(k) Storage and disposal facilities;

(l) Modes of transportation;

(m) Building design;

(n) Water, sewerage, environmental control systems;

(o) access roads;

(p) Electrical and mechanical maintenance plans;

(q) Mine closing and reclamation plan.

(10) List identifying collateral with estimated market value.

(b) The required scope of the Project feasibility analysis will depend on the magnitude of the Project. The Administrator may require additional information at his discretion in order to evaluate adequately the potential success of the Project.

(c) The Lender must submit evidence, including a copy of his credit analysis, upon which FEA can reach a credit decision to issue a guarantee. The evidence submitted should consist of, but not be limited to, such items as the following:

(1) Latest financial statements of the Borrower:

(i) Financial condition,

(ii) Current and retained income,

(iii) Source and use of funds,

(iv) Others as appropriate, and

notes to the above, and the opinion thereof by an independent certified public accountant for the three most recent fiscal years, if applicable.

(2) Most recent (within 90 days) interim financial statements, as above, of the Borrower with representations as to the fairness and reasonableness of such statements by principals of the Borrower in lieu of an opinion by an independent certified public accountant.

(d) Projected source and use of funds statement shall be presented on an annual basis for the estimated duration of the guarantee. In case of mine expansion projects, the same statements shall be required, identifying separately the financial effect of the expansion and continuing operations.

**§ 600.24 Project cost documentation requirements.**

(a) Reasonable and customary costs paid, or to be paid, by the Borrower applicable to the development of a Project are generally permitted in computing the estimated aggregate Project cost, as approved by the Administrator. All costs for plant and equipment must relate to facilities to be used substantially in connection with the Project. These costs related to the Project include, but are not limited to the following:

(1) Land and/or mineral rights purchase and lease payments, including reasonable real estate commissions;

(2) Acquisition or construction of buildings, including offices, bathhouses, lamphouses, and other buildings required for development;

(3) Coal preparation plant construction including all machinery and equipment;

(4) Coal handling facilities including tipples, storage facilities and loading facilities;

(5) Machinery and equipment including continuous miners, shuttle cars, loaders, roof bolting equipment, trucks, conventional mining equipment, conveyor belt systems and all other equipment necessary for coal mine development;

(6) Power plant equipment and transmission lines including installation cost;

(7) Employee's salaries and wages, consultant fees and independent contractor costs;

(8) Engineering fees, surveys, title insurance, recording fees and legal fees incurred in connection with land and/or mineral rights acquisition;

(9) Technical, financial, environmental, and feasibility studies;

(10) Infrastructure, including site preparation, installation of tracks, access roads, and fencing;

(11) Transportation equipment;

(12) Refuse disposal system;

(13) Water clarification system;

(14) Air pollution control system;

(15) Ventilation system;

(16) Communication system;

(17) Insurance and bonds;

(18) Costs of safety and environmental protection equipment, facilities and services;

(19) Legal and accounting fees for mine permit acquisition and mine development;

(20) Fees for royalties and licenses;

(21) Interest on interim construction financing;

(22) Costs of complying with terms and conditions specified in the guarantee agreement or required by regulations and issuances by Federal, State and local governments;

(23) Other costs not specified which are necessary for the project;

(24) A contingency reserve.

**§ 600.25 Consideration of environmental impacts.**

(a) Prior to the implementation of the program, the Administrator shall complete a programmatic environmental review. Such review shall include a discussion of the environmental impact of, and alternatives to, the coal loan guarantee program and a description of the typical environmental impacts expected to result from the issuance of loan guarantees.

(b) Prior to issuance of a Conditional Commitment, the Administrator shall have reviewed each project for potential environmental impact and shall either have determined that no further environmental review is required or have completed an environmental assessment and negative determination or a draft environmental impact statement, as appropriate. If a determination has been made that an environmental impact statement is necessary, the final impact statement shall be issued and the 30 day no-action period required by 10 CFR Part 208 shall have run before final action is taken on a guarantee application.

(c) The site specific environmental analysis shall consider the potential environmental effects of all phases of the Project on the human environment, including but not limited to fish and other aquatic resources, wildlife habitat and populations, aesthetics, recreation, air and water quality, land use, and other resources in the area.

(1) To aid the above analysis, the Administrator may request the views and recommendations of Federal, State, and local government agencies, environmental and industrial organizations, and others, and when appropriate, may hold public hearings after due notice.





(d) Environmental assessments, negative determinations, and environmental impact statements prepared in compliance with this regulation shall be placed in the FEA Public Document Rooms as designated.

**Subpart C—Application Processing**

**§ 600.40 Approval criteria.**

(a) The Administrator will evaluate the proposed project and will determine whether:

(1) There is a reasonable prospect of repayment of the guaranteed Obligation;

(2) The Applicant is capable of successfully developing and operating the Project mine(s);

(3) The Applicant is of established integrity and demonstrated management capability;

(4) The proceeds from the proposed guaranteed Obligation, together with other available funds will be sufficient to carry out the Project;

(5) The collateral will adequately protect the interest of the U.S. Government;

(b) The Administrator may develop environmental criteria on which he may disapprove guaranteed loan applications for Projects determined to have a significantly detrimental environmental impact.

**§ 600.41 Conditional commitment.**

(a) A Conditional Commitment to guarantee the Obligation may be issued by the Administrator. A Conditional Commitment will state that the Administrator is prepared to guarantee an Obligation and will further state the terms and conditions under which the guarantee may be issued. It will also contain certain covenants to be included in the loan agreement. No amendment to a Conditional Commitment shall be deemed to exist unless reduced to writing and duly executed by the Administrator. It is anticipated that typical conditions in such a Conditional Commitment might include such requirements as:

(1) The Borrower must contribute a specified amount of equity;

(2) The Borrower must obtain an executed coal sales contract acceptable to the Administrator;

(3) FEA must obtain an independent validation of the quantity and quality of the Project coal reserves;

(4) The Borrower must provide for certification by the Environmental Protection Agency that the Borrower's coal can be burned by the purchaser in compliance with all applicable provisions of the Clean Air Act;

**§ 600.42 Personal and corporate guarantees.**

(a) Personal guarantees may be required from major stockholders, owners or others having a major interest in the Borrower. Guarantees of parent, subsidiaries, or affiliated companies may also be required.

(b) Guarantors of Borrowers will:

(1) In the case of personal guarantees, provide current financial statements (not over 90 days old at the time of filing), represented by guarantors to present fairly the financial position of the guarantors.

(2) In the case of corporate guarantees, provide current financial statements including income statements, balance sheet and statement of sources and application of funds (not over 90 days old at time of filing), represented by an officer of the corporation, to present fairly the financial position and results of operations of the corporation.

**§ 600.43 Guarantee terms.**

(a) The amount of a Guarantee issued with respect to any obligations may not exceed 80 percent of the lesser of (1) the original principal balance of the obligation, or (2) the cost of the Project.

(b) The total amount of guarantees outstanding at any time on behalf of any Borrower (including all persons affiliated with such Borrower) may not exceed $30,000,000.

(c) The terms of such a proposed guaranteed Obligation may require full repayment over a period of no more than 30 years, or a period no longer than the term of the Contract, whichever is less, as determined by the Administrator.

(d) A Contract shall be executed prior to the issuance of a Guarantee.

(e) The Contract need not necessarily provide for sale of all coal production from the Project.

**§ 600.44 Interest rate.**

Interest rates for guaranteed loans may be negotiated between the Borrower and Lender, as approved by the Administrator. They may be fixed or variable, so long as they are legal in the jurisdiction appropriate to the Loan Agreement. It is permissible to have one interest rate apply to the guaranteed portion, and another interest rate apply to the unguaranteed portion of the loan.

**§ 600.45 Guarantee fee.**

(a) An annual fee fixed by the Administrator for any guarantee shall be one half of one percent of the principal amount of the guaranteed portion of the Obligation outstanding at the beginning of the anniversary year. Unless otherwise specified by the Administrator, payment by the Borrower is made by check or draft payable to the Administrator, together with identification of the specific Guarantee to which the fee relates and the period covered by the payment.

(b) Fees are fully earned when first due and no refund of earned fees will be made by the Administrator.

(c) At the time the Guarantee is executed, the Lender shall present to the Administrator payment of the first year's annual guarantee fee.

(d) The Administrator will evaluate annually whether the guarantee fee being imposed is sufficient to cover anticipated administrative and guaranteed loan default costs and, when appropriate, establish a revised fee schedule to be applied to subequent new Guarantees. The payment of the guarantee fee by the Lender, or the lack thereof, will in no way impair the guarantee to the Holder of the guaranteed portion of the loan.

**§ 600.46 Closing.**

The major activities leading to the closing of the Guarantee Agreement include the following:

(a) When an Application for a loan guarantee has been approved and a Conditional Commitment issued by the Administrator, the Administrator will so notify the Lender and the Borrower and provide them with a copy of the proposed Guarantee.

(b) A preclosing conference will be arranged by the Administrator, if the Lender or Borrower requests one, to discuss the terms and conditions contained in the Guarantee.

(c) After agreement to terms and conditions, the Administrator shall arrange with the Lender and the Borrower for the preparation and review of necessary documents and agree upon a date for execution of the Guarantee and payment of the Guarantee fee.

(d) Requests for disbursement at closing and thereafter shall be supported by such documents as the Administrator may require; for example, but not limited to, copies of unpaid invoices to be paid from disbursements; copies of fully paid invoices together with lien waivers, where appropriate; and copies of cancelled checks.

**Subpart D—Servicing the Guaranteed Loan**

**§ 600.50 Collateral.**

(a) The Lender is responsible for seeing that proper and adequate collateral is obtained and maintained in existence and of record to protect the interest of the Lender, United States Government and any Holders of the guaranteed Obligation.

(b) Collateral may include, but is not limited to the following: land, buildings, machinery, equipment, furniture, fixtures, inventory, accounts receivable, cash or special cash collateral accounts, marketable securities, and cash surrender value of life insurance. Collateral may also include assignments of leases or leasehold interests, revenues, patents, and copyrights.

(c) The Lender may not take separate collateral to secure only that portion of the loan not covered by the Guarantee. The Lender may not require compensating balances or certificates of deposit, other than as used in the ordinary course of business, as a means of reducing his exposure on the unguaranteed portion of the loan.

**§ 600.51 Loan servicing and reporting requirements.**

Loan servicing is the responsibility of the Lender who remains a mortgagee or secured party of record notwithstanding the fact that another may hold a portion of the loan. The Guarantee must specify the Lender's servicing requirements which include, but are not limited to, the Lender notifying the Administrator without delay:



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(a) Of the date and amount of disbursements,

(b) Of any nonpayment by the Borrower of principal or interest as required by the Loan Agreement, together with appropriate notices to the Borrower, and

(c) Of any failure by the Borrower, known to the Lender, to comply with the terms and conditions as set forth in the Loan Agreement.

**§ 600.60 Audit and inspection of records.**

Upon request, the Lender and the Borrower will permit the Administrator to inspect and make copies of any of the records of the Lender or Borrower pertaining to FEA guaranteed loans. Such inspection and copying may be made during regular office hours of the Lender or Borrower, or at any other time mutually convenient.

**§ 600.61 Assignment or transfer of guaranteed loan.**

(a) The Lender may assign, participate, sell, or otherwise transfer any part or all of his right, title, and interest in the guaranteed loan within any limits specified in the Guarantee. The Lender, will, however, retain and continue to be responsible for the collateral and servicing of the loan, unless the Administrator approves a substitute Lender.

(b) When a guaranteed portion of a loan is transferred from Lender to Holder(s), the Holder succeeds to all rights of the Lender in the Guarantee to the extent of the portion of the loan purchased by the Holder.

(c) Before, during, or after a transfer, the Lender will promptly notify the Administrator in writing of the fact of transfer and identify the Holder and his mail and telephone addresses. The records of all transactions by Lenders with Holders will be made available to the Administrator at his request.

(d) At the request of a Holder, the Administrator will certify that the Holder's portion is supported by the full faith and credit of the United States and is incontestable in the hands of a Holder, except for fraud or material misrepresentation on the part of such Holder. The request must accompany a certification by the Lender as the present outstanding principal amount of the loan and the amount being transferred.

(e) Any transfer of all or part of a guaranteed loan shall be subject to the condition that the Lender shall have the first option to repurchase the loan from the Holder in the event of default.

**§ 600.62 Termination of guarantee.**

When payment in full has been received for any guaranteed loan, the Administrator shall notify the Lender in writing that the guarantee is terminated.

**Subpart E—Default**

**§ 600.80 Default.**

(a) In the event of default by the Borrower, as defined in the Guarantee or the Loan Agreement, the Lender shall notify the Administrator within 15 days of such default.

(b) If such default contines for 30 days, the Lender or Holder may, upon written approval of the Administrator:

(1) Defer payment of the overdue principal amount and/or reschedule subsequent payments;

(2) Demand payment by the Administrator of the overdue amount of principal originally causing the default; or

(3) Demand payment by the Administrator of the entire outstanding guaranteed principal of the loan.

(c) Any demand by the Lender for payment to the Lender by FEA must be made within 90 days from the date of default.

(1) The Administrator must pay the amount due within 60 days from the date of demand, unless later payment is authorized by the Lender.

(2) The Administrator shall not be required to make such payment if prior to the expiration of said period he shall find that there was no default by the Borrower of the payment of principal or that such default has been cured.

(d) In the event of default, the Lender shall take such actions as the Administrator may reasonably require to provide for the care, preservation, and maintenance of any collateral so as to achieve maximum recovery upon liquidation of collateral, security and guarantees for the loan. The Lender shall not waive or relinquish, without the written consent of the Administrator, any collateral or guarantee for the loan.

**§ 600.81 Liquidation.**

(a) If the Lender concludes that liquidation of a guranteed loan account is necessary because of one or more defaults or third party actions that the Borrower cannot or will not cure or eliminate within a reasonable period of time, he shall so notify the Administrator, and submit a plan of liquidation. When the Administrator concurs with the Lender's conclusion or at any time concludes independently that liquidation is necessary, the Administrator will notify the Lender and the matter will be handled as stipulated in the Guarantee.

(b) The Lender will liquidate the loan unless the Administrator, at his option, decides to carry out liquidation.

(c) Upon payment by the Administrator of the total unpaid guaranteed portion of principal, the Administrator shall succeed to all right, title and interest in the loan and any collateral or security agreement held by the Lender and Holders. The Lender shall retain his liquidation responsibilities as agent of the Administrator, unless the Administrator, at his option, decides to carry out liquidation. The Administrator shall have the right to complete, recondition, reconstruct, renovate, repair, maintain, operate, charter, or sell any collateral acquired by him pursuant to a security agreement with the Borrower. The Administrator shall take such action against the Borrower or any other parties liable thereunder that, in its discretion, may be required to protect the interest of the United States. Any suit may be brought by the Administrator in the name of the Lender. The Lender shall make available to the Administrator all records and evidence necessary to prosecute any such suit.

(d) In the event that the Administrator determines it is necessary or desirable to take actions to protect or further the interest of the United States in connection with the liquidation of collateral, or security and guarantees, he may:

(1) Assign or sell at public or private sale, or otherwise dispose of for cash or credit, in his discretion and upon such terms and conditions as he shall determine to be reasonable, any evidence of debt, contract, claim, personal or real property, or collateral assigned to or held by him in connection with a guaranteed loan.

(2) Collect or compromise all loans assigned to or held by the Administrator in connection with the guarantee until such time as loans may be referred to the Attorney General for suit or collection.

(3) Take any and all other actions determined by the Administrator to be necessary or desirable in purchasing, servicing, compromising, modifying, liquidating, or otherwise administering the guaranteed loan.

**§ 600.86 Share in recovery.**

Funds received net of fees and expenses as a result of liquidation actions shall be shared ratably between the Lender and the United States Government, based upon their relative percentage share of the obligation.

**§ 600.90 Disclosure.**

Some of the information submitted by Borrowers during the course of the Project may be confidential commercial information which FEA may withhold from public disclosure, because its release will cause substantial competitive injury. If the Borrower believes that any of the requested information is covered by exemption to the Freedom of Information Act under Disclosure Requirements for Trade Secrets and Confidential Commercial Information contained in 5 U.S.C. 552(b)(4), and if the Borrower does not wish FEA to disclose such information to the public, he should inform FEA by letter accompanying submission of the information. The letter must (1) Cite briefly and specifically, by item number, which information the Borrower believes is confidential commercial information; (2) Represent that release of the information would be likely to cause substantial competitive injury, and explain the basis of this statement; and (3) Explain whether each item of information which the Borrower believes is confidential is customarily treated as confidential by his company and in his industry. FEA needs a detailed explanation of the competitive injury resulting from public disclosure—rather than a general assertion of injury—before it can evaluate or accept claims of confidentiality. FEA retains the right to make its own determination with regard to any claim of confidentiality. If the Borrower does not submit a request for exemption under the Freedom of Information Act, FEA may assume that he does not object to disclosure of the information.

**§ 600.92 Non-interference with Federal, State and local requirements.**

Nothing in this regulation shall be construed to modify requirements imposed on the Borrower or Lender by Federal, State, and local government agencies in connection with permits, licenses, or other authorizations to conduct or finance underground mining activities.

[FR Doc.77-20548 Filed 7-15-77;8:45 am]





## CIVIL AERONAUTICS BOARD

**[ 14 CFR Chapter II ]**

[EDR-325A; Docket 30310]

### CERTIFICATION OF COMMUTER AIR CARRIERS

**Supplemental Advance Notice of Proposed Rulemaking**

JULY 12, 1977.

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental Advance Notice of Proposed Rulemaking.

SUMMARY: This notice extends until July 29, 1977, the date for filing reply comments in a rulemaking proceeding involving the development of a simplified certification procedure for commuter air carriers. This action was requested by Altair Airlines, Inc.

DATE: Reply Comments by July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Gary J. Edles, Routes Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5205.

SUPPLEMENTAL INFORMATION: By Advance Notice of Proposed Rulemaking EDR-325, 42 FR 26558, May 24, 1977, the Civil Aeronautics Board gave notice that it desired to solicit public views on the need for certification of currently exempt commuter air carriers. Comments were requested to be filed by June 30, 1977 and reply comments by July 15, 1977.

Counsel for Affairs Airlines has requested an extension of the time for filing reply comments until July 29, 1977. In support of this request counsel states that the large number of comments coupled with the delay in receipt of these comments stemming from the July 4th holiday would make it extremely difficult to formulate a thoughtful response by July 15, 1977.

A substantial number of the comments in this proceeding were filed on June 30, 1977 and we are pursuaded that the July 15, 1977 filing deadline may not allow sufficient time to prepare the kind of thoughtful responses the Board is seeking in the proceeding.

No previous extension of time having been requested in this proceeding, the undersigned hereby extends the time for filing reply comments to July 29, 1977. This action is taken pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR 385.20(d)).

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

SIMON J. EILENBERG,
*Associate General Counsel,*
*Rules Division*

[FR Doc.77-20551 Filed 7-15-77;8:45 am]

## DEPARTMENT OF TRANSPORTATION

**Federal Aviation Administration**

**[ 14 CFR Part 71 ]**

[Airspace Docket No. 77-WE-14]

### TRANSITION AREA, ORLAND, CALIF.

**Proposed Designation**

*Correction*

In FR Doc. 77-18013 appearing in the issue of Monday, June 27, 1977 on page 32554, the 1st paragraph in small type should read as follows:

ORLAND, CALIFORNIA

That airspace extending upward from 700 feet above the surface within a three mile radius of Haigh Airport (latitude 39°43'16" N., longitude 122°08'50" W.); and within three miles each side of the Chico VOR 253° radial, extending from the three mile radius area to twelve miles west of the VOR.

**[ 14 CFR Part 71 ]**

[Airspace Docket No. 77-SW-20]

### ALTERATION OF TRANSITION AREA

**Refugio, Texas; Mellon Ranch Airport [1]**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Refugio, Tex., transition area to provide controlled airspace for aircraft executing a new instrument approach procedure to the Mellon Ranch Airport, using the NDB located on the Mellon Ranch Airport.

DATES: Comments must be received on or before August 17, 1977.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

[1] Map filed as part of the original.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: In Subpart G, 71.181 (42 FR 440) of FAR Part 71, the description of the Refugio, Tex., transition area reflects the controlled airspace provided for the present instrument approach to the Mellon Ranch Airport. The new NDB Runway 33 approach will require alteration of the transition area to provide the necessary controlled airspace for this approach.

COMMENTS INVITED

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before August 17, 1977 will be considered before action s taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Refugio, Tex., transition area. The FAA believes this action will enhance IFR operations at the Mellon Ranch Airport by providing controlled airspace for aircraft executing the new instrument approach procedure established for the airport. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 440).



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DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, in Subpart G, 71.181 (42 FR 440), the Refugio, Tex., transition area is amended to read as follows:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Tom O'Connor Oilfield Airport (latitude 28°20'04" N., longitude 97°08'58" W.); within 2 miles each side of the 335° bearing from the Vidauri RBN (latitude 28°23'51" N., longitude 97°10'40" W.), extending from the 5-mile-radius area to 8 miles northwest of the Vidauri NDB; within a 5-mile radius of Mellon Ranch Airport (latitude 28°16'50" N., longitude 97°12'30" W.), and within 3.5 miles each side of the 319° bearing from the Mellon Ranch NDB (latitude 28°16'47" N., longitude 97°12'20" W.), extending from the 5-mile radius to 12 miles northwest of the Mellon Ranch NDB and within 3.5 miles each side of the 152° bearing from the Mellon Ranch NDB, extending from the 5-mile radius to 11.5 miles southeast of Mellon Ranch NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on July 8, 1977.

HENRY L. NEWMAN,
*Director, Southwest Region.*

[FR Doc.77-20462 Filed 7-15-77;8:45 am]

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[Airspace Docket No. 77-SW-21]

## [ 14 CFR Part 71 ]

## DESIGNATION OF TRANSITION AREA

### Conway, Ark.[1]

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a transition area at Conway, Ark., to provide controlled airspace for aircraft executing a proposed instrument approach procedure to the Conway Municipal Airport, using the established NDB located on the airport. Coincident with this action, the airport will be changed from VFR to IFR.

DATES: Comments must be received on or before August 17, 1977.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 71.181 (42 FR 440) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Designation of the transition area at Conway, Ark., will necessitate an amendment to this subpart.

COMMENTS INVITED

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before August 17, 1977 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Conway, Ark. The FAA believes this action will enhance IFR operations at Conway Municipal Airport by providing controlled airspace for aircraft executing a proposed instrument approach procedure using the established NDB on the airport. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 440).

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) by adding the Conway, Ark., transition area as follows:

CONWAY, ARK.

That airspace extending upward from 700 feet above the surface within a 9.5 statute mile radius of Conway Municipal Airport, Conway, Ark. (Latitude 35°04'42" N., Longitude 92°25'29" W.); and within 3.5 statute miles each side of the 095°T (090°M) bearing from Conway NDB (Latitude 35°05'02" N., Longitude 92°25'36" W.) extending from the 9.5-mile radius area to 11.5 statute miles east of the NDB; excluding that portion which overlies the Little Rock, Ark., transition area.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on July 8, 1977.

HENRY L. NEWMAN,
*Director, Southwest Region.*

[FR Doc.77-20461 Filed 7-15-77;8:45 am]

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## [ 14 CFR Part 71 ]

[Airspace Docket No. 77-WE-16]

## DESIGNATION OF TRANSITION AREA

### Klamath, California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a transition area to provide controlled airspace for aircraft desiring radar services transiting the area. Radar service will be available utilizing the Klamath, California radar.

DATES: Comments must be received on or before August 12, 1977.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, California 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. Telephone: 213-536-6182.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the Airspace Docket Number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before August 12, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, California 90261, or by calling 213-536-6180. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a 2000 foot above ground level transition area. This action will provide controlled airspace for aircraft operating within the area and for aircraft desiring radar service transiting the airspace.

Accordingly, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following Transition Area:

KLAMATH, CALIFORNIA

That airspace extending upward from 2000 feet above the surface bounded on the north by V-122, on the east by V-23W and V-23, the south by V-195 and on the west by V-27, excluding the airspace within federal airways and Red Bluff, Arcata and Crescent City, California Transition Areas.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division, and DeWitte T. Lawson, Jr., Esquire, Regional Counsel.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE: The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, California on July 1, 1977.

M. C. BEARD,
*Acting Deputy Director, Western Region.*

[FR Doc.77-20303 Filed 7-15-77;8:45 am]

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## DEPARTMENT OF DEFENSE

### Corps of Engineers

## [ 33 CFR Part 204 ]

## BERING SEA, SHEMYA ISLAND AREA, ALASKA

### Danger Zone Regulations

AGENCY: Corps of Engineers, DoD.

ACTION: Proposed rule.

SUMMARY: The proposed amendment will relocate a meteorological rocket firing zone used by the U.S. Air Force near Shemya Island, Alaska. The U.S. Air Force requested the relocation because many planned rocket launches into the existing firing zone north of Shemya Island are cancelled when prevailing winds could cause burned out rocket motor casings to fall back on the Island endangering personnel and facilities. Relocation of the launch site will allow the U.S. Air Force more reliability in meeting firing schedules and provide an increased margin of safety for its personnel.

DATES: Comments must be received on or before 16 August 1977.

ADDRESSES: Send all comments, objections or suggestions to Office of the Chief, of Engineers, Forrestal Building, Washington, D.C. 20314, Attn. DAEN-CWO-N.

FOR FURTHER INFORMATION CONTACT:

(1st Lt. Alfonso Rushing or Mr. Ralph Eppard, Phone 202-693-5070.)

The Office of the Chief of Engineers has determined that this document does not contain a major proposal requiring preparation of an inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107. Accordingly, we propose to amend 33 CFR Part 204 by revising § 204.222b(a) as follows:

§ 202.222b **In Bering Sea, Shemya Island Area, Alaska; meteorological rocket launching facility, Alaskan Air Command, U.S. Air Force.**

(a) *The danger zone.* An arc of a circle with a 45-nautical-mile radius of the launch point centered at latitude 52°43'-30" N., longitude 174°06'05" E extending clockwise from 110° true bearing to 200° true bearing.

* * * * *

Dated: July 8, 1977.

THOMAS R. HICKLIN,
*LTC, Corps of Engineers, Acting Executive Director of Civil Works.*

[FR Doc.77-20531 Filed 7-15-77;8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

## [ 46 CFR Parts 32, 33, 35, 37, 72, 75, 77, 78, 79, 92, 94, 96, 97, 99, 100-139, 190, 192, 195, 196 ]

[CGD 74-125]

## ELECTRICAL ENGINEERING

### Revision of Subchapter J; Extension of Time and Corrections

AGENCY: Coast Guard, DOT.

ACTION: Extension of comment closing deadline and corrections.

SUMMARY: In FR Doc. 77-18086 appearing at page 32700 of the June 27, 1977, issue of the FEDERAL REGISTER, the deadline for the submission of comments is extended to September 12, 1977; and the following corrections are made:

1. On page 32701, third column, the last line of the fourth paragraph should read: "more to meet ANSI C37.20."

2. On page 32722, first column, Figure 111.75-17 should be inserted to follow § 111.75-17(f).

3. On page 33725, second column, the third line of the note following § 111.95-7(e) should read: "Figures 111.95-7(e)(1) through 111.95-7(e)."

4. On page 33725, second column, Figures 111.95-7(e)(1) through 111.95-7(e)(4) should be inserted to follow the note after § 111.95-7(e).

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117 Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, 202-426-1477.

Dated: July 11, 1977.

O. W. SILER,
*Admiral, U.S. Coast Guard, Commandant.*







[1] Map filed as part of the original.

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FIGURE 111.75-17

SEMI-AUTOMATIC NAVIGATION LIGHT PANEL CIRCUITS

LINE PANELS FOR PORT AND STARBOARD SIDE LIGHTS, MASTHEAD, RANGE, AND STERN LIGHTS

LINE PANELS FOR ANCHOR TOWING, AND NOT-UNDER-COMMAND LIGHTS

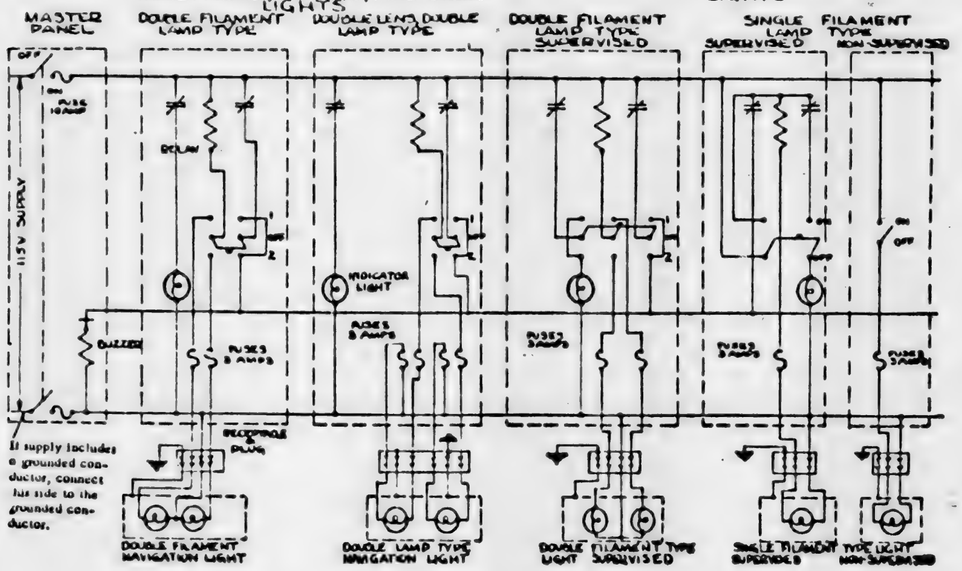
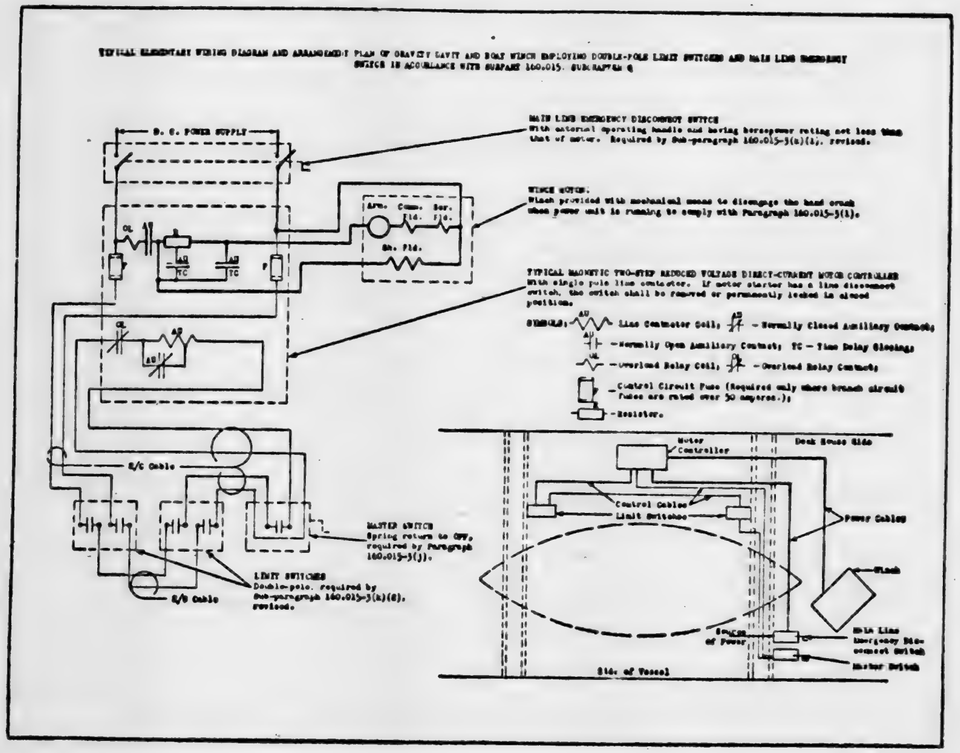







FIGURE 111.95-7(e)(1)






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FIGURE 111.95-7(e)(2)

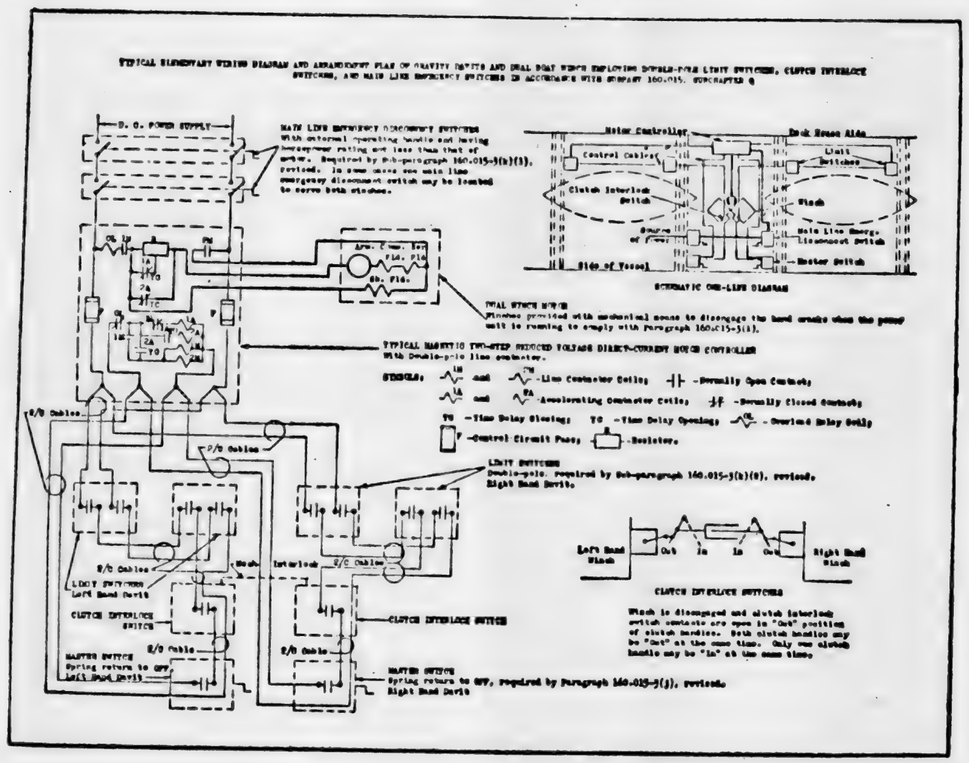
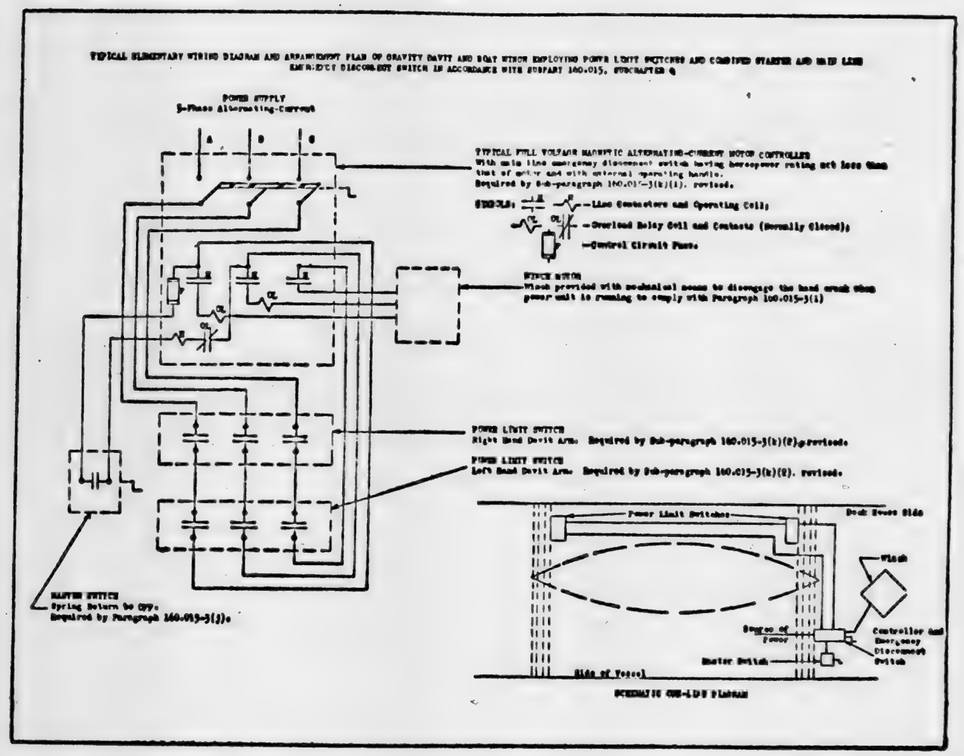






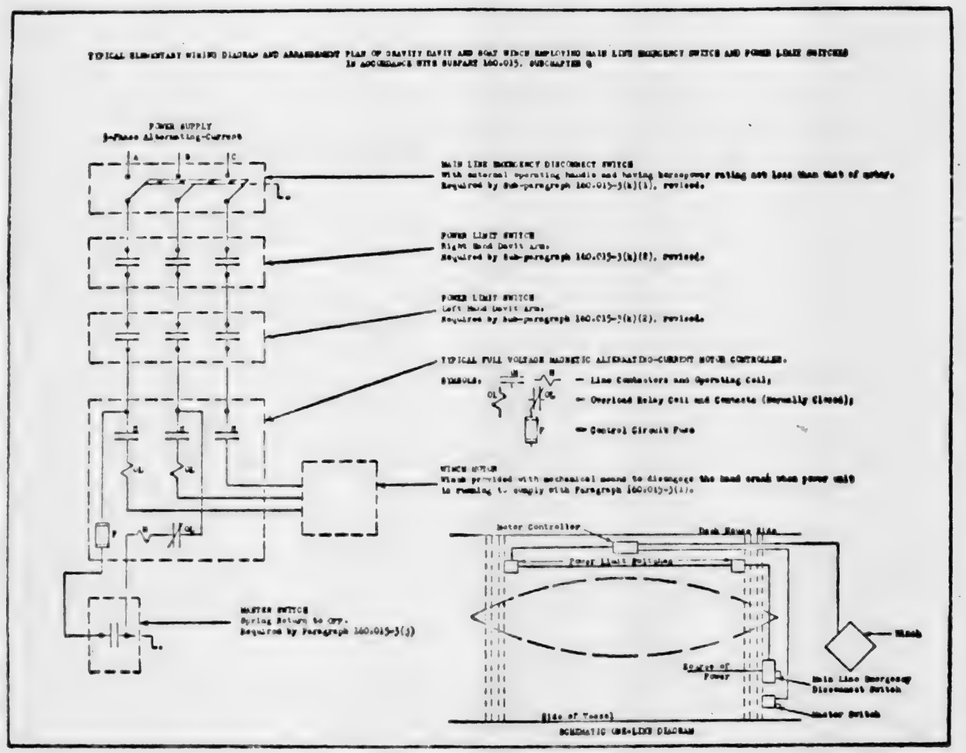

FIGURE 111.95-7(e)(3)






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FIGURE 111.95-7(e)(4)




[FR Doc.77-20524 Filed 7-15-77;8:45 am]





## [ 46 CFR Part 162 ]

[CGD 76-088a]

## OIL POLLUTION PREVENTION EQUIPMENT

### Approval Requirements, Correction

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rulemaking, correction.

SUMMARY: This is a correction of a docket which appeared on June 22, 1977.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-18089 appearing at page 32686 of the June 27, 1977, issue of the FEDERAL REGISTER, the first paragraph under the heading: DISCUSSION OF THE PROPOSED REGULATIONS appearing on page 32686, column three, is corrected by adding the words:

"concerning the use of oil-water separators, oil content monitors, and oil content alarms on vessels when discharging oily mixtures from cargo tanks, cargo pumproom bilges, and machinery space bilges. Regulations 15 and 16 of the Annex require that each oil-water separator, monitor, and alarm used on a vessel be of a design approved by the government of the State under whose authority the vessel is operating.

To assist governments in developing the necessary approval requirements, the MEPC formed a working group to develop model design and test specifications for the equipment. The Coast Guard actively participated in these deliberations. At the fifth session of the MEPC held in May, 1976, this working group completed drafting of the specifications and forwarded a draft dated June 10, 1976, to the MEPC for consideration and approval. The specifications were approved by the MEPC at its Sixth Session and forwarded to the IMCO Assembly in the form of a resolution for adoption by IMCO at its next session to be held in 1977. The proposed design and testing specifications in this notice are essentially the same as those contained in the specifications prepared by the MEPC."

immediately following the words, "applicable to vessels including requirements," and immediately before the start of the second paragraph.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, 202-426-1477.

Dated July 11, 1977.

O. W. SILER,
*Admiral, U.S. Coast Guard*
*Commandant.*

[FR Doc.77-20523 Filed 7-15-77;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

## [ 17 CFR Part 230 ]

[Release Nos. 33-5833, IC-9811; File No. 57-705]

## ADVERTISING BY INVESTMENT COMPANIES

### *Correction*

In FR Doc. 77-16868 appearing at page 30379 in the issue for Tuesday, June 14, 1977 in the 5th full paragraph of the first column of page 30380, in the 11th line, "19(c)" should have read "10(c)".

## FEDERAL POWER COMMISSION

## [ 18 CFR Part 35 ]

[Docket No. RM75-29]

## FUEL ADJUSTMENT PROVISIONS IN FPC RATE SCHEDULES

### Order Denying Rehearing

AGENCY: Federal Power Commission.

ACTION: Order Denying Rehearing of the Commission's April 26, 1977, Order Terminating Rulemaking Proposal.

SUMMARY: Consumer Owned Systems' May 26, 1977, Application For Rehearing of the Commission's April 26, 1977, Order Terminating Rulemaking Proposal presents no new fact or principle of law requiring modification of the April 26 Order.

EFFECTIVE DATE: July 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Mac Chryssikos, Office of General Counsel, 202-275-4214.

On May 26, 1977, a group of municipally and cooperatively owned systems, Consumer Owned Systems,[1] filed an Application For Rehearing of the Commission's Order Terminating Rulemaking Proposal, issued April 26, 1977, in this docket and a Petition to Intervene. The Application opposes the Commission's termination of the proposed rulemaking. For the reasons set forth below, the Commission shall deny Consumer Owned Systems' Application for Rehearing and take no action on its Petition to Intervene.

Applicant has been recognized as a participant in this proceeding through timely comments filed by its counsel and thus, has all participatory rights provided by § 1.20(m) of the Commission's Rules of Practice and Procedure. Wherefore, action on its Petition to Intervene is unnecessary.

Applicant files its Application under Section 313(a) of the Act as an "aggrieved" party. However, the instant proceeding was initiated pursuant to the Commission's purely discretionary authority under Section 309 of the Act,[2] and the Commission's April 26 order did not harm or aggrieve Applicant, within the meaning of Section 313(a). Consequently, Consumer Owned Systems has no standing to file the instant Application which could be summarily denied. However, the Commission will address the contents of the Application below.

Applicant restates its support of the proposed rule and, in sum, alleges that the Commission's April 26 order represents, an "abdication" of responsibility to protect electric consumers under the Federal Power Act and an imprudent exercise of discretionary powers to promulgate regulations under the Act. However, a review of the Application reveals no new fact or principle of law supporting the above allegation. In fact, the Commission's conclusion in its April 26 order "that the more appropriate method of monitoring for abuse in the procurement of fuel and in the administration of fuel adjustment clauses is to continue to employ the Commission's audit staff and investigative procedures," adequately disposes of all of Applicant's arguments.

Applicant argues that Commission reliance on the "conspicuous dearth of specific allegations" of fuel clause abuses is misplaced because current regulations" do not result in any information concerning fuel clause administration being made available to the customers." However, this argument completely ignores information available to the public from monthly, quarterly and annual reports filed by jurisdictional public utilities [3] and from current audit and investigative proceedings.[4] The argument is thus, frivolous.

In an effort to be more specific, Applicant alleges that the Commission's audit staff either failed to uncover or failed to properly address, certain abusive fuel clause practices of Southern California Edison Company, Oklahoma Gas and Electric Company (OG&E) and Public Service Company of New Hampshire (PSNH). Commission review of this allegation indicates that it is completely without factual support. Review of official reports resulting from comprehensive compliance audits of the foregoing three companies indicates that Applicant has either ignored or failed to focus properly on the pertinent circumstances surrounding the audits. In each instance either an abuse was uncovered and corrected, or an alleged abuse was uncovered and subjected to further scrutiny in a subsequent rate proceeding.

Applicant attacks the Commission's conclusion that the burdens of the proposed rule outweigh its benefits, yet offers no new information to alter such conclusion. Applicant seems to be arguing that any benefit, however minimal, associated with a regulatory proposal, requires adoption of it without regard to relevant burdens. Again, Applicant's argument is frivolous.

Applicant criticizes the Commission for not adopting some unspecified, amended version of the proposed rule. Applicant then argues that by not doing so, the Commission reneged on a promise to consumers to vigorously regulate fuel clauses. The foregoing is simply friv-

[1] See Appendix A of "Comments of Consumer Owner Systems in Support of Proposed Rulemaking" filed on September 2, 1975, in this docket.

[2] Section 309 in pertinent part provides that the Commission has authority "* * * to prescribe * * * such * * * rules, regulations as it may find necessary or appropriate to carry out the provisions of this Act."

[3] See 18 CFR Part 1.41.

[4] Notice of Proposed Rulemaking, issued June 17, 1975, in this docket, page 2.



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olous. The Commission is not precluded from adopting a modified version of the proposed rule in a future proceeding. Furthermore, by its action in this docket the Commission has vigorously protected the public by exploring the necessity of supplementing its current regulatory program.

Applicant argues that this proceeding should not be terminated because the Commission, in its April 26 order, failed to address several important issues raised in its June 17, 1975, Notice of Rulemaking. Review of this argument indicates it has no merit.

Applicant argues that the Commission either failed to address or to explain the following matters in its April 26 order: rejection of the refund provision of the proposed rule; failure to provide assurance to the public that only actual fuel costs, prudently incurred, are passed through wholesale fuel clauses; abdication of its duties under section 205(d) of the Act; and failure to discuss Consumer Owned Systems' proposal to require the regular filing of the breakdown of items included in Account 151.

The Commission notes that each of the foregoing points was explicitly referred to in the April 26 order. Review of each point indicates that all are adequately disposed of by the Commission's finding that "the more appropriate method of monitoring for abuse in the procurement of fuel and in the administration of fuel clauses is to continue to employ the Commission's audit staff and investigative procedures."

The Commission finds: Consumer Owned Systems' May 26, 1977, Application for Rehearing of the Commission's April 26, 1977, order in this docket contains no facts or principles of law requiring modification of that order.

The Commission orders: (A) Consumer Owned Systems' May 26, 1977, Application for Rehearing of the Commission's April 26, 1977, order in this docket is denied.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20526 Filed 7-15-77;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

**[ 47 CFR Part 73 ]**

[Docket No. 21324; RM-2873]

### FM BROADCAST STATION IN NORFOLK, NEBRASKA

**Proposed Changes in Table of Assignments**

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action herein proposes the assignment of a second Class C channel to Norfolk, Nebraska. Petitioner, Central Media, Inc., states that the proposed channel would render significant second and third nighttime aural service to the area. Since there is an apparent need for a second broadcast voice in the Norfolk area, the Commission is making this proposal.

DATES: Comments must be received on or before September 15, 1977 and Reply Comments must be received on or before October 5, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: July 1, 1977.

Released: July 11, 1977.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Norfolk, Nebraska), Docket No. 21324, RM-2873.

1. *Petitioner, proposal and comments.* (a) Petition for rule making filed January 27, 1977, and supplement to petition[1] filed April 4, 1977, by Central Media, Inc. ("petitioner"), proposing the assignment of FM Channel 234 to Norfolk, Nebraska, as its second Class C assignment.

(b) The channel may be assigned without affecting any of the existing FM assignments in the Table. There were no oppositions to the proposal.

(c) Petitioner states it will apply for and construct a station if the proposed channel is assigned.

2. *Community data.*—(a) *Location.* Norfolk, in Madison County, is located in northeast Nebraska, 160 kilometers (100 miles) northwest of Omaha, Nebraska.

(b) *Population.* Norfolk—16,607; Madison County—27,402.[2]

(c) *Present aural services.* Norfolk presently receives local service from full-time AM Station WJAG and Class C Station WJAG-FM (Channel 294).

(d) *Economic considerations.* Petitioner states that Norfolk is northeast Nebraska's major city whose population has increased 26.3 percent between 1960-70. It notes that Norfolk has a diversified economy with agribusiness as its basic economic activity. We are told the Norfolk livestock market is the world's largest auction market with annual receipts in excess of $97,000,000; 71 wholesale firms in Norfolk had estimated sales in 1975 of $62,783,000; and the 317 retail firms in Norfolk had estimated sales of $117,000,000 in 1975. Petitioner states that, in addition to the major economic area, Norfolk continues to grow in the areas of construction, transportation services, communications and utilities, finance and many service areas, particularly education. Petitioner details other social, economic and historical information to demonstrate the need for a second local broadcast voice in Norfolk.

2. *Preclusion studies.* Assignment of Channel 234 to Norfolk would cause preclusion on one or more channels for 12 communities with populations greater than 1,500 persons. Four[3] of the communities have one FM assignment each. An additional four[4] can be assigned alternate channels. There are four[5] more communities in the precluded area with a population greater than 1,500 persons which have neither an AM nor FM assignment. Petitioner is requested to identify in its comments whether alternate channels are available for assignment to these communities.

3. *Additional considerations.* Petitioner states that 445 persons in a 170 square kilometer (66 square mile) area would receive second nighttime aural service and 46,139 persons in a 5,000 square kilometer (1,868 square mile) area will receive third nighttime aural service. All of the first group plus a small segment (about 2.5 percent) of the second group would receive first FM service. The bulk of the second group would receive second FM service as would an additional undetermined number of persons now receiving two nighttime AM signals but only one FM signal. For these reasons and because there is an apparent need and demand for a second broadcast voice in the Norfolk area, we believe consideration of the proposal to assign Channel 234 to Norfolk, Nebraska, is warranted.

4. Accordingly, the Commission proposes to amend the FM Table of Assignments, § 73.202(b), with regard to the community of Norfolk, Nebraska, as follows:

| City | Channel No. | |
|---|---|---|
| | Present | Proposed |
| Norfolk, Nebr. | 294 | 234, 294 |

5. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 below before a channel is assigned.

6. Interested parties may file comments on or before September 15, 1977, and reply comments on or before October 5, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
*Chief, Broadcast Bureau.*

[1] Public Notice of the filing of the petition was given on April 18, 1977 (Rept. No. 1039).

[2] Population figures are taken from the 1970 U.S. Census.

[3] South Dakota: Winner (pop. 3,789); Gregory (1,756); Nebraska: Ord (2,439); O'Neill (3,753).

[4] Nebraska: Madison (pop. 1,595); Neligh (1,764); Ainsworth (2,073); Albion (2,074).

[5] South Dakota: Wagner (pop. 1,655); Nebraska: Central City (2,803); St. Paul (2,026).





1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in this Notice of Proposed Rule Making.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-20491 Filed 7-15-77;8:45 am]

## DEPARTMENT OF COMMERCE

**National Oceanic and Atmospheric Administration**

### SOUTH ATLANTIC REGIONAL FISHERY MANAGEMENT COUNCIL

**[ 50 CFR Part 611 ]**

### FOREIGN FISHING VENTURES WITHIN U.S. FISHERY CONSERVATION ZONE

**Advance Notice of Proposed Rulemaking**

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Announcement is made of the last in number of several public hearings to consider the desirability of rulemaking and other possible courses of action under the Fishery Conservation and Management Act of 1976 ("the Act") for dealing with business arrangements involving the purchase of fish by foreign buyers from U.S. fishermen. One of the three hearings announced will be held jointly by the National Marine Fisheries Service (NMFS) and the South Atlantic Regional Fishery Management Council. These hearings will assist the Secretary of Commerce in establishing a national policy regarding such business arrangements, whose potential effects appear in some cases consistent and in other cases inconsistent with the purposes and policies of the Act.

DATES, TIMES, AND LOCATIONS: A public hearing will be held on August 2, 1977, jointly with the South Atlantic Regional Fishery Management Council, at: North Carolina Marine Resources Center, Manteo, North Carolina 27954.

On August 8, 1977, at: Le Salon Rooh, Airport Hilton Inn, 901 Airline Highway, Kenner, Louisiana 70062.

On August 10, 1977, at: Auditorium, Southeast Fisheries Center, 75 Virginia Beach Drive, Miami, Florida 33149.

The August 2 hearing will begin at 8:30 p.m. and will terminate by 10:30 p.m.

The August 8 hearing will begin at 2 p.m. and will terminate by 4 p.m.

The August 10 hearing will begin at 6 p.m. and will terminate by 8 p.m.

In addition to oral testimony, written comments also are solicited. These may be submitted to the address shown below no later than August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul Fulham, Constituency Liaison, NMFS, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702. 813-893-3143.

SUPPLEMENTARY INFORMATION: During the hearings we will seek to evaluate transactions at sea between foreign support vessels and U.S. fishing vessels, particularly the foreign purchase of U.S. caught fish. Possible courses of action would include, among other things:

(a) Modifying existing preliminary management plans and regulations during 1977;

(b) Changing optimum yield statements with, or without, new biological, social, or economic data;

(c) Adjusting existing foreign allocations;

(d) Modifying existing permits and issuing new ones;

(e) Establishing a long-range policy for U.S. and foreign joint participation in fishing ventures under both preliminary and fishery management plans; and

(f) Taking such other related steps as may be appropriate.

A detailed explanation of the issues and options to be discussed at these public hearings may be found at 42 FR 30875, 30876, Friday, June 17, 1977. The NMFS presently has no additional information which would be helpful to the public in updating or expanding upon that explanation.

Dated: July 13, 1977.

WINFRED H. MEIBOHM,
*Associate Director, National Marine Fisheries Service.*

[FR Doc.77-20467 Filed 7-15-77;8:45 am]



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# notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forest Service

### SOUTH FORK SALMON RIVER PLANNING UNIT

#### Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the South Fork Salmon River Planning Unit, Boise and Payette National Forests, Idaho. The Forest Service report number is USDA–FS–FES (Adm) R4–77–1.

The environmental statement identifies and evaluates the probable effects of the land management plan for the South Fork Salmon River Planning Unit on the Boise and Payette National Forests in south-central Idaho. The purpose of the plan is to allocate National Forest lands within the unit to specific resources uses and activities, and provide for the protection, use, and development of the various resources within the planning unit.

This final environmental statement was transmitted to CEQ on July 12, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
Regional Planning and Budget Office, USDA, Forest Service, Federal Building, Room 4120, 324–25th Street, Ogden, Utah 84401.
Forest Supervisor, Boise National Forest, 1075 Park Boulevard, Boise, Idaho 83706.
Forest Superivor, Payette National Forest, Forest Service Building, P.O. Box 1026, McCall, Idaho 83638.
District Forest Ranger, Krassel Ranger District, McCall, Idaho 83638.
District Forest Ranger, Cascade Ranger District, Cascade, Idaho, 83611.

A limited number of single copies are available upon request to Forest Supervisor Edward C. Maw, Boise National Forest, 1075 Park Boulevard, Boise, Idaho 83706, and Forest Supervisor William B. Sendt, Payette National Forest, Forest Service Building, P.O. Box 1026, McCall, Idaho 83638.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

EINAR L. ROGET,
*Acting Deputy Chief.*

JULY 12, 1977.

[FR Doc.77–20541 Filed 7–15–77;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 30823]

### AIR WISCONSIN CERTIFICATION PROCEEDING

#### Prehearing Conference

Because of a scheduling conflict, the prehearing conference in the above-entitled proceeding, previously scheduled to be held at 9:30 a.m. on July 26, 1977, in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. (42 FR 34348), is hereby moved to Hearing Room B, at the same time and place.

Dated at Washington, D.C., July 7, 1977.

KATHERINE A. KENT,
*Administrative Law Judge.*

[FR Doc.77–20457 Filed 7–15–77;8:45 am]

### CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER SUBPART M OF PART 302 OF THE BOARD'S PROCEDURAL REGULATIONS

#### Application for Amendment

JULY 13, 1977.

Notice is hereby given that the Civil Aeronautics Board on July 12, 1977, received an application, Docket 31116, from Allegheny Airlines for amendment of its certificate of public convenience and necessity for Route 97 so as to authorize Allegheny to engage in scheduled nonstop air transportation of persons, property and mail between Nashville, Tennessee, and Cleveland, Ohio, by eliminating the one-stop restriction contained in Condition (4) of Allegheny's certificate for Route 97.

The applicant requests that its application be processed under the expedited procedures set forth in Subpart M of Part 302 (14 CFR Part 302).

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77–20552 Filed 7–15–77;8:45 am]

[Docket 30635]

### ARIZONA SERVICE INVESTIGATION

#### Change of Date of Prehearing Conference

Prehearing conference in the above-entitled proceeding, now assigned to be held on August 3, 1977 (42 FR 35865, dated July 12, 1977), is rescheduled to July 26, 1977, at 10 a.m. (local time), in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned Judge.

Dated at Washington, D.C., July 12, 1977.

FRANK M. WHITING,
*Administrative Law Judge.*

[FR Doc.77–20539 Filed 7–15–77;8:45 am]

## DEPARTMENT OF COMMERCE

### Domestic and International Business Administration

### EXPORT ADMINISTRATION REGULATIONS

#### Amendments to Export Administration Regulations Regarding Foreign Boycotts

*Correction*

In FR Doc. 77–20122 (inadvertently printed as 77–21022), appearing at page 36007 in the issue for Wednesday, July 13, 1977, make the following changes:

1. The preamble is corrected and reprinted in its entirety as follows:

On June 22, 1977, the President signed into law the Export Administration Amendments of 1977 (Pub. L. 95–52). Title II (entitled "Foreign Boycotts") of this new law strengthens the anti-boycott provisions of the Export Administration Act of 1969, as amended (50 U.S.C. App. §§ 2401, et seq.), and will require major revisions to the Restrictive Trade Practices or Boycotts part of the Export Administration Regulations, issued by the Department of Commerce (Part 369, Title 15, Code of Federal Regulations).

In general, Title II prohibits United States persons from complying with most foreign boycott requirements, including the furnishing of most boycott-related information. Substantial increased penalties are authorized for violations of the law. Title II also requires reports to this Department on foreign boycott requests, and requires the issuance of rules and regulations to implement these and other provisions of the law. Since the Secretary of Commerce has been delegated by Executive Order the responsibility for issuing these regulations, this Notice establishes the procedures the Department will follow in developing and promulgating the proposed and final new boycott regulations.

The promulgation of these boycott regulations is exempt from Administrative Procedure Act rulemaking procedures. However, because of the importance and complexity of the issues, the Department is inviting public participation in their development. All persons who desire to comment are encouraged to do so at the earliest possible time so as





to permit the fullest consideration of their views. Comments may take the form of proposed regulatory language, narrative discussion, hypothetical case situations, or any other appropriate format. The Department expects to publish the proposed regulations in the FEDERAL REGISTER shortly before the expiration of the statutory 90-day period following the date of enactment of Pub. L. 95–52 (i.e., shortly before September 21, 1977), and expects to allow 60 days thereafter for submission of comments on the proposed regulations. The Department expects to publish final regulations in the FEDERAL REGISTER, after taking into consideration the comments received, shortly before the expiration of the statutory 120-day period following the date of publication of the proposed regulations in the FEDERAL REGISTER.

Written public comments which are accompanied by a request that part or all of the material be treated confidentially, because of its business proprietary nature or for any other reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the regulations. Likewise, comments received after the close of the comment period will not be accepted or considered.

All public comments to be considered in the development of these boycott regulations will be a matter of public record and will be available for public inspection and copying. This procedure shall not, however, apply to communications from agencies of the United States or foreign governments. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, the Department official receiving such comments will prepare a memorandum summarizing the substance of the comments and identifying the individual making the comments as well as the person on whose behalf they purport to be made. All such memoranda will also be a matter of public record and will be available for public review and copying.

Written comments concerning the proposed regulations should be addressed to:

U.S. Department of Commerce, P.O. Box 320, Benjamin Franklin Station, Washington, D.C. 20044.

Oral communications should be directed to:

Stanley J. Marcuss, Deputy Assistant Secretary For Trade Regulation, 202–377–5491, or
Kent N. Knowles, Acting Assistant General Counsel for Domestic and International Business, 202–377–5301.

The public record concerning these boycott regulations will be maintained in the Domestic and International Business Administration, Freedom of Information Records Inspection Facility, Room 3012 Main Building, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230. Records in this facility may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information regarding the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the Domestic and International Business Administration Freedom of Information Officer, at the above address or by calling 202–377–3031.

A copy of the relevant provisions of the Export Administration Act of 1969, as amended by Pub. L. 95–52, is attached to this notice.

The following changes should be made to the material that follows the signature of the General Counsel.

1. On page 36007, in the third column, in the fifth line of the topic heading that appears just below the signature, the last word which now reads "Export" should be "Exports".

2. On page 36008, first column, in the first line of *Sec. 4A.*, the third word now spelled "purpsoe" should be spelled "purpose".

3. On page 36008, in paragraph "(D)" of the same section, in the eighth line, the word "Under" should not be capitalized.

4. On page 36008, in the second column, *Sec. 4A(a)(2)(C)*, the last word in the seventh line now spelled "cource" should be spelled "course".

5. On page 36008, In *Sec. 4A(a)(2)(D)*, the first complete word in the third line should be spelled "relating".

6. On page 36008, in *Sec. 4A(a)(2)(E)*, the first complete word in the last line should be spelled "within".

7. On page 36009, in the third column, the center heading "DEFINITIONS" should be italicized and should read *"DEFINITIONS"*.

8. On page 36009, in the third column, the first word in the eighth line under the center heading "PREEMPTION" should be "which", instead of "were".

### Economic Development Administration

### ROUND II OF LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

#### Announcement of Additional Planning Target Data for Sub-State Areas and Applicants

Notice is hereby given that pursuant to authority contained in the Local Public Works Capital Development and Investment Act, as amended (Pub. L. 94–369 as amended by Pub. L. 95–28), additional planning target data for round II of the program, which is described at 13 CFR Part 317, is now available from the EDA Regional Offices and the Local Public Works unit of the EDA Washington Office. This information supplements and corrects the previously distributed planning target data.

The EDA Regional Offices will contact eligible areas and applicants which are receiving new or revised planning targets. Applicants receiving new or revised planning targets will be allowed 28 days from the date of receipt of the planning target data to submit new and revised applications to the EDA Regional Offices.

Each eligible applicant, including any school district, which has not previously filed an application under this program should contact EDA or area officials to see if its area has received a new or revised planning target in which it is qualified to share.

EDA is under no obligation to consider funding applications from applicants with new or revised planning targets which are received after the 28 day resubmission period announced above. In the case of areas and applicants with unchanged planning targets, EDA is under no obligation to consider funding applications received in the Regional Offices after July 29, 1977.

Information about new or revised planning targets may be obtained from the Washington Office at this number: 202–377–5800. The following is a list of the EDA Regional Offices:

Atlantic Regional Office, 10424 Federal Building, 600 Arch Street, Philadelphia, Pennsylvania 19106, 215–597–4603.
Southeastern Regional Office, Suite 700, 1365 Peachtree Street, N.E., Atlanta, Georgia 30309, 404–881–7906.
Rocky Mountain Regional Office, Title Building, Suite 500, 909 17th Street, Denver, Colorado 80202, 303–837–4714.
Western Regional Office, Lake Union Building, Suite 500, 1700 Westlake Avenue, North, Seattle, Washington 98109, 206–442–0596.
Southwestern Regional Office, American Bank Towers, Suite 600, 221 West Sixth Street, Austin, Texas 78701, 512–397–5461.
Midwestern Regional Office, 32 West Randolph Street, Chicago, Illinois 60601, 312–353–7148.

Dated: July 14, 1977.

ROBERT T. HALL,
*Assistant Secretary for Economic Development.*

[FR Doc.77–20680 Filed 7–15–77;3:45 am]

### National Oceanic and Atmospheric Administration

### GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

#### Public Meetings

Notice is hereby given of public meetings of the Gulf of Mexico Fishery Management Council established by the Fishery Conservation and Management Act 1976 (Pub. L. 94–265).

The Gulf of Mexico Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the west coast of Florida, Alabama, Mississippi, Louisiana and Texas. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

The South Atlantic Fishery Management Council has been designated by the Secretary of Commerce as the lead Council, among the several Councils of New England, Mid-Atlantic, Gulf of Mexico, and Caribbean concerned with the re-



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source, in development of a fishery management plan for the billfish fishery. This notice announces public meetings for the Gulf of Mexico area. Additional meetings are scheduled for the other Council areas and will be announced in the FEDERAL REGISTER separately.

These meetings are for the purpose of providing an opportunity for public input and to serve as a factfinding mechanism relative to development of a fishery management plan for the domestic and foreign billfish fishery.

These meetings will convene at 7 p.m. and adjourn at about 11 p.m. at the following locations and dates:

AUGUST 9, 1977—FT. WALTON BEACH, FLORIDA

Mariner Room, Ramada Inn, U.S. Highway 98 East, Miracle Strip Parkway, 7 to 11 p.m.

AUGUST 18, 1977—CORPUS CHRISTI, TEXAS

Research and Extension Service Auditorium, Texas A&M University, Texas Highway 41 (5 miles past airport), 7 to 11 p.m.

AUGUST 19, 1977—GALVESTON, TEXAS

Jury Assembly Room, Galveston County Courthouse, 722 Moody, 7 to 11 p.m.

AUGUST 23, 1977—MOBILE, ALABAMA

Mobile Municipal Auditorium, Room 3, 401 Auditorium Drive, 7 to 11 p.m.

AUGUST 24, 1977—NEW ORLEANS, LOUISIANA

Council Chamber Room, City Hall, 1300 Perdido, 7 to 11 p.m.

AUGUST 30, 1977—ST. PETERSBURG, FLORIDA

Bahia Room, Bayfront Center Auditorium, 400 1st Street South, 7 to 11 p.m.

AUGUST 31, 1977—MARATHON, FLORIDA

Bermuda Hall, Indes Inn, Route 1, Duck Key, Florida, 7 to 11 p.m.

Interested members of the public may present their views on matters related to the billfish fishery and on the management plan under development. Additional information relative to these meetings can be obtained by contacting:

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, 813-228-2815.

Members of the public wishing to submit written comments should do so by addressing the Executive Director. To receive due consideration and facilitate inclusion of such statements in the record of the meetings, typewritten statements should be submitted before September 9, 1977.

Signed this 13th day of July, 1977, at Washington, D.C.

WINFRED H. MEIBOHM,
*Associate Director, National Marine Fisheries Service.*

[FR Doc.77-20465 Filed 7-15-77;8:45 am]

## NORTH PACIFIC FISHERY MANAGEMENT COUNCIL, FISHERY MANAGEMENT PLAN FOR GULF OF ALASKA GROUNDFISH FISHERY DURING 1978

### Availability of Draft Environmental Impact Statement/Fishery Management Plan and Notice of Public Hearings

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Oceanic and Atmospheric Administration, Department of Commerce, and the North Pacific Fishery Management Council have jointly prepared a draft environmental impact statement for the proposed implementation of the fishery management plan for Gulf of Alaska Groundfish Fishery during 1978. In accordance with provisions of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), the plan has been prepared by the North Pacific Fishery Management Council and requires approval by the Secretary of Commerce prior to its implementation.

The environmental statement concerns a proposal to adopt and implement a fishery management plan for the Gulf of Alaska Groundfish Fishery pursuant to the Fishery Conservation and Management Act of 1976, which extends U.S. jurisdiction over marine fishery resources to 200 nautical miles and establishes a program for their management. Upon approval, the plan will serve to manage groundfish fishery resources in the Gulf of Alaska for optimum yield and to determine foreign surplus. The plan recommends certain conservation measures designed to prevent overfishing and to maintain an orderly fishery. These proposed measures include time-area closures, gear restrictions, and quotas.

Individuals or organizations wishing to comment on the draft environmental impact statement/fishery management plan may also do so at public hearings to be held at the times and locations located below:

(a) Petersburg, Alaska, Wednesday, August 3rd, 9 a.m., Petersburg City Council Chambers.

(b) Seattle, Washington, Friday and Saturday, August 5th and 6th, 9 a.m., Seatac Hilton Hotel, 17620 Pacific Highway, South, Seattle, Washington.

(c) Anchorage, Alaska, Monday, August 22nd, 8:30 a.m., State Supreme Court Chambers, State Court Bldg., 3rd and K Streets.

(d) Sand Point, Alaska, Tuesday, August 23rd, 9 a.m., City Hall.

(e) Kodiak, Alaska, Wednesday, August 24th, 9 a.m., Elks Lodge, Marine Way.

Copies of the DEIS/DFMP's are available for public review at the following locations:

ANCHORAGE

Department of Fish and Game, 333 Raspberry Road, Anchorage, Alaska 99502.
National Marine Fisheries Service, Room 408 Hill Building, 632 West 6th Avenue, Anchorage Alaska 99501.
Z. J. Loussac Public Library, 427 First Street, Anchorage, Alaska 99501.
North Pacific Fishery Management Council, Suite 32, 333 West 4th Avenue, Post Office Mall Building, Anchorage, Alaska 99501

BETHEL

Department of Fish and Game, Bethel, Alaska 99559.
Bethel Public Library, Bethel, Alaska 99559

CORDOVA

Department of Fish and Game, Cordova, Alaska 99574.
Cordova Public Library, Cordova, Alaska 99574.

DILLINGHAM

Department of Fish and Game, Dillingham, Alaska 99576.
Dillingham Public Library, Dillingham, Alaska 99576.

FAIRBANKS

Department of Fish and Game, 1300 College Road, Fairbanks, Alaska 99701.
Fairbanks North Star Borough Public Library, 901 1st Avenue, Fairbanks, Alaska 99701

HOMER

Department of Fish and Game, Homer, Alaska 99603.
Homer Public Library, Homer, Alaska 99601

JUNEAU

Department of Fish and Game, SE. Regional Office, 210 Ferry Way, Juneau, Alaska 99801
Department of Fish and Game, Commissioner, Subport Building, Juneau, Alaska 99801.
National Marine Fisheries Service, Rm. 453, Federal Building, Juneau, Alaska 99801.
Juneau Memorial Library, 114 West 4th Street, Juneau, Alaska 99801.

KETCHIKAN

Department of Fish and Game, 208 State Court and Office Building, 415 Main Street, Suite 208, Ketchikan, Alaska 99901.
Ketchikan Public Library, 629 Dock Street, Ketchikan, Alaska 99901.

KODIAK

Department of Fish and Game, Kodiak, Alaska 99615.
A. Holmes Johnson Memorial Library, Kodiak, Alaska 99615.
National Marine Fisheries Service, Gibson Cove, Kodiak, Alaska 99615.

KOTZEBUE

Kotzebue Public Library, Kotzebue, Alaska 99752.

PETERSBURG

Department of Fish and Game, Swanson Bldg., Petersburg, Alaska 99833.
Petersburg Public Library, Petersburg, Alaska 99833.

SAND POINT

Department of Fish and Game, Sand Point, Alaska 99661.
Sand Point Community/Scholl Library, Sand Point, Alaska 99661.

SEWARD

Department of Fish and Game, Seward Court Building, Seward, Alaska 99664.

SITKA

Department of Fish and Game, State Office Building, Sitka, Alaska 99835.
Kedelson Memorial Library, Sitka, Alaska 99835.

UNALASKA

Department of Fish and Game, c/o Standard Oil Dock, Dutch Harbor, Alaska 99685.
Unalaska/School/Community Library, Unalaska, Alaska 99685.

VALDEZ

Department of Fish and Game, Valdez, Alaska 99686.
Valdez Public Library, Valdez, Alaska 99686.

WRANGELL

Department of Fish and Game, Wrangell, Alaska 99929.
Wrangell Public Library, Wrangell, Alaska 99929.

YAKUTAT

Department of Fish and Game, Yakutat, Alaska 99689.

Limited numbers of the DEIS/DFMP's will be available from the Executive Director, North Pacific Fishery Management Council, Suite 32, 333 West 4th Avenue, Post Office Mall Building, Anchorage, Alaska 99510, and the Director, Regional Office, National Marine Fisheries Service, Box 1668, Juneau, Alaska 99802. Written comments on the DEIS/DFMP's from members of the public may be submitted not later than August 30th, 1977 to the North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510.

This Notice of Availability is being published at the request of and in cooperation with the North Pacific Fishery Management Council.

Dated this 13th day of July 1977, at Washington, D.C.

WINFRED H. MEIBOHM,
*Associate Director, National Marine Fisheries Service.*

[FR Doc.77-20464 Filed 7-15-77;8:45 am]

## SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

### Public Meetings

Notice is hereby given of public meetings of the South Atlantic Fishery Management Council established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The South Atlantic Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the east coast of Florida, Georgia, North Carolina, and South Carolina. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

The South Atlantic Fishery Management Council has been designated by the Secretary of Commerce as the lead Council, among the several Councils of New England, Mid-Atlantic, Gulf of Mexico, and Caribbean concerned with the resource, in development of a fishery management plan for the billfish fishery. This notice announces public meetings for the South Atlantic area. Additional meetings are scheduled for the other Council areas and will be announced in the FEDERAL REGISTER separately.

These meetings are for the purpose of providing an opportunity for public input and to serve as a factfinding mechanism relative to development of a fishery management plan for the domestic and foreign billfish fishery.

These meetings will convene at 7:30 p.m. and adjourn at 10 p.m. at the following locations and dates:

North Carolina Marine Resources Center, Manteo, N.C., August 2, 1977.
North Carolina Marine Resources Center, Pine Knoll Shores, Roosevelt Drive, Route 1, Morehead City, N.C., August 16, 1977.
North Carolina Marine Resources Center, Ft. Fisher, N.C., (Wilmington, Carolina Beach area), August 30, 1977.

Additional meetings will be held in the states of Florida, Georgia, and South Carolina during September and will be announced via a future notice in the FEDERAL REGISTER.

Interested members of the public may present their views on matters related to the billfish fishery and on the management plan under development. Additional information relative to these meetings can be obtained by contacting:

Dr. Jackson Davis, Project Manager, Billfish Management Plan, South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, S.C. 29407; 803-571-4366.

Members of the public wishing to submit written comments should do so by addressing the project manager. To receive due consideration and facilitate inclusion of such statements in the record of the meetings, typewritten statements should be submitted by September 9, 1977.

Signed this 13th day of July 1977, at Washington, D.C.

WINFRED H. MEIBOHM,
*Associate Director, National Marine Fisheries Service.*

[FR Doc.77-20466 Filed 7-15-77;8:45 am]

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### USAF SCIENTIFIC ADVISORY BOARD

### Meeting

JULY 12, 1977.

The USAF Scientific Advisory Board Electronics Panel Group to review Space Systems will hold a meeting on August 11, 1977 from 8:30 a.m. to 5:00 p.m. in the Pentagon, Room 5D982.

The purpose of the meeting will be to conduct a special review of space systems at the request of the Secretary of the Air Force.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meeting will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4648.

FRANKIE S. ESTEP,
*Air Force Federal Register Liaison Officer, Directorate of Administration.*

[FR Doc.77-20447 Filed 7-15-77;8:45 am]

## UNITED STATES READINESS COMMAND JOINT READINESS EXERCISE BOLD EAGLE 78

### Intent to Prepare Draft Environmental Impact Statement

Notice is hereby given that pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 and 39 FR 4699, the United States Readiness Command announces its intent to prepare a Draft Environmental Impact Statement for the proposed Joint Readiness Exercise "BOLD EAGLE 78."

BOLD EAGLE 78 is a joint exercise directed by the Joint Chiefs of Staff and sponsored by the United States Readiness Command. This proposed exercise is scheduled to be conducted in the southeast, preferably at the Eglin Air Force Base Test Range Complex, Florida, and adjacent coastal waters during the period October 11-November 11, 1977. Other installations under consideration include Fort Polk, Louisiana and Fort Stewart, Georgia.

This exercise will involve approximately 18,000 personnel in joint air and ground operations. Airborne assault and mechanized forces will be engaged in field activities for about 14 days.

Questions should be directed to LTC Deweese, US Readiness Command, MacDill AFB, Florida, 33608 (813-830-3831).

FRANKIE S. ESTEP,
*Air Force Federal Register Liaison Officer, Directorate of Administration.*

[FR Doc.77-20448 Filed 7-15-77;8:45 am]

### Office of the Secretary

## CHEMICAL PROPULSION ADVISORY COMMITTEE

### Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the following committee meeting:

NAME: JANNAF Combustion Working Group.
DATE: August 15 to 19, 1977.
PLACE: The technical sessions will be held in Room H2 and Lectinars 1 and 3, Fairchild Hall, USAF Academy, CO. The business meeting will be held in the Bronze Room of the Colorado Springs Hilton Inn, Colorado Springs, CO.





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TIME: The technical sessions will be held from 9:00 a.m. to 5 p.m., Monday through Friday. The business meetings of the Workshop and Motor Instability Prediction Committees will be held on Monday, the Working Group on Tuesday, and the Particle Measurements Committee on Thursday. The business meetings will be held from 7:00 p.m. to 10:00 p.m.

PROPOSED AGENDA: The technical sessions will discuss the current government programs on steady-state and transient combustion within guns, rocket motors, rocket engines, airbreathers, and lasers. The business meetings will review achievements and future plans.

PURPOSE OF THE MEETING: The Working Group endeavors to develop sufficient design criteria to build efficient and stable combustion systems and to synthesize, interpret, and validate current knowledge to make research and development results useful to design engineers. These efforts are thus devoted toward early recognition, definition, and solution of possible combustion problems in existing and proposed system.

The technical sessions on liquid propellant gun propulsion (Mon/AM), combustion technology for lasers (Mon/PM), airbreathing combustion (Tue/AM and PM), aluminum combustion (Wed/PM), composite propellant combustion (Thu/PM), and muzzle flash and burning rate (Fri/AM) are classified and in accordance with the provision of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), attendance is closed to the public and is restricted to those individuals who possess a personal security clearance of at least confidential and a certified need-to-know in the area of chemical rocket propulsion.

The technical sessions on gun propellant ignition and combustion (Mon/PM), solid propellant combustion instability (Tue/AM and PM), DDT and double-base propellant combustion (Wed/AM), combustion in liquid rocket engines (Wed/AM and PM), burning rate measurements (Wed/PM), composite propellant combustion (Thu/AM), and interior ballistic analysis (Fri/PM), are open to the public. The business meetings of the committees and Working Group also are open to the public. Public attendance, depending on available space, may be limited to those persons who have notified the Working Group Chairman in writing at least five (5) days prior to the meeting, of their intention to attend.

Any member of the public may file a written statement with the Working Group Chairman before, during, or after the meeting. To the extent that time permits, the Chairman may allow public presentation of oral statements at the open meetings.

All communications regarding this meeting and Working Group should be addressed to the Working Group Chairman, Dr. Ronald L. Derr, Code 388, Naval Weapons Center, China Lake, California 93555.

JULY 13, 1977.

MAURICE W. ROCHE,
*Director, Correspondence and Directives OASD (Comptroller).*

[FR Doc.77-20497 Filed 7-15-77;8:45 am]

## DOD ADVISORY GROUP ON ELECTRON DEVICES

### Advisory Committee Meeting

Working Group D (Mainly Laser Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session at M.I.T.—Lincoln Laboratories, Boston, Mass., on August 2-3, 1977.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging communications, weapon guidance and data transmission. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically, subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
*Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).*

[FR Doc 77 20470 Filed 7-15-77;8:45 am]

## DOD ADVISORY GROUP ON ELECTRON DEVICES

### Advisory Committee Meeting

The DoD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, 9th Floor, New York, N.Y. 10014 on August 11, 1977.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of Electron Devices.

The meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The AGED will review programs on microwave devices, night vision devices, lasers, infrared systems, and microelectronics. The review will include classified program details throughout.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
*Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).*

[FR Doc.77-20471 Filed 7-15-77;8:45 am]

## ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

### COMMITTEE OF SENIOR REVIEWERS

### Meeting

JULY 13, 1977.

The Committee of Senior Reviewers will hold a meeting on August 24, 25, and 26, 1977, at the Lawrence Livermore Laboratory in Livermore, California. The subjects scheduled for discussion include nominees for additional membership, along with weapons, laser fusion, isotope separation, and other topics concerned with Restricted Data and other National Security Information.

This meeting will be closed to the public under the authority of subsection 10(d) of Public Law 92-463 (the Federal Advisory Committee Act).

I have determined, in accordance with subsection 10(d) of Public Law 92-463, that the discussions will concern Restricted Data which is exempt from disclosure under 5 U.S.C. 552b(c) (1) and (3), other National Security Information which is exempt from disclosure under 5 U.S.C. 552b(c) (1), and personnel or similar files which are exempt from disclosure uder 5 U.S.C. 552b(c) (6). The public interest will be served by closing such meeting as it is essential to protect such classified and personal information.

HARRY L. PEEBLES,
*Deputy Advisory Committee Management Officer.*

[FR Doc.77-20489 Filed 7-15-77;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 762-7; OPP-42005C]

### STATE OF WYOMING

### Extension of Contingency Approval of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of section 4(a)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136) and 40 CFR Part 171 (39 FR 36445 (October 9, 1974) and 40 FR 11698 (March 12, 1975)), the Honorable Ed Herschler, Governor of the State of Wyoming, submitted a State Plan for Certification of Pesticide Applicators to the Environmental Protection Agency (EPA) for approval, contingent upon promulgation of implementing regulations. On January 9, 1976, the Regional Administrator, EPA, Region VIII, approved the Plan on a contingency basis, allowing one year for promulgation of the regulations. Notice of the approval was published in the FEDERAL REGISTER on January 29, 1976 (41 FR 4359).

Subsequently, on December 30, 1976, and on June 13, 1977, the State of Wyoming requested extensions of the period of the contingent approval in order to allow additional time to promulgate the regulations required for full approval.

The Agency approved the first request and finds that there is good cause for approving the second request and has granted an extension until October 1, 1977.

Dated: July 6, 1977.

JOHN A. GREEN,
*Regional Administrator, Region VIII.*

[FR Doc.77-20440 Filed 7-15-77;8:45 am]





## FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18128; FCC 77-385]

### AMERICAN TELEPHONE & TELEGRAPH CO., LONG LINES DEPARTMENT

### Memorandum Opinion and Order Designating Hearing

Adopted: June 6, 1977:

Released: June 13, 1977.

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VI. ORDER

### I. INTRODUCTION

1. On October 1, 1976, we released our Memorandum Opinion and Order [1] ruling on and disposing of long-pending questions as to the lawfulness of rate levels [2] and rate level relationships of each service category of the American Telephone and Telegraph Company (Bell) subject to our jurisdiction, the most appropriate basis or methodology to measure the full cost of providing service and the lawfulness of Bell's TELPAK bulk-rate discount private line service. Seven petitions for reconsideration and/or clarification of our Decision were filed.[3] Six oppositions [4] and four replies [5] are also before us.

2. At the outset it may be useful to emphasize the scope of this proceeding and its relationship to our rulings herein. Specifically, while certain rate levels were at issue and were decided herein, this is not primarily a typical "rate case" designed to test the lawfulness of specific charges, nor a "rate-of-return" proceeding designed to establish an appropriate earnings ratio on investment. Rather, the purpose and effect of this proceeding is to establish basic principles and standards of general applicability for determining cost of service and corresponding rate levels, by service category. This case constitutes further delineation and clarification of our statutory obligation to determine and in certain instances prescribe "just and reasonable" [6] rates, thus assuring carrier accountability to the public for its rate actions. Our Decision is also intended to promote innovation and efficiency in telecommunications common carriage. Thus, we stated:

> We find our obligation to promote (efficiency) and innovation to encompass cost definition, minimization, and allocation. Furthermore, we recognize the interdependence of efficiency and costing. We do not limit our consideration of efficiency only to measurable transactions, but realize that the public interest may be served by recognizing (such) factors (as) * * * considerations (of) equity and social welfare. It is, therefore, broader than that espoused by economists or individual carriers. 61 F.C.C. 2d at 615.

### A. SUMMARY OF HOLDINGS

3. Our Decision may be broadly summarized as follows: (1) "Fully Distributed Cost" (FDC) is the costing approach most consistent with our objectives under the Act, and should be the basic standard by which the justness and reasonableness of rates will be judged (61 F.C.C. 2d at 589);

(2) FDC Method 7's historical cost causation basis of allocating costs is most consistent with our mandate to ensure just, reasonable and non-discriminatory rates (ibid.);

(3) Certain revisions to Methods 7 and 1 are required to correct infirmities observed during the course of these proceedings and to align these methods with prescribed guidelines and standards (61 F.C.C. 2d at 589-90); Bell was directed, in consultation with the staff of the Common Carrier Bureau (CCB staff), to correct these infirmities and to revise FDC Method 7 according to Decisional guidelines (id. at 668);

(4) Forecast assignments of new plant established in accord with the cost-causational revised Method 7 will subsequently be tested for accuracy using Method 1-based experienced-use data (id. at 587, 667);

(5) Discriminatory rates may be justified by competitive necessity. The two applicable competitive necessity criteria are: (1) that those benefitting from the discrimination have an alternate supply source which will be utilized in the absence of discrimination and, (2) that the discrimination benefits users discriminated against (id. at 590);

(6) The lawfulness of TELPAK was before us and our Decision held that this specific bulk discount discrimination was not justified under the proper competitive response criterion of the competitive necessity test. Although Bell was ordered to terminate TELPAK, we held that Bell may file a new appropriately responsive bulk offering consistent with our Decision's guidelines (id. at 659);

(7) Bell was ordered to refile tariff rate revisions for all services in order to yield rate levels in accordance with the costing guidelines and methodologies specified in the Decision (id. at 668). As a basis for determining the full costs related to these general filings and all future filings, Bell was directed to assign all extant plant, by service category, to a facility "datum." No departures from full cost rates are permissible absent grant of a waiver (id. at 590-91, 666-67).

### B. CONTENTIONS OF THE PARTIES

4. With the exception of USTS, all of the petitioners have participated in the hearings below. The parties before us are either major customers of Bell (e.g., ATA, DoD, AIA, ARINC, the Networks and NAB) or are competitors of Bell (USTS, Western Union and MCI). The following are brief summaries of petitioners' contentions.

*Bell*

5. Bell prefaces its petition with the statement that it does not challenge our Decision's choice of FDC Method 7, the FDC guidelines or the implementation process where we directed Bell to consult with the staff on refinements to Method 7 which would underline its June, 1977

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[1] AT&T Private Line Rate Cases, 61 F.C.C. 2d 587 (1976); referenced hereafter as "Decision."

[2] The issues herein were designated in terms of "rate levels." Id. at 596. In this context, rate level "refers to * * * percentage return on investment." The phrases "earnings ratio," "return level," "return on investment" and "return" are all to the same effect (see 61 F.C.C. 2d at 650, n. 86).

[3] Petitions for reconsideration were filed by American Telephone and Telegraph Co. (Bell), The Western Union Telegraph Company (Western Union), Aeronautical Radio, Inc. (ARINC), Air Transport Association of America, Inc. (ATA), United States Transmission Systems, Inc. (USTS), the Department of Defense and all other Federal Executive Agencies (DoD) and the Aerospace Industries Association of America, Inc. (AIA).

[4] Oppositions to the above petitions were filed by Western Union, Bell, the National Association of Broadcasters (NAB), Microwave Communications, Inc. (MCI) and by ATA and ARINC jointly as the "airline industry parties;" American Broadcasting Companies, Inc., CBS, Inc. and National Broadcasting Company, Inc. ("the network parties") collectively filed a "response" to petitions for reconsideration which we treat as an opposition.

[5] Replies to oppositions were filed by Western Union, Bell, USTS and by ATA and ARINC jointly.

[6] See 47 U.S.C. §§ 201(b), 205 (1974).



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tariff filings. Bell requests reconsideration of only two issues. First, Bell asserts that FDC should not be held to be the "immutable standard" for determining whether rate levels are compensatory, stating that users of other services may still benefit when certain services are priced at "a somewhat lower FDC level."[7] Further, Bell contends that departures from the FDC standard should not be considered in tariff filings, but "in proceedings where all pertinent evidence can be presented." Second, Bell asserts that our finding that the record fails to support the competitive necessity for the nationwide TELPAK offering is improper on the ground that the competitive necessity for TELPAK had already decided in 1964 and could not be reappraised.

*Western Union*

6. Western Union asserts that standards governing future bulk offerings, Method 7, our guidelines for revisions and the way in which Method I will be used in conjunction with Method 7 are "imprecise." We are urged to decide whether and how Method 7 applies to other carriers, to initiate an investigation into the bulk offerings of other carriers and to reconsider our choice of Method 7 and adopt instead Method I in accordance with the Recommended Decision (RD) of the Chief of the Common Carrier Bureau, released January 19, 1976.

7. Western Union also contends that the consultations between Bell and the CCB staff constitute an unlawful delegation of Commission ratemaking responsibilities. Finally, Western Union criticizes Bell's FDC Manual as failing to adhere to our Decisional guidelines.

*ATA*

8. ATA requests that we provide additional reasons for not employing its "Accommodation Theory" as the appropriate costing methodology. It joins Bell in asserting that our rulings respecting TELPAK should be reconsidered. It also seeks a ruling on TELPAK refunds, the standing of Method 1 vis-a-vis Method 7, and objects to both our direction that Bell consult with the staff on its FDC Manual and the Manual's faithfulness to the Decision.

*DoD*

9. DoD has determined not to seek reconsideration of the prescribed costing methodologies, preferring instead to concentrate in the context of reconsideration on the TELPAK issue. DoD emphasizes that it occupies a unique position in this case since, by a recent study, it has determined that its AUTOVON system and Government Services Administration's (GSA) Federal Telecommunication System (FTS) utilize approximately 65 percent of the circuits of the present TELPAK network. DoD estimates an increase in its charges for communications services of $7 million per month upon removal of the TELPAK discounts. It asserts that the decision on TELPAK impacts the Federal agencies more than any other Bell customer with the result that special attention should be paid to its arguments for a continuation of TELPAK in its present form.

10. DoD alleges that the record supplies ample support for a finding that TELPAK was competitively necessary, and that evidence to the contrary was "four years old" at the time of our Decision and did not reflect the "virtual revolution in the communications industry." DoD asserts that our designation order establishing Docket 18128 affirmed previous findings of competitive necessity and contemplated only the question whether TELPAK rates were compensatory. DoD characterizes our competitive necessity holding as an attempt to decide matters not properly at issue. Finally, DoD urges that each service should not be required to earn a return equal to that of the firm's authorized rate of return.

*USTS*

11. USTS urged us to rely on Method 1 rather than Method 7, but stated in the alternative that Bell's FDC Manual should require the concurrent filing of Method 1 with Method 7. It contends that some aspects of our Decision are at variance with our Decision in Phase II Docket 19129,[8] and requested that we issue an "unequivocal" statement that the Manual is open to challenge in any future proceeding.

*ARINC*

12. ARINC, as a major customer of TELPAK, asserted that our TELPAK findings are contrary to the evidence and that there is competitive necessity for Bell's nationwide bulk offerings, or alternatively, that our 1964 Decision[9] is res judicata. ARINC also takes issue with Bell's consultations with the staff on the FDC Manual and contended that the contents of the Manual are contrary to our Decisional guidelines. ARINC requests that the lawfulness of teletypewriter station equipment and reductions in the TELPAK telegraph-grade voice equivalency be decided.

*AIA*

13. AIA, also a substantial TELPAK customer, urges us to reverse our TELPAK holding, citing reasons similar to those posited by ARINC, DoD and ATA.

*Oppositions and Replies*

14. MCI filed an opposition to the petitions of ARINC, DoD, AIA, ATA and Bell. MCI criticizes our choice of Method 7 as well as the contents of Bell's FDC Manual, contending that Method 7 will not provide an effective check on the alleged ability of monopoly services to subsidize services in competitive markets. Bell opposes the alleged ability of monopoly services to subsidize services in competitive markets and suggested the concurrent filing of Method 1 data for this purpose. MCI objects to Bell's position that revised FDC Method 7 should not be the "immutable" standard for judging the lawfulness of rates on the ground that:

> Clearly, a single methodology must be employed to produce rates irrespective of any additional benchmark studies that may be made for purposes of listing and comparison. MCI Opposition, p. 11.

15. MCI supports our ruling on TELPAK, stating that the large-user parties ignore the fact that it is the Commission's Decision on resale and shared use[10] which will probably render the further provision of TELPAK economically infeasible for Bell. "Indeed, resale and sharing are the normal economic responses of the marketplace to an irrational price structure that fails to reflect cost realities." MCI Opposition, p. 11. Relative to whether TELPAK's lawfulness under the proper competitive response criterion was at issue, MCI states that "it is frivolous to contend that there was no notice to the parties that competitive necessity was at issue." Id. at 17.

16. The Networks challenge Western Union's and USTS's preference for Method 1, citing portions of the record and our Decision. The Networks join Bell in requesting clarification of whether FDC is the "absolute" standard for determining whether rates are lawful, but limit this issue to the context of pricing departures which fall below the FDC standard. Networks' Response, p. 22.

17. Bell opposes ATA's contention that it is entitled to a refund on the ground that TELPAK rates have been unlawfully high, on the basis of Rulings on Exceptions and the fact that the TELPAK users have had the benefit of a lower rate for a "like" service with private line. Bell Opposition, p. 4. Bell also states that evidence in the record fully justificies the 1968 and 1970 changes in the TELPAK telegraph-telephone equivalency ratio and the 1968 rate increases for teletypewriter station equipment. Id. at footnote. Bell asserts that no record evidence exists for the position taken by Western Union and USTS that Method 1 should be adopted instead of Method 7. Id. at 5. Relative to its consultations with the CCB staff on revisions to the FDC Manual, Bell stated that participation was properly limited to the staff. Bell and its independent telephone company "partners" and that its Manual conforms to the Decision's guidelines.

[7] Bell Petition at p. 7. Bell's use of the words "immutable" and "absolute" to describe our Decision's choice of fully distributed costs as the standard for determining whether rates are compensatory is ambiguous. In urging that FDC should not be the "immutable" or "absolute" standard, it is unclear whether Bell seeks to depart from this standard by use of marginal cost-related rates, or whether its FDC rates for certain services will be designed to earn a return less than the company's overall allowed rate of return. Bell is required to follow the guidelines provided in our Decision but, waiver requests which can be shown to be in the public interest will, of course, be granted.

[8] F.C.C. 77-150, released March 1, 1977.

[9] 38 F.C.C. 370, 37 F.C.C. 1111 (1964), aff'd sub nom. American Trucking Ass'ns v. F.C.C., 377 F.2d 121 (D.C. Cir. 1966), cert. denied, 386 U.S. 943 (1967).

[10] Resale and Shared Use of Common Carrier Services and Facilities (Docket 20097), 60 F.C.C. 2d 261 (1976), reconsideration denied in part, 62 F.C.C. 2d 588 (1977), petition for review pending, sub nom. AT&T v. F.C.C., No. 77-4057 et al. (2d Cir.).





18. Western Union limited its opposition to the user-parties' and Bell's contention that the competitive necessity for TELPAK had already been decided, and asserted that legally, and "* * * as a practical matter," the parties and this Commission "recognize throughout this proceeding that the alleged competitive necessity for TELPAK was at issue." Western Union Opposition, p. 3.

19. The NAB addressed its opposition to the issue raised by Bell that FDC should not constitute the "absolute" or "immutable" standard against which to measure whether rates are compensatory or whether interservice subsidy exists. NAB asserts that "the Commission's 'Decision' was not perceived as establishing an absolutely rigid and inflexible costing formulation" (NAB Opposition, p. 2) and that "it is apparent that [program transmission rates] cannot withstand strict adherence to the FDC criterion." Id. at 5. NAB thus seeks clarification of this issue.

20. ATA and ARINC (collectively the Airline Industry Parties) first oppose the argument made by Western Union and USTS that Method 1 rather than Method 7 should have been chosen as the FDC allocation standard, and discuss the points made by Western Union relative to Bell's FDC Manual and its adherence to our Decision.

21. In their replies, Western Union and USTS reiterate their preference for Method 1, the Airline parties again argue the competitive necessity for TELPAK and its benefit to other users, and Bell reiterates its position on the propriety of Method 7 and its criticism of our ruling on the competitive necessity for TELPAK.

11. RECORD SUPPORT FOR PRESCRIBING FDC METHOD 7 AND THE USE OF FDC METHOD

22. In this section we respond to assertions that our Decision does not find a sufficient basis in the record for defining Method 7's principle of historic cost causation and that we did not effectively dispose of certain matters at issue. These claims are not well taken. Our Decision has resolved the issues in this proceeding and does in fact provide the foundation for filing revised carrier-made rates according to full service costs.

23. In Sections V–VIII (61 F.C.C. 2d at 605–18), we set forth the statutory, legal and policy grounds of our selection and prescription of ratemaking standards, principles and guidelines. We have expressed our intention to select the costing methodology which best reflects our statutory mandate, concluding that:

> Of the seven FDC Methods of record, Method 7's historical cost causation basis of allocating costs is determined to be most consistent with our mandate to ensure just, reasonable, and nondiscriminatory rates. Id. at 589.

24. We emphasize the general applicability of our findings. The record before us focused on cross-subsidization between monopoly and competitive services and an industry structure characterized by emerging competitive forces. However, our underlying philosophy extends equally to other extant possibilities of cross-subsidization and to those which would be made possible by further development of the industry, restructure of service offerings by regulated carriers, technological changes, or other events. Id. at 638.

25. FDC methods were held "the *standard* of ratemaking" (id. at 641; emphasis in original) and we made clear that Bell was to base its future rate levels, rate relationships and changes thereto on FDC Method 7 data. Id. at 649.

> We hold that:
> [T]ariff filings should reflect their overall impact and effects, and should be based on data employed in a consistent manner between services and over time. Bell must exhibit methodological consistency and supply comparable supportive materials for future rate filings of all the various Bell services in accordance with the guidelines established herein. Id. at 641–42; emphasis supplied.[11]

26. We thus required that revised tariffs which incorporate our FDC guidelines into rates and rate relationships were to be filed with the "minimum materials required to support rate levels and departures from datum-based full costs." Id. at 663; emphasis in original. "Full cost," of course, includes cost of capital. Id. at 619–21. "See also, Communications Satellite Corp.," 56 F.C.C. 2d 1101, 1145 (1975). Thus, to comply with our Decision, each tariffed service category's rates must be targeted to yield an expected return level equal to the carriers' authorized overall return, absent a proper showing under the general provisions of the waiver process. This waiver process is intended to recognize instances where the public interest may be served by departures from full cost rates. Id. at 608, 662–63. For example, "carrier pricing flexibility may be warranted in situations where less-than-full cost based rates will permit beneficial cost efficiencies and demand adjustments over time." Id. at 663. However, the "full recorded cost of operations" (Id. at 661) are to be covered for each service category unless a waiver is granted. Even with the waiver process, it is abundantly clear that our prime emphasis is on carrier accountability for its rates. Id. at 610. "[A]ccountability is the touchstone of the 'just and reasonable provision' of Section 201" of the Act. Id. at 612. Further, "accountability * * * involve[s] consistency in forecast and actual methodology and in the dimensions of the data employed[,] * * * across all services. * * *" Id. at 612.[12]

27. Grant of a waiver requires that the carrier by able to reconcile and account for any requested departures from FDC Method 7 full costs in relation to datum-based investment assignments and an allocated share of expenses.[13] In the competitive area, departures below the overall authorized return level will be considered in exceptional circumstances." *Id.* at 666. On the other hand, departures above the overall level of return can be supported by appropriate justification.

[11] Upon experience gained on this record and through our Decisions in *Hi-Lo*, 55 F.C.C. 2d 346 (1975), *DDS*, 62 F.C.C. 2d 774 (1977) and *WATS*, 59 F.C.C. 2d 671 (1976), we held "disparate and incongruous ratemaking concepts * * * unlawful." 61 F.C.C. 2d at 662. We specified that "the breadth of supportive" materials required for tariff filings should show "overall" impact, including proper estimates of cost function changes and cross-elasticity data. Ibid. Such data must allocate the totality of Bell's plant and expenses among all services. Plant and expenses totals must be derived from data of a recent test year; it cannot be based on results of prior test years "factored forward." Furthermore, the recent test year must be the same for all services.

[12] Chairman Wiley has commented as follows on the public safeguard features of accountability:

> Once the costs of each of AT&T's services are identified, regulatory agencies, the Congress, and the American people will be able to make fundamental decisions concerning the desirability of subsidies between classes of users. These decisions can then reflect conscious social and political judgments made with the full knowledge of all consumers. 61 F.C.C. 2d at 669.

[13] We have held Bell's "basic service philosophy" or ratemaking unlawful. Consequently, supportive materials for "revisions to any existing service rate level or rate relationship * * * must be supported by a showing of overall impact of such revisions * * * for each of the various Bell services." This relates to "plant responsibility [which] impacts directly on realization of Commission objectives and responsibilities." 61 F.C.C. 2d at 662; see also 61 F.C.C. 2d at 591, 627, 661–63 and 666. Reconciliation of datum-based assignments is relevant in the context of (1) rate filings, (2) reconciliation between forecast and actual plant assignments at regular intervals and (3) upon review of proposals for datum reassignments submitted by other carriers or interested parties. See id. at 655.

[14] Waivers will generally be considered within the context of tariff proceedings. Waivers must be properly supported by materials as specified in our Decision concerning use of disparate ratemaking concepts. Id. at 661, et seq. Where applicable, Bell must provide materials which will allow us to determine the full impact of any waiver of the requirement that the service cover its full costs, including a showing of the incidence, by service, of any revenue requirement burden associated with a grant of the waiver. These materials shall support both the rate levels petitioned for by waiver and rate levels corresponding to the then prevailing authorized return levels. A showing that any shortfalls will be made up within "a reasonable time certain, and that the departure will benefit the body of Bell's users" is also to be made. Id. at 666. The requirement to recover shortfalls over time is generally applicable to departures below full costs, when it is praticable to recover full costs for the service category. It would not generally be applicable to those services where rate changes would not improve the level of return or where a preferential rate may be sanctioned or where a waiver may be granted to exceed the company's authorized return. We take note of our intention to undertake rulemaking in conjunction with the Uniform System of Accounts under which specification of supportive records, accounts, subaccounts, and traffic and other data will be examined. USOA revisions should also provide us with data, records and accounts for waiver process reconciliation and accounting.



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28. We note that the use by carriers of projections and forecasts of changes in demand have logically provided management with the basis for budgeting, committing and disbursing capital for the installation of facilities used to provide service. When expended, these costs become embedded, and associated expenses such as depreciation, maintenance and general and administrative are incurred. See id. at 633. This is the underlying philosophy of historical cost causation embodied in our prescribed methodology. The carrier may base its rates on the datum mix of embedded and forecast plant requirements to meet projected changes in demand. Subsequent analysis of experienced—use plant data (revised Method 1-type data) will provide the basis to determine the accuracy of forecasts. Thus, although ultimately accountable for its pricing decisions, management is given the flexibility to forecast future plant requirements and calculate rates, in part, in relation to these forecasts. Method 7 envisions allocation and attribution at the inception of this causal chain. Thus Method 7 was found to reconcile best the divergent needs of flexible management decision-making and public accountability.[15]

29. The carrier's rate base investment is distributed to a facilities datum by service category on the basis of both current and projected use:

> The method to be used for the allocation of facilities costs * * * must be one of assigning such facilities on the basis of historical causation to all services * * *. [T]he carrier must provide evidence of causation for facilities currently in place.* * * Projected usage is important here * * *. This process will constitute a 'datum' which will provide the basis for future [rate] actions * * *. [F]acilities * * * which are directly attributable shall be assigned to the respective services. Newly completed common facilities shall be assigned to the pertinent service categories on the basis of the projected circuit use accounted for by each service. We believe that such a procedure most closely parallels the concept of historic cost causation. 61 F.C.C. 2d at 664–5; footnote omitted.

While the revised methodology we have prescribed is intended to maximize the use of cost-of-service principles, assuring the fullest possible extent of attribution and cost assignment to each tariffed category of service, we view specific allocation procedures as continually subject to evolution and refinement in accordance with our guidelines, principles and standards.[16] It is a "dynamic, continuous process." Id. at 665.

30. In sum, the substantive record support for FDC Method 7 is evident from our Decision. Id. at 642–48. We specifically approve the allocative basis of historical cost responsibility, over time (*id.* at 642–643) with its inherent retrospective and prospective aspects. We have noted that the causational features of Method 7 appear ostensibly to incorporate some of the attractive characteristics of marginal costing, particularly since it incorporates the feature of "projected service usage * * * into an FDC framework." Id. at 646.

A. THE SELECTION OF METHOD 7 OVER METHOD 1

31. Western Union, USTS and MCI advocate the selection of Method 1 over Method 7 as the applicable costing standard. This was the methodology before us on recommendation of the Chief of the Common Carrier Bureau (see, Recommended Decision of the Chief of the Common Carrier Bureau, released January 19, 1976).

32. Our choice of Method 7 over Method 1 as the standard for cost of service analysis is supported by "substantial evidence." *Cf., Nader* v. *F.C.C.*, 520 F. 2d 182, 199, n. 17, 204, n. 23 (D.C. Cir. 1975). Comparatively speaking, FDC Method 7 possesses all the attributes of our statutory objectives and responsibilities, without Method 1's inherent shortcomings. In particular, it will further the efficiency, innovation, fair competition and accountability objectives stated in the Decision. As revised, Method 7 will use forecast data and causational cost allocation mechanism which should closely correlate with efficient management decision-making processes. 61 F.C.C. 2d at 614–15, 645–46. Causational aspects incorporated into the facilities datum permit the tracking of management plant assignment decisions over time and their alignment with actual results. Id. at 644–49. By way of contrast, Method 1 intrinsically relies on information of a past or historical context. Total reliance on information of this type as the basis of tariff filings cannot reflect all aspects of an efficient decisional process, nor provide management with the proper costs and criteria with which to compete in the marketplace. We have recognized the value of retrospective experienced-use information for accountability purposes as a check on the prospective plant assignment process. Id. at 667. However, this limited use of such data does not deny that "our primary FDC Methodology for the determination of the justness and reasonableness of rate levels and the rate relationships will be based on the logic of historical cost causation." Id. at 667. Principles of carrier accountability, fixity through the datum device and equity ring clear throughout our Decision. See, e.g., id. at 662–67. Our Decision holds promise of rest and repose over long-pending costing controversies. It incorporates elements of marginal cost pricing without sacrifice of the regulatory advantages of verifiable, fully distributed cost data. We thus expect our Decision to facilitate[17] and expedite future rate proceedings before us. Id. at 665.

33. In summary, while Method 1's inherent shortcomings illustrate that it cannot fix cost responsibility prospectively as can Method 7, we, as noted above, have not "discarded" experienced-use information derived from Method 1. We will periodically compare experienced-use-based assignments of plant to historic causation assignments for evidence of "gross imbalances." Id. at 665, 667. In the final analysis, we shall determine the validity of datum plant assignments upon periodic examination (id. at 665) using Method 1 type data in the context of return levels.

[15] These concepts taken together underlie our Decision. Management retains the right to make investment, service offering and other decisions in the interests of its stockholders and investors, but remains accountable for its rate and pricing actions as it would within a strictly competitive marketplace. Use of revised Method 7 procedures provides a surrogate for the marketplace and its public interest aspects. 61 F.C.C. 2d at 609–12. We have recognized that investment and facility allocation decisions are fundamental to this objective, and have directed the establishment of a facilities datum and the reconciliation of forecast data and actual plant usage data. These reconciliations will be made part and parcel of our actions regarding subsequent facility construction applications and will be incorporated into our examination of the actual utilization of facilities in place. Id. at 664–65. It will include review of plant utilized by the carriers themselves such as test and administrative circuits. USOA revisions made in conjunction with our intended rulemaking in this area should also provide us with data to assess the appropriateness of service category definitions.

[16] Ratemaking approaches may not be rejected for lack of perfection as some parties imply in their petitions. We have chosen a methodology which is reasoned, nonarbitrary and best capable of achieving our objectives under the Act. Further, we envision that Method 7 will more precisely fix cost-responsibility as it evolves over time. *See, National Association of Greeting Card Publishers* v. *United States Postal Serivce*, ---- F.2d ---- (D.C. Cir. Slip. Op. No. 1856, Decided December 28, 1976) at p. 43.

[17] Within the context of return levels, this process logically envisions comparison of Method 7 datum plant assignments and experienced use data (i.e., a comparison of forecast and actual results), with expenses and revenues held constant for this purpose. Enough data will be provided to allow for the comparison of cost causational and experienced use-based return levels. Comparison of return levels will indicate "gross imbalances" and thus provide signals as to whether plant assignment revisions among the datum categories are warranted. It is expected that the procedures for performance of revised Method 7 studies will maximize all opportunities for cost causational attribution of direct (nonfungible) and other expenses. Consequently, it is expected that such procedures will be the only basis for attribution of expenses. The Commission, sua sponte, carriers and other parties may propose and submit evidence respecting datum assignment revisions. 61 F.C.C. 2d at 665. Redistribution of plant assignments will be handled so as to preserve the datum's assignment integrity. As a result of the reconciliation process actual assignments may supersede causational assignments to the extent that a proper showing has been made. Id. at 612, 641 and 662. Where applicable, gross imbalances will be estimated in terms of their cumulative historical revenue requirement effects. The carrier will then present a plan to redistribute future revenue requirements in such a way as to eliminate these effects over time.





34. Certain revisions to Method 7 costing procedures of record (see Bell Exh. T–9 and T–10) were indicated. We found, for example, that Method 7 must be made more consistent with a true historical causational base, that it must be made less susceptible to managerial interpretation and manipulation and that the procedures employed must be generally clarified and delineated to our satisfaction. Id. at 646–47, 664–65. We thus directed Bell to develop acceptable forecasting techniques and, in consultation with the staff of the Common Carrier Bureau, appropriately revise Method 7 costing procedures and Method 1. Id. at 591. The staff was directed to report the results of the consultations to us within three months. Id. at 668.

B. THE EXTENT OF PRESCRIPTION AND THE DIRECTIONS TO THE STAFF

35. We now consider, in connection with the extent of our prescription, questions raised respecting Bell's consultations with the CCB staff and the status of Bell's FDC Implementation Manual. As indicated, in prescribing FDC Method 7 we observed that, as then constituted, it admitted of certain infirmities. Accordingly, we prescribed specific guidelines for the revision of Method 7 (see, e.g., 61 F.C.C. 2d at 667) and directed consultations between the carriers and the staff (id. at 668) so that the carriers would obtain a clear understanding of the Decision and consequently effect the revisions we ordered.

We now discuss contentions that the consultations were an improper delegation of authority properly residing only in this Commission. It is claimed by some parties that the contents of the FDC Manual more properly belong in our Decision or, in the alternative, that the process by which Bell consulted with the staff to develop the Manual should have included the several parties to Docket 18128 as active participants.

36. We make clear that the specifics of the manual will be subject to our full scrutiny. We have not, as some parties contend, "accepted" the manual. It was the report of the Cost Analysis Task Force that we "accepted." "Order" (F.C.C. 77–110), released February 14, 1977. We stated then, and affirm now:

> The burden of justifying rates and costing techniques remains with Bell in accordance with statutory and legal standards. The results of the consultative process are thus not binding on the Commission or on staff elements charged with rate evaluation and hearings; rights and remedies related to the rates filed in compliance with our Docket 18128 Decision are subject to our Rules and Regulations. Ibid.

37. The manual was the subject of a report by the Cost Analysis Task Force established by the Chief of the Common Carrier Bureau for compliance with paragraph 241 of our Decision. 61 F.C.C. 2d at 668. The report describes, in general terms, the content of the FDC Implementation Manual, but the manual itself was not transmitted, nor is it otherwise before us at this time. The report states that the manual will underlie the rates Bell has been ordered to file under our Decision. Claims respecting the specifics of the FDC Implementation Manual and its conformance to the Decision will properly be before us in connection with Bell's tariff rate revisions, based on the manual. Until such time, contentions addressing the manual are premature. When filed, Bell's tariff rate revisions are underlying support (including its FDC Implementation Manual) will be subject to all rights and remedies under the Act, our rules and regulations and governing decisional law.

38. The delegation to the staff was wholly proper. See § 0.291, 47 CFR 0.291. Specifically, our delegation to the Common Carrier Bureau under § 0.91(e) and (g) of our rules and regulations, 47 CFR 0.91(e)(g), includes advising and assisting members of the public and the carriers on Commission policy and regulations. The Bureau also may obtain from the carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created. This constituted the extent of the staff's authority. The staff had no power to bind this Commission.

39. Effecting the necessary rate revisions in relation to full costs to comply with our Decision remains within the purview of the carriers' management. Neither the record nor any specific costing methodology before us was at a level of perfection to allow the specific prescription of rates. We therefore have not exercised our full prescriptive powers under the Act. We have not disturbed the presumption of carrier-made rates on which Sections 201–204 of the Act are bottomed. For the future, it appears that the Commission's capability to prescribe rates will be enhanced by refinement and implementation of the costing principles in our Decision. At the present we see no reason to prescribe specific rules of allocation. Such rulemaking could, of course, be undertaken if future circumstances warrant.

40. We also reject contentions raised by Bell's customers and competitors respecting the right actively to participate in the consultative process. In the report of the Cost Analysis Task Force (p. 2) it is stated that:

> Bell and its partners actively participated with the staff at these meetings. Bell's customers, competitors and others were permitted to attend and observe, but not participate, because the consultative process involved the formulation of revised cost allocation procedures, which in turn, were to be used to support revised rates and charges.

41. As reported by the Cost Analysis Task Force, the consultations between Bell, its independent telephone company partners and the staff were open to the public. Minutes of the meetings were maintained and distributed to all those interested in the consultations. Report of the Cost Analysis Task Force, p. 3. Comments and suggestions were taken from the non-participants at various stages. Id. at p. 2. Those interested in challenging Bell's revised rate levels will be able to use the knowledge gained from these public consultations when the rates employing the manual are before us. We find that the extent of participation and observation afforded Bell's customer's and competitors was fair and appropriate under the circumstances and consonant with clear market rules."

III. THE LAWFULNESS OF BELL'S BULK DISCOUNT PRIVATE LINE TARIFF (TELPAK) UNDER SECTION 202(a) OF THE ACT

42. We are urged to reconsider our Decision that Bell has not met its burden of proof under section 202(a) of the Act on the lawfulness of TELPAK, a tariff category which offers private line service at a discounted, bulk rate.[19] We required Bell to justify its discriminatory pricing technique, nationwide in character, by meeting the "competitive necessity test." The test has two criteria:

> (1) That those benefiting from the discriminatory pricing have an alternative of satisfying their communications requirements from a substitute source of supply and that they will shift to the substitute source unless the discrimination is maintained (the proper competitive response criterion); and
>
> (2) That the discrimination benefits the users of the carrier's services who are discriminated against, i.e., charges to other users are lower because of the discriminatory rate than they would be without such rates (the compensatory beneficial criterion.[20]

We found under the first criterion that the record in this proceeding failed conclusively to demonstrate "that the TELPAK offering as presently structured, constitutes a proper response to the extent of competition posed by private microwave," and that "while growth in specialized carriers and satellites might justify (TELPAK as a proper) competitive response in the future, this uncertain probability is not sufficient to justify the present TELPAK offering."[21] It is thus evident that our concern was with the specifics of TELPAK as a pervasive and ubiquitous response to the actual threat of competition from private microwave and specialized common carriage. We ordered that TELPAK in its present form be terminated, although Bell was afforded the opportunity to file another bulk offering (a replacement for TELPAK) consistent with our Decision.[22]

[18] We have stated that "clarification of market rules" (61 F.C.C. 2d at 615) in furtherance of our Specialized Common Carrier Decision, 29 F.C.C. 2d 870 (1970) was a "major objective." In such Decision, we put parties on notice of "our objective to promote and maintain an environment within which existing and any new carriers shall have an opportunity to compete fairly and fully in the sale of specialized services. Our ratemaking and regulatory policies and practices will be appropriately adapted to accomplish this objective" in Docket 18128. Id. at 915–16.

[19] Those requesting reconsideration of our TELPAK holding are Bell, DoD, AIA, ARINC and ATA.

[20] 61 F.C.C. 2d at 653.

[21] *Id.* at 658.

[22] *Id.* at 659.



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43. Reconsideration is urged on two grounds: (1) That there was not a substantial record basis for our holding and (2) that there was insufficient notice of the continued pendancy of the proper competitive response criterion. The parties state that the return levels for TELPAK supported a finding of lawfulness under the zone of reasonableness test we applied under section 201(b) of the Act [24] to Bell's other services. Since we had held TELPAK unjustified by competitive necessity, we did not rule on whether its return level was lawful.

44. We state at the outset that our Decision's holding on the lawfulness of TELPAK as a specific response to private microwave and private line competition finds ample support in the record. We note with concern, however, that the largest TELPAK customers (ARINC, ATA, AIA and DoD) [25] contend that our 1964 TELPAK decision [26] and certain subsequent orders indicated that we would consider only the compensatory/beneficial criterion of the competitive necessity test. They claim that they were not on clear and proper notice that the lawfulness of TELPAK as a "response" to competition continued at issue and that the evidence they presented on private microwave costs was directed solely to the compensatory/beneficial criterion.

45. The parties state the following as the basis for their notice claims. In 1964, when we first considered the TELPAK tariff in Docket 14251, we found "apparent competitive necessity" for the TELPAK C and D classifications.[28] We then held that the record in Docket 14251 would remain open to receive additional evidence on the question whether the rates therefor were compensatory.[27] During the twelve years between 1964 and our instant Decision, we issued orders by which we consolidated Docket 14251 with Phase 1-B of Docket 16258; [28] we then consolidated the latter with Docket 18128.[29]

46. These and other orders contained language that the compensatory/beneficial criterion would be the primary focus of these further hearings, although we placed the lawfulness of TELPAK in general at issue under Section 202(a) of the Act.[30] The customer-petitioners argue that these orders did not put them on adequate notice of our intended ruling. Other parties maintain, however, that they were on notice; MCI claims notice was evident and Western Union states that the issue was encompassed in "broad statutory terms." [31] Indeed, even Bell offered findings on the issue.[32]

47. We believe our 1968 Memorandum Opinion and Order [33] designating the issues to be addressed in this proceeding was intended to encompass the overall lawfulness of the TELPAK rates under any rationale, including whether it was a proper response to competition. The record demonstrates that at least a number of major parties were aware of its scope and in fact argued the issue of competitive alternatives/responses. The evidence presented on private microwave costs, though relevant to the compensatory/beneficial criterion, is also directly related to the proper competitive response criterion. Furthermore, we cannot accept an interpretation of our 1964 TELPAK decision [34] to the effect that the proper competitive response criterion was settled in perpetuity at that time.

48. We recognize, however, that confusion on this point may have resulted from differing statements contained in orders issued during this somewhat convoluted and protracted proceeding.[35] We shall on this ground reconsider the matter of TELPAK's lawfulness as well as whether the return levels on these discounted rates fall within the zone of reasonableness.

49. Consequently, we set aside, and accordingly stay our Order requiring Bell to eliminate TELPAK by June 8, 1977 (61 F.C.C. 2d at 668) and will conduct an expedited hearing on the question of TELPAK's lawfulness in general under sections 201(b) and 202(a) of the Act.[36]

50. In this connection, we reiterate the bases upon which the propriety of private line bulk discount rates will be judged.

51. In our 1964 Tentative Decision respecting TELPAK [37], we stated that differences in rates directly attributable to differences in the cost of furnishing volumes of circuits vis-a-vis the other services, may justify a rate differential. *Id.* at 377, 379. We there concluded that TELPAK and the other private line services are like communication services, and that there were no material cost differences between such services furnished under TELPAK on a volume basis and those furnished under other private line tariffs on a circuit-by-circuit basis. Id. at 381.[38] In the absence of cost justification for the rate differentials between providing a like service in bulk or an individual circuit basis, rate discriminations may also be justified by meeting the competitive necessity test. Id. at 376. These holdings are consistent with our current holding that any bulk rates recover full cost over time and that competitive necessity may constitute the basis for a grant of a waiver. See 61 F.C.C. 2d at 659. Thus in the private line context in order for a carrier which provides both monopoly and competitive services to justify a discount rate to volume users of a private line service which is "like" non-discounted private line services, the following must be proved:

(1) The discriminatory bulk discount classifications must be cost justified, i.e., it must be proved that there are material cost savings associated with provision of the service on a volume basis.

(2) The discount rate must be an exact reflection of such cost savings and must also be targeted to recover full costs on an FDC Method 7 basis.

(3) Absent proof of cost justification or upon departure from FDC Method 7 based rates which mirror actual cost savings, no discriminatory discount rates may be filed absent a waiver. Waivers may be granted upon proof that the rate differential is required by competitive necessity.

Thus the carrier is afforded the opportunity to compete fully and fairly in the competitive intercity private line marketplace evolving under our Specialized Common Carrier and Domestic Satellite Decision.[39]

52. It is important to point out that cost differentials must be real and documentable. They cannot result from a fractionalization of demand, but must result from true cost savings associated with offering service in bulk. Discounted rates must be in proportion to actual cost savings and targeted to yield the company's authorized level of return. Other rates which may yield such a return, but are not tied to actual cost differentials, would not be acceptable. The appearance of having attained a lawful level of return cannot be sustained by "artificial and unwarranted service category structure" (61 F.C.C. 2d at 659). The same would be applicable to manipulations of "demand factors." Ibid. "Like services are not made different services merely because the level or structure of rates is different." 38 F.C.C. at 1114.

53. We now turn to the issue of whether the Telpak rates are compensatory, which we did not reach in our October Decision. It is argued that inasmuch as the indicated TELPAK return levels for the twelve months ending September 30, 1975 were 8.5 percent under FDC Method 1 and 12.6% under FDC Method 7,[40] the TELPAK rates at that time were not unjust or unreasonable in relation to Bell's overall return level of 8.5%.

[24] *See id.* at 649–50.

[25] Bell joins the user-parties only in asserting that the record proves that TELPAK is a lawful discrimination.

[26] 38 F.C.C. 370, 395, 37 F.C.C. 1111 (1964), aff'd sub nom. American Trucking Ass'ns v. F.C.C., 377 F.2d 121 (D.C. Cir. 1966), cert. denied, 386 U.S. 943 (1967).

[27] 37 F.C.C. 1111, 1118–19 (1964)

[28] *Id.*

[29] 7 F.C.C. 2d 30, 31 (1966).

[30] 18 F.C.C. 2d 761, 764–65 (1969).

[31] 13 F.C.C. 2d 853, 858 (1968).

[32] Western Union Opposition, pp. 4–5.

[33] AT&T Proposed Findings and Conclusions, March 12, 1973, p. 365.

[34] *AT&T*, 13 F.C.C. 2d 853 (1968).

[35] 38 F.C.C. 370, 37 F.C.C. 1111 (1964), aff'd sub nom. American Trucking Ass'ns v. F.C.C. 377 F. 2d 121 (D.C. Cir. 1966), cert. denied, 386 U.S. 943 (1967).

[36] See generally: 38 F.C.C. 370 (1964); 37 F.C.C. 1111, 1118–1119 (1964); 6 F.C.C. 2d 177, 180 (1966); F.C.C. 68–388 (April 10, 1968); 13 F.C.C. 2d 853, 858 (1968).

[37] 47 U.S.C. §§ 201(b), 202(a) (1974).

[38] 38 F.C.C. 370, 37 F.C.C. 1111 (1964), aff'd sub nom. American Trucking Ass'ns v. F.C.C. 377 F.2d 121 (D.C. Cir. 1966), cert. denied, 386 U.S. 943 (1967).

[39] See also 37 F.C.C. 1111 (1964).

[40] 29 F.C.C. 2d 870 (1971); 35 F.C.C. 2d 844 (1972).

[41] *See* Bell Brief in Support of Exceptions, Appendix A.





54. The problem with this line of reasoning is that it begs the basic question before us of the proper allocation of costs as between TELPAK and like communication services (i.e., Series 2000 and 3000 private line services). We previously found that TELPAK was a like service (38 F.C.C. at 381) provided on a fungible basis via the same facilities and exhibiting the same basic costs as Series 2000/3000 services. Thus the TELPAK discount rate could only produce a higher actual return level than Series 2000/3000 services if (a) there are in fact significant cost savings in the bulk offering which were not evident in our previous determination or (b) there is in fact an "artificial and unwarranted service category structure" resulting in a fractionalization of demand. The record before us in the present proceeding does not provide the necessary segmentation and justification of costs as between like services provided uder the TELPAK rate and those provided under the Series 2000/3000 rate to enable us to determine whether one or another of these factors is responsible for the indicated TELPAK return level. Absent such a determination, the lawfulness of the TELPAK rates or indicated return simply cannot be established.

55. We are mindful that Bell has filed a tariff revision cancelling TELPAK. Bell states that its reasons for this action are our Decision's holding that TELPAK was unlawful and Bell's own conclusion that:

> The imposition of unrestricted resale and sharing substantially changes the revenue/cost relationship for the TELPAK offering • • •. Thus, as we have pointed out (Transmittal No. 12714), TELPAK simply cannot continue in a resale and sharing environment. Bell Reply to Oppositions to Petitions for Reconsideration, p. 8; citations omitted.

In view of our grant of reconsideration, Bell is no longer under order to eliminate TELPAK. To this extent we stay and nullify paragraph 242 of our Decision. 61 F.C.C. 2d at 668. Consistent with this ruling we have waived § 61.59 of our rules and regulations to permit Bell to withdraw the tariff revision canceling TELPAK should Bell wish to do so. See our Memorandum Opinion and Order, F.C.C. 77–384, adopted June 2, 1977. In view of the uncertainty whether Bell will continue to offer TELPAK we must point out Bell's obligations. Pursuant to our Decision Bell was to file rates and rate levels in compliance with the Decision in all service categories. 61 F.C.C. 2d at 668. TELPAK, which we previously found unlawful, was exempted, although another replacement bulk offering could have been filed. Since Bell is no longer obliged to terminate TELPAK pursuant to our order and it may, at its option, continue to provide these discount rates, the TELPAK return levels must be adjusted to comply with our Decision. If the existing rates and classifications are continued, they must be shown to be lower, as stated previously, on the basis of actual cost differences from like private line services not offered in bulk and must also be targeted to yield the company's overall return. It is clear from our 1964 finding of "no material cost differences" (38 F.C.C. at 381) and the lack of any subsequent evidentiary offerings on this point that further expedited hearings would be necessary if TELPAK in its present form is to be continued, or if the present rates do not meet our full cost standard and have to be refiled to comply with same. In such event, in the context of the return level for all private line services, Bell will have to demonstrate actual cost savings and the ability of its new rates to meet the targeted return. If Bell seeks to depart from full costs we would entertain expedited proceedings under the competitive necessity test as a basis for a grant of a waiver. (This would be without prejudice to other bases that might be presented to justify a waiver.) We find in view of "Nader v. F.C.C.," 520 F. 2d 182 (D.C. Cir. 1975) that any further hearing to be held be on an expedited basis as follows:

First, a separated trial staff will be designated to conduct the proceedings. Second, the Chief Administrative Law Judge will forthwith appoint an Administrative Law Judge to preside over these proceedings and to establish and adhere to an expedited schedule with direct certification of the record to the Commission for decision.[42] Third, the parties are instructed to limit their proof to matters not already in the record. Several petitions assert that certain studies on which our Decision was based are "out of date." Any new studies or submissions must therefore be shown to be based on data which will not be similarly criticized. We direct the parties and the Administrative Law Judge to adhere strictly to the rules of relevancy in this regard.

We note that it has already been established that TELPAK is not a separate service employing separate facilities or experiencing wholly separate costs from other private line service. See 38 F.C.C. 370, 381 (1964); 61 F.C.C. 2d at 659. Thus, any attempt to prove that TELPAK is compensatory must first demonstrate how its costs differ from other private line services which have been determined to be non-compensatory. If Bell seeks to justify departures from full costs on the basis of competitive necessity, the following sets forth the standard to which evidence on this question should be directed.

56. To justify rate discrimination on the basis of competitive necessity, the carrier must evince the existence and extent of alternative telecommuncations supply sources, on a route-by-route basis, citing demand, production, financial and other considerations which would impact these sources feasibility. The carrier should address alternative supply sources such as private microwave system (PMW) or other private line alternatives. It must be shown that a particular user's or user group's internal demand, in terms of its absolute size, variability, and growth characteristics, is economically sufficient to justify any cited alternative. Demand by route and length of haul must be demonstrated as well as economic considerations, service quality, reliability and flexibility determinants. On the supply side, the ability and willingness of the individual user or user group to build, operate and maintain a PMW system must be demonstrated. In this regard, it must be shown that specialized equipment is available in the quantity and quality desired, and within the relevant time frame. Further, a definitive route-by-route plan to satisfy the user's projected telecommunications needs must be made, including right of way and site, frequency, duct, or other congestion considerations. Financially and as a matter of policy, the ability and willingness of a user to undertake alternatives commit funds, and bear any risks of obsolescence must be manifest. Users should demonstrate the availability of necessary lines of credit, external equity, or internal financial sources of funds sufficient to develop and employ alternatives. The need for and availability of specialized services from other common carriers must be demonstrated in the light of the above criteria, if such services are being considered as alternatives to TELPAK.

57. Petitioners also assert that our 1964 TELPAK decision was res judicata and cannot be disturbed. It is claimed that we are barred from deciding the question whether TELPAK is a proper competitive response in today's marketplace. While this argument was raised in the context of our October Order's finding that the TELPAK discrimination had not been justified in terms of this criterion, we recognize this same issue in the context of rehearing. Accordingly, we hold that res judicata does not apply herein, and that our finding twelve years ago of "apparent" competitive necessity should not be forever binding or prevent renewed consideration of this question.

58. Our past decisions on the lawfulness of TELPAK were ratemaking and as such an action under our delegation of legislative power. Res judicata has been held not to apply to an agency's legislative action in the context of rate cases. The Supreme Court has stated as early as 1929 that "[a] rate order is not res judicata. Every rate order may be superseded by another." "Tagg Bros. v. United States," 289 U.S. 420, 445 (1929). Other federal appellate cases support our determination that we are not barred from reconsidering our 1964 decision. "Borough of Lansdale, Pa. v. Federal Power Com'n," 404 F.2d 1104 (D.C. Cir. 1974) discusses whether summary "rejection" of a rate schedule should preclude refiling and reconsideration of the schedule in a subsequent proceeding. Noting that the case presented a probable error of law, the Court stated:

> • • • [T]he appropriateness' of a rate schedule typically depends on factual circumstances and policy considerations which change drasticaly, and often quite rapidly

[42] We find that due and timely execution of our functions imperatively and unavoidably requires that an initial decision by the Administrative Law Judge be omitted. See U.S.C. 557(b)(2) (1976).



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over time. A doctrine barring all reconsideration would seem contrary to sound regulatory policy. 404 F.2d at 1115, n. 45.

59. ARINC cites *United States* v. *Utah Construction and Mining Co.*, 384 U.S. 394, 424 (1966) as authority for its position that we are bound by res judicata. The case reveals, however, that the administrative action must be one of adjudication in a "judicial capacity," not legislative action. Cf., *Arizona Grocery* v. *Atchison Ry.*, 284 U.S. 370, 387 (1931).

60. Further, a decision must be final and on the merits before it may constitute a bar to later proceedings.[45] Our tentative decision in the original TELPAK proceeding was not a final decision. Subsequent orders state that due to an insufficient evidentiary showing we were unable to decide whether TELPAK C and D were compensatory and ordered that the record in Docket No. 14251 remain open to receive further evidence on this question.[46] Moreover, we reject statements by Bell and other petitioners that the 1964 decision was "court approved" in the *American Trucking* case and therefore could not be altered or reconsidered in subsequent Commission orders. That decision did not reach our findings as to TELPAK classifications C and D which are now at issue, but only our holding on the "like services" question and the lawfulness of classifications A and B:

> [S]ince the disposition of sections C and D of the Telpak tariff is not before us on this appeal, we need not consider this phase of the matter. *American Trucking Ass'ns* v. *FCC*, 377 F.2d 121, 129 (D.C. Cir. 1966), cert. denied, 386 U.S. 943 (1967).

We accordingly find that res judicata would not bar reconsideration of TELPAK's lawfulness as a proper response to competition.

61. In conclusion, on reconsideration we find that the Telpak discounts, now subject to termination at the carrier's option, have not yet been justified on the basis of either a cost differential, an overall return level, or competitive necessity. Such justification will be the subject of the further hearings we are ordering herein.

## IV. The Lawfulness of Other Rate Actions

### A. Teletypewriter Station Equipment Rates and the Telpak Telegraph/Telephone Equivalency Ratio

62. ARINC (Petition, pp. 20–21) requests that we decide the lawfulness of rate increases for (1) teletypewriter station equipment rates and (2) the reduction in the Telpak telegraph-to-voice equivalency from 12:1 in the original Telpak rates to 6:1 in the September 1968 rates to 2:1 in the present Telpak tariff.

63. The teletypewriter station equipment rates at issue in this proceeding became effective on November 1, 1968. A list of these rates and the earlier rates which they superseded is found in Bell's Proposed Findings on pages 282 and 283. Bell's justification for its choice of rates is set forth in Bell's Exhibit 7 and proposed findings (pp. 278–88). Cost studies were also offered as justification (Docket 16258: Bell Exh. 24A, 24B, 46; FCC Staff Exh. 38, Tab 4) as well as evidence on competitors' products and prices in relation to some of the Bell equipment subject to the rate increase.

64. Bell relies on Full Additional Costs (FAC), the predecessor of LRIC (see Docket 18128, Bell Exh. 3, p. 4) to justify these increases. Bell P. F., pp. 280–81. The infirmities of LRIC, which we have detailed in our Decision (61 FCC 2d at 632–33), are also present in FAC. FAC as a costing methodology is not sufficiently reliable to provide adequate justification for the specific tariff changes at issue. Bell performed a FAC study to support the teletypewriter exchange equipment increases. As ARINC pointed out (ARINC P. F., pp. 119–20), this study is seriously flawed; therefore, even if the FAC methodology was satisfactory, for the reasons observed by ARINC the study itself is unacceptable. Accordingly, Bell has not met its burden of proof and the subject rate increases are found unlawful.

65. Bell claims that the changes in the TELPAK telegraph-to-voice equivalency ratio are completely justified (Bell Opposition, footnote p. 4). ARINC, on the other hand, claims that by changing the number of telegraph channels per voice channel available to a customer, AT&T has "hidden" a significant rate increase. Bell has attempted to justify this (Bell Exh. 2, pp. 30–34) on the basis of increased telegraph terminal costs, and a "rationalization" of the TELPAK rate structure with the stated objectives of reducing "churning" of facilities and services, encouraging efficient use of transmission capacity within each voice-grade channel and equalizing the revenue-cost relationship (on a LRIC basis) of the telephone and telegraph portions of the offering. (See Bell P. F., pp. 219–23)

66. We find that the changes in the ratio had the effect of a rate increase and that the evidence offered by Bell is insufficient to justify this rate increase. Bell's arguments concerning the purported problems with the rate structure and the need to correct them (its "rationalization") are without proper support in the record. The evidence represents only Bell's judgment, without the underlying facts. The effect on customers and the market in general are not addressed in any meaningful fashion (e.g., no substantive market studies of the effects of such changes were offered). Further, the LRIC-based cost estimates are found invalid in the light of our Decision.[47] We therefore hold these tariff changes unlawful, and require that they be refiled under Method 7. Costs for individual rate elements must be derived on a Method 7 basis. While we do not require at this time that the rates for particular tariff components be designed to yield the allowed overall rate of return, we note that such matters are subject to determination in other proceedings such as Docket 19149.

### B. The May 4, 1972 Rate Increases

67. On December 6, 1971, AT&T filed rate revisions to its private line telephone, telegraph and TELPAK rates. These revisions went into effect on May 4, 1972. ARINC (ARINC P.F. pp. 122–24), UPI (UPI P.F. pp. 8–10) AP (AP P.F. pp. 5–11) and other parties have requested a determination on the lawfulness of these rate changes, particularly installation charges, terminal equipment charges and CCSA charges. These are rate element questions, as opposed to questions of the overall return level of a particular service. We affirm our findings that the present return levels for private line telephone and private line telegraph are deficient. 61 FCC 2d at 651, 652. Further, the past earnings of private line telephone were inadequate and private line telegraph showed mixed results. Id. at 652. We did not reach the question whether TELPAK is compensatory, although we found no basis to order refunds based on the facts before us (id. at 659) and we have now ordered rehearing.

68. The pertinent question, however, is the just and reasonable nature of increases in specific rate elements of these tariffs. Although the overall return levels were not excessive, it is still possible that the rates for certain tariff elements were not justified. Users or classes of users who have a greater need for particular rate elements may have borne a disproportionate share of the total cost of the service and may have been discriminated against. Therefore, we must still reach the question of specific rate increases, even though the overall return level of a service was deficient.

69. In this instance too, AT&T has relied largely on long-run incremental costs and its attendant burden test to justify the pricing changes in these rate elements (see Bell P. F., pp. 223–330). The deficiencies of LRIC make such studies unacceptable as justification for the increased charges. Therefore, we hold these rate changes unlawful, to the extent that Bell has not met its burden of proof in justifying these rate elements.

70. For the future we expect Bell to provide costs developed according to Method 7 principles and to refile its rates and supporting material in accordance herewith. Rate elements, unlike the overall service categories, need not be placed to yield the overall allowed company-wide rate of return at this time. However, as we noted above, the matter of return levels for particular rate elements is subject to determination in other proceedings.

[45] See United States v. U.S. Smelting Co., 339 U.S. 186, 198–199 (1950).

[46] 37 FCC 1111, 1118–19 (1964).

[47] We noted in our Decision that there may be possible applications for marginal cost pricing (61 FCC 2d at 587, 626) subject to certain conditions. However, Bell's proposed LRIC did not constitute an acceptable application of marginal costing principles.





## V. Additional Issues

### A. Consistency of Dockets 18128 and 19129

71. USTS asserts that our use of Method 7 is inconsistent with our holding concerning plant under construction in Docket 19129. In Docket 19129, we found that "public interest considerations require that those who receive the benefits of certain investment items should pay the associated costs at the time the benefits accrue."[48] USTS contrasts this statement with the historical cost causation-based Method 7, which USTS claims "disregards the question of assigning plant responsibility to the current ratepayers using that plant irrespective of what the company's intention was at the time it was constructed."[49] We find USTS' contention without merit. Method 7 fully distributed costing allocates the full costs of service for a test year. The funding in Docket 19129 cited by USTS refers to the criteria for allowing plant under construction into the rate base. Determination of the rate base and Method 7 allocation are serial. The rate base is determined first, then it is allocated to the various service categories under Method 7. We perceive no inconsistency between the two decisions.

### B. The "Accommodation Theory"

72. ATA has requested that we give further consideration to its "Accommodation Theory" presented as an alternative to Bell's LRIC Method. Briefly, the "Accommodation Theory" sets a rate ceiling for monopoly services and a rate floor for competitive services. The competitive services must be priced at least to cover the long-run incremental costs attributed to them on a cost causation basis. The monopoly services may cover up to the remaining costs of the firm's operation. The monopoly service ceiling is equal to the competitive services. This purportedly protects the monopoly users. If the competitive services earn more than their incremental costs, such contributions reduce the costs which must be recovered from the monopoly users. Revenue shortfalls caused by insufficient earnings by the Competitive services would be borne by Bell's shareholders.

73. We rejected the Accommodation Theory largely because it suffers from a number of the shortcomings of long-run incremental costs specified in our Decision. For example, it does not address the problems we have with LRIC in terms of equity, accountability, fair competition and clarification of market rules. See 61 FCC 2d at 609–18. Further, it has most of the characteristics of the "basic service philosophy" which we also rejected (id. at 634–38). It treats classes of users on an unequal basis and allows for the carrier's determination of which customers shall be considered the marginal users and thus given special rate treatment. While we observed that the Accommodation Theory has attributes of historical causation (id. at 661, n. 129) and some elements of accountability (id. at 638, n. 81) insofar as certain shortfalls may purportedly pass directly to Bell stockholders, we concluded that it was nevertheless inferior to FDC Method 7, for the reasons indicated.

### C. The Applicability of Method 7 to Carriers Other Than AT&T

74. Western Union, in its Petition (p. 5), claims uncertainty surrounding the application of Method 7 to itself "and other Bell competitors." We have already held Method 7 applicable to Western Union (61 FCC 2d at 668), at least insofar as determination of costs are concerned. The determination of the costs of Western Union's services is central to determining whether any interservice subsidies exist and, if so, whether they are lawful, as well as whether waivers from its full costs are warranted. Respecting the applicability of Method 7 to other carriers, this issue is not before us. We have, however, indicated our preference for this method and held it applicable to Western Union and Bell, multiservice carriers with both monopoly and competitive offerings.

### D. Refunds for TELPAK

75. We have been requested by a number of the user parties to determine whether the increases in the TELPAK rates during the pendency of this case were lawful and whether refunds are due in view of the indicated levels of return over time. Our Decision did not reach this question on TELPAK return levels in view of our holding that the specific TELPAK tariff constituted an unjustified competitive response. 61 FCC 2d at 659. On reconsideration we have found it necessary to hold further proceedings. Consequently, we set aside paragraph 243 of our Decision. Id. at 669.

### E. Preferential Rates for DOD

76. Preferential rates for DoD are not at issue in this proceeding. If DoD seeks preferential rates, it may appropriately petition the Commission under section 201(b) of the Act.

## VI. Order

77. *Accordingly, it is ordered*, That the Petitions for Reconsideration are granted in part to the extent indicated herein and otherwise, denied.

FEDERAL COMMUNICATIONS COMMISSION.[47]
VINCENT J. MULLENS,
*Secretary.*

[FR Doc.77-20492 Filed 7-15-77;8:45 am]

[47] Commissioner Hooks dissenting; Commissioner White concurring in the result.

[48] American Telephone and Telegraph Company, FCC 77-150, 64 FCC 2d ——, released March 1, 1977, p. 79, par. 149.

[49] USTS Petition for Reconsideration, p. 7; emphasis in original.

[Report No. 1063]

## PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULE MAKING PROCEEDINGS FILED

JULY 13, 1977.

| Docket or RM No. | Rule No. | Subject | Date received |
|---|---|---|---|
| 20813 | Parts 2, 13, 81, and 83 | Amendment of pts. 2, 13, 81, and 83 to implement changes in frequencies, operating procedures, technical standards, and other criteria relating to the use of radiotelegraphy in the maritime services adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974. Filed by Martin W. Bercovici, Attorney for Mobile Marine Radio, July 8, 1977 Inc. | |

NOTE.—Oppositions to petitions for reconsideration must be filed within 15 d after publication of this public notice in the FEDERAL REGISTER. Replies to an opposition must be filed within 10 d after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

[FR Doc.77-20493 Filed 7-15-77;8:45 am]

## FEDERAL HOME LOAN BANK BOARD

[H. C. No. 228]

### H. N. AND FRANCES C. BERGER FOUNDATION

**Receipt of Application for Permission To Acquire Control of Savings and Loan Association**

JULY 13, 1977.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the H. N. and Frances C. Berger Foundation, Arcadia, California, for approval of the acquisition of control of Sacramento Savings and Loan Association, Sacramento, California, an insured institution, under the provisions of Section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and Section 584.4 of the Regulations for Savings and Loan Holding Companies, said acquisition to be effected by the donation to the H. N. and Frances C. Berger Foundation by Mr. and Mrs. H. N. and Frances Berger, the sole stockholders of Sacramento Savings and Loan Association, of between 94 percent to 100 percent of the outstanding stock of Sacramento Savings and Loan Association. Comments on the proposed acquisition should



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be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20522, on or before August 17, 1977.

RONALD A. SNIDER,
*Assistant Secretary,*
*Federal Home Loan Bank Board.*

[FR Doc.77-20532 Filed 7-15-77;8:45 am]

[H.C. No. 227]

**NEW PARENT CO. AND D. H. BALDWIN CO.**

**Receipt of Application for Permission To Acquire Control of the Empire Savings, Building and Loan Association, Denver, Colo.**

JULY 12, 1977.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from New Parent Company, Cincinnati, Ohio ("New Parent"), a Delaware corporation, for approval of acquisition of control of The Empire Savings, Building and Loan Association, Denver, Colorado, through the acquisition of D. H. Baldwin Company, Cincinnati, Ohio, a registered savings and loan holding company, under the provisions of Section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and Section 584.4 of the Regulations for Savings and Loan Holding Companies. The proposal is to be effected by means of an exchange of common and convertible preferred shares of D. H. Baldwin Company for like classes of shares of New Parent. As an incident to the proposed transaction, the names of New Parent and D. H. Baldwin Company will be changed to D. H. Baldwin Company and DHB, Inc., respectively. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

RONALD A. SNIDER,
*Assistant Secretary,*
*Federal Home Loan Bank Board.*

[FR Doc.77-20475 Filed 7-15-77;8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. ER76-659]

**ALABAMA POWER CO.**

**Certification of Proposed Settlement Agreements**

JULY 8, 1977.

Take notice that Presiding Administrative Law Judge Michel Levant on June 3, 1977 certified to the Commission two Settlement Agreements tendered by Alabama Power Company (Alabama) on May 30, 1977.

According to the Judge the first Settlement Agreement is between Alabama and the intervening distribution cooperatives, and Alabama Electric Cooperative, Inc., and resolves all of the issues in this proceeding as far as those parties are concerned. According to the Judge the second Settlement Agreement is between Alabama and all of the intervening distribution municipalities, and Municipal Electric Utility Association of Alabama, and resolves all of the issues in this proceeding with respect to those parties.

The Judge indicates that Staff counsel has no objection to the certification of these settlements to the Commission.

Any persons wishing to be heard concerning said Settlement Agreements should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before July 18, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the agreements are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20509 Filed 7-15-77;8:45 am]

[Docket Nos. RP77-65, et al.; Docket No. RP77-74]

**ALABAMA-TENNESSEE NATURAL GAS CO., ET AL., EL PASO NATURAL GAS CO.**

**Hearing Date and Extension of Time for Filing Testimony**

JULY 7, 1977.

Pursuant to the directives prescribed in the Commission's order issued on May 11, 1977, in the above-styled proceedings, a hearing will be convened in the proceeding entitled El Paso Natural Gas Company, et al. in Docket No. RP77-74 on July 26, 1977.

It was not possible in our Notice of June 28, 1977, issued in these proceedings to make a factual determination that the convening of a hearing in the above-styled proceeding relative to El Paso Natural Gas Company (El Paso) was warranted. This was due to the fact that El Paso had not at that date filed the data requested in the latter order.[1]

El Paso on July 1, 1977, submitted some of the material requested by the Commission in its May 11, 1977, order in this proceeding. On July 1, 1977, it requested a further extension of until July 12, 1977, within which to file its supporting prepared testimony necessary to apprise the Commission of the problems that could confront it this winter. El Paso is granted until July 12, 1977, to file the aforementioned information with the Commission.

The hearing that we are convening herein for El Paso will convene as scheduled on July 26, 1977, in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 at 10:00 a.m. (E.D.T.).

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20499 Filed 7-15-77;8:45 am]

[1] On June 7, 1977, El Paso requested an extension of time for filing the information required by our May 11, 1977, order in these proceedings. By order issued June 10, 1977, the Commission granted it the requested extension for filing, i.e., until July 1, 1977.

[Docket No. ER77-466]

**ARIZONA PUBLIC SERVICE CO.**

**Cancellation**

JULY 7, 1977.

Take notice that Arizona Public Service Company (APS), on June 23, 1977, tendered for filing a notice of cancellation of its FPC Rate Schedule No. 18. APS indicates that this rate schedule was a Contract for the Sale of Power and Energy to the Arizona Power Authority (APA) and was cancelled at the request of APA.

APS requests an effective date of February 28, 1977, and therefore requests waiver of the Commission's notice requirements.

According to APS copies of the filing were served upon APA and the Arizona Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20500 Filed 7-15-77;8:45 am]

[Docket No. E-9597]

**CALIFORNIA-PACIFIC UTILITIES CO. AND NEVADA POWER CO.**

**Application**

JULY 8, 1977.

Take notice that on June 17, 1977 California-Pacific Utilities Company ("Cal-Pac") and Nevada Power Company ("Nevada") filed a joint application pursuant to section 203(a) of the Federal Power Act seeking an order authorizing the exchange of certain electric distribution properties or, in the alternative an order disclaiming jurisdiction over the exchange of properties.

According to the Applicants Cal-Pac is incorporated under the laws of the State of California with its principal business office at San Francisco, California and is engaged in the electric, telephone, gas distribution and water utility business in portions of the states of California, Arizona, Nevada, Oregon and Utah.

According to the Applicants Nevada is incorporated under the laws of the State of Nevada with its principal business office at Las Vegas, Nevada and is engaged in the generation, transmission and distribution of electric energy in portions of the State of Nevada.

Cal-Pac proposes to transfer to Nevada its electric properties in the City of Henderson, Nevada and Nevada to transfer to Cal-Pac its electric properties in Elko, Nevada. The Applicants indicate that as of March 31, 1977 the net book cost of the facilities to be transferred by Cal-Pac was $3,038,280 and the net book cost of the facilities to be transferred by Nevada was $2,783,270. The Applicants further indicate that after the exchange, Cal-Pac's present customers in Henderson will be served by Nevada and Nevada's present customers in Elko will be served by Cal-Pac. According to the Applicant no customer of either Cal-Pac or Nevada will experience a rate increase as a result of the exchange of properties.

The Applicants request a waiver of the Commission's filing requirements with respect to copies of their First Mortgage Indentures and all supplements thereto.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20510 Filed 7-15-77;8:45 am]

[Docket No. CP77-329]

**DELMARVA POWER & LIGHT CO.**

**Order Authorizing the Importation of Liquefied Natural Gas**

JULY 5, 1977.

On April 5, 1977, Delmarva Power & Light Company (Delmarva) filed in Docket No. CP77-329 an application, as supplemented May 24, 1977, pursuant to Section 3 of the Natural Gas Act for authorization to import liquefied natural gas (LNG) from Canada to the United States purchased from Gaz Metropolitan, Inc. (Gaz Metro), of Montreal, P.Q., Canada, all as more fully set forth in the application.

Delmarva proposes to import LNG, equivalent to approximately 225,000 Mcf of vaporous natural gas, which is to be purchased from Gaz Metro during the months of May through November 1977, for a price of $2.60 per Mcf for all LNG delivered from May through October 1977 and $2.80 per Mcf for LNG delivered during November 1977.

Delmarva anticipates that the LNG to be purchased will be delivered to Delmarva's Wilmington, Delaware, LNG storage facility on the following schedule:

| | *Thousand cubic feet* |
|---|---|
| May | 50,000 |
| June | 50,000 |
| July | 50,000 |
| October | 25,000 |
| November | 50,000 |

Gaz Metro will sell the LNG to Delmarva at the loading point at its Montreal storage facility. The LNG will be transported to Delmarva's LNG storage facility in Wilmington by trucks owned and operated by Gas Incorporated (Gas Inc.), a motor common carrier of Lowell, Massachusetts, under an Interstate Commerce Commission approved tariff. Delmarva will pay Gas Inc. the equivalent of $1.32 per Mcf to transport such gas from Montreal to Wilmington, thus making the total cost to Delmarva for the gas $892,000, or an average of $3.94 per Mcf.

The LNG will be regasified during the 1977-78 winter season (November through March) as needed to maintain service to high-priority customers that would otherwise face interruption of service due to curtailments by Delmarva's pipeline supplier, Transcontinental Gas Pipe Line Corporation (Transco). A statement of gas balance provided by Delmarva in a letter dated May 24, 1977, indicates that during the five-month heating season 76.6 percent of Delmarva's load is Priority 1 service, 15.4 percent is Priority 2 service, and 0.6 percent is for all other industrial requirements not specified. The supply data assume the issuance of import authorization; therefore, if the application were denied the monthly volumes indicated above would not be available to meet Priority 2 and 3 requirements.

Delmarva stated that it was forced to curtail service to many "high-priority commercial and industrial customers" this past winter as a result of the severe levels of curtailment experienced on the Transco system together with the abnormally cold weather prevailing in Delmarva's service area. Delmarva states that the purchase of the Gaz Metro LNG is cheaper than two other alternatives: (1) Purchasing emergency gas and liquefying it at the Wilmington facility, or (2) purchasing gas in liquid form from Transco's Carlstadt plant.

Since the volumes of LNG to be purchased from Gaz Metro represent only 1.5 percent of Delmarva's total annual sales, the importation at the average price of $3.94 per Mcf will not greatly impact the rates charged to Delmarva's customers. However, in view of the price and the fact that the gas is intended to be imported to prevent curtailment of the highest priority requirements, the authorization herein will be conditioned to require that the gas not be used by customers with alternate fuel capability.

The Department of State and the Department of Defense have indicated to the Commission that they have no objection to the approval of the requested import authorization.

After due notice by publication in the FEDERAL REGISTER on April 27, 1977 (42 FR 21515), no notice of intervention, protest to the granting of the application, or petition to intervene has been filed in this proceeding.

The Commission finds: The importation of liquefied natural gas by Delmarva Power & Light Company from Canada to the United States as hereinabove described and as set forth in the application in this proceeding will not be inconsistent with the public interest within the meaning of Section 3 of the Natural Gas Act, provided that said importation be on the terms and conditions hereinafter set forth.

The Commission orders: (A) Delmarva Power & Light Company is authorized to import LNG from Canada to the United States in volumes equivalent to approximately 225,000 Mcf of vaporous natural gas purchased from Gaz Metropolitan, Inc., through November 1977, as hereinbefore described and as more fully described in the application, upon the conditions herein set forth and subject to the provisions of the Natural Gas Act and Commission's Regulations issued thereunder.

(B) The authorization herein granted is conditioned upon Gaz Metro's receipt of appropriate authorization from the National Energy Board of Canada for the exportation of LNG.

(C) The LNG imported under the subject arrangement shall not be used for sale to customers with alternate fuel capability.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20513 Filed 7-15-77;8:45 am]

[Docket No. RP76-148]

**GAS GATHERING CORP.**

**Rate Settlement Proposal**

JULY 8, 1977.

Take notice that on May 9, 1977, Gas Gathering Corporation (GGC) filed with the Commission in Docket No. RP76-148 a settlement proposal which, if approved, will resolve all issues raised in this proceeding.

GGC states that the settlement proposal was served on the Commission Staff and Transcontinental Gas Pipe Line Corporation, the only other parties to the proceeding.

Any person wishing to do so may submit comments in writing concerning GGC's settlement proposal. All comments should be addressed to the Federal Power Commission, 825 North Capitol







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Street NE., Washington, D.C. 20426, and should be mailed or filed on or before July 19, 1977. GGC's settlement proposal is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20512 Filed 7-15-77;8:45 am]

[Docket No. ER77-388]

## LAKE SUPERIOR DISTRICT POWER CO.

### Order Accepting for Filing and Suspending Proposed Rate Schedules, Granting Late Petition To Intervene, and Establishing Procedures; Correction

JUNE 24, 1977.

All references made in the above-referenced order to the City of Medford should be changed to the Medford Electric Utility. It is the Medford Electric Utility which should have been granted leave to intervene in the proceeding.

Published in the FEDERAL REGISTER on July 5, 1977, 42 FR 34353.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20518 Filed 7-15-77;8:45 am]

[Docket No. ER77-470]

## MISSISSIPPI POWER CO.

### Filing of Agreement

JULY 8, 1977.

Take notice that on June 24, 1977, Mississippi Power Company (Mississippi) tendered for filing Amendment No. 8 to an Interconnection Agreement between Mississippi and South Mississippi Electric Power Association (SMEPA), designated as Mississippi's Rate Schedule FPC No. 108.

Mississippi states that said Amendment revises Service Schedule A of Amendment No. 2 to provide for the purchase of 10,000 kilowatts of firm power by SMEPA for the contract year commencing June 1, 1977.

Mississippi requests waiver of the Commission's notice requirements to allow an effective date of June 1, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20508 Filed 7-15-77;8:45 am]

[Project No. 2188]

## MONTANA POWER CO.

### Concerning Public Access to Upper Holter Reservoir

JULY 6, 1977.

Public notice is hereby given that the Federal Power Commission is considering whether existing facilities for public access to the Upper Holter Reservoir, one of several developments licensed to The Montana Power Company as Project No. 2188, are adequate to accommodate the needs of the public for access to these waters.

In order to determine whether a need for additional public access facilities exist, we believe it appropriate to formally solicit comments on this matter from interested members of the public. Any comments filed should address whether there is a need for additional public access facilities at the Upper Holter Reservoir of Project No. 2188, and if so, (1) What size and type of facilities should be constructed, (2) where such facilities should be located, (3) what conditions and restrictions, if any, should be placed on public use of such facilities, and (4) who should construct, operate, and maintain such facilities.

Any person desiring to be heard or to make any comment with reference to the issue of public access to the Upper Holter Reservoir, Project No. 2188, should file said comments with the Federal Power Commission, Washington, D.C. 20426 on or before August 15, 1977. Such comments will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make those commenting parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20520 Filed 7-15-77;8:45 am]

[Docket No. ER77-465]

## OKLAHOMA GAS AND ELECTRIC CO.

### Filing of Agreement

JULY 7, 1977.

Take notice that on June 21, 1977, Oklahoma Gas and Electric Company (OG&E), tendered for filing a proposed Transmission Service Agreement between Western Farmers Electric Cooperative (Western) and Oklahoma Gas and Electric Company (OG&E) dated June 7, 1977.

OG&E states that the Agreement provides that OG&E perform a transmission function for Western. OG&E further states that under the provisions of the Agreement, Western shall deliver power and energy to the Company in sufficient quantity to meet the anticipated needs of Western's Cooperatives. OG&E shall receive said power and energy, deliver same to Western at various delivery points, and Western in turn will deliver to seven Cooperatives at 64 points of delivery, as indicated by OG&E.

OG&E requests an effective date of July 1, 1977, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 15, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20498 Filed 7-15-77;8:45 am]

[Docket Nos. E-7777 (Phase I) and E-8928]

## PACIFIC GAS & ELECTRIC CO.

### Order Approving Settlement

JULY 8, 1977.

On February 8, 1977, the parties to the proceedings in Docket Nos. E-7777 (Phase I) and E-8928 held a settlement conference which resulted in approval by all parties of settlement agreements for both dockets. The Commission finds that the settlement agreement is in the public interest and accepts and approves it as hereinafter ordered and conditioned.

Docket No. E-7777 (Phase I) was initiated on September 29, 1972 when Pacific Gas and Electric Company (PG&E) filed a change in rate level of electric resale rate schedules contained in PG&E's FPC Electric Tariffs, Original Volumes Nos. 1[1] and 2[2]. The proposed rates provided for an estimated annual increase in tariff changes (excluding the fuel cost adjustment clause) of approximately $2,386,000 or 22% for test year 1971. These proposed rates became effective, subject to refund, on April 28, 1973. Hearings have been completed in this proceeding and an Initial Decision was rendered on June 28, 1976. Briefs on exceptions and briefs opposing exceptions have been filed.

Docket No. E-8928 was initiated on July 24, 1974, when PG&E filed a change in rate level of electric resale rate schedules contained in PG&E's FPC Electric Tariffs, Original Volumes Nos. 1 and 2. The proposed rates provided for an estimated annual increase in tariff charges (excluding the fuel cost adjustment clause) of approximately $2,864,000 or 15% for test year 1974. These proposed rates became effective subject to refund on August 24, 1974. Hearings have been completed in this proceeding with an Initial Decision being rendered on November 4, 1976. Briefs on exceptions and briefs opposing exceptions have been filed.

The rates at issue in Docket Nos. E-7777 (Phase I) and E-8928 relate solely to the locked-in periods April 28, 1973 to August 23, 1974 and August 24, 1974 to October 25, 1976, respectively.[3] The settlement revenues in Docket No. E-7777 adopt the findings contained in the Initial Decision of June 28, 1976. This amounted to acceptance of the proposed rates for the R-1 customers and a reduction of $147,000 in the proposed rate to Sierra Pacific. The settlement revenues in Docket No. E-8928 adopt the findings contained in the Initial Decision issued November 4, 1976 and provide for an estimated annual increase in tariff charges of approximately $1,505,000 representing 47% less than the $2,864,000 increase originally requested. Staff did not except to the Initial Decisions inasmuch as they essentially endorsed staff positions. All of PG&E's customers who have sought intervention in these proceedings and are served under such tariffs have entered into the Settlement Agreement.

The settlement agreement also states that it terminates and settles any claims of illegal or unjust or unreasonable price squeeze by PG&E for the period September 29, 1972 through October 26, 1976.

PG&E has requested waiver of Sections 35.3, 35.13 and 35.14 with respect to filing requirements of settlement rates.[4]

Inasmuch as the settlement affects locked-in periods, we will grant waiver, provided PG&E supplies a detailed refund report as hereinafter ordered.

Staff filed comments in response to notice of the settlement supporting the settlement as being cost justified and a reasonable resolution of all issues presented. No other comments were received.

The Commission finds: The proposed settlement agreement should be approved and made effective as hereinafter ordered and conditioned.

The Commission orders: (A) The settlement agreement approved by all parties to these proceedings on February 8, 1977, is hereby accepted, incorporated herein by reference and approved, subject to the following conditions.

(B) Within 30 days from the date of this order, PG&E shall refund amounts collected in excess of the settlement rates based on service rendered during the locked-in periods of April 28, 1973 through August 23, 1974 in Docket No. E-7777 and August 24, 1974 through October 25, 1976 in Docket No. E-8928, together with interest in accordance with Section 35.19a of the Commission's regulations (18 CFR).

(C) Within 20 days after refunds have been made PG&E will file a compliance report showing billing determinants and revenues under prior, present and settlement rates including all computations used to determine the settlement amounts and refunds. The report will also show the monthly rate increase, the monthly rate refund, and the monthly interest computation, together with a summary of such information for total refund. The report should show all amounts separately for Docket Nos. E-7777 and E-8928. A copy of this report shall also be furnished to each State Commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

(D) PG&E's request for waiver of Sections 35.3, 35.13 and 35.14 of the Commission's Regulations is granted with respect to any requirements for filing of settlement rate schedules.

(E) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or person affected by this order, in any proceeding now pending or hereafter instituted by or against PG&E or any person or party.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20514 Filed 7-15-77;8:45 am]

[Docket Nos. ER76-319 and ER76-811]

## PACIFIC GAS AND ELECTRIC CO.

### Order Approving Settlement

JULY 8, 1977.

On February 4, 1977, as amended on February 9, 1977, Pacific Gas and Electric Company (PG&E) filed a Settlement Agreement between PG&E and all of the intervenor-customers in ER76-319 and ER76-811. The Commission finds that the settlement agreement is in the public interest and accepts and approves it as hereinafter ordered and conditioned.

Docket No. ER76-319 was initiated on December 2, 1975, when PG&E filed a change in the fuel cost adjustment provision applicable to rate schedules under PG&E's FPC Electric Tariffs, Original Volumes Nos. 1[1] and 2.[2] The revised tariff became effective, subject to refund, on January 2, 1976.

Docket No. ER76-811 was initiated on July 26, when PG&E filed a change in rate level of electric resale rate schedules contained in PG&E's FPC Electric Tariffs, Original Volumes Nos. 1 and 2. The proposed rates provided for an estimated annual increase in tariff charges (excluding the fuel cost adjustment clause) of approximately $6,388,000 or 24% for test year 1976 and became effective subject to refund, on October 26, 1976.

The proposed settlement's fuel clause complies with the Commission's Regulations. Except for minor differences (i.e. a slight difference in the derivation of the loss factor, ending the record period in the third rather than second month prior to the month to which each is is to become effective, and giving refunds directly to customers), the agreement adopts the modifications contained in the Initial Decision. Staff analysis indicates that the revenue from the settlement rates applicable to Sierra and the R-1 customers is below the Commission Staff's cost computation, and the rate of return under the proposed settlement rates lies below Staff's recommended rate of return 9.17% including 13% on common equity. Based upon all the pleadings, we find that it is in the public interest to accept this settlement agreement and to approve it.

Notice of proposed settlement was issued February 16, 1977 with comments due March 1, 1977. The only comments received from the parties were those of staff supporting Commission approval of the settlement. Congressman Harold T. Johnson submitted a letter requesting the Commission to consider the plight of residents in Lassen County, California before final approval of the settlement. These customers are served at retail by California-Pacific Utilities Co. Congressman Johnson's comments were considered by us in evaluating the propriety of the settlement agreement.

The Commission finds: The proposed settlement should be approved and made effective as hereinafter ordered and conditioned.

The Commission orders: (A) The settlement agreement filed by PG&E on February 4, 1977 and amended on February 9, 1977 is hereby accepted, incorporated herein by reference and approved, subject to the following conditions.

(B) Within 30 days from the date of this order, PG&E shall file with the Commission revised tariff sheets in conformance with the settlement agreement.

(C) Within 45 days from the date of this order, PG&E shall, in Docket No. ER76-319, refund amounts collected in excess of settlement rates based on service rendered after January 2, 1976, together with interest as 9% per annum, as provided for in the settlement agree-

[1] Applicable to Sierra Pacific Power Company.

[2] Schedule R-1 applicable to City of Alameda; Bay Point Light and Power; California Pacific Utilities Co. (Chester, Weaverville and West Wood delivery points); City of Healdsburg; City of Lodi; City of Lompoc; City of Santa Clara (PG&E Portion); City of Ukiah.

[3] A further increase in tariff rates became effective subject to refund on October 26, 1976 in Docket No. ER76-811.

[4] The Settlement Agreement provides for filing of an abbreviated refund report (Appendix A), which together with the tariff sheets already on file are to constitute the rate schedules applicable to the locket-in periods.

[1] Applicable to Sierra Pacific Power Company.

[2] Schedule R-1 applicable to City of Alameda; Bay Point Light and Power; California-Pacific Utilities Co. (Chester, Weaverville, and Westwood delivery points); City of Healdsburg; City of Lodi; City of Lompoc; City of Santa Clara (PG&E Portion); City of Ukiah.







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ment, and, in Docket No. ER76-811, refund amounts collected in excess of the settlement rates based on service rendered after October 26, 1976, together with interest at 9% per annum, as provided for in the settlement agreement.

(D) Within 20 days after refunds have been made, PG&E shall file with the Commission a compliance report showing monthly billing determinants and revenues under prior, present and settlement rates, inciding all billing determinants necessary to compute charges under basic rates and under the fuel adjustment clause. The report should also show the monthly settlement rate increase, the monthly rate refund, and the monthly interest computation, together with a summary of such information for the total refund period. A copy of such report shall also be furnished to each State Commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

(E) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or person affected by this order, in any proceeding now pending or hereafter instituted by or against any person or party.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20515 Filed 7-15-77;8:45 am]

[Docket No. ES76-61]

## PENNSYLVANIA POWER & LIGHT CO.

### Application

JULY 6, 1977.

Take notice that on June 28, 1977, Pennsylvania Power & Light Company (Applicant) filed an Application for Modification or Order, pursuant to Section 204 of the Federal Power Act, seeking an extension from September 30, 1977, to September 30, 1978 of the date prior to which Applicant may issue unsecured promissory notes with a maturity of less than one year, in the form of bank loans, loans from institutional investors, loans from trust departments of commercial banks, or commercial paper, in an aggregate amount up to but not exceeding (a) 25% of Applicant's revenues during the last preceding twelve months of operations, or (b) $180 million, whichever is less.

The interest rate applicable to the unsecured promissory notes will be the best rate obtainable by Applicant for the type of transaction involved. This generally will be, in the case of bank loans, the prime commercial bank rate; in the case of commercial paper issued to commercial paper dealers, the market rate (or discount rate) for commercial paper of comparable quality and of the particular maturity sold to commercial paper dealers.

Applicant is incorporated under the laws of the Commonwealth of Pennsylvania with its principal business office at Allentown, Pennsylvania and is engaged in the generation, transmission, distribution and sale of electrical energy in the Commonwealth of Pennsylvania.

The principal purpose for which Applicant will issue and sell unsecured promissory notes are (1) to purchase and carry fuel inventories, (2) to carry account receivable, (3) to provide for periodic large cash needs, such as tax, dividend and investment payments, (4) to supply temporary funds for unexpected cash requirements, and (5) to provide interim financing for the construction of additions to Applicant's generation, transmission and distribution facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 25, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application, as supplemented, is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20521 Filed 7-15-77;8:45 am]

[Project No. 2216]

## POWER AUTHORITY OF THE STATE OF NEW YORK

### Application for Change in Land Rights

JULY 8, 1977.

Public notice is hereby given that an application was filed on December 13, 1976, under the Federal Power Act, 16 U.S.C. § 791a et seq., by the Power Authority of the State of New York (Applicant) (Correspondence to: Mr. George T. Berry, General Manager and Chief Engineer, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019; and to John C. Mason, Esq., Morgan, Lewis and Bockius, 1800 M Street NW., Washington, D.C. 20035) for Commission authorization to grant certain easements to the City of Niagra Falls, New York (City) to permit the City to construct and maintain sewer pipelines across project lands of Niagara Falls Project No. 2216, located on the Niagara River in the City of Niagara Falls, New York.

As proposed, the City would construct and maintain sewere pipelines across project lands as part of a comprehensive program to improve the City's wastewater sewer facilities. One of the proposed easements would permit an 84-inch sewer bypass, to be located across Applicant's cut and cover hydraulic conduits immediately south of Royal Avenue in the City. The sewer line would cross project lands totaling approximately 0.4 acres in area. The second easement would permit the construction of a 30-inch underground force main across an access road in the vicinity of the intersection of Whirlpool Street and Third Street. This force main would cross the Robert Moses Parkway under the bed of the access road. The total area involved under the second easment is 1.5 acres. Both lines would be placed underground, and the total length of the lines on project lands would be 3,300 feet. The construction of the sewer lines is to be carried out in connection with construction of an interceptor sewer system deemed necessary for the City's overall program of improvement of its wastewater facilities.

The City has received approval from the New York State Parks Commission, the City's Planning Board, the Niagara County Planning Board, and the New York State Planning Office. The City has received a National Pollutant Discharge Elimination System permit from the United States Environmental Protection Agency.

Applicant has requested the shortened procedure provided for under § 1.32(b) of the Commission's Rules of Practice and Procedure, 18 CFR 1.32(b) (1976).

Any person desiring to be heard or to make any protest with reference to said application should, on or before August 25, 1977, file with the Federal Power Commission, 825 N. Capitol St., NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act, 16 U.S.C. 825g and 825h, and the Commission's Rules of Practice and Procedure, specifically § 1.32(b), a hearing on this application may be held before the Commission without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing before the Commission.





The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20516 Filed 7-15-77;8:45 am]

[Docket No. RP77-11]

## SOUTHWEST GAS CORP.

### Rate Settlement Proposal

JULY 8, 1977.

Take notice that on June 14, 1977, Southwest Gas Corporation (SGC) filed with the Commission in Docket No. RP 77-11 a settlement proposal which, if approved, will resolve all issues raised in this proceeding.

SGC states that the settlement proposal was served on all parties of record, all Federal Power Commission jurisdictional customers, and interested state commissions.

Any person wishing to do so may submit comments in writing concerning SGC's settlement proposal. All comments should be addressed to the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should be mailed or filed on or before July 26, 1977. SGC's settlement proposal is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc. 77-20511 Filed 7-15-77;8:45 am]

[Docket No. G-9483, et al.]

## SUN OIL CO., ET AL.

### Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates; Correction

JUNE 21, 1977.

Published in the FEDERAL REGISTER on June 20, 1977, 42 FR 31186 (Issued June 9, 1977).

On 42 FR 31187 of Tabulation, opposite Docket No. CI77-525, change "Well no longer Productive." to "Interests assigned to Mullins & Prichard".

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20519 Filed 7-15-77;8:45 am]

[Docket No. CP76-302]

## TRANSCONTINENTAL GAS PIPE LINE CORP.

### Extension of Time

JULY 5, 1977.

On June 23, 1977, Transcontinental Gas Pipe Line Corporation (Transco) filed a request to extend the time within which to complete construction and place in actual operation the facilities authorized by Commission Order issued August 18, 1976, in the above indicated docket.

Upon consideration, notice is hereby given that an extension of time is granted to and including February 17, 1978, within which Transco shall complete construction and place in actual operation the facilities authorized in the above proceeding.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20502 Filed 7-15-77;8:45 am]

[Docket No. E-9147 (Phase II)]

## VIRGINIA ELECTRIC AND POWER CO.

### Order Approving Settlement and Terminating Proceedings

JULY 7, 1977.

On April 12, 1977, VEPCO submitted for filing a proposed Settlement Agreement with Electricities of North Carolina (Electricities)[1] which resolves all remaining issues in Docket No. E-9147 (Phase II) and terminates the proceedings therein.[2] The Commisison finds that the settlement agreement is in the public interest and accepts and approves it as hereinafter ordered and conditioned.

The proceedings in the subject docket were instituted by Commission order dated January 22, 1975, in Docket No. E-9147 which suspended a proposed rate increase by VEPCO and established Phase II proceedings in Docket No. E-9147 to resolve certain anticompetitive allegations made by Electricities against VEPCO. Such allegations consisted mainly of excessive length of term of VEPCO agreements and VEPCO's efforts to prevent Electricities from developing alternate sources of supply. Electricities and VEPCO have reached a complete settlement on the anticompetitive matters which were the sole subject of Phase II of this proceeding.

Electricities and VEPCO have executed a settlement agreement and an interchange service agreement entitled "Memorandum of Agreement Between North Carolina Municipal Power Agency Number 2 and Virginia Electric and Power Company To Govern Interconnection Between the Agency's Internal Combustion Turbine Generating Station and the Vepco System, and Concerning Related Matters". The effectiveness of each agreement is contingent upon the effectiveness of the other. In addition VEPCO has committed itself to revise its tariff to eliminate certain provisions which Electricities deemed to be unduly restrictive at the time of its next general wholesale rate increase filing.

Under the terms of the Settlement Agreement, VEPCO and Electricities each agree not to bring action against the other with respect to allegation of anticompetitive acts or practices in violation of state or Federal law, including the Federal Power Act, up to the date of the Settlement Agreement.

Notice of the proposed settlement was issued May 3, 1977, with responses due on or before May 16, 1977. No responses were received.

The Commission finds: The proposed settlement agreement should be approved and made effective as hereinafter ordered and conditioned.

The Commission orders: (A) the settlement agreement filed by VEPCO in this proceeding on April 12, 1977 is hereby accepted, incorporated herein by reference and approved.

(B) The proceeding in Docket No. E-9147 (Phase II) is hereby terminated.

(C) This order is without prejudice to any finding or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or person affected by this order, in any proceeding now pending or hereafter instituted by or against VEPCO or any person or party.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20501 Filed 7-15-77;8:45 am]

[Docket No. ER76-747, ER76-748, ER76-749, ER76-750, ER76-751, ER76-752 and ER76-753]

## WEST TEXAS UTILITIES CO.

### Order Accepting Service Agreements for Filing, Granting Intervention and Waiving Notice Requirements; Correction

JUNE 16, 1977.

Published in the FEDERAL REGISTER on June 8, 1977, 42 FR 29336 (Issued June 1, 1977).

42 FR 29336, Footnote 2, second line from the bottom of page: change the "that" at the end of the line to "of".

42 FR 29337, Paragraph 2, line 15: "footnote 4" should read "footnote 5".

42 FR 29337, line 29: change the "(supra, note 3.)" to "(supra, note 4.)".

42 FR 29337, bottom of page: "footnote 'continued)'" should read "footnote' continued)".

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20517 Filed 7-15-77;8:45 am]

[Docket No. ER77-394]

## WEST TEXAS UTILITIES

### Notice of Contract

JULY 11, 1977.

Take notice that West Texas Utilities Company (WTU) on June 23, 1977, tendered for filing an initial contract and rate schedule for the sale of electric service to the City of Coleman, Texas (City).

WTU indicates that the facilities through which service is to be provided

[1] In this order this shall include only those 24 member municipal utilities, 16 located in North Carolina, and 8 in Virginia, who are represented as parties to the subject agreement.

[2] Phase I (rate level) for all customers and Phase II for co-ops was terminated by order dated April 12, 1976.



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are expected to be completed, and service pursuant to the contract to be initiated, on July 5, 1977. WTU therefore requests waiver of the Commission's notice requirements to allow for an effective date of July 5, 1977, for said contract.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 15, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20715 Filed 7-15-77;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Office of Human Development

### REHABILITATION RESEARCH AND DEMONSTRATION

### Extension of Deadline for Grant Applications

The Rehabilitation Services Administration, Office of Human Development, announces that it is extending the due date for receipt of applications under its Rehabilitation Research and Demonstration Program. New and competing extension applications will not be accepted until August 1, 1977 for the following funding priority areas: (1) A Comprehensive Medical Rehabilitation Approach for Severe Burns (D-39 and D-40), (2) Development of a Special Project Survey Questionnaire Supplemental to ESRD—Medical Information System Relating to the Current Medical, Psycho-Social and Vocational Aspects of End-Stage Renal Disease (J-5), (3) A State-of-the-Art in the Medical, Psycho-Social, Vocational, Technological and Legislative Aspects of End-Stage Renal Disease (J-6) and (4) Medical, Psycho-Social and Vocational Evaluation of Kidney Transplant and Dialysis Patients/Clients Whose Treatment Began Four (4) or More Years Ago (J-8).

The program was originally announced in the FEDERAL REGISTER, Vol. 42, No. 93, 42 FR 24331, Friday, May 13, 1977 as Program Announcement Number 13627-772.

Application kits which contain the prescribed forms, the project description and information for the application may be obtained by making a request, containing the funding priority and number, to: Division of Grants and Contract Management, Office of Human Development, Room 1427, Mary E. Switzer Building, 330 "C" Street, S.W., Washington, D.C. 20201 Attention: (13627-772).

(Catalog of Federal Domestic Assistance Program Number: 13.627 Rehabilitation Research and Demonstration)

Dated: July 11, 1977.

JOSEPH A. MOTTOLA,
*Acting Commissioner of Rehabilitation Services.*

Approved: July 12, 1977.

ARABELLA MARTINEZ,
*Assistant Secretary for Human Development.*

[FR Doc.77-20483 Filed 7-15-77;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### GENERAL AVIATION CONFERENCE

### Meeting

Notice is hereby given of a conference to be held at FAA's National Aviation Facilities Experimental Center (NAFEC) in Atlantic City, New Jersey, August 17 and 18, 1977. This conference will provide an opportunity for the exchange of information between FAA and other government, industry, university, pilot and professional organizations, and the public on General Aviation Research and Development programs. The agenda will include:

1. Presentation of present and proposed FAA General Aviation R&D programs.

2. Description of NAFEC's facilities and capabilities for R&D.

3. Presentation of industry and professional organizations' commentaries on FAA's programs.

Although individual comments will be solicited and encouraged, there will be no attempt made to achieve any agreements or reach any conclusions on the topics discussed.

Due to space limitations, persons wishing to attend and/or make oral statements at the symposium should contact Mr. W. Thomas Edwards, Assistant Chief, Aircraft and Airports Safety Division, NAFEC, Atlantic City, New Jersey 08405. Telephone: AC 609 641-8200, Extension 2666.

Issued in Atlantic City on July 11, 1977.

ROBERT L. SOUTH,
*Director, NAFEC.*

[FR Doc.77-20456 Filed 7-15-77;8:45 am]

## DEPARTMENT OF STATE

[Public Notice CM-7/91]

### SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

### Meeting

The working group on radiocommunications of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 1:30 p.m. on Monday, August 15, 1977, in Room 8436 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of the meeting is to prepare position documents for the 18th Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO) to be held in London November 28-December 2, 1977. In particular, the working group will discuss the following topics:

Code of safety requirements for mobile offshore drilling units.

Operational standards for shipboard radio equipment.

Operational requirements for emergency position-indicating radio beacons and portable radio apparatus for survival craft.

Matters resulting from the World Maritime Administrative Radio Conference, 1974, and the work of the International Radio Consultative Committee.

Requests for further information on the meeting should be directed to LT F. N. Wilder, United States Coast Guard. He may be reached by telephone on (area code 202) 426-1345.

The Chairman will entertain comments from the public as time permits.

CARL TAYLOR, Jr.,
*Acting Director, Office of Maritime Affairs.*

JULY 12, 1977.

[FR Doc.77-20453 Filed 7-15-77;8:45 am]

## OFFICE OF SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

### ADVISORY COMMITTEE FOR TRADE NEGOTIATIONS

### Determination of Closing of Meeting

The meeting of the Advisory Committee for Trade Negotiations (the Advisory Committee) to be held Wednesday, August 17, 1977, from 1:30 p.m. to 5:00 p.m. in the Board Room of the Bank of America, 555 South Flower, Los Angeles, California, will involve a review and discussion of the status of, and United States strategy and objectives for, the multilateral trade negotiations currently underway in Geneva. Such review and discussion will deal with information properly classified pursuant to Executive Order 11652 and specifically required by such order to be kept secret in the interests of national security (i.e., the conduct of foreign relations) of the United States. All members of the Advisory Committee have appropriate security clearances. Accordingly, I hereby determine that this meeting of the Advisory Committee will be concerned with matters listed in section 552b(c) (1) of Title 5 of the United States Code.

ROBERT S. STRAUSS,
*Special Representative for Trade Negotiations.*

[FR Doc.77-20699 Filed 7-15-77;8:45 am]





## FEDERAL MARITIME COMMISSION

### LYKES BROS. STEAMSHIP CO., INC., ET AL.

### Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 8, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

LYKES BROS. STEAMSHIP CO., INC., AMERICAN EXPORT LINES, INC., COMPAGNIE NATIONALE ALGERIENNE DE NAVIGATION, PRUDENTIAL LINES, INC.

Notice of agreement filed by:

R. J. Finnan, Pricing, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Agreement No. 10304, among the above named parties, is a discussion agreement in the trade between U.S. Atlantic and Gulf ports and ports in Algeria. It provides that the parties agree to undertake the exchange of information and to cooperate in developing information on matters relevant to the Algerian and U.S. flag common carrier service in the trade as described under the terms and conditions as set forth therein.

By order of the Federal Maritime Commission.

Dated: July 13, 1977.

JOSEPH C. POLKING,
*Acting Secretary.*

[FR Doc.77-20527 Filed 7-15-77;8:45 am]

[Docket No. 77-36]

### OCEAN DRILLING & EXPLORATION CO. V. KAWASAKI KISEN KAISHA LTD.

### Filing of Complaint

Notice is hereby given that a complaint filed by Ocean Drilling and Exploration Company against Kawasaki Kisen Kaisha Ltd. was served July 12, 1977. Complainant alleges it was subjected to payment of charges for ocean freight in violation of section 18(b)(3) of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before January 12, 1978. The hearing shall include oral testimony and cross examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

JOSEPH C. POLKING,
*Acting Secretary.*

[FR Doc 77 20528 Filed 7-15-77;8:45 am]

[Docket No. 77-35]

### PUBLICATION OF INACTIVE TARIFFS BY INDEPENDENT CARRIERS IN FOREIGN COMMERCE OF THE UNITED STATES

### Order To Show Cause

The independent carriers named in Appendix A, attached hereto have published rates in tariffs on file with the Federal Maritime Commission for the carriage of goods in the foreign commerce of the United States. However, the Commission has reason to believe that the tariffs published by the carriers cited in Appendix A are essentially inoperative, and that the carriers themselves are not actively engaged in the common carriage of goods in the trades covered by those tariffs.

Section 18 of the Shipping Act, 1916, 46 U.S.C. 817, requires every common carrier by water in the U.S. domestic offshore or foreign commerce to file with the Commission in prescribed form the rates charged for its transportation services. However, where a carrier is not actively engaged in service and does not plan to become actively engaged in service in the foreseeable future, the existence of its tariffs(s) on file with the Commission holding itself out as a common carrier amounts to a false representation contrary to the letter and spirit of Section 18. Intercoastal Schedules of Hammond Shipping Co., Ltd., 1 U.S.S.B. 606 (1939). The shipping public is misled by a meaningless offer of service. Ghezzi Trucking, Inc.—Cancellation of Inactive Tariffs, 13 F.M.C. 253. 255 (1970). Therefore, the maintenance by common carriers of tariffs indicating the rates for services they do not perform cannot be justified, and the tariffs should be cancelled. Embargo on Cargo, North Atlantic and Gulf Ports, 2 U.S.M.C. 464, 465 (1940); Ghezzi Trucking, supra.

In view of the applicable law, the Commission is of the opinion that the tariffs presently on file on behalf of the independent carriers listed in Appendix A be cancelled, unless the carriers can show cause why their tariffs should not be cancelled.

Any tariff which is cancelled as a result of this Order shall be cancelled without prejudice to the filing of a new tariff should future conditions warrant.

*Now, therefore, it is ordered,* That pursuant to Sections 22 and 18 of the Shipping Act, 1916, the carriers named in Appendix A [1] be named respondents in this proceeding, and that they be ordered to show cause why their tariffs indicating rates for the common carriage of goods in the foreign commerce of the United States should not be cancelled as being inactive.

*It is further ordered,* That this proceeding shall be limited to the submission of affidavits of fact and memoranda of law, replies thereto, and oral argument, if requested and/or deemed necessary by the Commission. Should any party feel that an evidentiary hearing is required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding and why such proof cannot be submitted through affidavit. Request for hearing shall be filed on or before August 15, 1977. Affidavits of fact and memoranda of law shall be filed by respondents and served upon all nonrespondent parties of record no later than close of business on August 15, 1977. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and intervenors, if any, no later than the close of business on September 5, 1977. Oral argument will be scheduled at a later date if requested and/or deemed necessary by the Commission.

*It is further ordered,* That a notice of this Order be published in the FEDERAL REGISTER and that a copy thereof be served upon respondents.

*It is further ordered,* That persons other than those already parties to this proceeding who desire to become parties to this proceeding and to participate therein shall file a petition to intervene pursuant to Rule 5(1) of the Commission's Rules of Practice and Procedure (46 CFR 502.72) no later than the close of business on July 29, 1977.

*It is further ordered,* That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in an original and 15 copies as well as being mailed directly to all parties of record.

JOSEPH C. POLKING,
*Acting Secretary.*

[1] For the purposes of service of this Order, each respondent carrier will receive as Appendix A only that page(s) of the Appendix which relates to its own tariffs.



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APPENDIX "A"

AB Scanfreight—NVOCC FMC-7
From: Sweden, Norway, Denmark, Finland, and Poland.
To: U.S. Atlantic Coast Ports.
Date of Last Revision: 11-30-75.
Box 8873, 402, 72 Gothenburg, Sweden.

AB Scanfreight—NVOCC FMC-8
From: Sweden, Norway, Denmark, Finland, and Poland.
To: U.S. Gulf Coast Ports.
Date of Last Revision: 11-30-75.

AB Scanfreight—NVOCC FMC-9
From: Sweden, Norway, Denmark, Finland, and Poland.
To: U.S. Pacific Coast Ports.
Date of Last Revision: 11-30-75.

Abaco Oil Carriers Company, Ltd.—FMC-1
Between: Miami and Palm Beach, Florida.
And: The Bahama Islands.
Date of Last Revision: 6-13-74.
March Harbor, Abaco, Bahamas.

Alberti Foods, Inc.—FMC-1
Between: East Coast Central America Ports.
And: U.S. Atlantic and Gulf Ports.
Date of Last Revision: 8-21-67.
36 South Washington Street, Hinsdale, Illinois 60521.

Alberti Foods, Inc.—FMC-2
Between: U.S. Atlantic and Gulf Ports.
And: All Mediterranean Sea Ports.
Date of Last Revision: 2-13-74.

Agana Line Ltd.—FMC-1
Between: Hong Kong and Far East Ports (P.I., Japan, Taiwan, and Thailand).
And: Guam and Trust Territory Ports.
Date of Last Revision: 3-3-76.
47th Floor, Connaught Centre, Hong Kong.

Agromar Line—FMC-1
From: U.S. Gulf and South Atlantic Ports.
To: Ports in Colombia.
Date of Last Revision: 1-8-75.
Apartado Aero No. 15-78, Barranquilla, Colombia.

Alltransport Inc.—NVOCC FMC-2
From: U.S. North Atlantic Ports.
To: Ports in United Kingdom.
Date of Last Revision: 9-30-74.
300 S. Wacker Drive, Chicago, Illinois 60606.

Amber Maritime Corp.—FMC-1
From: U.S. Atlantic and Gulf.
To: Middle Eastern Ports, West of Karachi and N.W. of Aden.
Date of Last Revision: 8-11-75.
260 Northern Boulevard, Great Neck, New York 11021.

Amber Maritime Corp.—FMC-2
From: U.S. Atlantic and Gulf.
To: Australia, New Zealand and New Caledonia.
Date of Last Revision: 7-15-75.

Amber Maritime Corp.—FMC-3
From: U.S. Atlantic and Gulf.
To: All Ports (except Israeli ports) served on the Mediterranean Sea from Gibraltar to Port Said (including Adriatic, Black Sea, and Gulf of Tarante Ports) and from North African Ports in Morocco (including Atlantic West Coast Moroccan ports) to Port Said, inclusive.
Date of Last Revision: 3-2-73.

Amber Maritime Corp.—FMC-4
From: U.S. Atlantic and Gulf.
To: Cambodia, Taiwan, Hong Kong, Indonesia, Japan, Malaysia, S. Korea, S. Vietnam, and Thailand.
Date of Last Revision: 12-28-73.

Amber Maritime Corp.—FMC-5
From: U.S. Atlantic and Gulf Ports.
To: Continental Europe; Bayonne, France; Hamburg, Germany Range (including all French Atlantic and German North Sea Ports and all ports in Belgium and Holland).
Date of Last Revision: 12-21-72.

Amber Maritime Corp.—FMC-6
From: U.S. Atlantic and Gulf.
To: West African Ports.
Date of Last Revision: 12-11-72.

Amber Maritime Corp.—FMC-9
From: Atlantic and Gulf.
To: Bangladesh, Pakistan, India, Ceylon, Burma.
Date of Last Revision: 7-18-75.

Amber Maritime Corp.—FMC-11
From: U.S. Great Lakes.
To: Taiwan, Hong Kong, Indonesia, Japan, Malaysia, Philippines, Singapore, South Korea, South Vietnam, Thailand.
Date of Last Revision: 5-4-73.

Amber Maritime Corp.—FMC-13
From: U.S. Atlantic and Gulf.
To: Southwest, South, and East Africa.
Date of Last Revision: 8-15-75.

American Export Isbrandtsen Lines, Inc.—FMC-13
From: Atlantic and Gulf.
To: Indonesia, Portuguese, Timor and W. Irian.
Date of Last Revision: 10-1-75.
17 Battery Place, New York, New York 10004.

American Export Isbrandtsen Lines, Inc.—FMC-86
From: Atlantic and Gulf.
To: Singapore, Malaya, Thailand, Sarawak, Borneo, Lubon, and Brunei.
Date of Last Revision: 12-11-68.

American Export Isbrandtsen Lines, Inc.—FMC-88
From: Japan, Korea, Okinawa.
To: U.S. Atlantic.
Date of Last Revision: 10-11-74.

American Export Lines, Inc.—FMC-92
From: U.S. Atlantic.
To: Saipan and Guam.
Date of Last Revision: 10-01-74.

American Export Lines, Inc.—FMC-112
Between: U.S. North Atlantic.
And: Azores.
Date of Last Revision: 09-28-75.

American Export Lines, Inc.—FMC-113
From: Singapore, Malaysia, Saigon, Vietnam.
To: U.S. Atlantic.
Date of Last Revision: 07-11-74.

American Export Lines, Inc.—FMC-114
From East Coast of Sumatra.
To: U.S. Atlantic.
Date of Last Revision: 10-01-74.

American Export Lines, Inc.—FMC-120
From: Russian Ports of Archangel, Kialpeda, Leningrad, Murmansk, Riga, and Ventspils.
To: U.S. South Atlantic and Gulf of Mexico Ports (from Cape Hatteras, N.C., to Brownsville, Texas).
Date of Last Revision: 12-20-74.

American Export Lines, Inc.—FMC-142
From: Russian Black Sea Ports.
To: Atlantic and Gulf of Mexico ports in the U.S. in the Eastport, Maine, Brownsville, Texas Range.
Date of Last Revision: 02-22-74.

American President Lines, Ltd.—FMC-22
From: Japan, Korea, Hong Kong, Taiwan, Vietnam, Cambodia, Thailand, Singapore, Malaysia, Indonesia, India, Ceylon.
To: Puerto Rico, and Virgin Islands.
Date of Last Revision: 03-01-74.
1950 Franklin Street, Oakland, California 94612.

American President Lines, Ltd.—FMC-23
From: Vietnam, Cambodia, Red Sea, Gulf of Aden.
To: U.S. Atlantic Coast.
Date of Last Revision: 05-28-75.

American Trailer Express—NVOCC FMC-1
Between: U.S. Ports.
And: Panama.
Date of Last Revision: 09-21-72.

A Division of Puerto Rican Freight Co., Inc., P.O. Box 146 I.A.B., Miami, Florida 33148.

American Trailer Express—NVOCC FMC-2
Between: U.S. Ports.
And: Costa Rica.
Date of Last Revision: 09-21-72.

Antillean Marine Shipping Corp.—FMC-3
Between: Ports in Florida.
And: Montego Bay and Kingston, Jamaica.
Date of Last Revision: 12-18-72.
3050-3060 N.W. North River Drive, P.O. Box 52-342, Miami, Florida 33152.

Arabian Mediterranean Line—FMC-1
From: U.S. Gulf and South Atlantic Ports.
To: All Ports (except Spanish Mediterranean and Israeli Ports) served on the Mediterranean Sea from Gibraltar to Port Said, including Adriatic, Black Sea, and Gulf of Taranto Ports, and from Casablanca to Port Said, inclusive.
Date of Last Revision: 02-06-70.
c/o Trans-Orient Marine Corp., 11 Broadway, New York, New York 10004.

Argentine Lines—FMC-17
From: Venezuela, Columbia, Central America, East Coast of Mexico.
To: U.S. Atlantic, Gulf and Puerto Rico.
Date of Last Revision: 08-21-74.
c/o Cosmopolitan Shipping Co., Inc., One World Trade Center, New York, New York 10048.

Argentine Lines—FMC-23
From: U.S. Gulf Ports.
To: East Coast Mexican Ports.
Date of Last Revision: 07-16-73.

Argentine Lines—FMC-24
From: Montevideo, Uruguay, Bahia Blanca/Santa Fe—Argentina.
To: Puerto Rico.
Date of Last Revision: 10-09-74.

Argentine Lines—FMC-25
Between: U.S. Great Lakes Ports.
And: Ports in Argentina, Brazil, Paraguay, and Uruguay.
Date of Last Revision: 07-11-73.

Armadora Costarricense, S.A.—FMC-1
Between: U.S. Atlantic, Gulf, and Puerto Rico Ports.
And: East Coast of Mexico, North and East Coasts of South America, Caribbean, West Indies, and Gulf of Mexico Islands.
Date of Last Revision: 10-18-74.
c/o Universal Shipping Corp., 141 N.E. Third Avenue, Miami, Florida 33132.

Armadora Maritima Guatemalteca, S.A.—FMC-9
From: Atlantic Ports of Mexico and Central America.
To: U.S. Atlantic Ports.
Date of Last Revision: 09-08-75.
c/o Jan C. Uiterwyk Co., Inc., 715 E. Bird Street, P.O. Box 8066, Tampa, Florida 33604.

Armadora Maritima Guatemalteca, S.A.—FMC-4
From: Atlantic Ports of Central America
To: San Juan, Puerto Rico, and U.S. Gulf Ports.
Date of Last Revision: 10-01-75.

Arimura Sangyo Co., Ltd.—FMC-1
Between: Guam.
And: Hong Kong, Philippines, Saipan, Taiwan, Tinian, Okinawa, and other Trust Territory Islands.
Date of Last Revision: 11-08-71.
2-212 Maejimacho, Naha, Okinawa.

Astro Brillo C.N.S.A.—FMC-1
From: U.S. Great Lakes.
To: Far East, Mediterranean, Red Sea, India, Pakistan, Ceylon and Burma.
Date of Last Revision: 05-28-71.
c/o Eagle Ocean Transport, Inc., 20 Broadway, New York, New York 10006.





Atlantic Coast Carriers—FMC-1
From: U.S. South Atlantic and Gulf Ports.
To: All Ports in Continental Europe, including North French Atlantic and Baltic Ports of Discharge, From Le Havre, France to and including Gdynia, Poland
Date of Last Revision: 12-15-73.
c/o Atlantic Coast Agencies, Inc., 17 Battery Place, North, New York, New York 10004.

Atlantic Coast Carriers—FMC-2
From: Baltic Ports, all ports in Continental Europe to include North French Atlantic ports of lading from Gdynia, Poland up to and include Le Havre, France.
To: All U.S. Atlantic and Gulf Ports of discharge, from Eastport, Maine to and including Brownsville, Texas.
Date of Last Revision: 2-4-73.

Atlantic Coast Carriers—FMC-4
From: U.S. Atlantic and Gulf Ports.
To: Leeward and Windward Islands, Trinidad, Barbados, French Guiana, Venezuela.
Date of Last Revision: 12-15-73

Atlantic Lines and Navigation, Inc.—FMC-1
From: U.S. Atlantic and Gulf.
To: Middle East Ports West of Karachi and Northeast of Aden.
Date of Last Revision: 6-20-75.
1333 W. Loop South, Suite 1330, Houston, Texas 77027.

Atlantic Lines & Navigation, Inc.—FMC-2
From: U.S. Atlantic and Gulf, Great Lakes
To: Japan, Korea, Taiwan, Hong Kong, P.I Vietnam, Cambodia, Laos, China.
Date of Last Revision: 07-27-75.

Atlantic Lines and Navigation, Inc.—FMC-3
From: U.S. Atlantic, Gulf, and Great Lakes
To: Belwian Deli, Cirebon, Djakafta, Samarang, Surabaya.
Date of Last Revision: 07-25-75.

Atlantic Lines and Navigation, Inc.—FMC-4
From: U.S. Atlantic, Gulf, and Great Lakes
To: Singapore, Malaya, Thailand, Sarawak, Borneo, Labuan, Brunei.
Date of Last Revision: 07-25-75.

Atlantic Lines, Ltd.—FMC-3
Between: Puerto Rico and Virgin Islands.
And: Leeward and Windward Islands, Trinidad, Barbados, Guianas, Antilles, Bahamas, Bermuda, Haiti, Jamaica.
Date of Last Revision: 11-20-73.
c/o Chester, Blackburn & Rodef, Inc., One Whitehall Street, New York, New York 10004.

Atlantic Lines, Ltd.—FMC-9
Between: U.S. Atlantic and Gulf Ports.
And: Ports in British Virgin Islands.
Date of Last Revision: 11-18-75.

Atlantic Lines, Ltd.—FMC-10
Between: U.S. Atlantic and Gulf Ports.
And: Venezuela and Netherlands Antilles
Date of Last Revision: 11-20-75.

Atlantic Lines, Ltd.—FMC-11
Between: U.S. Atlantic and Gulf Ports.
And: Bermuda.
Date of Last Revision: 11-20-73.

Atlantic Lines, Ltd.—FMC-13
Between: U.S. Atlantic and Gulf Ports
And: Jamaica.
Date of Last Revision: 11-20-73.

Atlantic Lines, Ltd.—FMC-14
Between: U.S. Atlantic and Gulf Ports.
And: Dominican Republic.
Date of Last Revision: 07-10-73.

Atlantic Marine Industries, Inc.—FMC-1
Between: Florida.
And: All Ports in Bahamas except Nassau.
Date of Last Revision: 10-01-70.
P.O. Box 811, South Miami, Florida 33143.

Atlantic Marine Industries, Inc.—FMC-2
Between: Florida.
And: Nassau, Bahamas.
Date of Last Revision: 10-01-70.

Atlantic Reefer Line—FMC-2
From: Canadian Maritime Ports.
To: Gloucester, Mass.
Date of Last Revision: 02-01-66.
c/o Thor Dahl, Inc., 757 Third Avenue, New York, New York 10017.

Atlantic Seaboard S.A.—FMC-1
Between: Canadian East Coast, North Atlantic Ports.
And: U.S. North Atlantic Ports, except Philadelphia and New York.
Date of Last Revision: 06-13-74.
c/o Breton Agencies, Ltd., Suite 215, Duke Street Tower, Halifax, Nova Scotia, Canada.

Atlantitrafik Express Service—FMC-10
From: Australia.
To: U.S. Pacific
Date of Last Revision: 10-01-74.
c/o Boise Griffith Steamship Co., One World Trade Center, Suite 3811, New York, New York 10048.

Alcoa Steamship Co., Inc.—FMC-15
Between: Atlantic and Gulf.
And: Haiti, Netherland Antilles.
Date of Last Revision: 1-12-76.
Two Pennsylvania Plaza, New York, New York 10001.

Amber Maritime Corp.—FMC-10
From: Great Lakes.
To: Latin America.
Date of Last Revision: 8-21-75.
260 Northern Boulevard, Great Neck, New York 11021.

Achille, Lauro, Armature—FMC-15
From: Puerto Rico.
To: Central America.
Date of Last Revision: 6-06-75.
c/o International Tariff Services, 815 Fifteenth Street NW., Washington, D.C. 20005.

Achille, Lauro, Armatore (Flotta Lauro Naples)—FMC-19
From: Loading ports in Spain (Barcelona Seville Range).
To: U.S. North Atlantic ports (Boston, Mass. Cape Hatteras, N.C. Range).
Date of Last Revision: 6-08-69.
Via Cristoforo Colombo, 45, 80133 Naples Italy

Balboa Navigation Lines, S.A.—FMC-2
Between: Guam.
And: Thailand, Tinian, Saipan, and other Trust Territories.
Date of Last Revision: 2-25-74.
702 Wing on Life Bldg., 2-2, Des Voeux Road Central, Hong Kong.

Balboa Navigation Lines, S.A.—FMC-3
Between: Guam.
And: Japan and Korea.
Date of Last Revision: 5-18-74

Balboa Navigation Lines, S.A.—FMC-4
Between: Guam.
And: Hong Kong.
Date of Last Revision: 2-23-75.

Balboa Navigation Lines, S.A.—FMC 5
Between: Guam.
And: Taiwan.
Date of Last Revision: 3-31-74.

Balboa Navigation Lines, S.A.—FMC 6
Between: Guam.
And: Philippines.
Date of Last Revision: 8-18-74.

Baltic Shipping Company—FMC-3
Between: South Atlantic and Gulf.
And: Caribbean, West Indies, North Coast of of South American, East Coast Central America, and Mexico.
Date of Last Revision: 9-26-75.
c/o Texas Transport & Terminal Co., Twenty-Second Floor, International Trade Mart, New Orleans, Louisiana 70130.

Bangladesh Shipping Corp.—FMC-1
From: Atlantic and Gulf.
To: Bangladesh, India, Ceylon and Burma.
Date of Last Revision: 4-05-74.
c/o Norton, Lilly & Co., 90 West Street, New York, New York 10006.

Bangladesh Shipping Corp.—FMC 2
From: Great Lakes, Atlantic, and Gulf.
To: East and West Africa and Persian Gulf.
Date of Last Revision: 8-26-74.

Bangladesh Shipping Corp.—FMC-3
From: Atlantic, Gulf, and Great Lakes.
To: Malaysia, Indonesia.
Date of Last Revision: 8-15-74.

Barber Blue Sea Line—FMC-7.
From: Sri Lanka, Cochin, Colombo
To: Atlantic and Gulf.
Date of Last Revision: 7-03-75.
17 Battery Place, New York, New York 10004.

Barber Blue Sea Line—FMC-23
From: Cristobal and Balboa, Panama Canal Zone.
To: Atlantic Coast Ports.
Date of Last Revision: 4-28-75.

Barber Blue Sea Line—FMC-24
From: Gulf of Mexico, Caribbean Sea, West Coast of Mexico and West Coast Central America.
To: U.S. Atlantic, Gulf and Ports in Puerto Rico and Virgin Islands.

Barberlines—FMC-28
From: Atlantic and Gulf.
To: Southwest and Southeast Africa.
Date of Last Revision: 2-10-75.
17 Battery Place, New York, New York 10004.

Barberlines—FMC-35
From: Puerto Rico.
To: Gulf of Aden, Capetown, Suez, Chittagong, East Africa, Red Sea.
Date of Last Revision: 5-04-72

Barberlines—FMC-38
From: Southwest and Southeast Africa
To: Atlantic and Gulf.
Date of Last Revision: 4-16-75.

Belfranline Ltd.—FMC-7
From: North Continent, Scandinavia, UK, Erie, Spanish, and French Atlantic Ports.
To: San Juan, Ponce, and Mayaguez, Puerto Rico, and St. Croix, St. Thomas, Virgin Islands.
Date of Last Revision: 1-15-73.
Meir 24, Antwerp, Belgium.

Belgo-American Steamship Co., S.A.—FMC-1
From: Ports in the Bordeaux Port and Le Havre-Hamburg Range.
To: Ports in the Wilmington (N.C.)-Miami, Florida Range and Ports in the Tampa, Florida-Brownsville, Texas Range.
Date of Last Revision: 10-1-68.
c/o International Tariff Services, Inc., 815 Fifteenth Street NW, Washington, D.C. 20005.

Bennett Sparrow Shipping Co.—FMC-1
Between: Ports in the U.K.
And: U.S. Atlantic Coast Ports (Searsport, Maine/Hampton Roads Range).
Date of Last Revision: 3-11-75.
150 Southhampton Row, Shropshire, W.E.M., London WC1B 5AT, England.

Bennett Sparrow Shipping Co.—FMC-2
From: Ports in the U.K.
To: U.S. Great Lakes and St. Lawrence River Ports.
Date of Last Revision: 6-19-75.

Bermuda Express Service—FMC-8
From: South Atlantic.
To: Bermuda.
Date of Last Revision: 1-30-75.
c/o Norton, Lilly & Company, Inc., 90 West Street, New York, New York 10006.

Black Sea Canada Lines—FMC-1
From: Great Lakes.
To: East Africa, Red Sea, Gulf of Aden, Persian Gulf.
Date of Last Revision: 11-07-75.
c/o Nordship Agencies, One East Wacker Drive, Chicago, Illinois 60601.

Blue Peter Steamship Ltd.—FMC-5
From: Gloucester, Massachusetts.
To: St. John's, Newfoundland.
Date of Last Revision: 6-15-75.
P.O. Box 6030, St. John's, Newfoundland.



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Blue Peter Steamship Ltd.—FMC-6
From: Newfoundland Ports.
To: Gloucester, Massachusetts.
Date of Last Revision: 5-13-75.

Blue Ridge Line—FMC-1
From: Pacific.
To: Indonesia, Japan, Malaysia, Thailand, Vietnam, Philippines, Singapore, Korea, and Taiwan.
Date of Last Revision: 7-10-69.
225 Kearney Street, San Francisco, California 94108.

Blue Star Line, Ltd.—FMC-5
Between: British Columbia, Canada.
And: U.S. Pacific Coast Ports.
Date of Last Revision: 6-15-74.
650 California Street, San Francisco, California.

Booth Lamport Linea Amazonica—FMC-11
From Iquitos, Peru, and Leticia, Colombia.
To: U.S. Atlantic and Gulf Ports.
Date of Last Revision: 4-22-72.
c o Dovar Shipping Agency, Inc., 21 West Street, New York, New York 10006.

A. Bottacchi S.A. De Navegacion C.F.I. EI.—FMC-1
From Group 1—Central America, including Mexico and Caribbean.
To: U.S. Gulf Ports, Puerto Rico and Virgin Islands.
From: Group 2—All ports Central America, including Mexico and Caribbean.
To: U.S. Atlantic and Great Lakes Ports.
c o International Tariff Services, Inc., 815 Fifteenth Street NW., Washington, D.C. 20005.

Bristol City Line Ltd.—FMC-1
From: U.K. and Erie Ports.
To: U.S. Great Lakes.
Date of Last Revision: 4-17-72.
129 Cumberland Road, Bristol BS1 6UY, England.

British M.V. "Dram Buoy"—FMC-1
Between: Palm Beach, Florida.
And: Bahama Islands.
Date of Last Revision: 4-21-72.
c o Palm Beach Steamship Agency, Inc., 130 East Port Road, Riveria Beach, Florida 33404.

British M.V "Fendo"—FMC-3
Between: Palm Beach, Florida.
And: The Bahama Islands.
Date: of Last Revision: 4-10-71.
c/o Palm Beach Steamship Agency, 130 E. Port Road, Riviera Beach, Florida 33404.

British M.V. "Mary Ann Kate"—FMC-2
Between: Palm Beach, Florida.
And: The Bahama Islands.
Date of Last Revision: 3-6-66.
c/o Palm Beach Steamship Agency, Inc., 130 E. Port Road, Riviera Beach, Florida 33404.

British M.V. "Primavera"—FMC-1
Between: Palm Beach, Florida.
And: The Bahamas.
Date of Last Revision: 7-26-69.
c/o Palm Beach Steamship Agency, Inc., 130 East Port Road, Riviera Beach, Florida 33404.

British M.V. "Tulsa"—FMC-1
Between: Ports in Florida.
And: The Bahama Islands.
Date of Last Revision: 8-16-69.
c/o Abaco Shipping, 741 NE. 36th Street, Boca Raton, Florida 33432.

British M.V "Wilson Flyer"—FMC-1
Between: Palm Beach, Florida.
And: Bahama Islands.
Date of Last Revision: 8-27-69.
c/o Palm Beach Steamship Agency, Inc., 130 East Port Road, Riviera Beach, Florida 33404.

Buffex—FMC-3
From: Buffalo, New York.
To: Ports in U.K. and European Continent.
Date of Last Revision: 8-21-75.
c/o Frontier Distribution Line, Inc., 1285 William Street, Buffalo, New York 14206.

Buques Mercantes Del Caribe, C.A.—FMC-1
Between: U.S. South Atlantic and Gulf Ports.
And: All Caribbean Ports.
Date of Last Revision: 5-16-73.
Av. Aviacion K. 4, Merida, Yucatan, Mexico.

C. A. Venezolana De Navegacion (Venezulean Line)—FMC-1
From: Italy.
To: Virgin Islands.
Date of Last Revision: 4-11-73.
Prins Hendrikkade 108, P.O. Box 209, Amsterdam, Holland.

C. A. Venezolana De Navegacion (Venezulean Line)—FMC-2.
From: Spain.
To: Virgin Islands.
Date of Last Revision: 4-11-73.

C. A. Venezolana De Navegacion (Venezulean Line)—FMC-3
From: Portugal.
To: Virgin Islands.
Date of Last Revision: 4-11-73.

C. A. Venezolana De Navegacion (Venezulean Line)—FMC-4
From: Marseilles, France.
To: Virgin Islands.
Date of Last Revision: 4 11-73.

C & P Line—FMC-1
Between: Florida.
And: Mexico.
Date of Last Revision: 12-15-75.
c o Yucatan Shipping Co., Inc., 3000 Biscayne Blvd., Suite 200, Miami, Florida 33137.

Canadian National Railways—FMC-13
Between: Prince Rupert, B.C.
And: Whittier, Alaska.
Date of Last Revision: 7-20-70.
259 CNR Station, Winnipeg 1, Manitoba.

Canadian National Railways—FMC-14
Between: Prince Rupert, B.C.
And: Whittier, Alaska.
Date of Last Revision: 7-20-70.

Canadian National Railways—FMC-16
From: Prince Rupert, B.C.
To: Sitka, Alaska.
Date of Last Revision: 4-20-73.
c o F. W. Milne, 123 Main Street, Winnipeg, Manitoba R3C2P8.

Cargo Lines Ltd.—FMC-2
From: Atlantic Coast Ports.
To: Hamburg Bordeaux Range.
Date of Last Revision: 6-12-76. (However, it is a known fact that this carrier is out of business.)
P.O. Box 06454, 6830 Chiasso, Switzerland.

Cargo Lines Ltd.—FMC-4
From: Atlantic and Gulf Ports.
To: All Ports of Call in England, Scotland, Wales, Northern Ireland, and Republic of Ireland.
Date of Last Revision: 8-30-76. (However, it is a known fact that this carrier is out of business.)

Cargo Lines Ltd.—FMC-6
From: Boston/Hampton Roads Range.
To: San Sebastian/La Couena Range.
Date of Last Revision: 6-21-75. (No changes since tariff became effective.)

Caribbean Atlantic Marine Co.—FMC-1
Between: Atlantic and Gulf.
And: Central America, South America, and Caribbean.
Date of Last Revision: 8-4-74.
c/o Lone Star Shipping, Inc., 1318 Texas Avenue, Houston, Texas 77002.

Caribbean Line—FMC-3
From: Atlantic and Gulf.
To: East Coast Central America.
Date of Last Revision: 12-20-75.
c/o Transportation Tariff Publishers, 2311 University Boulevard, West Wheaton, Maryland 20902.

Caribbean Line—FMC-4
From: Ports on the East Coast of Central America.
To: U.S. Atlantic and Gulf Ports.
Date of Last Revision: 12-20-75.

Cartainer Line N.V.—FMC-2
From: U.S. South Atlantic.
To: North Continental Ports. Also from U.S. Great Lakes to North Continental Ports.
Date of Last Revision: 5-16-72.
150 Mechelse Steenweg, Antwerp, Belgium

Cartainer Line, N.V.—FMC-3
From: North Continental Ports between Gdansk and Le Havre both inclusive and U.K. Ports.
To: U.S. Ports in the range between Cape Canaveral, Florida, and Brownsville, Texas, also to U.S. South Atlantic Coast between Cape Hatteras and Cape Canaveral, Florida, both inclusive, also to New York, Baltimore, and Norfolk.
Date of Last Revision: 10-1-75.

Cartainer Line N.V.—FMC-5
From: Ports in Continental Europe in the Bordeaux/Hamburg Range.
To: South Atlantic Ports of the U.S. in the Cape Canaveral, Florida/Cape Hatteras Range.
Date of Last Revision: 2-8-75.

Cayman Seatrailer Corporation Ltd.—FMC 1
Between: Atlantic.
And: British West Indies.
Date of Last Revision: 8-11-75.
P.O. Box 309, Georgetown, Grand Cayman, BWI.

Central Gulf Contramar Line (Eurogulf)—FMC-25
From: Ports in Great Britain and Northern Ireland and Erie including inland points and places on inland waterways ranging from South of Cape Hatteras, N.C., up to but not including Key West, Florida.
Date of Last Revision: 8-15-73.
c/o Central Gulf Lines, Inc., One Whitehall Street, New York, New York 10004.

Central Gulf Lines—FMC-12
From: Red Sea and Gulf of Aden.
To: Atlantic and Gulf.
Date of Last Revision: 9-16-75.
P.O. Box 53366, New Orleans, Louisiana 70150.

Central Gulf Lines—FMC-14
From: Persian Gulf.
To: Atlantic and Gulf.
Date of Last Revision: 6-6-75.

Central Gulf Steamship Corp.—FMC-11
From: Ports in the Mediterranean (including Spanish Atlantic and Mediterranean Ports and Ports in Portugal) from Gibraltar to Port Said, including Adriatic and Black Sea, Gulf of Taranto Ports and from Casablanca to Port Said and including all Italian Ports from Ventimiglia to the Yugoslav border including islands, Sicilian and Sardinian Ports and Ports on the Adriatic and French Mediterranean Ports.
To: North, South Atlantic, and Gulf Ports.
Date of Last Revision: 6-6-75.
Central Gulf Lines, Inc., One Whitehall Street, New York, New York 10004.

Cerrahogularri Line—FMC-1
From: U.S. Gulf and Atlantic Ports.
To: Turkish Mediterranean and Black Sea Ports and other Mediterranean Ports. including Black Sea except Ports of Iskenderun, Mersin, Izmir, and Istanbul.
Date of Last Revision: 8-22-68.
Posta Kutusa 411, Taksim, Istanbul, Turkey.

Cheun Cheong Enterprises, Ltd.—FMC-1
Between: Guam.
And: Formosa, Hong Kong, Taiwan, Philippines, Thailand.
Date of Last Revision: 7-23-71.
12th Floor, Man Cheong Bldg., 32-36 Des Voeux Road W., Hong Kong.





Chicago Container Service, Inc.—NVOCC FMC-3
From: U.S. North Atlantic Ports.
To: Antwerp, Bremen, Hamburg, Rotterdam, and Le Havre.
Date of Last Revision: 12-10-75.
c/o Gene Sutterfield, 1300 S. Plymouth Court, Chicago, Illinois 60605.

Chilean Line, Inc.—FMC-8
From: Chile and Peru.
To: Puerto Rico.
Date of Last Revision: 8-2-71.
29 Broadway, New York, New York 10006.

China Merchants Steam Navigation Co.—FMC-5
From: Korea.
To: Atlantic and Gulf.
Date of Last Revision: 12-16-73.
One World Trade Center, New York, New York 10048.

China Navigation Co., Ltd.— FMC 3
From: Korea, Japan.
To: Guam.
Date of Last Revision: 3-1-74.
c o Furness, Withy & Co., Ltd., Five World Trade Center, New York, New York 10048.

China Navigation Company, Ltd.—FMC-4
Between: Hong Kong and Taiwan.
And: U.S. Samoa.
Date of Last Revision: 6-23 74.

China Overseas Shipping Ltd.—FMC-1
From: Hong Kong, Singapore, Malaysia and Taiwan.
To: Atlantic and Gulf.
Date of Last Revision: 8-28-72.
c o Luckenbach Steamship Co., Inc., 120 Wall Street, New York, New York 10005.

China Union Lines, Ltd.—FMC-2
From: Hong Kong.
To: Atlantic and Gulf.
Date of Last Revision: 7-8-74.
46 Kwantsien Road, Taipei, (c.c.) Taiwan, Republic of China.

China Union Lines, Ltd.—FMC-3
From: Taiwan.
To: Atlantic, Gulf, and Pacific.
Date of Last Revision: 2-3-75.

China Union Lines, Ltd.—FMC-4
From: Japan.
To: Atlantic and Gulf.
Date of Last Revision: 2-1-75.

China Union Lines, Ltd.—FMC-5
From: Atlantic, Gulf, and Pacific.
To: Philippines, Taiwan, Japan, Korea, and Hong Kong.
Date of Last Revision: 2-20-75.

China Union Lines, Ltd.—FMC-8
From: Korea.
To: Atlantic and Gulf.
Date of Last Revision: 6-15-72.

Citadelle Line, S.A.—FMC-1
From: South Atlantic and Gulf.
To: Bahama, Cayman Islands and Caicos, Providenciales and Turks.
Date of Last Revision: 11-25-74.
1400 Winston Plaza, Melrose Park, Illinois 60160.

Clipper Express Company—NVOCC FMC-1
From: U.S. Atlantic Ports.
To: Antwerp, Bremen, Hamburg, Amsterdam, and Rotterdam.
Date of Last Revision: 12-14-72.
3401 West Pershing Road, Chicago, Illinois 60632.

Cobelfret Lines SPRL—FMC-5
From: North Continental ports between Gdansk and Le Havre, both inclusive and U.K. Ports.
To: U.S. South Atlantic Coast between Cape Hatteras and Cape Canaveral, Florida, both inclusive; and U.S. Ports in the Range between Cape Canaveral and Brownsville, also to New York, Baltimore, and Norfolk.
Date of Last Revision: 10-1-75.
150 Mechelse Steenweg, Antwerp, Belgium.

Cobelfret Lines SPRL—FMC-7
From: Ports in Continental Europe in the Bordeaux/Hamburg Range.
To: South Atlantic Ports in U.S. in the Cape Canaveral, Florida/Cape Hatteras Range.
Date of Last Revision: 2-8-75.
c/o Gene Sutterfield, 1300 S. Plymouth Court, Chicago, Illinois 60605.

Columbia Transatlantic Container Lines, Ltd.—FMC-1
From: Amsterdam, Antwerp, Rotterdam, Hamburg, Bremen, and U.K.
To: New York, Hampton Roads, Baltimore, and Philadelphia.
Date of Last Revision: 6-1-72.
Reed Street, Hamilton, Bermuda.

Columbia Transatlantic Container Lines, Ltd.—FMC-2
From: New York, Hampton Roads, Baltimore, Philadelphia.
To: Amsterdam, Antwerp, Rotterdam, Hamburg, Bremen, and U.K.
Date of Last Revision: 5-31-72.

Columbus Line—FMC-15
From: Pacific.
To: South Sea Islands.
Date of Last Revision: 2-22-73.
c o Bakke Steamship Corp., 650 California Street, San Francisco, California 94108.

Commodore Mia-Mex Line—FMC-1
Between: U.S. Atlantic and Gulf Ports (Except New York and Philadelphia).
And: Mexican Ports.
Date of Last Revision: 2-20-74.
c o K. Nielsen Shipping and Trading Co., Inc., 903 South American Way, Dodge Island, Miami, Florida 33132.

Companhia De Navegacao Lloyd Brasilerio—FMC-3
From: Port of Spain, Brighton, Trinidad.
To: U.S. Atlantic and Gulf Ports
Date of Last Revision: 9-03-67.
17 Battery Place, New York, New York 10004.

Companhia Nacional de Navegacao—FMC-3
From: Spain only.
To: U S. South Atlantic and Gulf Ports.
Date of Last Revision: 5-14-74.
c o East Coast Overseas Corp., 80 Broad Street, New York, New York 10004.

Companhia Nacional de Navegacao—FMC-4
From: Azores and Madeira Islands.
To: U.S. East Coast and Gulf Ports.
Date of Last Revision: 6-15-72.

Companhia Nacional de Navegacao S.A.R.L.—FMC-6
From: South Atlantic and Gulf.
To: Spain only.
Date of Last Revision: 05-14-73.
Rua do Comercio 85, Lisbon, Portugal.

Companhia Nacional de Navegacao S.A.R.L.—FMC-7
From: U.S. East Coast and Gulf.
To: Azores and Madeira Islands.
Date of Last Revision: 06-15-72 (No changes since tariff became effective).

Companhia Nacional de Navegacao—FMC-8
From: Portugal.
To: U.S. Gulf Ports.
Date of Last Revision: 01-04-74.
c/o East Coast Overseas Corp., 80 Broad Street, New York, New York 10004.

Companhia Nacional de Navegacao—FMC-9
From: North Atlantic Ports.
To: Spain.
Date of Last Revision: 06-13-75.
Rua do Comercio 85, Lisbon, Portugal.

Companhia Portuguesa de Transportes Maritimos—FMC-1
From: South Atlantic and Gulf Ports.
To: Ports in Portugal and Morocco.
Date of Last Revision: 05-22-74.
Portuguese Line C.T.M., Avenida 24 Dejulho 132, Lisbon, Portugal.

Companhia Portuguesa de Transportes Maritimos—FM-2
From: North Atlantic Ports.
To: All Ports in the Mediterranean Sea from Gibraltar to Port Said, including Adriatic Sea Ports and all Black Sea Ports from Casablanca to Port Said with the exception of Israeli and Spanish Mediterranean Ports.
Date of Last Revision: 05-22-74.

Companhia Portuguesa de Transportes Maritimos—FMC-8
From: Ports of Morocco.
To: North Atlantic Ports in U.S. in the Hampton Roads/Eastport Range.
Date of Last Revision: 05-22-74.

Compania Agropecuaria Y Maritima Santa Rosa Ltda. (Lineas Agromar)—FMC-2
From: Colombia.
To: San Juan, Puerto Rico.
Date of Last Revision: 10-01-70.
c/o Atlantic Shipping Co., 1150 S.W. 1st Street, Miami, Florida 33130.

Compania Agropecuaria Y Maritima Santa Rosa Ltda. (Lineas Agromar)—FMC-3
From: River Plate (Argentina-Uruguay).
To: San Juan, Puerto Rico.
Date of Last Revision: 10-11-70.

Compania Agropecuaria Y Maritima Santa Rosa Ltda. (Lineas Agromar)—FMC-4
From: Brazilian Ports.
To: San Juan, Puerto Rico.
Date of Last Revision: 12-17-70.

Compania Agropecuaria Y Maritima Santa Rosa Ltda. (Lineas Agromar)—FMC-5
From: Venezuela.
To: San Juan, Puerto Rico.
Date of Last Revision: 12-16-70.

Compania de Navegacao Loide Brasileiro—FMC-9
Between: Georgetown, Guyana.
And: Puerto Rico.
Date of Last Revision: 9-6-74.
Rva do Rosario, 1/17, Rio de Janeiro, Brazil.

Companhia de Navegacao Loide Brasileiro—FMC-12
Between: Paramaribo, Surinam.
And: Puerto Rico.
Date of Last Revision: 9-19-74.

Compania de Navegacao Maritime Netumar (Netumar Lines)—FMC-14
From: Atlantic and Great Lakes.
To: Iquitos, Peru.
Date of Last Revision: 7-20-75.
67 Broad Street, New York, New York 10004.

Compania Maritima Del Nervion, S.A. (Nervion Line)—FMC-6
From: Ports in Spain, Portugal and Canary Islands.
To: U.S. Gulf of Mexico and South Atlantic ports from and including Brownsville, Texas to and including all ports South of Cape Hatteras, N.C.
Date of Last Revision: 12-26-75.
c/o Kerr Steamship Company, 428 Canal Street, New Orleans, Louisiana 70130.

Compania Maritima Del Nervion S.A.(Nervion Line)—FMC-7
From: U.S. Gulf Ports.
To: All Ports of call in the Bordeaux Hamburg Range.
Date of Last Revision: 10-2-74.

Compania Maritima Del Nervion S.A. (Nervion Line)—FMC-8
From: U.S. Atlantic Ports North of Cape Hatteras.
To: All Ports served on the Mediterranean Sea from Gibraltar to Port Said (including Adriatic, Black Sea and Gulf of Taranto Ports) and from North African Ports in Morocco (including West Coast Moroccan Ports) to Port Said inclusive, also Spanish Atlantic and Portuguese Ports.
Date of Last Revision: 9-30-74.



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Companía Nacional De Navigacion, S.A.—FMC 3
Between: Puerto Rico.
And: Atlantic and Pacific Ports of Colombia.
Date of Last Revision: 3-25-74.
c/o Fred Imbert, Inc., P.O. Box 4424, San Juan, Perto Rico 00905.

Compania Nacional De Navigacion, S.A.—FMC 4
From: San Juan, Puerto Rico.
To: Dominican Republic, Jamaica, Venezuela.
Date of Last Revision: 3-25-74.

Compania Naviera Aguila S.A. (Conasa Line)—FMC-1
Bill of Lading, Rules and Regulation Tariff.
Date of Last Revision: 6-22-73.
c/o Eagle, Inc., P.O. Box 3022, Miami, Florida 33101.

Compania Naviera Aguila S.A. (Conasa Line)—FMC-2
Between: U.S. Atlantic and Gulf Ports.
And: West Coast of Central America and Ports in the Caribbean.
Date of Last Revision: 7-18-73.

Compania Naviera Aguila S.A. (Conasa Line)—FMC-3
Between: U.S. Atlantic and Gulf Ports.
And: Ports in Central America and Netherlands Antilles.
Date of Last Revisions: 11-15-74.

Compania Naviera Aguila S.A. (Conasa Line)—FMC-4
From: U.S. Atlantic and Gulf Ports.
To: Ports in Central America.
Date of Last Revision: 1-23-75.

Compania Peruana De Vapores—FMC-11
From: U.S. Atlantic and Gulf.
To: Ports in Peru.
Date of Last Revision: 6-18-75.
c/o Tilston Roberts Corp., 17 Battery Place, New York, New York 10004.

Compania Sud Americana De Vapores S.A.—FMC-6
From: Puerto Nuevo (Guayaquil) Ecuador or Puerto Bolivar, Ecuador.
To: Jacksonville or Baltimore or New York.
Date of Last Revision: 6-23-75.
No. 1 World Trade Center, New York, New York 10048.

Compania Sud Americana de Vapores—FMC-7
From: San Juan, Ponce and Mayaguez, Puerto Rico.
To: Europe.
Date of Last Revision: 2-25-72.
c/o Chilean Line, 29 Broadway, New York, New York 10006.

Compania Transatlantica Espanola, S.A.—FMC-11
From: Vera Cruz and Tampico (Mexico) and other Mexico Gulf ports.
To: San Juan, Puerto Rico.
Date of Last Revision: 4-22-75.
c/o Transportation Tariff Publishers, 2311 University Blvd. West, Wheaton, Maryland 20902.

Compania Transatlantica Espanola, S.A.—FMC-25
From: La Guaira, Venezuela and other Venezuelan Ports and Colombia.
To: San Juan, Puerto Rico.
Date of Last Revision: 4-25-75.

Compania Transatlantica Espanola, S.A.—FMC-27.
From: Curacao, Netherlands Antilles.
To: San Juan, Puerto Rico.
Date of Last Revision: 12-24-75.

Compania Transatlantica Espanola, S.A. (Spanish Line)—FMC-38
From: Ports in Puerto Rico.
To: Ports in Spain and Italy.
Date of Last Revision: 5-1-75.

Concordia Line—FMC-1
From: Atlantic and Gulf.
To: India, Pakistan, Ceylon and Burma.
Date of Last Revision: 11-10-75.
c/o Boise, Griffin Steamship Co., Inc. One World Trade Center, New York, New York 10048.

Concordia Line—FMC-12
From: U.S. and Gulf Ports.
To: Portuguese Ports.
Date of Last Increase: 11-10-75.

Concordia Line—FMC-14
From: Eastern Mediterranean Ports.
To: U.S. Gulf Ports.
Date of Last Revision: 11-10-75.

Concordia Line—FMC-16
From: Atlantic and Gulf.
To: South and East Africa.
Date of Last Revision: 11-10-75.

Concordia Line—FMC-17
From: S.W., South and East Africa, Islands of Madagascar.
To: Atlantic and Gulf.
Date of Last Revision: 11-10-75.

Concordia Line—FMC-20
From: Morocco, Algeria, Tunisia and Libya Ports.
To: U.S. Atlantic and Gulf Ports.
Date of Last Revision: 11-10-75.

Concordia Line—FMC-21
From: Sri Lanka.
To: Atlantic and Gulf.
Date of Last Revision: 11-10-75.

Consat Line Ltd.—FMC-1
From: Antwerp, Belgium.
To: U.S. South Atlantic.
Date of Last Revision: 1-30-71.
Consat Line, Ltd., Nassau, Bahamas.

Consolidated Express, Inc.—NVOOC FMC-1
Between: Baltimore, Maryland and New York, New York.
And: Ports in the Antwerp, Rotterdam, and Amsterdam, Range.
Date of Last Revision: 2-16-75.
60 Kellog Street, Jersey City, New Jersey 07305.

Consolidators, Inc.—FMC-1
Between: Miami.
And: Jamaica.
Date of Last Revision: 12-20-73.
c/o Chester, Blackburn & Roder, 1040 Biscayne Blvd., Miami, Florida.

Consortium Martime Transport Line—FMC-2
From: U.S. Atlantic Ports.
To: Bordeaux Hamburg Range.
Date of Last Revision: 4-10-69.
c/o Nedlloyd Line, Five World Trade Center, Suite 617, New York, New York 10048.

Consortium Maritime Transport—FMC-3
From: Bordeaux Hamburg Range.
To: U.S. Great Lakes Ports.
Date of Last Revision: 4-9-73.
c/o Ruys & C.S.A. Antwerp, 23-25 Britselei, B-2000 Antwerp, Belgium.

Constellation Line—FMC-22
From: Pacific.
To: Red Sea, Indonesia, Malaysia, Thailand, Persian Gulf and South and West Africa.
Date of Last Revision: 6-21-74.
c/o Constellation Navigation, Inc., 223 Broadway, New York, New York 10007.

Container Express Corporation—NVOCC FMC-1
Between: U.S. North and South Atlantic Ports.
And: European Ports.
Date of Last Revision: 10-31-75.
P.O. Box 2249, Newark, New Jersey 07114.

Container-Lloyd—NVOCC FMC-4
From: Scandinavia, Bourdeaux/Hamburg Range, U.K., Erie.
To: U.S. Atlantic Ports.
Date of Last Revision: 12-15-74.
110 South Dearborn Street, Chicago, Illinois 60603.

Container-Lloyd—NVOCC FMC 6
From: Scandinavia, Bordeau/Hamburg Range, U.K., Erie.
To: U.S. Gulf Ports.
Date of Last Revision: 03-10-72.

Container-Lloyd—NVOCC FMC-9
From: U.S. Atlantic and Gulf Ports.
To: Caribbean and South American Ports.
Date of Last Revision: 05-08-75.

Container-Lloyd—NVOCC FMC-10
From: Atlantic, Gulf and Great Lakes.
To: Brazil, Uruguay, Argentina and South America.
Date of Last Revision: 07-25-75.

Container-Lloyd—NVOCC FMC-17
From: Atlantic and Gulf.
To: Bahamas, Jamaica, Dominican Republic, West Indies, Guatemala, Venezuela, Nicaragua, Costa Rica, Panama, Colombia, Ecuador.
Date of Last Revision: 05-08-75.

Contramar S.A.—FMC-4
From: Bordeau Port and Le Havre—Hamburg Range Ports, Ports in U.K. Erie, Scandinavia and Baltic Ports and Ports in the Iberian Atlantic Coast.
To: All U.S. ports on the St. Lawrence and Gerat Lakes located in the states of New York, Pennsylvania, Ohio, Indiana, Michigan, Illinois, Wisconsin and Minnesota.
Date of Last Revision: 03-19-69.
c/o Jan C. Uiterwyk Co., Inc., 100 W. J. F. Kennedy Blvd., Tampa, Florida 33601.

Contramar Line S.A.—FMC-125
From: Scandinavia, North Continental, U.K. Irish and French, Spanish (Atlantic) Ports.
To: Ports in Puerto Rico.
Date of Last Revision: 8-01-75.
Kliperstraat, 15, 2030 Antwerpen, Belgium.

Costa Line—FMC-16
From: U.S. North Atlantic Ports.
To: Portugal.
Date of Last Revision: 6-27-75.
P.O. Box 492, Via G. Diannonzio, Z, 16121 Genova, Italy.

Cutlass Steamship Corp.—FMC-8
From: Pacific.
To: Manila, Bangkok, Indonesia, Hong Kong, Singapore.
Date of Last Revision: 9-15-75.
680 Beach Street, San Francisco, California 94109.

Dae Jin Shipping Co., Ltd.—FMC-1
From: Gulf and Pacific.
To: Japan, Korea, Hong Kong, Taiwan.
Date of Last Revision: 4-12-71.
Two Pine Street, San Francisco, California 94111.

D'Amico Line—FMC-1
From: Mexico.
To: U.S. Gulf.
Date of Last Revision: 12-16-67.
c/o Hansen & Tidemann, Inc., P.O. Box 52620, Houston, Texas.

D'Amico Mediterrancan Pacific Line—FMC-1
From: Pacific.
To: Mid East Ports including Red Sea and Gulf of Aden.
Date of Last Revision: 10-06-75.
417 Montgomery Street, San Francisco, California 94111.

D'Amico Soc. di Navigazione S.p.A.—FMC-4
Between: Yugoslavian Ports.
And: Puerto Rico.
Date of Last Revision: 2-24-74.
Via A. Cantore 8H/34, 16149 Genova, Sampierdarena.

D'Amico Soc. di Navigarzione S.p.A.—FMC-5
Between: Spanish Atlantic Ports.
And: Puerto Rico.
Date of Last Revision: 5-26-71 (No changes since tariff became effective)





Daiwa Navigation Co., Ltd.—FMC-6
Between: Japan, Korea, Taiwan.
And: Atlantic, Gulf and Great Lakes.
Date of Last Revision: 5-16-73.
45-2Chome, Awazaminami-Dori, Nishi-Ku, Osaka, Japan.

Dart Container Line—FMC-11
From: U.S. North Atlantic Ports.
To: All Ports of call in the U.K. and Eire.
Date of Last Revision: 6-16-72.
Five World Trade Center, Northeast, Plaza Building, New York, New York 10048.

Deep Sea Mediterranean Line—FMC-1
From: U.S. South Atlantic and Gulf Ports.
To: Portuguese Ports.
Date of Last Revision: 8-08-71.
c/o Texas Transport & Terminal Co., Inc., 22nd Floor, International Trade Mart Bldg., New Orleans, Louisiana 70130.

Delta Steamship Lines, Inc.—FMC-8
From: U.S. Gulf Ports.
To: Iquitos, Peru and Leticia, Colombia.
Date of Last Revision: 5-29-73.
1700 International Trade Mart, New Orleans, Louisiana 70150.

Delta Steamship Lines, Inc.—FMC-12
From: Puerto Rico.
To: West Africa.
Date of Last Revision: 3-19-75.

Delta Steamship Lines, Inc.—FMC-16
From: West Africa.
To: Puerto Rico.
Date of Last Revision: 4-14-75.

Delta Steamship Lines, Inc.—FMC-24
From: U.S. Gulf Ports.
To: Bermuda.
Date of Last Revision: 10-24-73.

Delta Steamship Lines, Inc.—FMC-25
Between: Ports on East Coast of Mexico.
And: Ports in Puerto Rico.
Date of Last Revision: 7-09-73.

Delta Steamship Lines, Inc.—FMC-26
From: Gulf.
To: Haiti.
Date of Last Revision: 6-09-75.

Delta Steamship Lines, Inc.—FMC-27
From: Haitian Ports.
To: U.S. Gulf Ports.
Date of Last Revision: 11-25-74.

Delta Steamship Lines, Inc.—FMC-32
From: Jamaica.
To: U.S. Gulf Ports.
Date of Last Revision: 11-25-74.

Delta Steamship Lines, Inc.—FMC-33
From: Dominican Republic.
To: U.S. Gulf.
Date of Last Revision: 11-25-74.

Delta Steamship Lines, Inc.—FMC-39
From: Gulf.
To: East Coast Nicaragua.
Date of Last Revision: 10-2-75.

Deppe Line—FMC-6
From: U.S. Gulf Ports.
To: U.K. Ports of London, Southampton, Manchester, Liverpool and Great Yarmouth.
Date of Last Revision: 5-15-74.
Armement Deppe, S.A., c/o Hansen & Tidemann, Inc., 442 Canal Street, New Orleans, Louisiana 70130.

Deppe Line—FMC-20
From: Charleston/Miami Range.
To: All Ports of call in the Le Havre/Hamburg Range.
Date of Last Revision: 1-6-76.

Deppe Line—FMC-32
From: Vera Cruz, Tampico and Contzacoalcos (Puerto Mexico).
To: U.S. Gulf of Mexico Ports in the Brownsville, Texas/Tampa, Florida.
Date of Last Revision: 1-15-75.

Deppe Line—FMC-33
From: San Juan, Puerto Rico.
To: All Ports of call in the Le Havre/Hamburg Range/Scandinavia and United Kingdom.
Date of Last Revision: 11-7-75.
Armement Deppe, S.A., Meir, 11, B-2000 Antwerp, Belgium.

Deugro International Transport, Inc.—NVOCC FMC-1
Between: U.S. Atlantic, Gulf, Pacific and Great Lakes Ports.
And: Worldwide Destinations.
Date of Last Revision: 8-1-73.
9687 Allen Avenue, Rosemont, Illinois 60018.

Dominion International Transport, Inc.—NVOCC FMC-1
Between: U.S. North Atlantic Ports.
And: Worldwide Destinations.
Date of Last Revision: 4-20-74.
4538 W. Fillmore Street, Chicago, Illinois 60624.

Dundas Shipping & Trading Co., Ltd.—NVOCC FMC-1
From: U.S. Atlantic and Gulf.
To: Continental Europe and United Kingdom.
Date of Last Revision: 3-1-72.
1 Westmont Square, Montreal, Quebec, Canada.

Dyvships—FMC-1
From: U.S. Atlantic and Gulf Ports.
To: Ports in Europe and the United Kingdom.
Date of Last Revision: 3-8-71.
c/o E. J. Maher, Inc., 19 Rector Street New York, New York 10006.

The East Asiatic Company, Ltd.—FMC-7
Between: British Columbia, Canada.
And: U.S. Pacific Coast.
Date of Last Revision: 6-15-74.
650 California Street, San Francisco, California.

East Coast Bermuda Line—FMC-1
Between: U.S. Atlantic Ports.
And: Bermuda.
Date of Last Revision: 4-12-72.
c/o International Tariff Services, Inc., 815 Fifteenth Street NW., Washington, D.C. 20005.

Econoline, Inc.—NVOCC FMC-3
From: Port Everglades and Miami, Florida.
To: Republic of Panama.
Date of Last Revision: 10-1-70.
2929 N.W. 73rd Street, Miami, Florida 33147.

Eddie Line—FMC-1
From: Atlantic and Gulf.
To: Yokohama, Kobe and Taiwan.
Date of Last Revision: 10-1-67.
25 Broadway, New York, New York.

Eddie Line—FMC-2
From: Taiwan, Republic of China.
To: Atlantic, Gulf and Pacific.
Date of Last Revision: 9-12-67.

Ellerman & Bucknall North America Service—FMC-1
From: Vera Cruz, Mexico.
To: U.S. Atlantic and Gulf.
Date of Last Revision: 10-16-70.
c/o Norton, Lilly & Co., Inc., 90 West Street, New York, New York 10006.

El Seis de Mayo Express, Inc.—NVOCC FMC-1
From: New York.
To: Caribbean, South and Central America.
Date of Last Revision: 11-2-72.
765 East 149th Street, Bronx, New York 10455.

El Viejo San Juan Moving & Shipping, Inc.—NVOCC FMC-1
Between: U.S. Atlantic and Gulf Ports.
And: Dominican Republic.
Date of Last Revision: 8-20-72.
862 Southern Blvd., Bronx, New York 10459.

Empresa Naviera Santa S.R. Ltda.—FMC-1
From: U.S. Atlantic and Gulf Ports.
To: Ecuador, Peru and West Coast Ports of Colombia.
Date of Last Revision: 3-23-73.
Casella 5246, Lima, Peru.

Empreza Maritima International S.A. (Emisa Lines)—FMC-1
Between: Florida.
And: Bahamas and Caribbean.
Date of Last Revision: 6-1-75.
3163 NW. South River Drive, Miami, Florida 33142.

Fabre Line—FMC-2
From: San Juan, Puerto Rico-U.S. South Atlantic and Gulf Ports.
To: All Ports served on the Portuguese Coast.
Date of Last Revision: 1-27-69.
Compagnie Fabre-Societe Generale de Transports, Maritimes, 70-72 Rue de la Republique, Marseilles 2, France.

Fabre Line—FMC-3
From: San Juan, Puerto Rico.
To: Spanish Atlantic and all Mediterranean Sea Ports from Gibraltar including Moroccan Atlantic Ports to Port Said inclusive.
Date of Last Revision: 10-27-69.

Fabre Line—FMC-24
From: North Atlantic French Ports.
To: U.S. Ports in the Hampton Roads/Portland, Maine Range and U.S. ports in the Great Lakes.
Date of Last Revision: 6-08-70.

Fabre Line—FMC-25
From: North Atlantic Ports.
To: Bordeaux, France.
Date of Last Revision: 7-15-71.

Fahren Sud Line—FMC-2
Between: U.S. Atlantic and Gulf Ports.
And: Caribbean and East Coast of Central America and Mexico.
Date of Last Revision: 5-01-72.
Robert J. Fearon, P.O. Box 983, Tampa, Florida 33601.

Falmouth Steamships, Inc.—FMC-1
From: Atlantic and Gulf Ports.
To: Ports in U.K., Northern Ireland, Republic of Eire and Continental Europe.
Date of Last Revision: 2-13-73.
Apartado 6307, Panama 4, Republic of Panama.

Far Eastern Marine Transport Co., Ltd.—FMC-1
From: U.S. Pacific, Atlantic, and Gulf.
To: Japan, Hong Kong, Korea, and Taiwan.
Date of Last Revision: 6-10-71.
Nine First Street, San Francisco, California 94105.

Farrell Lines, Incorporated—FMC-31
From: New Zealand.
To: Guam, M.I.
Date of Last Revision: 1-28-76.
One Whitehall Street, New York, New York 10004.

Farrell Lines, Incorporated—FMC-32
From: Australia and New Guinea.
To: Guam, M.I.
Date of Last Revision: 2-18-76.

Farrell Lines, Incorporated—FMC-27
From Southwest Africa, South Africa and East Africa.
To: Puerto Rico.
Date of Last Revision: 11-4-75.

Fassio Line—FMC-6
From: Portugal.
To: U.S. Atlantic Coast Ports in the Portland, Maine/Miami, Florida Range.
Date of Last Revision: 2-15-69.
c/o Norton, Lilly & Co., Inc., 90 West Street, New York, New York 10006.

Fassio Line—FMC-7
From: Mediterranean Ports (except Spanish, French, Italian and Israeli ports) from Gibraltar to Port Said and from Casablanca to Port Said, inclusive.
To: U.S. Miami, Florida/Portland, Maine Range.
Date of Last Revision: 8-7-69.

Fassio Line—FMC-13
From: North Atlantic Ports.
To: Portugal.
Date of Last Revision: 8-10-71.



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Fassio Line—FMC-15
From: North Atlantic Ports.
To: Mediterranean Ports of France.
Date of Last Revision: 8-13-71.

Fassio Line—FMC-16
From: North Atlantic Ports.
To: All Ports (except Spanish, French, Israeli and Syrian ports) served on the Mediterranean Sea from Gibralter to Port Said, including Adriatic ports and from Casablanca to Port Said inclusive.
Date of Last Revision: 8-17-71.

Federal Commerce and Navigation Company Limited—FMC-21
From: U.S. Gulf.
To: East and South Africa.
Date of Last Revision: 9-25-75.
Stock Exchange Tower, Victoria Square, Montreal 3, Canada.

Ferrarhos Lines—FMC-2
From: U.S. Atlantic and Gulf Ports.
To: West Coast Ports of Colombia, Ports in Ecuador, Peru and Chile.
Date of Last Revision: 10-30-70.
Aparatado No. 2 Y213, Callao, Peru.

L. Figuiredo Navegacno S.A.—FMC-7
From: Dominican Republic.
To: U.S. Atlantic and Gulf Ports.
Date of Last Revision: 12-02-75.
c/o Dovar Shipping Agency, Inc., 21 West Street, New York, New York 10006.

Financiera Maritima De Panama, S.A.—FMC-1
From: U.S. Gulf Ports.
To: Caribbean, Central and South American Ports
Date of Last Revision: 9-01-69.
Captain A. Prieto, Pres., Apartado 850, Panama 1, Republic de Panama.

Flo-Carib Corporation—FMC-2
Between: Atlantic and Gulf.
And: Caribbean, East Coast Central America & North Coast of South America.
Date of Last Revision: 3-29-74.
2829 Bird Avenue, Miami, Florida 33133.

Flo-Carib Corporation—FMC-3
From: Barranquilla, Cartagena and Santa Marta, Colombia.
To: U.S. Atlantic and Gulf Ports.
Date of Last Revision: 10-24-75.

Flomerca Line—FMC-8
From: East Coast of Mexico.
To: U.S. Gulf Ports.
Date of Last Revision: 2-21-73.
c/o Lone Star Shipping, Inc., 1318 Texas Avenue, Houston, Texas 77002.

Flomerca Line—FMC-9
From: East Coast of Mexico.
To: U.S. Atlantic Ports.
Date of Last Revision: 2-21-73.

Flomerca Line—FMC-10
From: Miami.
To: Guatemala, Honduras.
Date of Last Revision: 1-17-75.

Flomerca Line—FMC-11
From: East Coast Central America.
To: Miami, Florida.
Date of Last Revision: 2-21-73.

Flomerca Line—FMC-16
Between: U.S. Atlantic and Gulf.
And: Ports in Mexico, Central America, South America and Caribbean.
Date of Last Revision: 4-16-73.

Florida Lines, Ltd.—FMC—4
Between: U.S. Gulf and South Atlantic Ports.
And: Venezuela and Netherland Antilles.
Date of Last Revision: 7-31-73.
154 N.E. 9th Street, Miami, Florida.

Florida Lines, Ltd.—FMC-5
Between: Fort Pierce, Miami and Tampa, Florida.
And: Haiti.
Date of Last Revision: 12-18-72.

Florida Lines, Ltd.—FMC-8
Between: U.S. South Atlantic and Gulf Ports.
And: Tortola, British Virgin Islands.
Date of Last Revision: 12-18-72.

Florida Lines, Ltd.—FMC-11
Between: U.S. Atlantic and Gulf Ports.
And: Leeward and Windward Islands, Trinidad, Barbados; British, French and Netherlands Guianas.
Date of Last Revision: 4-17-71.

Florida Lines, Ltd.—FMC-12
Between: U.S. Gulf Ports (except Tampa).
And: Haiti.
Date of Last Revision: 10-31-73.

Flota Mercante Grancolombiana, S.A.—FMC-14
From: Italy.
To: Ports in the Virgin Islands.
Date of Last Revision: 6-01-73.
c/o Grancolombiana (New York), Inc., One World Trade Center, Suite 1667, New York, New York 10048.

Flota Mercante Grancolombiana, S.A.—FMC-15
From: Marseilles, France.
To: Ports in the Virgin Islands.
Date of Last Revision: 6-01-73.

Flota Mercante Grancolombiana, S.A.—FMC-16
From: Spain.
To: U.S. Virgin Islands.
Date of Last Revision: 6-01-73.

Flota Mercante Grancolombiana, S.A.—FMC-19
From: Portugal.
To: U.S. Virgin Islands.
Date of Last Revision: 6-01-73.

Flotta Lauro Naples—FMC-10
From: LaGuaira, Venezuela, and Cristobal, Panama.
To: Puerto Rico and U.S. Gulf Ports.
Date of Last Revision: 9-5-70.
Cristoforo Colombo, 45, 80133 Naples, Italy.

Flotta Lauro Naples—FMC-12
From: Gulf and Puerto Rico.
To: South America and Panama.
Date of Last Revision: 6-27-75.
c o International Tariff Services, Inc., 815 Fifteenth Street NW., Washington, D.C. 20005.

Flotta Lauro Naples—FMC-16
From: Mexican Gulf Ports.
To: U.S. Gulf Ports.
Date of Last Revision: 10-17-70.
Cristoforo Colombo, 45, 80133 Naples, Italy.

Flotta Lauro Naples—FMC-17
From: U.S. Gulf, South Atlantic, and Puerto Rico.
To: Portugese, Spanish, Mediterranean, and Black Sea Ports.
Date of Last Revision: 9-5-74.

Flotta Lauro Naples—FMC-20
Between: Ports in Yugoslavia.
And: Ports in Puerto Rico.
Date of Last Revision: 3-22-74.

Flotta Lauro Naples—FMC—21
Between: Spanish Atlantic Ports.
And: Puerto Rico.
Date of Last Revision: 1-31-72.

Forest Lines—FMC-3
From: U.S. Atlantic and Gulf.
To: Australia.
Date of Last Revision: 4-1-75.
c/o International Navigation Limited, P.O. Box 4608—Suite 308, Austin T. Levy Building, East Bay Street, Nassau, Bahamas.

Forest Lines—FMC-6
From: Africa.
To: U.S. Atlantic and Gulf.
Date of Last Revision: 4-15-74.

Forest Lines—FMC-7
From: U.S. Atlantic and Gulf.
To: Japan, Korea, Taiwan, Hong Kong, Philippines, Viet Nam, Cambodia, China.
Date of Last Revision: 4-20-74.

Fort Nassau, Inc.—FMC-2
Between: Florida.
And: Ecuador.
Date of Last Revision: 11-18-75.
c/o Chester, Blackburn & Roder, Inc., P.O. Box 1470, Miami, Florida 33101.

Foursome Shipping Corporation—FMC-1
Between: U.S. Atlantic, Gulf, Great Lakes, and Pacific.
And: Japan, South Korea, Taiwan, Hong Kong, South Vietnam, Philippines, Malaysia, Thailand, Indonesia, East Pakistan, and East Coast of India.
Date of Last Revision: 2-1-70.
80 Broad Street, Monrovia, Liberia.

Freight & Chartering Co., Ltd.—FMC-1
Between: Puerto Rico, Virgin Islands.
And: Dominican Republic, Colombia, Venezuela, Caribbean Islands.
Date of Last Revision: 3-16-75.
Box 5824, San Juan, Puerto Rico 00906.

French Line—FMC-9
From: Peru and Chile.
To: San Juan, Puerto Rico.
Date of Last Revision: 9-30-74.
Compagnie General Transatlantique, 555 Fifth Avenue, New York, New York 10017.

French Line—FMC-14
From: Puerto Rico, St. Thomas, and St. Croix.
To: European Ports.
Date of Last Revision: 7-21-75.
6 Rue Amber, Paris, France.

French Line—FMC-15
From: U.S. Pacific Coast Ports.
To: Bermuda.
Date of Last Revision: 10-1-72.
Compagnie General Transatlantique, 555 Fifth Avenue, New York, New York 10017.

French Line—FMC-16
Between: Ports in California and Oregon.
And: Victoria and Vancouver, Canada.
Date of Last Revision: 3-8-74.

French Line—FMC-20
From: San Juan, Puerto Rico.
To: Martinique, Guadeloupe, Dominican Republic, Haiti, Jamaica, Honduras, Guatemala.
Date of Last Revision: 4-16-74.

French Line—FMC-21
From: Puerto Rico and Virgin Islands.
To: Atlantic Ports of Colombia, Canal Zone, and West Coast of South America.
Date of Last Revision: 5-20-74.

French Line—FMC-18
From: British Columbia, Canada.
To: Hawaii.
Date of Last Revision: 6-14-72.

Ira Furman—NVOCC FMC-1
From: U.S. Atlantic and Gulf Ports.
To: Bordeaux/Hamburg Range, Copenhagen, Piraeus, London-Southhampton Range, Oslo, Stockholm, Savona-Naples Range.
Date of Last Revision: 6-29-74.
120-65 168th Street, Jamaica, New York 11434.

Furness Warren Lines—FMC-2
From: U.S. Atlantic Ports.
To: Bermuda and Nassau.
Date of Last Revision: 7-1-74.
c/o Furness Withy Agencies (USA). Five World Trade Center, Suite, 7411, New York, New York 10048.

Furness Warren Lines—FMC-3
From: Halifax, N.S.
To: Boston, Masachusetts.
Date of Last Revision: 6-15-71.
c/o Furness Withy & Co., Ltd., Wheelwright House, 157 Regent Road, Liverpool L5 9YF, England.

Furness Warren Lines—FMC-3
From: U.S. Atlantic Ports.
To: Ports in England, Scotland, Wales, and Ireland.
Date of Last Revision: 4-11-74.

Furness Warren Line—FMC-18
From: St. John's, New Foundland.
To: Boston, Massachusetts.
Date of Last Revision: 6-15-71.

G.A.T.P. Maritime Transport Limited—FMC-1
Between: South Atlantic, Gulf.
And: Caribbean, Central America, and South America.
Date of Last Revision: 5-2-75.
3251 West Okeechobee Road, Hialeah, Florida 33012.

General Shipping Co., Inc.—FMC-1
Between: U.S. Atlantic and Gulf Ports.
And: Ports of Guatemala, Honduras, British Honduras.
Date of Last Revision: 1-17-74.
P.O. Box 2536, Tampa, Florida.

Gerard Pierre Shipping Line, Inc.—FMC-1
Bill of Lading, Rules, and Regulations Tariff.
Date of Last Revision: 5-71-72.
c/o Mr. Raymond T. Greene, V.P., Miami Ship Services, Inc., 615 S.W. 2nd Avenue, Miami, Florida 33130.

Gerard Pierre Shipping Line, Inc.—FMC-2
Between: Ports in Florida.
And: Ports in Dominican Republic and Haiti.
Date of Last Revision: 5-21-72.

Geruella Shipping Company, Ltd.—FMC-1
Between: Ports in Florida.
And: Ports in Cayman Islands, Jamaica, Turks Islands.
Date of Last Revision: 3-7-71.
c/o Chester, Blackburn & Roder, Inc., 1040 Biscayne Blvd., Miami, Florida 33132.

Golden Cross Lakes Line, Ltd.—FMC-3
From: U.K. -and Continental European Ports.
To: U.S. Great Lakes and St. Lawrence River Ports.
Date of Last Revision: 5-5-74.
c/o Furness Withy & Co., Ltd., Five World Trade Center, Suite 7411, New York, New York 10048.

Golden Cross Lakes Line, Ltd.—FMC-4
From: U.S. Great Lakes and St. Lawrence River Ports.
To: Ports in the U.K. and Continental European Ports.
Date of Last Revision: 4-14-74.

Grancolombiana Line—FMC-7
From: Puerto Cortez, Honduras.
To: U.S. Atlantic and Gulf Ports.
Date of Last Revision: 12-29-65.
Grandcolombiana (New York) Inc., One World Trade Center, Suite 1667, New York, New York 10048.

Grancolombiana Line—FMC-13
From: Ecuador.
To: U.S. Atlantic and Gulf.
Date of Last Revision: 5-25-66.

Grancolombiana Line—FMC-21
From: East Coast of Costa Rica.
To: U.S. Atlantic and Gulf.
Date of Last Revision: 11-20-73.

Grand Trans-Pacific Corporation—FMC-2
Between: Guam.
And: Japan, Korea, Okinawa, and other Trust Territory Ports.
Date of Last Revision: 12-15-74.
c/o International Tariff Services, Inc., 815 15th Street NW., Suite 538, Washington, D.C. 20005.

Great Eastern Line—FMC-2
From: U.S. Pacific.
To: Far East.
Date of Last Revision: 6-12-68.
c/o General Steamship Corporation Ltd., One Bush Street, San Francisco, California 94104.

Gulf Navigation Corporation—FMC-1
Between: U.S. Atlantic and Gulf Ports.
And: Haiti, Dominican Republic, Jamaica, and other Caribbean Ports.
Date of Last Revision: 4-1-72.
Apartado 850, Panama 1, Panama.

Habrew Maritime International, Inc.—FMC-1
Between: Miami, Florida.
And: The Bahama Islands.
Date of Last Revision: 6-16-74.
P.O. Box 014454, Miami, Florida 33101.

Hansa Line—FMC-17
From: U.S. Great Lakes.
To: Persian Gulf.
Date of Last Revision: 11-1-72.
c/o F. W. Hartmann & Co., Inc., 17 Battery Place.
New York, New York 10004.

Hanseatic-Vaasa Line—FMC-1
From: British Columbia, Canada.
To: Hawaii, U.S.A.
Date of Last Revision: 4-12-75.
c/o Williams, Dimond & Co., 215 Market Street, San Francisco, California 94105.

Hapag-Lloyd AG—FMC-43
From: Spain, Portugal, Mediterranean Ports, East Africa, Canary Islands, and Southwest Africa.
To: San Juan and Mayaguez, Puerto Rico.
Date of Last Revision: 3-30-75.
Aktiengesellschaft AG, Ballindamm 25, 2 Hamburg 1, Germany.

Hapag-Lloyd AG-FMC-24
From: Miami and Port Everglades, Florida.
To: Antwerp, Ghen, Rotterdam, Amsterdam, Bremen, Bremerhaven, and Hamburg.
Date of Last Revision: 3-3-71.

Hapag-Lloyd AG-FMC-78
From: East Africa.
To: U.S. Great Lakes.
Date of Last Revision: 9-1-70.

Hapag Lloyd AG—FMC-80
From: Georgetown, South Carolina.
To: Hamburg.
Date of Last Revision: 9-1-70.

Hapag-Lloyd, AG—FMC-88
From: India and Thailand.
To: Puerto Rico.
Date of Last Revision: 12-17-73.

Hapag-Lloyd AG—FMC-101
From: U.S. Pacific Coast Ports.
To: Bermuda.
Date of Last Revision: 10-01-72.

Hapag-Lloyd AG—FMC-102
Between: California and Oregon.
And: Victoria and Vancouver, B.C. Canada.
Date of Last Revision: 04-29-74.

Hapag-Lloyd AG—FMC-104
From: British Columbia, Canada.
To: Hawaii.
Date of Last Revision: 06-14-72.

Harrison Line—FMC-4
From: Gulf.
To: Nassau, Bahamas.
Date of Last Revision: 08-04-75.
c/o Phillips—Pan Inc., 1642 International Trade Mart, New Orleans, Louisiana 70130.

Harrison Line—FMC-7
From: U.S. Gulf Ports.
To: Continental European Ports in the Bordeaux/Hamburg and Scandinavia/Baltic Ranges.
Date of Last Revision: 11-20-75.
Mersey Chambers, Liverpool 2, England.

Thos. & Jas. Harrison, Ltd.—FMC-1
From: Tampico, Veracruz, and Coatzacoalcos, Mexico.
To: U.S. Gulf Ports, Brownsville, Texas to Tampa, Florida.
Date of Last Revision: 08-04-75.
c/o Phillips—Pan Inc., 1642 International Trade Mart, New Orleans, Louisiana 70130.

Thos. & Jas. Harrison, Ltd.—FMC-2
From: Belize, British Honduras.
To: U.S. Gulf Ports, Brownsville, Texas to Tampa, Florida.
Date of Last Revision: 08-04-75.

Thos. & Jas. Harrison, Ltd.—FMC-3
From: Puerto Barrios and Santo Tomas, Guatemala.
To: U.S. Gulf Ports, Brownsville, Texas to Tampa, Florida.
Date of Last Revision: 08-04-75.

Thos. & Jas. Harrison, Ltd.—FMC-6
From: Barranquilla and Cartagena, Colombia.
To: U.S. Gulf Ports, Brownsville, Texas to Tampa, Florida.
Date of Last Revision: 08-04-75.

Haylock Shipping Co., Ltd—FMC-1
From: Atlantic and Gulf.
To: East Coast Central America.
Date of Last Revision: 11-13-75.
c/o International Tariff Services, Inc., 815 Fifteenth Street NW., Washington, D.C. 20005.

Hellenic Lines Limited—FMC-3
From: U.S. Great Lakes and St. Lawrence Seaway.
To: India, Pakistan, Ceylon, and Burma.
Date of Last Revision: 12-01-74.
39 Broadway, New York, New York 10006.

Hellenic Lines Limited—FMC-8
From: U.S. Great Lakes and St. Lawrence Seaway.
To: Persian Gulf.
Date of Last Revision: 06-13-73.

Hellenic Lines Limited—FMC-9
From: U.S. Great Lakes and St. Lawrence Seaway.
To: Red Sea and Gulf of Aden.
Date of Last Revision: 12-1-74.

Hellenic Lines Limited—FMC-10
From: West Coast of India and Pakistan.
To: U.S. Great Lakes and St. Lawrence River.
Date of Last Revision: 12-1-74.

Hellenic Lines Limited—FMC-11
From: U.S. Great Lakes and St. Lawrence Seaway Ports.
To: Mediterranean Ports of Europe, Africa, and Asia (including Black Sea Ports) and Atlantic Coast Ports including but not South of Casablanca.
Date of Last Revision: 12-1-74.

Hellenic Lines Limited—FMC-12
From: U.S. Pacific.
To: India, Pakistan, Ceylon, Greece, Italy, Mediterranean, Egypt, Lebanon, and Romania.
Date of Last Revision: 12-1-74.

Hellenic Lines Limited—FMC-13
From: East Coast of India and Bangladesh.
To: U.S. Great Lakes and St. Lawrence River.
Date of Last Revision: 12-1-74.

Hellenic Lines Limited—FMC-18
From: Canneto Lipari, Italy.
To: North Atlantic Ports of the U.S. in the Hampton Roads/Portland, Maine Range except Boston.
Date of Last Revision: 12-1-74.

Hellenic Lines Limited—FMC-23
From: West Coast of India and Pakistan.
To: Puerto Rico.
Date of Last Revision: 6-13-73.

Hoegh Lines—FMC-10
From: U.S. Atlantic, Gulf, and Great Lakes.
To: Red Sea and Gulf of Aden.
Date of Last Revision: 8-15-73.
Five World Trade Center, Suite 617, New York, New York 10048.

Hoegh Lines—FMC-11
From: U.S. Atlantic, Gulf, and Great Lakes.
To: India, Pakistan, Ceylon, and Burma.
Date of Last Revision: 3-12-75.

Hoegh Lines—FMC-13
From: South and East Africa including the offshore Islands.
To: U.S. Atlantic and Gulf.
Date of Last Revision: 8-15-73.

Hoegh Lines—FMC-15
From: Thailand.
To: U.S. Atlantic and Gulf.
Date of Last Revision: 4-7-74.

Hoegh Lines—FMC-16
From: West Coast of India.
To: U.S. Great Lakes.
Date of Last Revision: 8-15-73.

Hoegh Lines—FMC-17
From: Ceylon.





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To: U.S. Great Lakes.
Date of Last Revision: 8–15–73.

Hoegh Lines—FMC–18
From: Singapore and Malaysia.
To: U.S. Great Lakes.
Date of Last Revision: 4–7–74.

Hoegh Lines—FMC–19
From: Thailand.
To: U.S. Great Lakes.
Date of Last Revision: 4–7–74.

Hoegh Lines—FMC–20
From: Indonesia.
To: U.S. Great Lakes
Date of Last Revision: 4–7–74.

Horn Line—FMC–4
From: San Juan, Puerto Rico.
To: Aruba, Curacao, Trinidad, Jamaica, Venezuela, and Atlantic Colombian Ports.
Date of Last Revision: 9–25–70.
Baumall 3, 2 Hamburg 11, Germany.

Horst Lines, Inc.—NVOCC FMC–1
Between: Miami, Florida.
And: Costa Rica, Guatemala, Nicaragua, El Salvador, and Honduras.
Date of Last Revision: 8–15–68.
c/o Harold C. Breuel, 1206 Alfred I. DuPont Building, Miami, Florida 33131.

Hycar Lines, S.A.—FMC–18
From: All Mediterranean, Spanish and Portuguese Ports.
To: U.S. Great Lakes Ports.
Date of Last Revision: 2–1–74.
Kahn Scheepvaart B.V., Haringvliet 100, Rotterdam, The Netherlands.

Hycar Lines, S.A.—FMC–24
From: U.S. Great Lakes, and St. Lawrence River Ports.
To: Ports of the Antwerp/Hamburg Range, United Kindom, France, Atlantic Ports of the Iberian Peninsula inclusive Portugal and Spain Scandinavian and Baltic Ports inclusive Denmark, Norway, Sweden Finland.
Date of Last Revision: 2–15–74.
Independent Continental Service, 27 Rue de Petilot, Geneva, Switzerland.

Hycar Lines, S.A.—FMC–25
From: Swedish, Danish, Finnish, and Norwegian Ports.
To: U.S. Great Lakes Ports.
Date of Last Revision: 6–5–74.
Kahn Scheepvaart B.V., Haringvliet 100, Rotterdam, The Netherlands.

Hycar Lines, S.A.—FMC–26
From: Ports in the Bordeaux/Hamburg Range.
To: U.S. Great Lakes Ports.
Date of Last Revision: 6–5–74.

Hyundai International, Inc. (Korea Atlas Lines)—FMC–1
Between: U.S. Atlantic, Gulf, and Pacific.
And: Japan, Hong Kong, Korea, Taiwan, and South Vietnam.
Date of Last Revision: 6–6–69.
c/o C. R. Nickerson, Agent, 450 Mission Street, San Francisco, California 94105.

Iberusa Line—FMC–2
From: U.S. Atlantic Ports.
To: Western Mediterranean Ports.
Date of Last Revision: 8–14–75.
Avda. Generalisimo 73–A, 8, Madrid, Spain.

Iberusa Line—FMC–3
From, Western Mediterranean and European Atlantic Ports.
To: U.S. Atlantic Ports.
Date of Last Revision: 8–7–75.

Iberusa Line—FMC–4
From: Atlantic Ports of the U.S.
To: European Atlantic Ports in the Bordeaux, France/Cadiz, Spain Range, and the Canary Islands.
Date of Last Revision: 8–25–75.

Iberusa Line—FMC–5
From: Atlantic Ports of the U.S.
To: Northern European Ports and the U.K.
Date of Last Revision: 8–24–75.

Iceland Steamship Co., Ltd.—FMC–7
Between: The Port of New York.
And: Ports in Iceland.
Date of Last Revision: 7–29–74.
c o A. L. Burbank & Co., Ltd., Suite 623, Law Building, Norfolk, Virginia 23510.

Incan Ships Limited—FMC–1
Between: Argentina, Newfoundland, and Halifax, Nova Scotia.
And: Boston and Gloucester, Massachusetts.
Date of Last Revision: 2–6–75.
3, Place Ville Marie, Suite 622, Montreal, Quebec, Canada H3B 2E3.

Independent Gulf Lines—FMC–21
From: Continental Europe in the Le Havre/Hamburg Range.
To: U.S. South Atlantic Ports between Cape Hatteras and Key West, Florida with the exception of Port Everglades and Miami.
Date of Last Revision: 9–1–73.
c o Norton, Lilly & Co., Inc., 90 West Street, New York, New York 10006.

Independent Gulf Lines—FMC–22
From: Continental Ports in the Le Havre/Hamburg Range.
To: U.S. Gulf Ports Including Port Everglades and Miami, Florida.
Date of Last Revision: 10–13–73.

Independent Gulf Lines—FMC–23
From: Great Britain and Northern Ireland, Erie.
To: Gulf of Mexico Ports of the U.S. ranging from Key West, Florida to Brownsville, Texas.
Date of Last Revision: 7–1–72.

Insco Lines, Ltd.—FMC–3
From: U.S. Atlantic and Gulf Ports.
To: East and West Coasts Central America, Colombia, Islands of Atlantic, East and West South America, Venezuela and Netherlands Antilles.
Date of Last Revision: 3–23–73.
420 Lexington Avenue, New York, New York 10017.

Inter-American Lines, Inc.—FMC–8
From: Mexican Gulf Ports.
To: U.S. Gulf and South Atlantic.
Date of Last Revision: 4–7–71.
240 NE. 2d Avenue, Miami, Florida 33132.

Inter-American Lines, Inc.—FMC–9
Between: U.S. Atlantic and Gulf Ports.
And: Ports in Colombia.
Date of Last Revision: 9–2–71.

Inter-American Lines, Inc.—FMC–11
Between: U.S. Atlantic and Gulf Ports.
And: East Coast Ports of Costa Rica.
Date of Last Revision: 11–10–72.

Inter-American Lines, Inc.—FMC–12
Between: U.S. Atlantic and Gulf Ports.
And: Ports in Honduras, Guatemala, British Honduras.
Date of Last Revision: 1–8–73.

Inter-American Lines, Inc.—FMC–14
Between: U.S. Atlantic and Gulf Ports.
And: San Andes Isla, Colombia.
Date of Last Revision: 2–15–73.

Inter-American Lines, Inc.—FMC–16
Between: Miami.
And: Panama.
Date of Last Revision: 11–1–75.
c/o Inter-American Shipping Corp., International Trade Mart Building, New Orleans, Louisiana, 70130.

Inter-American Lines, Inc.—FCM–17
Between: U.S. Atlantic and Gulf Ports (except Miami, Florida).
And: Republic of Panama.
Date of Last Revision: 10–18–74.
240 N.E. 2nd Avenue, Miami, Florida, 33132.

Inter-American Lines, Inc.—FMC–18
Between: U.S. Atlantic and Gulf Ports (except Miami, Florida).
And: Santo Domingo, D.R.
Date of Last Revision: 11–5–74.

Inter-American Lines, Inc.—FMC–19
Between: U.S. Atlantic and Gulf Ports (except Miami, Florida).
And: Port au Prince, Haiti.
Date of Last Revision: 11–10–74.

Inter-American Lines, Inc.—FMC–20
Between: U.S. Atlantic and Gulf Ports (except Miami, Florida).
And: Kingston, Jamaica.
Date of Last Revision: 11–28–74.

Inter-American Shipping Corporation—FMC–2
Between: U.S. Florida Ports.
And: Ports in Guatemala, Honduras, British Honduras
Date of Last Revision: 3–11–70.
1001 Port Boulevard, Miami, Florida 33132.

Inter-American Shipping Corporation—FMC–5
From: U.S. Atlantic and Gulf Ports.
To: San Andres Islas, Colombia.
Date of Last Revision: 3–11–70.

Inter-American Shipping Corporation—FMC–6
Between: U.S. Atlantic and Gulf Ports.
And: Panama, Costa Rica, Nicaragua, Honduras, El Salvador, Guatemala, Mexico.
Date of Last Revision: 3–11–70.

Inter-American Shipping Corporation—FMC–7
Between: U.S. Florida Ports.
And: Cayman Islands, Turks Islands, Calcos Islands.
Date of Last Revision: 10–16–68.

Inter-American Shipping Corporation—FMC–10
Between: Galveston, Houston, New Orleans, Baton Rouge.
And: Republic of Panama.
Date of Last Revision: 2–26–71.

Inter-American Shipping Corporation FMC–11
From: Costa Rica and Nicaragua.
To: U.S. Atlantic, Gulf and Puerto Rican Ports
Date of Last Revision: 4–9–73.

Interasia Lines, Ltd.—FMC–6
From: U.S. Gulf R R. Terminals (via U.S Pacific Ports).
To: Singapore and Malaysia.
Date of Last Revision: 8–2–75.
c/o Pacific Coast Tariff Bureau, Agent, 450 Mission Street, San Francisco, California 94105.

Intercontinental Trading Corp.—FMC–3
Between: U.S. Pacific and Hawaii.
And: Trust Territory of the Pacific.
Date of Last Revision: 9–13–74.
c/o Windom L. Havens, President, P.O. Box 716, Lake Oswego, Oregon 97034.

Intercontinental Transport (ICT) B.V.—FMC–6
From: South Atlantic.
To: Vera Cruz and Coatacoalos, Mexico.
Date of Last Revision: 6–13–75.
c/o Biehl and Company, 416 Common Street, New Orleans, Louisiana 70130.

Intercontinental Transport (ICT) B.V.—FMC–19
From: Vera Cruz, Tampico and Coatzacoalcos (Puerto Mexico), Mexico.
To: South Atlantic Ports in U.S. Wilmington, North Carolina to Savannah, Georgia.
Date of Last Revision: 6–13–75.

Intercontinental Transport (ICT) B.V.—FMC–20
From: Hamilton, Bermuda.
To: U.S. Gulf of Mexico and South Atlantic in the Brownsville, Texas/Charleston, South Carolina Range.
Date of Last Revision: 6–13–75.

International Export Packers, Inc.—NOVOCC FMC–7
From: U.S. East and Gulf Coast Ports.
To: East Coast of South America.
Date of Last Revision: 12–1–75.





5360 Eisenhower Avenue, Alexandria, Virginia 22304.

International Trailerline Inc.—NVOCC FMC–1
Between: Miami, Florida; New York, New York.
And: Ports in the Caribbean, Central and South America.
Date of Last Revision: 1–22–73.
One World Trade Center, Suite 1029, New York, New York 10048.

Intercean International Service Corp.—FMC–1 (NVOCC)
From: U.S. North and South Atlantic and Gulf Ports.
To: Various European Ports.
Date of Last Revision: 6–6–74.
P.O. Box 185, Uptown Station, Hoboken, New Jersey 07030.

Iran Express Lines—FMC–3
From: Red Sea, Persian Gulf and Gulf of Aden.
To: U.S. Atlantic and Gulf.
Date of Last Revision: 8–27–75.
c/o Ulterwyk Corporation, 3105 West Waters Avenue, Tampa, Florida 33614.

Iran Express Lines—FMC–4
From: Ceylon.
To: U.S. Atlantic and Gulf.
Date of Last Revision: 11–25–74.

Ivaran Lines—FMC–4
From: U.S. Great Lakes Ports.
To: Brazil, Argentina, Uruguay and Paraguay.
Date of Last Revision: 10–27–70.
c/o United States Navigation, Inc., 17 Battery Place, New York, New York 10004.

Ivaran Lines—FMC–5
From: Haiti.
To: U.S. Atlantic and Gulf.
Date of Last Revision: 5–27–72.

Ivaran Lines—FMC–6
From: Atlantic and Gulf.
To: Leeward and Windward Islands, Trinidad, Barbados, Guianas.
Date of Last Revision: 5–27–75.

Jackson's Enterprises—FMC–1
Between: U.S. Atlantic and Gulf Ports.
And: Caribbean and Gulf Ports of Mexico and Central America.
Date of Last Revision: 7–1–69.
French Harbour Roatan, Republic de Honduras, Central America.

Japan Line, Ltd.—FMC–9
From: Hong Kong.
To: Puerto Rico and Virgin Islands.
Date of Last Revision: 3–1–74.
c/o Japan Line (New York) Services Ltd., One World Trade Center, Suite 2811, New York, New York 10048.

Japan Reefer Carrier Co. Ltd.—FMC–1
From: Japan.
To: U.S. Pacific and Atlantic.
Date of Last Revision: 2–7–74.
c/o Norton, Lilly & Co., Inc., 90 West Street, New York, New York 10006.

Jean Associates—FMC–1
Between: Fraser-Surrey Terminal, Surrey, B.C. Canada.
And: Points in Alaska.
Date of Last Revision: 12–1–75.
c/o Bruce Webb, 1435 West 8th Street, Suite 7, Anchorage, Alaska 99150.

Jugolinja-Rijeka, Yugoslavia—FMC–39
From: Moroccan, Tunisian Ports, and Marseilles, France.
To: U.S. Ports North of Cape Hatteras.
Date of Last Revision: 9–23–75.
c/o Crossocean Shipping Co., Inc., One World Trade Center, New York, New York 10048.

Jugooceanija Line—FMC–5
From: U.S. Great Lakes and St. Lawrence River Ports.
To: All Ports served on the Mediterranean Sea from Gilbraltar to Port Said, including Adriatic and Gulf of Taranto Ports and from Casablanca to Port Said, inclusive
Date of Last Revision: 6–08–70.

Jugoslavenska Oceanska Plovidba, Kotor Jugooceanija Line, c/o Gulf Coast Shipping Corp., 1426 International Trade Mart, New Orleans, Louisiana 70130.

Jugooceanija Line—FMC–6
From: North Atlantic Ports.
To: All Ports served on the Mediterranean Sea from Gibraltar to Port Said, including Adriatic and Gulf of Taranto Ports and from Casablanca to Port Said, inclusive.
Date of Last Revision: 6–08–70.

Jugoslavenska Oceanska Plovidba—FMC–10
From: Yugoslav, Adriatic, East Mediterranean, Black Sea, and North Africa Ports.
To: U.S. Gulf of Mexico and South Atlantic Ports, Ports on North Atlantic.
c/o Gulf Coast Shipping Corp., 1900 ITM Building, New Orleans, Louisiana 70130.

Kambara Kisen Co., Ltd.—FMC–2
Between: Guam.
And: Japan.
Date of Last Revision: 8–01–74.
Kambara Bldg. 2–9, Ichibancho, Chiyoda-ku, Tokyo, Japan.

Kambara Kisen Co, Ltd.—FMC–3
Between: Guam.
And: Papua-New Guinea and Solomon Islands.
Date of Last Revision: 9–01–74.

Kaps Transport Ltd.—FMC–1
Between: Hay River, NWT; Normar Wells, NWT.
And: Artic Coast of Alaska.
Date of Last Revision: 7–25–75.
9303–51 Ave., Edmonton, Alberta, Canada.

Karlander Kangaroo Line—FMC–4
From: South Sea Islands.
To: U.S. Pacific and Hawaii.
Date of Last Revision: 9–01–74.
c/o Transpacific Transportation Company, 650 California Street, San Francisco, California 94108.

Karlander Kangaroo Line—FMC–5
From: New Zealand.
To: U.S. Pacific and Hawaii.
Date of Last Revision: 8–08–73.

Karlander Kangaroo Line—FMC–7
From: Australia.
To: U.S. Pacific and Hawaii.
Date of Last Revision: 8–08–74.

"K" Line—FMC–20
From: East Coast of Mexico, Guatemala, Honduras, British Honduras, Nicaragua, Costa Rica, and Panama.
To: U.S. Atlantic.
Date of Last Revision: 2–01–66.
c/o "K" Line—Kerr Corporation, 90 Washington Street, New York, New York 10006.

"K" Line—FMC–27
From: Eastern and Great Lakes Canadian Ports.
To: U.S. Pacific Coast Ports.
Date of Last Revision: 3–06–72.

Kawasaki Kisen Kaisha, Ltd.—FMC–4
From: Alaska.
To: Japan, Korea, and Hong Kong.
Date of Last Revision: 5–9–75.
c/o K Line—Kerr Corporation, One California Street, San Francisco, California 94111.

Kawasaki Kisen Kaisha, Ltd.—FMC–8
From: Japan.
To: Guam.
Date of Last Revision: 8–31–71.
c/o "K" Line New York, Inc., 90 Washington Street, New York, New York 10006.

Kawasaki Kisen Kaisha, Ltd.—FMC–11
From: Australia and New Guinea.
To: U.S. Pacific and Hawaii.
Date of Last Revision: 1–19–75.
c/o K Line—Kerr Corporation, One California Street, San Francisco, California 94111.

Kawasaki Kisen Kaisha, Ltd.—FMC–14
From: Puerto Rico.
To: Ports on West Coast of Mexico, Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica, Canal Zone, Panama, Caribbean Ports, and Venezuela.
Date of Last Revision: 3–6–72.
c/o Kerr Steamship Company, Inc., 90 Washington Street, New York, New York 10006.

Kawasaki Kisen Kaisha, Ltd.—FMC–19
From: Australia and New Guinea.
To: U.S. Atlantic, Gulf, Great Lakes, Puerto Rico, and Virgin Islands.
Date of Last Revision: 9–15–75.
c/o "K" Line New York, Inc., 90 Washington Street, New York, New York 10006.

Kawasaki Kisen Kaisha, Ltd.—FMC–25
Between: Panama and Port-au Prince.
And: U.S. Atlantic, Gulf, and Great Lakes Ports.
Date of Last Revision: 3–6–72.
c/o Kerr Steamship Company, Inc., 90 Washington Street, New York, New York 10006.

Kawasaki Kisen Kaisha, Ltd.—FMC–34
From: Philippines.
To: U.S. Great Lakes.
Date of Last Revision: 8–28–71.
c/o "K" Line New York, Inc., 90 Washington Street, New York, New York 10006.

Kawasaki Kisen Kaisha, Ltd.—FMC–59
From: Singapore and W. Malaysia.
To: U.S. Atlantic and Gulf.
Date of Last Revision: 12–11–75.
c/o K Line—Kerr Corporation, 90 Washington Street, New York, New York 10006.

Kimberly Navigation Co., Ltd.—FMC–1
Between: U.S. Great Lakes, Puerto Rico, Virgin Islands, Atlantic and Gulf Ports.
And: Leeward and Windward Islands, Trinidad, Barbados, Netherlands, Guianas, and Brazilian Ports.
Date of Last Revision: 4–4–72.
c/o Kersten Shipping Agency, Inc., 52 Broadway, New York, New York 10004.

Kimberly Navigation Co., Ltd.—FMC 2
Between: U.S. Atlantic, Gulf, and Puerto Rico.
And: Dominican Republic.
Date of Last Revision: 7–22–70.

Kimberly Navigation Co., Ltd.—FMC–3
Between: U.S. Atlantic, and Gulf Ports.
And: Nassau and Freeport, Bahama Islands.
Date of Last Revision: 6–19–71.

Kimberly Navigation Co., Ltd.—FMC–4
Between: Halifax, Nova Scotia.
And: San Juan, Puerto Rico.
Date of Last Revision: 10–9–70.

Kirk Trader Co., Ltd.—FMC–3
From: U.S. South Atlantic and Gulf Ports.
To: Cayman Islands, British Honduras, Calcos Islands, Haiti, Honduras, Jamacia, Mexico (East Coast), Nicaragua (East Coast), Turks Islands.
Date of Last Revision: 10–28–73.
Cayman Brac, Grand Cayman, B.W.I.

Kirkpride Shipping Co., Ltd.—FMC–1
Between: Miami and Tampa.
And: Cayman Islands and Turks and Cacios Islands, West Indies.
Date of Last Revision: 2–26–75.
c/o Kirkconnel Shipping Co., Inc., P.O. Box 7174, Tampa, Florida 33603.

Kitagawa Sangyo Kaium Co., Ltd.—FMC–1
Between: Guam.
And: Philippines, Hong Kong, Taiwan, and Okinawa.
Date of Last Revision: 7–20–72.
No. 601, Shizuka Building, 60.3–chome, Utsuboham-machi, Nishi-ku, Osaka, Japan.



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Kintagawa Sangyo Kaiun Co., Ltd.—FMC 2
Between: Guam.
And: Japan.
Date of Last Revision: 7-20-72.

Klosters Rederi A/S—FMC-8
Between: Florida.
And: Caribbean Ports, East Coast of Central America, Mexico, Venezuela and East Coast Colombia.
Date of Last Revision: 4-7-74.
c/o International Tariff Services, Inc., 815 Fifteenth Street, NW., Suite 538, Bowen Building, Washington, D.C. 20005.

Knottug Line—FMC-2
From: All Ports in the Mediterranean Sea (excluding Israel) on the Sea of Marmara, The Black Sea and on the Atlantic Coast of Morocco and Spain.
To: U.S. Atlantic and Gulf Ports.
Date of Last Revision: 08-31-72.
Post Office Box 884—Karakoy, Istanbul, Turkey.

Koninklijke Nedlloyd—FMC-1
From: Cristobal, Canal Zone.
To: U.S. Atlantic and Gulf Coast.
Date of Last Revision: 3-13-75.
c/o Royal Netherlands Steamship Company, P.O. Box 5014, Cristobal, Canal Zone.

Koninklijke Nedlloyd (Nedlloyd Inc.)—FMC-11
From: Mexican Gulf Ports.
To: U.S. Gulf Ports.
Date of Last Revision: 11-30-75.
c/o Nedlloyd Inc., Five World Trade Center, Suite 617, New York, New York 10048.

Koninklijke Nedlloyd B.V.—FMC-19
From: Thailand.
To: U.S. Atlantic and Gulf.
Date of Last Revision: 3-20-75.

Koninklijke Nedlloyd B.V.—FMC-53
From: U.S. Atlantic and Gulf
To: Australia, New Zealand and South Sea Islands.
Date of Last Revision: 5-25-73

Korea United Lines, Inc.—FMC-1
From: U.S. Gulf.
To: Korea.
Date of Last Revision: 2-25-76
c/o Gannett Freighting, Inc., 30 Broadway, New York, New York 10006.

Kyosei Kisen Kabushiki Kaisha (Kyosei Steamship Co., Ltd.)-FMC-1
From: Japan and Korea.
To: U.S. Pacific, Alaska and Hawaii.
Date of Last Revision: 8-25-73.
P.O. Box Kobe Part 614, Kobe 651 01, Japan.

Kyosei Kisen Kabushiki Kaisha—FMC-2
From: Taiwan and Hong Kong.
To: U.S. Pacific and Alaska.
Date of Last Revision: 8-25-73

Kyosei Kisen Kabushiki Kaisha—FMC-3
From: Taiwan.
To: U.S. Atlantic and Gulf.
Date of Last Revision: 9-7-73.

L & T Line—FMC-1
Between: Hong Kong, Taiwan and Far Eastern Ports.
And: Guam.
Date of Last Revision: 1-5-75.
P.O. Box 7892, Tamuning, Guam.

Lakes Shipping & Trading Corp.—FMC-1
From: U.K., Germany, The Netherlands, Belgium and France.
To: U.S. North Atlantic Ports.
Date of Last Revision: 6-24-75.
180 No. LaSalle Street, Suite 3300, Chicago, Illinois 60601.

Las Islas, The Islands Line—NVOCC FMC-2
From: U.S. South Atlantic, Mississippi River and Gulf Ports.
To: British Honduras, Guatemala, Dominican Republic, Haiti, Leeward Islands, Windward Islands and Netherland Antilles.
Date of Last Revision: 6-15-73.
P.O. Box 510, Lake Charles, Louisiana 70601.

Las Islas, The Islands Line—NVOCC FMC-1
From: Ports in Central and South America.
To: U.S. South Atlantic, Mississippi River Ports and U.S. Gulf Ports.
Date of Last Revision: 10-26-72.

Leecor, Inc.—FMC-1
Between: East Coast Florida.
And: Mexico, Carribbean, Northern South America, Eastern Central America.
Date of Last Revision: 9-17-75.
300 Biscayne Blvd., Suite 722, Miami, Florida 33131.

Leeward Islands Shipping Company—FMC 1
Between: Puerto Rico, Virgin Islands.
And: Dominican Republic, Colombia, Venezuela & Caribbean Islands.
Date of Last Revision: 1-22-75.
Battle & Clisante Shipping Co., Ltd., G.P.O. Box 5126, San Juan, Puerto Rico 00906.

Leonard Cephas, Grand Cay Bahama—FMC 1
Between: Palm Beach, Florida.
And: The Bahamas Islands.
Date of Last Revision: 12-23-73.
c/o Palm Beach Steamship Agency, Inc., 110 East Port Road, Riviera Beach, Florida.

Lifschultz East Freight, Inc.—NVOCC FMC-1
From: U.S. North Atlantic Ports.
To: Antwerp, Bremen, Hamburg, Rotterdam
Date of Last Revision: 8-28-69.
28 N. Franklin Street, Chicago, Illinois 60606

Lifschultz East Freight, Inc.—NVOCC FMC-2
From: Antwerp, Amsterdam, Rotterdam, Bremen, Hamburg.
To: U.S. North Atlantic Ports.
Date of Last Revision: 10-24-74.

Lifschultz East Freight, Inc.—NVOCC FMC 3
From: U.S. North Atlantic Ports.
To: Ports in U.K. and Ireland.
Date of Last Revision: 8-18-71.

Lifschultz East Freight, Inc.—NVOCC FMC 5
From: U.S. North Atlantic Ports.
To: Mediterranean Ports of Israel.
Date of Last Revision: 3-15-73.

Linea Line—FMC-2
From: East Coast Central American Ports.
To: U.S. South Atlantic and Gulf Ports.
Date of Last Revision: 9-29-69.
c/o Lukenbach Steamship Co., Inc., Foot of Franklin Street, P.O. Box 377, Tampa, Florida 33602.

Link Lines Limited—FMC-1
Between: St. Thomas, Virgin Islands
And: Tortola, Virgin Gorda, St. Maarten and Antigua.
Date of Last Revision: 11-26-72.
c/o Charles E. Kaltenbach, Director, P.O. Box 2672, St. Thomas, Virgin Islands 00801.

Lykes Bros. Steamship Co., Inc.—FMC-27
From: Gulf.
To: Mexico.
Date of Last Revision: 10-31-75.
300 Poydras Street, New Orleans, Louisiana 70130.

Lykes Bros. Steamship Co., Inc.—FMC-60
From: East Coast of Sumatra.
To: Atlantic and Gulf of Mexico of the U.S. in the Brownsville, Texas Eastport, Maine Range.
Date of Last Revision: 10-22-69.

Lykes Bros. Steamship Co., Inc.—FMC-84
From: Union of Soviet Socialist Republic Ports in the Klaipeda/Archangel Murmansk Range.
To: U.S. Ports in the Eastport, Maine/Brownsville, Texas Range.
Date of Last Revision: 12-26-75.

Mamenic Line—FMC-6
From: Miami, Florida.
To: Guatemala, Hondorus, British Honduras.
Date of Last Revision: 1-1-70.
P.O. Box 805, Managua, Nicaragua.

Mamenic Line—FMC-11
From: Canal Zone, West Coast of South America, Mexico, Panama.
To: Puerto Rico.
Date of Last Revision: 3-4-74.
c/o U.S. Navigation, Inc., 17 Battery Place, New York, New York 10004.

Mamenic Line—FMC-14
From: Buenaventura, Colombia.
To: U.S. Atlantic and Gulf Ports.
Date of Last Revision: 12-15-69.

Marcella Shipping Company, Ltd.—FMC 1
Between: Miami.
And: Bahamas.
Date of Last Revision: 3-30-75.
c/o International Tariff Services, Inc., 815 Fifteenth Street NW., Washington, D.C 20005.

Mardina Lines—FMC-1
From: All Ports Continent: Hamburg/Cadiz Range; all ports UK Ireland; all ports islands North Atlantic, North Sea, and Baltic Sea.
To: All Ports U.S. Great Lakes, Gulf, and East Coast.
Date of Last Revision: 1-23-74.
c/o Maritime Shipping Agencies Inc., 1010 Dixie Highway, Chicago Heights, Illinois 60411.

Mardina Lines—FMC-2
From: U.S. Great Lakes.
To: All Ports Continent; Hamburg/Cadiz Range; all ports United Kingdom/Ireland; all ports Islands North Atlantic, North Sea, and Baltic Sea, all ports Mediterranean, all ports Atlantic Coast Africa North of Cape Palmas.
Date of Last Revision: 9-17-73.

Mardina Lines—FMC-3
From: Atlantic and Gulf Ports.
To: All Ports North Sea, Baltic Sea, all Ports Continent; Hamburg/Cadiz Range, all ports United Kingdom/Ireland, all ports Mediterranean, East and West Africa, East and West Coast Central America.
Date of Last Revision: 1-23-74.

Mardina Lines—FMC-4
Between: U.S. Great Lakes Ports, East and Gulf Coasts.
And: All Ports in Central, South America and West Indies.
Date of Last Revision: 1-19-74.

Mardina Lines—FMC-5
Between: U.S. East Coast, Gulf and West Coast.
And: Australia, New Zealand, Japan, Hong Kong, and Indonesia. All Islands of the Pacific.
Date of Last Revision: 11-9-73.

Mardina Lines—FMC-6
Between: U.S. Great Lakes.
And: Australia and Japan.
Date of Last Revision: 5-7-72.

Marianas Maritime Corp.—FMC-2
Between: Guam.
And: Trust Territory of the Pacific Islands. Also between Ports in the Trust Territory of the Pacific Islands.
Date of Last Revision: 8-13-74.
Marianas Maritime Corp., P.O. Box 1305, Agana, Guam 96910.

Marianas Tinian Shipping Co.—FMC-1
Between: Guam.
And: Saipan, Rota, and Tinian.
Date of Last Revision: 11-3-72.
Marianas Shipping Co., P.O. Box 9, Tinian, Mariana Islands 96950.

Maritima Del Caribe, S.A.—FMC-1
Between: Atlantic and Gulf.
And: Mexico.
Date of Last Revision: 11-20-75.
Merida, Yucatan, Mexico.

Maritima Santo Domingo, Inc.—FMC-1
From: Puerto Rico.
To: Dominican Republic.
Date of Last Revision: 4-27-69.





G.P.O. Box 3502, San Juan, Pureto Rico 00936.

Maritime Company of the Philippines—FMC-4
From: U.S. Gulf Ports.
To: Ports in Mexico, Central and South America.
Date of Last Revision: 10-7-70.
205 Juan Luna, Manila, Republic of the Philippines.

Maritime Company of the Philippines—FMC-5
From: U.S. Atlantic Ports.
To: Ports in Central and South America.
Date of Last Revision: 10-7-70.

Maritime Company of the Philippines—FMC-6
From: Hawaii.
To: Japan, Hong Kong, and Philippines.
Date of Last Revision: 8-9-75.

Maritime Company of the Philippines—FMC-7
From: U.S. West Coast Ports.
To: Ports in Central and South America.
Date of Last Revision: 1-28-72.

Maritime Company of the Philippines—FMC-10
From: Puerto Rico.
To: Republic of the Philippines.
Date of Last Revision: 2-5-70.

Maritime Company of the Philippines—FMC-11
From: Sarawak, Malaysia.
To: Pacific Coast Ports.
Date of Last Revision: 5-18-73.

Maritime Company of the Philippines—FMC-12
From: Ports in Sarawak, Malaysia.
To: U.S. Atlantic and Gulf Ports.
Date of Last Revision: 6-5-70.

Maritime Company of the Philippines—FMC-14
From: Hong Kong and Taiwan.
To: U.S. Atlantic and Gulf Coast Ports.
Date of Last Revision: 7-3-75.

Maritime Company of the Philippines—FMC-16
From: U.S. Atlantic and Gulf and U.S. Pacific.
To: Ports in Indonesia.
Date of Last Revision: 2-7-75.

Maritime Fruit Carriers Co., Ltd.—FMC-8
Between: Atlantic, Great Lakes, Gulf, and Pacific Coast.
And: Ports in the Mediterranean.
Date of Last Revision: 4-7-69.
53 Shderot Hameginim, P.O. Box 1501, Haifa, Israel.

Maritime Line—FMC-1
From: All Ports Continent: Hamburg/Bordeaux Range; U.K./Ireland; North Sea and Baltic; West Indies, Caribbean Sea, Yucatan Channel, Bay of Campeche.
To: U.S. Great Lakes, Atlantic and Gulf Ports.
Date of Last Revision: 3-18-67.
c/o Maritime Shipping Agencies, Inc., 1010 Dixie Highway, Chicago, Illinois 60411.

Maritime Line—FMC-2
From: U.S. Great Lakes and U.S. West Coast Ports.
To: All Ports Continent: Hamburg/Bordeaux Range, United Kingdom/Ireland, North Sea, and Baltic Sea, West Indies, Caribbean Sea, Yucatan Channel, Bay of Campeche, Iceland, Mediterranean.
Date of Last Revision: 5-4-70.

Maritime Line—FMC-3
From: U.S. Atlantic and Gulf Ports.
To: All Ports North Sea, Baltic Sea, Continent: Hamburg/Cadiz Range, United Kingdom/Ireland, Mediterranean.
Date of Last Revision: 9-21-70.

Maritime Reefer Service (Bills of Lading, Rules and Regulations Tariff)—FMC-1
16201 SW. 95th Avenue, Miami, Florida 33157.

Maritime Reefer Service—FMC-2
Between: Ports in Florida, U.S. Gulf and Puerto Rico.
And: Jamaica, Central America, Venezuela and West Coast of South America.
Date of Last Revision: 10-9-74.

May & Caribbean Shipping Corp.—FMC-1
Between: U.S. Atlantic and Gulf of Mexico Ports.
And: Red Sea and Persian Gulf Ports, including Arabian Sea.
Date of Last Revision: 9-4-75.
World Trade Center, Houston, Texas 77002.

Mead Shipping Co., Inc.—FMC-1
Between: U.S. Atlantic and Gulf Ports.
And: Far East Ports.
Date of Last Revision: 10-15-72.
c/o Transamerican Steamship Corp., 17 Battery Place, New York, New York 10004.

MD Shipping Corporation—FMC-2
Between: Guam.
And: Ports in Far East.
Date of Last Revision: 2-7-74.
305 El Hogar Fil. Building, Juan Launa Street, Manila, Philippines.

MD Shipping Corporation—FMC-3
Between: Guam and Trust Territory Ports.
And: Ports in the Philippines.
Date of Last Revision: 4-8-74.

MD Shipping Corporation—FMC-4
Between: Guam and Trust Territory Ports.
And: Hong Kong.
Date of Last Revision: 1-10-74.

MD Shipping Corporation—FMC-5
Between: Guam and Trust Territory Ports.
And: Ports in Taiwan.
Date of Last Revision: 2-8-74.

Mexican Line—FMC-43
From: European Ports (including Scandinavia, UK, Ireland).
To: U.S. Atlantic and Gulf.
Date of Last Revision: 4-24-75.
c/o Smith & Johnson Shipping, 39 Broadway, New York, New York 10006.

Mexican Line—FMC-38
From: Atlantic and Gulf.
To: U.K. and Scandinavian Ports and Ireland.
Date of Last Revision: 9-5-75.

Mexican Line—FMC-44
Between: Atlantic and Gulf.
And: Atlantic Coast of Canada, Newfoundland, Canadian Ports, in the Great Lakes, and the Canadian St. Lawrence Seaway.
Date of Last Revision: 5-21-75.

Mexican Line—FMC-45
Between: East Coast Central America.
And: Puerto Rico and Virgin Islands.
Date of Last Revision: 10-17-75.

Miami-Caribbean Shipping Co., Inc.—FMC-1
Between: U.S. Atlantic and Gulf Ports (except New York and Philadelphia).
And: Jamaica, Bahamas, Haiti, Virgin Islands, Netherlands, Antilles, Republic of Panama.
Date of Last Revision: 5-19-72.
728 NE. Second Avenue, Miami, Florida.

Missouri Pacific Intermodal Transport, Inc.—NVOCC FMC-1
From: U.S. Gulf Coast.
To: Ports in Europe.
Date of Last Revision: 4-8-69.
210 North 13th Street, St. Louis, Missouri 63103.

Mitsui O.S.K. Lines, Ltd.—FMC-2
From: Argentina, Uruguay, Brazil, and Colombia.
To: Honolulu, Hawaii.
Date of Last Revision: 11-6-75.
One World Trade Center, Suite 2211, New York, New York 10048.

Mitsui O.S.K. Lines, Ltd.—FMC-5
From: East Africa namely Mombasa, Dar-Es, Salaam, Mozambique, and Beira.
To: U.S. Pacific and Vancouver, B.C., and Honolulu, Hawaii.
Date of Last Revision: 7-3-73.

Mitsui O.S.K. Lines, Ltd.—FMC-12
From: U.S. Pacific and Honolulu, Hawaii.
To: India, Sri Lanka, and Pakistan.
Date of Last Revision: 2-25-75.

Mitsui O.S.K. Lines, Ltd.—FMC-13
From: Rangoon, Burma, and Bangkok, Thailand.
To: U.S. North Atlantic, South Atlantic, and Gulf Ports.
Date of Last Revision: 3-15-74.

Mitsui O.S.K. Lines, Ltd.—FMC-17
From: Borneo Ports.
To: U.S. Atlantic and Gulf Ports.
Date of Last Revision: 7-16-73.

Mitsui O.S.K. Lines, Ltd.—FMC-23
From: Ceylon, India, and Pakistan.
To: Vancouver, B.C., U.S. Pacific and Gulf.
Date of Last Revision: 6-16-73.

Mitsui O.S.K. Lines, Ltd.—FMC-27
From: Tandjong Mani, Sarawak.
To: U.S. Pacific Coast Ports.
Date of Last Revision: 7-16-73.

Mitsui O.S.K. Lines., Ltd.—FMC-29
From: U.S. West Coast.
To: Port in New Guinea, Solomon Islands.
Date of Last Revision: 2-8-74.

Mitsui O.S.K. Lines, Ltd.—FMC-31
From: Khorramshahr, Iran.
To: U.S. Pacific Coast Ports.
Date of Last Revision: 7-16-73.

Mitsui O.S.K. Lines, Ltd.—FMC-33
From: U.S. Atlantic and Gulf Ports.
To: Ports in Sarawak and Bangkok, Thailand.
Date of Last Revision: 8-27-23.

Mitsui O.S.K. Lines, Ltd.—FMC-34
From: Singapore, Port Swettenham and Penang.
To: U.S. Great Lakes Ports.
Date of Last Revision: 7-17-73.

Mitsui O.S.K. Lines, Ltd.—FMC-35
From: New Guinea.
To: U.S. Atlantic and Gulf Ports.
Date of Last Revision: 3-20-75.

Mitsui O.S.K. Lines, Ltd.—FMC-36
From: New Guinea.
To: U.S. Pacific Coast Ports.
Date of Last Revision: 3-20-75.

Mitsui O.S.K. Lines, Ltd.—FMC-37
From: Thailand, Bangkok.
To: U.S. Great Lake Ports.
Date of Last Revision: 7-31-73.

Mitsui O.S.K. Lines, Ltd.—FMC-41
From: Formosa, Hong Kong, Thailand, Singapore and Malaysia.
To: Puerto Rico and Virgin Islands.
Date of Last Revision: 2-8-74.

Mitsui O.S.K. Lines, Ltd.—FMC-44
From: Indonesia.
To: U.S. Great Lake Ports.
Date of Last Revision: 2-20-71.

Mitsui O.S.K. Lines, Ltd.—FMC-45
From: Ceylon.
To: U.S. Great Lake Ports.
Date of Last Revision: 10-01-73.

Mitsui O.S.K. Lines, Ltd.—FMC-48
From: Singapore, Port Swettenham, and Penang.
To: Honolulu, Hawaii.
Date of Last Revision: 10-01-73.

Mitsui O.S.K. Lines, Ltd.—FMC-51
From: Inchon, Pusan, and Kunsan, Korea.
To: U.S. Great Lakes Ports.
Date of Last Revision: 09-12-75.

Mitsui O.S.K. Lines, Ltd.—FMC-55
From: U.S. Pacific Ports.
To: New Zealand Ports.
Date of Last Revision: 02-06-74.

Mitsui O.S.K. Lines, Ltd.—FMC-59
From: Puerto Rico.
To: West Coast of Mexico, Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica, Panama, Caribbean Ports, Venezuela.
Date of Last Revision: 12-6-73.

Mitsui O.S.K. Lines, Ltd.—FMC-62
From: San Juan, Ponce, and Mayaguez, Puerto Rico.
To: Japan Base Ports—Okinawa, Korea.
Date of Last Revision: 8-6-74.



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Mitsui O.S.K. Lines, Ltd.—FMC–67
From: East Canadian Ports.
To: Honolulu, Hawaii.
Date of Last Revision: 11–6–75.

Mitsui O.S.K. Lines, Ltd.—FMC–68
From: Gulf of Aden and Red Sea Ports.
To: U.S. Pacific Coast Ports.
Date of Last Reivsion: 12–7–74.

Mitsui O.S.K. Lines, Ltd.—FMC–70
From: Singapore.
To: U.S. Pacific Coast Ports.
Date of Last Revision: 6–8–75.

Mitsui O.S.K. Lines, Ltd.—FMC–73
From: West Coast Ports in Costa Rica, Nicaragua, Honduras, El Salvador, Guatemala and Mexico
To: U.S. Gulf Ports.
Date of Last Revision: 11–5–75

A. P. Moller-Maersk Line—FMC–20
From: India, Pakistan, Ceylon.
To: U.S. Pacific, Hawaii and Alaska
Date of aLst Revision: 2–21–74.
c/o Moller Steamship Co., Inc., One World Trade Center, Suite 3527, New York, New York 10048.

A. P. Moller-Maersk Line—FMC 23
From: Sabah and Sarawak.
To: U.S. Pacific Ports
Date of Last Revision: 2 21–74

A. P. Moller-Maersk Line—FMC–25
From: Montreal, Quebec, Three Rivers, Port Alfred, Halifax, St. John, Cornerbrook, Canada.
To: Los Angeles, San Francisco and San Diego, California.
Date of Last Revision: 2–21–74.

A. P. Moller-Maersk Line—FMC–26
From: Persian Gulf and Arabian Gulf
To: U.S. Pacific.
Date of Last Revision: 10–1–74

A. P. Moller-Maersk Line—FMC–27
From: Southwest Africa, Walvis Bay.
To: U.S. Pacific Ports.
Date of Last Revision: 10–1–74.

A. P. Moller-Maersk Line—FMC–30
From: Carribbean Island Ports
To: U.S. Pacific Coast Ports.
Date of Last Revision: 2–21–74.

A. P. Moller-Maersk Line—FMC–49
From: Bangkok.
To: Puerto Rico and Virgin Island Ports
Date of Last Revision: 1–3–74.

A. P. Moller-Maersk Line—FMC 52
From: Sabah and Sarawak.
To: U.S. Atlantic and Gulf.
Date of Last Revision: 10–10–75.

A. P. Moller-Maersk Line—FMC 59
From: Ports in U.K., Germany, Holland Belgium, and France.
To: U.S. Atlantic and Gulf Ports
Date of Last Revision: 8–10–75.

A. P. Moller-Maersk Line—FMC–67
From: Red Sea and Gulf of Aden
To: U.S. Atlantic and Gulf.
Date of Last Revision: 12–12–75

A. P. Moller-Maersk Line—FMC–68
From: India, Pakistan and Ceylon
To: U.S. Atlantic and Gulf.
Date of Last Revision: 12–17–75

A. P. Moller-Maersk Line—FMC–69
From: U.S. Atlantic and Gulf Ports.
To: Ports in India, Pakistan and Ceylon
Date of Last Revision: 12–26–75.

Moore-McCormack Lines, Inc.—FMC–21
From: U.S. Atlantic Ports.
To: Yurimagus and Purallpa, Peru.
Date of Last Revision: 8–17–70.
Two Broadway, New York, New York 10004.

Moore-McCormack Lines, Inc.—FMC–23
From: U.S. Atlantic and Great Lakes Ports.
To: Iquitos, Peru.
Date of Last Revision: 3–30–71.

Moore-McCormack Lines, Inc.—FMC–34
From: Argentina and Uruguay.
To: U.S. Great Lake Ports.
Date of Last Revision: 12–1–68

Moore-McCormack Lines, Inc.—FMC–35
From: Brazil.
To: U.S. Great Lake Ports.
Date of Last Revision: 4–1–71.

Moore-McCormack Lines, Inc.—FMC–41
From: U.S. Atlantic Ports.
To: Canadian Atlantic, Great Lakes, St. Lawrence River Ports.
Date of Last Revision: 2–15–71.

Moore-McCormack Lines, Inc.—FMC–42
From: Canadian Great Lakes, Atlantic and St. Lawrence River Ports.
To: U.S. Atlantic Ports.
Date of Last Revision: 2–15–71.

Moore-McCormack Lines, Inc.—FMC–48
From: U.S. Atlantic Ports.
To: Freeport, Grand Bahama
Date of Last Revision: 8–17–70.

Moore-McCormack Lines, Inc.—FMC–58
From: U.S. Great Lake Ports.
To: Brazil, Uruguay, Argentina, Paraguay
Date of Last Revision: 8–19–74.

Muhammadi Steamship Co., Ltd.—FMC–3
From: U.S. Pacific and Vancouver, British Columbia.
To: Pakistan, Ceylon, Singapore, Malaysia, Bangkok.
Date of Last Revision: 6–10–71.
c/o Crossocean Shipping Co., One World Trade Center, Suite 2045, New York, New York 10048.

Muhammadi Steamship Co., Ltd.—FMC 4
From: Southeast Asia Ports.
To: U.S. Atlantic and Gulf Ports
Date of Last Revision: 4–15–73.

Muhammadi Steamship Company, Ltd.—FMC–5.
From Hong Kong.
To: U.S. Atlantic and Gulf Ports
Date of Last Revision: 8–27–73.

Muhammadi Steamship Company, Ltd.—FMC–6
From: Taiwan
To: U.S. Atlantic and Gulf Ports
Date of Last Revision: 6–26–73.

Muhammadi Steamship Company, Ltd.—FMC–7
From: U.S. Atlantic and Gulf Ports
To: Colombo, Penang, Port Kelang, Singapore, Bangkok, Indonesia, Hong Kong, Taiwan.
Date of Last Revision: 9–1–72

Myrl Hyde—FMC–1
Between: Florida.
And: All Ports in the Caribbean and the East Coast of Central America
Date of Last Revision: 8–25–72.
French Harbour (Roatan), Republica de Honduras, C.A.

Nauticus Line—NVOCC FMC–1
From: U.S. Atlantic Coast
To: Scandinavia, Bordeaux-Hamburg Range, U.K. and Erie.
Date of Last Revision: 3–7–74.
110 S. Dearborn Street, Chicago, Illinois

Navibel International Ltd.—FMC–2
From: Antwerp, Belgium; Bremen, Germany and Dunkirk, France.
To: U.S. Great Lakes.
Date of Last Revision: 3–15–75
N. V. Euro American Agency, S.A., Eurama Theater Building, 122 Italielei, 2000 Antwerp, Belgium.

Navibel International Ltd.—FMC–4
From: Immingham Dock & Ports Middlesburgh, Great Britain.
To: U.S. Great Lakes:
Date of Last Revision: 6–15–74

Navibel International Ltd.—FMC–6
From: North Atlantic Ports.
To: Atlantic Ports of Call in Belgium, Holland, Germany, France.
Date of Last Revision: 4–27–74.

Navibel International Ltd.—FMC–7
From: Continental Europe (Bordeaux/Hamburg Range).
To: U.S. Atlantic Ports north of Cape Hatteras.
Date of Last Revision: 5–16–74.

Naviera Lagos S.A.—FMC–1
From: U.S. Gulf Ports and U.S. Atlantic Coast Ports.
To: Atlantic and Mediterranean Ports of France and Spain.
Date of Last Revision: 5–7–71.
c/o Norton, Lilly & Co., Inc., 90 West Street, New York, New York 10006.

Naviera Salvadorena S.A. (El Salvador Line)—FMC–2
From: West Coast of El Salvador, Guatemala, Coasta Rica and Nicaragua
To: U.S. Gulf Ports.
Date of Last Revision: 8–12–71.
c/o Crescent Shipping Agency, Inc., 205 Sanlin Bldg., 442 Canal Street, New Orleans, Louisiana 70130.

Navimex S.A.—FMC–1
Between: Gulf, Atlantic.
And: Mexico.
Date of Last Revision: 5–27–75.
c/o Olvind Lorentzen, Inc., 522 Fifth Avenue, New York, New York 10036.

Navimex S.A.—FMC–3
Between: Gulf, Atlantic.
And: Central America.
Date of Last Revision: 4–26–74

Navimex S.A.—FMC–4
Between: Mexico.
And: Puerto Rico.
Date of Last Revision: 2–7–75

Nelson Line—FMC–1
Between: Atlantic and Gulf.
And: Ports in the U.K., Ireland, Continent Scandinavia, Baltic, Mediterranean Black Sea, Africa, Asia, Australia and New Zealand.
Date of Last Revision: 2–2–72.
c/o Chester, Blackburn & Roder, Inc., Suite 1035, One World Trade Center, New York, New York 10048.

Neptune Line—FMC–1
Between: U.S. Great Lakes & St. Lawrence River Ports.
And: Ports in Eastern Canada, Venezuela, Netherland Antilles.
Date of Last Revision: 8–18–72.

Neptune International Shipping Ltd., 300 St. Sacrement St., Montreal 125, Quebec Canada.

Neptune Line—FMC–2
Between: U.S. Great Lakes & St. Lawrence River Ports.
And: Ports in East Colombia
Date of Last Revision: 8–17–72

Neptune Line—FMC–3
Between: U.S. Great Lakes & St. Lawrence River Ports.
And: Barbados, Trinidad, British and Dutch Guianas.
Date of Last Revision: 8–18–72

Neptune Line—FMC–4
Between: U.S. Great Lakes and St. Lawrence River Ports.
And: Ports in West Coast Colombia, Ecuador, Peru, and Chile.
Date of Last Revision: 9–2–72.

Neptune Line—FMC–5
Between: U.S. Great Lakes, and St. Lawrence River Ports.
And: Ports in British Honduras, Costa Rica, El Salvador, Guatemala, Honduras, Panama, Nicaragua and Mexico
Date of Last Revision: 9–9–72.

Newfriend Transport Ltd.—FMC–1
Between: Atlantic and Gulf.
And: Caribbean, Central and South America.
Date of Last Revision: 10–12–75.
c/o Transportation Tariff Publishers, 2311 University Blvd. West, Wheaton, Maryland 20902





M/V Night Train, Ltd.—FMC–1
Between: Miami, Florida.
And: Bahama Islands.
Date of Last Revision 1–16–74.
615 SW. 2d Avenue, Miami, Florida 33130.

Nopal Line—FMC–14
From: U.S. Atlantic and Gulf Ports.
To: Ports in Chile, Colombia, Peru.
Date of Last Revision: 9–15–66.
c/o Olvind Lorentzen, Inc., 522 Fifth Avenue, New York, New York 10036.

Nopal Line—FMC–15
From: Atlantic and Gulf Ports.
To: Ports of Algeria, Tunisia, and Libya.
Date of Last Revision: 11–26–71.

Nopal Line—FMC–20
Between: U.S. Atlantic and Gulf Ports.
And: Ports in Peru.
Date of Last Revision: 11–26–71.

Nopal Line—FMC–21
Between: U.S. Gulf Ports.
And: Ports in Continental Europe.
Date of Last Revision: 11–23–71.

Nopal Line—FMC–22
From: U.S. Great Lakes Ports.
To: Ports in Brazil, Uruguay, and Argentina.
Date of Last Revision: 11–26–71.

Nordship Reefer Express Line—FMC–1
Between: Great Lake Ports.
And: Ports in U.K., Ireland, France, Belgium, the Netherlands and Germany.
Date of Last Revision: 6–22–74.
c/o Nordship Agencies, Inc., One East Wacker Drive, Chicago, Illinois 60601.

North Andros Wholesale Company—FMC–1
Between: Florida.
And: The Bahamas.
Date of Last Revision: 9–3–69.
c/o Mr. Darell Rolle, Lowe Sound, Andros, Bahamas.

Norwegian America Line—FMC–14
From: U.S. Great Lake Ports.
To: Denmark, Finland, Iceland, Norway, Poland, Sweden, and to German Ports and Russian Ports via Baltic Sea.
Date of Last Revision: 6–30–73.
Den Norske Amerikalinje, Jernbanetorget No. 2, Oslo, Norway.

N.Y.K. Line—FMC–8
From: Barranquilla, Cartagena, and Santa Marta, Colombia.
To: San Juan, Puerto Rico, U.S. Atlantic and Gulf Ports.
Date of Last Revision: 10–10–75.
One World Trade Center, Suite 5031, New York, New York 10048.

N.Y.K. Line—FMC–9
From: Netherlands Antilles.
To: San Juan, Puerto Rico.
Date of Last Revision: 1–1–66.

N.Y.K. Line—FMC–10
From: West Coast of Mexico and Central American Ports.
To: San Juan, U.S. Atlantic and Gulf Ports.
Date of Last Revision: 9–25–74.

N.Y.K. Line—FMC–12
From: Paramairbo, Surinam.
To: U.S. Atlantic and Gulf Ports.
Date of Last Revision: 1–1–66.

N.Y.K. Line—FMC–13
From: Dominican Republic.
To: San Juan, U.S. Atlantic and Gulf Ports.
Date of Last Revision: 1–1–66.

N.Y.K. Line—FMC–14
From: Kingston, Jamaica.
To: San Juan, U.S. Atlantic and Gulf Ports.
Date of Last Revision: 1–1–66.

N.Y.K. Line—FMC–24
From: Mexico Pacific Coast Ports.
To: Puerto Rico.
Date of Last Revision: 7–18–73.

N.Y.K. Line—FMC–39
From: Puerto Au Prince, Haiti, Port of Spain, Trinidad and Georgetown, British Guiana.
To: San Juan, Puerto Rico, U.S. Atlantic, and Gulf Ports.
Date of Last Revision: 10–10–75.

N.Y.K. Line—FMC–47
From: Puerto Rico.
To: Jamaica, Dominican Republic, Bahamas, Brazil, Colombia, Mexico, Argentina.
Date of Last Revision: 6–30–73.

N.Y.K. Line—FMC–48
From: Argentina and Brazil.
To: Puerto Rico.
Date of Last Revision: 10–02–73.

N.Y.K. Line—FMC–49
From: Maracaibo, La Guaira, Puerto Cabello, Guanta (Puerto La Cruz) Venezuela.
To: Puerto Rico and U.S. Atlantic and Gulf Ports.
Date of Last Revision: 10–10–75.

N.Y.K. Line—FMC–61
From: Balboa and Cristobal, Canal Zone.
To: Puerto Rico and U.S. Atlantic and Gulf Ports.
Date of Last Revision: 10–10–75.

Oceanic Ferry Express, Ltd., Inc.—FMC–1
Between: San Juan, Puerto Rico.
And: Colombia, Venezuela, British West Indies.
Date of Last Revision: 03–26–75.
c/o Angel Ferrer, Pres., MI–3–410 Street, 4th Ext., Country Club, Rio Piedras, Puerto Rico 00724.

Orient Mid-East Lines, Inc.—FMC–17
From: U.S. West Coast Ports.
To: Ports on the Med Sea.
Date of Last Revision: 05–01–69.
c/o Eagle Ocean Transport, Inc., 29 Broadway, New York, New York 10006.

Orient Mid-East Lines, Inc.—FMC–23
From: U.S. Great Lakes, Atlantic and Gulf Ports.
To: Jamaica.
Date of Last Revision: 11–14–69.

Orient Mid-East Lines, Inc.—FMC–24
From: U.S. Great Lakes.
To: Dominican Republic.
Date of Last Revision: 05–01–69.

Orient Mid-East Lines, Inc.—FMC–25
From: U.S. Great Lakes.
To: Haiti.
Date of Last Revision: 5–1–69.

Orient Mid-East Lines, Inc.—FMC–26
From: U.S. Great Lakes.
To: Colombia.
Date of Last Revision: 2–28–66.

Orient Mid-East Lines, Inc.—FMC–27
From: U.S. Great Lakes.
To: Panama.
Date of Last Revision: 5–1–69.

Orient Mid-East Lines, Inc.—FMC–28
From: U.S. Great Lakes.
To: Guatemala and El Salvador.
Date of Last Revision: 5–5–69.

Orient Mid-East Lines, Inc.—FMC–29
From: U.S. Great Lakes.
To: Mexico.
Date of Last Revision: 5–5–69.

Orient Mid-East Lines, Inc.—FMC–32
From: Great Lakes Ports.
To: Polish Ports of Gdynia and Gdansk.
Date of Last Revision: 5–5–69.

Orient Mid-East Lines, Inc.—FMC–37
From: The Mediterranean Sea from Gibraltar to Port Said, including Adriatic and Black Sea Ports and from Casablanca to Port Said, inclusively.
To: U.S. Great Lakes, East and Gulf Ports.
Date of Last Revision: 5–5–69.

Orient Mid-East Lines, Inc.—FMC–41
From: U.S. East Coast and Gulf Ports.
To: Ports of Gdynia and Gdansk.
Date of Last Revision: 5–5–69.

Orient Mid-East Lines, Inc.—FMC–45
From: North Atlantic Ports, South Atlantic and Gulf Ports.
To: Mediterranean.
Date of Last Revision: 4–24–69.

Orient Overseas Line—FMC–17
From: U.K.
To: U.S. Atlantic and Gulf Ports and Hawaii.
Date of Last Revision: 6–19–70.
c/o Eckert Overseas Agency, Inc., 88 Pine Street, New York, New York 10005.

Orient Overseas Line—FMC–21
From: Continental European ports (Bordeaux-Hamburg Range) and through traffic originating in Scandinavia, Upper Alsace, and Switzerland.
To: U.S. Atlantic and Gulf Ports and Hawaii.
Date of Last Revision: 6–19–70.

Orient Overseas Line—FMC–30
From: Atlantic and Gulf.
To: Central America and Mexico.
Date of Last Revision: 12–18–72.

Ozen/Stinnes Lines—FMC–22
From: Ports in the Bordeaux Hamburg Range.
To: South Atlantic between Cape Hatteras and Key West, Florida, inclusive.
Date of Last Revision: 6–14–74.
c/o H. Schuldt, Ballindamm 8, Hamburg 1, Germany.

Ozean/Stinnes Lines—FMC–23
From: Denmark, Finland, Norway, Sweden, and Baltic, U.K., Ireland, France, Spain, Portugal, and world ports.
To: U.S. Gulf in the Tampa, Brownsville Range and U.S. South Atlantic between Cape Hatteras and Key West Range.
Date of Last Revision: 2–1–72.

Ozean/Stinnes Lines—FMC–24
From Cape Hatteras, N.C. Key West, Florida Range.
To: Ports of Call in the Antwerp Hamburg Range.
Date of Last Revision: 6–14–74.

P & O Lines—FMC–5
From: Honolulu, Hawaii.
To: Vancouver, British Columbia, Canada.
Date of Last Revision: 8–1–70.
c/o P & O Lines (North America) Inc., 155 Post Street, San Francisco, California 94108.

P & O Lines—FMC–7
From: Vancouver, British Columbia.
To: Honolulu, Hawaii.
Date of Last Revision: 10–1–70.

Pacific Far East Line, Inc.—FMC–20
From: Honolulu, Hawaii.
To: Vancouver, Victoria, and New Westminster, Canada.
Date of Last Revision: 3–15–71.
One Embarcadero Center, San Francisco, California 94111.

Pacific Far East Line Inc.—FMC–57
From: Pacific Coast Ports and Hawaii.
To: Mediterranean Ports.
Date of Last Revision: 7–14–75.

Pacific Terminals, Inc.—FMC–1
Between: U.S. Atlantic and Gulf Ports.
And: Caribbean Ports, Guatemala, San Salvador, Honduras, Nicaragua, Costa Rica, Panama, Paraguay, Haiti, Venezuela.
Date of Last Revision: 1–20–75.
1260 NW. 57th Avenue, Miami, Florida 33126.

Pan American Mail Line—FMC–5
Between: U.S. Atlantic and Gulf Ports.
And: Bahamas, Bermuda, British Virgin



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Islands, Jamaica, East Coast of Colombia.
Date of Last Revision: 7–9–74.
d.b.a. Pan Atlantic Lines, Apartado 4369, Panama 5, R.P.

Pan American Mail Line—FMC–6
Between: Florida.
And: Ecuador and Dominican Republic.
Date of Last Revision: 10–1–74.

Pan Islamic Steamship Co., Ltd.—FMC–5
From: Atlantic and Gulf Ports.
To: Tunisia.
Date of Last Revision: 9–25–70.
c/o Ocean Services Agency, Inc., 866 United Nations Plaza, New York, New York 10017.

Francesco Parisi, Inc.—NVOCC FMC–1
From: New York, New York.
To: All Italian Ports.
Date of Last Revision: 7–15–74.
17 Battery Place, New York, New York 10004.

Polish Ocean Lines—FMC–7
From: East Coast of Mexico.
To: U.S. Gulf Ports.
Date of Last Revision: 5–24–73.
c/o Gdynia America Line, One World Trade Center, New York, New York 10048.

Prudential Lines—FMC–6
From: North Atlantic Ports.
To: Ports of Lisbon—Lexios.
Date of Last Revision: 10–16–70.
One World Trade Center, Suite 3601, New York, New York 10048.

Prudential Grace Lines, Inc.—FMC–10
From: Kingston, Jamaica.
To: New York, New York.
Date of Last Revision: 10–1–70.

Prudential Grace Lines, Inc.—FMC–11
From: Pacific Coast of U.S. and Canada.
To: Port of Spain, Trinidad.
And: Between: California Ports and Vancouver, British Columbia.
Date of Last Revision: 5–1–74.

Prudential Grace Lines, Inc.—FMC–13
From: Almirante, Panama and Puerto Cortes, Honduras.
To: Charleston, South Carolina and Baltimore, Maryland.
Date of Last Revision: 10–1–70.

Prudential Grace Lines, Inc.—FMC–15
Between: Latin America.
And: Honolulu, Hawaii.
Date of Last Revision: 10–1–70.

Prudential Grace Lines, Inc.—FMC–16
From: Almirante, Panama.
To: U.S. Atlantic Ports.
Date of Last Revision: 10–1–70

Prudential Lines—FMC–18
From: Atlantic.
To: Bermuda Islands.
Date of Last Revision: 6–9–75.

Prudential Grace Lines, Inc.—FMC–21
From: Guadeloupe and Martinique.
To: New York, Philadelphia and Baltimore.
Date of Last Revision: 4–1–70.

Prudential Grace Lines, Inc.—FMC–22
From: Venezuela.
To: U.S. Atlantic Ports.
Date of Last Revision: 3–9–71

Prudential Lines—FMC–19
From: Bermuda.
To: U.S. North and South Atlantic Ports.
Date of Last Revision: 6–9–75.

Prudential Grace Lines, Inc.—FMC–24
From: Balboa, Canal Zone.
To: U.S. Atlantic Ports.
Date of Last Revision: 1–15–73.

Prudential Grace Lines, Inc.—FMC–25
From: Santa Maria, Colombia.
To: Baltimore, Maryland.
Date of Last Revision: 4–01–70.

Prudential Grace Lines, Inc.—FMC–26
From: Rio Haina, Dominican Republic.
To: New York, New York.
Date of Last Revision: 4–01–70.

Prudential Lines—FMC–27
Between: Atlantic.
And: Guantanamo Bay, Cuba.
Date of Last Revision: 11–19–71.

Prudential Grace Lines, Inc.—FMC–28
From: Buenaventura, Colombia.
To: U.S. Atlantic Ports.
Date of Last Revision: 11–15–72.

Prudential Lines—FMC–35
Between: Atlantic.
And: Costa Rica via Balboa.
Date of Last Revision: 8–15–74

Purchdel, Inc.—FMC–1
Between: Atlantic and Gulf.
And: Caribbean.
Date of Last Revision: 6–13–75.
100 Terminal Street, Fort Pierce, Florida 33450.

Puerto Rico-Caribbean Lines, Inc.—NVOCC FMC–1
Between: Ports in Puerto Rico.
And: Ports in the Caribbean.
Date of Last Revision: 10–01–72
Calle San Agustin No. 321, San Juan, Puerto Rico 00906.

Rederiaktiebolaget Iris (Iris Line)—FMC–4
From: Baltic Sea Scandinavia/Continental Europe and U.K. Range.
To: Ports of Call in North and South Atlantic.
Date of Last Revision: 7–08–70.
c/o Charles Thornburn New York Inc., 25 Broadway, New York, New York 10004.

Reefer Express Lines (Bermuda) Ltd.—FMC–2.
Between: Pacific Coast Ports.
And: Ports in the U.K., Ireland, Scandinavia, Continental Europe, the Med Sea and Black Sea.
Date of Last Revision: 7–19–74.
P.O. Box 1554, Hamilton, Bermuda.

Regent Line—FMC–7
From: Continental Europe, U.K. and Scandinavia.
To: U.S. Atlantic Ports in the Portland, Maine Brownsville, Texas Range.
Date of Last Revision: 9–19–75.
c/o J.R. Shipping Co., Ltd., 54/62, Regent Street, London W1, England.

Bernard W. Roberts—FMC–1
Between: Palm Beach, Florida
And: Bahama Islands.
Date of Last Revision: 3–29–74
c/o Palm Beach Steamship Agency, Inc., 130 East Port Road, Riviera Beach, Florida 33404.

Rodson Shipping Inc.—FMC–1
Between: U.S. Atlantic and Gulf Ports.
And: World Ports.
Date of Last Revision: 9–26–74.
1150 S.W. 1st Street, Miami, Florida 33130.

Royal Netherlands Steamship Co.—FMC–9
From: East Coast of Central America Ports.
To: U.S. Atlantic and Gulf Ports.
Date of Last Revision: 12–01–65
25 Broadway, New York, New York, 10004.

Royal Netherlands Steamship Co.—FMC–11
From: Eastern Canadian Ports.
To: Virgin Islands.
Date of Last Revision: 2–14–66.

Royal Netherlands Steamship Co.—FMC–30
From: Panama, Costa Rica, Nicaragua, Honduras, El Salvador, Guatemala and Mexico.
To: U.S. Atlantic and Gulf.
Date of Last Revision: 8–26–73.

Ruys Transport Group Inc.—FMC–1
Between: U.S. Great Lakes, Atlantic, Gulf and Pacific Ports (including Hawaii).
And: World Ports.
Date of Last Revision: 9–9–73.
Five World Trade Center, Suite 617, New York, New York 10048.

Saint Georges Shipping Co., Ltd.—FMC–2
Between: Florida.
And: Bahama Islands.
Date of Last Revision: 12–28–74.
c/o Hemispheres, Incorporated, 841 Biscayne Blvd., Miami, Florida 33132.

Sandpiper International, Inc.—NVOCC FMC–1
Between: U.S. Gulf and South Atlantic Ports.
And: Ports in the Caribbean, Central and South America.
Date of Last Revision: 4–13–75.
P.O. Box 4042, Hialeah, Florida 33014

Sands Construction & Shipping Co., Inc FMC–1
Between: Palm Beach, Florida.
And: Bahama Islands.
Date of Last Revision: 12–3–74.
c/o Palm Beach Steamship Agency, Inc 130 East Port Road, Riviera Beach Florida 33404.

Scandinavian American Line—FMC–6
From: U.S. North Atlantic Ports.
To: U.K. Ports.
Date of Last Revision: 7–6–71.
Sankt Annae Plads 30, Cophenhagen, Denmark.

Scandinavian American Line—FMC–7
From: South Atlantic Ports.
To: Denmark, Norway, Poland, Sweden, Finland and to Continental and U.S.S.R. Ports served via the Baltic.
Date of Last Revision: 7–9–71.

Scandinavian American Line—FMC–11
From: U.S. Gulf Ports.
To: French Atlantic and Continental European Ports in the Bordeaux Hamburg Range.
Date of Last Revision: 7–6–71.

Scandinavian American Line—FMC–19
From: Norwegian Ports in the Bergen Oslo Range.
To: U.S. South Atlantic and Gulf Ports in the Cape Hatteras/Brownsville Range
Date of Last Revision: 4–11–68.

Scandinavian American Line—FMC–21
From: U.K.
To: U.S. Atlantic Ports in the Portland, Maine Key West, Florida Range.
Date of Last Revision: 7–6–71.

Scandinaivan Continental Line AB—FMC–3
From: U.S. North and South Atlantic.
To: Ports of Call in Eastern Canada.
Date of Last Revision: 2–1–71.
c/o Bluewater Shipping Co., Inc., 25 Broadway, New York, New York 10004.

S.C.I. Line—FMC–28
From: Leeward and Windward Islands, Trinidad, Barbados, French Guiana, Surinam, Guyana and Jamaica.
To: U.S. Atlantic and Gulf and Great Lakes.
Date of Last Revision: 11–15–75.
c/o Norton, Lilly & Co., Inc., 90 West Street New York, New York 10006.

Scindia Steam Navigation—FMC–15
From: U.K. and Continental European Ports.
To: U.S. Atlantic and Gulf Ports
Date of Last Revision: 9–15–66.
c/o United States Navigation, 17 Battery Place, New York, New York 10004.

Scindia Steam Navigation Co., Ltd.—FMC–38
From: U.S. Gulf Ports.
To: Ports in East Canada.
Date of Last Revision: 4–4–73.

Scindia Steam Navigation—FMC–42
From: Alexandria and Port Said, Egypt
To: U.S. Atlantic and Gulf Ports.
Date of Last Revision: 3–26–75.

Seaboard Mercantile Trading Co., Inc.—FMC–4
From: Bulgarian Ports.
To: U.S. East, Gulf, Great Lakes and West Coast Ports.
Date of Last Revision: 1–30–74.
Calle Aquilino De La Guardia No. 8, Edifico Igra, Panama, Republic of Panama.

Seaboard Mercantile Trading Co., Inc.—FMC–5
From: Turkish Ports.
To: U.S. East, Gulf, Great Lakes and West Coast Ports.





Date of Last Revision: 1–28–70.

Seaboard Mercantile Trading Co., Inc.—FMC–6
From: Moroccan Ports.
To: U.S. East, Gulf, Great Lakes and West Coast Ports.
Date of Last Revision: 3–2–70.

Seaboard Mercantile Trading Co., Inc.—FMC–7
From: Yugoslavian Ports.
To: U.S. East, Gulf, Great Lakes, and West Coast Ports.
Date of Last Revision: 4–2–70.

Seaboard Mercantile Trading Co., Inc.—FMC–8
From: Tunisian Ports.
To: U.S. East, Gulf, Great Lakes and West Coast Ports.
Date of Last Revision: 1–31–70.

Seaboard Mercantile Trading Co., Inc.—FMC–9
From: Portuguese Ports.
To: U.S. East, Gulf, Great Lakes and West Coast Ports.
Date of Last Revision: 1–30–70.

Seaboard Mercantile Trading Co., Inc.—FMC–10
From: Lebanese Ports.
To: U.S. East, Gulf, Great Lakes and West Coast Ports.
Date of Last Revision: 1–31–70.

Seaboard Mercantile Trading Co., Inc.—FMC–11
From: Spanish Ports.
To: U.S. East, Gulf, Great Lakes and West Coast Ports.
Date of Last Revision: 1–28–70.

Seaboard Mercantile Trading Co., Inc.—FMC–12
From: Greek Ports.
To: U.S. East, Gulf, Great Lakes and West Coast Ports.
Date of Last Revision: 1–28–70.

Seaboard Mercantile Trading Co., Inc.—FMC–13
From: Italian Ports.
To: U.S. East, Gulf, Great Lakes and West Coast Ports.
Date of Last Revision: 2–1–70.

Seaspan International Ltd.—FMC–1
Between: North Vancouver Dock, B.C., Squamish Dock, B.C.
And: Seattle, Washington.
Date of Last Revision: 12–01–74.
10 Pemberton Avenue, Vancouver, British Columbia, Canada.

Seariders, Inc.—NVOCC FMC–2
Between: Atlantic and Gulf Ports.
And: Ports in the Caribbean, Central and South America.
Date of Last Revision: 1–22–74.
P.O. Box 474, Miami Springs, Florida 33166.

Seariders, Inc.—NVOCC FMC–3
From: Miami and Jacksonville, Florida and Charleston, South Carolina.
To: U.K. and various European Ports.
Date of Last Revision: 5–13–73.

Seiko International, Inc.—NVOCC FMC–1
From: U.S. Atlantic and Gulf Ports.
To: Jamaica, Haiti and Bahamas.
Date of Last Revision: 6–7–72.
P.O. Box 1102, Miami International Airport, Miami, Florida 33148.

Shipcosmos Thrucontainers—NVOCC FMC–4
From: New York, New York.
To: Antwerp, Bremen, Hamburg, Bremerhaven and Rotterdam.
Date of Last Revision: 2–19–75.
1351 Brummel Avenue, Elk Grove Village, Illinois 60007.

Shipcosmos Thrucontainers—NVOCC FMC–5
From: New York, New York.
To: Ports in the United Kingdom.
Date of Last Revision: 2–20–75.

The Shipping Corporation of India—FMC–30
From: Libyan, Lebanese and Egyptian Ports.
To: U.S. Atlantic and Gulf Ports.
Date of Last Revision: 12–15–75.
c/o Norton, Lilly & Co., 90 West Street, New York, New York 10006.

S.I.C. Line—FMC–1
Between: Atlantic and Gulf.
And: U.K., Ireland, Continent, Scandinavia, Baltic, Med., Black Sea, Africa, Asia, Australia and New Zealand.
Date of Last Revision: 2–01–72.
c/o Chester, Blackburn & Roder, Inc., One World Trade Center, Suite 1035, New York, New York 10048.

Sidarma Line—FMC–18
From: Vigo Spain.
To: Island of Puerto Rico.
Date of Last Revision: 7–05–72.
Societa Italiana De Armamento, Rialto Campo Della Fava, 5527, 30100 Venice, Italy.

Skips A/S Viking Line—FMC–3
From: U.S. Atlantic and Gulf Ports.
To: Venezuela & Netherlands Antilles.
Date of Last Revision: 5–06–75.
c/o Eckert Overseas Agency, Inc., 88 Pine Street, New York, New York 10005.

Skips A/S Viking Line—FMC–4
From: U.S. Atlantic and Gulf Ports.
To: Jamaica, Virgin Islands, Trinidad, Bermuda, Guyana, Dominican Republic.
Date of Last Revision: 12–20–70.

Skips A/S Viking Line—FMC–5
From: Kingston, Jamaica; Hamilton and St. Georges, Bermuda; Santo Domingo, Dominican Republic.
To: U.S. Atlantic and Gulf Ports.
Date of Last Revision: 11–27–70.

Skips A/S Viking Line—FMC–6
From Venezuela, Netherlands Antilles.
To: U.S. Atlantic and Gulf Ports.
Date of Last Revision: 8–17–70.

Scoieta Italiana Di Armamento—FMC–10 (Sidarma Line.)
Between: Gulf.
And: Mexican Gulf.
Date of Last Revision: 6–17–74.
c/o Oceans International Corp., 204 Sanlin Bldg., 442 Canal Street, New Orleans, Louisiana 70130.

South Atlantic Steamship Agency, Inc.—FMC 1
Between: U.S. Atlantic and Gulf Ports.
And: Bahamas, Cayman Island, Caicos and Turks Island.
Date of Last Revision: 3–18–70.
P.O. Box 13085, Port Everglades Station, Port Everglades, Florida 33316.

South Coast Transport, Inc.—FMC–2
Between: Mexican Gulf Ports.
And: U.S. Atlantic and Gulf Ports.
Date of Last Revisions: 7–06–70.
P.O. Box 802, Corpus Christi, Texas 77301.

Southeast & Caribbean Shipping Co., Inc.—FMC–1
Bill of Lading, Rules and Regulations Tariff.
Date of Last Revision: 5–08–72.
750 N.E. 7th Street, Dania, Florida 33004.

Southeast & Caribbean Shipping Co., Inc.—FMC–2
Between: Ports in Florida.
And: Colombia, Nicaragua, Panama, Bahamas.
Date of Last Revision: 6–18–72.

Southeast & Caribbean Shipping Co., Inc.—FMC–3
Between: Ports in Florida.
And: Venezuela and Netherlands Antilles.
Date of Last Revision: 6–18–72.

Southeast & Caribbean Shipping Co., Inc.—FMC–4
Between: Ports in Florida.
And: The Bahamas.
Date of Last Revision: 1–01–73.

Spanish North America Line—FMC–1
From: Spain, Portugal, South France and Morocco.
To: U.S. North Atlantic.
Date of Last Revision: 9–03–69.
P.O. Box 6001, Valencia 11, Spain.

Star Marine Lines, S.A.—FMC–1
Between: Ports in Florida.
And: Dominican Republic, Haiti, Venezuela, Netherlands Antilles, Colombia.
Date of Last Revision: 11–05–72.
15 S.E. 5th Street, Miami, Florida 33131.

Star Marine Lines, S.A.—FMC–2
From: Ports in Florida.
To: Ports in Colombia.
Date of Last Revision: 11–17–72.

Star Shipping A/S—FMC–6
From: Continental Ports of the Bordeaux/Hamburg Range and Ports in the British Isles.
To: U.S. Gulf Ports.
Date of Last Revision: 12–01–71.
Strandgaten 17, Bergen, Norway.

Sterlines, Ltd.—FMC–1
Between: Ports in Florida.
And: Grand Cayman Islands and Ports in the Caribbean Sea.
Date of Last Revision: 4–17–74.
P.O. Box 692, Inter Bank House, Grand Cayman, Island.

Stevenson Line—FMC–7
Between: U.S. Great Lakes and Canadian Ports:
And: Mediterranean Ports.
Date of Last Revision: 6–10–72.
c/o T. J. Stevenson Co., Inc., 80 Broad Street, New York, New York 10004.

Stiles and Abrams Shipping Co., Limited—FMC–1
Between: Miami, Florida.
And: Ports in the Bahamas and British West Indies.
Date of Last Revision: 6–12–70.
P.O. Box 3604, Miami, Florida 33101.

Sunrise Shipping Company—FMC–1
Between: U.S. Atlantic and Gulf Ports.
And: Ports in the Leeward and Windward Islands, Trinidad; Barbados; British, French and Netherlands Guianas.
Date of Last Revision: 3–21–75.
c/o Habrew Maritime Intl. Inc., 15 S.E. 5th Floor, Miami, Florida 33132.

Surinam Navigation Company, Ltd.—FMC–3
From: Puerto Rico.
To: Dominican Republic, Haiti, Surinam.
Date of Last Revision: 4–08–74.
P.O. Box 1824, Paramaribo, Surinam.

Ta Peng Lines—FMC–7
From: Hamburg/Bordeaux Range, London, England.
To: U.S. Atlantic and Gulf.
Date of Last Revision: 9–10–75.
260 California Street, San Francisco, California 94111.

Thai Mercantile Marine, Ltd.—FMC–12
Between: U.S. Pacific Coast.
And: Panama, East Coast of Central and South America, Mexico and All Ports of the Caribbean Sea.
Date of Last Revision: 12–29–71.
c/o F. W. Hartman & Co., Inc., 21 West Street, New York, New York 10006.

T. I. Shipping Enterprises Ltd.—FMC–1
Between: Miami, Florida.
And: Turks Island, Haiti, Dominican Republic.
Date of Last Revision: 1–3–74.
P.O. Box 4454, Miami, Florida 33101.

Torm Lines—FMC–23 (Dampskibsselskabet TORM A/S, Copenhagen.)
From: Beyrouth.
To: East, Gulf and Great Lakes Ports.
Date of Last Revision: 11–8–75.
Holmens Kanal 42, Copenhagen, Denmark.

Torm Lines—FMC–25 (Dampskibsselskabet TORM A/S, Copenhagen.)
From: Lattakia.
To: East, Gulf Coast and Great Lakes.
Date of Last Revision: 9–1–75.



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Torm Lines—FMC-26 (Dampskibsselskabet TORM A/S, Copenhagen.)
From: Malta/Sicilian Ports including Brindisi.
To: U.S. East, Gulf Coast and Great Lake Ports.
Date of Last Revision: 9-1-75.
Torm Lines—FMC-27 (Dampskibsselskabet TORM A/S, Copenhagen.)
From: Morocco.
To: U.S. East, Gulf and Great Lakes.
Date of Last Revision: 11-08-75.
Torm Lines—FMC-33 (Dampskibsselskabet TORM A/S, Copenhagen.)
From: Portuguese Continental Ports.
To: U.S. South Atlantic and Gulf Ports in Morehead City, N.C./Brownsville, Texas Range including Great Lakes ports but excluding North Carolina/Maine Range.
Date of Last Revision: 1-15-74.
Torm Lines—FMC-34 (Dampskibsselskabet TORM A/S, Copenhagen.)
From: Tripoli (Libya).
To: U.S. East, Gulf and Great Lakes.
Date of Last Revision: 1-22-74.
Torm Lines—FMC-35 (Dampskibsselskabet TORM A/S, Copenhagen.)
From: Spanish Ports.
To: U.S. South Atlantic and Gulf Ports in the South Carolina Brownsville Texas Range also including Great Lakes.
Date of Last Revision: 1-22-74.
Torm Lines—FMC-39 (Dampskibsselskabet TORM A/S, Copenhagen.)
From: Italian Ports excluding Sicilian and Brindisi.
To: U.S. East, Gulf and Great Lakes.
Date of Last Revision: 11-08-75.
Torrence Navigation Co.—FMC-1
Between: U.S. Atlantic and Gulf Ports.
And: Ports in Europe, Africa and Med. Sea.
Date of Last Revision: 2-28-69.
17 Battery Place, New York, New York 10004.
Trans-Atlantic Steel Carriers, Inc.—FMC-1
From: U.S. Great Lakes, Atlantic and Gulf Ports.
To: Mediterranean, Adriatic and Black Sea Ports.
Date of Last Revision: 10-31-71.
82 Wall Street, New York, New York 10005.
Trans-Atlantic Steel Carriers, Inc.—FMC-3
From: Continental Ports of the Bordeaux/Hamburg Range and Ports in the U.K. and Ireland.
To: U.S. East and Gulf Coast Ports.
Date of Last Revision: 6-9-72.
409 Tower Building, 222 East Baltimore Street, Baltimore, Maryland 21202.
Trans Caribbean Lines—FMC-10
Between: Atlantic and Gulf.
And: Bahamas, Cayman Islands and Caicos, Providenciales and Turks.
Date of Last Revision: 8-30-74.
3301 N.W. So. River Drive, Miami, Florida 33142.
Trans Caribbean Lines—FMC-11
Between: Atlantic and Gulf.
And: Venexuela and Netherland Antilles.
Date of Last Revision: 12-1-75.
Transmaritima Boliviana, S.A.—FMC-1
Between: U.S. Atlantic and Gulf Ports.
And: West Coast Ports in Colombia and Ports in Ecuador, Peru and Chile.
Date of Last Revision: 5-16-69.
1021 International Trade Mart, New Orleans, Louisiana 70130.
Trans Naviera Del Peru S.A.—FMC-2
From: West Coast of Chile and Peru.
To: U.S. Atlantic and Gulf Ports.
Date of Last Revision: 10-25-67.
Edificio Pizarro Of. 71-72, Jiron Union No. 284, Lima, Peru.
Transportaction Maritime Hondurena, S.A. de C.V.—FMC-1
From: East Coast Honduras, Mexico, Guatemala.
To: Puerto Rico and Virgin Islands.
Date of Last Revision: 6-2-75.
c/o "K" Line, Kerr Corporation, 90 Washington Street, New York, New York 10006.
Transtainer Systems, Inc.—NVOCC FMC-1
From: U.S. North Atlantic, Gulf and Great Lakes Ports.
To: Antwerp, Rotterdam, Bremen.
Date of Last Revision: 7-26-72.
3250 South St. Louis Avenue, Chicago, Illinois 60623.
Transtainer Systems, Inc.—NVOCC FMC-2
From: Antwerp, Rotterdam, and Bremen.
To: U.S. Great Lakes, Gulf and North Atlantic Ports.
Date of Last Revision: 1-1-73.
Transytur Line—FMC-4
From: Venezuela.
To: U.S. South Atlantic and Gulf Ports.
Date of Last Revision: 6-1-71.
Mr. Corrado Altomare, c/o C.A. Naviera de Transporte y Turismo, Avenida San Francisco, Maracaibo, Venezuela.
Trans-World Shipping Service, Inc.—NVOCC FMC-1
From: U.S. Great Lakes and St. Lawrence River Ports.
To: Antwerp, Amsterdam, Bremen, Hamburg, Rotterdam and French Atlantic Ports
Date of Last Revision: 2-22-73.
P.O. Box 1597, Toledo, Ohio 43603.
Triton International Carriers, Ltd.—FMC-2
From: Searsport, Maine/Brownsville, Texas Range.
To: Ports of Call in the U.K., Continental Europe, Mediterranean Red Sea, East Africa and Persian Gulf.
Date of Last Revision: 9-24-75.
c/o Mercury Shipping (Houston) Ltd., Houston Center Two, Suite 610, Houston, Texas 77002.
Troll Carriers—FMC-2
From: U.S. Gulf Ports.
To: Ports in the U.K. and the Continent.
Date of Last Revision: 10-25-71.
c/o Strachan Shipping Co., P.O. Box 9667, Savannah, Georgia 31402.
Tropical Shipping & Construction Co., Ltd.—FMC-11
Between: Atlantic and Gulf.
And: Leeward and Windward Islands, Trinidad, Barbados and Guianas.
Date of Last Revision: 12-30-74.
821 Avenue "E", Riviera Beach, Florida 33404.
Tropwood Lines—FMC-6
From: Brazil.
To: U.S. Great Lakes and St. Lawrence River Ports.
Date of Last Revision: 9-10-74.
c/o Navicom, Inc., 1200 S. Lincoln Memorial Drive, Milwaukee, Wisconsin 53207.
Unidas Refrigerated Services—FMC-1
From: U.S. Great Lakes Ports.
To: Ports in Argentina, Uruguay and Paraguay.
Date of Last Revision: 2-18-72.
c/o Garcia & Diaz, Inc., 25 Broadway, New York, New York 10004.
United States Line—FMC-45
Between: Ports in the U.K., Republic of Ireland (Eire) and the Continent of Europe.
And: Puerto Rico.
Date of Last Revision: 3-25-72.
One Broadway, New York, New York 10004.
United States Line—FMC-67
Between: Hawaiian Islands, Guam and Marianas Islands.
And: Ports in the Union of Soviet Socialist Republics.
Date of Last Revision: 1-30-74.
United Yugoslav Lines—FMC-17
From: Mediterranean, Black Sea, Spanish and Portuguese Ports.
To: Puerto Rico.
Zupanciceva, 24, P.O. Box 1, Piran 66330, Yugoslavia.
Universal Alco Ltd.—FMC-2
Between: Nassau, Bahamas.
And: Ports in Florida.
Date of Last Revision: 1-4-73.
1001 Port Boulevard, Miami, Florida 33132.
Virgin Islands Line, Ltd.—FMC-1
Between: U.S. South Atlantic and Gulf Ports.
And: All Caribbean Ports.
Date of Last Revision: 4-7-74.
c/o Bernuth, Lembcke Co., Inc., 420 Lexington Avenue, New York, New York 10017.
Virginia Line—FMC-1
Between: U.S. Atlantic and Gulf Ports.
And: Ports in the U.K., Ireland, Continent, Scandinavia, Baltic, Med., Black Sea, Africa, Asia, Australia and New Zealand.
Date of Last Revision: 11-16-72.
c/o Chester, Blackburn & Roder, Inc., One World Trade Center, Suite 1035, New York, New York 10048.
Valocean Line—FMC-2
Between: U.S. Atlantic and Gulf Ports.
And: Ports in Mexico, Central America, South America and Caribbean.
Date of Last Revision: 12-20-75.
c/o Mid States Agency Inc., P.O. Box 013901, Miami, Florida 33101.
Victoria Line—FMC-1
Between: Ports in Florida.
And: Ports in Dominican Republic and Haiti.
Date of Last Revision: 11-14-75.
c/o International Tariff Services, Inc., 815 Fifteenth Street, N.W., Washington, D.C. 20005.
Wallenius Line—FMC-1
Between: U.S. Great Lakes Ports.
And: Ports in Iceland, Norway, Sweden, Finland, Denmark, Belgium, Holland, Germany and Atlantic France, also United Kingdom Ports.
Date of Last Revision: 9-15-74.
2 Suedenbergsgatan, Stockholm, Sweden.
Wallenius Line—FMC-5
From: Continental European, United Kingdom and Swedish Ports.
To: U.S. Great Lakes.
Date of Last Revision: 8-24-74.
West India Industries, Inc.—FMC-2, d.b.a. West India Line
From: Palm Beach, Florida.
To: Jamaica.
Date of Last Revision: 1-12-74.
c/o A. T. Bruce, Agent, P.O. Box 10355, West Palm Beach, Florida 33404.
West India Industries, Inc.—FMC-3, d.b.a. West India Line
From: Palm Beach, Florida.
To: East Coast Ports in Guatemala, Honduras, Nicaragua and Costa Rica.
Date of Last Revision: 12-8-73.
Westfal-Larsen & Co. A/S—FMC-3
From: Argentina, Uruguay, Brazil.
To: Puerto Rico.
Date of Last Revision: 3-26-73.
c/o General Steamship Corporation, Ltd., One Bush Street, San Francisco, California 94104.
Westwind Africa Line—FMC-14
From: Dominican Republic.
To: U.S. Atlantic and Gulf Ports.
Date of Last Revision: 5-2-75.
c/o Southern Star Shipping Co., Inc., 29 Broadway, New York, New York 10006.
World Transport Ltd.—FMC-1
From: U.S. Great Lakes, East Coast and Gulf and West Coast Ports.
To: All Ports in the Mediterranean.
Date of Last Revision: 2-10-70.
80 Broad Street, Monrovia, Liberia.





World Transport Ltd.—FMC-4
From: U.S. Great Lakes, East Coast and Gulf and West Coast Ports.
To: All European Ports on the Baltic, North Sea and Atlantic Coast including all Ports in Great Britain and Ireland.
Date of Last Revision: 6-28-68.
World Transport Ltd.—FMC-7
From: Bulgarian Ports.
To: U.S. West, East and Gulf Coast Ports.
Date of Last Revision: 5-14-70.
World Transport Ltd.—FMC-8
From: Moroccan Ports.
To: U.S. East, Gulf and West Coast Ports.
Date of Last Revision: 5-14-70.
World Transport Ltd.—FMC-9
From: Greek Ports.
To: U.S. East, Gulf and West Coast Ports.
Date of Last Revision: 5-14-70.
World Transport Ltd.—FMC-10
From: Yugoslavian Ports.
To: U.S. East, Gulf and West Coast Ports.
Date of Last Revision: 5-14-70.
World Transport Ltd.—FMC-11
From: Tunisian Ports.
To: U.S. East, Gulf and West Coast Ports.
Date of Last Revision: 5-14-70.
World Transport Ltd.—FMC-12
From: Turkish Ports.
To: U.S. East, Gulf and West Coast Ports.
Date of Last Revision: 5-14-70.
World Transport Ltd.—FMC-13
From: Spanish Ports.
To: U.S. East, Gulf, and West Coast Ports.
Date of Last Revision: 5-14-70.
World Transport Ltd.—FMC-14
From: Italian Ports.
To. U.S. East, Gulf, and West Coast Ports.
Date of Last Revision: 5-14-70.
World Transport Ltd.—FMC-15
From: Lebanese Ports.
To. U.S. East, Gulf, and West Coast Ports.
Date of Last Revision: 5-14-70
World Transport Ltd.—FMC-16
From: Portuguese Ports:
To. U.S. East, Gulf and West Coast Ports.
Date of Last Revision: 5-14-70.
Worldwide Carriers, Ltd.—FMC-4
From: U.S. East Coast and Gulf Ports.
To: All Ports in the Mediterranean, including Casablanca to Port Said (including Adriatic and Black Sea Ports).
Date of Last Revision: 11-02-70.
80 Broad Street, Monrovia, Liberia.
Worldwide Carriers, Ltd.—FMC-11
From: The Mediterranean Sea.
To: U.S. Great Lakes.
Date of Last Revision: 10-07-68.
Worldwide Carriers, Ltd.—FMC-19
From: U.S. Great Lakes Ports.
To: All Ports in the Mediterranean.
Date of Last Revision: 1-22-68.
Worldwide Carriers, Ltd.—FMC-23
From: The Mediterranean Sea.
To: U.S. East and Gulf Coast Ports.
Date of Last Revision: 12-10-68.
Yamashita-Shinnihon Steamship Co., Ltd.—FMC-10
From: Singapore, Malaysia and Brunei.
To. U.S. Pacific Coast.
Date of Last Revision: 12-09-69.
6th Floor, Palace-Side Bldg., No. 1 Takehirn-Cho, Chiyoda-ku, Tokyo, Japan.
Yamashita-Shinnihon Steamship Co., Ltd.—FMC-11
From: Singapore, Malaysia and Brunei.
To: U.S. Atlantic and Gulf.
Date of Last Revision: 3-10-70.
Yamashita-Chinnihon Steamship Co. Ltd.—FMC-17
From: India.
To: U.S. Pacific.
Date of Last Revision: 7-20-71.
Zim Israel Navigation Co., Ltd.—FMC-4
From: U.S. North, South Atlantic and Gulf Ports.
To: Mexico.
Date of Last Revision: 6-28-71.
100 California Street, Suite 1080, San Francisco, California 94111.
Zim Israel Navigation Co., Ltd—FMC-6
From: U.S. North, South Atlantic and Gulf Ports.
To: Venezuela.
Date of Last Revision: 8-10-73.
Zim Israel Navigation Co., Ltd.—FMC-15
From: Canadian and St. Lawrance River Ports.
To: U.S. Great Lakes Ports.
Date of Last Revision: 10-08-67.
Zim Israel Navigation Co., Ltd.—FMC-17
From: Central and South American Ports.
To: U.S. Atlantic, Pacific and Gulf Ports.
Date of Last Revision: 9-30-74.
Zim Israel Navigation Co., Ltd.—FMC-22
From: Vera Cruz and Tampico, Mexico.
To: U.S. North Atlantic and Gulf Ports.
Date of Last Revision: 8-10-73.
A. P. Moller-Maersk Line—FMC-34
From: Japan.
To: Puerto Rico and Virgin Island Ports.
Date of Last Revision: 5-3-73.
c/o Moller Steamship Co., Inc., One World Trade Center, Suite 3527, New York, New York 10048.

[FR Doc.77-20522 Filed 7-15-77;8:45 am]

## FEDERAL RESERVE SYSTEM

### COLUMBUS BANCSHARES, INC.

#### Formation of Bank Holding Company

Columbus Bancshares, Inc., Columbus, Kans., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 90.92 percent of the voting shares of The Columbus State Bank, Columbus, Kans. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Bard of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 4, 1977.

Board of Governors of the Federal Reserve System, July 11, 1977.

RUTH A. REISTER,
*Assistant Secretary of the Board.*

[FR Doc.77-20472 Filed 7-15-77;8:45 am]

### INTERNATIONAL BANK

#### Determination of Control Over Financial General Bankshares, Inc.; Order Granting Motion for Extension of Time

On June 30, 1977 Board Counsel filed with the Administrative Law Judge a Motion for Extension of Time to Certify the Record to the Board of Governors. On July 1, 1977 the Administrative Law Judge filed an Order of Certification by which he transmitted Board Counsel's Motion to the Board for disposition.

In a previous Order dated May 20, 1977 the Board reopened the record in this matter for further proceedings and directed the Administrative Law Judge to recertify the record to the Board not later than July 15, 1977. It now appears that more time is needed for completion of these proceedings because certain witnesses called by Board Counsel were not available to testify at the times specified in the schedule established by the Administrative Law Judge pursuant to the Board's previous Order. In light of this development, and in consideration of the fact that all parties have consented to the granting of the Motion for Extension of Time, I have determined that the said Motion should be granted.

*It is hereby ordered*, That the Motion for Extension of Time to Certify the Record to the Board of Governors is hereby granted; and

*It is further ordered*, That the Administrative Law Judge shall set such schedules on this matter as shall allow him to certify the additional portions of the record to the Board not later than July 25, 1977.

By order of the Board of Governors, acting through its Secretary pursuant to delegated authority (12 CFR § 265.2(a)(15)), effective July 8, 1977.

THEODORE E. ALLISON,
*Secretary of the Board.*

[FR Doc.77-20473 Filed 7-15-77;8:45 am]

### STANDARD FINANCIAL CORP.

#### Formation of Bank Holding Company

Standard Financial Corporation, New York, New York, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 99.4 percent of the voting shares of Sterling National Bank & Trust Company of New York, New York, New York. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Standard Prudential Corporation, New York, New York, the direct parent of Standard Financial Corporation, has also applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire voting shares of Standard Financial Corporation, Standard Factors Corporation, Universal Finance Corporation, Atlas Leasing Company, Inc., and Security Industrial Loan Association, all of New York, New York. Notice of the application was published on June 9, 1977, in the New York Times, Los Angeles Times and The Richmond Times-Dispatch, newspapers circulated in New York, New York, Los Angeles, California, and Richmond, Virginia, respectively.

Applicant states that the proposed subsidiaries would engage in the activities



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of making business, commercial finance, consumer mortgage, and mortgage loans and servicing. The subsidiaries would also engage in lease financing and factoring. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 8, 1977.

Board of Governors of the Federal Reserve System, July 11, 1977.

RUTH A. REISTER,
*Assistant*
*Secretary of the Board.*

[FR Doc.77-20474 Filed 7-15-77;8:45 am]

[Docket No. TCR 76-104]

## WACHOVIA CORP.

### Prior Certification Pursuant to Bank Holding Company Tax Act of 1976

The Wachovia Corporation, Winston-Salem, North Carolina ("Wachovia") has requested a prior certification pursuant to § 6158(a) of the Internal Revenue Code (the "Code"), as amended by § 3(a) of the Bank Holding Company Tax Act of 1976 (the "Tax Act"), that its sale on April 30, 1976 of all the 20,000 issued and outstanding shares of common stock of Wachovia Insurance Agency, Inc., Winston-Salem, North Carolina ("Agency"), then held by Wachovia was necessary or appropriate to effectuate section 4 of the Bank Holding Company Act (12 U.S.C. 1843) ("BHC Act"). The shares of Agency were sold by Wachovia to Alexander & Alexander, Inc., Baltimore, Maryland ("A&A"), in exchange for 130,000 shares of common stock of Alexander & Alexander Services, Inc. ("Services"), the parent company of A&A.[1]

In connection with this request, the following information is deemed relevant for purposes of issuing the requested certification:[2]

1. Wachovia is a corporation organized under the laws of the State of North Carolina in September 1968 to acquire and hold all the shares of Wachovia Bank and Trust Company, N.A. ("Bank").

2. On December 31, 1968, Wachovia acquired ownership and control of all of the outstanding voting shares (less directors' qualifying shares) of Bank.

3. Wachovia became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the BHC Act, by virtue of its ownership and control at that time of more than 25 per cent of the outstanding voting shares of Bank, and it registered as such with the Board on January 20, 1972. Wachovia would have been a bank holding company on July 7, 1970, if the BHC Act Amendments of 1970 had been in effect on such date, by virtue of its ownership and control on that date of more than 25 per cent of the voting shares of Bank. Wachovia presently owns and controls 100 percent (less directors' qualifying shares) of the outstanding voting shares of Bank.

4. Agency was organized in January 1969 as a wholly-owned subsidiary of Wachovia to engage in the business of acting as agent for the sale of all types of insurance, including fire, casualty and marine insurance, fidelity and surety bonds and group accident and health coverage. On April 30, 1976 Wachovia owned and controlled the 20,000 issued and outstanding shares of common stock of Agency, all of which it acquired before July 7, 1970.

5. Wachovia did not file an application with the Board, and did not otherwise obtain the Board's approval, pursuant to section 4(c)(8) of the BHC Act to retain the shares of Agency or engage in the activities carried on by Agency.[3]

6. On April 30, 1976 Wachovia sold the shares of Agency to A&A in exchange for 130,000 shares of common stock of Services, which shares represented 2.4 per cent of the outstanding voting shares of Services. On August 2, 1976 Wachovia sold the Services shares and it presently holds no interest in Services or any subsidiary of Services.

On the basis of the foregoing information it is hereby certified that:

(A) On April 30, 1976 Wachovia was a qualified bank holding corporation, within the meaning of § 6158(f)(1) and subsection (b) of section 1103 of the Code, and satisfied the requirements of that subsection;

(B) the shares of Agency that were sold by Wachovia on April 30, 1976 were "prohibited property" within the meaning of §§ 6158(f)(2) and 1103(c) of the Code; and

(C) the sale of the shares of Agency was necessary or appropriate to effectuate section 4 of the BHC Act.

This certification is based upon the representations made to the Board by Wachovia and upon the facts set forth above. In the event the Board should hereafter determine the facts material to this certification are otherwise than as represented by Wachovia, or that Wachovia has failed to disclose to the Board other material facts, it may revoke this certification.

By order of the Board of Governors acting through its General Counsel, pursuant to delegated authority (12 CFR 265.2(b)(3)), effective July 12, 1977.

RUTH A. REISTER,
*Assistant*
*Secretary of the Board.*

[FR Doc.77 20533 Filed 7-15-77;8:45 am]

## WINNER BANSHARES, INC.

### Order Approving Formation of Bank Holding Company

Winner Banshares, Inc., Winner, South Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a one-bank holding company through acquisition of 94.4 percent of Farmers State Bank, Winner, South Dakota ("Bank"). Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired and the application and all comments received have been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a nonoperating company formed for the purpose of becoming a bank holding company, presently owns 144.5 (2.9 percent) of the outstanding voting shares of Bank and proposes to acquire an additional 4,720.5 (94.4 percent) of the outstanding shares of Bank, thus increasing its ownership to 4,865 shares or 97.3 percent of the outstanding voting shares. Upon acquisition of these shares, Applicant will control the 14th largest banking organization in South Dakota with total deposits of approximately $36.9 million,[1] representing 1.15 percent of total deposits held by commercial banks in the State. Within the relevant market,[2] Bank is the largest of three banking organizations, controlling 49 percent of market deposits.

Certain principals of Applicant are also involved as shareholders, directors and/or officers in other banks and one-bank holding companies located in Nebraska, Iowa and South Dakota. Inasmuch as this proposal represents the restructuring of the existing ownership of Bank, and since no other bank in which Applicant's principals are involved is located in the same market as Bank, it appears that consummation of the proposal would not have an adverse effect on existing or potential competition. Accordingly, it is concluded that competitive considerations are consistent with approval of the application.

As part of the present application, shareholders of Applicant have committed to contribute $200,000 to be applied against the debt assumed. With this addition of capital, Applicant appears to be able to service the debt it would assume incident to this proposal over a twelve-year amortization period through dividends from the Bank including cash payments made by Bank to Applicant and retained by Applicant to the extent that they represent savings from filing consolidated tax returns. In light of Bank's past earnings and its anticipated growth, the projected earnings of Bank appear reasonable and would provide Applicant with the necessary financial flexibility to meet its annual debt servicing requirements and to maintain an adequate capital position for Bank. Therefore, based upon this analysis and in reliance upon the commitment made by Applicant's shareholders, the financial factors of Applicant are satisfactory and consistent with approval. Both the managerial resources and the future prospects of Applicant and Bank are considered satisfactory and consistent with approval.

Although consummation of the proposal would have no immediate effect on services offered by Bank, considerations relating to the convenience and needs of the community to be served are also consistent with approval of the application.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order, nor (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Minneapolis pursuant to delegated authority.

By order of the Secretary of the Board, acting pursuant to delegated authority from the Board of Governors, effective July 7, 1977.

THEODORE E. ALLISON,
*Secretary of the Board.*

[FR Doc.77-20534 Filed 7-15-77;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### INDIAN TRIBES PERFORMING LAW AND ORDER FUNCTIONS

### Determination—Amendment

JUNE 8, 1977.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commisisoner of Indian Affairs by 230 DM 2.

Section 601(d), Title I of the Omnibus Crime Control and Safe Streets Act of 1968—Pub. L. 90-351, places responsibility on the Secretary of the Interior to determine those Indian tribes which perform law and order functions. The listing published beginning on page 13758 of the May 25, 1973, FEDERAL REGISTER (38 FR 13758) identified all eligible Indian tribes and the specific law and order functions they have responsibility to exercise. Determination and certification concerning Indian Tribes not listed are made on an individual basis upon application by such tribes under the provisions of the Law Enforcement Assistance Administration, Department of Justice. The Secretary's authority to make such determination was delegated to the Commissioner of Indian Affairs by 230 DM 1.

It has been determined by the Commissioner of Indian Affairs that the Red Cliff Band of Lake Superior Chippewas of Wisconsin has responsibility to perform the six functions listed below.

Therefore, the listing published beginning on page 13758 of the May 25, 1973 FR (38 FR 13775) and last amended at page 42392 of the December 4, 1974 FEDERAL REGISTER (39 FR 42392) is further amended by adding the listing for the State of Wisconsin and showing the Red Cliff Band of Lake Superior Chappewas to have law and order responsibilities reading as follows:

| Tribal entities recognized by the Federal Government and listed by State | To employ tribal police | To establish a tribal court | To adopt a tribal law and order code | To undertake correction functions | To undertake programs aimed at preventing adult crimes and juvenile delinquency | To undertake adult and juvenile rehabilitation programs |
|---|---|---|---|---|---|---|
| Wisconsin: Red Cliff Band of Chippewas | × | × | × | × | × | × |

RAYMOND V. BUTLER,
*Acting Deputy Commissioner of Indian Affairs.*

[FR Doc.77-20482 Filed 7-15-77;8:45 am]

### Bureau of Land Management

### JACK H. THOMPSON

### Receipt of Application

*Correction*

In FR Doc. 77-19426 appearing at page 35228, on page 35229, the last paragraph should be corrected to read as follows:

Interested persons may comment on this application by submitting written data, views or arguments to the Manager, New Orleans OCS Office at his address above. All relevant comments received on or before August 8, 1977 will be considered.

### National Park Service

### GREEN SPRINGS HISTORIC DISTRICT, LOUISA COUNTY, VIRGINIA

### Public Hearing and Meeting

By notice in the FEDERAL REGISTER of June 21, 1977, it was announced that a public meeting would be held on July 27, 1977, in Louisa County to discuss and receive public comments on the environmental assessment and review prepared by the National Park Service with respect to the proposal to accept a donation of preservation easements for the Green Springs Historic District. By notice in the FEDERAL REGISTER of June 29, 1977, it was announced that the Secretary of the

[1] Pursuant to section 3(e)(2) of the Tax Act, in the case of any sale that takes place on or before December 31, 1976 (the 90th day after the date of the enactment of the Tax Act), the certification described in § 6158(a) shall be treated as made before the sale, if application for such certification was made before the close of December 31, 1976. Wachovia's application for such certification was received by the Board on November 19, 1976.

[2] This information derives from Wachovia's correspondence with the Board concerning its request for this certification, Wachovia's Registration Statementt filed with the Board pursuant to the BHC Act and other records of the Board.

[3] Although Wachovia did not seek Board approval to retain Agency, some or all of Agency's activities may be among those activities that the Board has previously determined to be closely related to banking, under section 4(c)(8). See 12 CFR §§ 225.4(a)(9) and 225.128; *Alabama Association for Insurance Agents et al.* v. *Board of Governors of the Federal Reserve System*, 544. 2d 572 (1977). Under the Board's present procedures, however, the question whether, or to what extent, Wachovia would have been permitted to retain these activities would not have been determinable unless and until Wachovia filed an application for permission to retain the activities. In passing upon such an application the Board would have been required to apply the second test set forth in section 4(c)(8) and to determine whether the performance of these activities by a subsidiary of Wachovia "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." In the absence of favorable action on such an application Wachovia would have had no authority for retaining Agency beyond December 31, 1980, if it continued to be a bank holding company beyond that date. The legislative history of the Tax Act does not indicate a Congressional intent that companies subject to such a divestiture requirement exhaust the possibilities for retaining the activity before being eligible for tax relief, and in view of the paramount purpose of section 4 of the BHC Act, that "banking and commerce should remain separate," S. Rep. No. 1084, 91st Cong., 2d Sess. 12 (1970), it would appear that the disposition of a potentially permissible activity, without first seeking approval for retention, is at least "appropriate" to effectuate section 4

[1] This figure is as of March 31, 1977. All other data are as of June, 1976.

[2] The relevant market is approximated by Tripp County.







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Interior would reconsider the listing of the Green Springs Historic District on the National Register and its designation as a National Historic Landmark, and, as a part of these reconsiderations, a public hearing would be held on July 27, 1977, in Louisa County. By "reconsider," it is meant that the Secretary will determine anew, without any presumptions based on prior actions, the issues concerning the Green Springs Historic District mentioned in the notice of June 29, 1977. This notice is to establish the specific times and place of the public meeting and hearing and to describe related procedures.

The public hearing on the reconsideration of the listing of the Green Springs Historic District on the National Register and its designation as a National Historic Landmark will be from 8 a.m. to 12 p.m., July 27, 1977, at the Louisa County Junior High School Auditorium located at Mineral, Virginia. Each individual attending will be permitted to speak for a maximum of ten minutes unless time allows for additional comments. All persons wishing to speak will be asked to submit their names at the commencement of the hearing and the names will be called at random by lot. Persons arriving after the commencement of the hearing may submit their names to speak after the persons present at the commencement have been heard. In the event that four hours is not sufficient time to permit all interested persons to speak, the hearing will continue in the afternoon as necessary. Please note that the June 29, 1977 notice solicits both written and oral comments and that written comments received by July 29, 1977, will be given equal weight in the Secretary's consideration. Interested persons will be permitted to submit to the record any material they consider pertinent for the Secretary's consideration. A representative of the Secretary's Office and a representative of the National Park Service will hear the oral comments at the hearing. The June 29, 1977, notice provides additional information on the nature and scope of this hearing.

The public meting to discuss the environment assessment is scheduled to take place from 1 to 4 p.m., July 27, 1977, at the school auditorium noted above. In the event that the morning hearing runs over to the afternoon, the meeting will take place at 7 p.m. and run to approximately 10 p.m. in the auditorium. If necessary, the meeting may be continued to July 28 so as to permit full comment at the public hearing. The speaking order at the public meeting will also be at random by lot with a maximum of ten minutes per person. Please note that the June 21, 1977, notice also solicits written comments on the environmental assessment and that written comments will be given equal weight in the decision-making process. Interested persons will be permitted to submit to the record any material they consider pertinent to the issues raised by the environmental assessment and review by July 29, 1977 (instead of July 27, 1977, as originally announced). The June 21, 1977 notice provides additional information about the nature and scope of this meeting and the environmental assessment and review.

Copies of the environmental assessment and review, copies of the nomination of the Green Springs Historic District to the National Register, and copies of the landmark study leading to its designation as a National Historic Landmark are available from the Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, Washington, D.C. 20240.

Dated: July 8, 1977.

JERRY L. ROGERS,
*Chief, Office of Archeology and Historic Preservation.*

[FR Doc.77-20776 Filed 7-15-77;10:13 am]

## INTERNATIONAL TRADE COMMISSION

[TA-201-27]

### BOLTS, NUTS, AND LARGE SCREWS OF IRON OR STEEL

#### Change of Date of Hearing

Notice is hereby given that the United States International Trade Commission has rescheduled to Thursday, September 29, 1977, the public hearing to be held in investigation No. TA-201-27, Nuts, Bolts, and Large Screws of Iron or Steel. The hearing will be held in the Commission's Hearing Room, United States International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, beginning at 10 a.m., e.d.t. The hearing had formerly been set to begin on October 11.

Requests to appear at the hearing should be filed, in writing with the Secretary of the Commission at his Office in Washington, D.C. not later than noon, Monday, September 26, 1977.

Notice of the investigation and October 11 hearing date was published in the FEDERAL REGISTER of June 28, 1977 (42 FR 32852).

Issued, July 11, 1977.

By order of the Commission.

KENNETH R. MASON,
*Secretary.*

[FR Doc.77-20485 Filed 7-15-77;8:45 am]

[TA-201-28]

### HIGH-CARBON FERROCHROMIUM

#### Investigation and Hearing

*Investigation instituted.* Following receipt of a petition on July 1, 1977, filed by the Committee of Producers of High Carbon Ferrochrome, the United States International Trade Commission on July 11, 1977, instituted an investigation under section 201(b) of the Trade Act of 1974 to determine whether ferrochromium, containing over 3 percent by weight of carbon, provided for in item 607.31 of the Tariff Schedules of the United States, is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

*Public hearing.* A public hearing in connection with this investigation will be held beginning on Tuesday, October 11, 1977, in Pittsburgh, Pennsylvania, at a location to be announced at a later date. Requests for appearances at the hearing should be filed, in writing, with the Secretary of the Commission at his office in Washington not later than noon, Friday, October 7, 1977.

*Investigation to be expedited.* It is the belief of the Commission that the investigation can be expedited and it is the intention of the Commission to report to the President by December 1, 1977, if possible.

*Inspection of the petition.* The petition filed in this case is available for public inspection at the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and at the New York City Office of the United States International Trade Commission located at 6 World Trade Center.

Issued: July 12, 1977.

By order of the Commission.

KENNETH R. MASON,
*Secretary.*

[FR Doc 77-20487 Filed 7-15-77;8:45 am]

### LOW-CARBON FERROCHROMIUM

#### Report to the President

UNITED STATES INTERNATIONAL TRADE COMMISSION,
*July 11, 1977.*

TO THE PRESIDENT: In accordance with section 201(d)(1) of the Trade Act of 1974 (88 Stat. 1978), the U.S. International Trade Commission herein reports the results of an investigation made under section 201(b)(1) of that act, relating to low-carbon ferrochromium.

The investigation to which this report relates was undertaken to determine whether—ferrochromium, not containing over 3 percent by weight of carbon, provided for in item 607.30 of the Tariff Schedules of the United States (TSUS), is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

The investigation was instituted on January 21, 1977, upon receipt of a petition filed on January 10, 1977, by the Committee of Producers of Low-Carbon Ferrochrome.

Notice of the institution of the investigation was issued on January 28, 1977; notice was issued on March 8 that the public hearing would be held April 5 in Pittsburgh, Pa.; and on March 21 notice was issued that the public hearing would be held beginning at 10 a.m. April 5 in the hearing room of the Federal Building of that city. The notices were posted at the Commission's offices in Washington, D.C., and New York City, and were published in the FEDERAL REGISTER on February 2, March 11, and March 24, 1977, respectively (42 FR 6432, 13609, and 15979). The public hearing was duly held at the time and place announced. All interested parties were afforded an opportunity to be present, to produce evidence, and to be heard.

The information contained in this report was obtained from fieldwork, from questionnaires sent to domestic manufacturers, importers, and distributors, and from the Commission's files, other Government agencies, and evidence presented at the hearing and in briefs filed by interested parties.

A transcript of the hearings and copies of briefs submitted by interested parties in connection with the investigation are attached.[1]

DETERMINATION OF THE COMMISSION

On the basis of its investigation, the Commission determines (Commissioner Moore dissenting[2] and Vice Chairman Parker not participating) that ferrochromium, not containing over 3 percent by weight of carbon, provided for in item 607.30 of the Tariff Schedules of the United States (TSUS), is not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Issued: July 11, 1977.

By order of the Commission.

KENNETH R. MASON,
*Secretary.*

[FR Doc.77 20486 Filed 7-15-77;8:45 am]

[TA-203-3]

### STAINLESS STEEL AND ALLOY TOOL STEEL

#### Notice of Investigation and Hearing

*Correction*

In FR Doc. 77-18019 appearing in the issue of Friday, June 24, 1977 on page 32323, the last paragraph, the first sentence should read as follows:

*Public hearing.* A public hearing in connection with this investigation will be held in the Commission's Hearing Room, United States International Trade Commission Building, 701 E Street NW., Washington, D.C., beginning at 10 a.m., e.d.t., on Tuesday, August 23, 1977.

## DEPARTMENT OF LABOR

#### Office of Pension and Welfare Benefit Programs

## DEPARTMENT OF THE TREASURY

#### Internal Revenue Service

### EMPLOYEE BENEFIT PLANS

#### Proposal To Adopt Additional Conditions With Respect to Prohibited Transaction Exemption 77-9

*Correction*

In FR Doc. 77-17987, appearing at page 32399 in the issue of Friday, June 24, 1977, the telephone number in the fifth line of the paragraph headed "FOR FURTHER INFORMATION" should have read "202-523-6856".

[1] Attached to the original report sent to the President, and available for inspection at the U.S. International Trade Commission, except for information submitted in confidence.

[2] Commissioner Moore determines in the affirmative, i.e., that the ferrochromium involved is being imported into the United States in such increased quantities as to be a substantial cause of the threat of serious injury to the domestic industry producing an article like or directly competitive with the imported article.





## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

#### National Endowment for the Arts

### ARCHITECTURE AND ENVIRONMENTAL ARTS ADVISORY PANEL

#### Meeting

Pursuant to Section 10 (a) (2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Architecture and Environmental Arts Advisory Panel to the National Council on the Arts will be held on August 1-5, 1977, from 9:00 a.m. to 5:30 p.m., in Room 1125 and 1130 Columbia Plaza Building, 2401 E Street, N.W., Wash., D.C. 20506.

This meeting is for the purpose of Panel review discussion evaluation and recommendation on applications for financial assistance under the National Founadtion on the Arts and the Humanities Act of 1965 as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions may be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

Dated: July 11, 1977.

ROBERT M. SIMS,
*Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.*

[FR Doc.77-20543 Filed 7-15-77;8:45 am]

### VISUAL ARTS ADVISORY PANEL

#### Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Visual Arts Advisory Panel (Photographers' Fellowships) to the National Council on the Arts will be held on August 1-3, 1977, from 9:30 a.m. to 6:00 p.m., in Room 1115 Columbia Plaza Building, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions may be closed to the public pursuant to subsection (c) (4), (6) and 9 (B) of section 552 b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

Dated: July 11, 1977.

ROBERT M. SIMS,
*Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.*

[FR Doc.77-20542 Filed 7-15-77;8:45 am]

## NUCLEAR REGULATORY COMMISSION

### ABNORMAL OCCURRENCE EVENT

#### Degraded Fuel Rod Incident

Section 208 of the Energy Reorganization Act of 1974, as amended, required the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incident was determined to be an abnormal occurrence using the criteria published in the FEDERAL REGISTER on February 24, 1977 (41 FR 10950). Appendix A (Example II, A, 2) of the Policy Statement notes that major degradation of fuel integrity can be considered an abnormal occurrence.

FUEL ROD FAILURES AT NUCLEAR POWER REACTOR

*Date and place.* On May 15, 1977, during refueling operations at Dairyland Power Cooperative's LaCrosse Boiling Water Reactor (LACBWR) located in Vernon County, Wisconsin, the licensee noted that 3 of the 72 fuel assemblies in the core had localized fuel rod failures with portions of the fuel rods within the assembly missing. A total of 26 of the 72 fuel assemblies exhibited some degree of fuel degradation.

*Nature and probable consequences.* The nuclear steam supply system of LACBWR, a 165 megawatt (thermal) plant, was provided by Allis Chalmers. The LACBWR is the only operating boiling water power reactor which utilizes fuel rods with stainless steel cladding. Each fuel rod consists of uranium-dioxide fuel pellets housed in a closed hollow tube of stainless steel about 0.4 inch in diameter and about 8 feet long. The tube, or fuel cladding, is one of the several barriers designed to contain the radioactive fission products produced during reactor operation. Failure of fuel cladding causes the release of radioactive fission products into the reactor coolant which generally results in an increase in environmental releases above normally expected levels. Fuel clad failures can vary in degree from small perforations in the clad material to fuel rod failures. Fuel rod failures are a safety concern due to the potential for affecting adjacent fuel rods or control rods and for affecting the course of events in postulated accidents. The limiting conditions for plant performance conservatively restrict operation prior to a safety problem developing or environmental releases being a safety concern.



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For approximately a five-month period prior to reactor shutdown for the current refueling outage, the reactor was operated at reduced power levels in order to maintain radioactivity releases to the environs within the prescribed limits for reactor operation.

During refueling operations following reactor shutdown at the completion of Fuel Cycle No. 4, portions of fuel rods were found to be missing from three fuel assemblies (each assembly contains 100 fuel rods in a 10 x 10 array). Visual inspections resulted in the identification of failed fuel rods in six fuel rod assemblies with an average of 3 to 4 failed rods per assembly. An approximate total of 57 equivalent inches (length) of fuel rod was observed to be missing. Subsequently, several of the missing rod pieces were recovered from the top of adjacent fuel assemblies in the reactor core and another piece aws recovered from the spent fuel storage pool. In addition to the 6 fuel assemblies which exhibited visual damage, 20 fuel assemblies were found to exhibit fission gas release rates above specified limits based on the results of fuel "sipping" examinations which measure fuel assembly radioactive releases to core cooling water.

The average exposure of the 26 damaged fuel assemblies is greater than 16,000 megawatt days per metric ton of uranium. This is the highest average exposure of discharged fuel in the history of LACBWR's operation.

Although this event is not the first incidence of fuel rod failures at LACBWR, the extent and degree of the previous failures were significantly less than for this occurrence.

The precise nature of the significance to public health of a major degradation of fuel integrity can vary from no effect to a health hazard.

The consequences of this event were a reduction in electrical generating capacity, increased radiation levels in the reactor coolant and various other areas at the plant, and a possible extended refueling outage to evaluate the extent of fuel damage and to recover missing pieces of fuel and cladding located within the reactor vessel. There were no personnel exposures to radiation and no radioactive releases to the environs in excess of regulatory limits as a result of this occurrence. No health hazards resulted, nor were any likely.

*Causes or causes.* Based on preliminary investigations, observed defects in the cladding of the damaged fuel rods are quite similar to the circumferential cracks observed in previous fuel inspections at LACBWR. However, the licensee believes that the failures evidenced in fuel rods of the six most severely affected fuel assemblies may have been the result of high internal fuel rod pressure such as could occur if a rod that had become water-logged as a result of a minor cladding crack were returned to power too rapidly after a long outage. (A rapid power rise could result in vaporization of the water in a water-logged fuel rod at a faster rate than the resultant internal fuel rod pressure can be relieved through a minor cladding crack). LACBWR experienced such a sustained outage (6 months) during the middle of the recently completed fuel cycle, just prior to the observed rise in primary coolant activity.

ACTIONS TAKEN TO PREVENT RECURRENCE

*Licensee.* The licensee is continuing to inspect the damaged fuel and to determine the cause of fuel rod failures. The specific actions to prevent recurrence will be determined based on the results of these investigations.

*NRC.* The NRC is reviewing the licensee's findings and will take actions appropriate to reduce the potential for fuel rod failures.

Dated at Washington, D.C. this 11th day of July 1977.

SAMUEL J. CHILK,
*Secretary of the Commission.*

[FR Doc.77-20319 Filed 7-15-77;8:45 am]

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE DIABLO CANYON NUCLEAR STATION, UNITS 1 AND 2

### Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on the Diablo Canyon Nuclear Power Station, Units 1 and 2, will hold a meeting on Aug. 2, 1977, at the Royal Court Inn, 1750 S. Elmhurst St., Chicago, IL 60018. The purpose of this meeting is to continue the review of the application of the Pacific Gas and Electric Company for a permit to operate this Station.

The agenda for subject meeting shall be as follows:

Tuesday, August 2, 1977, 8:30 a.m. until conclusion of business.

The Subcommittee may meet in open Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will meet in an open session to hear presentations by and hold discussions with representatives of the NRC Staff, the Pacific Gas and Electric Company, and their consultants, pertinent to this review.

At the conclusion of this session, the Subcommittee may caucus in an open session to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

It may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring with respresentatives of the NRC Staff and the Pacific Gas and Electric Company matters involving proprietary information.

I have determined, in accordance with Subsection 10(d) of Pub. L. 92-463, that it is necessary to conduct the above closed sessions to protect proprietary information (5 U.S.C. 552b(c)(4));

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, involving provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply: (a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than July 26, 1977 to Mr. John C. McKinley, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room 1717 H Street, NW., Wash., D.C. 20555, and at the San Luis Obispo County Free Library, San Luis Opispo, CA 93406.

(b) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 1, 1977 to the Office of the Executive Director of the Committee (telephone 202-634-1371, Attn: Mr. John C. McKinley) between 8:15 a.m. and 5 p.m., EDT.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will be permitted only during those open sessions of the meeting when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. John C. McKinley of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after August 9, and November 2, 1977, respectively, at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the San Luis Obispo County Free Library, San Luis Obispo, CA 93406.

Copies may be obtained upon payment of appropriate charges.

Dated: July 12, 1977.

JOHN C. HOYLE,
*Advisory Committee Management Officer.*

[FR Doc.77-20449 Filed 7-15-77;8:45 am]

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON THE SHEARON HARRIS NUCLEAR POWER PLANT

### Meeting

In accordance with the purposes of Sections 29 and 182b, of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on the Shearon Harris Nuclear Power Plant, will hold a meeting on Aug. 6, 1977, at the Energy and Environmental Center of the Carolina Power and Light Company at New Hill, NC 27562. The purpose of this meeting is to continue the review of the application of the Carolina Power and Light Company for a permit to construct the Shearon Harris Nuclear Power Plant.

The agenda for subject meeting shall be as follows:

SATURDAY, AUGUST 6, 1977, 8:30 A.M. UNTIL CONCLUSION OF BUSINESS

The Subcommittee may meet in open Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will meet in an open session to hear presentations by and hold discussions with representatives of the NRC Staff, the Carolina Power and Light Company, and their consultants, pertinent to this review.

At the conclusion of this session, the Subcommittee may caucus in an open session to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

It may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring with representatives of the NRC Staff and the Pacific Gas and Electric Company matters involving proprietary information.

I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that it is necessary to conduct the above closed sessions to protect proprietary information (5 U.S.C. 552 b (c) (4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly coduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than July 30, 1977 to Mr. Elpidio G. Igne, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Wash., D.C. 20555, and the Wake County Public Library, 104 Fayetteville St., Raleigh, N.C. 27601.

(b) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 5, 1977 to the Office of the Executive Director of the Committee (telephone 202-634-1920, Attn: Mr. Elpidio G. Igne) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will be permitted only during those open sessions of the meeting when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or







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projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. John C. McKinley of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after August 15 and November 7, 1977, respectively, at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Wake County Public Library, 104 Fayetteville St., Raleigh, NC 27601.

Copies may be obtained upon payment of appropriate charges.

Dated July 14, 1977.

JOHN C. HOYLE,
*Advisory Committee Management Officer.*

[FR Doc.77-20673 Filed 7-15-77;8:45 am]

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP NO. 6 OF THE SUBCOMMITTEE ON REACTOR SAFETY RESEARCH

### Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), Working Group No. 6 of the ACRS Subcommittee on Reactor Safety Research will hold an open meeting on August 4, 1977 in Room 1046, 1717 H St., NW., Washington, DC 20555. The purpose of this meeting is to review programs and plans for risk assessment research.

The agenda for subject meeting shall be as follows:

THURSDAY, AUGUST 4, 1977

8:30 A.M. UNTIL CONCLUSION OF BUSINESS

The Working Group may meet in Executive Session, with any of its consultants who may be present, to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Working Group will meet to hear presentations by representatives of the NRC Staff and their consultants, and will hold discussions with these groups pertinent to this review.

At the conclusion of this session, the Working Group may caucus to determine whether the matters identified in the initial session have been adequately covered.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than July 28, 1977 to Mr. Robert L. Wright, Jr., ACRS, NRC, Washington, DC 20555, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 3, 1977 to the Office of the Executive Director of the Committee (telephone 202/634-1919, Attn: Mr. Robert L. Wright, Jr.) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be propounded only by members of the Working Group and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after August 11 and November 4, 1977, respectively, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges

Dated: July 12, 1977.

JOHN C. HOYLE,
*Advisory Committee Management Officer.*

[FR Doc.77 20445 Filed 7-15-77;8:45 am]

[Docket No. 50-348]

## ALABAMA POWER CO., JOSEPH M. FARLEY NUCLEAR PLANT, UNIT 1

### Issuance of a Facility Operating License

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has issued Facility Operating License No. NPF-2 to Alabama Power Company authorizing operation of the Joseph M. Farley Nuclear Plant, Unit 1 at steady state reactor core power levels not in excess of 2652 megawatts thermal, in accordance with the provisions of the license and the Technical Specifications. The Joseph M. Farley Nuclear Plant, Unit 1 is a pressurized water nuclear reactor located at the licensee's site on the Chattahoochee River in Houston County near the city of Dothan, Alabama.

However, the facility is temporarily restricted from operating at full rated power until certain tests and other items noted in the license conditions are completed to the written satisfaction of the Commission.

In accordance with the Commission's March 14, 1977 issuance of an effective interim rule regarding the environmental considerations of the uranium fuel cycle (42 FR 13804), the staff has examined the revised impact values contained in Table S-3 of 10 CFR Part 51 to determine the effect on the cost-benefit balance previously performed for this facility. This examination is set forth in the "Environmental Assessment, Joseph M. Farley Nuclear Plant, Unit 1, Fuel Cycle Considerations." The staff has concluded that the use of the revised values does not tilt the cost-benefit balance so as to change the staff's original conclusion to issue an operating license presented in the Final Environmental Statement related to operation of the Joseph M. Farley Nuclear Plant, Unit 1 (December 1974).

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license. The Commission has also made appropriate findings which are set forth in the license regarding the environmental impacts associated with operation of the facility. The license also includes the condition





that the license is subject to the outcome of the proceedings in *Natural Resource Defense Council v. NRC* (D. C. Circuit) (July 21, 1976), Nos. 74-1385 and 74-1586. The application for the license complies with the standards and requirements of the Act and the Commission's rules and regulations.

The license is effective as of its date of issuance and shall expire on August 16, 2012.

This action is in furtherance of the licensing action encompassed in the Notice of Consideration of Issuance of Facility Operating License and Notice of Opportunity for Hearing published in the FEDERAL REGISTER on October 30, 1973 (38 FR 29907).

A copy of (1) Facility Operating License No. NPF-2 complete with Technical Specifications (Appendices A and B, Attachment 1) and Preoperational Tests, Startup Tests and Other Items Which Must be Completed Prior to Proceeding to Succeeding Operational Modes (Attachment 2); (2) the report of the Advisory Committee on Reactor Safeguards, dated June 12, 1975; (3) the Office on Nuclear Reactor Regulation's Safety Evaluation and Supplements 1, 2 and 3 dated May 2, 1975, October 3, 1975, October 15, 1975 and June 1977 respectively; (4) the Final Safety Analysis Report and amendments thereto; (5) the applicant's Environmental Report dated July 18, 1973 and supplements thereto; (6) the Draft Environmental Statement dated July 29, 1974; (7) the Final Environmental Statement dated December 12, 1974; and (8) the Environmental Assessment on Fuel Cycle Considerations are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and the George S. Houston Memorial Library, 212 W. Vurdeshaw Street, Dothan, Alabama 36301.

A copy of the license and items (2) and (8) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Copies of the Safety Evaluation and Supplements 1, 2 and 3 (Document Nos. NUREG-75/034, NUREG-75/034, NUREG-0117 and NUREG-0117) may be purchased, at current costs, from the National Technical Information Service, Springfield, Va. 22161.

Dated at Bethesda, Md., this 25th day of June 1977.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
*Chief, Light Water Reactors Branch No. 1, Division of Project Management.*

[FR Doc.77-20325 Filed 7-15-77;8:45 am]

[Docket Nos. 50-13, 50-99, etc.]

## BABCOCK & WILCOX CO.

### Request for Action

Notice is hereby given that by letter dated July 5, 1977, The Babcock and Wilcox Company requested the Nuclear Regulatory Commission (the Commission), pursuant to 10 CFR 2.206 of the Commission's rules of practice, to take certain emergency action with respect to the announced intention of the United Technologies Corporation to acquire controlling shares of The Babcock and Wilcox (B&W) Company. B&W holds Facility License Nos. R-47 (Docket 50-99) and CX-10 (Docket 50-13); and Special Nuclear Material License Nos. SNM-778 (Docket 70-824), SNM-1168 (Docket 70-1201), SNM-145 (Docket 70-135), SNM-42 (Docket 70-27), SNM-414 (Docket 70-364) and Byproduct Material License Nos. 45-20105-04, 37-07031-01, 37-04456-01, 37-04456-03; and Source Material License No. SMB-502 (Docket 40-1193). The specific action requested of the Commission is that it:

Require that applications for transfer of the above referenced licenses be filed with the Commission by United Technologies Corporation and consent be granted by the Commission in accordance with Section 184 of the Atomic Energy Act of 1954, as amended, prior to the actual transfer of these licenses.

In accordance with the procedures specified in 10 CFR 2.206 appropriate action will be taken on this request within a reasonable time.

A copy of the request is available for inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Dated at Bethesda, Md., this 12th day of July 1977.

For the Nuclear Regulatory Commission.

ENSON G. CASE,
*Acting Director, Office of Nuclear Reactor Regulation.*

[FR Doc.77-20444 Filed 7-15-77;8:45 am]

[Docket Nos. 50-373 and 50-374]

## COMMONWEALTH EDISON CO.

### Establishment of Atomic Safety and Licensing Board to Rule on Petitions

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to rule on petitions and/or requests for leave to intervene in the following proceeding:

COMMONWEALTH EDISON CO.
(LASALLE COUNTY STATION, UNITS NO. 1 AND NO. 2)

This action is in reference to a notice published by the Commission on June 9, 1977, in the FEDERAL REGISTER (42 FR 29576) entitled "Receipt of Application for Facility Operating Licenses; Availability of Applicant's Environmental Report; and Consideration of Issuance of Facility Operating Licenses and Notice of Opportunity for Hearing."

The members of the Board are:

Marshall E. Miller, Esq., Chairman
Dr. Oscar H. Paris, Member
Mr. Frederick J. Shon, Member

The address of all the Board members is as follows:

Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland this 11th day of July 1977.

ATOMIC SAFETY AND LICENSING BOARD PANEL,
JAMES R. YORE,
*Chairman.*

[FR Doc.77-20451 Filed 7-15-77;8:45 am]

## INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

### Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operation, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the Member States. The Senior Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide, SG-04, "Commissioning Procedures," has been developed. The Working Group draft of this Safety Guide was modified by the IAEA Technical Review Committee on Operation which met in May 1977, and we are soliciting public comments on this modified draft. Comments on this draft received by September 1, 1977 will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development,



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U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a).)

Dated at Rockville, Maryland this 30th day of June 1977.

For the Nuclear Regulatory Commission,

ROBERT B. MINOGUE,
*Director, Office of Standards Development.*

[FR Doc.77-20452 Filed 7-15-77;8:45 am]

[Docket Nos. 50-387 and 50-388]

## PENNSYLVANIA POWER AND LIGHT CO. AND ALLEGHENY ELECTRIC COOPERATIVE, INC.

### Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Pennsylvania Power and Light Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on April 12, 1977, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information adds Allegheny Electric Cooperative, Inc. as an owner of the Susquehanna Steam Electric Station, Units 1 and 2.

The information was filed by Pennsylvania Power and Light Company in connection with their application for construction permits and operating licenses for two boiling water nuclear reactors. The Pennsylvania Power and Light Company was issued two construction permits on November 2, 1973 for their Susquehanna Steam Electric Station, Units 1 and 2. Construction is underway on a site located in Salem Township, Luzerne County, Pennsylvania.

The original antitrust portion of the application was submitted on March 23, 1971 and Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matters was published in the FEDERAL REGISTER on May 7, 1971 (36 FR 8529). The Notice of Hearing was published in the FEDERAL REGISTER on September 23, 1972 (37 FR 20090).

A copy of all the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Osterhout Free Library, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. ATTN: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the Allegheny Electric Cooperative, Inc. presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before August 23, 1977.

Dated at Bethesda, Maryland, this 16th day of June, 1977.

For the Nuclear Regulatory Commission,

ANTHONY BOURNIA,
*Acting Chief, Light Water Reactors Branch No. 3, Division of Project Management.*

[FR Doc.77-20443 Filed 7-15-77;8:45 am]

[Docket Nos. STN 50-477, STN 50-478]

## PUBLIC SERVICE ELECTRIC AND GAS CO., ET AL.

### Availability of Safety Evaluation Report for Atlantic Generating Station, Units 1 and 2

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its Safety Evaluation Report on the proposed construction of the Atlantic Generating Station, Units 1 and 2 to be located 2.8 miles off the coast of New Jersey, adjacent to Little Egg Inlet. The application by Public Service Electric and Gas Company, Atlantic City Electric Company and Jersey Central Power and Light Company requests authorization to construct all necessary site related structures and to install two floating nuclear power plants. Notice of receipt of this application was published in the FEDERAL REGISTER on March 20, 1974, 39 FR 10471.

This application was submitted and accepted for review under the Commission's standardization policy, pursuant to 10 CFR Part 50, Appendix M. This application references the Offshore Power Systems application for Floating Nuclear Plants 1-8 (Docket No. STN 50-437).

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission Public Document Room, 1717 H Street NW., Washington, D.C., and at the Stockton State College Library, Pomona, New Jersey for inspection and copying. The report (Document No. NUREG-0293) can also be purchased, at current rates, from the National Technical Information Service, Springfield, Virgina 22161.

Dated at Bethesda, Md., this 7th day of July 1977.

For the Nuclear Regulatory Commission.

KARL KNIEL,
*Chief, Light Water Reactors Branch No. 2, Division of Project Management.*

[FR Doc.77-20323 Filed 7-15-77;8:45 am]

[Docket No. 50-346]

## TOLEDO EDISON CO. AND CLEVELAND ELECTRIC ILLUMINATING CO., DAVIS-BESSE NUCLEAR POWER STATION, UNIT NO. 1

### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 3 to the Facility Operating License No. NPF-3, issued to the Toledo Edison Company and the Cleveland Electric Illuminating Company, which revised Technical Specifications for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

This license is amended by making the appropriate changes as listed above to the technical specifications on pages 3 4 3-28, 3/4 4-2, 3/4 5-4, 3/4 6-17, 3/4 6-20, 3/4 6-21, 3/4 6-22, and 3/4 6-30. This license is further amended by changing license conditions 2.3.(3)(j) of facility operating license No. NPF-3.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any signficant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Amendment No. 3 to License No. NPF-3, (2) the Commission's related Safety Evaluation supporting Amendment No. 3 to License No. NPF-3. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Project Management.

Dated at Bethesda, Md., this 24 day of June 1977.

JOHN ANGELO,
*Acting Branch Chief, Light Water Reactors Branch No. 1, Division of Project Management.*

[FR Doc.77-20324 Filed 7-15-77;8:45 am]

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

[Public Debt Series—No. 16-17]

### TREASURY NOTES OF JULY 31, 1979

### Series S-1979

JULY 14, 1977.

#### 1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for aproximately $2,500,000,000 of United States securities, designated Treasury Notes of July 31, 1979, Series S-1979 (CUSIP No. 912827 GV 8). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

#### 2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated August 1, 1977, and will bear interest from that date, payable on a semiannual basis on January 31, 1978, and each subsequent 6 months on July 31 and January 31 until the principal becomes payable. They will mature July 31, 1979, and will not be subject to call for redemption prior to maturity.

2.2 The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be aceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

#### 3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, July 19, 1977. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, July 18, 1977.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the weighted average price (in three decimals) of accepted competitive tenders, and competitive tenders with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a $\frac{1}{8}$ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full or when the price is over par.

#### 4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

#### 5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Monday, August 1, 1977, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Thursday, July 28, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Tuesday, July 26, 1977, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification







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number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall at the discretion of the Secretary of the Treasury be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not already for delivery on the settlement date, purchasers may elect to receive interim certificates These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5 Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

W. Michael Blumenthal,
*Secretary of the Treasury.*

[FR Doc.77-20778 Filed 7-15-77;10:25 am]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 85]

### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

*Correction*

In FR Doc. 19231 appearing in the issue for Wednesday, July 6, 1977 appearing on page 34568. On page 34569, the middle column, 2nd paragraph should be corrected as follows:

No. MC 111729 (Sub-No. 705TA), filed June 7, 1977. Applicant: PUROLATOR COURIER CORP, 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch, Purolator Courier Corp., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, and audit and accounting media of all kinds*, between Brattleboro, Vt., and W. Bridgewater, Massachusetts, for 180 days. Supporting shippers: Mamoth Mart, Inc., 321 Manley Street, W. Bridgewater, Massachusetts 02379. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

[Notice No. 88TA]

### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

July 12, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of th protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specifiy the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted

Motors Carriers of Property

No. MC 63417 (Sub-No. 106TA), filed June 29, 1977. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, Va. 24034. Applicant's representative: William E. Bain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polyethylene foam, forms, and shapes*, from Coldwater, Mich., to points and places in Georgia, Illinois, Indiana, Kentucky, New Jersey, Ohio, Pennsylvania, South Carolina, Tennessee, and Virginia, for 180 days. Supporting shipper: Voltek, Inc., 17 Allen Drive, Coldwater, Mich. 39036. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 104210 (Sub-No. 70TA), filed June 23, 1977. Applicant: THE TRANSPORT CO., INC., P.O. Box 4726, Corpus Christi, Tex. 78408. Applicant's representative: Mike Cotten, P.O. Box 1148, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium salt solutions*, in bulk, in tank vehicles, from the plantsite and storage facilities of Merichem Company at Houston, Tex., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, and Oklahoma, for 180 days. Supporting shipper: Merichem Company, 1914 Haden Road, Houston, Tex. 77015. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B-400 Federal Building, 727 E. Durango Blvd., San Antonio, Tex. 78206.

No. MC 107403 (Sub-No. 1024TA), filed July 5, 1977. Applicant: MATLACK, INC., 10 West Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid resin adhesives*, in bulk, in tank vehicles, from Goodbee, La., to Cincinnati, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: S & R Adhesive Company, Inc., P.O. Drawer 969, Covington, La. 70433. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.





No. MC 107544 (Sub-No. 137TA), filed July 1, 1977. Applicant: LEMON TRANSPORT CO., INC., P.O. Box 580, Marion, Va. 24354. Applicant's representative: Daryl J. Henry (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank or hopper type vehicles, from the plantsite of Tennessee Eastman Company, Kingsport, Tenn., to points in the United States, in and east of Minnesota, Iowa, Nebraska, Kansas, Oklahoma, and Texas, for 180 days. Supporting shipper: Tennessee Eastman Company, Division of Eastman Kodak Company, Kingsport, Tenn. 37662. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210. Roanoke, Va. 24011.

No. MC 109124 (Sub-No. 31TA), filed June 28, 1977. Applicant: SENTLE TRUCKING CORP., Box 7850, Toledo, Ohio 43619. Applicant's representative: James M. Burtch, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products, and building materials* (except commodities in bulk), from Gypsum, Ohio, to Indiana, Kentucky, Michigan, and Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: U.S. Gypsum Company, 101 S. Wacker Drive, Chicago, Ill. 60606. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 109443 (Sub-No. 26TA), filed July 1, 1977. Applicant: SEABOARD TANK LINES, INC., Monahan Ave., Dunmore, Pa. 18512. Applicant's representative: Joseph F. Hoary, 121 South Main St., Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lithdrge, dry*, in bulk, from Dunmore, Pa., to points in Kentucky, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gould, Inc., Metals Division, Dunham Drive, Dunmore, Pa. 18512. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 109595 (Sub-No. 18TA), filed June 28, 1877. Applicant: REX TRANSPORTATION CO., Suite 207 Clausen Building, 1520 N. Woodward Avenue, Bloomfield Hills, Mich. 48013. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in pneumatic equipment, from the international boundary line, between the United States and Canada at Detroit, Mich., to the plantsite of the Enrico Fermi Nuclear Generating Plant in Frenchtown Township, Monroe County, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Medusa Cement Company, C. N. Bakley, Traffic Manager, P.O. Box 5668, Cleveland, Ohio 44101. Send protests to: Interstate Commerce Commission, Bureau of Operations, 604 Federal Bldg. and U.S. Courthouse, 231 Lafayette Blvd., Detroit, Mich. 48226.

No. MC 110525 (Sub-No. 1199TA), filed July 5, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Avenue, P.O. Box 200, Downington, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium salt solutions*, in bulk, in tank vehicles, from the plantsite of Merichem Company and/or storage facilities of Merichem Company in Houston, Tex., to all points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi and Oklahoma, for 180 days. Supporting shipper: Merichem Company, 1914 Haden Road, Houston, Tex. 77015. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street. Room 3238, Philadelphia, Pa. 19106.

No. MC 110659 (Sub-No. 23TA), filed June 29, 1977. Applicant: COMMERCIAL CARRIERS, INC., 975 Virginia Street, West, Charleston, W. Va. 25302. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, W. Va. 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beer and malt beverages in containers*, from the plant site of the Miller Brewing Company at Fulton, N.Y., to Charleston, W. Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: James Mazzei, President, Capitol Beverage Co., 500 Hunt Avenue, Charleston, W. Va. 25302. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, W. Va. 25301.

No. MC 111170 (Sub-No. 238TA), filed June 23, 1977. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, 2811 N. West Ave., El Dorado, Ark. 71730. Applicant's representative: Tom E. Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alkydimethylamine*, in bulk, from Magnolia, Ark., to Memphis, Tenn.; Janesville, Wis.; and Cincinnati, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ethyl Corporation, 451 Florida, Baton Rouge, La. 70801. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 111401 (Sub-No. 492TA), filed July 5, 1977. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium salt solutions*, in bulk, in tank vehicles, from the plantsite and/or storage facilities of Merichem Co., in Houston, Tex., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi and Oklahoma, for 180 days. Supporting shipper: Merichem Co., 1914 Haden Road, Houston, Tex. 77015. Send protests to: District Supervisor Joe Green, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 111729 (Sub-No. 709TA), filed June 23, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Proofs, cuts, copy, art work, printed material and related items*, between Coldwater, Mich., on the one hand, and, on the other, points in Kentucky, Maryland, Missouri, New Jersey, New York, Pennsylvania, Tennessee and West Virginia. Restriction: Restricted against the transportation of packages or articles weighing more than 75 pounds each or 350 pounds in the aggregate, for 180 days. Supporting shipper: Eagle Printing Co., Inc., 419 East Chicago Street, Coldwater, Mich. 49036. Send protests to: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 114896 (Sub-No. 54TA), filed June 27, 1977. Applicant: PUROLATOR SECURITY, INC., 3333 New Hyde Park Rd., New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Money orders*, from Indianapolis, Ind. to Detroit, Mich. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: First Federal Savings & Loan Association of Detroit, 1001 Woodward Ave., Detroit, Mich. 48226. Send protests to: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 115353 (Sub-No. 27TA), filed June 29, 1977. Applicant: LOUIS J. KENNEDY TRUCKING COMPANY, 342 Schuyler Avenue, Kearny, N.J. 07032. Applicant's representative: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products*, from the plant and warehouse sites of The Celotex Corporation at or near Jacksonville, Fla., to Virginia Beach, Va., under a continuing con-



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tract, or contracts, with The Celotex Corporation of Tampa, Fla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Celotex Corporation, 1500 North Dale Mabry, Tampa, Fla. 33607. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 116077 (Sub-No. 383TA), filed June 28, 1977. Applicant: ROBERTSON TANK LINES, INC., 2000 W. Loop South, Suite 1800, Houston, Tex. 77027. Applicant's representative: John C. Browder (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium salt solution*, from the plantsite of Merichem Company and/or storage facilities of Merichem Company in Houston, Tex., to all points in Florida and Georgia and Alabama, for 180 days. Supporting shipper: Merichem Company, 1914 Haden Road, Houston, Tex. 77015. Send protests to: District Supervisor John F. Mensing, 8610 Federal Bldg., 515 Rusk, Houston, Tex. 77002.

No. MC 117589 (Sub-No. 40TA), filed June 30, 1977. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Avenue South, Seattle, Wash. 98108. Applicant's representative: Michael D. Duppenthaler, 515 Lyon Building, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen human blood plasma*, from Eugene, Oreg., to Los Angeles, Calif., for 180 days. Supporting shipper: Abbott Laboratories, 115 Prefontaine Pl. S., Seattle, Wash. 98104. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 119192 (Sub-No. 11TA), filed June 21, 1977. Applicant: EASTERN DELIVERY SERVICE, INC., 80 Central Ave., Bridgeport, Conn. 06607. Applicant's representative: Morton E. Kiel, Suite 6193—5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department stores, from Yonkers, N.Y., to points in New Jersey, Connecticut, and Westchester, Dutchess, Putnam, Rockland, Orange, Sullivan, Nassau, and Suffolk Counties, N.Y. Returned shipments in the reverse direction, under a continuing contract, or contracts, with John Wanamaker, Philadelphia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John Wanamaker, Philadelphia, 13th and Market Street, Philadelphia, Pa. Send Protests to: J. D. Perry, Jr., Interstate Commerce Commission, 135 High Street—Room 324, Hartford, Conn. 06101.

No. MC 119726 (Sub-No. 100TA), filed June 23, 1977. Applicant: N.A.B. TRUCKING CO., INC., 1644 W. Edgewood Ave., Indianapolis, Ind. 46217. Applicant's representative: **James L. Beattey**, 130 E. Washington, St., Suite 1000, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Medical care products and materials, equipment and supplies*, from the plantsite of Baxter/Travenol Laboratories, Inc., located at or near Cleveland, Mississippi to the warehouse facilities of Baxter/Travenol Laboratories, Inc., located at or near Memphis, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Baxter/Travenol Laboratories, Inc., 6301 Lincoln Ave. Morton Grove, Ill. 60053. Send protests to: Williams Ennis Interstate Commerce Commission, Federal Bldg. and U.S. Courthouse, 46 East Ohio St., Rm. 429 Indianapolis, Ind. 46204.

No. MC 119908 (Sub-No. 43TA), filed July 1, 1977. Applicant: WESTERN LINES, INC., P.O. Box 1145, Houston, Tex. 77001. Applicant's representative: Austin L. Hatchell, 1102 Perry Brooks Bldg., Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Pearson and Eatonton, Ga., to points in Arkansas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Steel City Lumber Company, P.O. Box 20217, Birmingham, Ala. 35216. Send protests to: District Supervisor John F. Mensing, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk, Houston, Tex. 77002.

No. MC 124004 (Sub-No. 41TA), filed July 1, 1977. Applicant: RICHARD DAHN, INC., 620 West Mountain Road, Sparta, N.J. 07871. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fishmeal*, from Port Monmouth, N.J., to Gainesville, Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Seacoast Products Inc., P.O. Box D. Port Monmouth, N.J. 07758. Send protests to: District Supervisor Joel Morrows, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 124947 (Sub-No. 62TA), filed June 30, 1977. Applicant: MACHINERY TRANSPORTS, INC., 608 Cass St., P.O. Box 2338, East Peoria, Ill. 61611. Applicant's representative: David J. Lister, 1945 S. Redwood Rd., Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Colorado to Texas, New Mexico and Oklahoma, for 180 days. Supporting shippers: Snow Mountain Lumber Co., P.O. Box 1179, Durango, Colo. 80301. Sage Brush Sales, P.O. Box 25606, Albuquerque, N. Mex. Send protests to: District Supervisor Joe Green, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 125777 (Sub-No. 194TA), filed June 29, 1977. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, Ind. 46403. Applicant's representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys*, in bulk, in dump vehicles, from Woodstock, Tenn., to all points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chromium Mining and Smelting Corporation, P.O. Box 28538, Memphis, Tenn. 38128. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 126111 (Sub-No. 7TA), filed June 28, 1977. Applicant: LYLE W. SCHAETZEL, doing business as SCHAETZEL TRUCKING COMPANY, 520 Sullivan Drive, P.O. Box 1579, Fond du Lac, Wis. 54935. Applicant's representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sweetened condensed milk*, in bulk, in tank vehicles, from the plantsite facilities of Galloway-West Company, a division of Borden Company, Inc., at Fond du Lac, Wis., to Elizabethtown, Pa., and Waco, Tex., under a continuing contract, or contracts, with Galloway-West Company, a division of Borden Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Galloway-West Company, a division of Borden Company, Inc., 325 Tompkins Street, Fond du Lac, Wis. 54935, (John Look). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 133689 (Sub-No. 134TA), filed June 23, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First St. SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail and wholesale department and hardware stores (except foodstuffs and commodities in bulk), from points in Connecticut, Illinois, Indiana, Massachusetts, Michigan, New Jersey, New York, Ohio, and Pennsylvania to Brookings, S. Dak., restricted to the transportation of traffic destined to the facilities of Coast to Coast Stores





Central Organization located at or near Brookings, S. Dak., for 180 days. Supporting shipper: Coast to Coast Stores Central Organization, Inc., P.O. Box 80, Minneapolis, Minn. 55440. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 134329 (Sub-No. 4TA), filed July 5, 1977. Applicant: FISCUS MOTOR FREIGHT, INC., Rt. 1, Box 201, Yakima, Wash. 98902. Applicant's representative: Philip G. Skofstad, P.O. Box 594, Gresham, Oreg. 97030. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt composition roofing, asphalt shakes, asphalt roll roofing, and asphaltum*, except in bulk in tank vehicles, from Los Angeles, Calif., to Yakima, Wenatchee, Pasco, Kennewick, Richland, Walla Walla, Spokane, Tacoma, Seattle, Woodinville, Redmond, and Snohomish, Wash., under a continuing contract, or contracts, with Celotex Corporation, for 180 days. Supporting shipper: Celotex Corporation, P.O. Box 22602, Tampa, Fla. 33622. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 136531 (Sub-No. 7TA), filed July 5, 1977. Applicant: LUISI TRUCK LINES, INC., P.O. Box 606, New Walla Walla Highway No. 11, Milton-Freewater, Oreg. 97862. Applicant's representative: Eugene Luisi, P.O. Box H, Milton-Freewater, Oreg. 97862. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages* and return of empty beverage containers; (2) *malt beverages*, from Fairfield, Calif., to Nyssa, Pendleton, and La Grande, Oreg.; (3) *empty containers*, from Nyssa, Pendleton, and La Grande, Oreg., to Winters, Calif., under a continuing contract, or contracts, with La Grande Fruit Co., for 180 days. Supporting shipper: La Grande Fruit Co., P.O. Box 458, La Grande, Oreg. 97850. Send protests to: R. V. Dubay, District Supervisor, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 141046 (Sub-No. 4TA), filed June 23, 1977. Applicant: MASON O. MITCHELL, doing business as M. MITCHELL TRUCKING, 1911 "I" Street, LaPorte, Ind. 46350. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Starch and dextrine*, in bags, boxes and drums, from the plantsite or warehouse facilities of A. E. Staley Manufacturing Co., at or near Houlton, Maine, to points in Arkansas, California, Florida, Georgia, Illinois, Indiana, Michigan, Missouri, North Carolina, Ohio, Texas, Virginia, West Virginia and Wisconsin. Restricted to a continuing contract, or contracts, with A. E. Staley Manufacturing Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: A. E. Staley Manufacturing Co., 2200 East Eldorado Street, Decatur, Ill. 62525. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 141804 (Sub-No. 69TA), filed June 22, 1977. Applicant: WESTERN EXPRESS, a Division of Interstate Rental, Inc., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail stores (except foodstuffs and commodities in bulk), from the facilities of Best Products Company, at or near Ashland, Va.; Hoboken, N.J.; and Arlington, Tex., to Sacramento, Calif., and Los Angeles, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Best Products Company, Inc., P.O. Box 26303, Richmond, Va. 23260. Send protests to: District Supervisor Joe J. Tate, Bureau of Operations, Interstate Commerce Commission, Suite A-422—U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 142012 (Sub-No. 2TA), filed June 29, 1977. Applicant: OSBORNE WEST, LIMITED, 220 Erie St., Pomona, Calif. 91766. Applicant's representative: Martin J. Rosen, 256 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except Class A and B explosives), in ocean containers having a prior or subsequent move by water, and (2) *empty containers*, chassis and trailers, between points in the state of California, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately twenty-nine (29) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 142918 (Sub-No. 1TA), filed June 15, 1977. Applicant: CHRISTIE TRANSFER, INC., 1431 Redford Street, North Abington, Mass. 02351. Applicant's representative: Kenneth B. Williams, 84 State Street, Boston, Mass. 02109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale, retail and chain grocery and food business houses (except in bulk), from the facilities of The Procter & Gamble Manufacturing Company and The Procter & Gamble Distributing Company in Quincy, Mass., to the facilities of First National Stores, Inc., in Windsor Locks, Conn., under a continuing contract or contracts with The Procter & Gamble Manufacturing Company, The Procter & Gamble Distributing Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Procter & Gamble Manufacturing Company, The Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, Ohio 45201. Send protests to: District Supervisor, John B. Thomas, Interstate Commerce Commission, 150 Causeway Street, Room 501, Boston, Mass. 02114.

No. MC 143322 (Sub-No. 1TA), filed June 29, 1977. Applicant: M. T. KENNEDY, doing business as M. T. KENNEDY TRUCKING, P.O. Box 292, Kelley, Iowa 50134. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sawdust, wood chips, and wood shavings*, from Princeton, Minn., to Ames, Iowa, for 180 days. Supporting shipper: College of Veterinary Medicine, Iowa State University, Laboratory Animal Resources, Ames, Iowa 50010. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 143395TA, filed June 16, 1977. Applicant: SANTOS RICO, JOHN NAVA AND ARTU RIOSECO, doing business as CALEXICO FREIGHT LINES, 465 West 2nd Street, Calexico, Calif. 92231. Applicant's representative: Santos Rico (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel automobile wheels or bumpers, unfinished*, from the United States border at Calexico, Calif., to Los Angeles, Calif., for the account of Cal Chrome. (2) *Rejected rolls of paper tissue or paper toweling and paper converting machinery, or parts thereof*: From Los Angeles and Orange, Calif., to the United States border at Calexico, Calif., for the account of Trebor, for 180 days. Supporting shippers: Trebor, 109 W. 9th Street, Los Angeles, Calif. 90015. Cal Chrome, 936 Atmahr Avenue, Wilmington, Calif. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 143442 (Sub-No. 1TA), filed July 5, 1977. Applicant: CARL E. PARNELL, 418 W. 8th Street, Belvidere, Ill. 61008. Applicant's representative: Abraham A. Diamond, 29 S. La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Yogurt and ice cream mix*, in tank vehicles, from Chemung, Ill., to Madison, Portage, and Waukesha, Wis., for 180



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days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Deans Food Co., Jack Pettigrew, Fleet Manager, 3600 N. River Road, Franklin Park, Ill. 60130. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 143454TA, filed July 5, 1977. Applicant: DONNA BARTOLI, doing business as DON BAR FREIGHT, 3859 W. 109th Place, Chicago, Ill. 60655. Applicant's representative: James R. Madler, 120 W. Madison Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, conduit, tubing and fittings*, from Chicago, Ill., to points in Iowa, Missouri, Minnesota, North Dakota, South Dakota and Wisconsin, for 180 days. Supporting shipper: Maneely-Illinois, Inc., Barry Start, Manager-Physical Distribution, 4435 S. Western Blvd., Chicago, Ill. 60609. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

By the Commission.

H. G. Homme, Jr.,
*Acting Secretary.*

[FR Doc.77-20537 Filed 7-15-77;8:45 am]

[Notice No. 198]

## MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before August 17, 1977. Failure seasonally to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopsis form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

Finance Docket No. 28500, Filed June 14, 1977. Transferee: SENTRY HOUSEHOLD SHIPPING, INC., a Georgia corporation, 592 Ellis Road, Jacksonville, Florida 32205. Transferor: Sentry Household Shipping, Inc., a Florida corporation, 525 Stevens Street, Jacksonville, Florida 32205. Applicant's representative: Alan F. Wohlstetter, Esquire, 1700 K Street NW., Washington, D.C. 20006. Authority sought for purchase by transferee of the operating rights of transferor as set forth in freight forwarder Permit No. FF-372 issued October 19, 1972, as amended by Order of the Commission served October 9, 1975, as follows: (a) Used Household Goods, (b). Used Automobiles, and (c) Unaccompanied Baggage, between points in the United States including Hawaii but excluding Alaska, restricted in (b) to the transportation of export and import traffic.

No. MC-FC-77170, filed July 12, 1977. Transferee: Ronald L. Blackley doing business as OVERLAND TOW SERVICE, P.O. Box 4260, Shawnee Mission, Kans. 66024. Transferor: John M. Stalter doing business as Lansing Standard and Wrecker Service, 200 N. Main, Lansing, Kans. 66043. Applicant's representative: Lawrence J. Kelly, Attorney-at-Law, 7134 West 80th St., Overland Park, Kans. 66204. Authority sought for purchase by transferee of the operating set forth in Certificate No. MC 11892, issued June 9, 1976, as follows: Wrecked or disabled motor vehicles, between points in Missouri within 150 miles of Lansing, Kans., on the one hand, and, on the other, points in Kansas within 150 miles of Lansing, Kans. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77190, filed June 28, 1977. Transferee: S.O.S. TRANSPORTATION CO., INC., 1420 Tonnelle Ave., North Bergen, N.J. 07047. Transferor: Morris R. Silverman and C. Nathan Silverman, A Partnership, doing business as S.O.S. TRANSPORTATION CO., 225 Golden St., Jersey City, N.J. 07302. Applicant's representative: C. Douglas Reina, Attorney at Law, 1550 Park Ave., South Plainfield, N.J. 07080. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in No. MC 36196 and (Sub-1), issued January 29, 1942 and August 19, 1954, respectively as follows: *General commodities*, with exceptions between points in Hudson, Bergen, Passaic, Essex and Union Counties, N.J., on the one hand, and, on the other, New York, N.Y. *Baggage*, with restrictions, between New York, N.Y., and points in Westchester and Nassau Counties, N.Y., and Hudson, Bergen, Essex, Union, and Passaic Counties, N.J., on the one hand, and, on the other, Camp Ecko Lark, Poyntelle, Pa. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. Homme, Jr.,
*Acting Secretary.*

[FR Doc.77-20536 Filed 7-15-77;8:45 am]





# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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### 1

CIVIL AERONAUTICS BOARD.
TIME AND DATE: 11 a.m., July 12, 1977.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Briefing by the Board's Bureau of International Affairs on U.S.-U.K. Talks recently held in London.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, (202-673-5068).

SUPPLEMENTARY INFORMATION: Notice of change of meeting time.

Ambassador Boyd is scheduled to brief the Board regarding the U.S.-U.K. talks on July 14, 1977. In order for the Board to have the benefit of its staff's views before Ambassador Boyd's briefing, the following Members have voted that agency business requires that the Board meet on less than seven days' notice.

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West

Additionally, the following Members have voted that the meeting will be closed to public observation under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B):

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West

EXPLANATION OF THE CLOSING

This meeting will concern the U.S.-U.K. bilateral discussions recently held in London. The principles and main provision of a new air services bilateral were agreed to in London. Detailed drafting remains to be done. It is anticipated that the new agreement will be signed in Bermuda this month. Public disclosure of the opinions, evaluations and strategies of the U.S. participants in the U.S.-U.K. talks could seriously compromise the ability of the U.S. delegation to successfully conclude the agreement in the best interests of the United States. Accordingly, the Board finds that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting will be closed to public observation.

PERSONS EXPECTED TO ATTEND

BOARD MEMBERS

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West

ASSISTANTS TO BOARD MEMBERS

Mr. Dennis A. Rapp
Mr. John R. Hancock
Mr. Robert E. Cohn
Mr. Elias C. Rodriquez
Mr Frederic D. Houghteling
Mr. John T. Golden
Mr. James L. Casey

OFFICE OF THE GENERAL COUNSEL

Mr. James C. Schultz
Mr. Peter B. Schwarzkopf
Ms. Carol Light

BUREAU OF INTERNATIONAL AFFAIRS

Mr. Rosario J. Selbilia
Ms. Mary Irene Pett

BUREAU OF OPERATING RIGHTS

Ms. Barbara Clark

OFFICE OF THE SECRETARY

Mrs. Phyllis T. Kaylor
Ms. Deborah A. Lee

OTHER

Ms. Rose Basiliko

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B).

James C. Schultz,
*General Counsel.*

[S-904-77 Filed 7-13-77;4:23 pm]

### 2

CIVIL AERONAUTICS BOARD.

NOTICE OF DELETION OF ITEM FROM JULY 15, 1977 MEETING AGENDA

REVISED AGENDA

TIME AND DATE: 10 a.m., July 15, 1977.

PLACE: Room 1027, 1824 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Ratifications of Items Adopted by Notation[1] 2. Docket 28915.

[1] The ratification process provides an entry in the Board's Minutes of items already adopted by the Board through the written Notation process (memoranda circulated to the Members sequentially). A list of items ratified at this meeting will be available in the Board's Public Reference Room (Room 710, 1825 Connecticut Avenue NW., Washington, D.C. 20428) following the meeting.

Complaint of the City of Youngstown, Ohio, regarding adequacy of service provided by Allegheny Airlines, Inc., Docket 28944, Application of Allegheny Airlines to delete Youngstown, Ohio and Docket 29085, Application of Allegheny Airlines for temporary suspension of service at Youngstown, Ohio.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary (202-673-5068).

SUPPLEMENTARY INFORMATION: Item 3 on the announced agenda for the July 15, 1977 Board meeting was Docket 30857, Application of Meridian Air Cargo, Inc. for an emergency exemption pursuant to § 416(b) of the Federal Aviation Act to operate two CV-600 aircraft in scheduled all cargo service between Memphis and both Chicago and Detroit. The Board's staff has informed the Board that it will have a revised draft order to the Board next week. A Board meeting to consider this subject now would be premature. Accordingly, the following members have voted that agency business requires that this item be deleted from the agenda of the July 15, 1977 Board meeting and that no earlier announcement of the change was possible:

Chairman Alfred E. Kahn
Member G. Joseph Minetti
Member Lee R. West

Vice Chairman Richard J. O'Melia was not present and did not vote.

[S-903-77 Filed 7-13-77;4:23 pm]

### 3

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., July 19, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Docket 29139, Reexamination of the Board's policies concerning deliberate overbooking and oversales.



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STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary (202–673–5068).

[S-901-77 Filed 7-13-77;4:23 pm]

4

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., July 20, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Oral Argument, Docket 28115, Midwest Atlanta Competitive Service Case.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary (202–673–5068).

[S-902-77 Filed 7-13-77;4:23 pm]

5

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 9:30 a.m. (Open portion begins at 10 a.m.), July 19, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

CME Application for Designation as a Contract Market for Platinum.

CFTC Overall Information System Design.

CBOT request to change Regulation 1.41.

Commission Calendar.

Portions closed to the public:

Enforcement Matters.

[S-905-77 Filed 7-13-77;4:23 pm]

6

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., July 22, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254–6314.

[S-906-77 Filed 7-13-77;4:23 pm]

7

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 3 p.m. (Eastern Time), Wednesday, July 20, 1977.

PLACE: Chairman's Conference Room No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public.

(1) *Private Bar Program.*—The Commission will consider whether to continue funding existing legal organization and law school contracts.

(2) *Guidelines on Employee Selection Procedures.*—Modification of the subject Guidelines will be considered.

(3) *Directions and Priorities for Commission Programs.*

Portion closed to the public:

*Litigation Authorization; General Counsel Recommendations.*—Matters closed to the public under Sec. 1612.13(a) of the Commission's regulations. (42 FR 13830, March 14, 1977)

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at (202–634–6748).

This Notice Issued July 13, 1977.

[S-909-77 Filed 7-14-77;10:23 am]

8

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, July 20, 1977 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202–523–4065.

[S-893-77 Filed 7-13-77;2:23 pm]

9

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, No. 132, Page 35726, Monday, July 11, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., July 13, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202–376–3012).

CHANGES IN THE MEETING:

The following items have been added to the agenda for the open portion of the meeting:

Consideration of Petition for Reconsideration of Conditions Contained in Resolution No. 76–914 Re Merger of: Central City Federal Savings and Loan Association, Los Angeles, California with Home Federal Savings and Loan Association, San Diego, California.

The following item has been withdrawn from the agenda for the open portion of the meeting:

Application for Permission to Organize a Federal Savings and Loan Association—Idelio Valdes, et al., Hialeah, Florida. No. 48, July 13 1977.

[S-908-77 Filed 7-14-77;9:12 am]

10

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., July 19, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202–376–3012).

MATTERS TO BE CONSIDERED:

Branch Office Application—California Federal Savings and Loan Association, Los Angeles, California.

Branch Office Application—First Federal Savings and Loan Association of Grand Rapids, Grand Rapids, Minnesota.

Limited Facility Branch Office Application—West Coast Federal Savings and Loan Association, San Mateo, California.

Limited Facility Application—Laguna Federal Savings and Loan Association, Laguna Beach, California.

Consideration of Travel Authorization.

Consideration of Amendment of Board Resolution No. 77–325, Dated May 18, 1977 Re: Assessments for the New Federal Home Loan Bank Board Building.

Consideration of Bylaw Amendments—Metropolitan Federal Savings and Loan Association of Bethesda, Bethesda, Maryland.

Application for Bank Membership and Insurance of Accounts—Shasta Savings and Loan Association, Redding, California (New Stock).

Consideration of Proposed Amendment Concerning Private Mortgage Insurance of Loans.

No. 47, July 13, 1977.

This announcement is being made at the earliest practicable time.

[S-907-77 Filed 7-14-77;9:12 am]





11

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., July 15, 1977.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTER TO BE CONSIDERED: 1. Docket No. 77–24—Financial Responsibility for Oil Pollution—Final Rules.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary (202–523–5727).

[S-898 77 Filed 7-13-77;4:02 p.m.]

12

FEDERAL POWER COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (42 F.R. 35726, July 11, 1977.)

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: July 13, 1977, 10:00 a.m.

CHANGE IN MEETING:
The following item has been added:

*Item No., Docket No. and Company*

M-4—*Mobil Oil Corporation v. Lightcap, et al.*, Supreme Court No. 76–1694.

KENNETH F. PLUMB,
*Secretary.*

[S-894 Filed 7-13-77;2:40 pm]

13

FEDERAL POWER COMMISSION.

NOTICE OF MEETING: July 13, 1977.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 8552B:

AGENCY HOLDING MEETING: Federal Power Commission.

TIME AND DATE: July 20, 1977, 10:00 a.m.

PLACE: 825 North Capitol Street.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda.) *Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, 202–275–4166.

This is a list of the matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information room 1000.

POWER AGENDA, 7651ST MEETING—JULY 20, 1977, REGULAR MEETING, PART I

P-1.—Docket Nos. ER77-411, ER77-416, Illinois Power Company.

P-2.—Docket No. ER77-402, Philadelphia Electric Company.

P-3.—Docket No. E-9596, Wisconsin Electric Company, Wisconsin Michigan Electric Company.

P-4.—Docket Nos. ER76-816 and ER77-375, Gulf States Utilities Company.

P-5.—Docket No. ER77-427, Minnesota Power & Light Company.

P-6.—Docket No. ER77-43, Pacific Power & Light Company.

P-7.—Docket No. ER76-415, Virginia Electric and Power Company.

P-8.—Docket No. ER77-175, Florida Power & Light Company.

P-9.—Docket Nos. E-7631 and E-7633, *City of Cleveland, Ohio v. Cleveland Electric Illuminating Company*, Docket No. E-7713, City of Cleveland, Ohio.

P-10.—Docket No. E-9571, Potomac Edison Company.

MISCELLANEOUS AGENDA, 7651ST MEETING, JULY 20, 1977, REGULAR MEETING, PART I

M-1.—Docket No. RM76-17, Research, Development and Demonstration; Accounting; Advance Approval of Rate Treatment.

M-2.—Residental Electric Bill Data for United States Bureau of Labor Statistics FPC Form No. 3-P.

GAS AGENDA, 7651ST MEETING, JULY 20, 1977, REGULAR MEETING, PART I

G-1.—Docket No. RP74-52, Transwestern Pipeline Co.

G-2.—Docket No. RP77-43, *City of Tallahassee, Florida, Complainant v. Florida Gas Transmission Company, Respondent.*

G-3.—Docket No. RP76-4, National Fuel Gas Supply Corporation.

G-4.—Docket No. RP76-158, North Penn Gas Company.

G-5.—(A) Docket No. RI77-16, Texas Energies, Inc.; (B) Docket No. RI77-17, Texas Energies, Inc.; (C) Docket No. RI77-18, Texas Energies, Inc.; (D) Docket No. RI77-19, Texas Energies, Inc.

G-6.—Docket No. RI77-51, Walter K. Arbuckle, et al.

G-7.—Louisiana Land and Exploration Company, FPC Gas Rate Schedule Nos. 7 and 10.

G-8.—Docket No. CI77-298, Tenneco Inc.

G-9.—Docket No. CI76-704, Wise Oil Company.

G-10.—Docket No.CI77-372, Ecee, Inc.; Docket No. CI77-373, Pinto, Inc.; Docket No. CI77-409, TBP Offshore Company.

G-11.—Docket No. CP65-393, et al., Florida Gas Transmission Company, et al.

G-12.—Docket No. CP77-280, Transcontinental Gas Pipe Line Corporation.

POWER AGENDA, 7651ST MEETING—JULY 20, 1977, REGULAR MEETING—PART II

CP-1.—Docket No. ER77-486, PJM Agreement.

CP-2.—Docket No. ER77-475, Kansas City Power & Light Company.

CP-3.—Docket No. ER77-428, Southern California Edison Company, Pacific Gas and Electric Company, San Diego Gas & Electric Company.

CP-4.—Docket No. ID-1691, Paul J. Sullivan.

CP-5.—Docket No. ID-1630, Ralph H. Smith.

CP-6.—State Director, Bureau of Land Management, New Mexico (NM-29549).

CP-7.—State Director, Bureau of Land Management, Wyoming (W-51039).

CP-8.—Docket No. ER77-392, Southern California Edison Company.

CP-9.—Docket No. ER76-76, South Carolina Electric & Gas Company.

CP-10.—Docket No. ES77-41, Iowa Electric Light and Power Company.

CP-11.—Docket No. ES77-42, Idaho Power Company.

CP-12.—Docket No. E-9309, Interstate Power Company.

CP-13.—Docket No. ID-1634, Robert Hurstak.

CP-14.—Project No. 2321, Nevada Power Company.

MISCELLANEOUS AGENDA, 7651ST MEETING, JULY 20, 1977, REGULAR MEETING, PART II

CM-1.—Virginia Electric and Power Company.

GAS AGENDA, 7651ST MEETING, JULY 20, 1977, REGULAR MEETING, PART II

CG-1.—Docket No. RP73-8 (PGA No. 77-9B), North Penn Gas Company.

CG-2.—Docket No. RP77-105, Colorado Interstate Gas Company.

CG-3.—Docket Nos. RP77-100 and CP77-182, Columbia Gas Transmission Corporation.

CG-4.—Mountain Petroleum, Ltd., FPC Gas Rate Schedule No. 1.

CG-5.—Docket No. CP77-21, Tennessee Gas Pipeline Company, Columbia Gulf Transmission Company and Southern Natural Gas Company, Docket No. CI76-730, Mobil Oil Corporation; Docket No. CI77-120, Texaco Inc.

CG-6.—Docket No. CP77-367, Florida Gas Transmission Company, Transcontinental Gas Pipe Line Corporation.

CG-7.—Docket No. CP77-283, Panhandle Eastern Pipe Line Company.

CG-8.—Docket No. CP77-438 (R-386), Columbia Gulf Transmission Company, Northern Natural Gas Company, Tennessee Gas Pipeline Company, Trunkline Gas Company.

CG-9.—Docket No. CP77-437 (R-386), Columbia Gulf Transmission Company, Natural Gas Pipeline Company of America, Trunkline Gas Company.

CG-10.—Docket Nos. CP68-166, CP70-185, CP75-376 and CP76-2, Tennessee Gas Pipeline Company, a division of Tenneco Inc.

CG-11.—Docket No. CP77-330, et al., El Paso Eastern Company, et al.

KENNETH F. PLUMB,
*Secretary.*

[S-899-77 Filed 7-13-77;4:02 pm]

14

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 9 a.m., July 20, 1977.
PLACE: Room 1101, 1825 K Street, NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudication process.

CONTACT PERSONS FOR MORE INFORMATION:

Mrs. Nori Heuberger or Ms. Lottie Richardson, 202–634–7970.

Dated: July 13, 1977.

[S-897-77 Filed 7-13-77;2:40 pm]

15

POSTAL RATE COMMISSION.

TIME AND DATE: 10:00 a.m., Thursday, July 14, 1977.



V 42 I 137 JUL 18 77 UMI

PLACE: Conference Room, Room 500, 2000 L Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Draft Testimony on H.R. 7700. By the recorded vote of Chairman DuPont and Commissioners O'Doherty, Saponaro, and Villarreal, it has been determined that notice cannot be given at least one week prior to the meeting since Commission business requires that the meeting be called at an earlier time.

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, N.W., Washington, D.C. 20268, 202–254–5614.

[S-910-77 Filed 7-14-77;11:46 am]

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**16**

POSTAL RATE COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, July 21, 1977.

PLACE: Conference Room, Room 500, 2000 L Street, N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Draft of Tentative Decision Concerning DMMA Proposal for Multiple Address Correction Rates, Docket No. MC76–3. 2. Discussion of Issues, Docket No. MC 76–2.

By recorded vote the Commission has determined that notice cannot be given at least one week prior to the meeting since Commission business requires that the meeting be called at an earlier time.

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, N.W., Washington, D.C. 20268, telephone 202–254–5614.

[S-911-77 Filed 7-14-77;11:46 am]

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**17**

U.S. RAILROAD RETIREMENT BOARD.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: July 13, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., July 20, 1977.

CHANGES IN THE MEETING:

Additional items to be considered at the portion of the meeting open to the public:

(6) Survivor windfall computations.
(7) Use of annual leave by bureau heads and their assistants.
(8) Extension of the Board's flexitime experiment.
(9) Operation of the Board's cafeteria.
(10) Possible relocation of the Board's headquarters.
(11) Availability of office space for the Board in the American Mart Building.
(12) District office administrative inspections by regional office personnel.
(13) Union member on merit promotion panels.

Additional item to be considered at the portion of the meeting closed to the public:

(14) Appeal of Samuel Gottlieb under the Railroad Unemployment Insurance Act.

[S-900-77 Filed 7-13-77;4:07 pm]

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**18**

RENEGOTIATION BOARD.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR July 14, 1977.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Tuesday, July 19, 1977, 10:00 a.m.

CHANGES IN MEETING: Item 6 is added to the previously announced agenda.

MATTER TO BE CONSIDERED:

6. Recommended Finding or Determination of Excessive Profits:

U.S. Plastic Molding Corp., Fiscal Year Ended May 31, 1968.

STATUS: Open to the public.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street, NW., Washington, D.C. 20446, 202–254–8277.

Dated: July 13, 1977.

GOODWIN CHASE,
*Chairman.*

[S 895-77 Filed 7-13-77;2:40 pm]

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**19**

RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, July 26, 1977 at 10:00 a.m.

PLACE: Conference Room, 4th Floor, 200 M St., NW., Washington, D.C. 20446.

STATUS: Matters 1, 2 and 3 are open to the public. Matter 4 is closed to the public. Status is not applicable for matters 5 and 6.

MATTERS TO CONSIDERED:

1. Approval of Minutes of meeting held July 19, 1977, and other Board meetings, if any.

2. Application for Commercial Exemption (List No. 2996)
   a. Cla-Val Company; Fiscal year ended March 31, 1975.
   b. Seismic Engineering Company; Fiscal year ended December 31, 1975.

3. Recommended Clearance: Arcturus Manufacturing Co.; Fiscal year ending June 30, 1974.

4. Recommendation of Excessive Profits and Clearance: Service Equipment Company, Inc.; Fiscal years ended August 31, 1971 and 1972.

5. Approval of Agenda for meeting to be held August 9, 1977.

6. Approval of Agenda for other meetings, if any.

CONTACT PERSON FOR MORE INMATION:

Kelvin H. Dickinson, Assistant General Counsel, Secretary, 2000 M Street, NW., Washington, D.C. 10446., 202–254–8277.

Dated: July 13, 1977.

GOODWIN CHASE,
*Chairman.*

[S-896 Filed 7-13-77;2:40 pm]

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**20**

SECURITIES AND EXCHANGE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 35271, July 8, 1977.

PREVIOUS ANNOUNCED TIME AND DATE: July 14, 1977, following the open meeting at 2:30 p.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

STATUS: Closed meeting.

CHANGES IN THE MEETING: The following additional matters will be considered by the Commission at the closed meeting:

Formal Orders of investigation.
Authorization of staff member to testify.
Discussion of administrative proceeding.
Referral of investigative files to Federal, State or Self regulatory authorities.
Authorization of Staff discussion with Federal authorities.

Chairman Williams, Commissioners Loomis, Evans, and Pollack determined that Commission business required consideration of these matters and that no earlier notice thereof was possible.

JULY 13, 1977.

[S-912-77 Filed 7-14-77;11:46 am]





**21**

SECURITIES AND EXCHANGE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 36073, July 13, 1977.

PREVIOUS ANNOUNCED TIME AND DATE: July 14, 1977, 10 a.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

STATUS: Closed meeting.

CHANGES IN THE MEETING:

The above-captioned meeting will be held at 9:30 a.m. on July 14, 1977 and the following additional items will be considered:

Regulatory matter bearing enforcement implications. Institution of injunctive actions deferred from the agenda on Tuesday, July 12, 1977 (42 FR 35271).

Chairman Williams, Commissioners Loomis, Evans, and Pollack determined that Commission business required consideration of these matter and that no earlier notice thereof was possible.

JULY 13, 1977.

[S 913 77 Filed 7-14 77;11:46 am]



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federal register

MONDAY, JULY 18, 1977
PART II




# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

# NATIONAL FLOOD INSURANCE PROGRAM

Final Flood Elevation Determinations

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Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-943]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Town of Marshfield, Plymouth County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of Marshfield. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the flood insurance rate map for the Town of Marshfield.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Marshfield.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Marshfield are available for review at the Town Hall, 870 Moraine Street, Marshfield, Massachusetts.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level | Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet) | |
|---|---|---|---|---|
| | | | Left | Right |
| Hannah Eames Brook | Damon Point Rd. | 21 | 280 | 320 |
| | Summer St. | 21 | 150 | 570 |
| | 20 ft. west of New Main St. | 49 | 690 | 140 |
| Littles Creek | 20 ft west of Summer St. | | 150 | 80 |
| Bares Brook | Pleasant St. | | 70 | 100 |
| | Rugani Ave. | | 400 | 150 |
| | 20 ft south of Canoe Tree St. | | 280 | 120 |
| | New Main St. | | (1) | 80 |
| Eagles Nest Brook | Union St. | | 300 | 120 |
| | School St. | | 170 | 200 |
| | Falmes Rd. | | (2) | (2) |
| Furnace Brook | School St. | | 240 | 120 |
| | Street before Furnace St. | | 230 | 100 |
| | Furnace St. | | 100 | 150 |
| Parsons Pond | Street off of Old Plain Rd. | | (3) | (3) |
| | Old Plain Rd. | | 180 | 180 |
| North River | Corporate limits at Maryland St. | 11 | 4 300 | |
| | Unimproved road (extended) | 11 | 4 1,160 | |
| | Unimproved road (extended) from Union St. | 11 | 4 570 | |
| | End of Corn Hill Lane (extended) | 11 | 4 240 | |
| | Union St. | 11 | 4 230 | |
| | Unimproved road | 11 | 4 640 | |
| | do. | 11 | 4 590 | |
| | Curve of Riverside Circle (extended) | 11 | 4 150 | |
| | Bridge (New Main St.) | 11 | 4 100 | |
| | Damon Point Rd. | 11 | 4 100 | |
| North River | Confluence of Macombers Creek to Damon Point Rd. | 11 | 5 4,900 | |
| South River | Confluence of Branch Creek towards Summer St. | 11 | 5 3,700 | |
| | Confluence of Littles Creek to Summer St. | 11 | 5 3,300 | |
| | Marshfield Ave. | 11 | 5 320 | |
| | Julian Rd. (extended to Ferry St.) | 11 | 6 2,040 | |
| South River | Gilbert (extended to Michigan) | 11 | 2,930 | 750 |
| | Texas St. (extended) | 11 | 1,740 | 2,020 |
| | Salem Ave. (extended to Ocean St.) | 11 | 1,560 | 2,800 |
| | Hayses Rd. (extended to Ocean St.) | 11 | 300 | 7 |
| | Willow St. | 11 | 1,850 | 140 |
| | New Main St. | 11 | 100 | 100 |
| | Old Plain Rd. | 11 | 180 | 200 |
| | Webster St. | 11 | 740 | 180 |
| Tributary Green Harbor River | Southeast corporate limits | 4 | 200 | 200 |
| | Unimproved roads | 4 | 1,600 | 120 |
| | Webster St. | 4 | 50 | 160 |
| | Macker Ter. (extended) | 4 | 340 | 1,550 |
| | Gratto Rd. (extended) | 4 | 460 | 1,120 |
| | Dike Rd. | 11 | (8) | 1,180 |
| Cut River | Beach Ave. | 11 | 1,300 | 120 |
| | New York St. | 11 | 1,020 | (9) |
| | Canal St. | 11 | 920 | (9) |
| Pine Point River | Elmhurst (extended) | 11 | 660 | 280 |
| Little Wood Island River | South corporate limits | 11 | 1,800 | |
| Bourne Wharf River | do. | 11 | (10) | 120 |
| | Hewitt Lane | 11 | 310 | 60 |
| Massachusetts Bay | 2,700 ft south of Julian Rd. to corporate limits | 11 | 250 | |
| | Gilbert (extended) | 11 | 200 | |
| | Porter (extended) | 11 | 280 | |
| | Rexhame (extended) | 11 | 240 | |
| | Kearsage (extended) | 11 | 270 | |
| | 1st Street (extended) | 11 | 150 | |
| | Saginaw Ave. (extended) | 11 | 170 | |
| | Reed (extended) | 11 | 140 | |
| | Beach (extended) | 11 | 300 | |
| | Southern corporate limits | 11 | 110 | |

1 30 ft south of Canoe Tree St. along street 2,200 ft.
2 Entire road after curve in road.
3 320 ft up from end of road.
4 Right of corporate limits.
5 From corporate limits.
6 Left of corporate limits.
7 Across Ocean St. to Parsonage St
8 To seawall.
9 To corporate limits
10 To Little Island River

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 3, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19794 Filed 7-15-77;8:45 am]





[Docket No. FI-2210]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Township of Derry, Dauphin County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in Township of Derry. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the flood insurance rate map for Township of Derry.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Township of Derry.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Derry, Dauphin County, Pennsylvania, are available for review at Meeting Room in Township Municipal Building, 235 Hockersville Road, Hershey, Pennsylvania.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level | Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet) | |
|---|---|---|---|---|
| | | | Left | Right |
| Swatara Creek | Corporate limits | 359 | | 2,840 |
| | Landermilch Rd. | 356 | | 410 |
| | do. | 354 | | 220 |
| | Sand Beach Rd. | 347 | | 620 |
| | Hershey Rd. | 346 | | 1,020 |
| | Penney Supply Rd. | 341 | | 160 |
| | Corporate limits | 340 | | 100 |
| | do. | 327 | | 470 |
| | Con Rail Bridge | 320 | | 140 |
| | do. | 317 | | 80 |
| | Corporate limits | 312 | | 500 |
| Spring Creek | Confluence of Swatara Creek | 344 | 2,200 | 510 |
| | State Route 39 | 344 | 90 | 0 |
| | State Route 743 | 358 | 70 | 360 |
| | Confluence of tributary No. 3 | | 180 | 260 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 4, 1977.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19795 Filed 7-15-77;8:45 am]

[Docket No. FI-2289]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Township of West Goshen, Chester County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Township of West Goshen. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the flood insurance rate map for the Township of West Goshen.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.



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SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Township of West Goshen. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of West Goshen are available for review at the Administrative Office in the Township Building, 1025 Paoli Pike, West Chester, Pennsylvania.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level | Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet) | |
|---|---|---|---|---|
| | | | Left | Right |
| East Branch Chester Creek. | Corporate limit | 400 | 300 | 100 |
| | Dam | 419 | (1) | 50 |
| | Private drive | 424 | 100 | 180 |
| | West Chester bypass | 427 | 220 | 600 |
| | Route 100 bypass | 437 | 40 | 40 |
| Stony Brook Run | Corporate limit | 288 | 800 | 40 |
| | Private drive | 295 | 150 | 100 |
| | Partridge Lane | 308 | 80 | 40 |
| | Millard Rd | 324 | 80 | 150 |
| | Gravel path | 327 | 150 | 100 |
| Goose Creek | Corporate limit | 333 | 150 | 350 |
| | Con Rail bridge | 339 | 100 | 40 |
| | West Chester bypass | 348 | 20 | 40 |
| | Access road | 399 | 800 | 100 |
| | Downstream corporate limit of Chester Borough. | 401 | (1) | 250 |
| | Upstream corporate limit of Chester Borough. | 420 | (1) | (1) |
| | Montgomery Ave | 422 | (1) | 140 |
| | Gaffield St | 427 | 120 | 100 |
| East Branch Chester Creek. | Corporate limit (Boimar St.) | 401 | 1,400 | (1) |
| | Westtown Rd | 404 | 40 | 40 |

[1] Corporate limit.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 2, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19807 Filed 7-15-77;8:45 am]

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[Docket No. FI-2295]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for City of Riverside, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Riverside. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the flood insurance rate map for the City of Riverside.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Riverside.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Riverside are available for review at City Hall, Riverside, Missouri 64168.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Burlington Creek | Paradise Valley Rd | 764 |
| | M-9 | 764 |
| | Burlington Northern Inc. | 764 |
| East Creek | U.S. Highway 69 | 771 |
| | R.R. bridge | 767 |
| Missouri River | I-635 | 759 |
| | Fairfax Bridge | 758 |
| Line Creek | U.S. Highway 69 | 766 |
| | Bridge No. 71 | 761 |
| | Northwest Platte Rd | 757 |
| Jumping Branch | 50th St | 770 |
| | U.S. Highway 69 | 760 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 20, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19799 Filed 7-15-77;8:45 am]

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[Docket No. FI-2302]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Town of North Myrtle Beach, Horry County, S.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of North Myrtle Beach. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the flood insurance rate map for the Town of North Myrtle Beach.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of North Myrtle Beach.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of North Myrtle Beach are available for review at City Hall, 17th Avenue South, Highway 17, North Myrtle Beach, South Carolina.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level | Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet) |
|---|---|---|---|
| Intracoastal Waterway | Basin St. extended | 11 | 100 |
| Point Creek | Route 17 | 13 | 265 |
| Atlantic Ocean | 47th Ave. South | 13 | 1,400 |
| | 45th Ave. South | 13 | 380 |
| | 39th Ave. South | 13 | 420 |
| | 28th Ave. South | 13 | 215 |
| | 21st Ave. South | 13 | 960 |
| | 15th Ave. South | 13 | 580 |
| | 13th Ave. South | 13 | 540 |
| | 6th Ave. South | 13 | 300 |
| | Main St | 13 | 520 |
| | 7th Ave. North | 13 | 1,380 |
| | 11th Ave. North | 13 | 1,160 |
| | 17th Ave. North | 13 | 1,120 |
| | 23d Ave. North | 13 | 3,520 |
| | 33d Ave. North | 13 | 3,840 |
| | 43d Ave. North | 13 | (1) |
| | 47th Ave. North | 13 | 3,920 |
| | 53d Ave. North | 13 | (1) |
| | 60th Ave. North | 13 | (1) |
| | 63d Ave. North | 13 | 3,520 |

[1] To north corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 20, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19803 Filed 7-15-77;8:45 am]

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[Docket No. FI-2341]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Township of Nockamixon, Bucks County, Pennsylvania

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in Nockamixon.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for Nockamixon.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Township of Nockamixon.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968



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(Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Nockamixon are available for review at Township Building, Ferndale, Pennsylvania.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level | Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet) | |
|---|---|---|---|---|
| | | | Left | Right |
| Delaware River | Downstream corporate limit | 150 | (1) | 150 |
| | Mouth of Gallows Run | 154 | (1) | 300 |
| Gallows Run | Fireline Rd | 158 | 110 | 330 |
| | Esler Rd | 184 | 160 | 10 |
| Gallows Run tributary No. 1. | Traugers Crossing Rd | 210 | 20 | 90 |
| | Church Hill Rd | 280 | 130 | 80 |
| Gallows Run | T-478 | 400 | 10 | 10 |

[1] Outside corporate limit.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 2, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19812 Filed 7-15-77;8:45 am]

[Docket No. FI-2392]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Town of Conconully, Okanogan County Washington

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in Town of Conconully.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Conconully.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Conconully. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Conconully are available for review at the County Auditor's Office, Okanogan, Washington.

The final 100-year flood elevations for selected locations are:





| Source of flooding | Location | Elevation in feet above mean sea level | Width from shoreline or bank of stream (facing downstream) to 100-year flood boundary (feet) | |
|---|---|---|---|---|
| | | | Left | Right |
| North Fork Salmon Creek | Downstream corporate limit | 2,290 | 100 | 1,560 |
| | Broadway St | 2,292 | [1] 565 | 380 |
| | La-una St. (extended) | 2,294 | [1] 770 | 340 |
| | Silver St | 2,302 | [1] 875 | 360 |
| | Lake St | 2,308 | 650 | 400 |
| | Main St | 2,317 | 5 | 5 |
| | Upstream corporate limits | 2,336 | 110 | [1] 30 |

[1] Width in feet from bank of stream to corporate limits (100-yr flood boundary is outside corporate limits).

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 2, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19805 Filed 7-15-77;8:45 am]

[Docket No. FI-2397]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Township of Horsham, Montgomery County, Pennsylvania

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Township of Horsham.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Township of Horsham.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Township of Horsham.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Horsham are available for review at the Township Building on the bulletin board, 1025 Horsham Road, Horsham, Pennsylvania.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level | Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet) | |
|---|---|---|---|---|
| | | | Left | Right |
| Park Creek | Lower State Rd | 311 | 220 | 240 |
| | Cedar Hill Rd | 289 | 100 | 80 |
| | McKean Rd. (extended) | 276 | 130 | 50 |
| | Street (extended) 900 ft downstream of McKean Rd | 270 | 200 | 40 |
| | Street (extended) 750 ft downstream of last street | 264 | 75 | 90 |
| | Limekiln Pike | 263 | 460 | 40 |
| | Bridge (750 ft downstream of Oak Ter. tributary | 248 | 600 | 80 |
| | Horsham Rd | 245 | 80 | 400 |
| | Davis Grove Rd | 240 | 130 | 280 |
| | Private drive 2,570 ft upstream of Keith Valley Rd | 236 | 170 | 200 |
| | Keith Valley Rd | 232 | 150 | 240 |
| | Downstream corporate limits | 226 | 220 | 180 |



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| Source of flooding | Location | Elevation in feet above mean sea level | Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet) | |
|---|---|---|---|---|
| | | | Left | Right |
| Oak Terrace tributary | Upstream corporate limits | 274 | 15 | 40 |
| | Bridge 1,970 ft downstream of corporate limits. | 269 | 10 | 340 |
| | Creamery Rd. (extended) | 250 | 160 | 90 |
| | Limekiln Rd. | 249 | 240 | 400 |
| Davis Grove tributary | Horsham Rd. | 261 | 100 | 180 |
| | Babylon Rd. | 260 | 80 | 160 |
| | Davis Grove Rd. | 254 | 100 | 50 |
| | Keith Valley Rd. | 238 | 280 | 360 |
| Pennypack Creek | Witmer Rd. | 323 | 130 | 150 |
| | do | 321 | 160 | 110 |
| | do | 313 | 90 | 260 |
| | Branch of Pennypack confluence | 286 | 70 | 290 |
| | Sawmill Lane (extended) | 304 | 100 | 60 |
| | Avenue B (extended) | 275 | 100 | 40 |
| | Sawmill Lane | 291 | 50 | 80 |
| | Dresher Rd. | 289 | 290 | 50 |
| | Easton Rd. | 256 | 110 | 70 |
| | Cottage Ave. | 230 | 90 | 100 |
| | Downstream corporate limits (Blair Mill Rd.). | 224 | 280 | 170 |
| Branch of Pennypack Creek. | Dam (downstream) | 310 | 60 | 90 |
| | Witmer Rd. | 303 | 80 | 70 |
| Blair Mill Run | Upstream corporate limits (county line road). | 250 | 5 | 60 |
| | Marilyn Dr. (extended) | 248 | 140 | 30 |
| | Foot bridge (elementary school) | 236 | 160 | 30 |
| | Downstream corporate limits (Blair Mill Rd.). | 232 | 120 | 70 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 20, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19797 Filed 7-15-77;8:45 am]

[Docket No. FI-2412]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for City of Van Buren, Crawford County, Arkansas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Van Buren.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Van Buren.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Van Buren.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Van Buren are available for review at the Mayor's office, 1000 Main Street, Van Buren, Arkansas.

The final 100-year flood elevations for selected locations are:





| Source of flooding | Location | Elevation in feet above mean sea level | Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet) | |
|---|---|---|---|---|
| | | | Right | Left |
| Arkansas River | Upstream corporate limits | 413 | 80 | (1) |
| | Broadway | 410 | 260 | (1) |
| | Scott | 409 | 500 | (1) |
| | Route 540 | 409 | 1,000 | (1) |
| | Field Rd. | 408 | 850 | (1) |
| | Downstream corporate limits | 408 | 1,170 | (1) |
| Lee Creek | Upstream corporate limits | 412 | 1,100 | (1) |
| | County Rd. | 412 | 650 | (1) |
| | Route 40 | 412 | 40 | (1) |
| | Lover's Lane | 412 | 10 | 2,000 |
| | Missouri Pacific R.R. | 412 | 60 | 1,750 |
| Town Branch | North 24th | 440 | 620 | 760 |
| | Alma | 432 | 100 | 140 |
| | North 20th | 420 | 70 | 200 |
| | Chestnut | 415 | 130 | 230 |
| | South 13th | 412 | 100 | 540 |
| | Scott | 406 | 200 | 300 |
| | Field Rd | 403 | 240 | 1,300 |
| | Corporate limits | 398 | 2,750 | 540 |
| Flat Rock Creek | Rudy | 441 | (1) | 760 |
| | Downstream edge of Route 540 | 416 | 50 | 1,000 |
| | Upstream edge of Route 102 | 412 | 100 | 540 |
| | Downstream corporate limits | 405 | (1) | 1,450 |

(1) Outside corporate limits

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 20, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19809 Filed 7-15-77;8:45 am]

[Docket No. FI-2474]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for City of West Point, Hardin County, Kentucky

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of West Point.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for West Point.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for West Point.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for City of West Point are available for review at City Hall, 508 Elm Street, West Point, Kentucky.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Ohio River | 2d St. | 443 |
| | 6th St. | 443 |
| | 10th St. | 443 |
| | Shirley St. | 443 |
| | 15th St. | 443 |
| | Eclona St. | 443 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; (42 U.S.C. 4011–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by (39 F.R. 2787, January 24 1974).)

Issued: May 9, 1977.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19811 Filed 7-15-77;8:45 am]

[Docket No. FI-2485]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Township of Plymouth, Montgomery County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in Township of Plymouth. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the flood insurance rate map for Plymouth.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Plymouth. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Plymouth are available for review at lobby bulletin board, 700 Belvoir Road, Plymouth, Pennsylvania.



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The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Plymouth Creek | Gallagher Rd.: | |
| | Downstream | 108 |
| | Upstream | 109 |
| | Reading RR.: | |
| | Downstream | 110 |
| | Upstream | 112 |
| | Kaiser Refactory: | |
| | Downstream | 112 |
| | Upstream | 114 |
| | Kaiser Refactory warehouse: | |
| | Downstream | 114 |
| | Upstream | 116 |
| | Box culvert: | |
| | Downstream | 117 |
| | Upstream | 118 |
| | Old bridge piers: | |
| | Downstream | 118 |
| | Upstream | 119 |
| | Germantown Pike | 126 |
| | Victory Inc.: | |
| | Downstream | 128 |
| | Upstream | 129 |
| | Penn Central RR.: | |
| | Downstream | 129 |
| | Upstream | 133 |
| | Plymouth Rd. | 133 |
| | Waterfall No. 1 | 135 |
| Schuylkill River | Corporate limits | 70 |
| | Northbound I-476 | 70 |
| | Reading RR. | 70 |
| | Penn Central RR. | 72 |
| | Corporate limits | 72 |
| Plymouth Creek | Downstream corporate limits. | 75 |
| | Reading RR. downstream. | 80 |
| | Reading RR. upstream. | 82 |
| | Reading RR. downstream. | 83 |
| | Reading RR. upstream. | 86 |
| | Alanwood Steel Co. | 86 |
| | Reading RR. | 86 |
| | Brook Rd. | 87 |
| | Reading RR. downstream. | 87 |
| | Reading RR. upstream. | 89 |
| | Reading RR. downstream. | 90 |
| | Reading RR. upstream. | 91 |
| | Dam No. 1 | 96 |
| | Reading RR. (1st one upstream from dam No. 1): | |
| | Downstream | 98 |
| | Upstream | 99 |
| | Reading RR.: | |
| | Downstream | 102 |
| | Upstream | 104 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).)

Issued: May 4, 1977.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19801 Filed 7-15-77;8:45 am]

[Docket No. FI-2512]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Village of Naples, Ontario County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in Village of Naples. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the flood insurance rate map for Naples.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–421–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Village of Naples. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Naples are available for review at bulletin board, Village Office, 106 South Main Street, Naples, New York.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Naples Creek | Downstream corporate limits. | 735.0 |
| | Toby St. (extended) | 733.0 |
| | Ontario St. | 750.0 |
| | Monier St. (extended) | 757.0 |
| | Mechanic St. (extended). | 765.0 |
| | Sprague St. (extended). | 777.0 |
| | Weld St. (extended) | 786.0 |
| | Confluence with Grimes Creek. | 797.0 |
| Grimes Creek | Confluence with Naples Creek. | 797.0 |
| | Main St. | 807.0 |
| | James St. | 812.0 |
| | 1,300 ft upstream of Main St. | 834.0 |
| | Upstream corporate limits. | 861.0 |
| Eelpot Creek | Confluence with Tannery Creek. | 797.0 |
| | South Main St. | 812.0 |
| | Corporate limits | 833.5 |
| Tannery Creek | Confluence with Eelpot Creek. | 797.0 |
| | Southern corporate limits. | |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).)

Issued: May 2, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19788 Filed 7-15-77;8:45 am]

[Docket No. FI-2560]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for City of Leawood, Johnson County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Leawood. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the flood insurance rate map for the City of Leawood.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Leawood. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917):

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Leawood are available for review at the City Hall, 9617 Lee Boulevard, Leawood, Kansas.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Dyke Branch | State line | 865 |
| | Lee Blvd. | 882 |
| | 86th St. | 889 |
| James Branch | 104th St. | 832 |
| | Sagamore Rd. | 837 |
| | 103d St. | 840 |
| | Lee Blvd. | 855 |
| | Belinder Rd. | 873 |
| | Ensley Lane | 878 |
| Indian Creek | State line road | 831 |
| | Interstate 435 | 832 |
| | Tributary No. 1 | 835 |
| | Tributary No. 2 | 838 |
| Tomahawk Creek | Indian Creek confluence. | 841 |
| | 119th St. | 862 |
| | Roe Ave. | 869 |
| | Nall Ave | 876 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).)

Issued: May 3, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19793 Filed 7-15-77;8:45 am]

[Docket No. FI-2572]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Village of Put-In-Bay, Ottawa County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Village of Put-In-Bay.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Village of Put-In-Bay.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Village of Put-In-Bay. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Put-In-Bay are available for review at the Village Hall Meeting Room, Catawba Avenue, Put-In-Bay, Ohio.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Lake Erie | Intersection of Victory Ave. and Bay View Ave. | 576 |
| | Intersection of Catawba Ave. and Bay View Ave. | 578 |
| | Intersection of Hartford Ave. and Bay View Ave. | 578 |
| | Entire Chapman Ave. | 578 |
| | North end of Park Dr. | 578 |
| | Entire Cincinnati Ave. | 579 |
| | South end of Bay St. | 579 |
| | South end of Ibis St. | 579 |
| | South end of Shore Villa. | 578 |
| | South end of Chapman Ave. | 578 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 2, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19798 Filed 7-15-77;8:45 am]





[Docket No. FI-2578]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for City of Port Clinton, Ottawa County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Port Clinton. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Port Clinton.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Port Clinton.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing Urban Devel- (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Port Clinton are available for review at the Council Chamber, City Hall, P.O. Box I, Port Clinton, Ohio.

The final 100-year flood elevations for selected locations are:



V 42 1 137 JUL 18 77 UMI

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Lake Erie | I. Intersection of Perry St. and: | |
| | a. Linden St. | 578 |
| | b. Walnut St. | 578 |
| | c. Cedar St. | 578 |
| | d. Ash St. | 578 |
| | e. Lincoln Ave. | 578 |
| | f. Fulton St. | 578 |
| | g. Jafferson St. | 578 |
| | h. Madison St. | 578 |
| | I. Harrison Ave. | 578 |
| | II. Intersection of Second St. and: | |
| | a. Madison St. | 578 |
| | b. Monroe St. | 578 |
| | c. Jackson St. | 578 |
| | III. Lake Shore Dr. at western corporate limits. | 578 |
| | IV. Brooklyn St. (entire length). | 578 |
| | V. Lake Erie shoreline at western corporate limits. | 581 |
| | VI. Lake Erie shoreline at eastern corporate limits. | 579 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4011–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 2, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19791 Filed 7-15-77;8:45 am]

[Docket No. FI-2586]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Township of Upper Merion, Montgomery County, Pennsylvania

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in Upper Merion.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the flood insurance rate map for Township of Upper Merion.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Upper Merion.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Upper Merion are available for review at Bulletin Board, 175 W. Valley Forge Road, Upper Merion, Pennsylvania.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Schuylkill River | South corporate limits. | 71 |
| | Reading R.R. bridge (Con Rail). | 72 |
| | Pennsylvania Turnpike 276. | 74 |
| | Reading R.R. bridge (Con Rail). | 79 |
| | Route 363 | 84 |
| | West corporate limits. | 85 |
| Trout Creek | Reading R.R. (Con Rail). | 84 |
| | Valley Forge Rd. | 85 |
| | Reading R.R. (Con Rail). | 89 |
| | Moore Rd. | 95 |
| | Route 363 | 99 |
| | Valley Forge State Park boundary. | 105 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4011–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 4, 1977.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19802 Filed 7-15-77;8:45 am]

[Docket No. FI-2609]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Borough of Pottstown, Montgomery County, Pennsylvania

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Borough of Pottstown.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Borough of Pottstown.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Borough of Pottstown.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Pottstown are available for review at the Borough Manager's Office, Borough Hall, King and Penn Street, Pottstown, Pennsylvania.

The final 100-year flood elevations for selected locations are:





| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Schuylkill River | East corporate limits. | 140 |
| | Keim St. | 141 |
| | Hanover St. | 144 |
| | Pennsylvania Route 100 Bridge. | 145 |
| | West corporate limits (U.S. 422). | 148 |
| Manatawny Creek | Penn Central RR. | 145 |
| | High St. | 147 |
| | King St. | 147 |
| | Pennsylvania Route 100. | 147 |
| | North corporate limits. | 153 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4011–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 20, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19813 Filed 7-15-77;8:45 am]

[Docket No. FI-2610]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Township of New Britain, Bucks County, Pennsylvania

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Township of New Britain.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Township of New Britain.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Township of New Britain.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of New Britain are available for review at the Township Building, 615 Limekiln Pike, New Britain Township, Chalfont.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Neshaminy Creek | Northern New Britain Township—Chalfont Borough corporate limits. | 247 |
| | West New Britain Township—Chalfont Borough corporate limits. | 243 |
| | East New Britain Township—Chalfont Borough corporate limits. | 243 |
| | Bristol Rd. | 237 |
| | Upstream New Britain Township—New Britain Borough corporate limits. | 233 |
| | Upper State Road | 229 |
| West Branch Neshaminy Creek. | County Line Road | 272 |
| | School House Road | 267 |
| | Chalfont Borough—New Britain Township corporate limits. | 253 |
| Tributary to west | Cornwall Dr. | 337 |
| | Hampshire Dr. | 307 |
| | U.S. Route 202 | 296 |
| | Skyline Dr. | 283 |
| | New Britain Township—Chalfont Borough corporate limits. | 264 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 2, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19796 Filed 7-15-77;8:45 am]

[Docket No. FI-2618]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Township of East Vincent, Chester County, Pennsylvania

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in East Vincent.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the flood insurance rate map for Township of East Vincent.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for East Vincent.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for East Vincent are available for review at Township Building, 55 Ridge Road, Spring City, Pennsylvania.

The final 100-year flood elevations for selected locations are:



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| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| French Creek | Pughtown Rd. | 191 |
| | Hoffecker Rd. | 177 |
| | Hickory Grove Rd. (extended). | 160 |
| | West 7 Stars Rd. | 148 |
| Schuylkill River | Northwestern corporate limits | 127 |
| | Locust Grove Rd (extended). | 126 |
| | Dunlap Rd (extended). | 118 |
| | Northeast corporate limits | 118 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011–4128) and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 4, 1977.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.77 19787 Filed 7–15–77;8:45 am]

[Docket No. FI 2620]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Township of Cumru, Berks County, Pennsylvania

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in Township of Cumru. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for Township of Cumru.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Township of Cumru.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Cumru are available for review at Township Building, Welsh Road, Mohnton, Pennsylvania.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Schuylkill River | Upstream corporate limits. | 204 |
| | U.S. Route 422 bridge. | 202 |
| | ConRail bridge | 201 |
| | do. | 200 |
| | Downstream end of Fritz's Island. | 195 |
| | LR 147 bridge | 190 |
| | ConRail bridge | 189 |
| | do. | 188 |
| | U.S. Route 422 bridge. | 187 |
| | do. | 180 |
| | Downstream corporate limits. | 178 |
| Angelica Creek | Pennsylvania Route 724. | 286 |
| | High Blvd. | 270 |
| | Downstream limit of flooding in the township proper. | 238 |
| | Angelica Lake | 219 |
| Wyomissing Creek | Vermont Rd. | 550 |
| | Downstream of dam | 533 |
| | Upstream small bridge. | 523 |
| | Downstream small bridge. | 518 |
| | Wyomissing Rd. | 491 |
| | West Wyomissing Ave. | 444 |
| | Old Wyomissing Ave. | 369 |
| | Wyomissing Ave. | 343 |
| | U.S. Route 222 | 301 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 4, 1977.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.77–19792 Filed 7–15–77;8:45 am]

[Docket No. FI–2625]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Village of Liberty, Sullivan County, New York

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in Liberty, New York. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for Liberty.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Village of Liberty.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Liberty, New York, are available for review at Village Office, 167 North Main Street.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum, 1929 |
|---|---|---|
| Mongaup River | Bridge No. 3 | 1,380.0 |
| | Route 52 bridge | 1,384.0 |
| | Confluence with Lewis St. Brook. | 1,398.0 |
| Lewis St. Brook | Route 17 highway bridge. | 1,399.0 |
| | Mill St. and Neversink Rd. | 1,434.5 |
| | Clements St. bridge | 1,489.4 |
| | Lumber yard culvert. | 1,588.0 |
| Darbee Brook | Oberfest St. Bridge | 1,455.2 |
| | Church St. Bridge | 1,465.2 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 2, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77–19789 Filed 7–15–77;8:45 am]

[Docket No. FI–2645]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Borough of Conshohocken, Montgomery County, Pennsylvania

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Borough of Conshohocken. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Borough of Conshohocken.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for The Borough of Conshohocken.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Conshohocken are available for review at the Borough Hall, 8th Avenue and Fayette Street, Conshohocken.





The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Schuylkill River | East corporate limits | 64 |
| | Fayette St. | 67 |
| | Plymouth Dam | 69 |
| | West corporate limits | 70 |
| Plymouth Creek | Reading R.R. | 68 |
| | Elm St. | 69 |
| | West corporate limits | 75 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 2, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77–19806 Filed 7–15–77;8:45 am]

[Docket No. FI–2648]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Borough of Scottdale, Westmoreland County, Pennsylvania

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Borough of Scottdale. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Borough of Scottdale.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Borough of Scottdale.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Scottdale are available for review at the Borough Hall, 10 Mt. Pleasant Road, Scottdale.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Jacobs Creek | Upstream corporate limits (upper reach). | 1,050 |
| | Downstream corporate limits (upper reach). | 1,050 |
| | U.S. Highway 119 | 1,043 |
| | Downstream corporate limits (lower reach). | 1,041 |
| Stauffer Run | Upstream corporate limits Stauffer Ave./ Orchard Ave. | 1,052 1,052 |
| | Scottdale Ave. | 1,051 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 2, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77–19786 Filed 7–15–77;8:45 am]

[Docket No. FI–2650]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Village of Bemus Point, Chautauqua County, New York

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in Bemus Point. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for Bemus Point.



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FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determination of flood elevations for Bemus Point.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Bemus Point are available for review at Bulletin Board, 13 Alburtus Avenue, Bemus Point, New York.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Chautauqua Lake | Lincoln Rd. | 1,310.5 |
| | Springbrook Ave. | 1,310.5 |
| | Liberty St. (extended). | 1,310.5 |
| | Grove Ave. (extended). | 1,310.5 |
| | Bemus St. (extended). | 1,310.5 |
| | North corporate limits. | 1,310.5 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 9, 1977.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19810 Filed 7-15-77;8:45 am]

[Docket No. FI-2664]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Village of Briarcliff Manor, Westchester County, New York

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in Briarcliff Manor.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for Briarcliff Manor.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for Briarcliff Manor.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Briarcliff Manor are available for review at Villege Office, 1111 Pleasantville Road, Briarcliff Road, New York.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Pocantico River | South State Rd. | 231 |
| | State Route 9A/100 | 233 |
| | Pleasantville Rd. (upstream of bridge). | 238 |
| | State Route 9A (exit ramp). | 241 |
| | Upstream corporate limits. | 273 |
| Caney Brook | Pocantico Lake | 230 |
| | Long Hill Rd. (upstream of bridge). | 236 |
| | Sleepy Hollow Rd. | 295 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 9, 1977.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19790 Filed 7-15-77;8:45 am]

[Docket No. FI-2665]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Town of Shelter Island, Suffolk County, New York

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of Shelter Island.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Shelter Island.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Shelter Island.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Shelter Island are available for review at the Supervisors Office, 44 North Ferry Road, Shelter Island, New York.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Shelter Island Sound | Hiberry Lane | 8 |
| | Carousel Lane | 8 |
| | Shore Rd. | 8 |
| | Clinton Ave. | 8 |
| | Meadow Lane | 8 |
| | Route 42 | 8 |
| | Rocky Point Ave. | 8 |
| | Park Pl. | 8 |
| | Peconic Ave. | 8 |
| | West Neck Point | 8 |
| | Ferry Rd. (Route 114). | 8 |
| | Thompson Rd. | 8 |
| | Majors Point | 8 |
| Gardiners Bay | Gardiner Bay Dr | 9 |
| | Ram Island Dr | 9 |
| | Little Ram Island Dr | 9 |
| | Tuthill Dr | 9 |
| | Reel Point | 9 |
| | Smugic Point | 9 |
| | Cobbams Beach | 9 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 2, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc 77-19808 Filed 7-15-77;8:45 am]

[Docket No. FI-2684]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for City of Waco, McClennan County, Texas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in City of Waco.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for Waco.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for WACO.



This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for WACO are available for review at the Bulletin Board in City Hall, WACO.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Brazos River | Upstream corporate limits. | 404 |
| | Steinbeck Bend Rd | 398 |
| | Waco Dr | 391 |
| | U.S. Highway 77 and SH. | 387 |
| | Downstream corporate limits (extended). | 386 |
| Bosque River | FM 1637 | 397 |
| | Bosque River tributary confluence. | 395 |
| | Steinbeck Bend Rd | 394 |
| | Brazos River confluence. | 394 |
| Bosque River tributary | FM 1637 | 152 |
| | Rock Creek Rd | 146 |
| | Confluence with Bosque River. | 146 |
| Middle Bosque River, south tributary. | Upstream corporate limits. | 512 |
| | Lake Waco | 500 |
| South Midway Park Creek | Fish Pond Rd. | 508 |
| | Bosque Blvd. | 506 |
| | State Highway 6 | 548 |
| | Lake Waco | 500 |
| Midway Park Creek | Ridgewood Dr | 519 |
| | Lake Waco | 500 |
| North Midway Park Creek | Ridgewood Dr. | 502 |
| | Dam | 508 |
| | Dam | 508 |
| | Lake Waco | 500 |
| West Landon's Branch | Hillcrest Dr. | 536 |
| | Lake Waco | 500 |
| East Landon's Branch | East Landon's Branch tributary confluence. | 500 |
| | Lake Waco | 500 |
| East Landon's Branch tributary. | Dam | 514 |
| | East Landon's Branch confluence. | 500 |
| Live Oak Creek | Upstream corporate limits. | 510 |
| | FM 185 | 508 |
| | Lake Waco | 500 |
| Yankie Rd. Creek | Upstream corporate limits. | 534 |
| | FM 1637 | 533 |
| | Unnamed road | 500 |
| | Lake Waco | 500 |
| Erath Creek | Unnamed road | 514 |
| | Grayson Lane | 500 |
| | Lake Waco | 500 |
| Valley View Rd. | Unnamed road | 526 |
| | Grayson Lane | 500 |
| | Lake Waco | 500 |
| Diversion ditch | Upstream corporate limits. | 431 |
| | FM 933 | 131 |
| | Downstream corporate limits. | 131 |
| | Brazos River confluence. | 396 |
| Wilson Creek | North 25th St. | 532 |
| | North 21st St. | 514 |
| | North 17th St | 475 |
| | Methodist Home Rd | 437 |
| | Wilson Creek tributary confluence. | 409 |
| | Brazos River | 393 |
| Wilson Creek tributary | Baker Lane | 482 |
| | Methodist Home Rd | 437 |
| Delano Ave. ditch | Evans Rd. | 419 |
| | Gholson Rd. | 414 |
| | Dripping Springs Rd | 402 |
| | Dallas St. | 386 |
| | Brazos River confluence. | 373 |
| Barron's Branch | North 18th St | 486 |
| | North 9th St | 429 |
| | Waco St | 407 |
| | Brazos River confluence. | 396 |
| Railroad ditch | Upstream corporate limits. | 415 |
| | U.S. 77 and 81 | 414 |
| | Downstream corporate limits. | 411 |
| Marlin's Branch | Upstream corporate limits. | 423 |
| | Downstream corporate limits. | 417 |
| | do | 410 |
| | Kendall Rd | 405 |
| | U.S. 77 and 81 | 397 |
| | Brazos River confluence. | 388 |
| Waco Creek | Cobbs Dr. | 606 |
| | Bosque Blvd | 586 |
| | Singer Ave | 550 |
| | Highway 28 | 547 |
| | M.K. and T. RR. and SH. | 540 |
| | Corporate limits | 478 |
| | 34th St. | 455 |
| | Webster Ave. | 420 |
| | 4th St. | 395 |
| | Brazos River confluence | 388 |
| Waco Creek North tributary | Bosque Blvd | 526 |
| | 34th St | 513 |
| | Waco Dr. | 508 |
| | Waco Creek | 440 |
| Waco Creek South tributary | Mobile home park | 568 |
| | St. Louis and Southwestern RR | 555 |
| | Waco Creek Confluence | 532 |
| Primrose Creek | Bagley St. | 470 |
| | Interstate 35 | 436 |
| | U.S. Highway 77 | 408 |
| | South 12th St. | 408 |
| | South 4th St. | 393 |
| | Downstream corporate limits | 390 |
| Cottonwood Creek | M.K. and T. RR | 555 |
| | Bagley St and corporate limits | 509 |
| | U.S. 77 and corporate limits | 447 |
| | 10th St and corporate limits. | 420 |
| North Flat Creek | Upstream corporate limits | 580 |
| | Imperial Dr. | 562 |
| | Downstream corporate limits | 558 |
| | M.K. and T. RR | 558 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011–4128); and Secretary's delegation of authority to Federal Insurance



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Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 2, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19804 Filed 7-15-77;8:45 am]

[Docket No. FI-2695]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for City of Floresville, Wilson County, Texas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Floresville.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Floresville.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line, 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Floresville.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Floresville are available for review at the bulletin board at the city hall, Floresville.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| San Antonio River | Upstream corporate limits | 385 |
| | State Route 536 and corporate limits | 385 |
| Pajarito Creek | Upstream corporate limits | 392 |
| | U.S. Route 181 | 381 |
| | Business loop 181 | 377 |
| | Southern Pacific R.R. and downstream corporate limits | 373 |
| Lott Branch | Upstream corporate limits and private drive | 426 |
| | U.S. Route 181 | 412 |
| | Corporate limits | 407 |
| | Sutherland Springs Rd. and corporate limits | 395 |
| | Peach St | 390 |
| | Trail St | 384 |
| Stream 1 | Southern Pacific R.R. | 386 |
| | Stream 2 confluence | 375 |
| | Downstream corporate limits | 373 |
| Stream 2 | U.S. Route 81 business loop | 386 |

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4011-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: May 20, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19785 Filed 7-15-77;8:45 am]

[Docket No. FI-2723]

## PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

### Final Flood Elevation Determination for Town of Hillsboro Beach, Florida

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of Hillsboro Beach.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Hillsboro Beach.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line, 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Hillsboro.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Hillsboro are available for review at Town Hall, 1210 Hillsboro Beach, Pompano Beach, Florida 33062.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Atlantic Ocean-Intracoastal Waterway | State road A-1-A north from Hillsboro Inlet bridge 6,050 ft. | 8 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 20, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77-19800 Filed 7-15-77;8:45 am]



Federal Register

MONDAY, JULY 18, 1977
PART III

# DEPARTMENT OF COMMERCE

## National Fire Prevention and Control Administration

## REIMBURSEMENT FOR COSTS OF FIREFIGHTING ON FEDERAL PROPERTY

### Establishment of Chapter

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Title 45—Public Welfare

## CHAPTER XX—NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION, DEPARTMENT OF COMMERCE

## PART 2010—REIMBURSEMENT FOR COSTS OF FIREFIGHTING ON FEDERAL PROPERTY

### Establishment of Chapter

AGENCY: National Fire Prevention and Control Administration, Commerce.

ACTION: Final rules.

SUMMARY: Section 11 of the Federal Fire Prevention and Control Act of 1974 (Pub. L. 93-498, 88 Stat. 1535, 15 U.S.C. 2201 et seq., 278 f, 42 U.S.C. 290(a)), "the Act", authorizes reimbursement to fire services for the direct costs and losses they incur in firefighting on property which is under the jurisdiction of the United States. This is a rule issued by the Administrator, National Fire Prevention and Control Administration, which implements section 11 of the Act and governs the submission and determination of claims under section 11 of the Act. Eligible claims arising since enactment of section 11 (October 29, 1974) will be cognizable on the effective date of these regulations.

EFFECTIVE DATE: July 18, 1977.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: Prior to the passage of Section 11 of the Act, the Comptroller General ruled that where Federal property is within the area where a fire service must, by law or contract, provide fire protection free of charge, Federal agencies may not reimburse a fire service for its costs arising out of the fighting of fires on Federal property. 49 Comp. Gen. 284 (1969). Consistent with this general principle, reimbursement was denied for the costs of fire services participating in the firefighting effort at the Federal Military Personnel Records Center near St. Louis, Missouri, in 1973. 53 Comp. Gen. 410 (1973). The legislative history of Section 11 of the Act discloses that the Records Center fire was a significant factor leading to the inclusion of a reimbursement provision in the Federal Fire Prevention and Control Act of 1974 and that this fire presents a typical situation for reimbursement under Section 11 of the Act. The definitions in § 2010.03 and other provisions of these regulations reflect this legislative history.

Interested persons have been afforded an opportunity to participate in the making of these rules by a notice of proposed rulemaking published in the FEDERAL REGISTER on December 7, 1976 (41 FR 53596-53598 [1]). Due consideration has been given to all comments received in response to the notice and during the public comment period, insofar as they relate to matters within the scope of the notice. Except for editorial changes, and except as specifically discussed hereinafter, the regulations and the reasons therefor are the same as those contained in the notice.

Section 2010.02. Comments were received both supportive and critical of the treatment accorded mutual assistance agreements in § 2010.02 of the notice of proposed rulemaking. These final regulations provide that where a mutual aid agreement is in effect between the parties, and the agreement was entered into pursuant to 42 U.S.C. 1856-1856d or is otherwise primarily a reciprocal exchange of services agreement, a claim could be filed in proper situations. However, pursuant to the provisions of § 11 (b), any payments and reimbursement authorized by other than § 11 of the Act (including money and the value of services) rendered under the mutual aid agreement during its term (or if none is determinable, the Federal fiscal year in which the Federal fire occurred) will be deducted from the claim. This new approach reflects concern expressed by some Federal and local commenters that barring § 11 reimbursement under mutual aid agreements would result in the cancellation of the agreements. Such a result would not be in the best interests of fire protection.

Where an agreement or contract is in effect providing that the Federal Government pays for fire protection, reimbursement under § 11 may be precluded by the parties, if it is their intent to do so. The intent to preclude reimbursement under § 11 of the Act and this Part may be expressed or may be implied from the nature or from the provisions of the contract.

Section 2010.03. Subsection (d), defining claimant, remains the same. However, it is to be noted in this connection, that the class of eligible claimants does not include: individual firefighters (including their dependents, survivors, or guardians), civilians in any capacity, except as agents or representatives of eligible claimants, insurers, or any other party. The definition of claimant as contained in § 2010.03(c) is based upon the wording of Section 11 of the Act which provides only that fire services may file claims for costs incurred.

Subsection (e), which defines direct expenses and losses, modifies, in response to comments on the subject, the original subsection (e) to more closely reflect the language of Section 11 of the Act. Direct expenses and losses mean those expenses and losses which would not have been incurred save for the Federal fire out of which the claim arose. To qualify for reimbursement under Section 11 and the regulations, such direct expenses and direct losses must also meet the definition of "additional firefighting costs over and above normal operating expenses". This phrase is defined in § 2010.03(b).

"Additional firefighting costs over and above normal operating costs" is defined in § 2010.03(b) and requires, at the outset, that an actual fire has occurred. Fire is defined at § 2010.03(f). In response to comments, this necessarily excludes expenses associated with false alarms, fire prevention, and medical services (where there is no fire). This is based upon the definition of "firefighting" and "fire prevention" as contained in Section 4(4) of the Act. Such functions are separately set out and both are defined as relating to activities conducted by a fire service. Therefore, the firefighting activity of a fire service is different from the "fire prevention" activities of a fire service. In Section 11, it is "fighting of a fire" which gives rise to a claim. Firefighting and fighting of a fire are read as synonymous, thus requiring a fire and not including fire prevention activities.

Firefighting costs include those which are ordinarily associated solely with the firefighting function of a fire department. The class of such costs would include those incurred during response to the fire scene, search and rescue, ventilation, exposure protection, containment, extinguishment, overhaul, salvage and readying equipment for further service or until it is reported out-of-service or until it is returned to the station, whichever is earlier. Such costs would also include the costs of emergency medical services if incurred by the claimant for citizens and firefighters during the fighting of the fire for which a claim is filed. However, in response to comments on the subject, firefighting costs do not include costs associated with the Section 11 claims process, employee benefits costs, or litigation costs and judgments because these are not firefighting costs, but are rather associated with the administration of a fire service. Such costs are not part of the firefighting activity, but are rather one among many activities, duties, and functions performed by a fire service or a governmental unit.

Costs are eligible for reimbursement only if the other requirements of Section 11 and this Part are met. That is, that the costs are reasonable, and are authorized (or ratified) by an appropriate Federal official (see § 2010.03(b)), are direct, and are over and above normal operating costs. The requirement that the costs be reasonable and authorized or ratified is added to the regulations in response to the comments of state and Federal officials who indicated that without such a limitation in the regulations, some fire services might participate in firefighting where neither called, nor needed. We are advised of this possibility particularly in the case of wild fires. Further, we were urged to adopt such wording because of a temptation to claim for unjustifiable costs. The changes in the regulation requiring that the costs be reasonable and authorized would alleviate both these situations. In this connection, it is to be noted that § 2010.23 sets forth some of the criminal statutes applicable to the submission of claims and the making of statements relative thereto. Of course, evidence of any criminal activity violative of those provisions or any other may be turned over for prosecution by the appropriate state, local and Federal authorities.

[1] These regulations were proposed under Title 15, Part 1810, however, they are being adopted as Title 45, Part 2010.





Under the definitions contained in § 2010.03, ordinary wages, salaries, administrative costs, depreciation, workman's compensation premiums, and expenses associated with the death or injury of firefighters are not reimbursable because the Act requires that costs be firefighting costs and that they be over and above normal operating expenses. This is in response to some comments requesting reimbursement for such ordinary costs and the costs associated with injuries or deaths. Costs for which reimbursement would normally be available include: salaries for specially employed personnel and overtime pay, the costs of supplies expended, the costs of special equipment operation, the difference in value of equipment damaged or destroyed immediately before the event which caused the damage or destruction, and the value of such equipment after such event. At the Administrator's discretion, the measure of loss or damage may be the actual cost of repair.

In response to a comment, the definition of property previously contained at § 2010.03(1) is revised so as to make it clear that the definition includes real property in which the Federal government holds legal fee simple title, and any federally owned improvements and appurtenances thereon and thereto. Any fire on such property, even if occurring to personal property of a non-federal owner, would fall within this definition. This, of course, assumes that the claim is otherwise cognizable.

Several Federal instrumentalities submitted comments that they are not ultimately liable for reimbursement to the Treasury, and hence their property is not covered by Section 11. The variety of Federal instrumentalities and agencies is too broad to set down a uniform rule. However, the issue is whether the particular property is ultimately held by the United States, even though title may be in the name of an agency or instrumentality thereof.

In response to a comment, property is defined in terms of ownership because the Federal government held simply a proprietary interest at the Federal Military Personnel Records Center; no other form of jurisdiction was exercised. Because the legislative history makes clear that the fire at the Federal Military Personnel Records Center is a prototype, the regulations should be designed so as to insure reimbursement in similar situations. There are many varieties of jurisdiction and the Act, on its face, does not further define the term. Ownership by the United States Government is a test better supported by the legislative history and is a concept capable of reasonable administrative determination.

Comments questioned whether Federal personal property involved in a fire if on other than Federal land would give rise to a claim? Such property could include government airplanes, railroad cars, automobiles, freight, or ships. In all such cases, no reimbursement would be forthcoming under Section 11 and these regulations. The restriction to fires on Federal real property is based on the legislative history which indicates reimbursement was intended for fires such as that which occurred at the Federal Military Personnel Records Center—a Federal building on Federal land.

A comment requested whether reimbursement is available for firefighting on interstate highways. If a road is on land owned by the United States, a claim could be honored. We are advised, however, that the United States seldom, if ever, owns the property upon which interstate highways are built.

Several comments addressed the issues presented by Indian lands, and government long-term leases. Only if technical legal title is in the United States can there be reimbursements. Thus, lands which the United States holds legal title to, but which are held in trust for another party (including an Indian organization) are brought under Section 11 and these regulations. By the same token, leasehold interests (which do not place legal title in the United States) are excluded.

Property taken by agencies of the United States Government, e.g., by foreclosure, are subject to Section 11 and these regulations, if the United States holds a fee simple interest.

Section 11 requires that certain payments, including taxes and payments in lieu of taxes, the Federal government has made for the support of fire services on the property in question be subtracted from otherwise eligible costs. Payments are expressly not limited to taxes and payments in lieu of taxes, therefore, no such limitation is read into Section 11 by these regulations. See § 2010.03(k). This responds to comments that only payments in lieu of taxes should be deducted from a claim. Therefore, it is not unreasonable to include all payments, in any form, meeting the definition of Section 11—taxes, payments in lieu of taxes, grants and the value of services or money under mutual aid agreements. Although the original regulation would have expressly included in this group revenue sharing monies, we are advised by the Treasury Department that the funds are not usually for the purpose of providing services for the Federal government, but are rather for the use of the states and local governments for their own purposes. Therefore, language expressly including revenue sharing monies in the term payments is withdrawn from the regulations. However, if these funds are later found to fit within the definition as provided herein, they will, of course, be deducted from an eligible claim.

Payments to be subtracted from a claim will be totalled on a Federal government fiscal year basis, in most cases. In the case of a mutual aid agreement, the amount of payments under that agreement will be determined on the basis of the agreement's term. If no term is discernible, it will be assumed that the term is the Federal government fiscal year in which the fire occurred. The total of all payments during the applicable period, received or receivable, will be deducted.

Section 2010.11. Comments were received suggesting editorial changes to § 2010.11; these changes are incorporated into the present regulations.

A new sentence was added to the first paragraph of § 2010.11, in response to a comment on fires of long duration during which the fire service may desire reimbursement for a portion of the costs it has sustained, even though the firefighting effort continues. Therefore, in such situations, the fire service may submit a claim for the cost it has incurred up to the moment of the claim. Payment of such claims will not occur until the submission of adequate information on Federal payments.

A new subsection (g) was added in response to comments, also discussed earlier, which were addressed to the problems of incendiarism and false or unnecessary claims. Section 2010.03 requires that costs, to be eligible for reimbursement, must be authorized or ratified and necessary. This subsection provides for the submission of evidence of such authority or ratification. The remaining subsections are redesignated pursuant to the addition of subsection (g).

A new subsection (k) was added in response to comments indicating that to require claimants to submit legal evidence of title would be burdensome. Consequently, only the best evidence that claimants can reasonably submit is now required. However, the claimant must submit some evidence.

Subsection (l) was modified to require evidence of any contracts or mutual aid agreements, and subsection (o) was modified so as to exclude revenue sharing payments from the list of payments and to make it clear that the fiscal year referred to in that provision is the fiscal year of the Federal government. Subsection (d) was changed to require the name, and telephone number of the local Federal contact who is familiar with the facts of the fire as well as the name and address of the Federal agency having jurisdiction over the real property involved. It is expected that such information will greatly assist in the administration of the claims program.

Comments were received indicating that claims below a certain amount should not be cognizable. Such a restriction of a right created by Congress is not based on statutory language, and is not supportable in the context of the legislative history. Another comment suggested simplified procedures for small claims. This was rejected because all the information § 2010.11 requires to be submitted is reasonable and is necessary to determine whether the claim is a valid one, and how much should be reimbursed under Section 11 of the Act and this Part.

Another comment indicated the author's view that if a fire requires a certain percentage of fire department resources, ordinary costs should be reimbursed for and payment made because



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of the risk assumed by the community. Both of these comments are rejected because: (a) Section 11 permits reimbursement only for costs over and above normal operating expenses; and (b) only firefighting costs may be reimbursed under Section 11 of the Act.

A comment urged the Administrator to negotiate a table of hours of operation/cost for use in determining the amounts to be reimbursed. The regulations do not address the subject because this kind of administrative detail is best considered in the light of experience.

Comments were received arguing that the Administrator has no authority to set deadlines for the submission of claims. Section 11 of the Act gives him authority to prescribe supporting information for the claims. Likewise, Section 21 of the Act authorizes the Administrator to establish such rules, regulations, and procedures as are necessary to carry out the provisions of the Act. The deadlines are necessary for prompt reimbursement and for carrying out the purposes of Section 11 of the Act.

Section 2010.12. This section is revised so as to simplify the appeals procedures. The Administrator's initial determination on those costs, losses, and expenses which are reimbursable (under § 2010.12(a)(1) and Section 11(b)(2) of the Act) may be agreed to or appealed from in consultation with the Administrator. Within thirty (30) days, a request for reconsideration and supporting evidence for it must be submitted. If not, the claimant's concurrence will be presumed. The figure agreed upon, or that the Administrator finally determines after the reconsideration, is preserved pending submission of full information on Federal payments (if not available at the time of the claim).

There were comments which requested information on how the Department of the Treasury will collect from an owner or occupier agency. The regulations are not addressed to this point because this is a matter for the Treasury Department and the agencies with jurisdiction over the property upon which the fires, giving rise to the claims, occurred.

Comments were received on the mechanism by which NFPCA will require or receive information from the Federal agencies which may ultimately reimburse the Treasury for the amounts the Treasury has awarded the claimants. Section 21(a) of the Act provides that "each department, agency, and instrumentality of the executive branch of the Federal government and each independent regulatory agency of the United States is authorized and directed to furnish to the Administrator, upon written request, on a reimbursable basis or otherwise, such assistance as the Administrator deems necessary to carry out his functions and duties pursuant to this Act . . .". One Federal agency comment pointed out that the Administrator should always have the option to reconsider his decisions upon the discovery of new material evidence. Subsection (f) was added for this purpose.

Section 2010.13. This section provides for the reconsideration of the amount derived after application of the full Section 11(b) formula and the steps in § 2010.12. If the claimant has agreed to the costs, losses, and expenses as determined by the Administrator, this is not appealable except at the discretion of the Administrator and upon the discovery of new material evidence bearing on the claim.

Section 2010.14. This section is revised to exclude the last sentence in the notice of proposed rulemaking which provided that if the Administrator has not determined the amount to be paid within one year, an automatic appeal to the Court of Claims would lie. We are advised that in appropriate cases, the Court of Claims could require a prompt determination. Therefore, there is no reason for such a provision and the resultant possibility for the circumvention of the administrative procedures provided for by Congress in Section 11.

Section 2010.23. In response to comments on the subject, this section was amended to include other sanctions and to make it clear that the statutes cited therein apply to the submission of false, fictitious or fraudulent claims or to such statements and representations.

In consideration of the foregoing, and for the reasons given in the notice of proposed rulemaking published at 41 FR 53596–53598, Title 45 of the Code of Federal Regulations is amended by establishing Chapter XX—National Fire Prevention and Control Administration, Department of Commence and establishing a new part 2010, as follows:

**Subpart A—Purpose, Scope, Definitions**


Sec.
2010.01 Purpose.
2010.02 Scope.
2010.03 Definitions.


**Subpart B—Submission, Determination, Appeals**


2010.11 Submission of claims.
2010.12 Determination of amount authorized for payment.
2010.13 Reconsideration of amount authorized for payment.
2010.14 Adjudication.


**Subpart C—Administration, Penalties**


2010.21 Effective Date
2010.22 Audits.
2010.23 Penalties.


AUTHORITY: Sections 11, and 21(b)(5), Pub. L. 93–498, 88 Stat. 1535 (15 U.S.C. 2210, and 2218(b)(5)).

### Subpart A—Purpose, Scope, Definitions

#### § 2010.01 Purpose.

Section 11 of the Federal Fire Prevention and Control Act of 1974 (Pub. L. 93–498, 88 Stat. 1535, 15 U.S.C. 2201 et seq., 278f, 42 U.S.C. 290(a)), provides that "each fire service that engages in the fighting of a fire on property which is under the jurisdiction of the United States may file a claim with the Administrator [NFPCA] for the amount of direct expenses and direct losses incurred by such fire service as a result of fighting such fire." This Part, 45 CFR Part 2010, implements Section 11 of the Act and governs the submission, determination, and appeal of claims under section 11.

#### § 2010.02 Scope.

First services, in any State, may file claims for reimbursement under section 11 and this part for the direct expenses and losses which are additional firefighting costs over and above normal operating costs incurred while fighting a fire on property which is under the jurisdiction of the United States. Section 11 requires that certain payments be deducted from those costs and that the Treasury Department will ordinarily pay the amount resulting from the application of that formula. Where the United States has entered into a contract (which is not a mutual aid agreement, defined in § 2010.-03) for the provision of fire protection, and it is the intent of the parties that reimbursement under section 11 is unavailable, this intent will normally govern. Where a mutual aid agreement is in effect between the claimant and an agency of the United States for the property upon which the fire occurred, reimbursement will be available in otherwise proper situations. However, any payments (including the value of services) rendered under the agreement during the term of the agreement (or the Federal fiscal year in which the fire occurred, if no term is discernible) shall be deducted from the costs claimed, pursuant to § 2010.12.

#### § 2010.03 Definitions.

(a) "The Act" means the Federal Fire Prevention and Control Act of 1974 (Pub. L. 93–498, 88 Stat. 1535, 15 U.S.C. 2201 et seq, 278f, 42 U.S.C. 290(a)).

(b) "Additional firefighting costs over and above normal operating costs" means reasonable and authorized (or ratified by a responsible Federal official) costs ordinarily associated with the function of firefighting as performed by a fire service. Such costs would normally arise out of response of personnel and apparatus to the site of the fire, search and rescue, exposure protection, fire containment, ventilation, salvage, extinguishment, overhaul, and preparation of the equipment for further use. This would also include costs associated with emergency medical services to the extent normally rendered by a fire service in connection with a fire. Not included are administrative expenses, costs of employee benefits, insurance, disability, death, litigation or health care, and the costs associated with processing claims under Section 11 of the Act and this Part.

(c) "Administrator" means the Administrator of the National Fire Prevention and Control Administration, or his designate.

(d) "Claimant" means a fire service as defined in paragraph (g) of this section.

(e) "Direct expenses and losses" means expenses and losses which would not have been incurred had not the fire in question taken place. This includes salaries for specially employed personnel, overtime pay, the cost of supplies expended, and the depreciated value of equipment destroyed or damaged. It does not include such costs as the ordinary wages of firefighters, overhead costs, or depreciation (if based on other than hours of use during fires). Expenses as defined herein, would normally be incurred after the first call or alarm and would normally cease upon the first of the following: return to station, report in-service and ready for further operations, or commence response to another incident.





(f) "Fire" means any instance of destructive or uncontrolled burning, including scorch burns and explosions, of combustible dusts or solids, flammable liquids and gases. The definition does not include the following except where they cause fire or occur as a consequence of fire: lightning or electrical discharge, explosion of steam boilers, hot water tanks, or other pressure vessels, explosions of ammunition or other detonating materials, overheating, mechanical failures, or breakdown of electrical equipment in power transmission facilities, and accidents involving ships, aircraft, or other vehicles. Not included in this definition are any costs associated with false alarms, regardless of cause.

(g) "Fire service" means any organization in any State consisting of personnel, apparatus and equipment which has as its purpose protecting property and maintaining the safety and welfare of the public from the dangers of fire, including a private fire-fighting brigade. The personnel of any such organization may be paid employees or unpaid volunteers or any combination thereof. The location of any such organization and its responsibility for extinguishment and suppression of fires may include, but need not be limited to, a State, city, town, borough, parish, county, fire district, fire protection district, rural fire district, or other special district.

(h) "Mutual Aid Agreement" means any reciprocal agreement whether written or oral between a Federal agency and the claimant fire service, or its parent jurisdiction, for the purpose of providing fire protection for the property of the United States upon which the fire which gave rise to the claim occurred and for other property for which the claimant normally provides fire protection. Such agreement must be primarily one of service rendered for service, or must be entered into under 42 U.S.C. 1856–1856d. Not included are all other agreements and contracts, particularly those in which the intent of the parties is that the United States pays for fire protection.

(i) "NFPCA" means the National Fire Prevention and Control Administration.

(j) "Over and above normal operating expenses" means costs, losses and expenses which are not ordinarily and necessarily associated with the maintenance, administration, and day-to-day operations of a fire service and which would not have been incurred absent the fire out of which the claim arises.

(k) "Payments to the fire service or its parent jurisdiction, including taxes or payments in lieu of taxes, the United States has made for the support of fire services on the property in question" means any Federal monies, or the value of services, including those made available through categorical or block grants, contracts, mutual aid agreements, taxes, and payments in lieu of taxes which the United States has paid to the fire service or its parent jurisdiction for fire protection and firefighting services. Such payments will be determined on the basis of the term of the arrangement, or if no such term is discernible, on the basis of the Federal fiscal year in which the fire occurred.

(l) "Property which is under the jurisdiction of the United States" means real property and Federal improvements theron and appurtenances thereto in which the United States holds legal fee simple title. This excludes Federal leasehold interests. This likewise excludes Federal personal property on land in which the United States does not hold fee simple title.

(m) "State" means any State, of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

### Subpart B—Submission, Determination, Appeal

#### § 2010.11 Submission of claims.

Any fire service in any State which believes it has a claim(s) cognizable under section 11 shall submit its claim(s) in writing within 90 days of the occurrence of the fire(s) for which a claim(s) is made except that if the fire(s) occurred between October 29, 1974 and the effective date of these regulations, the claim(s) for those fires shall be submitted within 6 months of that effective date. If the fire is of such duration that the claimant desires to submit a claim before its conclusion, it may do so, but only for the eligible costs actually incurred to date. Additional claims may be filed for costs later incurred. Claims shall be submitted to the Administrator, National Fire Prevention and Control Administration, Department of Commerce, P.O. Box 19518, Washington, D.C. 20036. Each claim shall include the following information:

(a) Name, address, jurisdiction and nature (volunteer, private, municipal, etc.) of claimant's fire service organization;

(b) Name, title, address and telephone number of individual authorized by the claimant fire service to make this claim in its behalf;

(c) Evidence that the person submitting the claim is authorized to do so on behalf of an eligible claimant;

(d) Name and telephone number of Federal employee familiar with the facts of the event and the name and address of the Federal agency having jurisdiction over the property on which the fire occurred;

(e) Location of fire (within building, land area or complex);

(f) Description of property burned (contents and/or structure, area, or natural resources);

(g) Proof of authority to fight the fire (source of alarm, whether fire service was requested by responsible Federal official or whether such an official accepted the assistance when offered) and time of alarm and proof that the costs were reasonable;

(h) Personnel and equipment committed to fighting of fire (type of equipment and number of items);

(i) Copy of fire report;

(j) Itemized list of direct expenses (e.g., hours of equipment operation, fuel costs, consumables, overtime, pay and wages for any specially hired personnel) and direct losses (e.g., damaged or destroyed equipment, to include purchase cost, estimate of the cost of repairs, statement of depreciated value immediately preceding and subsequent to the damage or destruction and the extent of insurance coverage) actually incurred in fighting the fire. A statement should be included explaining why each such exense or loss is considered by the claimant not to be a normal operating cost or to be in excess of normal operating costs;

(k) Most conclusive evidence claimant can reasonably supply of Federal ownership in fee simple of the property on which the fire occurred;

(l) A copy of any mutual aid agreement(s), or any contract for the provision of fire service, between the claimant and the United States or any of its agencies or instrumentalities;

(m) Such other information or documentation as the Administrator considers relevant to those considerations to be made in determining the amount authorized for payment, as set forth in § 2010.12 of these regulations;

(n) Signed and sworn statement by authorized official of claimant fire service organization that the information and documentation provided in support of the claim are true and accurate to the best of his knowledge and belief; and

(o) Source and amount of any payments received or to be received for the fiscal year in which the fire occurred, including taxes or payments in lieu of taxes and including all monies received or receivable from the United States through any program or agreement including categorical or block grants, and contracts, by the claimant fire service or its parent jurisdiction for the support of fire services on the property on which the fire occurred. If this information is available when the claim is submitted, it should accompany the claim. If it is not, the information should be submitted as soon as practicable, but no later than 15 days after the end of the Federal fiscal year in which the fire occurred.

#### § 2010.12 Determination of amount authorized for payment.

(a) The Administrator shall determine the amount to be paid on a claim (subject to payment by the Department of the Treasury). The amount to be paid is the total of eligible expenses, costs and



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losses under paragraph (a)(1) of this section which exceeds the amount of payments under paragraph (a)(2) of this section. The Administrator shall establish the reimbursable amount by determining:

(1) The extent to which the fire service incurred additional firefighting costs, over and above its normal operating costs, in connection with the fire which is the subject of the claim, i.e., the "amount of costs"; and

(2) What payments, if any, including taxes or payments in lieu of taxes, the fire service or its parent jurisdiction has received from the United States for the support of fire services on the property on which the fire occurred. The reimbursable amount is the amount, if any, by which the amount of costs, determined under paragraph (a)(1) of this section exceeds the amount of payments determined under paragraph (a)(2) of this section. Where more than one claim is filed the aggregate reimbursable amount is the amount by which the total amount of costs, determined under subparagraph (1) of this paragraph exceed the amount of federal payments [in the case of a mutual aid agreement—its term or if none is determinable, the Federal Fiscal year] determined under paragraph (a)(2) of this section.

(b) The Administrator will first determine the costs as contemplated in paragraph (a)(1) of this section. He will then notify the claimant as to that amount. The claimant must indicate within 30 days its acceptance or rejection of that amount.

(1) If the determination is accepted by the claimant, this will be the final and conclusive determination of the amount of costs by the claimant in conjunction with the fire for which the claim is submitted.

(2) If the claimant rejects this amount, it must notify the Administrator, within 30 days, of its reasons for its rejection. Upon receipt of notification of rejection, the Administrator shall reconsider his determination and notify the claimant of the results of the reconsideration. The amount determined on reconsideration will constitute the costs to be used by the Administrator in determining the reimbursable amount.

(c) Upon receipt of documentation from the claimant on the amount of payments the Federal government has made for the support of fire services on the property in question, the Administrator will, following such verification or investigation as the Administrator may deem appropriate, calculate the full amount to be reimbursed under the Section 11 formula as set forth in § 2010.12(a). This calculation of the reimbursable amount is based upon the costs determined pursuant to § 2010.12(b) and the documentation of Federal payments that the claimant submitted.

(d) The Administrator's determination of the reimbursable amount will be sent to the Secretary of the Treasury. The Secretary of the Treasury shall, upon receipt of the claim and determination made under § 2010.12 (a), (b) and (c), determine the amount authorized for payment, which shall be the amount actually available for payment from any monies in the Treasury not otherwise appropriated but subject to reimbursement (from any appropriations which may be available or which may be made available for the purpose) by the Federal department or agency under whose jurisdiction the fire occurred. This shall be a sum no greater, although it may be less, than the reimbursable amount determined by the Administrator, NFPCA, with respect to the claim under § 2010.12 (a), (b) and (c).

(e) Upon receipt of written notification from the claimant of its intention to accept the amount authorized as full settlement of the claim, accompanied by a properly executed document of release, the Administrator will forward the claim, a copy of the Administrator's determination and the claimant's document of release to the Secretary of the Treasury for payment of the claim in the amount authorized.

(f) Subject to the discovery of additional material evidence, the Administrator may reconsider any determination in this section, whether or not made as his final determination.

**§ 2010.13 Reconsideration of amount authorized for payment.**

(a) If the claimant elects to protest the amount authorized for payment, after the applicable procedures of § 2010.12 have been followed, it must within 30 days of receipt of notification of the amount authorized notify the Administrator in writing of its objections and set forth the reasons why the Administrator should reconsider his determination. The Administrator will upon notice of protest and receipt of additional evidence reconsider his determination of the amount of Federal payments under § 2010.12(a)(2) but not his determination of the amount of loss under § 2010.12(a)(1). He shall cause a reconsideration by the Secretary of the Treasury of the amount actually available and authorized for payment by the Treasury. The Administrator, upon receipt of the Secretary of the Treasury's reconsidered determination, will notify the claimant in writing of the amount authorized, upon reconsideration, for payment in full settlement of the claim.

(b) If the claimant elects to accept the amount authorized, upon reconsideration, for payment in full settlement of its claims, it must within 30 days (or a longer period of time acceptable to the Administrator) of its receipt of that determination notify the Administrator of its acceptance in writing accompanied by a properly executed document of release. Upon receipt of such notice and document of release, the Administrator will forward the claim, a copy of the Administrator's final determination, and the claimant's document of release to the Secretary of the Treasury for payment of the claim in the amount of final authorization.

**§ 2010.14 Adjudication.**

If the claimant, after written notice by the Administrator of the amount authorized for payment in full settlement of the claim and after all applicable procedures of § 2010.12 and § 2010.13 have been followed elects to dispute the amount authorized, it may then initiate action in the Court of Claims of the United States, which shall have jurisdiction to adjudicate the claim and enter judgment in accordance with Section 11 (d) of the Act.

**Subpart C—Administration, Penalties**

**§ 2010.21 Effective date.**

This part becomes effective upon publication in the FEDERAL REGISTER. Claims must be for expenses, costs and losses to fire service organizations occurring after October 29, 1974, the date of enactment of Section 11 of the Act.

**§ 2010.22 Audits.**

At the discretion of the Administrator, all claims submitted under Section 11 of the Act and all records of the claimant will be subject to audit by the Administrator or his designee. In addition, the Comptroller General of the United States or his designee shall have access to all books and records of all claimants making claims under Section 11.

**§ 2010.23 Penalties.**

Claimant's officials or others who provide information or documentation under this Part are subject to, among other laws, the criminal penalties of Title 18 of the United States Code, Sections 287 and 1001, which punish the submission of false, fictitious or fraudulent claims and the making of false, fictitious or fraudulent statements and which provide for a fine of not more than $10,000 or imprisonment for not more than five years, or both. For such a violation, the person is likewise subject to the civil penalties of 31 U.S.C. 231. Section 231 provides that the person liable "shall forfeit and pay to the United States the sum of $2,000, and, in addition, double the amount of damages which the United States may have sustained by the reason of the doing or committing such act, together with the costs of suit; and such forfeiture and damages shall be sued for in the same suit."

Dated: July 7, 1977.

HOWARD D. TIPTON,
*Administrator, National Fire Prevention, and Control Administration.*

[FR Doc.77-19988 Filed 7-15-77;8:45 am]



federal register

MONDAY, JULY 18, 1977

PART IV




# DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

■

# AIRWORTHINESS REVIEW PROGRAM

## Amdt. No. 5: Equipment and Systems Amendments

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Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 14625; Amendment Nos. 23-20; 25-41; 27-13; 29-14; 91-141; and 121-135]

# AIRWORTHINESS REVIEW PROGRAM

## Amendment No. 5: Equipment and Systems Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to update and improve the airworthiness standards applicable to aircraft equipment and systems and to make related changes in the operating rules. These amendments are part of the Airworthiness Review Program.

DATES: Effective date September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Adolfo O. Astorga, Airworthiness Review Branch (AFS-910), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-755-8714.

SUPPLEMENTARY INFORMATION: These amendments are the fifth in a series of amendments to be issued as part of the Airworthiness Review Program. The following series of amendments have previously been issued as part of this Airworthiness Review Program:

| Title | FR citation |
|---|---|
| Form number and clarifying revisions | (40 FR 2576; January 14, 1975) |
| Rotorcraft anti-collision lights standards | (41 FR 6200; February 5, 1976) |
| Miscellaneous amendments | (41 FR 55454; December 20, 1976) |
| Powerplant amendments | (42 FR 15034; March 17, 1977) |

These amendments are based on two Notices of Proposed Rule Making—Notice 75-10 published in the FEDERAL REGISTER on March 7, 1975 (40 FR 10802); and Notice 75-23 published in the FEDERAL REGISTER on May 27, 1975 (40 FR 23048). The amendments based on Notice 75-10 were deferred in the series of amendments titled "Miscellaneous Amendments" so that they could be considered in conjunction with the final disposition of certain proposals in Notice 75-23. The discussions of the comments received for the deferred proposals are included under the heading of the related Notice 75-23 proposals.

Interested persons have been afforded an opportunity to participate in the making of these amendments and due consideration has been given to all matter presented. A number of substantive changes and changes of an editorial and clarifying nature have been made to the proposed rules based upon relevant comments received and upon further review within the FAA. Except for minor editorial and clarifying changes and the substantive changes discussed below, these amendments and the reasons for their adoption are the same as those contained in Notices 75-10 and 75-23.

Two of the proposals of the original Notice concerning rotorcraft anticollision lights (§§ 27.1401 and 29.1401) have been implemented by separate rule-making action, Amendments 27-10 and 29-11, effective February 5, 1976, that were published in the FEDERAL REGISTER on February 5, 1976 (41 FR 5290). In addition, several proposals which were contained in Notice 75-23 are not being dealt with here but will be considered in conjunction with the proposals contained in Airworthiness Review Program, Notice No. 7: Airframe Proposals (Notice 75-26; 40 FR 24802; June 10, 1975).

### DISCUSSION OF COMMENTS

The following discussion is keyed to the like-numbered proposals contained in Notice 75-23.

*Proposal 5-1.* One commentator objected to the marking (or tagging) requirement in proposed § 23.1301(a)(2), which would require that the marking or tag include identification, function, and operating limitations, on the ground that it would necessitate a multitude of tags on small items of equipment which could interfere with operation of the aircraft or otherwise constitute a hazard. Another commentator contended that the service record does not justify a need for the requirement. Another commentator recommended that this requirement be expanded to require that the marking or tag include information to show that the equipment had been produced under an approved FAA quality control system, or that it had been approved by the FAA for installation on a particular type of aircraft. After further review, the FAA agrees with the first commentator and believes that the proposed marking or tagging requirement should be withdrawn. Accordingly, the requirement in proposed § 23.1301(a)(2) is withdrawn. However, current § 23.1301(a)(2) is amended by deleting the words "if appropriate" for consistency with §§ 25.1301, 27.1301, and 29.1301.

One commentator objected to the requirement in proposed § 23.1301(b) on the ground that it would be extremely difficult, or impossible, in the design of an item of equipment, or of its installation, to provide absolute assurance that it is incapable of interfering with the operation of interfacing equipment under all possible failure conditions. Another commentator stated that the wording of the proposal could be interpreted to mean that fully redundant equipment systems must be installed. The FAA agrees that proposed § 23.1301(b) would be unnecessarily restrictive, and it is withdrawn. In view of the withdrawal of proposed § 23.1301(b), the paragraphs in § 23.1301, as adopted, have been redesignated.

The proposed revision of the lead-in of current § 23.1301(a) was intended to expand the applicability of that paragraph to cover all optional equipment, consistent with corresponding language in current §§ 25.1301, 27.1301, and 29.1301. One commentator objected because it would require markings on additional items of optional equipment. The FAA believes that the marking of all equipment items contributes significantly to safety by helping to prevent their improper installation and operation, and the lead-in of § 23.1301(a) is revised as proposed.

Proposals 5-21, 5-39, and 5-53 to revise §§ 25.1301(b), 27.1301, and 29.1301, respectively, are withdrawn for the reasons stated herein with respect to proposed § 23.1301.

*Proposal 5-2.* The deletion of current § 23.1309(a) was proposed because it would have been superfluous if proposed § 25.1301(b) (see Proposal 5-1) had been adopted. Proposed § 23.1301(b) is withdrawn. Consequently, the proposed deletion of current § 23.1309(a) is also withdrawn.

*Proposal 5-3.* Several commentators questioned proposed §§ 23.1321(a), 25.1321(a), 27.1321(a) and 29.1321(a) (Proposals 5-3, 5-23, 5-42, and 5-56, respectively), concerning the visibility of instruments with a visual indicator for use in flight by any pilot. It was stated that the proposed standard did not adequately provide for instruments that were monitored infrequently during flight as contrasted with instruments more critical to flight safety. With respect to rotorcraft, one commentator also objected on the ground that the space available for mounting instruments was extremely limited. The FAA agrees that priority of instruments and instrument location needs to be more definitive. Therefore, proposed §§ 23.1321(a), 25.1321(a), 27.1621(a) and 29.1321(a) are withdrawn.

Several commentators objected to the phrase "under all cockpit lighting conditions" in proposed §§ 23.1321(e), 25.1321(e), 27.1321(d), and 29.1321(g), contending that it includes everything from lightning to total darkness resulting from complete electrical failure at night. In light of these comments and after further FAA review, proposed §§ 23.1321(e), 25.1321(e), 27.1321(d), and 29.1321(g) are revised to require consideration of all probable cockpit lighting conditions with respect to the visibility of malfunction indicators.

For another comment related to proposed § 23.1321(e), see Proposal 5-23.

*Proposal 5-4.* One commentator objected to proposed § 23.1323 on the ground that the resulting economic burden to aircraft owners is unwarranted. Another commentator objected to proposed § 27.1323(a) contending that it was unnecessary to calibrate the airspeed indicating instrument. The FAA disagrees with these comments. A requirement for the calibration of the airspeed indicating instrument is necessary to ensure that excessive error is not introduced into the system by the installation of a replacement instrument after the aircraft goes into service. In addition, the FAA believes that although the proposed calibration standards differ from the current standards, they impose little, if any, additional burden in showing compliance.





Another commentator (who concurred with the intent of the proposal to revise § 25.1323) questioned whether the allowable error, in proposed § 23.1323(b), should be expressed in terms of calibrated airspeed rather than indicated airspeed and whether the airspeed ranges specified in proposed §§ 23.1323(b)(1) and (b)(2) were unnecessarily severe accuracy requirements. The FAA agrees that the error allowed by proposed § 23.1323(b) should be expressed in terms of calibrated airspeed to be in accord with normal practices. However, the FAA believes that the airspeed ranges in proposed §§ 23.1323 (b)(1) and (b)(2) are needed to encompass the airspeed limitations in proposed § 23.1545. The FAA also believes that, as a practical matter, the accuracy requirements in proposed § 23.1323 are not significantly more restrictive than the current requirements.

Accordingly, § 23.1323 is revised as proposed, except that the term "indicated airspeed" in paragraph (b) is changed to "calibrated airspeed."

*Proposal 5-5.* One commentator objected to the proposal to add a new § 23.1325(d), which would be identical to the standard required by § 25.1325(e), on the ground that general aviation airplanes should not be required to conform to transport category airplane standards. A key function of the altimeter system is to enable the pilot to maintain his assigned or required altitude during flight for the purpose of maintaining vertical separation from other aircraft. There is therefore a need for altimeter system accuracy for all aircraft.

Another commentator stated that the proposal would place accuracy requirements on static pressure systems that are more stringent than the requirements proposed for airspeed indicating systems in Proposal 5-4. The commentator stated that, under Proposal 5-4, a 5-knot error at 100 knots would be acceptable and this corresponds to an altitude error of more than 30 feet which would not be acceptable under proposed § 23.1325(d). The commentator suggested that the proposed altitude error tolerance of ± 30 feet (per 100 knots speed) be increased to ± 50 feet. The FAA disagrees with the commentator's suggestion. The proposed standard is identical to the standard required for transport category airplanes, which has been administered without difficulty in the past.

*Proposal 5-6.* One commentator objected to the proposal to amend § 23.1327 on the ground that it would allow an indefinite amount of interference, which would confuse the pilot. The FAA believes that the placard that would be required by proposed § 23.1327(c) would serve to alert the pilot to the fact that certain electrical loads, when switched on, cause excessive deviations of the magnetic nonstabilized direction indicator. The commentator further stated that if an additional magnetic direction indicator (having a deviation less than 10 degrees) is installed, there would no longer be a need for the magnetic nonstabilized direction indicator. The FAA agrees that an additional magnetic nonstabilized direction indicator is not a practical alternative, and proposed § 23.1327 is revised to delete that alternative. However, the FAA believes that the proposed exception is appropriate for those instances in which a magnetic stabilized direction indicator or gyroscopic direction indicator is installed along with a magnetic nonstabilized direction indicator. The commentator also contended that the gyroscopic direction indicator alternative is not a practical solution because it must be reset frequently, thus increasing the pilot's workload. The FAA does not believe that the need to periodically reset the gyroscopic direction indicator adds significantly to the pilot's workload. Finally, this commentator stated that proposed § 23.1327(c) would allow interference that is contrary to current §§ 23.1327(a) and 23.1301(a)(4). With respect to current § 23.1327(a), the FAA believes the comment is valid, and that paragraph is revised for clarification. In view of this change, the requirements in current § 23.1327(a) and proposed § 23.1327(b) are combined into § 23.1327(a), and proposed § 23.1327(c) is redesignated § 23.1327(b). With respect to current § 23.1301(a)(4), the FAA does not believe the comment is valid, since the system consisting of a magnetic nonstabilized direction indicator and either a magnetic stabilized type or a gyroscopic type would meet that requirement.

Another commentator suggested that short term deviations (up to 30 seconds), caused by switching transients should be allowed without placarding the installation. The FAA does not agree. In general, the duration of switching transients is so short that their effect on the magnetic nonstabilized direction indicator is negligible. However, if switching does result in deviations exceeding 10 degrees for substantial intervals, the FAA believes the pilot must be so informed (by placarding) to avoid being misled or confused.

*Proposal 5-7.* The proposal to amend § 23.1329 is similar to proposals to amend §§ 25.1329 and 29.1329 and to the proposal to add a new § 27.1311 (Proposals 5-24, 5-58, and 5-41, respectively). Other related proposals affecting §§ 25.1329, 27.1329, and 29.1329 were set forth in Airworthines Review Notice No. 2 (Notice 75-10) as Proposals 2-84, 2-129, and 2-184, respectively, and their disposition was deferred for consideration with Proposals 5-24, 5-41, and 5-58 respectively. The FAA is still reviewing all of these proposals, which concern automatic pilot systems. To avoid delaying the adoption of the amendments contained in Airworthiness Review Program Amendment No. 5, the disposition of these proposals has been deferred until final rule-making action is taken with respect to the proposals contained in Airworthiness Review Program, Notice No. 7; Airframe Proposals (Notice 75-26; 40 FR 24802; June 10, 1975).

*Proposals 5-8 and 2-37.* For comments related to the proposal to revise § 23.1335, and for an explanation of the revisions to proposed § 23.1335, see Proposal 5-27.

Disposition of Proposal 2-37 to delete § 23.1335 (Notice 75-10) was deferred so that it could be considered in connection with Proposal 5-8. Proposal 2-37 is being withdrawn in view of the adoption, with revisions, of Proposal 5-8.

*Proposal 5-9.* One commentator suggested that the phrase "not used solely for starting engines" in proposed § 23.1351(f) could be misinterpreted. The explanation in the notice stated that the proposal was intended to prevent damage to the aircraft's electrical system if reverse polarity or reverse phase sequence of the external power source occurred. Therefore, as suggested by the commentator, proposed §§ 23.1351(f), 25.1351(c), 27.1351(e), and 29.1351(d) (designated as § 29.1351(c)) are clarified to require protection if "external power can be electrically connected to equipment other than that used for engine starting."

One commentator objected to proposed §§ 27.1351(e) and 29.1351(d) on the ground that they do not provide a reasonable limit on the extent to which one has to go to ensure that a reverse polarity connection cannot be made. The FAA believes that the proposals are clear and unambiguous as to their intent and as to what is required. The FAA believes that a more detailed requirement would be unnecessarily restrictive.

One commentator objected to proposed § 25.1351(c) on the ground that it does not cover every external power condition that should be protected against, and that its objective is already covered by current regulations on electrical systems and equipment. The purpose of the proposal is to provide for protection against those hazardous conditions involving external power that have occurred in service. With respect to the current regulations on electrical systems and equipment, they are not sufficiently specific to adequately deal with the subject matter of these proposals.

*Proposal 5-10.* No unfavorable comments were received on the proposed revisions of §§ 23.1353(b)(1), 25.1353(c)(1)(i), 27.1353(b)(1) and 29.1353(c)(1)(i) and those sections are amended as proposed.

Several commentators recommended that proposed §§ 23.1353(g), 25.1353(c)(6), 27.1353(g) and 29.1353(c)(6), be revised to apply to lead-acid batteries in addition to nickel cadmium batteries and to apply to batteries not used for starting as well as those used for starting. The FAA does not agree. There is no history of hazardous effects on structure or essential systems caused by excessive heating of lead-acid batteries. With respect to nickel cadmium batteries, excessive heating has only been associated with those batteries that were being used for starting.

One commentator stated that the content of proposed § 23.1353(g) is already covered by the first sentence of § 23.1353(b), which states that "safe cell temperatures and pressures must be maintained during any probable charging and discharging condition". The FAA does not



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agree. That requirement covers the normal range of battery operating conditions and does not provide for the thermal runaway condition that has occurred in service with nickel cadmium batteries.

Another commentator contended that the temperature generated by a short circuit cannot be foreseen accurately and that it would be more advisable to take measures to prevent such short circuits instead of trying to counter their effects. The FAA believes that the temperature (and heat) generated by a short circuit can be determined with sufficient accuracy for design purposes. In addition, the FAA knows of no practical means that would prevent the internal short circuits of the battery that are caused by thermal runaway.

One commentator objected to proposed § 27.1353(g) because he considered that the proposal could be construed to require protection against damage that would not be hazardous. The FAA does not believe that the proposed language has that connotation. The intent of the term "hazardous effect" is to exclude non-hazardous damage that may occur.

One commentator suggested that warning systems, when provided, that alert the crew to take corrective action should be considered in determining the degree of thermal protection required for the surrounding structure. The FAA does not agree. Thermal protection is needed in case the warning is not observed by the crew, or the warning system itself fails.

Proposed §§ 23.1353(g), 25.1353(c)(6), 27.1353(g) and 29.1353(c)(6) are adopted without substantive change; however, they are designated as §§ 23.1353(f), 25.1353(c)(5), 27.1353(f), and 29.1353(c)(5), respectively.

*Proposal 5–11.* No unfavorable comments were received on the proposal to revise § 23.1357(b). Accordingly, the proposal is adopted without substantive change.

*Proposal 5–12.* No unfavorable comments were received on the proposal to amend § 23.1361(b). Accordingly, the proposal is adopted without substantive change.

*Proposal 5–13.* Several commentators objected to the increase in the anticollision light field of coverage requirement in the proposal to amend § 23.1401 on the ground that a light meeting the proposed requirement would be more expensive. One commentator contended that two anticollision lights would probably be needed to meet the proposed requirement, whereas only one was necessary to meet the current requirement in many instances. The FAA believes that the increased field of coverage can be attained with presently available anticollision lights by simply replacing the lens with another which redistributes the light output. The cost of the modified anticollision light would be about the same as that of those now in use. With regard to the need for two lights, the FAA believes that a single anticollision light that can be located on an airplane to meet a ±30 degrees coverage requirement without exceeding obstructed-visibility limits will in most instances meet the ±75 degrees coverage requirement without exceeding those limits.

One commentator objected on the ground that increasing anticollision light coverage does not improve safety in the air rescue situation, since normal crash landing techniques call for disabling all electrical power and the hazards associated with reapplying power to the anticollision lights outweigh the benefits. The FAA disagrees. The restoration, or continuation, of electrical power is not hazardous in all situations. The commentator further stated that position lights make the airplane visible to the control tower from directly below, and that, with the increased coverage requirements, the obstructed-visibility limits should be increased proportionately. The FAA believes that the intensity of position lights in the 30 to 75 degree range is small compared to the proposed anticollision light standards, and would be ineffective. With regard to the obstructed-visibility limits, the FAA believes that the present limits can still be met with anticollision lights having the increased field of coverage. The commentator also contended that it is likely the proposed increase in anticollision lights field of coverage could preclude compliance with the requirement that the crew's vision be unimpaired. While the FAA believes that an increase in field of coverage requirements for rotorcraft anticollision lights even at reduced intensity levels would adversely affect crew vision because of objectionable multiple reflections in the cockpit from the rotor blades, the FAA does not believe that redistribution of the light emitted by anticollision lights on airplanes to cover ± 75 degrees instead of ± 30 degrees would adversely affect the crew's vision.

In response to the proposal to amend § 25.1401, two commentators suggested that any proposal concerning anticollision lights should be discussed with the International Civil Aviation Organization (ICAO). However, the proposals as adopted will provide the same color requirement as the international standard. With regard to field of coverage, which is not an international standard but is set forth in an ICAO acceptable means of compliance, the adopted field of coverage requirement would meet that acceptable means of compliance. The FAA plans to propose a similar change in the ICAO field of coverage acceptable means of compliance.

Accordingly, the proposals to amend §§ 23.1401 and 25.1401 are adopted without substantive change.

*Proposal 5–14.* For comments related to the proposal to add a new § 23.1438, and for an explanation of revisions made to proposed § 23.1438, see Proposal 5–33.

*Proposal 5–15.* For comments related to the proposal to add new §§ 23.1447 (c) and (d), and for an explanation of the revisions made to proposed §§ 23.1447 (c) and (d), see Proposal 5–34.

*Proposal 5–16.* For comments related to the proposal to add a new § 23.1450, and for an explanation of the revisions made to proposed § 23.1450, see Proposal 5–35.

*Proposal 5–17.* One commentator suggested that proposed § 23.1461(b)(2) be expanded to require demonstration of satisfactory overspeed and overtemperature margins, establishment of safe fatigue lives, and a fault analysis to show freedom from defects such as burst due to shaft failure and failure due to undetected loss of cooling air. The FAA believes that proposed § 23.1461(b) adequately deals with overspeed and overtemperature conditions and the term "malfunctions" in proposed § 23.1461(b) includes the "defects" mentioned by the commentator. With regard to establishing safe fatigue lives, the FAA does not believe that the need for such a requirement has been demonstrated. For other comments related to this proposal, see Proposal 5–38.

The proposal to add a new § 23.1461 is adopted without substantive change.

*Proposal 5–18.* The FAA is currently still reviewing the proposals to amend §§ 23.1545, 27.1545, and 29.1545, concerning marking requirements for airspeed indicators. To avoid delaying the adoption of the amendments contained in Airworthiness Review Program Amendment No. 5, the disposition of these proposals has been deferred until final rulemaking action is taken with respect to the proposals contained in Airworthiness Review Program, Notice No. 7: Airframe Proposals (Notice 75–26; 40 FR 24802; June 10, 1975).

*Proposal 5–19.* A commentator recommended that proposed § 23.1547(e) be revised by inserting the words "the operation of" before the words "electrical equipment" to be consistent with the language in Proposal 5–6. The FAA agrees, and proposed § 23.1547(e) is revised accordingly. The commentator further suggested that the placard be required to state "which conditions, or combination of conditions" rather than "which electrical loads, or combination of loads" because deviation is not solely related to electrical loads, and to state the maximum deviation that occurs for those conditions (or combination of conditions) which cause a deviation of more than 10 degrees, so that the pilot is informed of the maximum expected error. The FAA believes that the proposed language covers the sources of excessive deviation that are allowed. With regard to the maximum deviation, the FAA believes that in view of the placarding requirements proposed, a requirement concerning maximum deviation is unnecessary.

*Proposals 5–20 and 2–63.* Several commentators objected to the provision in proposed § 25.831(e) (Proposal 5–20) that would require a means for independent control of both temperature and quantity of ventilating air in each compartment or area occupied by crewmembers.

In light of the comments received, and after further review, the FAA believes that with respect to crewmember compartments or areas which are ventilated by air interchange with other compartments or areas, a requirement to provide independent control of ventilating air temperature and quantity would impose a burden of complexity and cost not commensurate with its probable contribution to safety. However, with respect to those crewmember compartments and areas which are not ventilated by air interchange with other compartments or areas under all operating conditions, the FAA believes that a means for independent control of ventilating air temperature and quantity must be provided for the occupants to ensure that their ability to perform safety-related functions is not impaired. Proposed § 25.831(e) is revised accordingly.





One commentator recommended that the 800 cubic feet specified in proposed § 25.831(f)(1), and the 5 degrees F. specified in proposed § 25.831(f)(2), be revised to 1100 cubic feet and 10 degrees F., respectively. This commentator contended that a 1100 cubic-foot limit would not affect safety adversely, and that a 10 degree F. temperature differential between flight crew and passenger compartments would not contribute significantly to crew or passenger discomfort. The FAA does not have sufficient information at the present time to justify relaxing the current requirement to the extent recommended by the commentator.

One commentator suggested that the temperature and ventilation controls referred to in proposed § 25.831(f)(3) should be accessible to both pilots. The FAA agrees, and proposed § 25.831(f)(3) is revised to require that the temperature and ventilation controls be accessible to the flight crew.

Disposition of Proposal 2–63 to amend § 25.831 (Notice 75–10) was deferred so that it could be considered in connection with Proposal 5–20. Proposal 2–63 is withdrawn in view of the adoption, with revisions, of Proposal 5–20.

*Proposal 5–21.* For comments related to proposed § 25.1301(b) and for the withdrawal of proposed § 25.1301(b), see Proposal 5–1.

*Proposal 5–22.* The proposed changes to §§ 25.1309 (a) and (e) with respect to inserting the word "chapter" in place of "subchapter" were also proposed for § 27.1309(a) and §§ 29.1309 (a) and (d) (Proposals 5–40 and 5–55, respectively).

Several commentators objected to the proposed change from "subchapter" to "chapter" because it would broaden the scope of the requirement to include equipment, systems, and installations required by the subchapters dealing with various operating rules. One commentator contended that the proposal would require that equipment prescribed in an operating subchapter be designed and installed in each aircraft in order to obtain a type certificate. In the light of these comments, and after further review, the FAA believes that the proposed change of the word "subchapter" to "chapter" in §§ 25.1309 (a) and (e), 27.1309(a) and 29.1309 (a) and (d) would impose an unreasonable burden on the aircraft manufacturer. Accordingly, this proposed change has not been made.

Two commentators objected to proposed § 25.1309(b)(1) on the ground that the added provision dealing with the loss of all propulsive power is already adequately covered in present § 25.671(d), and that the occurrence of any failure condition which would preclude controlled flight to an emergency landing after loss of all propulsive power would have to be "extremely improbable" and this cannot be achieved. The FAA agrees, and proposed § 25.1309(b)(1) is withdrawn.

One commentator objected to proposed § 25.1309(b)(2) on the ground that "operational or performance capability", without qualification, is not a matter for safety regulation. In the light of this comment, and after further consideration, the FAA believes that the phrase "operational or performance capability of the airplane" could be misinterpreted and could cause difficulties in administering the requirement. Therefore, the FAA believes that the language in the current rule should not be changed in this regard. In addition, other commentators noted that the phrase "or the ability of the crew to cope with adverse operating conditions" in current § 25.1309(b)(2) had been omitted from proposed § 25.1309(b)(2) without explanation, and recommended that it be restored as necessary for safety. The FAA agrees. The phrase was inadvertently omitted from the proposal. Accordingly § 25.1309(b)(2) as adopted retains the language in current § 25.1309(b)(2), except that the phrase "result in injury to the occupants, or" is deleted.

One commentator objected to proposed § 25.1309(d) contending that the method of compliance set forth in paragraph (d), which is applicable to paragraph (b), mandates unreasonably burdensome procedures. The requirements objected to by the commentator are contained in current § 25.1309. The FAA does not believe that requiring compliance with those provisions is unreasonably burdensome. Analyses along the lines prescribed in proposed § 25.1309(d) are being conducted by some manufacturers on a voluntary basis.

One commentator recommended that the term "flight simulator" in proposed § 25.1309(d) be changed to "simulator" to allow the use of simulators other than flight simulators. The FAA agrees, and proposed § 25.1309(d) is revised accordingly.

One commentator objected to proposed §§ 25.1309 (c) and (d) because they are less stringent than the present requirements, which call for an analysis, and tests where necessary, showing that systems, controls, and associated monitoring and warning means are designed "so that crew errors that would create additional hazards are improbable". As pointed out in the explanation for Proposal 5–22, the FAA has concluded that requiring a showing of compliance with present § 25.1309(d) is unreasonably burdensome. In particular, the FAA believes that it is not practicable to quantify the probability of crew errors. The FAA believes that the requirement, "* * * to minimize crew errors which would create additional hazards", in proposed § 25.1309(c) would provide an adequate level of safety. Accordingly, proposed § 25.1309(c) is adopted without substantive change and the lead-in of § 25.1309(d) is amended to delete the reference to paragraph (c).

The proposed changes to §§ 25.1309 (e) and (f) with respect to the two-engine-inoperative condition on aircraft with three engines are substantively identical to the proposed changes to §§ 29.1309 (d) and (e) (Proposal 5–55). One commentator objected to proposed §§ 25.1309 (e)(3) and (f), and proposed §§ 29.1309 (d)(3) and (e), on the ground that they do not provide adequate guidance as to which loads are required during the proposed two-engine-inoperative condition on aircraft with three engines. This commentator recommended that the term "flight safety loads" be used instead of "essential loads" for that condition. The FAA does not agree. The FAA believes that proposed §§ 25.1309(f) and 29.1309(e) are clear in that the monitoring of power loads is allowed in those circumstances and loads not required in controlled flight need not be considered for the two-engine-inoperative condition on airplanes with three or more engines. One commentator objected to the proposed two-engine-inoperative condition on aircraft with three engines on the ground that it would impose a requirement for an unreasonable amount of power, in that both units of dual systems would be required to operate during that condition. The FAA disagrees. The procedure set forth in proposed §§ 25.1309(f) and 29.1309(e), which would apply to the two-engine-inoperative condition on three-engine aircraft, would allow the monitoring of one unit of a dual system in those circumstances. Another commentator objected to proposed § 29.1309(d)(3)(ii) contending that the requirement was unreasonable for rotorcraft since they cannot maintain flight with only one third of installed power. The FAA does not agree that the requirement is unreasonable for rotorcraft. The proposal would ensure that at least those power loads necessary for controlled descent to a safe landing are supplied for the two-engine-inoperative condition on a three-engine rotorcraft. Accordingly, proposed §§ 25.1309 (e)(3) and (f), § 29.1309(d)(3) and the proposed change to § 29.1309(e) are adopted without substantive change.

*Proposal 5–23.* For a discussion of the comments related to proposed § 25.1321(a) and the withdrawal of that proposal, see Proposal 5–3.

With regard to proposed § 25.1321(e), one commentator suggested that it be revised to apply only to those instruments required under current §§ 25.1303 and 25.1305. The commentator stated that the special lighting provisions that would be required for optional equipment by proposed § 25.1321(e) could be distracting under certain emergencies and could create unnecessary loads on the available power supply. The FAA



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does not believe that a distinction in this regard is warranted between required and optional instruments. The FAA believes that if a malfunction indicator has been provided for the crew it should be effective under all probable cockpit lighting conditions.

For other comments related to Proposed § 25.1321(e), see Proposal 5–3.

*Proposals 5–24 and 2–84.* The disposition of the proposals to amend § 25.1329 has been deferred until final rule-making action is taken with respect to the proposals contained in Airworthiness Review Program, Notice No. 7: Airframe Proposals (Notice 75–26; 40 FR 24802; June 10, 1975). See Proposal 5–7.

*Proposals 5–25 and 2–85.* Several commentators objected to the proposed deletion of the words "or adjacent to" in current § 25.1331(a)(1) contending that it would restrict flexibility in design and that an integral power failure warning would not necessarily increase warning reliability. The FAA believes that a power failure warning device incorporated within the instrument itself, as opposed to an external device, is more likely to be noticed by the pilot, and would be less vulnerable to wiring or connector failures that may result in loss of the warning function.

One commentator suggested that proposed § 25.1331(a)(3) should apply only to those instruments that present primary navigation data, since navigation is conducted primarily with reference to such instruments and duplication of warning on secondary navigation instruments does not necessarily improve warning reliability. The FAA believes that the instruments covered by proposed § 25.-1331(a) are all "primary" in the sense implied by the commentator.

Several commentators, referring to proposed § 25.1331(a)(3), stated that the additional mechanisms and devices necessary to meet this requirement would complicate the design of the instrument to the extent that its reliability would be degraded. The FAA believes that a properly designed warning system would not significantly reduce instrument reliability. Instruments having such warning systems have performed reliably in service.

Several commentators contended that a practicable design meeting proposed § 25.1331(a)(3) is not within the state of the art and that in some instances a triple system, with comparators to monitor and compare signals, would be required. The FAA's intent is to require no more than a single system for failure warning. Compliance could be shown, in general, without comparators. Such systems are in use today and are well within the state of the art.

One commentator suggested that the visual warning system that would be required by proposed § 25.1331(a)(3) would tend to reduce or eliminate the sound safe practice of pilots cross-checking instruments to authenticate the information presented. The FAA disagrees. The FAA does not believe that the proposed rule would affect the pilot's cross-checking procedures. In addition, the FAA believes that the warning system would reveal unsafe conditions more effectively and, in some instances, would warn of unsafe conditions that cross-checking would not detect.

Accordingly, the proposed change to § 25.1331(a)(1) and the proposed new § 25.1331(a)(3) are adopted without substantive change.

Disposition of Proposal 2–85 to revise § 25.1331(a)(2) (Notice 75–10) was deferred so that it could be considered in connection with Proposal 5–25. No unfavorable comments were received on the proposal to revise § 25.1331(a)(2); however, the phrase "provided that instrument operation is maintained" is deleted from proposed § 25.1331(a)(2) since it is superfluous and could be confusing.

*Proposal 5–26.* One commentator objected to proposed § 25.1333(b), contending that an instrument display essential to the safety of flight should not have to be switched on when needed. Before an instrument can be switched on, the pilot must first recognize the problem, decide what to do, and then act. The result, the commentator stated, is a time delay that cannot be tolerated at certain critical points in flight, such as immediately after takeoff, and immediately before landing, especially during instrument flight conditions. Another commentator stated that crew action should be allowed for the purpose of restoring power supplies, or selecting an alternative information source, or the like, provided that it is not necessary to do so immediately.

In the light of these comments, and after further review, the FAA believes that this proposal may affect safety adversely. Accordingly, proposed § 25.1333(b) is withdrawn. The proposed editorial change to § 25.1333(a) is adopted.

*Proposal 5–27.* One commentator objected to proposed § 25.1335 on the ground that mode indication other than mode selector switch position would be impractical and too costly a retrofit. The FAA notes that the proposed requirement would apply only to airplanes for which an application for a type certificate is filed after the effective date of this amendment. Consequently, no retrofit is required. The commentator further stated that the probable complexity of the proposed mode indication device could detract from the reliability of the system and that systems already fitted with the proposed mode indication device have not proven to be 100 percent foolproof. With regard to the complexity of the mode indication device, the FAA does not believe that systems now fitted with the proposed mode indication device have suffered a significant loss in reliability. In addition, the proposed mode indication device would greatly increase the probability that the current mode of operation is properly indicated to the flight crew.

One commentator criticized the proposed phrase "independent of the mode selector switch" because it would tend to dictate design. Another commentator objected to the same phrase on the ground that it does not take into account modern panels which incorporate illuminated mode indications that give positive indication of the selected mode, but are not independent of the mode selector switch since they are incorporated in it. The FAA agrees with these comments. The phrase "independent of the mode selector switch" is deleted from proposed § 25.-1335 and another sentence is added thereto reading "Selector switch position is not acceptable as a means of indication."

One commentator objected to proposed § 23.1335 on the ground that some flight director systems are designed so that the position of the mode selector switch is adequate for mode indication. The FAA knows of no flight director system in which the position of the mode selector switch constitutes a reliable indication of the current mode of operation. Service experience has shown that the two do not necessarily agree. This commentator also stated that the proposed requirement is not practical for small airplanes and is not consistent with requirements that apply to other systems on small airplanes. The FAA believes that the hazards associated with incorrect indication of the flight director system's mode of operation warrant the proposed requirement.

*Proposal 5–28.* For comments related to the proposal to add a new § 25.1351(c), see Proposal 5–9.

Several commentators stated that proposed §§ 25.1351(d) and 29.1351(c) do not conform to the special condition on which they were based, since they would require the aircraft to operate safely for 5 minutes without normal generator or battery power, whereas the special condition allowed the use of battery power. The FAA agrees that proposed §§ 25.1351(d) and 29.1351(c) should be revised for consistency with recently issued special conditions. The proposals are therefore revised by adding, after the word "power" in the first sentence, the parenthetical phrase "(electrical power sources excluding the battery)".

One commentator stated that §§ 25.-1351(d) and 29.1351(c) were unreasonable in that they would require compliance at the maximum certificated altitude, with critical type fuel, and after loss of electrical power, which is a combination that has not occurred in service. The FAA believes that this set of conditions could exist in service, and that it must be considered in the interests of safety. One commentator suggested that the phrase "including a wire bundle or junction box fire" in proposed §§ 25.-1351(d)(1) and 29.1351(c)(1) be deleted since these are not "single" malfunctions. The FAA does not agree that they should be deleted. The FAA believes that the occurrence of a fire in a wire bundle or in a junction box should be considered in this context as a single event or malfunction, even though it may result in several circuit failures.

One commentator suggested that proposed §§ 25.1351(d) and 29.1351(c) should provide for continued flight after the specified 5 minute interval. The recommended change is beyond the scope of the notice. In addition, the FAA does not have sufficient information at the present time to justify such a requirement.





Another commentator questioned whether engine thrust reduction and descent, or engine(s) flameout, descent, and subsequent engine restart at a reasonable altitude, would meet the requirements of the proposed rule. The FAA believes that proposed § 25.1351(d) provides for the situation described by the commentator as long as the airplane can be operated safely.

One commentator objected to proposed § 29.1351(c), contending that the requirement was unnecessary for rotorcraft and would result in the introduction of electrical systems of unnecessary complexity and increased likelihood of mismanagement. The FAA does not agree. The loss of normal generator power is potentially hazardous in all transport category aircraft and must be considered in electrical system design. As to the effect on electrical system complexity and the probability of mismanagement, the FAA has not observed a significant increase in complexity or cases of mismanagement on aircraft that have already been required to comply under a special condition.

Accordingly, proposed §§ 25.1351(d) and 29.1351(c) (designated as § 29.1351(d) for consistency with § 25.1351) are adopted with the revision discussed herein.

*Proposal 5–29.* For comments related to proposed §§ 25.1353(c)(1)(i) and 25.-1353(c)(6) see Proposal 5–10.

*Proposal 5–30.* For comments related to the proposal to amend § 25.1401 see Proposal 5–13.

*Proposal 5–31.* One commentator objected to proposed § 25.1421(a) on the ground that since a megaphone is not required to be designed to withstand the ultimate inertia forces specified in § 25.-561(b)(3), the airframe manufacturer cannot guarantee that a megaphone will perform its function after being subjected to those forces. The FAA agrees that the requirement of proposed § 25.-1421 that "the megaphone be so protected that it will perform its function after being subjected to the ultimate inertia forces specified in § 25.561(b)(3)" is too restrictive in the absence of appropriate design standards for the megaphone itself. Accordingly, proposed § 25.1421(a) is revised to read, "If a megaphone is installed, a restraining means must be provided that is capable of restraining the megaphone when it is subjected to the ultimate inertia forces specified in § 25.561(b)(3)."

In addition, the FAA notes that current § 25.1561(b) requires that each location, such as a locker compartment, that carries life saving equipment (which includes megaphones) must be marked accordingly. Proposed § 25.1421(b) would add little to that requirement, and could raise questions about the meaning of § 25.1561(b) with respect to other life saving equipment. For these reasons, proposed § 25.1421(b) is withdrawn.

*Proposal 5–32.* Several commentators objected to proposed § 25.1435(a)(2), contending that pressure and fluid quantity gages are not necessary for all hydraulic systems. Another commentator stated that the proposal specifies a design detail rather than a requirement and would rule out other displays such as digital callouts. After further review, the FAA believes that pressure and fluid quantity gages are not needed for all hydraulic systems covered by proposed § 25.1435(a)(2). Indicating means other than gages, including warning lights, may be adequate for some systems. Accordingly, the lead-in of proposed § 25.1435(a)(2) is revised to require "a means to indicate" instead of a gage, for system pressure and for fluid quantity.

No unfavorable comments were received concerning proposed § 25.1435(a)(2)(i) and it is adopted without substantive change.

One commentator suggested that the malfunctions referred to in proposed § 25.1435(a)(2)(ii) be limited to those associated with low fluid pressure or level. The FAA does not agree. An indicating means for system pressure and fluid quantity would aid the pilots in detecting malfunctions other than low pressure or low fluid quantity. Proposed § 25.1435(a)(2)(ii) is adopted without substantive change.

One commentator stated that the value of 125 percent in proposed § 25.1435(a)(4) was unrealistic and recommended a value of 133 percent. The FAA disagrees. The 125 percent value is in the current rule and the FAA believes that it is appropriate. Proposed § 25.1435(a)(4)(ii) is adopted without substantive change.

No unfavorable comment was received concerning proposed § 25.1435(a)(7) and it is adopted without substantive change.

One commentator suggested that proposed § 25.1435(a)(8) should be revised to take into account the hazardous effects of system failures due to abnormally high temperatures which may occur under certain fault conditions. The FAA does not have sufficient information at the present time to justify such a requirement. Proposed § 25.1435(a)(8) is adopted without substantive change.

*Proposal 5–33.* One commentator stated that if the term "components" in proposed §§ 25.1438 (a) and (b) included all parts of the system it would not be compatible with other sections of Part 25, which use the term "elements". The FAA intended that the term "components" include all parts of the system. Therefore, in order to be consistent with current § 25.1435, which uses the term "elements", that term is substituted for the term "components" in proposed §§ 25.1438 (a) and (b).

Another commentator recommended that the 1.5 factor in proposed § 25.1438 (a) be reduced to 1.33 to be consistent with current § 25.365(d), which deals with pressurized cabin loads. The FAA does not agree. The FAA does not believe that the factors specified for pressurized cabin loads are appropriate for pressurization system elements. These elements are more comparable to hydraulic system elements for which a 1.5 factor is prescribed in current § 25.1435(a)(1). Proposed § 25.1438(a) is adopted without substantive change.

One commentator questioned the need to specify a higher burst pressure for pneumatic systems than for pressurization systems, contending that pneumatic systems do not necessarily operate at higher pressure and that some are derived from pressurization systems. The FAA's experience has been that pneumatic systems in airplanes are operated at higher pressures, even when a common pressure source is provided for both pneumatic and pressurization systems.

One commentator objected to the provision in proposed § 25.1438(b) requiring a burst pressure test of 4.0 times maximum normal operating pressure, contending that the industry has historically designed and tested pneumatic systems to a burst pressure of 3.0 times maximum normal operating pressure and that service experience over millions of flight hours has proven the integrity of those systems. Another commentator pointed out that pneumatic deicer boots in general use today cannot sustain a pressure of 4.0 times the maximum normal operating pressure. The FAA agrees with these comments, and proposed § 25.-1438(b) is revised to specify a burst pressure of 3.0 times maximum normal operating pressure.

Two commentators recommended that the 4.0 factor in proposed § 25.1438(b) be reduced selectively in particular circumstances, contending that a lower factor might be acceptable for certain materials, or when adequate fatigue testing has been done or service experience supports it. The FAA believes that this recommendation (insofar as it would be applicable to a 3.0 burst pressure factor) may have merit but has insufficient data at the present time upon which to base such lower factors.

Another commentator suggested that the 1.5 factor in proposed § 25.1438(b) should be increased to monitor the effects of manufacturing techniques. The FAA does not agree. These effects are monitored by means of FAA's quality control requirements, as set forth in Part 21.

One commentator suggested revision of proposed § 25.1438 to allow the use of analysis, or a combination of analysis and test, as an alternative method of compliance to eliminate unnecessary testing. The FAA agrees that there are instances where an analysis, or a combination of analysis and test, may be equivalent to a test under proposed § 25.1438 (a) or (b). Accordingly, a new § 25.1438(c) is added to provide this alternative.

*Proposal 5–34.* One commentator objected to the provision in proposed § 25.1447(c)(1) which would require that oxygen dispensing units be automatically presented before the cabin pressure altitude exceeds 14,000 feet, contending that long-standing FAA policy



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has been that the altitude for automatic presentation should be 15,000 feet and service experience over the last 16 years has not shown a need to reduce that altitude. The commentator further stated that the flight crew is given a warning when or before the cabin pressure altitude reaches 10,000 feet and is therefore alerted (in the event of a gradual increase in cabin pressure altitude) to the need for appropriate action either to maintain a safe cabin pressure altitude or manually deploy the dispensing units. Another commentator suggested that the presentation altitude be 14,500 feet, rather than 14,000 feet, to take equipment tolerances into account.

In light of the comments received and after further review, the FAA believes that there is insufficient evidence at the present time to justify a requirement for the automatic presentation of oxygen dispensing units before the cabin pressure altitude exceeds 14,000 feet, and that the widely-used value of 15,000 feet provides an adequate level of safety. Proposed § 25.1447(c)(1) is revised accordingly.

Several commentators disagreed with the provision in proposed § 25.1447(c)(1) that would require that each occupant be provided with a manual means to make the oxygen dispensing unit immediately available, contending that manual back-up for the automatic presentation system should be provided for use by the crew only, to avoid tampering by the passengers. Another commentator stated that the average passenger would not be capable of operating such manual means properly and quickly, and that manual means are not feasible for ceiling or hatrack mounted dispensing units.

The FAA believes that a manual means must be provided to back up the automatic presentation system, but is persuaded that it may not be in the interest of safety to require that a manual means be provided for passengers. Accordingly, proposed § 25.1447(c)(1) is revised to require only that a manual means for the deployment of the dispensing units be provided for the crew.

No unfavorable comment was received concerning proposed § 25.1447(c)(2) and it is adopted as proposed.

*Proposal 5–35.* Several commentators recommended that proposed § 25.1450 be revised to require a means to indicate that the generator (or replacement element) has not been used and is capable of providing its rated amount of oxygen. The FAA believes that, in view of current § 25.1441(c), there is no need for this additional requirement.

Several commentators objected to proposed § 25.1450(b)(2)(i) on the ground that a positive flow indicating device located on the generator would provide insufficient safety improvement for the cost involved. After further review, the FAA does not believe that there exists adequate justification for the proposed requirement at the present time and it is withdrawn.

One commentator suggested that the word "installation" be added after the word "generator" in the lead-in of proposed § 25.1450(b) because, as proposed, the surface temperature of the actual generator must be contained by its installation. The FAA sees no need for this revision.

One commentator questioned the desirability of replacing generator elements during flight. The FAA believes that the practical problems of manually replacing and stowing expended generator elements, which reach high temperatures, make it very unlikely that generators requiring manual in-flight replacement of elements would be utilized. Instead, generator elements would be replaced during ground maintenance. For this reason, proposed § 25.1450(c)(2) is withdrawn.

One commentator objected to proposed § 25.1450(c)(1)(ii) contending that the proposal should not require that the generator placard contain the duration of the replacement element since a means to determine flow in the dispensing equipment is provided. The FAA does not agree; it is necessary that the duration of the replacement element be on the placard to reduce the probability that an element of insufficient capacity is inserted when the generator is serviced.

*Proposal 5–36.* Several commentators objected to proposed §§ 25.1457(b) and 29.1457(b). The FAA believes that the comments received raise valid questions as to whether compliance with proposed §§ 25.1457(b) and 29.1457(b) would necessarily improve cockpit voice recorder intelligibility, and whether requiring multiplexing or separate area microphone recording channels (involving extensive redesign of the cockpit voice recorder) could be justified on a cost-benefit basis. Accordingly, proposed §§ 25.1457(b) and 29.1457(b) are withdrawn.

Several commentators objected to proposed §§ 25.1457(d)(1) and 29.1457(d)(1) because the additional load on the emergency bus would reduce the power available to sustain safe flight in an emergency. The FAA agrees, and proposed §§ 25.1457(d)(1) and 29.1457(d)(1) are withdrawn.

Two commentators objected to proposed §§ 25.1457(e) and 29.1457(e) contending that, although the random storage method may have caused problems in earlier years, the cockpit voice recorder manufacturers have since taken steps to eliminate the problem by improvements in design, and there is therefore no justification for specifying that the tape be stored on reels, which is an unnecessarily restrictive requirement. In light of this comment and after further review by the FAA, §§ 25.1457(e) and 29.1457(e) are withdrawn. In view of the withdrawal of proposed §§ 25.1457 (b), (d)(1), and (e) and 29.1457(b), (d)(1), and (e) the related provisions of proposed §§ 121.359(c)(3) and (c)(4) and 127.127(b) are also withdrawn.

Several commentators suggested that the underwater locating device specified in proposed §§ 25.1457(g)(3) and 121.359(c)(2)(iii) was superfluous when the flight recorder (which must have an underwater locating device under current § 121.343(f)) and the cockpit voice recorder are co-located. The FAA agrees that an exception is warranted in this circumstance, provided that the installation of the flight recorder and the cockpit voice recorder is such that they are not likely to be separated during crash impact. Accordingly, proposed § 121.359(c)(2)(iii) is adopted with this exception. No revision to proposed § 25.1457(g)(3) is needed and proposed § 25.1457(g) is adopted without substantive change.

Two commentators objected to proposed § 121.359(c)(2) on the ground that up to 3 years would be needed by the airlines to make the airplane modifications prescribed. The FAA agrees, and the lead-in of proposed § 121.359(c)(2) is revised to allow 3 years (from the effective date of this amendment) for compliance. Proposed § 121.359(c) is adopted with the revisions discussed herein.

*Proposal 5–37.* Several commentators objected to proposed § 25.1459(a)(4), which would require a means for preflight checking of the flight recorder for proper operation. One commentator stated it is not technically within the state-of-the-art to meet this test requirement for foil-recording systems, and that the proposed requirement is unnecessarily restrictive. Another commentator contended that there would be a prohibitive increase in flight-crew and ground-crew workload to conduct the proposed test. In light of these comments, and after further review by the FAA, the FAA believes that proposed § 25.1459(a)(4) would be unnecessarily restrictive. Accordingly, proposed § 25.1459(a)(4) is withdrawn.

No unfavorable comments were received concerning proposed § 25.1459(d) and the proposed deletion of current § 25.1459(a)(7). Accordingly, § 25.1459(a)(7) is deleted and proposed § 25.1459(d) is adopted without substantive change. In addition, since the intent of the proposal was that it only apply to airplanes type certificated in the future, § 121.343(e), which requires compliance with the provisions of § 25.1459, is clarified by revising the first sentence of the lead-in to state that the applicable requirements are those of § 25.1459 in effect one day prior to this amendment.

*Proposal 5–38.* One commentator objected to proposed § 25.1461, contending that there is no need for it since current §§ 25.1309 and 25.901(c) provide adequate coverage for this item. The FAA does not agree. Sections 25.1309 and 25.901(c) list general requirements, the former for all classes of equipment and the latter for powerplant installations. These general requirements do not contain the detailed airworthiness standards specifically applicable to high energy rotors that the FAA believes are necessary for the reasons stated in the explanation of this proposal.

Another commentator suggested that the proposal be clarified as to whether § 25.1461(a) requires compliance with either paragraph (b), or (c), or (d). The FAA believes that the proposed language is clear in this respect. The applicant is





required to comply with one of those paragraphs, and he may select any one of them.

For another comment related to this proposal, see Proposal 5–17.

The proposal to add a new § 25.1461 is adopted without substantive change.

*Proposal 5–39.* For comments related to proposed § 27.1301 and for the withdrawal of proposed § 27.1301, see Proposal 5–1.

*Proposal 5–40.* For comments related to the proposal to amend § 27.1309(a), and for the withdrawal of this proposal, see Proposal 5–22.

*Proposals 5–41 and 2–129.* The disposition of the proposals to add new §§ 27.1311 and 27.1329 has been deferred until final rule-making action is taken with respect to the proposals contained in Airworthiness Review Program, Notice No. 7: Airframe Proposals (Notice 75–26; 40 FR 24802; June 10, 1975). See Proposal 5–7.

*Proposal 5–42.* For comments related to proposed § 27.1321(a), and the withdrawal of proposed § 27.1321(a), see Proposal 5–3.

For comments related to proposed § 27.1321(d), see Proposals 5–3 and 5–23.

*Proposal 5–43.* For a comment related to the proposal to add a new § 27.1323(a), see Proposal 5–4. No unfavorable comments were received concerning proposed § 27.1323(b). The proposal to amend § 27.1323 is adopted without substantive change.

*Proposals 5–44, 2–35, 2–83, 2–128 and 2–183.* Several commentators objected to proposed § 27.1325(b) in Proposal 5–44 on the ground that Part 27 rotorcraft are not normally certificated for flight under IFR or icing conditions. Since static vent icing may occur during both VFR and IFR conditions, the FAA believes there is ample justification for requiring an anti-icing means or an alternate source of static pressure for the certification of all rotorcraft employing a static pressure system for required instruments.

One commentator stated that even if a static pressure system failure occurred, it would not jeopardize safe flight and a safe landing. The FAA disagrees. A static pressure failure would result in the loss of reliable airspeed and altitude information.

Another commentator stated that the implication of proposed § 27.1325(b) in Proposal 5–44, when compared with current § 23.1325(b)(3), is that the reading of the altimeter when on the alternate static pressure system cannot differ from the reading of the altimeter when on the primary static pressure system. The FAA agrees and proposed § 27.1325(b) is revised by adding a sentence identical to the last sentence of current § 23.1325(b)(3) which indicates that error is allowed and requires a correction card for errors greater than 50 feet.

Disposition of Proposals 2–35, 2–83, 2–128 and 2–183 to amend §§ 23.1325, 25.1325, 27.1325 and 29.1325, respectively (Notice 75–10) was deferred so that they could be considered in connection with Proposal 5–44.

One commentator stated that proposed § 23.1325(e), which would provide for more complete duality of static pressure sources, should not be applied to unpressurized aircraft if it is demonstrated that the static pressure system calibration, when each static pressure source is selected, is not changed by the other static pressure source being open or blocked.

The FAA believes this suggestion has merit with respect to the proposed requirement that when a static pressure source is selected the other static pressure source must be blocked off. However, the exception would only be appropriate if it is demonstrated that the static pressure system calibration, when each static pressure source is selected, is not changed by the other static pressure source being open or blocked.

Accordingly, proposed §§ 23.1325(e), 25.1325(g), 27.1325(b), and 29.1325(f) (Proposals 2–35, 2–83, 2–128, and 2–183, respectively) are adopted without substantive change (proposed § 27.1325(b) in Proposal 2–128 and proposed § 29.1325(f) in Proposal 2–183 are redesignated §§ 27.1325(c) and 29.1325(g), respectively, in view of the adoption of Proposals 5–44 and 5–57) and new §§ 23.1325(d), 25.1325(h), 27.1325(d), and 29.1325(h) contain the exception discussed here.

*Proposal 5–45.* For comments related to the proposal to amend § 27.1327, and for an explanation of revisions to current § 27.1327(a) and proposed §§ 27.1327 (b) and (c), see Proposal 5–6.

*Proposal 5–46.* For comments related to the proposal to add a new § 27.1335, and for an explanation of the revisions to proposed § 27.1335, see Proposal 5–27.

*Proposal 5–47.* For comments related to the proposal to add a new § 27.1351(e) see Proposal 5–9.

*Proposal 5–48.* For comments related to proposed §§ 27.1353(b)(1) and 27.1353(g) see Proposal 5–10.

*Proposal 5–49.* No unfavorable comments were received on the proposal to amend § 27.1357(b). Accordingly, the proposal is adopted without substantive change.

*Proposal 5–50.* The proposed amendment of § 27.1401 relating to anticollision light field of coverage, color, and minimum intensity requirements has been adopted, with revisions, in a separate rule-making action (Amdt. 27–10; 41 FR 5290), as noted previously in this preamble.

*Proposal 5–51.* The disposition of the proposal to amend § 27.1545 has been deferred until final rule-making action is taken with respect to the proposals contained in Airworthiness Review Program, Notice No. 7: Airframe Proposals (Notice 75–26; 40 FR 24802; June 10, 1975). See Proposal 5–18.

*Proposal 5–52.* For comments related to the proposal to add a new § 27.1547(e), and for an explanation of the revisions to proposed § 27.1547(e), see Proposal 5–19.

*Proposal 5–53.* For comments related to proposed § 29.1301 and for the withdrawal of proposed § 29.1301, see Proposal 5–1.

*Proposal 5–54.* One commentator questioned the exception in proposed § 29.1303(g) in that it only applies to those rotorcraft with a third attitude indicating system and does not apply to those rotorcraft that are only required to have one attitude indicating system but have two. The FAA does not have sufficient information at this time to justify extending the proposed exception, as recommended by the commentator.

Another commentator suggested that the 30-minute minimum interval specified in proposed § 29.1303(g)(3) should be changed to "half the endurance of the rotorcraft". The FAA believes the proposed requirement would give the flight crew sufficient time to take corrective action, or land, as the situation may dictate.

Accordingly, § 29.1303(g) is adopted as proposed.

*Proposal 5–55.* For comments related to the proposal to amend § 29.1309, see Proposal 5–22.

*Proposal 5–56.* For comments related to proposed § 29.1321(a) and the withdrawal of proposed § 29.1321(a), see Proposal 5–3.

For comments related to proposed § 29.1321(g) see Proposals 5–3 and 5–23.

*Proposal 5–57.* For comments related to proposed § 29.1325(c), see Proposal 5–44. In light of the comments received and after further review, the FAA believes that there is not sufficient justification to adopt a requirement for Part 29 rotorcraft that is more restrictive than that in proposed § 27.1325(b) for Part 27 rotorcraft. Accordingly, proposed § 29.1325(c), as adopted, is revised to be substantively identical to § 27.1325(b) as adopted.

*Proposals 5–58 and 2–184.* The disposition of the proposals to amend § 29.1311 has been deferred until final rule-making action is taken with respect to the proposals contained in Airworthiness Review Program, Notice No. 7: Airframe Proposals (Notice 75–26; 40 FR 24802; June 10, 1975). See Proposal 5–7.

*Proposal 5–59.* For comments related to the proposal to add a new § 29.1335, and for an explanation of the revisions to proposed § 29.1335, see Proposal 5–27.

*Proposal 5–60.* For comments related to the proposal to add a new § 29.1351(c), see Proposal 5–28. For comments related to the proposal to add a new § 29.1351(d), see Proposal 5–9.

*Proposal 5–61.* For comments related to proposed §§ 29.1353(c)(1)(i) and 29.1353(c)(6), see Proposal 5–10.

*Proposal 5–62.* A commentator suggested that it would be more appropriate to cover the content of proposed § 29.1355(b)(1) in § 29.1309 or § 29.1351. The FAA does not agree. Proposed § 29.1355(b)(1) states a requirement concerning distribution systems and distribution systems are the subject matter of current § 29.1355. Accordingly, § 29.1355(b)(1) is adopted without substantive change.

*Proposal 5–63.* The proposed amendment of § 29.1401 relating to anticollision light field of coverage, color, and minimum intensity requirements has been adopted, with revisions, in a separate



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rule-making action (Amdt. 29–11; 41 FR 5290), as noted previously in this preamble.

*Proposal 5–64.* For comments related to the proposal to revise §§ 29.1457(b), (d)(1), and (e), and for the withdrawal of that proposal, see Proposal 5–36.

*Proposal 5–65.* The disposition of the proposal to amend § 29.1545 has been deferred until final rule-making action is taken with respect to the proposals contained in Airworthiness Review Program, Notice No. 7: Airframe Proposals (Notice 75–26; 40 FR 24802; June 10, 1975). See Proposal 5–18.

*Proposal 5–66.* For a comment related to the proposed revision of § 91.33(d)(3), see Proposal 5–54.

Section 91.33(d)(3) is adopted as proposed.

*Proposal 5–67.* One commentator objected to the proposal to amend § 91.36 because he believed it would allow compliance with either current § 91.36(b) or proposed § 91.36(c). The commentator misinterpreted the proposal. The proposal would require compliance with § 91.36 (a), (b), and (c).

Another commentator contended that the term "performance standards" in proposed § 91.36(c) would cause confusion and suggested that the word "performance" be deleted. Since the intent of the proposal was to require compliance with all of the minimum standards in the specified TSOs, the FAA agrees with the comment and the word "performance" is deleted in the amendment.

Two commentators suggested revisions to proposed § 91.36(c) that would, in effect, allow the continued operation of currently installed pressure altitude reporting equipment using altimeters and digitizers that do not meet the standards in TSO–C10b and TSO–C88 respectively. The FAA believes that unless these standards are met, there is no assurance that altimeters and digitizers will perform their important altitude reporting function under all probable operating conditions during flight. For this reason, the commentators' suggestion is not adopted. However, after further consideration, the FAA believes that the proposed one-year installation period (after the effective date of the amendment) may not allow enough time to procure and install altimeters and digitizers which comply. Accordingly, the amendment as adopted prescribes a two-year installation period.

One commentator recommended that proposed § 91.36(c) be revised by replacing the term "digitizers" with the term "automatic pressure altitude digitizer equipment" (which is the complete term used in current TSO–C88) because the use of the term "digitizers" would allow approval of equipment that did not meet the standards in TSO–C88. The FAA does not believe that the recommended revision is necessary. It is clear that the equipment referred to must meet the standards in TSO–C88.

The proposal to amend § 91.36 is adopted with the revisions discussed herein.

*Proposal 5–68.* After further consideration of the proposal to amend § 121.337, and in light of the comments received, the FAA believes that the issues involved warrant further study. Accordingly, the proposal to amend § 121.337 is withdrawn.

*Proposal 5–69.* Several commentators objected to proposed § 121.343(a). The objections included the following:

- Each new airplane design is sufficiently different to preclude identifying identical components, and system status, that would have the same effect upon controlled flight.
- Flight recorders meeting the current requirements are providing the answers for accident investigation. There is no hard evidence that additional parameters are needed.
- The proposed additional parameters represent a growth of over 100 percent in existing flight recorder systems, with a corresponding growth in system complexity. The result would be a sharp decrease in the reliability of not only the flight recorder but also of the equipment monitored, much of it essential to safe flight.
- The proposed additional parameters would require the installation of systems and components of major cost whose sole purpose is to aid accident investigation. One commentator estimated that the modification program would cost the airline industry $35 million, including airplane out-of-service costs. There would also be greatly increased maintenance costs because of the increased complexity of the system.
- The proposed additional parameters have not been justified on a cost-benefit basis, and no rationale has been given to justify the selection of the proposed parameters from all of the parameters that could be recorded.
- Although some of the proposed additional parameters may enhance the recording system, the implementation of even these would take at least three years.
- The proposal does not provide ranges, accuracies, or recording intervals for the additional parameters.

In the light of these comments, and after further review, the FAA believes that the need for the proposed additional flight recorder parameters has not been justified. Moreover, the FAA now believes that standards setting forth acceptable ranges, accuracies, and recording intervals, for such additional parameters should be developed concurrently with the requirement that they be provided.

Accordingly, proposed § 121.343(a) is withdrawn.

*Proposal 5–70.* For comments related to the proposal to revise § 121.359(c) and for an explanation of the revisions to proposed § 121.359(c), see Proposal 5–36.

*Proposal 5–71.* For comments related to the proposal to revise § 127.127(b) and for the withdrawal of that proposal, see Proposal 5–36.

### Drafting Information

The principal authors of this document are Irving Fagin, Flight Standards Service, and James M. Barron and Keith S. May, Office of the Chief Counsel.

### Adoption of the Amendments

Accordingly, Parts 23, 25, 27, 29, 91, and 121 of the Federal Aviation Regulations (14 CFR Parts 23, 25, 27, 29, 91, and 121) are amended as follows, effective September 1, 1977.

## PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY AND ACROBATIC CATEGORY AIRPLANES

1. By revising § 23.1301 to read as follows:

**§ 23.1301 Function and installation.**

Each item of installed equipment must—

(a) Be of a kind and design appropriate to its intended function.

(b) Be labeled as to its identification, function, or operating limitations, or any applicable combination of these factors;

(c) Be installed according to limitations specified for that equipment; and

(d) Function properly when installed.

2. By adding a new § 23.1321(e) to read as follows:

**§ 23.1321 Arrangement and visibility.**

* * * * *

(e) If a visual indicator is provided to indicate malfunction of an instrument, it must be effective under all probable cockpit lighting conditions.

3. By revising § 23.1323 to read as follows:

**§ 23.1323 Airspeed indicating system.**

(a) Each airspeed indicating instrument must be calibrated to indicate true airspeed (at sea level with a standard atmosphere) with a minimum practicable instrument calibration error when the corresponding pitot and static pressures are applied.

(b) Each airspeed system must be calibrated in flight to determine the system error. The system error, including position error, but excluding the airspeed indicator instrument calibration error, may not exceed three percent of the calibrated airspeed or five knots, whichever is greater, throughout the following speed ranges:

(1) 1.3 $V_{S_1}$ to $V_{MO}/M_{MO}$ or $V_{NE}$, whichever is appropriate with flaps retracted.

(2) 1.3 $V_{S_1}$ to $V_{FE}$ with flaps extended.

4. By adding new §§ 23.1325 (c), (d) and (e) to read as follows:

**§ 23.1325 Static pressure system.**

* * * * *

(c) Except as provided in paragraph (d) of this section, if the static pressure system incorporates both a primary and an alternate static pressure source, the means for selecting one or the other source must be designed so that—

(1) When either source is selected, the other is blocked off; and

(2) Both sources cannot be blocked off simultaneously.

(d) For unpressurized airplanes, paragraph (c)(1) of this section does not apply if it can be demonstrated that the static pressure system calibration, when either static pressure source is selected, is not changed by the other static pressure source being open or blocked.





(e) Each system must be designed and installed so that the error in indicated pressure altitude, at sea level, with a standard atmosphere, excluding instrument calibration error, does not result in an error of more than ± 30 feet per 100 knots speed for the appropriate configuration in the speed range between 1.3 $V_{S_0}$ with flaps extended and 1.8 $V_{S_1}$ with flaps retracted. However, the error need not be less than ±30 feet.

5. By revising § 23.1327 to read as follows:

**§ 23.1327 Magnetic direction indicator.**

(a) Except as provided in paragraph (b) of this section—

(1) Each magnetic direction indicator must be installed so that its accuracy is not excessively affected by the airplane's vibration or magnetic fields; and

(2) The compensated installation may not have a deviation, in level flight, greater than ten degrees on any heading.

(b) A magnetic nonstabilized direction indicator may deviate more than ten degrees due to the operation of electrically powered systems such as electrically heated windshields if either a magnetic stabilized direction indicator, which does not have a deviation in level flight greater than ten degrees on any heading, or a gyroscopic direction indicator, is installed. Deviations of a magnetic nonstabilized direction indicator of more than 10 degrees must be placarded in accordance with § 23.1547(e).

6. By revising § 23.1335, including the heading, to read as follows:

**§ 23.1335 Flight director systems.**

If a flight director system is installed, means must be provided to indicate to the flight crew its current mode of operation. Selector switch position is not acceptable as a means of indication.

7. By adding a new § 23.1351(f) to read as follows:

**§ 23.1351 General.**

* * * * *

(f) *External power.* If provisions are made for connecting external power to the airplane, and that external power can be electrically connected to equipment other than that used for engine starting, means must be provided to ensure that no external power supply having a reverse polarity, or a reverse phase sequence, can supply power to the airplane's electrical system.

8. By revising § 23.1353(b)(1) and by adding a new § 23.1353(f) to read as follows:

**§ 23.1353 Storage battery design and installation.**

* * * * *

(b) * * *

(1) At maximum regulated voltage or power;

* * * * *

(f) Each nickel cadmium battery installation capable of being used to start an engine or auxiliary power unit must have provisions to prevent any hazardous effect on structure or essential systems that may be caused by the maximum amount of heat the battery can generate during a short circuit of the battery or of its individual cells.

9. By revising § 23.1357(b) to read as follows:

**§ 23.1357 Circuit protective devices.**

* * * * *

(b) A protective device for a circuit essential to flight safety may not be used to protect any other circuit.

* * * * *

**§ 23.1361 [Amended]**

10. By amending § 23.1361(b) by adding, at the end thereof, the sentence, "These circuits must be isolated, or physically shielded, to prevent their igniting flammable fluids or vapors that might be liberated by the leakage or rupture of flammable fluid systems."

**§ 23.1401 [Amended]**

11. By amending § 23.1401 by striking the number "30" in both places in paragraph (b) and inserting in place thereof (in both places) the number "75", and by adding a line at the end of the table in paragraph (f) to read as follows:

"30° to 75°---------- 20".

12. By adding a new § 23.1438 to read as follows:

**§ 23.1438 Pressurization and pneumatic systems.**

(a) Pressurization system elements must be burst pressure tested to 2.0 times, and proof pressure tested to 1.5 times, the maximum normal operating pressure.

(b) Pneumatic system elements must be burst pressure tested to 3.0 times, and proof pressure tested to 1.5 times, the maximum normal operating pressure.

(c) An analysis, or a combination of analysis and test, may be substituted for any test required by paragraph (a) or (b) of this section if the Administrator finds it equivalent to the required test.

13. By adding new §§ 23.1447 (c) and (d) to read as follows:

**§ 23.1447 Equipment standards for oxygen dispensing units.**

* * * * *

(c) If certification for operation above 30,000 feet is requested, the dispensing units providing the required oxygen flow rate must be automatically presented to each occupant before the cabin pressure altitude exceeds 15,000 feet.

(d) If an automatic dispensing unit (hose and mask, or other unit) system is installed, the crew must be provided with a manual means to make the dispensing units immediately available in the event of failure of the automatic system.

14. By adding a new § 23.1450, following § 23.1449, in Subpart F, to read as follows:

**§ 23.1450 Chemical oxygen generators.**

(a) For the purpose of this section, a chemical oxygen generator is defined as a device which produces oxygen by chemical reaction.

(b) Each chemical oxygen generator must be designed and installed in accordance with the following requirements:

(1) Surface temperature developed by the generator during operation may not create a hazard to the airplane or to its occupants.

(2) Means must be provided to relieve any internal pressure that may be hazardous.

(c) In addition to meeting the requirements in paragraph (b) of this section, each portable chemical oxygen generator that is capable of sustained operation by successive replacement of a generator element must be placarded to show—

(1) The rate of oxygen flow, in liters per minute;

(2) The duration of oxygen flow, in minutes, for the replaceable generator element; and

(3) A warning that the replaceable generator element may be hot, unless the element construction is such that the surface temperature cannot exceed 100 degrees F.

15. By adding a new § 23.1461, following § 23.1450, in Subpart F, to read as follows:

**§ 23.1461 Equipment containing high energy rotors.**

(a) Equipment containing high energy rotors must meet paragraph (b), (c), or (d) of this section.

(b) High energy rotors contained in equipment must be able to withstand damage caused by malfunctions, vibration, abnormal speeds, and abnormal temperatures. In addition—

(1) Auxiliary rotor cases must be able to contain damage caused by the failure of high energy rotor blades; and

(2) Equipment control devices, systems, and instrumentation must reasonably ensure that no operating limitations affecting the integrity of high energy rotors will be exceeded in service.

(c) It must be shown by test that equipment containing high energy rotors can contain any failure of a high energy rotor that occurs at the highest speed obtainable with the normal speed control devices inoperative.

(d) Equipment containing high energy rotors must be located where rotor failure will neither endanger the occupants nor adversely affect continued safe flight.

16. By adding a new § 23.1547(e) to read as follows:

**§ 23.1547 Magnetic direction indicator.**

* * * * *

(e) If a magnetic nonstabilized direction indicator can have a deviation of more than 10 degrees caused by the operation of electrical equipment, the placard must state which electrical loads, or combination of loads, would cause a deviation of more than 10 degrees when turned on.

## PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

17. By revising § 25.831(e) and by adding a new § 25.831(f) to read as follows:



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§ 25.831 Ventilation.

• • • • • •

(e) Except as provided in paragraph (f) of this section, means must be provided to enable the occupants of the following compartments and areas to control the temperature and quantity of ventilating air supplied to their compartment or area independently of the temperature and quantity of air supplied to other compartments and areas:

(1) The flight crew compartment.

(2) Crewmember compartments and areas other than the flight crew compartment unless the crewmember compartment or area is ventilated by air interchange with other compartments or areas under all operating conditions.

(f) Means to enable the flight crew to control the temperature and quantity of ventilating air supplied to the flight crew compartment independently of the temperature and quantity of ventilating air supplied to other compartments are not required if all of the following conditions are met:

(1) The total volume of the flight crew and passenger compartments is 800 cubic feet or less.

(2) The air inlets and passages for air to flow between flight crew and passenger compartments are arranged to provide compartment temperatures within 5 degrees F. of each other and adequate ventilation to occupants in both compartments.

(3) The temperature and ventilation controls are accessible to the flight crew.

18. By amending the lead-in of § 25.1309(d) and by revising §§ 25.1309(b)(2), (c), (e)(3) and (f) to read as follows:

§ 25.1309 Equipment, systems, and installations.

• • • • • •

(b) • • •

(2) The occurrence of any other failure condition which would reduce the capability of the airplane or the ability of the crew to cope with adverse operating conditions is improbable.

(c) Warning information must be provided to alert the crew to unsafe system operating conditions, and to enable them to take appropriate corrective action. Systems, controls, and associated monitoring and warning means must be designed to minimize crew errors which could create additional hazards.

(d) Compliance with the requirements of paragraph (b) of this section must be shown by analysis, and where necessary, by appropriate ground, flight, or simulator tests. The analysis must consider—

• • • • • •

(e) • • •

(3) Essential loads after failure of—

(i) Any one engine on two-engine airplanes; and

(ii) Any two engines on three-or-more engine airplanes.

• • • • • •

(f) In determining compliance with paragraphs (e)(2) and (3) of this section, the power loads may be assumed to be reduced under a monitoring procedure consistent with safety in the kinds of operation authorized. Loads not required in controlled flight need not be considered for the two-engine-inoperative condition on airplanes with three or more engines.

• • • • • •

19. By adding a new § 25.1321(e) to read as follows:

§ 25.1321 Arrangement and visibility.

• • • • • •

(e) If a visual indicator is provided to indicate malfunction of an instrument, it must be effective under all probable cockpit lighting conditions.

20. By adding new §§ 25.1325(g) and (h) to read as follows:

§ 25.1325 Static pressure systems.

• • • • • •

(g) Except as provided in paragraph (h) of this section, if the static pressure system incorporates both a primary and an alternate static pressure source, the means for selecting one or the other source must be designed so that—

(1) When either source is selected, the other is blocked off; and

(2) Both sources cannot be blocked off simultaneously.

(h) For unpressurized airplanes, paragraph (g)(1) of this section does not apply if it can be demonstrated that the static pressure system calibration, when either static pressure source is selected, is not changed by the other static pressure source being open or blocked.

21. By amending § 25.1331 by striking the phrase ", or adjacent to," in paragraph (a)(1), and by revising § 25.1331 (a)(2), and adding a new paragraph (a)(3), to read as follows:

§ 25.1331 Instruments using a power supply.

(a) • • •

(2) Each instrument must, in the event of the failure of one power source, be supplied by another power source. This may be accomplished automatically or by manual means.

(3) If an instrument presenting navigation data receives information from sources external to that instrument and loss of that information would render the presented data unreliable, the instrument must incorporate a visual means to warn the crew, when such loss of information occurs, that the presented data should not be relied upon.

• • • • • •

§ 25.1333 [Amended]

22. By striking the period at the end of § 25.1333(a) and inserting a semicolon in place thereof.

23. By adding a new § 25.1335 to read as follows:

§ 25.1335 Flight director systems.

If a flight director system is installed, means must be provided to indicate to the flight crew its current mode of operation. Selector switch position is not acceptable as a means of indication.

24. By adding new §§ 25.1351 (c) and (d) to read as follows:

§ 25.1351 General.

• • • • • •

(c) *External power.* If provisions are made for connecting external power to the airplane, and that external power can be electrically connected to equipment other than that used for engine starting, means must be provided to ensure that no external power supply having a reverse polarity, or a reverse phase sequence, can supply power to the airplane's electrical system.

(d) *Operation without normal electrical power.* It must be shown by analysis, tests, or both, that the airplane can be operated safely in VFR conditions, for a period of not less than five minutes, with the normal electrical power (electrical power sources excluding the battery) inoperative, with critical type fuel (from the standpoint of flameout and restart capability), and with the airplane initially at the maximum certificated altitude. Parts of the electrical system may remain on if—

(1) A single malfunction, including a wire bundle or junction box fire, cannot result in loss of the part turned off and the part turned on;

(2) The parts turned on are electrically and mechanically isolated from the parts turned off; and

(3) The electrical wire and cable insulation, and other materials, of the parts turned on are self-extinguishing when tested in accordance with § 25.1359 (d).

25. By revising § 25.1353(c)(1)(i) and by adding a new § 25.1353(c)(5) to read as follows:

§ 25.1353 Electrical equipment and installations.

• • • • • •

(c) • • •

(1) • • •

(i) At maximum regulated voltage or power;

• • • • • •

(5) Each nickel cadmium battery installation capable of being used to start an engine or auxiliary power unit must have provisions to prevent any hazardous effect on structure or essential systems that may be caused by the maximum amount of heat the battery can generate during a short circuit of the battery or of its individual cells.

§ 25.1401 [Amended]

26. By amending § 25.1401 by striking the number "30" in both places in paragraph (b) and inserting in place thereof (in both places) the number "75", and by adding a line at the end of the table in paragraph (f) to read as follows: "30° to 75° . . . 20".

27. By adding a new § 25.1421, following § 25.1419, and before the heading "Miscellaneous Equipment", to read as follows:

§ 25.1421 Megaphones.

If a megaphone is installed, a restraining means must be provided that is capable of restraining the megaphone when it is subjected to the ultimate inertia forces specified in § 25.561(b)(3).





28. By amending § 25.1435 by striking the language in § 25.1435(a)(3) and in place thereof inserting the term "[Reserved]", by revising §§ 25.1435 (a)(2) and (a)(4)(ii), and by adding new §§ 25.1435 (a)(7) and (a)(8), to read as follows:

§ 25.1435 Hydraulic systems.

(a) • • •

(2) A means to indicate system pressure and a means to indicate fluid quantity, both located at a flight crewmember station, must be provided for each hydraulic system that—

(i) Performs a function that is essential for continued safe flight and landing; or

(ii) In the event of hydraulic system malfunction, requires corrective action by the crew to ensure continued safe flight and landing.

(3) [Reserved]

(4) • • •

(ii) Except as provided in paragraph (a)(7) of this section, will not exceed 125 percent of the design operating pressure, excluding pressure at the outlets specified in paragraph (a)(4)(i) of this section. Design operating pressure is the maximum steady operating pressure.

• • • • • •

(7) Transient pressure in a part of the system may exceed the limit specified in paragraph (a)(4)(ii) of this section if—

(i) A survey of those transient pressures is conducted to determine their magnitude and frequency; and

(ii) Based on the survey, the fatigue strength of that part of the system is substantiated by analysis or tests, or both.

(8) Each hydraulic pump must be designed and installed so that loss of hydraulic fluid to the pump cannot create a hazard that might prevent continued safe flight and landing.

• • • • • •

29. By adding a new § 25.1438, following § 25.1435, to read as follows:

§ 25.1438 Pressurization and pneumatic systems.

(a) Pressurization system elements must be burst pressure tested to 2.0 times, and proof pressure tested to 1.5 times, the maximum normal operating pressure.

(b) Pneumatic system elements must be burst pressure tested to 3.0 times, and proof pressure tested to 1.5 times, the maximum normal operating pressure.

(c) An analysis, or a combination of analysis and test, may be substituted for any test required by paragraph (a) or (b) of this section if the Administrator finds it equivalent to the required test.

30. By revising §§ 25.1447(c)(1) and (c)(2) to read as follows:

§ 25.1447 Equipment standards for oxygen dispensing units.

• • • • • •

(c) • • •

(1) There must be an oxygen dispensing unit connected to oxygen supply terminals immediately available to each occupant, wherever seated. If certification for operation above 30,000 feet is requested, the dispensing units providing the required oxygen flow must be automatically presented to the occupants before the cabin pressure altitude exceeds 15,000 feet and the crew must be provided with a manual means to make the dispensing units immediately available in the event of failure of the automatic system. The total number of dispensing units and outlets must exceed the number of seats by at least 10 percent. The extra units must be as uniformly distributed throughout the cabin as practicable.

(2) Each flight crewmember on flight deck duty must be provided with demand equipment. In addition, each flight crewmember must be provided with a quick-donning type of oxygen dispensing unit, connected to an oxygen supply terminal, that is immediately available to him when seated at his station, and that is designed and installed so that it—

(i) Can be placed on the face from its ready position, properly secured, sealed, and supplying oxygen upon demand, with one hand within five seconds and without disturbing eyeglasses or causing delay in proceeding with emergency duties; and

(ii) Allows, while in place, the performance of normal communication functions.

• • • • • •

31. By adding a new § 25.1450, following § 25.1449, to read as follows:

§ 25.1450 Chemical oxygen generators.

(a) For the purpose of this section, a chemical oxygen generator is defined as a device which produces oxygen by chemical reaction.

(b) Each chemical oxygen generator must be designed and installed in accordance with the following requirements:

(1) Surface temperature developed by the generator during operation may not create a hazard to the airplane or to its occupants.

(2) Means must be provided to relieve any internal pressure that may be hazardous.

(c) In addition to meeting the requirements in paragraph (b) of this section, each portable chemical oxygen generator that is capable of sustained operation by successive replacement of a generator element must be placarded to show—

(1) The rate of oxygen flow, in liters per minute;

(2) The duration of oxygen flow, in minutes, for the replaceable generator element; and

(3) A warning that the replaceable generator element may be hot, unless the element construction is such that the surface temperature cannot exceed 100 degrees F.

32. By revising § 25.1457(g) to read as follows:

§ 25.1457 Cockpit voice recorders.

• • • • • •

(g) Each recorder container must—

(1) Be either bright orange or bright yellow;

(2) Have reflective tape affixed to its external surface to facilitate its location under water; and

(3) Have an underwater locating device, when required by the operating rules of this chapter, on or adjacent to the container which is secured in such manner that they are not likely to be separated during crash impact.

33. By amending § 25.1459 by deleting paragraph (a)(7); by striking the word "and" at the end of paragraph (a)(3); by striking the period at the end of paragraph (a)(4) and inserting a semicolon in its place; by striking the period at the end of paragraph (a)(5) and inserting in its place a semicolon followed by the word "and"; and by revising § 25.1459(d) to read as follows:

§ 25.1459 Flight recorders.

• • • • • •

(d) Each recorder container must—

(1) Be either bright orange or bright yellow;

(2) Have reflective tape affixed to its external surface to facilitate its location under water; and

(3) Have an underwater locating device, when required by the operating rules of this chapter, on or adjacent to the container which is secured in such a manner that they are not likely to be separated during crash impact.

34. By adding a new § 25.1461, following § 25.1459, in Subpart F, to read as follows:

§ 25.1461 Equipment containing high energy rotors.

(a) Equipment containing high energy rotors must meet paragraph (b), (c), or (d) of this section.

(b) High energy rotors contained in equipment must be able to withstand damage caused by malfunctions, vibration, abnormal speeds, and abnormal temperatures. In addition—

(1) Auxiliary rotor cases must be able to contain damage caused by the failure of high energy rotor blades; and

(2) Equipment control devices, systems, and instrumentation must reasonably ensure that no operating limitations affecting the integrity of high energy rotors will be exceeded in service.

(c) It must be shown by test that equipment containing high energy rotors can contain any failure of a high energy rotor that occurs at the highest speed obtainable with the normal speed control devices inoperative.

(d) Equipment containing high energy rotors must be located where rotor failure will neither endanger the occupants nor adversely affect continued safe flight.

## PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

35. By adding a new § 27.1321(d) to read as follows:

§ 27.1321 Arrangement and visibility.

• • • • • •

(d) If a visual indicator is provided to indicate malfunction of an instrument,



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it must be effective under all probable cockpit lighting conditions.

36. By amending § 27.1323 by redesignating paragraph (b) as paragraph (c); by revising paragraph (a) and redesignating it as paragraph (b), and by adding a new paragraph (a); to read as follows:

§ 27.1323 Airspeed indicating system.

(a) Each airspeed indicating instrument must be calibrated to indicate true airspeed (at sea level with a standard atmosphere) with a minimum practicable instrument calibration error when the corresponding pitot and static pressures are applied.

(b) The airspeed indicating system must be calibrated in flight at forward speeds of 20 knots and over.

* * * * *

37. By amending § 27.1325 by revising the section heading; by designating the present paragraph as paragraph (a); and by adding new paragraphs (b), (c), and (d) to read as follows:

§ 27.1325 Static pressure systems.

* * * * *

(b) Each static pressure port must be designed and located in such manner that the correlation between air pressure in the static pressure system and true ambient atmospheric static pressure is not altered when the rotorcraft encounters icing conditions. An anti-icing means or an alternate source of static pressure may be used in showing compliance with this requirement. If the reading of the altimeter, when on the alternate static pressure system, differs from the reading of the altimeter when on the primary static system by more than 50 feet, a correction card must be provided for the alternate static system.

(c) Except as provided in paragraph (d) of this section, if the static pressure system incorporates both a primary and an alternate static pressure source, the means for selecting one or the other source must be designed so that—

(1) When either source is selected, the other is blocked off; and

(2) Both sources cannot be blocked off simultaneously.

(d) For unpressurized rotorcraft, paragraph (c)(1) of this section does not apply if it can be demonstrated that the static pressure system calibration, when either static pressure source is selected, is not changed by the other static pressure source being open or blocked.

38. By revising § 27.1327 to read as follows:

§ 27.1327 Magnetic direction indicator.

(a) Except as provided in paragraph (b) of this section—

(1) Each magnetic direction indicator must be installed so that its accuracy is not excessively affected by the rotorcraft's vibration or magnetic fields; and

(2) The compensated installation may not have a deviation, in level flight, greater than 10 degrees on any heading.

(b) A magnetic nonstabilized direction indicator may deviate more than 10 degrees due to the operation of electrically powered systems such as electrically heated windshields if either a magnetic stabilized direction indicator, which does not have a deviation in level flight greater than 10 degrees on any heading, or a gyroscopic direction indicator, is installed. Deviations of a magnetic nonstabilized direction indicator of more than 10 degrees must be placarded in accordance with § 27.1547(e).

39. By adding a new § 27.1335 to read as follows:

§ 27.1335 Flight director systems.

If a flight director system is installed, means must be provided to indicate to the flight crew its current mode of operation. Selector switch position is not acceptable as a means of indication.

40. By adding a new § 27.1351(e) to read as follows:

§ 27.1351 General.

* * * * *

(e) *External power.* If provisions are made for connecting external power to the rotorcraft, and that external power can be electrically connected to equipment other than that used for engine starting, means must be provided to ensure that no external power supply having a reverse polarity, or a reverse phase sequence, can supply power to the rotorcraft's electrical system.

41. By revising § 27.1353(b)(1) and by adding a new paragraph (f) to read as follows:

§ 27.1353 Storage battery design and installation.

* * * * *

(b) * * *

(1) At maximum regulated voltage or power;

* * * * *

(f) Each nickel cadmium battery installation capable of being used to start an engine or auxiliary power unit must have provisions to prevent any hazardous effect on structure or essential systems that may be caused by the maximum amount of heat the battery can generate during a short circuit of the battery or of its individual cells.

42. By revising § 27.1357(b) to read as follows:

§ 27.1357 Circuit protective devices.

* * * * *

(b) A protective device for a circuit essential to flight safety may not be used to protect any other circuit.

* * * * *

43. By adding a new § 27.1547(e) to read as follows:

§ 27.1547 Magnetic direction indicator.

* * * * *

(e) If a magnetic nonstabilized direction indicator can have a deviation of more than 10 degrees caused by the operation of electrical equipment, the placard must state which electrical loads, or combination of loads, would cause a deviation of more than 10 degrees when turned on.

## PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

44. By revising § 29.1303(g) to read as follows:

§ 29.1303 Flight and navigation instruments.

The following are required flight and navigational instruments:

* * * * *

(g) A gyroscopic rate-of-turn indicator combined with an integral slip-skid indicator (turn-and-bank indicator) except that only a slip-skid indicator is required on rotorcraft with a third attitude instrument system that—

(1) Is useable through flight attitudes of ± 80 degrees of pitch and ± 120 degrees of roll;

(2) Is powered from a source independent of the electrical generating system;

(3) Continues reliable operation for a minimum of 30 minutes after total failure of the electrical generating system;

(4) Operates independently of any other attitude indicating system;

(5) Is operative without selection after total failure of the electrical generating system;

(6) Is located on the instrument panel in a position acceptable to the Administrator that will make it plainly visible to and useable by any pilot at his station; and

(7) Is appropriately lighted during all phases of operation.

* * * * *

45. By amending § 29.1309 by deleting the word "four" in § 29.1309(e) and inserting the word "three" in place thereof; and by revising §§ 29.1309(d)(3)(i) and (ii) to read as follows:

§ 29.1309 Equipment, systems, and installations.

* * * * *

(d) * * *

(3) * * *

(i) Any one engine, on rotorcraft with two engines; and

(ii) Any two engines, on rotorcraft with three or more engines.

* * * * *

46. By adding a new § 29.1321(g) to read as follows:

§ 29.1321 Arrangement and visibility.

* * * * *

(g) If a visual indicator is provided to indicate malfunction of an instrument, it must be effective under all probable cockpit lighting conditions.

47. By amending § 29.1325 by revising the section heading; by redesignating paragraphs (c), (d), and (e) as paragraphs (d), (e), and (f), respectively; and by adding new paragraphs (c), (g), and (h) to read as follows:

§ 29.1325 Static pressure and pressure altimeter systems.

* * * * *

(c) Each static pressure port must be designed and located in such manner that the correlation between air pressure in the static pressure system and true ambient atmospheric static pressure is not altered when the rotorcraft encounters icing conditions. An anti-icing means or an alternate source of static pressure may be used in showing compliance with this requirement. If the reading of the altimeter, when on the alternate static pressure system, differs from the reading of the altimeter when on the primary static system by more than 50 feet, a correction card must be provided for the alternate static system.

* * * * *

(g) Except as provided in paragraph (h) of this section, if the static pressure system incorporates both a primary and an alternate static pressure source, the means for selecting one or the other source must be designed so that—

(1) When either source is selected, the other is blocked off; and

(2) Both sources cannot be blocked off simultaneously.

(h) For unpressurized rotorcraft, paragraph (g)(1) of this section does not apply if it can be demonstrated that the static pressure system calibration, when either static pressure source is selected, is not changed by the other static pressure source being open or blocked.

48. By adding a new § 29.1335, following § 29.1333, to read as follows:

§ 29.1335 Flight director systems.

If a flight director system is installed, means must be provided to indicate to the flight crew its current mode of operation. Selector switch position is not acceptable as a means of indication.

49. By adding new §§ 29.1351(c) and (d) to read as follows:

§ 29.1351 General.

* * * * *

(c) *External power.* If provisions are made for connecting external power to the rotorcraft, and that external power can be electrically connected to equipment other than that used for engine starting, means must be provided to ensure that no external power supply having a reverse polarity, or a reverse phase sequence, can supply power to the rotorcraft's electrical system.

(d) *Operation without normal electrical power.* It must be shown by analysis, tests, or both, that the rotorcraft can be operated safely in VFR conditions, for a period of not less than five minutes, with the normal electrical power (electrical power sources excluding the battery) inoperative, with critical type fuel (from the standpoint of flameout and restart capability), and with the rotorcraft initially at the maximum certificated altitude. Parts of the electrical system may remain on if—

(1) A single malfunction, including a wire bundle or junction box fire, cannot result in loss of the part turned off and the part turned on;

(2) The parts turned on are electrically and mechanically isolated from the parts turned off; and

(3) The electrical wire and cable insulation, and other materials, of the parts turned on are self-extinguishing when tested in accordance with § 25.1359(d) in effect on September 1, 1977.

50. By revising § 29.1353(c)(1)(i) and by adding a new § 29.1353(c)(5) to read as follows:

§ 29.1353 Electrical equipment and installations.

* * * * *

(c) * * *

(1) * * *

(i) At maximum regulated voltage or power;

* * * * *

(5) Each nickel cadmium battery installation capable of being used to start an engine or auxiliary power unit must have provisions to prevent any hazardous effect on structure or essential systems that may be caused by the maximum amount of heat the battery can generate during a short circuit of the battery or of its individual cells.

51. By revising § 29.1355(b)(1) to read as follows:

§ 29.1355 Distribution system.

* * * * *

(b) Each system must be designed so that—

(1) For category A rotorcraft, essential load circuits can be supplied in the event of reasonably probable faults or open circuits; and

* * * * *

## PART 91—GENERAL OPERATING AND FLIGHT RULES

52. By revising § 91.33(d)(3) to read as follows:

§ 91.33 Powered civil aircraft with standard category U.S. airworthiness certificates; instrument and equipment requirements.

* * * * *

(d) *Instrument flight rules.* For IFR flight the following instruments and equipment are required:

* * * * *

(3) Gyroscopic rate-of-turn indicator, except on the following aircraft:

(i) Large airplanes with a third attitude instrument system useable through flight attitudes of 360 degrees of pitch and roll and installed in accordance with § 121.305(j) of this chapter; and

(ii) Rotorcraft, type certificated under Part 29 of this chapter, with a third attitude instrument system useable through flight attitudes of ± 80 degrees of pitch and ± 120 degrees of roll and installed in accordance with § 29.1303(g) of this chapter.

* * * * *

53. By amending § 91.36 by striking the word "or" at the end of paragraph (a); by striking the period at the end of paragraph (b) and inserting in place thereof a semicolon followed by the word "or"; and by adding a new paragraph (c) to read as follows:

§ 91.36 Data correspondence between automatically reported pressure altitude data and the pilot's altitude reference.

* * * * *

(c) After September 1, 1979, unless the altimeters and digitizers in that equipment meet the standards in TSO–C10b and TSO–C88, respectively.

## PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

54. By amending § 121.343 by revising the first sentence of the lead-in of paragraph (e) to read as follows:

§ 121.343 Flight recorders.

* * * * *

(e) Each flight recorder required by this section must be installed in accordance with the requirements of § 25.1459 of this chapter in effect on August 31, 1977 * * *

* * * * *

55. By revising § 121.359(c) to read as follows:

§ 121.359 Cockpit voice recorders.

* * * * *

(c) The cockpit voice recorder required by this section must meet the following application standards:

(1) The requirements of Part 25 of this chapter in effect on August 31, 1977.

(2) After September 1, 1980, each recorder container must—

(i) be either bright orange or bright yellow;

(ii) Have reflective tape affixed to the external surface to facilitate its location under water; and

(iii) Have an approved underwater locating device on or adjacent to the container which is secured in such a manner that they are not likely to be separated during crash impact, unless the cockpit voice recorder, and the flight recorder required by § 121.343, are installed adjacent to each other in such a manner that they are not likely to be separated during crash impact.

* * * * *

(Secs. 313(a), 601, 603, 604, and 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, 1424, and 1425); and the sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C. on July 11, 1977.

QUENTIN S. TAYLOR,
*Acting Administrator.*

[FR Doc.77-20313 Filed 7-15-77;8:45 am]





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MONDAY, JULY 18, 1977

PART V




# DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

■

# COMPARTMENT INTERIOR MATERIALS IN TRANSPORT CATEGORY AIRPLANES

Public Hearing and Inquiry

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### [ 14 CFR Parts 25 and 121 ]

[Docket No. 17030; Notice No. 77-11; Reference Docket Nos. 14230, 9611, and 14779; Notice Nos. 74-38, 75-3, and 75-31]

### COMPARTMENT INTERIOR MATERIALS IN TRANSPORT CATEGORY AIRPLANES

### Public Hearing

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Public hearing and agenda, reopening of comment periods.

SUMMARY: This notice announces a public hearing and invites interested persons to state their views or to provide information on: (1) the feasibility of developing a comprehensive set of integrated flammability, smoke emission, and toxic gas emission standards for compartment interior materials in transport category airplanes; (2) whether compartment interior materials now in use would meet those integrated standards; and (3) whether other compartment interior materials are available or could be developed to meet those integrated standards.

DATES: Public hearing from November 14 to November 18, 1977. Comment periods are reopened to January 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Presiding Officer, William J. Sullivan, Chief, Safety Regulations Division (AFS-900), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, 202-755-8714.

ADDRESSES: Requests to be heard should indicate the subject matter of the presentation and time required, and be sent to: Presiding Officer, Public Hearing Notice No., Flight Standards Service (AFS-900), Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, phone: 202-755-8714.

The public hearing will be held at the: Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, Auditorium, 3rd Floor, phone: 202-755-8714.

Written comments concerning matters presented at the hearing should indicate Docket No. 17030, and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Rules Docket No. ----, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591.

SUPPLEMENTARY INFORMATION:

#### BACKGROUND

The Federal Aviation Administration, on December 19, 1974, issued an Advance Notice of Proposed Rule Making (Notice No. 74-38; 39 FR 45044; December 30, 1974) which invited written data, views, or arguments on the need for standards governing the toxic gas emission characteristics of compartment interior materials used in transport category airplanes when subjected to fire. On March 31, 1975, Notice No. 74-38A was issued in order to allow commenters additional time to submit comments.

On February 4, 1975, the FAA issued a Notice of Proposed Rule Making (Notice No. 75-3; 40 FR 6506; February 12, 1975) which proposed to establish standards for the smoke emission characteristics of compartment interior materials used in transport category airplanes. On May 9, 1975, Notice 75-3A was issued in order to allow commenters additional time to submit comments.

On June 30, 1975, the FAA issued a Notice of Proposed Rule Making (Notice No. 75-31; 40 FR 29410; July 11, 1975) continuing Proposal No. 8-118, which proposed adding a new paragraph (b) to § 121.312 which would require that, after three years, materials, finishes, and decorative surfaces used in crew or passenger compartments conform to the applicable fire protection requirements of § 25.853 in effect on May 1, 1972, unless compliance with later standards is required under the airplane type certificate.

In response to Notices 74-38, 75-3, and 75-31 (Proposal No. 8-118), numerous comments were received from industry associations, foreign airworthiness authorities, aircraft operators, research laboratories, consumer interest organizations, and the traveling public. While the commenters in general supported the objective of improving compartment fire protection by improving the materials installed in those compartments they questioned whether the state-of-the-art has developed sufficiently to accomplish the objective in an economical and technically feasible manner. The more significant comments received included the following:

Commenters on both the advance notice on toxic gas emission and on the proposed smoke emission standards suggested that smoke emission, toxic gas emission, and flammability should be handled more systematically. Commenters suggested that the problems of smoke emission and toxic gas emission are inseparable.

Commenters suggested that the FAA should give further consideration to the interrelationships of fire resistance, heat stability, smoke emission, and toxic gas emission characteristics and to the need to develop more comprehensive standards once these interrelationships have been considered.

Commenters to Proposal No. 8-118 stated that it would place an undue and unnecessary burden on the air carriers to require them to replace materials to meet new flammability standards, then later require them to replace the new materials with other materials meeting smoke emission standards, and then still later require them to replace the new materials with other materials meeting the toxic gas emission standards that are yet to be developed.

Based on these comments, on the results of research and development (R&D) on toxic gas emission that have been completed to date by the FAA, and on the FAA's review of recent service experience, the FAA believes the following:

That further consideration, including research efforts, should be given to the interrelationships of flammability, smoke emission, and toxic gas emission characteristics of compartment interior materials in transport category airplanes before further action is taken with respect to Notices 74-38, 75-3, and 75-31 (Proposal No. 8-118).

That a public hearing would provide a forum to obtain the information needed to determine whether a comprehensive set of integrated standards for flammability, smoke emission, and toxic gas emission could be developed for compartment interior materials in transport category airplanes.

#### INVITATION FOR COMMENTS AND PARTICIPATION

In light of the need for a public hearing, the comment period for Notices 74-38, 75-3, 75-31 (Proposal No. 8-118) is reopened to January 16, 1978, to allow interested persons to submit new or revised comments based upon matters presented at the hearing. Written comments should indicate Docket No. 17030, and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Rules Docket No.----, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact dealing with the substance of this rule-making action will be filed in the Rules Docket. The Docket Number for this notice and the comments received will be referenced in Docket Nos. 14230, 9611, and 14779, which relate to the original rule-making actions.

Before taking further action based on Notices 74-38, 75-3, and 75-31 (Proposal No. 8-118), the FAA will consider all statements presented at the hearing and all written statements and comments submitted to the regulatory docket established for this notice as well as those established for Notices 74-38, 75-3, and 75-31. The substance of the proposals contained in the notices may be changed in the light of those statements and comments presented.

Interested persons are invited to attend the hearings and to participate by making oral or written statements. Written statements should be submitted in duplicate and will be made a part of the regulatory docket. Persons wishing to make oral statements at the hearings must notify the FAA on or before October 25, 1977, and indicate the amount of time requested for their initial statements. Presentations will be scheduled on a first-come-first-served basis, as time may permit within the hearing schedule. Requests to be heard should indicate the subject matter of the presentation, time required, and be sent to: Public Hearing Notice No. 77-11, Flight Standards Service (AFS-900), Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; or phone: 202-755-8714.





#### SCOPE OF PUBLIC HEARING

This hearing is intended to provide an opportunity for interested persons to provide information, views, and arguments supported by pertinent data, reports, or other information, on the following issues:

What scope should compartment interior materials safety standards have in order to effectively complement existing regulations which deal with fire protection? For instance, should the standards be based on subcomponent, component, or full-scale cabin fire testing? What materials specimen tests should they call for? How should a comprehensive set of integrated standards for flammability, smoke emission, and toxic gas emission be developed? What are the options?

What are the effective, useful, and practical compartment interior materials now in use or which are available that would meet those integrated standards?

When can effective, useful, and practical compartment interior materials be developed?

How quickly can effective, useful, and practical compartment interior materials be introduced into service?

What related R&D programs are in progress on compartment interior materials? What are the safety benefits to be gained from each of these programs?

What related R&D efforts dealing with compartment interior materials should be initiated, continued or expanded? What are the safety benefits to be gained from each of these programs?

What are the probable impacts (if any) and benefits of these improved compartment interior materials on aircraft weight, energy consumption, inflation, the environment, and the cost to the traveling public?

#### PUBLIC HEARING AGENDA

The following is the agenda for the hearing:

NOVEMBER 14

| Item and time | Topic |
|---|---|
| 10 to 10:30 a.m. | Opening Session. |
| 10:30 to 12 m. | Government Presentations: Review of Transport Category Airplane, Accident Experience; Current Federal Aviation Regulations Related to Flammability, Smoke and Toxic Gas Emmission Characteristics of Compartment Interior Materials. |
| 1:30 to 4 p.m. | Government Presentations: Flammability Characterestics of Compartment Interior Materials; Smoke Emission Characteristics of Compartment Interior Materials; Toxic Gas Emission Characteristics of Compartment Interior Materials. |

NOVEMBER 15

| | |
|---|---|
| 10 to 12 m. | Government Presentations: Interrelationships of Flammability and Smoke and Toxic Gas Emission Characteristics of Compartment Interior Materials; State-of-the-Art of Smoke Analyzers. |
| 1:30 to 4 p.m. | Government Presentations: Government Research; Future Applications. |

NOVEMBER 16

| | |
|---|---|
| 10 to 12 m. | Public Presentations and Discussions. |
| 1:30 to 4 p.m. | Public Presentations and Discussions. |

NOVEMBER 17

| | |
|---|---|
| 10 to 12 m. | Public Presentations and Discussions. |
| 1:30 to 4 p.m. | Public Presentations and Discussions. |

NOVEMBER 18

| | |
|---|---|
| 10 to 12 m. | Public Presentations and Discussions. |
| 1:30 to 4 p.m. | Public Presentations and Discussions. |

#### HEARING PROCEDURES

Persons who plan to attend the hearing should be aware of the following procedures, which will be followed to facilitate the workings of the hearing:

(a) The hearing will be informal in nature and will be conducted by the designated repersentative of the Administrator uder 14 CFR 11.33. Since the hearing will not be evidentiary or judicial in nature, there will be no cross-examination or other adjudicatory procedure applied to the presentations. However, interested persons will be allowed to make rebuttal statements and to ask questions.

(b) The hearing will begin at 10:00 a.m. on the morning of November 14, 1977, at the Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, Auditorium, 3rd Floor. There will be no admission fee or other charge to attend and participate. All hearing sessions will be open to all persons on a space available basis. The Presiding Officer may accelerate the hearing agenda to enable early adjournment if the progress of the hearing is more expeditious than planned.

(c) All hearing sessions will be recorded by a court reporter. Anyone interested in purchasing the transcript should contact the court reporter directly. A copy of the court reporter's transcript will be docketed. It is the FAA's intent to tape record the sessions.

(d) The FAA will not consider material presented at the hearing by participants on any issue that is not within the scope of the hearing. Position papers or other hand-out material may be accepted at the discretion of the Presiding Officer.

(e) Statements made by FAA participants at the hearing should not be taken as expressing a final FAA position.

#### DRAFTING INFORMATION

The principal authors of this document are Adolfo O. Astorga, Flight Standards Service, and Joseph D. Jeffrey, Office of the Chief Counsel.

(Secs. 313(a), 601, 603, and 604, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, and 1424); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.47.)

Issued in Washington, D.C., on July 11, 1977.

R. P. SKULLY,
*Director,*
*Flight Standards Service.*

[FR Doc.77-20316 Filed 7-15-77;8:45 am]



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MONDAY, JULY 18, 1977
PART VI




# DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

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# REGIONAL FISHERY MANAGEMENT COUNCILS

Interim Regulations

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Title 50—Wildlife and Fisheries

Chapter VI—Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce

PART 601—REGIONAL FISHERY MANAGEMENT COUNCILS

PART 602—GUIDELINES FOR DEVELOPMENT OF FISHERY MANAGEMENT PLANS

Interim Regulations

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Interim regulations.

SUMMARY: NOAA is issuing Interim Regulations to supplement Final Regulations published on July 5, 1977, which affect the activities of eight Regional Fishery Management Councils established pursuant to the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265). The action is intended to provide the Councils with needed guidance for their effective operation.

DATES: Effective date: July 18, 1977. Comment: September 16, 1977.

ADDRESS: Comments should be addressed to: Director, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Richard H. Schaefer, Chief, Fisheries Management Operations Division, 202–634–7454; or Donald J. Leedy, Fishery Administrator, Fisheries Management Operations Division, 202–634–7436, National Marine Fisheries Service, Washington, D.C. 20235.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On September 15, 1976, Chapter VI, entitled Fishery Conservation and Management, was added to Title 50 of the Code of Federal Regulations (41 FR 39436). This chapter was issued by the Secretary of Commerce to carry out certain statutory mandates contained in the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265) (hereinafter the "Act"). It addresses, among other things, the National Standards for fishery conservation and management, and the responsibilities and functions of the eight Regional Fishery Management Councils established under the Act. Some sections of the Interim Regulations published on September 15, 1976, were reserved. The purpose of reserving the sections was to allow time for thoughtful resolution and clarification of identified legal, scientific, and policy questions requiring consultation with appropriate Federal agencies, the States and the Councils. Final Regulations (42 FR 34449) were published on July 5, 1977, to provide essential clarifications of guidance for the effective functioning of the Councils. Certain sections were reserved to allow additional time for resolution and further clarification of identified legal and policy questions.

PURPOSE

50 CFR, Chapter VI, is therefore being amended by withdrawing the reserved designation of certain sections of the Final Regulations and by adding new text. Specific subjects addressed concern the definition of highly migratory species, and the establishment of (a) intercouncil boundaries, (b) financial procedures and standards, (c) contents of fishery management plans, and (d) a suggested standard format for fishery management plans. The text of § 602.3, Contents of fishery management plans, was originally published as Interim Regulations on September 15, 1976, and was reserved in the Final Regulations. This section has been extensively revised to correlate with, and provide explanatory comments for, § 602.4, Standard format for fishery management plans—a section previously reserved. Names of fishes are taken from "A List of Common and Scientific Names of Fishes from the United States and Canada," (Third Edition), American Fisheries Society Special Publication No. 6, 1970.

NEED FOR EFFECTIVE DATE

These regulations constitute integral and essential clarifications of Final Regulations. They are consequently issued as Interim Regulations in accordance with 5 U.S.C. 553(d)(3), and become effective on July 18, 1977.

PUBLIC COMMENT

Interested parties, Councils, and governmental agencies are encouraged to submit written comments, views, or data concerning the regulations promulgated hereby to the Director, National Marine Fisheries Service, Washington, D.C. 20235. All such submissions received on or before September 16, 1977, will be considered prior to publication of these sections as final regulations.

The Associate Administrator for Marine Resources of the National Oceanic and Atmospheric Administration, is delegated authority to approve these regulations in Department of Commerce Organization Order 25–5A, Section 3.01dd, Amendment 4 (dated September 30, 1976) and NOAA Directives Manual 05–57 (dated December 1, 1976).

(Secs. 301(b), 302(f)(6), 304(f), 305(g), Fishery Conservation and Management Act of 1976 (16 U.S.C. 1851, 1852, 1854, 1855).)

Issued: July 13, 1977.

ROBERT W. SCHONING,
*Director, National Marine Fisheries Service.*

In consideration of the foregoing, 50 CFR Parts 601 and 602 are revised as follows:

1. Section 601.2 is amended by adding paragraph (j) as follows:

**§ 601.2 Definitions.**

• • • • •

(j) *Highly migratory species.* The following, among others, are considered highly migratory species for the purposes of the Act:

TUNA

Albacore, *Thunnus alalunga;*
Bigeye tuna, *Thunnus obesus;*
Bluefin tuna, *Thunnus thynnus:*
Southern bluefin tuna, *Thunnus maccoyii;*
Yellowfin tuna, *Thunnus albacares;* and
Skipjack tuna, *Euthynnus pelamis.*

2. The heading of § 601.12 entitled "Method of determination" is changed to "Intercouncil boundaries" and new text is added as follows:

**§ 601.12 Intercouncil boundaries.**

(a) *New England and Mid-Atlantic Fishery Management Councils*—(1) *Description.* The boundary commences at the intersection point of Connecticut, Rhode Island and New York at 41°18'-16.249" latitude and 71°54'28.477" longitude and proceeds S 37°22'32.75" E to the point of intersection with the outward boundary of the fishery conservation zone as specified in Title I, sec. 101 and Title II, sec. 202(d) of the Act.

(2) *Method of Determination.* The boundary between the New England and Mid-Atlantic Councils continues the agreed state boundary between New York and Rhode Island (to which Congress granted consent on July 1, 1944, Pub. L. 78–399) seaward to the 200 mile boundary of the fishery conservation zone.

(b) *Mid-Atlantic and South Atlantic Fishery Management Councils*—(1) *Description.* The boundary commences at the seaward boundary between the States of Virginia and North Carolina, and proceeds due East to the point of intersection with the outward boundary of the fishery conservation zone as specified in Title I, sec. 101, and Title II, sec. 202(d) of the Act.

(2) *Method of determination.* The boundary between the Mid-Atlantic and South Atlantic Councils continues the agreed State boundary between Virginia and North Carolina seaward to the 200-mile boundary of the fishery conservation zone and, when drawn, would be a line of constant latitude described as 36°33'00.8" N.

(c) *South Atlantic and Gulf of Mexico Fishery Management Councils.*—(1) *Description.* The boundary commences at the seaward boundary between counties of Dade and Monroe in the State of Florida, and proceeds due East to the intersection with the outward boundary of the fishery conservation zone as specified in Title I, sec. 101, and Title II, sec. 202(d) of the Act.

(2) *Method of Determination.* The boundary between the South Atlantic and Gulf of Mexico Councils continues the agreed county boundary between Dade and Monroe Counties to minimize potential difficulties for fishermen, the affected Councils, and outward bordering countries.

**§ 601.13 [Deleted]**

3. The heading of § 601.13 entitled "Description" is deleted.

4. New text is added in § 601.23(c)(3) as follows:





**§ 601.23 Administrative practices and procedures.**

• • • • •

(c) • • •

(3) • • • The Councils shall be governed by the requirements of Office of Management and Budget Circular A–110, "Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations" (41 FR 32016) as published July 30, 1976, and the following standards:

(i) *Procurement.* The Councils shall establish their own procurement policies and procedures, which shall be included in the Statement of Organization, Practices, and Procedures (see § 601.25). However, all Councils shall adhere to the requirements set forth in OMB Circular A–110, Attachment O, paragraphs 3 and 4.

(ii) *Financial management system.* The fiscal year will coincide with the Federal Government's fiscal year. A Cash Receipts and Disbursement Journal with a monthly Summary of Accounts is required as a minimum bookkeeping system. In addition, a Statement of Income and Expenses for the Council shall be prepared monthly for the Council membership. Each cash disbursement shall be approved by an individual(s) designated by the Council Chairman. The approval authority shall be included in any Statement of Organization, Practices, and Procedures published after the effective date of this regulation. A uniform classification of accounts shall be used by all Councils in maintaining accounting records in accordance with the Model Accounting System issued by NMFS on November 26, 1976 and provided to the Councils. When budget estimates are submitted to the Director, the uniform account classification titles shall be used.

(iii) *Advance of funds and letters of credit.* Grant funds in an amount less than $250,000 will be disbursed from the Department of the Treasury upon receipt in NOAA of a properly executed Advance of Funds request (Form SF–220). OMB Circular A–110 limits the amounts of funds that can be disbursed and requires that transfer of funds from the Treasury be made as soon as possible to the time of disbursement by the grantee. A Letter of Credit will be established for grants in excess of $250,000. Drawdowns from the Treasury will be made through the commercial bank and a Federal Reserve Bank. The Council shall initiate each drawdown at approximately the same time that checks are issued by the Council in payment of Council liabilities. Drawdowns should not be made more frequently than daily or in amounts less than $10,000. These requirements are under the Department of the Treasury Circular 1075, "Regulations Governing Withdrawal of Cash from the Treasury for Advances Under Federal Grants and Other Programs" (38 FR 5242) as published February 27, 1973.

(iv) *Audit.* Independent audit is required not less than every two years. Annual audits may be performed at the Council's discretion. All Councils are subject to audit by the Secretary of Commerce and the Comptroller General of the United States. The scope of audit may include: Conduct of financial operations; compliance with applicable laws and regulations; economy and efficiency of administrative procedures; and achievement of results.

(v) *Financial Reports.* Reports are required which summarize total expenditures made and Federal funds unexpended for each award, and the status of Federal cash received. The Report of Federal Cash Transactions (Form SF–272) is required from each Council quarterly and should be submitted to the NOAA Grants Officer no later than 15 working days after the end of the quarter. A final report is required upon completion of the grant, to be submitted within 90 days after completion of the grant. The Financial Status Report (Form SF–269) is required from each Council quarterly and should be submitted to the NOAA Grants Officer no later than 15 working days after the end of the quarter. A final report is required upon completion of the grant. Guidance for the preparation of these reports and other financial reporting procedures is in Attachment G of OMB Circular A–110.

• • • • •

5. Section 602.3 is revised as follows:

**§ 602.3 Contents of fishery management plans.**

(a) *General.* Section 303 of the Act addresses, among other things, required and discretionary contents of fishery management plans prepared either by the Council or by the Secretary. This section provides explanatory comments and gives guidance with respect to the contents of plans to assist the Councils in preparation of plans consistent with the National Standards (see § 602.2) and the standard format (see § 602.4). Those provisions which are discretionary under sec. 303(b) of the Act are marked "Discretionary" in the following comments.

(b) *Explanatory comments.*—(1) *Cover sheet.* Provide a cover sheet for the purpose of ready identification of the plan, the subject fishery, and the responsible Council(s), date of Council approval, and the signature(s) of the responsible Council official(s).

(2) *Summary.*

(3) *Table of contents.*

(4) *Introduction.* Describe the development (or amendment) of the plan by the responsible Council(s) and the overall management objectives.

(5) *Description of the stock(s) comprising the management unit.*—(i) *Species or group of species and their distribution.* Provide a biological description and the geographical distribution of the species or group of species comprising the management unit as identified by the Council.

(ii) *Abundance and present condition.* Assess and specify the present abundance and biological condition of the stock(s).

(iii) *Ecological relationships.* Describe the relationship of the stock(s) with fish, animals, or plants, including discussions of relevant food chain and predator-prey relationships.

(iv) *Estimate of MSY.* Specify the MSY of the stock(s) based upon the best scientific information available. Summarize the information used in making the specification.

(v) *Probable future condition.* Specify the probable future condition of the stock(s), if present conditions and trends continue.

(6) *Description of habitat of the stock(s) comprising the management unit.*—(i) *Condition of the habitat.* Describe the habitat, factors affecting its productivity, and probable future condition, if present condition and trends continue.

(ii) *Habitat areas of particular concern.* Identify and describe the habitat areas which are of particular concern because of a requirement in the life cycle of the stock(s), e.g., spawning grounds, nurseries, migratory routes, etc. Identify those areas which are currently or potentially threatened with destruction or degradation.

(iii) *Habitat protection programs.* Describe programs to protect or restore the habitat of the stock(s) from destruction or degradation, including the relationship of any approved Coastal Zone Management Programs in the affected State(s). The plan proposed by a Council should be consistent with such approved program(s) in accordance with the Coastal Zone Management Act (See § 601.21(b)(3).)

(7) *Fishery management jurisdiction, laws, and policies.*—(i) *Management institutions.* Identify and describe the institutions which have fishery management authority over the stock(s) throughout their range.

(ii) *Treaties or international agreements.* Identify and describe applicable treaties with foreign nations or international fishery agreements which affect the management unit, either directly by control of fishing or indirectly by control of fishing for a related stock, e.g., a predator or prey of the subject stock(s).

(iii) *Federal laws, regulations, and policies.* Identify and describe the impact of any applicable FEDERAL laws, regulations, and policies upon the management unit or fishing thereon.

(iv) *State laws, regulations, and policies.* Identify and describe the impact of any applicable State laws, regulations, and policies upon the management unit or fishing thereon.

(v) *Local and other applicable laws, regulations, and policies.* Identify and describe the impact of any local and other applicable laws, regulations, and policies upon the management unit or fishing thereon. This includes, where applicable, Indian treaty fishing rights embodied in treaties, case law, or other agreements.

(8) *Description of fishing activities affecting the stock(s) comprising the management unit.*—(i) *History of exploitation.* Summarize the historical fishing practices, both foreign and domestic. Identify past user groups, vessel and gear types and quantities, and fishing areas.

(ii) *Domestic commercial and recreational fishing activities.* A complete de-



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scription of current domestic fishing activities involving the management unit is required including commercial, recreational, subsistence, and Treaty Indian fishing. The description shall include, where applicable:

(A) Participating user groups;

(B) Vessels and fishing gear;

(C) Employment in recreational and commercial sectors;

(D) Fishing and landing areas utilized throughout the range of the stock;

(E) Conflicts among domestic fishermen involving competition for fishing areas, gear damage, etc.;

(F) Amount of landings/catches;

(G) Assessment and specification of the U.S. harvesting capacity; and

(H) Assessment and specification of the extent to which, on an annual basis, U.S. fishing vessels will harvest the optimum yield as specified by the Council.

Detailed tables may be included in the Appendix.

(iii) *Foreign fishing activities.* The description of current foreign fishing activities shall include, where applicable:

(A) Participating nations;

(B) Vessels, harvesting and support, and fishing gear;

(C) Fishing and landing areas; and

(D) An enumeration of landings and value as distributed among the stock(s) comprising the management unit.

(iv) *Interactions between domestic and foreign participants in the fishery.* Describe the interactions between domestic and foreign fishermen utilizing the stock(s) including gear or other conflicts. Identify any problems caused by fishermen of one nation taking as by-catch, a target fish of another nation's fishery.

(9) *Description of economic characteristics of the fishery*—(i) *Domestic harvesting sector.* Describe the value of the catch (ex-vessel). Identify the method of value determination, especially when the value is estimated or based upon non-market pricing. The description of the economic statistics of the commercial fleet should include: gross income, investment, costs and revenues, measurement of effort, measurement of efficiency, and measurement of productivity. The description of the economic statistics of recreational fishing should include: investment, revenues, and tourism.

(ii) *Domestic processing sector.* Describe the wholesale products and their value. Specify the capacity of the processing sector, as well as the degree of its dependence upon products from the fishery.

(iii) *International trade.* Describe the international trade in relevant fishery products. Describe and discuss existing and proposed international business arrangements affecting the stock(s).

(10) *Description of the businesses, markets, and organizations associated with the fishery*—(i) *Relationship among harvesting, brokering, and processing sectors.* Describe the relationships among the harvesting, brokering, and processing sectors which catch, sell, transport, and process the catch from the domestic fishery.

(ii) *Fishery cooperatives or associations.* Identify the fishery cooperatives or associations involved with the fishery.

(iii) *Labor organizations.* Identify the labor organizations involved with the harvesting and processing sectors.

(iv) *Foreign investment.* Describe the foreign investment in the domestic sectors of the fishery.

(11) *Description of social and cultural framework of domestic fishermen and their communities*—(i) *Ethnic character, family structure, and community organization.*—Describe where relevant.

(ii) *Age and education profiles of fishermen.*

(iii) *Employment opportunities and unemployment rates.* Identify the employment opportunities within the fishery, in other fisheries, and in non-fishing related work in the geographical area concerned. Compare the current unemployment rate among fishermen and the applicable labor force in the same geographical area. Describe the relationship of seasonality in fishing employment to alternate forms of employment, or to unemployment.

(iv) *Recreational fishing.* Describe the social and cultural characteristics of fishermen who participate in the recreational sector of the fishery. Identify the social and cultural benefits generated by the recreational sector of the fishery.

(v) *Economic dependence on commercial or marine recreational fishing and related activities.* Describe the economic dependence of fishermen and others on commercial or marine recreational fishing, including, fishery related activities, e.g., gear manufacture and repair.

(vi) *Distribution of income within the fishery communities.* Described the sources and distribution of income within the communities of fishermen.

(12) *Determination of optimum yield*—(i) *Specific management objectives*—Each fishery management plan must specify the management objectives to be attained.

(ii) *Description of alternatives.* Describe the alternative optimum yields considered and their advantages and disadvantages.

(iii) *Analysis of beneficial and adverse impacts of potential management options.* In considering various conservation and management measures in order to determine which are necessary and appropriate for the conservation of the fishery resource, management of the fishery, and to achieve the optimum yield, the beneficial and adverse impacts of such measures must be analyzed. These impacts should be identified and described, to the extent possible, in summary form. Additional detail may be included in the Appendix of the plan.

(iv) *Tradeoffs between the beneficial and adverse impacts of the preferred or optimal management option(s).* Conservation and management measures shall be identified which are deemed by the Council to be the preferred or optimal means of achieving optimum yield. Such measures will, in all likelihood, contain or represent tradeoffs between the specific management objectives identified in the plan. It may not be feasible or possible to optimize each management objective as some may contain unavoidable conflicting aspects. The tradeoffs between the beneficial and adverse ecological, social, and economic impacts of the preferred or optimal management option(s) should be described in summary form. Detailed analyses or comparisons may be included in the Appendix of the plan.

(v) *Specification of optimum yield.* Each fishery management plan shall assess and specify the optimum yield determined to be the amount of fish, with respect to the yield from the fishery, which will provide the greatest overall benefit to the Nation (see sec. 3(18) of the Act).

(13) *Measures, requirements, conditions, or restrictions specified to attain management objectives*—(i) *Permits and fees.*—(Discretionary) A plan may require a permit to be obtained from and fees to be paid to, the Secretary with respect to any fishing vessel of the United States fishing, or wishing to fish, in the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond such zone. The amount of fees charged domestic fishermen is to be established by the Secretary, but shall not exceed the administrative costs incurred by the Secretary in issuing permits.

(ii) *Time and area restrictions.* (Discretionary) A plan may designate zones or areas where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear. These restrictions must be related to the management objectives of the plan.

(iii) *Catch limitations*—(A) *Total allowable level of foreign fishing.*—Where a portion of the optimum yield can be made available for foreign fishing, the Council shall specify the total allowable level of such foreign fishing.

(B) *Types of catch limitations.* (Discretionary) The plan may specify limitations on the catch of fish (based on area, species, size, number, weight, sex, incidental catch, total biomass, or other factors), which are necessary and appropriate for the conservation and management of the fishery.

(iv) *Types of vessels, gear, and enforcement devices.* (Discretionary) A plan may prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the Act.

(v) *State, local, and other laws and policies.* (Discretionary) The plan may incorporate (consistent with the National Standards, the other provisions of the Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery (or local government or other entity).





(vi) *Limited access systems.* (Discretionary) A plan may establish a system for limiting access to the fishery in order to achieve optimum yield if, in developing such system, the following considerations are taken into account and discussed in the plan:

(A) Present participation in the fishery;

(B) Historical fishing practices in, and social and economic dependence on, the fishery;

(C) The economics of the fishery;

(D) The capability of fishing vessels used in the fishery to engage in other fisheries or other pursuits;

(E) The cultural and social framework relevant to the fishery; and

(F) Any other relevant considerations such as existing State conservation and management measures. Any plan containing a limited entry system shall also discuss why other management measures are inadequate for conservation and management of the fishery. Limited access is a management technique that is directed at economic as well as biological objectives. This technique is used to reduce the congestion and economic waste that often occurs from the "open access" condition of common property fisheries. Any system of limited access shall be for the purpose of conservation and management, and economic allocation shall not be its sole purpose (see also § 602.2 (e) and (f)).

(vii) *Habitat preservation, protection, and restoration.* A plan may propose measures which are intended to preserve, protect, and restore habitat determined to be necessary for the life functions of the stock(s). Where the Secretary does not have the authority to implement such measures, the appropriate State, Federal, or international entity will be informed by the Secretary of the findings and the proposed measures.

(viii) *Development of fishery resources.* A plan may identify those fishery resources associated with the stock(s) which are underutilized or not utilized by U.S. fishermen. Such information may be useful in encouraging the development of such fisheries (see sec. (2(b)(6) of the Act).

(ix) *Management costs and revenues.* Describe the estimated governmental costs and revenues likely to be incurred and received in implementation of the proposed measures.

(14) *Specification and source of pertinent fishery data*—(i) *General.* The plan shall specify pertinent data that shall be submitted to the Secretary by participants in the fishery. Specifications of data shall take into account the effort necessary to collect such data. Effort should be minimized through careful selection and standardization of data elements, the periodicity of collection, recordkeeping, and reporting. Regulations with regard to the confidentiality of these statistics are set forth in Part 603. [Reserved].

(ii) *Domestic and foreign fishermen.* The data specified shall include, but are not limited to, information as to type and quantity of gear, catch by species in numbers of fish or weight, fishing effort, fishing areas, time of fishing, number of hauls, and other data considered pertinent.

(iii) *Processors.* The plan may specify the data that shall be submitted by fish buyers, processors, etc. who purchase, transport, and process the catch of the stock(s).

(15) *Relationship of the recommended measures to existing applicable laws and policies*—(i) *Fishery management plans.*—Identify and discuss the relationship of the recommended measures for the fishery to other approved fishery management plans for other fisheries prepared by a Council or the Secretary.

(ii) *Treaties or international agreements.* Identify and discuss the relationship of the recommended measures for the fishery to any treaties with foreign nations or international fishery agreements which affect the stock(s) or fishing thereon.

(iii) *Federal law and policies.* Identify and discuss existing applicable Federal laws and policies which may constrain implementation of the recommended measures and provision of specified fishery data.

(iv) *State, local, and other applicable laws and policies.* Identify and discuss existing applicable laws and policies which may constrain implementation of the recommended measures and provision of specified fishery data. This shall not be construed to mean that a recommended measure shall abrogate any Indian Treaty fishing rights embodied in treaties, case law, or other agreements.

(16) *Council review and monitoring of the plan.*—Discuss generally the procedures the Council and its advisory groups would use to review and revise the plan.

(17) *References.* List the references cited in the plan.

(18) *Appendix*—(i) *Sources of data and methodology.*—Identify the sources of data presented in summary form in the plan. Detailed data, analyses thereof, and methodology may be included.

(ii) *List of public meetings and summary of proceedings.* List the public meetings held in the development of the plan, with each meeting identified by location, date, number of the public attending, and a brief summary of comments received.

6. New text is added in § 602.4 as follows:

**§ 602.4 Standard format for fishery management plans.**

(a) *General.* One of the guidelines established to assist the Councils in the development of fishery management plans is a standard format. The format is a broad framework within which individual plans for specific fisheries may be designed in accordance with § 602.2, National standards for fishery conservation and management, § 602.3, Contents of fishery management plans, and sec. 302 of the Act. The format is recommended to the Councils as a uniform structure for the organization and presentation of the major elements that must be addressed in a plan to be reviewed by the Secretary. If any portion of the standard format is inappropriate for any plan, the responsible Council may modify the format accordingly.

(b) *Format.* (1) Cover sheet.

(2) Summary.

(3) Table of contents.

(4) Introduction.

(5) Description of stock(s).

(i) Species or group of species and their distribution.

(ii) Abundance and present condition.

(iii) Ecological relationships.

(iv) Estimate of MSY.

(v) Probable future condition.

(vi) Other.

(6) Description of habitat.

(i) Condition of habitat.

(ii) Habitat areas of particular concern.

(iii) Habitat protection programs.

(iv) Other.

(7) Fishery management jurisdiction, laws, and policies.

(i) Management institutions.

(ii) Treaties or international agreements.

(iii) Federal laws, regulations, and policies.

(iv) State laws, regulations, and policies.

(v) Local and other applicable laws, regulations, and policies.

(8) Description of fishing activities.

(i) History of exploitation.

(ii) Domestic commercial and recreational fishing activities.

(iii) Foreign fishing activities.

(iv) Interactions between domestic and foreign participants in the fishery.

(9) Description of economic characteristics of the fishery.

(i) Domestic harvesting sector.

(ii) Domestic processing sector.

(iii) International trade.

(10) Description of businesses, markets, and organizations associated with the fishery.

(i) Relationship among harvesting, brokering, and processing sectors.

(ii) Fishery cooperatives or associations.

(iii) Labor organizations.

(iv) Foreign investment.

(11) Description of social and cultural framework of domestic fishermen and their communities.

(i) Ethnic character, family structure, and community organization.

(ii) Age and education profiles of fishermen.

(iii) Employment opportunities and unemployment rates.

(iv) Recreational fishing.

(v) Economic dependence on commercial or marine recreational fishing and related activities.

(vi) Distribution of income within the fishery communities.

(vii) Other.

(12) Determination of optimum yield.

(i) Specific management objectives.

(ii) Description of alternatives.

(iii) Analysis of beneficial and adverse impacts of potential management options.



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(iv) Tradeoffs between the beneficial and adverse impacts of the preferred or optimal management option(s).
(v) Specification of optimum yield.
(13) Measures, requirements, conditions, or restrictions specified to attain management objectives.
(i) Permits and fees.
(ii) Time and area restrictions.
(iii) Catch limitations.
(A) Total allowable level of foreign fishing.
(B) Types of catch limitations.
(iv) Types of vessels, gear, and enforcement devices
(v) State, local, and other laws and policies.
(vi) Limited access systems.
(vii) Habitat preservation, protection, and restoration.
(viii) Development of fishery resources.
(ix) Management costs and revenues.
(x) Other.
(14) Specification and source of pertinent fishery data.
(i) General.
(ii) Domestic and foreign fishermen.
(iii) Processors.
(15) Relationship of the recommended measures to existing applicable laws and policies.
(i) Fishery management plans.
(ii) Treaties or international agreements.
(iii) Federal law and policies.
(iv) State, local, and other applicable laws and policies.
(16) Council review and monitoring of the plan.
(17) References.
(18) Appendix.
(i) Sources of data and methodology.
(ii) List of public meetings and summary of proceedings.

[FR Doc.77-20446 Filed 7-15-77;8:45 am]



federal register

MONDAY, JULY 18, 1977

PART VII




# DEPARTMENT OF STATE

# FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

## Applications for Permits To Fish Off the Coasts of the United States

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## DEPARTMENT OF STATE

[Public Notice 555]

### FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

### Applications for Permits To Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Applications for fishing during 1977 have been received from the Government of the Union of Soviet Socialist Republics, and are published herewith.

Dated: July 12, 1977.

ALBERT L. ZUCCA,
*Director, Office of Fisheries Affairs.*

UR-77-0507

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For 1.02. - 31.12.77

Application No

Fee Use of Issuing Office

State USSR

1. Name of Vessel TRUD

2. Vessel Rec Hull No Registration No M-25184

3. Name and Address of Owner

Name Latvijskoye gosudarstvennoye morskoye parohodstvo

Address Padomju Bul., 2
Riga, USSR

Name and Address of (Charterer) Riskskaya Baza Rybolovetskogo Flota Atlantijas, 7, Riga, USSR

4. Homeport and State of Registry Riga, USSR

5. Type of Vessel tanker

6. Tonnage (Gross) 7948 Net 3928

7. Length 145.5 m 8. Breadth 10.44m 9. Draught 8.5m

10. Horsepower 5000 hp 11. Maximum Speed 12.9 kn

12. Propulsion: Diesel ( • ) Steam ( ) Diesel/electric ( )
Other

13. Date Built 1960

14. Number and Nationality of Personnel 37, USSR
Officers 14 Crew 23 Other (Specify)

UR-77-0507
3.

15. Communications: VHF-FM ( • ), AM/SSB, Voice ( • )
Telegraphy ( • ) Other
International Radio Call Sign UBDX 2482 kHz
Radio Frequencies Monitored 3023.5, 5680, 156.8MHz, 500, 512.8kHz
Other Working Frequencies 425, 454, 468, 480 kHz
Schedule 442, 1AM, 0141, P-1

16. Navigation Equipment: Loran C ( ) Loran A ( 1 )
Omega ( ) Decca ( 1 ) Navaid ( 2 )
Radar ( ) Fathometer ( )
Other Direction Finder - 1, Depth Sounder - 1

17. Cargo Capacity (MT) 10500
Salted Fish Fresh Fish
Frozen Fish Fish Meal
Other

18. Cargo Space
Number 6 x 3 Name Fuel Tanks
Dry Hold
Tanks Fuel Tanks ( 6 x 3)
Other

19. Processing Equipment (indicate daily capacity, MT)

20. Fisheries for which Permit is Requested

| Ocean Area | Period (From-To) | Species | Contemplated Catch (MT) | Gear to be Used |
|---|---|---|---|---|
| N.W.A. | 1.02. - 31.12.77 | | | |

Bay fishing and transport vessels of the USSR, Cuba and Poland fuel supply

21. Name and Address of Agent Appointed to Receive Any Legal Process Issued in the United States





UR-77-0508
2.

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For

Application No. UR-77-0508

For Use of Issuing Office

State USSR

Other

1. Name of Vessel SKALISTY BEREG
ТР "Скалистый берег"

2. Vessel No.: Hull No. UR-0508 Registration No.
Корпус УТ-0508

3. Name and Address of Owner
Name SOVTRANSFLOT
Адрес СССР
Калининград Пер.
г. Калининград, Гвардейский проспект, 90

Name and Address of Charterer

4. Homeport and State of Registry: Kaliningrad, USSR
СССР, Калининград

5. Type of Vessel transport refrigerator
Тип судна транспортный рефрижератор

6. Tonnage (Gross) 7406 (Net) 5554
(Брутто) 7406 (Нетто) 6554

7. Length 154.89 m 8. Breadth 22.80 m 9. Draught 7.8 m
Длина 154,89 м Ширина 22,80 м Осадка 7,2

10. Horsepower 3000 shp 11. Maximum Speed 17.38 kt.
Мощность 3000 л.с. Максимальная скорость

11. Propulsion: Diesel ( 1 ), Steam ( ), Diesel/Electric ( ),
Other

12. Date Built 1977

13. Number and Nationality of Personnel 67, russians
Officers 21 Crew 46 Other (Specify) 67, русские
Офицеры Команда

14. Communications: VHF-FM ( ), AM/SSB, Voice ( ),
Телеграфия ( ) Other

International Radio Call Sign UBDL

Radio Frequencies Monitored 1,6-25,6MHz ; 490-512kHz A1;A2H

Other Working Frequencies 1,6-25,6 mHz; 490-512 kHz A 1 ; A2H
2182, 2187.5, 2174.5, 2065 kHz, A2 A3

Schedule

15. Navigation Equipment: Loran C ( ), Loran A ( 1 ),
Omega ( ), Decca ( 1 ), Navaid ( ), Radar ( 2 ),
Fathometer ( ), Other

UR-77-0508
3.

16. Cargo Capacity (MT) Грузоподъемность (т)

| Number | Name |
|---|---|
| Salted Fish Соленая рыба | Frozen Fish Морожая рыба |
| Fresh Fish Свежая рыба | Dry Hold 4 Сухой трюм |
| Frozen Fish 2999 Морожая рыба | Tanks 8 Танки |
| Fish Meal 245 Рыбная мука | Other Другое |
| Other Другое | |

17. Processing Equipment (Indicate daily capacity, MT)

UR-77-0508
4.

18. Fisheries for which Permit is Requested:

| Ocean Area | Period (From-To) | Species | Contemplated Catch (MT) | Gear to be Used |
|---|---|---|---|---|
| North Western Atlantic | | | | |

Fishing period: since 26th May 1977 till 26th May 1978.

Период лова: с 26 мая 1977 года по 26 мая 1978 года

19. Name and Address of Agent appointed to receive any legal process issued in the United States:



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FISHING VESSEL IDENTIFICATION FORM (VOYAGE)
ФОРМА ПО ОПРЕДЕЛЕНИЮ РЫБОЛОВНОГО СУДНА

UR-77-0509

Permit Period Applied For:
Период, на который испрашивается разрешение:
the year
один год

Application No. UR-77-0509
Заявка №

For Use of Issuing Office
Для использования органом, выдающим разрешение

State: USSR
Страна СССР

1. Name of Vessel: YANTARNY MAYAK
Название судна: т/р "Янтарный маяк"

2. Vessel No.: Hull No. RT-0272 Registration No. 311179
В судне № корпус № Регистрационный №

3. Name and Address of Owner: МОРТРАНСФЛОТ Управление Морфрефлота
Имя и адрес судовладельца

Address: 30 Oktyabrskoy pr., Kaliningrad, USSR
Адрес: Октябрьский пр., 30, Калининград, СССР

Cable Address: МОРТРАНСФЛОТ Kaliningrad
Телеграфный адрес: Управление Морфрефлота

4. Homeport and State of Registry: Kaliningrad, USSR
Порт и страна приписки: СССР г.Калининград

5. Type of Vessel: transport refrigerator
Тип судна: транспортный рефрижератор

6. Tonnage (Gross): 7406 (Net): 6954
Тоннаж (брутто) (Нетто)

7. Length: 154.89m 8. Breadth: 22.20 M. 9. Draft: 7.30
Длина Ширина Осадка

10. Horsepower: 9000 shp. 11. Maximum Speed: 17.38 kt.
Мощность в л.с. Максимальная скорость

11. Propulsion: Diesel ( 1 ), Steam ( ), Diesel/Electric ( ),
Тип установки Дизельная Паровая Дизель-электрическая

Other: Прочая

13. Date Built: 1975
Дата постройки

14. Number and Nationality of Personnel: 67, русские
Количество и национальность экипажа: 67, русские

Officers: 21 Crew: 46 Other (Specify): -
Командный состав Команда Другие (укажите)

15. Communications: VHF-FM ( ), AM/CW, Telex ( )
Связь

Telephony ( ) Other:
Телефония Прочая

International Radio Call Sign: UYDP
Международный радиопозывной

Radio Frequencies Monitored: 1,6 - 2MHZ 1,6 - MHZ
Контролируемые радиочастоты 1,6 - 25 MHz 1,6 - 3 MHz

Other Working Frequencies: 425;454;468;480;512KHZ
Другие рабочие частоты 425; 454 468,480,512 KHz

Schedule
Режим работы

16. Navigation Equipment: Loran C ( ), Loran A ( ),
Навигационное оборудование Лоран С Лоран А

Omega ( ), Decca ( 1 ), Navsat ( ), Radar ( 2 ),
Омега Декка Навсат Радар

Mathometer ( ), Other:
Эхолот Прочее

UR-77-0509
3.

17. Cargo Capacity (CF)
Грузовместимость (куб.)

18. Cargo Space
Грузовые емкости

| | Number Количество | Name Название |
|---|---|---|
| Salted Fish Соленая рыба | | Freezer Морозильная |
| Fresh Fish Свежая рыба | | Dry Hold 4 Сухой трюм |
| Frozen Fish Мороженая рыба | 9000 | Tanks 2 Танки |
| Fish Meal 425 Рыбная мука | | Other Прочее |
| Other Прочее | | |

19. Processing Equipment (Indicate daily capacity, MT)
Технологическое оборудование (укажите суточную производительность в метр.тоннах)

20. Fisheries for which Permit is Requested:
Промысел, для которого испрашивается разрешение:

| Ocean Area Район океана | Period Период | Species Вид | Gear Орудие лова | Est. Quantity Предполагаемое количество |
|---|---|---|---|---|
| | 9 - 20 | ЮПО | | |

North Western Atlantic
working period: since 24th May till 24th May 1978
Район Северо-Западной Атлантики
Период работы с 24 мая 1977 года по 24 мая 1978 года

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
Имя и адрес агента, уполномоченного для получения в США юридических документов, возникших в связи с его деятельностью:

[FR Doc.77-20088 Filed 7-15-77;8:45 am]



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| Monday | Tuesday | Wednesday | Thursday | Friday |
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| DOT/FAA | USDA/REA | | DOT/FAA | USDA/REA |
| DOT/OHMO | CSC | | DOT/OHMO | CSC |
| DOT/OPSO | LABOR | | DOT/OPSO | LABOR |
| | HEW/ADAMHA | | | HEW/ADAMHA |
| | HEW/CDC | | | HEW/CDC |
| | HEW/FDA | | | HEW/FDA |
| | HEW/HRA | | | HEW/HRA |
| | HEW/HSA | | | HEW/HSA |
| | HEW/NIH | | | HEW/NIH |
| | HEW/PHS | | | HEW/PHS |

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

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# rules and regulations

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

**Title 5—Administrative Personnel**

**CHAPTER I—CIVIL SERVICE COMMISSION**

**PART 213—EXCEPTED SERVICE**

**Department of State**

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C the position of Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State, because the incumbent of this position will participate in policy development and execution.

EFFECTIVE DATE: July 19, 1977.

FOR FURTHER INFORMATION ON POSITION AUTHORITY CONTACT:

John W. McKee, Civil Service Commission, 202–632–4625.

FOR FURTHER INFORMATION ON POSITION CONTENT CONTACT:

Jack Melton, Director, PER/PPM, Department of State, 202–235–9593.

Accordingly, 5 CFR 213.3304(s)(3) is added as set out below:

**§ 213.3304 Department of State.**

* * * * *

(s) *Bureau of Educational and Cultural Affairs.* * * *

(3) Deputy Assistant Secretary.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77-20656 Filed 7-18-77;8:45 am]

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**PART 900—INTERGOVERNMENTAL PERSONNEL ACT PROGRAMS**

**Federal Grantor Agency Merit Requirements**

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This final rule requires that all new merit requirements established as a condition of Federal grants-in-aid have prior Civil Service Commission approval. The purpose of this amendment is to avoid inconsistent or conflicting approaches when Federal agencies decide to adopt a merit personnel requirement as a condition of a grant.

EFFECTIVE DATE: August 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Lawrence D. Greene, Director, Office of Personnel Assistance Policy Development, Bureau of Intergovernmental Personnel Programs, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415, 202–632–6885.

SUPPLEMENTARY INFORMATION: On February 11, 1977, a document was published in the FEDERAL REGISTER (42 FR 8644) proposing to amend Part 900 of the Civil Service Commission regulations to require that all new merit requirements established as a condition of Federal grants-in-aid have prior Civil Service Commission approval. Interested parties were invited to submit comments, suggestions, or objections by March 28, 1977. Four letters were received. One contained no substantive comments and three expressed full support of the proposal. Only a few minor technical changes which do not change the substance of the regulation have been incorporated in the final published regulation. These are:

(1) We have added a new subsection (d) which makes it clear that the language in subsection (b) and (c) cannot be varied without the Commission's approval.

(2) Recognizing that some grant programs apply to both State and local governments while others apply only to the States, we have provided alternate language appropriate to these varying circumstances.

The intent of the rule is to help avoid inconsistent or conflicting approaches when Federal agencies decide to adopt a merit personnel requirement as a condition of a grant. At times in the past, merit requirements have been extended to additional grant-in-aid programs without prior consultation with the Civil Service Commission. When the Commission, however, has prior knowledge of a Federal agency's intention to adopt a merit requirement as a condition of its grant, it can assist the agency in choosing the most appropriate requirement. This helps to foster a uniform approach and avoid confusion on the part of State and local governments. The Civil Service Commission, under the authority of the Intergovernmental Personnel Act (IPA), is responsible for advising Federal agencies administering grant-in-aid programs as to the application of required personnel administration standards. This regulation will provide the Commission better opportunity to carry out this responsibility and to plan for whatever resources are needed to coordinate administration of merit personnel requirements.

In consideration of the comments received reflecting the support for this requirement, 5 CFR Part 900, Subpart F is amended by (1) designating the current §§ 900.604 through 900.607 as §§ 900.605 through 900.608, respectively; and (2) adding a new § 900.604 as follows:

**§ 900.604 Establishing a merit requirement or policy as a condition of a grant-in-aid.**

(a) Federal agencies may adopt, only with prior approval of the Commission, regulations that require as a condition for receiving Federal financial or other assistance that State and local agencies establish and maintain a personnel system that conforms with a Federal merit requirement or policy. To avoid inconsistent and conflicting approaches to State and local governments, normally such merit requirements or policies should consist of application of either the Standards for a Merit System of Personnel Administration or the Intergovernmental Personnel Act Merit Principles.

(b) The following regulation shall be adopted by Federal agencies that wish to require that grant-aided State or local agencies establish and maintain a personnel system that conforms with the Standards for a Merit System of Personnel Administration:

Methods of personnel administration will be established and maintained in public agencies administering the program in conformity with Standards for a Merit System of Personnel Administration, 45 CFR Part 70, and any standards prescribed by the U.S. Civil Service Commission pursuant to Section 208 of the Intergovernmental Personnel Act of 1970 modifying or superseding such standards.

For grant programs that are State supervised and locally administered insert the following after the word "administering" in the above: "or supervising the administration of.

(c) The following regulation shall be adopted by Federal agencies that wish to require that grant-aided State or local agencies conform with the IPA Merit Principles:

Methods of personnel administration will be established and maintained in the public agencies administering the program in conformity with the Intergovernmental Personnel Act Merit Principles, Pub. L. 91–648, Section 2, administered by the U.S. Civil Service Commission.



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For grant programs that are State supervised and locally administered insert the following after the word "administering" in the above: "or supervising the administrationof."

(d) No variation from the language contained in paragraphs (b) and (c) of this section may be used without approval by the Commission.

(e) The Commission shall provide, within available resources, consultation and technical advice and assistance to State and local jurisdictions to aid them in complying with the Standards or Merit Principles. In the absence of available resources, the Commission may provide technical assistance on a reimbursable basis to Federal agencies administering grants and State and local agencies receiving grants for the purpose of aiding the State and local agencies to comply with the Standards or Merit Principles.

**§§ 900.604—900.607 [Redesignated as §§ 900.605—900.608]**

(The authority for subpart F is 42 U.S.C. 4728, 4763; E.O. 11589, 3 CFR 1971 Comp., p. 152.)

NOTE.—The Civil Service Commission has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A–107.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77–20657 Filed 7–18–77;8:45 am]

## Title 7—Agriculture

### CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 100, Amdt. 1]

### PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

#### Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California–Arizona lemons that may be shipped to fresh market during the weekly regulation period July 10–16, 1977. The amendment recognizes that demand for lemons has improved since the regulation was issued. This action will increase the supply of lemons available to consumers.

DATES: Weekly regulation period July 10–16, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Lemon Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of lemons, as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the lemon markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit lemon handlers to ship a larger quantity of lemons to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 40,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after the publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of lemons.

(b) *Order, as amended.* Paragraph (b) (1) of § 910.400 Lemon Regulation 100 (42 FR 35142) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period July 10, 1977, through July 16, 1977, is established at 315,000 cartons."

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated: July 13, 1977.

FLOYD F. HEDLUND,
*Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77–20652 Filed 7–18–77;8:45 am]

### PART 924—PRUNES GROWN IN WASHINGTON AND OREGON

#### Expenses and Rate of Assessment for the 1977–78 Fiscal Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document authorizes expenses of $19,750 and a rate of assessment of $0.60 per ton of prunes for the functioning of the Washington-Oregon Fresh Prune Marketing Committee for the 1977–78 fiscal period. The committee administers locally a Federal marketing order program regulating the handling of prunes grown in Washington and Oregon. The regulation will enable the committee to collect assessments from first handlers on all assessable prunes handled and to use the resulting funds for its expenses.

DATES: Effective for fiscal year April 1, 1977, through March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: On June 24, 1977, notice of proposed rule making was published in the FEDERAL REGISTER (42 F.R. 32256), regarding proposed expenses and the proposed rate of assessment, under the amended marketing agreement and Order No. 924, as amended (7 CFR Part 924), regulating the handling of prunes grown in the States of Washington and Oregon. This notice allowed interested persons until July 11, 1977, during which they could submit written comments pertaining to these proposals. None were submitted. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

After consideration of all relevant matters presented, including the proposals which were set forth in the notice, which were submitted by the Washington-Oregon Fresh Prune Marketing Committee (established pursuant to the amended marketing agreement and order), it is hereby found and determined that:

**§ 924.217 Expenses and rate of assessment.**

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Washington-Oregon Fresh Prune Marketing Committee during the fiscal year April 1, 1977, through March 31, 1978, will amount to $19,750.

(b) *Rate of assessment.* The rate of assessment for the fiscal year payable by each handler in accordance with § 924.41, is established at $0.60 per assessable ton of prunes.

It is hereby further found that good cause exists for not postponing the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the current crop of prunes grown in the designated production area are now being made; (2) provisions of the marketing agreement and this part require that the rate of assessment shall apply to all assessable prunes handled during the fiscal year, and (3) the year began on April 1, 1977, and the rate of assessment will automatically apply to all prunes handled during the year.





(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: July 14, 1977.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77–20760 Filed 7–18–77;8:45 am]

## Title 14—Aeronautics and Space

### CHAPTER V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

#### Subpart 5—Delegations and Designations

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: NASA revokes § 1204.510, "Power and Authority—to exercise authority with respect to extraterrestrial exposure," and § 1204.511, "Power and Authority—to exercise authority with respect to extraterrestrial exposure." These are redelegations of authority. The revocation of these sections is necessary because internal NASA reorganizations have made the redelegations obsolete. The purpose of revoking these sections is to assure that delegations and redelegations of authority are consistent with the present NASA organization.

DATE: July 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. David L. Winter, NASA Director for Life Sciences, Office of Space Science, National Aeronautics and Space Administration, Washington, D.C. 20546.

**§§ 1204.510 and 1204.511 [Revoked]**

1. In 14 CFR 1204.510 and 1204.511 are hereby revoked.

NOEL W. HINNERS,
*Associate Administrator for Space Science.*

[FR Doc.77–20591 Filed 7–18–77;8:45 am]

## Title 15—Commerce and Foreign Trade

### CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

### SPECIAL COMMODITY POLICIES AND PROVISIONS AND GENERAL LICENSE GIT

#### Limited Revision

AGENCY: Department of Commerce, Office of Export Administration.

ACTION: Final rule.

SUMMARY: This revision imposes validated licensing control on exports of crime control and detection equipment to the Republic of South Africa and Namibia (South-West Africa) and modifies the Export Administration Regulations regarding intransit shipments to those destinations. Also, the revision states that it is the general policy to deny applications to export or reexport commodities to those destinations when there is a likelihood of military, police or other use contrary to U.S. policy.

EFFECTIVE DATE: July 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Operations Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230, telephone 202–377–4196.

SUPPLEMENTARY INFORMATION: Consistent with U.S. policy condemning apartheid in the Republic of South Africa and Namibia (South-West Africa), § 376.14 of the Export Administration Regulations is revised to require validated export licenses for exports of crime control and detection instruments and equipment to those countries. Also § 385.4 (a) is revised to indicate that applications to export such equipment to these destinations, as well as other commodities, when there is a likelihood of use contrary to U.S. policy, generally will be denied. In addition, commodities originating in a foreign country and moving in transit through the United States to the Republic of South Africa and Namibia (South-West Africa) may no longer be exported from the United States under provisions of General License GIT (§ 371.4). Thus, unless another general license applies (e.g., General License G–DEST), validated export licenses will be required for such shipments.

Accordingly, Parts 371, 376 and 385 of the Export Administration Regulations (15 CFR Parts 371, 376 and 385) are amended as follows:

### PART 371—GENERAL LICENSES

1. Section 371.4(b) is revised to read as follows:

**§ 371.4 General license GIT; intransit shipments.**

* * * * *

(b) Shipments Excepted from the Provisions of General License GIT. In addition to the prohibition shipments listed under § 371.2(c) the following may not be exported or reexported from the United States under General License GIT: (1) Commodities shipped to the United States under the provisions of an International Import Certificate, Form DIB–645P or FC–826; (2) Commodities disposed of by U.S. Government agencies under foreign excess property disposal programs; and (3) Commodities destined for the Republic of South Africa or Namibia (South-West Africa).

* * * * *

### PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

2. Section 376.14(a) is revised to read as follows:

**§ 376.14 Crime control and detection instruments and equipment.**

(a) Export License Requirements.—(1). A validated export license is required for the export to Country Groups Q, W, and Y; the Republic of South Africa; and Namibia (South-West Africa); of any instrument and equipment particularly useful in crime control and detection. Commodities affected by this requirement (in addition to commodities controlled by listing on the commodity Control List) include, but are not limited to: voice print identification or analysis equipment; psychological stress analysis equipment; mobile crime science laboratories; nonmilitary gas masks and bullet proof vests, helmets and shields; nonmilitary arms such as shotguns, stun guns, dart guns and riot guns; infrared and ultraviolet ray film, plates, and filters; photographing equipment specially designed for crime control and detection; items used for tracing, fixing, removing, preserving, processing and coding fingerprints; ballistics laboratory equipment; document authentication equipment; metal detecting and other special purpose searching equipment and devices; identification document reproduction and authentication equipment; and restraint devices.

(2) Any exporter who knows, or has reason to believe, that such commodities will be exported to a destination in Country Group Q, W, or Y or to the Republic of South Africa or Namibia (South-West Africa), either for exhibition or for sale for such purpose, shall include that information on his application for a validated export license or on his request for authorization to reexport. In preparing the application or reexport authorization request, the exporter shall enter the phrase "CRIME CONTROL AND DETECTION" at the top of the requisite form.

* * * * *

### PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS

3. Section 385.4(a) is revised to read as follows:

**§ 385.4 Country group V.**

(a) *Republic of South Africa and Namibia (South-West Africa).*—(1). In conformity with the United Nations Resolution of 1963, the United States has imposed an embargo on shipments to the Republic of South Africa of arms, munitions, military equipment, and materials for their manufacture and maintenance. Accordingly, the prior approval of the Department of Commerce is required for the export or reexport to the Republic of South Africa and Namibia (South-West Africa) of commodities under its licensing jurisdiction in the general area of arms, munitions, military equipment and materials, and materials and machinery for their manufacture and maintenance, even though some commodities of this nature may be exported or reexported to other destinations in Country Group V under general licenses. The general policy is to deny applications or requests to export or reexport such commodities when there is a likelihood of military, police, or other use contrary to U.S. policy.

2. A validated export license is required for the export to the Republic of South Africa and Namibia (South-West



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Africa) of any instrument and equipment particularly useful in crime control and detection, as defined in § 376.14 of this chapter.

(3) General License GIT may not be used for any commodity destined for the Republic of South Africa or Namibia (South-West Africa). (See § 371.4(b) of this chapter.)

(4) Except as defined in § 385.4(a) (1), (2), and (3), the policy for the Republic of South Africa and Namibia (South-West Africa) is the same as for other nations in Country Group V.

(Sec. 4, Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. app. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, date Nov. 17, 1975, 40 FR 58876 (1975), as amended; and Domestic and International Business Administration Organization and Function Order 46-1, dated November 17, 1975, 40 FR 59764 (1975), as amended and 46-2 dated November 17, 1975, 40 FR 59761 (1975), as amended.)

LAWRENCE J. BRADY,
*Acting Director, Office of Export Administration.*

[FR Doc.77-20757 Filed 7-18-77;8:45 am]

## PART 373—SPECIAL LICENSING PROCEDURES

### Revision of List of Approved Computer—Consignee Countries (Supplement No. 2 to CFR 373)

AGENCY: Office of Export Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: This rule revises the list of countries to which certain digital computers may be exported to approved consignees under the Distribution License procedure.

EFFECTIVE DATE: July 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Operations Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230, 202-377-4196.

SUPPLEMENTARY INFORMATION: Effective March 16, 1972, Supplement No. 2 to Part 373 was established to indicate those countries to which exports of digital electronic computers (Export Control Commodity Nos. 714 (3) through (5)), which do not exceed either a CPU bus rate of 200 million bits per second, or a processing data rate of 45 million bits per second, may be made under the provisions of the Distribution License procedure to approved consignees in those destinations. In order to update these approved destinations in the light of current conditions, the list is amended to delete the Republic of China (Taiwan) and to add Australia, Canada, and Switzerland. Accordingly, Supplement No. 2 to Part 373 of the Export Administration Regulations (15 CFR Part 373) is amended to read as follows:

SUPPLEMENT NO. 2—COMPUTER CONSIGNEE DESTINATIONS

| | |
|---|---|
| Afghanistan | Lesotho |
| Australia | Liberia |
| Austria | Luxembourg |
| Belgium | Malagasy Republic |
| Bolivia | Malaysia |
| Botswana | Maldive Islands |
| Cameroon | Mali |
| Canada | Malta |
| Central African Empire | Mauritius |
| Chad | Mexico |
| Costa Rica | Morocco |
| Cyprus | Nepal |
| Denmark | Netherlands |
| Dominican Republic | New Zealand |
| Ecuador | Nigeria |
| Ethiopia | Norway |
| Finland | Paraguay |
| France | Peru |
| Germany, Federal Republic of | Portugal |
| Ghana | San Marino |
| Greece | Senegal |
| Guatemala | Somali Democratic Republic |
| Haiti | Swaziland |
| Hong Kong | Switzerland |
| Iceland | Sweden |
| Iran | Togo |
| Ireland | Tonga |
| Italy | Tuntsia |
| Jamaica | Turkey |
| Japan | United Kingdom |
| Jordan | Upper Volta |
| Kenya | Uruguay |
| Lebanon | Yugoslavia |
| | Zaire |

(Sec. 4, Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. app. § 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated Nov. 17, 1975, 40 FR 58876 (1975), as amended; and Domestic and International Business Administration Organization and Function Orders 46-1, dated November 17, 1975, 40 FR 59764 (1975), as amended and 46-2, dated November 17, 1975, 40 FR 59761 (1975), as amended.)

LAWRENCE J. BRADY,
*Acting Director, Office of Export Administration.*

[FR Doc.77-20754 Filed 7-18-77;8:45 am]

## PART 373—SPECIAL LICENSING PROCEDURES

### Limited Revision of Distribution License Procedure

AGENCY: Office of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: This revision adds Libya to the list of Group V countries to which exports under the Distribution License Procedure are not authorized.

EFFECTIVE DATE: July 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Operations Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

SUPPLEMENTARY INFORMATION: A Distribution License authorizes export of certain commodities to approved consignees in specified countries during a period of one year (up to two years for replacements of expiring Distribution Licenses). The consignees must be foreign distributors or users of the licensed commodity.

In order that better control can be exercised over exports to Libya by means of a case-by-case review and evaluation of applications, the Distribution License Procedure will no longer apply to exports to that country.

Accordingly, effective as of July 19, 1977, all outstanding "Distribution License Consignee Statements," Forms DIB-678P, covering approved consignees in Libya are revoked, except that exporters holding current Distribution Licenses may ship to approved consignees in Libya up to and including August 3, 1977 commodities included in their Distribution Licenses that were on dock for lading, on lighter, laden aboard an exporting carrier, or in transit to a port of export pursuant to actual orders for export prior to 11:59 P.M. EDT, July 19, 1977. Any such shipment not laden aboard the exporting carrier on or before August 3, 1977 requires an individual validated license for export to Libya.

Accordingly, § 373.3(a)(2) of the Export Administration Regulations (15 CFR § 373.3(a)(2)) is revised to read as follows:

**§ 373.3 Distribution license.**

(a) * * *

(2) All countries in Country Group V, except:

| | |
|---|---|
| Algeria | Sudan |
| Egypt | Syria |
| Iraq | Yemen (Aden) |
| Libya | Yemen (Sanaa) |

(Sec. 4, Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. app. § 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated Nov. 17, 1975, 40 FR 58876 (1975), as amended; and Domestic and International Business Administration Organization and Function Orders 46-1, dated November 17, 1975, 40 FR 59764 (1975), as amended and 46-2, dated November 17, 1975, 40 FR 59761 (1975), as amended.)

LAWRENCE J. BRADY,
*Acting Director, Office of Export Administration.*

[FR Doc.77-20755 Filed 7-18-77;8:45 am]

## PART 375—DOCUMENTATION REQUIREMENTS

### Limited Revision of Documentation Requirements for Yugoslav End-Use Certificate

AGENCY: Department of Commerce, Office of Export Administration.

ACTION: Final rule.

SUMMARY: This revision requires the submission of a supplement to the Yugoslav End-Use Certificate on the letterhead of the Yugoslav Chamber of Economy giving the End-Use Certificate number, the end-use and end-user information.

EFFECTIVE DATE: July 19, 1977.

FOR FURTHER INFORMATION CONTACT:





Charles C. Swanson, Director, Operations Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

SUPPLEMENTARY INFORMATION: This revision to 15 CFR 375.5(a) requires the submission of a supplement to the Yugoslav End-Use Certificate on the letterhead of the Yugoslav Chamber of Economy giving the End-Use Certificate number, the end-use and end-user information. If this supplement is not submitted to the exporter by the Yugoslav importer with the End-Use Certificate, it should be obtained prior to submission of the application or reexport request. This supplement was initiated by U.S. and Yugoslav export control authorities to expedite consideration of applications.

Accordingly, § 375.5(a) is revised to read as follows:

**§ 375.5 Yugoslav end-use certificate.**

(a) *Requirements.* A license application to export or reexport commodities to Yugoslavia, regardless of value, must be accompanied by the original End-Use Certificate issued to the Yugoslav importer by the Yugoslav Chamber of Economy in Belgrade covering the proposed export or reexport.[1] In addition, a supplement on the letterhead of the Yugoslav Chamber of Economy giving the End-Use Certificate number, the end-use and end-user information, must be submitted to the Office of Export Administration as part of the End-Use Certificate. The End-Use Certificate may cover more than one purchase order and more than one commodity. Where the Certificate includes commodities for which more than one license application will be submitted, the original of the Certificate shall be attached to the first such application. Each subsequent application shall include the following certification in the space entitled "Additional Information" or on an Attachment:

I (We) certify that the quantities of commodities shown on all export licenses (reexport authorizations) based on the Yugoslav End-Use Certificate No. _____ when added to the quantities shown on all additional applications pending in the Office of Export Administration based on the same End-Use Certificate, including the present application, do not total more than the quantities shown on that certificate. This End-Use Certificate was submitted in support of application number (insert case number or, if case number is unknown, the applicant's reference number, date of submission of the application to which the End-Use Certificate was attached, and Export Control Commodity Numbers and Processing Number on that application).

(Sec. 4, Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. app. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated Nov. 17, 1975, 40 FR 58876 (1975), as amended; and Domestic and International Business Administration Organization and Function Orders 46-1, dated November 17, 1975, 40 FR 59764 (1975), as amended and 46-2, dated November 17, 1975, 40 FR 59761 (1975), as amended.)

LAWRENCE J. BRADY,
*Acting Director, Office of Export Administration.*

[FR Doc.77-20756 Filed 7-18-77;8:45 am]

[1] Foreign consignees may obtain End-Use Certificates from the Yugoslav Chamber of Economy, Knez Mihailova 10, Belgrade.

## Title 16—Commercial Practices

## CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 9066]

## PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

### Frito-Lay, Inc.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Dallas, Texas ready-to-eat snack food producer and distributor to cease engaging in discriminatory pricing practices by selling its products to certain retailers at prices higher than those paid by a competitive establishment. Further, the order stipulates that in any enforcement action, respondent must assume the burden of proving all defenses raised.

DATES: Complaint issued January 6, 1976 and Decision and Order, issued June 24, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

Ronald J. Dolan, Asst. Dir., Bureau of Competition, Room 372, Federal Trade Commission, 6th and Pennsylvania NW., Washington, D.C. 20580. (202-523-3601).

SUPPLEMENTARY INFORMATION: On Tuesday, April 19, 1977, there was published in the FEDERAL REGISTER 42 FR 20346 a proposed consent agreement with analysis In the Matter of Frito-Lay, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR, are as follows:

Subpart—Corrective Actions and/or requirements: § 13.533 Corrective actions and/or requirements; 13.533-37 Formal regulatory and/or statutory requirements. Subpart — Discriminating Between Customers: § 13.685 Discriminating between, customers; 13.685-5 Clayton Act. Subpart—Discriminating in Price Under Section 2, Clayton Act: ------ Price Discrimination Under 2 (a): § 13.715 Charges and price differentials.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 2, 49 Stat. 1526; (15 U.S.C. 13).)

CAROL M. THOMAS,
*Secretary.*

[FR Doc.77-20753 Filed 7-18-77;8:45 am]

[1] Copies of the Complaint and Decision and Order filed with the original document.

## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### SUBCHAPTER A—GENERAL

[Docket No. 77C-0126]

## PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

## PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

### Annatto

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is "permanently" listing annatto for use in externally applied drugs and in cosmetics generally, including those intended for use in the area of the eye. This is in response to a petition filed by the Cosmetic, Toiletry and Fragrance Association. The color additive regulations are amended to reflect the listing.

DATES: Effective August 19, 1977; objections by August 18, 1977.

ADDRESS: Written objections to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of May 27, 1977 (42 FR 27299) stated that a petition (CAP 6C0118) for the use of annatto as a color additive for externally applied drugs and for cosmetics generally, including those intended for use in the area of the eye, had been filed by the Cosmetic, Toiletry and Fragrance Association Inc., 1133 15th St. NW., Washington, D.C. 20005. The petition was filed pursuant to section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376).

Annatto has been provisionally listed for use in cosmetics under § 81.1(g) (21



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CFR 81.1(g)). With permanent listing of annatto under §§ 73.1030 and 73.2030, the listing under § 81.1(g) becomes obsolete.

The Commissioner, having evaluated the data in the petition and other relevant material, concludes that annatto is safe under the conditions set forth for use in coloring cosmetics generally and externally applied drugs, including cosmetics and drugs intended for use in the area of the eye, and that certification is not necessary for the protection of the public health.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), (d))) and the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note)), and under authority delegated to the Commissioner (21 CFR 5.1), Parts 73 and 81 are amended as follows:

1. Part 73 is amended:

a. By revising paragraph (b) of § 73.1030 to read as follows:

**§ 73.1030 Annatto extract.**

* * * * *

(b) *Uses and restrictions.* Annatto extract may be safely used for coloring drugs generally, including those intended for use in the area of the eye, in amounts consistent with good manufacturing practice.

b. By adding new § 73.2030 to Subpart C, to read as follows:

**§ 73.2030 Annatto.**

(a) *Identity and specification.* The color additive annatto shall conform in identity and specification to the requirements for annatto extract in § 73.30(a)(1) and (b).

(b) *Use and restriction.* The color additive annatto may be safely used in coloring cosmetics generally, including cosmetics intended for use in the area of the eye, in amounts consistent with good manufacturing practice.

(c) *Labeling.* The color additive and any mixture prepared therefrom intended solely or in part for coloring purposes shall bear, in addition to any information required by law, labeling in accordance with the provisions of § 70.25 of this chapter.

(d) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from the certification requirements of section 706(c) of the act.

**§ 81.1 [Amended]**

2. Part 81 is amended in paragraph (g) of § 81.1 *Provisional lists of color additives,* by deleting the entry for "annatto."

Any person who will be adversely affected by the foregoing order may at any time on or before August 18, 1977, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of § 71.30 (21 CFR 71.30). If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Five copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this order. Received objections may be seen in the Hearing Clerk's office during working hours, Monday through Friday.

Effective date: This regulation shall become effective August 19, 1977, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Sec. 706 (b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), and (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note).)

Dated: July 13, 1977.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.77-20576 Filed 7-18-77;8:45 am]

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**SUBCHAPTER D—DRUGS FOR HUMAN USE**

[Docket No. 76N-0046]

**PART 310—NEW DRUGS**

**PART 369—INTERPRETATIVE STATEMENTS ON DRUGS AND DEVICES FOR OVER-THE-COUNTER SALE**

**Diamthazole Dihydrochloride**

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule revokes regulations that allow the over-the-counter marketing of a topical drug formerly used for the prevention and treatment of athlete's foot. Neurotoxic reactions have been reported and there are safe and effective alternates available.

EFFECTIVE DATE: July 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: The proposed revocation, published in the FEDERAL REGISTER of October 29, 1976 (41 FR 47492), was based on an unfavorable benefit-risk ratio for the drug because of the danger of several neurotoxic reactions associated with the topical use of diamthazole dihydrochloride and the availability of safer, equally effective alternative drugs. Interested persons were invited to submit comments on the proposal within 60 days. No comments were received, and the revocation is adopted as proposed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 503 (b), 505, 701, 52 Stat. 1050–1053 as amended, 1055–1056 as amended (21 U.S.C. 352, 353(b), 355, 371)) and under the authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs amends Parts 310 and 369 as follows:

**§ 310.201 [Amended]**

1. In Part 310, by amending § 310.201 by revoking and reserving paragraph (a)(7).

**§ 369.21 [Amended]**

2. In Part 369, by amending § 369.21 by revoking the item headed "Diamthazole Dihydrochloride for External Use."

Effective date: This regulation shall be effective July 19, 1977.

(Secs. 502, 503(b), 505, 701, 52 Stat. 1050–1053 as amended, 1055–1056 as amended (21 U.S.C. 352, 353(b), 355, 371).)

Dated: July 11, 1977.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.77-20579 Filed 7-18-77;8:45 am]

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**SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS**

**STERLING DRUG, INC.; CHANGE OF SPONSOR**

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect the change of sponsor for six approved new animal drug applications (NADA's), from Winthrop Laboratories to Sterling Drug, Inc., and to delete the sponsor entry for the former sponsor who will no longer be the sponsor of an approved NADA.

EFFECTIVE DATE: July 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Sterling Drug, Inc., 90 Park Ave., New York, NY 10016, has filed supplemental NADA's indicating its sponsorship of the following NADA's:

| | |
|---|---|
| 15–506V | Stanozolol tablets. |
| 30–844V | Stanozolol solution. |
| 44–611V | Pentazocine lactate injection. |
| 93–985V | Nitrofurazone with sulfamylon. |
| 100–403V | Meglumine diatrizoate injection. |
| 100–703V | Mepivacaine hydrochloride injection. |





Amendment of the regulations to reflect the intracorporate transfer of the NADA's from Winthrop Laboratories to Sterling Drug does not require a reevaluation of the underlying safety and effectiveness data.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 510, 520, 522, and 524 are amended as follows:

**PART 510—NEW ANIMAL DRUGS**

1. In § 510.600 *Names, addresses, and code numbers of sponsors of approved applications,* paragraph (c)(1) is amended by deleting the entry for "Winthrop Laboratories" and paragraph (c)(2) is amended by deleting the entry for drug listing number "000024."

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**PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION**

2. In § 520.2150 Stanozolol tablets, paragraph (b) is amended by deleting the number "000024" and inserting in its place the number "000934."

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**PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION**

3. Part 522 is amended as follows:

(a) In § 522.562 Diatrizoate meglumine injection, paragraph (b) is amended by deleting the number "000024" and inserting in its place the number "000934."

(b) In § 522.1372 Mepivacaine hydrochloride injection, paragraph (b) is amended by deleting the number "000024" and inserting in its place the number "000934."

(c) In § 522.1698 Pentazocine lactate injection, paragraph (b) is amended by deleting the number "000024" and inserting in its place the number "000934."

(d) In § 522.2150 Stanozolol sterile suspension, paragraph (b) is amended by deleting the number "000024" and inserting in its place the number "000934."

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**PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION**

4. In § 524.1301 Mafenide acetate and nitrofurazone aerosol powder, paragraph (b) is amended by deleting the number "000024" and inserting in its place the number "000934."

Effective date. July 19, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: July 12, 1977.

RICHARD P. LEHMANN,
*Acting Director, Bureau of Veterinary Medicine.*

[FR Doc.77-20577 Filed 7-18-77;8:45 am]

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[Dockets Nos. 75N-0171; 76N-0082]

**PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS**

**Antibiotics, Nitrofuran, and Sulfonamides; Correction**

AGENCY: Food and Drug Administration.

ACTION: Correction.

SUMMARY: This document corrects a final rule published in the FEDERAL REGISTER Friday, April 8, 1977.

EFFECTIVE DATE: July 19, 1977.

FOR FURTHER INFORMATION CONTACT:

John A. Richards, Federal Register Writer (HFC–11), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-9874 appearing at page 18611 in the FEDERAL REGISTER for Friday, April 8, 1977, the following corrections are made:

1. On page 18615, § 558.55 Amprolium is corrected in paragraph (e)(2)(ii) in the table by changing the text in the "Limitations" column to read "Feed according to subtable in item (ii)."

2. On page 18616, § 558.58 Amprolium and ethopabate is corrected in paragraph (e)(1)(iii) in the table in the "Limitations" column as follows:

a. For "Bacitracin 4 to 50" by changing the third line to read "treatment for outbreaks of coccidiosis; as bacitracin methylene di-" and the last line to read "000006 in sec. 510.600(c) of this chapter."

b. For "Bacitracin 5 to 35 plus roxarsone 34 (0.00375 pct)" by changing the next to the last line to read "510.600(c) of this chapter; combination as provided by."

c. For "Bambermycins 1 to 3" by changing the first and second lines to read "Feed continuously as the sole ration; as sole source of amprolium; amprolium, ethopabate as provided by No. 000006 in sec. 510.600(c)."

d. For "Bambermycins 1 to 3 plus roxarsone 22.8 to 34.1 (0.0025 pct to 0.00375 pct)" by changing the next to the last line to read "roxarsone by No. 017210, bambermycins by No. 000039."

3. On page 18617, § 558.76 Bacitracin methylene disalicylate is corrected in paragraph (e)(3)(iii) by changing "§ 556.680" to read "§ 558.680."

4. On page 18618, § 558.128 Chlortetracycline is corrected in paragraph (e)(3) by changing the title of Table 2 to read "Table 2.—In feed supplements".

5. On page 18618, § 558.460 Penicillin is corrected in paragraph (f)(2)(vii) by revoking and reserving the paragraph to read "(vii) [Reserved]."

6. On page 18619, § 558.680 Zoalene is corrected in paragraph (e)(1)(ii) in the table in the "Combination in grams per ton" column by changing the second line to read "roxarsone 22.7 to 45.4."

Dated: July 11, 1977.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.77-20468 Filed 7-18-77;8:45 am]

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**SUBCHAPTER L—REGULATIONS UNDER CERTAIN OTHER ACTS ADMINISTERED BY THE FOOD AND DRUG ADMINISTRATION**

**PART 1220—REGULATIONS UNDER THE TEA IMPORTATION ACT**

**Tea Standards**

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document establishes tea standards for the year beginning May 1, 1977, and ending April 30, 1978. The tea standards are provided for under the Tea Importation Act.

FOR FURTHER INFORMATION CONTACT:

Ralph A. Strand, Bureau of Foods (HFF–314), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202–245–1567.

SUPPLEMENTARY INFORMATION: This amendment is based on the recommendation of the Board of Tea Experts, which is comprised of tea experts drawn from the Food and Drug Administration and the tea trade, who are representative of the trade as a whole. This amendment is being issued as a final rule effective immediately, without notice of proposed rule making. By law the tea standards are to be revised annually effective May 1. Because this date has passed, the Commissioner believes the standards for the current year should be placed in effect without delay. He is offering interested persons the opportunity to submit comments by August 18, 1977, to determine whether the regulation should be modified or revoked. If any action is to be taken on the basis of the comments, the Commissioner will publish a notice in the FEDERAL REGISTER discussing the comments and announcing the action he determines to be necessary.

The Commissioner has considered the environmental effects of the issuance or amendment of food standards and has concluded in § 25.1(d)(4) (21 CFR 25.1(d)(4), formerly § 6.1(d)(4) prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)), that food standards are not major agency actions significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required for this amendment.

Therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Tea Importation Act (secs. 3, 10, 29 Stat. 605, 607, 41 Stat. 712, 54 Stat. 1237, 67 Stat. 631



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(21 U.S.C. 43, 50)) and delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the regulations for the enforcement of the act under Part 1220 (21 CFR Part 1220) are amended by revising § 1220.40(a) to read as follows:

**§ 1220.40 Tea standards.**

(a) Samples for standards of the following teas, prepared, identified, and submitted by the Board of Tea Experts on March 1, 1977, are hereby fixed and established as the standards of purity, quality, and fitness for consumption under the Tea Importation Act for the year beginning May 1, 1977, and ending April 30, 1978:

(1) Formosa Oolong.

(2) Black Tea other than China, Formosa, Japan Type (to be used for all black teas except those from China, Formosa, and Japan).

(3) Black Tea, China, Formosa, Japan Type (to be used for black teas from China, Formosa, and Japan).

(4) Green Tea (to be used for all green teas).

(5) Canton Oolong Type (to be used for all Canton type teas of Formosa or China origin).

(6) Scented Black Tea.

(7) Spiced Tea.

These standards apply to tea shipped from abroad on or after May 1, 1977. Tea shipped prior to May 1, 1977 will be governed by the standards that became effective on May 1, 1976.

* * * * *

Effective date: This regulation became effective May 1, 1977.

(Secs. 3, 10, 29 Stat. 605, 607, 41 Stat. 712, 54 Stat. 1237, 67 Stat. 631 (21 U.S.C. 43, 50).)

Dated: July 11, 1977.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.77-20587 Filed 7-18-77;8:45 am]

## Title 32—National Defense

### CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

#### SUBCHAPTER R—CHARTERS

### PART 355—DIRECTOR OF POLICY REVIEW

AGENCY: Office of the Secretary of Defense.

ACTION: Issuance of DOD Charter Directive 5130.2 [1]

SUMMARY: The Secretary of Defense has established the position of Director of Policy Review and has assigned to it certain functions and responsibilities. This Directive serves as the instrument that defines the charter of the Director of Policy Review.

EFFECTIVE DATE: June 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Arthur H. Ehlers, Director for Organizational and Management Planning, Office of the Deputy Assistant Secretary of Defense (Administration), 202-695-4278.

Accordingly, Part 355 reads as follows:

Sec.
355.1 Purpose.
355.2 Responsibilities.
355.3 Functions.
355.4 Relationships.
355.5 Authorities.

AUTHORITY: 10 U.S.C. Chapter 4.

**§ 355.1 Purpose.**

Pursuant to the authority vested in the Secretary of Defense under the provisions of Title 10, United States Code, the position of Director of Policy Review is hereby established with responsibilities, functions, and authorities as prescribed herein.

**§ 355.2 Responsibilities.**

The Director of Policy Review is the principal staff assistant to the Secretary of Defense for Defense policy as it relates to communications and intelligence analysis, requirements and priorities, as well as other policy matters as determined by the Secretary of Defense. For each of his assigned areas the Director shall:

(a) Develop Department of Defense communications and intelligence policy and means to verify response to policy.

(b) Confirm requirements for research, development and systems acquisition for intelligence analysis and production, intelligence collection and communications.

(c) In accordance with existing guidelines determine priorities for Defense intelligence collection and establish guidelines for the assembly, integration and validation of all Defense intelligence requirements.

(d) Exercise staff supervision on policy matters over the Defense Intelligence Agency, the National Security Agency, the Defense Mapping Agency, the Defense Communications Agency, Air Force and Navy special intelligence programs, Defense communications and intelligence functions retained by the Military Departments, and, in conjunction with the Assistant Secretary of Defense (Comptroller), the Defense Investigative Service.

(e) Provide staff support for the Defense Intelligence Advisory Board.

(f) Conduct liaison with the Joint Staff and Unified and Specified Commands on policy matters related to his areas of responsibility.

(g) Develop Department of Defense policy and requirements for use of space for matters related to his areas of responsibility.

(h) Provide to the Assistant Secretary of Defense (Communications, Command, Control and Intelligence) requirements for intelligence and communications programs.

(i) Oversee Department of Defense participation in sensitive intelligence matters, including contracts or arrangements with other countries; cooperate with the Assistant Secretary of Defense (International Security Affairs) with respect to review of intelligence matters related to the Special Coordinating Committee (Intelligence).

(j) Provide guidance, oversight, and coordination for intelligence-related programs and issues.

(k) Participate in studies and analyses involving communications or intelligence policy matters and other matters as directed by the Secretary of Defense.

(l) Serve on boards, committees, and other groups pertaining to his functional areas.

(m) Perform such other duties as the Secretary of Defense may from time to time prescribe.

**§ 355.3 Functions.**

The Director of Policy Review shall carry out the responsibilities described in § 355.2 in the following areas:

(a) Intelligence planning, policy and requirements.

(b) Communications planning, policy and requirements.

(c) Requirements for intelligence production, research, development, and systems acquisition.

(d) Intelligence collection and analysis requirements and priorities.

(e) Consolidated Defense Intelligence Program.

(f) National and tactical intelligence.

(g) Counterintelligence and security policy.

(h) Mapping, charting and geodesy.

(i) Sensitive intelligence (HUMINT and TECHNICAL).

(j) Liaison with users.

(k) Such other areas as the Secretary of Defense may from time to time prescribe.

**§ 355.4 Relationships.**

(a) In the performance of his duties, the Director of Policy Review shall:

(1) Coordinate and exchange information with other DOD organizations having collateral or related functions.

(2) Use existing facilities and services whenever practicable to achieve maximum efficiency and economy.

(b) All DOD organizations shall coordinate all matters concerning the responsibilities cited in § 355.2 with the Director of Policy Review.

**§ 355.5 Authorities.**

The Director of Policy Review is hereby delegated authority to:

(a) Issue instructions and one-time directive-type memoranda which carry out policies approved by the Secretary of Defense, in his assigned fields of responsibility. Instructions issued to the Military Departments will be issued through the Secretaries of those Departments or their designees. Instructions to Unified or Specified Commands will be issued through the Joint Chiefs of Staff.

(b) Obtain such reports, information and assistance, consistent with the policies and criteria of DOD Directive 5000.-19, as he deems necessary.

(c) Communicate directly with the heads of DOD organizations, including the Secretaries of the Military Departments, the Joint Chiefs of Staff, the Directors of Defense Agencies, and, through the Joint Chiefs of Staff, the Commanders of Unified and Specified Commands.

(d) Communicate with other government agencies, representatives of the legislative branch, and members of the public, as appropriate, in carrying out assigned functions.

MAURICE W. ROCHE,
*Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).*

JULY 14, 1977.

[FR Doc.77-20752 Filed 7-18-77;8:45 am]

[1] Filed as part of original. Single copies may be obtained, if needed, from U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120 Attention: Code 301.





## CHAPTER XII—DEFENSE LOGISTICS AGENCY

### SUBCHAPTER B—MISCELLANEOUS

[DLAR 5720.3]

### PART 1288—REGISTRATION OF PRIVATELY-OWNED MOTOR VEHICLES

AGENCY: Defense Logistics Agency (DLA).

ACTION: Final rule.

SUMMARY: Visitors to DLA installations may be subject to random vehicle spot searches upon entry, while on, and while departing such installations. These searches are conducted with the consent of the visitors who agree to this procedure as a condition of entry. Individuals entering a DLA installation who object to a vehicle search will not be subjected to a search, but will be denied entry to the installation. The DLA command security program recognizes the need to deter acts of sabotage, theft, pilferage, and espionage against DLA installations. A cornerstone of this program is the necessity to be an effective deterrent to unlawful acts and is recognized as a viable physical security practice. The psychological aspect of this policy will serve as a deterrent to those individuals who pilfer Government material from DLA installations.

EFFECTIVE DATE: June 16, 1977.

FOR FURTHER INFORMATION CONTACT:

LTC John W. Ross, Jr., Commercial—AC 202-274-6263. AUTOVON—284-6263.

BY ORDER OF THE DIRECTOR:

J. J. McAleer, Jr., Colonel, USA, Staff Director, Administration.

Part 1288, Subchapter B, Chapter XII of Title 32 of the Code of Federal Regulations is added to read as follows:

Sec.
1288.1 Purpose and scope.
1288.2 Policy.
1288.3 Definitions.
1288.4 Significant changes.
1288.5 Responsibilities.
1288.6 Procedures.
1288.7 Forms and reports.
Appendix A—Decal Specification.

AUTHORITY: 5 U.S.C., sec. 301; DOD Directive 5105.22, January 5, 1977.

**§ 1288.1 Purpose and scope.**

To prescribe policy and procedures for the registration, inspection, and marking of privately-owned vehicles (POV) on Defense Logistics Agency (DLA) activities. This regulation is applicable to individuals serving in or employed by the Defense Logistics Agency, and to all other individuals subject to motor vehicle registration requirements set forth in this Part 1288 and DLAR 5720.1/AR 190-5/OPNAVINST 11200.5B/AFR 125-14/MCO 5110.1B, Military Police Motor Vehicle Traffic Supervision.

**§ 1288.2 Policy.**

(a) The operation of a POV on a DLA activity constitutes a conditional privilege extended by the Head of the activity. Individuals registering or operating POVs on DLA activities shall be deemed to have given consent to a search of their vehicles while on such activities. This implied consent provision will be made known to all registrants and visitors at the time of registration or entry. Entry to DLA activities will be denied in the absence of consent to search.

(b) POVs permanently registered for operation on a DLA activity will be identified by use of one of the decals prescribed in this Part 1288 (appendices A and B).

(c) The DLA vehicle decal will be valid for a period of 3 years from the year and month of issue.

(d) Activities will use DLA Form 1454, Vehicle Registration/Driver Record, as the basic vehicle registration and driver record.

(e) DLA tenant activities will comply with host installation policies and procedures for registering POVs.

**§ 1288.3 Definitions.**

Terms used in this Part 1288 are contained in DLAR 5720.1.

**§ 1288.4 Significant changes.**

This Part 1288 has been completely revised and should be read in its entirety.

**§ 1288.5 Responsibilities.**

(a) HQ DLA.

(1) The Command Security Officer, DLA (DLA-T) will provide staff supervision and assistance to DLA activities on matters concerning this Part 1288.

NOTE.—This DLAR supersedes DLAR 5720.-3, July 19, 1976, and Change 1.

(2) The Inspector General, DLA (DLA-I) will procure, issue, and control Inspector General (IG) vehicle decals in accordance with § 1288.6. (Vehicles bearing such decals will be permitted entry to all DLA activities.)

(b) The Heads of DLA Primary Level Field Activities will:

(1) Ensure that personnel adhere to the provisions of this Part 1288 when implemented.

(2) Procure, issue, and control vehicle decals in accordance with this Part 1288.

(3) Periodically inform personnel of the requirements of this Part 1288, DLAR 5720.1, and local requirements concerning the motor vehicle registration program.

(4) Ensure that the implied consent to search provisions are publicized as follows:

(i) Prominent sign displayed at all entrances to the activity.

(ii) Written notification, easily readable, on vehicle visitor passes and vehicle registration forms. Visitor passes and item 14 of the DLA Form 1454 will be annotated as follows: "Individuals registering or operating POVs on DLA activities shall have given consent to a search of their vehicles while entering on, or departing such activities. Entry to DLA activities will be denied in the absence of consent to search."

**§ 1288.6 Procedures.**

(a) *Issuance of DLA POV Decal and 3-year Validation Sticker.* (1) One decal will be affixed to the left front bumper (operator's side) of a four-wheel vehicle. An additional decal may be placed on the rear bumper of the vehicle. For vehicles not equipped with bumpers and two-wheeled vehicles, the placement of decals will be determined locally.

(2) A 3-year validation sticker indicating the decal expiration will be issued at the same time the DLA decal is issued. Every 3 years, or following a significant change, registrants will be required to update their registration information. Evidence of compliance will be documented by the issuance and display of a new 3-year validation sticker.

(3) The validation sticker will be placed next to the DLA decal affixed to the front bumper of the vehicle. This sticker will reflect the month and year of the decal expiration, e.g., vehicles registered during the month of June 1977 will have affixed a validation sticker with the numbers "6-80", indicating expiration of the decal at the end of June 1980. The specifications for the validation sticker will be determined locally.

(4) Decals or other media used to identify vehicles of temporary registrants or visitors will be locally prescribed.

(5) Decals will be removed from POVs by the registrant when activity registration is terminated. See DLAR 5720.1, chapter 3, for information on termination of registration.

(6) Vehicle decals will be purchased with appropriated funds for issuance at no cost to authorized users.

(b) Proof of insurance. (1) Individuals registering vehicles will certify possession of insurance per DLAR 5720.1, paragraph 3-3c.

(2) The certification contained on DLA Form 1454 will, as indicated thereon, be witnessed and manifested by a signature.

(c) Vehicle inspection. (1) DLA activities located in states or jurisdictions having mandatory vehicle safety inspections will reflect the provisions of DLAR 5720.1, paragraph 3-3d, in the supplementation of this Part 1288.

(2) Vehicle safety inspections are not mandatory for DLA activities located in areas not requiring such inspections.



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(d) Registrant. Registrant must inform the vehicle registration office within 72 hours as information on DLA Form 1454 becomes invalid.

**§ 1288.7 Forms and reports.**

(a) DLA Form 1454 will be prepared at the time of initial registration of the vehicle and will remain valid for as long as the registrant retains ownership of the vehicle and complies with registration requirements. A Privacy Act Statement for use in conjunction with DLA Form 1454 will be made available to the individual supplying data on the form.

(b) Data blocks 3, 4, and 14 on DLA Form 1454 will be entered in ink; remaining entries will be in pencil.

(c) One copy of DLA Form 1454 will also serve as the driver record of the registrant.

(d) Upon permanent change of station of the Military Service registrant, activity clearance procedures will provide for DLA Form 1454 to be included in the registrant's military personnel folder for transmittal to the gaining activity. DLA Forms 1454 for transferring civilian personnel will be forwarded to the Security Officer of the gaining activity.

(e) The DLA Form 1454 for military personnel being discharged or separated and civilian personnel who terminate employment, will be forwarded to the appropriate personnel office for inclusion in the records folder for subsequent retirement.

APPENDIX A—DECAL SPECIFICATIONS

A. The design format of the standard DLA decal to be used for identifying POVs permanently registered for operation on DLA activities is shown in enclosure 2. The IG decal will be of the same design and color as that prescribed for the standard DLA decal except that the registration letter/number scheme will consist of the letters "IG" followed by a number. Standard DLA decals may be procured from the United States Disciplinary Barracks, USDB, Ft. Leavenworth, Kansas 66027, which is an approved Federal printing plant. Existing stocks of decals with "DSA" inscribed will be used until exhausted.

B. The following specifications apply to the separate elements of the decal:

1. *Basic Construction.* Decal will meet Federal Specification L-5300A, 7 Jan 70, type I, class 4, reflectivity 1.

2. *Colors.* a. Background—Silver.

b. DLA emblem, field activity name, and scroll, the letters DLA, and year/date—black.

c. Registration Letters/Numbers:

(1) Mandatory categories:

(a) Officer personnel—blue.

(b) Enlisted personnel—red.

(c) Civilian employees—green.

(2) The following additional colors will be used to categorize registration further:

(a) Noncommissioned Officer personnel, brown.

(b) Civilian employees (nonappropriated fund), Red Cross concessionaires, contractors, and other similar categories, black.

3. *Registration Letters/Numbers.* For each registration category a combination of letters and number(s) separated by the DLA emblem will be used. The number-letter system will progress from AA–1 to AA–2, and so on, to AA–99, from AB–1 to AB–99, eventually from AZ–1 to AZ–99, and so on from ZZ–1 to ZZ–9.

4. *Dimensions.*

a. Overall size: 3 inches by 6 inches. A reduced size decal will be used for vehicles with less than four wheels.

b. Registration letters and numerals: 1¼ to 1½ inches in height.

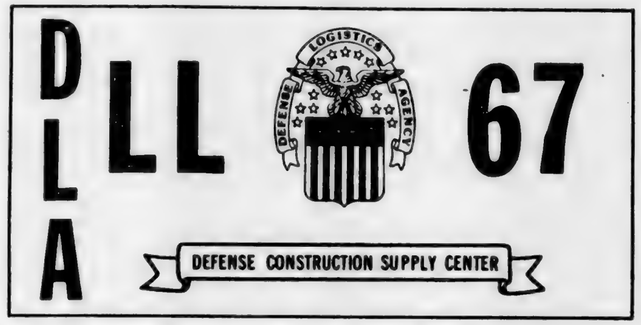
c. DLA emblem letters: 1½ inches to 1¾ inches in height.

d. DLA letters: ½ to ¾ inch in height.

e. Activity designation scroll and lettering: See enclosure 2.

APPENDIX B

STANDARD DLA PRIVATE VEHICLE IDENTIFICATION DECAL




[FR Doc.77-20751 Filed 7-18-77;8:45 am]

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**Title 40—Protection of Environment**

**CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY**

[FRL-760-7]

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

**Air Pollution Control, Pima County Regulations, State of Arizona**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval, with exceptions, of amendments to the Rules and Regulations of the Pima County Air Pollution Control District submitted to EPA by the State of Arizona as a revision to the State of Arizona Air Pollution Control Implementation Plan. The amendments concern definitions, emission limitations for fuel burning installations, ambient air quality standards, exceptions to the regulations, standards of performance for new stationary sources, and emission standards for hazardous air pollutants. The Administrator is required to approve or disapprove of revisions to state implementation plans. The Administrator finds good cause for making this rulemaking effective 30 days from the date of publication of this notice. The additional time is being provided to allow the county a reasonable time in which to amend their regulation prior to further action by the Administrator. The regulations being approved are currently being enforced by the Pima County Air Quality Control District, and therefore pose no further requirements on any affected facility.

EFFECTIVE DATE: August 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Attn: Erik Hauge, Air Programs Branch, EPA, Region IX, 100 California Street, San Francisco, California 94111, telephone 415-556-7595.

SUPPLEMENTAL INFORMATION:

BACKGROUND

On March 21, 1977 (42 FR 15343) EPA proposed approval, with exceptions, of amendments to the Rules and Regulations of the Pima County Air Pollution Control District. These revisions to the State implementation plan were submitted on September 30, 1976. The proposed rulemaking notice provided for a 30-day public comment period. Information concerning the regulations proposed for approval and disapproval (the EPA evaluation report), the regulations under consideration, and a copy of the proposed rulemaking notice were made available during the comment period at locations in Phoenix and Tucson, Arizona and at the EPA offices in San Francisco, California and Washington, D.C. as per the March 21, 1977 notice.

DISCUSSION OF ACTION

Final rulemaking is similar to that proposed. Approval is being promulgated for all of the Pima County regulatory amendments received on September 30, 1976, with the exception of Regulation II, Rule 7A, paragraphs 2 through 5, applicable to the use of fuel oil at electric energy producing-fuel burning installations; and Regulation II, Rule 11A, Malfunction, Startup, Shutdown, and Scheduled Maintenance.

The Administrator, after having proposed to disapprove Regulation II, Rule 7A, is disapproving paragraphs 2 through 5 of the rule. In the effort to protect against violations of the national standards the control officer could allow an existing fuel oil-fired power plant to use diffusion dependent techniques alone as a means of attaining and maintaining the National Ambient Air Quality Standards, contrary to recent court decisions which have clarified the intent of Section 110(a)(2)(B) of the Clean Air Act (see 41 FR 7450). Also, the portion of the same rule applicable to low sulfur fuel usage is being disapproved because it is unenforceable without the other provisions of the rule.

The Administrator is also disapproving the control strategy portion of the State plan applicable to the control of sulfur dioxide in the Pima County portion of the Phoenix-Tucson Intrastate Air Quality Control Region because the State has failed to submit a demonstration that Regulation II, Rule 7A will not interfere with the attainment and maintenance of the national standards.

No action was proposed and none is being taken at this time on Regulation II, Rule 11A.

DISCUSSION OF MAJOR COMMENTS

One public comment was received. The Arizona Public Service Company maintains that Regulation II, Rule 7A provides power plants with the flexibility which is needed during periods of low sulfur oil supply problems and that the disapproval of the regulation may severely restrict the operating criteria of such facilities. EPA agrees that some flexibility is needed during such periods, however it is up to the county to amend their regulation to conform with the EPA requirements while allowing the desired flexibility. If the county does not amend its regulation within a reasonable time, EPA will propose and promulgate a substitute regulation, through the public hearing process, which provides the necessary flexibility.

AUTHORITY

(Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. 1857c-5 and 1857g(a), respectively).)

Dated: July 14, 1977.

BARBARA BLUM,
*Acting Administrator.*

Subpart D of Part 52 of Chapter 1, Title 40, of the Code of Federal Regulations is amended as follows:

**Subpart D—Arizona**

1. Section 52.120, paragraph (c) is amended by the addition of subparagraph (11) as follows:





**§ 52.120 Identification of plan.**

* * * * * *

(c) * * *

(11) Amendments to the Rules and Regulations of the Pima County Air Pollution Control District (Regulation I: Rule 2 (paragraph uu–yy, Definitions); Regulation II (Fuel Burning Equipment): Rule 2G (paragraphs 1–4c, Particulate Emissions), Rule 7A (paragraphs 1–6, Sulfur Dioxide Emissions), Rule 7B (paragraphs 1–4, Nitrogen Oxide Emission); Regulation VI: Rule 1A–H, (Ambient Air Quality Standards); Regulation VII (paragraph A–D, Standards of Performance for New Stationary Sources); and Regulation VIII (paragraphs A–C, Emission Standards for Hazardous Air Pollutants)) submitted on September 30, 1976 by the Director, Arizona Department of Health Services (the Governor's official representative).

2. Section 52.125, paragraphs (d), (e), (f), and (g) are reserved as follows:

**§ 52.125 Control strategy and regulations: Sulfur oxides.**

* * * * * *

(d) [Reserved]

(e) [Reserved]

(f) [Reserved]

(g) [Reserved]

3. Section 52.125, paragraph (h) is added as follows:

**§ 52.125 Control strategy and regulations: Sulfur oxides.**

* * * * * *

(h)(1) The requirements of § 51.13 of this chapter are not met since the plan does not demonstrate that the emission limitations applicable to existing fuel burning equipment producing electrical energy will provide for the attainment and maintenance of the national standards in the Pima County portion of the Phoenix-Tucson Intrastate Air Quality Control Region (§ 81.36 of this chapter).

(2) Regulation II: Rule 7A—paragraphs 2 through 5, Emission Limitations Fuel Burning Equipment—Sulfur Dioxide, of the Rules and Regulations of the Pima County Air Pollution Control District are disapproved because they could allow existing facilities to use dispersion dependent techniques along as a means of attaining and maintaining the National Ambient Air Quality Standards. The regulation does not assure the attainment and maintenance of the national standards in a manner which is consistent with the intent of Section 110(a)(2)(B) of the Clean Air Act.

[FR Doc.77-20758 Filed 7-18-77;8:45 am]

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**SUBCHAPTER C—AIR PROGRAMS**

[FRL 758-4]

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

**Control Strategy Revision to Louisiana Plan**

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This rule approves a revision to the Particulate Matter Control Strategy portion of the Louisiana State Implementation Plan (SIP). This action is being taken to show that the date for attainment of the National Ambient Air Quality Standard for particulate matter will not be interfered with due to the compliance schedule for Kaiser Aluminum extending beyond the attainment date of May 31, 1975.

EFFECTIVE DATE: August 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Oscar Cabra, Jr., Air Programs Branch, Environmental Protection Agency, Region VI, Dallas, Texas 75270, 214-749-3837.

SUPPLEMENTARY INFORMATION: On January 28, 1972, the Governor of Louisiana submitted the State Implementation Plan (SIP) for attainment and maintenance of the national ambient air quality standards. With specific exceptions, the Administrator approved the plan on May 31, 1972 (37 FR 10869).

In accordance with the SIP revision requirement as provided by § 51.6 of 40 CFR Part 51, the Governor of Louisiana submitted a revision to the SIP on January 2, 1973. This revision amends the particulate matter control strategy portion of the SIP by demonstrating that the compliance schedule established for Kaiser Aluminum and Chemical Company Chalmette Works will not interfere with the attainment date of May 31, 1975, for the achievement of the national ambient air quality standard for particulate matter in Louisiana's portion of the Southern Louisiana-Southeast Texas Air Quality Control Region (AQCR).

The rollback analysis, using the highest annual geometric mean from the AQCR, 80 $\mu g/m^3$, demonstrates that a 36 percent reduction in emission is required in the New Orleans area to meet the primary ambient air quality standard for particulate matter. Emission calculations provided in the State submittal show an expected 34 percent reduction in total emissions by June, 1975, a 38 percent reduction by February 1976, and a 39 percent reduction at the time the source achieves final compliance, September 1, 1976.

These reductions in emissions have been reflected in measured ambient particulate levels with no violation of the primary ambient air quality standard for particulate matter having been recorded in the New Orleans area for 1975 or 1976. The Administrator finds that this revision should be approved without proposal since air quality levels clearly show that the primary ambient air quality standard for particulate matter has been met in the applicable AQCR, and the facility referenced in the control strategy revision is reported by the State to be in compliance with all particulate emission standards.



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(Section 110(a) of the Clean Air Act as amended 42 U.S.C. 1857c-5(a).)

Dated: July 8, 1977.

DOUGLAS M. COSTLE,
*Administrator.*

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

### Subpart T—Louisiana

1. In § 52.970 paragraph (c) is amended by adding paragraph (6) as follows:

**§ 52.970 Identification of plan.**

* * * * *

(c) * * *

(6) A revision concerning the control strategy for particulate matter for the Southern Louisiana-Southeast Texas AQCR was submitted by the Governor on January 2, 1973.

[FR Doc.77-20556 Filed 7-18-77;8:45 am]

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[FRL 752-2]

## PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

### Units and Abbreviations

AGENCY: Environmental Protection Agency

ACTION: Final rule

SUMMARY: This action revises the General Provisions by reorganizing the units and abbreviations and adding the International System of Units (SI). Until recently, EPA did not have a preferred system of measurement to be used in its regulations. Now the Agency is using SI units in all regulations issued under this part. This necessitates that SI units be added to the General Provisions to provide a complete listing of abbreviations used.

EFFECTIVE DATE: August 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone no. 919-541-5271.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 3 of Pub. L. 94-168, the Metric Conversion Act of 1975, declares that the policy of the United States shall be to coordinate and plan the increasing use of the metric system in the United States. On December 10, 1976, a notice was published in the FEDERAL REGISTER (41 FR 54018) that set forth the interpretation and modification of the International System of Units (SI) for the United States. EPA incorporates SI units in all regulations issued under 40 CFR Part 60 and provides common equivalents in parentheses where desirable. Use of SI units requires this revision of the abbreviations section (§ 60.3) of the General Provisions of 40 CFR Part 60.

REFERENCE DOCUMENTS

An explanation of the International Systems of Units was presented in the FEDERAL REGISTER notice mentioned above (41 FR 54018). The Environmental Protection Agency is using the Standard for Metric Practice (E 380-76) published by the American Society for Testing and Materials (A.S.T.M.) as its basic reference. This document may be obtained by sending $4.00 to A.S.T.M., 1916 Race Street, Philadelphia, Pennsylvania 19103.

MISCELLANEOUS

As this revision has no regulatory impact, but only defines units and abbreviations used in this part, opportunity for public participation was judged unnecessary.

(Sections 111 and 301(a) of the Clean Air Act; sec. 4(a) of Pub. L. 91-604, 84 Stat. 1683; sec. 2 of Pub. L. 90-148, 81 Stat. 504 (42 U.S.C. 1857c-6, 1857g(a)).)

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: July 8, 1977.

DOUGLAS M. COSTLE,
*Administrator.*

40 CFR Part 60 is amended by revising § 60.3 to read as follows:

**§ 60.3 Units and abbreviations.**

Used in this part are abbreviations and symbols of units of measure. These are defined as follows:

(a) System International (SI) units of measure:

A—ampere
g—gram
Hz—hertz
J—joule
K—degree Kelvin
kg—kilogram
m—meter
$m^3$—cubic meter
mg—milligram—$10^{-3}$ gram
mm—millimeter—$10^{-3}$ meter
Mg—megagram—$10^{6}$ gram
mol—mole
N—newton
ng—nanogram—$10^{-9}$ gram
nm—nanometer—$10^{-9}$ meter
Pa—pascal
s—second
V—volt
W—watt
Ω—ohm
μg—microgram—$10^{-6}$ gram

(b) Other units of measure:

Btu—British thermal unit
°C—degree Celsius (centigrade)
cal—calorie
cfm—cubic feet per minute
cu ft—cubic feet
dcf—dry cubic feet
dcm—dry cubic meter
dscf—dry cubic feet at standard conditions
dscm—dry cubic meter at standard conditions
eq—equivalent
°F—degree Fahrenheit
ft—feet
gal—gallon
gr—grain
g-eq—gram equivalent
hr—hour
in—inch
k—1,000
l—liter
lpm—liter per minute
lb—pound
meq—milliequivalent
min—minute
ml—milliliter
mol. wt.—molecular weight
ppb—parts per billion
ppm—parts per million
psia—pounds per square inch absolute
psig—pounds per square inch gage
°R—degree Rankine
scf—cubic feet at standard conditions
scfh—cubic feet per hour at standard conditions
scm—cubic meter at standard conditions
sec—second
sq ft—square feet
std—at standard conditions

(c) Chemical nomenclature:

CdS—cadmium sulfide
CO—carbon monoxide
$CO_2$—carbon dioxide
HCl—hydrochloric acid
Hg—mercury
$H_2O$—water
$H_2S$—hydrogen sulfide
$H_2SO_4$—sulfuric acid
$N_2$—nitrogen
NO—nitric oxide
$NO_2$—nitrogen dioxide
$NO_x$—nitrogen oxides
$O_2$—oxygen
$SO_2$—sulfur dioxide
$SO_3$—sulfur trioxide
$SO_x$—sulfur oxides

(d) Miscellaneous:

A.S.T.M.—American Society for Testing and Materials

(Sections 111 and 301(a) of the Clean Air Act; sec. 4(a) of Pub. L. 91-604, 84 Stat. 1683; sec. 2 of Pub. L. 90-148, 81 Stat. 504 (42 U.S.C. 1857c-6, 1857g(a)).)

[FR Doc.77-20557 Filed 7-18-77;8:45 am]

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## Title 49—Transportation

## CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Amdt. No. 1 to Revised Service Order No. 1182]

## PART 1033—CAR SERVICE

### Substitution of Stock Cars for Boxcars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Amendment No. 1 to Revised Service Order No. 1182).

SUMMARY: Revised Service Order No. 1182 authorizes the Burlington Northern Inc. to substitute specially prepared stock cars for boxcars for shipments of grain originating on its line in order to augment the available supply of cars suitable for grain traffic. Amendment No. 1 extends the order for an additional six-month period.

DATES: Effective July 15, 1977. Expires January 15, 1978.





FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, phone 202-275-7840.

SUPPLEMENTARY INFORMATION: The Order is reprinted in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 12th day of July, 1977.

Upon further consideration of a Revised Service Order No. 1182 (42 F.R. 3844), and good cause appearing therefor:

*It is ordered*, That:

Revised Service Order No. 1182 be, and it is hereby, amended by substituting the following paragraph (h) for paragraph (h) thereof:

**§ 1033.1182 Substitution of stock cars for boxcars.**

* * * * *

(h) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 15, 1978, unless otherwise modified, changed or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., July 15, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15 and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

*It is further ordered*, That a copy of this amendment shall be served upon the Association of American Railroads Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77-20692 Filed 7-18-77;8:45 am]

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### SUBCHAPTER C—ACCOUNTS, RECORDS AND REPORTS

[No. 35345 (Sub-No. 2)]

## PART 1251—REPORTS OF FREIGHT FORWARDERS

### Freight Forwarder Report of Freight Loss and Damage Claims

AGENCY: Interstate Commerce Commission.

ACTION: Report and order.

SUMMARY: This report and order is being issued to implement a requirement for annual reporting of freight loss and damage claims by freight forwarders. Freight forwarders will be required to file the annual report schedule as set out in the Notice of Proposed Rulemaking for Freight Forwarder Report of Freight Loss and Damage Claims (42 FR 2092, January 10, 1977). This rule applies to all Class A and B freight forwarders subject to the Interstate Commerce Act. This schedule contains summarized loss and damage data and will be made a part of the respective annual reports. The quarterly reporting proposed in the same rulemaking for freight forwarders with annual gross operating revenues of $10 million, or more, will not be adopted.

EFECTIVE DATE: Year ended December 31, 1975.

FOR FURTHER INFORMATION CONTACT:

James H. Bayne, Chief, Section of Reports, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, Phone No. 202-275-7331.

SUPPLEMENTARY INFORMATION: *Background.* Pursuant to section 412 of the Interstate Commerce Act and sections 553 and 559 of the Administrative Procedure Act, a rulemaking proceeding was instituted by the Commission on December 29, 1976 (42 FR 2092), announcing that it was considering adoption of a requirement for the filing of a quarterly report of freight loss and damage claims by freight forwarders with annual revenues of $10 million or more, and adoption of an annual report schedule of freight loss and damage claims by all freight forwarders. The proposed reporting was initiated to support activities under Executive Order No. 11836, increasing the Effectiveness of the Transportation Cargo Security Program (40 FR 4255).

Three comments were received in response to the rulemaking notice, none of which strongly supported the proposed reporting. One expressed opposition to the proposed reporting. The other two did not oppose the reporting but proposed modifications in the report form and the reporting requirements.

Upon consideration of the comments received, the Commission has decided to adopt the annual report schedule and applicable reporting requirements. Due to lack of support and in the interest of reduction of paperwork burden on carriers, quarterly reporting of loss and damage claims by freight forwarder will not be prescribed.

The information reported in the annual schedule will enable the Commission and other interested parties to detect freight forwarders that are experiencing high losses from theft claims or other claims problems. The respondents reporting burden will be minimized by inclusion of these data in the annual report forms of the forwarders.

For the reasons shown above, freight forwarders are required to file annual report schedule, Summary of Freight Loss and Damage Claims for Freight Forwarders, and the reporting rules and requirements thereto as modified and shown below, be and they are hereby adopted and prescribed.

(Section 412 of the IC Act and pursuant to Sections 553 and 559 of the Administrative Procedure Act.)

Issued at Washington, D.C., July 1, 1977.

H. G. HOMME, Jr.,
*Acting Secretary.*

Freight forwarder Forms F-1 (49 CFR 1251.1) and F-2 (49 CFR 1251.2) are amended by adding the following schedule:

SCHEDULE XX.—*Summary of Freight Loss and Damage Claims*

| Line: | |
|---|---|
| 1. | Freight revenue (account 501) $ |
| 2. | Number of theft related claims paid |
| 3. | Number of other claims paid |
| 4. | Net dollars paid (see instructions below) |
| 5. | Claims expense/revenue ratio (line 4 divided by line 1) (percent) |

INSTRUCTIONS TO SCHEDULE XX

Exclude from this schedule the revenues and claims incurred in connection with freight forwarder services and shipments which have a prior or subsequent movement by air. Line 1 should show all freight forwarder revenue in Account 501. Line 2 should show the number of claims paid during the year for robbery, theft and pilferage, and other shortage as defined below:

*Robbery*—Failure to deliver all or part of a shipment as the result of stealing, including hijacking, with the use of force or threat of force against a person or persons. (NOTE.—Claims for physical damage to freight in the same or other shipments resulting from robbery should be reported under Robbery.)

*Theft and Pilferage*—Failure to deliver all or part of a shipment as the result of known stealing, or under circumstances indicating the probable cause was stealing, without use of force or threat of force against a person or persons, when it is known the freight was in the carrier's custody. (NOTE.—Claims for physical damage to freight in the same or other shipments resulting directly from theft or pilferage should be reported under Theft and Pilferage).

*Other Shortage*—Failure to deliver all or part of a shipment for unknown reasons. (NOTE.—Includes the unexplained disappearance of all or part of a shipment for reasons other than robbery or theft and pilferage, as defined above).

Line 3 should show the number of all other claims paid in full or in part during the year not reported on line 2.

Line 4 should include the net dollar amount of claims paid during the year. This includes claims paid in full or paid in part, less amounts recovered from underlying carriers, salvage, insurance, and claim refund cancellations.

Line 5 should show the ratio in percentage form (two decimal places).

[FR Doc.77-20759 Filed 7-18-77;8:45 am]



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# proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## NATIONAL CREDIT UNION ADMINISTRATION

**[ 12 CFR Part 701 ]**

**ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS**

**Share Accounts and Share Certificate Accounts; Withdrawal of Proposed Rule-making; Share Certificates**

AGENCY: National Credit Unit Administration.

ACTION: Proposed Rule and Withdrawal of Proposed Rule.

SUMMARY: The purpose of this proposed rule is to implement the provisions of the April 19, 1977, amendments to the Federal Credit Union Act (Pub. L. 95-22, 91 Stat. 49) which authorize Federal credit unions to establish share accounts with varying dividend rates and share certificate accounts with varying rates and maturities.

DATES: Comments must be received on or before September 19, 1977.

ADDRESS: National Credit Union Administration, 2025 M St., NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

J. Leonard Skiles, Deputy General Counsel, Telephone: 202-254-9810.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 17, 1976, the Administrator of the National Credit Union Administration published (41 FR 55199) a proposed rule implementing the authority of Federal credit unions to issue share certificates. Subsequently, on April 19, 1977, Congress enacted Pub. L. 95-22 (91 Stat. 49), which, in Title III, amended various provisions of the Federal Credit Union Act (12 U.S.C. 1751, et seq.). Among the amendments were changes to Sections 107 and 117 of the Act (12 U.S.C. 1757 and 1763) which authorize Federal credit unions to issue share accounts at varying dividend rates and share certificate accounts at varying dividend rates and maturities. Therefore, in light of the recent amendments to the Federal Credit Union Act, the Administration has decided to withdraw the previously proposed rule on share certificates, and to now issue a proposed rule on share accounts and share certificate accounts.

In addition, upon finalization of this proposed rule, the Administration shall issue a Standard Bylaw Amendment authorizing the payment of 7¾ percent on share certificate accounts.

ANALYSIS OF THE PROPOSED RULE

The purpose of the proposed rule is to define, and to place certain limitations on, those conditions upon which a Federal credit union may decide to pay dividends at different rates on different types of classes of accounts. The board of directors of each Federal credit union, after examining the credit union's financial situation and the needs of its members, should decide whether, in addition to regular share accounts, any or all of the types of accounts based upon these conditions should be offered.

Section 107(6) of the Federal Credit Union Act, as amended (12 U.S.C. 1756 (6)) authorizes two types of Federal credit union accounts, shares (which may be issued at varying dividend rates) and share certificates (with varying rates and maturities). The proposed rule, at § 701.35(a) (1) and (2), sets forth these basic categories and recognizes that the distinguishing feature of share certificate accounts is the maturity requirement. Section 701.35(a)(1) then further defines share accounts by setting forth the basic conditions which may be varied for different classes of share accounts to earn dividends at different rates. Subparagraph (1)(A), the "Regular Share Account," is the traditional type of share account that Federal credit unions have been authorized to issue since the enactment of the Federal Credit Union Act. It should be noted that for the purpose of this proposed rule and thus for the purpose of determining dividend rates, any transaction account that may be authorized by law or regulation shall be treated as a regular share account. Subparagraph (1)(ii), the "Notice Account," establishes a requirement of a written notice of intent to withdraw funds as a basic condition upon which a Federal credit union may pay dividends at a rate different than that paid on other accounts. This notice requirement is the standard practice of this type of account and, like all other types of accounts, is still subject to the additional 60-day maximum notice requirement that the board of directors may authorize under Article III, Section 5(a) of the Bylaws. Subparagraph (1)(ii), the "Minimum Balance Account," defines a type of account which will receive dividends, on the entire balance held in the account, at a different rate if a certain minimum is maintained. Subparagraph (1)(iv), the "Split-rate Account," defines an account which receives dividends at different rates on different portions of the balance of the account. For example, an account of this type could earn dividends at 5 percent on the balance between 0 and $500, and then earn 5½ percent on the balance between $500 and $1,000, and then 6¼ percent on the balance above $1,000. This is in contrast to the "Minimum Balance Account" which would earn one rate on the entire balance as long as at least the minimum requirements is maintained in the account for an entire dividend period. It should be noted that these definitions can be combined, so that a Federal credit union could establish a class of accounts with both a minimum balance and notice requirement, but in that case, the limitations applicable to each basic condition would apply to this account. Paragraph (2) defines "Share Certificate Account." It should be noted that the definition, in keeping with Congressional intent ("H.R. Rep. No. 95-23," Committee on Banking, Finance and Urban Affairs, House of Representatives, 95th Cong., 1st Sess., p. 12 (1977)), does not require the issuance of a certificate.

Paragraph (b)(1) sets forth the basic authority of the Federal credit union's board of directors to establish share accounts and share certificate accounts, to impose additional terms and conditions not inconsistent with the requirements of this rule, and to impose penalties. Subparagraph (b)(1)(ii), however, specifically prohibits the board from, for example, requiring that a member maintain $500 in a regular share account in order to open a share certificate account. This type of practice would circumvent the limitations set forth in this regulation which are designed to make these accounts accessible to the average credit union member. Therefore, this type of requirement is specifically prohibited. In addition, paragraph (b)(2) is designed to prevent credit union "insiders" from receiving preferential rates on their accounts by virtue of their position in the credit union. This provision is intended to cover not only the more blatant practices, for example, where there are a limited number of certificate accounts offered and only "insiders" with advance notice are able to obtain these accounts, but also any practice which effectively denies credit union members from becoming holders of these accounts to the benefit of credit union "insiders."

Subsection (c) sets forth certain limitations on Federal credit union share accounts and share certificate accounts and is intended to make these accounts accessible to the average credit union member. The terms and conditions that the board may adopt should not be utilized to circumvent the reason for regulating a minimum balance requirement. For those accounts which meet the definition of a notice account, subparagraph (1)(i) requires a minimum of 90 days written notice of intent to withdraw.





Since, in theory, a credit union member could, at the time he or she places funds in this type of account, also give the credit union the written notice as required and then withdraw the funds 90 days later, there is a provision whereby the board of directors could waive the notice requirement for funds that have been in the account for at least the required period (in this example, 90 days). This waiver, of course, would have to apply to all such accounts. Subparagraph (1)(ii) states that, if a Federal credit union establishes accounts that meet the definition of a minimum balance account, it must offer these accounts with minimum balance requirements starting at $500 or less. Subparagraph (1)(iii) indicates that the split-rate type of account can have one or more levels at which the dividend rate changes, but also requires that the lowest minimum level must be $500 or less.

Paragraph (c)(2) contains specific limitations on share certificate accounts. The dividends on these accounts may be varied in accordance with the length of the qualifying period and the minimum amount requirements. Again, in order to make such accounts accessible to the average credit union member, subparagraph (2)(iii) provides that these accounts shall start at minimum amount requirements of $500 or less. The qualifying period, the time from issuance to maturity, is limited by subparagraph (2)(ii) to a period from 90 days (or 30 days for public unit accounts) to 5 years, but may be renewed automatically, under subparagraph (2)(iv), for the same period provided that the holder receives at least 10 days notice prior to the end of the qualifying period. Subparagraph (2)(v) indicates that both principal and dividends may be withdrawn from share certificate accounts. If the amount of principal withdrawn reduces the balance below the minimum amount requirement, then the account no longer exists and the withdrawal must be treated as a withdrawal of all the funds. As a result, the penalty must be imposed to the entire amount of the account. However, if the amount remaining exceeds the minimum balance requirement, then the account is considered to continue and only the amount withdrawn is used to determine the penalty. No penalty is assessed on the withdrawal of dividends previously paid on share certificate accounts.

Paragraph (d)(2) provides the board of directors with the option to impose penalties on share accounts (other than regular share accounts) for violations of any balance or notice requirement. If the board of directors establishes penalties, then these penalties must be within the range set forth in paragraph (d)(2), which is designed so that those account holders who fail to comply with such requirements will, at least, fare no better than regular share holders in the payment of dividends. Penalties on share certificate account withdrawals, however, are mandatory and require a reduction of dividends to the regular share account rate on the amount withdrawn and then the forfeiture of up to 90 days' dividends on the amount withdrawn. Subsection (e) contains contains exceptions to the penalty provisions, and applies to both the mandatory penalties for share certificate accounts and the optional penalties which may be established for share accounts.

Subsection (f) implements the legislative intent behind the recent amendment to Section 117 of the Federal Credit Union Act (12 U.S.C. 1763). "This amendment would provide NCUA with the authority to draft regulations which would permit Federal credit unions to specify in advance a dividend rate should NCUA determine such a practice would not be inimical to Federal credit unions." "H.R. Rep. No. 95-23", supra, p. 17. The Administration believes that, under the proposed rule, this practice would not be harmful to Federal credit unions. First, as paragraph (f)(1) indicates, this practice would not constitute a guarantee of the stated dividend rate. Thus, the basic nature of Federal credit union shares would not be changed since the rate of return paid on these accounts would, as always, be dependent upon the earnings and expenses of the credit union. Second, as paragraph (f)(3) and subsection (g) provide, the specified rate could not exceed the regular share account dividend rate by more than 2½ percent. This would prevent an inequitable lowering of the rate paid to regular share account holders, who the Administration believes will still be the majority of credit union members, in order to meet the rate specified on other types of accounts. For example, a Federal credit union specifies 7½ percent on share certificate accounts, but at the close of the dividend period determines that it would have to lower the regular share account rate from 5 percent to 4 percent in order to meet the specified 7½ percent certificate rate. The proposed rule would prohibit this because the difference between the rates would exceed 2½ percent. Instead, the board would have to either pay the share certificate accounts at a maximum 6½ percent rate, or pay both classes of accounts at a reduced rate, or decide to declare no dividends for that period, or take other appropriate action. It is expected by the Administration that, if this proposed rule is adopted, Federal credit unions will proceed with caution in exercising this power and will specify dividend rates on a conservative basis so as to prevent or to avoid the necessity of paying dividends at a rate less than specified. In this way, and under these restrictions, the Administration believes that the practice of specifying dividends in advance will not be harmful to Federal credit unions.

Subsection (h) is intended to reflect a change in Section 117 of the Federal Credit Union Act (12 U.S.C. § 1763). That Section previously stated that dividends are to be paid on all paid up shares, that is, on the $5 value of each share. This language was dropped from the Act by Pub. L. 95-22. As a result, subsection (h) authorizes a Federal credit union to pay dividends either on the par value of shares or on the actual value of funds held in the account. Subsection (i) indicates that, while a Federal credit union may issue different types of accounts, the length of the dividend period and the dividend declaration date for all these accounts shall be the same.

Subsection (j) sets forth requirements for advertisements, announcements, or solicitations of share accounts and share certificate accounts. This provision is intended to alert prospective credit union account holders of the basic conditions which must be met for an account to earn a specified rate, of the fact that dividends are not guaranteed, of the basis upon which dividends are calculated, and of any penalties which may be imposed. In addition, this provision permits Federal credit unions to advertise a percentage yield based on compounding specified dividends, but requires that the annual rate of dividends without compounding also be stated. A more complete description of the account is required to be given to the account holder, under subsection (k), at the time the account is opened. This written disclosure statement must include all the terms and conditions which must be met for the account to earn dividends at the rate paid on that class or type of account, the basis upon which dividends are calculated, the limitation on dividends and the fact that the specified rate is not guaranteed, a complete description of the penalties which may be imposed, the manner in which funds may be withdrawn without a penalty, any automatic renewal provisions, the disposition of share certificate account funds if not renewed at maturity, and the possibility that membership might be terminated if the member maintains no other account when the share certificate account matures. While a credit union need not give a copy of the disclosure statement to the holder of an existing account when it is renewed, the holder must be sent a copy of any change in any provision which would affect that account. In addition, the credit union must display a list of the available types of accounts and keep copies of standard disclosure statements available.

C. AUSTIN MONTGOMERY,
*Administrator.*

JULY 14, 1977.

Title 12 Part 701 is proposed to be amended by revising § 701.35 to read as follows:

**§ 701.35 Share Accounts and Share Certificate Accounts.**

(a) *Definitions.* As used in this section: (1) Share Account means:

(i) Regular Share Account—an account which does not require the holder to maintain a minimum balance greater than the par value of a share or to give notice of intent to withdraw, except as may be imposed in accordance with Article III, Section 5(a) of the Federal Credit Union Bylaws;



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(ii) Notice Account—an account which, in addition to any notice which may be imposed pursuant to Article III, Section 5(a) of the Federal Credit Union Bylaws, requires the holder to give written notice of the intent to withdraw;

(iii) Minimum Balance Account—an account which requires the holder to maintain a specified balance in the account for at least an entire dividend period; and

(iv) Split-rate Account—an account which earns dividends at a different rate on the portion of the balance above a certain minimum requirement;

(2) Share Certificate Account means an account that will earn dividends at a particular rate if held to maturity, and on which a penalty will be assessed for the withdrawal of all or any portion of the principal amount prior to maturity.

(b) *Issuance of share accounts and share certificate accounts.* (1) The board of directors, by resolution, may establish:

(i) Share accounts at varying dividend rates, and share certificate accounts at varying dividend rates and maturities, in conformance with this section; and

(ii) Additional terms and conditions concerning the issuance and maintenance of share accounts and share certificate accounts not inconsistent with the requirements of this section, provided that there shall be no minimum balance required to be maintained in an account in order to qualify for any other type of account; and

(iii) Penalties, in addition to those required by this section, to be imposed for failure to comply with any minimum balance, notice or time requirement, or any additional terms and conditions.

(2) Share accounts and share certificate accounts shall be made available to all members. No officer, director, member of the credit or supervisory committees, employee, or other official appointed or elected, shall be the holder of a share account or a share certificate account that receives a dividend rate higher than that paid on a regular share account unless the members of the credit union are given an equal opportunity to become holders of those types of accounts.

(3) Share accounts and share certificate accounts shall be subject to any notice which may be imposed pursuant to Article III, Section 5(a) of the Bylaws.

(c) *Limitations on share accounts and share certificate accounts.* In addition to the general provisions of this section, the terms and conditions established by the board of directors concerning the issuance and maintenance of share accounts shall take into account the requirements set forth below. Where a minimum balance is required by this section, the board shall not establish terms and conditions which would effectively negate or circumvent the purpose of the minimum balance requirements.

(1) Share Accounts—

(i) Notice accounts shall require a minimum of 90 days written notice of intent to withdraw except, however, the board of directors may provide that the written notice requirement for all such accounts may be waived at the end of a dividend period, but only if the funds withdrawn pursuant to this waiver have remained in the account for at least the required notice period.

(ii) Minimum balance accounts may be established if the lowest minimum balance accounts offered are $500 or less. Such accounts must be maintained at or above the minimum balance established for an entire dividend period.

(iii) Split-rate accounts shall have one or more minimum balance requirements. The lowest minimum balance that must be maintained to earn a particular rate shall be $500 or less.

(2) Share Certificate Accounts—

(i) In determining the dividend rate to be paid, different qualifying periods and minimum amount requirements shall be taken into account.

(ii) Qualifying periods shall not be less than 90 days nor more than 5 years, except, however, public unit accounts may be issued with qualifying periods of not less than 30 days nor more than 5 years.

(iii) The lowest minimum amount requirement shall be $500 or less.

(iv) Upon maturity share certificate accounts may be automatically renewed for the same qualifying period. Notice of such renewal or expiration of the qualifying period shall be provided at least 10 days prior to the expiration of the qualifying period.

(v) (A) In case of early withdrawal of a portion of the funds which reduces the balance below the minimum amount requirement, the account shall be cancelled and a penalty pursuant to paragraph (d) of this section shall be imposed upon the entire amount evidenced by the share certificate account. If the minimum amount requirement continues to be met, a penalty pursuant to paragraph (d) of this section shall be imposed upon the amount withdrawn (and not upon the remaining balance) and either

(*1*) An appropriate notation may be made on the account indicating the amount and date of the withdrawal and the remaining balance, or

(*2*) The account may be cancelled and a new account issued for the remaining balance.

(ii) A share certificate account holder may withdraw any and all dividends previously paid on the share certificate account without incurring a penalty. In the case of an early withdrawal of the principal amount of funds, if any dividends had previously been withdrawn, a deduction shall be made from the principal amount withdrawn to adjust for the applicable penalty.

(d) *Penalty provisions.* (1) Penalties imposed shall be on the actual dividends earned, and shall not be imposed on the principal amount held in a share account or share certificate account. In assessing any applicable penalty, however, the amount of the penalty may be deducted from the principal amount if the dividends upon which the penalty is assessed have been previously withdrawn.

(2) Share Accounts—The board of directors may establish a penalty to be imposed for failure of the holder to comply with any balance or notice requirement of a share account other than a regular share account. The penalty shall require that the dividend rate paid on the remaining balance in the share account be reduced to at least the rate paid on regular share accounts for the same period. No penalty shall be imposed upon the principal amount held in the share account.

(3) Share Certificate Accounts—The board of directors shall establish a penalty to be imposed on the withdrawal of funds from a share certificate account before maturity:

(i) The holder shall receive dividends at a rate not in excess of the rate paid on regular share accounts from the date of issuance on the amount withdrawn; and

(ii) The holder shall also forfeit an amount at least equal to the lesser of:

(*a*) All dividends for 90 days on the amount withdrawn, or

(*b*) All dividends on the amount withdrawn since the date of issuance.

(e) *Exceptions to the penalty provisions.* The penalty provisions of paragraph (d) of this section shall not be applied if:

(1) The withdrawal is made subsequent to the death of any owner of the share account or share certificate account or is made pursuant to Article III, Section 5(e) of the Federal Credit Union Bylaws; or

(2) The share account or share certificate account is part of a pension plan which qualifies or qualified for specific tax treatment under Section 401(d) or 408 of the Internal Revenue Code and withdrawal is made to effect distribution of the funds evidenced by such account following the participant's death or disability or upon attaining not less than 59½ years of age; or

(3) Such withdrawal is made as a result of the voluntary or involuntary liquidation of the Federal credit union issuing the account.

(f) *Rate specified in advance.* (1) The board of directors may specify, but not guarantee, the dividend rate expected to be paid on share accounts and share certificate accounts.

(2) The dividend rate specified shall:

(i) For regular share accounts, be expressed as a single dividend rate; and

(ii) For the remaining types of share accounts and share certificate accounts, be expressed as:

(*a*) A percentage, or part thereof, above or below the dividend rate declared for regular share accounts, or

(*b*) A single dividend rate.

(3) The dividend rate specified shall not be in excess of 2½ percent of the rate specified for regular share accounts or, if a dividend rate is not specified for regular share accounts, then the amount specified shall not exceed 2½ percent of the dividend rate paid on the regular share accounts at the close of the last dividend period.





(g) *Maximum dividend rate.* A Federal credit union shall no pay dividends at a rate which would exceed the lesser of the maximum rate set forth in the Bylaws or 2½ percent above the dividend rate paid on regular share accounts.

(h) *Dividends calculated on par value or dollar amount.* A Federal credit union may calculate dividends to be paid on share accounts and share certificate accounts either upon the par value of shares or upon the actual value held in the share accounts and share certificate accounts.

(i) *Dividend periods.* The board of directors shall not vary dividend periods for share accounts and share certificate accounts.

(j) *Advertising.* In addition to the advertising requirements established in Part 740 of the rules and regulations (12 CFR Part 740) and elsewhere in this section, the following rules shall apply to every advertisement, announcement, or solicitation relating to share accounts and share certificate accounts.

(1) Where a dividend rate is specified or stated:

(i) Any terms and conditions concerning required minimum balance, notice, or time period necessary to earn the dividend at the rate shall be stated;

(ii) A clear and conspicuous notice shall be included indicating that the specified or stated rate is not guaranteed and shall not exceed the lesser of the maximum rate set forth in the Bylaws or 2½ percent above the dividend rate paid on regular share accounts;

(iii) The basis upon which dividends are calculated, either on par value or actual value, shall be stated.

(2) Where a penalty will be imposed for failure to comply with any term or condition, a clear and conspicuous notice shall be included. Such notice may state "A substantial penalty is required for failure to comply with these requirements."

(3) Where a percentage yield achieved by compounding dividends during one year is stated, the annual rate of dividends without the effect of compounding shall be stated with equal prominence, together with a reference to the basis of compounding and the basis for calculating dividends (either on par value or actual value). The percentage yield based on the effect of grace periods shall not be stated.

(k) *Disclosures.* (1) At the time that a Federal credit union opens any share account or issues a share certificate account, the holder of the account shall be provided with a written statement setting forth the following, to the extent applicable:

(i) Any minimum balance, notice requirement, or time requirement which must be met for the share account or share certificate account to earn dividens at a particular rate, and any additional terms and conditions;

(ii) The basis of compounding, the basis upon which dividends will be paid (either the par value of shares or the actual value) and the effect of withdrawal prior to the close of a dividend period;

(iii) The fact that any dividend rate specified in advance is not guaranteed and that the dividend rate paid shall not exceed the lesser of the maximum rate established in the Bylaws or 2½ percent above the dividend rate paid on regular share accounts;

(iv) Any penalty imposed for the failure to comply with any balance, notice, or time requirement, or any additional terms and conditions;

(vi) The terms and conditions upon which the funds in the share account or share certificate account may be withdrawn without penalty;

(vii) Any provisions relating to automatic renewal of share certificate accounts;

(viii) The disposition of a share certificate account if it is not renewed; and

(ix) The fact that membership in the Federal credit union will terminate upon maturity of a share certificate which is not renewed if the holder does not have, or establish, a share account or share certificate account in addition to the share certificate which is maturing.

(2) A Federal credit union need not provide a written disclosure statement in connection with the renewal of an existing account. Notice must be sent to affected account holders of any change in any provision required to be disclosed.

(3) A copy of a standard disclosure statement for each class or type of account offered by a Federal credit union shall be provided upon request. If accounts other than regular share accounts are offered, a listing of the accounts available shall be prominently displayed in the Federal credit union's offices and shall indicate that a copy of a standard disclosure statement for each class or type of account is available upon request.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766); Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).)

[FR Doc.77-20679 Filed 7-18-77;8:45 am]

## FEDERAL POWER COMMISSION

**[18 CFR Part 157]**

[Docket No. RM77-23]

### APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT

AGENCY: Federal Power Commission.

ACTION: Proposed Rule.

SUMMARY: By this rulemaking the Commission proposes to permit the exemption from certificate regulation of certain sales of natural gas flared prior to coal mining operations. The purpose of the proposed amendment is to encourage the short term sales to interstate pipelines of the natural gas produced, and presently flared, as a by-product of coal mining operations.

DATES: Comments must be received on or before: September 7, 1977.

ADDRESSES: Send comments to: Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. Comments will be available for public inspection at the Office of Public Information, Room 1000 at the same address during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mark G. Magnuson, Office of the General Counsel, 202-275-4210.

NOTICE OF PROPOSED RULEMAKING

JULY 7, 1977.

Pursuant to 5 U.S.C. 553, Sections 7, 14, 15, and 16 of the Natural Gas Act (52 Stat. 825, 826, 829, 830; 15 U.S.C. 717f, 717m, 717n, 717o), the Commission gives notice that it proposes to amend:

Regulations under the Natural Gas Act, Subchapter E, Chapter I, Title 18, CFR.

The Commission proposes to amend its Regulations to provide for the exemption from certificate regulation of sales of natural gas produced by the flaring of methane from coal seams, in accordance with various state regulations prior to resumption of coal mining operations. We believe that this proposal would encourage those persons engaged in coal mining activities to make such short-term sales of the natural gas produced, and presently flared as a by-product of their operations, to interstate pipelines. The wasteful flaring of the methane, which is the current safety practice in the coal mining industry, is very substantial in some deep-mining operations, and has, and will, result in the loss of substantial quantities of methane.

Of course, once the coal bearing seam is vented, in accordance with the applicable state regulations, the present practice of flaring ceases and the coal mining commences. The coal operators have evidenced no desire whatever to become jurisdictional natural gas companies, even for a short period of time, and this proposal is to cease flaring the methane, and perhaps encourage them to sell such natural gas to jurisdictional pipeline companies.[1]

Any interested person may submit to the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, to be received no later than September 7, 1977, data, views, comments or suggestions in writing concerning all or part of the amendments proposed herein. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should in-

[1] We do not intend to regulate the rates at which the coal operators may sell this natural gas.



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dicate the name, title, mailing address and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the Staff of the Federal Power Commission to discuss the proposed revisions. The Staff, in its discretion, may grant or deny written requests for conference prior or subsequent to the filing of formal submittals.

The proposed amendment to the Commission's Regulations under the Natural Gas Act would be issued under the authority granted the Federal Power Commission by the Natural Gas Act, particularly Sections 7(c) and 16 (52 Stat. 825, 830; 15 USC 717f(c) and 717o).

(A) The following is a proposed amendment to Part 157—Applications for Certificates of Public Convenience and Necessity and for Orders Permitting and Approving Abandonment Under Section 7 of the Natural Gas Act, of subchapter E—Regulations under the Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations:

Add a new § 157.41 which reads as follows:

**§ 157.41 Exemption of sales by coal mining operations.**

Public interest does not require the issuance of a certificate authorizing the sale of natural gas produced as a by-product of coal mining operations provided that any jurisdictional pipeline company, or other person undertaking such a purchase, shall so advise the Commission immediately by telegram or letter stating briefly the circumstances and shall within ten (10) days file a statement in writing and under oath, together with four (4) conformed copies thereof, setting forth the purpose and character of the purchase, the rate being paid, the estimated volumes to be delivered, the seller of the gas, the date of initial delivery, the location of the sale, the facts warranting invocation of this section, and, upon completion of the sale, shall advise the Commission of the actual volumes delivered and the price paid pursuant to this section.

(B) The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20713 Filed 7-18-77;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### [ 21 CFR Part 131 ]

[Docket No. 77N-0119]

## NONFAT DRY MILK, LOWFAT DRY MILK, DRY WHOLE MILK, AND DRY CREAM

### Proposal Based on Recommended International Standards

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposal would establish United States standards of identity for dry whole milk, lowfat milk, and dry cream and would amend standards of identity for nonfat dry milk and nonfat dry milk fortified with vitamins A and D. In response to a recommendation of the Codex Alimentarius Commission, this proposal is made to more closely conform United States standards to international standards.

DATES: Comments by September 19, 1977.

ADDRESSES: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Eugene T. McGarrahan, Bureau of Foods (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 202-245-1155.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) is proposing under 21 CFR Part 131 (formerly 21 CFR Part 18 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) to establish United States standards of identity for dry whole milk, lowfat dry milk, and dry cream, based on the "Recommended International Standards for Dry Milk and Cream Products" hereinafter referred to as the Codex standard. The proposed new standards of identity include (1) requirements for mandatory ingredients in these foods, (2) provisions for optional safe and suitable carriers for vitamin A and D, stabilizers, emulsifiers, anticaking agents, antioxidants, and characterizing flavoring ingredients, with or without coloring and (3) requirements for label declarations of all optional ingredients except carriers for vitamins which are exempted by § 101.100(a)(3)(i) (21 CFR 101.100 (a)(3)(i)) (formerly 21 CFR 1.10a(a)(3)(i) prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)). In addition, FDA is proposing to amend the standards of identity for nonfat dry milk (21 CFR 131.125) and nonfat dry milk fortified with vitamins A and D (21 CFR 131.127) to provide for the use of nutritive carbohydrate sweeteners in the optional characterizing flavoring ingredients.

The Joint Food and Agriculture Organization/World Health Organization's (FAO/WHO) Committee of Government Experts on the Code of Principles Concerning Milk and Milk Products, an auxiliary body of the Codex Alimentarius Commission, has submitted to the United States recommended international standards for whole milk powder, partly skimmed milk powder, and skimmed milk powder (Codex Standard No. A-5 (1971)) and recommended international standards for cream powder, half cream powder, and high-fat milk powder (Codex Standard No. A-10 (1971)) for consideration of acceptance.

The United States, as a member nation of FAO/WHO, is under treaty obligation to consider all recommended international standards. The rules of procedure of the Codex Alimentarius Commission state that a standard may be accepted by a participating country in one of three ways: Full acceptance, target acceptance, or acceptance with specified deviations. A participating country which concludes that it cannot accept the standard in full is requested to indicate the ways in which its requirements differ from the recommended international standard. Member nations of the FAO/WHO Codex Alimentarius Commission are requested to notify the Technical Secretary, Committee on the Code of Principles Concerning Milk and Milk Products, Animal Production and Health Division, FAO, Rome, Italy, of their decision. Should a sufficient number of governments accept these standards, the Secretariat of the Committee will notify the Codex Alimentarius Commission and request the publication of these standards by the Codex Alimentarius Commission as worldwide standards in light of the acceptance received.

The United States currently has standards of identity for skimmed milk powder under the name "nonfat dry milk" in 21 CFR 131.125 and "nonfat dry milk fortified with vitamins A and D" in 21 CFR 131.127, as well as a statutory definition under the name "nonfat dry milk" in 70 Stat. 486 (21 U.S.C. 321c). The former standard of identity for skimmed milk powder was amended in the FEDERAL REGISTER of October 10, 1973 (38 FR 27924)) on the Commissioner's initiative to effect consistency in the name of the food with the name in the statutory definition. The U.S. standard of identity for nonfat dry milk differs in many respects from the recommended international standard for skimmed milk powder. Also, there are no U.S. standards of identity for dry whole milk, partly skimmed milk powder, cream powder, half cream powder, or high-fat milk powder. These factors and our obligation to review all the recommended international standards form the basis of this proposal by the Commissioner of Food and Drugs. He is of the opinion that it will promote honesty and fair dealing in the interest of consumers and will facilitate international trade to adopt insofar as practicable the Codex standards. Therefore, pursuant to 21 CFR 130.6 (formerly 21 CFR 10.8 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) the Commissioner, on his own initiative, is proposing the establishment of standards of identity for lowfat dry milk (partly skimmed milk powder) and dry whole milk. He is also proposing establishment of a single standard for dry cream that would cover the range of milkfat concentrations provided for by the three cream powders in Codex standard No. A-10.

The Codex standards include certain labeling requirements that are not considered a part of food standards of identity under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). Among these are declaration of net quantity of contents, name of the manufacturer, and country of origin. Such requirements are authorized by other sections of the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, and regulations promulgated thereunder in 21 CFR Parts 1 and 101 (some sections of 21 CFR Part 101 were formerly contained in Part 1 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302) and March 22, 1977 (42 FR 15553)) and are applicable to all products entered into interstate commerce in the United States.





The Codex standards also reference specific methods of sampling (FAO/WHO Standard B-1 "Sampling Methods for Milk and Milk Products," paragraphs 2 and 5, (CAC/M-1973)) that were prepared jointly by the International Dairy Federation (IDF), the International Organization for Standardization (ISO), and the Association of Official Analytical Chemists (AOAC) for the FAO/WHO Code of Principles Concerning Milk and Milk Products and Associated Standards, and approved by the Joint FAO/WHO Committee of Government Experts on the Code of Principles. Such sampling methods are not specifically referenced in the U.S. Standards of identity for milk and cream products. However, these FAO/WHO sampling methods have been published in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975, the source of the referenced methods of analysis for milk and cream products contained in the U.S. standards of identity.

The Codex standards for dry milk and cream products also permit the use of milk other than cow's milk provided the package label bears a statement clearly indicating the animal or animals from which the milk was derived, except in cases where the consumer would not be misled by the absence of such a statement. Providing for milk other than cow's milk in standardized milk products is of concern to the Commissioner. Althought he is not proposing a change in the existing U.S. standards or providing for other than cow's milk in the new standards, he believes this is an opportune time to invite comments on the need or desirability of providing for the use of milks other than cow's milk in dry milk products.

The proposed new standards of identity for lowfat dry milk, dry whole milk, and dry cream are based on the following Codex standards and other available information:

Standard No. A-5 (1971)

STANDARD FOR WHOLE MILK POWDER, PARTLY SKIMMED MILK POWDER AND SKIMMED MILK POWDER[1]

1. SCOPE

This standard applies exclusively to dried milk products as defined, having a fat conent of not more than 40 percent m/m.

2. DEFINITIONS

Milk powder is a product obtained by the removal of water only from milk, partly skimmed milk or skimmed milk.

3. ESSENTIAL COMPOSITION AND QUALITY FACTORS

| | | |
|---|---|---|
| 3.1 | *Whole milk powder* | |
| 3.1.1 | Minimum milkfat content | 26 percent m/m. |
| 3.1.2 | Maximum milkfat content | Less than 40 percent m/m. |
| 3.1.3 | Maximum water content | 5 percent m/m. |
| 3.2 | *Partly skimmed milk powder* | |
| 3.2.1 | Minimum milkfat content | More than 1.5 percent m/m. |
| 3.2.2 | Maximum milkfat content | Less than 26 percent m/m. |
| 3.2.3 | Maximum water content | 5 percent m/m. |
| 3.3 | *Skimmed milk powder* | |
| 3.3.1 | Maximum milkfat content | 1.5 percent m/m. |
| 3.3.2 | Maximum water content | 5 percent m/m. |

4. FOOD ADDITIVES

| | | |
|---|---|---|
| 4.1 | *Stabilizers* | |
| | Sodium, potassium and calcium salts of: | |
| | Hydrochloric acid | *Maximum level* |
| | Citric acid | 5,000 mg/kg singly or in combination expressed as an hydrous substances. |
| | Carbonic acid | |
| | Orthophosphoric acid | |
| | Polyphosphoric acid | |
| 4.2 | *Emulsifiers in instant milk powders only* | |
| 4.2.1 | Mono- and di-glycerides | 2500 mg/kg. |
| 4.2.2 | Lecithin | 5000mg/kg. |
| 4.3 | *Anticaking agents in milk powders intended to be dispensed in vending machines* | |
| 4.3.1 | Tricalcium phosphate | |
| 4.3.2 | Silicates of aluminium, calcium, magnesium and sodium-aluminium. | |
| 4.3.3 | Silicon dioxide (amorphous) | 10 g/kg singly or in combination. |
| 4.3.4 | Calcium carbonate | |
| 4.3.5 | Magnesium oxide | |
| 4.3.6 | Magnesium carbonate | |
| 4.3.7 | Magnesium phosphate, tribasic | |

[1] Code of Principles Concerning Milk and Milk Products, International Standards and Standard Methods of Sampling and Analysis for Milk Products, 7th Ed., FAO/WHO Document No. CAC/M 1-1973.



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5. LABELING

In addition sections 1, 2, 4, and 6 of the General Standard for the Labeling of Prepackaged Foods (Reg. No. CAC/RS 1–1969), the following specific provisions apply:

5.1 *The name of the food*

5.1.1 The name of the product shall be (a) "whole milk powder" or "Dried full cream milk" or "Full cream milk powder" or "Dry whole milk" or "Milk powder" or "Dried milk" or (b) "Partly skimmed milk powder" or "Partly skimmed dried milk" or (c) "Skimmed milk powder" or "Nonfat dry milk" or "Dried skimmed milk", as appropriate.

5.1.2 Where milk other than cow's milk is used for the manufacture of the product or any part thereof, a word or words denoting the animal or animals from which the milk has been derived should be inserted immediately before or after the designation of the product except that no such insertion need be made if the consumer would not be misled by its omission.

5.1.3 The percentage by weight of milkfat content in partly skimmed milk powder shall be declared on the label.

5.1.4 The fat content of whole milk powder, when declared, shall be expressed as a percentage by weight of the final product.

5.2 *List of ingredients*

The presence of emulsifiers and of anticaking agents shall be declared on the label. The class titles "Emulsifier(s)" and "Anticaking agent(s)" may be used.

5.3 *Net contents*

The net contents shall be declared by weight in either the metric ("Système International" units) or avoirdupois or both systems of measurement, as required by the country in which the product is sold.

5.4 *Name and address*

The name and address of the manufacturer, packer, distributor, importer, exporter or vendor, shall be declared.

5.5 *Country of origin (manufacture)*

The country of manufacture of the food shall be declared except that foods sold within the country of manufacture need not declare the country of manufacture.

6. METHODS OF SAMPLING AND ANALYSIS

6. Sampling: according to FAO/WHO Standard B.1 "Sampling Methods for Milk and Milk Products", paragraphs 2 and 5.

6.2 Determination of fat content: according to FAO/WHO Standard B.2 "Determination of the Fat Content of Dried Milk".

## Standard No. A–10 (1971)

STANDARD FOR CREAM POWDER, HALF CREAM POWDER AND HIGH FAT MILK POWDER [1]

1. DEFINITION

Cream powder, half cream powder and high fat milk powder are the milk products obtained by the removal of water only from cream or high fat milk and containing not less than 65 percent, 50 percent or 40 percent of milkfat respectively in the product.

2. ESSENTIAL COMPOSITION AND QUALITY FACTORS

| | | |
|---|---|---|
| 2.1 | *Cream powder* | |
| 2.1.1 | Minimum milkfat content | 65 percent m/m. |
| 2.1.2 | Maximum water content | 5 percent m/m. |
| 2.2 | *Half cream powder* | |
| 2.2.1 | Minimum milkfat content | 50 percent m/m. |
| 2.2.2 | Maximum milkfat content | Less than 65 percent m/m. |
| 2.2.3 | Maximum water content | 5 percent m/m. |
| 2.3 | *High fat milk powder* | |
| 2.3.1 | Minimum milkfat content | 40 percent m/m. |
| 2.3.2 | Maximum fat content | Less than 50 percent m/m. |
| 2.3.3 | Maximum water content | 5 percent m/m. |

3. FOOD ADDITIVES

| | | *Maximum level* |
|---|---|---|
| 3.1 | *Stabilizers* | |
| | Sodium, potassium and calcium salts of: | |
| | Hydrochloric acid | 5 g/kg singly or in combination expressed as anhydrous substances. |
| | Citric acid | |
| | Carbonic acid | |
| | Orthophosphoric acid | |
| | Polyphosphoric acid | |
| 3.2 | *Emulsifiers in instant powders only* | |
| 3.2.1 | Mono- and di-glycerides | 2,500 mg/kg. |
| 3.2.2 | Lecithin | 5,000 mg/kg. |
| 3.3 | *Anticaking agents in powders intended to be dispensed in vending machines* | |
| 3.3.1 | Tricalcium phosphate | 1,000 mg/kg singly or in combination. |
| 3.3.2 | Silicates of aluminium, calcium, magnesium and sodium-aluminium. | |
| 3.3.3 | Silicon dioxide (amorphous) | |
| 3.3.4 | Calcium carbonate | |
| 3.3.5 | Magnesium oxide | |
| 3.3.6 | Magnesium carbonate | |
| 3.3.7 | Magnesium phosphate, tribasic | |





4. LABELING

In addition to sections 1, 2, 4 and 6 of the General Standard for the Labeling of Prepackaged Foods (Ref. No. CAC/RS 1–1969), the following specific provisions apply:

4.1 *The name of the food*

4.1.1 The name of the product shall be (a) "Cream powder" or (b) "Half cream powder" or cream powder qualified by an appropriate alternative term in place of "half", or (c) "High fat milk powder", as appropriate.

4.1.2 Where milk other than cow's milk is used for the manufacture of the product or any part thereof, a word or words denoting the animal or animals from which the milk has been derived should be inserted immediately before or after the designation of the product except that no such insertion need be made of the consumer would not be misled by its omission.

4.1.3 The percentage by weight of the milkfat content shall be declared on the label.

4.2 *List of ingredients*

The presence of emulsifiers and of anticaking agents shall be declared on the label. The class titles "Emulsifier(s)" and "Anticaking agent(s)" may be used.

4.3 *Net contents*

The net contents shall be declared by weight in either the metric ("Systeme International" units) or avoirdupois or both systems of measurement, as required by the country in which the product is sold.

4.4 *Name and address*

The name and address of the manufacturer, packer, distributor, importer, or vendor, shall be declared.

4.5 *Country of origin* (manufacturer)

The country of manufacture of the food shall be declared except that foods sold within the country of manufacture need not declare the country of manufacture.

5. METHODS OF SAMPLING AND ANALYSIS

Sampling: according to FAO/WHO Standard B.1, "Sampling Methods for Milk and Milk Products", paragraphs 2 and 5.

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In some respects, the provisions of the existing and the proposed U.S. standards of identity and the Codex standards for dry milk and dry cream products are identical, but in certain instances there are significant variations. The following is a comparison of the differences on which the Commissioner particularly requests comments with supporting data. Following each item of comparison is the Commissioner's proposed action.

COMPARISON OF THE CODEX STANDARD AND THE STANDARDS OF IDENTITY FOR DRY MILK PRODUCTS AND PROPOSED COURSE OF ACTIONS

1. *Product description.* The U.S. standards of identity for nonfat dry milk (21 CFR 131.125), nonfat dry milk fortified with vitamins A and D (21 CFR 131.127), and the proposed standards of identity for lowfat dry milk and dry whole milk describe these foods as products obtained by the removal of water only from the appropriate pasteurized and/or homogenized milk. The Codex standard for dry milk products in section 2 describes these foods similarly, but makes no reference to pasteurization or homogenization of the fluid milk.

The Commissioner is of the opinion that pasteurization and homogenization of the fluid milk, as indicated, are essential in the manufacture of acceptable products and therefore is proposing that this requirement be retained in the existing U.S. standards of identity and included in the proposed new standards.

2. *Composition*—a. *Milkfat content.*—Paragraph (a) of § 131.125 and paragraph (a) of § 131.127 provide for a maximum of 1½ percent milkfat by weight (m/m) in nonfat dry milk unless otherwise indicated on the label. If the fat content is over 1½ percent, it should be declared to the nearest one-tenth of 1 percent within the limits of good manufactur practice. The Codex standard in section 3.3.1 also provides for a maximum of 1½ percent by weight (m/m) of milkfat in nonfat dry milk, but does not provide for declaration of the milkfat percentage should the level exceed the maximum provided in the standard. No change is proposed in the milkfat labeling requirement in the standards of identity for nonfat dry milk.

The Codex standard for partly skimmed dried milk in sections 3.2.1 and 3.2.2 states that the milkfat content of the food shall be more than 1½ percent and less than 26 percent by weight (m/m). In the proposed standard of identity for lowfat dry milk, the Commissioner is limiting the milkfat concentration to more than 5 percent but less than 20 percent by weight by providing for the use of lowfat milk, which conforms to the standard of identity in 21 CFR 131.135, in the manufacture of the lowfat dry milk. He is of the opinion that the reconstituted lowfat dry milk should provide the same levels of milkfat and solids not fat as provided by lowfat fluid milk.

The Commissioner proposes to adopt in the proposed U.S. standard of identity for dry whole milk the minimum and maximum milkfat percentage requirements for dry whole milk of not less than 26 percent but less than 40 percent by weight (m/m), as provided in the Codex standard in sections 3.1.1 and 3.1.2.

b. *Moisture content.* The Codex standard provides for a maximum water content of 5 percent by weight (m/m) in each milk powder. Since dry milk produced in this country usually contains less than 5 percent moisture, the Commissioner proposes to adopt the Codex maximum level of 5 percent by weight (m/m).

6. *Vitamin addition.* The Codex standard does not provide for the addition of vitamins A and D to dry whole milk, partly skimmed dried milk, or nonfat dry milk; nor does § 131.125 provide for the addition of vitamins. But § 131.127 (b) does provide for the addition of vitamins A and D, each quart of the reconstituted food shall provide 400 I.U. of vitamin D and not less than 2,000 I.U. of vitamin A. Nonfat dry milk has been shown to be an appropriate vehicle for fortification with vitamins for correcting and preventing nutritional deficiencies. This practice has also been endorsed by nutritional authorities. Currently, nonfat dry milk fortified with vitamins A and D is widely distributed in the United States. In view of its acceptance by consumers, the Commissioner is not proposing a change in the vitamin requirements in § 131.127.

In the proposed standards of identity for dry whole milk and lowfat dry milk (Codex partly skimmed dried milk), the Commissioner is providing for the addition of vitamins A and D so that the vitamin content of the reconstituted dry milk would be essentially equivalent to the vitamin A and D content in milk and lowfat milk as defined in § 131.110 and § 131.135, respectively. Accordingly, the proposed standard of identity for dry whole milk provides for the optional addition of vitamins A and D; while the proposed standard of identity for lowfat dry milk provides for the mandatory addition of vitamin A and the optional addition of vitamin D. The Commissioner also proposes that when added to the foods, vitamin A and vitamin D shall be present in such quantity that each quart of the reconstituted food provides 400 I.U. of vitamin D and not less than 2,000 I.U. of vitamin A.

3. *Optional ingredients*—a. *Stabilizers, emulsifiers, and anticaking agents.*—The Codex standard for milk powders designates specific types of functional food additives, such as stabilizing salts in section 4.1, emulsifiers for instant milk powders only in section 4.2, and anticaking agents in powders prepared for vending machines in section 4.3, as optional ingredients. The standard also lists by name specific compounds for each type of food additive, which may be used singly or in combination, and designates the maximum levels of use for these compounds.

Neither the provisions of §§ 131.125 and 131.127 nor the statutory definition for nonfat dry milk provides for the use of stabilizers, emulsifiers, or anticaking agents. Since the Commissioner is not aware of the need to provide for such additives in nonfat dry milk products, no provisions for these additives in the existing standards are proposed. However, the proposed standards for dry whole milk and lowfat dry milk do provide for the use of safe and suitable stabilizers, emulsifiers, and anticaking agents. The Commissioner is of the opinion that providing for such safe and suitable optional ingredients, or classes thereof, rather than listing specific ingredients as provided in the Codex stand-



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ard, will result in greater flexibility in product formulation and will permit the development of new and improved foods.

b. *Characterizing flavoring ingredients.* The Codex standard does not provide for characterizing flavoring ingredients in dry milk products.

The U.S. standards of identity for nonfat dry milk and nonfat dry milk fortified with vitamins A and D were amended in the FEDERAL REGISTER of December 5, 1974 (39 FR 42351) to provide for the optional use of safe and suitable characterizing flavoring ingredients, with or without coloring, including fruit, fruit juice, natural and artificial food flavoring. The proposed standards for dry whole milk and lowfat dry milk also provide for the optional use of characterizing flavoring ingredients.

The existing standards of identity for milk, lowfat milk, and skim milk also provide for the optional use of characterizing flavoring ingredients, with or without coloring. These standards also provide for the use of nutritive sweeteners as optional ingredients in the flavoring mixture.

In order to effect consistency in the U.S. standards of identity for milk and dry milk products with respect to the use of flavoring ingredients, the Commissioner proposes to provide for the use of safe and suitable nutritive carbohydrate sweeteners as ingredients in the flavoring mixture for dry milk products. He is of the opinion that providing for the use of safe and suitable flavoring ingredients in dry milk products, consistent with the existing provisions for flavoring ingredients in fluid milk products in Part 131, will provide a greater variety of products available to consumers.

c. *Antioxidants.* The Codex standard does not provide for the use of antioxidants. Most dry milk products containing high levels of milkfat are currently packed in containers from which almost all the oxygen has been removed to minimize the development of oxidized and tallowy off-flavors. But when these containers are opened and the dry milk product is exposed to atmospheric oxygen, the flavor deteriorates rapidly because of oxidative changes in the milkfat. Antioxidants can retard the flavor deterioration after opening, but antioxidants will not completely eliminate off-flavor development since the antioxidant is rendered ineffective on long-term exposure to oxygen.

The Commissioner is of the opinion that the optional use of antioxidants in dry whole milk, lowfat dry milk, and dry cream products will extend the shelf-life of these foods, though not indefinitely, and thus is in the interest of consumers. Accordingly, the proposed standards for these foods provide for the use of safe and suitable antioxidants. These antioxidants must be safe and suitable in the context of the definition provided in 21 CFR 130.3 (formerly 21 CFR 10.1 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)).

4. *Nomenclature.* The Codex standard for milk powders in section 5.1.1 provides for alternative names for each type of milk powder, while the existing and proposed U.S. standards of identity provide only one name for each food. The names nonfat dry milk and dry whole milk are common to both the Codex standards and the U.S. standards of identity for these foods; therefore, no change is required. However, the Codex standard names the dry milk made from partly skimmed milk, "partly skimmed milk powder" or "partly skimmed dried milk." In the proposed standard of identity for the food, the Commissioner defines the food as lowfat dry milk. He is of the opinion that less confusion will result if the name of the food is consistent with the name of the partly skimmed fluid milk, designated as lowfat milk in § 131.135.

Sections 131.125(d) and 131.127(e) and the proposed standards of identity for lowfat dry milk and dry whole milk require that the name of the food shall include a declaration of any characterizing flavoring ingredients used as specified in 21 CFR 101.22 (formerly 21 CFR 1.12 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302). In addition, the name must include the name of any vitamins added and a declaration of the milkfat percentage when required by the standard of identity.

5. *Label declaration.* The Codex standard for milk powders in section 5.2 requires that the emulsifiers and anticaking agents used in the foods be declared on the label. The existing and proposed U.S. standards of identity for dry milk products require a complete listing of all optional ingredients, except carriers for vitamins A and D, in accordance with the applicable sections of 21 CFR Parts 1 and 101. In addition, all added vitamins must be declared as part of the name of the food.

The Codex standard in section 5.1.3 and 5.1.4 provides for the mandatory labeling of the percentage milkfat in lowfat dry milk and the optional labeling of the percentage milkfat in dry whole milk. The proposed standards of identity for these foods provide for mandatory declaration of the percentage of milkfat. Sections 131.125(d) and 131.127(e) require label declaration of the percentage of milkfat if the level exceeds 1½ percent by weight. The Codex standard is silent in this regard. No changes are proposed in the labeling requirements of these standards of identity.

The Commissioner notes that the addition of vitamins and declaration of the percentage milkfat in dry milk products, as well as the use of the term "lowfat" in the name lowfat dry milk, will trigger nutritional labeling, pursuant to 21 CFR 101.9 (formerly 21 CFR 1.17 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)).

6. *Milk other than cow's milk.* The Codex standard requires that in the event milk other than cow's milk is used in the manufacture of milk powders or any part thereof, a word or words denoting the animal or animals from which the milk was derived should be inserted on the label immediately before or after the designation of the product. However, no such insertion need be made if the consumer would not be misled by the absence of such words. The inclusion of such a statement in the U.S. standards of identity is not proposed since the use of milk other than cow's milk is not permitted in any standardized milk or cream product named in 21 CFR Part 131. In the event that no adverse comments are received on this issue, the Commissioner proposes that dairy products made from milk other than cow's milk be treated as nonstandardized foods and as such need not comply with the requirements of Part 131.

7. *Methods of analysis.* The Codex standard and P.S. standard of identity for dry milk products provide for the determination of milkfat content. The details of the referenced AOAC method of analysis for milkfat content in the U.S. standards of identity are consistent with those in the FAO/WHO method referenced by the Codex standard; therefore, no change is necessary.

Only the U.S. standards of identity provide for the determination of the percent of moisture. The Commissioner proposes that this provision be retained since the percent moisture in the powder is one of the critical factors affecting the shelf life of the powder.

The proposed U.S. standards of identity for dry whole milk and lowfat dry milk provide for the determination of vitamin D but § 131.127 does not. The Commissioner is hereby proposing to amend § 131.127(d) to provide for the determination of vitamin D, since compliance with the minimum level of vitamin D required by the standard must be assured. He further proposes that the referenced methods of analysis provided in §§ 131.125(c) and 131.127(d) be updated to reference the 12th edition of the "Official Methods of Analysis of the Association of Official Analytical Chemists."

### COMPARISON OF THE CODEX STANDARD FOR CREAM POWDER, HALF-CREAM POWDER, HIGH-FAT MILK POWDER AND THE PROPOSED STANDARD OF IDENTITY FOR DRY CREAM

1. *Scope.* The Codex standard for cream powders provides for the following three products: Cream powder, half-cream powder, and high-fat milk powder containing not less than 65, 50, and 40 percent by weight (m/m) of milkfat, respectively. The Commissioner proposes to establish a standard of identity for one dry cream product in which the milkfat concentration could vary from 40 to 75 percent by weight. The proposed U.S. standard of identity would require the declaration of the percent milkfat as part of the name of the product. The Codex standard also provides for declaration of the percent of milkfat.

2. *Processing.* The proposed standard of identity for dry cream provides for pasteurization and optional homogenization of the fluid cream before drying. The Codex standard has no requirement for homogenization or pasteurization.





3. *Optional ingredients.* The Codex standard for cream powders provides for the optional use of stabilizers, emulsifiers, and anticaking agents, singly or in combination, all with maximum levels of use. The proposed standard of identity for dry cream also provides for the optional use of safe and suitable stabilizers, emulsifiers, and anticaking agents. In addition, the proposed standard of identity permits the use of safe and suitable antioxidants, nutritive carbohydrate sweeteners, and characterizing flavoring ingredients, with or without coloring. The optional use of antioxidants is to retard "off flavor" development in the dry cream, and the use of sweeteners and flavoring is to provide for a greater variety of dry cream products.

4. *Moisture content.* The Codex standard for cream powders provides for a maximum moisture content of 5 percent by weight (m/m). The Commissioner proposes to adopt the Codex requirement of 5 percent moisture in dry cream products. He is of the opinion that adoption of this provision of the Codex standard is in the best interest of consumers.

5. *Nomenclature.* According to the proposed standard of identity, the name of the food is dry cream instead of cream powder as specified in the Codex standard. This terminology is more consistent with the names of other dry milk products in the United States.

The proposed standard of identity for dry cream requires that the name of the food include a declaration of any characterizing flavoring as specified in 21 CFR 101.22, the word "sweetened" if sweetener is added without characterizing flavoring, and a statement of the percentage of milkfat in the dry cream.

6. *Methods of sampling and analysis.* The proposed standard of identity for dry cream references methods of analysis for the determination of the moisture and milkfat content in dry cream products. The Codex standard for cream powders does not reference methods of analysis for cream powder products.

7. *Milk other than cow's milk.* The Codex standard for cream powders provides for label declaration of milk other than cow's milk when such milks are used in the product. The proposed standard of identity for dry cream has no provision for milks other than cow's milk.

Accordingly, the Commissioner proposes to amend 21 CFR Part 131 by (1) adding standards of identity for dry whole milk, lowfat dry milk, and dry cream, based on the recommended Codex Standards and other information, (2) providing for the use of nutritive carbohydrate sweeteners as ingredients in the optional characterizing flavoring ingredients in nonfat dry milk products (21 CFR 131.125(b) and 21 CFR 131.127(c)) to effect consistency with the provisions of the skim milk standard of identity (21 CFR 131.145(c)), (3) updating the referenced methods of analysis in the standards of identity for nonfat dry milk to reflect the 12th edition of the "Official Methods of Analysis of the Association of Official Analytical Chemists," and (4) including a method of analysis for vitamin D in nonfat dry milk fortified with vitamins A and D (21 CFR 131.127(d)), which will, in his opinion, promote honesty and fair dealing in the interest of consumers.

The Commissioner proposes that, except as to any provisions that may be stayed by the filing of proper objections, all products initially introduced into interstate commerce on or after July 1, 1979 shall comply with the final regulation.

The Commissioner has considered the environmental effects of the issuance or amendment of food standards and has concluded in 21 CFR 25.1(d)(4) (formerly 21 CFR 6.1(d)(4) prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)) that food standards are not major agency actions significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701 (e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 131 be amended as follows:

1. By adding § 131.123 to read as follows:

**§ 131.123 Lowfat dry milk.**

(a) *Description.* Lowfat dry milk is the product obtained by removal of water only from pasteurized, homogenized lowfat milk as defined in § 131.135(a). It contains not less than 5 percent but less than 20 percent by weight of milkfat and not more than 5 percent by weight of moisture. Lowfat dry milk contains added vitamin A as prescribed by paragraph (b) of this section.

(b) *Vitamin addition.* (1) Vitamin A shall be present in such quantity that, when prepared according to label directions, each quart of the reconstituted product contains not less than 2,000 International Units thereof.

(2) Addition of vitamin D is optional. If added, vitamin D shall be present in such quantity that, when prepared according to label directions, each quart of the reconstituted product contains 400 International Units thereof.

(3) The requirements of this paragraph will be met if reasonable overages, within limits of good manufacturing practice, are present to ensure that the required levels of vitamins are maintained throughout the expected shelf life of the food under customary conditions of distribution.

(c) *Optional ingredients.* The following safe and suitable optional ingredients may be used:

(1) Carriers for vitamins A and D.
(2) Emulsifiers.
(3) Stabilizers.
(4) Anticaking agents.
(5) Antioxidants.
(6) Characterizing flavoring ingredients, with or without coloring and nutritive carbohydrate sweeteners, as follows:

(i) Fruit and fruit juices, including concentrated fruit and fruit juice.

(ii) Natural and artificial food flavoring.

(d) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975.[2]

(1) Milkfat content—"Fat in Dried Milk—Official Final Action," sections 16.181–16.182.[2]

(2) Moisture content—"Moisture—Official Final Action," section 16.174.[2]

(3) Vitamin D content—"Vitamin D—Official Final Action," sections 43.166–43.179.[2]

(e) *Nomenclature.* The name of the food is "Lowfat dry milk." The name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any characterizing flavoring, as specified in § 101.22 of this chapter. The following phrases in type size not less than one-half the height of the type size used in such name shall accompany the name of the food wherever it appears on the principal display panel or panels:

(1) The phrase "Contains — percent milkfat", the blank to be filled in with the whole number closest to the actual fat content of the food.

(2) The phrase "vitamin A" or "vitamin A added", and if vitamin D is added, the phrase "vitamins A and D" or "vitamins A and D added", as appropriate. The word "vitamin" may be abbreviated "vit."

(f) *Label declaration.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Parts 1 and 101 of this chapter.

2. By revising paragraphs (b) and (c) and adding new paragraph (e) to § 131.125, to read as follows:

**§ 131.125 Nonfat dry milk.**

* * * * *

(b) *Optional ingredients.* Safe and suitable characterizing flavoring ingredients (with or without coloring and nutritive carbohydrate sweetener) as follows:

(1) Fruit and fruit juice, including concentrated fruit and fruit juice.

(2) Natural and artificial food flavorings.

(c) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975.[2]

(1) Milkfat content—"Fat in Dried Milk—Official Final Action," sections 16.181—16.182.[2]

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[2] Copies may be obtained from: The Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.



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(2) Moisture content—"Moisture—Official Final Action," section 16.174.[2]

* * * * *

(e) *Label declaration.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Parts 1 and 101 of this chapter.

3. By revising paragraphs (c)(2) and (d) and adding new paragraph (f) to § 131.127 ,to read as follows:

**§ 131.127 Nonfat dry milk fortified with vitamins A and D.**

* * * * *

(c) * * *

(2) Characterizing flavoring ingredients, with or without coloring and nutritive carbohydrate sweetener, as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

(ii) Natural and artificial food flavorings.

(d) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975.[2]

(1) Milkfat content—"Fat in Dried Milk—Official Final Action," sections 16.181–16.182.[2]

(2) Moisture content—"Moisture—Official Final Action," section 16.174.[2]

* * * * *

(f) *Label declaration.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Parts 1 and 101 of this chapter.

4. By adding new §§ 131.147 and 131.149 to read as follows:

**§ 131.147 Dry whole milk.**

(a) *Description.* Dry whole milk is the product obtained by removal of water only from pasteurized, homogenized milk as defined in § 131.110. It contains the lactose, milk proteins, milkfat, and milk minerals in the same relative proportions as the milk from which it was made. It contains not less than 26 percent but less than 40 percent by weight of milkfat and not more than 5 percent by weight of moisture.

(b) *Vitamin addition.* (1) Addition of vitamin A is optional. If added, vitamin A shall be present in such quantity that, when prepared according to label directions, each quart of the reconstituted product shall contain not less than 2,000 International Units thereof.

(2) Addition of vitamin D is optional. If added, vitamin D shall be present in such quantity that, when prepared according to label directions, each quart of the reconstituted product shall contain 400 International Units thereof.

(3) The requirements of this paragraph will be met if reasonable overages, within limits of good manufacturing practice, are present to ensure that the required levels of vitamins are maintained throughout the expected shelf life of the food under customary conditions of distribution.

(c) *Optional ingredients.* The following safe and suitable optional ingredients may be used:

(1) Carriers for vitamins A and D.

(2) Emulsifiers.

(3) Stabilizers.

(4) Anticaking agents.

(5) Antioxidants.

(6) Characterizing flavoring ingredients (with or without coloring and nutritive carbohydrate sweetener) as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

(ii) Natural and artificial food flavoring.

(d) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975.[2]

(1) Milkfat content—"Fat in Dried Milk—Official Final Action," sections 16.181–16.182.[2]

(2) Moisture content—"Moisture—Official Final Action," section 16.174.[2]

(3) Vitamin D content—"Vitamin D—Official Final Action," sections 43.166–43.179.[2]

(e) *Nomenclature.* The name of the food is "Dry whole milk." The name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any characterizing flavoring as specified in § 101.22 of this chapter. The following phrases in type size not less than one-half the height of the type size used in such name shall accompany the name of the food wherever it appears on the principal display panel or panels:

(1) The phrase "Contains ____ percent milkfat", the blank to be filled in with the whole number closest to the actual fat content of the food.

(2) If vitamins are added, the phrase "vitamin A" or "vitamin D", or "vitamin D added", or "vitamins A and D", or "vitamins A and D added" as appropriate. The word "vitamin" may be abbreviated "vit."

(f) *Label declaration.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Parts 1 and 101 of this chapter.

**§ 131.149 Dry cream.**

(a) *Description.* Dry cream is the product obtained by removal of water only from pasteurized milk or cream, or a mixture thereof, which may have been homogenized. It contains not less than 40 percent but less than 75 percent by weight of milkfat and not more than 5 percent by weight of moisture.

(b) *Optional ingredients.* The following safe and suitable optional ingredients may be used:

(1) Emulsifiers.

(2) Stabilizers.

(3) Anticaking agents.

(4) Antioxidants.

(5) Nutritive carbohydrate sweeteners.

(6) Characterizing flavoring ingredients, with or without coloring, as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

(ii) Natural and artificial food flavoring.

(c) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975.[2]

(1) Milkfat content—"Fat in Dried Milk—Official Final Action," sections 16.181—16.182.[2]

(2) Moisture content—"Moisure—Official Final Action," section 16.174.[2]

(d) *Nomenclature.* The name of the food is "Dry cream." The name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any characterizing flavoring as specified in § 101.22 of this chapter. The following terms shall accompany the name of the food wherever it appears on the principal display panel or panels of the label, in letters not less than one-half of the height of the letters used in such name:

(1) The phrase "Contains _____ percent milkfat," the blank to be filled in with the whole number closest to the actual fat content of the food.

(2) The word "sweetened" if no characterizing flavoring ingredients are used but nutritive carbohydrate sweetener is added.

(e) *Label declaration.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Parts 1 and 101 of this chapter.

Interested persons may, on or before September 19, 1977, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A–107.

Dated: June 23, 1977.

HOWARD R. ROBERTS,
*Acting Director,*
*Bureau of Foods.*

NOTE.—Incorporation by reference approved by the Director of the Office of the Federal Register on March 11, 1976. Referenced material is on file in the Federal Register Library.

[FR Doc.77-20463 Filed 7-18-77;8:45 am]





**[21 CFR Part 131]**

[Docket No. 77N–0118]

## EVAPORATED MILK, SWEETENED CONDENSED MILK, EVAPORATED SKIMMED MILK AND SWEETENED CONDENSED SKIMMED MILK

### Proposed Rulemaking Based on Recommended International Standards

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposal would establish United States standards of identity for evaporated skimmed milk and sweetened condensed skimmed milk and would amend the compositional requirements for evaporated milk and sweetened condensed milk. This proposal ensues from a recommendation to more closely conform U.S. standards to international standards.

DATES: Comments by September 19, 1977.

ADDRESSES: Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Eugene T. McGarrahan, Bureau of Foods (HFF–415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204. (202–245–1155).

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) is proposing under 21 CFR Part 131 (formerly 21 CFR Part 18 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) to establish United States standards of identity for evaporated skimmed milk and sweetened condensed skimmed milk based on the "Recommended International Standards for Evaporated Milk and Sweetened Condensed Milk Products," hereinafter referred to as the Codex standards. The proposed standards of identity include (1) requirements for mandatory ingredients in these foods, (2) provisions for optional ingredients such as safe and suitable carriers for vitamins A and D, stabilizers, emulsifiers, and characterizing flavoring ingredients, with or without coloring, and (3) requirements for label declaration of all optional ingredients except carriers for vitamins, which are exempted by § 101.100(a)(3)(i) (21 CFR 101.100(a)(3)(i)) (formerly 21 CFR 1.10a(a)(3)(i) prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)). In addition, FDA is proposing to amend the compositional requirements for evaporated milk (21 CFR 131.130) and sweetened condensed milk (21 CFR 131.120) for consistency with the Codex standard and to provide for the use of nutritive carbohydrate sweeteners in the optional characterizing flavoring ingredients permitted in these foods.

The Joint Food and Agriculture Organization/World Health Organization's (FAO/WHO) Committee of Government Experts on the Code of Principles Concerning Milk and Milk Products, an auxiliary body of the Codex Alimentarius Commission, has submitted to the United States recommended internatonal standards for evaporated milk and evaporated skimmed milk (Codex Standards No. A–3 (1971)) and recommended international standards for sweetened condensed milk and sweetened condensed skimmed milk (Codex Standad No. A–4 (1971)) for consideration of acceptance.

The United States, as a member nation of FAO/WHO, is under treaty obligation to consider all recommended international standards. The rules of procedure of the Codex Alimentarius Commission state that a standard may be accepted by a participating country in one of three ways: full acceptance, target acceptance, or acceptance with specified deviations. A participating country that concludes that it cannot accept the standard in full is requested to indicate the ways in which its requirements differ from the recommended international standard. Member nations of the FAO/WHO Codex Alimentarius Commission are requested to notify the Technical Secretary, Committee on the Code of Principles Concerning Milk and Milk Products, Animal Production and Health Division, FAO, Rome, Italy, of their decision. Should a sufficient number of governments accept these standards, the Secretariat of the Committee will notify the Codex Alimentarius Commission and request the publication of these standards by the Codex Alimentarius Commission as worldwide standards in light of the acceptances received.

The United States presently has standards of identity for evaporated milk in 21 CFR 131.130 and sweetened condensed milk in 21 CFR 131.120 that differ in several respects from the recommended international standards for evaporated milk and sweetened condensed milk. Also, there are no standards of identity for evaporated skimmed milk and sweetened condensed skimmed milk. These factors and our obligation to review all recommended international standards from the basis of this proposal by the Commissioner of Food and Drugs. He is of the opinion that it will promote honesty and fair dealing in the interest of consumers and facilitate international trade to adopt, insofar as practicable, the Codex standards. Therefore, pursuant to 21 CFR 130.6 (formerly 21 CFR 10.8 prior to the recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), the Commissioner, on his own initiative, is proposing the establishment of standards of identity for evaporated skimmed milk and sweetened condensed skimmed milk and to amend the compositional requirements of the standards of identity for evaporated milk and sweetened condensed milk to effect consistency with the Codex standards.

The Codex standards include certain labeling requirements that are not considered a part of food standards of identity under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). Among these are declaration of net quantity of contents, name of the manufacturer, and country of origin. Such requirements are authorized by other sections of the Federal Food, Drug, and Cosmetic Act, the Fair Packaging, and Labeling Act, and regulations promulgated thereunder in 21 CFR Parts 1 and 101 (some sections of Part 191 were formerly contained in 21 CFR Part 1 prior to the recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302) and March 22, 1977 (42 FR 15553)) and are applicable to all products entered into interstate commerce in the United States.

The Codex standards also reference specific methods of sampling (FAO/WHO Standard B–1 "Sampling Methods for Milk and Milk Products," paragraphs 2 and 5, CAC/M 1–1973), which were prepared jointly by the International Dairy Federation (IDF), the International Organization for Standardization (ISO), and the Association of Official Analytical Chemists (AOAC) for the FAO/WHO Code of Principles Concerning Milk and Milk Products and Associated Standards, and approved by the Joint FAO/WHO Committee of Government Experts on the Code of Principles. Such sampling methods are not specifically referenced in the U.S. standards of identity for milk and cream products. However, these FAO/WHO sampling methods have been published in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975, the source of the referenced methods of analysis for milk and cream products contained in the U.S. standards of identity.

The Codex standards for evaporated milk products and sweetened condensed milk products also permit the use of milk other than cow's milk, provided the package label bears a statement clearly indicating the animal or animals from which the milk was derived, except in cases where the consumer would not be misled by the absence of such a statement. Providing for milk other than cow's milk in standardized milk products is of concern to the Commissioner. Although he is not proposing to change the existing U.S. standards or provide for other than cow's milk in the proposed new standards, he believes this is an opportune time to invite comments on the need or desirability of providing for the use of milks other than cow's milk in evaporated milk and sweetened condensed milk products.

The proposed amendments to the standards of identity for evaporated milk and sweetened condensed milk and the proposed standards of identity for evaporated skimmed milk and sweetened condensed skimmed milk as published below are based on the following Codex standards and other available information.



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Standard No. A-3 (1971)

STANDARD FOR EVAPORATED MILK AND EVAPORATED SKIMMED MILK [1]

1. DEFINITIONS

1.1 *Evaporated milk* is a liquid product, obtained by the partial removal of water only from milk.

1.2 *Evaporated skimmed milk* is a liquid product, obtained by the partial removal of water only from skimmed milk.

2. ESSENTIAL COMPOSITION AND QUALITY FACTORS

| | | |
|---|---|---|
| 2.1 | *Evaporated milk* | |
| 2.1.1 | Minimum milkfat content | 7.5 pct. m/m. |
| 2.1.2 | Minimum solids content | 25.0 pct. m/m. |
| 2.2 | *Evaporated skimmed milk* | |
| | Minimum milk solids content | 20.0 pct. m/m. |

FOOD ADDITIVES

| | | |
|---|---|---|
| | *Stabilizers* | |
| 3.1 | Sodium, potassium, and calcium salts of: Hydrochloric acid, Citris acid, Carbonic acid, Orthophosphoric acid, Polyphosphoric acid | MAXIMUM LEVEL: 2,000 mg/kg singly, 3,000 mg/kg in combination expressed as anhydrous substances. |
| 3.2 | Carrageenan | 150 mg/kg. |

[1] Code of Principles Concerning Milk and Milk Products, International Standards and Standard Methods of Sampling and Analysis for Milk Products, 7th Ed., FAO/WHO Document No. CAC/M 1-1973.

4. LABELING

In addition to sections 1, 2, 4, and 6 of the General Standard for the Labeling of Prepackaged Foods (Ref. No. CAC/RS 1-1969), the following specific provisions apply:

4.1 *The name of the food*

4.1.1 The name of the product shall be (a) "Evaporated milk" or "Evaporated whole milk" or "Evaporated full cream milk" or "Unsweetened condensed whole milk," or "Unsweetened full cream condensed milk", or (b) "Evaporated skimmed milk," or "Unsweetened condensed skimmed milk" as appropriate.

4.1.2 Where milk other than cow's milk is used for the manufacture of the product or any part thereof, a word or words denoting the animal or animals from which the milk has been derived should be inserted immediately before or after the designation of the product except that no such insertion need be made if the consumer would not be misled by its omission.

4.2 *Net contents*

4.2.1 The net contents shall be declared by weighti n either the metric ("Systeme International" units) or avoirdupois or both systems of measurement or by volume in one or more of the following systems of measurement: Metric (Système International), U.S. or British units, as required by the country in which the product is sold.

4.2.2 The milk equivalent may be declared according to national legislation.

4.3 *Name and address*

The name and address of the manufacturer, packer, distributor, importer, exporter or vendor, shall be declared.

4.4 *Country of origin (manufacture)*

The country of manufacture of the food shall be declared except that foods sold within the country of manufacture need not declare the country of manufacture.

5. METHODS OF SAMPLING AND ANALYSIS

5.1 Sampling: According to FAC/WHO Standard B-1, "Sampling Methods for Milk and Milk Products," Pars. 2 and 4.

5.2 Determination of fat content: According to FAO/WHO Standard B-7, "Determination of the Fat Content of Evaporated Milks and of Sweeetened Condensed Milks."

Standard No. A-4 (1971)

STANDARD FOR SWEETENED CONDENSED MILK AND SKIMMED SWEETENED CONDENSED MILK [1]

1. DEFINITIONS

1.1 *Sweetened condensed milk* is a product obtained by the partial removal of water only from milk, with the addition of sugars.

1.2 *Skimmed sweetened condensed milk* is a product obtaned by the partial removal of water only from skimmed milk with the addition of sugars.

2. ESSENTIAL COMPOSITION AND QUALITY FACTORS

| | | |
|---|---|---|
| 2.1 | *Sweetened condensed milk* | |
| 2.1.1 | Minimum milkfat content | 8.0 pct. m/m. |
| 2.1.2 | Minimum milk solids content | 28.0 pct. m/m. |
| 2.2 | *Skimmed sweetened condensed milk* | |
| | Minimum milk solids content | 24.0 pct. m/. |

3. FOOD ADDITIVES

| | | |
|---|---|---|
| | *Stabilizers* | *Maximum level* |
| | Sodium, potassium and calcium salts of: Hydrochloric acid, Citric acid, Carbonic acid, Orthophosphoric acid, Polyphosphoric acid | 2,000 mg/kg singly, 3,000 mg/kg in combination expressed as anhydrous substances. |





4. LABELING

In addition to sections 1, 2, 4 and 6 of the General Standard for the Labeling of Prepackaged Foods (Ref. No. CAC/RS 1-1969), the following specific provisions apply:

4.1 *The Name of the Food*

4.1.1 The name of the product shall be (a) "Sweetened condensed milk" or "Sweetened condensed whole milk" or "Sweetened full cream condensed milk," or (b) "Skimmed sweetened condensed milk" or "Sweetened condensed skimmed milk," as appropriate.

4.1.2 Where milk other than cow's milk is used for the manufacture of the product or any part thereof, a word or words denoting the animal or animals from which the milk has been derived should be inserted immediately before or after the designation of the product except that no such insertion need be made if the consumer would not be misled by its omission.

4.1.3 When one or several sugars are used the name of each sugar shall be declared on the label (e.g. "with sucrose," with "dextrose", "with sucrose and dextrose").

4.2 *Net Contents*

The net contents shall be declared by weight in either the metric ("Système International" units) or avoirdupois or both systems of measurement, as required by the country in which the product is sold.

4.3 *Name and address*

The name and address of the manufacturer, packer, distributor, importer, exporter or vendor, shall be declared.

4.4 *Country or origin* (manufacturer)

The country of manufacture of the food shall be declared except that foods sold within the country of manufacture need not declare the country of manufacture.

5. METHODS OF SAMPLING AND ANALYSIS

5.1 Sampling: According to FAO/WHO Standard B-1, "Sampling Methods for Milk and Milk Products", pars. 2 and 4.

5.2 Determination of fat content: According to FAO/WHO Standard B-7, "Determination of the Fat Content of Evaporated Milks and of Sweetened Condensed Milks".

5.3 Determination of sucrose content: According to FAO/WHO Standard B-14, "Polarimetric Determination of the Sucrose Content of Sweetened Condensed Milk"

Proposed minor changes from the requirements of the existing U.S. standards for the purpose of being consistent with the Codex standards are considered by the Commissioner as reasonable, beneficial for the furtherance of international trade, and deemed not in conflict with the need to promote honesty and fair dealing in the interest of consumers.

In some respects, the provisions of the existing and the proposed U.S. standards of identity and the Codex standards for evaporated milk and sweetened condensed milk products are identical, but in certain instances there are significant variations. The following is a comparison of the differences on which the Commissioner particularly requests comments with supporting data, Following each item of comparison is the Commissioner's proposed action.

COMPARISON OF THE CODEX STANDARDS AND THE STANDARDS OF IDENTITY FOR EVAPORATED MILK PRODUCTS AND THE PROPOSED COURSE OF ACTIONS

1. *Product description.* Both the existing U.S. standard of identity for evaporated milk (21 CFR 131.130) and the proposed U.S. standard of identity for evaporated skimmed milk describe the food as the liquid food obtained by partial removal of water only from milk or skim milk as appropriate. In addition, the definitions state that the food is thermally processed, that evaporated milk must be homogenized and evaporated skimmed milk may be homogenized, and that the food is sealed in a container to prevent spoilage. The Codex standard for evaporated milk and evaporated skimmed milk (Codex standard No. A-3) provides similar definitions in sections 1.1 and 1.2 except that these definitions make no reference to processing operations.

The Commissioner is of the opinion that the definitions in the existing and proposed U.S. standards of identity are more explicit and is proposing no change.

2. *Composition—a. Total solids content.* Paragraph (a) of § 131.130 provides for a minimum total milk solids content of 25.5 percent by weight in evaporated milk, while the Codex standard in section 2.1.2 provides for a minimum total milk solids content of 25.0 percent by weight (m/m). Since the difference is small the Commissioner proposes to adopt the Codex standard value of 25.0 percent by weight for the minimum total milk solids content.

b. *Milkfat content.* The Codex standard for evaporated skimmed milk does not specify the milkfat content. However, the Commissioner is of the opinion that the maximum level of milkfat in evaporated skimmed milk should be provided in the standard of identity to more clearly define the nature of the food. Accordingly, he is proposing that the maximum level of milkfat be not more than 0.5 percent by weight unless otherwise indicated on the label.

c. *Vitamin addition.* The Codex standard for evaporated milk products does not provide for vitamin addition. Paragraph (b) of § 131.130 provides for the addition of vitamin D in such quantity that each fluid ounce of the food shall contain 25 International Units of vitamin D. Vitamin A addition is optional, but if added, each fluid ounce of the product shall contain not less than 125 International Units of vitamin A.

No change in the U.S. standard of identity is proposed. Recognizing that vitamin levels in raw milk are subject to seasonal variations, the Commissioner is of the opinion that vitamin fortification is a necessary measure to ensure uniformity of the nutritional quality of the food.

The proposed standard of identity for evaporated skimmed milk provides for mandatory addition of both vitamin D and vitamin A. The vitamin D content of raw whole milk is very low and separation of the cream in the preparation of skim milk removes virtually all the vitamin D as well as the vitamin A. While the present standard of identity for skim milk (21 CFR 131.145) does not require mandatory addition of vitamin D, the Commissioner is of the opinion that since evaporated milk products are used in infant feeding programs, it is reasonable to require vitamin D fortification of evaporated skimmed milk as in evaporated milk. Similarly, the proposed standard of identity for evaporated skimmed milk provides for mandatory addition of vitamin A such that on reconstitution the level of vitamin A in the food is equivalent to that in skim milk (21 CFR 131.145(b)).

3. *Optional ingredients—a. Stabilizers, emulsifiers, and characterizing ingredients.* The Codex standard for evaporated milk products in sections 3.1 and 3.2 designates specific stabilizers, namely, sodium, potassium, and calcium salts of hydrochloric, citric, carbonic, orthophosphoric or polyphosphoric acid, and carrageenan, which may be used singly or in combination in evaporated milk products. The Codex standard also provides maximum levels of use for these optional ingredients. On the other hand, 21 CFR 131.130(c) and the proposed U.S. standard of identity for evaporated skimmed milk do not list optional ingredients by their common name or specify definite amounts of such additives. These standards provide for optional ingredients in terms of classes of safe and suitable food additives, such as stabilizers, with or without dioctyl sodium sulfosuccinate (when permitted by, and complying with provisions of § 172.810 (formerly 21 CFR 121.1137 prior to the recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302))), emulsifiers, and characterizing flavoring ingredients, with or without coloring.

The Commissioner is of the opinion that the designation of optional ingredients in the manner set out in the U.S. standards permits greater flexibility in the selection of the proper food additives and thereby provides for the development of new and improved products at lower costs to the consumer. No change is proposed in the manner of listing optional ingredients in 21 CFR 131.130.



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b. *Nutritive carbohydrate sweeteners.* The Codex standard has no provisions for the use of nutritive carbohydrate sweeteners in evaporated milk products.

The existing U.S. standards of identity for milk in § 131.110(c) and skim milk in § 131.145(c) provide for the use of characterizing flavoring ingredients, with or without coloring, stabilizers, and emulsifiers, as well as nutritive sweeteners. In order to effect consistency with these standards of identity, the Commissioner is proposing to amend the standard of identity for evaporated milk and to include provisions in the proposed standard of identity for evaporated skimmed milk to allow the use of safe and suitable nutritive carbohydrate sweetners as ingredients in the characterizing flavoring mixture.

4. *Methods of analysis.* Paragraph (d) of § 131.130 and the proposed standard of identity for evaporated skimmed milk reference methods of analysis for the determination of the percent milkfat, the percent of total milk solids, and the viatmin D content in the foods. The Codex standard for evaporated milk products provides for the determination of milkfat content only. The Commissioner proposes that all standard methods of analysis now included in 21 CFR 131.130(d) be retained consistent with retention of the requirements for total milk solids and vitamin D content. He further proposes that the referenced methods of analysis provided in 21 CFR 131.130(d) be updated to reference the 12th Ed. of the "Official Methods of Analysis of the Association of Official Analytical Chemists."

5. *Nomenclature.* Paragraph (e) of § 131.130 states that the name of the food is evaporated milk. The Codex standard also refers to the food as evaporated milk. In addition, the Codex standard in section 4.1.1(a) offers other alternative names—evaporated whole milk, evaporated full cream milk, unsweetened condensed whole milk, and unsweetened full cream condensed milk. No change is proposed in 21 CFR 131.130(e) for inclusion of these alternative names since use of names other than the familiar name—evaporated milk—might result in confusion regarding the product's identity.

The Codex standard in section 4.1.1(b) states that evaporated skimmed milk may also be named unsweetened condensed skimmed milk. The Commissioner proposes to adopt only the name evaporated skimmed milk in the standard of identity for the food since this name is currently used in this country.

Paragraph (e) of § 131.130 and the proposed standard of identity for evaporated skimmed milk require that a phrase denoting the presence of any added vitamins immediately precede or follow the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half the height of the letters used in such name. No change is proposed in the labeling requirements in § 131.130(e).

6. *Label declaration.* The Codex standard for evaporated milk products does not provide for the labeling of optional ingredients, nor does it provide for nutritional labeling. Paragraph (f) of § 131.130 and the proposed standard of identity for evaporated skimmed milk require that all optional ingredients, such as emulsifiers, stabilizers, and flavoring ingredients used in these foods must be declared on the label in accordance with the applicable sections of Parts 1 and 101 (21 CFR Parts 1 and 101). In addition, since both evaporated milk products contain added vitamins, nutrition information must also appear on the label as required by 21 CFR 101.9 (formerly 21 CFR 1.17 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)). No change is proposed in the labeling requirements in § 131.130(f). The Commissioner is of the opinion that providing information on the optional ingredients used in the food and on its nutritional quality is necessary for the consumers' interest and protection.

7. *Milk other than cow's milk.* The Codex standard requires that in the event milk other than cow's milk is used in the manufacture of the food or any part thereof, a word or words denoting the animal or animals from which the milk was derived should be inserted on the label immediately before or after the designation of the product. However, no such insertion need be made if the consumer would not be misled by the absence of such words. The inclusion of such a statement in the U.S. standard of identity is not proposed since the use of milk other than cow's milk is not permitted in any regulated milk or cream product in 21 CFR Part 131. In the event that no adverse comments are received on this issue, the Commissioner proposes that dairy products made from milk other than cow's milk be treated as nonstandardized foods and as such need not comply with the requirements of Part 131.

COMPARISON OF THE CODEX STANDARD AND THE STANDARDS OF IDENTITY FOR SWEETENED CONDENSED MILK PRODUCTS AND THE PROPOSED COURSE OF ACTIONS

1. *Product description.* The Codex standard for sweetened condensed milk (No. A–4) in section 1.1 describes the food as one obtained by the partial removal of water only from milk with the addition of sugars. Paragraph (a) of § 131.120 describes the food similarly but, instead of "sugars," permits the use of any safe and suitable nutritive sweetener and also states that the amount of such sweetener shall be sufficient to prevent spoilage. Paragraph (a) of § 131.120 also provides for pasteurization and optional homogenization of the food, and no change in these provisions is proposed. Use of the term "nutritive carbohydrate sweetener" is proposed in order to be more definitive, and it is consistent with the language of new U.S. food standards.

2. *Composition.* Paragraph (a) of § 131.120 states that sweetened condensed milk shall contain not less than 8.5 percent milkfat by weight while the Codex standard in section 2.1.1 provides for a minimum of 8.0 percent milkfat by weight (m/m). The Commissioner proposes to adopt the minimum 8.0 percent milkfat as prescribed by Codex.

The Codex standard for sweetened condensed skimmed milk in section 2.2 provides for a minimum total milk solids content of 24.0 percent by weight (m/m) of the food. The Commissioner proposes to adopt the Codex minimum total milk solids requirement of 24 percent by weight. He further proposes to establish a maximum milkfat requirement of not more than 0.5 percent by weight in the standard of identity for sweetened condensed skimmed milk. The Commissioner is of the opinion that designation of the maximum percent milkfat in the standard of identity is necessary to adequately define the nature of the food. The Codex standard does not provide for a maximum level of milkfat in sweetened condensed skimmed milk.

3. *Optional ingredients*—a. *Inorganic salts.* The Codex standard designates specific food additives (salts) with maximum levels which may be used in sweetened condensed milk products. Section 131.120 and the proposed U.S. standard of identity for sweetened condensed skimmed milk do not provide for the use of these salts. The Commissioner is of the opinion that such salts are unnecessary and, therefore, he makes no provision for their use.

b. *Characterizing flavoring ingredients.* The proposed revision of § 131.120 (b) and the proposed standard for sweetened condensed skimmed milk permit the optional use of characterizing flavoring ingredients, with or without coloring and nutritive carbohydrate sweeteners, including fruit, fruit juice, natural and artificial food flavoring. The Codex standard for sweetened condensed milk products has no such provision. The Commissioner is of the opinion that providing for flavoring ingredients will permit manufacturers to exercise their creativity in the development of new sweetened condensed milk products and thereby provide a greater range of products for consumer selection.

4. *Methods of analysis.* The Codex standard for sweetened condensed milk products provides methods of analysis for the determination of milkfat and sucrose content. Paragraph (c) of § 131.120 and the proposed standard of identity for sweetened condensed skimmed milk reference a method for the determination of milkfat content only. No provision is being proposed for the determination of nutritive carbohydrate sweeteners since no minimum or maximum values are specified.

5. *Label declaration.*—a. The Codex standard permits the use of milk other than cow's milk in sweetened condensed milk products if the label so indicates. Such milk is not permitted in any U.S. standardized milk or cream product, and hence no reference to the milk's origin is necessary.





b. Paragraph (e) of § 131.120 and the proposed standard of identity for sweetened skimmed milk state that if the food is homogenized the label must bear the word "homogenized." Further, if used in the food, any characterizing flavoring must be declared on the label as provided for in 21 CFR 101.22 (formerly 21 CFR 1.12 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)). The Codex standard for sweetened condensed milk products has no provision for homogenization or the addition of characterizing flavoring ingredients and is therefore silent with respect to such label declarations. The Commissioner proposes no change in the labeling provisions of § 131.120(e).

Accordingly, having reviewed the Codex standards, the Commissioner proposes that 21 CFR Part 131 be amended by: (1) Revising certain aspects of the standards of identity for evaporated milk (21 CFR 131.130) and for sweetened condensed milk (21 CFR 131.120) based on the recommended Codex standards for these foods; and (2) establishing new standards of identity for evaporated skimmed milk (21 CFR 131.132) and for sweetened condensed skimmed milk (21 CFR 131.122) which in the opinion of the Commissioner, will promote honesty and fair dealing in the interest of consumers; and (3) updating the referenced methods of analysis in §§ 131.120 (c) and 131.130(d) to reflect the 12th Ed. of the "Official Methods of Analysis of the Association of Official Analytical Chemists"; and (4) amending § 131.130 (c) to provide for safe and suitable nutritive carbohydrate sweeteners as ingredients in the optional characterizing flavoring ingredients.

The Commissioner proposes that, except as to any provisions that may be stayed by the filing of proper objections, all products initially introduced into interstate commerce on or after July 1, 1979 shall comply with the final regulations.

The Commissioner has considered the environmental effects of the issuance or amendment of food standards and has concluded in 21 CFR 25.1(d)(4) (formerly 21 CFR 6.1(d)(4) prior to the recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)) that food standards are not major agency actions significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Costmetic Act (secs. 401, 701 (e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 131 be amended as follows:

1. By revising § 131.120 to read as follows:

**§ 131.120 Sweetened condensed milk.**

(a) *Description.* Sweetened condensed milk is the food obtained by partial removal of water only from a mixture of milk and safe and suitable nutritive carbohydrate sweeteners. The finished food contains not less than 8.0 percent by weight of milkfat, and not less than 28 percent by weight of total milk solids. The quantity of nutritive carbohydrate sweetener used is sufficient to prevent spoilage. The food is pasteurized and may be homogenized.

(b) *Optional ingredients.* Safe and suitable characterizing flavoring ingredients, with or without coloring and nutritive carbohydrate sweeteners, as follows:

(1) Fruit and fruit juice, including concentrated fruit and fruit juice.

(2) Natural and artificial food flavoring.

(c) *Method of analysis.* The milkfat content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975, section 16.167, under "Fat—Official Final Action."[2]

(d) *Nomenclature.* The name of the food is "Sweetened condensed milk." The word "homogenized" may appear on the label if the food has been homogenized. The name of the food shall include a declaration of the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

(e) *Label declaration.* The optional nutritive carbohydrate sweetener(s) required in paragraph (a) of this section and each of the optional ingredients specified in paragraph (b) of this section, when used in the food, shall be declared on the label as required by the applicable sections of Parts 1 and 101 of this chapter.

2. By adding § 131.122 to read as follows:

**§131.122 Sweetened condensed skimmed milk.**

(a) *Description.* Sweetened condensed skimmed milk is the food obtained by the partial removal of water only from a mixture of skim milk and safe and suitable nutritive carbohydrate sweeteners. The finished food contains not more than 0.5 percent by weight of milkfat unless otherwise indicated and not less than 24 percent by weight of total milk solids. The quantity of nutritive carbohydrate sweeteners used is sufficient to prevent spoilage. The food is pasteurized and may be homogenized.

(b) *Optional ingredients.* Safe and suitable characterizing flavoring ingredients, with or without coloring and nutritive carbohydrate sweeteners, as follows:

(1) Fruit and fruit juice, including concentrated fruit and fruit juice.

(2) Natural and artificial food flavoring.

(c) *Method of analysis.* The milkfat content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975, section 16.167 under "Fat—Official Final Action."[2]

[2] Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

(d) *Nomenclature.* The name of the food is "Sweetened condensed skimmed milk." The word "homogenized" may appear on the label if the food has been homogenized. If the milkfat content is over 0.5 percent by weight, the name of the food shall be accompanied by the statement "Contains ____ percent milkfat", the blank to be filled in with the fraction "½", or multiple thereof, closest to the actual milkfat content of the product. The name of the food shall be accompanied by a declaration of the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

(e) *Label declaration.* The optional nutritive carbohydrate sweetener required in paragraph (a) of this section and each of the optional ingredients specified in paragraph (b) of this section when used in the food, shall be declared on the label as required by the applicable sections of Parts 1 and 101 of this chapter.

3. By revising § 131.130 to read as follows:

**§ 131.130 Evaporated milk.**

(a) *Description.* Evaporated milk is the liquid food obtained by partial removal of water only from milk. It contains not less than 7.5 percent by weight of milkfat and not less than 25.0 percent by weight of total milk solids. Evaporated milk contains added vitamin D as prescribed by paragraph (b) of this section. It is homogenized. It is sealed in a container and so processed by heat, either before or after sealing, as to prevent spoilage.

(b) *Vitamin addition.* (1) Vitamin D shall be present in such quantity that each fluid ounce of the food contains 25 International Units thereof within limits of good manufacturing practice.

(2) Addition of vitamin A is optional. If added, vitamin A shall be present in such quantity that each fluid ounce of the food contains not less than 125 International Units thereof within limits of good manufacturing practice.

(c) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) Carriers for vitamins A and D.

(2) Emulsifiers.

(3) Stabilizers, with or without dioctyl sodium sulfosuccinate (when permitted by and complying with the provisions of § 172.810 of this chapter) as a solubilizing agent.

(4) Characterizing flavoring ingredients, with or without coloring and nutritive carbohydrate sweeteners, as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

(ii) Natural and artificial food flavoring.

(d) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975.[2]

(1) Milkfat content—"Fat—Official Final Action," section 16.154.[2]



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(2) Total milk solids—"Total Solids—Official Final Action," section 16.151.[2]

(3) Vitamin D content—"Vitamin D in Milk—Official Final Action," sections 43.166–43.179.[2]

(e) *Nomenclature.* The name of the food is "Evaporated milk". The phrase "vitamin D" or "vitamin D added", or "vitamin A and D" or "vitamins A and D added", as is appropriate, shall immediately precede or follow the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half the height of the letters used in such name. The name of the food shall include a declaration of the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

(f) *Label declaration.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Parts 1 and 101 of this chapter.

4. By adding § 131.132 to read as follows:

**§ 131.132 Evaporated skimmed milk.**

(a) *Description.* Evaporated skimmed milk is the liquid food obtained by the partial removal of water only from skim milk. It contains not less than 20 percent by weight of total milk solids, and not more than 0.5 percent by weight of milkfat unless otherwise indicated. Evaporated skimmed milk contains added vitamins A and D as prescribed by paragraph (b) of this section. It may be homogenized. It is sealed in a container and so processed by heat, either before or after sealing, as to prevent spoilage.

(b) *Vitamin addition.* (1) Vitamin D shall be present in such quantity that each fluid ounce of the food contains 25 International Units thereof within limits of good manufacturing practice.

(2) Vitamin A shall be present in such quantity that each fluid ounce of the food contains not less than 125 International Units thereof within limits of good manufacturing practice.

(c) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) Carriers for vitamin A and D.

(2) Emulsifiers.

(3) Stabilizers, with or without dioctyl sodium sulfosuccinate (when permitted by, and complying with provisions of § 172.810 of this chapter) as a solubilizing agent.

(4) Characterizing flavoring ingredients, with or without coloring and nutritive carbohydrate sweeteners, as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

(ii) Natural and artificial food flavoring.

(d) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975.[3]

(1) Milkfat content—"Fat—Official Final Action," section 16.154.[3]

(2) Total milk solids—"Total Solids—Official Final Action," section 16.151.[3]

(3) Vitamin D content—"Vitamin D in milk—Official Final Action," sections 43.166–43.179.[3]

(e) *Nomenclature.* The name of the food is "Evaporated skimmed milk." The phrase "vitamins A and D" or "vitamins A and D added", shall immediately precede or follow the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half of the height of the letters used in such name. If the milkfat content is over 0.5 percent by weight, the name of the food shall be accompanied by the statement, "Contains _____ percent milkfat", the blank to be filled in with the fraction "½", or multiple thereof, closest to the actual milkfat content of the product. The name of the food shall be accompanied by a declaration indicating the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

(f) *Label declaration.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Parts 1 and 101 of this chapter.

Interested persons may, on or before September 19, 1977, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A–107.

Dated: June 23, 1977.

HOWARD R. ROBERTS,
*Acting Director, Bureau of Foods.*

NOTE.—Incorporation by reference approved by the Director of the Office of the Federal Register on March 11, 1976. Referenced material is on file in the Federal Register Library.

[FR Doc.77–20578 Filed 7–18–77;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### [ 25 CFR 171 ]

### LEASING OF TRIBAL LANDS FOR MINING

### Definitions, Etc.

AGENCY: Bureau of Indian Affairs, Interior Department.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise 25 CFR 171 so as to define oil and gas or other mining agreements; to prescribe the responsibilities of the Area Oil and Gas and Mining Supervisor, U.S. Geological Survey; and to provide the necessary authority for said Supervisors to carry out those responsibilities.

COMMENT DATE: Comments must be received on or before August 18, 1977.

ADDRESSES: Interested persons are invited to participate in the evaluation of the proposed amendments by submitting written data, views, or arguments. Responses should identify the subject matter and be directed to the Commissioner, Bureau of Indian Affairs, U.S. Department of the Interior, Washington, D.C. 20245, with a copy to the Chief, Conservation Division, U.S. Geological Survey, National Center (650), 12201 Sunrise Valley Drive, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT:

Mr. Tommy Riggs, Division of Trust Services, Bureau of Indian Affairs, Washington, D.C. 20245 (202–343–7737).

SUPPLEMENTARY INFORMATION: The Department of the Interior proposes to amend the regulations entitled Leasing of Tribal Lands for Mining (25 CFR Part 171) by revising the definition of "supervisor" in § 171.1(b), adding a new subsection (c) to § 171.1 defining the term "oil and gas or other mining agreement," and adding a new § 171.2a to provide the approval mechanism for oil and gas or other mining agreements and to prescribe that operations conducted pursuant to said agreements are subject to the regulations contained in 25 CFR 171 and, in the absence of a conflict, to the regulations in Chapter II, 30 CFR.

The revision is proposed pursuant to the authority vested in the Secretary of the Interior by the Unallotted Indian Land Leasing Act of May 11, 1938, as amended (25 U.S.C. 396a), as an interim measure pending final revision of 25 CFR Parts 171, 177, 182, and 183 governing mineral development contracts on Indian lands which was published as proposed rulemaking in the FEDERAL REGISTER of April 5, 1977 (Vol. 42, No. 65, pp. 18083–18099).

The recent entry of certain Indian tribes into oil and gas or other mining agreements with private companies, through negotiation as authorized by 25 U.S.C. 396b, necessitates the proposed revision because the term "lease," as used in Capter II or Title 30 of the Code of Federal Regulations and the existing regulations in 25 CFR 171, does not specifically include such oil and gas or other mining agreements. As a result, the Geological Survey is without authority under 25 CFR 171 or 30 CFR 221 to provide the approval and supervisory functions relating to operations conducted pursuant to the terms of these negotiated agreements.

The proposal would amend the existing regulations in Part 171 of Title 25 of the Code of Federal Regulations to define the responsibilities of the Area Oil and Gas or Mining Supervisor with respect to these "oil and gas or other mining agreement" and to provide the necessary regulatory authority to carry out those responsibilities.





As proposed, Part 171 would be amended as follows:

**PART 171—LEASING OF TRIBAL LANDS FOR MINING**

Section 171.1(b) is revised and § 171.1 (c) is added as follows:

**§ 171.1 Definitions.**

* * * * *

(b) The term "supervisor" in this Part refers to the Area Oil and Gas or Mining Supervisor; a representative of the Secretary, subject to the direction and supervisory authority of the Director, Geological Survey; Chief, Conservation Division, and the appropriate Regional Conservation Manager, Conservation Division, Geological Survey. The supervisor is authorized and empowered to approve, supervise, and direct operations under oil and gas or other mining leases and oil and gas or other mining agreements; to furnish scientific and technical information and advice; to ascertain and record the amount and value of production; and to determine and record rentals and royalties due and paid. However, as to oil and gas or other mining agreements, or leases approved hereafter having profit-sharing provisions, the supervisor is not authorized or empowered to perform operational cost accounting functions, collect, or distribute funds resulting from any profit-sharing provisions contained therein nor to enforce those contract provisions relating to performance which are beyond the scope of the services normally provided by the supervisor for oil and gas or other mining leases approved pursuant to the proviso contained in 25 U.S.C. 396a.

(c) The term "oil and gas or other mining agreement" in this Part refers to a contract for the exploration and development of oil and/or gas or other minerals on restricted Indian lands entered into pursuant to the proviso contained in 25 U.S.C. 396b.

Section 171.2a is added as follows:

**§ 171.2a Oil and gas or other mining agreements.**

Any agreement for the exploration and development of oil and/or gas or other minerals made pursuant to the proviso contained in 25 U.S.C. 396b shall be submitted to the Superintendent prior to approval by the Secretary or his authorized delegate. When not inconsistent with the express provisions of the agreement, operations conducted pursuant to such an agreement are subject to the regulations in this Part and, in the absence of any conflict, to the regulations in Chapter II of Title 30 of the Code of Federal Regulations.

NOTE.—It has been determined that issuance of the proposed amendments to the regulations does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (83 Stat. 852, 853).

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: July 7, 1977.

CECIL D. ANDRUS,
*Secretary.*

NEGATIVE DECLARATION

In accordance with Executive Order No. 11821 and OMB Circular No. A–107, the Department of the Interior has reviewed and evaluated the inflationary effects of the proposed revision of 25 CFR 171.

The proposed modification to the regulations will not increase costs. Competition among oil and gas or other mining operators will not be affected nor will there be any appreciable effect on the number or availability of jobs.

I have determined, based on the proposal and attached Economic Impact Analysis, that approval of the proposed amended regulations does not constitute a "major" Federal action as defined by the Department of the Interior guidelines. Accordingly, the preparation of an inflation impact statement is unnecessary.

CECIL D. ANDRUS,
*Secretary.*

JULY 7, 1977.

ECONOMIC IMPACT ANALYSIS

Proposed Revision of the Leasing of Tribal Lands for Mining (25 CFR Part 171).

The proposed modification of 25 CFR section 171.1(b) updates the definition of the Area Oil and Gas or Mining Supervisor to clarify the extent of their authority; adds a new subsection (c) to 25 CFR section 171.1 to define the term "oil and gas or other mining agreement" as a contract for the exploration and development of oil and/or gas or other minerals on restricted Indian lands entered into pursuant to the proviso contained in 25 U.S.C. 396b; and adds a new section 25 CFR 171.2a to provide the approval mechanism for oil and gas or other mining agreements and to prescribe that operations conducted pursuant to said agreements are subject to the regulation contained in 25 CFR 171 and, in the absence of a conflict, to the regulations in Chapter II, 30 CFR.

The effect of this proposed revision on costs, competition, and jobs has been analyzed as follows:

1. *Costs.* The revised regulations merely define the responsibility and authority of the Area Oil and Gas or Mining Supervisor with respect to negotiated oil and gas or other mining agreements relating to restricted Indian lands. As such, there will be no significant increase in costs.

2. *Competition.* Competition among operators will not be affected by the revised regulations as the provisions will be uniformly applied to the operators of all negotiated oil and gas or other mining agreements and leases.

3. *Jobs.* Since the proposed revision imposes no new burdens on industry, the regulations will have no appreciable effect on the number or availability of jobs.

In summary, the proposed modification of 25 CFR 171.1(b) and the addition of §§ 171.1 (c) and 171.2a will not constitute a "major" inflationary action and, therefore, should not require the preparation of an Inflation Impact Statement.

[FR Doc.77–20566 Filed 7–18–77;8:45 am]

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### [ 32 CFR Part 806b ]

### [AF Reg. 12–35]

### PRIVACY ACT OF 1974

### Exemption

*Correction*

In FR Doc. 77–18798 appearing on page 33776 in the issue of Friday, July 1, 1977, in the third line of § 806.58(m)(3), the word now reading "disqualification" should read "qualification".

## VETERANS ADMINISTRATION

### [ 38 CFR Part 21 ]

### VETERANS EDUCATION

### Cooperative Courses; Remedial and Refresher Training

AGENCY: Veterans Administration.

ACTION: Proposed Regulations.

SUMMARY: The cooperative training course has a work and an in-school phase. The in-school portion must be at least as great as the work portion. The proposed rule provides that, when the student continues to work during vacation or break periods, the additional amount of work performed during such phases will not be counted against the student. This will enable the student to gain the additional work experience available during such periods without violating the basic legal requirements for cooperative training courses.

It is also proposed to amend other regulations which refer to deficiency training to add definitions of remedial and refresher training so that the reader will be aware of the meaning of these terms when they are referred to in these regulations and to indicate that those types of training are also subject to the provisions of these regulations. Designations of "wife or widow" are changed to "spouse or surviving spouse" in accordance with statutory authority.

DATES: Comments must be received on or before August 18, 1977. It is proposed to make these changes effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Ave. NW., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until August 29, 1977.

FOR FURTHER INFORMATION CONTACT:

June C. Schaeffer, Assistant Director for Benefits and Facilities, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, 202–389–2092.



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SUPPLEMENTARY INFORMATION: Section 21.4233(a)(1) is amended to clarify the intent as to the work phase of a course of training. The existing provisions require that the in-school portion of the course shall be at least as great as the work portion of a cooperative course. It was not the intent that the students be barred from working during vacation or break periods merely because the student's work phase would become the predominant portion of the course.

Sections 21.4235 and 21.4237 are amended to add definitions of remedial and refresher training to the sections concerning the Predischarge Education Program and the Special Assistance for Educationally Disadvantaged veterans, spouses and surviving spouses. Experience has indicated a tendency by educational institutions and beneficiaries to fail to understand that deficiency, remedial and refresher training are each a separate type of training.

Section 21.4272 concerning noncredit deficiency courses is amended to make clear that the existing reference to deficiency training has always been intended to include the types of training characterized as remedial or refresher. Also definitions of deficiency, remedial or refresher courses have been added.

ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), until August 29, 1977. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Inflation impact: The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Approved: July 13, 1977.

By the direction of the Administrator.

JOHN J. LEFFLER,
*Associate Deputy Administrator.*

1. In § 21.4233, paragraph (a)(1) is revised to read as follows:

**§ 21.4233 Combination.**

* * * * *

(a) *Cooperative courses.* A full-time program of education consisting of phases of school instruction alternated with training in a business or industrial establishment with such training being strictly supplemental to the school instruction may be approved. Alternating periods may be a part-day in school and a part-day on job or may be such periods which alternate on a daily, weekly, monthly or on a term basis. For purposes of approval the school offering the course must submit to the State approving agency, with its application, statements of fact showing at least the following:

(1) That the alternate in-school periods of the course are at least as long as the alternate periods in the business or industrial establishment; in determining this relationship between the two components of the course, training received in a business or industrial establishment during a vacation or officially scheduled school break period shall be excluded from the calculation; where the course is approved as continous part-time work and part-time study in combination, it shall be measured on the basis of the ratio which each portion of the training bears to full time as defined in § 21.4270 (c) and (g). The institutional portion must be at least equivalent to one-half time training and must be combined with a job training portion sufficient for the combined training to equal full time.

* * * * *

2. In § 21.4234, paragraph (d)(2) is revised to read as follows:

**§ 21.4234 Change of program.**

* * * * *

(d) *Chapter 35; spouse and surviving spouse.* * * *

(2) In any instance where the eligible spouse or surviving spouse has interrupted, or failed to progress in, her or his program due to her or his own misconduct, neglect or lack of application, there exists a reasonable likelihood with respect to the program which she or he proposes to pursue that there will not be a recurrence of such an interruption or failure to progress.

* * * * *

3. In § 21.4235, paragraphs (h) and (i) are added to read as follows:

**§ 21.4235 Predischarge education program (PREP) and special assistance for educationally disadvantaged veterans; chapter 34.**

* * * * *

(h) *Remedial course.* A special course designed to overcome a deficiency at the elementary or secondary level in a particular area of study or to overcome a handicap, such as in speech.

(i) *Refresher course.* A course at the elementary or secondary level to review or update material previously covered in a course that has been satisfactorily completed.

4. In § 21.4237, the headnote, the introductory portion of paragraph (a) preceding subparagraph (1), and paragraph (d) are revised and paragraphs (h) and (i) are added so that the revised and added material reads as follows:

**§ 21.4237 Special assistance for the educationally disadvantaged; chapter 35 spouse or surviving spouse.**

(a) *Enrollment.* Enrollment of an eligible spouse or surviving spouse may be approved in an appropriate course or courses at the secondary school level in a State if the spouse or surviving spouse:

* * * * *

(d) *Entitlement charge.* No charge will be made against the period of the entitlement of the spouse or surviving spouse because of enrollment in courses under the provisions of this section (38 U.S.C. 1733).

* * * * *

(h) *Remedial course.* A special course designed to overcome a deficiency at the elementary or secondary level in a particular area of study or to overcome a handicap, such as in speech.

(i) *Refresher course.* A course at the elementary or secondary level to review or update material previously covered in a course that has been satisfactorily completed.

5. In § 21.4272, paragraphs (f) and (g) are revised to read as follows:

**§ 21.4272 Collegiate undergraduate; credit-hour basis.**

* * * * *

(f) *Noncredit courses*—(1) *Measurement.* Except for courses leading to a high school diploma or the equivalent, noncredit courses given by an institution of higher learning shall be measured on a quarter- or semester-hour basis if considered by the institution to be the equivalent, for other administrative purposes, of undergraduate courses that lead to a standard college degree at the school. Other noncredit courses shall be measured under § 21.4270 (a), (b) or (i) as appropriate. Where the school requires the veteran or eligible person to pursue noncredit deficiency, remedial or refresher courses in order to meet certain scholastic or entrance requirements, the school will certify the credit-hour equivalent of such noncredit deficiency, remedial or refresher courses in addition to the credit hours for which the veteran or eligible person is enrolled. The course will be measured on the total credit hour and the credit-hour equivalency.

(2) *Entitlement charge.* For awards to eligible children under chapter 35, the entitlement charge for noncredit courses will be made on the same basis as measurement for payment purposes. For awards under chapter 34 and for spouses and surviving spouses, under chapter 35, no entitlement charge will be made for any noncredit deficiency, remedial or refresher course on a secondary school level.

(g) *Definitions* (1) *Deficiency Course.* A deficiency course is any secondary level course or subject not previously completed satisfactorily which is specifically required for pursuit of a post-secondary program of education.

(2) *Remedial course.* A special course designed to overcome a deficiency at the elementary or secondary level in a particular area of study or to overcome a handicap, such as in speech.

(3) *Refresher course.* A course at the elementary or secondary level to review or update material previously covered in a course that has been satisfactorily completed.

[FR Doc.77-20693 Filed 7-18-77;8:45 am]





# notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

### SELECT COMMITTEE ON EX PARTE COMMUNICATIONS IN RULEMAKING

#### Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Ex parte Communications in Rulemaking of the Administrative Conference of the United States, to be held at 2 p.m. July 28, 1977, in the offices of the Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, D.C.

The Committee will meet to consider again Professor Nathanson's draft Committee report and a proposed recommendation on the subject of treatment of ex parte communications to agency officials in informal rulemaking.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least one day in advance. The Committee Chairman may, if he deems it appropriate, permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during, or after the meeting.

For further information concerning this Committee meeting contact Richard K. Berg: 202-254-7020. Minutes of the meeting will be available on request.

RICHARD K. BERG,
*Executive Secretary.*

JULY 13, 1977.

[FR Doc.77-20696 Filed 7-18-77;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Farmers Home Administration

[Notice of Designation Number A490]

#### PENNSYLVANIA

#### Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or Aquaculture operations have been substantially affected in Erie County, Pennsylvania, as a result of a severe freeze April 29, 1977.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Milton J. Shapp that such designation be made.

Applications for emergency loans must be received by this Department no later than August 29, 1977, for physical losses and March 30, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C. this 11th day of July, 1977.

GORDON CAVANAUGH,
*Administrator,*
*Farmers Home Administration.*

[FR Doc.77-20655 Filed 7-18-77;8:45 am]

### Rural Electrification Administration

### DEPUTY ADMINISTRATOR ET AL.

#### Delegation of Authority

Pursuant to the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 et seq.) and paragraphs 2.7 and 2.72, Title 7, Code of Federal Regulations, the following delegations of authority are made by the Administrator of the Rural Electrification Administration and the Governor of the Rural Telephone Bank.

1. The Deputy Administrator, or the Acting Deputy Administrator, of the Rural Electrification Administration is delegated authority, to be exercised only during the absence or unavailability of the Administrator, to perform all the duties and exercise all the powers which are now or which may hereafter be delegated to the Administrator of the Rural Electrification Administration and the Governor of the Rural Telephone Bank.

2. The Assistant Administrator, Administration; the Assistant Administrator, Electric; the Assistant Administror, Telephone; and any other officer of the Rural Electrification Administration designated in writing by the Adminstrator, Deputy Administrator, or Acting Deputy Administrator, in the order listed, are authorized to serve as Acting Deputy Administrator, and as Acting Deputy Governor of the Rural Telephone Bank during the absence or unavailability of the Deputy Governor, or during vacancies in such offices.

These delegations shall be effective immediately and supersede all other delegations in conflict herewith.

Dated: July 13, 1977.

DAVID A. HAMIL,
*Administrator, Rural Electrification Administration, and Governor, Rural Telephone Bank.*

[FR Doc.77-20654 Filed 7-18-77;8:45 am]

## CIVIL AERONAUTICS BOARD

[Order 77-7-43; Docket 27589; Docket 27590, EDR-282]

### DOMESTIC BAGGAGE LIABILITY RULES INVESTIGATION

#### Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of July, 1977.

I. *Introduction.* These proceedings, designed to provide additional protection for passenger baggage moving in interstate or overseas air transportation, were instituted by Order to Show Cause 75-3-18 and Notice of Proposed Rulemaking EDR-282, March 6, 1975.

THE ORDER TO SHOW CAUSE

Order 75-3-18 proposed action to: (1) increase the standard liability limitation for baggage to $750 from the present level of $500; (2) require carriers to assume liability for the consequential damages of mishandled baggage; (3) prohibit a carrier from imposing any limit on liability when it has not provided passengers with notice of the limits as required by section 221.176 of Part 221 of the Board's Economic Regulations (14 CFR § 221.176); and (4) provide relief for passengers who are denied compensation for fragile, liquid or perishable items on the ground that their baggage is "unsuitable" for air transportation. The issues of the standard liability limitation and liability for consequential damages were the subject of Order 77-2-9.[1] The proposed penalty for failure to provide the notice required by section 221.176 was adopted in Order 77-4-94.

On the fourth matter raised by Order 75-3-18, that of carrier responsibility for fragile, liquid or perishable items, we did not prescribe a tentative rule. Instead, we sought suggestions and comments from the industry and other interested parties. Having reviewed these comments and suggestions,[2] we are now ready to state our tentative conclusions on how best to balance the legitimate conflicting needs of the carriers and the traveling public.

THE NOTICE OF PROPOSED RULEMAKING

This order will also deal with the issue addressed by Notice of Proposed Rulemaking EDR-282, time limits imposed by carriers on the filing of passenger claims. The proposed rule would have created an absolute bar to such limits by amending section 221.38 of Part 221 of the Economic Regulations (14 CFR § 221.38).

[1] February 2, 1977.

[2] Numerous answers and comments have been received. See Appendix.



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As indicated below, the comments on the proposal have persuaded us to modify it in significant respects. Moreover, since the rules we propose deal with substantive tariff matters, we will terminate the rulemaking proceeding and incorporate the record of that proceeding into Docket 27589 for determination here.

II. *Liability for Fragile, Liquid or Perishable Items.* One of the problems addressed by our original Order to Show Cause (Order 75–3–18) is that of liability for fragile, liquid and perishable items. In tariff Rule 340 the carriers state that they will not accept for transportation any baggage item whose "size, weight, or character renders it unsuitable for transportation" on the aircraft. Rule 370, "Liability—Baggage," then permits a carrier to disclaim liability for any baggage item which is "not acceptable" under these rules, even if the carrier has in fact accepted and transported the item.[2]

The problem here is one of balancing conflicting needs and interests. It is necessary to resolve the tension created by the carriers' duty to provide transportation on reasonable request, and their legitimate desire to avoid becoming an insurer against injuries caused by the passenger's own carelessness. At the same time, passengers need to know that the baggage they wish to carry will in fact be transported, as well as to have assurance that they will be compensated for injuries resulting from carrier fault. The problem is made more difficult by the fact that carriers do not ordinarily know the contents of the passenger's baggage or how it is packed; neither, on the other hand, is the passenger likely to have a clear understanding of the stresses that his baggage will undergo during the carrier's normal handling practices.

However, the present practice is an unsatisfactory response to the problem. As we stated in Order 75–3–18, the present tariff language is unreasonable on its face, in that, by its terms, it gives the carrier absolute immunity from liability for items falling into such undefined categories as "fragile" or "unsuitable." This immunity applies without regard to whether the carrier has notice of the nature of the article and indeed without regard to whether the nature of article is in any way related to the injury. It can thus be used to bar a claim even when the carrier knows that there is a high probability of damage and has had an opportunity to protect itself. Worse, carriers may, by the language of Rule 370, refuse to compensate passengers for fragile items, even when the damage results from gross abuse rather than the fragility of the item. In fact, liability can be disclaimed when fragile or perishable items are lost or stolen while in the carrier's possession.

[2] See also Rule 345. At the time this proceeding was instituted, the liability rules discussed herein were contained in Tariff Rules 340 and 365. This order is designed to encompass the substantive baggage liability provisions involved here, however described or numbered.

Having stated our provisional conclusion that the present tariff rules are unreasonable, Order 75–3–18 nevertheless declined to prescribe a tentative rule. While we stated that it might be that the only reasonable rule would be one imposing responsibility on the carrier for all items actually transported, we also recognized that there might be drawbacks to this aproach. We therefore invited interested persons to offer their comments on our tentative findings and to suggest alternative procedures. Upon a review of these comments, which are discussed below, and further consideration of the underlying problem and the conflicting needs of carriers and passengers, we are now ready to make specific proposals.

A number of carrier parties have defended a continuation of the existing system. They argue that it would be unfair to place the burden of risk on the carriers since the passenger has the best knowledge of the contents of his baggage. If carriers are made liable for all they transport, it is argued, they will refuse to carry many items; passengers would then have no choice but to abandon their possessions at the airport. Some carriers even envision extensive flight delays caused by the need to search every item of luggage tendered. We find these arguments unpersuasive.

As to the issue of burden, while it is true that the passenger knows the contents of his baggage, it is equally true that the carrier knows and has control over its baggage handling practices. This fact, combined with the carrier's obligations under section 404(a) to provide transportation upon reasonable request, justifies placing this burden—at least presumptively—on the airline. Furthermore, we do not believe that the parade of horribles suggested must necessarily follow any change in the present system. Indeed, certain carriers already appear to recognize that the existing rules are unfair. Thus, for example, several carriers agree that it is improper for the carrier to disclaim liability for the loss of a fragile or perishable article. Similarly, Braniff Airways says it does not apply the disclaimer except in "questionable" cases. Delta Air Lines admits liability for damage claims when there is external damage to the baggage. And Trans World Airlines has undertaken a substantial modification of its baggage liability rules in order to meet certain of our objections to the usual practices. TWA asks that we endorse its procedures.[4]

The TWA rules draw a distinction between concealed and unconcealed items. A passenger whose "unsuitable" baggage is identifiable as such is required to execute a form releasing the carrier from injuries related to the alleged unsuitable characteristic (such as damage to a fragile item). The carrier does assume liability for other injuries, such as loss or pilferage, and for all injuries to unconcealed items in cases where it has failed to obtain a release. On the other hand, TWA's tariff rules assume no liability whatsoever for damage to or by fragile items, liquids, or perishables "unsuitably packed" inside the passenger's baggage (such as items in a suitcase); nor does it assume any liability for delay in delivery of perishables.

We regard the TWA practice as an improvement over the usual carrier practice, but we believe that even this system does not provide adequate protection for passengers, particularly with regard to items contained inside the passenger's luggage. Mindful of the legitimate concerns of both the passengers and the carriers as outlined above, we tentatively conclude that the lawful baggage liability rules should be based on the following principles:

1. A distinction should be drawn between items packed in baggage and those which are un-oncealed or are in containers not customarily used for clothing and personal effects.

2. With regard to items packed in baggage, the carrier should bear the burden of showing inadequate care in packing on the part of the passenger.

3. For other items, the carrier may protect itself through a positive disclaimer system along the lines of that employed by TWA.

4. Carriers should be required to publish and maintain a list of items they deem unsuitable for air transportation, along with an indication of what care in packing would be necessary to make other items acceptable.

5. Disclaimers of liability for delay in delivery of perishable items should be limited to claims related to spoilage of the item.

Air carriers are obligated under the Federal Aviation Act to honor reasonable requests for transportation. We regard the request for carriage of ordinary and useful items—e.g. toilet articles or photography equipment etc.—as per se reasonable, since the practice is so common and the need so obvious. Yet we recognize that some of these items of ordinary usage may present more than average risks of breakage even under normal baggage handling procedures. However, the identity of this type of item is better known to air carriers than to passengers. The carriers have knowledge arising out of a full understanding of transfer and loading systems and, through their claims personnel, the carriers also have repeated exposure to the effects of loading systems on passenger baggage. Consequently, we think the primary rule should be that the carriers be required to carry ordinary baggage, but this rule should be tempered by permitting the carrier to disclaim liability for clearly unsuitable articles or for damage resulting from lack of care on the passenger's part. To effectuate this conditional disclaimer, we tentatively believe that the carriers should be permitted to file tariffs governing "fragile" items, specifying those items deemed unsuitable and the packing precautions required for items which, when precautionary steps are not taken, also present an unusual risk of damage under normal handling. These tariffs should apply to both checked and unchecked luggage, and should also provide a positive disclaimer system to govern obviously fragile items where the identity of the item is known to the carrier due to carriage in other than normal passenger luggage. We recognize that, if adopted, this plan will place great importance on the contents of tariff lists and packing instructions and we fully expect to review these lists for reasonableness and, further, to take whatever actions are necessary to insure widespread passenger knowledge concerning their existence and content.

[4] TWA's position is supported by American and Ozark.





The basis for distinguishing between items inside luggage and other items is simple. When the passenger tenders a suitcase for transportation, the carrier ordinarily has no reason to assume that it contains anything other than clothing and the usual personal items. Since there is no way the carrier can tell in advance whether the passenger was careless in packing, there is no simple way for it to protect itself. On the other hand, it is clearly unreasonable for carriers to attempt to disclaim in advance all liability for damage to items packed inside the passenger's baggage. Rather, we have tentatively determined that the carrier should bear the burden of showing lack of care by the passenger. Accordingly, we have tentatively concluded that carrier acceptance of any item should constitute prima facie evidence of its suitability for transportation.[5] The presumption created by this rule would, of course, be rebuttable by evidence of a lack of adequate care by the passenger, but the burden in the first instance would be on the carrier.

As noted, in order to facilitate the resolution of disputes regarding injuries to "unsuitable" baggage, as well as to provide additional information to passengers, we tentatively concluded that carriers should be required to publish in their tariffs a list of items they regard as unsuitable for air transportation and some indication of how an otherwise unsuitable item can be made acceptable.[6] This list would govern all baggage accompanying the passenger whether in luggage or otherwise, and whether checked or not.

[5] See corresponding freight rule, Rule 14, C.A.B. No. 96, Airline Tariff Publishing Co., Agent. Rule 14 provides in pertinent part that a carrier's acceptance of a shipment is prima facie evidence that it is properly packed for transportation. We are aware that the freight tariffs prohibit the transportation of fragile items in containers with wearing apparel. Whatever justification there may be for such a prohibition in freight shipments, we can perceive no valid carrier need to apply this prohibition to baggege.

[6] Since these lists, including reasonable packaging instructions, may bear on the extent of consumer recovery, widespread notice of their existence is essential. Therefore, if our proposals here are made final, we contemplate amending the notice provisions of Part 221.176 to include a statement regarding the packaging of fragile items.

We believe that it is patently unreasonable for passengers to be denied recovery on the basis that their baggage is "fragile" or "perishable" or "unsuitable for transportation on the particular aircraft"[7] without a more exact definition of what these terms mean and what items are included under these headings. It is our tentative view that there are no items of personal property (other than perishables) which cannot be made suitable for transportation by reasonable passenger care. If this view is correct (and we will consider any evidence to the contrary) then it is important to indicate what precautions the passenger should undertake. If there are in fact fragile or liquid items of personal property which can not be safely transported under any circumstances, the tariffs should state what these items are.[8]

Items which are not contained inside a suitcase present a somewhat simpler problem. When the carrier is confronted with a baggage item which is unconcealed or is presented for transportation in a cardboard box or other container not ordinarily used for clothing, it may be deemed to be on notice that the package may well contain fragile, perishable or liquid items. It can then inquire as to the nature of the item, and can take steps to relieve itself of liability by requiring the passenger to execute a release of the type used by TWA. Of course, the carrier may not use a release to deny liability in cases of gross abuse, and the release must be restricted to damages related to the fragile or perishable nature of the item. If the carrier takes no action to protect itself, it should be strictly liable (up to the $750 limit) for any injuries that ensue.

Finally, carriers now disclaim all liability for delay in delivery of perishable items. This, we tentatively conclude, is unnecessarily broad. The limitation on liability should include only damage caused by spoilage of the perishable item. In other respects, delay in delivery of a perishable item can create the same sort of problems as delay in delivery of a nonperishable item,[9] and we can perceive no valid reason for a carrier to disclaim liability in such a case.

A summary of the proposed rule regarding carrier liability for fragile and perishable items is set out in the tentative findings below. Objections to these proposals should identify specific areas of concern and, where possible, recommend constructive alternatives. In particular, carriers basing their objections on anticipated cost increases are directed to specify and substantiate these objections. Much of the argument over the companion issues in this proceeding (an increase in the standard liability limit to $750 and carrier responsibility for consequential damages) has centered about the question of costs—the Board's alleged failure to consider the costs involved and the carriers' failure to detail them. Consequently, we once again admonish the carriers that vague and unsupported claims of increased expenses will not suffice as evidence for this record. If it appears that data cannot be accumulated in any meaningful way prior to experience under a new rule, the carriers should so state and explain, so that we may consider what form of review will be necessary to ensure the continued reasonableness of any new rule that may be adopted herein.

III. *Time Limits on Filing Claims.* Contemporaneously with Order 75–3–18, the Board issued a Notice of Proposed Rulemaking, EDR–282.[10] We proposed to amend Part 221 of the Economic Regulations so as to prohibit the filing of tariffs containing time limits on the filing of claims for lost, damaged or delayed baggage. Presently, virtually all carriers require passengers to present formal claims within 45 days after the incident.[11] In addition, the majority require some preliminary written notice within four hours of the arrival of the flight.[12]

As we observed in EDR–282: "The vice of the time limit is its ability to trap passengers who are unaware of its existence, much less its precise requirements."[13] Thus, as one particularly harsh example, we noted that an unwary passenger could be barred from recovery for failure to submit a formal claim to the carrier, even when he has given notice of his loss to carrier personnel at the airport and subsequently engaged in correspondence about the matter with the carrier.

The carriers generally oppose our proposal, complaining that it would increase the amount of time for bringing a baggage claim to two years.[14] They argue that requiring carriers to retain unclaimed baggage for this length of time would

[7] See Rules 340 and 370.

[8] Continental, in its response to Order 75–3–18, has submitted a list of items it regards as fragile for baggage purposes (p. 6). However, it fails to indicate how fragile items (other than bicycles) can be made acceptable, and it is simply overbroad. Thus, for example, it would disclaim liability for all "garment bags of plastic or vinyl" and for all "glass items" (presumably including eyeglasses in their case).

[9] For example, if the carrier misroutes a bag which contains perishable medicine, forcing the passenger to purchase an interim supply, the carrier should be required to provide compensation for the interim supply, regardless of whether the medicine has spoiled when it finally arrives at the passenger's destination. The interim injury stems from the fact that the carrier failed to deliver an item needed by the passenger upon his arrival. It is therefore much like any other problem of delayed delivery, and is unrelated to the perishable nature of the medicine.

[10] 40 FR 11602

[11] Air New England has a limit of 30 days.

[12] See Rule 40 (B) and (C), CAB No. 142, Airline Tariff Publishing Co., Agent. Notably, Allegheny, American, Piedmont, TWA, United, and Western do not participate in the four-hour rule.

[13] EDR–282, p.2.

[14] Under Rule 40(B), all actions on baggage claims must be commenced within two years.



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cause extensive unnecessary expense and administrative burden. Thy also state that it would complicate the operation of the Airlines Computerized Baggage Tracing System (ACTS) used by a number of carriers to match claims with recovered unclaimed bags. This system is designed to store data for only 90 days. Finally, the opposing carriers argue, a passenger with a legitimate claim is unlikely to delay presenting it beyond the present time limits.

Upon consideration of the comments, we have determined to revise our proposal. While the problems and abuses which led us to issue EDR–282 are still foremost in our mind, and we continue in the view that the present procedure is unjust, we tentatively conclude that these problems can be corrected by lesser measures than those originally proposed. In addition, since our proposal involves requiring carriers to amend their tariffs, we will terminate the proceeding instituted by our Notice of Proposed Rulemaking, and proceed instead by this Order to Show Cause.

To begin with, we have been persuaded that it is not inherently unreasonable for carriers to ask passengers to present their baggage claims within 45 days. We agree that few passengers would ordinarily delay making their claim beyond that length of time.[15] The heart of the problem is that the time limit, coupled with the necessity of filing a formal claim, can serve as a trap. We therefore now propose to allow carriers to retain the general rule requiring notice within 45 days, as long as two additional measures are taken to protect the legitimate interests of consumers. We tentatively find any lesser period for notice, including the four-hour rule, unreasonable on its face.

First, we tentatively conclude that the notice requirement should be deemed satisfied if the carrier receives any writing within the 45-day period sufficient to apprise it of the fact that there was a problem with the passenger's baggage. Recovery should not be barred for failure to file a formal claim within the specified period if the carrier has received written notice of the existence of the claim. The carrier's legitimate interest in a time limitation extends only as far as is necessary for it to have the opportunity to minimize the damage to the passenger and to itself (such as by locating the mishandled bags). The formal claim requirement, to the extent that it bars recovery on baggage claims about which the carrier has substantive notice, is a totally unreasonable procedural obstacle. It goes without saying that the carrier may require additional information from the passenger if it is needed to identify the baggage. But we believe that once a passenger has informed the carrier in writing of his claim, the carrier should not be permitted to allege lack of notice.[16]

Second, we have tentatively concluded that the requirement for filing claims within 45 days should not serve as a bar when the passenger can show good cause for failure to file within the required period. At present, the tariffs provide that the time limit is not applicable "if the claimant establishe(s) to the satisfaction of the carrier that he was unable to give" the required notice on time.[17] In the Liability and Claims Rules and Practices Investigation [18] we held that freight shippers are entitled to recover, even if they have failed to make their claim within the specified 15 days, when they can show good cause for their failure to do so. We tentatively conclude that passengers should be accorded similar protection. This rule will further serve to prevent unreasonable application of the time limitations.

In consideration of the foregoing it is tentatively found that:

1. Any tariff rule applicable to the interstate or overseas air transportation of persons, is and will be unlawful to the extent:

(a) That it disclaims liability for loss of, damage to, or delay in delivery of personal property, including baggage, other than for damage resulting from the fragile or perishable nature of a particular item, or

(b) That is fails to provide:

(i) With respect to items of personal property, including carry-on luggage, contained within a suitcase or other container customarily intended for use in the personal transportation of clothing, that carrier acceptance of any item for air transportation is and will be prima facie evidence of its suitability for transportation, and that the carrier accepts liability for such items except to the extent that it can demonstrate lack of adequate care on the part of the passenger;

(ii) With respect to other items of personal property, that the carrier is and will be liable for any item actually transported: *Provided, however*, That the carrier may require the execution of a document releasing the carrier from liability for damage resulting from the fragile or perishable nature of a particular item.

2. The lawful tariff rule in interstate and overseas air transportation concerning limitations on carrier liability for personal property, including baggage, shall be one that:

(a) Assumes liability for loss, damage, or delay in delivery of any item of personal property which the carrier has actually transported, other than for damage resulting from the fragile or perishable nature of a particular item;

(b) Provides, with respect to items of personal property including carry-on luggage, contained within a suitcase or other container customarily intended for use in the personal transportation of clothing, that carrier acceptance of any item constitutes prima facie evidence of its suitability for transportation, and that the carrier accepts liability for such items except to the extent that it can demonstrate lack of adequate care on the part of the passenger; and

(c) Provides, with respect to other items of personal property, that the carrier is and will be liable for any item actually transported, unless the passenger has executed a document releasing the carrier from liability for damage resulting from the fragile or perishable nature of a particular item.[19]

3. All certificated air carriers engaged in the interstate or overseas air transportation of persons should be required to include in any tariff rule concerning limits on their liability for passengers' personal property or baggage, a list of items which the carrier deems fragile, perishable, or otherwise unsuitable for air transportation, or unsuitable without particular care in packing. For those items requiring particular care in packing, the tariff should indicate what packing precautions are necessary. Failure on the part of the passenger to comply with packing precautions specified by lawful tariff rule shall be evidence of a lack of adequate care.

4. Rule 40(B), Airline tariff Publishers, C.A.B. No. 142, and any other tariff applicable to the interstate or overseas air transportation of persons is and will be unjust to the extent that it (a) embodies a time limitation on the filing of baggage claims of less than 45 days; (b) fails to waive such time limitation when the passenger can show good cause for failure to comply with this 45-day limit; or (c) fails to provide that any written communication received by the carrier within the time limit which is sufficient to inform the carrier of the nature of the claim is and will be sufficient to meet the requirements for timely notice.

5. The lawful rule in interstate and overseas air transportation concerning limitations on the time for filing claims for loss, damage or delay in delivery of personal property, including baggage, shall be one that:

(a) Provides a period of not less than 45 days following the occurrence of the events giving rise to the claim for the filing of claims;

(b) Waives the time limitation when the passenger can show good cause for failure to bring his claim within the provided period; and

(c) Provides that any written notice received by the carrier within the time limit which is sufficient to inform the carrier of the nature of the claim is and will be sufficient to meet the requirements for timely notice.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, 407(a), 416(a), and 1002 thereof;

*It is ordered*, That: 1. All air carriers certificated to engage in interstate or overseas air transportation of persons, and all other interested persons, are hereby directed to show cause why the Board should not make final its tentative findings and conclusions herein;

2. Objections filed pursuant to paragraph 1 shall set forth in detail any facts upon which the objection is based and shall contain any economic data or other material which it is desired that the Board officially notice. Such objections shall be filed within 30 days after the service of this order. Any interested person may within 15 days thereafter file an answer to any of the objections. Answers shall set forth any economic data or other material upon which they are based.

A list of all persons filing objections will be prepared by the Docket Section and sent to the persons named thereon. Those persons filing answers should serve any person whose objection is dealt with in their answer.

Those persons planning to file objections and/or answers who wish to be served with the objections and answers filed by others, and who are willing to undertake service of their own filings on others, shall file with the Docket Section by July 22, 1977, a request to be placed on the service list in Docket No. 27589. The service list will be prepared by the Docket Section and sent to the persons named thereon. The persons on the service list are to serve each other with their objections and/or answer at the time of filing, and to include appropriate proof of service (Rule 3(e), 14 CFR 302.8(e)) with each filing. Those persons already on the service list in Docket 27589 need not file another request.

Parties requesting an evidentiary on-the-record hearing in this matter shall set forth in detail the reasons therefor, accompanied by a statement of the facts which they intend to develop in a hearing;

3. Any carrier submitting an objection to the tentative conclusions based on whole or part on the added cost of the proposed findings will include in its responses a detailed estimate of (1) the added costs that would be incurred in the event that the proposals contained in this show cause order were made final; (2) data indicating the carrier's current claims cost, including insurance and the costs associated with in-house processing of baggage claims; and (3) such other financial and statistical data as in the opinion of the carrier are necessary for a complete factual record. Carrier responses should explicitly set forth all sources, procedures and allocation methods needed for a proper understanding of their submissions;

4. The matters raised in Docket 27590 relating to time limits on filing baggage liability claims in interestate and overseas air transportation be and they hereby are consolidated into the Domestic Baggage Rules Investigation, Docket 27589.

5. The motions of United Air Lines and the Department of Health, Education and Welfare are granted.

6. This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[20]

PHYLLIS T. KAYLOR,
*Secretary.*

APPENDIX

PARTICIPANTS

The following persons filed comments in Docket 27590 to Notice of Proposed Rulemaking EDR–282. For a list of participants in Docket 27589, see Order 77–2–9, Attachment A.

Air Canada
Air Jamaica
Alaska Airlines
Alitalia Linee Aeree Italiano
Allegheny Airlines
American Airlines
Aspen Airways
Aviation Consumer Action Project
Braniff Airways
Compagnie Nationale Air France
Continental Air lines
Delta Air Lines
Department of Health, Education, and Welfare
Eastern Air Lines
Frontier Airlines
Hughes Airwest
KLM Royal Dutch Airlines
National Air Carrier Association
National Airlines
National Industrial Traffic League
Office of the Consumer Advocate
Ozark Air Lines
Pacific Western Airlines
Scandinavian Airline System
Trans World Airlines
United Air Lines
Western Air Lines

[FR Doc.77–20540 Filed 7–18–77;8:45 am]

## CIVIL SERVICE COMMISSION

### FEDERAL EMPLOYEES PAY COUNCIL

#### Cancellation of Meeting

Notice is given of the cancellation of the meeting of the Federal Employees Pay Council of July 20, 1977, which was announced in the FEDERAL REGISTER on June 28, 1977 (42 FR 32823).

Dated: July 15, 1977.

For the President's agent.

RICHARD H. HALL,
*Committee Management Officer for the President's agent.*

[FR Doc.77–20792 Filed 7–18–77;8:45 am]

## DEPARTMENT OF COMMERCE

### Domestic and International Business Administration

### IMPORTERS' TEXTILE ADVISORY COMMITTEE

#### Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975) notice is hereby given that a meeting of the Importers' Textile Advisory Committee will be held on August 4, 1977 at 10:30 a.m. in Room 1434, Federal Office Building, 26 Federal Plaza, New York, New York 10007.

The Committee was established by the Secretary of Commerce on August 13, 1963 to advise U.S. Government officials of the effects on import markets of cotton, wool and man-made fiber textile agreements.

The agenda for the meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the DIBA Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202–377–5078.

Dated: July 13, 1977.

ARTHUR GAREL,
*Director, Office of Textiles.*

[FR Doc. 77–20592 Filed 7–18–77;8:45 am]

### Maritime Administration

[Docket No. S–563]

#### Amended Notice of Multiple Applications

In FR Doc. 77–19209, appearing in the FEDERAL REGISTER on July 6, 1977 (42 FR 34542) notice was given that several Applicants (eight in number), holders of long-term operating-differential subsidy contracts in the worldwide bulk trades had filed applications to amend their respective contracts to include the transportation of liquid bulk cargo under the cargo preference laws of the United States, including, but not limited to, 10 U.S.C. 2631, 46 U.S.C. 1241 and 15 U.S.C. 616a. Interested parties were given until close of business July 18, 1977 to offer

[15] In the survey of baggage claims data filed pursuant to Order 75–3–18, only 1.7% of all claims were denied because of the passenger's failure to present his claim in a timely manner.

[16] United expressed this conclusion as follows: "United proposes industry adoption of United's practice of accepting any written notice of a loss or damage as satisfying the forty-five day time limit for filing a claim for the reason that it is the notice of loss that is important and not the formality of filling out a form entitled 'claim'." See comments of United Air Lines.

[17] See Rule 40(B), supra, note 12.

[18] Order 76–3–139.

[19] The form of the "release" shall be included in the tariff filing.

[20] All members concurred except Chairmen Kahn who did not participate.







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views and comments thereon for consideration by the Maritime Subsidy Board.

Upon request made and good cause shown by counsel for American Maritime Association, the date for submission of comments is hereby extended to close of business on July 26, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidities (ODS))

By Order of the Maritime Subsidy Board/Maritime Administration.

Date: July 13, 1977.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.77-20653 Filed 7-18-77;8:45 am]

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## National Oceanic and Atmospheric Administration

### FISHERY MANAGEMENT PLAN FOR TANNER CRAB FISHERY OFF ALASKA

### Availability of Draft Environmental Impact Statement and Fishery Management Plan and Notice of Public Hearings

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Oceanic and Atmospheric Administration, Department of Commerce, and the North Pacific Fishery Management Council have jointly prepared a draft environmental impact statement for the proposed implementation of the fishery management plan for Tanner Crab Fishery off Alaska.

In accordance with provisions of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), the plan has been prepared by the North Pacific Fishery Management Council and requires approval by the Secretary of Commerce prior to its implementation.

The environmental statement concerns a proposal to adopt and implement a fishery management plan for the Gulf of Alaska Groundfish Fishery pursuant to the Fishery Conservation and Management Act of 1976, which extends U.S. jurisdiction over marine fishery resources to 200 nautical miles and establishes a program for their management. Upon approval, the plan will serve to manage Tanner Crab fishery resources in the Gulf of Alaska for optimum yield and to determine foreign surplus. The plan recommends certain conservation measures designed to prevent overfishing and to maintain an orderly fishery. These proposed measures include time-area closures, gear restrictions, and quotas.

Individuals or organizations wishing to comment on the draft environmental impact statement/fishery management plan may also do so at public hearings to be held at the times and locations located below:

(a) Petersburg, Alaska, Wednesday, August 3d, 9 a.m. Petersburg City Council Chambers.

(b) Seattle, Wash., Friday and Saturday, August 5th and 6th, 9 a.m., Seatac Hilton Hotel, 17620 Pacific Highway, South, Seattle, Wash.

(c) Anchorage, Alaska, Monday, August 22d, 8:30 a.m. State Supreme Court Chambers, Sate Court Bldg., 3d and K Sts.

(d) Sand Point, Alaska, Tuesday, August 23d, 9 a.m., City Hall.

(e) Kodiak, Alaska, Wednesday, August 24th, 9 a.m., Elks Lodge, Marine Way.

Copies of the DEIS/DFMP's are available for public review at the following locations:

ANCHORAGE

Department of Fish and Game, 333 Raspberry Rd., Anchorage, Alaska 99502.
National Marine Fisheries Service, room 408, Hill Bldg., 632 West 6th Ave., Anchorage, Alaska 99501.
Z. J. Loussac Public Library, 427 First St., Anchorage, Alaska 99501.
North Pacific Fishery Management Council, suite 32, 333 West 4th Ave., Post Office Mall Bldg., Anchorage, Alaska 99501.

BETHEL

Department of Fish and Game, Bethel, Alaska 99559.
Bethel Public Library, Bethel, Alaska 99559.

CORDOVA

Department of Fish and Game, Cordova, Alaska 99574.
Cordova Public Library, Cordova, Alaska 99574.

DILLINGHAM

Department of Fish and Game, Dillingham, Alaska 99576.
Dillingham Public Library, Dillingham, Alaska 99576.

FAIRBANKS

Department of Fish and Game, 1300 College Rd., Fairbanks, Alaska 99701.
Fairbanks North Star Borough Public Library 901 1st Ave., Fairbanks, Alaska 99701.

HOMER

Department of Fish and Game, Homer, Alaska 99603.
Homer Public Library, Homer, Alaska 99603.

JUNEAU

Department of Fish and Game, Southeast Regional Office, 210 Ferry Way, Juneau, Alaska 99801.
Department of Fish and Game, Commissioner, Subport Bldg., Juneau, Alaska 99801.
National Marine Fisheries Service, room 453, Federal Bldg., Juneau, Alaska 99801.
Juneau Memorial Library, 114 West 4th St., Juneau, Alaska 99801.

KETCHIKAN

Department of Fish and Game, 208 State Court and Office, Bldg., 415 Main St., suite 208, Ketchikan, Alaska 99901.
Ketchikan Public Library, 629 Dock St., Ketchikan, Alaska 99901.

KODIAK

Department of Fish and Game, Kodiak, Alaska 99615.
A. Holmes Johnson Memorial Library, Kodiak, Alaska 99615.
National Marine Fisheries Service, Gibson Cove, Kodiak, Alaska 99615.

KOTZEBUE

Kotzebue Public Library, Kotzebue, Alaska 99752.

PETERSBURG

Department of Fish and Game, Swanson Bldg., Petersburg, Alaska 99833.
Petersburg Public Library, Petersburg, Alaska 99833.

SAND POINT

Department of Fish and Game, Sand Point, Alaska 99661.
Sand Point Community/Scholl Library, Sand Point, Alaska 99661.

SEWARD

Department of Fish and Game, Seward Court Bldg., Seward, Alaska 99664.

SITKA

Department of Fish and Game, State Office Bldg., Sitka, Alaska 99835.
Kedelson Memorial Library, Sitka, Alaska 99835.

UNALASKA

Department of Fish and Game, c/o Standard Oil Dock, Dutch Harbor, Alaska 99695.
Unalaska/School/Community Library, Unalaska, Alaska 99685.

VALDEZ

Department of Fish and Game, Valdez, Alaska 99686.
Valdez Public Library, Valdez Alaska 99686.

WRANGELL

Department of Fish and Game, Wrangell, Alaska 99929.
Wrangell Public Library, Wrangell, Alaska 99929.

YAKUTAT

Department of Fish and Game, Yakutat, Alaska 99689.

Limited numbers of the DEIS/DFMP's will be available from the Executive Director, North Pacific Fishery Management Council, Suite 32, 333 West 4th Avenue, Post Office Mall Building, Anchorage, Alaska 99510, and the Director, Regional Office, National Marine Fisheries Service, Box 1668, Juneau, Alaska 99802. Written comments on the DEIS/DFMP's from members of the public may be submitted not later than September 1, 1977, to the North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510.

This Notice of Availability is being published at the request of and in cooperation with the North Pacific Fishery Management Council.

Dated this 14th day of July 1977 at Washington, D.C.

WINFRED H. MEIBOHM,
*Associate Director, National Marine Fisheries Service.*

[FR Doc.77-20709 Filed 7-18-77;8:45 am]

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### MID-ATLANTIC FISHERY MANAGEMENT COUNCIL AND ITS SCIENTIFIC AND STATISTICAL COMMITTEE

#### Public Meeting

Notice is hereby given of meetings of the Mid-Atlantic Fishery Management Council established by Section 302, and the Council's Scientific and Statistical Committee established by Section 302(g) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The Mid-Atlantic Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, and Virginia. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to fisheries within its area of authority, prepare comments on foreign fishing applications, and conduct public hearings.

The Scientific and Statistical Committee assists the Council in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to the Council's development and amendment of fishery management plans.

The meeting of the Scientific and Statistical Committee will be held on August 8 and 9, 1977, from 10 a.m. to 4 p.m. and 9 a.m. to 3 p.m. respectively, at the Hotel Hershey, Hershey, Pennsylvania 17033. The meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

1. Mackerel Management Plan.
2. Administrative Matters.
3. Other Business.

This meeting is open to the public and there will be seating for approximately 20 public members available on a first-come, first-served basis.

The meeting of the Council will be held on August 10 and 11, 1977, 9 a.m. to 3 p.m., at the Hotel Hershey, Hershey, Pennsylvania 17033. The meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

1. Surf Clam/Ocean Quahog Management Plan.
2. Mackerel Plan.
3. Report of Foreign Fishing Activity.
4. Status of Squid Plan.
5. Status of Other Management Plans.
6. Other Management Business.

This meeting is open to the public and there will be seating for approximately 30 public members available on first-come, first-served basis.

Members of the public having an interest in specific items for discussion are also advised that agenda changes are, at times, made prior to the meetings. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about July 29, 1977:

Mr. John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, North and New Streets, Dover, Delaware 19901.

At the discretion of the Council and its Committee, interested members of the public may be permitted to speak at times which will allow the orderly conduct of business. Interested members of the public who wish to submit written comments should do so by addressing Mr. John C. Bryson at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the meetings.

Dated: July 14, 1977.

WINFRED H. MEIBOHM,
*Associate Director, National Marine Fisheries Service.*

[FR Doc.77-20708 Filed 7-18-77;8:45 am]





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## COMMISSION OF FINE ARTS

### MEETING

The Commission of Fine Arts will meet in open session on Tuesday, July 26, 1977 at 10 a.m. in the Commission offices at 708 Jackson Place NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington, D.C.

This notice confirms notice given in the FEDERAL REGISTER on January 11, 1977, 42 FR 2337.

Inquires regarding the agenda and/or requests to submit written or verbal statements should be addressed to: Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C., July 14, 1977.

CHARLES H. ATHERTON,
*Secretary.*

[FR Doc.77-20672 Filed 7-18-77;8:45 am]

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## COMMITTEE FOR PURCHASE FROM BLIND AND OTHER SEVERELY HANDICAPPED

### PROCUREMENT LIST 1977 ADDITION

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1977 a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: July 19, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On April 11, 1977, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (42 FR 18883) of proposed additions to Procurement List 1977, November 18, 1976 (41 FR 50975).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following service is hereby added to Procurement List 1977:

*SIC 7349*

Janitorial/Custodial Service, Federal Building, 400 S. Clinton, Iowa City, Iowa.

C. W. FLETCHER,
*Executive Director.*

[FR Doc.77-20815 Filed 7-18-77;8:45 am]

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## COMMODITY FUTURES TRADING COMMISSION

### REGULAR COMMISSION MEETINGS

#### Public Participation

The Commission has approved a policy of allowing representatives of the public and industry an opportunity to address the Commission during its regular open meetngs. As approved, the policy is:

1. Following publication of the Commission agenda in the FEDERAL REGISTER, any member of the public or industry wishing to address the Commission on a specific agenda item will notify the Office of the Secretariat three days in advance of the meeting. Such notification must include a brief reason for the request to appear.

2. As soon as the request is received, the Secretariat will advise the Commissioners. At the discretion of the Chairman or the presiding Commissioner, such requests will be honored unless an objection to the appearance and testimony is raised by a member of the Commission.

3. The Secretariat will advise the individual of the disposition of the request at least 24 hours prior to the scheduled meeting.

Issued in Washington, D.C., on July 14, 1977.

By the Commission.

WILLIAM T. BAGLEY,
*Chairman, Commodity Futures Trading Commission.*

[FR Doc.77-20682 Filed 7-18-77;8:45 am]

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

### DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

#### Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that closed meetings of the DIA Scientific Advisory Committee will be held at the Pentagon, Washington, D.C., on Monday and Tuesday, September 19-20, 1977.

The entire meetings commencing at 0900 hours are devoted to the discussion of classified information as defined in Section 552(b)(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Committee will receive briefings on and discuss several current critical intelligence issues and advise the



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Director, DIA on related scientific and technical intelligence matters.

MAURICE W. ROCHE,
*Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).*

JULY 14, 1977.

[FR Doc.77-20701 Filed 7-18-77;8:45 am]

## Department of the Navy

### MICROWAVE OVEN SURVEY

#### Memorandum of Understanding With the Food and Drug Administration

CROSS REFERENCE: For a document giving notice of a memorandum of understanding between the Bureau of Medicine and Surgery and the Food and Drug Administration regarding certain related objectives in carrying out a microwave oven survey program, see FR Doc. 77-20574 appearing in the notices section of this FEDERAL REGISTER.

## Office of the Secretary

### CHEMICAL PROPULSION ADVISORY COMMITTEE

#### Meeting

JULY 11, 1977.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463) announcement is made of the following committee meeting:

NAME: JANNAF Advisory Working Group on Safety and Environmental Protection, Hazard Evaluation Committee.

DATE: August 2-4, 1977.

PLACE: Ballistic Research Laboratory, Bldg 330, Aberdeen Proving Ground, Md. 21005.

TIME: Initial meeting 9 a.m., August 2.

PROPOSED AGENDA: The Hazard Evaluation Committee will conduct a review of CPIA/194, Hazard of Chemical Rockets and Propellants Handbook, to estimate the magnitude of updating this manual and the conversion to metric units. A revised outline of CPIA/194 will be considered. Working sessions for the subcommittees, Incident Analysis, Criteria Evaluation and Test Evaluation will consider preparation of reports on past work and plans for future work. Topics of papers and preparation of draft papers for presentation at the Specialist Sessions of the JANNAF Annual Propulsion Meetings will be discussed.

PURPOSE OF THE MEETING: The working group endeavors to define the nature and extent of hazards to personnel and to the environment of all aspects of propulsion systems from manufacture to launch; the goal is to provide guidelines for safe management of those activities and processes and for the prevention of catastorphic incidents.

Meeting of the Advisory Working Group is open to the public. Public attendance, depending on available space, may be limited to those persons who have notified the Advisory Working Group chairman in writing at least three (3) days prior to the meeting, of their intention to attend.

Any member of the public may file a written statement with the Working Group chairman before, during, or after the meeting. To the extent that time permits, the committee chairman may allow public presentation of oral statements at the meeting.

All communication regarding this Advisory Working Group should be addressed to:

Mr. J. F. Voeglein, Jr., Chemical Systems Laboratory, Attn: DRDAR-CLF, Aberdeen Proving Ground, Md. 21010.

MR. J. F. VOEGLEIN, JR.,
*Chemical Systems Laboratory Chairman, Incident Analysis Subcommittee of Hazard Evaluation Committee.*

[FR Doc.77-20567 Filed 7-18-77;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-50305; FRL 763-3]

### AGRICULTURE DEPARTMENT, ET AL.

#### Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 11312-EUP-21. U.S. Department of Agriculture, Hyattsville, Maryland 20782. This experimental use permit allows the use of 1.83 pounds of the insecticide N-[[(4-Chlorophenyl) amino] carbonyl]-2,6-difluorobenzamide on forest areas to evaluate control of Gypsy moth. A total of 24 acres is involved; the program is authorized only in the State of Pennsylvania. The experimental use permit is effective from May 6, 1977, to May 6, 1978. This permit and permit No. 11312-EUP-22, which appears in another Federal Register document, will use the same active ingredient, but different formulations.

No. 35963-EUP-3. North Dakota State University, Fargo, North Dakota 58102. This experimental use permit allows the use of 154.1 pounds of the insecticide malathion on flax to evaluate control of grasshoppers. A total of 150 acres is involved; the program is authorized only in the State of North Dakota. The experimental use permit is effective from May 6, 1977, to May 6, 1978. This permit is being issued with the condition that flax meal derived from treated flax will be destroyed or used for research purposes only, and that flax straw from treated flax will be plowed under and not grazed or cut for forage.

No. 4581-EUP-16. Penwalt Corporation, King of Prussia, Pennsylvania 19406. This experimental use permit allows the use of 8,842 pounds of the insecticide methyl parathion on apples, artichokes, barley, beans, corn, cotton, grapes, oats, onions, pasture, pears, peas, rangeland, rice, soybeans, stone fruits, tomatoes, and wheat to evaluate control of various insects. A total of 14,015 acres is involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisina, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Utah, Virginia, Washington, Wisconsin, and Wyoming. The experimental use permit is effective from May 5, 1977, to May 5, 1978. Permanent tolerances for residues of all the items listed above have been established (40 CFR 180.169).

No. 359-EUP-54. Rhodia, Inc., Monmouth Junction, New Jersey 08852. This experimental use permit allows the use of 360 pounds of the herbicide oxadiazon and 585 pounds of the herbicide alachlor in a tank mixture to evaluate control of various weeds. A total of 420 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Minnesota, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Virginia, Wisconsin, and Michigan. The experimental use permit is effective from May 5, 1977, to May 5, 1978. This permit is being issued with the condition that soybeans treated under this permit will be used for seed production or research purposes only.

No. 38338-EUP-3. Idaho Agricultural Experiment Station, University of Idaho, Moscow, Idaho 83843. This experimental use permit allows the use of 30 pounds of microencapsulated methyl parathion used as an insecticide on rape seed to evaluate the residual hazard of the material to the honey bee. A total of 40 acres is involved; the program is authorized only in the State of Idaho. The experimental use permit is effective from May 9, 1977, to May 9, 1978. A tolerance for residues of the active ingredient in or on rape seed has been established (40 CFR 180.121).

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated July 8, 1977.

DOUGLAS D. CAMPT,
*Acting Director, Registration Division.*

[FR Doc.77-20560 Filed 7-18-77;8:45 am]

[OPP-50309; FRL 763-5]

### AMERICAN CYANAMID CO., ET AL.

#### Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 241-EUP-67. American Cyanamid Company, Princeton, New Jersey 08540. This experimental use permit allows the use of 180 pounds of the insecticide O,O-dimethyl O-p-(dimethylsulfamoyl) phenyl phosphorothioate to evaluate control of lice on cattle. Approximately 1,800 head of cattle are involved; this program is authorized only in the States of California, Indiana, Nebraska, Pennsylvania, South Dakota, and Texas. The experimental use permit is effective from May 26, 1977, to May 26, 1978. A permanent tolerance for residues of the active ingredient in or on the fat, meat and meat byproducts of cattle has been established (40 CFR 180.233).

No. 1239-EUP-20. Nor-Am Agricultural Products, Inc., Woodstock, Illinois 60098. This experimental use permit allows the use of 110 pounds of the herbicides phenmedipham and desmedipham in a tank mixture on sugarbeets to evaluate control of various weeds by aerial application. A total of 120 acres is involved; the program is authorized only in the States of California, Idaho, Nebraska, Texas and Washington. The experimental use permit is effective from May 25, 1977, to May 25, 1978. Permanent tolerances for residues of the active ingredient in or on sugarbeets have been established (40 CFR 180.278 and 180.353).

No. 2139-EUP-21. Nor-Am Agricultural Products, Inc., Woodstock, Illinois 60098. This experimental use permit allows the use of 100 pounds of the herbicide desmedipham on sugarbeets to evaluate control of redroot pigweed, and other weeds. A total of 60 acres is involved; the program is authorized only in the States of California, Idaho, Nebraska, Texas and Washington. The experimental use permit is effective from May 25, 1977, to May 25, 1978. A permanent tolerance for residues of the active ingredient in or on sugarbeets has been established (40 CFR 180.353).

No. 11312-EUP-19. U.S. Department of Agriculture, Hyattsville, Maryland 20782. This experimental use permit allows the use of 32 pounds of the insecticide carbaryl to evaluate control of Gypsy moth larvae. A total of 24 acres in involved; the program is authorized only in Clinton County, Pennsylvania. The experimental use permit is effective fro June 4, 1977, to June 4, 1978.

Interested parties, wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. S.W., Washington, D.C. 20460. It is suggested that such interested person call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4.00 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: July 8, 1977.

DOUGLAS D. CAMPT,
*Acting Director, Registration Division.*

[FR Doc.77-20562 Filed 7-18-77;8:45 am]





[PF74; FRL 763-1]

### CHEVRON CHEMICAL CO.

#### Pesticide and Food Additive Petitions; Filing

The Environmental Protection Agency has received the following petitions for consideration:

PP 7F1962. Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond, CA 94804. Proposes that 40 CFR 180.267 be amended by the establishing of a tolerance for residues of the fungicide captafol, cis-N-[(1,1,2,2-tetrachloroethyl)thio]-4-cyclohexene-1,2-dicarboximide in or on the raw agricultural commodities soybeans at 1 part per million (ppm), soybean forage at 15 ppm and soybean hay at 45 ppm. Proposed analytical method for determining residues is gas chromatography with flame photometric and electron capture detectors. PM21 (202/426-2454)

FAP 7H5166. Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond, CA 94804. Proposes amending 21 CFR 561 by establishing a regulation permitting the use of the fungicide captafol, cis-N-[(1,1,2,2-tetrachlorethyl) thio]-4-cyclohexene-1,2-dicarboximide, on growing soybeans with a tolerance limitation of 3 ppm in soybean hulls. PM21 (202/426-2454)

Interested persons are invited to submit written comments on the petitions to the FEDERAL REGISTER Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning specific petitions may be directed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at the numbers cited. Written comments should bear a notation indicating the number of the petition to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments received will be available for public inspection in the office of the FEDERAL REGISTER Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: July 8, 1977.

DOUGLAS D. CAMPT,
*Acting Director, Registration Division.*

[FR Doc.77-20589 Filed 7-18-77;8:45 am]

[OPP-50311; FRL 763-7]

### GAF CORP., ET AL.

#### Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 1529-EUP-2. GAF Corporation, New York, New York 10020. This experimental use permit allows the use of 1000 pounds of the plant regulator ethephon on pineapples. A total of 600 acres is involved; the program is authorized only in the State of Hawaii. The experimental use permit is effective from May 27, 1977, to May 27, 1978. Permanent tolerances for residues of the active ingredient in or on pineapples have been established (40 CFR 180.300).

No. 2224-EUP-11. Mobil Chemical Company, Richmond, Virginia 23261. This experimental use permit allows the use of 812.5 pounds of the herbicide bifenox on rice to evaluate control of duck salad, redstem and water hyssop. A total of 325 acres is involved; the program is authorized only in the States of Arkansas, California, Louisiana, Mississippi, and Texas. The experimental use permit is effective from May 27, 1977, to May 27, 1978. Temporary tolerances for residues of the active ingredient in or on rice have been established.

No. 1706-EUP-2. Nalco Chemical Company, Oak Brook, Illinois 60521. This experimental use permit allows the use of 900 pounds of the fungicide n-alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides and n-alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides in drip irrigation systems to control biological slimes. A total of 80 acres is involved; the program is authorized only in the State of California. The experimental use permit is effective from May 27, 1977, to May 27, 1978.

No. 11273-EUP-12. Sandoz, Inc., Homestead, Florida 33030. This experimental use permit allows the use of 2.074 pounds of the herbicide elemental copper in water reservoirs, lakes and ponds to evaluate control of American elodea, Brazilian elodea, chara, coontail, Eurasian watermilfoil, and southern malan, widegeongrass. A total of 283 acres is involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Mississippi, Missouri, New Jersey, North Carolina, Oregon, South Carolina, Texas, and Washington. The experimental use permit is effective from May 27, 1977, to May 27, 1978.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: July 8, 1977.

DOUGLAS D. CAMPT,
*Acting Director, Registration Division.*

[FR Doc.77-20564 Filed 7-18-77;8:45 am]

[OPP-50312; FRL 763-8]

### HOFFMAN-LA ROCHE, INC., ET AL.

#### Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and sub-



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ject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 35977-EUP-3. Hoffman-La Roche, Inc., Nutley, New Jersey 07110. This experimental use permit allows the use of 4.96 pounds of the plant growth regulator 1 - (3,7-dimethyloctyl)-1-(2-propenyl) piperidenium bromide to evaluate shortening and strengthening of chrysanthemums and certain other ornamental plants. A total of 6.5 acres is involved; the program is authorized only in the States of California, Florida, North Carolina, Ohio, and Texas. The experimental use permit is effective from June 6, 1977, to June 6, 1978.

No. 379-EUP-1. Creative Sales, Inc., Fremont, Nebraska 68025. This experimental use permit allows the use of 186 pounds of the insecticide acephate in ornamental trees to evaluate control of ornamental tree insect pests. Approximately 5,400 trees are involved; the program is authorized only in the States of Arizona, California, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Connecticut, Georgia, Michigan, Minnesota, Missouri, Nebraska, New Jersey, Massachusetts, Mississippi, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Wyoming, Wisconsin, and Washington. The experimental use permit is effective from June 3, 1977, to June 3, 1978.

No. 2224-EUP-4. Mobil Chemical Company, Richmond, Virginia, 23261. This experimental use permit allows the use of 3,265 pounds of the herbicide bifenox on barley, oats, rice, wheat, corn and sorghum to evaluate control of various weeds. A total of 1,633 acres is involved; the program is authorized only in the States of Arizona, Arkansas, California, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New York, North Carolina, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from June 3, 1977, to May 16, 1978. Temporary tolerances for residues of the active ingredient in or on barley, oats, rice, wheat, and sorghum have been established. A permanent tolerance for residues of the active ingredient in or on corn has been established (40 CFR 180.351).

No. 2224-EUP-5. Mobil Chemical Company, Richmond, Virginia 23261. This experimental use permit allows the use of 4,877.5 pounds of the herbicide bifenox on barley, oats, rice, wheat, corn and sorghum to evaluate control of various weeds. A total of 2,640 acres is involved; the program is authorized only in the States of Arizona, Arkansas, California, Colorado, Idaho, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, North Dakota, Oklahoma, Oregon, South Dakota, Texas, and Washington. The experimental use permit is effective from June 3, 1977, to May 16, 1978. Temporary tolerances for the residues of the active ingredient in or on barley, oats, rice, wheat, and sorghum have been established. A permanent tolerance for residues of the active ingredient in or on corn has been established (40 CFR 180.351).

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: July 8, 1977.

DOUGLAS D. CAMPT,
*Acting Director,*
*Registration Division.*

[FR Doc.77-20565 Filed 7-18-77;8:45 am]

[OPP-50310; FRL 763-6]

## ICI UNITED STATES INC., ET AL.

### Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 10182-EUP-5. ICI United States Inc., Wilmington, Delaware 19897. This experimental use permit allows the use of 28.52 kilograms of the insecticide (3-phenoxyphenyl) methyl (±)-*cis, trans*-3-(2,2-dichloroethenyl) - 2,2 - dimethylcyclopropanecarboxylate on cattle, horses, sheep, hogs, and poultry to evaluate control of flies, ticks, lice, mites and keds. A total of 690 animals is involved; the program is authorized only in the States of Arizona, California, Florida, Kansas, Idaho, Iowa, Kentucky, Louisiana, Mississippi, Nebraska, New Mexico, New York, Oklahoma, South Carolina, Texas, and Virginia. The experimental use permit is effective from May 27, 1977, to May 27, 1978. This permit is being issued under the condition that all treated animals are destroyed or used for research purposes only.

No. 10182-EUP-6. ICI United States Inc., Wilmington, Delaware 19897. This experimental use permit allows the use of 1,900 pounds of the insecticide (3-phenoxyphenyl) methyl (±) - *cis, trans* - 3 - (2,2-dichloroethenyl) - 2,2 - dimethylcyclopropanecarboxylate on various raw agricultural commodities to evaluate control of leafhoppers, aphids, lygus bugs, stink bugs, lepidopterous insects, pear psylla, leafminers, tobacco budworms, Colorado potato beetles, apple maggots, and tomato pinworms. A total of 890 acres is involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Kansas, Kentucky, Louisiana, Maine, Nebraska, New Hampshire, New Jersey, New Mexico, Pennsylvania, South Carolina, South Dakota, and Tennessee. The experimental use permit is effective from May 27, 1977, to May 27, 1978. This permit is being issued under the condition that all treated alfalfa, apple, broccoli, cabbage, cauliflower, lettuce, pear, potato, soybean, sweet corn, tobacco and tomato crops will be destroyed or used for research purposes only.

No. 10182-EUP-7. ICI United States Inc., Wilmington, Delaware 19897. This experimental use permit allows the use of 2.3 kilograms of the insecticide (3-phenoxyphenyl) methyl (+)-*cis, trans*-3-(2,2-dichloroethenyl) -2,2-dimethylcyclopropanecarboxylate on cattle, horses, poultry and hogs to evaluate control of flies, lice, mites, and ticks. A total of 200 animals is involved; the program is authorized only in the States of Arizona, California, Florida, Kansas, Idaho, Iowa, Kentucky, Louisiana, Mississippi, Nebraska, New Mexico, New York, Oklahoma, South Carolina, Texas, and Virginia. The experimental use permit is effective from May 27, 1977, to May 27, 1978. This permit is being issued under the condition that all treated animals are destroyed or used for research purposes only.

No. 10182-EUP-8. ICI United States Inc., Wilmington, Delaware 19897. This experimental use permit allows the use of 24 kilograms of the insecticide (3-phenoxyphenyl) methyl (+)-*cis trans*-3-(2,2- dichlorethenyl) - 2,2-dimethylcyclopropanecarboxylate on building surfaces and insect breeding sites to evaluate control of flies. A total of 240,000 square feet is involved; the program is authorized only in the States of Arizona, California, Florida, Kansas, Nebraska, Minnesota, New York, Texas, and Virginia. The experimental use permit is effective from May 27, 1977, to May 27, 1978.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: July 8, 1977.

DOUGLAS D. CAMPT,
*Acting Director,*
*Registration Division.*

[FR Doc.77-20563 Filed 7-18-77;8:45 am]

[OPP-50307; FRL 763-4]

## NEW JERSEY AGRICULTURAL EXPERIMENT STATION, RUTGERS UNIVERSITY, ET AL.

### Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are inaccordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 38573-EUP-1. New Jersey Agricultural Experiment Station, Rutgers University, New Brunswick, New Jersey 08903. This experimental use permit allows the use of 1,740 pounds of the fungicide Captafol on blueberries to evaluate control of anthracnose fruit fungus and phomoposis twig blight fungus. A total of 100 acres is involved; the program is authorized only in the State of New Jersey. The experimental use permit is effective from May 16, 1977, to May 16, 1978. A permanent tolerance for residues of the active ingredient in or on blueberries has been established (40 CFR 180.267). The permit is issued with the limitation that any portion of the crop having residues higher than the currently established tolerance will be destroyed.

No. 40458-EUP-1. University of Massachusetts, East Wareham, Massachusetts 02538. This experimental use permit allows the use of 33 pounds of the plant growth regulator 1,2-dihydro-3,6-pyridazinedione to evaluate control of wild beans in cranberry bogs. A total of 2 acres is involved; the program is authorized only in the State of Massachusetts. The experimental use permit is effective from May 16, 1977, to May 16, 1978. The permit is issued with the limitation that the crop harvested from the treated area will be destroyed.

No. 11312-EUP-4. U.S. Department of Agriculture, Byron, Georgia 31008. This experimental use permit allows the use of 1,025 pounds of the insecticide Aldicarb on pecans as part of a pest management pilot test for control of aphids, spittlebugs, mites, phylloxera, leafminers, and nematodes. A total of 115 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Georgia, Mississippi, New Mexico, South Carolina, and Texas. The experimental use permit is effective from May 16, 1977, to May 16, 1978. A temporary tolerance for residues of the active ingredient in or on pecans has been established. The permit is issued with the limitations that grazing will not be allowed and cover crops grown in treated orchards will not be used as feed.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: July 8, 1977.

DOUGLAS D. CAMPT,
*Acting Director,*
*Registration Division.*

[FR Doc.77-20561 Filed 7-18-77;8:45 am]

[OPP-30000/13A; FRL 763-2]

## PESTICIDE PROGRAMS

### Rebuttable Presumption Against Registration and Continued Registration of Certain Pesticide Products Containing Toxaphene; Extension of Period for Submission of Rebuttal Evidence and Comments

On May 12, 1977, the Environmental Protection Agency (EPA) issued a notice of rebuttal presumption against registration and continued registration of pesticide products containing toxaphene. This notice was published in the FEDERAL REGISTER on May 25, 1977 (42 FR 26861). The regulations governing rebuttal presumptions provide that the applicant or registrant of such pesticide products shall have forty-five (45) days from the date such notice is sent to submit evidence in rebuttal of the presumption. However, for good cause shown, an additional sixty (60) days may be granted in which such evidence may be submitted (40 CFR 162.11(a)(1)(i)).

Requests for an additional 60 days in which to present evidence to the Agency have been received from many of the applicants and registrants who were affected by the notice of presumption as well as by other interested parties. Requestors have specified a need for additional time to respond to the risk presumptions set forth in the May 25 notice (i.e., acute hazard to aquatic organisms, oncogenic effects in test animals, other chronic or delayed toxic effects, and population reduction in nontarget organisms), to address the additional potential adverse effects identified in the notice, and to properly assess the environmental fate and benefits of toxaphene.

The Agency agrees that additional time would be beneficial to ensure the submission of complete and accurate responses to this notice of presumption. Therefore, because good cause has been shown for an extension of time by those wishing to respond to the notice of presumption, all registrants, applicants for registration, and other interested persons shall have until September 13, 1977, to submit rebuttal evidence and other comments or information. Such evidence, comments, or other information relevant to the presumption against registration and continued registration should be submitted to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the efforts of the Agency and of others interested in inspecting them. All comments should bear the identifying notation "OPP-30000/13A." Comments and information received on or before September 13, 1977, shall be considered before it is determined whether a notice shall be issued in accordance with 40 CFR 162.11(a)(5)(ii) and 7 U.S.C. 136(a)(c)(6) or 7 U.S.C. 136(d)(b)(1). Comments received after September 13, 1977, shall be considered only to the extent feasible consistent with the time limits imposed by 40 CFR 162.11(a)(5)(ii). All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section at the above address from 8:30 a.m. to 4 p.m. on normal business days. The file supporting the Agency's presumption against this pesticide is available for public inspection in the Office of Special Pesticide Reviews, Room 447, East Tower, during the same time period.

Dated: July 8, 1977.

EDWIN L. JOHNSON,
*Deputy Assistant Administrator*
*for Pesticide Programs.*

[FR Doc.77-20558 Filed 7-18-77;8:45 am]

[PP 7G1891/T119; FRL 764-3]

## ESTABLISHMENT OF TEMPORARY TOLERANCES

### (3-Phenoxyphenyl) methyl (±) cis-trans-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate

ICI United States, Inc., Wilmington DE 19897, has submitted a pesticide petition (PP 7G1891) to the Environmental Protection Agency (EPA). This petition requests that temporary tolerances be established for residues of the insecticide (3-phenoxyphenyl) methyl (±) *cis-trans*-3-(2,2 - dichloroethenyl) - 2,2-dimethylcyclopropanecarboxylate in or on the raw agricultural commodities cottonseed at 0.5 part per million (ppm); in the meat, fat, and meat byproducts of cattle, horses, and sheep at 0.25 ppm and in milk at 0.06 ppm.

Establisment of these temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerances were adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerances would protect the public health. The temporary tolerances have been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. ICI United States, Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire May 24, 1978. Residues not in excess of 0.5 ppm remaining in or on cottonseed; 0.25 ppm in the meat, fat, and meat byproducts of cattle, horses, and sheep; and 0.06 ppm in milk after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to the Special Registrations Section, Registration Division (WH-567), Office of Pesticide Programs, Room 315, East Tower, 401 M St. SW., Washington, D.C. 20460, 202-755-4851.







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(Sec. 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: July 8, 1978.

DOUGLAS D. CAMPT,
*Acting Director,*
*Registration Division.*

[FR Doc.77-20749 Filed 7-18-77;8:45 am]

[OPP-180131; FRL 764-5]

## INTERIOR DEPARTMENT

### Issuance of Specific Exemption To Use M-44 and Sodium Cyanide To Eradicate Arctic Foxes on Agattu Island in the Aleutians

The Environmental Protection Agency (EPA) has granted a specific exemption to the Fish and Wildlife Service, U.S. Department of the Interior (hereafter referred to as the "Applicant") to use approximately 22.5 grams sodium cyanide in the M-44 device to control Arctic Foxes (*Alopex lagopus*) on Agattu Island in order to protect an endangered species, the Aleutian Canada Goose (*Branta canadensis leucopareia*). This exemption was granted in accordance with, and is subject to, provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State Agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460.

According to the Applicant, a remnant breeding population of Aleutian Canada Geese was confirmed on Buldir Island in the Aleutians in 1962. Today this tiny island supports the only known population, estimated at about 1,000 birds. The population decline in Aleutian Canada Geese and their breeding range is largely attributed to predation by introduced fox. The Applicant stated that the practice of introducing fox, not native to the islands, was initiated for private fur farming. This practice was discontinued in the late 1930's and all permits revoked. The past control program of trapping and shooting has proven ineffective. The Applicant requested use of the M-44 device for control of the fox population so that a recovery program on Agattu Island for the endangered Aleutian Canada Goose may be successfully completed. It is anticipated that this emergency control program will remove the fox from Agattu Island this year; however, if complete control is not attained, a similar project may be necessary next year.

The Applicant proposed that the M-44, a spring-loaded device, containing sodium cyanide be used. A maximum of 50 sodium cyanide capsules (equivalent to an approximate total of 22.5 grams active ingredient) will be exposed on Agattu Island over a 120-day period. The program began on May 1. The M-44 devices will be placed by authorized personnel only on Agattu Island, Aleutian Islands National Wildlife Refuge, Alaska. All unused capsules of sodium cyanide will be recovered.

EPA has determined that removal of the foxes will create a much healthier environment for re-establishing the Aleutian Canada Goose. In addition, it is anticipated that other elements of the Aleutian avian fauna will flourish in the long run. However, some mortality to glaucous-winged gulls and raven may occur; this should not have any serious long term effects on the breeding populations. Overall, the hazards to nontarget species through this use of the M-44 appear to be minimal

It should be noted that, in 1972, the President issued an executive order which banned the use of chemical toxicants on Federal lands, except in emergency conditions. One of these conditions, was the use of chemical toxicants for the preservation of one or more wildlife species threatened with extinction or likely within the forseeable future to become so threatened. The Aleutian Canada Goose falls within this provision. Further, in 1975, the EPA issued a registration to the Fish and Wildlife Service for the use of sodium cyanide-loaded M-44 devices to control coyote, fox, and feral dogs which prey upon livestock; the EPA has determined that the sodium cyanide/M-44 device will also be effective in removing the Arctic Fox from Agattu Island. If the introduced fox cannot be removed, a successful breeding colony of the Aleutian Canada Goose may not be achieved and this species will continue to be in jeopardy. As previously mentioned, other methods such as trapping and shooting have not been successful in eradicating the Arctic fox. Before using any chemical toxicant on Federal land, the President's 1972 order required that the agency involved in using these toxicants must consult with the Secretaries of the Interior, Agriculture, and Health, Education, and Welfare, and the Administrator of the EPA; the Applicant stated that this requirement has been met.

Since Agattu Island is uninhabited by man, there should be no danger to humans as a result of this use of the sodium cyanide-loaded M-44 devices.

After reviewing the application and other available information, EPA has determined that (a) an emergency situation involving an endangered species exists; (b) there are no alternative means of control, taking into account the efficacy and hazard; (c) significant environmental problems may result if the Arctic fox is not eradicated from Agattu Island; and (d) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 31, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Sodium cyanide as used in the M-44 device is authorized. A maximum of 50 sodium cyanide capsules (equivalent to an approximate total of 22.5 grams active ingredient) may be used;
2. The M-44 devices are to be placed only on Agattu Island, Aleutian Islands National Wildlife Refuge, Alaska;
3. Only personnel of the Fish and Wildlife Service will hand place the M-44 devices;
4. All unused capsules of sodium cyanide will be recovered;
5. All precautions will be taken to avoid or minimize any hazard to nontarget species that may result from the use of M-44 on Agattu Island;
6. A full report of this eradication program must be submitted to EPA by the end of 1977; and
7. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: July 13, 1977.

EDWIN L. JOHNSON,
*Deputy Assistant Administrator*
*for Pesticide Programs.*

[FR Doc.77-20750 Filed 7-18-77;8:45 am]

[OPP-42003C; FRL 764-4]

## IOWA

### Extension of Contingency Approval of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (85 Stat. 973; 7 U.S.C. 136) and 40 CFR Part 171 (39 FR 36445 (October 9, 1974) and 40 FR 11698 (March 12, 1975)), the Honorable Robert D. Ray, Governor of the State of Iowa, submitted a State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for approval on a contingency basis, pending promulgation of implementing regulations. On August 28, 1975, the Regional Administrator, EPA, Region VII, approved the plan on a contingency basis for a 9-month period. Notice of the approval was published in the FEDERAL REGISTER on September 16, 1975 (40 FR 42774). A 12-month extension of the contingency approval was requested on May 20, 1976, by the State of Iowa and granted by the Regional Administrator, EPA, Region VII, on May 27, 1976. Notice of the approval of the 12-month extension was published in the FEDERAL REGISTER on July 19, 1976.

Amendments to the 1974 Pesticides Act of Iowa have necessitated changes in the proposed implementing rules and regulations. As a result, on May 16, 1977, the State of Iowa requested a 6-month extension of the Iowa contingency approval pending final implementation of regulations. The Agency finds that there is good cause for approving the request and as such has granted Iowa a 5-month extension which will expire October 21, 1977.

Dated: May 20, 1977.

CHARLES V. WRIGHT,
*Acting Regional Administrator,*
*Region VII.*

[FR Doc.77-20748 Filed 7-18-77;8:45 am]





## FEDERAL COMMUNICATIONS COMMISSION

### CANADA-U.S.A. FM BROADCASTING AGREEMENT OF 1947

### Amendment of Table A

JUNE 30, 1977.

*Supplement No. 4* to the Table of Canadian FM Broadcasting Channel Assignments and Allocations within 250 Miles of the Canada-U.S.A. border, dated June 24, 1977, as revised April 12, 1977.

Pursuant to exchange of correspondence between the Department of Communications of Canada and the Federal Communications Commission, Table A of the Canada-U.S.A. FM Broadcasting Agreement has been amended as set forth in the attached list. It is to be noted that those representing assignments will indicate call signs plus parameters.

Further additions, changes, and deletions will be issued as reported to the Commission by the Canadian Department of Communications.

Copies of the basic Table of Allocations may be obtained from Downtown Copy Center, 1730 K Street NW., Washington, D.C. 20036, telephone 202-452-1422.

WALLACE E. JOHNSON,
*Chief, Broadcast Bureau, Federal Communications Commission.*

*FM engineering data base listing—index key State, city, frequency, Federal Communications Commission—Broadcast Bureau, unofficial secondary source. Use primary sources for official information, June 24, 1977*

| | | | | |
|---|---|---|---|---|
| Halifax, Nova Scotia | 213C<br>90.03 | 44-38-53.0<br>63-35-31.0 | United States | 770512 |

[FR Doc.77-20495 Filed 7-18-77;8:45 am]

## FM AND TV TRANSLATOR APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: July 1, 1977.

Released: July 8, 1977.

By the Chief, Broadcast Bureau.

Notice is hereby given pursuant to §§ 1.572(c) and 1.573(d) of the Commission's rules, that on September 2, 1977, the TV and FM translator applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to §§ 1.227(b)(1) and 1.519(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on September 1, 1977, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on September 1, 1977.

The attention of any party in interest desiring to file pleadings concerning any pending TV and FM translator application, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

UHF TV TRANSLATOR APPLICATIONS

BPTT-3235 (K61AN), Sterling, Soldotna and Kasilof, Alaska, State of Alaska. Req: Change principal community to Kasilof, Cohoe & Kalifonsky, Alaska.

BPTT-3236 (K64AN), Sterling, Soldotna and Kasilof, Alaska, State of Alaska, Req: Change principal community to Kasilof, Cohoe and Kalifonsky, Alaska.

BPTT-3247 (new), Eastlake and surrounding area, Ohio, Ohio Educational Television Network Commission. Req: Change frequency to Channel 67, 788-794 MHz.

BPTT-3248 (new), Lancaster, Palmdale and Quartz Hill, California, International Panorama TV Inc. Req: Channel 62, 758-764 MHz, 100 watts. Primary: KLXA-TV, Fontana, California.

BPTT-3252 (new), Hanalei and Princeville, (Kauai), Hawaii, Hawaii Public Broadcasting Authority. Req: Channel 68, 794-800 MHz, 100 watts. Primary: KHET-TV, Honolulu, Hawaii.

BPTT-3253 (K80CJ), Anahola, Hawaii, Hawaii Public Broadcasting Authority. Req: Change frequency to Channel 63, 764-770 MHz.

BPTT-3254 (new), Santa Cruz and Environs, California, Monterey-Salinas Television, Inc. Req: Channel 57, 728-734 MHz, 100 watts. Primary: KMST-TV, Monterey, California.

BPTT-3255 (new), Manchester, California, Point Arena Television, Inc. Req: Channel 59, 740-746 MHz, 100 watts. Primary: KQED-TV, San Francisco, California.

BPTT-3256 (new), Point Arena, California, Point Arena Television, Inc. Req: Channel 68, 794-800 MHz, 100 watts. Primary: KQED-TV, San Francisco, California.

BPTT-3258 (new), Guymon, Oklahoma, Oklahoma Educational Television Authority. Req: Channel 16, 482-488 MHz, 1,000 watts. Primary: KETA-TV, Cheyenne, Oklahoma.

BPTT-3259 (new), Altus, Oklahoma, Oklahoma Educational Television Authority. Req: Channel 19, 500-506 MHz, 1000 watts. Primary: KETA-TV, Cheyenne, Oklahoma.

BPTT-3260 (new), Lawton, Oklahoma, Oklahoma Educational Television Authority. Req: Channel 36, 602-608 MHz, 1,000 watts. Primary: KETA-TV, Oklahoma City, Oklahoma.

BPTT-3261 (new), Boise City, Oklahoma, Oklahoma Educational Television Authority. Req: Channel 55, 716-722 MHz, 100 watts. Primary: KETA-TV, Cheyenne, Oklahoma.

BPTT-3262 (new), Beaver City, Oklahoma, Oklahoma Educational Television Authority. Req: Channel 56, 722-728 MHz, 100 watts. Primary: KETA-TV, Cheyenne, Oklahoma.

BPTT-3263 (new), Frederick, Oklahoma, Oklahoma Educational Television Authority. Req: Channel 57, 728-734 MHz, 100 watts. Primary: KETA-TV, Cheyenne, Oklahoma.

BPTT-3264 (new), Buffalo, Oklahoma, Oklahoma Educational Television Authority. Req: Channel 58, 734-740 MHz, 100 watts. Primary: KETA-TV, Cheyenne, Oklahoma.

BPTT-3265 (K7CH), Grangeville, Cottonwood, Craigmont and Nezperce, Idaho, Central Idaho TV, Inc. Req: Change frequency to Channel 59, 740-746 MHz, increase output power to 20 watts.

BMPTT-959 (W67AI), Gates Mills, Ohio, Educational Television Association of Metropolitan Cleveland. Req: Change frequency to Channel 66, 782-788 MHz.

BPTT-3246 (new), Greeneville, Tennessee, Holston Valley Broadcasting Corp. Req: Channel 39, 620-626 MHz, 1,000 watts. Primary: WKPT-TV, Kingsport, Tennessee.

VHF TV TRANSLATOR APPLICATIONS

BPTTV-5816 (new), Wanship, Utah, Summit County. Req: Channel 10, 192-198 MHz, 1 watt. Primary: KSL-TV, Salt Lake City, Utah.

BPTTV-5817 (new), Wanship, Utah, Summit County. Req: Channel 12, 204-210 MHz, 1 watt. Primary: KUED-TV, Salt Lake City, Utah.

BPTTV-5818 (K08DX), Prescott, Washington, Prescott TV System, Inc. Req: Change primary TV station to KVEW, Channel 42, Kennewick, Washington and to delete via K74BZ, Milton-Free-water, Oregon.

BPTTV-5823 (K06GE), Riley, Oregon, Countywide TV, Inc. Req: Add Alkali Lake, Oregon to present principal community, increase output power to 10 watts.

BPTTV-5824 (new), Montreat, North Carolina, Wometco Skyway Broadcasting Company. Req: Channel 6, 82-88 MHz, 1 watt. Primary: WLOS-TV, Asheville, North Carolina.

BPTTV-5825 (new), Manitou Springs, Colorado, University of Southern Colorado. Req: Channel 7, 174-180 MHz, 10 watts. Primary: KTSC-TV, Pueblo, Colorado.

BPTTV-5827 (new), Elk and Rural Area Along U.S. Highway 1, California, Point Arena Television, Inc. Req: Channel 8, 180-186 MHz, 10 watts. Primary: KQED-TV, San Francisco, California.

BPTTV-5828 (new), Mendocino, Albion and Little River, California, Point Arena Television, Inc. Req: Channel 9, 186-192 MHz, 10 watts. Primary: KQED-TV, San Francisco, California.



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BPTTV–5829 (new), Greenwood Ridge area, Navarro Head area and Albion Ridge area, California, Point Arena Television, Inc. Req: Channel 12, 204–210 MHz, 10 watts. Primary: KQED–TV, San Francisco, California.

BPTTV–5830 (K06EB), Sand Springs Community, Lodge Pole and Calf Creek Community, Montana, Garfield TV Club. Req: Change principal community to Brusett, North Rural & West Rural Area Montana, increase output power to 10 watts, Change primary TV station to KRTV, Ch–3, Great Falls, Montana.

BPTTV–5833 (K13HW), Camas Valley, Oregon, Camas Valley Grange No. 521, Req: Change frequency to Channel 12, 204–210 MHZ.

Application deleted from Public Notice release August 4, 1976 (Mimeo No. 68379, 41 FR 33584).

BPTT–3027 (new), Eastlake and Surrounding Area, Ohio, Ohio Educational Television Network Commission, Req: Channel 61, 1000 watts. Primary: WVIZ–TV, Cleveland, Ohio. (Assigned new file number BPTT–3247.)

[FR Doc.77–20494 Filed 7–18–77;8:45 am]

## FEDERAL ENERGY ADMINISTRATION

### CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

### Cases Filed Week of June 10 Through June 17, 1977

Notice is hereby given that during the week of June 10 through June 17, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be July 19, 1977, or the date of receipt of an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
*Acting General Counsel.*

JULY 12, 1977.

APPENDIX.—*List of cases received by the office of exceptions and appeals, week of June 10 through June 17, 1977*

| Date | Name and location of applicant | Case No. | Type of submission |
|---|---|---|---|
| June 13, 1977 | Bowerman, R. D. d.b.a. Executive Center Gulf Station, San Antonio, Tex. (If granted: The FEA's May 23, 1977 remedial order would be rescinded and R. D. Bowerman would not be required to refund overcharges made in sales of motor gasoline during the period Nov. 1, 1973, through July 24, 1974). | FRA–1354 FRS–1354 | Appeal of FEA region VI's remedial order dated May 23, 1977. |
| Do | Commonwealth Oil Refining Co., Inc., Washington, D.C. (If granted: Commonwealth Oil Refining Co., Inc. would be permitted to import crude oil and naphtha as refinery and petrochemical feedstock on a license fee free basis.) | FPI–0122 | Exception from base fee requirements (§ 213.35). |
| Do | Halliburton Co./Vessels Gas Processing Co., Denver, Colo. (If granted: The Halliburton Co./Vessels Gas Processing Co. would receive an extension of the exception relief granted in the FEA's Mar. 17, 1977 decision and order which would permit the firm to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Irondale plant.) | FXE–4341 | Extension of exception relief granted in Halliburton Co./Vessels Gas Processing Co., case No. FXE–3699 (decided Mar. 17, 1977) (unreported decision). |
| Do | Sabre Refining, Inc., Bakersfield, Calif. (If granted: The FEA's May 20, 1977 supplemental order issued to Sabre Refining, Inc. would be amended to review the appropriateness of the entitlements exception relief granted to the firm during 1976 based on financial results beginning with April 1976.) | FEX–0164 | Supplemental order to decision and order in Sabre Refining, Inc., 5 FEA par. ..... (May 20, 1977). |
| Do | Suburban Propane Gas Corp., Whippany, N.J. (If granted: The May 25, 1977 stay which was granted to the Suburban Propane Gas Corp. would be rescinded.) | FRX–0165 | Supplemental order to decision and order in Suburban Propane Gas Corp., 5 FEA par. ..... (May 25, 1977). |
| June 14, 1977 | Estates of Inez Phillips and Loyce Phillips, Austin, Tex. (If granted: The estates of Inez Phillips and Loyce Phillips would be permitted to increase their prices for natural gas liquid products produced at the Nan-Su-Gail plant to reflect nonproduct cost increases in excess of $0.005/gal.) | FEE–4342 | Price exception (§ 212.165) |
| Do | Indiana Farm Bureau Cooperative Association Inc., Indianapolis, Ind. (If granted: Indiana Farm Bureau Cooperative Association, Inc. would be granted an exception which would permit it to recalculate the passthrough of increased nonproduct costs on a proportional basis for the period Jan. 1, 1975, through Jan. 31, 1976.) | FEE–4319 | Exception to sequential nonproduct cost passthrough. |
| Do | Taylor Gas, Inc., Fairburn, Ga. (If granted: The FEA's May 25, 1977 remedial order would be rescinded and Taylor Gas, Inc. would not be required to refund overcharges made on its sales of propane.) | FRA–1355 | Appeal of FEA region IV's remedial order dated May 25, 1977. |
| Do | Texaco, Inc., Houston, Tex. (If granted: Texaco, Inc. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $.005/gal for natural gas liquid products produced at the following natural gas plants: Coalinga Nose, Humble, Paradis, and Pledger.) | FEE–4343–FEE–4346 | Price Exception (§212.165). |





| Date | Name and location of applicant | Case No. | Type of submission |
|---|---|---|---|
| Do | Texaco, Inc. (Pegasus) Houston, Tex. (If granted: Texaco, Inc. would receive an extension of the relief granted in the FEA's Nov. 19, 1976 decision and order which would permit it to increase its prices for natural gas liquid products produced at the Pegasus plant to nonproduct cost increases in excess of $.005/gal.) | FXE–4347 | Extension of relief granted in Texaco, Inc., 4 FEA par. 83,201 (Nov. 19, 1976). |
| Do | W. E. Shrider Co., Columbus, Ohio. (If granted: The FEA's June 2, 1977 stay decision granted to the W. E. Shrider Co. would be modified and the firm would not be reqired to establish an escrow account pending the FEA's final determination of Shrider's appeal.) | FMR–0110 | Modification of decision and order in W. E. Shrider Co., 5 FEA par. ..... (June 2, 1977). |
| June 15, 1977 | BTA Oil Producers, Midland, Tex. (If granted: BTA Oil Producers would receive an extension of the relief granted in the FEA's Jan. 27, 1977 decision and order which would permit it to sell all of the crude oil produced and sold for the benefit of the working interest owners from the JV–D Teeters lease located in Hockley County, Tex., at upper tier ceiling prices as specified in 10 CFR pt. 212, subpt. D. | FXE–4348 | Extension of relief granted in BTA Oil Producers, 5 FEA par. 83,047 (Jan. 27, 1977). |
| Do | Evangeline Refining Co., Inc., Jennings, La. (If granted: Evangeline Refining Co., Inc. would be granted a stay of its March 1977 entitlement purchase obligations.) | FRS–0101 | Stay request. |
| Do | Seward, Johnny d.b.a. Johnny's Super Shell, Chicago, Ill. (If granted: A remedial order which was issued to Johnny Seward d.b.a. Johnny's Super Shell would be rescinded and Seward would not be required to refund overcharges made on sales of motor gasoline.) | FRA–1356 | Appeal of FEA region V's remedial order |
| June 16, 1977 | Adams Oil Co., Charlottesville, Va. (If granted: The FEA's May 25, 1977 stay decision granted to the Adams Oil Co. would be modified and the firm would not be required to establish an escrow account pending the FEA's final determination of Adams' appeal.) | FMR–0111 | Modification of dicision and order in Adams Oil Co., 5 FEA par. ..... (May 25, 1977). |
| Do | Hamilton Bros. Oil Co./Tesoro Petroleum Corp., Washington, D.C. (If granted: The Hamilton Bros. Oil Co. would receive various types of administrative relief from the mandatory petroleum allocation and price regulations in connection with its acquisition of the Newcastle refinery from the Tesoro Petroleum Corp.) | FEE–4349 | Exception to mandatory petroleum and price Regulations (pt. 211 and pt. 212). |

[FR Doc.77–20477 Filed 7–13–77;1:02 pm]

## ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

### Week of May 31 Through June 3, 1977

Notice is hereby given that during the week of May 31 through June 3, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

*Buck Drilling & Exploration; Oklahoma City, Okla.; FRA–1185; Crude oil*

Buck Drilling & Exploration filed an Appeal from a Remedial Order which was issued to the firm by the Deputy Regional Administrator of FEA Region VI on January 25, 1977. The Remedial Order found that Buck has sold crude oil at prices that were in excess of the lower tier ceiling price specified in 10 CFR 212.73. The firm was therefore directed to refund these excessive revenues which accrued interest through a reduction in its selling price for the crude oil. The present Appeal, if granted, would result in the rescission of the Remedial Order and would relieve the firm of its refund obligation. In its Appeal, Buck contended that the Remedial Order incorrectly utilized the preceding calendar year of 1974 as a reference period and improperly computed the production from the Buck properties in determining that the firm had erroneously classified the leases as stripper well properties in 1975. In considering Buck's Appeal, the FEA rejected Buck's view that the term preceding calendar year included any completed 12 month period and further found that Region VI had properly calculated the production of crude oil from the two leases during the 1974 calendar year measurement period. The FEA also determined that there was no merit to the firm's additional contention that the Notice of Probable Violation which had been issued to the firm was procedurally defective. Since Buck had failed to demonstrate that the Remedial Order was erroneous in fact or law or was arbitrary or capricious, the firm's Appeal was denied.

*Fort Howard Paper Company; Greenbay, Wisc.; FEA–1158; Reporting requirements*

Fort Howard Paper Company filed an Appeal from a Notice which the FEA published in the FEDERAL REGISTER on December 16, 1976 (41 FR 54977) in which it identified Fort Howard as a corporation that consumed at least one trillion Btu's of energy in SIC Code 26 during 1975 and was among the 50 most energy consumptive firms in that industry. As a result of that Notice, Fort Howard has been required to participate in a reporting program under the provisions of Section 375 of Part D of the Energy Policy and Conservation Act (EPCA), Pub. L. No. 94–163 (December 22, 1975). In its Appeal Fort Howard raised significant questions concerning the accuracy and consistency of the data which the FEA collected and used in implementing Part D, Section 375 of the EPCA. However, during the pendency of the Appeal proceeding, the Office of Exceptions and Appeals received a memorandum from the FEA Office of Conservation which indicated that the Office of Conservation intended to implement procedures to verify the accuracy and consistency of the data received from all firms in SIC Code 26. That memorandum also indicated that the Office of Conservation would review its earlier determination with respect to Fort Howard's inclusion in the December 16, 1976 Notice. In view of the actions being taken by the Office of Conservation, the FEA concluded that the consideration of Fort Howard's Appeal at this time would be somewhat premature. The Appeal was therefore dismissed without prejudice to a resubmission at a later date.

*Husky Oil Co. of Delaware; Denver, Colo.; FXA–1162; Refiner*

Husky Oil Company of Delaware filed an Appeal from a Decision and Order which the Federal Energy Administration issued to Husky on December 15, 1976. "Husky Oil Co. of Delaware," 4 FEA Par. 83,244 (December 15, 1976). In the December 15 determination the FEA granted Husky an exception from the provisions of 10 CFR 211.67 (the Entitlements Program) and thereby relieved the firm of any of its entitlement purchase obligations during the period December 1976 through May 31, 1977. In its Appeal, Husky contended that the historical financial data that the FEA utilized in calculating the level of exception relief was unreasonably low. Husky asserted that unless it is permitted to receive exception relief on the basis of a higher profit margin it will be unable to maintain the viability of its refining operations in future years. In considering Husky's arguments, the FEA noted that the historical financial results which a firm reports can vary to a significant extent depending upon the accounting methods which a firm utilized. The FEA found that in view of the overall profitability of the firm and the nature of its continuing operation of its refining and marketing divisions, the firm failed to show that any adjustment to its historical profit margin was necessary to ensure the continued viability of its refining operations. The Appeal was accordingly denied.

*Pasco Liquidating Trust; New York, N.Y.; FXA–1160; Crude oil*

Pasco Liquidating Trust (formerly Pasco, Inc.) filed an Appeal from a Decision and Order which the FEA issued to it on December 15, 1976. "Pasco, Inc.," 4 FEA Par. 87,034 (December 15, 1976). In the December 15 Decision and Order, the FEA determined that on the basis of financial and operating data which Pasco had submitted, the firm had been afforded an excessive measure of exception relief from its fiscal 1976 entitlement purchase obligations. The December 15 Order accordingly required Pasco to purchase entitlements valued at $2,747,000 during the period January through December 1977 in order to offset the excessive benefits which the firm had received. The Appeal, if granted, would result in certain adjustments being made to the firm's previously reported profitability thereby decreasing the amount of the repayment obligations. Pasco specifically contended that the FEA should not have included the profits which it realized in the months of April and May 1976 in its review of the appropriateness of the exception relief granted to Pasco in 1976. According to Pasco the inclusion of the firm's financial results in the April to May period effectively reduced from six to four months the period of the small refiner exemption under Special Rule No. 6. In rejecting this assertion the FEA observed that since Pasco and other small refiners were exempted from purchasing entitlements which would have been specified in the Entitlement Notice issued in the months of December 1975 and January through May 1976 it is apparent that Pasco and other small refiners did in fact receive a benefit for a period of six months. Therefore, the FEA concluded that there was no reasonable basis for accepting Pasco's contention that its profits for the months of April and May 1976 should be excluded from the FEA's review of the exception relief



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granted to the firm in the entire 1976 fiscal year. Pasco also contended that its reported profitability should be adjusted to reflect certain additional expenses which Pasco stated were directly related to its refining and marketing operations, but which were not determinable until after Pasco's sale of those operations on July 1, 1976. In considering this argument the FEA determined that the expenses represented estimates of anticipated expense items which would be incurred by the purchaser of Pasco's refining and marketing operations after June 30, 1976 and which were reflected in the selling price of the refinery. Consequently, the FEA concluded that since these expense items were actually incurred subsequent to June 30, 1976, they were not related to the firm's refining and marketing operations during the period in which Pasco received exception relief and were instead a part of the cost of the liquidation of Pasco's operations. Accordingly, since Pasco failed to establish that the December 15 Decision and Order was erroneous in fact or law or was arbitrary or capricious, its Appeal was denied.

REQUESTS FOR EXCEPTION

*Alexander-Loop Oil Properties, Inc., Tulsa, Okla.; FXE–4092; Crude oil*

Alexander-Loop Oil Properties, Inc. (Loop) filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would have resulted in the extension of exception relief previously granted to Loop and would have permitted the firm to continue to sell a portion of the crude oil produced from the Dicey-McIntosh Lease, Section 12, at upper tier ceiling prices. "Paul R. Loop," 5 FEA Par. 83,010 (December 23, 1976). In considering the exception application, the FEA found that Loop continued to incur increased operating expenes at the Lease and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue to produce crude oil from the property. In view of this situation, and on the basis of the operating data presented by Loop for the Dicey-McIntosh Lease, the FEA concluded that the working interest owners should be permitted to sell 37.4595 percent of the crude oil produced from the Lease at upper tier ceiling prices.

*T & F Oil Co.; Long Beach, Calif.; FEE–3968; Crude Oil*

The T & F Oil Company filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D, which, if granted, would permit T & F to sell the crude oil produced from the El Segundo No. 1 well (the El Segundo well) at upper tier ceiling prices. In considering the exception application, the FEA found that the El Segundo well had been operated in a profitable manner during the past four years and the data submitted by the firm indicated that the well would continue to generate a substantial operating profit during the current fiscal year. Since T & F had not demonstrated that it had an economic incentive to terminate its production activities at the El Segundo well, the FEA concluded that the firm had failed to establish that the application of the lower tier ceiling price adversely affected it in any significant manner or caused it to experience a gross inequity. Accordingly, the exception application was denied.

REQUEST FOR STAY

*Petroleum Management, Inc.; Wichita, Kans.; FRS–1311; Crude oil*

Petroleum Management, Inc. (PMI) requested that a Remedial Order which the Director of the Compliance Division of the Federal Energy Administration Region VII issued to the firm on April 27, 1977 be stayed pending a final determination of the firm's Appeal. On the basis of findings that PMI had erroneously classified 12 leases as stripper well properties and had improperly sold the crude oil from these leases at exempt price levels, the Remedial Order directed PMI to refund the revenues which it had improperly received. On the basis of the principles set forth in "General Crude Oil Co.," 3 FEA Par. 85,040 (June 25, 1976), modified 3 FEA Par. 85,040 (July 8, 1976), the FEA determined that a stay should be granted since PMI demonstrated that it would raise substantial issues in its Appeal and that it would encounter an undue burden in recovering the refunds required by the Remedial Order if it ultimately succeeded on the merits of its Appeal. The FEA also found that if PMI were required to place the full amount of the disputed funds in an escrow account as generally required under the criteria set forth in the "General Crude Oil Co." Decision, its operating cash position would be impaired to such an extent that its continued, essential business activities would be significantly jeopardized. However, the FEA determined that the firm's financial condition would permit the establishment of a partial escrow account. The FEA therefore stayed the Remedial Order on the condition that PMI place one-third of the disputed funds in escrow pending a final determination of its Appeal.

*Powerine Oil Co.; Santa Fe Springs, Calif.; FES–0096; Petroleum products*

The Powerine Oil Company requested that a Special Report Order which was issued to the firm on February 17, 1977 by FEA Region IX be stayed pending a final determination on a Petition for Special Redress which it filed. In considering Powerine's request, the FEA noted that Powerine had failed to follow the administrative review procedure set forth in 10 CFR 210.91(c) and had also delayed filing its present submission until the date upon which the Special Report was due. Under customary procedures these submissions would therefore have been denied. However, the FEA noted that due procedure set forth in § 210.91(c) was relatively new, and Powerine had raised legal issues of first impression concerning the propriety of the Special Report Order. Moreover, the firm was subject and would continue to be subject to civil and criminal sanctions which would increase substantially every day that Powerine failed to comply with the Special Report Order. Under these circumstances, the FEA exercised its discretion to consider the Petition in spite of Powerine's actions and reviewed the firm's request for stay. In evaluating the stay request, the FEA found that unless a stay were granted the FEA might be placed in a situation in which it would be unable to provide appropriate relief even if Powerine prevailed on the merits of its Petition for Special Redress. In addition, the FEA determined that Powerine had raised substantial issues of law in its Petition which warranted further consideration. Accordingly, Powerine's Application for Stay was granted and the FEA agreed to review the firm's Petition for Special Redress.

*W. E. Shrider Co.; Newark, Ohio; FRS–1336; Crude oil*

W. E. Shrider Company (Shrider) filed an Application for Stay of a Remedial Order which FEA Region V issued to the firm on May 9, 1977. The Remedial Order directed Shrider to reduce the prices which it charges for crude oil produced from the Mary B. Griggs lease in order to refund revenues which the firm realized by charging excessive prices for crude oil produced from that property. Approval of a stay would relieve Shrider of the obligation to comply with the provisions of the Remedial Order pending a final determination of an Appeal of the Remedial Order. On the basis of the principles established in "General Crude Oil Co.," 3 FEA Par. 85,040 (June 25, 1976), modified 3 FEA Par. 85,040 (July 8, 1976), the FEA concluded that a stay should be granted since Shrider had raised substantial issues in its Appeal and might experience an irreparable injury if it were required to refund the revenues involved prior to a determination on the Appeal. The FEA further concluded however, that in accordance with the considerations discussed in "General Crude" the stay should be conditioned upon Shrider's placing the funds in question into an escrow account.

PETITION FOR SPECIAL REDRESS

*Gas Del Oro, Inc., Gas Del Oro International, Inc., El Dorado Marketing Co. of Laredo; Houston, Tex.; FSG–0043; Natural gas liquid products*

Gas del Oro, Inc., Gas del Oro International, Inc. and El Dorado Marketing Co. of Laredo (Gas del Oro) filed a Petition for Special Redress relief. The Gas del Oro submission related to a dispute as to the proper application of the "export sale exemption" set forth in 10 CFR 212.53(a) to certain natural gas liquid products which are produced in the Ozona Gas Processing Plant in Crockett County, Texas and sold to Gas del Oro by the Suburban Propane Gas Corporation. On June 29, 1976, Suburban filed a Request for Interpretation with the FEA in which it sought a determination that its sales to Gas del Oro have been within the scope of the export sale price exemption in § 212.53(a). This issue had been raised previously in two formal Complaints which Gas del Oro had filed with the FEA Office of Compliance, and in a lawsuit which Gas del Oro initiated against Suburban in the United States District Court for the Southern District of Texas. The District Court entered an Order staying the judicial proceedings until the litigants had exhausted their administrative remedies within the FEA. In its Petition, Gas del Oro contended that until the fundamental legal issue as to the proper applicability of § 212.53(a) is determined by the Office of General Counsel in the context of the Suburban Interpretation Request, the compliance proceedings and the lawsuit between the parties cannot go forward. Accordingly, Gas del Oro requested that the Office of Private Grievances and Redress (1) direct the Office of General Counsel to take immediate action with respect to the Interpretation Request; or (II) issue an order declaring that the issues presented are incapable of resolution by the FEA and that the parties have therefore exhausted their administrative remedies. While the Gas del Oro petition was under consideration, the Office of General Counsel indicated that a formal Interpretation could be issued in response to the Suburban request within 30 days. In view of the action which the Office of General Counsel has indicated that it will take to advance the related FEA proceedings, the FEA Office of Private Grievances and Redress determined that the Gas del Oro Petition should be dismissed without prejudice.

SUPPLEMENTARY ORDER

*Buck's Butane and Propane Service, Inc.; San Jose, Calif.; FRX–0161; Propane*

Buck's Butane and Propane Service, Inc. filed an Appeal from a Remedial Order which the Director of the Compliance Division of the Federal Energy Administration Region IX Office issued to the firm on April 21, 1977. The Remedial Order found that Buck's had sold certain quantities of propane at prices which were in excess of the maximum allowable selling prices computed pursuant to the provisions of 6 CFR 150.359 and 10 CFR 212.93. In addition, the Remedial Order found that Buck's had improperly received overcharges from its customers as a result of the prices it charged for propane tank rentals. On the basis of these findings, the Remedial Order directed Buck's to make refunds to its customers through a combination of prospective price reductions and direct refunds. During the course of the Appeal proceeding, Buck's requested that the FEA issue subpeonas to five individuals who were involved in one or more of a number of FEA audits of the fuel costs records of Buck's. According to its request the evidence which Buck's would obtain from the testimony of the auditors is an essential element of the firm's Appeal. In considering the Buck's request, the FEA observed that a firm is generally able to formulate an adequate Appeal from a Remedial Order on the basis of the documents referred to in the Notice of Probable Violation issued to the firm and the Remedial Order, and on the basis of other written information readily available to the firm. However, the FEA also stated that when essential factual issues are involved in an Appeal proceeding, and when those factual issues involve the arguments which the firm may properly raise on Appeal, then the FEA will take measures to ensure that the necessary factual material is made available to the firm in an appropriate manner. After reviewing the record in the Appeal proceeding, the FEA concluded that unusual factors exist in the present case which necessitate taking measures which would permit Buck's to obtain certain factual data. In order to advance the proceeding in an expeditious manner while at the same time permitting Buck's to assemble the information necessary to formulate its Appeal, the FEA determined that a hearing should be convened and that the witnesses which Buck's identified should be required to testify.





REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

| Company | Case No | Plant | Amount of price increase (dollars per gallon) |
|---|---|---|---|
| Indian Wells Oil | FXE–4158 | Indian Wells | 0.05872 |
| Superior Oil Co. | FXE–4081 | Rio Bravo | .0407 |
| | FXE–4136 | Portilla | .0124 |
| | FXE–4143 | Cymric | .0454 |
| | FXE–4144 | Kettleman Hills | .0326 |

DISMISSALS

The following submissions were dismissed following a statement by the applicant that the relief requested was no longer needed:

*Oxnard Refinery; Los Angeles, Calif.; FES–1333*

*Montara Petroleum Co.; Palo Alto, Calif.; FEE–4113*

The following submission was dismissed after the applicant repeatedly failed to respond to requests for additional information:

*Universe Oil Co.; Carteret, N.J.; FEE–3649*

The following submission was dismissed at the firm's request without prejudice to a refiling within 14 days of a new Appeal:

*Midland Cooperatives, Inc.; Washington. D.C.; FXA–1103*

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B–120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in "Energy Management: Federal Energy Guidelines", a commercially published loose leaf reporter system.

ERIC J. FYGI,
*Acting General Counsel.*

JULY 12, 1977.

[FR Doc.77-20478 Filed 7-13-77;1:02 pm]

## SECOND ANTHRACITE COAL CONFERENCE

### Conference

Notice is hereby given that the second Anthracite Coal Conference will be held on July 26, 1977, at 10:30 a.m. at 1421 Cherry Street, Philadelphia, Pennsylvania. This meeting will be a followup to the first Anthracite Coal Conference held on June 28, 1977, at FEA Headquarters in Washington, D.C.

At the first conference it was determined that the conferees would be divided into five subgroups to facilitate the analysis of specific issues and to advise the parent conference about those matters affecting the consideration of anthracite production and utilization. Accordingly, notice is also hereby given that the subgroups of the Anthracite Coal Conference will hold meetings before the second conference.

The urgency of convening both the subgroup meetings and the July 26 conference stems from a priority commitment made by the President to find ways of improving coal production and utilization. In support of this commitment the FEA was charged with the responsibility for studying ways to improve the production of anthracite coal.

The study of the utilization of anthracite coal must be completed and presented to Mr. Schlesinger by October 15, 1977, closely coinciding with the formation of the proposed Department of Energy. As a result and in order to adequately address all of the important issues facing anthracite improvements in such a short time period, it is essential to call these meetings immediately and as a result the customary advance period of notice normally given in such instances has not been provided.

The agenda and schedule of subgroup meetings is as follows:

PRODUCTION SUBGROUP

July 14, 1977, 10 a.m., The Riveredge Motel, Route 183, Reading, Pennsylvania.
Agenda: Development of study plan to be followed in analyzing ways of enhancing anthracite production.

July 26, 1977, 9 a.m., FEA—Region III Office, 1421 Cherry Street, Philadelphia, Pennsylvania.
Agenda: Summarize analysis of production issues and recommendations developed to date, and prepare for presentation of this subject matter to the full conference.

UTILIZATION SUBGROUP

July 12, 1977, 10 a.m., Pennsylvania Power and Light Company, 2 North Ninth Street, Allentown, Pennsylvania.
Agenda: Development of study plan to be followed in analyzing potential markets and alternative uses for an increase in anthracite supply.

July 26, 1977, 9 am., FEA—Region III Office, 1421 Cherry Street, Philadelphia, Pennsylvania.
Agenda: Summarize analysis of utilization issues and recommendations developed to date, and prepare for presentation of this subject matter to the full conference.

MARKETING SUBGROUP

July 8, 1977, 11:30 a.m., ConRail, 1838 Six Penn Center Plaza, Philadelphia.
Agenda: Development of study plan to be followed in analyzing the availability and cost of transportation facilities used by the anthracite industry.

July 26, 1977, 9 a.m., FEA—Region III Office, 1421 Cherry Street, Philadelphia, Pennsylvania.
Agenda: Summarize analysis of transportation issues and recommendations developed to date, and prepare for presentation of this subject matter to the full conference.

TECHNOLOGY SUBGROUP

July 13, 1977, 1 p.m., FEA Headquarters Room 3000–B, 12th and Pennsylvania Avenue NW., Washington, D.C.
Agenda: Development of study plan to be followed in analyzing the current and near term availability of technological improvements in the production and utilization of anthracite.

July 26, 1977, 9 a.m., FEA—Region III Office, 1421 Cherry Street, Philadelphia, Pennsylvania.
Agenda: Summarize analysis of technology issues and recommendations developed to date, and prepare for presentation of this subject matter to the full conference.

ENVIRONMENTAL SUBGROUP

July 7, 1977, 10:30 a.m., Pennsylvania Environmental Council, 225 South 15th Street; Mezzanine, Philadelphia, Pennsylvania.
Agenda: Development of study plan to be followed in analyzing the environmental factors which will determine the acceptability of increases in both anthracite production and utilization.

July 26, 1977, 9 a.m., FEA—Region III Office, 1421 Cherry Street, Philadelphia, Pennsylvania.



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Agenda: Summarize analysis of environmental issues and recommendations developed to date, and prepare for presentation of this subject matter to the full conference.

The agenda for the July 26 conference is as follows:

1. In succession, each subgroup will present a summary of their respective areas of study and initial findings. The subgroups will also overview their projected activities and specific issues to be addressed at future conferences.

2. Discussion of how the full conference will develop policy recommendations and implement a decision-making process which will ensure that each member has adequately reviewed all proposals under consideration.

These meetings will be open to the public. The Chairman is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement will be permitted to do so, either before or after the meeting.

Further information concerning this meeting may be obtained from Stephen T. Minihan, Room 3518, FEA Headquarters, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202–566–7575.

Transcripts of the conference will be available for public review and copying at the Freedom of Information Public Reading Room, Room 2107, FEA, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. between the hours of 8 and 4:30 p.m., Monday through Friday except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on July 13, 1977.

ERIC J. FYGI,
*Acting General Counsel.*

[FR Doc.77–20593 Filed 7–18–77;8:45 am]

## ENVIRONMENTAL ADVISORY COMMITTEE

### Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given that the Environmental Advisory Committee will meet Friday, August 5, 1977, at 9 a.m., Room 5041, FEA Headquarters, 12th and Pennsylvania Avenue NW., Washington, D.C.

The Committee was established to provide advice and information to FEA concerning environmental aspects of FEA policies and programs.

The agenda for the meeting is as follows:

1. Status report on existing FEA commitments to EAC.
2. Report and recommendations from coal policy subcommittee: Draft report on design of underground mines to minimize long-term environmental problems; degasification of coal seams; other.
3. Report and recommendations from air quality subcommittee: Clarification of applicability of NSPS-BACT to conversion of existing oil- or gas-fired power plants to coal; status report on White House advisory group focusing on impact of increased coal use; (a) charter, (b) suggested appointees; other.
4. Report and recommendations from energy conservation subcommittee: Draft recommendations on calculation of replacement cost re: energy pricing; draft recommendations re: co-generation; energy-efficiency standards for appliances proposed by FEA; industrial conservation goals proposed by FEA; other.
5. Discussion with FEA administrator: Status report on actions called for in President's energy message; status of DOE legislation; future of EAC.
6. Report and recommendations from nuclear policy subcommittee.
7. Report and recommendations from OCS/energy facility siting subcommittee.
8. New business.
9. Comments from public (10 minute rule).

Subcommittees may meet informally in Washington the preceding evening, at the discretion of the subcommittee chairment; the meetings will be open to the public. For further information on subcommittee activities, call Lois G. Weeks, Director, Advisory Committee Management, at 202–566–9996.

The Committee meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform the Director, Advisory Committee Management, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

The transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, FEA, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C. on July 14, 1977.

ERIC J. FYGI,
*Acting General Counsel.*

[FR Doc.77–20670 Filed 7–18–77;8:45 am]

# FEDERAL HOME LOAN BANK BOARD

[No. AC–40]

## FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF FRESNO

### Approval of Conversion (Final Action)

JULY 14, 1977.

Notice is hereby given that on July 13, 1977, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation by Resolution No. 77–436, approved the application of First Federal Savings and Loan Association of Fresno, Fresno, Calif., for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretary of said Corporation, 320 First Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of San Francisco, 600 California Street, San Francisco, Calif. 94120.

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
*Assistant Secretary.*

[FR Doc.77–20688 Filed 7–18–77;8:45 am]

[No. AC–41]

## HOMESTEAD SAVINGS AND LOAN ASSOCIATION

### Post Approval Amendment of Conversion Application (Final Action)

JULY 14, 1977.

Notice is hereby given that on June 22, 1977, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 77–392, approved the amendment to the application of The Homestead Savings and Loan Association, Salina, Kans., for permission to convert to the stock form of organization. The application to convert was approved on May 11, 1977, by Resolution No. 77–300. Copies of the application and the amendment are available for inspection at the Office of the Secretary of said Corporation, 320 First Street NW., Washington, D.C. 20552 and the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, No. 3 Townsite Plaza, 120 East Sixth Street, Topeka, Kans. 66601.

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
*Assistant Secretary.*

[FR Doc.77–20686 Filed 7–18–77;8:45 am]

[No. AC–39]

## OLYMPIC FEDERAL SAVINGS AND LOAN ASSOCIATION

### Approval of Conversion (Final Action)

JULY 14, 1977.

Notice is hereby given that on July 13, 1977, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation by Resolution No. 77–435, approved the application of Olympic Federal Savings and Loan Association, San Francisco, Calif., for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretary of said Corporation, 320 First Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of San Francisco, 600 California Street, San Francisco, Calif. 94120.

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
*Assistant Secretary.*

[FR Doc.77–20687 Filed 7–18–77;8:45 am]





# FEDERAL MARITIME COMMISSION

## FAR EAST CONFERENCE, ET AL.

### Agreement Filed

Notice is hereby given that the following agreement, accompanied by a statement of justification, has been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the statement of justification at the Washington office of the Federal Maritime Commission, 1100 L St. NW., room 10126; or may inspect the agreement and the statement of justification at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. on or before August 8, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

VARIOUS COMMON CARRIERS PARTIES TO (1) FAR EAST CONFERENCE; (2) PACIFIC WESTBOUND CONFERENCE; (3) JAPAN/KOREA-ATLANTIC & GULF FREIGHT CONFERENCE; (4) TRANS-PACIFIC FREIGHT CONFERENCE OF JAPAN/KOREA; (5) NEW YORK FREIGHT BUREAU; AND/OR (6) TRANS PACIFIC FREIGHT CONFERENCE OF HONG KONG

Notice of agreement filed by:

H. P. Breed, Vice President, U.S. Lines, One Broadway, New York, N.Y. 10004.

Agreement 10305 would permit various common carriers parties to the various Conferences enumerated above to (explanatory language italicized), " * * * meet and discuss and exchange written communication, and make recommendations to the Agreements (*Conferences*), regarding and limited to (a) the compensation paid to the Neutral Body (*self-policing entity, now Freight Conferences Services, Inc.*) of other self policing agencies * * * as it relates to staffing, services, and costs of operation, and (b) the manner in which such compensation shall be apportioned between the participating conferences and/or agreements."

By Order of the Federal Maritime Commission.

Dated: July 13, 1977.

JOSEPH C. POLKING,
*Acting Secretary.*

[FR Doc. 77–20710 Filed 7–18–77;8:45 am]

## INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE

### Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Air Van Lines, Inc., 8151 Occidental Ave. South, P.O. Box 3725, Seattle, Wash. 98124. Officers: Beth Thompson, Treasurer; A. N. Thompson, Jr., Vice President; L. A. Howard, Secretary; Thomas N. Chewning, President.

East Coast Warehouse & Distribution Corp., 2210 McLester St., Elizabeth Port Authority Marine Terminal, Elizabeth, N.J. 07201. Officers: Roy A. Lebovitz, President/Treasurer; Samuel Weber Vice President/Secretary.

Marine & Industrial Distributors, Inc., 3826 Fourth Ave. South, Seattle, Wash. 98134. Officers: Richard Zurinsky, President; Laurie J. Zurinsky, Vice President; Douglas E. Minnis, Secretary/Treasurer.

Tomas J. Faz, 1800 NW. 24th Avenue, Miami, Fla. 33125.

By the Federal Maritime Commission.

Dated: July 14, 1977.

JOSEPH C. POLKING,
*Acting Secretary.*

[FR Doc.77–20712 Filed 7–18–77;8:45 am]

## PUERTO RICO PORTS AUTHORITY AND PUERTO RICO MARITIME SHIPPING AUTHORITY

### Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 8, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

William Karas, Esquire, Galland, Kharasch, Calkins & Short, Canal Square, 1054 Thirty-First Street NW., Washington, D.C. 20007.

Agreement No. T–3453–A, between the Puerto Rico Ports Authority (Port) and the Puerto Rico Maritime Shipping Authority (PRMSA), provides for PRMSA's thirteen-year sublease (with two consecutive five-year renewal options) and exclusive use of 1,703,460 square feet located adjacent to the berths and apron areas preferentially assigned PRSMA under Agreement No. T–3453. As compensation, the Port is to receive $391,616.35 annually as ground rental. The agreement provides that non-PRMSA users calling at the Isla Grande facility pursuant to the secondary berthing rights retained by the Port under Agreement No. T–3453 will be allowed to cross such portions of the facility subleased to PRMSA under Agreement No. T–3453–A as are designated by PRMSA for such a purpose.

By Order of the Federal Maritime Commission.

Dated: July 13, 1977.

JOSEPH C. POLKING,
*Acting Secretary.*

[FR Doc. 77–20711 Filed 7–18–77;8:45 am]

[Docket No. 77–37]

## SERGIO E. VASQUEZ

### Independent Ocean Freight Forwarder License; Order of Investigation and Hearing

On August 25, 1975, Sergio E. Vasquez, 1215 West Sixth Street, Los Angeles, California 90017, was issued independent ocean freight forwarder license FMC 1685.

Information acquired by the Commission's Pacific District Office disclosed that Mr. Vasquez is apparently under the control of a seller of export shipments in the foreign commerce of the United States. More specifically, (1) Mr.



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Vasquez is an officer, Secretary/Treasurer, since at least May 25, 1976, of P–K International, Inc. (P–K), a seller of goods in the export commerce of the United States; (2) Mr. Vasquez shares common office space, employees and telephone service with P–K; (3) the Licensee's only account is P–K; (4) the Licensee does not solicit other accounts; and (5) the Licensee does not maintain its own freight forwarding files but rather uses P–K's files to perform forwarding work.

The association between Mr. Vasquez and P–K appears to place the Licensee, Sergio E. Vasquez, under the control of a seller of export shipments and as a result of such association, the Licensee does not appear to meet the definition of an independent ocean freight forwarder as defined in Section 1, Shipping Act, 1916.[1]

When an export shipper possesses the ability to control the actions of an independent ocean freight forwarder, regardless of whether this control is actually exercised, the statutory requirement of independence is not met and the forwarder is disqualified from being licensed. See Application for Freight Forwarder License—York Shipping Corporation, 9 FMC 72, 75–76 (1965), and Application for Freight Forwarder License—William V. Cady, 8 FMC 352, 359 (1964). Consequently, if P–K can directly or indirectly control Mr. Vasquez's forwarding activities, the Licensee would no longer qualify as an independent ocean freight forwarder pursuant to sections 1 and 44 of the Shipping Act, 1916, and sections 510.2(a) and 510.9(d) of the Commission's General Order 4.

Therefore, *It is ordered*, Pursuant to sections 22 and 44 of the Shipping Act, 1916 (46 U.S.C. 821, 841(c)), that a proceeding is hereby instituted to examine the details of the Licensee's forwarding operation to date, including all brokerage received by it, and to determine whether P–K International, Inc., directly or indirectly controls the forwarding activities of Sergio E. Vasquez, and if so, whether Sergio E. Vasquez continues to qualify for an independent ocean freigat forwarder license, or whether its license as such should be suspended or revoked pursuant to sections 1 and 44 of the Shipping Act, 1916, (46 U.S.C. 801, 841(b)), and Section 510.9(d) of the Commission's Rules.

*It is further ordered*, That Sergio E. Vasquez shall be the respondent in this hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge, but in any event, shall commence on or before January 14, 1978. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

*It is further ordered*, That notice of this Order be published in the FEDERAL REGISTER and a copy thereof and notice of hearing be served upon Sergio E. Vasquez.

*It is further ordered*, That any person other than respondent and the Commission's Bureau of Hearing Counsel having an interest and desiring to participate in this proceeding, shall file a petition for leave to intervene in accordance with Rule 72 (46 CFR 502.72) of the Commission's Rules of Practice and Procedure.

*It is further ordered*, That all future notices issued by or on behalf of the Commission, including notice of time and place of hearing, or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

JOSEPH C. POLKING,
*Acting Secretary.*

[FR Doc.77–20714 Filed 7–18–77;8:45 am]

[1] An independent ocean freight forwarder is a "person carrying on the business of forwarding for a consideration who is not a shipper or consignee or a seller or purchaser of shipments to foreign countries, nor has any beneficial interest therein, *nor directly or indirectly controls or is controlled by such shipper or consignee* or by any person having such a beneficial interest." (Emphasis supplied) 46 U.S.C. 801.

## FEDERAL POWER COMMISSION

[Docket No. CI76–358]

### ALMA ORINGDERFF

### Proposed Settlement Agreement

JULY 12, 1977.

Take notice that on June 29, 1977, Presiding Administrative Law Judge Samuel Kanell certified to the Commission a proposed settlement of the issues raised in the proceedings in Docket No. CI76–358 supported by all parties including the Commission Staff. The record of the proceedings was also certified for the Commission's use in reviewing the proposed settlement.

The proposed settlement seeks to resolve the issues surrounding the January 27, 1976 application filed by Alma Oringderff (Oringderff) pursuant to Section 7(b) of the Natural Gas Act for authorization to abandon a sale of casinghead gas to Northern Natural Gas Company (Northern) from the R. H. F. Morrow and Horizon Cleveland Fields, Ochiltree County, Texas, R.R. District No. 10 made under a contract dated June 19, 1964. Service from Oringderff to Northern had terminated in 1970 when Oringderff concluded that continued operations would be uneconomical as a result of the amount of gas needed to operate the compressor equipment that was required to deliver the gas into Northern's high pressure transmission system.

Under the terms of the proposed settlement agreement Oringderff would resume service to Northern by means of an exchange agreement executed by Northern and Phillips Petroleum Company (Phillips). Oringderff would deliver gas into Phillips' low pressure gathering system and Phillips would redeliver equivalent volumes of gas to a point on Northern's pipeline system. This arrangement would obviate the need for compression of Oringderff's gas.

The settlement proposal provides that all parties will accept whatever the Commisssion determination is as to the applicable price to be paid under Oringderff's June 24, 1977 contract with Northern. Oringderff states that the applicable price is 68.9 cents per Mcf pursuant to the Commission's replacement contract policy.

All comments on the proposed settlement agreement shall be filed on or before July 22, 1977.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc 77–20733 Filed 7–18–77;8:45 am]

[Docket No. RP77–105]

### COLORADO INTERSTATE GAS. CO.

### Proposed Changes in FPC Gas Tariff

JULY 11, 1977.

Take notice that Colorado Interstate Gas Company (CIG), on June 30, 1977, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. The proposed base rates would increase revenues from jurisdictional sales and service by approximately $20 million over rates presently being collected subject to refund in Docket No. RP76–76, inclusive of all PGA adjustments which became effective on or before April 1, 1977 (excluding surcharges). The proposed increase is based on the twelve-month period ended March 31, 1977, adjusted for known and measurable changes which will become effective within the nine months subsequent to that date, as provided for in the Commission's Regulations. The proposed effective date is August 1, 1977.

CIG states that the jurisdictional rates filed herewith are designed to enable CIG to recover increases in its jurisdictional cost of service attributable primarily to additional facilities, increased labor and other operating costs, increased depreciation rates, and increased return and related income tax requirements.

Also included in the filing is a requested change in CIG's Purchased Gas Adjustment (PGA) tariff provision which will allow CIG to include certain estimated net unrecovered gas purchase costs in its annual PGA filing. Such change will allow CIG to recover or refund on a more timely basis the net unrecovered gas purchase cost accumulated in FPC Account 191 as of the end of each fiscal year.

Copies of CIG's filing have been served on CIG's jurisdictional customers and interested public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol





Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commissions Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77–20720 Filed 7–18–77;8:45 am]

[Docket No. CP77–476]

### COLUMBIA GAS TRANSMISSION CORP.

### Application

JULY 13, 1977.

Take notice that on June 30, 1977, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP77–476 an application pursuant to Section 7 of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of natural gas for General Motors Corporation (GM) for two years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to transport up to 5,000 Mcf of natural gas per day for GM, which volumes would be received at an agreed point on Applicant's Line FV–341 in Newton Township, Trumbull County, Ohio, and redelivered for the account of GM at existing points of delivery near Dayton, Ohio, to Dayton Power & Light Company (DP&L) and to existing points of delivery near Cincinnati, Ohio, to Cincinnati Gas & Electric Company (CG&E), both wholesale customers of Applicant.

It is stated that GM has been advised by both DP&L and CG&E that curtailment is expected in the 1977–78 winter period. It is stated that DP&L provides gas service for the following five divisions of GM's in the vicinity of Dayton, Ohio:

*Frigidaire:* Manufacturers household appliances such as ranges, refrigerators, washers, and dryers. This plant employs about 8,000 people and without a gaseous fuel would be shut down.

*Delco Products:* Manufactures automotive components and industrial motors and generators. This plant employs about 5,500 people and without a gaseous fuel would be shut down and would essentially shut down corporate car production.

*Delco Moraine:* Manufactures automotive parts, including brake linings, clutch plate and bands for automatic transmissions, oil pump gears, rocker arm supports, and engine bearing strips. This plant employs about 5,700 people and without a gaseous fuel many of the operations would be shut down.

*Inland:* Manufactures automotive parts, including brake linings, ball joints, foam seat cushions, door and deck weather stripping, and engine and transmission mounts. This plant employs about 8,500 people and without a gaseous fuel many of the operations would shut down.

*Delco Air:* Manufactures automotive components including air conditioning compressors, valves, and controls. This plant employs about 6,600 people and without a gaseous fuel would be shut down.

It is stated that CG&E provides gas service to GM plants in Norwood Ohio, and that during the winter period, these plants were curtailed at a minimum of 30 percent. It is further stated that the GM plant at Norwood, Ohio, which is served by CG&E is a passenger car assembly plant employing about 4,400 people. Without a gaseous fuel this plant would be shut down, it is said.

Applicant states that the gas transported by it and delivered to DP&L and CG&E would be made available to GM through existing distribution facilities by DP&L and CG&E.

It is stated that the gas proposed to be transported would be produced by GM from a gas field which it owns and operates in Lordstown, Ohio, and that Applicant would not need to construct any additional facilities to perform the proposed transportation service. Applicant states that it would charge GM its average system-wide unit gathering, storage and transmission costs exclusive of company-use and unaccounted-for gas, which is 24.75 cents per Mcf, and that it would retain for company-use and unaccounted-for gas a percentage of the total volumes received for the account of GM which percentage is currently 3.1 percent.

It is indicated that during the winter period (November 1 through April 30), Applicant would transport no gas for GM on a peak day, up to 1,100 Mcf on an average day and up to 165,000 Mcf for the winter period. Applicant would transport during the summer period (May 1 through October 30) on a best efforts basis, it is said.

Applicant asserts that the gas to be transported would supply the curtailed volumes which GM is experiencing in its "high priority" uses. It is stated that all the contemplated uses for the transported gas are uses designated under Priority 2 uses (process gas, plant protection gas or deedstock gas) or Priority 3 where the gas is purchased from the gas distributor under an interruptible contract that would be Priority 2 if purchased from the distributor under a firm contract.

It is stated that the gas transported is subject to diversion to Applicant in emergency periods when, in Applicant's sole judgment, such gas is required for the protection of Priority 1 requirements on its system.

Although no proposed commencement date for service is given in the application, the application does state that GM desires to obtain specific assurance from the Commission prior to November 1, 1977, that its own production would be available for its use.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 28, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77–20747 Filed 7–18–77;8:45 am]

[Docket No. CP77–475]

### COLUMBIA GAS TRANSMISSION CORP.

### Application

JULY 13, 1977.

Take notice that on June 30, 1977, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkie Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP77–475 an application pursuant to Section 7 of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretation (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of natural gas for Harshaw Chemical Company (Harshaw), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to transport up to 600 Mcf of natural gas per day for Harshaw for use at its Elyria, Ohio Plant pursuant to a transportation contract dated March 10, 1977, between the parties. Applicant states that it would transport natural gas for Harshaw, which gas would be received by Applicant into its Line O in Valley Town-



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ship, Guernsey County, Ohio, at a specific point to be mutually agreed upon and delivered to Columbia Gas of Ohio, Inc. (Columbia Ohio), a wholesale customer of Applicant, at an existing point of delivery in Carlisle Township, Lorain County, Ohio.

It is indicated that during the 1976–77 winter heating season, Harshaw was curtailed from 10 to 85 percent of its authorized volumes by Columbia Ohio, and that from April 1 through October 31, 1977, Columbia Ohio does not anticipate that it would be necessary to curtail any of Harshaw's authorized volumes. Consequently, Applicant proposes to commence the transportation service November 1, 1977. It is further indicated that Harshaw's Priority 2 requirements would be curtailed at the 10 percent level for the winter of 1977–78.

It is stated that Harshaw's Elyria plant is one of the largest producers of ceramic colors and catalysts in the United States and competes in the international market. The catalysts produced by Harshaw in the Elyria plant are used by many industries ranging from food processing to oil refining, it is said. It is stated that the final step in the production of the ceramic colors and catalysts require either drying and/or high temperature gas-fired calcination for which processes alternate fuels are not feasible because of product contamination from the products of combustion.

Applicant states that the gas it proposes to transport would be purchased by Harshaw from O'Neal Production Inc. (O'Neal) for wells located in Valley Township, Guernsey County, Ohio. Applicant further states that Harshaw would pay O'Neal $2.25 per Mcf, and that every six months the price shall be increased or decreased in the same amount per Mcf as any increase or decrease after the date hereof in the field market price paid by East Ohio Gas Company for gas produced by wells placed in service at the same time as the wells which produced the gas sold to Harshaw hereunder; provided that the price would never be less than $2.25 per Mcf. It is indicated that if Harshaw drills wells in addition to those 3 wells provided for in Section 5.01 hereof or acquires gas from a third party due to the inability of the wells to produce the volumes of gas requested by Harshaw, the price that Harshaw would pay O'Neal for gas from such wells or third parties would be $0.80 per Mcf above the field market price of East Ohio Gas Company applicable to gas produced from such wells.

It is stated that the gas proposed to be transported by Applicant is subject to diversion to Applicant in emergency periods when, in Applicant's sole judgment, such gas is required for the protection of Priority 1 requirements on its system.

Applicant states that in order to deliver the gas into its Line O it would be necessary for O'Neal to construct approximately 3,300 feet of 2-inch pipeline at an estimated cost of $6,675, which amount would be reimbursed by Harshaw.

Applicant indicates that it would redeliver the gas it would transport to an existing point of delivery from Applicant to Columbia Ohio, and that Columbia Ohio would make such gas available to Harshaw's Elyria plant through existing distribution facilities.

It is indicated that Applicant would retain for company-use and unaccounted-for gas a percentage of the total volumes received for the account of Harshaw, which percentage is currently 3.1 percent effective November 1, 1976. Applicant states that it would charge Harshaw its average system-wide unit storage and transmission costs exclusive of company-use and unaccounted-for gas which price is currently 22.21 cents per Mcf, for the proposed transportation service.

Any person desiring to be heard or to to make any protest with reference to said application should on or before July 28, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc 77 20746 Filed 7–18–77;8:45 am]

[Docket No. CP77–200]

## COLUMBIA GAS TRANSMISSION CORP.

### Application

JULY 13, 1977.

Take notice that on June 30, 1977,[1] Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP77–200 an application pursuant to Section 7 of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience authorizing the transportation of up to 1,100 Mcf of natural gas per day for Quaker State Oil Refining Corporation (Quaker) for two years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to transport the proposed volumes of gas for Quaker, which volumes would be received by Applicant into its Line FO–1776 in Jackson Township, Guernsey County, Ohio, at a specific point to be mutually agreed upon. Applicant indicates that it would redeliver 75 percent of the gas so received for the account of Quaker to Columbia Gas of West Virginia, Inc. (Columbia, W. Va.) at an existing point of delivery in Hancock County, W. Va., and the remaining 25 percent of the gas so received would be redelivered for the account of Quaker to Columbia Gas of Pennsylvania, Inc. (Columbia Pa.) at existing points of delivery located in Butler County, Pa. It is stated that Columbia, W. Va., and Columbia, Pa., would make the transported gas available to Quaker through existing distribution facilities. It is asserted that Columbia, W. Va. and Columbia, Pa. are wholesale customers of Applicant.

It is stated that Quaker was advised by Columbia, W. Va., and Columbia, Pa., that its gas supply for the months of February and March 1977 would be curtailed to the point that only plant protection volumes would be supplied to its Newell, W. Va., and Emlenton, Pa., facilities. It is indicated that pursuant to this information Columbia requested and received temporary authorization to transport up to 1,100 Mcf of gas per day for Quaker, which authorization was granted by the Commission on February 17, 1977, at Docket No. CP77–200. It is stated that no gas was transported by Applicant for Quaker under this temporary authorization. Applicant indicates that gas was not available for transportation due to the fact that the producer was unable to install a line necessary for a connection to Applicant's facilities in a timely fashion.

It is indicated that Quaker manufactures automotive lubricants and fuels, including No. 2 fuel oil, gasoline, and kerosine, and that most of the fuel are marketed to home heating and commercial customers in Pennsylvania, Ohio, West Virginia, and Western New York. Quaker uses in-plant fuel in the refining process wherever possible and natural gas is used in relatively small quantities as processed gas and to maintain safety blanketing devices for which uses an alternate fuel is not possible, it is said.

Applicant states that during the 1977 summer period neither the Emlenton nor the Newell plants are being curtailed. However, it is estimated that the Newell plant would be curtailed approximately 10 percent of its high priority use during the 1977–78 winter period, it is said. Applicant states that at the present time it is not projected that the high priority uses at the Emlenton plant would be curtailed during the 1977–78 winter period.

It is indicated that Enterprise Gas & Oil, Inc. (Enterprise) had contracted to sell gas to Quaker with deliveries that would commencing at approximately 1,000 Mcf per day from certain wells located on oil and gas leases owned by Enterprise in Guernsey County, Ohio. It is indicated that subject gas has never been sold in interstate commerce and that the gas would not be sold in the interstate market. Applicant states that it would pay Enterprise $1.95 per Mcf during the first contract year and $2.03 per Mcf during the second contract year. In order to deliver the gas to be transported to Applicant's lines, Enterprise must construct approximately three miles of 4-inch pipeline at an estimated cost of $52,050, it is said. Applicant states that it would be required to construct any additional facilities to perform the proposed transportation service.

Applicant indicates that it would charge Quaker its average system-wide unit gathering, storage and transmission costs exclusive of company-use and unaccounted for gas, which is 24.75 cents per Mcf for the proposed transportation service. Applicant further indicates that it would retain for company-use and unaccounted-for gas a percentage of the total volumes received for the account of Quaker which percentage is currently 3.1 percent.

It is stated that the gas transported hereunder is subject to diversion to Applicant in emergency periods when, in Applicant's sole judgment, such gas is required for the protection of Priority 1 requirements on its system. It is further stated that the term of the subject gas sales and purchase agreement between Enterprise and Quaker shall be for 2 years, but in no event would the contract term commence later than April 1, 1977. Quaker would take the proposed volumes of gas on a take-or-pay basis it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 28, 1977, file with the Federal Power Commission, Washington, D.C. 20426 a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc 77–20742 Filed 7–18–77;8:45 am]

[Dockt No. RP77–17]

## EASTERN SHORE NATURAL GAS. CO.

### Rate Settlement Proposal

JULY 11, 1977.

Take notice that on June 10, 1977, Eastern Shore Natural Gas Company (ESN) filed with the Commission in Docket No. RP77–17 a settlement proposal, which, if approved, will resolve all issues raised in this proceeding.

ESN states that the settlement proposal was served on all parties on the official service list.

Any person wishing to do so may submit comments in writing concerning ESN's settlement proposal. All comments should be addressed to the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, and should be mailed or filed on or before July 28, 1977. ESN's settlement proposal is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77–20723 Flid 7–18–77;8:45 am]

[Docket No. ER77–488]

## EL PASO ELECTRIC CO.

### Tariff Change

JULY 11. 1977.

Take notice that El Paso Electric Company (El Paso), on July 1, 1977, tendered for filing proposed changes in its rates for wholesale service to customers served under its FPC Rate Schedules 17, 18, and 19. El Paso requests that these changes be made effective August 1, 1977. El Paso indicates that the proposed changes would increase revenues from jurisdictional sales and service by $853,272 based on the 12-month period ending July 31, 1977.

El Paso states that the proposed increases are necessitated by the ever increasing discrepancy between the costs of providing service under these schedules and the revenues derived therefrom. Citing a down-grading of the Company's bonds experienced during 1975, El Paso states that the proposed rate increases are necessary to assure continued confidence in its financial integrity by providing earnings which will attract capital at reasonable cost necessary to finance its present and projected electrical construction programs.

According to El Paso copies of the filing were served upon Community Public Service Company and Rio Grande Electrical Cooperative, Inc., El Paso's customers under these schedules, and upon the New Mexico Public Service Commission and the Public Utility Commission of Texas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10), All such petitions or protests should be filed on or before July 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77–20727 Filed 7–18–77;8:45 am]

[Docket No. CP77–471]

## EL PASO NATURAL GAS CO.

### Application

JULY 13, 1977.

Take notice that on June 29, 1977, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP77–471 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to



[1] The application was initially tendered for filing on June 30, 1977; however, the fee required by Section 159.1 of the regulations under the Natural Gas Act (18 CFR 159.1) was not paid until July 5, 1977; thus, filing was not completed until the later date.



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abandon one 1,068 horsepower compressor station in Reeves County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that by order issued March 13, 1970, at Docket No. CP69-348 (43 FPC 418) Applicant was granted, inter alia, certificate authorization for the construction and operation, at the Waha Compression Station (Waha Station), of four 1,068 horsepower gas turbine-driven centrifugal compressor units and necessary appurtenances, such station to be located adjacent to Applicant's existing Waha Treating Plant in Reeves County, Texas. Applicant states that the horsepower installed at the Waha Station was a part of system expansion project designed to provide sufficient capacity to accommodate the sale and delivery of a total additional 200,000 Mcf of gas daily to distributors in the State of California. It is indicated that of the four units installed, two units are primarily utilized to compress gas from the Keystone Mainline station and two units are utilized to compress gas from the Mobil Coyanosa and Waha Plants. Applicant states that as a result of the gas supply decline experienced in sources supplying the Mobil Coyanosa and Waha Plants, Applicant has determined that one 1,068 horsepower compressor unit would provide sufficient capacity for the compressor of gas supplies projected to be available from said plants.

Consequently, Applicant proposes to abandon by removal and to place in stock, pending a future need therefor, one unit installed at the Waha Station. Applicant indicates that after the proposed compressor abandonment, it would have sufficient remaining capacity necessary to compress those gas supplies forecasted to be available. The total estimated cost of the proposed abandonment is $6,050.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20716 Filed 7-18-77;8:45 am]

[Docket No. RP77-104]

## FT. BRANCH NATURAL GAS CO. v. TEXAS EASTERN TRANSMISSION CORP.

### Complaint

JULY 11, 1977.

Take notice that on June 22, 1977, Ft. Branch Natural Gas Co. of Ft. Branch, Indiana (Ft. Branch), filed with the Commission a letter and related attachments requesting the Commission to grant Ft. Branch relief from a daily overrun penalty charge by its supplier Texas Eastern Transmission Corporation. The Commission has determined that Ft. Branch's submittal should be treated as a complaint against Texas Eastern pursuant to section 13 of the Natural Gas Act and section 1.6 of the Commission's Regulations thereunder.

Ft. Branch states that the overrun penalty charge amounts to $29,600, which is greatly in excess of Ft. Branch's total net income. Ft. Branch further states that its gas consumption which resulted in the overrun penalty was due to the record cold weather experienced during the 1976-77 winter, and that it could not cut back its demands because all gas purchased by Ft. Branch is sold for high priority uses. Ft. Branch further states that it has not added any new customers for several years.

Ft. Branch has refused to pay the charge and states that it intends to continue to withhold payment until the mater is considered by the Commission.

Any person wishing to be heard or to make any protest with reference to Ft. Branch's complaint should file with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 on or before August 11, 1977, a petition to intervene or protest in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the complaint are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20719 Filed 7-18-77;8:45 am]

[Docket No. RI77-104]

## KENNEDY & MITCHELL, INC.

### Petition for Declaratory Order and for Waiver of Provision for Carrying Charge Credit in Opinion No. 770-A

JULY 12, 1977.

Take notice that on June 8, 1977, Kennedy & Mitchell, Inc. (Petitioner), 750 West Hampden Avenue, Englewood, Colorado 80110, filed in Docket No. R177-104 a petition for a declaratory order pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure (18 C.F.R. § 1.7(c)).

Petitioner holds a small producer certificate issued March 24, 1976 in Docket No. CS76-199. Petitioner requests the Commission to issue a declaratory order interpreting the provisions of Opinion No. 770-A providing for a carrying charge credit as not applicable to a small producer where the producer receives advance payments after 1 p.m., e.s.t., November 5, 1976, for wells spudded prior to that date.

In addition, Petitioner asks the Commission to waive the provisions of Opinion No. 770-A which reduce the rates of a small producer in the amount of a carrying charge credit where (1) the small producer accepts advance payments after 1 p.m., e.s.t., November 5, 1976, for wells spudded after that date; and where (2) the small producer has a valid contract with an interstate pipeline executed prior to December 31, 1975, providing for advance payments.

On December 30, 1975, Petitioner entered into an advance payment agreement with Michigan Wisconsin Pipe Line Company (Mich Wisc) under which Petitioner agreed to drill or have drilled prior to December 31, 1977 sufficient wells in Oklahoma, so that all gas reserves from not less than 20 net wells would be committed to Mich Wisc under its contract. On December 31, 1975, as amended on February 27, 1976, the Commission terminated the advance payment program with respect to contracts entered into subsequent to that date.

Prior to the date Opinion No. 770-A was issued, namely November 5, 1976, Petitioner spudded seven wells, transferred their title to Mich Wisc, and received a total of $1,209,375 in advance payments from Mich Wisc.

Petitioner's first claim for relief from Opinion No. 770-A involves three wells which were spudded prior to November 5, 1976, but for which advance payments were not paid to Petitioner until after November 5, 1976. Petitioner states that although its requests for these advance payments were made prior to November 5, 1976, Mich Wisc made two of the three advance payments on November 5, 1976, and the third one on December 10, 1976. Petitioner, in its first claim, submits that Opinion No. 770-A should not apply to impose a carrying charge credit on advance payments received after November 5, 1976, where Petitioner has spudded the well, given title to Mich Wisc and "completely performed its requirements under the contract" prior to November 5, 1976, and moreover had no control as to when Mich Wisc would pay the advance.





In its second claim for relief from Opinion No. 770-A, Petitioner states that a carrying charge credit should not be imposed on advance payments received after November 5, 1976 on two wells spudded after November 5, 1976, but where the lease acquisition dates for the two wells occurred prior to November 5, 1976. In addition to lease acquisition, Petitioner had bought supplies and machinery, contracted for labor and had leased drilling rigs, all in advance of November 5, 1976. Petitioner avers that issuance of Opinion No. 770-A placed it in a bind, in that it had already expended considerable sums of money in reliance on the validity of its advance payment agreement, and that cancellation of the drilling of these two wells would have subjected it to "considerable financial loss."

Regarding Petitioner's third claim for relief from Opinon No. 770-A, it requests that the Commission waive the requirement in Opinion No. 770-A instituting a carrying charge credit on the executory portions of Petitioner's advance payment agreement so as to allow Petitioner to complete the agreement according to its terms, namely to spud, transfer title to, and receive advance payments for, ten net wells, none of which has been spudded to date.

Any person desiring to be heard or to make any protest with reference to said petition should on or before July 27, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petiton to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20735 Filed 7-18-77;8:45 am]

[Docket No. ER77-482]

## MICHIGAN POWER CO.

### Tariff Change

JULY 12, 1977.

Take notice that Michigan Power Company, on June 30, 1977, filed with the Commission pursuant to Section 205 of the Federal Power Act, proposed changes in Service Schedule B (Concurrent Exchange Service) of the Agreement between MPCo and Indiana & Michigan Electric Company (I&M), heretofore designated by the Commission as I&M Rate Schedule FPC No. 25. According to MPCo the proposed two-step rate increase would increase MPCo revenue for the service by $185,595 and $34,358, respectively. MPCo proposes that step one become effective August 1, 1977 and that step two become effective December 1, 1977.

MPCo states that copies of the filing were served upon the Indiana & Michigan Electric Company, the Michigan Public Service Commission and the Indiana Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20724 Filed 7-18-77;8:45 am]

[Docket No CP77-483]

## MISSISSIPPI RIVER TRANSMISSION CORP.

### Application

JULY 13, 1977.

Take notice that on July 1, 1977, Mississippi River Transmission Corporation (Applicant), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP77-483 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing October 8, 1977, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $1,000,000 with no single project to exceed $250,000. Applicant states that the proposed facilities would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 3, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necesesity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessay for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20745 Filed 7-18-77;8:45 am]

[Docket No. RM77-13]

## NATURAL GAS

### National Rates for Jurisdictional Sales; Extension of Time

JULY 12, 1977.

In the matter of national rates for jurisdictional sales of natural gas from wells commenced on or after January 1, 1977, for the period January 1, 1977, to December 31, 1978.

On June 23, 1977, United Distribution Companies (UDC) filed a motion to extend the time for filing a proposed rate structure and cost study and an explanation of the components thereof, pursuant to Commission Order issued March 1, 1977, in the above designated docket.

On June 23, 1977, the Office of Consumer Advocate of the Commonwealth of Pennsylvania and the American Public Gas Association, et al., joined in the UDC motion for an extension of time. Producer respondents filed responses to the UDC motion June 30, 1977, and July 1, 1977, which state that they do not



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oppose the requested extension even though it would delay the proceedings. On July 5, 1977, Associated Gas Distributors filed a statement in support of the UDC motion. Based on these responses, the Commission feels that an extension of time will allow the parties to compile higher quality data for submittal in this proceeding.

Notice is hereby given that an extension of time is granted to and including October 3, 1977, within which any party to this proceeding may file a proposed rate structure and cost study and an explanation of the components thereof. Accordingly, the date for filing comments on these submittals is extended to and including December 5, 1977.

By direction of the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20718 Filed 7-18-77;8:45 am]

[Docket No. CP77-473]

## NORTHERN NATURAL GAS CO.

### Application

JULY 13, 1977.

Take notice that on June 29, 1977, Northern Natural Gas Company (Application), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP77-473 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 300 Mcf of natural gas per day for Libbey-Owens-Ford Company (LOF), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to transport natural gas for LOF pursuant to a gas transportation agreement dated June 9, 1977, between Applicant and LOF. It is indicated that LOF owns and would produce certain natural gas reserves located in the Fritzlen field, Woods County, Okla., and that it has requested Northern to aid in the transportation of its gas, which gas would be used in its Mason City, Iowa, plant.

Applicant proposes to transport up to 300 Mcf of natural gas per day, on a best-efforts basis, for LOF from an existing point of interconnection with Panhandle Eastern Pipe Line Company (Panhandle) near Mullinville, Kans. Applicant states that it would deliver such volumes, less 4 percent for fuel and unaccounted-for-gas, to Interstate Power Company (Interstate) at the Mason City town border station located in Cerro Gordon County, Iowa, and that Interstate would deliver such gas to LOF's Mason City, Iowa, plant.

It is stated that LOF would pay Applicant 23.94 cents per Mcf for all gas transported and delivered to Interstate. The term of the proposed transportation arrangement is for eight years or until terminated on six-month written notice by either party, it is said.

Applicant indicates that the gas proposed to be transported in required for for Priority 2 uses in the manufacturing of Thermopane insulating glass with GlasSeal edge and that the edge fusion process requires the precise temperature control flame characteristics of a clean-burning, gaseous flame.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 3, 1977, file with the Federal Power Commission, Washington, D. C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20743 Filed 7-18-77;8:45 am]

[Docket No. ER77-481]

## NORTHERN STATES POWER CO.

### Proposed Cancellation

JULY 11, 1977.

Take notice that Northern States Power Company (Northern States) on June 27, 1977, tendered for filing a notice of cancellation of the Manitoba-United States Winnepeg-Grand Forks 230 Kv Interconnection Transactions Agreement, dated January 16, 1969, between the Manitoba Hydro-Electric Board, Minnkota Power Cooperative, Inc., Northern States Power Company, and Otter Tail Power Company. Northern States indicates that the Transactions Agreement is designated in the Commission's files as Northern States Power Company Rate Schedule FPC No. 360 and Otter Tail Power Company Rate Schedule FPC No. 160.

Northern States indicates that notice of the proposed cancellation has been served upon the Manitoba Hydro-Electric Board, Minnkota Power Cooperative, Inc., and Otter Tail Power Company.

Northern States requests a waiver of the Commission's notice requirements to allow an effective date of June 1, 1977, for the proposed cancellation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20722 Filed 7-18-77;8:45 am]

[RP77-109]

## NORTHWEST PIPELINE CORP.

### Proposed Changes in FPC Gas Tariff

JULY 13, 1977.

Take notice that Northwest Pipeline Corporation ("Northwest") on July 1, 1977, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1. The proposed change in the jurisdictional rate is 1.123¢ per therm comprised of a surcharge of 0.470¢ per therm for twenty-four months and an adjustment to base rates of 0.653¢ per therm, above the rates presently in effect. The proposed effective date is October 1, 1977.

The proposed change will be applied uniformly to the commodity charges of all of Northwest's jurisdictional rates. The proposed change will produce additional jurisdictional revenues of $45,890,800 annually based upon the jurisdictional settlement test period sales volumes in Docket No. RP76-115, as adjusted

Northwest asserts that the rate increase is required to compensate Northwest for increases in the unit amount per Mcf which Northwest pays to owners of special overriding royalty interests. Under twelve lease agreements, executed by Northwest's predecessor in the 1950's the overriding royalty interest owners are paid by Northwest an amount per Mcf of gas produced, with periodic price adjustments. The instant rate increase covers price adjustments including those Northwest is obligated to make from February 1, 1974.

Copies of the filing were served upon the Company's jurisdictional customers, all special overriding royalty interest





owners and affected state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.81, 1.10). All such petitions or protests should be filed on or before July 27, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20740 Filed 7-18-77;8:45 am]

[Project No. 2105]

## PACIFIC GAS AND ELECTRIC CO.

### Application for Change in Land Rights

JULY 11, 1977.

Public notice is hereby given that an application for a change in land rights was filed on March 17, 1977, under the Federal Power Act, 16 U.S.C. § 791a–825r, by Pacific Gas and Electric Company (Correspondence to: Mr. W. M. Gallavan, Vice President—Rates and Valuation, Pacific Gas and Electric Company, 77 Beale Street, San Francisco, Calif. 94106) for the constructed North Fork Feather River Project, P–2105, located on the North Fork Feather River in Plumas County, Calif.

According to its application, PG&E proposes to lease, for a period of 50 years, two parcels of project lands to Chester Sanitary District (District) to facilitate expansion of the District's sewage treatment facilities. The subject lands are adjacent to Lake Almanor and are now used for water storage when the water level of Lake Almanor reaches the maximum water level of 4,500 feet.

The first parcel, measuring 1.44 acres, would be utilized by the District to expand the surface area of stabilization ponds, one of several proposed improvements to the existing treatment facilities. The second parcel, a strip of land 10 feet wide and 3,500 feet long, would be used to locate a two-foot deep by four-foot wide drainage canal connecting the treatment facilities to Lake Almanor. Effluent from the existing treatment facilities is discharged onto the flood plain and is allowed to meander through the meadows to Lake Almanor.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 29, 1977, file with the Fedeal Power Commission, Washington, D. C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20730 Filed 7-18-77;8:45 am]

[Docket No. ES77-45]

## PACIFIC POWER & LIGHT CO.

### Application

JULY 13, 1977.

Take notice that on July 1, 1977, Pacific Power & Light Company (Applicant), a corporation organized under the laws of the state of Maine and qualified to transact business in the states of Oregon, Wyoming, Washington, California, Montana, and Idaho, with its principal business office at Portland, Oregon, filed an application with the Federal Power Commission, pursuant to Section 204 of the Federal Power Act, seeking an order authorizing it to issue and sell to its employees not to exceed 500,000 shares of its authorized but unissued shares of Common Stock of the par value of $3.25 per share, and exempting the issuance and sale thereof from the competitive bidding requirements of Section 34.1a of the Commission's Regulations.

Applicant proposes to issue and sell such shares of Common Stock pursuant to an Employees' Stock Purchase Plan (the Plan). The Plan provides for periodic offering of not less than 10 and not more than 400 shares or Applicant's authorized but unissued Common Stock to every regular full-time employee of any subsidiary corporation of Applicant, but not more than 1,350,000 shares in the aggregate, at a price equal to 90% of the fair market value on the date of an offering. Payments are to be made in cash or through payroll deductions over a period of not more than 27 months from the date of offering.

Applicant states that the purposes of the Plan are to encourage employees to become stockholders of Applicant, to stimulate increased interest on their part in affairs of Applicant, to afford them an opportunity to share in the profits and growth of Applicant and to promote systematic savings by them.

Any person desiring to be heard or to make any protest with reference to this application should, on or before July 25, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc 77-20738 Filed 7-18-77;8:45 am]

[Docket No. CP77-479]

## PANHANDLE EASTERN PIPE LINE CO. AND TRUNKLINE GAS CO.

### Application

JULY 12, 1977.

Take notice that on June 30, 1977, Panhandle Eastern Pipe Line Company and Trunkline Gas Company (Applicants), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP77-479 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transporation of natural gas for Libby-Owens-Ford Company (LOF), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants seek authorization to transport for LOF on a firm basis 450 Mcf of gas per day to Transcontinental Gas Pipe Line Corporation (Tranco), 300 Mcf of gas per day to Northern Natural Gas Company (Northern), 500 Mcf of gas per day to Transwestern Pipeline Company (Transwestern) and 550 Mcf of gas per day to Columbia Gas Transmission Corporation (Columbia). Applicants indicate that they would deliver such volumes less 6 percent fuel reduction for fuel usage for volumes delivered to Transco and less 8 percent for fuel usage for volumes delivered to Columbia. Because of the relatively short distances involved, there is no reduction for fuel usage for volumes delivered to Northern and Transwestern, it is said. Applicants state that they would transport on a best efforts basis up to 1,200 Mcf of gas per day to be nominated on a monthly basis for delivery to Northern, Transco, Transwestern and Columbia.

It is stated that the transportation between Applicants and LOF would be pursuant to an agreement dated March 31, 1977. It is further stated that LOF would pay to Applicants a monthly transportation charge of $7,650, such charge being subject to increase or decrease by an amount equal to 15.43 cents for those volumes delivered to Cow Island, Louisiana; 4.30 cents for those delivered to Mullinville, Kansas; 23.10 cents for those delivered to Maumee, Ohio; and 8.40 cents for those volumes delivered in Hansford County, Texas. It is indicated that the transportation agreement is for a term of 8 years from the date of first delivery, and that the term of the agreement is based upon the period of time those gas reserves in Woods



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County, Oklahoma, would be available to LOF.

It is indicated that the subject gas would be used for Priority 2 purposes. Applicants states that the gas it would transport is for use in the operation of 4 LOF plants in three locations, Laurinburg, North Carolina, Toledo, Ohio, and Mason City, Iowa. These plants are national suppliers of automotive and architectural glass, and in the production of both types of gas precise temperature control and precise flame characteristics of a clean-burning gaseous flame is required, it is said. It is stated that LOF has advised Applicants that curtailment by its various suppliers has necessitated its acquiring its own natural gas reserves and arranging for the transportation.

Applicants states that no new facilities are proposed to be constructed to perform the proposed transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 2, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervenort or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20744 Filed 7-18-77;8:45 am]

[Docket No. CP77-477]

## PANHANDLE EASTERN PIPE LINE CORP.

### Application

JULY 12, 1977.

Take notice that on June 30, 1977, Panhandle Eastern Pipe Line Corporation (Applicant), 300 Bissonnet Street, Houston, Texas, and 3444 Broadway, Kansas City, Missouri, filed in Docket No. CP77-477 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Ohio Gas Company (Ohio Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 8,000 Mcf of natural gas per day for Ohio Gas on a firm basis, pursuant to a transportation agreement dated April 29, 1977. It is stated that Ohio Gas has available volumes of gas purchased from National Petroleum Corporation (National) in Ashtabula County, Ohio, for delivery to East Ohio Gas Company (East Ohio) and by displacement to Applicant. It is further stated that said gas would be received by Applicant at the existing interconnection of the facilities of East Ohio and Applicant in Sec. 35, T. 2 N., R. 6 E., Lucas County, Ohio, and Applicant would deliver such volumes to Ohio Gas at the existing points of interconnection of the facilities of Applicant and Ohio Gas at Paulding, Wauseon, Ridgeville Corners and Swanton, Ohio.

Applicant asserts that it would charge Ohio Gas a monthly transportation charge of $4,400 for the firm transportation service and 1.80 cents per Mcf for volumes transported in excess of the firm volumes of 8,000 Mcf per day. It is further asserted that the transportation agreement provides for a term of five years and from year to year thereafter. Applicant further states that it has sufficient available capacity to transport the subject quantities of gas as well as those it provides for its direct customers and transports on behalf of others.

It is stated that Ohio Gas, an existing resale customer of Applicant purchasing gas pursuant to Applicant's Rate Schedule G-1, has embarked on a "self-help" program wherein it has arranged to purchase certain gas supplies which are unavailable to the interstate market, and has requested Applicant to assist by transporting these volumes. It is further stated that such volumes would partially offset a shortfall in deliveries from Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 2, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20726 Filed 7-18-77;8:45 am]

[Docket No. CP77-478]

## PANHANDLE EASTERN PIPE LINE CO. AND TRUNKLINE GAS CO.

### Application

JULY 12, 1977.

Take notice that on June 30, 1977, Panhandle Eastern Pipe Line Company (Panhandle) and Trunkline Gas Company (Trunkline), P.O. Box 1642 Houston, Texas 77001 (Applicants), filed in Docket No. CP77-478 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of gas for Central Illinois Public Service Company (CIPSCO) and the construction and operation of certain minor facilities to transport such natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport for CIPSCO for 5 years pursuant to an exchange agreement dated April 1, 1977 between the parties during the period April 1 through October 31, (Summer Period) of each year of the term of the agreement, certain volumes of gas available to CIPSCO from its Southern Service Area to its Northern Service Area for injection into CIPSCO's fields. It is stated that at such time, Trunkline would receive at the outlet of a measuring and regulating station to be constructed in Williamson County, Illinois, and transport to Panhandle and Panhandle would transport and deliver to CIPSCO at existing points of interconnection of Panhandle and CIPSCO in Milton (Pike County), Illinois or Canton (Fulton County), Illinois, or Paris (Edgar County) Illinois, up to 500,000 Mcf, at a daily rate not to exceed 10,000 Mcf, less 1 percent reduction of the volumes delivered at the point of receipt for fuel usage. Such deliveries would be on an interruptible basis, it is said.

It is stated that during the succeeding winter period (November 1 through the succeeding March 31) these volumes of gas would be withdrawn by CIPSCO from its storage fields and transported and redelivered by Applicants to CIPSCO for use in its Southern Service Area. It is indicated that at such time, Panhandle would receive at the point or points of delivery and transport to Trunkline, and Trunkline would transport and deliver to CIPSCO at the point of receipt certain volumes which CIPSCO has in their storage fields at a daily rate not to exceed 20,000 Mcf.

Applicants state that for the transportation during the summer period, CIPSCO would pay 5.15 cents per Mcf, plus 1 percent fuel, and that CIPSCO would also pay 5.15 cents per Mcf for volumes transported during the winter period, with no fuel reimbursement.

Trunkline also proposes to construct and operate certain minor facilities required to receive the transportation volumes from CIPSCO. These facilities consist of a side tap and connecting piping on Trunkline's pipeline in Williamson County, Illinois and are estimated to cost $12,700, it is said. It is stated that CIPSCO would reimburse Trunkline for the cost of these facilities, and that Trunkline proposes to finance this project from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 2, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20725 Filed 7-18-77;8:45 am]





[Docket No. CP77-480]

## PANHANDLE EASTERN PIPE LINE CO. AND TRUNKLINE GAS CO.

### Application

JULY 13, 1977.

Take notice that on June 30, 1977, Panhandle Eastern Pipe Line Company (Panhandle) and Trunkline Gas Company Trunkline), P.O. Box 1642, Houston, Texas 77001 (Applicants), filed in Docket No. CP77-480 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation for two years of natural gas for Owens-Corning Fiberglas Corporation (Owens-Corning), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Owens-Corning has arranged to purchase for high priority use at its plant in Anderson, South Carolina certain gas supplies which are unavailable to the interstate market from Alpar Resources, Inc. (Alpar) at a point situated in Ellis County, Oklahoma. It is indicated that Owens-Corning would pay Alpar $2.20 per billion Btu's for the subject gas, and that Owens-Corning desires to have such volumes received, transported and delivered by Applicants to Transcontinental Gas Pipeline Corporation (Transco) for the account of Owens-Corning.

Applicant proposes to transport for Owens-Corning on a firm basis up to 1,200 Mcf of gas per day and on a best-efforts basis up to 800 Mcf of gas per day with redelivery to Transco for the account of Owens-Corning. It is stated that Owens-Corning has entered into an agreement for the purchase of gas from Alpar to be delivered to Panhandle in Ellis County, Oklahoma, or at another mutually agreeable point on Panhandle's system. It is further stated that Panhandle would receive and transport the gas to the point of interconnection of Panhandle's and Trunkline's facilities in Tuscola, Illinois, and Panhandle and Trunkline at that point, would exchange equivalent volumes of gas less 7 percent for fuel usage, with redeliveries to be made to Transco by Trunkline at a point of interconnection of Transco's and Trunkline's facilities near Cow Island, Louisiana.

Applicants indicate that no new facilities would be required to effectuate the proposed transportation service.

It is stated that for the transportation on a firm basis, Owens-Corning would pay a monthly charge of $6,516 based upon daily volume level of 1,200 Mcf, and that Owens-Corning would pay 17.84 cents per Mcf for volumes transported on a best-efforts basis.

It is indicated that Owens-Corning would use the subject gas for Priority 2 uses at its plant located in Anderson, South Carolina, and that Owens-Corning has represented to Transco that because of the anticipated severe curtailments of Owens-Cornings' Priority 2 requirements at this plant approximately 1,500 employees at this locations face layoff.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 27, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20737 Filed 7-18-77;8:45 am]

[Docket No. FR77-472]

## PUBLIC SERVICE CO. OF NEW HAMPSHIRE

### Filing of Agreement

JULY 11, 1977.

Take notice that Public Service Company of New Hampshire (PSNH) on June 23, 1977, tendered for filing as an initial rate schedule a Transmission Contract with the City of Holyoke, Massachusetts, Gas and Electric Department (the Buyer).

PSNH indicates that under the Contract, PSNH will transmit through its system entitlements of power which the Buyer will be purchasing from Vermont Electric Power Company, Inc., and Green Mountain Power Corporation.

PSNH requests that the Commission waive the normal 30-day notice requirement and permit the rate schedule to be effective as of April 1, 1977.

According to PSNH, a copy of the filing was served upon the Buyer.



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Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20729 Filed 7-18-77;8:45 am]

[Project No. 298]

## SOUTHERN CALIFORNIA EDISON CO.

### Application for Major License for Constructed Project

JULY 13, 1977.

Public notice is hereby given that an application was filed on May 2, 1973, under the Federal Power Act, 16 U.S.C. §§ 791a–825r, by Southern California Edison Company (Correspondence to: Mr. Rollin E. Woodbury, Vic President and General Counsel, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770) for a major license for the constructed Kaweah Project, FPC No. 298, located on the Kaweah River and its tributaries near the Towns of Lemoncove, Three Rivers, and Harmond in Tulare County, California. The Kaweah Project affects lands within Sequoia National Forest and public lands of the United States.

The Kaweah Project, with a total installed capacity of 8,800 kW, was formerly licensd as a minor-part project. The minor-part license expired on August 6, 1974. The project consists of four storage reservoirs to regulate flows in the East Fork of the Kaweah River and three hydroelectric developments. The various portions of the project are described in greater detail as follows:

A. Storage Reservoirs including: (1) Crystal Lake, with a usable storage capacity of 153 acre-feet at maximum water surface elevation 10,785.3 feet msl, formed by Crystal Lake dam, a masonry structure 93.6 feet long and 16.8 feet high on Crystal Creek; (2) Upper Monarch Lake, with a usable storage capacity of 285 acre-feet at maximum water surface elevation 10,634.0 feet msl, formed by Upper Monarch Lake dam, a masonry structure 261.5 feet long and 22 feet high on Monarch Creek; (3) Lady Franklin Lake, with a usable storage capacity of 521 acre-feet at maximum water surface elevation 10,315.0 feet msl, formed by Lady Franklin Lake dam, a masonry structure 393.6 feet long and 21 feet high on Franklin Creek; and (4) Eagle Lake, with a usable storage capacity of 124 acre-feet at maximum water surface elevation 9,995.8 feet msl, formed by Eagle Lake dam, a masonry structure 280.2 feet long and 15 feet high on Eagle Creek.

B. Kaweah No. 1 Development consisting of: (1) a small concrete diversion dam across the East Fork of the Kaweah River; (2) a six-foot-high, three-foot-wide, unlined tunnel approximately 50 feet long; (3) a 30,723-foot-long steel flume; (4) a 24-foot-diameter steel forebay tank; (5) a 3,340-foot-long steel penstock varying in diameter from 48 to 19 inches; (6) a 22.5-foot by 26.3-foot reinforced concrete powerhouse; and (7) a generating unit with a capacity of 2,250 kW.

C. Kaweah No. 2 Development consisting of: (1) a masonry diversion dam 161 feet long and seven feet high on the Middle Fork of the Kaweah River; (2) a flowline comprised of 16,738 feet of concrete ditch, 3,822 feet of steel flume, and 1,047 feet of 50-inch steel syphon; (3) a 1,012-foot-long steel penstock varying in diameter from 60 to 40 inches; (4) a 34-foot by 62-foot wood-frame powerhouse; (5) a generating unit with a capacity of 2,050 kW; and (6) a tailrace canal extending approximately one-third mile to the Kaweah River.

D. Kaweah No. 3 Development consisting of: (1) a 2,580-foot-long section of concrete-lined flume; (2) a forebay reservoir with a capacity of approximately 11 acre-feet; (3) a 3,151-foot-long steel penstock varying in diameter from 42 to 36 inches; (4) a 50-foot by 50-foot reinforced concrete powerhouse; and (5) two generating units with capacities of 2,100 kW and 2,400 kW, respectively.

Facilities appurtenant to the project which are located in Sequoia National Park and which are not subject to the Commission's licensing authority include concrete dams on the Marble and Middle Forks of the Kaweah River and a conduit system approximately five miles long leading to the forebay reservoir of the Kaweah No. 3 Development.

The power generated at Project No. 298 is marketed in Applicant's service area.

Applicant states that the project area provides limited recreation potential, and that it does not intend to develop any recreation facilities in the area.

Any person desiring to be heard or to make any protest with reference to said application should, on or before September 19, 1977, file with the Federal Power Commission, 825 N. Capitol St. NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20717 Filed 7-18-77;8:45 am]

[Docket No. RP77-108]

## TRANSCONTINENTAL GAS PIPE LINE CORP.

### Proposed Changes in FPC Gas Tariff

JULY 11, 1977.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco), on July 1, 1977, tendered for filing certain revised tariff sheets to Second Revised Volume No. 1 and Original Volume No. 2 of its FPC Gas Tariff. The proposed changes would increase revenues from jurisdictional sales, transportation and storage services by approximately $50.8 million based upon the 12-month period ending March 31, 1977, as adjusted. The proposed effective date is August 1, 1977.

Transco states that the principal reasons which caused the rate increase are (1) an increase in depreciation rate, (2) increases in costs related to new plant for the attachment of new gas supplies, and (3) increases in transportation costs for new gas supplies transported by others. Transco also states that these increased costs have been partially offset by decreased unit transmission costs due to increases in sales and transportation volumes.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20731 Filed 7-18-77;8:45 am]

[Docket No. RP77-106]

## TRANSCONTINENTAL GAS PIPE LINE CORP.

### Tariff Filing

JULY 11, 1977.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on June 30, 1077, tendered for filing certain revised tariff sheets to its FPC Gas Tariff, Original Volume No. 2.





Transco states that these tariff sheets provide for an increase in the rate charged for interruptible transportation service under each of the agreements involved in this filing up to the levels approved by Order issued January 31, 1977 in Docket No. RP77-26 (28.2¢ per dt, 29.8¢ per dt, and 31.5¢ per dt in Zones 1, 2 and 3, respectively). The proposed effective date of such increased rates is June 30, 1977 and it is requested that the Commission suspend the use of such tariff sheets for one (1) day and provide that the sheets become effective July 1, 1977, subject to refund pending the outcome of the consolidated proceedings in Docket Nos. RP76-136 and RP77-26.

Transco also states that the purpose of this filing is to increase the interruptible transportation rates under the affected agreements from 21.55¢ per dt to the particular zone level in effect in Docket No. RP77-26 as spelled out above in order that all interruptible transportation customers will pay the same rate for the same type of service pending the outcome of said docket. The instant agreements were not changed in Docket No. RP77-26 because they were not in effect at the time of that filing.

The Company states that copies of the filing have been mailed to each of the customers receiving service under the affected rate schedules.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20732 Filed 7-18-77;8:45 am]

[Docket No. CP77-469]

## TRANSCONTINENTAL GAS PIPE LINE CORP.

### Application

JULY 12, 1977.

Take notice that on June 27, 1977, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP77-469 and application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of up to 10,000 dekatherms equivalent of natural gas per day on an interruptible basis for Mid Louisiana Gas Company (Mid Louisiana), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to transport up to 10,000 dekatherms equivalent of natural gas per day for Mid Louisiana pursuant to an agreement between the parties dated March 11, 1977. It is stated that such agreement would continue in effect for a period ending March 21, 1978, to coincide with the term of a gas purchase arrangement between Mid Louisiana and certain producers.

Applicant states that Mid Louisiana has purchased from South Louisiana Production Company, Inc., CRA Oil Exploration Company, Carpenter Oil & Gas Co., W. A. Moncrief, Jr., and Reidy International (SLAPCO, et al.), the proposed volumes of gas produced from the Morris Heirs No. 1 well located in the False River Field, West Baton Rouge Parish, La. Such purchase commenced on March 27, 1977, and would continue through July 31, 1977, pursuant to Section 6 of the Emergency Natural Gas Act of 1977; thereafter purchases from this source would continue for a limited-term period beginning August 1, 1977, and extending through the 360th day following the March 27, 1977, date on which the emergency purchase began, i.e. through March 21, 1978, it is said.

Applicant indicates that Mid Louisiana has arranged for the delivery of such quantities to Texas Eastern Transmission Corporation (Texas Eastern), which makes equivalent quantities available to Transco at an existing authorized interconnection between the two companies located near St. Francisville, East Feliciana Parish, La., and that Transco in turn would deliver thermally equivalent quantities less 0.6 percent retained by Transco for fuel, to Mid Louisiana at an existing authorized interconnection between the two companies known as the Ethel Exchange Point, also in East Feliciana Parish, La., or at any other mutually agreeable existing authorized exchange point between Applicant and Mid Louisiana. No additional facilities are required by Applicant to render the proposed service, it is said.

It is stated that the combined total daily quantities of gas delivered to Applicant for transportation or for exchange under this agreement and under the existing agreement between Applicant and Mid Louisiana, dated June 29, 1972, would not exceed the maximum quantities of gas Applicant would transport or exchange under the agreement dated June 29, 1972. Applicant would make no additional charge for its service hereunder, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 2, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc. 77-20736 Filed 7-18-77;8:45 am]

[Docket No. RP77-107]

## UNITED GAS PIPE LINE CO.

### Proposed Changes in FPC Gas Tariff

JULY 11, 1977.

Take notice that United Gas Pipe Line Company (United), on June 30, 1977, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2. The proposed changes are based on the twelve-month period ending February 28, 1977, as adjusted, and would increase jurisdictional sales and transportation revenues by $55,964,530. The proposed effective date is August 1, 1977.

United states that the proposed rate increase is necessary to permit it to recover its jurisdictional cost of service for the test period of twelve months ended February 28, 1977, as adjusted. The cost of service reflects increases in all levels of cost except gas costs which are reflected in the cost of service on the basis of the average unit cost of gas purchased as contained in United's PGA rate change which will become effective July 1, 1977. United also states that its jurisdictional sales volume for the test period has declined 7.3 million Mcf from the volumes included in United's last rate increase filing at Docket No. RP76-84.

Copies of the filing have been served upon United's jurisdictional customers and the public service commissions in the states of Alabama, Florida, Louisiana, and Mississippi, and the Texas Railroad Commission.

Any person desiring to be heard or to protest said filing should file a petition



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to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20721 Filed 7-18-77;8:45 am]

[Docket No. CP77-468]

## UNITED GAS PIPE LINE CO.

### Application

JULY 13, 1977.

Take notice that on June 24, 1977, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP77-468 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission General Policy and Interpretation (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 40 Mcf of natural gas per day for Davsco, Inc. (Davsco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that under the terms and conditions of an agreement between Applicant and Davsco dated May 25, 1977, Applicant has agreed to transport up to 40 Mcf of natural gas per day for Davsco. Applicant indicates that it would transport such volumes from a point of receipt on its Bruni-Pettus 14-inch line located in the Sam Allen Survey A-71, Bee County, Tex., and would redeliver such volumes of gas for the account of Davsco, to Transcontinental Gas Pipe Line Corporation (Transco) at mutually agreeable existing points of interconnection near Victoria, Victoria County, Tex.; near Cameron Parish, La.; at Egan Plant in Acadia Parish, La.; near Gueydan, Acadia Parish, La.; at Gibson Plant Nos. 1 and 2 in Terrebonne Parish La.; near Magnolia and Holmesville, Pike County, Miss.; near Walthall, Walthall County, Miss.; or at Harmony Plant, Clarke County, Miss.

It is stated that the gas proposed to be transported has been acquired by Davsco from Samedan Oil Corporation (Samedan), that such gas would be produced from Samedan Carl Unit No. 1 located in Bee County, Tex., and would be consumed for high priority end-use in Davsco's plant in Gastonia, N.C. It is indicated that Davsco would pay Samedan for all gas delivered hereunder, or if available and not taken, $2.25 per million Btu's (at 14.65 psia), and that Davsco would pay Samedan 8.4 cents per Mcf for gathering and transporting gas to the delivery point.

Applicant states that it would redeliver to Transco for the account of Davsco, a volume of gas equal to the quantity of gas delivered by Samedan to Applicant, for the account of Davsco, less 1.5 percent of the said volume so delivered by Samedan as a charge for fuel and company used gas. It is stated that Transco, in turn, would cause said quantity of gas to be delivered, to Public Service Company of North Carolina, inc., for redelivery to Davsco for high priority end-use at its Gastonia, N.C. Plant.

It is stated that Davsco has purchased such gas in an effort to offset the loss of its gas supply because of curtailed deliveries by its supplier, and that all natural gas purchased would qualify for Priority 2 end-uses at the old Bulb Avenue plant or at the new Tulip Drive plant. The only way gas would be used at these plants would be for drying process, it is said.

Applicant states that the proposed transportation service is for a term of 2 years beginning with the date of first deliveries or for a lesser period as may be required by governmental authorization. It is stated that Davsco has agreed to pay Applicant for the proposed transportation service a price equal to Applicant's average jurisdictional transmission cost of service in its southern or northern rate zone, less any amount included in such average jurisdictional cost of service which is attributable to gas consumed in the operation of Applicant's pipeline system. The current average jurisdictional transmission cost of service, exclusive of the cost of gas consumed in Applicant's operation, is 20.04 cents per Mcf in the Northern rate zone and 17.92 cents per Mcf in the Southern rate zone, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 1, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20739 Filed 7-18-77;8:45 am]

[Docket No. CP77-467]

## UNITED GAS PIPE LINE CO.

### Application

JULY 12, 1977.

Take notice that on June 24, 1977 United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP77-467 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 125 Mcf of natural gas per day for Aikman Corporation (Corporation), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to transport up to 125 Mcf of natural gas per day for Corporation pursuant to a transportation agreement dated May 24, 1977 between Applicant and Corporation. Applicant states that it would transport such volumes from a point of receipt on its Bruni-Pettus 14-inch line located in the Sam Allen Survey A-71, Bee County, Texas, and would redeliver such volumes of gas, for the account of Corporation, to Transcontinental Gas Pipe Line Corporation (Transco) at mutually agreeable existing points of interconnection near Victoria, Victoria County, Texas; near Cameron, Cameron Parish, Louisiana; at Egan Plant in Acadia Parish, Louisiana; near Gueydan, Acadia Parish, Louisiana; at Gibson Plant Nos. 1 and 2 in Terrebonne Parish, Louisiana; near Magnolia and Holmesville, Pike County, Mississippi; near Walthall, Walthall County, Mississippi or at Harmony Plant, Clarke County, Mississippi.

It is stated that the gas proposed to be transported by Applicant has been acquired by Corporation from Samedan Oil Corporation (Samedan), and that such gas would be produced from the Samedan Carl Unit No. 1 located in Bee County, Texas and would be consumed for high priority end use in Corporations' plant in Roxboro, North Carolina. It is indicated that Corporation would pay Samedan for all delivered hereunder, or if available and not taken by Corporation, $2.25 per million Btu's (at 14.65 psia), and that Corporation would also pay Samedan 8.4 cents per Mcf for gathering and transporting gas to the delivery point.

Applicant states that it would redeliver to Transco, for the account of Corporation, a volume of gas equal to that quantity of gas delivered by Samedan to Applicant, for the account of Corporation, less 1.5 percent of the said volume so delivered by Samedan as a charge for fuel and company used gas, and that Transco, in turn, would cause said quantities of gas to be delivered for the account of Corporation to Public Service Company of North Carolina, Inc. for redelivery to Corporation for high priority end-use at its Roxboro, North Carolina plant. It is stated that Corporation would only use the gas to fire one textile fabric dryer/tenter frame, and that natural gas is an essential component in the textile manufacturing process. Natural gas is required in the dryer/tenter frame to produce precise temperatures through a direct flame application, it is said. Applicant indicates that there exists no other technically alternate fuel for use at the Collins & Aikman Roxboro facility.

It is stated that the term of the proposed transportation agreement is for two years beginning with the date of first deliveries hereunder or for a lesser period as may be required by governmental authorization. It is further stated that Corporation would pay Applicant for gas transported a price equal to Applicant's average jurisdictional transmission cost of service in its southern or northern rate zone, less any amount included in such average jurisdictional cost of service which is attributable to gas consumed in the operation of Applicant's pipeline system. The current average jurisdictional transmission cost of service, exclusive of the cost of gas consumed in Applicant's operations is 20.04 cents per Mcf in the Northern rate zone and 17.92 cents per Mcf in the Southern rate zone.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 25, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20741 Filed 7-18-77;8:45 am]

[Docket No. ER76-689]

## WEST PENN POWER CO.

### Conformance Filing of Tariff Sheets Pursuant to Settlement Agreement

JULY 8, 1977.

Take notice that on July 5, 1977, Allegheny Power System (Allegheny) on behalf of West Penn Power Company tendered for filing revised Sheet Nos. 11 and 12 to FPC Electric Tariff, Original Volume No. 1 of West Penn Power Company. Allegheny states that the revised sheets are being filed in conformance with the settlement agreement approved in the above docket.

Allegheny states that a copy of the filing was sent to West Penn's wholesale customer, Allegheny Electric Cooperative, Inc.

Any person desiring to be heard or to protest said filing on whether the filing conforms to the Commission's decision approving the settlement agreement should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 26, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20734 Filed 7-18-77;8:45 am]

[Docket No. ER77-489]

## WISCONSIN PUBLIC SERVICE CORP.

### Filing of Initial Rate Schedule

JULY 11, 1977.

Take notice that Wisconsin Public Service Corporation ("Company") on July 1, 1977, tendered for filing an initial Primary Resale Service Agreement, dated March 18, 1977, with Alger-Delta Electric Association, of Gladston, Michigan, which is proposed to be effective August 31, 1977. The Company states that the Agreement provides for wholesale electric service to be furnished by it to Alger-Delta Electric Association under the Company's present standard W-1 form of tariff for Primary Resale Service, which rate was most recently revised pursuant to the Commission's Order of January 10, 1977, in Docket No. ER76-150.

The Company indicates that an estimate of quantities of service and revenues during the twelve months immediately following the month in which this service is expected to commence, was submitted with the filing.

The Company states that there are no customers receiving service under a similar schedule except those now being served under the present W-1 form of tariff.

Any persons desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20728 Filed 7-18-77;8:45 am]

## FEDERAL RESERVE SYSTEM

[H.2, 1977 No. 26]

### ACTIONS OF THE BOARD; APPLICATIONS AND REPORTS RECEIVED DURING THE WEEK ENDING JUNE 25, 1977

ACTIONS OF THE BOARD

Statement by Chairman Arthur F. Burns before the Senate Subcommittee on Financial Institutions on S. 1664, concerning distortions caused by the spread of payment of interest by depository institutions on transactions balances (NOW accounts, etc.) and the withdrawal of banks from Federal Reserve membership.

Statement by Chairman Arthur F. Burns before the House Subcommittee on Domestic Monetary Policy, on H.R. 6273, the bill provides that, beginning on February 1, 1982, and at four-year intervals thereafter, the Chairman and Vice Chairman of the Board of Governors of the Federal Reserve System shall be appointed by the President with the advice and consent of the Senate, it further provides that if a vacancy occurs in either of these offices, any portion of the term remaining shall be filled only for that unexpired portion.







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Report on bills H.R. 2733 and H.R. 3928, bills that involve reporting requirements and restrictions on certain Federal employees and officers, letter of response to request for Board's comments sent to Congressman Robert N. C. Nix, Chairman of the House Committee on Post Office and Civil Service.

The Board has decided to take under consideration proposals by four bank holding companies to have a subsidiary engage in the business of acting as a futures commission merchant to execute futures contracts covering gold and silver bullion and coins, the Board will receive comment through July 13, 1977.

Sumitomo Bank, Limited, Osaka, Japan, extension of time to July 29, 1977, within which to purchase shares of Central Pacific Bank, Honolulu, Hawaii.[1]

Cass City State Bank, Cass City, Michigan, to make an investment in bank premises.[1]

Long Island Trust Company, Garden City, New York, to make an investment in bank premises.[1]

Manistee Bank & Trust Co., Manistee, Michigan, to make an investment in bank premises.[1]

## To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

Union Trust Company of Maryland, Baltimore, Maryland, Branch to be established at the intersection of Fairmont Avenue and York Road, Towson, Baltimore County.[2]

State Bank of St. Charles, St. Charles, Illinois. Branch to be established at the southeast corner of Oak Street and Randall Road, St. Charles.[2]

The First State Bank of Decatur, Indiana. Branch to be established at Yorkshire Drive, Decatur, Adams County.[2]

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## International Investments and Other Actions Pursuant to Sections 25 and 25(a) of the Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

Boston Overseas Financial Corporation: Investment—additional shares of International Factors Belgium, Societe Anonyme.

Citibank, N.A.: Investment—to acquire through Grindlays Bank Limited, London, England, special purpose insurance brokerage companies.

Marine Midland International Corporation: Investment—to acquire indirectly, additional shares of Sociedad Financiera Union C.A., Caracas, Venezuela, in order to maintain its 20 percent interest.

Bamerical International Financial Corporation: For Bamerical Financial Corporation Ltd., Thailand, to issue debt obligations.

## To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

APPROVED

Banbogota, Inc., New York, New York, for approval to acquire 100 percent (less directors' qualifying shares) of the voting shares of Banco de Bogota Trust Company, New York, New York, a proposed new bank.

Banco de Bogota, Bogota, Colombia, for approval to acquire 100 percent of the voting share (less directors' qualifying shares) of Banco de Bogota Trust Company, New York, New York, a proposed new bank.

Trade Development Finance (Netherlands Antilles), N.V., Curacao, The Netherlands Antilles and Trade Development Holland Holding B.V., Amsterdam, The Netherlands for approval to directly acquire 68.63 per cent of the voting shares of Republic New York Corporation, New York, New York and to indirectly acquire 99.9 percent of the voting shares of Republic National Bank of New York, New York, New York.

Preferred Management Company, Omaha, Nebraska, for approval to acquire an additional 60 percent of the voting shares of North Side Bank, Omaha, Nebraska.

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## To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

RETURNED

J. R. Montgomery & Co., Inc., Lawton, Oklahoma, for approval to acquire an additional five percent of the voting shares of The City National Bank and Trust Company of Lawton, Oklahoma, Lawton, Oklahoma (See H.2 No. 21, 1977.)

APPROVED

The Royal Trust Company, Montreal, Quebec, Canada and Royal Trust Bank Corp., Miami, Florida, for approval to acquire 100 percent of the voting shares of Royal Trust Bank of South Dade, N.A., Dade County, Florida a proposed new bank.

Republic of Texas Corporation, Dallas, Texas, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to Midway National Bank of Grand Prairie, Grand Prairie, Texas.

DENIED

Republic of Texas Corporation, Dallas, Texas for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to Preston State Bank, Dallas, Texas.

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## To Retain Bank Shares Acquired in a Fiduciary Capacity Pursuant to Section 3 of the Bank Holding Company Act of 1956.

APPROVED

First United Bancorporaton, Inc., Fort Worth, Texas and The First National Bank of Fort Worth, Fort Worth, Texas, for approval to retain 9,960 shares of Everman National Bank, Fort Worth, Texas.[1]

Texas American Bancshares Inc., Fort Worth, Texas, for approval to retain 575 shares of Riverside State Bank, Fort Worth, Texas.[1]

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## To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

WITHDRAWN

Industrial National Corporation, Providence, Rhode Island, notification of intent to engage in *de novo* activities (insurance agency for any insurance sold as a matter of convenience to the purchaser) at 1443 West Schaumburg Road, Schaumburg, Illinois, through a subsidiary, Mortgage Associates, Inc. (6/8/77).[2]

DELAYED

Union Trust Bancorp, Baltimore, Maryland, notification of intent to engage in de novo activities (acting as agent in the sale of insurance protecting collateral held against the extensions of credit) at 852-854 Terry Road, Jackson, Mississippi; 122 East Pine Street, Hattiesburg, Mississippi; and 283 West Evans Street, Florence, South Carolina, through its subsidiaries, Landmark Finance Corporation of Mississippi and Landmark Finance Corporation of South Carolina (wholly-owned subsidiaries of Landmark Financial Services, Inc.) (6/23/77).[2]

PERMITTED

First Bancorp of N.H., Inc., Manchester, New Hampshire, notification of intent to engage in de novo activities (origination, selling and servicing both residential and commercial mortgages; originating and servicing construction loans; and as an incident to the real estate lending activities, providing advice and appraisal services for self and others) at 156 Main Dunstable Road, Nashua, New Hampshire, through its subsidiary, Firstbank Mortgage Corp. (6/26/77).[2]

Industrial National Corporation, Providence, Rhode Island, notification of intent to relocate de novo activities (organization and sale of residential mortgages; servicing of residential mortgage loans; insurance agency for any insurance directly related to an extension of credit or provision of other financial services) from 5335 66th Street North, St. Petersburg, Florida to 3601 Central Avenue, St. Petersburg, Florida, through its subsidiary, Mortgage Associates, Inc. (6/22/77).[2]

Industrial National Corporation, Providence, Rhode Island, notification of intent to engage in de novo activities (origination and sale of residential mortgages; servicing of residential mortgage loans; and the offering of credit life/accident and health insurance directly related to an extension of credit) at 1000 Quintard Avenue, Suite 410, Anniston, Alabama, through its subsidiary, Mortgage Associates, Inc. (6/22/77).[2]

Industrial National Corporation, Providence, Rhode Island, notification of intent to engage in de novo activities (insurance agency for credit life/accident and health insurance directly related to an extension of credit) at 1443 West Schaumburg Road, Schaumburg, Illinois, through a subsidiary, Mortgage Associates, Inc. (6/26/77).[2]

Citicorp, New York, New York, notification of intent to engage in de novo activities (making loans for the account of others such as one-to-four family unit mortgage loans) at 117 S. Air Depot Boulevard, Midwest City, Oklahoma, 2507 N.W. 23rd Street, Oklahoma City, Oklahoma, The Crossroads, 7000 Crossroads Boulevard, Oklahoma City, Oklahoma and North Penn Plaza, 5841 N. Pennsylvania Avenue, Oklahoma City, Oklahoma, respectively, through its subsidiary, Nationwide Financial Services Corporation (6/19/77).[2]

Citicorp, New York, New York, notification of intent to relocate de novo activities (making of consumer installment personal loans, purchasing consumer installment sales finance contracts; sale of credit related life/accident and health insurance; sale by a licensed agent of insurance which protects personal property subject to a security agreement with Nationwide Financial Corporation of Oklahoma, Inc.) from 2808 N. Pennsylvania Avenue, Oklahoma City, Oklahoma, 4800 S. Western Avenue, Oklahoma City, Oklahoma and 4520 N.W. 50th, Oklahoma City, Oklahoma to 2507 N.W. 23rd Street, Oklahoma City, Oklahoma, The Crossroads, 7000 Crossroads Boulevard, Oklahoma City, Oklahoma and North Penn Plaza, 5841 N. Pennsylvania Avenue, Oklahoma City, Oklahoma, respectively, through its subsidiary, Nationwide Financial Corporation (6/19/77).[2]

Citicorp, New York, New York, notification of intent to engage in de novo activities (making loans for the account of others such as one-to-four family unit mortgage loans) at 5567 D Memorial Drive, Stone Mountain, Georgia; 2096 N. Decatur Plaza, Decatur, Georgia; 4471 Jonesboro Road, Forest Park, Georgia; 3355 Lenoc Road N.E., Atlanta, Georgia; 204 Spring Street, Macon, Georgia; and 5067 Austell Road, Austell, Georgia, through its subsidiary, Nationwide Financial Corporation of Georgia (6/24/77).[2]

Citicorp, New York, New York, notification of intent to engage in de novo activities (making loans for the account of others such as one-to-four family unit mortgage loans) at 314 Gold S.W., Albuquerque, New Mexico; 3416 Central Avenue, S.E., Albuquerque, New Mexico; 2203 Central Avenue, N.W., Albuquerque, New Mexico; 1501 Eubank Boulevard, N.E., Albuquerque, New Mexico; 3601 San Mateo, N.E., Albuquerque, New Mexico; 10701 Lomas Boulevard, N.E. Suite 106, Albuquerque, New Mexico; and 3157 Cerrillos Road, Santa Fe, New Mexico, through its subsidiary, Nationwide Financial Corporation of New Mexico (6/24/77).[2]

Midlantic Banks Inc., West Orange, New Jersey, notification of intent to engage in de novo activities (leasing and financing personal property and equipment, all such leases to be on a full pay-out basis) at 95 Old Short Hills Road, West Orange, New Jersey and 9 South Centre Street, Merchantville, New Jersey, through its subsidiary, Midlantic Commercial Leasing Corp. (6/20/77).[2]

Barnett Banks of Florida, Inc., Jacksonville, Florida, notification of intent to engage in de novo activities (performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company including activities of a fiduciary, agency or custodial nature in the manner authorized by Federal and State law; provided however, that loans and investments will be made and deposits accepted only in conformity with the Regulations of the Board of Governors of the Federal Reserve System) at 1001 East Atlantic Avenue, Delray Beach, Florida, through a subsidiary, Barnett Banks Trust Company, N.A. (6/26/77).[2]

[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

[1] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.





North Penn Plaza, 5841 N. Pennsylvania Avenue, Oklahoma City, Oklahoma, respectively, through its subsidiary, Nationwide Financial Corporation (6/19/77).[2]

Citicorp, New York, New York, notification of intent to relocate de novo activities (making of consumer installment personal loans, purchasing consumer installment sales finance contracts; sale of credit related life/accident and health insurance; sale by a licensed agent of insurance which protects personal property subject to a security agreement with Nationwide Financial Corporation of Oklahoma) and to engage de novo in the following additional activity (making loans for the account of others such as one-to-four family unit mortgage loans) from 1531 Gore Boulevard, Lawton, Oklahoma to 3130 Cache Road, Suite 2, Lawton, Oklahoma, through its subsidiary, Nationwide Financial Services Corporation (6/20/77).[2]

Citicorp, New York, New York, notification of intent to engage in de novo activities (making loans for the account of others such as one-to-four family unit mortgage loans) at 2702 N.E. Broadway, Portland, Oregon; 4240 N.E. 122nd Street, Portland, Oregon; 1543 Hawthorne Avenue, N.E., Salem, Oregon; 615 S.W. Park Avenue, Portland, Oregon; 939 River Road, Eugene, Oregon; and 10615 S.E. Cherry Blossom Drive, Portland, Oregon, through its subsidiary, Nationwide Financial Corporation of Oregon (6/24/77).[2]

Citicorp, New York, New York, notification of intent to engage in de novo activities (making loans for the account of others such as one-to-four family unit mortgage loans) at 5567 D Memorial Drive, Stone Mountain, Georgia; 2096 N. Decatur Plaza, Decatur, Georgia; 4471 Jonesboro Road, Forest Park, Georgia; 3355 Lenoc Road N.E., Atlanta, Georgia; 204 Spring Street, Macon, Georgia; and 5067 Austell Road, Austell, Georgia, through its subsidiary, Nationwide Financial Corporation of Georgia (6/24/77).[2]

Citicorp, New York, New York, notification of intent to engage in de novo activities (making loans for the account of others such as one-to-four family unit mortgage loans) at 314 Gold S.W., Albuquerque, New Mexico; 3416 Central Avenue, S.E., Albuquerque, New Mexico; 2203 Central Avenue, N.W., Albuquerque, New Mexico; 1501 Eubank Boulevard, N.E., Albuquerque, New Mexico; 3601 San Mateo, N.E., Albuquerque, New Mexico; 10701 Lomas Boulevard, N.E. Suite 106, Albuquerque, New Mexico; and 3157 Cerrillos Road, Santa Fe, New Mexico, through its subsidiary, Nationwide Financial Corporation of New Mexico (6/24/77).[2]

Midlantic Banks Inc., West Orange, New Jersey, notification of intent to engage in de novo activities (leasing and financing personal property and equipment, all such leases to be on a full pay-out basis) at 95 Old Short Hills Road, West Orange, New Jersey and 9 South Centre Street, Merchantville, New Jersey, through its subsidiary, Midlantic Commercial Leasing Corp. (6/20/77).[2]

Barnett Banks of Florida, Inc., Jacksonville, Florida, notification of intent to engage in de novo activities (performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company including activities of a fiduciary, agency or custodial nature in the manner authorized by Federal and State law; provided however, that loans and investments will be made and deposits accepted only in conformity with the Regulations of the Board of Governors of the Federal Reserve System) at 1001 East Atlantic Avenue, Delray Beach, Florida, through a subsidiary, Barnett Banks Trust Company, N.A. (6/26/77).[2]

American Fletcher Corporation, Indianapolis, Indiana, notification of intent to relocate de novo activities (the making of loans and extending of credit, and providing services incident to such loans and extensions of credit such as would be made or provided by a finance company including, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, extending credit secured by real or personal property; and acting as agent or broker for the sale of credit related life insurance in connection with such financing activities) from 209 East Liberty Street, Ann Arbor, Michigan to 2261 West Liberty Street, Ann Arbor, Michigan, through its subsidiary, Local Finance Corporation (6/23/77).[2]

BankAmerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account loans and other extensions of credit such as would be made or acquired by an industrial loan company and servicing loans and other extensions of credit; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, making loans secured by personal property, issuing certificates of indebtedness under the authority of the Minnesota Industrial Loan and Thrift Company Act; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit made or acquired by FinanceAmerica Plan, Inc.) at 413 South Broadway, Rochester, Minnesota, through its subsidiary, FinanceAmerica Plan, Inc. (6/19/77).[2]

BankAmerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account loans and other extensions of credit such as would be made or acquired by an industrial loan company and servicing loans and other extensions of credit; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, making loans secured by personal property, issuing certificates of indebtedness under the authority of the Minnesota Industrial Loan and Thrift Company Act; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit made or acquired by FinanceAmerica Plan, Inc.) at 200 Woolworth Building, St. Cloud, Minnesota, through its subsidiary, FinanceAmerica Plan, Inc. (6/19/77).[2]

BankAmerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account loans and other extensions of credit such as would be made or acquired by an industrial loan company and servicing loans and other extensions of credit; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, making loans secured by personal property, issuing certificates of indebtedness under the authority of the Minnesota Industrial Loan and Thrift Company Act; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit made or acquired by FinanceAmerica Plan, Inc.) at 106 Oakland Avenue, West, Austin, Minnesota, through its subsidiary, FinanceAmerica Plan, Inc. (6/19/77).[2]

APPROVED

Preferred Management Company, Omaha, Nebraska, for permission to continue to act as agent or broker with respect to the sale of decreasing term credit life insurance, credit accident and health disability insurance and property damage insurance directly related to extensions of credit by North Side Bank, Omaha, Nebraska.

## To Expand a Bank Holding Company Pursuant to Section 4(c)(12) of the Bank Holding Company Act of 1956.

PERMITTED

The Sperry and Hutchinson Co., New York, New York, notification of intent to acquire Harlan, Incorporated, Houston, Texas (6/24/77).[2]

## Applications Received

## To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

The Farmers Trust Company of Lebanon, Pennsylvania, Lebanon, Lebanon County, Pennsylvania. Branch to be established as a branch office at the southeast corner of Eighth Street and Reading Railroad, Lebanon County.

Citizens Bank, Hartford, Kentucky. Branch to be established at Spinks Shopping Center, Highway 231 (Main Street) Hartford, Ohio County.

Citizens Bank, Batesville, Arkansas. Branch to be established in the Wal-Mart Shopping Center on Harrison Street, Batesville, Independence County.

Tyler Bank & Trust Company, Tyler, Texas Branch to be established on the northeast corner of College and Locust Streets.

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## To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act.

New Jersey National Bank: Branch—George Town, Grand Cayman, Cayman Islands. (H.2 No. 20, which was originally omitted.)

Security Pacific National Bank: Branch—Manama, Bahrain. (H.2 No. 22, page 11 correction made.)

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## To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

Lake View Bancorp, Inc., Northbrook, Illinois, for approval to acquire 99.9 per cent of the voting shares of Lake View Trust and Savings Bank, Chicago, Illinois.

Brentwood Bancshares Corporation, St. Louis, Missouri, for approval to acquire 80 per cent or more of the voting shares of The Brentwood Bank, Brentwood, Missouri, Brentwood, Missouri.

First Guthrie BancShares, Inc., Guthrie, Oklahoma, for approval to acquire 80 per cent or more of the voting shares of The First National Bank of Guthrie, Guthrie, Oklahoma.

Twin Lakes Financial Corporation, Wichita, Kansas, for approval to acquire 98.9 per cent of the voting shares of Twin Lakes State Bank, Wichita, Kansas.

New Parent Company, Cincinnati, Ohio, for approval to acquire D. H. Baldwin Company, Cincinnati, Ohio and indirectly acquire Central Colorado Bancorp, Inc., Cincinnati, Ohio; Nordenco, Inc., Denver, Colorado; Central Bank of Denver-Trade name for The Central Bank and Trust Company, Denver, Colorado; Central Bank of Aurora-Trade name for Peoples Bank of Arapahoe County, Aurora, Colorado; Central Bank of North Denver-Trade name for North Denver Bank, Denver, Colorado; Central



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Bank of Colorado-Trade name for The Central Colorado Bank, Colorado Springs, Colorado; Central Bank of Academy Boulevard-Trade name for The Academy Boulevard Bank, Colorado Springs, Colorado; Central Bank of Greeley-Trade name for State Bank of Greeley, Greeley, Colorado; The Rocky Ford National Bank, Rocky Ford, Colorado; First National Bank in Aspen, Aspen, Colorado; The First National Bank of Glenwood Springs, Colorado; First National Bank in Grand Junction, Grand Junction, Colorado; First National Bank-North in Grand Junction, Grand Junction, Colorado; First National Bank in Craig, Craig, Colorado.

Sandy Holding Company, Salt Lake City, Utah, for approval to acquire 100 per cent (less directors' qualifying shares) of the voting shares of Sandy State Bank, Sandy, Utah, a proposed new bank.

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

First National Boston Corporation, Boston, Massachusetts, for approval to acquire 100 per cent of the voting shares of the successor by merger to Blackstone Valley National Bank, Whitinsville, Massachusetts.

United Bank Corporation of New York, Albany, New York, for approval to acquire 100 per cent of the voting shares of the successor by merger to Hempstead Bank, Hempstead, New York.

K & B Producers, Inc., Wichita, Kansas, for approval to acquire 24.9 per cent of the voting shares of Twin Lakes Financial Corporation, Wichita, Kansas and indirectly acquire Twin Lakes State Bank, Wichita, Kansas.

Sierra Petroleum Co., Inc., Wichita, Kansas, for approval to acquire 24.9 per cent of the voting shares of Twin Lakes Financial Corporation, Wichita, Kansas and indirectly acquire Twin Lakes State Bank, Wichita, Kansas.

Daniels Insurance Agency, Inc., Hobbs, New Mexico, for approval to acquire direct or indirect control of 5,777 shares of First National Bank of Lea County, Hobbs, New Mexico.

Republic of Texas Corporation, Dallas, Texas, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of First Bank & Trust, Carrollton, Texas.

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To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

Chemical New York Corporation, New York, New York, notification of intent to relocate de novo activities (making of direct loans and purchasing sales finance contracts representing extensions of credit such as would be made or acquired by a finance company; acting as agent for the sale of credit life insurance and credit accident and health insurance issued in connection with extensions of credit and making available to its borrowers, credit related property and casualty insurance) from 221 West Main Street, P.O. Box 373, Lakeland, Florida to 4404 South Florida Avenue, Lakeland, Florida, through its subsidiary, Sentry Acceptance Company—802, Inc. (6/24/77).[3]

Chemical New York Corporation, New York, New York, notification of intent to engage in de novo activities (making "large" loans in excess of $1,500 and not exceeding $7,500 under the N.C. Gen. Stat. Sec. 24-1.2 (a) and Secs. 24-12 through 17) at 4010 Oleander Drive, Wilmington; Suite 213, Executive Park Building, Asheville; 104 W. Trade Street, Forest City; 533 Marion Plaza, Marion; 2224 North Church Street, Burlington; 332 Highway 64-70, S.W., Hickory; 320 West Dixon Boulevard, Shelby; 255 Charlois Boulevard, Winston-Salem; 897 Peters Creek Parkway, Winston-Salem; 175 Northport Avenue, High Point; 143 West Franklin, Chapel Hill; 225 Green Street, Fayetteville; #5 Woodlawn Green, Suite 154, Charlotte; 4801 E. Independence Boulevard, Charlotte; 600-B South Main Street, Laurinburg; 415 West Meadowview Road, Greensboro; 1100 East Wendover Avenue, Greensboro; all located in North Carolina, through its subsidiary, Sun Mortgage Acceptance Corporation (6/23/77).[3]

Union Trust Bancorp, Baltimore, Maryland, notification of intent to engage in de novo activities (making installment loans to individuals for personal, family or household purposes; purchasing sales finance contracts executed in connection with the sale of personal, family or household goods or services; acting as agent in the sale of credit life and credit accident and health insurance directly related to its extensions of credit; and acting as agent in the sale of insurance protecting collateral held against the extensions of credit) at 852-854 Terry Road, Jackson, Mississippi; 122 East Pine Street, Hattiesburg, Mississippi; and 283 West Evans Street, Florence, South Carolina, through its subsidiaries, Landmark Finance Corporation of Mississippi and Landmark Finance Corporation of South Carolina (wholly-owned subsidiaries of Landmark Financial Services, Inc.) (6/23/77).[3]

Landmark Banking Corporation, Fort Lauderdale, Florida, notification of intent to engage in de novo activities (engage in providing data processing services and storing and processing banking, financial, or related economic data for Landmark Banking Corporation and its subsidiaries and affiliates, their correspondent banks, and other banking institutions and their respective customers) at Central at Ninth, St. Petersburg; 4640 South Orange Blossom Trail, Orlando; and 225 East Las Olas Boulevard, Fort Lauderdale, all located in Florida, through its subsidiary, Landmark Data Services Corporation (6/24/77).[3]

Southeast Banking Corporation, Miami, Florida, notification of intent to engage in de novo activities (the business of acting as agent or broker for the sale of credit life/accident and health insurance pursuant to Section 225.4(a)(9)(ii)(a) of Regulation Y directly related to extensions of credit by the bank holding company and/or its banking and nonbanking subsidiaries) at 1001 N.W. 7th Street, Miami; Suite 211, 231 E. Forsyth Street, Jacksonville; Suite 204, 201 E. Pine Street, Orlando; and Suite 202, 403 N. Morgan Street, Tampa, all located in Florida, through its subsidiary, Southeast Credit Insurance Agency, Inc. (6/20/77).[3]

Brentwood Bancshares Corporation, St. Louis, Missouri, for approval to engage de novo as agent or broker in the sale of credit life and credit accident and health insurance sold in connection with extensions of credit by The Brentwood Bank, Brentwood, Missouri, Brentwood, Missouri.

First Bank System, Inc., Minneapolis, Minnesota, notification of intent to engage in de novo activities (mortgage banking business including the origination, purchase, sale and servicing of real estate mortgage loans) at 8801 West Center Road, Omaha, Nebraska, through FBS Homes Inc., a mortgage banking and sales finance subsidiary of FBS Financial, Inc. (6/21/77).[3]

First Guthrie BancShares, Inc., Guthrie, Oklahoma, for approval to acquire the beneficial interest in First Guthrie Business Trust, Guthrie, Oklahoma and to acquire shares of First Guthrie Insurance Agency, Guthrie, Oklahoma.

New Parent Company, Cincinnati, Ohio, for approval to acquire Baldwin Finance Company, Cincinnati, Ohio; C.C. Fletcher Mortgage Company, Cincinnati, Ohio; Computer Congenerics Corporation of Colo.; Denver, Colorado; FMC-Baldwin Leasing Co., Chicago, Illinois; Louisville Mortgage Service Company, Louisville, Kentucky.

First Security National Corporation, Beaumont, Texas, for approval to acquire 100 per cent of the voting shares of FSN Life Insurance Company, Beaumont, Texas (engaged in underwriting credit life and credit accident and health insurance that is directly related to extensions of credit by the bank holding company system)

BankAmerica Corporation, San Francisco, California, notification of intent to relocate de novo activities (making or acquiring, for its own account loans and other extensions of credit such as would be made or acquired by a finance company; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, and making loans secured by real and personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance and credit related property insurance in connection with extensions of credit made or acquired by FinanceAmerica Corporation of Ohio and FinanceAmerica Discount Company of Ohio) from 128 East Sixth Street, Cincinnati, Ohio to 1594 Goodman Avenue, North College Hill, Ohio, through its indirect subsidiaries, FinanceAmerica Corporation of Ohio and FinanceAmerica Discount Company of Ohio (6/16/77).[3]

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REPORTS RECEIVED

None.

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PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, July 13, 1977.

RUTH A. REISTER,
*Assistant Secretary of the Board.*

[FR Doc.77-20660 Filed 7-18-77;8:45 am]

## ANITA BANCORPORATION

### Formation of Bank Holding Company

Anita Bancorporation, Newton, Iowa, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 100 per cent (less directors' qualifying shares) of the voting shares of Anita State Bank, Anita, Iowa. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 12, 1977.

Board of Governors of the Federal Reserve System, July 13, 1977.

RUTH A. REISTER,
*Assistant Secretary of the Board.*

[FR Doc.77-20658 Filed 7-18-77;8:45 am]

## ROSE CREEK, INC.

### Formation of Bank Holding Company

Rose Creek, Inc., Hubbell, Nebraska, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 100 per cent (less directors' qualifying shares) of the voting shares of Hubbell Bank, Hubbell, Nebraska. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 10, 1977.

Board of Governors of the Federal Reserve System, July 13, 1977.

RUTH A. REISTER,
*Assistant Secretary of the Board.*

[FR Doc.77-20659 Filed 7-18-77;8:45 am]

## GENERAL SERVICES ADMINISTRATION

[Intervention Notice No. 34]

### TEXAS ELECTRIC SERVICE COMPANY

#### Proposed Intervention in Utility Rate Application

The General Services Administration seeks to intervene in a proceeding before the Texas Public Utility Commission concerning an application of the Texas Electric Service Company for authority to increase its electric operating revenues by $79,000,000 annually. GSA represents the interests of the executive agencies of the U.S. Government, as users of utility services.

The Texas Electric Service Company furnishes a significant amount of electric service to the Federal executive agencies.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone: 202-566-0750, on or before August 18, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(44), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: July 8, 1977.

JOEL W. SOLOMON,
*Administrator of General Services.*

[FR Doc.77-20683 Filed 7-18-77;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

[DOCKET NO. 75P-0014]

### GENERAL ELECTRIC CO.

#### Extension of Variance for Diagnostic X-Ray Systems and Their Various Components

AGENCY: Food and Drug Administration.

ACTION: Notice of extension of variance.

SUMMARY: This notice announces the extension of Variance No. 75002 from August 15, 1977 to August 15, 1979. The General Electric Co. applied for the 2-year extension of Variance No. 75002, using as a basis the documentation accompanying the original variance petition. The Director of the Bureau of Radiological Health has determined that those arguments and data previously submitted are still valid and therefore grants the extension of variance for the requested time period.

DATES: Variance No. 75002 expires August 15, 1979, unless written objections and supporting information are filed on or before August 18, 1977 requesting that the extension not be granted.

ADDRESS: Objections to this action should be sent to: Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Harvey Rudolph, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857. (301-443-3426).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of August 14, 1975 (40 FR 34181), notice was given that a variance from the minimum half value layer (HVL) requirements of § 1020.30(m)(1) (21 CFR 1020.30(m)(1)) of the performance standard for diagnostic X-ray systems and their major components was granted to General Electric Co., Medical Systems Division, P.O. Box 414, Milwaukee, WI 53201, under § 1010.4 (21 CFR 1010.4) which concerns the granting of variances for electronic products for which there are performance standards promulgated under section 358 of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f). This variance applies to the MMX-II Mammographic X-ray System, a diagnostic X-ray system marketed by that company. Under the variance, these X-ray systems have been allowed to deviate from § 1020.30(m)(1) in that they are manufactured such that the X-ray beam HVL at 50 kilovolts peak tube potential (kVp) is at least 0.7 millimeter (mm) rather than 1.2 mm of aluminum and at 60 kVp is at least 0.8 mm rather than 1.3 mm of aluminum.

The General Electric Co. has petitioned the Food and Drug Administration for an extension of Variance No. 75002 from the original expiration date of August 15, 1977, for a period of 2 years. The request is based upon the claim that the data and information used in support of the original request for variance still apply and therefore that suitable radiation protection will be provided. The Director of the Bureau of Radiological Health has determined that the arguments which led to the granting of Variance No. 75002 are still valid and that under the provisions of the original variance the product will utilize suitable means for providing radiation protection. He, therefore, is granting an extension of the variance to August 15, 1979, unless written objections and supporting information are filed with the Hearing Clerk, Food and Drug Administration, on or before August 18, 1977, requesting that the extension be modified or not granted. Upon receipt of such objections and supporting documentation, the effective date of the variance will be stayed until the Director, Bureau of Radiological Health, rules on them. Pursuant to § 1010.4(c)(3), the applicant shall be notified by certified mail, and a notice of the stay shall be published in the FEDERAL REGISTER. The ruling on the objections shall be made within 60 days, shall be published in the FEDERAL REGISTER, and shall constitute final agency action subject to judicial review under section 358(d) of the act.

The application for this variance extension and all related correspondence, except information covered by the confidentiality provisions of section 360A(c) of the act (42 U.S.C. 263i(c)), have been placed on public display in the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be seen Monday through Friday from 9 a.m. to 4 p.m. except on legal holidays.

Dated: July 11, 1977.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.77-20586 Filed 7-18-77;8:45 am]

### Food and Drug Administration

[Docket No. 76N-0014; DESI 7819]

### DIAMTHAZOLE DIHYDROCHLORIDE

#### Withdrawal of Approval of New Drug Applications for Topical Preparations Containing

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug applications for





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topical diamthazole dihydrochloride. The products have been used for the prophylaxis and treatment of athlete's foot.

DATES: Effective date: July 19, 1977.

ADDRESSES: Request for opinion concerning applicability of notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 7819, Docket No. 76N-0014) published in the FEDERAL REGISTER of October 29, 1976 (41 FR 47578), the Director of the Bureau of Drugs offered an opportunity for a hearing on a proposal to issue an order withdrawing approval of the new drug applications for the drug products described below. The basis of the proposed action was that the drugs are not shown to be safe for use.

1. Asterol Powder (NDA 7-821),
2. Asterol Ointment (NDA 7-819), and;
3. Asterol Tincture (NDA 7-820), all containing diamthazole dihydrochloride; formerly marketed by Roche Laboratories, Division of Hoffmann-La Roche, Inc., 340 Kingsland Ave., Nutley, NJ 07110.

All drug products that are identical, related or similar to a drug product named above, not the subject of an approved new drug application, are covered by the new drug applications reviewed and are subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Neither the holder of the applications nor any other person filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.31), finds that new evidence, not contained in the applications or not available until after the applications were approved, evaluated together with the evidence available when the applications were approved, reveals that the drug is not shown to be safe for use under the conditions of use upon the basis of which the applications were approved. Therefore, pursuant to the foregoing finding, approval of new drug applications numbers 7-819, 7-820, 7-821, and all amendments and supplements applying thereto, is withdrawn effective July 19, 1977.

Shipment in interstate commerce of the above listed products or of any identical, related, or similar product not the subject of an approved new drug application, is now unlawful.

Dated: June 27, 1977.

J. RICHARD CROUT,
*Director, Bureau of Drugs.*

[FR Doc.77-20580 Filed 7-18-77;8:45 am]

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[FDA-225-77-1001]

## MICROWAVE OVEN SURVEY

### Memorandum of Understanding With the Department of the Navy/Bureau of Medicine and Surgery

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces that a memorandum of understanding has been executed with the Department of the Navy/Bureau of Medicine and Surgery. The purpose of the memorandum is to establish a cooperative program between the agencies in monitoring the safety of microwave ovens.

DATES: The memorandum of understanding became effective May 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Gary Dykstra, Compliance Coordination and Policy Staff (HFC-13), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3470.

SUPPLEMENTARY INFORMATION: Pursuant to the announcement published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697) that future memoranda of understanding between the Food and Drug Administration and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs is issuing the following:

MEMORANDUM OF UNDERSTANDING NO. 229-53 BETWEEN THE DEPARTMENT OF THE NAVY/BUREAU OF MEDICINE AND SURGERY AND THE FOOD AND DRUG ADMINISTRATION

I. *Purpose.* To provide for the participation of the U.S. Navy, Bureau of Medicine and Surgery, in the microwave oven survey program conducted by the Food and Drug Administration.

II. *Background.* The Bureau of Radiological Health of the Food and Drug Administration has responsibility for the enforcement of the Radiation Control for Health and Safety Act of 1968. This includes the monitoring of compliance of microwave ovens with the applicable performance standard, 21 CFR 1030.10. To achieve this objective, the Bureau of Radiological Health (BRH) has a survey program. The U.S. Navy has a microwave oven hazard survey program (BUMEDINST 6470.-16) which directs quarterly inspection of ovens and semiannual Calibration of instruments.

III. *Substance of Agreement.* A. The Food and Drug Administration/Bureau of Radiological Health shall:

1. Supply forms and manuals containing the procedures for collecting data. Forms to be stocked by BRH.

2. Provide BUMED reports on: (a) Naval activities submitting reports, quarterly.

(b) Repairs required of instruments submitted for calibration semiannually and as required.

(c) Summary of BUMED test results of microwave ovens, annually.

3. Calibrate instruments in survey program on semiannual basis. Date of calibration period to be supplied to BUMED two months in advance, for publication by BUMED. Instruments to be calibrated at 2450 MHz.

4. Minor repairs will be accomplished by BRH. Major repairs will be accomplished by returning survey meters to the submitting activity, with notice of discrepancy to BUMED.

B. The Department of the Navy/Bureau of Medicine and Surgery shall:

1. Inform FDA of changes in the instructions and notes pertaining to the Navy microwave oven survey program.

2. Promulgate dates of calibration through its information system.

3. Promulgate existence of this agreement through the BUMED directives system.

IV. *Name and Address of Participating Activity:*

Bureau of Medicine and Surgery, Code 5321, Department of the Navy, Washington, DC 20372.

V. *Liaison Officers:*

A. LCDR LaMarr G. Beuchler, MSC, USN, Bureau of Medicine and Surgery, Undersea Medicine Division (Code 5321), Washington, DC 20372, (202-254-4224).

B. Mays L. Swicord, Bureau of Radiological Health, Division of Electronic Products, Rockville, MD 20852, (301-443-3840).

Stuart A. Carlow, Bureau of Radiological Health, Division of Compliance, Rockville, MD 20852, (301-443-4396).

VI. *Period of Agreement:* This agreement, when accepted by both parties, will have an effective period of performance from date of signature for an indefinite period, and may be modified by mutual consent of both parties or may be terminated by either party upon a thirty (30) day advance written notice.

Approved and accepted for the Food and Drug Administration.

Date: May 11, 1977.

JOSEPH P. HILE,
*Associate Commissioner for Compliance.*

Approved and accepted for the Bureau of Medicine and Surgery/Department of the Navy.

Date: December 20, 1976.

R. C. LANING,
*Assistant Chief for Operational Medical Support.*

Effective date: This memorandum of understanding became effective May 11, 1977.

Dated: July 11, 1977.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.77-20574 Filed 7-18-77;8:45 am]

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[Docket No. 77P-0169]

## XRE CORP.

### Approval of Variance for Special Procedures Table

AGENCY: Food and Drug Administration.



ACTION: Notice.

SUMMARY: The agency announces the approval of a variance from the performance standard for diagnostic X-ray systems and their major components for the Model 104C Radial Travel Special Procedures table manufactured by the XRE Corp., 227 Baker Ave., West Concord, MA 01781. The Director of the Bureau of Radiological Health has determined that the table top designed with a maximum aluminum equivalent thickness of 2.0 millimeters (mm) rather than the 1.5 mm limit set by the standard will provide suitable radiation protection within the scope of its intended use.

DATES: Effective August 18, 1977; objections by August 18, 1977.

ADDRESS: Written objections to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Harvey Rudolph, Bureau of Radiological Health (HFX-460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTAL INFORMATION: Section 1020.30(n) (21 CFR 1020.30(n)) of the performance standard for diagnostic X-ray systems and their major components sets limits on the amount of material allowable between the patient and the image receptor. For movable tabletops, the limit, expressed as an aluminum equivalent thickness, is 1.5 mm. This provision in the standard assures that the maximum number of X-ray photons that have passed through the patient will be available for production of the diagnostic image.

The Model 104C Radial Travel Special Procedures table is a four-way moving top design of cantilever construction that is also capable of rotating about a pivot in the base structure. The petitioner has stated that this product is intended for use with parallelogram or C-arm type fluoroscopic imaging assemblies for either fluoroscope or cineradiographic (multiple frame X-ray) cardiac visualization. In these modes of operation, the table is not in the exit beam. However, because the table may be used with film-changing devices, in which situation the table may be positioned between the patient and the image receptor, it must be certified as meeting the requirements of § 1020.30(n).

The petitioner notes that to properly certify the product and take into account unavoidable measurement errors, the table thickness design criterion must be somewhat less than 1.5 mm aluminum equivalent. However, this leads to poorer structural stability and consequent difficulty in perfoming emergency procedures such as cardiac massage. The petitioner claims that a limit of 2.0 mm aluminum equivalence for his product will allow the production of a unit with a sufficient safety factor so that emergency cardiac procedures can be performed and therefore has requested a variance from § 1020.30(n).

The Director has determined that even if the full 2.0 mm aluminum equivalence were used for this product, the increased radiation dose to the patient would be negligible. Less than 5 percent of an X-ray beam generated at 90 kilovolts peak or above and passed through material equivalent in thickness to the human chest is absorbed by 0.5 aluminum. Because the table is designed for procedures where it will be positioned between the patient and the image receptor only a small fraction of the time, the likely increase in patient radiation dose resulting from the additional table thickness requested would be minimal. Further, the product performs a function similar to that of currently manufactured table and cradle combinations that, under § 1020.30(n), are allowed a total thickness equivalent of 3.5 mm aluminum. Thus, a table manufactured at 2.0 mm or less could actually effect a net dose savings to the population.

The Director agrees that the added structural stability that would be obtained is a necessary safety feature and there should be little radiation dose increase from use of the product. In accordance with § 1010.4 (21 CFR 1010.4), he has concluded that the special procedures table to be marketed under the variance is intended for a special purpose that cannot be performed or accomplished with equipment meeting all requirements of § 1020.30, but utilizes suitable means for providing radiation safety protection. Therefore, the Director has approved the requested variance from § 1020.30(n) provided radiographic tables manufactured under this variance shall have movable tops whose thickness shall not exceed 2.0 mm aluminum equivalent. The variance is granted for the production of a maximum of 50 units, as requested by the applicant.

The applicant has been directed to modify, in accordance with § 1010.4(d), the tags, labels, or other certification required by § 1010.2 (21 CFR 1010.2), which are premanently affixed to or inscribed upon products marketed under this variance, to state the following: "This product complies with Variance No. 77002, effective on August 18, 1977."

The Commissioner of Food and Drugs has reviewed the potential environmental impact of this variance and has concluded that the action will not significantly affect the quality of the human environment and that an environmental impact statement is not required. A copy of the environmental impact analysis report is on file in the office of the Hearing Clerk, Food and Drug Administration.

Variance No. 77002 shall become effective on August 18, 1977, and shall be effective for the manufacture of 50 product units, unless written objections and supporting documentation are filed with the Hearing Clerk, Food and Drug Administration, on or before August 18, 1977, requesting that the variance be modified or not granted. Upon receipt of such objections and supporting documentation, the effective date of the variance will be stayed until the Director, Bureau of Radiological Health, rules on them. Pursuant to § 1010.4(c)(3), the applicant shall be notified by certified mail, and a notice of the stay shall be published in the FEDERAL REGISTER. The ruling on the objections shall be made within 60 days, shall be published in the FEDERAL REGISTER, and shall constitute final agency action subject to judicial reveiw under section 358(d) (42 U.S.C. 263f(d)) of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968.

The application for this variance and all related correspondence, except information covered by the confidentiality provisions of section 360A(e) of the act (42 U.S.C. 2631(e)), have been placed on public display in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays.

Dated: July 11, 1977.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.77-20575 Filed 7-18-77;8:45 am]

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## Health Care Financing Administration

## ARKANSAS

### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Arkansas Foundation for Medical Care as a conditional Professional Standards Review Organization (PSRO) for the State of Arkansas which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Arkansas Foundation for Medical Care is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Arkansas as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in the State of Arkansas.

The principal officers of the Arkansas Foundation for Medical Care are:

NAME AND OFFICE HELD

1. C. C. Long, M.D., President.
2. William S. Ott, Jr., M.D., Vice President.
3. H. Elvin Shuffield, Secretary.
4. K. R. Dusan, M.D., Treasurer.



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The official address of the corporation is 220 North 12th Street, P.O. Box 1512, Fort Smith, Arkansas 72901.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20620 Filed 7-18-77;8:45 am]

### CALIFORNIA; PSRO AREA I

#### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Redwood Coast Region PSRO as a conditional Professional Standards Review Organization (PSRO) for PSRO Area I of California which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Redwood Coast Region PSRO is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of California as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine for osteopathy engaged in active practice in PSRO Area I of California.

The principal officer of the Redwood Coast Region PSRO are:

NAME AND OFFICE HELD

1. Paul Jepson, M.D., President.
2. George Jutila, M.D., Vice President
3. Jens Vindings, M.D., Secretary.
4. Claytor Taylor, M.D., Treasurer.

The official address of the corporation is 3416 Mendocino Avenue, Santa Rosa, California 95401.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20615 Filed 7-18-77;8:45 am]

### CALIFORNIA; PSRO AREA III

#### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated North Bay PSRO as a conditional Professional Standards Review Organization (PSRO) for PSRO Area III of California which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et. seq.

The Secretary has determined that the North Bay PSRO is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of California as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area III of California.

The principal officers of the North Bay PSRO are:

NAME AND OFFICE HELD

1. John McGee, M.D., President.
2. James L. Grisez, M.D., Vice President.
3. James E. Brown, M.D., Secretary.
4. K. M. Kressenberg, M.D., Treasurer.

The official address of the corporation is 4460 Redwood Highway, Suite 9, P.O. Box 4344, San Rafael, California 94903.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20614 Filed 7-18-77;8:45 am]

### CALIFORNIA; PSRO AREA IV

#### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Greater Sacramento PSRO as a conditional Professional Standards Review Organization (PSRO) for PSRO Area IV of California which area is designated a Professional Standard Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Greater Sacramento PSRO is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of California as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area IV of California.

The principal officers of the Greater Sacramento PSRO are:

NAME AND OFFICE HELD

1. James O. Farley, M.D., Chairman.
2. Julian J. Fisher, M.D., Vice Chairman.
3. Neil C. Andrews, M.D., Secretary
4. F. Harold Johnson, M.D., Treasurer

The official address of the corporation is 650 University Avenue, Sacramento, California 95813.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20673 Filed 7-18-77;8:45 am]

### CALIFORNIA; PSRO AREA XII

#### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Monterey Bay Area PSRO as a conditional Professional Standards Review Organization (PSRO) for PSRO Area XII of California which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Monterey Bay Area PSRO is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of California as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area XII of California.

The principal officers of the Monterey Bay Area PSRO are:

NAME AND OFFICE HELD

1. C. Ken Miura, M.D., President.
2. James Telfer, M.D., Vice President.
3. John Brazinsky, M.D., Secretary.
4. John Hays, M.D., Treasurer.

The official address of the corporation is 19040 Portola Drive, P.O. Box 308, Salinas, California 93901.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20012 Filed 7-18-77;8:45 am]

### CALIFORNIA; PSRO AREA XXIV

#### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Area XXIV PSRO as a conditional Professional Standards Review Organization (PSRO) for PSRO Area XXIV of California which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et. seq.

The Secretary has determined that the Area XXIV PSRO is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of California as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area XXIV of California.





**The principal officers of the Area XXIV PSRO are:**

NAME AND OFFICE HELD

1. Arthur J. Riesenfeld, M.D., Chairman.
2. Tirso Del Junco, Vice Chairman.
3. Robert Lee, Secretary/Treasurer.

**The official address of the corporation is 3200 Wilshire Boulevard, Suite 906, Los Angeles, California 90010.**

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20611 Filed 7-18-77;8:45 am]

### CALIFORNIA; PSRO AREA XXVII

#### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Riverside County PSRO as a conditional Professional Standards Review Organization (PSRO) for PSRO Area XXVII of California which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et. seq.

The Secretary has determined that the Riveside County PSRO is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of California as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area XXVII of California.

The principal officers of the Riverside County PSRO are:

NAME AND OFFICE HELD

1. Robert L. Jaspan, M.D., President.
2. Donald L. Dickerson, Vice President.
3. Harrison E. Silber, Secretary/Treasurer.

**The official address of the corporation is 6833 Indiana Avenue, Riverside, California 92506.**

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20622 Filed 7-18-77;8:45 am]

### CONNECTICUT; PSRO AREA I

#### Redesignation of Conditional Professional Standards Review Organization

**Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated PSRO of Fairfield County, Inc., as a conditional Professional Standards Review Organization (PSRO) for PSRO Area I or Connecticut which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.**

The Secretary has determined that the PSRO of Fairfield County, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Connecticut as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area I of Connecticut.

The principal officers of the PSRO of Fairfield County, Inc., are:

NAME AND OFFICE HELD

1. Stewart A. King, M.D., President.
2. Andrew F. Owens, M.D., Vice President.
3. Bertram Grossman, M.D., Secretary.
4. Rector T. Davol, M.D., Treasurer.

**The official address of the corporation is 60 Katona Drive, Fairfield, Connecticut 06430.**

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20643 Filed 7-18-77;8:45 am]

### CONNECTICUT; PSRO AREA II

#### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Connecticut Area II PSRO, Inc., as a conditional Professional Standards Review Organization (PSRO) for PSRO Area II of Connecticut which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Connecticut Area II PSRO, Inc. is qualified to continue to assume the duties and responsibilities of a Professional Standard Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Connecticut as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area II of Connecticut.

The principal officers of the Connecticut Area II PSRO, Inc., are:

NAME AND OFFICE HELD

1. David A. Grendon, M.D., President.
2. John J. Mendillo, M.D., Vice President.
3. Romeo A. Vidone, M.D., Secretary.
4. George A. Bonner, M.D., Treasurer.

The official address of the corporation is 8 Lunar Drive, P.O. Box 3907, Woodbridge, Connecticut 06525.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20642 Filed 7-18-77;8:45 am]

### CONNECTICUT; PSRO AREA III

#### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Hartford County PSRO, Inc., as a conditional Professional Standards Review Organization (PSRO) for PSRO Area III of Connecticut which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Hartford County PSRO, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Connecticut as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area III of Connecticut.

The principal officers of the Hartford County PSRO, Inc., are:

NAME AND OFFICE HELD

1. Andrew J. Canzonetti, M.D., President.
2. Monroe Himelstein, M.D., Vice President.
3. John N. Bohannon, Jr., M.D., Secretary.
4. Joseph L. Gordon, Treasurer.

**The official address of the corporation is 1000 Asylum Avenue, Hartford, Connecticut 06105.**

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20641 Filed 7-18-77;8:45 am]

### CONNECTICUT; PSRO AREA IV

#### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Eastern Connecticut PSRO, Inc., as a conditional Professional Standards Review Organization (PSRO) for PSRO Area IV of Connecticut which area is designated a fessional Standards Review Organization area in 42 CFR 101.1 et. seq.

The Secretary has determined that the Eastern Connecticut PSRO, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Connecticut as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area IV of Connecticut.

**The principal officers of the Eastern Connecticut PSRO, Inc. are:**



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NAME AND OFFICE HELD

1. Howard G. Abbot, M.D., President.
2. Robert S. Gilleash, M.D., Vice President.
3. Neil C. Andrews, M.D., Secretary
4. David G. Rousseau, M.D., Treasurer.

The official address of the corporation is Bridge Street Plaza, 41 Bridge Street, Willimantic, Connecticut 06226.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20613 Filed 7-18-77;8:45 am]

## DISTRICT OF COLUMBIA

### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated National Capital Medical Foundation, Inc., as a conditional Professional Standards Review Organization (PSRO) for the District of Columbia which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the National Capital Medical Foundation, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the District of Columbia as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in the District of Columbia.

The principal officers of the National Capital Medical Foundation, Inc., are:

NAME AND OFFICE HELD

1. Irving Burka, M.D., President.
2. Barrington Barnes, M.D., Vice President.
3. Norman Fuller, Ph. D., M.P.H., Secretary-Treasurer.

The official address of the corporation is 1828 L Street, N.W., Suite 401, Washington, D.C. 20036.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20629 Filed 7-18-77;8:45 am]

## FLORIDA; PSRO AREA XII

### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Dade Monroe PSRO, Inc., as a conditional Professional Standards Review Organization (PSRO) for PSRO Area XII of Florida which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et. seq.

The Secretary has determined that the Dade Monroe PSRO, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Florida as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area XII of Florida.

The principal officers of the Dade Monroe PSRO, Inc., are:

NAME AND OFFICE HELD

1. James B. Byrne, M.D., President
2. Roland J. Kohen, M.D., Vice President
3. Louis B. Chaykin, M.D., Secretary
4. Jay M. Cohen, D.O., Treasurer

The official address of the corporation is 2701 S. Bayshore Drive, Suite 500, Miami, Florida 33133.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20645 Filed 7-18-77;8:45 am]

## IDAHO

### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Idaho Professional Standards Review Organization, Inc., as a conditional Professional Standards Review Organization (PSRO) for the State of Idaho which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Idaho Professional Standards Review Organization, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Idaho as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in the State of Idaho.

The principal officers of the Idaho Professional Standards Review Organization, Inc., are:

NAME AND OFFICE HELD

1. John B. Meyer, M.D., President.
2. Ward E. Dickey, M.D., Vice President.
3. Richard F. McClure, M.D., Secretary/Treasurer.

The official address of the corporation is 427 N. Curtis Road, Boise, Idaho 83704.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20626 Filed 7-18-77;8:45 am]

## ILLINOIS; PSRO AREA IV

### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Quad River Foundation for Medical Care as a conditional Professional Standards Review Organization (PSRO) for PSRO Area IV of Illinois which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et. seq.

The Secretary has determined that the Quad River Foundation for Medical Care is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Illinois as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area IV of Illinois.

The principal officers of the Quad River Foundation for Medical Care are:

NAME AND OFFICE HELD

1. Earnest F. Kruetzer, M.D., President
2. Preston W. Sawyer, M.D., Vice President
3. Bruce Hamburger, R. Ph., Secretary-Treasurer.

The official address of the corporation is 3033 W. Jefferson St., Suite 220, Joliet, Illinois 60435.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20617 Filed 7-18-77;8:45 am]

## MAINE

### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Pine Tree Organization for Professional Standards Review, Inc., as a conditional Professional Standards Review Organization (PSRO) for the State of Maine which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Pine Tree Organization for Professional Standards Review, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Maine as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in the State of Maine.





The principal officers of the Pine Tree Organization for Professional Standards Review, Inc., are:

NAME AND OFFICE HELD

1. Richard T. Chamberlain, M.D., President.
2. J. Chase Rand, D.O., Vice President.
3. Harry A. Bliss, M.D., Secretary/Clerk.
4. Donald K. McFadden, D.O., Treasurer.

The official address of the corporation is 99 Western Avenue, P.O. Box 706, Augusta, Maine 04330.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20602 Filed 7-18-77;8:45 am]

## MARYLAND; PSRO AREA II

### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Baltimore City Professional Standards Review Organization, Inc., as a conditional Professional Standards Review Organization (PSRO) for PSRO Area II of Maryland which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Baltimore City Professional Standards Review Organization, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Maryland as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area II of Maryland.

The principal officers of the Baltimore City Professional Standards Review Organization, Inc., are:

NAME AND OFFICE HELD

1. Emidio A. Bianco, M.D., President.
2. Carol Johns, M.D., Chairman of the Board.
3. John B. Isboden, M.D., Treasurer.
4. Edward O. Hunt, M.D., Secretary.

The official address of the corporation is 2 Hamill Road, Suite 339, Baltimore, Maryland 21210.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20651 Filed 7-18-77;8:45 am]

## MARYLAND; PSRO AREA III

### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Montgomery County, Maryland Medical Care Foundation, Inc., as a conditional Professional Standards Review Organization (PSRO) for PSRO Area III of Maryland which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et. seq.

The Secretary has determined that the Montgomery County, Maryland Medical Care Foundation, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Maryland as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area III of Maryland.

The principal officers of the Montgomery County, Maryland Medical Care Foundation, Inc., are:

NAME AND OFFICE HELD

1. G. Stewart Scott, M.D., President.
2. John P. Hason, M.D. Vice President.
3. Donald Lewis, M.D., Secretary.
4. Mark H. Eichler, M.D., Treasurer.

The official address of the corporation is 11141 Georgia Avenue, Suite 510, Wheaton, Maryland 20902.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20639 Filed 7-18-77;8:45 am]

## MARYLAND, PSRO AREA V

### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Central Maryland PSRO, Inc., as a conditional Professional Standards Review Organization (PSRO) for PSRO Area V of Maryland which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Central Maryland PSRO, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Maryland as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area V of Maryland.

The principal officers of the Central Maryland PSRO, Inc., are:

NAME AND OFFICE HELD

1. Lawrence Missanik, M.D., Chairman of the Board.
2. Marce Clayton, M.D., President of Executive Committee
3. Park W. Espenelade, M.D., Vice Chairman.

The official address of the corporation in 8635 Lock Raven Blvd., Suite 5, Baltimore, Maryland 21204.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20617 Filed 7-18-77;8:45 am]

## MARYLAND, PSRO AREA VI

### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Southern Maryland PSRO, Inc., as a conditional Professional Standards Review Organization (PSRO) for PSRO Area VI of Maryland which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Southern Maryland PSRO, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Maryland as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area VI of Maryland.

The principal officers of the Southern Maryland PSRO, Inc., are:

NAME AND OFFICE HELD

1. R. Bruce Helmly, M.D., Chairman of the Board.
2. David S. O'Brien, M.D., Treasurer.

The official address of the corporation is P.O. Box 445, Edgewater, Maryland 21037.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20616 Filed 7-18-77;8:45 am]

## MARYLAND; PSRO AREA VII

### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Delmarva Foundation for Medical Care, Inc., as a conditional Professional Standards Review Organization (PSRO) for PSRO Area VII of Maryland which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Delmarva Foundation for Medical Care,



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Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Maryland as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area VII of Maryland.

The principal officers of the Delmarva Foundation for Medical Care, Inc., are:

NAME AND OFFICE HELD

1. Joseph H. Chutchin, M.D., President.
2. John A. Hawkins, M.D., Vice President.
3. James C. Gieske, M.D., Secretary/Treasurer.

The official address of the corporation is 108 N. Harrison Street, Easton, Maryland 21601.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20618 Filed 7-18-77;8:45 am]

## MASSACHUSETTS; PSRO AREA I

### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Western Massachusetts PSRO, Inc., as a conditional Professional Standards Review Organization (PSRO) for PSRO Area I of Massachusetts which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Western Massachusetts PSRO, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Massachusetts as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area I of Massachusetts.

The principal officers of the Western Massachusetts PSRO, Inc., are:

NAME AND OFFICE HELD

1. Norman B. Pike, M.D., President.
2. Robert K. Davis, M.D., Vice President.
3. Bernard St. John, D.O., Secretary.
4. Ms. Ruth W. Rheaume, Treasurer.

The official address of the corporation is 103 Van Deene Avenue, West Springfield, Massachusetts 01089.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20601 Filed 7-18-77;8:45 am]

## MASSACHUSETTS; PSRO AREA V

### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Southeastern Massachusetts PSRO, Inc., as a conditional Professional Standards Review Organizaion (PSRO) for PSRO Area V of Massachusetts which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Southeastern Massachusetts PSRO, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Massachusetts as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area V of Massachusetts.

The principal officers of the Southeastern Massachusetts PSRO, Inc., are:

NAME AND OFFICE HELD

1. Samuel K. Stuart, M.D., President.
2. David E. Marcello, M.D., Vice President.
3. Edward A. Pollard, M.D., Secretary.
4. Gilbert L. Shapiro, M.D., Treasurer.

The official address of the corporation is 91 S. Main Street, P.O. Box 676, Middleboro, Massachusetts 02346.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20609 Filed 7-18-77;8:45 am]

## MICHIGAN; PSRO AREA I

### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Upper Peninsula Quality Assurance Association as a conditional Professional Standards Review Organization (PSRO) for PSRO Area I of Michigan which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et. seq.

The Secretary has determined that the Upper Peninsula Quality Assurance Association is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Michigan as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in Area I of Michigan.

The principal officers of the Upper Peninsula Quality Assurance Association are:

NAME AND OFFICE HELD

1. Henry Barsth, M.D., President.
2. William LeMire, M.D., Treasurer.

The official address of the corporation is 420 West Magnetic St., Marquette, Michigan 49855.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20648 Filed 7-18-77;8:45 am]

## MICHIGAN; PSRO AREA V

### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Professional Review Organization, GLSC as a conditional Professional Standards Review Organization (PSRO) for PSRO Area V of Michigan which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Professional Review Organization-GLSC is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Michigan as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area V of Michigan.

The principal officers of the Professional Review Organization-GLSC are:

NAME AND OFFICE HELD

1. F. W. Van Duyne, M.D., President.
2. Glenn D. Blankenhorn, D.O., Vice President.
3. Robert Roty, M.D., Secretary.
4. Raymond M. Engelman, M.D., Treasurer.

The official address of the corporation is 920 Metropolitan Building, 432 N. Saginaw St., Flint, Michigan 48502.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20625 Filed 7-18-77;8:45 am]

## MISSOURI; PSRO AREA III

### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Central Eastern Missouri Professional Review Organization Committee, CEMPROC as a conditional Professional Standards Review Organization (PSRO) for PSRO Area III of Missouri which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et. seq.

The Secretary has determined that the Central Eastern Missouri Professional Review Organization Committee, CEMPROC is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Missouri as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area III of Missouri.

The principal officers of the Central Eastern Missouri Professional Review Organization Committee—CEMPROC are:

NAME AND OFFICE HELD

1. John L. Borroughs, D.O., President.
2. Sam L. Farrell, M.D., Vice President.
3. David L. Berg, D.O., Vice President.
4. Falls B. Hershey, M.D., Vice President.
5. Herbert E. Rosenbaum, M.D., Secretary-Treasurer.

The official address of the corporation is 4625 Lindell Blvd., Suite 212, St. Louis, Missouri 63108.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20621 Filed 7-18-77;8:45 am]

## MONTANA

### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Montana Foundation for Medical Care as a conditional Professional Standards Review Organization (PSRO) for the State of Montana which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et. seq.

The Secretary has determined that the Montana Foundation for Medical Care is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Montana as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in the State of Montana.

The principal officers of the Montana Foundation for Medical Care are:

NAME AND OFFICE HELD

1. Sterlinger Hayward, M.D., President.
2. John A. Ross, M.D., Vice President.
3. Richard W. Beighle, M.D., Secretary.
4. John A. Newman, M.D., Treasurer.

The official address of the corporation is 2717 Airport Way, P.O. Box 5117, Helena, Montana 59601.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20628 Filed 7-18-77;8:45 am]

## NEW HAMPSHIRE

### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated New Hampshire Foundation for Medical Care as a conditional Professional Standards Review Organization (PSRO) for the State of New Hampshire which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the New Hampshire Foundation for Medical Care is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of New Hampshire as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in the State of New Hamphire.

The principal officers of the New Hampshire Foundation for Medical Care are:

NAME AND OFFICE HELD

1. Alberto Miyara, M.D., President.
2. Paul C. Young, M.D., Vice President.
3. Raymond W. Lawrence, M.D., Secretary.
4. James C. Pilliod, M.D., Treasurer.

The official address of the corporation is The Durham Road, Durham, New Hampshire 03824.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20610 Filed 7-18-77;8:45 am]

## NEW JERSEY; PSRO AREA II

### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Passaic Valley PSRO as a conditional Professional Standards Review Organization (PSRO) for PSRO Area II of New Jersey which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Passaic Valley PSRO is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of New Jersey as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area II of New Jersey.

The principal officers of the Passaic Valley PSRO are:

NAME AND OFFICE HELD

1. William Dwyer, M.D., President.
2. Roberta Rubin, M.D., Vice President.
3. Edward Healey, M.D., Secretary.
4. John Pellosia, D.O., Treasurer.

The official address of the corporation is 573 Valley Road, Wayne, New Jersey 07470.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator Health Care Financing Administration.*

[FR Doc.77-20631 Filed 7-18-77;8:45 am]

## NEW MEXICO

### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated New Mexico PSRO as a conditional Professional Standards Review Organization (PSRO) for the State of New Mexico which area is designated as Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the New Mexico PSRO is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of New Mexico as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in the State of New Mexico.

The principal officers of the New Mexico PSRO are:

NAME AND OFFICE HELD

1. Neil I. Kaminsky, M.D., President.
2. Robert C. Lehmer, M.D., Vice President
3. Ralph Marshall, Secretary.
4. John Seibel, M.D., Treasurer.







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The official address of the corporation is 2650 Yale, SE., Albuquerque, New Mexico 87106.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20599 Filed 7-18-77;8:45 am]

### NEW YORK; PSRO AREA I

**Redesignation of Conditional Professional Standards Review Organization**

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Erie Region PSRO, Inc., as a conditional Professional Standards Review Organization (PSRO) for PSRO Area I of New York which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et. seq.

The Secretary has determined that the Erie Region PSRO, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of New York as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area I of New York.

The principal officers of the Erie Region PSRO, Inc., are:

NAME AND OFFICE HELD

1. George Fugitt, M.D., Chairman.
2. Ervin Selfen, M.D., Vice Chairman.
3. Maria Crea, M.D., Secretary.
4. Duane Tucker, D.O., Treasurer.

The official address of the corporation is 560 Delaware Avenue, Suite 300, Buffalo, New York 14202.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20634 Filed 7-18-77;8:45 am]

### NEW YORK; PSRO AREA II

**Redesignation of Conditional Professional Standards Review Organization**

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Genesee Region PSRO, Inc., as a conditional Professional Standards Review Organization (PSRO) for PSRO Area II of New York which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Genesee Region PSRO, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of New York as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area II of New York.

The principal officers of the Genesee Region PSRO, Inc., are:

NAME AND OFFICE HELD

1. James Flanagan, M.D., President.
2. Donald Raines, M.D., Vice President.
3. William Dean, M.D., Secretary.
4. Mr. Thomas Cardillo, Treasurer.

The official address of the corporation is 109 South Union Street, P. O. Box 1939, Rochester, New York 14603.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20635 Filed 7-18-77;8:45 am]

### NEW YORK; PSRO AREA V

**Redesignation of Conditional Professional Standards Review Organization**

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Adirondack PSRO as a conditional Professional Standards Review Organization (PSRO) for PSRO Area V of New York which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Adirondack PSRO is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of New York as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area V of New York.

The principal officers of the Adirondack PSRO are:

NAME AND OFFICE HELD

1. Henry Freedman, M.D., President.
2. Franklin Peters, M.D., Vice President.
3. Gerry Greene, M.D., Secretary.
4. Alexander Yvars, M.D., Treasurer.

The official address of the corporation is 52 Park Street, Glen Falls, New York 12801.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20606 Filed 7-18-77;8:45 am]

### NEW YORK; PSRO AREA IX

**Redesignation of Conditional Professional Standards Review Organization**

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Area IX PSRO of New York, Inc., as a conditional Professional Standards Review Organization (PSRO) for PSRO Area IX of New York which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et. seq.

The Secretary has determined that the Area IX PSRO of New York, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of New York as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area IX of New York.

The principal officers of the Area 9 PSRO of New York, Inc., are:

NAME AND OFFICE HELD

1. Daniel Sherber, M.D., President.
2. John Dubois, M.D., Vice President.
3. Stewart Blauner, M.D., Secretary.
4. Paul Spierling, M.D., Treasurer.

The official address of the corporation is Purchase Street, Purchase, New York 10577.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20633 Filed 7-18-77;8:45 am]

### NEW YORK; PSRO AREA X

**Redesignation of Conditional Professional Standards Review Organization**

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated PSRO of Rockland as a conditional Professional Standards Review Organization (PSRO) for PSRO Area X of New York which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the PSRO of Rockland is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of New York as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area X of New York.

The principal officers of the PSRO of Rockland are:

NAME AND OFFICE HELD

1. Howard Goldstein, M.D., President.
2. Robert Sher, M.D., Vice President.
3. Lawrence Simon, M.D., Secretary.
4. Bernard Derson, M.D., Treasurer.

The official address of the corporation is 20 Squadron Blvd., New York City, New York 10956.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20636 Filed 7-18-77;8:45 am]

### NEW YORK; PSRO AREA XI

**Redesignation of Conditional Professional Standards Review Organization**

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated New York County Health Services Review Organization as a conditional Professional Standards Review Organization (PSRO) for PSRO Area XI of New York which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the New York County Health Services Review Organization is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of New York as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area XI of New York.

The principal officers of the New York County Health Services Review Organization are:

NAME AND OFFICE HELD

1. Erwin Cohen, M.D., President.
2. Richard Nolen, M.D., Vice President.
3. Lawrence Essenson, M.D., Secretary.
4. George Melcher, Jr., M.D., Treasure.

The official address of the corporation is 345 E. 47th Street, New York, New York 10017.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20637 Filed 7-18-77;8:45 am]

### NEW YORK; PSRO AREA XIII

**Redesignation of Conditional Professional Standards Review Organization**

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Kings County Health Care Review Organization as a conditional Professional Standards Review Organization (PSRO) Area XIII of New York which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Kings County Health Care Review Organization is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of New York as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area XIII of New York.

The principal officers of the Kings County Health Care Review Organization are:

NAME AND OFFICE HELD

1. Stanley Fishman, M.D., Chairman.
2. Julius Stolfi, M.D., Vice Chairman.
3. Ms. Ann Allen-Ryan, Secretary.
4. Adrian Lamos, M.D., Treasurer.

The official address of the corporation is 1313 Bedford Avenue, Brooklyn, New York 11216.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20605 Filed 7-18-77;8:45 am]

### NEW YORK; PSRO AREA XV

**Redesignation of Conditional Professional Standards Review Organization**

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Nassau Physicians Review Organization as a conditional Professional Standards Review Organization (PSRO) for PSRO Area XV of New York which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Nassau Physicians Review Organization is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of New York as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area XV of New York.

The principal officers of the Nassau Physicians Review Organization are:

NAME AND OFFICE HELD

1. Joseph Chiramonte, M.D., President.
2. George Pollock, M.D., Vice President.
3. Arnold Behrer, M.D., Secretary.
4. Thomas Fheehy, Jr., M.D., Treasurer.

The official address of the corporation is 990 Westbury Rd., Westbury, New York 11590.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20604 Filed 7-18-77;8:45 am]

### NEW YORK; PSRO AREA XVI

**Redesignation of Conditional Professional Standards Review Organization**

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated The Bronx PSRO, Inc., as a conditional Professional Standards Review Organization (PSRO) for PSRO Area XVI of New York which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Bronx PSRO, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of New York as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area XVI of New York.

The principal officers of the Bronx PSRO, Inc., are:

NAME AND OFFICE HELD

1. Anthony Altieri, M.D., President.
2. Morris Rubin, M.D., Vice President.
3. Harry Delaney, M.D., Secretary.
4. Bernard Kamer, M.D., Treasurer.

The official address of the corporation is The Bronx PSRO, Inc., 1165 Morris Park Avenue, Bronx, New York 10461.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20607 Filed 7-18-77;8:45 am]

### OHIO; PSRO AREA I

**Redesignation of Conditional Professional Standards Review Organization**

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Medco Peer Review, Inc., as a conditional Professional Standards Review Organization (PSRO) for PSRO Area I of Ohio which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Medco Peer Review, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is in-





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corporated, according to the laws of the State of Ohio as a nonprifit professional whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area I of Ohio.

The principal officers of the Medco Peer Review, Inc., are:

NAME AND OFFICE HELD

1. Milton W. Gwimmer, M.D., President.
2. Neal Early, M.D., Vice President.
3. John R. Donohoo, M.D., Secretary.
4. William B. Selnick, D.O., Treasurer.

The official address of the corporation is 204 Lytle Towers, 405 Broadway, Cincinnati, Ohio 45202.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20644 Filed 7-18-77;8:45 am]

### OHIO; PSRO AREA IV

**Redesignation of Conditional Professional Standards Review Organization**

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Fourth Ohio Area PSR Council as a conditional Professional Standards Review Organization (PSRO) for PSRO Area IV of Ohio which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Fourth Ohio Area PSR Council is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Ohio as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area IV of Ohio.

The principal officers of the Fourth Ohio Area PSR Council are:

NAME AND OFFICE HELD

1. John Kramer, M.D., Chairman of the Board.
2. Donald Cameron, M.D., Vice Chairman.
3. Michael McNamera, M.D., Secretary/Treasurer.

The official address of the corporation is 3550 Secor Road, Suite 202, Toledo, Ohio 43606.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20624 Filed 7-19-77;8:45 am]

### OREGON; PSRO AREA II

**Redesignation of Conditional Professional Standards Review Organization**

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Greater Oregon PSRO as a conditional Professional Standards Review Organization (PSRO) for PSRO Area II of Oregon which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Greater Oregon PSRO is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Oregon as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area II of Oregon.

The principal officers of the Greater Oregon PSRO are:

NAME AND OFFICE HELD

1. Kenneth B. Robertson, M.D., President.
2. Doug M. Beath, M.D, Vice President
3. Robert S. Miller, M.D., Treasurer.
4. Daniel B. Bond, M.D., Secretary.

The official address of the corporation is 5210 Southwest Corbett, Portland, Oregon 97201.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator Health Care Financing Administration.*

[FR Doc.77-20632 Filed 7-18-77;8:45 am]

### PENNSYLVANIA; PSRO AREA VI

**Redesignation of Conditional Professional Standards Review Organization**

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Allegheny PSRO as a conditional Professional Standards Review Organization (PSRO) for PSRO Area VI of Pennsylvania which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Allegheny PSRO is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Pennsylvania as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO AOrea VI of Pennsylvania.

The principal officers of the Allegheny PSRO are:

NAME AND OFFICE HELD

1. James R. Dornenburg, M.D., Chairman
2. Donald J. Valentine, Secretary.
3. David R. Hirsch, Treasurer.

The official address of the corporation is One Allegheny Square, Suite 630, Pittsburgh, Pennsylvania 15212.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20600 Filed 7-18-77;8:45 am]

### PENNSYLVANIA; PSRO AREA VII

**Redesignation of Conditional Professional Standards Review Organization**

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Southwestern Pennsylvania PSRO as a conditional Professional Standards Review Organization (PSRO) for PSRO Area VII of Pennsylvania which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Southwestern Pennsylvania PSRO is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Pennsylvania as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area VII of Pennsylvania.

The principal officers of the Southwestern Pennsylvania PSRO are:

NAME AND OFFICE HELD

1. Donald C. Brown, M.D., Chairman.
2. Thomas Whalen, M.D., Vice Chairman.
3. Jack G. Hallisey, M.D., Secretary/Treasurer.

The official address of the corporation is 825 North Main Street, Greensburg, Pennsylvania 15601.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20649 Filed 7-18-77;8:45 am]

### PENNSYLVANIA; PSRO AREA IX

**Redesignation of Conditional Professional Standards Review Organization**

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Southcentral Pennsylvania PSRO as a conditional Professional Standards Review Organization (PSRO) for PSRO Area IX of Pennsylvania which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Southcentral Pennsylvania PSRO is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Pennsylvania as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area IX of Pennsylvania.

The principal officers of the Southcentral Pennsylvania PSRO are:

NAME AND OFFICE HELD

1. James V. Appel, M.D., President.
2. Joseph E. Green, III, M.D., Vice President.
3. Jay R. Miller, D.O., Secretary.
4. Robert G. Edmiston, M.D., Treasurer.

The official address of the corporation is Medical Arts Building, Suite 201, 890 Poplar Church Rd., Camp Hill, Pennsylvania 17011.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20650 Filed 7-18-77;8:45 am]

### PENNSYLVANIA; PSRO AREA XI

**Redesignation of Conditional Professional Standards Review Organization**

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Montgomery/Bucks PSRO, Inc., as a conditional Professional Standards Review Organization (PSRO) for PSRO Area XI of Pennsylvania which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Montgomery/Bucks PSRO, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Pennsylvania as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area XI of Pennsylvania.

The principal officers of the Montgomery/Bucks PSRO, Inc., are:

NAME AND OFFICE HELD

1. John L. Steigerwalt, M.D., President.
2. John J. Choby, M.D., Vice President.
3. Charles Lichtenwainer, D.O., Secretary.
4. Frans J. Vosenberg, M.D., Treasurer.

The official address of the corporation is 650 Blue Bell West, Suite 209, Skippack Pike, Blue Bell, Pennsylvania 19422.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care, Financing Administration.*

[FR Doc.77-20638 Filed 7-18-77;8:45 am]





### PENNSYLVANIA; PSRO AREA XII

**Redesignation of Conditional Professional Standards Review Organization**

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Philadelphia PSRO as a conditional Professional Standards Review Organization (PSRO) for PSRO Area XII of Pennsylvania which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Philadelphia PSRO is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Pennsylvania as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area XII of Pennsylvania.

The principal officers of the Philadelphia PSRO are:

NAME AND OFFICE HELD

1. Edward C. Leonard, Jr., M.D., Chairman.
2. Avery W. Beverly, M.D., Vice Chairman.
3. Jonathan E. Rhodes, Sr., M.D., President.
4. Jerome Miller, D.O., Vice President.
5. George B. Fisher, M.D., Secretary.
6. Mark Mishlin, M.D., Treasurer.

The official address of the corporation is 2100 Spring Garden St., Philadelphia, Pennsylvania 19130.

Dated July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care, Financing Administration.*

[FR Doc.77-20603 Filed 7-18-77;8:45 am]

### RHODE ISLAND

**Redesignation of Conditional Professional Standards Review Organization**

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Rhode Island PSRO, Inc., as a conditional Professional Standards Review Organization (PSRO) for the State of Rhode Island which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Rhode Island PSRO, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Rhode Island as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in the State of Rhode Island.

The principal officers of the Rhode Island PSRO, Inc., are:

NAME AND OFFICE HELD

1. Alton M. Paull, M.D., President.
2. Joseph Caruolo, M.D., Vice President.
3. J. Jerry Rodos, D.O., Secretary.
4. John J. Walsh, M.D., Treasurer.

The official address of the corporation is 40 Westminster Street, Suite 1730, Providence, Rhode Island 02903.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20608 Filed 7-18-77;8:45 am]

### SOUTH CAROLINA

**Redesignation of Conditional Professional Standards Review Organization**

Notice is hereby given that the Secretary of Health, Eduction, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated South Carolina Medical Care Foundation as a conditional Professional Standards Review Organization (PSEO) for the State of South Carolina which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the South Carolina Medical Care Foundation is qualified to continue to assume the duties and responsibilities of a Profesional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of South Carolina as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in the State of South Carolina.

The principal officers of the South Carolina Medical Care Foundation are:

NAME AND OFFICE HELD

1. Kenneth N. Owens, M.D., President.
2. Halsted H. Stone, M.D., Vice President.
3. Randolph D. Smoak, Jr., M.D., Secretary/Treasurer.

The official address of the corporation is 3325 Medical Park Road, P.O. Box 21667, Capital Station, Columbia, South Carolina 29221.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20646 Filed 7-18-77;8:45 am]

### WASHINGTON

**Redesignation of Conditional Professional Standards Review Organization**

Notice is hereby given that the Secretary of Health, Education, and Welfare,



V 421138 JUL 1977 UMI

pursuant to Section 1154 of the Social Security Act, has redesignated Washington State PSRO as a conditional Professional Standards Review Organization (PSRO) for the State of Washington which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Washington State PSRO is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Washington as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in the State of Washington.

The principal officers of the Washington State PSRO are:

NAME AND OFFICE HELD

1. Robert J. Hoxsey, M.D., President.
2. Robert Hunter, M.D., Vice President.
3. E. Harold Laws, M.D., Secretary.
4. Donald Hesch, M.D., Treasurer.

The official address of the corporation is 2150 North 107th Street, Suite 202, Seattle, Washington, 98133 .

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20630 Filed 7-18-77;8:45 am]

### WEST VIRGINIA

#### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act has redesignated West Virginia Medical Institute, Inc., as a conditional Professional Standards Review Organization (PSRO) for the State of West Virginia which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the West Virginia Medical Institute, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of West Virginia as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in the State of West Virginia.

The principal officers of the West Virginia Medical Institute, Inc., are:

NAME AND OFFICE HELD

1. Harry S. Weeks, M.D., President.
2. (Vacant), Vice President.
3. Joseph T. Skaggs, M.D., Secretary.
4. Richard G. Star, M.D., Treasurer.

The official address of the corporation is 4701 MacCorkle Avenue, S.E., Charleston, West Virginia 25304.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20619 Filed 7-18-77;8:45 am]

### WISCONSIN; PSRO AREA I

#### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated Wisconsin Professional Review Organization as a conditional Professional Standards Review Organization (PSRO) for PSRO Area I of Wisconsin which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Wisconsin Professional Review Organization is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Wisconsin as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Madison, Wisconsin 53701.

The principal officers of the Wisconsin Professional Review Organization are:

NAME AND OFFICE HELD

1. John K. Scott, M.D., Chairman of the Board.
2. Russell L. Lewis, M.D., Vice Chairman.
3. Ansil Freiburghouse, D.O., Secretary.
4. Robert Cullen, M.D., Treasurer.

The official address of the corporation is 330 East Lakeside St., P.O. Box 1109, Madison, Wisconsin 53701.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc. 77-20627 Filed 7-18-77;8:45 am]

### WISCONSIN: PSRO AREA II

#### Redesignation of Conditional Professional Standards Review Organization

Notice is hereby given that the Secretary of Health, Education, and Welfare, pursuant to Section 1154 of the Social Security Act, has redesignated The Foundation for Medical Care Evaluation of Southeastern Wisconsin, Inc., as a conditional Professional Standards Review Organization (PSRO) for PSRO Area II of Wisconsin which area is designated a Professional Standards Review Organization area in 42 CFR 101.1 et seq.

The Secretary has determined that the Foundation for Medical Care Evaluation of Southeastern Wisconsin, Inc., is qualified to continue to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B, of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Wisconsin as a non-profit professional organization whose membership is voluntary and comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area II of Wisconsin.

The principal officers of the Foundation for Medical Care Evaluation of Southeastern Wisconsin, Inc., are:

NAME AND OFFICE HELD

1. Michael J. Mally, M.D., President.
2. Albert J. Motzel, Jr., M.D., Vice Presiden:
3. Thomas F. Jennings, M.D., Treasurer.
4. Kenneth O. Johnson, M.D., Secretary.

The official address of the corporation is 756 North Milwaukee St., Milwaukee, Wisconsin 53202.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20623 Filed 7-18-77;8:45 am]

## Public Health Service

### ADMINISTRATOR, HEALTH SERVICES ADMINISTRATION AND DIRECTOR, NATIONAL INSTITUTES OF HEALTH

#### Genetic Diseases; Delegation of Authority

Notice is hereby given that, pursuant to the authority delegated by the Acting Secretary of Health, Education, and Welfare to the Assistant Secretary for Health (41 FR 37143), the Acting Assistant Secretary for Health has made the following delegations under Part A, Title XI of the Public Health Service Act, as amended by Section 403 of Pub. L. 94-278, providing for the establishment of a national program for basic and applied research, research training, testing, counseling, and information and education programs with respect to genetic diseases:

1. Delegation to the Administrator, Health Services Administration, with authority to redelegate, of authorities under Section 1101 (42 U.S.C. 300b) for testing and counseling programs and information and education programs; and Section 1105 (42 U.S.C. 300b-4) for a voluntary testing, diagnosis, counseling, and treatment program through Public Health Service facilities, provided that where such authority is exercised in Public Health Service facilities not under the jurisdiction of the Health Services Administration, it must be exercised pursuant to an intra-agency agreement between the Public Health Service agencies concerned. This delegation excludes the authority to issue regulations.

2. Delegation to the Director, National Institutes of Health, with authority to redelegate, of authorities under Section 1102 (42 U.S.C. 300b-1) for research project grants and contracts concerning genetic diseases, excluding the authority to issue regulations, and Section 1106 (42 U.S.C. 300b-5) for reports, excluding the authority to submit to the President a comprehensive report on the administration of Part A, Title XI of the Public Health Service Act.

The above delegations were effective July 7, 1977.

The August 18, 1976, delegation by the Assistant Secretary for Health to the Administrator, Health Services Administration (41 FR 37143) for authorities under Sections 1101, 1105, and 1106 of the Public Health Service Act has been superseded.

Dated: July 7, 1977.

RUPERT MOURE,
*Executive Officer, Public Health Service.*

[FR Doc. 77-20707 Filed 7-18-77;8:45 am]



promptly as possible after publication of this notice.

THOMAS HARDIN,
*Chief, Branch of Adjudication.*

[FR Doc.77-20568 Filed 7-18-77;8:45 am]

[NM 30991]

### NEW MEXICO

#### Application

JULY 12, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 6 W.,
Sec. 10, NE¼NW¼.

This pipeline will convey natural gas across 0.252 miles of public land in Rio Arriba County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-20684 Filed 7-18-77;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[Colorado 23972-A]

### COLORADO

#### Pipeline Application; IGC Production Co.

JULY 11, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), IGC Production Company, Box 7608, Boise, Idaho 83707, has applied for a right of way for a 2 inch o.d. natural gas pipeline, approximately 1230 feet long, across the following National Resource Lands:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 1 N., R. 101 W.
Sec. 6: Lot 14, SE¼NE¼.

The facility will enable applicant to supply natural gas needed in the area through which the pipeline will go and to transport it to applicant's customers.

The purposes of this notice are: To inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; to allow interested parties to comment on the application, and to allow any persons asserting a claim to the lands or having bona fide objections to the proposed natural gas pipeline right of way to file their objections in this office. Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as

[Group 419]

### CALIFORNIA

#### Filing of Plat of Dependent Resurvey and Survey

JULY 11, 1977.

1. A plat of survey of the following described land, accepted May 12, 1977, will be officially filed in the California State Office, Bureau of Land Management, Sacramento, Calif., effective at 10 a.m. on August 29, 1977.

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 16 S., R. 20 E., Sec. 60, Lots 1, 2, 3 and 4, N½N½.

The area described totals 327.94 acres.

2. The plat also represents a dependent resurvey of portions of the Fourth Standard Parallel South, the west boundary and the subdivisional lines designed to restore the corners in their true original locations according to the best available evidence, and the survey of a portion of the Public Reserve Boundary, extension of the subdivisional lines, subdivision of section lines, a connecting line and a portion of the easterly right-of-way of the Coachella Canal of T. 16 S., R. 20 E., San Bernardino Meridian.

3. The lands described in Paragraph 1 are withdrawn in the Yuma Reclamation Project and are, therefore, not subject to disposition under the Public Land Laws or to location under the General Mining Laws. In addition, they are included in the area designated as the Imperial San Dunes Recreation Lands.

4. All inquires relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, Room E-2841, 2800 Cottage Way, Sacramento, Calif. 95825.

ELEANOR K. WILKINSON,
*Chief, Branch of Records and Data Management.*

[FR Doc.77-20697 Filed 7-18-77;8:45 am]

[Wyoming 59097]

### WYOMING

#### Application

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Mountain Fuel Supply Company of Salt Lake City, Utah, filed an application for a right-of-way to construct a 10¾ inch pipeline for the purpose of transporting gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 112 W.,
Sec. 10.
T. 19 N., R. 112 W.,
Secs. 2 and 10.
T. 20 N., R. 112 W.,
Secs. 4, 10, 22, and 26.
T. 21 N., R. 112 W.,
Secs. 2, 14, 24, and 36
T. 22 N., R. 112 W.,
Secs. 24, 26, and 34.

The pipeline will transport gas from a point in sec. 19, T. 22 N., R. 111 W., Lincoln County, to a point in sec. 15, T. 18 N., R. 112 W., where it will tie in to Mountain Fuel's Transmission Mainline Nos. 1 and 13 in Uinta County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-20698 Filed 7-18-77;8:45 am]

## National Park Service

### NATIONAL REGISTER OF HISTORIC PLACES

#### Notification of Pending Nominations

Nominations for the following properties being considered for listing in the



V 42 I 138 JUL 19 1977 UMI

National Register were received by the National Park Service before July 11, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by July 29, 1977.

WILLIAM J. MURTAGH,
*Keeper of the National Register.*

**ARKANSAS**

*Benton County*

Rogers, *St. Louis–San Francisco Passenger Depot*, 1st and Cherry Sts.

*Pulaski County*

Scott, *All Souls Church*, off AR 130.

**COLORADO**

*Clear Creek County*

Idaho Springs, *Argo Tunnel and Mill*, 2517 Riverside Dr.

*Denver County*

Denver, *Denver Dry Goods Company Building*, 16th and California Sts.
Denver, *Equitable Building*, 730 17th St.
Denver, *Foster, A. C., Building*, 912 16th St.
Denver, *Ghost Building*, 500–518 15th St.
Denver, *Kittredge Building*, 511 16th St.
Denver, *Tramway Building*, 1100 14th St.

*Douglas County*

Sedalia vicinity, *Indian Park School*, 10 mi. W of Dedalia on CO 67.

*Larimer County*

Fort Collins, *Spruce Hall*, Colorado State University campus.

*Prowers County*

Lamar, *Daries Hotel*, 122 N. Main St.

*Pueblo County*

Pueblo, *Bowen Mansion*, 229 W. 12th St.
Pueblo, *Pitkin Place Historic District*, 300 block W. Pitkin (south side).

*Rio Blanco County*

Meeker, *St. James Episcopal Church*, 368 4th St.

*Weld County*

Greeley, *Weld County Courthouse*, 9th St. and 9th Ave.

**IDAHO**

*Elmore County*

Atlanta, *Atlanta Historic District*, Quartz Creek, Pine, and Main Sts.
Atlanta vicinity, *Atlanta Dam and Power Plant*, W of Atlanta on Boise River.

*Jerome County*

Jerome, *Jerome National Bank*, 100 E. Main St.

*Latah County*

Moscow, *Lieuallen, Almon Asbury, House*, 101 S. Almon St.

*Nez Perce County*

Lewiston, *Fix and Moxley Buildings*, 200 block Main St.

*Owyhee County*

Homedale vicinity, *Poison Creek Stage Station*, S of Homedale off Jump Creek Rd.

*Washington County*

Weiser, *Galloway, Thomas C., House*, 1120 E. 2nd St.

**KENTUCKY**

*Breckinridge County*

Falls of Rough, *Falls of Rough Historic District*, KY 110 (also in Grayson County).

*Clark County*

Winchester vicinity, *Archeological Site 15 Ck 2*, N of Winchester.

*Fayette County*

Lexington, *Morton, Will, Tavern Stand*, 137 S. Limestone St.

*Henderson County*

Henderson, *Barret House*, 204 S. Elm St.

*Hickman County*

Oakton vicinity, *McLeod Bluff Archeological Site*, W of Oakton.

*Mercer County*

Harrodsburg, *St. Philip's Episcopal Church*, Short and Chiles Sts.

*Washington County*

Springfield vicinity, *St. Rose Roman Catholic Church Complex*, 1 mi. W of Springfield off U.S. 150.

**MASSACHUSETTS**

*Hampden County*

East Longmeadow, *First Congregational Church of East Longmeadow*, 7 Somers Rd.
Springfield, *Republican Block*, 1365 Main St.

*Middlesex County*

Cambridge, *Harvard Square Subway Kiosk*, Massachusetts Ave. and Boylston St.
Cambridge, *Hasty Pudding Club*, 12 Holyoke St.

**MICHIGAN**

*Calhoun County*

Marshall, *National House*, 102 S. Parkview.

*Wayne County*

Detroit, *Engine House No. 11*, 2737 Gratiot Ave.
Detroit, *St. Albertus Roman Catholic Church*, 4231 St. Aubin St.

**MINNESOTA**

*Ramsey County*

St. Paul, *Hinkel–Sullivan House*, 531 Brainerd Ave.

**NEVADA**

*Carson City County*

Carson City, *Roberts, James D., House*, 1217 N. Carson St.
Carson City, *St. Peter's Episcopal Church*, 312 N. Division St.
Carson City, *Virginia and Truckee Railroad Shop Building*, between Stewart and Plaza St.
Carson City vicinity, *Lakeview House*, 4 mi. NW of Carson City on U.S. 395.

*Lincoln County*

Pioche, *Lincoln County Courthouse*, Lacour St.

*Washoe County*

Reno, *Glendale School*, S. Virginia St. and Lietzke Lane.

**NEW HAMPSHIRE**

*Sullivan County*

Newport, *Nettleton House*, 26–30 Central St.

**NEW JERSEY**

*Gloucester County*

Bridgeport vicinity, *Salisbury Farm*, W. of Bridgeport.

**NEW YORK**

*Dutchess County*

Poughkeepsie, *Collingwood Opera House and Office Building*, 31–37 Market St.

**SOUTH CAROLINA**

*Georgetown County*

Georgetown vicinity, *Mansfield Plantation*, 5 mi. N of Georgetown off U.S. 701.
Georgetown vicinity, *Prospect Hill Plantation (Arcadia Plantation)*, 5 mi. E of Georgetown off U.S. 17.

**TEXAS**

*Dallas County*

Dallas, *DeGolyer Estate*, 8525 Garland Rd.

[FR Doc.77-20312 Filed 7-18-77;8:45 am]

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## Office of Hearings and Appeals

[Docket No. M77-193]

### PLATEAU MINING CO.

**Petition for Modification of Application of Mandatory Safety Standard**

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Plateau Mining Company, P.O. Drawer PMC, Price, Utah 84501, has filed a petition to modify the application of 30 CFR 77.214(a), refuse piles; general, to its Star Point No. 2 Mine, located in Carbon County, Utah.

The substance of Petitioner's statement is as follows:

1. Petitioner states that compliance with the mandatory standard would create a much more hazardous condition than simply pushing the material over the hillside without compaction.

2. Material is being placed in the head of a very large and steep canyon rather than hauling the material to active refuse piles.

3. The reason for this is that it is 3.3 miles from the No. 2 Mine to the refuse piles. The road is a narrow winding road of which 1.9 miles varies from 10 to 20 percent grade (see enclosed map [1]). This creates a severe hazard especially during inclement weather.

4. The road to the active refuse piles passes the Star Point No. 1 Nine portals and, if the mandatory standard were to be applied, this situation would create a traffic hazard because of man-trips and material going into that mine.

5. The material that is being dumped into this refuse pile is rock from faults and rock slopes. It has very little combustible material in it and poses no hazard of a spontaneous ignition.

6. The canyon is several hundred feet deep. It is not possible to compact the refuse material by mechanical means without extensive road building to the bottom of the canyon and, since the entire head of the canyon is fill material, the road building and compaction operations would be exposed to several hundred feet of potential loose fill and loose refuse material.

7. At present, there is no access to the bottom of the canyon which would expose anyone to possible sliding of the refuse material.

8. The head of the conveyor belt is 200 feet from the belt portal. The material discharged from the belt is being pushed over the face of the fill by a dozer. To insure that all of the material is pushed to a point in excess of 300 feet from the portal would require the dozer to work further down the slope and would expose the operation to loose fill material.

9. A copy of this petition has been sent to the Office of the Solicitor, Division of Mine Health and Safety, U.S. Department of the Interior. A copy of this petition has been served to the representative of the miners at the mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 18, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JULY 5, 1977.

[FR Doc.77-77-20569 Filed 7-18-77;8:45 am]

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[Docket No. M77-194]

### PLATEAU MINING CO.

**Petition for Modification of Application of Mandatory Safety Standard**

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Plateau Mining Company, P.O. Drawer PMC, Price, Utah 84501, has filed a petition to modify the application of 30 CFR 77.215(a), refuse piles; construction requirements, Star Point No. 2 Mine, located in Carbon County, Utah.

The substance of Petitioner's statement is as follows:

1. Petitioner states that compliance with the mandatory standard would create a much more hazardous condition than simply pushing the material over the hillside without compaction.

2. Material is being placed in the head of a very large and steep canyon rather than hauling the material to active refuse piles.

3. The reason for this is that it is 3.3 miles from the No. 2 Mine to the refuse piles. The road is a narrow winding road of which 1.9 miles varies from 10 to 22 percent grade (see enclosed map [1]). This creates a severe hazard especially during inclement weather.

4. The road to the active refuse piles passes the Star Point No. 1 Mine portals and, if the mandatory standard were to be applied, this situation would create a trac hazard with man-trips and material handling into that mine.

5. The material that is being dumped into this refuse pile is rock from faults and rock slopes. It has very little combustible material in it and poses no hazard of a spontaneous ignition.

6. The canyon is several hundred feet deep. It is not possible to compact the refuse material by mechanical means without extensive road building to the bottom of the canyon and, since the entire head of the canyon is fill material, the road building and compaction operations would be exposed to several hundred feet of potential loose fill and loose refuse material.

7. At present, there is no access to the bottom of the canyon which would expose anyone to possible sliding of the refuse material.

8. The head of the conveyor belt is 200 feet from the belt portal. The material discharged from the belt is being pushed over the face of the fill by a dozer. To insure that all of the material is pushed to a point in excess of 300 feet from the portal would require the dozer to work further down the slope and would expose the operation to loose fill material.

9. A copy of this petition has been sent to the Office of the Solicitor, Division of Mine Health and Safety, U.S. Department of the Interior. A copy of this petition has been served to the representative of the miners at the mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 18, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JULY 5, 1977.

[FR Doc.77-20570 Filed 7-18-77;8:45 am]

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[Docket No. M 77-195]

### PLATEAU MINING CO.

**Petition for Modification of Application of Mandatory Safety Standard**

Notice is hereby given that in accordance with the provisions of 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Plateau Mining Company, P.O. Drawer PMC, Price, Utah 84501, has filed a petition to modify the application of 30 CFR 77.215(h), refuse piles; construction requirements, to its Star Point No. 2 Mine, located in Carbon County, Utah.

The substance of Petitioner's statement is as follows:

1. Petitioner states that compliance with the mandatory standard would create a much more hazardous condition than simply pushing the material over the hillside without compaction.

2. Material is being placed in the head of a very large and steep canyon rather than hauling the material to active refuse piles.

3. The reason for this is that it is 3.3 miles from the No. 2 Mine to the refuse piles. The road is a narrow winding road of which 1.9 miles varies from 10 to 22 percent grade (see enclosed map [1]). This creates a severe hazard especially during inclement weather.

4. The road to the active refuse piles passes the Star Point No. 1 Mine portals and, if the mandatory standard were to be applied, this situation would create a traffic hazard with man-trips and material handling into that mine.

5. The material that is being dumped into this refuse pile is rock from faults and rock slopes. It has very little combustible material in it and poses no hazard of a spontaneous ignition.

6. The canyon is several hundred feet deep. It is not possible to compact the refuse material by mechanical means without extensive road building to the bottom of the canyon and, since the entire head of the canyon is fill material, the road building and compaction operations would be exposed to several hundred feed of potential loose fill and loose refuse material.

7. At present, there is on access to the bottom of the canyon which would expose anyone to possible sliding of the refuse material.

8. The head of the conveyor belt is 200 feet from the belt portal. The material discharged from the belt is being pushed over the face of the fill by a dozer. To insure that all of the material is pushed to a point in excess of 300 feet from the portal would require the dozer to work further down the slope and would expose the operation to loose fill material.

9. A copy of this petition has been sent to the Office of the Solicitor, Division of Mine Health and Safety, U. S. Department of the Interior. A copy of this petition has been served to the representative of the miners at the mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 18, 1977. Such requests or comments must be filed with the Office of Hearings and

[1] The enclosed map is available for inspection at the address listed in the last paragraph of this petition.

[1] The enclosed map is available for inspection at the address listed in the last paragraph of this petition.

[1] The enclosed map is available for inspection at the address listed in the last paragraph of this petition.







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Appeals, Hearings Division, U. S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JULY 5, 1977.

DAVID TORBETT,
*Acting Director, Office of Hearings and Appeals.*

[FR Doc.77-20571 Filed 7-18-77;8:45 am]

[Docket No. M 77-190]

## PREECE ENTERPRISES, INC.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Preece Enterprises, Inc., Route 2, Box 5, Turkey Creek, Kentucky 41570 has filed a petition to modify the application of 30 CFR 75.1710 cabs or canopies, electrical face equipment, to its No. 1 Mine, located in Pike County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner feels that the installation of canopies on its equipment is creating a hazard to the equipment operators.

2. Petitioner's haulage equipment consists of 1 Long Airdox coal drill; 1 15RU cutting machine; 3 6SC shuttle cars; 1 D2 Acme roof bolter; 1 968 Goodman loading machine and 1 AR95 Elkhorn scoop.

3. The No. 1 Mine is in the Pond Creek Seam and ranges from 46 to 48 inches in height. The coal seam has consistent ascending and descending grades which create dips in the coal bed. As a result of these dips, the canopies have to be installed in such a manner as to prevent them from getting against the roof and possibly destroying roof support. This only allows a 23-inch vertical operating compartment which limits the vision of the equipment operators and creates a hazard to them as well as to the other employees in the mine.

4. Petitioner feels that since the equipment operators' vision is limited and because of the position required in order to be seated in the decks, the installation of canopies could be a contributing factor in any accidents which may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 18, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JULY 5, 1977.

DAVID TORBETT,
*Acting Director, Office of Hearings and Appeals.*

[FR Doc 77-20572 Filed 7-18-77;8:45 am]

[Docket No. M 77-181]

## RANGER FUEL CORP.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Ranger Fuel Corporation, c/o Robert C. Kota, Attorney, Lebanon, Virginia 24266, has filed a petition to modify the application of 30 CFR 75.316, ventilation system and methane and dust control plan, to its Beckley No. 1 Mine, located in Wyoming County, West Virginia.

The substance of Petitioner's statement is as follows:

1. Beckley No. 1 Mine is operated in the Beckley and Sewell coal beds and has been designed, ultimately, for 11 units, 8 in the Beckley coal bed and 3 in the Sewell coal bed. At the present time, there are 5 units in the Beckley and 1 in the Sewell. All units are planned to be either continuous or conventional and will be developed on the basis of six entries. Experience in the Beckley No. 1 Mine to date has shown that multiple entry development in excess of six entries creates problems with vertical and horizontal pressures; therefore, Petitioner plans to develop no more than six entries at a time.

2. Large quantities of methane in the coal bed and adjacent strata are forseen for the mine, based upon the present liberation rate (608, 345 CFM per 24 hours). This is based upon very limited initial development and the experience of adjacent mines in the area. Records of the Glen Rogers Mine of the Raleigh-Wyoming Coal Company, Glen Rogers, West Virginia, indicate a range of 1,200 to 2,700 cubic feet of methane per ton of coal mined. In addition, the methane ranged from 2,800,000 to 6,500,000 cubic feet per 24 hours. Thus, large volumes of air will be required to dilute and carry away the large amounts of methane expected to be liberated.

3. Inherent roof and bottom conditions and overburden, averaging about 1,100 feet, place strict limitation on the number of airways or entries that can be safely developed. Multi-purpose use of all entries that can be provided is required under the best known and accepted design parameters.

4. Due to expected methane liberation, Petitioner plans to utilize a split system of face ventilation and, in so doing, use of the air in the belt entry is imperative.

5. As a result of the foregoing, Petitioner submits this petition for modification so that it can use the air in the belt entries to assist in ventilating the faces with a split system of ventilation.

6. Maps for Beckley No. 1 Mine were submitted, most recently on January 17, 1977 (Sewell) and February 17, 1977 (Beckley), to James Krese, District Manager, District 4, Mount Hope, West Virginia.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 18, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director, Office of Hearings and Appeals.*

JULY 5, 1977.

[FR Doc.77-20573 Filed 7-18-77;8:45 am]

# INTERNATIONAL TRADE COMMISSION

## PRELIMINARY DRAFT OF PARTS OF AN ENUMERATION OF ARTICLES TO PROVIDE FOR COMPARABILITY AMONG U.S. IMPORT, PRODUCTION, AND EXPORT DATA

### Release for Public Comment

Notice is hereby given that the United States Departments of the Treasury and Commerce and the United States International Trade Commission are releasing for public comment the following preliminary draft of parts of an enumeration of articles which will provide for comparability among U.S. import, production, and export data pursuant to section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)), as amended by section 608(a) of the Trade Act of 1974 (19 U.S.C. 2101):

**Paper, paperboard, and products thereof; books, pamphlets, and other printed and manuscript materials—schedule 2, parts 4 and 5, Tariff Schedules of the United States Annotated (TSUSA); release date: July 8, 1977.**

*Background.*—The preparation of the draft by the three agencies has generally proceeded from recommendations made in a joint report of the Secretary of Commerce and the U.S. International Trade Commission, dated August 1, 1975, submitted to Congress and the President pursuant to section 608(b) of the Trade Act of 1974, and entitled "Principles and Concepts Which Should Guide the Organization and Development of an Enumeration of Articles Which Would Result in Comparability of U.S. Import, Production, and Export Data."

The report noted that the principal advantages of achieving comparability among import, production, and export data are—

1. To permit the development and implementation of a more coordinated and efficient program for the administration, interpretation, and maintenance of national systems;
2. To improve and facilitate the publication of trade data most useful for international economic analysis;
3. To permit more reliable analysis of the impact of external trade on domestic industry.

In making specific recommendations concerning the organization and development of an enumeration of articles which would result in comparability, the report recognized various prerequisites to achieving comparability, such as adhering to sound nomenclature principles, employing identical descriptive techniques and product definitions, using compatible standards of valuation and measurement, and providing for centralized responsibility for interpretation and coordinated responsibility for maintenance. The report also acknowledged many of the practical considerations involved in achieving comparability among the three generally discordant classification systems presently used for the collection of import, production, and export data, including reconciling differences among the three existing systems, preserving statistical continuity, and achieving useful levels of product comparability with the least disruptive impact on current programs and reporting.

In summary, the specific recommendations provided that—

1. The organizational framework of the TSUS should be adopted as the basis for the enumeration of the export schedule.
2. The review and development of an enumeration should take into account the current import, production, and export product classes, with the primary aim of obtaining comparability at a common level.
3. Changes may be proposed to any system, including combinations, subdivisions, and modifications of existing language and content. In particular, consideration should be given to updating of definitions and terms to make them more reflective of current practice in the trade. It must be borne in mind that the TSUS structure and detail are legally based. Therefore, the enumeration should consist of individual TSUSA classifications, or combinations of individual TSUSA classifications (current or as proposed by this program), since this is the only way to attain comparability to the relatively rigid classifications of imports. Combinations may be made of commodities falling in difference TSUS classes, if necessary, as long as they consist of aggregations of individual TSUSA classifications.

*Continuing program for statistical annotation.*—The establisment of an enumeration for statistical purposes is, and should be looked upon as, a continuing program. It is intended that the initial modifications to the import, production, and export schedules will serve as a basis for further refinement and change. Modifications to each of the systems will be made from time to time to reflect changing statistical needs and also to improve the comparability of U.S. trade data with trade data reported by other countries on the basis of the Standard International Trade Classification (SITC). The publication of trade data by the Department of Commerce on the basis of the SITC will continue.

*Modifications to the Tariff Schedules of the United States.*—Any proposals to modify the TSUS (other than statistical annotations thereto) could not be implemented without legislative approval. After comments have been recovered and reviewed, consideration may then be given to the extent of, and need for, amendatory legislation.

*Comments by interested parties.*—Over the next several months further preliminary drafts will be released for public comment and consideration. Interested parties are invited to comment on all aspects of the comparability program. Specific recommendations and proposals are invited with respect to the extent to which the drafts would—

Recognize the specific needs of users of statistics;
Facilitate economic analysis;
Reflect sound principles of commodity identification and specifications; and
Impose undue reporting burdens for business establishments.

We would also welcome comments with respect to modifications which would provide greater comparability with the SITC (revision 2).

Copies of the drafts are available from the Chief, Industry and Commodity Classification Branch, Economic Surveys Division, U.S. Bureau of the Census, Washington, D.C. 20233.

Written comments should be submitted at the earliest practicable date, but, to be assured of consideration, not later than August 1, 1977. Such statements should be submitted to the Chief, Industry and Commodity Classification Branch, at the address shown above.

Issued: July 13, 1977.

By order of the Commission.

KENNETH R. MASON,
*Secretary.*

[FR Doc.77-20675 Filed 7-18-77;8:45 am]

# DEPARTMENT OF LABOR

## Employment and Training Administration

## MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKER PROGRAMS

### Funding of HEP and CAMP Projects

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Department of Labor (DOL) to continue to fund High School Equivalency Programs (HEP's) and College Assistance Migrant Programs (CAMP's) for another year under title III of the Comprehensive Employment and Training Act (CETA) of 1973 as amended. The next program year for HEP and CAMP projects will be September 1, 1977 to August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Paul A. Mayrand, Chief, Division of Farmworker Programs, Department of Labor/Employment and Training Administration, 601 D Street, N.W., Washington, D.C., 20213, phone 202-376-7288.

SUPPLEMENTARY INFORMATION: 1976 Amendments to the Higher Education Act directed the Department of Health, Education, and Welfare (DHEW) to conduct a study of these programs with a view towards providing recommendations as to whether the programs should be continued, and if so, which agency, DOL or HEW, would best administer them. The study has been conducted, and DOL will shortly have an opportunity to review and comment on the study. Thereafter, the study will be presented to Congress for its consideration. Since the HEP and CAMP programs are due for refunding August 31, 1977, DOL will refund the programs for an additional year. This will allow all interested parties sufficient time to evaluate the DHEW report and make appropriate arrangements for future funding.

Funds for the next program year of HEP and CAMP projects will be provided under title III, section 303 of the Comprehensive Employment and Training Act (CETA) of 1973 as amended. HEP and CAMP projects have been notified in writing of the decision to continue direct funding and instructed to submit the documents required to receive additional funds. Following is a list of grantees to be refunded and estimated funding amounts:

| Grantee | Amount | Type of grant |
|---|---|---|
| Catholic University of Puerto Rico. | $280,225 | HEP |
| University of Miami, Florida | 334,840 | HEP |
| University of Wisconsin | 329,575 | HEP |
| Eastern New Mexico University | 400,927 | HEP |
| New Mexico Technical/Vocational School. | 298,865 | HEP |
| Pan American University, Texas. | 314,000 | HEP |
| Do | 260,000 | CAMP |
| St. Edwards University, Texas | 322,000 | CAMP |
| University of Houston, Texas | 312,921 | HEP |
| University of Texas at El Paso, Texas. | 315,689 | HEP |
| Nebraska Human Resources Foundation. | 355,223 | HEP |
| Adams State College, Colorado | 295,618 | CAMP |
| Southern Colorado State College. | 321,397 | CAMP |
| California Polytechnic State | 376,240 | HEP |
| San Diego State University, California. | 271,614 | CAMP |
| University of Pacific, California. | 297,860 | HEP |
| University of Oregon | 329,255 | HEP |
| Washington State University | 343,822 | HEP |

Signed at Washington, D.C., the 6th day of July, 1977.

PAUL A. MAYRAND,
*Chief, Division of Farmworker Programs.*

[FR Doc.77-20564 Filed 7-18-77;8:45 am]







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### Office of the Secretary

[TA-W-1672]

## CONVERSE RUBBER CO.

**Correction of Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 the Department of Labor issues the following correction of the Certification Regarding Eligibility to Apply for Worker Adjustment Assistance applicable to workers and former workers of Converse Rubber Company (TA-W-1672).

In FR Doc. 77-14457 appearing at page 25937 in the FEDERAL REGISTER on May 20, 1977, words were omitted. As a result the Detroit, Michigan regional sales office was not identified, the regional sales offices were listed as sales offices and the local sales offices were not identified in the certification. Accordingly, the following corrections should be made:

1. The 3rd column, 7th paragraph, 5th line, is corrected by adding the location "Detroit, Michigan;" immediately following the location "New York, New York;"

2. The 3rd column, 7th paragraph, 6th line, is corrected by adding the word "regional" immediately following the word "Georgia" and

3. The 3rd column, 7th paragraph, 7th line, is corrected by adding the phrase "and all local sales offices under their jurisdiction" immediately following the word "Company."

Signed at Washington, D.C., this 8th day of July 1977.

HARRY GRUBERT,
*Director, Office of Foreign Economic Research.*

[FR Doc.77-20545 Filed 7-18-77;8:45 am]

[TA-W-1755]

## SUSAN GARMENT CO.

**Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1755: investigation regarding certification of eligibility to apply for workers adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977 in response to a worker petition received on March 3, 1977 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's sportswear at the Philadelphia, Pennsylvania plant of the Susan Garment Company.

The notice of investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the International Ladies' Garment Workers Union, the Susan Garment Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separted;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion two (2) has not been met.

Under the general category of women's sportswear, production at the Susan Garment Company in 1976 was divided into women's jackets (more than 80 percent), women's shirts and blouses (greater than 15 percent), and women's slacks and dresses (less than 5 percent). The production process involves the sewing of pre-cut materials into the above mentioned articles of women's clothing. Depending upon the style requirements, production workers sew pockets, sleeves, seams, zippers, collars, and buttons in the construction of the finished product. Jackets are made of either cotton, polyester, or a blend with 70 percent of these articles being knit and 30 percent being woven. These jackets are used in combination with slacks for casual use. Shirts and blouses are made of either a polyester or a blend with 50 percent of these articles being woven and 50 percent being knit. Slacks and dresses represent less than five percent of production. All products are retailed either in major chain stores or in specialty shops.

Production at the Susan Garment Company in value, adjusted to 1974 dollars, decreased 5.2 percent from 1974 to 1975 and then increased 27.2 percent from 1975 to 1976. Production in value, adjusted to 1974 dollars increased 16.6 percent in January of 1977 compared to January of 1976. From the third quarter of 1975 through the fourth quarter of 1976 production in value (unadjusted) increased in each quarter compared to the same quarter of the previous year. Sales equal production.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales or production or both at the Philadelphia, Pennsylvania plant of the Susan Garment Company have not declined absolutely as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of July 1977.

BRIAN TURNER,
*Executive Assistant to the Deputy Under Secretary for International Affairs.*

[FR Doc.77-20546 Filed 7-18-77;8:45 am]

[TA-W-1460]

## TIMKEN CO.

**Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1460: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing tapered roller bearings at the Canton, Ohio plant and the Gambrinus Steel plant at Canton, Ohio of the Timken Company, Canton, Ohio.

The Notice of Investigation was published in the FEDERAL REGISTER on January 7, 1977 (42 FR 1538). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Timken Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply fo radjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers declined 4.8 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Using 1974 as a base year, production of tapered roller bearings declined 3.6 percent in 1975 and increased 0.8 percent in 1976. Production declined in the first, third and fourth quarters of 1976 compared to the same quarters of 1974.

INCREASED IMPORTS

Imports of tapered roller bearings increased from $14.7 million in 1972 to $21.0 million in 1973 to $25.9 million in 1974. Imports declined to $25.2 million in 1975 but increased in 1976 to $41.6 million. The import-production ratio increased from 3.5 in 1972 to 4.1 in 1973 to 4.4 in 1974. The ratio declined to 4.2 in 1975 but increased to 6.1 in 1976.

CONTRIBUTED IMPORTANTLY

Timken's major customers for tapered roller bearings are the major auto manufacturers and other major commercial vehicle producers that make trucks, construction and agricultural vehicles. Most of these customers increased purchases from Timken both in 1975 and in 1976. Only one customer surveyed decreased purchases from Timken while increasing purchases of imported bearings. These increased purchases of imported bearing amounted to less than one percent of Timkin's total sales to the firms surveyed. Customers stated that many factors affect purchases of bearings especially and price. At the present time, domestic bearing manufacturers supply most of their requirements.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with tapered roller bearings produced by the Canton, Ohio plant and the Gambrinus Steel plant at Canton, Ohio of The Timken Company did not contribute importantly to the decline in sales or production or separations of workers of that firm.

Signed at Washington, D.C. this 8th day of July 1977.

HARRY GRUBERT,
*Director, Office of Foreign Economic Research.*

[FR Doc.77-20547 Filed 7-18-77;8:45 am]

## INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 29, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 29, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 7th day of July 1977.

MARVIN M. FOOKS,
*Director, Office of Trade Adjustment Assistance.*

APPENDIX

| Petitioner: union/ workers or former workers of— | Location | Date received | Date of petition | Petition No. | Articles produced |
|---|---|---|---|---|---|
| Admiral Corp. (IBEW). | McHenry, Ill. | July 1, 1977 | June 28, 1977 | TA-W-2,196 | TV tuners and yokes. |
| Dov Industries, Inc. (company). | So. Plainfield, N.J. | June 30, 1977 | June 27, 1977 | TA-W-2,197 | Washable slippers for women and children. |
| Lambert Manufacturing Co. (workers). | Chillicothe, Mo. | July 6, 1977 | June 30, 1977 | TA-W-2,198 | Woven cotton work gloves. |
| Rappahannock Sportswear Co. (workers). | Fredericksburg, Va. | July 5, 1977 | June 29, 1977 | TA-W-2,199 | Men's dress trousers. |

[FR Doc.77-20544 Filed 7-18-77;8:45 am]

## LEGAL SERVICES CORPORATION

**JUNE 1977, AUDIT AND ACCOUNTING GUIDE**

**Instruction on Use**

JULY 14, 1977.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974 (the "Act"), Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-29961. Section 1009(c)(1) of the Act requires that recipients of financial support from the Corporation provide for an annual financial audit. Recently, the Corporation prepared and distributed a revised Audit and Accounting Guide (June 1977) for use by recipients and independent certified public accountants or other auditors who perform such audits. This revised Guide supersedes all previous such guides.

Pursuant to Section 1008(e) of the Legal Services Corporation Act, the Comptroller of the Legal Services Corporation hereby instructs recipients to use the revised Guide for all auditing and accounting functions required by the Corporation.

Effective date: This Instruction shall become effective July 19, 1977.

FABIO DE LA TORRE,
*Comptroller.*

[FR Doc.77-20685 Filed 7-18-77;8:45 am]

## NATIONAL SCIENCE FOUNDATION

**PRIVACY ACT OF 1974**

**Additional System of Records**

Pursuant to the requirements of section 3 of the Privacy Act of 1974, 5 U.S.C. 552a(c)(4), notice is hereby given of the existence and character of a new system of records to be maintained by the National Science Foundation and of the routine uses thereof. Interested persons are invited to submit written data, views or arguments to the Director, National Science Founadtion, ATTN: General Counsel, Washington, D.C. 20550, not later than August 18, 1977.

NSF-44

**System name:**

Visiting Women Scientists Roster.

**System location:**

Research Triangle Institute, P. O. Box 12194, Research Triangle Park, N.C. 27709.

**Categories of individuals covered by the system:**

Women scientists who have applied to visit high schools as part of NSF's Visiting Women Scientists Program.

**Categories of records in the system:**

Name, address, ID number, science field, present occupation, previous posi-







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tions, degrees and year of award, race, marital status, and amount of time available for participation in the program.

**Routine uses of record maintained in the system, including categories of users, and the purposes of such uses:**

Information will be used by Research Triangle Institute project staff to select women scientists to visit a group of high schools.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:**

Names, addresses, ID numbers, science fields and present occupations will be stored on computer disk; additional information will be on paper records maintained in file folders.

**Retrievability:**

Computer records retrievable by ID number, name, geographic location, science field, type of occupation; paper records retrievable by ID number.

**Retention and disposal:**

Maintained at the Research Triangle Institute until completion of program; then turned over to NSF for disposition.

**Safeguards:**

The records are kept secure in a locked vault-like room in a building which has controlled sign entry and is monitored by a security force.

**Records service categories:**

Information obtained from individuals and professional organizations.

**System purpose:**

The purpose of the system is to maintain a roster of women scientists who are interested in visiting high schools to encourage young women to consider careers in science and technology. The information in the system will be used to ensure that the group of women scientists who visit the schools includes a variety of ages, science fields, types of occupations, races, marital status, etc.

**Protection against unauthorized access:**

A password protection system for account codes and data sets will be used; only authorized project personnel will have access to the computer files. Paper records will be stored in locked file drawers; the building in which they are stored is locked during non-business hours.

RICHARD C. ATKINSON,
*Director.*

JULY 12, 1977.

[FR Doc.77-20681 Filed 7-18-77;8:45 am]

## NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

### TRANSPORTATION ISSUE

### Hearings Set

Conflicting views on national transportation issues will be aired at public hearings scheduled by the National Transportation Policy Study Commission for August 10, 1977, in Seattle, Wash.

The hearings, part of a nationwide series planned by the Commission, are intended to help determine the needs of our Nation's communities, the transportation industry, shippers, the traveling public, and the American taxpayer.

The Commission, composed of 19 members, including twelve Members of Congress and seven public representatives, was created by Congress to examine, evaluate, and analyze our Nation's transportation needs and resources through the year 2000. The Commission's final report and policy recommendations are due on December 31, 1978.

The Commission plans to organize testimony of witnesses to insure that it hears from all of the various interests with a stake in transportation, such as labor, management, shippers, consumers, state governments, and environmentalists.

The hearings will be held in the Federal Building, 915 Second St., rooms 370 and 380, Seattle, Wash.

Those interested in testifying personally or in submitting written statements should contact, no later than 6 p.m., August 1, 1977: Mr. John Crutcher, NTPSC, 1750 K St. NW., suite 800, Washington D.C. 20006. Telephone number: 202-254-7453.

Dated: July 14, 1977.

EDWARD R. HAMBERGER,
*General Counsel.*

[FR Doc.77-20702 Filed 7-18-77;8:45 am]

## OFFICE OF MANAGEMENT AND BUDGET

### CLEARANCE OF REPORTS

### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on July 11, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

VETERANS ADMINISTRATION

Evaluation of National Cemetery System, single time, funeral directors, clergy, representatives of veterans' organizations, Housing, Veterans and Labor Division, Raynsford, R., 395-3532.

TENNESSEE VALLEY AUTHORITY

TVA Home Insulation Program, TVA 6254 through 6254E, other (see SF-83), all residential consumers, Warren Topellius, 395-5872.

DEPARTMENT OF LABOR

Employment and Training Administration: Information needed for apple harvest recruitments, ETA 7-158, anfnually, growers who anticipate a need for temporary agriculture workers, Strasser, A., 395-5867.

Employment and Training Administration, Program monitoring system handbook, Handbook 355, weekly, State Employees agencies in ESAP program, Strasser, A., Lowry, R. L., 395-5867.

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, administrative review report—food distribution programs, FNS 168, on occasion, hospitals, schools, institutions for the elderly, Human Resources Division, Warren Topellius, 395-3532.

DEPARTMENT OF COMMERCE

Bureau of Census, School enrollment supplement—October 1976, CPS, CPS-1, annually, 53,000 households in CPS sample, Kathy Wallman, 395-6140.

DEPARTMENT OF LABOR

Employment and Training Administration, FSB and SUA—monthly activity report, ETA5-141, 142, 143, 158, weekly, State employment security agencies, Lowry, R. L., 395-3772.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service, licensee's application and personnel record, FV 292, on occasion, applicants for employment as F&V inspectors, Marsha Traynham, 395-4529.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary, annual housing survey—national sample, AHS 1, AHS 2, AHS 4-L1, ASH 4-L2, ASH 394, annually, households in 461 PSU design, Larry Haber, 395-5631.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration, project dawn—IV—drug abuse warning network, on occasion, physicians—medical personnel, Richard Elsinger, Reese B. F., 395-6140.

PHILIP D. LARSEN,
*Budget and Management Officer.*

[FR Doc.77-20661 Filed 7-18-77;8:45 am]

### CLEARANCE OF REPORTS

### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on July 12, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

NATIONAL SCIENCE FOUNDATION

Inquiry on uses of NSF Data and Studies, Single time, known and potential users of science resources data, Energy and Science Division, Raynsford, R. 395-3810.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Color Television Receivers and Subassemblies (Producers' Survey), quarterly, U.S. producers of color TV receivers, Evinger, S. K., 395-3710.

DEPARTMENT OF COMMERCE

Bureau of Census, Housing Energy Conservation, AHS-2, section IV, single time, Households in 461 PSU Design, Larry Haber, 395-5631.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Center for Education Statistics Survey of Programs and Enrollments in Postsecondary Schools, NCES 2358, 2358-1, 2358-2, single time, postsecondary noncollegiate career schools, Kathy Wallman, 395-6140.

Social Security Administration, Labor Force Participation Study, SSA-3141, single time, persons over 18 in urban Baltimore, Md. area, Strasser, A., 395-5867.

Office of Education Cumulative Report and Estimate of Federal Funds—U.S. Loan Program for Cuban Students, OE1141, annually, IHES, Lowrey, R. L. 395-3772.

REVISIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service Bee and Honey Inquiries, other (see SF-83), beekeepers, Lowry, R. L., 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:
- Application for Assistance Under Emergency School Aid Act Title VII, Public Law 92-318, as Amended by Public Law 93-380 (NPOS), OE-116, annually, nonprofit organizations, Budget Review Division, Lowry, R. L., 395-4775.
- Request for Collection Assistance Under Federal Insured Student Loan Program, OE-1249-1, 1249-2, on occasion, lenders, Lowry, R. L., 395-3772.
- Request for Institutional Eligibility for Programs Under the Higher Education Act of 1965, as amended, OE 1059, on occasion, postsecondary institutions, Lowry, R. L., 395-3772.

Social Security Administration, Laboratory Personnel Qualification Appraisal, SSA-3083, on occasion, individuals, Warren Topellius, 395-5872.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service, Data for Farm Reconstitution, ASCS-155, on occasion, farmers who sell, buy, or lease land, Lowry, R. L., 395-3772.

Statistical reporting Service:
- Weekly Hatchery and Chick Placement Report, weekly, chicken hatcheries, Lowry, R. L., 395-3772.
- Turkey Hatchery Report (Monthly and Weekly), monthly, turkey hatcheries, Lowry, R. L., 395-3772.

Agricultural Stabilization and Conservation Service Request to Graze or Harvest Hay, ASCS 100, on occasion farm producers desiring to graze and harvest hay, Lowry, R. L., 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Transfer Credit Letter for Education Directory, Part 3, Higher Education, De 1261, annually, institutions of higher education, Marsha Traynham, 395-4529.

PHILIP D. LARSEN,
*Budget and Management Officer.*

[FR Doc.77-20812 Filed 5-18-77;8:45 am]

## PRIVACY ACT OF 1974

### Reports on New Systems

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires that agencies give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period June 27, 1977 through July 8, 1977 the Office of Management and Budget received the following reports on new (or revised) systems of records.

SMALL BUSINESS ADMINISTRATION

*System Name:*

Freedom of Information Act and Privacy Act Case Files.

*Report Date:*

June 27, 1977.

*Point-of-Contact:*

Mr. Nicholas Kalcounos, FOIA and Privacy Officer, Small Business Administration, Washington, D.C. 20416.

*Summary:*

The proposed system will maintain records of requests and appeals under the Freedom of Information and Privacy Acts.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

*System Names:*

(1) 1978 Survey of Widows without Benefits; (2) Direct Deposit Survey; (3) Professional Qualifications File; (4) Mortality of Dairymen; (5) Health Effects and Sulphur Oxides and Sulphuric Acid, Nitrogen Oxides, and Nitric Acid; (6) Potential and Actual Consultant, Field Reader, and Site Visitor Files, Indexex, and Lists HEW E OE; (7) PROPHET System Research Prospectuses.

*Report Date:*

June 29, 1977.

*Point-of-Contact:*

Mr. John D. Young, Department of Health, Education, and Welfare, Washington, D.C. 20201.

*Summary:*

The report includes five proposed new systems to be maintained by the Social Security Administration, the Center for Disease Control, and the National Institutes of Health; and two altered systems maintained by the Center for Disease Control and the Office of Education. The change to the CDC system increases the number of dairymen in the sample; the change to the OE system is computerization of the file.

AGENCY FOR INTERNATIONAL DEVELOPMENT

*System Name:*

Employees Automated Records.

*Report Date:*

July 1, 1977.

*Point-of-Contact:*

Mr. James L. Harper, Privacy Liaison Officer, Agency for International Development, Department of State, Washington, D.C. 20523.

*Summary:*

AID proposes to add a new category of records to the system for preparing reports required by the Equal Opportunity Act of 1972.

DEPARTMENT OF DEFENSE

*System Name:*

Accounting for Personal Money Allowances.

*Report Date:*

July 1, 1977.

*Point-of-Contact:*

Mr. William Cavaney, Defense Privacy Board, Room 5H-23 Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20301.

*Summary:*

The proposed system will maintain a record of the receipt and disposition of allowances, review expenditures annually, and report the results of the review to the Assistant Secretary of the Army for Financial Management.

FEDERAL COMMUNICATIONS COMMISSION

*System Name:*

Employee Locator System.

*Report Date:*

Undated.

*Point-of-Contact:*

Mr. Richard D. Lichtwardt, Federal Communications Commission, Washington, D.C. 20554.





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*Summary:*

This proposed system will be used to contact employees in the case of emergencies.

VELMA N. BALDWIN,
*Assistant to the Director for Administration.*

[FR Doc.77-20813 Filed 7-18-77;8:45 am]

## OFFICE OF SCIENCE AND TECHNOLOGY POLICY

### ADVISORY GROUP ON SPACE SYSTEMS

#### Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Advisory Group on Space Systems.
Date, time, and place: August 5-6, 1977, 9 a.m. to 5 p.m., Naval Ocean Systems Center, 271 Catalina Boulevard, San Diego, California 92152.
Type of meeting: Closed.
Contact person: Mr. William Montgomery, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500, Telephone 202-395-4692.
Purpose of advisory group: The Office of Science and Technology Policy, in accordance with the statutory mandate to analyse and interpret significant developments and trends in science and technology and relate these to their impact on achievement of national goals and objectives will be identifying and evaluating the implications of technological advances such as the availability of the reusable space shuttle and other supporting systems on future space applications programs, specifically those related to military systems.
Agenda: 9 a.m. to 5:00 p.m.—classified discussion of draft materials prepared as part of the policy review process for the President and the National Security Council.
Reason for closing: The committee will be reviewing sensitive classified national security information involving design and employment of space systems. These discussions come under exemption 1 of the Government in the Sunshine Act, Section 552b(c), Title 5, U.S.C.
Authority for closing: The Director, Office of Science and Technology Policy has determined that this meeting deals with matters classified for national security and therefore should be closed.

WILLIAM MONTGOMERY,
*Executive Officer.*

[FR Doc.77-20671 Filed 7-18-77;8:45 am]

## OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

### ADVISORY COMMITTEE FOR TRADE NEGOTIATIONS

#### Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. (the Act), notice is hereby given that a meeting of the Advisory Committee for Trade Negotiations will be held Wednesday, August 17, 1977, from 1:30 p.m. to 5 p.m. in the Bank of America Board Room, Los Angeles, Calif.

The purpose of this meeting will be to review and discuss the status of, and the United States strategy and objectives for, the multilateral trade negotiations currently underway in Geneva.

In accordance with section 10(d) of the Act, the meeting will not be open to the public because information falling within the purview of 5 U.S.C. 552b(c)(1) (the exception to the Government in the Sunshine Act for matters specifically required by Executive order to be kept secret in the interest of foreign policy) will be reviewed and discussed.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Executive Director, Advisory Committee for Trade Negotiations, Office of the Special Representative for Trade Negotiations, 1800 G St., room 725, Washington, D.C. 20506.

PHYLLIS O. BONANNO,
*Executive Director, Advisory Committee for Trade Negotiations.*

[FR Doc.77-20700 Filed 7-18-77;8:45 am]

## PRESIDENT'S COMMISSION ON MENTAL HEALTH

### MEETING

In accordance with Section 10(A)(2) of the Federal Advisory Committee Act (5 USC Appendix I), announcement is made of the following Presidential Commission meeting scheduled to assemble during the month of August, 1977.

The President's Commission on Mental Health:

August 2, 1977; 9:30 a.m. to 4:45 p.m.; August 3, 1977; 9:30 a.m. to 4:45 p.m.; New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C.

OPEN MEETING

CONTACT:

Mary Ann Orlando, Special Assistant to the Chairperson, President's Commission on Mental Health, Room 121, Old Executive Office Building, Washington, D.C. 20500, 202-456-7100.

PURPOSE: The President's Commission on Mental Health is a policy recommendation commission composed of 20 members representing a broad spectrum of interested and informed private citizens. The Commission was created by the President by Executive Order #11973 and was directed to identity the mental health needs of the nation. In particular the Commission shall seek to identify: how the mentally ill, emotionally disturbed and mentally retarded are being served or underserved and who is affected by such underservice; projected needs for dealing with emotional stress during the next twenty-five years; ways the President, the Congress and the Federal Government may efficiently support the treatment of the underserved mentally ill, emotionally disturbed and mentally retarded; methods for coordinating a unified approach to all mental health services; types of research the Federal Government should support to further prevention and treatment of mental illness and mental retardation; roles of various educational systems, volunteer agencies and other people-helping institutions can perform to minimize emotional disturbance; and what programs will cost, when the money should be spent and how the financing should be divided among Federal, State and local governments, and the private sector. The Commission shall conduct such public hearings, inquiries and studies as may be necessary, and shall submit a preliminary report to the President by September 1, 1977. A final report with recommendations and priorities shall be submitted to the President by April 1, 1978.

AGENDA: This meeting will be open to the public. Agenda items include work sessions on task areas of the Commission.

Substantive program information may be obtained from: Mary Ann Orlando Special Assistant to the Chairperson, The President's Commission on Mental Health, Room 121, Old Executive Office Building, Washington, D.C. 20500. Tel: 202-456-7100.

Attendance by the public will be limited to space available.

Mary Ann Orlando will furnish upon request summaries of the meeting and a roster of the Commission. President's Commission on Mental Health, Room 121,Old Executive Office Building, Washington. D.C. 20500.

BENEDICT LATTERI,
*Administrative Officer, President's Commission on Mental Health.*

JULY 15, 1977.

[FR Doc.77-20901 Filed 7-18-77;10:12 am]

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 13740; SR-MCC-77-2 and SR-MSTC-77-6]

### MIDWEST CLEARING CORP. AND MIDWEST SECURITIES TRUST CO.

#### Order Approving Rule Change Submitted Relating to Debt Securities

JULY 12, 1977.

In the Matter of Midwest Clearing Corporation, Midwest Securities Trust Company, 120 South LaSalle Street, Chicago, Illinois 60603.

On May 12, 1977, the Midwest Clearing Corporation and the Midwest Securities Trust Company submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act") proposed rule changes which would extend clearance and settlement and depository services to debt securities.

In accordance with Section 19(b) of the Act and Rule 19b-4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (42 FR 29989, June 10, 1977), and the public was invited to comment thereon. Notice of the filing and an invitation for comments also appeared in Securities and Exchange Act Release No. 34-13602, June 6, 1977. No letters of comment were received.

The Commission has reviewed the proposed rule changes and finds that they





are consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes contained in File Nos. SR-MCC-77-2 and SR-MSTC-77-6 be, and hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-20662 Filed 7-18-77;8:45 am]

[Release No. 9840; 811-81]

### PETROLEUM CORPORATION OF AMERICA

#### Filing of Application for Order Declaring that Applicant Has Ceased to be Investment Company

JULY 13, 1977.

In the Matter of Petroleum Corporation of America, 201 North Charles Street, Baltimore, Maryland 21201.

Notice is hereby given that Petroleum Corporation of America ("Petroleum"), a closed-end, diversified management investment company, registered under the Investment Company Act of 1940 ("Act"), filed an application on April 21, 1977, pursuant to Section 8(f) of the Act, for an order declaring that Petroleum has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Petroleum, a Delaware corporation, registered under the Act on November 1, 1940. Petroleum represents that on February 10, 1977 the respective boards of directors of Petroleum and of Petroleum and Resources Corporation ("Maryland Corporation"), a wholly-owned subsidiary of Petroleum incorporated under the laws of Maryland, aprroved and adopted an Agreement and Articles of Merger ("Agreement") which provided for the merger of Petroleum into Maryland Corporation. Petroleum states that the Agreement was approved by the shareholders of Petroleum on March 30, 1977 and that the merger was consummated on April 13, 1977. Petroleum represents that pursuant to the terms of the Agreement, Maryland Corporation acquired all of the assets and assumed all of the obligations and liabilities of Petroleum, and that the former shareholders of Petroleum became shareholders of Maryland Corporation. Petroleum further represents that Maryland Corporation registered under the Act as a closed-end, diversified management investment company on March 10, 1977, and that since the date of the merger, Maryland Corporation has conducted the business previously conducted by Petroleum which no longer exists.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than August 8, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-20663 Filed 7-18-77;8:45 am]

[Release No. 13638; SR-PHLX-77-3]

### PHILADELPHIA STOCK EXCHANGE, INC.

#### Order Approving Proposed Rule Change

JULY 12, 1977.

In the matter of Philadelphia Stock Exchange, Inc., 17th Street & Stock Exchange Place, Philadelphia, Pennsylvania 19103.

On May 24, 1977, the Philadelphia Stock Exchange, Inc. ("PHLX") filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change relating to its summary procedure for fining members and other employees for violations of Option Committee Regulations with respect to order, decorum, health, safety and welfare on the options trading floor.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13575, (May 27, 1977)) and by publication in the FEDERAL REGISTER (42 Fed. Reg. 39136, June 7, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on May 24, 1977, be, and it hereby is, approved.

For the Commission by the Division of Market Regulations, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-20664 Filed 7-18-77;8:45 am]

### PHILADELPHIA STOCK EXCHANGE, INC.

#### Application for Unlisted Trading Privileges and of Opportunity for Hearing

JULY 12, 1977.

In the matter of applications of the Philadelphia Stock Exchange, Inc., for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Falcon Seaboard, Inc., common stock—$1.50 par value, file No. 7-4959.

Upon receipt of a request, on or before July 28, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-20665 Filed 7-18-77;8:45 am]



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## PHILADELPHIA STOCK EXCHANGE, INC.

### Application for Unlisted Trading Privileges and of Opportunity for Hearing

JULY 12, 1977.

In the matter of applications of the Philadelphia Stock Exchange, Inc. for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Trans-World Airlines, Inc., $2 cumulative convertible preferred series A stock, no par value, file No. 7-4961.

Upon receipt of a request, on or before July 28, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-20666 Filed 7-18-77;8:45 am]

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[Release No. 34-13737; File No. SR-MSE-77-24]

## MIDWEST STOCK EXCHANGE, INC.

### Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 20, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

MSE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

*Listing fees on the Midwest Stock Exchange, Inc.*

| | From | To |
|---|---|---|
| Maximum payable for additional listings per application | $1,500 | $2,500 |
| Maximum payable annually for additional listings | $5,000 | 7,500 |
| The other fees listed below remain unchanged: | | |
| Original listing | $5,000 | |
| Annual maintenance | $0.04/1,000 shares | |
| Minimum | $250 | |
| Maximum | $2,500 | |
| Additional listing application | $0.005/share for 1st 100,000 shares | |
| | $0.0025/share for remainder | |
| Minimum per application | $250 | |

MSE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to increase the costs of listing fees in response to the legal and clerical expenses for processing applications and maintaining listing records.

The proposed rule change represents an equitable allocation of reasonable fees among listing companies as the fees are standardized.

MSE states that comments have neither been solicited nor received.

The Midwest Stock Exchange, Incorporated believes that no burdens will be placed on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L. Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 8, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 12, 1977.

[FR Doc.77-20667 Filed 7-18-77;8:45 am]

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[Release No. 34-13741; File No. SR-MSTC-77-9]

## MIDWEST SECURITIES TRUST CO.

### Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 8, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change involves the implementation of the MST Communications System (the "MST System") of the Midwest Securities Trust Company ("MSTC"). The MST System will provide a fast, flexible and cost effective communications link for broker/dealers and institutions. Development of this system is another step toward realization of a national securities processing system.

MST System terminal applications will include inquiry, input, report retrieval, and administrative message capability. Although the MST System will be phased in gradually and made available to all participants, it will not be required. MSTC plans to run the MST System at no cost for at least a month after receiving Commission approval. After the month, the initial fee has been set at $200 a month per participant.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to implement a communication linkage between MSTC, its participants, and other clearing agencies which will enable them to receive information via terminal—a CRT screen, keyboard, printer and optional card reader. Terminal receipt of information will reduce the necessity of preparation and physical delivery of many written instructions.

The proposed rule change will facilitate the prompt and accurate clearance and settlement of securities transactions by implementing an automated communications link with MSTC, its participants, and other clearing agencies that MSTC believes will reduce geographic disadvantages, improve cash and securities management (same day movement of cash and securities, timely confirmation of cash and security activity, reduced interest cost, reduced errors, and improved stock loan utilization), and provide more timely pay and collect notification.





The Midwest Securities Trust Company believes that the proposed fee represents an equitable allocation of reasonable fees among its participants.

Comments have neither been solicited nor received.

The Midwest Securities Trust Company believes that no burdens have been placed on competition.

On or before August 22, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 8, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 12, 1977.

[FR Doc.77-20668 Filed 7-18-77;8:45 am]

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[Release No. 34-13726; File No. SR-PSE-77-17]

## PACIFIC STOCK EXCHANGE, INC.

### Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975) (the "Act"), notice is hereby given that on June 29, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

PACIFIC STOCK EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change amends Section 10(c) of Rule II of the Pacific Stock Exchange Incorporated ("Exchange") to remove the prohibition contained in such section against persons who hold appointments as options market makers on the options floor of the Exchange, receiving appointments as alternate specialists with respect to equity trading on the Exchange.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change is designed to permit persons holding appointments as market makers on the options floor of the Exchange to be appointed as alternate specialists with respect to equity securities on the Exchange.

The proposed rule change, by removing a barrier to options market makers acting as alternate specialists in equity securities, contributes to the removal of impediments to and the perfection of the mechanism of a free and open market and a national market system. Therefore, the Exchange concludes that Section 6(b)(5) of the Act provides a statutory basis for the proposed amendment.

Comments with respect to the proposed rule change were neither solicited nor received.

The Exchange asserts that the proposed rule change would impose no burden on competition. Rather it would remove a burden on competition by permitting options market markers to compete as alternate specialists with respect to equity securities.

On or before August 22, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 8, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 7, 1977.

[FR Doc. 77-20669 Filed 7-18-77;8:45 am]



V 42 I 138 JUL 19 1977 UMI

## DEPARTMENT OF STATE

### Agency for International Development

### PRIVACY ACT OF 1974

### Addition of Category of Record

AGENCY: Agency for International Development.

ACTION: Amendment to systems of records.

SUMMARY: To add a new category of records to AID's system of records AID–3. The new category will be the Equal Opportunity Program Extract File.

EFFECTIVE DATE: August 18, 1977, unless the agency publishes notice to the contrary.

ADDRESS: Substantive comments should be addressed to Mr. James L. Harper, Privacy Liaison Office, Department of State, Agency for International Development, Washington, D.C. 20523.

FOR FURTHER INFORMATION CONTACT:

Same as in comments.

j. The Equal Opportunity Program Extract File—This file will contain information from the Master Data File and the Minority Group Designator File and consist of the following: position number; position title; occupational specialty code; position pay plan; position grade; GSA location code; employee name; SSAN; sex; employee pay plan; employee grade; employee step; minority group designator; work schedule; current civil service performance rating; date of last civil service performance rating; supervisory code; age; date of birth; handicap code; date appointed present grade; incumbent assigned date; date entered on duty with AID or predecessor; academic education level; degree Majors 1, 2 and 3; Agency occupational specialties 1, 2 and 3; Veteran's Preference.

JULY 1, 1977.

JOHN J. GILLIGAN,
*Administrator.*

[FR Doc.77–20588 Filed 7–18–77;8:45 am]

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### STATEMENTS OF INCOME TAX WITHHELD ON WAGES

### Proposed Forms Revision

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed forms revision.

SUMMARY: This document contains a proposed revision of Form W–2, Statement of Income Tax Withheld on Wages, and Form W–3, Transmittal Statement for Form W–2, as well as proposed requirements for the private printing of those forms. The changes result from the enactment of Pub. L. 94–202, pursuant to which consolidated annual wage reporting was established. The revised statements are published in proposed form in order to permit private printers of forms and other interested persons an opportunity to review the revisions and to offer comments with respect to them.

DATES: Written comments must be delivered or mailed by August 15, 1977. The revised form is for use beginning with forms to be filed for tax year 1978.

ADDRESS: Send comments to: Commissioner of Internal Revenue, Attention: Forms Committee, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Ruth L. Hill of the Taxpayer Service Division, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: ACTS: T:C), 202–566–6666.

SUPPLEMENTARY INFORMATION: This document contains a proposed revision of Form W–2, Statement of Income Tax Withheld on Wages, and Form W–3, Transmittal Statement for Form W–2. These revisions are proposed as a result of the Act of January 2, 1976 (Pub. L. 94–202; 88 Stat. 1135).

The revised Form W–2 is expanded to incorporate information required by the Social Security Administration. Further, the format has been revised to accommodate certain administrative needs. The Form W–3 is modified to include additional data fields.

Under the revised procedures, beginning with forms with respect to tax year 1978, employers will no longer be required to itemize the quarterly earnings of each employee on Form 941, Schedule A. However, employers will still be required to file summary quarterly withholding and deposit statements on a revised Form 941 (which will be made available later).

The printing specifications set forth in this document are proposed to be required for privately printed Forms W–2 (Copy A). Printers and employers are cautioned that these specifications may change and that they should not initiate any procurement activity until the official forms and printing specifications are promulgated. It is important to note that Forms W–2 published for use with respect to tax year 1977 and earlier tax years will not be acceptable by the Service after promulgation of the Form W–2 for tax year 1978 and of its private printing specifications.

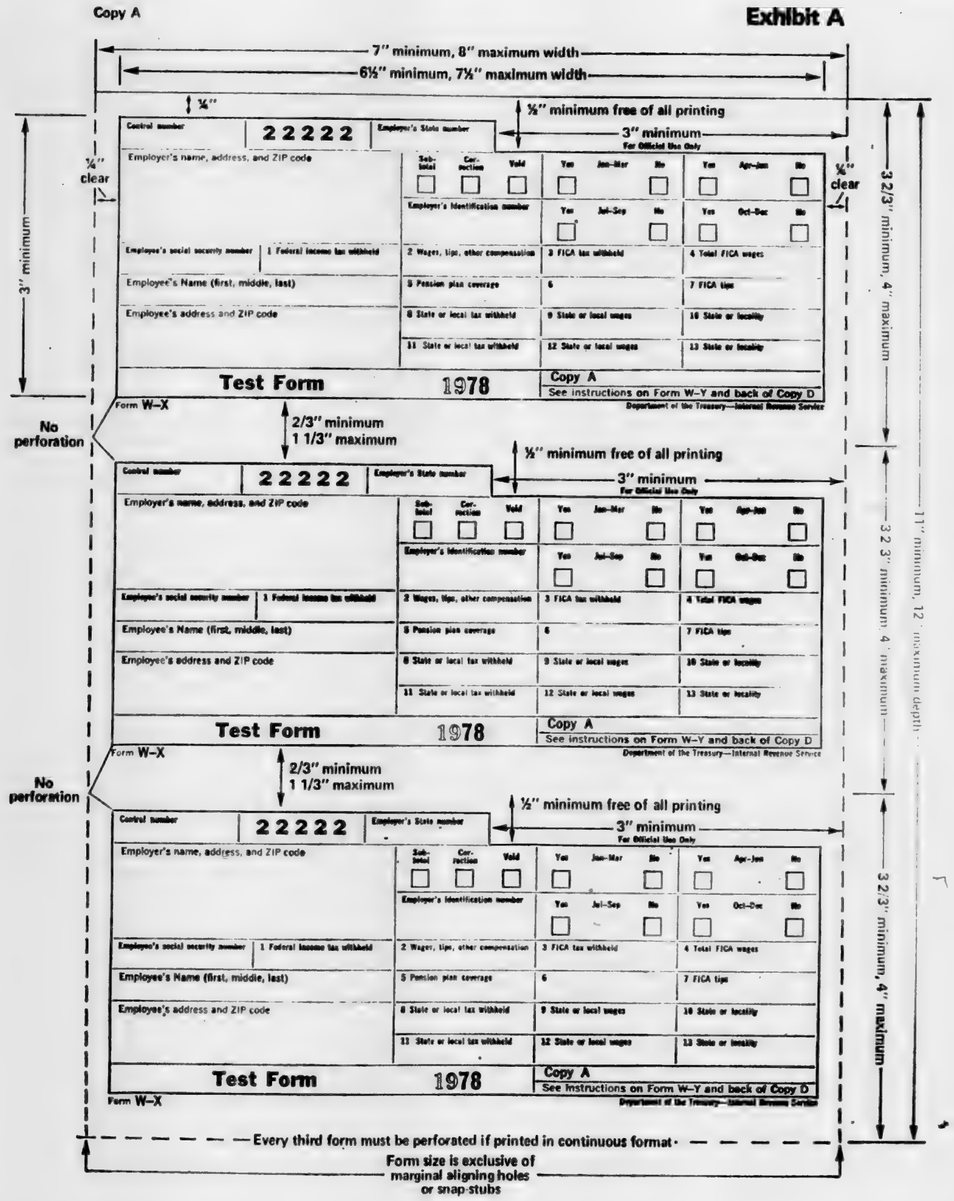
PROPOSED REVISED FORMS AND SPECIFICATIONS

Forms W–2 and W–3 and the private printing specifications with respect to them are proposed to be revised as follows:





Exhibit A






V 42 I 138 JUL 19 1977 UMI

Copies 1, B, C, 2 and D as displayed with the official set

**Exhibit B**

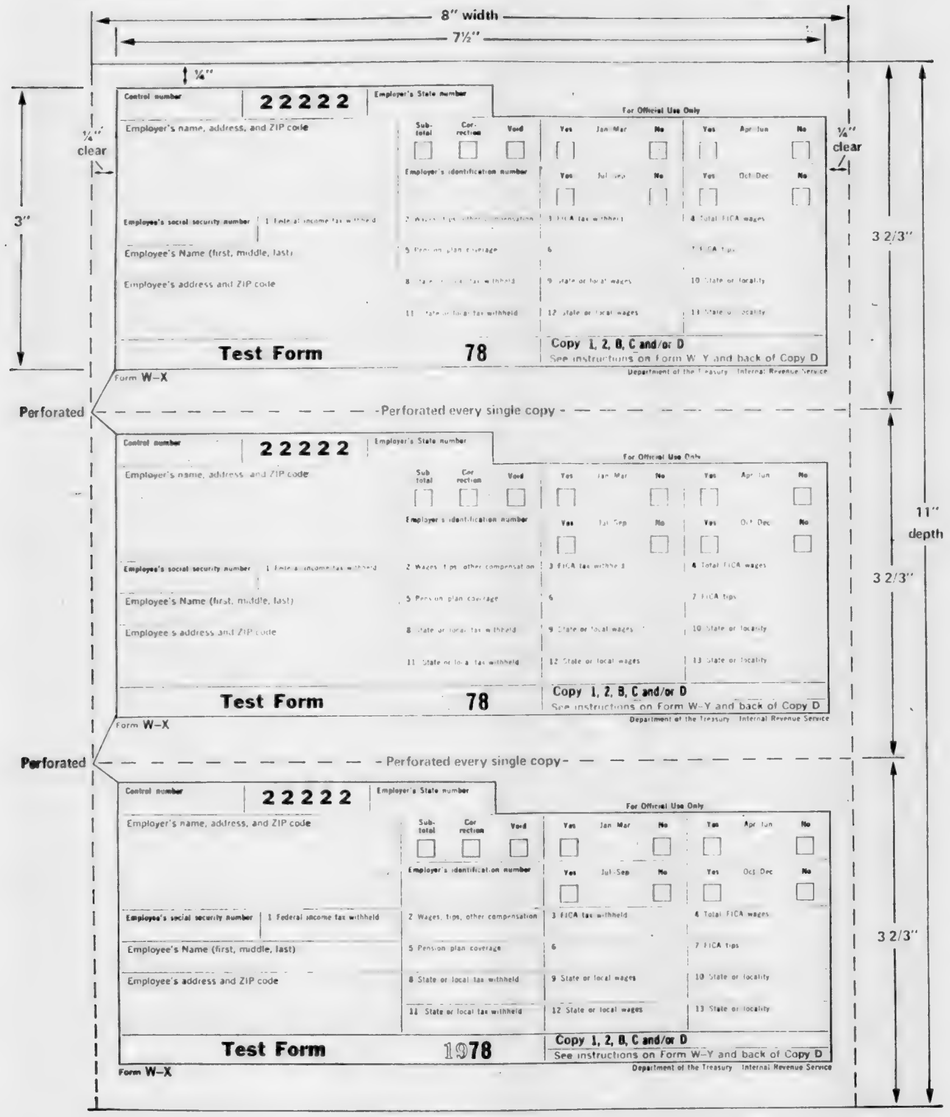






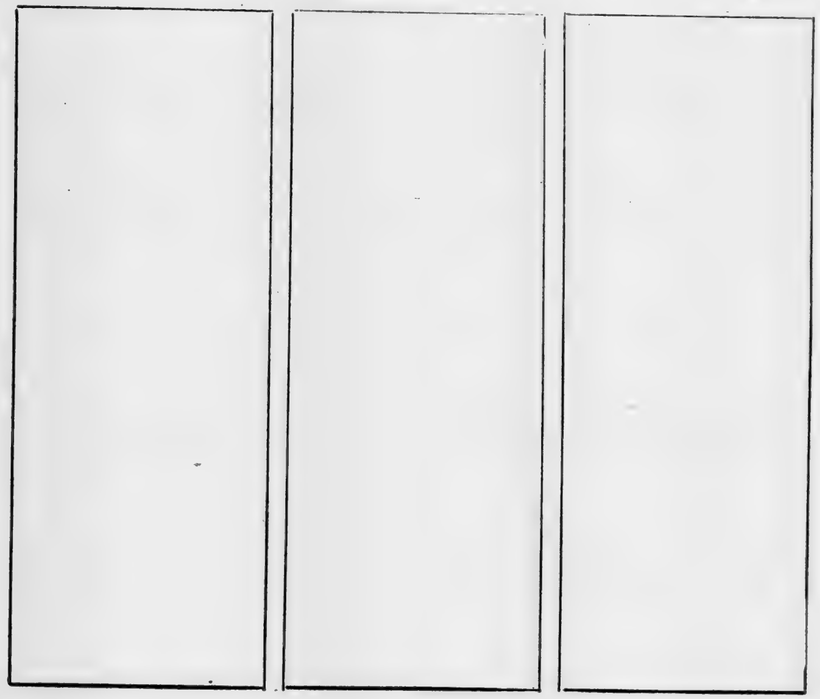

**Exhibit C**

| Control Number | 33333 | Employer's State No. | For Official Use Only | | |
|---|---|---|---|---|---|
| Type of Tax Statements Transmitted ▶ | Official Use | Military | Agriculture | W-2 | Original |
| | Official Use | State or Local Gov. | Household | W-2P | Corrections |
| Total FICA tax withheld | | Total Federal income tax | | Number of employees | |
| Total FICA wages | | Total wages | | Total FICA tips | |
| Employer identification number | | Establishment number | | Number of parent | |
| Employer's Name, address and ZIP code | | **Transmittal of Income and Tax Statements** Form **W-3** Department of the Treasury—Internal Revenue Service **1978** | | | |

Under penalties of perjury, I declare that I have examined this return, including accompanying documents and to the best of my knowledge and belief, it is true, correct, and complete. In the case of documents without recipients' identifying numbers, I have complied with the requirements of the law by requesting such numbers from the recipients, but did not receive them.

Signature ..... Title ..... Date .....

**Instructions**





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REQUIREMENTS FOR PRIVATE PRINTING

.01 A payer may file a substitute Form W-2 with Federal tax authorities (hereafter referred to as a substitute Copy A). The substitute forms must be an exact replica of the official government forms with respect to layout and contents. Only the dimensions of a substitute form may differ (see Section .05 below) and the printing of the Government Printing Office symbol must be deleted (see Section .08 below). The specifications and allowable tolerances for the Copy A of substitute Forms W-2 are provided in Exhibits A and B respectively.

.02 Color and quality of paper.

Paper for substitute, Copy A to be filed with the Federal tax authority must be: White 100% bleached chemical wood produced in accordance with the following specifications.

*Optical Brighteners.*—No optical brighteners may be added to the pulp or paper during manufacture, minimal trace amounts will be acceptable.

*Weight.*—Bond, 40 pound (basis 17 x 22–1000), tolerance plus/minus 5 percent.

*Caliper* (thickness).—.0040 inch, tolerance plus or minus .0007.

*Finish* (smoothness).—Between 100 to 200 when measured on a Sheffield smoothness tester.

*Brightness.*—The paper shall have a brightness value of 80 percent or more when measured on a brightness meter in accordance with TAPPI specification T–452.

*Alternate.*—Reflectance, when measured on a spectrophometer, using a matte black backing for one thickness of the test sample, the spectral reflectance characteristics of the paper must fall entirely above the minimum characteristics curve in the range of 3,000 to 10,000 Angstroms as follows: 3000 A., zero reflectance; 3250 A., 14 percent reflectance; 3500 A., 35 percent reflectance; 3750 A., 58 percent reflectance; 4,000 A., 62 percent reflectance; 6,000 A. and up, 69 percent reflectance (the above curves are normalized to magnesium oxide representing 100 percent reflectance.)

*Stiffness* (minimum requirement).—Measured on Taber V–5 instrument, 2.5 machine direction, 1.2 cross direction; Gurley instrument, 150 machine direction, 72 cross direction. Grain must be long dimension on the 11" (or 12") depth of the page.

.03 All printing will be in a specified dropout non-read ink; the exact specification to be provided at a later date, except for the '22222' at the top of the form and the descriptive information at the bottom, which will be printed in a non-reflective black ink.

.04 Typography.—Type must be substantially identical in size and shape with corresponding type on the official form.

1. On Copy A, all rules must be 1-point (0.015 inch).

2. Vertical rules must be parallel to the left edge of the document; horizontal rules parallel to the top edge.

.05 Dimensions.—Three official Forms W-2 (Copy A) are contained on a single page whose dimensions are 8 inches wide (exclusive of any snap-stubs) by 11 inches deep.

1. The width of privately printed substitute pages will be a minimum of 7 inches and a maximum of 8 inches, exclusive of any left or right snap-stubs, although adherence to the size of the official page is preferred. If the width of the substitute page is reduced, the width of each field, except the left and right margins and the "For Official Use Only" area on each form on the substitute page must be reduced proportionately. The left and right margin must be a minimum of ¼ inch each and must be free of all printing and the width of the "For Official Use Only" area on each form must be 3 inches.

2. The depth of privately printed substitute forms on a page will be 3⅔ inches. It is permissible to increase the space between the individual forms on a page by ⅓ inch, provided the total depth of a single pages does not exceed 12 inches.

3. Privately printed continuous substitute Forms W–2 (Copy A), must be perforated at each 11" or 12" (3-on) page depth. No perforations are allowed between the 3⅔" forms on a page of Copies A.

NOTE.—Perforations are required between all the other individual copies (Copy B, C, D, 1 and 2) included in the set. See Exhibit B)

.06 The back of a substitute Copy A must be free of all printing.

.07 Carbonized. "Chemical transfer paper" and "spot carbons" are not permissible. Interleaved carbon, if used, must be of good quality to preclude smudging and should be black.

.08 Printer's symbol—The Government Printing Office symbol must not be placed on substitute copies of Forms W–2 and Forms W–2P. In place of the Government Printing Office symbol, the Employer Identification Number (EIN) of the forms printer must be printed on the face of each individual Copy A.

.01 Arrangement of assembly—Except as provided below, if magnetic tape is not filed with the Service, the substitute copies of the Form W–2 assembly shall be arranged in the same order as the official Form W–2—Copy A first, followed sequentially by perforated sets, (Copies 1, B, C, 2, and D). The substitute form to be filed with the Federal taxing authority and the substitute form to be filed by the payer with the state or local tax agency should carry the designation Copy A and Copy 1, respectively.

1. Copies 1 and 2 related to state and local taxes may be omitted from the assembly if not needed.

2. Copy D for Employer or Payer. It is not required that privately printed substitute forms contain a copy to be retained by payers although payers must be prepared to verify or replicate this information if it is requested by the Service.

3. Additional Copies.—Except as provided in the arrangement of the official assemblies, additional copies which may be prepared by payers shall not be placed ahead of the copy "For employee's records," Copy C (Form W–2). All copies of the form must be clearly labeled to indicate the purpose for which intended.

.02 Instructions on Form W–2—Instructions similar to those contained on the face of Copies A and B, both the face and back of Copy C of the official form must appear on the corresponding copies of substitute Forms W–2.

.03 All privately printed Forms W–2 must have the tax year printed in the identical place as that of the official format.

.04 The paper for all copies should be white. Paper for the substitute form (Copy 1) filed with the state or local agency must be white and at least 18-pound (basis 17 x 22–1000) plus or minus 5 percent. The substitute Copy B (or its equal), the payee is instructed to attach to his Federal income tax return must be at least 24-pound paper (basis 17 x 22–1000), while the other copies furnished the payee should be at least 18-pound paper (basis 17 x 22–1000).

INSTRUCTIONS FOR PAYERS

.01 Only originals or ribbon copies may be filed. Carbon copies and photocopies are not acceptable.

.02 The Service requests the cooperation of the payers in typing or machine printing whenever possible and in providing good quality data entries on the forms; i.e., using black ribbon, inserting data in the middle of blocks, well separated from other printing and guidelines, and taking any other measures that will guarantee a clear, sharp image. However, payers are not required to acquire equipment solely for the purpose of preparing these forms.

.03 Privately printed continuous feed substitute Forms W–2 (Copy A) must be burst and stripped (of marginal aligning strips) to conform to the acceptable minimum and maximum of width and depth of individual page sizes before submission.

.04 Form W–3, "Transmittal of Income and Tax Statements" will continue to be furnished by the Service for transmitting completed Copy A of Forms W–2 to their final destination. However, the Tax Year 1978 Form W–3 will require substantially more filled-in data. Some of the anticipated data fields are: (1) Employers State Number, (2) type of document, (3) originals or corrected, (4) Total FICA Tax Withheld, (5) Total FICA Wages, (6) Total Federal Income Tax Withheld, (7) Total Wages, (8) Number of Documents, (9) Employer Identification Number, (10) Date of Report and other data fields to be determined. (See Exhibit C.)

.05 State agencies.—The amounts of wages paid and employee contributions withheld under a State-Federal Agreement, entered into pursuant to Section 218 of the Social Security Act, may be shown in the spaces on Form W–2 for Federal Insurance Contribution Act Wages and Employee Tax, provided appropriate distinguishing captions are used to identify such amounts. In such cases, the identification number assigned by the Social Security Administration to the state (prefix 69) should be shown in the employer name and address area block. The employer identification number (EIN) assigned by the Internal Revenue Service for income tax withholding purposes must be shown in the block so labeled.

COMMENTS BY THE PUBLIC

Before adopting these proposed revised forms, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying.

DONALD J. PORTER,
*Acting Assistant Commissioner of Internal Revenue (Accounts, Collection and Taxpayer Service).*

[FR Doc.77–20433 Filed 7–18–77;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 438]

### ASSIGNMENT OF HEARINGS

JULY 14, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only





once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 127042 (Sub-No. 177), Hagen, Inc., now assigned July 14, 1977, at Chicago, Ill., is canceled, application dismissed.

MC 133095 (Sub-No. 125), Texas Continental Express, Inc., now assigned July 19, 1977, at Dallas, Tex., is canceled, application dismissed.

MC 138274 (Sub-No. 40), Shippers Best Express, Inc. now assigned July 20, 1977 at Washington, D.C. is canceled, application dismissed.

MC 107993 (Sub-No. 49), J. J. Willis Trucking Co., now assigned September 14, 1977, at Los Angeles, Calif., is canceled and reassigned for hearing on September 20, 1977 (2 days), at San Francisco, Calif., location of hearing room to be later designated.

MC 136828 (Sub-No. 14), Cook Transport, Inc., now being assigned September 6, 1977, for hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 115730 (Sub-No. 23), The Mickow Corp., now assigned July 14, 1977, in Dallas, Tex., is canceled and application dismissed.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77–20706 Filed 7–18–77;8:45 am]

## FOURTH SECTION APPLICATION FOR RELIEF

JULY 14, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed by August 3, 1977.

FSA No. 43398—*Fibreboard, paperboard, and pulpboard to Group 19 (Los Angeles, Calif.).* Filed by Pacific Southcoast Freight Bureau, Agent (No. 273), for interested rail carriers. Rates on fibreboard, paperboard, and pulpboard, in carloads, as described in the application, from Group 60 (Port Townsend) and Group 61 (Port Angeles), Washington, to Group 19 (Los Angeles, Calif.), on the Union Pacific railroad.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 49 to Pacific Southcoast Freight Bureau, Agent, tariff 315–A, ICC No. 1974. Rates are published to become effective on August 14, 1977.

By the Commission.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77–20703 Filed 7–18–77;8:45 am]

[Section 5a Application No. 62 (Amendment No. 2)]

## INTERMOUNTAIN TARIFF BUREAU, INC.

### Agreement

JULY 7, 1977.

The Commission is in receipt of an application in the above-entitled proceeding for approval of amendments to the agreement therein approved.

Filed July 1, 1977 by:

Thomas M. Zarr, Nelson, Harding, Richards, Leonard & Tate, P.O. Box 2465, Salt Lake City, Utah 84110. (Attorney for Applicants.)

Collier L. Allen, Intermountain Tariff Bureau, Inc., P.O. Box 686, Salt Lake City, Utah 84110. (General Manager and Attorney-in-Fact.)

The Amendments involve: (1) Broadening the present 11 western state territorial scope by 17 additional states as follows: Alaska, Arkansas, Illinois, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin and also between points in such states and points in Canada, insofar as movement takes place in the United States; (2) Substantive organizational and procedural changes including provisions to comply with Ex Parte No. 297, Rate Bureau Investigation, 349 I.C.C. 811 and 351 I.C.C. 437; (3) Revise the member participation fees; and (4) make other incidental organizational and procedural changes for clarification or made necessary by the foregoing changes.

The complete application may be inspected at the Office of the Commission, in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing within 30 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing.

H. G. HOMME, Jr.,
*Acting Secretary.*

APPENDIX

Operating rights as modified and authorized to be acquired by Marlboro Transportation Co., Inc., are as follows:

Irregular routes: Passengers and their baggage in the same vehicle with passengers, in special operations, in nonscheduled service, limited to the transportation of not more than 11 passengers in any one vehicle, not including the driver thereof and not including children under 10 years of age who do not occupy a seat or seats, Between King of Prussia, Fort Washington and Willow Grove, Pa., on the one hand, and, on the other, New York, N.Y. Restriction: The authority granted above is restricted against service to or from John F. Kennedy International Airport and is also restricted against the transportation of persons having an immediately prior or immediately subsequent movement by water.

[FR Doc.77–20704 Filed 7–18–77;8:45 am]

[Notice No. 89T]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 13, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 13569 (Sub-No. 32TA), filed June 29, 1977. Applicant: THE LAKE SHORE MOTOR FREIGHT COMPANY,



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1200 South State Street, Girard, Ohio 44420. Applicant's represetntative: John P. Tynan, P.O. Box 1409, 167 Fairfield Road, Fairfield, N. J. 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum sheet or strip*, between the plant site of Matthiessen & Hegeler Zinc Company at or near LaSalle, Ill., and the plant site of Ekco Products, Inc., at or near Clayton, N. J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper Matthiessen & Hegeler Zinc Company, P. O. Box 463, 1375 Ninth Street, LaSalle, Ill. 61301. Send Protests to: James Johnson, District Supervisor, Interstate Commerce Commission,731 Federal Office Bldg., 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 28060 (Sub-No. 37TA), filed June 27, 1977. Applicant: WILLER'S INC., doing business as WILLERS TRUCK SERVICE, 1400 North Cliff Avenue, Sioux Falls, S. Dak. 57101. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd., N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, ver irregular routes, transporting *Corn cribe, grain or feed bins and watering troughs*, from Sioux Falls, S. Dak., to points in Montana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sioux Steel Company, 196½ East Sixth St., Sioux Falls, S. Dak. 57101. Terril TeSlaa, Traffic Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, S. Dak. 57501.

No. MC 51146 (Sub-No. 507TA), filed June 29, 1977. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clothing on hangers, and miscellaneous department store merchandise in cartons*, from Secaucus, N.J., to Columbus, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lazarus Stores, Columbus, Ohio 43206 (Jack Hessenauer). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 63417 (Sub-No. 105TA), filed June 29, 1977. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, Va. 24034. Applicant's representative: William E. Bain (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Incandescent bulbs*, from Cleveland, Ohio, to Newark, N.J.; (2) *Packaging material* for commodities in (1) above, from Newark, N.J., to Cleveland, Ohio, for 180 days. Supporting shipper: General Electric, 4504 Nela Park, Cleveland, Ohio 44112. Send protests to: Danny R. Beller, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoka, Va. 24011.

No. MC 82658 (Sub-No. 8TA), filed June 30, 1977. Applicant: ECONOMY FREIGHT LINES, INC., 6357 N. Normandy Avenue, Chicago, Ill. 60631. Applicant's representative: Donald S. Mullins, 4704 W. Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass bottles*, from Streator, Ill., to the plantsite of G. Heileman Brewing Company, Inc., at La Crosse, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: G. Heileman Brewing Company, Inc., George A. Dahnke, Traffic Manager, 925 S. Third Street, La Crosse, Wis. 54601. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 106674 (Sub-No. 241 TA), filed June 27, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy, P.O. Box 123, Remington, Ind. 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and roofing materials* (except iron and steel articles and commodities in bulk), from the plantsite and warehouse facilities of GAF Corporation at Joliet, Ill., to points in the Lower Peninsula of Michigan, Restricted to the transportation of traffic originating at the above named origin and destined to the lower peninsula of Michigan, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: GAF Corporation 1361 Alps Rd., Wayne, N.J. 07470. Send protests to: J.H. Gray, District Supervisor, Interstate Commerce Commission, 343 West Sayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 107515 (Sub-No. 1085TA), filed June 28, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Rd., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Rd. N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet and tufted textile products*, from Dalton, Ga. to points in Kansas, Missouri, Nebraska and that portion of Iowa on and west of U.S. Highway 59, for 180 days. Supporting shipper: World Carpet, P.O. Box 1448, Dalton, Ga. 30720. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W. Rm. 546, Atlanta, Ga. 30309.

No. MC 110252 (Sub-No. 64TA), filed June 24, 1977. Applicant: JAMES J. WILLIAMS, INC., E. 5711 Third Avenue, Spokane, Wash. 99206. Applicant's representative: John D. Robertson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Edible flour*, From Spokane, Wash., to Lewiston, Idaho, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Centennial Mills Division of Univar, 1464 N.W. Front Ave., P.O. Box 3773, Portland, Oreg. 97208. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 112520 (Sub-No. 342TA), filed June 22, 1977. Applicant: MCKENZIE TANK LINES, INC., P.O. Box 1200, 122 Appleyard Drive, Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paints, varnishes, lacquers, resins, stains, and paint material*, in bulk, in tank vehicles, from Covington, Ga., to points in Cheraw, S.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mobil Chemical Co., Division of Mobil Oil Corp., 1024 South Avenue, Plainfield, N.J. 07062. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 112822 (Sub-No. 420TA), filed June 28, 1977. Applicant: BRAY LINES, INCORPORATED, 1401 N. Little, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Charles D. Midkiff (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Duluth, Minn. and Superior, Wis., to points in Colorado, restricted to the transportation of traffic originating at the plantsite and warehouse facilities of Jeno's, Inc., located at or near Duluth, Minn. and Superior, Wis. for 180 days. Supporting shipper: Jeno's, Inc., 525 Lake Ave., S. Duluth, Minn. 55802. Send protests to: District Supervisor Joe Green, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 113622 (Sub-No. 18TA), filed June 28, 1977. Applicant: SAMPSON HAULING CORP., Pavilion, N.Y. 14525. Applicant's representative: Kenneth T. Johnson, Bankers Trust Building, Jamestown, N.Y. 14701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *RIP-RAP*, from Middlebury Center, Pa., and points within ten (10 miles thereof to all points and places in Steuben County, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Potter-DeWitt, Inc., Pavilion, N.Y. 14525. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.





No. MC 115092 (Sub-No. 62TA), filed June 24, 1977. Applicant: TOMAHAWK TRUCKING, INC. a Colorado corporation, P.O. Box O, Vernal, Utah 84078. Applicant's representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, Ill. 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Montmorillonite clay* in bags, from the facilities of Industrial Mineral Ventures, Inc., near Lathrop Wells, Nev., to points in Arkansas, Colorado, Idaho, Illinois, Kansas Louisiana Minnesota, Mississippi, Missouri Montana, Nebrasks, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma Oregon, Texas, Washington, Wisconsin Wyoming and Utah (except Salt Lake City and 40 miles thereof). for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Industrial Mineral Ventures, Inc., 5920 McIntyre St., Golden, Colo. 80401. Send protests to: District Supervisor Lyle D. Heifer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State St., Salt Lake City, Utah 84138.

No. MC 117068 (Sub-No. 81TA), filed June 23, 1977. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, North Highway 63, Rochester, Minn. 55901. Applicant's representative: Mr. A. I. Koenig (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Enameled steel silos, loading and unloading devices, waste storage tanks, livestock feed bunkers, forage metering devices, animal waste spreader tanks, livestock feeding systems, and parts and accessories* for the above named commodities from DeKalb and Eureka, Ill., to points in New York and Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: A. O. Smith Corporation, P.O. Box 584, Milwaukee, Wis. 53201. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 117119 (Sub-No. 637TA), filed June 15, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Borden Foods, Division of Borden, Inc., at Wellsboro, Pa., to points in Oregon, Utah, and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Borden Foods, Division of Borden, Inc., 180 East Broad Street, Columbus, Ohio 43215. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 117119 (Sub-No. 638TA), filed June 20, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: Martin M. Geffon, P.O. Box 338, Willingboro, N.J. 08046. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as dealt in retail sewing centers, from Trumann, Ark.; to Albuquerque, N. Mex.; Denver, Colo.; Des Moines, Iowa; Los Angeles, Calif.; Minneapolis, Minn.; Phoenix, Ariz.; Portland, Oreg.; San Francisco, Calif.; and Seattle, Wash.; for 180 days. Supporting shipper: The Singer Company, 313 Underhill Blvd., Syossett, N.Y. 11791. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 117119 (Sub-No. 644TA), filed June 27, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning and washing compounds, oven cleaners, sodium bicarbonate and sal soda* (except in bulk), from the plantsite and storage facilities of Church & Dwight Co., Inc., in Syracuse, N.Y.; to points in Colorado, Idaho, Montana, New Mexico, North Dakota, South Dakota, Utah & Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days or operating authority. Supporting shipper: Church & Dwight Co., Inc., P.O. Box 369, Piscataway, N.J. 08554. Send protests to: District Supervisor William H. Land, Jr. 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 118831 (Sub-No. 151TA), filed June 28, 1977. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 7007, High Point, N.C. 27264. Applicant's representative: Earlie O. Jones (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles and hopper-type trucks, from the plant site of Tennessee Eastman Company, Kingsport, Tennessee, to points in the U.S. in and east of Minnesota, Iowa, Nebraska, Kansas, Oklahoma and Texas. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Tennessee Eastman Company, P.O. Box 511, Kingsport, Tenn. 37622. Send protests to: Archie W. Andrews, Dist. Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 120279 (Sub-No. 8TA), filed June 27, 1977. Applicant: McFARLAND AND HULLINGER, a Utah limited Partnership, 915 North Main St., P.O. Box 238, Tooele, Utah 84074. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unanium and vanadium ores or concentrates*, from the Waltman Mine located 1½ miles east of U.S. Highway 395 at a point 35 miles north of Reno, Nev. in Lassen County, Calif. to the Cotter Corporation Mill located approximately 4 miles south of Canon City, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: UOCO, Inc., 304 First Security Building, Salt Lake City, Utah 8311. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, 5301 Federal Building, 125 South State St., Salt Lake City, Utah 84138.

No. MC 124813 (Sub-No. 175TA), filed June 22, 1977. Applicant: UMTHUN TRUCKING CO., 910 South Jackson St., P.O. Box 166, Eagle Grove, Iowa 50533. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphatic feed ingredients*, (1) from Mediapolis, Iowa to points in Illinois, Indiana, Iowa, Kentucky, Ohio, Arkansas, Oklahoma and Michigan, and (2) from Eagle Grove, Iowa to points in Iowa, Kentucky, Ohio, Arkansas, Oklahoma and Michigan. Restriction: Restricted to traffic having a prior movement by rail for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Occidental Chemical Company, P.O. Box 1185, Houston, Tex. 77001. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 125433 (Sub-No. 103TA), filed June 23, 1977. Applicant: F–B TRUCK LINE COMPANY, a Utah corporation, 1945 South Redwood Rd., Salt Lake City, Utah 84104. Applicant's representative: Michael J. Norton, Suite 404, Boston Bldg., P.O. Box 2135, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled vehicles* under 15,000 lbs. used in farming or agricultural operation, (except automobiles, buses, and trucks as described by the ICC), from Portland,



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Oreg., to California points and points in Oregon south of the 44th parallel, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John Deere Company, 2100 NE (181st. Ave. Portland, Oreg. 97220. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State St., Salt Lake City, Utah 84138.

No. MC 125433 (Sub-No. 104TA), filed June 23, 1977. Applicant: F-B TRUCK LINE COMPANY, a Utah corporation, 1945 South Redwood Rd., Salt Lake City, Utah 84104. Applicant's representative David J. Lister (same address as applicant), Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Montmorillonite clay* in bags, from the facilities of Industrial Mineral Ventures, Inc., near Lathrop Wells, Nev., to points in Arkansas, Colorado, Idaho, Illinois, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Texas, Utah (except Salt Lake City and 40 miles thereof), Washington, and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Industrial Mineral Ventures, Inc., 5920 McIntyre St., Golden, Colo. 80401. Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State St., Salt Lake City, Utah 84138.

No. MC 127303 (Sub-No. 24TA), filed June 27, 1977. Applicant: ZELLMER TRUCK LINES, Box 343, Granville, Ill. 61326. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th St. N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials, equipment and supplies*, from St. Paul, Minn. to Paducah, Ky. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chief Paduke Dist. Co. Inc., George G. Jacobs, President, Corner of 12th and Flournoy St., Paducah, Ky. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 129063 (Sub-No. 13TA), filed June 23, 1977. Applicant: JIMMY T. WOOD, P.O. Box 294, Route 6, Ripley, Tenn. 38063. Applicant's representative: Mr. Thomas A. Stroud, 5100 Poplar, Suite 2008, Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys* in dump vehicles, from the plantsite and facilities of Chromium Mining & Smelting Corp., located at or near Woodstock, Tenn., to points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chromium Mining & Smelting Corp., P.O. Box 28538, Memphis, Tenn 38128. Send protests to. Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main St., 100 North Main Building, Suite 2006, Memphis, Tenn. 38103.

No. MC 133221 (Sub-No. 26TA), filed June 28, 1977. Applicant: OVERLAND CO., INC., 1991 Buford Highway, Lawrenceville, Ga. 30245. Applicant's representative: Alvin Button, 2477 N. Decatur Rd., Decatur, Ga. 30033. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ridgid polystyrene*, from the Southeastern Foam Products, Inc. plantsites at Conyers, Ga.; Adamstown, Md.; Bargersville, Ind.; Burlington, N.C.; Elkhorn, Wis.; Foglesville, Pa.; Jonesboro, Tenn.; New Middletown, Ohio; Ocala, Fla.; Petersburg, Va.; Wentzville, Mo. to points in the U.S. (except Alaska and Hawaii) for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southeastern Foam Products, P.O. Box 406, Conyers, Ga. 30207. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 135082 (Sub-No. 48TA), filed June 28, 1977. Applicant: BURSCH TRUCKING, INC., doing business as, ROADRUNNER TRUCKING, INC., Post Office Box 26748, 415 Rankin Rd. N.E., Albuquerque, N. Mex. 87125. Applicant's representative: D. F. Jones, President (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products and materials, and accessories* used in the installation thereof, from Rosario, N. Mex., to points in the States of Arizona, Colorado, Wyoming, Nebraska, and Kansas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Western Gypsum Company, Rosario, N. Mex. 87501, Pete Wupper, Manager. Send protests to: Darrell W. Hammonds, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Ave. SW, Albuquerque, N. Mex. 87101.

No. MC 135236 (Sub-No. 20TA), filed June 23, 1977. Applicant: LOGAN TRUCKING, INC., 801 Erie Avenue, Logansport, Ind. 46947. Applicant's representative: Donald W. Smith, One Indiana Square, Suite 2456, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Norfolk, Va., to points in Illinois, Indiana, Michigan, Wisconsin, Ohio and Arkansas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Champale, Inc., Trenton, N.J. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 135797 (Sub-No. 79TA), filed June 28, 1977. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Hwy 71, Lowell, Ark. 72745. Applicant's representative: Paul A. Maestri (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polystyrene food containers*, from the warehouse facilities utilized by Mobil Chemical Company, located at or near Dallas-Fort Worth, Tex., Metropolitan Zone, to Denver, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mobil Oil Corporation, 8350 N. Central Expressway, Suite 522, Dallas, Tex. 75206. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 136220 (Sub-No. 43TA), filed June 24, 1977. Applicant: ROY SULLIVAN, doing business as SULLIVAN TRUCKING CO., P.O. Box 2164, Ponca City, Okla. 74601. Applicant's representative: G. Timothy Armstrong, 6161 N. May Avenue, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fish meal* (in bulk, in open top dump trailers), from Empire, La., to Dardanelle, Fayetteville, Ft. Smith, Batesville, Springdale, Hope, North Little Rock, and Nashville, Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wilbur-Ellis Co., 1000 Plaza West Bldg., Little Rock, Ark. 72207. Send protests to: District Supervisor Joe Green, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 138742 (Sub-No. 9TA), filed June 28, 1977. Applicant: OSTERKAMP TRUCKING, INC., 1049 N. Glassell, Orange, Calif. 92667. Applicant's representative: Michael Eggleton, 67 Lakstone Court, Danville, Calif. 94526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated fibre cartons*, from the plantsite of Western Kraft Paper Group, Division of Willammette Industries, at Compton, Calif., to points in Saguache, Rio Grande, Alamosa Counties, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Western Kraft Paper Group, Division of Willammette Industries, Inc., 19615 South Susana Rd., Compton, Calif. 90221. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Rm. 1321 Federal Building, 300 North Los Angeles St., Los Angeles, Calif. 90012.





No. MC 140176 (Sub-No. 7TA), filed June 28, 1977. Applicant: RILEY WAYNE POWELL, doing business as POWELL TRUCKING COMPANY, Route 3, Box 13, Sumrall, Miss. 39482. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Posts, poles and piling, treated or untreated*, from the facilities of Crown Zellerbach Corporation at Gulfport, Miss., and Mobile, Ala., to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Pennsylvania, and Wisconsin, under a continuing contract or contracts with Crown Zellerbach Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Crown Zellerbach Corporation, P.O. Box 1060, Bogalusa, La. 70427. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Rm. 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 140452 (Sub-No. 5TA), filed June 22, 1977. Applicant: ROSE BROTHERS TRUCKING, INC., R.R. 31, Box 9, Terre Haute, Ind. 47803. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer and cullet*, from the Owensboro Riverport Authority at Owensboro, Ky., to Terre Haute, Ind., and (2) Salt, from the Owensboro Riverport Authority at Owensboro, Ky., to points in Indiana, on and south of U.S. Highway 40 and points in Kentucky, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Owensboro Riverport Authority, P.O. Box 711, Owensboro, Ky. 42301. Send protests to: William S. Ennis, Interstate Commerce Commission, Federal Bldg. and U.S. Courthouse, 46 East Ohio St., Rm. 429 Indianapolis, Ind. 46204.

No. MC 140612 (Sub-No. 21TA), filed June 24, 1977. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, Iowa 52406. Applicant's representative: J. L. Kazimour (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty containers and closures*, from San Diego, Calif., to Davenport, Iowa and points in the Commercial Zones of Milan, and Rock Island, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ralston Purina Co., Checkerboard Square, St. Louis, Mo. 63188. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 140682 (Sub-No. 3TA), filed June 22, 1977. Applicant: NEW (TRANS) PORT, INC., P.O. Box 188, US Highway 17 South, Riceboro, Ga. 31323. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Brooklet and Riceboro, Ga., to points in Florida, Alabama, North Carolina, and South Carolina, under a continuing contract, or contracts, with Amax Forest Products, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Amax Forest Products, Box 268, Riceboro, Ga. 31323. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 141728 (Sub-No. 4TA), filed June 23, 1977. Applicant: WILMINGTON CORP., Northern Industrial Park, Wilmington, Mass. 01887. Applicant's representative: Donna Vitter Plott, 1 Center Plaza, Boston, Mass. 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are sold or used in retail stores (except commodities in bulk and commodities requiring the use of special equipment) for the account of Edison Brothers Stores, Inc. and its subsidiaries, between facilities owned or utilized by Edison Brothers Stores, Inc. and its subsidiaries in Wilmington, Mass., St. Louis, Mo., and Hoboken, N.J., under a continuing contract with Edison Brothers Stores, Inc. Applicant intends to tack authority applied for to authority in MC 141728 (Sub-No. 2) for 180 days. Supporting shipper: Edison Brothers Stores, Inc., 400 Washington Ave., St. Louis, Mo. 63178. Send protests to: Max Gorenstein, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 150 Causeway St., Boston, Mass. 02114.

No. MC 141914 (Sub-No. 11TA), filed June 20, 1977. Applicant: FRANKS & SON, INC., P.O. Box 108A, Route 1, Big Cabin, Okla. 74332. Applicant's representative: Gary Brasel, Mezzanine Floor, Beacon Bldg., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water* (not in bulk), and *return bottling machinery, glass bottles, plastic bottles, plastic pouches* to be filled with water, *corrugated cardboard, styrofoam, bottle caps, bottle seals, returned wood or plastic pallets, advertising and promotional material, machine repair parts, steel banding material* for palletizing purposes, *printed labels and any other items* used in the bottling and distribution of water, between Poland Spring, Maine, and all points in the U.S. (except Hawaii and Alaska), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Poland Spring Bottling Co., P.O. Box 19628, Las Vegas, Nev. 89119. Send protests to: District Supervisor Joe Green, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 143282 (Sub-No. 1TA), June 28, 1977. Applicant: EDWIN KRELL, doing business as KRELL TRUCK SERVICE, Plankinton, S. Dak. 57368. Applicant's representative: Edwin Krell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carpet*, from Dalton, Eton, Chatsworth, Calhoun, Elijay, and Cartersville, Ga., to Plankinton, South Dakota, (2) *carpet accessories and supplies*, from Piqua, Ohio, to Plankinton, S. Dak., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Centennial Carpet, Inc., 209 North Main, Plankinton, S. Dak. 57368. Richard Cazer. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 455, Federal Building, Pierre, S. Dak. 57501.

No. MC 143338 (Sub-No. 1TA), filed June 23, 1977. Applicant: MAURICE GULLEMETTE, INC., St. Gregoire, Nicolet County, Quebec, Canada. Applicant's representative: Robert D. Schuler, 100 West Long Lake Rd., Suite 102, Bloomfield Hills, Mich. 48013. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dog or cat food*, in cans or packages, from ports of entry on the International Boundary Line, between the United States and Canada on the St. Clair River to points in Michigan, (2) *inedible meat and by-products of meat*, from Plainwell, Mich. to ports of entry on the International Boundary Line between the United States and Canada on the St. Clair River. Restricted in paragraph 1 and 2 above to shipments originating at or destined to points in Canada, under a continuing contract or contracts with Jean Demers, Inc. of Gentilly, Quebec, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Jean Demers, Inc., CP 150, Gentilly, Quebec, Canada GOX 1GO. Send protests to: District Supervisor David A. Demers, Interstate Commerce Commission, P.O. Box 548, 87 State St., Montpelier, Vt. 05602.

No. MC 143389TA, filed June 16, 1977. Applicant: MERCHANTS DUTCH EXPRESS, INC., P.O. Box 2525, 700 Pine St., Monroe, La. 71207. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. N.E., Atlanta, Ga. 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail discount stores, between Monroe, La. on the one hand, and, on the other, points in Kentucky, Tennessee, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, Texas, Oklahoma, Virginia, Missouri, Indiana, Illinois, North Carolina,



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South Carolina, Ohio, and West Virginia, service to be performed under a contract or continuing contracts with Howard Bros. Discount Stores, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Howard Bros. Discount Stores, Inc., 801 Riverbarge, Monroe, La. 71202. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 143398TA, June 28, 1977. Applicant: C. C. ROBERTS CONCRETE CONSTRUCTION CO., INC., 3725 Gibbon Rd., Charlotte, N.C. 28213. Applicant's representative: Ralph McDonald, P.O. Box 2246, Raleigh, N.C. 27602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed ingredients* in bulk in dump vehicles, from Gaston County, N.C.; to Sumter County, S.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority Supporting shipper: Carolina By-Products Company, Inc. P.O. Drawer 20687, Greensboro, N.C. 27420. Send protests to: District Supervisor Terrell Price, Interstate Commerce Commission, 800 Briar Creek Rd., Mart Office Bldg., Rm. CC-516, Charlotte, N.C. 28205.

No. MC 143400 (Sub-No. 1TA), filed June 24, 1977. Applicant: NEIL J. MONAHAN AND LEILANI A. MONAHAN, doing business as MONAHAN TRANSPORTATION, Route 4, Box 305 Winona, Minn. 55987. Applicant's representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in packages, from Winona, Minn., to points in Wisconsin, under a continuing contract with Diamond Crystal Salt Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Diamond Crystal Salt Company, 916 S. Riverside Ave., St. Clair, Mich. 48079. Send portests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Courrt House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 143407 (Sub-No. 1TA), June 28, 1977. Applicant: MODERN TRANSPORT, INC., 30127 Austin, Warren, Mich. 48092. Applicant's representative: William B. Elmer, 21635 E. Nine Mile Rd., St. Clair Shores, Mich. 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica sand*, in bulk, in dump vehicles, from Rockwood, Mich., to Columbus, Toledo and Lancaster Ohio, for 180 days. Supporting shipper: Ottawa Silica Company, Richard Lawrence, Director of Physical Distribution, P.O. Box 577, Ottawa, Ill. Send protests to: Interstate Commerce Commission, Bureau of Operations, 604 Federal Building & U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, Mich. 48226.

By the Commission.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77-20705 Filed 7-18-77;8:45 am]





# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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### 1

CIVIL AERONAUTICS BOARD.

ADDITION OF ITEM TO JULY 15, 1977 MEETING AGENDA

REVISED AGENDA

TIME AND DATE: 10 a.m., July 15, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Ratifications of Items Adopted by Notation.[1] 2. Docket 28915, Complaint of the City of Youngstown, Ohio regarding adequacy of service provided by Allegheny Airlines, Inc., Docket 28944, Application of Allegheny Airlines to delete Youngstown, Ohio and Docket 29085, Application of Alleghney Airlines for temporary suspension of service at Youngstown, Ohio. 3. Dockets 31053, 31054, 31055, 31058 "SimpleSaver" fares proposed by Allegheny.

STATUS: Open.

PERSON TO CONTACT:

Phillis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: On June 9, 1977, Allegheny filed a tariff proposing certain discount "SimpleSaver" fares in nine markets with a proposed effective date of July 15, 1977. Complaints and answers were filed by July 6, 1977. The Board's staff analyzed the tariff filing, the complaints and answers thereto and all other relevant matters and submitted a request for instructions to the Board on July 12, 1977. On July 13, 1977, Allegheny requested and received oral permission to postpone the proposed effective date of its tariff until July 22, 1977. If the Board desires to suspend the tariff pending investigation, then it must act by July 21, 1977, or lose the authority to do so under Section 1002(g) of the Federol Aviation Act of 1958. Because of the importance and complexity of the issues involved, and in order to give the Board sufficient time to consider the matter and instruct its staff to prepare an order implementing the Board's decision, it is the Board's view that it should meet to begin its consideration of this matter at the earliest possible time. Accordingly, the following Members have voted that agency business requires that this matter be added to the agenda for the Board's July 15, 1977, meeting and that no earlier announcement of the change was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti

Member Lee R. West was not present and did not vote.

[S-918-77 Filed 7-15-77;9:35 am]

[1] The ratification process provides an entry in the Board's Minutes of items already adopted by the Board through the written Notation process (memoranda circulated to the Members sequentially). A list of items ratified at this meeting will be available in the Board's Public Reference Room (Room 710, 1825 Connecticut Avenue NW., Washington, D.C. 20428) following the meeting.

### 2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, July 19, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

CHANGES IN THE MEETING: The following agenda item should be deleted:

*Agenda, Item No., and Subject*

• • • • •

Special—2—Briefing in International Telecommunications Proposals.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: July 14, 1977.

[S-928-77 Filed 7-15-77;2:17 pm]

### 3

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Thursday, July 21, 1977, at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

I. Future meetings.
II. Correction and approval of minutes for July 7, 1977.
III. Advisory opinions: AO 1977-16; AO1977-26; AO 1977-30.
IV. Policy memorandum on candidate status:
V. Appropriations and budget.
VI. Pending legislation.
VII. Liaison with other Federal agencies.
VIII. Report on pending litigation.
IX. Routine administrative matters.

Portions closed to the public: (Executive Session): Compliance; Personnel.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, Press Officer, telephone: 202-523-4065.

MARJORIE W. EMMONS,
*Secretary to the Commission.*

[S-915-77 Filed 7-14-77;3:42 pm]

### 4

FEDERAL POWER COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published July 18, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: July 20, 1977, 10 a.m.

CHANGE IN THE MEETING: The following items have been added:

*Item No., Docket No., and Company*

P-11.—ER-77-487, Toledo Edison Company.
G-13.—RP73-107, RP74-90, and RP75-91, Consolidated Gas Supply Corporation.
G-14.—RP74-20 and RP74-83, United Gas Pipe Line Company.
G-15.—RP77-18, El Paso Natural Gas Company.
G-16.—RI76-35 and CI76-804, Continental Oil Company; RI76-51 and CI76-805, Cities Service Oil Company; RI76-42 and CI76-802, Getty Oil Company.
G-17.—CI77- , Gulf Oil Corporation.
G-18.—CI77-93, Monsanto Company, et al.
G-19.—CP71-68, Columbia LNG Corporation. CP71-153, Consolidated System LNG Company. CP71-151, Southern Energy Company.
G-20.—CP75-295, Texas Gas Transmission Corporation.
G-21.—CP74-322, Michigan Gas Storage Company; CP75-3, Trunkline Gas Company; CI74-738, Northern Michigan Exploration Company.



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G-22.—RP77-103, Algonquin Gas Transmission Company.

KENNETH F. PLUMB,
*Secretary.*

[S-917-77 Filed 7-15-77;9:35 am]

5

MISSISSIPPI RIVER COMMISSION.

TIME AND DATE: Beginning at 9 a.m., July 28, 1977, and adjourning 12 noon, July 29, 1977.

PLACE: 1400 Walnut Street, Vicksburg, Mississippi.

STATUS: Open to the public for observation but not for participation.

MATTERS TO BE CONSIDERED:

Reports of the Commission staff on:

(1) Current river conditions;
(2) Inspection of the east shoreline of the Mississippi River south of Mayfield Creek, Kentucky;
(3) Inspection of the west bank of the Mississippi River near the SEMO grain elevator in Missouri;
(4) Marking dikes in the Mississippi River;
(5) Ground cover for levees and berms;
(6) Shaping of spoil banks and drainage of borrow pits;
(7) Drop structures and welts in streams;
(8) Upper Pointe Coupe Flood Control Project;
(9) Incorporation of the East Bank Levee below Pointe-a-la-Hache into the Mississippi River Levee system;
(10) Inspection of the riverbank near River Ridge, Louisiana, with regard to high-water mark and Corps of Engineers' jurisdiction;
(11) Mitigation report for Tensas-Cocodrie Pumping Plant in Louisiana.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rodger D. Harris, telephone 601-636-1311, extension 2705.

[S-919-77 Filed 7-5-77;9:35 am]

6

PAROLE COMMISSION.

TIME AND DATE: Tuesday, July 26, 1977, 9 a.m.

PLACE: U.S. Tax Court, 400 2nd St. N.W., Washington, D.C., Ceremonial Courtroom, 3rd floor.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Consideration by the Commission of approximately 20 cases determined to be Original Jurisdiction pursuant to a reference under 28 CFR § 2.17 and/or appealed pursuant to 28 CFR § 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Case Analyst, 202-724-3094.

[S-920-77 Filed 7-15-77;11:29 am]

7

PAROLE COMMISSION.

TIME AND DATE: Wednesday, July 27, 1977, at 9 a.m.

PLACE: U.S. Tax Court, 400 2nd St. NW., Washington, D.C., Ceremonial Courtroom, 3rd floor.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of closed meetings of May 27 and June 23, 1977.
2. Consideration and approval or further modification of fiscal year 1979 budget submission for Office of Management and Budget and the Congress; and for such other elements of fiscal planning and action as may be required including any remaining open items connected with the 1978 supplemental budget.
3. Consideration of internal personnel rules, practices and policies as impacting on specific employees.
4. Consideration of two applications for exemptions from a bar imposed by 29 U.S.C. 1111 against the employment of applicants by certain employee benefit plans; following hearings held pursuant to the Administrative Procedures Act and recommended decisions based thereon and/or no objection from the Labor Department to granting the exemption.

CONTACT PERSON FOR MORE INFORMATION:

Peter B. Hoffman, 202-724-3097.

[S-921-77 Filed 7-15-77;11:29 am]

8

PAROLE COMMISSION.

TIME AND DATE: Thursday, July 28, 1977, 9 a.m.

PLACE: U.S. Tax Court, 400 2nd St. NW., Washington, D.C., Ceremonial Courtroom, 3rd floor.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of open meeting held on May 25, 1977 and adjourned to the morning of May 27, 1977.
2. Consideration of public comment for following proposed amendments to rules in 28 CFR Part 2:

a. § 2.54(b)—Allowing review of any decision by the full Commission.

b. § 2.25—Expanding upon present grounds for administrative appeals and directing appellants to merits of case.

c. Sections regarding holding hearings—Holding hearings and setting presumptive release dates within 120 days of each inmate's confinement.

3. Revision of greatest severity guideline category to provide subcategories.
4. Revision of 28 CFR Sec. 2.1(c)(d) to designate Vice Chairman as Chairman of the NAB and the National Commissioners.
5. Original Jurisdiction Cases.

a. Clarification of procedure for reopening such cases.

b. Clarification of procedure for designating and declassifying such cases.

c. Suggested referral format—general.

6. Referrals under 28 CFR 2.24.

a. Suggested referral format—general.

b. Procedure regarding referral of revocations and preparation of Notices of Action.

7. New offense severity table—proposed prospective or retroactive application.
8. Clarify procedures and Commission action to be taken regarding misconduct reports.
9. Procedures regarding service of summonses.
10. Proposed unified disclosure system as a new Alternate Means of Access under the Privacy Act and related statutes.
11. Consideration of Bureau of Prisons Drug Abuse In-Care and Aftercare manuals and commentary.
12. Reporting to Commission meetings by Commissioners.
13. Develop policy for attendance by Commissioners at professional meetings.
14. Issuance of subpoenas for certain appearances of probation officers.
15. Consideration of request for release of data tape.
16. Statistical Report.
17. Specificity of reasons for decisions outside of the guidelines.
18. Legal Report.
19. Legal Assistance proposed to be provided by law students.
20. Meetings—Consideration of location and costs.
21. Use of covering letters with Commission correspondence.
22. *Supplemental Warrants.* Proposal to discontinue sending applications for supplemental warrants to the FBI.
23. *Lists of intelligence personnel.* Proposal to exchange such lists for information purposes with Department of Justice.
24. *Original Jurisdiction references.* Proposal to contact Department of Justice when certain cases are referred, and to set up employee coferences with the Department.
25. *Waiver.* Proposed waiver of hearing at the ⅔ point in serving a sentence.
26. *Modification of sentence.* Proposal to oppose any such modifications made after the 120 day period provided by Court Rules.

CONTACT PERSON FOR MORE INFORMATION:

Peter B. Hoffman, 202-724-3097.

[S-922-77 Filed 7-15-77;11:29 am]

9

RAILROAD RETIREMENT BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 36067, July 13, 1977.





PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., July 20, 1977.

CHANGES IN THE MEETING:

Additional item to be considered at the portion of the meeting open to the public:

(15) Effect of vacancies in Board Member positions on the authority of the Board.

[S-914-77 Filed 7-14-77;12:48 pm]

10

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 36073, July 13, 1977.

PREVIOUS ANNOUNCED TIME AND DATE: July 14, 1977, 10 a.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

STATUS: Closed meeting.

CHANGES IN THE MEETING:

An additional item was considered by the Commission at the closed meeting regarding the impact on securities market of the New York City blackout.

Chairman Williams, Commissioners Loomis, Evans, and Pollack determined that Commission business required consideration of the matter and that no earlier notice thereof was possible.

JULY 14, 1977.

[S-916-77 Filed 7-14-77;3:42 pm]



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federal register

TUESDAY, JULY 19, 1977
PART II




# DEPARTMENT OF DEFENSE

Department of the Army,
Engineers Corps

■

## REGULATORY PROGRAM OF THE CORPS OF ENGINEERS

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Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

## Regulatory Programs of the Corps of Engineers

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rules.

SUMMARY: We are revising and reorganizing all regulations governing the permit programs of the Corps of Engineers. The new format is designed to make the policies and procedures more understandable to a person desiring to perform work in the waters of the United States. The Section 404 program (discharging dredged or fill material into the water) is being revised to clarify many terms and to provide for the issuance of nationwide permits. The new regulations should enable a person to get a quicker decision on his application. In the case of nationwide permits, no application at all is required.

EFFECTIVE DATE: July 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Curtis Clark or Mr. Bernie Goode, Regulatory Functions Branch, phone: 202–693–5070 or Mr. William Hedeman, Chief Counsels Office, phone: 202–693–6169.

SUPPLEMENTARY INFORMATION: Because of the rapidly changing nature of the Corps' regulatory programs, we have prefaced this supplementary information with a historical background discussion.

### Historical Background

The Department of the Army, acting through the Corps of Engineers, is responsible for administering various Federal laws that regulate certain types of activities in specific waters in the United States and the oceans. The authorities for these regulatory programs are based primarily on various sections of the River and Harbor Act of 1899 (33 U.S.C. 401 et seq.), Section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1344) and Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413). Each of these laws will be discussed in further detail below.

### The River and Harbor Act of 1899

Until recently, the regulatory programs of the Corps of Engineers were administered only pursuant to various sections in the River and Harbor Act of 1899. These include: Section 9 (33 U.S.C. 401); Section 10 (33 U.S.C. 403); Section 11 (33 U.S.C. 404); and Section 13 (33 U.S.C. 407).

Section 9 requires a permit from the Corps of Engineers to construct any dam or dike in a navigable water of the United States. The consent of Congress is also required if the navigable water is interstate, and the consent of the appropriate state legislature is required if the water is intrastate. Bridges and causeways constructed in navigable waters of the United States also require permits under Section 9, but the authority to issue these permits was transferred to the U.S. Coast Guard in 1966 when the Department of Transportation was created.

Section 10 identifies other types of structures or work in or affecting navigable waters of the United States that are prohibited unless permitted by the Corps of Engineers. However, unlike Section 9, the consent of Congress or a State legislature is not required. Section 10 requires permits from the Corps for structures in navigable waters such as piers, breakwaters, bulkheads, revetments, power transmission lines, and aids to navigation. It also requires permits for various types of work performed in navigable waters, including dredging and stream channelization, excavation and filling. In addition, any work that is performed outside the limits of a navigable water which affects its navigable capacity may also require a Section 10 permit.

The 1899 Act was enacted to protect navigation and the navigable capacity of the nation's waters. Section 11 focuses on this basic concern by allowing the Secretary of the Army to establish harbor lines landward of which piers, wharves, bulkheads, and other structures or work could be built or performed without a Corps permit. However, as will be noted below, these harborlines now serve only as guides to defining the offshore limits of these activities from the standpoint of their impact on navigation. They can no longer be relied upon as a substitute for the requirement to obtain a permit under the 1899 Act.

Violation of the provisions and requirements of Section 9, 10, or 11 of the 1899 Act can result in criminal prosecution. Section 12 specifies criminal fines that range between $500 and $2,500 per day of violation and/or imprisonment, either or both of which may be imposed upon conviction. In addition, Section 12 also provides for injunctive relief that may be sought by the United States to respond to violations of these Sections, including the restoration of the area to its original condition. See *U.S.* v. *Moretti*, 478 F. 2d 418 (5th Cir. 1975).

Until 1968, the Corps administered the 1899 Act regulatory program only to protect navigation and the navigable capacity of the nation's waters. The permit requirements of the Act were limited in their application to waters that were presently used as highways for the transportation of interstate or foreign commerce.

On December 18, 1968, the Department of the Army revised its policy with respect to the review of permit applications under Sections 9 and 10 of the 1899 Act. It published in the Federal Register a list of additional factors besides navigation that would be considered in the review of these applications. These included: fish and wildlife; conservation; pollution; aesthetics; ecology; and the general public interest. (33 CFR 209.120.)

The 1968 change in policy identified this new type of review as a "public interest review." It was adopted in response to a growing national concern for environmental values as they related to our nation's water resources and in response to related Federal legislation, such as the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), that required the consideration of some of these concerns in Federal decision-making. Enactment of the National Environmental Policy Act on January 1, 1970 (42 U.S.C. 4331 et seq.) gave further support to this change in policy.

The "public interest review" received its first judicial test in the case of *Zabel* v. *Tabb*, 430 F. 2d 199 (15th Cir. 1970), cert. den. 401 U.S. 910 (1972) in which the Court upheld the denial by the Corps of a landfill permit for fish and wildlife reasons (and not reasons related to navigation). In reaching this decision, the Court reaffirmed the Department of the Army's position that it was "acting under a Congressional mandate to collaborate and consider all of these factors" when it reached that decision.

In further response to the adoption of this public interest review, the Department of the Army revised its harborline regulation (33 CFR 209.150) on May 27, 1970. This revision made it clear that permits were required for any work commenced landward of an established harborline after May 27, 1970, and that these permit applications would receive a full public interest review. Of course, navigation concerns in this public interest review will be guided, in large part, by the presence of established harborlines.

During 1972, the Corps of Engineers reviewed all judicial decisions in which the term "navigable waters of the United States" had been interpreted in order to identify all waters to which Sections 9 and 10 of the 1899 Act could be applied. This analysis was made in response to the Federal government's growing concern over the protection of the nation's water resources and the need to protect those resources through the full mandate of available Federal laws.

On September 9, 1972, the Corps of Engineers published an administrative definition of the term "navigable waters of the United States" in the Federal Register (subsequently codified as 33 CFR 209.260). This definition was intended for use in the Corps' administration of Sections 9 and 10 of the 1899 Act, and included the following: (1) all waters presently used to transport interstate or foreign commerce (see *Daniel Ball* v. *United States*, 77 U.S. 557 (1871)); (2) all waters used in the past to transport interstate of foreign commerce (see *Economy Light and Power Company* v. *United States*, 256 U.S. 113 (1921)); all waters susceptible to use in their ordinary condition or by reasonable improvement to transport interstate or foreign commerce (see *United States* v. *Appalachian Electric Power Co.*, 311 U.S. 377 (1940)); and all waters subject to the ebb and flow of the tide (see *United States* v. *Moretti, supra*). The landward limit of this jurisdiction for freshwater was established as the ordinary high water mark and the shoreward limit for tidal water was established as the mean high water mark (mean higher high water mark on the West Coast).





On April 4, 1974, the Corps of Engineers published final revisions to its permit regulation (33 CFR 209.120) (Proposed revisions were published for interim guidance on May 10, 1973). These revisions were made for the following reasons:

a. To incorporate new permit programs established under Section 404 of the FWPCA and Section 103 of the MPRSA (discussed in more detail below);

b. To incorporate the requirements of new Federal legislation related to the review of the Federal permit applications, including: other sections of the FWPCA and the MPRSA; the National Environmental Policy Act of 1969, and the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.).

c. To adopt additional factors of concern in the public interest review, in response to this related legislation, including, in addition to those previously announced, the following: economics, historic values, flood damage prevention, land use classification, recreation, water supply, and water quality.

d. To adopt criteria that would also be considered in the evaluation of each permit application including the desirability of using appropriate alternatives; the extent and permanence of the beneficial and/or detrimental effects of the proposed activity; and the cumulative effect of the activity when considered in relation to other activities in the same general area;

e. To adopt a wetlands policy that would protect wetlands within the Corps jurisdiction from unnecessary destruction; and

f. To implement procedures that insured compliance with these new statutory and policy review requirements.

As previously noted, regulations have been published throughout the past years to implement Sections 9, 10, 11, and 13 of the 1899 Act. These regulations have all been included in Part 209 of Title 33 of the Code of Federal Regulations as follows:

a. 209.120. Permits for Activities in Navigable Waters and Ocean Waters.
b. 209.125. Dams and Dikes Across Waterways.
c. 209.131. Permits for Discharges of Deposits into Navigable Waters.
d. 209.150. Harbor Lines.
e. 209.260. Definition of Navigable Waters of the United States.

### The Refuse Act Permit Program

On April 7, 1971 the Corps of Engineers implemented the first nationwide program to regulate the discharge of pollutants into the nation's awters. Authority for this permit program was based on Section 13 of the River and Harbor Act of 1899 (33 U.S.C. 407), commonly referred to as "The Refuse Act", which prohibits the discharge of "refuse matter" into navigable waters of the United States or their tributaries, or onto the banks of such waters if the "refuse matter" is likely to be washed into a navigable water. Regulations to implement this permit program were published in 33 CFR 209.131. On December 24, 1971, the permit program was enjoined by the District Court for the District of Columbia in the case of *Kalur v. Resor*, 335 F. Supp. 1, (D.D.C. 1971).

The Refuse Act permit program remained suspended until October 18, 1972, when Congress enacted the FWPCA. Section 402 of the FWPCA established the National Pollutant Discharge Elimination System program, which subsumed the Refuse Act permit program. Section 402(a)(5) provides that no permits may be issued under Section 13 of the 1899 Act for discharges into waters of the United States after 18 October 1972. However, the Refuse Act prohibitions can only be lifted by the issuance of an NPDES permit, and the Refuse Act remains a viable Federal enforcement mechanism for the discharge of pollutants into these waters without such a permit.

### Section 404 of the FWPCA

On October 18, 1972, Congress enacted the Federal Water Pollution Control Act Amendments of 1972 with the announced purpose of restoring and maintaining the chemical, physical, and biological integrity of the Nation's waters. The FWPCA established a number of goals, requirements, prohibitions, and programs to achieve this purpose, and addressed the problems of water pollution by using many different approaches. The Amendments provide Federal financial assistance for major research and demonstration projects and the construction of publicly owned waste treatment works. They also provide programs to deal with various sources and types of pollution, including toxic, oil, and hazardous substances. Section 208 of the Act provides for the development and implementation of areawide waste treatment management planning processes to control all sources of pollution.

Section 301 of the FWPCA prohibits the discharge of pollutants from discernible conveyances (defined as "point sources") into "navigable waters", (defined in the FWPCA as "the waters of the United States, including the territorial seas"), unless the discharge is in compliance with Section 402 or 404 of the Act. As noted above, Section 402 establishes the National Pollutant Discharge Elimination System to regulate industrial and municipal point source discharges of pollutants into the Nation's waters. The NPDES permit program is administered by the Administrator of the Environmental Protection Agency, and provides an opportunity for the Administrator to transfer this responsibility to those States that have the authority and capability to assume responsibility for the administration of the NPDES program.

Section 404 of the FWPCA establishes a permit program, administered by the Secretary of the Army, acting through the Chief of Engineers, to regulate the discharge, into the waters of the United States, of dredged material and of those pollutants that comprise fill material. Applications for Section 404 permits are evaluated by using guidelines developed by the Administrator of EPA, in conjunction with the Secretary of the Army (See 40 CFR 230). The Chief of Engineers can make a decision to issue a permit that is inconsistent with those guidelines if the interests of navigation require. Section 404(c) gives the Administrator, EPA, further authority, subject to certain procedures, to restrict or prohibit the discharge of any dredged or fill material that may cause an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas.

Violation of the prohibition specified in Section 301 of the FWPCA against discharging pollutants into the waters of the United States without a required permit under Section 402 or 404, or permit conditions, or of other requirements of the FWPCA, can result in civil fines of not more than $10,000 per day of violation, criminal fines of up to $50,000 per day of violation, imprisonment, and/or injunctive relief, including restoration of the area to its original condition. The exact provisions for Federal enforcement of the FWPCA are established in Section 309. (33 U.S.C. 1319).

As part of the revisions to its April 3, 1974 permit regulation, the Department of the Army published regulations to implement the Section 404 permit program. These regulations limited the Section 404 permit program to the same waters that were being regulated under the River and Harbor Act of 1899: waters that are subject to the ebb and flow of the tide shoreward to their mean high water mark (mean higher water mark on the West Coast) and/or waters that are presently used, were used in the past, or are susceptible to use to transport interstate or foreign commerce.

The Natural Resources Defense Council and the National Wildlife Federation challenged this limitation on the jurisdiction of Section 404 as being inconsistent with the intent of Congress to regulate "all waters of the United States," as expressed in the FWPCA's definition of "navigable waters." Concern was expressed over the need to regulate the entire aquatic system, including all of the wetlands that are part of it, rather than only those aquatic areas that are arbitrarily distinguished by the presence of an ordinary or mean high water mark. (A major portion of the coastal wetlands are above the mean high water mark and were outside the permit review requirements of Section 404 by this interpretation.) Concern was expressed over the need to regulate the many tributary streams that feed into the tidal and commercially navigable waters (all of which were subject to regulation under the Refuse Act and NPDES programs) since the destruction and/or degradation of the physical, chemical, and biological integrity of each of these waters is threatened by the unregulated discharge of dredged or fill material. And concern was expressed for the many



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other waters, including lakes, isolated wetlands, and potholes whose degradation, destruction, and disappearance continues to increase at alarming rates.

On March 27, 1975, the District Court for the District of Columbia ordered the revocation and rescission of that part of the Department of the Army's regulation "which limits the permit (Section 404) jurisdiction of the Corps by definition or otherwise to other than the waters of the United States." The Court further ordered publication of proposed regulations within 15 days (later amended to 40 days) which clearly recognized the full regulatory mandate of the FWPCA with respect to Section 404, and final regulations within 30 days of the date of the order (later amended to 80 days). *NRDC* v. *Callaway*, 392 F. Supp. 685 (D.D.C. 1975).

Responding to this court order, the Corps published four alternative proposed regulations in the FEDERAL REGISTER for comment on May 6, 1975. Over 4,500 comments were received in response to these proposed regulations. Many of these comments assisted the Corps in developing an administrative definition of "navigable waters" that was consistent with the intent and objectives of the FWPCA, and also in developing a program that was responsive to many of the concerns raised by the comments.

On July 25, 1975, the Corps of Engineers published an interim final regulation in the FEDERAL REGISTER. The interim final regulation essentially melded revisions to the Section 404 program into the previously published April 3, 1974 regulation. It included administrative definitions of "navigable waters", "dredged material", and "fill material", and procedural mechanisms to avoid unnecessary duplicative review in those states that have permit programs similar to Section 404.

The interim final regulation administratively defined the term "navigable waters" to include: coastal waters, wetlands, mudflats, swamps, and similar areas; freshwater lakes, rivers, and streams that are used, were used in the past, or are susceptible to use to transport interstate commerce, including all tributaries to these waters; interstate waters; certain specified intrastate waters, the pollution of which would affect interstate commerce; and freshwater wetlands, including marshes, shallows, swamps, and similar areas that are contiguous or adjacent to the above described lakes, rivers, and streams, and that are periodically inundated and normally characterized by the prevalence of vegetation that requires saturated soil conditions for growth and reproduction.

The regulation also specified that permits would not be required for discharges beyond the "headwaters" of a river or stream unless the interests of water quality required assertion of jurisdiction above the headwaters. "Headwaters" was defined as "the point on the stream above which the flow is normally less than 5 cubic feet per second * * *."

Any material that is excavated or dredged from a water of the United States and reintroduced into a water of the United States is considered to be the "discharge of dredged material" for purposes of Section 404.

"Fill material" was defined to include the following activities: the creation of fastlands, elevations of land beneath waters of the United States, or impoundments; the building of any structure or impoundment requiring rock, sand, dirt, or other pollutants for its construction; site-development fills; causeway or roadfills; dams and dikes; artificial islands; property protection and/or reclamation devices such as riprap, groins, and breakwaters; beach nourishment; levees; and backfill for various structures and utility lines.

The regulation also identified certain types of activities that were excluded from the program because they do not involve the discharge of dredged or fill material into water. Plowing, seeding, cultivating, and harvesting for the production of food, fiber, and forest products were included in this list of excluded activities. Also excluded from the program was material placed for maintenance and emergency reconstruction of existing fills.

The July 25 regulation adopted a phase-in schedule to implement the permit requirements of Section 404 for discharges in the above defined waters, and also included authority for District Engineers to issue general permits for those discharges that cause only a minor individual and cumulative impact to the environment. Phase I began immediately upon publication of the regulation, and included all waters subject to the ebb and flow of the tide and/or waters that are, were, or are susceptible to use for commercial navigation purposes (waters already being regulated by the Corps) plus all adjacent wetlands to these waters (thus eliminating the artificial ordinary high water and mean high water mark distinctions). Phase II became effective on September 1, 1976 (originally scheduled for July 1, 1976, but postponed for 60 days by Presidential action), and included primary tributaries to the Phase I waters and lakes greater than five acres in surface area, plus wetlands adjacent to these waters. Phase III, requiring permits for discharges of dredged or fill material into all waters of the United States, became effective on July 1, 1977. Discharges that occur in a particular waterbody before a scheduled phase-in date are permitted by the regulation, subject to six specified conditions. Also permitted by the regulation are certain minor discharges, again subject to the same conditions.

Various policies and procedures were also included in this regulation to allow joint review and processing of applications for Section 404 permits in those states with programs similar to Section 404.

On September 5, 1975, EPA published interim final guidelines to be used in the evaluation of proposed discharges of dredged or fill material. These interim guidelines are published in 40 CFR Part 230.

A number of courts have had occasion to consider whether particular waters, including wetlands, are "waters of the United States" within the scope of the FWPCA. The first case to address whether wetlands beyond the mean high water mark of traditional navigable waters of the United States were subject to the FWPCA was *United States* vs. *Holland*, 373, F. Supp. 665 (M.D. Fla., 1974) in which the Court held:

> The court is of the opinion that the mean high waterline is no limit to Federal authority under the FWPCA. While the line remains a valid demarcation for other purposes, it has no rational connection to the aquatic ecosystems which the FWPCA is intended to protect. Congress has wisely determined that Federal authority over water pollution properly rests on the commerce clause and not on past interpretations of an act designed to protect navigation. And the Commerce clause gives Congress ample authority to reach activities above the mean high water line that pollute the waters of the United States.

Other Courts have pursued the same theme, and often use the Holland rationale to support their position. These include the following: *United States* v. *Ashland Oil and Transportation Co.*, 504 F2d 1317 (6th Cir. 1974), involving discharges of oil into a tertiary tributary to a navigable water of the United States; *United States* v. *P.F.Z. Properties, Inc.*, 393 F. Supp. 1370, 1381 (D.D.C. 1975) and *Leslie Salt* v. *Froehlke*, 403 F. Supp. 1292, 1296–1297 (N.D. Cal. 1974)—each involving discharges of dredged or fill material into navigable waters of the United States; *Conservation Council of North Carolina* v. *Costanzo*, 398 F. Supp. 653, 673 (E.D. N.C. 1975); *United States* v. *Smith*, 7 ERC 1936, 1938–1939 (E.D. Va., 1975); *United States* v. *Golden Acres, Inc.*, No. 76-0023-CIV-4, slip opinion p. 5–6 (E.D. N.C., Jan. 13, 1977); *United States* v. *Riverside Bayview Homes, Inc.*, Civil Action No. 77-76041 (E.D. Mich., Feb. 24, 1977)—all involving discharges into wetlands adjacent to navigable waters of the United States or a primary tributary thereof in which the wetland area is located above the mean high tide line or ordinary high water mark but is still periodically inundated and covered with aquatic vegetation; and *United States* v. *Byrd and Elder*, ERC 1275 (N.D. Ind., August 13, 1976) involving the discharge of fill material into a natural freshwater lake.

SECTION 103 OF THE MARINE PROTECTION, RESEARCH AND SANCTUARIES ACT OF 1972

Five days after enactment of the FWPCA, Congress enacted the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413). This Act, commonly referred to as the "Ocean Dumping Act", has many provisions that resemble the approach taken by the FWPCA to regulate activities that can pollute or otherwise adversely affect the ocean waters.

Section 102 of the Act vests authority in the Administrator, EPA, to issue permits, after notice and opportunity for public hearing, for the transportation from the United States of material that is intended to be dumped in ocean waters. "Material" is defined in the Act to include most liquid, solid, or suspended solid substances. Before issuing a permit, the Administrator is required to determine that the proposed dumping will not unreasonably degrade or endanger human health, welfare or amenities, or the marine environment, ecological systems or economic potentialities. The Act also requires him to establish ocean dumping criteria to be used in making this evaluation.

Section 103 of the Ocean Dumping Act is similar to Section 404 of the FWPCA in that it creates a separate permit program to be administered by the Secretary of the Army, acting through the Chief of Engineers, to regulate the ocean dumping of dredged material. The Act requires the Corps of Engineers to make the same evaluation that is required of the Administrator for the ocean dumping of other materials, and to make this evaluation, by using the ocean dumping criteria developed by the Administrator. The Act also requires the Corps of Engineers to utilize ocean dumping sites that have been designated by the Administrator, EPA, to the maximum extent feasible.

If the EPA criteria prohibit ocean dumping, the Act requires the Corps of Engineers to make an independent determination as to the need for the proposed dumping based upon an evaluation of the potential affect that would occur to navigation, economic and industrial development, and foreign and domestic commerce of the United States if a permit were denied. An independent determination as to other proposed methods of disposal of dredged materials and appropriate locations for ocean dumping must also be made by the Corps of Engineers in the review of applications for ocean dumping.

No permit may be issued to dump dredged material in the oceans if the dumping does not comply with the EPA criteria unless the Secretary of the Army seeks a waiver of the criteria from the Administrator after certifying that there is no economically feasible method or site available other than the proposed dump site under consideration. The Act requires the Administrator to grant this waiver unless he finds that the proposed dumping will result in an unacceptable adverse impact on municipal water supplies, shellfish beds, wildlife, fisheries, or recreational areas.

The EPA criteria for evaluating the ocean dumping of all material, including dredged material, are published in 40 CFR Parts 220–228. These criteria were revised by EPA, and the revisions are published in the FEDERAL REGISTER dated 11 January 1977 (42 FR 2462).

Violation of any provision or requirement of the Ocean Dumping Act can result in criminal or civil penalties of not more than $50,000 per day of violation, imprisonment, and legal actions to enjoin imminent or continuing violations of the Act.

REVISIONS TO REGULATIONS

The Corps of Engineers published its July 25, 1975 regulation as an interim final regulation, and provided a comment period of 90 days in which interested members of the public could comment further on the regulation before it was finalized. Today, we are finalizing that regulation. We wish to take this opportunity to thank again those 2,000 individuals, government officials, special interest groups, and companies who responded to this opportunity for additional comment. Many of you will find that your suggestions have been developed in the revisions to our regulation.

In addition to the 2,000 comments received on the interim final regulation, the Corps of Engineers held four nationwide public hearings on the Section 404 program and 243 information meetings that have assisted us in these revisions.

We now have almost two years of experience in administering the Section 404 program as revised by the July 25, 1975 regulation, and over three years of experience in the administration of our other permit programs since publication of the April 3, 1974 regulation. This experience has revealed some problem areas that require correction. Our District and Division offices have raised these concerns with us, and we have attempted to respond to these problems in revisions to the regulation.

One of the primary criticisms of the existing regulation was its length, organization and wordiness. We have responded to this concern by deleting redundant paragraphs, rewording sentences, and completely reorganizing the regulations. This includes a new format that incorporates related regulations into an orderly sequence.

Today, we are rescinding the following regulations:

a. 33 CFR 209.120, "Permits for Activities in Navigable Waters or Ocean Waters";
b. 33 CFR 209.125, "Dams and Dikes Across Waterways";
c. 33 CFR 209.131, "Permits for Discharges or Deposits into Navigable Waters";
d. 33 CFR 209.133, "Public Hearings";
e. 33 CFR 209.150, "Harbor Lines"; and
f. 33 CFR 209.260, "Definition of Navigable Waters of the United States."

We are also, today, publishing the following new regulations, each of which generally corresponds with one of the above cited regulations that is being rescinded. All regulations that pertain completely to the permit programs of the Corps of Engineers, are being published in a new series of Title 33 of the Code of Federal Regulations, and will be included in Parts 320 to 340. This new series is organized as follows:

a. Part 320, "General Regulatory Policies";
b. Part 321, "Permits for Dams and Dikes in Navigable Waters of the United States" (Section 9 of the River and Harbor Act of 1899);
c. Part 322, "Permits for Structures or Work in or Affecting Navigable Waters of the United States" (Section 10 of the River and Harbor Act of 1899);
d. Part 323, "Permits for Discharges of Dredged or Fill Material into Waters of the United States" (Section 404 of the FWPCA);
e. Part 324, "Permits for Ocean Dumping of Dredged Material" (Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972);
f. Part 325, "Processing of Department of the Army Permits";
g. Part 326, "Enforcement";
h. Part 327, "Public Hearings";
i. Part 328, "Harbor Lines";
j. Part 329, "Definition of Navigable Waters of the United States";
k. Parts 330–339 (Reserved).

The following is an explanation of each new part of this regulation, including the reasons for significant changes that have been made. We will also respond to significant comments that were made in response to various provisions in this regulation.

PART 320

This Part describes the general and related statutory authorities that are used by the Corps of Engineers in administering the various permit programs to regulate activities in waters of the United States and the oceans. The part also describes the general policies that are used by the Corps in the review of each permit application, including: (1) The public interest review described above; and (2) policies on wetlands; fish and wildlife; water quality; historic, scenic, and recreational values; effects on limits of the territorial sea; interference with adjacent properties or Federal projects; and requirements for other Federal, State, or local permits or certifications. This part generally corresponds to the provisions in paragraphs (a), (b), (c), (f), and (g) (1), (3), (4), (5), (6), (10) and (18) of rescinded § 209.120.

We have added descriptions of each of the following Federal statutes to the list of "related legislation" in § 320.3 of this Part, since each of these laws is involved with or related to the review of applications for Federal permits. These include: The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); The Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.); The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.); Section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278 et seq.); and Section (f) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.).

In § 320.4(a), we have added three additional items to the list of factors that comprise our public interest review: Energy needs, safety, and food requirements.

Several modifications have been made to our wetlands policy in § 320.4(b). We identified those wetlands "whose destruction or alteration would affect detrimentally the natural drainage characteristics, sedimentation patterns, salinity distribution, flushing characteristics, current patterns or environmental characteristics," as one of the types of wetlands that is important to the public interest. (Previously this valuable wetlands function was only recognized if the wetlands that perform it were located next to the wetlands described in the first two subsections.) We also added to the list of functions those wetlands which through natural water filtration processes, serve to purify water. Finally, we have attempted to clarify our guidance on determining whether a particular wetlands







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alteration is "necessary". The change now requires the District Engineer to consider whether the proposed activity "is primarily dependent on being located in or in close proximity to the aquatic environment and whether feasible alternative sites are available." Applicants are required to provide sufficient information to make this evaluation. We believe that this change more closely corresponds to the wetlands policy in the Section 404 Guidelines (40 CFR 230.5(b)(8)).

At the request of the Department of the Interior, we have added sites acquired under the Recreational Demonstrations Projects Act of 1942 (PL 77–594) to the types of sites for which the policy in § 320.4(e) on historic, scenic, and recreational values is applicable.

Clarifying language has been added to our policy in § 320.4(j) on other permits or certifications required for the same activity to ensure that it is applicable to all Federal, State and/or local permits or certifications. Under this policy, we will process permit applications concurrently (and in many cases we plan to do this jointly) with other required applications for Federal, State and/or local permits or certifications. If another required permit or certification is denied, we will not issue a permit.

To ensure that this policy cannot be used as a mechanism to delay decision-making on our permit application processing and decision-making, however, we also have modified it to allow the District Engineer to process a permit application to conclusion if the responsible government agency fails to take any definitive action to issue or deny its permit or certification within three months of our public notice.

We have added two new general policies to the review of all applications for permits. Section 320.4(k) includes a policy on the safety of impoundment structures that requires the District Engineer to condition permits for these types of structures to require the permittee to operate and maintain the structure properly to ensure public safety. This policy is not applicable, however, to impoundment structures for which an adequate safety inspection program is required or which are under the control of another Federal agency. Section 320.4(l) includes a policy on the review of permit applications in floodplains as required by the May 24, 1977 Executive Order 11988.

PART 321

This part describes the special policies and procedures that are followed in the review of applications for dams or dikes to be located in a navigable water of the United States. As noted above, this review is made under Section 9 of the River and Harbor Act of 1899 (33 U.S.C. 401). The general policies described in Part 320 and the general procedures described in Part 325 are also applicable to the review of these applications.

Part 321 replaces 33 CFR 209.125, which has been rescinded. We have defined the terms "navigable waters of the United States", "dam", and "dike" in this part to specify the types of waters to which Section 9 is applicable, and the type of structures that will require Section 9 permits. We anticipate that our administrative definitions of "dam" and "dike" in Section 321.2 will assist in distinguishing these types of structures from those that would otherwise be regulated under Section 10 of the River and Harbor Act of 1899.

In all other respects, the language in Part 321 resembles that in rescinded § 209.125.

PART 322

This part prescribes the special policies and procedures to be followed by the Corps in the evaluation of applications for structures or work in or affecting navigable waters of the United States pursuant to Section 10 of the River and Harbor Act of 1899. The general policies specified in Part 320.4 and the general procedures specified in Part 325 also are applicable to this evaluation. Furthermore, some of the activities that fall under this Part will also require permits under Section 404 of the FWPCA and Section 103 of the Ocean Dumping Act.

This Part corresponds to those sections of rescinded 33 CFR 209.120 that incorporated the Section 10 program. These include paragraphs (d)(1), (e)(1) and (4), and (g)(2)(7), (8), (9), (11), (13), (14), (15) and (16).

We have adopted administrative definitions of the terms "structure" and "work" to identify the types of activities that will require Section 10 permits (Sec. 322.2).

The 1975 regulation administratively "grandfathered" certain types of activities performed in navigable waters of the United States (see rescinded 33 CFR 209.120(g)(12)(vii)) and exempted others altogether from the need to obtain Section 10 permits (see rescinded 33 CFR 209.120(e)(1)). This latter category included the placement of aids to navigation by the U.S. Coast Guard and structures placed in artificial canals, the connection of which previously was authorized by a Section 10 permit.

Today, instead of again exempting or grandfathering these activities, we are permitting them through the issuance of nationwide permits that are incorporated into this regulation. We have also included other small structures in these nationwide permits that are often placed in navigable waters and have only a de minimus impact on the environment. We are issuing nationwide permits for these activities because we feel that this administrative device is preferable to those affected by it, and is a better administrative approach than relying on a "grandfathering" or "exemption" provision to satisfy the requirements of the 1899 Act.

The following activities are subject to these nationwide permits (see § 322.4):

1. The placement of aids to navigation by the U.S. Coast Guard;

2. Structures constructed in artificial canals within principally residential developments where the connection of the canal to a navigable water already has received a Section 10 permit;

3. Repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure, or of any currently serviceable structure constructed prior to the requirement for a Seciton 10 permit (no deviation from original plans is authorized);

4. Marine life harvesting devices, such as pound nets, crab pots, eel pots, and lobster traps;

5. Staff and tidal gages, water recording devices, water quality testing and improvement devices, and similar scientific structures;

6. Survey activities including core sampling; and

7. Structures of work completed before December 18, 1968 (the date on which we adopted our public interest review) or in navigable waters over which the District Engineer has not asserted jurisdiction.

The nationwide permit imposes conditions on each of these structures, primarily to protect navigation.

Besides the nationwide permit, three other types of authorizations are used to issue Section 10 permits. These are:

1. Letters of permission—an individual permit issued following the abbreviated review procedures outlined in § 325.5(b);

2. Individual permits—permits issued following a case-by-case analysis of an application; and

3. General permits—permits issued for future minor work or structures in a particular region of the country that will have only minimal individual and cumulative impact on the environment.

We have included definitions of each of these terms in the regulation (§ 322.2). A person needing a Section 10 permit should first check to see whether the proposed project has already been permitted by a general permit or in this Part through a nationwide permit.

In all other respects, this regulation remains basically the same as published in 1975.

PART 323

This Part prescribes the special policies and procedures to be followed by the Corps in the evaluation of applications for permits to discharge dredged or fill material into the waters of the United States pursuant to Section 404 of the FWPCA. Again, as we have noted in Parts 321 and 322, the general policies specified in Part 320 and the general procedures specified in Part 325 also would be applicable to this evaluation. Furthermore, some of the activities that fall under Section 404 will also require permits under Sections 9 and 10 of the River and Harbor Act of 1899 (Parts 321 and 322).

This Part corresponds to those sections of the rescinded 33 CFR 209.120 that incorporated the Section 404 program. These include: paragraphs (d)(2), (4), (5), (6), (7) and (8) and (g)(17).

Section 404 provides that the Corps of Engineers may issue permits, after notice and opportunity for public hearing, for "discharges of dredged or fill material into navigable waters". The majority of comments received on the July 25, 1975 interim final regulation were in response to our definitions of terms "navigable waters", "dredged material", and "fill material".





The legislative history of the term "navigable waters" specified that it "be given the broadest constitutional interpretation unencumbered by agency determinations which have been made or may be made for administrative purposes." (H.R. Report No. 92–1465 at 144; A Legislative History of the FWPCA at p. 327). Article 1, Section 8 of the Constitution gives the Federal Government the authority "to regulate commerce with foreign Nations and among the several states." We have interpreted the guidance contained in this legislative history to be consistent with the Federal Government's broad constitutional power to regulate activities that affect interstate commerce as interpreted by the Supreme Court on several occasions. *Perez* v. *United States*, 402 U.S. 146 (1970); *Katzenbach* v. *McClung*, 379 U.S. 294 (1974); *Heart of Atlanta Motel, Inc.* v. *United States*, 379 U.S. 241 (1964); and *Wickard* v. *Filburn*, 317 U.S. 111 (1942).

Water pollution is one such activity, for as the Court stated in *U.S.* v. *Holland*, supra., "Congress has wisely determined that Federal authority over water pollution properly rests on the commerce clause. And the commerce clause gives Congress ample authority to reach activities * * * that pollute the waters of the United States." (See also the cases cited above on defining "waters of the United States" which affirmed the constitutionality of Congress' broad assertion of jurisdiction.)

We followed this basic premise in the development of our administrative definition of "navigable waters" for the July 25, 1975 regulation, and we have followed it again in our efforts to clarify that definition in this regulation.

Our definition of "navigable waters" in the 1975 regulation included the following:

(1) Coastal waters that are navigable waters of the United States subject to the ebb and flow of the tide, shoreward to their mean high water mark (mean higher high water mark on the Pacific coast);

(2) All coastal wetlands, mudflats, swamps, and similar areas that are contiguous or adjacent to other navigable waters. "Coastal wetlands" includes marshes and shallows and means those areas periodically inundated by saline or brackish waters and that are normally characterized by the prevalence of salt or brackish water vegetation capable of growth and reproduction;

(3) Rivers, lakes, streams, and artificial water bodies that are navigable waters of the United States up to their headwaters and landward to their ordinary high water mark;

(4) All artificially created channels and canals used for recreational or other navigational purposes that are connected to other navigable waters, landward to their ordinary high water mark;

(5) All tributaries of navigable waters of the United States up to their headwaters and landward to their ordinary high water mark;

(6) Interstate waters landward to their ordinary high water mark and up to their headwaters;

(7) Intrastate lakes, rivers and streams landward to their ordinary high water mark and up to their headwaters that are utilized:

(a) By interstate travelers for water-related recreational purposes;

(b) For the removal of fish that are sold in interstate commerce;

(c) For industrial purposes by industries in interstate commerce; or

(d) In the production of agricultural commodities sold or transported in interstate commerce;

(8) Freshwater wetlands, including marshes, shallows swamps, and similar areas that are contiguous or adjacent to other navigable waters and that support freshwater vegetation. "Freshwater wetlands" means those areas that are periodically inundated and that are normally characterized by the prevalence of vegetation that requires saturated soil conditions for growth and reproduction; and

(9) Those other waters which the District Engineer determines necessitate regulation for the protection of water quality as expressed in the guidelines (40 CFR 230). For example, in the case of intermittent rivers, streams, tributaries, and perched wetlands that are not contiguous or adjacent to navigable waters identified in paragraphs (a)–(h), a decision on jurisdiction shall be made by the District Engineer.

Many suggested that we change the nomenclature of the term "navigable waters" and refer to our jurisdiction under Section 404 as "waters of the United States." This is the definition given to that term in Section 502(7) of the FWPCA. We have adopted this suggestion and feel that it will assist in distinguishing between the Section 404 program and the types of waters that are subject to the permit programs administered under Sections 9 and 10 of the 1899 Act.

We have consolidated the 1975 list of waters in our new definition to include four basic categories. We believe that this consolidation will assist in clarifying those waters that are subject to the Section 404 program.

CATEGORY 1

Coastal and inland waters, lakes, rivers, and streams that are navigable waters of the United States, including adjacent wetlands.—This category corresponds to those waters identified in sections (1), (2), (3), and (8) of the old definition. Through consolidation, we believe that many of the ambiguities raised in the old definition will be clarified.

The Federal government's authority to regulate all activities in or affecting navigable waters of the United States has always been recognized. As we have noted above, waters that fall within this category are also regulated under the River and Harbor Act of 1899. They include natural and artifical waters that are subject to the ebb and flow of the tide and/or that are used, were used in the past, or are susceptible to use to transport interstate or foreign commerce.

CATEGORY 2

Tributaries to navigable waters of the United States, including adjacent wetlands.—This category corresponds to sections (4), (5), (8), and (9) of the old definition.

The Federal government's authority to regulate activities on the rivers and streams that feed into navigable waters of the United States also has been historically recognized. As we noted in our historical background discussion. Section 10 of the River and Harbor Act of 1899 can be used to regulate activities outside the jurisdictional limits of navigable waters of the United States if those activities affect the navigable capacity of those waters. Section 13 of the 1899 Act also prohibits the dumping of any refuse matter into any tributary of a navigable water of the United States, or onto the banks of such waters where the material is likely to be washed into the water.

More recently, courts have recognized that the FWPCA is applicable to tributaries of navigable waters. In *U.S.* v. *Ashland Oil, supra*, the Court stated:

Pollution control of navigable streams can only be exercised by controlling pollution of their tributaries.

We have adopted the suggestion of many commenters that we incorporate into our definition (and not in the Preamble as we did in 1975) the statement that nontidal drainage and irrigation ditches that feed into navigable waters will not be considered "waters of the United States" under this definition. To the extent that these activities cause water quality problems, they will be handled under other programs of the FWPCA, including Sections 208 and 402.

CATEGORY 3

Interstate waters and their tributaries, including adjacent wetlands.—This category corresponds to those waters listed in sections (6) and (8) of the old definition.

The affects of water pollution in one state can adversely affect the quality of the waters in another, particularly if the waters involved are interstate. Prior to the FWPCA Amendments of 1972, most federal statutes pertaining to water quality were limited to interstate waters. We have, therefore, included this third category consistent with the Federal government's traditional role to protect these waters from the standpoint of water quality and the obvious effects on interstate commerce that will occur through pollution of interstate waters and their tributaries.

CATEGORY 4

All other waters of the United States not identified in Categories 1–3, such as isolated lakes and wetlands, intermittent streams, prairie potholes, and other waters that are not part of a tributary system to interstate waters or to navigable waters of the United States, the degradation or destruction of which could affect interstate commerce.—This category corresponds to sections (7), (8), and (9) of the old definition.

Waters that fall within categories 1, 2, and 3 are obvious candidates for inclusion as waters to be protected under the Federal government's broad powers to regulate interstate commerce. Other waters are also used in a manner that makes them part of a chain or connection to the production, movement, and/or use of interstate commerce even though they are not interstate waters or part of a



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tributary system to navigable waters of the United States. The condition or quality of water in these other bodies of water will have an effect on interstate commerce.

The 1975 definition identified certain of these waters. These included waters used:

(1) By interstate travelers for water-related recreational purposes;
(2) For the removal of fish that are sold in interstate commerce;
(3) For industrial purposes by industries in interstate commerce; and
(4) In the production of agricultural commodities sold or transported in interstate commerce.

We recognized, however, that this list was not all inclusive, as some waters may be involved as links to interstate commerce in a manner that is not readily established by the listing of a broad category. The 1975 regulation, therefore, gave the District Engineer authority to assert jurisdiction over "other waters", such as intermittent rivers, streams, tributaries and perched wetlands, to protect water quality. Implicit in this assertion of jurisdiction over these other waters was the requirement that some connection to interstate commerce be established, even though that requirement was not clearly expressed in the 1975 definition.

We received many comments and criticisms concerning the waters covered in sections (7) and (9) of the 1975 definition, particularly with respect to uncertainty over the types of waters covered by section 9, and as to whether section 404 permits are required to discharge dredged or fill material into these latter waters.

We have responded to these comments by noting in the definition of these waters that they are the type, the degradation or destruction of which could affect interstate commerce. We have also incorporated an explanatory footnote at the end of this category which further explains this connection to interstate commerce.

We are responding to the concern of uncertainty over the need to obtain a permit in these waters by issuing today a nationwide permit for discharges into most of these waters. We believe that if the common sense conditions, guidelines and management practices provided in these nationwide permits are followed, the concern for water quality, as it affects the production, movement and/or use for interstate commerce, ordinarily will be satisfied with respect to these discharges.

*Wetlands.* Prior to enactment of the FWPCA, the mean tide line (mean higher tide line on the West Coast) was used to delineate the shoreward extent of jurisdiction over the regulation of most activities in tidal waters under the 1899 Act as well as for mapping, delineation of property boundaries, and other related purposes. In freshwater lakes, rivers and streams that are navigable waters of the United States, the landward limit of jurisdiction has been traditionally established at the ordinary high water mark.

The regulation of activities that cause water pollution cannot rely on these artificial lines, however, but must focus on all waters that together form the entire aquatic system. Water moves in hydrologic cycles, and the pollution of this part of the aquatic system, regardless of whether it is above or below an ordinary high water mark, or mean high tide line, will affect the water quality of the other waters within that aquatic system.

For this reason, the landward limit of Federal jurisdiction under Section 404 must include any adjacent wetlands that form the border of or are in reasonable proximity to other waters of the United States, as these wetlands are part of this aquatic system.

The July 25, 1975 regulation identifies "coastal" and "freshwater" wetlands contiguous or adjacent to other waters of the United States as separate categories of waters for inclusion in our overall definition of the term "waters of the United States." Many comments and suggestions were received on these terms.

Both "coastal" and "freshwater" wetlands as used in the July 25, 1975 regulation require that the area in question be "periodically inundated" by either saline, brackish or freshwater and "normally characterized by the prevalence of" salt or brackish water vegetation or vegetation that requires saturated soil conditions for growth and reproduction. Some felt that the criteria for delineating a wetland should not require both "periodic inundation" and the "prevalence of" vegetation, as either condition should suffice from the standpoint of protecting the entire aquatic system. Others raised concern over the vagueness of terms such as "perodically inundated", "normally", and "prevalence", and the lack of any definition for the terms "contiguous" or "adjacent".

In response to these comments, and with the assistance of the Departments of Interior and Agriculture and the Environmental Protection Agency, we have adopted the following definition of "wetlands":

> Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

This definition is intended to eliminate several problems and achieve certain results. The reference to "periodic inundation" has been eliminated. Many interpreted that term as requiring inundation over a record period of years. Our intent under Section 404 is to regulate discharges of dredged or fill material into the aquatic system as it exists, and not as it may have existed over a record period of time. The new definition is designed to achieve this intent. It pertains to an existing wetland and requires that the area be inundated or saturated by water at a frequency and duration sufficient to support aquatic vegetation. This inundation or saturation may be caused by either surface water, ground water, or a combination of both.

The use of the word "normally" in the old definition generated a great deal of confusion. The term was included in the definitions to respond to those situations in which an individual would attempt to eliminate the permit review requirements of Section 404 by destroying the aquatic vegetation, and to those areas that are not aquatic but experience an abnormal presence of aquatic vegetation. Several such instances of destruction of aquatic vegetation in order to eliminate Section 404 jurisdiction actually have occurred. However, even if this destruction occurs, the area still remains as part of the overall aquatic system intended to be protected by the Section 404 program. Conversely, the abnormal presence of aquatic vegetation in a non-aquatic area would not be sufficient to include that area within the Section 404 program.

We have responded to the concern for the vagueness of the term "normally" by replacing it with the phrase "• • • and that under normal circumstances to support • • •" We do not intend, by this clarification, to assert jurisdiction over those areas that once were wetlands and part of an aquatic system, but which, in the past, have been transformed into dry land for various purposes.

Concerns were also expressed over the types and amount of vegetation that would be required to establish a "wetland" under this definition. We have again used the term "prevalence" to distinguish from those areas that have only occasional aquatic vegetation interspersed with upland or dry land vegetation.

At the same time, we have changed our description of the vegetation involved by focusing on vegetation "typically adapted for life in saturated soil conditions." The old definition of "freshwater wetlands" provided a technical "loophole" by describing the vegetation as that which requires saturated soil conditions for growth and reproduction, thereby excluding many forms of truly aquatic vegetation that are prevalent in an inundated or saturated area, but that do not require saturated soil from a biological standpoint for their growth and reproduction. We intend to publish shortly vegetation guides to indicate the types of vegetation intended to be included in this definition, and to rely on the assistance of biologists, scientists and other technical experts from other Federal and State agencies to assist in delineating those wetland areas intended to be incuuded in this definition.

Several comments questioned the need for separate definitions of salt and brackish water wetlands (e.g. coastal wetlands) and freshwater wetlands. Others questioned whether salt and brackish water wetlands in nontidal waters and freshwater wetlands contiguous or adjacent to coastal wetlands were intended to be included in the definition, since these wetlands are part of the aquatic system. Still others questioned whether these definitions were also applicable to isolated wetlands that are not contiguous or adjacent to coastal waters and freshwater lakes, rivers, and streams, but which still contribute to interstate commerce.





The old definition was intended to include all fresh, brackish and salt water wetlands contiguous or adjacent to coastal waters and freshwater lakes, rivers, streams and other waters included in the definition of "waters of the United States." It was also intended to be used to identify isolated wetlands. We agree, however, that this intent was not clearly expressed. To remedy this situation, we have adopted one definition of wetlands. This definition will be applicable to those wetlands adjacent to coastal waters and freshwaters that are identified in the definition of "waters of the United States," and also to those isolated wetlands that are not adjacent to any lake, river, stream, or other coastal or freshwater. (See the discussion, above, on waters in Category 4.)

We have also responded to the concerns raised over the absence of any definition of the terms "adjacent" or "contiguous" as those terms relate to the location of wetlands. Since "contiguous" is only a subpart of the term "adjacent," we have eliminated the term "contiguous." At the same time, we have defined the term "adjacent" to mean "bordering, contiguous, or neighboring." The term would include wetlands that directly connect to other waters of the United States, or that are in reasonable proximity to these waters but physically separated from them by man-made dikes or barriers, natural river berms, beach dunes, and similar obstructions.

Finally, to respond to those who expressed concern that our definition of "wetlands" may be interpreted as extending to abnormal situations including non-aquatic areas that have aquatic vegetation, we have listed swamps, bogs, and marshes at the end of this definition to further clarify our intent to include only truly aquatic areas.

*"High tide line."* Many aquatic areas along the coast are located above the mean or mean higher high tide lines but do not fit within the definition of "wetlands" discussed above. These include sandflats, mudflats, and similar areas, that, while not covered with vegetation, are inundated with sufficient frequency and regularity to be included as part of the aquatic resource. While these areas are identified in our previous definition of waters of the United States, some commenters suggested the need for more definitive guidance in delineating the shoreward limit of jurisdiction in coastal areas when these circumstances exist. We have, therefore, adopted the term "high tide line" to delineate these areas. "High tide line" has been defined as "a line or mark left upon tide flats, beaches, or along shore objects that indicates the intersection of the land with the water's surface at the maximum height reached by a rising tide." The term is intended to include areas covered by spring high tides and other high tides that occur with periodic frequency, but does not include those areas that are covered by tidal water as a result of storm surges, hurricanes, or other intense storms.

*Ordinary high water mark:* A number of comments criticized the definition of "ordinary high water mark" adopted for purposes of delineating the landward limit of jurisdiction in freshwaters (absent adjacent wetlands). The comments indicated that other methods to define the ordinary high water mark have already been refined to a point of reasonable reliability based on the hydrologic movement of freshwaters, and that a second methodology under Section 404 would be administratively cumbersome. In addition, other concerns were expressed over the manner in which a "25% inundation" factor could be determined.

Responding to these comments, we have returned to our definition of "ordinary high water mark" used in the administration of our 1899 Act permit program. We believe that in waters where no wetlands are present, this definition will include those areas that are part of the aquatic system along these freshwater lakes, rivers and streams, as this mark is intended to include those areas where water will be present with predictable regularity.

*Headwaters:* The July 25, 1975 regulation established a cutoff point, referred to as the headwaters, for each river and stream identified as a water of the United States. "Headwaters" was defined as "the point on the stream beyond which the flow of the waterbody is normally less than five cubic feet per second." Waters above the "headwaters" cutoff point were also included as "waters of the United States," but only if the District Engineer determined that regulation of these waters was necessary to protect water quality.

Many comments and criticisms were received concerning the vagueness of our definition of "headwaters" and the legality of excluding waters in rivers and streams above the headwaters from the definition of waters of the United States. We have responded to these concerns and criticisms by: (1) Including the entire length of rivers and streams in our definition of waters of the United States; (2) utilizing the "headwaters" concept to establish the point on the stream below which an individual or general permit will be required to discharge dredged or fill material (discharges above headwaters are being permitted through the issuance today of a nationwide permit which is discussed in greater detail below); and (3) redefining the term "headwaters."

We have adopted the recommendations of a number of commenters and have redefined the term "headwaters" as the point on a freshwater (nontidal) stream above which the average annual flow is less than five cubic feet per second. Since precision is not required in establishing the headwater point, the definition allows the District Engineer to use approximate means to compute it. The drainage area that will contribute an average annual flow of five cubic feet per second can be estimated by approximating the proportion of the average annual precipitation that is expected to find its way into the stream. Having the area that will produce this flow, the "headwater" point can be approximated from drainage area maps.

However, we also recognized that streams with highly irregular flows, such as occur in the western portion of the country, could be dry at the "headwater" point for most of the year and still average on a yearly basis a flow of five cubic feet per second because of high volume, flash flood type flows which greatly distort the average. We therefore added an option for the District Engineer, after notifying the Regional Administrator of EPA, to establish the headwater based on the median rather than the average flow. A median flow of five cubic feet per second means that 50% of the time the flow is greater than five cubic feet per second and 50% of the time the flow is less than this value. This approach more realistically represents normal base flows of such streams.

We emphasize that the "headwaters" concept used in this new regulation is the point on the stream above which individual or general permits ordinarily will not be required. It is not to be construed as the point beyond which a stream ceases to be a water of the United States under Section 404 or the programs to regulate industrial and municipal discharges and oil and hazardous substances under other sections of the FWPCA. We also refer you to the discussion below on the nationwide permits that are being issued today for various discharges of dredged or fill materal, including those that occur above the headwater. We believe that the common sense conditions and management practices reflected in these nationwide permits will, if followed, avoid potential water quality problems for most of these discharges.

*Lakes:* The 1975 regulation defined "lakes" as "natural bodies of standing water greater than five acres in surface area and all bodies of standing water created by the impounding of waters of the United States."

A number of comments and criticisms were received concerning this definition. Some felt that the size limitation on natural lakes was too small, while others felt it was not small enough. Others questioned the legality of imposing any size limitation on natural lakes, since a lake less than five acres in size is just as much a "water of the United States" as one that is more than five acres in size.

Many raised questions about the manner and time for measurement of the five surface acres because of the seasonal fluctuations in water content exhibited by most lakes. Others suggested that we add to the list of artificial open bodies of water that are not included in the definition of lakes. (The 1975 definition excludes stock watering ponds and settling basins that are not created by impounding a river or stream.)

We have responded to these comments and criticisms in several ways. First, we have established definitions for two new terms: "natural lake" and "impoundment." We believe that these two sepa-



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rate definitions will assist in alleviating the confusion expressed over the broad definition of "lake" as cited in the 1975 regulation.

At the suggestion of EPA, we have defined "natural lake" as "a natural depression fed by one or more streams and from which a stream may flow, that occurs due to the widening or natural blockage of a river or stream, or that occurs in an isolated natural depression that is not part of a surface river or stream." We believe that this definition reflects the three types of situations in which a natural lake may exist.

We have defined the term "impoundment" as a "standing body of open water created by artificially blocking or restricting the flow of a river, stream, or tidal area." Responding to several suggestions, we have clarified what is not included in the term "impoundment" by stating that it does not include artificial lakes or ponds created by excavating and or diking dry land to collect and retain water for such purposes as stock watering, irrigation, settling basins, cooling, or rice growing.

Unlike the 1975 definition, no size limitation has been placed on the definitions of "natural lake" or "impoundment". Instead, we are permitting, today, through the issuance of nationwide permits, discharges of dredged or fill material into natural lakes, including their adjacent wetlands, that are less than 10 acres in surface area and that are either fed or drained by a river or stream above the headwaters, or isolated and not a part of a tributary system to navigable waters of the United States or interstate waters. (Discharges into natural lakes below the headwaters and isolated natural lakes greater than ten acres will require individual or general permits to satisfy the requirements of Section 301 of the FWPCA.) We are also issuing today a nationwide permit for discharges of dredged or fill material into non-tidal rivers, streams and their impoundments including adjacent wetlands that are located above the headwaters. (Again, discharges into impoundments below the headwaters of a river or stream will require an individual or general permit.) We refer you to our discussion of nationwide permits, below, for further details on this action.

We believe that the inclusion of adjacent wetlands as part of the 10 acre measurement of those natural lakes that are included in this definition will alleviate many concerns raised over how and when this measurement must occur. Since our definition of "wetlands" requires aquatic vegetation, we anticipate that the lake's measurement normally can be made on the basis of the presence of this vegetation, which generally remains fixed throughout the year, even if the water levels in the lake fluctuate.

*Dredged and Fill Material.* The 1975 regulation provided definitions for "dredged material", "discharge of dredged material", "fill material", and "discharge of fill material". Several comments and two years of experience have revealed the need to make certain changes to these definitions.

To respond to many misunderstandings over activities that require Section 404 permits, the 1975 regulation stated, in the definitions of "dredged material" and "fill material" that "material resulting from normal farming, silviculture, and ranching activities, such as plowing, cultivating, seeding, and harvesting for the production of food, fiber, and forest products" was not included. We intended, by this statement, to make it clear that activities such as plowing, seeding, harvesting, cultivating and any other activity by any industry that do not involve discharges of dredged or fill material cannot be included in the program. However, many interpreted this language as an exclusion of all practices by the farming and forestry industry including those that do involve discharges of dredged or fill material into water. The FWPCA does not allow us to make such an exemption or exclusion for any industry. (See *NRDC vs. Train*, 366 F. Supp. 1393 (D.D.C., 1975).) We have, however, clarified our intent by stating at the end of our definitions of "discharge of dredged material" and "discharge of fill material" that plowing, seeding, cultivating and harvesting for the production of food, fiber, and forest products are not included in the Section 404 program.

The 1975 definition of "fill material" also excluded "material placed for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures." Since maintenance and emergency reconstruction of these types of fill often involve discharges into water, we do not have authority to exclude these activities from the permit requirements of the FWPCA. We have, therefore, eliminated this exclusion from our definition of "fill material". At the same time, we are issuing, today, a nationwide permit for discharges of dredged or fill material that involve maintenance and emergency reconstruction of existing fills. The nationwide permit contains basic common sense conditions and management practices which, if followed, will achieve the objectives of the FWPCA. Of course, if the maintenance or emergency reconstruction does not involve a discharge in water, no permit is required.

During the two years of experience with the Section 404 program, several industrial and municipal discharges of solid waste materials have been brought to our attention which technically fit within our definition of "fill material" but which were intended to be regulated under the NPDES program. These include the disposal of waste materials such as sludge, garbage, trash, and debris in water. In some cases involving the disposal of these types of material in water, the final result may be a landfill even though the primary purpose of the discharge is waste disposal.

The Corps and the Environmental Protection Agency feel that the initial decision relating to this type of discharge should be through the NPDES program. We have, therefore, modified our definition of fill material to exclude those pollutants that are discharged into water primarily to dispose of waste. We will process Section 404 permits for these types of activities to the extent that a levee or other type of containment structure must be placed in the water as part of the overall disposal plan. We will not, however, take any final action on the Section 404 permit application until a decision on the NPDES permit has been made (See 33 CFR 230.4(j)).

*Individual, general, and nationwide permits:* As we did in the regulation on our Section 10 program, we have included definitions of "individual", "general" and "nationwide" permits to distinguish between the three types of authorizations that will be used to satisfy the requirements of the FWPCA.

If a discharge requires an individual permit, an application must be made to the District Engineers following the procedures specified in 33 CFR Part 325 and the discharge cannot begin until and unless the permit is issued.

Before applying for an individual permit, however, a person needing a Section 404 permit should check to see whether the proposed discharge has already been permitted by a general permit, or a nationwide permit published in this regulation. District Engineers are issuing general permits for particular regions of the country that cover a wide variety of discharges that cause only minimal individual and cumulative adverse environmental impact. Nationwide permits apply throughout the country, and cover many types of minor activities. If a general or nationwide permit already covers your discharge, you should not have to get an individual permit to satisfy the requirements of the FWPCA.

*Nationwide Permits*

On May 16, 1977 we published proposed nationwide permits in the FEDERAL REGISTER to authorize discharges of dredged or fill material into certain waters of the United States and also certain specific categories of discharges. We received 163 letters commenting on these nationwide permits, the majority of which supported the concept but suggested additions, modifications and/or deletions to the activities covered and the conditions imposed.

Today, we are issuing nationwide permits for discharges into most of the Category 4 waters, discussed above, (isolated natural lakes larger than 10 acres are not included) and for certain specific categories of discharges into other waters. These nationwide permits are being incorporated into § 323.4.

We wish to take this opportunity to express our appreciation to everyone who commented on these nationwide permits. The following is a discussion of the substantive changes that were made as a result of your comments.





*Management practices.* The Environmental Protection Agency expressed concern over the potential for adverse cumulative effects that may be caused by some of the discharges that are subject to the nationwide permit. To minimize these potential effects, EPA suggested that we identify certain basic common sense management practices that should be followed, to the maximum extent possible, to minimize these potential adverse effects on the aquatic environment. We have adopted this suggestion. These management practices pertain to all discharges subject to these nationwide permits and are listed in § 323.4(b). We anticipate that compliance with these practices will avoid the potential for cumulative adverse water quality impacts that may be caused by these discharges.

We intend to remain aware of potential cumulative impacts that may occur on a regional basis as a result of these nationwide permits. If adverse cumulative impacts are anticipated from any of the discharges subject to these nationwide permits, we intend to take appropriate administrative action including the exercise of authority expressed in § 323.4–4 to require individual or general permits for these activities.

*Discharges prior to effective dates of phasing (§ 323.4–1).* The 1975 regulation authorized discharges of dredged or fill material that occurred before a particular phasing date. We have republished this authorization by including it in this nationwide permit. The conditions remain the same as were published in 1975.

*Discharges into certain waters of the United States (§ 323.4–2).* Many commenters expressed confusion over the types of waters that were covered by this nationwide permit, specifically with reference to those that are described in § 323.4–2(a)(4) as "non-tidal waters of the United States that are not part of a surface tributary system to interstate waters or navigable waters of the United States." We intended by this description to include those waters identified in "Category 4," above with the exception of isolated lakes larger than 10 acres. Thus, discharges of dredged or fill material into most of the "Category 4" waters are subject to this nationwide permit.

Numerous letters questioned whether wetlands adjacent to these "Category 4" waters were included as part of this nationwide permit. Discharges into these adjacent wetlands are included. Several environmental groups expressed concern over expanding the size limitations for natural lakes including prairie potholes to 10 acres, which they viewed as an apparent expansion from the present 5 acre lake "exclusion" contained in the Corps' 1975 regulations. As we have already indicated in our discussion on lakes above, the 5 acre standard, measured by surface area, was difficult to determine since, in many regions, the surface area of small lakes is subject to extreme seasonal variation. However, we have found that in most cases, the wetlands adjacent to these small natural lakes are more easily delineated and are relatively stable despite fluctuations in water levels. In order to simplify the identification of natural lakes described in § 323.4–2(a)(2) and (3) we adopted a standard for surface area measurement by including adjacent wetlands. Since these surrounding wetland areas are now included in the measurement, we increased the size limitation for lakes from 5 acres to 10 acres. Again, we emphasize that this size limitation is only used for determining whether an individual or general permit in lieu of this nationwide permit, is required.

We share the concern of the environmental groups that prairie potholes and many other isolated lakes are disappearing. The safeguards contained in the new management practices section of this permit, as well as the authority vested in the District Engineers to process individual or general permits where the concerns of the aquatic environment (as expressed in the EPA Guidelines) so require, will, we believe, adequately protect the broad range of water quality concerns and the public interest in "prairie potholes, small lakes, and other waters described by this section." Moreover, § 323.4–4 provides another safeguard through which EPA can bring concerns for water quality as expressed in the Section 404(b) Guidelines to the attention of the District Engineer.

Several commenters indicated that the third condition of this nationwide permit, dealing with erosion, was vague and overly broad. The condition has been changed to make our intent clear: the fill must be maintained in a manner to prevent erosion and other non-point sources of pollution.

EPA recommended that we include a condition that the discharge would not destroy members of a threatened or endangered species. We concur and this change has been made in this nationwide permit, as well as in the nationwide permit that authorizes discharges for certain types of activities. (See §§ 323.4–2(b)(1) and 323.4–3(b)(3).) We cannot agree to requests from industries to delete this condition altogether since Section (7) of the Endangered Species Act requires the Corps to protect threatened and endangered species in all waters subject to its regulatory jurisdiction.

We received a great number of comments from Resource Districts in opposition to the exception in our nationwide permits (§ 323.4–2(c)) for dams located above the headwaters which would be greater than 25 feet in height or 50 acre feet in impoundment capacity. As was pointed out, this exception would automatically require an individual permit for many dams above the headwaters which, in most cases, were exempt from individual permit requirements by the 1975 regulation. We are excluding this exception since we feel that our original reason for including it will now be satisfied by inclusion of the new management practices, discussed above. The deletion of § 323.4–2(3) means that any dam located above the headwater of a stream will be authorized by the nationwide permit unless the District Engineer applies his discretionary authority under § 323.4–4.

*Specific categories of discharges.* Comments on the types of activities and proposed conditions included in this portion of the nationwide permit ranged from environmental groups, who favored greater restrictions on permitted activities, to industry groups who proposed additional categories to be permitted to cover their particular activities. We feel that we have struck a reasonable balance between these concerns and requests through the addition of the management practices, discussed above. At the same time, we are committed to reviewing other classes and categories of discharges of dredged or fill material that may be, in the future, candidates for nationwide permits.

*Utility lines (§ 323.4–3(a)(1)).* This section has been amended to clarify that any excess material beyond that needed to restore the bottom contour to its preconstruction status must be removed to an upland disposal area. Such a requirement was envisioned in the proposed permit, but not clearly expressed. At the suggestion of EPA, we have explicitly stated this requirement to insure compliance and avoid misunderstanding.

Numerous commenters suggested further clarification on what was intended by the use of the term "utility line." We have defined the term to include any pipe or pipeline for the transportation of any gaseous, liquid, liquifiable, or slurry substance, and any cable, line, or wire for the transmission of energy, telephone, radio, or television communication.

Despite several suggestions for prenotification requirements and fill length and volume restrictions, we do not believe that these conditions are necessary. We feel, instead, that upland disposal of excess material and compliance with the management practices will limit any sedimentation or disruption of water flow in streams as a result of these activities.

*Bank stabilization (§ 323.4–3(a)(2)).* We have modified this category of discharge to make it clear that only *necessary* bank stabilization for erosion prevention is being permitted. While some suggested that we include a pre-notification requirement, we do not feel that this is necessary.

*Minor road crossing fills (§ 323.4–3(a)(3)).* This category of activity generated more specific comment than any other of the proposed nationwide permits. We have made certain changes to respond to these comments.

At the request of many commenters, we have removed the 30 day advance notification requirement for discharges between 100 and 200 cubic yards in quantity. We believe that this is impractical to administer and that the basic intent for the notification has been offset by the inclusion of management practices.

Our proposed nationwide permit provided that a crossing must be culverted or bridged to prevent the restriction of normal flow. In response to comments by



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EPA and environmental groups "normal" has been changed to "expected high flows." This change will provide more effective drainage and reduce erosion during expected flood stage levels.

Forest industry commenters were almost unanimous in their calls for deleting the 100 to 200 cubic yard reporting requirement (see above) and increasing both the 200 cubic yard fill limit and the 50 foot wetland width limitation. They indicated that many minor road crossings with little or no direct or cumulative environmental impact would not qualify under our proposed permit. Their main source of concern was the 50 foot limit on wetlands adjacent to the waterbody to be crossed. In reviewing the comments it became apparent that confining road crossing activities in adjacent wetlands to 50 feet on either side of the ordinary high water mark of the waterbody would result in excluding many small roadfills from this nationwide permit. On the other hand, others applauded our 50 foot limit and urged a reduction in the allowable level of fill. After carefully considering all comments on this permit we decided that the allowable wetland width to be crossed could be increased from 50 to 100 feet on either side of the stream as long as this allowance was applicable to non-tidal streams. In tidal waters, where adjacent wetlands are more dependent on frequent tidal flushing, and therefore circulation impairments from road fills are more damaging, we concluded that even the 50 foot wetland fill needed to be controlled through an individual or general permit. We, therefore, divided the road fill permit into tidal and non-tidal waters. For non-tidal waterbodies, we increased the adjacent wetland width from 50 to 100 feet. For tidal water crossings (Section 323.4–3(a)(4)) we included only the fill placed incidental to the construction of the bridge itself. Any approach fills or causeways associated with the crossings of tidal waters will require an individual or general Section 404 permit if located in waters of the United States.

One commenter expressed concern that no restriction had been placed on the total amount of fill above the ordinary high water mark, since this could lead to erosion on steep slopes between the ordinary high water mark and the road surface. The letter also feared that without a total fill limit, vast amounts of wetlands could be filled at right angles to the waterbody for roads or turn around areas. We share this commenter's concerns. However, we believe that adherence to the management practices suggested by EPA will minimize erosion and other non-profit sources of pollution. As for his second concern, it must be noted that § 323.4–3(a)(3) only permits minor road crossings and attendant features. It does not authorize general road building in wetlands above the ordinary high water mark. We will construe attendant features narrowly. Major activities appurtenant to the road crossing will not be permitted by this section. These require an individual or general permit issued pursuant to procedures in 33 CFR Part 325.

Many commenters expressed confusion over the 100/200 cubic yard measurement as it pertains to these roadfills. We intended to use that measurement to define the size of the crossing, and to use the ordinary high water mark to determine that size. Thus, up to 200 cubic yards of material can be discharged below the plane of ordinary high water of a waterbody under this nationwide permit, and additional cubic yards of material can be discharged into the 100 foot strip of adjacent wetlands, as necessary, to construct the road provided the conditions to protect those wetlands are satisfied. We have expressed this intent by including a definition of "minor road fill" in the nationwide permit.

*Repair, rehabilitation and replacement of existing fills* (§323.4–3(a)(4)). As we have previously indicated, the 1975 regulations excluded material placed for maintenance and emergency reconstruction of fills from the definition of "fill material." We have added this previously excluded activity to the list of those that are being permitted today by this nationwide permit.

EPA, Conservation Commissions, and environmental groups noted that the condition in subparagraph (f) that the discharge not disrupt the migration of indigenous aquatic life was not sufficient to safeguard the passage of nonmigratory aquatic life. The final nationwide permit condition reflects this concern by changing "migration" to "movement."

Subparagraph (6) has been amended to clarify its intent to control erosion and other non-points sources of pollution. This subparagraph is consistent with changes made in § 323.4–2(b)(3).

A new condition has been added at the request of the Department of the Interior to exclude components of National and State wild and scenic river systems (established pursuant to the Wild and Scenic Rivers Act) from the nationwide permit programs (§§ 323.4–2(b)(4) and 323.4–3(b)(7)).

*Discretionary authority to require individual or general permits* (§ 323.4–4). Comments received from industry groups suggested that this section was superfluous since by definition any activity performed in accordance with the conditions in §§ 323.4–2 or 323.4–3 would have minimum adverse water quality impact and would not trigger EPA Guideline concerns. On the other hand other commenters suggested more stringent controls over erosion, water quality, chemical use, restoration of abandoned projects and wildlife protection. In order to make our regulatory program work, we are relying on decentralization and our flexibility to respond to local conditions. Moreover, if we overburden this nationwide permit with specific conditions, its intent and usefulness is reduced. On the other hand, we realize that local conditions may be such that special restrictions are required for activities otherwise acceptable in most areas and certain waters of the United States otherwise covered by a nationwide permit require special restrictions. We believe the most efficient means to do this is to grant our District Engineers the authority to require individual or general permits, as needed, to respond to these local conditions. To this end we invite the help of private groups, citizens, and Federal and State agencies to help our District Engineers respond to these localized concerns.

All Federal agencies that commented expressed support for the concept of nationwide permits, as did 81% of the public comment letters. We believe these new nationwide permits represent a major step forward in reducing unnecessary reviews and delay associated with regulation of minor discharges of dredged or fill material into waters of the United States.

An environmental assessment and a Findings of Fact have been prepared for these nationwide permits as well as for the Section 10 nationwide permits and are available for review in the Office, Chief of Engineers, Forrestal Building, Room 5F–036, Washington, D.C. 20314.

PART 324

This Part prescribes the special policies and procedures that will be used to evaluate applications for permits to transport dredged material for purposes of dumping in ocean waters pursuant to Section 103 of the Ocean Dumping Act. These policies and procedures must also be read in conjunction with the applicable general policies of Part 320 and general procedures of 325. If you need a permit to dump dredged material in the oceans, you should also refer to Part 322 since a permit will be required under Section 10 of the 1899 Act to dredge in navigable waters of the United States.

Part 324 corresponds to Sections (d)(3), (e)(3), and (g)(17) of rescinded 33 CFR 209.120.

We have adopted the definitions of "oceans waters", "dredged material", and "transport" as used by the Ocean Dumping Act.

In accordance with recent revisions to EPA criteria for the evaluation of the ocean dumping of dredged material, we have included requirements for additional specific information that must be included as part of a public notice for a proposed ocean dumping of dregded material. We have also specifically included the requirement that District Engineers consider the availability of land based alternatives during the evaluation of applications for ocean dumping permits. (See also § 320.4(a)(2)).

Procedures have also been included in this Part for those cases in which EPA objects to the proposed dumping of dregded material in ocean waters as being inconsistent with the EPA criteria. (See § 324.4(c)–(e)).

PART 325

This Part describes the procedures for processing all applications for Department of the Army permits, and for modifying or revoking permits that have been issued. It corresponds to and supersedes paragraphs (h) through (s) of rescinded 33 CFR 209.120. The following is a summary of the major changes:

The material was reorganized for clarity. For example, public notice and environment impact statement (EIS) procedures, which were discussed in a number of different places in the rescinded regulation, were consolidated into single paragraphs.

The EIS procedures were revised to allow for a public hearing at completion of the draft EIS rather than the proposed final EIS; to require a public notice of the final EIS filing; and to provide for transmittal of the District Engineer's report to higher authority for decision, if required, after completion of the 30 day comment period on the final EIS (§ 325.4).

Permit file documentation requirements have been clarified. The District Engineer must prepare an impact assessment document (either an environmental assessment or an EIS) for each application and a decision document (either a Findings of Fact or, if the case is sent forward for decision, his report on the application) (§ 325.2(a)).

District Engineers have been delegated expanded authority to deny permits, including those which he determines are not in the public interest. (Their previous denial authority was limited to navigational conflicts and denial of a related state or local certification or authorization.) District Engineers have also been given the authority to issue most permits found to be in the public interest over unresolved objections of another Federal agency if that agency indicates that it does not desire to refer the application to a higher level of authority for review. (§ 325.8(b)).

Litigation potential and objection from a member of Congress have been deleted as reasons for automatically having to refer an application to the Chief of Engineers for decision. (§ 325.8(d)).

Procedures relating to the Coastal Zone Management Act have been made compatible with new regulations of the National Oceanic and Atmospheric Administration to be published as 15 CFR 930 (§ 325.2(b)(2)).

PART 326

This Part prescribes the policies and procedures that will be used by the Corps in the enforcement of the requirements of the River and Harbor Act of 1899, the FWPCA, and the Ocean Dumping Act. The Part corresponds to rescinded 33 CFR 209.120(g)(12), and is generally a restatement of the provisions in that rescinded section.

We have made several additions and clarifications to this enforcement regulation. On August 22, 1975, the Chief of Engineers delegated authority to District Engineers to refer certain types of cases involving unauthorized activities directly to the local U.S. Attorney. This delegation included the following types of cases: (1) All unauthorized structures or work falling exclusively within the scope of Section 10 of the 1899 Act for which a criminal fine or penalty under Section 12 of that Act is considered appropriate; (2) all civil actions involving small unauthorized structures, such as piers, which require restoration or modification by judicial order because efforts to secure voluntary compliance have failed; (3) all violations of Section 301 of the FWPCA involving unauthorized discharges of dredged or fill material into waters of the United States, unless the case involves a substantial question of law or fact, or a request for substantial restoration; and (4) all cases for which a temporary restraining order and/or preliminary injunction is appropriate following non-compliance with a cease and desist order issued by the District Engineer.

We have restated this delegation of authority in this regulation, as well as certain basic policy guidance (also previously included in the August, 1975 delegation) for use by the District Engineer in determining whether civil and/or criminal action is appropriate. We have also incorporated the policies and procedures expressed in a Memorandum, dated June 1, 1976, entitled "EPA Enforcement Policy for Noncompliance with Section 404 of the FWPCA", which was signed by the Assistant Administrator for Enforcement of EPA and concurred in by the Assistant Attorney General and the Chief Counsel of the Corps of Engineers.

Authority to refer certain types of cases directly to the local U.S. Attorney has not been delegated to the District Engineer either because of the extreme seriousness of the case or because the law on the particular type of case has not developed to the point to which Departmental level attention is no longer required.

We intend to propose revisions to this regulation in the near future that will provide further policy and procedural guidance and that will incorporate other enforcement authorities.

PART 327

This Part prescribes the policies and procedures to be followed by the Corps in the conduct of public hearings. A public hearing may become necessary in the evaluation of an application for a Department of the Army permit. The Part restates the policies and procedures that were prescribed in rescinded 33 CFR 209.133.

PART 328

This Part prescribes the policies and procedures used in the establishment of harborlines pursuant to Section 11 of the River and Harbor Act of 1899 (33 U.S.C. 404). As previously indicated, harborlines are only used as guidance to the District Engineer concerning the impact that a particular activity may have on navigation. Activities occurring landward of established harborlines must still have permits under Sections 9 or 10 of the 1899 Act, and may also require permits under Section 404 of the FWPCA and Section 103 of the Ocean Dumping Act. This part restates the policies and procedures expressed in rescinded 33 CFR 209.150.

PART 329

This Part corresponds to rescinded 33 CFR 209.260 and provides the administrative definition of the term "navigable waters of the United States" as used throughout Parts 320–325.

Two changes have been made to this regulation. First, pursuant to the decision of *United States* v. *Stoeco Homes, Inc.*, 498 F.2d 597, (3rd Cir., 1974), *cert. den.*; 420 U.S. 927 (1975), we have included artificial waters subject to tidal action within our administrative definition of navigable waters of the United States. Second, we have delegated authority to Division Engineers to make determinations of navigability. (Previously, this authority existed with the Chief of Engineers.) Accordingly, 33 CFR 209.120, 209.125, 209.131, 209.133, 209.150 and 209.260 are revoked and reserved and 33 CFR 320 through 329 are added as set forth below.

NOTE.—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

(33 U.S.C. 401; 33 U.S.C. 403; 33 U.S.C. 1344; 33 U.S.C. 1413.)

Dated: July 13, 1977.

DRAKE WILSON,
*Brigadier General, USA,*
*Deputy Director of Civil Works.*

Chapter II of 33 CFR is amended as follows:

## PART 209—ADMINISTRATIVE PROCEDURES

**§§ 209.120, 209.125, 209.131, 209.133, 209.150, and 209.260 [Reserved]**

1. The above sections are revoked and reserved.

2. The following parts 320 through 329 are added:

## PART 320—GENERAL REGULATORY POLICIES

Sec.
320.1 Purpose and scope.
320.2 Authorities to issue permits.
320.3 Related legislation.
320.4 General policies for evaluating permit applications.

AUTHORITY: 33 U.S.C. 401 et seq.; 33 U.S.C. 1344; 33 U.S.C. 1413.

### § 320.1 Purpose and scope.

(a) *Types of activities regulated.* This regulation and the regulations that follow (33 CFR 321–329) prescribe the statutory authorities, and general and special policies and procedures applicable to the review of applications for Department of the Army permits for various types of activities that occur in waters of the United States or the oceans. This part identifies the various Federal statutes that require Department of the Army permits before these activities can be lawfully undertaken; the related Federal legislation applicable to the review of each activity that requires a Department of the Army permit; and the general policies that are applicable







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to the review of all activities that require Department of the Army permits. Parts 321–324 address the various types of activities that require Department of the Army permits, including special policies and procedures applicable to those activities, as follows:

(1) Dams or dikes in navigable waters of the United States (Part 321);

(2) All other structures or work including excavation, dredging, and/or disposal activities, in navigable waters of the United States (Part 322);

(3) All activities that alter or modify the course, condition, location, or capacity of a navigable water of the United States (Part 322);

(4) Construction of fixed structures and artificial islands on the outer continental shelf (Part 322);

(5) All discharges of dredged or fill material into the waters of the United States (Part 323); and

(6) All activities involving the transportation of dredged material for the purpose of dumping it in ocean waters (Part 324).

(b) *Forms of authorization.* Department of the Army permits for the above described activities are issued under various forms of authorization. These include individual permits; letters of permission that are issued following a review of an individual application for a Department of the Army permit; general permits that authorize the performance of a category or categories of activities in a specific geographical region after it is determined that these activities will cause only a minimal individual and cumulative adverse environmental impact; and nationwide permits that authorize the performance of certain specified activities throughout the Nation. The nationwide permits are found in 33 CFR 322.4 and 323.4. If an activity is covered by a general or nationwide permit, an application for a Department of the Army permit does not have to be made. In such cases, a person must only comply with the conditions contained in the general or nationwide permit to satisfy the requirements of law.

(c) *General instructions.* The procedures for processing all letters of permission, individual permits, and general permits are contained in 33 CFR 325. However, before reviewing those procedures, a person desiring to perform any activity that requires a Department of the Army permit is advised to review the general and special policies that relate to the particular activity as outlined in this Part 320 and Parts 321 through 324. The terms "navigable waters of the United States" and "waters of the United States" are used frequently throughout these regulations, and it is important that the reader understand the difference from the outset. "Navigable waters of the United States" are defined in 33 CFR 329. These are the traditional waters where permits are required for work or structures pursuant to sections 9 and 10 of the River and Harbor Act of 1899. "Waters of the United States" are defined in 33 CFR 323.2(a). These waters include more than navigable waters of the United States and are the waters where permits are required for the discharge of dredged or fill material pursuant to section 404 of the Federal Water Pollution Control Act Amendments of 1972.

**§ 320.2 Authorities to issue permits.**

(a) Section 9 of the River and Harbor Act approved March 3, 1899 (30 Stat. 1151; 33 USC 401) (hereinafter referred to as Section 9) prohibits the construction of any dam or dike across any navigable water of the United States in the absence of Congressional consent and approval of the plans by the Chief of Engineers and the Secretary of the Army. Where the navigable portions of the waterbody lie wholly within the limits of a single State, the structure may be built under authority of the legislature of that State, if the location and plans or any modification thereof, are approved by the Chief of Engineers and by the Secretary of the Army. The instrument of authorization is designated a permit. Section 9 also pertains to bridges and causeways but the authority of the Secretary of the Army and Chief of Engineers with respect to bridges and causeways was transferred to the Secretary of Transportation under the Department of Transportation Act of October 15, 1966 (80 Stat. 941, 49 USC 1155g (6)(A)). See also 33 CFR Part 321. A Department of the Army authorization is required for the discharge of dredged or fill material into waters of the United States associated with bridges and causeways pursuant to Section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 USC 1344). See CFR Part 323.

(b) Section 10 of the River and Harbor Act approved March 3, 1899 (30 Stat. 1151; 33 USC 403) (hereinafter referred to as Section 10) prohibits the unauthorized obstruction or alteration of any navigable water of the United States. The construction of any structure in or over any navigable water of the United States, the excavation from or depositing of material in such waters, or the accomplishment of any other work affecting the course, location, condition, or capacity of such waters is unlawful unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of the Army. The instrument of authorization is designated a permit, general permit, or letter of permission. The authority of the Secretary of the Army to prevent obstructions to navigation in the navigable waters of the United States was extended to artificial islands and fixed structures located on the outer continental shelf by Section 4(f) of the Outer Continental Shelf Lands Act of 1953 (67 Stat. 463; 43 U.S.C. 1333(f)). See also 33 CFR Part 322.

(c) Section 11 of the River and Harbor Act approved March 3, 1899 (30 Stat. 1151; 33 U.S.C. 404) authorizes the Secretary of the Army to establish harbor lines channelward of which no piers, wharves, bulkheads or other works may be extended or deposits made without approval of the Secretary of the Army. By policy stated in 33 CFR 328, effective May 27, 1970, harbor lines are guidelines only for defining the offshore limits of structures and fills insofar as they impact on navigation interests. Permits for work shoreward of those lines must be obtained in accordance with Section 10 and, if applicable, Section 404.

(d) Section 13 of the River and Harbor Act approved March 3, 1899 (30 Stat. 1152; 33 U.S.C. 407) provides that the Secretary of the Army, whenever the Chief of Engineers determines that anchorage and navigation will not be injured thereby, may permit the discharge of refuse into navigable waters. In the absence of a permit, such discharge of refuse is prohibited. While the prohibition of this section, known as the Refuse Act, is still in effect, the permit authority of the Secretary of the Army has been superseded by the permit authority provided the Administrator, Environmental Protection Agency, and the States under Sections 402 and 405 of the Federal Water Pollution Control Act Amendments of 1972 (PL 92–500, 86 Stat. 816, 33 U.S.C. 1342 and 1345). See 40 CFR Parts 124 and 125.

(e) Section 14 of the River and Harbor Act approved March 3, 1899 (30 Stat. 1152; 33 U.S.C. 408) provides that the Secretary of the Army on the recommendation of the Chief of Engineers may grant permission for the temporary occupation or use of any sea wall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the United States. This permission will be granted by an appropriate real estate instrument in accordance with existing real estate regulations.

(f) Section 1 of the River and Harbor Act of June 13, 1902 (32 Stat. 371; 33 U.S.C. 565) allows any persons or corporations desiring to improve any navigable river at their own expense and risk to do so upon the approval of the plans and specifications by the Secretary of the Army and the Chief of Engineers. Improvements constructed under this authority, which are primarily in Federal project areas, remain subject to the control and supervision of the Secretary of the Army and the Chief of Engineers.

(g) Section 404 of the Federal Water Pollution Control Act Amendments of 1972 (PL 92–500, 86 Stat. 816, 33 U.S.C. 1344) (hereinafter referred to as Section 404) authorizes the Secretary of the Army, acting through the Chief of Engineers, to issue permits, after notice and opportunity for public hearings, for the discharge of dredged or fill material into the waters of the United States at specified disposal sites. See 33 CFR 323. The selection and use of disposal sites will be in accordance with guidelines developed by the Administrator of the Environmental Protection Agency (EPA) in conjunction with the Secretary of the Army, published in 40 CFR Part 230. If these guidelines prohibit the selection or use of a disposal site, the Chief of Engineers may consider the economic impact on navigation of such a prohibition in reaching his decision. Furthermore, the Administrator can prohibit or restrict the use of any defined area as a disposal site whenever he determines, after notice and opportunity for public hearings and after consultation with the Secretary of the Army, that the discharge of such materials into such areas will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas, wildlife, or recreational areas.

(h) Section 103 of the Marine Protection, Research and Sancturaries Act of 1972, as amended (PL 92–532, 86 Stat. 1052, 33 U.S.C. 1413) (hereinafter referred to as Section 103) authorizes the Secretary of the Army, acting through the Chief of Engineers, to issue permits, after notice and opportunity for public hearings, for the transportation of dredged material for the purpose of dumping it in ocean waters where it is determined that the dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological system, or economic potentialities. The selection of disposal sites will be in accordance with criteria, developed by the Administrator of the EPA in consultation with the Secretary of the Army, published in 40 CFR Parts 220–229. However, similar to the EPA Administrator's limiting authority cited in subparagraph (g), above, the Administrator can prevent the issuance of a permit under this authority if he finds that the dumping of the material will result in an unacceptable adverse impact on municipal water supplies, shellfish beds, wildlife, fisheries or recreational areas. See also 33 CFR Part 324.

**§ 320.3 Related legislation.**

(a) Section 401 of the Federal Water Pollution Control Act Amendments of 1972 (PL 92–500; 86 Stat. 816, 33 U.S.C. 1341) requires any non-Federal applicant for a Federal license or permit to conduct any activity that may result in a discharge of a pollutant into waters of the United States to obtain a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the affected waters at the point where the discharge originates or will originate, that the discharge will comply with the applicable effluent limitations and water quality standards. A certification obtained for the construction of any facility must also pertain to the subsequent operation of the facility.

(b) Section 307(c) of the Coastal Zone Management Act of 1972, as amended (PL 94–370, 90 Stat. 1013, 16 U.S.C. 1456(c)) requires Federal agencies conducting activities, including development projects, directly affecting a State's coastal zone, to comply, to the maximum extent practicable, with an approved State coastal zone management program. It also requires any non-Federal applicant for a Federal license or permit to conduct an activity affecting land or water uses in the State's coastal zone to furnish a certification that the proposed activity will comply with the State's coastal zone management program. Generally, no permit will be issued until the State has concurred with the non-Federal applicant's certification. This provision becomes effective upon approval by the Secretary of Commerce of the State's coastal zone management program. See also 15 CFR Part 930.

(c) Section 302 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, (PL 92–532, 86 Stat. 1052, 16 U.S.C. 1432) authorizes the Secretary of Commerce, after consultation with other interested Federal agencies and with the approval of the President, to designate as marine sanctuaries those areas of the ocean waters or of the Great Lakes and their connecting waters or of other coastal waters which he determines necessary for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or aesthetic values. After designating such an area, the Secretary of Commerce shall issue regulations to control any activities within the area. Activities in the sanctuary authorized under other authorities are valid only if the Secretary of Commerce certifies that the activities are consistent with the purposes of Title III of the Act and can be carried out within the regulations for the sanctuary.

(d) The National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) declares the national policy to encourage a productive and enjoyable harmony between man and his environment. Section 102 of that Act directs that "to the fullest extent possible: (1) The policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall * * * insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision making along with economic and technical considerations * * *". See also 33 CFR Part 325 and 33 CFR 209.410.

(e) The Fish and Wildlife Act of 1956 (16 U.S.C. 742a, et seq.), the Migratory Marine Game-Fish Act (16 U.S.C. 760c–760g) and the Fish and Wildlife Coordination Act (16 U.S.C. 661–666c) and other acts express the concern of Congress with the quality of the aquatic environment as it affects the conservation, improvement and enjoyment of fish and wildlife resources. Reorganization Plan No. 4 of 1970 transferred certain functions, including certain fish and wildlife-water resources coordination responsibilities, from the Secretary of the Interior to the Secretary of Commerce. Under the Fish and Wildlife Coordination Act and Reorganization Plan No. 4, any Federal agency that proposes to control or modify any body of water must first consult with the United States Fish and Wildlife Service, the National Marine Fisheries Service, as appropriate, and with the head of the appropriate State agency exercising administration over the wildlife resources of the affected State.

(f) The Federal Power Act of 1920 (41 Stat. 1063; 16 U.S.C. 791a et seq.), as amended, authorizes the Federal Power Commission (FPC) to issue licenses for the construction, operation and maintenance of dams, water conduits, reservoirs, power houses, transmission lines, and other physical structures of a power project. However, where such structures will affect the navigable capacity of any navigable waters of the United States (as defined in 16 U.S.C. 796), the plans for the dam or other physical structures affecting navigation must be approved by the Chief of Engineers and the Secretary of the Army. In such cases, the interests of navigation should normally be protected by a recommendation to the FPC for the inclusion of appropriate provisions in the FPC license rather than the issuance of a separate Department of the Army permit under 33 U.S.C. 401 et seq. As to any other activities in navigable waters not constituting construction, operation and maintenance of physical structures licensed by the FPC under the Federal Power Act of 1920, as amended, the provisions of 33 U.S.C. 401 et seq. remain fully applicable. In all cases involving the discharge of dredged or fill material into waters of the United States or the transportation of dredged material for the purpose of dumping in ocean waters, Section 404 or Section 103 will be applicable.

(g) The National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470) created the Advisory Council on Historic Preservation to advise the President and Congress on matters involving historic preservation. In performing its function the Council is authorized to review and comment upon activities licensed by the Federal Government which will have an effect upon properties listed in the National Register of Historic Places, or eligible for listing. The concern of Congress for the preservation of significant historical sites is also expressed in the Preservation of Historical and Archeological Data Act of 1974 (16 U.S.C. 469 et seq.), which amends the Act of June 27, 1960. By this Act, whenever a Federal construction project or Federally licensed project, activity or program alters any terrain such that significant historical or acheological data is threatened, the Secretary of the Interior may take action necessary to recover and preserve the data prior to the commencement of the project. See also 33 CFR Part 305.

(h) The Interstate Land Sales Full Disclosure Act (15 USC 1701 et seq.) prohibits any developer or agent from selling or leasing any lot in a subdivision (as defined in 15 USC 1701(3)) unless the purchaser is furnished in advance a printed property report containing information which the Secretary of Housing and Urban Development may, by rules or regulations, require for the protection of purchasers. In the event the lot in question is part of a project that requires Department of the Army authorization, the Property Report is required by Housing and Urban Development regulation to state whether or not







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a permit has been applied for, issued, or denied by the Corps of Engineers for the development under Section 10 or Section 404. The Property Report is also required to state whether or not any enforcement action has been taken as a consequence of non-application for or denial of such permit.

(i) The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) declares the intention of the Congress to conserve threatened and endangered species and the ecosystems on which those species depend. The Act provides that Federal agencies must utilize their authorities in furtherance of its purposes by carrying out programs for the conservation of endangered or threatened species, and by taking such action necessary to insure that any action authorized by that Agency will not jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretaries of Interior or Commerce, as appropriate, to be critical. See also 50 CFR Part 17.

(j) The Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.) prohibits the ownership, construction, or operation of a deepwater port beyond the territorial seas without a license issued by the Secretary of Transportation. The Secretary of Transportation may issue such a license to an applicant if he determines, among other things, that the construction and operation of the deepwater port is in the national interest and consistent with national security and other national policy goals and objectives. An application for a deepwater port license constitutes an application for all Federal authorizations required for the ownership, construction, and operation of a deepwater port, including applications for Section 10, Section 404 and Section 103 permits which must also be issued by the Department of the Army pursuant to the authorities listed in § 320.2. The Secretary of Transportation must obtain the views and recommendations of all Federal agencies having jurisdiction over any aspect of the deepwater port construction and operation prior to issuing a license.

(k) The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) expresses the intent of Congress that marine mammals be protected and encouraged to develop in order to maintain the health and stability of the marine ecosystem. The Act imposes a perpetual moratorium on the harassment, hunting, capturing, or killing of marine mammals and on the importation of marine mammals and marine mammal products without a permit from either the Secretary of the Interior or the Secretary of Commerce, depending upon the species of marine mammal involved. Such permits may be issued only for purposes of scientific research and for public display if the purpose is consistent with the policies of the Act. The appropriate Secretary is also empowered in certain restricted circumstances to waive the requirements of the Act.

(l) Section 7(a) of the Wild and Scenic Rivers Act (82 Stat. 906, 16 U.S.C. 1278 et seq.) provides that no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. No department or agency of the United States shall recommend authorizing of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration, or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior or the Secretary of Agriculture, as the case may be, in writing of its intention so to do at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this Act and would affect the component and the values to be protected by it under this Act.

(m) Section 6(f) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897, 16 USC 460 *l*–4, *et seq.*) provides that no property acquired or developed with assistance from the Land and Water Conservation Fund shall, without the approval of the Secretary of the Interior, be converted to other than public outdoor recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location.

### § 320.4 General policies for evaluating permit applications.

The following policies shall be applicable to the review of all applications for Department of the Army permits. Additional policies specifically applicable to certain types of activities are identified in Parts 321–324 of this chapter.

(a) *Public interest review.* (1) The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity and its intended use on the public interest. Evaluation of the probable impact which the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process (e.g., see 33 CFR 209.400, Guidelines for Assessment of Economic, Social and Environmental Effects of Civil Works Projects). That decision should reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered; among those are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and, in general, the needs and welfare of the people. No permit will be granted unless its issuance is found to be in the public interest.

(2) The following general criteria will be considered in the evaluation of every application:

(i) the relative extent of the public and private need for the proposed structure or work;

(ii) the desirability of using appropriate alternative locations and methods to accomplish the objective of the proposed structure or work;

(iii) the extent and permanence of the beneficial and/or detrimental effects which the proposed structure or work may have on the public and private uses to which the area is suited; and

(iv) the probable impact of each proposal in relation to the cumulative effect created by other existing and anticipated structures or work in the general area.

(b) *Effect on wetlands.* (1) Wetlands are vital areas that constitute a productive and valuable public resource, the unnecessary alteration or destruction of which should be discouraged as contrary to the public interest.

(2) Wetlands considered to perform functions important to the public interest include:

(i) Wetlands which serve important natural biological functions, including food chain production, general habitat, and nesting, spawning, rearing and resting sites for aquatic or land species;

(ii) Wetlands set aside for study of the aquatic environment or as sanctuaries or refuges;

(iii) Wetlands the destruction or alteration of which would affect detrimentally natural drainage characteristics, sedimentation patterns, salinity distribution, flushing characteristics, current patterns, or other environmental characteristics;

(iv) Wetlands which are significant in shielding other areas from wave action, erosion, or storm damage. Such wetlands are often associated with barrier beaches, islands, reefs and bars;

(v) Wetlands which serve as valuable storage areas for storm and flood waters;

(vi) Wetlands which are prime natural recharge areas. Prime recharge areas are locations where surface and ground water are directly interconnected; and

(vii) Wetlands through natural water filtration processes serve to purify water.

(3) Although a particular alteration of wetlands may constitute a minor change, the cumulative effect of numerous such piecemeal changes often results in a major impairment of the wetland resources. Thus, the particular wetland site for which an application is made will be evaluated with the recognition that it is part of a complete and interrelated wetland area. In addition, the District Engineer may undertake reviews of particular wetland areas in consultation with the appropriate Regional Director of the Fish and Wildlife Service, the Regional Director of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, the Regional Administrator of the Environmental Protection Agency, the local representative of the Soil Conservation Service of the Department of Agriculture, and the head of the appropriate State agency to assess the cumulative effect of activities in such areas.

(4) No permit will be granted to work in wetlands identified as important by subparagraph (2), above, unless the District Engineer concludes, on the basis of the analysis required in paragraph (a), above, that the benefits of the proposed alteration outweigh the damage to the wetlands resource and the proposed alteration is necessary to realize those benefits. In evaluating whether a particular alteration is necessary, the District Engineer shall consider whether the proposed activity is primarily dependent on being located in, or in close proximity to the aquatic environment and whether feasible alternative sites are available. The applicant must provide sufficient information on the need to locate the proposed activity in the wetland and must provide data on the basis of which the availability of feasible alternative sites can be evaluated.

(5) In addition to the policies expressed in this subpart the Congressional policy expressed in the Estuary Protection Act, PL 90–454, and State regulatory laws or programs for classification and protection of wetlands will be given great weight.

(c) *Fish and wildlife.* In accordance with the Fish and Wildlife Coordination Act (§ 320.3(e) above) Corps of Engineers officials will consult with the Regional Director, U.S. Fish and Wildlife Service, the Regional Director, National Marine Fisheries Service, and the head of the agency responsible for fish and wildlife for the State in which the work is to be performed, with a view to the conservation of wildlife resources by prevention of their direct and indirect loss and damage due to the activity proposed in a permit application. They will give great weight to these views on fish and wildlife considerations in evaluating the application. The applicant will be urged to modify his proposal to eliminate or mitigate any damage to such resources, and in appropriate cases the permit may be conditioned to accomplish this purpose.

(d) *Water quality.* Applications for permits for activities which may affect the quality of a water of the United States will be evaluated for compliance with applicable effluent limitations, water quality standards, and management practices during the construction, operation, and maintenance of the proposed activity. Certification of compliance with applicable effluent limitations and water quality standards required under provisions of Section 401 of the Federal Water Pollution Control Act will be considered conclusive with respect to water quality considerations unless the Regional Administrator, Environmental Protection Agency (EPA), advises of other water quality aspects to be taken into consideration. Any permit issued may be conditioned to implement water quality protection measures.

(e) *Historic, scenic, and recreational values.* (1) Applications for permits covered by this regulation may involve areas which possess recognized historic, cultural, scenic, conservation, recreational or similar values. Full evaluation of the general public interest requires that due consideration be given to the effect which the proposed structure or activity may have on the enhancement, preservation, or development of such values. Recognition of those values is often reflected by State, regional, or local land use classifications, or by similar Federal controls or policies. In both cases, action on permit applications should, insofar as possible, be consistent with, and avoid adverse effect on, the values or purposes for which those classifications, controls, or policies were established.

(2) Specific application of the policy in subparagraph (1) above, applies to:

(i) Rivers named in Section 3 of the Wild and Scenic Rivers Act (82 Stat. 906, 16 U.S.C. 1273 et seq.); those proposed for inclusion as provided by Sections 4 and 5 of the Act, or by later legislation; and wild, scenic, and recreational rivers established by State and local entities;

(ii) Historic, cultural, or archeological sites or practices as provided in the National Historic Preservation Act of 1966 (83 Stat. 852, 42 U.S.C. 4321 et seq.) (see also Executive Order 11593, May 13, 1971, and Statutes there cited). Particular attention should be directed toward any district, site, building, structure, or object listed or eligible for listing in the National Register of Historic Places;

(iii) Sites included in or determined eligible for listing in the National Registry of Natural Landmarks which are published periodically in the FEDERAL REGISTER;

(iv) Sites acquired or developed with the assistance of the Land and Water Conservation Fund (78 Stat. 897, 16 U.S.C. 460, 1–4, et seq.) or the Recreational Demonstrations Projects Act of 1942 (PL 77–594, 56 Stat. 326) and other public parks and recreation areas; and

(v) Any other areas named in Acts of Congress or Presidential Proclamations as National Rivers, National Wilderness Areas, National Seashores, National Recreation Areas, National Lakeshores, National Parks, National Monuments, and such areas as may be established under Federal law for similar and related purposes, such as estuarine and marine sanctuaries.

(f) *Effect on limits of the territorial sea.* Structures or work affecting coastal waters may modify the coast line or base line from which the three mile belt is measured for purposes of the Submerged Lands Act and International Law. Generally, the coast line or base line is the line of ordinary low water on the mainland; however, there are exceptions where there are islands or lowtide elevations offshore. (The Submerged Lands Act, 67 Stat. 29, U.S. Code Section 1301(c), and United States vs. California, 381 U.S. 139 (1965), 382 U.S. 448 (1966).) All applications for structures or work affecting coastal waters will therefore be reviewed specifically to determine whether the coast line or base line might be altered. If it is determined that such a change might occur, coordination with the Attorney General and the Solicitor of the Department of the Interior is required before final action is taken. The District Engineer will submit a description of the proposed work and a copy of the plans to the Solicitor, Department of the Interior, Washington, D.C. 20240, and request his comments concerning the effects of the proposed work on the outer continental rights of the United States. These comments will be included in the file of the application. After completion of standard processing procedures, the file will be forwarded to the Chief of Engineers. The decision on the application will be made by the Secretary of the Army after coordination with the Attorney General.

(g) *Interference with adjacent properties or water resource projects.* Authorization of work or structures by the Department of the Army does not convey a property right, nor authorize any injury to property or invasion of other rights.

(1) Because a landowner has the general right to protect his property from erosion, applications to erect protective structures will usually receive favorable consideration. However, if the protective structure may cause damage to the property of others, the District Engineer will so advise the applicant and inform him of possible alternative methods of protecting his property. Such advice will be given in terms of general guidance only so as not to compete with private engineering firms nor require undue use of government resources. A significant probability of resulting damage to nearby properties can be a basis for denial of an application.

(2) A landowner's general right of access to navigable waters of the United States is subject to the similar rights of access held by nearby landowners and to the general public's right of navigation on the water surface. Proposals which create undue interference with access to, or use of, navigable waters will generally not receive favorable consideration.

(3) Where it is found that the work for which a permit is desired is in navigable waters of the United States (see 33 CFR Part 329) and may interfere with an authorized Federal project, the applicant should be apprised in writing







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of the fact and of the possibility that a Federal project which may be constructed in the vicinity of the proposed work might necessitate its removal or reconstruction. The applicant should also be informed that the United States will in no case be liable for any damage or injury to the structures or work authorized by Sections 9 or 10 of the River and Harbor Act of 1899 (see 33 CFR Parts 321 and 322) which may be caused by or result from future operations undertaken by the Government for the conservation or improvement of navigation, or for other purposes, and no claims or right to compensation will accrue from any such damage.

(4) Proposed activities which are in the area of a Federal project which exists or is under construction will be evaluated to insure that they are compatible with the purposes of the project.

(h) *Activities affecting coastal zones.* Applications for Department of the Army permits for activities affecting the coastal zones of those States having a coastal zone management program approved by the Secretary of Commerce will be evaluated with respect to compliance with that program. No permit will be issued to a non-Federal applicant until certification has been provided that the proposed activity complies with the coastal zone management program and the appropriate State agency has concurred with the certification or has waived its right to do so. However, a permit may be issued to a non-Federal applicant if the Secretary of Commerce, on his own initiative or upon appeal by the applicant, finds that the proposed activity is consistent with the objectives of the Coastal Zone Management Act of 1972 or is otherwise necessary in the interest of national security. Federal agency applicants for Department of the Army permits are responsible for complying with the Coastal Zone Management Act's directives for assuring that their activities directly affecting the coastal zone are consistent, to the maximum extent practicable, with approved State coastal zone management programs.

(i) *Activities in marine sanctuaries.* Applications for Department of the Army authorization for activities in a marine sanctuary established by the Secretary of Commerce under authority of Section 302 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, will be evaluated for impact on the marine sanctuary. No permit will be issued until the applicant provides a certification from the Secretary of Commerce that the proposed activity is consistent with the purposes of Title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, and can be carried out within the regulations promulgated by the Secretary of Commerce to control activities within the marine sanctuary. Authorizations so issued will contain such special conditions as may be required by the Secretary of Commerce in connection with his certification.

(j) *Other Federal, state, or local requirements.* (1) Processing of an application for a Department of the Army permit normally will proceed concurrently with the processing of other required Federal, State, and/or local authorizations or certification. Where the required Federal State and/or local certification and/or authorization has been denied, the application for a Department of the Army permit will be denied without prejudice to the right of the applicant to reinstate processing of his application if subsequent approval is received from the appropriate Federal, State and/or local agency. Even if official certification and/or authorization is not required by State or Federal law, but a State, regional, or local agency having jurisdiction or interest over the particular activity comments on the application, due consideration shall be given to those official views as a reflection of local factors of the public interest.

(2) Where officially adopted State, regional, or local land-use classifications, determinations, or policies are applicable to the land or water areas under consideration, they shall be presumed to reflect local factors of the public interest and shall be considered in addition with the other national factors of the public interest identified in § 320.4(a).

(3) A proposed activity may result in conflicting comments from several agencies within the same State. While many States have designated a single State agency or individual to provide a single and coordinated State position regarding pending permit applications, where a State has not so designated a single source, District Engineers will elicit from the Governor an expression of his views and desires concerning the application or, in the alternative, an expression from the Governor as to which State agency represents the official State position in this particular case.

(4) In the absence of overriding national factors of the public interest that may be revealed during the processing of the permit application, a permit will generally be issued following receipt of a favorable State determination provided the concerns, policies, goals, and requirements as expressed in 33 CFR Parts 320–324, and the following statutes have been followed and considered: The National Environmental Policy Act; the Fish and Wildlife Coordination Act; the Historical and Archaeological Preservation Act; the National Historic Preservation Act; the Endangered Species Act; the Coastal Zone Management Act; the Marine Protection, Research and Sanctuaries Act of 1972, as amended; and the Federal Water Pollution Control Act (see § 320.3, above).

(5) If the responsible Federal, State, and/or local agency fails to take definitive action to grant or deny required authorizations or to furnish comments as provided in subparagraph (3) above, within three months of the issuance of the public notice, the District Engineer shall process the application to a conclusion.

(6) Permits will not be issued where certification or authorization of the proposed work is required by Federal, State and/or local law and that certification or authorization has been denied.

(7) The District Engineer may, in those States with ongoing permit programs for activities regulated by Department of the Army permits, enter into an agreement with the States to jointly process and evaluate Department of the Army and State permit applications. This may include the issuance of joint public notices; the conduct of joint public hearings, if held; and the joint review and analysis of information and comments developed in response to the public notice, public hearing, the environmental assessment and the environmental impact statement (if necessary), the Fish and Wildlife Coordination Act, the Historical and Archaeological Preservation Act, the National Historic Preservation Act, the Endangered Species Act, the Coastal Zone Management Act, the Marine Protection, Research and Sanctuaries Act of 1972, as amended, and the Federal Water Pollution Control Act. In such cases, applications for Department of the Army permits may be processed concurrently with the processing of the State permit to an independent conclusion and decision by the District Engineer and appropriate State agency.

(k) *Safety of impoundment structures.* Unless an adequate inspection program is required by another Federal licensing agency or will be performed by another Federal agency, the District Engineer will condition permits for impoundment structures to require that the permittee operate and maintain the structure properly to insure public safety. The District Engineer may condition such permits to require periodic inspections and to indicate that failure to accomplish actions to assure the public safety will be considered cause to revoke the permit.

(l) *Floodplains.* Executive Order 11988, dated May 24, 1977, requires each Federal agency, in its conduct of Federal programs that affect land use including the regulation of water resources, to take action to reduce the risk of flood loss; to minimize the impact of floods on human safety, health and welfare; and to restore and preserve the natural and beneficial values served by floodplains. In evaluating whether activities located in a floodplain that require Department of the Army permits are in the public interest, available alternatives to avoid adverse effects from and incompatible development in floodplains shall be considered.

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## PART 321—PERMITS FOR DAMS AND DIKES IN NAVIGABLE WATERS OF THE UNITED STATES

Sec.
321.1 General.
321.2 Definitions.
321.3 Special policies and procedures.

AUTHORITY: 33 U.S.C. 401.

### § 321.1 General.

This regulation prescribes, in addition to the general policies of 33 CFR 320.4 and procedures of 33 CFR Part 325, those special policies, practices, and procedures to be followed by the Corps of Engineers in connection with the review of applications for Department of the Army permits to authorize the construction of a dike or dam in a navigable water of the United States pursuant to Section 9 of the River and Harbor Act of 1899 (33 U.S.C. 401). See 33 CFR 320.2(a). Dams and dikes in navigable waters of the United States also require Department of the Army permits under Section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1344). Applicants for Department of the Army permits under this Part should also refer to 33 CFR Part 323 to satisfy the requirements of Section 404.

### § 321.2 Definitions.

For the purpose of this regulation, the following terms are defined:

(a) The term "navigable waters of the United States" means those waters of the United States that are subject to the ebb and flow of the tide shoreward to the mean high water mark (mean higher high water mark on the Pacific coast), and/or are presently used, or have been used in the past, or may be susceptible to use to transport interstate or foreign commerce. See 33 CFR Part 329 for a more complete definition of this term.

(b) The term "dam" means an impoundment structure that completely spans a navigable water of the United States and that may obstruct interstate waterborne commerce.

(c) The term "dike" means an embankment, low dividing wall, or other protective barrier that completely spans a navigable water of the United States and that may obstruct interstate waterborne commerce.

### § 21.3 Special policies and procedures.

The following additional special policies and procedures shall be applicable to the evaluation of permit applications under this regulation:

(a) The Secretary of the Army will decide whether Department of the Army authorization for a dam or dike in a navigable water of the United States will be issued, since this authority has not been delegated to the Chief of Engineers. The conditions to be imposed in any instrument of authorization will be recommended by the District Engineer when he forwards his report to the Secretary of the Army, through the Chief of Engineers, pursuant to 33 CFR 325.11.

(b) A Department of the Army application under Section 9 will not be processed until the approval of the United States Congress has been obtained if the navigable water of the United States is an interstate waterbody, or until the approval of the appropriate State legislature has been obtained if the navigable water of the United States is solely within the boundaries of one State.

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## PART 322—PERMITS FOR STRUCTURES OR WORK IN OR AFFECTING NAVIGABLE WATERS OF THE UNITED STATES

Sec.
322.1 General.
322.2 Definitions.
322.3 Activities requiring permits.
322.4 Structures and work permitted by this regulation.
322.5 Special policies and procedures.
Appendix A.—U.S. Coast Guard/Chief of Engineers Memorandum of Agreement.
Appendix B.—Delegation of Authority.

AUTHORITY: 33 U.S. 403.

### § 322.1 General.

This regulation prescribes, in addition to the general policies of 33 CFR 320.4 and procedures of 33 CFR Part 325 those special policies, practices and procedures to be followed by the Corps of Engineers in connection with the review of applications for Department of Army permits to authorize structures or work in or affecting navigable waters of the United States pursuant to Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403) (hereinafter referred to as Section 10). See 33 CFR 320.2(b). Certain structures or work in or affecting navigable waters of the United States are also regulated under other authorities of the Department of the Army. These include discharges of dredged or fill material into waters of the United States, including the territorial seas, pursuant to Section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1344; see 33 CFR Part 323) and the transportation of dreged material by vessel for purposes of dumping in ocean waters, including the territorial seas, pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (33 U.S.C. 1413; see 33 CFR Part 324). A Department of the Army permit will also be required under these additional authorities if they are applicable to structures or work in or affecting navigable waters of the United States. Applicants for Department of the Army permits under this part should refer to the other cited authorities and implementing regulations for these additional permit requirements to determine whether they also are applicable to their proposed activities.

### § 322.2 Definitions.

For the purpose of this regulation, the following terms are defined:

(a) The term "navigable waters of the United States" means those waters of the United States that are subject to the ebb and flow of the tide shoreward to the mean high water mark (mean higher high water mark on the Pacific coast), and/or are presently used, or have been used in the past, or may be susceptible to use to transport interstate or foreign commerce. See 33 CFR Part 329 for a more complete definition of this term.

(b) The term "structure" shall include, without limitation, any pier, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, jetty, permanent mooring structure, power transmission lines, permanently moored floating vessels, piling, aids to navigation, or any other permanent or semi-permanent obstacle or obstruction.

(c) The term "work" shall include, without limitation, any dredging or disposal of dredged material, excavation, filling, or other modification of a navigable water of the United States.

(d) The term "letter of permission" means an individual permit issued in accordance with the abbreviated procedures of 33 CFR 325.5(b).

(e) The term "individual permit" means a Department of the Army authorization that is issued following a case-by-case evaluation of a specific structure or work in accordance with the procedures of this regulation and 33 CFR Part 325 and a determination that the proposed structure or work is in the public interest pursuant to 33 CFR Part 320.

(f) The term "general permit" means a Department of the Army authorization that is issued for a category or categories of structures or work in a specified region of the country, when those structures or work are substantially similar in nature and cause only minimal individual and cumulative adverse environmental impact. A general permit is issued following an evaluation of the proposed category of activities that it will authorize in accordance with the procedures of this regulation (322.5(b)), 33 CFR Part 325, and a determination that the proposed discharges will be in the public interest pursuant to 33 CFR Part 320.

(g) The term "nationwide permit" means a Department of the Army authorization that has been issued by this regulation in § 322.4 to permit certain structures or work in or affecting navigable waters of the United States throughout the Nation.

### § 322.3 Activities requiring permits.

(a) *General.* Department of the Army permits are required under Section 10 for all structures or work in or affecting navigable waters of the United States except for bridges and causeways (see Appendix A) and structures or work licensed under the Federal Power Act of 1920. Activities that were commenced or completed shoreward of established Federal harbor lines before May 27, 1970 (see 33 CFR Part 328) also do not require Section 10 permits; however, if those activities involve the discharge of dredged or fill material into waters of the United States after October 18, 1972, a Section 404 permit is required (see 33 CFR Part 323).

(1) Structures or work are in the navigable waters of the United States if they are within limits defined in 33 CFR Part 329. Structures or work outside these limits are subject to the provisions of law cited in paragraph (a) above, if these structures or work affect the course, location, or condition of the waterbody in such a manner as to impact on the navigable capacity of the waterbody. For purposes of a Section 10 permit, a tunnel or other structure under or over a navigable water of the United States is considered to have an impact on the navigable capacity of the waterbody.

(2) Pursuant to Section 154 of the Water Resource Development Act of 1976 (PL 94-587), Department of the Army permits will not be required under Section 10 to construct wharves and piers in any waterbody, located entirely within one State, that is a navigable water of







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the United States solely on the basis of its historical use to transport interstate commerce. Section 154 applies only to the construction of a single pier or wharf and not to marinas. Furthermore, Section 154 is not applicable to any pier or wharf that would cause an unacceptable impact on navigation.

(b) *Outer continental shelf.* Department of the Army permits will also be required for the construction of artificial islands and fixed structures on the outer continental shelf pursuant to Section 4(f) of the Outer Continental Shelf Lands Act (see 33 CFR 320.2(b)).

(c) *Activities of Federal agencies.* Except as specifically provided in this subparagraph, activities of the type described in (a) and (b), above, done by or on behalf of any Federal agency, other than any work or structures in or affecting navigable waters of the United States that are part of the Civil Works activities of the Corps of Engineers, are subject to the authorization procedures of this regulation. Agreement for construction or engineering services performed for other agencies by the Corps of Engineers does not constitute authorization under this regulation. Division and District Engineers will therefore advise Federal agencies accordingly, and cooperate to the fullest extent in expediting the processing of their applications.

(1) Congress has delegated to the Secretary of the Army and the Chief of Engineers in Section 10 the duty to authorize or prohibit certain work or structures in navigable waters of the United States. The general legislation by which Federal agencies are empowered to act generally is not considered to be sufficient authorization by Congress to satisfy the purposes of Section 10. If an agency asserts that it has Congressional authorization meeting the test of Section 10 or would otherwise be exempt from the provisions of Section 10, the legislative history and/or provisions of the Act should clearly demonstrate that Congress was approving the exact location and plans from which Congress could have considered the effect on navigable waters of the United States or that Congress intended to exempt that agency from the requirements of Section 10. Very often such legislation reserves final approval of plans or construction for the Chief of Engineers. In such cases evaluation and authorization under this regulation are limited by the intent of the statutory language involved.

(2) The policy provisions set out in 33 CFR 320.4(j) relating to State or local certifications and/or authorizations, do not apply to work or structures undertaken by Federal agencies, except where compliance with non-Federal authorization is required by Federal law or Executive policy.

### § 322.4 Structures and work permitted by this regulation.

The following structures or work are hereby permitted for purposes of Section 10 and do not require separate Department of the Army permits:

(a) The placement of aids to navigation by the U.S. Coast Guard; see § 322.5 (e), below;

(b) Structures constructed in artificial canals within principally residential developments where the connection of the canal to a navigable water of the United States has been previously authorized: See § 322.5(g), below;

(c) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure or of any currently serviceable structure constructed prior to the requirement for authorization; provided such repair, rehabilitation, or replacement does not result in a deviation from the plans of the original structure, and further provided that the structure to be maintained has not been put to uses differing from uses specified for it in any permit authorizing its original construction;

(d) Marine life harvesting devices such as pound nets, crab traps, eel pots, lobster traps, provided there is no interference with navigation;

(e) Staff gages, tide gages, water recording devices, water quality testing and improvement devices, and similar scientific structures provided there is no interference with navigation;

(f) Survey activities including core sampling; and

(g) Structures or work completed before 18 December 1968 or in waterbodies over which the District Engineer has not asserted jurisdiction provided there is no interference with navigation.

### § 322.5 Special policies.

The Secretary of the Army has delegated to the Chief of Engineers the authority to issue or deny Section 10 permits. (See Appendix B). The following additional special policies and procedures shall also be applicable to the evaluation of permit applications under this regulation.

(a) *General.* Department of the Army permits will be required for structures or work in or affecting navigable waters of the United States. Certain structures or work specified in § 322.4 are permitted by this regulation. If a structure or work is not permitted by this regulation, an individual or general Section 10 permit will be required.

(b) *General Permits.* The District Engineer may, after compliance with the other procedures of 33 CFR Part 325, issue general permits for certain clearly described categories of structures or work, requiring Department of the Army permits. After a general permit has been issued, individual activities falling within those categories will not require individual permit processing by the procedures of 33 CFR Part 325 unless the District Engineer determines, on a case-by-case basis, that the public interest requires such individual review.

(1) District Engineers will include only those activities that are substantially similar in nature, that cause only minimal adverse environmental impact when performed separately, and that will have only a minimal adverse cumulative effect on the environment as categories which are candidates for general permits.

(2) In addition to the conditions prescribed in Appendix C of 33 CFR Part 325, any general permit issued by the District Engineer shall prescribe the following conditions:

(i) The maximum quantity of material that may be discharged and the maximum area that may be modified by structures or work that are authorized for a single or incidental operation (if applicable);

(ii) A description of the category or categories of activities included in the general permit; and

(iii) The type of water(s) into which the activity may occur.

(3) The District Engineer may require reporting procedures.

(4) A general permit may be revoked if it is determined that the cumulative effects of the activities authorized by it will have an adverse impact on the public interest provided the procedures of 33 CFR 325.7 are followed. Following revocation, application for any future activities in areas covered by the general permit shall be processed as applications for individual permits.

(c) *Non-Federal dredging for navigation.*—(1) The benefits which an authorized Federal navigation project are intended to produce will often require similar and related operations by non-Federal agencies (e.g., dredging an access channel to dock and berthing facilities or deepening such a channel to correspond to the Federal project depth). These non-Federal activities will be considered by Corps of Engineers officials in planning the construction and maintenance of Federal navigation projects and, to the maximum practical extent, will be coordinated with interested Federal, State, regional and local agencies and the general public simultaneously with the associated Federal projects. Non-Federal activities which are not so coordinated will be individually evaluated in accordance with this regulation. In evaluating the public interest in connection with applications for permits for such coordinated operations, equal treatment will, therefore, be accorded to the fullest extent possible to both Federal and non-Federal operations. Furthermore, permits for non-Federal dredging operations will contain conditions requiring the permittee to comply with the same practices or requirements utilized in connection with related Federal dredging operations with respect to such matters as turbidity, water quality, containment of material, nature and location of approved spoil disposal areas (non-Federal use of Federal contained disposal areas will be in accordance with laws authorizing such areas and regulations governing their use), extent and period of dredging, and other factors relating to protection of environmental and ecological values.

(2) A permit for the dredging of a channel, slip, or other such project for navigation will also authorize the periodic maintenance dredging of the project. Authority for maintenance dredging will be subject to revalidation at regular intervals to be specified in the permit. Revalidation will be in accordance with the procedures prescribed in 33 CFR 325.6. The permit, however, will require the permittee to give advance notice to the District Engineer each time maintenance dredging is to be performed. Where the maintenance dredging involves the discharge of dredged material into waters of the United States or the transportation of dredged material for the purpose of dumping in the ocean waters, the procedures in 33 CFR Parts 323 and 324 respectively shall also be followed.

(d) *Structures for small boats.* As a matter of policy, in the absence of overriding public interest, favorable consideration will generally be given to applications from riparian owners for permits for piers, boat docks, moorings, platforms and similar structures for small boats. Particular attention will be given to the location and general design of such structures to prevent possible obstructions to navigation with respect to both the public's use of the waterway and the neighboring proprietors' access to the waterway. Obstructions can result from both the existence of the structure, particularly in conjunction with other similar facilities in the immediate vicinity, and from its inability to withstand wave action or other forces which can be expected. District Engineers will inform applicants of the hazards involved and encourage safety in location, design and operation. Corps of Engineers officials will also encourage cooperative or group use facilities in lieu of individual proprietor use facilities.

(1) Letters transmitting permits for structures for small boats will, where applicable, include the following language: "Notice is hereby given that a possibility exists that the structure permitted may be subject to damage by wave wash from passing vessels. Your attention is invited to special condition _____ of the permit." The appropriate designation of the permit condition placing responsibility on the permittee and not on the United States for integrity of the structure and safety of boats moored thereto will be inserted.

(2) Floating structures for small recreational boats or other recreational purposes in lakes controlled by the Corps of Engineers under a Resources Manager are normally subject to permit authorities cited in § 322.3, above, when those waters are regarded as navigable waters of the United States. However, such structures will not be authorized under this regulation but will be regulated under applicable regulations of the Chief of Engineers published in 36 CFR 327.19 if the land surrounding those lakes is under complete Federal ownership. District Engineers will delineate those portions of the navigable waters of the United States where this provision is applicable and post notices of this designation in the vicinity of the lake Resources Manager's office.

(e) *Aids to navigation.* The placing of fixed and floating aids to navigation in a navigable water of the United States is within the purview of Section 10 of the River and Harbor Act of 1899. Furthermore, these aids are of particular interest to the U.S. Coast Guard because of their control of marking, lighting and standardization of such navigation aids. Applications for permits for installation of aids to navigation will, therefore, be coordinated with the appropriate District Commander, U.S. Coast Guard, and permits for such aids will include a condition to the effect that the permittee will conform to the requirements of the Coast Guard for marking, lighting, etc. Since most fixed and floating aids to navigation will not ordinarily significantly affect environmental values, the usual form of authorization to be used will be a letter of permission (See 33 CFR 325.1(b)).

(f) *Outer continental shelf.* Artificial islands and fixed structures located on the outer continental shelf are subject to the standard permit procedures of this regulation. Where the islands or structures are to be constructed on lands which are under mineral lease from the Bureau of Land Management, Department of the Interior, that agency, in cooperation with other Federal agencies, fully evaluates the potential effect of the leasing program on the total environment. Accordingly, the decision whether to issue a permit on lands which are under mineral lease from the Department of the Interior will be limited to an evaluation of the impact of the proposed work on navigation and national security. The public notice will so identify the criteria.

(g) *Canals and other artificial waterways connected to navigable waters of the United States.* (1) A canal or similar artificial waterway is subject to the regulatory authorities discussed in § 322.3, above, if it constitutes a navigable water of the United States, or if it is connected to navigable waters of the United States in a manner which affects their course, condition, or capacity. In all cases the connection to navigable waters of the United States requires a permit. Where the canal itself constitutes a navigable water of the United States, evaluation of the permit application and further exercise of regulatory authority will be in accordance with the standard procedures of this regulation. For all other canals the exercise of regulatory authority is restricted to those activities which affect the course, condition, or capacity of the navigable waters of the United States. Examples of the latter may include the length and depth of the canal; the currents, circulation, quality and turbidity of its waters, especially as they affect fish and wildlife values; and modifications or extensions of its configuration.

(2) The proponent of canal work should submit his application for a permit, including a proposed plan of the entire development, and the location and description of anticipated docks, piers and other similar structures which will be placed in the canal, to the District Engineer before commencing any form of work. If the connection to navigable waters of the United States has already been made without a permit, the District Engineer will proceed in accordance with 33 CFR Part 326. Where a canal connection is planned, an application for a Section 10 permit should be made at the earliest stage of planning. Where the canal construction has already begun, the District Engineer will, in writing, advise the proponent of the need for a permit to connect the canals to navigable waters of the United States. He will also ask the proponent if he intends to make such a connection and will request the immediate submission of the plans and permit application if it is so intended. The District Engineer will also advise the proponent that any work is done at the risk that, if a permit is required, it may not be issued, and and that the existence of partially completed excavation work will not be allowed to weigh favorably in evaluation of the permit application.

(h) *Facilities at the borders of the United States.* (1) The construction, operation, maintenance, or connection of facilities at the borders of the United States are subject to Executive control and must be authorized by the President, Secretary of State, or other delegated official.

(2) Applications for permits for the construction, operation, maintenance, or connection at the borders of the United States of facilities for the transmission of electric energy between the United States and a foreign country, or for the exportation or importation of natural gas to or from a foreign country, must be made to the Federal Power Commission. (Executive Order 10485, September 3, 1953, 16 U.S.C. 824(a)(e), 15 U.S.C. 717(b), and 18 CFR Parts 32 and 153).

(3) Applications for the landing or operation of submarine cables must be made to the Federal Communications Commission. (Executive Order 10530, May 10, 1954, 47 U.S.C. 34 to 39, and 47 CFR 1.766)

(4) The Secretary of State is to receive applications for permits for the construction, connection, operation, or maintenance, at the borders of the United States, of pipelines, conveyor belts, and similar facilities for the exportation or importation of petroleum products, coals, minerals, or other products to or from a foreign country; facilities for the exportation or importation of water or sewage to or from a foreign country; and monorails, aerial cable cars, aerial tramways and similar facilities for the transportation of persons or things, or both, to or from a foreign country. (Executive Order 11423, August 16, 1968.)

(5) A Department of the Army permit under Section 10 of the River and Harbor Act of 1899 is also required for all of the above facilities which affect the navigable waters of the United States, but in each case in which a permit has







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been issued as provided above, the decision whether to issue the Department of the Army permit will be based primarily on factors of navigation, since the basic existence and operation of the facility will have been examined and permitted as provided by the Executive orders. Furthermore, in those cases where the construction, maintenance, or operation at the above facilities involves the discharge of dredged or fill material in waters of the United States or the transportation of dredged material for the purpose of dumping it into ocean waters, appropriate Department of the Army authorizations under Section 404 of the Federal Water Pollution Control Act or under Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, are also required (See 33 CFR Parts 323, 324).

(i) *Power transmission lines.* (1) Permits under Section 10 of the River and Harbor Act of 1899 are required for power transmission lines crossing navigable waters of the United States unless those lines are part of a water power project subject to the regulatory authorities of the Federal Power Commission under the Federal Water Power Act of 1920. If an application is received for a permit for lines which are part of a water power project, the applicant will be instructed to submit his application to the Federal Power Commission. If the lines are not part of a water power project, the application will be processed in accordance with the procedures prescribed in this regulation.

(2) The following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances which would be required by the U.S. Coast Guard for new fixed bridges, in the vicinity of the proposed power line crossing. The clearances are based on the low point of the line under conditions which produce the greatest sag, taking into consideration temperature, load, wind, length or span, and type of supports as outlined in the National Electrical Safety Code.

*Minimum additional clearance above clearance required for bridges*

| Nominal system voltage kilovolt: | Fe |
|---|---|
| 115 and below | 20 |
| 138 | 22 |
| 161 | 24 |
| 230 | 26 |
| 350 | 30 |
| 500 | 35 |
| 700 | 42 |
| 750 to 765 | 45 |

[1] Above clearance required for bridges.

(3) Clearances for communication lines, stream gaging cables, ferry cables, and other aerial crossings are usually required to be a minimum of ten feet above clearances required for bridges. Greater clearances will be required if the public interest so indicates.

(j) *Seaplane operations.* (1) Structures in navigable waters of the United States associated with seaplane operations require Department of the Army permits, but close coordination with the Federal Aviation Administration (FAA), Department of Transportation, is required on such applications.

(2) The FAA must be notified by an applicant whenever he proposes to establish or operate a seaplane base. The FAA will study the proposal and advise the applicant, District Engineer, and other interested parties as to the effects of the proposal on the use of airspace. The District Engineer will therefore refer any objections regarding the effect of the proposal on the use of airspace to the FAA, and give due consideration to their recommendations when evaluating the general public interest.

(3) If the seaplane base will serve air carriers licensed by the Civil Aeronautics Board, the applicant must receive an airport operating certificate from the FAA. That certificate reflects determination and conditions relating to the installation operation, and maintenance of adequate air navigation facilities and safety equipment. Accordingly, the District Engineer may, in evaluating the general public interest, consider such matters to have been primarily evaluated by the FAA.

(k) *Foreign Trade Zones.* The Foreign Trade Zones Act (48 Stat. 998–1003, 19 U.S.C. 81a to 81u, as amended) authorizes the establishment of foreign-trade zones in or adjacent to United States ports of entry under terms of a grant and regulations prescribed by the Foreign-Trade Zones Board. Pertinent regulations are published in 15 CFR Part 400. The Secretary of the Army is a member of the Board, and construction of a zone is under the supervision of the District Engineer. Laws governing the navigable waters of the United States remain applicable to foreign-trade zones, including the general requirements of this regulation. Evaluation by a District Engineer of a permit application may give recognition to the consideration by the Board of the general economic effects of the zone on local and foreign commerce, general location of wharves and facilities, and other factors pertinent to construction, operation, and maintenance of the zone.

APPENDIX A—U.S COAST GUARD/CHIEF OF ENGINEERS, MEMORANDUM OF AGREEMENT

1. PURPOSE AND AUTHORITY

A. The Department of Transportation Act, the Act of October 15, 1966, P.L. 89-670, transferred to and vested in the Secretary of Transportation certain functions, powers and duties previously vested in the Secretary of the Army and the Chief of Engineers. By delegation of authority from the Secretary of Transportation (49 CFR 1.46(c)) the Commandant, U.S. Coast Guard, has been authorized to exercise certain of these functions, powers and duties relating to bridges and causeways conferred by:

(1) The following provision of law relating generally to drawbridge operating regulations: Section 5 of the Act of August 18, 1894, as amended (28 Stat. 362; 33 U.S.C. 499);

(2) The following law relating generally to obstructive bridges: The Act of June 21, 1940, as amended (The Truman-Hobbs Act) (54 Stat. 497; 33 U.S.C. 511 et seq.);

(3) The following laws and provisions of law to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States:

(a) Section 9 of the Act of March 3, 1899, as amended (30 Stat. 1151; 33 U.S.C. 401);

(b) The Act of March 23, 1906, as amended (34 Stat. 84; 33 U.S.C. 491 et seq.); and

(c) The General Bridge Act of 1946, as amended (60 Stat. 847; 33 U.S.C. 525 et seq.) except Sections 502(c) and 503.

B. The Secretary of the Army and The Chief of Engineers continue to be vested with broad and important authorities and responsibilities with respect to navigable waters of the United States, including, but not limited to, jurisdiction over excavation and filling, design flood flows and construction of certain structures in such waters, and the prosecution of waterway improvement projects.

C. The purposes of this agreement are:

(1) To recognize the common and mutual interest of the Chief and Engineers and the Commandant, U.S. Coast Guard, in the orderly and efficient administration of their respective responsibilities under certain Federal statutes to regulate certain activities in navigable waters of the United States;

(2) To clarify the areas of jurisdiction and the responsibilities of the Corps of Engineers and the Coast Guard with respect to:

(a) The alteration of bridges,

(1) In connection with Corps of Engineers waterway improvement projects, and

(2) Under the Truman-Hobbs Act;

(b) The construction, operation and maintenance of bridges and causeways as distinguished from other types of structures over or in navigable waters of the United States;

(c) The closure of waterways and the restriction of passage through or under bridges in connection with their construction, operation, maintenance and removal; and

(d) The selection of an appropriate design flood flow for flood hazard analysis of any proposed water opening.

(3) To provide for coordination and consultation on projects and activities in or affecting the navigable waters of the United States.

In furtherance of the above purposes the undersigned do agree upon the definitions, policies and procedures set forth below.

2. ALTERATION OF BRIDGES IN OR ACROSS NAVIGABLE WATERS WITHIN CORPS OF ENGINEERS PROJECTS

A. The Chief of Engineers agrees to advise and consult with the Commandant on navigation projects contemplated by the Corps of Engineers which require the alteration of bridges across the waterways involved in such projects. The Chief of Engineers also agrees to include in such project proposals the costs of alterations, exclusive of betterments, of all bridges within the limits of the designated project which after consultation with the Commandant he determines to require alteration to meet the needs of existing and prospective navigation. Under this concept the federal costs would be furnished under the project.

B. The Commandant of the Coast Guard agrees to undertake all actions and assumes all responsibilities essential to the determination of navigational requirements for horizontal and vertical clearances of bridges across navigable waters necessary in connection with any navigation project by the Chief of Engineers. Further, the Commandant agrees to conduct all public proceedings necessary thereto and establish guide clearance criteria where needed for the project objectives.





3. ALTERATION OF BRIDGES UNDER THE TRUMAN-HOBBS ACT

The Commandant of the Coast Guard acknowledges and affirms the responsibility of the Coast Guard, under the Truman-Hobbs Act, to program and fund for the alteration of bridges which, as distinct from project related alterations described in paragraph 2 herein, become unreasonable obstructions to navigation as a result of factors or changes in the character of navigation and this agreement shall in no way affect, impair or modify the powers or duties conferred by that Act.

4. APPROVAL, ALTERATION AND REMOVAL OF OTHER BRIDGES AND CAUSEWAYS

A. *General Definitions.* For purposes of this Agreement and the administration of the statutes cited in 1.A.(3) above, a "bridge" is any structure over, on or in the navigable waters of the United States which (1) is used for the passage or conveyance of persons, vehicles, commodities and other physical matter and (2) is constructed in such a manner that either the horizontal or vertical clearance, or both, may affect the passage of vessels or boats through or under the structure. This definition includes, but is not limited to, highway bridges, railroad bridges, foot bridges, aqueducts, aerial tramways and conveyors, overhead pipelines and similar structures of like function together with their approaches, fenders, pier protection systems, appurtenances and foundations. This definition does not include aerial power transmission lines, tunnels, submerged pipelines and cables, dams, dikes, dredging and filling in, wharves, piers, breakwaters, bulkheads, jetties and similar structures and works (except as they may be integral features of a bridge and used in its construction, maintenance, operation or removal; or except when they are affixed to the bridge and will have an effect on the clearances provided by the bridge) over which jurisdiction remains with the Department of the Army and the Corps of Engineers under Sections 9 and 10 of the Act of March 3, 1899, as amended (33 U.S.C. 401 and 403). A "causeway" is a raised road across water or marshy land, with the water or marshy land on both sides of the road, and which is constructed in or affects navigation, navigable waters and design flood flows.

B. *Combined Structures and Appurtenances.* For purposes of the Acts cited in 1.A.(3) above, a structure serving more than one purpose and having characteristics of either a bridge or causeway, as defined in 4.A., and some other structure, shall be considered as a bridge or causeway when the structure in its entirety, including its appurtenances and incidental features, has or retains the predominant characteristics and purpose of a bridge or causeway. A structure shall not be considered a bridge or causeway when its primary and predominant characteristics and purpose are other than those set forth above and it meets the general definitions above only in a narrow technical sense as a result of incidental features. This interpretation is intended to minimize the number of instances which will require an applicant for a single project to secure a permit or series of permits from both the Department of Transportation and the Department of the Army for each separate feature or detail of the project when it serves, incidentally to its primary purpose, more than one purpose and has features of either a bridge or causeway and features of some other structure. However, if parts of the project are separable and can be fairly and reasonably characterized or classified in an engineering sense as separate structures, each such structure will be so treated and considered for approval by the agency having jurisdiction thereover.

C. *Alteration of the Character of Bridges and Causeways.* The jurisdiction of the Secretary of Transportation and the Coast Guard over bridges and causeways includes authority to approve the removal of such structures when the owners thereof desire to discontinue their use. If the owner of a bridge or causeway discontinues its use and wishes to remove or alter any part thereof in such a manner that it will lose its character as a bridge or causeway, the Coast Guard will normally require removal of the structure from the waterway in its entirety. However, if the owner of a bridge or a causeway wishes to retain it in whole or in part for use other than for operation and maintenance as a bridge or causeway, the proposed structure will be considered as coming within the jurisdiction of the Corps of Engineers. The Coast Guard will refer requests for such uses to the Corps of Engineers for consideration. The Corps of Engineers agrees to advise the Commandant of the receipt of an application for approval of the conversion of a bridge or causeway to another structure and to provide opportunity for comment thereon. If the Corps of Engineers approves the conversion of a bridge or causeway to another structure, no residual jurisdiction over the structure will remain with the Coast Guard. However, if the Corps of Engineers does not approve the proposed conversion, then the structure remains a bridge subject to the jurisdiction of the Coast Guard.

5. CLOSURE OF WATERWAYS AND RESTRICTION OF PASSAGE THROUGH OR UNDER BRIDGES

Under the statutes cited in Section 1 of this Memorandum of Agreement, the Commandant must approve the clearances to be made available for navigation through or under bridges. It is understood that this duty and authority extends to and may be exercised in connection with the construction, alteration, operation, maintenance and removal of bridges, and includes the power to authorize the temporary restriction of passage through or under a bridge by use of falsework, piling, floating equipment, closure of draws, or any works or activities which temporary reduce the navigation clearances and design flood flows, including closure of any or all spans of the bridge. Moreover, under the Ports and Waterways Safety Act of 1972, Public Law 92-340, 86 Stat. 424, the Commandant exercises broad powers in waterways to control vessel traffic in areas he determines to be especially hazardous and to establish safety zones or other measures for limited controls or conditional access and activity when necessary to prevent damage to or the destruction or loss of, any vessel, bridge, or other structure on or in the navigable waters of the United States. Accordingly, in the event that work in connection with the construction, alteration or repair of a bridge or causeway is of such a nature that for the protection of life and property navigation through or in the vicinity of the bridge or causeway must be temporarily prohibited, the Coast Guard may close that part of the affected waterway while such work is being performed. However, it is also clear that the Secretary of the Army and the Chief of Engineers have the authority, under Section 4 of the Act of August 18, 1894, as amended, (33 U.S.C. 1) to prescribe rules for the use, administration and navigation of the navigable waters of the United States. In recognition of that authority, and pursuant to Section 102(c) of the Ports and Waterways Safety Act, the Coast Guard will consult with the Corps of Engineers when any significant restriction of passage through or under a bridge is contemplated to be authorized or a waterway is to be temporarily closed.

6. COORDINATION AND COOPERATION PROCEDURES

A. District Commanders, Coast Guard Districts, shall send notices of applications for permits for bridge or causeway construction, modification, or removal to the Corps of Engineers Divisions and Districts in which the bridge or causeway is located.

B. District Engineers, Corps of Engineers, shall send notices of applications for permits for other structures or dredge and fill work to local Coast Guard District Commanders.

C. In cases where proposed structures or modifications of structures do not clearly fall within one of the classifications set forth in paragraph 4.A. above, the application will be forwarded with recommendations of the reviewing officers through channels to the Chief of Engineers and the Commandant of the Coast Guard who shall, after mutual consultation, attempt to resolve the questions.

D. If the above procedures fail to produce agreement, the application will be forwarded to the Secretary of the Army and Secretary of Transportation for their determination.

E. The Chief of Engineers and the Commandant, Coast Guard pledge themselves to mutual cooperation and consultation in making available timely information and data, seeking uniformity and consistency among field offices, and providing timely and adequate review of all matters arising in connection with the administration of their responsibilities governed by the Acts cited herein.

Dated: March 21, 1973.

C. R. BENDER.

Dated: April 18, 1973.

F. J. CLARKE.

APPENDIX B—DELEGATION OF AUTHORITY TO ISSUE OR DENY PERMITS FOR CONSTRUCTION OR OTHER WORK AFFECTING NAVIGABLE WATERS OF THE UNITED STATES

MAY 24, 1971.

Pursuant to the authority vested in me by the Act of March 3, 1899, c.425, Sections 10 and 14, 30 Stat. 1151, 1152, 33 U.S.C. Sections 403 and 408, and the Act of June 13, 1902, c.1079, Section 1, 32 Stat. 371, 33 U.S.C. Section 565, I hereby authorize the Chief of Engineers and his authorized representatives to issue or deny permits for construction or other work affecting navigable waters of the United States. Except in cases involving applications for permits for artificial islands or fixed structures on Outer Continental Shelf lands under mineral lease from the Department of the Interior, the Chief of Engineers shall, in exercising such authority, evaluate the impact of the proposed work on the public interest. In cases involving applications for permits for artificial islands or fixed structures on Outer Continental Shelf lands under mineral lease from the Department of the Interior, the Chief of Engineers shall, in exercising such authority, evaluate the impact of the proposed work on navigation and national security. The permits so granted may be made subject to such special conditions as the Chief of Engineers or his authorized representatives may consider necessary in order to effect the purposes of the above Acts.

The Chief of Engineers and his authorized representatives shall exercise the authority hereby delegated subject to such conditions as I or my authorized representative may from time to time impose.

STANLEY R. RESOR,
*Secretary of the Army.*



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## PART 323—PERMITS FOR DISCHARGES OF DREDGED OR FILL MATERIAL INTO WATERS OF THE UNITED STATES

Sec.
323.1 General.
323.2 Definitions.
323.3 Activities requiring permits.
323.4 Discharges permitted by this regulation.
323.4-1 Discharges prior to effective dates of phasing.
323.4-2 Discharges into certain waters of the United States.
323.4-3 Specific categories of discharges.
323.4-4 Discretionary authority to require individual or general permits.
323.5 Special policies and procedures.
Appendix A—Delegation of authority.

AUTHORITY: 33 U.S.C. 1344.

### § 323.1 General.

This regulation prescribes, in addition to the general policies of 33 CFR 320.4 and procedures of 33 CFR Part 325, those special policies, practices, and procedures to be followed by the Corps of Engineers in connection with the review of applications for Department of the Army permits to authorize the discharge of dredged or fill material into waters of the United States pursuant to Section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1344) (hereinafter referred to as Section 404). See 33 CFR 320.2(g). Certain discharges of dredged or fill material into waters of the United States are also regulated under other authorities of the Department of the Army. These include dams and dikes in navigable waters of the United States pursuant to Section 9 of the River and Harbor Act of 1899 (33 U.S.C. 401; see 33 CFR 321) and structures or work in or affecting navigable waters of the United States pursuant to Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403; see 33 CFR 322). A Department of the Army permit will also be required under these additional authorities if they are applicable to activities involving discharges of dredged or fill material into waters of the United States. Applicants for Department of the Army permits under this Part should refer to the other cited authorities and implementing regulations for these additional permit requirements to determine whether they also are applicable to their proposed activities.

### § 323.2 Definitions.

For the purpose of this regulation, the following terms are defined:

(a) The term "waters of the United States" means: [1]

(1) The territorial seas with respect to the discharge of fill material. (The transportation of dredged material by vessel for the purpose of dumping in the oceans, including the territorial seas, at an ocean dump site approved under 40 CFR 228 is regulated by Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (33 USC 1413). See 33 CFR 324. Discharges of dredged or fill material into the territorial seas are regulated by Section 404.);

(2) Coastal and inland waters, lakes, rivers, and streams that are navigable waters of the United States, including adjacent wetlands;

(3) Tributaries to navigable waters of the United States, including adjacent wetlands (manmade nontidal drainage and irrigation ditches excavated on dry land are not considered waters of the United States under this definition).

(4) Interstate waters and their tributaries, including adjacent wetlands; and

(5) All other waters of the United States not identified in paragraphs (1)–(4) above, such as isolated wetlands and lakes, intermittent streams, prairie potholes, and other waters that are not part of a tributary system to interstate waters or to navigable waters of the United States, the degradation or destruction of which could affect interstate commerce.[2]

The landward limit of jurisdiction in tidal waters, in the absence of adjacent wetlands, shall be the high tide line and the landward limit of jurisdiction an all other waters, in the absence of adjacent wetlands, shall be the ordinary high water mark.

(b) The term "navigable waters of the United States" means those waters of the United States that are subject to the ebb and flow of the tide shoreward to the mean high water mark (mean higher high water mark on the Pacific coast) and/or are presently used, or have been used in the past, or may be susceptible to use to transport interstate or foreign commerce. (See 33 CFR 329 for a more complete definition of this term.)

(c) The term "wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

(d) The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the United States by man-made dikes or barriers, natural river berms, beach dunes and the like are "adjacent wetlands."

(e) The term "natural lake" means a standing body of open water that occurs in a natural depression fed by one or more streams and from which a stream may flow, that occurs due to the widening or natural blockage of a river or stream, or that occurs in an isolated natural depression that is not a part of a surface river or stream.

(f) The term "impoundment" means a standing body of open water created by artificially blocking or restricting the flow of a river, stream, or tidal area. As used in this regulation, the term does not include artificial lakes or ponds created by excavating and/or diking dry land to collect and retain water for such purposes as stock watering, irrigation, settling basins cooling, or rice growing.

(g) The term "ordinary high water mark" means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

(h) The term "high tide line" means a line or mark left upon tide flats, beaches, or along shore objects that indicates the intersection of the land with the water's surface at the maximum height reached by a rising tide. The mark may be determined by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The term includes spring high tides and other high tides that occur with periodic frequency, but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

(i) The term "headwaters" means the point on a non-tidal stream above which the average annual flow is less than five cubic feet per second. The District Engineer may estimate this point from available data by using the mean annual area precipitation, area drainage basin maps, and the average runoff coefficient, or by similar means.

(j) The term "primary tributaries" means the main stems of tributaries directly connecting to navigable waters of the United States up to their headwaters, and does not include any additional tributaries extending off of the main stems of these tributaries.

(k) The term "dredged material" means material that is excavated or dredged from waters of the United States.

(l) The term "discharge of dredged material" means any addition of dredged material into the waters of the United States. The term includes, without limitation, the addition of dredged material to a specified disposal site located in waters of the United States and the runoff or overflow from a contained land or water disposal area. Discharges of pollutants into waters of the United States resulting from the onshore subsequent processing of dredged material that is extracted for any commercial use (other than fill) are not included within this term and are subject to Section 402 of the Federal Water Pollution Control Act even though the extraction and deposit of such material may require a permit from the Corps of Engineers. The term does not include plowing, cultivating, seeding and harvesting for the production of food, fiber, and forest products.

(m) The term "fill material" means any material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of a waterbody. The term does not include any pollutant discharged into the water primarily to dispose of waste, as that activity is regulated under Section 402 of the Federal Water Pollution Control Act Amendments of 1972.

(n) The term "discharge of fill material" means the addition of fill material into waters of the United States. The term generally includes, without limitation, the following activities: Placement of fill that is necessary to the construction of any structure in a water of the United States; the building of any structure or impoundment requiring rock, sand, dirt, or other material for its construction; site-development fills for recreational, industrial, commercial, residential, and other uses; causeways or road fills; dams and dikes; artificial islands; property protection and/or reclamation devices such as riprap, groins, seawalls, breakwaters, and revetments; beach nourishment; levees; fill for structures such as sewage treatment facilities, intake and outfall pipes associated with power plants and subaqueous utility lines; and artificial reefs. The term does not include plowing, cultivating, seeding and harvesting for the production of food, fiber, and forest products.

(o) The term "individual permit" means a Department of the Army authorization that is issued following a case-by-case evaluation of a specific project involving the proposed discharge(s) in accordance with the procedures of this regulation and 33 CFR 325 and a determination that the proposed discharge is in the public interest pursuant to 33 CFR Part 320.

(p) The term "general permit" means a Department of the Army authorization that is issued for a category or categories of discharges of dredged or fill material that are substantially similar in nature and that cause only minimal individual and cumulative adverse environmental impact. A general permit is issued following an evaluation of the proposed category of discharges in accordance with the procedures of this regulation (§ 323.3(c)), 33 CFR Part 325, and a determination that the proposed discharges will be in the public interest pursuant to 33 CFR Part 320.

(q) The term "nationwide permit" means a Department of the Army authorization that has been issued by this regulation in § 323.4 to permit certain discharges of dredged or fill material into waters of the United States throughout the Nation.

### § 323.3 Discharges requiring permits.

(a) *General.* Department of the Army permits will be required for the discharge of dredged or fill material into waters of the United States. Certain discharges specified in §§ 323.4–1, 323.4–2 and 323.4–3 are permitted by this regulation. If a discharge of dredged or fill material is not permitted by this regulation, an individual or general Section 404 permit will be required for the discharge of dredged or fill material into waters of the United States in accordance with the following phased schedule:

(1) Before July 25, 1975, discharges into navigable waters of the United States.

(2) After July 25, 1975, discharges into navigable waters of the United States and adjacent wetlands.

(3) After September 1, 1976, discharges into navigable waters of the United States and their primary tributaries, including adjacent wetlands, and into natural lakes, greater than 5 acres in surface area. (See also § 323.4–2 for discharges that are permitted by this regulation.)

(4) After July 1, 1977, discharges into all waters of the United States. (See also § 323.4–2 for discharges that are permitted by this regulation.)

(b) *Individual permits.* Unless permitted by this regulation (§§ 323.4–1, 323.4–2 and 323.4–3) or authorized by general permits (§ 323.3(c)), the discharge of dredged or fill material into waters of the United States will require an individual Department of the Army permit issued in accordance with the policies in § 320.4 and procedures in 33 CFR Part 325.

(c) *General permits.* The District Engineer may, after compliance with the other procedures of 33 CFR Part 325, issue general permits for certain clearly described categories of structures or work, including discharges of dredged or fill material, requiring Department of the Army permits. After a general permit has been issued, individual activities falling within those categories will not require individual permit processing by the procedures of 33 CFR Part 325 unless the District Engineer determines, on a case-by-case basis, that the public interest requires individual review.

(1) District Engineers will include only those activities that are substantially similar in nature, that cause only minimal adverse environmental impact when performed separately, and that will have only a minimal adverse cumulative effect on the environment as categories which are candidates for general permits.

(2) The District Engineer shall include appropriate conditions as specified in Appendix C of 33 CFR Part 325 in each general permit and shall prescribe the following additional conditions:

(i) The maximum quantity of material that may be discharged and the maximum area that may be modified by a single or incidental operation (if applicable);

(ii) A description of the category or categories of activities included in the general permit; and

(iii) The type of water(s) into which the activity may occur.

(3) The District Engineer may require reporting procedures.

(4) A general permit may be revoked if it is determined that the effects of the activities authorized by it will have an adverse impact on the public interest provided the procedures of 33 CFR 325.7 are followed. Following revocation, applications for future activities in areas covered by the general permit shall be processed as applications for individual permits.

(d) *Activities of Federal agencies.* (1) Discharges of dredged or fill material into waters of the United States done by or on behalf of any Federal agency, or instrumentality other than the Corps of Engineers, are subject to the authorization procedures of this regulation. Agreement for construction or engineering services performed for other agencies by the Corps of Engineers does not constitute authorization under the regulation. Division and District Engineers will therefore advice Federal agencies and instrumentalities accordingly and cooperate to the fullest extent in the expeditious processing of their applications.

(2) The policy provisions set out in 33 CFR 320.4(j), relating to State or local authorizations, do not apply to discharges of dredged or fill material into

[1] The terminology used by the FWPCA is "navigable waters" which is defined in Section 502(7) of the Act as "waters of the United States including the territorial seas." For purposes of clarity, and to avoid confusion with other Corps of Engineers regulatory programs, the term "waters of the United States" is used throughout this regulation.

[2] In defining the jurisdiction of the FWPCA as the "waters of the United States," Congress, in the legislative history to the Act, specified that the term "be given the broadest constitutional interpretation unencumbered by agency determinations which would have been made or may be made for administrative purposes." The waters listed in paragraphs (a) (1)–4 fall within this mandate as discharges into those waterbodies may seriously affect water quality, navigation, and other Federal interests; however, it is also recognized that the Federal government would have the right to regulate the waters of the United States identified in paragraph (a)(5) under this broad Congressional mandate to fulfill the objective of the Act: "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters" (Section 101(a)). Paragraph (a)(5) incorporates all other waters of the United States that could be regulated under the Federal government's Constitutional powers to regulate and protect interstate commerce, including those for which the connection to interstate commerce may not be readily obvious or where the location or size of the waterbody generally may not require regulation through individual or general permits to achieve the objective of the Act. Discharges of dredged or fill material into waters of the United States identified in paragraphs (a)(1)–(4) will generally require individual or general permits unless those discharges occur beyond the headwaters of a river or stream or in natural lakes less than 10 acres in surface area. Discharges into these latter waters and into most of the waters identified in paragraph (a)(5) will be permitted by this regulation, subject to the provisions listed in paragraph 323.4–2(b) unless the District Engineer develops information, on a case-by-case basis, that the concerns for the aquatic environment as expressed in the EPA Guidelines (40 CFR 230) require regulation through an individual or general permit. (See 323.4–4).

For streams that are dry during long periods of the year, District Engineers, after notifying the Regional Administrator of EPA, may establish the headwater point as that point on the stream where a flow of five cubic feet per second is equaled or exceeded 50 percent of the time. The District Engineer shall notify the Regional Administrator of his determination of these headwater points.







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waters of the United States undertaken by Federal agencies, except where compliance with non-Federal authorization is required by Federal law or Executive policy. Federal agencies are required to comply with the appropriate State, interstate and local water-quality standards and effluent limitations as are applicable by law that are adopted in accordance with or effective under the provisions of the Federal Water Pollution Control Act, as amended, in the design, construction, management, operation, and maintenance of their respective facilities. (See Executive Order No. 11752, dated 17 Dec. 73). They are not required, however, to provide certification of compliance with effluent limitations and water-quality standards from State or interstate water pollution control agencies in connection with activities involving discharges into waters of the United States.

(c) *Activities licensed under the Federal Power Act of 1920.* Any part of a structure or work licensed by the Federal Power Commission that involves the discharge of dredged or fill material into waters of the United States shall require a Department of the Army authorization under this regulation.

**§ 323.4 Discharges permitted by this regulation.**

(a) *General.* Discharges of dredged or fill material specified in §§ 323.4–1, 323.4–2 and 323.4–3, below, are hereby permitted for purposes of Section 404 without further processing under this regulation (individual applications are not needed), except as provided in § 323.4–4 below. Permits may, however, be required under Section 10 of the River and Harbor Act of 1899 (see 33 CFR 322). Sections 323.4–1, 323.4–2, and 323.4–3 do not obviate the requirement to obtain State or local assent required by law for the activities permitted therein.

(b) *Management practices.* In addition to the conditions specified in §§ 323.4–2(b) and 323.4–3(b), the following management practices should be followed, to the maximum extent practicable, in the discharge of dredged or fill material permitted by §§ 323.4–2 and 324.4–3 to minimize the adverse effects of these discharges on the aquatic environment:

(1) Discharges of dredged or fill material into waters of the United States should be avoided or minimized through the use of other practical alternatives;

(2) Discharges in spawning areas during spawning seasons should be avoided;

(3) Discharges should not restrict or impede the movement of aquatic species indigenous to the waters or the passage of normal or expected high flows or cause the relocation of the waters (unless the primary purpose of the fill is to impound waters);

(4) If the discharge creates an impoundment water, adverse impacts on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow, should by minimized;

(5) Discharges in wetlands areas should be avoided;

(6) Heavy equipment working in wetlands should be placed on mats;

(7) Discharges into breeding and nesting areas for migratory waterfowl should be avoided; and

(8) All temporary fills should be removed in their entirety.

**§ 323.4–1 Discharges prior to effective dates of phasing.**

(a) Discharges of dredged or fill material in waters of the United States that occur before the phase-in dates specified in § 323.3(a)(2)–(4) above are hereby permitted for purposes of Section 404, provided the conditions in paragraph (c) below are met.

(b) Discharges of dredged or fill material of less than 500 cubic yards into waters other than navigable waters of the United States (see 33 CFR 329) that are part of an activity that was commenced before July 25, 1975, that were completed by January 25, 1976, and that involve a single and complete project and not a number of projects associated with a complete development plan are hereby permitted for purposes of Section 404, provided the conditions in paragraph (c) below are met. The term "commenced" as used herein shall be satisfied if there has been, before July 25, 1975, some discharge of dredged or fill material as a part of the above activity or an entering into of a written contractual obligation to have the dredged or fill material discharged at a designated disposal site by a contractor.

(c) For the purposes of Section 404, the following conditions must have been satisfied for the discharges occurring before the dates specified in paragraph (a) and (b) above:

(1) That the discharge was not located in the proximity of a public water intake;

(2) That the discharge did not contain unacceptable levels of pathogenic organisms in areas used for recreation involving physical contact with the water;

(3) That the discharge did not occur in areas of concentrated shellfish production; and

(4) That the discharge did not destroy or endanger the critical habitat or a threatened or endangered species, as identified under the Endangered Species Act.

**§ 323.4–2 Discharges into certain waters of the United States.**

(a) Discharges of dredged or fill material into the following waters of the United States are hereby permitted for purposes of Section 404, provided the conditions in paragraph (b) below are met:

(1) Non-tidal rivers, streams and their impoundments including adjacent wetlands that are located above the headwaters;

(2) Natural lakes, including their adjacent wetlands, that are less than 10 acres in surface area and that are fed or drained by a river or stream above the headwaters. In the absence of adjacent wetlands, the surface area of a lake shall be determined at the ordinary high water mark;

(3) Natural lakes, including their adjacent wetlands, that are less than 10 acres in surface area and that are isolated and not a part of a surface river or stream. In the absence of adjacent wetlands, the surface area of a lake shall be determined at the ordinary high water mark; and

(4) Other non-tidal waters of the United States other than isolated lakes larger than 10 acres (see (3) above) that are not part of a surface tributary system to interstate waters or navigable waters of the United States (see § 323.2(a)(5)).

(b) For purposes of Section 404, the following conditions must be satisfied for any discharge of dredged or fill material in waters described in paragraph (a), above:

(1) That the discharge will not destroy a threatened or endangered species as identified under the Endangered Species Act, or endanger the critical habitat of such species;

(2) That the discharge will consist of suitable material free from toxic pollutants in other than trace quantities;

(3) That the fill created by the discharge will be properly maintained to prevent erosion and other non-point sources of pollution; and

(4) That the discharge will not occur in a component of the National Wild and Scenic Rivers System or in a component of a State wild and scenic river system.

**§ 323.4–3 Specific categories of discharges.**

(a) The following discharges of dredged or fill material into waters of the United States are hereby permitted for purposes of Section 404, provided the conditions specified in this paragraph and paragraph (b) below are met:

(1) Dredged or fill material placed as backfill or bedding for utility line crossings provided there is no change in preconstruction bottom contours (excess material must be removed to an upland disposal area). A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquifiable, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone and telegraph messages, and radio and television communication. (The utility line will require a Section 10 permit if in navigable waters of the United States. See 33 CFR Part 322.);

(2) Material discharged for bank stabilization, provided that the bank stabilization activity is less than 500 feet in length, is necessary for erosion prevention, and is limited to less than an average of one cubic yard per running foot along the bank, provided further that no material for bank stabilization is placed in any wetland area, and provided further that no material is placed in any locality or in any manner so as to impair surface water flow into or out of any wetland area. (This activity will require a Section 10 permit if in navigable waters of the United States. See 33 CFR part 322.);





(3) Minor road crossing fills including all attendant features both temporary and permanent that are part of a single and complete crossing of a non-tidal waterbody, provided that the crossing is culverted or bridged to prevent the restriction of expected high flows and provided further that discharges into any wetlands adjacent to the waterbody do not extend beyond 100 feet on either side of the ordinary high water mark of that waterbody. A "minor road crossing fill" is defined as a crossing that involves the discharge of less than 200 cubic yards of fill material below the plane of ordinary high water. The crossing will require a permit from the US Coast Guard if located in navigable waters of the United States (see 33 USC 401);

(4) Fill placed incidental to the construction of bridges across tidal waters including cofferdams, abutments, foundation seals, piers, and temporary construction and access fills. Approach fills and causeways are not included in this permit and will require an individual or general Section 404 permit if located in waters of the United States; these fills as well as the bridge itself will also require a permit from the U.S. Coast Guard; and

(5) The repair, rehabilitation or replacement of any previously authorized, currently serviceable fill, or of any currently serviceable fill discharged prior to the requirement for authorization; provided such repair, rehabilitation or replacement does not result in a deviation from the specifications of the original work, and further provided that the fill to be maintained has not been put to uses differing from uses specified for it in any permit authorizing its original construction.

(b) For the purposes of Section 404, the following conditions must be satisfied prior to any discharge of dredged or fill material associated with the activities described above:

(1) That the discharge will not be located in the proximity of a public water supply intake;

(2) That the discharge will not occur in areas of concentrated shellfish production;

(3) That the discharge will not destroy a threatened or endangered species as identified under the Endangered Species Act, or endanger the critical habitat of such species;

(4) That the discharge will not disrupt the movement of those species of aquatic life indigenous to the waterbody;

(5) That the discharge will consist of suitable material free from toxic pollutants in other than trace quantities;

(6) That the fill created by the discharge will be properly maintained to prevent erosion and other non-point sources of pollution; and

(7) That the discharge will not occur in a component of the National Wild and Scenic River System or in a component of a State wild and scenic river system.

**§ 323.4–4 Discretionary authority to require individual or general permits.**

Notwithstanding the provisions of §§ 323.4–1, 323.4–2 and 323.4–3, above, the procedures of this regulation and 33 CFR Part 325, including those pertaining to individual and general permits, shall apply to any discharge(s) of dredged or fill material if the District Engineer determines that the concerns of the aquatic environment, as expressed in the guidelines (see 40 CFR Part 230) indicate the need for such action because of individual and/or cumulative adverse impacts to the affected waters. In such cases, he shall take such steps as are necessary to notify persons who would be affected by such action. If the Regional Administrator, EPA, advises the District Engineer that the concerns for the aquatic environment as expressed in the Section 404(b) Guidelines require assertion of jurisdiction under § 323.4–4, and the District Engineer and Division Engineer disagree, the Office of the Chief of Engineers (DAEN–CWO–N and DAEN–CCH) shall be notified for further coordination and resolution with the Administrator.

**§ 323.5 Special policies and procedures.**

The Secretary of the Army has delegated to the Chief of Engineers the authority to issue or deny Section 404 permits. (See Appendix A.) The following additional special procedures shall also be applicable to the evaluation of permit applications under this regulation:

(a) *EPA Guidelines.* Applications for permits for the discharge of dredged or fill material into waters of the United States will be reviewed in accordance with guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Federal Water Pollution Control Act. (See 40 CFR Part 230.) If the EPA guidelines alone prohibit the designation of a proposed disposal site, the economic impact on navigation and anchorage of the failure to authorize the use of the proposed disposal site will also be considered in evaluating whether or not the proposed discharge is in the public interest.

(b) *Coordination with EPA.* Prior to actual issuance of permits for the discharge of dredged or fill material in waters of the United States, Corps of Engineers officials will advise appropriate Regional Administrators, EPA, of the intent to issue permits to which EPA has objected, recommended conditions, or for which significant changes are proposed. If the Regional Administrator advises, within fifteen days of the advice of the intent to issue, that he objects to the issuance of the permits, the case will be forwarded to the Chief of Engineers in accordance with 33 CFR 325.11 for further coordination with the Administrator, EPA, and decision. The report forwarding the case will contain an analysis of the economic impact on navigation and anchorage that would occur by failing to authorize the use of a proposed disposal site, and whether there are other economically feasible methods or sites available other than those to which the Regional Administrator objects.

APPENDIX A.—DELETION OF AUTHORITY TO ISSUE OR DENY PERMITS FOR THE DISCHARGE OF DREDGED OR FILL MATERIAL INTO NAVIGABLE WATERS

MARCH 12, 1973.

Pursuant to the authority vested in me by Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 86 Stat. 816, P.L. 92–500, I hereby authorize the Chief of Engineers and his authorized representatives to issue or deny permits, after notice and opportunity for public hearings, for the discharge of dredged or filled material into navigable waters at specified disposal sites. The Chief of Engineers shall, in exercising such authority, evaluate the impact of the proposed discharge on the public interest. All permits issued shall specify a disposal site for the discharge of the dredged or fill material through the application of guidelines developed by the Administrator of the Environmental Protection Agency and myself. In those cases where these guidelines would prohibit the specification of a disposal site, the Chief of Engineers, in his evaluation of whether the proposed discharge is in the public interest, is authorized also to consider the economic impact on navigation and anchorage which would occur by failing to authorize the use of a proposed disposal site. The permits so granted may be made subject to such special conditions as the Chief of Engineers or his authorized representatives may consider necessary in order to effect the purposes of the above Act, other pertinent laws and any applicable memoranda of understanding between the Secretary of the Army and heads of other governmental agencies.

The Chief of Engineers and his authorized representative shall exercise the authority hereby delegated subject to such conditions as I or my authorized representative may from time to time impose.

KENNETH E. BELIEU,
*Acting Secretary of the Army.*

## PART 324—PERMITS FOR OCEAN DUMPING OF DREDGED MATERIAL

Sec.
324.1 General.
324.2 Definitions.
324.3 Activities requiring permits.
324.4 Special procedures.
Appendix A.—Delegation of authority.

AUTHORITY: 33 U.S.C. 1413.

**§ 324.1 General.**

This regulation prescribes in addition to the general policies of 33 CFR 320.4 and procedures of 33 CFR Part 325, those special policies, practices and procedures to be followed by the Corps of Engineers in connection with the review of applications for Department of the Army permits to authorize the transportation of dredged material by vessel for the purpose of dumping it in ocean waters at dumping sites designated under 40 CFR Part 228 pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (33 USC 1413) (hereinafter referred to as Section 103). See 33 CFR 320.2(h). Activities involving the transportation of dredged material for the purpose of dumping in the ocean waters also require Department of the Army permits under Section



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10 of the River and Harbor Act of 1899 (33 USC 403) for the dredging in navigable waters of the United States. Applicants for Department of the Army permits under this Part should also refer to 33 CFR Part 322 to satisfy the requirements of Section 10.

**§ 324.2 Definitions.**

For the purpose of this regulation, the following terms are defined:

(a) The term "ocean waters" means those waters of the open seas lying seaward of the base line from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639).

(b) The term "dredged material" means any material excavated or dredged from navigable waters of the United States or ocean waters.

(c) The term "transport" or "transportation" refers to the carriage and related handling of dredged material by a vessel.

**§ 324.3 Activities requiring permits.**

(a) *General.* Department of the Army permits are required for the transportation of dredged material for the purpose of dumping it in ocean waters.

(b) *Activities of Federal agencies.* (1) The transportation of dredged material for the purpose of dumping in ocean waters done by or on behalf of any Federal agency other than the activities of the Corps of Engineers are subject to the procedures of this regulation. Agreement for construction or engineering services performed for other agencies by the Corps of Engineers does not constitute authorization under the regulation. Division and District Engineers will therefore advise Federal agencies accordingly and cooperate to the fullest extent in the expeditious processing of their applications. The activities of the Corps of Engineers that involve the transportation of dredged material for dumping in ocean waters are regulated by 33 CFR 209.145.

(2) The policy provisions set out in 33 CFR 320.4(j) relating to State or local authorizations do not apply to work or structures undertaken by Federal agencies, except where compliance with non-Federal authorization is required by Federal law or Executive policy. Federal agencies are required to comply with the substantive State, interstate, and local water-quality standards and effluent limitations as are applicable by law that are adopted in accordance with or effective under the provisions of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, and related laws in the design, construction, management, operation, and maintenance of their respective facilities. (See Executive Order No. 11752, dated 17 Dec 73.) They are not required, however, to obtain and provide certification of compliance with effluent limitations and water-quantity standards from State or interstate water pollution control agencies in connection with activities involving discharges into ocean waters.

**§ 324.4 Special procedures.**

The Secretary of the Army has delegated to the Chief of Engineers the authority to issue or deny Section 103 permits. (See Appendix A.) The following additional procedures shall also be applicable under this regulation.

(a) *Public notice.* For all applications for Section 103 permits, the District Engineer will issue a public notice which shall contain, in addition to the information specified in 33 CFR 325.3, the following information:

(1) The location of the proposed disposal site and its physical boundaries;

(2) A statement as to whether the site has been designated for use by the Administrator, EPA, pursuant to Section 102(c) of the Act;

(3) If the proposed disposal site has not been designated by the Administrator, EPA a description of the characteristics of the proposed disposal site and an explanation as to why no previously designated disposal site is feasible;

(4) A brief description of known dredged material discharges at the proposed disposal site;

(5) Existence and documented effects of other authorized dumpings that have been made in the dumping area (e.g., heavy metal background reading and organic carbon content);

(6) An estimate of the length of time during which disposal will continue at the proposed site;

(7) Characteristics and composition of the dredged material; and

(8) A statement concerning a preliminary determination of the need for and/or availability of an environmental impact statement.

(b) *Evaluation.* Applications for permits for the transportation of dredged material for the purpose of dumping it in ocean waters will be evaluated to determine whether the proposed dumping will unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems or economic potentialities. In making this evaluation, criteria established by the Administrator, EPA, pursuant to Section 102 of the Marine Protection Research and Sanctuaries Act of 1972, as amended, shall be applied including an evaluation of the need for the ocean dumping and including the availability of alternatives to ocean dumping. Where ocean dumping is determined to be necessary, the District Engineer will, to the extent feasible, specify disposal sites using the recommendations of the Administrator pursuant to Section 102(c) of the Act. See 40 CFR Parts 220 to 229.

(c) *EPA review.* If the Regional Administrator, EPA, advises the District Engineer that the proposed dumping will comply with the criteria the District Engineer shall complete his evaluation of the Section 103 application under this regulation and 33 CFR Parts 320 and 325. If, however, the Regional Administrator advises the District Engineer that the proposed dumping will not comply with the Criteria, the District Engineer will proceed as follows.

(1) The District Engineer shall determine whether there is an economically feasible alternative method or site available other than the proposed ocean disposal site. If there are other feasible alternative methods or sites available, the District Engineer shall evaluate them in accordance with 33 CFR Parts 320, 322, 323, 325 and this regulation, as appropriate.

(2) If the District Engineer makes a determination that there is no economically feasible alternative method or site available, he shall so advise the Regional Administrator of his intent to issue the permit setting forth his reasons for such determination.

(d) *EPA objection.* If the Regional Administrator advises, within 15 days of the notice of the intent to issue, that he still objects to the issuance of the permit, the case will be forwarded to the Chief of Engineers, for further coordination with the Administrator, EPA, and decision. The report forwarding the case will contain, in addition to the analysis required by 33 CFR 325.11, an analysis of whether there are other economically feasible methods or sites available to dispose of the dredged material.

(e) *Chief of Engineers review.* The Chief of Engineers shall evaluate the permit application and make a decision to deny the permit or recommend its issuance. If the decision of the Chief of Engineers is that ocean dumping at the proposed disposal site is required because of the unavailability of economically feasible alternatives, he shall so certify and request that the Secretary of the Army seek a waiver from the Administrator, EPA, of the Criteria or of the critical site designation in accordance with 40 CFR 225.4.

APPENDIX A—DELEGATION OF AUTHORITY TO ISSUE OR DENY PERMITS FOR THE TRANSPORTATION OF DREDGED MATERIAL FOR THE PURPOSE OF DUMPING IT INTO OCEAN WATERS

MARCH 12, 1973.

Pursuant to the authority vested in me by Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, 86 Stat. 1052, Pub. L. 92-532, I hereby authorize the Chief of Engineers and his authorized representatives to issue or deny permits, after notice and opportunity for public hearings, for the transportation of dredged material for the purpose of dumping it in ocean waters. The Chief of Engineers and his authorized representatives shall, in exercising such authority, evaluate the impact of the proposed dumping on the public interest. No permit shall be issued unless a determination is made that the proposed dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. In making this determination, those criteria for ocean dumping established by the Administrator of the Environmental Protection Agency pursuant to Section 102 (a) of the above Act which relate to the effects of the proposed dumping shall be applied. In addition, based upon an evaluation of the potential effect which a permit denial will have on navigation, economic and industrial development, and foreign and domestic commerce of the United States, the Chief of Engineers or his authorized representatives, in evaluating the permit application, shall make an independent determination as to the need for the dumping, other possible methods of disposal, and appropriate locations for the dumping. In considering appropriate disposal sites, recommended sites designated by the Administrator of the Environmental Protection Agency pursuant to Section 102(c) of the above Act will be utilized to the extent feasible. Prior to issuing any permit, the Chief of Engineers or his authorized representatives shall first notify the Administrator of the Environmental Protection Agency or his authorized representative of his intention to do so. In any case in which the Administrator or his authorized representative disagrees with the determination of the Chief of Engineers or his authorized representative as to compliance with the criteria established pursuant to Section 102(a) of the above Act relating to the effects of the dumping or with the restrictions established pursuant to Section 102(c) of the above Act relating to critical areas, the determination of the Administrator or his authorized representative shall prevail. If, in any such case, the Chief of Engineers or his Director of Civil Works finds that, in the disposition of dredged material, there is no economically feasible method or site available other than a dumping site the utilization of which would result in noncompliance with such criteria or restrictions, he shall so certify and request that I seek a waiver from the Administrator of the Environmental Protection Agency of the specific requirements involved. Unless the Administrator of the Environmental Protection Agency grants a waiver, the Chief of Engineers or his authorized representatives shall not issue a permit which does not comply with such criteria and restrictions. The permits so granted may be made subject to such special conditions as the Chief of Engineers or his authorized representatives may consider necessary in order to effect the purposes of the above Act, other pertinent laws, and any applicable memoranda of understanding between the Secretary of the Army and the heads of other governmental agencies.

The Chief of Engineers and his authorized representative shall exercise the authority hereby delegated subject to such conditions as I or my authorized representative may from time to time impose.

KENNETH E. BELIEU,
*Acting Secrtary of the Army.*





## PART 325—PROCESSING OF DEPARTMENT OF THE ARMY PERMITS

Sec.


325.1 Applications for permits.
325.2 Processing of applications.
325.3 Public notice.
325.4 Environmental impact statement.
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325.6 Duration of authorizations.
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325.8 Authority to issue or deny authorizations.
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Appendix A—Permit Form.
Appendix B—Army/Interior Memorandum of Understanding.


AUTHORITY: 33 U.S.C. 401 et seq.: 33 U.S.C. 1344; 33 U.S.C. 1413.

**§ 325.1 Applications for permits.**

(a) *General.* The processing procedures of this regulation (Part 325) apply to any form of Department of the Army permit. Special procedures and additional information are contained in Parts 320 through 324. This Part is arranged in the basic timing sequence used by the Corps of Engineers in processing Department of the Army permits.

(b) *Application form.* Any person proposing to undertake any activity requiring Department of the Army authorization as specified in 33 CFR 321–324 must apply for a permit to the District Engineer in charge of the District where the proposed activity is to be performed. Applications for permits must be prepared in accordance with instructions in Engineer Pamphlet 1145–2–1, "A Guide for Applicants," utilizing the prescribed application form (ENG Form 4345). The form and pamphlet may be obtained from the District Engineer having jurisdiction over the waterway in which the proposed activity will be located. Local variations of the application form for purposes of facilitating coordination with State and local agencies may be used.

(c) *Content of application.* (1) Generally, the application must include a complete description of the proposed activity including necessary drawings, sketches or plans; the location, purpose and intended use of the proposed activity; scheduling of the activity; the names and addresses of adjoining property owners; the location and dimensions of adjacent structures; and the approvals required by other Federal, interstate, State or local agencies for the work, including all approvals received or denials already made.

(2) If the activity involves dredging in waters of the United States, the application must include a description of the type, composition and quantity of the material to be dredged, the method of dredging, and the site and plans for disposal of the dredged material.

(3) If the activity includes the discharge of dredged or fill material in the waters of the United States or the transportation of dredged material for the purpose of dumping it in ocean waters, the application must include the source of the material; a description of the type, composition and quantity of the material; the method of transportation and disposal of the material; and the location of the disposal site. (See Part 324 for additional information requirements on ocean dumping applications.) Certification under Section 401 of the Federal Water Pollution Control Act is required for such discharges into waters of the United States.

(4) If the activity includes the construction of a fill or pile or float-supported platform, the project description must include the use and specific structures to be erected on the fill or platform.

(d) *Additional information.* In addition to the information indicated in subparagraph (c), above, the applicant will be required to furnish such additional information as the District Engineer may deem necessary to assist him in his evaluation of the application. Such additional information may include environmental data and information on alternate methods and sites, as may be necessary for the preparation of the Environmental Assessment or Environmental Impact Statement (see § 325.4).

(e) *Signature of application.* The application must be signed by the person who desires to undertake the proposed activity; however, the application may be signed by a duly authorized agent if accompanied by a statement by that person designating the agent and agreeing to furnish, upon request, supplemental information in support of the application. In either case, the signature of the applicant will be understood to be an affirmation that he possesses the authority to undertake the activity proposed in his application, except where the lands are under the control of the Corps of Engineers, in which cases the District Engineer will coordinate the transfer of the real estate and the permit action. When the application is submitted by an agent, the application may include the activity of more than one owner provided the character of the activity of each owner is similar and in the same general area.

(f) *Fees.* Fees are required for permit applications under Section 404 of the Federal Water Pollution Control Act Amendments of 1972, Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, and Sections 9 and 10 of the River and Harbor Act of 1899. A fee of $100.00 will be charged when the planned or ultimate purpose of the project is commercial or industrial in nature and is in support of operations that charge for the production, distribution or sale of goods or services. A $10.00 fee will be charged for permit applications when the work is non-commercial in nature and provides personal benefits that have no connection with a commercial enterprise. The final decision as to basis for fee (commercial vs. non-commercial) shall be solely the responsibility of the District Engineer. No fee will be charged if the applicant withdraws his application at any time prior to issuance of the permit and/or if his application is denied. Collection of the fee will be deferred until the applicant is notified by the District Engineer that a public interest review has been completed and that the proposed activity has been determined to be in the public interest. Upon receipt of this notification the applicant will forward a check or money order to the District Engineer, made payable to the Treasurer of the United States. The permit will then be issued upon receipt of the application fee. Multiple fees are not to be charged if more than one law is applicable. Any modification significant enough to require a permit will also require a fee. No fee will be assessed when a permit is transferred from one property owner to another. No fees will be charged for time extensions or general permits. Agencies or instrumentalities of Federal, State or local governments will not be required to pay any fee in connection with the applications for permits. This fee structure will be reviewed from time to time.



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§ 325.2 **Processing of applications.**

(a) *Standard procedures.* (1) When an application for a permit is received, the District Engineer shall immediately assign it a number for identification, acknowledge receipt thereof, and advise the applicant of the number assigned to it. He shall review the application for completeness, and obtain from the applicant any additional information he deems necessary for further processing.

(2) When all required information has been provided, the District Engineer will issue a public notice as described in § 325.3, below, unless specifically exempted by other provisions of this regulation.

(3) The District Engineer shall consider all comments received in response to the public notice (see § 325.3) in his subsequent actions on the permit application. Receipt of the comments will be acknowledged and they will be made a part of the official file on the application. Comments received as form letters or petitions may be acknowledged as a group to the person or organization responsible for the form letter or petition. If comments relate to matters within the special expertise of another Federal agency, the District Engineer may seek the advice of that agency. The applicant must be given the opportunity to furnish the District Engineer his proposed resolution or rebuttal to all objections from Government agencies and other substantive adverse comments before final decision will be made on the application.

(4) The District Engineer shall prepare an Environmental Assessment on all applications. The Environmental Assessment shall be dated, signed, and placed in the record and shall include the expected environmental impacts of the proposal. Where the District Engineer has delegated authority to sign permits for and in his behalf, he may similarly delegate the signing of the Environmental Assessment. In those cases requiring an Environmental Impact Statement (EIS), the draft EIS may serve as the Environmental Assessment. Where an EIS is not prepared, the Environmental Assessment will include a statement that the decision on the application is not a major Federal action significantly affecting the quality of the human environment.

(5) The District Engineer shall also evaluate the proposed application to determine the need for a public hearing pursuant to 33 CFR Part 327.

(6) After all above actions have been completed, the District Engineer will determine in accordance with the record and applicable regulations whether or not the permit should be issued. He shall prepare a Findings of Fact on all applications to support his determination. The Findings of Fact shall include the District Engineer's views on the probable effect of the proposed work on the public interest including conformity with the guidelines published for the discharge of dredged or fill material in waters of the United States (40 CFR Part 230) or with the criteria for dumping of dredged material in ocean waters (40 CFR Parts 220 to 229), if applicable, and the conclusions of the District Engineer. The Findings of Fact shall be dated, signed, and included in the record prior to final action on the application. Where the District Engineer has delegated authority to sign permits for and in his behalf, he may similarly delegate the signing of the Findings of Fact. If a permit is warranted, the District Engineer will determine the conditions and duration which should be incorporated into the permit. In accordance with the authorities specified in § 325.8, the District Engineer will take final action or forward the application with all pertinent comments, records, and studies, including the final Environmental Impact Statement, if prepared, through channels to the official authorized to make the final decision. The report forwarding the application for decision will be in the format prescribed in § 325.11. Notice that the application has been forwarded to higher headquarters will be furnished the applicant and to any Federal agency expressing an interest in the application. Such notice shall not divulge the District Engineer's recommendations. In those cases where the application is forwarded for decision in the format prescribed in § 325.11, the report will serve as the Findings of Fact.

(7) If the final decision is to deny the permit, the applicant will be advised in writing of the reason for denial. If the final decision is to issue the permit, the issuing official will forward two copies of the draft permit to the applicant for signature accepting the conditions of the permit. The applicant will return both signed copies to the issuing official who then signs and dates the permit. The permit is not valid until signed by the issuing official. Final action on the permit application is the signature on the letter notifying the applicant of the denial of his application or signature of the issuing official on the authorizing document.

(8) The District Engineer will publish monthly a list of permits issued or denied during the previous month. The list will identify each action by public notice number, name of applicant, and brief description of activity involved. This list will be distributed to all persons who received any of the public notices listed.

(9) If the applicant fails to respond within 45 days to any request or inquiry of the District Engineer, the District Engineer may advise the applicant by certified letter that his application will be considered as having been withdrawn unless the applicant responds thereto within thirty days of the date of the letter.

(b) *Procedures for particular types of permit situations.* (1) If the District Engineer determines that water quality certification for the proposed activity is necessary under the provisions of the Federal Water Pollution Control Act, he shall so notify the applicant and obtain from him either the appropriate certification or a copy of his application for such certification. The District Engineer may issue the public notice of the application jointly with the certifying agency if arrangements for such joint notices have been approved by the Division Engineer. When the activity may affect the waters of another State, a copy of the certification will be forwarded to the Regional Administrator of EPA who shall determine if the proposed activity may affect the quality of the waters of any State or States other than the State in which the work is to be performed. If he needs supplemental information in order to make this determination, the Regional Administrator may request it from the District Engineer who shall obtain it from the applicant and forward it to the Regional Administrator. The Regional Administrator shall, within thirty days of receipt of the application, certification and supplemental information, notify the affected State, the District Engineer, and the applicant in the event such a second State may be affected. The second State then has sixty days to advise the District Engineer that it objects to the issuance of the permit on the basis of the effect on the quality of its waters and to request a hearing. No authorization will be granted until required certification has been obtained or has been waived. Waiver is deemed to occur if the certifying agency fails or refuses to act on a request for certification within a reasonable period of time after receipt of such request. The request for certification must be made in accordance with the regulations of the certifying agency. In determining whether or not a waiver period has commenced, the District Engineer will verify that the certifying agency has received a valid request for certification. Three months shall generally be considered to be a reasonable period of time. If, however, special circumstances identified by the District Engineer require that action on an application be taken within a more limited period of time, the District Engineer shall determine a reasonable lesser period of time, advise the certifying agency of the need for action by a particular date and that, if certification is not received by that date, it will be considered that the requirement for certification has been waived. Similarly if it appears that circumstances may reasonably require a period of time longer than three months, the District Engineer may afford the certifying agency up to one year to provide the required certification before determining that a waiver has occurred. District Engineers shall check with the certifying agency at the end of the allotted period of time before determining that a waiver has occurred.

(2) If the proposed activity is to be undertaken in a State operating under a coastal zone management program approved by the Secretary of Commerce pursuant to the Coastal Zone Management Act (see 33 CFR 320.3(b)), the District Engineer shall proceed as follows:

(i) If the applicant is a Federal agency, and the application involves a Federal activity in or affecting the coastal zone or a Federal development project in the coastal zone, the District Engineer shall forward a copy of the public notice to the agency of the State responsible for reviewing the consistency of Federal activities. The Federal agency applicant shall be responsible for complying with the Coastal Zone Management Act's directives for ensuring that Federal agency activities are undertaken in a manner which is consistent, to the maximum extent practicable, with approved coastal zone management programs. (See 15 CFR Part 930.) If the State coastal zone agency objects to the proposed Federal activity on the basis of its inconsistency with the State's approved coastal zone management program, the District Engineer shall not make a final decision on the application until the disagreeing parties have had an opportunity to utilize the procedures specified by the Coastal Zone Management Act for resolving such disagreements.

(ii) If the applicant is not a Federal agency and the application involves an activity affecting the coastal zone, the District Engineer shall obtain from the applicant a certification that his proposed activity complies with and will be conducted in a manner that is consistent with the approved State coastal zone management program. Upon receipt of the certification, the District Engineer will forward a copy of the public notice (which will include the applicant's certification statement) to the State coastal zone agency and request its concurrence or objection. The District Engineer can issue the public notice of the application jointly with the State agency if arrangements for such joint notices have been approved by the Division Engineer. If the State agency objects to the certification or issues a decision indicating that the proposed activity requires further review, the District Engineer shall not issue the permit until the State concurs with the certification statement or the Secretary of Commerce determines that the proposed activity is consistent with the purposes of the Coastal Zone Management Act or is necessary in the interest of national security. If the State agency fails to concur or object to a certification statement within six months of the State agency's receipt of the certification statement, State agency concurrence with the certification statement shall be conclusively presumed.

(3) If the proposed activity involves any property listed or eligible for listing in the National Register of Historic Places (which is published in its entirety in the FEDERAL REGISTER annually in February with addenda published each month), the District Engineer will proceed in accordance with 33 CFR Part 305.

(4) If the proposed activity consists of the dredging of an access channel and/or berthing facility associated with an authorized Federal navigation project, the activity will be included in the planning and coordination of the construction or maintenance of the Federal project to the maximum extent feasible. Separate notice, hearing, and Environmental Impact Statement will not be required for activities so included and coordinated; and the public notice issued by the District Engineer for these Federal and associated non-Federal activities will be the notice of intent to issue permits for those included non-Federal dredging activities. The decision whether to issue or deny such a permit will be consistent with the decision on the Federal project unless special considerations applicable to the proposed activity are identified. (See § 322.5(a).)

(5) Copies of permits will be furnished to other agencies in appropriate cases as follows:

(i) If the activity involves the construction of structures or artificial islands on the outer continental shelf, to the Director, Defense Mapping Agency, Hydrographic Center, Washington, D.C. 20390: Attention, Code N512 and to the Director, National Ocean Survey, NOAA, Department of Commerce, Rockville, Maryland 20852.

(ii) If the activity involves the construction of structures to enhance fish propagation (fish havens) along the coasts of the United States, to Defense Mapping Agency, Hydrographic Center and National Ocean Survey as in (i), above, and to the Director, Office of Marine Recreational Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

(iii) If the activity involves the erection of an aerial transmission line across a navigable water of the United States, to the Director, National Ocean Survey, NOAA, Department of Commerce, Rockville, Maryland 20852, reference C322.

(iv) If the activity is listed in subparagraphs (i), (ii), or (iii), above, or involves the transportation of dredged material for the purpose of dumping it in ocean waters, to the appropriate District Commander, U.S. Coast Guard.

(c) *Emergency procedures.* An "emergency" is a situation which would result in an unacceptable hazard to life or severe loss of property if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under required procedures. In such cases the District Engineer will explain the circumstance and recommend special procedures in writing to the Chief of Engineers, ATTN: DAEN-CWO-N. The Chief of Engineers, upon consultation with the Secretary of the Army or his authorized representative, will instruct the District Engineer as to further processing of the application.

(d) *Timing of processing of applications.* In view of the extensive coordination with other agencies and the public and the study of all aspects of proposed activities required by the above procedures, applicants must allow adequate time for the processing of their applications. The District Engineer will be guided by the following time limits for the indicated steps in processing permit applications:

(1) Public notice should be issued within fifteen days of receipt of all required information from the applicant, unless joint notice with State agencies is to be used.

(2) The receipt of comments as a result of the public notice should not extend beyond thirty days from the date of the notice. However, if unusual circumstances warrant, the District Engineer may extend the comment period up to a maximum of seventy-five days.

(3) The District Engineer should either send notice of denial to the applicant, or issue the draft permit to the applicant for acceptance and signature, or forward the application to higher headquarters within thirty days of one of the following whichever is latest: Closing of the public notice comment period with no objections received; receipt of notice of withdrawal of objections; completion of coordination following receipt of applicant's rebuttal of objections; closing of the record of a public hearing; or expiration of the waiting period following the filing of the final Environmental Impact Statement with CEQ.

§ 325.3 **Public notice.**

(a) *General.* The Public notice is the primary method of advising all interested parties of the proposed activity for which a permit is sought and of soliciting comments and information necessary to evaluate the probable impact on the public interest. The notice must, therefore, include sufficient information to give a clear understanding of the nature of the activity to generate meaningful comments. The notice should include the following items of information:

(1) Applicable statutory authority or authorities;

(2) The name and address of the applicant;

(3) The location of the proposed activity;

(4) A brief description of the proposed activity, its purpose and intended use, including a description of the type of structures, if any, to be erected on fills, or pile or float-supported platforms, and a description of the type, composition and quantity of materials to be discharged or dumped and means of conveyance. See also 33 CFR 324 for additional information required on ocean dumping public notices;

(5) A plan and elevation drawing showing the general and specific site location and character of all proposed activities, including the size relationship of the proposed structures to the size of the impacted waterway and depth of water in the area;

(6) If the proposed activity would occur in the territorial seas or ocean waters, a description of the activity's relationship to the baseline from which the territorial sea is measured;

(7) A list of other government authorizations obtained or requested, including required certifications relative to water quality, coastal zone management, or marine sanctuaries;

(8) A statement concerning a preliminary determination of the need for and/or availability of an Environmental Impact Statement;







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(9) Any other available information which may assist interested parties in evaluating the likely impact of the proposed activity, if any, on factors affecting the public interest, including environmental values; and

(10) A reasonable period of time, normally thirty days but not less than fifteen days from date of mailing, within which interested parties may express their views concerning the permit application.

(b) *Evaluation factors.* A paragraph describing the various factors on which decisions are based during evaluation of a permit application shall be included in every public notice.

(1) Except as provided in paragraph (b)(4) below, the following will be included:

> The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

(2) If the activity involves the discharge of dredged or fill material into the waters of the United States or the transportation of dredged material for the purpose of dumping it in ocean waters, the public notice shall also indicate that the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Federal Water Pollution Control Act (40 CFR Part 230) or of the criteria established under authority of Section 102(a) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (40 CFR Parts 220 to 228), as appropriate. See also 33 CFR Part 324.

(3) If the activity includes the discharge of dredged or fill material in the waters of the United States or the transportation of dredged material for the purpose of dumping it in ocean waters, the following statement will also be included in the public notice:

> Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

(4) In cases involving construction of fixed structures or artificial islands on Outer Continental Shelf lands which are under mineral lease from the Department of the Interior, the notice will contain the following statement: "The decision as to whether a permit will be issued will be based on an evaluation of the impact of the proposed work on navigation and national security."

(c) *Distribution of public notices.* (1) Public notices will be distributed for posting in post offices or other appropriate public places in the vicinity of the site of the proposed work and will be sent to the applicant, to appropriate city and county officials, to adjoining property owners, to appropriate State agencies, to concerned Federal agencies, to local, regional and national shipping and other concerned business and conservation organizations, to appropriate River Basin Commissions, and to any other interested party. If in the judgment of the District Engineer the proposal may result in substantial public interest, the public notice (without drawings) may be published for five consecutive days in the local newspaper, and the applicant shall reimburse the District Engineer for the costs of publication. Copies of public notices will be sent to all parties who have specifically requested copies of public notices, to the U.S. Senators and Representatives for the area where the work is to be performed, the Field Representatvie of the Secretary of the Interior, the Regional Director of the Fish and Wildlife Service, the Regional Director of the National Park Service, the Regional Administrator of the Environmental Protection Agency (EPA), the Regional Director of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration (NOAA), the head of the State agency responsible for fish and wildlife resources, and the District Commander, U.S. Coast Guard.

(2) In addition to the general distribution of public notices cited above, notices will be sent to other addresses in appropriate cases as follows:

(i) If the activity involves structures or dredging along the shores of the sea or Great Lakes, to the Coastal Engineering Research Center, Washington, D.C. 20016.

(ii) If the activity involves construction of fixed structures or artificial islands on the Outer Continental Shelf or in the territorial seas, to the Deputy Assistant Secretary of Defense (Installations and Housing), Washington, D.C. 20310; the Director, Defense Mapping Agency, Hydrographic Center, Washington, D.C. 20390, Attention, Code N512; and the Director, National Ocean Survey, NOAA, Department of Commerce, Rockville, Maryland 20852.

(iii) If the activity involves the construction of structures to enhance fish propagation along the Atlantic, Pacific, and Gulf coasts, to the Director, Office of Marine Recreational Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

(iv) If the activity involves the construction of structures which may affect aircraft operations or for purposes associated with seaplane operations, to the Regional Director of the Federal Aviation Administration.

(v) If the activity is in connection with a foreign-trade zone, to the Executive Secretary, Foreign-Trade Zones Board, Department of Commerce, Washington, D.C. 20230 and to the appropriate District Director of Customs as Resident Representative, Foreign-Trade Zones Board.

(3) It is presumed that all interested parties and agencies will wish to respond to public notices; therefore, a lack of response will be interpreted as meaning that there is no objection to the application. A copy of the public notice with the list of the addressees to whom the notice was sent will be included in the record. If a question develops with respect to an activity for which another agency has responsibility and that other agency has not responded to the public notice, the District Engineer may request their comments. Whenever a response to a public notice has been received from a member of Congress, either in behalf of a constituent or himself, the District Engineer will inform the member of Congress of the final decision.

(d) *General permit notices (RCS: DAEN–CWO–52).* For purposes of performing a nationwide analysis of the effectiveness of the general permit program, Division offices will submit "Public Notices on General Permits" reports (RCS: DAEN–CWO–52) by COB on the 15th day, following the end of each quarter, to HQDA (DAEN–CWO–N) Washington, D.C. 20314. Said reports will be in the form of a letter listing the public notices published during the previous month to announce proposals or to finalize issuances of general permits; copies of the public notices are to be made inclosures to the reports. Negative reports will be submitted if no general permit actions have taken place in the Division during the reporting period.

### § 325.4 Environmental impact statements.

(a) *General.* Section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA) requires all Federal agencies, with respect to major Federal actions significantly affecting the quality of the human environment, to submit to the President's Council on Environmental Quality a detailed statement on:

(1) The environmental impact of the proposed actions.

(2) Any adverse environmental effects which cannot be avoided should the proposal be implemented.

(3) Alternatives to the proposed action.

(4) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.

(5) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented. The District Engineer must determine whether such an Environmental Impact Statement (EIS) is required in connection with each permit application.

(b) *EIS procedures.* In addition to the procedures required by 33 CFR 209.410 (ER 1105–2–507), the following special procedures apply to the processing of permits involving the preparation of an EIS.

(1) The District Engineer, at the earliest practicable time prior to the issuance of the public notice, shall make a preliminary assessment of impacts of the project should it be approved and make a preliminary determination as to whether the quality of the human environment would be significantly affected. This preliminary assessment will normally be based on experience with similar type activities performed in the past. A statement of the District Engineer's preliminary determination shall be included in the public notice. This preliminary determination will be reconsidered as additional information is developed.

(2) If the District Engineer's final determination after consideration of all additional information developed (including responses to the public notice) is that the proposed work will not significantly affect the quality of the human environment, the District Engineer's determination shall be documented, dated, and placed in the record as his Environmental Assessment (see § 325.2(a)(4)).

(3) At such time as the District Engineer believes that a permit may be warranted but that the proposed activity would significantly affect the quality of the human environment, he will require the applicant to furnish any additional information that the District Engineer considers necessary to allow his preparation of an EIS. The applicant should also be advised at this time that there is no assurance that favorable action will ultimately be taken on his application. Additionally, if the District Engineer has previously announced a preliminary determination that no EIS would be required, he shall issue a supplemental public notice to advise the public of the changed determination. If the applicant is unable to furnish certain information considered by the District Engineer to be necessary for the EIS, the District Engineer may, after obtaining written approval from the Division Engineer, charge the applicant pursuant to 31 U.S.C. 483(a) for those extraordinary expenses incurred by the Government in developing the information. All money so collected shall be paid into the Treasury of the United States as miscellaneous receipts. Otherwise the costs of the preparation and distribution of the EIS itself shall be borne by the Federal Government. In those cases when the determination has been made that an EIS will be required, the District Engineer shall consider inviting public comments as to specific factors of concern which should be addressed in the draft EIS. Upon preparation of the draft EIS, a public notice shall be issued summarizing the facts of the case and announcing the availability of the draft EIS. A copy of that notice shall be furnished to all recipients of the draft EIS including CEQ. If a public hearing is to be held pursuant to § 325.2(a)(5), the hearing may be held anytime after completion of the draft EIS.

(4) If another agency is the lead agency as defined by the CEQ guidelines (40 CFR 1500.7(b)) the District Engineer will coordinate with that agency to insure that the resulting EIS adequately describes the impact of the activity which is subject to Corps permit authority. That previously prepared EIS will be referenced in the public notice announcing the permit application and a statement included that the effects of the proposed activity on the environment as outlined therein will be carefully considered in the evaluation of the permit application.

(c) *Public notice on EIS filing.* The 30-day wait period required by the National Environmental Policy Act for issuing a permit for which an EIS has been prepared begins with notation in the Federal Register that the FEIS has been filed with CEQ or on the date of delivery to U.S. Postal Service facilities for mailing of copies of the FEIS to agencies, groups, and individuals on the project mailing list, whichever date is later. In order to notify the interested public of their opportunity to comment on the FEIS, the District Engineer shall issue a public notice when the filing notation has been published in the Federal Register to all parties receiving the original application notice or draft EIS and to all others who have expressed an interest in the application. The public notice should include:

(1) A brief summary of application (applicant, work, date of public notice, date of draft EIS release, date of public hearing, if held);

(2) Opportunity to comment to the District Engineer on the FEIS until the deadline date projected by the 30-day wait period;

(3) A statement that the comments received on the FEIS will be evaluated and considered in arriving at the final decision on the application; and

(4) Information on how interested parties can obtain or have access to the FEIS.

### § 325.5 Forms of authorization.

(a) *General.* (1) Department of the Army authorizations under this regulation shall be in the form of an individual permit, general permit, or letter of permission, as appropriate. The basic format shall be ENG Form 1721, Department of the Army Permit (Appendix A).

(2) While the general conditions included in ENG Form 1721 are normally applicable to all permits, some may not apply to certain authorizations (e.g., after-the-fact situations where work is completed, or situations in which the permittee is a Federal agency) and may be deleted by the issuing officer. Special conditions applicable to the specific activity will be included in the permit as necessary to protect the public interest.

(b) *Letters of permission.* In those cases subject to Section 10 of the River and Harbor Act of 1899 in which, in the opinion of the District Engineer, the proposed work is minor, will not have significant impact on environmental values, and should encounter no opposition, the District Engineer may omit the publishing of a public notice and authorize the work by a letter of permission. However, he will coordinate the proposal with all concerned fish and wildlife agencies, Federal and State, as required by the Fish and Wildlife Coordination Act. The letter of permission will not be used to authorize the discharge of dredged or fill material into waters of the United States nor the transportation of dredged material for purposes of dumping it in ocean waters. The letter of permission will be in letter form and will identify the permittee, the authorized work and location of the work, the statutory authority (i.e., 33 U.S.C. 403), any limitations on the work, a construction time limit and a requirement for a report of completed work. A copy of the general conditions from ENG Form 1721 will be attached and will be incorporated by reference into the letter of permission.

(c) *General permits.* The District Engineer may, after compliance with the other procedures of this regulation, issue general permits for certain clearly described categories of structures or work, including discharges of dredged or fill material, requiring Department of the Army permits. After a general permit has been issued, individual activities falling within those categories that are authorized by such general permits do not have to be further authorized by the procedures of this regulation unless the District Engineer determines, on a case-by-case basis, that the public interest requires.

(d) *Section 9 permits.* Permits for structures under Section 9 of the River and Harbor Act of 1899 will be drafted during review procedures at Department of the Army level.

(e) *Nationwide permits.* Nationwide permits mean Department of the Army authorizations that have been issued by the regulations for certain specified activities nationwide. If certain conditions are met, the specified activities can take place without the need for an individual or general permit.

### § 325.6 Duration of authorizations.

(a) *General.* Department of the Army authorization may authorize both the work and the resulting use. Authorizations continue in effect until they automatically expire or are modified, suspended, or revoked.

(b) *Structures.* Authorizations for the existence of a structure or other activity of a permanent nature are usually for an indefinite duration with no expiration date cited. However, where a temporary structure is authorized, or where restoration of a waterway is contemplated, the authorization will be of limited duration with a definite expiration date. Except as provided in subparagraph (e), below, permits for the discharge of dredged material in the waters of the United States or for the transportation of dredged material for the purpose of dumping it in ocean waters will be of limited duration with a definite expiration date.

(c) *Works.* Authorizations for construction work or other activity will specify time limits for accomplishing the work or activity. The time limits will specify a date by which the work must be started, normally one year from the date







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of issuance, and a date by which the work must be completed. The dates will be established by the issuing official and will provide reasonable times based on the scope and nature of the work involved. An authorization for work or other activity will automatically expire if the permittee fails to request an extension or revalidation.

(d) *Extensions of time.* Extensions of time may be granted by the District Engineer for authorizations of limited duration, or for the time limitations imposed for starting or completing the work or activity. The permittee must request the extension and explain the basis of the request, which will be granted only if the District Engineer determines that an extension is in the general public interest. Requests for extensions will be processed in accordance with the regular procedures of § 325.2, including issuance of a public notice, except that such processing is not required where the District Engineer determines that there have been no significant changes in the attendant circumstances since the authorization was issued and that the work is proceeding essentially in accordance with the approved plans and conditions.

(e) *Periodic maintenance.* If the authorized work includes periodic maintenance dredging, an expiration date for the authorization of that maintenance dredging will be included in the permit. The expiration date, which in no event is to exceed ten years from the date of issuance of the permit, will be established by the issuing official after his evaluation of the proposed method of dredging and disposal of the dredged material in accordance with the requirements of 33 CFR Parts 320 to 325. In such cases, the District Engineer shall require notification of the maintenance dredging prior to actual performance to insure continued compliance with the requirements of the regulation and 33 CFR Parts 320–324. If the permittee desires to continue maintenance dredging beyond the expiration date, he must request a revalidation of that portion of his permit which authorized the maintenance dredging. The request must be made to the District Engineer six months prior to the expiration date, and include full description of the proposed methods of dredging and disposal of dredged materials. The District Engineer will process the request for revalidation in accordance with the standard procedures including the issuance of a public notice describing the authorized work to be maintained and the proposed methods of maintenance.

**§ 325.7 Modification, suspension or revocation of authorizations.**

(a) *General.* The District Engineer may reevaluate the circumstance and conditions of a permit either on his own motion or as the result of periodic progress inspection, and initiate action to modify, suspend, or revoke a permit as may be made necessary by considerations of the general public interest. Among the factors to be considered are the extent of the permittee's compliance with the terms and conditions of the permit; whether or not circumstances relating to the activity authorized have changed since the permit was issued, extended or revalidated, and the continuing adequacy of the permit conditions; any significant objections to the activity authorized by the permit which were not earlier considered; revisions to applicable statutory and/or regulatory authorities; and the extent to which modification, suspension, or other action would adversely affect plans, investments and actions the permittee has reasonably made or taken in reliance on the permit. Significant increases in scope of a permitted activity will be processed as new applications for permits in accordance with Sec. 325.2, and not as modifications under this paragraph.

(b) *Modification.* The District Engineer, as a result of revaluation of the circumstances and conditions of a permit, may determine that protection of the general public interest requires a modification of the terms or conditions of the permit. In such cases, the District Engineer will hold informal consultations with the permittee to ascertain whether the terms and conditions can be modified by mutual agreement. If a mutual agreement is reached on modification of the terms and conditions of the permit, the District Engineer will give the permittee written notice of the modification, which will then become effective on such date as the District Engineer may establish, which in no event shall be less than ten days from its date of issuance. In the event a mutual agreement cannot be reached by the District Engineer and the permittee, the District Engineer will proceed in accordance with subparagraph (c), below, if immediate suspension is warranted. In cases where immediate suspension is not warranted but the District Engineer determines that the permit should be modified, he will notify the permittee of the proposed modification and reasons therefor, and that he may request a hearing. The modification will become effective on the date set by the District Engineer which shall be at least ten days after receipt of the notice unless a hearing is requested within that period. If the permittee fails or refuses to comply with the modification, the District Engineer will proceed in accordance with 33 CFR Part 326.

(c) *Suspension.* The District Engineer may suspend a permit after preparing a written determination and finding that immediate suspension would be in the general public interest. The District Engineer will notify the permittee in writing by the most expeditious means available that the permit has been suspended with the reasons therefor, and order the permittee to stop all previously authorized activities. The permittee will also be advised that following this suspension a decision will be made to either reinstate, modify, or revoke the permit, and that he may request a hearing within 10 days of receipt of notice of the suspension to present information in this matter. If a hearing is requested the procedures prescribed in 33 CFR 327 will be followed. After the completion of the hearing (or within a reasonable period of time after issuance of the notice to the permittee that the permit has been suspended if no hearing is requested), the District Engineer will take action to reinstate the permit, modify the permit, or recommend revocation of the permit in accordance with subparagraph (d), below.

(d) *Revocation.* Following completion of the suspension procedures in subparagraph (c), above, if revocation of the permit is recommended, the District Engineer will prepare a report of the circumstances and forward it together with the record of the suspension proceedings to DAEN–CWO–N. The Chief of Engineers may, prior to deciding whether or not to revoke the permit, afford the permittee the opportunity to present any additional information not made available to the District Engineer at the time he made the recommendation to revoke the permit including, where appropriate, the means by which he intends to comply with the terms and conditions of the permit. The permittee will be advised in writing of the final decision.

**§ 325.8 Authority to issue or deny authorizations.**

(a) *General.* Except as otherwise provided in this regulation, the Secretary of the Army subject to such conditions as he or his authorized representative may from time to time impose, has authorized the Chief of Engineers and his authorized representatives to issue or deny authorizations for construction or other work in or affecting navigable waters of the United States pursuant to Sections 10 and 14 of the Act of March 3, 1899, and Section 1 of the Act of June 13, 1902. He also has authorized the Chief of Engineers and his authorized representatives to issue or deny authorizations for the discharge of dredged or fill material in waters of the United States pursuant to Section 404 of the Federal Water Pollution Control Act Amendments of 1972 or for the transportation of dredged material for the purpose of dumping it into ocean waters pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended. The authority to issue or deny permits pursuant to Section 9 of the River and Harbor Act of March 3, 1899 has not been delegated to the Chief of Engineers or his authorized representatives.

(b) *District Engineer's authority.* District Engineers are authorized to issue in accordance with this regulation permits and letters of permission which are subject to such special conditions as are necessary to protect the public interest in the waters of the United States or ocean waters pursuant to Sections 10 and 14 of the River and Harbor Act of March 3, 1899; Section 1 of the River and Harbor Act of June 13, 1902; Section 404 of the Federal Water Pollution Control Act Amendments of 1972; and Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, in all cases in which there are no known substantive objections to the proposed work or activity or in which objections





have been resolved to the satisfaction of the District Engineer. Unless otherwise precluded by this regulation, District Engineers may issue permits over an unresolved objection of another Federal agency if that agency indicates to the District Engineer that it does not desire to refer the application to a higher level of authority for review. It is essential to the legality of a permit that it contain the name of the District Engineer as the issuing officer. However, the permit need not be signed by the District Engineer, in person; but may be signed for and in behalf of him by whoever he designates. District Engineers shall deny permits when required State or local authorization and/or certification has been denied or when a State has objected to a required certification of compliance with its coastal zone management program and the Secretary of Commerce has not reviewed the action and reached a contrary finding. A District Engineer may also deny any permit if he determines that the proposed activity is not in the public interest provided the referral requirements of § 325.8(d) below are not applicable. In such cases the Findings of Fact should be in the general format required for reports under Sec. 325.11 and must conclusively justify a denial decision. All other permit applications including those cases in § 325.7 (c) and (d) below will be referred to Division Engineers. District Engineers are also authorized to add, modify, or delete special conditions in permits, except for those conditions which have been imposed by higher authority, and to suspend permits according to the procedures of § 325.7(c).

(c) *Division Engineer's authority.* Division Engineers will review, attempt to resolve outstanding matters, and evaluate all permit applications referred by District Engineers. Division Engineers may authorize the issuance or denial of permits pursuant to Sections 10 and 14 of the River and Harbor Act of March 3, 1899; Section 1 of the River Harbor Act of June 13, 1902, Section 404 of the Federal Water Pollution Control Act Amendments of 1972; and Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended; and the inclusion of conditions to those permits as may be necessary to protect the public interest in waters of the United States or ocean waters in accordance with the policies cited in this regulation. Except as provided in subparagraph (d), below, if the Division Engineer determines that issuance of a permit with or without conditions is in the public interest, but there is continuing objection to the issuance of the permit by another Federal agency, he shall advise the regional representative of that Federal agency of his intent to issue the permit. The Division Engineer shall not proceed with the issuance of a permit if, within 15 days after the date of this notice of intent to issue a permit, an authorized representative of that Federal agency indicates to the Division Engineer in writing that he wishes to bring his concerns to the Departmental level and has Departmental concurrence to do so. In such cases, the proposed permit will be forwarded to higher authority for resolution. Thereafter, a permit will be issued only pursuant to and in accordance with instructions from such higher authority. Every effort should be made to resolve differences at the Division Engineer level before referring the matttr to higher authority.

(d) *Referral to the Chief of Engineers.* Division Engineers will refer to the Chief of Engineers the following cases:

(1) When it is proposed to issue a permit and there are unresolved objections from another Federal agency which must be handled under special procedures specified in statutes or Memoranda of Understanding which thereby preclude final resolution by the Division Engineer;

(2) When the recommended decision is contrary to the stated position of the Governor of the State in which the work is to be performed;

(3) When there is substantial doubt as to authority, law, regulations, or policies applicable to the proposed activity;

(4) When the Chief of Engineers requests the case be forwarded for decision;

(5) When the proposed activity would affect the baseline used for determination of the limits of the territorial sea; and

(6) When Section 9 of the River and Harbor Act of 1899 authority is involved.

**§ 325.9 Supervision and enforcement.**

(a) *Inspection and monitoring.* District Engineers will assure that authorized activities are conducted and executed in conformance with approved plans and other conditions of the permits. Appropriate inspections should be made on timely occasions during performance of the activity and appropriate notices and instructions given permittees to insure that they do not depart from the approved plans. Revaluation of permits to assure compliance with its purposes and conditions will be carried out as provided in § 325.7. If there are approved material departures from the authorized plans, the District Engineer will require the permittee to furnish corrected plans showing the activity as actually performed.

(b) *Non-compliance.* Where the District Engineer determines that there has been non-compliance with the terms or conditions of a permit, he should first contact the permittee and attempt to resolve the problem. If a mutually agreeable resolution cannot be reached, a written demand for compliance will be made. If the permittee has not agreed to comply within 5 days of receipt of the demand, the District Engineer will issue an immediately effective notice of suspension in accordance with § 325.7(c) and consider initiation of appropriate legal action.

(c) *Surveillance.* For purposes of inspection of permitted activities and for surveillance of the waters of the United States for enforcement of the permit authorities the District Engineer will use all means at his disposal. All Corps of Engineers employees will be instructed to observe and report all activities in waters of the United States which would require permits. The assistance of members of the public and personnel of other interested Federal, State and local agencies to observe and report such activities will be encouraged. To facilitate this surveillance, the District Engineer will, in appropriate cases, require a copy of ENG Form 4336 to be posted conspicuously at the site of authorized activities and will make available to all interested persons information on the scope of authorized activities and the conditions prescribed in the authorizations. Furthermore, significant actions taken under § 325.7 will be brought to the attention of those Federal, State and local agencies and other persons who express particular interest in the affected activity. Surveillance in ocean waters will be accomplished primarily by the Coast Guard pursuant to section 107(c) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended.

(d) *Inspection expenses.* The expenses incurred in connection with the inspection of permitted activity in waters of the United States normally will be paid by the Federal Government in accordance with the provisions of section 6 of the River and Harbor Act of 3 March 1905 (33 U.S.C. 417) unless daily supervision or other unusual expenses are involved. In such unusual cases, and after approval by the Division Engineer, the permittee will be required to bear the expense of inspections in accordance with the conditions of his permit; however, the permittee will not be required or permitted to pay the United States inspector either directly or through the District Engineer. The inspector will be paid on regular payrolls or service vouchers. The District Engineer will collect the cost from the permittee in accordance with the following:

(1) At the end of each month the amount chargeable for the cost of inspection pertaining to the permit will be collected from the permittee and will be taken up on the statement of accountability and deposited in a designated depository to the credit of the Treasurer of the United States, on account of reimbursement of the appropriation from which the expenses of the inspection were paid.

(2) If the District Engineer considers such a procedure necessary to insure the United States against loss through possible failure of the permittee to supply the necessary funds in accordance with subparagraph (1), above, he may require the permittee to keep on deposit with the District Engineer at all times an amount equal to the estimated cost of inspection and supervision for the ensuing month, such deposit preferably being in the form of a certified check, payable to the order of Treasurer of the United States. Certified checks so deposited will be carried in a special deposit account (guaranty for inspection expenses) and upon completion of the work under the permit the funds will be returned to the permittee provided he has paid the actual cost of inspection.



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(3) On completion of work under a permit, and the payment of expenses by the permittee without protest, the account will be closed, and outstanding deposits returned to the permittee. If the account is protested by the permittee, it will be referred to the Division Engineer for approval before it is closed and before any deposits are returned to the permittee.

(e) *Bonds.* If the permitted activity includes restoration of the waterway to its original condition, or if the issuing official has reason to consider that the permittee might be prevented from completing work which is necessary to protect the public interest in the waterway, he may require the permittee to post a bond of sufficient amount to indemnify the government against any loss as a result of corrective action it might take.

**§ 325.10 Publicity.**

The District Engineer will establish and maintain a program to assure that potential applicants for permits are informed of the requirements of this regulation and of the steps required to obtain permits for activities in navigable waters or ocean waters. Whenever the District Engineer becomes aware of plans being developed by either private or public entities who might require permits in order to implement the plans, he will advise the potential applicant in writing of the statutory requirements and the provisions of this regulation. Similarly when the District Engineer is aware of changes in Corps of Engineers regulatory jurisdiction, he will issue appropriate public notices.

**§ 325.11 Reports.**

The report of a District Engineer on an application for a permit requiring action by the Division Engineer or by the Chief of Engineers will be in a letter form with the application and all pertinent comments, records, photographs, maps, and studies including the final Environmental Impact Statement if prepared, as inclosures. The inclosures for all cases referred to the Chief of Engineers will be in duplicate. If an EIS has been prepared, the report shall not be forwarded until expiration of the 30-day comment period following filing of the final EIS and shall address any comments received on the final EIS. The following items will be included or discussed in the report:

(a) Name of applicant.

(b) Location, character and purpose of proposed activity, including a description of any wetlands involved.

(c) Applicable statutory authorities and administrative determinations conferring Corps of Engineers regulatory jurisdiction.

(d) Other Federal, State, and local authorizations obtained or required and pending.

(e) Date of public notice and public hearings, if held, and summary of objections offered with comments of the District Engineer thereon. The comments should explain the objections and not merely refer to inclosed letters.

(f) Views of State and local authorities.

(g) Views of District Engineer concerning probable effect of the proposed work on:

(1) Navigation, present and prospective.

(2) Harbor lines, if established.

(3) Flood heights, drift and flood damage protection.

(4) Beach erosion or accretion.

(5) Fish and Wildlife.

(6) Water Quality.

(7) Aesthetics.

(8) Historic values.

(9) Recreation.

(10) Economy.

(11) Water supply.

(12) Energy needs.

(13) Land use classification and coastal zone management plans.

(h) Other pertinent remarks, such as:

(1) Extent of public and private need.

(2) Appropriate alternatives.

(3) Extent and permanence of beneficial and/or detrimental effects.

(4) Probable impact in relation to cumulative effects created by other activities.

(i) A copy of the environmental assessment or the Environmental Impact Statement. If an EIS is prepared, a summary of comments received on the final EIS together with the District Engineer's response to those comments.

(j) A discussion of conformity with the guidelines published for the discharge of dredged or fill material in waters of the United States (40 CFR Part 230) or the dumping of dredged material in ocean waters (40 CFR Parts 220 to 229), as applicable.

(k) Conclusions.

(l) Recommendations including any proposed special conditions.

APPENDIX A—PERMIT FORM

Application No. _____
Name of Applicant _____
Effective Date _____
Expiration Date (If applicable) _____

DEPARTMENT OF THE ARMY

*Permit*

Referring to written request dated _____ for a permit to:

( ) Perform work in or affecting navigable waters of the United States, upon the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403);

( ) Discharge dredged or fill material into waters of the United States upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to Section 404 of the Federal Water Pollution Control Act (86 Stat. 816, Pub. L. 92-500);

( ) Transport dredged material for the purpose of dumping it into ocean waters upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (86 Stat. 1052; Pub. L. 92-532); _____

_____

_____

(Here insert the full name and address of the permittee.)

is hereby authorized by the Secretary of the Army: to _____

_____

_____

_____

_____

_____

_____

(Here describe the proposed structure or activity, and its intended use. In the case of an application for a fill permit, describe the structures, if any proposed to be erected on the fill. In the case of an application for the discharge of dredged or fill material into waters of the United States or the transportation for discharge in ocean waters of dredged material, describe the type and quantity of material to be discharged.)

in _____

_____

_____

_____

_____

_____

_____

(Here to be named the ocean, river, harbor, or waterway concerned.)

at _____

_____

_____

_____

_____

_____

_____

(Here to be named the nearest well-known locality—preferably a town or city—and the distance in miles and tenths from some definite point in the same, stating whether above or below or giving direction by points of compass.)

in accordance with the plans and drawings attached hereto which are incorporated in and made a part of this permit (on drawings; give file number or other definite identification marks). Subject to the following conditions:

I. General conditions: (a) That all activities identified and authorized herein shall be consistent with the terms and conditions of this permit; and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension or revocation of this permit, in whole or in part, as set forth more specifically in General Conditions j or k hereto, and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not this permit has been previously modified, suspended or revoked in whole or in part.

(b) That all activities authorized herein shall, if they involve, during their construction or operation, any discharge of pollutants into waters of the United States or ocean waters, be at all times consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pretreatment standards and management practices established pursuant to the Federal Water Pollution Control Act of 1972 (Pub. L. 92-500; 86 Stat. 816), the Marine Protection, Research and Sanctuaries Act of 1972 (Pub. L. 92-532, 86 Stat. 1052), or pursuant to applicable State and local law.

(c) That when the activity authorized herein involves a discharge during its construction or operation, of any pollutant (including dredged or fill material), into waters of the United States, the authorized activity shall, if applicable water quality standards are revised or modified during the term of this permit, be modified, if necessary, to conform with such revised or modified water





quality standards within 6 months of the effective date of any revision or modification of water quality standards, or as directed by an implementation plan contained in such revised or modified standards, or within such longer period of time as the District Engineer, in consultation with the Regional Administrator of the Environmental Protection Agency, may determine to be reasonable under the circumstances.

(d) That the discharge will not destroy a threatened or endangered species as identified under the Endangered Species Act, or endanger the critical habitat of such species.

(e) That the permittee agrees to make every reasonable effort to prosecute the construction or operation of the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife, and natural environmental values.

(f) That the permittee agrees that it will prosecute the construction or work authorized herein in a manner so as to minimize any degradation of water quality.

(g) That the permittee shall permit the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

(h) That the permittee shall maintain the structure or work authorized herein in good condition and in accordance with the plans and drawings attached hereto.

(i) That this permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein.

(j) That this permit may be summarily suspended, in whole or in part, upon a finding by the District Engineer that immediate suspension of the activity authorized herein would be in the general public interest. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate (1) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by the permittee which are deemed necessary by the District Engineer to abate imminent hazards to the general public interest. The permittee shall take immediate action to comply with the provisions of this notice. Within ten days following receipt of this notice of suspension, the permittee may request a hearing in order to present information relevant to a decision as to whether his permit should be reinstated, modified or revoked. If a hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the hearing, or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the permit will either be reinstated, modified or revoked.

(k) That this permit may be either modified, suspended or revoked in whole or in part if the Secretary of the Army or his authorized representative determines that there has been a violation of any of the terms or conditions of this permit or that such action would otherwise be in the public interest. Any such modification, suspension, or revocation shall become effective 30 days after receipt by the permittee of written notice of such action which shall specify the facts or conduct warranting same unless (1) within the 30-day period the permittee is able to satisfactorily demonstrate that (a) the alleged violation of the terms and the conditions of this permit did not, in fact, occur or (b) the alleged violation was accidental, and the permittee has been operating in compliance with the terms and conditions of the permit and is able to provide satisfactory assurances that future operations shall be in full compliance with the terms and conditions of this permit; or (2) within the aforesaid 30-day period, the permittee requests that a public hearing be held to present oral and written evidence concerning the proposed modification, suspension or revocation. The conduct of this hearing and the procedures for making a final decision either to modify, suspend or revoke this permit in whole or in part shall be pursuant to procedures prescribed by the Chief of Engineers.

(l) That in issuing this permit, the Government has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

(m) That any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against the United States.

(n) That the permittee shall notify the District Engineer at what time the activity authorized herein will be commenced, as far in advance of the time of commencement as the District Engineer may specify, and of any suspension of work, if for a period of more than one week, resumption of work and its completion.

(o) That if the activity authorized herein is not started on or before _____ day of _____, 19—, (one year from the date of issuance of this permit unless otherwise specified) and is not completed on or before _____ day of _____, 19—, (three years form the date of issuance of this permit unless otherwise specified) this permit, if not previously revoked or specifically extended, shall automatically expire.

(p) That this permit does not authorize or approve the construction of particular structures, the authorization or approval of which may require authorization by the Congress or other agencies of the Federal Government.

(q) That if and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee is transferring his interests herein to a third party pursuant to General Condition S hereof, he must restore the area to a condition satisfactory to the District Engineer.

(r) That if the recording of this permit is possible under applicable State or local law, the permittee shall take such action as may be necessary to record this permit with the Register of Deeds or other appropriate official charged with the responsibility for maintaining records of title to and interests in real property.

(s) That there shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.

(t) That this permit may not be transferred to a third party without prior written notice to the District Engineer, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferee subscribing to this permit in the space provided below and thereby agreeing to comply with all terms and conditions of this permit. In addition, if the permittee transfers the interests authorized herein by conveyance of realty, the deed shall reference this permit and the terms and conditions specified herein and this permit shall be recorded along with the deed with the Register of Deeds or other appropriate official.

II. Special Conditions: Here list conditions relating specifically to the proposed structure or work authorized by this permit. The following Special Conditions will be applicable when appropriate:

*Structures In or Affecting Navigable Waters of the United States*

(a) That this permit does not authorize the interference with any existing or proposed Federal project and that the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

(b) That no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.

(c) That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.

(d) That the permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the authorized structure or work, shall, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former conditions. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

(e) Structures for Small Boats: That permittee hereby recognizes the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to insure the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damage.

*Maintenance Dredging*

(a) That when the work authorized herein includes periodic maintenance dredging, it may be performed under this permit for —— years from the date of issuance of this permit (ten years unless otherwise indicated);

(b) That the permittee will advise the District Engineer in writing at least two weeks before he intends to undertake any maintenance dredging.

*Discharges of Dredged or Fill Material Into Waters of the United States*

(a) That the discharge will be carried out in conformity with the goals and objectives of the EPA Guidelines established pursuant to Section 404(b) of the FWPCA and published in 40 CFR 230;

(b) That the discharge will consist of suitable material free from toxic pollutants in other than trace quantities;

(c) That the fill created by the discharge will be properly maintained to prevent erosion and other non-point sources of pollution; and

(d) That the discharge will not occur in a component of the National Wild and Scenic River System or in a component of a State wild and scenic river system.



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*Dumping of Dredged Material Into Ocean Waters*

(a) That the dumping will be carried out in conformity with the goals, objectives, and requirements of the EPA criteria established pursuant to Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, published in 40 CFR 220 228.

(b) That the permittee shall place a copy of this permit in a conspicuous place in the vessel to be used for the transportation and/or dumping of the dredged material as authorized herein.

This permit shall become effective on the date of the District Engineer's signature.

Permittee hereby accepts and agrees to comply with the terms and conditions of this permit.

---
(Permittee)

---
(Date)

By authority of the Secretary of the Army:

---
(District Engineer)

---
(Date)

Transferee hereby agrees to comply with the terms and conditions of this permit.

---
(Transferee)

---
(Date)

APPENDIX B—MEMORANDUM OF UNDERSTANDING BETWEEN THE SECRETARY OF THE INTERIOR AND THE SECRETARY OF THE ARMY

In recognition of the responsibilities of the Secretary of the Army under sections 10 and 13 of the Act of March 3, 1899 (33 U.S.C. 403 and 407), relating to the control of dredging, filling, and excavation in the navigable waters of the United States, and the control of refuse in such waters, and the interrelationship of those responsibilities with the responsibilities of the Secretary of the Interior under the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), the Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661–666c), and the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742a et seq.), relating to the control and prevention of water pollution in such waters and the conservation of the Nation's natural resources and related environment, including fish and wildlife and recreational values therein; in recognition of our joint responsibilities under Executive Order No. 11288 to improve water quality through the prevention, control, and abatement of water pollution from Federal and federally licensed activities; and in recognition of other provisions of law and policy, we, the two Secretaries, adopt the following policies and procedures:

POLICIES

1. It is the policy of the two Secretaries that there shall be full coordination and cooperation between their respective Departments on the above responsibilities at all organizational levels, and it is their view that maximum efforts in the discharge of those responsibilities, including the resolution of differing views, must be undertaken at the earliest practicable time and at the field organizational unit most directly concerned. Accordingly, District Engineers of the U.S. Army Corps of Engineers shall coordinate with the Regional Directors of the Secretary of the Interior on fish and wildlife, recreation, and pollution problems associated with dredging, filling, and excavation operations to be conducted under permits issued under the 1899 Act in the navigable waters of the United States, and they shall avail themselves of the technical advice and assistance which such Directors may provide.

2. The Secretary of the Army will seek the advice and counsel of the Secretary of the Interior on difficult cases. If the Secretary of the Interior advises that proposed operations will unreasonably impair natural resources or the related environment, including the fish and wildlife and recreational values thereof, or will reduce the quality of such waters in violation of applicable water quality standards, the Secretary of the Army in acting on the request for a permit will carefully evaluate the advantages and benefits of the operations in relation to the resultant loss or damage, including all data presented by the Secretary of the Interior, and will either deny the permit or include such conditions in the permit as he determines to be in the public interest, including provisions that will assure compliance with water quality standards established in accordance with law.

PROCEDURES FOR CARRYING OUT THESE POLICIES

1. Upon receipt of an application for a permit for dredging, filling, excavation, or other related work in navigable waters of the United States, the District Engineers shall send notices to all interested parties, including the appropriate Regional Directors of the Federal Water Pollution Control Administration, the United States Fish and Wildlife Service, and the National Park Service of the Department of the Interior, and the appropriate State conservation, resources, and water pollution agencies.

2. Such Regional Directors of the Secretary of the Interior shall immediately make such studies and investigations as they deem necessary or desirable, consult with the appropriate State agencies, and advise the District Engineers whether the work proposed by the permit applicant, including the deposit of any material in or near the navigable waters of the United States, will reduce the quality of such waters in violation of applicable water quality standards or unreasonably impair natural resources or the related environment.

3. The District Engineer will hold public hearings on permit applications whenever response to a public notice indicates that hearings are desirable to afford all interested parties full opportunity to be heard on objections raised.

4. The District Engineer, in deciding whether a permit should be issued, shall weigh all relevant factors in reaching his decision. In any case where Directors of the Secretary of the Interior advise the District Engineers that proposed work will impair the water quality in violation of applicable water quality standards or unreasonably impair the natural resources or the related environment, he shall, within the limits of his responsibility, encourage the applicant to take steps that will resolve the objections to the work. Failing in this respect, the District Engineer shall forward the case for the consideration of the Chief of Engineers and the appropriate Regional Director of the Secretary of the Interior shall submit his views and recommendations to his agency's Washington Headquarters.

5. The Chief of Engineers shall refer to the Under Secretary of the Interior all those cases referred to him containing unresolved substantive differences of views and he shall include his analysis thereof, for the purpose of obtaining the Department of Interior's comments prior to final determination of the issues.

6. In those cases where the Chief of Engineers and the Under Secretary are unable to resolve the remaining issues, the cases will be referred to the Secretary of the Army for decision in consultation with the Secretary of the Interior.

7. If in the course of operations within this understanding, either Secretary finds its terms in need of modification, he may notify the other of the nature of the desired changes. In that event the Secretaries shall within 90 days negotiate such amendment as is considered desirable or may agree upon termination of this understanding at the end of the period.

Dated: July 13, 1967.

STEWART L. UDALL,
*Secretary of the Interior.*

Dated: July 13, 1967.

STANLEY RESOR,
*Secretary of the Army.*

## PART 326—ENFORCEMENT

Sec.
326.1 Purpose.
326.2 Discovery.
326.3 Investigation.
326.4 Legal Action.
326.5 Processing After-the-fact Applications.

AUTHORITY: 33 U.S.C. 401 et seq.; 33 U.S.C. 1344; 33 U.S.C. 1413.

### § 326.1 Purpose.

This regulation prescribes the policy, practice, and procedures to be followed by the Corps of Engineers in connection with activities requiring Department of the Army permits that are performed without prior authorization.

### § 326.2 Discovery of unauthorized activity in Progress

When the District Engineer becomes aware of any unauthorized activity which is still in progress, he shall immediately issue a cease and desist order to all persons responsible for and/or involved in the performance of the activity. If appropriate, the District Engineer may also order interim protective measures to be taken in order to protect the public interest.

### § 326.3 Investigation.

The District Engineer shall commence an immediate investigation of all unauthorized activities brought to his attention to ascertain the facts surrounding the activity. In making this investigation, the District Engineer shall solicit the views of the Regional Administrator of the Environmental Protection Agency, the Regional Director of the U.S. Fish and Wildlife Service, and the Regional Director of the National Marine Fisheries Service, and other appropriate Federal, State, and local agencies. He shall also request the persons involved in the unauthorized activity to provide appropriate information on the activity to assist him in his evaluation and in recommending the course of action to be taken. The District Engineer shall evaluate the information and views developed during this investigation in conjunction with the appropriate factors and criteria that pertain to the particular unauthorized activity as cited in 33 CFR Parts 320, 321, 322, 323, and 324, and the guidance contained in § 326.4, below. Following this evaluation, the District Engineer shall formulate recommendations as to the appropriate administrative and/or legal action to be taken.





### § 326.4 Legal action.

(a) District Engineers shall be guided by the following policies in determining whether an unauthorized activity requires appropriate legal action:

(1) *Criminal action.* Criminal action is considered appropriate when the facts surrounding an unauthorized activity reveal the necessity for punitive action and/or when deterrence of future unauthorized activities in the area is considered essential to the establishment or maintenance of a viable permit program.

(2) *Civil action.* Civil action is considered appropriate when the preliminary evaluation of the unauthorized activity reveals that (i) restoration is in the public interest and attempts to secure voluntary restoration have failed, or (ii) the unauthorized activity is in the public interest but must be altered or modified by judicial order because attempts to secure voluntary compliance have failed, or (iii) a civil penalty under Section 309 of the FWPCA is warranted.

(b) Preparation of case. If the District Engineer determines that legal action is appropriate, he shall prepare a litigation report which shall contain an analysis of the data and information obtained during his investigation and a recommendation of appropriate civil and criminal action. In those cases where the analysis of the facts developed during his investigation (when made in conjunction with the appropriate factors and criteria specified in 33 CFR Parts 320, 321, 322, 323, and 324) leads to the preliminary conclusion that removal of the unauthorized activity is in the public interest, the District Engineer shall also recommend restoration of the area to its original or comparable condition.

(c) Referral to local U.S. Attorney. Except as provided in subsection (d), District Engineers are authorized to refer the following cases directly to the local U.S. Attorney.

(1) All unauthorized structures or work in or affecting navigable waters of the United States that fall exclusively within the purview of Section 10 of the River and Harbor Act of 1899 (see 33 CFR Part 322) for which a criminal fine or penalty under Section 12 of that Act (33 USC 406) is considered appropriate.

(2) All civil actions involving small unauthorized structures, such as piers, which the District Engineer determines are (i) not in the public interest and therefore must be removed, or (ii) are in the public interest but must be altered or modified by judicial order, because attempts to secure voluntary compliance have failed.

(3) All violations of Section 301 of the Federal Water Pollution Control Act Amendments of 1972 (33 USC 1311) involving the unauthorized discharge of dredged or fill material into the waters of the United States where the District Engineer determines, with the concurrence of the Regional Administrator, that civil and/or criminal action pursuant to Section 309 of the FWPCA is appropriate.

(4) All cases for which a temporary restraining order and/or preliminary injunction is appropriate following noncompliance with a cease and desist order.

Information copies of all letters of referral shall be forwarded to the Chief of Engineers, ATTN: DAEN–CCK, and the Chief Pollution Control Section, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530.

(d) Referral to Office, Chief of Engineers. District Engineers shall prepare and forward a litigation report to the Office, Chief of Engineers, ATTN: DAEN–CCK, for all other cases not identified in subsection (c) in which civil and/or criminal action is considered appropriate, including:

(1) All cases involving significant questions of law or fact;

(2) All cases involving discharges of dredged or fill material into waters of the United States that are not interstate waters or navigable waters of the United States, or part of a surface tributary system to these waters;

(3) All cases involving recommendations for substantial or complete restoration;

(4) All cases involving violations of Section 9 of the River and Harbor Act of 1899; and

(5) All cases involving violations of the Marine Protection, Research and Sanctuaries Act of 1972.

(e) If the District Engineer refers a case to the local U.S. Attorney or if criminal and/or civil action is instituted against the responsible person for any unauthorized activity, the District Engineer shall not accept for processing any application for a Department of the Army permit until final disposition of the referral action and/or all judicial proceedings, including the payment of all prescribed penalties and fines and/or completion of all work ordered by the court. Thereafter, the District Engineer may accept an application for a permit; provided, that with respect to any judicial order requiring partial or total restoration of an area, the District Engineer, if so ordered by the court, shall supervise this restoration effort and may allow the responsible persons to apply for a permit for only that portion of the unauthorized activity for which restoration has not been so ordered.

### § 326.5 Processing after-the-fact applications.

In those cases in which the District Engineer determines that the unauthorized activity does not warrant legal action, the following procedures shall be followed.

(a) Processing and evaluation of applications for after-the-fact authorizations for activities undertaken without the required Department of the Army permits will in all other respects follow the standard policies and procedures of 33 CFR Parts 320–325. Thus, authorization may still be denied in accordance with the policies and procedures of those regulations.

(b) Where after-the-fact authorization in accordance with this paragraph is determined to be in the public interest, the standard permit form for the activity will be used, omitting inappropriate conditions, and including whatever special conditions the District Engineer may deem appropriate to mitigate or prevent undesirable effects which may have occurred or might occur.

(c) Where after-the-fact authorization is not determined to be in the public interest, the notification of the denial of the permit will prescribe any corrective actions to be taken in connection with the work already accomplished, including restoration of those areas subject to denial, and establish a reasonable period of time for the applicant to complete such actions. The District Engineer, after denial of the permit, will again consider whether civil and/or criminal action is appropriate in accordance with § 326.4.

(d) If the applicant declines to accept the proposed permit conditions, or fails to take corrective action prescribed in the notification of denial, or if the District Engineer determines, after denying the permit application, that legal action is appropriate, the matter will be referred to the Chief of Engineers, ATTN: DAEN–CCK, with recommendations for appropriate action.

## PART 327—PUBLIC HEARINGS

Sec.
327.1 Purpose.
327.2 Applicability.
327.3 Definitions.
327.4 General policies.
327.5 Presiding officer.
327.6 Legal adviser.
327.7 Representation.
327.8 Conduct of hearings.
327.9 Filing of transcript of the public hearing.
327.10 Powers of the presiding officer.
327.11 Public notice.

AUTHORITY: 33 U.S.C. 1344; 33 U.S.C. 1413.

### § 327.1 Purpose.

This regulation prescribes the policy, practice and procedures to be followed by the U.S. Army Corps of Engineers in the conduct of public hearings conducted in the evaluation of a proposed Department of the Army permit action or Federal project as defined in § 327.3 below including those held pursuant to Section 404 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1344) and Section 103 of the Marine Protection, Research and Sanctuaries Act (MPRSA), as amended (33 U.S.C. 1413).

### § 327.2 Applicability.

This regulation is applicable to all Divisions and Districts responsible for the conduct of public hearings.

### § 327.3 Definitions.

(a) Public hearing means a public proceeding conducted for the purpose of acquiring information or evidence which will be considered in evaluating a proposed Department of the Army permit action, or Federal project, and which affords to the public the opportunity to present their views, opinions, and information on such permit actions or Federal projects.

(b) Permit action, as used herein, means the review of an application for a permit pursuant to Section 10 of the



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River and Harbor Act of 1899 (33 U.S.C. 403). Section 404 of the FWPCA (33 U.S.C. 1344), the Outer Continental Shelf Act (43 U.S.C. 1333(f)), and Section 103 of the MPRSA of 1972, as amended (33 U.S.C. 1413), or the modification or revocation of any Department of the Army permit. (See 33 CFR 325.7.)

(c) Federal project means a Corps of Engineers project (work or activity of any nature for any purpose which is to be performed by the Chief of Engineers pursuant to Congressional authorizations) involving the discharge of dredged or fill material into waters of the United States or the transportation of dredged material for the purpose of dumping it in ocean waters subject to Section 404 of the FWPCA (33 U.S.C. 1344), or Section 103 of the MPRSA, as amended (33 U.S.C. 1413; and 33 CFR 209.145. (This regulation supersedes all references to public meetings in 33 CFR 209.145.)

### § 327.4 General policies.

(a) A public hearing will be held in connection with the consideration of a Department of the Army permit application under Section 404 of the FWPCA or Section 103 of the MPRSA, or a Federal project whenever a public hearing will assist in making a decision on such permit application or Federal project. In addition, a public hearing may be held when it is proposed to modify or revoke a permit. (See 33 CFR 325.7.)

(b) Unless the public notice specifies that a public hearing will be held, any person may request, in writing, within the comment period specified in the public notice on a Department of the Army permit application under Section 404 of the FWPCA or Section 103 of the MPRSA or on a Federal project, that a public hearing be held to consider the material matters in issue in the permit application or Federal project. Upon receipt of any such request, stating with particularity the reasons for holding a public hearing, the District Engineer shall promptly set a time and place for the public hearing, and give due notice thereof, as prescribed in § 327.11 below. Requests for a public hearing under this paragraph shall be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing. The District Engineer will make such a determination in writing, and communicate his reasons therefor to all requesting parties.

(c) In cases involving the evaluation of a Department of the Army permit application only under Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403); public hearings will be held upon written request whenever the District Engineer determines that there is sufficient public interest to warrant such action. Among the instances warranting public hearings are general public opposition to a proposed work, Congressional requests or requests from responsible local authorities, or controversial cases involving significant environmental issues.

(d) In case of doubt, a public hearing shall be held. HQDA has the discretionary power to require hearings in any case.

(e) In fixing the time and place for a hearing, due regard shall be had for the convenience and necessity of the interested public.

### § 327.5 Presiding officer.

(a) The District Engineer, in whose District a matter arises, shall normally serve as the Presiding Officer. When the District Engineer is unable to serve, he may designate the Deputy District Engineer as such Presiding Officer. In any case, he may request the Division Engineer to designate another Presiding Officer. In cases of unusual interest, the Chief of Engineers reserves the power to appoint such person as he deems appropriate to serve as the Presiding Officer.

(b) The Presiding Officer in each case shall establish a hearing file. The hearing file shall include a copy of any permit application or permits and supporting data, any public notices issued in the case, the request or requests for the hearing and any data or material submitted in justification thereof, materials submitted in opposition to the proposed action, the hearing transcript, and such other material as may be relevant or pertinent to the subject matter of the hearing. The hearing file shall be available for public inspection with the exception of material exempt from disclosure under the Freedom of Information Act.

### § 327.6 Legal adviser.

In each public hearing, the District Counsel or his designee shall serve as legal adviser to the Presiding Officer in ruling upon legal matters and issues that may arise.

### § 327.7 Representation.

At the public hearing, any person may appear on his own behalf, and may be represented by counsel, or by other representatives.

### §327.8 Conduct of hearings.

(a) Hearings shall be conducted by the Presiding Officer in an orderly but expeditious manner. Any person shall be permitted to submit oral or written statements concerning the subject matter of the hearing, to call witnesses who may present oral statements, and to present recommendations as to an appropriate decision. Any person may present written statements for the hearing file prior to the time the hearing file is closed to public submissions, and may present proposed findings and recommendations. The Presiding Officer shall afford participants an opportunity for rebuttal.

(b) The Presiding Officer shall have discretion to establish reasonable limits upon the time allowed for statements of witnesses, for arguments of parties or their counsel or representatives, and upon the number of rebuttals.

(c) Cross-examination of witnesses shall not be permitted.

(d) All public hearings shall be reported verbatim. Copies of the transcripts of proceedings may be purchased by any person from the Corps of Engineers or the reporter of such hearing. A copy will be available for public inspection at the office of the appropriate District Engineer.

(e) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, subject to exclusion by the Presiding Officer for reasons of redundancy, be received in evidence and shall constitute a part of the hearing file.

(f) At any hearing, the Presiding Officer shall make an opening statement, outlining the purpose of the hearing and prescribing the general procedures to be followed. The Presiding Officer shall afford participants an opportunity to respond to his opening statement.

(g) The Presiding Officer shall allow a period of 10 days after the close of the public hearing for submission of written comments. After such time has expired, unlesss such period is extended by the Presiding Officer or the Chief of Engineers for good cause, the hearing file shall be closed to additional public written comments.

(h) In appropriate cases, the District Engineer may participate in joint public hearings with other Federal or State agencies, provided the procedures of those hearings meet the requirements of this regulation. In those cases in which the other Federal or State agency is required to allow cross-examination in its public hearing, the District Engineer may still participate in the joint public hearing but shall not require cross examination as a part of his participation.

(i) The procedures in subparagraphs (d), (f) and (g) of this Section may be waived by the Presiding Officer in appropriate cases.

### § 327.9 Filing of transcript of the public hearing.

Where the Presiding Officer is the initial action authority, the transcript of the public hearing, together with all evidence introduced at the public hearing, shall be made a part of the administrative record of the permit action or Federal project. The initial action authority shall fully consider the matters discussed at the public hearing in arriving at his initial decision or recommendation and shall address, in his decision or recommendation, all substantial and valid issues presented at the hearing. Where a person other than the initial action authority serves as Presiding Officer, such person shall forward the transcript of the public hearing and all evidence received in connection therewith to the initial action authority together with a report summarizing the issues covered at the hearing. The report of the Presiding Officer and the transcript of the public hearing and evidence submitted there shall in such cases be fully considered by the initial action authority in making his decision or recommendation to higher authority as to such permit action or Federal project.

### § 327.10 Powers of the Presiding Officer.

Presiding Officers shall have the following powers:





(a) To regulate the course of hearing including the order of all sessions and the scheduling thereof, after any initial session, and the recessing, reconvening, and adjournment thereof; and

(b) To take any other action necessary or appropriate to the discharge of the duties vested in them, consistent with the statutory or other authority under which the Chief of Engineers functions, and with the policies and directives of the Chief of Engineers and the Secretary of the Army.

### § 327.11 Public notice.

(a) Public notice shall be given of any public hearing to be held pursuant to this regulation. Such notice shall provide for a period of not less than 30 days following the date of public notice during which time interested parties may prepare themselves for the hearing, except that, in cases of public necessity, a shorter time may be allowed. Notice shall also be given to all Federal agencies affected by the proposed action, and to State and local agencies having an interest in the subject matter of the hearing. Notice shall be sent to all persons requesting a hearing and shall be posted in appropriate government buildings and published in newspapers of general circulation.

(b) The notice shall contain time, place, and nature of hearing; the legal authority and jurisdiction under which the hearing is held; and location of and availability of the draft Environmental Impact Statement or Environmental Assessment.

## PART 328—HARBOR LINES

Sec.
328.1 Purpose and scope.
328.2 Applicability.
328.3 References.
328.4 Definition.
328.5 The purpose of harbor lines.
328.6 Establishment or modification of harbor lines.

AUTHORITY: 33 U.S.C. 401 et seq.

### § 328.1 Purpose and scope.

This regulation prescribes the policy, practice and procedures concerning harbor lines and any work in navigable waters of the United States shoreward of such lines.

### § 328.2 Applicability.

This regulation is applicable to all Corps of Engineers activities and installations having Civil Works responsibilities.

### § 328.3 References.

(a) Section 11 of the River and Harbor Act of 1899 (33 U.S.C. 404).

(b) Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403).

(c) Public Law 91-190, the National Environmental Policy Act of 1969.

### § 328.4 Definition.

The term "harbor line(s)" is used here in its generic sense. It includes types of harbor lines frequently referred to by other names, including, for example, pierhead lines and bulkhead lines.

### § 328.5 The purpose of harbor lines.

(a) Under previous policies, practices and procedures, riparian owners could erect open pile structures or undertake solid fill construction shoreward of established harbor lines without obtaining a permit under 33 U.S.C. 403. This was a matter of great concern, particularly in cases involving long established harbor lines, since all factors affecting the public interest may not have been taken into account at the time the lines were established. Accordingly, under previous policies, practices and procedures there was the danger that work shoreward of existing harbor lines could be undertaken without appropriate consideration having been given to the impact which such work may have on the environment and without a judgment having been made as to whether or not the work was, on balance, in the public interest.

(b) In order to assure that the public interest will be considered and protected in all instances, all existing and future harbor lines were declared on 27 May 1970 (33 CFR 209.150) to be guidelines for defining, with respect to the impact on navigation interests alone, the offshore limits of open pile structures (pierhead lines) or fills (bulkhead lines). A permit under 33 USC 403 is required in each case for any work which is commenced shoreward of existing or future harbor lines after 27 May 1970. Applications for permits for work in navigable waters of the United States shoreward of harbor lines shall be filed and processed in accordance with the provisions of 33 CFR Part 325. No permit is required for work completed or commenced prior to 27 May 1970 in conformance with existing harbor line authority.

### § 328.6 Establishment or modification of harbor lines.

Applications for the establishment of new harbor lines or the modification of existing harbor lines will be processed in a manner similar to applications for permits for work in navigable waters of the United States. Public notice concerning any such application will be sent to all parties known or believed to be interested in the application and a copy of the notice will be posted in post offices or other public places in the area. Public notices, apart from providing information relative to any harbor line application, shall make it clear that harbor lines are guidelines for defining, with respect to the impact on navigation interests alone, the offshore limits of open pile structures or fills and that the establishment of a harbor line carries with it no presumption that individual applications for permits to undertake work shoreward of any harbor line will be granted. Public hearings will be held in connection with applications for the establishment or modification of harbor lines whenever there appears to be sufficient public interest to justify the holding of a public hearing or when responsible Federal, State or local authorities, including Members of the Congress, request that a hearing be held and it is likely that information will be presented at the hearing that will be of assistance in determining whether the harbor line should be established or modified. District Engineers will forward all recommendations concerning the establishment or modification of harbor lines through the appropriate Division Engineer to the Office of the Chief of Engineers, DAEN-CWO-N. No new harbor lines will be established and no existing harbor lines will be modified unless specifically authorized by the Chief of Engineers.

## PART 329—DEFINITION OF NAVIGABLE WATERS OF THE UNITED STATES

Sec.
329.1 Purpose.
329.2 Applicability
329.3 General policies.
329.4 General definitions.
329.5 General scope of determinations.
329.6 Interstate or foreign commerce.
329.7 Intrastate or interstate nature of waterway.
329.8 Improved or natural conditions of waterbody.
329.9 Time at which commerce exists or determination is made.
329.10 Existence of obstructions.
329.11 Geographic and jurisdictional limits of rivers and lakes.
329.12 Geographic and jurisdictional limits of oceanic and tidal waters.
329.13 Geographic limits: shifting boundaries.
329.14 Determination of navigability.
329.15 Inquiries regarding determinations.
329.16 Use and maintenance of lists of determinations.

AUTHORITY: 33 U.S.C. 401 et-seq.

### § 329.1 Purpose.

This regulation defines the term "navigable waters of the United States" as it is used to define authorities of the Corps of Engineers. It also prescribes the policy, practice and procedure to be used in determining the extent of the jurisdiction of the Corps of Engineers and in answering inquiries concerning "navigable waters."

### § 329.2 Applicability.

This regulation is applicable to all Corps of Engineers Districts and Divisions having Civil Works responsibilities.

### § 329.3 General policies.

Precise definitions of "navigable waters" or "navigability" are ultimately dependent on judicial interpretation, and cannot be made conclusively by administrative agencies. However, the policies and criteria contained in this regulation are in close conformance with the tests used by the Federal Courts and determinations made under this regulation are considered binding in regard to the activities of the Corps of Engineers.

### § 329.4 General definition.

Navigable waters of the United States are those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. A determination of navigability,



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once made, applies laterally over the entire surface of the waterbody, and is not extinguished by later actions or events which impede or destroy navigable capacity.

**§ 329.5 General scope of determination.**

The several factors which must be examined when making a determination whether a waterbody is a navigable water of the United States are discussed in detail below. Generally, the following conditions must be satisfied:

(a) Past, present, or potential presence of interstate or foreign commerce;

(b) Physical capabilities for use by commerce as in subparagraph (a) above; and

(c) Defined geographic limits of the waterbody.

**§ 329.6 Interstate or foreign commerce**

(a) *Nature of Sommerce: type, means, and extent of use.* The types of commercial use of a waterway are extremely varied and will depend on the character of the region, its products, and the difficulties or dangers of navigation. It is the waterbody's capability of use by the public for purposes of transportation of commerce which is the determinative factor, and not the time, extent or manner of that use. As discussed in § 329.9 below, it is sufficient to establish the potential for commercial use at any past, present, or future time. Thus, sufficient commerce may be shown by historical use of canoes, bateaux, or other frontier craft, as long as that type of boat was common or well-suited to the place and period. Similarly, the particular items of commerce may vary widely, depending again on the region and period. The goods involved might be grain, furs, or other commerce of the time. Logs are a common example; transportation of logs has been a substantial and well-recognized commercial use of many navigable waters of the United States. Note, however, that the mere presence of floating logs will not of itself make the river "navigable"; the logs must have been related to a commercial venture. Similarly, the presence of recreational craft may indicate that a waterbody is capable of bearing some forms of commerce, either presently, in the future, or at a past point in time.

(b) *Nature of commerce: interstate and intrastate.* Interstate commerce may of course be existent on an intrastate voyage which occurs only between places within the same state. It is only necessary that goods may be brought from, or eventually be destined to go to, another state. (For purposes of this regulation, the term "interstate commerce" hereinafter includes "foreign commerce" as well.)

**§ 329.7 Intrastate or interstate nature of waterway.**

A waterbody may be entirely within a state, yet still be capable of carrying interstate commerce. This is especially clear when it physically connects with a generally acknowledged avenue of interstate commerce, such as the ocean or one of the Great Lakes, and is yet wholly within one state. Nor is it necessary that there be a physically navigable connection across a state boundary. Where a waterbody extends through one or more states, but substantial portions, which are capable of bearing interstate commerce, are located in only one of the states, the entirety of the waterway up to the head (upper limit) of navigation is subject to Federal jurisdiction.

**§ 329.8 Improved or natural conditions of the waterbody.**

Determinations are not limited to the natural or original condition of the waterbody. Navigability may also be found where artificial aids have been or may be used to make the waterbody suitable for use in navigation.

(a) *Existing improvements: artificial waterbodies.* (1) An artificial channel may often constitute a navigable water of the United States, even though it has been privately developed and maintained, or passes through private property. The test is generally as developed above, that is, whether the waterbody is capable of use to transport interstate commerce. Canals which connect two navigable waters of the United States and which are used for commerce clearly fall within the test, and themselves become navigable. A canal open to navigable waters of the United States on only one end is itself navigable where it in fact supports interstate commerce. A canal or other artificial waterbody that is subject to ebb and flow of the tide is also a navigable water of the United States.

(2) The artificial waterbody may be a major portion of a river or harbor area or merely a minor backwash, slip, or turning area. (See § 329.12(b).)

(3) Private ownership of the lands underlying the waterbody, or of the lands through which it runs, does not preclude a finding of navigability. Ownership does become a controlling factor if a privately constructed and operated canal is not used to transport interstate commerce nor used by the public; it is then not considered to be a navigable water of the United States. However, a private waterbody, even though not itself navigable, may so affect the navigable capacity of nearby waters as to nevertheless be subject to certain regulatory authorities.

(b) *Non-existing improvements, past or potential.* A waterbody may also be considered navigable depending on the feasibility of use to transport interstate commerce after the construction of whatever "reasonable" improvements may potentially be made. The improvements need not exist, be planned, nor even authorized; it is enough that potentially they could be made. What is a "reasonable" improvement is always a matter of degree; there must be a balance between cost and need at a time when the improvement would be (or would have been) useful. Thus, if an improvement were "reasonable" at a time of past use, the water was therefore navigable in law from that time forward. The changes in engineering practices or the coming of new industries with varying classes of freight may affect the type of the improvement; those which may be entirely reasonable in a thickly populated, highly developed industrial region may have been entirely too costly for the same region in the days of the pioneers. The determination of reasonable improvement is often similar to the cost analyses presently made in Corps of Engineers studies.

**§ 329.9 Time at which commerce exists or determination is made.**

(a) *Past use.* A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) above) retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions. Nor does absence of use because of changed economic conditions affect the legal character of the waterbody. Once having attained the character of "navigable in law," the Federal authority remains in existence, and cannot be abandoned by administrative officers or court action. Nor is mere inattention or ambiguous action by Congress an abandonment of Federal control. However, express statutory declarations by Congress that described portions of a waterbody are nonnavigable, or have been abandoned, are binding upon the Department of the Army. Each statute must be carefully examined, since Congress often reserves the power to amend the Act, or assigns special duties of supervision and control to the Secretary of the Army or Chief of Engineers.

(b) *Future or potential use.* Navigability may also be found in a waterbody's susceptibility for use in its ordinary condition or by reasonable improvement to transport interstate commerce. This may be either in its natural or improved condition, and may thus be existent although there has been no actual use to date. Non-use in the past therefore does not prevent recognition of the potential for future use.

**§ 329.10 Existence of obstructions.**

A stream may be navigable despite the existence of falls, rapids, sand bars, bridges, portages, shifting currents, or similar obstructions. Thus, a waterway in its original condition might have had substantial obstructions which were overcome by frontier boats and/or portages, and nevertheless be a "channel" for commerce, even though boats had to be removed from the water in some stretches, or logs be brought around an obstruction by means of artificial chutes. However, the question is ultimately a matter of degree, and it must be recognized that there is some point beyond which navigability could not be established.





**§ 329.11 Geographic and jurisdictional limits of rivers and lakes.**

(a) *Jurisdiction over entire bed.* Federal regulatory jurisdiction, and powers of improvement for navigation, extend laterally to the entire water surface and bed of a navigable waterbody, which includes all the land and waters below the ordinary high water mark.

(1) The "ordinary high water mark" on non-tidal rivers is the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

(2) Ownership of a river or lake bed or of the lands between high and low water marks will vary according to state law; however, private ownership of the underlying lands has no bearing on the existence or extent of the dominant Federal jurisdiction over a navigable waterbody.

(b) *Upper limit of navigability.* The character of a river will, at some point along its length, change from navigable to non-navigable. Very often that point will be at a major fall or rapids, or other place where there is a marked decrease in the navigable capacity of the river. The upper limit will therefore often be the same point traditionally recognized as the head of navigation, but may, under some of the tests described above, be at some point yet further upstream.

**§ 329.12 Geographic and jurisdictional limits of oceanic and tidal waters.**

(a) *Ocean and coastal waters.* The navigable waters of the United States over which Corps of Engineers regulatory jurisdiction extends include all ocean and coastal waters within a zone three geographic (nautical) miles seaward from the coast line. Wider zones are recognized for special regulatory powers, such as those exercised over the Outer Continental Shelf.

(1) *Coast line defined.* Generally, where the shore directly contacts the open sea, the line on the shore reached by the ordinary low tides comprises the coast line from which the distance of three geographic miles is measured. On the Pacific coast the line of mean lower low water is used. The line has significance for both domestic and international law (in which it is termed the "baseline"), and is subject to precise definitions. Special problems arise when offshore rocks, islands, or other bodies exist, and the line may have to be drawn to seaward of such bodies.

(2) *Shoreward limit of jurisdiction.* Regulatory jurisdiction in coastal areas extends to the line on the shore reached by the plane of the mean (average) high water. However, on the Pacific coast, the line reached by the mean of the higher high waters is used. Where precise determination of the actual location of the line becomes necessary, it must be established by survey with reference to the available tidal datum, preferably averaged over a period of 18.6 years. Less precise methods, such as observation of the "apparent shoreline" which is determined by reference to physical markings, lines of vegetation, or changes in type of vegetation, may be used only where an estimate is needed of the line reached by the mean high water.

(b) *Bays and estuaries.* Regulatory jurisdiction extends to the entire surface and bed of all waterbodies subject to tidal action. Jurisdiction thus extends to the edge (as determined by § 329.12(a)(2) above) of all such waterbodies, even though portions of the waterbody may be extremely shallow, or obstructed by shoals, vegetation, or other barriers. Marshlands and similar areas are thus considered "navigable in law," but only so far as the area is subject to inundation by the mean high waters. The relevant test is therefore the presence of the mean high tidal waters, and not the general test described above, which generally applies to inland rivers and lakes.

**§ 329.13 Geographic limits: shifting boundaries.**

Permanent changes of the shoreline configuration result in similar alterations of the boundaries of the navigable waters of the United States. Thus, gradual changes which are due to natural causes and are perceptible only over some period of time constitute changes in the bed of a waterbody which also change the shoreline boundaries of the navigable waters of the United States. However, an area will remain "navigable in law," even though no longer covered with water, whenever the change has occurred suddenly, or was caused by artificial forces intended to produce that change. For example, shifting sand bars within a river or estuary remain part of the navigable water of the United States, regardless that they may be dry at a particular point in time.

**§ 329.14 Determination of navigability.**

(a) *Effect on determinations.* Although conclusive determinations of navigability can be made only by Federal Courts, those made by Federal agencies are nevertheless accorded substantial weight by the courts. It is therefore necessary that when jurisdictional questions arise, District personnel carefully investigate those waters which may be subject to Federal regulatory jurisdiction under the guidelines set out above, as the resulting determination may have substantial impact upon a judicial body. Official determinations by an agency made in the past can be revised or reversed as necessary to reflect changed rules or interpretations of the law.

(b) *Procedures of determination.* A determination whether a waterbody is a navigable water of the United States will be made by the Division Engineer, and will be based on a report of findings prepared at the District level in accordance with the criteria set out in this regulation. Each report of findings will be prepared by the District Engineer, accompanied by an opinion of the District Counsel, and forwarded to the Division Engineer for a final determination. Each report of findings will be based substantially on applicable portions of the format in subparagraph (c) below.

(c) Suggested format of report of findings:

(1) Name of waterbody
(2) Tributary to
(3) Physical characteristics:
(i) Type: (river, bay slough, estuary, etc.)
(ii) Length
(iii) Approximate discharge volumes:
Maximum
Minimum
Mean
(iv) Fall per mile
(v) Extent of tidal influence
(vi) Range between ordinary high and ordinary low water
(vii) Description of improvements to navigation not listed in subparagraph (5) below
(4) Nature and location of significant obstructions to navigation in portions of the waterbody used or potentially capable of use in interstate commerce
(5) Authorized projects:
(i) Nature, condition and location of any improvements made under projects authorized by Congress
(ii) Description of projects authorized but not constructed
(iii) List of known survey documents or reports describing the waterbody
(6) Past or present interstate commerce:
(i) General types, extent, and period in time
(ii) Documentation if necessary
(7) Potential use for interstate commerce, if applicable:
(i) If in natural condition
(ii) If improved
(8) Nature of jurisdiction known to have been exercised by Federal agencies if any:
(9) State or Federal court decisions relating to navigability of the waterbody, if any:
(10) Remarks
(11) Finding of navigability (with date) and recommendation for determination:

**§ 329.15 Inquiries regarding determinations.**

(a) Findings and determinations should be made whenever a question arises regarding the navigability of a waterbody. Where no determination has been made, a report of findings will be prepared and forwarded to the Division Engineer, as described above. Inquiries may be answered by an interim reply which indicates that a final agency determination must be made by the Division Engineer. If a need develops for an emergency determination, District Engineers may act in reliance on a finding prepared as in § 329.14 above. The report of findings should then be forwarded to the Division Engineer on an expedited basis.

(b) Where determinations have been made by the Division Engineer, inquiries regarding the navigability of specific portions of waterbodies covered by these determinations may be answered as follows:

This Department, in the administration of the laws enacted by Congress for the protection and preservation of the navigable waters of the United States, has determined that _____ (River) (Bay) (Lake, etc.) is a navigable water of the United States from _____ to _____. Actions which modify or otherwise affect those waters are subject to the jurisdiction of this Department,



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whether such actions occur within or outside the navigable areas.

(c) Specific inquiries regarding the jurisdiction of the Corps of Engineers can be answered only after a determination whether (1) the waters are navigable waters of the United States or (2) if not navigable, whether the proposed type of activity may nevertheless so affect the navigable waters of the United States that the assertion of regulatory jurisdiction is deemed necessary.

**§ 329.16 Use and maintenance of lists of determinations.**

(a) Tabulated lists of final determinations of navigability are to be maintained in each District office, and be updated as necessitated by court decisions, jurisdictional inquiries, or other changed conditions.

(b) It should be noted that the lists represent only those waterbodies for which determinations have been made; absence from that list should not be taken as an indication that the waterbody is not navigable.

(c) Deletions from the list are not authorized. If a change in status of a waterbody from navigable to non-navigable is deemed necessary, an updated finding should be forwarded to the Division Engineer; changes are not considered final until a determination has been made by the Division Engineer.

[FR Doc.77-20434 Filed 7-18-77;8:45 am]



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TUESDAY, JULY 19, 1977

PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

## SPECIAL DIETARY FOODS LABEL STATEMENTS

Proposed Statement of Reasons, Findings of Fact, and Conclusions and Tentative Order

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## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

**Food and Drug Administration**

**[ 21 CFR Part 105 ]**

[Docket No. 75N–0318]

## SPECIAL DIETARY FOODS LABEL STATEMENTS

**Proposed Statement of Reasons, Proposed Findings of Fact, Proposed Conclusions, and Tentative Order**

AGENCY: Food and Drug Administration.

ACTION: Tenative Order Following a Public Hearing on Regulations.

SUMMARY: This tentative order revises label statements for special dietary food. It is issued following a public hearing on special dietary food regulations. The regulations in the tentative order would govern label statements on special dietary foods for use in reducing or maintaining body weight or caloric intake, or in the diet of diabetics, and prevent misleading label statements on foods that are not useful for these purposes.

DATE: Exceptions by August 18, 1977.

ADDRESS: Written exceptions to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

TENTATIVE EFFECTIVE DATE: Labeling may be changed to comply with any regulations issued as a result of this tentative order on the date of publication of the final order in the FEDERAL REGISTER; all products initially introduced into interstate commerce shall comply by July 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Richard T. Hunt, Compliance Regulations Policy Staff (HFC–10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: In the matter of revising regulations for food for special dietary uses, the Commissioner of Food and Drugs is issuing a tentative order, following a public hearing, setting forth regulations with respect to label statements on special dietary foods for use in reducing or maintaining body weight, or in the diet of diabetics, and to related misleading label statements on other foods.

The section numbers discussed in this document were recodified in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302). For the convenience of the readers, the recodified sections are indicated by the word "formerly" or "now" following the section numbers.

### HISTORY

1. On the initiative of the Commissioner of Food and Drugs, a notice of proposed rule making in the above-identified matter was published in the FEDERAL REGISTER of June 20, 1962 (27 FR 5815), and numerous comments were received in response thereto. Subsequently, orders were published in the FEDERAL REGISTER of June 18, 1966 (31 FR 8521 et seq.), to become effective December 15, 1966, deleting §1.11 (21 CFR 1.11), excepting from labeling requirements certain artificially sweetened foods (21 CFR 5.5), establishing definitions and standards of identity for dietary supplements of vitamins and minerals and for vitamin and mineral-fortified foods (21 CFR Part 80, now 21 CFR Part 105), and revising the regulations for the labeling of food for special dietary uses (21 CFR Part 125, now 21 CFR Part 105).

2. During the 30-day period provided by the orders of June 18, 1966, objections and requests for a public hearing were filed. Consequently, an order was published in the FEDERAL REGISTER of December 14, 1966 (31 FR 15730), staying the effective date of § 5.5, Part 80, and Part 125, and staying the effective date of the deletion of § 1.11, as published June 18, 1966. The order of December 14, 1966, gave notice that a public hearing would be held on the basis of the objections received, and set forth the issues to be decided at the hearing. Since the order also contained amendments to the provisions of Parts 80 and 125 published in the FEDERAL REGISTER of June 18, 1966, an additional period of 30 days was provided for the filing of objections by persons adversely affected. Numerous letters objecting to the amendments and requesting a public hearing were received; however, no substantive issues not already stated in the order of December 14, 1966, were raised by these objections. A correction of a printer's error in the order of December 14, 1966, was published in the FEDERAL REGISTER of December 21, 1966 (31 FR 16312).

3. A notice was published in the FEDERAL REGISTER of April 2, 1968 (33 FR 5268), scheduling a hearing to begin May 21, 1968, and a prehearing conference to begin May 7, 1968. The notice also designated Mr. David H. Harris as the Hearing Examiner for these proceedings, and notice that he was appointed a hearing examiner was published in the FEDERAL REGISTER of May 4, 1968 (33 FR 6828).

4. The hearing was convened as scheduled May 21, 1968, and recessed the same day to permit continuation of prehearing conferences. Notice was given in the FEDERAL REGISTER of June 13, 1968 (33 FR 8679), that the hearing was being reconvened June 20, 1968. The hearing was reconvened as scheduled and continued for almost 2 years, closing on May 14, 1970.

5. The taking of evidence with reference to infant foods was closed October 14, 1969. Pursuant to 21 CFR 2.96, and limited to the infant food portion of the proceedings, the Hearing Examiner submitted his report and certified the record together with his report to the Commissioner of Food and Drugs. This Hearing Examiner's report, dated August 26, 1970, is part of the public record (Docket No. FDC–79) on file with the Hearing Clerk, Department of Health, Education, and Welfare, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

6. The Hearing Examiner subsequently submitted his report of the entire proceedings, except for the previously submitted portion on infant foods, and certified the associated record together with his report to the Commissioner of Food and Drugs. This Hearing Examiner's report, dated January 25, 1971, is part of the public record (Docket No. FDC–78) and is also on file with the Hearing Clerk.

7. Final orders have already been published on all matters within the scope of the proceeding except the matters covered by this tentative order. After review of the Hearing Examiner's report and related material, the Commissioner issued final orders on § 125.5 (now § 105.65) (label statements relating to infant foods) in the FEDERAL REGISTER of December 10, 1971 (36 FR 23553); to hypoallergenic foods (21 CFR 125.8, now 21 CFR 105.62) and to food for use as a means of regulating the intake of sodium (21 CFR 125.9, now 21 CFR 105.69) in the FEDERAL REGISTER of May 17, 1972 (37 FR 9763); and to definitions, interpretation of terms, general label statements, and vitamins and minerals (21 CFR 125.1, 125.2 and 125.3, now 21 CFR 105.3, 105.60, and 105.77) in the FEDERAL REGISTER of August 2, 1973 (38 FR 20708).

8. The Commissioner's final order on label statements relating to definitions, interpretations of terms, general label statements, and vitamins and minerals was stayed pending the outcome of judicial review pursuant to an order published in the FEDERAL REGISTER of October 26, 1973 (38 FR 29577). The record relating to that order was reopened for certain limited purposes pursuant to judicial remand in "National Nutritional Foods v. FDA," 504 F.2d 761 (2d Cir. 1974). In the FEDERAL REGISTER of October 19, 1976 (41 FR 46156), FDA issued final revised regulations governing vitamin and mineral products in compliance with the remand directions and the new amendments to the Federal Food, Drug, and Cosmetic Act concerning vitamins and minerals. In that order, FDA revised §§ 125.1, 125.2, and 125.3 (now §§ 105.3, 105.60, and 105.77) revoked § 125.4 and amended § 125.5 (now § 105.65), to delete the reference to § 125.4. In the FEDERAL REGISTER of April 19, 1977 (42 FR 20292), the Commissioner ruled on two petitions for reconsideration, and generally reaffirmed the regulations but revised the regulations on some matters.

### LIMITED SCOPE OF THIS ACTION

9. This document pertains only to regulations concerning limited matters relating to the labeling of foods for special dietary use because of usefulness in reducing or maintaining caloric intake or body weight or in the diet of diabetics and related misleading statements (21 CFR 105.66 and 105.67 of the tentative order).

10. The regulations in the tentative order with respect to foods for use in reducing or maintaining caloric intake or





body weight or for use in the diet of diabetics were designated 21 CFR 125.5 and 125.6, respectively, in the regulations on which the hearing was held, as revised and stayed by the order of December 14, 1966. To be compatible with the current format of Part 125 (now Part 105) in the Code of Federal Regulations, any final regulations issued on these matters will be designated 21 CFR 105.66 and 105.67, respectively.

11. With the issuance of a final order on the matters covered by this tentative order, the rulemaking proceeding, commenced in 1962, to revise the regulations for foods for special dietary uses, will be substantially completed. The record will remain open only for certain limited purposes to take appropriate action in the light of judicial review of the final orders issued in this proceeding.

### RELATIONSHIP TO PROPOSED RULE ON SACCHARIN

12. By notice published in the FEDERAL REGISTER of April 15, 1977 (42 FR 19996), the Commissioner proposed to prohibit the use of saccharin as a food additive, including its use in "diet" soft drinks. The proceeding to establish labeling requirements for special dietary foods and prevent deceptive claims started in 1962 and long preceded the current studies relating to safety of saccharin. The regulations as originally proposed, and the regulations stayed for the public hearing, set forth labeling provisions governing special dietary foods containing nonnutritive sweeteners.

The tentative order also covers labeling provisions regarding nonnutritive sweeteners. The Commissioner intends to retain provisions on the labeling of nonnutritive sweeteners in food offered for weight control even if no safe nonnutritive sweeteners are available for use when the final order on this matter is issued. It is appropriate to have provisions on the labeling of nonnutritive sweeteners in case a safe nonnutritive sweetener for use in these foods becomes available. To avert possible confusion, the Commissioner has expressly indicated in the tentative order that a nonnutritive sweetener may be used in special dietary foods offered for weight control only if the use is safe and in accordance with the law and regulations. The Commissioner points out that there are other means besides the use of nonnutritive sweeteners through which foods can achieve a usefulness in weight control diets, e.g., reduction in fat content, use of natural juices or water as a packing medium.

13. In citing the record, the Commissioner has used the following system of abbreviations:

Tr.—For transcript pages of the hearing.
P.—For exhibits introduced by the Government, the proponent.
O.—For exhibits introduced by opponents.
WD–G—For written direct testimony by a witness for the Government.
WD–3A—For a written direct testimony by a witness for the designated opponent (e.g., "3A").
#—File number of submissions to the Hearing Examiner.
HEF—Hearing Examiner Finding.

14. In many instances, the findings of fact of the Hearing Examiner are relied on and adopted as the Commissioner's Proposed Findings of Fact. This is indicated by the parenthetical reference HEF, with the number of the Hearing Examiner's findings, at the end of the proposed finding. If the Commissioner has adopted a Hearing Examiner finding with changes, the finding is stated as being based on the Hearing Examiner finding.

### STATEMENT OF REASONS

The Hearing Examiner's findings, adopted in the tentative order, are, in most instances, sufficient as a statement of reasons for the regulations in the tentative order. This statement gives a supplementary discussion of the need for the regulations, of the reasons for the changes made in the stayed regulations, and of the reasons for not accepting some contentions raised by participants in the hearing. The Commissioner has also discussed his specific reasons for not accepting findings of the Hearing Examiner, unless the reason for nonacceptance is evident from the discussion in this statement, or unless the finding was not relevant or necessary. The Commissioner has stated in parentheses after the Hearing Examiner's findings the reasons for not accepting particular findings when the reasons related to the specific finding, rather than major regulatory issues.

The Commissioner has not made an individual ruling on each finding of fact and conclusion of law proposed by participants to the Hearing Examiner. A considerable number of findings and conclusions were proposed and it served no useful purpose to discuss each separately. Some were incorporated by the Hearing Examiner into his findings. Some provided additional bases for support of conclusions adequately supported by other findings. Others were not accepted for reasons indicated in the findings or in this statement.

### NEED FOR REGULATION

Obesity is a major health problem in the United States. Millions need to lose weight. Millions need to make a conscious adjustment in their eating habits to maintain their weight at a proper level. A major way to control weight is for individuals to limit their total daily intake of calories while still choosing foods that provide the full complement of required nutrients. Sustained weight loss is most likely achieved, not through crash dieting or monotonous diets, but through a moderate reduction in total caloric intake and a varied selection of usual foods. The Commissioner's aim in these regulations is to enable those who need to control their weight to identify and evaluate foods which may particularly help them attain and maintain their proper weight within a balanced and nutritious diet program.

Weight control problems can be helped if foods of special value are brought to the attention of purchasers. It is important that these regulations permit foods of special value to make appropriate claims. The labeling should be simple and conspicuous enough to reach the purchaser's attention. The labeling requirements should not be so burdensome that manufacturers forego making claims for foods which are of special value. It is equally important, however, that the labeling provide enough information for the purchaser to evaluate the usefulness of the food for regulating caloric intake and body weight.

The last major goal for these regulations is to prevent misleading labeling claims on foods that are not of value for special dietary use. These other claims should either not be made, or the claim should indicate clearly that the value of the food does not relate to weight control.

### FOODS OF SPECIAL VALUE FOR REDUCING OR MAINTAINING CALORIC INTAKE

Any food can be eaten by those on a diet, since the suitability of any one food depends upon the caloric and nutrition values of the other foods chosen by the consumer, but it would be inappropriate, on that account, to allow either all foods or no foods to claim special dietary value for weight control. Two types of food are appropriately considered to be of special value. The first type is food which is low in calories on an absolute basis. The second type is food which has been fabricated or altered to make it comparatively lower in calories than another similar or identical food for which it can substitute, e.g., reduced calorie food.

The use of a single low calorie, or comparatively lower calorie food, might very well not have dietary significance if it were the sole means used to reduce or maintain weight. People eat many foods in a day, however, and their efforts to control caloric intake should be based on their total diet and not a single item. Low calorie foods, reduced calorie foods, and other lower calorie substitutes are genuinely of special value when used with other measures to regulate caloric intake and body weight, including increased physical activity, and consumption of smaller portions.

*General requirements.* Paragraph (a) of § 105.66 of the tentative order contains the general requirements applicable to all foods that purport or are represented to be of special dietary usefulness for reducing or maintaining caloric intake or body weight. Section 101.3 (formerly § 1.8d) of the regulations governs the placement of the statement on labels if not otherwise provided for in these regulations.

One of the general requirements is that each food subject to 105.66 bear nutrition labeling in accordance with § 101.9 (formerly § 1.17), unless exempt under § 101.9. Even without this provision, the foods would be required to bear nutrition labeling since § 101.9 requires nutrition labeling on any food that bears any nutrition claim or information. Nonetheless, a requirement for nutrition labeling has been included in § 105.66 of the tentative order because it would avoid any possibility of confusion about the applicability of § 101.9, or oversight of it.



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Section 125.5(a) of the stayed regulations required the label to bear information on the protein, fat, and available carbohydrate content of the food. The hearing record amply supports the need for labeling information about nutrition. The purchaser of special dietary foods particularly needs ready access to nutrition information because he has to be sure he gets all needed nutrients while reducing his caloric intake.

The Commissioner has not proposed to require the nutrition information provided for in the stayed regulation in addition to nutrition labeling in accordance with § 101.9. There is no need for two statements in differing formats; they could confuse consumers. The nutrition labeling provided for in § 101.9 will give the purchaser adequate nutrition information, and the uniform format it establishes for presenting nutrition information facilitates comparisons among foods.

Paragraph (a) of § 105.66 also requires foods offered for weight control to bear a statement indicating the importance of the total diet in weight control. This statement will bring this basic principle of weight control to the user's attention and clarify that the claim of usefulness by the food must be understood in relationship to the total diet.

Section 125.5(a) of the stayed regulations did not provide for this particular statement, but it did require foods to bear the statement "For calorie restricted diets." That statement served in part to direct the purchaser's attention to the importance of calories and the total diet, but the Commissioner believes that the new statement makes the point in a clearer way. The statement "For calorie restricted diets" also served to identify foods which purport to be useful for weight control. Identification is important, but the Commissioner believes that this can be adequately done through the labeling of the food in terms of the basis of the claim it makes, e.g., "Low Calorie." Accordingly, in the tentative order, the Commissioner has not required mandatory use of the statement "For calorie restricted diets."

*Food fabricated or altered to lower caloric content.* Foods which have been fabricated or altered to make them of special dietary usefulness for maintaining or reducing caloric intake or body weight would be required by § 105.66(b) of the tentative order to bear a statement describing the fabrication of alteration and the percentage by weight of any nonnutritive constituent used. This requirement has a purpose similar to that of the provisions in the stayed regulation requiring statements about the use of nonnutritive sweeteners or other nonnutritive constitutents and the percent by weight of any nonnutritive constituent. The percentage by weight of a nonnutritive sweetener did not have to be listed under the stayed regulation, and need not be listed under the regulation in this tentative order since the weight of nonnutritive sweeteners is ordinarily slight.

The Commissioner has not included labeling provisions specifically for sugar substitutes sold as such, even though the stayed regulation contained a provision on their labeling. He believes a specific provision is unnecessary in view of the general requirements applicable to all foods making caloric claims. The labels of any sugar substitutes will have to bear the statement required by § 105.66 about the manner of fabrication or alteration, and the additional requirements applicable to the claim of special dietary usefullness made by the food.

*Low calorie foods.* Section 105.66(c) of the tentative order sets forth the requirements for low calorie foods. The record indicated the need to establish a maximum number of calories in a food promoted as low calorie to ensure that foods have the value for dietary purposes they purport to have. The experts who testified generally agreed that there should be a maximum but disagreed on what the maximum should be, and on the bases upon which it should be set.

Section 125.5(f)(1) of the stayed regulations set a 15-calorie maximum per serving, and a 30-calorie maximum on a daily intake basis for a food labeled "low calorie." That calorie requirement received "practically no support from any witness, Government or otherwise," to quote the Government Post-Hearing Evidentiary Memorandum, because it was "unrealistically low" and only a few foods would meet it (#588, p. 61). Government witnesses supported increasing the maximum to 25 calories per serving, and the Hearing Examiner found this maximum reasonable (HEF 486).

The Commissioner accepts the concept that the caloric designation should indicate foods of distinctly low calorie value in a single serving. The Government witnesses based the 25-calorie maximum on the concept that the low calorie designation should indicate both foods of distinctly low calorie value and foods that could be eaten at will without signicantly adding to the total daily caloric intake (HEF 483; WD-G-Levine, Q & A 130–133). Some low calorie foods may be so low in caloric value that they can be eaten freely, in as many servings as a person is likely to want, without adding significantly to the caloric content of the total diet, but the Commissioner has not limited the low calorie food designation to foods that can be eaten freely in numerous servings. Repeated servings of foods at the higher end of the low calorie range could make a significant contribution for some people. It is inevitably a matter of applying reasonable judgment, both by the Commissioner in establishing the requirements and by the consumer in consuming the food. Consummers will know from the caloric content given in nutrition labeling whether the low calorie foods may be consumed in numerous servings per day, or can only be consumed in a single serving or a few servings without adding significantly to the total caloric intake.

The Government's 25-calorie maximum was criticized on the basis that few foods would satisfy it, and particularly few fruits, vegetables, juices, and soups (e.g., Record cited in HEF 485, #576, Proposed Findings of Fact 105–124). The Commissioner has considered this objection carefully, and believes that the maximum caloric value for low calorie foods should be increased to 40 calories. The 40 calorie maximum would still include only foods of distinctly low caloric value and it would allow an increased number and variety of foods to be labeled. The Commissioner has analyzed the caloric values for foods included into the current edition of the U.S. Department of Agriculture Handbook No. 8 of which he takes official notice. The Commissioner recognizes that the determination of caloric values for foods varies depending upon the amount estimated as the serving size for different kinds of foods. Even allowing for some variations in estimates of serving sizes, the Commissioner finds that the 40 calorie per serving maximum includes a reasonable number of foods which should properly be recognized as "low calorie."

Some parties who criticize the Government's position advanced different concepts to be used in calculating the maximum for low calorie foods. These included basing the determination on typical foods recommended for use in diets, e.g., an ordinary hard boiled egg, or upon arithmetical portions of an appropirate diet, e.g., one-seventh of the calories in a low calorie meal (#576, Proposed Findings of Fact 90–92). These concepts have not been accepted. There is no convincing evidence that consumers would understand the low calorie designation in these ways. The concepts would allow foods containing a significant number of calories in a single serving to be labeled low calorie.

It was also argued that the low calorie term should be used to indicate foods which are lower in calories than similar foods in the same class, or foods used for a similar purpose, by, for example, distinguishing low calories vegetables from high calorie vegetables, or by encouraging the use of fruits in lieu of high calorie desserts (WD–53–Mayer, pp. 43–45, 57). To the extent this concept is valid, the 40 calories maximum promotes it in part. The Commissioner does not, however, accept this concept. Foods in the 60–75 calorie range provides substantial calorie, and use of the low calorie designation on such foods may lead to excess consumption of calories by consumers who associate the low calories designation with distinctly low caloric content. In addition, this concept is based on substituting a low calorie food for a number of different foods, all of which may vary in nutrition.

The Commissioner believes that the substitution of one food for another should be evaluated carefully in relationship to the nutrition value of the food. It would be difficult to determine nutritional equivalence with respect to the substitution of one food for various different foods, and to develop a labeling scheme that would convey to the purchaser clearly all the possible differences in nutritional values which should be considered in evaluating whether the substitution is appropriate. Accordingly, the Commissioner has not accepted the





concept that the low calorie designation should be used to encourage substitution of certain foods for various dissimilar foods.

The Commissioner has included a caloric density requirement of 0.4 caloric per gram for low calorie foods, in lieu of the provision in the stayed regulations which precluded low calorie claims by foods containing more than a specified number of calories in the average total daily intake. The daily intake provision served to prevent claims by foods based on the number of calories in an individual serving unit even though several units might be consumed at a time, e.g., a single cookie, a piece of candy or a single teaspoonful of sugar. These foods are not appropriate to consume at will. Caloric density distinguishes these inappropriate claims with greater precision. Because of the variability in serving sizes for these foods, statements of calories per serving are not adequately informative to aid consumers in evaluating whether these foods can usefully be included in a calorie-restricted diet. The importance of consideration of caloric density was presented in the testimony in the hearing (#576 at Proposed Findings of Fact 117–20, 122, 124, adopted as the Commissioner's Proposed Findings of Fact 61–66). This testimony indicated that most soups, juices, fruits and vegetables would meet the .4 caloric density requirement provided for in the regulation.

This testimony was introduced to support the position that the "low calorie" term should be permitted only on foods that are reduced to low calorie levels, and on soups, juices, fruits and vegetables that are low calorie as naturally constituted (#577, pp. 53–68). It was argued that foods that were not in these classes were inappropriate for use as low calorie foods. The Commissioner believes the caloric density requirement provides a better basis for distinguishing inappropriate low calorie claims than would a requirement that precludes claims by foods not in specified classes.

The tentative order adopts the requirement in the stayed regulation that foods claiming to be low calorie bear the identifying designation "low calorie" or variations of it and sets minimum standards for the type size to be used in the "low calorie" designation or variations of it to eliminate uncertainties about the degree of prominence to ensure that this important information reaches the consumer's attention. Under § 125.5 of the stayed regulations, this designation was required to appear on the label, and § 125.2 (now § 105.60) of the regulations stayed for the hearing also required statements to appear on the principal display panel. To eliminate any uncertainty about placement, and to ensure that consumers can readily identify foods offered as low calorie, the tentative order requires the statement to appear on the principal display panel.

Low calorie foods are of two types, those that are fabricated or altered to reduce calorie content to a low caloric level and those that are low in calories as ordinarily grown or made, e.g., celery. Both types may be labeled low calorie. Foods that are low calorie as ordinarily grown or made may not be labeled in a way that suggests they are lower in calories in comparison with identical foods. For example, if celery were labeled "low calorie celery" it would suggest that the labeled celery is lower in calories than other celery. These foods can make low calorie claims in other ways that do not have a misleading implication, e.g., "celery, a low calorie food" (Number 576, Proposed Finding of Fact 126).

*"Reduced calorie" food and other comparative claims.* Section 105.66(d) of the tentative order sets forth criteria for reduced calorie foods. Under § 125.5(g) of the stayed regulations, a food could make a comparative claim of usefulness in calorie regulation only if it had at least a 50 percent reduction as compared with another food. Many experts testified that it was appropriate to establish a minimum reduction figure, but that a 50 percent reduction requirement was unreasonable. The Hearing Examiner found a 50 percent minimum percentage reduction unreasonable, and proposed instead a 35 percent reduction as the minimum (HEF 481). The Commissioner accepts the Hearing Examiner's finding in essence, but has set the minimum reduction requirements slightly lower at 33⅓ percent. The 33⅓ percent figure can be expressed as a proportional reduction of one-third, a figure that is more familiar and understandable to the public.

The Commissioner believes the 33⅓ percent reduction requirement is more appropriate than the 50 percent requirement because he finds it to be more suitable for the moderate type of dieting program which is generally preferable for use by the general public. Diets with a moderate reduction are the most advisable for general uses, because they present less risk that intake of essential nutrients will be inadequate when the caloric intake is reduced. A 33⅓ percent reduction requirement allows a greater variety of nutritious foods to bear claims of usefulness in reducing or maintaining caloric intake or body weight, and variety is important in maintaining the motivation to adhere to a diet program.

Some witnesses at the hearing advocated an even lower caloric reduction requirement of 25 or 10 percent. The Commissioner believes that these figures would allow foods to bear claims that are not of significant help, and, by enlarging the number of foods that could make claims, it would be more difficult to make consumers aware of foods of particular use. This requirement may, however, in some instances preclude claims by foods for which it would be useful to have reduced calorie corollaries. The Commission has provided for a procedure, not found in the stayed regulations, through which foods not meeting the usual requirements will be allowed to bear claims of usefulness if the petitioner presents an appropriate scientific basis for his petition.

The Commissioner has also established a 25-calorie-reduction requirement per serving for foods that claim to be reduced calorie foods. This requirement will preclude claims by food such as spices, used in small amounts and containing a few calories, that may have a reduction that appears large in percentage terms but which is not significant. This requirement is in lieu of the provision in the stayed regulation limiting claims to foods of caloric importance, a requirement with a similar purpose but indefinite in its applicability. The Commissioner has not accepted the Hearing Examiner's finding 450 with respect to caloric importance for this reason. The regulations would also prohibit claims by foods which are reduced only in a comparison with a hypothetical food of the same type having more calories, even though no higher calorie food of that type had ever been sold.

Nutritionally inferior foods would not be permitted to make comparative claims of usefulness in weight control. The record clearly shows the importance of maintaining the intake of essential nutrients while calorie intake is being reduced. The stayed regulations did not expressly preclude claims by nutritionally inferior foods but the Commissioner believes it would be misleading to offer a food for special dietary use in a weight control diet if the food were less nutritious, apart from fat and calories, than the food it is represented as replacing in the diet.

The tentative order would also require all foods that claim to be reduced in calories to bear a statement describing the comparison on which the claim is based that gives the calorie content of the foods compared. The comparison statement may be made in the form of a comparison with a specific food, by its brand name or common or usual name, in the form in which it is customarily made and consumed. The comparison may also be made with the same food without the fabrication or alteration that gives the food its special dietary significance.

The stayed regulations permitted foods to make comparative claims either in relationship to the same food without a specified fabrication or alteration of special dietary significance, or in relationship to a specific food as customarily made and consumed. The Commissioner believes it is more useful if comparative claims are made with a specific food, e.g., "peaches packed in water, 38 calories per ½ cup serving, 62 percent less calories than Brand X peaches in heavy syrup" rather than in relationship to a general class of foods, e.g., "peaches packed in water, 38 calories per ½ cup serving, 62% less calories than if packed in heavy syrup." The tentative order allows the comparison to be made either way, however, since the determination of the amount of the reduction is easier when made in comparison with the same food without the fabrication or alteration. When the calorie comparison is made with a class of foods, the foods within the class may vary somewhat in calorie con-



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tent making calorie computations more complex.

The calorie content comparison may be made by specifying either the number of calories in each food, or the number in one food and the percentage or proportional difference in calories in relationship to the other food. To be a comparison of caloric content, the statement must give the amount of calories in at least one of the foods compared. The statement must appear on the label, but need not appear on the principal display panel.

A food claiming usefulness in weight reduction or mantenance would have to be labeled "reduced calorie" if it meets the requirement of § 105.66(d) and is similar in taste and other organoleptic properties to the food specified on the labeling with which it is compared. A reduced calorie food need not be identical, apart from calories, to the food for which it substitutes, but it must be essentially the same as the other food in taste, appearance, and other organoleptic properties.

The stayed regulations did not expressly require all comparatively reduced calorie foods to bear common identifying terminology. Instead, separate labeling requirements were established in § 125.5 (b), (c), (d), (e), and (g) depending upon whether the food achieved its calorie reduction through use of artificial sweeteners nonnutritive ingredients, or some other means. A statement of general policy published in the FEDERAL REGISTER of July 6, 1966 (31 FR 9215) indicated that FDA was willing to consider "reduced in calories" as alternative terminology to "lower in calories." The Commissioner believes it will improve consumer understanding to provide common identifying terminology on foods that have the same organoleptic properties apart from a calorie reduction and has adopted the "reduced calorie" term for this purpose.

A food that is fabricated or altered to lower its calorie content but that does not have the same organoleptic properties as a specific food with which it is compared may not be labeled "reduced calorie" but may bear other labeling to indicate its special dietary usefulness. For example, canned pears packed in unsweetened water could not be labeled as reduced calorie because it does not resemble canned pears in syrup with respect to sweetness. It could bear a comparative claim on the label, though, comparing the calorie content of the pears in unsweetened water with pears in syrup. It could also bear other terms that represent or suggest special dietary usefulness, such as "for calorie restricted diets." The term "diet" could be used on the label to indicate the food's special dietary usefulness, but it could not be used in a way that suggests the food is similar in all its organoleptic properties to the food with which it is compared. Thus, the word "diet" could not be used immediately preceding the name of the food.

*Label terms suggesting usefulness in regulating caloric intake or body weight.* Section 105.66(e) of the tentative order would prohibit misleading terms in the labeling of foods which are not of special dietary usefulness for weight control. Thus, foods could not be labeled with terms that suggest the food is low calorie or lower in calorie than another food or other terms suggesting usefulness in regulating caloric intake unless it complies with § 105.66 (c) or (d) governing such claims. If anyone believes that it would be useful to consumers to allow these terms to be used on other foods, he may petition the Commissioner to amend the regulations to provide for such claims. If the claim is appropriate, the Commissioner can propose labeling that will enable the consumer to understand the basis of the claim being made and prevent confusion from various forms of making the claim.

Some foods have recently been offered as useful for weight control even though the foods are neither low calorie nor comparatively more reduced in calories than other food. The foods are offered as useful in conjunction with a total program for regulating the person's complete diet. Thus, an ordinary can of corn might be labeled as useful for weight control because of its inclusion in a total diet program. Claims of usefulness of this type were not prevalent at the time of the hearing, and the record does not provide an adequate basis for evaluating the usefulness of the foods in this type of program and the type of labeling that can be used on the foods without misleading consumers about the usefulness of the food and the fact that the foods are not reduced calorie or low calorie. The Commissioner will give careful attention to any adequately supported petition that seeks to provide for labeling of these foods for use in diets in a way that is not misleading.

Formulated meal replacements, low calorie meals, and other total meal replacements would not be subject to this provision pending the issuance of regulations governing these foods. Under the stayed regulation, claims for such foods had to be made on a comparative basis in relationship to a similar food or the same food without a fabrication or alteration of special dietary significance. Testimony was introduced that the validity of the claim should be determined on other bases, such as an absolute caloric standard for a low calorie meal (e.g., #576, Proposed Finding of Fact 88). The Commissioner proposed in the FEDERAL REGISTER of June 14, 1974 (39 FR 20905) a nutritional quality guideline for formulated meal replacements that would have required compliance with § 125.6 for such foods offered for use in a reduced calorie diet. The Commissioner has found the hearing record insufficient, however, to evaluate the suitability of other possible bases for making calorie claims for meal replacements and for low calorie meals. Accordingly, he proposes to exempt claims by formulated meal replacements and meal substitutes from § 125.6 at this time.

*Use of terms such as "sugar free," "sugarless," "no sugar," etc.* Purchasers associate statements about the absence of sugar with weight control claims and foods that are low calorie or have been altered to reduce calories significantly. The regulation does not prevent the "sugarless" statement from being used on foods that are not of special use in weight control diets, but it would require affirmative disclosures to prevent consumers from being misled about the usefulness of the food. Under § 105.66(f) of the tentative order, any food that makes a statement about the absence of sugar will have to bear a statement indicating the food is not low calorie or calorie reduced, unless the food is a low or reduced calorie food. Without the disclosure, some consumers might think the food was offered for weight control or was offered for both calorie control and another purpose.

Evidence was introduced at the hearing to show that the "sugarless" claim is useful to identify foods like chewing gum that are in sustained contact with the teeth in which use of a sweetener other than sucrose may help avoid tooth decay (WD–98–Schotenboer, pp. 7–8). The record is insufficient, in the Commissioner's judgment, to permit a conclusion that the use of certain sweeteners, such as sorbitol, is of dietary usefulness to help avoid tooth decay. He intends to examine this matter further to see if claims of usefulness in avoiding tooth decay based on the use of a sweetener other than sucrose are misleading. He agrees though, that the "sugarless" claim should be permitted to be used to indicate dietary uses other than usefulness for weight control if the use is not misleading and if the food bears appropriate labeling to prevent consumers from being misled about the other implications of the sugarless claim. The tentative order provides for suitable labeling of foods claiming to be sugarless.

Affirmative disclosures would not have been required under the stayed regulation, but the stayed regulation would not have allowed a food to bear a claim like "sugarless" that implies usefulness for weight control if the food were not a low calorie or comparatively reduced calorie food. Since this regulation would allow the "sugarless" term to be used on other foods, this creates the need to require additional disclosures to ensure that the term is not misleading to consumers.

*Foods offered for weight gain.* The Commissioner does not intend at this time to issue provisions on the particular label statements that must be borne by special dietary foods offered for use in gaining body weight. The stayed regulations required a food offered for this use to bear certain information about its nutrition content. Such foods have to provide the same information, in the form of nutrition labeling, by virtue of § 101.9 (formerly § 1.17), because of the inherent nutrition claim in any claim of usefulness in gaining body weight. In addition, under 21 CFR 105.60 (formerly 21 CFR 125.2), the food will have to bear an appropriate identification of the claim and its dietary basis. Thus, there no





longer is any need for the particular provisions in § 125.5(a) of the stayed regulations with respect to foods offered for weight gain, and these particular provisions are not included in this tentative order. If the Commissioner finds that additional label statements should be required on foods offered for use in gaining body weight, he will propose new regulations.

*Foods useful in the diet of diabetics.* Section 105.67 of the tentative order sets forth labeling requirements for food used in the diet of diabetics. Section 125.6 of the stayed regulations would have permitted foods to make claims of usefulness in the diet of diabetics. At the hearing, a Government witness testified that no such special labeling should be permitted because there are no unique characteristics of individual foods in the diet of diabetics, and because, in the event the diabetic needs to lose weight, the dietary needs of the diabetic for this purpose do not differ from those of other persons dieting to lose weight (WD–G–Moses, pp. 40–41). The Hearing Examiner rejected the proposal to delete labeling of foods for diabetics on the basis of his view that the diets of diabetics should be carbohydrate restricted and that for diabetics who are not overnight it might be desirable to reduce simple sugars in foods while maintaining customary total caloric intake (HEF 496, 498).

The Commissioner accepts the finding that the dietary components for diabetics for purposes of attaining optimal weight are essentially the same as for persons who do not have diabetes mellitus. The record is insufficient to establish, however, whether there may be foods with unique characteristics particularly suitable for inclusion in the diet of diabetics. The Commissioner recognizes, however, that some physicians believe there are foods of special value when used in the diet of diabetics under medical supervision. Some testimony was introduced at the hearing that some physicians recommend the use of foods containing mannitol or sorbitol by diabetics, but that the label of any food intended for use in the diet of diabetics should bear a statement that the food is for use only upon the advice, recommendation, or direction of their physician (#587, Proposed Finding of Fact 3). In view of this, the Commissioner has provided at this point in time for labeling of foods for use by dibetics upon the advice of a physician. The labeling must indicate prominently that the food is offered for use by diabetics only upon medical advice.

Evidence was introduced at the hearing which purported to show that the sugar alcohols, mannitol and sorbitol, would not be metabolized or would be metabolized slowly in ways that would not increase requirements for insulin, making them, it was urged, useful for diabetics, because use of these sugar alcohols would provide sweetened foods without requiring as much insulin as would the same foods made with sucrose or other similar sugars. The record indicated that the only sophisticated study of mannitol at that time was done solely on animals and that questions of data interpretation remained about that study (Ricketts Tr. 21008–09). Mannitol is currently subject to restricted use under an interim food additive regulation (21 CFR 180.25, formerly 21 CFR 121.4005).

A single study without positive controls was introduced in support of the concept that 40 grams or more of sorbitol per day may be useful to diabetics (Steinke Tr. 30553–66). The Commissioner believes that the record of this proceeding does not provide an adequate basis for reaching a conclusion on what claims are valid and have been adequately supported. Significant advances in knowledge and dietary management of diabetes mellitus have also occurred since the time of the 1968–1970 hearing upon which this proceeding is based.

If the Commissioner decides to propose regulations to define when claims of usefulness for diabetics are false or misleading, he will initiate a new proceeding. This will facilitate additional opportunity for public comment on a proposal, and allow the Commissioner to consider developments since the close of the hearing. The Commissioner also informs the public that he is initiating studies of the current state of knowledge of the dietary management of diabetes mellitus which will include a review of whether there are or are not foods with characteristics warranting label claims indicating particular usefulness in diets of diabetics.

Under the stayed regulations, foods labeled for use in the diet of diabetics would have had to bear a statement relating to the use of artifical sweeteners or nonnutritive ingredients. This requirement has been omitted from the tentative order. Such a statement might suggest incorrectly to diabetics that particular nonnutritive sweetereners or other nonnutritive ingredients are especially useful to diabetics. The labeling described in the tentative order will advise the diabetic to consult with his/her physician about the usefulness of the food. The statement of ingredients on the label will indicate the ingredients used and permit the physician and the diabetic to evaluate the usefulness of the food.

To ensure that consumers do not mistakenly think that all foods labeled for use by diabetics are necessarily low or reduced in calories, the labeling of foods that are not low or reduced in calories must bear an appropriate disclosure.

Foods that are useful in controlling body weight or caloric intake cannot, solely by virtue of that usefulness, be offered as special dietary moods useful in the diet of diabetics. Some diabetics need to lose weight, but the hearing record shows that their dietary needs in losing weight are the same as that of the general population.

Having considered the evidence pertaining to dietary management of body weight, caloric intake and diabetes received at the hearing, the Hearing Examiner's report and the various briefs, proposed findings of fact, and proposed conclusions of law with respect to §§ 125.5 and 125.6 of the stayed regulations sent to the Hearing Examiner in connection with testimony of this particular matter, the Commissioner, under the Federal Food, Drug, and Cosmetic Act (secs. 201 (n), 403 (a) and (j), 701 (a) and (e), 52 Stat. 1041 as amended, 1047–1048 as amended, 1055, 70 Stat. 919 as amended (21 U.S.C. 321(n), 343 (a) and (j), 371 (a) and (e))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes the following findings of fact, conclusions, and tentative order:

PROPOSED FINDINGS OF FACT RELEVANT TO § 125.5 (§ 105.66 OF TENTATIVE ORDER)

1. Obesity is a major public health problem in the United States today. The degree of health hazard is not necessarily proportional to the degree of obesity, and there can be significant health hazards of interference with body functions from relatively small amounts of obese overweight (WD–53–Mayer, pp. 26–27). (Based on HEF 427; the Commissioner has omitted a finding about whether obesity is increasing because it is not necessary and because current statistics have not been examined.)

2. The likelihood of successful reduction is in significant part a function of the prior duration of the obesity, and the longer the duration the less the likelihood of success. In treating obese patients, the object is to enable the patient to moderate his intake for the rest of his life and it is advisable to modify, in the main, the quantity of foods to which he is habituated (WD–53–Mayer, pp. 16–17, 26–27; Stare, Tr. 29220; WD–G–Levine, Q & A 37; (HEF 428)).

3. Obesity is caused by an excess of caloric intake over caloric expenditure in the same time period (WD–53–Mayer, pp. 15–16; WD–3A–Sebrell, p. 22; WD–G–Ricketts, p. 3; WD–G–Levine, Q & A 33–34; WD–76–Stare, Q & A 11–13; (HEF 429)).

4. Obesity can be psychologically damaging, particularly to adolescents, even if subsequently reduced. Obese persons frequently regain lost weight (WD–53–Mayer, pp. 14–15, 17–20; Ricketts, Tr. 20795; Levine, Tr. 22371). (Based on HEF–430; the Commissioner has omitted a finding about the exact percentage of obese children who become obese adults because it is not necessary and he is uncertain about the precise percentage.)

5. Regaining of lost weight may be dangerous to health, and is particularly discouraging to patients and therapists. Prevention of further obesity is as important to public health in the United States as reduction of already-existing obesity (WD–53–Mayer, pp. 16, 21; Levine, Tr. 22371–72, 22400; Ricketts, Tr. 0740, 20795; WD–49–Hirsch, p. 4; Darby, Tr. 26303; Stare, Tr. 29225; (HEF 431)).

6. A food may be of value for special dietary use by reason of its value in preventing obesity. A food may be of value for special dietary use by reason of its value in maintenance of reduced body weight. A food may be of value for



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special dietary use by reason of its value in reducing excess weight[1] (WD–52–Mayer, pp. 34–35; Darby, Tr. 26293–94; (HEF 432)).

7. Body weight can be reduced by restricting total caloric intake and, if possible, increasing physical activity. Body weight can be raised by increasing caloric intake (WD–G–Ricketts, Q & A 15–16, 18; WD–G–Levine, Q & A 36; WD–76–Stare, Q & A 16; (HEF 443)).

8. A pound of weight (due to fat) in human beings is produced by approximately 3500 calories in excess of expenditure in a given time period, and a deficit of this amount in a given time period will reduce 1 pound of weight due to fat (WD–53–Mayer, p. 15). (Based on HEF 435; the Commissioner has accepted the Hearing Examiner's finding with the addition of the bracketed term.)

9. The goals of prevention of weight gain, maintenance of reduced weight, and reduction of weight, for large groups of people, are compatible with each other in that a balanced diet with moderate caloric reduction is the optimum route to each of these three goals since, as stated in the Final Report to the President of the White House Conference on Food, Nutrition and Health by the "Subpanel on Obesity" of the "Panel on Adults in an Affluent Society: The Degenerative Diseases of Middle Age:" "It is clear that that best and most effective results occur with a balanced diet of the usually available foodstuffs but with a decrease in total caloric intake of a type that can be used both for weight reduction and for the maintenance of lower body weight after reduction has been achieved" (WD–53–Mayer, pp. 29–30, 22–24, 41–42; WD–49–Hirsch. 26A p. 14, Tr. 30,331; Darby, Tr. 26,294; WD–3A–Sebrell, pp. 22–23. Tr. 26,150; Exhibit 0–695–53).

10. Sorbitol and mannitol are sugar alcohols. Sorbitol is readily metabolized into fructose and thereafter forms part of a general pool with protein, fats, vitamins and other substances from which pool the body may produce glucose as needed. When this glucose is released into the blood, insulin may be required. Sorbitol produces approximately 4 kcal (kilocalorie) per gram. Mannitol is variable in its caloric value. Like sorbitol, mannitol, after it is initially metabolized enters the general pool from which glucose is derived by the body (WD–G–Levine, Q & A 25–27, 80, 191; WD–G–Ricketts, Q & A 37–38; Bondy, Tr. 30060, 30062; Steinke, Tr. 30563–5; WD–49–Shuman, p. 10; (HEF 436)).

11. "Artificial sweetener" is a sweetening substance not used in normal metabolism as a source of calories (WD–G–Levine, Q & A 81; (HEF 437)).

12. The most common use of artificial sweeteners in foods is for the purpose of reducing or maintaining the body weight and in the diets of diabetics (WD–G–Moses, Q & A 21; (HEF 438)).

[1] The Commissioner has deleted the term "obese overweight" whenever it appeared in the Hearing Examiner's findings because the term is redundant, and he has substituted the correct term "excess weight."

**13. Purchasers regard foods labeled as being artificially sweetened to be for caloric restriction and weight reduction (WD–G–Swanson, Q & A 22–24; (HEF 439)).**

LABEL INFORMATION

14. Purchasers in the United States are aware of the relationship between their body weight and the foods they eat. Purchasers in the United States are highly responsive to the labeling, promotion, and advertising of foods (WD–G–Swanson, Q & A 15–17; **(HEF 440)**).

15. The FDA survey reports the following: 53 percent of the respondents have used products labeled "artifically sweetened"; 27 percent, "dietetic"; 45 percent, "low calorie"; 36 percent, "lower in calories"; 35 percent, "sugar free"; 10 percent, "diabetic"; 16 percent, "salt restricted". (Exh. P–1151, d–1, Q 43; (HEF 441)).

16. The FDA survey reports the following: Of those who used the products labeled as described in the preceding finding, 55 percent used the products labeled "artifically sweetened" on their own initiative; 25 percent did so with products labeled "dietetic"; 45 percent, "low calorie"; 36 percent, "lower in calories"; 33 percent, "sugar free"; 4 percent, "diabetic"; 5 percent, "salt restricted" (Exh. P–1151, d–1151, d–2, Q 44; (HEF 442)).

17. The FDA survey reported the following: 66 percent of the respondents understood that a food with the label statement "for calorie restricted diets" was intended for use in a reducing diet and 8 percent for use in a diabetic diet; 22 percent understood the label statement "dietetic" as intended for people on a reducing diet and 28 percent for people on a diabetic diet; 36 percent understood the label statement "diet" to mean that the food was of value in a weight reducing diet and 9 percent as intended for use by diabetics (Exh. P–1151, d–5, Q 50–52; **(HEF 444)**).

18. The great variety of labels, labeling, promotional material, and advertising for foods offered for special dietary uses because of their reduced caloric or carbohydrate content in the United States tends to confuse and mislead (WD–G–Ricketts, Q & A 73–80; WD–G–Iverson, Q & A 30–38, 42–47, 52–61, 68 (HEF 445)).

19. There is no uniformity to the labeling information or the descriptive phrases used to indicate that a food is of value in a calorie or carbohydrate restricted diet (WD–G–Moses, pp. 39–40, 50–128 (HEF 446)).

20. The label statement "low calorie" appears on the following labels: Exhs. P–794, P–800–802, P–807, P–809, P–812, P–814, P–829, P–832, P–837–844, P–856, P–872, P–916, P–918–920, P–930–934, P–936–943, P–945–949, P–955–957, P–960, P–962–964, P–972, P–975, P–991, P–993, P–1003, P–1009; WD–G–Moses, pp. 50–51; "lower in calories", Exhs. P–774, P–776, P–777, P–906, P–929, P–971, P–990; WD–G–Moses, p. 63; "low in carbohydrate", "no available carbohydrate", "starch free", P–1038–39, P–803, P–805, P–806, P–815, P–850, P–851, P–854, P–955, P–965, P–985, P–987, P–1018; WD–G–Moses, p. 71; representations that sugar was absent, such as, "for sugar restricted diets", "sugarless", "sugar free", no added sugar", "prepared without sugar", Exhs. P–773–774, P–776, P–778, P–779, P–780–781, P–783–798, P–804, P–816, P–818–820, P–824, P–828, P–834–837, P–839–842, P–844, P–846–847, P–849–855, P–857–868, P–870, P–883–884, P–906, P–908, P–917–918, P–920–930, P–947, P–949–950, P–954, P–959, P–972–974, P–983, P–987–988, P–992, P–1015, P–1017–1018; WD–G–Moses, pp. 84–85; "low fat", "lower in fat", Exhs. P–692, P–898, P–966, P–968–969, P–971–972, P–1002, P–1017; WD–G–Moses, pp. 92–93; "dietetic", Exhs. P–771–772, P–777–790, P–794–797, P–803, P–805–806, P–808, P–811, P–813, P–815, P–817–818, P–823, P–825, P–834–835, P–842, P–845, P–847, P–849–854, P–857–862, P–870, P–888, P–897, P–906, P–916–917, P–919–920, P–922, P–924–928, P–954, P–974, P–983, P–987; WD–G–Moses, pp. 101–102; "diet", Exhs. P–767–768, P–823, P–827, P–846, P–895, P–898, P–909–915, P–929–930, P–932, P–935–936, P–939–940, P–949, P–959–960, P–982, P–992, P–995–996, P–998; WD–G–Moses, p. 102; "artificially sweetened", Exhs. P–775–776, P–807, P–809–810, P–812, P–814, P–816–817, P–819–822, P–824, P–827–828, P–830, P–833–841, P–843–844, P–847, P–855–856, P–866–867, P–872, P–932, P–934–936, P–939, P–946–950, P–955–957, P–959–964, P–972–974, P–988, P–1003, P–1015, P–1017–1021; WD–G–Moses, p. 125; "diabetic", "diabetes", "for diabetics", Exhs. P–816, P–819–822, P–826, P–873–881, P–883–888, P–894, P–1017; WD–G–Moses, p. 147; "special formula" bread etc., Exhs. P–896, P–901–902, P–997, P–999–1001, P–1012; WD–G–Moses, p. 114; (HEF 447)).

21. The great variety and multiplicity of label designations for foods offered for special dietary use because of their reduced caloric or carbohydrate content has an adverse effect upon the purchasers' understanding of those products and the potential for misunderstanding and error in perception increases as the number of such designations increases with respect to the ability of the purchaser to intelligently choose among such foods (WD–G–Swanson, Q & A 19 (HEF 448)).

22. As of 1970, the different methods used on the various labels, to express the amounts of protein, fat, and available carbohydrates present in the product, were in terms which were difficult to understand (WD–G–Moses, Q & A 34–37; WD–G–Iverson, Q & A 66, Exhs. P–640, P–641, P–647, P–688, P–767–847, P–849–868, P–870–1021, P–1035–1039, P–1042–1044, P–1090–1102, P–1104–1111). (Based on HEF 449; the Commissioner accepts the Hearing Examiner's findings as of 1970 because the subsequent institution of a requirement for nutrition labeling alleviated these difficulties.)

23. As of 1970, relatively few labels of foods offered as reduced in calories or carbohydrates provide information whereby the reduction in calories or carbohydrates can be measured or evaluated by purchasers. Frequently, when both nutritive and nonnutritive sweeteners are used in a food for special dietary use, the presence of the nutritive sweeteners and the proportion of the food which is comprised of nutritive substances is not made apparent (WD–G–Moses, Q & A 34–37, 56, 219–221; Exhs. P–640, P–641, P–647, P–688, P–690–698, P–767–847, P–849–869, P–870–1021, P–1035–1039, P–1042–1044, P–1090–1102, P–1104–1111; WD–G–Moses, pp. 131–134). (Based on HEF 455; the Commissioner accepts the Hearing Examiner's finding as of 1970 because the subsequent institution of a requirement for nutrition labeling alleviated these difficulties.)

24. Regulations of the Food and Drug Administration in effect in 1970 with respect to foods offered for the reduction or maintenance of body weight do not require label information sufficient to inform as to the number of calories that will be obtained through ingestion of an ordinary serving of the food (WD–53–Mayer, pp. 46–48; WD–G–Iversen, p. 18). (Based on HEF 456; the Commissioner accepts the Hearing Examiner's finding as of 1970 because the subsequent institution of a requirement for nutrition labeling alleviated these difficulties.)

25. Regulations of the Food and Drug Administration presently in effect governing foods offered for weight reduction or maintenance do not require label information which fully informs consumers as to the value of the food for special dietary use in that the regulations do not require the label to compare the number of calories contained in a reduced calorie food with the number of calories in the same food as ordinarily consumed (WD–G–Moses, pp. 31, 32; WD–53–Mayer, p. 48; WD–G–Levine, pp. 18–19, 25–26; WD–G–Ricketts, p. 10; (HEF 457)).

26. It is necessary to make an intelligent evaluation of the value of a food offered for special dietary use to increase, reduce or maintain body weight, or for the diets of diabetics, to know the amount of protein, fat, carbohydrates and calories contained in a serving of the food (WD–G–Levine, Q & A 28–32, 65, 68, 70; WD–G–Ricketts, Q & A 21–24, 26, 27, 97; WD–G–Ross, Q & A 69; WD–G–Iverson, Q & A 65, 66; (HEF 458)).

27. Amounts of protein, fat, and available carbohydrates are customarily expressed in grams (WD–G–Ricketts, Q & A 30; WD–G–Livine, Q & A 71; (HEF 459)).

28. Caloric content, in order fully to inform consumers, should be expressed in terms of an amount which constitutes an ordinary serving of the food (WD–G–Moses, pp. 19–20; WD–53–Mayer, pp. 46–48; WD–G–Levine, Q & A 73, 74; WD–C–Swanson, Q & A 49; WD–G–Ricketts, Q & A 31–33; WD–G–Ross, Q & A 69–71; WD–G–Iverson, Q & A 65, 66; (HEF 460)).

29. The phrase "for calorie restricted diets" is not necessary in order fully to inform consumers of the value of a food which purports to be or is represented as being for special dietary use by reason of being low or lower in calories (Mayer, Tr. 28, 912–913; Swanson, Tr. 22,905–906; WD–49–Hirsch, p. 20, Tr. 30, 302).

LABEL INFORMATION ON FABRICATION OR ALTERATION TO LOWER CALORIE CONTENT

30. Artificial sweeteners used to sweeten foods may be nutritive, nonnutritive or a combination of these. A diabetic or a person seeking to reduce or maintain his body weight must know the nature of the sweeteners used in the food to properly plan a diet. It is necessary that some designation such as "artificially sweetened" be used on the food's label to call attention to the presence of such sweeteners and is the artificial sweetener is nutritive or nonnutritive this fact should be displayed. If the name of the artificial sweetener is used on the label, it is necessary and appropriate that the fact that it is nonnutritive be stated (WD–G–Levine, Q & A 87; WD–G–Ricketts, Q & A 40, 46, 58–60; WD–G–Ross, Q & A 79–82; (HEF 463)).

31. It will further the purpose of fully informing the purchaser as to the value of a food offered for special dietary use in which an artificial sweetener has been used to require that the label carry a statement comparing the caloric content of a specified serving of such food with an equivalent serving of the same food made with an amount of ordinary sugar which would produce sweetness equal to that produced by the use of the artificial sweetener (WD–G–Ricketts, Q & A 47, 28; WD–G–Levine, Q & A 90, 91). (HEF 467; the Commissioner does not accept this finding insofar as it relates to the labeling of low calorie foods.)

32. One gram of saccharin or of a saccharin salt is equivalent in sweetness to 300 grams of sugar (WD–G–Blomquist, Q & A 6–11; (HEF 468)).

33. Sweetness is an important component of palatability. Nonnutritive sweeteners provide the sensation of sweetness without adding calories (WD–53–Mayer, pp. 43–44; Sebrell, TR. 26147; WD–G–Levine, pp. 9, 17, Tr. 22337; WD–G–Ricketts, p. 7; Iversen, TR. 21844–45; (HEF 469)).

34. Food constituents, other than artificial sweetners, which are not utilized in normal metabolism as a source of calories, are also useful as ingredients in foods for special dietary uses (WD–G–Ricketts, Q & A 61; WD–G–Ross, Q & A 87; (HEF 487)).

35. Such constituents include fibrous plant matter, commonly called "crude fiber." This material is not assimilated by the body (WD–G–Ricketts, Q & A 62–64; WD–G–Levine, Q & A 113–119; (HEF 488)).

36. Where a food that contains one or more of such constituents is offered for special dietary use for reduction or maintenance of body weight or the regulation of carbohydrate intake, it is necessary for the purpose of fully informing purchasers as to the value of the food, that the label state the percent by weight of such ingredient and whether they are nutritive or nonnutritive. The label should also bear a statement of comparison between the calorie content of a specified serving of such food and an equivalent serving of the same food which does not contain such constituents, or with a food without the fabrication or alteration (WD–G–Ricketts, Q & A 65; WD–G–Levine, Q & A 121–122, 127; WD–G–Ross, Q & A 88). (Based on HEF 489; the Commissioner has accepted the finding with the addition of the final clause in the last sentence in order to take account of the alternative means of making the comparison permitted under the stayed regulations and the regulation in the tentative order. In addition, he has not accepted the finding that labeling about nonnutritive constituents is necessary in order to inform persons with intestinal disorders; the listing of the constituent in the statement of ingredients would generally be adequate for this purpose, and it would not be necessary solely for this purpose to require an additional label statement about the presence of nonnutritive constituents.)

REDUCED CALORIE FOODS

37. Many foods offered for special dietary use on the basis that they have been reduced in calories or carbohydrates are not significantly different from the unaltered food (WD–G–Levine, Q & A 93–98, 136, 222; (HEF 451)).

38. Some foods, reduced in calories or carbohydrates, are not ordinarily eaten in large enough amounts to have an appreciable value in the diet although the reductions are high on a percentage basis (WD–G–Levine, Q & A 159–163, 227; (HEF 453)).

39. Condiments and seasonings are not of caloric importance in the diet. They are consumed in small amounts. Caloric or carbohydrate reduction in such foods would have little effect in the diet of persons who desire to restrict their calorie or carbohydrate intake. Even if the percentage of reduction is high, it is not scientifically reasonable to describe such foods as "low calorie" foods (WD–G–Levine, Q & A 159–163; WD–G–Ross, 96; WD–G–Ricketts, Q & A 72; (HEF 466)).

40. Artificial sweeteners, both nutritive and nonnutritive, can be useful in diets designed for the restriction of caloric intake and if promoted on this basis the caloric reduction resulting from the use of the artificial sweetener should be significantly large (WD–G–Ricketts, Q & A 34, 35, 49, 50; (HEF 470)).

41. The caloric significance of a given caloric reduction in a food is not affected by the manner in which the reduction is achieved. Where a food for special dietary use is promoted on the basis of a reduction in its caloric content by a means other than the use of nonnutritive sweeteners, the reduction should be significantly large (WD–G–Ricketts, Q & A 49, 50; WD–G–Levine, Q & A 128, 129, 164; WD–G–Ross, Q & A 91; WD–G–Iversen, Q & A 68; (HEF 471)).

42. The nutritional significance of a given caloric reduction in a food may be adverse depending upon the manner in which the caloric reduction was achieved, for example, where the caloric reduction results in elimination of protein, vitamins or minerals (WD–49–Hirsch, pp. 10–11).

43. A 50-percent reduction requirement would require some foods which are good sources of protein, such as dairy prod-







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uets. to reduce not only fat and carbohydrate content but protein content as well (WD–49–Howard, pp. 18–20). (Based on HEF 474; the Commissioner has limited the finding to "some" foods, since he does not believe it would be correct with respect to all foods.)

44. Significantly more foods can achieve a caloric reduction below 50 percent, and a 50-percent requirement is not consistent with the goal of a moderate reduction in as many foods as possible (WD–53–Mayer, pp. 50–51; Mayer, Tr. 28,806; WD–49–Hirsch, p. 16; WD–3A–Sebrell, p. 23). (Based on HEF 475; the Commissioner has not accepted the part of findings with respect to a 25-percent reduction for the reasons given in the Statement of Reasons.)

45. The size of the caloric reduction in a food for special dietary use, whether produced by the use of a nonnutritive artificial sweetener or by some other means, which would justify promotion on the basis of the reduction achieved was the subject of sharp disagreement among the expert witnesses who spoke to the matter (HEF 476).

46. Dr. Ricketts stated: "And I stated several times before that the figure of 50 percent was *an approximate one, an arbitrary one, and that I had no strong feelings about keeping it there* or making it 60 percent or 40 percent. And I suppose I could not quibble very hard about 35 percent" (emphasis added) (Tr. 20826; (HEF 477)).

47. Dr. Levine stated: "When it comes to the selection of 50 percent, sure, everything has to be, in a sense *arbitrary*. But let us say you have a 100-calorie portion of something. If this is going to be really useful for reduction of weight it should be *around* 50 calories for the same serving, because there are certain foods that will never be reduced in caloric content" (emphasis added) Tr. 22212. And at Tr. 22275–76, he stated that he would consider an approximate reduction of 40 percent in the caloric value of pudding to be significant (HEF 478).

48. There was no more agreement on a single percentage figure among the expert witnesses who testified on behalf of the opponents whose estimates ranged from 10 percent, WD–49–Eisenstein, p. 16, Tr. 29419; to 25 percent, WD–49–Graham, p. 16; WD–49–Hirsch, p. 18; WD–3A–Darby, p. 6; WD–53–Mayer, p. 49, Tr. 28796; to from 25 to 30 percent, Stare, Tr. 29197–98; to 33 percent, WD–49–Olson, p. 21; (HEF 479).

49. A 50-perceat minimum requirement may operate to encourage the use of "fillers" in situations where products narrowly fall short of meeting the percentage (WD–49–Hirsch, p. 15; (HEF 480)).

50. The Hearing Examiner stated: "It appears that the selection of a minimum percentage figure of reduction in caloric value as "significant" for the purpose of justifying the promotion of a food for special dietary use on the basis of such reduction, is necessarily tinged with some arbitrariness. Under the circumstances and in the light of the evidence, I am persuaded to suggest that the figure of 35 percent is reasonable, workable and most equitable * * *." (Based on HEF 481; the Commissioner has not accepted the part of the findings with respect to the diet of diabetics for the reasons given in the Statement of Reasons.)

51. Where a food for special dietary use is promoted on the basis that it is "lower in calories," it is reasonable and necessary to fully inform a purchaser as to the value of the food that the label bear a statement of comparison showing the caloric content of a specified serving of the food and the caloric content of an equivalent serving of a similar food as customarily made and consumed (WD–G–Ricketts, Q & A 67; WD–G–Levine, Q & A 155, 156; WD–G–Ross, Q & A 90; (HEF 482)).

LOW CALORIE FOODS

52. In spite of the wide usage of the term "low in calories" in the labeling of foods for special dietary use in reducing or maintaining body weight, there is no common standard to determine when a food is "low in calories" (WD–G–Moses, Q & A 60, 62, 75–89; WD–G–Iversen, Q & A 67; e.g., 81–140 calories per serving, Exhs. P–1031–1034; 40–130 calories per serving, Exhs. P–801, P–807, P–812, P–814, P–856, P–940, P–941, P–943, P–945, P–946, P–947, P–949, P–956, P–972, P–991, P–1003, P–1009; (HEF 454)).

53. A food for special dietary use which is promoted on the basis that it is a "low calorie" food should, in order to fully inform a purchaser as to its value, be required to meet a caloric standard designating a food as a "low calorie" food (WD–G–Levine, Q & A 142–145; WD G–Ricketts, Q & A 81; (HEF 483)).

54. The dispute concerning the standard for "low calorie" was less sharp than that involving the significance of caloric reduction. Drs. Ricketts, Levine, and Ross stated that a serving of such a food should not exceed 15 to 25 calories and that the total contribution to a day's diet should not exceed 50 calories (WD–G–Ricketts, Q & A 81, 82; WD–G–Levine, Q & A 139, 140; WD–GRoss, Q & A 89; (HEF 484)).

55. Dr. Mayer was of the opinion that the definition should include foods ranging from 25 to 75 calories (WD–53–Mayer, 54–55; (HEF 485)).

56. The Hearing Examiner stated "As in 'significant reduction' fixing a standard for qualification of a food as 'low calorie' is more or less arbitrary in nature. In view of the evidence it is suggested that a fair figure would be not more than 25 kealories per serving with a daily ceiling of 65 calories." (Based on HEF 486; the Commissioner has not accepted the part of the findings relating to the particular figure that should be set for the reasons given in the Statement of Reasons.)

57. Caloric density, that is, the ratio of calories to weight, varies among foods (P–719).

58. Government and opponent witnesses indicated that caloric density should be considered in determining the special dietary value of a food as a low calorie food (Darby, Tr. 26,305, 26,309, 26,313; WD–G–Ricketts, p. 15; Levine, Tr. 22,-353–54, 22,239).

59. The ratio of calories to gram of sugar is approximately 4:1, that is, four calories to a gram (P–719, p. 73).

60. Sugar, as pure carbohydrate, is a calorically dense food (Levine, 22,353–54, 22,239).

61. Those soups, juices, fruits, and vegetables which contain less than 65 calories in an ordinary serving contain a ratio of calories to grams of from 1:2 to 1:20, that is, one-half to one-twentieth of a calorie per gram, and most contain one-third to one-sixth of a calorie per gram (P–719, pp. 66–69, 47–49, 39–46, 77–86).

62. Soups, juices, fruits, and vegetables containing less than 65 calories in an ordinary serving are from one-eighth to one-eightieth as calorically dense as sugar, and most are from one-twelfth to one-twenty-fourth as calorically dense as sugar.

63. The caloric densities of soups, juices, fruits, and vegetables are among the lowest of all foods eaten in the United States (P–719).

64. There is no justifiable reason for restricting the term "low calorie" on the basis of average total daily intake of the food since the overall nutritional contribution of the food must be considered in dietary planning (WD–3A–Darby, p. 6).

PROPOSED FINDINGS OF FACT RELEVANT TO § 125.6 (§ 105.67 OF TENTATIVE ORDER)

65. There were approximately 2.3 million "diabetics" in the United States in 1970. The median ages were 60.2 years for males and 61.8 years for females. Two-thirds of all diabetics were over 55 years of age. Diabetics who were under age 25 comprised 5 percent of the total. Undetected cases of this disease may have amounted to approximately 2 percent of the population in addition. Persons suffering from diabetes mellitus are known as "diabetics" (Exh. P–1082, pp. 3–4; WD–G–Levine, Q & A 171). (Based on HEF 490; the Commissioner accepts the statistical findings as valid as at the time of the hearing.)

66. There are no regulations presently having specific reference to foods for use in the diets of diabetics (WD–G–Moses, Q & A 72, p. 39 (HEF 491)).

67. The stayed regulations, which are the subject of the public hearing herein, published in December 1966; H.E. Exh. No. 3, includes § 125.6 (a), (b), (c), and (d) which regulates label statements for foods represented for the special dietary use of diabetics (HEF 492).

68. On June 6, 1969 during the course of the public hearing, the Chief of the Food Case Branch, Division of Case Guidance, Bureau of Regulatory Compliance of the FDA offered testimony suggesting the elimination of stayed § 125.6 (WD–G–Moses, p. 41; (HEF 493)).

69. Such elimination was suggested because "at the time stayed § 125.6 was drafted, I though it might be advisable to require a clear and direct declaration





when a food was intended for use in diabetic diets, since this might be less likely to mislead consumers than the many indefinite descriptive terms now being used on such foods. Since that time, however, further experience has caused me to reconsider—I am informed that usually the diet of diabetics must be restricted in calories as well as in readily assimilated sugar and carbohydrates. The information needed by diabetics to control their intake of calories is required by stayed § 125.5. I therefore do not believe stayed § 125.6 is necessary" (WD–G–Moses, pp. 40–41; (HEF 494)).

70. The diets recommended for diabetics are not identical to diets recommended for weight reduction or weight control (WD–49–Shuman, p. 2; WD–49–Graham, p. 13; WD–49–Marble, p. 2; WD–98–Bondy, p. 3; Steinke, Tr. 30551; WD–G–Ricketts, Q & A 87; WD–G–Levine, Q & A 187; WD–G–Ross, Q & A 80–82; (HEF 495)).

71. The carbohydrate intake recommended for diabetics depends on many factors, including the ratio of fat to protein in the food consumed. Caloric reduction per se has greater significance in diets for weight reduction or weight control than in the diets of diabetics. Many persons with diabetes are of normal weight, or even underweight, and do not need low calorie diets. If a diabetic is not overweight, his diet is not the same as that of an overweight person (WD–49–Kagan, p. 22, Tr. 30611; WD–49–Shuman, p. 2; WD–49–Marble, p. 2; WD–49–Hirsch, p. 23; Steinke, Tr. 30554–55). (Based on HEF 496; the Commissioner has not accepted the part of the findings relating to the nature of the dietary needs of diabetics for the reasons given in the Statement of Reasons.)

72. Diabetics are sophisticated in their choice of foods and the label statement "for the diets of diabetics" as the means of identification of foods intended for such use would be beneficial and assist in fully informing such purchasers as to the value of the foods (Bondy, Tr. 30073–74; WD–49–Gitter, p. 22; Steinke, Tr. 30555–56; (HEF 497)).

PROPOSED CONCLUSIONS OF LAW

A. With respect to § 105.66 Label statements relating to usefulness in maintaining or reducing caloric intake or body weight:

The Commissioner concludes, based on the foregoing statement of reasons, in conjunction with the findings of fact herein published, that:

1. It is reasonable and necessary, to fully inform purchasers of the value of foods for special dietary uses, to require that the labels of any food that purports to be or is represented as useful in maintaining or reducing caloric intake or body weight bear label statements as required by § 105.66 as set forth in the tentative order.

2. It is reasonable and necessary to prevent purchasers of special dietary foods for use in maintaining or reducing caloric intake or body weight from being misled about foods which are not of special dietary usefulness for such purpose to restrict the use of label statements, and/or to require certain disclosures on foods that are not of such special dietary usefulness as required by § 105.66 as set forth in the tentative order.

B. With respect to § 105.67 Label statements relating to food for use in the diet of diabetics:

The Commissioner concludes, based on the foregoing statement of reasons, in conjunction with the findings of fact herein published, that:

1. It is reasonable and necessary, to fully inform purchasers of the value of foods for special dietary uses, to require that the labels of any food that purports to be or is represented for use in the diet of diabetics bear the label statements as required by § 105.67 as set forth in the tentative order.

2. It is reasonable and necessary to prevent purchasers of special dietary foods for use in the diet of diabetics from being misled about foods thhat are not of special dietary usefulness for such purpose to restrict the use of label statements as required by § 105.67 as set forth in the tentative order.

TENTATIVE ORDER

Therefore, on the basis of the foregoing statement of reasons, findings of fact, and conclusions of law drawn therefrom: *It is ordered*, That the stay of the effective date of §§ 125.5 and 125.6 (now 105.67) as promulgated in the FEDERAL REGISTER of December 14, 1966 (31 FR 15730) be ended and redesignated as §§ 105.66 and 105.67, respectively, and revised to read as follows:

**§ 105.66 Label statements relating to usefulness in reducing or maintaining caloric intake or body weight.**

(a) *General requirements.* Any food that purports to be or is represented for special dietary use because of usefulness in maintaining or reducing caloric intake or body weight, including, but not limited to any food which bears representations that it is low or reduced in calories, shall bear:

(1) Nutrition labeling in conformity with § 101.9 of this chapter, unless exempt under that section; and

(2) On its label the statement "Weight control by diet requires limiting total intake of calories."

(b) *Food fabricated or altered to lower caloric content.* (1) Any food subject to paragraph (a) of this section which has been fabricated or altered to lower its caloric content (e.g., "low calorie" food made by replacing a nutritive ingredient with a nonnutritive ingredient, a "reduced calorie" food made by adding a nonnutritive filler) shall bear on its principal display panel a clear and concise statement of how the special dietary usefulness has been achieved, and the percentage by weight of any nonnutritive ingredient used to achieve the special dietary usefulness.

(2) A special dietary food may contain a nonnutritive sweetener or other ingredient only if the ingredient is safe for use in the food under the applicable law and regulations of this chapter. Any food which achieves its special dietary usefulness in reducing or maintaining caloric intake or body weight through the use of a nonnutritive sweetener shall bear on its principal display panel the statement required by paragraph (b)(1) of this section, but need not state the percentage by weight of the nonnutritive sweetener. If a nutritive sweetener(s) as well as a nonnutritive sweetener(s) is added, the statement shall indicate the presence of both types of sweeteners, e.g., "Sweetened with nutritive sweetener(s) (_____), and nonnutritive sweetener(s) (_____)" (the blanks to be filled in with the name of the sweeteners used).

(c) *"Low calorie" foods.* (1) A food may purport to be or be represented as low calorie only if:

(i) A serving of the food supplies no more than 40 calories, and

(ii) The food does not provide more than 0.4 calorie per gram, as consumed, and

(iii) The food bears on its principal display panel the term "low calorie," "low in calories," or "a low calorie food" in type size no smaller than one-half of the largest type size used on the label to represent, suggest, or imply special dietary usefulness, or type size 1/16 inch in height, whichever is larger.

(2) Foods that are low calorie within the meaning of paragraph (c)(1) of this section, as naturally occurring, without having any fabrication or alteration, may be labeled as a low calorie food, e.g., "celery, a low calorie food." They may may not be labeled with the term "low calorie" immediately preceding the name of the food because it would imply that the food has been altered to lower its calories with respect to other foods of the same type.

(d) *"Reduced calorie" foods, and other comparative claims.* (1) A food may be labeled as "reduced calorie," or with other terms representing or suggesting special dietary usefulness on the basis of a fabrication or alteration that makes the food lower in calories than a food it can substitute for in the diet only if:

(i) A comparison of the calorie content of a specified serving of the food with the calorie content of an equivalent serving of the same food without the fabrication or alteration of special dietary significance reveals a calorie reduction of at least one-third and of at least 25 calories per serving;

(ii) The food bears on its label a statement which clearly and concisely describes the comparison upon which the claim of special dietary usefulness is made. The statement shall either identify a specific food having at least one-third more calories and at least 25 more calories per serving for which the food can substitute, or indicate that the claim of special dietary usefulness is based on a comparison with the same food without the fabrication or alteration of special dietary significance. The statement shall also include a comparison between the calorie content of a specified serving of the food and an equivalent serving of the food it substitutes for, or the same food



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without the fabrication or alteration of special dietary significance.

(iii) The food is not nutritionally inferior, under the criteria set forth in § 101.3(e) of this chapter, to the food for which it substitutes or the same food without the fabrication or alteration of special dietary significance, and

(iv) The food can be reasonably expected to substitute for a food having at least one-third more calories per serving, and at least 25 more calories per serving, that is sold in sufficient quantities that it is useful for those on calorie-restricted diets to be aware of the lower-calorie substitute for it.

(2) (i) Any food subject to this paragraph (d) which is similar in all its organoleptic properties to the food it is represented as substituting for, or to the food without the fabrication or alteration of special dietary significance, shall be labeled as "reduced calorie," "reduced in calories," or "a reduced calorie food" in type size no smaller than one-half of the largest type size used on the label to represent, suggest or imply special dietary usefulness, or type size 1/16 inch in height whichever is larger.

(ii) Any food subject to this paragraph (d) which does not resemble in all its organoleptic properties the specific food for which it substitutes, e.g., canned pears packet in unsweetened water, in comparison with pears in heavy syrup, may be labeled with appropriate terms to indicate its dietary usefulness, e.g., "for calorie restricted diets," but may not be labeled as "reduced calorie," "reduced in calories" or with any other terms in juxtaposition with its name or in the labeling that represents or suggests that the food is essentially the same as the other food in all its organoleptic properties except for a reduction in calories.

(3) It may not be technologically feasible to manufacture a "reduced calorie" food under the criteria set forth in this paragraph for all foods which are significant dietary source of calories and for which it would be useful to those on calorie-restricted diets to have a reduced calorie substitute. Accordingly, the Commissioner may establish by regulation acceptable alternative criteria for a "reduced calorie" food, in a regulation issued pursuant to section 401 of the act establishing a standard of identity for the food, in a regulation in Part 102 of this chapter establishing a common or usual name for the food, in an amendment to this section, or in a regulation issued pursuant to sections 201(n) and 403(a) of the act. A petition requesting such a regulation shall be submitted to the Hearing Clerk in the form established by Part 10 of this chapter. Under no circumstances will a food be permitted to be labeled as "reduced calorie" unless (i) the petition demonstrates that it is not feasible to attain a greater caloric reduction than that for which approval is sought and (ii) the petition demonstrates that the use of the food, with the caloric reduction attained, will result in a significant reduction in calories in the daily diet.

(e) *Label terms suggesting usefulness in regulating caloric intake or body weight.* (1) Except as provided in paragraph (e) (2) and (3) of this section, a food may be labeled with terms such as "diet," "dietetic," "for calorie restricted diets," "weight control," "artificially sweetened," "sweetened with nonnutritive sweetener," or other such terms representing or suggesting usefulness in regulating caloric intake or body weight only if: The food is labeled "low calorie" or "reduced calorie" or bears a comparative claim of special dietary usefulness in compliance with paragraph (c) or (d) of this section.

(2) Paragraph (e) (1) of this section shall not apply to any use of such terms which is specifically authorized by a regulation governing a particular food, or, unless otherwise restricted by regulation, to any use of the term "diet," which clearly shows that the food is offered solely for dietary use(s) other than regulating caloric intake or body weight, e.g., "for low-sodium diets."

(3) Paragraph (e) (1) of this section shall not apply to any use of such terms on a formulated meal replacement, low calorie meal, or other food that is represented to be of special dietary use as a whole meal pending the issuance of a regulation governing the use of such terms on such foods.

(f) *Use of terms such as "sugar free," "sugarless," "no sugar," etc.* Consumers may reasonably be expected to regard terms such as "sugar free," "sugarless," "no sugar," etc., as indicating a product which is low in calories or significantly reduced in calories. Consequently, except as provided in paragraph (f) (2) of this section, a food may not be labeled with such terms unless:

(1) It is labeled "low calorie" or "reduced calorie" or bears a comparative claim of special dietary usefulness labeled in compliance with paragraph (c) or (d) of this section, or

(2) The "sugarless" term is immediately accompanied, each time it is used, by the statement "Not a reduced calorie food" or "Not a low calorie food," such statement to be in a type size at least as large as the type size employed for the accompanying "sugarless" term.

**§ 105.67 Label statements relating to food for use in the diet of diabetics.**

(a) A food that purports to be represented or special dietary use because of usefulness in the diet of diabetics shall bear nutrition labeling in compliance with § 101.9 of this chapter, unless exempt under that section, and the statement "Diabetics: This product may be useful in your diet on the advice of a physician. This food is not a reduced calorie food." If the food is useful in maintaing or reducing calorie intake or body weight and labeled in conformity with § 105.66, the last sentence may be eliminated.

(b) A food shall not be represented to be useful in the diets of diabetics if such representation is false or misleading.

(c) The term "diabetic," "for diabetics," "diabetes," or the like, shall not be included as part of the name of any food, or otherwise be included on the labeling more prominently than the statement required by paragraph (a) of this section.

(d) The term "dietetic," "diet," or the like, shall not be included in the labeling of a food solely because of its possible usefulness in the diet of diabetics.

(e) A food shall not purport to be or be represented for special dietary use because of usefulness in the diet of diabetics solely by virtue of its being a food useful in reducing or maintaining caloric intake or body weight.

Interested persons may, on or before August 18, 1977, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written exceptions regarding this tentative order in relationship to the administrative record for this proceeding. Exceptions shall point out with particularity the alleged errors in the proposed findings of fact and tentative order and contain specific references to the pages of the transcript of testimony and to the exhibits on which the exceptions are based. Exceptions and accompanying briefs should be filed in quadruplicate (except that individuals may submit single copies), and should be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received exceptions and accompanying briefs may be seen in the above office Monday through Friday, from 9 a.m. to 4 p.m., except on Federal legal holidays.

Dated: July 5, 1977.

DONALD KENNEDY,
*Commissioner of Food and Drugs.*

[FR Doc.77-20307 Filed 7-18-77;8:45 am]



federal register

TUESDAY, JULY 19, 1977
PART IV




# DEPARTMENT OF LABOR

## Pension and Welfare Benefit Programs

## RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

Summary Plan Description Requirement; Final and Interim Regulations

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Title 29—Labor

CHAPTER XXV—PENSION AND WELFARE BENEFIT PROGRAMS, DEPARTMENT OF LABOR

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

Summary Plan Description Requirements; Final and Interim Regulations

AGENCY: Department of Labor.

ACTION: Final rules, plus interim rules that are effective pending the issuance of final rules. The interim rules are also proposals; comments on the final form they should take are invited.

SUMMARY: This document contains regulations governing the form, content, and distribution of the summary plan description which describes rights and benefits under an employee benefit plan. The Employee Retirement Income Security Act of 1974 requires that summary plan descriptions be furnished to participants and beneficiaries covered under the plan.

EFFECTIVE DATE: July 19, 1977.

ADDRESSES: Interested persons are invited to submit written comments by September 1, 1977, concerning §§ 2520.-104–5, 2520.104–6, 2520.104–28, 2520.104 a–5, 2520.104b–2(a)(3), and 2520.104b–4, which are interim and proposed. Such comments should be submitted to the Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, Washington, D.C. 20216. Attention: SPD Regs. All comments should be clearly referenced to the section to which they apply.

FOR FURTHER INFORMATION CONTACT:

Robert Doyle, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, area code: 202–523–8685.

SUPPLEMENTARY INFORMATION: The supplementary information on these rules is divided into two parts. Part I, "Description of the Rules", is a general, nontechnical description of the changes which have been made in the rules published on March 15, 1977, and what the rules, as amended, require. Part II, "Technical Explanation of the Regulation" contains detailed explanations of the more technical rules.

PART I—DESCRIPTION OF THE RULES

*General.*—Set forth below are all of the regulations concerning summary plan descriptions, including a number of sections which were previously published in final form. The previously published sections are reproduced for two reasons. First, it will greatly add to the convenience of people using these regulations to prepare their summary plan descriptions to have all of the rules set forth in one place. Second, the changes in these regulations from the March 15, 1977, versions may be better understood when they are placed in their context.

It should be noted that there are several exemptions and alternative methods of compliance of general effect which are not reproduced here. These exemptions and alternatives are in 26 CFR §§ 2520.104–20 to 2520.104–25. They cover certain welfare plans having fewer than 100 participants, apprenticeship plans, welfare and pension plans for select management or highly compensated employees, and day care plans.

Final sections which have been reproduced without change are §§ 2520.102–2, 2520.102–4, 2520.104a–1, 2520.104b–1, and 2520.104b–3. Of the following sections, portions or whole sections were previously published as interim rules on March 15, 1977, and are made final: §§ 2520.102–3, 2520.104–26, 2520.104–27, and 2520.104b–2. These sections are individually discussed below. Last, the following sections are interim rules: §§ 2520.104–5, 2520.104–6, 2520.104–28, 2520.104a–5, 2520.104b–2(a)(3), and 2520.104b–4. These sections are also individually discussed below. It should be noted that these interim sections will apply to all plans which have not yet distributed their initial summary plan description.

*Section 2520.102–3.*—Paragraphs (b)(3) and (4) have been amended to provide an alternative to the requirement that the summary plan description include a statement that the administrator will provide a complete list of sponsors on request. Comments indicated that providing such a list would be too expensive for plans having large numbers of sponsors. The alternative allows a statement that the administrator will, on request, tell a participant or beneficiary whether a particular employer or employee organization is a sponsor of the plan.

Some comments indicated that the standard statement regarding insurance of pension benefits by the Pension Benefit Guaranty Corporation (PEGC) contained in paragraph (m) was too complicated. After consultation with the PBGC, it was decided that the standard statement should not be changed. The regulation provides that plan administrators who wish to prepare their own statements may do so.

Paragraph (t), concerning the ERISA statement of rights, has been amended to clarify the requirement that the statement of rights be set forth as a unit at one place in the summary plan description. In addition, the language of the standard statement has been modified to respond to comments concerning its tone. Only one change has been made in the information which must be included: a statement has been added concerning a participant's right to review of a claim denial.

*Section 2520.104–4.*—This section has been amended pursuant to comments to make it clear that the alternative method of compliance provided for plans involved in mergers applies only to mergers which take place after the first summary plan description is filed and distributed. It also clarifies which merger documents are to be available for inspection by participants and beneficiaries.

*Sections 2520.104–5 and 2520.104–6.*—These sections have been revised to make them clearer and more easily understood. Only two changes have been made to the substance of the rules. The date for filing and distributing the first summary plan description has been extended by amendment of sections 2520.104–5 and 2520.104–6 to preserve the full 120 day period after the publication of these regulations in the FEDERAL REGISTER for both pension and welfare plans. The new date is November 16, 1977. A new subparagraph has been added to clarify the date on which the 120 day period will begin for those pension plans which are entitled to amend under the terms of section 401(b) of the Internal Revenue Code of 1954 (the Code) and the regulations issued by the Internal Revenue Service under section 401(b) of the Code. A special rule has been added pursuant to comments which permits pension plans which adopt master, prototype, or practitioner pattern plans to defer the filing and disclosure date until after the master, prototype, or pattern plan has completed the Internal Revenue Service qualification process.

*Sections 2520.104–26 and 2520.104–27.*—These regulations provide a limited exemption and an alternative method of compliance for union dues financed welfare and pension plans. They are unchanged in substance from the March 15 interim rules. Although comments were received urging both expansion and contraction of the exemption and alternative method of compliance provided by these rules, it was concluded that the interim rules struck an appropriate balance in reducing plan burdens while affording protection to participants. Certain changes in language were made for clarity.

*Section 2520.104–28.*—Some comments stated that the period of 120 days following publication of these regulations during which the initial summary plan description must be prepared and furnished, would be too short and would cause hardships in certain limited instances. In response to these comments, a new section 2520.104–28 has been provided which allows a 60 day extension of the time to file and disclose for good cause, and which requires that participants and beneficiaries be told what the reason is. The Department of Labor will not issue opinions concerning what constitutes good cause.

*Section 2520.104a–3.*—Paragraph (a) of this section has been revised to make it clear that the filing of the summary plan description with the Secretary must include any supplements required to be distributed to participants and beneficiaries.

*Section 2520.104a–5.*—This is a new section which adds a requirement that summaries of material modifications which are required to be distributed to participants and beneficiaries must also be filed with the Secretary.

*Section 2520.104b–2.*—A new subparagraph (3) has been added to paragraph (a) of this section to clarify the date on which a plan becomes subject to the reporting and disclosure provisions of





Part 1 of Title I of ERISA. This date marks the starting point of the 120 day period for filing and disclosing the summary plan description for most new plans.

Subparagraphs (d)(2) and (e)(2) have not been changed from the interim versions.

Paragraph (f) has been amended to include plans which have distributed but not filed a summary plan description. Under the March 15, 1977, interim regulation this paragraph applied only to plans which had previously filed as well as distributed a summary plan description. A number of comments stated that plans had refrained from filing their summary plan descriptions pending the issuance of final regulations.

*Section 2520.104b–4.*—This section, which was published in final form on March 15, 1977, has been changed in several ways. A number of comments argued that the alternative provided by the interim version of this section could not be used by many pension plans. These comments urged the Department to establish another method of compliance which could be used by most pension plans, and which would allow pension plans to provide only information relevant to the situation of a retired participant, a beneficiary receiving benefits, or a participant who separated from employment with vested benefits.

In response to these comments, the regulation has been reorganized and new alternatives for the initial summary plan description have been added. The regulation has been reorganized so that it now deals separately with the requirements to furnish an initial summary plan description, updated summary plan description, and summaries of material modifications.

The new alternatives for the initial summary plan description are in subparagraphs (a)(1) and (a)(2). Under these rules, the summary plan description for a retiree or beneficiary must identify the plan and those responsible for administering it, must contain certain information concerning the operation and funding of the plan, and must state that the benefits being received will be changed only as provided in described provisions of the plan. The summary plan description for a vested separated participant must contain the same identification, operation, and funding information as for retirees and beneficiaries, but there are different rules concerning benefit information. If the plan gave the vested separated participant a statement of the dollar amount of his or her vested benefit or a description of the method of computation of the benefit at the time of separation, the summary plan description must say so, and must inform the participant that another copy will be furnished on request. If such a statement was not given, the plan must either give such a statement now or include a description of the formula for calculating the vested benefit. In addition, the summary plan description must describe the forms in which benefits will be paid, and the circumstances, if any, under which the benefit may be changed. Subparagraph (a)(3) contains the alternative which was published on March 15.

A new paragraph (d) has also been added in response to comments which stated that some plans did not understand that retirees, beneficiaries, and vested separated participants must get a summary plan description which describes the plan provisions applicable to them. In some cases, summary plan descriptions were furnished which described rules which applied only to present employees, or which did not identify which parts of the summary plan description were applicable to these groups and which were not. Paragraph (d) allows plans in this situation to either supplement the earlier summary plan description or use one of the alternatives provided in this section.

PART II—TECHNICAL EXPLANATION OF THE REGULATIONS

*Sections 2520.104–5 and 2520.104–6.*—The amendments to §§ 2520.104–5 and 2520.104–6 (29 CFR 2520.104–5 and 2520.-104–6) contained in this regulation provide a short additional deferral of the initial summary plan description reporting and disclosure requirements for welfare and pension plans, respectively. These sections have been extensively rewritten to make them shorter, clearer, and less technical. However, the only changes in substance are those described below.

Sections 2520.104–5 and 2520.104–6 as published on March 15, 1977, required that welfare plans and certain pension plans file a copy of the summary plan description with the Secretary, and furnish a copy to participants covered under the plan and beneficiaries receiving benefits under a pension plan, not later than July 15, 1977. The amendments to these sections contained in this document defer the filing and disclosure date to 120 days after publication in the FEDERAL REGISTER of these final regulations. The new date is November 16, 1977.

Comments on section 2520.104–6 pointed out a problem with the rule that a plan which becomes subject to Part 1 of Title I on or after March 17, 1977, must file and disclose the summary plan description within 120 days after the plan becomes subject to Part 1. These comments pointed out that some employers will adopt master, prototype, or practitioner pattern plans on or after March 17, 1977, but before the sponsor of the master, prototype, or practitioner pattern plan has received a determination letter from the Internal Revenue Service.

Material changes which might thereafter be required by the Internal Revenue Service in the master, prototype, or pattern plan would then require the filing and disclosure of a summary of material modifications as required by § 2520.104b–3 and § 2520.104a–5. To avoid this duplication of effort and consequent additional expense, and to prevent the possibility of misleading participants, a new paragraph (d) has been added to section 2520.104–6 which permits plans adopting master, prototype, or pattern plans on or after March 17, 1977, to defer compliance with the statutory requirements until the remedial amendment period allowed by Internal Revenue Service regulation § 1.401b–1(d)(1) and (2) has expired. The period described in these paragraphs ends, generally speaking, six months after the sponsor of the master, prototype, or practitioner pattern plan receives its determination letter from the Internal Revenue Service.

*Section 2520.104b–2.*—Comments received by the Department indicated that uncertainty existed as to when a plan becomes subject to Part 1 of Title I so as to start the running of the 120 day period for filing and disclosure of the summary plan description. A new subparagraph (a)(3) has been added to section 2520.104b–2 which provides rules for determining when a plan becomes subject to Part 1.

The basic rule is that a plan becomes subject to Part 1 on the first day an employee is credited with an hour of service under sections 2530.200b–2 or 2530.-200b–3 of the minimum standards regulations. To clarify the operation of this rule in cases involving prospective or retroactive effect, the regulation also provides specific rules for these cases. In the case of a plan which is adopted with a retroactive effective date, the 120 day period begins on the day after it is adopted. If a plan is adopted with a prospective effective date, including situations where the prospective date is dependent upon satisfaction of a condition or the occurrence of a contingency, the 120 day period begins the day after the plan is actually put into effect.

As noted above, the following sections are promulgated as immediately effective rules, part or all of which have not previously been proposed: 2520.104–5, 2520.-104–6, 2520.104–28, 2520.104a–5, and 2520.104b–4. 5 U.S.C. § 533(a)(3)(B) of the Administrative Procedure Act permits an agency for good cause to issue an interim rule without notice and opportunity for comment if "notice and public procedure thereon are impractical, unnecessary, or contrary to the public interest." Pursuant to the requirement of 5 U.S.C. § 533(a)(3)(B) that a brief statement of reasons supporting a finding of good cause by an agency must accompany the issuance of an interim rule without public notice and comment under this section, the following findings are made:

Issuance of proposals would be impractical because plan administrators must have assurance that regulatory requirements will not be changed in order to properly schedule preparations for compliance. Consequently, only a certain, i.e. final, rule would be effective at this time. Moreover, the delay inherent in the proposal, comment, and revision process would in many cases deny timely information to participants and beneficiaries. Such delay would be contrary to the public interest in prompt and complete disclosure.

When these interim sections are made final, any changes will be applicable only to plans becoming subject to Part 1 after



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the date the final regulations are published and to updated summary plan descriptions furnished after such publication. Therefore, the rules contained in these sections will be applicable to all plans currently subject to Part 1 of Title I which have not yet disclosed the initial summary plan description.

Accordingly, 29 CFR Part 2520 is amended by adding §§ 2520.104–6(d), 2520.104–26, 2520.104–27, 2520.104–28, 2520.104a–5, 2520.104b–2(a)(3), and 2520.104b–4(d) and by amending §§ 2520.102–3 (b) (3) and (4), (m) and (t); 2520.104–4; 2520.104–5; 2520.104–6; 2520.104a–3; 2520.104b–2 (d)(2), (e)(2) and (f); and 2520.104b–4 to read as follows:

**Subpart B—Contents of Plan Descriptions and Summary Plan Descriptions**

Sec.


2520.102–2 Style and format of summary plan description.
2520.102–3 Contents of summary plan description.
2520.102–4 Option for different summary plan descriptions.


**Subpart D—Provisions Applicable to Both Reporting and Disclosure Requirements**


2520.104–4 Alternative method of compliance for certain successor pension plans.
2520.104–5 Deferral of certain reporting and disclosure requirements relating to the summary plan descripition for welfare plans.
2520.104–6 Deferral of certain reporting and disclosure requirements relating to the summary plan description for pension plans.
2520.104–26 Limited exemption for certain dues financed welfare plans maintained by employee organizations.
2520.104–27 Alternative method of compliance for certain dues financed pension plans maintained by employee organizations.
2520.104–28 Extension of time for filing and disclosure of the initial summary plan description.


**Subpart E—Reporting Requirements**


2520.104a–1 Filing with the Secretary of Labor.
2520.104a–3 Summary plan description.
2520.104a–5 Summary of material modifications.


**Subpart F—Disclosure Requirements**


2520.104b–1 Disclosure.
2520.104b–2 Summary plan description.
2520.104b–3 Summary of material modifications to the plan and changes in the information required to be included in the summary plan description.
2520.104b–4 Alternative method of compliance for furnishing pension plan documents to retired participants and their beneficiaries and separated participants with vested benefits.


AUTHORITY: Sections 101, 102, 104, 105, 109, 110, 111(b)(1), 111(c), 505, Pub. L. 93–406, 88 Stat. 840–1 847–52, 894 (29 U.S.C. 1021–2, 1024–5, 1029–31, 1135); Secretary of Labor's Order No. 76–13.

**Subpart B—Contents of Plan Descriptions and Summary Plan Descriptions**

**§ 2520.102–2 Style and format of summary plan description.**

(a) *Method of presentation.*—The summary plan description shall be written in a manner calculated to be understood by the average plan participant and shall be sufficiently comprehensive to apprise the plan's participants and beneficiaries of their rights and obligations under the plan. In fulfilling these requirements, the plan administrator shall exercise considered judgment and discretion by taking into account such factors as the level of comprehension and education of typical participants in the plan and the complexity of the terms of the plan. Consideration of these factors will usually require the limitation or elimination of technical jargon and of long, complex sentences, the use of clarifying examples and illustrations, the use of clear cross-references and a table of contents.

(b) *General format.*—The format of the summary plan description must not the effect of misleading, misinforming, or failing to inform participants and beneficiaries. Any description of exceptions, limitations, reductions, and other restrictions of plan benefits shall not be minimized, rendered obscure, or otherwise made to appear unimportant. Such exceptions, limitations, reductions, or restrictions of plan benefits shall be described or summarized in a manner not less prominent than the style, captions, printing type, and prominence used to describe or summarize plan benefits. The advantages and disadvantages of the plan shall be presented without either exaggerating the benefits or minimizing the limitations. The description or summary of restrictive plan provisions need not be disclosed in the summary plan description in close conjunction with the description or summary of benefits, provided that adjacent to the benefit description the page on which the restrictions are described is noted.

(c) *Foreign languages.*—In the case of either—

(1) A plan that covers fewer than 100 participants at the beginning of a plan year, and in which 25 percent or more of all plan participants are literate only in the same non-English language, or

(2) A plan which covers 100 or more participants at the beginning of the plan year, and in which the lesser of:

(i) 500 or more participants, or

(ii) 10% or more of all plan participants are literate only in the same non-English language, so that a summary plan description in English would fail to inform these participants adequately of their rights and obligations under the plan, the plan administrator for such plan shall provide these participants with an English-language summary plan description which prominently displays a notice, in the non-English language common to these participants, offering them assistance. The assistance provided need not involve written materials, but shall be given in the non-English language common to these participants and shall be calculated to provide them with a reasonable opportunity to become informed as to their rights and obligations under the plan. The notice offering assistance contained in the summary plan description shall clearly set forth in the non-English language common to such participants the procedures they must follow in order to obtain such assistance.

*Example.*—Employer A maintains a pension plan which covers 1,000 participants. At the beginning of a plan year five hundred of Employer A's covered employees are literate only in Spanish, 101 are literate only in Vietnamese, and the remaining 399 are literate in English. Each of the 1,000 employees receives a summary plan description in English, containing an assistance notice in both Spanish and Vietnamese stating the following:

This booklet contains a summary in English of your plan rights and benefits under Employer A Pension Plan. If you have difficulty understanding any part of this booklet, contact Mr. John Doe, the plan administrator, at his office in Room 123, 456 Main St., Anywhere City, State 20001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday. You may also call the plan administrator's office at: 202–555–2345 for assistance.

**§ 2520.102–3 Contents of summary plan description.**

Section 102 of the Act specifies information that must be included in the summary plan description. The summary plan description must accurately reflect the contents of the plans as of the date not earlier than 120 days prior to the date such summary plan description is disclosed. The following information shall be included in the summary plan description of both employee welfare benefit plans and employee pension benefit plans, except as stated otherwise in subsection (j) through (n):

(a) The name of the plan, and, if different, the name by which the plan is commonly known by its participants and beneficiaries;

(b) The name and address of—

(1) In the case of a single employer plan, the employer whose employees are covered by the plan,

(2) In the case of a plan maintained by an employee organization for its members, the employee organization that maintains the plan,

(3) In the case of a collectively-bargained plan established or maintained by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, parent, or most significantly employer of a group of employers all of which contribute to the same plan, or other similar representative of the parties who established or maintain the plan, as well as:

(l) A statement that a complete list of the employers and employee organizations sponsoring the plan may be obtained by participants and beneficiaries upon written request to the plan administrator, and is available for examination by participants and beneficiaries, as required by §§ 2520.104b–1 and 2520.104b–30. For the purpose of this paragraph, a plan is maintained pursuant to a collective bargaining agreement if such agreement controls any duties, rights or benefits under the plan, even though such agreement has been superseded in part for other purposes;

(j) The plan's requirements respecting eligibility for participation and for benefits. The summary plan description shall describe the plan's provisions relating to eligibility to participate in the plan, such as age or years of service requirements, and the items listed in subparagraphs (1) or (2) as appropriate:

(1) For employee pension benefit plans, it shall also include a statement describing the plan's normal retirement age, as that term is defined in section 3(24) of the Act, and a statement describing any other conditions which must be met before a participant will be eligible to receive benefits. Such plan benefits shall be described or summarized.

(2) For employee welfare benefit plans, it shall also include a statement of the conditions pertaining to eligibility to receive benefits, and a description or summary of the benefits. In the case of a welfare plan providing extensive schedules of benefits (a medical care plan, for example), only a general description is required if reference is made to detailed schedules of benefits which are available without cost to any participant or beneficiary who so requests;

(k) In the case of an employee pension benefit plan, a statement describing any joint and survivor benefits provided under the plan, including any requirement that an election be made as a condition to select or reject the joint and survivor annuity;

(l) For both pension and welfare benefit plans, a statement clearly identifying circumstances which may result in disqualification, ineligibility, or denial, loss, forfeiture or suspension of any benefits that a participant or beneficiary might otherwise reasonably expect the plan to provide on the basis of the description of benefits required by (j) and (k) above.

(m) For an employee pension benefit plan the following information:

(1) If the benefits of the plan are not insured under Title IV of the Act, a statement of this fact, and the reason for the lack of insurance; and

(2) If the benefits of the plan are insured under Title IV of the Act, a statement of this fact, a summary of the pension benefit guaranty provisions of Title IV, and a statement indicating that further information on the provisions of Title IV can be obtained from the plan administrator or the Pension Benefit Guaranty Corporation. The address of the PBGC shall be provided.

(3) A summary plan description will be deemed to have complied with subparagraph (2) if it includes the following statement in the summary plan description:

Benefits under this plan are insured by the Pension Benefit Guaranty Corporation (PBGC) if the plan terminates. Generally, the PBGC guarantees most vested normal age retirement benefits, early retirement benefits, and certain disability and survivor's pensions. However, PBGC does not guarantee all types of benefits under covered plans, and the amount of benefit protection is subject to certain limitations.

The PBGC guarantees vested benefits at the level in effect on the date of plan termination. However, if a plan has been in effect less than five years before it terminates, or if benefits have been increased within the five years before plan termination, the whole amount of the plan's vested benefits or the benefit increase may not be guaranteed. In addition, there is a ceiling on the amount of monthly benefit that PBGC guarantees, which is adjusted periodically.

For more information on the PBGC insurance protection and its limitations, ask your Plan Administrator or the PBGC. Inquires to the PBGC should be addressed to the Office of Communications, PBGC, 2020 K Street NW., Washington, D.C. 20006. The PBGC Office of Communications may also be reached by calling 202–254–4817.

(n) In the case of an employee pension benefit plan, a description and explanation of the plan provisions for determining years of service for eligibility to participate, vesting, and breaks in service, and years of participation for benefit accrual. The description shall state the service required to accrue full benefits and the manner in which accrual of benefits is prorated for employees failing to complete full service for a year.

(o) In the case of an employee pension benefit plan that will use the "cutback" rule of Internal Revenue Service Revenue Ruling 76–378, IRB 1976–40, October 4, 1976, to make retroactive changes in the vesting or accrual provisions described in the summary plan description, a statement that certain provisions of the plan are subject to amendment which directly or indirectly modifies certain plan rights and benefits, the nature of such modifications, the identification by reference of such plan provisions, and the identification by reference of the portions of the summary plan description where such provisions are described. Such statement may be either printed within the text of the summary plan description or it may be printed in a separate sheet and disclosed together with the summary plan description.

(p) The sources of contributions to the plan—for example, employer, employee organization, employees—and the method by which the amount of contribution is calculated. Defined benefit pension plans may state without further explanation that the contribution is actuarially determined.

(q) The identity of any funding medium used for the accumulation of assets through which benefits are provided. The summary plan description shall identify any insurance company, trust fund, or any other institution, organization, or entity which maintains a fund on behalf of the plan or through which the plan is funded or benefits are provided.







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(r) The date of the end of the year for purposes of maintaining the plan's fiscal records;

(s) The procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part (including procedures required under section 503 of Title I of the Act); and

(t) (1) The statement of ERISA rights authorized by section 104(c) of the Act, containing the items of information applicable to the plan included in the model statement of subparagraph (2) of this paragraph. Items which are not applicable to the plan are not required to be included. The statement may contain explanatory and descriptive provisions in addition to those prescribed in paragraph (t) (2) of this section. However, the style and format of the statement must not have the effect of misleading, misinforming or failing to inform participants and beneficiaries of a plan. All such information shall be written in a manner calculated to be understood by the average plan participant, taking into account factors such as the level of comprehension and education of typical participants in the plan and the complexity of the items required under this subparagraph to be included in the statement. Inaccurate, incomprehensible or misleading explanatory material will fail to meet the requirements of this section. The statement of ERISA rights (the model statement or a statement prepared by the plan), must appear as one consolidated statement. If a plan finds it desirable to make additional mention of certain rights elsewhere in the summary plan description, it may do so. The summary plan description may state that the statement of ERISA rights is required by federal law and regulation.

(2) A summary plan description will be deemed to comply with the requirements of paragraph (e)(1) of this section if it includes the following statement; items of information which are not applicable to a particular plan may be deleted: As a participant in (name of plan) you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all plan participants shall be entitled to:

Examine, without charge, at the plan administrator's office and at other specified locations, such as worksites and union halls, all plan documents, including insurance contracts, collective bargaining agreements and copies of all documents filed by the plan with the U.S. Department of Labor, such as detailed annual reports and plan descriptions.

Obtain copies of all plan documents and other plan information upon written request to the plan administrator. The administrator may make a reasonable charge for the copies.

Receive a summary of the plan's annual financial report. The plan administrator is required by law to furnish each participant with a copy of this summary annual report.

Obtain a statement telling you whether you have a right to receive a pension at normal retirement age (age * * *) and if so, what your benefits would be at normal retirement age if you stop working under the plan now. If you do not have a right to a pension, the statement will tell you how many more years you have to work to get a right to a pension. This statement must be requested in writing and is not required to be given more than once a year. The plan must provide the statement free of charge.

In addition to creating rights for plan participants, ERISA imposes duties upon the people who are responsible for the operation of the employee benefit plan. The people who operate your plan, called "fiduciaries" of the plan, have a duty to do so prudently and in the interest of you and other plan participants and beneficiaries. No one, including your employer, your union, or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a (pension, welfare) benefit or exercising your rights under ERISA. If your claim for a (pension, welfare) benefit is denied in whole or in part you must receive a written explanation of the reason for the denial. You have the right to have the plan review and reconsider your claim. Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request materials from the plan and do not receive them within 30 days, you may file suit in a federal court. In such a case, the court may require the plan administrator to provide the materials and pay you up to $100 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the administrator. If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or federal court. If it should happen that plan fiduciaries misuse the plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a federal court. The court will decide who should pay court costs and legal fees. If you are successful the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous. If you have any questions about your plan, you should contact the plan administrator. If you have any questions about this statement or about your rights under ERISA, you should contact the nearest Area Office of the U. S. Labor-Management Services Administration, Department of Labor.

### § 2520.102–4 Option for different summary plan descriptions.

In some cases an employee benefit plan may provide different benefits for various classes of participants and beneficiaries. For example, a plan amendment altering benefits may apply to only those participants who are employees of an employer when the amendment is adopted and to employees who later become participants, but not to participants who no longer are employees when the amendment is adopted. (See § 2520.104b–4.) Similarly, a plan may provide for different benefits for participants employed at different plants of the employer, or for different classes of participants in the same plant. In such cases the plan administrator may fulfill the requirement to furnish a summary plan description to participants covered under the plan and beneficiaries receiving benefits under the plan by furnishing to each member of each class of participants and beneficiaries a copy of a summary plan description appropriate to that class. Each summary plan description so prepared shall follow the style and format prescribed in § 2520.102–2, and shall contain all information which is required to be contained in the summary plan description under § 2520.102–3. It may omit information which is not applicable to the class of participants or beneficiaries to which it is furnished. It should also clearly identify on the first page of the text the class of participants and beneficiaries for which it has been prepared and the plan's coverage of other classes. If the classes which the employee benefit plan covers are too numerous to be listed adequately on the first page of the text of the summary plan description, they may be listed elsewhere in the text so long as the first page of the text contains a reference to the page or pages in the text which contain this information. If the plan administrator elects to prepare more than one summary plan description, each such summary plan description shall be filed with the Secretary in the manner provided in § 2520.104a–3(b).

## Subpart D—Provisions Applicable to Both Reporting and Disclosure Requirements

### § 2520.104–4 Alternative method of compliance for certain successor pension plans.

(a) *General.*—Under the authority of section 110 of the Act, this section sets forth an alternative method of compliance for certain successor pension plans in which some participants and beneficiaries not only have their rights set out in the plan, but also retain eligibility for certain benefits under the terms of a former plan which has been merged into the successor. This section is applicable only to plan mergers which occur after the issuance by the successor plan of the initial summary plan description under the Act. Under the alternative method, the plan administrator of the successor plan is not required to describe relevant provisions of merged plans in summary plan descriptions of the successor plan furnished after the merger to that class of participants and beneficiaries still affected by the terms of the merged plans. Also, the plan administrator of the successor plan is not required to file with the Secretary of Labor a copy of the summary plan description of any merged plan.

(b) *Scope and application.*—This alternative method of compliance is available only if:

(1) The plan administrator of the successor plan furnishes to the participants covered under the merged plan and beneficiaries receiving pension benefits under the merged plan within 90 days after the effective date of the merger—

(i) A copy of the most recent summary plan description of the successor plan;

(ii) A copy of any summaries of material modifications to the successor plan not incorporated in the most recent summary plan description; and

(iii) A separate statement containing a brief description of the merger; a description of the provisions of, and benefits provided by, the merged and successor plans which are applicable to the participants and beneficiaries of the merged plan; and a notice that copies of the merged and successor plan documents, as well as the plan merger documents (including the portions of any corporate merger documents which describe or control the plan merger), are available for inspection and that copies may be obtained upon written request for a duplication charge (pursuant to § 2520.104b–30); and

(2) After the merger, the plan administrator, in all subsequent summary plan descriptions furnished pursuant to § 2520.104b–2(a)—

(i) Clearly and conspicuously identifies the class of participants and beneficiaries affected by the provisions of the merged plan, and

(ii) States that the documents described in paragraph (b)(1) of this section are available for inspection and that copies may be obtained upon written request for a duplication charge (pursuant to §2520.104b–30).

### § 2520.104–5 Deferral of certain reporting and disclosure requirements relating to the summary plan description for welfare plans.

(a) *General Rule.*—Under the authority of section 104(a)(3) of the Act, employee welfare benefit plans described in and meeting the conditions of paragraph (b) may defer certain reporting and disclosure requirements that apply on and after July 15, 1977. These requirements may be deferred until dates that are no earlier than November 16, 1977, as provided in paragraph (c). The requirements that may be deferred include filing a copy of a summary plan description with the Secretary, furnishing a copy of summary plan description to participants of a plan, filing material modifications to the plan and changes in the information required to be included in the summary plan description with the Secretary, furnishing a summary description of such modifications or changes to participants of a plan, and furnishing a copy of the latest summary plan description to participants and beneficiaries upon written request.

(b) *Application.*—(1) In the case of a welfare plan which became subject to the provisions of Part 1, Title I of the Act on or before March 2, 1976, the plan administrator may defer until the time specified in paragraph (c) compliance with the requirements set forth in paragraph (a), if the administrator:

(i) Furnished an ERISA Notice which met the requirements of § 2520.104b–5 on or before May 30, 1976 to each participant covered under the plan as of March 2, 1976,

(ii) Furnished an ERISA Notice which met the requirements of § 2520.104b–5 to each person who became a participant covered under the plan after March 2, 1976 and before December 2, 1976, within 90 days after that person became a participant covered under the plan and

(iii) Furnished a copy of the ERISA Notice, without charge, upon request to any participant covered under the plan or beneficiary to whom no copy of the Notice had been previously furnished.

(2) In the case of a welfare plan which became subject to the provisions of Part 1, Title I of the Act after March 2, 1976 but before December 2, 1976, the plan administrator may defer until the time specified in paragraph (c) compliance with the requirements set forth in paragraph (a) if the administrator:

(i) Furnished an ERISA Notice which met the requirements of § 2520.104b–5 within 90 days after the date the plan became subject to the provisions of Part 1, Title I, to each person who was a participant covered under the plan on the date the plan became subject to the provisions of Part 1, Title I;

(ii) Furnished an ERISA Notice which met the requirements of § 2520.104b–5 to each person who became a participant covered under the plan after the date on which the plan became subject to the provisions of Part 1, Title I and before December 2, 1976, within 90 days after that person became a participant covered under the plan; and

(iii) Furnished a copy of the ERISA Notice, without charge, upon request to any participant covered under the plan or beneficiary to whom no copy of the Notice had been previously furnished.

(3) In the case of a welfare plan which became subject to the provisions of Part 1, Title I of the Act on or after December 2, 1976, but before the date of publication of these regulations, the administrator may defer compliance with the requirements set forth in paragraph (a) until the time set in paragraph (c).

(c) The administrator of a welfare plan described in paragraph (b) who elected to defer compliance with the requirements described in paragraph (a) shall comply with such requirements by November 16, 1977.

### § 2520.104–6 Deferral of certain reporting and disclosure requirements relating to the summary plan description for pension plans.

(a) *General rule.*—Under the authority of section 110 of the Act, an alternative method of compliance which defers certain reporting and disclosure requirements that apply on and after May 30, 1976 is provided for employee pension benefit plans described in and meeting the conditions of paragraph (b). The alternative method of compliance permits pension plans to defer these requirements until the times set forth in paragraphs (c) or (d). The requirements which may be deferred include filing a copy of the summary plan description with the Secretary, furnishing a copy of the summary plan description to participants and beneficiaries of a plan, filing material modifications and changes in the information required to be included in the summary plan description with the Secretary, furnishing a summary description of such modifications or changes to participants and beneficiaries of a plan, and furnishing a copy of the latest summary plan description upon written request.

(b) *Application.*—(1) In the case of a pension plan which became subject to the provisions of Part 1, Title I of the Act on or before March 2, 1976, the plan administrator may defer until the times specified in paragraph (c)(1) compliance with the requirements set forth in paragraph (a), if the administrator:

(i) Furnished an ERISA Notice which met the requirements of § 2520.104b–5 on or before May 30, 1976 to each participant covered under the plan and beneficiary receiving benefits as of March 2, 1976,

(ii) Furnished an ERISA Notice to each person who became a participant covered under the plan or a beneficiary receiving benefits after March 2, 1976 but more than 120 days before the date prescribed in paragraph (c)(1), within 90 days after that person became a participant covered under the plan or beneficiary receiving benefits, and

(iii) Furnished a copy of the ERISA Notice, without charge, upon request to any participant covered under the plan or beneficiary receiving benefits to whom no copy of the Notice had been previously furnished.

(2) In the case of a pension plan which became subject to the provisions of Part 1, Title I of the Act after March 2, 1976 but before December 2, 1976, the plan administrator may defer until the times specified by paragraph (c)(1) compliance with the requirements set forth in paragraph (a) if the administrator:

(i) Furnished an ERISA notice which met the requirements of § 2520.104b–5 within 90 days after the date the plan became subject to the provisions of Part 1, Title I to each person who was a participant covered under the plan or beneficiary receiving benefits on the date the plan became subject to the provisions of Part 1, Title I;

(ii) Furnished an ERISA Notice which met the requirements of § 2520.104b–5 to each person who became a participant covered under the plan or a beneficiary receiving benefits after the date on which the plan became subject to the provisions of Part 1, Title I but more than 120 days before the date prescribed in paragraph (c)(1), within 90 days after that person became a participant covered under the plan or a beneficiary receiving benefits; and

(iii) Furnished a copy of the ERISA Notice, without charge, upon request to any participant covered under the plan or beneficiary receiving benefits to whom no copy of the Notice had been previously furnished.







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(3) In the case of a pension plan which became subject to the provisions of Part I, Title 1 of the Act on or after December 2, 1976 but before March 17, 1977, the administrator may defer compliance with the requirements set forth in paragraph (a) until the times specified in paragraph (c)(1).

(4) In the case of a pension plan, other than a pension plan described in subparagraph (5), which became subject to the provisions of Part I, Title I of the Act on or after March 17, 1977 and before publication of these regulations, the administrator may defer compliance with the requirements set forth in paragraph (a) until the time specified in paragraph (c)(2).

(5) In the case of a master, prototype, or practitioner pattern plan which became subject to the provisions of Part I, Title 1 of the Act on or after March 17, 1977, the administrator may defer compliance with the requirements set forth in paragraph (a) until the times specified in paragraph (d).

(c) (1) The administrator of a pension plan described in paragraph (b)(1), (b)(2), or (b)(3) who elected to defer compliance with the requirements described in paragraph (a)—

(i) (A) Which files a request for a determination letter within the period prescribed in section 401(b) of the Internal Revenue Code of 1954 and the regulations issued pursuant thereto, shall comply with the requirements described in paragraph (a) by the later of November 16, 1977 or 90 days after the date on which notice of the final determination with respect to the request for a determination letter is issued by the Internal Revenue Service, the request is withdrawn or the request is otherwise finally disposed of.

(B) For the purpose of computing the periods of time described in subparagraph (A) above, a notice of determination, opinion letter or notification letter from the Internal Revenue Service will be deemed to be issued on the later of the date of such document or the date of postmark. The date of withdrawal of a request for a determination letter, opinion letter or notification letter will be deemed to be the later of the date on the document withdrawing the request or the postmark thereon. The date of "other disposition" will be the later of the date on the document notifying of such other disposition or the postmark on such document.

(ii) Which does not file a request for a determination letter within the period prescribed in section 401(b) of the Internal Revenue Code and the regulations issued pursuant thereto, shall comply with the requirements described in paragraph (a) by the later of November 16, 1977 or the close of the period prescribed in section 401(b) of the Internal Revenue Code of 1954 and the regulations issued pursuant thereto.

(2) The administrator of a pension plan described in paragraph (b)(4) who defers compliance with the requirements described in paragraph (a) shall comply with such requirements by November 16, 1977.

(d) *Special rule for plans adopting master, prototype or practitioner pattern plans after March 17, 1977.*—(1) The administrator of a pension plan which adopts a master, prototype, or practitioner pattern plan on or after March 17, 1977 may defer compliance with the statutory requirements described in paragraph (b)(1) or (b)(2) until the later of—

(i) The end of the applicable remedial amendment period described in 26 CFR § 1.401b–1(d) (1) or (2) of regulations issued by the Internal Revenue Service under section 401(b) of the Internal Revenue Code of 1954, or

(ii) November 16, 1977.

### § 2520.104–26 Limited exemption for certain dues financed welfare plans maintained by employee organizations.

(a) *Scope.*—Under the authority of section 104(a)(3) of the Act, a welfare benefit plan that meets the requirements of paragraph (b) of this section is exempted from the provisions of the Act that require (i) filing with the Secretary a plan description and annual report, and (ii) furnishing a summary annual report to participants and beneficiaries. Such plans may use a simplified method of reporting and disclosure to comply with the requirements (i) to furnish a summary plan description to participants and beneficiaries, and (ii) to file a copy of the summary plan description with the Secretary, as follows:

(1) In lieu of filing a plan description and a summary plan description with the Secretary,

(i) Filing is made under the Labor-Management Reporting and Disclosure Act (LMRDA) and regulations thereunder, of the Report Form LM–1 or LM–1A, together with a copy of the employee organization constitution or by-laws in which the plan is described, and

(ii) Filing is made of any document furnished to participants and beneficiaries, in accordance with subparagraph (3).

(2) In lieu of filing an annual report with the Secretary or distributing a summary annual report, a filing is made of Report Form LM–2 or LM–3, pursuant to the LMRDA and regulations thereunder.

(3) (i) The plan meets the requirements for furnishing a summary plan description of § 2520.104b–2(f), except the requirement of subparagraph (1) of that paragraph to have furnished the summary plan description before the date of publication of these regulations. The employee organization constitution or by-laws may be used as the summary plan description, if they meet the requirements of that paragraph.

(ii) Notwithstanding subparagraph (i), if any provisions of such documents indicate that a certain portion of members' dues or a certain portion of the employee organization's assets will be used only for the payment of benefits, although such portion of dues or assets may legally be used for general employee organization purposes, or may be subject to the claims of general creditors of the employee organization, such documents may nevertheless be used as the summary plan description provided that:

(A) The supplement required by § 2520.104b–2(f) contains a clear statement that such portion of dues or assets may legally be used for general employee organization purposes or may be subject to the claims of general creditors of the employee organization, and

(B) The employee organization constitution or by-laws are amended as soon as possible following normal procedures (e.g., at the next regularly scheduled employee organization convention, in the case of a constitution or by-laws which provide for amendment in regularly scheduled conventions) to reflect accurately the status of the plan.

(b) *Application.*—This exemption is available only to welfare benefit plans maintained by an employee organization, as that term is defined in section 3(4) of the Act, paid for out of the employee organization's assets, which are derived wholly or partly from membership dues, and which cover employee organization members and their beneficiaries.

(c) *Limitations.*—This exemption does not exempt the administrator from any other requirement of Part 1 of Title I of the Act.

### § 2520.104–27 Alternative method of compliance for certain dues financed pension plans maintained by employee organizations.

(a) *Scope.*—Under the authority of section 110 of the Act, a pension benefit plan that meets the requirements of paragraph (b) of this section is exempted from the provisions of the Act that require (i) filing with the Secretary a plan description and annual report, and (ii) furnishing a summary annual report to participants and beneficiaries receiving benefits. Such plans may use a simplified method of reporting and disclosure to comply with the requirements (i) to furnish a summary plan description to participants and beneficiaries receiving benefits, and (ii) to file a copy of the summary plan description with the Secretary, as follows:

(1) In lieu of filing a plan description and a summary plan description with the Secretary,

(i) Filing is made under the Labor-Management Reporting and Disclosure Act (LMRDA) and regulations thereunder, of the Report Form LM–1 or LM–1A, together with a copy of the employee organization constitution or by-laws in which the plan is described, and

(ii) Filing is made of any document furnished to participants and beneficiaries, in accordance with subparagraph (3).

(2) In lieu of filing an annual report with the Secretary or distributing a summary annual report, a filing is made of Report Form LM–2 or LM–3, pursuant to the LMRDA and regulations thereunder.





(3) (i) The plan meets the requirements for furnishing the summary plan description of § 2520.104b–2(f) except the requirement of subparagraph (1) of that paragraph to have furnished the summary plan description before the date of publication of these regulations. The employee organization constitution or by-laws may be used as the summary plan description, if they meet the requirements of that paragraph.

(ii) Notwithstanding subparagraph (i), if any provisions of such documents indicate that a certain portion of members' dues or a certain portion of the employee organization's assets will be used only for the payment of benefits, although such portion of dues or assets may legally be used for general employee organization purposes, or may be subject to the claims of general creditors of the employee organization, such documents may nevertheless be used as the summary plan description provided that:

(A) The supplement required by § 2520.104b–2(f) contains a clear statement that such portion of dues or assets may legally be used for general employee organization purposes or may be subject to the claims of general creditors of the employee organization, and

(B) The employee organization constitution or by-laws are amended as soon as possible following normal procedures (e.g., at the next regularly scheduled employee organization convention, in the case of a constitution or by-laws which provide for amendment in regularly scheduled conventions) to reflect accurately the status of the plan.

(b) *Application.*—This exemption is available only to pension benefit plans maintained by an employee organization, as that term is defined in section 3(4) of the Act, paid for out of the employee organization's assets, which are derived wholly or partly from membership dues, and which cover employee organization members and their beneficiaries.

(c) *Limitations.*—This exemption does not exempt the administrator from any other requirement of Part 1 of Title I of the Act.

### § 2520.104–28 Extension of time for filing and disclosure of the initial summary plan description.

(a) *General.*—An employee benefit plan may, for good cause as determined by the plan administrator, extend the date to file and disclose the initial summary plan description or supplement for a period of 60 days from the date provided in § 2520.104a–3 and § 2520.104b–2. This extension is available to all employee benefit plans except for those plans described in paragraph (c), which may use the extension procedure provided under that paragraph.

(b) *Requirements.*—In order for an employee benefit plan to extend the date for filing and disclosure of the initial summary plan description or supplement, the plan administrator of a plan must—

(1) Determine that there is good cause for the extension. The following are examples of situations for which good cause could be found. This list is not exclusive and other situations may also constitute good cause for extending the date for filing and disclosure:

(i) A plan whose summary plan description or supplement is being prepared by a consulting company, insurance carrier or service, or other person that engages in the preparation of summary plan descriptions or supplements, where the volume of work of such persons exceeds the capacity to finish preparation of these documents before the time to file and disclose them under § 2520.104a–3 and § 2520.104b–2.

(ii) A plan of a plan sponsor which has 20 or more classes of participants for which separate summary plan descriptions or supplements will be filed and disclosed.

(2) Furnish with the initial summary plan description or supplement a statement describing the good cause for which the date for filing and disclosure was extended.

(c) *Plans involved in collective bargaining negotiations.*—The plan administrator of a plan which by the terms of a collective bargaining agreement may be the subject of collective bargaining negotiations within a period of 120 days prior to, or after, the date for filing and disclosure of the summary plan description or supplement under § 2520.104a–3 and § 2520.104b–2, may extend the requirement to file and disclose the summary plan description or supplement for a period not to exceed 90 days from the date of conclusion of the new collective bargaining agreement. A statement explaining the basis upon which the date was extended must be furnished with the summary plan description or supplement.

(d) *Limitation.*—This extension procedure is available only for an employee benefit plan which is subject to Part 1 or Title I on or before the date of publication of these regulations.

## Subpart E—Reporting Requirements

### § 2520.104a–1 Filing with the Secretary of Labor.

(a) *General reporting requirements.*—Part 1 of Title I of the Act requires that the administrator of an employee benefit plan subject to the provisions of Part 1 file with the Secretary of Labor certain reports and additional documents. Each report filed shall accurately and comprehensively detail the information required. Where a form is prescribed, the reports shall be filed on that form. The Secretary may reject any incomplete filing. Reports and documents shall be filed as specified in this part.

(b) *Exemption for certain welfare plans.*—See §§ 2520.104–20, 2520.104–21, 2520.104–22, 2520.104–24, and 2520.104–25.

(c) *Alternative method of compliance for pension plans for certain selected employees.*—See § 2520.104–23.

### § 2520.104a–2. Plan description reporting requirements.

(a) *Filing obligation.*—The administrator of an employee benefit plan which is subject to the provisions of Part 1 of Title I of the Act after January 31, 1976, shall file a plan description (Form EBS–1) with the Secretary of Labor within 120 days after the plan becomes subject to Part 1. For example, a plan is established (and becomes subject to the provisions of Part 1) on January 1, 1977. The plan administrator files a plan description by April 30, 1977. For plans subject to Part 1 on or before January 31, 1976, see § 2520.104–3.

(b) *Filing address.*—The plan description shall be filed with the Secretary of Labor by mailing it to EBS–1, U.S. Department of Labor, Washington, D.C. 20216 or by delivering it during normal working hours to Room N–4635, Department of Labor, 200 Constitution Avenue NW., Washington, D.C.

(c) *Special rules for plans subject to deferred initial reporting requirements.*—See §§ 2520.104–3, 2520.104–5, and 2520.104–6.

(d) *Contents of the plan description.*—See § 2520.102–1.

### § 2520.104a–3 Summary plan description.

(a) *Filing obligation.*—The administrator of a plan subject to the provisions of Part 1 of Title I of the Act shall file with the Secretary of Labor a copy of the summary plan description, including any supplement which is required to be furnished to participants covered under the plan and pension plan beneficiaries receiving benefits under the plan, as well as a copy of the statement of ERISA rights. The copy of the summary plan description shall be filed on or before the last date on which a summary plan description may be furnished to such plan participants and beneficiaries under section 104(b)(1)(B) of the Act and § 2520.104b–2.

(b) *Filing of multiple summary plan descriptions.*—In the case of a plan for which the plan administrator has chosen under § 2520.102–4 to prepare more than one summary plan description, the plan administrator shall file with the Secretary a copy of each such summary plan description and a list identifying each such summary plan description. The name of the plan sponsor and the employer identification number (EIN) assigned to the plan sponsor by the Internal Revenue Service shall appear on the cover page of each summary plan description filed and also on the list of such summary plan descriptions.

(c) *Terminated plans.*—(1) If on or before the date by which a plan is required to file a summary plan description or updated summary plan description under this section, the plan has terminated within the meaning of subparagraph (2), such plan is not required to file a summary plan description with the Secretary.

(2) For purposes of this section, a plan shall be considered terminated if:



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(i) In the case of an employee pension benefit plan, all distributions to participants and beneficiaries have been completed; and

(ii) In the case of an employee welfare benefit plan, no claims can be incurred which will result in a liability of the plan to pay benefits. A claim is incurred upon the occurrence of the event or condition from which the claim arises (whether or not discovered).

(d) *Filing address.*—The summary plan description shall be filed with the Secretary of Labor by mailing it to SPD, Pension and Welfare Benefit Programs, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, D.C. 20216, or by delivering it during normal working hours to Room N–4635, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, D.C.

(e) *Alternative requirements for plans subject to the alternative ERISA Notice requirements.*—See § 2520.104b–2, and § 2520.104–5 or § 2520.104–6. See § 2510.-3–3(d).

**§ 2520.104a–5 Summary of material modifications.**

The administrator of an employee benefit plan subject to the provisions of Part 1 of Title I of the Act shall file a summary description of modifications or changes described in section 102(a)(1) of the Act and required to be disclosed to participants and beneficiaries by section 104(b) of the Act with the Secretary no later than the date on which the summary description is required to be disclosed to participants and beneficiaries by 2520.104b–3.

## Subpart F—Disclosure Requirements

**§ 2520.101b–1 Disclosure.**

(a) *General disclosure requirements.*—The administrator of an employee benefit plan covered by Part 1 of Title I of the Act must disclose certain material, including reports, statements, and documents, to participants and beneficiaries. Disclosure under Part 1 takes three forms. First, the plan administrator must, by direct operation of law, furnish certain material to all participants covered under the plan and beneficiaries receiving benefits under the plan (other than beneficiaries under a welfare plan) at stated times or if certain events occur. Second, the plan administrator must furnish certain material to individual participants and beneficiaries upon their request. Third, the plan administrator must make certain material available to participants and beneficiaries for inspection at reasonable times and places.

(b) *Fulfilling the disclosure obligation.*—(1) Where certain material, including reports, statements, and documents, is required under Part 1 of the Act and this part to be furnished either by direct operation of law or on individual request, the plan administrator shall use measures reasonably calculated to ensure actual receipt of the material by plan participants and beneficiaries. Material which is required to be furnished to all participants covered under the plan and beneficiaries receiving benefits under the plan (other than beneficiaries under a welfare plan) must be sent by a method or methods of delivery likely to result in full distribution. For example in-hand delivery to an employee at his or her worksite is acceptable. However, in no case is it acceptable merely to place copies of the material in a location frequented by participants. It is also acceptable to furnish such material as a special insert in a periodical distributed to employees such as a union newspaper or a company publication if the distribution list for the periodical is comprehensive and up-to-date and a prominent notice on the front page of the periodical advises readers that the issue contains an insert with important information about rights under the plan and the Act which should be read and retained for future reference. If some participants and beneficiaries are not on the mailing list, a periodical must be used in conjunction with other methods of distribution such that the methods taken together are reasonably calculated to ensure actual receipt. Material distributed through the mail may be sent by first, second, or third-class mail. However, distribution by second or third-class mail is acceptable only if return and forwarding postage is guaranteed and address correction is requested. Any material sent by second or third-class mail which is returned with an address correction shall be sent again by first-class mail or personally delivered to the participant at his or her worksite.

(2) For purposes of section 104(b)(4) of the Act, materials furnished upon written request shall be mailed to an address provided by the requesting participant or beneficiary or personally delivered to the participant or beneficiary.

(3) For purposes of section 104(b)(2) of the Act, where certain documents are required to be made available for examination by participants and beneficiaries in the principal office of the plan administrator and in such other places as may be necessary to make available all pertinent information to all participants and beneficiaries, disclosure shall be made pursuant to the provisions of this paragraph. Such documents must be current, readily accessible, and clearly identified, and copies must be available in sufficient number to accommodate the expected volume of inquiries. Plan administrators shall make copies of the plan description, latest annual report, and the bargaining agreement, trust agreement, contract, or other instruments under which the plan is established or operated available at all times in their principal offices. They are not required to maintain these plan documents at all times at each employer establishment or union hall or office as described in paragraphs (b)(3)(i), (ii), and (iii) of this section, but the documents must be made available at any such location within ten calendar days following the day on which a request for disclosure at that location is made. Plan administrators shall make plan documents available at the appropriate employer establishment or union meeting hall or office within the required ten day period when a request is made directly to the plan administrator or through a procedure establishing reasonable rules governing the making of requests for examination of plan documents. If a plan administrator prescribes such a procedure and communicates it to plan participants and beneficiaries, a plan administrator will not be required to comply with a request made in a manner which does not conform to the established procedure. In order to comply with the requirements of this section, a procedure for making requests to examine plan documents must permit requests to be made in a reasonably convenient manner both directly to the plan administrator and at each employer establishment, or union meeting hall or office where documents must be made available in accordance with this paragraph. If no such reasonable procedure is established, a good faith effort by a participant or beneficiary to request examination of plan documents will be deemed a request to the plan administrator for purposes of this paragraph.

(i) In the case of a plan not maintained according to a collective bargaining agreement, including a plan maintained by a single employer with more than one establishment, a multiple employer plan, and a plan maintained by a controlled group of corporations (within the meaning of § 1563(a) of the Internal Revenue Code of 1954 (the Code), determined without regard to § 1563(a)(d) and (e)(3)(C) of the Code), documents shall be made available for examination in the principal office of the employer and at each employer establishment in which at least 50 participants covered under a plan are customarily working. "Establishment" means a single physical location where business is conducted or where services or industrial operations are performed. Where employees are engaged in activities which are physically dispersed, such as agriculture, construction, transportation, and communications, the "establishment" shall be the place to which employees report each day. When employees do not usually work at, or report to, a single establishment—for example, traveling salesmen, technicians, and engineers—the establishment shall be the location from which the employees customarily carry out their activities—for example the field office of an engineering firm servicing at least 50 participants covered under the plan.

(ii) In the case of a plan maintained solely by an employee organization, the plan administrator shall take measures to ensure that documents are available for examination at the meeting hall or office of each union local in which there are at least 50 participants covered under the plan. Such measures shall include distributing copies of the documents to each union local in which there are at least 50 participants covered under the plan.

(iii) In the case of a plan maintained according to a collective bargaining agreement, including a collectively bargained single employer plan with more than one establishment, a collectively bargained multiple employer plan, and a multiemployer plan which meets the definition of section 3(37) of the Act, § 2510.3–37 of this chapter, and section 414(b) of the Internal Revenue Code of 1954 and 26 CFR § 1.414(f) (40 CFR 43034), documents shall be made available for examination in the principal office of the employee organization and at each employer establishment in which at least 50 participants covered under the plan are customarily working. In employment situations where employees do not usually work at, or report to, a single establishment, the plan administrator shall take measures to ensure that plan documents are available for examination at the meeting hall or office of each union local in which there are at least 50 participants covered under the plan.

(c) *Participant and beneficiary status for purposes of section 101(a) and 104(b)(1) of the Act and Subpart F of this part.*—See §§ 2510.3–3(d)(1), 2510.3–3(d)(2), and 2520.3–3(d)(3) of this chapter.

**§ 2520.104b–2 Summary plan description.**

(a) *Obligation to furnish.*—Under the authority of sections 104(b)(1) and 104(c) of the Act, the plan administrator of an employee benefit plan subject to the provisions of Part 1 of Title I shall furnish a copy of the summary plan description and a statement of ERISA rights as provided in § 2520.102–3(t), to each participant covered under the plan (as defined in § 2510.3–3(d)), and each beneficiary receiving benefits under a pension plan on or before the later of:

(1) The date which is 90 days after the employee becomes a participant, or (in the case of a beneficiary receiving benefits under a pension plan) within 90 days after he or she first receives benefits, except as provided in § 2520.104b–4(a), or,

(2) Within 120 days after the plan becomes subject to Part 1 of Title I.

(3) (i) A plan becomes subject to Part 1 of Title I on the first day on which an employee is credited with an hour of service under § 2530.200b–2 or § 2530.-200b–3. Where a plan is made prospectively effective to take effect after a certain date or after a condition is satisfied, the day upon which the plan becomes subject to Part 1 of Title I is the day after such date or condition is satisfied. Where a plan is made retroactively effective dependent on a condition, the day on which the plan becomes subject to Part 1 of Title I is the day after the day on which the condition is satisfied. Where a plan is made retroactive subject to a contingency which may or may not occur in the future, the day on which the plan becomes subject to Part 1, Title I is the day after the day on which the contingency occurs.

(ii) Example: Company A is negotiating the purchase of Campany B. On September 1, 1978, as part of the negotiations, Company A adopts a pension plan covering the employees of Company B, contingent on the successful conclusion of its negotiations to purchase Company B. The plan provides that it shall take effect on the first day of the calendar year in which the purchase is concluded. On February 1, 1979, the negotiations conclude with Company A's purchase of Company B. The plan therefore becomes effective on February 1, 1979, retroactive to January 1, 1979. The summary plan description must be filed and disclosed no later than 120 days after February 1, 1979.

(b) *Periods for furnishing updated summary plan descriptions.* — [Reserved].

(c) *Alternative ERISA Notice requirements.*—A plan which elected to comply with the alternative ERISA Notice procedure provided in § 2520.104–5 or § 2520.104–6 is not required to furnish a copy of the summary plan description to participants and beneficiaries until the time described in the applicable section, and will be deemed to have satisfied the requirements of section 104(b)(1)(B) of the Act until such time. Thereafter, the requirements of section 104(b)(1)(B) of the Act and this section must be met in full.

(d) *Use of form EBS–1 as summary plan description.*—(1) The plan administrator of an employee benefit plan shall be deemed to have satisfied the requirements of section 104(b)(1)(B) of the Act and this section for the initial disclosure of the summary plan description if the plan administrator filed a summary plan description pursuant to proposed § 2520.104a–3(d) of the June 9, 1975, proposed regulations (40 FR 24642); § 2520.104–3 as issued on April 30, 1975 (40 FR 19469; see also 40 FR 20628, May 12, 1975); proposed §§ 2522.-40 and 2523.30 as published on December 4, 1974, (39 FR 42241); and the instructions on old form EBS–1 (bearing print date 4–75), and if the plan administrator furnished copies of a complete Form EBS–1 bearing print date 4–75 to participants covered under the plan and beneficiaries receiving benefits under the plan.

(2) Under the authority of section 104(c) of the Act, a plan described in subparagraph (1) shall furnish to participants covered under the plan and beneficiaries receiving benefits under the plan a statement of ERISA rights which complies with § 2520.102–3(t) by November 16, 1977.

(e) *Disclosure obligation for plans which filed and disclosed by May 30, 1976 in reliance upon regulations of the Department.*—(1) The plan administrator of an employee benefit plan shall be deemed to have satisfied the requirements of section 104(b)(1)(B) of the Act and this section for the initial disclosure of the summary plan description if the plan administrator filed a summary plan description based upon the final regulations published in the FEDERAL REGISTER on August 15, 1975 (40 FR 34526) and on specific sections of the proposed regulations published in the FEDERAL REGISTER on June 9, 1975 (40 FR 24642) in reliance upon the preamble to the final regulations published in the FEDERAL REGISTER on April 23, 1976 (41 FR 16957) and announced in Departmental press release USDL 76–706, published April 21, 1976, and if the plan administrator furnished to participants covered under the plan and pension beneficiaries receiving benbenefits under the plan copies of such summary plan description.

(2) Under the authority of section 104(c) of the Act, a plan described in subparagraph (1) shall furnish to participants covered under the plan and beneficiaries receiving benefits under the plan a statement of ERISA rights which complies with §2520.102–3(t) by November 16, 1977.

(f) *Disclosure obligation for all other plans which previously disclosed the summary plan description.*—(1) This section applies to those employee benefit plans which have disclosed to participants covered under the plan and beneficiaries receiving benefits under a pension plan, a summary plan description on or after September 2, 1974, and before March 15, 1977, and which are not described in paragraph (4) or (e) of this section.

(2) The plan administrator of an employee benefit plan described in subparagraph (1) shall be deemed to have satisfied the requirements of section 104(b)(1)(B) of the Act and this section for the initial disclosure of the summary plan description and the disclosure of the first updated summary plan description if the plan administrator:

(i) Furnishes to participants covered under the plan and pension plan beneficiaries receiving benefits under the plan, by November 16, 1977, a copy of a supplement to the summary plan description which includes any items of information required by § 2520.102–3 which were not included in the earlier document and which, taken together with the earlier document, meets the style and format requirements of § 2520.-102–2. The requirement of § 2520.102–2(b) that benefit restrictions be described or cross-referenced adjacent to the description of benefits will be deemed satisfied if the supplement contains a statement which references participants to the descriptions of benefits and benefit restrictions in the summary plan description and describes their relationship;

(ii) Files with the Secretary, by November 16, 1977, a copy of the summary plan description described in paragraph (f)(1) and a copy of the supplement described in paragraph (f)(2)(i); and

(iii) Furnishes to participants and beneficiaries a summary plan description which meets the requirements of §§ 2520.102–2 and 2520.102–3 within five years (or ten years) of the date of disclosure described in subparagraph (i).

(g) *Terminated plans.*—(1) If, on or before the date by which a plan is required to furnish a summary plan description or updated summary plan description to participants and pension plan beneficiaries under this section, the plan has terminated within the meaning







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of subparagraph (2), the administrator of such plan is not required to file with the Secretary or to furnish to participants covered under the plan or to beneficiaries receiving benefits under the plan a summary plan description.

(2) For purposes of this section, a plan shall be considered terminated if:

(i) In the case of an employee pension benefit plan, all distributions to participants and beneficiaries have been completed; and

(ii) In the case of an employee welfare benefit plan, no claims can be incurred which will result in a liability of the plan to pay benefits. A claim is incurred upon the occurrence of the event or condition from which the claim arises (whether or not discovered).

(h) *Alternative requirements for plans subject to the alternative ERISA Notice requirements.*—See § 2520.104–5 or § 2520.104–6. See § 2510.3–3(d).

(i) *Style and format of the summary plan description.*—See § 2520.102–2.

j) *Contents of the summary plan description.*—See § 2520.102–3.

(k) *Option for different summary plan descriptions.*—See § 2520.102–4, § 2520.–104–26, and § 2520.104–27.

(l) *Employee benefit plan—participant covered under a plan.*—See § 2510.3–3(d).

**§ 2520.104b–3 Summary of material modifications to the plan and changes in the information required to be included in the summary plan description.**

(a) The administrator of an employee benefit plan subject to the provisions of Part 1 of Title I of the Act shall, in accordance with § 2520.104b–1(b), furnish a summary description of any material modification to the plan and any change in the information required by section 102(b) of the Act and § 2520.102–3 of these regulations to be included in the summary plan description to each participant covered under the plan and each beneficiary receiving benefits under the plan. The plan administrator shall furnish this summary, written in a manner calculated to be understood by the average plan participant, not later than 210 days after the close of the plan year in which the modification or change was adopted. This disclosure date is not affected by retroactive application to a prior plan year of an amendment which makes a material modification to the plan; a modification does not occur before it is adopted. For example, a calendar year plan adopts a modification in April 1978. The modification, by its terms, applies retroactively to the 1977 plan year. A summary description of the material modification is furnished on or before July 29, 1979. A plan which adopts an amendment which makes a material modification to the plan which takes effect on a date in the future must disclose a summary of that modification within 210 days after the close of the plan year in which the modification or change is adopted. Under the authority of sections 104(a)(3) and 110 of the Act, a summary description of a material modification or change is not required to be disclosed if it is rescinded or otherwise does not take effect. For example, a calendar year plan adopts a modification in June 1978. The modification, by its terms, becomes effective beginning in plan year 1979. Before the beginning of plan year 1979, the prospective modification is withdrawn. No summary of the material modification is required to be disclosed.

(b) The summary of material modifications to the plan or changes in information required to be included in the summary plan description need not be furnished separately if the changes or modifications are described in a timely summary plan description. For example, a calendar year plan adopts a material modification on June 3, 1976. The modification is incorporated in a summary plan description furnished on July 15, 1977. No separate summary of the material modification is furnished. The plan adopts another material modification September 15, 1977. A separate summary of the modification is furnished on or before July 29, 1978.

(c) The copy of the summary plan description furnished in accordance with §§ 2520.104b–2(a)(1)(i) and 2520.104b–4 shall be accompanied by all summaries of material modifications or changes in information required to be included in the summary plan description which have not been incorporated into that summary plan description.

(d) *Alternative requirements for plans subject to the alternative ERISA Notice requirements.*—See § 2520.104a–3, § 2520.104b–2 and § 2520.104–5 or 2520.104–6.

(e) *Filing obligation for all other plans which previously filed and disclosed the summary plan description.*—See § 2520.104a–3.

**§ 2520.104b–4. Alternative methods of compliance for furnishing the summary plan description and summaries of material modifications of a pension plan to a retired participant, a separated participant with vested benefits, and a beneficiary receiving benefits.**

Under the authority of section 110 of the Act, in the case of an employee pension benefit plan—

(a) *Summary plan descriptions.*—A plan administrator will be deemed to satisfy the requirements of section 104(b)(1) of the Act and § 2520.104b–2(a) to furnish a copy of the initial summary plan description to a retired participant, a beneficiary receiving benefits, or a separated participant with vested benefits ("vested separated participant") if, no earlier than the date stated in subparagraph (4) of this paragraph,

(1) In the case of a retired participant or a beneficiary receiving benefits, a document is furnished which—

(i) Meets the requirements of §§ 2520.–102–2 and 2520.102–3 except paragraphs (b)(3), (b)(4), (j), (k), (l), (n), (o), and (p);

(ii) Contains a statement that the benefit payment presently being received by the retired participant or beneficiary receiving benefits will continue in the same amount and for the period provided in the mode of settlement selected at retirement, and will not be changed except as described in subparagraph (iii); and

(iii) Contains a statement describing any plan provision under which the present benefit payment may be reduced, changed, terminated, forfeited, or suspended;

(2) In the case of a vested separated participant, a document is furnished which—

(i) Meets the requirements of §§ 2520.102–2 and 2520.102–3 except paragraphs (b)(3), (b)(4), (j), (l), (n), (o), (p), and (r);

(ii) (A) If at or after separation, a separated vested participant was furnished a statement of the dollar amount of the vested benefit or the method of computation of the benefit, includes a statement that the dollar amount of the vested benefit was previously furnished and that a copy of the previously furnished statement of the dollar amount of such vested benefit or method of computation of the benefit may be obtained from the plan upon request;

(B) If the vested separated participant was not furnished a statement of the dollar amount of the vested benefit or the method of computation of the benefit, the plan furnishes either a statement of the dollar amount of the vested benefit, or a statement of the formula used to determine the dollar amount of the vested benefit;

(iii) Includes a statement of the form in which the benefits will be paid and duration of the payment period or a description of the optional modes of payment available under the plan; and

(iv) Includes a statement describing any plan provision under which a benefit may be reduced, changed, terminated, forfeited, or suspended; or

(3) (i) Such retired participant, vested separated participant, or beneficiary receiving benefits was furnished with a copy of a document which—

(A) Satisfies the requirements of section 102(a)(1) of the Act and § 2520.–102–2 (relating to the style and format of the summary plan description) and § 2520.102–3 (relating to the content of the summary plan description),

(B) Describes the rights and obligations under the plan of such retired participant, vested separated participant, or beneficiary receiving benefits as of the date stated in subparagraph (4);

(ii) In the case of a person who retired, became a beneficiary, or separated with vested benefits before November 16, 1977, a document will be deemed to comply with the requirements of subparagraph (i) if the document omitted only information described in one or more of the provisions of § 2520.102–3 listed below, provided that a supplement containing such information, which meets the requirements of § 2520.102–2, is furnished to the retired participant, vested separated participant, or beneficiary receiving benefits by November 16, 1977.

(A) Employer identification number (EIN), as required by § 2520.102–3(c);

(B) Type of administration, as required by § 2520.102–(e);





(C) Name of agent for service of legal process, as required by § 2520.102–3(g);

(D) Names and addresses of trustees, as required by § 2520.102–3(h);

(E) Statement regarding plan termination insurance as required by § 2520.–102–3(m);

(F) Date of the end of the fiscal year, a required by § 2520. 102–3(r); or

(G) Statement of ERISA rights, as required by § 2520.102–3(t).

(4) For purposes of this paragraph the dates are: for a vested separated participant, the date of separation; for a beneficiary, the date on which payment of benefits commences; and for a retired participant, the date of retirement.

(b) *Updated summary plan descriptions.*—A copy of an updated summary plan description need not be furnished as prescribed in section 104(b)(1) of the Act and § 2520.104b–2(b) to a retired participant, vested separated participant, or a beneficiary receiving benefits if—

(1) (i) On or after the date stated in subparagraph (ii), the retired participant, vested separated participant, or beneficiary is furnished with a copy of the most recent summary plan description and a copy of any summaries of material modifications not incorporated in such summary plan description;

(ii) For purposes of subparagraph (i) the dates are: for a retired participant, the date of retirement; for a vested separated participant, the date of separation; and for a beneficiary, the date on which payment of benefits commences;

(2) No later than the date on which an updated summary plan description is furnished to participants and beneficiaries as prescribed by section 104(b)(1) of the Act and § 2520.104b–2(b), a retired participant, vested separated participant, or beneficiary receiving benefits is furnished a notice containing the following:

(i) A statement that the benefit rights of such retired participant, vested separated participant, or beneficiary receiving benefits are set forth in the earlier summary plan description and any subsequently furnished summaries of material modifications (see paragraph (c)), and

(ii) A statement that such retired participant, vested separated participant, or beneficiary receiving benefits may obtain a copy of the earlier summary plan description and summaries of material modifications described in subparagraph (i), and the updated summary plan description, without charge, upon request, from the plan administrator; and

(3) The plan administrator furnishes a copy of the documents described in subparagraph (2)(ii) to such retired participant, vested separated participant or beneficiary, without charge, upon request.

(c) *Summary of material modifications or changes.*—A summary description of a material modification to the plan or a change in the information required to be included in the summary plan description need not be furnished to a retired participant, a vested separated participant or a beneficiary receiving benefits under the plan, within the time prescribed in section 104(b)(1) of the Act and § 2520.104b–3 for furnishing summary descriptions of such modifications and changes, if the material modification or change in no way affects such retired participant's, vested separated participant's, or beneficiary's rights under the plan. For example, a change in trustees is information which such a person may need to know in order to make inquiries about his or her rights expeditiously, and hence must be furnished. On the other hand, a modification in benefits under the plan to which such retired participant, vested separated participant, or beneficiary had not at any time been entitled (and would not in the future be entitled) would not affect his or her rights and hence need not be furnished. If such retired participant, vested separated participant, or beneficiary requests a copy of a summary description of a material modification or a change which was not furnished, the plan administrator shall furnish the copy, without charge.

(d) *Special rule for a plan which has previously furnished a summary plan description.*—A plan described in § 2520.–104b–2 (e) or (f) which did not specify and identify those items of information in the summary plan description pertinent to a class of participants or beneficiaries as required by § 2520.102–2 must furnish, by November 16, 1977, a supplement to the class which—

(1) Identifies the information not relevant to the class, and

(2) Provides the information required to be furnished to the class under § 2520.102–3, or under an alternative provided by this section.

Effective date: This regulation shall become effective July 19, 1977.

Signed at Washington, D.C., this 10th of July 1977.

IAN D. LANOFF,
*Administrator of Pension and Welfare Benefit Programs.*

[FR Doc.20810 Filed 7–18–77;1:07 pm]



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## List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.



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# rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 4—Accounts

CHAPTER III—COST ACCOUNTING STANDARDS BOARD

SUBCHAPTER G—COST ACCOUNTING STANDARDS

PART 400—DEFINITIONS

## PART 413—COST ACCOUNTING STANDARDS FOR ADJUSTMENT AND ALLOCATION OF PENSION COST

AGENCY: Cost Accounting Standards Board.

ACTION: Final rule.

SUMMARY: This Cost Accounting Standard establishes the basis for assigning pension plan actuarial gains and losses to cost accounting periods and for allocating pension cost to segments of an organization. This standard is issued in furtherance of the requirements of Pub. L. 91-379.

EFFECTIVE DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Bernard Sacks 202-275-6136, Cost Accounting Standards Board, 441 G Street, Northwest, Washington, D.C., 20548.

SUPPLEMENTARY INFORMATION: Detailed comments relative to the Cost Accounting Standard being promulgated are set forth in the preface to the Standard.

PART 400—DEFINITIONS

MISCELLANEOUS AMENDMENTS

Section 400.1(a) is amended by inserting the following definitions alphabetically.

§ 400.1 Definitions.

(a) • • •

*Actuarial Valuation.* The determination, as of a specified date, of the normal cost, actuarial liability, value of the assets of a pension fund, and other relevant values for the pension plan.

• • • • • •

*Immediate-Gain Actuarial Cost Method.* Any of the several actuarial cost methods under which actuarial gains and losses are included as part of the unfunded actuarial liability of the pension plan, rather than as part of the normal cost of the plan.

• • • • • •

*Pension Plan Participant.* Any employee or former employee of an employer or any member or former member of an employee organization, who is or may become eligible to receive a benefit from a pension plan which covers employees of such employer or members of such organization who have satisfied the plan's participation requirements, or whose beneficiaries are receiving or may be eligible to receive any such benefit. A participant whose employment status with the employer has not been terminated is an active participant of the employer's pension plan.

• • • • • •

*Spread-Gain Actuarial Cost Method.* Any of the several projected benefit actuarial cost methods under which actuarial gains and losses are included as part of the current and future normal costs of the pension plan.

• • • • • •

*Termination Gain or Loss.* An actuarial gain or loss resulting from the difference between the assumed and actual rates at which plan participants separate from employment for reasons other than retirement, disability, or death.

PART 413—COST ACCOUNTING STANDARDS FOR ADJUSTMENT AND ALLOCATION OF PENSION COST

The Cost Accounting Standard on Adjustment and Allocation of Pension Cost is one of a series being promulgated by the Cost Accounting Standards Board pursuant to section 719 of the Defense Production Act of 1950, as amended, Pub. L. 91-379, 50 U.S.C. app. 2168, which provides for the development of Cost Accounting Standards to be used in connection with negotiated national defense contracts.

This Standard is the second Standard dealing with pension costs. The first Standard, 4 CFR Part 412, establishes requirements covering the composition of pension cost and the bases to be used for measuring such cost. The Standard being promulgated today establishes the basis for assigning actuarial gains and losses to cost accounting periods and for allocating pension cost to segments of an organization.

As part of the Board's early research relating to the subject of pension cost, it submitted an issues paper to a large cross-section of companies, Government agencies, industry and professional associations, actuaries, and other interested individuals. On June 18, 1976, this staff draft Standard was sent to those interested parties who had expressed a desire to assist the Board in its research efforts. The responses to the staff draft Standard were considered in developing a proposed Standard which was published in the FEDERAL REGISTER of February 3, 1977, with an invitation to readers to submit written views and comments to the Board. The Board also supplemented the invitation in the FEDERAL REGISTER by sending copies of the proposed Standard to over 1,000 organizations and individuals.

The Board received 67 sets of written comments from companies, Government agencies, professional associations, industry associations, public accounting firms, actuaries, universities, and others in response to the FEDERAL REGISTER proposal. All of these comments have been carefully considered by the Board. The Board's views on each of the major issues discussed by commentators are outlined below, together with explanations of the changes made to the proposed Cost Accounting Standard.

The Board wishes to take this opportunity to express its appreciation for the helpful suggestions and constructive criticisms it has received, and for the time devoted to assisting the Board in this endeavor by the many organizations and individuals involved.

(1) *Relationship to the Employee Retirement Income Security Act of 1974 and to the Financial Accounting Standards Board.* The Board received a number of comments relative to the relationship between the proposed Standard and the Employee Retirement Income Security Act of 1974 (ERISA). Many of the respondents stated that the proposed Standard contained requirements which are either inconsistent with, more restrictive than, or in conflict with the provisions of ERISA.

The purpose of the Board in promulgating its Standards on pension cost is to establish the criteria for measuring the proper amount of pension cost to be assigned to cost accounting periods for subsequent allocation to negotiated Government contracts. ERISA establishes, among other things, minimum funding Standards for pension plans and provisions affecting deductibility of pension cost for tax purposes. Although there is some commonality between the funding provisions of ERISA and the Standard being promulgated today, ERISA does not provide for the measurement of pension costs for assignment among cost accounting periods or for the subsequent allocation of such costs to contracts.

Notwithstanding the differences in objectives between the proposed Standard and ERISA, the Board believes that compliance with the provisions of the Standard being promulgated today will not violate any provision of ERISA. The Internal Revenue Service confirmed the Board's view on this matter.

One commentator expressed concern over the issuance of a Cost Accounting Standard at this time in view of the active involvement by the Financial Accounting Standards Board in refining the accounting and reporting for both pension plans and employer pension



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costs. The Board is aware that the FASB may issue a Standard which could be different from the Standard being promulgated today. The Board maintains constant liaison with the FASB with regard to the two Boards' respective responsibilities for developing Standards. It also maintains liaison with the legislative and regulatory bodies responsible for developing and administering ERISA. The Board will review whatever pronouncements these bodies may issue and will consider whether revisions to this Standard are appropriate.

(2) *Definitions.* The Board has received a number of comments relative to the definitions used in the proposed Standard. Some commentators were concerned that the Board is developing still another glossary of actuarial terms. One of the problems in the field of pension accounting has been the words used to express concepts used. Different meanings have been ascribed to the same terms; different terms have been used to describe the same circumstances; and some terms have inferred meanings which have not been present and have not been intended. Thus, the Board's objective in developing the definitions in this Standard is to help provide a clear understanding of the concepts used therein.

With regard to the specific definitions used in the proposed Standard, the most common problem related to the term "segment." Some commentators construed the term to mean any group of employees performing work for the Government. The definition used in the proposed Standard is the same as that set forth in 4 CFR Part 400. As defined, a segment is an organizational unit which reports directly to a home office of that organization. The designation of organizational units as segments is the responsibility of the contractor; the proposed Standard does not change such designations.

(3) *Assignment of Actuarial Gains and Losses to Cost Accounting Periods.* Section 413.50(a)(2) of the proposed Standard required that, for contractors using an immediate-gain actuarial cost method, actuarial gains and losses shall be amortized over a 15-year period. Several commentators stated that immediate recognition of actuarial gains and losses should be required when there are "abnormal forfeitures" (i.e., exceptionally large termination gains). Some commentators expressed a desire for a 10–15-year amortization period; some desired a 10–20-year period; others merely wanted sufficient flexibility to permit them to use whatever amortization period they deem appropriate.

The 15-year amortization period is the same as that set forth in the minimum funding provisions of ERISA. It is also consistent with Opinion No. 8 of the Accounting Principles Board (APB–8) covering the accounting for the cost of pension plans. The Board believes that the amortization period set forth in ERISA is a reasonable basis for adjusting past pension cost accruals without creating significant distortions to current year's accruals. The Board is opposed to the use of various amortization periods because it would be contrary to the Board's objective of attaining greater consistency and uniformity in the measurement of pension cost and the assignment of such costs to cost accounting periods.

The Board believes also that there is no valid basis for immediate recognition of gains or losses simply because they are exceptionally large. Recognizing gains and losses in the current year generally is not appropriate because the gains or losses are often an adjustment of costs of a number of years. In this regard, the Board notes that APB–8 states also that gains and losses should be recognized immediately only if they arise from a single occurrence not directly related to the operation of the pension plan such as the closing of a plant. The Standard is consistent with this concept. Accordingly the 15-year amortization period has been retained in the Standard being promulgated today.

(4) *Annual calculation of actuarial gains and losses.* A number of commentators objected to the requirement in § 413.40(a) of the proposed Standard that actuarial gains and losses be developed annually. They pointed out that this provision, in effect, requires an annual actuarial valuation. They stated that such a requirement may impose a burden on small contractors, is contrary to ERISA which requires a valuation no less frequently than once every three years, and will result in increased administrative costs.

The Board's primary reason for requiring annual calculations of actuarial gains and losses is to assure that the proper cost is assigned to each cost accounting period. Postponing such calculations may well obscure large fluctuations in pension costs which should be recognized on a timely basis. Because many contracts begin and end within a two or three-year period, such postponements can result in incorrect costs being allocated to these contracts. The Board notes that the overwhelming majority of contractors perform annual actuarial valuations.

In addition, it should be noted that annual actuarial valuations need not be made for all pension plans. Section 412.40(a)(2) of 4 CFR Part 412 provides that for defined-contribution pension plans, the pension cost for a cost accounting period is the net contribution required to be paid for that period. Similarly, § 412.50(a) of 4 CFR Part 412 provides that multiemployer plans, certain insured plans, and certain plans applicable to colleges and universities shall be considered to be defined-contribution pension plans. Accordingly, the requirement to develop actuarial gains and losses annually is not applicable to these plans.

With regard to small contractors, the Board notes that it has not received a single comment from a small contractor stating that the requirement for an annual actuarial valuation for certain pension plans will result in a financial hardship to the contractor. Every comment it has received on this point has come from a major contractor. As for increased actuarial fees, the Board was informed by several actuaries that the difference between the cost of three annual valuations and the cost of a single, three-year valuation is relatively small.

In view of these considerations, the Board has retained the requirement for annual development of actuarial gains and losses.

(5) *Valuation of pension fund assets.* A substantial number of commentators objected to the provision of § 413.50(b)(2) of the proposed Standard which required that the value of pension fund assets be within 80 to 120 percent of the market value of such assets. Some commentators stated that such an approach could have a significant impact on pension cost in a year in which there is a large market fluctuation. Many of these seemed particularly concerned that a substantial drop in the market value of fund assets would cause an increase in pension costs. Other commentators stated that such a requirement is inconsistent with the fundamental requirement of the proposed Standard which stated that the method in use should minimize the effect of short-term market fluctuations. Some suggested various modifications to the proposed Standard to minimize the possible impact of this provision. For example, it was suggested that the average market value of the fund on several dates be used to determine whether an adjustment is required, or that no adjustment should be required unless the value of the fund is outside of the corridor for a period of several years. Some commentators were of the opinion that the corridor approach was reasonable and should be used except in cases where certain asset valuation methods are used; the most common method cited was the 5-year moving average. Several commentators noted that ERISA requires that, for minimum funding purposes, assets shall be valued on a basis which gives consideration to fair market values. They suggested that this provision obviates a need for a corridor.

The Board notes that there is no opposition to the concept that the actuarial value of pension fund assets should take into account the market value of such assets. It recognizes that there are numerous asset valuation methods which take into account market value in varying degrees. In order to achieve an acceptable relationship between the actuarial value of pension fund assets and their market values, the Board could have restricted the use of any of these market valuation methods. In the absence of such restrictions, however, the Board believes some limits must be provided to assure that the actuarial value of fund assets on a given date gives adequate recognition to their market value. The Board reiterates its often stated concept that assignment of costs to the proper period is of paramount importance in determining contract costs. Total reliance on valuation methods which fail to produce actuarial values within the specified corridor is not acceptable for contract costing purposes. For the same reasons, the Board does not accept the suggested modifications to the use of a single asset valuation date because these modifications could defeat the objective of assuring that the value of the fund bears an appropriate relationship to current market values.

The Board notes that the requirement to adjust pension fund assets to within a certain range of market value is not a new concept with this Standard. The Armed Services Procurement Regulations (ASPR) has for many years required that appreciation in equity securities be recognized to the extent that 80 percent of their market value exceeds their adjusted book value. The requirement for upward adjustments of pension fund assets in the Standard being promulgated today is thus similar to the existing ASPR provision. No known problems with this provision for upward adjustments have come to the attention of the Board. Early research in connection with the pension cost Standards did, however, indicate widespread dissatisfaction with the existing ASPR provisions because they did not permit adjustment of pension fund assets below cost. The Standard being promulgated today will correct this apparent inequity.

The Board notes also that many of the commentators apparently did not realize that the adjustment to pension fund assets required pursuant to § 413.50(b) would result in an actuarial gain or loss subject to the 15-year amortization period specified in § 413.50(a)(2). It should be recognized that the 15-year amortization period minimizes the effect of short-term market fluctuations in two ways. First, the cost impact of the actuarial gain or loss for any year is spread over 15 years. Secondly, in computing a single year's pension cost, there could be adjustments resulting from market fluctuations in as many as 15 prior years. If, as can be expected, some of these adjustments will be increases to the year's pension costs while others will be decreases, the effect of market fluctuations on a year's pension cost will be further minimized. Accordingly, § 413.50(b)(2), in conjunction with § 413.50(a)(2), is considered to assure adequate recognition of the market value of pension fund assets, while at the same time assuring that the effect of short-term market fluctuations is minimized.

In summary, the Board continues of the view that wide latitude should be provided for selecting an asset valuation method, but that such latitude should be coupled with the requirement that the assets valued under the method selected fall within a range of the market value of such assets. The requirement that assets be valued at least at 80 percent of market value is consistent with the present provision of ASPR. The requirement that assets be valued at no more than 120 percent of market value is a needed and equitable change to the ASPR concept. These requirements are not expected to result in severe pension cost fluctuations which concerned some of the commentators. Under the circumstances the Board has not adopted those recommendations aimed at deleting or revising the requirement that pension fund assets be valued within 80 to 120 percent of market value.

(6) *Valuation of bonds in a pension fund.* Several commentators expressed their disagreement with the provision of § 413.60(b) of the proposed Standard which required that, in establishing the corridor, market values must be used for all assets, including bonds. They stated that the use of amortized amounts will, over time, produce values less susceptible to short-term market fluctuations than will be produced by the use of market values. They noted also that, for minimum funding purposes, ERISA permits bonds to be valued at cost less amortization. The Board's research shows that assets of a pension fund are acquired for investment purposes and may be liquidated whenever pension fund managers believe that the proceeds therefrom can generate more income elsewhere. The Board's research shows also that the frequent turnover of pension fund assets is the rule rather than the exception. Therefore, the Board continues of the view, that in establishing the corridor, all assets should be valued on the basis of market and no change has been made to paragraph 413.60(b) to provide otherwise. However, the Standard permits a contractor to use amortized values for bonds as a part of the asset valuation method.

(7) *Allocation of pension cost to segments of an organization.* Section 413.40(c) of the proposed Standard provided that pension costs for a segment may always be developed by separate computation. It further provided that composite pension costs for two or more segments may be computed and allocated by means of an allocation base "unless distortions are created." Section 433.50(c)(2) provided that "unless an equitable allocation of pension costs to segments can be made by means of an allocation base," separate pension costs for the segment shall be calculated under certain specified conditions.

Some commentators were opposed to a requirement to calculate separate pension costs for a segment under any conditions. Others thought that the proposed Standard was unclear as to when separate segment pension cost calculations were required. A number of commentators concluded that separate calculations would have to be made in any event in order to prove that the use of an allocation base is acceptable. A number of these stated that such separate calculations would be costly.

Normally, pension costs are "central payments or accruals" as that term is used in 4 CFR Part 403. Therefore, where pension costs can be computed for an individual segment, 4 CFR Part 403 would ordinarily require that the amount so computed be the amount allocated to such segment. The calculation of individual segment costs is, in effect, a direct allocation which is not only consistent with CAS 403 but is also consistent with the Board's cost allocation concepts as set forth in the Board's Restatement of Objections, Policies and Concepts (May 1977). Under the circumstances, the Board does not agree with those commentators who are of the view that computation of separate segments pension costs should never be required. Nevertheless, the Board recognizes that the calculation of separate segments pension costs cannot be made without some additional cost and effort. Consistent with its long-standing concepts on materiality, the Board believes that the calculation of separate segment pension cost should be mandatory only when such separate calculations produce materially different results than would result from the use of an allocation base. Therefore the Board sought to provide, in the proposed Standard, criteria to determine when separate calculations would be required.

It is evident that many reviewers of the proposed Standard were uncertain as to when separate segment pension cost calculations would be required and when an allocation base could be used. Accordingly, § 413.40(c) has been revised to clearly state that a separate calculation of pension cost for a segment is required only when the conditions set forth in § 413.50(c)(2) and (3) are present. Appropriate changes have also been made in these paragraphs.

The Board recognizes whether separate segment pension cost calculations are required depends in the final analysis on what is considered to be "material" for the purposes of § 413.50(c)(2) and (3). The proposed Standard provided that separate segment costs are to be computed for a segment which had "significant" termination gains; "significantly" different than average benefits, eligibility criteria, or age distribution; or "significantly" different actuarial assumptions.

The concern of many commentators that they would have to make separate segment pension cost calculations in order to prove that the use of a base is acceptable apparently stemmed in part from uncertainty as to what was meant by "significant." The Board is on record as stating that Cost Accounting Standards should be reasonable and not seek to deal with insignificant amounts of costs. The Board has previously published in its Statement of Operating Policies, Procedures and Objectives certain criteria to be considered in determining whether a transaction or a decision about an accounting practice is material. Such criteria have also been proposed for inclusion in the Board's regulations. It is intended that these criteria be considered in determining whether separate segment pension cost calculations are required.







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To clarify that the Board's existing materiality criteria apply in this instance, § 413.50(c) (2) and (3) in the Standard being promulgated today use the words "material" or "materially" in lieu of the words "significant" or "significantly" contained in the proposed Standard. More importantly, a statement has been added to § 413.50(c) (2) to state that separate pension cost calculations are required when the listed conditions are present only if "such conditions materially affect the amount of pension costs allocated to the segment." The Board believes that, in most cases, it will be obvious to the contracting parties whether the presence of one or more of these conditions for a segment will materially affect the pension cost for that segment. In cases where the impact is not obviously known, the Board contemplates that the contracting parties will rely on summary estimates as a basis for determining whether separate calculations are required. The Board believes that over time, the need for such summary estimates will diminish. The Board emphasizes that separate calculations are not routinely required, even though no two segments are likely to be identical with respect to the actuarial factors set forth in the Standard. The Board intends that separate segment calculations will be required only in those instances where they would result in a materially different pension cost allocation to a segment.

Several commentators noted that there are pension plans covering several segments that are almost completely devoted to performing work for the Government. Others noted that they had segments which perform a relatively negligible amount of Government work. In either case, according to these commentators, even significant differences in pension cost factors among segments covered by the plan would not materially affect the amount of pension costs allocated to Government contracts. Accordingly, they recommended that the provisions of the Standard relative to separate computations for a segment not be applicable to such segments.

One of the Board's primary objectives in the Standard being promulgated today is to allocate the proper amount of pension costs to each segment. This objective is appropriate, irrespective of the mix of Government and commercial work of a segment or among all segments covered by a pension plan. Even if several segments are entirely devoted to performing work for the Government, the allocation of pension costs among such segment could materially affect the amount of pension costs that are allocated to particular types of contracts in a cost accounting period. The Board recognizes, however, that if a relatively immaterial amount of a segment's work is performed for the Government, any revised allocation of pension cost for that segment would probably have little or no effect on the costs allocated to Government contracts. In such a case, the Board urges the contracting parties give due consideration to the Board's views on materiality.

(8) *Allocation bases.* The proposed Standard required in § 413.50(c)(1) that contractors who compute a composite pension cost for two or more segments must allocate such costs on a base consisting either of the salary and wages of the participants or the number of participants, except where the contracting parties agree to the use of a different base. A number of commentators stated that in certain cases a better beneficial or causal relationship can be obtained by the use of other than the specified bases. The most commonly listed practice was the use of one base to allocate normal cost and another base to allocate unfunded actuarial liabilities. The Board recognizes that in many cases the use of other bases or a combination of bases would provide an equitable means for allocating pension costs to segments. The Board believes that it should not preclude the use of any appropriate base. Therefore, § 413.50(c)(1) of the Standard being promulgated today has been revised to provide that the base to be used for allocating composite pension costs shall be representative of the factors on which the pension benefits are based.

The Board still believes, however, that under certain circumstances, a specific base provides the best means for allocating pension cost. Accordingly, § 413.50(c)(1) still requires the use of salaries and wages as an allocation base where costs are calculated as a percentage of salaries and wages, and the use of a base consisting of the number of employees where costs are calculated as an amount per employee.

(9) *Allocation of pension fund assets to segments.* When pension cost must be separately calculated for a segment, it will generally be necessary to allocate pension fund assets to such segments. Section 413.50(c)(5)(iii) of the proposed Standard provided that if contractors used different actuarial cost methods in prior years, the allocation of assets must be based on actuarial liabilities developed under the Accrued Benefit actuarial cost method. Several commentators noted that this provision could result in an allocation of assets to segments which is inconsistent with the bases used to accumulate the assets. The Board agrees with this observation. Accordingly, § 413.50(c)(5) of the Standard being promulgated today provides that the allocation of assets shall be made in a manner consistent with the actuarial cost method or methods used to give rise to such assets. It should be noted, however, that such an allocation is permitted only when contributions, disbursements, income, and expenditures made by, or in behalf of, a segment are not readily determinable.

Several commentators suggested that the Standard should be clarified with regard to whether the value of the assets to be allocated shall be the cost of the assets, the actuarial value of the assets, or the market value of the assets. Accordingly, the Board has provided in § 413.50(c)(5)(ii) of the Standard that the allocation shall be the actuarial value of the assets.

Several other commentators expressed concern that the Standard would require that specific assets be allocated to segments. The Board never intended an allocation of specific assets; rather, it intended that there be an initial allocation of assets for accounting purposes only. All of the assets of a pension fund remain available to provide benefit payments for participants in any segment. To clarify this point, § 413.50(c)(5) of the Standard being promulgated today has been revised to state that there shall be an initial allocation of a share in the undivided pension fund assets.

During the course of the Board's research several contractors and actuaries questioned whether the proposed asset allocation requirements prohibited contractors from establishing a separate fund for a segment. The Board does not intend such a prohibition in the Standard being promulgated today.

(10) *Pension costs of inactive participants.* The proposed Standard provided in § 413.50(c)(7) that inactive pension plan participants shall be considered as constituting a separate segment. This provisions was included on the basis of research indicating that the accumulation of pension costs applicable to inactive employees would facilitate the allocation of such costs. However, a large number of commentators objected to this provision, stating that it would be much simpler and less costly to merely assign inactive participants to segments. The Board continues to believe that in certain cases the use of a separate segment to accumulate costs applicable to inactive employees will facilitate cost allocation. It recognizes, however, that in other cases assignment of inactive employees to active segments will ease administrative problems. The Board believes that either technique should result in an equitable allocation of pension cost. Accordingly, the Standard being promulgated today specifically provides in § 413.50(c)(9) for the use of either technique.

Paragraph 413.50(c)(10) of the proposed Standard required that the pension cost calculated for the segment created for inactive participant shall be allocated to the active segments on the basis of the pension cost calculated for those segments. Several commentators pointed out that such a basis may be inappropriate in some cases. The Board concurs and has revised § 413.50(c)(9) of the Standard to permit more flexibility in selecting an allocation base under such circumstances.

(11) *Other cost allocation matters.* Several commentators questioned whether contractors must always allocate assets, and continue developing fund data for a segment simply for the purpose of amortizing an identified one-time actuarial gain or loss attributable to a segment. If an equitable allocation of pension cost can be achieved without allocating assets, it is not necessary to do so. For example, in the case of a one-time termination gain or loss, a contractor could isolate this gain or loss from the other composite actuarial gains or





losses and separately credit or charge the former gain or loss over the next fifteen years to the segment from which it arose. The contractor could then continue using the composite cost allocation method (except for such separate adjustment) so long as there is no further unusual experience for that segment. The Board has amended the illustration in § 413.60(c)(1) of the Standard to embody this concept.

Paragraph 413.50(c)(1) of the proposed Standard contained a requirement that costs shall be calculated on a segment basis under circumstances where (1) a pension plan for a segment was, or becomes, merged with that of another segment, and (2) the ratioc of assets to actuarial liabilities for each of the merged plans are significantly different from one another after applying the benefits in effect after the merger. In illustrating this point in § 413.36(c)(3), it was indicated that this provision is applicable to mergers which occurred prior to the effective date of the Standard. Several commentators expressed concern over the provision, stating that retroactivity was inequitable. They stated that it would be difficult and expensive to analyze prior years' pension cost, especially in cases where the mergers arose many years ago. The Board believes that these comments have merit. Accordingly, the Standard being promulgated today specifically provides in § 413.50(c)(4) that a requirement for separate segment pension cost calculations for mergers shall have prospective impact only and that pension costs need not be adjusted for prior years. Paragraph 413.60(c)(5) has also been revised.

One commentator noted that its segments performing Government work had different pension cost factors than did the other segments of the company. However, the commentator noted that these factors were homogeneous for the segments performing Government work. The commentator asked whether the Standard requires a separate cost calculation for each segment under such circumstances. The contractor can make a composite calculation for the Government segments and allocate the cost to these segments by means of an allocation base. The contractor can, of course, do this for the other segments. To highlight this point the Board has added an illustration in § 413.60(c)(4) of the Standard.

Two commentators asked whether a difference between the amount of pension cost required to be funded under ERISA, and the sum of the pension costs developed for all segments could be allocated to the various segments. The Board recognizes that it is theoretically possible for the sum of all pension costs calculated for segments of an organization to be materially less than the minimum amount required to be funded pursuant to ERISA. However, such a difference may not be assigned to the period for which funding is required. The Board has previously emphasized that the amount of pension cost assignable to a cost accounting period is not necessarily the same as the amount funded for that period. If the amount required to be funded exceeds the amount calculated, the excess amount funded is subject to the provisions of 4 CFR Part 412 (§ 412.50(c)(1)) which states that "Amounts funded in excess of the pension cost computed for a cost accounting period pursuant to the provisions of this Standard shall be applied to pension costs of future cost accounting periods."

(12) *Closing of a segment.* The proposed Standard contained a requirement in § 413.50(c)(13) that when a segment is closed and a significant number of employees are terminated, the contractor shall calculate a gain or loss from the plan applicable to that segment, irrespective of whether the pension plan is terminated. A number of commentators express their concern over this provision. Some questioned whether the "net gain or loss" was an actuarial gain or loss and, if so, how it related to other sections of the Standard. Other commentators presumed that this section dealt with the termination of a plan; they stated that, in such an event, the provisions of ERISA and regulations of the Pension Benefit Guarantee Corporation would prevail. They suggested that this section of the Standard be made applicable only to pension plans that are being continued.

As a general rule, the Standard being promulgated today is based on the concept that material actuarial gains and losses applicable to a segment will be taken into account in future cost accounting periods in determining the costs for the segment. However, a problem arises in cases where a segment is closed. Because there are no future periods in which to adjust previously-determined pension costs applicable to that segment, a means must be developed to provide a basis for adjusting such costs. This adjustment is not an actuarial gain or loss as defined in the Standard. To clarify its intent, the Board has revised § 413.50(c)(12) of the Standard and the related illustration in § 413.60(c)(8). The Standard now states that when a segment is closed, the contractor shall determine the difference between the actuarial liability for the segment and the market value of the assets allocated to the segment.

The Board recognizes that, in some cases, the closing of a segment could be associated with a termination of a plan. Several commentators noted that, in such a case, the actuarial liability for that segment could be greatly influenced by regulations developed pursuant to the provisions of ERISA. The Standard specifically permits the effect of such regulations to be considered in determining the actuarial liability for the segment.

It should be noted that the provisions of this section are appropriate whenever a segment performing a material amount of Government business is closed, irrespective of whether the closing is caused by the completion of a contract or an organizational change, or whether the closing results in a complete or partial termination of the plan. The Board emphasizes that the purpose of this provision is to serve as a basis for recognizing and adjusting pension costs previously allocated to the segment being terminated. Such a requirement is independent of whether employees are terminated from the plan.

(13) *Application to defined-contribution and certain other plans.* A number of commentators questioned whether the provisions of the proposed Standard are applicable to defined-contribution and multiemployer pension plans. The Board notes that Standard 412 specifically provides that, for a defined contribution pension plan, the pension cost for a cost accounting period is the net contribution required to be made for that period. Standard 412 provides also that a multiemployer pension plan established pursuant to the terms of a collective bargaining agreement shall be considered to be a defined-contribution pension plan for purposes of this Standard. Thus, the only provisions of this Standard that are applicable to these plans are those dealing with the allocation of costs to segments.

Specific questions were raised with regard to the applicability of the asset valuation requirements to insured plans. Paragraph 413.50(b)(4) of the proposed Standard provided that the asset valuation requirements therein are not applicable to insured plans whose funds are commingled with those of the insurance company. Several commentators stated that this provision was unclear; they questioned whether group deposit administration annuity contracts, immediate participation guarantee contracts, or separate accounts deposit administration contracts are subject to the asset valuation provisions of the Standard. The Board intends that such contracts be subject to these provisions of the Standard. However, the asset valuation provisions do not apply to contracts under which insurance companies guarantee a rate of return. The Board believes that, in such circumstances, the recognition of unrealized appreciation or depreciation on pension fund assets does not alter the basic contractual agreement entered into between the plan sponsor and the insurance company. Paragraph 413.50(b)(4) of the Standard has been revised to clarify this point.

(14) *Costs and benefits.* The anticipated benefits of this Standard are increased consistency and uniformity in measuring actuarial gains and losses and assigning them to cost accounting periods, and better allocation of pension costs to segments of an organization. The Board believes that such improved measurements and allocations will result in more equitable allocation of pension costs to cost objectives, including Government contracts. By providing criteria for controversial aspects of pension cost accounting, the Standard is also expected to reduce disagreements among contracting parties.

In its research leading to the development of this Standard, the Board noted a number of disagreements between contracting parties relating to the disposition of termination gains attributable to segments performing Government contracts. The Board believes that the



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Standard will diminish, if not eliminate, such disagreements.

On May 19, 1977, the Comptroller General of the United States issued a report to the Congress entitled "Contractor Pension Plan Costs: More Control Could Save the Department of Defense Millions." The General Accounting Office selected, at random, nine Department of Defense prime contractors and examined the pension costs of these contractors. The report states that a substantial amount of questionable pension plan costs were, or may be, charged to Government contracts. The report attributes much of the questionable pension costs to the inequitable allocation of pension plan costs between Government and commercial business. The report states that the Standard being promulgated today deals with, and should correct, many of the problems cited. The following are examples of these problems and the provision of the Standard which deals with them.

(a) A contractor, which calculates pension cost by segment, does not equitably allocate assets to these segments each year; the amounts allocated do not recognize net annual capital contributions by the segments nor the segments shares in the capital growth of pension fund investments. Section 413.50(c) (5), (6) and (7) deals with this subject.

(b) The pension fund of a contractor which acquired a commercial subsidiary is in a surplus position. As a result, pension contributions are not being made for either the Government segments or the commercial subsidiary. Because the surplus was accumulated mainly through Government reimbursements that exceeded the amounts required, the Government's proportional share of the surplus has been diluted by the annual pension plan costs of the commercial subsidiary. Section 413.50(c) (3) deals with this subject.

(c) One contractor used corporate-wide assumptions to calculate pension cost. However, the Government-oriented segments had much higher employee termination rates than did the other segments. The cost to the Government would have been much less if separate pension cost calculations were made for the Government-oriented segments, using the appropriate termination assumptions. Section 413.50(c) (2) deals with this subject.

The Board recognizes that the implementation of this Standard may result in some increased administrative costs by defense contractors. The Board's research shows that any incremental administrative costs incurred will be predominantly related to increased actuarial fees. After discussing with actuaries the nature and scope of increased actuarial work required, the Board is confident that the increased aadministrative costs required to implement the proposed Standard are relatively small and do not approach the benefits that will be achieved by the proposed Standard.

As required by 719(g) of the Defense Production Act of 1950, as amended, the Board has evaluated the potential inflationary effect of this Standard. The Standard may cause a shift of pension costs from earlier periods to later periods or vice versa. It may also cause a shift of pension costs among various portions of a contractor's business. In the long run, however, total pension costs will not increase or decrease as a result of this Standard. As already noted, increased administrative costs attributable to the Standard are expected to be minimal. Accordingly, the Board concludes that this Standard will have no inflationary effect.

(15) *Effective date.* At the time of promulgation of each previous Standard, the Board followed the policy of reserving the effective date of the Standard, pending the expiration of 60 calendar days of continuous session of the Congress following the date on which the Standard was transmitted. Section 413.80 of the Standard being promulgated today specifies the effective date. The date is included at this time to afford contractors and contracting agencies the earliest possible notification so that they can begin to make implementation plans. In the event any subsequent event makes it necessary to rescind or amend that date, such action will be taken by appropriate notice in the FEDERAL REGISTER.

## PART 413—ADJUSTMENT AND ALLOCATION OF PENSION COST

Sec.
413.10 General applicability.
413.20 Purpose.
413.30 Definitions.
413.40 Fundamental requirement.
413.50 Techniques for application.
413.60 Illustrations.
413.70 Exemptions.
413.80 Effective date.

AUTHORITY: 84 Stat. 796, Sec. 103, 50 U.S.C. App. 2168.

### § 413.10 General applicability.

General applicability of this Cost Accounting Standard is established by § 331.30 of the Board's regulations on applicability, exemption, and waiver of the requirement to include the Cost Accounting Standards contract clause in negotiated defense prime contracts and subcontracts (4 CFR 331.30).

### § 413.20 Purpose.

A purpose of this Standard is to provide guidance for adjusting pension cost by measuring actuarial gains and losses and assigning such gains and losses to cost accounting periods. The Standard also provides the bases on which pension cost shall be allocated to segments of an organization. The provisions of this Cost Accounting Standard should enhance uniformity and consistency in accounting for pension costs.

### § 413.30 Definitions.

(a) The following definitions of terms which are prominent in this Standard are reprinted from Part 400 of this chapter for convenience. Other terms which are used in this Standard and are defined in Part 400 of this chapter have the meanings ascribed to them in that part unless the text demands a different definition or the definition is modified in paragraph (b) of this section:

(1) *Actuarial assumption.* A prediction of future conditions affecting pension cost; for example, mortality rate, employee turnover, compensation levels, pension fund earnings, changes in values of pension fund assets.

(2) *Actuarial cost method.* A technique which uses actuarial assumptions to measure the present value of future pension benefits and pension fund administrative expenses, and which assigns the cost of such benefits and expenses to cost accounting periods.

(3) *Actuarial gain and loss.* The effect on pension cost resulting from differences between actuarial assumptions and actual experience.

(4) *Actuarial liability.* Pension cost attributable, under the actuarial cost method in use, to years prior to the date of a particular actuarial valuation. As of such date, the actuarial liability represents the excess of the present value of the future benefits and administrative expenses over the present value of future contributions for the normal cost for all plan participants and beneficiaries. The excess of the actuarial liability over the value of the assets of a pension plan is the Unfunded Actuarial Liability.

(5) *Actuarial valuation.* The determination, as of a specified date, of the normal cost, actuarial liability, value of the assets of a pension fund, and other relevant values for the pension plan.

(6) *Immediate-gain actuarial cost method.* Any of the several actuarial cost methods under which actuarial gains and losses are included as part of the unfunded actuarial liability of the pension plan, rather than as part of the normal cost of the plan.

(7) *Normal cost.* The annual cost attributable, under the actuarial cost method in use, to years subsequent to a particular valuation date.

(8) *Pension plan.* A deferred compensation plan established and maintained by one or more employers to provide systematically for the payment of benefits to plan participants after their retirement, provided that the benefits are paid for life or are payable for life at the option of the employees. Additional benefits such as permanent and total disability and death payments, and survivorship payments to beneficiaries of deceased employees may be an integral part of a pension plan.

(9) *Pension plan participant.* Any employee or former employee of an employer, or any member or former member of an employee organization, who is or may become eligible to receive a benefit from a pension plan which covers employees of such employer or members of such organization who have satisfied the plan's participation requirements, or whose beneficiaries are receiving or may be eligible to receive any such benefit. A participant whose employment status with the employer has not been terminated is an active participant of the employer's pension plan.

(10) *Projected benefit cost method.* Any of the several actuarial cost methods which distribute the estimated total cost of all of the employees' prospective benefits over a period of years, usually their working careers.

(11) *Segment.* One of two or more divisions, product departments, plants, or





other subdivisions of an organization reporting directly to a home office, usually identified with responsibility for profit and/or producing a product or service. The term includes Government-owned contractor-operated (GOCO) facilities, and joint ventures and subsidiaries (domestic and foreign) in which the organization has a majority ownership. The term also includes those joint ventures and subsidiaries (domestic and foreign) in which the organization has less than a majority of ownership, but over which it exercises control.

(12) *Spread-gain actuarial cost method.* Any of the several projected benefit actuarial cost methods under which actuarial gains and losses are included as part of the current and future normal costs of the pension plan.

(13) *Termination gain or loss.* An actuarial gain or loss resulting from the difference between the assumed and actual rates at which plan participants separate from employment for reasons other than retirement, disability, or death.

(b) The following modifications of definitions set forth in Part 400 of this chapter are applicable to this Standard: None.

### § 413.10 Fundamental requirement.

(a) *Assignment of actuarial gains and losses.* Actuarial gains and losses shall be calculated annually and shall be assigned to the cost accounting period for which the actuarial valuation is made and subsequent periods.

(b) *Valuation of the assets of a pension fund.* The value of all pension fund assets shall be determined under an asset valuation method which takes into account unrealized appreciation and depreciation of pension fund assets, and shall be used in measuring the components of pension cost.

(c) *Allocation of pension cost to segments.* Contractors shall allocate pension cost to each segment having participants in a pension plan. A separate calculation of pension cost for a segment is required when the conditions set forth in § 413.50 (c) (2) and (3) are present. When these conditions are not present, allocations may be made by calculating a composite pension cost for two or more segments and allocating this cost to these segments by means of an allocation base.

### § 413.50 Techniques for application.

(a) *Assignment of actuarial gains and losses.* (1) In accordance with the provisions of 4 CFR Part 412, actuarial gains and losses shall be identified separately from unfunded actuarial liabilities being amortized.

(2) Actuarial gains and losses determined under a pension plan whose costs are measured by an immediate-gain actuarial cost method shall be amortized over a 15-year period in equal annual installments, beginning with the date as of which the actuarial valuation is made. The installment for a cost accounting period shall consist of an element for amortization of the gain or loss and an element for interest on the unamortized balance at the beginning of the period. If the actuarial gain or loss determined for a cost accounting period is not material, the entire gain or loss may be included as a component of the current or ensuing year's pension cost.

(3) Actuarial gains and losses applicable to a pension plan whose costs are measured by a spread-gain actuarial cost method shall be included as part of current and future normal cost and spread over the remaining average working lives of the work force.

(b) *Valuation of the assets of a pension fund.* (1) The actuarial value of the assets of a pension fund shall be used (i) in measuring actuarial gains and losses, and (ii) for purposes of measuring other components of pension cost.

(2) The actuarial value of the assets of a pension fund may be determined by the use of any recognized asset valuation method which provides equivalent recognition of appreciation and depreciation of pension fund assets. However, the total asset value produced by the method used shall fall within a corridor from 80 to 120 percent of the market value of the assets, determined as of the valuation date. If the method produces a value that falls outside the corridor, the value of the assets shall be adjusted to equal the nearest boundary of the corridor.

(3) The method selected for valuing pension fund assets shall be consistently applied from year to year within each plan.

(4) The provisions of paragraphs (b) (1) through (3) of this section are not applicable to plans that are funded with insurance companies under contracts where the insurance company guarantees benefit payments.

(c) *Allocation of pension cost to segments.* (1) For contractors who compute a composite pension cost covering plan participants in two or more segments, the base to be used for allocating such costs shall be representative of the factors which the pension benefits are based. For example, a base consisting of salaries and wages shall be used for pension costs that are calculated as a percentage of salaries and wages; a base consisting of the number of employees shall be used for pension costs that are calculated as an amount per employee.

(2) Separate pension cost for a segment shall be calculated whenever any of the following conditions exist for that segment, provided that such condition(s) materially affect the amount of pension cost allocated to the segment: (i) There is a material termination gain or loss attributable to the segment, (ii) The level of benefits, eligibility for benefits, or age distribution is materially different for the segment than for the average of all segments, or (iii) The appropriate assumptions relating to termination, retirement age, or salary scale are, in the aggregate, materially different for the segment than for the average of all segments. Calculations of termination gains or losses shall give consideration to factors such as unexpected early retirements, benefits becoming fully vested, and reinstatements or transfers without loss of benefits. An amount may be estimated for future reemployments.

(3) Pension cost shall also be separately calculated for a segment under circumstances where (i) The pension plan for that segment becomes merged with that of another segment, and (ii) The ratios of assets to actuarial liabilities for each of the merged plans are materially different from one another after applying the benefits in effect after the merger.

(4) Whenever the pension cost of a segment is required to be calculated separately pursuant to paragraphs (c) (2) and (3) of this section, such calculations shall be prospective only; pension costs need not be redetermined for prior years.

(5) For a segment whose pension costs are required to be calculated separately pursuant to paragraph (c) (2) of this section, there shall be an initial allocation of a share in the undivided pension fund assets to that segment, as follows: (i) If the necessary data are readily determinable, the amount of assets to be allocated to the segment shall be the amount of funds contributed by, or on behalf of, the segment, increased by income received on such funds, and decreased by benefits and expenses paid from such funds; (ii) if the data specified in subdivision (i) of this subparagraph, are not readily determinable, the actuarial value of the pension fund's assets shall be allocated to the segment in a manner consistent with the actuarial cost method or methods used to compute pension cost. For a segment whose pension costs are required to be calculated separately pursuant to paragraph (c) (3) of this section, the initial allocation of assets to the segment shall be the market value of the segment's assets as of the date of the merger.

(6) If prior to the time a contractor is required to use this Standard, it has been calculating pension cost separately for individual segments, the amount of assets previously allocated to those segments need not be changed.

(7) After the initial allocation of assets, the contractor shall maintain a record of the portion of subsequent contributions, income, benefit payments, and expenses attributable to the segment and paid from the pension fund; income and expenses shall include a portion of any investment gains and losses attributable to the assets of the pension fund. Fund income and expenses shall be allocated to the segment in the same proportion that the assets allocated to the segment bears to total fund assets as of the beginning of the period for which fund income and expenses are being allocated.

(8) If plan participants transfer among segments, contractors need not transfer assets or liabilities unless a transfer is sufficiently large to distort the segments' ratio of fund assets to actuarial liabilities.

(9) Contractors who separately calculate the pension cost of one or more segments may calculate such cost either



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for all pension plan participants assignable to the segment(s) or for only the active participants of the segment(s). If costs are calculated only for active participants, a separate segment shall be created for all of the inactive participants of the pension plan and the cost thereof shall be calculated. When a contractor makes such an election, assets shall be allocated to the segment for inactive participants in accordance with paragraphs (c) (5), (6), and (7) of this section. When an employee of a segment becomes inactive, assets shall be transferred from that segment to the segment established to accumulate the assets and actuarial liabilities for the inactive plan participants. The amount of funds transferred shall be that portion of the actuarial liabilities for these inactive participants that have been funded. If inactive participants become active funds and liabilities shall similarly be transferred to the segments to which the participants are assigned. Such transfers need be made only as of the last day of a cost accounting period. The total annual pension cost for a segment having active lives shall be the amount calculated for the segment plus an allocated portion of the pension cost calculated for the inactive participants. Such an allocation shall be on the same basis as that set forth in paragraph (c)(1) of this section.

(10) Where pension cost is separately calculated for one or more segments, the actuarial cost method used for a plan shall be the same for all segments, as required by 4 CFR 412.50(b). Unless a separate calculation of pension cost for a segment is made because of a condition set forth in paragraph (c)(2)(iii) of this section, the same actuarial assumptions may be used for all segments covered by a plan.

(11) If a pension plan has participants in the home office of a company, the home office shall be treated as a segment for purposes of allocating the cost of the pension plan. Pension cost allocated to a home office shall be a part of the costs to be allocated in accordance with the appropriate requirements of 4 CFR Part 403.

(12) If a segment is closed, the contractor shall determine the difference between the actuarial liability for the segment and the market value of the assets allocated to the segment, irrespective of whether or not the pension plan is terminated. The determination of the actuarial liability shall give consideration to any requirements imposed by agencies of the United States Government. In computing the market value of assets for the segment, if the contractor has not already allocated assets to the segment, such an allocation shall be made in accordance with the requirements of paragaraph (c)(5)(i) and (ii) of this section. The market value of the assets allocated to the segment shall be the segment's proportionate share of the total market value of the assets of the pension fund. The calculation of the difference between the market value of the assets and the actuarial liability shall be made as of the date of the event (e.g., contract termination) that caused the closing of the segment. If such a date cannot be readily determined, or if its use can result in an inequitable calculation, the contracting parties shall agree on an appropriate date. The difference between the market value of the assets and the actuarial liability for the segment represents an adjustment of previously-determined pension costs.

**§ 413.60 Illustrations.**

(a) *Assignment of actuarial gains and losses.* Contractor A has a defined-benefit pension plan whose costs are measured under an immediate-gain actuarial cost method. The contractor makes actuarial valuations every other year. In the past, at each valuation date, the contractor has calculated the actuarial gains and losses that have occurred since the previous valuation date and has merged such gains and losses with the unfunded actuarial liabilities that are being amortized. Pursuant to § 413.40(a), the contractor must make an actuarial valuation annually. Any actuarial gains or losses measured must be separately amortized over a 15-year period beginning with the period for which the actuarial valuation is made (§ 413.50(a)(1) and (2)).

(b) *Valuation of the assets of a pension fund.* Contractor B has a defined benefit pension plan, the assets of which are invested in equity securities, debt securities, and real property. The contractor, whose cost accounting period is the calendar year, has an annual actuarial valuation of the pension fund in June of each year; the effective date of the valuation is the beginning of that year. The contractor's method for valuing the assets of the pension fund is as follows: debt securities expected to be held to maturity are valued on an amortized basis running from initial cost at purchase to par value at maturity; land and buildings are valued at cost less depreciation taken to date; all equity securities and debt securities not expected to be held to maturity are valued on the basis of a 5-year moving average of market values. In making an actuarial valuation, the contractor must compare the values reached under the asset valuation method used with the market values of all of the assets (§ 413.40(b)). In this case, the assets are valued as of January 1 of that year. The contractor established the following values as of the valuation date.

| | Asset valuation method | Market |
|---|---|---|
| Cash | $100,000 | $100,000 |
| Equity securities | 6,000,000 | 7,800,000 |
| Debt securities expected to be held to maturity | 550,000 | 600,000 |
| Other debt securities | 600,000 | 750,000 |
| Land and buildings, net of depreciation | 400,000 | 750,000 |
| Total | 7,650,000 | 10,000,000 |

Section 413.50(b)(2) requires that the total value of the assets of the pension fund fall within a corridor from 80 to 120 percent of market. The corridor for the plan's assets as of January 1 is from $12 million to $8 million. Because the asset value reached by the contractor—$7,650,000—falls outside the corridor, the value reached must be adjusted to equal the nearest boundary of the corridor: $8 million. In subsequent years the contractor must continue to use the same method for valuing assets (413.50(b)(3)). If the value produced falls inside the corridor, such value shall be used in measuring pension cost.

(c) *Allocation of pension cost to segments.* (1) Contractor C has a defined-benefit pension plan covering employees at five segments. Pension cost is computed by use of an immediate-gain actuarial cost method. One segment (X) is devoted primarily to performing work for the Government. During the current cost accounting period, Segment X had a large and unforeseeable reduction of employees because of a contract termination at the convenience of the Government and because the contractor did not receive an anticipated follow-on contract to one that was completed during the period. As a result, the plan has a large net termination gain. As a consequence of this gain a separate calculation of the pension cost for Segment X would result in a materially different allocation of costs to that segment than would a composite calculation and allocation by means of a base. Accordingly, pursuant to § 413.50(c)(2), the contractor must calculate a separate pension cost for Segment X. In doing so, the entire termination gain must be assigned to Segment X and amortized over 15 years. If the actuarial assumptions for Segment X continue to be substantially the same as for the other segments, the termination gain may be separately amortized and allocated only to Segment X; all other Segment X computations may be included as part of the composite calculation. After the gain is amortized, the contractor is no longer required to separately calculate the costs for Segment X unless subsequent events require such separate calculation.

(2) Contractor D has a defined-benefit pension plan covering employees at ten segments, all of which have some contracts subject to Cost Accounting Standards. The contractor uses a spread-gain actuarial cost method and calculates pension cost by developing a pension cost rate and applying that rate to the salaries and wages of the work force. One of the segments (Segment Y) is entirely devoted to Government work. The contractor's policy is to place junior employees in this segment. The age distribution of the employees of the segment is so different from that of the other segments that the pension cost for Segment Y would be materially different if computed separately than if computed as part of a computation which averages the ages of all employees covered by the plan. Pursuant to § 413.50(c)(2), the contractor must compute the pension cost for Segment Y as if it were a separate pension plan. Accordingly, the contractor must allocate a portion of the pension fund's assets to Segment Y. Memorandum records may be used in





making the allocation. However, because this portion cannot be readily determined, § 413.50(c)(5)(ii) permits the allocation to be made on the basis of the actuarial cost method or methods used to calculate prior years' pension cost for the plan. Once the assets have been allocated, in future cost accounting periods the contractor shall make separate pension cost calculations for Segment Y based on the actual age distribution for the segment. Because the factors comprising pension cost for the other nine segments are relatively equal, the contractor may compute pension cost for these nine segments by using composite factors and developing a percentage of payroll for the nine segments. The pension cost allocated to each of the nine segments shall be the product of the percentages developed and the payroll of each segment (§ 413.50(c)(1)).

(3) Contractor E has a defined-benefit pension plan which covers employees at 12 segments. The contractor uses composite actuarial assumptions to develop a pension cost for all segments. Three of these segments primarily perform Government work; the work at the other nine segments is primarily commercial. Employee turnover at the segments performing commercial work is relatively stable. However, employment experience at the Government segments has been very volatile; there have been large fluctuations in employment levels and the contractor assumes that this pattern of employment will continue to occur. It is evident that separate termination assumptions for the Government segments and the commercial segments will result in materially different pension costs for the Government segments. Therefore, the cost for these segments must be separately calculated, using the appropriate termination assumptions for these segments (§ 413.50(c)(2)(iii)).

(4) Contractor F has a defined-benefit pension plan covering employees at 25 segments. Twelve of these segments primarily perform Government work; the remaining segments perform primarily commercial work. The contractor's records show that the termination experience and projections for the 12 segments are so different from that of the average of all of the segments that separate pension cost calculations are required for these segments pursuant to § 413.50(c)(2). However, because the termination experience and projections are about the same for all 12 segments, contractor F may calculate a composite pension cost for the 12 segments and allocate the cost to these segments by use of an appropriate allocation base.

(5) After this Standard becomes applicable to Contractor G, it acquires Contractor H and makes it Segment H. Prior to the merger, each contractor had its own defined-benefit pension plan. Under the terms of the merger, Contractor H's pension plan and plan assets were merged with those of Contractor G. The actuarial assumptions, current salary scale, and other plan characteristics are about the same for Segment H and Contractor G's other segments. However, based on the same benefits at the time of the merger, the plan of Contractor H had a disproportionately larger unfunded actuarial liability than did Contractor G's plan. Any combining of the assets and actuarial liabilities of both plans would result in materially different pension cost allocation to Contractor G's segments than if pension cost were computed for Segment H on the basis that it had a separate pension plan. Accordingly, pursuant to § 413.50(c)(5), Contractor G must allocate to Segment H a portion of the assets of the combined plan. The amount to be allocated shall be the market value of Segment H's pension plan assets at the date of the merger, adjusted for subsequent receipts and expenditures applicable to the segment (§ 413.50(c)(7)). Contractor G must use these amounts of assets as a basis for calculating the annual pension cost applicable to Segment H.

(6) Contractor I has a defined-benefit pension plan covering employees at seven segments. The contractor has been making a composite pension cost calculation for all of the segments. However, the contractor determines that, pursuant to this Standard, separate pension costs must be calculated for one of the segments. In accordance with § 413.50(c)(9), the contractor elects to allocate fund assets only for the active participants of that segment. The contractor must then create a segment to accumulate the assets and actuarial liabilities for the plan's inactive participants. When active participants of a segment become inactive, the contractor must transfer assets to the segment for inactive participants to cover the actuarial liabilities for the participants that become inactive. However, the amount to be transferred shall be proportionate to the percentage of such liabilities that are funded.

(7) Contractor J has a defined-benefit pension plan covering employees at ten segments. The contractor makes a composite pension cost calculation for all segments. The contractor's records show that the termination experience for one segment—primarily performing Government work—has been significantly different from the average turnover experience of the other segments. Moreover, the contractor assumes that such different experience will continue. Because of this fact, and because the application of a different termination assumption would result in significantly different costs being charged to the Government, the contractor must develop separate pension cost for that segment. In accordance with § 413.50(c)(2), the amount of pension cost must be based on an acceptable termination assumption for that segment; however, as provided in § 413.50(c)(10), all other assumptions for that segment may be the same as those for the remaining segments.

(8) Contractor K has a five-year contract to operate a Government-owned facility. The employees of that facility are covered by the contractor's overall defined-benefit pension plan which covers salaried and hourly employees at other locations. At the conclusion of the five-year period, the Government decides not to renew the contract. Although some employees are hired by the successor contractor, as far as Contractor K is concerned, the facility is closed. Pursuant to § 413.50(c)(12), Contractor K must compute an unfunded actuarial liability for the pension plan for that facility. The contractor first calculates the actuarial liability as of the date the contract expired. Because many of Contractor K's employees are terminated from the pension plan, the Internal Revenue Service considers it to be a partial plan termination, and thus requires that the terminated employees become fully vested in their accrued benefits to the extent such benefits are funded. Taking this factor into consideration, the actuary calculates the actuarial liability as amounting to $12.5 million. The contractor must then determine the market value of the pension fund assets allocable to the facility, pursuant to § 413.50(c)(5), as of the date agreed to by the contracting parties (§ 413.50(c)(12))—the date the contract expired. In making this determination the contractor establishes the ratio of the actuarial value of the assets allocable to the segment to the total actuarial value of the assets of the pension fund. The product of this ratio and the market value of all pension fund assets is the market value of the assets allocated to the segment. In this case, the market value of the segment's assets amounted to $13.8 million. Thus, for this facility the value of pension fund assets exceeded the actuarial liability by $1.3 million. This amount indicates the extent to which the Government over-contributed to the pension plan for the segment and, accordingly, indicates the extent to which prior years' pension costs are subject to adjustment.

**§ 413.70 Exemptions.**

None for this Standard.

**§ 413.80 Effective date.**

(a) The effective date of this Standard is March 10, 1978.

(b) This Standard shall be followed by each contractor on or after the start of his next cost accounting period beginning after the receipt of a contract to which this Cost Accounting Standard is applicable.

ARTHUR SCHOENHAUT,
*Executive Secretary.*

[FR Doc.77-20913 Filed 7-19-77;8:45 am]

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**Title 7—Agriculture**

**CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE**

[Lemon Regulation 100, Amendment 2]

**PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA**

**Limitation of Handling**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California-Arizona



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lemons that may be shipped to fresh market during the weekly regulation period July 10–16, 1977. The amendment recognizes that demand for lemons has improved, since the regulation was issued. This action will increase the supply of lemons available to consumers.

DATES: Weekly regulation period July 10–16, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; 202–447–3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.*—(1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Lemon Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of lemons, as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the lemon markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit lemon handlers to ship a larger quantity of lemons to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 15,000 cartons, in the interest of producers and consumers.

(3) It is futher found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of lemons.

(b) *Order, as amended.*—Paragraph (b)(1) of § 910.400 Lemon Regulation 100 (42 FR 35142, July 8, 1977; amended at 42 FR 36990, July 19, 1977) is amended to read as follows:

**§ 910.400 Lemon Regulation 100.**

* * * * *

(b) *Order.*—(1) The quantity of lemons grown in California and Arizona which may be handled during the period July 10, 1977, through July 16, 1977, is established at 330,000 cartons.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: July 15, 1977.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77-20703 Filed 7-19-77;8:45 am]

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[Docket No. AO–198–A9]

## PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

### Order Amending the Order, as Amended

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final order amends the Federal marketing agreement and order, as amended, covering California raisins to improve procedural operations. It is based on proposals submitted by the Raisin Administrative Committee and considered at a public hearing last November.

EFFECTIVE DATE: All changes are effective August 1, 1977, except for the deletions of §§ 989.96 and 989.97 (Exhibit B) which are effective October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, Department of Agriculture, Washington, D.C. 20250. 202–447–3545.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

*Notice of Hearing*—Issued October 21, 1976; published October 27, 1976 (41 FR 47059).

*Notice of Recommended Decision*—Issued March 28, 1977; Published April 1, 1977 (42 FR 17463).

*Final Decision*—Issued May 28, 1977; Published June 1, 1977 (42 FR 27913).

A principal change would make each "varietal type" of raisin covered under the order broad enough to include all raisins with similar characteristics and market uses regardless of the grape variety or method of drying used in producing the raisins. Another change would provide for grading requirements and grower district representation provisions to be moved from the order to the rules and regulations to facilitate reference. Minor changes in provisions pertaining to offers of reserve tonnage raisins to handlers would also be made for easier administration and authority would be added to designate certain raisins for production, processing, and marketing research and development projects, and for exempting these raisins from any or all regulation under the order. The raisin growers voted to amend the order in a referendum conducted by the Department by mail ballot June 2–9, 1977.

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto. Except the findings as to the base period for parity computation, and except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR 989), regulating the handling of raisins produced from grapes grown in California.

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to affectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of raisins produced from grapes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of raisins produced from grapes grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of raisins produced from grapes grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Additional findings.* It is necessary and in the public interest to make all of the amendatory provisions except those dealing with the deletion of §§ 989.96 and 989.97 (Exhibit B) effective not later than August 1, 1977. The 1977–78 crop year begins August 1, 1977, and all of the amendatory changes, except those dealing with the aforementioned deletion, should be effective on that date so that the improvements in program operations and procedures provided by these amendatory changes can be utilized when that crop year begins. Also, several of the amendatory changes require rule-





making which would be delayed beyond the time when deliveries of 1977 crop raisins begin if these amendatory changes are made effective later than August 1.

The requirements in §§ 989.96 and 989.97 (Exhibit B) will be established in the rules and regulations after August 1, 1977, but before October 1, 1977. Therefore, to assure continuous regulation and to provide time for relocating these requirements into the rules and regulations, the deletion of these two sections is effective October 1, 1977.

In view of the foregoing, it is hereby found and determined that good cause exists for making the amendatory changes effective as hereinafter specified, and that it would be contrary to the public interest to delay the effective date of all of the amendatory changes, except those dealing with the deletion of §§ 989.96 and 989.97 (Exhibit B), for 30 days after its publication in the FEDERAL REGISTER (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

(c) *Determinations.* It is hereby determined that:

(1) The "Marketing Agreement, as Amended, Regulating the Handling of Raisins Produced from Grapes Grown in California" upon which the aforesaid public hearing was held has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping raisins covered by the said order, as amended, and as hereby further amended) who, during the period August 1, 1975, through July 31, 1976, handled not less than 50 percent of the volume of such raisins covered by the said order, as amended, and as hereby further amended; and

(2) The issuance of this amendatory order, amending the aforesaid order, as amended, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who during the period August 1, 1975, through July 31, 1976 (which has been deemed to be a representative period), have been engaged within the State of California in the production of grapes which were sun-dried or dehydrated by artificial means until they became raisins for market, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

ORDER RELATIVE TO HANDLING

*It is therefore ordered*, That on and after the effective date hereof, the handling of raisins shall be in conformity to and in compliance with the terms and conditions of the said order, as amended, and as hereby further amended, as follows:

1. Section 989.2 is revised to read:

**§ 989.2 Act.**

"Act" means Public Act No. 10, 73d Congress, as amended, and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

**§ 989.6 [Deleted]**

2. Section 989.6 is deleted.

**§ 989.8 [Amended]**

3. Section 989.8 is amended by deleting the phrase "with or without bleaching".

4. Section 989.10 is revised to read:

**§ 989.10 Varietal types.**

"Varietal types" means raisins generally recognized as possessing characteristics differing from other raisins in a degree sufficient to make necessary or desirable separate identification and classification. Varietal types are the following: Natural (sun-dried) Seedless, Dipped Seedless, Golden Seedless, Muscats (including other raisins with seeds), Sultana, Zante Currant and Monukka: *Provided*, That the committee may, subject to approval of the Secretary, change this list of varietal types.

**§ 989.13 [Amended]**

5. Section 989.13 is amended by deleting the phrase "(as defined in paragraph (f) of § 989.59)".

6. Section 989.22 is revised to read:

**§ 989.22 District.**

"District" means any one of the geographical areas referred to in §§ 989.26 or 989.43, and designated in the rules and regulations.

7. Section 989.24 is amended by revising the section heading and paragraph (b), and adding new paragraphs (c) and (d), to read:

**§ 989.24 Standard raisins, off-grade raisins, other failing raisins, and raisin residual material.**

(a) * * *

(b) "Off-grade raisins" means raisins which do not meet the then effective minimum grade and condition standards for natural condition raisins: *Provided*, That raisins which are certified as off-grade raisins shall continue to be such until successfully reconditioned or become "other failing raisins".

(c) "Other failing raisins" means any raisins received or acquired by a handler, either as standard raisins or off-grade raisins, which are processed to a point where they qualify as packed raisins but fail to meet the applicable minimum grade standards for packed raisins.

(d) "Raisin residual material" means defective raisins, stemmer waste, sweepings, and other residue accumulated by a handler from reconditioning raisins or from processing standard raisins and other failing raisins.

8. The second sentence of § 989.26 is revised to read:

**§ 989.26 Establishment and membership.**

* * *. The producer members shall be selected in the number and for the districts as designated in the rules and regulations, or as such number or districts may be authorized pursuant to § 989.26a. * * *

9. The first sentence of § 989.26a is revised to read:

**§ 989.26a Changes in producer representation.**

The Secretary, on recommendation of the committee, may change the total number of producer members on the committee, may change the number of districts designated in the rules and regulations, may redefine such districts into which the production area is divided, or may change the number of producer members which shall be selected to represent particular districts. * * *

10. Paragraphs (a) and (b) and the proviso in paragraph (d)(1) of § 989.58 are revised to read:

**§ 989.58 Natural condition raisins.**

(a) *Regulation.* No handler shall acquire or receive natural condition raisins which fail to meet such minimum grade and condition standards as the committee may establish, with the approval of the Secretary, in applicable rules and regulations: *Provided*, That a handler may receive raisins for inspection, may receive off-grade raisins for reconditioning and may receive or acquire off-grade raisins for disposition in eligible nonnormal outlets: *And provided further*, That a handler may acquire natural condition raisins which exceed the tolerance established for maturity under a weight dockage system established pursuant to rules and regulations recommended by the committee and approved by the Secretary. Nothing contained in this paragraph shall apply to the acquisition or receipt of natural condition raisins of a particular varietal type for which minimum grade and condition standards are not applicable or then in effect pursuant to this part.

(b) *Changes in minimum grade and condition standards for natural condition raisins.* The committee may recommend to the Secretary changes in the minimum grade and condition standards for natural condition raisins of any varietal type and may recommend to the Secretary that minimum grade and condition standards for any varietal type be added or deleted. The committee shall submit with its recommendation all data and information upon which it acted in making its recommendation, and such other information as the Secretary may request. The Secretary shall approve any such change if he finds, upon the basis of the data submitted to him by the committee or from other pertinent information available to him, that to do so would tend to effectuate the declared policy of the act.

* * * * *

(d)(1) * * *: *Provided*, That the initial inspection for infestation shall not be required if the raisins are fumigated in accordance with such rules and procedures as the committee shall establish with the approval of the Secretary. * * *

* * * * *



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11. Paragraphs (a) and (b) of § 989.59 are revised to read:

**§ 989.59 Regulation of the handling of raisins subsequent to their acquisition by handlers.**

(a) *Regulations.* Unless otherwise provided in this part, no handler shall: (1) Ship or otherwise make final disposition of natural condition raisins, unless they at least meet the effective and applicable minimum grade and condition standards for natural condition raisins; or (2) ship or otherwise make final disposition of packed raisins unless they at least meet such minimum grade standards established by the committee, with the approval of the Secretary, in applicable rules and regulations or as later changed or prescribed pursuant to the provisions of paragraph (b) of this section: *Provided,* That nothing contained in this paragraph shall prohibit the shipment or final disposition of any raisins of a particular varietal type for which minimum standards are not applicable or then in effect pursuant to this part; *And provided further,* That a handler may grind raisins, which do not meet the minimum grade standards for packed raisins because of mechanical damage or sugaring into a raisin paste.

(b) The committee may recommend changes in the minimum grade standards for packed raisins of any varietal type and may recommend to the Secretary that minimum grade standards for any varietal type be added or deleted. The committee shall submit with its recommendation all data and information upon which it acted in making its recommendation, and such other information as the Secretary may request. The Secretary shall approve any such change if he finds, upon the basis of data submitted to him by the committee or from other pertinent information available to him, that to do so would tend to effectuate the declared policy of the act.

* * * * *

**§ 989.59 [Amended]**

12. Section 989.59(f) is amended by deleting the phrase "(including defective raisins, stemmer waste, sweepings, and other residue)" from the first sentence and by deleting the comma following "standard raisins", and the second sentence.

13. The note following § 989.60(b) is deleted and a new paragraph (c) is added to § 989.60 to read:

**§ 998.60 Exemption.**

* * * * *

(c) The committee may designate such raisins as it deems appropriate for production, processing, and marketing research and development. The period of such designation shall be for not more than five years unless extended by the committee. The volume which may be acquired by all handlers shall not exceed 500 natural condition tons annually for each designated project, unless increased by the Secretary upon a recommendation of the committee. Such designated raisins may be acquired and disposed of free from those regulations specified by the committee. In any crop year, when the total industry acquisitions of the designated raisins exceed 500 natural condition tons or a larger quantity approved by the Secretary upon a recommendation of the committee, the exemption shall not apply.

14. Section 989.61 is revised to read:

**§ 989.61 Above parity situations.**

The provisions of this part relating to minimum grade and condition standards and inspection requirements, within the meaning of section 2(3) of the act, and any other provisions pertaining to the administration and enforcement of the order, shall continue in effect irrespective of whether the estimated season average price to producers for raisins is in excess of the parity level specified in section 2(1) of the act.

15. The first sentence of subparagraph (3) in § 989.66(b) is revised to read:

**§ 989.66 Reserve tonnage generally.**

* * * * *

(b) * * *

(3) Each handler may, under the direction and supervision of the committee, substitute for any reserve tonnage raisins a like quantity of standard raisins of the same varietal type and of the same or a more recent year's production. * * *

* * * * *

16. The last sentence of § 989.67(d)(1) is deleted, and the second sentences of paragraphs (f) and (j) of § 989.67 are revised to read:

**§ 989.67 Disposal of reserve raisins.**

* * * * *

(f) * * *. The committee may establish a price for such replacement tonnage which is higher, the same as, or lower than that for reserve tonnage in the first offer of the crop year. * * *

* * * * *

(j) * * *. Any quantities of reserve raisins offered to handlers for free use, except as provided in § 989.54(d), may be offered to them on the basis of handler shipments or acquisitions in the same manner as in subparagraph (1) of paragraph (d), of this section. If offered on the basis of acquisitions, shares shall be determined pursuant to subparagraph (2) of paragraph (d) of this section. If offered on the basis of shipments, the same formula shall be used, except that shipments shall be used as the basis instead of acquisitions in computing handlers' shares. * * *

**§ 989.79 [Amended]**

**§ 989.80 [Amended]**

**§ 989.82 [Amended]**

17. The word "fumigating" is added after the word "receiving" in the first sentences of § 989.80(a) and 989.82, and after the word "storing" in the next-to-the-last sentence of § 989.79.

18. In the fourth sentence of § 989.80(c), the words "and the Board" immediately following the words "functions of the committee" are deleted.

**§ 989.84 [Amended]**

19. Section 989.84 is amended by deleting the phrase "(as defined in § 989.59(f))".

**§ 989.96 [Deleted]**

20. Section 989.96 is deleted, effective October 1, 1977.

**§ 989.97 [Revoked]**

21. Section 989.97 (Exhibit B) and the note following this section are deleted effective October 1, 1977.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

*Effective date:* All changes are effective August 1, 1977, except the deletions of §§ 989.96 and 989.97 (Exhibit B) which are effective October 1, 1977.

Signed at Washington, D.C., on July 14, 1977.

JERRY C. HILL,
*Deputy Assistant Secretary for Marketing Services.*

[FR Doc.77-20893 Filed 7-19-77;8:45 am]

## Title 8—Aliens and Nationality

## CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

## PART 299—IMMIGRATION FORMS

## PART 499—NATIONALITY FORMS

### Current Edition Dates of Service Forms

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This order amends the lists of immigration and nationality forms published in the Service's regulations to reflect the current edition dates of certain Service forms which have been revised, and the cancellation of a Service form. The amendments are being published for the information and guidance of all persons involved in immigration and nationality work.

EFFECTIVE DATE: July 20, 1977.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, D.C. 20536, telephone 202–376–8373.

SUPPLEMENTARY INFORMATION: The edition dates of several immigration and nationality forms included in the lists published in 8 CFR 299.1 and 8 CFR 499.1 have been changed. Also, Form I–550 (4–1–76), "Application for Verification of Lawful Permanent Residence of an Alien" has been canceled. Form G–641 (8–12–76), "Application for Verification of Information from Immigration and Naturalization Records" should now be used to obtain the information formerly requested by use of Form I–550.

Accordingly, 8 CFR 299.1 and 8 CFR 499.1 will be amended to reflect the current edition dates of the forms indicated. 8 CFR 299.1 will be further amended to delete the reference to Form I–550 in its entirety.

The following amendments are hereby prescribed to Parts 299 and 499 of Chapter I of Title 8 of the Code of Federal Regulations:

1. In § 299.1, the listing of forms is amended to reflect the current edition dates of the following forms:

**§ 299.1 Prescribed forms.**

* * * * *

| *Form No., Title, and Description* |
|---|
| * * * * * |
| DSP–66 (6–75). Certificate of Eligibility for Exchange Visitor Status. |
| * * * * * |
| G–27 (10–13–76). Request for Recognition to Represent before the Board of Immigration Appeals and the Immigration and Naturalization Service. |
| * * * * * |
| G–641 (8–12–76). Application for Verification of Information from Immigration and Naturalization Records. |
| * * * * * |
| I–129F (1–1–77). Petition to Classify Status of Alien Fiance or Fiancee for Issuance of Nonimmigrant Visa. |
| I–130 (1–1–77). Petition to Classify Status of Alien Relative for Issuance of Immigrant Visa. |
| * * * * * |
| I–140 (1–10–77). Petition to Classify Preference Status of Alien on Basis of Profession or Occupation. |
| * * * * * |
| I–185 (1–1–75). Nonresident Alien Canadian Border Crossing Card. |
| * * * * * |
| I–221S (8–26–76). Order to Show Cause, Notice of Hearing, and Warrant for Arrest of Alien. |
| * * * * * |
| I–323 (3–15–77). Notice—Immigration Bond Breached. |
| * * * * * |
| I–342 (2–15–77). Determination of the Immigration Judge with Respect to Custody. |
| * * * * * |
| I–352 (10–14–76). Immigration Bond. |
| * * * * * |
| I–391 (3–14–77). Notice—Immigration Bond Cancelled. |
| * * * * * |
| I–425 (3–24–77). Agreement for Preinspection at Places Outside United States. |
| * * * * * |
| I–485(1–10–77)). Application for Status as Permanent Resident. |
| * * * * * |
| I–526 (10–7–76). Request for Determination that Prospective Immigrant is an Investor. |
| * * * * * |

2. § 299.1, *Prescribed forms,* is further amended by deleting "Form I–550 (4–1–76) Application for Verification of Lawful Permanent Residence of an Alien" from the listing.

In § 499.1, the listing of forms is amended to reflect the current edition dates of the following forms:

**§ 499.1 Prescribed forms.**

* * * * *

| *Form No., Title, and Description* |
|---|
| G–641 (8–12–76). Application for Verification of Information from Immigration and Naturalization Records. |
| * * * * * |
| N–400 (3–15–77). Application to File Petition for Naturalization. |
| * * * * * |
| N–405 (5–20–77). Petition for Naturalization (under general provisions of the Immigration and Nationality Act). |
| * * * * * |
| N–426 (5–12–77). Certification of Military or Naval Service. |
| * * * * * |
| N–600 (4–29–77). Application for Certificate of Citizenship. |

(Sec. 103; 66 Stat. 173; (8 U.S.C.–1103).)

The above amendments are issued pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93–502 (88 Stat. 1561) and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1. Compliance with section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance because the amendments contained in this order are editorial in nature.

Effective date: The amendments prescribed in this order become effective on July 20, 1977.

Dated: July 14, 1977.

LEONEL J. CASTILLO,
*Commissioner of Immigration and Naturalization.*

[FR Doc.77-20780 Filed 7-19-77;8:45 am]

## Title 15—Commerce and Foreign Trade

## SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE

## PART 3—RULES OF PROCEDURE FOR HANDLING CONTRACT APPEALS

### Preliminary Procedure

AGENCY: U.S. Department of Commerce.

ACTION: Rule change.

SUMMARY: The requirement that two representatives be named and sign submissions to the Board has imposed a burden on a number of cases and has not increased the level of responsiveness as anticipated. The requirement is therefore being withdrawn.

EFFECTIVE DATE: July 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Hugh J. Dolan, Chairman, Appeals Board (377–3135).

Section 3.3 of the Rules is amended by deleting paragraph (b) in its entirety, and the remaining paragraph (a) should become undesignated.

HUGH J. DOLAN,
*Chairman, Appeals Board.*

[FR Doc.77-20895 Filed 7-19-77;8:45 am]

## Title 16—Commercial Practices

## CHAPTER 1—FEDERAL TRADE COMMISSION

[Docket C–2894]

## PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

### Men's Wear International, Inc., et al.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a New York City importer and distributor of clothing to cease misrepresenting the wool and other fiber content of its wool blend clothing. Further, the order would require the respondent to notify all purchasers of its misbranded products that the clothing purchased had been misbranded.

DATES: Complaint and order issued June 21, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

Richard A. Givens, Director, New York Regional Office, Federal Trade Commission, 2243–EB Federal Building, 26 Federal Plaza, New York, N.Y. 20007 (212–264–1207).

SUPPLEMENTARY INFORMATION: On Thursday, April 21, 1977, there was published in the FEDERAL REGISTER (42 FR 20668) a proposed consent agreement with analysis In the Matter of Men's Wear International, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order. No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR, are as follows:

Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures. Subpart—Misbranding or Mislabeling: § 13.1212 Formal regulatory and statutory requirements; 13.–1212–90 Wool Product Labeling Act.

[1] Copies of the complaint, and the decision and order filed with the original document.



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Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1623 Formal regulatory and statutory requirements; 13.1623–90 Wool Products Labeling Act. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; 13.1852–80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; secs. 2–5, 54 Stat. 1128–1130; 15 U.S.C. 45, 68.)

CAROL M. THOMAS,
*Secretary.*

[FR Doc.77-20896 Filed 7-19-77;8:45 am]

## Title 32—National Defense

### CHAPTER XII—DEFENSE LOGISTICS AGENCY

#### SUBCHAPTER B—MISCELLANEOUS

[DLAR 5030.11]

### PART 1287—DLA CONSUMER REPRESENTATION PROGRAM

#### Implementation

AGENCY: Defense Logistics Agency (DLA).

ACTION: Final rule.

SUMMARY: This regulation implements the DLA Consumer Representation Program which was developed at the direction of ASD(MRA&L). Its purpose is to ensure DLA consumer representation techniques reflect the needs of the consumer and that consumer advice and participation is encouraged.

EFFECTIVE DATE: May 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Ms. Nancy B. McMahon, Commercial—AC 202–274–6176; AUTOVON—284–6176.

By order of the Director.

J. J. MCALEER, Jr.,
*Colonel, U.S. Army,*
*Staff Director, Administration.*

Part 1287, Subchapter B, Chapter XII of Title 32 of the Code of Federal Regulations is added to read as follows:

Sec.
1287.1 Purpose and scope.
1287.2 Policy.
1287.3 Background.
1287.4 Responsibilities.

AUTHORITY: 5 U.S.C. 301; 10 U.S.C. 125, 133; DoD Directive 5105.22, January 5, 1977.

**§ 1287.1 Purpose and scope.**

To establish policy guidance, assign organizational responsibilities, and provide procedures for carrying out a DLA Consumer Representation Program, hereinafter referred to as the program, and to implement DoD Directive 5030.56, DoD Consumer Representation Program. This Part 1287 is applicable to HQ DLA and all DLA primary level field activities.

**§ 1287.2 Policy.**

DLA consumer representation techniques shall reflect the needs of consumers and be designed to encourage consumer advice and participation.

**§ 1287.3 Background.**

(a) The program will ensure that persons who are affected by consumer oriented DLA-sponsored legislation, regulation, policy decisions, or program action, have the opportunity to comment on the subject before a decision is reached, and that their views are duly considered in the decisionmaking process. The program is intended to make it easier for consumers, planners, and managers to focus their attention on issues of special and general consumer concern in DLA.

(b) The mission of DLA consists of three major areas: logistics support, contract administration, and technical and logistics services. The primary customers of DLA are the Military Services. Other direct contact is with defense contractors as producers of material for the Military Services. As such, DLA functions are not generally oriented to the private sector/Consumer. Contact with the private sector/consumer, when it does occur, is an integral and routine aspect of operational programs. Those programs outlined in Appendix A are the DLA programs which provide a practical opportunity for consumer representation and as such constitute and serve as the program.

**§ 1287.4 Responsibilities.**

(a) HQ DLA. The Assistant Director, Plans, Programs and Systems, DLA (DLA–L) will:

(1) Serve as point of contact for all matters pertaining to the program.

(2) Monitor effectiveness of the program.

(b) The Heads of HQ DLA Principal Staff Elements and Primary Level Field Activities will:

(1) Ensure that all instructions for which they are responsible are consistent with this Part 1287.

(2) Actively solicit consumer opinion and ensure that appropriate feedback is provided on consumer oriented legislation, regulation, policy decision, or program action.

APPENDIX A

DLA ACTIVITIES WHICH IMPACT ON CONSUMERS

1. *Consumer Product Information Program (DLAR 5030.7).*—DLA policy is to make available consumer product information through the Central Consumer Product Information Coordinating Center in the General Services Administration. Product information is defined as documents that would be potentially useful to the public consumer in making informed judgments about products in the market place.

2. *Economic Adjustment Assistance to Defense Impacted Communities (DLAR 5410.2).*—This regulation establishes policy guidance for an economic adjustment program to minimize economic impact on communities resulting from changes in Defense programs. When there is a serious economic impact, the resources of the Federal Government will be brought to bear on the problem, and every practical consideration will be given to implementing action in a manner to minimize local economic impact. Assistance is directed toward helping communities to help themselves. The program emphasizes identification of a responsible community leadership group to work with the Economic Adjustment Council (EAC). An onsite community survey by an EAC is made to assist community leaders in evaluating community needs and resources, and to help formulate a development strategy and a community economic adjustment program to achieve desired objectives. In support of these local objectives, DLA field activities shall cooperate with and assist local leaders in efforts to identify activity property that the community could beneficially utilize. Complete details of the program can be found in DLAR 5410.2.

3. *Inspector General.*—(a) The Inspector General (IG), DLA will forward consumer complaints received to the appropriate HQ DLA PSE and copies of PSE responses will be furnished the IG, DLA, for management visibility purposes.

(b) Military Service Commissaries supported by DLA will be visited by the IG, DLA, with a view toward recognizing consumer problems and proposing corrective actions. Close interface is maintained with the Military Services to promote cognizance of problems observed in order to improve service to customers. In addition, the IG, DLA will visit Military Service mess halls to determine consumer satisfaction with DLA supplied subsistence.

4. *Civil Defense Preparedness.*—DLA support of the Defense Civil Preparedness Agency (DCPA) Programs is outlined in DLAR 3025.1. The DCPA is responsible for preparing plans and programs for the Civil Defense of the United States. DLA plans, directs, schedules, and participates in logistics and technical meetings with representatives from various Government organizations and municipal agencies. The objective is to make citizens in the community better prepared to protect life and property in the event of a threatened or actual attack.

5. *Property Disposal.*—To increase customer confidence, DoD 4160.21–M requires the surplus property sale descriptions be complete and accurate. As part of this obligation, sales of hazardous material should include special conditions based on all available information advising purchasers that the property requires additional precautions. Moreover, with respect to arms, ammunition, and implements of war and other military type items, DoD 4160.21–M–1 requires demilitarization to the extent necessary to preclude unauthorized use, destroy inherent military advantages, render dangerous property innocuous, protect national interests, and preclude compromise of security requirements. Surplus property sales contracts also include appropriate environmental, safety, and health provisions. In addition, most sales contracts include a Guaranteed Descriptions Articles providing for refund of the purchase price if items are determined to be misdescribed. DoD 4160.21–M contains details regrading the rights of surplus property over purchasers.

6. *Solicitation and Sale of Insurance on DoD Installations (DLAR 1344.1).*—Governs the solicitation and sale of all types of insurance including life, health, and motor vehicle liability on DoD installations to ensure protection of consumers. Consumer feedback in the form of reports regarding the quality of goods, services, and commodities are used to extend or revoke solicitation privileges.

[FR Doc.77-20762 Filed 7-19-77;8:45 am]





## Title 40—Protection of the Environment

### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 765–1]

#### SUBCHAPTER D—WATER PROGRAMS

### PART 136—GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS

#### Amendment; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction of final rule.

SUMMARY: This notice corrects the amendments to 40 CFR 136 (§ 136.3, Table 1) which were published on December 1, 1976 in the FEDERAL REGISTER (41 FR 52780) by reinstating the post-filtration washing option for total suspended residue measurements. On page 52784, for parameter number 106, Total Suspended Residue, add in the column titled "Method," a new line which reads: "Glass fiber filtration, 103–105°C, post-washing of residue," and opposite this entry in the column titled "Other Approved Methods," the page and footnote designation "[27]537." On page 52785 add a new footnote 27 to read: "[27] Standard Methods for the Examination of Water and Wastewater, 13th Edition, (1971)."

EFFECTIVE DATE: June 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert B. Medz, Office of Monitoring and Technical Support, RD–680, 401 M St., SW., Washington, D.C. 20460, 202–426–4727.

STEPHEN J. GEORGE,
*Acting Assistant Administrator for Research and Development.*

JULY 14, 1977.

[FR Doc.77-20768 Filed 7-19-77;8:45 am]

## Title 45—Public Welfare

### CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

### PART 250—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

#### Quality Control Review of Negative Case Actions

AGENCY: Department of Health, Education, and Welfare (HEW).

ACTION: Final regulations.

SUMMARY: These regulations reinstate a requirement, discontinued in April 1973, for States to perform a Quality Control (QC) review of negative case actions in the Aid to Families with Dependent Children (AFDC) and Medicaid programs in all jurisdictions and in the assistance programs for the aged, blind, or disabled in Puerto Rico, the Virgin Islands, and Guam. Negative case actions are actions to deny an application for, or to terminate, financial or medical assistance. The requirement is being reinstated because:

1. Results from Federal management reviews of denials and terminations (conducted outside the QC system since 1973) have proved unsatisfactory;

2. The Department became convinced, during negotiations with the New Coalition, that the scope of an effective QC system must include review of negative case actions; and

3. The manner in which the requirement was discontinued in 1973 has been challenged in court.

The negative case action review will complement currently required QC reviews of active cases. It will promote proper and efficient operation of the programs by helping to assure that assistance is provided to each individual who meets the eligibility conditions.

EFFECTIVE: July 1, 1977, for financial assistance; and October 1, 1977, for Medicaid.

FOR FURTHER INFORMATION CONTACT:

Dr. Victor Kugajevsky (202–245–0330).

SUPPLEMENTARY INFORMATION: Prior to April 6, 1973, the Department used the QC system to monitor negative case actions as well as active cases. As of that date, States were asked to concentrate on completing sample reviews of active AFDC cases. To facilitate this effort, States were relieved of all other responsibilities for Quality Control. Specifically:

1. The Medicaid quality control system was temporarily suspended.

2. Quality control reviews of negative case actions in the financial assistance programs were no longer required.

3. Reviews of active cases in the programs of aid to the aged, blind, or disabled were required only in Puerto Rico, the Virgin Islands, and Guam. (Title XVI (SSI) was to supersede these programs in the other jurisdictions on January 1, 1974.)

Following the 1973 decision, the Department developed a new Medicaid QC system for review of paid claims, which went into effect on July 1, 1975.

In 1973 the Department chose to review AFDC negative case actions outside the QC system through a federally-conducted system of management reviews. As indicated in the summary, the results proved unsatisfactory and this and other factors convinced the Department that the reinstatement of negative case action review was necessary.

The purpose of the amendments to the regulations is to reinstate review of negative case actions in the Quality Control system for the financial and medical assistance programs.

The basis for the amended regulations is the Department's conviction that this is necessary to measure the over-all effectiveness of the operation of these programs.

COMMENTS ON PROPOSED RULEMAKING

Notice of proposed rulemaking was published in the FEDERAL REGISTER on December 22, 1976 (41 FR 55727). The proposal specifically requested comment on the effective date of implementation of negative case action reviews. In addition, the Department asked for comment on the issue of tolerance levels for erroneous negative case actions.

Responses pertinent to the proposal were received from 15 State Governors, 30 State and 2 local welfare or medicaid agencies, and 40 organizations and private citizens during the comment period. Over two-thirds of the 87 comments received were in favor of negative case action reviews. Many of those who commented, while favoring the concept, raised questions or made suggestions that led to changes in the final regulations. The comments and changes are discussed below.

1. NEED FOR NEGATIVE CASE ACTION REVIEW

Six Governors and 18 State or local agencies questioned the allocation of resources to address a problem they contend has not been demonstrated to exist. They cited low rates of incorrect negative action in the Food Stamp program and in the reviews of assistance cases prior to 1973. Some considered that the requirement for States to give notice and opportunity for hearings provides sufficient safeguards. Others suggested that the Department make a pilot test to determine cost/benefit; some who commented recommended periodic reviews as part of the State's internal management system.

The Department believes that the negative case action reviews will provide comparable national data and a balanced QC system capable of measuring overall program management. The current QC system measures only the appropriateness of assistance provided to recipients. This limited scope may unduly focus State attention on only one aspect of program management. The resources needed to implement the negative case action review are justified by the comprehensiveness of the expanded system. Moreover, the fair hearing procedures cannot substitute for QC review. The number of appeals is small in proportion to, and not representative of, the total denials and terminations of assistance.

2. SCOPE OF REVIEW

Concurrently with publication of the notice of proposed rulemaking, draft review procedures were circulated to Regional and State staff. They would have required full eligibility determination by the QC reviewer in all cases for which he found that the reason given by the agency for denial or termination was incorrect or could not be determined to be correct.

A number of States suggested that a full field investigation would not be cost effective, and would distort the review findings. They recommended that the QC review end as soon as it is deter-



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mined that a denial or termination cannot be supported by the stated reason. The case would then be remanded to the local agency for appropriate action. They considered that identification and analysis of all incorrect actions based on the stated reason would be sufficient for effective corrective action.

The Department is now persuaded that the additional data obtained by an extension of the negative case action review to a full eligibility review in the cited instances would not justify the cost. It is also convinced that an extension of the review scope might tend to distort the review findings and hinder effective corrective action. The review procedures in the QM Manuals are being modified accordingly.

3. EFFECTIVE DATES OF IMPLEMENTATION

Ten Governors and 21 State and local agencies were opposed to the proposed implementation dates. Thirteen legal aid agencies and 5 citizens thought that the reinstatement of the system was long overdue and supported the proposed dates.

State's opposition was based on reasons such as lack of resources, legislative budgeting cycles, need to develop technology for compiling universe data, time to recruit and train staff. A majority of the responding agencies favored a lead time of at least one year.

The Department recognized that the above cited problems preclude implementation of the Medicaid negative case action system on April 1, 1977. One of the most significant of these is the compilation of universe data from which samples are selected, particularly with respect to denied applications. Lists of denied Medicaid applications are generally maintained at local agency level. There is need for computer reprogramming or development of other methods to insure that the total sample universe is available for sampling each month. Accordingly, the implementation date for negative case action reviews in Medicaid is changed to October 1, 1977.

With regard to the financial assistance programs, the situation differs in several respects. States had considerable experience with negative case action reviews from 1964 to 1972. The later proposed implementation date provides additional time to resolve any sampling or other problems. The reduction in scope, discussed in section 2 above, significantly reduces the need for field investigations. Since records of denials and terminations can be read at the same time that active cases are read, little if any additional travel time will be required. Finally, the Department, during the course of the pending litigation in *WRO of Allegheny Co.* v. *Califano* has made the commitment to implement QC negative case action reviews at the earliest practicable date. For these reasons, the proposed July 1, 1977, implementation date is retained for the financial assistance programs.

4. ESTABLISHMENT OF NEGATIVE CASE ERROR TOLERANCE LEVELS

The preamble of the proposed regulations asked for comments on whether to set tolerances, and, if so, at what level. The vast majority of respondents recommended either that no tolerances be established or that they be established only after the system was operational and there was empirical data to support them.

A 3 percent tolerance was established in the previous negative case action review system. However, because that system was not fully operational in all States, there is no statistically valid national data on which to judge the appropriateness of that or any other figure. Accordingly, tolerance levels will not be established until new data is available.

5. INCORPORATION OF PROCEDURES IN REGULATIONS

There were objections to the lack of specificity in the proposed regulations. The areas where greater specificity was considered necessary included definition of negative case actions, description of the sample universe, scope of review, and corrective action procedures. Some comments cited the requirements of 5 U.S.C. sec. 552 that all substantive rules of general applicability be published in the FEDERAL REGISTER for the guidance of the public. They suggested that the QC Manuals which detail the procedures for QC reviews be incorporated into the regulations.

The procedures set forth in the QC Manuals are specifically incorporated by reference into the final regulation.

In incorporating these instructions, the Department does not believe it is necessary, for instance, to justify each sampling requirement contained in the 55 Manual pages dealing with that area. Experts may differ about any particular sample design or statistical concept. However, in order to obtain reliable and nationally comparable QC data a uniform set of review procedures (in this case, those set forth in the QC Manual) must be followed by all States. This allows the Department to identify those States with relatively greater or lesser problems in eligibility determinations and to see that appropriate corrective action is taken.

Publication herein of the Manuals would be impractical because of their bulk. Copies of the QC Manuals will be available upon request from HEW Publications, Room G–115–B, Switzer Building, 330 C Street SW., Washington, D.C. 20201.

6. SAMPLE SIZE AND COMPOSITION

Comments were received concerning the reduction of the negative case review sample sizes in AFDC. The sample sizes specified in the draft negative review procedures are significantly less than those required prior to discontinuance of the negative review in 1973. There is no corresponding reduction in the active case review. Also, questions were raised concerning the exclusion of emergency assistance and presumptive eligibility cases from the sample universe.

The Department believes that the level of precision necessary for management information on system weaknesses is quite different from that required for data concerning potential disallowance of Federal funds. It is principally in recognition of this that the negative review sample sizes were reduced while the positive review sample sizes remained unchanged. The Department, however, is currently exploring ways of reducing the sample sizes required for active cases within the constraints noted above.

The Department has determined that presumptive eligibility cases should appropriately be included in the negative case action universe. The review instructions have been modified accordingly. Emergency assistance cases, on the other hand, are unique in that different eligibility criteria are utilized and the payment is for a one time special allowance. Data comparability dictates that these cases be excluded from the negative case action review. They are, in fact, also excluded from the positive case review.

7. FEDERAL FUNDING

A number of States commented on the value of a comprehensive QC review system, but expressed concern about the additional financial burden. The suggested alternatives included 100 percent Federal funding of the negative case action reviews; increased reimbursement for all QC review activities; and alternate review cycles.

The Department believes that, in light of the reduced scope of the negative case review, there will be only a slight increase in the QC workload.

8. NEED FOR CLARIFICATION

Several comments indicated confusion about certain statements. (a) "Negative case action" was defined as action to "deny an application for assistance *or otherwise dispose of an application for assistance without a determination of eligibility* * * *"

Some readers interpreted the italicized clause to mean that the QC review would include determination of the availability of the assistance programs to the public.

That was not the intent. The definition has been revised to make clear that the phrase refers to situations where the applicant has withdrawn or abandoned the application.

(b) The description of the Medicaid QC review required personal interviews with "recipients who fall within the sample of *active cases* and, as necessary, with individuals in the negative case action sample".

Several writers asked whether the italicized phrase meant that the sample was now to be selected from the eligibility files rather than the paid claims file.

The use of the phrase "active cases" is not intended to suggest that the sample design set forth in Section 2 of the Medicaid Eligibility QC Manual is being altered. Rather, the regulation simply makes a distinction between the two samples to make clear that personal interviews are not required in all negative action sample cases.

The major clarifying change is the addition of a new paragraph (c) which explains how to handle case errors that are related to changes in circumstances. The new paragraph replaces content deleted from the definition of "case error" in paragraph (b)(2) of the previous version of § 205.40.

OTHER CHANGES

In addition to the changes discussed above, minor technical amendments are made to:

1. Incorporate by reference the Quality Control Manuals which prescribe sampling and review procedures;

2. Specify the report forms for the adult programs and for negative case action reviews;

3. Specify the due dates for reports on negative case action reviews; and

4. Delete references to the Social and Rehabilitation Service, which ceased to exist on March 8, 1977, under the Reorganization Order published in the FEDERAL REGISTER on March 9, 1977.

Accordingly, the proposed regulations, with changes as indicated above, are adopted.

45 CFR Chapter II is amended as set forth below:

1. Section 205.40 is revised to read as follows:

**§ 205.40 Quality control system.**

(a) *Definitions.* For purposes of this section, notwithstanding any other regulations in this chapter:

(1) *"Assistance unit"* means all individuals whose needs, income and resources are considered in determining eligibility for, and the amount of, an assistance payment for which Federal financial participation is claimed under this chapter.

(2) *"Case error"*, for active cases, means an overpayment, underpayment, or payment to ineligibles as defined in this section; for negative case actions, means that the reason given by the agency for that action was incorrect. (For exceptions and special provisions, see paragraph (c) of this section.)

(3) *"Payment to ineligibles"* means a financial assistance payment received by or for an assistance unit, for the review month, when that assistance unit was not eligible for any part of the payment under permissible State practice in effect the first day of the review month, even though the State agency had not made a finding of ineligibility under § 206.10(a)(5) of this chapter.

(4) *"Overpayment"* means a financial assistance payment received by or for an assistance unit, for the review month, which exceeds by at least $5.00 the amount for which that unit was eligible under permissible State practice in effect on the first day of the review month.

(5) *"Underpayment"* means a financial assistance payment received by or for an assistance unit for the review month which is at least $5.00 less than the amount for which that assistance unit under permissible State practice was eligible in effect on the first day of the review month.

(6) *"Review month"* means the specific calendar or fiscal month for which the assistance payment under review was received.

(7) *"Assistance payment"* means a single payment (or two successive payments, in States that pay on a semi-monthly basis), received for a specific calendar or fiscal month.

(8) *"Permissible State practice"* means State written policy instructions that are consistent with the State plan or with plan amendments which have been submitted to, but have not been acted upon by the Department. In all instances where written instructions are not consistent with the State plan or proposed plan amendments, permissible State practice means the provisions of the State plan.

(9) *"Negative case action"* means an action to deny an application for assistance or to otherwise dispose of that application without a determination of eligibility (for instance, because the application was withdrawn or abandoned), or to terminate assistance.

(b) *State plan requirements.*—A State plan under title IV–A or I, X, XIV or XVI of the Social Security Act must provide for a continuing system of quality control for assuring that assistance is furnished in accordance with permissible State practice as defined in paragraph (a) of this section. Under this requirement:

(1) The State agency shall operate the quality control system in accordance with policies and procedures prescribed in the Quality Control Manuals issued by the Department. Specifically:

(i) It shall apply the prescribed sampling and methods and schedules.

(ii) It shall conduct field investigations, including a personal interview in all cases which fall within the sample of active cases, and as necessary for cases in the negative case action sample.

(iii) It shall provide the resources and methods necessary to analyze the findings of the system.

(iv) It shall take appropriate corrective action on improperly authorized or denied assistance and on the causes of improper actions.

(v) It shall assure access by HEW staff to State and local records relating to public assistance, to recipients, and to third parties.

(2) The State agency shall submit to the Department, in such form and at such times as it prescribes:

(i) A description of the State's sampling plan;

(ii) On a monthly basis during the 6-month sampling period, for each active sample case in the State Quality Control review, the original finding on the amount of the assistance payment and, where a case error has been determined to exist, the amount by which the payment was in error, and whether the error was an overpayment, underpayment, or payment to an ineligible;

(iii) Data required by Forms QC 341.1, 341.1A, 342.1, 401.1, 401.2, and 401.3, within 60 days of the close of the 6-month sampling period to which such data apply;

(iv) A corrective action plan for reducing the case error rates of the ineligibility, overpayments, and underpayments, within 90 days of the close of the 6-month sampling period to which they apply (January 1 through June 30, or July 1 through December 31), even after achieving case error rates of:

(A) 3 percent for ineligibility;

(B) 5 percent for overpayments; and

(C) 5 percent for underpayments; and

(v) A corrective action plan for reducing the rate of improper actions to deny or terminate assistance; and

(vi) Data required by Forms QC 341.2, 341.3, 341.4, 342.2, 342.3, and 342.4, at the same time the corrective action plan is submitted.

(c) *Special provisions applicable to changes in circumstances.* (1) An overpayment, underpayment, or payment to ineligibles that is related to a change in circumstances shall be counted as a case error if:

(i) The changes are incorrectly reflected in the review month payment; or

(ii) The change occurred in or before the second month prior to the review month and is not reflected in the review month payment.

(2) An overpayment, underpayment, or payment to ineligibles that is related to a change in circumstances shall not be counted as a case error if:

(i) The payment continues unadjusted because a hearing was requested; or

(ii) The change occurred in the review month or the month immediately preceding the review month.

(3) For purposes of this paragraph (c):

(i) A hearing decision is considered a change in circumstances;

(ii) The fact that the agency has complied with the requirements for redetermination of eligibility (see § 206.10(a)(9) of this chapter) has no bearing; and

(iii) When the overpayment, underpayment, or payment to ineligibles is the result of several changes in circumstances, each change will be evaluated as to its impact on the final determination of case error.

(d) *Temporary exception.* Through June 30, 1977, for the purpose of this section, the term "case error" shall not include errors that result solely from the State's:

(1) Failure to apply, or improper or incomplete application of, the following provisions:

(i) 45 CFR 232.10 Furnishing of social security numbers;

(ii) 45 CFR 232.11 Assignment of rights to support; and

(iii) 45 CFR 232.12 Cooperation in obtaining support; and

(2) Treatment of child support collected and distributed under the State IV–D plan and support or contribution income received directly from a legally liable individual by the AFDC family,







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after the recipient has assigned support rights to the State agency.

2. Section 250.25 is revised to read as follows:

**§ 250.25 Medicaid eligibility quality control.**

*State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must provide for a system of eligibility quality control, which meets Federal specifications, for assuring that medical assistance is furnished in accordance with State plan provisions. Under this requirement:

(a) The State agency, or at the option of the State, the agency responsible for determining eligibility for medical assistance, shall operate the system in accordance with policies and procedures prescribed in the Quality Control Manuals issued by the Department. Specifically:

(1) It shall apply the prescribed sampling methods, schedules, and instructions.

(2) It shall conduct field investigations, including a personal interview with all recipients who fall within the active case sample and, as necessary, with individuals in the negative case action sample. For purposes of this section, "Negative case action" means an action to deny an application for medical assistance or to otherwise dispose of that application without a determination of eligibility (for instance, because the application was withdrawn or abandoned), or to terminate medical assistance.

(3) It shall take appropriate corrective action on improperly authorized or denied medical assistance and on the causes of improper actions.

(4) It shall report to the Department as prescribed.

(5) It shall assure access by Federal staff to State and local records, recipients, and third parties.

(b) The State agency (or agency responsible for eligibility) shall submit to the Department, in accordance with Federal instructions:

(1) A description of the State's sampling plan for active cases and negative case actions;

(2) Data concerning all individuals who fall within the active case sample or the negative case action sample;

(3) Data concerning payments for medical assistance on behalf of recipients in the active case sample; and

(4) A comprehensive plan for analysis of and corrective action on the findings of each sampling period provided for in paragraph (c) of this section, no later than 135 days after the end of each sampling period.

(c) There shall be a sampling period from July 1, 1975 to September 30, 1975, and sampling periods of 6 months each thereafter commencing October 1, 1975, to collect the data referred to in paragraph (b)(2) of this section. Those data shall be submitted to the Department no later than 120 days after the end of each sampling period.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Programs No. 13.761 Public Assistance—Maintenance Assistance (State Aid) and No. 13.714 Medical Assistance Program.)

NOTE.—The Department has determined that this document does not require preparation of an inflationary impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: April 28, 1977.

DON WORTMAN,
*Acting Administrator, Health Care Financing Administrator.*

Dated: June 3, 1977.

J. B. CARDWELL,
*Commissioner, Social Security Administrator.*

Approved: July 15, 1977.

JOSEPH A. CALIFANO, Jr.,
*Secretary.*

[FR Doc.77-20894 Filed 7-19-77;8:45 am]

## CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Notice 6143-2]

## PART 1061—CHARACTER AND SCOPE OF SPECIFIC PROGRAMS

### Emergency Energy Conservation Program: Submission of Funding Plans; Balance of FY 77 State Allocations

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is filing a final rule which details the procedures it will use to allocate the $82.5 million appropriated by the FY 77 Supplemental Appropriation for Section 222(a)(12) of the Economic Opportunity Act of 1964, as amended, and provides a breakdown of the allocation by State percentages and dollar amounts. Actions taken as a result of this rule will enable grantees within a State to proceed to develop a plan for the use of the supplemental funds and for CSA Regional Offices to make funding recommendations to Headquarters.

DATES: This rule is effective July 20, 1977.

This rule expires: September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard Saul, Energy Program Coordinator, Community Services Administration, 1200 19th Street, NW., Washington, D.C. 20506, 202-254-5240.

(Sec. 602, 78 Stat. 530 (42 U.S.C. 2942).)

GRACIELA (GRACE) OLIVAREZ,
*Director.*

CSA is hereby adding Appendix A after § 1061.30-14 for the period July 20, 1977 through September 30, 1977.

APPENDIX A

EMERGENCY ENERGY CONSERVATION PROGRAM: SUBMISSION OF FUNDING PLANS; BALANCE OF FY 77 STATE ALLOCATIONS

EXPIRATION DATE: September 30, 1977.

EFFECTIVE DATE: July 20, 1977.

APPLICABILITY: This Notice is applicable to grantees funded under Section 222(a)(12) of the Economic Opportunity Act of 1964 as amended if the assistance is administered by the Community Services Administration.

1. BACKGROUND

On May 4, 1977, the President signed the FY 1977 Supplemental Appropriation, that included $82.5 million for the CSA Emergency Energy Conservation Program. The Supplemental Appropriation also included $200 million for a one-time Special Crisis Intervention Program, which is not the subject of this Notice.

2. PURPOSE

The purpose of this Notice is to inform CSA grantees of the procedures CSA will implement to allocate the $82.5 million of the FY '77 Supplemental energy program funds appropriated under Section 222(a)(12) of the Economic Opportunity Act for regionally administered Emergency Energy Conservation Programs. This Notice also includes the allocation by State of that portion of the $82.5 million which will be funded through the Regional Offices to operating projects.

3. STATE FUNDING PLANS

a. *Responsibilities.* Each State Economic Opportunity Office will undertake jointly with the Community Action Agencies and other regionally administered CSA funded local energy projects in that State and the appropriate CSA Regional Office in the development of an Emergency Energy Conservation Program Plan for CSA Fy 1977, Section 222(a)(12) funds. Responsibility for coordinating this effort will reside with the SEOO, and Plans will be approved by CSA Regional Offices.

The decision as to whether to fund through the SEOO or directly to the local CAA will rest with the Regional Office, but, in any case, must be according to the Regionally-approved State Plan.

b. *Timeframe.* Supplemental grants in amounts not to exceed previous FY 1977 grant actions have been authorized to be made on the basis of existing work programs, and in most cases such grants have been made. As soon as State Plans are approved by CSA Regional Offices, funding of the balance of allocated funds will proceed in accordance with those Plans. State Emergency Energy Conservation Program Plans should be submitted to CSA Regional Offices no later than August 1, 1977. Earlier submission of Plans will, of course, result in earlier release of the full amount of state allocations.

No great packages (other than those for supplemental grants) shall be accepted in CSA Headquarters for review until after the final Headquarters approval of Regional Energy Funding Plans.

Where the deadline for submission of State Plans to the Regional Office is not met, Regional Offices will assume responsibility for taking whatever steps are necessary to see that a Funding Plan for the State is received in Headquarters for approval by August 20, 1977.

c. *Content of State Emergency Energy Conservation Program Plans.* State Plans will be developed in accordance with funding priorities set forth in d. below, and on the basis of the allocation formula set forth in 5c. Each State Plan will include, at a minimum: (1) For each local project:

(a) Recommended funding level for each program account; and

(b) The specific T/TA needed to support the recommended funding level for proposed project activities.

(2) For the entire state: (a) A plan for coverage of non-CAA areas within the State:





(b) Description of a program support role for the SEOO which shall include advocacy for mobilization of manpower needed for weatherization projects. The Plan may provide for such program support activities in an amount not to exceed ten percent of the total State allocation provided that the SEOO mobilizes at least an equal amount in non-CSA/FEA support for local programs within the State. These mobilized resources must be in addition to any non-Federal share required. The Plan shall also provide that where funding goes through the State, the full ten percent administrative cost allowance shall be passed through to the local operating agency;

(c) A plan for coordinating CSA Energy Conservation funds with such weatherization assistance funds as may become available to the State from FEA during the next six months; and

(d) A contingency plan for allocation to local projects of any Special Crisis Intervention Funds reprogrammed to Weatherization Program Account 21.

d. *Funding criteria.* Following are criteria for the second allocation of CSA FY 1977 energy funds. Funding must be consistent with the overall goals of assuring continuation of the weatherization program, strengthening the capability of local CAAs to carry out effective energy conservation and weatherization projects, and providing adequate resources for meeting the critical needs of the poor and the near poor in the coming winter. Funds shall be directed to projects so that:

(1) Every CAA operating an energy project designates an energy coordinator who will assume responsibility for the program at the local level. Where the size of the program justifies it, a new position should be created. If possible, other available funds should pay for the salary; but every project should have a coordinator.

(2) Priority consideration is given by local projects to the permanent hiring of carpenter/supervisors; this is necessary because of the high turnover experience among CETA workers, and in the expectation of a greatly increased work force, which has made it increasingly important for local projects to achieve stability in supervision if the quality of workmanship is to be maintained;

(3) Up to five percent of the total Regional Office allocation shall be expended to provide training and technical assistance responsive to the needs described in the State Funding Plans and adequate to ensure effective projects. Grantees selected for provision of T/TA shall be experienced in the activities to be supported and in working with the trainees to be served;

(4) Up to five percent of the total Regional Office allocation may be expended on consumer education and advocacy projects (Program Account 23) as defined in CSA Instruction 6143-1a, and any changes thereto; and

(5) At least one percent of the total number of houses to be weatherized in the Region with these funds shall be weatherized to the optimal level as defined in the Community Planning Guide to Weatherization, CSA Pamphlet 6143-6.

Once these priorities have been met, remaining energy funds may be used for other eligible activities as described in CSA Instruction 6143-1a, and any changes thereto. Grantees are encouraged to use part of the increase in funding level to support a balanced project including a variety of eligible activities, although no less than 70 percent of operational grant funds should be used for weatherization under program account 21.

4. REGIONAL ENERGY FUNDING PLANS

a. *Responsibilities.* Each Regional Office shall prepare a Regional Energy Funding Plan proposing the use of its final FY 77 Section 222(a)(12) allocation.

Plans will be reviewed and approved in Headquarters prior to the submission for processing of the grant award packages which will implement the Regional Energy Funding Plan.

b. *Timeframe.* CSA Regional Offices shall by August 15, 1977, submit to CSA Headquarters for review and approval, Regional Energy Funding Plans.

CSA Headquarters shall review Regional Energy Funding Plans and notify by TWX the appropriate Regional Office of its approval or disapproval no later than fourteen working days after submission, and, in no case later than September 2, 1977.

Upon approval of Regional Energy Funding Plans, Regions shall submit grant packages to Headquarters where processing of grant packages for the balance of FY 1977 energy allocations shall proceed.

c. *Content of Regional Energy Funding Plans.* Regional Energy Funding Plans shall describe the allocation of the entire Regional Energy allotment, and shall list: (1) Proposed grantees, (2) amount of each proposed grant, (3) for each grantee, activities to be supported, by dollar amount and Program Account Number, where appropriate, and (4) State and Regional totals by Program Account and dollar amount. Copies of State plans shall be submitted to CSA Headquarters by Regional Offices with the Regional Energy Funding Plans, which also, at a minimum, shall:

(1) Propose grant actions which in amounts and designation of grantees reflect State Emergency Energy Conservation Program Plans described above:

(2) Propose grant actions which include specifically identified Training and Technical Assistance activities which support the local program components as outlined in the funding plan and the TTA needs as set forth in the State plans both as to populations to be trained/assisted and training subjects to be covered.

(3) Include the Regional Office plan for funding of farmworker energy projects; and

(4) Describe the Regional Office plan for expanding the scope of its Energy program to achieve the balance and comprehensiveness of activities which is consistent with the program direction set forth in CSA Instruction 6143-1a, and any changes thereto.

(5) Describe the Regional Office plan for assuring that CSA-founded housing grantees and projects shall be coordinated with regional energy grantees and projects so as to assure that all CSA funded housing construction and rehabilitation includes provisions for adequate weatherization.

5. ALLOCATION FORMULA

a. *Elements.* The formula for allocation of funds state by state is as follows:

For purposes of determining the allocation a base of $18,000 was assigned for each local project or local CAA to undertake a project with these funds, reflecting an agency policy to encourage each project to hire an energy coordinator and permanent work supervisor(s).

The remaining funds were allocated among the states according to the following formula:

(.587×Population-weighted Heating Degree Days +.033×Population-weighted Cooling Degree Days)×(number of poverty households in the state+number of elderly below 125 percent of poverty threshold)

The resulting number for each state was then divided by the total of such numbers for all states, yielding a percentage which was applied to the balance available after subtraction of the per-project allotments.

b. *State percentages and dollar amounts.* State percentages and dollar amounts for the $63.6 million being allocated for regionally administered projects are included as Attachment A.

Regional Offices shall have the authority to transfer allocations between States on the basis of their assessment of need, capability, and past performance, provided that no State's allocation shall be reduced by more than ten percent.

Additionally, $200,000 will be provided to each Region for farmworker energy projects as set forth in CSA Notice 6143-3.

ATTACHMENT A.—*Project energy program budget for remainder of fiscal year 1977*

| | Millions of dollars |
|---|---|
| Balance from $27,500,000: | |
| 1st half fiscal year 1977 appropriation | 0.[illegible] |
| 2d half fiscal year 1977 appropriation | [illegible] |
| Total | 83.3 |
| **I. Budget allocations** | |
| To regions for operating programs including training and technical assistance of up to 5 pct | 67.4 |
| Director's reserve | [illegible] |
| Indian program set aside | [illegible] |
| Farmworker set aside | [illegible] |
| Evaluation | [illegible] |
| Research monitoring and assessment of $200,000,000 special crisis intervention program | 1.0 |
| Consumer conservation education set aside | 1.0 |
| Headquarters training and technical assistance (materials and support) | .2 |
| Research and demonstration programs | 7.1 |
| Total | 83.3 |

II. Allocation to regionally funded operational programs by State (not including 5 percent allowance for training and technical assistance)

| | Percent of total | Dollar allocation by State |
|---|---|---|
| Region I: | | |
| Connecticut | 1.36 | 864,960 |
| Maine | 1.15 | 731,400 |
| Massachusetts | 2.43 | 1,545,480 |
| New Hampshire | .53 | 337,080 |
| Rhode Island | .64 | 407,040 |
| Vermont | .52 | 330,720 |
| Total | 6.63 | 4,216,680 |
| Region II: | | |
| New Jersey | 2.63 | 1,672,680 |
| New York | 8.92 | 5,673,120 |
| Puerto Rico | .41 | 260,760 |
| Virgin Islands | .06 | 38,160 |
| Total | 12.02 | 7,644,720 |
| Region III: | | |
| Delaware | .22 | 139,920 |
| District of Columbia | .30 | 190,800 |
| Maryland | 1.25 | 795,000 |
| Pennsylvania | 6.01 | 3,822,360 |
| Virginia | 2.79 | 1,774,440 |
| West Virginia | 1.41 | 896,760 |
| Total | 11.98 | 7,619,280 |
| Region IV: | | |
| Alabama | 1.82 | 1,157,520 |
| Florida | 1.36 | 864,960 |
| Georgia | 2.03 | 1,291,080 |
| Kentucky | 2.11 | 1,341,960 |
| Mississippi | 1.32 | 839,520 |
| North Carolina | 2.77 | 1,761,720 |
| South Carolina | 1.13 | 718,680 |
| Tennessee | 2.22 | 1,411,920 |
| Total | 14.76 | 9,387,360 |



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(1) Allocation to regionally funded operational programs by State (not including 5 percent allowance for training and technical assistance)

| | Percent of total | Dollar allocation by State |
|---|---|---|
| Region V: | | |
| Illinois | 4.97 | 3,160,920 |
| Indiana | 2.41 | 1,532,760 |
| Michigan | 4.41 | 2,804,760 |
| Minnesota | 3.14 | 1,997,040 |
| Ohio | 5.25 | 3,339,000 |
| Wisconsin | 2.52 | 1,602,720 |
| Total | 22.70 | 14,437,200 |
| Region VI: | | |
| Arkansas | 1.44 | 915,840 |
| Louisiana | 1.72 | 1,093,920 |
| New Mexico | .82 | 521,520 |
| Oklahoma | 1.70 | 1,081,200 |
| Texas | 3.98 | 2,531,280 |
| Total | 9.66 | 6,143,760 |
| Region VII: | | |
| Iowa | 1.86 | 1,182,960 |
| Kansas | 1.10 | 699,600 |
| Missouri | 2.74 | 1,743,240 |
| Nebraska | 1.04 | 661,440 |
| Total | 6.71 | 4,267,560 |
| Region VIII: | | |
| Colorado | 1.89 | 1,202,040 |
| Montana | .70 | 445,200 |
| North Dakota | .65 | 413,400 |
| South Dakota | .61 | 387,960 |
| Utah | .70 | 445,200 |
| Wyoming | .34 | 216,240 |
| Total | 4.89 | 3,110,040 |
| Region IX: | | |
| Arizona | .72 | 457,920 |
| California | 5.29 | 3,365,040 |
| Hawaii | .13 | 82,680 |
| Nevada | .26 | 165,360 |
| Total | 6.31 | 4,013,160 |
| Region X | | |
| Alaska | .21 | 133,560 |
| Idaho | .56 | 356,160 |
| Oregon | 1.55 | 985,800 |
| Washington | 2.02 | 1,284,720 |
| Total | 4.34 | 2,760,240 |
| Grand total | 100.00 | 63,600,000 |

[FR Doc.77-20590 Filed 7-19-77;8:45 am]

## Title 47—Telecommunication

### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21206; RM-2837]

### PART 73—RADIO BROADCAST SERVICES

### FM Station in Federalsburg, Md.

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action herein assigns a first Class A FM channel to Federalsburg, Md. Petitioner, Philip G. D'Adamo, states it has need for an FM station to provide local coverage. The assignment of this channel will provide for a first local aural broadcast facility in Federalsburg, Md.

EFFECTIVE DATE: August 23, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER

PROCEEDING TERMINATED

Adopted: July 5, 1977.

Released: July 12, 1977.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Federalsburg, Md.) (Docket No. 21206, Rm 2837).

By the Chief, Broadcast Bureau:

1. The Commission herein considers the Notice of Proposed Rule Making, adopted April 15, 1977, 42 FR 21627, in the above-entitled proceeding instituted in response to a petition filed by Philip G. D'Adamo ("petitioner"). The petition proposed the assignment of Channel 296A to Federalsburg, Md., as a first FM channel to that community. Petitioner filed supporting comments in which he reaffirmed his intent to file an application to construct a station if the channel is assigned. No oppositions to the petition were filed.

2. Federalsburg (pop. 1,917), situated in Caroline County (pop. 19,781)[1], is located approximately 113 kilometers (70 miles southeast of Baltimore, Md.

3. In support of its proposal, petitioner submitted information with respect to Federalsburg and its need for a first FM channel assignment.

4. Upon careful consideration of the proposal herein, the Commission believes it would be in the public interest to assign Channel 296A to Federalsburg, Md. A demand has been shown for its use and it would provide the community and the county with a first local aural broadcast service.

5. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

6. In view of the foregoing, *It is ordered*, That effective August 23, 1977, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, as regards Federalsburg, Md., is amended to read as follows.

§ 73.202 Table of Assignments.

* * * * *

(b) *Table of FM Assignments.*

* * * * *

| City | Channel No. |
|---|---|
| Federalsburg, Md. | 296A |

7. *It is further ordered*, That this proceeding is terminated.

[1] Population figures are taken from the 1970 U.S. Census.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
*Chief,*
*Broadcast Bureau.*

[FR Doc. 77-20795 Filed 7-19-77;8:45 am]

## Title 49—Transportation

### SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1-129]

### PART 1—ORGANIZATION AND DELEGATION OF POWERS AND FUNCTIONS

### Director, Materials Transportation Bureau; Authority Delegation

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to delegate to the Director, Materials Transportation Bureau, the authority to approve necessary travel for the conduct of the Bureau. This delegation also requires some attendant editorial changes.

EFFECTIVE DATE: July 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert W. Gordon, Travel and Fiscal Specialist, Office of Management Systems, Department of Transportation, Washington, D.C. 20590, 202-426-1306.

SUPPLEMENTARY INFORMATION: The principal authors of this document are: program—Corinne Woodard, Office of Management Systems; legal—B. T. Wade, Jr., Office of the General Counsel.

Since this amendment relates to Departmental management, procedures and practices, notice and public comment thereon are unnecessary and it may be effective in fewer than thirty days following publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 1 of Title 49 of the Code of Federal Regulations is revised to read as follows:

§ 1.53 Delegations to the Materials Transportation Bureau Director.

The Materials Transportation Bureau Director is delegated authority to:

(a) Carry out the functions vested in the Secretary by the following statutes:

(1) Natural Gas Pipeline Safety Act of 1968 as amended (49 U.S.C. 1671 et seq.).

(2) Mineral Leasing Act, as amended (Pub. L. 93-153, 30 U.S.C. 185).

(3) Deepwater Port Act of 1974 (Pub. L. 93-627) relating to the establishment, enforcement and review of regulations concerning the safe construction, operation or maintenance of pipelines on Federal lands and the Outer Continental Shelf (33 U.S.C. 1520).

(4) Section 5 of the International Bridge Act of 1972 (Pub. L. 92-434) as it relates to pipelines not over navigable waterways.

(5) Title I—Hazardous Materials, Transportation Safety Act of 1974, Pub. L. 93-633 (49 U.S.C. 1801-1811) except as delegated by sections 1.46 (t) and (u); 1.47 (j) and (k); 1.48 (u) and (v); and 1.49 (s) and (t).

(6) Section 170 (7), (10), and (11) of Title 46, United States Code, except as delegated by § 1.46(t).

(7) Section 831-835 of Title 18, United States Code, except as delegated by §§ 1.48(d) and 1.49(f).

(8) Sections 601(c) and 902(h)(1)-of the Federal Aviation Act of 1958 as amended, as they relate to regulations governing the transportation of hazardous materials by air.

(b) Authorize and approve official travel (except foreign travel) and transportation for himself, his subordinates, and others performing services for, or in cooperation with, the Materials Transportation Bureau.

(Sec. 9(e), Department of Transportation Act (49 U.S.C. 1657(e)).)

Issued in Washington, D.C., on July 5, 1977.

BROCK ADAMS,
*Secretary of Transportation.*

[FR Doc.77-20761 Filed 7-19-77;8:45 am]





## Title 50—Wildlife and Fisheries

### CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

### PART 32—HUNTING

### Opening of Ouray National Wildlife Refuge, Utah, to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to big game hunting of Ouray National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: *Archery deer season*, August 20 through September 5, 1977, inclusive; *Rifle deer season*, October 22 through November 1, 1977, inclusive.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Ouray National Wildlife Refuge, 447 East Main Street, Suite 4, Vernal, Utah 84078, telephone: 801-789-0351.

SUPPLEMENTARY INFORMATION:

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

Public hunting of deer is permitted on the Ouray National Wildlife Refuge, Utah, except in those areas designated by signs as closed to hunting. These areas, comprising 9,500 acres, are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 10597 West 6th Avenue, P.O. Box 25486, Denver, Colo. 80215. Big game hunting shall be in accordance with all applicable State regulations, subject to the following conditions:

(a) Hunting on Indian lands east of Green River, as posted, requires the possession of a Ute Tribal Permit.

(b) Every deer killed must be checked out at refuge headquarters before hunters leave the area.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

HERBERT G. TROESTER,
*Refuge Manager, Ouray National Wildlife Refuge, Vernal, Utah.*

JUNE 8, 1977.

[FR Doc.77-20779 Filed 7-19-77;8:45 am]



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# proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## FEDERAL TRADE COMMISSION

**[ 16 CFR Part 23 ]**

**GUIDE FOR JEWELRY INDUSTRY**

**Trade Practice Rules**

AGENCY: Federal Trade Commission.

ACTION: Extension of time for filing comments.

SUMMARY: The last day for receipt of comments concerning the proposed amendments (the proposed amendments were published in the FEDERAL REGISTER, 41 FR 29916 on June 10, 1977) to the Trade Practice Rules for the Jewelry Industry is hereby extended to September 12, 1977. Hearings will not be conducted in connection with this matter.

DATES: Comments must be received on or before September 12, 1977.

ADDRESSES: Send comments to Assistant Director for Marketing Practices, Room 200, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

D. McCarty Thornton, Esq. Room 282, Federal Trade Commission, Washington, D.C. 20580, Tel. 202-523-3913.

By direction of the Commission.

CAROL M. THOMAS,
*Secretary.*

[FR Doc.77-20891 Filed 7-19-77;8:45 am]

## DEPARTMENT OF THE TREASURY

**Customs Service**

**[ 19 CFR Part 24 ]**

**CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE**

**Withdrawal of Proposed Amendment Pertaining to Customs Charges for Administrative Overhead With Respect to Reimbursable and Overtime Services**

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Withdrawal of Proposed Rule.

SUMMARY: This document withdraws an earlier proposal to provide for the assessment by the Customs Service of an administrative overhead charge with respect to reimbursable and overtime services performed by Customs officers. The proposal is being withdrawn because of recent legislation specifically prohibiting the assessment of administrative overhead charges against owners or operators of aircraft for inspections at airports.

EFFECTIVE DATE: July 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Lee H. Kramer, Attorney, Regulations and Legal Publications Division, United States Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-8237).

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Independent Offices Appropriation Act, 1952, 65 Stat. 290 (31 U.S.C. 483a, the so-called "User Charges Statute"), provides, in part, that any service provided by any Federal agency to or for any person shall be self-sustaining to the fullest extent possible. This statute authorizes the head of each Federal agency to prescribe for each service by regulation, a fee which he determines to be fair and equitable, taking into consideration the direct and indirect costs to the Government, the value to the recipient, the public policy or interest served, and other pertinent facts.

In the Decision of the Comptroller General of the United States on the matter of user charges for administrative costs of special and overtime Customs services (55 Comp. Gen. 456, November 13, 1975), the Deputy Comptroller General stated his opinion that Customs generally has authority under 31 U.S.C. 483a to impose user charges (for administrative overhead) for reimbursable and overtime services provided by Customs.

Accordingly, on March 5, 1976, a notice was published in the FEDERAL REGISTER (41 FR 9555) which proposed to provide for the collection of an additional charge for administrative overhead for reimbursable and overtime services. It was proposed to add a new § 24.21 to the Customs Regulations (19 CFR 24.21) to provide for the collection of an additional charge for administrative overhead costs from parties-in-interest who are required to reimburse Customs for the compensation and/or expenses of Customs officers performing reimbursable or overtime services for the benefit of such parties unless the imposition of the additional charge was precluded by law. The covered services are those which provide special benefits to an identifiable recipient above and beyond those which accrue to the public at large. The proposal included, but was not limited to, the following types of reimbursable and overtime services: (1) overtime services of Customs officers and employees for which compensation is provided by section 5 of the Act of February 13, 1911, as amended (19 U.S.C. 267), and (2) services of Customs warehouse officers or employees temporarily assigned to act as Customs warehouse officers, for which compensation is provided by section 555, Tariff Act of 1930, as amended (19 U.S.C. 1555). The proposal also provided that the amount of the charge for administrative overhead would be 15 percent of the compensation and/or expenses of the Customs officers performing the service, with certain exceptions set forth in that section.

Initially, interested persons were given until March 22, 1976, to submit relevant data, views, or arguments pertaining to the proposed amendments. In a notice published in the FEDERAL REGISTER on March 24, 1976 (41 FR 12229), the Customs Service extended the period of time given for the submission of comments until April 5, 1976.

DISCUSSION OF COMMENTS

Most of the comments received in response to the proposed amendment expressed opposition to the proposal on the grounds that it was economically unsound and highly inflationary. These commenters noted that the proposed amendment would result in increased costs, which would ultimately be passed on to the public. Other commenters termed the 15 percent charge arbitrary and excessive.

Notwithstanding these comments, existing law and the Decision of the Comptroller General discussed above would have required the Customs Service to adopt the amendments in substantially the same form as proposed.

NEW LAW

However, before the Customs Service took any final action in this matter, Congress enacted and, on July 12, 1976, President Ford approved Public Law 94-353, the Airport and Airway Development Act Amendments of 1976. In part, this Act specifically prohibits the assessment of an administrative overhead charge against owners or operators of aircraft for inspection at airports, on and after January 1, 1977.

PROPOSAL WITHDRAWN

Inasmuch as Public Law 94-353 would prohibit the proposed assessment of administrative overhead charges against the owners or operators of aircraft, the Customs Service and the Department of the Treasury are of the opinion that it would be inequitable to adopt a rule which would assess these charges only against owners and operators of warehouses, vessels, and trains.

Accordingly, the notice of proposed rulemaking published on March 5, 1976 (41 FR 9555) is hereby withdrawn.

DRAFTING INFORMATION

The principal author of this document was Lee H. Kramer, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the Customs Service participated in its development.

G. R. DICKERSON,
*Acting Commissioner of Customs.*

Approved: July 12, 1977.

BETTE B. ANDERSON,
*Under Secretary of the Treasury.*

[FR Doc.77-20892 Filed 7-19-77;8:45 am]





## ENVIRONMENTAL PROTECTION AGENCY

**[ 40 CFR Part 52 ]**

[FRL 764-6]

**APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

**Revisions to the Humboldt County, California, Air Pollution Control District's Rules and Regulations**

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Humboldt County Air Pollution Control District (APCD) has adopted changes to rules concerning the monitoring of stationary sources of air pollution. The intended effect of these rules is to ascertain the extent of compliance with other APCD rules. The revisions have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board as revisions to the California State Implementation Plan (SIP). The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted on or before August 19, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco, Calif. 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air & Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco, Calif. 94111. Attn: David R. Souten, 415-556-7288.

SUPPLEMENTARY INFORMATION: The November 10, 1976 submittal included the following revised rules:

Rule 240(d)—Compliance Verification.
Rule 240(e)—Mandatory Monitoring Requirements.

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relevant comments received on or before August 19, 1977, be considered. Comments received will be available for public inspection at the Region IX Office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

Humboldt County Air Pollution Control District, 5600 South Broadway, Eureka, Calif. 95501.
California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, Calif. 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

(Secs. 110 and 301, Clean Air Act, as amended (42 U.S.C. 1857c-5).)

Dated: July 1, 1977.

PAUL DE FALCO, Jr.,
*Regional Administrator.*

[FR Doc.77-20769 Filed 7-19-77;8:45 am]

**[ 40 CFR Part 52 ]**

[FRL 764-7]

**APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

**Revisions to the Northern Sonoma County, California, Air Pollution Control District's Rules and Regulations**

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Northern Sonoma Air Pollution Control District (APCD) has adopted changes to rules concerning the monitoring of stationary sources of air pollution. The intended effect of these rules is to ascertain the extent of compliance with other APCD rules. The revisions have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board as revisions to the California State Implementation Plan (SIP). The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted on or before August 19, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco, Calif. 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air & Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco, Calif. 94111, Attn: David R. Souten, 415-556-7288.

SUPPLEMENTARY INFORMATION: The November 10, 1976 submittal included the following revised rules:

Rule 240(d)—Compliance Verification.
Rule 240(e)—Mandatory Monitoring Requirements.

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relevant comments received on or before August 19, 1977, will be considered Comments received will be available for public inspection at the Region IX Office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

Northern Sonoma County Air Pollution, Control District, 421 March Avenue, Suite C, Healdsburg, Calif. 95448.
California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, Calif. 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.
(Secs. 110 and 301, Clean Air Act, as amended (42 U.S.C. 1857c-5).)

Dated: July 1, 1977.

PAUL DE FALCO, Jr.,
*Regional Administrator.*

[FR Doc.77-20770 Filed 7-19-77;8:45 am]

**[ 40 CFR Part 60 ]**

[FRL 764-8]

**GLASS MELTING FURNACES**

**Standards of Performance for New Stationary Sources**

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to develop rulemaking.

SUMMARY: Upon a petition from the Governor of New Jersey, the Environmental Protection Agency (EPA) is undertaking an analysis of the glass manufacturing industry in order to develop air pollution standards for new and modified glass melting furnaces. This analysis could lead to the proposal of standards in the FEDERAL REGISTER by June 1978.



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FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Telephone 919–541–5271.

SUPPLEMENTARY INFORMATION: Section 111 of the Clean Air Act authorizes the Administrator of EPA to establish standards of performance for new sources which may contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare. On March 18, 1977, the Governor of New Jersey petitioned EPA to establish standards of performance for glass melting furnaces. On June 6, 1977, EPA informed the Governor by letter that EPA would begin the process of developing a proposed standard by undertaking a complete data-gathering and analysis program. EPA estimates that in view of the complex nature of the glass manufacturing process, the limited emission data, and the pollution control technology available for glass melting furnaces, standards will not be proposed in the FEDERAL REGISTER until June 1978.

This notice does not constitute a listing of glass melting furnaces under Section 111(b)(1)(A) of the Clean Air Act. Notice of such a listing under Section 111(b)(1)(A) will be published in the FEDERAL REGISTER after (i) EPA completes the above-mentioned data-gathering and analysis, and (ii) in accordance with Section 117(f)(2) of the Clean Air Act, EPA has consulted with appropriate advisory committees, independent experts, and Federal departments and agencies.

This notice is being issued because it is EPA's policy to notify the public in advance of the Agency's plans to undertake a significant rulemaking action.

Stautory authority for the standards would be provided by Sections 111 and 301 of the Clean Air Act, as amended, 42 U.S.C. 1857c–6, 1857g.

Dated: June 24, 1977.

EDWIN T. TUERK,
*Acting Assistant Administrator, Office of Air and Waste Management.*

[FR Doc.77–20834 Filed 7–19–77;8:45 am]

## [ 40 CFR Parts 254 ]

[FRL 739–5]

## SOLID WASTE DISPOSAL

### Prior Notice of Citizen Suits

AGENCY: Environmental Protection Agency.

ACTION: Proposed regulations.

SUMMARY: The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, authorizes suits by private citizens to enforce the Act. These suits may be brought where there is alleged to be a violation by any person (including (a) the United States, and (b) any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution) of any permit, standard, regulation, condition, requirement, or order which has become effective under the Act, or a failure of the Administrator to perform any act or duty under the Act, which is not discretionary with the Administrator. These actions are to be filed in accordance with the rules of the district court in which the action is instituted.

The Act further requires that certain notification requirements must be met before any action may be commenced. These proposed regulations outline the procedures to be followed and prescribe the information to be contained in the notices.

DATES: Comments must be received on or before July 31, 1977. Proposed date of promulgation: August 31, 1977.

ADDRESS: Send comments to: EPA, OSW, Management and Information Staff (AW–462), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Jeffrey L. Hilliker, EPA, OSW, Management and Information Staff (AW–462), 401 M Street SW., Washington, D.C. 20460, 202–755–9173.

Dated: July 5, 1977.

DOUGLAS M. COSTLE,
*Administrator.*

It is proposed to amend 40 CFR Chapter I by adding a new Part 254, reading as follows:

### PART 254—PRIOR NOTICE OF CITIZEN SUITS

Sec.
254.1 Purpose.
254.2 Service of Notice.
254.3 Contents of Notice.

AUTHORITY: Section 7002 Pub. L. 94–580, 90 Stat. 2825 (42 U.S.C. 6972).

**§ 254.1 Purpose.**

Section 7002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, authorizes suit by any person to enforce the Act. These suits may be brought where there is alleged to be a violation by any person (including (a) The United States, and (b) Any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution) of any permit, standard, regulation, condition, requirement, or order which has become effective under the Act, or a failure of the Administrator to perform any act or duty under the Act, which is not discretionary with the Administrator. The purpose of this part is to prescribe procedures governing the notice requirements of subsections (b) and (c) of section 7002 as a prerequisite to the commencement of such actions.

**§ 254.2 Service of notice.**

(a) Notice of intent to file suit under subsection 7002(a)(1) of the Act shall be served upon an alleged violator of any permit, standard, regulation, condition, requirement, or order which has become effective under this Act in the following manner:

(1) If the alleged violator is a private individual or corporation, service of notice shall be accomplished by registered mail, return receipt requested, addressed to, or by personal service upon, the owner or managing agent of the building, plant, installation, or facility, alleged to be in violation. A copy of the notice shall be mailed to the Administrator of the Environmental Protection Agency, the Regional Administrator of the Environmental Protection Agency for the region in which the violation is alleged to have occurred, and the chief administrative officer of the solid waste management agency for the State in which the violation is alleged to have occurred. If the alleged violator is a corporation, a copy of the notice shall also be mailed to the registered agent, if any, of that corporation in the State in which such violation is alleged to have occurred.

(2) If the alleged violator is a State or local agency, service of notice shall be accomplished by registered mail, return receipt requested, addressed to, or by personal service upon, the head of that agency. A copy of the notice shall be mailed to the chief administrator of the solid waste management agency for the State in which the violation is alleged to have occurred, the Administrator of the Environmental Protection Agency, and the Regional Administrator of the Environmental Protection Agency for the region in which the violation is alleged to have occurred.

(3) If the alleged violator is a Federal agency, service of notice shall be accomplished by registered mail, return receipt requested, addressed to, or by personal service upon, the head of the agency. A copy of the notice shall be mailed to the Administrator of the Environmental Protection Agency, the Regional Administrator of the Environmental Protection Agency for the region in which the violation is alleged to have occurred, the Attorney General of the United States, and the chief administrative officer of the solid waste management agency for the State in which the violation is alleged to have occurred.

(b) Service of notice of intent to file suit under subsection 7002(a)(2) of the Act shall be accomplished by registered mail, return receipt requested, addressed to, or by personal service upon, the Administrator, Environmental Protection Agency, Washington, D.C. 20460. A copy of the notice shall be mailed to the Attorney General of the United States.

(c) Notice given in accordance with the provisions of this part shall be considered to have been served on the date of receipt. If service was accomplished by mail, the date of receipt will be considered to be the date note on the return receipt card.

**§ 254.3 Contents of notice.**

(a) *Violation of permit, standard, regulation, condition, requirement, or order.* Notice regarding an alleged violation of a permit, standard, regulation, condition, requirement, or order which has become effective under this Act shall include sufficient information to permit the recipient to identify the specific permit, standard, regulation, condition, requirement, or order which has allegedly been violated, the activity alleged to constitute a violation, the person or persons responsible for the alleged violation, the date or dates of the violation, and the full name, address, and telephone number of the person giving notice.

(b) *Failure to act.*—Notice regarding an alleged failure of the Administrator to perform an act or duty which is not discretionary under the Act shall identify the provisions of the Act which require such act or create such duty, shall describe with reasonable specificity the action taken or not taken by the Administrator which is claimed to constitute a failure to perform the act or duty, and shall state the full name, address, and telephone number of the person giving the notice.

(c) *Identification of counsel.*—The notice shall state the name, address, and telephone number of the legal counsel, if any, representing the person giving the notice.





[FR Doc.77–20763 Filed 7–19–77;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

## [ 50 CFR Part 18 ]

## MARINE MAMMALS

### Waiver of Moratorium With Respect to Nine Species of Alaskan Marine Mammals

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification to the public of receipt of administrative law judge's recommended decision on Alaska's request to waive moratorium for nine marine mammal species and allow the State to resume management.

SUMMARY: Notice is hereby given that on June 30, 1977, the Fish and Wildlife Service received the recommended decision of Administrative Law Judge, the Honorable Malcolm P. Littlefield, regarding the request of the State of Alaska to waive the moratorium on nine species of marine mammals and allow the State to resume management under sections 101 and 109 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407). The Service has jurisdiction over three of these species: the polar bear (*Ursus maritimus*), sea otter (*Enhydra lutris*), and Pacific walrus (*Odobenus rosmarus*). The Director of the Service is required by 50 CFR 18.90 to solicit public comment before a final decision is made to waive the moratorium. He may either approve the recommended decision as handed down, modify it, or reject it.

DATES: Interested persons are invited to submit written comments on the recommended decision on or before August 22, 1977.

ADDRESS: Comments should be addressed to the Director (FWS/WA), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, and should make reference to MMPA Docket No. 76–1.

FOR FURTHER INFORMATION CONTACT:

Rupert R. Bonner, Marine Mammal Coordinator, Office of Wildlife Assistance, U.S. Fish and Wildlife Service, Suite 1200, 1612 K Street NW., Washington, D.C. 20006. (202–343–8961).

SUPPLEMENTARY INFORMATION: The six species of marine mammals not mentioned in the summary are under the jurisdiction of the National Marine Fisheries Service. These species are the subject of a separate notice of receipt of the recommended decision being filed simultaneously with this notice by the Department of Commerce, National Oceanic and Atmospheric Administration. Augmenting the Administration's comments regarding ex parte communications to or from Federal employees who may reasonably be expected to be involved in the final decisionmaking process—communications prohibited under section 4 of the Government in the Sunshine Act of 1976 (5 U.S.C. 557(d)(1)), potentially involved Department of the Interior employees include Cecil D. Andrus, Secretary, Department of the Interior; Robert Herbst, Assistant Secretary for Fish and Wildlife and Parks; Lynn A. Greenwalt, Director, Fish and Wildlife Service; Robert S. Cook, Deputy Director; Harvey K. Nelson, Associate Director, Fish and Wildlife Resources; James W. Pulliam, Jr., Deputy Associate Director, Wildlife; Ronald E. Lambertson, Assistant Solicitor, Division of Conservation and Wildlife; and Ronald E. Swan, Attorney, Division of Conservation and Wildlife.

Judge Littlefield found that Alaskan populations of the mammals under Fish and Wildlife Service jurisdiction are within the range of optimum sustainable population, and he recommended that the moratorium be waived for the polar bear and sea otter and that their management be returned to the State, subject to stipulated modification of State laws and regulations; recommended annual quotas not quantified in existing State regulations should not exceed 170 polar bears and 3,000 sea otters. He also recommended continuation of the existing waiver for the Pacific walrus, as approved on April 5, 1976 (41 FR 14372) and amended on October 13, 1976 (41 FR 44875) and May 20, 1977 (42 FR 25924); current State quotas limit the annual retrieved walrus harvest to less than 2,300 animals, well below the maximum of 3,000 animals permitted under the waiver.

The recommended decision and all comments timely received will be available for public inspection between 7:45 a.m. and 4:15 p.m. on official business days in suite 1200 of the Service's offices at 1612 K Street NW., Washington, D.C. The recommended decision is also available for public inspection during normal business hours at the Service's Alaska Area Office, 813 D Street, Anchorage, Alaska. The record of hearings is available for public inspection and copying during normal business hours in the Office of the Solicitor, Room 6553, Department of the Interior Building, 18th and C Streets NW., Washington, D.C. Jackson E. Lewis, Office of Wildlife Assistance, U.S. Fish and Wildlife Service, was the principal author of this document.

Dated: July 13, 1977.

M. J. SPEAR,
*Acting Director, Fish and Wildlife Service.*

[FR Doc.77–20694 Filed 7–19–77;8:45 am]

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

## [ 50 CFR Part 216 ]

## MARINE MAMMAL PROTECTION

### Waiver of Moratorium With Respect to Nine Species of Alaskan Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Proposed rule—notice of receipt.

SUMMARY: On behalf of the Secretary of Commerce and the Secretary of the Interior, respectively, formal rulemaking proceedings have been initiated by the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) regarding a proposal to: (1) waive the moratorium of the Marine Mammal Protection Act ("the Act") applicable to taking of nine species of Alaska marine mammals, and (2) return management of those species to the State of Alaska. On June 30, 1977, the Administrative Law Judge (ALJ) in the case issued his recommended decision, which is now available for inspection and public comment.

DATES: All comments on the recommended decision received prior to August 22, 1977, will be considered.

LOCATIONS: The recommended decision is available for inspection at:

U.S. Fish and Wildlife Service, Suite 1200, 1612 K Street NW., Washington, D.C. 20240.

Area Office, U.S. Fish and Wildlife Service, Anchorage, Alaska.

Office of the Regional Director, National Marine Fisheries Service, Juneau, Alaska.

The record of hearings is available for public inspection during normal business hours in:

Office of the Solicitor, Room 6553, Department of the Interior Buildings, 18th & C Streets NW., Washington, D.C.

ADDRESS: Comments should be sent to Director, National Marine Fisheries Service (Attn: F33), Department of Commerce, Washington, D.C. 20235.



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FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Marine Mammal Program Manager, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, Phone: 202–634–7461.

SUPPLEMENTARY INFORMATION: Section 101 of the Act establishes a moratorium on the taking of marine mammals, with certain exceptions. Under certain conditions, which are set out in Section 101(a)(3)(A), the moratorium can be waived for any given species of marine mammal. The waiver must be accompanied by regulations for the conservation of the species in question, following formal rulemaking.

Section 109 of the Act preempts State laws and regulations relating to the taking of marine mammals within the State's jurisdiction, however, provision is made for the reinstatement of State laws and regulations which provide for the conservation of marine mammals consistent with the Act and any applicable Federal regulations.

In January 1973 the Governor of Alaska requested that the moratorium be waived with respect to certain species of marine mammals which predominantly inhabit Alaskan waters and the waters off Alaska, and further requested that management of these Alaska species be returned to the State. Of the Alaska marine mammals indicated in the State's request, the Secretary of Commerce has responsibility for the northern (Steller) sea lion (*Eumetopias jubatus*), land-breeding harbor seal (*Phoca vitulina richardii*), ice-breeding harbor seal, also known as spotted or largha seal (*Phoca vitulina largha*), ringed seal (*Pusa hispida*), ribbon seal (*Histriophoca fasciata*) Pacific bearded seal (*Erignathus barbatus*), and Beluga whale, also known as belukha whale (*Delphinapterus leucas*). The other three Alaska species, the polar bear (*Ussus maritimus*), sea otter (*Enhydra lutris*), and Pacific walrus (*Odobenus rosmarus*) are under the jurisdiction of the Department of the Interior. On April 9, 1976, the Directors of NMFS and FWS, based on available scientific evidence, jointly proposed to waive the moratorium in accordance with the State's request. FWS, at 41 FR 15166–72, proposed to amend 50 CFR Part 18 by adding a new subpart H to implement such a waiver and return of management with respect to species under its jurisdiction. NMFS, at 41 FR 15173–15180, proposed a new subpart I in 50 CFR Part 216, which is similar to the FWS proposal except that it pertains to species under the jurisdiction of the Department of Commerce.

Section 103 of the Act requires that waivers of the moratorium and regulations implementing such a waiver be based upon a formal hearing on the record before a duly appointed Administrative Law Judge. In compliance with this requirement, hearings were commenced before the Honorable Malcolm P. Littlefield. Subsequent to the prehearing conference on May 18, 1976, the ALJ issued an order, at 41 FR 21832–34, indicating 17 issues of fact and law to be addressed during the hearings. For 15 days over the period June 29, through July 20, 1976, formal hearings were held in Anchorage Nome, and Bethel, Alaska. The hearings concluded in Washington, D.C., on October 19 and 20, 1976. The record is composed of one volume on the prehearing conference, 17 volumes of hearings consisting of 2,664 pages, and 94 documentary exhibits, including two volumes of a draft environmental impact statement (DEIS). Twenty-one parties entered appearances at the prehearing conference representing various environmental and conservation organizations, the fishing industry, Alaska native groups, the State of Alaska, and the Marine Mammal Commission, as well as NMFS and FWS. The most active participants at the hearings submitted their arguments in opposition or support of the proposal through opening briefs in January 1977 and reply briefs in March 1977.

This notice is being published in accordance with the procedural regulations governing the hearings in the case which require that upon receipt of the recommended decision, the Directors of NMFS and FWS publish in the FEDERAL REGISTER a notice of receipt of the recommended decision, including a summary of its contents. The procedural regulations further require that after this notice of receipt has been published in the FEDERAL REGISTER, interested persons may file with the Director their written comments on the recommended decision. All comments, including recommendations from or consultation with the Marine Mammal Commission, must be submitted on or before August 19, 1977. The summary contained in this notice will cover primarily those points of the recommended decision applicable to Department of Commerce species, and FWS will separately summarize those aspects of the recommended decision most pertinent to Department of the Interior species.

EX PARTE COMMUNICATIONS

The procedural provisions regarding off-the-record communications (50 CFR 18.80) are supplemented by the requirements of Section 4 of the Government in the Sunshine Act (Pub. L. 94–409). Since the final decision on the waiver and return of management will be made during the next several months, interested individuals may be tempted to contact decision makers directly. Anyone considering such contacts should be aware that Section 4 of the Government in the Sunshine Act prohibits ex parte communications relative to the merits of the proceeding to or from any employee of an agency who is or may reasonably be expected to be involved in the decision process of the proceeding. "Ex parte communication" is defined to mean "an oral or written communication not on the record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports." So that all interested persons outside the Department of Commerce and the Department of the Interior will be able to guard against violating the Government in the Sunshine Act, the following list is provided showing Department of Commerce employees who may reasonably be expected to be involved in the decision process of this case:

| Code | Name | Title |
|---|---|---|
| DOC | Juanita M. Kreps | Secretary, Department of Commerce. |
| A | Richard A. Frank | Administrator, NOAA. |
| FE | William Aron | Director, Office of Ecology and Environmental Conservation, NOAA. |
| MR | David H. Wallace | Associate Administrator for Marine Resources, NOAA. |
| MR | Donald P. Martineau | Deputy Associate Administrator for Marine Resources, NOAA. |
| MR2 | Roland E. Smith | Director, Marine Fisheries Office, NOAA. |
| GC | William C. Brewer, Jr. | General Counsel, NOAA. |
| GC | James W. Brennan | Deputy General Counsel, NOAA. |
| GCF | Herbert L. Bhatt | Assistant General Counsel, NOAA. |
| F | Robert W. Schoning | Director, NMFS. |
| F | Jack W. Gehringer | Deputy Director, NMFS. |
| F | Winfred H. Meibohm | Associate Director, NMFS. |
| F3 | Robert J. Ayers | Acting Assistant Director for Fisheries Management, NMFS. |
| F33 | Thomas C. Andrews | Chief, Division of Marine Mammals and Endangered Species, NMFS. |
| F33 | William P. Jensen | Marine Mammal Program Manager, Division of Marine Mammals and Endangered Species, NMFS. |
| FAK | Harry Rietze | Regional Director, Alaska Region, NMFS, Juneau, Alaska. |

A list of Department of the Interior personnel likely to be involved in the decision process will be set out in the FWS notice of receipt of the recommended decision in this case.

SUMMARY OF RECOMMENDED DECISION

As it relates to Department of Commerce species of marine mammals, the recommended decision contains the following important findings of fact and conclusions of law:

1. The ALJ found that the best scientific evidence available was presented at the hearings in support of the proposed waiver of the moratorium, thus complying with one of the basic preconditions for waiving the moratorium.

2. In waiving the moratorium the Secretaries of Commerce and Interior, in order to protect the stocks in question, must guard against a level of take which may reduce the stocks below their optimum sustainable population (OSP). The ALJ concluded that OSP constitutes a range of population sizes from a point somewhat above the point of maximum productivity up to the average carrying capacity of the habitat.

3. Notwithstanding the exemption from the moratorium provided for Alaska Natives under Section 101(b) of the Act, regarding the taking of marine mammals for subsistence or Native handicraft purposes, the ALJ concluded that the State may, upon a waiver and return of management, regulate all hunting of marine mammals by Natives.





4. Consistent with the preliminary findings of NMFS in the preamble of the April 9, 1976, proposal to waive the moratorium, the ALJ found that Alaska beluga whales are comprised of two population stocks, one located in the Cook Inlet-Shelikoff Strait and the other located in the Bering Sea-Chukchi Sea, but there is only one stock each of land-breeding harbor seals, ice-breeding harbor seals (largha or spotted seals), ribbon seals, bearded seals, ringed seals, and sea lions in Alaska.

5. The ALJ concluded that the proponents of the waiver have satisfied the burden of proof in establishing that each stock is within the range of OSP.

6. The ALJ found that Alaska's program is in accord with sound principles of resource protection and conservation, including research, enforcement, census, habitat acquisition and improvement, and public participation in the development of game regulations.

7. With respect to the Department of Commerce species, the ALJ accepted the following population estimates for each of the stocks:

(a) Northern sea lion—214,000; (b) beluga whale (Cook Inlet stock)—500; (c) beluga whale (Bering-Chukchi Sea stock)—9,000; (d) land-breeding harbor seals—270,000; (e) ice-breeding harbor seals—200–250,000; (f) ringed seal—1 to 1.5 million; (g) ribbon seal—90–100,000; and (h) Pacific bearded seal—300–400,000.

8. With respect to the Department of Commerce species, the ALJ found that the following limits on the annual harvest would protect the stocks from being disadvantaged under the terms of a waiver and return of management:

(a) Northern sea lion.—The ALJ recommended setting a harvest limit of 6,648 adults annually, providing that two pups could be taken in lieu of each adult covered by the harvest limit.

(b) Beluga whale (Cook Inlet stock).—The ALJ concluded that 10 belugas could be taken annually without disadvantage to the stock.

(c) Beluga whale (Bering-Chukchi Sea stock).—The ALJ concluded that up to 350 belugas could be safely taken from the stock on an annual basis.

(d) Land-breeding harbor seal.—The ALJ found that the total harvest of land-breeding harbor seal adults should not exceed 8,461. However, in light of the high natural mortality of pups, he further found that two pups could be safely taken in lieu of one adult animal. He added that there should be no taking from the sub-populations in the Outer Kenai Coast, Management Area 2, and the Kodiak Archipelago, Management Area 3, where there has been heavy exploitation in the past.

(e) Ice-breeding harbor seal.—The ALJ found that an annual limit of 5700 animals would be appropriate in order to avoid disadvantage to the stock.

(f) Ringed seal.—The ALJ found that 20,000 ringed seals could be taken annually without disadvantage to the stock.

(g) Ribbon seal.—The ALJ found that 500 ribbon seals could be taken annually without disadvantage to the stock.

(h) Pacific bearded seal.—The ALJ found that an actual take of 4,000 bearded seals, could be taken annually without disadvantage to the stock.

The ALJ indicated that before the waiver and a return of management is carried out, the State of Alaska should develop detailed regulations which incorporate, as applicable to Department of Commerce species, the following points:

1. "Subsistence takers" should be given preference over sport or commercial hunters, and "subsistence taker" should be defined on the basis of bonifide dependence on marine mammals by coastal residents.

2. The State should exercise extreme caution and prudence, allowing margins for safety, in calculating proposed harvest levels.

3. To prevent the Federal waiver limit from becoming a target, lower figures should be published within the State as harvest quotas, and quotas should be set not only for the total area of the State, but also for each region or village.

4. Persons who conduct commercial harvests should be required to submit jaw and reproductive tract specimens for analysis and research.

5. The State regulations should include specific language corresponding to that in the Act using the standard of OSP.

6. A working arrangement for enforcement of the marine mammal laws should be negotiated between the State of Alaska and the U.S. Coast Guard.

7. A cooperative agreement concerning marine mammal enforcement, monitoring, and review should be negotiated between FWS and NMFS.

8. A working partnership should be established between the Native communities and the State concerning proposed regulations bearing on Native communities. The ALJ strongly urged that the State provide translations of its proposals so affected Native communities can be fully informed.

9. Proposed changes in laws, regulations, policies, and permits by the State of Alaska should be published in the FEDERAL REGISTER to allow non-Alaskan participation.

10. Whenever seals are to be taken by clubbing, clubbers should be trained, stickers and a backup staff should be used, and seals should be grouped together.

11. The State method for selecting hearing officers in civil prosecution should not be employed for civil prosecutions under Alaska's approved marine mammal regulations. Rather, U.S. Administrative Law Judges should be retained and assigned through the U.S. Civil Service Commission on a case basis with reimbursement being made to the U.S. Government.

12. Even after a return of management, programs for continuing research and analysis should be pursued to improve the management effort.

13. The ALJ noted that several witnesses had testified that the State system made it difficult for Natives to serve as guides; therefore, most of the profit went to non-Native brokers in Anchorage. This problem should be resolved through appropriate means.

14. Regulations should provide for the furnishing of necessary data and other information from the State of Alaska to the Marine Mammal Commission.

Dated: July 14, 1977.

WINFRED H. MEIBOHM,
*Associate Director,*
*National Marine Fisheries Service.*

[FR Doc.77-20695 Filed 7-19-77;8:45 am]

[ 50 CFR Part 216 ]

## TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS

### Permits, Etc.

AGENCY: National Marine Fisheries Service.

ACTION: Proposed amendments.

SUMMARY: Permits to take marine mammals incidental to commercial fishing operations are required by the Marine Mammal Protection Act of 1972 (Pub. L. 92–522). The intent of the proposed amendments are to authorize the issuance of a general permit for a period of three years rather than one year, to establish the quotas for calendar years 1978, 1979, 1980, to state an enforcement policy regarding accidental takings, to amend the gear and fishing procedure, to provide the administrative procedures for amending the regulations and Permits issued thereunder, and to make the statements required by section 103(d) of the act. Current permits terminate December 31, 1977. The American Tunaboat Association as applied for a permit to be effective for 1978. Regulations are being proposed to be effective January 1, 1978 through December 31, 1980.

DATES: See Supplementary Information.

ADDRESSES: This proposal is made by the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235. Notice of intent to participate in the hearing must be sent to the above address by certified mail.

FOR FURTHER INFORMATION CONTACT:

Eric Erdheim, Staff Attorney, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235, Phone 202–634–7486.

SUPPLEMENTARY INFORMATION: Regulations which govern the issuance of Permits to take marine mammals incidental to commercial fishing were first promulgated in October 1974 and were repromulgated on March 1, 1977. Both sets of regulations have been periodically modified and amended.

The final decision governing the proposed regulations will be adopted on the record after opportunity for a formal agency hearing before an Administrative Law Judge (5 U.S.C. 556–557, 16



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U.S.C. 1373(e)). Procedural regulations to govern this public hearing were published at 42 FR 35967 on July 13, 1977. Amendments are hereby proposed to Title 50, Chapter II, Part 216.24 CFR: § 216.24 (a), (b), (c), and (d), as amended and published on March 1, 1977, 42 FR 12010 along with the Director's final decision at page 12015 of the same issue. Pursuant to those regulations and the final decision, a general permit was issued on April 15, 1977, to the American Tunaboat Association to permit the taking of marine mammals incidental to commercial fishing operations under Catgeory 2: Encircling gear, tuna purse seining. That permit, as amended, in accordance with the governing regulations, is effective until December 31, 1977. The American Tunaboat Association applied for a 1978 Permit on June 23, 1977. The Application and all supporting information will also be an issue of the public hearings.

DATES: Public hearings will begin on or about August 22, 1977. The final date for filing with the Director a notice of intent to participate in the hearing is August 5, 1977, and the final date for the submission of direct expert testimony is August 15, 1977. A separate notice will be published regarding the exact time and location of the hearings, and the date of publication of any environmental impact statement.

The proposal is to establish for three consecutive years certain limits on the number of marine mammals that may be taken, encircled, and killed incidental to commercial tuna purse seine fishing operations in the eastern tropical Pacific Ocean. It is believed that a three year series of limits would allow a more thorough examination of the effect of fishing operations on marine mammal populations, and the technological and economic effect on the fishery than annual single year proposals. It is also believed that a 3 year proposal will simplify the administrative process, and thus reduce the expense and time consumed by all interested parties. The intent of the proposal is, if possible, to achieve a 50 percent reduction in the mortality of marine mammals incidental to purse seine tuna fishing by the end of 1980. Achievement of this reduction would require that an average rate of 0.5 porpoise killed per ton of yellowfin caught on porpoise be maintained in 1978, 0.4 in 1979, and 0.3 in 1980. Based on current kill per ton rates and expected improvements as a result of installation of the apron system in 1978 and subsequent years, it is believed that the reduction being sought is technologically achievable. This reduction is considered to be consistent with the goal of the Marine Mammal Protection Act to reduce the incidental mortality and serious injury to insignificant levels approaching a zero rate. Rules and procedures to be established would permit the modification of the established limits, through informal rule making during the three year period, rather than formal Administrative Law Judge hearings unless major changes are proposed which would require a formal hearing.

Other than minor procedural changes in the title of permits and certificates of inclusion, the issuance of permits in categories for, towed or dragged gear; seining other than tuna; stationary gear; and other gear, is not affected. This proposal does materially affect the issuance of permits and certificates of inclusion for incidental taking pursuant to tuna purse seining.

For clarity, Section 216.24 (a) through (c) and (d)(2) are being restated in their entirety to read as they are proposed to be amended.

### Required Statements

Section 103(d) of the Act requires that the following statements be published in the Federal Register.

(1) A statement of the estimated existing levels of the species and population stocks of the marine mammals concerned: Seventeen (17) known species and population stocks and four (4) tentatively identified stocks are involved in commercial tuna purse seining in the eastern tropical Pacific Ocean.

| *Species, stock-management units* | *Estimated population level at beginning of 1978* |
|---|---|
| 1. Spotted dolphin (coastal) | (1) |
| 2. Spotted dolphin (off-shore) [2] | 3,730,000 |
| 3. Spinner dolphin (Costa Rican) | (1) |
| 4. Spinner dolphin (eastern) | 1,326,000 |
| 5. Spinner dolphin (whitebelly) [3] | 690,000 |
| 6. Common dolphin (northern) | 400,000 |
| 7. Common dolphin (central) | 230,000 |
| 8. Common dolphin (southern) [4] | 800,000 |
| 9. Striped dolphin (northern) | 18,000 |
| 10. Striped dolphin (north-equatorial) [5] | 230,000 |
| 11. Bottlenosed dolphin | 588,000 |
| 12. Rough-toothed dolphin | 450 |
| 13. Frazer's dolphin | 7,800 |
| 14. Risso's dolphin | 7,500 |
| 15. Short-finned pilot whale | 60,000 |
| 16. Melon-headed whale | (1) |
| 17. Pygmy killer whale | (1) |

[1] Unknown.
[2] Including the tentatively indentified southwestern stock.
[3] Including the tentatively identified southwestern stock.
[4] Including the tentatively identified equatorial-oceanic stock.
[5] Including the tentatively identified south-equatorial stock.

(2) A statement of the expected impact of the proposed regulations on the optimum sustainable population of each species or population stock. Optimum sustainable population (OSP) of the species and stocks involved is defined as a population which falls in a range from the population level which is the largest supportable within the ecosystem, to the population that results in maximum net productivity. (See 41 FR 55536, December 21, 1976). Maximum net productivity is the greatest net annual increment in the population due to reproduction and growth less losses due to natural mortality. Maximum net productivity is interpreted as being the lower limit of the range of optimum sustainable population(s). The lower bound of OSP has been determined to be in the range of 50 percent to 70 percent of initial unexploited populations. If a population is below the lower bounds of OSP, it is considered to be depleted.





| Species stock—Management Units | Estimate [1] of OSP | Estimated population [1] and OSP at Close of 1980 |
|---|---|---|
| 1 Spotted dolphin (coastal) | Unknown | Unknown: |
| 2 Spotted dolphin (offshore) [2] | 65 pct | 4,009,000 (70 pct); |
| 3 Spinner dolphin (Costa Rican) | Unknown | Unknown. |
| 4 Spinner dolphin (eastern) | 55 pct | 1,446,000 (60 pct). |
| 5 Spinner dolphin (whitebelly) [3] | 80 pct | 705,000 (82 pct). |
| 6 Common dolphin (northern) | AOA [6] | Unchanged. |
| 7 Common dolphin (central) | AOA | Do. |
| 8 Common dolphin (southern) [4] | AOA | Do. |
| 9 Striped dolphin (northern) | AOA | Do. |
| 10 Striped dolphin (north-equatorial) [5] | AOA | Do. |
| 11 Bottlenosed dolphin | AOA | Do. |
| 12 Rough-toothed dolphin | AOA | Do. |
| 13 Fraser's dolphin | AOA | Do. |
| 14 Risso's dolphin | AOA | Do. |
| 15 Short-finned pilot whale | AOA | Do. |
| 16 Melon-headed whale | AOA | Do. |
| 17 Pygmy killer whale | AOA | Do. |
| Total | | |

[1] Percentage of initial unexploited stock size.
[2] Including the tentatively identified southwestern stock.
[3] AOA equals at or above the optimum sustainable population level.
[4] Including the tentatively identified equatorial-oceanic stock.
[5] Including the tentatively identified south-equatorial stock.

(3) A statement describing the evidence before the Secretary upon which she proposes to base such regulations.

(4) Any studies made by or for the Secretary, or any recommendations made by or for the Secretary or the Marine Mammal Commission which relate to the establishment of such regulations.

These two statements ((3) and (4)), are combined:

The National Marine Fisheries Services, in cooperation with other Federal agencies, private organizations, and individuals, has conducted an extensive research program since 1973 regarding the status of and mortality of marine mammals taken incidental to yellowfin tuna purse seine fishing. The purpose of the research has included the determination of the extent of the mortality incidental to purse seine fishing, the status of the marine mammal populations, and the identification and implementation of measures to reduce mortality. Pertinent information available to the National Marine Fisheries Service has been published and made available in connection with regulatory and congressional public hearings.

Available information upon which proposed regulations were based in 1974 and 1975 was listed in 39 FR 9686, March 31, 1974, 40 FR 41531, September 8, 1975, and 41 FR 45015, October 14, 1976. Additional material was submitted for the record at public hearings held May 15 and 16, 1974, in Seattle, Washington; December 10 and 11, 1974, in Washington, D.C.; October 9 and 10, 1975, in Washington, D.C.; October 24 and 25, 1975, in San Diego, California; November 15, 16, 17, 18, 19, 1976, December 1, 2, 3, 4, and 22, 1976, in Washington, D.C.; and November 22, 23, 24, and 26, 1976, in San Diego, California.

Additional evidence and the basis for the 1977 regulations were cited in the recommended decisions as amended by the Director's final decision published at 42 FR 12015, March 1, 1977.

In addition to the records compiled in public hearings and cited above, the following scientific documents and reports specifically contain the evidence upon which the current proposal is based:

Bold Contender Cruise Report, 1976. Report of the chartered seiner MV *Bold Contender*, September 22, 1975, to December 4, 1975. 12 p.

Coe, J. M. 1976. The effectiveness of the porpoise apron in improving the backdown procedure. SWFC Admin. Rept. No. LJ–76–38.

Department of Commerce. 1974. Report to the Congress on the research and development program to reduce the incidental take of marine mammals, October 21, 1972, through October 20, 1974. 57 p.

1975. Report of the Secretary of Commerce on Administration of the Marine Mammal Protection Act of 1972, May 1, 1974, to March 31, 1975.

1976. Report of the Secretary of Commerce on the Administration of the Marine Mammal Protection Act of 1972. April 1, 1975, through March 31, 1976. Washington, D.C. 203 p.

Eastern Pacific Report, 1976. Report of the chartered seiner MV *Eastern Pacific*, September 29, 1975, to December 6, 1975. 8 p.

Everett, J. T., and N. Lo. 1976. The incidental kill of porpoise during the first half of 1976, the date of reaching the quota and the methodologies utilized in each estimation. SWFC Admin. Rept. LJ–76–17.

Fox, W. W., Jr., J. E. Powers, and W. H. Lenarz. 1976. Incidental porpoise mortality by U.S. purse seine vessels, January 1 through April 14, 1976. SWFC Admin. Rept. No. LJ–76–7. May 1976.

Fisheries Engineering Laboratory. 1976. Proposal to develop a prototype satellite-linked porpoise tracking system. Bay Saint Louis, Miss., July 1976. 38 p.

IATTC. 1976. Annual Report of the Inter-American Tropical Tuna Commission. 1975. 176 p.

Kimura, M., and W. F. Perrin. 1976. Progress report on studies of the biology of the striped dolphin, *Stenella coeruleoalba* in the eastern tropical Pacific. SWFC Admin. Rept. No. LJ–76–11. 51 p.

NOAA Tuna-Porpoise Committee. 1972. Report of the NOAA Tuna-Porpoise Review Committee, September 8, 1972. 63 p.

Perrin, W. F., D. B. Holts, and R. B. Miller. 1976a. Growth and reproduction of the eastern spinner dolphin. A geographical form of *Stenella longirostris* in the eastern tropical Pacific. SWFC Admin. Rept. No. LJ–76–13, 84 p.



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1976b. Preliminary estimates of growth and reproduction of the whitebelly spinner dolphin, a geographical form of *Stenella longirostris* in the eastern tropical Pacific. SWFC Admin. Rept. No. LJ-76-12. 37 p.

Perrin W. F., J. M. Coe, and J. R. Zweifel. 1976. Growth and reproduction of the spotted porpoise, *Stenella attenuata*, in the offshore eastern tropical Pacific. Fish. Bull. Vol. 74: 229-269.

Perrin, W. F., R. B. Miller, P. A. Sloan. 1976. Reproductive parameters of the offshore spotted dolphin, a geographical form of *Stenella attenuata*, in the eastern tropical Pacific, 1973-1975. SWFC Admin. Rept. LJ-76 (in preparation)

Powers, J. E. 1976. Estimated incidental porpoise mortality incidental to tuna purse-seining fishing for fiscal year 1975. SWFC Admin. Rept. LJ-75-68. 98 p.

SWFC. 1976. Report of the workshop on stock assessment of porpoises involved in the eastern Pacific yellowfin tuna fishery. SWFC Admin. Rept. LJ-76-26.

SWFC. 1976. Progress of Research on Porpoise Mortality Incidental to Tuna Purse-Seine Fishing For Fiscal Lear 1976. SWFC Admin. Rept. LJ-76-17.

HEARING AND ISSUES

The hearing will involve, but not necessarily be limited to the following issues of fact. Evidence relevant to other issues may be submitted at the hearing subject to ruling of the presiding officer on the materiality of such issues.

(1) Estimated existing levels of the species and population stocks of the marine mammals involved in purse seining for yellowfin tuna.

(2) The expected impact of the proposed regulations on the optimum sustainable populations of the species or population stocks involved.

(3) The economic feasibility of implementing the proposed regulations.

(4) The technological feasibility of implementing the proposed regulations.

(5) The impact of implementing the proposed regulations on the tuna stocks.

The docket numbers assigned to this case is MMPAH No. 1-1977. Judge Frank W. Vanderheyden is scheduled to be assigned as the presiding officer for the proceeding.

Records and documents relative to the proposal will be maintained in the offices of the National Marine Fisheries Service, and may be reviewed during normal working hours, 8 a.m. to 4:30 p.m., in the Page Building 2, Room 408, 3300 Whitehaven Street NW., Washington, D.C.

EX PARTE COMMUNICATION

Section 4 of the Government in the Sunshine Act (Pub. L. 94-409), dealing with ex parte communications is applicable to this hearing. The following persons are those employees of the agency who may reasonably be expected to be involved in the decision process of the proceeding, and are, therefore, hereby identified to all interested persons outside the agency in order that the provisions of Section 4 can be complied with:

| Code | Name | Title |
|---|---|---|
| DOC | Juanita M. Kreps | Secretary, Department of Commerce. |
| A | Richard A. Frank | Administrator, NOAA. |
| EE | William Aron | Director, Office of Ecology and Environmental Conservation, NOAA. |
| MR | David H. Wallace | Associate Administrator for Marine Resources, NOAA. |
| MR2 | Roland F. Smith | Director, Marine Fisheries Office, NOAA. |
| GC | William C. Brewer, Jr | General Counsel, NOAA. |
| GCF | Herbert L. Blatt | Assistant General Counsel, NOAA. |
| F | Robert W. Schoning | Director, NMFS. |
| F | Jack W. Gehringer | Deputy Director, NMFS. |
| F | Winfred H. Meibohm | Associate Director, NMFS. |
| F4 | Robert J. Ayers | Acting Assistant Director for Fisheries Management, NMFS. |
| F53 | Thomas C. Andrews | Chief, Marine Mammal and Endangered Species Division, NMFS |
| F53 | William P. Jensen | Marine Mammal Program Manager, Marine Mammal and Endangered Species Division, NMFS. |
| F14 | Izadore Barrett | Director, Southwest Fisheries Center, NMFS, La Jolla, Calif. |
| F14 | John T. Everett | Leader, Tuna Porpoise Interaction Program, Southwest Fisheries Center, NMFS, La Jolla, Calif. |
| F14 | William W. Fox, Jr | Chief, Oceanic Fisheries Research Division, Southwest Fisheries Center, La Jolla, Calif. |
| FSW | J. Gary Smith | Chief, Fisheries Management Division, Southwest Region, NMFS, Terminal Island, California |
| FSW | Gerald V. Howard | Regional Director, Southwest Region, NMFS, Terminal Island, Calif. |
| FSW | Floyd S. Anders, Jr | Deputy Regional Director, Southwest Region, NMFS, Terminal Island, Calif. |
| FSW | Norman Mendes | Chief, Tuna Porpoise Management Branch, NMFS, San Diego, Calif. |
| DOC | Frank W. Vanderheyden. | Administrative Law Judge, Department of Commerce. |

Ex parte communications relevant to the merits of the proceeding to or from the above named persons from or to any interested person outsdie the Department of Commerce are prohibited from the date of this notice until the date the final regulations resulting from the proceeding are published in the FEDERAL REGISTER. Section 4 provides mechanisms for enforcing this prohibition, including (1) the requirement that an employee making or receiving prohibited communications disclose them and all responses to them or the public record of the proceeding; and (2) authorization of dismissal or other adverse action against the claim of the party to the proceeding who makes or causes prohibited communication. "Ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests of status reports on the matter of proceeding.

PROPOSED REGULATORY AMENDMENTS

## PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Sections 216.24, (a), (b), (c), and (d) (2) and (3) are amended to read as follows:

### § 216.24 Taking and related acts incidental to commercial fishing operations.

*General permits and certificates of inclusion.* (a) No marine mammals may be taken in the course of a commercial fishing operation unless the taking constitutes an incidental catch as defined in § 216.3, a general permit and certificate of inclusion (certificate) have been obtained in accordance with these regulations, and such taking is not in violation of such permit. It is the immediate goal that the incidental kill or serious injury of marine mammals occurring in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate.

(b) *Permits.* (1) General permits to allow the taking of marine mammals in connection with commercial fishing operations will be issued to persons using fishing gear in any one of the following categories:

(i) Category 1. *Towed or dragged gear.* Shall include those commercial fishing operations utilizing towed or dragged gear such as bottom otter trawls, bottom pair trawls, multi-rig trawls, and dredging gear.

(ii) Category 2. *Encircling gear, tuna purse seining.* Purse seining by vessels engaged in commercial fishing operations utilizing purse seines to capture tuna by encircling marine mammals. Vessels that meet the fishing gear and equipment requirements contained in subpart 216.24 (d) (2) (iii) of these regulations shall be considered in this category.

(iii) Category 3. *Encircling gear, seining other than tuna.* Purse seining by vessels engaged in commercial fishing operations involving purse seining for tuna and other fish species by other than certified vessels in category 2. Vessels in this category shall not carry more than one speedboat.

(iv) Category 4. *Stationary gear.* Shall include commercial fishing operations utilizing stationary gear such as traps, pots, weirs, and pound nets.

(v) Category 5. *Other gear.* Shall include those commercial fishing operations utilizing trolling, gill nets, hook and line gear, and any gear not classified under paragraph (b) (1) (i), (ii), (iii), or (iv) of this Section.

(2) Permits shall be issued as general permits to a class of fishermen using one of the general categories of gear set forth above. Any member of such class may apply for a general permit on behalf of any members of the class. Subsequent to a grant of a general permit, owners or managing owners may make application to be included under the terms of a general permit by obtaining a certificate of inclusion. Applications for a general permit should contain:

(i) Name, address, and telephone number of the applicant. If the applicant is an organization or corporate entity, a copy of the corporate or organizational charter which sets forth the basis for application on behalf of a group or class of commercial fishermen must be included;

(ii) The category of permit for which application is being made;

(iii) A statement describing why the applicant cannot avoid taking marine mammals incidentally to commercial fishing operations. A description of the fishing operations by which marine mammals are taken;





(iv) The date upon which the general permit is proposed to become effective;

(v) A list of the fish sought by those fishermen who may become parties to the general permit through inclusion by certificate, and the general areas of operation of such fishermen;

(vi) A statement identifying the marine mammals and numbers of marine mammals which are expected to be taken under the general permit;

(vii) The applicant must demonstrate in the application that the requested taking of species or stocks during commercial fishing operations is consistent with the purposes of the act and the applicable regulations established under Section 103 of the act.

(viii) A description of the procedures and techniques that will be utilized in order that takings under the permit will be consistent with the purposes and policies of the Marine Mammal Protection Act of 1972, and these regulations; and

(ix) A certification, signed by the applicant, in the following language: I certify that the foregoing information is complete, true and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining a permit under the Marine Mammal Protection Act of 1972 and regulations promulgated thereunder, and that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or the penalties provided under the Marine Mammal Protection Act of 1972.

(3) Applications for a general permit shall be submitted in an original and four copies to the Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235. Applications should be received not less than 180 days prior to the date upon which the permit is to become effective. Assistance may be obtained by writing the Director, National Marine Fisheries Service, or by calling the Marine Mammal and Endangered Species Division, telephone number (202) 634-7461.

(4) A general permit shall be valid for the time period indicated on the face of the permit. General permits shall be subject to modification, suspension or revocation and may contain terms and conditions prescribed in accordance with section 104(b)(2), 16 U.S.C. 1374(b)(2) of the act.

(5) The Director shall determine the adequacy and completeness of such applications received by him and if found to be adequate and complete, will forthwith publish a notice of such application in the FEDERAL REGISTER, giving interested parties thirty days in which to submit written data or views with respect to the granting of such permit.

(6) If within thirty days after the date of publication of the FEDERAL REGISTER notice with respect to an application for a general permit any interested party or parties request a hearing in connection therewith, the Director may within sixty days following the date of publication of the FEDERAL REGISTER notice afford such party or parties an opportunity for such a hearing. Any hearing held in connection with an application for a general permit shall be conducted in the same manner as hearings held in connection with scientific or display permit applications under § 216.33.

(7) There is no fee associated with the application for a general permit.

(c) *Vessel certificates of inclusion.* (1) The owner or managing owner of a vessel that participates in commercial fishing operations for which a general permit is required under this subpart shall be the holder of a valid certificate of inclusion under that general permit. Such certificates shall not be transferable and will be valid only if the person in charge of and actually conducting the fishing operations has attended and completed training as required for the category of permit involved. Such persons, for purposes of these regulations, shall be known as the operator.

(2) The certificate must be aboard the vessel while it is engaged in fishing operations and shall be shown upon request to an enforcement agent or other designated agent of the National Marine Fisheries Service; *Provided, however,* That vessels at sea on a fishing trip on the expiration date of their certificate of inclusion, to whom a certificate of inclusion for the next year has been issued, may take marine mammals under the terms of the new certificate of inclusion but such vessel owners are obligated to place the new certificate aboard when the vessel next returns to port.

(3) After issuance of a general permit, applicants for inclusion under a general permit will receive a certificate evidencing such inclusion and setting forth the period of time during which they may conduct fishing operations under the general permit; *Provided, however,* That each certificate shall expire no later than the general permit under which it is issued.

(4) Application(s) for certificates of inclusion should be addressed as follows:

(i) Owners or managing owners of vessels registered in the States of Washington, Oregon, Idaho, Montana, Wyoming, Colorado, North Dakota, South Dakota, and Utah, should make application to the Regional Director, National Marine Fisheries Service, Seattle, Washington 98102.

(ii) Owners or managing owners of vessels registered in the States of California, Nevada, Arizona, Hawaii, and the territories of American Samoa, Guam, and the Trust Territory of the Pacific Islands should make application to the Regional Director, National Marine Fisheries Service, Terminal Island, California 90731.

(iii) Owners or managing owners of vessels registered in the State of Alaska should make application to the Regional Director, National Marine Fisheries Service, Juneau, Alaska 99801.

(iv) Owners or managing owners of vessels registered in the States of Maine, Vermont, New Hampshire, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, District of Columbia, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Michigan, Wisconsin, Illinois, Indiana, and Minnesota should make application to the Regional Director, National Marine Fisheries Service, Gloucester, Massachusetts 01930.

(v) Owners or managing owners of vessels registered in the States of North Carolina, South Carolina, Florida, Mississippi, Louisiana, Texas, Georgia, Oklahoma, Alabama, Nebraska, Iowa, Tennessee, Missouri, New Mexico, Kentucky, Kansas, Puerto Rico, Virgin Islands, and Arkansas, should make application to the Regional Director, National Marine Fisheries Service, St. Petersburg, Florida 33702.

(5) Applications for certificates of inclusion shall contain:

(i) The name of the vessel which is to appear on the certificate(s) of inclusion.

(ii) The category of the general permit under which the applicant wishes to be included;

(iii) The species of fish sought and general area of operations.

(iv) The identity of State or local commercial fishing licenses, if any, under which vessel operations are conducted and dates of expiration;

(v) The estimated date when the required apron will be installed in the net to conform with these regulations, and

(vi) The name and signature of the applicant, or the organization acting on behalf of the vessel.

(6) *Fees.* (i) Applications for certificates of inclusion shall contain a payment in accordance with the following schedule for each vessel named in paragraph (c) (5) (i) of this section. The schedule of fee payment is:

(A) Categories 1: Towed or dragged gear; 3: encircling gear, other than yellowfin tuna; 4: stationary gear; and 5: other gear—$10.

(B) Category 2. Encircling gear, yellowfin tuna purse seining—$200.

(ii) Except as provided herein, applicants desiring a certificate of inclusion under more than one category of the general permit will not be required to pay a full fee for each certificate. After the initial fee for a certificate is paid, additional certificates will be issued for a fee of $0.50 (fifty cents) each. However, in any case the full fee must be paid for certificates of inclusion in category 2.

(iii) Notwithstanding the provisions of subparagraph (c) (5) (i) of this section, an applicant whose income is below Federal poverty guidelines may, on a showing in his application that his income is below such guidelines, be issued a certificate. The schedule of fee payment is:

(A) Categories 1: Towed or dragged gear; 3: encircling gear, other than yellowfin tuna; 4: stationary gear; and 5: other gear—$1.

(B) Category 2: Encircling gear, tuna purse seining—$20.

(iv) The Director may change the amount of these required fees at any time he determines a different payment to be reasonable, and said change may be accomplished by publication in the FEDERAL REGISTER of the new payments required.



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(7) The Regional Director receiving applications for certificates of inclusion shall determine that adequacy and completeness of such applications, and upon his determination that such applications are adequate and complete, he shall immediately approve such applications and thereafter notify the applicants of his approval and issue a certificate to approved applicants except as provided for in section 216.24(g).

(d) Terms and conditions of fishing operations under general permits shall include but not be limited to the following:

. . . . .

(2) *Encircling gear, tuna purse seining.*—(i) *Quotas.* (A) Operators of a certificated vessel may take marine mammals so long as taking is an incidental occurrance in the course of normal commercial tuna fishing operations, and the fishing operations are under the direction of an operator who has completed the required training except that a vessel shall not encircle either:

(*1*) Pure schools of coastal spotted dolphin (*Stenella attenuata*), Costa Rican spinner or eastern spinner dolphin (*Stenella longirostris*) stocks or mixed schools including these stocks, or

(2) Pure schools of any species of dolphin except offshore spotted dolphin (*Stenella attenuata*) stocks, striped dolphin (*Stenella coeruleoalba*) and common dolphin (*Delphinus delphis*) stocks.

The numbers of marine mammals that may be taken during calendar years 1978, 1979, and 1980, by U.S. vessels in the course of commercial fishing operations will be limited in accordance with the following schedule:

| Species/stock—management units | Take | Encirclement | Mortality |
|---|---|---|---|
| **Calendar year 1978** | | | |
| 1 Spotted dolphin (coastal) | 0 | 0 | 0 |
| 2 Spotted dolphin (offshore) [1] | 14,000,000 | 5,400,000 | 25,500 |
| 3 Spinner dolphin (Costa Rican) | 0 | 0 | 0 |
| 4 Spinner dolphin (eastern) | 0 | 0 | 0 |
| 5 Spinner dolphin (whitebelly) [2] | 4,365,000 | 1,400,000 | 13,500 |
| 6 Common dolphin (northern) | 192,000 | 32,000 | 120 |
| 7 Common dolphin (central) | 900,000 | 600,000 | 500 |
| 8 Common dolphin (southern) [3] | 2,688,000 | 460,000 | 1,700 |
| 9 Striped dolphin (northern) | 48,000 | 3,216 | 50 |
| 10 Striped dolphin (north-equatorial) [4] | 480,000 | 32,000 | 470 |
| 11 Bottlenosed dolphin | 72,000 | 4,824 | 70 |
| 12 Rough-toothed dolphin | 6,000 | 402 | 5 |
| 13 Fraser's dolphin | 6,000 | 402 | 5 |
| 14 Risso's dolphin | 6,000 | 402 | 5 |
| 15 Short-finned pilot whale | 6,000 | 402 | 5 |
| 16 Melon-headed whale | 0 | 0 | 0 |
| 17 Pygmy killer whale | 0 | 0 | 0 |
| Total | | | 41,980 |
| **Calendar year 1979** | | | |
| 1 Spotted dolphin (coastal) | 0 | 0 | 0 |
| 2 Spotted dolphin (offshore) [1] | 14,000,000 | 5,400,000 | 25,400 |
| 3 Spinner dolphin (Costa Rican) | 0 | 0 | 0 |
| 4 Spinner dolphin (eastern) | 0 | 0 | 0 |
| 5 Spinner dolphin (whitebelly) [2] | 4,365,000 | 1,400,000 | 10,300 |
| 6 Common dolphin (northern) | 192,000 | 32,000 | 100 |
| 7 Common dolphin (central) | 900,000 | 600,000 | 400 |
| 8 Common dolphin (southern) [3] | 2,688,000 | 460,000 | 1,400 |
| 9 Striped dolphin (northern) | 48,000 | 3,216 | 40 |
| 10 Striped dolphin (north-equatorial) [4] | 480,000 | 32,000 | 380 |
| 11 Bottlenosed dolphin | 72,000 | 4,824 | 60 |
| 12 Rough-toothed dolphin | 6,000 | 402 | 5 |
| 13 Fraser's dolphin | 6,000 | 402 | 5 |
| 14 Risso's dolphin | 6,000 | 402 | 5 |
| 15 Short-finned pilot whale | 6,000 | 402 | 5 |
| 16 Melon-headed whale | 0 | 0 | 0 |
| 17 Pygmy killer whale | 0 | 0 | 0 |
| Total | | | 41,300 |
| **Calendar year 1980** | | | |
| 1 Spotted dolphin (coastal) | 0 | 0 | 0 |
| 2 Spotted dolphin (offshore) [1] | 14,000,000 | 5,400,000 | 21,300 |
| 3 Spinner dolphin (Costa Rican) | 0 | 0 | 0 |
| 4 Spinner dolphin (eastern) | 0 | 0 | 0 |
| 5 Spinner dolphin (whitebelly) [2] | 4,365,000 | 1,400,000 | 8,100 |
| 6 Common dolphin (northern) | 192,000 | 32,000 | 70 |
| 7 Common dolphin (central) | 900,000 | 600,000 | 300 |
| 8 Common dolphin (southern) [3] | 2,688,000 | 460,000 | 1,000 |
| 9 Striped dolphin (northern) | 48,000 | 3,216 | 30 |
| 10 Striped dolphin (north-equatorial) [4] | 480,000 | 32,000 | 280 |
| 11 Bottlenosed dolphin | 72,000 | 4,824 | 40 |
| 12 Rough-toothed dolphin | 6,000 | 402 | 5 |
| 13 Fraser's dolphin | 6,000 | 402 | 5 |
| 14 Risso's dolphin | 6,000 | 402 | 5 |
| 15 Short-finned pilot whale | 6,000 | 402 | 5 |
| 16 Melon-headed whale | 0 | 0 | 0 |
| 17 Pygmy killer whale | 0 | 0 | 0 |
| Total | | | 31,140 |

[1] Including the tentatively identified Southwestern stock.
[2] Including the tentatively identified Equatorial-Oceanic stock.
[3] Including the tentatively identified South-Equatorial stock.

(B) The mortality of marine mammals permitted under the general permit for tuna purse seining will be monitored according to methodology published in the FEDERAL REGISTER. The effective date when fishing on a stock or species will be prohibited, will be published in the FEDERAL REGISTER not less than 7 days prior to that date.

(C) It is the enforcement policy of NMFS that if at the time the net skiff is released from the vessel attached to the net at the start of a set and no species or stocks that are prohibited from being taken are observed, the fact that such a species is subsequently taken will not be cause for issuance of a notice of violation provided that all procedures required by the applicable regulations have been followed. This provision will be periodically reviewed in light of the effect of accidental takings on the various species and stocks.

(D) If a general permit is valid during the three year period January 1, 1978–December 31, 1980, the Director may, upon receipt of new information which in his opinion is sufficient to require modification of the regulations and/or the general permit and the certificates issued thereunder, propose to modify such after consultation with the Marine Mammal Commission. These modifications must be consistent with and necessary to carry out the purposes of the act. Any proposal by the Director involving changes in the quotas shall include the statements required by section 103(d) of the act. Modifications shall be proposed in the FEDERAL REGISTER and a thirty (30) day public comment period shall be allowed. The Director shall hold a public hearing to receive and evaluate evidence in those circumstances where it is consistent with and necessary to carry out the purposes of the act or where requested by the permittee. Upon the request of interested parties for a formal hearing on the record, the Director may in his discretion hold such a formal hearing when he determines it to be necessary to carry out the purposes of the act.

(ii) *General conditions.* (A) Marine mammals taken incidental to commercial fishing operations shall be immediately returned to the environment where captured without further injury. During the course of commercial fishing operations the operators of a purse seine vessel shall take every possible precaution to refrain from causing or permitting incidental mortality and serious injury of marine mammals and are expected to exercise effective use of the backdown and other procedures required herein.

(B) Operators may take such steps as are necessary to protect their catch, gear, or person from depredation, damage, or threat of personal injury. However, all marine mammals taken in the course of commercial fishing operations shall be subject to the provisions of § 216.3 with respect to "incidental catch", and may not be retained except where a specific permit has been obtained authorizing the retention.





(C) Operators shall maintain daily logs, in such form as the Regional Director, Southwest Region, National Marine Fisheries Service may prescribe, of all sets in which marine mammals are taken. Such logs shall be subject to inspection at the discretion of the Southwest Regional Director, or his designated personnel. In addition, certified copies of all such logs shall be mailed or delivered to the field office, Southwest Region, National Marine Fisheries Service, 1140 N. Harbor Drive, Room 7, San Diego, California 92101, within forty-eight hours after arrival in port.

(D) Owners of certificated vessels may petition for modification of the following regulations for the purpose of experimenting with alternate gear or procedures designed to reduce incidental mortalities of marine mammals in course of commerical fishing. The petition shall be made in writing to the Director, Southwest Region, and shall include detailed specifications of the proposed modifications. Modifications may be granted upon review and approval, on a trip by trip basis, only if a National Marine Fisheries Service gear technician or National Marine Fisheries Service designated representative is available and accompanies the vessel on the approved trip.

(iii) *Vessel gear and equipment requirements.* A certificate for a vessel will be valid only if the vessel is equipped with a porpoise safety panel in its purse seine, and which uses other gear and procedures as described herein. Porpoise safety panels and all other gear used in the course of catching and landing tuna, and for backdown and other marine mammal release procedures, shall be maintained in a functional and seaworthy condition. The requirements for the porpoise safety panel and other gear are as follows:

(A) *Porpoise safety panel Class I and II vessels.* (*1*) For class I purse seiners (400 short tons carrying capacity or less) and for class II purse seiners (400 tons carrying capacity or greater, built before 1961), the porpoise safety panel shall be a minimum of 100 fathoms in length (as measured before installation), except that the minimum length of the panel in nets deeper than 10 strips shall be determined at a ratio of 10 fathoms in length for each strip that the net is deep. It shall be installed beginning at the outboard end of the number three bow bunchline, and shall extend toward the stern of the net, protecting the perimeter of the backdown area. The porpoise safety panel shall consist of small mesh webbing not to exceed $1\frac{1}{4}$" stretch mesh, extending from the corkline downward to a minimum depth equivalent to one strip of 100 meshes of $4\frac{1}{4}$" stretch mesh webbing.

(B) *Porpoise safety panel—Class III vessels.* (*1*) For class III purse seiners (greater than 400 short tons carrying capacity, built after 1960), the porpoise safety panel shall be a minimum of 180 fathoms in length (as measured before installation). It shall begin in the second bow bunch at any point between the middle and the outboard end of the bunchline and shall extend toward the stern of the net protecting the perimeter of the backdown area. The porpoise safety panel shall consist of small mesh webbing not to exceed $1\frac{1}{4}$" stretch mesh, 85 to 95 fathoms in length, laced between the corkline and the porpoise safety panel. The bow end of the porpoise apron shall begin approximately 10 fathoms outboard of the end of the third bunchline and extend toward the stern of the net, such that the peak of the porpoise apron triangle shall coincide with the apex of the backdown channel in the net. The base of the porpoise apron shall be laced to the upper edge of the porpoise safety panel. The upper edges of the porpoise apron shall be tapered at a 5 mesh, 2 bar rate from each and such that the tapers intersect at the center of the porpoise apron. The depth of the porpoise apron at its center shall be 443 to 463 meshes.

(*2*) *Porpoise apron approval.* The porpoise apron shall be installed under the supervision of a National Marine Fisheries Service gear technician or National Marine Fisheries Service designated representative. A trial set(s) shall be conducted under supervision of the National Marine Fisheries Service or National Marine Fisheries Service designated representative subsequent to installation of the porpoise apron to obtain approval on the installation and operation of the apron.

(E) *Porpoise safety panel markers.* Each end of the porpoise safety panel and porpoise apron must be identified with an easily distinguishable marker.

(F) *Porpoise safety panel hand holds.* Throughout the length of the corkline in which the porpoise safety panel and porpoise apron is located hand hold openings are to be secured so that the insertion of a $1\frac{3}{8}$" diameter cylindrical-shaped object meets resistance.

(G) *Porpoise safety panel corkline hangings.* Throughout the length of the corkline in which the porpoise safety panel and porpoise apron is located, corkline hangings shall be inspected by the vessel operator following each trip. Hangings found to have loosened to the extent that a cylindrical object with a $1\frac{3}{8}$" diameter will not meet resistance when inserted between the cork and corkline hangings, must be tightened so that a cylindrical object with a $1\frac{3}{8}$" diameter cannot be inserted.

(H) *Bunchlines.* Bunchlines, other than bow bunchlines, shall be arranged around the perimeter of the net with both ends of some bunchlines unattached to permit towing from either end or one bunchline rigged in normal fashion with an adjacent one reversed. The arrangement of bunchlines around the perimeter of the net must allow at least three towing points to be established near one-quarter, one-half and three-quarter net from the bow ortza (end of the net). At least a 20 fathom length of corkline shall be free from bunchline attachments at the apex of the backdown channel. The ends of all bunchlines which can be utilized as towing points shall be marked so as to be clearly visible to speedboat drivers.

(I) *Speedboats.* Purse seine vessels engaged in fishing operations involving setting on marine mammals shall carry a minimum of two speedboats in operating condition. All speedboats carried aboard purse seine vessels and in operating condition shall be rigged with towing bridles and towlines. Vessels that do not carry at least two speedboats in operating condition and properly rigged, may not conduct fishing operations which involve setting on marine mammals.

(J) *Rubber raft.* An inflatable rubber raft suitable to be used as a porpoise observation-and-rescue platform, shall be carried on all certificated vessels.

(K) *Facemask and snorkel.* At least one adjustable face mask and attachable snorkel shall be carried on all certificated vessels.

(L) *Floodlights and spotlight.* All certificated vessels shall be equipped with adequate floodlights suitable for use in darkness to attract fish toward the main vessel and a spotlight to intermittently illuminate the backdown channel and apex.

(iv) *Annual vessel inspection.* Purse seine nets and other gear and equipment utilized to catch and land fish under this Section and to conduct a backdown and other procedures herein required, shall be subject to inspection and examination at least once annually by authorized National Marine Fisheries Service personnel at a time and location determined by the Director, Southwest Region. Any vessel found to not be equipped with gear which is in conformity with these regulations and maintained in a functional and seaworthy condition, or whose master or managing owner has failed to notify the National Marine Fisheries Service of the date of installation of the porpoise apron system shall be ineligible for use in commercial fishing operations involving marine mammals under this section. The master or managing owner of certificated vessels shall notify the field office, Southwest Region, National Marine Fisheries Service, 1140 N. Harbor Drive, Room 7, San Diego, California 92101, telephone 714–293–6540 of the scheduled time and place of installation of the porpoise apron system.

(v) *Training requirement.* All operators shall maintain proficiency sufficient to perform the procedures required herein, and must attend, and satisfactorily complete, a formal training session con-



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ducted under the auspices of the National Marine Fisheries Service. At the training session, an attendee shall be instructed concerning the provisions of the Marine Mammal Protection Act of 1972, the regulations promulgated pursuant to the Act, the appropriate general permit, and the fishing gear and techniques which are required or will contribute to reducing serious injury and mortality of porpoises incidental to purse seining for yellowfin tuna. In addition, operators may be required to attend other formal training sessions when there are substantial changes in the act, the regulations, or the required fishing gear and techniques. Additional training, of any operator who is found to lack proficiency in the procedures required herein, may be required. Determination by the Director to require additional training may be based on recommendations from a "Skipper's Panel."

(vi) *Marine mammal release requirements.* All operators shall have satisfactorily completed the required training and shall use the following procedures during all sets involving the incidental taking of marine mammals in association with the capture and landing of tuna.

(A) *Use of speedboats.* (*1*) Except as provided herein, on every set involving marine mammals, a minimum of two manned speedboats shall be in the water until backdown commences. Speedboats shall be prepared to hook onto either the bunchline towing points established along the perimeter of the net or onto the corkline, in order to tow the net to prevent net collapse and a formation of pockets of loose webbing, such as stern bends, which might entrap marine mammals. Other speedboats that are in operating condition shall be prepared for immediate use to tow if needed.

(2) Vessels of 400 tons carrying capacity or less which have an observer duly authorized by the Secretary aboard, may have a minimum of one manned speedboat in the water until backdown commences, provided that, prior to departure, the certificate holder has presented the Regional Director with a signed statement declaring that the presence of an observer will displace the crewman who would operate the second speedboat during sets on marine mammals.

(3) Actual towing on the net shall be performed when, in the opinion of the certificate holder, towing is necessary to prevent net collapse or the formation of pockets of loose webbing. If towing the net has been necessary, the speedboats may unhook their towlines when towing is no longer needed, or their respective bunchlines begin to go up toward the power block or backdown commences.

(B) *Bow bunches pulled.* For class I and class II vessels, a minimum of two bow bunches shall be pulled on every set involving marine mammals. Exactly three bow bunches shall be pulled by class III vessels.

(C) *Backdown procedure.* Backdown shall be performed following a net set where marine mammals are captured in the course of utilizing a purse seine for catching and landing tuna. Thereafter, other release procedures required below shall be continued until all live animals have been released from the net. "Backdown procedure" means a series of maneuvers, which take place after the net is tied down following a set and pursing; and which keep the net open to the greatest degree to allow porpoise or other marine mammals to leave the pursed net over the net floats which are submerged as a result of the vessel moving astern.

(D) *Continuous hand rescue.* During any set in which marine mammals are captured, a minimum of two men shall be engaged in hand removal of marine mammals from the net, commencing with backdown and continuing through the sacking up operation.

(E) *Prohibited use of sharp or pointed object.* The use of a sharp or pointed object to remove any marine mammals from the net shall be prohibited.

(F) *Use of rubber raft, face mask, and snorkel.* A rubber raft suitable as a porpoise observation and rescue platform shall be launched inside the net, near the time of tying down for the backdown maneuver and shall be employed by a crewman to assist the other rescuer(s) in disentangling and releasing live marine mammals from the net. The rescuer in the raft shall use the facemask and snorkel to determine whether all live marine mammals are out of the net making every effort to remove them before backdown is terminated. If live marine mammals remain in the net after backdown, the rescuer in the raft shall make every effort to herd the animals to areas where they can be easily released, taking into consideration the safety of the rescuer. The rescue procedures above, in conjunction with other rescue efforts, shall be continued until all live marine mammals are removed from the net prior to initiating brailing operations.

(G) *Use of lights.* If the backdown maneuver or other required release procedures proceed past one-half hour after sunset, lights shall be used as necessary, to insure that rescue procedures are properly performed and that all live marine mammals are removed from the net. Floodlights suitable for use in darkness to attract fish toward the main vessel and a spotlight to intermittently illuminate the backdown channel and apex shall be used until all live animals are removed from the net prior to initiating brailing operations.

(H) *Penalties.* Failure to comply with the provisions of this Permit or these regulations, including but not limited to: failure to submit upon demand to vessel, gear, equipment, or proficiency inspection or examination by authorized National Marine Fisheries Service personnel; falsification of logs and reports required hereunder; or failure to satisfy the requirements of any provisions of these regulations, will subject vessel masters, or owners to revocation of the vessel certificate of inclusion and/or the right to be included under a general permit, and further subject operators, vessel masters, or owners to penalties provided for under the act, including revoking the right to be an operator as defined in § 216.24(c)(1).

(3) *Encircling gear, seining other than tuna.* * * *

Dated: July 14, 1977.

WINFRED H. MEIBOHM,
*Associate Director, National Marine Fisheries Service.*

[FR Doc.77-20835 Filed 7-19-77;8:45 am]





# notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forest Service

### BEAR PLANNING UNIT LAND MANAGEMENT PLAN

### Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Bear Planning Unit, Gifford Pinchot National Forest, Washington, USDA–FS–R6–DES (Adm)–77–1.

The environmental statement concerns a proposed land management plan for the Bear Planning Unit. The proposed action describes how the various resources of the Unit would be used and what the output for each resource is expected to be.

The draft environmental statement was transmitted to CEQ on July 12, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th St. and Independence Ave., SW., Washington, D.C. 20250.
USDA, Forest Service, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, WA 98660.
USDA, Forest Service, Pacific Northwest Region, 319 SW., Pine Street, Portland, OR 97204.

A limited number of single copies are available upon request to Forest Supervisor Robert Tokarczyk, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Washington 98660.

Copies of the environmental statement have been sent to various Federal, state and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Robert D. Tokarczyk, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Washington 98660. Comments must be received by September 10, 1977, in order to be considered in the preparation of the final environmental statement.

OLEM FOX,
*Acting Regional Environmental Coordinator Planning, Programing and Budgeting.*

JULY 12, 1977.

[FR Doc.77-20806 Filed 7-19-77;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket 30794; Order 77-7-57]

### FRONTIER AIRLINES, INC.

### Application for Amendment of its Certificate of Public Convenience and Necessity; Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 14th day of July 1977.

On April 26, 1977, Frontier Airlines filed an application, in Docket 30794, seeking removal of the one-stop restrictions in its certificate of public convenience and necessity for Route 73 between Tulsa, Oklahoma, on the one hand, and Little Rock, Arkansas, and Memphis, Tennessee, on the other hand, so as to permit Frontier to provide nonstop service in these markets. In addition, Frontier filed a petition for issuance of an order to show cause why its application should not be granted.

In support of its application, Frontier states that it now provides two round trips between Memphis and Tulsa and one and one-half round trips between Little Rock and Tulsa, and carries 74 percent and 79 percent, respectively, of the traffic in these markets; that these markets are sizeable and will require nonstop service in the reasonably near future; that time savings of nearly 50 percent would result for passengers in these markets if Frontier were able to provide nonstop service; and that removal of Frontier's stop restrictions in these markets will have minimal impact on Braniff, the only carrier holding nonstop authority in the markets, authority which has been unused since 1967.

On May 26, 1977, the City of Fort Smith, Arkansas filed a petition for leave to intervene. Fort Smith requests that the Board proceed by other than show cause procedures so that Fort Smith may present testimony and argument as to the adverse effect that grant of Frontier's application will have on it.[1]

Upon consideration of the foregoing pleadings and all of the relevant facts, we have tentatively concluded that the public convenience and necessity require the removal of Frontier's one-stop restrictions in the Memphis-Tulsa and Little Rock-Tulsa markets; that Frontier's application presents no questions of fact or law which require a hearing; and that all interested persons should be directed to show cause why the Board's tentative findings and conclusions herein should not be made final.[2]

In support of our determination here, we make the following tentative findings and conclusions. Removal of Frontier's one-stop restrictions in the subject markets will provide the carrier with useful scheduling and operating flexibility. As a result, Frontier will be better able to meet demand in the markets as is necessary. On the basis of traffic data for the 12 months ended March 31, 1976, Memphis, with 23,070 O&D plus connecting passengers, is Tulsa's largest short-haul market without nonstop service. Little Rock, with 12,350 passengers, is Tulsa's second largest market without nonstop service.[3] Frontier's present one-stop flights average two hours and twenty-three minutes between Memphis and Tulsa, and one hour and twenty-eight minutes between Little Rock and Tulsa. Provision of nonstop service by Frontier in these markets would result in time savings to passengers of nearly 50 percent.[4]

The removal of Frontier's stop restrictions in these markets is consistent with our often reiterated general policy of eliminating or modifying certificate restrictions, the retention of which have been placed in issue, absent an affirmative showing that their continuance is required.[5] Certificate restrictions, such as are in issue here, are inherently uneconomic. It is preferable that carriers be granted permissive nonstop authority in markets like these, giving management the discretion to operate nonstop service in accordance with traffic requirements.

[1] Since provision is made for the filing of objections to this order, grant of formal intervention to Fort Smith will not be necessary.

[2] We further find that Frontier is a citizen of the United States within the meaning of the Federal Aviation Act, and is fit, willing, and able properly to perform the transportation proposed herein and to conform to the provisions of the Act and the Board's rules, regulations, and requirements, thereunder.

[3] Civil Aeronautics Board Origin and Destination Survey, Table 8.

[4] Frontier Exhibit FL–7.

[5] See e.g., Order 77–1–9, January 4, 1977; Order 76–11–1, November 1, 1976; Order 69–6–87, June 19, 1969.



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We tentatively conclude that grant of Frontier's application will not have any significant impact on Braniff, the incumbent carrier possessing nonstop authority in these markets. Braniff has not offered nonstop service in the markets since 1967, and currently offers only one round trip operating over a Tulsa-Ft. Smith-Little Rock-Memphis routing. These flights are designed to serve long-haul destinations and are supported by traffic from beyond points which will not be tapped by Frontier's nonstop flights. Moreover, Frontier states that even if its improved service caused Braniff's market shares to drop to zero, loss of revenue to Braniff would amount to only $78,000 for the Tulsa-Little Rock market and $207,000 for the Tulsa-Memphis market.[6] We also note that Braniff has not filed in opposition to Frontier's request. Consequently, we tentatively find that any slight possible diversion resulting from removal of Frontier's restrictions is more than outweighed by the carrier and public benefits which would flow from the action proposed herein.

We recognize that removal of Frontier's stop restrictions in the subject markets may have the effect of reducing Frontier's present service to Fort Smith, Arkansas. However, the purpose of Frontier's one-stop restriction is not to assure service to Fort Smith, but to limit competitive nonstop service in the Tulsa-Little Rock and Tulsa-Memphis markets. Frontier is only required to stop at some point on its system when providing service between these city pairs. That stop need not be Fort Smith.[7] The Federal Aviation Act leaves scheduling decisions essentially to carrier management.[8] Thus, even if we do not remove Frontier's one-stop restrictions in these markets, there is no assurance that Fort Smith will continue to receive the level of service it presently receives.

Moreover, even assuming that removal of Frontier's stop restrictions would result in reduced service to Fort Smith, grant of Frontier's request would still be proper. As we recently stated in a similar case:

> In the final analysis, we realize that, in the short run, the removal of an operating restriction in one market may result in reduced service in another market. On the other hand, operating restrictions tend to impede maximum efficiency and, quite often, mandate service in certain markets which, although clearly useful to some travelers, nessesarily prohibits hervice in other markets which may even be more useful to a greater number of travelers.[9]

We therefore tentatively conclude that the continuance of Frontier's one stop restrictions in the subject markets is not required.

Frontier has filed a request for waiver of environmental evaluation. In the circumstances of this case, a waiver will not be necessary. Frontier's application provides sufficient information for us to make a tentative finding with respect to the environmental impact of Frontier's proposal. No significant increase in service in any market is proposed. Moreover, elimination of unnecessary intermediate stops in the subject markets will in fact benefit the environment. We therefore tentatively find and conclude that the Board action sought by Frontier will not result in a major federal action significantly affecting the environment within the meaning of the National Environmental Policy Act of 1969.

Interested persons will be given thirty days from the date of the adoption of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to set forth their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish in written pleadings. General, vague, or unsupported objections will not be entertained.[10]

*Accordingly, it is ordered*, That: 1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending the certificate of public convenience and necessity of Frontier Airlines, Inc., for Route 73 so as to eliminate the one-stop restriction on flights between Tulsa, Oklahoma, on the one hand, and Little Rock, Arkansas, and Memphis, Tennessee, on the other hand; [11]

2. Any interested person having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein, shall, within thirty days after the date of the adoption of this order, file with the Board and serve upon all persons listed in paragraph 5, a statement of objections together with a summary of testimony, statistical data and other evidence expected to be relied upon to support the stated objections; answers to objections shall be filed within 10 days after;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board; [12]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. A copy of this order will be served upon Frontier Airlines, Inc., Allegheny Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Piedmont Aviation, Inc., Ozark Air Lines, Inc., Southern Airways, Inc., Texas International Airlines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc.; the Mayors of the Cities of Little Rock, Arkansas, Fort Smith, Arkansas, Tulsa, Oklahoma, and Memphis, Tennessee; the Governors of the States of Arkansas, Oklahoma, and Tennessee; Manager of Municipal Airport in Little Rock, Manager of Tulsa International Airport, and Manager of International Airport in Memphis; the Arkansas Division of Aeronautics; the Oklahoma Aeronautics Commission, the Tennessee Department of Transportation, Bureau of Aeronautics; and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

All Members concurred.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-20839 Filed 7-19-77;8:45 am]

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[Docket 28918; Order 77-7-55]

## THOMAS COOK OVERSEAS, LTD.

### Application for Expedited Amendment of Order 77-3-90; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 14th day of July 1977.

By Order 77-3-90, approved March 14, 1977, the Board renewed the foreign indirect air carrier permit held by Thomas Cook Overseas, Ltd. (Great Britain) d/b/a Thomas Cook, Inc. (U.S.). That permit authorizes Thomas Cook " * * * to engage indirectly in foreign air transportation of persons from any point or points in the United States to any point or points outside the United States, and return."

At the time Thomas Cook applied for renewal of its permit,[1] foreign indirect air carriers were generally only permitted to operate Travel Group Charters, Inclusive Tour Charters, and One-stop-inclusive Tour Charters (see Parts 372a, 378 and 378a of the Board's Special Regulations). Accordingly, Thomas Cook's application only sought authority to operate these types of charters. It was granted this authority by Order 77-3-90. Paragraph 4(a) provided:

> "(a) With respect to the operations conducted pursuant to the authority granted herein, the holder shall be subject to the provisions of Parts 372a, 378 and 378a of the Board's Special Regulations, as now or hereafter amended;"

Subsequent to the filing of Thomas Cook's renewal application, the Board promulgated a new Part 371 of its Special Regulations, authorizing the operation of Advance Booking Charters (ABC's).[2] By application filed June 14, 1977, Thomas Cook requests that Order 77-3-90 be amended so as to permit it to engage in indirect air transportation through the operation of ABC's pursuant to new Part 371. Since it does not appear that the operation of ABC charters by Thomas Cook would be contrary to the letter or spirit of Part 371, we have concluded that it is in the public interest to amend Order 77-3-90 so as to authorize Thomas Cook to organize charters pursuant to that part. Paragraph 4(a) of Order 77-3-90 will be amended to reflect this change.

We also note that Order 77-3-90 subjected Thomas Cook's OTC authority to the express condition that it may be summarily modified, suspended, or revoked without hearing in the event that Great Britain should restrict the authority of any United States carrier to perform OTC charters. Thomas Cook's ABC authority will also be subject to this condition.[3]

*Accordingly it is ordered* That:

1. Order 77-3-90 is amended by modifying paragraph 4(a) to read as follows:

> With respect to the operations conducted pursuant to the authority granted herein, the holder shall be subject to the provisions of Parts 371, 372a, 378 and 378a of the Board's Special Regulations, as now or hereafter amended;

2. Order 77-3-90 is amended by modifying paragraph 5 to read as follows:

> The authority granted herein to organize charters pursuant to Parts 371 and 378a shall be subject to the express condition that said authority may be summarily modified, suspended, or revoked without hearing in the event that the Government of the holder should restrict the authority of any United States carrier to perform ABC or OTC charters in accordance with the provisions of Parts 371 and 378a of the Board's Regulations, as amended, to the territory of such Government;

3. The application of Thomas Cook Overseas, Ltd. (Great Britain) d.b.a. Thomas Cook, Inc. (U.S.), for amendment of Order 77-3-90 is granted to the extent indicated herein; and

4. This order shall be served upon Thomas Cook, Ltd. (Great Britain) d.b.a. Thomas Cook, Inc. (U.S.), and the Ambassador of Great Britain.

This order will be published in the FEDERAL REGISTER.

All Members concurred.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-20838 Filed 7-19-77;8:45 am]

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[Docket 30721; Order 77-7-59]

## Trans World Airlines, Inc.

### Proposed Reduced Cargo Charter Minimum Charges; Order Denying Petition For Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 14th day of July, 1977.

By Order 77-5-44, May 10, 1977, the Board dismissed a complaint by Seaboard World Airlines, Inc. (Seaboard), against a tariff revision proposed by Trans World Airlines, Inc. (TWA), which reduced from $7.25 to $6.00 the per plane-mile minimum charge on westbound cargo charters departing from Europe (excluding Algeria, Greece, Morocco, Tunisia and Turkey) between 9:00 p.m. Saturdays and 3:00 p.m. the following Mondays.

Seaboard has filed a peition for reconsideration of our May order requesting suspension, pending investigation, of the charter rate. Seaboard maintains that the Board did not consider certain material it had submitted, with a motion to file unauthorized material, which would have had a substantive bearing upon the matter, and that the Board's lack of action on the motion necessitates reconsideration. The carrier insists that the supplemental material, if acepted, would have conclusively demonstrated that the reduced rate can not generate enough revenue to offset TWA's variable costs and the rate is therefore uneconomic, regardless of the volume of traffic generated. Seaboard also contends that the Board's findings in the order are brief, unilluminating, and inconsistent with many recent orders concerning North Atlantic rate matters which clearly outline the Board's disposition on such issues, and that the findings rely heavily on TWA's unsubstantiated claims of the generative potential of the rate reduction. Finally, Seaboard states that the Board's findings of potential fleet utilization improvement are based on TWA's false characterization of Saturday-Monday as on off-peak rather than peak period for westbound movement of cargo on charters based on Seaboard's actual experience.

In its answer, TWA maintains that oversight of Seaboard's amended complaint was harmless inasmuch as it presented no new information not already known at the time of the Board's decision. The carrier further contends that, notwithstanding Seaboard's assertions, the Board's decision is not precisely nor necessarily governed by the previous orders cited by Seaboard, since all these orders dealt with specific commodity rates rather than planeload charter rates; that, in any event, the charter rate conforms substantially with stated criteria since, based upon discussions with shippers, the charter rate would generate traffic to aid with minimal diversion; and that Seaboard has produced no tangible estimate of the diversion or dilution it expects to result from the rate. Finally, while unable to explain why its peaking experience differs from Seaboard's, TWA suggests that the answer may lie in the proven illegal carriage by Seaboard of charter-rated traffic on scheduled service.

Upon full consideration of the petition and the materials submitted with Seaboard's motion, the answer of TWA, and all other relevant matters, the Board has determined to deny the petition for reconsideration.

Seaboard's motion to file unauthorized material, dated April 21, 1977, was misdirected within the Board and was received too late to be considered in our order. Although the material sets forth no information not previously available to the Board when the decision in Order 77-5-44 was made, we will grant Seaboard's motion.

Seaboard attempts to demonstrate the uneconomic character of the charter rate by first citing Board observations on TWA's cost estimates in Order 77-4-107, April 11, 1977,[1] and then applying higher cost estimates submited earlier by TWA in support of the IATA North Atlantic rate agreement, Docket 27573. However, the Board considers use of the most recent historical data to be more appropriate, since these data are presumably untainted by any particular carrier's self-interest. Data for calendar year 1976 show TWA incurred an operating expense of $6.80 per plane-mile in international scheduled all-cargo operations. Application of TWA's estimate that variable costs constitute 80 percent of its total operating costs produces a $5.44 per plane-mile variable cost figure. Since this cost is below the charter charge, the charter rate does not appear to be uneconomic for an off-peak, back-haul operation.

Examination of information published monthly by the International Air Transport Association reveals a directional imbalance in cargo tonnage carried. During the first quarter of 1977, westbound tonnage was 63 percent of eastbound tonnage. Moreover, without definitive estimates, we do not find convincing Seaboard's contention that the charter rate will create undue diversion.

However, and central to our favorable consideration of this proposal, we would emphasize that this particular rate reduces the occasions when empty equipment will have to be back-hauled to the United States at the carrier's expense. TWA indicates that the equipment used for charters is drawn from its domestic cargo jet fleet, which is essentially grounded on weekends and flown to Eu-

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[6] Diversion from American would also be slight. American Airlines' total passenger revenue in these markets during CY 1975 was $20,000. Frontier Exhibit FL-15.

[7] Other possible stops include McAlester, Oklahoma, Fayetteville, Arkansas, Harrison, Arkansas, and Hot Springs, Arkansas.

[8] Section 401(e)(4), Federal Aviation Act of 1958, as amended.

[9] Order 77-3-133, March 22, 1977, p. 3.

[10] We note that Allegheny Airlines has filed an application in Docket 30878 seeking nonstop authority between Tulsa, Little Rock, and Memphis. Ashbacker, however, does not require comparative consideration of Allegheny's application. Certification of a second carrier to serve the subject markets is not precluded by the improvement of the incumbent's authority. See Order 75-7-5, July 1, 1975, pp. 5-6; Service to Spokane CAB 1 (1964).

[11] Any award of new route authority to Frontier in the final order will be subsidy ineligible.

[12] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[1] Thomas Cook's application for renewal was filed February 18, 1976.

[2] SPR-110, September 1, 1976, Docket 28852.

[3] See Globus-Gateway Tours, Ltd. (Switzerland), et al., Orders 76-10-15, 76-12-116; Jetsave, Ltd. (United Kingdom), Order 77-3-44.

[1] See pp. 3 and 4 of Order 77-4-107.





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rope at the $7.25 per plane-mile charter rate. In view of the above, the reduced rate may attract added shippers and cargo thereby enabling TWA to offset the expense of returning empty to the United States.

Accordingly, *it is ordered*, That:

1. The motion by Seaboard World Airlines, Inc., for leave to file an otherwise unauthorized document in Docket 30721 is granted; and

2. The petition by Seaboard World Airlines, Inc., for reconsideration of Order 77–5–44 is denied.

This order will be published in the FEDERAL REGISTER.

All Members concurred except Chairman Kahn who did not participate.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-20836 Filed 7-19-77;8:45 am]

[Docket 31065; Order 77-7-58]

## U.S.–GERMANY CARGO MATTERS

### Request to Engage in Discussions Relating; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 14th day of July, 1977.

On June 29, 1977, Seaboard World Airlines, (Seaboard) petitioned the Board for permission to engage in discussions with Pan American World Airways, Inc. (Pan American) and Deutsche Lufthansa Aktiengesellschaft (Lufthansa), as well as government representatives, covering various interrelated matters involving cargo air transportation between the United States and the Federal Republic of Germany. These subjects include substitute service via surface transport, carriage of U.S.-Germany air freight by charters, U.S.-Germany cargo rate levels and their relationships to rates in neighboring markets, interline arrangements, and airport cargo facilities. In support of its petition, Seaboard states that these issues were the subject of intergovernmental consultations between the United States and Germany in April 1976, which produced a Memorandum of Understanding that contemplated working group meetings among the three carriers and representatives of the two Governments. However, the authorization for the working group meetings, granted by the Board in Orders 76–6–54, 76–6–167 and 77–4–69 has since expired. By mutual agreement the United States and Germany have extended the effectiveness of the Memorandum of Consultations until October 31, 1977.

Seaboard states that the additional discussions are necessary in order to further discuss solutions to problems facing the carriers serving the U.S.-Germany cargo market prior to the reconvention of direct intergovernmental discussions.

An answer supporting the petition of Seaboard has been received from Pan American.

The Board will herein authorize the proposed discussions consistent with the April 28, 1976 Memorandum of Consultations between the United States and the Federal Republic of Germany for the same reasons set forth in our earlier orders of approval of this series of talks.[1] Any intercarrier agreement reached will, of course, be subject to Board approval under section 412 of the Act prior to implementation.

The Board, acting pursuant to section 412 of the Federal Aviation Act of 1958, does not find that grant of the petition in Docket 31065 is adverse to the public interest or in violation of the Act.

Accordingly, *it is ordered* That:

1. Seaboard World Airlines, Inc., Pan American World Airways, Inc. and Deutsche Lufthansa Awtiengesellschaft may engage in discussions on the subject of cargo air transportation between the United States and the Federal Republic of Germany;

2. The authority granted herein will expire October 31, 1977;

3. The U.S. carrier participants shall notify the Civil Aeronautics Board in writing sufficiently in advance of the proposed meetings to insure the presence of a U.S. Government observer at said meetings; and

4. This order will be served on all U.S.- and foreign-flag carriers holding certificate or permit authority to proved scheduled cargo service between the U.S. and the Federal Republic of Germany.

This order will be published in the FEDERAL REGISTER.

All Members concurred except Member West who did not participate.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-20837 Filed 7-19-77;8:45 am]

## DEPARTMENT OF COMMERCE

### Domestic and International Business Administration

### JOINT MEETING OF FIVE TECHNICAL ADVISORY COMMITTEES

### Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a joint meeting of the five Technical Advisory Committees listed below will be held on Tuesday, August 9, 1977, at 9:30 a.m. in Room 6802, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

1. Computer Systems Technical Advisory Committee. This Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

2. Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee. This Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

3. Numerically Controlled Machine Tool Technical Advisory Committee. This Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

4. Semiconductor Technical Advisory Committee. This Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration, approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

5. Electronic Instrumentation Technical Advisory Committee. This Committee was initially established on October 23, 1973. On October 7, 1975, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Section 2404(c)(1) and the Federal Advisory Committee Act.

These committees, where they have expertise in such matters, advise the Office of Export Administration, U.S. Department of Commerce, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any articles, materials, and supplies, including technical data or other information, and (D) exports subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls.

The joint committee meeting agenda has four parts:

[1] The Board prefers that the proposed discussions be held in Washington, D.C.





GENERAL SESSION

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Discussion of trends in microprocessor design and application.

EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public, at which a limited number of seats will be available. To the extent time permits, members of the public may present oral statements. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Acting Assistant Secretary of Commerce for Administration with the concurrence of the delegate of the General Counsel, has formally determined, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed by each of the aforementioned Technical Advisory Committees in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Committees in the Executive Session of the joint meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202–377–4196.

Following are the dates of approval of the Notices of Determination to close portions of the series of meetings of the Technical Advisory Committees involved in this joint meeting, and of any subcommittees thereof, the dates the full texts of the Notices of Determination were published in the FEDERAL REGISTER, and the Federal Register citations:

| | Date approved | Date published |
|---|---|---|
| Computer Systems Technical Advisory Committee. | Jan. 27, 1977 | Feb. 2, 1977 (42 FR 6374). |
| Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee. | do. . . | Feb. 8, 1977 (42 FR 7973). |
| Numerically Controlled Machine Tool Technical Advisory Committee. | do. . . | Feb. 1, 1977 (42 FR 5991). |
| Semiconductor Technical Advisory Committee. | do. . . . | Mar. 2, 1977 (42 FR 12078). |
| Electronic Instrumentation Technical Advisory Committee. | Dec. 8, 1976 | Dec. 28, 1976 (41 FR 56377). |

LAWRENCE J. BRADY,
*Acting Director, Office of Export Administration, Bureau of East-West Trade, Department of Commerce.*

[FR Doc.77-20771 Filed 7-19-77;8:45 am]

## Maritime Administration

[Docket No. S-565]

## POLK TANKER CORP.

### Request for Approval for Operation of Vessel

Notice is hereby given that Polk Tanker Corporation, on its behalf and that of any successor in interest, as owner or bareboat charterer, has requested approval of the Assistant Secretary for Maritime Affairs of a time charter with The Standard Oil Company, an Ohio Corporation ("SOHIO"), for the operation of the VLCC STUYVESANT in the Alaska (domestic) trade for a continuous period of three years from date of delivery of the vessel.

In return, Polk, or such successor in interest, would agree to repay or cause to be repaid, on a monthly basis during the period of the time charter, an amount which bears the same proportion to the construction-differential subsidy paid by the Government to Seatrain Shipbuilding Corp. in respect of the construction of the STUYVESANT as the period of operation under the time charter bears to the entire life of the vessel. Polk requested the Assistant Secretary to grant this permission pursuant to the discretion vested in him by section 207 of the Merchant Marine Act, 1936, as amended (the "Act") in order that the Government may protect, preserve, or improve the collateral held by it to secure indebtedness.

The vessel is being constructed by Seatrain Shipbuilding Corp., an affiliate of Seatrain Lines, Inc., at the Seatrain shipyard.

Interested parties may inspect the foregoing request in the Office of the Secretary, Maritime Administration, Room No. 3099B, Department of Commerce Building, Fourteenth and E Streets, NW., Washington, DC 20230.

Any person, firm, or corporation having any interest in such request and desiring to be heard with respect to such request must submit comments or views concerning the request by close of business on July 28, 1977, by filing the same with the Secretary, Maritime Administration, in writing, in triplicate. Any such submission shall state clearly and concisely the grounds of interest, and the law or alleged facts relied upon insofar as any position is taken.

(Catalog of Federal Domestic Assistance Program No. 11.500 Construction-Differential Subsidies (CDS))

Dated: July 15, 1977.

By order of the Martime Subsidy Board/Assistant Secretary for Maritime Affairs.

JAMES S. DAWSON, JR.,
*Secretary.*

[FR Doc.77-20791 Filed 7-19-77;8:45 am]

## COMMUNITY SERVICES ADMINISTRATION

[CSA Notice 6143–3]

## EMERGENCY ENERGY CONSERVATION PROGRAM

### Notification of Three Million Dollar Set-Aside for Funding Projects Conducted by Farmworker Governed Organizations

Notice is hereby given that the Community Services Administration has set aside three million dollars of the FY 77 Supplemental Energy Program funds under section 222(a)(12) of the Economic Opportunity Act of 1964, as amended, for the funding of projects conducted by farmworker-governed organizations to provide energy services to farmworker populations. Following is the text of CSA Notice 6143–3 which details the allocation and distribution of these funds. This Notice is being sent to all Community Action Agencies, Limited Purpose Agencies, and CDCs.

Potential applicants are reminded that the normal A–95 (clearinghouse) procedures apply to these funds. Therefore, they are encouraged to immediately notify all appropriate State and area-wide clearinghouses of their intent to apply for funds.

Application procedures for R&D grants can be found in OEO Instruction 7570–1. Applying for a New Research or Demonstration Grant Under the Economic Opportunity Act.

GRACIELA (GRACE) OLIVAREZ,
*Director.*

EMERGENCY ENERGY CONSERVATION SERVICES PROGRAM: FUNDING OF FARMWORKER ORGANIZATIONS

EXPIRATION DATE: September 30, 1977.

EFFECTIVE DATE: July 20, 1977.

APPLICABILITY: This Notice is applicable to Farmworker Governed Organizations eligible for funding under Title II of the Economic Opportunity Act of 1964, as amended.

REFERENCE: CSA Instruction 6143–1a, Emergency Energy Conservation Services Program.



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DEFINITIONS: (1) "Migrant Farmworkers" shall mean a seasonal farmworker who performs or has performed during the preceding twelve months agricultural labor which requires travel such that the worker is unable to return to his/her domicile (accepted place of residence) within the same day. (2) "Seasonal Farmworker" shall mean a person who during the preceding twelve months worked at least 25 days in farm work and worked less than 150 consecutive days at any one establishment. "Seasonal Farmworker" includes both migratory and non-migratory farmworkers, but does not include nonmigratory individuals who are full-time students or supervisors or other farmworkers. (3) "Farmworker Organization" shall mean an organization which is governed, owned and/or in a substantial way controlled by at least 51 percent Migrant and/or Seasonal Agricultural Farmworkers and/or ex-Farmworkers, and having demonstrated capability in providing services to that population.

1. BACKGROUND

The Community Services Administration has set aside three million dollars of the FY 77 Supplemental Energy Program funds appropriated under Section 222(a)(12) for the funding of propects conducted by farmworker governed organizations to provide energy services to farmworker populations.

2. PURPOSE

The purposes of this Notice are to inform eligible organizations of the ways in which the three million dollar set aside will be allocated and the procedures CSA will implement to disburse the funds.

3. POLICY

This farmworker energy set-aside shall be used to support projects carried out by farmworker-governed organizations to provide energy services to farmworker populations through the eligible activities defined in CSA Instruction 6143-1a and changes thereto.

The provision of this set-aside should not be construed as restricting the authority of Community Action Agencies and other Section 222(a)(12) grantees to support energy activities for migrant and seasonal farmworker populations where it has been their practice to do so. However, continued support of those activities will not be advanced through this set-aside, unless those agencies become delegates of farmworker-governed grantees.

4. DISTRIBUTION OF THE THREE MILLION SET-ASIDE

a. *Regional Offices.* Two million dollars will be provided in equal amounts of $200,000 to each of the ten CSA Regional Offices. Use of the funds will be detailed in a Regional Energy Funding Plan.

In the event that a Regional Office cannot program the full $200,000, funds not allocated will be used by Headquarters for an alternative distribution to support farmworker energy projects.

b. *Headquarters.* One million dollars will be available for funding of farmworker governed organizations to conduct Research and Demonstration and Training and Technical Assistance activities under Program Account 26.

CSA invites the submission by farmworker-governed organizations of proposals for research and demonstration projects which seek to define the special energy problems of farmworkers, and demonstrate viable solutions to them. In considering proposals, CSA will place emphasis on local based projects with the potential for replication in other areas, and will consider, projects addressing the energy problems of the farmworker (1) in the home base situation; (2) on the stream; (3) in the camps.

Should there be an inadequate number of quality R&D proposals CSA Headquarters will re-program portions of this set-aside into operational farmworker energy projects, so that the total commitment to farmworker energy projects from this appropriation will not be diminished.

5. TIMING

Proposals for regionally funded operational programs should be submitted to CSA Regional Offices by August 1, 1977.

Proposals for Headquarters funded activities should be submitted to CSA Headquarters, Energy Programs, Office of Operations, no later than August 15, 1977.

[FR Doc.77-20589 Filed 7-19-77;8:45 am]

## COUNCIL ON ENVIRONMENTAL QUALITY

### TSCA INTERAGENCY TESTING COMMITTEE

### Meeting

This notice is intended to advise all interested persons of the TSCA Interagency Testing Committee meeting established under Section 4(e) of the Toxic Substances Control Act for the purpose of making recommendations to the Administrator of the Environmental Protection Agency regarding priorities for issuance of requirements for testing chemicals substances and mixtures.

On Thursday, July 28, 1977, the TSCA/ITC will meet at 9 a.m., Room 5104, New Executive Office Building, 726 Jackson Place NW. Speakers have been invited to discuss animal toxicity testing and ecological testing capabilities. All interested persons are invited to attend. Contact Phyllis Tucker, 202-382-2027, for additional information.

Dated: July 11, 1977.

WARREN R. MUIR,
*Chairman, TSCA/ITC.*

[FR Doc.77-20904 Filed 7-19-77;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 21320-21322; File Nos. 162-A-RL-17, etc.]

### CHEROKEE AVIATION CORP., ET AL.

### Designating Applications for Consolidated Hearing on Stated Issues

Adopted: July 5, 1977.

Released: July 12, 1977.

In re application of Cherokee Aviation Corporation, Alcoa, Tennessee, Docket No. 21320, File No. 162-A-RL-17; Smoky Mountain Aero, Inc., Alcoa, Tennessee, Docket No. 21321, File No. 136-A-L-37; City of Knoxville, Knoxville, Tennessee, Docket No. 21322, File No. 134-A-L-37; for an Aeronautical Advisory Station to serve McGhee Tyson Airport, Alcoa, Tennessee.

1. Cherokee Aviation Corporation (hereinafter called Cherokee), Smoky Mountain Aero, Inc. (hereinafter called Smoky Mountain) and the City of Knoxville (hereinafter called Knoxville) have each filed an application for authority to operate an aeronautical advisory station at the same airport. Cherokee seeks renewal of its current station license while Smoky Mountain and Knoxville have filed for new station authorizations. In that § 87.251(a) of the Commission's rules provides that only one areonautical advisory station may be authorized at a landing area, the above-captioned applications are mutually exclusive. Accordingly, it is necessary to designate these applications for comparative hearing in order to determine which, if any, should be granted.

2. In view of the foregoing; *It is ordered*, That pursuant to the provisions of Section 309(e) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's rules, the above-captioned applications Are Hereby Designated for Hearing in a Consolidated Proceeding at a time and place to be specified in a subsequent Order on the following comparative issues:

(a) To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications, including but not limited to operation of stations in the Aviation Services (Part 87) that may be or have been authorized to the applicant;

(5) Ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other fixed-base operators;

(b) To determine the manner in which Cherokee has operated aeronautical advisory station WCE 3 at McGhee Tyson Airport; and

(c) To determine in light of the evidence adduced on the foregoing issues which of the applications should be granted.

3. *It is further ordered*, That the burden of proof and the burden of proceeding with the introduction of evidence is on each applicant with respect to its application except issue (b) where the burdens are on Cherokee and issue (c) which is conclusory.

4. *It is further ordered*, That to avail themselves of an opportunity to be heard, Cherokee, Smoky Mountain, and Knoxville, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

CHARLES A. HIGGINBOTHAM,
*Chief, Safety and Special Radio Services Bureau.*

[FR Doc.77-20788 Filed 7-19-77;8:45 am]





[Docket Nos. 21326-21329; Files Nos. 50031-CM-P-74, etc.]

### DIGITAL PAGING SYSTEMS, INC., ET AL.

### Designating Applications for Consolidated Hearing on Stated Issues

Adopted: June 24, 1977.

Released: July 14, 1977.

In re applications of Digital Paging Systems, Inc., Docket No. 21326, File No. 50031-CM-P-74; and Southern Pacific Communications Company, Docket No. 21327, File No. 50065-CM-P-74; and Microband Corporation of America, Docket No. 21328, File No. 50111-CM-P-74; and Videohio, Inc., Docket No. 21329, File No. 50118-CM-P-74; for construction permits in the Multipoint Distribution Service for a new station at Cincinnati, Ohio.

1. The Commission has before it the above-referenced applications of Digital Paging Systems, Inc. (Digital), filed on February 25, 1974; Southern Pacific Communications Company (Southern), filed on April 11, 1974; Microband Corporation of America (Microband), filed on May 1, 1974; and Videohio, Inc. (Videohio), filed on May 3, 1974. All four applications propose Channel 2 operation in the Cincinnati, Ohio area, and thus are mutually exclusive and require comparative consideration. All four applications have been amended as a result of informal requests of the Commission staff for additional information, and no petitions to deny or other objections to any of the applications have been received.

2. Digital has forty-nine Channel 2 MDS construction permit applications pending. It is controlled by Graphic Scanning Corporation (parent of Graphnet Systems, Inc., an authorized resale common carrier) and holds fifteen DPLMRS and domestic public point-to-point microwave service licenses in Florida, Ohio, California and Pennsylvania. Southern, a specialized common carrier, has twenty Channel 2 MDS construction permit applications pending. Microband, licensee of twenty-one stations, has twenty-two MDS construction permit applications pending. Videohio is a Channel 2 applicant in ten cities, including Akron and Dayton, Ohio and has interests in two broadcast stations in Columbus, Ohio and one in Indianapolis, Indiana.

3. Upon review of the captioned applications, we find that the four applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

4. *Accordingly, it is hereby ordered*, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, and § 0.291 of the Commission's Rules, the above-captioned applications Are designated for Hearing, in a Consolidated Proceeding, at a time and place to be specified in a subsequent order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [1]

(a) The relative merits of each proposal with respect to service area and efficient frequency use;

(b) The nature of the services and facilities proposed, and whether they will satisfy service requirements known to exist or likely to exist in the Cincinnati, Ohio area;

(c) The anticipated quality and reliability of the service proposed, including selection of equipment, installation, subscriber security and maintenance;

(d) The charges, regulations and conditions of the service to be rendered, and their relation to the nature, quality and costs of service; and

(e) The managerial and entrepreneurial qualifications of the applicants.

5. *It is further ordered*, That Digital Paging Systems, Inc., Southern Pacific Communications Company, Microband Corporation of America, Videohio, Inc., and the Chief, Common Carrier Bureau, Are Made Parties to this proceeding.

6. *It is further ordered*, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's rules.

PHILIP V. PEMUT,
*Acting Chief, Common Carrier Bureau.*

[FR Doc.77-20786 Filed 7-19-77;8:45 am]

[Docket Nos. 21330-21332; File Nos. 50030-CM-P-74, etc.]

### DIGITAL PAGING SYSTEMS, INC., ET AL.

### Designating Applications for Consolidated Hearing on Stated Issues Memorandum Opinion and Order

Adopted: June 24, 1977.

Released: July 14, 1977.

In re applications of Digital Paging Systems, Inc., Docket No. 21330, File No. 50030-CM-P-74; and Ohio Mds. Corporation, Docket No. 21331, File No. 50106-CM-P-74; and Videohio, Inc., Docket No. 21332, File No. 50108-CM-P-74; for construction permits in the Multipoint Distribution Service for a new station at Akron, Ohio.

1. The Commission has before it the above-referenced applications of Digital Paging Systems, Inc. (Digital), filed on February 25, 1974; Ohio MDS Corporation (Ohio), filed on May 1, 1974 and Videohio, Inc. (Videohio), filed on May 3, 1974. All three applications propose Channel 2 operation in the Akron, Ohio area, and thus are mutually exclusive and require comparative consideration. All three applications have been amended as a result of informal requests of the Commission staff for additional information, and no petitions to deny or other objections to any of the applications have been received.

2. Digital has forty-nine Channel 2 MDS construction permit applications pending. It is controlled by Graphic Scanning Corporation (parent of Graphnet Systems, Inc., an authorized resale common carrier) and holds fifteen DPLMRS and domestic public point-to-point microwave service licenses in Florida, Ohio, California and Pennsylvania. Ohio (formerly Dayton Communications Corporation) holds Channel 1 construction permits in Lexington, Kentucky and Toledo, Ohio and is an applicant in seven other cities. It is also a licensee and is offering service in Columbus, Cincinnati and Dayton, Videohio is a Channel 2 MDS applicant in ten cities, including Cincinnati and Dayton, Ohio and has interests in two broadcast stations in Columbus, Ohio and one in Indianapolis, Indiana.

3. Upon review of the captioned applications, we find that the three applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

4. *Accordingly, it is hereby ordered*, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, and § 0.291 of the Commission's rules, the above-captioned applications are designated for hearing, in a Consolidated Proceeding, at a time and place to be specified in a subsequent order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [1]

(a) The relative merits of each proposal with respect to service area and efficient frequency use;

(b) The nature of the services and facilities proposed, and whether they will satisfy service requirements known to exist or likely to exist in the Akron, Ohio area;

(c) The anticipated quality and reliability of the service proposed, including selection of equipment, installation, subscriber security and maintenance;

(d) The charges, regulations and conditions of the service to be rendered, and their relation to the nature, quality and costs of service; and

(e) The managerial and entrepreneurial qualifications of the applicants.

5. *It is further ordered*, That Digital Paging Systems, Inc. Ohio MDS Corporation, Videohio, Inc., and the Chief, Common Carrier Bureau, ARE MADE PARTIES to this proceeding.

6. *It is further ordered*, That parties desiring to participate herein shall file their notices of appearance in accord-

[1] Consideration of these factors shall be made in light of the Commission's discussion in Peabody Telephone Answering Service, et al., 55 F.C.C. 2d 626 (1975).

[1] Consideration of these factors shall be made in light of the Commission's discussion in Peabody Telephone Answering Service, et al., 55 F.C.C. 2d 626 (1975).



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ance with the provisions of § 1.221 of the Commission's rules.

PHILIP V. PERMUT,
*Acting Chief,*
*Common Carrier Bureau.*

[FR Doc.77-20787 Filed 7-19-77;8:45 am]

[RM-2678]

## FM BROADCAST STATIONS, VALLEJO, CALIF.

### Table of Assignments; Order Extending Time for Filing Replies to Responses to Application For Review

Adopted: July 8, 1977.

Released: July 12, 1977.

In the Matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Vallejo, California), RM-2678.

1. On June 1, 1977, KNBA, Inc., licensee of Station KNBA, Vallejo, Calif. filed an Application For Review of the Commission's Memorandum Opinion and Order[1] in the above-entitled proceeding. A timely response was filed by Kelly Broadcasting Company, licensee of FM Station KCTC, Sacramento, California.

2. On June 29, 1977, KNBA, Inc., filed a request for a 10 day extension of time to and including July 11, 1977, in which to reply to the above-mentioned response. KNBA states that the problems of communication between Washington, D.C., and its counsel in San Francisco, with the consulting engineer in Denver, are such that it is impossible to respond within the time afforded and it is important to KNBA's positions that the engineering contentions in Kelly's response be carefully reviewed.

3. We are of the view that the public interest would be served by this extension so that KNBA, Inc., may file any information which may be helpful to the Commission in resolving the issues before it.

4. *Accordingly, it is ordered,* That the time for filing replies to responses to the Application For Review in RM-2678 is extended to and including July 11, 1977.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
*Chief, Broadcast Bureau.*

[FR Doc.77-20794 Filed 7-19-77;8:45 am]

[Docket No. 21317]

## FRANK A. DEL VECCHIO

### Designating Application for Hearing on Stated Issues

Adopted: June 23, 1977.

Released: July 14, 1977.

In re application of Frank A. Del Vecchio, P.O. Box 33, Floristan, California 96111. Docket No. 21317, for renewal of Radiotelephone First Class Operator License No. PI-4-4068.

1. The Commission, by the Chief, Field Operations Bureau, has under consideration the above-captioned application for renewal of Radiotelephone First Class Operator License No. PI-4-4968, filed on behalf of Frank A. Del Vecchio (Del Vecchio). The license expired on November 15, 1973. Although Del Vecchio filed a timely request for renewal of his operator license, action was held in abeyance pending the disposition of an application for renewal of the license of Standard Broadcast Station KFDR, licensed to the New Deal Broadcasting Co., (New Deal) Grand Coulee, Washington, in which Del Vecchio was a partner.[1]

2. By Memorandum Opinion and Order (MO/O), released November 26, 1976 (FCC 76M-1531), Administrative Law Judge Walter C. Miller denied New Deal's application and granted the Broadcast Bureau's Motion for Summary Decision. No exceptions to the Memorandum Opinion and Order has been filed, and the Commission had not ordered a review thereof on its own motion. The Memorandum Opinion and Order therefore became effective on January 17, 1977, without action by the Commission.[2]

3. The Administrative Law Judge denied the broadcast application on the ground essentially that the findings under the majority of the issues in that proceeding called for such denial (MO/O—para. 85). The Administrative Law Judge concluded mare specifically inter alia • • • that Del Vecchio's past criminal convictions adversely affect his qualifications to be or remain a Commission licensee. Both the nature of the offenses and the circumstances under which they occurred indicate clearly that it is not in the public interest to have Frank Del Vecchio as a Commission licensee. His past acts evoke no sympathy • • • (MO/O—para. 75). Further, the Findings of Fact and Conclusions, as well as the record, demonstrates and establishes that acts and offenses were committed by Del Vecchio which were directly related to Del Vecchio's performance as a radio operator licensee. (See for example, but not limited to, paragraphs 30, 43, 46-47, 50, 56, 58, 63, 64—MO/O.)

4. In view of the information contained in Docket 20461 and the conclusions reached by the Administrative Law Judge in the referenced Memorandum Opinion and Order denying New Deal's renewal application and granting the Broadcast Bureau's summary decision, the Commission is unable to find that a grant of the application of Frank A. Del Vecchio for renewal of his Radiotelephone First Class Operator License would serve the public interest, convenience and necessity, and therefore will designate the application on the issues set forth below.

5. *Accordingly, it is ordered,* Pursuant to Section 303(1)(2) of the Communications Act of 1934, as amended, and §§ 0.311 and 1.84 of the Commission's rules, that the captioned application is designated for hearing, at a time and place to be specified by subsequent order upon the following issues:

(1) To determine, in light of the information gained, facts adduced, and/or any evidence pertaining to Docket No. 20461, whether Frank A. Del Vecchio possesses the requisite qualification to be, and/or remain a licensee of the Commission.

(2) To determine, in light of the foregoing issue, whether the public interest, convenience and necessity would be served by the grant of the application for renewal of the Radiotelephone First Class Operator License.

6. *It is further ordered,* That to avail himself of the opportunity to be heard, the applicant pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission in triplicate a written appearance stating an intent to appear on a date fixed for hearing to present evidence on the issues specified in this order.

7. *It is further ordered,* That, the Secretary shall send a copy of this order by Certified Mail—Return Receipt Requested—to Frank A. Del Vecchio at the addressee given above.

JAMES C. MCKINNEY,
*Acting Chief,*
*Field Operations Bureau.*

[FR Doc.77-20816 Filed 7-19-77;8:45 am]

[Docket Nos. 21333-21334; File Nos. 20172-CD-P-76, 20368-CD-P-76]

## MOBILE PHONE OF TEXAS, INC.

### Designating Applications For Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

Adopted: July 11, 1977.

Released: July 14, 1977.

In re applications of Mobile Phone of Texas, Inc., Docket No. 21333, File No. 20172-CD-P-76, for a construction permit to establish additional two-way facilities for Station KLB802 in the Domestic Public Land Mobile Radio Service (DPLMRS) at Jacksboro, Texas, Jim Bob Measures d/b/a Radiofone, for a construction permit to establish a new two-way station in the DPLMRS at Bridgeport, Texas, Docket No. 21334, File No. 20368-CD-P-76.

1. The Commission, by the Chief of the Common Carrier Bureau (Bureau), acting pursuant to delegated authority under § 0.291(f) of the Commission's rules, has before it for consideration the following electrically mutually exclusive applications: (1) An application filed on July 28, 1975 by Mobile Phone of Texas, Inc. (Mobile Phone), File No. 20172-CD-P-76, for a Construction Permit to establish additional facilities on frequency 152.03 MHz for Station KLB802 in Jacksboro, Texas; (2) an application filed on August 29, 1975 by Jim Bob Measures d/b/a Radiofone (Radiofone), File No. 20368-CD-P-76, for a Construction Permit to establish a new two-way station on frequency 152.03 MHz in Bridgeport, Texas. On May 14, 1977, Mobile Phone filed a Petition for Conditional Grant of its above-captioned application, pursuant to § 21.32(g)(2) of the Commission's rules,[1] and responsive pleadings were filed thereto.

2. In the Petition for Conditional Grant, Mobile Phone explains that its single operating channel is loaded to capacity, and that it has received numerous complaints from subscribers expressing dissatisfaction with the waiting time to use the channel. Mobile Phone contends that a conditional grant would immediately meet an otherwise unsatisfied need for service to its subscribers; and that the additional channel would provide greater assurance that emergency communications services would be provided. However, in its Opposition, Radiofone points out that Mobile Phone and Radiofone proposals do not duplicate the same proposed service area. Radiofone concludes that if the Commission authorizes a conditional grant to Mobile Phone, and Radiofone ultimately is the successful applicant in the comparative hearing, then those subscribers utilizing the additional Mobile Phone facilities who are not within Radiofone's service area would either be disenfranchised or be forced onto an already overly congested system.

3. We conclude that Mobile Phone has not presented sufficient facts which warrant the conclusion that the public interest requires immediate establishment of radio service on this frequency. Furthermore, it appears that frequencies in the UHF band are available for application in the Jacksboro, Texas area, and that emergency communications services can be provided on those frequencies, if necessary.

4. Since both applicants appear to be legally, financially, and technically qualified to construct and operate the proposed facilities and since the proposals are electrically mutually exclusive, they must be designated for hearing in a consolidated proceeding to determine which applicant, if any, is the better qualified to operate the proposed facilities. *Ashbacker Radio Corp.* v. *FCC,* 326 U.S. 327 (1945).

5. *Accordingly, it is ordered,* That, pursuant to Section 309(e) of the Communications Act of 1934, as amened, the above-captioned applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING at a time and place to be specified in a subsequent Order upon the following issues:

(a) To determine on a comparative basis, the nature and extent of the service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto; and

(b) To determine on a comparative basis the areas and populations that each applicant will serve within the prospective 37 dbu contours, based upon the standards set forth in § 21.504(a) of the Commission's rules[2]; and to determine the need for the proposed services in said area; and

(c) To determine on a comparative basis, in light of evidence adduced pursuant to the foregoing issue, which of the above-captioned applications, if any, would better serve the public interest, convenience and necessity.

6. *It is further ordered,* That the Chief of the Common Carrier Bureau is made a party to the proceeding.

7. *It is further ordered,* That the applicants may avail themselves of an opportunity to be heard by filing with the Commission, pursuant to § 1.221(c) of the Commission's rules, within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and to present evidence on the issues specified in this Memorandum Opinion and Order.

WALTER R. HINCHMAN,
*Chief, Common Carrier Bureau.*

[FR Doc.77-20817 Filed 7-19-77;8:45 am]

## FEDERAL ENERGY ADMINISTRATION

### ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

### Negative Determination of Environmental Impact; Alabama Electric Cooperative's McWilliams Generating Station Powerplant 3

Pursuant to 10 CFR §§ 208.4 and 305.9, the FEA hereby gives notice that it has performed an analysis and review of the environmental impact of the proposed issuance of a Notice of Effectiveness for the prohibition order to Alabama Electric Cooperative, McWilliams Generating Station, Powerplant 3.

On June 30, 1975, the FEA issued a prohibition order to the above-listed powerplant which prohibited the powerplant from burning natural gas or petroleum products as its primary energy source. The prohibition order provided, however, that in accordance with the requirements of 10 CFR Parts 303 and 305, the order would not become effective until either, (1) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with Section 119(d)(1)(B) of the Clean Air Act, that a particular powerplant will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a compliance date extension under Section 119, or (2) if no notification is given by EPA, the date that the Administrator of EPA certifies pursuant to Section 119(d)(1)(B) of the Clean Air Act is the earliest date that a particular powerplant will be able to comply with all applicable air pollution requirements under Section 119 of that Act; and, until FEA has performed an analysis of the environmental impact of the issuance of a Notice of Effectiveness, pursuant to 10 CFR 305.9, and has served the powerplant the Notice of Effectiveness, as provided in 10 CFR §§ 303.10(b), 303.37(b), and 305.7.

The FEA has analyzed and reviewed the effect on the human environment of issuance of the Notice of Effectiveness, and has determined it is clear that issuance of a Notice of Effectiveness for the prohibition order to the above-listed powerplant is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act, at 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), FEA concludes that an environmental impact statement is not required.

Additional copies of this negative determination of environmental impact and copies of the environmental assessment upon which it is based are available upon request from the FEA National Energy Information Center, Room 1404, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the documents are also available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., 20461.

Interested persons are invited to submit data, views, or arguments with respect to the environmental impacts of the Notice of Effectiveness and the associated negative determination and environmental assessment to Executive Communications, Box MH, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Negative Determination—Proposed NOE to Alabama Electric Cooperative's McWilliams Generating Station, Powerplant 3." Fifteen copies should be submitted on or before August 9, 1977.

Any information or data considered by the person furnishing it to be confiden-

[1] Memorandum Opinion and Order adopted April 6, 1977, RM-2678, Mimeo No. 80503, 42 FR 29962, June 10, 1977.

[1] In re Application of William Y. Tankersley and Frank A. Del Vecchio, d.b.a. New Deal Broadcasting Co. (KFDR) Grand Coulee, Washington, for renewal of license—Docket No. 20461.

[2] Notice released February 23, 1977, Mimeo 78410, Docket No. 20461, File No. BR-2509.

[1] Section 21.32(g) provides: "Whenever the public interest would be served thereby the Commission may grant one or more mutually exclusive applications expressly conditioned upon final action on the applications, and then either designate all of the mutually exclusive applications for a formal evidentiary hearing • • • if it appears • • •

"(2) That the public interest requires the prompt establishment of radio service on a particular community or area • • •"

[2] Section 21.504(a) provides: "The limits of reliable service areas of a base station engaged in two-way communication service with mobile stations are considered to be described by a field strength contour of • • • 37 decibels above 1 microvolt per meter for stations operating on frequencies in the 152-162 MHz band • • •."







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tial must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., on July 15, 1977.

ERIC J. FYGI,
*Acting General Counsel.*
*Federal Energy Administration.*

[FR Doc.77-20890 Filed 7-19-77;8:45 am]

## APPEALS AND APPLICATIONS FOR EXCEPTION FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

### Cases Filed Week of May 6 Through May 13, 1977

Notice is hereby given that during the week of May 6 through May 13, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be July 20, 1977, or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
*Acting General Counsel.*

JULY 13, 1977.

APPENDIX.— *List of cases received by the Office of Exceptions and Appeals, week of May 6 through May 13, 1977*

| Date | Name and location of applicant | Case No. | Type of submission |
|---|---|---|---|
| May 6, 1977 | Exxon Co., U.S.A., Houston, Tex. (If granted: The FEA's Apr. 26, 1977, remedial order would be rescinded and the Exxon Co., U.S.A. would not be required to reinstate the practice of accepting Master Charge and Bank Americard credit card sales invoices as payment for petroleum products sold by Exxon to independent retailers.) | FRA-1287 FRS-1287 | Appeal of FEA region VII's remedial order dated Apr. 26, 1977. Stay requested. |
| Do | B. J. Bickman, Kimball, Nebr. (If granted: Crude oil produced from the Houtby Field J sand unit located in Kimball County, Nebr., would be sold at upper tier ceiling prices.) | FEE-4126 | Price exception (sec. 212.78 (a)). |
| Do | National LP-Gas Association; National Committee on Propane Allocation and Price Regulation; Arlington, Va. (If granted: The FEA's Apr. 6, 1977, order assigning a base period supplier and a base period use of SNG feedstocks for Btu enrichment purposes at Ashland Petroleum Co.'s Buffalo, N.Y., SNG facility would be rescinded.) | FRA-1288 | Appeal of FEA assignment order dated Apr. 6, 1977, issued to the Ashland Petroleum Co. |
| Do | Pyramid Corp., Inc., Wichita, Kans. (If granted: Pyramid Corp., Inc., would receive a stay of the requirements of the FEA region VII's Nov. 19, 1976, notice of probable violation pending a final determination of Pyramid's exception request filed on Feb. 9, 1977.) | FES-3640 | Stay request. |
| Do | Sun Co., Inc., Dallas, Tex. (If granted: The exception relief which was approved in the Apr. 4, 1977, decision and order would be increased and the Sun Co., Inc., would be permitted to increase its prices for natural gas liquid products by an additional amount to reflect nonproduct cost increases produced at the following natural gas plants: Belle Isle, Burnell, Canales, Conelio, Cowden, Dragon Trail, Forloche, Jameson, Levelland, Maurice, Mermentau, Peoria, Pledger, Slaughter, Spivey, Steedman, Sun, Van, Victoria, and Wakita.) | FXA-1289- FXA-1308 | Appeal of decision and order in Sun Co., Inc., 5 FEA par. ---- (Apr. 4, 1977). |
| May 9, 1977 | Van Fleet Bros., Inc., Los Angeles, Calif. (If granted: Van Fleet Bros., Inc., would receive an exception to 10 CFR 212.93 which would permit the firm to increase its selling prices of motor gasoline and diesel fuel to 2 classes of purchaser.) | FEE-4127 | Price exception (sec. 212.93). |
| May 10, 1977 | Baller & Deshaw, Kawkawlin, Mich. (If granted: Baller & Deshaw's wells A through D in Arbela Field, Arbela Township, Tuscola County, Mich., would be classified as stripper well properties.) | FEE-4130 | Price exception (sec. 212.73). |
| Do | Breckenridge Gasoline Co., Breckenridge, Tex. (If granted: Breckenridge Gasoline Co. would receive an extension of the exception relief granted in the FEA's March 11, 1977, decision and order which permits the firm to increase its prices to reflect nonproduct cost increases in excess of $0.005/p gal for natural gas liquid products produced at its Elinsville and Lodi plants.) | FXE-4134 FXE-4135 | Extension of the relief granted in Breckenridge Gasoline Co., 5 FEA par. ---- (Mar. 11, 1977). |
| Do | Consumers Fuel Co., Inc., Martinsburg, W. Va. (If granted: The remedial order issued by region III on Apr. 28, 1977, would be rescinded and Consumers Fuel Co. would not be required to refund overcharges in its sales of No. 2 heating oil.) | FRA-1309 | Appeal of the remedial order issued by region III on Apr. 28, 1977. |
| Do | Eagle Gas Co., Inc., Coushatta, La. (If granted: The remedial order issued by region VI on Apr. 28, 1977, would be rescinded and the Eagle Gas Co. would not be required to refund overcharges in its sales of propane.) | FRA-1310 | Appeal of the remedial order issued by region VI on Apr. 28, 1977. |
| Do | Gulf Oil Corp., Tulsa, Okla. (If granted: Gulf Oil Corp. would receive an extension of the exception relief granted in the FEA's Mar. 29, 1977, decision and order which permits the firm to increase its prices to reflect nonproduct cost increases in excess of $0.005 gal for natural gas liquid products produced at its Azalea, Milfay, and Sand Hills plants.) | FXE-4131— FXE-4133 | Extension of the relief granted in Gulf Oil Corp., 5 FEA par. ---- (Mar. 29, 1977). |
| Do | Little Majors Oil Co., Denton, Tex. (If granted: Little Majors Oil Co. would be supplied motor gasoline directly by Sun Oil Co. rather than through the substitute supplier, South Central Oil Co.) | FEE-4128 | Allocation exception (sec. 211.28). |
| Do | Superior Oil Co., Houston, Tex. (If granted: Superior Oil Co. would receive an extension of the exception relief granted in the FEA's Oct. 1, 1977, decision and order which permits the firm to increase its prices to reflect nonproduct cost increases in excess of $0.005 gal for natural gas liquid products produced at its Portilla plant.) | FXE-4136 | Extension of the relief granted in Superior Oil Co., 4 FEA par. 83,137 (Oct. 1, 1976). |





| Date | Name and location of applicant | Case No. | Type of submission |
|---|---|---|---|
| May 11, 1977 | Champlin Petroleum Co., Fort Worth, Tex. (If granted: The FEA's Mar. 31, 1977, decision and order would be rescinded and crude oil produced from Fault Blocks II, III, and IV of the Wilmington Field, located at Long Beach, Calif., would be sold at upper tier ceiling prices.) | FXA-1313 | Appeal of the FEA's decision and order in Champlin Petroleum Co., 5 FEA par. ---- (Mar. 31, 1977). |
| Do | David Shafer Oil Producers, Inc., Wooten, Ohio. (If granted: David Shafer Oil Producers' Nancy Sylvester lease in Granger Township, Medina County, Ohio, would be classified as a stripper well property on a retroactive basis.) | FEE-4137 | Price exception (sec. 212.72). |
| Do | Gennuso's Service, Fresno, Calif. (If granted: Gennuso's Service would be supplied motor gasoline by Mobil Oil Corp. rather than its base period supplier, Red Triangle Oil Co.) | FEE-1140 | Exception to change suppliers. |
| Do | Louis Kahan, Tulsa, Okla. (If granted: The remedial order issued by FEA region VI on Apr. 11, 1977, would be rescinded and Louis Kahan would not be required to refund overcharges in its sales of crude oil produced from the Penner A lease.) | FRA-1281 | Appeal of the remedial order issued by region VI on Apr. 11, 1977. |
| Do | Mull Drilling Co., Inc., Wichita, Kans. (If granted: Crude oil produced from the UPRR Roth lease in Cheyenne County, Colo., would be sold at upper tier ceiling prices.) | FEE-4138 | Price exception (sec. 212.73). |
| Do | Petroleum Management, Inc., Wichita, Kans. (If granted: Petroleum Management, Inc., would receive a temporary stay of the refund requirements of the remedial order issued by region VII on Apr. 29, 1977.) | FRT-0042 | Temporary stay of the FEA region VII's remedial order issued on Apr. 29, 1977. |
| Do | Petroleum Management, Inc., Wichita, Kans. (If granted: Petroleum Management, Inc., would receive a stay of the refund requirements of the remedial order issued by region VII on Apr. 29, 1977, pending a determination on the appeal the firm intends to file.) | FRS-1311 | Stay of the remedial order issued by region VII on Apr. 29, 1977. |
| Do | Suburban Propane, Whippany, N.J. (If granted: The remedial order issued by FEA region VI on Apr. 25, 1977, would be rescinded and Surban Propane would not be required to refund overcharges for crude oil sold from the N. W. Cha Cha unit in San Juan County, N. Mex.) | FRA-1314 FRS-1314 | Appeal of the remedial order issued by region VI on Apr. 25, 1977. |
| Do | Warrior Asphalt Co. of Alabama, Inc. (If granted: Warrior Asphalt Co. of Alabama, Inc., would receive an extension of the relief granted in the FEA's Dec. 23, 1976, decision and order and would not be required to purchase additional entitlements.) | FXE-4139 | Extension of the relief granted in Warrior Asphalt Co. of Alabama, 4 FEA par. 83,263 (Dec. 23, 1976). |
| May 12, 1977 | Arizona Fuels Corp., Salt Lake City, Utah. (If granted: The FEA's Jan. 28, 1977, decision and order would be modified to provide additional time in which Arizona Fuels Corp. is required to consummate its August and September 1975 entitlement purchase obligations.) | FMR-0105 | Modification of FEA's decision and order, in Arizona Fuels Corp., 5 FEA par. 80,048 (Jan. 28, 1977). |
| Do | B&K Oil Co., Piedmont, Mo. (If granted: A retail service station owned by Mr. Richard Smith would be required to purchase motor gasoline from B&K Oil Co.) | FEE-4142 | Allocation exception. |
| Do | Bucks Butane & Propane Service, Inc., San Jose, Calif. (If granted: The remedial order issued by region IX on Apr. 21, 1977, would be rescinded and Bucks Butane & Propane Service, Inc., would not be required to refund overcharges in its sales of propane and tank rentals.) | FRA-1315 FRS-1315 | Appeal of the remedial order issued by region IX on Apr. 21, 1977. Stay request. |
| Do | New England Power Co., Westboro, Mass. (If granted: New England Power Co. would receive an extension of time until June 15, 1977, in which to file written comment and information in relation to the Apr. 25, 1977, notice of intention to issue prohibition orders to certain powerplants.) | FEE-4146 FES-4146 | Exception for a time extension. Stay request. |
| Do | Sid Richardson Carbon & Gasoline Co., Fort Worth, Tex. (If granted: Sid Richardson Carbon & Gasoline Co. would receive an extension of the exception relief granted in the FEA's Nov. 24, 1976, decision and order which permits the firm to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at its Keystone plant.) | FXE-4129 | Extension of the relief granted in Sid Richardson Carbon & Gasoline Co., 4 FEA par. 83,309 (Nov. 24, 1976). |
| Do | Superior Oil Co., Houston, Tex. (If granted: Superior Oil Co. would receive an extension of the exception relief granted in the FEA's Oct. 1, 1976, decision and order which permits the firm to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at its Cymric and Kettleman Hills plants.) | FXE-4143 FXE-4144 | Extension of the relief granted in Superior Oil Co., 4 FEA par. 83,137 (Oct. 1, 1976). |
| Do | Texaco, Inc., New York, N.Y. (If granted: The FEA's information request denial issued on Apr. 12, 1977, would be rescinded and Texaco, Inc., would receive access to the documents relating to National Oil Recovery Corp.) | FFA-1316 | Appeal of FEA's information request denial. |
| Do | Union Oil Co. of California, Los Angeles, Calif. (If granted: Union Oil Co. of California would receive an extension of the exception relief granted in the FEA's Mar. 4, 1977, decision and order which permits the firm to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products/produced at its T&MA plant.) | FXE-4145 | Extension of the relief granted in Union Oil Co., 5 FEA par. ---- (Mar. 4, 1977). |
| Do | United Cab, Tampa, Fla. (If granted: United Cab would be assigned a new, lower priced supplier of motor gasoline to replace its base period supplier, Lee & Pomeroy Oil Co.) | FEE-4141 | Exception to change suppliers. |
| May 13, 1977 | Kerr-McGee Corp., Oklahoma City, Okla. (If granted: Kerr-McGee Corp. would receive an extension of the exception relief granted in the FEA's Feb. 22, 1977, decision and order which permits the firm to increase its prices to reflect nonproduct cost increase in excess of $0.005/gal for natural gas liquid products produced at its Milfay plant.) | FXE-4147 | Extension of the relief granted in Kerr-McGee Corp., 5 FEA par. ---- (Feb. 23, 1977). |

[FR Doc.77-20594 Filed 7-19-77;8:45 am]

## STRATEGIC PETROLEUM RESERVE

### Availability of the Final Environmental Impact Statement for Ironton Mine Storage Site

Pursuant to section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C), the Federal Energy Administration (FEA) has prepared the final environmental impact statement (EIS) for the Ironton Mine site.

The draft EIS for the Ironton Mine has been previously made available to the Council on Environmental Quality and to the public on January 12, 1977. The final Ironton EIS (FES 76/77-10) includes comments received by FEA on the draft EIS (DES 76/77-10) and FEA analyses and responses to these comments.

The Ironton Mine has been proposed as an element of the Strategic Petroleum Reserve. The Reserve (mandated by Part B of Title I, Energy Policy and Conservation Act, 42 U.S.C. 6231-6246) will be created for the storage of crude oil and/or petroleum products for use in the event of a Presidential determination of a severe energy supply interruption or a requirement to meet the obligations of the United States under the International Energy Program.

FEA will allow for a minimum of 30 days for interested parties to comment before taking any administrative action with regard to site selection or start of construction at Ironton.

Single copies of the Ironton EIS (FES 76/77-10) are available upon request from the National Energy Information Center, Room 1404, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views and arguments with respect to the supplement to Executive Communications, Box NZ, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on the documents submitted to FEA Executive Communications with the designation "Ironton Mine (FES 76/77-10)." Fifteen copies should be submitted. All comments should be received by FEA by August 19, 1977, in order to receive full consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., July 14, 1977.

ERIC J. FYGI,
*Acting General Counsel,*
*Federal Energy Administration.*



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## FEDERAL MARITIME COMMISSION

### CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

#### Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indictated, as required by Section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

| Certificate No. | Owner, Operator and Vessels |
|---|---|
| 01017--- | Westfal-Larsen & Co. A/S: *Spinanger.* |
| 01059--- | London & Overseas Freighters Ltd.: *London Baron.* |
| 01089--- | Uim Union Industrielle et Maritime: *Amandine.* |
| 01278--- | Leonhardt & Blumberg: *Britta.* |
| 01343--- | Hamburg Sudamerikanische Dampfschiffahrts Gesellschaft Eggert & Amsinck: *Columbus Wellington.* |
| 01443--- | Denholm Line Steamers Ltd.: *Wellpark.* |
| 01447--- | Scotstoun Shipping Co. Ltd.: *Conon Forest.* |
| 01611--- | Helge R. Myhre: *Hera.* |
| 01641--- | The Bank Line Ltd.: *Sibonga, Siena.* |
| 01817--- | The Clan Line Steamers Ltd.: *Clan Graham.* |
| 01890--- | A/S Billabong: *Star Esfahan, Star Shahpour.* |
| 01910--- | Deutsche Dampfschiffahrts Gesellschaft Hansa: *Stahleck.* |
| 01938--- | Maersk McKinney Moller: *Maersk Breaker.* |
| 01939--- | Maersk McKinney Moller, Aktieselskabet Dampskibsselskabet Svendborg, Dampskibsselskabet AF 1912 Aktieselskab: *Maersk Boulder.* |
| 01988--- | Brostroms Rederi AB: *Kronoland, Axel Brostrom, Ferroland.* |
| 02040--- | Odra-Swinoujscie: *Marlin.* |
| 02041--- | Dalmor Przedsiebiorstwo Polowow Dalekomorskich I Uslug Rybackich: *Arcturus.* |
| 02156--- | Lorentzens Skibs A/S: *Johs Stove.* |
| 02194--- | Compagnie Generale Maritime: *Monge.* |
| 02209--- | Flota Mercante Grancolombiana S.A.: *Ciudad De Santa Marta.* |
| 02218--- | Christian Haaland: *Concordia Star.* |
| 02241--- | Cape Continent Shipping Co. (Proprietary) Ltd.: *Merlion.* |
| 02282--- | Park Steamships, Ltd.: *Norrstal.* |
| 02296--- | Naviera Fierro S.A.: *Delta.* |
| 02419--- | Far Eastern Shipping Ltd.: *Federal St. Clair.* |
| 02429--- | G & C Towing, Inc.: Landing Boat Barge D.C. 1295. |
| 02446--- | Cosmopolitan Shipping Co., S.A. *Jennifer.* |
| 02458--- | The China Navigation Co. Ltd.: *Papuan Chief.* |
| 02492--- | Interstate and Ocean Transport Co.: *Interstate No. 24, H. T. 17.* |
| 02715--- | Allied Towing Corp.: *Hot Oil 17.* |
| 02862--- | Ocean Shipping & Enterprises Ltd.: *Ocean Espoir, Ocean Strength.* |
| 02864--- | Empresa Nacional Del Petroleo S.A.: *Carthagonova.* |
| 02930--- | Compania Sud-Americana De Vapores: *Maipo II, Copiapo II, Imperial II, Aconcagua II.* |
| 02956--- | Ashland Oil, Inc.: *NMS 42, NMS 43.* |
| 03008--- | Rederi AB Wallenius: *Faust.* |
| 03055--- | Upper Lakes Shipping Ltd.: *Canadian Transport, Cape Breton Highlander, St. Lawrence Navigator, St. Lawrence Prospector.* |
| 03069--- | Alfred C. Toepfer Schiffahrtsges MBH.: *Dresden.* |
| 03216--- | Salenrederierna AB: *Adriatic Wasa, Gothic Wasa.* |
| 03294--- | Companhia De Navegacao Lloyd Brasileiro: *Lloyd Marselha.* |
| 03315--- | Afran Transport Co.: *Afran Breeze.* |
| 03413--- | Baba-Daiko Shoeen K. K.: *Fujisan Maru.* |
| 03452--- | Kyoei Tanker Kabushiki Kaisha: *Yamanashi Maru.* |
| 03488--- | Sanwa Sempaku K. K: *Katsu Maru No. 10.* |
| 03614--- | A/S Kristian Jebsens Rederi: *Bedouin Birknes.* |
| 03640--- | Pan Ocean Bulk Carriers, Ltd.: *Ocean Crown, Ocean Duke.* |
| 03692--- | Marmac Corp.: *BC–226.* |
| 03718--- | Kaiser Aluminum & Chemical Corp.: *SC–1900.* |
| 03733--- | Great Lakes Dredge & Dock Co.: *Illinois.* |
| 03971--- | Korea Shipping Corp.: *Korean Commander.* |
| 04462--- | Empresa Nacional "Elcano" De La Marina Mercante S.A.: *Castillo De Salvatierra, Castillo De Montearagon.* |
| 04490--- | Seiyu Gyogyo Kabushiki Kaisha: *Seiyu Maru No. 2.* |
| 04544--- | Mr. Yosuke Kawaguchi: *Seishu Maru No. 32.* |
| 04546--- | Mr. Toshikazu Miki: *Kyowa Maru No. 18.* |
| 04583--- | Gatx Oswego Corp.: *Oswego Spirit, Oswego Hope.* |
| 04623--- | Seaspan Internationala Ltd.: *Seaspan 912, Seaspan 913.* |
| 04625--- | American Commercial Lines, Inc.: *Dennis Hendrix.* |
| 04674--- | Pescanova S.A.: *Maru.* |
| 04884--- | Hall Corp. Shipping Ltd.: *Montcliffe Hall, Steelcliffe Hall.* |
| 05079--- | Van Uden Scheepvaart En Agentuur Mij B.V.: *Eemhaven.* |
| 05232--- | Diamond M. Co.: *Diamond M 99, Diamond M. Century, Diamond M. New Era, Diamond M. General, Diamond M. Gem, Diamond M. Nugget, Diamond M. Epoch, S–25.* |
| 05298--- | Erich Drescher: *Franziska Drescher.* |
| 05374--- | Compania Argentine De Navegacion, Intercontinental S.A.: *Pampa Argentina, Patagonia Argentina, Harlandsville.* |
| 05376--- | Stellman Transportation Co.: *Tejas 200.* |
| 05520--- | Union Carbide Corp.: *USL–139, USL–606.* |
| 05562--- | Weeks Dredging & Contracting, Inc.: *Charles A. Richardson Dredge No. 428, Scow No. 2001, Scow No. 2002.* |
| 05563--- | Weeks Stevedoring Co., Inc.: *Weeks No. 700, Weeks No. 507, Weeks No. 508, Weeks No. 510, Weeks No. 511, Weeks No. 512.* |
| 05581--- | Lativan Shipping Co.: *Dubulty Mayori.* |
| 05671--- | Petroleos Del Peru: *Trompeteros.* |
| 05767--- | Neptune Orient Lines, Ltd.: *Neptune Tourmaline.* |
| 05845--- | Shinto Kaiun K. K.: *Tomei Maru.* |
| 06287--- | Gates Equipment Corp.: *Dredge 196, Barge 165.* |
| 06399--- | Tokumaru Kaiun K. K.: *Wakatoku Maru, Fukutoku Maru.* |
| 06472--- | Taiheiyo Kisen Kaisha, Ltd.: *Hakuryu Maru.* |
| 06473--- | Rakennustoimisto Jussi Ketola: *Concordia-Builder.* |
| 06596--- | Issei Kisen K. K.: *Yusei Maru.* |
| 06675--- | Cobrecaf: *Blavet.* |
| 06949--- | Mickie B. Jones: *Triple Star.* |
| 06996--- | Akita Senpaku K. K.: *Shinryu Maru.* |
| 07255--- | Teh Tung Steamship Co., Ltd.: *United Pioneer.* |
| 07366--- | Compagnie Maritime Des Chargeurs Reunis: *Medariana, Cap Benat.* |
| 07607--- | Takebayashi Kisen Co., Ltd.: *Fuyoh Maru.* |
| 07772--- | Great Eastern Maritime Co. Ltd.: *Good View, Wallport.* |
| 08310--- | Universal Seaways Private Ltd.: *Honor Sea.* |
| 08370--- | Indiana & Michigan Electric Co.: *James E. Wright, R. E. Doyle, Jr.* |
| 08377--- | Tri-Ocean Shipping Corp. Ltd.: *Scanspruce.* |
| 08390--- | The Interlake Steamship Co.: *Mesabi Miner.* |
| 08645--- | Coastal Towing Inc. Springhill: *MM 4, MM 5, MM 6.* |
| 09003--- | VTG Vereinigte Tanklager Und Transport-Mittel G.m.b.h.: *Hurtertor.* |
| 09098--- | The Boswell Oil Co.: *M666.* |
| 09180--- | Inge Shipping Corp.: *Inge.* |
| 09221--- | Gorgo Shipping Corp.: *Gorgo.* |
| 09436--- | Daerim Fishery Co., Ltd.: *Dae Jin No. 52.* |
| 09718--- | Hosei Kaiun Shoji Kabushiki Kaisha: *Dian.* |
| 09785--- | San Diego Transportation Co.: *Isla Bonita.* |
| 09792--- | United Fair Agencies Ltd.: *Grand Youth.* |
| 09943--- | Rextar Transports Inc.: *World Vigour.* |
| 10203--- | Morski Instytut Rybacki: *Profesor Siedlecki.* |
| 10260--- | Hollywood Marine, Inc.: *GDM 60.* |
| 10362--- | Boyang Ltd.: *Mononok.* |
| 10616--- | Arab Maritime Petroleum Transport Co.: *Wahran.* |
| 10759--- | Indo Pacific Carriers Inc.: *Hawaiian Sea.* |
| 10764--- | Dinaco Compania De Navegacion S.A.: *Goulias.* |
| 10829--- | Egyptian Navigation Co.: *Al Abrahimiya, Ras El Tin, Alexandria.* |
| 10931--- | Hansung Shipping Co., Ltd.: *Ace Hero.* |
| 11016--- | Ulterwyk Lines Ltd.: *Laurie U.* |
| 11247--- | Global Marine Deepwater Drilling Inc.: *Glomar Pacific.* |
| 11259--- | Schenk Seafood Sales, Inc.: *Scout.* |
| 11260--- | Intercontinental Transportation Services Ltd.: *Coyoles, Guayaquil.* |
| 11286--- | Binion Marine Service, Inc.: *C–202.* |
| 11614--- | Chung Gai Ship Management Co., Ltd.: *Rose Acacia, Rose Daphne.* |
| 11646--- | Swift Marine Inc.: *SM–7.* |
| 11667--- | Ingram Transportation Co.: *IB 1108B, IB 1109B, IB 2308B, IB 2309B, IB 2015 L, IB 2016 T, IB 2017 L, IB 2018 T, Hortense B. Ingram.* |
| 11714--- | Global Transport Organisation: *Genmar 105, Genmar 106.* |
| 11911--- | I/S Sirehel: *Magellan.* |
| 11938--- | Varnima Corp. International S.A.: *Al Hofuf, Al Damman I.* |
| 11999--- | Companhia Maritima Nacional: *Neide.* |
| 12025--- | SPS Management A/S: *Partnership.* |





| Certificate No. | Owner/Operator and Vessels |
|---|---|
| 12198--- | Genuine Shipping S.A.: *Fair Liza.* |
| 12317--- | Taro Shipping Enterprises Corp.: *Taro.* |
| 12369--- | Venus Shipping Corp.: *Maritime Dominion.* |
| 12374--- | Bayard Line (Maldives) Ltd.: *Yukikaze Maru.* |
| 12386--- | Crossgate Maritime S.A.: *Blue Star.* |
| 12415--- | Rederij Tjonger V.O.F.: *Tjonger.* |
| 12463--- | Oyang Fisheries Co., Ltd.: *Oyang No. 81.* |
| 12515--- | Ined Shipping Corp.: *Delft.* |
| 12586--- | Amer-Yhtyma Oy: *Concordia-Amer.* |
| 12599--- | Majesty Maritime Inc.: *Al Raziq.* |
| 12601--- | Han Sung Enterprise Co. Ltd.: *Han Sung No. 33.* |
| 12602--- | Alaska Cargo Lines Inc.: *Norton Sound, Galena.* |
| 12616--- | Reederei Hans Beilken OHG: *Atlantic Baron.* |
| 12622--- | Mauritania Shipping Co., Ltd.: *Nicos III.* |
| 12624--- | Spes S.P.A. Di Navigazione: *Donatella.* |
| 12628--- | Curlew Navigation Ltd.: *Will Adams.* |
| 12644--- | Aquarius Tankers Ltd.: *Lae Express, Moresby Express.* |
| 12646--- | Trans Globe Maritime Ltd.: *Sea Condor, Sea Fortune, Sea Eagle, North Sea.* |
| 12662--- | Dorothea Marine Enterprise & Mgm., Inc.: *Simandou.* |
| 12665--- | Soc. Coop. De Prod Pesquera Albacoreros Y Del Eda De Baja California SCL: *Albatun.* |

By the Commission.

JOSEPH C. POLKING,
*Acting Secretary.*

[FR Doc.77-20884 Filed 7-19-77;8:45 am]

[Docket No. 76-41]

### SEATRAIN VESSELS, BERTHING IN SAN JUAN, PUERTO RICO

#### Intent To Make an Environmental Assessment

The above-referenced proceeding is an investigation to determine whether (1) Puerto Rico Ports Authority is violating section 16 First or section 17 of the Shipping Act, 1916 by refusing to assign Seatrain Lines of Puerto Rico, Inc. vessels to berth at Isla Grande, and (2) Puerto Rico Maritime Shipping Authority, Puerto Rico Ports Authority or both, are violating section 16 First or section 17 of the Shipping Act, 1916 by refusing Seatrain access to the container cranes at Isla Grande.

The Commission believes that its final resolution of the issues in this proceeding may constitute a major Federal action significantly affecting the quality of the human environment. Consequently, the environmental factors involved warrant consideration and evaluation before decision making is completed.

Therefore, Notice is hereby given that the Federal Maritime Commission intends to make an environmental assessment to determine whether its final decision in this proceeding will constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. Written comments regarding possible environmental effects which may occur from the eventual resolution of the proceeding are invited. Such comments should be submitted on or before August 19, 1977 to the Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, D.C. 20573.

Copies of discovery materials, all exhibits and all future correspondence and pleadings exchanged or filed in this proceeding shall be served on Chief, Office of Environmental Analysis, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C., 20573.

By the Commission.

JOSEPH C. POLKING,
*Acting Secretary.*

[FR Doc.77-20883 Filed 7-19-77;8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. ER77-484]

### ALLEGHENY POWER SERVICE CO.

#### Changes in Rates and Charges

JULY 11, 1977.

Take notice that Allegheny Power Service Corporation (APSC) on June 29, 1977 tendered for filing on behalf of West Penn Power Company (West Penn), one of the electric utilities which make up the integrated Allegheny Power System, and Duquesne Light Company (Duquesne), Amendment No. 6 to the Interchange Agreement dated February 1, 1968 between West Penn and Duquesne designated West Penn Rate Schedule FPC No. 24 and Duquesne Rate Schedule FPC No. 9.

APSC indicates that Amendment No. 6 provides for (1) an increase in the minimum charge for emergency service from 17.5 mills per kwh to 30.0 mills per kwh, (2) an increase in the demand charge for short-term power from $0.50 to $0.60 per kilowatt week and (3) provides for the supplying party to sell to the other party short-term power and energy obtained from another system at the price paid therefor plus $0.15 per kilowatt week. APSC states that since such transactions are scheduled from time to time as load and capacity conditions on the systems of the parties dictate it is impossible to estimate the increase in revenues which would result from Amendment No. 6.

APSC requests waiver of the Commission's notice requirements to allow an effective date of July 1, 1977.

Any person desiring to be heard or protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before July 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20848 Filed 7-19-77;8:45 am]

[Docket No. ER77-490]

### ARKANSAS POWER & LIGHT CO.

#### Proposed Change in FPC Rate Schedule

JULY 11, 1977.

Take notice that on July 1, 1977, Arkansas Power & Light Company (Company) tendered for filing a proposed change in one of the Company's rate schedules:

Arkansas Power & Light Company Rate Schedule FPC No. 57

According to the Company Rate Schedule FPC No. 57 is a contract between the Company and the Conway Corporation of Conway, Arkansas. The Company indicates that the change in FPC No. 57 includes the addition of one point of delivery. The Company further indicates that the change in FPC No. 57 is proposed to take effect on July 1, 1977. For this reason, the Company requests waiver of the Commission's notice requirements.

The Company states that due to a difficulty in making accurate estimates of the billing effect of this change, no billing data was filed. The Company states that there will be no change in rates or provisions in the schedule other than those noted above.

According to the Company a copy of the filing has been mailed to the Conway Corporation.

Any person desiring to be heard or to protest this filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20846 Filed 7-19-77;8:45 am]

[Docket No. RI77-108]

### JOHN P. BOOTH & ASSOCIATES

#### Petition for Special Relief

JULY 12, 1977.

Take notice that on June 23, 1977, John P. Booth & Associates (Petitioner), 209 Philtower Building, Tulsa, Oklahoma 74103, filed a petition for special relief seeking an increase in rate for natural



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gas sales to Northern Natural Gas Company (Northern) from the Sitka Unit, Hugoton-Anadarko Area, Clark County, Kansas. Petitioner seeks an increase from a rate of 19 cents per Mcf to a rate of 67 cents per Mcf as agreed to by Northern. Petitioner states that the applicable four wells are currently being operated at a loss and that the requested rate increase is necessary to prevent abandonment of these wells.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 2, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20861 Filed 7-19-77;8:45 am]

[Docket No. ER77-479]

## CENTRAL ILLINOIS LIGHT CO.

### Filing

JULY 8, 1977.

Take notice that Central Illinois Light Company (CILCO) on June 27, 1977, tendered for filing proposed Modification No. 1 to the Interconnection Agreement (Agreement) dated August 31, 1976, between Central Illinois Light Company and Central Illinois Public Service Company. CILCO states that the Commission has previously designated the August 31, 1976 Agreement as Central Illinois Public Service Company Rate Schedule FPC No. 81 and Central Illinois Light Company Rate Schedule FPC No. 20.

CILCO further states that Modification No. 1 provides for a proposed increase in charges for Maintenance, Short-Term Firm and Short-Term Non-Firm Power transactions between Central Illinois Public Service Company and CILCO. CILCO proposes an effective date of August 1, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20851 Filed 7-19-77;8:45 am]

[Docket No. RP72-142, (PGA77 6)]

## CITIES SERVICE GAS CO.

### Proposed Changes in FPC Gas Tariff

JULY 12, 1977.

Take notice that Cities Service Gas Company (Cities Service) on June 7, 1977, tendered for filing Twentieth Revised Sheet PGA-1 to its FPC Gas Tariff, Second Revised Volume No. 1. Cities Service states that pursuant to the Purchased Gas Cost Rate Adjustment in Article 21 of the FPC Gas Tariff, it proposes to decrease its rates effective July 23, 1977:

(1) To reflect changes in its supplier rates which will be effective as of the date of its filing.

(2) To reflect the cost of ENGA gas being purchased by Transwestern Pipeline Company and resold to Cities Service.

(3) To reflect the cost of an emergency exchange arranged with Pacific Lighting Service Company in order to protect service to Cities Service's customers in FPC Curtailment Priorities 1 and 2 during periods of severe weather this past winter.

(4) To reflect the balance in Cities Service's Deferred Purchase Gas Cost Account at April 22, 1977.

(5) To reflect the elimination of the Opinion No. 770-A Special Surcharge of 3.46¢ per Mcf.

Twentieth Revised Sheet PGA-1 reflects a current adjustment of (0.12c) per Mcf.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket Nos. RP72-142 and RP76-135.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before July 21, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20856 Filed 7-19-77;8:45 am]

[Docket No. RP72-157 (PGA No. 77-8a)]

## CONSOLIDATED GAS SUPPLY CORP.

### Proposed Changes in FPC Gas Tariff

JULY 12, 1977.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on June 22, 1977 tendered for filing proposed changes to its FPC Gas Tariff, Second Revised Volume No. 1 pursuant to its PGA clause for rates to be effective July 1, 1977 in lieu of rates filed May 27, 1977. The proposed change would generate approximately $2.4 million annually in additional revenues over the rates included on Second Substitute Twenty-Third Revised Sheet Nos. 8 and 9.

Consolidated states the revised rates, shown on Substitute Twenty-Fourth Revised Sheet Nos. 8 and 9, reflect the elimination of all costs associated with the (a) two shipments of LNG and (b) short-term purchases from Oklahoma Natural Gas Company.

The Commission, by order issued June 9, 1977, allowed Consolidated to flow through costs associated with the first shipment of LNG and initial deliveries of short-term purchases from Oklahoma Natural Gas Company through the PGA clause but deferred the flow through until Consolidated's next semiannual PGA rate adjustment. Thus, Consolidated has eliminated the costs incurred in acquiring the LNG and short-term purchases at this time and will include such costs in its next semiannual PGA rate adjustment which will become effective November 1, 1977.

Consolidated is requesting a waiver of any the Commission's Rules and Regulations in order to permit the proposed rates shown on Substitute Twenty-Fourth Revised Sheet Nos. 8 and 9 to become effective July 1, 1977.

Copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20867 Filed 7-19-77;8:45 am]





[Docket No. CP77-481]

## EL PASO NATURAL GAS CO.

### Application

JULY 12, 1977.

Take notice that on June 30, 1977, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP77-481 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon from its interstate system certain natural gas production area facilities located in the Permian Basin production area in the states of Texas and New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the deliverability of gas supplies attached to its system in the Permian Basin production area has declined over the productive life of said supply sources and has now reached a level where the facilities proposed herein to be abandoned are no longer required by Applicant to be operated for the acquisition, gathering, processing, compression and transportation of gas to its mainline interstate system.

Applicant proposes to abandon a total of 16 compressor units, comprising a combined total of 16,660 horsepower, a total of approximately 11.73 miles of 6⅝-inch and 4½-inch O.D. supply lateral pipeline and approximately 9.01 miles of 6⅝-inch, 4½-inch, and 2⅜-inch O.D. gathering system pipeline, and two processing plant facilities.

Applicant describes the facilities to be abandoned as follows:

| Name of facility | Location | Description |
|---|---|---|
| Compressor units: | | |
| Driver | Midland Co., Tex. | 2, 2,000-hp units. |
| Goldsmith | Ector Co., Tex. | 2, 1,200-hp units. |
| Kennitz | Lea Co., N. Mex. | 1, 880-hp unit. |
| McElroy-Crane | Crane Co., Tex. | 2, 1,100-hp units. |
| Snyder | Scurry Co., Tex. | 1, 660-hp unit. |
| Tex-Harvey | Midland Co., Tex. | 1, 880-hp unit. |
| Vena Madre | Nolan Co., Tex. | 1, 300-hp unit. |
| Warren Waddell | Crane Co., Tex. | 1, 440-hp unit. |
| Wasson | Yoakum Co., Tex. | 2, 1,100-hp units. |
| Westlake Trammell | Nolan Co., Tex. | 2, 1,100-hp units. |
| Supply lateral and gathering pipeline: | | |
| Bagley | Lea Co., N. Mex. | 1.18 mi of supply lateral and 8.57 mi of gathering pipeline. |
| Hokit | Pecos Co., Tex. | 0.90 mi of 4½-in o.d. pipeline. |
| Messalero | Lea Co., N. Mex. | 6.00 mi of 4½-in o.d. pipeline. |
| North Puckett | Pecos Co., Tex. | 3.35 mi of 6⅝-in o.d. pipeline and 0.14 mi of gathering system pipeline. |
| Processing plants: | | |
| Monument plant | Lea Co., N. Mex. | 180,000 1,000 ft³/d treating plant. |
| Sealy field plant | Ward Co., Tex. | 16,000 1,000 ft³/d purification and dehydration plant. |

Applicant estimates the total cost of abandoning such facilities to be $125,850. Applicant further states that it would abandon a majority of such facilities by removal and disposal of salvable materials in the most economical manner available, and it would abandon the remainder of such facilities in place and would account for salvable materials as stock items pending their future use in Applicant's operations, all with consequent reductions in Applicant's cost of service.

It is stated that Applicant's remaining compressor facilities possess sufficient capacity to meet the compression needs of Applicant's supply sources in the Permian Basin supply area.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 2, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided, for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20865 Filed 7-19-77;8:45 am]

[Docket No. ER77-492]

## FLORIDA POWER CORP.

### Filing

JULY 11, 1977.

Take notice that Florida Power Corporation (Company) on July 1, 1977 tendered for filing changes in its FPC Electric Tariff Original Volume No. 2 covering generating support service to participants in the Crystal River No. 3 nuclear generating plant.

The Company states that the filing accomplishes three changes in the tariff. First, it adds a customer under the tariff a sixth Crystal River No. 3 participant, the Sebring Utilities Commission. Second, it modifies the liability and late payment provisions of the terms and conditions of service to comport with those that the Company has agreed in settlement to include in its other wholesale tariff, FPC Electric Rate Tariff Original Volume No. 1. Third, it reallocates the Seminole Electric Cooperative, Inc.'s Crystal River No. 3 purchase among the Cooperative's delivery points, according to the Cooperative's request.

The Company requests that the Commission waive its notice requirements so that the tariff changes may become effective as of March 14, 1977, when service under the tariff commenced.

According to the Company, copies of the filing were served upon the affected jurisdictional customers and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20847 Filed 7-19-77;8:45 am]

[Docket No. ES77-44]

## GULF STATES UTILITIES

### Application

JULY 12, 1977.

On June 30, 1977, Gulf States Utilities (Applicant) filed an Application with the Federal Power Commission, pursuant to Section 204 of the Federal Power Act, seeking authorization to issue up to 750,000 shares of Common Stock and requesting exemption of such Common Stock from the competitive bidding re-



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quirements under the Commission's Regulations.

The Applicant states that the Common Stock is to be issued from time to time pursuant to the provisions of the Gulf States Utilities Company Tax Reduction Act Stock Ownership Plan (Plan) established pursuant to Section 301(d) of the Tax Reduction Act of 1975. The Applicant further states that the price at which the Common Stock will be issued into the Plan shall be the average of the Applicant's Common Stock closing prices as reported on the New York Stock Exchange, Inc., on the twenty consecutive trading dates preceding the date of transfer to the Plan. In addition, the Applicant reports that it will realize from the issuance of such Common Stock an additional investment credit against the Federal income tax liability equivalent to the value of the Common Stock issued to such Plan.

According to the Applicant, the proceeds realized in the form of a Federal income tax credit will be added to the general funds of the Applicant and will be used to refund a portion of its short-term notes.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 25, 1977, file with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions or protests in accordance with the requirements of §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20864 Filed 7-19-77;8:45 am]

[Docket No. CI77-584]

## MARATHON OIL CO.

### Application for Certificate of Public Convenience and Necessity and Petition for Special Relief

JULY 8, 1977.

Take notice that on June 20, 1977, Marathon Oil Company (Marathon), 539 South Main Street, Findlay, Ohio 45840, filed in Docket No. CI77-584 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of gas produced from Marathon's 20.833 percent interest in Euguene Island Block 47 in offshore Louisiana. The gas will be sold and delivered to Sea Robin Pipeline Company (Sea Robin) under a December 29, 1976 contract between Marathon and Sea Robin. Initial drilling on the Block and the well from which the gas will be produced were commenced in 1954, but the well was subsequently shut-in since there was no market for the small amount of recoverable reserves. Marathon now plans to re-enter and complete the well and to commence deliveries in September, 1977.

Marathon also requests special relief pursuant to § 2.56(g) of the Commission's General Policy and Interpretations. Marathon's December 29, 1976 contract provides for a rate of $1.75 per Mcf and Marathon states that the unit cost of gas is at least $2.14 per Mcf. Marathon also expresses its willingness to accept an initial rate as presently prescribed by § 2.56a of the Commission's General Policy and Interpretations for wells commenced on or after January 1, 1975.

Any person desiring to be heard or to make any protest with reference to said petition should on or before July 29, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20850 Filed 7-19-77;8:45 am]

[Docket No. RP73-43 (PGA77-3)]

## MID LOUISIANA GAS CO.

### Proposed Change in Rates

JULY 12, 1977.

Take notice that Mid Louisiana Gas Company (Mid Louisiana), on June 17, 1977, tendered for filing as a part of First Revised Volume No. 1 of its FPC Gas Tariff, Twenty-Sixth Revised Sheet No. 3a.

Mid Louisiana states that the purpose of the filing is to reflect a Purchased Gas Cost Current Adjustment to Mid Louisiana's Rate Schedules G-1, SG-1, I-1 and E-1; that the revised tariff sheet is proposed to be effective August 1, 1977; and that the filing is being made in accordance with Section 19 of Mid Louisiana's FPC Gas Tariff and in compliance with Commission Order Nos. 452 and 452-A; and that copies of the filing were served on interested customers and state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20860 Filed 7-19-77;8:45 am]

## MIDWESTERN GAS TRANSMISSION CO.

[Docket Nos. G-18314, CP66-121 and CP70-25]

### Petition to Amend

JULY 14, 1977.

Take notice that on July 1, 1977, Midwestern Gas Transmission Company (Petitioner), 1100 Milam Building, Houston, Texas 77002, filed in Docket Nos. G-18314, CP66-121, and CP70-25 a petition to amend the Commission's order of October 31, 1959 (22 FPC 775), June 20, 1967 (37 FPC 1070), and April 30, 1970 (43 FPC 635), as amended, issued in the instant dockets (respectively) pursuant to Section 3 of the Natural Gas Act so as to authorize the continued importation of natural gas from Canada under Petitioner's Contract Nos. 1, 2, and 3 at an increase import rate of $2.16 (United States) per billion Btu's effective September 23, 1977, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is indicated that the orders as set forth above authorized Petitioner to import certain quantities of gas from Canada at a point on the International Boundary near Emerson, Manitoba, purchased from TransCanada PipeLines Limited (TransCanada) pursuant to three different contracts (Contracts Nos. 1, 2 and 3).

Petitioner states that pursuant to the Commission's order of September 9, 1976, the Commission, respectively, amended previous orders in the instant dockets to permit the continued importation of natural gas from Canada at the increased rates of $1.80 (Canadian) per billion Btu's effective September 10, 1976 and $1.94 (Canadian) per billion Btu's effective January 1, 1977. Petitioner states that such amendments were necessary as a result of a decision by the Canadian Government to instruct the National Energy Board (NEB) to amend Canadian export licenses issued to TransCanada to establish a border export price of not less than nor greater than $1.80 (Canadian) per billion Btu's, effective September 10, 1976, and a border export price of not less than nor greater than $1.94 (Canadian), effective January 1, 1977. It is stated that the Canadian Government's action was based upon recommendations by the NEB contained in a report of its review of export prices of natural gas in relationship to the price for alternative energy sources. It is further stated that the Canadian Government has further instructed the NEB to amend all existing export licenses applicable to the sale of gas by TransCanada to Petitioner to establish a new border export price of $2.16 (United States) per billion Btu's effective September 23, 1977. The NEB would soon amend all pertinent TransCanada export licenses to reflect the new price, it is indicated.

Petitioner asserts that while the precise effect on the export to Petitioner resulting from such order cannot be calculated until the exact form of the rate to be specified in the amended export licenses becomes known, it is imperative that this petition for amended import authorization be filed at this time to afford the Commission the maximum possible time before September 23, 1977 to act thereon.

It is indicated that the amendment by the NEB of TransCanada's three licenses to export gas to Petitioner pursuant to the Canadian Government's directive would require TransCanada to charge and collect under all three contracts the new export price. Pursuant to the Commission's order of December 17, 1976 in the above-entitled proceedings, Petitioner is authorized to pay only $1.94 (Canadian) per billion Btu's.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 4, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20871 Filed 7-19-77;8:45 am]

[Docket No. ER77-478]

## MISSISSIPPI POWER & LIGHT CO.

### Interconnection Agreement

JULY 8, 1977.

Take notice that on June 27, 1977, Mississippi Power & Light Company (MP&L) tendered for filing an Interconnection Agreement between it and the City of Clarksdale, Mississippi, dated February 13, 1976. MP&L states that this Agreement incorporates Service Schedules: (A) Reserve Capacity; (B) Unintentional Energy, (C) Firm Capacity, (D) Economy Energy.

MP&L proposes an effective date of August 1, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20852 Filed 7-19-77;8:45 am]

[Docket No. RP72-149, (PGA77-8)]

## MISSISSIPPI RIVER TRANSMISSION CORP.

### Proposed Change in Rates

JULY 12, 1977.

Take notice that Mississippi River Transmission Corporation ("Mississippi") on June 29 1977, submitted for filing Fifty-Seventh Revised Sheet No. 3A to its FPC Gas Tariff, First Revised Volume No. 1, to become effective August 1, 1977.

The instant filing is being made pursuant to the provisions of Mississippi's purchased gas cost adjustment clause to track a rate change filing of Trunkline Gas Company made pursuant to the terms of the PGA provisions of its tariff and the Advance Payment and Transportation Tracking provisions of its Agreement as to Rates and Related Matters at Docket No. RP74-89.

Mississippi submitted schedules containing computations supporting the rate changes to be effective August 1, 1977. Mississippi states that copies of its filing were served on Mississippi's jurisdictional customers and the State Commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 27, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene unless such petition has previously been filed. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20863 Filed 7-19-77;8:45 am]

[Docket No. ER77-480]

## MONTAUP ELECTRIC CO.

### Proposed Tariff Change

JULY 11, 1977.

Take notice that Montaup Electric Company (Montaup), on June 27, 1977, tendered for filing proposed changes in its FPC Electric Tariff No. 1 for service to Brockton Edison Company (Brockton), Fall River Electric Light Company (Fall River), Blackstone Valley Electric Company (Blackstone), and the Tiverton Division of the Narragansett Electric Company, and proposed changes in its FPC Rate Schedules No. 33, 34, and 36 for service to Newport Electric Corporation, Pascoag Fire District, and the Town of Middleborough, respectively.

Montaup indicates that the proposed changes create a new M-3 rate which would increase revenues from the jurisdictional sales and service by $1,672,400, or 1.4 percent, based the twelve month period ending June 30, 1978. Montaup further indicates that the M-3 rate is nescessary for Montaup to recover its cost of providing electric service. Montaup proposes an effective date of August 1, 1977.

According to Montaup copies of the filing were served upon the public utility's jurisdictional customers, the Massachusetts Department of Public Utilities, the Rhode Island Public Utilities Commission, the Rhode Island Consumer's Council, and the office of the Attorney General of each of the two states.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20845 Filed 7-19-77;8:45 am]

[Docket No. RP74-100, (PGA77-7)]

## NATIONAL FUEL GAS SUPPLY CORP.

### Proposed PGA Rate Adjustment

JULY 12, 1977.

Take notice that on June 29, 1977, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FPC Tariff, Original Volume No. 1, Second Substitute Twelfth Revised Sheet No. 4, proposed to be effective August 1, 1977.

National states that the sole purpose of this revised tariff sheet is to adjust National's rates pursuant to the PGA provisions in Section 17 of the General Terms and Conditions. National further states that such tariff sheet reflects an adjustment in National's rates of 1.82 cents per Mcf on Second Substitute Twelfth Revised Sheet No. 4.

It is stated that copies of the filing have been mailed to all of its jurisdictional







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customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before July 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20855 Filed 7-19-77;8:45 am]

[Docket No. CP75-71]

## NATURAL GAS PIPELINE CO. OF AMERICA AND TRANSWESTERN PIPELINE CO.

### Amendment to Application

JULY 12, 1977.

Take notice that on June 24, 1977, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, and Transwestern Pipeline Company (Transwestern), Southern National Bank Building, Houston, Texas 77002 (Applicants), filed in Docket No. CP75-71 an amendment to their application filed in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to provide for the operation of an additional exchange point between Applicants, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is indicated that by an application filed in said docket on September 3, 1974, Applicants sought authorization to exchange gas to enable Natural to receive into its system natural gas to be purchased from Perry R. Bass and Bass Enterprises Company (Bass) from the Big Eddy No. 40 Well during the time that Bass was performing an experimental fracture treatment of said well. Applicants state that a temporary certificate was issued by letter order dated October 30, 1974, in the instant docket. Applicants further state that they filed an amendment to the application seeking authorization for the parties to construct and operate an additional exchange point to enable Natural to receive into its system natural gas to be purchased from Bass from the Big Eddy No. 44 Well. It is stated that on April 18, 1977, Applicants filed an amendment to the application seeking authorization for the parties to operate an additional exchange point to enable Natural to receive into its system natural gas to be purchased from Coquina Oil Corporation. Any gas delivered for exchange would be redelivered by Transwestern to Natural at the outlet of Cities Service Oil Company's Bluitt Plant (Bluitt Exchange Point), a common gas purchase point of Applicants, in Roosevelt County, New Mexico, it is said.

It is stated that Natural has been purchasing gas from Coquina Oil Corporation, et al. (Coquina) under a gas purchase contract dated April 3, 1975, from the Boyd Field, Eddy County, New Mexico. Applicants stated that Coquina has gas available for the Ross Federal "EG" No. 1 Well in the Boyd Field for sale to Natural under the above contract. It is stated that Transwestern has existing facilities connecting said well into its system and is willing to receive gas thereat for Natural's account and redeliver equivalent volumes of gas to Natural at the Bluitt Exchange Point in Roosevelt County, New Mexico.

It is stated that Applicants have amended the gas exchange agreement dated August 12, 1974, by amendment dated May 27, 1977. The volumes of gas proposed to be delivered would not require an increase in the maximum quantity of gas presently authorized for exchange between Applicants (5,000 Mcf per day) by temporary certificates issued October 30, 1974, it is said.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before August 1, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20862 Filed 7-19-77;8:45 am]

[Docket No. ER77-469]

## NEW BEDFORD GAS & EDISON LIGHT CO.

### Filing of Supplemental Data

JULY 11, 1977.

Take notice that on June 23, 1977, New Bedford Gas and Edison Light Company (New Bedford) tendered for filing on behalf of itself, Montaup Electric Company, and Boston Edison Company supplemental data pertaining to their applicable gross investments, combined Federal income and franchise tax rates, and local tax rates for the twelve month period ending December 31, 1976. New Bedford states that this supplemental data is submitted pursuant to a Commission letter orders dated July 12, 1974, in Docket No. E-7981, accepting for filing New Bedford's Rate Schedule FPC No. 21, Boston Edison Company's Rate Schedule FPC No. 67, and Montaup Electric Company's Rate Schedule FPC No. 27.

New Bedford states that these rate schedules have previously been supplemented four times by the submission of comparable data for the calendar years 1972, 1973, 1974, and 1975. Said supplements were accepted for filing by Commission letter orders dated July 12, 1974, in Docket No. E-8495, dated February 3, 1975, in Docket No. E-9193, dated January 29, 1976, in Docket No. ER76-147 and dated July 21, 1976, in Docket No. ER76-734, respectively.

New Bedford states that these rate schedules have been twice amended as reflected in its submittals to the Commission dated October 16, 1974, and November 26, 1975, respectively. New Bedford further states that the first amendatory agreement pertaining to a modification to the method of determination of charges to be billed by New Bedford to the other parties hereto, was accepted for filing by Commission letter order dated January 16, 1975, in Docket No. E-9076. New Bedford also states that the second amended agreement, pertaining to a redistribution of fixed and operating costs among the parties hereto reflecting the installation of a second generating unit at Canal Electric Company, was accepted for filing by Commission letter order dated March 18, 1976, in Docket No. ER76-315.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20843 Filed 7-19-77;8:45 am]

[Docket No. RP73-8 (PGA77-9b)]

## NORTH PENN GAS CO.

### Proposed Changes in FPC Gas Tariff

JULY 12, 1977.

Take notice that North Penn Gas Company (North Penn), on June 24, 1977, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA Clause for rates to be effective June 1, 1977.

North Penn states that the proposed decrease in rates reflects rate changes filed by Consolidated Gas Supply Corporation on June 17, 1977, for effectiveness June 1, 1977, and Transcontinental Gas Pipe Line Corporation filed May 27, 1977, for effectiveness May 1, 1977, and will decrease North Penn's jurisdictional revenues by approximately $89.1 thousand annually to the rates as submitted and approved in Substitute Forty-Fifth Revised Sheet No. PGA-1 effective June 1, 1977.

North Penn is requesting a waiver of any of the Commission's Rules and Regulations in order to permit the proposed rates to go into effect on June 1, 1977.

Copies of this filing were served upon North Penn's jurisdictional customers, as well as interested state commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc. 77-20859 Filed 7-19-77;8:45 am]

[Docket No. RP73-8 (PGA77-10a)]

## NORTH PENN GAS CO.

### Proposed Changes in FPC Gas Tariff

JULY 12, 1977.

Take notice that North Penn Gas Company (North Penn), on June 29, 1977, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA Clause for rates to be effective July 1, 1977.

North Penn states that the proposed substitute tariff sheets are being filed in lieu of Forty-Sixth Revised Sheet No. PGA-1 filed on June 6, 1977, and reflect the reduced rates filed by Consolidated Gas Supply Corporation on June 22, 1977, and Transcontinental Gas Pipe Line Corporation on May 31, 1977, both for effectiveness July 1, 1977. The revised tariff sheet will increase North Penn's jurisdictional revenues by approximately $592.4 thousand annually to the rates as submitted for approval on June 24, 1977, in Second Substitute Forty-Fifth Revised Sheet No. PGA-1.

North Penn is requesting a waiver of any of the Commission's Rules and Regulations in order to permit the proposed rates to go into effect on July 1, 1977.

Copies of this filing were served upon North Penn's jurisdictional customers, as well as interested state commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20854 Filed 7-19-77;8:45 am]

[Docket No. CP68-75]

## NORTHERN NATURAL GAS CO.

### Petition To Amend

JULY 13, 1977.

Take notice that on June 30, 1977, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP68-75 a petition to amend the Commission's order of May 20, 1968, issued in the instant docket (39 FPC 821) pursuant to Section 7 of the Natural Gas Act so as to provide for the exchange of gas with Phillips Petroleum Company (Phillips) at an additional delivery point in Hansford County, Texas, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Applicant seeks authorization to exchange gas with Phillips at an additional delivery point under its currently effective Rate Schedule X-18 of its FPC Gas Tariff, Original Volume No. 2, to accommodate the delivery of gas by Applicant to Phillips pursuant to an amendment to the Gray County Gas Exchange Agreement dated June 7, 1977, between the two parties.

It is stated that on May 20, 1968, Applicant was granted permission and approval to abandon its 20-inch Gray County Line (12 miles) by sale to Phillips and was authorized to construct and operate certain measuring station facilities and to exchange with the and transport natural gas for Phillips. It is further stated that from time to time Applicant has filed petitions to amend the May 20, 1968, order issued in the instant docket to provide for additional delivery points in the exchange. It is indicated that the most recent Commission order issued in the subject docket, dated March 18, 1977, authorized Applicant to construct and operate certain facilities located in Ochiltree County, Texas, for delivery of exchange gas volumes to Phillips.

Applicant states that it would deliver and Phillips would receive into its low-pressure gathering system all volumes of gas produced by the Oringderff casinghead source of Hansford County, Texas.

Incident to this delivery, Applicant would construct and operate 6,672 feet of 4-inch gathering line and a measuring station to connect this source to the gathering system of Phillips, and that Phillips would provide a side tap on its gathering system for connection thereto by Northern, it is indicated.

Applicant states that redelivery of gas exchange volumes by Phillips to Applicant would be made at the existing delivery points in Ellis County, Oklahoma, and Gray County, Texas, pursuant to the Gray County Gas Exchange Agreement as amended.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 3, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20868 Filed 7-19-77;8:45 am]

[Docket No. CP76-483]

## PANHANDLE EASTERN PIPE LINE CO.

### Petition To Amend

JULY 12, 1977

Take notice that on June 27, 1977, Panhandle Eastern Pipe Line Company (Petitioner), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP76-483 a petition to amend the Commission's order of July 30, 1976, issued in the instant docket (56 FPC ------), pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) so as to provide for a change in the primary point of delivery from Woodward County, Oklahoma, to Hansford County, Texas, reduce the volume of gas to be transported during the period May through October and to extend the term of the transportation contract between Petitioner and U.S. Industrial Chemical Company, a division of National Distillers and Chemical Corporation (National), all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Applicant indicates that pursuant to the Commission's order of July 30, 1976, it is transporting natural gas for National. National, the largest direct customer of the Petitioner's system, purchased gas unavailable to the interstate







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market from Phillips Petroleum Company and is currently having such gas supplies transported and delivered by Petitioner to National in Douglas County, Illinois, it is said. It is stated that Petitioner is transporting the subject gas pursuant to an agreement dated July 30, 1976, and that the agreement provides for the firm transportation of 6,000 Mcf of gas per day during November through April and 3,000 Mcf of gas per day during May through October. Petitioner states that it also transports on a best efforts basis up to 3,000 Mcf of gas per day during November through April and 2,000 Mcf of gas per day during May through October. The principal term for the agreement is one year, it is said.

It is stated that National now desires to extend the term of the agreement to October 31, 1979, to omit the Woodward County, Oklahoma, point of receipt of the gas and to decrease the volume of gas transported on a firm basis during the period May through October to 1,000 Mcf per day. Petitioner proposes to implement two amendments dated April 21, 1977, and May 26, 1977, to that certain transportation agreement Petitioner and National dated July 30, 1976, in order to provide for the proposed changes.

It is stated that the amendment dated April 21, 1977, incorporates the following changes:

(1) The Woodward County point of receipt has been eliminated and the primary point of receipt hereafter would be Phillips Hansford Plant, Public School Land Survey, Hansford County, Texas.

(2) During the month May through October, Petitioner would reduce its firm transportation of gas from 3,000 Mcf to 1,000 Mcf of gas per day; and

(3) The term of the contract has been extended to October 31, 1979, with this amendment becoming effective October 31, 1977.

It is indicated that the amendment dated May 26, 1977, incorporates change to Petitioner's transportation charge for the service to be performed for National. National currently pays an additional charge of 2.52 cents per Mcf for those volumes received by Petitioner at Hansford County, Texas, it is said. Petitioner states that in that the Hansford County delivery point would be the primary point of receipt of the gas, the monthly transportation charge for the firm transportation would be increased from $30,780 to $34,140 during the months November through April, and that because the volumes to be transported during the period May through October would be reduced, the related transportation charge would be reduced from $15,390 to $5,690 for the volumes delivered on a firm basis during May through October. Petitioner further states that the transportation charge for volumes in excess of the firm volumes has been increased to 18.70 cents as a result of the change in the point of receipt. It is stated that these transportation rates are based on Petitioner's current transmission cost of service, excluding fuel.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 27, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc. 77-20875 Filed 7-19-77;8:45 am]

[Docket No. CP77-464]

## PANHANDLE EASTERN PIPE LINE CO.

### Application

JULY 12, 1977.

Take notice that on June 24, 1977, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP77-464 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 7,500 Mcf of natural gas per day for the account of Peoples Natural Gas Division of Northern Natural Gas Company (Peoples), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 7,500 Mcf of natural gas per day for Peoples pursuant to a transportation agreement between Applicant and Peoples dated March 31, 1977, from the point of receipt in Texas County, Oklahoma, to the point of redelivery at a connection between Applicant and Peoples in Stevens County, Kansas. Applicant states that the transportation would occur on an interruptible basis in Applicant's full discretion, and further, is subordinate to all existing and firm future delivery obligations. The term of the proposed service is six months from the date of initial deliveries to Applicant, it is said.

Applicant states that it would charge Peoples $0.0179 per Mcf at 14.73 psia saturated received at the point of receipt. Applicant asserts that the proposed service would enable Peoples in moving the proposed volumes of gas to an existing interstate market served by Peoples.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 2, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20874 Filed 7-19-77;8:45 am]

[Docket No. RP73-36, (PGA77-3), (DCA77-2)]

## PANHANDLE EASTERN PIPE LINE CO.

### Change in Tariff

JULY 12, 1977.

Take notice that on June 15, 1977, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing Twentieth Revised Sheet No. 3-A to its F.P.C. Gas Tariff, Original Volume No. 1. Panhandle submits that this revised tariff sheet reflects rate adjustments as follows:

(1) A DCA Commodity Surcharge Adjustment pursuant to Section 16.6(e) of the General Terms and Conditions of its FPC Gas Tariff, Original Volume No. 1; and

(2) A Rate Adjustment pursuant to Section 18.4 of the General Terms and Conditions of its FPC Gas Tariff, Original Volume No. 1; such adjustment reflecting a proposed Pipeline Supplier rate adjustment to be effective concurrently herewith; and

(3) A PGA Rate Adjustment pursuant to Section 18.2 of the General Terms and Conditions of its FPC Gas Tariff, Original Volume No. 1.

An effective date of August 1, 1977, is proposed.

Panhandle states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or





before July 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20858 Filed 7-19-77;8:45 am]

[Docket No. ER77-486]

## PENNSYLVANIA-NEW JERSEY-MARYLAND INTERCONNECTION (PJM) AGREEMENT

### Supplement to Interconnection Agreement

JULY 11, 1977.

Take notice that on June 29, 1977, the parties to the Pennsylvania-New Jersey-Maryland Interconnection (PJM) Agreement tendered for filing proposed Supplemental Agreement dated June 15, 1977, to the original agreement between them as heretofore amended and supplemented, which is filed with the Commission under the following Rate Schedule designations:

| | Rate Schedule, FPC No. |
|---|---|
| Public Service Electric & Gas Co | 23 |
| Philadelphia Electric Co | 21 |
| Pennsylvania Power & Light Co | 21 |
| Baltimore Gas & Electric Co | 9 |
| Jersey Central Power & Light Co | 7 |
| Metropolitan Edison Co | 7 |
| Pennsylvania Electric Co | 24 |
| Potomac Electric Power Co | 19 |

The PJM parties state that the proposed Supplemental Agreement sets forth additional rights and obligations of the PJM companies with respect to coordinating the installation and operation of generating capacity and major transmission facilities and modifies the provisions for the sharing of the costs and benefits of coordinated operation. The PJM parties indicate that no new rates are proposed for services under the Agreement. The PJM parties request that the proposed Supplemental Agreement become effect on August 1, 1977.

The PJM parties further state that no new facilities will be installed nor will existing facilities be modified in connection with the proposed Supplemental Agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capital Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20844 Filed 7-19-77;8:45 am]

[Docket Nos. CP68-146; RP67-22; CI68-621]

## TENNESSEE GAS PIPELINE CO. AND TENNECO OIL CO.

### Extension of Time

JULY 14, 1977.

On June 14, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), and Tenneco Oil Company (Tenneco Oil) filed a joint motion to extend the time within which to file the annual Production Cost Report, as required by the Order Amending Order, issued May 1, 1970, in the above indicated dockets.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 3, 1977, within which Tennessee and Tenneco Oil shall file the 1977 Production Cost Report in the above dockets.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20872 Filed 7-19-77;8:45 am]

[Docket No. RP72-156; (PGA77-4); (DCA77-2); (AP77-2)]

## TEXAS GAS TRANSMISSION CORP.

### Proposed Changes in FPC Gas Tariff

JULY 12, 1977.

Take notice that Texas Gas Transmission Corporation, on June 14, 1977, tendered for filing proposed changes in the following sheets:

THIRD REVISED VOLUME NO. 1

Twentieth Revised Sheet No. 7

ORIGINAL VOLUME NO. 2

Eleventh Revised Sheet No. 333
Ninth Revised Sheet No. 362
Tenth Revised Sheet No. 363
Ninth Revised Sheet No. 365

These sheets are being issued to reflect changes in the cost of purchased gas pursuant to Texas Gas' Purchased Gas Adjustment Clause, and the recovery of demand charge adjustments pursuant to the terms of Section 10.5 of the General Terms and Conditions of Texas Gas' tariff. Also reflected are changes in the costs associated with advance payments and offshore transportation pursuant to the provisions of the Stipulation and Agreement approved by the Commission in Docket No. RP76-17.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests shoulud be filed on or before July 27, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20857 Filed 7-19-77;8:45 am]

[Docket No. CP77-470]

## TEXAS GAS TRANSMISSION CORP.

### Application

JULY 12, 1977.

Take notice that on June 27, 1977, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP77-470 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval of the abandonment, during the twelve-month period commencing November 5, 1977, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment would not exceed 3 million in total, and that the cost of any single project would not exceed $500,000. These costs would be financed from funds on hand, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 2, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the National Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and



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15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20866 Filed 7-19-77;8:45 am]

[Docket No. ER77-487]

## TOLEDO EDISON CO.

### Tariff Change

JULY 11, 1977.

Take notice that the Toledo Edison Company (Toledo), on June 30, 1977, tendered for filing proposed changes in its FPC Electric Service Tariff, Original Volume No. 1 applicable to sales to Municipalities for Resale. Toledo indicates that the proposed changes would increase revenues from jurisdictional sales and service by $5,869,147 based on the twelve (12) month period ending March 31, 1978. However, Toledo states that as a result of settlement negotiations with several large customers, it has agreed that during the period beginning with the proposed effective date until May 1, 1978, it will charge rates for all classes of Municipal wholesale service yielding approximately 60 percent of such increase amount.

Toledo Edison states that the additional revenue which would result from the proposed rates is needed to offset increased operating costs and increases in the cost of facilities necessary to provide electrical service to its jurisdictional customers.

The proposed effective date is August 1, 1977.

According to Toledo copies of the filing were served upon the public utility's fourteen (14) jurisdictional customers and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20849 Filed 7-19-77;8:45 am]

[Docket No. CP77-497]

## TRANSCONTINENTAL GAS PIPE LINE CORP.

### Application

JULY 14, 1977.

Take notice that on July 8, 1977, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-497 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 500,000 dekatherms (dt) equivalent of natural gas to Public Service Company of North Carolina, Inc. (Public Service), instead of to Washington Gas Light Company (Washington Gas) during the period to end October 31, 1977, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport and deliver the proposed volumes of gas to Public Service in order to effectuate the short-term emergency sale of natural gas by Washington Gas to Public Service. Applicant states that it is the sole supplier of natural gas to Public Service and one of the two natural gas pipeline companies which serves Washington Gas, and that it has been necessary for Applicant to curtail its deliveries to Public Service, which as a result, has sought to obtain additional gas from other sources so as to serve and protect (by storage injection) its markets.

Applicant states that deliveries to Public Service instead of to Washington Gas would begin as soon as possible upon the granting of authorization herein, and that no additional facilities would be required for the deliveries contemplated. Applicant indicates that it would incur no increased costs in making the deliveries because the gas would be delivered in the same rate zone as the presently authorized deliveries to Washington Gas. The deliveries would be made by reducing Applicant's deliveries to Washington Gas and increasing its deliveries to Public Service by a corresponding amount, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20870 Filed 7-19-77;8:45 am]

[Docket No. CP77-472]

## TRANSCONTINENTAL GAS PIPE LINE CORP.

### Application

JULY 13, 1977.

Take notice that on June 29, 1977, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-472 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 15,000 Mcf of natural gas per day for Delmarva Power & Light Company (Delmarva) and Elizabethtown Gas Company (Elizabethtown), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that these CD-3 customers of Applicant have contracted with National Gas Storage Corporation (Storage Corporation) for underground storage service in the amount of 1,500,000 Mcf each, and have requested Applicant to transport injection and withdrawal quantities for their respective accounts.

Applicant states that injection quantities would be delivered to Storage Corporation's affiliate, National Fuel Gas Supply Corporation (Supply Corporation), through existing facilities at the Wharton Storage Field in Pennsylvania, and that withdrawal quantities would be delivered to Applicant at that point and in turn delivered to Delmarva and Elizabethtown at existing points of delivery to those customers in Pennsylvania and New Jersey, respectively.





It is indicated that of the quantities transported, 3 percent during injection and 4 percent during withdrawal would be retained by Applicant for compressor fuel and line loss makeup, subject to change as operating conditions warrant. Applicant states that for all quantities transported and delivered, Delmarva and Elizabethtown would pay Applicant an initial rate of 9.55 cents per dekatherm.

Applicant asserts that the proposed transportation would make additional underground storage service available to Delmarva and Elizabethtown, and is required to assist those customer companies in minimizing curtailments to their high priority markets during the coming heating seasons.

Applicant indicates that transportation of base gas would be required for injection as early as August 15, 1977.

It is indicated that the proposed service is for a primary term of one year from date of initial delivery and from year to year thereafter, subject to termination by either party at the end of any contract year upon not less than 2 months prior written notice.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 3, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20869 Filed 7-19-77;8:45 am]

[Docket No. CP77-462]

## TRANSWESTERN PIPELINE CO.

### Application

JULY 12, 1977.

Take notice that on June 23, 1977, Transwestern Pipeline Company (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP77-462 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 40,000 dekatherms equivalent of natural gas per day for Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to transport for Natural, pursuant to the proposed Rate Schedule TS-2, up to 40,000 dekatherms equivalent of natural gas per day until the termination date on October 31, 1977. Applicant states that under the terms of the proposed Rate Schedule TS-2, it would transport on an interruptible, best efforts, basis, a maximum daily transportation quantity (MAXDTQ) to be agreed upon by service agreement. The transportation rate which Applicant proposes to charge for deliveries under the authorization requested is equal to Applicant's CDQ-2 100 percent load factor rate less gas cost and fuel cost, it is said. Applicant states that the delivery volumes would be reduced 4 percent to offset fuel and company use quantities used by Applicant in performing the transportation service. It is indicated that pursuant to the Rate Schedule, any party utilizing the TS-2 service would reimburse Applicant for any cost of construction that may be required to receive the gas supplies.

Applicant indicates that it would perform the proposed transportation service under Rate Schedule TS-2 pursuant to a service agreement dated June 17, 1977. It is stated that Natural has purchased from Colorado Interstate Gas Company (CIG) near Green River, Wyoming, gas supplies of up to 43,000 Mcf per day beginning July 1, 1977, and continuing through October 31, 1977, and that CIG would deliver the gas quantities to Northwest Pipeline Corporation (Northwest) which would deliver the received quantities to El Paso Natural Gas Company (El Paso) by displacement. El Paso would deliver the stated quantities to Applicant at an existing interconnection located in Ward County, Texas, for redelivery to Natural at either one of the two existing points of interconnection between the two systems located in Eddy County, New Mexico, and Gray County, Texas, it is said. Applicant states that no facilities are required to be constructed.

Applicant asserts that the filing of Rate Schedule TS-2 would enable Applicant, to respond to requests by off-system distribution, pipeline, industrial or commercial users which do not purchase natural gas for Applicant, to utilize available capacity on Applicant's system to transport gas which they, through their own negotiations and efforts, have been able to secure.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 1, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20876 Filed 7-19-77;8:45 am]

[Docket No. CP77-13]

## TRANSWESTERN PIPELINE CO.

### Petition To Amend

JULY 12, 1977.

Take notice that on June 27, 1977, Transwestern Pipeline Company (Petitioner), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP77-13 a petition to amend the Commission's order of February 2, 1977, issued in the instant docket (57 FPC ------), pursuant to Section 7 of the Natural Gas Act and Section 157.7(b) of the regulations thereunder so as to provide for the waiver of Section 157.7(b)(i), to increase the total authorized expenditures during the calendar year 1977, from $8,000,000 to $12,000,000, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is stated that by order issued February 2, 1977, in the instant docket, Peti-



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tioner was authorized to construct, during the calendar year 1977, and operate certain facilities to enable Petitioner to take into its certificated pipeline system natural gas which would be purchased from producers pursuant to the Commission's budget-type gas-purchase facility procedure. It is further stated that Petitioner in its original application, requested authorization for a total expenditure of $8,000,000 with the cost of any single project not to exceed $1,500,000. The total $8,000,000 authorization requested was based on the two percent limitation of Section 157.7(b)(1)(i) applied against a gas plant (Account 101) balance of approximately $415 million at the time of filing, and rounded, it is said. Petitioner indicates that such balance was $417,998,059 at December 31, 1976, and that without waiver of the two percent limitation, the total amount available to Petitioner is approximately $8.4 million.

Petitioner asserts that it has pursued, and would continue to pursue, an active gas supply acquisition program, and that such program has been greatly implemented by the budget-type authorization granted in the instant docket on February 2, 1977. It is stated that as a result of its aggressive gas acquisition program, Petitioner has been successful in acquiring new supplies under traditional contracts and under the Commission's emergency purchase procedures. Petitioner states that as a result, it has been able to improve significantly its supply situation for 1977 over previous forecasts, with a resulting reduction in curtailment. Petitioner further states that where it had previously projected a 40 percent curtailment level for the first four months of 1977, the improved supply has reduced curtailments to 32 percent, and that this improvement is likewise projected to continue.

Petitioner indicates that this supply program has involved such expenditures that it would soon exhaust the $8,000,000 total authorization, and that as of the date of filing this petition, gas-purchase facility projects, totalling approximately $8,000,000, have been scheduled and Petitioner estimates that during the remainder of 1977 it would require a substantial portion of the total $12,000,000 requested authorization provided by the Commission budget-type policy which would be available to Petitioner except for the two percent limitation.

Any person desiring to be heard or to make an protest with reference to said petition to amend should on or before August 2, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20878 Filed 7-19-77;8:45 am]

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[Docket No. RP73-35; (PGA77-3); (AP77-2)]

## TRUNKLINE GAS CO.

### Change in Tariff

JULY 12, 1977.

Take notice that on June 15, 1977, Trunkline Gas Company (Trunkline) tendered for filing Nineteenth Revised Sheet No. 3-A to its FPC Gas Tariff, Original Volume No. 1. Trunkline submits that this revised tariff sheet reflects rate adjustments as follows:

(1) An Advance Payment tracking adjustment pursuant to Article V of the Agreement as to Rates and Related Matters in Docket No. RP74-89, approved by the Commission's Order dated July 9, 1975; and

(2) A Purchased Gas Transmission and Compression tracking adjustment pursuant to Article VI of the Agreement as to Rates and Related Matters in Docket No. RP74-89, approved by the Commission's Order dated July 9, 1975; and

(3) A PGA Rate Adjustment pursuant to Section 18 of the General Terms and Conditions of its FPC Gas Tariff, Original Volume No. 1.

An effective date of August 1, 1977 is proposed.

Trunkline states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20853 Filed 7-19-77;8:45 am]

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[Docket No. CP77-466]

## UNITED GAS PIPE LINE CO.

### Application

JULY 12, 1977.

Take notice that on June 24, 1977, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP77-466 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79), for a certificate of public convenience and necessity authorizing the transportation of up to 585 Mcf of natural gas per day for Crown Aluminum Division of Hunter-Douglas, Inc. (Crown), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to transport up to 585 Mcf of natural gas per day for Crown pursuant to a transportation agreement dated May 24, 1977 between Applicant and Crown. Applicant states that it would transport such volumes from a point of receipt on its Bruni-Pettus 14-inch line located in the Sam Allen Survey A-71, Bee County, Texas, and would redeliver such volumes of gas, for the account of Crown, to Transcontinental Gas Pipe Line Corporation (Transco) at mutually agreeable existing points of interconnection near Victoria, Victoria County, Texas; near Cameron, Cameron Parish, Louisiana; at Egan Point in Acadia Parish, Louisiana; near Gueydan, Acadia Parish, Louisiana; at Gibson Plant Nos. 1 and 2 in Terrebonne Parish, Louisiana; near Magnolia and Holmesville, Pike County, Mississippi; near Walthall, Walthall County, Mississippi, or at Harmony Plant, Clarke County, Mississippi.

It is stated that the gas proposed to be transported by Applicant has been acquired by Crown from Samedan Oil Corporation (Samedan), and that such gas would be produced from the Samedan Carl Unit #1 located in Bee County, Texas and would be consumed for high priority end use in Crown's plant in Roxbora, North Carolina. It is indicated that Crown would pay Samedan for all gas delivered hereunder, or if available and not taken by Crown, $2.25 million Btu's (at 14.65 psia), and that Crown would also pay Samedan 8.4 cents per Mcf for gathering and transporting gas to delivery point.

Applicant states that it would redeliver to Transco, for the account of Crown, a volume of gas equal to that quantity of gas delivered by Samedan to Applicant, for the account of Crown, less 1.5 percent of the said volume so delivered by Samedan as a charge for fuel and company use gas, and that Transco, in turn, would cause said quantity of gas to be delivered for the account of Crown to Public Service Company of North Carolina, Inc. for redelivery to Crown for its high priority end-use at its Roxboro, North Carolina plant. All the natural gas purchased would qualify for Priority 2 end-uses, and the gas would be used to heat two melting furnaces, two holding furnaces, one hotline, one batch-anneal furnace, one continuous anneal line, and three paint lines, it is said. It is stated that there exists no other technically feasible alternate fuel for use at Crown's Roxboro facility. Applicant asserts that Crown has purchased such gas in an effort to offset the loss of its gas supply because of curtailed deliveries by its supplier.





It is stated that the term of the proposed transportation agreement is for two years beginning with the date of first deliveries hereunder or for a lesser period as may be required by governmental authorization. It is further stated that Crown would pay Applicant for gas transported a price equal to Applicant's average jurisdictional transmission cost of service in its southern or northern rate zone, less any amount included in such average jurisdictional cost of service which is attributable to gas consumed in the operation of Applicant's pipeline system. The current average jurisdictional transmission cost of service, exclusive of the cost of gas consumed in Applicant's operations, is 20.04 cents per Mcf in the Northern rate zone and 17.92 cents per Mcf in the Southern rate zone.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 25, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10) All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20877 Filed 7-19-77;8:45 am]

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[Project No. 994]

## UTAH POWER & LIGHT CO.

### Application for Surrender of License (Transmission Line)

JULY 11, 1977.

Public notice is hereby given that an application has been filed under the Federal Power Act (the Act) (16 U.S.C. §§ 791(a)-825(r) (1970)) by Utah Power & Light Company (licensee) for surrender of license (transmission line) for Project No. 994, located on lands of the United States in Fish Lake National Forest and public lands under the jurisdiction of the Bureau of Land Management in Beaver, Iron, Juab, Millard, Piute and Sevier counties, Utah.

Project No. 994 consists of ten transmission lines, parts of which are located on and across lands of the United States. Licensee has filed the application for surrender of license pursuant to the Secretary's letter dated August 2, 1976, advising it that none of the lines in question are primary lines as defined in section 3(11) of the Act. Licensee proposes to remove the Lower Beaver Station-Sevier 46 kV line and a portion of the Richfield-Fillmore 46 kV line. Requests for special use permits for the continued operation and maintenance of the following lines have been made to the U.S. Forest Service: Beaver South 7.2 kV line; Sevier Canyon-Sulphurdale 46 kV line; Mineral Products Switch Back-Cherry Creek Junction 46 kV line; Richfield White Pine Peak 7.2 kV line; Cherry Creek Junction-Frisco Substation 46 kV line; and Lower Beaver Substation-Minorsville Substation 46 kV line, Lower Beaver Substation-Cherry Creek Section.

Any person desiring to be heard or to make protest with reference to said application should on or before September 7, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10 (1976)). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commisison and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20842 Filed 7-19-77;8:45 am]

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[Docket No. CP77-496]

## WASHINGTON GAS LIGHT CO.

### Application

JULY 14, 1977.

Take notice that on July 8, 1977, Washington Gas Light Company (Applicant), 1100 H Street, NW., Washington, D.C. 20080, filed in Docket No. CP77-396 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the emergency sale of up to 500,000 dekatherms (Dth) equivalent of natural gas on a best-efforts basis to Public Service Company of North Carolina, Inc. (Public Service) for a period commencing immediately upon issuance of such authorization and terminating October 31, 1977, or when 500,000 Dth equivalent of gas is sold, whichever event first occurs, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that Public Service is currently being substantially curtailed by Transcontinental Gas Pipe Line Corporation (Transco), its sole pipeline supplier, and that Public Service is in need of additional supplies of gas in order to serve and protect (by storage injection) its high priority markets.

Applicant proposes to sell the proposed volumes of gas during the current summer contract period in order to meet emergency needs on Public Service's system. Applicant states that moderating temperatures in February and March were such that by the end of the winter season its storage fields were vitally filled to capacity, and that these moderate temperatures have continued through April and May. Consequently, Applicant currently has the capability to offer gas for sale to Public Service for high priority purposes. For such gas Applicant proposes to charge Public Service $2.20 per Dth which equates to its currently effective average rate for interruptible service.

It is stated that deliveries of the subject gas would be made by Transco, and that no new facilities would be constructed in order to make this sale. These deliveries would be made by the reduction of Transco deliveries to Applicant and the contemporaneous deliveries of equivalent volumes to Public Service, it is indicated. It is stated that no transportation costs are contemplated; however, in the event transportation charges are imposed, such charges would be paid by Public Service.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition



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for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20873 Filed 7-19-77;8:45 am]

## FEDERAL RESERVE SYSTEM

### STATE MEMBER BANKS

#### Call for Report of Condition

Pursuant to section 9 of the Federal Reserve Act, as amended (12 U.S.C. 324), and to section 7(a)(3) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1817(a)(3)), the Board of Governors of the Federal Reserve System, effective July 20, 1977, has issued a call to each insured State bank that is a member of the Federal Reserve System to make a Report of Condition as of the close of business June 30, 1977. Pursuant to section 7(a)(3) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1817(a)(3)), each insured State bank that is a member of the Federal Reserve System is required to make a Report of Condition as of the close of business June 30, 1977. That date has been selected for the Report of Condition by the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Chairman of the Board of Governors of the Federal Reserve System. The Report of Condition should be filed with the Federal Reserve Bank of the district wherein the bank is located, within ten days after notice that such report shall be made: *Provided*, That if such reporting date is a nonbusiness day for any bank, the preceding business day shall be its reporting date.

Each insured State bank that is a member of the Federal Reserve System, except a bank in the District of Columbia, shall make its original Report of Condition on Federal Reserve Form 105—Call No. 224[1] and shall send the same to the Federal Reserve Bank of the district wherein the bank is located and shall send a signed and attested copy thereof to the Federal Deposit Insurance Corporation. The original and copy of the Report of Condition shall be prepared in accordance with "Instructions for the preparation of Reports of Condition by State Member Banks of the Federal Reserve System," dated March, 1976.[2]

Board of Governors of the Federal Reserve System, July 14, 1977.

STEPHEN S. GARDNER,
*Vice Chairman, Board of Governors of the Federal Reserve System.*

[FR Doc.77-20777 Filed 7-19-77;8:45 am]

[1] Filed as part of the original document.
[2] Filed as part of the original document.

## CENTRAL NATIONAL BANCSHARES, INC.

#### Order Approving Acquisition by Merger of First Kansas Financial, Inc.

Central National Bancshares, Inc., Des Moines, Iowa, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)) to acquire by merger First Kansas Financial, Inc. ("Company"), Wichita, Kansas. Company, through its wholly owned subsidiary, First Mortgage Investment Company ("FMIC"), Kansas City, Missouri, principally engages in mortgage banking, including making and acquiring, for its own account and for the accounts of others, loans and extensions of credit secured by mortgages and deeds of trust on real property, and servicing loans and other extensions of credit for any person. FMIC also acts as agent and broker for the sale of insurance.[1] The Board has determined these activities to be closely related to banking (12 CFR 225.4(a)(1), (3), and (9)).

Notice of the application, affording an opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (42 FR 24313). The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the public interest factors set forth in section 4(c)(8) of the Act.

Applicant, the fifth largest banking organization in the State of Iowa, controls four banks with aggregate deposits of $338.5 million, representing approximately three percent of the total deposits in commercial banks in the State.[2] Company engages in no direct activities except investing corporate funds, and servicing, paying, and redeeming outstanding face-amount certificates it formerly issued.[3] Before consummation of the proposed merger, Company will form a separate subsidiary under the name "FKF, Inc." This company will register under the Investment Company Act of 1940, and, in the event of approval by the Securities and Exchange Commission, will perform these functions. The investment power of FKF, Inc. will be limited to shares representing not more than five percent of any company, in accordance with section 4(c)(7) of the Bank Holding Company Act, which permits the ownership of shares of investment companies by bank holding companies. FKF, Inc. will be funded for the sole purpose of liquidating Company's liability under previously issued debt securities, and FKF, Inc. will not accept further funds for investment, issue additional securities, lend money on outstand securities, pay annuities, or engage in other business.

Company's principal indirect activities are the mortgage banking activities conducted by its subsidiary, FMIC. FMIC is the 288th largest mortgage banking company in the United States based upon the size of its mortgage servicing portfolio.[4] FMIC operates its sole office in a market approximated by the Kansas City Standard Metropolitan Statistical Area ("SMSA").[5] In that market Company competes with a variety of financial institutions that originate and service commercial and residential mortgage loans. All of Applicant's subsidiary banks are engaged in extending loans secured by permanent mortgages on residential property. These activities are primarily confined, however, to localized markets within the State of Iowa, and Applicant's subsidiary banks neither derive nor service any mortgage loans from the market area served by FMIC. Given FMIC's small size and limited scope of operations, the limited and localized nature of Applicant's subsidiary banks', mortgage loan activities, the geographic separation of the markets served by each, and the large number of alternative sources for mortgage loans in the Kansas City market, the Board concludes that approval of the application will not result in any adverse effects on existing competition. Moreover, no significant potential competition would be foreclosed by consummation of the proposed merger. For similar reasons, it appears that no adverse competitive effects will result from the continuation by FMIC, after the proposed merger, of permissible insurance activities.

[1] Applicant proposes to continue to engage, through FMIC, in only those insurance activities that are permissible under §225.4(a)(9) of the Board's Regulation Y and are consistent with a recent decision of the United States Court of Appeals for the Fifth Circuit, Alabama Association of Insurance Agents v. Board of Governors, 533 F. 2d 224 (1976). Specifically, FMIC proposes to act as an insurance agent and broker selling credit life, accident and health, credit disability, mortgage redemption, and mortgage cancellation insurance directly related to loans and extensions of credit made by FMIC, and selling general property damage and casualty insurance to Applicant's subsidiary banks. Mortgage redemption and mortgage cancellation insurance are variations of declining-term life and accident and health insurance contracted for in connection with long-term extensions of credit, such as those usually secured by a mortgage on real estate or a deed of trust, made by FMIC. FMIC will discontinue all insurance activities, other than those enumerated herein, before consummation of the proposed merger.

[2] Banking data are as of June 30, 1976, unless otherwise indicated.

[3] Company and Applicant both act as transfer agents for their own respective shares. Upon merger into Applicant and cancellation of Company's shares, Company will cease to engage in this activity. Applicant will continue to act as transfer agent for Applicant's shares.

[4] As of June 30, 1976, FMIC had mortgage originations outstanding in the approximate amount of $17.2 million, and was servicing mortgages totaling approximately $78.5 million.

[5] The Kansas City SMSA is comprised of Johnson and Wyandotte Counties in Kansas and Jackson, Platte, Clay, and northern Cass Counties in Missouri. As of June 30, 1976, approximately 99 percent of the dollar volume of mortgages originated by FMIC and 88 percent of its servicing portfolio involved properties in the first three of these six counties.





By order of the Board of Governor,[6] effective July 13, 1977.

RUTH A. REISTER,
*Assistant Secretary of the Board.*

[FR Doc.77-20803 Filed 7-19-77;8:45 am]

## TEXAS COMMERCE BANCSHARES, INC.

#### Order Approving Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of Tanglewood Commerce Bank, Houston, Texas, a proposed new bank ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those submitted by Western Bank, Post Oak Bank, and San Felipe National Bank, all of Houston, Texas (collectively referred to herein as "protestants"), in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the third largest banking organization in Texas as of June 30, 1976, controls 32 banks[1] with aggregate deposits of $3.4 billion,[2] representing 7 percent of the total deposits in commercial banks in the State. Since Bank is a proposed new bank, no existing competition between Bank and Applicant's subsidiary banks would be eliminated, nor would Bank's acquisition by Applicant cause any immediate increase in Applicant's share of commercial bank deposits in the State.

Bank, which is currently in formation, has received charter approval from the Department of Banking of the State of Texas and is to be located in the southwest quadrant of the city of Houston, Texas. Applicant is the second largest of 125 banking organizations in the relevant market.[3] Its banking subsidiaries located in the market control 19.2 percent of total deposits in commercial banks in the market. Five of Applicant's existing subsidiary banks are located in the southwest quadrant of Houston. Since Bank is a proposed new bank, consummation of Applicant's proposal would not eliminate any existing competition, nor would it have any immediate effect on Applicant's share of commercial bank deposits in the market.

In its analysis of the subject application, the Board has considered the comments and request for a hearing submitted by Protestants. In summary, Protestants contend that consummation of the subject proposal would solidify Applicant's "dominant" position in the State and the Houston banking market and promote a trend toward "undue concentration" of banking resources on a statewide level. In addition, Protestants contend that there is slight, if any, need for additional banking facilities in the market and that the acquisition of Bank by Applicant will preempt a valuable site for future de novo entry.[4] Protestants requested a hearing on the instant application.

The Board has examined the record of the hearing held in connection with the chartering of Bank and in which the Protestants participated, the written submissions of Protestants and Applicant's responses, and is unable to conclude that a formal hearing would significantly supplement the record before the Board or resolve issues not already discussed at length in the written submissions of Protestants and Applicant and in the record of the hearing before the Texas Banking Commissioner. Protestants have neither specified any particular issue of material fact that a formal hearing would resolve nor indicated what evidence, if any, they would adduce at such a hearing. In view of the foregoing, Protestants' requests for a formal hearing are hereby denied.

Although Protestants characterize Applicant as "dominant" in the State and the relevant market, Applicant is but one of a number of multi-bank holding companies in the State of comparable size, measured by total deposits. Applicant competes with over 150 banks in the Houston market, and its market share of 19.2 percent is not such that it could properly be characterized as "dominant" in that market. Additionally, the Board is unable to conclude that Protestants' assessment of the effect of this acquisition on statewide concentration is correct.

While, in certain instances, de novo expansion in a market by a leading organization within that market could reduce prospects for market deconcentration by preempting viable sites for de novo entry or expansion by other firms, Applicant's de novo expansion in the

[6] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Jackson and Partee. Absent and not voting: Governors Coldwell and Lilly.

[1] Applicant recently applied to the Board to acquire shares of Main Street National Bank, Dallas, Texas.

[2] Unless otherwise noted, all banking data are as of June 30, 1976.

[3] The relevant market is approximated by the Houston Ranally Metropolitan Area, which is comprised of Harris County and portions of five adjacent counties.

[4] In support of their contentions, Protestants submitted, inter alia: (a) the transcript of a September 15, 1975 Hearing before the Texas Banking Commissioner on the proposed new bank, and (b) a privately commissioned market report on the condition of the banking market in Bank's primary service area



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rapidly growing southwest quadrant of Houston[*] will have only a minimal impact on market entry and ample opportunities for market deconcentration remain through natural growth of the market and foothold or de novo entry or expansion by other banking organizations.

On the basis of the facts of record, including the record of the chartering hearing, the submissions of Protestants, and the submissions of Applicant, the Board concludes that, given the growth of the market, the large number of competing organizations, and the ample opportunities for market deconcentration, consummation of this proposal would not results in a concentration of financial resources in the relevant market or adversely affect competition in the relevant market.

The financial and managerial resources and future prospects of Applicant, its subsidiaries and Bank are regarded as generally satisfactory based upon the information in the record. Bank, a proposed new bank, has no financial or operating history; however, its prospects as a subsidiary of Applicant appear favorable. Considerations relating to banking factors, therefore, are consistent with approval of the application.

Bank will serve as an additional full service banking facility for the residents and businesses of Bank's service area. Accordingly, those considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after that date, and (c) Tanglewood Commerce Bank, Houston, Texas, shall be opened for business not later than six months after the effective date of this order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Dallas, pursuant to delegated authority.

By order of the Board of Governors,[**] effective July 13, 1977.

RUTH A. REISTER,
*Assistant Secretary of the Board.*

[*] The relevant market has experienced population growth at a rate substantially greater than that experienced by the State of Texas as a whole. The ratio of population to banking offices in the Houston market would, upon the opening of Bank become 12,588, exceeding the statewide ratio by 39 percent. Per capita deposits in the market are 38 percent greater than the statewide average. Thus, the market may be characterized as an attractive one for de novo entry.

[**] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Jackson and Partee. Absent and not voting: Governors Coldwell and Lilly.

[FR Doc.77-20804 Filed 7-19-77;8:45 am]

## GENERAL SERVICES ADMINISTRATION

### REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

#### Change in Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a change in the meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 6, announced in this publication on July 5, 1977, and scheduled from 9 a.m., July 26 through July 28, 1977, in Room 181, Federal Building, 1500 East Bannister Road, Kansas City, Missouri. The Panel will not evaluate the qualifications of architect-engineers to furnish professional services for the Restoration/Renovation, U.S. Customhouse (Old Post Office), St. Louis, Missouri, as originally announced. A Panel meeting to consider firms for this project will be scheduled and announced at a later date. The Panel will convene as scheduled to consider the qualifications of architect-engineers to furnish professional services for the Building Extension and Architectural, Mechanical, and Electrical Improvements, Harry S. Truman Library, Independence, Missouri.

The meeting will be open to the public.

H. D. HARVELL,
*Regional Administrator.*

[FR Doc. 77-20790 Filed 7-19-77;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Health Care Financing Administration

### CALIFORNIA; PSRO AREA X

#### Physicians Regarding Intention To Enter into Agreement Designating Professional Standards Review Organization

Notice is hereby given, in accordance with Section 1152(f) of the Social Security Act (42 U.S.C. 1320c-1(f) and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Stanislaus-Merced-Mariposa PSRO, Inc., for PSRO Area X of California, which area is designated a Professional Standards Review Organization area in 42 CFR 101.7.

The Secretary has determined that the Stanislaus-Merced-Mariposa PSRO, Inc., is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of California, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area X of California.

As stipulated in its Articles of Incorporation, the principal officers of the Stanislaus-Merced-Mariposa PSRO, Inc., are:

NAME AND OFFICE HELD

1. J. Carl Hornberger, M.D., President.
2. John B. Gates, M.D., Vice President.
3. Albert L. Jackson, M.D., Secretary/Treasurer.

The official address of the corporation is 2030 Coffee Road, Suite A-2, Modesto, California 95355.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area X of California who objects to the Secretary entering into an agreement with the Stanislaus-Merced-Mariposa PSRO, Inc., on the grounds that this organization is not representative of the doctors in such area may, on or before thirty days after the date this Notice appears in the FEDERAL REGISTER, mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 517 doctors of medicine and/or osteopathy are engaged in active practice in PSRO Area X of California. In the event that more than 10 percentum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Stanislaus-Merced-Mariposa PSRO, Inc., is representative of such doctors in such area; provided that pursuant to Section 108(b) of Public Law 94-182, the provisions of Section 1152(f) [42 USC 1320c1(f)], relating to notification and polling, as described above, shall not apply where: (1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review: or (2) the organizaion proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20598 Filed 7-18-77;8:45 am]





### MICHIGAN, PSRO AREA VIII

#### Physicians Regarding Intention to Enter into Agreement Designating Professional Standards Review Organization

Notice is hereby given, in accordance with Section 1152(f) of the Social Security Act (42 USC 1320c-1(f)) and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Federation of Physicians in Southeastern Michigan for PSRO Area VIII of Michigan, which area is designated a Professional Standards Review Organization area in 42 CFR 101.26.

The Secretary has determined that the Federation of Physicians in Southeastern Michigan is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Michigan, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area VIII of Michigan.

As stipulated in its Articles of Incorporation, the principal officers of the Federation of Physicians in Southeastern Michigan are:

NAME AND OFFICE HELD

1. Ralph R. Cooper, M.D., Chairman.
2. Edward Tallant, M.D., Vice Chairman
3. Robert Ogden, D.O., Secretary.
4. Sidney Odler, M.D., Treasurer.

The official address of the corporation is 1010 Antietam, P.O. Box 125, Detroit, Michigan 48207.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area VIII of Michigan who objects to the Secretary entering into an agreement with the Federation of Physicians in Southeastern Michigan, on the grounds that this organization is not representative of the doctors in such area may, on or before thirty days after the date this Notice appears in the FEDERAL REGISTER, mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 5321 doctors of medicine and/or osteopathy are engaged in active practice in PSRO Area VIII of Michigan. In the event that more than 10 percentum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Federation of Physicians in Southeastern Michigan is representative of such doctors in such area; provided that pursuant to Section 108(b) of Public Law 94-182, the provisions of Section 1152(f) (42 USC 1320c-1(f)), relating to notification and polling, as described above, shall not apply where: (1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review: or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f-(2) thereof.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20596 Filed 7-18-77;8:45 am]

### PUERTO RICO

#### Physicians Regarding Intention To Enter into Agreement Designating Professional Standards Review Organization

Notice is hereby given, in accordance with Section 1152(f) of the Social Security Act (42 USC 1320c-1(f)) and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Foundation for Medical Care of Puerto Rico for Puerto Rico, which area is designated a Professional Standards Review Organization area in 42 CFR 101.43.

The Secretary has determined that the Foundation for Medical Care of Puerto Rico is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of Puerto Rico, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in Puerto Rico.

As stipulated in its Articles of Incorporation, the principal officers of the Foundation for Medical Care of Puerto Rico are:

NAME AND OFFICE HELD

1. Osvaldo Lastra, M.D., President.
2. Rosa A. Fiol, M.D., Vice President.
3. Jose M. Rigau, M.D., Secretary/Treasurer.

The official address of the corporation is Merchantile Plaza Building, Room 1018, No. 27 Ponce Ze Leon, Hato Rey, Puerto Rico 00919.

Any licensed doctor of medicine or osteopathy engaged in active practice in Puerto Rico who objects to the Secretary entering into an agreement with the Foundation for Medical Care of Puerto Rico, on the grounds that this organization is not representative of the doctors in such area may, on or before thirty days after the date this Notice appears in the FEDERAL REGISTER, mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 2,625 doctors of medicine and/or osteopathy are engaged in active practice in Puerto Rico. In the event that more than 10 per centum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Foundation for Medical Care of Puerto Rico is representative of such doctors in such area; provided that pursuant to Section 108(b) of Public Law 94-182, the provisions of Section 1152(f) [42 USC 1320c-1(f)], relating to notification and polling, as described above, shall not apply where: (1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review: or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof.

Dated: July 13, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

[FR Doc.77-20597 Filed 7-18-77;8:45 am]

### Office of Education

### GUARANTEED STUDENT LOAN PROGRAM

#### Special Allowance for Quarter Ending June 30, 1977

The Commissioner announces that, under the statutory formula of section 438(b) of the Higher Education Act of



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1965, a special allowance at the annual rate of one and one-half percent will be paid for the three month period ending June 30, 1977, to holders of eligible loans in the Guaranteed Student Loan Program.

Using the statutory formula, the special allowance for this three-month period was computed by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills for this period (4.97 percent), by subtracting 3.5 percent from this average, by rounding the resultant percent (1.47) upward to the nearest one-eighth of one percent (1.50), and by dividing the resultant percent by four (0.375 percent). Thus the special allowance to be paid for this period will be 0.375 percent of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by lenders.

(20 U.S.C. 1087-1(b).)

Dated: July 14, 1977.

ERNEST L. BOYER,
*U.S. Commissioner of Education.*

[FR Doc.77-20800 Filed 7-19-77;8:45 am]

## Office of Human Development

[Program Annoncement No. 13627-773]

## RESEARCH AND EVALUATION IN VOCATIONAL REHABILITATION

### Announcement of a Grant for FY '77

The Rehabilitation Services Administration, Office of Human Development, announces that applications will be accepted until August 15, 1977 from State vocational rehabilitation agencies and other public or nonprofit agencies or organizations wishing to compete for a grant in Fiscal Year 1977 under the Research and Evaluation Projects for Vocational Rehabilitation authorized by Title II, section 202(a) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762) to assist in the rehabilitation of handicapped individuals.

All applications received by the closing date which are complete and conform to the requirements of this program announcement will be accepted for review and consideration for award.

Regulations applicable to this program were published in the FEDERAL REGISTER in Subpart A and Subpart D of Part 1362 of Chapter XIII of Title 45 of the Code of Federal Regulations (45 CFR Part 1362) on November 25, 1975.

*Scope of this Program Announcement.*—This program announcement identifies one program objective and funding priority of the Research and Evaluation Projects for Vocational Rehabilitation for Fiscal Year 1977. This program objective and funding priority was omitted from Program Announcement No. 13627-772 published in the FEDERAL REGISTER on Friday, May 13, 1977, Vol 42, No. 93, Pages 24331-24334.

### A. PROGRAM PURPOSE

The purpose of the Research and Evaluation Program in Vocational Rehabilitation is to conduct research, design evaluation projects, and plan related activities which bear directly on the development of methods, procedures and devices to assist in the provision of vocational rehabilitation services to handicapped individuals, especially the most severely handicapped ones.

Grants made under Title II, Section 202(a), research, test and evaluate new methods, systems and approaches that can be used promptly, effectively and efficiently.

### B. ELIGIBLE APPLICANTS

Any State vocational rehabilitation agency, and other public or nonprofit agency or organization, including institutions of higher learning may apply for a grant under this announcement.

### C. AVAILABLE FUNDS

Of the $29 million appropriated by the Congress for research and evaluation projects in Fiscal Year 1977, the Rehabilitation Services Administration expects to award an estimated $3.4 million for new and competing extension grants in the program areas identified in Program Announcement No. 13627-772. Approximately $125,000 are available for this project from that $3.4 million.

Generally, the project will be supported for a period of three years. The funds currently available will sustain the budget for the first year of the project. Support of any additional time remaining in the project period will depend on funds available, the grantee's satisfactory performance in achieving the project objectives for which the grant was awarded, and the grantee's continued assurance of supporting the priorities of the Rehabilitation Research and Evaluation Program.

### D. PROJECT OBJECTIVES AND FUNDING PRIORITIES

Research and demonstration projects in vocational rehabilitation are intended to discover new knowledge and to overcome knowledge gaps in significant areas by the development of methods, procedures and devices to assist in the provision of vocational rehabilitation services to disabled individuals, especially those with severe handicaps. The primary function of research is to make service delivery more effective.

Fiscal Year 1977 project objectives and funding priorities have been developed for a number of research areas which have been published previously in the Federal Register. These have been developed to enable applicants to be responsive to the information and service needs of the Rehabilitation Services Administration. The number after the following funding priority should be included in any inquires regarding this research objective:

1. *Vocational Training* (i.e. employment readiness).

*Objective #1.*—To investigate the "Independent Living" approach both as a process and as an outcome.

*Funding Priority.*—Funding priority will be given to those applications which address the above objective in terms of: Independent Living for the Severly Disabled: Process and outcome of a conglomerate of ongoing state-agency supported projects. (M-2)

### E. THE APPLICATION PROCESS

*Application Submission.*—In order to be considered for a grant under the Rehabilitation Research and Evaluation Program, all applications must be submitted on standard forms available from the Division of Grants and Contract Management, Office of Human Development. The application shall be executed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations for projects on Rehabilitation Research and Evaluation.

One signed original and three copies of the grant application, including all attachments, are required. The original and two copies, which are for review purposes, are to be submitted to the central receiving office of the Office of Human Development. The other copy is to be submitted concurrently to the cognizant State Vocational Rehabilitation Agency. This agency reviews the applications and forwards its comments to the Commissioner.

*Application Consideration.*—The Commissioner determines the final action to be taken with respect to each grant application. Applications in response to this announcement which are late are not accepted and applicants are notified accordingly. Otherwise, all applications will be considered for funding.

All accepted applications are subjected to a competitive review and evaluation conducted by qualified persons outside of Federal employment. The results of the competitive review supplement and assist the Commissioner's consideration of the competing applications. The Commissioner's consideration also takes into account the comments of the State Agencies of Vocational Rehabilitation, the HEW Regional Offices and the headquarters program office. Comments on the applications may also be requested from appropriate specialists and consultants inside and outside of the Government.

When the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, the unsuccessful applicant is notified of that decision.

*Grant Awards.*—The Commissioner makes grant awards consistent with the purposes of the Act, the regulations, and program announcements within the limits of Federal funds available for the purpose of supporting Rehabilitation Research and Evaluation projects. The official grant award document is the Notice of Grant Awarded. The Notice of Grant Awarded sets forth in writing to the grantee the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the burget period for which support is given and the total grantee participation, if any. The initial award also specifies the total project period for which support is contemplated.

### F. CRITERIA FOR REVIEW AND EVALUATION OF APPLICATIONS

Competing grant applications will be reviewed and evaluated by persons outside of the Rehabilitation Research and Evaluation Office against the following criteria:

1. The project objectives address the RSA objective listed above in this program announcement and those stated in the application package relating to the specific funding priority.
2. The project objectives focus on the development of new or innovative techniques to achieve the RSA project objective.
3. The application contains a substantive plan for dissemination of findings to potential users including feedback mechanisms on use and specific outcome.
4. The project findings will be presented so that they are immediately implementable.
5. The hypotheses to be tested in each project are clearly stated so that the findings relate directly to the project objective.
6. The application contains a plan for the thorough review and analysis of literature related to the project.
7. The project's proposed design is complete and feasible, includes measurable objectives and an evaluation component.
8. The project's proposed staff is capable; the staffing pattern appropriate and the applicant organization's facilities and resources are adequate.
9. Applicant organization has a good track record in the conduct of similar and related activities.
10. Project's budget is feasible, and reasonable; all costs are well justified in relation to anticipated project results.
11. Project seems likely to be completed within the proposed time schedule.
12. Projects which will utilize other public resources (in addition to this grant) will receive special consideration.
13. Project does not supplant activities which are funded under other Federal programs (DDO, AoA, VA, etc.).

### G. CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications under this program announcement is August 15, 1977. Applications may be mailed or hand delivered to: Receiving Office; Division of Grants and Contracts Management; Office of Human Development, DHEW; Room 1427, Mary E. Switzer Building; 330 C Street, SW., Washington, D.C. 20201 (Attention: 13627-773). Hand delivered applications are accepted during normal working hours of 9:00 a.m. to 5:00 p.m.

An application will be considered to have arrived by the closing date if:





1. The application was sent by registered or certified mail no later than August 15 as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service;
2. The application is sent by mail and received on or before the closing date in the Department of Health, Education, and Welfare, the Office of Human Development, or the Rehabilitation Services Administration mailrooms as evidenced by the time date stamp or other documentary evidence of receipt maintained by such mailroom, or
3. The application is hand delivered to the office designated to receive the application in the application instructions. Hand delivered applications will be accepted no later than COB August 15, in any case.

### H. LATE APPLICATIONS

Late applications will not be accepted and applicants will be notified accordingly.

### I. AVAILABILITY OF APPLICATION FORMS

Application kits which contain the prescribed application forms, the project description, and information for the application may be obtained by making a request, containing the funding priority, and number to:

Division of Grants and Contract Management, Office of Human Development, Room 1427, Mary E. Switzer Building, 330 C Street, SW., Washington, D.C. 20201. Attention: (13627-773).

(Catalogue of Federal Domestic Assistance Program Number: 13.627, Research and Evaluation)

Dated: July 7, 1977.

JOSEPH A. MOTTOLA,
*Acting Commissioner, Rehabilitation Services Administration.*

Approved: June 15, 1977.

FRANK NEWGENT,
*Deputy Assistant Secretary for Human Development.*

[FR Doc.77-20840 Filed 7-19-77;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### EASTERN BAND OF CHEROKEE INDIANS

### Certain Federally Owned Lands in North Carolina Are Held by the United States in Trust

JULY 13, 1977.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

The Act of October 22, 1970 (84 Stat. 1097), authorizes the Secretary of the Interior to declare by publication in the FEDERAL REGISTER, upon request of the tribal council, that the United States holds certain federally owned lands in trust for the Eastern Band of Cherokee Indians, subject to valid existing rights. This declaration may be made for any federally owned lands and the improvements thereon within the Cherokee Reservation which the Secretary determines to be in excess to Government needs for the administration of Indian affairs.

By their Resolution No. 269 (1976), adopted on September 9, 1976, and their accompanying letter to the Superintendent, Cherokee Agency, the Eastern Band of Cherokee Indians requested the return of the lands described below. Accordingly, under the 1970 Act, notice is hereby given that title to the following described excess lands, on which there are no improvements, is held in trust by the United States for the Eastern Band of Cherokee Indians of North Carolina, subject to valid existing rights:

Upper Cherokee Community—Parcel No. 298 (Part of Long Blanket Tracts: Beginning on an iron pipe set in Upper Cherokee Community, within the boundaries of the Long Blanket Tracts and is 95' South of a reservoir and 3' from a 24" pine tree. Thence running S. 54°14', W. 63.05' to a point set on the West side of an access road. Thence running S. 53°28', W. 120.02' to an iron pipe with a brass cap set 6' West of a small branch. Thence leaving the branch and running up a ridge the following courses and distances: N. 84°51', W. 190.39' to a point; N. 89°19', W. 133.56' to a point; N. 86°02', W. 28.18' to a point; N. 53°26', W. 194.21' to a point; N. 39°10', W. 157.20' to a point; N. 65°11', W. 53.50' to a point; N. 55° 18', W. 127.80' to a point; N. 41°23', W. 79.01' to a point; N. 61°02', W. 149.05' to an iron pipe set on the West property line of the Long Blanket Tracts. Thence running with the property line, N. 02°29' E. 656.96' to an iron pipe. Thence leaving the property line and running with the Cherokee Historical lease area (Oconaluftee Indian Village), S. 69°07'- E. 178.35' to a point. Thence running S. 84°52', E. 102.75' to a point. Thence running S. 83°-12', E. 166.73' to a point. Thence leaving the lease area and running down a ridge, S. 49° 37', E. 261.30' to a point. Thence running S. 33°29', E. 202.18' to a point. Thence running S. 22°51', E. 238.88' to a point. Thence running S. 45°49', E. 123.90' to a point. Thence running S. 24°32', E. 326.10' to the point of beginning. Containing 16.860 acres.

These lands are to be treated as and receive the same benefits and protection as other trust lands held for the benefit and use of the Eastern Band of Cherokee Indians. Appropriate notation will be made in the land records of the Bureau of Indian Affairs.

RAYMOND V. BUTLER,
*Acting Deputy Commissioner of Indian Affairs.*

[FR Doc.77-20826 Filed 7-19-77;8:45 am]

### Bureau of Land Management

[CA 3509]

### CALIFORNIA

### Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 12, 1977.

The Bureau of Land Management, U.S. Department of the Interior, filed application Serial No. CA 3509 on February 3, 1976, for a withdrawal in relation to the following described lands:



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SAN BERNARDINO MERIDIAN, CALIF.

T. 8S., R. 21 E.,
Sec. 20, All;
Sec. 21, S½;
Sec. 22, All;
Sec. 23, W½ and W½SE¼;
Sec. 26, W½ and W½E½;
Sec. 27, All;
Sec. 28, NE¼ and W½;
Sec. 29, All;
Sec. 32, All;
Sec. 33, All;
Sec. 34, All;
Sec. 35, W½NE¼ and W½.

The area aggregates 6,560 acres in Riverside County, California.

The applicant desires that the land be reserved for use as the selected lands in a proposed exchange with the San Diego Gas and Electric Company for other lands in Riverside County.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on March 12, 1976, pages 10691 and 10692, FR Doc. 76–7080.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, E–2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, on or before August 23, 1977. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 23, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws (30 U.S.C., Ch. 2) and mineral leasing laws, except for disposition under Section 206 of the Federal Land Policy and Management Act of 1976, Pub. L. 94–579, October 21, 1976, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204 (g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E–2841 Federal Office Building, 2800 Cottage Way, Sacramento California 95825.

JOAN B. RUSSELL,
*Chief, Lands Section, Branch of Lands and Minerals Operations.*

[FR Doc.77–20827 Filed 7–19–77;8:45 am]

[CA 3613]

## CALIFORNIA

### Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 12, 1977.

The Forest Service, U.S. Department of Agriculture, filed application Serial No. CA 3613 on March 24, 1976, for a withdrawal in relation to the following described lands:

ELDORADO NATIONAL FOREST,
BALD MOUNTAIN LOOKOUT,
MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 12 N., R. 11 E.,
Sec. 12, NE¼SW¼NW¼, SW¼SW¼NW¼, SE¼SW¼NW¼, S½SE¼NW¼, and N½NE¼SW¼.

The area described aggregates 70 acres in El Dorado County, California.

The applicant desires the land for the protection of existing and future fire detection structures.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on July 2, 1976, pages 27404 and 27405, FR Doc. 76–19173.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, E–2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, on or before August 23, 1977. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 23, 1977.

The above described lands are temporarily segregated from all forms of appropriation under the mining laws (30 U.S.C., Ch. 2), to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

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JOAN B. RUSSELL,
*Chief, Lands Section, Branch of Lands and Minerals Operations.*

[FR Doc.77–20827 Filed 7–19–77;8:45 am]

[CA 3613]

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Sec. 12, NE¼SW¼NW¼, SW¼SW¼NW¼, SE¼SW¼NW¼, S½SE¼NW¼, and N½NE¼SW¼.

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Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, E–2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, on or before August 23, 1977. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 23, 1977.

The above described lands are temporarily segregated from all forms of appropriation under the mining laws (30 U.S.C., Ch. 2), to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E–2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

JOAN B. RUSSELL,
*Chief, Lands Section Branch of Lands and Minerals Operations.*

[FR Doc.77–20828 Filed 7–19–77;8:45 am]

[C–23653]

## COLORADO

### Proposed Withdrawal and Reservation of Lands

JULY 11, 1977.

The United States Forest Service, Department of Agriculture, has filed application, Serial No. C–23653, for the withdrawal of 4.78 Acres of Public Land in the White River National Forest from settlement, sale, location, or entry under all of the general land laws, including the mining and mineral leasing laws subject to valid existing rights.

The Forest Service desires this land for the purpose of establishing the Fravert Administrative Site on the White River National Forest.

On or before August 18, 1977, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Puruant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below, by July 5, 1977. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized office will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

For a period of two years from the date of publication of this notice in the FEDERAL REGISTER, the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date. If the withdrawal is approved by the Secretary, it will be for an indefinite period, and the lands will remain segregated.

The lands involved in the application are:

T. 6 S., R. 93 W., 6th P.M.
Beginning at the corner common to Sections 4, 5, 8 and 9 of T. 6 S., R. 93 W., 6th P.M., bear S. 89° 52' W. for 1329.6 feet to 1 16 corner marker.
This corner is Corner No. 1 and is the northeast corner of the tract.
From Corner No. 1, by metes and bounds.
S. 89° 52' W., 366.93 ft., to Corner No. 2;
S. 16° 16' E., 216.51 ft., to Corner No. 3;
S. 35° 53' E., 232.85 ft., to Corner No. 4;
S. 17° 19' E., 257.19 ft., to Corner No. 5;
S. 2° 59' W., 389.19 ft., to Corner No. 6;
S. 15° 58' E., 300.20 ft., to Corner No. 7;
N. 89° 51' E., 30.92 ft., to Corner No. 8;
N. 1320.00 ft., to Corner No. 1; the place of beginning which is the NE corner of the west half of the NE¼, Section 8, T. 6 S., R. 93 W., 6th P.M.

All communicaions in connection with this withdrawal should be addressed to the Chief, Branch of Adjudictation, Bureau of Land Management, Department of the Interior, 700 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202.

THOMAS HARDIN,
*Chief, Branch of Adjudication.*

[FR Doc 77–20807 Filed 7–19–77;8:45 am]

[M 18888]

## MONTANA

### Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 11, 1977.

The Department of Agriculture filed application, Serial No. M 18888, on June 28, 1971, for a withdrawal in relation to the following described lands:

PRINCIPAL MERIDIAN, MONTANA
BEAVERHEAD NATIONAL FOREST
*Minnecopa Lake Recreation Area*

Unsurveyed, but which probably will be when surveyed:
T. 5 S., R. 11 W.,
Sec. 16, S½SW¼NE¼SE¼, S½SE¼NW¼SE¼, W½SE¼SE¼, E½SW¼SE¼, and E½SW¼SW¼SE¼; and
Sec. 21, NW¼NE¼NE¼, N½SW¼NE¼NE¼, NE¼NW¼NE¼, E½NW¼NW¼NE¼, and N½SE¼NW¼NE¼.

The area described contains 90 acres in Beaverhead County, Montana.

The applicant desires that the land be reserved for a public campground.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on July 22, 1971, Volume No. 36, Page No. 13623, Document No. 71–10386.





Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, on or before August 22, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 22, 1977.

The above-described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, P.O. Box 30157, Billings, Montana 59107.

ROLAND F. LEE,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77–20829 Filed 7–19–77;8:45 am]

[NM 31012]

## NEW MEXICO

### Application

JULY 11, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Natural Gas Pipeline Company of America has applied for a field booster plant site right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO

T. 18 S., R. 27 E.,
Sec. 17, SW¼NE¼.

The plant site will be used in connection with natural gas operations and will occupy 1,033 acres of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77–20830 Filed 7–19–77;8:45 am]

## NEVADA

### Filing of Plats of Survey and Order Providing for Opening of Lands

1. The plat of Survey of lands described below will be officially filed at the Nevada State Office, Reno, Nevada, effective 10 a.m. on August 25, 1977:

MOUNT DIABLO MERIDIAN, NEV.

T. 3 N., R. 65 E.

A dependent resurvey of the Bristol Townsite and the retracement and remonumentation of Mineral Survey 43B and the survey of Tract 37.

2. The land within the above area is mostly gently rolling terrain from 5,400 to 5,500 feet above sea level. Soil consists of sandy loam and the vegetation consists of sagebrush. Access is provided by improved roads.

3. Subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law, the lands are hereby opened to such applications and petitions as may be permitted. All such valid applications received at or prior to 10 a.m. on August 25, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

Inquiries concerning these lands shall be addressed to the Nevada State Office, Bureau of Land Management, 300 Booth Street, Reno, NV 89509.

Dated: July 12, 1977.

LOYD C. MILLER,
*Chief, Branch of Records.*

[FR Doc.77–20831 Filed 7–19–77;8:45 am]

[OR 15675 (Wash.)]

## WASHINGTON

### Termination of Proposed Withdrawal and Reservation of Lands

JULY 11, 1977.

Notice of an application filed by the Corps of Engineers, U.S. Department of the Army, OR 15675 (Wash.), for withdrawal and reservation of public lands was published as FEDERAL REGISTER Document No. 76–14393 on pages 20429 and 20430 of the issue for May 18, 1976. The Corps of Engineers has cancelled its application involving the lands described in



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the FEDERAL REGISTER publication referred to above. Therefore, pursuant to the regulations contained in 43 CFR 2091.2-5(b)(1) such lands will be at 10 a.m. on August 16, 1977, relieved of the segregative effect of the above-mentioned application.

LELAND D. MORRISON,
*Acting Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-20832 Filed 7-19-77;8:45 am]

## Geological Survey

[Gulf of Mexico Area]

## REVISED OUTER CONTINENTAL SHELF ORDER NO. 2

### Notice

*Correction*

In FR Doc. 77-19615 appearing on page 35705 in the issue for Monday, July 11, 1977, make the following changes:

1. The headings to the document should read as set forth above.

2. In the list of commentors, first column, page 35705, "Offshore Operations Committee" should read "Offshore Operators Committee".

3. In the second line of the fourth paragraph from the bottom of the third column, page 35705, "out of the hole. Once each trip," should read "out of the hole, once each trip."

## INTERNATIONAL TRADE COMMISSION

[AA1921-168]

## PRESSURE SENSITIVE PLASTIC TAPE FROM WEST GERMANY

### Change of Date and Place of Public Hearing

Notice is hereby given that the public hearing in this matter, previously scheduled to begin on Tuesday, July 26, 1977, will now be held beginning Tuesday, August 9, 1977, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Postponement of this hearing does not affect the previously noticed date of July 26, 1977, for the hearing on investigation No. AA1921-167, Pressure Sensitive Plastic Tape from Italy.

Notice of the investigation and hearing for investigation No. AA1921-168 was published in the FEDERAL REGISTER of July 5, 1977 (42 FR 34385).

By order of the Commission.

Issued July 15, 1977.

KENNETH R. MASON,
*Secretary.*

[FR Doc.77-20888 Filed 7-19-77;8:45 am]

[AA1921-167]

## PRESSURE SENSITIVE PLASTIC TAPE FROM ITALY

### Place of Public Hearing

Notice is hereby given that the hearing in this matter set to begin at 10 a.m., e.d.t., on Tuesday, July 26, 1977, will be held in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436.

Notice of the investigation and hearing was published in the FEDERAL REGISTER of June 9, 1977 (42 FR 29568).

By order of the Commission.

Issued July 15, 1977.

KENNETH R. MASON,
*Secretary.*

[FR Doc.77-20887 Filed 7-19-77;8:45 am]

[TA-203-3]

## STAINLESS STEEL AND ALLOY TOOL STEEL

### Change of Date of Hearing

Notice is hereby given that the public hearing on this matter will be held beginning at 10 a.m., e.d.t., Wednesday, September 7, 1977 (instead of Tuesday, August 23), in the Commission's Hearing Room, United States International Trade Commission Building, 701 E Street NW., Washington, D.C.

Requests to appear at the public hearing should be received by the Secretary of the Commission at his office in Washington, D.C., not later than noon, Friday, September 2, 1977 (instead of August 18, 1977).

Notice of the investigation and the public hearing was published in the FEDERAL REGISTER on June 24, 1977 (42 FR 32323).

By order of the Commissioner.

Issued July 15, 1977.

KENNETH R. MASON,
*Secretary.*

[FR Doc.77-20886 Filed 7-19-77;8:45 am]

## DEPARTMENT OF JUSTICE

### Antitrust Division

## UNITED STATES v. AMERICAN BUILDING MAINTENANCE CORP., ET AL.

### Proposed Consent Judgment and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a proposed consent judgment and competitive impact statement as set out below have been filed with the United States District Court for the District of New Jersey in Civil Action No. 74-719, *United States of America* v. *American Building Maintenance Corp., et al.* All thirteen defendants listed in the caption of the Judgment have consented to its entry. The complaint in this case alleged that the defendants had conspired to allocate customers for building maintenance services and to rig bids for such services in violation of Section 1 of the Sherman Act. The proposed consent judgment enjoins the defendants from the continuation of such practices. Public comment is invited on or before September 12, 1977. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to John J. Hughes, Chief, Middle Atlantic Office, Antitrust Division, Department of Justice, 3430 United States Courthouse, Philadelphia, Pennsylvania 19106.

Dated: July 12, 1977.

CHARLES F. B. MCALEER,
*Assistant Chief, Judgments and Judgment Enforcement Section.*

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

*United States of America, Plaintiff* v. *American Building Maintenance Corp.; Atlantic Window Cleaning Co., Inc.; Bloomfield Window Cleaning Co., Inc.; Building Services Corp. of New Jersey; Eastern Maintenance Co.; International Services, Inc.; MacClean Service Co., Inc., of New Jersey; Metropolitan Maintnance Co.; Middlesex Building Service Co., Inc. of New Jersey; Metropoliton Window Cleaning Co.; Yankee Building Maintenance Co.; and Samuel S. Usdin,* Defendants.

Civil No. 74-719.

Filed: July 12, 1977.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff or defendants in this or any other proceeding. Dated: July 12, 1977.

For the plaintiff: John H. Shenefield, *Acting Assistant Attorney General;* William E. Swope, Charles F. B. McAleer, John J. Hughes, Raymond D. Cauley, John L. Wilson, Roger L. Currier, Norma B. Carter, *Attorneys, Department of Justice, Antitrust Division, 3430 United States Courthouse, Independence Mall West, 601 Market Street, Philadelphia, Pennsylvania 19106.*

For the defendants: Mortimer Katz, *Counsel for American Building Maintenance Corp.;* Shanley & Fisher, by Frank L. Bate, *Counsel for Bloomfield Window Cleaning Company, Inc.;* Lum, Biunno & Tompkis, by John P. Croake, *Counsel for Eastern Maintenance Co.;* Shea Gould Climinko Kasey, by Ira Postel, *Counsel for MacClean Service Co., Inc. of New Jersey;* A. Kenneth Weiner, *Counsel for Middlesex Building Services;* Brown, Vogelman & Brown, by Irving I. Vogelman, *Counsel for Trenton Window Cleaning Company;* Amster & Levin, P.A., by Richard A. Levin, *Counsel for Samuel S. Usdin;* Walder, Steiner & Sonak, by Justin P. Walder, *Counsel for Atlantic Window Cleaning Co. Inc.;* Kay, Schaler, Fierman, Hays & Handler, by Mark C. Zauderer, *Counsel for Building Services Corporation of New Jersey;* Nulty and Hayden, by Joseph A. Hayden, Jr., *Counsel for International Services, Inc.;* McCarter & English, by John R. Ford, *Counsel for Metropolitan Maintenance Company;* S.M. Chris Franzblau, by Steven F. Kaplan, *Counsel for Pioneer Maintenance Corp.;* McCarter & English, by John R. Ford, *Counsel for Yankee Building Maintenance Co.*





UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

*United States of America,* Plaintiff, v. *American Building Maintenance Corp.; Atlantic Window Cleaning Co., Inc.; Bloomfield Window Cleaning Co., Inc.; Building Services Corp. of New Jersey; Eastern Maintenance Co.; International Services, Inc.; MacClean Service Co., Inc., of New Jersey; Metropolitan Maintenance Co.; Middlesex Building Services; Pioneer Maintenance Corp.; Trenton Window Cleaning Co.; Yankee Building Maintenance Co.; and Samuel S. Usdin,* Defendants.

Civil No. 74-719.

Filed: July 12, 1977.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein, on May 16, 1974; and all parties by their attorneys, having severally consented to the making and entry of this Final Judgment, without admission by any party in respect to any issue and without this Final Judgment constituting evidence or an admission by any party with respect to any such issue;

*Now, therefore,* before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

*Ordered, adjudged, and decreed* as follows:

I

This Court has jurisdiction of the subject matter hereof and the parties consenting hereto. The complaint states claims upon which relief may be granted against the defendants under Section 1 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. 1), commonly known as the Sherman Act.

II

As used in this Final Judgment:

(A) "Person" shall mean any individual, partnership, corporation, association, or any other business or legal entity.

(B) "Building Maintenance Services" shall mean the providing to owners, tenants, landlords, and managing agents of residential, commercial, industrial, and institutional buildings one or more services of the following kind: general cleaning; sweeping and dusting; stripping, waxing, and polishing floors; carpet vacuuming nad shampooing; venetian blind cleaning and repairing; washing of windows, floors, and walls; furniture cleaning and polishing; and other janitorial ad cleaning services.

III

(A) Except as otherwise specifically stated herein, the provisions of this Final Judgment shall apply to the defendants, their affiliates, subsidiaries, successors, and assigns and to their respective officers, directors, partners, agents, and employees, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

(B) The provisions of this Final Judgment shall not apply (1) to activities between a defendant, its officers, directors, agents, or employees and its parent or subsidiary companies, or the affiliate corporations in which 50 percent or more of the voting stock is owned by a defendant, its parent or subsidiary company, or which is in fact controlled by any defendant, or such defendant's parent or subsidiary companies; or (2) to Prudential Building Maintenance Corp. and MacClean Service Company, Inc., other corporations affiliated with defendants Building Services Corporation of New Jersey and MacClean Service Co., Inc., of New Jersey, respectively, or to persons acting in their capacity as officers, directors, agents or employees of such corporations unless such corporations, their officers, directors, agents, or employees join or participate with one or more non-affiliated defendants, their respective officers, directors, partners, agents, and employees in any activities which violate any of the provisions of this Final Judgment.

IV

Each defendant is hereby enjoined and restrained from directly or indirectly entering into, adhering to, maintaining, or engaging in any combination, agreement, understanding, plan, or program with any other supplier of building maintenance services:

(A) To divide, allocate, or apportion customers for building maintenance services.

(B) To refrain from soliciting or competing for any customer for building maintenance services, except in connection with bona fide transactions for the purchase and sale of businesses or customer accounts.

(C) To submit noncompetitive, collusive, or rigged bids for building maintenance services to customers or potential customers.

(D) To fix, stabilize, or maintain prices for building maintenance services.

V

(A) For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, any duly authorized representative of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of such defendant, which may have counsel present, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, partners, or employees of such defendant, who may have counsel present, regarding any such matters.

(B) A defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

No information obtained by the means provided in this Section V shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with the Final Judgment, or as otherwise required by law. If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which that defendant is not a party.

VI

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions thereof, for the enforcement of compliance therewith, and the punishment of violations thereof.

VII

Entry of this Final Judgment is in the public interest.

Dated: _____

_____
*U.S. District Judge.*

UNITED STATES DISTRICT COURT, FOR THE DISTRICT OF NEW JERSEY

*United States of America,* Plaintiff, v. *American Building Maintenance Corp., Atlantic Window Cleaning Co., Inc.; Bloomfield Window Cleaning Co., Inc.; Building Services Corp. of New Jersey; Eastern Maintenance Co.; International Services, Inc.; MacClean Service Co., Inc. of New Jersey; Metropolitan Maintenance, Co.; Middlesex Building Services; Pioneer Maintenance Corp.; Trenton Window Cleaning Co.; Yankee Building Maintenance Co.; and Samuel S. Usdin,* Defendants.

Civil No. 74-719.

Filed: July 12, 1977.

I

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16 (b)-(h)), the United States of America hereby files this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

II

NATURE AND PURPOSE OF THE ACTION

On May 16, 1974, the Department of Justice filed a civil antitrust action alleging that the above-named defendants had combined and conspired in violation of Section 1 of the Sherman Act to (1) allocate customers among themselves for the furnishing of building maintenance services; (2) submit noncompetitive and rigged bids for building maintenance services to customers or potential customers; and (3) impose requirements of compensation on building maintenance companies who failed to conform to the terms of the conspiracy. It was alleged that, as a result of the conspiracy, competition in the furnishing of building maintenance services had been restrained and that prices of building maintenance services had been fixed, stabilized, and maintained at high, artificial and noncompetitive levels thereby



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depriving customers of the benefits of free and open competition.

The Court was requested to enjoin the defendants from continuing the alleged conspiracy and from entering into any other agreement or plan which would have a similar purpose or effect.

III

DESCRIPTION OF THE PRACTICES GIVING RISE TO THE ALLEGED VIOLATION

The defendant companies were among the principal suppliers of building maintenance services to commercial and industrial establishments in certain metropolitan areas of New Jersey. Such services included general cleaning, stripping, waxing, and polishing of floors, washing of windows, furniture cleaning and polishing and other janitorial services. In the performance of such services the defendant companies purchased substantial quantities of essential building maintenance materials from sources outside of the State of New Jersey and performed such services for customers located in the State of New Jersey and in other States. The defendants' total revenues in 1972 exceeded $25 million.

At trial the Government would have established that, from at least as early as 1967, the defendants agreed that they would not compete with one another for building maintenance accounts which they held. In addition they agreed that, if necessary, they would submit noncompetitive bids to maintain the accounts of other conspirators. The Government would further have established that this agreement was aided by membership in or affiliation with a trade association known as The Young Men's Club of the Cleaning Industry of New Jersey. This association developed rules detailing the circumstances under which the accounts of the defendants would be closed to competition from other defendants and coconspirators. Finally, the Government would have shown that if an account was taken by one of the conspirators, that company would give monetary compensation to the conspirator company losing the account in a lump sum payment or in monthly installments from the profits of the job. This conspiracy was alleged to continue to the time of the filing of the complaint.

The defendants pleaded no contest in a companion criminal case and were fined a total of $193,000.

IV

EXPLANATION OF THE PROPOSED CONSENT JUDGMENT

The proposed consent judgment provides specific measures to dispel the anti-competitive effects of the conspiracy. Each defendant is enjoined from entering into any agreement or understanding with any other supplier of building maintenance services to:

(A) Divide, allocate, or apportion customers for building maintenance services.

(B) Refrain from soliciting or competing for any customer for building maintenance services, except in connection with bona fide transactions for the purchase and sale of businesses or customer accounts.

(C) Submit noncompetitive, collusive, or rigged bids for building maintenance services to customers or potential customers.

(D) Fix, stabilize or maintain prices for building maintenance services.

The proposed consent judgment does not apply to business dealings between a defendant and its parent or subsidiary companies, or the affiliate corporations in which 50 percent or more of the voting stock is owned by a defendant, its parent or subsidiary company, or which is, in fact, controlled by any defendant, or such defendant's parent or subsidiary companies. The parent companies of two of the defendants are themselves defendants in pending suit brought by the Department of Justice in New York; these parents are specifically excluded from the coverage of this judgment unless they conspire with an unaffiliated defendant to violate it. The purpose of this exclusion is to avoid a claim of mootness in the New York case.

In order to ensure compliance with the proposed consent judgment, representatives from the Department of Justice will be permitted to inspect the business records of the defendants and to interview their officers and employees. The defendants must also, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, submit reports in writing with respect to matters contained in the proposed consent judgment as may from time to time be requested.

V

COMPETITIVE EFFECTS OF THE PROPOSED CONSENT JUDGMENT

It is anticipated that the proposed consent judgment will have the effect of eliminating the conspiracy thereby restoring competition among the defendants to the benefit of their customers and potential customers.

VI

ALTERNATIVE REMEDIES CONSIDERED BY THE DEPARTMENT OF JUSTICE

The proposed consent judgment provides substantially all of the relief prayed for in the complaint. No alternative to the proposed consent judgment has been considered by the Department of Justice.

VII

REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

Any potential private plaintiffs who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal and equitable remedies which they would have had were the proposed consent judgment not entered. However, this judgment may not be used as prima facie evidence in private litigation pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. § 16(a).

VIII

PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED CONSENT JUDGMENT

The proposed consent judgment is subject to a stipulation by and between the United States and the defendants, which provides that the United States may withdraw its consent to the proposed judgment until the Court has found that entry thereof is in the public interest. By its terms, the proposed consent judgment provides for retention of jurisdiction of this action in order, among other things, to permit any of the parties thereto to apply to the Court for such orders as may be necessary or appropriate for its modification.

As provided by the Antitrust Procedures and Penalties Act, any persons believing that the proposed judgment should be modified, may, for a 60-day period, submit written comments to:

John J. Hughes, Chief, Middle Atlantic Office, Antitrust Division, United States Department of Justice, 3430 United States Courthouse, 601 Market Street, Philadelphia, Pennsylvania 19106.

The Department of Justice then will file with the Court and publish in the Federal Register such comments and its response to such comments. The Department of Justice will thereafter evaluate any and all such comments and determine whether there is any reason for withdrawal of its consent to the proposed judgment.

IX

DETERMINATIVE DOCUMENTS

There are no materials or documents which the Government considered determinative in formulating this proposed consent judgment. Therefore, none are being filed with this Competitive Impact Statement.

Dated: July 12, 1977.

ROGER L. CURRIER,
NORMA B. CARTER,
*Attorneys, Department of Justice, Antitrust Division, Department of Justice, 3430 United States Courthouse, Independence Mall West, 601 Market Street, Philadelphia, Pennsylvania 19106.*

[FR Doc.77-20833 Filed 7-19-77;8:45 am]

## Office of the Attorney General

## UNITED STATES v. STATE OF NEW YORK ET AL.

### Proposed Partial Consent Judgment In Action To Enjoin Discharge of Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on June 14, 1977, a proposed partial final judgment in *United States* v. *State of New York, et al.* was lodged with the United States District Court for the Southern District of New York. The proposed decree requires that the City and the State of New York operate a tri-annual emissions inspection program for medallion taxicabs beginning on October 1, 1977.

The Department of Justice will receive on or before August 18, 1977, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *State of New York, et al.*, D.J. Ref. 90-5-2-3-718.

The proposed partial final judgment may be examined at the office of the United States Attorney, Southern District of New York, New York, New York; the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007; the Clerk of the District Court, Southern District of New York, New York, New York; and the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2629, Department of Justice Building, Ninth Street and Pennsylvania Avenue, Northwest, Washington, D.C. A copy of the proposed partial consent judgment may be obtained in person or by mail from the Pollution Control Section.

JAMES W. MOORMAN,
*Acting Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc.77-20808 Filed 7-19-77;8:45 am]





## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 77-49]

### REFUSE FIRED STEAM GENERATING FACILITY, VA.

#### Final Environmental Impact Statement; Availability

Notice is hereby given of the public availability of the final Environmental Impact Statement for the Refuse Fired Steam Generating Facility, Langley Research Center, Hampton, Virginia.

Comments on the draft Environmental Impact Statement were previously solicited from state and local agencies and members of the public through a notice in the FEDERAL REGISTER of February 22, 1977.

Copies of the draft and final statement have been furnished to the Council on Environmental Quality, the Departments of Defense, Air Force, Army, Agriculture, Heath, Education, and Welfare, Housing and Urban Development, Interior, and Transportation, the Environmental Protection Agency, the Energy Research and Development Administration, the General Services Administration, the Advisory Council on Historic Preservation, and to appropriate state and local agencies.

Copies of the final statement may be obtained or examined at any of the following locations:

(a) National Aeronautics and Space Administration, Public Documents Room (Room 126), 600 Independence Avenue, SW., Washington, DC 20546.

(b) Ames Research Center, NASA (Building 201, Room 17), Moffett Field, CA 94035.

(c) Hugh L. Dryden Flight Research Center, NASA (Building 4800, Room 1017), P.O. Box 273, Edwards, CA 93523.

(d) Goodard Space Flight Center, NASA (Building 8, Room 150), Greenbelt, MD 20771.

(e) Johnson Space Center, NASA (Building 1, Room 136), Houston, TX 77058.

(f) John F. Kennedy Space Center, NASA (Headquarters Building, Room 1207), Kennedy Space Center, FL 32899.

(g) Langley Research Center, NASA (Building 1219, Room 304), Hampton, VA 23365.

(h) Lewis Research Center, NASA (Administration Building, Room 120), 21000 Brookpark Road, Cleveland, OH 44135.

(i) George C. Marshall Space Flight Center, NASA (Building 4200, Room G-11), Huntsville, AL 35812.

(j) National Space Technology Laboratories, NASA (Building 1100, Room A-713), Bay St. Louis, MS 39520.

(k) Jet Propulsion Laboratory (Building 180, Room 600), 4800 Oak Grove Drive, Pasadena, CA 91103.

(l) Wallops Flight Center, NASA (Library Building, Room E-105), Wallops Island, VA 23337.

Done at Washington, D.C., this 5th day of July 1977.

By direction of the Administrator.

DUWARD L. CROW,
*Associate Deputy Administrator, National Aeronautics and Space Administration.*

[FR Doc.77-20805 Filed 7-19-77;8:45 am]

## NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

### TRANSPORTATION ISSUE

#### Hearing

Conflicting views on national transportation issues will be aired at public hearings scheduled by the National Transportation Policy Study Commission for August 12, 1977, in Denver, Colorado.

The hearings, part of a nationwide series planned by the Commission, are intended to help determine the needs of our Nation's communities, the transportation industry, shippers, the traveling public and the American taxpayer.

The Commission, composed of 19 members, including twelve Members of Congress and seven public representatives, was created by Congress to examine, evaluate and analyze our Nation's transportation needs and resources through the year 2000. The Commission's final report and policy recommendations are due on December 31, 1978.

The Commission plans to organize testimony of witnesses to insure that it hears from all of the various interests with a stake in transportation, such as labor, management, shippers, consumers, state governments, and environmentalists.

The hearings will be held in the Post Office Building, 19th and Stout Streets, Denver, Colorado.

Those interested in testifying personally or in submitting written statements should contact, no later than 6:00 p.m., August 2, 1977: Mr. John Crutcher, NTPSC, 1750 K St. NW, Suite 800, Washington, D.C. 20006. Telephone number 202-254-7453.

Dated: July 15, 1977.

EDWARD R. HAMBERGER,
*General Counsel.*

[FR Doc.77-20811 Filed 7-19-77;8:45 am]

## OFFICE OF THE FEDERAL REGISTER

### EDUCATIONAL WORKSHOPS ON HOW TO USE THE FEDERAL REGISTER

#### Region I Workshops in Boston, Mass.

The Office of the Federal Register (OFR) will hold three workshops on "The FEDERAL REGISTER—What It Is and How to Use It" in Boston, Massachusetts, as part of the General Service Administration's Consumer Representation Plan.

DATE: September 7, 8, and 9 (reservations required).

LOCATION: Room 208, John W. McCormack Post Office and Courthouse, Post Office Square, Boston, Massachusetts.

RESERVATIONS: Mrs. Louise Convoy (617) 223-7121.

AGENDA

The content of each workshop session will be identical. Each workshop will last for approximately three hours and will cover the following areas:

1. A brief history of the FEDERAL REGISTER.
2. The difference between legislation and regulations.
3. The relationship of the FEDERAL REGISTER and the CODE OF FEDERAL REGULATIONS.
4. Important elements of a typical FEDERAL REGISTER document.
5. An introduction to the finding aids of the OFR and a practical exercise using those finding aids.

The OFR does not interpret specific agency regulations and the workshops will not provide a forum for the discussion of substantive questions. Rather, the workshops are designed as an introduction for the person who discovers that he or she must use the FEDERAL REGISTER publications to keep track and to gain an understanding of Federal regulations.

FRED J. EMERY,
*Director of the Federal Register.*

[FR Doc.77-20934 Filed 7-19-77;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13746; File No. SR-Amex-77-16]

### AMERICAN STOCK EXCHANGE, INC.

#### Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 24, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The American Stock Exchange, Inc. ("Amex"), proposes to amend certain policies with respect to option reporting requirements pursuant to Exchange Rule 906. Under its proposals, the Amex seeks to require its members to report options positions of accounts utilizing "same side of the market" computations. Reporting of positions would be required initially when an account establishes a position of 200 or more put and/or call contracts in an underlying stock on the same side of the market. Additional information with respect to underlying stock positions will also be required to be filed with the Exchange for accounts which need to file options positions reports.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed change in reporting requirements is due primarily to the commencement of put option trading and the attendant change in the options position limits rule (Exchange Rule 904).

Under current rules, accounts are limited to maximum positions of 1,000 put and/or call contracts on the same side of the market per underlying stock and reports are required when an account



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establishes an option position of 100 or more contracts. The Exchange now proposes to obtain similar useful information with respect to such put and/or call positions by establishing initial reporting requirements when an account establishes a position of 200 contracts or more on the same side of the market. Thus, the Exchange will obtain, in some cases, information with respect to accounts that it otherwise would not obtain under present requirements. For example, if an account had a long position of 950 put options and a short position of 60 call options on the same underlying security, such account would be in violation of the position limits rule since the total number of contracts on the same side of the market exceeded 1,000. Today a firm need only report the long put position. Under the new reporting requirements, the total long put/short call positions indicated in the above example would be reported to the Exchange. Thus, the proposed change would enable the Amex to more effectively monitor position limits matters and potential position limits violations.

To effect the proposed change, the Exchange will adopt a new reporting form to reflect the information discussed above. In addition, the Exchange will require that positions in the underlying stock be reported as well. Such information will better assist the Exchange staff in investigating possible inter-market "mini-manipulation" matters. It should be noted that the present reporting form does not require reports of underlying stock positions; therefore, the Amex will be able to make better use of the new reporting form.

In considering the adoption of the amended policy, the Exchange conducted a study and review of the quantity and quality of reports present obtained and compared such reports with the anticipated report data to be received under the new policy.

It should be noted that under the prior position limit rule concerning 500 contracts per expiration date, a firm was required to report to the Exchange all accounts which had option positions of 100 contracts or more, in essence, a 20 percent report-to-limit ratio. Under the new position limits rule, an account, under certain circumstances, could have 1,000 option contracts of the same expiration date but an increase in the reporting requirements to 200 contracts would maintain the same 20 percent report-to-limit ratio.

While an effect of the new reporting requirements will be to decrease the numbers of reports to be received by the Exchange, the Amex believes that such fewer reports will permit it to make more effective use of its surveillance staff in reviewing all filings while still maintaining tight regulatory controls in this area.

The basis for the proposed rule change is found in Section 6(b)(5) of the Securities Exchange Act of 1934 ("the 1934 Act"), as amended, which provides, in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and protect investors and the public interest.

No comments were received or solicited with respect to the proposed change.

The Amex has determined that the proposed amendment will not impose any burden on competition.

On or before August 24, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C., 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 19, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 13, 1977.

[FR Doc 77-20825 Filed 7-19-77;8:45 am]

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[Release No. 9849; 812-4129]

## BEAVER INSURANCE CO. ET AL.

### Filing of Application for Order Exempting a Proposed Transaction and Permitting Participation in Said Transaction

JULY 14, 1977.

In the matter of Beaver Insurance Company, Suite 440, 300 Montgomery Street, San Francisco, California 94104; Continental Capital Corporation, Suite 2690, 555 California Street, San Francisco, California 94104; Fred Parr Cox, Suite 5185, 555 California Street, San Francisco, California 94104; and Dunford Forrest Greene, Suite 2680, 555 California Street, San Francisco, California 94104.

Notice is hereby given that Continental Capital Corporation ("Continental"), licensed as a small business investment company under the Small Business Act of 1958 and registered under the Investment Company Act of 1940 (the "Act") as a non-diversified, close-end, management investment company, Beaver Insurance Company ("Beaver"), a privately owned workman's compensation insurance company, Mr. Fred Parr Cox ("Mr. Cox"), chairman of Continental and a director of Beaver, and Mr. Dunford Forrest Greene ("Mr. Greene"), a director of Continental and Beaver (collectively, "Applicants"), filed an application on April 27, 1977, and amendments thereto on May 20, 1977, May 25, 1977, and June 24, 1977, pursuant to Sections 17(b) and 17(d) of the Act and Rule 17d-1 thereunder for an order of the Commission: (1) Exempting from the provisions of section 17(a) of the Act the proposed sale by Beaver to Continental of 6,667 shares of Beaver common stock, and (2) permitting, as a joint transaction, the proposed sale of Beaver common stock to Continental, Mr. Cox, Mr. Greene, and certain officers, directors or employees of Beaver. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that Beaver has outstanding 20,000 shares of common stock, and that of such shares: (1) Continental owns 6,667 shares; (2) Mr. Cox owns 400 shares; and (3) Mr. Greene's family owns 100 shares. According to the application, Beaver management deems it prudent to raise additional equity capital and therefore proposes to sell up to an additional 20,000 shares of its common stock: Applicants state that one of several tests of financial safety applied by insurance regulators and financial analysts is the ratio of premium writings of an insurer to its net worth, and that the sale of Beaver shares is intended to facilitate an increase in the volume of insurance written by Beaver.

According to the application, 20,000 Beaver shares will be offered at a price of $52.50 per share, and if such shares are not fully subscribed to by current Beaver shareholders, the remaining shares will be offered to non-shareholder officers, directors and selected employees of Beaver. Applicants state that: (1) Continental intends to purchase 6,667 shares; (2) Mr. Cox intends to purchase 1,000 shares; and (3) Mr. Greene intends to purchase 4,300 shares, respectively, of the Beaver shares to be sold.

Applicants state that Beaver was formed in 1970, and is licensed to do business in California as a workman's compensation insurance company. According to the application: (1) premiums written by Beaver during the calendar years 1975 and 1976 amounted to $1,788,000 and $2,802,000, respectively, and premium writings in 1977 indicate a continuation of this pattern of increase, and (2) net income (loss) after taxes was ($19,141), $135,920, ($55,999), and $95,275, for the fiscal years ended December 31, 1973 through December 31, 1976, respectively.

Section 2(a)(3) of the Act defines an "affiliated person" of another person to include, inter alia: (1) Any person owning 5 percent or more of the outstanding voting securities of such other person; (2) any person, 5 percent or more of whose outstanding voting securities





are owned by such other person; or (3) any officer, director or employee of such other person. Applicants conclude that Beaver, Mr. Cox and Mr. Greene are affiliated persons of Continental, and that Continental, Mr. Cox, Mr. Greene and the officers, directors and employees of Beaver are affiliated persons of Beaver. Applicants further state that Beaver is presumed to be a company "controlled" by Continental, as that term is defined by Section 2(a)(9) of the Act, by reason of its ownership of more than 25 percent of the voting securities of Beaver.

Section 17(a) of the Act, in pertinent part, provides that it shall be unlawful for an affiliated person of a registered investment company knowingly to sell to such registered investment company any security or other property. Section 17(b) of the Act provides that the Commission, upon application, shall exempt a proposed transaction from the provisions of Section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act. Applicants state that the proposed sale of Beaver stock to Continental requires an exemption from Section 17(a) of the Act because such transaction would involve the sale of a security to a registered investment company (Continental) by an affiliated person of such investment company (Beaver).

Section 17(d) of the Act and Rule 17d-1 thereunder, taken together, provide, in part, that it is unlawful for an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, to effect any transaction in which such registered investment company is a joint participant, without the permission of the Commission. Rule 17d-1 provides, in part, that in passing upon applications for orders granting such permission, the Commission will consider (1) whether the participation of the investment company in such transaction on the basis proposed is consistent with the provisions, policies, and purposes of the Act, and (2) the extent to which such participation is on a basis different from or less advantageous than that of other participants. Applicants submit that the proposed sale of Beaver stock to Continental, Mr. Cox, Mr. Greene and the officers, directors and selected employees of Beaver requires an order of the Commission pursuant to Rule 17d-1.

Applicants state that the officers of Continental, in the exercise of their business judgment, have carefully evaluated the proposed transaction and believe that the proposed transaction is in the best interest of Continental and all of its securityholders, and that Continental's directors, after disclosure of the material facts and with Mr. Cox and Mr. Greene abstaining, voted unanimously to authorize the proposed purchase of Beaver shares. Applicants further state that the proposed investment by Continental is consistent with the policy of the Small Business Act of 1958 and with its own investment policy.

According to the application, at December 31, 1976, the shareholders' equity in Beaver amounted to $57.24 per share and at May 31, 1977, shareholders' equity in Beaver amounted to $55.62 per share. Applicants submit that, although the proposed offering price of Beaver stock of $52.50 per share is less than the book value of outstanding Beaver shares, the price equals the fair value of Beaver shares as determined by Continental's directors for purposes of Continental's 1976 annual report. Applicants further submit that: (1) Continental's participation in the proposed transaction will be on the same basis as that of Mr. Cox and Mr. Greene to the extent that each will pay the same price for Beaver shares; (2) Continental's purchase of 6,667 shares would maintain its proportionate interest in Beaver; (3) Continental deems it prudent to restrict its purchase to 6,667 shares because after the proposed transaction is consummated Continental's total investment in Beaver would constitute 9.9 percent of Continental's net worth and it desires to maintain adequate diversification; and (4) each believes the proposed transaction to be fair, in its best interest, and not less advantageous to it than to the other participants.

Notice is further given that any interested person may, not later than August 8, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the addresses stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-20822 Filed 7-19-77;8:45 am]

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[Release No. 9848; 811-1183]

## FIRST KANSAS FINANCIAL, INC.

### Filing of Application for an Order of Act Declaring That First Kansas Financial, Inc., Has Ceased To Be an Investment Company

JULY 14, 1977.

Notice is hereby given that First Kansas Financial, Inc. ("First Kansas"), 600 Bitting Building, 107 North Market, Wichita, Kansas 67202, a face-amount certificate company registered under the Investment Company Act of 1940 ("Act"), filed an application on May 31, 1977, and an amendment thereto on June 29, 1977, pursuant to Section 8(f) of the Act, for an order declaring that First Kansas has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

First Kansas, formerly named First Home Investment Corporation of Kansas, Inc., was incorporated in Kansas in 1961. It registered under the Act as a face-amount certificate company on November 8, 1962. First Kansas states that, on April 24, 1973, it filed a voluntary petition for Reorganization under Chapter X of the Bankruptcy in the United States District Court for the District of Kansas (the "Court"), and for the next three years First Kansas was operated under the jurisdiction of the Court and under control of a trustee appointed by the Court. First Kansas further represents that, on April 26, 1976, a Plan of Reorganization for it was confirmed by the Court. Prior to the commencement of such reorganization proceedings, First Kansas issued face-amount certificates, but First Kansas has not issued any face-amount certificates since March 31, 1973, nor will it in the future issue any additional face-amount certificates.

First Kansas entered into an Agreement and Plan of Reorganization (the "Agreement") with Central National Bancshares, Inc. ("Central"), dated March 15, 1977, which provides, among other things, that upon the occurrence of certain conditions, which include obtaining approval of regulatory agencies, the Court and the shareholders of both First Kansas and Central, First Kansas will be merged into Central. Immediately prior to the merger, First Kansas will cause its wholly owned subsidiary, FKF, Inc., an Iowa corporation, to assume all of First Kansas' obligations to the holders of its outstanding face-amount certificates and First Kansas will transfer to FKF, Inc., assets having an approximate aggregate value at least equal to the then aggregate amount of First Kansas' face-amount certificate reserves plus $250,000. FKF, Inc., was registered as an investment company under the Act on May 31, 1977, and upon consummation of the merger will perform all of the duties which First Kansas would have otherwise been obligated to perform with respect to the outstanding face-amount certificates. In addition, Central will



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continue to be liable to the holders of such face-amount certificates, although it is represented that the assets being transferred to FKF, Inc., immediately prior to the proposed merger should be sufficient to enable FKF, Inc., to satisfy all obligations to the certificate holders. Neither Central nor FKF, Inc., will issue any additional face-amount certificates.

First Kansas represents that Central is a bank holding company owning, exclusive of directors' qualifying shares, all or substantially all of the outstanding capital stock of four Iowa banks, and that upon consummation of the proposed merger, Central will use most of the assets of First Kansas to acquire additional commercial banks, to strengthen the capital of certain banks presently owned by Central, and, to a much lesser extent, to assist its mortgage banking operations. Accordingly, the application states that Central will not be an investment company within the meaning of the Act.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the effectiveness of such order, the registration of such company shall cease to be in effect. If necessary for the protection of investors, such an order may be made subject to appropriate conditions.

An order disposing of this matter will be issued upon notification, by amendment to the application, to the Commission by First Kansas or Central that the merger was consummated substantially in accordance with the Agreement and that the requisite assets have been transferred to FKF, Inc., unless a hearing should be ordered as described below.

Notice is further given that any interested person may, not later than August 8, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc 77-20823 Filed 7-19-77;8:45 am]

[Rel. No. 20110; 70-6029]

## SOUTHWESTERN ELECTRIC POWER CO.

### Proposed Credit Agreement Between Bank and Utility Company

JULY 14, 1977.

Notice is hereby given that Southwestern Electric Power Company ("SWEPCO"), P.O. Box 21106, Shreveport, Louisiana 71156, an electric utility subsidary of Central and South West Corporation, a registered holding company, has filed a declaration with this Commission, designating Sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("Act"), as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

SWEPCO states that it commenced commercial operation this spring of its first coal-fired generating unit, Unit No. 1 at Welsh Power Plant, near Casow, Texas ("Welsh"). Coal for Welsh comes from a mine in Wyoming and is supplied under a 25 year requirements contract. SWEPCO plans to maintain a coal inventory at Welsh equivalent to an average of 60 to 90 days' supply, about 500,000 tons. Coal is delivered by unit train, three times a week, and SWEPCO pays the supplier on the 15th of the month for one-half the estimated deliveries for that month and one-half the actual deliveries for the prior month and pays the rail carrier its freight charges upon delivery. At current prices, including freight, SWEPCO states that the coal inventory at Welsh will have an average value of approximately $7,000,000.

SWEPCO proposes to enter into a Credit Agreement (the "Agreement") with Bank of America National Trust and Savings Association (the "Bank") to provide a source for financing the coal for Welsh, including transportation charges paid to carriers but not any of the Company's internal costs, until the time the Company reasonably expects to collect from customers revenues reimbursing it for such fuel costs. The maximum amount of loans outstanding under the Agreement at any one time is limited to $5,000,000.

The Agreement extends to the Company an acceptance line of credit under which the Bank will accept drafts until June 30, 1978, to finance coal for Welsh. Drafts shall be equal in term to the time the Company estimates will be necessary for its to recover its costs from customers, which is expected to average 60 days. No draft shall exceed 270 days. Each draft will be accepted at its face amount less the Bank's then prevailing acceptance commission and cost of discounting. The effective interest rate on the acceptances will, including such commission and cost, be approximately 103 basis points over the prevailing certificate of deposit bid rate for equivalent maturities, depending on the cost of discounting fixed by the Federal Reserve System. The 60 day certificates of deposit rate quoted in the Wall Street Journal on June 27, 1977, was 5.30 percent, which would produce a cost of money to the Company of 6.33 percent. No compensating balances or indirect costs are involved. The Agreement also extends to the Company an "advance credit" in a maximum amount of $500,000, to permit it to borrow the amount of the Bank's discount and commission. The interest rate on this credit would be 120 percent of the Bank's prime rate for 90-day loans to substantial borrowers in effect on the date of the loan. The Company does not expect to use this credit in normal operation. The prime rate of 6.50 percent to 6.75 percent would result in an effective interest cost to SWEPCO of 7.80 percent to 8.10 percent.

The Bank will enjoy a security interest in the coal financed under the Agreement. SWEPCO states its intention, if permitted by the applicable regulatory agencies, to include the financing costs under the Agreement as a component in its fuel costs under fuel adjustment clauses in its rates.

It is stated that no state commission and no federal commission, other than this Commission, has any jurisdiction with respect to the proposed transaction. It is stated that fees and expenses to be incurred in connection with the proposed transaction are estimated at $5,500, including a total of $2,000 in legal fees.

Notice is further given that any interested person may, not later than August 8, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, and reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.





For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-20824 Filed 7-19-77;8:45 am]

## SMALL BUSINESS ADMINISTRATION

### CALIFORNIA

[Declaration of Disaster Loan Area No. 1292; Amdt. 3]

### Declaration of Disaster Loan Area

The above numbered Declaration (See 42 FR 11301), amendment No. 1 (See 42 FR 21339), and amendment No. 2 (See 42 FR 32864), are amended by adding Sutter and Tulare Counties and adjacent counties within the State of California. All other information remains the same.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: July 13, 1977.

A. VERNON WEAVER,
*Administrator.*

[FR Doc.77-20774 Filed 7-19-77;8:45 am]

[License No. 05/05-0119]

## CERTCO CAPITAL CORP.

### Issuance of a Small Business Investment Company License

On June 2, 1977, a notice was published in the FEDERAL REGISTER (42 FR 28197) stating that an application had been filed by Certco Capital Corporation, 6150 McKee Road, Madison 53707, with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1977)) for a license as a small business investment company.

Interested parties were given until close of business June 17, 1977, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05-0119 on June 27, 1977, to Certco Capital Corporation, to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011 of Small Business Investment Companies)

Dated: July 13, 1977.

PETER F. MCNEISH,
*Deputy Associate Administrator for Investment.*

[FR Doc.77-20773 Filed 7-19-77;8:45 am]

## EXCELSIOR CAPITAL CORP.

[LICENSE NO. 02/02-0246]

### Surrender of License

Notice is hereby given that, pursuant to § 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies, (13 CFR 107.105), Excelsior Capital Corporation, 768 Fifth Avenue, New York, New York 10019, incorporated under the laws of the State of New York has surrendered its license No. 02/02-0247 issued by the SBA on March 3, 1964.

Excelsior Capital Corporation has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above cited Regulations, the license of Excelsior Capital Corporation is hereby accepted and it is no longer licensed to operate as a small business investment company.

(Catalogue of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: July 13, 1977.

PETER F. MCNEISH,
*Deputy Associate Administrator for Investment.*

[FR Doc.77-20772 Filed 7-19-77;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[No. 439]

### ASSIGNMENT OF HEARINGS

JULY 15, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

AB 12 (Sub-No. 35), Southern Pacific Transportation Co. Abandonment between Susanville and Westwood in Lassen County, California, now assigned September 18, 1977, is postponed to September 19, 1977 (1 week), at Susanville, California, in a hearing room to be later designated.

H. G. HOMME, JR.,
*Acting Secretary.*

[FR Doc.77-20879 Filed 7-19-77;8:45 am]

## IRREGULAR ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

JULY 15, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before August 1, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 1872 (Sub-No. E10), filed June 4, 1974. Applicant: ASHWORTH TRANSFER, INC., 1526 South 700 West Street, Salt Lake City, Utah 84104. Applicant's representative: Richard P. Kissinger, P.O. Box 17B, Denver, Colo. 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' supplies* which are related to commodities, the transportation of which because of size or weight require the use of special equipment, when their transportation is incidental to the transportation of such commodities (except liquid products, in bulk, in tank vehicles), (1) between points in Oregon, on the one hand, and, on the other, points in Nebraska, Kansas, Missouri, Iowa, Colorado, Wyoming, and points in South Dakota on and south of U.S. Highway 212 (points in Utah and Sweetwater or Uinta Counties, Wyo.);* (2) between points in Washington, on the one hand, and, on the other, points in Nebraska on and south of a line beginning at the Nebraska-Wyoming state line and extending along U.S. Highway 26 to junction U.S. Highway 385, thence along U.S. Highway 385 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to junction Nebraska Highway 91, thence along Nebraska Highway 91 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 275, thence along U.S. Highway 275 to junction Nebraska Highway 51, thence along Nebraska Highway 51 to Nebraska-Iowa state line, points in Kansas and Missouri, points in Iowa on and south of a line beginning at the Iowa-Nebraska state line and extending along Iowa Highway 175 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa Highway 57, thence along Iowa Highway 57 to junction U.S. Highway 20, thence along U.S. Highway 20 to Iowa-Illinois state line, and points in Colorado (points in Utah and Sweetwater or Uinta Counties, Wyo.);*

(3) Between points in Washington on and west of a line beginning at the United States-Canada international boundary and extending along Interstate Highway 5 to junction Washington Highway 410, thence along Washington Highway 410 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction Wash-



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ington Highway 125, thence along Washington Highway 125 to the Washington-Oregon state line, on the one hand, and, on the other, points in Wyoming on, south, and east of a line beginning at the Wyoming-Idaho state line and extending along Wyoming Highway 89 to junction U.S. Highway 30N, thence along U.S. Highway 30N to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 187, thence along U.S. Highway 187 to junction Wyoming Highway 28, thence along Wyoming Highway 28 to junction Wyoming Highway 789, thence along Wyoming Highway 789 to junction U.S. Highway 26, thence along U.S. Highway 26 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction Wyoming Highway 387, thence along Wyoming Highway 387 to junction Wyoming Highway 59, thence along Wyoming Highway 59 to junction U.S. Highway 16, thence along U.S. Highway 16 to the Wyoming-South Dakota state line (points in Utah and Sweetwater or Uinta Counties, Wyoming);* (4) between points in Washington on, west and south of a line beginning at the United States-Canada international boundary and extending along Interstate Highway 5 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction Interstate Highway 82, thence along Interstate Highway 82 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction Washington Highway 125, thence along Washington Highway 125 to the Washington-Oregon state line, on the one hand, and, on the other, points in South Dakota on and south of a line beginning at the South Dakota-Wyoming state line and extending along U.S. Highway 18 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction U.S. Highway 281, thence along U.S. Highway 281 to junction U.S. Highway 14, thence along U.S. Highway 14 to the South Dakota-Minnesota state line (points in Utah and Sweetwater or Uinta Counties, Wyo.).* The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 1872 (Sub-No. E11), filed June 4, 1974. Applicant: ASHWORTH TRANSFER, INC., 1526 South 700 West Street, Salt Lake City, Utah 84104. Applicant's representative: Richard P. Kissinger, P.O. Box 17B, Denver, Colo. 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' material and supplies* which are related to commodities the transportation of which because of size or weight require the use of special equipment, when their transportation is incidental to the transportation of such commodities (except petroleum products, in bulk, in tank vehicles, and Class A and B explosives), between points in Oregon and Washington, on the one hand, and, on the other, points in Coconino County, Ariz., on and north of an east-west line extending through the Gap, Ariz. The purpose of this filing is to eliminate the gateway of points in Utah.

No. MC 1872 (Sub-No. E12), filed June 4, 1974. Applicant: ASHWORTH TRANSFER, INC., 1526 South 700 West Street, Salt Lake City, Utah 84104. Applicant's representative: Richard P. Kissinger, P.O. Box 17B, Denver, Colo. 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Explosives*, (1) between points in Arizona, on the one hand, and, on the other, points in Idaho, south of the Salmon River, and points in Lincoln, Teton, Sublette, and Uinta Counties, Wyo. (points in Utah within 50 miles of Salt Lake City, Utah);* (2) between points in Arizona on and east of a line beginning at the Arizona-Utah state line and extending along U.S. Highway 89 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction Arizona Highway 77, thence along Arizona Highway 77 to junction Arizona Highway 173, thence along Arizona Highway 173 to junction Arizona Highway 73, thence along Arizona Highway 73 to junction Arizona Highway 273, thence along Arizona Highway 273 to junction U.S. Highway 666, thence along U.S. Highway 666 to the United States-Mexico international boundary, on the one hand, and, on the other, points in Nevada on and north of a line beginning at the Nevada-Oregon state line and extending along Nevada Highway 140 to junction U.S. Highway 95, thence along U.S. Highway 95 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Nevada-Utah state line (points in Utah within 50 miles of Salt Lake City, Utah);* (3) between points in Colorado, on the one hand, and, on the other, points in Idaho south of the Salmon River (points in Utah within 50 miles of Salt Lake City, Utah);* (4) between points in Colorado on and south of U.S. Highway 50, on the one hand, and, on the other, points in Lincoln, Teton, Sublette, and Uinta Counties, Wyo. (points in Utah within 50 miles of Salt Lake City Utah);* (5) between points in Colorado, on the one hand, and, on the other, points in Nevada on and north of a line beginning at the Nevada-California state line and extending along U.S. Highway 6 to junction Nevada Highway 25, thence along Nevada Highway 25 to junction U.S. Highway 93, thence along U.S. Highway 93 to junction Nevada Highway 25, thence along Nevada Highway 25 to the Nevada-Utah state line (points in Utah within 50 miles of Salt Lake City, Utah)*;

(6) Between points in Colorado on, north, and east of a line beginning at the Colorado-Utah state line and extending along U.S. Highway 6 to junction U.S. Highway 285, thence along U.S. Highway 285 to the Colorado-New Mexico state line, on the one hand, and, on the other, points in Nevada (points in Utah within 50 miles of Salt Lake City, Utah);* (7) between points in New Mexico on and north of a line beginning at the New Mexico-Colorado state line and extending along Interstate Highway 25 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction New Mexico Highway 38, thence along New Mexico Highway 38 to junction New Mexico Highway 3, thence along New Mexico Highway 3 to junction New Mexico Highway 111, thence along New Mexico Highway 111 to junction New Mexico Highway 553, thence along New Mexico Highway 553 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction New Mexico Highway 17, thence along New Mexico Highway 17 to junction U.S. Highway 550, thence along U.S. Highway 550 to junction New Mexico Highway 504, thence along New Mexico Highway 504 to the New Mexico-Arizona state line, on the one hand, and, on the other, points in Arizona on and west of a line beginning at the Arizona-Utah state line and extending along U.S. Highway 89 to junction Interstate Highway 17, thence along Interstate Highway 17 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction Arizona Highway 85, thence along Arizona Highway 85 to the United States-Mexico international boundary (Utah);* (8) between points in New Mexico on and south of a line beginning at the Arizona-New Mexico state line and extending along Interstate Highway 40 to junction New Mexico Highway 32, thence along New Mexico Highway 32 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction U.S. Highway 380, thence along U.S. Highway 380 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction U.S. Highway 82, thence along U.S. Highway 82 to the New Mexico-Texas state line, on the one hand, and, on the other, points in Colorado on and west of a line beginning at the Colorado-Wyoming state line and extending along Colorado Highway 13 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Colorado-Utah state line (Utah);*

(9) Between points in New Mexico, on the one hand, and, on the other, points in Nevada on and north of a line beginning at the Nevada-California state line and extending along U.S. Highway 50 to the Nevada-Utah state line (Utah);* (10) between points in New Mexico on, west, and south of a line beginning at the New Mexico-Colorado state line and extending along New Mexico Highway 3 to junction New Mexico Highway 104, thence along New Mexico Highway 104 to junction U.S. Highway 66, thence along U.S. Highway 66 to the New Mexico-Texas state line, on the one hand, and, on the other, points in Montana on and west of a line beginning at the United States-Canada international boundary and extending along Montana Highway 233 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction Montana Highway 236, thence along Montana Highway 236 to junction U.S. Highway 191, thence along U.S. Highway 191 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Montana-Wyoming state line (Utah);* (11) between points in New Mexico on and west of a line beginning at the New Mexico-Colorado state line and extending along U.S. Highway 285 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction U.S. Highway 87, thence along U.S. Highway 87 to the New Mexico-Texas state line, on the one hand, and, on the other, points in Wyoming on and west of a line beginning at the Wyoming-Montana state line and extending along U.S. Highway 310 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Wyoming Highway 789, thence along Wyoming Highway 789 to junction Wyoming Highway 28, thence along Wyoming Highway 28 to junction U.S. Highway 187, thence along U.S. Highway 187 to junction Wyoming Highway 430, thence along Wyoming Highway 430 to the Wyoming-Colorado state line (Utah);* (12) between points in New Mexico, on the one hand, and, on the other, points in Idaho (Utah);*

(13) Between points in Montana on, north and east of a line beginning at the Montana-Idaho state line and extending along U.S. Highway 12 to junction U.S. Highway 93, thence along U.S. Highway 93 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction Montana Highway 200, thence along Montana Highway 200 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction Interstate Highway 15, thence along Interstate Highway 15 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Montana-Wyoming state line, on the one hand, and, on the other, points in Lincoln and Uinta Counties, Wyo., on and south of a line beginning at the Wyoming-Utah state line and extending along Wyoming Highway 89 to junction U.S. Highway 30N, thence along U.S. Highway 30N to the Uinta-Sweetwater County line (points in Utah within 50 miles of Salt Lake City, Utah);* (14) between points in Montana on and east of a line beginning at the United States-Canada international boundary and extending along U.S. Highway 89 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 91, thence along U.S. Highway 91 to the Montana-Idaho state line, on the one hand, and, on the other, points in Nevada on and south of a line beginning at the Nevada-California state line and extending along Interstate Highway 80 to junction U.S. Highway Alternate 95, thence along U.S. Highway Alternate 95 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Nevada-Utah state line (points in Utah within 50 miles of Salt Lake City, Utah);* (15) between points in Nevada on and south of U.S. Highway 6, on the one hand, and, on the other, points in Idaho on and east of a line beginning at the Idaho-Montana state line and extending along U.S. Highway 93 to junction U.S. Highway Alternate 93, thence along U.S. Highway Alternate 93 to junction U.S. Highway 26, thence along U.S. Highway 26 to junction Interstate Highway 15, thence along Interstate Highway 15 to junction U.S. Highway 191, thence along U.S. Highway 191 to the Idaho-Montana state line (points in Utah within 50 miles of Salt Lake City, Utah);*





(16) Between points in Nevada, on the one hand, and, on the other, points in Wyoming (points in Utah within 50 miles of Salt Lake City, Utah);* (17) between points in Wyoming on and east of a line beginning at the Wyoming-Montana state line and extending along U.S. Highway 310 to junction Wyoming Highway 114, thence along Wyoming Highway 114 to junction U.S. Highway Alternate 14, thence along U.S. Highway Alternate 14 to junction Wyoming Highway 120, thence along Wyoming Highway 120 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 26, thence along U.S. Highway 26 to junction Wyoming Highway 135, thence along Wyoming Highway 135 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Wyoming Highway 789, thence along Wyoming Highway 789 to the Wyoming-Colorado state line, on the one hand, and, on the other, points in Idaho on and south of a line beginning at the Idaho-Oregon state line and extending along Interstate Highway 80N to junction Interstate Highway 15W, thence along Interstate Highway 15W to junction Interstate Highway 15, thence along Interstate Highway 15 to junction U.S. Highway 191, thence along U.S. Highway 191 to the Idaho-Utah state line (points in Utah within 50 miles of Salt Lake City, Utah);* (18) between points in Lincoln and Uinta Counties, Wyo., on and south of a line beginning at the Wyoming-Utah state line and extending along Wyoming Highway 89 to junction U.S. Highway 30N, thence along U.S. Highway 30N to the Uinta-Sweetwater County line, on the one hand, and, on the other, points in Idaho north of the Salmon River (points in Utah within 50 miles of Salt Lake City, Utah).* The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 1872 (Sub-No. E15), filed June 4, 1974. Applicant: ASHWORTH TRANSFER, INC., 1526 South 700 West Street, Salt Lake City, Utah 84104. Applicant's representative: Richard P. Kissinger, P.O. Box 17B, Denver, Colo. 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such mining equipment and supplies* which are contractors' equipment and supplies (except liquid products, in bulk, in tank vehicles), (1) between points in Idaho south of the Salmon River, on the one hand, and, on the other, points in Wyoming on and south of Interstate Highway 80, points in Iowa, Kansas, Missouri, and points in Nebraska on, east, and south of a line beginning at the Nebraska-South Dakota state line and extending along U.S. Highway 183 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Nebraska Highway 7, thence along Nebraska Highway 7 to junction Nebraska Highway 91, thence along Nebraska Highway 91 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to junction U.S. Highway 385, thence along U.S. Highway 385 to junction U.S. Highway 26, thence along U.S. Highway 26 to the Nebraska-Wyoming state line (points in Utah within 50 miles of Salt Lake City, Utah and Sweetwater or Uinta Counties, Wyoming);* (2) between points in Idaho on and south of Interstate Highway 80N, on the one hand, and, on the other, points in South Dakota on, east, and south of a line beginning at the South Dakota-North Dakota state line and extending along South Dakota Highway 65 to junction U.S. Highway 212, thence along U.S. Highway 212 to the South Dakota-Wyoming state line (points in Utah within 50 miles of Salt Lake City, Utah and Sweetwater or Uinta Counties, Wyo.);* (3) between points in Idaho on and south of a line beginning at the Idaho-Oregon state line and extending along Interstate Highway 80N to junction Interstate Highway 15W, thence along Interstate Highway 15W to junction U.S. Highway 26, thence along U.S. Highway 26 to the Idaho-Wyoming state line, on the one hand, and, on the other, points in South Dakota on, south, and east of a line beginning at the South Dakota-Minnesota state line and extending along U.S. Highway 212 to junction U.S. Highway 83, thence along U.S. Highway 83 to the South Dakota-Nebraska state line (points in Utah within 50 miles of Salt Lake City, Utah and Sweetwater or Uinta Counties, Wyo.);*

(4) Between points in Nevada, on the one hand, and, on the other, points in South Dakota, points in Colorado on, north, and east of a line beginning at the Colorado-Wyoming state line and extending along Colorado Highway 789 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Colorado-Kansas state line, points in Wyoming and Iowa, points in Kansas on and north of a line beginning at the Kansas-Colorado state line and extending along U.S. Highway 50 to junction U.S. Highway 154, thence along U.S. Highway 154, to junction U.S. Highway 54, thence along U.S. Highway 54 to junction Kansas Highway 96, thence along Kansas Highway 96 the junction Kansas Highway 39, thence along Kansas Highway 39 to junction Kansas Highway 7, thence along Kansas Highway 7 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 54, thence along U.S. Highway 54 to the Kansas-Missouri state line, and points in Missouri and Nebraska (points in Utah within 50 miles of Salt Lake City, Utah and Sweetwater or Uinta Counties, Wyo.);* (5) between points in Nevada on and north of a line beginning at the Nevada-California state line and extending along U.S. Highway 50 to junction Nevada Highway 8A, thence along Nevada Highway 8A to junction U.S. Highway 40, thence along U.S. Highway 40 to the Nevada-Utah state line, on the one hand, and, on the other, points in Colorado on, north, and east of a line beginning at the Colorado-Utah state line and extending along U.S. Highway



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40 to junction Colorado Highway 789, thence along Colorado Highway 789 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Colorado Highway 82, thence along Colorado Highway 82 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 285, thence along U.S. Highway 285 to the Colorado-New Mexico state line (points in Utah within 50 miles of Salt Lake City, Utah and Sweetwater or Uinta Counties, Wyo.);* (6) between points in Nevada on and north of U.S. Highway 6, on the one hand, and, on the other, points in Kansas (points in Utah within 50 miles of Salt Lake City, Utah and Sweetwater or Uinta Counties, Wyo.).* The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 1872 (Sub-No. E16), filed June 4, 1974. Applicant: ASHWORTH TRANSFER, INC., 1526 South 700 West Street, Salt Lake City, Utah 84104. Applicant's representative: Richard P. Kissinger, P.O. Box 17B, Denver, Colo. 80217. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Such mining equipment and supplies* which are contractors' equipment and supplies (except petroleum products, in bulk, in tank vehicles, and Class A and B explosives), (1) between points in Nevada on, north, and east of a line beginning at the Nevada-Oregon state line and extending along U.S. Highway 95 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Nevada-Utah state line, on the one hand, and, on the other, points in Coconino County, Ariz., north of a line beginning at the Arizona-Utah state line and extending along U.S. Highway Alternate 89 to junction U.S. Highway 89, thence along U.S. Highway 89 to the Arizona-Utah state line (points in Utah within 50 miles of Salt Lake City, Utah);* (2) between points in Idaho south of the Salmon River, on the one hand, and, on the other, points in Coconino County, Ariz., north of an east-west line extending through the Gap, Ariz. (points in Utah within 50 miles of Salt Lake City, Utah).* The purpose of this filing is to eliminate the gateways indicated by an asterisk above.

No. MC 2607 (Sub-No. E14), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 N. Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036.

Authority sought to operate as a *common carrier*, by motor vheicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Maine, on the one hand, and, on the other, points in New Jersey on and south of a line beginning at Trenton, N.J., thence along U.S. Highway 206 to junction New Jersey Highway 524, thence along New Jersey Highway 524 to Allentown, N.J., thence along New Jersey Highway 526 to junction New Jersey Highway 549, thence along New Jersey Highway 549 to junction New Jersey Highway 88, thence along New Jersey Highway 88 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Camden, N.J.

No. MC 2607 (Sub-No. E31), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 North Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New Jersey, on the one hand, and, on the other, points in Kentucky on and west of a line beginning at the Indiana-Kentucky state line, thence along U.S. Highway 431 to Central City, Ky., thence along U.S. Highway 62 to junction Kentucky Highway 171, thence along Kentucky Highway 171 to Kirkmonsville, Ky., thence along Kentucky Highway 107 to junction U.S. Alt. Highway 41, thence along U.S. Alt. Highway 41 to the Tennessee-Kentucky state line. The purpose of this filing is to eliminate the gateways of Camden, N.J., and Clark County, Ill.

No. MC 2607 (Sub-No. E33), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 North Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, between points in New Jersey, on the one hand, and, on the other, points in Tennessee on and west of a line beginning at South Fulton, Tenn., thence along U.S. Highway 45E to Jackson, Tenn., thence along U.S. Highway 45 to the Alabama-Tennessee state line. The purpose of this filing is to eliminate the gateways of Camden, N.J., and points in Macon County, Ill.

No. MC 2607 (Sub-No. E40), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 North Dupont Hwy., Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, between points in New York on and north and west of a line beginning at the Pennsylvania-New York state line, thence along New York Highway 17 to Deposit, N.Y., thence along New York Highway 8 to junction New York Highway 7, thence along New York Highway 7 to junction New York Highway 28, thence along New York Highway 28 to junction New York Highway 8 at Poland, N.Y., thence along New York Highway 8 to junction U.S. Highway 9, thence along U.S. Highway 9 to the Canadian Border, on the one hand, and, on the other, points in New Jersey on and south and west of a line beginning at Trenton, N.J., thence along New Jersey Highway 33 to junction New Jersey Highway 526, thence along New Jersey Highway 526 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Camden, N.J.

No. MC 61825 (Sub-No. E656), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Construction materials, machinery, mine supplies, glassware, paper products, and hardware*, except commodities in bulk, those of unusual value, class A and B explosives, household goods, as defined by the Commission, and commodities requiring special equipment: (A) Between points in Allegheny, Fayette, Somerset, and Washington Counties, Pa., and those points in Bedford County, Pa., within 125 miles of Wellsburg, W. Va., on the one hand, and, on the other, points in Carroll, Columbiana, and Harrison Counties, Ohio, and those points in Mahoning, Stark, Monroe, Tuscarawas, Guernsey, Noble, and Portage Counties, Ohio, within 50 miles of Steubenville, Ohio. (B) Between points in Carroll, Columbiana, and Harrison Counties, Ohio, and those points in Mahoning, Stark, Monroe, Tuscarawas, Guernsey, Noble, and Portage Counties, within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in Allegheny, Fayette, Somerset, and Washington Counties, Pa., and those points in Bedford County, Pa., within 125 miles of Wellsburg, W. Va. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va. (in the Steubenville, Ohio Commercial Zone).

No. MC 61825 (Sub-No. E717), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, machinery, mine supplies, glassware, paper products, and hardware*, except commodities in bulk, those of unusual value, class A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment: (A) Between points in Knox County, and those points in Marion and Morrow Counties, Ohio, within 125 miles of Wellsburg, W. Va., on the one hand, and, on the other, those points in Virginia bounded by a line beginning at the Virginia-North Carolina State line, thence west along the Virginia-North Carolina State line to junction U.S. Highway 29, thence north along U.S. Highway 29 to junction Virginia Highway 56, thence along Virginia Highway 56 to junction U.S. Highway 60, thence east along U.S. Highway 60 to junction Interstate Highway 64, thence along Interstate Highway 64 to junction Virginia Highway 249, thence along Virginia Highway 249 to junction Virginia Highway 33, thence east along Virginia Highway 33 to the Chesapeake Bay, thence south along the Chesapeake Bay and the Atlantic Ocean to the point of beginning; including all points on the routes shown. (B) Between those points in Virginia bounded by a line beginning at the Virginia-North Carolina State line, thence west along the Virginia-North Carolina State line to junction U.S. Highway 29, thence north along U.S. Highway 29 to junction Virginia Highway 56, thence along Virginia Highway 56 to junction U.S. Highway 60, thence east along U.S. Highway 60 to junction Interstate Highway 64, thence along Interstate Highway 64 to junction Virginia Highway 249, thence along Virginia Highway 249 to junction Virginia Highway 33, thence east along Virginia Highway 33 to the Chesapeake Bay, thence south along the Chesapeake Bay and the Atlantic Ocean to the point of beginning; including all points on the routes shown. (B) Between those points in Virginia bounded by a line beginning at the Virginia-North Carolina State line, thence west along the Virginia-North Carolina State line to junction U.S. Highway 29, thence north along U.S. Highway 29 to junction Virginia Highway 56, thence along Virginia Highway 56 to junction U.S. Highway 60, thence east along U.S. Highway 60 to junction Interstate Highway 64, thence along Interstate Highway 64 to junction Virginia Highway 249, thence along Virginia Highway 249 to junction Virginia Highway 33, thence east along Virginia Highway 33 to the Chesapeake Bay, thence south along the Chesapeake Bay and the Atlantic Ocean to the point of beginning; including all points on the routes shown, on the one hand, and, on the other, points in Knox County, and those points in Marion and Morrow Counties, Ohio, within 125 miles of Wellsburg, W. Va. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E720), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, machinery, mine supplies, glassware, paper products, and hardware*, except commodities in bulk, those of unusual value. Class A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment: (A) Between points in Ashland, Cuyahoga, Holmes, Lorain, Medina, Richland, Summit, and Wayne Counties, Ohio, and those points in Crawford, Erie, and Huron Counties, W. Va., within 125 miles of Wellsburg, W. Va., on the one hand, and, on the other, points in Virginia on and west of a line beginning at the Virginia-North Carolina State line, and extending along U.S. Highway 220, thence north along U.S. Highway 220 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction Virginia Highway 56, thence along Virginia Highway 56 to junction U.S. Highway 60 to junction Interstate Highway 64, thence along Interstate Highway 64 to junction Virginia Highway 33, thence along Virginia Highway 33 to the Chesapeake Bay, thence south along the Chesapeake Bay and the Atlantic Ocean to point of beginning; including all points on the routes shown. (B) Between points in Virginia on and west of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 220, thence north along U.S. Highway 220 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction Virginia Highway 56, thence along Virginia Highway 56 to junction U.S. Highway 60, thence east along U.S. Highway 60 to junction Interstate Highway 64, thence along Interstate Highway 64 to junction Virginia Highway 33, thence along Virginia Highway 33 to the Chesapeake Bay, thence south along the Chesapeake Bay and the Atlantic Ocean to the point of beginning; including all points on the routes shown, on the one hand, and, on the other, points in Ashland, Cuyahoga, Holmes, Lorain, Medina, Richland, Summit, and Wayne Counties, Ohio, and those points in Crawford, Erie, and Huron Counties, Ohio, within 125 miles of Wellsburg, W. Va. The purpose of this filing is to eliminate the gateways of: (A) Coketown, Brooke County, W. Va., and Lynchburg, Va.; (B) Lynchburg, Va., and Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E961), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry I. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor carrier, over irregular routes, transporting: *Suah iron and steel articles as are used as construction materials:* (A) Between points in Delaware, Franklin, Knox, Licking, Marion, and Morrow Counties, Ohio, on the one hand, and, on the other, points in Berkeley, Brooke, Grant, Hampshire, Hardy, Hancock, Jefferson, Mineral, Morgan, and Pendleton Counties, West Virginia; (B) between points in Berkeley, Brooke, Grant, Hampshire, Hardy, Hancock, Jefferson, Mineral, Morgan, and Pendleton Counties, West Virginia, on the one hand, and, on the other, points in Delaware, Franklin, Knox, Licking, Marion, and Morrow Counties, Ohio. The purpose of this filing is to eliminate the gateways of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E962), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP. P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry I. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials:* (A) Between points in Hancock and Brooke Counties, W. Va., on the one hand, and, on the other, points in Ohio except points in Belmont, Carroll, Columbiana, Harrison, Jefferson, Mahoning, Monroe, Portage, and Trumbull Counties; (B) between points in Ohio except points in Belmont, Columbiana, Carroll, Harrison, Jefferson, Mahoning, Monroe, Portage, and Trumbull, on the one hand, and, on the other, points in Hancock and Brooke Counties, W. Va. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E963), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry I. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials:* (A) Between points in Marshall and Ohio Counties, W. Va., on the one hand, and, on the other, points in Ohio except in Athens, Belmont, Fairfield, Fayette, Franklin, Gallia, Guernsey, Hocking, Lawrence, Licking, Jackson, Madison, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pickaway, Pike, Ross, Vinton, and Washington Counties; (B) between points in Ohio except points in Athens, Belmont, Fairfield, Fayette, Franklin, Gallia, Guernsey, Hocking, Lawrence, Licking, Jackson, Madison, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pickaway, Pike, Ross, Vinton, and Washington Counties, on the one hand, and, on the other, points in Marshall and Ohio Counties, W. Va. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E964), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry I. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel* articles as are used as construction materials: (A) Between points in Barbour, Doddridge, Harrison, Lewis, Tyler, Upshur, and Wetzel Counties, W. Va., and those points in Pocahontas, Randolph, and Webster Counties, W. Va., within 125 miles of Wellsburg, W. Va., on the one hand, and, on the other, points in Allen, Ashland, Ashtabula, Auglaize, Columbiana, Crawford, Cuyahoga, Defiance, Erie, Fulton, Geauga, Hancock, Hardin, Henry, Juron, Lake, Lorain, Lucas, Mahoning, Marion, Medina, Mercer, Morrow, Ottowa, Paulding, Portage, Putnam, Richland, Sandusky, Seneca, Stark, Summit, Trumbull, Van Wert, Wayne, Williams, Wood and Wyandot Counties, Ohio; (B) between points in Allen, Ashland, Ashtabula, Auglaize, Columbiana, Crawford, Cuyahoga, Defiance, Erie Fulton, Geauga, Hancock, Hardin, Henry, Huron, Lake, Lorain, Lucas, Mahoning, Marion, Medina, Mercer, Morrow, Ottowa, Paulding, Portage, Putnam, Richland, Sandusky, Seneca, Stark, Summit, Trumbull, Van Wert, Wayne, Williams, Wood, Wyandot Counties, Ohio, on the one hand, and, on the other, points in Barbour, Doddridge, Harrison, Lewis, Tyler, Upshur, and Wetzel Counties, W. Va., and those points in Pocahontas, Randolph, and Webster Counties, W. Va., within 125 miles of Wellsburg, W. Va. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.







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No. MC 61825 (Sub-No. E977), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, (A) Between points in Grant, Marion, Mineral, Monongalia, Taylor, Tucker, and Preston Counties, W. Va., and those points in Hampshire, Hardy and Pendleton Counties, W. Va., within 125 miles of Wellsburg, W. Va., on the one hand, and, on the other, points in Ohio, except points in Athens, Belmont, Fairfield, Gallia, Guernsey, Hocking, Jackson, Lawrence, Licking, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Vinton, and Washington Counties. (B) Between points in Ohio except points in Athens, Belmont, Fairfield, Gallia, Guernsey, Hocking, Jackson, Lawrence, Licking, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Vinton and Washington Counties, W. Va., and those points in Hampshire, Hardy, and Pendleton Counties, W. Va., within 125 miles of Wellsburg, W. Va. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E978), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, (A) Between points in Braxton, Calhoun, Gilmer, Pleasants, and Ritchie Counties, W. Va., and those points in Clay and Nicholas Counties, W. Va., within 125 miles of Wellsburg, W. Va., on the one hand, and, on the other, points in Ashtabula, Carroll, Columbiana, Defiance, Erie, Fulton, Geauga, Harrison, Henry, Huron, Jefferson, Lake, Lorain, Lucas, Mahoning, Medina, Ottowa, Portage, Sandusky, Seneca, Stark, Summit, Trumbull, Williams and Wood Counties, Ohio. (B) Between points in Ashtabula, Carroll, Columbiana, Defiance, Erie, Fulton, Geauga, Harrison, Henry, Huron, Jefferson, Lake, Lorain, Lucas, Mahoning, Medina, Ottowa, Portage, Sandusky, Seneca, Stark, Summit, Trumbull, Williams and Wood Counties, Ohio, on the one hand, and, on the other, points in Braxton, Calhoun, Gilmer, Pleasants, and Ritchie Counties, W. Va., and those points in Clay and Nicholas Counties, W. Va., within 125 miles of Wellsburg, W. Va. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E979), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, (A) Between points in Jackson and Mason Counties, within 125 miles of Wellsburg, W. Va., and points in Roane, Wirt and Wood Counties, W. Va., on the one hand, and, on the other, points in Ashtabula, Columbiana, Cuyahoga, Geauga, Lake, Mahoning, Portage, Summit and Trumbull Counties, Ohio. (B) Between points in Ashtabula, Columbiana, Cuyahoga, Geauga, Lake, Mahoning, Portage, Summit, and Trumbull Counties, Ohio, on the one hand, and, on the other, those points in Jackson, and Mason Counties, Ohio, within 125 miles of Wellsburg, W. Va., and point in Roane, Wirt and Wood Counties, W. Va. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E980), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, (A) Between points in Barbour, Brooke, Braxton, Calhoun, Doddridge, Gilmer, Hancock, Harrison, Lewis, Marion, Marshall, Mongalia, Ohio, Pleasants, Ritchie, Taylor, Tyler, Upshur, Wetzel, Wirt, and Wood Counties, W. Va., and those points in Clay, Jackson, Mason, Nicholas, Pocahontas, Randolph, Roane, and Webster Counties, W. Va., within 125 miles of Wellsburg, W. Va., on the one hand, and, on the other, points in New York. (B) Between points in New York, on the one hand, and, on the other, points in Barbour, Brooke, Braxton, Calhoun, Doddridge, Gilmer, Hancock, Harrison, Lewis, Marion, Marshall, Mongongalia, Ohio, Pleasants, Ritchie, Taylor, Tyler, Upshur, Wetzel, Wirt and Wood Counties, W. Va., and those points in Clay, Jackson, Mason, Nicholas, Pocahontas, Randolph, and Webster Counties, W. Va., within 125 miles of Wellsburg, W. Va. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 108676 (Sub-No. E8), filed June 4, 1974. Applicant: A. J. METLER HAULING & RIGGING, 117 Chicamauga Avenue, Knoxville, Tennessee 37917. Applicant's representative: A. J. Metler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (Part I Sec. L) *Iron and steel articles*, consisting of *contractors' equipment and coal and coke mining equipment; Iron and steel articles*, consisting of *construction equipment, and parts, accessories and attachments* therefor (not including contactors' equipment), *maintenance equipment, and parts, accessories and attachments*, therefor (not including contractors' equipment), *power distribution equipment, and parts, accessories and attachments* therefor (not including contractors' equipment), and *plant equipment, and parts, accessories and attachments* therefor (not including contractors' equipment), *Iron and steel articles*, consisting of *contractors' equipment and coal and coke mining equipment; Iron and steel articles*, consisting of *construction equipment, and parts, accessories and attachments*, therefor (not including contractors' equipment), *maintenance equipment, and parts, accessories and attachments*, therefor (not including contractors' equipment), *power distribution equipment, and parts, accessories and attachments* therefor (not including contractors' equipment), and *plant equipment, and parts, accessories and attachments* therefor (not including contractors' equipment). *Iron and steel articles*, consisting of *signs, sign poles and parts and accessories*. (1) Between points in South Carolina located in Jasper, Hampton, Colleton, Dorchester, Charleston, and Beaufort Counties, on the one hand, and, on the other, points in Kentucky. (2) Between points in South Carolina located in or south of Oconee, Anderson, Abbeville, Greenwood, Saluda, Lexington, Richland, Calhoun, Orangeburg, Dorchester, and Charleston Counties, on the one hand, and, on the other, points in Kentucky located in or west of Boyd, Carter, Elliott, Morgan, Wolfe, Breathitt, Owsley, Clay, and Bell Counties. (3) Between points in South Carolina, on the one hand, and, on the other, points in Kentucky located in or west of Mason, Robertson, Nicholas, Bourbon, Fayette, Madison, Rock Castle, Laurel, Knox, and Bell Counties. The purpose of this filing is to eliminate the gateway of Knoxville, Tenn.

No. MC 108676 (Sub-No. E9), filed June 4, 1974. Applicant: A. J. METLER HAULING & RIGGING, 117 Chicamauga Avenue, Knoxville, Tennessee 37917. Applicant's representative: A. J. Metler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, consisting of *contractors' equipment* and *coal and coke mining equipment; Iron and steel articles*, consisting of *construction equipment*, and *parts, accessories* and *attachments* therefor (not including contractors' equipment), *maintenance equipment*, and *parts, accessories* and *attachments* therefor (not including contractors' equipment), *power distribution equipment*, and *parts, accessories* and *attachments* therefor (not including contractors' equipment); *iron and steel articles*, consisting of *signs, sign poles* and *parts* and *accessories*, (1) between points in South Carolina, on the one hand, and, on the other, points in Tennessee excluding those in or east of Claiborne, Grainger, Jefferson, and Cocke Counties, and those in or east of Lincoln and Bedford Counties, and in or south of Coffee, Grundy, Dequatchie, Bledsoe,





Rhea, Meigs, McMinn, Monroe, Blount, and Sevier Counties; (2) between points in South Carolina in or north of Greenville, Spartanburg, and Union Counties, and in or east of Fairfield, Richland, Calhoun, Orangeburg, Colleton, and Jasper Counties, on the one hand, and, on the other, points in Tennessee excluding those in or east of Claiborne, Grainger, Jefferson, and Sevier Counties, and those located in Marion, Dequatchie, Hamilton, Bradley, and Polk Counties; (3) between points in South Carolina in or east of Spartanburg, Union, Fairfield, Richland, Sumter, Clarendon, Berkley, and Charleston Counties, on the one hand, and, on the other, points in Tennessee in or west of Campbell, Anderson, Knox and Blount Counties; (4) between points in South Carolina on and east of a line beginning at the North Carolina-South Carolina state line and extending along U.S. Highway 601 (including Orangeburg), thence along U.S. Highway 601 to the South Carolina-Georgia state line, on the one hand, and, on the other, points in Tennessee in or west of Claiborne, Grainger, Hamblen, Jefferson, and Knox Counties, in or north of Loudon, Roane, Cumberland, Van Buren, Warren, Cannon, and Rutherford Counties, and in or west of Marshall and Giles Counties. The purpose of this filing is to eliminate the gateway of Knoxville, Tenn.

No. MC 112070 (Sub-No. E137), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., P.O. Box 10096, Denver, Colo. 80210. Applicant's representative: Daniel Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (A) Between points in Crawford and Sebastian Counties, Ark., on the one hand, and, on the other, points in Fairfield County, Conn. (B) Between points in Crawford, Franklin, Johnson and Sebastian Counties, Ark., on the one hand, and, on the other, points in Windham County, Conn. (C) Between points in Arkansas on and west of a line beginning at the Oklahoma-Arkansas State line, and extending along U.S. Highway 40, to junction Arkansas Highway 71, thence along Arkansas Highway 71 to the Arkansas-Missouri State line, on the one hand, and, on the other, points in Connecticut except Fairfield County. (D) Between points in Arkansas on and west of a line beginning at the Arkansas-Louisiana State line, and extending along Arkansas Highway 71, thence along Arkansas Highway 71, to the Arkansas-Missouri State line, on the one hand, and, on the other, points in Connecticut on and north and west of a line beginning at the Connecticut-New York State line, and extending along U.S. Highway 44 to junction U.S. Highway 7, thence along U.S. Highway 7 to the Connecticut-Massachusetts State line. The purpose of this filing is to eliminate the gateways of Enid, Okla., and points within 90 miles thereof, and points in Missouri.

No. MC 113843 (Sub-No. E77) (Partial correction), filed May 3, 1974, published in the FEDERAL REGISTER issue of August 27, 1975, and, republished, as corrected, this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Massachusetts 02210. Applicant's representative: Lawrence T. Sheils (address same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (9) Between points in Chautauqua County, New York, on the one hand, and, on the other, those points in Pennsylvania on, north, and east of a line beginning at the Pennsylvania-New York State line and extending along Interstate Highway 81 to junction Pennsylvania Highway 590, thence along Pennsylvania Highway 590 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Pennsylvania-New Jersey State line; The purpose of his filing is to eliminate the gateway of Buffalo, New York.

NOTE.—The purpose of this partial correction is to correct the territorial description in Part (9) above. The remainder of this letter-notice remains as previously published.

No. MC 113843 (Sub-No. E480) (Partial correction), filed May 19, 1974, published in the FEDERAL REGISTER issue of September 1, 1976, and republished, as corrected, this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Massachusetts 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* . . . (9) between those points in New Jersey bounded by a line beginning at Toms River and extending along U.S. Highway 9 to junction New Jersey Highway 526, thence along New Jersey Highway 526 to junction New Jersey Highway 33, thence along New Jersey Highway 33 to the New Jersey-Pennsylvania State line, and bounded by a line beginning at the New Jersey-Pennsylvania State line and extending along U.S. Highway 1 to junction New Jersey Highway 440 to the Hudson River, on the one hand, and, on the other, points in Ohio on, north and west of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. 20 to junction Ohio Highway 18, thence along Ohio Highway 18 to junction U.S. Highway 224, thence along U.S. Highway 224 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction Ohio Highway 81, thence along Ohio Highway 81 to the Ohio-Indiana State line and . . . The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

NOTE.—The purpose of this partial correction is to state the correct territorial description. The remainder of this letter-notice remains as previously published.

No. MC 113843 (Sub-No. E504) (Partial correction), filed May 19, 1974, published in the FEDERAL REGISTER issue of August 27, 1975, and republished, as corrected, this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Massachusetts 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (3) from those points in Pennsylvania bounded by a line beginning at the Pennsylvania-New York State line and extending along Pennsylvania Highway 249 to junction Pennsylvania Highway 287, thence along Pennsylvania 287 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 144, thence along Pennsylvania Highway 144 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction Pennsylvania Highway 35, thence along Pennsylvania Highway 35 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line, to Portland and Bangor, Maine; Sioux City, Iowa; Grand Forks, North Dakota; and Sioux Falls, South Dakota; . . . The purpose of this filing is to eliminate the gateway of Dundee, New York.

NOTE.—The purpose of this partial correction is to state the correct territorial description. The remainder of this letter-notice remains as previously published.

No. MC 113843 (Sub-No. E677) (Partial correction), filed May 21, 1974, published in the FEDERAL REGISTER issue of June 12, 1975, and republished, as corrected, this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Massachusetts 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (33) Between points in Pennsylvania on, north and east of a line beginning at the Pennsylvania-Delaware State line approximately 1 mile north of Yorklyn, Del., thence along Pennsylvania Highway 82 to its intersection with Interstate Highway 76, thence along Interstate Highway 176, thence along Interstate Highway 176 to Reading, thence along Pennsylvania Highway 61 to its intersection with U.S. Highway 209, thence along U.S. Highway 209 to its intersection with U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line, on the one hand, and, on the other, points in Illinois on, north and west of a line beginning at the Mississippi River at or near Alton, Ill., thence along Illinois Highway 140 to its intersection with U.S. Highway 66, thence along U.S. Highway 66 to its intersection with Illinois Highway 17, thence along Illinois Highway 17 to the Illinois-Indiana State line. (34) Between points in Pennsylvania on, north and east of a line beginning at the Delaware River at or near Chester, Pa., thence along Pennsylvania Highway 320 to its intersection with Pennsylvania Highway 23, thence along Pennsylvania Highway 23 to its intersection with Penn-



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sylvania Highway 10 to Reading, Pa., thence along Pennsylvania Highway 61 to its intersection with Pennsylvania Highway 147, thence along Pennsylvania Highway 147 to its intersection with Pennsylvania Highway 45, thence along Pennsylvania Highway 45 to its intersection with U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line, on the one hand, and, on the other, points in Illinois. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

NOTE.—The purpose of this partial correction is to state the correct territorial description in Part (33) and to include Part (34) that was omitted in the June 12, 1975 publication. The remainder of this letter-notice remains as previously published.

No. MC 113843 (Sub-No. E771) (Partial correction), filed May 19, 1974, published in the FEDERAL REGISTER issue of July 17, 1975, and republished, as corrected, this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Massachusetts 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (12) Between Norristown, Pa., on the one hand, and, on the other, those points in Ohio on, north, and west of a line beginning at the Ohio-Pennsylvania State line extending along U.S. Highway 20 to Cleveland, thence along U.S. Highway 6 to junction Ohio Highway 13, thence along Ohio Highway 13 to Norwalk, thence along U.S. Highway 20 to junction Ohio Highway 18, thence along Ohio Highway 18 to junction U.S. Highway 224, thence along U.S. Highway 224 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction U.S. Highway 33 to junction Ohio Highway 29, thence along Ohio Highway 29 to the Ohio-Indiana State line; . . . The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

NOTE.—The purpose of this partial correction is to state the correct word in Part (12). The remainder of this letter-notice remains as previously published.

No. MC 113843 (Sub-No. E776) (Partial correction), filed May 19, 1974, published in the FEDERAL REGISTER issue of August 4, 1975, and republished, as corrected, this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen juices and frozen berries*, (7) From those points in New Jersey on, north and east of a line beginning at or near Atlantic City, N.J., thence along U.S. Highway 322 to its intersection with New Jersey Highway 54, thence along New Jersey Highway 54 to its intersection with U.S. Highway 206, thence along U.S. Highway 206 to junction New Persey Highway 541, thence along New Jersey Highway 541 to the Delaware River to those points in Kentucky on, south, and west of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 641 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Ohio River; . . . The purpose of this filing is to eliminate the gateway of Dundee, N.Y.

NOTE.—The purpose of this partial correction is to state the correct territorial description. The remainder of this letter-notice remains as previously published.

No. MC 113843 (Sub-No. E864) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of October 15, 1974, and republished, as corrected, this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, fom Seabrook, N.J., to points in that portion of Arkansas on, north, and west of a line beginning at the Arkansas-Missouri State line north and extending along U.S. Highway 61 to junction Arkansas Highway 18, thence along Arkansas Highway 18 to Jonesboro, thence along Arkansas Highway 39 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction Arkansas Highway 33, thence along Arkansas Highway 33 to junction Arkansas Highway 130, thence along Arkansas Highway 130 to junction Arkansas Highway 1, thence along Arkansas Highway 1 to junction Arkansas Highway 54, thence along Arkansas Highway 54 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Arkansas-Louisiana State line. The purpose of this filing is to eliminate the gateway of Dundee, N.Y.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 113843 (Sub-No. E942) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of November 26, 1974, and republished, as corrected, this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Hanover, Pa., to points in that portion of New Hampshire on and north of a line beginning at the New Hampshire-Vermont State line at or near Lebanon, and extending along U.S. Highway 4 to junction New Hampshire Highway 104, thence along New Hampshire Highway 104 to junction U.S. Highway 3, thence along U.S. Highway 3 to junction New Hampshire Highway 25, thence along New Hampshire Highway 25 to the New Hampshire-Maine State line. The purpose of this filing is to eliminate the gateway of Syracuse, N.Y.

NOTE.—The purpose of this correction is to correct a typographical error.

No. MC 113843 (Sub-No. E964) (Correction), filed December 2, 1974, published in the FEDERAL REGISTER issue of August 27, 1975, and republished, as corrected, this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from those points in that part of Maryland on and south of U.S. Highway 40 and east of the Susquehanna River and Chesapeake Bay, to Rochester, Minn. and points in Minnesota except those points on and south of a line beginning at Winona, Minn., thence over U.S. Highway 14 to its intersection with U.S. Highway 63, thence south of U.S. Highway 63 to the Minnesota-Iowa State line. The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley, and Williamson, N.Y.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 113843 (Sub-No. E974), (Correction), filed December 2, 1974, published in the FEDERAL REGISTER issues of June 16, 1975, August 27, 1975, and republished, as corrected, this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Bcston. Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, between points in Lehigh County, Pa., on the one hand, and, on the other, points in Indiana (except points in Wayne, Randolph, Jay, Adams, Fayette, Union, Franklin, Switzerland, Ohio, Dearborn and Ripley Counties). The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 113843 (Sub-No. E1002) (Correction), filed December 2, 1974, published in the FEDERAL REGISTER issues of June 16, 1975, August 27, 1975, and republished, as corrected, this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, between Washington, D.C., on the one hand, and, on the other, points in Michigan on and west of a line beginning at or near Marquette, Mich., thence along U.S. Highway 41 to its intersection with Michigan State Highway 95, thence along Michigan State Highway 95 to the Wisconsin-Michigan border, and Marquette and Norway, Michigan. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.





NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 113843 (Sub-No. E1053) (Correction), filed December 2, 1974, published in the FEDERAL REGISTER issue of August 4, 1975, and republished, as corrected, this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Frozen foods*, from Hanover, Pa., to those points in New York bounded on the west by a line beginning at the New York-Pennsylvania State line and extending along New York Highway 14 to Lake Ontario, and bounded on the south and east by a line beginning at the New York-Pennsylvania State line and extending along unnumbered highway to junction New York Highway 17, thence along New York Highway 17 to Binghampton, thence along New York Highway 12 to junction New York Highway 28, thence along New York Highway 28 to junction U.S. Highway 9, thence along U.S. Highway 9 to the United States-Canada International Boundary line. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 113843 (Sub-No. E1057), (Correction), filed December 2, 1974, published in the FEDERAL REGISTER issue of September 1, 1976, and republished, as corrected, this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, between those points in Michigan south and east of a line beginning at the United States-Canada International Boundary line and extending along Interstate Highway 94 to junction Michigan Highway 60, thence along Michigan Highway 60 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Michigan-Ohio State line, on the one hand, and, on the other, Salem County, N.J. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 113843 (Sub-No. E1058) (Correction), filed December 2, 1974, published in the FEDERAL REGISTER issue of July 17, 1975, and republished, as corrected, this issue. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Vineland, N.J., to that part of New York west of a line beginning at Lake Erie extending along New York Highway 17 to junction U.S. Highway 15, thence along U.S. Highway 15 to the New York-Pennsylvania State line, and Owego, Ithaca, Cortland, Hornell, Silver Creek, Ogdensburg, and Watertown, N.Y. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 113843 (Sub-No. E1073), filed May 19, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen seafood*, from points in Virginia east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal, to points in that part of Minnesota on, north and west of a line beginning at the Iowa-Minnesota State line at or near Bigelow, Minn., thence over Minnesota Highway 60 to its intersection with U.S. Highway 71, thence north on U.S. Highway 71 to its junction with Interstate Highway 94, thence southeast on Interstate Highway 94 to its junction with Minnesota Highway 23, thence northeast on Minnesota Highway 23 to the Minnesota-Wisconsin State line. The purpose of this filing is to eliminate the gateway of Le Roy, N.Y.

No. MC 113843 (Sub-No. E1074), filed May 8, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Canned meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except liquid commodities in bulk, in tank vehicles) from Boston, Mass., to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin. The purpose of this filing is to eliminate the gateway of the plant-site and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, N.Y.

NOTE.—This E letter-notice was previously published as E14 and should be E1074.

No. MC 113843 (Sub-No. E1075), filed May 8, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Massachusetts, to points in Minnesota. The purpose of this filing is to eliminate the gateway of Le Roy, N.Y.

NOTE.—This E letter-notice was previously published in the FEDERAL REGISTER as E14 and should be E1075.

No. MC 113843 (Sub-No. E1076), filed May 8, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Connecticut, to points in Colorado. The purpose of this filing is to eliminate the gateway of Le Roy, N.Y.

NOTE.—This E letter-notice was previously published as E14 and should read as E1076 instead.

No. MC 114019 (Sub-No. E254), (Correction), filed May 12, 1974, published in the FEDERAL REGISTER issue of March 5, 1975, and republished, as corrected, this issue. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Illinois 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asbestos*, scrap, *Asphalt*, liquid or solid, in packages, *automobile body panels*, fibreboard, not covered, with cut-outs, or of shape other than rectangular, painted or not painted, loaded on platforms on wooden skids, *blocks*, mastic (asphalt flooring, compound), *boards*, fibreboard and/or pulpboard (impregnated with asphalt), in rectangular shapes, without cut-outs, painted or not painted, loaded on wooden platforms or wooden skids, *Boards*, asphalt composition, paving or flooring, *board*, wall asbestos, *board*, wall, fibreboard, pulpboard or strawboard, *burlap*, bituminized, in packages, *caps*, roofing, tin, in packages, *carpet lining*, paper, including felt paper plain, other than indented, *cement*, asbestos, in packages. *Cement*, composition or asbestos, *cement, furnace*, in packages, *cement*, tile liquid, *cement*, roofing, in packages, *cement*, magnesia, *clamps*, metal, in packages, *cloth*, cotton, saturated with asbestos, *coating*, roof having asbestos, pitch tar or rosin base, in packages, *conduits*, bituminized fibre, *creosote*, in packages, *eave filler strips*, asphalt composition, *fasteners*, metal, in packages, *felt*, building or roofing, saturated, or unsaturated, *felts*, paper fabrics saturated, and/or coated, *flashing blocks*, asphalt composition, *insulating materials*, asbestos or felt paper, in forms or shapes other than solid flat blocks or solid flat sheets, *millboard*, asbestos, in packages, *mineral wool*, (rock or slag wool), metal reinforced, in packages, *mineral wool*, (rock or slag wool), plain or saturated with or without paper backs in batts or other than batts, in packages, *mortar or cement*, high temperature bonding, N.O.I., in packages, *nails*, in packages, *packing*, asbestos, braid or wick, in packages, *paint*, asphaltum, in packages, *paint*, coal tar, in packages, *paper*, asbestos, and/or other than asbestos, building roofing or sheathing, plain or saturated, *paper*, building, roofing or sheathing, saturated or unsaturated, *paving joints*, expansion (asphalt or asphalt base), *paving joints*, expansion (rubber composition), *pipe*, cement, containing asbestos fibre, *pitch*, roofing, in packages, *planks*, asphalt composition, paving or flooring, *ridge rools*, asbestos, in packages, *roofing*, composition or prepared, *roofing*, or sheathing, asbestos



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hard, corrugated, *sheathing*, asbestos, hard flat, ornamented or not ornamented, polish or shaped, with or without fibreboard center or back, and/or air-cell paper center, *shingles*, asbestos, hard (artificial stone shingles or slates) in bundles.

*Shingles*, asbestos, *shingles*, asphalt, asbestos or composition, *sheathings*, *shorts*, asbestos, siding, asbestos, *siding*, asphalt, *straps*, tin, *tar*, roofing, in packages, with fasteners, in packages, *tile*, asphalt, composition, floor, *wood preservatives*, in packages, *aluminum siding* and *parts*, *accessories* and *materials* used in the installation of aluminum siding, in mixed shipments with other building, roofing, and insulating materials, from Sparrows Point and Baltimore, Md., New York, N.Y., and points within 30 miles thereof, points in those parts of New Jersey, Delaware, and Maryland, which are within 30 miles of Philadelphia, Pa., those points in West Virginia on and north of U.S. Highway 50, those points in Pennsylvania on and south and east of a line beginning at the Maryland-Pennsylvania State line and extending along U.S. Highway 119 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Pennsylvania-New Jersey State line, to points in Wisconsin, Iowa, Missouri, Illinois, those points in Indiana on, south, and west of a line beginning at the Ohio-Indiana State line and extending along U.S. Highway 40 to junction Interstate Highway 65, thence Interstate Highway 65 to Lake Michigan, and those points in Kentucky on and west of Interstate Highway 27.

The purpose of this filing is to eliminate the gateway of Lockland, Ohio.

The purpose of this republication is to correctly describe the commodity description. The remainder of this letter-notice remains as previously published.

By the Commission.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77-20880 Filed 7-19-77;8:45 am]

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[Ex Parte No. MC-106]

## ADMINISTRATIVE RULING NO. 84 INVESTIGATION TO CONSIDER MODIFICATION

### Order

JULY 13, 1977.

*It is ordered*, That based on the reasons set forth in the attached notice, a proceeding is hereby instituted pursuant to 5 U.S.C. 553, and 559 (the Administrative Procedure Act), and under the authority of part II, of the Interstate Commerce Act to examine, to update and enlarge the service provisions of part (b) of Administrative Ruling No. 84 in light of current economic, regulatory and service conditions, and for the purpose of taking such other and future action as the circumstances may justify or require.

*It is further ordered*, That the attached notice is hereby adopted and incorporated by reference into this order.

*And it is further ordered*, That notice of the institution of this proceeding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. for public inspection and by delivery of a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of the Institution of Investigation to Consider Modification of Administrative Ruling No. 84.

SUMMARY: The Commission deems it to be in the public interest to now examine whether present economic, regulatory, and service conditions affecting the regular-route motor freight industry on a national scale require the modification of Part (b) of Administrative Ruling No. 84 to allow motor common carriers of property authorized to serve all intermediate points on a designated route or a defined route segment the right to serve points within 5 airline miles on both sides of said authorized route or route segment. This proposed modification would expand the so-called off-route point territory authorized in Administrative Ruling No. 84 from 1 to 5 airline miles. The decision to institute this investigation is based on this Commission's review and consideration of recommendation No. 33 of the so-called Blue Ribbon Study Panel.

DATES: Comments on or before September 19, 1977.

ADDRESSES: Send comments to: The Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423 202-275-7292.

SUPPLEMENTARY INFORMATION: On April 23, 1940 in response to inquiries by the public, the Bureau of Motor Carriers (now the Bureau of Operations) of the Interstate Commerce Commission issued Administrative Ruling No. 84 which pertains to regular-route motor common carriers of property holding authority to serve all intermediate points on a designated route or a definite portion or segment thereof and which reads as follows:

Authority to serve all intermediate points on a designated route or a definite portion or segment thereof includes the right to serve—

(a) all places within the corporate limits of those incorporated boroughs, cities, towns (other than those of the New England type), or villages, all integral parts of unincorporated communities and villages, and all separate places located on the highway or highways composing such route, portion or segment thereof; and

(b) All municipalities, communities, and villages of the types mentioned in paragraph (a) of this item and all separate places that lie and are situated wholly within one mile of the highway or highways composing such route, portion or segment thereof.

If the authority is to serve certain named intermediate points, excluding others, the provisions of paragraph (a) of this ruling apply to the intermediate points so authorized.

The language "wholly within one mile of the highway or highways" as used in Administrative Ruling No. 84 permits carriers which come under its provisions to serve any place, that is, any place of business, home, building, etc., which lies within one airline mile of the highway, *Provided*, That if it is located within a municipality, community, or village of the type described in the ruling, the entire municipality, community, or village must be within one mile of the highway. See *Lavigne* v. *J. E. Faltin Motor Transp., Inc.*, 54 M.C.C. 503 (1952).

Recommendation No. 33 of the Commission's Blue Ribbon Panel would amend the above-noted portion of part (b) of Administrative Ruling No. 84 "to allow regular-route carriers to serve all points within 5 air miles of the highway, maintaining the other limitations of the present policy." See Interstate Commerce Commission press release No. 187-75, dated July 7, 1975. After careful consideration, the Commission has instituted this proceeding in order to determine whether economic, demographic, environmental and service conditions require implementation of this recommendation.

Consideration of the proposed modification will include a determination whether the so-called 1-mile off-route point authority provisions of Administrative Ruling No. 84 should be modified to allow the regular-route carrier to serve not only all points within 1 airline mile, or some other fixed distance, of the authorized regular route, but also to allow service at all portions of any municipality, community, or village which, while partly within the designated service corridor, extends beyond it. Compare *Property Motor Carrier Superhighway Rules*, 117 M.C.C. 119, 150-151, footnote 12 (1972).

The Commission will also consider whether the rights to be conferred should be permissive or obligatory. At present the rights conferred by part (b) of Administrative Ruling No. 84 are permissive in nature and do not require the carrier to provide the involved service.

The Commission will also consider whether the 5-mile expansion proposed by the Blue Ribbon Panel represents the appropriate scope of the regular-route motor carriers' service corridor, or whether adoption of regulations establishing some other greater or lesser distance from the authorized regular route would better serve the public interest.

No oral hearing is contemplated at this time, but anyone wishing to present views and evidence, either in support of, or in opposition to the action proposed in the Commission's order may do so by submission of written evidence or views.





Likewise, any person desiring to comment upon the environmental issues raised by this proceeding is hereby invited to do so by the submission of written evidence or views. An original and 15 copies (wherever possible) of such evidence or views shall be filed with this Commission on or before September 19, 1977. Written submissions will be available for public inspection during regular business hours at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

ROBERT L. OSWALD,
*Secretary.*

[FR Doc.77-20885 Filed 7-19-77;8:45 am]



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# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., July 21, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Ratifications of items adopted by notation.[1]

2. Docket 29926, SPDR-56 (one-stop-inclusive tours), notice of proposed rulemaking to amend Part 378a to allow substitutions for cancellations of charter participants after the advance-booking deadline and to invite comment on the elimination of the advance-booking deadline requirement.

3. Application of World Airways, Inc., for a waiver of § 208.32a of the Board's regulations to permit reduced-rate transportation on scheduled air carriers of World's overbooked charter passengers and applications of British Airways, Compagnie Nationale Air France, KLM Royal Dutch Airlines, and Pakistan International Airline to transport such passengers on their scheduled service at World's charter rates.

4. Docket 30857, application of Meridian Air Cargo, Inc., for an emergency exemption pursuant to section 416(b) of the Federal Aviation Act to operate two CV-600 aircraft in scheduled all cargo service between Memphis and both Chicago and Detroit.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary (202-673-5068).

[S-929-77 Filed 7-15-77;3:34 pm]

[1] The ratification process provides an entry in the Board's minutes of items already adopted by the Board through the written notation process (memoranda circulated to the Members sequentially). A list of items ratified at this meeting will be available in the Board's Public Reference Room, Room 710, 1825 Connecticut Avenue NW., Washington, D.C. 20428, following the meeting.

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: S-909-77.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 3 p.m., July 20, 1977.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

CHANGE IN THE MEETING: This meeting has been rescheduled to start at 2 p.m., at which time the open meeting will start, to be followed by a closed meeting.

A majority of the entire membership of the Commission has determined by recorded vote that the business of the Commission requires this change and that no earlier announcement was possible.

The vote was as follows:

In favor of change: Eleanor Holmes Norton, Chair, 7-14-77; Ethel Bent Walsh, Vice Chair, 7-15-77; Daniel E. Leach, Commissioner, 7-15-77.

Opposed: None

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

This notice issued July 15, 1977.

[S-924-77 Filed 7-15-77;1:59 pm]

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, July 21, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

MATTERS TO BE CONSIDERED:

*Agenda, Item No., and Subject*

General—1—Allocation of "splinter" and "offset" channels in the 150-174 MHz band for non-voice operations (remote control and telemetry) in the local government (Part 89) and industrial (Part 91) radio services (Docket No. 20149). 2—Notice of inquiry relating to amendment of Parts 81 and 83 of the rules to implement changes in frequencies, operating procedures and other criteria relating to radiotelephony in the band 4000 to 27,500 kHz in the maritime mobile services adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974.

Safety and special radio services—1—Re-regulation of Parts 89, 91, and 93 of the rules governing the private land mobile radio services. 2—Petition filed by the National Association of Radiotelephone Systems (NARS) on December 27, 1976, directed to Safety Bureau's November 24, 1976, "Clarification" statement. 3—Various procedural rule changes in the radio services administered by Parts 89, 91, 93, and 94 of the rules; re-regulation purposes. 4—Increase in waiting period for filing applications for new station license in the citizens band radio service following revocation, denial or dismissal with prejudice. 5—Notice of proposed rule making on United States/Canada arrangement to allot Appendix 18 VHF frequencies (Docket No. 20617). 6—Waiver of section 89.751(a) of the rules to permit the assignment of five non-contiguous frequencies to allow the Chicago Fire Department to operate a mobile relay system within the 800 MHz frequency band.

Common carrier—1—Petitions to suspend and reject AT&T Transmittal No. 12745, revising rates for wide area telecommunications service (WATS).

Cable Television—1—Applications for certification of existing operations in Havre de Grace and Aberdeen, Maryland, filed by Multiview Cable Company; and opposition filed by Westinghouse Broadcasting, Inc., licensee of station WJZ-TV, Baltimore, Maryland, directed against authorization of applicants' carriage of WJLA-TV (formerly WMAL-TV). 2—Applications for interim authorization to add television broadcast station WTVS, Detroit, Michigan, to existing cable television operations; and opposition filed by Delta College, licensee of station WUCM-TV (Educ., Channel 19) University Center, Michigan.

Renewal—1—Petition for reconsideration of renewal granted international broadcast station KGEI, filed by Mobil Oil Estates (Redwood) Limited.

Broadcast—1—Reassignment of television channel 40 from Riverside (Fontana) California, to Santa Ana, California, and denial of a request to modify the Fontana station's license ot specify the new community (Docket No. 20727).

Special—1—Amendment of Part 97 concerning operator classes, privileges, and requirements in the amateur radio service (Docket No. 20282). 2—Notice of proposed rulemaking relating to Part 13 of the rules to re-structure the radio operator examination and licensing program and to delineate operator responsibility (Docket No. 20817). 3—Discussion of rulemaking in Docket No. 21002 concerning possible amendment of section 76.13 relating to the certification process, and section 76.31 relating to the Commission's franchise standards.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: July 14, 1977.

[S-925-77 Filed 7-15-77;2:17 pm]





4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: Follows 9:30 a.m., open meeting, Thursday, July 21, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting.

MATTERS TO BE CONSIDERED:

*Agenda, Item No., and Subject*

Hearing—1—Application for review of a Review Board memorandum opinion and order enlarging the hearing issues in the Jackson, Mississippi, comparative television proceeding (Docket Nos. 18845-18849). 2—Draft decision in the WLLE, Incorporated (WLLE), Raleigh, North Carolina, revocation proceedings (Docket No. 19908). 3—Petition for reconsideration of the Commission's decision disciplining Benedict P. Cottone in the show cause proceeding in Docket No. 20293. 4—Draft decision in the Hali's Crossing, Utah, consolidated revocation/renewal/new application/suspension proceeding, involving Arthur W. Brothers, the Telephone Company, Inc., and the Silver Beehive Telephone Company (Docket Nos. 20155-20177 and 20211).

General—1—A proposed arrangement for the use of UHF channels 14 and 15 in Cleveland, Ohio, and channels 15 and 16 in Detroit, Michigan, for land mobile. 2—*Pacifica Foundation* v. *FCC* (Case No. 75-1391).

Complaints and compliance—1—Immunity orders for witnesses in payola inquiry, Docket No. 16648. 2—Field inquiry into the operation of television station KPAZ, Phoenix, Arizona.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: July 14, 1977.

[S-926-77 Filed 7-15-77;2:17 pm]

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 2:30 p.m., Wednesday, July 20, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

MATTERS TO BE CONSIDERED:

*Agenda, Item No., and Subject*

Special—1—Discussion of licensing standards for FM noncommercial educational stations. 2—Discussion of international facilities plans (Docket No. 18875).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: July 13, 1977.

[S-927-77 Filed 7-15-77;2:17 pm]

6

FEDERAL RESERVE SYSTEM.

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 36588, July 15, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, July 20, 1977.

CHANGES IN THE MEETING: Cancellation or Postponement of the following open item until an undetermined date:

1. Board response on the Securities and Exchange Commission proposals issued for public comment or revisions in its regulations (Article 9 of Regulation S-X) with respect to the "Form and Content of Financial Statements of Bank Holding Companies and Banks."

As so modified, the previously announced open items for this meeting are:

1. Proposal to amend Regulation Z (Truth in Lending) to clarify provisions relating to discounts for cash customers. (Proposed earlier for public comment; docket no. R-0072.)

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board (202-452-3204).

Dated: July 15, 1977.

[S-930-77 Filed 7-15-77;3:48 pm]

7

INTERNATIONAL TRADE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 36361.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., July 21, 1977.

CHANGES IN THE MEETING: Item on the agenda expanded as follows:

6. Discussion of clerical support throughout the agency.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary (202-523-0161).

[S-931-77 Filed 7-18-77;9:13 am]

8

NATIONAL RAILROAD PASSENGER CORPORATION.

In accordance with rule 4a. of Appendix A of the By-laws of the National Railroad Passenger Corporation, notice is given that the Board of Directors will meet on July 27, 1977.

TIME, DATE AND PLACE: A. The meeting will be held on Wednesday, July 27, 1977, in the Monet Room of the L'Enfant Plaza Hotel, 480 L'Enfant Plaza East SW., Washington, D.C., beginning at 9:30 a.m. The portion of the meeting beginning at 9:30 will be closed to the public, during which time the Board will consider agenda items Nos. 1 and 2, as identified below.

STATUS: B. The meeting will be open to the public beginning at 10 a.m. starting with agenda item No. 3, as identified below.

SUBJECT: C. The agenda items to be discussed at the meeting follow:

AGENDA

NATIONAL RAILROAD PASSENGER CORPORATION; MEETING OF THE BOARD OF DIRECTORS—JULY 27, 1977

9:30—Closed session. 1. Internal personnel matters, including election of Board and corporate officers. 2. Approval of additional advertising funds for fiscal year 1978.

10—Open session:

3. Approval of minutes of regular meeting of June 29, 1977.

4. Commitment Approval Requests:

A. (1) 76T-25-S1—Baltimore-Washington International intermodal facility architectural and engineering supplement; (2) 77-187—Provide additional IBM 370/158 equipment; (3) 77-208—Omaha station—Lease, rehabilitation, and track work; (4) 77-227—Oakland-Sacramento 403(b) capital improvements.

B. On-Board Magazine Publishing Agreement.

5. Board committee reports:

A. Planning/equipment—(1) Quarterly review—equipment retirements; (2) five year plan status report; (3) route criteria—Floridian status; (4) Auto-Train: Louisville service status.

B. Northeast corridor improvement project—(1) Update on improvement master plan; (2) status of 1977 program to date; (3) status of clean-up program; (4) status of Woonasquatucket River bridge; (5) status of station program; (6) labor situation.

C. Audit/finance.

6. President's reports:

A. Operations—(1) National operations; (2) operations support; (3) northeast corridor operations.

B. Marketing.

C. Government affairs.

D. Other—(1) Fall schedule for trains 7 and 8.

7. Financial reports.

8. Route profitability system overview.

9. New business.

10. Adjournment.

D. Inquiries regarding the information required to be made available to the public pursuant to Appendix A of the Corporation's By-laws should be directed to the Assistant Secretary at 202-484-7232.

Dated: July 14, 1977.

T. PAGE SHARP,
*Assistant Secretary.*

[S-923-77 Filed 7-15-77;1:43 pm]



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WEDNESDAY, JULY 20, 1977

PART II




# ENVIRONMENTAL PROTECTION AGENCY

■

## INORGANIC CHEMICALS MANUFACTURING POINT SOURCE CATEGORY

Pretreatment Standards for Existing Sources; Interim Final Regulations

V42 I139 JUL 20 77 UMI

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 764-2]

# PART 415—INORGANIC CHEMICALS MANUFACTURING POINT SOURCE CATEGORY

## Pretreatment Standards for Existing Sources; Interim Final Rulemaking

AGENCY: Environmental Protection Agency.

ACTION: Interim final regulations.

SUMMARY: These regulations prescribe pretreatment standards for existing sources in nine subcategories of the inorganic chemicals manufacturing point source category. They govern the introduction of pollutants or pollutant properties into publicy owned treatment works (POTW) from plants that produce aluminum chloride, aluminum sulfate, potassium dichromate, copper sulfate, ferric chloride, lead monoxide, nickel sulfate, silver nitrate, and sodium fluoride.

EFFECTIVE DATE: July 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Harold B. Coughlin, Effluent Guidelines Division, 401 M Street SW., Room 911 WSME (WH-552), Washington, D.C. 20460, 202-426-2560.

SUPPLEMENTARY INFORMATION: On March 11, 1974, the Environmental Protection Agency (EPA) promulgated a regulation adding Part 415 to Title 40 of the Code of Federal Regulations (39 FR 96412). That regulation with subsequent amendments established effluent limitations guidelines for existing sources, and standards of performance and pretreatment standards for new sources, in the inorganic chemicals manufacturing point source category. The regulations issued today amend 40 CFR Part 415 by adding pretreatment standards for existing sources to several of the subcategories within the Inorganic Chemicals Manufacturing Source Category. Specifically, pretreatment standards are established for the Aluminum Chloride Production Subcategory (Subpart A), the Aluminum Sulfate Production Subcategory (Subpart B), the Potassium Dichromate Production Subcategory (Subpart L), the Copper Sulfate Production Subcategory (Subpart AJ), the Ferric Chloride Production Subcategory (Subpart AL), the Lead Monoxide Production Subcategory (Subpart AR), the Nickel Sulfate Production Subcategory (Subpart AU), the Silver Nitrate Production Subcategory (Subpart BA), and the Sodium Fluoride Production Subcategory (Subpart BC). In addition, the applicability sections of these subparts have been amended to include the introduction of pollutants into treatment works which are publicly owned.

### Legal Authority

These regulations are issued pursuant to section 307(b) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1317(b); 86 Stat. 816 et seq.; Pub. L. 92-500 (the Act)). It requires the establishment of pretreatment standards for pollutants introduced into publicly owned treatment works (POTW).

### Summary of Pretreatment Standards for Existing Sources

These regulations establish two sets of pretreatment requirements for the subcategories mentioned. The first set, the "prohibited discharge" standards, are designed to prevent inhibition of, or interference with, the municipal treatment works, by prohibiting the discharge of pollutants of a nature or in a quantity that would endanger the mechanical or hydraulic integrity of the works. Except for minor changes, these prohibited discharge standards are identical to the prohibitions contained in the general pretreatment regulation now found at 40 CFR 128.131.

The second set of standards, known as "categorical" pretreatment standards, contain specific numerical limitations based on an evaluation of available technologies in a particular industrial subcategory. The specific numerical limitations are arrived at separately for each subcategory, and are imposed on pollutants which may interfere with, pass through, or otherwise be incompatible with publicly owned treatment works.

For the purpose of clarity, the subcategories affected by the present regulations are exempted from 40 CFR Part 128. The provisions of the present regulation overlap considerably with the language of 40 CFR Part 128. 40 CFR Part 128 was proposed on July 19, 1973 (38 FR 19236), and published in final form on November 1973 (38 FR 30982). It limits the discharge of pollutants which pass through or interfere with the operation of publicly owned treatment works, but it does not set numerical limitations or explicitly list particular pollutants to be regulated. The provisions of 40 CFR Part 128 have sometimes been a source of confusion in the past. New general pretreatment regulations have been proposed (42 FR 6476, February 2, 1977) which will revoke and replace 40 CFR Part 128 upon promulgation. Therefore, the general pretreatment requirements set forth in 40 CFR Part 128 are superseded with respect to the subcategories governed by the present regulations. All pretreatment requirements currently applicable to the subcategories listed are included in the regulations set forth below. When the new general pretreatment regulations are promulgated, these standards will be reviewed for consistency with the new general policies.

### Technical Basis for Standards

A technical study was conducted to determine what pretreatment requirements should be established. Information which had already been gathered in establishing limitations for direct dischargers under sections 301 and 304 of the Act was found to be relevant in setting pretreatment standards. The findings of this study, and the rationale for establishing national pretreatment standards at this time for the particular subcategories which were selected, are summarized in Appendix A to this preamble. The full details of the study are set forth in a report entitled "Supplement for Pretreatment to the Development Documents for the Inorganic Chemicals Manufacturing Point Source Category."

### Economic Impact and Inflationary Impact Analysis

No significant economic impact is expected for any of the categories included in this regulation. Depending on the number of plants discharging into POTW (the number is between 5 and 17 plants), total industry investment required to comply with the pretreatment standards would be between $98,200 and $793,500. Total annual cost is estimated to be between $72,710 and $934,288. For some categories, a small price increase may occur (less than 2 percent of 1975 selling price). Based on the economic analyses, no plant closures are expected The economic impact is discussed in greater detail in Appendix A to this preamble. The full details of the study are set forth in a report entitled "Economic Analysis of Pretreatment Standards for the Inorganic Chemical Industry."

### Availability of Documents

The technical and economic reports mentioned above are available for inspection at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M St. SW., Washington, D.C. 20460, at all EPA Regional Offices and at State Water Pollution Control Offices.

Copies of both documents are being sent to persons or institutions affected by the regulation or who have placed themselves on a mailing list for this purpose (see EPA's Advance Notice of Public Review Procedures, 38 FR 21202, August 6, 1973). A limited number of additional copies of both reports are available. Persons wishing to obtain a copy may write the Environmental Protection Agency, Effluent Guidelines Division, Washington, D.C. 20460, Attention: Distribution Officer, WH-552.

When this regulation is promulgated in final rather than interim form, revised copies of the technical documentation will be available from the Superintendant of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the economic analysis document will be available through the National Technical Information Service, Springfield, Virginia 22151.

### Public Participation

Prior to this publication the contractor's draft of the "Supplement for Pretreatment to the Development Documents for the Inorganic Chemicals Manufacturing Point Source Category" was distributed to many agencies and groups. With this distribution, recipients were given an opportunity to comment and to attend a public meeting to explain their comments or make additional comments. As a result of comments received additional review and study of pretreatment requirements have been made and replies to the comments prepared. A summary of public participation in this rulemaking, public comments and the Agency's response and consideration of these is contained in Appendix B of this preamble.





### Form and Effective Date

The Agency is subject to an order of the United States District Court for the District of Columbia entered in *Natural Resources Defense Council (NRDC) v. EPA*, 8 E.R.C. 2120 (D.D.C. 1976) which requires the promulgation of pretreatment standards for this industry category no later than May 15, 1977. This order also requires that such regulations become effective immediately upon publication.

It has not been practical to develop and republish regulations for this category in proposed form and to provide a 30-day comment period within the time constraints imposed by the court order referred to above. Accordingly, the Agency has determined pursuant to 5 U.S.C. 553(b) that notice and comment on the interim final regulations prior to promulgation would be impractical and contrary to the public interest. Good cause is also found for these regulations to become effective immediately upon publication.

Section 301 of the Act anticipates that pretreatment standards for existing sources would be established and compliance would be required before July 1, 1977, while section 307(b) specifies "a time for compliance not to exceed three years from the date of promulgation" of the standard. In view of this conflict of statutory language and the fact that the pretreatment standards are only now being promulgated, the Agency believes that the compliance deadline as set forth in section 307(b) should apply. The time for compliance with the categorical pretreatment standards will be within the shortest reasonable time but not later than three years from the effective date. However, this does not preclude a Regional Administrator or local or State authority from establishing a more expeditious compliance date on an individual basis where it is appropriate. Compliance with the prohibited discharge standards is required immediately upon the effective date of these regulations since these standards are essentially the same as 40 CFR 128.131 and since the deadline for compliance with 40 CFR 128.131 has passed.

### Opportunity For Public Comment

Interested persons are encouraged to submit written comments. Comments should be submitted in triplicate to the Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, Attention: Distribution Officer, WH-552. Comments on all aspects of the regulation are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which are available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data suggest amendment or modification of the regulation. In the event comments address the approach taken by the Agency in establishing pretreatment standards, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of section 307(b) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street SW., Washington, D.C. 20460. A copy of the technical study and economic study referred to above, and certain supplementary materials will be maintained at this location for public review and copying. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

All comments received within sixty days after date of publication will be considered. Steps previously taken by the Environmental Protection Agency to facilitate public response within this time period are outlined in the advance notice concerning public review procedures published on August 6, 1973 (38 FR 21202).

### Small Business Administration Loans

Section 8 of the FWPCA authorizes the Small Business Administration, through its economic disaster loan program, to make loans to assist any small business concerns in effecting additions to or alterations in their equipment, facilities, or methods of operation so as to meet water pollution control requirements under the FWPCA, if the concern is likely to suffer a substantial economic injury without such assistance.

For further details on this Federal loan program write to EPA, Office of Analysis and Evaluation, WH-586, 401 M St. SW., Washington, D.C. 20460.

In consideration of the foregoing, 40 CFR Part 415 is hereby amended as set forth below.

Dated: July 8, 1977.

DOUGLAS M. COSTLE,
*Administrator.*

### Appendix A.—Technical Summary and Basis for Regulations

This Appendix summarizes the basis of interim final pretreatment standards for existing sources.

(1) *General methodology.* The pretreatment standards set forth herein were developed in the following manner. The point source category was first studied for the purpose of determining whether separate standards are appropriate for different segments within the category. This analysis included a determination of whether differences in raw material used, product produced, manufacturing process employed, age, size, waste water constituents and other factors require development of separate standards for different segments of the point source category. The raw waste characteristics for each such segment were then identified. This included an analysis of the source, flow and volume of water used in the process employed, the sources of waste and waste waters in the operation and the constituents of all waste water. The compatibility of each raw waste characteristic with municipal treatment works was then considered. The constituents of the waste waters which should be subject to effluent limitations were identified.

The control and treatment technologies existing within each segment were identified. This included an identification of each distinct control and treatment technology, including both in-plant and end-of-process technologies, which is existent or capable of being designed for each segment. It also included an identification of, in terms of the amount of constituents and the chemical, physical, and biological characteristics of pollutants, the effluent level resulting from the application of each of the technologies. The problems, limitations, and reliability of each treatment and control technology were also identified. In addition, the nonwater quality environmental impact, such as the effects of the application of such technologies upon other pollution problems, including air, solid waste, noise, and radiations was identified. The energy requirements of each control and treatment technology were determined as well as the cost of the application of such technologies.

The information, as outlined above, was then evaluated in order to determine what levels of technology reflected the application of the appropriate pretreatment technologies. In identifying such technologies, various factors were considered. These included the total cost of application of technology, the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, nonwater quality environmental impact (including energy requirements) and other factors.

The data upon which the above analysis was performed included EPA permit applications, EPA sampling and inspections, consultant reports, and industry submissions.

(2) Summary of conclusions with respect to sections of the inorganic chemicals manufacturing point source category.

(i) *Categorization.* The inorganic chemicals industry is divided into subcategories based on the specific chemicals produced. Various other means of subcategorization were investigated. Factors such as raw waste loads, water requirements, and manufacturing processes do not establish a sound basis for subcategorization because the raw materials used and production processes employed are specific for each chemical.

The subcategories for which pretreatment standards were considered were those for which regulations based on best practicable control technology currently available are already in effect. A survey was made of plants in these subcategories to identify plants with discharges to municipal systems. Plants selected for study were those which have a publicly owned treatment works connection. As the study developed, it was found that plants in several of the subcategories being studied had no known discharge of wastes to a POTW from the specific product of concern, despite the existence of sewer connections. However, regulations are established for these subcategories because the likelihood that these plants will become POTW dischargers is high. Regulations were not established for five of the subcategories studied because their wastes are compatible with a POTW.



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(ii) Origin and characteristics of process waste water pollutants generated by the manufacture of inorganic products.

(A) *Aluminum chloride.* Anhydrous aluminum chloride is manufactured by the reaction of gaseous chlorine with molten aluminum metal. Chlorine is introduced below the surface of the molten aluminum. The aluminum chloride sublimes and is collected by condensation.

No water is used in the process except in cases where a wet scrubber is used to eliminate the discharge of unreacted chlorine gas to the atmosphere. The regulation based on best practicable control technology currently available (BPT) for direct dischargers allows no discharge of process waste water pollutants. Waste water from the process comes from wet scrubbers, plant washdown and minor leaks and spills and is highly acidic. Scrap aluminum is frequently used as a raw material and scrubber water can be expected to resemble that generated by the secondary aluminum industry demagging operation. In the demagging operation chlorine is introduced below the surface of the molten aluminum to remove impurities. Although the two processes differ in detail they are similar enough so that the data from the demagging scrubbers is indicative of the pollutants and their proportions that can be expected from the aluminum chloride scrubbers. From these indications zinc is the pollutant of concern. However, from the data available it was the judgment of the Agency that national pretreatment limits on zinc do not appear to be warranted at this time. The available data indicate that the amounts and concentrations being discharged are sufficiently low that no interference with the POTW or significant pass-through problems are anticipated. However, regulation may be justified in individual cases. The Agency is consequently issuing guidance for local regulation of the introduction of zinc by plants in this category. In view of demonstrated health hazards and effects on POTW operations a zinc limitation of 2.5 mg/l (monthly average) and 5 mg/l (daily maximum) is recommended as guidance for the purpose of assisting local authorities in carrying out programs of this type. A pH range was established for this subcategory for the purpose of limiting the concentrations of dissolved aluminum because it is found in very high concentrations in the wastes and is found to interfere with POTW operations and pose pass-through problems.

(B) *Aluminum sulfate.* Aluminum sulfate is produced by the reaction of bauxite ore with concentrated sulfuric acid. Ground ore and acid are reacted in a digester, yielding aluminum sulfate in solution plus muds and insoluble waste materials. These waste products are removed during sedimentation and filtration. The filtered product liquor is either shipped as liquid aluminum sulfate or evaporated to recover a solid product. Waste muds may be ponded to settle the solids and the clear water may be recycled. Generally, the sources of process water are spent liquor from settling ponds, wash water from residue washing, and water from equipment and plant washdown. Each of these streams contains residual sulfuric acid, but the two latter streams are much diluted versions of the former. The washdown water may contain minor spills and leaks. Aluminum is not regulated because in the quantities expected there is no harm to the POTW or to the environment. Indicated flows are up to 105,000 gallons per day. The BPT regulation for direct dischargers allows no discharge of process waste water pollutants. A pretreatment limitation is established for zinc because it is present in significant quantities in the wastes from this subcategory, has known harmful effects, is found to interfere with operation of a POTW and poses pass-through problems.

(C) *Calcium carbide.* Calcium carbide is prepared by the reaction of calcium oxide with carbon in a high temperature furnace. The product is then cooled, crushed, screened, packaged and shipped. The only wastes from this process are airborne dusts from the furnace coke dryer, from screening and from the packing station. All collected dusts may be returned to the furnace. The only source of process waste water is wet-scrubber discharge, having a moderate total suspended solids (TSS) concentration. The BPT regulation for direct dischargers is no discharge of process waste water pollutants. Because the pollutants are judged to be compatible with POTW operations no pretreatment regulation is established for this subcategory at this time.

(D) *Calcium chloride.* Calcium chloride has classically been produced by extraction as a joint product from natural salt brines, and as a by-product of soda ash (sodium carbonate) via the solvay process. Other, less complex processes, such as reaction of limestone and hydrochloric acid are used to produce smaller quantities of the salt. The only sources of process water discharge are concentrated brine wastes, equipment washdown, and wet scrubbers. These wastes characteristically have a low pH and high total dissolved solids (TDS) concentrations. Because no economical treatment technology is available and because wastes from this process are judged to be compatible with POTW operation no pretreatment regulation is established for this subcategory at this time.

(E) *Sodium bicarbonate.* Sodium bicarbonate is made by reacting sodium carbonate with water and carbon dioxide under pressure. The bicarbonate precipitates from solution and is centrifuged or filtered, washed, dried, and packaged. Treated process waste water may be recycled after concentration with respect to sodium carbonate. The sources of waste water normally include recycle liquor, filter backwash, noncontact cooling water, washdowns, and compressor blowdowns. High TDS and TSS concentrations are found in these wastes. Large leaks and spills are not common to the industry since the materials used in the process are neither highly acidic nor highly basic, and the corrosion of pipes or fittings is not a problem. The BPT regulation for direct dischargers allows no discharge of process waste water pollutants. Because economical treatment technology other than total recycle is not available at this time and the pollutants are judged to be compatible with POTW operation, no pretreatment regulation is established for this subcategory.

(F) *Potassium dichromate.* Most potassium dichromate manufactured in the U.S. is made by reacting a sodium dichromate dihydrate solution with potassium chloride. The potassium dichromate is crystallized from solution resulting in a relatively pure product which requires only removal of water prior to sizing and packaging. The process water may be recycled back to the initial reaction tank. The BPT regulation for direct dischargers allows no discharge of process waste water pollutants. Pretreatment limitations are established for hexavalent chromium and total chromium because they are present in significant quantities in wastes from this subcategory, have known harmful effects and pose pass-through problems.

(G) *Copper sulfate.* Copper sulfate may be produced from a pure copper raw material or from an impure copper source.

When a pure raw material is used, copper, sulfuric acid, water, and air are introduced into a steam-heated oxidizing tower. The resulting copper sulfate solution is sent to a sedimentation basin and then to a crystallizing tank. The concentrated crystals are centrifuged, separated and dried. All waste streams are recycled to the process.

In the by-product recovery process, a waste stream from a copper refinery is fed to an oxidizer tank where it is reacted with copper shot, steam, and air. The resulting solution is concentrated and filtered. The filtrate is crystallized, centrifuged, and screened. Product copper sulfate is dried and packaged. Process waste waters consist of spent mother liquors and wash down waters. Indicated flows in this subcategory are up to 9000 gallons per day. Pretreatment limitations are established for copper and nickel because they are present in significant quantities in the wastes from this subcategory, have known harmful effects, are found to interfere with POTW operation and pose pass-through problems.

(H) *Ferric chloride.* Ferric chloride is produced from waste pickle liquor. The pickle liquor is preheated and reacted with iron, chlorine and sometimes hydrochloric acid. The solution is filtered and sold in solution or evaporated to dryness to recover a solid product. Wastes consist of filter sludges and washdown and pump seal waters containing grease and various iron compounds. Pump seal leaks are common and can be significant, as process material (pickle liquor and contaminants) will be lost. Wastes are acidic. The BPT regulation for direct discharges allows no discharge of process waste water pollutants. Indicated flows are up to 13,500 gallons per day. Pretreatment limitations are established for hexavalent chromium, total chromium, copper, nickel, and zinc because they are present in significant quantities in wastes from this subcategory, have known harmful effects, are found to interfere with POTW operation and pose pass-through problems.

(I) *Lead monoxide.* Lead monoxide is produced by the thermal oxidation of lead. There are no process waste water streams generated by lead monoxide production. The only sources of waste water from lead monoxide production are plant washdown and compressor blowdown, and dust control. The wastes from this process contain lead monoxide and a small amount of oil and grease in the compressor blowdown. The BPT regulation for direct discharges allows no discharge of process waste water pollutants. A pretreatment limitation is established for lead because it is present in significant quantities in the wastes from this subcategory, has known harmful effects, is found to interfere with operation of a POTW and poses pass-through problems.

(J) *Nickel sulfate.* Nickel sulfate is produced from pure nickel or nickel oxide and from impure nickel-containing materials.

When pure nickel is used as the raw material, the metal or oxide is digested in sulfuric acid. The solution is then filtered and sold or further processed to yield a solid product. Virtually no process wastes are generated by this process.

When impure raw materials are used, the sulfuric acid reaction solution must be treated with oxidizers to remove impurities. After filtration the product is marketed or converted into a solid product. Raw wastes consist of copper, nickel, suspended solids, and dissolved solids present in the impure nickel raw material. Waste streams result from the use of wet scrubbers, from barometric condensers and from treatment of the raw materials to remove impurities. Indicated flows are less than 1,500 gallons per day. Pretreatment limitations for nickel and copper are established because they are present in significant quantities in the wastes from this subcategory, have known harmful effects, are found to interfere with POTW operations and pose pass-through problems.





(K) *Nitrogen and oxygen.* Nitrogen and oxygen are manufactured by the distillation of liquefied air. Air is compressed, cooled and then separated into nitrogen and oxygen by distillation. The primary process wastes are oil and grease contained in compressor condensates. The highest flows found were 7,000 gallons per day. Oil and grease in the quantities discharged from this process are judged to be compatible with POTW operations. Because of this, no pretreatment regulation is established for this subcategory at this time.

(L) *Potassium iodide.* Potassium iodide is produced by the reaction of potassium hydroxide and iodine. The waterborne wastes are product and raw material losses. The BPT regulation for direct dischargers allows no discharge of process waste water pollutants. Because no economical treatment technology is available and the wastes are not expected to interfere with POTW operations or harm the environment, no pretreatment regulation for this subcategory is established at this time.

(M) *Silver nitrate.* Silver nitrate is produced by dissolving silver in nitric acid. The solution is evaporated yielding a concentrated mother liquor which is sent to a crystallizer. The crystals are centrifuged washed, dried, and packaged. Waste water streams result from the use of wet scrubbers, from product washing and purification operations, from the evaporators, and from floor and equipment washings. The waste streams are sent to a recovery system to reclaim the silver. However, even after recovery enough silver may still remain in the waste stream to make it a parameter of concern. A pretreatment limitation is established for silver because it is present in significant quantities in the wastes from this subcategory, has known harmful effects, is found to interfere with operation of a POTW and poses pass-through problems.

(N) *Sodium fluoride.* Sodium fluoride may be made by two similar processes. Anhydrous hydrofluoric acid may be reacted with sodium carbonate. The solution is then sent to a vacuum filter to recover product sodium fluoride. Process wastes from this process consist of filtrate, mother liquors, wash down waters and scrubber solutions which are recycled. The mother liquor and wash down waters generally contain sodium carbonate and waste sodium fluoride.

Sodium fluoride may also be produced by the reaction of sodium silicofluoride with sodium hydroxide. The solution is fed to a multi-stage separator, wherein sodium fluoride separates from the sodium silicate solution. The product sodium fluoride is washed, dried, and packaged. Process waste water from this process consists of waste liquor containing sodium silicate and sodium fluoride, wet scrubber blowdown and wash waters. The BPT regulation for direct dischargers allows no discharge of process waste water pollutants. Fluoride concentration in raw waste load is very high, up to several thousand mg/l. A pretreatment limitation is established for fluoride because it is present in significant quantities in the wastes from this subcategory, has known harmful effects, is found to interfere with POTW operations and poses pass-through problems.

(iii) *Treatment and control technology.* Parameters selected for control by these regulations are zinc, copper, nickel, hexavalent chromium, total chromium, lead, silver, and fluoride. These pollutants were found to interfere with POTW operations or pose pass-through problems. The known toxic effects of these pollutants were taken into account in assessing the significance of pass-through problems and the potential for interference with POTW biological systems. Furthermore, the extent to which these pollutants are partially removed at the POTW and accumulate in the municipal sludge was an important factor in the decision to regulate these parameters. In a POTW with secondary treatment, conservative estimates indicate that at least 45 percent of the zinc, 38 percent of the chromium, 55 percent of the copper, 31 percent of the lead, and 60 percent of the silver introduced into the POTW will be incidentally removed and will be deposited in the municipal sludge. The data also showed that 0 to 61 percent of the nickel will be incidentally removed. The accumulation of these metals in the sludge can seriously limit the disposal options open to a municipality and can prevent use of the sludge for beneficial purposes such as agricultural uses. Based on a consideration of the extent to which these pollutants pass through a POTW, the toxicity of these pollutants, the effects on the biota in the POTW, and the potential for accumulation in the municipal sludge, it was decided that the pollutants mentioned should be controlled by industrial users in this category to the extent feasible, based on an assessment of appropriate pretreatment technologies.

On February 2, 1977, the Agency proposed a general pretreatment regulation (40 CFR Part 403) which included for public comment four alternative pretreatment strategies. The four strategies included consideration of pollutant removals achieved by POTW both at the national level in establishing Federal pretreatment standards, and on a case-by-case basis at the local level (i.e., POTW variances or local credits). For the reasons discussed above, and since the Agency does not wish to pre-judge the selection of a national pretreatment strategy, these standards for the inorganic chemicals category are based on the pollutant reductions technically and economically feasible, and do not incorporate pollutant removals achieved by the POTW. If the way in which pollutant removals are taken into account in the overall pretreatment strategy is inconsistent with these standards for the inorganic chemicals category, then these standards will be revised to be consistent.

Parameters for which limitations are not established include TSS, TDS, carbonate, calcium, chloride, potassium, sodium, sulfate and oil, and grease. The TSS concentrations found are expected to be compatible with municipal systems. TDS, carbonate, calcium, chloride, potassium, sodium, and sulfate are not regulated because they are not expected to harm operations of a municipal system and no economically practicable pretreatment technology is available at this time. Oil and grease are not regulated because the small quantities in the wastes from lead monoxide and oxygen and nitrogen production will be effectively treated by a POTW. Aluminum and iron are not regulated because in the quantities expected there is no harm to the POTW or to the environment. However, for these two metals large discharges in wastes would be detrimental to POTW operations or the environment. For this reason a POTW should consider the need for establishing a limit for aluminum and/or iron if large discharges occur.

Treatment technology for metals and fluoride removal is precipitation followed by removal of the precipitate by clarifier, settling and/or filtration. Lime can generally be used as the precipitating agent although more positive results for lead, zinc and nickel will be obtained by precipitation with sodium carbonate. Hexavalent chromium will require reduction by sulfur dioxide to convert it to trivalent chromium. The trivalent chromium is readily removed by lime precipitation.

Most of the wastes are acidic and will require neutralization to meet the minimum requirement of pH 5.0. Neutralization with lime, sodium carbonate or caustic will achieve the required result and at the same time precipitate metals.

The above discussions form the basis for pretreatment standards. However this does not preclude the selection of other waste water treatment alternatives which provide equivalent or better levels of treatment. Some alternate treatment technologies that may be more cost effective for some plants are evaporation ponds, dry collection of wastes, recycle of effluents, leak and spill control, flow reduction and process changes.

Solid waste control by industrial users of POTW must be considered. The best pretreatment technologies as known today require disposal of the pollutants removed from waste waters in the form of solid wastes and liquid concentrates. Some constituents may be hazardous and may require special consideration. In order to insure long-term protection of the environment from these hazardous or harmful constituents, special consideration of disposal sites must be made. All landfill sites where such hazardous wastes are disposed should be selected so as to prevent horizontal and vertical migration of these contaminants to ground or surface waters. In cases where geologic conditions may not reasonably ensure this, adequate legal and mechanical precautions (e.g., impervious liners) should be taken to ensure long-term protection to the environment from hazardous materials. Where appropriate, the location of solid hazardous materials disposal sites should be permanently recorded in the appropriate office of legal jurisdiction.

(iv) *Cost estimates for control of waste water pollutants.* Cost information was obtained directly from industry, from engineering firms, equipment suppliers, government sources, and available literature whenever possible. Costs are based on actual industrial installations or engineering estimates for projected facilities as supplied by contributing companies. In the absense of such information, cost estimates have been developed from either plant-supplied costs for similar waste treatment installation at plants making other inorganic chemicals or general cost estimates for treatment technology.

(v) *Energy requirements and nonwater quality environment impacts.* The energy costs related to the implementation of these regulations are generally limited to electricity required for liquid transfer pumps, agitator motors, and skimmers. Electrical energy costs will range from one to seven percent of total annual treatment costs or from 0 to 0.2 percent of total product cost.

The major nonwater quality consideration which may be associated with the recommended pretreatment technologies is the generation of metals bearing solid wastes from pH adjustment and settling facilities. In some cases these wastes can be reprocessed to recover metals but in most cases these wastes will be landfilled.

No significant increase in noise pollution, radiation, air pollution or thermal pollution will result from the implementation of pretreatment technology.

(vi) *Economic impact analysis.* This section summarizes the economic and inflationary impacts of the pretreatment standards for the Inorganic Chemicals Manufacturing Point Source Category. No significant economic impact is expected for any of the nine subcategories. This summary will present the estimated investment and annual costs required for complying with the pretreatment standards, and the estimated price increase due to these standards.

Executive Order 11821 (November 27, 1974) requires that major proposals for legislation and promulgation of regulations and rules by agencies of the executive branch be accompanied by a statement certifying that the inflationary impact of the proposal



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has been evaluated. The Administrator has directed that all regulatory actions which are likely to exceed any of the following four criteria will require certification:

1. Additional national annualized costs of compliance, including capital charges (interest and depreciation), will total $100 million within any calendar year by the attainment date, if applicable, or within five years of implementation.

2. Total additional cost of production of any major product is more than 5 percent of the selling price of the product.

3. Net national energy consumption will be increased by the equivalent of 25,000 barrels of oil a day (equal to 50 x $10^{12}$ BTU per year or 5 x $10^9$ kilowatt-hours per year).

For the nine subcategories, an attempt was made to identify all known dischargers into POTW (indirect dischargers). When that was not possible, an estimate of that number was made from the number of plants currently unidentified as to their discharge status. Table A below presents the number of known and estimated indirect dischargers.

TABLE A.—*Number of dischargers into POTW's*

| Subcategory | Known | Additional [1] | Total |
|---|---|---|---|
| Aluminum chloride | 0 | 1 | 1 |
| Aluminum sulfate | 0 | 6 | 6 |
| Copper sulfate | 0 | 1 | 1 |
| Ferric chloride | 2 | 1 | 3 |
| Lead monoxide | 0 | 1 | 1 |
| Nickel sulfate | 3 | 1 | 4 |
| Potassium dichromate | 0 | 0 | 0 |
| Silver nitrate | 0 | 1 | 1 |
| Sodium fluoride | 0 | 0 | 0 |
| Total | 5 | 12 | 17 |

[1] Estimated number.

Source: "Economic Analysis of Pretreatment Standards for the Inorganic Chemicals Manufacturing Point Source Category," Arthur D. Little, Inc. March 1977. "Supplement for Pretreatment to the Development Documents for the Inorganic Chemicals Manufacturing Point Source Category," EPA, February 1977.

For each subcategory, costs were calculated for two cases: Known POTW dischargers and the total (known and estimated) number of POTW dischargers. Table B presents the total investment costs and Table C presents the annual costs and the expected price increases.

TABLE B

| Subcategory | Total investment required (dollars) [1] | |
|---|---|---|
| | Known | Total [2] |
| Aluminum chloride | 0 | 30,500 |
| Aluminum sulfate | 0 | 426,000 |
| Copper sulfate | 0 | 44,500 |
| Ferric chloride | 59,800 | 89,700 |
| Lead monoxide | 0 | 111,800 |
| Nickel sulfate | 38,100 | 51,200 |
| Potassium dichromate | 0 | 0 |
| Silver nitrate | 0 | 39,800 |
| Sodium fluoride | 0 | 0 |
| Total | 98,200 | 793,500 |

[1] 1975 dollars.
[2] Total figures include costs for both known and estimated plants.

Source: "Economic Analysis of Pretreatment Standards for the Inorganic Chemicals Manufacturing Point Source Category." Arthur D. Little, Inc. March 1977.

TABLE C

| Subcategory | Total annual cost pretreatment (dollars) [1] | | Average expected price increase (percent) [2] |
|---|---|---|---|
| | Known | Total [3] | |
| Aluminum chloride | 0 | 33,870 | 1.6 |
| Aluminum sulfate | 0 | 702,498 | 1.9 |
| Copper sulfate | 0 | 24,450 | .2 |
| Ferric chloride | 50,600 | 75,900 | 1.3 |
| Lead monoxide | 0 | 45,510 | .4 |
| Nickel sulfate | 22,110 | 29,480 | .2 |
| Potassium dichromate | 0 | 0 | 0 |
| Silver nitrate | 0 | 22,580 | .007 |
| Sodium fluoride | 0 | 0 | |
| Total | 72,710 | 934,288 | |

[1] 1975 dollars. Annual costs include capital charges such as depreciation.
[2] Annual cost as a percentage of 1975 selling price (per ton based on model plant cost estimates).
[3] Total figures include costs for both known and estimated plants.

Source: "Economic Analysis of Pretreatment Standards for the Inorganic Chemicals Manufacturing Point Source Category," Arthur D. Little, Inc. March 1977.

As can be seen above, total national annualized costs of compliance for the Pretreatment Standards are well below $100 million per year. Energy consumption will be increased by a nominal amount. The projected increase in demand or decrease in supply for any of the above materials is nominal. Thus an inflationary impact statement is not necessary.

The Agency has considered the economic impact of the internal and external costs of the effluent limitation guidelines. Internal costs (see Tables B and C above) are defined as investment and annual costs, where annual cost is composed of operating costs, maintenance costs, the cost of capital, and depreciation. External costs include the assessments of the economic impact of the internal costs in terms of price increases, production curtailments, plant closures, resultant unemployment, community and regional impacts, international trade, and industry growth.

The impact of these regulations is expected to be minimal for the inorganic chemicals industry. In most cases, pretreatment costs can be passed on to the consumer through price increases ranging from 0 percent to 1.9 percent of 1975 selling price on a per ton basis. No production curtailment or plant closures are projected as a result of these pretreatment standards. Based on this analysis, the effects on employment, industry growth, and international trade are expected to be minimal.

APPENDIX B—SUMMARY OF PUBLIC PARTICIPATION

Prior to this publication, copies of the draft development document ("Draft Supplement for Pretreatment to the Development Documents for the Inorganic Chemicals Manufacturing Point Source Category") were sent to industry trade groups, Federal agencies, and State, local, and territorial pollution control agencies, and ESWQIAC (the Effluent Standards and Water Quality Information Advisory Committee established under section 515 of the FWPCA). These persons were given an opportunity to participate in the development of pretreatment standards by submitting written comments. In addition, a public meeting was held on March 18, 1977, at EPA headquarters in Washington, D.C., at which interested person were invited to express their views publicly.

The following organizations responded with comments: Allied Chemical Company; American Cyanamid Company; United States Steel Corporation; New York State Department of Environmental Conservation; Georgia Department of Natural Resources; The Metropolitan Sanitary District of Greater Chicago; The Indiana State Board of Health; and the Maryland Department of Health and Mental Hygiene.

The major issues raised by commenters during the development of the pretreatment standards and the resolution of these issues are as follows:

(1) One commenter suggested that the pretreatment standards be delayed until the policy issues involved with the four options in the Proposed Regulations on Pretreatment Standards for Existing and New Sources of Pollution (FEDERAL REGISTER, 42 FR 6476, Wednesday, February 2, 1977) are settled.

The Agency is subject to an order of the United States District Court for the District of Columbia entered in "Natural Resources Defense Council (NRDC) v. EPA," 8 E.R.C. 2120 (D.D.C. 1976) which requires the promulgation of pretreatment standards for this industry category no later than May 15, 1977. The industry-specific pretreatment regulations promulgated today are based primarily upon technological and economic factors while the general pretreatment regulations involve the methodology by which the industry-specific regulations will be applied to individual plants, and the relationship between the Federal and State governments.

When the new general pretreatment regulations are promulgated, these standards will be reviewed for consistency with the new general policies.

(2) One commenter objected to the language in the document which states that allowable pollutants discharged into POTW should be "similar in all material respects to municipal sewage which a 'normal type' POTW is designed to treat."

The Agency agrees that this statement is unclear and subject to misinterpretation. The statement has been deleted from the development document. The statement now reads, "Pretreatment standards should allow material to be discharged into a POTW when such materials are wastes which a normal POTW has been designed to treat."

(3) One commenter objects to the inclusion in the Development Document of charts and tables expressing minimum theoretical concentrations of metals. The concern is that these theoretical concentrations may be used for effluent and pretreatment standards.

Solubility tables and figures are included in the development document to provide the user of the document with background material for comparative purposes. The proposed limitations are based on demonstrated effluent levels, and are higher than the minimum theoretical solubilities.

(4) One commenter suggested that for subcategories where promulgated effluent guidelines require zero discharge of process contaminants by July 1, 1977, no discharge be allowed to a POTW. It was also suggested that all waste discharges to POTW be prohibited unless they benefit from treatment in a POTW, or are beneficial to a POTW.

The Agency, in developing pretreatment standards, is charged with the responsibility of limiting the discharge of pollutants into a POTW which would interfere with, pass through, or otherwise be incompatible with the POTW. It is beyond the scope of these regulations to require no discharge to a POTW unless such a requirement is necessary in light of these criteria. An additional consideration is that dischargers in urban locations may be unable to discharge except into a POTW.





(5) One commenter was concerned about the lack of control over TDS (total dissolved solids), stating that variations in TDS concentrations may adversely affect biological waste treatment processes.

The Agency recognizes the potential need for limiting TDS discharges. However, technology for TDS removal is not economically achievable at this time, and in most cases TDS removal will not be necessary to protect either the treatment plant or water quality standards. More stringent standards may be set locally, particularly if there is any adverse effect on the treatment plant or the receiving water.

(6) One commenter suggested that a range of limits be promulgated based on the size of the receiving POTW.

The proposed limits represent the maximum allowable concentrations, regardless of the size of the receiving POTW. The local municipalities have the option of imposing more stringent limitations if necessary.

(7) One commenter questions the use of estimated discharge characteristics, and data from one plant to set pretreatment standards for the lead monoxide subcategory.

The source of lead waste from lead monoxide operations is dust loss and plant washdown. This waste is eliminated in three of the plants investigated by dry collection methods; in others it is not. Lead is limited because it is present in significant quantities in the wastes of some plants, it has known harmful effects, is found to interfere with POTW operations and poses pass-through problems.

(8) One comment objects to the statement (with regard to aluminum sulfate production) that "• • • all process wastes can be recycled."

Zero discharge technology is in operation at several aluminum sulfate plants. The Agency realizes, however, that some raw materials contain inert materials that cannot be recycled. The pretreatment models proposed in the development document take this into account. The sentence has been changed to read "all process wastes are recycled at some plants."

(9) Several commenters pointed out several errors or inconsistencies in the development document. These have been corrected.

Part 415, Chapter I, Subchapter N, Title 40 of the Code of Federal Regulations is amended as follows:

**§ 415.10 [Amended]**

Section 415.10 is amended by inserting the phrase "and to the introduction of pollutants into treatment works which are publicly owned" after the word "discharges."

Subpart A is amended by adding § 415.14 as follows:

**§ 415.14 Pretreatment standards for existing sources.**

For the purpose of establishing pretreatment standards under section 307 (b) of the Act for a source within the aluminum chloride production subcategory, the provisions of Part 128 of this chapter shall not apply. The pretreatment standards for an existing source within the aluminum chloride production subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically, the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 5.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at either a hydraulic flow rate or pollutant flow rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) In addition to the general prohibitions set forth in paragraph (a) of this section, the following pretreatment standard establishes the quality or quantity of pollutants or pollutant properties controlled by this section which may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart.

| Pollutant or pollutant property: | *Pretreatment standard* |
|---|---|
| pH | Within the range 5.0 to 10.0. |

**§ 415.20 [Amended]**

Section 415.20 is amended by inserting the phrase "and to the introduction of pollutants into treatment works which are publicly owned" after the word "discharges."

Subpart B is amended by adding § 415.24 as follows:

**§ 415.24 Pretreatment standards for existing sources.**

For the purpose of establishing pretreatment standards under Section 307(b) of the Act for a source within the aluminum sulfate production subcategory, the provisions of Part 128 of this chapter shall not apply. The pretreatment standards for an existing source within the aluminum sulfate production subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically, the following wastes shall not be introduced into the publicly owned treatment works.

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 5.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at either a hydraulic flow rate or pollutant flow rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) In addition to the general prohibitions set forth in paragraph (a) of this section, the following pretreatment standard establishes the quality or quantity of pollutants or pollutant properties controlled by this section which may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart.

[Milligrams per liter]

| Pollutant or pollutant property | Pretreatment standard | |
|---|---|---|
| | Maximum for any 1 day | Average of daily values for 30 consecutive days shall not exceed— |
| Zinc | 5.0 | 2.5 |

**§ 415.120 [Amended]**

Section 415.120 is amended by inserting the phrase "and to the introduction of pollutants into treatment works which are publicly owned" after the word "discharges."

Subpart L is amended by adding § 415.124 as follows:

**§ 415.124 Pretreatment standards for existing sources.**

For the purpose of establishing pretreatment standards under section 307 (b) of the Act for a source within the potassium dichromate production subcategory, the provisions of Part 128 of this chapter shall not apply. The pretreatment standards for an existing source within the potassium dichromate production subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically, the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 5.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at either a hydraulic flow rate or pollutant flow rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) In addition to the general prohibitions set forth in paragraph (a) of this section, the following pretreatment standards establishes the quality or quantity of pollutants or pollutant properties controlled by this section which



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may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart.

[Milligrams per liter]

| Pollutant or pollutant property | Pretreatment standard | |
|---|---|---|
| | Maximum for any 1 day | Average of daily values for 30 consecutive days shall not exceed— |
| Hexavalent chromium | 0.25 | 0.09 |
| Total chromium | 3.0 | 1.0 |

**§ 415.360 [Amended]**

Section 415.360 is amended by inserting the phrase "and to the introduction of pollutants into treatment works which are publicly owned" after the word "discharges."

Subpart AJ is amended by adding § 415.364 as follows:

**§ 415.364 Pretreatment standards for existing sources.**

For the purpose of establishing pretreatment standards under section 307 (b) of the Act for a source within the copper sulfate production subcategory, the provisions of Part 128 of this chapter shall not apply. The pretreatment standards for an existing source within the copper sulfate production subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically, the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 5.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at either a hydraulic flow rate or pollutant flow rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) In addition to the general prohibitions set forth in paragraph (a) of this section, the following pretreatment standard establishes the quality or quantity of pollutants or pollutant properties controlled by this section which may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart.

[Milligrams per liter]

| Pollutant or pollutant property | Pretreatment standard | |
|---|---|---|
| | Maximum for any 1 day | Average of daily values for 30 consecutive days shall not exceed— |
| Copper | 1.0 | 0.5 |
| Nickel | 2.0 | 1.0 |

**§ 415.380 [Amended]**

Section 415.380 is amended by inserting the phrase "and to the introduction of pollutants into treatment works which are publicly owned" after the word "discharges."

Subpart AL is amended by adding section 415.384 as follows:

**§ 415.384 Pretreatment standards for existing sources.**

For the purpose of establishing pretreatment standards under section 307 (b) of the Act for a source within the ferric chloride production subcategory, the provisions of Part 128 of this chapter shall not apply. The pretreatment standards for an existing source within the ferric chloride production subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically, the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 5.0, unless the works is designed to accommodate such pollutants

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at either a hydraulic flow rate or pollutant flow rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) In addition to the general prohibitions set forth in paragraph (a) of this section, the following pretreatment standard establishes the quality or quantity of pollutants or pollutant properties controlled by this section which may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart.

[Milligrams per liter]

| Pollutant or pollutant property | Pretreatment standard | |
|---|---|---|
| | Maximum for any 1 day | Average of daily values for 30 consecutive days shall not exceed— |
| Total Chromium | 3.0 | 1.0 |
| Hexavalent Chromium | .25 | .09 |
| Copper | 1.0 | .5 |
| Nickel | 2.0 | 1.0 |
| Zinc | 5.0 | 2.5 |

**§ 415.440 [Amended]**

Section 415.440 is amended by inserting the phrase "and to the introduction of pollutants into treatment works which are publicly owned" after the word "discharges."

Subpart AR is amended by adding § 415.444 as follows:

**§ 415.444 Pretreatment standards for existing sources.**

For the purpose of establishing pretreatment standards under section 307 (b) of the Act for a source within the lead monoxide production subcategory, the provisions of Part 128 of this chapter shall not apply. The pretreatment standards for an existing source within the lead monoxide production subcategory or set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically, the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 5.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at either a hydraulic flow rate or pollutant flow rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) In addition to the general prohibitions set forth in paragraph (a) of this section, the following pretreatment standard establishes the quality or quantity of pollutants or pollutant properties controlled by this section which may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart.





[Milligrams per liter]

| Pollutant or pollutant property | Pretreatment standard | |
|---|---|---|
| | Maximum for any 1 day | Average of daily values for 30 consecutive days shall not exceed— |
| Lead | 2.0 | 1.0 |

**§ 415.470 [Amended]**

Section 415.470 is amended by inserting the phrase "and to the introduction of pollutants into treatment works which are publicly owned" after the word "discharges."

Subpart AU is amended by adding § 415.474 as follows:

**§ 415.474 Pretreatment standards for existing sources.**

For the purpose of establishing pretreatment standards under section 307 (b) of the Act for a source within the nickel sulfate production subcategory, the provisions of Part 128 of this chapter shall not apply. The pretreatment standards for an existing source within the nickel sulfate production subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically, the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 5.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at either a hydraulic flow rate or pollutant flow rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) In addition to the general prohibitions set forth in paragraph (a) of this section, the following pretreatment standard establishes the quality or quantity of pollutants or pollutant properties controlled by this section which may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart.

[Milligrams per liter]

| Pollutant or pollutant property | Pretreatment standard | |
|---|---|---|
| | Maximum for any 1 day | Average of daily values for 30 consecutive days shall not exceed— |
| Silver | 1.0 | 0.5 |

[Milligrams per liter]

| Pollutant or pollutant property | Pretreatment standard | |
|---|---|---|
| | Maximum for any 1 day | Average of daily values for 30 consecutive days shall not exceed— |
| Nickel | 2.0 | 1.0 |
| Copper | 1.0 | .5 |

**§ 415.530 [Amended]**

Section 415.530 is amended by inserting the phrase "and to the introduction of pollutants into treatment works which are publicly owned" after the word "discharges."

Subpart BA is amended by adding § 415.534 as follows:

**§ 415.534 Pretreatment standards for existing sources.**

For the purpose of establishing pretreatment standards under Section 307 (b) of the Act for a source within the silver nitrate production subcategory, the provisions of Part 128 shall not apply. The pretreatment standards for an existing source within the silver nitrate production subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically, the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 5.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at either a hydraulic flow rate or pollutant flow rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) In addition to the general prohibitions set forth in paragraph (a) of this section, the following pretreatment standard establishes the quality or quantity of pollutants or pollutant properties controlled by this section which may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart.

[Milligrams per liter]

| Pollutant or pollutant property | Pretreatment standard | |
|---|---|---|
| | Maximum for any 1 day | Average of daily values for 30 consecutive days shall not exceed— |
| Fluoride | 50 | 25 |

**§ 415.550 [Amended]**

Section 415.550 is amended by inserting the phrase "and to the introduction of pollutants into treatment works which are publicly owned" after the word "discharges."

Subpart BC is amended by adding § 415.554 as follows:

**§ 415.554 Pretreatment standards for existing sources.**

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the sodium fluoride production subcategory, the provisions of Part 128 of this chapter shall not apply. The pretreatment standards for an existing source within the sodium fluoride production subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically, the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which would create a fire or explosion hazard in the publicly owned treatement works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 5.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at either a hydraulic flow rate or pollutant flow rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) In addition to the general prohibitions set forth in paragraph (a) of this section, the following pretreatment standard establishes the quality or quantity of pollutants or pollutant properties controlled by this section which may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart.

[FR Doc.77-20555 Filed 7-19-77;8:45 am]



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federal register

WEDNESDAY, JULY 20, 1977

PART III




# FEDERAL COMMUNICATIONS COMMISSION

■

## CITIZENS BAND (CB) RADIO SERVICE

Proposed Rewriting and Simplification of Regulations

READERS ARE ENCOURAGED TO FILL OUT AND RETURN THE QUESTIONNAIRE AT THE END OF THIS DOCUMENT

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## FEDERAL COMMUNICATIONS COMMISSION

**[ 47 CFR Part 95 ]**

[FCC 77-457; Docket No. 21318]

### CITIZENS BAND (CB) RADIO SERVICE

**Rewriting of Regulations**

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is proposing a completely rewritten and simplified rule part concerning the Citizens Band (CB) Radio Service. We are taking this action in response to many complaints that the CB Radio Service Rules are difficult to read and understand. If adopted, we expect that the new, rewritten rules will be much more readable and comprehensible, and that, as a result, user rule compliance will increase.

DATES: Comments must be received on or before October 3, 1977. Reply comments must be received on or before November 1, 1977.

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Erika M. Ziebarth or Gregory M. Jones, Personal Radio Division, 202-634-6619 or 634-6620.

SUPPLEMENTARY INFORMATION: In the matter of Revision of Subpart D of Part 95 of the Commission's Rules, Citizens Band Radio Service (RM-2638, RM-2773, RM-2777).

Adopted: June 30, 1977.

Released: June 30, 1977.

By the Commission: Commissioner Lee concurring and issuing a statement; Commissioner Hooks absent.

1. The Commission is considering a completely rewritten and simplified Subpart D of Part 95 of its Rules, 47 CFR 95.401, *et seq.*, concerning the Citizens Band Radio Service. We are by this document giving Notice of Proposed Rule Making.

WHY IS THE FCC CONSIDERING NEW RULES FOR THE CB RADIO SERVICE?

2. The Citizens Band (CB) Radio Service is the largest radio service administered by the FCC. On May 1, 1977, there were 9,830,122 stations licensed in the CB Service, and this number is growing at the rate of about one-half million per month. Two years ago there were only a little more than one million licensed CB radio stations.

3. The phenomenal growth in the public's interest in and awareness of CB radio has caused several substantial problems. Chief among these are the problems associated with the crowding of an estimated twenty million or more essentially untrained, nontechnically oriented users of the CB Service onto a relative handful of frequencies.

4. The FCC Rules governing the CB Radio Service, Subpart D of Part 95 of Title 47 of the Code of Federal Regulations, are intended, at least in part, to ensure the most efficient use by CB licensees of one of the scarcest of all natural resources, the radio spectrum. If all CB licensees comply with the FCC's Rules, a greater number of users can make effective use of those frequencies available. Nonobservance of the rules by even a small percentage of CB operators results in unnecessary frequency congestion, interference, and spectrum waste. These problems will become more critical as time passes and a larger number of operators attempt to use the small number of available frequencies.

5. We have long believed that failure by a CB operator to observe FCC Rules results more from ignorance of the Rules than a deliberate decision to violate those Rules. As a consequence, in an effort to increase voluntary user rule compliance, the Commission has taken several steps towards increasing both the availability and readability of its CB Rules.

6. For many years CB Service licensees were required to maintain as part of their station records complete editions of Part 95 of the Rules, even though Part 95 contained much material of no interest or applicability to CB licensees, such as rules governing operation of stations in the General Mobile and Radio Control Services. Additionally, Part 95 was available only as part of a volume of the FCC Rules which included two completely separate rule parts, Parts 97 and 99.

7. In April 1976 we divided Parts 95, 97, and 99 and published each in separate booklets. CB licensees were no longer required to purchase rule parts for which they had no use and were required, instead, to possess rules of only thirty pages in length, rather than the previous seventy. Also in April 1976, the Commission's Personal Use Radio Advisory Committee (PURAC) established an advisory task to make recommendations to the Commission concerning the readability of Part 95.

8. On July 29, 1976, the Commission released a Second Report and Order in Docket 20120, FCC 76-707, 41 FR 32678 (1976). Among the rule revisions adopted in the Second Report and Order was a requirement that CB equipment manufacturers pack a current copy of Part 95 of the Rules with every CB unit sold on or after January 1, 1977. This amendment was intended to ensure that each purchaser of a CB unit at least receive a copy of Part 95 without having to suffer the inconvenience of ordering directly from the Superintendent of Documents. After consultations with the PURAC Part 95 Task Area Coordinator, Mr. P. Randall Knowles, Esq., of Kenilworth, Illinois, we released a Third Report and Order in Docket 20120, FCC 76-1138, 41 FR 56068 (December 23, 1976), republished at 42 FR 8326 (February 6, 1977). In the Third Report and Order we editorially reorganized Part 95 into four separate subparts. All rules governing CB radio stations were placed in Subpart D. (CB Service Rules had previously been interspersed throughout Part 95 with rules affecting the General Mobile and Radio Control Services, as well as rules of a very technical nature directed at CB equipment manufacturers). We also amended the Rules to require, at a minimum, that CB equipment manufacturers pack, and CB licensees possess, Subpart D of Part 95, instead of the entire Part 95. A CB licensee now need only maintain a rule subpart of some eight to ten pages in length, and all the rules in that Subpart are of direct applicability to CB licensees.

9. In reorganizing Part 95 we recognized that any reorganization, however helpful it might be, must be an interim measure. We stated we were aware that many of the CB Rules were not clearly written or easily understood. We said our objectives were to simplify and clarify the text of Subpart D, thereby increasing its readability, to enable those responsible for observing the rules contained in Subpart D to do so. We also said we intended to eliminate those regulations found to be nonessential. In short, we announced our intention, in the words of President Carter, to "cut down on government regulations and make sure that those that are written are in plain English."

WHAT IS THE FCC PROPOSING AND WHY?

10. With this Notice of Proposed Rulemaking we begin the difficult task of redrafting Subpart D of Part 95 to make it fully understandable to those to whom it is directed, CB Radio Service licensees. We have consulted with the PURAC Part 95 Readability Task Area members, and we are now prepared to propose a completely rewritten and simplified Subpart D of Part 95. The majority of the revisions we are proposing are editorial and are intended to clarify existing rules. The substantive amendments we are proposing are clearly identified below and are intended to make the rules simpler and easier to understand.

11. Our proposed Subpart D of Part 95 is set forth below. In order that our proposals be more fully understood, we have taken sections of existing Subpart D and matched them with the corresponding sections of proposed Subpart D. Each proposed section is followed by an explanation of the changes proposed. In this way, we believe full public participation in the rule making process may more readily be achieved. We have also drafted the rules in question-answer and first and second person form.

12. Authority for these proposals is contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended. The Commission invites interested parties to submit comments concerning our proposed revision of Subpart D of Part 95 on or before October 3, 1977, and reply comments on or before November 1, 1977. We stress that we wish to receive well considered comments not only on our substantive proposals but on the style and content of our proposed editorial redrafting, as well.

13. An original and five copies of all comments and reply comments shall be furnished the Commission. Those submitting comments wishing each Commissioner to have a personal copy of the comments may submit an additional six copies. Members of the public wishing to express interest in our proposals, but unable to supply the required copies, are invited to participate informally by submitting one copy of their comments, without regard to form, provided the correct Docket number is specified in the heading of the comments. All comments and reply comments filed in this proceeding should be sent to the Secretary, Federal Communications Commission, Washington, D.C. 20554. Individuals wishing to inspect the comments and reply comments filed in this proceeding may do so during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, in the Commission's Public Reference Room, 1919 M Street NW., Washington, D.C. 20554.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

CONCURRING STATEMENT OF COMMISSIONER ROBERT E. LEE IN RE-REVISION OF CITIZENS BAND RADIO SERVICE RULES

I heartily endorse the Commission's efforts to write readable and understandable rules. However, I continue to question whether licensing CB radio users serves any useful purpose.

I hope that people commenting about the proposed new rules will also comment about the need for CB licenses. In particular, I would like to know whether licensing encourages compliance with the FCC's CB rules, makes the FCC's enforcement job easier, or significantly helps the FCC resolve complaints about CB operation.

The FCC proposes to amend Part 95 of its Rules (47 CFR Part 95) as follows:

1. By revising Subpart D (§ 95.401 *et seq.*) as follows:





Subpart D—Citizens Band Radio Service

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GENERAL PROVISIONS

**§ 95.401 What is the Citizens Band (CB) Radio Service?**

The CB Radio Service is designed to be a private, two-way, short-distance voice communications (radiotelephony) service for personal activities. All frequencies in the CB Radio Service are shared. The CB Radio Service may also be used for voice paging and for business activities.

*Explanation*

*Editorial change.* This section has been rewritten in simpler, easier to understand language to clarify the Commission's intention in creating the CB Radio Service, namely that the CB Service is a radio service available to nearly everyone for personal and business activities at a reasonable cost.

**§ 95.403 How do I use these rules?**

(a) Read and obey the rules. See § 95.507 for the penalties for violations of these rules.

(b) Wherever the rules are addressing "you," the rules are addressing the applicant or the licensee. For purposes of these rules, an individual holding a valid temporary permit is included in the term "licensee," whenever appropriate. Unless otherwise specified in a particular section, all rules pertain to all licensees, including corporations, partnerships and associations.

(c) Where the rules use the word "person," the rules are concerned with any person, including an individual, a corporation, a partnership or an association.

*Explanation*

We believe it will be helpful to the readers of these rules to include a section on proper usage. We also believe that a discussion of the scope of the rules will assist licensees to understand their duties under these rules.

**§ 95.405 How are the key words in these rules defined?**

In these Rules, the following definitions apply:

*Antenna structure* means the antenna's radiating system, the antenna's supporting structure, and anything mounted on the antenna or its supporting structure.

*Broadcast* means to transmit a message which is not directed to one or more particular CB station or stations.

*Carrier power* means the average power at the output terminals of a transmitter (other than a single sideband unit or a transmitter with a suppressed, reduced or controlled carrier) during one radio frequency cycle under conditions of no modulation.

*Citizens Band (CB) Radio Service station* means a licensed station in the Personal Radio Services which is authorized to operate with voice transmissions (radiotelephony) only on an authorized frequency in the 27.96–27.41 MHz band.

*Communication* means a conversation or exchange of messages between CB stations not to exceed five minutes.

*Emergency communications* means messages concerning the immediate safety of life or the immediate protection of property.

*External radio frequency power amplifier* means any device which is not included by the manufacturer in a type-accepted transmitter and which, when used with a radio transmitter as a signal source, is capable of amplifying that signal. (External radio frequency amplifiers are sometimes known as "linears.")

*Harmful interference* means any transmission, emission, radiation, or induction which obstructs or repeatedly interrupts any legally transmitted communication.

*Mailing address* means the place where the licensee receives mail.

*Man-made structure* means any construction other than a tower, mast, or pole. (See the antenna height regulations, § 95.457.)

*Omnidirectional antenna* means an antenna designed so that the maximum radiation in any horizontal direction is within 3 dB of the minimum radiation in any horizontal direction.

*One-way communication* means a message which is not intended to establish communications with one or more particular CB station or stations.

**EXISTING**

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**§ 95.401 Basis and purpose.**

These rules are designed to provide a private short-distance radiocommunications service for the business or personal activities of licensees, all to the extent that these uses are not specifically prohibited in this part.

(No existing rule.)

**§ 95.403 Definitions.**

For the purpose of this part, the following definitions shall be applicable. For other definitions, refer to Part 2 of this chapter.

(a) Definitions of stations.

*Citizens Band (CB) Radio Service station.* A station in the Personal Radio Services licensed to be operated for radiotelephony only, on an authorized frequency in the 26.96–27.41 MHz band.

*Mobile station.* A station intended to be operated while in motion or during halts at unspecified points.

(b) Miscellaneous definitions.

*Antenna structures.* The term "antenna structures" includes the radiating system, its supporting structures and any appurtenances mounted thereon.

*Control point.* A control point is an operating position which is under the control and supervision of the licensee, at which a person immediately responsible for the proper operation of the transmitter is stationed, and at which adequate means are available to aurally monitor all transmissions and to render the transmitter inoperative.

*Dispatch point.* A dispatch point is any position from which messages may be transmitted under the supervision of the person at a control point.

*External radio frequency power amplifiers.* As defined in § 2.815(a) and as used in this part, an external radio frequency power amplifier is any device which: (1) When used in conjunction with a radio transmitter as a signal source is capable of amplification of that signal, and (2) is not an integral part of a radio transmitter as manufactured.

*Harmful interference.* Any emission, radiation, or induction which endangers the functioning of a radio-navigation service or other safety service or seriously degrades, obstructs, or repeatedly interrupts a radio-communication service operating in accordance with applicable laws, treaties, and regulations.

*Man-made structure.* A man-made structure is any construction other than a tower, mast, or pole.

*Omnidirectional antenna.* An antenna designed so the maximum radiation in any horizontal direction is within 3 dB of the minimum radiation in any horizontal direction.

*Person.* The term "person" indicates an individual, partnership, association, joint-stock company, trust, or corporation.

*Remote control.* The term "remote control" when applied to the use or operation of a Personal Radio Services station





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*Peak envelope power* (used by SSB units) means the average power at the output terminals of a transmitter during one radio frequency cycle at the highest crest of the modulation envelope, taken under conditions of normal (voice) operation.

*Person* means an individual, a partnership, an association, a joint-stock company, a trust, or a corporation.

*Plain language transmission* means a communication without codes or coded messages. (Operating signals (such as "ten-codes") are not considered "codes or coded messages.")

*Remote control* means operation of CB transmitting equipment from any place other than the location of the transmitting equipment. Direct mechanical control or direct electrical control by wire from some point on the same premises, craft or vehicle as the transmitting equipment is not considered remote control.

*Single sideband emission* means an emission in which only one sideband is transmitted. The carrier, or a portion of the carrier, may be present in the emission.

*Double sideband emission* means an emission in which both upper and lower sidebands are transmitted. The carrier, or a portion of the carrier, may also be present in the emission.

*Station* means all of the equipment used by a CB licensee or authorized user, regardless of ownership of the equipment.

*Station address* means the place where the station license is kept or posted (See § 95.501), where the station records are kept (See § 95.505 and 95.519) and where the primary fixed transmitter (if any) is operated.

*Station authorization* means a CB temporary permit or a CB license or special temporary authority issued by the FCC.

*Subaudible tone* means any tone or combination of tones having only frequencies below 150 Hertz.

*Two-way communications* means messages between specific licensed stations or a message directed to one or more specific licensed station or stations or to transmitters of the same station.

*Voice paging* means directing a message to a particular CB receiver (or receivers) solely for the purpose of conveying a particular communication to that receiver (or receivers).

*Explanation*

Editorial and substantive changes. The definitions of *control point* and *dispatch point* have been deleted, because they appear to have little or no applicability to the CB Service. New definitions of *carrier power, communication, emergency communications, mailing address, one-way communication, peak envelope power, plain language transmission, station, station address, subaudible tone,* and *two-way communications* have been added because there have been many questions in the past concerning their meaning. In the definition of *station authorization*, the words "construction permit" have been deleted, because construction permits are not normally required or issued in the CB Service. Some of the remaining definitions have been rewritten in simpler, easier to understand language, while others, because of their necessary technical character, have been left unchanged.

HOW TO APPLY FOR A CB LICENSE

**§ 95.409 Do I need a license?**

Before transmitting on a CB radio, you must have authority from the FCC, as follows:

| AN INDIVIDUAL MUST: |
|---|
| Get a CB license from the FCC; *OR*<br>Have a properly filled-out temporary permit (FCC Form 555–B); *OR*<br>Qualify to operate a CB radio under the authority of another person's license. |
| **AN ASSOCIATION, PARTNERSHIP, CORPORATION OR GOVERNMENTAL UNIT MUST:** |
| Get a CB license from the FCC; *OR*<br>Request, receive, and comply with a special temporary authority or other special authorization from the FCC. |

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means control of the transmitting equipment of that station from any place other than the transmitting equipment, except that direct mechanical control or direct electrical control by wired connections of transmitting equipment from some other point on the same premises, craft, or vehicle shall not be considered to be remote control.

*Single sideband emission.* An emission in which only one sideband is transmitted. The carrier, or a portion thereof, also may be present in the emission.

*Double sideband emission.* An emission in which both upper and lower sidebands resulting from the modulation of a particular carrier are transmitted. The carrier, or a portion thereof, also may be present in the emission.

*Station authorization.* Any construction permit, temporary permit, license, or special temporary authorization issued by the Commission.

APPLICATIONS AND LICENSES

**§ 95.451 Station authorization required.**

No radio station shall be operated in this service except under and in accordance with an authorization granted by the Federal Communications Commission.



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*Explanation*

This section redrafts existing § 95.451. In this Section we are emphasizing the requirement that before a person transmits on a CB radio he have a valid station authorization issued by the FCC or otherwise qualify to operate a CB radio under the authority of another person's license.

**§ 95.411 Am I eligible to get a CB license?**

(a) You are eligible for a CB license if—

(1) You are an individual eighteen years of age or older, an association, a partnership, a corporation, or a state, territorial, or local governmental unit; and

(2) You are not a foreign government or a representative of a foreign government.

(b) You must not have more than one CB license at any one time.

(c) Any partnership, corporation, association, state, territorial, or local governmental unit is eligible for one CB license at any one time, subject to the following restrictions:

(1) If the applicant is a partnership, each partner must be eighteen years of age or older.

(2) Any agency operating under the authority of an eligible governmental unit, including an authorized Civil Defense agency, is also eligible for a CB license.

(3) A subsidiary or division of a corporation is not eligible for its own CB license unless the subsidiary or division is separately incorporated.

*Explanation*

*Editorial change.* In this Section we have combined existing Rule §§ 95.411 and 95.413, both of which concern eligibility for CB station licenses, into a new § 95.411.

This Section has been rewritten in simpler, easier to understand language to ensure that interested persons know whether or not they are eligible for CB station licenses.

**§ 95.413 How do I apply for a CB license?**

(a) You apply for a new CB license by filling out an application (FCC Form 505) and sending it to the FCC, Gettysburg, Pa. 17326.

(b) You can get applications from the FCC; Washington, D.C. 20554 or from any FCC field office. (A list of FCC field offices is contained in § 95.521.) Many CB equipment dealers also have application forms.

(c) If you have questions about your application, you should write to the Personal Radio Division, FCC, Washington, D.C. 20554.

(d) If your application is not completely filled out, or if you do not include all necessary information with your application, the FCC may return your application.

**§ 95.415 Can I operate my CB station while my application is being processed?**

(a) If you are an individual, you may operate your CB radio after you have mailed your CB license application to the FCC, if—

(1) You fill out a temporary permit application (FCC Form 555–B), and

(2) You *keep* this form with your station records. The completed form *is* your temporary permit.

(b) A CB temporary permit is valid for 60 days after you mail your CB license application to the FCC.

**§ 95.417 How does a nonindividual applicant request temporary privileges?**

(a) Only an individual applicant may use a temporary CB permit.

(b) A partnership, corporation, association, or governmental unit may operate a CB radio while its application for a new CB license is pending only if it has obtained special temporary authority from the FCC. A written request for such authority, including justification for the request, must be submitted to the Personal Radio Division, FCC, Washington D.C. 20554.

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**§ 95.411 Eligibility for station license.**

(a) Subject to the general restrictions of § 95.413, any person is eligible to hold an authorization to operate a station: *Provided*, That if an applicant for a station authorization is an individual or partnership, such individual or each partner is eighteen or more years of age. An unincorporated association, when licensed under the provisions of this paragraph, may upon specific prior approval of the Commission provide radiocommunications for its members.

NOTE.—While the basis of eligibility in this service includes any state, territorial, or local governmental entity, or any agency operating by the authority of such governmental entity, including any duly authorized state, territorial, or local civil defense agency, it should be noted that the frequencies available to stations in this service are shared without distinction between all licensees and that no protection is afforded to the communications of any station in this service from interference which may be caused by the authorized operation of other licensed stations.

(b) No person shall hold more than one station license.

**§ 95.413 General citizenship requirements.**

A station license shall not be granted to or held by a foreign government or a representative thereof.

**§ 95.415 Standard forms to be used.**

(a) *FCC Form 505. Application for Station License in the R/C or CB Service.* This form shall be used when:

(1) Application is made for a new station authorization.

(2) Application is made for modification of any existing station authorization in those cases where prior Commission approval of certain changes is required (see § 95.435).

(3) Application is made for renewal of an existing station authorization, or for reinstatement of such an expired authorization.

(b) *FCC Form 555–B. Temporary Permit in the CB Service.* This form shall be used when application is made by an individual for temporary operating authorization.

(c) *FCC Form 703. Application for Consent to Transfer of Control of Corporation Holding Construction Permit or Station License.* This form shall be used when application is made for consent to transfer control of a corporation holding any station authorization.

**§ 95.417 Filing of applications.**

(a) To assure that necessary information is supplied in a consistent manner by all persons, standard forms are prescribed for use in connection with the majority of applications and reports submitted for Commission consideration. Standard numbered forms applicable to this service are discussed in § 95.415, and may be obtained from the Washington, D.C. 20554, office of the Commission, or from any of its engineering field offices.

(b) All formal applications for new, modified, or renewal station authorizations shall be submitted to the Commission's office, Gettysburg, Pa. 17326. An application for a temporary permit shall be made by completing and making the certifications required by FCC Form 555–B. Applications for consent to transfer of control of a corporation holding a station authorization, requests for special temporary authority or other special requests, and correspondence relating to an application for a station authorization shall be submitted to the Commission's Office at Washington, D.C. 20554, and should be directed to the attention of the Secretary.

(c) Unless otherwise specified, an application shall be filed at least 60 days prior to the date on which it is desired that Commission action thereon be completed. In any case where the applicant has made timely and sufficient application for renewal of license, in accordance with the Commission's rules, no license with reference to any activity of a continuing na-





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**§ 95.419 How do I renew or modify my CB license?**

(a) You renew or modify your license in the same way that you apply for a new CB license. You should allow at least sixty days for FCC action on your application.

(b) If you send your application before your license expires, you may continue to operate under that license until the FCC acts on your application. You do not need a temporary permit, but you should keep a copy of the application you send to the FCC.

**§ 95.421 How does a corporation apply for consent to transfer control?**

(a) If a corporation holds a CB license, advance written consent must be obtained from the FCC before control of the corporation can be transferred. A request for this consent must be made on FCC Form 703, and must be sent to the FCC; Washington, D.C. 20554.

(b) If the transfer of corporate control involves a change in the name of the corporation, the corporation's license must be surrended to the FCC for cancellation. An application may be made for a new CB license.

*Explanation*

*Editorial change.* We have divided present §§ 95.415 and 95.417 into new §§ 95. 413, .415, .417, .419 and .421. We believe the five new sections are arranged in a more logical fashion and enable a better understanding of how an applicant obtains a CB license and how he may operate his CB station while he is awaiting his station license. That part of existing § 95.417(b) concerning corporate control has been designated a new, separate section to minimize confusion. The proposed rules have been redrafted in a simpler, easier to understand style.

**§ 95.423 What address do I put on my application?**

(a) You must include your current complete mailing address and station address in the United States on your CB license application.

(b) A Canadian General Radio Service licensee may supply a Canadian address, if he or she is applying for permission to operate under TIAS No. 6931.

*Explanation*

*Editorial changes.* The rule concerning the address to be furnished by the applicant to the Commission has been redrafted in simpler language. The language concerning Canadian applicants has been redrafted because it refers not to Canadian applicants for regular CB station licenses, but to Canadians operating their General Radio Service stations in the United States under international agreement.

**§ 95.425 How do I sign my CB license application?**

(a) If you are an individual, you must sign your own application personally.

(b) If the applicant is not an individual, the signature on an application must be made as follows:

| *Type of applicant* | *Signature of applicant* |
|---|---|
| Partnership | One of the partners. |
| Corporation | Officer. |
| Association | Member who is an officer. |
| Governmental Unit | Appropriate elected or appointed official. |

(c) If the FCC requires you to submit additional information, you must sign it in the same way you signed your application.

(d) If you willfully make a false statement on your application, you may be punished by fine, imprisonment and revocation of your station license.

*Explanation*

*Editorial changes.* This section has been redrafted in greatly simplified language to ensure that an applicant for a CB license knows how to sign his or her application. Paragraph (b) of existing § 95.421 has been deleted as duplicative of § 1.913(b) of the Commission's Rules. Paragraph (c) of existing § 95.421 has been deleted as unnecessary.

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ture shall expire until such application shall have been finally determined.

(d) A temporary permit may not be held by an applicant already holding a station license.

(e) Failure on the part of the applicant to provide all the information required by the application form, or to supply the necessary exhibits or supplementary statements may constitute a defect in the application.

(f) Applicants proposing to construct a radio station on a site located on land under the jurisdiction of the U.S. Forest Service, U.S. Department of Agriculture, or the Bureau of Land Management, U.S. Department of the Interior, must supply the information and must follow the procedure prescribed by § 1.70 of this chapter.

**§ 95.419 Mailing address furnished by licensee.**

Except for applications submitted by Canadian citzens pursuant to agreement between the United States and Canada (TIAS No. 6931), each application shall set forth and each licensee shall furnish the Commission with an address in the United States to be used by the Commission in serving documents or directing correspondence to that licensee. Unless any licensee advises the Commission to the contrary, the address contained in the licensee's most recent application will be used by the Commission for these purposes.

**§ 95.421 Who may sign applications.**

(a) Except as provided in paragraph (b) of this section, applications, amendments thereto, and related statements of fact required by the Commission shall be personally signed by the applicant, if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association. Applications, amendments, and related statements of fact filed on behalf of eligible government entities, such as states and territories of the United States and political subdivisions thereof, the District of Columbia, and units of local government, including incorporated municipalities, shall be signed by such duly elected or appointed officials as may be competent to do so under the laws of the applicable jurisdiction.

(b) Applications, amendments thereto, and related statements of fact required by the Commission may be signed by the applicant's attorney in case of the applicant's physical disability or of his absence from the United States. The attorney shall in that event separately set forth the reason why the application is not signed by the applicant. In addition if any matter is stated on the basis of the attorney's belief only (rather than his knowledge), he shall separately set forth his reasons for believing that such statements are true.

(c) Only the original of applications, amendments, or related statements of fact need be signed; copies may be conformed.

(d) Applications, amendments, and related statements of the fact need not be signed under oath. Willful false state-



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**§ 95.427 How long is my license valid?**

Your CB license is normally valid for five years from the date it was first issued or renewed.

*Explanation.*

*Editorial change.* This section has been redrafted in simpler language to aid understanding.

**§ 95.429 What kind of operation does my CB license allow?**

(a) You must obey all the conditions and terms of your license.

(b) Your CB license allows you to operate as a mobile station. You may operate your mobile station at a fixed location.

(c) Your CB license allows you to operate with up to 25 transmitters. To use more than 25 transmitters, you must request and receive written permission from the FCC, Washington, D.C. 20554.

*Explanation.*

Existing § 95.431 has been redrafted in simpler language and is contained in new paragraph (b). Paragraphs (a) and (c) are new. Paragraph (a) emphasizes the necessity for operation in compliance with all license terms. Paragraph (c) authorizes each licensee a maximum of 25 transmitters for use with his station. Presently, an applicant must check off on his application the number of transmitters he will be operating. If an applicant wishes to operate more than 15 transmitters, he must attach a statement of need to his application. We believe an increase in the number of transmitters authorized to licensees without special FCC approval to 25 to be appropriate. Those applicants needing more than 25 transmitters must attach a statement of need to their applications. Those already licensed and who subsequently need 25 or more transmitters may apply by letter to the FCC explaining why additional transmitters are needed.

**§ 95.431 What must I do if my name or address changes?**

(a) If your name, station address, or mailing address changes, you must inform the FCC, Gettysburg, Pa. 17326. Your notice must include the name and address as it appears on your license, the new name or new address, and your call sign. You must keep a copy of this notice in your station records. (Your CB license may have a form attached to it which you can use for this purpose.)

(b) If a change in name represents a change in control of a corporation, the license must be surrendered to the FCC for cancellation. An application may be made for a new CB license.

(c) If you incorporate, you must apply for a new CB license.

*Explanation*

*Substantive and editorial changes.* Paragraphs (a) and (c) of existing § 95.435 have been deleted as duplicative of other rule provisions. Proposed paragraph (a) states in simple language what a licensee must do if his name or mailing address changes. Proposed paragraphs (b) and (c) are new. They merely state in positive language what may be inferred from existing § 95.435; namely, that changes in corporate control require issuance of a new CB license.

**§ 95.433 Can I transfer my CB license to another person?**

(a) You cannot transfer, assign, sell, or give your CB license or its operating authority to another person.

(b) If you sell or give your CB radio to another person, you must not transfer your CB license with the radio. The new owner of the CB radio must obtain a CB license or other authorization from the FCC in his or her own name or qualify to operate under § 95.473 before he or she can operate the station.

*Explanation*

*Editorial changes.* In this section we have combined § 95.433 and paragraph (a) of § 95.465, both of which concern transferring or assigning CB licenses, to ensure that rules governing transfers and assignments of licenses appear at the same point in the rules.

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ments made therein, however, are punishable by fine and imprisonment, U.S. Code, Title 18, section 1001, and by appropriate administrative sanctions, including revocation of station license pursuant to section 312(a)(1) of the Communications Act of 1934, as amended.

**§ 95.429 License term.**

Licenses will normally be issued for a term of 5 years from the date or original issuance, major modification, or renewal.

**§ 95.431 Types of operation authorized.**

Stations are authorized as mobile stations only; however, they may be operated at fixed locations in accordance with other provisions of this part.

**§ 95.435 Changes in terms of license.**

(a) Commission approval is required to increase the number of transmitters authorized for a particular station.

(b) Commission approval is not required to change either of the following terms:

(1) Name of a licensee (without changes in the ownership, control or corporate structure.)

(2) Mailing address of a licensee.

Although prior approval of the Commission is not required for any of these changes, prompt written notice must be furnished to the Commission as soon as possible after the change has been implemented. This notice, which may be in letter form, shall contain the name and address of the licensee as they appear in the Commission's records, the new name and/or address, and the call signs and classes of all radio stations authorized to the licensee under this part. This notice shall be sent to FCC, Gettysburg, Pa. 17325, and a copy shall be maintained with the records of the station.

(c) Commission approval is not required to substitute transmitting equipment at any station, provided that the equipment employed is included in the Commission's "Radio Equipment List" and is listed as acceptable for use in this service.

**§ 95.433 Transfer of license prohibited.**

A station authorization may not be transferred or assigned. In lieu of such transfer or assignment, an application for new station authorization shall be filed in each case, and the previous authorization shall be forwarded to the Commission for cancellation.

**§ 95.465 Operation by, or on behalf of, persons other than the licensee.**

(a) Transmitters authorized in this service must be under the control of the licensee at all times. A licensee shall not transfer, assign, or dispose of, in any manner, directly or indirectly, the operating authority under his station license, and shall be responsible for the proper operation of all units of the station.

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**§ 95.435 Are there any special restrictions on the location of my station?**

(a) If your station will be constructed on land of environmental or historical importance, you may be required to provide additional information with your license application and to comply with §§ 1.1305–1.1319 of the FCC's Rules.

(b) If your station is located on land controlled by the Department of Defense, you may be required to comply with additional regulations imposed by the commanding officer of the installation.

*Explanation*

*Editorial changes.* Paragraph (a) of existing § 95.437, concerning permissible antenna heights, has been separated from paragraph (b) and moved to the part of Subpart D concerning operating requirements. The remainder of existing § 95.437 has been redrafted and simplified. Paragraph (b) concerning CB operation on a military installation is added to clarify the responsibilities of a CB licensee who operates his station on land controlled by the Department of Defense.

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**§ 95.437 Limitations on antenna structures.**

(a) All antennas (both receiving and transmitting) and supporting structures associated or used in conjunction with a station operated from a fixed location must comply with at least one of the following:

(1) The antenna and its supporting structure does not exceed 20 feet in height above ground level; or

(2) The antenna and its supporting structure does not exceed by more than 20 feet the height of any natural formation, tree or man-made structure on which it is mounted; or

(3) The antenna is mounted on the transmitting antenna structure of another authorized radio station and exceeds neither 60 feet above ground level nor the height of the antenna supporting structure of the other station; or

(4) The antenna is mounted on and does not exceed the height of the antenna structure otherwise used solely for receiving purposes, which structure itself complies with subparagraph (1) or (2) of this paragraph.

(5) The antenna is omnidirectional and the highest point of the antenna and its supporting structure do not exceed 60 feet above ground level and the highest point also does not exceed one foot in height above the established airport elevation for each 100 feet of horizontal distance from the nearest point of the nearest airport runway.

NOTE: A work sheet will be made available upon request to assist in determining the maximum permissible height of an antenna structure.

(b) Subpart I of Part 1 of this chapter contains procedures implementing the National Environmental Policy Act of 1969. Applications for authorization of the construction of certain classes of communications facilities defined as "major actions" in § 1.305 thereof, are required to be accompanied by specified statements. Generally these classes are:

(1) Antenna towers or supporting structures which exceed 300 feet in height and are not located in areas devoted to heavy industry or to agriculture.

(2) Communications facilities to be located in the following areas:

(i) Facilities which are to be located in an officially designated wilderness area or in an area whose designation as a wilderness is pending consideration;

(ii) Facilities which are to be located in an officially designated wildlife preserve or in an area whose designation as a wildlife preserve is pending consideration;

(iii) Facilities which will affect districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology or culture, which are listed in the National Register of Historic Places or are eligible for listing (see 36 CFR 800.22 (d) and (f) and 800.10); and

(iv) Facilities to be located in areas which are recognized either nationally or locally for their special scenic or recreational value.

(3) Facilities whose construction will involve extensive change in surface features (e.g. wetland fill, deforestation or water diversion).

NOTE: The provisions of this paragraph do not include the mounting of FM, television or other antennas comparable thereto in size on an existing building or antenna tower. The use of existing routes, buildings and towers is an environmentally desirable alternative to the construction of new routes or towers and is encouraged.

If the required statements do not accompany the application, the pertinent facts may be brought to the attention of the Commission by any interested person during the course of the license term and considered de novo by the Commission.



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## PROPOSED

### How to Operate a CB Station

**§ 95.455 On what channels may I operate?**

(a) You may transmit on only the following channels (frequencies).

| Channel: | Frequency (megahertz) | Channel: | Frequency (megahertz) |
|---|---|---|---|
| 1 | 26.965 | 20 | 27.205 |
| 2 | 26.975 | 21 | 27.215 |
| 3 | 26.985 | 22 | 27.225 |
| 4 | 27.005 | 23 | 27.255 |
| 5 | 27.015 | 24 | 27.235 |
| 6 | 27.025 | 25 | 27.245 |
| 7 | 27.035 | 26 | 27.265 |
| 8 | 27.055 | 27 | 27.275 |
| | | 28 | 27.285 |
| 9 | 27.065 | 29 | 27.295 |
| | | 30 | 27.305 |
| 10 | 27.075 | 31 | 27.315 |
| 11 | 27.085 | 32 | 27.325 |
| 12 | 27.105 | 33 | 27.335 |
| 13 | 27.115 | 34 | 27.345 |
| 14 | 27.125 | 35 | 27.355 |
| 15 | 27.135 | 36 | 27.365 |
| 16 | 27.155 | 37 | 27.375 |
| 17 | 27.165 | 38 | 27.385 |
| 18 | 27.175 | 39 | 27.395 |
| 19 | 27.185 | 40 | 27.405 |

(b) CHANNEL 9 MAY BE USED *ONLY* FOR EMERGENCY COMMUNICATIONS OR FOR TRAVELER ASSISTANCE.

(c) Any channel may be used for emergency communications or for traveler assistance.

(d) Each channel must be shared by all users.

(e) No channel shall be assigned for the private or exclusive use of a CB station.

(f) Channels 1–27 are not protected from interference due to the operation of industrial, scientific or medical devices.

*Explanation*

*Editorial changes.* We are proposing to combine existing §§ 95.455 and 95.457, both of which concern selection and use of frequencies in the CB Service. We are proposing to designate each available frequency with an official "channel" number to conform to accepted practice in the CB Service today. We also propose to add a paragraph (e), stating clearly that the FCC will not assign channels for exclusive use of any licensee or group of licensees.

**§ 95.457 How high can I put my antenna?**

(a) If your antenna is installed at a fixed location, the antenna (whether receiving, transmitting or both) and its supporting structure must comply with *either one* of the following:

(1) The highest point must not be more than 10 meters (about 30 feet) higher than the building or tree on which it is mounted; or

(2) The highest point must not be more than 20 meters (about 60 feet) above the ground.

(b) If your station is located near an airport, your antenna may have to meet additional limitations. At level ground, the highest point of your antenna must not exceed one (1) meter for every one hundred (100) meters of distance from the nearest point of the nearest airport runway. Unlevel ground may complicate this formula. If your station is located near an airport, you may contact the FCC for a worksheet to help you figure the maximum allowable height for your antenna.

*Explanation*

In this Section we propose to simplify greatly paragraph (a) of existing § 95.437, which, as currently written, is extremely difficult to understand. Petitioner in RM-2368, the Citizens Radio Federation of Virginia, Inc., and petitioner in RM-2777, the United States Citizens Radio Council, Inc. request that the present rule treating directional and omnidirectional antennas differently be amended to permit mounting of both types of antennas at the same heights. We believe this proposal to have merit, and proposed § 95.457, if adopted, would permit mounting both directional and omnidirectional antennas at points *either* no more than 10 meters above a building or tree *or* 20 meters above the ground. We believe the proposed rule, as redrafted, is significantly simpler than the existing rule and should result in much greater understanding and compliance by licensees. We wish to receive comments, however, addressing the question of whether an increase in the permissible height of a directional antenna will result in increased or decreased interference to CB operations or television broadcast reception.

## EXISTING

### Station Operating Requirements

**§ 95.455 Authorized frequencies.**

(a) The following frequencies may be used for communications between stations:

*MHz*—26.965; 26.975; 26.985; 27.005; 27.015; 27.025; 27.035; 27.055; 27.075; 27.085; 27.105; 27.115; 27.125; 27.135; 27.155; 27.165; 27.175; 27.185; 27.205; 27.215; 27.225; 27.235; 27.245; 27.255; 27.265; 27.275; 27.285; 27.295; 27.305; 27.315; 27.325; 27.335; 27.345; 27.355; 27.365; 27.375; 27.385; 27.395; 27.405;

(b) Special conditions.

(1) These frequencies are available on a shared basis with other stations in this service.

(2) These frequencies are subject to no protection from interference due to the operation of industrial, scientific, or medical devices within the 26.96–27.28 MHz band.

(3) The frequency 27.065 MHz shall be used solely for:

(i) Emergency communications involving immediate safety of life of individuals or the immediate protection of property or

(ii) Communications necessary to render assistance to a motorist.

**§ 95.457 Policy governing the availability of frequencies.**

(a) Each frequency available for use by stations in this service is available on a shared basis only, and will not be assigned for the exclusive use of any one applicant; however, the use of a particular frequency may be restricted to (or in) one or more specified geographical areas.

(b) All applicants and licensees in this service shall cooperate in the selection and use of the frequencies assigned or authorized, in order to minimize interference and thereby obtain the most effective use of the authorized facilities.

**§ 95.437 Limitations on antenna structures.**

(a) All antennas (both receiving and transmitting) and supporting structures associated or used in conjunction with a station operated from a fixed location must comply with at least one of the following:

(1) The antenna and its supporting structure does not exceed 20 feet in height above ground level; or

(2) The antenna and its supporting structure does not exceed by more than 20 feet the height of any natural formation, tree or man-made structure on which it is mounted; or

(3) The antenna is mounted on the transmitting antenna structure of another authorized radio station and exceeds neither 60 feet above ground level nor the height of the antenna supporting structure of the other station; or

(4) The antenna is mounted on and does not exceed the height of the antenna structure otherwise used solely for receiving purposes, which structure itself complies with subparagraph (1) or (2) of this paragraph.

(5) The antenna is omnidirectional and the highest point of the antenna and its supporting structure do not exceed 60 feet above ground level and the highest point also does not exceed one foot in height above the established airport elevation for each 100 feet of horizontal distance from the nearest point of the nearest airport runway.

Note.—A work sheet will be made available upon request to assist in determining the maximum permissible height of an antenna structure

(b) Subpart I of Part 1 of this chapter contains procedures implementing the National Environmental Policy Act of 1969. Applications for authorization of the construction of certain classes of communications facilities defined as "major actions" in § 1.305 thereof, are required to be accompanied by specified statements. Generally these classes are:

(1) Antenna towers or supporting structures which exceed 300 feet in height and are not located in areas devoted to heavy industry or to agriculture.

(2) Communications facilities to be located in the following areas:

(i) Facilities which are to be located in an officially designated wilderness area or in an area whose designation as a wilderness is pending consideration;

(ii) Facilities which are to be located in an officially designated wildlife preserve or in an area whose designation as a wildlife preserve is pending consideration;

(iii) Facilities which will affect districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology or culture, which are listed in the National Register of Historic Places or are eligible for listing (see 36 CFR 800.22 (a) and (f) and 800.10); and

(iv) Facilities to be located in areas which are recognized either nationally or locally for their special scenic or recreational value.

(3) Facilities whose construction will involve extensive change in surface features (e.g. wetland fill, deforestation or water diversion).

Note.—The provisions of this paragraph do not include the mounting of FM, television or other antennas comparable thereto in size on an existing building or antenna tower. The use of existing routes, buildings and towers is an environmentally desirable alternative to the construction of new routes or towers and is encouraged.

If the required statements do not accompany the application, the pertinent facts may be brought to the attention of the Commission by any interested person during the course of the license term and considered de novo by the Commission.





## PROPOSED

**§ 95.459 What equipment may I use at my CB station?**

(a) You must use an FCC type-accepted CB transmitter at your station. You can identify an FCC type-accepted transmitter by the type-acceptance label placed on it by the manufacturer.

(b) Any internal modification made to type-accepted equipment voids the type-acceptance.

(c) You must have all repairs or internal adjustments to your transmitter made by, or under the direct supervision of, a licensed first- or second-class radiotelephone commercial operator (See § 95.513.)

*Explanation*

We propose to combine existing § 95.511 and part of § 95.641 to emphasize that CB transmitters must be type-accepted by the FCC and that no modifications may be made to type-accepted transmitters. (§ 95.641 will also appear in the Subpart on Technical Regulations, as it does now.) We also propose to tighten the existing rule concerning repair and adjustment of CB transmitters. Under the existing rule, tests, adjustments and repairs to a CB transmitter while the transmitter is radiating energy must be made by, or under the direct supervision of, the holder of a first- or second-class commercial radiotelephony or radiotelegraphy operator license, as "appropriate for the type of emission employed." Tests, adjustments, and repairs made while the transmitter is not radiating energy may be made without the supervision of a commercial licensee or possession of a commercial operator license, but such a transmitter must be checked by a commercial licensee before it is put back in operation. We wish to ensure that *all* repairs and adjustments to CB equipment are properly conducted, and we are, for this reason, proposing that *all* repairs and adjustments of CB transmitters be made only by the holders of first- or second-class radiotelephony commercial operator licenses. (Radiotelephony is the only emission authorized in the CB Service.)

## EXISTING

**§ 95.511 Transmitter Service and Maintenance.**

(a) Except as provided in paragraph (b) of this section, all transmitter adjustments or tests while radiating energy during or coincident with the construction, installation, servicing or maintenance of a radio station in this service, which may affect the proper operation of such stations, shall be made by or under the immediate supervision and responsibility of a person holding a first- or second-class commercial radio operator license, either radiotelephone or radio telegraph, as may be appropriate for the type of emission employed, and such person shall be responsible for the proper functioning of the station equipment at the conclusion of such adjustments or tests. Further, in any case where a transmitter adjustment which may affect the proper operation of the transmitter has been made while not radiating energy by a person not the holder of the required commercial radio operator license or not under the supervision of such licensed operator, other than the factory assembling or repair of equipment, the transmitter shall be checked for compliance with the technical requirements of the rules by a commercial radio operator of the proper grade before it is placed on the air.

* * * * *

(c) Any tests and adjustments necessary to correct any deviation of a transmitter of any station in this service from the technical requirements of the rules in this part shall be made by, or under the immediate supervision of, a person holding a first- or second-class commercial operator license, either radiotelephone or radiotelegraph, as may be appropriate for the type of emission employed.

**§ 95.641 Acceptability of transmitters for licensing.**

* * * * *

(c) CB Stations:

(1) All transmitters first licensed, or marketed as specified in § 2.805 of this chapter, prior to November 22, 1974, shall be type accepted or crystal controlled.

(2) All transmitters first licensed, or marketed as specified in § 2.803 of this chapter, on or after November 22, 1974, shall be type accepted.

(3) Effective November 23, 1978, all transmitters shall be type accepted.

(4) Effective January 1, 1977 transmitters which are equipped to operate on any frequency not included in § 95.611 may not be installed at or used by any CB station unless there is a station license posted at the transmitter location, or a



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**§ 95.461 How much power can I use?**

Your CB radio transmitter power must not exceed the following values under any conditions:

AM or Double Sideband (A3) --- 4 watts (carrier power).
Single Sideband (A3J) -------- 12 watts (peak envelope power)

*Explanation*

This rule does not currently appear in Subpart D of Part 95, but it does appear in Subpart E (Technical Regulations). We are proposing to include it in the redrafted Subpart D, because CB licensees are responsible for its observance and because we consider it to be one of the most important rules affecting the CB Service. Over-powered operation is probably the most common cause of interference to both television reception and the operation of other CB stations. All type-accepted CB transmitters meet these specifications, and the purchasers of such units need not ordinarily be concerned about violation of this Section. Those individuals who attach illegal power amplifiers to their CB transmitters are in violation of this Section, however. We stress that we believe this Section to be quite important and that violation of this Section is one of the most serious violations possible under the CB Rules.

**§ 95.463 Can I use power amplifiers?**

(a) You must not use or attach in any way a linear or external radio frequency (RF) power amplifier at any CB station.

(b) You cannot get a waiver of this rule.

(c) The FCC will presume you have used a linear or other external RF power amplifier if—

(1) It is in your possession or on your premises; and

(2) There is other evidence that you have operated your CB station with more power than allowed by § 95.461.

NOTE.—Paragraph (c) of this rule does not apply if you hold a license in another radio service which allows you to operate an external RF power amplifier.

*Explanation*

The language of this rule, which we consider extremely important, has been simplified to enhance understanding. We have added a new paragraph, (b), in response to the many requests for waivers we receive, stating our firm policy that *no waivers* of the rule prohibiting the use of power amplifiers will be granted. We have also redrafted the presumption contained in the existing Note as new paragraph (c). The existing exception is contained in a new, shorter Note.

**§ 95.465 What communications may I transmit?**

(a) You may transmit two-way plain language communications with other CB stations or authorized government stations on CB frequencies concerning—

(1) Your personal or business activities or those of members of your immediate family living in your household;

(2) Emergencies; (see § 95.471); and

(3) Traveler assistance; (See § 95.471).

(4) Civil defense activities in connection with official tests or drills conducted by, or actual emergencies proclaimed by, the civil defense agency having jurisdiction over the area in which the station is located.

(b) You may transmit tone signals only when used for tone operated squelch, selective calling, or similar circuits used to establish or maintain voice contact. The transmission of audible tone signals is limited to fifteen seconds duration. The transmission of a subaudible tone for these purposes may be continuous while the carrier is otherwise modulated.

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transmitter identification card (FCC Form 452–C) attached to the transmitter, which indicates that operation of the transmitter on such frequency has been authorized by the Commission.

(5) No CB transmitter type accepted pursuant to an application filed prior to September 10, 1976 shall be manufactured on or after August 1, 1977.

(6) No CB transmitter type accepted pursuant to an application filed prior to September 10, 1976 shall be marketed on or after January 1, 1978.

NOTE.—A "transmitter" is defined to include any radio frequency (RF) power amplifier.

* * * * *

**§ 95.613 Transmitter power.**

(a) Transmitter power is the power at the transmitter output terminals and delivered to the antenna, antenna transmission line, or any other impedance-matched, radio frequency load.

(1) For single sideband transmitters and other transmitters employing a reduced carrier, a suppressed carrier or a controlled carrier, used at CB stations, transmitter power is the peak envelope power.

(2) For all transmitters other than those covered by paragraph (a)(1) of this section, the transmitter power is the carrier power.

(b) The transmitter power of a station shall not exceed the following values under any condition of modulation or other circumstances.

| Class of station: | | *Transmitter power in watts* |
|---|---|---|
| General mobile radio service | | 50 |
| R/C | 27.255 MHz | 25 |
| | 26.995 to 27.195 MHz | 4 |
| | 72 to 76 MHz | .75 |
| CB | Carrier (where applicable) | 4 |
| | Peak envelope power (where applicable) | 12 |

**§ 95.509 External radio frequency power amplifiers prohibited.**

No external radio frequency power amplifier shall be used or attached, by connection, coupling attachment or in any other way at any station.

NOTE.—An external radio frequency power amplifier at a station will be presumed to have been used where it is in the operator's possession or on his premises and there is extrinsic evidence of any operation of such station in excess of power limitations provided under this rule part unless the operator of such equipment holds a station license in another radio service under which license the use of the said amplifier at its maximum rated output power is permitted.

**§ 95.459 Telephony only.**

(a) Transmitters used at stations in this service are authorized to transmit telephony (voice), either single or double sideband.

(b) Tone signals or signaling devices may not be used, except for functions such as tone operated squelch or selective calling circuits used primarily to establish or maintain voice contact. Signals may not be used solely to attract attention or to control remote objects or devices.

(c) The transmission of audible tone signals or a sequence of tone signals for the operation of the tone operated squelch or selective calling circuits shall not exceed a total of 15 seconds duration. Continuous transmission of a subaudible tone for this purpose is permitted. For the purposes of this section, any tone or combination of tones having no frequency above 150 hertz shall be considered subaudible.

**§ 95.461 Permissible communications.**

Stations are authorized to transmit the following types of communications:





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(c) You may transmit one-way communications for the purpose of voice paging.

*Explanation*

We propose to combine existing §§ 95.459, 95.461, and 95.477 into new § 95.465 concerning permissible communications in the CB service. Each section has been greatly simplified to enhance understanding. The notice requirements of existing § 95.477 have been deleted as unnecessary to the FCC and an inconvenience to licensees. Existing § 95.501(a)(10) has been redrafted in positive language. We wish, however, to receive comments concerning the desirability of having a rule section concerning permissible communications at all.

**§ 95.467 What communications am I prohibited from transmitting?**

(a) You must not use a CB station—

(1) In connection with any activity which is contrary to federal, state or local law;

(2) For the transmission of obscene, indecent or profane words, language, or meaning;

(3) To interfere intentionally with the communications of another CB station;

(4) To transmit one-way communications, except for emergency communications, traveler assistance or brief tests (radio checks),

(5) To advertise or solicit the sale of any goods or services;

(6) For the transmission of music, whistling, sound effects or any material for amusement or entertainment purposes;

(7) For the transmission of any material or sound effect solely to attract attention;

(8) To transmit the word "MAYDAY" or other international distress signals, except when the station is located in a ship, aircraft or other vehicle which is threatened by grave and imminent danger and requests immediate assistance.

(9) To communicate with, or attempt to communicate with, any CB station more than 250 kilometers (about 150 miles) away,

(10) To advertise a political candidate or a political campaign, (you may use your CB radio for the business or

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(a) Communications to facilitate the personal or business activities of the licensee.

(b) Communications relating to:

(1) The immediate safety of life or the immediate protection of property in accordance with § 95.463.

(2) The rendering of assistance to a motorist, mariner or other traveler.

(3) Civil defense activities in accordance with § 95.477.

(4) Other activities only as specifically authorized pursuant to § 95.465.

(c) Communications with stations authorized in other radio services except as prohibited in § 95.501(a)(3).

**§ 95.477 Civil defense communications.**

A licensee of a station authorized under this part may use the licensed radio facilities for the transmission of messages relating to civil defense activities in connection with official tests or drills conducted by, or actual emergencies proclaimed by, the civil defense agency having jurisdiction over the area in which the station is located: *Provided*, That:

(a) The operation of the radio station shall be on a voluntary basis.

(b) Such communications are conducted under the direction of civil defense authorities.

(c) As soon as possible after the beginning of such use, the licensee shall send notice to the Commission in Washington, D.C., and to the Engineer in Charge of the Radio District in which the station is located, stating the nature of the communication being transmitted and the duration of the special use of the station. In addition, the Engineer in Charge shall be notified as soon as possible of any change in the nature of or termination of such use.

(d) In the event such use is to be a series of pre-planned tests or drills of the same or similar nature which are scheduled in advance for specific times or at certain intervals of time, the licensee may send a single notice to the Commission in Washington, D.C., and to the Engineer in Charge of the Radio District in which the station is located, stating the nature of the communications to be transmitted, the duration of each such test, and the times scheduled for such use. Notice shall likewise be given in the event of any change in the nature of or termination of any such series of tests.

(e) The Commisison may, at any time, order the discontinuance of such special use of the authorized facilities.

**§ 95.501 Prohibited communications.**

(a) A station shall not be used:

* * * * *

(10) For transmitting messages in other than plain language. Abbreviations including nationally or internationally recognized operating signals, may be used only if a list of all such abbreviations and their meaning is kept in the station records and made available to any Commission representative on demand.

* * * * *

**§ 95.467 Telephone answering services.**

(a) Notwithstanding the provisions of § 95.465 a licensee may install a transmitting unit of his station on the premises of a telephone answering service. The same unit may not be operated under the authorization of more than one licensee. In all cases, the licensee must enter into a written agreement with the answering service. This agreement must be kept with the licensee's station records and must provide, as a minimum that:

(1) The licensee will have control over the operation of the radio unit at all times;

(2) The licensee will have full and unrestricted access to the transmitter to enable him to carry out his responsibilities under his license;

(3) Both parties understand that the licensee is fully responsible for the proper operation of the station; and

(4) The unit so furnished shall be used only for the transmission of communications to other units belonging to the licensee's station.

(b) A station licensed to a telephone answering service shall not be used to relay messages or transmit signals to its customers.

**§ 95.501 Prohibited communications.**

(a) A station shall not be used:

(1) For any purpose, or in connection with any activity, which is contrary to Federal, State, or local law.



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organizational aspects of a campaign, if you follow all other applicable rules);

(11) To communicate with nonlicensed or foreign stations;

(12) To transmit a false or deceptive communication.

(b) You must not transmit communications for the purpose of being rebroadcast, live or delayed, on a radio or television station. You may use your CB radio to gather news items or to prepare programs.

(c) A CB station licensed to a telephone answering service must not be used to transmit messages to its customers. (See § 95.473(d).)

*Explanation*

In proposed § 95.467, a new prohibition, paragraph (a)(4), has been added to prohibit the transmission of material to other than specific CB stations. We believe this new prohibition to be necessary to ensure that the CB Service remain a *two-way* communications service. As requested by Mr. Earl V. Stevens, petitioner in RM-2773, we are proposing to add a new paragraph, (a)(10), to prohibit the use of a CB ratio station to advertise or solicit support for a political candidate or campaign. Such use is presently prohibited under § 95.501(a)(9), which prohibits advertising or soliciting the sale of goods or services; but we received a number of inquiries in the last election, and we believe a separate prohibition is necessary. Existing rule §§ 95.501 (a)(3) and (a)(10) have been deleted as duplicative of proposed § 95.465(a). Existing § 95.501(a)(4) has been deleted as unnecessary, because it is the Commission's policy to grant waivers of this section on request. Existing § 95.501(c) appears in proposed § 95.473. Existing § 95.501(a)(11) appears in proposed § 95.469. Existing § 95.501(a)(3) has been redrafted for readability. The prohibition on communications with Amateur stations has been deleted as unnecessary, because the regulation governing authorized channels prohibits CB communications on Amateur frequencies. Existing § 95.503, concerning false communications, has been included in proposed § 95.467(a)(12). Existing § 95.467 has been substantially simplified, and appears as proposed §§ 95.467(c) and 95.473(d).

**§ 95.469 Can I be paid to use my CB station?**

(a) You must not accept direct or indirect compensation for transmitting or receiving messages with a CB radio.

(b) You may use a CB radio while providing other services, and be paid for those services, if the use of the radio is incidental to the services.

*Explanation*

We propose to take existing § 95.501(a)(11) and make it a separate section because of the frequency with which questions concerning compensation for the use of CB radios arise. The proposed second sentence of § 95.469 states the FCC's policy in interpreting existing § 95.471; namely, that a CB radio may be used in providing a service, as long as the CB licensee is paid *for the service, not the actual use of the CB radio.*

**§ 95.471 How do I use my CB station in an emergency or to assist a traveler?**

(a) YOU MUST, AT ALL TIMES AND ON ALL CHANNELS, GIVE PRIORITY TO EMERGENCY COMMUNICATIONS.

(b) While you are directly participating in actual emergency communications, you do not have to comply with the rules concerning authorized users (§ 95.473), duration of transmissions (§ 95.479) and communications with licensed stations (§ 95.467). You must comply with all other rule provisions.

(c) You may use your CB for communications necessary to assist a traveler to reach a destination or to receive necessary services. While you are using your CB radio to assist a traveler, you do not have to comply with the rule concerning duration of transmissions (§ 95.479). You must comply with all other rule provisions.

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(2) For the transmission of communications containing obscene, indecent, profane words, language, or meaning.

(3) To communicate with an Amateur Radio Service station, an unlicensed station, or foreign stations except for communications pursuant to § 95.463(b) and § 95.477.

(4) To convey program material for retransmission, live or delayed, on a broadcast facility.

NOTE.—A station may be used in connection with administrative, engineering, or maintenance activities of a broadcasting station. A station may be used in the gathering of news items or preparation of programs: Provided, that the actual or recorded transmissions of the station are not broadcast at any time in whole or in part.

(5) To intentionally interfere with the communications of another station.

(6) For the direct transmission of any material to the public through a public address system or similar means.

(7) For the transmission of music, whistling, sound effects, or any material for amusement or entertainment purposes, or solely to attract attention.

(8) To transmit the word "MAYDAY" or other international distress signals, except when the station is located in a ship, aircraft, or other vehicle which is threatened by grave and imminent danger and requests immediate assistance.

(9) For advertising or soliciting the sale of any goods or services.

(10) For transmitting messages in other than plain language. Abbreviations including nationally or internationally recognized operating signals, may be used only if a list of all such abbreviations and their meaning is kept in the station records and made available to any Commission representative on demand.

(11) To carry on communications for hire, whether the remuneration or benefit received is direct or indirect.

(b) A station may not be used to communicate with, or attempt to communicate with, any unit of the same or another station over a distance of more than 150 miles.

(c) A licensee of a station who is engaged in the business of selling radio transmitting equipment shall not allow a customer to operate under his station license. In addition, all communications by the licensee for the purposes of demonstrating such equipment shall consist only of brief messages addressed to other units of the same station.

**§ 95.503 False signals.**

No person shall transmit false or deceptive communications by radio or identify the station he is operating by means of a call sign which has not been assigned to that station.

**§ 95.501 Prohibited communications.**

(a) A station shall not be used:

• • • • •

(11) To carry on communications for hire, whether the remuneration or benefit received is direct or indirect.

• • • • •

**§ 95.463 Emergency and assistance to motorist use.**

(a) All stations shall give priority to the emergency communications of other stations which involve the immediate safety of life of individuals or the immediate protection of property.

(b) Any station in this service may be utilized during an emergency involving the immediate safety of life of individuals or the immediate protection of property for the transmission of emergency communications. It may also be used to transmit communications necessary to render assistance to a motorist.

(1) When used for transmission of emergency communications certain provisions in this part concerning use of frequencies (§ 95.455); prohibited uses (§ 95.501(a)(3)); operation by or on behalf of persons other than the licensee (§ 95.465) and duration of transmissions (§ 95.469 (a) and (b)) shall not apply.





**PROPOSED**

*Explanation*

This section has been redrafted in simple, easier to understand language. Existing § 95.463(c), requiring notice to the Commission in certain emergency situations, has been deleted as unnecessary to the Commission and an inconvenience to licensees.

**§ 95.473 Who can operate under my license?**

(a) You may permit only the persons listed below to operate under your license:

| LICENSEE | AUTHORIZED USERS |
|---|---|
| INDIVIDUAL | YOURSELF.<br>Members of your immediate FAMILY living in your household.<br>Your EMPLOYEES as long as their communications relate *only* to your business. |
| PARTNERSHIP | The PARTNERS and EMPLOYEES of the partnership, as long as their communications relate *only* to the business of the partnership. |
| ASSOCIATION | The MEMBERS of the association, as long as the members' communications relate *only to the business of the association.*<br>EMPLOYEES of the association, as long as their communications relate *only* to the business of the association. |
| CORPORATION | OFFICERS, DIRECTORS, and EMPLOYEES of the corporation, as long as their communications relate *only* to the business of the corporation. |
| GOVERNMENTAL UNIT. | EMPLOYEES of the governmental unit, as long as the employees' communications relate *only* to the business of that governmental unit. |

(b) You may operate a CB radio if you request, and the FCC grants, special authorization to allow operation under another person's license where you would not otherwise qualify to operate that station.

(c) Upon request and FCC approval, a corporation may obtain special authorization to allow operation under a corporation's license when that corporation proposes to provide a private radiocommunications service on a nonprofit or cost-sharing basis to its subsidiary, its parent corporation or another subsidiary or parent corporation.

(d) You may employ a telephone answering service to relay telephone messages to you on your CB radio if—

(1) You install a transmitter of your station at the answering service;

(2) Your transmitter is used *only* under the authority of your license; and

(3) Your transmitter is used *only* to relay messages to you concerning only your personal or business affairs.

Your transmitter must not be used under the authority of any CB license other than yours.

(e) If you authorize any of the persons specified in paragraphs (a), (b), (c), or (d) of this section to operate under your license, you must keep a list of all authorized users as part of your station records.

(f) To authorize more than 25 users, you must request and receive written permission from the FCC. You must keep this permission as a part of your station records.

*Explanation*

This Rule has been greatly simplified to aid in its understanding. Existing § 95.465(a) has been moved to proposed § 95.433 and .475. Section 95.465(b)(6) has been moved to proposed § 95.473. New paragraph (f) has been added to limit to 25 the number of

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(2) When used for transmissions of communications necessary to render assistance to a traveler, the provisions of this part concerning duration of transmissions § 95.469(b) shall not apply.

(3) The exemptions granted from certain rule provisions in subparagraphs (1) and (2) of this paragraph may be rescinded by the Commission at its discretion.

(c) If the emergency use under paragraph (b) of this section extends over a period of 12 hours or more, notice shall be sent to the Commission in Washington, D.C., as soon as it is evident that the emergency has or will exceed 12 hours. The notice should include the identity of the stations participating, the nature of the emergency, and the use made of the stations. A single notice covering all participating stations may be submitted.

**§ 95.465 Operation by, or on behalf of, persons other than the licensee.**

(a) Transmitters authorized in this service must be under the control of the licensee at all times. A licensee shall not transfer, assign, or dispose of, in any manner, directly or indirectly, the operating authority under his station license, and shall be responsible for the proper operation of all units of the station.

(b) Stations may be operated only by the following persons, except as provided in paragraph (c) of this section:

(1) The licensee;

(2) Members of the licensee's immediate family living in the same household;

(3) The partners, if the licensee is a partnership, provided the communications relate to the business of the partnership;

(4) The members, if the licensee is an unincorporated association, provided the communications relate to the business of the association;

(5) Employees of the licensee only while acting within the scope of their employment;

(6) Other persons, upon specific prior approval of the Commission shown on or attached to the station license, under the following circumstances:

(i) Licensee is a corporation and proposes to provide private radiocommunication facilities for the transmission of messages or signals by or on behalf of its parent corporation, another subsidiary of the parent corporation, or its own subsidiary. Any remuneration or compensation received by the licensee for the use of the radiocommunication facilities shall be governed by a contract entered into by the parties concerned and the total of the compensation shall not exceed the cost of providing the facilities. Records which show the cost of service and its nonprofit or cost-sharing basis shall be maintained by the licensee.

(ii) Other cases where there is a need for other persons to operate a unit of licensee's radio station. Requests for authority may be made either at the time of the filing of the application for station license or thereafter by letter. In either case, the licensee must show the nature of the proposed use and that it relates to an activity of the licensee, how he proposes to maintain control over the transmitters at all times, and why it is not appropriate for such other person to obtain a station license in his own name. The authority, if granted, may be specific with respect to the names of the persons who are permitted to operate, or may authorize operation by unnamed persons for specific purposes. This authority may be revoked by the Commission, in its discretion, at any time.

(c) An individual who was formerly a station licensee shall not be permitted to operate any station licensed to another person until such time as he again has been issued a valid radio license, when his license has been:

(1) Revoked by the Commission.

(2) Surrendered for cancellation after the institution of revocation proceedings by the Commission.

(3) Surrendered for cancellation after a notice of apparent liability to forfeiture has been served by the Commission.



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users of a CB station which can be authorized under paragraphs (a), (b), (c), and (d) without special permission from the FCC. We would require that a list of all authorized users be kept with the station records in order that FCC personnel could trace all violations of the Rules to their source.

**§ 95.475 Who is responsible for transmissions made under the authority of my license?**

You are responsible for all transmissions which are made by you or others under the authority of your license, including transmissions which are in violation of these rules. Because you are responsible for all transmissions, you should be certain that anyone operating under your license obeys the CB rules.

*Explanation*

In this section, we have extracted that portion of the existing rule which pertains to control of the transmitter. As the existing rule combines two unrelated provisions, we have separated those two provisions into two distinct proposed rules. We believe that a separately stated rule about responsibility for transmissions will assist our enforcement efforts. The remaining provision of the existing rule, concerning transfer of a CB license, is incorporated in proposed rule § 95.433.

**§ 95.477 Who cannot operate under my license?**

(a) You must not permit anyone to operate under your license who is not listed in § 95.473, except in an emergency.
(b) If an individual was formerly a CB licensee, and if—
(1) His or her license was revoked by the FCC; or
(2) His or her license was surrendered for cancellation after the FCC instituted revocation proceedings; or
(3) His or her license was surrendered for cancellation after a notice of apparent liability to forfeiture was served by the Commission;

You must not permit that individual to operate under your license until he or she has been issued a new CB license by the FCC.
(c) You must not permit an individual to operate your CB radio if he or she is the subject of an outstanding cease and desist order issued by the FCC.
(d) You must not permit any individual to operate under your license if that individual's most recent CB license application was denied by the Commission or dismissed with prejudice.
(e) If you sell CB radio transmitting equipment, you must not allow a customer to operate a CB radio under the authority of your license.

*Explanation*

The proposed rule combines provisions from two existing rules and adds three new paragraphs. The purpose of restructuring the rule on unauthorized operators is to assist the reader in understanding his or her responsibility to deny operating privileges to certain persons. The new introductory paragraph reminds the reader that only certain persons are permitted by the FCC to be authorized operators of another's CB unit.

The two paragraphs concerning cease and desist orders and application denial or dismissal are added to aid FCC enforcement efforts. The remaining language comes directly from the existing rules, but has been redrafted for simplicity.

**§ 95.479 Do I have to limit the length of my communications?**

(a) Your communications must be limited to the minimum practical time; but your communications must not last longer than five (5) continuous minutes.
(b) At the end of your communications, you, and the stations communicating with you, must remain silent for at least one minute between communications.

*Explanation*

We are proposing to change the existing rule to delete the distinction between interstation and intrastation communications. Under the existing rule, communications between different stations are limited to a maximum of five minutes, while transmissions between units of the same station are not subject to a particular time limitation. In light of the severe congestion on the forty CB channels, we cannot justify a rule which allows one station to monopolize a frequency for an unlimited period of time. Although we recognize that adoption of this proposal might hinder some public service functions of CB radio, we believe that any such

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**§ 95.465 Operation by, or on behalf of, persons other than the licensee.**

(a) Transmitters authorized in this service must be under the control of the licensee at all times. A licensee shall not transfer, assign, or dispose of, in any manner, directly or indirectly, the operating authority under his station license, and shall be responsible for the proper operation of all units of the station.

* * * * *

**§ 95.501 Prohibited communications.**

* * * * *

(c) A licensee of a station who is engaged in the business of selling radio transmitting equipment shall not allow a customer to operate under his station license. In addition, all communications by the licensee for the purpose of demonstrating such equipment shall consist only of brief messages addressed to other units of the same station.

**§ 95.465 Operation by, or on behalf of, persons other than the licensee.**

* * * * *

(c) An individual who was formerly a station licensee shall not be permitted to operate any station licensed to another person until such time as he again has been issued a valid radio license, when his license has been:
(1) Revoked by the Commission.
(2) Surrendered for cancellation after the institution of revocation proceedings by the Commission.
(3) Surrendered for cancellation after a notice of apparent liability to forfeiture has been served by the Commission.

**§ 95.469 Duration of transmissions.**

(a) All communications or signals, regardless of their nature, shall be restricted to the minimum practicable transmission time. The radiation of energy shall be limited to transmissions modulated or keyed for actual permissible communications, tests, or control signals. Continuous or uninterrupted transmissions from a single station or between a number of communicating stations is prohibited, except for communications involving the immediate safety of life or property.
(b) All communications between stations (interstation) station be restricted to not longer than five (5) continuous minutes. At the conclusion of this 5 minute period, or the exchange of less than 5 minutes, the participating stations shall remain silent for at least one minute.
(c) All communications between units of the same station (intrastation) shall be restricted to the minimum practicable transmission.





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difficulty is outweighed by the necessity to maximize utilization of the available 40 CB channels. We are particularly interested in receiving comments on this proposed change.

**§ 95.481 How do I identify my CB communications?**

(a) You must identify your CB communications by your FCC-assigned call sign at the end of each communication.
(b) Your FCC-assigned call sign must be clearly given in the English language. A phonetic alphabet may be used as an aid for identification. A "Handle," unit designator, or special identifier may be used *in addition to*, but not instead of, your FCC-assigned call sign.

*Explanation*

We are proposing to delete a substantial portion of the existing rule as unnecessary. The opening paragraph of the existing rule, which merely describes the composition of CB call signs, is not a necessary component of this rule. Also, the provision of the existing rule which requires that each letter and number of the call sign be separately and distinctly transmitted is proposed to be deleted as unnecessarily burdensome on CB licensees and immaterial to our enforcement efforts. Finally, we are proposing to change the identification requirement to state that transmissions need be identified only at the end of the communication. This change is proposed with the hope that voluntary compliance with the identification rule will increase if the demands are slightly reduced.

**§ 95.483 Where may I operate my CB station?**

(a) You may operate your CB station in any of the fifty United States, in the District of Columbia, in Puerto Rico, and in the United States Virgin Islands.
(b) You may operate your CB station in or on any aircraft or vessel of United States registry, with the permission of the appropriate officer.
(c) If your CB station is outside the fifty United States, the District of Columbia, Puerto Rico, or the United States Virgin Islands, you are subject to any applicable laws or regulations governing the location at which you are operating.
(d) You may operate your CB station in Canada, if you request and obtain written permission *in advance* from the Canadian Department of Communications.
(e) If your CB station is located on land controlled by the Department of Defense, you may be required to comply with additional regulations imposed by the commanding officer of the installation.

*Explanation*

We have not proposed any substantive change in this section. We have redrafted the language to aid the reader in understanding it. We have added a sentence informing CB licensees that they may, in certain cases, be permitted to operate their stations in Canada. Also, we have duplicated the reminder from § 95.435 that a CB station which is located on land controlled by the Department of Defense may be subject to additional regulations.

**§ 95.485 Can I operate my CB station by remote control?**

(a) You must not operate a CB station by remote control, except as provided in paragraph (b).
(b) If you can show satisfactory need, the FCC may grant you written permission to operate by wire-line remote control. You must keep this permission as a part of your station records.

*Explanation*

We are proposing to delete paragraph (a) of the existing rule as unnecessary. The remaining language of the existing rule has been editorially rewritten for clarity.

OTHER THINGS YOU NEED TO KNOW

**§ 95.501 How long must I keep my license?**

You must keep your license (or other authorization) until it expires or until it is terminated.

**§ 95.503 Where must I keep my license?**

(a) You must keep your license (or other authorization) in your station records or post it at your station.
(b) You may photocopy your license for any purpose.

*Explanation*

This section has been greatly simplified to require merely that the current instrument of authorization be kept with the station records until expiration or termination of the authorization. In addition, the existing rule has been redrafted into two separate sections to aid readability.

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**§ 95.471 Station identification.**

(a) The call sign of a station shall consist of either three letters followed by four digits or shall consist of four letters followed by four digits. The call sign of a station operating under a temporary permit shall consist of three letters followed by five digits.
(b) Each transmission of the station call sign shall be made in the English language by each unit, shall be complete, and each letter and digit shall be separately and distinctly transmitted. Only standard phonetic alphabets, nationally or internationally recognized, may be used in lieu of pronunciation of letters for voice transmission of call signs. A unit designator or special identification may be used in addition to the station call sign but not as a substitute therefor.
(c) Except as otherwise provided, all transmissions from each unit of a station shall be identified by the transmission of its assigned call sign at the beginning and end of each transmission or series of transmissions, but at least at intervals not to exceed ten (10) minutes.

**§ 95.473 Station location.**

(a) A station may be used or operated anywhere in the United States subject to the provisions of paragraph (b) of this section.
(b) A mobile station authorized in this service may be used or operated on any vessel, aircraft, or vehicle of the United States: *Provided*, That when such vessel, aircraft, or vehicle is outside the territorial limits of the United States, the station, its operation, and its operator shall be subject to the governing provisions of any treaty concerning telecommunications to which the United States is a party, and when within the territorial limits of any foreign country, the station shall be subject also to such laws and regulations of that country as may be applicable.

**§ 95.475 Dispatch points and remote control.**

(a) No authorization is required to install dispatch points.
(b) Operation of any station by remote control is prohibited except remote control by wire upon specific authorization by the Commission when satisfactory need is shown.

STATION ADMINISTRATION REQUIREMENTS

**§ 95.453 Posting station license * * *.**

(a) The current authorization, or a clearly legible photocopy thereof, for each station (including units of a station) operated at a fixed location shall be posted at a conspicuous place at the principal fixed location from which such station is controlled, and a photocopy of such authorization shall also be posted at all other fixed locations from which the station is controlled. If a photocopy of the authorization is posted at the principal control point, the location of the original shall be stated on that photocopy.
(b) The current authorization for each station operated as a mobile station shall be retained as a permanent part of the station records, but need not be posted. * * *



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| **§ 95.505 Do I need to have a current copy of the CB Rules?**<br>(a) You must keep the current CB Rules (Subpart D of Part 95) in your station records. The CB Rules are published periodically by the Government Printing Office.<br>(b) You must keep current with changes to the CB Rules. Changes to the CB Rules are found in the FEDERAL REGISTER and in other publications.<br>(c) Your station must comply with technical regulations found in Subpart E of Part 95, but you need not keep that Subpart in your station records.<br>*Explanation*<br>This Section has merely been redrafted slightly to enhance its readability and to emphasize the fact that all licensees are responsible for certain technical regulations in Subpart E of Part 95, although they are not required to retain Subpart E as part of their station records. | **§ 95.505 Current copy of rules required.**<br>Each licensee in this service shall maintain as a part of his station records a current copy of Subpart D of Part 95, Personal Radio Services, of this chapter. Additional requirements of a technical nature may be found in Subpart E of this part. |
| **§ 95.507 What are the penalties for violations of these rules?**<br>(a) If the FCC finds that you have willfully violated certain of these rules, you may have to pay as much as $100 for each violation, up to a total of $500. (See Section 510(a) of the Communications Act.)<br>(b) If the FCC finds that you have willfully or repeatedly violated the Communications Act or FCC rules, it may revoke your CB license. (Other grounds for revocation of a CB license are listed in Section 312(a) of the Communications Act.)<br>(c) If the FCC finds that you have violated any provision of the Communications Act, you may be ordered to stop whatever action caused the violation. (See Section 312(b) of the Communications Act.)<br>(d) If a federal court finds that you have willfully and knowingly violated any FCC rule, you may be fined up to $500 for each day you committed the violation. (See Section 502 of the Communications Act.)<br>(e) If a federal court finds that you have willfully and knowingly violated any provision of the Communications Act, you may be fined up to $10,000, or you may be imprisoned for one year, or both. (See Section 501 of the Communications Act.)<br>*Explanation*<br>Although the penalties to which violators of the Communications Act subject themselves are listed in the Communications Act, they are not now enumerated in the Rules. We have added this new § 95.507 listing potential penalties to those who violate the Communications Act and the Commission's Rules to emphasize the seriousness of CB operation not in compliance with the law. | (No existing rule.) |
| **§ 95.509 How do I answer violation notices?**<br>(a) If it appears that you have violated the Communications Act or these rules, you will be served with a written notice of the apparent violation.<br>(b) Within the time period stated in the notice, you must provide—<br>(1) A complete written statement about the apparent violation;<br>(2) A written statement about any action you have taken to correct the apparent violation and to prevent it from happening again; and<br>(3) The name and call sign of the person operating at the time of the apparent violation.<br>(c) You must not shorten your response by references to other communications or notices.<br>(d) You must send your response directly to the office of the FCC which sent you the notice.<br>(e) If you cannot respond to a violation notice within the time stated in the notice, because of illness or other unavoidable circumstances, you must answer at the earliest possible time and explain the reason for your delay.<br>(f) If the violation notice includes violations related to technical transmitter standards, you must stop transmitting immediately, except for necessary tests and adjustments; and you must not transmit again until all technical problems with the transmitter have been corrected. The FCC may require you to have tests conducted and to report the results of those tests. (See § 95.513 for the rules about tests and adjustments.) Test results must be signed by the first- or second-class commercial radiotelephone operator who conducted or supervised the test.<br>(g) You must keep a copy of your response as a part of your station records. | **§ 95.507 Answers to notices of violations.**<br>(a) Any licensee who appears to have violated any provision of the Communications Act or any provision of this chapter shall be served with a written notice calling the facts to his attention and requesting a statement concerning the matter. FCC Form 793 may be used for this purpose.<br>(b) Within 10 days from receipt of notice or such other period as may be specified, the licensee shall send a written answer, in duplicate, direct to the office of the Commission originating the notice. If an answer cannot be sent nor an acknowledgment made within such period by reason of illness or other unavoidable circumstances, acknowledgment and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay.<br>(c) The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. In every instance the answer shall contain a statement of the action taken to correct the condition or omission complained of and to preclude its recurrence. If the notice relates to violations that may be due to the physical or electrical characteristics of transmitting apparatus, the licensee must comply with the provisions of § 95.621 and the answer to the notice shall state fully what steps, if any, have been taken to prevent future violations, and, if any new apparatus is to be installed, the date such apparatus was ordered, the name of the manufacturer, and the promised date of delivery. If the installation of such apparatus requires a construction permit, the file number of the application shall be given, or if a file number has not been assigned by the Commission, such identification shall be given as will permit ready identification of the application. |





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| *Explanation*<br>This section combines existing §§ 95.507 and 95.621 in a new § 95.509. This section has been redrafted in simpler language and shorter paragraphs to enable licensees to know precisely what it is they are expected to do if they receive a notice of violation from the FCC. | If the notice of violation relates to lack of attention to or improper operation of the transmitter, the name and license number of the operator in charge, if any, shall also be given. |
| | **§ 95.621 Compliance with technical requirements.**<br>(a) Upon receipt of notification from the Commission of a deviation from the technical requirements of the rules in this part, the radiations of the transmitter involved shall be suspended immediately, except for necessary tests and adjustments, and shall not be resumed until such deviation has been corrected.<br>(b) When any station licensee receives a notice of violation indicating that the station has been operated contrary to any of the provisions contained in Subpart E of this part, or where it otherwise appears that operation of a station in this service may not be in accordance with applicable technical standards, the Commission may require the licensee to conduct such tests as may be necessary to determine whether the equipment is capable of meeting these standards and to make such adjustments as may be necessary to assure compliance therewith. A licensee who is notified that he is required to conduct such tests and/or make adjustments must, within the time limit specified in the notice, report to the Commission the results thereof.<br>(c) All tests and adjustments which may be required in accordance with paragraph (b) of this section shall be made by, or under the immediate supervision of a person holding a first- or second-class commercial operator license, either radiotelephone or radio telegraph as may be appropriate for the type of emission employed. In each case, the report which is submitted to the Commission shall be signed by the licensed commercial operator. Such report shall describe the results of the tests and adjustments, the test equipment and procedures used, and shall state the type, class, and serial number of the operator's license. A copy of this report shall also be kept with the station records. |
| **§ 95.510 What must I do if the FCC tells me that my CB station is causing interference?**<br>(a) If the FCC tells you that your CB station is causing interference for technical reasons, you must follow all instructions in the official FCC notice. (Your station must comply with technical regulations found in Subpart E of Part 95.)<br>(b) You must comply with any restricted hours of CB station operation which may be included in the official FCC notice.<br>*Explanation*<br>The technical regulations currently allow the FCC to require "appropriate technical changes in equipment" to alleviate interference (§ 95.617(d)). We believed it would be helpful to the readers of these rules to be reminded that they could be required to have technical adjustments made to their equipment, if they are found to be causing interference. We are also proposing to add a new regulation allowing the FCC to impose restricted hours of station operation, in some cases of interference. | (No existing rule.) |
| **§ 95.511 Can I connect my CB radio to a telephone?**<br>(a) You may connect your CB radio to a telephone if you comply with *all* of the following:<br>(1) You, or someone authorized to operate under your license, must be present at your CB station and must—<br>(i) Manually make the connection (the connection must not be made by remote control);<br>(ii) Supervise the operation of the transmitter during the connection;<br>(iii) Listen to all communications during the connection; and<br>(iv) Stop all communications if there are operations in violation of these rules.<br>(2) All communications during the telephone connection must comply with all of these rules.<br>(3) You must obey any restrictions on the connection placed by the telephone company.<br>(b) The CB radio you connect to a telephone must not be shared with any other CB station.<br>*Explanation*<br>Although there is no existing rule on this subject, the proposed rule states precisely what the FCC's policy on telephone connections with CB stations has always been. The clarification of this policy and its inclusion in the rules should assist an interested licensee to understand the restrictions on telephone—CB connections. | (No existing rule.) |



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**§ 95.513 How do I have my CB radio serviced?**

(a) You may adjust your own antenna to your CB radio and you may make "radio checks."

(b) Each internal repair and each internal adjustment to your CB transmitter must be made by, or under the direct supervision of, a person holding a first- or second-class commercial radiotelephone operator license.

(c) Except as provided in paragraph (d) of this section, each internal repair and each internal adjustment of a CB transmitter involving an external connection to the radio frequency output circuit must be made using a nonradiating dummy antenna.

(d) Brief test signals using a radiating antenna may be sent to adjust a transmitter to an antenna or to detect or measure spurious radiation.

*Explanation*

Existing §§ 95.511 and 95.515 have been drastically simplified and combined into proposed § 95.513. The rather complex provisions of the existing rules have been replaced with a simple general rule. We also propose to tighten the exiting rule concerning repair and adjustment of CB transmitters. Under the existing rule, tests, adjustments, and repairs to a CB transmitter while the transmitter is radiating energy must be made by, or under the direct supervision of, the holder of a first- or second-class commercial radiotelephony or radiotelegraphy operator license, as "appropriate for the type of emission employed." Tests, adjustments, and repairs made while the transmitter is not radiating energy may be made without the supervision of a commercial licensee or possession of a commercial operator license, but such a transmitter must be checked by a commercial licensee before it is put back in operation. We wish to ensure that *all* repairs and *all* adjustments of CB transmitters be made only by the holders of first- or second-class radiotelephony commercial operator licenses. (Radiotelephony is the only emission authorized in the CB service.) The provisions of existing § 95.507(b) are proposed to be deleted because they concern non-type-accepted equipment: effective January 1, 1978, all equipment must be type-accepted, and § 95.507(b) will be unnecessary. Paragraph (c) of existing § 95.511 is deleted as redundant.

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**§ 95.511 Transmitter Service and Maintenance.**

(a) Except as provided in paragraph (b) of this section, all transmitter adjustments or tests while radiating energy during or coincident with the construction, installation, servicing, or maintenance of a radio station in this service, which may affect the proper operation of such stations, shall be made by or under the immediate supervision and responsibility of a person holding a first- or second-class commercial radio operator license, either radiotelephone or radio telegraph, as may be appropriate for the type of emission employed, and such person shall be responsible for the proper functioning of the station equipment at the conclusion of such adjustments or tests. Further, in any case where a transmitter adjustment which may affect the proper operation of the transmitter has been made while not radiating energy by a person not the holder of the required commercial radio operator license or not under the supervision of such licensed operator, other than the factory assembling or repair of equipment, the transmitter shall be checked for compliance with the technical requirements of the rules by a commercial radio operator of the proper grade before it is placed on the air.

(b) Except as provided in § 95.621 and in (c) of this section, no commercial radio operator license is required to be held by the person performing transmitter adjustments or tests during or coincident with the construction, installation, servicing, or maintenance of transmitters used at stations authorized prior to May 4, 1974: *Provided*, That there is compliance with all of the following conditions:

(1) The transmitting equipment shall be crystal-controlled with a crystal capable of maintaining the station frequency within the prescribed tolerance;

(2) The transmitting equipment either shall have been factory assembled or shall have been provided in kit form by a manufacturer who provided all components together with full and detailed instructions for their assembly by nonfactory personnel;

(3) The frequency determining elements of the transmitter, including the crystal(s) and all other components of the crystal oscillator circuit, shall have been preassembled by the manufacturer, pretuned to a specific available frequency, and sealed by the manufacturer so that replacement of any component or any adjustment which might cause off-frequency operation cannot be made without breaking such seal and thereby voiding the certification of the manufacturer required by this paragraph;

(4) The transmitting equipment shall have been so designed that none of the transmitter adjustments or tests normally performed during or coincident with the installation, servicing, or maintenance of the station, or during the normal rendition of the service of the station, or during the final assembly of kits or partially preassembled units, may reasonably be expected to result in off-frequency operation, excessive input power, overmodulation, or excessive harmonics or other spurious emissions; and

(5) The manufacturer of the transmitting equipment or of the kit from which the transmitting equipment is assembled shall have certified in writing to the purchaser of the equipment (and to the Commission upon request) that the equipment has been designed, manufactured, and furnished in accordance with the specifications contained in the foregoing subparagraphs of this paragraph. The manufacturer's certification concerning design and construction features of station transmitting equipment, as required if the provisions of this paragraph are invoked, may be specific as to the particular unit of transmitting equipment or general as to a group or model of such equipment, and may be in any form adequate to assure the purchaser of the equipment or the Commission that the conditions described in this paragraph have been fulfilled.

(c) Any tests and adjustments necessary to correct any deviation of a transmitter of any station in this service from the technical requirements of the rules in this part shall be made by, or under the immediate supervision of, a person holding a first- or second-class commercial operator license, either radiotelephone or radiotelegraph, as may be appropriate for the type of emission employed.

**§ 95.515 Tests and adjustments.**

All tests or adjustments of radio transmitting equipment involving an external connection to the radio frequency output circuit shall be made using a nonradiating dummy antenna. However, a brief test signal, either with or without modulation, as appropriate, may be transmitted when it is necessary to adjust a transmitter to an antenna for a new station installation or for an existing installation involving a change of antenna or change of transmitters, or when necessary for the detection, measurement, and suppression of harmonic or other spurious radiation. Test transmissions using a radiating antenna shall not exceed a total of 1 minute during any 5-minute period, shall not interfere with communications already in progress on the operating frequency, and shall be properly identified as required by § 95.471, but may otherwise be unmodulated as appropriate.

**§ 95.513 Modification of transmitters.**

(a) Transmitting equipment type accepted for use in this service shall not be modified by the user. Changes which are specifically prohibited include:

(1) Internal or external connection or addition of any part, device or accessory not included by the manufacturer with the transmitter for its type acceptance. This shall not prohibit the external connection of antennas or antenna transmission lines, antenna switches, passive networks for coupling transmission lines or antennas to transmitters, or replacement of microphones.

(2) Modification in any way not specified by the transmitter manufacturer and not approved by the Commission.

(3) Replacement of any transmitter part by a part having different electrical characteristics and ratings from that replaced unless such part is specified as a replacement by the transmitter manufacturer.

(4) Substitution or addition of any transmitter oscillator crystal unless the crystal manufacturer or transmitter manufacturer has made an express determination that the crystal type, as installed in the specific transmitter type, will provide that transmitter type with the capability of operating within the frequency tolerance specified in § 95.615(a).

(5) Addition or substitution of any component, crystal or combination of crystals, or any other alteration to enable transmission on any frequency not authorized for use by the licensee.

(b) Only the manufacturer of the particular unit of equipment type accepted for use in CB stations may make the permissive changes allowed under the provisions of Part 2 of this chapter for type acceptance. However, the manufacturer shall not make any of the following changes to the transmitter without prior written authorization from the Commission:

(1) Addition of any accessory or device not specified in the application for type acceptance and approved by the Commission in granting said type acceptance.

(2) Addition of any switch, control, or external connection.

(3) Modification to provide capability for an additional number of transmitting frequencies.





PROPOSED

**§ 95.515 Can I make any changes to my CB transmitter?**

(a) You must not make or have made *any* internal modification to your CB transmitter.

(b) You must not operate a CB transmitter which has been modified by *anyone* in any way, including modification to operate on unauthorized frequencies or with unauthorized power.

*Explanation*

We are proposing to simplify the rule on transmitter modification by deleting the list of prohibited modifications. This list was confusing to readers of the rules, and could be clarified best by deleting it. The proposed rule simplifies and shortens the existing rule without changing its substance. The second paragraph of the proposed rule, concerning operation of a modified transmitter, is included to emphasize two of the most serious problems facing the CB service: over-powered operation and operation on unauthorized frequencies Paragraph (b) of the existing rule has been moved to the Subpart on Technical Standards (Subpart E of Part 95).

**§ 95.517 Do I have to make my station available for inspection?**

You must make your station available to an authorized FCC representative for inspection on request.

*Explanation*

The proposed rule clarifies the existing rule without changing the substance. The regulation concerning station records has been separated and will appear as proposed § 95.519.

**§ 95.519 What are my station records?**

(a) Your station records must include the following documents, as applicable:

(1) Your temporary permit (§ 95.415);

(2) A copy of any letter advising the FCC of your name or address change (§ 95.431);

(3) Your license (§ 95.503);

(4) A list of authorized users of your CB station (§ 95.473);

(5) A current copy of the CB Rules (§ 95.505);

(6) A copy of any response to an FCC violation notice (§ 95.509); and

(7) Any written permissions received from the FCC.

(b) You must make your station records available to an authorized FCC representative on request.

(c) You must keep your station records for the term of your license.

EXISTING

**§ 95.521 Inspection of stations and station records.**

All stations and records of stations in this service shall be made available for inspection upon the request of an authorized representative of the Commission made to the licensee or to his representative. Unless otherwise stated in this part, all required station records shall be maintained for a period of at least 1 year.

**§ 95.521 Inspection of stations and station records.**

All stations and records of stations in this service shall be made available for inspection upon the request of an authorized representative of the Commission made to the licensee or to his representative. Unless otherwise stated in this part, all required station records shall be maintained for a period of at least 1 year.



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| PROPOSED | EXISTING |
|---|---|
| *Explanation*<br><br>The proposed rule clarifies the existing rule without changing the substance. "Station records" is a term which is often confusing to readers of these rules; therefore, the proposed language includes a definition and explanation of the records. Also, we have included a comprehensive list of all station records a licensee must keep. | |
| **§ 95.521 How do I contact the FCC?**<br><br>(a) You may write to the following address concerning your application, concerning the rules or when you are requesting more than 25 users or transmitters:<br><br>Personal Radio Division, FCC, Washington, D.C. 20554.<br><br>(b) You may write to the following address when you send your notice of new name or address, or when you send a new or renewal application form:<br><br>FCC, Gettysburg, Pa. 17326.<br><br>(c) You may contact any of the following FCC offices in the field if you wish to file an interference complaint. The complaint will be forwarded to the appropriate field enforcement unit.<br><br>Alaska, Anchorage 99510, FCC, room G-63, U.S.P.O. and Courthouse Bldg., P.O. Box 644, 4th and F Sts.<br>California, Long Beach, FCC, room 501, 3711 Long Beach Blvd.<br>California, San Diego 92101, FCC, Fox Theatre Bldg., 1245 7th Ave.<br>California, San Francisco 94111, FCC, 323-A Customhouse, 555 Battery St.<br>Colorado, Denver 80202, FCC, suite 2925, The Executive Tower, 1405 Curtis St.<br>Florida, Miami 33130, FCC, room 919, 51 Southwest 1st Ave.<br>Florida, Tampa 33602, FCC, Barnett Office Bldg., room 809, 100 Ashley Dr.<br>District of Columbia, Washington 20554, FCC, 1919 M St. NW., room 411.<br>Georgia, Atlanta 30309, FCC, room 440, Massell Bldg., 1365 Peachtree St. NE.<br>Hawaii, Honolulu 96808, FCC, 502 Federal Bldg., P.O. Box 1021, 355 Merchant St.<br>Illinois, Chicago 60604, FCC, 230 South Dearborn St., room 3935.<br>Louisiana, New Orleans 70130, FCC, 829 F. Edward Hebert Federal Bldg., 600 South St.<br>Maryland, Baltimore 21201, FCC, 819 Federal Bldg., 31 Hopkins Plaza.<br>Massachusetts, Boston 02109, FCC, 1600 Customhouse, 165 State St.<br>Michigan, Detroit 48226, FCC, 1054 Federal Bldg., 231 West LaFayette St.<br>Minnesota, St. Paul 55101, FCC, 691 Federal Bldg. and U.S. Courthouse, 316 North Robert St.<br>Missouri, Kansas City 64106, FCC, 1703 Federal Bldg., 601 East 12th St.<br>New York, Buffalo 14202, FCC, 1307 Federal Bldg., 111 West Huron St.<br>New York, New York 10014, FCC, 201 Varick St.<br>Oregon, Portland 97204, FCC, 1782 Federal Office Bldg., 1220 Southwest 3d Ave.<br>Pennsylvania, Philadelphia 19106, FCC, James A. Byrne Federal Courthouse, 601 Market St.<br>Puerto Rico, Hato Rey 00918, FCC, Room 747, Federal Bldg.<br>Texas, Dallas 75242, FCC, Earle Cabell Federal Bldg., U.S. Courthouse, room 13E7, 1100 Commerce St.<br>Texas, Houston 77002, FCC, New Federal Office Bldg., 515 Rusk Ave., room 5636.<br>Virginia, Norfolk 23502, FCC, Military Circle, 870 North Military Highway.<br>Washington, Seattle 98174, FCC, 3256 Federal Bldg., 915 2d Ave.<br><br>*Explanation*<br><br>Although the existing rules do not include a section about contacting the FCC, we believe that such a section would be valuable to CB licensees. | (No existing rule.) |





| PROPOSED | EXISTING |
|---|---|
| (No proposed rule. Each of these rules is proposed to be deleted.)<br><br>*Explanation*<br><br>We are proposing to delete three of these rule sections in their entirety, because they merely duplicate sections found elsewhere in the Rules. Section 95.423 is duplicative of §1.958; § 95.425 duplicates §§ 1.918 and 1.961; and § 95.427 duplicates § 1.110. We believe none of these sections to be an essential element of Part 95, as each is found elsewhere in the Commission's Rules. | **§ 95.423 Defective applications.**<br><br>(a) If an applicant is requested by the Commission to file any documents or information not included in the prescribed application form, a failure to comply which such request will constitute a defect in the application.<br><br>(b) When an application is considered to be incomplete or defective, such application will be returned to the applicant, unless the Commission may otherwise direct. The reason for return of the applications will be indicated, and if appropriate, necessary additions or corrections will be suggested.<br><br>**§ 95.425 Amendment or dismissal of application.**<br><br>(a) Any application may be amended upon request of the applicant as a matter of right prior to the time the application is granted or designated for hearing. Each amendment to an application shall be signed and submitted in the same manner and with the same number of copies as required for the original application.<br><br>(b) Any application may, upon written request signed by the applicant or his attorney, be dismissed without prejudice as a matter of right prior to the time the application is granted or designated for hearing.<br><br>**§ 95.427 Partial grant.**<br><br>Where the Commission, without a hearing, grants an application in part, or with any privileges, terms, or conditions other than those requested, the action of the Commission shall be considered as a grant of such application unless the applicant shall, within 30 days from the date on which such grant is made, or from its effective date if a later date is specified, file with the Commission a written rejection of the grant as made. Upon receipt of such rejection, the Commission will vacate its original action upon the application and, if appropriate, set the application for hearing.<br><br>(No existing rule.) |
| 2. Subpart E. Technical Regulations, is amended by adding a new § 95.657, consisting of the text of former § 95.513 (b), as follows:<br><br>**§ 95.657 Modification of transmitters.**<br><br>Only the manufacturer of the particular unit of equipment type accepted for use in CB stations may make the permissive changes allowed under the provisions of Part 2 of this chapter for type acceptance. However, the manufacturer shall not make any of the following changes to the transmitter without prior written authorization from the Commission:<br><br>(a) Addition of any accessory or device not specified in the application for the type acceptance and approved by the Commission in granting said type acceptance.<br><br>(b) Addition of any switch, control, or external connection.<br><br>(c) Modification to provide capability for an additional number of transmitting frequencies.<br><br>*Explanation*<br><br>This Section is being moved to Subpart E, Technical Regulations, from § 95.513 in Subpart D, because it is directed at manufacturers of CB equipment. CB licensees have no need to be aware of these requirements. | |



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FOLD

Place Stamp Here

PERSONAL RADIO DIVISION
FEDERAL COMMUNICATIONS COMMISSION
ROOM 5114
1919 M STREET, N.W.
WASHINGTON, D.C. 20554

FOLD



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JUL 2077
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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

## THE FCC WANTS TO KNOW WHAT YOU THINK ABOUT THE PROPOSED NEW CB RULES

What you think about CB radio is important to the FCC. Your thoughts about the CB radio rules will help the FCC make the right decisions about your radio service, so please take a moment to fill out this sample questionnaire. The answers you give us will be used in making decisions about the CB radio rules. You do not have to complete this sample questionnaire, but if you do, you will be helping to build a better CB Radio Service.

1. Do you find the proposed CB rules easier to understand than the existing CB rules? ☐ YES ☐ NO ☐ DON'T KNOW

2. Are any of the proposed rules too hard to understand? ☐ YES ☐ NO ☐ DON'T KNOW

If so, which one(s)? _____

3. Was it helpful to see the existing rules next to the proposed rules? ☐ YES ☐ NO ☐ DON'T KNOW

4. How could the proposed CB radio rules be improved?

5. Do you have any other comments about the proposed CB radio rules? (More space to answer appears on the back of this page.)

NAME _____

ADDRESS _____

_____

[FR Doc.77-20915 Filed 7-19-77;8:45 am]



federal register

WEDNESDAY, JULY 20, 1977

PART IV

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

# POSTAL RATE COMMISSION

## POSTAL RATE AND FEE CHANGES, 1977

Filing of Proposed Changes, Etc.

V42I139 JUL 20 77 UMI

## POSTAL RATE COMMISSION

[Docket No. R77-1; Order No. 167]

### POSTAL RATE AND FEE CHANGES, 1977

**Filing of Proposed Changes in Postal Rates and Fees and Order Designating Presiding Officer and Officer of the Commission, Fixing Date for Prehearing Conference and Establishing Procedures**

JULY 14, 1977.

Notice is hereby given that on July 13, 1977, the United States Postal Service (hereinafter Postal Service or Service), pursuant to Section 3622 of the Postal Reorganization Act (39 U.S.C. 3622), filed a request with the Postal Rate Commission for a recommended decision on certain proposed changes in fees and rates of postage for postal services and certain related changes to the Domestic Mail Classification Schedule. This filing has been assigned Docket No. R77-1.

The Postal Service states that its filing is in accordance with the Commission's rules of practice applicable to requests for changes in postage rates and fees (39 CFR 3001.51-3001.55). It further states that for the year ending March 24, 1979, gross revenues at current rates are estimated at approximately $15.7 billion while costs will reach $18.1 billion, leaving a revenue deficiency of $2.4 billion. The proposed rate and fee increases, which the Service states are necessary so that total estimated income and appropriations will equal as nearly as practicable total estimated costs as required by 39 U.S.C. § 3621, are designed to recoup most of the estimated deficiency by increasing revenues $1.967 billion and decreasing costs by $0.446 billion.

The percentage rate increases proposed for the various major categories of mail service are approximately as follows: [1]

| | Percent |
|---|---|
| First class | 21.4 |
| Second class (regular) | [1] 29.0 |
| Third class bulk rate (regular) | 14.5 |
| Fourth class: | |
| Parcel post | 25.8 |
| Special rate parcels | 34.3 |

[1] 19 percent for 5-digit, direct sack presort.

Included within the Postal Service's request is a proposal for a "citizens' rate" applicable to first-class mail letters. This rate, which for the first ounce would be less than the general rate proposed for first-class letters, would be applicable to standard-size domestic letters mailed by individuals. In addition, such letters would require special stamps, ZIP codes, and hand-written address and/or return address.

Other highlights of the proposed rate structure include a two-cent discount for presorted first-class mail exclusive of post and postal cards which would be accorded a one-cent discount. Regular rate second-class mail for delivery outside the county of publication would be given a zoned rate structure for both advertising and non-advertising portions. The per-piece charge on regular rate second-class publications would be at two levels, with a two-cent lower per-piece rate applicable to mail included in direct sacks to the same 5-digit ZIP code destinations. For third-class regular rate matter, the Postal Service has proposed the elimination of the lower minimum per-piece rate for the first 250,000 pieces mailed annually. Significant changes also have been proposed in the rates for fourth-class mail and in the fees charged by the Postal Service for special services. The specific changes in the rates and fees, both as now existing and as proposed, are contained in Attachment A to this notice and order.

The request of the Postal Service for a recommended decision on changes in rates of postage and fees for postal services is on file with the Commission and is available for public inspection during regular business hours.

[1] The percentage calculations are those supplied by the Postal Service.

#### I. INTERVENTION

Hearings will be held on the proposal submitted by the Postal Service in Docket R77-1. Any person desiring to be heard with reference thereto and to become a party to the proceeding, or to participate as a party in any hearing thereon, should file a petition for leave to intervene. Petitions for leave to intervene must be filed with the Secretary, Postal Rate Commission, Washington, D.C. 20268 on or before August 1, 1977, and must be in accordance with section 20 of the Commission's rules of practice (39 CFR 3001.20). We direct specific attention to section 20 (b) which provides that petitions for leave to intervene shall affirmatively state whether or not petitioner requests a hearing or, in lieu thereof, a conference; and further, whether or not the petitioner intends to participate actively in a hearing. Alternatively, persons seeking limited participation, but who do not wish to become parties may, on or before August 1, 1977, file a written request for leave to be heard as a "limited participator," pursuant to section 19a of the Commission's rules of practice (39 CFR 3001.19a). In addition, persons wishing to express their views informally, and not desiring to become a party or limited participant, may file comments pursuant to section 19b of the Commission's rules, 39 CFR 3001.19b. The Commission's adoption of this rule, permitting statements by "commenters," will permit the widest possible public participation in this proceeding.

The Commission has determined that this case must be conducted with the utmost expedition consistent with procedural fairness. To help achieve this objective, we shall require that answers to petitions to intervene or appear as a limited participator, as permitted under 39 CFR 3001.20(d), be filed on or before August 8, 1977. All persons filing a petition for leave to intervene, whether generally or on a limited basis, will be permitted to participate in the proceeding pending a final ruling by the Commission on the petition.

Parties submitting petitions for leave to intervene are requested to identify therein any issues, legal or otherwise, which in their opinion are or may be raised in the Postal Service's request in connection with any proposed new subclasses and related rates.

#### II. APPOINTMENT OF PRESIDING OFFICER AND DATE OF INITIAL PREHEARING CONFERENCE

In furtherance of the Commission's desire for expeditious consideration and pursuant to section 30(b) of the Commission's rules of practice (39 CFR 30 (b)), the Commission will conduct all prehearing conferences and hearings en banc. Clyde S. DuPont, Chairman, will be the presiding officer in such proceedings (39 CFR 3001.5(e); 3001.23). An initial prehearing conference will be held on July 28, 1977 and, thereafter, on such further dates as may be designated by the presiding officer. Conferences and hearings will commence each day at 9:30 a.m. at the Postal Rate Commission's hearing room, suite 500, 200 L Street NW., Washington, D.C. 20268, and shall be on the record and a transcript made except where the presiding officer determines otherwise.

#### III. APPOINTMENT OF THE OFFICER OF THE COMMISSION

The Officer of the Commission (OOC) designated to represent the general public [2] in this proceeding will be Kenneth J. Neises, Assistant General Counsel (Litigation). During this proceeding, the OOC will direct the activities of Commission personnel assigned to assist him, and neither he nor any such personnel will participate in nor advise as to any Commission decision in the case.[3] The OOC will supply for the record, at the appropriate time, the names of all Commission personnel assigned to assist him in this case. In this proceeding the OOC shall be separately served three copies of all filings in addition to, and simultaneously with, service on the Commission of the 25 copies required by § 10(c) of the rules of practice (39 CFR 3001.10(c)).

#### IV. PROCEDURES FOR EXPEDITION

Section 3624(c)(1) of the Postal Reorganization Act (39 U.S.C. 3624(c)(1)) provides that the Commission is to render its recommended decision within 10 months after receiving a request for change in rates of postage. In order to expedite the proceedings and still be consistent with procedural fairness, we are issuing the present detailed Order so that all those who contemplate participating in this case (even though not yet admitted) will have ample time to prepare for the prehearing conference.

In this regard, the Commission directs the attention of the parties, and of petitioners for leave to intervene or be heard as limited participators, to section 24(d) of the Commission's rules of practice which sets forth the matters which the presiding officer and the participants shall consider and resolve at the prehearing conference. All interested persons are expected to appear at the prehearing conference fully prepared to discuss in detail and resolve these matters. Additionally, such persons will have an opportunity to comment on the attached list of suggested procedural guidelines and proposed special rules of practice and should be authorized to make commitments with respect thereto. See Attachment B. Before the close of the prehearing conference, such persons will also have the opportunity to make opening statements, if they so desire.

[2] See 39 U.S.C. 3624(a).

[3] See 39 CFR 3001.8.





In the past, our rules regarding discovery have been leniently enforced on occasion. For example, time limitations have been waived and extended (particularly for completion of discovery) in many instances and considerable delay of the proceedings has resulted. Because we are determined to expedite the conduct of this case, as the statute requires, and because the trial and decision of our previous rate cases have given us a body of useful experience which we anticipate will guide us in this proceeding, we plan to adhere as strictly as possible to the procedural requirements and filing deadlines set out in our rules of practice. The parties should therefore make certain, from the outset of this proceeding, that they have provided aedquate resources for the prompt preparation of and response to all discovery requests.

In furtherance of this objective, we have decided on a procedure to be followed in case answers to discovery requests are not forthcoming within the prescribed time. This procedure is the same as that provided for in the proceedings in Docket No. R76-1. If a motion to compel responses is not answered by a demonstration of cogent and convincing reasons for delay, the presiding officer will prescribe a time at which the witness to whom the discovery requests were addressed will be produced for oral examination on the subject matter of such requests. This examination will be conducted in parallel with the main hearings, before special presiding officers [4] to be designated by the Chairman for that purpose. The special presiding officer will record any objections made, together with his proposed disposition thereof, and transmit both to the Chairman acting in his capacity as presiding officer of the main hearing. A transcript will be made of any such examination, and the responding witness may be represented by counsel. We expect that such ancillary proceedings will accelerate the obtaining of responses (which would otherwise have to be pursued by written pleadings and motions), while not requiring the main proceedings to be halted.

While we are not at this time specifying any procedures for the taking of depositions in parallel with the principal hearing, the parties and the presiding officer will consider their use when appropriate to hasten responses to discovery requests and where attendance of a special presiding officer may not be required.

All participants should give careful consideration to expediting this proceeding and, in connection therewith, should review the proposed schedule of procedural stages. See Attachment C. As indicated, we tentatively plan to close the record in these proceedings by February 7, 1978.

The requirements of the Act demand expedited proceedings, coupled with procedural fairness. We must respond accordingly. We also alert the parties that our intention to expedite this proceeding applies with equal force to the briefing stage following the close of the record. Parties should therefore be prepared to adhere to a briefing schedule consonant with this policy. See Attachment C.

#### V. PREHEARING CONFERENCE STATEMENTS

In preparation for the initial prehearing conference, each participant should serve a document captioned "Prehearing Conference Statement" on or before July 26, 1977, containing the following:

1. A suggested list which states with particularity the issues the party believes should be addressed in this case. (Asterisks, denoting those issues on which the party intends to present evidence, should precede the stated issue.)

2. A statement of the participant's tentative position on each of the proposed issues.

3. A brief statement describing for each issue the evidence, if any, the participant proposes to introduce.

4. A legal memorandum, where appropriate, in support of the issues proposed, the positions taken, the evidence to be presented and other legal matters which should be considered.

5. Any other matter the participant believes should be pursued at the prehearing conference.

Prior to the initial prehearing conference, all participants are encouraged informally and promptly to inform the Postal Service of desired preliminary clarification in the Service's presentation which each participant believes necessary in order to expedite this proceeding.

#### VI. DISCOVERY

The Commission directs the attention of all participants to the provisions of sections 25, 26, and 27 of the rules of practice (39 CFR 3001.25, 3001.26, 3001.27) establishing the availability of, and the rules for, discovery procedures. The discovery process is one aspect of rate proceedings which we particularly wish to expedite. Interrogatories must be answered promptly so that the expedited hearing program we are adopting here can function effectively.

In an effort to reduce or obviate certain peripheral discovery by the parties, the Commission will entertain oral motions requesting an opportunity to engage in a limited amount of "preliminary cross examination" of Postal Service witnesses during prehearing conferences. In this regard, the Service is requested to have its witnesses present and be able to provide for the record the requested clarifications or any other relevant information which might be requested at the prehearing conference.[5] A similar "preliminary cross examination" session for clarification of the presentations of the participants will be held following the filing of other participants' cases.

We believe this type of clarifying questioning will help reduce the length of the formal discovery period by disposing of purely informational requests on the record during prehearing conferences. Preliminary cross examination, however, should be requested only where a party is of the view (and can persuasively demonstrate) that the expected responses are an essential part of the hearing record. Normally, participants should use informal off-the-record conference techniques to the maximum extent possible. In this connection, we request the Postal Service to file periodically, e.g., every two weeks, (1) a listing of information given to parties in response to informal requests and (2) a copy of the information to be lodged in the dockets section of the Postal Rate Commission. This procedure will avoid duplicative requests from participants for identical information. It will be optional for other participants to follow this procedure because, unlike the Service, they are not usually the source of "data base" information.

*The Commission orders:* (A) The Commission will sit en banc, with Clyde S. DuPont, Chairman, as presiding officer, in the above-captioned proceeding.

(B) A prehearing conference in this proceeding will be held on July 28, 1977, commencing at 9:30 a.m. in the Postal Rate Commission hearing room, suite 500, 2000 L Street NW., Washington, D.C. 20268. The Conference will be held for the purposes specified in section 24 of the Commission's rules of practice (39 CFR 3001.24) and in this Order, and to afford all participants in the proceeding an opportunity to be heard with respect to the procedures to be followed in expeditiously determining the issues to be resolved in Docket No. R77-1. The conference proceedings shall be recorded by an official reporter except where otherwise directed by the presiding officer.

(C) Kenneth J. Neises, Assistant General Counsel (Litigation), is hereby designated as the Officer of the Commission to represent the general public in this proceeding. Service of documents on the Commission shall not constitute service on the OOC, who shall separately be served three copies of all documents.

(D) The Secretary shall cause this notice and order to be published in the FEDERAL REGISTER.

By the Commission.

DAVID F. HARRIS,
*Secretary.*

NOTE.—Copies of the following schedules (attachment A) are available at the Docket Section of the Postal Rate Commission.

[4] Analogous procedures are found in the judiciary where Special Masters sometimes are appointed by a court for the hearing of particular matters. See F.R.C.P. Rule 53.

[5] Such requests might, for example, be for workpapers, sources of numbers used, explanations or demonstrations of mathematical processes employed, etc. We contemplate that any extensive responses would be provided in writing, but any inquiry which can be answered immediately by a witness should be so disposed of.



V 42 I 139 JUL 20 77 UMI

Attachment A

## PRESENT AND PROPOSED RATES OF POSTAGE AND FEES FOR POSTAL SERVICES

### SCHEDULE A-1

### First Class and Business Reply

| Mail Type | Postage Rate Unit | Current Rates: Regular (cents) | Current Rates: Presorted (cents) | Proposed Rates: Regular (cents) | Proposed Rates: Presorted (cents) 1/ |
|---|---|---|---|---|---|
| (1) | (2) | (3) | (4) | (5) | (6) |
| First-class Letters | | | | | |
| General rate | 1st ounce | 13 | 12/13 | 16 | 14/16 |
| | Each add'l ounce 2/ | 11 | 11 | 13 | 13 |
| Citizens' rate 3/ | 1st ounce | 13 | — | 13 | — |
| | Each additional ounce | 11 | — | 13 | -- |
| Cards | Piece | 9 | 8/9 | 10 | 9/10 |
| Business Reply 4/ | With advance deposit account | 3.5 | 3.5 | 3.5 | 3.5 |
| | Without advance deposit account | 12 | 12 | 12 | 12 |

1/ Presorted first-class mail must be presented in a single mailing of 500 or more pieces properly prepared and presorted. The lower rate applies only to each piece of a group of ten or more pieces destined for the same five-digit ZIP Code or each piece of a group of fifty or more pieces destined for the same three-digit ZIP Code. A mailing fee of $30 must be paid once each calendar year at each office of mailing by or for any person who mails presorted first-class mail.

2/ Current rate applicable through 13 ounces. Proposed rate applicable through 11 ounces. Heavier pieces are subject to priority mail rates.

3/ Applicable to standard-size domestic first-class letter mailings by individuals. Such mailings will require special postage stamps, ZIP Codes, and handwritten address and/or return address. Priority of handling and delivery will be immediately below other priority mail.

4/ Rates are applied on a per-piece basis in addition to regular postage. A fee of $30 must be paid once each calendar year for each business-reply permit. An accounting charge must be paid once each calendar year for each business-reply advance deposit account.

### SCHEDULE A-2

### Current Priority Mail Rates

| Postage Rate Unit (Pounds) | Rate 1/ (dollars) | | | | | |
|---|---|---|---|---|---|---|
| | Zones | | | | | |
| | Local 1, 2 & 3 | 4 | 5 | 6 | 7 | 8 |
| 1 | 1.56 | 1.58 | 1.60 | 1.62 | 1.64 | 1.67 |
| 1.5 | 1.73 | 1.77 | 1.84 | 1.90 | 1.97 | 2.07 |
| 2 | 1.89 | 1.96 | 2.07 | 2.18 | 2.29 | 2.46 |
| 2.5 | 2.05 | 2.15 | 2.29 | 2.43 | 2.59 | 2.78 |
| 3 | 2.21 | 2.33 | 2.50 | 2.68 | 2.88 | 3.09 |
| 3.5 | 2.37 | 2.51 | 2.70 | 2.91 | 3.15 | 3.38 |
| 4 | 2.53 | 2.69 | 2.90 | 3.14 | 3.41 | 3.67 |
| 4.5 | 2.68 | 2.86 | 3.09 | 3.35 | 3.65 | 3.94 |
| 5 | 2.83 | 3.03 | 3.27 | 3.56 | 3.88 | 4.20 |
| Each add'l. pound | .30 | .34 | .37 | .42 | .47 | .52 |

1/ Exception: Parcels weighing less than 15 pounds, measuring over 84 inches but not exceeding 100 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

### SCHEDULE A-3

### Proposed Priority Mail Rates

| Postage Rate Unit (Pounds) | Rate 1/ (dollars) | | | | | |
|---|---|---|---|---|---|---|
| | Zones | | | | | |
| | Local 1, 2 & 3 | 4 | 5 | 6 | 7 | 8 |
| 1 | 1.48 | 1.54 | 1.59 | 1.67 | 1.75 | 1.81 |
| 1.5 | 1.56 | 1.64 | 1.73 | 1.85 | 1.96 | 2.14 2/ |
| 2 | 1.64 | 1.75 | 1.87 | 2.02 | 2.18 | 2.30 |
| 2.5 | 1.72 | 1.86 | 2.01 | 2.20 | 2.39 | 2.55 |
| 3 | 1.79 | 1.97 | 2.14 | 2.37 | 2.61 | 2.79 |
| 3.5 | 1.87 | 2.08 | 2.28 | 2.55 | 2.82 | 3.04 |
| 4 | 1.95 | 2.18 | 2.42 | 2.72 | 3.04 | 3.28 |
| 4.5 | 2.03 | 2.29 | 2.55 | 2.90 | 3.25 | 3.53 |
| 5 | 2.11 | 2.40 | 2.69 | 3.08 | 3.47 | 3.77 |
| Per Piece | $1.32 | $1.32 | $1.32 | $1.32 | $1.32 | $1.32 |
| Per Pound | 15.8¢ | 21.6¢ | 27.4¢ | 35.1¢ | 42.9¢ | 49.0¢ |

1/ Exception: Parcels weighing less than 15 pounds, measuring over 84 inches but not exceeding 100 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

2/ Raised $.08 to allow for a rate greater than that for a 2 pound Zone 8 parcel sent via parcel post.

### SCHEDULE A-3a

### Proposed Priority Rate Schedule

| WEIGHT NOT EXCEEDING (POUNDS) | ZONE 1,2,3 | ZONE 4 | ZONE 5 | ZONE 6 | ZONE 7 | ZONE 8 |
|---|---|---|---|---|---|---|
| 1.0 | 1.48 | 1.54 | 1.59 | 1.67 | 1.75 | 1.81 |
| 1.5 | 1.56 | 1.64 | 1.73 | 1.85 | 1.96 | 2.14 1/ |
| 2.0 | 1.64 | 1.75 | 1.87 | 2.02 | 2.18 | 2.30 |
| 2.5 | 1.72 | 1.86 | 2.01 | 2.20 | 2.39 | 2.55 |
| 3.0 | 1.79 | 1.97 | 2.14 | 2.37 | 2.61 | 2.79 |
| 3.5 | 1.87 | 2.08 | 2.28 | 2.55 | 2.82 | 3.04 |
| 4.0 | 1.95 | 2.18 | 2.42 | 2.72 | 3.04 | 3.28 |
| 4.5 | 2.03 | 2.29 | 2.55 | 2.90 | 3.25 | 3.53 |
| 5 | 2.11 | 2.40 | 2.69 | 3.08 | 3.47 | 3.77 |
| 6 | 2.27 | 2.62 | 2.96 | 3.43 | 3.89 | 4.26 |
| 7 | 2.43 | 2.83 | 3.24 | 3.78 | 4.32 | 4.75 |
| 8 | 2.58 | 3.05 | 3.51 | 4.13 | 4.75 | 5.24 |
| 9 | 2.74 | 3.26 | 3.79 | 4.48 | 5.18 | 5.73 |
| 10 | 2.90 | 3.48 | 4.06 | 4.83 | 5.61 | 6.22 |
| 11 | 3.06 | 3.70 | 4.33 | 5.18 | 6.04 | 6.71 |
| 12 | 3.22 | 3.91 | 4.61 | 5.53 | 6.47 | 7.20 |
| 13 | 3.37 | 4.13 | 4.88 | 5.88 | 6.90 | 7.69 |
| 14 | 3.53 | 4.34 | 5.16 | 6.23 | 7.33 | 8.18 |
| 15 | 3.69 | 4.56 | 5.43 | 6.58 | 7.76 | 8.67 |
| 16 | 3.85 | 4.78 | 5.70 | 6.94 | 8.18 | 9.16 |
| 17 | 4.01 | 4.99 | 5.98 | 7.29 | 8.61 | 9.65 |
| 18 | 4.16 | 5.21 | 6.25 | 7.64 | 9.04 | 10.14 |
| 19 | 4.32 | 5.42 | 6.53 | 7.99 | 9.47 | 10.63 |
| 20 | 4.48 | 5.64 | 6.80 | 8.34 | 9.90 | 11.12 |
| 21 | 4.64 | 5.86 | 7.07 | 8.69 | 10.33 | 11.61 |
| 22 | 4.80 | 6.07 | 7.35 | 9.04 | 10.76 | 12.10 |
| 23 | 4.95 | 6.29 | 7.62 | 9.39 | 11.19 | 12.59 |
| 24 | 5.11 | 6.50 | 7.90 | 9.74 | 11.62 | 13.08 |
| 25 | 5.27 | 6.72 | 8.17 | 10.10 | 12.05 | 13.57 |
| 26 | 5.43 | 6.94 | 8.44 | 10.45 | 12.47 | 14.06 |
| 27 | 5.58 | 7.15 | 8.72 | 10.80 | 12.90 | 14.55 |
| 28 | 5.74 | 7.37 | 8.99 | 11.15 | 13.33 | 15.04 |
| 29 | 5.90 | 7.58 | 9.27 | 11.50 | 13.76 | 15.53 |
| 30 | 6.06 | 7.80 | 9.54 | 11.85 | 14.19 | 16.02 |
| 31 | 6.22 | 8.02 | 9.81 | 12.20 | 14.62 | 16.51 |
| 32 | 6.38 | 8.23 | 10.09 | 12.55 | 15.05 | 17.00 |
| 33 | 6.53 | 8.45 | 10.36 | 12.90 | 15.48 | 17.49 |
| 34 | 6.69 | 8.66 | 10.64 | 13.25 | 15.91 | 17.98 |
| 35 | 6.85 | 8.88 | 10.91 | 13.61 | 16.34 | 18.47 |
| 36 | 7.01 | 9.10 | 11.18 | 13.96 | 16.76 | 18.96 |
| 37 | 7.17 | 9.31 | 11.46 | 14.31 | 17.19 | 19.45 |
| 38 | 7.32 | 9.53 | 11.73 | 14.66 | 17.62 | 19.94 |
| 39 | 7.48 | 9.74 | 12.01 | 15.01 | 18.05 | 20.43 |
| 40 | 7.64 | 9.96 | 12.28 | 15.36 | 18.48 | 20.92 |
| 41 | 7.80 | 10.18 | 12.55 | 15.71 | 18.91 | 21.41 |
| 42 | 7.96 | 10.39 | 12.83 | 16.06 | 19.34 | 21.90 |
| 43 | 8.11 | 10.61 | 13.10 | 16.41 | 19.77 | 22.39 |
| 44 | 8.27 | 10.82 | 13.38 | 16.76 | 20.20 | 22.88 |
| 45 | 8.43 | 11.04 | 13.65 | 17.12 | 20.63 | 23.37 |
| 46 | 8.59 | 11.26 | 13.92 | 17.47 | 21.05 | 23.86 |
| 47 | 8.75 | 11.47 | 14.20 | 17.82 | 21.48 | 24.35 |
| 48 | 8.90 | 11.69 | 14.47 | 18.17 | 21.91 | 24.84 |
| 49 | 9.06 | 11.90 | 14.75 | 18.52 | 22.34 | 25.33 |
| 50 | 9.22 | 12.12 | 15.02 | 18.87 | 22.77 | 25.82 |
| 51 | 9.38 | 12.34 | 15.29 | 19.22 | 23.20 | 26.31 |
| 52 | 9.54 | 12.55 | 15.57 | 19.57 | 23.63 | 26.80 |
| 53 | 9.69 | 12.77 | 15.84 | 19.92 | 24.06 | 27.29 |
| 54 | 9.85 | 12.98 | 16.12 | 20.27 | 24.49 | 27.78 |
| 55 | 10.01 | 13.20 | 16.39 | 20.63 | 24.92 | 28.27 |
| 56 | 10.17 | 13.42 | 16.66 | 20.98 | 25.34 | 28.76 |
| 57 | 10.33 | 13.63 | 16.94 | 21.33 | 25.77 | 29.25 |
| 58 | 10.48 | 13.85 | 17.21 | 21.68 | 26.20 | 29.74 |
| 59 | 10.64 | 14.06 | 17.49 | 22.03 | 26.63 | 30.23 |
| 60 | 10.80 | 14.28 | 17.76 | 22.38 | 27.06 | 30.72 |
| 61 | 10.96 | 14.50 | 18.03 | 22.73 | 27.49 | 31.21 |
| 62 | 11.12 | 14.71 | 18.31 | 23.08 | 27.92 | 31.70 |
| 63 | 11.27 | 14.93 | 18.58 | 24.43 | 28.35 | 32.19 |
| 64 | 11.43 | 15.14 | 18.86 | 23.78 | 28.78 | 32.68 |
| 65 | 11.59 | 15.36 | 19.13 | 24.13 | 29.21 | 33.17 |
| 66 | 11.75 | 15.58 | 19.40 | 24.48 | 29.63 | 33.66 |
| 67 | 11.91 | 15.79 | 19.68 | 24.83 | 30.06 | 34.15 |
| 68 | 12.06 | 16.01 | 19.95 | 25.18 | 30.49 | 34.64 |
| 69 | 12.22 | 16.22 | 20.22 | 25.54 | 30.92 | 35.13 |
| 70 | 12.38 | 16.44 | 20.50 | 25.89 | 31.35 | 35.62 |

1/ Raised $.08 to allow for a rate greater than that for a 2 pound zone 8 parcel sent via parcel post.

SCHEDULE B-1

Second-Class Mail: In-County, Transient, and Commingled Non-Subscriber Copies 1/

| Mail Type | Full Rate Current (cents) | Full Rate Proposed (cents) |
|---|---|---|
| In-County | | |
| Pound-rate matter: | | |
| Per pound | 4.6 | 5.0 |
| Per piece | 2.6 | 2.9 |
| Per-copy-rate matter: | | |
| Publications issued more frequently than weekly | 3.9 | 4.1 |
| Publications issued less frequently than weekly: | | |
| Copies weighing 2 ounces or less | 3.9 | 4.1 |
| Copies weighing more than 2 ounces | 5.2 | 5.5 |
| Transient | | |
| First 2 ounces | 10.0 | 10.0 |
| Each additional ounce | 6.0 | 6.0 |
| Commingled Non-subscriber Copies 1/ | | |
| Per pound | 13.6 | 15.3 |
| Per piece | 4.5 | 5.8 |

1/ Includes sample copies in excess of the 10 percent allowance and complimentary copies.

SCHEDULE B-2

Second-Class Mail: Publications of Authorized Nonprofit Organizations, Outside County

| | Postage Rate Unit | Full Rate 1/ Current (cents) | Full Rate 1/ Proposed (cents) |
|---|---|---|---|
| Per pound: | | | |
| Non-advertising portion | Pound | 9.8 | 12.9 |
| Advertising portion: 2/ | | | |
| Zone: 1 & 2 | Pound | 13.2 | 15.9 |
| 3 | Pound | 14.2 | 16.6 |
| 4 | Pound | 15.2 | 17.8 |
| 5 | Pound | 16.7 | 19.9 |
| 6 | Pound | 18.7 | 22.5 |
| 7 | Pound | 20.7 | 25.1 |
| 8 | Pound | 23.1 | 27.6 |
| Per piece | Piece | 4.0 | 4.8 |

1/ Charges for second-class nonprofit mail are computed by adding the per-piece charge to the sum of the non-advertising portion charge and the advertising portion charge, as applicable.
2/ Not applicable to publications containing 10 percent or less advertising content.





SCHEDULE B-3

Second-Class Mail: Classroom Publications, Outside County

| | Postage Rate Unit | Full Rate 1/ Current (cents) | Full Rate 1/ Proposed (cents) |
|---|---|---|---|
| Per pound: | | | |
| Non-advertising portion | Pound | 5.4 | 5.6 |
| Advertising portion: | | | |
| Zone: 1 & 2 | Pound | 6.0 | 6.1 |
| 3 | Pound | 7.0 | 6.8 |
| 4 | Pound | 8.0 | 8.0 |
| 5 | Pound | 9.5 | 10.1 |
| 6 | Pound | 11.5 | 12.7 |
| 7 | Pound | 13.5 | 15.3 |
| 8 | Pound | 15.9 | 17.8 |
| Per piece | Piece | 2.5 | 2.7 |

1/ Charges for classroom publications are computed by adding the per-piece charge to the sum of the non-advertising portion charge and the advertising portion charge, as applicable.

SCHEDULE B-4

Second-Class Mail: Regular Rate Publications, Outside County

| | Postage Rate Unit | Full Rate 1/ Current (cents) | Full Rate 1/ Proposed (cents) |
|---|---|---|---|
| Per pound: | | | |
| Non-advertising portion: | | | |
| Zone: 1 & 2 | Pound | 10.2 | 12.3 |
| 3 | Pound | 10.2 | 12.9 |
| 4 | Pound | 10.2 | 14.1 |
| 5 | Pound | 10.2 | 16.0 |
| 6 | Pound | 10.2 | 18.4 |
| 7 | Pound | 10.2 | 20.8 |
| 8 | Pound | 10.2 | 23.0 |
| Advertising portion: | | | |
| Zone: 1 & 2 | Pound | 13.6 | 16.5 2/ |
| 3 | Pound | 14.4 | 17.3 |
| 4 | Pound | 15.6 | 18.8 |
| 5 | Pound | 17.4 | 21.4 |
| 6 | Pound | 19.4 | 24.5 |
| 7 | Pound | 21.4 | 27.7 |
| 8 | Pound | 23.5 | 30.8 |
| Per piece 3/ | Piece | 4.3 | 6.8/4.8 4/ |
| Per piece 5/ | Piece | 3.5 | 5.9/3.9 4/ |

1/ Charges for second-class regular rate mail are computed by adding the appropriate per-piece charge to the sum of the non-advertising portion and the advertising portion charge, as applicable.
2/ Per-pound advertising portion full rate for science-of-agriculture publications mailed to Zones 1 and 2 is currently 13.2 cents per pound. The proposed full rate is 15.9 cents per pound.
3/ Publications mailing 5,000 or more copies per issue outside county of publication.
4/ Lower per-piece rate applies to pieces included in direct sacks to 5-digit ZIP Code destinations.
5/ Publications mailing fewer than 5,000 copies per issue outside county of publication.

SCHEDULE C

Controlled Circulation Mail

| | Full Rate Current (cents) | Proposed (cents) |
|---|---|---|
| Per pound | 13.6 | 15.3 |
| Per piece | 4.5 | 5.8 |

SCHEDULE D

Third-Class Mail

| | Full Rate Current (cents) | Proposed (cents) |
|---|---|---|
| Single-Piece | | |
| First 2 ounces | 14 | 20 |
| Next 2 ounces | 14 | 20 |
| Each additional 2 ounces | 11 | 13 |
| Keys and Identification Devices | | |
| First 2 ounces | 19 | 32 |
| Each additional 2 ounces | 14 | 18 |
| Regular Bulk 1/ | | |
| Per-pound | | |
| Ordinary matter 2/ | 36 | 41 |
| Books, catalogs, etc. 3/ | 30 | 38 |
| Minimum-per-piece | 7.5/7.7 4/ | 8.6 |
| Nonprofit Bulk 1/ | | |
| Per-pound | | |
| Ordinary matter 2/ | 24 | 33 |
| Books, catalogs, etc. 3/ | 20 | 29 |
| Minimum-per-piece | 3.7 | 5.4 |

1/ A fee of $40.00 must be paid once each calendar year for each bulk mailing permit.
2/ "Ordinary matter" includes all regular and nonprofit bulk matter except: books and catalogs of 24 bound pages or more, seeds, cuttings, bulbs, roots, scions, and plants.
3/ Books and catalogs of 24 bound pages or more, seeds, cuttings, bulbs, roots, scions, and plants.
4/ The lower minimum-per-piece rate applies to the first 250,000 pieces of regular bulk matter mailed annually.



SCHEDULE E-1

Fourth-Class Mail: Special and Library Rates

| | Full Rate Current (cents) | Proposed (cents) |
|---|---|---|
| Special: | | |
| First Pound | | |
| Not presorted | 40 | 55 |
| Presorted to 5-digits 1/ 2/ | 36 | 49 |
| Presorted to 3-digits 1/ 3/ | 37 | 51 |
| Each additional pound through 7 pounds | 14 | 18 |
| Each additional pound over 7 pounds | 8 | 11 |
| Library: | | |
| First Pound | 29 | 38 |
| Each additional pound through 7 pounds | 9 | 12 |
| Each additional pound over 7 pounds | 9 | 8 |

1/ A fee of $30.00 must be paid once each calendar year for each permit.
2/ For mailings of 500 or more pieces properly prepared and presorted to five-digit destination ZIP Codes (§400.331a(1) of the Classification Schedule effective July 6, 1976).
3/ For mailings of 2,000 or more pieces properly prepared and presorted to five-digit and three-digit destination ZIP Codes (§403.331a(2) of the Classification Schedule effective July 6, 1976).

SCHEDULE E-2

Fourth-Class Mail: Single-Piece Bound Printed Matter 1/ (Dollars)

Current

| Rates for Pieces Weighing Up To (Pounds) | Zones Local | 1 & 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|---|---|---|---|---|---|
| 1.5 | 0.52 | 0.62 | 0.64 | 0.67 | 0.70 | 0.73 | 0.78 | 0.84 |
| 2 | .53 | .65 | .67 | .71 | .75 | .79 | .85 | .93 |
| 2.5 | .55 | .68 | .70 | .75 | .81 | .86 | .93 | 1.02 |
| 3 | .57 | .71 | .74 | .79 | .86 | .93 | 1.01 | 1.11 |
| 3.5 | .59 | .74 | .78 | .84 | .91 | .99 | 1.09 | 1.20 |
| 4 | .61 | .77 | .81 | .88 | .96 | 1.05 | 1.17 | 1.31 |
| 4.5 | .62 | .79 | .84 | .93 | 1.01 | 1.11 | 1.25 | 1.40 |
| 5 | .64 | .82 | .87 | .96 | 1.06 | 1.17 | 1.32 | 1.49 |
| 6 | .68 | .88 | .94 | 1.05 | 1.16 | 1.31 | 1.47 | 1.67 |
| 7 | .71 | .94 | 1.00 | 1.12 | 1.26 | 1.44 | 1.63 | 1.85 |
| 8 | .75 | 1.00 | 1.07 | 1.20 | 1.37 | 1.57 | 1.78 | 2.04 |
| 9 | .79 | 1.06 | 1.14 | 1.29 | 1.47 | 1.69 | 1.94 | 2.23 |
| 10 | .82 | 1.11 | 1.20 | 1.38 | 1.58 | 1.81 | 2.10 | 2.42 |

Proposed

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 1.5 | 0.69 | 0.92 | 0.94 | 0.97 | 1.02 | 1.08 | 1.16 | 1.19 |
| 2 | .69 | .93 | .95 | .99 | 1.06 | 1.14 | 1.25 | 1.28 |
| 2.5 | .69 | .93 | .96 | 1.01 | 1.10 | 1.20 | 1.33 | 1.38 |
| 3 | .69 | .96 | .97 | 1.03 | 1.14 | 1.25 | 1.41 | 1.47 |
| 3.5 | .69 | .94 | .98 | 1.05 | 1.17 | 1.31 | 1.50 | 1.56 |
| 4 | .69 | .95 | .99 | 1.07 | 1.21 | 1.37 | 1.58 | 1.66 |
| 4.5 | .69 | .95 | 1.00 | 1.09 | 1.25 | 1.42 | 1.67 | 1.75 |
| 5 | .70 | .96 | 1.02 | 1.12 | 1.29 | 1.48 | 1.75 | 1.85 |
| 6 | .70 | .96 | 1.04 | 1.16 | 1.36 | 1.59 | 1.92 | 2.03 |
| 7 | .70 | .97 | 1.06 | 1.20 | 1.44 | 1.71 | 2.09 | 2.22 |
| 8 | .70 | .98 | 1.08 | 1.24 | 1.51 | 1.82 | 2.25 | 2.41 |
| 9 | .70 | .99 | 1.10 | 1.28 | 1.59 | 1.94 | 2.42 | 2.59 |
| 10 | .70 | 1.00 | 1.12 | 1.32 | 1.66 | 2.05 | 2.59 | 2.78 |
| Per Piece (cents) | .69 | .91 | .91 | .91 | .91 | .91 | .91 | .91 |
| Per Pound (cents) | .1 | .9 | 2.1 | 4.1 | 7.5 | 11.4 | 16.8 | 18.7 |

1/ Includes both catalogs and similar bound printed matter (§400.51 of the Classification Schedule effective July 6, 1976).

SCHEDULE E-3

Fourth-Class Mail: Bulk Bound Printed Matter 1/

| Zones | Current Per Piece (cents) | Current Per Pound (cents) | Proposed Per Piece (cents) | Proposed Per Pound (cents) |
|---|---|---|---|---|
| Local | 26 | 2.8 | 35 | .1 |
| 1 & 2 | 31 | 4.4 | 46 | .9 |
| 3 | 31 | 5.2 | 46 | 2.1 |
| 4 | 31 | 6.4 | 46 | 4.1 |
| 5 | 31 | 7.8 | 46 | 7.5 |
| 6 | 31 | 9.6 | 46 | 11.4 |
| 7 | 31 | 11.6 | 46 | 16.8 |
| 8 | 32 | 13.9 | 46 | 18.7 |

1/ Includes both catalogs and similar bound printed matter ($400.51 of the Classification Schedule effective July 6, 1976).

SCHEDULE E-4

Fourth-Class Mail: Parcel Post 1/ 2/ 3/

| Zones | Current Per Piece (cents) | Current Per Pound (cents) | Proposed Per Piece 4/ (cents) | | Proposed Per Pound 4/ (cents) | |
|---|---|---|---|---|---|---|
| | | | 2-30 lbs. | 31-70 lbs. | 2-30 lbs. | 31-70 lbs. |
| Local | 68 | 4.5 | 108 | 162 | .2 | .1 |
| 1 & 2 | 76 | 7.0 | 145 5/ | 290 | 1.3 | .3 |
| 3 | 76 | 8.5 | 145 5/ | 290 | 3.1 | .6 |
| 4 | 83 | 10.5 | 145 | 290 | 5.8 | 1.2 |
| 5 | 88 | 13.5 | 145 | 290 | 9.6 | 1.9 |
| 6 | 93 | 17.5 | 145 | 290 | 14.8 | 3.0 |
| 7 | 96 | 22.0 | 145 | 290 | 20.4 | 4.1 |
| 8 | 96 | 26.0 | 145 | 290 | 32.7 | 6.5 |

1/ Full rate matrix is shown in Schedule E-4a.

2/ Exceptions: Parcels weighing less than 15 pounds, measuring over 84 inches but not exceeding 100 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

3/ Bulk parcel post: Consists of parcel post presented in a single mailing of 300 or more pieces properly prepared and separated by both weight (2-30 pounds and 31-70 pounds) and destination postage zone. The per-piece rate is the single-piece parcel post rate for a piece having a weight equal to the average weight per piece for each zone and weight grouping. (§400.22 of the Classification Schedule effective July 6, 1976.)

4/ In computing the charge for a parcel, fractions of 1/10 or .1 of a cent or greater will be increased to the next whole cent.

5/ Reduced to 135 cents in zones 1 and 2 for a 2 pound parcel and 136 cents-zone 3 for a 2 pound parcel.

SCHEDULE E-4a

PROPOSED PARCEL POST RATE SCHEDULE

| WEIGHT NOT EXCEEDING (POUNDS) | LOCAL | ZONE 1,2 | ZONE 3 | ZONE 4 | ZONE 5 | ZONE 6 | ZONE 7 | ZONE 8 |
|---|---|---|---|---|---|---|---|---|
| 1 | 1.09 | 1.38 | 1.43 | 1.57 | 1.65 | 1.75 | 1.86 | 2.11 |
| 2 | 1.09 | 1.44 | 1.55 | 1.63 | 1.74 | 1.80 | 2.07 | 2.44 |
| 3 | 1.09 | 1.51 | 1.58 | 1.69 | 1.84 | 2.05 | 2.27 | 2.76 |
| 4 | 1.09 | 1.52 | 1.61 | 1.74 | 1.93 | 2.19 | 2.47 | 3.05 |
| 5 | 1.10 | 1.53 | 1.64 | 1.80 | 2.03 | 2.34 | 2.68 | 3.42 |
| 6 | 1.10 | 1.55 | 1.67 | 1.86 | 2.13 | 2.49 | 2.88 | 3.74 |
| 7 | 1.10 | 1.56 | 1.70 | 1.92 | 2.22 | 2.64 | 3.09 | 4.07 |
| 8 | 1.10 | 1.57 | 1.73 | 1.98 | 2.32 | 2.79 | 3.29 | 4.40 |
| 9 | 1.10 | 1.58 | 1.76 | 2.03 | 2.41 | 2.93 | 3.49 | 4.72 |
| 10 | 1.11 | 1.60 | 1.80 | 2.09 | 2.51 | 3.08 | 3.70 | 5.05 |
| 11 | 1.11 | 1.61 | 1.83 | 2.15 | 2.61 | 3.23 | 3.90 | 5.38 |
| 12 | 1.11 | 1.62 | 1.86 | 2.21 | 2.70 | 3.38 | 4.11 | 5.71 |
| 13 | 1.11 | 1.64 | 1.89 | 2.27 | 2.80 | 3.53 | 4.31 | 6.03 |
| 14 | 1.11 | 1.65 | 1.92 | 2.32 | 2.89 | 3.67 | 4.51 | 6.36 |
| 15 | 1.12 | 1.66 | 1.95 | 2.38 | 2.99 | 3.82 | 4.72 | 6.69 |
| 16 | 1.12 | 1.68 | 1.98 | 2.44 | 3.09 | 3.97 | 4.92 | 7.01 |
| 17 | 1.12 | 1.69 | 2.01 | 2.50 | 3.18 | 4.12 | 5.13 | 7.34 |
| 18 | 1.12 | 1.70 | 2.04 | 2.56 | 3.28 | 4.27 | 5.33 | 7.67 |
| 19 | 1.12 | 1.71 | 2.07 | 2.61 | 3.37 | 4.41 | 5.53 | 7.99 |
| 20 | 1.13 | 1.73 | 2.11 | 2.67 | 3.47 | 4.56 | 5.74 | 8.32 |
| 21 | 1.13 | 1.74 | 2.14 | 2.73 | 3.57 | 4.71 | 5.94 | 8.65 |
| 22 | 1.13 | 1.75 | 2.17 | 2.79 | 3.66 | 4.86 | 6.15 | 8.98 |
| 23 | 1.13 | 1.77 | 2.20 | 2.85 | 3.76 | 5.01 | 6.35 | 9.30 |
| 24 | 1.13 | 1.78 | 2.23 | 2.90 | 3.85 | 5.15 | 6.55 | 9.63 |
| 25 | 1.14 | 1.79 | 2.26 | 2.96 | 3.95 | 5.30 | 6.76 | 9.96 |
| 26 | 1.14 | 1.81 | 2.29 | 3.02 | 4.05 | 5.45 | 6.96 | 10.28 |
| 27 | 1.14 | 1.82 | 2.32 | 3.08 | 4.14 | 5.60 | 7.17 | 10.61 |
| 28 | 1.14 | 1.83 | 2.35 | 3.14 | 4.24 | 5.75 | 7.37 | 10.94 |
| 29 | 1.14 | 1.84 | 2.38 | 3.19 | 4.33 | 5.89 | 7.57 | 11.26 |
| 30 | 1.14 | 1.85 | 2.41 | 3.25 | 4.43 | 6.04 | 7.78 | 11.59 |
| 31 | 1.69 | 3.30 | 3.44 | 4.66 | 5.30 | 7.37 | 9.07 | 12.74 |
| 32 | 1.69 | 3.30 | 3.45 | 4.67 | 5.82 | 7.40 | 9.11 | 12.84 |
| 33 | 1.69 | 3.30 | 3.83 | 4.68 | 5.84 | 7.43 | 9.15 | 12.91 |
| 34 | 1.69 | 3.31 | 3.86 | 4.69 | 5.86 | 7.46 | 9.19 | 12.97 |
| 35 | 1.69 | 3.31 | 3.86 | 4.70 | 5.88 | 7.49 | 9.23 | 13.04 |
| 36 | 1.69 | 3.31 | 3.87 | 4.72 | 5.90 | 7.52 | 9.27 | 13.10 |
| 37 | 1.69 | 3.32 | 3.88 | 4.73 | 5.92 | 7.55 | 9.31 | 13.17 |
| 38 | 1.69 | 3.32 | 3.89 | 4.74 | 5.94 | 7.58 | 9.35 | 13.23 |
| 39 | 1.69 | 3.32 | 3.89 | 4.75 | 5.96 | 7.61 | 9.39 | 13.30 |
| 40 | 1.69 | 3.32 | 3.89 | 4.76 | 5.97 | 7.64 | 9.43 | 13.36 |
| 41 | 1.70 | 3.33 | 3.90 | 4.78 | 5.99 | 7.67 | 9.48 | 13.43 |
| 42 | 1.70 | 3.33 | 3.91 | 4.79 | 6.01 | 7.70 | 9.52 | 13.49 |
| 43 | 1.70 | 3.33 | 3.91 | 4.80 | 6.03 | 7.73 | 9.56 | 13.55 |
| 44 | 1.70 | 3.34 | 3.92 | 4.81 | 6.05 | 7.76 | 9.60 | 13.62 |
| 45 | 1.70 | 3.34 | 3.92 | 4.82 | 6.07 | 7.79 | 9.64 | 13.68 |
| 46 | 1.70 | 3.34 | 3.93 | 4.84 | 6.09 | 7.82 | 9.68 | 13.75 |
| 47 | 1.70 | 3.35 | 3.94 | 4.85 | 6.11 | 7.85 | 9.72 | 13.82 |
| 48 | 1.70 | 3.35 | 3.94 | 4.86 | 6.13 | 7.88 | 9.76 | 13.88 |
| 49 | 1.70 | 3.35 | 3.95 | 4.87 | 6.15 | 7.91 | 9.80 | 13.95 |
| 50 | 1.70 | 3.35 | 3.95 | 4.88 | 6.16 | 7.94 | 9.84 | 14.01 |
| 51 | 1.71 | 3.36 | 3.96 | 4.90 | 6.18 | 7.97 | 9.89 | 14.08 |
| 52 | 1.71 | 3.36 | 3.97 | 4.91 | 6.20 | 8.00 | 9.93 | 14.14 |
| 53 | 1.71 | 3.36 | 3.97 | 4.92 | 6.22 | 8.03 | 9.97 | 14.21 |
| 54 | 1.71 | 3.37 | 3.98 | 4.93 | 6.24 | 8.06 | 10.01 | 14.27 |
| 55 | 1.71 | 3.37 | 3.98 | 4.94 | 6.26 | 8.09 | 10.05 | 14.34 |
| 56 | 1.71 | 3.37 | 3.99 | 4.96 | 6.28 | 8.12 | 10.09 | 14.40 |
| 57 | 1.71 | 3.38 | 4.00 | 4.97 | 6.30 | 8.15 | 10.13 | 14.47 |
| 58 | 1.71 | 3.38 | 4.00 | 4.98 | 6.32 | 8.18 | 10.17 | 14.53 |
| 59 | 1.71 | 3.38 | 4.01 | 4.99 | 6.34 | 8.21 | 10.21 | 14.60 |
| 60 | 1.71 | 3.38 | 4.01 | 5.00 | 6.35 | 8.24 | 10.25 | 14.66 |
| 61 | 1.72 | 3.39 | 4.02 | 5.02 | 6.37 | 8.27 | 10.30 | 14.73 |
| 62 | 1.72 | 3.39 | 4.03 | 5.03 | 6.39 | 8.30 | 10.34 | 14.79 |
| 63 | 1.72 | 3.39 | 4.03 | 5.04 | 6.41 | 8.33 | 10.38 | 14.86 |
| 64 | 1.72 | 3.40 | 4.04 | 5.05 | 6.43 | 8.36 | 10.42 | 14.92 |
| 65 | 1.72 | 3.40 | 4.04 | 5.06 | 6.45 | 8.39 | 10.46 | 14.99 |
| 66 | 1.72 | 3.40 | 4.05 | 5.08 | 6.47 | 8.42 | 10.50 | 15.05 |
| 67 | 1.72 | 3.41 | 4.06 | 5.09 | 6.49 | 8.45 | 10.54 | 15.12 |
| 68 | 1.72 | 3.41 | 4.06 | 5.10 | 6.51 | 8.48 | 10.58 | 15.18 |
| 69 | 1.72 | 3.41 | 4.07 | 5.11 | 6.53 | 8.51 | 10.62 | 15.25 |
| 70 | 1.72 | 3.41 | 4.07 | 5.12 | 6.54 | 8.54 | 10.66 | 15.31 |
| | 1.11 | 1.65 | 1.92 | 2.32 | 2.69 | 3.67 | 4.51 | 6.36 |

SCHEDULE F-2

Current and Proposed Express Mail Rates: Programmed Service 1/

| POUNDS (UP TO & INCL.) | ZONES 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|---|---|---|---|---|---|---|---|---|---|
| 1 | 12.55 | 12.60 | 12.65 | 12.65 | 12.65 | 12.75 | 12.85 | 12.95 | 13.05 |
| 2 | 12.95 | 13.00 | 13.05 | 13.05 | 13.05 | 13.15 | 13.25 | 13.35 | 13.45 |
| 3 | 13.35 | 13.40 | 13.45 | 13.45 | 13.45 | 13.55 | 13.65 | 13.75 | 13.85 |
| 4 | 13.75 | 13.80 | 13.85 | 13.85 | 14.00 | 14.10 | 14.20 | 14.30 | 14.45 |
| 5 | 14.15 | 14.20 | 14.25 | 14.25 | 14.40 | 14.50 | 14.60 | 14.75 | 14.85 |
| 6 | 14.55 | 14.60 | 14.65 | 14.65 | 14.80 | 14.90 | 15.00 | 15.15 | 15.25 |
| 7 | 14.95 | 15.00 | 15.05 | 15.05 | 15.20 | 15.30 | 15.40 | 15.55 | 15.65 |
| 8 | 15.35 | 15.40 | 15.45 | 15.45 | 15.60 | 15.70 | 15.80 | 15.95 | 16.05 |
| 9 | 15.75 | 15.80 | 15.85 | 15.85 | 16.00 | 16.10 | 16.20 | 16.35 | 16.45 |
| 10 | 16.15 | 16.20 | 16.25 | 16.25 | 16.40 | 16.50 | 16.60 | 16.75 | 16.85 |
| 11 | 16.55 | 16.60 | 16.65 | 16.65 | 16.80 | 16.90 | 17.00 | 17.15 | 17.25 |
| 12 | 16.95 | 17.00 | 17.05 | 17.05 | 17.20 | 17.30 | 17.40 | 17.55 | 17.65 |
| 13 | 17.35 | 17.40 | 17.45 | 17.45 | 17.60 | 17.70 | 17.80 | 17.95 | 18.05 |
| 14 | 17.75 | 17.80 | 17.85 | 17.85 | 18.00 | 18.10 | 18.20 | 18.35 | 18.45 |
| 15 | 18.15 | 18.20 | 18.25 | 18.25 | 18.40 | 18.50 | 18.60 | 18.75 | 18.85 |
| 16 | 18.55 | 18.60 | 18.65 | 18.65 | 18.80 | 18.90 | 19.00 | 19.15 | 19.25 |
| 17 | 18.95 | 19.00 | 19.05 | 19.05 | 19.20 | 19.30 | 19.40 | 19.55 | 19.65 |
| 18 | 19.35 | 19.40 | 19.45 | 19.45 | 19.60 | 19.70 | 19.80 | 19.95 | 20.05 |
| 19 | 19.75 | 19.80 | 19.85 | 19.85 | 20.00 | 20.10 | 20.20 | 20.35 | 20.45 |
| 20 | 20.15 | 20.20 | 20.25 | 20.25 | 20.40 | 20.50 | 20.60 | 20.75 | 20.85 |
| 21 | 20.55 | 20.60 | 20.65 | 20.65 | 20.80 | 20.90 | 21.00 | 21.15 | 21.25 |
| 22 | 20.95 | 21.00 | 21.05 | 21.05 | 21.20 | 21.30 | 21.40 | 21.55 | 21.65 |
| 23 | 21.35 | 21.40 | 21.45 | 21.45 | 21.60 | 21.70 | 21.80 | 21.95 | 22.05 |
| 24 | 21.75 | 21.80 | 21.85 | 21.85 | 22.00 | 22.10 | 22.20 | 22.35 | 22.45 |
| 25 | 22.15 | 22.20 | 22.25 | 22.25 | 22.40 | 22.50 | 22.60 | 22.75 | 22.85 |
| 26 | 22.55 | 22.60 | 22.65 | 22.65 | 22.80 | 22.90 | 23.00 | 23.15 | 23.25 |
| 27 | 22.95 | 23.00 | 23.05 | 23.05 | 23.20 | 23.30 | 23.40 | 23.55 | 23.65 |
| 28 | 23.35 | 23.40 | 23.45 | 23.45 | 23.60 | 23.70 | 23.80 | 23.95 | 24.05 |
| 29 | 23.75 | 23.80 | 23.85 | 23.85 | 24.00 | 24.10 | 24.20 | 24.35 | 24.45 |
| 30 | 24.15 | 24.20 | 24.25 | 24.25 | 24.40 | 24.50 | 24.60 | 24.75 | 24.85 |
| 31 | 24.55 | 24.60 | 24.65 | 24.65 | 24.80 | 24.90 | 25.00 | 25.15 | 25.25 |
| 32 | 24.95 | 25.00 | 25.05 | 25.05 | 25.20 | 25.30 | 25.40 | 25.55 | 25.65 |
| 33 | 25.35 | 25.40 | 25.45 | 25.45 | 25.60 | 25.70 | 25.80 | 25.95 | 26.05 |
| 34 | 25.75 | 25.80 | 25.85 | 25.85 | 26.00 | 26.10 | 26.20 | 26.35 | 26.45 |
| 35 | 26.15 | 26.20 | 26.25 | 26.25 | 26.40 | 26.50 | 26.60 | 26.75 | 26.85 |
| 36 | 26.55 | 26.60 | 26.65 | 26.65 | 26.80 | 26.90 | 27.00 | 27.15 | 27.25 |
| 37 | 26.95 | 27.00 | 27.05 | 27.05 | 27.20 | 27.30 | 27.40 | 27.55 | 27.65 |
| 38 | 27.35 | 27.40 | 27.45 | 27.45 | 27.60 | 27.70 | 27.80 | 27.95 | 28.05 |
| 39 | 27.75 | 27.80 | 27.85 | 27.85 | 28.00 | 28.10 | 28.20 | 28.35 | 28.45 |
| 40 | 28.15 | 28.20 | 28.25 | 28.25 | 28.40 | 28.50 | 28.60 | 28.75 | 28.85 |
| 41 | 28.55 | 28.60 | 28.65 | 28.65 | 28.80 | 28.90 | 29.00 | 29.15 | 29.25 |
| 42 | 28.95 | 29.00 | 29.05 | 29.05 | 29.20 | 29.30 | 29.40 | 29.55 | 29.65 |
| 43 | 29.35 | 29.40 | 29.45 | 29.45 | 29.60 | 29.70 | 29.80 | 29.95 | 30.05 |
| 44 | 29.75 | 29.80 | 29.85 | 29.85 | 30.00 | 30.10 | 30.20 | 30.35 | 30.45 |
| 45 | 30.15 | 30.20 | 30.25 | 30.25 | 30.40 | 30.50 | 30.60 | 30.75 | 30.85 |
| 46 | 30.55 | 30.60 | 30.65 | 30.65 | 30.80 | 30.90 | 31.00 | 31.15 | 31.25 |
| 47 | 30.95 | 31.00 | 31.05 | 31.05 | 31.20 | 31.30 | 31.40 | 31.55 | 31.65 |
| 48 | 31.35 | 31.40 | 31.45 | 31.45 | 31.60 | 31.70 | 31.80 | 31.95 | 32.05 |
| 49 | 31.75 | 31.80 | 31.85 | 31.85 | 32.00 | 32.10 | 32.20 | 32.35 | 32.45 |
| 50 | 32.15 | 32.20 | 32.25 | 32.25 | 32.40 | 32.50 | 32.60 | 32.75 | 32.85 |
| 51 | 32.55 | 32.60 | 32.65 | 32.65 | 32.80 | 32.90 | 33.00 | 33.15 | 33.25 |
| 52 | 32.95 | 33.00 | 33.05 | 33.05 | 33.20 | 33.30 | 33.40 | 33.55 | 33.65 |
| 53 | 33.35 | 33.40 | 33.45 | 33.45 | 33.60 | 33.70 | 33.80 | 33.95 | 34.05 |
| 54 | 33.75 | 33.80 | 33.85 | 33.85 | 34.00 | 34.10 | 34.20 | 34.35 | 34.45 |
| 55 | 34.15 | 34.20 | 34.25 | 34.25 | 34.40 | 34.50 | 34.60 | 34.75 | 34.85 |
| 56 | 34.55 | 34.60 | 34.65 | 34.65 | 34.80 | 34.90 | 35.00 | 35.15 | 35.25 |
| 57 | 34.95 | 35.00 | 35.05 | 35.05 | 35.20 | 35.30 | 35.40 | 35.55 | 35.65 |
| 58 | 35.35 | 35.40 | 35.45 | 35.45 | 35.60 | 35.70 | 35.80 | 35.95 | 36.05 |
| 59 | 35.75 | 35.80 | 35.85 | 35.85 | 36.00 | 36.10 | 36.20 | 36.35 | 36.45 |
| 60 | 36.15 | 36.20 | 36.25 | 36.25 | 36.40 | 36.50 | 36.60 | 36.75 | 36.85 |
| 61 | 36.55 | 36.60 | 36.65 | 36.65 | 36.80 | 36.90 | 37.00 | 37.15 | 37.25 |
| 62 | 36.95 | 37.00 | 37.05 | 37.05 | 37.20 | 37.30 | 37.40 | 37.55 | 37.65 |
| 63 | 37.35 | 37.40 | 37.45 | 37.45 | 37.60 | 37.70 | 37.80 | 37.95 | 38.05 |
| 64 | 37.75 | 37.80 | 37.85 | 37.85 | 38.00 | 38.10 | 38.20 | 38.35 | 38.45 |
| 65 | 38.15 | 38.20 | 38.25 | 38.25 | 38.40 | 38.50 | 38.60 | 38.75 | 38.85 |
| 66 | 38.55 | 38.60 | 38.65 | 38.65 | 38.80 | 38.90 | 39.00 | 39.15 | 39.25 |
| 67 | 38.95 | 39.00 | 39.05 | 39.05 | 39.20 | 39.30 | 39.40 | 39.55 | 39.65 |
| 68 | 39.35 | 39.40 | 39.45 | 39.45 | 39.60 | 39.70 | 39.80 | 39.95 | 40.05 |
| 69 | 39.75 | 39.80 | 39.85 | 39.85 | 40.00 | 40.10 | 40.20 | 40.35 | 40.45 |
| 70 | 40.15 | 40.20 | 40.25 | 40.25 | 40.40 | 40.50 | 40.60 | 40.75 | 40.85 |

1/ The rates for Programmed Service are subject to the following:

a. If tendered at origin airport mail facility deduct $3.00.

b. If tendered for claim by addressee at destination airport mail facility deduct $3.00.

c. If tendered at origin airport mail facility for claim by addressee at destination airport mail facility deduct $6.00.

d. Add $5.25 for each delivery stop for item(s) tendered for delivery to addressee.

e. For each collection stop, add $5.25 per occurrence.

SCHEDULE F-1

Current and Proposed Express Mail Rates: Airport to Airport

| POUNDS (UP TO & INCL.) | ZONES 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|---|---|---|---|---|---|---|---|---|---|
| 1 | 10.40 | 10.45 | 10.50 | 10.50 | 10.50 | 10.60 | 10.70 | 10.80 | 10.90 |
| 2 | 10.80 | 10.85 | 10.90 | 10.90 | 10.90 | 11.00 | 11.10 | 11.20 | 11.30 |
| 3 | 11.20 | 11.25 | 11.30 | 11.30 | 11.30 | 11.40 | 11.50 | 11.60 | 11.70 |
| 4 | 11.60 | 11.65 | 11.70 | 11.70 | 11.85 | 11.95 | 12.05 | 12.15 | 12.25 |
| 5 | 12.00 | 12.05 | 12.10 | 12.10 | 12.25 | 12.35 | 12.45 | 12.55 | 12.65 |
| 6 | 12.40 | 12.45 | 12.50 | 12.50 | 12.65 | 12.75 | 12.85 | 12.95 | 13.05 |
| 7 | 12.80 | 12.85 | 12.90 | 12.90 | 13.05 | 13.15 | 13.25 | 13.35 | 13.45 |
| 8 | 13.20 | 13.25 | 13.30 | 13.30 | 13.45 | 13.55 | 13.65 | 13.75 | 13.85 |
| 9 | 13.60 | 13.65 | 13.70 | 13.70 | 13.85 | 13.95 | 14.05 | 14.15 | 14.25 |
| 10 | 14.00 | 14.05 | 14.10 | 14.10 | 14.25 | 14.35 | 14.45 | 14.55 | 14.65 |
| 11 | 14.40 | 14.45 | 14.50 | 14.50 | 14.65 | 14.75 | 14.85 | 14.95 | 15.05 |
| 12 | 14.80 | 14.85 | 14.90 | 14.90 | 15.05 | 15.15 | 15.25 | 15.35 | 15.45 |
| 13 | 15.20 | 15.25 | 15.30 | 15.30 | 15.45 | 15.55 | 15.65 | 15.75 | 15.85 |
| 14 | 15.60 | 15.65 | 15.70 | 15.70 | 15.85 | 15.95 | 16.05 | 16.15 | 16.25 |
| 15 | 16.00 | 16.05 | 16.10 | 16.10 | 16.25 | 16.35 | 16.45 | 16.55 | 16.65 |
| 16 | 16.40 | 16.45 | 16.50 | 16.50 | 16.65 | 16.75 | 16.85 | 16.95 | 17.05 |
| 17 | 16.80 | 16.85 | 16.90 | 16.90 | 17.05 | 17.15 | 17.25 | 17.35 | 17.45 |
| 18 | 17.20 | 17.25 | 17.30 | 17.30 | 17.45 | 17.55 | 17.65 | 17.75 | 17.85 |
| 19 | 17.60 | 17.65 | 17.70 | 17.70 | 17.85 | 17.95 | 18.05 | 18.15 | 18.25 |
| 20 | 18.00 | 18.05 | 18.10 | 18.10 | 18.25 | 18.35 | 18.45 | 18.55 | 18.65 |
| 21 | 18.40 | 18.45 | 18.50 | 18.50 | 18.65 | 18.75 | 18.85 | 18.95 | 19.05 |
| 22 | 18.80 | 18.85 | 18.90 | 18.90 | 19.05 | 19.15 | 19.25 | 19.35 | 19.45 |
| 23 | 19.20 | 19.25 | 19.30 | 19.30 | 19.45 | 19.55 | 19.65 | 19.75 | 19.85 |
| 24 | 19.60 | 19.65 | 19.70 | 19.70 | 19.85 | 19.95 | 20.05 | 20.15 | 20.25 |
| 25 | 20.00 | 20.05 | 20.10 | 20.10 | 20.25 | 20.35 | 20.45 | 20.55 | 20.65 |
| 26 | 20.40 | 20.45 | 20.50 | 20.50 | 20.65 | 20.75 | 20.85 | 20.95 | 21.05 |
| 27 | 20.80 | 20.85 | 20.90 | 20.90 | 21.05 | 21.15 | 21.25 | 21.35 | 21.45 |
| 28 | 21.20 | 21.25 | 21.30 | 21.30 | 21.45 | 21.55 | 21.65 | 21.75 | 21.85 |
| 29 | 21.60 | 21.65 | 21.70 | 21.70 | 21.85 | 21.95 | 22.05 | 22.15 | 22.25 |
| 30 | 22.00 | 22.05 | 22.10 | 22.10 | 22.25 | 22.35 | 22.45 | 22.55 | 22.65 |
| 31 | 22.40 | 22.45 | 22.50 | 22.50 | 22.65 | 22.75 | 22.85 | 22.95 | 23.05 |
| 32 | 22.80 | 22.85 | 22.90 | 22.90 | 23.05 | 23.15 | 23.25 | 23.35 | 23.45 |
| 33 | 23.20 | 23.25 | 23.30 | 23.30 | 23.45 | 23.55 | 23.65 | 23.75 | 23.85 |
| 34 | 23.60 | 23.65 | 23.70 | 23.70 | 23.85 | 23.95 | 24.05 | 24.15 | 24.25 |
| 35 | 24.00 | 24.05 | 24.10 | 24.10 | 24.25 | 24.35 | 24.45 | 24.55 | 24.65 |
| 36 | 24.40 | 24.45 | 24.50 | 24.50 | 24.65 | 24.75 | 24.85 | 24.95 | 25.05 |
| 37 | 24.80 | 24.85 | 24.90 | 24.90 | 25.05 | 25.15 | 25.25 | 25.35 | 25.45 |
| 38 | 25.20 | 25.25 | 25.30 | 25.30 | 25.45 | 25.55 | 25.65 | 25.75 | 25.85 |
| 39 | 25.60 | 25.65 | 25.70 | 25.70 | 25.85 | 25.95 | 26.05 | 26.15 | 26.25 |
| 40 | 26.00 | 26.05 | 26.10 | 26.10 | 26.25 | 26.35 | 26.45 | 26.55 | 26.65 |
| 41 | 26.40 | 26.45 | 26.50 | 26.50 | 26.65 | 26.75 | 26.85 | 26.95 | 27.05 |
| 42 | 26.80 | 26.85 | 26.90 | 26.90 | 27.05 | 27.15 | 27.25 | 27.35 | 27.45 |
| 43 | 27.20 | 27.25 | 27.30 | 27.30 | 27.45 | 27.55 | 27.65 | 27.75 | 27.85 |
| 44 | 27.60 | 27.65 | 27.70 | 27.70 | 27.85 | 27.95 | 28.05 | 28.15 | 28.25 |
| 45 | 28.00 | 28.05 | 28.10 | 28.10 | 28.25 | 28.35 | 28.45 | 28.55 | 28.65 |
| 46 | 28.40 | 28.45 | 28.50 | 28.50 | 28.65 | 28.75 | 28.85 | 28.95 | 29.05 |
| 47 | 28.80 | 28.85 | 28.90 | 28.90 | 29.05 | 29.15 | 29.25 | 29.35 | 29.45 |
| 48 | 29.20 | 29.25 | 29.30 | 29.30 | 29.45 | 29.55 | 29.65 | 29.75 | 29.85 |
| 49 | 29.60 | 29.65 | 29.70 | 29.70 | 29.85 | 29.95 | 30.05 | 30.15 | 30.25 |
| 50 | 30.00 | 30.05 | 30.10 | 30.10 | 30.25 | 30.35 | 30.45 | 30.55 | 30.65 |
| 51 | 30.40 | 30.45 | 30.50 | 30.50 | 30.65 | 30.75 | 30.85 | 30.95 | 31.05 |
| 52 | 30.80 | 30.85 | 30.90 | 30.90 | 31.05 | 31.15 | 31.25 | 31.35 | 31.45 |
| 53 | 31.20 | 31.25 | 31.30 | 31.30 | 31.45 | 31.55 | 31.65 | 31.75 | 31.85 |
| 54 | 31.60 | 31.65 | 31.70 | 31.70 | 31.85 | 31.95 | 32.05 | 32.15 | 32.25 |
| 55 | 32.00 | 32.05 | 32.10 | 32.10 | 32.25 | 32.35 | 32.45 | 32.55 | 32.65 |
| 56 | 32.40 | 32.45 | 32.50 | 32.50 | 32.65 | 32.75 | 32.85 | 32.95 | 33.05 |
| 57 | 32.80 | 32.85 | 32.90 | 32.90 | 33.05 | 33.15 | 33.25 | 33.35 | 33.45 |
| 58 | 33.20 | 33.25 | 33.30 | 33.30 | 33.45 | 33.55 | 33.65 | 33.75 | 33.85 |
| 59 | 33.60 | 33.65 | 33.70 | 33.70 | 33.85 | 33.95 | 34.05 | 34.15 | 34.25 |
| 60 | 34.00 | 34.05 | 34.10 | 34.10 | 34.25 | 34.35 | 34.45 | 34.55 | 34.65 |
| 61 | 34.40 | 34.45 | 34.50 | 34.50 | 34.65 | 34.75 | 34.85 | 34.95 | 35.05 |
| 62 | 34.80 | 34.85 | 34.90 | 34.90 | 35.05 | 35.15 | 35.25 | 35.35 | 35.45 |
| 63 | 35.20 | 35.25 | 35.30 | 35.30 | 35.45 | 35.55 | 35.65 | 35.75 | 35.85 |
| 64 | 35.60 | 35.65 | 35.70 | 35.70 | 35.85 | 35.95 | 36.05 | 36.15 | 36.25 |
| 65 | 36.00 | 36.05 | 36.10 | 36.10 | 36.25 | 36.35 | 36.45 | 36.55 | 36.65 |
| 66 | 36.40 | 36.45 | 36.50 | 36.50 | 36.65 | 36.75 | 36.85 | 36.95 | 37.05 |
| 67 | 36.80 | 36.85 | 36.90 | 36.90 | 37.05 | 37.15 | 37.25 | 37.35 | 37.45 |
| 68 | 37.20 | 37.25 | 37.30 | 37.30 | 37.45 | 37.55 | 37.65 | 37.75 | 37.85 |
| 69 | 37.60 | 37.65 | 37.70 | 37.70 | 37.85 | 37.95 | 38.05 | 38.15 | 38.25 |
| 70 | 38.00 | 38.05 | 38.10 | 38.10 | 38.25 | 38.35 | 38.45 | 38.55 | 38.65 |





SCHEDULE F-4

Current and Proposed Express Mail Rates: Post Office to Post Office 1/

| POUNDS (UP TO & INCL.) | ZONES* 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|---|---|---|---|---|---|---|---|---|---|
| | (Regular Service) | | | | | | | | |
| 1 | 5.40 | 5.45 | 5.50 | 5.50 | 5.50 | 5.60 | 5.70 | 5.80 | 5.90 |
| 2 | 5.80 | 5.85 | 5.90 | 5.90 | 5.90 | 6.00 | 6.10 | 6.20 | 6.30 |
| 3 | 6.20 | 6.25 | 6.30 | 6.30 | 6.30 | 6.40 | 6.50 | 6.60 | 6.70 |
| 4 | 6.60 | 6.65 | 6.70 | 6.70 | 6.85 | 6.95 | 7.05 | 7.15 | 7.25 |
| 5 | 7.00 | 7.05 | 7.10 | 7.10 | 7.25 | 7.35 | 7.45 | 7.55 | 7.65 |
| 6 | 7.40 | 7.45 | 7.50 | 7.50 | 7.65 | 7.75 | 7.85 | 7.95 | 8.05 |
| 7 | 7.80 | 7.85 | 7.90 | 7.90 | 8.05 | 8.15 | 8.25 | 8.35 | 8.45 |
| 8 | 8.20 | 8.25 | 8.30 | 8.30 | 8.45 | 8.55 | 8.65 | 8.75 | 8.85 |
| 9 | 8.60 | 8.65 | 8.70 | 8.70 | 8.85 | 8.95 | 9.05 | 9.15 | 9.25 |
| 10 | 9.00 | 9.05 | 9.10 | 9.10 | 9.25 | 9.35 | 9.45 | 9.55 | 9.65 |
| 11 | 9.40 | 9.45 | 9.50 | 9.50 | 9.65 | 9.75 | 9.85 | 9.95 | 10.05 |
| 12 | 9.80 | 9.85 | 9.90 | 9.90 | 10.05 | 10.15 | 10.25 | 10.35 | 10.45 |
| 13 | 10.20 | 10.25 | 10.30 | 10.30 | 10.45 | 10.55 | 10.65 | 10.75 | 10.85 |
| 14 | 10.60 | 10.65 | 10.70 | 10.70 | 10.85 | 10.95 | 11.05 | 11.15 | 11.25 |
| 15 | 11.00 | 11.05 | 11.10 | 11.10 | 11.25 | 11.35 | 11.45 | 11.55 | 11.65 |
| 16 | 11.40 | 11.45 | 11.50 | 11.50 | 11.65 | 11.75 | 11.85 | 11.95 | 12.05 |
| 17 | 11.80 | 11.85 | 11.90 | 11.90 | 12.05 | 12.15 | 12.25 | 12.35 | 12.45 |
| 18 | 12.20 | 12.25 | 12.30 | 12.30 | 12.45 | 12.55 | 12.65 | 12.75 | 12.85 |
| 19 | 12.60 | 12.65 | 12.70 | 12.70 | 12.85 | 12.95 | 13.05 | 13.15 | 13.25 |
| 20 | 13.00 | 13.05 | 13.10 | 13.10 | 13.25 | 13.35 | 13.45 | 13.55 | 13.65 |
| 21 | 13.40 | 13.45 | 13.50 | 13.50 | 13.65 | 13.75 | 13.85 | 13.95 | 14.05 |
| 22 | 13.80 | 13.85 | 13.90 | 13.90 | 14.05 | 14.15 | 14.25 | 14.35 | 14.45 |
| 23 | 14.20 | 14.25 | 14.30 | 14.30 | 14.45 | 14.55 | 14.65 | 14.75 | 14.85 |
| 24 | 14.60 | 14.65 | 14.70 | 14.70 | 14.85 | 14.95 | 15.05 | 15.15 | 15.25 |
| 25 | 15.00 | 15.05 | 15.10 | 15.10 | 15.25 | 15.35 | 15.45 | 15.55 | 15.65 |
| 26 | 15.40 | 15.45 | 15.50 | 15.50 | 15.65 | 15.75 | 15.85 | 15.95 | 16.05 |
| 27 | 15.80 | 15.85 | 15.90 | 15.90 | 16.05 | 16.15 | 16.25 | 16.35 | 16.45 |
| 28 | 16.20 | 16.25 | 16.30 | 16.30 | 16.45 | 16.55 | 16.65 | 16.75 | 16.85 |
| 29 | 16.60 | 16.65 | 16.70 | 16.70 | 16.85 | 16.95 | 17.05 | 17.15 | 17.25 |
| 30 | 17.00 | 17.05 | 17.10 | 17.10 | 17.25 | 17.35 | 17.45 | 17.55 | 17.65 |
| 31 | 17.40 | 17.45 | 17.50 | 17.50 | 17.65 | 17.75 | 17.85 | 17.95 | 18.05 |
| 32 | 17.80 | 17.85 | 17.90 | 17.90 | 18.05 | 18.15 | 18.25 | 18.35 | 18.45 |
| 33 | 18.20 | 18.25 | 18.30 | 18.30 | 18.45 | 18.55 | 18.65 | 18.75 | 18.85 |
| 34 | 18.60 | 18.65 | 18.70 | 18.70 | 18.85 | 18.95 | 19.05 | 19.15 | 19.25 |
| 35 | 19.00 | 19.05 | 19.10 | 19.10 | 19.25 | 19.35 | 19.45 | 19.55 | 19.65 |
| 36 | 19.40 | 19.45 | 19.50 | 19.50 | 19.65 | 19.75 | 19.85 | 19.95 | 20.05 |
| 37 | 19.80 | 19.85 | 19.90 | 19.90 | 20.05 | 20.15 | 20.25 | 20.35 | 20.45 |
| 38 | 20.20 | 20.25 | 20.30 | 20.30 | 20.45 | 20.55 | 20.65 | 20.75 | 20.85 |
| 39 | 20.60 | 20.65 | 20.70 | 20.70 | 20.85 | 20.95 | 21.05 | 21.15 | 21.25 |
| 40 | 21.00 | 21.05 | 21.10 | 21.10 | 21.25 | 21.35 | 21.45 | 21.55 | 21.65 |
| 41 | 21.40 | 21.45 | 21.50 | 21.50 | 21.65 | 21.75 | 21.85 | 21.95 | 22.05 |
| 42 | 21.80 | 21.85 | 21.90 | 21.90 | 22.05 | 22.15 | 22.25 | 22.35 | 22.45 |
| 43 | 22.20 | 22.25 | 22.30 | 22.30 | 22.45 | 22.55 | 22.65 | 22.75 | 22.85 |
| 44 | 22.60 | 22.65 | 22.70 | 22.70 | 22.85 | 22.95 | 23.05 | 23.15 | 23.25 |
| 45 | 23.00 | 23.05 | 23.10 | 23.10 | 23.25 | 23.35 | 23.45 | 23.55 | 23.65 |
| 46 | 23.40 | 23.45 | 23.50 | 23.50 | 23.65 | 23.75 | 23.85 | 23.95 | 24.05 |
| 47 | 23.80 | 23.85 | 23.90 | 23.90 | 24.05 | 24.15 | 24.25 | 24.35 | 24.45 |
| 48 | 24.20 | 24.25 | 24.30 | 24.30 | 24.45 | 24.55 | 24.65 | 24.75 | 24.85 |
| 49 | 24.60 | 24.65 | 24.70 | 24.70 | 24.85 | 24.95 | 25.05 | 25.15 | 25.25 |
| 50 | 25.00 | 25.05 | 25.10 | 25.10 | 25.25 | 25.35 | 25.45 | 25.55 | 25.65 |
| 51 | 25.40 | 25.45 | 25.50 | 25.50 | 25.65 | 25.75 | 25.85 | 25.95 | 26.05 |
| 52 | 25.80 | 25.85 | 25.90 | 25.90 | 26.05 | 26.15 | 26.25 | 26.35 | 26.45 |
| 53 | 26.20 | 26.25 | 26.30 | 26.30 | 26.45 | 26.55 | 26.65 | 26.75 | 26.85 |
| 54 | 26.60 | 26.65 | 26.70 | 26.70 | 26.85 | 26.95 | 27.05 | 27.15 | 27.25 |
| 55 | 27.00 | 27.05 | 27.10 | 27.10 | 27.25 | 27.35 | 27.45 | 27.55 | 27.65 |
| 56 | 27.40 | 27.45 | 27.50 | 27.50 | 27.65 | 27.75 | 27.85 | 27.95 | 28.05 |
| 57 | 27.80 | 27.85 | 27.90 | 27.90 | 28.05 | 28.15 | 28.25 | 28.35 | 28.45 |
| 58 | 28.20 | 28.25 | 28.30 | 28.30 | 28.45 | 28.55 | 28.65 | 28.75 | 28.85 |
| 59 | 28.60 | 28.65 | 28.70 | 28.70 | 28.85 | 28.95 | 29.05 | 29.15 | 29.25 |
| 60 | 29.00 | 29.05 | 29.10 | 29.10 | 29.25 | 29.35 | 29.45 | 29.55 | 29.65 |
| 61 | 29.40 | 29.45 | 29.50 | 29.50 | 29.65 | 29.75 | 29.85 | 29.95 | 30.05 |
| 62 | 29.80 | 29.85 | 29.90 | 29.90 | 30.05 | 30.15 | 30.25 | 30.35 | 30.45 |
| 63 | 30.20 | 30.25 | 30.30 | 30.30 | 30.45 | 30.55 | 30.65 | 30.75 | 30.85 |
| 64 | 30.60 | 30.65 | 30.70 | 30.70 | 30.85 | 30.95 | 31.05 | 31.15 | 31.25 |
| 65 | 31.00 | 31.05 | 31.10 | 31.10 | 31.25 | 31.35 | 31.45 | 31.55 | 31.65 |
| 66 | 31.40 | 31.45 | 31.50 | 31.50 | 31.65 | 31.75 | 31.85 | 31.95 | 32.05 |
| 67 | 31.80 | 31.85 | 31.90 | 31.90 | 32.05 | 32.15 | 32.25 | 32.35 | 32.45 |
| 68 | 32.20 | 32.25 | 32.30 | 32.30 | 32.45 | 32.55 | 32.65 | 32.75 | 32.85 |
| 69 | 32.60 | 32.65 | 32.70 | 32.70 | 32.85 | 32.95 | 33.05 | 33.15 | 33.25 |
| 70 | 33.00 | 33.05 | 33.10 | 33.10 | 33.25 | 33.35 | 33.45 | 33.55 | 33.65 |

1/ For each collection stop, add $5.25 per occurrence.

SCHEDULE F-3

Current and Proposed Express Mail Rates: Post Office to Addressee 1/

| POUNDS (UP TO & INCL.) | ZONES* 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|---|---|---|---|---|---|---|---|---|---|
| | (Regular Service) | | | | | | | | |
| 1 | 7.40 | 7.45 | 7.50 | 7.50 | 7.70 | 7.80 | 7.90 | 8.00 | 8.10 |
| 2 | 7.80 | 7.85 | 7.90 | 7.90 | 8.10 | 8.25 | 8.35 | 8.50 | 8.65 |
| 3 | 8.20 | 8.25 | 8.30 | 8.30 | 8.60 | 8.75 | 8.90 | 9.10 | 9.30 |
| 4 | 8.70 | 8.75 | 8.80 | 8.80 | 9.05 | 9.25 | 9.45 | 9.70 | 9.95 |
| 5 | 9.30 | 9.40 | 9.50 | 9.50 | 9.75 | 9.95 | 10.20 | 10.50 | 10.80 |
| 6 | 9.90 | 10.05 | 10.20 | 10.20 | 10.45 | 10.65 | 10.90 | 11.20 | 11.50 |
| 7 | 10.30 | 10.45 | 10.60 | 10.60 | 10.85 | 11.05 | 11.30 | 11.60 | 11.90 |
| 8 | 10.70 | 10.85 | 11.00 | 11.00 | 11.25 | 11.45 | 11.70 | 12.00 | 12.30 |
| 9 | 11.10 | 11.25 | 11.40 | 11.40 | 11.65 | 11.85 | 12.10 | 12.40 | 12.70 |
| 10 | 11.50 | 11.65 | 11.80 | 11.80 | 12.05 | 12.25 | 12.50 | 12.80 | 13.10 |
| 11 | 11.90 | 12.05 | 12.20 | 12.20 | 12.45 | 12.65 | 12.90 | 13.20 | 13.50 |
| 12 | 12.30 | 12.45 | 12.60 | 12.60 | 12.85 | 13.05 | 13.30 | 13.60 | 13.90 |
| 13 | 12.70 | 12.85 | 13.00 | 13.00 | 13.25 | 13.45 | 13.70 | 14.00 | 14.30 |
| 14 | 13.10 | 13.25 | 13.40 | 13.40 | 13.65 | 13.85 | 14.10 | 14.40 | 14.70 |
| 15 | 13.50 | 13.65 | 13.80 | 13.80 | 14.05 | 14.25 | 14.50 | 14.80 | 15.10 |
| 16 | 13.90 | 14.05 | 14.20 | 14.20 | 14.45 | 14.65 | 14.90 | 15.20 | 15.50 |
| 17 | 14.30 | 14.45 | 14.60 | 14.60 | 14.85 | 15.05 | 15.30 | 15.60 | 15.90 |
| 18 | 14.70 | 14.85 | 15.00 | 15.00 | 15.25 | 15.45 | 15.70 | 16.00 | 16.30 |
| 19 | 15.10 | 15.25 | 15.40 | 15.40 | 15.65 | 15.85 | 16.10 | 16.40 | 16.70 |
| 20 | 15.50 | 15.65 | 15.80 | 15.80 | 16.05 | 16.25 | 16.50 | 16.80 | 17.10 |
| 21 | 15.90 | 16.05 | 16.20 | 16.20 | 16.45 | 16.65 | 16.90 | 17.20 | 17.50 |
| 22 | 16.30 | 16.45 | 16.60 | 16.60 | 16.85 | 17.05 | 17.30 | 17.60 | 17.90 |
| 23 | 16.70 | 16.85 | 17.00 | 17.00 | 17.25 | 17.45 | 17.70 | 18.00 | 18.30 |
| 24 | 17.10 | 17.25 | 17.40 | 17.40 | 17.65 | 17.85 | 18.10 | 18.40 | 18.70 |
| 25 | 17.50 | 17.65 | 17.80 | 17.80 | 18.05 | 18.25 | 18.50 | 18.80 | 19.10 |
| 26 | 17.90 | 18.05 | 18.20 | 18.20 | 18.45 | 18.65 | 18.90 | 19.20 | 19.50 |
| 27 | 18.30 | 18.45 | 18.60 | 18.60 | 18.85 | 19.05 | 19.30 | 19.60 | 19.90 |
| 28 | 18.70 | 18.85 | 19.00 | 19.00 | 19.25 | 19.45 | 19.70 | 20.00 | 20.30 |
| 29 | 19.10 | 19.25 | 19.40 | 19.40 | 19.65 | 19.85 | 20.10 | 20.40 | 20.70 |
| 30 | 19.50 | 19.65 | 19.80 | 19.80 | 20.05 | 20.25 | 20.50 | 20.80 | 21.10 |
| 31 | 19.90 | 20.05 | 20.20 | 20.20 | 20.45 | 20.65 | 20.90 | 21.20 | 21.50 |
| 32 | 20.30 | 20.45 | 20.60 | 20.60 | 20.85 | 21.05 | 21.30 | 21.60 | 21.90 |
| 33 | 20.70 | 20.85 | 21.00 | 21.00 | 21.25 | 21.45 | 21.70 | 22.00 | 22.30 |
| 34 | 21.10 | 21.25 | 21.40 | 21.40 | 21.65 | 21.85 | 22.10 | 22.40 | 22.70 |
| 35 | 21.50 | 21.65 | 21.80 | 21.80 | 22.05 | 22.25 | 22.50 | 22.80 | 23.10 |
| 36 | 21.90 | 22.05 | 22.20 | 22.20 | 22.45 | 22.65 | 22.90 | 23.20 | 23.50 |
| 37 | 22.30 | 22.45 | 22.60 | 22.60 | 22.85 | 23.05 | 23.30 | 23.60 | 23.90 |
| 38 | 22.70 | 22.85 | 23.00 | 23.00 | 23.25 | 23.45 | 23.70 | 24.00 | 24.30 |
| 39 | 23.10 | 23.25 | 23.40 | 23.40 | 23.65 | 23.85 | 24.10 | 24.40 | 24.70 |
| 40 | 23.50 | 23.65 | 23.80 | 23.80 | 24.05 | 24.25 | 24.50 | 24.80 | 25.10 |
| 41 | 23.90 | 24.05 | 24.20 | 24.20 | 24.45 | 24.65 | 24.90 | 25.20 | 25.50 |
| 42 | 24.30 | 24.45 | 24.60 | 24.60 | 24.85 | 25.05 | 25.30 | 25.60 | 25.90 |
| 43 | 24.70 | 24.85 | 25.00 | 25.00 | 25.25 | 25

SCHEDULE G-1

LOCKBOX AND CALLER SERVICES

| Description | Fees (Semiannual) | | | | |
|---|---|---|---|---|---|
| **Lockbox Type** | **Box Size** | | | | |
| | 1 | 2 | 3 | 4 | 5 |
| Group I: | | | | | |
| A (Current) | $12.50 | $15.00 | $20.00 | $25.00 | $30.00 |
| A (Proposed) | 14.00 | 20.00 | 28.00 | 40.00 | 55.00 |
| B | 10.00 | 14.00 | 17.50 | 20.00 | 27.50 |
| B | 14.00 | 20.00 | 28.00 | 40.00 | 55.00 |
| C | 8.00 | 10.00 | 12.50 | 17.50 | 22.50 |
| C | 10.00 | 14.00 | 20.00 | 30.00 | 40.00 |
| D | 7.00 | 8.00 | 10.00 | 15.00 | 17.50 |
| D | 8.00 | 11.00 | 15.00 | 24.00 | 30.00 |
| E | 5.50 | 6.50 | 7.50 | 12.50 | 15.00 |
| E | 8.00 | 11.00 | 15.00 | 24.00 | 30.00 |
| Group II: | | | | | |
| F | 2.50 | 3.00 | 4.00 | 6.00 | 7.50 |
| F | 2.50 | 4.00 | 5.00 | 7.50 | 10.00 |
| G | 2.00 | 2.50 | 3.00 | 4.50 | 6.00 |
| G | 2.50 | 4.00 | 5.00 | 75.0 | 10.00 |
| H | 1.50 | 2.00 | 2.50 | 3.50 | 4.00 |
| H | 2.00 | 3.00 | 4.00 | 6.00 | 8.00 |
| Group III: | | | | | |
| I | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 |
| I | 1.50 | 1.50 | 1.50 | 1.50 | 1.50 |

| | Current | Proposed |
|---|---|---|
| Call Service | $ 35.00 | $ 60.00 |
| Reserved Number | 10.00 | 10.00 |

SCHEDULE G-2

REGISTERED MAIL

| Value | Fees (in addition to postage) For Articles Not Covered By Commercial Or Other Insurance | | Fees (in addition to postage) For Articles Also Covered by Commercial or Other Insurance | |
|---|---|---|---|---|
| | Current | Proposed | Current | Proposed |
| $ 0.00 to $ 100 | $ 2.10 | $ 3.30 | $ 2.10 | $ 3.30 |
| $ 100.01 to $ 200 | 2.30 | 3.30 | 2.30 | 3.30 |
| $ 200.01 to $ 400 | 2.60 | 3.70 | 2.60 | 3.70 |
| $ 400.01 to $ 600 | 2.90 | 4.10 | 2.90 | 4.10 |
| $ 600.01 to $ 800 | 3.20 | 4.50 | 3.20 | 4.70 |
| $ 800.01 to $ 1,000 | 3.50 | 4.90 | 3.50 | 4.90 |
| $ 1,000.01 to $ 2,000 | 3.80 | 5.30 | $* plus handling charge | |
| $ 2,000.01 to $ 3,000 | 4.10 | 5.70 | of ** cents per $1,000 or | |
| $ 3,000.01 to $ 4,000 | 4.40 | 6.10 | fraction over first $1,000 | |
| $ 4,000.01 to $ 5,000 | 4.70 | 6.50 | *3.50 | *4.90 |
| $ 5,000.01 to $ 6,000 | 5.00 | 6.90 | **0.25 | **0.35 |
| $ 6,000.01 to $ 7,000 | 5.30 | 7.30 | | |
| $ 7,000.01 to $ 8,000 | 5.60 | 7.70 | | |
| $ 8,000.01 to $ 9,000 | 5.90 | 8.10 | | |
| $ 9,000.01 to $ 10,000 | 6.20 | 8.50 | | |
| $10,000.01 to $ 11,000 | — | 8.90 | | |
| $11,000.01 to $ 12,000 | — | 9.30 | | |
| $12,000.01 to $ 13,000 | — | 9.70 | | |
| $13,000.01 to $ 14,000 | — | 10.10 | | |
| $14,000.01 to $ 15,000 | — | 10.50 | | |
| $15,000.01 to $ 16,000 | — | 10.90 | | |
| $16,000.01 to $ 17,000 | — | 11.30 | | |
| $17,000.01 to $ 18,000 | — | 11.70 | | |
| $18,000.01 to $ 19,000 | — | 12.10 | | |
| $19,000.01 to $ 20,000 | — | 12.50 | | |
| $20,000.01 to $ 21,000 | — | 12.90 | | |
| $21,000.01 to $ 22,000 | — | 13.30 | | |
| $22,000.01 to $ 23,000 | — | 13.70 | | |
| $23,000.01 to $ 24,000 | — | 14.10 | | |
| $24,000.01 to $ 25,000 | | 14.50 | | |
| $10,000 to $1,000,000 Current<br>$25,000 to $1,000,000 Proposed | $* plus handling charge of ** cents per $1,000 or fraction over first $10,000 at current rates—over first $25,000 at proposed rates.<br>*6.20 *14.50<br>**0.25 **0.35 | | | |
| $ 1,000,000 to $15,000,000 | $* plus handling charge of ** cents per $1,000 or fraction over first $1,000,000<br>*$253.70 *$355.75<br>** 0.20 ** 0.30 | | $* plus handling charge of ** cents per 1,000 or fraction over first 1,000,000<br>*253.25 *354.55<br>** 0.20 ** 0.30 | |
| Over $15,000,000 | Additional charges may be made based on considerations of weight, space and value. | | | |





SCHEDULE G-3

MONEY ORDERS

| Amount | Fees (Domestic) Current | Proposed |
|---|---|---|
| $ 0.01 to $ 10 | $ 0.50 | $ 0.60 |
| 10.01 to 50 | 0.70 | 0.80 |
| 50.01 to 400 1/ | 0.90 | 1.10 |
| APO-FPO | | |
| $ 0.01 to $400 1/ | 0.15 | 0.20 |

1/ Current Limit $300.

SCHEDULE G-4

SPECIAL DELIVERY

| Class/Weight | Fees (in addition to postage) Current | Proposed |
|---|---|---|
| First Class and Priority Mail | | |
| Not more than 2 pounds | $ 1.25 | $ 2.10 |
| More than 2 pounds but not more than 10 pounds | 1.50 | 2.10 |
| More than 10 pounds | 1.75 | 2.60 |
| All Other Classes | | |
| Not more than 2 pounds | 1.75 | 2.60 |
| More than 2 pounds but not more than 10 pounds | 1.85 | 2.60 |
| More than 10 pounds | 2.15 | 3.10 |

SCHEDULE G-5

CERTIFIED MAIL

| Description | Fees (in addition to postage) Current | Proposed |
|---|---|---|
| Per Piece | $ 0.60 | $ 0.90 |

INSURED MAIL

| Liability | Fees (Domestic) (in addition to postage) Current | Proposed |
|---|---|---|
| $ 0.01 to $ 15 | $ 0.40 | $ 0.60 |
| 15.01 to 50 | 0.60 | 0.90 |
| 50.01 to 100 | 0.80 | 1.20 |
| 100.01 to 150 | 1.00 | 1.80 |
| 150.01 to 200 | 1.20 | 1.80 |
| 200.01 to 300 | — | 2.40 |
| 300.01 to 400 | — | 3.00 |

SCHEDULE G-6

RETURN RECEIPTS

| Description | Fees (in addition to postage) Current | Proposed |
|---|---|---|
| Requested at time of mailing: | | |
| Showing to whom (signature) and date delivered | $ 0.25 | $ .45 |
| Showing to whom (Signature) and date and address where delivered | 0.45 | .55 |
| Requested after mailing: | | |
| Showing to whom and date delivered | 0.45 | 2.10 |





SCHEDULE G-7

COLLECT ON DELIVERY MAIL

| Amount to be Collected or Insurance Coverage Desired | Fees (in addition to postage) Current | Proposed |
|---|---|---|
| $ 0.01 to $ 10 | $0.85 | $1.40 |
| 10.01 to 25 | 1.05 | 1.60 |
| 25.01 to 50 | 1.25 | 1.80 |
| 50.01 to 100 | 1.45 | 2.10 |
| 100.01 to 200 | 1.65 | 2.70 |
| 200.01 to 300 | 1.85 | 3.30 |
| 300.01 to 400 | — | 3.90 |
| Notice of nondelivery of c.o.d. | 0.25 | 1.05 |
| Alteration of c.o.d. charges or designation of new addressee | 0.50 | 1.05 |
| Registered c.o.d. | 0.85 | 1.40 |

SCHEDULE G-8

STAMPED ENVELOPES

| Type | Fees (in addition to postage) Current | Proposed |
|---|---|---|
| Single Sale | $0.02 | $0.04 |
| Bulk (500) #6-3/4 size | | |
| Regular | 3.55 | 8.00 |
| Window | 4.00 | 8.50 |
| Precanceled | 3.55 | 8.00 |
| Bulk (500) #10 size | | |
| Regular | 4.20 | 9.00 |
| Window | 4.85 | 9.50 |
| Precanceled | 4.20 | 9.00 |
| Printing Charge Per 500 Envelopes | | |
| Minimum Order (500 envelopes) | 2.25 | 2.50 |
| Orders for 1,000 or more Envelopes | 2.00 | 2.50 |





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SCHEDULE G-9

SPECIAL HANDLING

| Weight | Fees (in addition to postage) Current | Proposed |
|---|---|---|
| Not more than 2 pounds | $ 0.50 | $ 0.70 |
| More than 2 pounds but not more than 10 pounds | 0.70 | 0.70 |
| More than 10 pounds | 1.00 | 1.00 |

ADDRESS CORRECTION

| Description | Fee Current | Proposed |
|---|---|---|
| Per Piece | $ 0.25 | $ 0.30 |

SCHEDULE G-10

ON-SITE METER SETTING

| Description | Fees Current | Proposed |
|---|---|---|
| Meter Company Adjustments | $ 5.00 | $ 5.00 |
| All Other Meter Settings | | |
| First meter | | |
| By appointment | $ 5.00 | $ 7.00 |
| Unscheduled request | 7.50 | 12.00 |
| Additional meters | 2.50 | 3.50 |

PERMIT-IMPRINT FEE

| Description | Fee Current | Proposed |
|---|---|---|
| Per permit | $ 20.00 | $ 30.00 |

SCHEDULE G-11

CERTIFICATES OF MAILING

| Description | Fees (in addition to postage) Current | Proposed |
|---|---|---|
| Individual Pieces | | |
| Original certificate of mailing for individually listed pieces of all classes of ordinary mail | $0.10 each | $0.15 each |
| Each additional copy of original certificate of mailing or original mailing receipt for registered, insured, certified and c.o.d. mail | 0.10 each | 0.15 each |
| Bulk Pieces | | |
| Identical pieces of first- and third-class mail paid with ordinary stamps, precanceled stamps, or meter stamps are subject to the following fees: | | |
| Up to 1,000 pieces (1 certificate for total number) | 0.50 | 0.75 |
| Each additional 1,000 pieces, or fraction | 0.10 | 0.15 |
| Duplicate copy | 0.10 | 0.15 |

SCHEDULE G-12

RESTRICTED DELIVERY

| Description | Fee (in addition to postage) Current | Proposed |
|---|---|---|
| Per piece | $ 0.60 | $ 0.90 |

PARCEL AIRLIFT MAIL

| Description | (in addition to parcel post rate) Current | Proposed |
|---|---|---|
| Up to 2 pounds | $ 1.00 | $ 0.25 |
| Over 2 but not exceeding 3 pounds | 1.00 | .50 |
| Over 3 but not exceeding 4 pounds | 1.00 | .75 |
| Over 4 pounds | 1.00 | 1.00 |



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SCHEDULE G-14

DEAD LETTER RETURN

| Description | Fees Current | Fees Proposed |
|---|---|---|
| Per piece | $ 0.20 | $ 0.40 |

ZIP CODING OF MAILING LISTS

| Description | Fee Current | Fee Proposed |
|---|---|---|
| Per 1,000 names | $ 1.50 | $ 23.00 |

SCHEDULE G-13

SECOND-CLASS MAILING APPLICATIONS

| Type | Fee Current | Fee Proposed |
|---|---|---|
| Original Entry | | |
| Circulation 2,000 or less | $ 30.00 | $ 120.00 |
| Circulation 2,001 to 5,000 | 60.00 | 120.00 |
| Circulation 5,001 or more | 120.00 | 120.00 |
| News Agent | 25.00 | 30.00 |
| Reentry | 15.00 | 30.00 |
| Additional Entry | | |
| Within Zones 1 & 2 | 15.00 | 50.00 |
| Within Zones 3 through 8 | 50.00 | 50.00 |





ATTACHMENT B

PART I: PROPOSED SPECIAL RULES OF PRACTICE [6]

*Grouping.* Participants with common interests or positions in this proceeding should group themselves to make a joint presentation including oral representation, briefing, and presentation of evidence. Such grouping will be without derogation to the right of any party to present a separate point of view where his position differs from that of the group in which he is participating.

*Discovery.* The discovery procedures set forth in the Commission's order herein are not exclusive. The parties will be expected also to engage in informal discovery wherever possible to clarify exhibits and testimony. The results of such efforts may be introduced into the record by stipulation, supplementary testimony, or exhibit, by presenting selected written interrogatories and answers for adoption by a witness at the hearing or other appropriate means.

*Case-in-Chief.* The case-in-chief of all participants shall be in writing and shall include the participant's direct case and its rebuttal, if any, to the United States Postal Service's case-in-chief. It should be accompanied by legal memoranda, where appropriate.

*Exhibits.* Exhibits should be self-explanatory. They should contain appropriate footnotes or narratives explaining the source of each item of information used and the methods employed in statistical compilations. The principal title of each exhibit should state what it contains and may also contain a statement of the purpose for which the exhibit is offered; however, such a statement will not be considered part of the evidentiary record. Where one part of a multi-page exhibit is based on another part, as on another exhibit, appropriate cross references should be made. Relevant exposition should be included in the exhibit or given in the accompanying testimony.

*Official Notice.* Parties requesting official notice should refer to the page and paragraph of such material and should furnish copies of the referenced item for the record and for other parties.

*Special Service and Dates.* Interrogatories and answers thereto should be served on the Commission, the Officer of the Commission (three copies), on the complementary party, and on any other party so requesting.

Follow-up interrogatories should be served within five days of receipt of the answer to the prior interrogatory unless a good reason is stated.

Written cross-examination will be utilized whenever possible, to introduce factual or statistical evidence. Written cross-examination should be served three days before the announced appearance of a witness on the Commission, on the Officer of the Commission (three copies), on the witness' counsel, and on any participant so requesting.

[6] In the main, these special rules of practice have been utilized effectively in past administrative proceedings before the Commission and we propose their continued use.

Oral cross-examination will be permitted for testing assumptions, conclusions, or other opinion evidence. However, requests for permission to conduct oral cross-examination must be made in advance, accompanied by (1) specific references to the subject matter to be examined, and (2) page references to the relevant direct testimony. Requests by participants for oral cross-examination should be served three days before the announced appearance of a witness on the Commission, on the Officer of the Commission (three copies), on counsel for the witness, and on any participant so requesting.

*General.* Argument will not be received in evidence. It is the province of the lawyer, not the witness. It should be presented in brief or memoranda.

New affirmative matter (not in reply to another party's direct case) should not be included in rebuttal testimony or exhibits.

Cross-examination will be limited to testimony which is adverse to the participant wishing to cross-examine.

Legal memoranda, where appropriate, will be welcome at any stage of the proceeding.

PART II. SUGGESTED PROCEDURAL GUIDELINES

1. All parties will be expected to reference their exhibits and the testimony of their witnesses to one another and where inconsistencies between testimony or numerical figures appear, such inconsistencies are to be explained.

2. Parties will be required to sponsor as exhibits workpapers which were relied on for the purpose of proposing rates or for challenging the proposed rates of another party or the Postal Service.

3. Any participant who proposes a rate or set of rates will be expected to calculate all appropriations implied by such proposals. The participant will also be expected to show through workpapers or testimony how such appropriations were calculated. (See e.g., The Commission's Recommended Decision in Docket No. R74-1, Appendix L.)

4. The Postal Service and all other participants will be expected to demonstrate in a specific, cogent manner the relationship of proposed rates to the ratemaking criteria of the Postal Reorganization Act. Generalized statements that a particular rate meets the ratemaking criteria of the Act will be considered non-responsive.

5 The Postal Service and all participants will be expected to fully document all phases of their presentation and to provide all studies relied on in the presentation of each case-in-chief or rebuttal of other participants' presentations. Where studies or documents are primarily relied on as the basis of a proposed rate or rates, the participant relying on such material will be expected to sponsor the material as an exhibit.

6. Documents and studies which are prohibitively expensive to reproduce for use by each participant, or which are prohibitively voluminous, shall be filed in the docket section of the Postal Rate Commission and shall be sponsored as an exhibit by the participant. The filed documents should receive both (1) a hearing Exhibit number and (2) a "PRC lib. ref." number.

7. Volume data presented by the Service and all participants shall be provided by class and subclass.

8. The Postal Service shall provide detail as to the specific nature and the dollar amount of the various items in each cost segment on both a "before" and "after rate" basis.

9. Hearings on the Postal Service's proposed rate changes will be commenced immediately following that part of the discovery process relating to the Service's proposed changes.

ATTACHMENT C

TENTATIVE HEARING SCHEDULE FOR PROCEEDINGS—DOCKET R77-1

| *Month, date, and year* | *Procedural stage* |
|---|---|
| Aug. 25, 1977 | 2d prehearing conference. |
| Sept. 16, 1977 | Completion of all discovery directed to the Postal Service. (Answers due Sept. 28, 1977, or 20 days after filing of the interrogatory, whichever is earlier. |
| Oct. 14, 1977 | Filing of the case-in-chief of each participant (including that of OOC). |
| Oct. 25, 1977 | Conferences for the purpose of clarification of each participant's case. |
| Oct. 31, 1977 | Beginning of hearings, i.e., cross-examination, on the Postal Service's case-in-chief. |
| Nov. 14, 1977 | Completion of all discovery directed to the intervenors. (Answers due Dec. 5, 1977, or 20 days after filing of the interrogatory, whichever is earlier.) |
| Dec. 2, 1977 | Completion of evidentiary hearings as to the Service's case-in-chief. |
| Dec 12, 1977 | Beginning of evidentiary hearings as to the case-in-chief of each participant. |
| Jan. 9, 1978 | Rebuttal evidence of the Postal Service and each participant. (No discovery to be permitted on this rebuttal evidence; only oral cross-examination.) |
| Jan. 20, 1978 | Completion of the evidentiary hearings as to the case-in-chief of each participant. |
| Jan. 23, 1978 | Beginning of evidentiary hearing on rebuttal evidence. |
| Feb. 7, 1978 | Close of the evidentiary record. |
| Mar. 7, 1978 | Initial briefs filed. |
| Mar. 17, 1978 | Reply briefs filed. |
| Mar. 24, 1978 | Oral argument. |

[FR Doc. 77-20814 Filed 7-19-77;8:45 am]



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Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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# reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

**Rules Going Into Effect Today**

Interior/NPS—Mammoth Cave National Park, Ky.; additional restrictions. 31453; 6–21–77

**List of Public Laws**

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.





# presidential documents

## Title 3—The President

PROCLAMATION 4513

## Captive Nations Week, 1977

*By the President of the United States of America*

### A Proclamation

Since 1959 the Congress, by joint resolution (73 Stat. 212), has authorized and requested the President to designate the third week in July as Captive Nations Week.

Our own country was established on a profound belief in national self-determination. Throughout our history we have sought to give meaning to this principle and to our belief in liberty and human rights.

In recognition of this commitment, NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week beginning July 17, 1977, as Captive Nations Week.

I call upon the people of the United States to observe this week with appropriate ceremonies and activities, demonstrating America's support for those who seek national independence, liberty, and human rights.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of July, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.

Jimmy Carter

[FR Doc.77–21262 Filed 7–20–77;11:38 am]



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# rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 7—Agriculture

## CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 565]

## PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

### Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period July 22–28, 1977. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the regulation period because of the production and marketing situation confronting the orange industry.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202–447–3545).

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of Valencia oranges, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantities of Valencia oranges that may be marketed from District 1, District 2, or District 3 during the specified week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation for the quantities of Valencia oranges that should be marketed during the specified week. The recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors covered in the order. The committee further reports the fresh market demand for Valencia oranges is strong.

Average f.o.b. price was $3.93 per carton on 613 cars for the week ended July 14, as compared with $3.80 per carton on 509 cars the previous week.

Track and rolling supplies at 382 cars were up 53 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantities of Valencia oranges which may be handled should be established as provided in this regulation.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information become available upon which this regulation is based and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted for preparation for such effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consder supply and market conditions for Valencia oranges and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning such provisions and effective time has been provided to handlers of Valencia oranges. It is necessary, to effectuate the declared policy of the act, to make this regulation effective during the period specified. The committee meeting was held on July 19, 1977.

### § 908.865 Valencia Orange Regulation 565.

(b) Order. (1) The quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period July 22, 1977, through July 28, 1977, are hereby fixed as follows:

(i) District 1: 244,000 cartons;
(ii) District 2: 381,000 cartons;
(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 20, 1977.

CHARLES R. BRADER,
*Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77-21258 Filed 7-20-77;11:30 am]

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## CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

## PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

### Subpart—1977 Crop Flue-Cured Tobacco Farm Stored Loan Supplement

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final Rule.

SUMMARY: This rule announces the loan rate, availability and maturity dates applicable to 1977 crop Flue-cured tobacco stored on farms. Under this rule, price support loans will be made available to eligible producers of farm stored Flue-cured tobacco. This rule is necessary because market facilities for Flue-cured tobacco at times become congested delaying the producers' opportunity to sell such tobacco or to obtain price support through their cooperative marketing association.

EFFECTIVE DATE: July 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Dalton Ustynik (ASCS) 202–447–9224, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: On Wednesday, April 20, 1977, there was published in the FEDERAL REGISTER (42 FR 20476) a notice of proposed rulemaking stating that the Secretary of Agriculture was preparing to establish the support level for the 1977 crop of each eligible kind of tobacco and that no substantive changes were contemplated in the method of supporting tobacco or in the price support regulations appearing at 7 CFR Part 1464. The public was invited to comment on the proposed rule, 66 comments were received.

DISCUSSION OF COMMENTS

Five commenters favored continuation of the tobacco price support program



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without substantive change; 61 commenters opposed the program because of health related factors associated with the use of tobacco products. In that regard, the Secretary of Agriculture is required to make price support available to producers of tobacco in the manner prescribed by Federal law.

After considering all responses, it has been determined that the farm stored Flue-cured loan program will be continued at approximately 75 percent of the average level of support for Flue-cured tobacco. Other provisions of the regulations are without substantive change.

FINAL RULE

Therefore, the General Regulations Governing Price Support for the 1976 and Subsequent Crops, published at 41 FR 22334, and the Subpart—1972 and Subsequent Crops Flue-Cured Tobacco Farm-Stored Loan Program Regulations, published at 37 FR 16930, are further supplemented for the 1977 crop of Flue-cured tobacco by revising the regulations contained in 7 CFR, §§ 1421.420 through 1421.425 and the title of the subpart to read as follows:

**Subpart—1977 Crop Flue-Cured Tobacco Farm Stored Loan Supplement**

Sec.
1421.420 Availability.
1421.421 Farm storage interim loan rate.
1421.422 Rate of interest.
1421.423 Liquidation of loans.
1421.424 Delivery charge.
1421.425 Maturity of loans.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, 74 Stat. 6, (7 U.S.C. 1441, 1445, 1421, and 1423)

**Subpart—1977 Crop Flue-Cured Tobacco Farm Stored Loan Supplement**

**§ 1421.420 Availability.**

A producer desiring a farm storage loan on his eligible Flue-cured tobacco stored in Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia must request a loan at the county ASCS office not later than November 1, 1977.

**§ 1421.421 Farm storage interim loan rate.**

The loan will be made at a rate of 85 cents per pound for regular varieties or 43 cents per pound for discount varieties on the quantity of eligible tobacco tendered as security for a loan under this subpart if the producer certifies the grade composition of such tobacco to be equal to or better than the average grade composition of a normal crop. If the producer certifies the grade composition to be below such average quality, the rate of loan shall be 15 cents less than the loan rate which would otherwise be applicable.

**§ 1421.422 Rate of interest.**

Loans shall bear interest at the rate announced in a separate notice published in the FEDERAL REGISTER.

**§ 1421.423 Liquidation of loans.**

(a) Section 1421.19 of the general regulations shall not apply to this program. Loans shall be liquidated by one of the following methods, at the producer's option: (1) Repayment of the amount loaned, plus interest, on or before maturity to the county office which approved the loan. Repayment may be made by the producer, by the buyer, or by the Marketing Recorder upon sale of tobacco securing the loan. (2) Delivery, as directed by CCC, during a period of approximately 1 week beginning immediately after the close of the 1977 auction marketing season to a cooperative association designated by CCC of a quantity of Flue-cured tobacco eligible for price support having a settlement value equal to the outstanding principal balance of the loan.

(b) Notwithstanding the provisions of § 1421.23 of the general regulations, no deduction for storage charges will be made if the tobacco is delivered during this period. The association will advise producers of the time and place at which the tobacco is to be delivered in liquidation of farm storage loans and will determine the settlement value of the tobacco delivered on the basis of the grade and quality thereof as determined by the inspection service of the Agricultural Marketing Service, USDA.

**§ 1421.424 Delivery charge.**

Notwithstanding the provisions of § 1421.11 of the general regulations, there shall be no delivery charge on the tobacco delivered to the association.

**§ 1421.425 Maturity of loans.**

Unless demand is made earlier, farm storage loans on Flue-cured tobacco will mature on December 1, 1977.

Signed at Washington, D.C., on July 12, 1977.

VICTOR A. SENECHAL,
*Acting Executive Vice President, Commodity Credit Corporation.*

[FR Doc.77-20926 Filed 7-20-77;8:45 am]

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**CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE**

**SUBCHAPTER G—MISCELLANEOUS REGULATIONS**

[FmHA Instruction 440.3]

**PART 1888—SPECIAL ASSISTANCE TO DROUGHT STRICKEN AREAS**

**Termination Date for Water Projects**

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration issues amended regulations to provide water projects with a new termination date. This action is brought about by the need for more time so that more projects may be completed.

EFFECTIVE DATE: July 21, 1977. Comments must be received on or before August 22, 1977.

ADDRESS: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Dwight O. Calhoun 202-447-7287.

SUPPLEMENTAL INFORMATION: Part 1888 of Chapter XVIII, Title 7, Code of Federal Regulations, Subchapter G, "Miscellaneous Regulations," is amended. The purpose of this amendment is to extend the time limit set on water projects by providing a new eligibility and termination date for completion of projects where there are severe problems resulting from water shortages due to the drought. It is the policy of this department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemptions in 5 U.S.C. 553. This amendment however, is not published for proposed rulemaking since it extends needed financial assistance to communities in rural areas which may have suffered losses and extreme privation as a result of abnormal drought conditions, and any delay in administering this assistance would be contrary to the public interest. However, comments will be accepted and material thus submitted will be evaluated and acted upon in the same manner as if the document were a proposal. However, this addition will remain effective until amended in order to permit the public business to proceed expeditiously. Accordingly, paragraph (c) of § 1888.13 and paragraphs (a) and (b) of § 1888.17 are amended to read as follows:

**§ 1888.13 Loans and grants to rural communities for water supply assistance.**

* * * * *

(c) For those projects determined to meet the requirements of paragraph (b) of this section, assistance may be provided to the extent necessary for the construction, enlargement, extension, improvement, or any other appropriate community water facility purpose for ameliorating drought caused problems. Such assistance may include, but not be limited to, deepening an existing well, developing a new water source by digging a new well, or extending water supply lines to other water sources. Additionally, assistance may be provided for short term measures necessary to augment community water supplies where there are severe problems resulting from water shortages due to the drought, including initial operation and maintenance expenses attributable to such measures. However, increased operation and maintenance expenses on existing facilities





attributable to the drought are not items for which assistance may be provided. Eligibility is limited to those project measures which can be completed by April 30, 1978. Under special circumstances or hardships, an extension of completion time may be granted by the FmHA Administrator.

* * * * * *

**§ 1888.17 Termination provisions.**

(a) Any assistance provided under this Instruction must be for an applicant with an application on file and funds obligated on or before September 30, 1977.

(b) Projects should be completed no later than April 30, 1978. Under special circumstances or hardship situations an extension of completion time may be granted by the FmHA Administrator.

* * * * *

(7 U.S.C. 1980; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: July 13, 1977.

GORDON CAVANAUGH,
*Administrator, Farmers Home Administration.*

[FR Doc.77-20927 Filed 7-20-77;8:45 am]

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**Title 14—Aeronautics and Space**

**CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION**

[Docket No. 76-EA-82; Amdt. 39-2976]

**PART 39—AIRWORTHINESS DIRECTIVES**

**Canadair Aircraft**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) requires an inspection and alteration where necessary of the elevator torque tube on Canadair CL-215 type airplanes. The inspection will determine whether parts of the assembly need to be replaced and shimmed so as to remove the possibility of lateral movement of the shaft. This movement was revealed during factory inspection.

EFFECTIVE DATE: July 27, 1977. Compliance prior to application for U.S. Airworthiness Certification.

ADDRESSES: Canadair Service Information Circular 115-CL-215 may be obtained from the manufacturer at P.O. Box 6087, Montreal, Canada.

FOR FURTHER INFORMATION CONTACT:

I. Mankuta, Airframe Section, Engineering and Manufacturing Branch, AEA-212, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: There had been a report that factory inspection during the jigging of the aircraft revealed inadequate bearing engagement at the shoulders of the elevator shaft quadrants. This would cause lateral movement of the shaft resulting in an unsafe condition. The rule (AD) will require measurement of the face of the shoulder of the input quadrant and the face of the inner race. If the measurement fails to meet required specifications, the bearing housings are to be replaced and adjustable packers (shims) added. Since there are no U.S. registered CL-215 type airplanes, notice and public procedure hereon are unnecessary and the rule may be made effective in less than 30 days.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are I. Mankuta, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding a new airworthiness directive, as follows:

CANADAIR: Applies to Canadair CL-215-1A10 airplanes, Serial Number 1001 thru 1040, and 1046, certificated in all categories.

Compliance is required prior to U.S. Airworthiness Certification.

To ensure correct engagement of shoulders of input quadrant P/N 215-90252 in left and right outboard bearing assemblies P/N 215-90255 or 215-90291, accomplish the following:

On both ends of the elevator torque tube, measure the dimensions between the face of the shoulder of the input quadrant and the face of the bearing inner race. The two dimensions are to be added and their total compared to the following:

(a) Aircraft 1001 thru 1015 and 1021 thru 1030, using bearing P/N 215-90255:

If greater than 0.200 inches, alter assembly in accordance with the Modification and Procedure paragraph of Canadair Service Bulletin CL-215-201, dated 1/13/76, or approved equivalent alteration.

(b) Aircraft 1016 thru 1020 and 1031 thru 1040, and 1046, using bearing P/N 215-90291.

If greater than 0.100 inches, alter assembly in accordance with the Modification and Procedure paragraph of Canadair Service Bulletin CL-215-201, dated 1/13/76, or approved equivalent alteration.

Equivalent alterations must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

Canadair Service Information Circular 115-CL-215 pertains to this subject.

Effective date: This amendment is effective July 27, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 313(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of a Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York, on July 13, 1977.

WILLIAM E. MORGAN,
*Director, Eastern Region.*

[FR Doc.77-20766 Filed 7-20-77;8:45 am]

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[Docket No. 17032; Amdt. 39-2974]

**PART 39—AIRWORTHINESS DIRECTIVES**

**Let N.P. Blanik 13 Gliders**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes a currently effective airworthiness directive (AD) which requires repetitive inspections of the fin top rib and central stiffener, repair, as necessary, and replacement of the fin top rib and central stiffener on certain Let N.P. Blanik 13 gliders. This amendment incorporates additional information to assist in dismantling of the rudder.

DATES: Effective August 4, 1977. Compliance required within the next 10 hours time in service after the effective date of this AD, unless already accomplished within the last 90 hours time in service, and, thereafter, at intervals not to exceed 100 hours time in service from the last inspection.

ADDRESSES: The applicable service bulletin may be obtained from Omnipol FTC, Washington Street 11, 110 00 Prague I, Czechoslovakia.

A copy of the applicable service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel. 513-38-30.

SUPPLEMENTARY INFORMATION: Amendment 39-2333 (40 FR 33007), AD 75-17-28, as amended by Amendments 39-2379 (40 FR 45802) and 39-2498 (41 FR 2375), requires repetitive inspections of the fin top rib and central stiffener, repair, as necessary, and replacement of the fin top rib and central stiffener on certain Let N.P. Blanik 13 gliders. After issuing Amendment 39-2498, the FAA determined that the referenced service bulletin should be supplemented with additional rudder dismantling information provided by the manufacturer to assist in replacement of fin top rib and central stiffener. Therefore, the AD is being superseded by a new AD that includes this information.

Since this amendment provides a clarification only and imposes no additional burden on any person, notice and public procedure hereon are unnecessary



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and the amendment may be made effective in less than 30 days.

The principal authors of this document are R. J. Huhn and N.S. Dobl, Flight Standards Service, and K. May, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following airworthiness directive:

LET N. P. Applies to Blanik 13 gliders, certificated in all categories, with serial numbers 173205 through 174230, inclusive.

Compliance is required as indicated.

To prevent structural failure of the fin top rib, accomplish the following:

(a) Within the next 10 hours time in service after the effective date of this AD, unless already accomplished within the last 90 hours time in service, and, thereafter, at intervals not to exceed 100 hours time in service from the last inspection, visually inspect the fin top rib and central stiffener (fuselage stiffener) with a 5 power magnifying glass in accordance with the accomplishment instructions set forth in paragraph A of LET N. P. UH HRADTSTE-KUNOVICE (LET N. P.) Mandatory Bulletin No. L 13/040, undated, or an FAA-approved equivalent.

(b) If cracks are found in the fin top rib of less than 5 mm in length, or of any length in the central stiffener, before further flight, either—

(1) Repair the fin top rib or central stiffener as necessary, in accordance with the accomplishment instructions set forth in paragraph B of LET N. P. Mandatory Bulletin No. L 13/040, undated, or an FAA-approved equivalent; or

(2) Comply with paragraph (e) of this AD.

(c) If any cracks are found in the fin top rib which exceed 5 mm in length, before further flight, comply with paragraph (e) of this AD.

(d) If no cracks are found, within the next 200 hours time in service after the effective date of this AD, comply with paragraph (e) of this AD.

(e) Replace both the fin top rib and central stiffener in accordance with the accomplishment instructions set forth in paragraphs C and D of LET N. P. Mandatory Bulletin No. L 13/040, undated, or an FAA-approved equivalent.

NOTE.—To assist in the dismantling of the rudder the following information is provided:

(1) It is recommended that, in loosening the split pin securing the slotted nut in the bottom rudder hinge, the bent ends of the split pin be straightened first using a suitable pointed tool and then the pin be removed.

(2) The rudder dismantling procedures are as follows:

(i) The nut of the bottom rudder hinge accessible through the mounting opening on the fuselage part should be released and unscrewed.

(ii) The cloth blinds on the rudder edge curve and leading edge should be removed. The top rudder hinge stud bolt should be released and unscrewed.

(iii) The rudder should be lifted slightly and its top edge should be pulled slightly backwards to be released from the top hinge.

(iv) The rudder should be held in the inclined position and carefully lifted from the step ball bearing.

(3) The bottom rivets of the intermediate stiffener supporting the rudder bearing should be routed by an extended drill rod through the 60 mm. diameter opening in the rear fuselage partition as recommended by the Note in paragraph D of LET N.P. Mandatory Bulletin L 13/040. Routing of the rear fuselage part in position 14 of the partition is not recommended.

(4) A modified shank should be used for riveting a new fin rib. For this purpose, a 35 mm. diameter opening should be made in the fin spar (See LET N.P. Mandatory Bulletin L 13/040, paragraph C).

(f) The inspections required by paragraph (a) of this AD may be discontinued when the fin top rib and central stiffener have been replaced in accordance with paragraph (e) of this AD.

This amendment supersedes Amendment 39-2333 (40 FR 33007), AD 75-17-28, as amended by Amendments 39-2379 (40 FR 45802) and 39-2498 (41 FR 2375).

This amendment becomes effective August 4, 1977.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 8, 1977.

J. A. FERRARESE,
*Acting Director,*
*Flight Standards Service.*

[FR Doc.77-20581 Filed 7-20-77;8:45 am]

[Docket No. 17033; Amdt. 39-3975]

## PART 39—AIRWORTHINESS DIRECTIVES

### Morane Saulnier (SOCATA) Model MS 892A150, MS 892E150, MS 893A, MS 893E, RALLYE 150T, and RALLYE 150ST Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection, repair as necessary, and modification of certain engine mount brackets on Morane Saulnier (SOCATA) Model MS 892A150, MS 892E150, MS 893A, MS 893E, RALLYE 150T and RALLYE 150ST airplanes to detect cracks that could result in failure of the engine mounts and loss of the engine.

DATES: Effective August 22, 1977. Compliance required within the next 100 hours time in service after the effective date of this AD, and thereafter at intervals not to exceed 50 hours time in service.

ADDRESSES: The applicable service bulletin may be obtained from Morane Saulnier (SOCATA), B. P. 38, 65001, Tarbes, France.

A copy of the service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certificaton Staff, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, APO New York, N.Y. 09667.

SUPPLEMENTARY INFORMATION: There have been reports of cracks of the engine mounts on certain Morane Saulnier (SOCATA) Model MS 892A150 and MS 893A airplanes that could result in failure of the engine mounts and subsequent loss of the engine from the airplane.

Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspection, repair as necessary, and modification of certain engine mounts on Morane Saulnier (SOCATA) Model MS 892A150, MS 892E150, MS 893A, MS 893E, RALLYE 150T and RALLYE 150ST airplanes.

Since a condition exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are R. V. Huhn, Europe, Africa, and Middle East Region, J. Kiselica, Flight Standards Service, and P. Lynch, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following Airworthiness Directive:

MORANE SAULNIER (SOCATA). Applies to Model MS 892A150, MS 892E150, MS 893A, MS 893E, RALLYE 150T and RALLYE 150ST airplanes, certificated in categories.

Compliance is required as indicated.

To prevent failure of engine mounts, accomplish the following:

(a) Within the next 100 hours time in service after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 50 hours time in service from the last inspection, visually inspect the engine mounts for cracks using dye penetrant in accordance with paragraphs 111-1-1 and 111-1-2 of SOCATA Service Bulletin No. 98/2, dated April 1976, or an FAA-approved equivalent.

(b) If one or more cracks are detected as a result of any inspection required by paragraph (a) of this AD, repair as necessary in accordance with paragraph 111-1-3 of SOCATA Service Bulletin No. 98/2, dated April 1976, or an FAA-approved equivalent.

(c) Within the next 100 hours time in service after the effective date of this AD, unless already accomplished, on airplanes with right angle engine mount brackets, modify the brackets in accordance with paragraph 111-2 of SOCATA Service Bulletin No. 98/2, dated April 1976, or an FAA-approved equivalent.

This amendment becomes effective August 22, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c); and 14 CFR 11.89)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 11, 1977.

R. P. SKULLY,
*Director, Flight Standards Service.*

[FR Doc.77-20582 Filed 7-20-77;8:45 am]





[Docket No. 77-GL-16; Amdt. 39-2973]

## PART 39—AIRWORTHINESS DIRECTIVES

### Enstrom Helicopter Corp. Models F28C & 280C Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment comprising a new Airworthiness Directive (AD) was adopted effective immediately on June 15, 1977 and concurrently copies were air mailed to all known operators of Enstrom F28C and 280C helicopters with wide chord (4.4 inch) tail rotors. The AD requires a dye penetrant inspection of the wide chord tail rotor pitch link retainer assembly before further flight and requires replacement of this part within 10 hours time in service with a new pitch link retainer assembly. Failure of the pitch link retainer assembly has caused abnormal vibration and may result in loss of directional control of the helicopter.

DATES: Effective date, July 26, 1977.

Compliance schedule.—Before further flight perform a dye penetrant inspection and replace the pitch link retainer assembly and associated guide bolts within the next 10 hours unless already accomplished.

FOR FURTHER INFORMATION CONTACT:

J. Snitkoff, Engineering and Manufacturing Branch, Flight Standards Division, AGL-212, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone 312-694-4500, extension 424.

SUPPLEMENTARY INFORMATION: After 145 hours operation a crack appeared in the base of the arm of the pitch link retainer assembly Part Number 28-16320 on a helicopter with a wide chord (4.4 inch) tail rotor blade assembly which resulted in abnormal vibration. Complete failure of the pitch link retainer assembly would result in loss of helicopter directional control. Since this condition was likely to exist or develop on other model F28C 28OC with wide chord (4.4 inch) tail rotor blade assemblies, an airworthiness directive was issued to inspect and replace the pitch link retainer assembly Part Number 28-16320.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately to all known United States operators of Enstrom Models F28C and 28OC by individual airmail letters dated June 15, 1977. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.17 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

In accordance with Departmental Regulatory Reform, dated March 23, 1976, we have determined that the expected impact of this final rule is so minimal that it does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are J. Snitkoff, Flight Standards Division, Great Lakes Region, and J. T. Brennan, Office of the Regional Counsel, Great Lakes Region.

ADOPTION OF THE AMENDMENT

Pursuant to the authority of the Federal Aviation Act of 1958 delegated to me by the Administrator, and airworthiness directive was adopted on June 15, 1977, and made effective immediately.

Enstrom. Applies to Enstrom Models F28C and 280C helicopters with wide chord (4.4 inch) tail rotor blades certificated in all categories. Before further flight perform a dye penetrant inspection around the circular hub including the arm base of the pitch link retainer assembly P/N 28-16320 unless already accomplished in the last ten hours time in service. Within ten (10) hours time in service after the receipt of this airmail letter, unless already accomplished, replace the wide chord tail rotor pitch link assembly P/N 28-16320 and two (2) guide bolts P/N 28-16307 with a new wide chord tail rotor pitch link retainer assembly P/N 28-16325 and two (2) guide bolts P/N 28-16324. Enstrom Service Directive Bulletin Number 0040 pertains to this same subject.

This amendment is effective July 26, 1977, and was effective immediately for all recipients of airmail letters dated June 15, 1977 which contained this amendment.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on July 8, 1977.

JOHN M. CYROCKI,
*Director,*
*Great Lakes Region.*

[FR Doc.77-20919 Filed 7-20-77;8:45 am]

[Docket No. 16390, Amdt. 39-2980]

## PART 39—AIRWORTHINESS DIRECTIVES

### British Aircraft Corp. Viscount Model 744, 745D, and 810 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection, reworking, and replacement, as necessary, of the aileron control rods on British Aircraft Corporation Viscount Model 744, 745D, and 810 airplanes. The AD is needed to prevent cracks in the aileron control rod tube sleeve and possible aileron failure which could result in the loss of control of the airplane.

DATES: Effective August 22, 1977.

Compliance schedule.—As prescribed in the body of the AD.

ADDRESSES: The applicable technical leaflets may be obtained from British Aircraft Corporation, Inc., 399 Jefferson Davis Highway, Arlington, Virginia 22202. Telephone 703-979-1400.

A copy of each of the technical leaflets is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Don C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium. Telephone 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires inspection, reworking, and replacement, as necessary, of the aileron control rods on British Aircraft Corporation Viscount Model 744, 745D, and 810 airplanes was published in the FEDERAL REGISTER at 42 FR 1268. The proposal was prompted by reports of corrosion in the bore of the aileron control rod tubes, and corrosion between the aileron control rod tubes and their steel guide sleeves and stop sleeves, which could result in aileron failure with loss of control of the airplane.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Although no objections were received, the FAA has reevaluated the need for the proposed amendment and determined that it should be adopted. Accordingly, the proposal is adopted without change.

DRAFTING INFORMATION

The principal authors of this document are F. J. Karnowski, Europe, Africa, and



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Middle East Region, C. Birkenholz, Flight Standards Service, and S. Hauselt, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following airworthiness directive:

BRITISH AIRCRAFT CORPORATION. Applies to Viscount Models 744, 745D, and 810 airplanes with aileron control rods, P/N 60903, sheets 185 and 187 and P/N 70103, sheets 329, 445, 447, 449, 451, 453, 457, and 459, certified in all categories.

Compliance is required as indicated, unless already accomplished.

To detect corrosion of the aileron control rods and prevent possible aileron failure, accomplish the following:

(a) Within the next 30 days after the effective date of this AD or 18 months from the date of the last overhaul of the specified aileron control rods, whichever occurs later, and thereafter at intervals not to exceed 6 months from the last inspection, inspect the aileron control rods for corrosion in accordance with paragraph 2.2 "Accomplishment Instructions" section of issue 2, dated June 2, 1976, British Aircraft Corporation Alert Preliminary Technical Leaflets No. 305 for 700 series airplanes and No. 174 for 810 series airplanes, or an FAA-approved equivalent.

(b) If, during an inspection required by paragraph (a) of this AD, corrosion is found, before further flight, replace the corroded parts with new parts of the same part number.

(c) If, during an inspection required by paragraph (a) of this AD, no corrosion is found, rework the aileron control rods in accordance with paragraph 2.2.1 "Accomplishment Instructions" section of issue 2, dated June 2, 1976, British Aircraft Corporation Alert Preliminary Technical Leaflets No. 305 for 700 series airplanes and No. 174 for 810 series airplanes, or an FAA-approved equivalent.

(d) The repetitive inspections required by paragraph (a) of this AD may be discontinued upon compliance with paragraph (e) of this AD.

(e) Within the next 2 years after the effective date of this AD or at the next aileron control rod overhaul, whichever occurs sooner, remove the affected aileron control rods, disassemble the external sleeves where fitted, and conduct a radiographic inspection of the aileron control rod tubes and a visual inspection of the external sleeves in accordance with paragraph 2.4 "Accomplishment Instructions" and paragraph entitled "Radiographic Technique" of issue 2, dated June 2, 1976, British Aircraft Corporation Alert Preliminary Technical Leaflets No. 305 for 700 series airplanes and No. 174 for 810 series airplanes, or an FAA-approved equivalent.

(f) If, during the inspection required by paragraph (e) of this AD, corrosion is found, before further flight, replace the corroded parts with new parts of the same part number.

(g) If, during the inspection required by paragraph (e) of this AD, no corrosion is found, rework the aileron control rods in accordance with paragraph 2.4 "Accomplishment Instructions" section of issue 2, dated June 2, 1976, British Aircraft Corporation Alert Preliminary Technical Leaflets No. 305 for 700 series airplanes and No. 174 for 810 series airplanes, or an FAA-approved equivalent.

This amendment becomes effective August 22, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on July 13, 1977.

R. P. SKULLY,
*Director,*
*Flight Standards Service.*

[FR Doc.77-20921 Filed 7-20-77;8:45 am]

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[Docket No. 17040, Amdt. 39-2982]

## PART 39—AIRWORTHINESS DIRECTIVES

### Filotecnica Salmoiraghi (Aeritalia S.p.A.) Airspeed Indicators

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires an inspection for proper airspeed indicator calibration and scrapping, if necessary, of certain Filotecnica Salmoiraghi (Aeritalia S.p.A.) airspeed indicators. This amendment is directed at the prevention of erroneous airspeed indications on aircraft equipped with certain Filotecnica Salmoiraghi (Aeritalia S.p.A.) airspeed indicators. Such erroneous indications have occurred in the past as a result of internal distortion of the instrument casing and misalignment of mechanisms within the airspeed indicator.

DATES: Effective August 4, 1977.

Compliance is required within the next 25 hours time in service after the effective date of this AD.

ADDRESSES: A copy of SAE Aeronautical Standard AS-391B referenced in this AD may be obtained from the Society of Automotive Engineers, 485 Lexington Avenue, New York, New York 10017.

A copy of SAE Aeronautical Standard AS-391B is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium. Telephone 513.38.30.

SUPPLEMENTARY INFORMATION: There have been reports of occurrences of airspeed indicators being out of calibration as a result of internal distortion of the instrument casing and misalignment of mechanisms within the instrument which could result in erroneous airspeed indications on aircraft equipped with certain Filotecnica Salmoiraghi (Aeritalia S.p.A.) airspeed indicators. Since this condition is likely to exist or develop in other products of the same type design, an airworthiness directive is being issued which requires an inspection for proper airspeed indicator calibration and scrapping, if necessary, of certain Filotecnica Salmoiraghi (Aeritalia S.p.A.) airspeed indicators.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

The principal authors of this document are M. E. Gaydos, Europe, Africa, and Middle East Region, N. Dobi, Flight Standards Service, and K. May, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

FILOTECNICA SALMOIRAGHI (AERITALIA S.p.A.) Applies to airspeed indicators, serial numbers 3800 and below, with part numbers—

| | |
|---|---|
| P/N 8.039.003 | P/N 8.039.608.1 |
| 8.039.008 | 8.039.703 |
| 8.039.008.1 | 8.039.708 |
| 8.039.503 | 8.039.708.1 |
| 8.039. 508 | 8.039.808 |
| 8.039.508.1 | 8.039.808.1 |
| 8.039.603 | 8.039.408 |
| 8.039.608 | 8.039.408.1 |

Compliance is required within the next 25 hours time in service after the effective date of this AD, unless already accomplished.

To prevent the possibility of erroneous airspeed indications, accomplish the following:

(a) Inspect the affected airspeed indicators for proper calibration by ensuring that the differential pressure values and tolerances for the indicator's airspeed range conform to those set forth in Tables I and II of SAE Aeronautical Standard AS-391B "Airspeed Indicator (Pitot Static)," dated December 15 1954, or an FAA-approved equivalent.

(b) If an airspeed indicator inspected in accordance with Paragraph (a) of this AD is found not be in proper calibration, scrap it.

This amendment becomes effective August 4, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 13, 1977.

R. P. SKULLY,
*Director,*
*Flight Standards Service.*

[FR Doc.77-20922 Filed 7-20-77;8:45 am]





[Docket No. 15460, Amdt. 39-2981]

## PART 39—AIRWORTHINESS DIRECTIVES

### Avions-Marcel Dassault-Breguet Aviation Model Falcon 10 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires modification of the pilot and copilot seat rails on certain AMD-BA Model Falcon 10 airplanes. The AD is needed to prevent distortion of these seat rails which could allow unwanted movement of the pilot or copilot seat during flight and could result in loss of control of the airplane.

DATES: Effective August 22, 1977. Compliance is required within the next 100 hours time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service bulletins may be obtained from Falcon Jet Corporation, Teterboro Airport, New Jersey 07608, telephone 201-288-5300. A copy of each of the service bulletins is contained in the Rules Docket, Rm. 916, 800 Independence Avenue, SW. Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Don C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive that would require modification and reidentification of the pilot and copilot seat rails on certain Avions Marcel Dassault-Breguet Aviation (AMD-BA) Model Falcon 10 airplanes was published in the FEDERAL REGISTER at 41 FR 11323. The proposal was prompted by the fact that distortion of the pilot and copilot seat rails could allow unwanted movement of the seats during flight and could result in loss of control of the aircraft.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Although no objections were received as to the need for the modification, the manufacturer of the airplane requested that the proposal be withdrawn since all affected aircraft in the U.S. have had the modification incorporated. The FAA has reevaluated the need for the proposed amendment and determined that it should still be adopted to preclude the possibility of reverting to the original, unsafe seat installation when an aircraft of this model is refurbished or has the seating structure replaced without incorporating the necessary modification. Furthermore, for the same reason, the proposed AD has been revised by removing the Falcon 10 S/Ns specified and expanding the effectivity of the AD to include all affected Falcon 10 aircraft.

Since this situation requires the immediate adoption of this regulation with respect to the additional Falcon 10 airplanes, it is found that notice and public procedure hereon are impracticable and good cause exists for including the additional Falcon 10 airplanes in this amendment.

DRAFTING INFORMATION

The principal authors of this document are M. E. Gaydos, Europe, Africa, and Middle East Region, C. Birkenholz, Flight Standards Service, and K. May, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

AVIONS MARCEL DASSAULT-BREGUET AVIATION (AMD-BA). Applies to Model Falcon 10 airplanes, certificated in all categories, incorporating SICMA AERO-SEAT pilot seat, P/N 376-2, or copilot seat, P/N 376-3.

Compliance is required within the next 100 hours time in service after the effective date of this AD unless already accomplished.

To prevent possible unwanted movement of a pilot or copilot seat when operating in turbulence or when performing high-g maneuvers, for SICMA AERO-SEAT pilot seats, P/N 376-2, and copilot seats, P/N 376-3, modify the seat rails and reidentify the seats in accordance with SICMA AERO-SEAT Service Bulletin 376/F10/BS 01, dated June 5, 1975, including Revision "A", dated July 1975, or an FAA-approved equivalent. (AMD-BA Service Bulletin No. F10/0093 (ATA No. F10/25/007), dated July 18, 1975, pertains to this subject.)

This amendment becomes effective August 22, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.89).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 13, 1977.

R. P. SKULLY,
*Director,*
*Flight Standards Service.*

[FR Doc.77-20923 Filed 7-20-77;8:45 am]

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[Airspace Docket No. 77-EA-28]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

### Alteration of Control Zone and Transition Area: Aberdeen, Md.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment provides additional airspace (control zone, transition area) to protect aircraft executing approach and departure procedures for Phillips Army Air Field, Aberdeen Proving Ground, Maryland. A new VOR-B instrument approach has been developed for the air field.

EFFECTIVE DATE: 0901 G.m.t. August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J. F. K. International Airport, Jamaica, New York 11430, Telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Aberdeen, Md., Control Zone, and Transition Area. The NPRM was published in the FEDERAL REGISTER on May 12, 1977 (42 FR 24066). The proposal resulted from a change to the instrument approach procedure.

Interested parties were given 30 days in which to reply but no objections were received to the proposal.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. August 11, 1977, as published.

(Secs. 30(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York, on July 1, 1977.

WILLIAM E. MORGAN,
*Director, Eastern Region.*

§ 71.171 [Amended]

1. Amend Section 71.171 of Part 71 of the Federal Aviation Regulations by amending the description of the Aberdeen, Md. Control Zone as follows:

After the words, "northeast of the RBN" insert, "; within 3.5 miles each side of the Phillips VOR 033° radial, extending from the VOR to 11.5 miles northeast of the VOR."

§ 71.181 [Amended]

2. Amend Section 71.181 of Part 71 of the Federal Aviation Regulations by



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adding the following to the description of the Aberdeen, Md., Transition Area: ": within 5 miles each side of the Phillips VOR 033° radial, extending from the VOR to 13 miles northeast of the VOR."

[FR Doc.77-20585 Filed 7-20-77;8:45 am]

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[Airspace Docket No. 77-WE-8]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

### Madera, California; Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a transition area at Madera, California, to provide controlled airspace for aircraft executing an instrument approach procedure established for Madera Municipal Airport.

EFFECTIVE DATE: September 8, 1977.

ADDRESSES: Copies of this final rule may be obtained from: Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch, 15000 Aviation Boulevard, Lawndale, California 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. Telephone 213-536-6182.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate a transition area at Madera, California.

On June 2, 1977, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (42 FR 28149) stating that the Federal Aviation Administration proposed to designate a transition area at Madera, California, to provide controlled airspace for aircraft executing an instrument approach procedure established for Madera Municipal Airport.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Lawson, Jr., Esquire, Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, September 8, 1977.

### § 71.181 [Amended]

1. By amending § 71.181 (42 FR 440) of Part 71 of the Federal Aviation Regulations by designating a new Transition Area as follows:

MADERA, CALIFORNIA

That airspace extending upward from 700 feet above the surface within a 4.5 mile radius of Madera Municipal Airport (latitude 36°59'15" N., longitude 120°06'40" W.); and within 4.5 miles each side of the Fresno VORTAC 291° radial, extending from the 4.5 mile radius area to seven miles west of the VORTAC.

This amendment is issued under the authority of Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, California, on July 11, 1977.

FRANK HAPPY,
*Acting Deputy Director,*
*Western Region.*

[FR Doc.77-20767 Filed 7-20-77;8:45 am]

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SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 17031; Amdt. No. 95-273]

## PART 95—IFR ALTITUDES

### Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditons in the affected areas.

EFFECTIVE DATE: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COP's) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provides for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective: August 11, 1977.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 24 FR 5662 and paragraph 802 of Order FSP 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this amendment does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 11, 1977.

JAMES M. VINES,
*Chief,*
*Aircraft Programs Division.*





§95.101 AMBER FEDERAL AIRWAY 1
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Ocean Cape, Alas. NDB | Capes INT, Alas. | 2000 |
| Capes INT, Alas. | Corva INT, Alas. | 5000 |

§95.1001 DIRECT ROUTES-U.S.
is amended by adding:

| FROM | TO | MEA |
|---|---|---|
| Rolls INT, Okla. | INT 143 M rad Gage VOR & 076 M rad Sayre VOR | *6000 |

*3900-MOCA

DIRECT ROUTES-U.S.-cont'd.

| FROM | TO | MEA |
|---|---|---|
| Carlsbad, N.M. VOR | *Carpa INT, N.M. | **8000 |
| *9000-MRA | | |
| **7300-MOCA | | |
| Carlsbad, N.M. VOR | Midland, Tex. VOR | *7000 |
| Via CNM 086 MAF 268 | | |
| *5000-MOCA | | |
| St. Jean, Que. Can. VORTAC | Lebanon, N.H. VOR | #18000 |
| Via YJN 160 LEB 360 | | MAA-26000 |
| #For that airspace over U.S. territory. | | |
| Lebanon, N.H. VOR | Pease AFB, N.H. VOR | 10000 |
| Via LEB 135 PSM 317 | | MAA-26000 |
| Pease AFB, N.H. VOR | Korky INT, Me. | 10000 |
| Via PSM 164 | | MAA-16000 |

## §95.5000 HIGH ALTITUDE RNAV ROUTES

| FROM/TO | TOTAL DISTANCE | CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION | | TRACK ANGLE | MEA | MAA |
|---|---|---|---|---|---|---|
| **J804R is amended to read:** | | | | | | |
| Darbs, Fla. W/P | 170.6 | 130.6 | Darbs | 332/152 to COP | 18000 | 45000 |
| Amour, Ga. W/P | | | | 331/151 to Amour | | |
| Amour, Ga. W/P | 145.5 | 40.0 | Amour | 342/162 to COP | 18000 | 45000 |
| La Grange, Ga. W/P | | | | 340/160 to La Grange | | |
| **J812R is amended to read:** | | | | | | |
| Hight, Fla. W/P | 149.0 | | | 334/154 to COP | 18000 | 45000 |
| Aport, Fla. W/P | | | | 334/154 to Aport | | |
| Aport, Fla. W/P | 76.0 | | | 335/155 to COP | 18000 | 45000 |
| Archi, Fla. W/P | | | | 335/155 to Archi | | |
| Archi, Fla. W/P | 117.0 | 70.0 | Archi | 001/181 to COP | 18000 | 45000 |
| Alma, Ga. W/P | | | | 002/182 to Alma | | |
| Alma, Ga. W/P | 108.0 | | | 331/151 to COP | 18000 | 45000 |
| Corni, Ga. W/P | | | | 330/150 to Corni | | |
| Corni, Ga. W/P | 85.0 | | | 333/153 to COP | 18000 | 45000 |
| Cante, Ga. W/P | | | | 330/150 to Cante | | |
| Cante, Ga. W/P | 181.0 | | | 344/164 to COP | 18000 | 45000 |
| Shuto, Ky. W/P | | | | 347/167 to Shuto | | |
| Shuto, Ky. W/P | 88.0 | 16.0 | Shuto | 341/161 to COP | 18000 | 45000 |
| Borde, Ind. W/P | | | | 335/155 to Borde | | |



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| FROM/TO | TOTAL DISTANCE | CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION | | TRACK ANGLE | MEA | MAA |
|---|---|---|---|---|---|---|
| Borde, Ind. W/P<br>Fores, Ind. W/P | 144.0 | 52.0 | Borde | 335/155 to COP<br>339/159 to Fores | 18000 | 45000 |
| Fores, Ind. W/P<br>Chicago Heights, Ill. W/P | 43.0 | | | 338/158 to Chicago Heights | 18000 | 45000 |
| **J814R is amended to delete:**<br>Montgomery, Ala. VORTAC<br>Taxii, Ga. W/P | 74.8 | | | 46/226 to Taxii | 18000 | 45000 |
| **J814R is amended by adding:**<br>Montgomery, Ala. VORTAC<br>La Grange, Ga. W/P | 75.1 | | | 045/225 to La Grange | 18000 | 45000 |
| **J815R is amended to read:**<br>Casanova, Va. W/P<br>Coppa, Va. W/P | 167.0 | 105 | Casanova | 237/057 to COP<br>233/053 to Coppa | 18000 | 45000 |
| Coppa, Va. W/P<br>Shine, S.C. W/P | 152.0 | | | 236/056 to COP<br>234/054 to Shine | 18000 | 45000 |
| Shine, S.C. W/P<br>Macey, Ga. W/P | 67.0 | | | 212/032 to Macey | 18000 | 45000 |
| **J837 is amended to read in part:**<br>Fores, Ind. W/P<br>Chicago Heights, Ill. W/P | 43.0 | | | 338/158 to Chicago Heights | 18000 | 45000 |
| **J839R is amended to read:**<br>Kicks, Ga. W/P<br>Corni, Ga. W/P | 170 | | | 327/147 to COP<br>327/147 to Corni | 18000 | 45000 |
| **J842R is amended to read in part:**<br>Dallas-Fort Worth, Tex. VORTAC<br>Texarkana, Ark. W/P | 154 | | | 067/247 to COP<br>067/247 to Texarkana | 18000 | 45000 |
| **J843R is amended to read in part:**<br>Horeb, Ark. W/P<br>Dallas-Fort Worth, Tex. VORTAC | 150 | | | 237/057 to COP<br>235/055 to Dallas-Fort Worth | 18000 | 45000 |
| **J863R is amended to read:**<br>Coyle, N.J. VORTAC<br>Gordonsville, Va. W/P | 205.0 | | | 249/069 to COP<br>244/064 to Gordonsville | 18000 | 45000 |
| Gordonsville, Va. W/P<br>Galax, Va. W/P | 148.0 | | | 239/059 to COP<br>234/054 to Galax | 18000 | 45000 |
| Galax, Va. W/P<br>Macey, Ga. W/P | 150.0 | 50.0 | Galax | 234/054 to COP<br>232/052 to Macey | 18000 | 45000 |





| FROM/TO | TOTAL DISTANCE | CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION | | TRACK ANGLE | MEA | MAA |
|---|---|---|---|---|---|---|
| **J869R is amended to read:**<br>Corni, Ga. W/P<br>Augusta, Ga. W/P | 80.0 | | | 071/251 to COP<br>072/252 to Augusta | 18000 | 45000 |
| Augusta, Ga. W/P<br>Zolly, S.C. W/P | 40.0 | | | 071/251 to Zolly | 18000 | 45000 |
| **J877R is amended to read:**<br>Olive, Ga. W/P<br>Corni, Ga. W/P | 118.0 | | | 293/113 to Corni | 18000 | 45000 |
| **J879R is amended to read:**<br>Appleton, Ohio W/P<br>Prins, W. Va. W/P | 105 | | | 188/008 to Prins | 18000 | 45000 |
| Prins, W. Va. W/P<br>Rader, Tenn. W/P | 138.0 | | | 188/008 to COP<br>185/005 to Rader | 18000 | 45000 |
| Rader, Tenn. W/P<br>Macey, Ga. W/P | 113.0 | | | 199/019 to COP<br>201/021 to Macey | 18000 | 45000 |
| **J881R is amended to read:**<br>Carleton, Mich. W/P<br>Rosewood, Ohio VORTAC | 109.0 | | | 193/013 to COP<br>195/015 t Rosewood | 18000 | 45000 |
| Rosewood, Ohio VORTAC<br>Miner, Ky. W/P | 95.0 | | | 177/357 to COP<br>174/354 to Miner | 18000 | 45000 |
| Miner, Ky. W/P<br>Macey, Ga. W/P | 263.0 | 142.0 | Miner | 175/355 to COP<br>180/000 to Macey | 18000 | 45000 |

## §95.5500 HIGH ALTITUDE RNAV ROUTES

| FROM/TO | TOTAL DISTANCE | CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION | | TRACK ANGLE | MEA | MAA |
|---|---|---|---|---|---|---|
| **J912R is amended to read in part:**<br>Dallas-Fort Worth, Tex. W/P<br>Stick, Okla. W/P | 164 | 114 | Dallas-Fort Worth | 027/207 to COP<br>027/207 to Stick | 18000 | 45000 |
| **J914R is amended to read in part:**<br>Dallas-Fort Worth, Tex. VORTAC<br>Tenna, Tex. W/P | 154 | | | 104/284 to COP<br>107/287 to Tenna | 18000 | 45000 |



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| FROM/TO | TOTAL DISTANCE | CHANGEOVER POINT DISTANCE | CHANGEOVER POINT FROM | TRACK ANGLE | MEA | MAA |
|---|---|---|---|---|---|---|
| **J934R is amended to read in part:** | | | | | | |
| Dallas-Fort Worth, Tex. VORTAC | 154 | | | 067/247 to COP | 18000 | 45000 |
| Texarkana, Ark. W/P | | | | 067/247 to Texarkana | | |
| **J941R is amended to read in part:** | | | | | | |
| Dallas-Fort Worth, Tex. VORTAC | 44 | | | 293/113 to COP | 18000 | 45000 |
| Bridgeport, Tex. W/P | | | | 292/112 to Bridgeport | | |
| **J942R is amended to read in part:** | | | | | | |
| Dallas-Fort Worth, Tex. W/P | 44 | | | 293/113 to COP | 18000 | 45000 |
| Bridgeport, Tex. W/P | | | | 292/112 to Bridgeport | | |
| **J949R is amended to read in part:** | | | | | | |
| Kayes, Okla. W/P | 150 | | | 156/336 to COP | 18000 | 45000 |
| Dallas-Fort Worth, Tex. VORTAC | | | | 158/338 to Dallas-Fort Worth | | |
| Dallas-Fort Worth, Tex. VORTAC | 162 | | | 154/334 to COP | 18000 | 45000 |
| Navasota, Tex. W/P | | | | 154/334 to Navasota | | |
| **J950R is amended to read in part:** | | | | | | |
| Refix, Tex. W/P | 140 | | | 331/151 to COP | 18000 | 45000 |
| Scurry, Tex. W/P | | | | 330/150 to Scurry | | |
| Scurry, Tex. W/P | 172 | | | 332/152 to COP | 18000 | 45000 |
| Dibbs, Okla. W/P | | | | 330/150 to Dibbs | | |
| **J952R is amended to read in part:** | | | | | | |
| Coyle, N.J. VORTAC | 205.0 | | | 249/069 to COP | 18000 | 45000 |
| Gordonsville, Va. W/P | | | | 244/064 to Gordonsville | | |
| **J991R is amended to read in part:** | | | | | | |
| Dallas-Fort Worth, Tex. VORTAC | 209 | | | 009/189 to COP | 18000 | 45000 |
| Tulsa, Okla. VORTAC | | | | 009/189 to Tulsa | | |
| **J992R is amended to read in part:** | | | | | | |
| Refix, Tex. W/P | 157 | | | 348/168 to COP | 18000 | 45000 |
| Yanti, Tex. W/P | | | | 348/168 to Yanti | | |
| Yanti, Tex. W/P | 197 | 95 | Yanti | 348/168 to COP | 18000 | 45000 |
| Tulsa, Okla. VORTAC | | | | 348/168 to Tulsa | | |





**§95.6006 VOR FEDERAL AIRWAY 6**
is amended by adding:

| FROM | TO | MEA |
|---|---|---|
| Allentown, Pa. VOR | Broadway, N.J. VOR/DME | 2700 |

**§95.6007 VOR FEDERAL AIRWAY 7**
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Green Bay, Wis. VOR | Menominee, Mich. VOR | 2500 |

**§95.6009 VOR FEDERAL AIRWAY 9**
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Green Bay, Wis. VOR | Menominee, Mich. VOR | |
| Via E alter. | Via E alter. | 2500 |

**§95.6010 VOR FEDERAL AIRWAY 10**
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Emporia, Kans. VOR | Napoleon, Mo. VOR | *3000 |
| *2500—MOCA | | |

**§95.6012 VOR FEDERAL AIRWAY 12**
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Emporia, Kans. VOR | Napoleon, Mo. VOR | *3000 |
| *2500—MOCA | | |

**§95.6016 VOR FEDERAL AIRWAY 16**
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Sterl INT, R.I. | Foster INT, R.I. | *2500 |
| *2000—MOCA | | |
| Woonsocket INT, R.I. | Millis INT, Mass. | *2300 |
| *1800—MOCA | | |

**§95.6018 VOR FEDERAL AIRWAY 18**
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Millsap, Tex. VOR | Dallas-Fort Worth, Tex. VOR | 2900 |
| Dallas-Fort Worth, Tex. VOR | Quitman, Tex. VOR | *3000 |
| *2200—MOCA | | |

**§95.6023 VOR FEDERAL AIRWAY 23**
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| *Mendota INT, Calif. | Panoche, Calif. VOR | |
| Via W alter. | Via W alter. | 4500 |
| *3000—MCA Mendota INT, SW-bound | | |
| Panoche, Calif. VOR | Volta INT, Calif. | |
| Via W alter. | Via W alter. | 5000 |

**§95.6032 VOR FEDERAL AIRWAY 32**
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Spats INT, Nev. | Bonneville, Utah VOR | *11000 |
| *10000—MOCA | | |

**§95.6035 VOR FEDERAL AIRWAY 35**
is amended to delete:

| FROM | TO | MEA |
|---|---|---|
| INT 262 M rad Biscayne Bay VOR & 147 M rad Miami VOR | Famin INT, Fla | |
| Via W alter. | Via W alter. | 2000 |

**§95.6035 VOR FEDERAL AIRWAY 35**
is amended by adding

| FROM | TO | MEA |
|---|---|---|
| Biscayne Bay, Fla. VOR | Famin INT, Fla. | |
| Via W alter. | Via W alter. | 2000 |

**§95.6035 VOR FEDERAL AIRWAY 35**
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Weaverville INT, N.C. | Unico INT, N.C. | |
| Via W alter. | Via W alter. | 7500 |
| Unico INT, N.C. | Holston Mountain, Tenn. VOR | |
| Via W alter. | Via W alter. | 7000 |
| Morgantown, W. Va. VOR | Uniontown INT, Pa. | |
| Via W alter. | Via W alter. | 5000 |
| Uniontown INT, Pa. | Newton INT, Pa. | |
| Via W alter. | Via W alter. | 4000 |

**§95.6050 VOR FEDERAL AIRWAY 50**
is amended by adding:

| FROM | TO | MEA |
|---|---|---|
| Hastings, Neb. VOR | Pawnee City, Neb. VOR | 4000 |

**§95.6061 VOR FEDERAL AIRWAY 61**
is added to read:

| FROM | TO | MEA |
|---|---|---|
| Grand Island, Neb. VOR | Pawnee City, Neb. VOR | *4000 |
| *3100—MOCA | | |

**§95.6073 VOR FEDERAL AIRWAY 73**
is amended by adding:

| FROM | TO | MEA |
|---|---|---|
| Wichita, Kans. VOR | Fraks INT, Okla. | *3500 |
| *2900—MOCA | | |
| Fraks INT, Okla. | Tulsa, Okla. VOR | *3000 |
| *2500—MOCA | | |

**§95.6074 VOR FEDERAL AIRWAY 74**
is amended to delete:

| FROM | TO | MEA |
|---|---|---|
| Anthony, Kans. VOR | INT 087 M rad Anthony, Kans. VOR & 325 M rad Pioneer, Okla. VOR | |
| Via N alter. | Via N alter. | 3000 |
| INT 087 M rad Anthony, Kans. VOR & 325 M rad Pioneer, Okla. VOR | Pioneer, Okla. VOR | |
| Via N alter. | Via N alter | 2800 |

**§95.6079 VOR FEDERAL AIRWAY 79**
is added to read:

| FROM | TO | MEA |
|---|---|---|
| Hastings, Neb. VOR | Lincoln, Neb. VOR | 4000 |

**§95.6097 VOR FEDERAL AIRWAY 97**
is amended by adding:

| FROM | TO | MEA |
|---|---|---|
| Miami, Fla. VOR | LaBelle, Fla. VOR | |
| Via E alter. | Via E alter. | *2000 |
| *1300—MOCA | | |

**§95.6107 VOR FEDERAL AIRWAY 107**
is amended to delete:

| FROM | TO | MEA |
|---|---|---|
| Los Banos, Calif. VOR | *Sunol INT, Calif. | |
| Via E alter. | Via E alter. | 6500 |
| *6500—MCA Sunol INT, SE-bound | | |

**§95.6107 VOR FEDERAL AIRWAY 107**
is amended by adding:

| FROM | TO | MEA |
|---|---|---|
| Panoche, Calif. VOR | *Sunol INT, Calif. | |
| Via E alter | Via E alter. | 6500 |
| *6500—MCA Sunol INT, SE-bound | | |



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§95.6107 VOR FEDERAL AIRWAY 107
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Avenal, Calif. VOR | *Panoche, Calif. VOR | 7000 |
| *5500—MCA Panoche VOR, SE-bound | | |
| Panoche, Calif. VOR | *Cathedral INT, Calif. | **7000 |
| *7000—MCA Cathedral INT, NW-bound | | |
| **5700—MOCA | | |

§95.6109 VOR FEDERAL AIRWAY 109
is amended to delete:

| FROM | TO | MEA |
|---|---|---|
| Los Banos, Calif. VOR | Volta INT, Calif. | 5000 |

§95.6109 VOR FEDERAL AIRWAY 109
is amended by adding:

| FROM | TO | MEA |
|---|---|---|
| Panoche, Calif. VOR | Volta INT, Calif. | 5000 |

§95.6113 VOR FEDERAL AIRWAY 113
is amended by adding:

| FROM | TO | MEA |
|---|---|---|
| Priest, Calif. VOR | Panoche, Calif. VOR | 7000 |
| *Panoche, Calif. VOR | Volta INT, Calif. | 5000 |
| *5500—MCA Panoche VOR, SE-bound | | |

§95.6152 VOR FEDERAL AIRWAY 152
is amended to delete:

| FROM | TO | MEA |
|---|---|---|
| St. Petersburg, Fla. VOR Via N alter. | Orlando, Fla. VOR Via N alter. | 2000 |

§95.6157 VOR FEDERAL AIRWAY 157
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| *Vegie INT, Fla. Via W alter. *3100—MRA **1500—MOCA | Swaggs INT, Fla. Via W alter. | **3100 |
| Swaggs INT, Fla. Via W alter. *1300—MOCA | La Belle, Fla. VOR Via W alter. | *2000 |

§95.6230 VOR FEDERAL AIRWAY 230
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| *Salinas, Calif. VOR *6000—MCA Salinas VOR, E-bound **5500—MOCA | Sambe INT, Calif. | **6500 |
| Sambe INT, Calif. *8000—MCA Panos INT, E-bound **5500—MOCA | *Panos INT, Calif. | **7000 |
| Panos INT, Calif. *5700—MOCA | Fido INT, Calif. | *9000 |
| *Fido INT, Calif. *9000—MCA Fido INT, W-bound **5700—MOCA | Panoche, Calif. VOR | 7000 |
| Salinas, Calif. VOR Via S alter. | Panoche, Calif. VOR Via S alter. | 6000 |
| Panoche, Calif. VOR *3000—MCA Mendota INT, SW-bound | *Mendota INT, Calif. | 4500 |

§95.6232 VOR FEDERAL AIRWAY 232
is amended to delete:

| FROM | TO | MEA |
|---|---|---|
| Milton, Pa. VOR *3500—MOCA | Freeland INT, Pa. | *4000 |
| Freeland INT, Pa. *4000—MOCA | Pennwell INT, N.J. | *7000 |
| Penwell INT, N.J. *2700—MOCA | Broadway INT, N.J. | *7000 |

§95.6232 VOR FEDERAL AIRWAY 232
is amended by adding:

| FROM | TO | MEA |
|---|---|---|
| Milton, Pa. VOR *3200—MOCA | Penns INT, N.J. | *4000 |
| Penns INT, N.J. *2700—MOCA | Broadway, N.J. VOR DME | *4000 |
| Broadway, N.J. VOR DME | LaGuardia, N.Y. VOR | 2700 |

§95.6236 VOR FEDERAL AIRWAY 236
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Emont INT, Utah | Ogden, Utah VOR | |
| | NE-bound | 7000 |
| | SW-bound | 9000 |

§95.6284 VOR FEDERAL AIRWAY 284
is added to read:

| FROM | TO | MEA |
|---|---|---|
| Sea Isle, N.J. VOR | Millville, N.J. VOR | 1800 |

§95.6334 VOR FEDERAL AIRWAY 334
is amended by adding:

| FROM | TO | MEA |
|---|---|---|
| Augey DME, Fix, Alas. *2000—MOCA | Clams INT, Alas. | *7000 |
| Clams INT, Alas. | Kenai, Alas. VOR | 2000 |
| Kenai, Alas. VOR | Anchorage, Alas. VOR | 2000 |

§95.6348 VOR FEDERAL AIRWAY 348
is added to read:

| FROM | TO | MEA |
|---|---|---|
| U.S. Canadian Border *2000—MOCA | Sault Ste Marie, Mich. VOR | *2300 |
| Sault Ste Marie, Mich. VOR | U.S. Canadian Border | 2600 |

§95.6350 VOR FEDERAL AIRWAY 350
is added to read:

| FROM | TO | MEA |
|---|---|---|
| Wichita, Kans. VOR *2800—MOCA | Chanute, Kans. VOR | *3500 |

§95.6354 VOR FEDERAL AIRWAY 354
is added to read:

| FROM | TO | MEA |
|---|---|---|
| Pioneer, Okla. VOR *2800—MOCA | Emporia, Kans. VOR | *3500 |

§95.8358 VOR FEDERAL AIRWAY 358
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Dallas-Fort Worth, Tex. VOR | Ardmore, Okla. VOR | 2700 |

§95.6436 VOR FEDERAL AIRWAY 436
is amended to delete:

| FROM | TO | MEA |
|---|---|---|
| Augey DME Fix, Alas. *2000—MOCA | Clams INT, Alas. | *7000 |
| Clams INT, Alas. | Kenai, Alas. VOR | 2000 |
| Kenai, Alas. VOR | Anchorage, Alas. VOR | 2000 |

§95.6474 VOR FEDERAL AIRWAY 474
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Newton INT, Pa. *3100—MOCA | Pleez INT, Pa. | *4000 |
| Pleez INT, Pa. | Indian Head, Pa. VOR | 5000 |





§95.7121 JET ROUTE NO. 121 is amended to delete:

| FROM | TO | MEA | MAA |
|---|---|---|---|
| Norfolk, Va. VORTAC | Sea Isle, N.J. VORTAC | 18000 | 45000 |

§95.7121 JET ROUTE NO. 121 is amended by adding:

| FROM | TO | MEA | MAA |
|---|---|---|---|
| Norfolk, Va. VORTAC | Snow Hill, Md. VORTAC | 18000 | 40000 |
| Snow Hill, Md. VORTAC | Sea Isle, N.J. VORTAC | 18000 | 40000 |

By amending Sub-part D as follows:

§95.8005 JET ROUTES CHANGEOVER POINTS

| AIRWAY SEGMENT FROM | TO | CHANGEOVER POINTS DISTANCE | FROM |
|---|---|---|---|
| J-501 is amended to read in part: | | | |
| Sparrevoln, Alas. NBB | Bethel, Alas. VORTAC | 135 | Bethel |
| J-121 is amended by adding: | | | |
| Snow Hill, Md. VORTAC | Sea Isle, N.J. VORTAC | 20 | Snow Hill |

[FR Doc.77-20583 Filed 7-20-77;8:45 am]

[Docket No. 17037; Amdt. No. 1082]

## PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

### Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

FOR EXAMINATION

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

FOR PURCHASE

Individual SIAP copies may be obtained from: 1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

BY SUBSCRIPTION

Copies of all SIAPs, mailed weekly, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The current annual subscription price is $150.00; add $30.00 for each additional copy mailed to the same address.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 9) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.



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The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * *Effective September 8, 1977.*

Madera, CA—Madera Municipal, VOR Rwy 30, Original
Neosho, MO—Neosho Memorial, VOR-A, Amdt. 4
Ardmore, OK—Ardmore Municipal, VOR Rwy 4, Amdt. 13

* * * *Effective September 1, 1977.*

Alton, IL—Civic Memorial, VOR-A, Amdt. 3
Ahoskie, NC—Tri County, VOR/DME-A, Amdt. 3
Greenville, NC—Pitt-Greenville, VOR/DME-A, Amdt. 1
Rocky Mount, NC—Rocky Mount Downtown, VOR-A, Amdt. 9
Rocky Mount, NC—Rocky Mount Downtown, VOR/DME-B, Amdt. 6
Rocky Mount, NC—Rocky Mount-Wilson, VOR/DME Rwy 22, Amdt. 6
Williamston, NC—Martin County, VOR-A, Amdt. 2
Bucyrus, OH—Port Bucyrus-Crawford County, VOR Rwy 22, Original
Columbia, SC—Columbia Metropolitan, VOR-A, Amdt. 12

* * * *Effective August 25, 1977.*

Lahaina, Maui, HI—Kaanapali, VOR-A, Amdt. 2, cancelled
Lahaina, Maui, HI—Kaanapali, VOR/DME-B, Original, cancelled
El Campo, TX—El Campo Air Park, VORTAC Rwy 17, Original, cancelled

* * * *Effective July 8, 1977.*

Scappoose, OR—Scappoose Industrial Airpark, VOR/DME-A, Amdt. 1

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * *Effective September 1, 1977.*

Alton, IL—Civic Memorial, LOC(BC) Rwy 11, Amdt. 1
Greenville, NC—Pitt-Greenville, SDF Rwy 19, Amdt. 2

* * * *Effective July 11, 1977.*

Wrangell, AK—Wrangell, LDA/DME-C, Amdt. 3

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * *Effective September 8, 1977.*

Ardmore, OK—Ardmore Municipal, NDB Rwy 8, Amdt. 12

* * * *Effective September 1, 1977.*

Alton, IL—Civic Memorial, NDB Rwy 17R, Amdt. 5
Alton, IL—Civic Memorial, NDB Rwy 29, Amdt. 3
Greenville, NC—Pitt-Greenville, NDB Rwy 19, Amdt. 8
Roanoke Rapids, NC—Halifax County, NDB Rwy 5, Amdt. 1
Rocky Mount, NC—Rocky Mount-Wilson, NDB Rwy 4, Amdt. 1
Williamston, NC—Martin County, NDB Rwy 21, Amdt. 1
Wilson, NC—Wilson Municipal, NDB Rwy 3, Amdt. 1

* * * *Effective August 11, 1977.*

Hudson, NY—Columbia County, NDB-A, Amdt. 1

* * * *Effective July 28, 1977.*

Buffalo, OK—Buffalo Municipal, NDB-A, Original

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * *Effective September 1, 1977.*

Alton, IL—Civic Memorial, ILS Rwy 29, Amdt. 3
Rocky Mount, NC—Rocky Mount-Wilson ILS Rwy 4, Amdt. 6
Columbia, SC—Columbia Metropolitan, ILS Rwy 29, Amdt. 2

* * * *Effective August 11, 1977.*

St. Louis, MO—Lambert-St. Louis International, ILS Rwy 12R, Amdt. 10

5. By amending § 97.33 RNAV SIAPs identified as follows:

* * * *Effective September 8, 1977.*

Neosho, MO—Neosho Memorial, RNAV Rwy 18, Original
Tulsa, OK—Tulsa International, RNAV Rwy 17L, Amdt. 3
Tulsa, OK—Tulsa International, RNAV Rwy 17R, Amdt. 1, cancelled
Tulsa, OK—Tulsa International, RNAV Rwy 35L, Amdt. 1, cancelled
Tulsa, OK—Tulsa International, RNAV Rwy 35R, Amdt. 2

* * * *Effective September 1, 1977.*

Alton, IL—Civic Memorial, RNAV, Rwy 29, Amdt. 2
Columbia, SC—Columbia Metropolitan, RNAV Rwy 5, Amdt. 4
Greenville, NC—Pitt-Greenville, RNAV Rwy 25, Amdt. 1

* * * *Effective August 25, 1977.*

San Antonio, TX—San Antonio International, RNAV Rwy 21L, Amdt. 1, cancelled

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 15, 1977.

JAMES M. VINES,
*Chief, Aircraft Programs Division.*

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.77-20920 Filed 7-20-77;8:45 am]

## Title 22—Foreign Relations

### CHAPTER X—INTER-AMERICAN FOUNDATION

### PART 1003—RULES SAFEGUARDING PERSONAL INFORMATION IN IAF RECORDS

**Adoption of Rules; Correction**

AGENCY: Inter-American Foundation.

ACTION: Correction.

SUMMARY: The Inter-American Foundation is correcting § 1003.3(d) as it appeared in the FEDERAL REGISTER on May 11, 1976, on page 19212.

EFFECTIVE DATE: July 21, 1977.

ADDRESS: Inter-American Foundation, 1515 Wilson Blvd., Rossyln, Va. 22209.

FOR FURTHER INFORMATION CONTACT:

Elizabeth Veatch, 703-841-3864.

SUPPLEMENTARY INFORMATION: The May 11, 1976 publication left off a sentence in § 1003.3(d).

In FR Doc. 76-13625 appearing at page 19211 in the issue of May 11, 1976, on page 19212 in the third column add the following to § 1003.3(d).

WILLIAM M. DYAL, Jr.,
*President.*

**§ 1003.3 Access to records.**

* * * * *

(d) In any disclosure, containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under paragraph (c) of this section, the Inter-American Foundation will clearly note any part of the record which is disputed and provide copies of the statement (and, if the Inter-American Foundation deems it appropriate, copies also of a concise statement of the Inter-American Foundation's reasons for not making the amendments requested) to persons or other agencies to whom the disputed record has been disclosed.

* * * * *

[FR Doc.77-20981 Filed 7-20-77;8:45 am]

## Title 33—Navigation and Navigable Waters

### CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-45]

### PART 110—ANCHORAGE REGULATIONS

**Special Anchorage Area, Monterey Harbor, California**

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the width and orientation of the fairway passing through the special anchorage in Monterey Harbor, California. The need for this amendment has developed over the years as a result of increased boat traffic and an increase in the number of vessels regularly using the moorings in the harbor. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

EFFECTIVE DATE: This amendment is effective August 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1477).

SUPPLEMENTARY INFORMATION: On December 20, 1976 the Coast Guard published a proposed rule (41 FR 55366) concerning this amendment. Interested persons were given until February 3, 1977 to submit comments. No comments were received.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: LCDR H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Mr. S. D. Jackson, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, Part 110 of Title 33 Code of Federal Regulations is amended by revising § 110.126 to read as follows:

**§ 110.126 Monterey Harbor, California.**

The waters of Monterey Harbor between the shoreline and the following coordinates: Beginning at a point on the Coast Guard Wharf at latitude 36°36'-33.2'' N., longitude 121°53'29.8'' W.; thence to latitude 36°36'32.4'' N., longitude 121°53'31'' W.; thence in an easterly direction to latitude 36°36'27.8'' N., longitude 121°53'16'' W.; thence to latitude 36°36'20'' N.; longitude 121°52'58'' W.; thence to the shoreline at latitude 36°36'04'' N.; longitude 121°52'54'' W.; excluding from this area a fairway 125 feet wide whose centerline begins at latitude 36°36'27.8'' N.; longitude 121°53'-16'' W.; and extends 205°, approximately 405 feet to latitude 36°36'24'' N.; longitude 121°53'18.3'' W.; thence 225° approximately 850 feet to the Monterey Marina entrance. Also excluded are the waters between this fairway and the north end of Municipal Wharf No. 2 and the eastern part of Municipal Wharf No. 1.

(Sec. 1, 30 Stat. 98, as amended, (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat. 937; (49 U.S.C. 1655(g)(1)(B)), 49 CFR 1.46(c)(2).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: July 14, 1977.

O. W. SILER,
*Admiral, U.S. Coast Guard Commandant.*

[FR Doc.77-20999 Filed 7-20-77;8:45 am]

## Title 47—Telecommunication

### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21007; RM-2736]

### PART 73—FM BROADCAST STATIONS: CHANGES IN TABLE OF ASSIGNMENTS

**Fort Myers Beach, Fla.; Report and Order, Proceeding Terminated**

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a Class A FM channel to Fort Myers Beach, Florida. Petitioner, Stoner Broadcasting Systems, Inc., states that substantial growth of the community over the past few years established a need for a local broadcast outlet in Fort Myers Beach.

DATE: Effective August 23, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, (202-632-7792).

SUPPLEMENTARY INFORMATION:

Adopted: July 5, 1977.

Released: July 13, 1977.

By the Chief, Broadcast Bureau.

In the matter of amendment of § 73.202(b), Table of Assignments, FM broadcast stations (Fort Myers Beach, Florida) (Docket No. 21007, RM-2736).

1. The Commission has before it the Notice of Proposed Rulemaking, adopted November 29, 1976, 41 FR 54203, proposing the assignment of Channel 257A to Fort Myers Beach, Florida, as its first FM assignment. The proceeding was instituted on the basis of a petition filed by Stoner Broadcasting Systems, Inc. ("petitioner"). Supporting comments were filed by petitioner, Laurinburg Broadcasting Company and Kelan Corporation. Opposing comments were filed by Lee County FM, Inc., licensee of Station WAK-FM, Lehigh Acres, Florida.

2. Fort Myers Beach (pop. 4,305), an unincorporated community consisting of two islands (Estero and San Carlos) in Lee County (pop. 105,216),[1] is located just off the west coast of Florida, approximately 193 kilometers (120 miles) northwest of Miami. It has no local broadcast service. However, due to its close proximity to the community of Fort Myers, it does receive a number of AM and FM services.

3. Petitioner states that the economy of Fort Myers Beach consists principally of tourism and commercial fishing, and that the area's population was 75% greater in 1970 than it was in 1960. It describes a strong sense of community identity (in part attributable to its character as two islands with definite boundaries) on the part of its residents and notes substantial growth over the past few years which it alleges establishes a need for a local broadcast outlet in Fort Myers Beach.

4. Petitioner's study indicates preclusion would occur on Channels 257A and 258 for small areas with low population density. It also indicates that, consistent with spacing requirements, the transmitter may be located on Estero Island or on the nearby mainland and from either site would be able to provide the required 70 dBu signal over the entire community.

5. In opposing comments, Lee County FM, Inc. ("Lee"), argues that Fort Myers Beach is not a community within the contemplation of the Commission's rules and that the proposed assignment really looks toward the establishment of an FM station to program for and derive revenues from the larger nearby community of Fort Myers. It contends that Fort Myers Beach is dependent upon and derives the bulk of its services and facilities from Lee County in which it is located. Lee asserts that the increase in population of some 1,842 persons over a ten-year period in Fort Myers Beach is clearly not substantial and does not suggest there will be significant, further growth. It contends that Fort Myers Beach's proximity, its satellite-like reliance upon Fort Myers and Lee County in general, and the plethora of nearby radio stations, make it inconceivable that a station operating as proposed could realistically look toward serving and/or deriving its sustenance mainly from Fort Myers Beach.

6. In reply, petitioner states that the Commission has authorized many stations in communities the size of Fort Myers Beach, or even smaller. It asserts that its proposal to assign an FM channel to Fort Myers Beach is entirely consistent with Section 307(b) of the Communications Act of 1934, as amended, and is amply supported by precedent.[2]

7. Although it is unincorporated we believe that Fort Myers Beach is a community within the meaning of our rules. It has definable boundaries and a sense of common need as evidenced by its fire department, school, churches, library, medical clinic, shopping centers, social organizations, and a weekly newspaper. The principal test is whether the residents function as and conceive of themselves as residents of a community around which their interests coalesce.[3] In this case, we believe the test has been met.

8. Lee questions the need for local service in Fort Myers Beach, alleging that it is virtually inundated with radio service. However, such coverage is not a substitute for a local transmission service to address the particular needs of the

[1] Population figures are taken from the 1970 U.S. Census.

[2] Denton, Maryland, 38 R.R. 2d 581 (1976); Baldwyn, Mississippi, 37 R.R. 2d 841 (1976); Blair, Nebraska and Harlan, Iowa, 60 F.C.C. 2d 511 (1976); Sun Valley, Idaho, 37 R.R. 2d 843 (1976); Saegertown, Pennsylvania, 38 R.R. 2d 913 (1976); LaBelle, Florida, 37 R.R. 2d 728 (1976).

[3] Yorktown, Va., Notice, 38 FR 26203 (1973).







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community. Although located near Fort Myers, Fort Myers Beach is separate from it with its own needs. The proposal is for a Class A station appropriate to serve those needs and we note petitioner is not the licensee of a station at Fort Myers. The record is sufficient to resolve any concern that the intent is to serve Fort Myers rather than Fort Myers Beach. Finally, Lee questions the ability of Fort Myers Beach to support a station unless it derived revenues from the larger nearby community of Fort Myers. However, we have no evidence before us to establish that Fort Myers Beach could not provide enough advertising support to sustain a station, but even if it could not there is nothing improper about obtaining advertising from outside the prineipal community.

9. In view of the foregoing, *it is ordered*, That effective August 23, 1977, the FM Table of Assignments (§ 73.202 (b) of the Commission's Rules) is amended to read as follows:

| City | Channel No. |
|---|---|
| Fort Myers Beach, Fla | 257A |

10. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

11. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
*Chief, Broadcast Bureau.*

[FR Doc.77-20985 Filed 7-20-77;8:45 am]

## Title 49—Transportation

### CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

### SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

[Amdt. No. 76-4]

### PART 391—QUALIFICATION OF DRIVERS

#### Retention Time for Periodically Obtained Records

AGENCY: Federal Highway Administration.

ACTION: Final rule.

SUMMARY: This rule establishes a minimum retention period of 3 years for periodic records obtained in accordance with the Federal Motor Carrier Safety Regulations (FMCSR). Driver qualification files presently maintained by a motor carrier may contain outdated periodic documents of little value. This rule will permit a motor carrier to remove and dispose of a periodically obtained document at the end of the retention period.

EFFECTIVE DATE: July 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Principal Program Contact—Gerald J. Davis, Chief, Driver Requirements Branch, Regulations Division, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590 (202-426-9767).

Principal Lawyer—Francis J. Mulcahy, Attorney, Motor Carrier and Highway Safety Law Division, Office of the Chief Counsel, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590 (202-426-0834).

SUPPLEMENTARY INFORMATION: A petition was filed by Suburban Propane, Whippany, New Jersey, requesting that a reasonable retention period be established for those periodic records obtained under section 391.51 of the FMCSR. The petitioner contends that qualification files for drivers who have been employed for many years are filled with outdated records of little or no value.

As the Regulations now stand, a driver's qualification file, including all documents contained within, "shall be kept at the motor carrier's principal place of business for as long as a driver is employed by that motor carrier and for 3 years thereafter."

A 3-year retention period of the medical examiner's certificate, the notation relating to the annual review of a driver's driving record, the list of certificate relating to violations of motor vehicle traffic laws, the letter granting the physical disqualification waiver, and other safety-related matters is considered adequate for safety purposes.

This amendment will reduce the paperwork burden upon businesses.

It has been determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Accordingly, 49 CFR Chapter III is amended as follows:

1. By revising § 391.51(f) and adding a new (h) to read as follows:

**§ 391.51 Driver qualification files.**

* * * * *

(f) Except as provided in paragraphs (g) and (h) of this section, each driver's qualification file shall be kept at the motor carrier's principal place of business for as long as a driver is employed by that motor carrier and for 3 years thereafter.

* * * * *

(h) The following records may be removed from a driver's qualification file after 3 years from date of execution:

(1) The medical examiner's certificate of his physical qualification to drive a motor vehicle or the photographic copy of the certificate as required by § 391.43 (d).

(2) The note relating to the annual review of his driving record as required by § 391.25.

(3) The list or certificate relating to violations of motor vehicle laws and ordinances as required by § 391.27.

(4) The letter issued under § 391.49 granting a waiver of a physical disqualification.

2. By revising § 391.49(g) to read as follows:

**§ 391.49 Waiver of certain physical defects.**

* * * * *

(g) If the Director grants a waiver, he will notify each applicant by a letter, which sets forth the terms, conditions, and limitations of the waiver. The motor carrier shall retain the letter (or a legible copy of it) in its files. The individual applicant shall have the letter (or a legible copy of it) in his possession whenever he drives a motor vehicle or is otherwise on duty.

(Sec. 204, Interstate Commerce Act, as amended, (49 U.S.C. 304); sec. 6, Department of Transportation Act (49 U.S.C. 1655), and the delegations of authority by the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 301.60, respectively)).

Issued on July 12, 1977.

ROBERT A. KAYE,
*Director, Bureau of Motor Carrier Safety.*

[FR Doc.77-20898 Filed 7-20-77;8:45 am]

### CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket 74-25; Notice 05]

### PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

#### Passenger Car Tires; Correction

AGENCY: National Highway Traffic Safety Administration.

ACTION: Correction.

SUMMARY: This notice corrects an error published in the FEDERAL REGISTER on March 7, 1977, in an amendment of Standard No. 109, New Pneumatic Tires—Passenger Cars. In that notice, an incorrect load value was listed for Table I-KK.

EFFECTIVE DATE: July 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Arturo Casanova, Office of Crash Avoidance, Motor Vehicle Programs, National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, D.C. 20590 (202-426-1715).

SUPPLEMENTARY INFORMATION: On March 7, 1977, the NHTSA published a final rule amending Standard No. 109, New Pneumatic Tires—Passenger Cars (42 FR 12869). That amendment added to Appendix A a new table, Table I-KK. The Rubber Manufacturers Association has indicated that the load value specified in the column under 160 kPa should be changed from 660 kilograms to 665 kilograms.

Accordingly, Volume 49, Code of Federal Regulations, § 571.109, Appendix A, Table I-KK is amended to read:

**§ 571.109 [Amended]**

* * * * *

| | | |

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The giant anole is a rare lizard which may survive only in the canopy of mountain forest on Mt. Resaca. The fan-leafed palm is the tallest tree in such forest, and, as with the semi-moist forest in general is quickly disappearing because of man's activities. Unless the remaining forest on the slopes of Mt. Resaca is preserved, the specialized habitat of this lizard is threatened with destruction.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable for this species.

(3) *Disease or predation.* Unknown.

(4) *The inadequacy of existing regulatory mechanisms.* There are no existing regulatory measures to protect this species.

(5) *Other natural or manmade factors affecting its continued existence.* None.

CRITICAL HABITAT

The Director has considered all comments and data submitted in response to the proposed determination of critical habitat for the giant anole (42 FR 2101–2102).

Based on this review, and incorporating the suggestions received by the Puerto Rico Department of Natural Resources, critical habitat for the giant anole, *Anolis roosevelti*, is determined to include the following area (exclusive of those existing man-made structures or settlements which are not necessary to the normal needs or survival of the species):

(1) An area on Culebra Island as outlined on the map at the end of this final rulemaking (because there are no physical landmarks on which to base a verbal description, reference should be made to this map).

EFFECT OF THE RULEMAKING

The effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below.

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all endangered species. The regulations referred to above, which pertain to endangered species, are found at § 17.21 of Title 50 and, for the convenience of the reader, are reprinted below:

*§ 17.21 Prohibitions.*

(a) Except as provided in subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientic study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c)(2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

(5) Notwithstanding paragraph (c)(1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties take endangered species, for conservation programs in accordance with the cooperative agreement, provided that such taking is not reasonably anticipated to result in: (i) the death or permanent disabling of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in captivity for a period of more than 45 consecutive days.

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

*Example.* A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d)(1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

The determination set forth in this final rulemaking also makes the giant anole eligible for the consideration provided by section 7 of the Act. That section reads as follows:

INTERAGENCY COOPERATION

SEC. 7. The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of the act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

The Director has prepared, in consultation with an ad hoc interagency committee, guidelines for Federal agencies for the application of section 7 of the act. In addition, proposed provisions for interagency cooperation were published on January 26, 1977, in the FEDERAL REGISTER (42 FR 4868–4875) to assist Federal agencies in complying with section 7.

Regulations which appear in Part 17, Title 50 of the Code of Federal Regulations were first published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412), and provide for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened species under certain circumstances.

EFFECT INTERNATIONALLY

In addition to the protection provided by the act, the Service will review the giant anole to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate appendix(ices) to that Convention or whether it should be considered under other, appropriate international agreements.

NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. It addresses this action as it involves the giant anole. The assessment is the basis for a decision that this determination is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

This rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (U.S.C. 1531–1543; 87 Stat. 884), and was prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species (202–343–7814).

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 5, 1977.

LYNN A. GREENWALT,
*Director,*
*Fish and Wildlife Service.*

Accordingly § 17.11 of Part 17 of Chapter 1 of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. By adding the giant anole to the list under "Reptiles" as indicated below:

**§ 17.11 Endangered and threatened wildlife.**

* * * * *

| Species | | | Range | | | | |
|---|---|---|---|---|---|---|---|
| Common name | Scientific name | Population | Known distribution | Portion of range where threatened or endangered | Status | When listed | Special rules |
| Reptiles: Anole, Giant | *Anolis roosevelti* | NA | Culebra Island | Entire | E | | NA |

50 CFR Part 17 is further amended to read:

**§ 17.95 Critical habitat—fish and wildlife.**

(c) Reptiles. * * *

(4) *Giant anole.* (i) The following area (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) is critical habitat for the giant anole.

(A) An area on Culebra Island as outlined by the shaded area on the following map:




CRITICAL HABITAT FOR THE GIANT ANOLE ON CULEBRA ISLAND

(ii) Pursuant to section 7 of the act, all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the critical habitat area.

* * * * *

[FR Doc.77-20889 Filed 7-20-77;8:45 am]

## PART 32—HUNTING

### Opening of Big Stone National Wildlife Refuge, Minnesota, to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to big game hunting of Big Stone National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977 through November 28, 1977

FOR FURTHER INFORMATION CONTACT:

Charles W. Gibbons, Refuge Manager, 25 NW 2nd Street, Ortonville, Minnesota 56278. Phone 612–839–3700.

SUPPLEMENTARY INFORMATION:

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

Big game hunting is permitted on the Big Stone National Wildlife Refuge, Minnesota, only on the area designated by signs as being open to hunting. This area comprising approximately 4,000 acres is delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Big game hunting shall be in accordance with all applicable state regulations subject to the following conditions:

1. Legal species include white-tailed deer only.

2. Public use of the hunting area shall be during daylight hours only.

3. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

JULY 15, 1977.

CHARLES W. GIBBONS,
*Refuge Manager.*

[FR Doc.77-20905 Filed 7-20-77;8:45 am]

## PART 32—HUNTING

### Opening of Big Stone National Wildlife Refuge, Minnesota, to Upland Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Big Stone National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 17, 1977, through November 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles W. Gibbons, Refuge Manager, 25 NW 2nd Street, Ortonville, Minnesota 56278 Phone 612–839–3700.

SUPPLEMENTARY INFORMATION:

**§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.**

Upland game hunting is permitted on the Big Stone National Wildlife Refuge, Minnesota, only on the area designated by signs as being open to hunting. This area comprising approximately 4,000 acres is delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Upland game hunting shall be in accordance with all applicable state regulations subject to the following conditions:

1. All seasons close at sunset, November 30, 1977.

2. Public use of the hunting area shall be during daylight hours only.

3. Legal species include Hungarian partridge, cottontail rabbit, gray and fox squirrel, and ring-necked pheasant only.

The provisions of this special regulation supplement the regulations which





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govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

CHARLES W. GIBBONS,
*Refuge Manager.*

JULY 15, 1977.

[FR Doc.77-20906 Filed 7-20-77;8:45 am]

## PART 32—HUNTING

### Certain National Wildlife Refuges in California

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: These special regulations describe the conditions under which public hunting will be permitted on portions of certain National Wildlife Refuges in California.

EFFECTIVE DATES: August 27, 1977 through June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

The Refuge Manager at the address or telephone number listed below in the body of Special Regulations.

SUPPLEMENTARY INFORMATION:

GENERAL CONDITIONS

Hunting on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional Special Regulations and conditions as indicated. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges are listed on the reverse side of maps available at refuge headquarters. No vehicle travel is permitted except on designated roads and trails.

**§ 32.12 Special Regulations: Migratory Game Birds; for individual wildlife refuge areas.**

*Salton Sea National Wildlife Refuge*, P.O. Box 247, Calipatria, California 92233, Telephone Number (714) 348-2323.

*Kern National Wildlife Refuge*, P.O. Box 219, Delano, California 93215, Telephone Number (805) 725-2767.

*Merced National Wildlife Refuge*, (Headquarters: San Luis National Wildlife Refuge, P.O. Box 2176, Los Banos, California 93215, Telephone Number (805) 725-2767).

Migratory game birds, except pigeons and doves, may be hunted on the following refuge areas:

*Sacramento National Wildlife Refuge*, Route 1, Box 311, Willows, California 95988, Telephone Number (916) 934-4090.

*Colusa National Wildlife Refuge*, Route 1, Box 311, Willows, California 95988, Telephone Number (916) 934-4090.

*Delevan National Wildlife Refuge*, Route 1, Box 311, Willows, California 95988, Telephone Number (916) 934-4090.

*Sutter National Wildlife Refuge*, Route 1, Box 311, Willows, California 95988, Telephone Number (916) 934-4090.

*Kesterson National Wildlife Refuge*, P.O. Box 2176, Los Banos, California 93635, Telephone Number (209) 826-3508.

*San Luis National Wildlife Refuge*, P.O. Box 2176, Los Banos, California 93635, Telephone Number (209) 826-3508.

*Clear Lake National Wildlife Refuge* (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134, Telephone Number (916) 667-2231).

Special Conditions: 1. Boats with or without motors are permitted. Air-thrust and inboard water-thrust boats are prohibited.

2. All decoys, boats, and other personal property must be removed from the refuge at the close of each day.

3. No person may possess any weapon or ammunition that may not be legally used for the taking of waterfowl or pheasant.

*Lower Klamath National Wildlife Refuge*, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134, Telephone Number (916) 667-2231).

Special Conditions: 1. During the first two days of waterfowl season, all hunters, 16 years of age and older, must have in their possession an entry permit for the controlled hunting unit in which they are hunting.

2. Posted retrieving zones are established on certain hunting units. Possession of firearms in these retrieving zones is prohibited, except, unloaded firearms may be taken through these zones when necessary to reach or leave hunting areas. Decoys may not be set in retrieving zones.

3. Boats with or without motors are permitted. Air-thrust and inboard water-thrust boats are prohibited.

4. All decoys, boats, and other personal property must be removed from the refuge at the close of each day.

5. Bow hunters must follow the same regulations as firearm hunters, the use of long bow is permitted.

6. Legal waterfowl shooting hours end at 1 p.m., daily on all California portions of the refuge.

7. No person may possess any weapon or ammunition that may not be legally used for the taking of waterfowl or pheasants.

*Tule Lake National Wildlife Refuge*, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134, Telephone Number (916) 667-2231).

Special Conditions: 1. During the first two days of waterfowl season, all hunters, 16 years of age and older, must have in their possession an entry permit for the controlled hunting unit in which they are hunting.

2. Posted retrieving zones are established on certain hunting units. Possession of firearms in these retrieving zones is prohibited, except, unloaded firearms may be taken through these zones when necessary to reach or leave hunting areas. Decoys may not be set in retrieving zones.

3. Boats with or without motors are permitted. Air-thrust and inboard water-thrust boats are prohibited.

4. All decoys, boats, and other personal property must be removed from the refuge at the close of each day.

5. In designated spaced-blind areas, hunters may not possess any loaded firearm further than 100 feet from the established blind stakes. Hunters will select blind sites by lottery at the beginning of each day's hunt. Hunters may shoot only from within their assigned blind sites.

6. No person may possess any weapon or ammunition that may not be legally used for taking waterfowl or pheasants. Certain assigned blinds will be limited to possession and use of designated steel or shot loads in conjunction with a scientific study.

7. The use of long bow is permitted. Bow hunters must follow the same regulations as firearm hunters.

8. Legal waterfowl shooting hours end at 1 p.m., daily.

*Modoc National Wildlife Refuge*, P.O. Box 1610, Alturas, California 96101, Telephone Number (916) 233-3572.

Special Conditions: 1. First weekend only, entry permits are required to enter the hunting area for every individual with the exception of persons under 16 years of age.

2. After first weekend, hunting permitted on Tuesdays, Thursdays, and Saturdays during authorized seasons.

3. Hunters are required to enter hunting area via designated parking sites.

4. Hunting area is open for access from 90 minutes prior to legal shooting hours until 90 minutes after sunset on days hunting is permitted.

**§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.**

Ring-necked pheasant only may be hunted on the following refuge areas:

*Colusa National Wildlife Refuge*, Route 1, Box 311, Willows, California 95988, Telephone number (916) 934-4090.

*Delevan National Wildlife Refuge*, Route 1, Box 311, Willows, California 95988, Telephone Number (916) 934-4090.

*Kern National Wildlife Refuge*, P.O. Box 219, Delano, California 93215, Telephone Number (805) 725-2767.

*Merced National Wildlife Refuge*, P.O. Box 2176, Los Banos, California 93635, Telephone Number (209) 826-3508.

*Sacramento National Wildlife Refuge*, Route 1, Box 311, Willows, California 95988, Telephone Number (916) 934-4090.

*Sutter National Wildlife Refuge*, Route 1, Box 311, Willows, California 95988, Telephone Number (916) 934-4090.





*Lower Klamath National Wildlife Refuge*, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134, Telephone Number (916) 667-2231).

Special Conditions: 1. Additional refuge area designated by special posting will be open to a special 4-day pheasant hunt.

2. Pheasants may not be hunted in retrieving zones.

3. Daily limit is two male pheasants during The Special Hunt.

*Tule Lake National Wildlife Refuge*, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134, Telephone Number (916) 667-2231).

Special Conditions: 1. Additional refuge area designated by special posting will be open to a special 4-day pheasant hunt.

2. Pheasants may not be hunted in retrieving zones.

3. Daily limit is two male pheasants during The Special Hunt.

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

*Clear Lake National Wildlife Refuge*, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, California 96134, Telephone Number (916) 667-2231).

Special Conditions: 1. Antelope only may be hunted and only during the period of August 27 through September 5, 1977.

2. Only five hunters shall be allowed on the Peninsula "U" section at any one time, on a first-come first-served basis. The area will be open the following days: August 27, August 28, September 3, 4, and 5, 1977. Entrance will be granted only at the gate located on the Clear Lake Road. This station will be opened from 6 a.m. to one hour after sundown. The refuge will be closed when the kill quota is reached even though the season may still be open.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

WILLIAM W. SWEENEY,
*Area Manager, California-Nevada, U.S. Fish and Wildlife Service.*

[FR Doc.77-21002 Filed 7-20-77;8:45 am]

## PART 32—HUNTING

### Certain National Wildlife Refuges in Nevada

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: These special regulations describe the conditions under which public hunting will be permitted on portions of certain National Wildlife Refuges in Nevada.

EFFECTIVE DATES: August 27, 1977 through June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

The Refuge Manager at the address or telephone number listed below in the body of Special Regulations.

SUPPLEMENTARY INFORMATION:

GENERAL CONDITIONS

Hunting on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional Special Regulations and conditions as indicated. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges are listed on the reverse side of maps available at refuge headquarters. No vehicle travel is permitted except on designated roads and trails.

**§ 32.12 Special Regulations: Migratory Game Birds; for individual wildlife refuge areas.**

Migratory game birds may be hunted on the following refuges:

*Fallon National Wildlife Refuge*, P.O. Box 592, Fallon, Nevada 89406, Telephone Number 702-423-5128.

*Stillwater Wildlife Management Area*, P.O. Box 592, Fallon, Nevada 89406, Telephone Number 702-423-5128.

*Pahranagat National Wildlife Refuge*, P.O. Box 232, Alamo, Nevada 89001, Telephone Number 702-725-3417.

Special Conditions: 1. The use of boats or other floating devices are not permitted.

2. Refuge closed to goose and snipe hunting.

3. Special dove hunting regulations are in effect opening day through the following Monday. All dove hunters, 14 years or older, must have a refuge permit during this period.

*Ruby Lake National Wildlife Refuge*, Ruby Valley, Nevada 89833, Telephone Number 702-779-2237.

Special Conditions: Migratory birds, except doves and pigeons, may be hunted.

**§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.**

Upland game may be hunted on the following refuge areas:

*Fallon National Wildlife Refuge*, P.O. Box 592, Fallon, Nevada 89406, Telephone Number 702-423-5128.

*Pahranagat National Wildlife Refuge*, P.O. Box 232, Alamo, Nevada 89001, Telephone Number 702-725-3417.

Special Condition: Quail and cottontail rabbit only may be hunted.

*Charles Sheldon Antelope Range*, Nevada (Headquarters: P.O. Box 111, Lakeview, Oregon 97630, Telephone Number 503-947-3315.

Special Conditions: Trapping is prohibited.

*Stillwater Wildlife Management Area*, P.O. Box 592, Fallon, Nevada 89406, Telephone Number 702-423-5128.

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

Big game animals may be hunted on the following refuge areas:

*Desert National Wildlife Range*, 1500 North Decatur Boulevard, Las Vegas, Nevada 89108, Telephone Number 702-878-9617.

Special Condition: Desert bighorn sheep only may be hunted.

*Charles Sheldon Antelope Range*, Nevada (Headquarters: P.O. Box 111, Lakeview, Oregon 97630, Telephone Number 503-947-3315.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

WILLIAM W. SWEENEY,
*Area Manager, California-Nevada U.S. Fish and Wildlife Service.*

[FR Doc.77-21003 Filed 7-20-77;8:45 am]

## Title 10—Energy

## CHAPTER I—NUCLEAR REGULATORY COMMISSION

## PART 51—LICENSING AND REGULATORY POLICY AND PROCEDURES FOR ENVIRONMENTAL PROTECTION

### Uranium Fuel Cycle Impacts From Spent Fuel Reprocessing and Radioactive Waste Management; Reopened Hearing; Prehearing Conference

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of Prehearing Conference.

SUMMARY: The prehearing conference will establish procedural dates and the nature of participation by interested parties in further proceedings to be held in accordance with the Commission's Notice of Reopened Hearing, in the matter of Licensing of Production and Utilization of Facilities (Environmental Effects of the Uranium Fuel Cycle), published at 42 FR 26987; May 26, 1977.

All persons who intend to present views at the hearing or who have given an indication to the Secretary of the Commission, as provided for in the above-referenced Notice of Reopened Hearing are invited to attend this prehearing conference and to participate therein.

DATES: Prehearing Conference will convene at 10 a.m. on Thursday, July 28, 1977.

ADDRESS: Prehearing conference will be held in the Commission's Hearing Room (Fifth Floor), East-West Towers, 4340 East-West Highway, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank L. Ingram, Office of Public Affairs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-499-7715.

Dated this 15th day of July 1977, at Washington, D.C.

MICHAEL L. GLASER,
*Chairman, Hearing Board.*

[FR Doc.77-21239 Filed 7-20-77;9:46 am]



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Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 765-4]

# PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

## Texas

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule amends the photochemical oxidant (hydrocarbon) control strategy promulgated for Texas on November 6, 1973. The National Ambient Air Quality Standard (NAAQS) for photochemical oxidants continues to be exceeded in parts of Texas. The measures being promulgated by the Environmental Protection Agency (EPA) at this time are not sufficient to demonstrate attainment of the NAAQS for oxidants; therefore, this plan must be considered as an interim plan only and further measures will be considered as more data become available. Reduction in the peak levels and frequency of violations of the standard can be accomplished through application of reasonable control strategies, and are the goals of this interim plan.

EFFECTIVE DATE: July 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Oscar Cabra, Jr., Chief, Technical Support Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region VI, Dallas, Texas 75270, (214-749-3837).

SUPPLEMENTARY INFORMATION:

### Background

On November 11, 1976 the EPA proposed amendments to the photochemical oxidant (hydrocarbon) control strategy for Texas. The need for these amendments was discussed in the FEDERAL REGISTER of that date, and detailed in the EPA's technical support document entitled "Hydrocarbon/Photochemical Oxidant Control Strategy for the State of Texas," January 1976. The measures were proposed as an interim plan to reduce the peak levels and frequency of violations of the oxidant standard in Texas, but they were not viewed as sufficient controls to attain the standard. Possible long-range controls to enable Texas to meet the oxidant standard were outlined in the November FEDERAL REGISTER. Comments on the proposed measures and the possible long-range controls were requested. Public hearings on the measures were held in Houston, San Antonio and Dallas, Texas on December 14, 15 and 16, 1976, respectively.

The measures promulgated today involve the following: The extension of Texas Air Control Board Regulation V to Tarrant and Hardin Counties, the control of evaporative losses from the filling of gasoline storage vessels in the Houston, San Antonio and Dallas-Fort Worth areas, the control of evaporative losses from storage vessels for crude petroleum in Brazoria, Dallas, El Paso, Galveston, Hardin, Harris, Jefferson, Matagorda, Montgomery, Nueces, Orange, San Patricio, and Tarrant Counties, an incentive program to reduce vehicle emissions through increased bus and carpool use, a carpool matching and promotion system, an employer mass transit and carpool incentive program, and a transportation mode trends monitoring regulation.

The measures promulgated today are modified from the proposed regulations based on the comments received. The hydrocarbon emission reductions achievable by implementation of these measures remain as estimated in the November 11, 1976 FEDERAL REGISTER. Only the timing of these reductions is affected by the modification of the proposed regulations. The relevant comments and resulting changes are discussed in the following sections.

### General Comments

Eighteen persons representing private firms, private citizens, and state and local governments questioned the appropriateness of the National Ambient Air Quality Standards for hydrocarbons and photochemical oxidants and the relationship between hydrocarbon emissions and the formation of oxidants. The Agency will continue to review these issues. Region VI has forwarded all such comments, studies and data to EPA's Environmental Sciences Research Laboratory in Research Triangle Park, North Carolina, for analysis. The validity of the standard is not an issue, however, in this rulemaking.

The regulations promulgated today are directed at those areas within Texas having the most severe oxidant problems in an attempt to reduce peak levels, which are two to four times the standard, and to reduce the frequency of violations. Attainment of the oxidant standard cannot be demonstrated from implementation of these measures. Possible long-range controls to enable Texas to make further progress towards attaining the standard were outlined in the November proposed rulemaking. The possible measures included control of hydrocarbon losses from ship and barge loading, degreasing operations, and an inspection/maintenance program for motor vehicles. Comments were received on these long-range measures and will be considered in development of relevant proposed regulations. No action is being taken on the long-range measures in this promulgation.

Public comments were solicited on the recently reproposed Stage II vapor recovery regulations (published in the FEDERAL REGISTER, November 1, 1976, at 41 FR 48043). The proposed regulation for Stage II was not included as part of the amended Texas oxidant control plan published on November 11, 1976, but would impact the Dallas/Fort Worth and Houston/Galveston areas. All comments received on Stage II vapor recovery were forwarded to Peter Principe, EPA Mobile Source Enforcement Division, Washington, D.C. Final action on Stage II will take place at a later date as part of a national promulgation.

### Extension of Regulation V

Texas Air Control Board (TACB) Regulation V (as adopted on April 10, 1973) for control of volatile carbon compounds was extended to Bell, McLennan, Hardin, and Tarrant Counties in Texas in the November 6, 1973 promulgation. The extension to Tarrant and Hardin Counties was upheld by the U.S. Fifth Circuit Court of Appeals in the August 7, 1974 decision and compliance was required by May 31, 1975. The extension to Tarrant and Hardin Counties as proposed in the November 11, 1976 FEDERAL REGISTER § 52.2283 merely clarified wording of the existing regulation and dropped the extension to Bell and McLennan Counties.

All comments received on this reproposal requested an extension of the compliance date from the original May 31, 1975 to a future date. Suggested dates included May 1981, or alternately, the TACB proposed date of February 29, 1980. One oil company, two refiners, and the Texas Air Control Board suggested February 29, 1980 as a realistic yet expeditious date for compliance.

Because of the uncertainty surrounding the original compliance date of May 1975, the EPA feels an extension of the final compliance date to February 29, 1980 is justified, and will result in hydrocarbon control as expeditiously as is practical. Thus, the regulation promulgated today to extend the TACB Regulation V to Tarrant and Hardin Counties shows a changed final compliance date of February 29, 1980.

It should be noted that a portion of the TACB Regulation V concerns the control of evaporative losses from gasoline loading facilities, and requires submerged fill pipes on storage vessels, as does the EPA regulation promulgated today in § 52.2286. Regulation V applies to facilities having 20,000 gallons or more throughput per day while Section 52.2286 does not exempt facilities on a throughput basis. In addition, the final compliance date for extension of Regulation V, as promulgated today is February 29, 1980, while the compliance date of Section 52.2286 is September 30, 1978. Thus, for Tarrant County, there is a conflict in facility coverage and compliance date requirements. Section 52.2286 takes precedence over the applicable portion of the TACB Regulation V.

### Gasoline Marketing

Stage I gasoline marketing vapor controls, regulating the filling of gasoline storage tanks and the refilling of tank trucks, were first promulgated on November 6, 1973 for various Texas areas. In the amended regulations being promulgated today, Stage I control for the Houston/Galveston and San Antonio areas is covered in § 52.2285. Section 52.2285 has been amended to require compliance by August 31, 1976 to reflect the 90 day extension in compliance provided on March 5, 1976 in FR 9547. Stage I control for the Dallas/Fort Worth area is covered in § 52.2286.





Comments received on the proposed regulations from the Texas Air Control Board recommended acceptance of regulatory conditions as specified in the TACB Regulation V as adopted December 10, 1976. The TACB regulation differs from the EPA's proposed regulations in the following manner:

(a) TACB Regulation V exempts storage tanks at facilities which dispense less than 120,000 gallons per year and exempts loading and unloading facilities having a throughput less than 20,000 gallons per day averaged over a 30-day period. These exemptions were not part of the EPA proposed regulation.

(b) Regulation V excludes Fort Bend, Waller, Montgomery, Liberty, Chambers, Matagorda, Comal, and Guadalupe counties, as covered in § 52.2285, and Wise, Collin, Parker, Rockwall, Kaufman, Hood, Johnson, and Ellis counties as covered in § 52.2286. The counties covered mutually in the State and proposed EPA regulations are Bexar, Harris, Galveston, and Brazoria (in § 52.2285), and Dallas, Tarrant and Denton (in § 52.2286).

(c) Regulation V sets on August 31, 1978 compliance date for the Houston/Galveston and San Antonio areas as opposed to August 31, 1976 set in § 52.2285. Regulation V sets a compliance date of February 29, 1980 for the Dallas/Fort Worth area as opposed to March 31, 1978 proposed in § 52.2286.

(d) Regulation V requires vapor recovery such that "the aggregate partial pressure of all volatile non-methane carbon compound vapors emitted to the atmosphere will not exceed a level of 1.5 psia." The EPA proposed regulation specified control "that prevents release to the atmosphere of no less than 90 percent by weight of total hydrocarbon compounds in said vapors."

One oil company commented that they were already in compliance with § 52.2285 since that compliance date has past, but that it will take 12–15 months after promulgation to bring facilities into compliance with § 52.2286. Thus the proposed construction completion date of January 31, 1978 and final compliance date of March 31, 1978 may be unattainable depending on date of promulgation. They recommend acceptance of the TACB Regulation V (as adopted December 10, 1976) date of February 29, 1980. In addition, they recommend a change in the proposed area of applicability in § 52.2286 to include only Dallas, Tarrant and Denton Counties as covered on the State regulation. This, they preferred as more cost effective.

Other oil companies noted that the proposed date for compliance of Stage I was inconsistent with the proposed requirement on the first 20 percent of Stage II, Class A sources as published in November 1, 1976 FEDERAL REGISTER. Also, the definition of 'owner' in Stage I regulations conflicts with that in State II. One company recommended that the definition of 'owner' for both Stage I and II be "with equitable title to land or in control of land through long term lease."

Additional recommendations from oil companies included changing the required recovery from "90 percent by weight" to the TACB Regulation V definition based on aggregate partial pressure, and omitting the interim compliance dates on the grounds that they do not aid in achievement of full compliance by the final date.

The Agency has evaluated these comments and its findings follow. The TACB recommendation for extending the compliance date and limiting the impacted counties under § 52.2285 is a moot point. Sources in the Houston/Galveston and San Antonio area already should be in compliance with the regulation since the final compliance date was August 31, 1976. The compliance date proposed under § 52.2286, however, could be unreasonable depending upon the date of promulgation of the regulation. Based on comments received the Agency is modifying the final compliance date to September 30, 1978. This timing appears reasonable for industry to install control equipment, yet expeditious in reducing air polution. Interim compliance dates have been revised accordingly. The interim dates must be maintained in accordance with § 51.15 as promulgated December 9, 1972 at FR 6312, which requires any compliance schedule extending past one year to provide legally enforceable increments of progress. Compliance dates for Stage II vapor control as proposed in the November 1, 1976 FEDERAL REGISTER are being revised, so conflict between Stage I and Stage II compliance dates should not exist.

Inclusion of all the counties in the Dallas/Fort Worth standard metropolitan statistical area (SMSA), i.e. Dallas, Tarrant, Denton, Wise, Collin, Parker, Rockwall, Kaufman, Hood, Johnson, and Ellis, is necessary owing to their contribution to the area's oxidant problem via hydrocarbon/oxidant transport. Counties surrounding Dallas, Tarrant and Denton counties contribute approximately seventeen percent of the controllable hydrocarbon emissions under Stage I regulations for the area. The SMSA has the highest concentration of population and of industry an dhas the greatest growth potential for the area. Thus control of gasoline storage and loading facilities throughout the SMSA is justified.

The State's recommended exemptions of facilities having a throughput less than 120,000 gallons of gasoline per year, and of loading facilities with less than 20,000 gallons per day throughput, do not appear justified. Compliance with Stage I regulations was achieved in the Houston and San Antonio areas with few problems and without exemptions as recommended by the State. Considering the severity of the oxidant problem in the Houston, San Antonio, and Dallas/Fort Worth areas, the EPA cannot accept such exemptions as consistent with the goal of attaining air quality standards as expeditiously as is practicable.

The definition of 'owner' under the proposed Stage I vapor control regulations is consistent with the Agency's definition in Stage I regulations elsewhere in the United States. Likewise, the efficiency requirement for a vapor recovery system "which prevents release to the atmosphere of at least 90 percent by weight of total hydrocarbon compounds," is consistent with Federal regulations across the States. The EPA has had little problem with compliance and enforcement of regulations based on these definitions, and therefore does not see need to change them.

Some confusion was expressed by the public over the meaning of vessel 'capacity.' To clarify this, the Agency has specified 'nominal capacity' of the vessel in the final regulation.

### Crude Oil Storage

The EPA proposed regulation in § 52.2289 would require crude oil storage vessels in specified counties, with a capacity greater than 100,000 gallons, to be equipped with a floating roof or a vapor recovery system. Estimated reactive hydrocarbon emission reductions under this proposed regulation were presented in the FEDERAL REGISTER of November 11, 1976.

The Texas Air Control Board recommended acceptance of Rule 510.2 of Regulation V (as adopted December 10, 1976) in lieu of EPA's proposed § 52.2289. The State Rule would require the same control, in the same counties as the Federal regulation, but would exempt storage facilities smaller than 420,000 gallons (10,000 barrels). It would not exempt storage vessels prior to custody transfer as would the EPA regulation. In addition, the Texas regulation would set a final compliance date of February 29, 1980 as opposed to the proposed Federal regulation date of December 31, 1978. One oil company, a pipeline company, and a crude oil marketing company supported acceptance of the TACB Regulation V (as adopted December 10, 1976) in lieu of proposed § 52.2289.

Six oil companies and an association of oil and gas firms stated that the EPA proposed compliance date of December 31, 1978 was unrealistic. One company indicated that a 6–8 month down time is required to convert a tank, and that outage of too many tanks at one time would be disruptive. They recommended December 1982 as a reasonable compliance date. Other suggested dates included three years from effective date of the regulation, December 1980, and the TACB Regulation V date of February 29, 1980.

An oil and gas association, a crude oil marketing firm, and one oil company, in addition to the Texas Air Control Board, challenged EPA's coverage of tanks between 100,000 and 420,000 gallon capacity. The oil company, the oil and gas association, and the TACB recommended a 10,000 barrel (420,000 gallon) cut-off. The oil and gas association presented an analysis of evaporative losses from 198 cone roofed crude oil tanks in the areas of the proposed regulation which indicated that losses from tanks up to and including 10,000 barrel capacity contribute only 3.4 percent of total losses from tanks studied. These small tanks, it was argued, would have to bear a much



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higher cost per barrel for vapor control possibly leading to early abandonment of tanks. Because of the high cost for benefit received, the oil and gas association and the TACB recommended exemption of tanks smaller than 420,000 gallons (10,000 barrels). The crude oil marketing company considered 30,000 barrel tanks as the proper cut-off based on cost effectiveness.

In addition to the comments on tank size coverage under the proposed regulation, comments were received on the proposed exemption of tanks prior to custody transfer, and the technical problems associated with equipping bolted tanks with floating roofs. The TACB Regulation V, adopted December 10, 1976, did not exempt tanks prior to custody transfer as did the proposed EPA regulation. The State considers determining the status of storage tanks with respect to custody transfer to be a difficult enforcement problem. The oil marketing company considers § 52.2289 a denial of equal protection under law since it exempts storage tanks associated with drilling or production facilities prior to field custody transfer while regulating field storage tanks of crude oil gathering systems. These gathering system storage tanks are often of equal or smaller capacity than adjacent production batteries, of the same construction (bolted, cone roofs), and often handle the same crude under similar storage conditions. In addition, they note that EPA's reasons for exempting storage tanks associated with drilling and production facilities from new source performance standards for petroleum storage vessels (FR 9312, March 8, 1974), are exactly the same reasons arguing in favor of exempting existing gathering system field storage tanks from proposed § 52.2289. The EPA's statement was:

"Producing field storage is exempt because the low level of emissions, the relatively small-size of these tanks, and their commonly remote locations argue against justifying the switch from the bolted-construction, fixed-roof tanks in common use to the welded construction floating-roof tanks which would be required for new sources to comply with the standards."

Rather than exemption tanks associated with drilling, production, and gathering, the oil marketing firm recommends that exemption be based on size and notes that most tanks associated with drilling, production and gathering are generally of less than 10,000 barrel capacity; most are bolted, some are welded. A pipeline company notes that the maximum size of bolted storage tanks as specified in API Std 12B is 10,000 barrel. Testimony was presented on the technical difficulties of equipping bolted tanks with floating roofs due to the internal configuration of the tanks. Both conclude that a 10,000 barrel (420,000 gallon) capacity limit as adopted by the TACB would be acceptable from both a technical and economic standpoint.

Two oil companies, an oil marketer, and an oil and gas association recommend basing the regulation on results to be achieved instead of rule by method (i.e. allow hydrocarbon emissions of, say 150 lb day/tank averaged over a month instead of requiring floating roof or vapor recovery). This, they argue, would allow consideration of other conditions affecting emissions such as tank diameter, color, turnover, and wind velocity, and would not penalize the operator who maintains his tanks in good condition. These commenters also suggested that the regulation specifically exempt crude oil with a true vapor pressure less than 1.5 psia. This would be consistent with the EPA's new source performance regulation on petroleum storage vessels.

Both the oil and gas association and the oil marketing company considered losses from crude and condensate storage tanks to be minimal. They note that most of the emissions are considered non-reactive by the EPA in the January 1976 Technical Support Document (EPA 906/9–76–001). Thus they recommend reconsideration of the total regulation by the EPA. The marketing company suggests that if the regulation is not abandoned, it should be amended so that vapor recovery efficiency is based on volatile non-methane carbon compounds as is the TACB Regulation V, rather than the proposed total vapor approach.

Finally several oil companies suggested omitting both the interim compliance dates and the certification requirement as unnecessary since they cannot substitute for any enforcement action required by the regulation.

The estimated emission reductions from control of evaporative losses from crude oil storage, as presented by the EPA in the FEDERAL REGISTER of November 11, 1976, were based on reactive hydrocarbons. For the areas impacted by the proposed regulation, the total reduction in reactive hydrocarbons resulting from control of crude oil storage is approximately 19,400 tons/year. In the Houston/Galveston area this control measure represents the largest contributor of emission reductions. Considering the extent of violations of the oxidant standard in the areas impacted by this regulation, this Agency considers crude oil storage control a necessary, justifiable measure.

Based on comments received, the Agency considers that enough uncertainty exists in both the air quality impact and economic impact of control on storage tanks less than 10,000 barrels (420,000 gallons) to warrant further study before promulgation of a regulation on these sized facilities. The Agency, therefore, is modifying its regulation to include storage tanks of greater than 10,000 barrel capacity and is committing to further study the number, location, construction, and air quality impact of tanks of less than 10,000 barrel capacity. Depending upon results of this study, a regulation controlling emissions from these smaller tanks may be proposed.

Since the Agency is establishing a 10,000 barrel cut-off of impacted sources, the exemption of facilities prior to custody transfer is being removed, as recommended by the Texas Air Control Board. This change in the regulation will no longer discriminate between tanks associated with production and drilling and those with gathering systems, but will exclude most of these field storage tanks since testimony indicates they are generally of less than 10,000 barrel capacity. This is consistent with the Texas Regulation V as adopted December 10, 1976.

Based on comments received, and review of the number of tanks impacted versus down time for installation of floating roofs, the Agency is modifying its final compliance date to February 29, 1980, as recommended by the Texas Air Control Board. This date is consistent with the State Regulation V, and based on comments, is as expeditious as practicable. The interim compliance dates and date for certification have been modified accordingly. The interim dates must be maintained in accordance with § 51.15 as promulgated December 9, 1972 at FR 26312, which requires any compliance schedule extending past one year to provide legally enforceable increments of progress.

The regulation as proposed, specified control by method rather than emission reduction to be achieved since that is consistent with the Agency's requirements under New Source Performance Standards, and consistent with existing State regulations across the country.

Wording of the regulation has been changed to specifically exempt storage of crude oil with a true vapor pressure less than 1.5 psia. This was implied in the regulation as proposed but not stated explicitly. Exemption is consistent with the Agency's New Source Performance Standard for crude oil storage. The Agency is retaining its efficiency requirement for a vapor recovery system as "aggregate partial pressure of all vapors * * * will not exceed a level of 1.5 psia" as consistent and comparable with the allowable crude oil vapor pressure exemption.

### BUS AND CARPOOL FEASIBILITY STUDY

Section 52.2294, as revised, was proposed to ensure that the State or State designated local or regional transportation agency study various incentive measures to reduce air pollutant emissions from mobile sources (cars and buses), and incorporate the feasible measures in the transportation planning system.

Comments received from four transportation planning individuals representing both State and local agencies indicated that the deadline of December 31, 1977 for completion of studies was too short and that no source of funding was addressed. One estimate for the Houston area study alone indicated $250,000 with 10–12 people would be needed. Three people suggested that the EPA provide the funding; one other noted that the studies were logical candidates for the annual Unified Work Program for Transportation Planning prepared and conducted each year by the Metropolitan Planning Organization. Another commenter; however, noted that funds apportioned to the State by the Federal-Aid Highway Acts and Urban Mass Transportation Acts are presently inadequate to accomplish needed improvements for transportation systems. Programming of any of these funds for this feasibility study would be difficult due to various reviews by the Metropolitan Planning Organizations necessary for inclusion in the Transportation Improvement Program and the Transportation System Management elements, and the necessary availability of local matching funds.

A commentator noted that a timetable showing the schedule of further detailed engineering studies and tentative implementation dates would be difficutl to affirm since the schedule is dependent on funding.

A recommendation was made to define carpool as "* * * two or more people" rather than three or more, as proposed. This would allow for better utilization of reserved lanes.

Five commenters including two city representatives, a representative of the League of Women Voters, and two individuals expressed support for mass transit incentives and mobile source control.

After discussions with representatives of the Federal Highway Administration and review of the above comments, the EPA has changed the date for completion of the feasibility studies to September 1, 1979, with interim compliance dates established. This extension of time will allow the responsible transportation agencies to plan, budget, and incorporate the feasibility studies into the Transportation Improvement Program. The measures as proposed by EPA are similar to those required by the U.S. Department of Transportation in FR 42976, published September 17, 1975, and Federal monies are supplied under that program. Implementation of those measures identified as feasible can, again, be programmed as activities under the Transportation Improvement Program.

The regulation has been modified to require implementation based initially on three or more passenger carpools but to allow two or more passenger carpools on specific traffic corridors if, after a valid trial period and evaluation, it can be satisfactorily demonstrated that a two passenger carpool requirement will result in greater emission reductions.

### CARPOOL MATCHING SYSTEMS

The carpool matching and promotion system regulation (section 52.2296) was proposed to revise an existing regulation to include more than just the central business districts of each city and to require periodic progress reports from the cities.

The only comments received on this proposal suggested that the date of April 1, 1977 for submission of a timetable for implementation be extended, and noted that most cities were already in compliance with the regulation.

Since all specified cities have some form of a carpool matching system in existence, the regulation as proposed adds only the six month updating and reporting requirements. Based on the above comments, the Agency is promulgating this regulation as proposed except for extending the timetable submission date, or compliance certification date, to September 1, 1977, and establishing the date for full implementation as December 1, 1977

### EMPLOYER MASS TRANSIT AND CARPOOL INCENTIVE PROGRAM

The employer mass transit and incentive program, section 52.2297, was proposed as a revision to expand coverage to all employers with 250 or more employees and educational facilities with 1000 or more commuters. Instead of a plan developed by each facility and approved by EPA, minimum measures were proposed along with annual progress reports.

Representatives of several employers commented that they already had a carpool matching program for their employees, but felt a mandatory system with its reporting requirements and six month update would be burdensome, costly, and counter-productive to the cities' voluntary programs. A City of Houston transportation representative also indicated that a mandatory employer incentive program would be counterproductive to their city's voluntary program. A company in Fort Worth stated that they tried carpool matching with the aid of the city's program. Less than one percent of their employees were interested in carpooling, and none of those interested could be matched.

Two university representatives stated that the required incentive programs would be too costly for them. One indicated they had a possible source of funding but could not arrange it within the necessary timetable. Both commenters recommended support of a comprehensive effort of carpooling and mass transit planned and coordinated by the city rather than fragmented employer programs.

State highway representatives suggested restricting the requirement to Harris, Dallas, Tarrant and Bexar counties since over ¾ of the area transportation-related air pollution problem is within these four counties. They consider the required recordkeeping costly and time-consuming.

Two commenters representing a State and Federal agency indicated that they could not, under present law, participate in vehicle purchase for purposes of vanpooling. Five private firms commented that the vanpooling provision would be a detriment to employer-employee relations, could cause union problems, and would be discriminatory in that certain types of employees, like shift workers, would be less likely to take advantage of the program. Two companies also felt mandatory preferential parking for carpoolers would be discriminating against those unable to carpool and could cause union problems. The preferential parking requirement would also require policing.

Three private companies suggested that EPA formulate a regulation in terms of a goal of vehicle use reduction. This would allow each organization to achieve the goal by means best suited to the individual situation.

Several firms indicated that matching of shift workers would be difficult and one company suggested the regulation be modified to read "with 250 or more employees working the same set of hours" to account for firms with more than 250 employees but who work shift hours.

One firm suggested that the "base date" should be set in the future since carpooling data for past actions is difficult to gather and subject to error. A future date permits companies to establish data collection procedures and make necessary surveys.

Finally, one company suggested that EPA was beyond its authority in proposing this regulation, and noted that it would be costly and would accomplish little.

The EPA originally promulgated transportation control regulations, including an employer incentive program, on November 6, 1973. The regulations were challenged in court and on August 7, 1974 the U.S. Court of Appeals for the Fifth Circuit deferred the transportation control regulations (40 CFR 52.2292–52.2297) for the Houston/Galveston and San Antonio areas pending reconsideration of a refinery reactivity factor. In the Dallas/Fort Worth area the transportation control regulations were deferred pending reconsideration of their reasonableness by EPA. The EPA has documented the need for, and reasonableness of this control measure in both the EPA report (EPA 906/9–76–001) "Technical Support Document, Hydrocarbon/Photochemical Oxidant Strategy for the State of Texas, January 1976" and in the FEDERAL REGISTER proposed regulations on November 11, 1976. This measure is only a modification to an existing regulation.

The measure as proposed would not be counter productive to the cities' voluntary programs. In fact, employer coordination with a city program would satisfy many of the requirements of this incentive program, and aid in publicizing the city program. Employers should note that vanpooling is not a requirement in the regulation as proposed or promulgated. An evaluation of the feasibility of a vanpool program is required. If it is not feasible, employers are encouraged to find alternatives to reduce employee vehicle use.

Preferential parking to encourage carpooling was required in the proposed regulation. Based on comments received, the EPA is suggesting that incentive measure, but not requiring it. Employers can determine the best incentive measure for their particular facility.

In response to the suggestion that EPA set a goal of vehicle use reduction and let employers try to achieve it by means best suited to individual situations, this was done in the regulation as proposed. The greatest vehicle use reduction possible is the ultimate goal and to this end







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EPA set only minimum requirements to ensure action by employers. Considerable leeway is provided for various reduction schemes. The reporting requirements are necessary to ensure that vehicle use reduction measures are considered, implemented, and maintained.

The hydrocarbon emissions from mobile sources throughout the total area impacted by this regulation contribute to the violations of the photochemical oxidant standard within the area. This measure is feasible for implementation in the specified areas and will result in hydrocarbon reduction.

The EPA has relaxed the timetable for implementation to try to alleviate some of the economic burden as expressed by university representatives and private employers.

The EPA feels that comments suggesting that the regulation account for employees working different sets of hours and that the "base date" be modified are valid and, accordingly, has revised the regulation.

MONITORING TRANSPORTATION MODE TRENDS

Section 52.2298 was proposed to be revised to reflect other changes in the proposed plan such as deletion of the retrofit regulation § 52.2291 and to require the monitoring of changes in vehicle miles traveled (VMT) and speeds as a result of measures required under § 52.2294, 52.2296 and 52.2297.

Comments received from two State Highway Department representatives indicated that correlating monitored VMT and the three transportation control measures would be very difficult and possibly meaningless. Vehicle speed data was considered difficult to monitor. The effort was considered time-consuming, costly and would have no effect on air quality.

The Agency is promulgating section 52.2298 as proposed. The requirements of section 52.2298 are a necessary part of the State Implementation Plan as specified in section 51.19(d). Based on comments received, the Agency is, however, reviewing the monitoring requirements under section 51.19(d) for possible modification to identify the most appropriate measures and methods for determining the actual efficacy of the transportation control strategies.

This final rulemaking is issued under the authority of Sections 110(c) and 301 (a) of the Clean Air Act (42 U.S.C. 1857c-5(c) and 1857(g).

Dated: July 8, 1977.

DOUGLAS M. COSTLE,
*Administrator.*

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**Subpart SS—Texas**

1. In § 52.2270, paragraph (c) is amended by adding paragraph (13) as follows:

**§ 52.2270 Identification of Plan.**

* * * * *

(c) * * *

(13) Revisions to Texas Air Control Board (TACB) Regulation IV (Control of Air Pollution from Motor Vehicles) were adopted by the TACB on October 30, 1973 and submitted by the Governor on December 11, 1973.

2. Section 52.2272 is revised to read as follows:

**§ 52.2272 Extensions.**

(a) The Administrator hereby extends the attainment dates for the national standards for photochemical oxidants (hydrocarbons) to May 31, 1977, in the following Air Quality Control Regions as defined in Part 81 of this chapter: Austin-Waco, Corpus Christi-Victoria, Metropolitan Dallas-Fort Worth, Metropolitan Houston-Galveston, Metropoliton San Antonio Intrastate, the Texas portion of the El Paso-Las Cruces-Alamogordo Interstate, and the Texas portion of the Southern Louisiana-Southeast Texas Interstate.

3. Section 52.2275 is revised to read as follows:

**§ 52.2275 Control Strategy: Photochemical Oxidants (hydrocarbons).**

(a) The requirements of § 51.14(a) of this chapter are not met since the plan submitted by the State does not provide the degree of hydrocarbon emission reduction necessary to attain and maintain the national ambient air quality standard for photochemical oxidants (hydrocarbons) as expeditiously as practicable in the following air quality control regions: Austin-Waco, Corpus Christi-Victoria, Metropolitan Dallas-Fort Worth, Metropolitan Houston-Galveston, and Metropolitan San Antonio Intrastate Regions; the Texas portions of the El Paso-Las Cruces-Alamogordo and Southern Louisiana-Southeast Texas Interstate Regions.

**§ 52.2279 [Amended]**

4. In § 52.2279, the attainment date table is amended, by revising the last column "Photochemical oxidants (hydrocarbons)" to read as follows with the corresponding first column "Air Quality Control Region":

| Air quality control region | | | Photochemical oxidants (hydrocarbons) |
|---|---|---|---|
| Abilene-Wichita Falls Intrastate | * | * * | (a). |
| Amarillo-Lubbock intrastate | * | * * | (a). |
| Austin-Waco intrastate | * | * * | May 31, 1977. |
| Brownsville-Laredo intrastate | * | * * | (a). |
| Corpus Christi-Victoria intrastate. | * | * * | May 31, 1977. |
| Midland-Odessa-San Angelo intrastate. | * | * * | (a). |
| Metropolitan Houston-Galveston intrastate. | * | * * | May 31, 1977. |
| Metropolitan Dallas-Fort Worth intrastate. | * | * * | Do. |
| Metropolitan San Antonio intrastate. | * | * * | Do. |
| Southern Louisiana-Southeast Texas interstate. | * | * * | Do. |
| El Paso-Las Cruces-Alamogordo interstate. | * | * * | Do. |
| Shreveport-Texarkana-Tyler interstate. | * | * * | (a). |

5. In § 52.2283, paragraphs (a) and (c) are revised and paragraph (b) is amended by revising (1), (2), (3) and (4) as follows:

**§ 52.2283 Control of volatile carbon compounds.**

(a) All requirements of Texas Air Control Board Regulation V (as adopted on April 10, 1973) shall apply in Hardin and Tarrant Counties in Texas. The said Regulation has already been approved as a requirement of the applicable implementation plan for the counties specifically named therein.

(b) * * *

(1) Contracts for emission control systems or process modifications must be awarded or orders must be issued for the purchase of component parts to accomplish emission control or process modification not later than March 1, 1978.

(2) Initiation of on-site construction or installation of emission control equipment or process change must begin not later than June 1, 1978.

(3) On-site construction or installation of emission control equipment or process modification must be completed not later than December 31, 1979.

(4) Final compliance is to be achieved not later than February 29, 1980.

* * * * *

(c) Paragraph (b) of this section shall not apply to the owner or operator of:

(1) A source which is presently in compliance with paragraph (a) of this section and which has certified such compliance to the Regional Administrator by November 1, 1977. The Regional Administrator may request whatever supporting information he considers necessary for proper certification.

(2) A source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) A source whose owner or operator receives approval from the Administrator, by November 1, 1977 of a proposed alternative schedule. No such schedule may provide for compliance after February 29, 1980. If approval is promulgated by the Administrator, such schedule shall satisfy the requirements of this section for the affected source.

* * * * *

6. Section 52.2285 is revised to read as follows:

**§ 52.2285 Control of evaporative losses from the filling of gasoline storage vessels in the Houston and San Antonio areas.**

(a) Definitions:

(1) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 4 pounds or greater which is produced for use as a motor fuel and is commonly called gasoline.

(2) "Storage container" means any stationary vessel of more than 1,000 gallons (3,785 liters) nominal capacity. Stationary vessels include portable vessels placed temporarily at a location; e.g., tanks on skids.

(3) "Owner" means the owner of the gasoline storage container(s).

(4) "Operator" means the person who is directly responsible for the operation of the gasoline storage container(s), whether the person be a lessee or an agent of the owner.

(5) "Delivery Vessel" means tank trucks and tank trailers used for the delivery of gasoline.

(6) "Source" means both storage containers and delivery vessels.

(b) This section is applicable to the following counties in Texas: Harris, Galveston, Brazoria, Fort Bend, Waller, Montgomery, Liberty, Chambers, Matagorda, Bexar, Comal, and Guadalupe.

(c) No person shall transfer or permit the transfer of gasoline from any delivery vessel into any stationary storage container with a nominal capacity greater than 1,000 gallons (3,785 liters) unless such container is equipped with a submerged fill pipe and unless the displaced vapors from the storage container are processed by a system that prevents release to the atomosphere of no less than 90 percent by weight of total hydrocarbon compounds in said vapors.

(1) The vapor recovery system shall include one or more of the following:

(i) A vapor-tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline can be transferred into the container.

(ii) Other equipment that prevents release to the atmosphere of no less than 90 percent by weight of the total hydrocarbon compounds in the displaced vapor provided that approval of the proposed design, installation, and operation is obtained from the Regional Administrator prior to start of construction.

(2) The vapor recovery system shall be so constructed that it will be compatible with a vapor recovery system, which may be installed later, to recover vapors displaced by the filling of motor vehicle tanks.

(3) The vapor-laden delivery vessel shall meet the following requirements:

(i) The delivery vessel must be so designed and maintained as to be vapor-tight at all times.

(ii) If any gasoline storage compartment of a vapor-laden delivery vessel is refilled in one of the counties listed in paragraph (b) of this section, it shall be refilled only at a facility which is equipped with a vapor recovery system, or the equivalent, which prevents release to the atmosphere of at least 90 percent by weight of the total hydrocarbon compounds in the vapor displaced from the delivery vessel during refilling.

(iii) Gasoline storage compartments of one thousand gallons or less in gasoline delivery vessels presently in use on November 6, 1973 will not be required to be retrofitted with a vapor return system until January 1, 1977.

(iv) Facilities which have a daily throughput of 20,000 gallons of gasoline or less are required to have a vapor recovery system in operation no later than May 31, 1977. Delivery vessels and storage vessels served exclusively by facilities required to have a vapor recovery system in operation no later than May 31, 1977, also are required to meet the provisions of this section no later than May 31, 1977.

(d) The provisions of paragraph (c) of this section shall not apply to the following:

(1) Storage containers used for the storage of gasoline "used on a farm for farming purposes," as that expression is used in the Internal Revenue Code, 26 U.S.C. Section 6420.

(2) Any container having a nominal capacity less than 2,000 gallons (7571 liters) installed prior to November 6, 1973.

(3) Transfers made to storage containers equipped with floating roofs or their equivalent.

(e) Except as provided in paragraph (f) of this section, the owner or operator of a source subject to paragraph (c) of this section shall comply with the increments contained in the following compliance schedule:

(1) Contracts for emission control systems or process modifications must be awarded or orders must be issued for the purchase of component parts to accomplish emission control or process modification no later than March 31, 1975.

(2) Initiation of on-site construction or installation of emission control equipment or process change must begin no later than July 1, 1975.

(3) On-site construction or installation of emission control equipment or process modification must be completed no later than June 30, 1976.

(4) Final compliance is to be achieved no later than August 31, 1976.

(5) Any owner or operator of sources subject to the compliance schedule in this paragraph shall certify in writing to the Regional Administrator whether or not the required increment of progress has been met. The certification shall be submitted within five days after the deadlines for each increment. The certification shall include the name(s) and street address(es) of the facility (facilities) for which the certification applies, and the date(s) the increment(s) of progress was (were) met—if met. The Regional Administrator may request whatever supporting information he considers necessary for proper certification.

(f) Paragraph (e) of this section shall not apply to the owner or operator of:

(1) A source which is presently in compliance with paragraph (c) of this section and which has certified such compliance to the Regional Administrator by January 1, 1974. The certification shall include the name(s) and street address(es) of the facility (facilities) for which the certification applies. The Regional Administrator may request whatever supporting information he considers necessary for proper certification.

(2) A source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) To a source whose owner or operator receives approval from the Administrator by June 1, 1974, of a proposed alternative schedule. No such schedule may provide for compliance after August 31, 1976. If approval is promulgated by the Administrator, such schedule shall satisfy the requirements of this section for the affected source.

(g) Nothing in this section shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraph (e) of this section fails to satisfy the requirements of § 51.15 (b) and (c) of this chapter.

(h) After August 31, 1976 paragraph (c) shall be applicable to every storage container (except those exempted in paragraph (d)) located in the counties specified in paragraph (b). Every storage container installed after August 31, 1976 shall comply with the requirements of paragraph (c) from the time of installation. In the affected counties, storage containers which were installed, or converted to gasoline storage after November 6, 1973, but before August 31, 1976 shall comply with paragraph (c) in accordance with the schedule established in paragraph (e).

7. Section 52.2286 is revised to read as follows:

**§ 52.2286 Control of evaporative losses from the filling of gasoline storage vessels in the Dallas-Fort Worth area.**

(a) Definitions:

(1) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 4 pounds or greater which is produced for use as a motor fuel and is commonly called gasoline.

(2) "Storage container" means any stationary vessel of more than 1,000 gallons (3,785 liters) nominal capacity. Stationary vessels include portable vessels placed temporarily at a location; e.g., tanks on skids.

(3) "Owner" means the owner of the gasoline storage container(s).

(4) "Operator" means the person who is directly responsible for the operation of the gasoline storage container(s), whether the person be a lessee or an agent of the owner.

(5) "Delivery Vessel" means tank truck and tank trailers used for the delivery of gasoline.

(6) "Source" means both storage containers and delivery vessels.

(b) This section is applicable to the following counties in Texas: Dallas, Tarrant, Denton, Wise, Collin, Parker, Rockwall, Kaufman, Hood, Johnson, and Ellis.

(c) No person shall transfer or permit the transfer of gasoline from any delivery vessel into any stationary storage container with a nominal capacity greater than 1,000 gallons (3,785 liters) unless such container is equipped with a submerged fill pipe and unless the displaced vapors from the storage container are processed by a system that prevents release to the atmosphere of no less than 90 percent by weight of total hydocarbon compounds in said vapors.

(1) The vapor recovery system shall include one or more of the following:

(i) A vapor-tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before







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gasoline can be transferred into the container.

(ii) Other equipment that prevents release to the atmosphere of no less than 90 percent by weight of the total hydrocarbon compounds in the displaced vapor provided that approval of the proposed design, installation, and operation is obtained from the Regional Administrator prior to start of construction.

(2) The vapor recovery system shall be so constructed that it will be compatible with a vapor recovery system, which may be installed later, to recover vapors displaced by the filling of motor vehicle tanks.

(3) The vapor-laden delivery vessel shall meet the following requirements:

(i) The delivery vessel must be so designed and maintained as to be vapor-tight at all times.

(ii) If any gasoline storage compartment of a vapor-laden delivery vessel is refilled in one of the counties listed in paragraph (b) of this section, it shall be refilled only at a facility which is equipped with a vapor recovery system, or the equivalent, which prevents release to the atmosphere of at least 90 percent by weight of the total hydrocarbon compounds in the vapor displaced from the delivery vessel during refilling.

(d) The provisions of paragraph (c) of this section shall not apply to the following:

(1) Storage containers used for the storage of gasoline "used on a farm for farming purposes", as that expression is used in the Internal Revenue Code, 26 U.S.C. Section 6420.

(2) Any container having a nominal capacity less than 2,000 gallons (7571 liters) installed prior to promulgation of this section.

(3) Transfers made to storage containers equipped with floating roofs or their equivalent.

(e) Except as provided in paragraph (f) of this section, the owner or operator of a source subject to paragraph (c) of this section shall comply with the increments contained in the following compliance schedule:

(1) Contracts for emission control systems or process modifications must be awarded or orders must be issued for the purchase of component parts to accomplish emission control or process modification no later than September 30, 1977.

(2) Initiation of on-site construction or installation of emission control equipment or process modification must begin no later than January 31, 1978.

(3) On-site construction or installation of emission control equipment or process modification must be completed no later than August 31, 1978.

(4) Final compliance is to be achieved no later than September 30, 1978.

(5) Any owner or operator of sources subject to the compliance schedule in this paragraph shall certify in writing to the Regional Administrator whether or not the required increment of progress has been met. The certification shall be submitted not later than February 15, 1978, for award of contracts and initiation of construction, and not later than October 15, 1978, for completion of construction and final compliance. The certification shall include the name(s) and street address(es) of the facility (facilities) for which the certification applies, and the date(s) the increment(s) of progress was (were) met—if met. The Regional Administrator may request whatever supporting information he considers necessary for proper certification.

(f) Paragraph (e) of this section shall not apply to the owner or operator of:

(1) A source which is presently in compliance with paragraph (c) of this section and which has certified such compliance to the Regional Administrator by August 1, 1977. The certification shall include the name(s) and street address(es) of the facility (facilities) for which the certification applies. The Regional Administrator may request whatever supporting information he considers necessary for proper certification.

(2) A source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) To a source whose owner or operator receives approval from the Administrator by August 1, 1977, of a proposed alternative schedule. No such schedule may provide for compliance after September 30, 1978. If approval is promulgated by the Administrator, such schedule shall satisfy the requirements of this section for the affected source.

(g) Nothing in this section shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraph (e) of this section fails to satisfy the requirements of § 51.15 (b) and (c) of this chapter.

(h) After September 30, 1978, paragraph (c) shall be applicable to every storage container (except those exempted in paragraph (d)) located in the counties specified in paragraph (b). Every storage container installed after September 30, 1978 shall comply with the requirements of paragraph (c) from the time of installation. In the affected counties, storage containers which were installed, or converted to gasoline storage after promulgation of this section, but before September 30, 1978 shall comply with paragraph (c) in accordance with the schedule established in paragraph (e).

8. Section 52.2289 is revised to read as follows:

**§ 52.2289 Control of evaporative losses from storage vessels for crude petroleum.**

(a) Definitions:

(1) "Storage vessel" means any stationary tank, reservoir, or container used for the storage of crude petroleum, but does not include pressure vessels which are designed to operate in excess of 15 pounds per square inch gauge without emissions to the atmosphere except under emergency conditions.

(2) "Crude petroleum" means the crude oil removed from the earth and the oils derived from tar sands, shale, and coal.

(3) "Condensate" means hydrocarbon liquid separated from natural gas which condenses due to changes in temperature and/or pressure and remains liquid at standard conditions (20°C and 760 mm of Hg).

(4) "Floating roof" means a storage vessel cover consisting of a double deck, pontoon single deck, internal floating cover or covered floating roof, which rests upon and is supported by the petroleum liquid being contained, and is equipped with a closure seal or seals to close the space between the roof edge and tank wall.

(5) "Hydrocarbon" means any organic compound consisting predominantly of carbon and hydrogen.

(6) "Vapor recovery system" means a vapor gathering system capable of collecting all hydrocarbon vapors discharged from the storage vessel and a vapor disposal system capable of processing such hydrocarbon vapors so as to reduce the emissions such that the aggregate partial pressure of all vapors or other material emitted from the vapor recovery system will not exceed a level of 1.5 psia.

(b) This section is applicable in the following Texas Counties: Brazoria, Dallas, El Paso, Galveston, Hardin, Harris, Jefferson, Matagorda, Montgomery, Nueces, Orange, San Patricio, and Tarrant.

(c) The provisions of this section are applicable to each storage vessel for crude petroleum and condensate which has a nominal storage capacity greater than 10,000 barrels (420,000 gallons).

(d) The owner or operator of any storage vessel to which this section applies shall store crude petroleum and condensate as follows:

(1) If the true vapor pressure of the crude petroleum or condensate, as stored, is equal to or greater than 78 mm Hg (1.5 psia) but not greater than 570 mm Hg (11.1 psia), the storage vessel shall be equipped with a floating roof or a vapor recovery system.

(2) If the true vapor pressure of the crude petroleum or condensate, as stored, is greater than 570 mm Hg (11.1 psia), the storage vessel shall be equipped with a vapor recovery system.

(e) Except as provided in paragraph (f) of this section, the owner or operator of a source subject to paragraph (d) of this section shall comply with the increments contained in the following compliance schedule:

(1) Contracts for emission control systems or process modifications must be awarded or orders must be issued for the purchase of component parts to accomplish emission control or process modification no later than March 1, 1978.

(2) Initiation of on-site construction or installation of emission control equipment or process change must begin no later than June 1, 1978.

(3) On-site construction or installation of emission control equipment or process modification must be completed no later than December 31, 1979.

(4) Final compliance is to be achieved no later than February 29, 1980.

(5) Any owner or operator of stationary sources subject to the compliance schedule in this paragraph shall certify in writing to the Regional Administrator, within five days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(f) Paragraph (e) of this section shall not apply to the owner or operator of:

(1) A source which is presently in compliance with paragraph (d) of this section and which has certified such compliance to the Regional Administrator by November 1, 1977. The Regional Administrator may request whatever supporting information he considers necessary for proper certification.

(2) A source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) A source whose owner or operator receives approval from the Administrator by November 1, 1977, of a proposed alternative schedule. No such schedule may provide for compliance after February 29, 1980. If approval is promulgated by the Administrator, such schedule shall satisfy the requirements of this section for the affected source.

(g) Nothing in this section shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraph (e) of this section fails to satisfy the requirements of § 51.15 (b) and (c) of this chapter.

**§ 52.2291 [Reserved]**

9. Section 52.2291 is revoked and reserved.

**§ 52.2292 [Reserved]**

10. Section 52.2292 is revoked and reserved.

11. Section 52.2294 is revised to read as follows:

**§ 52.2294 Incentive program to reduce vehicle emissions through increased bus and carpool use.**

(a) Definitions:

(1) "Bus/carpool lane" means a lane on a street or highway open only to buses (or buses and carpools), whether constructed specially for that purpose or converted from existing lanes.

(2) "Central business district" is defined for each of the major cities in the affected areas as follows:

(i) For the City of Houston, in Harris County, that area bounded on the northwest by Interstate 45, on the southwest by Interstate 45, on the northeast by Franklin Street, and on the southeast by Crawford Street.

(ii) For the City of Dallas, in Dallas County, that area bounded on the west by Interstate 35, on the south by Interstate 20, on the east by Central Expressway (U.S. 75) and on the north by Woodall Rogers Freeway right of way.

(iii) For the City of Fort Worth, in Tarrant County, that area bounded on the west by Henderson Street, on the south by Interstate 20, on the east by Interstate 35 West, and on the north by Belknap Street.

(iv) For the City of San Antonio, in Bexar County, that area bounded on the west and northwest by U.S. 81, on the south and southeast by Alamo Street from U.S. 81 to Victoria Street, and by Victoria Street to the Southern and Pacific Railroad tracks, on the east by the Southern and Pacific Railroad tracks, and on the northeast by Jones Avenue to U.S. 81.

(b) On or before September 1, 1979, the State of Texas or a State designated local or regional transportation agency shall perform and complete feasibility studies, with recommendations, on incentive measures to reduce emissions by vehicles through increased bus and carpool use (or other appropriate measures) in the Harris, Dallas, Tarrant, and Bexar County area in Texas. The feasibility studies and plan implementation shall be based initially on three or more passenger carpools, with modification allowed under paragraph (e). Factors which should be considered in connection with the feasibility of such mechanisms should include, but are not limited to, the physical characteristics of the roads, predicted bus volumes, before/after person capacity with and without the measure, cumulative net time savings cost, the usefulness of mechanisms in reducing commuter vehicle miles traveled, and other costs and benefits to users and non-users. The feasibility studies shall also include a discussion of the measures considered and how the measures were organized into a comprehensive plan. The criteria used for the selection or rejection of individual measures and plans should be explicitly stated. The measures and plans should also be ranked and categorized according to the following scheme: Most feasible: ready for implementation in 1–3 years; feasible: appears to be feasible but requires further study; not feasible: permanently rejected.

Such measures shall include, but are not limited to:

(1) Alternative mechanisms for bus/carpool preferential treatment.

(i) Such mechanisms shall include, but are not limited to:

(A) Exclusive bus/carpool lanes, either with-flow or contraflow lanes;

(B) Preferential use by buses and carpools of freeway on and off ramps in the affected counties; and

(C) Signal pre-emption by buses.

(ii) Such mechanisms should be considered for use in the central business districts of the major cities in the affected counties and in the following traffic corridors and/or other routes as the study may determine to be feasible:

(A) Harris County.

(1) North and South corridor: Interstate 45 from Little York Road to Houston central business district to Almeda Genoa Road.

(2) North corridor: U.S. 59 from Little York Road to Interstate 10.

(3) West corridor: Interstate 10 from Gessner Road to Interstate 45.

(4) Southwest corridor: U.S. 59 from Fondren Road to Interstate 45.

(5) East corridor: Interstate 10 from East Loop 610 to Houston central business district.

(6) Circumferential corridor: Interstate 610.

(B) Dallas County.

(1) North and South corridors: U.S. 75 from Loop 635 North to Dallas central business district to South Loop 635.

(2) Northwest and South corridors: Interstate 35E from North Loop 635 to Commerce Street to South Loop 635.

(3) Southeast corridor: U. S. 175 from East Loop 635 to Dallas central business district.

(4) South corridor: Interstate 45 from South Loop 635 to Dallas central business district.

(5) East corridor: Interstate 20 from East Loop 635 to Dallas central business district.

(6) Northeast corridor: Interstate 30 from East Loop 635 to Interstate 20.

(7) Northwest corridor: Harry Hines Boulevard from North Loop 635 to Dallas central business district.

(8) West corridor: U. S. 80 from West Loop 12 to Dallas central business district.

(9) South corridor: U. S. 67 from Interstate 20 to Dallas central business district.

(10) Circumferential corridor: Interstate 635.

(C) Tarrant County.

(1) North corridor: Interstate 35W from Loop 820 North to Fort Worth central business district.

(2) Northeast corridor: State Highway 121 from Loop 820 East to Fort Worth central business district.

(3) East corridor: U.S. 80 from East Loop 820 to Fort Worth central business district.

(4) Southeast corridor: U.S. 287 from Loop 820 East to Fort Worth central business district.

(5) South corridor: Interstate 35W from South Loop 820 to Fort Worth central business district.

(6) West corridor: Interstate 20 from U.S. 377 to Fort Worth central business district.

(7) West corridor: Camp Bowie Boulevard from U.S. 377 to West 7th Street and West 7th Street to Fort Worth central business district.

(8) Northwest corridor: U.S. 199 from Lake Worth Village to Fort Worth central business district.

(9) Circumferential corridor: Interstate 820.

(D) Bexar County.

(1) North corridor: U.S. 281 from Loop 410 North to U.S. 81.

(2) Northeast corridor: U.S. 81 B. R. from Loop 410 North to U.S. 81.

(3) East corridor: Interstate 35 (U.S. 81) from Loop 410 East to San Antonio central business district.

(4) Southeast corridor: Interstate 37 from Loop 410 South to Interstate 35 (U.S. 81).

(5) Southwest corridor: Interstate 35 from Loop 410 South to Interstate 35 North (U.S. 81).

(6) Northwest corridor: Interstate 10 (U.S. 87 North) from Loop 410 North to San Antonio central business district.

(7) West corridor: U.S. 90 from Loop 410 West to Interstate 35.







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(8) Circumferential corridor: Interstate 410.

(2) Toll restructuring on the two Texas Turnpike Authority roads (Dallas North Tollway and Dallas-Fort Worth Turnpike) so as to provide incentives for bus and carpool use, such as (but not limited to):

(i) Preferential lanes at toll gates and/or lower tolls for buses and carpools;

(ii) Raising tolls during commuting hours so as to collect all revenues during those hours and allowing free usage at other times.

(3) Other incentives for reduced vehicle use, such as (but not limited to):

(i) Transit system improvements including implementation or expansion of park and ride facilities.

(ii) Restriction or elimination of on street parking in the central business districts of the major cities.

(iii) Vehicle free or bus only zones.

(iv) Improved facilities for bicycle use including bikeways and storage facilities.

(c) On or before December 31, 1977, the State of Texas or a State designated local or regional transportation agency shall submit to the Regional Administrator a scope of work for each study specified in paragraph (b) of this section. The State or designated agency shall also submit on this date a schedule describing the timing and contributions of agency participants. On or before June 1, 1978, the State shall submit to the Regional Administrator a summary of progress to date and any necessary modification to the schedule of timing and contributions of agency participants. In addition to the complete feasibility studies which are to be submitted on or before September 1, 1979, a timetable showing the schedule of further detailed engineering studies and tentative implementation dates shall be prepared and submitted by the State and participating local and regional agencies for all those measures determined to be feasible or most feasible. To the fullest extent possible this timetable should coincide with, and the studies result from, the ongoing planning and programming activities required by the U.S. Department of Transportation in FR 42976, published September 17, 1975.

(d) The State of Texas shall structure the studies so as to ensure the effective participation of all affected State, regional, and local agencies whose area of jurisdiction would be affected by any matter to be studied. To the maximum extent possible, the studies should make use of the urban transportation plan for each region.

(e) The Regional Administrator may approve a carpool scheme for a specific traffic corridor based on less than three passengers per vehicle after a valid trial period and evaluation. Approval will be based on submission by the State of traffic and resulting hydrocarbon emission data for an implemented three or more passenger carpool on the corridor and a justification for change based on air quality impact.

**§ 52.2295 [Reserved]**

12. Section 52.2295 is revoked and reserved.

13. Section 52.2296 is revised to read as follows:

**§ 52.2296 Carpool matching and promotion system.**

(a) Definitions:

(1) "Carpool" means two or more persons utilizing the same vehicle.

(2) "Major Employment facility" means any single employer location having 250 or more employees.

(3) "Commuter" means an employee who travels regularly to a place of employment.

(4) "Time-origin-destination (TOD) information" means specifications of a driver or rider's work schedule, home and work locations.

(b) This section is applicable to the following cities in the State of Texas: Houston, Dallas, Fort Worth and San Antonio.

(c) Each applicable city shall develop and implement a carpool matching and promotion system designed to encourage commuters of each respective city, on a voluntary basis, to utilize carpools by facilitating their making contact with other commuters having similar travel patterns to the same or neighboring work locations. The system shall be fully implemented by December 1, 1977. As a minimum, the system shall include the following:

(1) A method of collecting information which will include the following as a minimum:

(i) Provisions on each application for the commuter to specify TOD information and the applicant's desire to drive only, ride only, or share driving.

(ii) Provisions for making applications, with instruction, readily available to all commuting employees in each city.

(iii) Preparation and distribution to the major employment facilities in each city of information describing how the carpool matching system work and providing directions for the proper preparation of employee applications.

(2) A computerized method that will locate each applicant's origin in the urban area and destination within the city and match applicants with compatible TOD information. The results of the matching process will then be made available to applicants either through the employer or directly through the city.

(3) A method for providing continuing service so that a current list of all applicants is available for use by new applicants. The system will be periodically updated (every 6 months as a minimum) to correct TOD information and remove applicants no longer available for carpooling.

(d) A timetable for full implementation of the system required in paragraph (c) shall be submitted to the Regional Administrator by September 1, 1977.

(e) Each city shall periodically submit to the Regional Administrator a report on the progress of the carpool matching program which includes the number of applicants in the system, the estimated effectiveness of the system in promoting carpools, changes in the system since the last report, number of updates to the system, and a summary of efforts to promote carpooling and use of the matching system. The first report shall be due on December 1, 1977 and every year thereafter on December 1.

(f) Paragraphs (c) and (d) of this section shall not apply to a city which is presently in compliance by having already implemented an equivalent carpool matching system and which has certified compliance to the Regional Administrator by September 1, 1977. The Regional Administrator may request whatever supporting information he considers necessary for proper certification.

14. Section 52.2297 is revised to read as follows:

**§ 52.2297 Employer mass transit and carpool incentive program.**

(a) Definitions:

(1) "Employee" means any person who performs work for an employer thirty-five or more hours per week and for more than twenty weeks per year for compensation and who travels to and from work by any mode of travel.

(2) "Student" means any full-time day student who does not live at the educational facility and who travels to and from classes by any mode of travel.

(3) "Commuter" means an employee or a student who travels regularly to and from a facility.

(4) "Employment Facility" means any single location of a business nature with 250 or more employees working, at minimum, the same six core hours.

(5) "Educational Facility" means any single location of an educational nature of college level or of vocational training above the secondary level with 1,000 or more commuters.

(6) "Facility" means both an employment facility and an educational facility.

(7) "Employer" means any person or entity controlling an employment facility.

(8) "Educational institution" means any person or entity controlling an education facility.

(9) "Carpool" means a private motor vehicle occupied by two or more persons traveling together.

(10) "Single-passenger commuter vehicle" means a private motor vehicle with four or more wheels with capacity for a driver plus one or more passengers which is used by a commuter traveling alone to work or classes, and is not customarily required to be used in the course of his employment or studies.

(11) "Base date" means the date which is used as a reference for determination of compliance with this regulation. The base date for all facilities shall be November 1, 1977, with the exception listed in paragraph (h).

(12) "Base date period" means the thirty day period immediately preceding the base date; "compliance date period" means the thirty day period immediately preceding the compliance date. In situations where the averaging periods are not appropriate, approval of an alternate period may be requested from the Regional Administrator.

(b) *Applicability.* This regulation shall be applicable to each facility located in the following counties of the State of Texas: Collin, Dallas, Denton, Ellis, Hood, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise Counties in the Metropolitan Dallas-Fort Worth Intrastate Air Quality Control Region; Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Matagorda, Montgomery, and Waller Counties in the Metropolitan Houston–Galveston Intrastate Air Quality Control Region; Bexar, Comal, and Guadalupe Counties in the Metropolitan San Antonio Intrastate Air Quality Control Region.

(c) Each affected employer and educational institution shall develop and implement, and continuously maintain, an incentive program for each facility designed to encourage and increase use of mass transit and carpools by employees and students in their regular commuting to and from the facility. The following mandatory measures must be incorporated as a minimum into the incentive program for each facility:

(1) Posting in a conspicuous place or places of the schedules, rates and routes of mass transit service to the facility;

(2) Publicizing any applicable on-street parking restrictions including penalties for violations, which affect any areas adjacent to the facility being used for parking by commuters to the facility;

(3) Negotiations with authorities in charge of mass transit serving the facility for improved service to the facility;

(4) Incentives for bicycle commuting such as secure locking facilities and removal of restrictive rules against bicycle usage at the facility;

(5) Conducting or participating in a carpooling program (either alone, in cooperation with neighboring facilities, or as part of a city-wide system) which:

(i) Matches on a regularly recurring basis (not less often than once every six months) the names, addresses, and work telephone numbers of all commuters who commute in single-passenger commuter vehicles to a facility or group of neighboring facilities so that such commuters with similar daily travel patterns are informed and aware of each other for the purpose of forming carpools, provided that commuters who state in writing that they do not wish to be matched on grounds of personal privacy may be omitted from the matching process;

(ii) Continuously publicizes the advantages of carpooling, both in terms of savings of fuel and money and any incentives in effect at the facility; and

(iii) Creates incentives for carpool formation by measures such as providing persons who carpool with first call on available parking spaces, spaces which are closest to entrances to the facility, or spaces which provide for most expedient exit at the end of the day.

(6) Publicizing the availability and locations, and encouraging the use, of park-and-ride facilities which could be used by employees and students.

(7) For a facility which has commuters who park on streets within one-half mile of the facility, negotiating with local municipal authorities for the curtailment of available on-street commuter parking.

(8) In the case of an affected employment facility with 1,000 or more employees, the employer shall include in the initial report required in paragraph (d) an evaluation of the feasibility of establishing a vanpool program for the facility. The report shall include: expected employee participation, any special problems in implementing such a program, progress or plans for implementing such a program, and identification of feasible alternative measures if a vanpool program is not considered feasible. The vanpool program would normally consist of the following elements:

(i) The employer would post in a conspicuous place and regularly notify all employees of a continuously outstanding offer to acquire a van or vans (by purchase, lease, or otherwise), to obtain insurance, and to make available to any group of at least eight employees a van for their use in a vanpool. Such offer would include:

(A) The procedures by which a group could accept the offer, including the designation of a driver.

(B) The conditions upon which the offer would be contingent, including acceptance by the prospective driver of the responsibility for providing regular service, training back-up drivers, and arranging vehicle maintenance, and acceptance by each other member of the prospective group of responsibility for payment of a pro rata share of all direct costs (such as rental charge, licensing costs, insurance, tolls, fuel and repair) and indirect costs (such as depreciation and interest on borrowed funds) of the operation and maintenance of the vehicle;

(ii) The employer would analyze and continuously publicize the advantage of vanpooling, including any resulting cost savings, convenience and any incentives in effect at the facility. Such incentives could include providing persons who vanpool with priority treatment on available parking spaces or spaces which are closest to entrances to or exits from the facility;

(iii) Matching for the vanpool program would be coordinated with the carpool matching program, to facilitate the formation of vanpools.

(d) Each employer and educational institution shall submit to the Regional Administrator, by the initial reporting date specified in paragraph (f), a report on the program and its effectiveness signed by an authorized official of the facility. The report shall contain as a minimum the following information:

(1) A description of the actions taken to comply with paragraphs (c)(1) through (c)(8) of this section and any other existing or planned incentive measures for the facility.







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(2) The numbers of commuters regularly arriving at and leaving the facility for the base date period and the compliance date period by each of the following modes of transportation:

(i) Single passenger commuter vehicle.

(ii) Carpools.

(iii) Van-type vehicles with 8 or more commuters.

(iv) Mass transit.

(v) Bicycles.

(vi) All other.

(3) A description of the method for determining the information in paragraph (d)(2) of this section.

(e) Following the initial reporting date specified in paragraph (f), each employer and educational institution shall periodically submit to the Regional Administrator, for each facility, a report similar to that required in paragraph (d) of this section and containing the same types of information. The first such periodic report shall be due on the next succeeding June 30 after the initial reporting date and every year thereafter on June 30.

(f) The compliance date for the full implementation of paragraph (c) and initial reporting date for each facility shall be in accord with the type and size of the facility as shown in the following table:

| Facility type | Size | Compliance date | Initial reporting date |
|---|---|---|---|
| Employment facility | 1,000 or more employees | Oct. 1, 1978 | Nov. 1, 1978 |
| Do. | 500 to 999 employees | Nov. 1, 1978 | Dec. 1, 1978 |
| Do. | 250 to 499 employees | Dec. 1, 1978 | Jan. 1, 1979 |
| Educational facility | 5,000 or more commuters | Oct. 1, 1978 | Nov. 1, 1978 |
| Do. | 1,000 to 4,999 commuters | Nov. 1, 1978 | Dec. 1, 1978 |

(g) Each educational institution or employer submitting reports required by this section shall retain for at least three years all supporting documents and data upon which such report was based.

(h) For a facility established after the effective date of this section, the base date shall be the date on which regular operations were commenced. The compliance date and initial reporting date shall be six months and seven months, respectively, after the date on which regular operations commenced.

**§ 52.2298 Monitoring transportation mode trends.**

(a) The State of Texas or a designated agency approved by the Regional Administrator shall monitor the changes in vehicle miles traveled (VMT) and average vehicle speeds as a result of the measures required under §§ 52.2294, 52.2296, and 52.2297.

(b) No later than May 31, 1978, the State of Texas shall submit to the Administrator a detailed program demonstrating compliance with paragraph (a) of this section in accordance with § 51.19 (d) of this chapter. The program description shall include the following:

(1) The agency or agencies responsible for conducting, overseeing and maintaining the monitoring program.

(2) The administrative process to be used.

(3) A description of the methods to be used to collect the emission reduction, VMT reduction, and vehicle speed data including a description of any modeling techniques to be employed.

(c) All data obtained by the monitoring program shall be included in the quarterly report submitted to the Regional Administrator by the State, as required at § 51.7 of this chapter, and in the format prescribed in Appendix M, Part 51 of this chapter. The first quarterly report shall cover the period January 1–March 31, 1979.

[FR Doc.77-21088 Filed 7-20-77;8:45 am]

[FRL 762-2]

## PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

### Delegation of Authority to the State of New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: A notice announcing EPA's delegation of authority for the New Source Performance Standards to the State of New Jersey is published at page 37387 of today's FEDERAL REGISTER. In order to reflect this delegation, this document amends EPA regulations to require the submission of all notices, reports, and other communications called for by the delegated regulations to the State of New Jersey rather than to EPA.

EFFECTIVE DATE: July 21, 1977.

FOR FURTHER INFORMATION CONTACT:

J. Kevin Healy, Attorney, U.S. Environmental Protection Agency, Region II, General Enforcement Branch, Enforcement Division, 26 Federal Plaza, New York, New York 10007, 212–264–1196).





SUPPLEMENTARY INFORMATION: On May 9, 1977 EPA delegated authority to the State of New Jersey to implement and enforce the New Source Performance Standards. A full account of the background to this action and of the exact terms of the delegation appear in the Notice of Delegation which is also published in today's FEDERAL REGISTER.

This rulemaking is effective immediately, since the Administrator has found good cause to forego prior public notice. This addition of the State of New Jersey address to the Code of Federal Regulations is a technical change and imposes no additional substantive burden on the parties affected.

Dated: July 18, 1977.

BARBARA BLUM,
*Acting Administrator.*

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended under authority of Section 111 of the Clean Air Act (42 U.S.C. 1857c–6), as follows:

(1) In § 60.4 paragraph (b) is amended by revising subparagraph (FF) to read as follows:

**§ 60.4 Address.**

* * * * * *

(b) * * *

(FF)—State of New Jersey: New Jersey Department of Environmental Protection, John Fitch Plaza, P.O. Box 2807, Trenton, New Jersey 08625.

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[FR Doc.77-21020 Filed 7-20-77;8:45 am]

[FRL 762-3]

## PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

### Delegation of Authority to the State of New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: A notice announcing EPA's delegation of authority for certain categories of the National Emission Standards for Hazardous Air Pollutants regulations to the State of New Jersey is published at page 37386 of today's FEDERAL REGISTER. In order to reflect this delegation, this document amends EPA regulations to require the submission of all notices, reports, and other communications called for by the delegated regulations to the State of New Jersey rather than to EPA.

EFFECTIVE DATE: July 21, 1977.

FOR FURTHER INFORMATION CONTACT:

J. Kevin Healy, Attorney, U.S. Environmental Protection Agency, Region II, General Enforcement Branch, Enforcement Division, 26 Federal Plaza, New York, New York 10007 (212–264–1196).

SUPPLEMENTARY INFORMATION: On May 9, 1977 EPA delegated authority to the State of New Jersey to implement and enforce many categories of the National Emission Standards for Hazardous Air Pollutants regulations. A full account of the background to this action and of the exact terms of the delegation appear in the Notice of Delegation which is also being published in today's FEDERAL REGISTER.

This rulemaking is effective immediately, since the Administrator has found good cause to forego prior public notice. This addition of the State of New Jersey address to the Code of Federal Regulations is a technical change and imposes no additional substantive burden on the parties affected.

Dated: July 18, 1977.

BARBARA BLUM,
*Acting Administrator.*

Part 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended, under authority of section 112 of the Clean Air Act (42 U.S.C. 1857c–7), as follows:

(1) In § 61.04 paragraph (b) is amended by revising subparagraph (FF) to read as follows:

**§ 61.04 Address.**

* * * * * *

(b) * * *

(FF)—State of New Jersey: New Jersey Department of Environmental Protection, John Fitch Plaza, P.O. Box 2807, Trenton, New Jersey 08625.

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[FR Doc.77-21021 Filed 7-20-77;8:45 am]



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# proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### [ 7 CFR Part 1030 ]

[Docket No. AO–361–A17]

### MILK IN THE CHICAGO REGIONAL MARKETING AREA

### Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision would amend the Chicago Regional Federal milk order. The decision is in response to industry proposals considered at a public hearing in June 1976. Dairy farmer cooperatives will be polled to determine whether producers favor issuance of the proposed order as amended.

Proposed changes to the order relate to performance standards for pool plants and the rates used to adjust milk prices for different plant locations. The changes would aid the efficient handling of milk and would reflect the recent increases in hauling costs.

FOR FURTHER INFORMATION CONTACT:

Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–6273).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing—Issued May 25, 1976; published May 28, 1976 (41 FR 21787).

Notice of Recommended Decision—Issued May 26, 1977; published June 1, 1977 (42 FR 27921).

PRELIMINARY STATEMENT

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Chicago Regional marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Madison, Wisconsin on June 15–18, 1976 pursuant to notice thereof.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Administrator, on May 26, 1977 filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein with the following modifications:

INDEX OF CHANGES

1. Issue No. 1—*Pooling standards for distributing plants and supply plants.*—Two new paragraphs are inserted after the ninth paragraph of issue No. 1(a); two new paragraphs are added at the end of issue No. 1(b)(1); a new paragraph is inserted after the tenth paragraph of issue No. 1(b)(3); four new paragraphs are added at the end of issue No. 1(b)(4); a new paragraph is added at the end of issue No. 1(b)(5); a new paragraph is added at the end of issue No. 1(b)(6); and issue No. 1(c) is entirely revised.

2. Issue No. 2—*Definition of producer and producer milk.*—Issue No. 2(a) is entirely revised and a new paragraph is added at the end of issue No. 2(b).

3. Issue No. 3—*Plant accounting procedure*—is entirely revised.

4. Issue No. 4—*Class I price level.*—The fifth paragraph is deleted and six new paragraphs are added at the end of this issue.

5. Issue No. 5—*Location adjustments to handlers and producers*—six new paragraphs are inserted after the 12th paragraph and two new paragraphs are added at the end of this issue.

6. *Rulings on motions and Requests*—the second paragraph is revised.

The material issues on the record of the hearing relate to:

1. Pooling standards for distributing plants and supply plants;
2. Definition of producer and producer milk;
3. Plant accounting procedures;
4. Classification of milk;
5. Class I price level;
6. Location adjustments to handlers and producers; and
7. Modification of payments to producers.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pooling standards for distributing plants and supply plants.*—(a) *Distributing plants.* The unit pooling provisions applicable to distributing plants should be modified by making the 10 percent in-area route disposition requirement applicable to the unit as a whole rather than on each plant in the unit. This change will facilitate the efficient handling of Class II products by operators of distributing plants.

A proprietary operator of two pool distributing plants proposed that packaged fluid cream products, cottage cheese, yogurt, and eggnog be defined as "associated fluid milk products" and that the sales of such packaged products count toward meeting the minimum "route disposition" requirement of pool distributing plants. A proposal by several cooperative associations would include sales of packaged fluid cream products as "route disposition" in qualifying a distributing plant for pool plant status.

Presently, a distributing plant qualifies for pooling on the basis of its total and in-area sales of packaged fluid milk products. A spokesman for the cooperatives testified that prior to August 1, 1974, packaged fluid cream products were also considered in determining whether a distributing plant had met the minimum sales requirement. The witness stated that when cream products were put in a separate class they were unintentionally deleted as qualifying sales for a distributing plant.

The witness is mistaken in this contention. The final "classification" decision issued on February 19, 1974, (39 FR 8202), relative to the Chicago Regional order states as follows:

"With the reclassification of cream, movements of cream to or from a plant no longer should be considered in determining if a plant meets the pooling requirements of the order. To accommodate this, certain changes are necessary to those pool plant definitions that make specific reference to the movement of cream" (39 FR 8208).

A spokesman for the operator of two pool distributing plants testified that fluid cream products, cottage cheese, yogurt, and eggnog are generally associated with fluid milk products in processing and distribution and are highly perishable, as are fluid milk products. He said that they are largely distributed through fluid milk plants.

The witness further testified that in recent years there has been a tendency to concentrate the production of these Class II products in fewer and fewer plants. He said that after years of producing these products in each of the handler's distributing plants it became apparent that the production of these products should be concentrated in one plant if they were to be handled profitably.

The witness stated that for the market as a whole the concentrated production of "associated fluid milk products" has raised the Class I utilization of the plants where they were formerly produced. At the same time, however, it has lowered the Class I utilization in the plants specializing in these products.





This, he concluded, should be recognized in the order by allowing "associated fluid milk products" to count towards pooling qualification.

This proposal would allow a plant that had no distribution of fluid milk products or other relationship with the Class I market to qualify for pooling under the order. For example, a plant specializing in the production of cottage cheese could qualify for pooling under this proposal. Since the Class II price is usually below the uniform price, this—theoretically, at least—could drain the pool of money needed to attract milk for Class I use.

In its exceptions to the recommended decision, proponent contended its "associated fluid milk product" sales outside the marketing area enhance the blend price, since in the event of the loss of such sales the volume of milk used in such products would otherwise be utilized in Class III products. This contention assumes that such sales accounts would not be taken by other pool handlers. The record does not demonstrate that such assumption would necessarily be the case.

Moreover, proponent states that its "associated fluid milk products" plant (that processes milk into Class II uses, priced 10 cents over the Class III price) would not be able to pay a high enough price to its dairy farmers to compete for a supply of milk if it were not a pool plant. Such contention amounts to an admission that the Class II price is not sufficient to attract a supply of Grade A milk. Thus, if the pooling base were to be expanded to include "associated fluid milk products" disposition along with Class I disposition, it could result in the expansion of Class II and Class III utilization to the point that the uniform price would be reduced below that level necessary to ensure that a sufficient supply of Grade A milk would be made available for Class I use.

A further problem associated with the proposal is drawing a distinction for pooling purposes between certain Class II products. For example, a plant specializing in the production of cottage cheese would be allowed to pool under the order while a plant specializing in ice cream, another Class II product, would not. Since all Class II disposition returns a uniform value to the pool, such disposition should be treated uniformly in any pooling provision.

Accordingly, it would not be appropriate to adopt the proposal advanced by proponents. However, the problem can be mitigated by removing the in-area route disposition requirement for each distributing plant in a unit. The 10 percent in-area route disposition requirement would thus apply to the entire unit. This change would allow a handler to specialize in the production of Class II products in one of his plants if the combined route disposition of fluid milk products from all plants in the unit is at least 10 percent of the unit's receipts used for determining pool plant status.

This modification of the proposal will maintain the basic pooling base by requiring all operators of distributing plants to have at least a minimum proportion of fluid milk product disposition in the marketing area. In this way, all operators of distributing plants will be contributing some higher valued Class I utilization to the market and all will have the same opportunity to benefit from any Class II utilization they may have.

The present 10 percent in-area route disposition requirement should not be reduced to 5 percent or a daily average of 1000 pounds, as suggested by proponent. Proponent testified that the present 10 percent in-area route disposition requirement places severe restrictions on new sales outside the marketing area. Removal of the 10 percent in-area route disposition requirement for separate plants within a unit should eliminate the restriction referred to by proponent. Any further relaxation of the 10 percent requirement is not needed at this time.

With removal of the in-area route disposition requirement for each plant within a unit, the possibility exists for a distant plant to become pooled under the Chicago Regional order by virtue of being in a unit with a distributing plant that has ample route disposition in the marketing area. To preclude certain pricing aberrations which could result by pooling such distant plants, the order should restrict the location of plants within a unit to the State of Wisconsin and that portion of Illinois that is within the Chicago Regional marketing area. Although it is unlikely that any distant plant would find it economically advantageous to become regulated under the Chicago order, this restriction will provide a degree of insurance against any potentially disruptive situations that might otherwise occur. There are no presently regulated distributing plants that will be affected by this change.

Removal of the in-area route disposition requirement for each plant in a unit requires a conforming change in the order terminology applicable to a unit, since, in effect, some plants in a unit may have no route disposition. Therefore, the words "two or more distributing plants" in the introductory text of § 1030.7(a) should be replaced with "at least one distributing plant and one or more additional plants at which milk is processed and packaged or manufactured." This change will permit the inclusion of any plant in a unit at which Grade A milk is processed and packaged or manufactured; *Provided*, That the total and in-area route disposition from all plants in the unit is sufficient to meet the minimum requirements for the entire unit.

(b) *Supply plants.* Several changes should be made in the supply plant pooling standards on the basis of this record.

*First*, with respect to supply plants qualifying in a unit, the present requirement that each individual supply plant in a unit must ship a minimum proportion of its receipts of milk to pool distributing plants should be dropped.

*Second*, supply plants that are included in a unit should be located in the State of Wisconsin or that portion of Illinois that is within the Chicago Regional marketing area.

*Third*, supply plants should be given credit for shipments to distributing plants fully regulated under other Federal orders. However, credit for shipments to other Federal order plants should be limited to the amount of milk shipped to pool distributing plants regulated under the Chicago Regional order. Furthermore, only that milk which is not shipped on an agreed upon Class II or III classification should be eligible for pooling credit.

*Fourth*, producer milk that is delivered by the operator of a supply plant (either a cooperative association or a proprietary handler) directly from producers' farms to pool distributing plants should be considered as qualifying shipments from the supply plant. This should be accomplished by allowing producer milk to be diverted from one pool plant to another pool plant.

*Fifth*, the period for which supply plants may have automatic pool plant status should be changed from April through July to April through August.

*Sixth*, receipts of other source milk should be excluded from a supply plant's receipts in computing the percentage of its receipts that must be shipped to distributing plants during the month to qualify for pooling.

1. Presently, each supply plant in a unit must ship a portion of its producer milk to distributing plants. Specifically, it must ship 15 percent of its producer milk receipts during the months of September, October, and November, and 10 percent in each of the months of August, December, January, February, and March.

Several cooperative associations (proponent of proposal No. 2) proposed the removal of the requirement that each supply plant in a unit be required to ship a minimum quantity of milk during the months mentioned above. However, in the event a temporary increase in the supply plant shipping percentage was issued by the Director of the Dairy Division, they proposed retaining the authority to require an individual plant to ship up to 50 percent of the shipping percentage applicable to the entire unit.

A similar proposal was made by the National Farmers Organization (NFO), except that its proposal would not retain the option of requiring a minimum level of shipments from individual plants in a unit in the event a call was issued. An NFO spokesman testified that the proposal would allow a handler to supply milk from the closest, least costly supply area and in the most efficient manner possible. It would, he said, provide substantial savings in the handling of the milk involved.

The witness testified that the present order provision causes more milk to be handled through supply plants than is actually necessary. Moreover, he said that lack of reciprocity in Grade A milk inspection by the Chicago Board of Health makes it difficult and sometimes impossible to pool an otherwise qualified supply of milk on the Order 30 market.



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A spokesman representing proponents of proposal No. 2 testified that the total shipping percentage required of a unit of supply plants assures handlers and the market of an adequate supply of milk for Class I and II use. The individual plant shipping requirement, he said, results in inefficiency and lower returns to producers because it does not permit all of a unit's shipments to come from the most favorably situated plants.

Individual shipping requirements for plants within a unit were incorporated in the order in a Final Decision issued July 9, 1973. At that time, it was found that distributing plants located in the Chicago metropolitan segment of the market were experiencing difficulty in obtaining needed milk supplies from supply plants. To remedy this situation, individual supply plant shipping requirements were adopted.

Two years later, on the basis of a hearing held in June 1975, the supply plant shipping requirements were lowered. It was found at that time that producer milk supplies on the market had increased to the point where uneconomic shipments of milk from supply plants were being made simply for the purpose of meeting the pooling requirements. Accordingly, supply plant shipping requirements were lowered by 5 to 10 percentage points.

Since June 1975, more milk has been pooled under Order 30 and the Class I utilization has declined further. In June 1975, 818 million pounds were pooled and 235 million pounds, or 29 percent of total receipts, were used as Class I. In June 1976, producer deliveries had increased to 892 million pounds—9 percent more than June 1975. Producer milk used in Class I increased to 237 million pounds, resulting in a Class I utilization of 26 percent—3 percentage points below June 1975.

Perhaps more significant than the total amount of milk on the market is the amount of milk pooled at supply plants approved by the Chicago Board of Health, since pool distributing plants distributing milk within the City of Chicago have, until recently, been required to receive only Chicago-inspected milk. In March 1976, 450 million pounds of milk were received at Chicago-approved supply plants, compared to 413 million pounds in March 1975, 400 million pounds in March 1974, and 375 million pounds in March 1973. This 20 percent increase in Chicago-approved milk in the past 3 years has reduced the need to require each plant in a unit to perform. Moreover, as a result of a recent court decision,[1] the Chicago Board of Health now approves the sale of milk on a reciprocal inspection basis. Thus, there is an abundant supply of milk available to Chicago bottling plants.

In conclusion, the reasons previously supporting shipments from supply plants within a unit no longer exist. There are now plentiful supplies of milk available to the market, making it unnecessary to require shipments from individual plants in a unit. Removal of this requirement will allow operators of supply plant units to minimize hauling costs in supplying milk to the market.

There is no need to retain authority for the Director of the Dairy Division to require individual plants within a unit to ship up to 50 percent of the shipping percentage required of the unit. To invoke this requirement on a short notice basis after many months without requiring shipments would likely cause increased transportation costs in moving milk to market. Moreover, it would adversely affect those units which are having no difficulty in meeting their minimum deliveries if the provisions were invoked in response to requests by other operators of units which are experiencing difficulty in getting their plant operators to ship milk. Therefore, it is more appropriate for the unit participants themselves to determine which plants in a unit should ship and how much each should ship.

Presently, the cooperative or handler establishing a unit furnishes the market administrator with a list of the plants included in the unit. In the event that shipments from the unit are insufficient to qualify the entire unit for pooling, the plant first on the list is excluded from the unit first, followed by the plant second on the list, and so on.

This procedure should be modified slightly by offering the handler or cooperative establishing the unit the option of specifying which plant or plants shall be excluded from the unit when deliveries are insufficient to qualify the entire unit. This option will allow the cooperative or handler to exclude the plant(s) of those parties that may have failed to meet their obligations to supply a certain amount of milk, while protecting the interests of those operators of plants that are specified at the beginning of the list who may, in fact, be fulfilling their obligations. If a handler or cooperative declines to identify the plant(s) that will be excluded from the unit, then the market administrator will simply exclude the plants according to the sequence in which they are listed.

This modification should give handlers and cooperatives more leverage in insuring that agreements are honored by unit participants. It will replace the need to allow the Director to require shipments from individual plants in a unit, which as mentioned above, would be unfair to those units which are experiencing no difficulty in meeting their delivery obligation.

An exception was made to the modification that would enable the operator of a supply plant unit to specify which plant or plants shall be excluded from a unit when deliveries are insufficient to qualify the entire unit. Exceptor states that such provision detracts from the impartiality of the removal of a plant from the unit and, thus, may encourage formation or less binding supply plant leases and agreements.

The supply plant unit concept was adopted to realize savings in hauling costs by enabling multi-plant operators to supply the market from the plants located closest to the bottling plants. Also, it was adopted to gain greater returns for producers by using reserve supplies in the more remunerative products processed by certain plants while shipping milk from plants that otherwise would be processing milk into less remunerative products. The modification adopted will thus enhance the ability of unit operators to carry out the intent of the unit concept.

2. The order should be modified to restrict supply plants that qualify for pool status as part of a unit to be located in either the State of Wisconsin or that portion of Illinois that is within the Chicago Regional marketing area.

Presently, all supply plants—including those in a unit—have to make some shipments to pool distributing plants. This requirement has tended to restrict the area in which supply plants are located, since a plant located a great distance from the market would find it uneconomical to make the required level of shipments.

With the removal of the shipping requirement for individual plants in a unit, however, it would be possible for supply plants located at great distances from the market to pool under the Chicago order by being included in a unit. It is probable that a distant plant would find it undesirable to pool under Order 30 after the Chicago uniform price is adjusted to the plant's location. However, to guard against any unforeseen pricing aberration that could result, a geographic restriction encompassing the historical supply area for the market should be placed on all plants qualifying as part of a unit. Since all plants now pooled under Order 30 are located either within the State of Wisconsin or that part of northern Illinois that is in the Chicago Regional marketing area, this area is a reasonable one in which to restrict the location of plants qualifying as part of a unit.

3. Several proposals by cooperative associations would give full or partial pooling credit for shipments of milk from Order 30 supply plants to various non-Order 30 plants.

Presently, a supply plant is credited for its shipments to Order 30 pool distributing plants and plants of producer-handlers. Credit is also given for shipments to plants partially regulated under Order 30 if the transhipped milk is assigned to Class I milk disposed of in the Chicago Regional marketing area.

One of the proposals would also give pooling credit for shipments to plants fully regulated under other Federal orders and also to totally unregulated plants if the milk transferred received a Class I classification. Proponent contended that these proposals would encourage pool supply plant operators to increase their Class I utilization by serving additional Class I outlets and, thus, be of benefit to producers by increasing the uniform price.

[1] Official notice is taken of: "*Dixie Dairy Co. vs. The City of Chicago*," 355 F. Supp. 1351. (N.D. Ill. 1975) affirmed 538 F. 2d 1303 (7th Cir. 1976) *cert. den.* 45 L. W. 3416 (1976)





Pooling credit should be granted for supply plant shipments to plants fully regulated under other Federal orders. Evidence on the record shows that during the period from September 1975 to February 1976 Order 30 supply plants shipped bulk milk to 9 other Federal order markets. Such shipments went as far south as the Oklahoma Metropolitan market and as far east as the Eastern Ohio-Western Pennsylvania market. The greatest volume of shipments occurred during January 1976, when more than 6 million pounds of milk were shipped to other markets.

Shipments of this nature are primarily intended for Class I use at the transferee plant. The Class I utilization is passed back to the supply plant and serves to increase the Class I utilization and uniform price of Order 30. Consequently, such sales serve to improve the returns of all producers on the market.

Up until now, shipments to other order plants have not been recognized as providing a service to the market and the system of Federal order markets. In fact, the current pooling standards tend to discourage such shipments by requiring the minimum shipments to be made to just one order. Consequently, a supply plant shipping to several markets would likely not qualify for pooling under any of them.

The trend in milk marketing has been towards larger markets, larger producer organizations, and large, centralized processing plants. Milk now moves much farther than it ever did before; not only is it procured from farther distances but also distributed over a much wider area. As a result of these developments, Federal order markets have been merged to provide a broader sharing of returns over much wider areas.

Allowing pooling credit for shipments to other orders is one means of providing a broader sharing of the Class I market among producers where merger may not be a feasible solution. It represents a logical step in accommodating movements of milk over much broader geographic areas and should benefit both the transferee and transferor markets.

Some of the proposals provided restrictions on the amount of milk which could be transferred to other order plants and receive credit towards the shipping requirement under Order 30. One proposal restricted such credit to the amount of milk shipped to Order 30 distributing plants. Another proposal provided no restrictions, so that a supply plant could conceivably qualify for pooling under Order 30 solely on the basis of shipments to other order distributing plants.

Pooling credit for shipments to other order plants should be limited to the equivalent of the shipments made to Order 30 distributing plants. This will insure that distributing plants in this market will be supplied with milk. Unlimited credit for shipments to other markets would undermine the effectiveness of the pooling standards in insuring that consumers in the Chicago Regional market will be supplied with fluid milk products.

An exceptor pointed out that the recommended decision stated that "there is an abundant supply of milk available to Chicago bottling plants" and therefore urged that no limitation be provided on pooling credit accorded shipments to other order distributing plants. Although adequate milk supplies for Class I use are pooled under the order, there would be no incentive under the order for supply plants to ship milk to bottling plants in the market without performance standards to encourage such shipments. Thus, performance standards based on association of pooled milk supplies with fluid milk outlets in the market are needed to assure that milk is made available to such outlets.

Only that milk which is intended for Class I use at the other order plants should count towards pooling credit. The terms of Federal orders accommodate the transfer of milk to other order plants for the purpose of surplus disposal as well as for fluid use. Thus, milk which is transferred on the basis of requested Class II or III utilization should receive no pooling credit.

The order now provides pooling credit for milk transferred to a partially regulated distributing plant and assigned to Class I milk disposed of in the marketing area. Since virtually all of the territory now surrounding the Chicago Regional market is included in some other marketing area, it can be assumed that a distributing plant partially regulated under Order 30 probably has the bulk of its sales in some Federal order marketing area. As just indicated, pooling credit would be given for shipments to distributing plants regulated under other orders. In view of this and in view of the likelihood that a partially regulated plant's sales would be largely in regulated areas, it is reasonable that a supply plant receive pooling credit for all milk transferred to a partially regulated distributing plant which receives a Class I classification.

No pooling credit should be given for transfers from supply plants to totally unregulated plants. Under the terms of the Chicago Regional order the operator of an unregulated plant is assumed to be paying his own producers the Federal order uniform price, rather than the Class I price for milk utilized in fluid milk products. This treatment under the order is based on the assumption that the unregulated plant can not compete for producers unless he pays at least the order uniform price. But since this is the competitive price to producers the unregulated handler is not likely to be paying a higher price.

The Federal order Class I price structure is designed to include in the Class I price that amount necessary to carry the burden of maintaining an adequate reserve supply in the order market. Thus Federal order handlers pay a Class I price designed to carry a reserve supply for the regulated market. Unregulated handlers do not contribute to this burden on a year-around basis as regulated handlers do.

To encourage transfers to unregulated distributing plants for Class I use would facilitate an unregulated distributing plant operator in escaping the burden of carrying his own reserve milk supplies. When the plant operator did not need supplemental supplies, the pool would be forced to carry this milk for Class III use. Accordingly, while such transfers should not be prohibited under the order, they should not be encouraged by counting them as qualifying shipments for the transferor plant.

4. Cooperatives and proprietary handlers should be allowed to meet supply plant shipping requirements on the basis of direct deliveries from producers' farms.

The National Farmers Organization and Lakeshore Federated Dairy Cooperative each proposed allowing direct deliveries from producers' farms to pool distributing plants to count as qualifying shipments for a supply plant.

An NFO witness testified that current order provisions provide that only shipments from supply plants count towards meeting the supply plant shipping requirements. This, he said, causes a great deal more milk to be handled through supply plants than is actually needed to supply the fluid market. The witness concluded that its (NFO) proposal would make it possible for milk to be handled more efficiently. This would occur by having milk that is normally delivered to supply plants for transshipment to move directly from the farm to pool distributing plants but still count as a supply plant transfer. He also pointed out that its proposal would reduce shrinkage of milk (as a result of unnecessarily pumping it into a supply plant) and would result in less deterioration in the quality of the milk, which is also a result of pumping it.

Better roads and bigger trucks now make it feasible to direct-ship milk to all distributing plants in the Wisconsin segment of the market. For Chicago metropolitan area distributing plants, it may be more efficient to ship milk through supply plants. Whatever the individual circumstances may be, the order should encourage milk to be marketed in the most efficient way possible. Testimony indicates that current order provisions have encouraged the movement of milk through supply plants when it could have been direct-shipped to a distributing plant in Wisconsin. Inclusion of direct deliveries as qualifying shipments will remove the necessity of supplying milk through a supply plant—simply to keep the plant qualified for pooling—when the milk can be more economically supplied directly from producers' farms.

In their exception to the recommended decision a group of cooperatives opposed the adoption of any provision that would permit a proprietary supply plant operator to be a handler on milk diverted to a pool distributing plant. The exceptors



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contend that the provision "conflicts with other provisions of the order and would subvert the right of a cooperative to control the marketing of milk of its member's." Exceptors refer specifically to that part of the definition of a cooperative which states that a qualified cooperative "have full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or milk products for its members."

The provision adopted would not preclude a cooperative from making any sales arrangement it desires to engage in with respect to milk of its members. If a cooperative does not want a plant operator to divert milk of its members to other plants it could so stipulate in its sales agreement with such handler.

The present terms of the order provide that a pool plant operator may be the handler on milk diverted to a nonpool plant. The provision adopted permits the same type of handling practice between pool plants. The order does not require a plant operator to be the handler on diverted milk. Rather the order simply recognizes diversion of milk as a permissable handling practice that a pool plant operator may perform.

Exceptors state further that the present terms of the order provide that a cooperative association may be the handler on milk moved directly from the farm to a pool plant. Also, they state that a cooperative may pool a supply plant on the basis of member producer milk received at pool distributing plants. Accordingly, they contend that the order now adequately accommodates the handling of milk from farm to plant. The record demonstrates, however, that cooperatives have not engaged in handling milk under such terms of the order. Moreover, these handling arrangements are now available only to cooperative associations. By permitting proprietary plant operators to engage in essentially the same handling practices under the order it is expected that more efficient handling of milk will be encouraged.

5. The period for which supply plants may have automatic pool plant status should be changed from April through July to April through August. Presently, a supply plant or unit of supply plants that met the pool performance standards for each of the months of August through March is automatically qualified for pool status during the following months of April through July.

The Trade Association of Proprietary Plants proposed dropping August as a qualifying month for supply plants. A spokesman for this group testified that surrounding orders generally use September as the first month in the qualifying period. He said that the Class I utilization during August is more related to the automatic pooling months than to the higher utilization months in the fall and winter. He also stated that September is a more logical month to use because schools in the Chicago area do not usually start until early September. Testimony by other witnesses indicated support for this proposal.

During 1976, the Class I utilization under the Chicago order was significantly higher during the months of January through March and September through December than during the other months of the year. For January, February, and March, the utilization percentages were 36, 32, and 33 percent, respectively. For September, October, November, and December, they were 35, 36, 36, and 32 percent, respectively. For April through August they were 30, 28, 26, 28, and 30 percent, respectively. These figures, which generally follow the pattern of the previous two years, indicate that the supply-demand pattern for August is more comparable with that for the current months of automatic pooling than with that for the months when supply plants are now required to ship milk.

By using September as the starting month of the qualifying period, the Chicago order will be better coordinated with neighboring orders, such as the Upper Midwest order, the Central Illinois order, the Indiana order, and others. This will facilitate planning by handlers and cooperatives concerning which plants and producers to associate with which markets during the qualifying period.

Eligibility for automatic pool plant status for a supply plant during the April–August period should not be denied a plant that was a pool plant under another order in one month during the prior September–March period. A cooperative association proposed that any plant that was a supply plant under Order 30 shall be a pool plant under Order 30 during the following month regardless of the volume of shipments made to other order distributing plants. Proponent stated that this proposal was made for the purpose of insuring that a supply plant would not lose its eligibility for pooling during the automatic pool plant status period. Proponent contended that the provision was needed in conjunction with adoption of pooling credit on shipments made to other order distributing plants.

It would not be workable to have a provision in this order that would preclude a plant from qualifying as a pool plant under another order. Thus, the proposal as published in the notice of hearing can not be adopted.

However, if a pool supply plant were to risk the loss of eligibility for pooling during the automatic pool plant status period by shipping enough milk to qualify for pool status under another order, it would tend to inhibit such plant operator's willingness to supply milk to other order markets. Thus, to complement the amendment providing for supply plant pooling credit on shipments to other order distributing plants, the proposal should be adopted as modified above.

An exceptor contended that this provision would detract from the requirement that a supply plant must ship milk to an Order 30 distributing plant to qualify for pooling status. Since automatic qualification during April through August would still require shipments to Order 30 plants in six of the prior seven months there is little likelihood that the provision adopted would affect the ability of Order 30 distributing plants to attract adequate supplies of milk. Such conclusion is supported by the fact that the record does not indicate any apparent problem of bottling plants obtaining supplies of milk in the past during the months of automatic qualification for pool supply plants.

6. A proposal to exclude receipts of other source milk from a supply plant's receipts for purposes of determining the amount of milk which must be shipped to distributing plants during the month should be adopted.

Presently, to determine if a supply plant or unit has met the minimum shipping percentage specified in the order, its total eligible shipments to pool distributing plants, producer-handler plants, and partially regulated plants are divided by the volume of Grade A milk received from dairy farmers and cooperative associations acting as handlers on bulk tank milk, including milk diverted to nonpool plants, but excluding packaged fluid milk products which are disposed of as route disposition or which are moved to nonpool plants.

Generally, Grade A milk received at a pool plant from dairy farmers is "producer milk" and is pooled under the order. However, there are certain exceptions to this, such as when a dairy farmer's milk is diverted from another order plant. In such case, the dairy farmer would be a producer under the other order.

Also, the Chicago order was amended in 1973 by including a provision that excludes from producer status a dairy farmer whose milk is received at a pool plant during the months of January through July if the dairy farmer's milk was pooled under an order with a seasonal incentive production plan during any of the "payback" months of the previous year. Consequently, such dairy farmer's milk is not pooled under the order.

In both cases, the milk of such dairy farmers is now part of a supply plant's receipts on which performance is based even though the milk is not producer milk under Order 30. Such other source milk is part of the reserve milk supply for other markets. Milk received by diversion from another order plant is allocated to Class II or Class III use. This treatment under the order is for the purpose of accommodating the disposal of reserve milk supplies of other order markets.

Similarly, milk received from a dairy farmer who was associated with another market during the prior "payback" period, which is the season of low production, is essentially part of the reserve supply of such other market. Thus in both situations, receipts of such milk at an Order 30 plant represent milk supplies basically associated with other markets. Accordingly, Order 30 plant operators should not be required to move such other source milk supplies to fluid use outlets when the Order 30 plants are





merely facilitating the disposal of reserve milk supplies of other markets.

Since pooling credit will be given for movements of milk in bulk or packaged form to plants which are fully regulated under other Federal orders, there is no necessity to exclude shipments of packaged fluid milk products to other order plants from the supply plant's receipts, as the order now provides. However, fluid milk products disposed of as route disposition should continue to be excluded from a supply plant's receipts for the purpose of determining its shipping performance.

There is no basis for adopting a proposal that would exclude the volume of packaged fluid cream products that are disposed of from a supply plant from its receipts for the purpose of determining its shipping performance. As discussed above with respect to pool distributing plants, pooling standards must be tied to distribution of fluid milk products. Similarly, in the case of supply plants, only shipments to serve the fluid milk product needs of distributing plants should count towards meeting the shipping requirement. Since milk used in fluid cream products at a pool plant is pooled under the order, the supply plant should be required to perform on that quantity of milk also. Hence, there is no basis for subtracting the volume of fluid cream products utilized from the plant's receipts, as proposed.

The order provides that a supply plant may count shipments of condensed skim milk that is utilized in a fluid milk product as a qualifying shipment for pooling. The order language adopted in the recommended decision did not specify that such shipments to pool distributing plants must be utilized in a fluid milk product. Accordingly, the order provisions are revised to include the condition that shipments of condensed skim milk from pool supply plants to pool distributing plants must be utilized in a fluid milk product to count for pooling credit.

(c) *Distributing plants and supply plants.* A proposal that would allow a plant automatic pool plant status while plant operations are unavoidably interrupted, if it met the pool performance standards in the immediately preceding three months, should be adopted.

Proponents of proposal No. 2., a group of 14 cooperative associations, proposed the provision to accommodate situations where a "natural disaster", such as an ice storm, wind storm, or tornado, has caused the distributing plant or supply plant physical destruction such that the plant is not able to maintain its pool plant status.

The proposal should be adopted with a two-month limit, but also should be modified to cover circumstances in addition to a "natural disaster." It is not uncommon for a plant to fail to qualify for pooling for other unavoidable reasons. Such reasons could include a strike, breakdown of equipment, fire damage, and possibly other reasons that the market administrator may verify as unavoidable. Since the main impact of failing to qualify for pooling falls hardest on producers, they should be protected from sudden and unexpected loss of producer status under the order.

Allowing a plant that unavoidably failed to meet the pooling standards to be a pool plant, if it met the performance requirements in each of the three preceding months, is a reasonable and equitable basis for protecting producers' interests. It will afford handlers the opportunity to make corrective adjustments in their operations in the event of unanticipated circumstances and it will afford producers reasonable opportunity to find an alternative outlet for their milk without losing pooling privileges in the interim.

It is not necessary to extend the automatic pooling privilege to supply plants that are included in a unit since such plants already have the security of being in a unit. Thus, failure to perform does not mean such a plant will lose its pool status so long as the unit as a whole performs.

A proposal by the Southland Corporation would provide automatic pooling for six months in the event of a work stoppage, natural disaster, civil disturbance, fire, or other disaster beyond the control of the plant operator.

Proponent's spokesman testified that its Madison, Wisconsin plant, which specializes in the production of Class II products, is eligible to pool by virtue of being in a unit with its bottling plant in Chicago. Therefore, if the Chicago plant were to go out of operation, the Madison plant would also lose its pool status. This, he said, would make it impossible for the Madison plant to purchase milk for Class II use and still remain competitive.

This proposal goes well beyond the time period needed to make alternative arrangements for marketing the milk of the producers involved. Producers should have protection against unexpected loss of pool participation of their milk because a distributing plant or supply plant, over which they have no control, failed to qualify as a pool plant. However, the six-month automatic pool status proposed by Southland provides too much leeway and could be subject to abuse.

A provision now provides up to two months' automatic pool status for a supply plant that fails to qualify for pooling because of a work stoppage. Thus, the provision adopted would expand automatic pool status to all pool plants under circumstances that the market administrator determines are beyond the control of the plant operator.

The recommended decision provided a one-month automatic qualification in any circumstance. One exceptor urged that such automatic qualifications be granted only in the event of unavoidable circumstances such as a "natural disaster." Another exception stated that the one-month limit was too short a time period because if the interruption of plant operation occurred in the latter part of a month the relief granted would be for only a few days.

The record testimony pertains primarily to limiting such automatic pooling status to only cases where plant operations are unavoidably interrupted. Accordingly, it is appropriate that the provision be formulated as is provided. Also, since the order now provides a two-month limit on automatic pooling status in the case of a work stoppage and since the provision adopted is confined to only cases of unavoidable interruption of plant operations, which could occur in the middle or near the end of the month, a maximum of two months of relief should be provided.

2. *Definition of producer and producer milk.*—(a) *Producer.* A proposal to modify the treatment of a dairy farmer who was a producer under an order with a seasonal incentive payback plan during the preceding year should be adopted in the case of a dairy farmer who moves to a different farm.

The order currently provides that a dairy farmer who was a producer during any "payback" month under another Federal milk order having provisions for a seasonal incentive payment plan shall not be a producer during the following months of January through July. (Under a seasonal incentive payment plan, or "Louisville plan" as it is commonly known, funds are deducted from the pool during the flush production months and added back to the pool during the short production months in the fall. The purpose of the plan is to encourage more even production of milk throughout the year.) Milk received from such a dairy farmer during January–July does not qualify as "producer milk". Instead, it is treated as "other source milk" and allocated to the lowest possible use class.

Proponents of proposal No. 2 proposed that the treatment of such milk be modified. Proponents proposed easing the present restrictions to allow any handler to receive milk from any three such dairy farmers described above during January through July as producer milk rather than as other source milk. In other words, a handler—at each of his pool plants—would be able to receive as producer milk the milk of any three dairy farmers who had previously been producers under an order with a Louisville plan.

Proponents testified that, while the present provision is sound in principle, it has caused some hardship in the case of a tenant dairy farmer who moves to a different farm which he may rent or purchase, particularly when the diary farmer no longer has the opportunity to ship to the market with which he was previously associated. Proponent witness pointed out that April is a good time for producers to change farms, since it is the beginning of the crop season. He claimed that by allowing such dairy farmers who move to a different farm to qualify as producers under the order, such hardship would be alleviated.

Proponents failed to show that any other dairy farmers have suffered a "hardship" as a result of the present order provisions. As cited by opponents of the proposed provision, a multiple-



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plant handler would be in a position to "bring back" three large producers at each plant and, thus, abuse the intent of the provision.

One exceptor urged that the current provision be modified to also exempt any dairy farmer who participated in the full take out period under such order prior to the most recent payback period. Such exemption should not be adopted since a regional handler could shift Louisville plan market producers to the Chicago order pool during the season of high production. This would tend to shift the burden of the seasonal reserve supply for the Louisville plan market to the Chicago order producers.

Proponents also proposed the addition of a new "dairy farmer for other market" provision that would exclude from producer status any producer whose production was "disassociated" with the Chicago Regional order and subsequently sold as Class I to an unregulated market. Any dairy farmer so losing producer status would not be again eligible for such status until the following August.

Proponents testified that producers who leave the market to take advantage of Class I sales in an unregulated market should not be allowed to come back to the market as producers until the following August. According to proponents, market-hopping in this manner does not contribute to the orderly marketing because it creates a price disparity between producers regularly supplying milk to the marketwide pool at the uniform price and neighboring dairy farmers supplying milk for Class I use to an unregulated market at a higher price.

While the record evidence shows that some milk previously pooled under the order has been moved to an unregulated market, no specific amount of milk or number of producers were cited. On the basis of the evidence, it is difficult to conceive that the amount of milk disassociated from this market would have any appreciable effect on the marketwide blend price or result in disorderly marketing. Furthermore, since the market administrator would not have any basis of knowing the use of "depooled" milk moved to an unregulated market, it would appear to be an impractical and unworkable proposal. For these reasons, the proposal to adopt a "dairy farmer for other market" provision should be denied.

(b) *Definition of producer milk.* The "producer milk" definition should be modified to (1) base diversion limits on the aggregate producer milk receipts of a handler rather than on an individual producer basis, (2) provide authority for the Director of the Dairy Division to temporarily increase or decrease the diversion limits by 10 percentage points, and (3) allow unlimited diversion during the month of August.

Presently, handlers may divert milk from pool plants to nonpool plants only. During September, October, and November, the amount of a producer's milk diverted may not exceed twice the quantity of such producer's milk received in the pool plant from which diverted; during the months of December through March, the limit is four times such quantities of producer milk received. No diversion limits apply during April through July for a producer who delivered to a pool plant anytime during the prior August–December period and who maintained producer status without interruption of more than 30 days during January–March.

National Farmer's Organization (NFO), the Trade Association of Proprietary Plants, Inc., and Lakeshore Federated Dairy Cooperative offered proposals to make the current diversion provisions less restrictive.

Essentially, the NFO proposal would permit diversion of producer milk from a pool plant to a pool distributing plant in addition to nonpool plants. Diversion of producer milk would be permitted during each month if one day's production of a producer was received at the plant from which diverted.

NFO contended that its proposals to revise the diversion rules would minimize unnecessary hauling and handling of milk for the purpose of pooling. Thus, proponent contends its proposal would result in more efficient marketing of milk.

The provisions regarding the diversion of producer milk are intended primarily to obtain efficiency in the disposition of milk not utilized in fluid form. Nonpool manufacturing plants are the customary outlets for the market's reserve supply of milk. Only a few pool plants, distributing or supply, have facilities to manufacture cheese, butter, nonfat dry milk, or condensed dairy products.

The processing and packaging of fluid milk products at distributing plants now takes place on only four and five days per week. On nonprocessing days at distributing plants milk that is not needed at such plants is usually moved to nonpool manufacturing plants. Production of producer milk is normally the highest during May and June, the lowest during September, October, and November. Even when production of producer milk is the lowest (September-November and the amount of packaged Class I products is relatively high, more than half of the total receipts of producer milk is moved to nonpool plants for manufacturing purposes.

Under the current marketing conditions cited herein, it is appropriate to revise the present diversion provisions to permit diversion of a producer's milk so long as one day's production during the month is received at the pool plant from which the milk is to be diverted. This minimal requirement is necessary to demonstrate that a producer's milk is available to the fluid market. Otherwise, milk which is picked up at a farm in a tank truck also containing manufacturing grade milk could qualify for pooling even though the farm on which it is produced is remote from a Grade A milk route and, thus, could not be relied on to supply the market.

A total diversion limit for proprietary plant operators and cooperatives should be established to insure that adequate supplies of Grade A milk are being assembled to meet the fluid use needs of the market. Such limitation should be based on a percentage of the quantity of producer milk for which the handler is accountable rather than the quantity of milk received at a pool plant from each producer. This change will provide greater flexibility to handlers in moving excess milk supplies to nonpool plants. For example, it will enable a handler to divert the milk of those producers whose farms are most distant from his pool plant more often than those located closest to his plant. Thus, it may enable savings in hauling costs.

Limiting the diversion of producer milk by a handler to nonpool plants to not more than 65 percent during the months of September, October, and November, and 80 percent during the months of December through March, of the total quantity of producer milk for which it is the handler corresponds to the quantities of producer milk that may be diverted under the current order provisions. Presently, the order limits the quantity of milk that may be diverted to not more than twice the quantity of each producer's receipts during each of the months of September, October, and November, and four times the quantity of a producer's receipts during the months of December through March.

During the months of April through August, no limitations should apply to milk diverted from a pool plant to nonpool plants, except that at least one day's production of milk of a new producer must be received at the pool plant prior to any diversion. Under the present order provisions, a dairy farmer must have been a producer sometime during the prior August–December period and must have subsequently maintained producer status without interruption for more than 30 consecutive days in order to be eligible for unlimited diversions during the months of April through July. Under the current market conditions, it is no longer necessary to maintain this requirement.

The incentive for dairy farmers to come on the market for the first time during the April–August period is minimal. Virtually all of the Grade A milk supply in the Chicago Regional order procurement area has been pooled under Federal orders since the promulgation of the Upper Midwest order in June 1976. Accordingly, Grade A producers in the area are now sharing in the proceeds of the fluid market that affords them the most favorable returns. Thus, there is little likelihood of seasonal reserve supplies of other markets being shifted to the Chicago Regional market pool.

The order at the present time does not specify how to differentiate between producer milk and milk diverted in excess of diversion limits. Therefore, a provision is added which provides that a handler may designate the dairy farmers whose diverted milk will not be producer milk in case any milk is diverted in excess of the prescribed limits. Lacking a decision by the handler, the milk last diverted, on





the basis of an entire day's production, is to be excluded in determining which dairy farmer's milk should not be producer milk.

Lakeshore Federated Dairy Cooperative proposed that the limitations now placed on the quantity of producer milk diverted to nonpool plants during the month be increased or decreased, at the discretion of the Director of the Dairy Division, in the same amount now specified in the order for supply plants. (The order now specifies the conditions under which shipping standards for supply plants may be temporarily adjusted up to 10 percentage points.) Lakeshore pointed out that under its proposal, if the shipping percentage requirements for supply plants were increased pursuant to the temporary revision provision of the order, the quantity of producer milk permitted to be diverted to nonpool plants could be decreased; conversely, if shipping requirements were decreased, the quantity that could be diverted could be increased. Lakeshore contends that, if there is a large increase in the market supply of producer milk requiring lower shipping requirements for supply plants, then the most economical and efficient means of handling such milk would be to divert it to nonpool plants. On the other hand, if a decrease in the supply of milk requires greater shipments from supply plants, it would be logical to reduce the amount of milk that may be diverted to nonpool plants. In sum, Lakeshore believes its proposal will enable any needed correlation between shipping percentages and diversion limitations.

We agree that better coordination is needed between shipping requirements and diversion limitations. Allowing the Director of the Dairy Division to adjust both of these simultaneously will likely result in more efficient handling of milk. Therefore, the proposal should be adopted.

The Trade Association of Proprietary Plants, Inc., proposed that unlimited diversion of producer milk to nonpool plants should be permitted during April through August. The order now permits such unlimited diversions, under certain circumstances, during April through July. Proponent noted that most neighboring orders include August as a month of unlimited diversions. They also noted their proposal would conform with the proposed change to make September, rather than August, the first qualifying month for supply plants.

This proposal should be adopted. It conforms with the changes previously adopted in this decision which would make September the first qualifying month for supply plants. The reasons stated in support of that change, i.e., the seasonal production patterns and variations in Class I utilization, and the fact that Class I demand increases when schools open in September, are equally valid for permitting unlimited diversions in August.

As previously mentioned under the discussion of pooling standards, diversions should be allowed between pool plants. This will allow supply plant operators to qualify their plants for pooling either on the basis of shipments from the plant or shipments directly from producers' farms. It will also allow distributing plant operators to divert excess milk supplies to other pool distributing plants or to pool supply plants.

The order should, in so far as possible, promote the most efficient handling of milk. To this end, the operator of a pool plant should be permitted to direct milk supplies to another pool plant and retain the pooling responsibility for such milk. Without such a provision, a handler wishing to retain his regular producers on his payroll for the entire month would have to physically receive the milk of such producers into his plant (so that it will be considered "producer milk" there), then pump it back into the truck, and deliver it to the other pool plant. Such milk would then be considered a transfer from one plant to another with the transferor handler accounting to the pool for the milk and paying those producers as well

This practice is obviously uneconomic, resulting in unnecessary and costly movements of milk. In addition, the unnecessary pumping of milk is damaging to its quality. Permitting diversions of milk between pool plants will promote efficient handling of milk and also will facilitate more simplified accounting procedures on producer milk weights, butterfat testing, and payrolling.

One exceptor stated that it would facilitate handler accounting procedures if milk diverted from a pool supply plant to a pool distributing plant was priced at the location of the plant from which diverted. Milk diverted from a supply plant to a nonpool plant is now priced at the location of the plant to which diverted. Most distributing plants obtain milk supplies associated with supply plants located in more distant zones of the milkshed. Producers are likely to incur a higher hauling cost when their milk is diverted from a supply plant to a distributing plant. Thus, they need to receive the higher uniform price applicable at the distributing plant location to cover their increased hauling cost. Accordingly, milk diverted between pool plants should be priced at the location of the plant of physical receipt.

3. *Plant accounting procedure.* The option for the operator of two or more pool plants to file a single report of receipts and utilization should be modified with respect to the classification of shrinkage under the order. Specifically, shrinkage limits for multiplant operators should be applied separately for such a handler's distributing plant(s) and his supply plant(s).

A handler operating two or more pool plants under Order 30 may now, upon request approved by the market administrator, file a single report for all of his pool plants. This reporting option was originally adopted as an aid to multiplant operators in filing required monthly data with the market administrator on a timely basis.

An association of proprietary plants, proponent of the proposal as set forth in the hearing notice to remove the reporting option, did not support the proposal on the hearing record or in its brief. However, the operator of a pool distributing plant offered testimony in support of the proposal. This handler testified that the present provision is unfair because it allows a multi-plant operator to "balance" losses due to shrinkage in his distributing plant operations with overages or lower levels of shrinkage at his pool supply plants, while the operator of a single pool plant must account for shrinkage or overage, as the case may be, with no opportunity to similarly "offset" shrinkage or overages.

There was some discussion on the record as to whether the proposal was still valid. A group of cooperative associations and a proprietary handler were apparently of the opinion that the proponent of a proposal may withdraw it from consideration at the hearing by not supporting it. However, the Administrative Law Judge stated on the hearing record that "once a proposal is made, it is part of the proceedings and anyone can come here with the intention of supporting it." We concur with the Judge.

No opposition testimony was presented at the hearing. In their briefs a group of cooperatives and two proprietary handlers opposed the proposal.

The cooperative associations opposing the change in the order regarding reporting contended that multi-plant handlers had not avoided their pool obligation or enjoyed an unfair advantage over individual plant handlers. They further maintained that "milk from the same farms may be moved, on different days, to different plants operated by the handler depending upon the needs of the fluid market or the availability of processing capacity at the several plants. If such a handler maintains proper records approved by the market administrator, he should be permitted, as a matter of convenience and fairness, to treat his aggregate receipts and utilization at all plants as if he were the operator of a single plant."

A proprietary handler opposed to the proposal contended in his brief that elimination of the single report option would result in additional recordkeeping costs to the handler.

The present shrinkage provision of the order allows the combined shrinkage incurred by all pool plants of a multi-plant handler to be computed and classified in total. Thus, an overage incurred by one plant may be offset by shrinkage of another plant operated by the same handler. Also, since the total allowable Class III shrinkage for all plants of a handler is likely to exceed actual shrinkage at one or more plants of a handler it practically assures that excessive shrinkage incurred at certain plants operated by the multi-plant operator will retain a Class III assignment. This is particularly possible when a multi-plant handler operates his own supply plants at which very little shrinkage is normally incurred. The allowable shrinkage not incurred by a multi-plant handler's supply plants may be used to offset excess shrinkage incurred at any of the multi-



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plant handler's distributing plants. Such "offset privileges," of course, are not available to the operator of a single pool distributing plant who purchases milk from supply plants operated by other handlers.

To require separate accounting for shrinkage classification at supply plants and distributing plants of a handler would insure that overage or allowable shrinkage not incurred at his supply plant assembly and manufacturing operations could not be used to offset excessive shrinkage at distributing plants of the same handler.

Handlers are now required to report to the market administrator data for each plant they operate to the extent necessary to determine whether or not each plant qualifies as a pool plant each month. Thus, receipts and disposition of each plant operated by a multi-plant operator must be determined before such data can be combined into a single report. This would generally be the case even in the circumstances of milk from the same farm being moved to two or more plants of a handler during the month. However, other amendments adopted herein remove the individual plant performance requirements for plants that are pooled as a unit. A handler may pool two or more supply plants under a combined performance standard. Also, a handler may pool two or more plants as a distributing plant unit, subject to a combined performance standard. Accordingly, little if any additional cost would be incurred by a multi-plant handler in transcribing the data on separate reports for his supply plants and for his distributing plants.

The present option allowing a multi-plant handler to account for shrinkage on a system basis does not provide equity as among handlers who operate both supply plant(s) and distributing plant(s) and handlers who do not. For this reason, the provisions should be modified. The order, however, should still provide the option of complete system allocation of receipts to classes of utilization. No testimony was presented on the record with respect to this feature of the single report option available to handlers.

The recommended decision concluded that single plant accounting for shrinkage should be adopted. One exceptor contended that it is difficult for a multi-plant operator to compile sales and inventory records for each plant when two plants process the same product. Other exceptors contended that the impact of the proposal on the matter of equity among handlers was not adequately explored on the record.

The order now provides discretionary authority to the market administrator regarding a single report by a multi-plant operator. This enables the market administrator to assure himself that a handler keeps sufficient records of each plant operation to enable proper application of the terms of the order. In addition to the computation of pool plant qualification mentioned above, records of receipts and disposition for each plant are needed for the market administrator to properly price milk at plants at various locations. In these circumstances, a handler's recordkeeping difficulty is no basis for retaining the single report option in the computation of shrinkage.

Moreover, the evidence on the record in favor of this issue, based on the matter of equity as among handlers who operate both supply plant(s) and distributing plant(s) and those who do not, was not disputed at the hearing by exceptors. All exceptors now opposed to single-plant accounting were present at the hearing and had the opportunity to give evidence in opposition to the proposal. On the basis of the record evidence, the order is properly revised as provided.

Finally, as is well known by the industry, shrinkage varies according to handling functions performed. The order reflects this in the division of shrinkage between milk assembly and processing operations at individual plants. The record shows that among the 100 handlers under the order in March 1976, there were nine handlers operating both pool distributing plants and pool supply plants. As proponent witness stated, the operators of these multi-plant operations now may offset excessive shrinkage at a distributing plant with little shrinkage or overage at supply plants. A handler who operates only distributing plant(s) has no such opportunity and thus is at a competitive disadvantage with operators of both types of plants.

The record testimony, however, did not cover the issue of competitive equity among handlers on accounting for shrinkage in a system of distributing plants vs a single distributing plant. Likewise, no evidence was presented with respect to this issue in the case of a system of supply plants vs a single supply plant. Accordingly, the revision of the single report option is limited to only the case of a handler who operates both pool supply plant(s) and pool distributing plant(s).

4. *Classification of milk.* The method of classifying yogurt should be changed to a "used to produce" basis rather than the present "disposed of" basis, as proposed by a proprietary handler.

In support of this change, proponent stated that it is difficult to account for skim milk and butterfat in yogurt on a sales basis because of the large volume of flavoring ingredients included in the product. Proponent pointed out that since about 25 percent of the product in a flavored yogurt cup is ingredients other than skim milk and butterfat, it is necessary to convert the total sales volume of flavored yogurt back to the milk equivalent ingredients in the product for proper accounting. This has been a problem for proponents since sales personnel account for yogurt in terms of the number of containers of product, which includes the flavoring ingredients. This has resulted in the handler having to use production formulas for each flavor of yogurt to subtract the flavoring ingredients in the product. Proponent indicated that if it were permitted to account for yogurt on a used to produce basis this would facilitate its recordkeeping and reporting under the order. Proponent also contended that "disposed of" accounting invariably results in significant auditing time and audit adjustments that could be reduced by accounting for yogurt on the basis of production records.

In recognition of the difficulties involved in accounting for receipts and disposition of yogurt by regulated handlers, it is reasonable that the order provide for the accounting of yogurt on a used to produce basis. Yogurt is typically made with a number of different flavors, each of which may require a slightly different accounting factor in determining how much of the product in each package consists of milk ingredients. To meet the varied demand of consumers, handlers may process a wide variety of yogurt products or buy such products from other processors for distribution on routes. In reporting the receipts and sales of these products, as well as inventories and route returns, handlers now must keep detailed records of each yogurt flavor handled and the related accounting factors needed for determining the milk ingredients. This becomes unnecessarily burdensome in view of the alternative accounting procedure available.

Under the used to produce accounting procedure adopted herein, handlers would account for yogurt in the same manner as now provided for cottage cheese, for example. A handler would report from his production records just the milk ingredients used in making the product. There would be no need to convert the total sales volume of packaged yogurt back to a milk ingredients basis for proper accounting. Also, receipts of yogurt at a pool plant would no longer be other source milk and would not entail the additional accounting now associated with such receipts for purposes of the inventory and allocation provisions.

Another accounting proposal by proponent would treat all packaged Class II products received by a handler and disposed of in the same package as "pass-through" products. Such treatment would exclude receipts of packaged fluid cream products and eggnog from the reporting, inventory and allocation provisions as well as the other source milk definition. Presently, such treatment is limited to receipts of packaged Class II products at a pool plant that are accounted for on a used to produce basis.

Proponent stated that the only packaged Class II item purchased by his company is aerated cream. He contented that the present accounting procedure of reporting receipts and disposition of such packaged Class II products requires a lot of recordkeeping which is not worth the time and effort involved.

The March 1974 final decision (39 FR 8209) adopting the present accounting procedure stated that "it is desirable for accounting purposes that such receipts (packaged fluid cream products) be defined as other source milk. This accounting procedure will preclude the recordkeeping difficulties that might otherwise be experienced in accounting separately for inventories and sales of Class II products processed in the handler's plant versus those received at the plant in packaged form from other plants." Thus, the basic thrust of the present accounting provisions on receipts of packaged cream and eggnog by a handler is to provide the handler with greater assurance that any such receipts be allocated directly to Class II disposition and thereby avoid being allocated to Class III in the event of insufficient records of the products being held in inventory or disposed of. Accordingly, if the proposal were adopted handlers would be faced with the need to maintain separate records of inventory and disposition of purchased products versus like products produced in the plant.





The record fails to demonstate that these findings are not still valid. Although proponent may not oe manufacturing a Class II product which he purchases from another handler, other handlers in the market may be both purchasing and manufacturing the same Class II products.

Proponent also proposed that a handler be given a maximum Class III shrinkage allowance. To determine the Class I utilization of a handler, the market administrator would verify total Class II and III utilization and subtract such utilization from the total receipts of the handler. The difference would be Class I.

Proponent stated that the intent of the proposal is to reduce accounting costs incurred by handlers and to reduce market administrator costs of auditing handler reports. In his brief, however, proponent added that, if his proposal would not reduce the costs or if offsetting additional costs would be incurred in the process of making an adequate audit, then the proposal should not be adopted.

Several handlers noted their opposition to this proposal in their briefs, arguing that it would not result in any savings but could result in unequal treatment among handlers.

To carry out his audit of receipts and utilization, the market administrator verifies disposition of producer milk in all three classes and compares it to the verified total receipts. Any difference between receipts and disposition would result in shrinkage or overage.

The order presently prescribes specific limits on Class III shrinkage. However, if a handler has less shrinkage than the prescribed limits, he only gets credit for the actual shrinkage. The proposal would grant the handler a shrinkage classification whether or not it is incurred. Thus, for some handlers the proposal could result in classifying milk receipts as Class III shrinkage when such milk is actually disposed of in packaged fluid milk product form for Class I use.

This could be particularly true in the case of a handler who operates a distributing plant but utilizes a large proportion of his producer milk receipts in Class II or Class III products that are accounted for on a used to produce basis. Such handlers would likely be credited with much more Class III shrinkage than they actually incurred in assembling milk for Class II or Class III use. In this market, where a majority of the producer milk is utilized in Class III, the proposal would likely result in a substantial volume of milk that is now disposed of in Class I use being classified as Class III shrinkage.

Such reclassification from Class I to Class III could conceivably amount to about three percent of present Class I use. The volume of producer milk accounted for on a used to produce basis in Class II and Class III is about twice the volume of milk used in Class I. Thus, if handlers were credited 2 percent shrinkage on this Class II and III volume but incurred only 0.5 percent shrinkage in such use, it would leave 1.5 percent of Class II and Class III volume, which is equivalent to 3 percent of Class I volume, classified in Class III shrinkage rather than its actual use in Class I.

Thus, the proposal could result in a significant departure from "classifying milk in accordance with the form in which or the purpose for which it is used," as is required by the Act. Accordingly, the proposal should be denied.

5. *Class I price level.* A proposal to reduce the Class I differential by 86 cents per hundredweight should be denied. The Class I differential should be continued at its current level of $1.26 per hundredweight.

A Kimberly, Wisconsin, handler representing himself and six other Order 30 handlers proposed that the Class I differential for Order 30 be set at 40 cents over the basic formula price for the preceding month. Proponent argued that such a reduction is necessary because the current Class I price has resulted in excessive production of Grade A milk, increases in "unnecessary surpluses," and decreasing Class I sales.

Proponent handler testified that the present Class I price level is contrary to the Agricultural Marketing Agreement Act, which, he contends, authorizes prices which will ensure consumers of an adequate supply of pure and wholesome milk only for fluid use. The proponent believes that about one-half of the milk now pooled under the order, which would result in a Class I utilization of about 50 percent, is all that is necessary for the market. Thus, he contends that about one-half of the milk now pooled constitutes "unnecessary surplus," or that amount of milk pooled that is in excess of Class I needs plus necessary reserves. He feels that a 40-cent Class I differential will result in a uniform price that will reduce the incentive for the "unnecessary surplus" supplies to be pooled under the order.

A witness for the proponent argued that the Chicago Regional market only needs enough milk during the shortest production month of the year to cover 120 percent of the Class I sales in the market during that month. The witness testified that the 20-percent reserve during the shortest production month will cover any day-to-day variations in fluid milk requirements and that it will also cover milk requirements for Class II products.

To arrive at a Class I differential of 40 cents, proponent computed what he considered to be the optimum Class I utilization for the market. Since production in the highest production month exceeded production in the lowest production month by 22 percent during 1975, proponent feels that 22 percent of the market's milk supplies during the heaviest production month is part of the necessary reserve to be carried by the market. Combining the 22 percent seasonal reserve with the 20 percent reserve necessary in the shortest production month, proponent calculated a necessary reserve of 42 percent, leaving a Class I utilization of 58 percent. With a 58 percent Class I utilization, proponent contended, a Class I differential of 40 cents would result in a blend price that is 23 cents above the basic formula price: *Provided*, The basic formula price for the preceding month is the same as the basic formula price for the current month. In his brief, proponent stated that 15–20 cents per hundredweight is sufficient to encourage the production of Grade A milk relative to Grade B milk.

Several parties offered testimony in opposition to the proposed reduction in the Class I differential. Handler witnesses testified that lowering the Class I differential would make it impossible for them to attract milk to the fluid market and would disrupt price alignment with surrounding markets. Moreover, they said it would result, during certain months, in the manufacturing grade milk price exceeding the order uniform price.

Cooperative spokesmen stated that the definition of "unnecessary surplus" described by proponents bore no reality to the Order 30 market. They presented data showing that on certain days of the week, especially during the short production season, there is wide variation in fluid milk requirements. Moreover, they testified that many distributing plants lack storage facilities for holding milk from one day to the next and that union contracts, overtime pay, and certain health standards make it impossible to store milk over the weekend.

The record does not support a reduction of the Order 30 Class I differential, as proposed. Adoption of the proposal would render the order ineffective in insuring the market's consumers of an adequate milk supply, would result in disorderly marketing conditions, and would disrupt price alignment with surrounding markets.

As mentioned above, proponent stated that the present price level has resulted in excessive production of Grade A milk, unnecessary surpluses, and decreasing Class I sales. It is true that there was more Grade A milk pooled under the Chicago Regional order in 1975 than there was in 1970, the first full year that the order in its present form was in effect; it is true that a smaller proportion of the milk pooled under the order in 1975 was used in Class I compared to 1970; and it is true that in



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1975 there were less total Class I sales under Order 30 than in 1970.

A major factor contributing to the more ample milk supplies has been the conversion of Grade B milk supplies to Grade A. Producers of Grade B milk have been slowly converting to Grade A milk production for a number of years, not only in the Chicago milk supply area but also in areas where Grade B milk is still produced. Modern bulk tank equipment, better roads, stricter health standards, and other factors make it relatively easy to switch from Grade B to Grade A. As a result, in many markets, including the neighboring Upper Midwest market, there is more Grade A milk now priced under the orders than five years ago. There is no indication that such conversion of supplies has been just in response to the level of prices under Federal orders.

Proponents argue that 48.4 percent of the market's supplies are unnecessary reserves. However, this is based upon the assumption that the market only needs a 20 percent reserve for day-to-day fluctuations.

An exhibit at the hearing showed that milk requirements of distributing plants varied widely from one day to the next. For instance, during October 1975 shipments by the Central Milk Sales Agency supply plant unit varied from 13 loads on Saturdays to 132 loads on Thursdays and averaged 78.5 loads per day. These figures indicate that on Thursdays 68 percent more milk is required than during an "average" day of the week. Accordingly, based on the processing pattern in this market, a day-to-day reserve substantially above 20 percent is required to satisfy the milk requirements of distributing plant operators.

As noted above, Class I sales under the Chicago order have declined in the last five years. The statistics indicate that total Class I sales in 1970 were 3.5 billion pounds compared to 3.2 billion pounds in 1975. The record in no way demonstrates that this decline is attributable to the present Class I price level under the order.

Nevertheless, in assessing the impact of the present Class I price level, one must recognize that the basic formula price, and not the Class I differential, is the major determinant of the price. In January 1970, the basic formula price was $4.67 per hundredweight. In January 1976, it was $8.90 per hundredweight, or almost twice the 1970 level. During this period, the Class I differential remained virtually constant. In September 1970, three new price zones were added in the area within 70 miles of the city of Chicago and the Class I differential was changed from $1.20 to $1.26. This did not change the effective differential at any location beyond 70 miles from Chicago. As a percent of the basic formula price, the Class I differential decreased from 30 percent in January 1970 to 14 percent in January 1976. Accordingly, the differential is becoming less and less significant in terms of the cost of Class I milk. For this reason, it is unlikely that the Class I differential is contributing significantly to any decline in Class I sales in this market.

Any decision to modify the pricing structure under the Chicago Regional order must take into consideration its impact on intermarket price alignment if orderly marketing is to be maintained.

Federal milk order marketing areas cover territory in 42 of the 48 contiguous states and plants regulated under the orders receive some 80 percent of all the fluid Grade A milk used in the United States. Moreover, farms of producers supplying Federal order plants are located in each of the 48 contiguous states. (Official notice is taken of Federal Milk Order Market Statistics, Annual Summary for 1975).

The Chicago Regional market supply area encompasses Northern Illinois and most of Wisconsin, which is the leading milk production area of the country. Neighboring Federal order markets also procure milk supplies from Wisconsin. Many other more distant markets rely on milk produced in Wisconsin as a source of reserve milk supplies.

In these circumstances, alignment of prices throughout the system of Federal milk orders is essential to orderly marketing. Should price differences between any two plant locations in order markets exceed the cost of transporting milk from one plant to the other, it would unduly encourage handlers to move milk supplies solely to take advantage of such price misalignment. Similarly, producers in the Chicago Regional milkshed would seek alternative outlets in those markets where the returns would be higher.

The proposed reduction in the Class I differential under Order 30 would have an immediate and severe impact upon neighboring order markets, such as the Upper Midwest, Michigan Upper Peninsula, Southern Michigan, Iowa, Indiana, Central Illinois, and perhaps other order markets. To take one example, a Chicago-based handler presently has a Class I differential cost of $1.26 compared to $1.47 for an Indianapolis-based handler, 187 miles away. If the Chicago handler's cost of Class I milk were reduced by 86 cents per hundredweight, the Indianapolis Class I price would exceed the Chicago price by $1.07 per hundredweight. At a reasonable estimate of 2 cents per hundredweight per 10 miles to haul milk, it would cost the Chicago handler 29 cents to haul milk to Indianapolis, leaving him with a price advantage of 78 cents per hundredweight over the Indianapolis handler. Similar misalignment would occur with the other orders mentioned.

Another very real problem alluded to by opponents is the pricing relationship that would result between the order's uniform price and the basic formula price for the month. The Class I price is based on the basic formula price for the second preceding month. Assuming a 40-cent Class I differential and a 50 percent Class I utilization, as suggested by proponent, anytime the basic formula price would rise more than 20 cents during a two-month period the Class III price would exceed the uniform price. This would have occurred during 20 of the last 48 months. Such pricing under the order would not attract a milk supply for the regulated market in competition with unregulated manufacturing plants.

Even if the Class I price were based on the Minnesota-Wisconsin price (i.e., basic formula price) for the current month, it would be impossible for handlers in the Chicago Metropolitan area to attract a milk supply at the order price. While 20 cents above the manufacturing grade price might be a sufficient inducement for Grade A producers in Zone 12 (190–205 miles from Chicago) and beyond to deliver milk to metropolitan area plants, this presumably would not be the case for producers in those zones closer to Chicago since uniform prices in alternative neighboring markets would be higher.

Historically, Chicago handlers have had to reach out to about Zone 18 to find sufficient quantities of Chicago-inspected milk. With the recent court decision concerning the Dixie Dairy case, this situation may change. The record does not indicate what impact the Dixie Dairy decision will have on marketing practices in the Chicago supply area.

If Wisconsin-inspected milk were utilized by Chicago-based handlers, it would appear unnecessary for such handlers to go beyond Zone 12 to find an adequate supply of milk. Moreover, if we assume that 20–25 cents over the manufacturing grade milk price will maintain an adequate supply of Grade A milk within the first 12 zones, then, based on the market's current Class I utilization, a Class I differential somewhat lower than $1.26 might be workable. However, in view of the several considerations discussed above, no reduction in the Class I differential should be made at this time.

In his exceptions proponent reiterates his contention that the Class I differential has encouraged pooling of excess supplies of milk and has resulted in "the sharing of the Class I market by those people primarily in manufacturing."

The Class I differential is only one of several factors that may have contributed to increased amounts of milk being pooled. In fact, if proponent is correct in his contention that it takes about 20 cents per hundredweight to encourage production of Grade A milk relative to Grade B milk, it could be concluded that the Class I price as reflected in uniform prices would not have attracted any new supplies of milk to the pool since 1973 at plants beyond Zone 14. The uniform price averaged less than 20 cents over the basic formula price at all plant locations beyond Zone 14 during 1973 as well as the entire period 1973–1975. However, between 1973 and 1975 over 600 new producers came on the market at plants beyond Zone 14.

A handler witness who contended that the $1.26 Class I differential was not enough to attract milk to Chicago-based plants attributed the increase in pooled milk supplies to the level of the Class III price. He stated that the Class III price was lower than the prevailing price paid for Grade B bulk tank milk in the





milkshed. This, he reasoned, encourages plant operators to convert their Grade B producers to Grade A so that they can account to the pool at the lower Class III price for such milk.

This may well be the case in light of the evidence that supply plant operators pay distributing plant operators to qualify their milk for pooling. In addition, several witnesses stated that competitive premiums are paid to producers by supply plant operators. Thus, operators of distributing plants pay comparable premiums to hold their milk supplies. Also, cooperative association handlers who supply milk to Class I proprietary handlers obtain an over-order price to be able to pay their producers a competitive price.

Even proponent's own testimony supports the view that the condition he complains about is more related to the Class III price level than the Class I price level. He testified that the competitive pay price situation was such at his bottling plant location in Zone 11 that he has difficulty obtaining an adequate supply of milk directly from farms of producers and occasionally difficulty in purchasing bulk milk to supplement his receipts of direct-shipped milk.

Another proprietary handler stated that the competitive pay price situation would preclude him from obtaining milk supplies for his Class II uses at the Class II price if his plant were not a pool plant.

In light of the above considerations, it is concluded that the record raises considerable doubt that the conditions proponent complains about would change by adoption of his proposal. In any event, the proposal should not be adopted for the reason that it would provide substantial misalignment of prices between order markets and thereby result in disorderly marketing conditions.

6. *Location adjustments to handlers and producers.* Location adjustments to Class I and uniform prices under the Chicago Regional order should be revised to reflect increased transportation costs. Specifically, location adjustments between Zones 1 and 5 should be increased from 2 cents per zone to 3 cents per zone; location adjustments for Zones 6 through 15 should be increased from 2 cents per 15 miles to 2.3 cents per 15 miles; and all zones beyond Zone 15 should be included in Zone 16 with a maximum location adjustment of minus 36 cents. In addition, the order should provide that the adjusted Class I price and the adjusted uniform price be not less than the Class III price for the month.

A proposal to uniformly increase the location adjustment rate from 2 cents per 15-mile zone to 3 cents per zone should be adopted with the above specified modifications. Without modification, this proposal would seriously disrupt alignment of prices with neighboring orders.

A handler who operates a distributing plant located in Zone 1 proposed the adjustment rate of 3 cents per zone to reflect the present cost of transporting milk from supply plants to distributing plants such as his. A handler who operates distributing plants located in Zones 2 and 3 supported this proposal in its brief for this same reason. A witness for a large cooperative in the market stated that on the basis of recent experience in the market hauling costs on supply plant milk now range from 14 to 18 cents per hundredweight over the transportation allowance now provided in the order.

Producer associations opposed the proposal on the basis that it would disrupt alignment of prices with neighboring markets.

The Chicago order supply area extends into the Upper Midwest order (Order 68) marketing area in the vicinity of Eau Claire, Wisconsin, at Zone 19. Presently, the adjusted Class I differential at Zone 19 is $0.90. The adjusted Class I differential under the Upper Midwest order is $0.96 and $1.02 within parts of the Chicago order Zone 19. If the location adjustment rate were increased to 3 cents per zone for all zones as proposed, the adjusted Class I differential at Zone 19 would be $0.72. Such a reduction in price at Zone 19 would result in a misalignment of prices between Orders 30 and 68, as pointed out by several parties in their opposition to the proposal. For example, the Universal Foods Corporation Order 30 supply plant located in Eau Claire, Wisconsin, would have a Class I price 30 cents below a competing handler, Dolly Madison Dairies, which also is located in Eau Claire and regulated under Order 68.

As adopted herein, the Class I price would not be reduced more than 36 cents per hundredweight. Accordingly, at Zone 16 and beyond the adjusted Class I differential would be leveled off at $0.90. This would maintain or improve the present alignment, depending on the zone involved, with the Upper Midwest order.

The present 2 cents per 15-mile zone location adjustment rate in the Chicago order translates to about 1.3 cents per 10 miles, which is below the 1.5 cents per 10-mile rate provided in most other Federal orders that obtain milk supplies from Wisconsin. The latter figure is widely employed in orders and its use in Order 30 would come closer to reflecting current transportation costs.

An increase in the Order 30 location adjustment rate to 1.5 cents per 10 miles (i.e., 2.3 cents per 15-mile zone) will provide some improvement in price alignment among orders. Moreover, it will complement the amendment to the pooling provisions that gives pooling performance credit on shipments to other Federal order distributing plants by better accommodating the movement of milk supplies from pool supply plants to other order plants.

Historically, Chicago order supply plants have been a major source of supplemental milk supplies for many of the markets throughout the United States. To reflect the variable cost of moving such milk to distant markets, Class I prices in Federal order markets gradually increase the more distant the markets are from the Chicago milkshed. The gradation of prices reflects to a large degree a transportation rate of 1.5 cents per hundredweight per 10 miles. The adoption of this rate within the Chicago milkshed would tend to provide a further coordination of Class I prices on a geographical basis.

In order to reflect an average rate of 1.5 cents per 10 miles between most supply plants and the major Chicago metropolitan area distributing plants, the location adjustment rate for Zones 2 through 5 should be set at 3 cents per 15-mile Zone. This will compensate for the fact that no location adjustment is made within the first 40 miles of the Chicago city hall, which constitutes Zone 1. Zones 1 through 5 encompass all the territory within 100 miles of the City of Chicago wherein about 80 percent of the Class I milk is processed.

The Chicago metropolitan area handler normally pays the full cost of transporting milk from supply plants. This is so whether he operates his own supply plant or another handler, such as a cooperative association, operates the supply plant. In the latter case, the buying handler normally pays the hauler. Thus, the basic cost of Class I milk to a Chicago handler includes the full cost of transporting milk between the supply plant and his bottling plant.

While the location adjustment structure adopted herein may not completely eliminate the need for some out-of-pocket hauling costs by a handler in procuring milk from supply plants, it will provide a significant degree of improvement over the existing transportation allowance reflected in the order. It is not practical to provide a greater rate of location adjustment at this time.

Location adjustments should be applicable through Zone 16 for a maximum adjustment of 36 cents per hundredweight. Not only will this result in maintaining alignment with prices under Order 68, as described above, it will also provide an increased transportation allowance on supply plant milk at all plants within 295 miles of Chicago, or inside of the present Zone 19. This area encompasses virtually all of the supply plants now serving the market.

Certain exceptors opposed any revision of location adjustments on the basis that the specific rates adopted were arbitrary, would result in making it more difficult for mid-zone plants to hold milk supplies in competition with closer-in plants, would not provide adequate transportation credits on milk shipments from plants beyond Zone 15, and would alter returns to producers throughout the milkshed.

The specific rates adopted were selected to reflect increased transportation costs to the extent that maintenance of alignment of prices among orders permits. None of the exceptions suggested any modification that would better serve such purpose. One of the basic purposes of the order is to encourage shipments of milk for fluid use by Chicago-based handlers as opposed to being retained by supply plant operators for



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manufacturing use. Thus, it is appropriate that the order reflect, to the extent possible, the cost of moving milk to the central market from supply plant locations. The recent increase in the cost of transporting milk has made producer milk received at supply plant locations less valuable in relation to milk received at distributing plants in Chicago. Accordingly, the location adjustment to the uniform price to producers should reflect such lower value of producer milk received at plants in the supply area.

The limit of a 36-cent location adjustment is necessary to maintain proper alignment of Chicago Regional order Class I prices with Class I prices at the same plant locations under the Upper Midwest order. If no limit were provided and the 2.3-cent rate per 15-mile zone were extended, it would reduce the Class I price differential at Eau Claire from the present 90 cents to 81.9 cents. Such price would then be 20.1 cents under the Upper Midwest order Class I price at Eau Claire. This would provide a substantial incentive for the distributing plant located at Eau Claire that is now regulated under the Upper Midwest order to purchase supplies of milk from nearby Chicago Regional order supply plants. Such practice would result in the buying handler realizing an undue competitive advantage in competition with other Upper Midwest order distributing plants. In addition, the Order 30 distributing plant located in Zone 19 would have a similar price advantage over competing handlers regulated under the Upper Midwest order.

The 36-cent limit maintains the current relationship in Class I prices at Eau Claire (Zone 19) between the two orders. Opponents to the location adjustments proposal maintained in their testimony that it was essential to orderly marketing that the Class I price relationship between the Chicago Regional order and the Upper Midwest order not be widened. The 36-cent limit is consistent with the position taken by opponents.

It is recognized that the limit on the location adjustment would not provide an additional incentive for supply plants located more than 250 miles from Chicago to ship milk to bottling plants in Chicago. However, there is a fully adequate supply of milk pooled at plants within 250 miles of Chicago to meet the fluid milk requirements of plants within such territory. Thus, no additional incentive is needed for distributing plants to obtain milk supplies from beyond 250 miles of Chicago.

Proposals to "floor" the Class I and uniform prices at the level of the Class III price for the month should be adopted.

Presently, there is no limit on the location adjustment applied to either the Class I price to handlers or the uniform price to producers. Even though the Class I price is equal to the basic formula price for the second preceding month plus a Class I differential of $1.26, there have been instances in the past few years when the adjusted Class I prices, and more frequently the uniform prices, in the outer zones of the market have actually been below the basic formula price, i.e., the Class III price for the month. This has occurred when the basic formula price, or Minnesota-Wisconsin price as it is commonly known, has increased sharply in a two-month period. The two-month lag in reflecting the Minnesota-Wisconsin price in the Class I pricing formula was incorporated in all Federal milk orders in February 1972.

Any Grade A milk pooled under the order should have a value equal to at least the value of manufacturing grade milk, since there are manufacturing plants throughout the supply area that could realize the manufacturing use value for such milk. Therefore, it is illogical to charge a handler less than the Class III price or for producers to realize a price that is below the Class III price.

Moreover, the uniform price for producer milk should not be adjusted below the Class III price because this would discourage producers from making milk available to distributing plants for fluid use. There are distributing plants regulated under the order throughout the supply area, including one located in Zone 19. If the uniform price were to fall below the alternative manufacturing use value at any such plant, the distributing plant operator would have to pay at least the manufacturing use value to his producers to obtain a supply of milk for fluid use. Thus, if the uniform price were permitted to fall below the Class III price, it would negate a basic function of the order—to assure distributing plants of an adequate supply of milk.

Certain cooperatives excepted to the adoption of a floor to the uniform price and the 36-cent limit to the location adjustment on the basis that it would tend to attract milk supplies to the Order 30 pool from the Upper Midwest Order No. 68 pool.

As stated above, the limits are needed to maintain orderly marketing as between handlers regulated under Order 30 and handlers regulated under Order 68. Since pool supply plants and pool distributing plants under each of the orders are located in close proximity to each other in this area of Wisconsin, it is necessary that Class I prices be kept in alignment to assure an orderly competitive price situation. Such need is more important to orderly marketing than any consideration of where milk will be pooled in response to uniform price relationships between the orders.

7. *Modification of payments to producers.* No change should be made in the order provisions with respect to partial payments to producers.

The order now requires handlers to make a payment to individual producers on the third day after the end of each month for the producer milk received during the first 15 days of the month. Payments to cooperatives are required by the first day after the end of the month. In making the partial payment, a handler may deduct from a producer's check any proper deductions authorized in writing by the producer.

The Trade Association of Proprietary Plants, Inc., a group composed of 24 proprietary plant operators, proposed that handlers be allowed to hold authorized deductions from producers' partial payment checks until the time of final payment, approximately 15 days later. This proposal was supported at the hearing by an additional proprietary handler and by two other handlers in their briefs.

Handlers supporting the proposal contended that producers have complained about uneven payments when authorized deductions were made only at the time of final payment; that making deductions for assignments authorized by producers is a service to producers; and that extra expense is incurred by both the handler and the creditors if payments are made twice each month.

A producer's written authorization for a handler to deduct monies for payment to an assignee does not relieve the handler of his obligation to make payment for milk by the date prescribed in the order. It is expected that the amounts deducted by handlers will be paid to assignees, as directed by the producer. This is necessary to insure that all handlers are paying the minimum class prices for their producer milk.

Most producers in the Chicago Regional market are members of cooperative associations which generally collect payments from handlers and then pay their member producers and their assignees. This practice relieves handlers of any obligation concerning deduction of assignments and corresponding payments to creditors. It is an option that is presumably available to any handler receiving milk from producers who are members of a cooperative association.

For those handlers receiving milk from nonmember producers, the record demonstrates various payment procedures that will meet the intent of the order. First, a handler could deduct all of a producer's authorized deductions from his final payment and at that time pay over the deductions to the producer's creditors. Secondly, a handler could deduct half of the deduction from the partial payment and half from the final payment and pay the producer's creditors twice a month. Finally, a handler could establish an escrow, reserve, or custodial account in a bank for the sole purpose of depositing assignment deductions for later disbursement to creditors.

There may be additional alternatives that would also be acceptable to the market administrator, who has the administrative discretion and authority to prescribe whatever necessary rules and regulations are needed to carry out the intent of the order. In these circumstances, it is not necessary to prescribe in the order provisions the specific manner in which handlers shall make the required timely payments of assignment deductions to creditors.

### Ruling on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the request to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

### Ruling on Motions and Requests

An exhibit identified at the hearing as Exhibit 17 was not admitted into evidence but was inserted in the hearing transcript as an offer of proof. The Administrative Law Judge upheld an objection to its admission in evidence on the basis that the exhibit was not relevant to the hearing proposal under consideration. The exhibit consists of an unexecuted milk supply contract form. The handler who offered the exhibit at the hearing requested in his brief that it be admitted into evidence "to determine whether or not there has been any abuse of the privilege of exemptions from the antitrust laws" as provided in section 608d(1). This person also requested that Exhibit 14 be admitted for the same purpose. Exhibit 14 is the Central Milk Producers Cooperative's Order 30 Market Service Program Pool Announcement for April 1976.

This proceeding, conducted pursuant to section 608c (3) and (4) of the Agricultural Marketing Agreement Act of 1937, is for the purpose of considering the proposals of the notice of hearing issued May 25, 1976 (41 FR 21787). There was not, nor could there be, a proposal to determine whether there has been any abuse of the privilege of exemptions from antitrust laws. Accordingly, Exhibit 14, except for the limited purpose for which the Administrative Law Judge admitted it, and Exhibit 17 are not relevant to the issues raised in this proceeding. Therefore, the motion to reverse the rulings of the Administrative Law Judge with respect to Exhibits 14 and 17 is denied.

The handler also requested in his brief that official notice be taken of certain statements in prior hearing records on the Chicago Regional order and of the statements of Mr. Herbert L. Forest, Director, Dairy Division, AMS, USDA, before the Subcommittee on Dairy and Poultry, Committee on Agriculture, House of Representatives, United States Congress, on July 1, 1976. All such statements were incorporated in or attached to the written brief filed by the handler in this proceeding. Such matters are from sources of which official notice may be taken. Their incorporation in a brief as part of the record of this proceeding gives other interested persons adequate opportunity to show that such facts are inaccurate or are erroneously noticed. In this circumstance, the request for official notice as filed in this proceeding by the handler is granted.

### General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments, thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions therof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

### Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjuction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

### Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Chicago Regional marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

*It is hereby ordered*, That this entire decision, except the attached marketing agreement, be published in the Federal Register. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

### Determination of Producer Approval and Representative Period

March 1977 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Chicago Regional marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on July 15, 1977.

Robert H. Meyer,
*Assistant Secretary for Marketing Services.*

*Order[1] Amending the Order, Regulating the Handling of Milk in the Chicago Regional Marketing Area*

### Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Chicago Regional marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

*Order relative to handling.* It is therefore ordered that on and after the effective date hereof the handling of milk in the Chicago Regional marketing area

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.







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shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Acting Administrator, on May 26, 1977, and published in the FEDERAL REGISTER on June 1, 1977 (42 FR 27921) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein with the following modifications: Changes are made in §§ 1030.7(b)(4) and (d), 1030.12(b)(5), and 1030.60.

1. Section 1030.4 is revised to read as follows:

**§ 1030.4 Plant.**

"Plant" means a building together with its facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment: (a) that has facilities adequate for cleaning tank trucks, is approved by an appropriate health authority, and at which milk moved from the farm is transferred and commingled in another tank truck with other milk and is transshipped in such other tank truck to another plant, (b) At which milk is received from dairy farmers, or (c) At which milk is processed and packaged or manufactured.

2. Section 1030.7 is revised to read as follows:

**§ 1030.7 Pool plant.**

Except as provided in paragraph (e) of this section, "pool plant" means:

(a) A distributing plant or unit described in paragraph (a)(4) of this section from which during the month the disposition of fluid milk products specified in paragraph (a)(2) of this section is not less than 10 percent of the receipts specified in paragraph (a)(1) of this section and from which the disposition of fluid milk products specified in paragraph (a)(3) of this section as a percent of the receipts specified in paragraph (a)(1) of this section is not less than 45 percent in each of the months of September, October, November, and December, 35 percent in each of the months of January, February, March, and August, and 30 percent in all other months.

(1) The total Grade A fluid milk products, except filled milk, received during the month at such plant, including producer milk diverted to nonpool plants and to pool supply plants pursuant to § 1030.13, but excluding producer milk diverted to other pool distributing plants, receipts of fluid milk products in exempt milk, packaged fluid milk products and bulk fluid milk products by agreement for Class II and Class III uses from other pool distributing plants, and receipts from other order plants and unregulated supply plants which are assigned pursuant to § 1030.44(a)(8)(i)(a) and (ii) and the corresponding step of § 1030.44(b).

(2) Packaged fluid milk products, except filled milk, disposed of as either route disposition in the marketing area or moved to other plants from which it is disposed of as route disposition in the marketing area. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants.

(3) Packaged fluid milk products, except filled milk, disposed of as either route disposition or moved to other plants. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants.

(4) A unit consisting of at least one distributing plant and one or more additional plants of a handler at which milk is processed and packaged or manufactured shall be considered as one plant for the purpose of meeting the requirements of this paragraph if all such plants are located within the State of Wisconsin or that portion of the marketing area within the State of Illinois, and if, prior to the first day of the month, the handler operating such plants has filed a written request for such plants to be considered a unit with the market administrator.

(b) A supply plant or unit of supply plants described in paragraph (b)(6) of this section from which the quantity of fluid milk products (except filled milk) and condensed skim milk shipped or transhipped and physically unloaded into plants described in paragraph (b)(2) as a percent of the Grade A milk received at the plant(s) from dairy farmers (except dairy farmers described in § 1030.12(b)) and handlers described in § 1030.9(c), including producer milk diverted pursuant to § 1030.13 but excluding packaged fluid milk products that are disposed of from such plant(s) as route disposition, is not less than 30 percent for September, 35 percent for each of the months of October and November, 25 percent for December, and 20 percent for all other months, subject to the following additional conditions:

(1) A plant that was a pool plant pursuant to this paragraph during each of the months of September through March (or during six such months and was an other order plant during one such month) shall be a pool plant for each of the following months of April through August unless written application is filed with the market administrator by the plant operator on or before the first day of any such month (April–August) requesting the plant be designated a nonpool plant for such month and any subsequent month through August: *Provided*, The plant does not otherwise qualify as a pool plant.

(2) Qualifying shipments pursuant to this paragraph may be made to the following plants:

(i) Pool plants described in paragraph (a) of this section;

(ii) Plants of producer-handlers;

(iii) Partially regulated distributing plants, except that credit for such shipments shall be limited to the amount of such milk which receives a Class I classification at the transferee plant; and

(iv) Distributing plants fully regulated under other Federal orders, except that credit for shipments to such plants shall be limited to the quantity of milk shipped to pool distributing plants during the month. Shipments to other order plants may not be made on the basis of agreed-upon Class II or Class III utilization.

(3) The operator of a supply plant may include as qualifying shipments deliveries to pool distributing plants directly from farms of producers pursuant to § 1030.13(d).

(4) The quantity of condensed skim milk and fluid milk products moved (including milk diverted) from supply plants to each pool plant described in paragraphs (a) or (d) of this section that shall count towards meeting the shipping requirements of this paragraph shall be a net quantity assignable at each such pool plant pro rata to supply plants in accordance with total receipts from such plants. The net quantity shall be computed by subtracting from the quantity of fluid milk products and condensed skim milk received from supply plants the following:

(i) The quantity of condensed skim milk not disposed of in a fluid milk product and the quantity of fluid milk products in the form of bulk milk and skim milk moved from the pool distributing plant to pool supply plants plus any such bulk shipments to nonpool plants as Class II or Class III milk, other than:

(*a*) Transfers or diversions classified pursuant to § 1030.40(b)(3); and

(*b*) Transfers or diversions on New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving, Christmas, and on any Saturday if no milk is received at the pool distributing plant from a supply plant, in an amount not in excess of 120 percent of the average daily receipts of producer milk pursuant to § 1030.13(a) at the plant during the prior month, less the quantity of producer milk diverted pursuant to § 1030.13(d) on such day. If no producer milk was received in the distributing plant during the prior month, the average daily receipts during the current month shall be used for this purpose; and

(ii) If milk is diverted from the pool distributing plant on the date of the receipts from the supply plant, the the quantity so diverted, except any diversion of milk (not to exceed 3 days' production of any individual producer) made because of any emergency situation such as a breakdown of trucking equipment or hazardous road conditions if such emergency is reported to the market administrator.

(5) The shipping requirements of this paragraph applicable during the months of September through March and the diversion allowances specified in § 1030.13(d)(3) applicable during the same months may be increased or decreased by up to 10 percentage points by the Director of the Dairy Division if he finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding, the Director shall investigate the need for revision either on his own initiative or at the request of interested persons and if his investigation shows that a revision might be appropriate he shall issue a notice stating that revision





is being considered and inviting data, views, and arguments. If a plant which would not otherwise qualify as a pool plant during the month does qualify as a pool plant because of a reduction in shipping requirements pursuant to this paragraph, such plant shall be a nonpool plant for such month if the operator of the plant files a written request for nonpool status with the market administrator.

(6) Two or more plants shall be considered a unit for the purpose of meeting the requirements of this paragraph if the following conditions are met:

(i) The plants are located within the State of Wisconsin or within that portion of the State of Illinois within the marketing area;

(ii) The plants included in the unit are owned or fully leased and operated by the handler establishing the unit and such plants were pool plants during the month prior to being included in a unit. In the case of plants operated by cooperative associations, two or more cooperative associations may establish a unit of designated plants by filing with the market administrator a written contractual agreement obligating each plant of the unit to ship milk as directed by such cooperatives; and

(iii) The handler or cooperatives establishing the unit submits a written request to the market administrator prior to the first day of September requesting that such plants qualify as a unit for the period September through August of the following year. The request shall list the plants in the sequence in which they shall be excluded from the unit if the minimum performance standards are not met. If the entire unit does not meet the minimum performance for the month, the handler or cooperatives establishing the unit may specify which plant or plants shall be excluded from the unit until the minimum performance standards are met. If a handler or cooperative declines to identify the plants to be excluded, then the market administrator shall exclude the plant first on the list followed by the plant second on the list, and continuing in this sequence until the remaining plants on the list have met the minimum performance standards. Each plant that qualifies as a pool plant within a unit shall continue each month as a plant in the unit through the following August unless the plant fails subsequently to qualify for pooling or the handler (or cooperative associations) establishing the unit submits a written request to the market administrator that the plant be deleted from the unit or that the unit be discontinued. Any plant that has been so deleted from the unit, or that has failed to qualify in any month, will not be part of the unit for the remaining months through August. No plant may be added in any subsequent month through the following August to a unit that qualifies in September.

(c) A plant which is operated by a cooperative association and which is not a pool plant pursuant to paragraph (a), (b), or (d) of this section shall be a pool plant if at least 50 percent of the Grade A milk of producer members of such cooperative association is received at pool plants of other handlers described in paragraph (a) of this section during the month and written application for pool plant status is filed with the market administrator on or before the first day of such month.

(d) Any plant other than a supply plant pooled in a unit that qualifies as a pool plant in each of the immediately preceding three months pursuant to paragraph (a) of this section or the shipping percentages in paragraphs (b) or (c) of this section that is unable to meet such performance standards because of unavoidable circumstances determined by the market administrator to be beyond the control of the handler operating the plant, such as a natural disaster (ice storm, wind storm, flood), fire, breakdown of equipment, or work stoppage, shall be considered to have met the minimum performance standards during the period of such unavoidable circumstances, but such relief shall not be granted for more than 2 consecutive months.

(e) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant or exempt distributing plant;

(2) A plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless it is qualified as a pool plant pursuant to paragraph (a), (b), (c) or (d) of this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area as route disposition and to pool plants qualified on the basis of route disposition in this marketing area than is so disposed of in the marketing area regulated pursuant to such other order; and

(3) That portion of a plant that is physically separated from the Grade A portion of such plant, and is not approved by any regulatory agency for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

**§ 1030.9 [Amended]**

3. In § 1030.9, paragraph (h) is revoked, the word "or" is added after the semicolon at the end of paragraph (f), and the semicolon and word "or" at the end of paragraph (g) are replaced with a period.

3a. In § 1030.12 paragraph (b)(5) is revised to read as follows:

**§ 1030.12 Producer.**

* * * * * *

(b) * * *

(5) A dairy farmer with respect to milk produced by him that is received at a handler's pool plant during the months of January through July if any milk from the same farm operated by such dairy farmer was a receipt of producer milk in any "payback" month during the preceding year under another order that provided for a seasonal incentive payment plan whereby funds previously withheld in the computation of the uniform price to producers were paid back to producers through the uniform price computation in subsequent months of the year.

4. Section 1030.13 is revised to read as follows:

**§ 1030.13 Producer milk.**

"Producer milk" means the skim milk and butterfat in milk of a producer that is:

(a) Received at a pool plant directly from producers by being physically unloaded into processing facilities, a storage tank, or, in the case of a reload facility, another tank truck, as further provided below:

(1) Any shrinkage of milk received from producers' farms which was not unloaded in a pool plant shall also be producer milk under this paragraph; and;

(2) In the event that part of a load of milk is first received at another plant(s) and the remaining part is then unloaded in the pool plant, the quantity of milk so received at each such plant shall be prorated over the total quantity of milk picked up at each producer's farm.

(b) Received at a pool plant from a handler described in § 1030.9(c).

(c) Received by a handler described in § 1030.9(c) to the extent of the shrinkage of skim milk and butterfat received from producers' farms which was not received in a pool plant pursuant to paragraph (b) of this section. In applying §§ 1030.52 and 1030.75, such skim milk and butterfat shall be deemed to have been received at the location of the pool plant to which delivery is normally made.

(d) Diverted by the operator of a pool plant, or by a handler described in § 1030.9(b), to another pool plant or to a nonpool plant (that is not a producer-handler plant), subject to the following conditions:

(1) Milk from a dairy farmer shall not be eligible for diversion unless during the period of September through March at least one day's production is physically received during the month at the pool plant from which diverted;

(2) Milk from a dairy farmer who was not a producer during the previous month shall not be eligible for diversion until at least one day's production is received at the pool plant from which diverted;

(3) Milk diverted to a nonpool plant(s) for the account of the operator of a pool plant, or a handler described in § 1030.9(b), may not exceed 65 percent during the months of September, October and November, and 80 percent during the months of December through March, of the total quantity of producer milk for which it is the handler (or, in the case of a cooperative, the producer milk that the cooperative association causes to be delivered to or diverted from pool plants) subject to temporary revision of the specified percentages pursuant to § 1030.7(b)(5);

(4) The quantity of each producer's milk to be considered as diverted milk when a portion of a tank load of milk, picked up at the farms of two or more



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producers, is unloaded at another plant, shall be determined by prorating the total quantity unloaded at such other plant over the total quantity of milk picked up at each producer's farm;

(5) To the extent that milk diverted by a cooperative association as a handler described in § 1030.9(b) during any month would result in a plant failing to qualify as a pool plant under § 1030.7, such diverted milk shall not be producer milk;

(6) Any milk diverted in excess of the limits prescribed in paragraph (d)(2) of this section shall not be producer milk. The diverting handler may designate the dairy farmers whose diverted milk will not be producer milk. Otherwise the milk last diverted—in lots of an entire day's production—shall be excluded first in determining which dairy farmer's milk should not be producer milk; and

(7) Diverted milk shall be priced at the location of the plant to which diverted, except that, in the case of a distributing plant, if during the month not more than 4 days' production of a producer is diverted from such plant or if the diverted milk is part of a tank truck load of milk that exceeds the milk storage capacity of such distributing plant, such milk shall be priced at the location of the plant from which diverted.

5. In § 1030.30, the introductory text of paragraph (a) and paragraph (a)(3) are revised to read as follows:

**§ 1030.30 Reports and receipts and utilization.**

* * * * *

(a) Each handler, with respect to each of his pool plants (except that if a handler so requests and the request is approved by the market administrator, a single report for supply plants and a single report for distributing plants may be filed), shall report the quantities of skim milk and butterfat contained in or represented by:

(1) * * *

(2) * * *

(3) Receipts of fluid milk products and bulk fluid cream products from pool plants of other handlers (or other pool plants, as applicable) including a separate statement of the net receipts from each supply plant computed pursuant to § 1030.7(b)(4), except that during the months of April through August no such separate statement need be made if receipts from supply plants are only from plants that were pool plants during the prior months of September through March.

* * * * *

6. Section 1030.32 is revised to read as follows:

**§ 1030.32 Other reports.**

(a) Each handler described in § 1030.9 (a), (b), and (g) shall report to the market administrator on or before the 10th day after the end of the month in detail and on forms prescribed by the market administrator as follows:

(1) Each handler described in § 1030.9(g) shall report the quantities of skim milk and butterfat in fluid milk products and fluid cream products moved for his account from each pool plant and received at each pool plant or partially regulated distributing plant during the month; and

(2) Each handler pursuant to § 1030.9 (a) and (b) shall report for each load of milk diverted for his account:

(i) The quantity of each producer's milk so diverted;

(ii) The date(s) of pickup of each producer's milk; and

(iii) The name and location of the plants to which and from which the milk was diverted; and

(3) Each handler who, during the month, received milk from a dairy farmer from whom he had not received milk during the previous calendar month shall report the name and address of the dairy farmer and the plant to which each such person previously delivered milk. Each handler who discontinues receiving milk from a producer during the month shall report each such producer's name, address, and the plant to which such person transferred.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1030.30 and 1030.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

7. In § 1030.41, the introductory text of paragraph (a) and paragraph (b)(2) are revised to read as follows:

**§ 1030.41 Shrinkage.**

* * * * *

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant (or at all of a handler's supply plants combined or at all of a handler's distributing plants combined if such reports are filed pursuant to § 1030.30) to the respective quantities of skim milk and butterfat:

* * * * *

(b) * * *

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1030.9(c) and in milk diverted to such plant from another pool plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph shall be 2 percent;

* * * * *

8. In § 1030.42, paragraph (a) is revised to read as follows:

**§ 1030.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant (or to the pool plant of another handler if a combined report is filed pursuant to § 1030.30 by the transferor-handler) shall be classified as Class I milk unless the operators of both plants request the same classification in another class. The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1030.44(a)(12) and the corresponding step of § 1030.44(b).

* * * * *

8(a). In § 1030.40, paragraph (b)(1) and (4)(v) are revised to read as follows:

**§ 1030.40 Classes of utilization.**

* * * * *

(b) * * *

(1) Disposed of in the form of a fluid cream product, eggnog, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product or eggnog, except as otherwise provided in paragraph (c) of this section.

* * * * *

(4) * * *

(v) Custards, puddings, pancake mixes, and yogurt; and

* * * * *

9. Section 1030.43 is revised to read as follows:

**§ 1030.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1030.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1030.30 and shall compute separately for each pool plant (or plants, if applicable) and for each cooperative association with respect to milk for which it is the handler pursuant to § 1030.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1030.40, 1030.41, and 1030.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1030.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative.

10. In § 1030.44, the introductory text is revised to read as follows:

**§ 1030.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1030.9 (a), (b), and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization pursuant to paragraphs (a) through (c) of this section. For this purpose only, a handler described in § 1030.9(a) who operates more than one pool plant may elect to have his receipts allocated for each of his pool plants separately or for all of his pool plants combined, except that, if he has receipts that would be allocated pursuant to paragraph (a)(11) or (12) of this section or the corresponding steps of paragraph (b) of this section, his total receipts shall be allocated for all of his pool plants combined.

* * * * *





11. Section 1030.52 is revised to read as follows:

**§ 1030.52 Plant location adjustments for handlers.**

A location adjustment for each handler shall be computed by the market administrator as follows:

(a) The market administrator shall determine the location adjustment rate for each plant at which milk is to be priced under this part pursuant to the following schedule, except that in no event shall the adjustment result in a price less than the Class III price for the month:

| Zone | Distance in miles from city hall in Chicago | Location adjustment rate (cents per hundredweight) |
|---|---|---|
| 1 | 0–40 | 0 |
| 2 | 41–55 | −2.0 |
| 3 | 56–70 | −5.0 |
| 4 | [1] 71–85 | −9.0 |
| 5 | [2] 86–100 | −12.0 |
| 6 | 101–115 | −14.3 |
| 7 | 116–130 | −16.6 |
| 8 | 131–145 | −18.9 |
| 9 | 146–160 | −21.2 |
| 10 | 161–175 | −23.5 |
| 11 | 176–190 | −25.8 |
| 12 | 191–205 | −28.1 |
| 13 | 206–220 | −30.4 |
| 14 | 221–235 | −32.7 |
| 15 | 236–250 | −35.0 |
| 16 | [3] | −36.0 |

[1] Including Milwaukee County, Wis., and Winnebago County, Ill.
[2] Excluding Milwaukee County, Wis., and Winnebag County, Ill.
[3] Beyond 250.

(b) The mileages applicable pursuant to this section and § 1030.75 shall be determined by the market administrator on the basis of the shortest highway distance between the handler's plant and the city hall in Chicago—with fractions rounded up to the next whole mile. The market administrator shall notify each handler of the zone or mileage determination, which shall be subject to redetermination at all times. In the event a handler requests a redetermination of the mileage pertaining to any plant, the market administrator shall notify the handler of his findings within 30 days after the receipt of such request. Any financial obligations resulting from a change in mileage shall not be retroactive for any period prior to the redetermination announced by the market administrator.

(c) A handler who operates a pool distributing plant (or plants) shall receive a location adjustment credit computed as follows:

(1) Determine the aggregate quantity of Class I milk at such plant (or at all pool plants of such handler for which his total receipts are allocated for all his pool plants combined pursuant to § 1030.44, after eliminating duplication for transfers between such plants);

(2) Subtract the receipts of exempt milk and the quantity of packaged fluid milk products received at the handler's pool plant(s) from the pool plants of other handlers (or other pool plants, if applicable) and from nonpool plants if assigned to Class I milk;

(3) Subtract the quantity of bulk fluid milk products shipped from the handler's pool plant(s) to pool plants of other handlers (or other pool plants, if applicable) and to nonpool plants that are classified as Class I;

(4) Subtract the Class I milk packaged by pool supply plants and disposed of as route disposition or to other plants;

(5) Subtract the quantity of bulk fluid milk products received at the handler's pool plant(s) from other order plants and unregulated supply plants that are assigned to Class I pursuant to § 1030.44;

(6) Assign the remaining quantity pro rata to receipts during the month from each source as specified in paragraph (c)(6) (i) and (ii) of this section:

(i) Receipts at the handler's pool distributing plant(s) of producer milk and milk diverted from other pool plants, except that if the quantity prorated to any distributing plant exceeds the Class I disposition from such plant, such quantity shall be reduced to the amount of such Class I disposition and the quantity of milk represented in such reduction shall be prorated to receipts of producer milk at other distributing plants of the handler (limited in each instance to the amount of Class I disposition at each such plant) and receipts of bulk fluid milk products at such distributing plants from other pool plants; and

(ii) Receipts of bulk fluid milk products at such distributing plants from each other pool plant according to the quantity of such receipts from each such source;

(7) If, during the month, receipts at such distributing plants of producer milk, milk diverted from other pool plants, and bulk fluid milk products from other pool plants are less than the quantity to be assigned pursuant to paragraph (c)(6) of this section, prorate the amount of such excess in the same manner over such receipts in the next prior month in which there were receipts in excess of those assigned in that month pursuant to paragraph (c)(7) of this section;

(8) Multiply by the location adjustment rates applicable at the transferor plants, the quantity assigned to receipts of producer milk and milk diverted from other pool plants at such distributing plant pursuant to paragraph (c)(6)(i) and (7) of this section;

(9) Multiply by the location adjustment rates applicable at the transferor plant, the lesser of:

(i) 110 percent of the quantities assigned to receipts from each other pool plant pursuant to paragraph (c)(6)(ii) of this section; or

(ii) Receipts specified in paragraph (c)(6)(ii) of this section;

(10) Multiply by the location adjustment rates applicable at the transferor plants, the quantities assigned pursuant to paragraph (c)(7) of this section to receipts from other pool plants in prior months;

(11) Multiply the quantity of bulk fluid milk products shipped from the handler's pool plant(s) to nonpool plants and classified as Class I by the location adjustment rate applicable at the shipping plant;

(12) Multiply the quantity of Class I milk packaged by pool supply plants and disposed of as route disposition or to other plants by the location adjustment rates applicable at the pool supply plants from which disposition is made; and

(13) Add together the minus amounts obtained pursuant to paragraph (c)(8), (9), (10), (11), and (12) of this section.

(d) A handler (other than one described in paragraph (c) of this section) who operates a pool supply plant shall receive a location adjustment credit on receipts at such plant of producer milk and milk diverted from other pool plants that is classified as Class I but is not shipped as a bulk fluid milk product to a pool distributing plant.

(e) The Class I price applicable to other source milk shall be reduced at the rates set forth in paragraph (a) of this section.

12. Section 1030.53 is revised to read as follows:

**§ 1030.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

13. In § 1030.60, the introductory text is revised to read as follows:

**§ 1030.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler described in § 1030.9 (a), (b), and (c) as follows:

* * * * *

**§ 1030.71 [Amended]**

14. In § 1030.71(b)(2), the words "(but not to be less than the Class III price)" are deleted.

**§ 1030.76 [Amended]**

15. In § 1030.76(a)(4) and (5), the words "(but not to be less than the Class III price)" are deleted.

[FR Doc.77-20928 Filed 7-20-77;8:45 am]



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## NUCLEAR REGULATORY COMMISSION

**[ 10 CFR Part 2 ]**

### BURDEN OF PROOF IN ENFORCEMENT PROCEEDINGS

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering amending its rules so as to provide generally that the proponent of an order in an enforcement action has the burden of proof. The proposed rule would overrule an earlier opinion by the Commission's Atomic Safety and Licensing Appeal Board and take account of a recent decision by the U.S. Court of Appeals for the District of Columbia Circuit.

DATE: Comments on the proposed rule are due by September 6, 1977.

ADDRESSES: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT:

Martin G. Malsch, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301–492–7203.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission ("Commission") is considering an amendment to § 2.732 of its "Rules of Practice" in 10 CFR Part 2 which would state that as a general rule the proponent of an order to amend, suspend, or revoke a license or to impose a civil penalty in an enforcement proceeding against a licensee, including a licensee under 10 CFR Part 50 (a person licensed to construct or operate a production or utilization facility), has the burden of proof, unless otherwise ordered by the presiding officer in a given case. The familiar term "burden of proof" is commonly used to denote two distinct concepts: the burden of going forward and the ultimate burden of persuasion (establishing the validity of a contention by the necessary quantum of the evidence). Under the proposed amendment to § 2.732 the proponent of the order would have both the burden of going forward and the burden of persuasion. This allocation of the burden of proof is in accord with section 7(c) of the Administrative Procedure Act, 5 U.S.C. § 556(d). Section 7(c) of the APA, as recently interpreted in *Environmental Defense Fund* v. *EPA*, 548 F. 2d 998 (D.C. Cir. 1977), provides that in the absence of some statutory exception, the proponent of an order has the burden of going forward with evidence. The Commission believes that the Atomic Energy Act does not provide for any statutory exception to this general rule.

*Environmental Defense Fund* v. *EPA* further held that the allocation of the burden of persuasion is not specified by section 7(c) of the Administrative Procedure Act. In determining that both the burden of going forward and the burden of persuasion should be on the proponent of an enforcement order, the Commission has given careful consideration to basic concepts of fairness, the need for procedures that will facilitate effective enforcement action where warranted, the nature of the two-step nuclear facility licensing process, and the need for some stability in facility licensing decisions. Once the licensing review and hearing process has been completed and a valid construction permit has been issued, the Commission believes that as a general matter it is unnecessary to assure an effective enforcement program and unreasonable to require the construction permittee continually to prove the absence of permit violations as a condition of continuing with plant construction. The proposed rule would, however, permit the presiding officer in the enforcement proceeding to make exceptions to the general rule as to burden in particular cases. For example, a case seeking modification of the construction permit to account for some newly discovered safety issue can properly be regarded as an effort to resolve the safety issue early, rather than waiting for the operating license stage. In such a case, the burden of persuasion can properly be placed on the applicant, since the applicant must bear the burden of persuasion on the issue at the operating license stage in any event.

In *Consumers Power Company* (Midland Plant, Unit Nos. 1 and 2) ALAB–283, 2 NRC 11 (1975), ALAB–315, NRCI–76/2 at 101 (March 1976), the Commission's Atomic Safety and Licensing Appeal Board indicated that the holder of a construction permit has the burden of persuasion in an enforcement proceeding seeking revocation, suspension or modification of the permit. The Appeal Board in that case also indicated that the proponent of the order did have the burden of going forward with some minimum quantum of evidence to support enforcement action during the initial stage of the proceeding. However, the outcome of the *Midland* proceeding did not depend on resolution of the burden of proof question, since the Appeal Board concluded that the construction permittee in that case had met the burden which the Appeal Board believed the law imposed on it. The Commission chose not to review the *Midland* proceeding. This rulemaking proceeding is intended to address the burden of proof question on a generic basis.

As indicated, the proposed rule would overrule the *Midland* opinion and generally place both the burden of persuasion and the burden of going forward on the proponent of an order, as is the usual allocation adopted by Federal administrative agencies. There appear to be no discernible impacts on safety from the rule change, which would as a practical matter affect the outcome only of those cases in which the evidence for and against the proposed order is evenly divided.

There is no legal requirement that these proposed rules be published for public comment before adoption since "rules of agency organization, procedure, or practice" are exempt from that general requirement of the Administrative Procedure Act. 5 U.S.C. 553(b). The Commission, however, believes that public participation beyond the legal minimum can make a valuable contribution to its decisions. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendment of 10 CFR Part 2 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendment should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by September 6, 1977.

1. Section 2.732 is revised to read as follows:

**§ 2.732 Burden of proof.**

(a) For the purposes of this section, burden of proof shall mean (1) the initial burden of going forward with evidence and (2) the ultimate burden of persuasion.

(b) Unless otherwise ordered by the presiding officer, the applicant or the proponent of an order has the burden of proof. Unless otherwise ordered by the presiding officer, in a proceeding under Subpart B, the proponent of the order to modify, suspend, or revoke the license, (including a construction permit) or to impose a civil penalty or take such other enforcement action as may be proper has the burden of proof.

(Sec. 161, Pub. L. 83–703, 68 Stat. 948 (42 U.S.C. 2701); sec. 201, Pub. L. 93–438, 88 Stat. 1242 (42 U.S.C. 5841), 5 U.S.C. 557.)

Dated at Washington, D.C., this 14th day of July 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
*Secretary of the Commission.*

[FR Doc.77-21028 Filed 7-20-77;8:45 am]

## FEDERAL ENERGY ADMINISTRATION

**[ 10 CFR Parts 211 and 212 ]**

### CRUDE OIL BUY/SELL PROGRAM

**Proposed Revision and Public Hearing**

AGENCY: Federal Energy Administration.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Federal Energy Administration (FEA) proposes to revise the Mandatory Crude Oil Allocation Program (the "buy/sell program") to limit the scope of the program to those refiner-buyers who have a demonstrated necessity for allocations of crude oil based on lack of access to adequate supplies of domestic and foreign crude oil and to simplify the administration of the program.

DATES: Comments by August 8, 1977, 4:30 p.m.; requests to speak by August 3, 1977, 4:30 p.m.; hearing date: August 9, 1977, 9:30 a.m.

ADDRESSES: Comments and requests to speak to: Executive Communications, Room 3317, Federal Energy Administration, Box NO, Washington, D.C. 20461. Hearing location: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), 2000 M Street NW., Room 2214B, Washington, D.C. 20461, (202–254–5201).

Ed Vilade (Media Relations), 12th & Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, (202–566–9833).

Robert G. Bidwell, Jr. (Program Office), 2000 M Street NW., Room 6128P, Washington, D.C. 20461 (202–254–9707).

Michael Paige (Office of the General Counsel), 12th & Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461 (202–566–9565).

SUPPLEMENTARY INFORMATION: On February 28, 1977, FEA issued a notice of public hearing and opportunity for public comment with regard to a reevaluation of the crude oil buy/sell program (42 FR 12187, March 3, 1977). In the notice, FEA stated that it was considering whether to modify, or alternatively to eliminate, the program to simplify its administration and to reflect current conditions in the petroleum industry. FEA had tentatively concluded that, at this time, supplies of crude oil for small and independent refiners were adequate, taking into account allocations under the crude oil supplier/purchaser freeze (10 CFR 211.63) and the general availability of crude oil in the world markets and, therefore, a reevaluation of the program was appropriate to assess its usefulness.

FEA specifically invited comment on three alternative proposals as follows: (1) Whether the program should be eliminated; (2) whether the program should be eliminated and the supplier/purchaser freeze modified to enable FEA to establish supplier/purchaser relationships for those refiner-buyers which could demonstrate their inability to obtain adequate crude oil supplies because of lack of access to foreign crude oil; and (3) whether the program should be modified to provide for the establishment of semi-permanent relationships between buyers and sellers of allocated crude oil, reviewed at six month intervals, with eligibility to purchase allocated crude oil based on lack of access to imported crude oil. FEA also invited general comments as to possible revisions to the program other than the alternatives outlined above.

DISCUSSION OF COMMENTS

Comments on the reevaluation of the buy/sell program were invited through April 13, 1977, and forty-seven written comments were received by FEA. A public hearing was held on April 12 and 13, at which twenty-six persons presented oral statements. The oral statements and written comments expressed the views of major integrated refiners, large independent refiners, small refiners, producers, trade associations, consumers, and government agencies. FEA believes that the comments received fairly represent the broad range of interests which would be affected by any changes in the buy/sell program.

In the comments received by FEA, the large integrated refiners expressed the view that more normal supply conditions had returned to the petroleum industry and that current supplies of crude oil for small and independent refiners were adequate. Based on this conclusion, these companies generally supported elimination of the program for the following reasons: (1) The program acts as a disincentive for refiner-buyers to improve their supply situation, either with respect to volume or type of crude; (2) the administrative complexities of the program are unduly burdensome; and (3) the program creates uncertainties in planning which result in inefficiencies of operation.

The small and independent refiners, on the other hand, contended generally that a stable crude oil supply/demand situation does not exist because domestic production is declining and imports of foreign crude oil are increasing. In addition, these firms maintained that new sources of domestic production are difficult to obtain because of the existence of price controls. Moreover, they contended that adequate supplies of foreign crude oil are not in fact available to small refiners. Difficulties in negotiating with producing governments arise due to the relatively small volumes involved, and use of imported crude oil is made difficult by the higher inventory costs associated with smaller storage facilities, inadequate docking facilities, and lack of pipeline space to move additional supplies of crude oil inland. Small refiners also commented that sweet crude oil, which is their principal feedstock, remains in tight supply and that large purchases of foreign sweet crude oil for the Strategic Petroleum Reserve could result in a tighter supply situation than currently exists.

Although Alternative No. 3 (semi-permanent buyer-seller relationships, reviewed every six months) received more support than Alternative No. 2 (FEA assigned supplier/purchaser relationships for refiner-buyers that do not have access to imported crude oil), the majority of those responding where opposed to both of these alternatives. Some firms commenting indicated that Alternative No. 2 would have the advantage of constituting a simpler, more easily administered method of assuring supplies of crude oil to those refiner-buyers which are encountering difficulty in obtaining such supplies. The principal objections raised in opposition to the proposal were that it would remove supply flexibility and lock in buyers and sellers, and that the administrative complexities of assigning specific volumes to certain sellers and monitoring the system would be much more involved than the current administrative process. In addition, some respondents indicated that assigning specific supplier/purchaser relationships would create a dependence on this source of crude oil and constitute a disincentive for investment in transportation and processing facilities.

The firms supporting Alternative No. 3 commented that the proposed semi-permanent allocation relationships would minimize supply and inventory uncertainties, thus providing continuity in planning for both refiner-buyers and refiner-sellers, and would limit participation to those refiner-buyers with the fewest supply alternatives. Those opposed to this alternative cited the inflexibility of semi-permanent relationships in the dynamic petroleum industry, and also contended that such a program would be complex and difficult to administer.

PROPOSED REVISIONS TO MANDATORY CRUDE OIL ALLOCATION PROGRAM

Based on its analysis of the material submitted in the public hearing and in the written comments, and upon all other information available, FEA has tentatively determined that the buy/sell program should be retained in a modified form, because certain small refiners are continuing to experience significant difficulties in obtaining adequate supplies of crude oil. The proposed revised program would be limited to those refiner-buyers which have a legitimate need for allocated crude oil due to a lack of access to offshore crude oil. Several administrative changes have been proposed to simplify the program and reduce the burdens imposed on participants. FEA is also proposing a change in the method of determining the maximum permissible sale price for allocated crude oil in order more closely to approximate actual market transactions. It should be emphasized that FEA does not believe that this proposed program would be appropriate for use in an extreme shortage situation, but that the proposal would be more effective than the current program in today's supply environment.

The specific proposed modifications are as follows:

1. *Eligibility.* Program participation would be reduced first by elimination of all large independent refiners, as well as small refiners that have had allocations shown on the buy/sell list during the last year but have not exercised their purchase opportunities. All other small refiners (including those who had allocations of zero) would be eligible to apply for allocations under the program, and allocations would be granted for specific refineries as to which the supplies of domestic crude oil were not sufficient and the required showing of lack of access to imported crude oil had been made.







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Applications for individual refineries would be evaluated according to the following criteria, which would be used to determine whether or not the refinery had access to imported crude oil:

A. Refineries with crude oil runs to stills (excluding allocated crude oil) during the period January 1, 1977, through June 30, 1977, comprised of 20 percent or more imported crude oil would be deemed to have access to imported crude oil and would not receive allocations.

B. Refineries that are located at ports or on navigable inland waterways would be deemed to have access to imported crude oil and would not receive allocations, unless the refiner could show that the refinery could only receive imported crude oil on a seasonal basis, in which case it could be granted a seasonal allocation, or that the refinery was built to process domestic crude oil and had no facilities for delivery of imported crude oil.

C. Refineries with direct access to pipelines that are normally used to carry imported crude oil to inland refineries would be deemed to have access to imported crude oil and would not receive allocations, unless the refiner could demonstrate that the refinery could not receive a sufficient quantity of imported crude oil by pipeline for one or more of the following reasons:

(i) The refinery's runs to stills have dropped 15 percent or more in the six months immediately preceding the refiner's application because of documented pipeline proration,

(ii) The minimum size of pipeline shipments exceeds refinery storage or other available storage in the immediate area; or

(iii) The refiner is required to supply minimum pipeline fill equal to or greater than one half of the refinery's crude oil storage capability.

FEA has attempted to develop reasonable and objective criteria for determining which refineries have access to imported crude oil and which do not, although the availability of pipeline space changes constantly, and no administrative criteria can precisely assess the degree of a particular refinery's access to imported crude oil. Therefore, FEA invites further suggestions for other access criteria that would fairly measure a refinery's access to imported crude oil and that could be applied without necessitating difficult subjective administrative judgments.

An alternative approach could be to further restrict those eligible to apply for the program to the small refiners that purchased allocated crude oil in at least three of the previous four quarters (September 1, 1976, through August 31, 1977) or in some other designated number of quarters in a recent period. Historical participation in the buy/sell program may be indicative of a continuing need for allocated crude oil, and FEA requests comments on whether this factor should be considered in determining eligibility for the program in addition to the access criteria specified above.

2. *Purchase opportunities for eligible refiner-buyers.* Under the proposal, eligible refiner-buyers would be entitled to purchase an amount of crude oil equal to the difference between (A) the crude oil runs to stills for the refiner's own account at the eligible refinery in the corresponding six months of the previous year, including allocated crude oil, and (B) the runs to stills for the six month period immediately preceding the allocation period (determined by using the crude oil runs to stills level for that refinery for the refiner's account in the first four months of that period over the six month period), less the volume of allocated crude oil processed in the refinery. For example, for the first allocation period (October 1, 1977, through March 31, 1978), if the crude oil runs to stills for an eligible refinery were 120,000 barrels (including a purchased allocation of 20,000 barrels) for the period October 1, 1976, through March 31, 1977, and the refinery's projected volume of crude oil runs to stills for the period April 1, 1977, through September 30, 1977, were 90,000 barrels (excluding purchased allocation amounts), the allocation would be 30,000 barrels 100,000 plus 20,000, less 90,000 = 30,000).

FEA believes that this formula for determining allocations will provide for the equitable replacement of any shortfall in supplies of crude oil for eligible refineries. In addition, it will provide for automatic adjustments to allocations based on demonstrated (but not estimated) changes in supplies.

FEA requests comments generally on whether this proposal is a fair and equitable method for determining allocation volumes, and on whether there is an appropriate maximum level that should be placed on allocations, given a possible future decline in domestic production.

3. *Allocation period.* FEA is proposing to extend the allocation period from a quarterly to a six month period, which is intended to simplify the administration of the program and add a greater degree of certainty for both refiner-buyers and refiner-sellers. The first six month allocation period would begin on October 1, 1977.

As a transition between the current and revised programs, FEA plans to propose an extension of the June through August 1977 allocation quarter for the month of September 1977, by permitting refiner-buyers that purchased their allocations to purchase a pro-rata amount thereof from the same refiner-sellers from which they purchased crude oil in the current quarter.

The buy sell notice that specifies the quantities of allocated crude oil each refiner-buyer is eligible to purchase and each refiner-seller is required to sell would be published 30 days prior to the start of each allocation period, rather than 15 days prior to the beginning of an allocation quarter as provided under current regulations. FEA believes that this will make it easier for refiners to arrange purchases and sales of allocated crude oil and for refiner-buyers to apply for directed sales orders from FEA, if required.

4. *Allocations for newly constructed refining capacity and for leased or purchased refineries.* No provisions are included in the proposal for allocations to new or expanded refinery capacity, as FEA believes that, prior to committing therefor, the refiner concerned would either have arranged for a sufficient volume of domestic crude oil supplies, or alternatively would have acces to imports. In addition, FEA has had difficulties in determining the appropriate allocations for newly constructed refining capacity under the criteria set forth in § 211.65(b). FEA has also tentatively concluded that sufficient incentives for new refiners are provided under other regulatory programs, and that, to obtain a crude oil allocation, it would be appropriate to require the new refiner to make the showing required for the granting of an exception under Subpart D of Part 205. However, as to refineries operational prior to September 1, 1977 that have not been shown on any buy/sell notice and where the owner may have relied upon the continued effectiveness of the provisions of the current § 211.65 (b), the proposal permits application for a maximum possible allocation of 25% of the refinery's capacity under the same access criteria as for other refineries.

Since a refinery's supply of crude oil is normally sold or transferred with the refinery, the allocation rights of purchased or leased refineries are proposed automatically to transfer to its new owner or lessee. However, there is no provision for allocations to refineries that have been shut down and are subsequently reactivated.

FEA invites comments as to whether it is appropriate to limit eligibility for the buy/sell program to existing refineries or whether there are other factors which would support special provisions for allocations to new or expanded refinery capacity that does not have access to imported crude oil.

5. *Sales obligations of refiner-sellers.* A refiner-seller's sales obligation will continue to be a fixed percentage share of the total amount of crude oil to be allocated to all refiner-buyers in an allocation quarter. The percentage share of each refiner-seller will be its proportional share of the reported refinery capacity of all refiner-sellers as of January 1, 1973. Since the amounts to be allocated to refiner-buyers should under the proposal more accurately reflect their actual purchases, the existing provision for calculating primary and secondary sales obligations for refiner-sellers would be unnecessary. The sales obligation for each refiner-seller would therefore consist of its unsold sales obligation from the previous allocation period, plus its fixed percentage share of that additional volume of crude oil, if any, necessary to make the total of the sales obligations of all sellers equal to the sum of the quantities of crude oil that all refiner-buyers would be eligible to purchase for the allocation period.





6. *Directed sales.* Procedures for directed sales under the proposed program would be similar to those under the current program, except that refiner-buyers would be permitted to request directed sales as soon after the publication of a buy/sell list as they could demonstrate their inability to obtain allocated crude oil for their refinery under the program. Refiner-buyers would apply for directed sales at any time within the twenty (20) day period following publication of the list. This change is intended to speed up the directed sales process and to assure that refiner-buyers' allocations would be arranged before the beginning of the allocation period.

7. *Reporting requirements.* The current reporting provisions require the submission of quarterly reports of refinery runs to stills and estimated runs to stills, together with other data, and a report of sales or purchases under the program, which must be updated if actual deliveries differ from contract volumes. The FEA has had difficulties with both reports, because the former does not include all the data needed by FEA and because under the latter requirement refiners have often not filed forms, have filed inaccurate forms, or have not updated forms.

The proposed reporting requirements provide only for a monthly report, which would include the data now reported quarterly plus actual sales or purchase volumes, and data on runs to stills of allocated crude oil, which are not now reported. This report should correct the weaknesses of the two existing reports and should simplify reporting for refiners.

Refiners would be required to report sales under the program within forty-eight (48) hours of their consummation. This is to enable FEA to complete directed sales in a timely manner. Refiner-buyers would also be required to estimate their refineries' runs to stills for the two month period immediately prior to the beginning of an allocation period.

FEA is considering whether a further reporting requirement would be appropriate, pursuant to which refiners would identify the volumes of differing quality crude oils processed in each of their refineries. This information could potentially be of significant assistance in FEA's evaluation of requests for directed sales. FEA invites comments as to whether such a requirement would be appropriate or if reporting this information would be unduly burdensome for refiners.

8. *Pricing of allocated crude oil.* FEA proposes to modify the pricing provision for sales of allocated crude oil more accurately to reflect the actual market value of crude oil sold under the buy/sell program. This modification is proposed because many comments received in this proceeding and during the rulemaking proceedings regarding Special Rule No. 1 (42 FR 1035; January 5, 1977) indicated that many refiner-buyers are able to obtain low sulfur, high gravity crude oil at an advantageous price as compared with similar quality imports under the current pricing provisions. Refiner-sellers therefore may have been required to sell sweet crude oil below its acquisition cost or value on the world market because the sulfur and gravity differentials currently allowed are not representative of actual world market prices for imported crude oil. There are also indications that, to a much lesser extent, refiner-buyers may have had to pay proportionately higher prices for sour crude, and thus have curtailed purchases of sour crude under the program.

FEA intends that the buy/sell program be available only to provide a source of crude oil supplies to refiners which might not otherwise have adequate access thereto, at a price approximating the fair market value of such allocated crude oil. In addition, FEA wishes to allow refiner-sellers to recover their costs as fully and as equitably as possible. The amended pricing provision is designed to achieve these objectives, and comments are requested as to whether the proposal is in fact equitable to both buyers and sellers.

FEA has verified, through its own calculations, that light, sweet foreign crude sold under the program is generally priced under the rule currently in effect so as to result in a loss to the seller and, therefore, at a price less than the fair market value for such crude oil. FEA has considered several possible methods of correcting this situation, including upward revisons in the sulfur and/or gravity differentials, and altering the value of the allowed sulfur and/or gravity differential at various points on the sulfur content and/or gravity scale. FEA believes the most equitable method to be to modify the pricing provision for sales of allocated crude oil to take into account crude oil quality differentials by separating the refiner-sellers' crude oil imports into two categories, high sulfur crude oil, defined for this purpose only as crude oil that has a sulfur content of six-tenths of one percent or more by weight, and low sulfur crude oil, defined as crude oil that has a sulfur content of less than six-tenths of one percent sulfur by weight. The refiner-seller would determine his weighted average landed cost separately for each category. The maximum permitted sale price of allocated crude oil would be calculated by applying the current sulfur and gravity differentials of plus or minus three cents per one tenth percent sulfur by weight and three cents per °API against the weighted average landed cost of the category of crude oil in which the actual volume of crude oil sold to a refiner-buyer is included.

According to FEA's calculations, which are based upon data reported by refiners, the proposed rule would have the effect of substantially reducing the price advantage to the refiner-buyer for purchases of light, sweet foreign crude oils, and substantially reducing the price disadvantage to buyers for purchases of sour crudes.

The results of FEA's trial pricing calculations for this proposal are as follows. A cross section of six sellers were selected, and the weighted average landed cost of their imports for the month of February 1977 for low sulfur and high sulfur crude oil was calculated. For each, a hypothetical sale price for Nigerian light crude oil (36.75 °API, 0.1% sulfur) was calculated under the present rule and the proposed rule. The resulting pricing advantages and disadvantages for refiner-buyers appear in the table below. For the four selected sellers which import significant volumes of high sulfur crude oil, a hypothetical sale price for Arab light crude oil (33.27 °API, 1.7% sulfur) was also calculated under the present rule and the proposed rule. As can be seen from the results in the table, the price disadvantage to the buyer for purchases of sour crude was similarly reduced.

*Price advantage (disadvantage) to the buyer*

[In dollars per barrel]

| | Seller | | | | | |
|---|---|---|---|---|---|---|
| | A | B | C | D | E | F |
| | Purchase of Nigerian light | | | | | |
| Present rule | 1.36 | 0.03 | 0.97 | 0.42 | 0.69 | 1.06 |
| Proposed rule | .46 | (.06) | .30 | (.06) | .33 | .06 |
| | Purchase of Arab light | | | | | |
| Present rule | NA | NA | (.45) | (1.04) | (.26) | (.27) |
| Proposed rule | NA | NA | (.33) | (.07) | (.19) | (.11) |

On the basis of these test calculations, FEA believes that the proposed rule will meet the objective of providing a method of pricing under which the refiner-buyer's cost will more closely approximate current market values.

FEA also proposes to modify the provision regarding transportation expenses recoverable by refiner-sellers, since the current regulation may be subject to an interpretation which could permit double recovery of transportation costs in certain cases. The proposed rule provides that the refiner-buyer will be charged only actual additional transportation costs over and above the average of all transportation costs of imported crude oil included in the calculation of the price of allocated crude oil. Domestic transportation costs included in a refiner-seller's computation of landed costs will not be recoverable as additional expenses. FEA requests written comments on whether this aspect of the pricing proposal will ensure equitable recovery of delivery costs for refiner-sellers.

COMMENT PROCEDURES

A. WRITTEN COMMENTS

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposals set forth in this notice. Comments should be identified on the outside envelope and on documents submitted with the designation "Modification of Buy/Sell Program," Box NO. Fifteen copies should be submitted. All comments received by FEA will be available for public inspection in the FEA



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Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

B. PUBLIC HEARING

1. *Request procedure.* The time and place for the public hearing is indicated in the dates section of this preamble. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the next business day following the date of the hearing.

Any person who has an interest in the proposed amendments issued today, or who is a representative of a group or class of persons that has an interest in today's proposed amendments, may make a written request for an opportunity to make oral presentation. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through the day before the hearing.

Each person selected to be heard will be so notified by the FEA before 4:30 p.m., e.d.t., August 5, 1977 and must submit 100 copies of his or her statement to Regulations Management, Room 2214, 2000 M Street NW., Washington, D.C., before 4:30 p.m., e.d.t., August 8, 1977.

2. *Conduct of the hearing.* The FEA reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing, which will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing, to Executive Communications, FEA, before 4:30 p.m., e.d.t., August 8, 1977. Any person who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments on this proposal.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790; 39 FR 23185.)

NOTE.—The FEA has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

In consideration of the foregoing, it is proposed to amend Parts 211 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., July 18, 1977.

ERIC J. FYGI,
*Acting General Counsel.*

1. Section 211.62 is amended to delete the definitions of "allocation quarter", "future refining capacity", "new refining capacity" and "refinery capacity"; and to add, in appropriate alphabetical sequence, a new definition of "allocation period", to read as follows:

**§ 211.62 Definitions.**

. . . . . .

"Allocation period" means a consecutive six-month calendar period commencing either on April 1 or October 1 of each year. The first allocation period shall be the six-month period from October 1, 1977 through March 31, 1978.

. . . . . .

"Refiner-buyer" means any small refiner which is determined to be eligible for an allocation of crude oil pursuant to § 211.65.

. . . . . .

"Refining capacity" means, for each refinery, the capacity thereof as certified by the FEA. Any capacity of a refinery which has ceased to be operated continuously in the normal course of business shall be deducted from refining capacity.

. . . . . .

"Small refiner" means a refiner, the sum of the capacity of the refineries of which (including the capacity of any person who controls, or is controlled by, or is under common control with such refiner) does not exceed 175,000 barrels per day.

. . . . . .

2. Section 211.64 is amended to read as follows:

**§ 211.64 Transactions under prior program.**

Any agreement for the sale or purchase of crude oil entered into as a result of the provisions of this subpart as in effect immediately prior to October 1, 1977, shall be fully performed notwithstanding any provision of this subpart as in effect on October 1, 1977.

3. Section 211.65 is revised to read as follows:

**§ 211.65 Method of allocation.**

(a) *Eligibility for allocation.* (1) Any small refiner may apply to FEA for an allocation for one or more of its refineries: *Provided*, That the small refiner (i) purchased crude oil under the provisions of this section during the period September 1, 1976 through August 31, 1977, (ii) was listed on the buy/sell notices during the period September 1, 1976 through August 31, 1977, with an allocation of zero (0) barrels in all four allocation quarters in that period, or (iii) as to refiners not shown on such buy/sell notices, commenced operations at the refinery as to which an allocation is sought prior to September 1, 1977, in which latter case the FEA may assign the refinery a maximum allocation of twenty-five (25%) of that refinery's refining capacity.

(2) A refinery will only be eligible for an allocation if it is not deemed to have access to imported crude oil (other than Canadian crude oil).

(3) A refinery will be deemed to have access to imported crude oil if:

(i) Twenty (20%) percent of its crude oil runs to stills (excluding crude oil purchased pursuant to this section during the period January 1, 1977 through June 30, 1977) were comprised of imported (other than Canadian) crude oil; or

(ii) It is located at a port or on a navigable inland waterway providing access to imported crude oil, unless the small refiner that owns the refinery can document that it could not receive imported crude oil for one of the following reasons:

(A) The refinery is only accessible by water for a portion of the year, in which case the FEA may assign the refinery a seasonal allocation, or

(B) The refinery was constructed to process domestic crude oil, and lacks dock and/or storage facilities that would permit it to process imported crude oil; or

(iii) It has direct access to a pipeline that routinely carries imported crude oil (other than Canadian crude oil) to inland refineries, unless the small refiner that owns the refinery can document that it could not receive a sufficient quantity of imported crude oil by pipeline for one of the following reasons:

(A) The refinery's volume of crude oil runs to stills (excluding crude oil processed for other refiners) have decreased by fifteen (15%) percent or more in the six months immediately preceding the refiner's application due to documented pipeline proration,

(B) The required minimum size of pipeline shipments exceeds the refinery's storage capacity, or other available storage in the immediate area, or

(C) The refiner is required to supply pipeline fill in order to use the pipeline, and the minimum pipeline fill requirements are more than one half of the refinery's storage capacity.

(4) Small refiners that desire to receive allocations for one or more of their refineries shall submit applications by August 31, 1977 for a determination of the refineries' eligibility for an allocation. Applications shall be addressed to the Program Manager, Crude Oil Allocation, FEA, in accordance with the procedures established in Subpart G of Part 205 of this chapter. Each application shall contain the information (including documentation where appropriate) necessary for the FEA to evaluate the application under the criteria specified in subparagraph (3) of this paragraph and the data on crude oil runs to stills necessary to calculate an allocation under paragraph (b) of this section. Documentation should include copies of correspondence with pipeline companies, as well as any published requirements of pipeline companies as to required minimum shipments. Separate applications must be submitted for each refinery. The FEA may request additional information if necessary for evaluation of the application and shall notify each applicant of its determination as to eligibility of the refinery or refineries concerned by September 30, 1977.

(b) *Purchase opportunities or refiner-buyers.* (1) In each allocation period, each refiner-buyer shall be entitled to purchase, for each refinery owned by that refiner-buyer that is determined by the FEA not to have access to imported crude oil, an amount of crude oil equal to the difference between the volume of crude oil runs to stills (not including crude oil processed for other refiners) at the eligible refinery in the corresponding period of the previous year (October 1, 1976 through March 31, 1977 for the first allocation period) and the volume of the crude oil runs to stills (not including crude oil processed for other refiners) at the eligible refinery for the six month period immediately preceding the allocation period for which the allocation is being determined (calculated by utilizing the level of the crude oil runs to stills at that refinery in the first four months of the period for the entire six-month period) less the volume of the crude oil runs to stills in latter six month period attributable to crude oil purchased under this section.

(2) Crude oil allocated under this section shall be processed only at the refinery as to which the allocation was granted, and such crude oil must be processed in that refinery within thirty days following the close of the allocation period for which that crude oil was allocated.

(3) No allocation shall be made under this section which will result in crude oil supplies in excess of one hundred (100%) percent of refining capacity for any refiner-buyer's refinery.

(4) No refiner-buyer shall purchase under this section (i) crude oil imported from Canada for processing in any first priority refinery (as defined in Part 214 of this chapter) owned by that refiner-buyer or (ii) domestic crude oil for processing in any such first priority refinery in excess of the average volumes thereof purchased by that refiner-buyer for that refinery in the period September 1, 1976 to August 31, 1977.

(c) *Review of eligibility for allocations and adjustments to purchase opportunities.* (1) Upon application by a small refiner, the FEA may review the eligibility of a refinery owned by that refiner where significant changes in the refinery's access to imported crude oil have occurred or adjust the allocation as to a refinery to compensate for reductions in crude oil runs to stills due to unusual or nonrecurring operating conditions. Requests for review or adjustment shall be filed with FEA no less than 60 days or more than 90 days prior to the beginning of an allocation period and shall be made in accordance with the procedures established in Subpart G of Part 205 of this chapter. The FEA shall make its determination within forty five (45) days of the receipt of the application.

(2) The FEA may at any time, without application by the refiner-buyer concerned, review the eligibility of or allocation as to a refinery. Specifically, the FEA may institute such a review where it believes that significant increases in the supplies of domestic crude oil for any refinery have occurred or because of the need to reconsider the refinery's access to imported crude oil pursuant to paragraph (a)(3) of this section. The FEA may request additional information from the refiner concerned for the purposes of such a review. If appropriate, the FEA may determine that a refinery is ineligible for further allocations or may adjust the allocation of a refinery pursuant to an order issued under Subpart G of Part 205 of this chapter.

(d) *Newly or constructed expanded refineries.* No refining capacity operational after August 31, 1977 shall be eligible for allocations under this section. No reactivated refineries or refinery capacity that has not been operated for a period of six months or more shall be eligible for an allocation of crude oil under this section.

(e) *Leased or purchased refineries.* Leased or purchased refineries shall continue to be eligible for allocations on the same basis as in effect for the lessee or the previous owner, as the case may be; *Provided*, That the lessee or new refiner as to the refinery is a small refiner.

(f) *Computation of total allocation obligation.* The sum of the quantities of crude oil that all refiner-buyers are eligible to purchase for delivery during an allocation period shall be the total allocation obligation for refiner-sellers for such allocation period.

(g) *Refiner-sellers' sales obligations.*—(1) *Sales obligations of each refiner-seller.* (i) Effective for the allocation period commencing October 1, 1977 and subsequent allocation periods, the FEA shall compute a sales obligation for each refiner-seller as provided in paragraph (g)(2) and (3) of this section. The total of the sales obligations of all refiners-sellers shall be equal to the total allocation obligation for the particular allocation period as computed in paragraph (f) of this section.

(ii) Each refiner-seller shall offer for sale, directly, or through exchange, to refiner-buyers during an allocation period a quantity of crude oil equal to that refiner-seller's sales obligation.

(2) *Calculation of sales obligations.* (i) The sales obligation for each refiner-seller shall consist of that refiner-seller's fixed percentage share as calculated under paragraph (g)(2)(ii) of this section multiplied by the total sales obligation for all refiner-sellers adjusted by any carryovers of unsold sales obligations and FEA approved reductions in sales obligations for sales in excess of sales obligations in previous allocation periods.

(ii) A refiner-seller's fixed percentage share is its proportionate share of the total refining capicity of all refiner-sellers as reported to the Bureau of Mines on January 1, 1973, as certified by the FEA. Changes in refining capacity shall not subject a refiner-seller to any change in its fixed percentage share over the share identified for the first allocation period. No refined-seller shall be required to sell any of its supplies of crude oil under this section if the sale thereof would effect a reduction in the supplies of crude oil imported from Canada allocated under Part 214 of this chapter to any first priority refinery (as defined in Part 214) owned by that refiner-seller or if the sale thereof would effect a reduction in the supply levels of domestic crude oil for any such first priority refinery, except that such refiner-seller is required to offer for sale under this section the average volumes of domestic crude oil sold under this section in the period November 1, 1974, through October 31, 1975, for use at an eligible first priority refinery owned by a refiner-buyer.

(3) *Carryover of sales obligations.* (i) The volume of each refiner-seller's unsold sales obligation in an allocation period (or quarter) shall be added to that refiner-seller's sales obligation in one or more subsequent allocation periods.

(ii) The FEA shall pursuant to paragraph (k)(3) of this section, or may at its discretion in other cases, reduce a refiner-seller's sale obligation in an allocation period for sales in excess of its published sales obligation in a previous allocation period.







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(h) *Buy/sell notice.* At least thirty days prior to each allocation period, the FEA shall publish a notice for that allocation period listing the quantity of crude oil each refiner-buyer is eligible to purchase, the total allocation obligation for all refiner-sellers, the fixed percentage share for each refiner-seller and the quantity of crude oil that each refiner-seller will be obligated to offer for sale to refiner-buyers. Upon publication of the notice, refiner-buyers and refiner-sellers shall negotiate purchases and sales of crude oil allocated pursuant to the notice. All sales must be contracted for within thirty (30) days after the beginning of the allocation period, and all deliveries must be completed within thirty (30) days following the close of the allocation period.

(i) *Sale/purchase transaction report.* Within forty-eight hours of the completion of arrangements therefor, each transaction made to comply with this section shall be reported by the buyer and seller to the FEA. This report shall identify the selling and purchasing refiners and indicate the volumes of crude oil sold or purchased.

(j) *Conditions of sale.* (1) The terms and conditions of each sale of crude oil, other than the prices, shall be consistent with normal business practices.

(2) The crude oil offered must be suitable for processing in the refiner-buyer's refinery. Crude oil is deemed to be suitable for processing in a refinery if it has historically been processed in the refinery or if it has the same characteristics as crude oil that has historically been processed in the refinery. A refiner-seller may not be required to supply a specific type of crude oil to a refiner-buyer's refinery if the volume of the crude oil that would be sold would account for a greater percentage of the refinery's total crude oil runs to stills in the allocation period concerned than was the case for that type of crude oil during the previous twenty-four month period.

(3) The crude oil offered must be physically capable of being delivered to the refiner-buyer's refinery by transportation methods normally used to deliver crude oil to that refinery. The refiner-seller is responsible for arranging delivery of allocated crude oil to the refiner-buyer's refinery.

(4) All crude oil sold pursuant to this secton shall be priced in accordance with the provisions of Part 212 of this chapter.

(5) Exchanges of crude oil may be utilized to comply with the purchase and sale provisions of this section.

(k) *Failure to negotiate transactions.* (1) Each refiner-buyer shall make its best effort to consummate the purchases of crude oil under this subpart from refiner-sellers prior to requesting assistance from the FEA. A refiner-buyer that is able to demonstrate its inability to consummate a sale despite making such effort may request, in accordance with the procedures established under Subpart G of Part 205 of this chapter, that the FEA direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer. Such a request must be received by the FEA no later than 20 days after the publication of the buy/sell notice for the allocation period for which the assignment of a refiner-seller is requested. Such a request must also document the refiner-buyer's inability to purchase crude oil from refiner-sellers by supplying the following information to the FEA:

(i) Name of the refiner-buyer and of the person authorized to act for the refiner-buyer in transactions under this section.

(ii) Names and locations of the refineries for which crude oil has been sought, the amount of crude oil sought for each refinery, and the technical specifications of crude oil that have historically been processed in each refinery.

(iii) Statement of any restrictions, limitations or constraints on the refiner-buyer's purchases of crude oil, particularly concerning the manner or time of deliveries.

(iv) Names and locations of all refiner-sellers from which crude oil has been sought under the buy-sell notice, the refineries for which crude oil has been sought, and the volume and specifications of the crude oil sought from each refiner-seller.

(v) The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller.

(vi) Such other pertinent information FEA may request.

(2) Upon receipt of such a request, the FEA may direct one or more refiner-sellers that have not sold their required sales obligations for the allocation period to sell crude oil to the refiner-buyer. If the refiner-buyer declines to purchase the crude oil specified by the FEA, the rights of that refiner-buyer to purchase that volume of crude oil are forfeited during that allocation period, provided that the refiner-seller or refiner-sellers have fully complied with the provisions of this section.

(3) Refiner-sellers shall notify the FEA in writing within forty-eight hours of the consummation of each sale under this program. The FEA may then direct refiner-sellers to sell crude oil to refiner-buyers that have been unable to purchase their total allocations for the allocation period. In directing refiner-sellers to make such sales, the FEA shall consider the percentage of each refiner-seller's sales obligations for the allocation period that has been sold, as well as the refiner-seller or sellers that can best be expected to consummate particular directed sales. If, in the FEA's opinion, a valid directed sale request cannot reasonably be expected to be consummated by a refiner-seller that has not completed all or substantially all of its sales obligation for the allocation period, the FEA may issue one or more directed sales orders that would result in one or more refiner-sellers selling more than their published sales obligations for that allocation period. In such cases, the refiner-seller or sellers will receive a barrel-for-barrel reduction in their sales obligations for the next allocation period pursuant to paragraph (g)(3)(ii) of this section.

4. Section 211.66 is amended by deleting paragraphs (c), (e) and (f) and revising paragraph (d) to read as follows:

**§ 211.66 Reporting requirements.**

* * * * *

(c) [Deleted]

(d) *Monthly report.* (1) Not later than October 20, 1977, and by the twentieth day of each month following October 1977, each refiner shall file with the FEA a report containing the following information as to the immediately preceding month:

(i) The volume of the crude oil runs to stills for each of its refineries, identifying the volumes of domestic, imported and allocated crude oils so processed.

(ii) The volumes of crude oil processed for the account of other refiners in each such refinery, listed by name.

(iii) The volume of crude oil processed for the account of non-refiners in each such refinery, listed by name.

(iv) The volume of crude oil processed for the account of that refiner by other refiners, listed by name.

(v) Any change in refinery capacity since the previous report.

(vi) Purchases or sales of allocated crude oil.

(vii) Such other information as the FEA may request.

(2) Separate reports under subparagraph (1) of this paragraph for the months of June, July, and August, 1977, shall be filed by October 20, 1977.

(e) and (f) [Deleted]

5. Section 212.94 is revised to read as follows:

**§ 212.94 Allocated crude pricing.**

(a) *Scope*—(1) *General.* This section applies to each sale of crude oil made pursuant to the provisions of § 211.65 of this chapter, effective for sales obligations for the allocation period commencing October 1, 1977 and subsequent allocation periods.

(2) *Definitions.* For the purposes of this section—

"Low sulfur crude oil" means crude oil the sulfur content of which is less than 0.6% (six-tenths of one percent) by weight.

"High sulfur crude oil" means crude oil the sulfur content of which is equal to or greater than 0.6% (six-tenths of one percent) by weight.

(b) *Rule.* (1) Notwithstanding the general rules described in this subpart, the price at which low sulfur and high sulfur crude oil, respectively, shall be sold when required in § 211.65 of Part 211 of this chapter shall not exceed the weighted average per barrel landed cost (as defined in § 212.82, but utilizing the volumes of imported crude oil at the time of importation thereof into the United States) of all low sulfur or high sulfur imported crude oil, respectively (other than crude oil imported from Canada), delivered to a refiner-seller in the month in which the sale is made and the two months preceding that month, plus a handling fee of five cents per barrel, and any transportation, gravity and sulfur content adjustments as specified in subparagraphs (2) through (4), respectively, of this paragraph (b). For purposes of calculating the weighted average per barrel landed cost of low sulfur or high sulfur crude oil under this paragraph (b)(1), a refiner-seller shall include pipeline tariffs, water transportation and terminalling costs, exchange differentials, insurance and taxes paid to deliver such low sulfur or high sulfur imported crude oil to the refiner-seller's refineries. Each refiner-seller making such a sale shall calculate its price for low sulfur crude oil against its weighted average per barrel landed cost of imported low sulfur crude oil and shall calculate its price for high sulfur crude oil against its weighted average per barrel landed cost of imported high sulfur crude oil under this section and shall maintain records, which shall be made available to the FEA upon request, listing the volumes and landed cost of all imported low sulfur and high sulfur crude oil delivered to it.

(2) Actual additional expenses incurred by a refiner-seller to move crude oil to a refiner-buyer's refinery over and above the average transportation expenses included in the price determined under paragraph (b)(1) of this section shall be paid by the refiner-buyer. If domestic transportation costs are included in a refiner-seller's computation of landed costs for purposes of paragraph (b)(1) of this section, they may not be recovered as additional expenses under this paragraph.

(3) A price adjustment shall be made for gravity differential of crude oil offered for sale under § 211.65 of this chapter by adding to or subtracting from the weighted average landed costs as calculated under paragraph (b)(1) of this section three cents per barrel for each °API that the crude oil being offered for sale under §211.65 of chapter is above or below, respectively, the weighted average °API of imports of crude oil of the same sulfur content category (other than crude oil imported from Canada) for the applicable three month period specified in paragraph (b)(1) of this section for the refiner-seller.

(4) A further price adjustment shall be made for sulfur content differential of crude oil offered for sale under § 211.65 of this chapter by adding to or subtracting from the weighted average landed cost as calculated under paragraph (b)(1) of this section three cents per barrel per one-tenth percent that the sulfur content by weight of the crude oil being offered for sale under § 211.65 of this chapter is either below or above, respectively, the percentage representing the weighted average sulfur content of imports of crude oil of the same sulfur content category (other than crude oil imported from Canada) for the applicable three month period specified in paragraph (b)(1) of this section for the refiner-seller.

[FR Doc.77-21010 Filed 7-20-77;8:45 am]





## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[ 14 CFR Parts 11, 21, 91 ]**

[Docket No. 17042; Notice No. 77-13]

### SPECIAL FEDERAL AVIATION REGULATION 27: EPA EXHAUST EMISSIONS (SMOKE) STANDARDS EFFECTIVE JANUARY 1, 1978

**Proposed Amendment of Federal Aviation Regulations to Effect Compliance With EPA Standards**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FAA proposes amendments of its aircraft emission rules to ensure compliance with aircraft emissions (smoke) standards issued by the Environmental Protection Agency (EPA) that are effective January 1, 1978.

DATES: Comments must be received on or before September 13, 1977. Effective date of EPA regulation is January 1, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 17042, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Emanuel M. Ballenzweig, Assistant Chief, High Altitude Pollution Staff, AEQ-10, Office of Environmental Quality, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone 202-425-8933.

SUPPLEMENTARY INFORMATION:

#### Comments Invited

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. However, to reflect the division of regulatory responsibility between EPA (in section 231 of the Clean Air Act, as amended, 42 U.S.C. 1857 f-9) and the Secretary of Transportation (in section 232 of that Act, 42 U.S.C. 1857 f-10), comments are not requested herein concerning the substance or the effective date of the already final requirements of 40 CFR Part 87 (EPA Part 87) that are incorporated herein. Since those comments would involve EPA's regulatory authority, they should be submitted to EPA (although FAA would appreciate information copies of such comments).

Comments that do not involve either the substance or the compliance date of the provisions of EPA Part 87 that are incorporated in this notice should identify the FAA regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. Comments, received on or before September 9, 1977, will be considered by the FAA Administrator before taking action on the proposed rules. The proposals contained in this notice (other than the incorporated provisions of EPA Part 87) may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

#### History

Under section 232 of the Clean Air Amendments of 1970, Public Law 91-604, the FAA has a duty to issue regulations that ensure compliance with all aircraft emission standards promulgated under section 231 of the Act, which are currently prescribed in EPA Regulations Part 87 (40 CFR Part 87) issued on July 6, 1973, and published in the FEDERAL REGISTER (36 FR 19088) on July 17, 1973.

Accordingly, on December 26, 1973, the FAA issued Special Federal Aviation Regulation (SFAR) 27, published in the FEDERAL REGISTER (38 FR 35437) on December 28, 1973. The purpose of SFAR 27 is to ensure compliance with aircraft and aircraft engine emission standards and test procedures issued by the EPA in EPA Part 87.

The SFAR, as orginally issued, contained only those standards and procedures in EPA Part 87 that were effective beginning February 1, 1974. On December 23, 1974, the FAA issued an amendment to SFAR 27 (Amdt. SFAR 27-1, published in the FEDERAL REGISTER on December 30, 1974, at 39 FR 45008) containing the fuel venting emission standards in EPA Part 87 that were effective beginning January 1, 1975. A second amendment to SFAR 27 was issued on November 23, 1975 (Amdt. SFAR 27-2, published in the FEDERAL REGISTER on November 28, 1975, at 40 FR 55311) containing smoke emission standards in EPA Part 87 applicable to new and in-use aircraft turbofan or turbojet engines designed for subsonic airplanes that have a rated power of 29,000 pounds thrust or greater, effective January 1, 1976.

#### The Proposal

The FAA now proposes to add to SFAR-27 the provisions of EPA Part 87



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that apply, beginning January 1, 1978. This proposal would apply to engines specified in § 87.21(c) of EPA Part 87 (40 CFR 87.21(c)). That rule provides that the exhaust emission of smoke from each new Class T3 which, as defined in § 87.1(a) of EPA Part 87, includes engines of the JT3D Model family aircraft gas turbine engine "manufactured" on or after January 1, 1978, shall not exceed a smoke number of 25 (as determined in accordance with EPA Part 87). For the purpose of this proposal, the date of issuance of an FAA airworthiness approval tag or "other FAA approval for installation of an engine on aircraft" is proposed as the date an aircraft engine will be regarded as "manufactured" (as that word is used in EPA Part 87). This would apply to compliance with all of EPA's regulations that are framed in terms of the date of "manufacture."

In that regard, under this proposal, special provision is made under section 19 to provide (1) for the export of engines produced in the United States for use exclusively outside the United States by foreign countries that do not require emission controls and (2) for the installation of engines on aircraft that do not have standard airworthiness certificates or their foreign equivalent. In those cases, the data plate affixed to the engine must be permanently and prominently marked with a prescribed statement that emission compliance must be determined before installation on an aircraft. The FAA proposes in section 19(c) that the type certificate data plate for engines that have not been shown to comply with the emission control standards be marked with the following statement: "Need for Emission Compliance Must Be Determined Before Installation."

As is the case with respect to the current rules concerning smoke emission, compliance with the exhaust emission requirements for Class T3 engines manufactured on or after January 1, 1978, would be shown if the engines incorporate combustors of a design that has met the applicable smoke number, and are maintained in accordance with applicable maintenance requirements. Accordingly, the January 1, 1978, date would be added to section 14. In addition to this basis for assuring continued compliance with EPA's smoke emission standards, research is being conducted to determine the need for additional requirements to detect and prevent deterioration of smoke emission characteristics during the service life of an engine. If this research shows that production line testing of sample engines, periodic testing of in-use engines, or similar regulations are necessary to ensure compliance with these standards, they will be proposed by the FAA in a later rule-making action.

The reference in the proposed revision of section 19 to "other FAA approval for installation of an engine on aircraft" (in addition to airworthiness approval tags), as discussed above, is intended to reflect the fact that, under current practice, engine airworthiness approvals are issued in forms that are not limited to airworthiness approval tags. This change would apply to all engines covered by section 19, not only engines being added by this proposal. In addition, in order to assist maintenance personnel and others in determining whether a given engine may be installed on an aircraft without compliance with smoke emission standards, it is proposed that the manufacturer be required to establish an FAA-approved means of permanently identifying, on each engine, its date of manufacture. This requirement would also apply to all engines covered by section 19, not only engines being added by this proposal. To supplement this requirement, the FAA will ensure that the serial number of each engine, and information identifying whether each serial number complies with applicable emissions requirements, is recorded on the type certificate data sheet for each engine.

### APPLICABILITY

As stated above, the proposed amendment would apply to Class T3 engines manufactured on or after January 1, 1978. According to the engine manufacturer, there are no orders from domestic air carriers for new production Class T3 engines for delivery on or after January 1, 1978, and orders are on hand for only a few new Class T3 engines to be delivered on or after January 1, 1978, for use on export aircraft that are not to be operated into the United States. Since the objective of EPA Part 87 and SFAR-27 is protecting public health and welfare within the United States, the FAA is working with the EPA to exclude, from the applicability of their regulation, aircraft that have standard airworthiness certificates and that will be operted within the United States only during the brief period of their delivery to purchasers outside the United States. However, as the EPA regulations presently provide no such exclusion, this proposal would apply to all new Class T3 aircraft engines manufactured on or after January 1, 1978, and aircraft using such engines, that are operted within the United States.

### DRAFTING INFORMATION

The principal authors of this document are Emanuel M. Ballenzweig, Office of Environmental Quality, and Jack P. Zimmerman, Office of the Chief Counsel.

### THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Special Federal Aviation Regulation (SFAR) 27 (14 CFR Parts 11, 21, 91) as follows:

SFAR No. 27—FUEL VENTING AND EXHAUST EMISSION REQUIREMENTS FOR TURBINE ENGINE POWERED AIRPLANES, EFFECTIVE FEBRUARY 1, 1974

1. Sec. 14(c) would be amended by consolidating the current text and by adding ", and on January 1, 1978," immediately after "January 1, 1976."

2. Sec. 15(a) would be amended, in the introductory clause by substituting "(a)(5)" in lieu of "(a)(4)", and by adding a new paragraph (a)(5) to read as follows:

SEC. 15 *Type certificates.* (a) • • •

(5) For airplanes powered by engines of Class T3, manufactured on or after January 1, 1978, each engine complies with the exhaust emissions (smoke) requirements and related test procedures of 40 CFR Part 87 that apply beginnning January 1, 1978.

3. Sec. 17(a) would be amended, in the introductory clause by substituting "(a)(5)" in lieu of "(a)(4)," and by adding a new paragraph (a)(5) to read as follows:

SEC. 17 *Supplemental or amended type certificates.* (a) • • •

(5) For airplanes powered by engines of Class T3, manufactured on or after January 1, 1978, each engine complies with the exhaust emissions (smoke) requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1978.

4. Sec. 19 would be amended by amending the section heading and introductory clause, by designating the introductory clause as paragraph (a), by designating current paragraphs (a) and (b) as paragraphs (a)(1) and (a)(2), and by adding new paragraphs (a)(3), (b), and (c) to read as follows:

SEC. 19 Airworthiness approval tags and other engine approvals. (a) Notwithstanding Part 21 of the Federal Aviation Regulations, and except as provided in paragraph (c) of this section, no airworthiness approval tag, or other FAA approval for installation of an engine on aircraft, is issued on or after—

• • • • •

(3) January 1, 1978, for an engine of Class T3 unless the engine complies with the exhaust emissions (Smoke) requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1978.

(b) Notwithstanding Part 21 of the Federal Aviation Regulations, no airworthiness approval tag, or other FAA approval for installation of an engine on aircraft, is issued for an engine unless the manufacturer of that engine has established an FAA-approved means of permanently identifying, on that engine, its date of manufacture.

(c) For engines covered by this section and for which compliance with engine emission requirements in this section has not been demonstrated, the identification plate affixed to the engine pursuant to § 45.11 of 14 CFR Part 45 must be permanently and prominently marked with the following statement—"Need for Emission Compliance Must Be Determined Before Installation."

5. Sec. 21 would be amended to read as follows:

SEC. 21 *Standard airworthiness certificates.* Notwithstanding Part 21 of the Federal Aviation Regulations and irrespective of the date of aplication, no standad airworthiness certificate is issued on and after the dates specified in paragraphs (a) through (e) of this section, for the airplanes specified therein, unless—

• • • • •

(e) For airplanes powered by engines of Class T3, manufactured on or after January 1, 1978, each engine complies with the exhaust emissions (smoke) requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1978.

6. Sec. 25 would be amended to read as follows:

SEC. 25 *Operation.* On and after the dates specified in paragraphs (a) through (e) of this section, no person may, within the United States, operate an airplane specified in those paragraphs unless—

• • • • •

(e) For airplanes powered by engines of Class T3, manufactured on or after January 1, 1978, each engine complies with the exhaust emissions (smoke) requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1978.

(Sec. 232, Clean Air Act, as amended December 31, 1970, Pub. L. 91-604 (42 U.S.C. 1857f-10), as delegated (36 FR 8733); 40 CFR Part 87 (38 FR 19088); secs. 307(c), 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(c), 1354(a), 1421, and 1423; sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.45).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 15 1977.

J. E. DENSMORE,
*Acting Director of Environmental Quality.*

[FR Doc.77-20897 Filed 7-20-77;8:45 am]



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[ 14 CFR Part 71 ]

[Airspace Docket No. 77-WE-15]

## UKIAH, CALIFORNIA

### Proposed Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the transition area at Ukiah, California, by establishing additional controlled airspace west of V-27 and east of V-27W between the Ukiah, California and Fortuna, California VORTAC's. This additional airspace will be used for radar vectoring of aircraft between the main and alternate airways.[1]

DATES: Comments must be received on on before August 19, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, California 90261.

The official docket may be examined at the following location: Federal Aviation Administration, Office of the Regional Counsel, AWE-7, 15000 Aviation Boulevard, Lawndale, California 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. Telephone 213-536-6182.

[1] Map filed as part of the original document.



SUPPLEMENTARY INFORMATION:

### COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the Airspace Docket Number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before August 19, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

### AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Adminstration, Chief, Airspace and Procedures Branch, AWE-530, 15000 Aviation Boulevard, Lawndale, California 90261, or by caliing 213-536-6180. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list the future NRPMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

### THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Ukiah, California, transition area by adding a 5,300 foot MSL transition area to provide controlled airspace for aircraft transitioning between V-27 and V-27W northwest of Ukiah, California.

### DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Lawson, Jr., Esquire, Regional Counsel, Western Region.

### THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

UKIAH, CALIFORNIA

Following "• • • Fortuna VORTAC 110° radials." Add: • • • "and that airspace extending upward from 5,300 feet MSL bounded on the east by the southwest edge of V-27 and on the west by the east/southeast edge of V-27W."

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, California on July 11, 1977.

FRANK HAPPY,
*Acting Deputy Director,*
*Western Region.*

[FR Doc.77-20765 Filed 7-20-77;8:45 am]

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[ 14 CFR Parts 71 and 73 ]

[Airspace Docket No. 77-SO-31]

## RESTRICTED AREA

### Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter a restricted area identified as R-2104, Huntsville, Ala. The U.S. Army (using agency) has proposed that R-2104 be realigned to more clearly describe the areas required for their present day operations.[1]

DATES: Comments must be received on or before August 17, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 77-SO-31, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

### COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications

[1] Map filed as part of the original document.



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received on or before August 17, 1977, will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202–426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

THE PROPOSAL

The FAA is considering amendments to Subpart D of Part 71 and Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to alter a restricted area identified as R–2104, Huntsville, Ala. These proposed actions would: (1) Reduce the overall size of R–2104 and thereby reduce the burden on the public; (2) remove that part of R–2104 that overlies Redstone Army Airfield, thereby allowing operations at the airfield independent of activities within R–2104, and (3) permit the user to call only on that subarea (a, b, or c of R–2104) required for a specific operation, thus providing better airspace utilization of the area. Subpart D of Part 71 and Subpart B of Part 73 were republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 345 and 657).

DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (42 FR 345 and 657) as follows:

By amending § 71.151 (42 FR 345) to add the following restricted area:

R–2104C Huntsville, Ala.

By amending § 73.21 (42 FR 657) to revise R–2104A and R–2104B and add R–2104C. Huntsville, Ala., as follows:

1. R–2104A.
a. Boundaries: Beginning at Lat. 34°38'40" N., Long. 86°43'00" W., to Lat. 34°38'40" N., Long. 86°41'00" W., to Lat. 34°38'00" N., Long. 86°40'53" W., to Lat. 34°37'35" N., Long. 86°37'40" W., to Lat. 34°37'00" N., Long. 86°37'00" W., to Lat. 34°36'27" N., Long. 86°36'38" W., to Lat. 34°34'50" N., Long. 86°36'38" W., thence west along the Tennessee River; to Lat. 34°35'02" N., Long. 86°43'25" W., to Lat. 34°37'19" N., Long. 86°43'20" W., to Lat. 34°37'19" N., Long. 86°43'05" W., thence to point of beginning.
b. Altitudes: Surface to FL 300.
c. Time of use: Continuous.
d. Controlling agency: FAA, Memphis ARTC Center.
e. Using agency: Commanding General, U.S. Army, Missile Command, Redstone Arsenal, Ala.
2. R–2104B
a. Boundaries: Beginning at 34°38'53" N., Long. 86°37'40" W., to Lat. 34°37'55" N., Long. 86°35'21" W., to Lat. 34°35'05" N., Long. 86°35'24" W., thence west along the Tennessee River; to Lat. 34°34'50" N., Long. 86°36'38" W., to Lat. 34°36'27" N., Long. 86°36'38" W., to Lat. 34°37'00" N., Long. 86°37'00" W.; thence to point of beginning.
b. Altitudes: Surface to 2400 feet MSL.
c. Time of use: Continuous.
d. Controlling agency: FAA, Memphis ARTC Center.
e. Using agency: Commanding General, U.S. Army, Missile Command, Redstone Arsenal, Ala.
3. R–2104C
a. Boundaries: Beginning at Lat. 34°41'25" N., Long. 86°42'57" W., to Lat. 34°42'00" N., Long. 86°41'35" W., to Lat. 34°38'40" N., Long. 86°41'00" W., to Lat. 34°38'40" Long. 86°43'00" W., thence to point of beginning.
b. Altitudes: Surface to FL 300.
c. Time of use: Continuous.
d. Controlling agency: FAA, Memphis ARTC Center.
e. Using agency: Commanding General, U.S. Army, Missile Command, Redstone Arsenal, Ala.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., on July 12, 1977.

WILLIAM E. BROADWATER,
*Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.77-20584 Filed 7-20-77;8:45 am]

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**[ 14 CFR Part 39 ]**

[Docket No. 17039]

**AIRWORTHINESS DIRECTIVES**

**Messerschmitt-Bolkow-Blohm (MBB) Model BO–105A and BO–105C Helicopters**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require replacement of three cable assemblies on certain Messerschmitt-Bolkow-Blohm (MBB) Model BO–105A and BO–105C helicopters. This modification is required in order to prevent a failure in the electrical system which has resulted in fire in these type rotorcraft..

DATES: Comments must be received on or before September 6, 1977.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–24) Docket No. 17039, 800 Independence Avenue SW., Washington, D.C. 20591.

The applicable service bulletin may be obtained from: Messerschmitt-Bolkow-Blohm (MBB), Helicopter Division, 8000 Munchen-Ottobrunn, Federal Republic of Germany, or Boeing Vertol Company, Mail Stop P31–69, P.O. Box 16858, Philadelphia, Pennsylvania 19142. Telephone 215–522–2755.

FOR FURTHER INFORMATION CONTACT:

Mr. D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium. Telephone 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

High contact resistance in connector plugs of the electrical power supply system has resulted in reports of an electrical fire, failure of the electrical system, and unscheduled landing of the helicopter. Since this condition is likely to exist or develop in other helicopters of the same type design, the proposed airworthiness directive requires replacement of three cable assemblies with cables not utilizing connector plugs.

DRAFTING INFORMATION

The principal authors of this document are D. C. Jacobsen, Chief, Europe, Africa, and Middle East Region, J. Kisella, Flight Standards Service, and R. J. Burton, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

MESSERSCHMITT-BOLKOW-BLOHM (MBB). Applies to Model BO–105A and BO–105C helicopters, Serial Number V4 through V10 and S1 through S160, certificated in all categories.





Compliance required within the next 600 hours time in service after the effective date of this AD, unless already accomplished.

Remove socket connections 1 VED and 1 VEE from main relay box, remove plugs 110 VVa and 210 VVa together with associated receptacles and wiring bundles, and install generator wiring assembly, in accordance with subparagraph 2B of MBB Service Bulletin No. 90–11 dated April 17, 1975, or an FAA-approved equivalent.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., on July 13, 1977.

R. P. SKULLY,
*Director, Flight Standards Service.*

[FR Doc.77-20924 Filed 7-20-77;8:45 am]

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**[ 14 CFR Part 121 ]**

[Docket No. 17034; Notice No. 77-77-12]

**OPERATIONS REVIEW PROGRAM NOTICE NO. 5**

**Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to amend the requirements applicable to airmen and crewmembers, training programs, flight operations, dispatching and flight release, and records and reports of air carriers and commercial operators of large aircraft. These proposed amendments are part of the Operations Review Program that provided a comprehensive review of the Federal Aviation Regulations (FAR), taking into account the significant changes in the environment in which airmen, air agencies and aircraft operators function by updating the FAR which apply to them.

DATE: Comments must be received on or before October 19, 1977.

ADDRESS: Send comments on the proposals in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–24), Docket No. ------, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Donald A. Schroeder, Safety Regulations Division, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone: 202–755–8715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adoption of the proposals contained in this notice are invited. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24 800 Independence Avenue, S.W., Washington, D.C. 20591. All communications received on or before October 19, 1977, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

For convenience, each proposal in this notice is numbered separately. The FAA requests that interested persons, when submitting comments, refer to proposals by these numbers and by the sections to which they relate.

AVAILABILITY OF THIS NOTICE

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling 202–426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should request a copy of Advisory Circular No. 11–12 which describes the application procedures.

BACKGROUND

The aviation industry in the United States and abroad has grown substantially during the last ten years. Paralleling its rapid growth and numerous technological advances are significant changes in the operating environment in which airmen, air agencies, and aircraft operators function.

To enable the FAA to become more responsive to the needs of the general public and the aviation community in fulfilling the Agency's aviation safety responsibilities, the FAA issued Notice No. 75–9 (40 FR 8585; February 28, 1975), inviting all interested persons to submit proposals for consideration during the Operations Review Program.

In response to that invitation, the FAA received more than 5,000 individual comments contained in 123 submissions. Based on those comments and on the Compilation of Proposals, the FAA prepared a number of working documents for the Operations Review Conference held in Arlington, Virginia, on December 1–5, 1975. The FAA distributed those documents to each person who participated in the Operations Review Program and to all other interested persons who requested them.

The Operations Review Conference was attended by more than 600 persons. Various committees discussed all the scheduled agenda items during the conference. Summaries were given by the FAA Committee Chairmen at the close of the discussions on each agenda item. Persons present were given the opportunity to correct those oral summaries. Those summaries were edited and combined with an attendee list for the conference and with transcripts of certain plenary session speeches and were distributed to all attendees and to all persons requesting them in accordance with a Notice of Availability (Notice No. 75–9A; 41 FR 9413; March 4, 1976).

THE PROPOSALS

This notice deals with selected proposals concerning Part 121 contained in the following Operations Review Committee Workbooks:

| Committee No. | *Title* |
|---|---|
| 3 | Aircraft operating rules. |
| 4 | Airman certification. |
| 6 | Certificated operators and agencies. |
| 7 | Flight attendants. |
| 9 | Training. |

A number of the proposals contained in both the Compilation and the workbooks are not included in this notice but will be included in other notices at a later date. This notice contains the following Appendices:

Appendix I.—Those proposals which were withdrawn by their proponent during or after the conference.

Appendix II.—Those proposals which are removed from consideration.

DRAFTING INFORMATION

The principal authors of this document are W. J. Biron, Flight Standards Service, and R. B. Elwell, Office of the Chief Counsel.

THE PROPOSED AMENDMENTS

Accordingly, the Federal Aviation Administration proposes to amend Part 121 of the Federal Aviation Regulations (14 CFR Part 121) as follows:

5–1. By amending the introductory clause of § 121.383(a) to read as follows:

**§ 121.383 Airman: limitations on use of service.**

(a) No certificate holder may use any person as an airman nor may any person serve as an airman unless that person—

. . . . . .

*Explanation.* This proposal would place a concurrent responsibility on the individual airman as well as the certificate holder to ensure conformance with the conditions set forth in § 121.383.

*Ref.* Proposal No. 488, § 121.383(a). Committee No. 6, Agenda Item 9.

5–2. By amending § 121.409 by: (a) Deleting the word "and" at the end of paragraph (b)(2) and substituting in place thereof the word "or"; (b) redesignating paragraph (b)(3) as (b)(4); and (c) adding a new paragraph (b)(3) to read as follows:



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**§ 121.409 Training courses using airplane simulators and other training devices.**

• • • • •

(b) • • •

(3) Provides line-oriented training that—

(i) Utilizes a complete flight crew;

(ii) Includes at least the maneuvers and procedures (abnormal and emergency) that may be expected in line operations;

(iii) Is representative of the flight segment times appropriate to the operations being conducted by the certificate holder; and

• • • • •

*Explanation.* Airlines are concerned that a course of training which consists solely of the procedures and maneuvers in Appendix F may not provide the most meaningful recurrent simulator training session possible. This proposal would allow certificate holders to introduce tailored, operationally oriented, problem-solving learning sessions. A line-oriented flight training program would place crewmembers in an environment similar to that in which they operate on a daily basis. This proposal would also require that all crewmember positions be occupied, thus promoting the coordinated crew concept by requiring the crew to make decisions and solve problems that may arise in line operations. Training courses must be developed that stress the importance of the coordinated crew concept. This can be accomplished by utilizing the full potential of modern day simulators. Since these courses of training have to be approved by the Administrator, the FAA can control the introduction of newly devised recurrent simulator training sessions, require modification or cancellation of programs that are not judged successful and encourage the adoption by other certificate holders of the most promising new training techniques. Accomplishment of these goals will result in more efficient and meaningful training that meets both the individual and company needs. This proposal would allow both FAA and the airlines to explore new simulator training techniques and methods that may, over the long term, greatly enhance safety. This proposal is consistent with those contained in §§ 121.427(d)(1) and 121.441(a)(2).

*Ref.* Proposal Nos. 506, 526, 527; §§ 121.409(b)(2), and 121.427(d)(1), Committee 9, Agenda Item B–3.

5–3. By amending § 121.417 by: (a) Deleting the word "and" at the end of paragraph (b)(2)(ii); (b) amending paragraph (b)(3)(ii); (c) adding new paragraphs (b)(2)(iv), (b)(2)(v) and (b)(4); and (d) revising paragraph (c), to read as follows:

**§ 121.417 Crewmember emergency training.**

• • • • •

(b) • • •

(2) • • •

(iv) The additional forces that will be encountered when opening exits in the emergency mode with evacuation slide pack/raft attached and under adverse circumstances such as abnormal cabin deck angle, high wind and structural deformation; and

(v) Alternate procedures for inoperative cabin equipment such as lower lobe galley lifts, public address systems and serving cart tie downs.

(3) • • •

(ii) Fire in flight or on the surface, and smoke control procedures with emphasis on electrical equipment and related circuit breakers found in cabin areas including all galleys, service centers, lifts, lavatories and movie screens;

• • • • •

(4) Review of previous aircraft accidents and incidents pertaining to actual emergency situations.

(c) Each crewmember must actually operate the following emergency equipment during initial training and once each 24 calendar months during recurrent training on each type aircraft in which they are to serve:

(1) Each type of emergency exits in the normal and emergency modes, including the actions required and actual forces involved and the deployment and use of emergency evacuation slides.

(2) Each type of fire extinguisher.

(3) Each type of oxygen bottle.

(d) Each crewmember must perform at least the following emergency drills using the proper equipment and procedures:

(1) Ditching, if applicable.

(2) Emergency evacuation.

(3) Fire extinguishing and smoke control.

(4) Donning and inflation of life vests and the use of other individual flotation devices.

(5) Removal of life rafts from the airplane, inflation of the life rafts, use of the life lines, and boarding of passengers and crew.

• • • • •

*Explanation.* The National Transportation Safety Board's Special Study, NTSB, AAS–74–3, "Safety Aspects of Emergency Evacuation from Air Carrier Aircraft", revealed that although the regulations require actual emergency training, deviations are authorized, and much of the training is done by demonstrations. The performance of the crewmembers during the evacuation, if improperly done, has a great potential for causing problems. During several accidents examined in the study, crewmembers either lacked knowledge of the aircraft emergency evacuation systems or failed to follow established procedures. A prompt evaluation of an emergency and immediate initiation of the proper action is essential if lives are to be saved, and should be stressed in training. A well trained crewmember is subject to less confusion and delay in an emergency, thus expediting evacuation.

The current rule has been interpreted to imply that visual and audio aids are totally acceptable to satisfy the training requirements of this section. Their use is not considered to be an adequate substitute for actual operation of a mechanical device. This is especially true for initial emergency training. It is also true for recurrent training if a high level of proficiency is to be maintained.

This proposal would require each crewmember to actually operate emergency exits, fire extinguishers, and oxygen bottles during initial training and once each two years during recurrent training. Crewmembers would also be instructed on the additional forces that will be encountered when opening exits in the emergency mode with evacuation slide pack attached and under adverse circumstances such as unusual cabin deck angle, high winds and structural deformation. This proposal would require alternate training procedures for use of inoperative equipment such as lower lobe galley lifts, public address systems, and serving cart tie downs.

Therefore, during initial and recurrent training, each crewmember would actually operate each type of emergency exit. Flight attendants would be required to operate cockpit exits and associated escape devices during initial and recurrent training. Automatic and manual escape chutes need not be deployed each time the associated exit is cycled. Visual presentation of chute deployment is satisfactory for recurrent training.

This proposal would continue the current requirement for each crewmember to perform emergency drills such as ditching (if applicable), emergency evacuation, fire extinguishing and smoke control with training emphasis on electrical equipment and related circuit breakers, the use of life rafts and life vests and other individual flotation devices.

*Ref.* Proposal Nos. 505, 514, 515, and 516; § 121.417, Committee 9, Agenda Item B–5.

5–4. By amending § 121.425(a)(2) by adding a flush paragraph at the end thereof to read as follows:

**§ 121.425 Flight engineers: initial and transition flight training.**

(a) • • •

(2) • • •

Flight engineers possessing a commercial pilot certificate with an instrument and type rating, and those pilots already qualified as second in command and reverting to flight engineer, may complete the entire flight check in an approved airplane simulator.

• • • • •

*Explanation.* This proposal would allow flight engineers possessing certain certificate and ratings, and qualified as second in command, to complete flight engineer checks in an approved simulator. Large modern turbojet airplanes have complex and numerous systems and subsystems with numerous normal, abnormal, and emergency or alternate operating procedures for all the aircraft systems. The use of an approved simulator would allow the flight engineer to demonstrate his knowledge and proficiency in nearly all of the aircraft systems, without exposure to the additional risk encountered in conducting training or flight checks in the aircraft.

*Ref.* Proposal No. 521, § 121.425(a)(2)(iv), Committee 9, Agenda Item B–6.

5–5. By revising the introductory text of § 121.427(d)(1) to read as follows:

**§ 121.427 Recurrent training.**

• • • • •

(d) • • •

(1) For pilots, flight training in maneuvers and procedures set forth in Appendix F to this Part, or in a flight training program approved by the Administrator, except as follows—

• • • • •

*Explanation.* For explanation of § 121.427(d)(1), see item 5–2 for § 121.409(b)(3).

*Ref.* Proposal Nos. 526 and 506, § 121.427(d)(1), § 121.409(b)(2), Committee 9, Agenda Item B–7.

5–6. By revising § 121.427(d)(2)(ii) to read as follows:

**§ 121.427 Recurrent training.**

• • • • •

(d) • • •

(2) • • •

(ii) The flight check, other than the preflight inspection, may be conducted in an airplane simulator or other training device. The preflight inspection may be conducted in an airplane, or by using an approved pictorial means that realistically portrays the location and detail of preflight inspection items and provides for the portrayal of abnormal conditions. Satisfactory completion of an approved line-oriented simulator training program may be substituted for the flight check.

• • • • •

*Explanation.* This proposal would allow the operator to use an approved line-oriented training program to meet the recurrent training requirements of this part, and would also provide flight engineers the same simulator training programs flexibility provided for pilots in § 121.441. The FAA recognizes the need for the continued updating and improving of air carrier training programs. Section 121.441(a) permits a course of training to be substituted for a proficiency check provided the course of training under § 121.409(b) consists of at least four hours of training at the pilot controls of an approved aircraft simulator and includes the maneuvers listed in Appendix F, to Part 121. Appendix F prescribes procedures for evaluating the individual preformance of flight crewmembers. These procedures are well founded, but have the tendency to isolate the crewmember from the normal environment of line operations during the evaluation period. Over a period of years the items to be checked have become stereotyped and the pilot being evaluated knows beforehand what the next maneuver will be. However, in day to day line operations, the possibility of an abnormal or emergency situation occurring is always present. When it does occur, there is an integrated crew to cope with the problem. A line-oriented flight training program would place crewmembers in an environment similar to that in which they operate on a daily basis. This type of program would promote the coordinated crew concept by requiring the crew to make decisions and solve problems that can arise in line operations. This phase of training would demonstrate any deficiencies in coordination that cannot be exposed in simulated "one man" check situations, thus improving the efficiency of the crewmembers.

This proposal is one of a set of related proposals affecting §§ 121.409 and 121.441.

*Ref.* Proposal No. 527, § 121.427(d)(2)(ii), Committee 9, Agenda Item B–7.

5–7. By amending § 121.433a (a) and paragraph (c), to read as follows:

**§ 121.433a Training requirements: handling and carriage of dangerous articles and magnetized materials.**

(a) No certificate holder may use any person to perform, and no person may perform, any assigned duties and responsibilities for the handling or carriage of dangerous articles and magnetized materials governed by Title 49 CFR, unless within the preceding 12 calendar months that person has satisfactorily completed training in a program established and approved under this subpart which includes instructions regarding the proper packaging, marking, labeling, and documentation of dangerous articles and magnetized materials, as required by Title 49 CFR and instruction regarding their compatibility, loading, storage, and handling characteristics. A person who satisfactorily completes training in the calendar month before, or the calendar month after, the month in which it becomes due, is considered to have taken that training during the month it became due.

• • • • •

(c) A certificate holder operating in a foreign country where the loading and unloading of aircraft must be performed by personnel of the foreign country, may use personnel not meeting the requirements of paragraphs (a) and (b) of this section if they are supervised by a person qualified under paragraphs (a) and (b) of this section to supervise the loading, offloading and handling of hazardous materials.

*Explanation.* This proposal provides a month before or a month after the due date to complete required training, thus providing the same flexibility in recurrent training for persons involved with the handling or carriage of dangerous articles and magnetized materials as is provided for flight crewmembers under § 121.401(b). This proposal would also permit the handling of hazardous materials by foreign nationals not trained in a U.S. air carrier hazardous materials training program if the carrier provided a trained person to supervise the operation. Both in Italy and Switzerland, personnel under contract to their respective governments are required, and are the only ones permitted by these governments, to handle hazardous materials on any aircraft operating in those countries. Although these persons are trained in the handling of hazardous materials, they are not trained under the approved training programs of U.S. air carriers operating in their respective countries. The addition of a new paragraph (c) was not discussed during the Operations Review Conference, and was initiated by the Flight Standards Service.

*Ref.* Proposal No. 530, § 121.433a, Committee 9, Agenda Item B–8.

5–8. By revising § 121.434(e) to read as follows:

**§ 121.434 Operating experience.**

• • • • •

(e) A flight attendant must, for at least five hours, perform the assigned duties of a flight attendant under the supervision of a flight attendant supervisor qualified under this part who personally observes the performance of these duties. However, operating experience is not required for a flight attendant who has previously acquired such experience on any large passenger carrying airplane of the same group, if the certificate holder shows that the flight attendant has received sufficient ground training for the airplane in which the flight attendant is to serve. Flight attendants receiving operating experience may not be assigned as a required crewmember.

• • • • •

*Explanation.* This proposal would change the current rule by stating that while a flight attendant is obtaining operating experience, that attendant must be under the supervision of a flight attendant supervisor, qualified under this part, who personally observes the performance of these duties. It would also allow this experience to be gained on any large passenger carrying airplane of the same group instead of an airplane of greater capacity, and deletes the option of requiring the operating experience by observing the performance of these duties. Requiring flight attendants to perform their duties under the personal supervision of a flight attendant supervisor would place added emphasis on training which will help to insure that flight attendants recognize their responsibility for the safety of their passengers, and understand and are able to perform the duties required to furnish maximum guidance and assistance in an emergency situation.

*Ref.* Proposal Nos. 535 and 537, § 121.434(e), Committee 9, Agenda Item B–8.

5–9. By revising § 121.437(b) to read as follows:

**§ 121.437 Pilot qualification: certification required.**

• • • • •

(b) No certificate holder may use nor may any pilot act as a pilot in a capacity other than those specified in paragraph (a) of this section unless the pilot holds at least a commercial pilot certificate with appropriate category and class ratings for the aircraft concerned, and an instrument rating.

*Explanation.* The present regulation does not require pilots who act as pilot in a capacity other than those specified in paragraph (a) of this section to hold category and class ratings appropriate for the type of aircraft being used. According to the present wording of § 121.437(b), a pilot holding the required commercial pilot certificate and instrument rating may act as second in command even though he holds only a rotorcraft, glider, or lighter than air category rating. It was not intended that any pilot act in a pilot capacity in Part 121 operations without holding an appropriate category and class rating.

*Ref.* Proposal No. 540, § 121.437(b), Committee 4, Agenda Item E.

5–10. By revising § 121.439 to read as follows:

**§ 121.439 Pilot qualification: recent experience.**

(a) No certificate holder may use any person nor may any person serve as a required pilot flight crewmember, unless within the preceding 90 days, that person has made at least three takeoffs and landings in the type airplane in which that person is to serve. The takeoffs and landings required by this paragraph may be performed in a visual simulator approved under § 121.407 to include takeoff and landing maneuvers.

(b) A required pilot flight crewmember who has not accomplished at least three takeoffs and landings within the preceding 90 days as provided in paragraph (a) of this section, may, within 24 calendar months thereafter, reestablish recency of experience by making at least three takeoffs and landings under the supervision of a check airman, in accordance with the following:

(1) At least one takeoff must be made with a simulated failure of the most critical powerplant.

(2) At least one landing must be made from an ILS approach to the lowest ILS minimums authorized for the certificate holder.

(3) At least one landing must be made to a complete stop.

(c) A required pilot flight crewmember who performs the maneuvers prescribed in paragraph (b) of this section in a visual simulator must—

(1) Have previously logged 100 hours







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of flight time in the same type airplane in which he is to serve;

(2) Be currently qualified in another airplane of the same group; and

(3) Be observed on the first two landings made in operations under this part by an approved check airman who acts as pilot in command and occupies a pilot seat. The landings must be made in weather minimums that are not less than those contained in the certificate holder's operations specifications for Category I Operations, and must be made within 45 days following completion of simulator training.

(d) A check airman who observes the takeoffs and landings prescribed in paragraphs (b) and (c)(3) of this section, shall certify that the person being observed is proficient and qualified to perform flight duty in operations under this part, and may require any additional maneuvers that are determined necessary to make this certifying statement.

*Explanation.* A recent comparison study of pilots reestablishing recency of experience both in an aircraft and by participating in a visual flight simulator program was completed by American Airlines in accordance with the provisions of Exemption No. 2101 from § 121.439 of the Federal Aviation Regulations. The FAA has analyzed the reported results of that study and determined that maintaining and reinstating a pilot's recency of experience in an aircraft—takeoffs and landings as required by § 121.439—can be satisfactorily accomplished by demonstrating proficiency in an approved visual flight simulator training program. This proposal would require the maneuver or procedure to be observed by a check airman, and to include at least one takeoff with simulated powerplant failure, one landing from an ILS approach to lowest minimum, and one landing to a complete stop.

*Ref.* Proposal Nos. 541 and 542, § 121.439, Committee 4, Agenda Item E.

5–11. By revising § 121.441 (a)(2) and (d)(3) to read as follows:

**§ 121.441 Proficiency checks.**

(a) • • •

(2) For all other pilots—

(i) Within the preceding 24 calendar months either a proficiency check or the line-oriented simulator training course under § 121.409; and

(ii) Within the preceding 12 calendar months, either a proficiency check or any simulator training course under § 121.409.

• • • • • •

(d) • • •

(3) The pilot being checked is currently qualified for operations under this part in the particular type airplane and flight crewmember position or has, within the preceding six calendar months, satisfactorily completed an approved training program for the particular type airplane.

• • • • • •

*Explanation.* This proposal would allow the operator to use an approved line-oriented training program to meet the proficiency check requirements of this part. The FAA recognizes the need for the continued updating and improving of air carrier training programs. Section 121.441(a) permits a course of training to be substituted for a proficiency check provided the course of training under § 121.409(b) consists of at least four hours of training at the pilot controls of an approved aircraft simulator and includes the maneuvers listed in Appendix F to Part 121. Appendix F prescribes procedures for evaluating the individual performance of flight crewmembers. These procedures are well founded, but have the tendency to isolate the crewmember from the normal environment of line operations during the evaluation period. Over a period of years the items to be checked have become stereotyped and the pilot being evaluated knows beforehand what the next maneuver will be. However, in day to day line operation, the possibility of an abnormal or emergency situation occurring is always present. When it does occur, there is an integrated crew to cope with the problem. A line-oriented flight training program would place crewmembers in an environment similar to that in which they operate on a daily basis. This type of program would promote the coordinated crew concept by requiring the crew to make decisions and solve problems that can arise in line operations. This phases of training would demonstrate any deficiencies in coordination that cannot be exposed in simulated "one man" check situation thus improving the efficiency of the crewmembers. This proposal would also add the option of completing an approved training program within the preceding six months as a method of being currently qualified.

*Refs.* Proposal Nos. 545 and 546, § 121.441 (a)(2) and (d)(3), Committee 4, Agenda Item E.

5–12. By revising § 121.543 to read as follows:

**§ 121.543 Flight crewmembers at controls.**

(a) Except as provided in paragraph (b) of this section, each required flight crewmember on flight deck duty must remain at the assigned duty station with seat belt fastened while the aircraft is taking off or landing, and while it is enroute.

(b) A required flight crewmember may leave the assigned duty station—

(1) If the crewmember's absence is necessary for the performance of duties in connection with the operation of the aircraft;

(2) If the crewmember's absence is in connection with physiological needs; or

(3) If the crewmember is taking a rest period, and relief is provided—

(i) In the case of the assigned pilot in command, by a pilot qualified to act as pilot in command who holds an airline transport certificate and an appropriate type rating; and

(ii) In the case of the assigned second in command, by a pilot qualified to act as second in command of that aircraft during enroute operations. However, the relief pilot need not meet the recent experience requirements of § 121.439(b).

*Explanation.* This proposal provides an opportunity for pilots to rest in the cabin away from the continuing demand of flight deck duty, by providing a procedure that would allow qualified flight crewmembers to act as pilot in command or second in command when the required flight crewmembers leave their assigned duty station.

A period of rest helps to ensure top physical and mental capability, as well as restoring alertness for the approach and landing after a flight of long duration.

*Ref.* Proposal No. 565, § 121.543, Committee 3, Agenda Item D.

5–13. By revising the first paragraph of § 121.545 to read as follows:

**§ 121.545 Manipulation of controls.**

No pilot in command may allow any person to manipulate the controls of an aircraft during flight nor may any person manipulate the controls during flight unless that person is—

• • • • • •

*Explanation.* This proposal would amend § 121.545 to prohibit the pilot in command from allowing an unqualified person to manipulate the aircraft controls during flight.

Under current § 121.545 enforcement action may only be taken against the unqualified person who manipulates the controls whether or not he did so with the permission of the pilot in command. However, the FAA believes that a prohibition against the pilot in command allowing an unqualified person to manipulate the controls would serve as a further deterrent to such action and provide necessary support for enforcement action.

*Ref.* Proposal No. 567, § 121.545, Committee 3, Agenda Item D.

5–14. By revising § 121.571(a)(1)(iii), and adding new § 121.571(a)(1)(iv) to read as follows:

**§ 121.571 Briefing passengers before takeoff.**

(a) • • •

(1) • • •

(iii) The use of seat belts including instructions on how to fasten and unfasten the seat belt.

(iv) The location and use of any required emergency flotation means.

• • • • • •

*Explanation.* This proposal requires that passengers be orally briefed on how to fasten and unfasten seat belts, and the location and use of emergency flotation means. Representatives of the Association of Flight Attendants have repeatedly relayed examples where passengers were unable to unfasten seat belts because they did not know how and were too embarrassed to ask. In the event of an emergency evacuation, these persons (usually elderly persons and small children) would not be able to evacuate the aircraft expeditiously.

Section 121.340(a) requires any large airplane in overwater operations to be equipped with life preservers or an approved flotation means for each occupant. This equipment must be within easy reach of each seated occupant and must be readily removable from the airplane. Since almost all flights involve the possibility of overwater operations, the FAA believes that passengers should be briefed on the location and use of required flotation means.

*Ref.* Proposal Nos. 585 and 586, §§ 121.571 (a)(1)(iii) and (iv), Committee 7, Agenda Item D.

5–15. By revising § 121.573(a) to read as follows:

**§ 121.573 Briefing passengers: extended overwater operations.**

(a) In addition to the oral briefing required by § 121.571(a), each certificate holder operating an airplane in extended overwater operations shall ensure that all passengers are orally briefed by the appropriate crewmember on the location and operation of life preservers, liferafts, and other flotation means, including a demonstration of the method of donning and inflating a life preserver.

• • • • • •

*Explanation.* This proposal would require briefing on other flotation means to encompass any available emergency flotation equipment not previously referred to.

Current § 121.573 requires that passengers be briefed on the location of liferafts and on the location and operation of life preservers. A briefing on the location and operation of other flotation means is necessary since these means may be used in lieu of life preservers. During an unexpected water landing, there may not be enough time to don life preservers, therefore passengers should know of the availability of other flotation equipment such as seat cushions.

*Ref.* Proposal No. 590, § 121.573(a), Committee 7, Agenda Item D.

5–16. By revising § 121.576 to read as follows:

**§ 121.576 Retention of items of mass in passenger and crew compartments**

Means must be provided and used to prevent each item of galley equipment and each serving cart, when not in use, and each item of crew baggage, which is carried in a passenger or crew compartment from becoming a hazard by shifting under the appropriate load factors corresponding to the emergency landing conditions under which the airplane was type certificated.

*Explanation.* This proposal adds the words "and used" thus making it mandatory that retention means are used. The present wording requires only that means be provided but does not specifically require them to be used.

*Ref.* Proposal No. 597, § 121.576, Committee 6A, Agenda Item H.

**§ 121.581 [Amended].**

5–17. By amending § 121.581 as follows:

a. By deleting from the heading the words "air carriers".

b. By amending paragraph (a) by deleting the words "air carrier" in the first sentence, and substituting in place thereof "certificate holder" and by deleting the words "air transportation" and substituting in place thereof "air commerce."

(c). By amending paragraph (b) by deleting the words "must be made available to the Administrator" and substituting the words "or the observer's seat selected by the Administrator must be made available when complying with paragraph (a) of this section."

*Explanation.* This proposal would require commercial operators to provide a seat on the flight deck for occupancy by the Administrator. Current § 121.581 does not specifically apply to commercial operators or to operations in air commerce and requires only that the forward observer's seat be made available to the Administrator regardless of its suitability. The FAA believes that commercial operators and intrastate air carriers operating under this part should also be subject to this requirement.

The FAA, in carrying out its inspection responsibilities, must be able to select the position on the flight deck of an aircraft where the activities of the crewmembers may best be observed. Certain aircraft have more than one observer's seat installed and the forward observer's seat may not be the most suitable seat for conducting enroute inspections. This proposal would provide flexibility in the selection of an observer seat during enroute inspections, so that a check may be properly conducted of the entire flight crew under the "crew concept" used by some air carriers, as well as enroute checks of check airman.

*Ref.* Proposal No. 602, § 121.581, Committee 6A, Agenda Item H.

**§ 121.633 [Reserved]**

5–18. By deleting and reserving § 121.633.

5–19. By revising § 121.635 to read as follows:

**§ 121.635 Dispatch to and from refueling or provisional airports: domestic and flag air carriers.**

No person may dispatch an airplane to or from a refueling or provisional airport except in accordance with the requirements of this part applicable to dispatch from regular airports and unless that airport meets the requirements of the part applicable to regular airports.

*Explanation.* This proposal combines the requirements of §§ 121.633 and 121.635 by adding domestic air carriers to the heading of § 121.635.

Section 121.633 dispatching requirements for domestic air carriers are almost identical with § 121.635 dispatching requirements for flag air carriers. The FAA believes this redundancy is unnecessary and that the two sections could be combined into one section applicable to domestic and flag air carriers and, consequently, § 121.633 would be deleted.

*Ref.* Proposal Nos. 618 and 619, §§ 121.633 and 121.635, Committee 6A, Agenda Item I.

5–20. By amending § 121.645 by—

a. Redesignating paragraphs (b), (c), and (d) as (c), (d), and (e) respectively;

b. Revising paragraph (a); and

c. Adding a new paragraph (b) to read as follows:

**§ 121.645 Fuel supply: turbine-engine powered airplanes, other than turbopropeller: flag and supplemental air carriers and commercial operators.**

(a) Any flag air carrier operation within the 48 contiguous United States and the District of Columbia may use the fuel requirements of § 121.639.

(b) For any flag air carrier, supplemental air carrier, or commercial operator operation outside the 48 contiguous United States and the District of Columbia, unless authorized by the Administrator in the operations specifications, no person may release for flight or take off a turbine-engine powered airplane (other than a turbo-propeller powered airplane) unless, considering wind and other weather conditions expected, it has enough fuel—

(1) To fly to and land at the airport to which it is released;

(2) Thereafter, to fly for a period of 10 percent of the total time required to fly from the airport of departure to, and land at, the airport to which it was released;

(3) Thereafter, to fly to and land at the most distant alternate airport specified in the flight release, if an alternate is required; and

(4) Thereafter, to fly for 30 minutes at holding speed at 1,500 feet above the alternate airport (or the destination airport if no alternate is required) under standard temperature conditions.

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*Explanation.* This proposal would allow a flag air carrier when operating domestically to operate with the same fuel reserves as required for domestic carriers. Section 121.645 requires flag air carriers to have higher fuel reserves for flight within the 48 contiguous states than domestic operators flying the same routes. Many routes outside the contiguous 48 states have air traffic control facilities and weather reporting and forecasting facilities equal to or better than existing facilities in the United States.

Adding the phrase "unless authorized by the Administrator in the operating specifications" in paragraph (b) would allow an operator to apply to the FAA to use a domestic fuel reserve on selected overseas routes, e.g., New York to London.

*Ref.* Proposal No. 620, § 121.645, Committee 3, Agenda Item I.

**§ 121.657 [Amended]**

5–21. a. By amending § 121.657(c) by deleting the second and third sentences from this paragraph.

b. By amending § 121.657(d) by deleting the words "domestic and supplemental air carriers and commercial operators" from the heading.

*Explanation.* This proposal deletes the second sentence in § 121.657(c) which refers to "lighted airways that no longer exist". The FAA does not believe that it would be in the interest of safety to operate an aircraft on unlighted airways at 1,000 feet, therefore this sentence should be deleted.

The last sentence in § 121.657(c) specifically authorizes non-adherence to a flight altitude for supplemental air carriers and commercial operators during the time a flight is operated in accordance with § 121.657(d).

The FAA does not believe that it would be safe for operators to operate below the altitudes stipulated in this section. This proposal would delete the words domestic and supplemental air carriers and commercial operators from the heading of § 121.657(d),







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thus making this paragraph applicable to all operators.

*Ref.* Proposal No. 628, § 121.657, Committee 6A, Agenda Item I.

5–22. By adding a new paragraph (c) to § 121.683 to read as follows:

**§ 121.683 Crewmember and dispatcher record.**

* * * * *

(c) Computer record systems approved by the Administrator may be used in complying with the requirements of paragraph (a) of this section.

*Explanation.* This proposal would allow operators to keep records in approved computer systems.

Computer recordkeeping has been shown to be an effective and timely method to record crew qualifications and other necessary data. This addition to the regulations recognizes the existence of computer systems and allows their use.

*Ref.* Proposal No. 630, § 121.683(c), Committee 6A, Agenda Item J.

APPENDIX I—MISCELLANEOUS PROPOSALS WITHDRAWN BY PROPONENT

The proposals listed below were withdrawn by their proponents during or after the conference. The withdrawal of FAA proposals does not commit the FAA to any future course of action.

| 14 CFR (FAR §) | Proposal No. | Proponent |
|---|---|---|
| 121.403(b)(5) | 506 | Air Transport Association of America. |
| 121.421(a)(2) | 519 | Federal Aviation Administration. |
| 121.421(b) | 520 | Do. |
| 121.425(a) | 522 | Air Transport Association of America. |
| 121.425 | 523 | Federal Aviation Administration. |
| 121.421(b) | 525 | Do. |
| 121.432 | 528 | Do. |
| 121.434(c)(2) | 532 | Do. |
| 121.465 | 551 | Do. |
| 121.471 (b) (c) | 553 | Air Transport Association of America. |
| 121.481 | 557 | W. N. Hoover. |
| 121.541 | 563 | Federal Aviation Administration. |
| 121.549 | 573 | Do. |
| 121.551 | 574 | Do. |
| 121.553 | 575 | Do. |
| 121.557 | 576 | Do. |
| 121.559 | 577 | Do. |
| 121.652 | 624 | Air Line Pilots Association. |
| 121.683(a) | 631 | Federal Aviation Administration. |
| 121.703(a) | 642 | Do. |
| 121.709 | 646 | Do. |
| 121 Appendix "E" | 656 | Air Line Pilots Association. |
| 121 Appendix "F" | 661 | Do. |

APPENDIX II—MISCELLANEOUS PROPOSALS REMOVED FROM CONSIDERATION FROM THE OPERATIONS REVIEW PROGRAM

Based on the FAA's review of the discussions at the Operations Review Conference, and of the information submitted by interested persons, the following proposals considered at the Operations Review Conference are removed from consideration during the Operations Review for the reasons listed.

| 14 CFR (FAR §) | Proposal No. | Committee No. | Agenda item | Proponent |
|---|---|---|---|---|
| 121, subpart V | 345 | 2 | O | National Transportation Safety Board. |
| 121.383(a)(2) | 489 | 4 | E | Air Transport Association of America. |
| 121.391(a) | 492 | 7 | C | Transport Workers Union. |
| 121.391(e)(f) | 497 | 7 | C | Air Transport Association of America. |
| 121.400(b)(3)(c)(d)(2) | 498 | 9 | B-1 | Association of Flight Attendants. |
| 121.400(c)(1)(2)(3)(4) | 499, 501 | 9 | B-1 | Air Transport Association of America. |
| 121.400 | 500 | 9 | B-1 | Air Line Pilots Association. |
| 121.401 | 502 | 9 | B-2 | Association of Flight Attendants. |
| 121.401(e) | 504 | 9 | B-2 | Air Transport Association of America. |
| 121.405(d) | 507 | 9 | B-2 | Association of Flight Attendants. |
| 121.411(a) | 509 | 9 | B-4 | Air Transport Association of America. |
| 121.412(new) | 510 | 9 | B-4 | Association of Flight Attendants. |
| 121.413(c) | 511 | 9 | B-4 | Air Transport Association of America. |
| 121.414(new) | 512 | 9 | B-4 | Association of Flight Attendants. |
| 121.418(a)(3) | 517 | 9 | B-5 | Air Line Pilots Association. |
| 121.421(a)(2)(iii) and (c) | 518 | 9 | B-6 | Do. |
| 121.427 | 524 | 9 | B-7 | Association of Flight Attendants. |
| 121.433a | 531 | 9 | B-8 | Air Transport Association of America. |
| 121.434 | 534 | 9 | B-8 | Association of Flight Attendants. |
| 121.434(c) | 536 | 9 | B-8 | Air Transport Association of America. |
| 121.434(f) | 539 | 9 | B-8 | Air Line Pilots Association. |
| 121.453(a)(b) | 550 | 4 | E | Air Transport Association of America. |
| 121.541 | 564 | 6A | H | Air Transport Association of America. |
| 121.547 | 568 | 3 | D | Do. |
| 121.548 | 571 | 3 | D | Association of Flight Attendants. |
| 121.572 | 572 | 3 | D | Do. |
| 121.567 | 579 | 6A | H | Air Line Pilots Association. |
| 121.569 | 580 | 9 | B-8 | Association of Flight Attendants. |
| 121.571 | 587 | 7 | D | Air Line Pilots Association. |
| 121.575 | 595 | 10 | B | Transport Workers Union. |
| 121.578 | 600 | 6A | H | Association of Flight Attendants. |
| 121.581 | 603 | 6A | H | Air Transport Association of America. |
| 121.615(a) | 607 | 6A | I | Do. |
| 121.617 | 608 | 6A | I | Air Line Pilots Association. |
| 121.627 | 616 | 8 | K | Do. |
| 121.629(b) | 617 | 3 | H | Sun Chemical Co. |
| 121.633 | 629 | 6A | I | Air Transport Association. |
| 121.691 | 634 | 6A | J | Air Line Pilots Association. |
| 121.695(a)(1) | 638 | 6A | J | Air Transport Association. |
| 121.697(a)(1) | 639 | 6A | J | Do. |
| 121.701 | 641 | 6A | J | Association of Flight Attendants. |
| 121.705(d) | 645 | 2 | P | Association of Flight Attendants. |
| 121.Appendix "A" | 648 | 1 | C-6 | Association of Flight Attendants. |
| 121.Appendix "E" | 651 | 9 | C-1 | Air Transport Association. |
| 121.Appendix "F" | 664 | 9 | C-1 | Do. |

*Proposal 345.* This proposal would have amended Subpart V of 14 CFR Part 121 to require a maintenance surveillance program on emergency evacuation slide systems. The FAA believes this proposal is not required as § 121.309(b) adequately covers inspection programs for all emergency equipment including evacuation slide systems.

*Proposal 489.* This proposal would have amended § 121.383(a)(2) to restrict airmen with any limitations or restriction on their medical certificates from cockpit duties. The FAA believes this amendment is not justified in that § 67.19 adequately covers the use of medical certificates.

*Proposal 492.* This proposal would have amended § 121.391 to require FAA airmen certificates for flight attendants. This proposal would require legislation to amend the Federal Aviation Act of 1958.

*Proposal 497.* This proposal would have amended § 121.391 to allow a flight requiring flight attendants to continue to a "domicile", instead of the next regularly scheduled stop with an incapacitated flight attendant on board. The FAA believes that there is insufficient justification for this change since it would result in a lower level of safety than that provided by the present regulation.

*Proposal 498.* This proposal would have amended § 121.400 to establish an additional grouping of aircraft, "Group III Turbojet Jumbo Aircraft". The FAA believes that current regulations adequately cover initial transition or differences training requirements for all turbojet powered aircraft and this additional grouping is unnecessary.

*Proposals 499, 501.* These proposals would have amended § 121.400 by deleting the words "and served" from this part. The current rule does not require that the applicant must have "served" prior to acquiring a type rating. The FAA has determined that insufficient justification was presented to justify a rule change.

*Proposal 500.* This proposal would have added new paragraph (c)(5) to § 121.400, requiring additional training for crewmembers who must maintain multiple aircraft qualifications for more than 90 days. The FAA believes that current regulations adequately provide for multiple aircraft qualification.

*Proposal 502.* This proposal would have added a new paragraph to § 121.401 that would require operators to provide enough flight attendant training and simulator instructors, as well as check flight attendants, to conduct ground and inflight training. The FAA has determined that insufficient justification was presented to justify a rule change.

*Proposal 504.* This proposal would have eliminated programmed hours of training in § 121.401. All ground and flight training would be accomplished to defined levels of proficiency. The FAA does not believe that this change is feasible.

*Proposal 507.* This proposal would have deleted authorized reduction in programmed hours of training as provided in § 121.401, and would apply to all training programs and not just flight attendant emergency training. The FAA has determined that insufficient justification was presented to justify a rule change.

*Proposal 509.* This proposal would have amended § 121.411 to allow pilots to act as simulator instructors and check airmen without a third-class medical certificate. The FAA believes that all check airmen should hold at least a Class III medical certificate so that they may regularly fly the aircraft.

*Proposal 510.* This proposal would have set standards for flight attendant instructors and check flight attendant supervisors. This proposal would have also prohibited the use of instructors who are not qualified for line operation. The FAA has determined that there was insufficient justification presented for these changes.

*Proposal 511.* This proposal would have amended § 121.413 to allow check airmen to become fully qualified by receiving their training in flight or in an approved simulator. The FAA is opposed to allowing check airmen to receive their qualification training solely in a simulator, and believes that a check airman must maintain proficiency in an aircraft.

*Proposal 512.* This proposal would have added new § 121.414, providing training requirements for check flight attendants and flight attendant instructors. The FAA believes that current rules are adequate.

*Proposal 517.* This proposal would have outlined specific requirements for dual or multiple equipment qualification. The FAA believes that current regulations adequately provide for the training program.

*Proposal 518.* This proposal would have required that additional training emphasis be placed on electrical equipment located in the cabin and galley area, eliminated the reduction of training time and established Group III aircraft. The FAA believes that the proposed revision to § 121.417 adequately covers electrical equipment training and that elimination of reduction in training hours under § 121.405 would eliminate the incentive to develop better training methods. The FAA believes the present regulations are adequate to cover training in turbojet powered aircraft.

*Proposal 524.* This proposal would have included Group III aircraft (jumbo aircraft) in the training program. The FAA believes the present regulations are adequate to cover training in all turbojet powered aircraft.

*Proposal 531.* This proposal would have eliminated the requirement for annual recurrent training required by § 121.433a. The FAA believes that recurrent training in the handling of hazardous materials is necessary.

*Proposal 534.* This proposal would have required added flight attendant training, including flying at least two flight segments and five flight hours of operating experience. The FAA has determined that insufficient justification was presented to justify a rule change.

*Proposal 536.* This proposal would have deleted the requirement for operating experience for flight engineers upgrading to second in command. The FAA believes that crewmembers upgrading to second in command from flight engineer status are not necessarily prepared to perform second in command duties and operating experience is necessary.

*Proposal 539.* This proposal would have required operating experience be accomplished within 60 days following completion of training. The FAA believes that there is insufficient justification to support adoption of this proposal.

*Proposal 550.* This proposal would have amended § 121.453 to allow flight engineers to obtain the 50-hours' flight-time required in the past six months in the same group of aircraft rather than a particular type airplane within a group. The FAA believes that this proposal would result in lowering proficiency or recency of experience to an unacceptable level.

*Proposal 564.* This proposal would have deleted § 121.541. The proponent has not presented sufficient justification for the deletion of the current rule and failed to show how the requirement for realistic scheduling would be accomplished.

*Proposal 568.* This proposal would have amended § 121.547 by deleting the requirement that certificate holders obtain approval from the Administrator for flight deck authority. The FAA believes there is a continuing need for restriction on persons carried on the flight deck as the additional persons could be a distraction to the flight crew.

*Proposal 571.* This proposal would have amended § 121.548 to require an FAA air carrier inspector to present his credentials to the pilot in command and senior flight attendant to gain access to the flight deck. The FAA believes the current rule, requiring the FAA inspector to present his credentials to the pilot in command, is adequate.

*Proposal 572.* This proposal would have amended § 121.549 to require portable flashlights at each aircraft exit. This subject is covered in Notice No. 75–26 (40 FR 24802; June 10, 1975).

*Proposal 579.* This proposal would have required that the normal touchdown target must be clearly in view at or prior to decision height or minimum descent altitude. The FAA believes the current regulations are adequate. This proposal would, in effect, negate all of the research and development associated with Category II and III approaches.

*Proposal 580.* This proposal would have required the carriers to provide crewmembers with differences training on in-cabin equipment and an FAA approved competency test. The FAA has determined that insufficient justification was presented to justify a rule change.

*Proposal 587.* This proposal would have deleted the oral briefing requirement when the seat belt sign is turned off. The present rule is based on the concept that there is reasonable assumption that oral briefings are received and understood by passengers. The FAA believes that oral briefings are required in the interest of safety.

*Proposal 595.* This proposal would have amended § 121.575 by limiting the number of alcoholic beverages served to inflight passengers. The FAA believes that this proposal is too vague and is subject to misinterpretation.

*Proposal 600.* This proposal would have placed specific restrictions on the times when certificate holders could serve, or continue to serve food or beverages. The FAA believes that the proposal is related to passenger service only and there is insufficient justification for rule change.

*Proposal 603.* This proposal would have allowed a flight to depart with the observer's seat inoperative due to a mechanical problem. Justification presented in written and oral comments did not support a regulatory change. FAA inspectors are instructed whenever possible to plan enroute inspections and make arrangements for the observer seat far in advance so that conflict will not occur on scheduled use of the seat or for other reasons.

*Proposal 607.* This proposal would have given an air carrier the option of dispatching a flight on an extended overwater operation based on a time factor rather than the weather at destination. The proponents explanation and justification fails to show why the present rule is inadequate or has an adverse affect on current operations from either a safety or economic standpoint. The FAA believes the present rule is adequate and provides the desired level of safety.

*Proposal 608.* This proposal would have reduced the takeoff alternate airport requirement for wide bodied jet aircraft. The proponent's explanation and justification did not include sufficient facts or specifics. The FAA believes that the present rule is adequate.

*Proposal 616.* This proposal would have amended § 121.627 to specify a place where repairs must be made. The intent was to prevent abuses of minimum equipment list. The FAA has determined that insufficient justification was presented to justify a rule change.

*Proposal 617.* This proposal would have required removal of frost, snow, or ice from selected aircraft items before takeoff. The FAA has determined that insufficient justification was presented to justify a rule change.

*Proposal 629.* This proposal would have deleted the requirement for the aircraft dispatcher or pilot to sign the flight release. The dual signature requirement provides an assurance that all factors in the dispatching process are considered. The FAA believes that the present rule is adequate and provides the desired level of safety.

*Proposal 634.* This proposal would have required automatic weight and balance equipment to be installed but not used in lieu of normal weight and balance methods. This proposal does not adequately show that there is an air carrier safety problem related to weight and balance computations. The FAA believes the existing rule provides appropriate requirements for weight and balance procedures and operations.

*Proposals 638 and 639.* These proposals would have deleted the requirement for correct load manifest on the aircraft before takeoff. The FAA believes that these proposals would not provide an adequate level of safety, in that the pilot in command must have available for all takeoffs of transport category aircraft a suitable document providing the weight and balance information of the aircraft. The deletion of the requirement for a document to be replaced with the less stringent requirement for only a radio check of the required weight and balance information is felt to be an unwarranted relaxation of safety and is not justified.

*Proposal 641.* This proposal would have added a new paragraph (c) to § 121.701 to require a cabin discrepancies log, and to require that this log be incorporated into the aircraft's permanent log. Section 121.563 now provides for entry in the maintenance log of "each mechanical irregularity". The FAA has determined that insufficient justification was presented to justify a rule change.

*Proposal 645.* This proposal would have required an operator to submit a mechanical interruption summary report following an evacuation of an aircraft. The FAA does not believe that this amendment is required in that if a flight is interrupted under § 121.705 and an evacuation occurs, this event is always reported. If an evacuation occurs for non-mechanical reasons, § 121.703 is the appropriate section.

*Proposal 648.* This proposal would have allowed the use of pneumatic-splints, and would have increased the number of first aid kits required for aircraft with over 250 passenger seats. Concerning the use of pneumatic splints, the preamble to Amendment 121–107 (38 FR 35233; December 26, 1973), stated that consideration was given to allowing the use of inflatable splints, but tests conducted during decompression revealed that this type of splint can be hazardous for use in airplanes due to changes in the cabin pressure. The proponent did not provide adequate justification to change the







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first aid kit criteria, particularly as to the proposal to use a different formula for aircraft seating beyond 250 passengers. The present rules do not restrict first aid kits from the flight decks or lower galley areas.

*Proposal 651.* This proposal would have changed the word "If" to "when" in Appendix E to this part, permitting zero flap landings to be excluded unless the FAA makes an affirmative decision that the maneuver is required. The FAA has determined that insufficient justification was presented to justify a rule change.

*Proposal 664.* This proposal would have moved the "B" designator from the visual simulator column to the non-visual simulator column. The FAA does not believe that this maneuver is practical or may be effectively conducted in a non-visual simulator. A pilot's proficiency may not be properly assessed when conducting this maneuver in a non-visual simulator.

(Secs. 313, 314, and 601 through 610, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement Under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 13, 1977.

R. P. SKULLY,
*Director, Flight Standards Service.*

[FR Doc.77-20764 Filed 7-20-77;8:45 am]

## RENEGOTIATION BOARD

### [ 32 CFR Part 1453 ]

### MANDATORY EXEMPTIONS FOR RENEGOTIATION

### Notice of Proposed Rulemaking

AGENCY: The Renegotiation Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Renegotiation Board is soliciting comments on a proposed amendment to its regulations which will state that contracts awarded pursuant to the Foreign Military Sales Act of 1968 are not exempt from renegotiation. This proposal is necessitated by reason of a change in interpretation of this section of the Board's regulations. The Board also intends to delete a "Note" to the same section of its regulations concerning the responsibility of the procuring Departments to inform contractors of the exempt status of contracts. This "Note" is obsolete and has caused inconsistent application.

DATES: Comments must be received on or before August 29, 1977.

ADDRESS: Comments should be submitted to the General Counsel, Renegotiation Board, 2000 M Street, NW., Washington, D.C. 20446.

FOR FURTHER INFORMATION CONTACT:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, The Renegotiation Board, 2000 M Street, NW., Washington, D.C. 20446, 202-254-8277.

SUPPLEMENTARY INFORMATION: Section 106(a)(6) of the Renegotiation Act exempts from renegotiation any contract which the Board determines does not have a direct and immediate connection with the national defense. This provision also states that "[t]he Board shall prescribe regulations designating those classes and types of contracts which shall be exempt * * *." Pursuant to this statutory directive, the Board has determined in § 1453.5(b)(3)(i) of its regulations that contracts with named Departments are exempt from renegotiation to the extent that (1) they obligate funds of an agency other than a named Department, or (2) the contracting Department is to be reimbursed by such agency or another person.

In § 1453.5(b)(3)(ii) the Board has excluded from this exemption contracts which obligate appropriated funds for military assistance under foreign aid programs. Interpretation No. 80, adopted by the Board on September 1, 1976, concluded that contracts awarded pursuant to the Foreign Military Sales Act of 1968 were not within the exclusion as provided in § 1453.5(b)(3)(ii) of the regulations, and, thus, were exempt from renegotiation. On June 20, 1977, the Board rescinded Interpretation No. 80 (42 FR 32339, June 24, 1977).

Because the Foreign Military Sales Act of 1968 requires a Presidential finding prior to sale that the furnishing of defense articles and defense services to any country or international organization will strengthen the security of the United States, the Board notes that contracts awarded pursuant to the act could not be said to have no direct and immediate connection with the national defense.

The Board further notes that such contracts when made by the Department of Defense are entered into by Procurement Contracting Officers acting under authority delegated to them by the Secretary of Defense, with the aid of the full range of departmental services available to the PCO. The executed contracts are administered by the Administrative Contracting Officer organizations, including use of the full range of departmental services available to ACO's. Finally, such contracts are subject to price analysis by the Defense Contract Audit Agency prior to their execution and to the full range of audit and recommendations by DCAA after the contracts have been entered into. Thus, the negotiation, administration, and audit of these contracts is in all essential respects indistinguishable from the negotiation, administration and audit of contracts made by the Department of Defense for supplies and services for its own use.

The proposal would amend the limitation in § 1453.5(b)(3)(ii) of the regulations to make clear that all contracts awarded pursuant to the Foreign Military Sales Act of 1968 are not exempt from renegotiation.

The proposal would also delete the "Note" to § 1453.5 (b)(2) and (b)(3). Imposing the responsibility on the contracting Department to interpret this exemption has, on occasion, resulted in inconsistent application of it.

Interested persons may participate in this proposed rulemaking by submitting written data, views or arguments to the Office of General Counsel, Renegotiation Board, 2000 M Street NW., Washington, D.C. 20446. Comments received before August 29, 1977, will be considered by the Board in taking final action on this proposal. Copies of all written documents received will be available for public inspection in the Board's Public Information Office, Room 4310, Renegotiation Board, 2000 M Street NW., Washington, D.C. during normal business hours.

NOTE.—The Renegotiation Board has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 13, 1977.

GOODWIN CHASE,
*Chairman.*

This part is amended in the following respects:

1. 32 CFR 1453.5(b)(3)(ii) is revised to read as follows:

**§ 1453.5 Contracts that do not have a direct and immediate connection with the national defense.**

* * * * * *

(b) * * *

(3) * * *

(ii) Contracts which obligate funds appropriated under or to carry out the purposes of foreign aid programs, insofar as such funds are obligated for military assistance, and contracts awarded pursuant to the Foreign Military Sales Act of 1968 (22 U.S.C. §§ 2761-2764) are not exempt under this subparagraph (3) of this paragraph.

(2) The "Note" to 32 CFR 1453.5 (b)(2) and (b)(3) is deleted.

(Sec. 109, 65 Stat. 22; 50 U.S.C., App. Sec 1219)

[FR Doc.77-20882 Filed 7-20-77;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

### [ 40 CFR Part 52 ]

[FRL 765-3]

### APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

### Air Pollution Control, State of Arizona, Pima County Rules and Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of and invite public comment on revisions to the Pima County Air Pollution Control District Rules and Regulations which were submitted to EPA by the Arizona Department of Health Services for inclusion in the Arizona State Implementation Plan. These revisions were submitted on April 4, 1977. The EPA solicits comments regarding the desirability of approving or disapproving the rules and regulations being considered, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to August 22, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn.: Air and Hazardous Materials Division, Air Programs Branch, Arizona-Nevada-Pacific Islands Section, EPA, Region IX, 100 California Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT:

Erik Hauge (415-556-7595).

SUPPLEMENTARY INFORMATION: The April 4, 1977, submittal contained revisions to the following rules:

Regulation I, Rule 2—Definitions.
Regulation I, Rule 11—Emissions Monitoring.
Appendix C—Minimum Emission Monitoring Requirements.

Under section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations which were submitted as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX office. Relevant comments received on or before August 22, 1977, will be considered. Comments received will be available for public inspection at the Region IX office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

Pima County Health Department, 151 West Congress, Tucson AZ 85701.
Arizona Department of Health Services, 1740 West Adams Street, Phoenix AZ 85007.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco CA 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 1857c-5).)

Dated: July 11, 1977.

PAUL DE FALCO, Jr.,
*Regional Administrator.*

[FR Doc.77-21022 Filed 7-20-77;8:45 am]

## ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

### [ 41 CFR Part 9-4 ]

### SPECIAL TYPES AND METHODS OF PROCUREMENT

AGENCY: Energy Research and Development Administration (ERDA).

ACTION: Proposed regulation.

SUMMARY: This proposed regulation establishes procedures for the submission, evaluation, justification and award of contracts to Federal Contract Research Centers (FCRCs). FCRCs are not-for-profit organizations established to provide scientific, engineering, and technical analysis services to Government agencies. The services of FCRCs are utilized by agencies because of needs for objectivity, freedom from conflicts of interest, intimate familiarity with the sponsoring agency's activities and needs, a high degree of expertise and interdisciplinary capability and a capacity to provide a quick response to a sponsor's needs. Organizations which compete for contracts and subcontracts for hardware manufacture or software production are not considered FCRCs for purposes of this proposed regulation.

DATES: Comments on or before September 19, 1977.

ADDRESSES: Martin Kestenbaum, Division of Procurement, Rm. C-167, USERDA, Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:

Martin Kestenbaum (301-353-4541).

SUPPLEMENTARY INFORMATION: This proposed regulation is published in the FEDERAL REGISTER for comment. Interested parties wishing to have their comments considered prior to final publication of the regulation must submit their comments to the addressee no later than September 19, 1977.

Delete existing Subpart 9-4.50 and insert the following:

### Subpart 9-4.50—Federal Contract Research Centers (FCRC's)

**§ 9-4.5000 Scope.**

This subpart prescribes policies and procedures to be followed in contracting with Federal contract research centers (FCRCs).

**§ 9-4.5001 Applicability.**

The provisions of this regulation are applicable to ERDA Headquarters and field organizations in the procurement of nonpersonal services from Federal contract research centers and are applicable in lieu of IAD 9100-5 dated November 18, 1976, entitled "Contracts for Support Services." This policy does not apply to the establishment, review and termination of federally funded research and development centers (FFRDCs), management and operation of major ERDA laboratories and production facilities, nor to on-site service contracts of a continuing nature.

**§ 9-4.5002 Nature of FCRCs.**

(a) Federal contract research centers are not-for-profit organizations, established to provide scientific, engineering, and technical analysis services to Government agencies.

(b) The services of FCRCs are utilized by agencies because of needs for objectivity, freedom from conflicts of interest, intimate familiarity with the sponsoring agency's activities and needs, a high degree of expertise and interdisciplinary capability, and a capacity to provide a quick response to a sponsor's needs.

(c) Organizations which compete for contracts and subcontracts for hardware manufacture or software production are not considered FCRCs for purposes of this regulation.

**§ 9-4.5003 Definitions.**

(a) *Program planning.* Provides assistance (recommendations) in planning a new or on-going program whereby alternative strategies, budget levels and major projects require analysis and recommended action.

(b) *Systems analysis.* Technical and economic—provides analysis (recommendations) to support ERDA decision makers in arriving at decisions on future direction for those energy systems included in program approval documents (PADs) and technical development plans.

(c) *Systems engineering.* That process, for a major system, that analyzes all interactions, impacts and contingencies which might arise during the life of the system.

(d) *Technical monitoring.* Provides independent technical monitoring of the progress of R&D. Includes early warning of potential technical difficulties and cost growth and assesses alternatives (recommendations) to meet these problems.

(e) *Test and evaluation.* Provides independent, authoritative and objective test and evaluation of developing technologies to augment in-house and laboratory capabilities.

**§ 9-4.5004 Policy.**

It is ERDA policy to make maximum practicable use of invitations for bids, requests for proposals, program opportunity notices and program research and development announcements in order to solicit competitive proposals. Because present and future needs demand fullest possible use of all resources in exploring alternative energy sources and technologies, it is ERDA policy to permit the use of FCRCs on a noncompetitive award basis when fully justified, and monitored to ensure that the contract is appropriate for such organization. Because FCRCs may occupy unique positions in their relationships to ERDA and ERDA's other contractors in the performance of work under the contract, use of their services must conform to the subpart of this policy entitled "criteria for use of FCRCs." When the use of an FCRC has been justified, procuring organizations are then required to obtain competition among FCRCs to the extent feasible.

**§ 9-4.5005 Criteria for use of FCRCs.**

(a) The following criteria are factors which may justify an award of a contract to an FCRC.

(1) When, in order to avoid a potential conflict of interest, it is necessary to obtain the goods or services from an FCRC.

(2) When it has been determined that the FCRC has unique skills, capabilities and experience, and the nature of the work involves important ERDA projects and programs requiring support limited







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to the areas of program planning, systems analysis—technical and economic, systems engineering, technical monitoring and test and evaluation, or

(3) When there are valid reasons for obtaining the required goods or services on an urgent basis and these goods or services cannot be obtained in a timely manner within the Government or from any other firm.

(b) While the foregoing criteria provide a basis for awarding contracts to FCRCs, it is necessary to be continuously aware of these criteria to ensure their proper application and to limit the use of FCRCs. Therefore, FCRCs shall not be used under the following circumstances:

(1) To perform routine technical, administrative or management tasks;

(2) When the purpose is to provide personal services rather than the performance of specific nonpersonal technical tasks in support of designated programs;

(3) When it will place them in competition with commercial firms, or where the nature of the work requires the manufacturer of hardware or production of software;

(4) When it is determined they are performing work for commercial firms that might tend to place them in a conflict of interest situation;

(5) When the nature of the work does not involve program planning, systems analysis—technical and economic, systems engineering, technical monitoring and test and evaluation;

(6) When it involves the Government's fundamental responsibility for decision making;

(7) When the work involves the day-to-day direction of FCRC personnel by ERDA;

(8) When the work involves FCRC direction of ERDA personnel.

**§ 9–4.5006 Procedure.**

(a) This regulation establishes procedures for the submission, evaluation and selection for award of proposals offered by FCRCs to ERDA to provide services in the area of program planning, systems analysis—technical and economic, systems engineering, technical monitoring and test and evaluation. When an ERDA Headquarters or field office considers that the services of an FCRC are appropriate, it shall prepare a memorandum entitled "Justification for Use of FCRC" addressed to the approving official designated in Subpart 9–4.5008 of this regulation. The procurement request, justification for noncompetitive procurement (JNCP), proposed contract terms and conditions and statement of work shall be attached to the memorandum. The memorandum, as a minimum, shall address the following:

(1) The criteria for use of FCRCs.

(2) Dollars, by fiscal year, obligated in any current contracts with the FCRC.

(3) Description of all ERDA contract tasks, including current status, undertaken since first contract was awarded to the FCRC.

(4) Man-months and dollars, by task, for current FCRC contract.

(5) Estimated length of the proposed and any future contract with this FCRC.

(6) Other factors considered of value to support the continued or initial use of the FCRC.

The memorandum shall be submitted by the initiating office in accordance with Subpart 9–4.5008 to the office responsible for coordinating the review, concurrences and approval.

(b) DOE–PR Subpart 9–4.5008 sets forth the required concurrences and approval levels for the memorandum predicated upon the estimated dollar amount of the proposed action. Once the required concurrences and approvals have been obtained the initiating office can then arrange, through the appropriate procurement office, for the renegotiation and award of a contract to an FCRC.

**§ 9–4.5007 Ground rules for contracts with FCRCs.**

(a) Fixed fee shall be determined in accordance with ERDA–PR Temporary Regulation No. 17 dated April 2, 1976, Subpart 9–3.808–51 entitled "Contracts with not-for-profit organizations (other than educational institutions)."

(b) Contracts will generally be written for no more than a three year period and usually funded on an annual basis to permit flexibility as to whether to proceed with the following year.

(c) It is suggested that 60 days prior to the annual funding date, the contractor be required to submit a written status report indicating progress to date versus planned accomplishments, man-years expended to date versus planned and an explanation of any variations. This report shall be submitted to the program office with an information copy to the Director of Procurement.

**§ 9–4.5008 Review and approval.**

The "Justification for use of FCRC" shall, as a minimum requirement, be reviewed and approved as follows:

(a) $500 to $10,000: *Approve.*—Assistant Administrator (or designee) or the head of the staff office (or designee) (Headquarters), the Field Office Manager (or designee), or the Energy Research Center Director (or designee).

(b) $10,000 to $5 million: *Concur.*—Headquarters—Assistant Director of Procurement for Program Support, General Counsel and Controller. Field—Legal Counsel. *Approve.*—Assistant Administrator (or designee) or the head of the staff office or designee) (Headquarters), the Field Office Manager (or designee), or the Energy Research Center Director (or designee).

(c) $5 to $10 million: *Concur.*—Division Director (Headquarters) or Field Office Manager, General Counsel, Controller and Assistant Director of Procurement for Program Support. *Approve.*—Assistant Administrator or the head of the staff office.

(d) Greater than $10 million: *Concur.*—Division Director (Headquarters) or Field Office Manager, Director of Procurement, General Counsel, Controller, the Assistant Administrator, the Assistant Administrator for Administration, and the Assistant Administrator for Field Operations. *Approve.*—Administrator.

(Sec. 105 of the Energy Research Reorganization Act of 1974 (Pub. L. 93–438).)

Dated: July 12, 1977.

WILLIAM A. PARKER,
*Acting Director,*
*Division of Procurement.*

[FR Doc.77 20084 Filed 7–20–77;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Materials Transportation Bureau

### [ 49 CFR Part 175 ]

[Docket No. HM–131; Notice No. 75–10]

### CARRIAGE BY AIRCRAFT

### Proposed Inspection and Monitoring Requirements for Radioactive Materials—Withdrawal of Notice

AGENCY: Materials Transportation Bureau, Department of Transportation (DOT).

ACTION: Withdrawal of Notice of proposed rulemaking.

SUMMARY: The purpose of this notice it to withdraw Docket No. HM–131, Notice No. 75–10 which proposed certain inspection and monitoring requirements for radioactive materials shipped by air.

DATES: Effective July 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Alan I. Roberts, Director, Office of Hazardous Materials Operations, 2100 2nd Street SW., Washington, D.C. 20590 (202–426–0656).

SUPPLEMENTARY INFORMATION: On December 11, 1975, the Materials Transportation Bureau (MTB) published Docket No. HM–131, Notice No. 75–10 in the FEDERAL REGISTER (40 FR 57688). This notice modified an earlier Federal Aviation Administration (FAA) rulemaking action which prescribed inspection requirements to be carried out by air carriers for hazardous materials shipments. The FAA notice (Docket No. 13668) was published on April 25, 1974, (39 FR 14612), issued with certain revisions as an amendment on February 4, 1975, (40 FR 5140), and was to have become effective March 7, 1975. Among the requirements were specific monitoring procedures to be followed, including specifications for the radiation monitoring equipment to be used. As a result of numerous comments, the monitoring requirements for radioactive materials packagings were deleted from the FAA amendment, and Docket No. HM–131 was published by MTB for the purpose of clarifying the instrument specifications and implementing the monitoring requirements. The comment period for Docket No. HM–131 expired on February 17, 1976.

Strong objections have been received regarding the impositions upon air carriers caused by the requirements proposed in Docket No. HM–131. Several carriers and carrier associations have pointed out the additional costs which would be incurred in the procurement of the required instruments, and in the training of personnel to carry out the monitoring operations. They questioned the feasibility of training personnel to the level of competency required. Also, many shippers objected to the delays in the transporting of their materials which could be caused by the new requirements. Numerous carriers and shippers contended that responsibility for compliance with the restrictions on maximum permitted radiation levels would more appropriately rest with the shipper, and that the carrier should be allowed to rely upon the shipper's certification, except in cases involving apparent damage or leakage.

Alternatives to the requirements proposed in Docket No. HM–131 were suggested by some commenters. They included central monitoring stations operated by a Federal agency, or the registration of shippers of radioactive materials.

Therefore, after thoroughly considering the comments received, the MTB is withdrawing its proposals under Docket No. HM–131, Notice No. 75–10 for the following reasons:

1. The proposed requirement could result in increased exposure to cargo handlers, particularly since many carriers assign relatively few of their personnel to handling such activities, and the monitoring operation would extend the period of time during which an individual is subject to exposure.

2. Since the publication of the FAA notice on April 25, 1974, implementation of Section 108 of the Hazardous Materials Transportation Act (P.L. 93–633) has restricted the carriage of radioactive materials to those used or intended for use in research, or medical diagnosis or treatment. This substantially reduces the likelihood of inadvertent exposures to the public.

3. A Notice of proposed rulemaking appears elsewhere in this issue of the FEDERAL REGISTER which, in response to recommendations from the Nuclear Regulatory Commission (NRC), proposes amendments to reduce the maximum radiation level permitted for packages of radioactive materials aboard passenger aircraft, and would increase the required separation distance between passengers and radioactive cargo. The changes discussed in paragraph 2 represent significant increases in the Federal regulatory control of the carriage of radioactive materials by aircraft. If these changes, together with the visual inspection requirements now specified, are eventually used in conjunction with the proposed changes discussed in this paragraph, then it is the judgment of the MTB that these measures will increase safety in the air transportation of radioactive materials more effectively than would the monitoring requirements proposed in Docket No. HM–131.

An additional consideration is the possibility that the medical use of radiopharmaceuticals could be interrupted as a result of: (1) delays in handling of the materials due to the monitoring requirements; and (2) possible increased transportation costs due to the costs of the proposed instrument and personnel training requirements.

Primary drafters of this document are B. D. Devine and A. W. Grella of the Office of Hazardous Materials Operations, Technology Division, J. N. Stottlemyer of the Office of Hazardous Materials Operations, Regulations Development Branch, and G. W. Tenley of the Office of the Assistant General Counsel for Materials Transportation Law.

In consideration of the foregoing, by this notice the MTB is withdrawing its proposals under Docket No. HM–131, Notice No. 75–10.

(49 U.S.C. 1803, 1804, 1806, 1808; 49 CFR 1.53(e).)

Issued in Washington, D.C. on July 12, 1977.

ALAN I. ROBERTS,
*Director, Office of*
*Hazardous Materials Operations.*

[FR Doc.77–20676 Filed 7–20–77;8:45 am]



### [ 49 CFR Part 175 ]

[Docket No. HM–152; Notice No. 77–6]

### CARRIAGE BY AIRCRAFT

### Requirements for Radioactive Materials

AGENCY: Materials Transportation Bureau (MTB), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: The purpose of this proposed amendment to Part 175 of the Hazardous Materials Regulations is to: (1) reduce the maximum and average radiation level in the passenger compartment of passenger-carrying aircraft by increasing the separation distance required between any package of radioactive materials and the passenger compartment, and by reducing the maximum allowable transport index from 10.0 to 3.0 for any package of radioactive materials carried on a passenger-carrying aircraft; (2) provide for a system of predesignated areas ("spacing out") for stowage of radioactive materials packages aboard passenger-carrying aircraft based on the size and configuration of the particular aircraft involved; (3) increase the allowable amount of radioactive materials aboard cargo-only aircraft when carried in accordance with specified loading requirements; (4) restrict the carriage of radioactive materials aboard passenger-carrying aircraft to those with a radioactive half-life of 30 days or less; and (5) establish provisions for combining radioactive materials packages in overpacks. These proposed revisions are based primarily on a study conducted by the U.S. Atomic Energy Commission (see Supplementary Information in this document) which recommended a reduction in the exposure to radioactive materials for passengers aboard aircraft.

DATES: Comments by: September 20, 1977.

ADDRESS COMMENTS TO: Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted.

FOR FURTHER INFORMATION CONTACT:

A. W. Grella or B. D. Devine, Office of Hazardous Materials Operations (OHMO), Technology Division, 2100 2nd Street SW., Washington, D.C. 20590 (202–426–2311).

SUPPLEMENTARY INFORMATION: In July of 1974, the U.S. Atomic Energy Commission (AEC) transmitted to the Federal Aviation Administration (FAA) of the Department of Transportation several recommendations regarding the transportation of radioactive materials aboard civil aircraft ("Recommendations for Revising Regulations Governing the Transportation of Radioactive Material in Passenger Aircraft," July, 1974, on public file in the Section of Dockets, Office of Hazardous Materials Operations, 2100 2nd Street, SW., Washington, D.C.). These recommendations have been under review and have been the subject of discussions between the staffs of the two agencies and the successors to the AEC, the U.S. Nuclear Regulatory Commission (USNRC) and the Energy Research and Development Administration (ERDA). The MTB has evaluated these recommendations and the several discussions held thereon, and believes that they provide a basis for the proposals in this document to reduce the radiation exposure to persons aboard aircraft transporting radioactive materials.

The proposed rules would revise § 175.700, applicable only to passenger-carrying aircraft, to restrict the carriage of radioactive materials packages required to bear a Radioactive Yellow–III label to those with a transport index of 3.0 or less. Additionally, in order to insure the least amount of potential exposure to passengers, the proposed rules would require each radioactive material package required to bear a Radioactive Yellow–II or Radioactive Yellow–III label to be stowed on the floor of the cargo compartment of the aircraft. Furthermore, a package required to bear either of those labels could be carried on a passenger-carrying aircraft only if the radioisotope it contains has a radioactive half-life that does not exceed 30 days. Exceptions to the half-life restriction would be provided for radioactive materials that are susceptible to rapid chemical deterioration (such as those requiring dry ice refrigeration), those having a half-life exceeding $10^8$ years (such as natural or depleted uranium), and certain export or import shipments as specifically approved by the Director, OHMO.

A new § 175.701 is proposed, setting forth minimum spacing distances be-





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tween people or animals and packages of radioactive materials carried aboard passenger-carrying aircraft. This section would replace the required separation distances contained in existing § 175.700.

The proposed new § 175.701 would permit the aircraft operator to develop a system of predesignated areas for the stowage of packages of radioactive materials aboard passenger-carrying aircraft. The specific details of the proposed use of such a "spacing out" system by an aircraft operator would be required to be approved by the Director, MTB. Under this proposal, a system of predesignated areas would be approved by the Director if it were designed to assure that: (1) the packages are placed in each predesignated area in accordance with § 175.-701 (a); and (2 the predesignated areas are laterally separated from each other by at least four times the applicable distance specified in the table in § 175.701 (b) (2) as measured in accordance with § 175.701(b)(1). These proposals are intended to preclude any radiation level "peaking" from the cumulative effect of radiation emitted from each predesignated area.

Proposals to amend §§ 175.75(a)(3) and 175.702 would provide for an increase in the amount of radioactive material permitted to be carried aboard a cargo-only aircraft, and would set forth the requirements for stowage in such situations. Current § 175.75(a)(3) limits the maximum quantity of radioactive materials that may be carried aboard an aircraft to an amount that totals a transport index of 50. It is proposed to amend § 175.75(a) to increase the maximum amount that may be carried aboard a cargo-only aircraft to a total transport proposed § 175.702, when the total transindex of 200. More specifically, under port index does not exceed 50, the separation distance requirements applicable to passenger-carrying aircraft would apply to cargo-only aircraft. However, when the transport index of all packages exceeds 50, the proposal would require a minimum separation distance of 30 feet (9 meters). Additionally, in such cases, groups of packages would be limited to a transport index of 50, with each group separated from every other group by not less than 20 feet (6 meters). When packages of fissile radioactive materials are being carried, the total transport index for any aircraft would be limited to a maximum of 50, rather than 200, to assure nuclear criticality safety.

A new § 175.703 is proposed to incorporate the existing requirements of § 175.700 for separation of radioactive materials packages from undeveloped film. The new section would also provide conditions for overpacking or "bagging" or properly marked and labeled packages of radioactive materials within an outer enclosure such as a heavy gauge plastic bag or a fiberboard box. Present requirements for labeling and transport index determinations do not address this situation. The proposed procedures would specify the conditions for such use.

The provisions of present § 175.710 would be incorporated into proposed new § 175.103. Therefore, it is proposed that § 175.710 be deleted.

The Office of Hazardous Materials Operations has determined that there will be no adverse effect on the environment resulting from the changes proposed herein. This position is supported by the Battelle Pacific Northwest Laboratories Study, "Assessment of the Environmental Impact of the FAA Proposed Rulemaking Affecting the Conditions of Transport of Radioactive Materials on Aircraft" (BNWL–B–421), on file in the Section of Dockets, Room 6500, Office of Hazardous Materials Operations, Department of Transportation, 2100 2nd Street SW., Washington, D.C.

Primary drafters of this document are B. D. Devine and A. W. Grella of the Office of Hazardous Materials Operations, Technology Division, J. N. Stottlemyer of the Office of Hazardous Materials Operations, Regulations Development Branch, and G. W. Tenley of the Office of the Assistant General Counsel for Materials Transportation Law.

The following is a summary of existing radioactive materials regulatory provisions and those which are being proposed:

| Item | Existing regulations | Proposed regulations |
|---|---|---|
| Package: Maximum transport index: | | |
| Passenger | 10 (sec. 173.393(i)) | 3 (sec. 175.700). |
| Cargo | Same | No change. |
| Stowage: Total T. I. per aircraft: | | |
| Passenger | 50 (sec. 175.75) | No change. |
| Cargo | Same | 200 (sec. 175.75). (50 for fissile materials.) |
| Configuration: | | |
| Passenger | Separation table (sec. 175.700). | Separation table or predesignated area (sec. 175.701). Yellow labeled packages on floor only (sec. 175.700.) |
| Cargo | Same | Separation table for single group (sec. 175.701) or multiple groups (sec. 175.702). |
| Film protection | Separation table (sec. 175.700). | No changes (sec. 175.703). |
| Overpack T. I.: | | |
| Passenger | Not addressed | 3 (sec. 175.703). |
| Cargo | do | 10 (sec. 175.703). |
| Half life | do | Less than or equal to 30 d, with exceptions (sec. 175.700). |
| End use: | | |
| Passenger | Research or medical use only (sec. 175.30). | No change. |
| Cargo | No restriction | No change. |

In consideration of the foregoing, Part 175 of Title 49 Code of Federal Regulations would be amended as follows:

1. Part 175 Table of Sections would be amended by revising § 175.700, adding new §§ 175.701, 175.702, and 175.703, and § 175.710 would be deleted:

Sec.
175.700 Special limitations; radioactive materials packages in passenger-carrying aircraft.
175.701 Separation distance requirements for packages containing radioactive materials in passenger-carrying aircraft.
175.702 Requirements for carriage of packages containing radioactive materials in cargo-only aircraft.
175.703 Other special requirements for the acceptance and carriage of packages containing radioactive materials.

2. Section 175.75 paragraph (a)(3) would be revised to read as follows:

**§ 175.75 Quantity limitations aboard aircraft.**

(a) • • •

(3) Packages containing radioactive materials when their combined transport index number (determined by adding together the transport index numbers shown on the labels of the individual packages)—

(i) In passenger-carrying aircraft, exceeds 50.

(ii) In cargo-only aircraft, exceeds 200 (For fissile radioactive materials, see § 175.702(b)(3)).

• • • • •

**§ 175.85 [Amended]**

3. Section 175.85 paragraph (d) would be amended by changing the section reference 175.700 in the last line to read "§ 175.701."

4. Section 175.700 would be revised to read as follows:

**§ 175.700 Special limitations; radioactive materials packages in passenger-carrying aircraft.**

(a) No person may carry in a passenger-carrying aircraft any package required to be labeled in accordance with § 172.403 (c) or (d) of this subchapter unless—

(1) Where the package is required to be labeled Radioactive Yellow–II, the transport index does not exceed 1.0;

(2) Where the package is required to be labeled Radioactive Yellow–III, the transport index does not exceed 3.0;

(3) The package is carried on the floor of the cargo compartment;

(4) The package is carried in the aircraft in accordance with §§ 175.85(d), 175.701 and 175.703(c); and

(5) Except as provided in paragraph (b) of this section, the radioisotope specified on the label—

(i) Has a half-life not exceeding 30 days;

(ii) Has a half-life exceeding 10⁹ years; or

(iii) Is a material that is susceptible to rapid chemical deterioration, as shown by a shipper's statement to that effect on the shipper's certificate.





(b) The Director, Office of Hazardous Materials Operations may approve specific export or import shipments of radioactive materials which do not meet the requirements of paragraph (a)(5) of this section.

(c) In addition to the reporting requirements of § 175.45, the carrier must also notify the shipper at the earliest practicable moment following any incident in which there has been breakage, spillage, or suspected radioactive contamination involving radioactive materials and shipments. Aircraft in which radioactive materials have been spilled may not again be placed in service or routinely occupied until the radiation dose rate at any accessible surface is less than 0.5 millirem per hours and there is no significant removable radioactive surface contamination as determined in accordance with § 173.397 of this subchapter. When contamination is present, the package or materials must be segregated as far as practicable from personnel contact. If radiological advice or assistance is needed, the U.S. Energy Research and Development Administration must also be notified. In case of obvious leakage, or if it appears likely that the inside container may have been damaged, care must be taken to avoid inhalation, ingestion, or contact with the radioactive materials. Any loose radioactive materials must be left in a segregrated area pending disposal instructions from qualified persons.

5. A new § 175.701 would be added to read as follows:

**§ 175.701 Separation distance requirements for packages containing radioactive materials in passenger-carrying aircraft.**

(a) *General.* No person may carry in a passenger-carrying aircraft any package required by § 172.403 of this subchapter to be labeled Radioactive Yellow–II or Radioactive Yellow–III unless the package is placed in the aircraft in accordance with the minimum separation distances prescribed in paragraph (b) or (c) of this section.

(b) *Separation distances.* (1) Except as provided in paragraph (c) of this section, the minimum separation distances prescribed in paragraph (b)(2) of this section are determined by measuring the shortest distance between the surfaces of the radioactive materials package and the surfaces bounding the space occupied by passengers or animals. If more than one package of radioactive materials is placed in a passenger-carrying aircraft, the minimum separation distance for each individual package shall be determined in accordance with paragraph (b)(2) of this section on the basis of the sum of the transport index numbers of the individual packages.

(2) The following table prescribes minimum separation distances for the carriage of packages containing radioactive materials labeled Radioactive Yellow–II or Radioactive Yellow–III in passenger-carrying aircraft:

| Transport index or sum of transport indexes of all packages in the aircraft | Minimum separation distances | |
|---|---|---|
| | Inches | Centimeters |
| 0.1 to 1 | 12 | 30 |
| 1.1 to 2 | 20 | 50 |
| 2.1 to 3 | 28 | 70 |
| 3.1 to 4 | 34 | 85 |
| 4.1 to 5 | 40 | 100 |
| 5.1 to 6 | 46 | 115 |
| 6.1 to 7 | 52 | 130 |
| 7.1 to 8 | 57 | 145 |
| 8.1 to 9 | 61 | 155 |
| 9.1 to 10 | 65 | 165 |
| 10.1 to 11 | 69 | 175 |
| 11.1 to 12 | 73 | 185 |
| 12.1 to 13 | 77 | 195 |
| 13.1 to 14 | 81 | 205 |
| 14.1 to 15 | 85 | 215 |
| 15.1 to 16 | 89 | 225 |
| 16.1 to 17 | 93 | 235 |
| 17.1 to 18 | 97 | 245 |
| 18.1 to 20 | 102 | 260 |
| 20.1 to 25 | 118 | 300 |
| 25.1 to 30 | 130 | 330 |
| 30.1 to 35 | 142 | 360 |
| 35.1 to 40 | 154 | 390 |
| 40.1 to 45 | 166 | 420 |
| 45.1 to 50 | 177 | 450 |

(c) *Predesignated areas.* A package required by § 172.403 of this subchapter to be labeled Radioactive Yellow–II or Radioactive Yellow–III may be carried in a passenger-carrying aircraft in accordance with a system of predesignated areas established by the aircraft operator. Each aircraft operator that elects to use a system of predesignated areas shall submit a detailed description of the proposed system to the Director, Office of Hazardous Materials Operations for approval prior to implementation of the system. A proposed system of predesignated areas is approved if the Director determines that it is designed to assure that—

(1) The packages can be placed in each predesignated area in accordance with the minimum separation distances prescribed in paragraph (b)(2) of this section; and

(2) The predesignated areas are laterally separated from each other by a minimum distance equal to at least four times the distance required by paragraphs (b)(1) and (b)(2) of this section for thep redesignated area containing packages with the largest sum of tarnsport indexes.

6. A new § 175.702 would be added to read as follows:

**§ 175.702 Requirements for carriage of packages containing radioactive materials in cargo-only aircraft.**

(a) As used in this section, the term "group of packages" means packages that are separated from each other in an aircraft by a distance of 20 feet (6 meters) or less.

(b) No person may carry in a cargo-only aircraft any package required by § 172.403 of this subchapter to be labeled Radioactive Yellow–II or Radioactive Yellow–III unless—

(1) When the total transport index for all of the packages does not exceed 50.0, the package is carried in accordance with § 175.701(a).

(2) When the total transport index for all of the packages exceeds 50—

(i) The separation distance between the surfaces of the radioactive materials package and the surfaces bounding the space occupied by persons or animals is at least 30 feet (9 meters);

(ii) The transport index for any group of packages does not exceed 50.0; and

(iii) Each group of packages is separated from every other group in the aircraft by not less than 20 feet (6 meters), measured from the outer surface of each group.

(3) For fissile radioactive materials, the total transport index for all packages does not exceed 50.0.

7. A new § 175.703 would be added to read as follows:

**§ 175.703 Other special requirements for the acceptance and carriage of packages containing radioactive materials.**

(a) No person may carry in an aircraft any package of radioactive materials required by § 172.403 of this subchapter to be labeled Radioactive Yellow–II or Radioactive Yellow–III closer than the distances shown in the following table to any package marked as containing undeveloped film:

| Transport index | Minimum separation distance in feet to nearest undeveloped film for various times of transit | | | | |
|---|---|---|---|---|---|
| | Up to 2 h | 2 to 4 h | 4 to 8 h | 8 to 12 h | Over 12 h |
| None | 0 | 0 | 0 | 0 | 0 |
| 0.1 to 1.0 | 1 | 2 | 3 | 4 | 5 |
| 1.1 to 5.0 | 3 | 4 | 6 | 8 | 11 |
| 5.1 to 10.0 | 4 | 6 | 9 | 11 | 15 |
| 10.1 to 20.0 | 5 | 8 | 12 | 16 | 22 |
| 20.1 to 30.0 | 7 | 10 | 15 | 20 | 29 |
| 30.1 to 40.0 | 8 | 11 | 17 | 22 | 33 |
| 40.1 to 50.0 | 9 | 12 | 19 | 24 | 36 |

(b) No person may accept for carriage in an aircraft packages of radioactive materials contained in a rigid or non-rigid overpack, including a fiberboard box or plastic bag, unless—

(1) The packages of radioactive materials contained within the overpack comply with the packaging, marking, and labeling requirements of this subchapter; and

(2) The overpack is labeled as prescribed in § 172.403 of this subchapter and complies with the following requirements:

(i) If the radiation dose rate for the overpack exceeds 1.0 millirem per hour at 3 feet (0.9 meters) from any surface, the Radioactive Yellow–III label prescribed in § 172.440 of this subchapter must be applied. The "contents" entry on that label must state "mixed radioactive materials."

(ii) For a non-rigid overpack, a single required label together with required markings must be affixed to the overpack by means of a securely attached, durable tag. The transport index must be determined by adding together the transport indexes of the radioactive materials packages contained therein.

(iii) For a rigid overpack, the transport index must be determined by—



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(A) Adding together the transport indexes of the radioactive materials packages contained in the overpack; or

(B) Except for fissile radioactive materials, direct measurement as prescribed in § 173.389(l)(1) of this subchapter.

(iv) The overpack with the inner packages contained therein, must be capable of withstanding the compression test prescribed in § 173.398(b)(3)(v) of this subchapter.

(v) The overpack must be marked as prescribed in Subpart D of Part 172 and § 173.25(a) of this subchapter.

(vi) The transport index of the overpack my not exceed 3.0 for passenger-carrying aircraft shipments, nor 10.0 for cargo-only aircraft shipments.

(vii) The overpack is considered a single package for purposes of the shipping paper requirements in Subpart C of Part 172 of this subchapter.

(viii) The overpack may not contain packages consolidated from more than one original shipper.

(c) No person may carry in an aircraft any package containing Fissile Class III radioactive materials (as defined in § 173.389(a)(3) of this subchapter), except—

(1) In a cargo-only aircraft which has been assigned for the sole use of the shipper for the specific shipment of fissile radioactive material. Instructions for the sole use must be developed by the shipper and carrier, and the instructions issued with the shipping papers; or

(2) In an aircraft in which there are no other packages required to bear a radioactive label as prescribed in § 172.403 of this subchapter. Specific arrangements must be made between the shipper and carrier, with instructions to that effect issued with the shipping papers; or

(3) In accordance with any other procedure specifically approved by the Director, Office of Hazardous Materials Operations.

§ 175.710 [Deleted]

8. § 175.710 would be deleted.

(49 U.S.C. 1803, 1804, 1807, 1808; 49 CFR 1.53(e).)

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C., on July 12, 1977.

ALAN I. ROBERTS,
*Director, Office of Hazardous Materials Operations.*

[FR Doc.77-20677 Filed 7-20-77;8:45 am]

## National Highway Traffic Safety Administration

### [ 49 CFR Parts 581 and 575 ]

[Docket No. 73-19, 74-11; Notices 18, 21]

### DAMAGEABILITY REQUIREMENTS AND CONSUMER INFORMATION

### Correction

AGENCY: National Highway Traffic Safety Administration.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This notice corrects an inadvertent error in the application sections of two of the proposed alternative regulations contained in the FEDERAL REGISTER notice published on June 16, 1977 (42 FR 30655), concerning motor vehicle bumper requirements.

Issued on July 15, 1977.

ROBERT L. CARTER,
*Associate Administrator, Motor Vehicle Programs.*

[FR Doc.77-21009 Filed 7-20-77;8:45 am]

FOR FURTHER INFORMATION CONTACT:

Mr. Bob Mewhinney, Office of Crashworthiness, Motor Vehicle Programs, NHTSA, 400 Seventh Street SW., Washington, D.C. 20590 (202-755-8896).

SUPPLEMENTAL INFORMATION: On June 16, 1977, the National Highway Traffic Safety Administration (NHTSA) published a notice (42 FR 30655) proposing three alternative amendments to Part 581, *Bumper Standard*, two of which would include the establishment of a consumer information program. The application sections contained in Alternatives II and III of the notice (Part 575.107) inadvertently indicated that the consumer information program would be applicable to all passenger motor vehicles. The applicability of the program should be limited ot passenger motor vehicles other than multipurpose passenger vehicles. The notice is therefore revised to reflect the intended application.

Section 575.107(c) of Alternatives II and III of the notice is revised by inserting "other than multipurpose passenger vehicles" after "passenger motor vehicles."

The principal author of this notice is Karen Dyson, Office of Chief Counsel.

(Secs. 103, 112, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); sec. 102, 201, Pub. L. 93-513, 86 Stat. 947 (15 U.S.C. 1912, 1941); delegations of authority at 49 CFR 1.50 and 501.8.)





# notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## CIVIL AERONAUTICS BOARD

[Order No. 77-7-19, Docket No. 27573; Agreement C.A.B. 26723; Agreement C.A.B. 26724, R-1 through R-4]

### INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Order

Issued under delegated authority, July 7, 1977.

Agreement have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreements extend three specific commodity rates under existing commodity descriptions and add two new rates with new specific commodity descriptions as set forth below, reflecting reductions from general cargo rates; and were adopted pursuant to unprotested notice to the carriers and promulgated in IATA letters between May 21 and May 27, 1977.

| Agreement CAB | Specific commodity item No. | Description and rate [1] |
|---|---|---|
| 26723 | 1021 | Greyhounds: 113.00 U.K. pence [2]/kg, minimum weight 500 kg. Sydney to Guam. |
| 26724: | | |
| R-1 | 1953 | Empty Ostrich Eggs: [3] 350 c/kg, minimum weight 100 kg. 300 c/kg, minimum weight 250 kg. Johannesburg to New York/Montreal. |
| R-2 | 4109 | Aircraft Engines and Parts of Aircraft: 315 c/kg, minimum weight 100 kg. 275 c/kg, minimum weight 200 kg. 220 c/kg, minimum weight 500 kg. New York/Montreal to Addis Ababa. |
| R-3 | 8227 | Wood-Wind Instruments: [4] 170 c/kg, [4] minimum weight 200 kg. 150 c/kg, [4] minimum weight 500 kg. Tel Aviv to New York/Montreal. |
| R-4 | 6810 | Plastic Articles: 130 c/kg, minimum weight 500 kg. Auckland to Los Angeles. |

[1] Subject to applicable currency conversion factors as shown in tariffs.
[2] Equivalent to approximately 294 c.
[3] New description.
[4] Expires December 31, 1977.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the agreements are adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions ordered.

Accordingly, *it is ordered*, That: Agreements C.A.B. 26723 and C.A.B. 26724, R-1 through R-4, are approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

JAMES L. DEEGAN,
*Chief Passenger and Cargo Rates Division, Bureau of Economics.*

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-20907 Filed 7-20-77;8:45 am]

## COMMISSION ON CIVIL RIGHTS

### AGE DISCRIMINATION

### Hearing

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1975, as amended, 42 U.S.C. § 1975 et seq. (1976), that the U.S. Commission on Civil Rights will hold a public hearing dealing specifically with the provisions of the Age Discrimination Act of 1975, enacted as part of the Older Americans Amendments of 1975, 42 U.S.C. § 6101 et seq. (1976). The hearing will be held on August 22 and August 23, 1977, at the Dade County Court House, Room 250, 73 West Flager Street in Miami, Florida. The hearing will begin each day at 8:30 a.m. An Executive Session, if appropriate, will be convened on August 22 at the same location as the hearing.

The purpose of the hearing is to elicit the views of interested parties, including Federal departments and agencies, on issues relating to age discrimination in programs and activities receiving Federal financial assistance and particularly with respect to the reasonableness of distinguishing on the basis of age among potential participants in, or beneficiaries of, specific federally assisted programs.

The hearing will focus particular attention on the following programs and activities: Comprehensive Employment and Training Act Public Service Employment Programs; Community Mental Health Centers; Community Health Centers; Vocational Rehabilitation; Legal Services; Title XX of the Social Security Act; Food Stamps; Medicaid, and selected areas within Education.

Dated at Washington, D.C., July 14, 1977.

ARTHUR S. FLEMMING,
*Chairman.*

[FR Doc.77-20914 Filed 7-20-77;8:45 am]

## DEPARTMENT OF COMMERCE

### Domestic and International Business Administration

### ELECTRONIC INSTRUMENTATION TECHNICAL ADVISORY COMMITTEE

### Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Electronic Instrumentation Technical Advisory Committee will be held on Wednesday, August 10, 1977, at 9:30 a.m. in Room 5230, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973. On October 7, 1975, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Section 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production and technology, (C) licensing procedures which may affect the level of export controls applicable to electronic instrumentation, including



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technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has six parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Report on logic analyzers.
(4) Review of findings of the Microprocessor Instrumentation Subcommittee with respect to microprocessors.
(5) Review of August 9 joint meeting of five Technical Advisory Committees with respect to microprocessors.

EXECUTIVE SESSION

(6) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (6), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 8, 1976, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409 that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Electronic Instrumentation Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on December 28, 1976 (41 FR 56377).

Dated: July 18, 1977.

LAWRENCE J. BRADY,
*Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.*

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**Economic Development Administration**

**JBC CO. OF MADERA, INC.**

**Petition for a Determination of Eligibility to Apply for Trade Adjustment Assistance**

A petition by JBC Co. of Madera, Inc., 97-99 Main Street, Madera, Pa. 16661, a producer of men's and boys' pants, was accepted for filing on July 14, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, JR.,
*Trade Act Certification Division, Office of Planning and Program Support.*

[FR Doc.77-20935 Filed 7-20-77;8:45 am]

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**National Oceanic and Atmospheric Administration**

**MARINE MAMMALS**

**Issuance of Permit**

On April 25, 1977, notice was published in the FEDERAL REGISTER (42 FR 21132), that an application had been filed with the National Marine Fisheries Service by Milwaukee County Zoological Park, 10001 West Bluemound Road, Milwaukee, Wis. 53226, for a Permit to take six (6) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on July 11, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking to the Milwaukee County Zoo subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Mass. 01930; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731.

WINFRED H. MEIBOHM,
*Associate Director, National Marine Fisheries Service.*

JULY 11, 1977.

[FR Doc.77-20944 Filed 7-20-77;8:45 am]

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**ATLANTIC TUNA FISHERIES**

**Atlantic Bluefin Tuna Purse Seine Quota Reallocation**

On June 23, 1977, on page 31824, a notice was published in the FEDERAL REGISTER closing the purse seine fishing season for Atlantic bluefin tuna weighing between 14 pounds (6.4kg) round weight and 115 pounds (52.3kg) round weight. The closure was effective 0001 June 22, 1977.

The total annual quota for Atlantic bluefin tuna that weigh between 14 pounds (6.4kg) round weight and 115 pounds (52.3kg) round weight caught by purse seines was established at 1,000 short tons (910 metric tons). Of this 1,000 short tons, 800 short tons were made available for capture during the open season and 200 short tons were reserved to be taken at any time during the year incidental to the conduct of a scientific bluefin tuna tagging project (see § 285.13, FEDERAL REGISTER, June 14, 1977, p. 30373).

Preliminary catch statistics of Atlantic bluefin tuna caught in the purse seine fishery indicate that more than 800 short tons of Atlantic bluefin tuna were taken. Accordingly, pursuant to § 285.13 (d) the Director, National Marine Fisheries Service has made a determination to reallocate catch quotas. The following reallocation is hereby announced. The amount of Atlantic bluefin tuna weighing between 14 pounds (6.4kg) round weight and 115 pounds (52.3kg) round weight reserved to be taken at any time during the year incidental to the conduct of a scientific bluefin tuna tagging project is hereby reduced from 200 short tons to 100 short tons.

Such reduction will operate to keep the amount of fish captured near the 1,000 short ton annual quota. This reallocation is effective 0001 July 12, 1977.

Issued at Washington, D.C. and dated July 6, 1977.

WINFRED H. MEIBOHM,
*Associate Director, National Marine Fisheries Service.*

[FR Doc.77-20899 Filed 7-20-77;8:45 am]





**Office of the Secretary**

[Dept. Organization Order 45-1, Amdt. 3]

**ECONOMIC DEVELOPMENT ADMINISTRATION**

**Establishment; Correction**

In FR Doc. 77-19540, appearing on page 35672, in the issue of Monday, July 11, 1977 make the following change:

On page 35672, the correct middle initial for the Approved: signature should be "Elsa A. Porter".

ELSA A. PORTER,
*Assistant Secretary for Administration.*

[FR Doc.77-20937 Filed 7-20-77;8:45 am]

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[Dept. Organization Order 30-7A, Amdt. 2]

**NATIONAL TECHNICAL INFORMATION SERVICE**

**Delegation of Authority; Correction**

In FR Doc. 77-19539, appearing on page 35674, in the issue of Monday, July 11, 1977 make the following change:

On page 35674, the correct middle initial for the signature should be "Elsa A. Porter".

ELSA A. PORTER,
*Assistant Secretary for Administration.*

[FR Doc.77-20936 Filed 7-20-77;8:45 am]

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**COMMISSION ON FEDERAL PAPERWORK**

**PUBLIC HEARINGS**

Notice is hereby given of two public hearings of the Commission on Federal Paperwork to be held in the States of Washington and Oregon. The hearings will be held on August 8, 1977, in The Hilton Hotel, The Pavilion Room, 921 S.W. Sixth Street, Portland, Oreg. and on August 9, 1977, in The Federal Building, 915 Second Avenue, North Auditorium, 4th Floor, Seattle, Wash.

The Portland hearing will commence at 9 a.m. and continue until 3 p.m., with a recess from 11 a.m. to 1 p.m. At the hearing, the Commission will receive comments concerning Health, Small Business, the Oregon State Paperwork Commission, and Education. The Seattle hearing will commence at 9 a.m. and end at 12 noon. During this hearing, the Commission will receive comments concerning Public Works, Segments of Business, Procurement, Welfare, and Title XX.

Testimony presented at these hearings will be used by the Commission on Federal Paperwork in making recommendations to the Congress and the President on changes which would ease the burden of Federal paperwork.

Persons wishing further information about the hearings should contact the Commission on Federal Paperwork located at 1111 20th Street NW., Room 2000, Washington, D.C. 20582, telephone—202-653-5400.

FRANK HORTON,
*Chairman.*

[FR Doc.77-20986 Filed 7-20-77;8:45 am]

**PUBLIC MEETING**

Notice is hereby given of the fourteenth regular meeting of the Commission on Federal Paperwork to be held on July 29, 1977, in Room 2154, Rayburn House Building, Washington, D.C.

The meeting will begin at 9 a.m. and will continue until approximately 12 noon. The meeting will be open to the public. The Commission will review progress on approved projects, including reports in the following areas: Statistics, Information Management, Role of Congress, Confidentiality, Clearance Process, Records Management, and Impact on Business.

Anyone wishing to attend the meeting is invited. For further details, contact the Commission on Federal Paperwork, Room 2000, 1111 20th Street NW., Washington, D.C. 20582, telephone—202-653-5400.

FRANK HORTON,
*Chairman.*

[FR Doc.77-20987 Filed 7-20-77;8:45 am]

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**DEPARTMENT OF DEFENSE**

**Department of the Navy**

**PREFERRED ALTERNATIVE LOCATION FOR A FLEET BALLISTIC MISSILE (FBM) SUBMARINE SUPPORT BASE, KINGS BAY, GA.**

**Public Hearings and Availability of Draft Environmental Impact Statement**

Notice is hereby given pursuant to the National Environmental Policy Act, Pub. L. 91-191 of 1969 and the Council on Environmental Quality Guidelines, 40 CFR 1500, that a series of public hearings at three different locations will be held for the purpose of providing the public with relevant information on the Preferred Alternative Location for a Fleet Ballistic Missile (FBM) Submarine Support Base to be located at the present United States Army Military Ocean Terminal, Kings Bay, Ga., (MOTKI), and to afford the public an opportunity to present their views on the proposed Navy project. These hearings will be a joint effort with the United States Army Corps of Engineers who will also take comments relative to the dredging requirements proposed for this site as part of their procedures to issue a dredging permit. Hearings will be on the following dates, at the locations and times specified:

AUGUST 15, 1977

Kingsland Women's Club, Highway 40 East, Kingsland, Ga.

The hearing will begin at 7 p.m.

AUGUST 16, 1977

Civic Auditorium, The Theater, 3000 West Water Street, Jacksonville, Fla.

The hearing will begin at 7 p.m.

AUGUST 17, 1977

United States Courthouse, Rm. 318, 56 Forsyth Street NW., Atlanta, Ga.

The afternoon session of the hearing will begin at 1 p.m., and the evening session will begin at 7 p.m.

Public hearings are being held at three sites in order that all persons/municipalities, agencies and groups who so desire are afforded the opportunity to comment on the proposed action.

The hearings concerning the site will be conducted by Commander Paul Klinedinst, United States Navy, and will include a presentation of the Navy's proposed action, expected environmental impact, alternatives and what may be expected for the future.

This proposed project provides for the construction and operation of an Atlantic Fleet submarine refit site at Kings Bay, Ga. The proposed action is the basing of one submarine squadron supported by a submarine repair shop (tender) and a floating drydock. It also considers the possibility of future expansion of operations at the site to accommodate two submarine squadrons (two tenders and two floating drydocks), as well as the possible construction and operation of an ashore refit facility to support either one or two submarine squadrons. A representative of the United States Corps of Engineers will be available to receive comments concerning dredging requirements.

The following procedures will be followed during the public hearings. For record purposes, all persons attending the hearings will be asked to provide their names upon entering the hearing. Individual speakers wishing to comment at the hearing will have four minutes each, and group spokespersons will have six minutes each to summarize and present their views. Each speaker will identify himself and any organization he may be representing. One speaker may not relinquish time to another. Individuals and organizations wishing to submit written statements to be included in the hearing record are encouraged to do so by August 8, 1977, or such statements may be presented to the Hearing Officer during the hearing. Pre-registration of speakers is desired, and should be made in person or writing. Speakers may also register at the attendance desk at the hearing. The name and title of the speaker for organizations should be included in the pre-registration. The closing date for including additional written statements in the Navy hearing record is 10 calendar days after the date of each individual hearing. Speaker pre-registration and submission of written statements should be addressed to:

Strategic Submarine Division (OP-21), Office of the Chief of Naval Operations, Washington, D.C. 20350, Attn.: Captain W. H. Purdum.

Anticipated environmental impacts resulting from the proposed project are documented in the Draft Environmental Impact Statement (DEIS) for the proposed project as announced in the FEDERAL REGISTER on July 1, 1977, at page 33789. Copies of the DEIS have been widely distributed and are available to the public at the following locations should perusal of the subject document be desired:

1. Chief of Naval Information, The Pentagon Press Room, Washington, D.C. 20350.
2. *Libraries:* Waycross Libraries, Brunswick Libraries, Hoboken Libraries, Nahunta Li-



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braries, St. Marys Libraries, Woodbine Libraries, Kingsland Libraries, Folkston Libraries, Homeland Libraries, Jacksonville Libraries, Fernandina Beach Libraries, Callahan Libraries.

3. *Colleges:* West Georgia College, Carrolton, Ga.; University of Georgia, Athens, Ga.; University of Georgia Marine Institute, Sapeld, Ga.; University of Florida; Skidaway Institute of Oceanography, Skidaway Island, Ga.

4. Navy Information Office, St. Marys, Ga.

For further information concerning this notice, contact Captain W. H. Purdum, U.S. Navy, Strategic Submarine Division, Polaris/Poseidon Branch (OP-212), Office of the Chief of Naval Operations, Washington, D.C. 20350, telephone number 202-695-2460.

Dated: July 18, 1977.

K. D. LAWRENCE,
*Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).*

[FR Doc.77-20991 Filed 7-20-77;8:45 am]

## DELAWARE RIVER BASIN COMMISSION

[Docket No. D-75-128]

### DOW CHEMICAL CO., BULK CHEMICAL STORAGE AND DISTRIBUTION FACILITY, BORDENTOWN TOWNSHIP, N.J.

### Draft Environmental Impact Statement

In accordance with the National Environmental Policy Act of 1969 and the Delaware River Basin Commission's Rules of Practice and Procedure, notice is hereby given of the availability of a draft environmental impact statement, dated July 15, 1977, which discusses the impact of the chemical storage and distribution terminal proposed by the Dow Chemical Co. for construction at Delaware River Mile 127 in Bordentown Township, Burlington County, N.J. The draft environmental impact statement was prepared by the Delaware River Basin Commission based upon an Environmental Report prepared by S. T. Hudson Engineers, Inc., and the Commission's staff analysis of the proposed action.

The proposed development includes construction of 65 storage tanks varying in size from 250 barrels (10,000 gallons) to 50,000 barrels (2,100,000 gallons). Construction would include removal of about 307,000 cubic yards of sand, gravel, and river silt to provide adequate channel depth and a berthing area for tankers of up to 36,000 deadweight tons. A pier and marginal berthing facilities would extend a maximum of 500 feet channelward from the existing mean high water line. Facilities would include a dry bulk transfer system, a storage and packaging warehouse, and an administration building.

Copies of the draft environmental impact statement and the applicant's environmental report and supplements may be examined in the library at the office of the Delaware River Basin Commission, 25 State Police Drive, West Trenton, N.J., during normal business hours. Copies of the application and draft environmental impact statement are available for distribution to persons or agencies upon request.

A public hearing on the action proposed by Dow Chemical Co. will be held by the Delaware River Basin Commission on August 24, 1977, at 2 p.m. The hearing will take place in the Hall of Flags, West, Sheraton Hotel, 17th and Kennedy Blvd., Philadelphia, Pa. Testimony will be received on the proposed project and the draft environmental impact statement.

Written comments on the draft environmental impact statement will be received by the Delaware River Basin Commission from interested agencies or individuals. To be considered by the Commission in formulating a final environmental impact statement, such written comments must be received no later than September 5, 1977.

W. BRINTON WHITALL,
*Secretary.*

JULY 15, 1977.

[FR Doc.77-20946 Filed 7-20-77;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 765-5]

### AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

### Reference Method Designation

Notice is hereby given that the EPA, in accordance with 40 CFR Part 53 (40 FR 7044, February 18, 1975), has designated a reference method for the measurement of ambient concentrations of nitrogen dioxide. The new reference method is an automated method (analyzer) which utilizes the measurement principle (gas phase chemiluminescence) and calibration procedure specified in Appendix F of 40 CFR Part 50, as amended on December 1, 1976 (41 FR 52688). The method is:

RFNA-0677-021, "Monitor Labs Model 8440R Nitrogen Oxides Analyzer," operated on a 0-0.5 ppm range (position 2 of range switch) with a time constant setting of 20 seconds and with or without the following options:

Option TF—Sample particulate filter with TFE filter element.
Option VT—Zero/span valves and timer
Option V—Zero/span valves.
Option FM—Flowmeters.
Option DO—Status outputs.
Option R—Rackmount.

A notice of receipt of application for this method appeared in the FEDERAL REGISTER, Volume 42, March 25, 1977, page 16175. The method is available from Monitor Labs, Inc., 4202 Sorrento Valley Boulevard, San Diego, Calif. 92121

A test analyzer representative of this method has been tested by its manufacturer, in accordance with the test procedures specified in 40 CFR Part 53 as amended on December 1, 1976 (41 FR 52694). After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as a reference method. The information submitted by the applicant will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As a reference method, this method is acceptable for use by States and other control agencies for purposes of section 51.17(a) of 40 CFR Part 51 ("Requirements for Preparation, Adoption, and Submittal of Implementation Plans") as amended on February 18, 1975 (40 FR 7042). For such use, the method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of § 51.17(a) are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users were promulgated on March 17, 1976 (41 FR 11255).

In general, the designation applies to any analyzer which is identical to the analyzer described in the designation. In many cases, similar analyzers manufactured prior to the designation may be upgraded (e.g., by minor modification or by substitution of a new operation or instruction manual) so as to be identical to the designated method and thus achieve designated status at modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading.

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B-1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been designated as reference or equivalent methods.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them with 30 days if a reference or equivalent method designation applicable to the analyzer has been cancelled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representations), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated non-compliance with any of these conditions should be reported to: Director, Environmental Monitoring and Support Laboratory, Department E (MD-76), U.S. Environmnetal Protection Agency, Research Triangle Park, N.C. 27711.

Designation of this reference method will provide assistance to the States in establishing and operating their air quality surveillance systems under 40 CFR 51.17(a). Additional information concerning this action may be obtained by writing to the address given above.

STEPHEN J. GAGE,
*Acting Assistant Administrator for Research and Development.*

JULY 15, 1977.

[FR Doc.77-21016 Filed 7-20-77;8:45 am]





[FRL 765-6]

### AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

### Reference Method Designation

Notice is hereby given that the EPA, in accordance with 40 CFR Part 53 (40 FR 7044, February 18, 1975), has designated another reference method for the measurement of ambient concentrations of nitrogen dioxide. The new reference method is an automated method (analyzer) which utilizes the measurement principle (gas phase chemiluminescence) and calibration procedure specified in Appendix F of 40 CFR Part 50, as amended on December 1, 1976 (41 FR 52688). The method is:

RFNA-0777-022, "Bendix Model 8101-C Oxides of Nitrogen Analyzer", operated on a 0-0.5 ppm range with a teflon sample filter (Bendix P/N 007163) installed on the sample inlet line.

A notice of receipt of application for this method appeared in the FEDERAL REGISTER, Volume 42, April 6, 1977, page 18298. The method is available from The Bendix Corporation, Environmental and Process Instruments Division, P.O. Box 831, Lewisburg, W. Va. 24901.

A test analyzer representative of this method has been tested by its manufacturer, in accordance with the test procedures specified in 40 CFR Part 53 as amended on December 1, 1976 (41 FR 52694). After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as a reference method. The information submitted by the applicant will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As a reference method, this method is acceptable for use by States and other control agencies for purposes of section 51.17(a) of 40 CFR Part 51 ("Requirements for Preparation, Adoption, and Submittal of Implementation Plans") as amended on February 18, 1975 (40 FR 7042). For such use, the method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of § 51.17(a) are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users were promulgated on March 17, 1976 (41 FR 11255).

In general, the designation applies to any analyzer which is identical to the analyzer described in the designation. In many cases, similar analyzers manufactured prior to the designation may be upgraded (e.g., by minor modification or by substitution of a new operation or instruction manual) so as to be identical to the designated method and thus achieve designated status at modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading.

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B-1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been designated as reference or equivalent methods.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation applicacable to the analyzer has been cancelled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representations), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated non-compliance with any of these conditions should be reported to: Director, Environmental Monitoring and Support Laboratory, Department E (MD-76), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of this reference method will provide assistance to the States in establishing and operating their air quality surveillance systems under 40 CFR 51.17(a). Additional information concerning this action may be obtained by writing to the address given above.

TOM MURPHY,
*Acting Assistant Administrator for Research and Development.*

JULY 18, 1977.

[FR Doc.77-21017 Filed 7-20-77;8:45 am]

[FRL 762-1]

### STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES (NSPS) AND NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAPS)

### Delegation of Authority to the State of New Jersey on the Behalf of the Department of Environmental Protection

On December 23, 1971 (36 FR 24876), March 8, 1974 (39 FR 9308), August 6, 1975 (40 FR 33152), September 23, 1975 (40 FR 43850), January 15, 1976 (41 FR 2232), January 26, 1976 (41 FR 3826), and May 4, 1976 (41 FR 20659), pursuant to Section 111 of the Clean Air Act, as amended, the Administrator promulgated regulations codified in 40 CFR Part 60 establishing standards of performance for certain categories of new stationary sources (NSPS). In addition, on April 6, 1973 (38 FR 8820), October 14, 1975 (40 FR 48292), and March 2, 1977 (42 FR 12127), pursuant to Section 112 of the Clean Air Act, as amended, the Administrator promulgated in 40 CFR Part 61 national emission standards for three hazardous air pollutants (NESHAPS). Sections 111(c) and 112(d) direct the Administrator to delegate authority to implement and enforce the standards to any state which submits an adequate procedure therefor. The Administrator retains concurrent authority to imple-



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ment and enforce the standards following delegation of authority to a state.

On July 27, 1973, the Regional Administrator, Region II, forwarded to the State of New Jersey information setting forth the requirements for an adequate procedure for implementing the NSPS and NESHAPS. On June 29, 1976, the Honorable David J. Bardin, Commissioner of the New Jersey Department of Environmental Protection, submitted a request for delegation of authority to implement and enforce the NSPS and certain aspects of the NESHAPS program. A subsequent letter from the State, dated September 1, 1976 served to supplement the terms of the original request in certain minor respects.

Upon examination of the State of New Jersey's request, the Regional Administrator found the procedures proposed to be employed by the Department of Environmental Protection to be adequate and, by means of a letter to Commissioner Bardin, formally delegated to the State of New Jersey (per the Department of Environmental Protection) certain aspects of the existing federal authority to implement and enforce the NSPS and NESHAPS programs.

What follows is the entire text of the Regional Administrator's letter, which describes fully the delegated aspects of the relevant programs, and articulates the conditions and understandings upon which delegation was based.

Commissioner DAVID J. BARDIN,
*New Jersey Department of Environmental Protection, P.O. Box 1390, Trenton, New Jersey 08625.*

DEAR COMMISSIONER BARDIN: On June 29, 1976 you submited the State of New Jersey's formal request for delegation of federal authority for the implementation and enforcement of the Standards of Performance for New Stationary Sources ("NSPS") and the National Emission Standards for Hazardous Air Pollutants ("NESHAPS") pursuant to §§ 111(c)(1) and 112(d)(1) of the Clean Air Act, respectively. This request was supplemented and clarified by a further submission from the State on September 1, 1976. The Environmental Protection Agency ("EPA") hereby makes its formal response to your request.

(A) We have reviewed the relevant laws of New Jersey, and the rules and regulations of the New Jersey Department of Environmental Protection ("NJDEP") and have determined that these laws, rules, and regulations provide an adequate and effective procedure for implementation and enforcement of the NSPS against all sources. We have further determined that such laws, rules, and regulations provide an adequate and effective procedure for implementation and enforcement of the NESHAPS against those sources the construction of which will commence subsequent to the effective date of this delegation, and an adequate and effective procedure for the administrative and technical implementation of NESHAPS against all other sources subject to such regulations. Therefore, we hereby grant delegation of NSPS and NESHAPS to the State of New Jersey on behalf of the NJDEP as follows:

(1) Authority for all sources located in the State of New Jersey subject to the Standards of Performance for New Stationary Sources as promulgated in 40 CFR Part 60 as of the date of this delegation. The categories of new sources covered by this delegation are fossil fuel fired steam generators; incinerators; portland cement plants; nitric acid plants; sulfuric acid plants; asphalt concrete plants; petroleum refineries; storage vessels for petroleum liquids; secondary lead smelters; secondary brass and bronze ingot production plants; iron and steel plants; sewage treatment plants; primary copper smelters; primary zinc smelters; primary lead smelters; primary aluminum reduction plants; phosphate fertilizer industry: superphosphoric acid plants; phosphate fertilizer industry: diammonium phosphate plants; phosphate fertilizer industry: triple superphosphate plants; phosphate fertilizer industry: granular triple superphosphate storage facilities; coal preparation plants; ferroalloy production facilities; and steel plants: electric arc furnaces. NJDEP shall, in the exercise of such authority, be the agent of the Administrator within the meaning of § 114 of the Clean Air Act.

(2) Authority, as described and limited in subparagraphs (a) and (b) herein, for implementation and enforcement of any category of the NESHAPS regulations promulgated in 40 CFR Part 61, as of the date of this delegation, with the exception of those categories regarding the operation of asbestos waste disposal sites (40 CFR § 61.22(1) and § 61.25), the application of asbestos insulation (40 CFR § 61.22(i)), the demolition or renovation of buildings or structures containing asbestos (40 CFR § 61.22(d)), the spraying of asbestos (40 CFR § 61.22(e)), and the emission of vinyl chloride (40 CFR § 61, Subpart F).

(a) EPA hereby delegates the authority to implement and enforce such regulations against those sources located in the State of New Jersey which are constructed or modified subsequent to the date of this delegation, and which are required by State law or regulation to obtain a permit to construct or a permit to operate.

(b) EPA hereby delegates authority for the technical and administrative implementation of such regulations against all sources located within the State which have been constructed prior to the effective date of this delegation and which are not required by State law or regulation to obtain a permit to construct or a permit to operate. NJDEP shall, in its exercise of such authority, be the agent of the Administrator of EPA within the meaning of § 114 of the Clean Air Act.

(B) This delegation is based on the following conditions:

(1) Quarterly reports shall be submitted to EPA by the NJDEP which shall include a statement as to the number of sources in compliance, the number of sources of unknown compliance, the number of sources inspected, the number of sources in violation, the number of enforcement actions taken, the number of permits issued, and the number of sources tested. As to any violations reported, the State shall identify the source involved and shall describe the legal action taken against such source.

(2) The NJDEP and EPA will develop a system of communication sufficient to guarantee that each office is always fully informed and current regarding the compliance status of the subject sources and interpretation of the regulations.

(3) This delegated authority shall be implemented by the diligent exercise of the regulatory powers and authority possessed by NJDEP.

All substantive emission limitations associated with the NSPS standards hereby delegated or any more stringent emission limitations imposed by State law or regulation, all notification, recordkeeping, record retention, reporting and self-monitoring requirements imposed by 40 CFR Part 60 shall be strictly enforced by NJDEP's attaching such requirements as conditions to its permits to construct and permits to operate, and by any other appropriate means.

All substantive emission limitations associated with the NESHAPS standards hereby delegated, or any more stringent emission limitations imposed State law or regulation, and all notification, recordkeeping, record retention, reporting and self-monitoring requirements imposed by 40 CFR Part 61 shall be enforced as follows:

(a) As to those sources required by State law or regulation to obtain a permit to construct or permit to operate, such limitations and requirements shall be imposed and strictly enforce as conditions to such permits by NJDEP.

(b) As to those sources not required by State law or regulation to obtain a permit to construct or permit to operate, NJDEP shall, pursuant to its authority and to the authority hereby granted to it as the Administrator's agent within the meaning of § 114 of the Clean Air Act, conduct all inspection and monitoring activities necessary to determine compliance with the standards hereby delegated. It shall, in addition, require strict compliance with all notification, recordkeeping, record retention, reporting and self-monitoring requirements imposed by 40 CFR Part 61.

In the event that NJDEP discovers a violation of any substantive emission limitation associated with the NESHAPS standards hereby delegated, or in the event that any source subject to such regulations fails to comply with any notification, recordkeeping, record retention, reporting or selfmonitoring requirements imposed by 40 CFR Part 61, NJDEP shall immediately report such noncompliance to EPA which will thereupon take whatever enforcement action it deems appropriate.

(4) The test methods and procedures set out in 40 CFR Part 60, Appendix A and Part 61, Appendix B shall be employed in determining compliance with the standards herein delegated, as appropriate for the particular source involved; except as follows:

(a) NJDEP may utilize the test methods and procedures set forth in N.J.A.C. 7:27 B-1.1 et seq. to determine the level of particulate emissions from manufacturing processes, from the combustion of fuels, and from incinerators. NJDEP shall insure, however, that in utilizing such methods and procedures, the minimum time that readings will be taken at each sampling point during source sampling will be, in accordance with its present practice, two minutes.

(b) NJDEP may utilize the procedures set forth in N.J.A.C. 7:27 B-2.1 et seq., for the visual determinations of emissions from sources.

(c) Test methods that have been formally approved by the Administrator as "equivalent" or "alternative" methods pursuant to 40 CFR § 60.8(b) or § 61.14(a) (as limited by § 61.14(c)), may be employed in lieu of the analogous EPA reference method.

(5) Enforcement of NSPS and NESHAPS will, with the exceptions set forth in this letter of delegation, be the primary responsibility of the NJDEP. If NJDEP or the State determines that enforcement of the NSPS and NESHAPS in the State of New Jersey as set forth herein is not feasible, and so notifies EPA, or where NJDEP or the State acts in a manner inconsistent with the terms of this delegation, EPA may exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act with respect to sources located within the State of New Jersey subject to NSPS and NESHAPS.

(6) The State or the NJDEP shall at no time grant a variance or waiver from compliance with NSPS and NESHAPS. Furthermore, the State of New Jersey and the NJDEP are not delegated hereby the Administrator's authority pursuant to 40 CFR § 61.11 to grant waivers of compliance to sources subject to the NESHAPS regulations. Should the State or the NJDEP grant such a waiver or variance, EPA will consider the grantee source to be in violation of the applicable federal regulation, and may initiate enforcement proceedings against such source pursuant to Section 113 of the Clean Air Act. The granting of the variance, waiver or dispensation shall also constitute grounds for revocation of delegation by EPA.

(7) If, subsequent to this delegation, a circumstance arises wherein a citizen requests certain information regarding a source subject to the NSPS or NESHAPS regulations which must, in accordance with the provisions of Section 110(a)(2) of the Clean Air Act be disclosed, and NJDEP determines that it is unable, under the applicable law of the State to release such information, the following mechanism shall be employed to effect disclosure in a timely manner:

(a) NJDEP shall forward to the EPA Region II Office, within ten (10) days of receipt of any such request:

(1) A copy of the citizen's request for information;

(2) Copies of all reports and test results previously submitted by the subject source, or prepared by the NJDEP, in connection with the NSPS or NESHAPS programs, as relevant to the request.

(b) In addition, NJDEP shall forward to the EPA Region II Office, within ten (10) days of dispatch to the addressee, a copy of the NJDEP response to the citizen's request for information.

(c) Upon receipt of the above, an immediate examination of the material submitted will be initiated by the New York Regional Office of the EPA. If, upon examination of the relevant request, and the NJDEP's response thereto, it is determined by the Regional Office that EPA's responsibilities for providing information to the public require the disclosure of other or additional information, such other or additional information will be thereupon provided by the Regional Office.

(C) The delegation effected herewith is further subject to the following understandings between the Agency and the State of New Jersey:

(1) Acceptance of this delegation of certain NSPS and NESHAPS standards does not commit the State and the NJDEP to accept delegation of other standards and requirements. A new request for delegation will be required for any standards and requirements not included in the June 29, 1976 request to which this letter of delegation specifically responds.

(2) This delegation to the State of New Jersey and the NJDEP does not include the authority to implement or enforce the NSPS or NESHAPS against federal facilities located within the State. This understanding in no way relieves any federal facility from meeting the requirements of 40 CFR §§ 60 and 61 or any New Jersey regulations.

(3) If the Regional Administrator should determine at some future time that a State or NJDEP procedure for enforcing or implementing the NSPS or NESHAPS is inadequate or is not being effectivly carried out, this delegation may be revoked in whole or part, and any such revocation shall be effective as of the date specified in the notice of revocation.

A Notice concerning this delegation will be published in the FEDETAL REGISTER in the near future. This Notice will state, among other things, that, effective immediately, all reports required pursuant to the federal NSPS and NESHAPS by sources located in the State of New Jersey should be submitted to the NJDEP Office at John Fitch Plaza, P.O. Box 2807, Trenton, New Jersey 08625. Any such reports which have been or may be received by the Region II Office of EPA will be promptly transmitted to the NJDEP.

Since this delegation is effective as of the date of this letter, there is no requirement that you notify EPA of acceptance. Unless EPA receives a written notice of any objections within ten (10) days of receipt of this letter, the State of New Jersey will be deemed to have accepted all of the terms, conditions, and understandings associated with this delegation.

Sincerely yours,

GERALD M. HANSLER, P.E.,
*Regional Administrator.*

Copies of the requests for delegation of authority are available for public inspection at the Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007.

Effective immediately, copies of all reports required by the delegated NSPS and NESHAPS should be submitted to the office of the State of New Jersey Department of Evironmental Protection, John Fitch Plaza, P.O. Box 2807, Trenton, New Jersey 08625.

This Notice is issued under the authority of Sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. § 1857c-6 and 7).

Dated: New York, New York; June 10, 1977.

G. M. HANSLER,
*Regional Administrator,*
*U.S. Environmental Protection Agency, Region II.*

[FR Doc 77-21018 Filed 7-20-77;8:45 am]





[OPP-180122; FRL 762-7]

## WASHINGTON STATE AND OREGON STATE DEPARTMENTS OF AGRICULTURE

### Issuance of Specific Exemption To Use Amitraz To Control Pear Psylla

The Environmental Protection Agency (EPA) has granted specific exemptions to the Washington State and Oregon State Departments of Agriculture (hereafter called "Washington State" and "Oregon") to use BAAM [1] for the control of Pear Psylla on pears grown commercially in those two States. Although there were two separate specific exemptions issued, both exemptions were almost identical except for the acreage involved and the potential amount of the pesticide to be used. Therefore, this notice will discuss both exemptions with emphasis on those differences. These exemptions were granted in accordance with, and are subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the applications on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460.

According to both Washington State and Oregon, Pear Psylla (*Psylla pyricola*) is one of the most serious and difficult to control pests on pears in the Northwest. This aphid-like insect overwinters as an adult under the bark of pear trees and emerges in the spring to deposit eggs on the bark and the buds of the host tree. Eggs hatch in two weeks to one month, producing nymphs which suck the sap from buds, blossoms, leaves, shoots, and fruit. Nymphs reach maturity in about one month. Three to five generations will infect the orchard during a typical season. Uncontrolled populations of the Pear Psylla cause fruit russet which lowers the quality of both processed and fresh market fruit. This insect has also been implicated as a contributing factor to pear decline, a condition which takes pear trees out of production over a short period of time and causes the trees to suddenly wilt and die under periods of low moisture (inadequate rainfall, summer drought, etc.). Healthy trees would normally not be affected by a temporary lack of available soil moisture, but trees which have pear decline would be adversely affected by even a temporary denial of adequate soil moisture.

In Washington State, the areas treated will be limited to the commercial pear growing orchards east of the crest of the Cascade Mountains. In Oregon, all commercial pear growing areas will be treated; this involves the Willamette Valley, Hood River Valley, and Rogue River Valley.

At the present time, there are ten (10) available insecticides registered for use in the Northwest for the control of Pear Psylla. Four (4) of these are organophosphates and when used by themselves or in combination with other insecticides are providing little economic control of this pest. There appear to be only two pesticides which provide some control during the growing season—Endosulfan and Dithane M-45. Endosulfan is effective against the early nymphal stages; however, due to the overlays of generations of this pest, economic control of the pest is not achieved by this insecticide during the summer. Dithane M-45, an ethylene bisdithiocarbamate, is also only effective against early nymphs. Therefore, the main problem is the present unavailability of an effective insecticide that will control the Pear Psylla during the summer growing season. Chlordimeform, recently withdrawn from the market by its producers, has been effective for control of this pest during the summer season; however, while Chlordimeform is still registered for this use, it will not be available to pear growers this year.

Washington State and Oregon will use BAAM, which will be imported and distributed by the Upjohn Co. This pesticide was used experimentally in 1976 for the control of Pear Psylla in Washington

[1] Contains 19.8 percent N'-(2,4-dimethetylphenyl) -N- [[(2,4-dimenthylphenyl) imino] methyl]-N-methylmethanimidamide, which has the common name Amitraz.



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State under EPA experimental use permit No. 1023-EUP-346, and proved to be very effective against the pest. The proposed control programs were as follows:

1. In Washington State, BAAM would be applied by airblast sprayers at a dosage rate of 1.25 to 2 pounds active ingredient per acre per application using either an emulsifiable concentrate (EC) or wettable powder (WP) formulation. One to three applications would be made beginning at petal fall and up to one day of harvest, if possible. It was estimated that up to 100,000 pounds active ingredient might be needed.

2. In Oregon, the same schedule and method of treatment was proposed, but a maximum dosage rate of 1.5 pounds active ingredient per acre was requested. It was estimated that up to 105,750 pounds active ingredient might be needed.

3. Applications would be made by commercial applicators and qualified growers as determined by the States. Information concerning this program would be provided by the Upjohn Company and the Washington State and Oregon University Extension Services.

EPA has evaluated the losses expected to occur as a result of not having a suitable pesticide (specifically BAAM) available to pear growers in both States this year; a loss in crop value of up to $13,225,000 could occur. This economic loss predicted for 1977 was based on two considerations: (1) there would be an increased cost of $4,406,000 if "second-choice" pesticides were used instead of BAAM and (2) the value of the pear crop would be reduced by $8,819,000 (due to downgrading and culling) if second-choice pesticides were used instead of BAAM. These figures represent an overall review of the economic impact to pear growers as a whole in both States. To the individual grower, total pesticidal and application costs could run as high as $1,780, based on an average orchard consisting of 20 acres, if pesticides other than BAAM were used. This additional cost could pose an economic hardship to the individual grower, particularly when the reduced benefits of using second-choice pesticides are considered. Because of the mild winter condition in the Northwest this year, it is expected that heavy populations of Pear Psylla will be present in Washington State and Oregon, which rank number 2 and number 3, respectively, in the nation in pear production. In addition, the economic impact estimated above does not consider the economic loss attendant to the potential longterm production declines resulting from damage to the trees.

In terms of possible adverse effects on man and the environment, the issue of risk concerns the potential oncogenic hazard of BAAM to man. As previously indicated, Chlordimeform was voluntarily withdrawn from the market by its manufacturers; this was because of a toxicological study that demonstrated that Chlorimeform may have induced the formation of tumors in mice. BAAM is closely related to Chlordimeform.

The EPA is currently investigating BAAM as a potential oncogen (see FEDERAL REGISTER of April 6, 1977, p. 18299). The Carcinogen Assessment Group (CAG) of EPA has made a preliminary evaluation of the cancer risk to humans from the one pear proposed use of BAAM on pears. CAG indicated that the "evidence of carcinogenicity cannot be dismissed as negligible although it is weak." The CAG also indicated that if BAAM is assumed to be a human carcinogen, a crude estimation of the magnitude of the cancer risk to the entire U.S. population of 220 million people based on the estimated exposures to BAAM by eating contaminated pears could range from essentially zero for the log probit extrapolation model to about 20 extra cancer cases for the linear extrapolation model. This constitutes an excess risk of cancer for the average individual of less than 1 in 10 million.

No permanent tolerance has been established for the use of BAAM on pears in this pattern. However, EPA has determined that BAAM residues on pears at harvest are not likely to exceed 3 parts per million (ppm). Residue data from the experimental use permit last year indicated that the highest residue obtained was about 2.3 ppm.

After reviewing the applications and other available information, EPA has determined that (a) pest outbreaks of Pear Psylla have occurred; (b) there is no pesticide presently registered and available for use to effectively control the Pear Psylla in Washington State and Oregon; (c) significant economic problems may result if the pest is not controlled; and (d) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this us. The Administrator has weighed the risks and benefits of this use of BAAM on pears in relation to both economics and the hazard to man. As a result of the pesticide not being available until July 1, 1977, sound pest management techniques will have to be conducted by Washington State and Oregon to reduce early summer damage by Pear Psylla. This will include the judicious use of existing pesticides registered for this insect. Accordingly, Washington State and Oregon have been granted specific exemptions to use the pesticide noted above until October 30, 1977, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. The Upjohn product BAAM which contains 1.5 pounds Amitraz per gallon will be used;

2. The dosage rate will be three (3) to four (4) quarts of product (1 to 1.5 pounds active ingredient) per acre;

3. Applications are to be made by ground application only (airblast sprayers or handguns);

4. Only State-certified commercial or private applicators may apply this pesticide:

5. The use of BAAM is authorized only when an emergency condition is found to exist. The criteria to be used in making this determination are as follows: (1) the judicious use of currently registered pesticides for Pear Psylla are not providing adequate control of this pest and (2) in a particular orchard, a majority of the trees sampled have ten (10) percent or more of the shoots in the scaffolding infested with nymphs of the Pear Psylla. For each orchard a minimum of ten (10) trees must be sampled;

6. Only State-licensed pest control consultants are authorized to determine when an emergency condition exists (using the criteria in paragraph 5). Determinations will be made on an orchard by orchard basis. Upon a determination that an emergency condition is present, the consultant will sign a State-approved form which authorizes the grower to purchase BAAM. This form will include the name of the grower, number of acres to be treated, amount of BAAM authorized to be purchased, and the dosage rate to be applied (this dosage rate will be 1 to 1.5 pounds active ingredients per acre);

7. In Oregon, up to 23,500 acres of pears may be treated. In Washington State, up to 26,000 acres of pears may be treated. Two (2) applications are authorized. However, if in the judgment of the State, an extreme circumstance is present which warrants an additional application, this may be made. If a third application is made, the State shall inform EPA of this, along with a brief description of the circumstances thereof;

8. Pesticide dealers will not be allowed to sell BAAM to any grower or applicator unless the signed authorization form is presented;

9. Pesticide distributors will be responsible for keeping accurate records of the amount of BAAM received from Upjohn and the amounts which are sold to dealers. Dealers will also maintain accurate records of the amounts of BAAM received and sold;

10. Agricultural workers will not reenter any orchard sprayed with BAAM until the foliage is completely dry;

11. Applicators must wear protective clothing and masks;

12. There will be a preharvest interval of not less than 7 days;

13. Pears with a residue level of Amitraz not exceeding 3 ppm may enter interstate commerce. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action;

14. As agreed to in a meeting in Seattle on April 5, 1977, the Oregon and Washington State Departments of Agriculture and the UpJohn Co. will participate in residue studies to determine the residue level of BAAM in pears at harvest, during storage, and in the processed fruit. Reports will be submitted to EPA upon completion of these studies;

15. Final reports on each exemption will be submitted to EPA which outline the acreage that was treated, the total amounts of BAAM applied, the results of the programs, and any adverse effects (such as phytotoxicity) by the end of 1977;

16. All label precautions will be followed;





17. All unused, unopened containers of BAAM will be returned to the manufacturer at the end of the growing season;

18. These exemptions apply only to the preharvest application of BAAM; and

19. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with these exemptions.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat 751; 7 U.S.C. 136(a) et seq.).)

Dated: July 14, 1977.

EDWIN L. JOHNSON,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.77-21015 Filed 7-20-77;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

[Report No. I-368; C-86630]

### COMMON CARRIER SERVICES INFORMATION

#### International and Satellite Radio Applications Accepted for Filing

JULY 18, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules, Regulations and its Policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION.
VINCENT J. MULLINS,
*Secretary.*

SATELLITE COMMUNICATIONS SERVICES

Report No. I-362, dated 6-27-77, file No. 501-DSE-P/L-77 application for United States Cablevision Corp., Douglas County, Georgia is to be removed from that notice on that date. But error of Commission staff the application was accepted.

Report No. I-367, dated 7-11-77, file No. SSA-13-77 application for Western Union Telegraph Company is to be removed from the notice on that date. By error of Commission staff the application was accepted.

Report No. I-362, dated 6-27-77: 493-DSE-P/L-77 Rentavision of Brunswick, Inc., Brunswick, Georgia. Amended to request permission to receive signals from the Home Box Office and the Christian Broadcasting Network and WTCG-TV, Ch. 17, Atlanta, Georgia.

Report dated 10-06-75, file No. 63-DSE-P/L-76, RCA Alaska Communications, Inc: Point Hope, Alaska is amended to change co-ordinates to: Lat. 63°20'51", Long. 166°44'16", and to make other technical changes.

Report dated 10-14-75, file No. 69-DSE-P-76 RCA Alaska Communications, Inc. Point Lay, Alaska is amended to change co-ordinates to: Lat. 69°44'30", Long. 163°00'33", and to make other technical changes.

534-DSE-MP-L-77 Television Transmission Co. (WD50), Peru, Illinois. Modification of Construction permit to permit the use of a 4.5 meter antenna instead of the 10 meter one originally applied for.

535-DSE-P/L-77 Clearview Cable TV., Valdosta, Georgia. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 30°51'39", Long. 83°-19'03". Rec. freq: 3700-4200 GHz. Emission 36000F9. With a 5 meter antenna.

536-DSE-P-77 Satellite Business Systems, Research Triangle Park, N.C. For authority to construct a transmit/receive satellite earth station at this location for operation with the SBS Phase II Pre-Operational Program. Lat. 35°54'42", Long. 78°51'20". Rec. freq: 3700-4200 MHz. Trans freq: 5925-6425 MHz. Emission 36000F9. With a 13 meter antenna.

537-DSE-P/L-77 Alert Cable TV of South Carolina, Georgetown, S.C. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 33°25'-58", Long. 79°16'16". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

538-DSE-MP/L-77 Western Tele-Communications, Inc. (KD45), Issaquah, Washington. Modification of construction permit/license to convert the facility applied for, file No. 437-DSE-P/L-76; to a transmit/receive facility.

[FR Doc.77-20945 Filed 7-20-77;8:45 am]

## FEDERAL ELECTION COMMISSION

[Notice 1977-39, AOR 1977-32]

### ADVISORY OPINION REQUESTS

Pursuant to 2 U.S.C. § 437f(c) and the procedures reflected in Part 112 of the Commission's regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Request 1977-32 has been made public at the Commission. Copies of AOR 1977-32 were made available on July 13, 1977. These copies of the advisory opinion request were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street NW., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request written ten days after the date the request was made public at the Commission. These comments should be directed to the Office of the General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A description of the request recently made public as well as the identification of the requesting party follows hereafter:

AOR 1977-32: May a trade association political action committee solicit the executive and administrative personnel of its municipal corporate members without having first obtained specific approval from the member municipal corporations under 2 U.S.C. § 441b (b)(4)(D)?

Requested by John J. Flynn of APTA-PAC, the political action committee of the American Public Transit Association, Washington, D.C.

Dated: July 14, 1977.

THOMAS E. HARRIS,
*Chairman for the Federal Election Commission.*

[FR Doc.77-20908 Filed 7-20-77;8:45 am]

[Notice 1977-40]

## CLEARINGHOUSE ON ELECTION ADMINISTRATION, CLEARINGHOUSE ADVISORY COMMITTEE

### Meeting

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I) and Office of Management and Budget Circular A-63, as revised, the Federal Election Commission announces the following Advisory Panel meeting:

Name: Federal Election Commission Clearinghouse Advisory Panel.

Date: July 25-26, 1977.

Place: Senate Room, Capitol-Hilton, 16th and K Streets NW., Washington, D.C.

Time: 0900-1200; 1400-1630 on July 25 1977; 0900-1200; 1400-1630 on July 26, 1977

Proposed Agenda: Discussion sessions addressing research priorities, topics and projects in election administration including Planning and management; registration; balloting; tabulation and records.

Purpose of the meeting: The Panel will review past Clearinghouse research efforts discuss present problems in the administration of federal elections, and formulate recommendations to the Federal Election Commission Clearinghouse for its future research program.

to the public depending on available space. Any member of the public may file a written statement with the Panel before, during, or after the meeting. To the extent that time permits, the Panel Chairman may allow public presentation or oral statements at the meeting.

All communications regarding this Advisory Panel should be addressed to Dr. Gary Greenhalgh, Clearinghouse on Election Administration, Federal Election Commission, 1325 K Street NW., Washington, D.C. 20463.

Dated: July 15, 1977.

JOAN D. AIKENS,
*Vice Chairman Federal Election Commission.*

[FR Doc.77-20907 Filed 7-20-77;8:45 am]

## FEDERAL MARITIME COMMISSION

### AMERICAN WEST AFRICAN FREIGHT CONFERENCE

#### Agreement Filed

Notice is hereby given that the following agreements, accompanied by a statement of justification, have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

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Interested parties may inspect and obtain a copy of the agreements and the statement of justification at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements and the statement of justification at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 10, 1977. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement filed by: John R. Cunningham, Chairman, American West African Freight Conference, 67 Broad Street, New York, New York 10004.

Agreement No. 7680–36, entered into by the member lines of the American West African Freight Conference, modifies the approved agreement by adding new subparagraphs (b) and (c) to Article 1, to permit the conference to engage in intermodal service from interior United States and Canadian points to West African ports, whereby the conference may enter into arrangements with other modes of transportation for the establishment of through routes, rates or charges applicable thereto. Any member line may publish its own intermodal tariff in the conference trade until such time as the conference files an intermodal tariff covering the same commodities and through routes as published by the member line. In such event and upon receipt of such notice, the member line shall cancel its tariff, effective upon the filing of the conference's tariff. Paragraphs (b) and (c) of Article 1 as the agreement now reads are renumbered as paragraphs (d) and (e), respectively.

By Order of the Federal Maritime Commission.

Dated: July 18, 1977.

JOSEPH C. POLKING,
*Acting Secretary.*

[FR Doc.77—20989 Filed 7–20–77;8:45 am]

## SOUTH CAROLINA STATE PORTS AUTHORITY AND THE ITALIAN LINE

### Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 10, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:
Marion S. Moore, Jr., Traffic Manager, South Carolina State Ports Authority, P.O. Box 817, Charleston, S.C. 29402.

Agreement No. T–3484, between South Carolina Ports Authority (Authority) and The Italian Line (Line) provides for the five-year lease with renewal options to Line of approximately six acres of land. Line shall be given the opportunity to lease an additional area of 2.6 acres with certain limitations, as provided for in the agreement. In addition, Line is granted preferential use of a berth for one designated day each week (parties have agreed to Saturday). As compensation, Line will pay Authority a fixed monthly rental of $3,847.50 for each of the first four months of the agreement and $4,470 for each of the remaining months during the agreement. For the option to decide whether or not to lease the additional 2.6 acres, Line shall pay $390 each month. In the event this area is leased by Authority to Line, the monthly rental shall increase by $1,950. The leased premises will be used by Line for its maritime operations in Charleston Harbor, including containership, ro-ro and lo-lo operations. A minimum annual tonnage of 150,000 short tons of cargo is guaranteed. Authority will receive payment for all services provided in accordance with its published tariff, with the stipulation that Line will be entitled to certain discounts on wharfage as detailed in the agreement.

Dated: July 18, 1977.

By order of the Federal Maritime Commission.

JOSEPH C. POLKING,
*Acting Secretary.*

[FR Doc.77–20988 Filed 7–20–77;8:45 am]

## FEDERAL TRADE COMMISSION

### RULES, REGULATIONS, STATEMENTS, AND INTERPRETATIONS UNDER THE MAGNUSON-MOSS WARRANTY ACT

### Advisory Opinion

AGENCY: Federal Trade Commission.

ACTION: Advisory Opinion to Keller, Thoma, Toppin & Schwarze, P.C., Detroit, Mich.

SUMMARY: By letter dated September 13, 1976, Keller, Thoma, Toppin & Schwarze, P. C. of Detroit, Mich., requested an advisory opinion concerning Sections 101(1) and 110(f) of the Magnuson-Moss Warranty Act (the Act) 15 U.S.C. 2301 et seq. Specifically, Keller, et al. asked whether modular housing is a "consumer product" within the meaning of Section 101(1) so that warranties on such housing would be covered by the Act. Keller, et al. also asked whether a manufacturer of mobile homes is a warrantor for purposes of Section 110(f) of such items of equipment as air-conditioners, furnaces, and water heaters if the mobile home manufacturer simply passes on a written warranty given by the manufacturer of the equipment and indicates to buyers that such equipment is covered by a manufacturer's warranty.

The Commission has determined that modular housing, as defined in the letter below, is not a "consumer product" for purposes of the Act. The Commission has also affirmed that a mobile home manufacturer is not a warrantor under Section 110(f) of the Act if he or she simply passes on warranties offered by the manufacturers of equipment installed in a mobile home.

DATES: Effective immediately.

FOR FURTHER INFORMATION CONTACT.

Stephen Leach, Attorney, 202–724–1145, Division of Special Statutes, Bureau of Consumer Protection, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: The text of the Commission's opinion is as follows:





This is in reply to your request of September 13, 1976, for an advisory opinion concerning Sections 101(1) and 110(f) of the Magnuson-Moss Warranty Act, 15 U.S.C. 2301 et seq., as they apply to factory-built housing. Your request takes the form of three questions, but because the first one is compound in nature, the Commission has dealt with it as two separate inquiries. Therefore, the questions involved in your request are as follows:

(1) Is a modular house, excluding such items of equipment as air-conditioners, furnaces, and water heaters, a "consumer product" within the meaning of Section 101 (1) of the Magnuson-Moss Warranty Act?

(2) Does the classification of a modular house under Section 101(1) of the Magnuson-Moss Warranty Act in any way turn upon whether it is delivered to a real property foundation as a completed structure or in component parts?

(3) Does the classification of a modular house under Section 101(1) of the Magnuson-Moss Warranty Act in any way turn upon whether it is sold first to a builder or instead is sold directly to an ultimate consumer.

(4) Is the manufacturer of a mobile home a "warrantor" for purposes of Section 110(f) of the Magnuson-Moss Warranty Act of such items of equipment as air-conditioners, furnaces, and water heaters if the mobile home manufacturer simply "passes on" the written warranty given by the manufacturer of the equipment and indicates to buyers that such equipment is covered by a manufacturer's warranty?

The Commission has carefully considered the matters set forth in your letter. It is the Commission's conclusion that:

(1) A modular house which meets one of the sets of uniform home construction codes set forth in the appendix to this letter or a construction standard established by a state for modular homes, as distinct from mobile homes as they are defined by the state, is real property and should, therefore, be excluded from the Section 101(1) definition of "consumer product." The sets of uniform codes are widely used in the construction of conventional, "stick-built" homes, which are real property. These codes are usually the basis for any distinct state modular housing codes. Thus, a factory built house which satisfies one of these sets of codes or a separate state modular code is essentially of the nature of real property and should, therefore, be excluded from coverage of the Act. On the other hand, a factory built dwelling that fails to satisfy one of the specified sets of codes or a separate state modular code must comply with the requirements of the Act.

(2) Whether a modular house is delivered to a foundation site as a completed structure or in component parts is irrelevant to the determination that it is or is not a consumer product under Section 101(1) of the Magnuson-Moss Warranty Act. The essential question is the nature of the finished product, not the location of its final assembly. If a manufactured dwelling satisfies one of the sets of uniform codes in the appendix or a state modular code, it is real property for purposes of the Act. If it fails to satisfy one of the sets of codes or a state modular code, it falls within the scope of Section 101(1) as a consumer product.

(3) Whether a modular house is sold first to a builder or instead to an ultimate consumer is irrelevant to the determination that it is or is not a consumer product under Section 101(1) of the Magnuson-Moss Warranty Act. The fundamental question is again the nature of the dwelling sold, not the identity of the initial purchaser. If a structure is personal property, normally used for personal, family, or household purposes, it is a consumer product under Section 101(1) regardless of who first purchases it from the manufacturer.

(4) A manufacturer of mobile homes who simply passes on a written warranty given by the manufacturer of equipment installed in a mobile home and indicates to buyers that such equipment is covered by a manufacturer's warranty is not a warrantor under Section 110(f) of the Magnuson-Moss Warranty Act. The Commission answered this question previously in Section 700.4 of the "Proposed Interpretations" of the Act, 41 FR 34654 (August 16, 1976). Section 700.4 applies to all consumer products. This includes all consumer products sold with mobile homes, which are themselves consumer products (See Implementation and Enforcement Policy, Section 2, 40 FR 26721 (June 18, 1975)), and those consumer products sold with modular homes and traditional real property structures.

By direction of the Commission.

CAROL M. THOMAS,
*Secretary.*

APPENDIX

The Commission has concluded that a modular house which satisfies any one of the following home construction standards is real property and should, therefore, be excluded from the Magnuson-Moss Warranty Act definition of "consumer product."

(1) The codes published by Building Officials and Code Administrators (BOCA) and the National Fire Protection Association (NFPA):

(a) BOCA Basic Building Code—1975;
(b) BOCA Basic Industrialized Dwelling Code—1975;
(c) BOCA Basic Mechanical Code—1975;
(d) BOCA Basic Plumbing Code—1975;
(e) National Electrical Code—NFPA 70—1975.

(2) The codes published by the Southern Building Code Congress (SBCC) and the NFPA:

(a) Standard Building Code—1976;
(b) Standard Gas Code—1976;
(c) Standard Mechanical Code—1976;
(d) Standard Plumbing Code—1975, with 1976 revisions;
(e) National Electrical Code—NFPA 70—1975.

(3) The codes published by the International Conference of Building Officials (ICBO), the International Association of Plumbing and Mechanical Officials (IAMPO), and the NFPA:

(a) Uniform Building Code—1973; (b) Uniform Mechanical Code—1975; (c) National Electrical Code—NFPA 70—1975; (d) Uniform Plumbing Code—1973 (IAMPO).

(4) The codes jointly published by BOCA, SBCC, ICBO, the American Insurance Association, and the NFPA:

(a) One and Two-Family Dwelling Code—1975; (b) National Electrical Code—70—1975.

(5) The codes published by the American Insurance Association, (NFPA), (BOCA), (SBCC), (ICBO), (IAPMO), and the National Association of Plumbing-Heating-Cooling Contractors (NAPHCC):

(a) The National Building Code—1976; (b) National Electrical Code—NFPA—70—1975; (c) BOCA Basic Plumbing Code—1975 or Standard Plumbing Code with 1976 revision or Uniform Plumbing Code (IAPMO)—1973 or National Standard Plumbing Code (NAPHCC)—1973.

(6) The standards published in a Federal Housing Administration (FHA) Structural Engineering Bulletin and FHA Minimum Property Standards and the structure meets all eligibility requirements for long-term financing under Section 203(b) of the National Housing Act, 12 U.S.C. 1701 et seq.

(7) A home construction code established by a state for modular homes, as distinct from mobile homes, as each type of housing is defined by the State.

[FR Doc.77–20900 Filed 7–20–77;8:45 am]

## FEDERAL TRADE COMMISSION

### CIGARETTE ADVERTISING AND OTHER PROMOTIONAL PRACTICES

### Hearing and Invitation for Comments

AGENCY: Federal Trade Commission.

ACTION: Notice of informal hearings.

SUMMARY: As part of its investigation of cigarette advertising and other promotional practices, the staff of the Federal Trade Commission will hold informal, informational hearings to allow interested persons to comment on "Consumer Beliefs and Behavior With Respect to Cigarette Smoking: A Critical Analysis of the Public Literature" by Martin Fishbein, Ph. D. (May 1977). Oral and written comments are invited on Dr Fishbein's report and its ramifications.

DATES: The hearings will be held on October 11, 1977; requests to testify and all written comments must be submitted by September 21, 1977.

ADDRESSES: The hearings will be held in Room 532 of the Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580. All submissions and inquiries should be addressed to Mark D. Gordon, Attorney, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580 (202–724–1560).

SUPPLEMENTARY INFORMATION: The time for oral presentations will be limited to ten (10) minutes for each witness, unless a specific exception is made by the staff members of the Commission administering the hearing. Accordingly, witnesses are invited to submit detailed written comments for the record, and to highlight or summarize the contents of their written comments in their oral presentations.

Witnesses may be asked questions by members of the Commission staff. All responses, of course, are voluntary.

Written comments may be submitted for the record by those who do not wish to appear at the hearings. In order for the staff to be apprised of the substance of the testimony to be presented and to schedule that testimony, witnesses must submit their requests to testify and their written comments by the dates indicated above. Requests for more than ten (10) minutes should be made at this time. Written comments by those who do not wish to testify must also be submitted by the dates indicated above.

Written submissions will be placed on the public record and made available to the public in Room 130 of the Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.



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A copy of Dr. Fishbein's report can be obtained from Mark D. Gordon, Attorney, at the above-listed address.

CAROL M. THOMAS,
*Secretary.*

[FR Doc.77-21050 Filed 7-20-77;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### PRIVACY ACT OF 1974

### Systems of Records and Notice of Proposed Routine Uses Therefor

Pursuant to the Privacy Act of 1974 (Pub. L. 93-579) as prescribed in 5 U.S.C. 552a(e)(4), the following notices of systems of records that the Department of Health, Education, and Welfare plans to establish are published as set forth below. ew system reports were filed for these new systems with the Director, Office of Management and Budget, the Speaker of the House, the President of the Senate, and the Chairman of the Privacy Protection Study Commission on July 18, 1977. The new systems are as follows: SSA—PP—RSR 477.00, entitled "The 1978 Survey of Disabled and Non-Disabled (Statistics)", and 09-35-0043, entitled "Curricula vitae of Consultants to the National Center for Health Statistics (NCHS) DHEW/HRA/NCHS".

Consideration in accordance with the requirements of 5 U.S.C. 552a(e)(11) will be given to comments which are submitted in writing on or before August 22, 1977. Comments should be addressed to the Director, Fair Information Practice Staff, Department of Health, Education, and Welfare, 200 Independence Avenue SW., Washington, D.C. 20201. Comments received will be available for inspection in Room 526-E, South Portal Building, at the above address. The routine uses for the new systems will be adopted as of the closing date of the comment period unless comment resulting in a contrary determination is received and a revised notice published.

Dated: July 18, 1977.

JOHN D. YOUNG,
*Assistant Secretary for Management and Budget.*

**SSA PP RSR 0477.00**

**System name:**

The 1978 Survey of the Disabled and Nondisabled (Statistics).

**Security class (if none, so state):**

None.

**System location:**

Bureau of the Census, Suitland, Maryland 20233. Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235.

**Categories of Individuals covered by the system:**

Sample of noninstitutionalized adults categorized as nondisabled, disabled nonbeneficiaries or disabled persons receiving disability benefits from the Social Security Administration.

**Categories of records in the system:**

Demographic characteristics, health impairment and activity limitations, employment history, benefit status, income and assets, work attitudes.

**Authority for maintenance of the system:**

Section 702 of the Social Security Act.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:**

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**A. Storage:**

During field survey and editing phases, hard copy questionnaires will be kept in secure storage areas. Completed data tapes will be maintained in secure storage areas at Bureau of the Census and in the Office of Data Development, SSA.

**B. Retrievability:**

File is indexed by Census—assigned case number and cross-referenced by social security number.

**C. Safeguards (access controls):**

After data are processed by Census Bureau and transferred to the Social Security Administration all magnetic tapes are retained in secure storage areas accessible only to authorized persons within the Office of Data Development. All employees having access to records have been notified of criminal sanctions for unauthorized disclosure of information on individuals. Any magnetic tapes prepared for research purposes for persons outside of the Division of Disability Studies will be stripped of all identifying names and numbers.

For computerized records, safeguards established in accordance with Department Standards and National Bureau of Standards guidelines will be used, limiting access to authorized personnel.

**D. Retention and disposal:**

Hard copy questionnaires will be destroyed when survey reports are completed. Magnetic tapes with identifiers will be retained in secure storage areas as long as needed for SSA program analysis. Need for retaining data will be evaluated two years after survey is completed.

**System manager(s) and address (including zip code):**

Assistant Commissioner for Research and Statistics, Social Security Administration, Room 1121, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. 20009.

**Notification procedure:**

An individual who requests notification of or access to his data record should write to the systems manager and provide his social security number (on a voluntary basis), and for verification purposes, name (woman's maiden name, if applicable), address, date of birth, and sex.

**Record access procedures:**

Same as notification procedures. Requestors should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2) FEDERAL REGISTER), October 8, 1975, page 47410).

**Contesting record procedures:**

Contact the systems manager at the address specified and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) FEDERAL REGISTER, October 8, 1975, page 47411).

**Record source categories:**

Master Beneficiary Record, Summary Earnings Record, Survey—data collected by Census Bureau for the Social Security Administration.

**Systems exempted from certain provisions of the Act (if none, so state):**

None.

**09-35-0043**

**System name:**

Curricula Vitae of Consultants to the National Center for Health Statistics (NCHS DHEW/HRA/NCHS).

**Security class (if none, so state):**

None.

**System location:**

1. Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.
2. In offices of contractors employed to develop and maintain curricula vitae on consultants to NCHS. Contractor location will be available upon request directed to the System Manager.

**Categories of individuals covered by the system:**

Persons who are current or potential consultants to NCHS. These are persons with special expertise who may be able to assist NCHS on a consultant basis in the planning and conducting of surveys, studies, statistical reporting programs, statistical analyses of data, or in providing training and technical assistance, or assisting in conducting conferences.

**Categories of records in the system:**

Information relating to the professional training and experience of the consultant. This includes address, current position, employer, duties, place, time, and length of education, degrees received, honors received, former positions and work experiences, memberships in professional organizations, special committee and task force assignments, offices held, publications, references, health condition, availability for, and interest in travel and accepting certain assignments, compensation required, etc.





**Authority for maintenance of the system:**

Public Health Service Act, Section 304(b) (42 U.S.C. 242b).

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:**

The following routine uses from Appendix B of the Department Regulations (45 CFR Part 5b) published in the FEDERAL REGISTER, October 8, 1975, page 47415, are applicable to this system of records:

(1) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(2) Where federal agencies having the power to subpoena other federal agencies records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available.

(3) The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

(100) To the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

(101) To individuals and organizations, deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research.

(102) To organizations deemed qualified by the Secretary to carry out quality assessment, medical audits or utilization review.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:**

The information is contained on paper records although computer-readable tape may be employed in the future.

**Retrievability:**

Information is retrieved by name, address, specialty, and by other characteristics. The data is used by staff of NCHS or its contractors for selecting consultants to assist in projects or conducted or sponsored by NCHS.

**Safeguards (access controls):**

Records are kept in locked metal cabinets or in a locked room when not in use. Records will be used only by staff authorized to use them for the purpose for which they were obtained.

For computerized records, safeguards established in accordance with Department standards and National Bureau of Standards guidelines (e.g. security codes) will be used, limiting access to authorized personnel.

**Retention and disposal:**

Records are maintained indefinitely. Records may be removed and destroyed upon the consultant's death, disability for consultant work, or request that his/her records be removed from the file.

**System manager(s) and address (include zip code):**

Director, National Center for Health Statistics, Health Resources Administration, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

**Notification procedure:**

Director, National Center for Health Statistics, Health Resources Administration, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

Information needed consists of name of individual. This notification procedure is in accordance with the Department Regulations, as published in the FEDERAL REGISTER of October 8, 1975, page 4710 (45 CFR, Part 5b.5).

**Record access procedures:**

Same as notification procedures. Requestors should also reasonably specify the record contents being sought. (These access procedures are in accordance with the Department Regulations (45 CFR, Part 5b.5(a)(2)) FEDERAL REGISTER, October 8, 1975, page 47410).

**Contesting record procedures:**

Write to the Official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Part 5b.7) FEDERAL REGISTER, October 8, 1975, page 47411).

**Record source categories:**

Records are obtained from the consultants themselves, except that references may be obtained from present and former employers or supervisors of the consultants, or from individuals given as references by the consultants.

**Systems exempted from certain provisions of the act (if none, so state):**

None.

[FR Doc.77-21000 Filed 7-18-77;4:07 pm]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Federal Disaster Assistance Administration

[Docket No. NFD-509 FDAA-3038-EM]

### ARIZONA

### Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Arizona (FDAA-3038-EM), dated April 15, 1977.

DATED: June 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: The Notice of emergency for the State of Arizona dated April 15, 1977, and amended on April 20, 1977, and June 6, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of April 15, 1977:

The Counties of:

| | |
|---|---|
| Apache | Mohave |
| Cochise | Navajo |
| Coconino | Yavapai |

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Asistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
*Administrator, Federal Disaster Assistance Administration.*

[FR Doc.77-20942 Filed 7-20-77;8:45 am]



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### CALIFORNIA

[Docket No. NFD-505; FDAA-3023-EM]

**Amendment to Notice of Emergency Declaration**

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of California (FDAA-3023-EM), dated January 20, 1977.

DATED: June 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: The Notice of emergency for the State of California dated January 20, 1977, and amended on February 2, 1977, February 15, 1977, March 10, 1977, April 20, 1977, and June 6, 1977, is hereby further amended to include the following county among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of January 20, 1977:

The County of Siskiyou.

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected area effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

THOMAS P. DUNNE,
*Administrator, Federal Disaster Assistance Administration.*

[FR Doc.77-20938 Filed 7-20-77;8:45 am]

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[Docket No. NFD-507 FDAA-3041-EM]

### NEVADA

**Amendment to Notice of Emergency Declaration**

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Nevada (FDAA-3041-EM), dated June 11, 1977.

DATED: JUNE 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: The Notice of emergency for the State of Nevada dated June 11, 1977, is hereby amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of June 11, 1977:

The Counties of

| | |
|---|---|
| Eureka | Lander |

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
*Administrator, Federal Disaster Assistance Administration.*

[FR Doc.77-20940 Filed 7-20-77;8:45 am]

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[Docket Nos. NFD-508; FDAA-3015-EM]

### SOUTH DAKOTA

**Amendment to Notice of Emergency Declaration**

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of South Dakota (FDAA-3015-EM), dated June 17, 1976.

DATED: June 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: The Notice of emergency for the State of South Dakota dated June 17, 1976, and amended on July 8, 1976, October 18, 1976, January 27, 1977, February 15, 1977, and June 14, 1977, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of June 17, 1976:

The Counties of:

| | |
|---|---|
| Meade | Perkins |

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective June 17, 1977.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
*Administrator, Federal Disaster Assistance Administration.*

[FR Doc.77-20941 Filed 7-20-77;8:45 am]

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[Docket No. NFD 506; FDAA 3014 EM]

### WISCONSIN

**Amendment to Notice of Emergency Declaration**

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Wisconsin (FDAA-3014-EM), dated June 17, 1976.

DATED: June 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: The Notice of emergency for the State of Wisconsin dated June 17, 1976, and amended on July 29, 1976, September 7, 1976, September 30, 1976, December 30, 1976, January 14, 1977, January 28, 1977, and February 11, 1977, is hereby further amended to extend the termination date for the following counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of June 17, 1976:

The Counties of:

| | |
|---|---|
| Door | Oneida |
| Florence | Vilas |
| Forest | |

The purpose of this designation is to continue to provide emergency livestock feed assistance only in the aforementioned affected areas effective June 16, 1977.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
*Administrator, Federal Disaster Assistance Administration.*

[FR Doc.77-20939 Filed 7-20-77;8:45 am]

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## DEPARTMENT OF THE INTERIOR

**Bureau of Land Management**

[M 32670]

### MONTANA

**Filing of Plat of Survey and Order Providing for Opening of Lands**

The plat of survey of an omitted island in the Yellowstone River described below will be officially filed at the Montana State Office effective 10 a.m. on August 29, 1977.

PRINCIPAL MERIDIAN, MONTANA

T. 1 S., R. 10 E.,
Sec. 32: Lot 3.

The area described contains 2.88 acres in Park County.

The plat of survey for the following island in the Yellowstone River was officially filed in this office on January 10, 1975:

PRINCIPAL MERIDIAN, MONTANA

T. 1 S., R. 10 E.,
Sec. 33: Lot 10.

The area described contains 55.50 acres in Park County.

The surveyed islands are situated in the Yellowstone River about four miles northeast of Livingston, Montana. During early spring runoff, these islands are prone to flooding; but they have potential for non-intensive open space recreation purposes. They will be managed for multiple resource use in accordance with the Federal Land Policy and Management Act of 1976 (43 USC 1712) with the nearby public lands.

At 10 a.m. on August 29, 1977, the above described public lands shall be open to the operation of the public land laws, generally, subject to valid existing rights, the provision of existing withdrawals and classifications, and the requirements of applicable laws. These public lands have been and will continue to be open to location and entry under the United States mining laws, and to leasing under the mineral leasing laws.

Inquiries concerning these lands should be addressed to Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

EDNA A. HAVERLAND,
*Chief, Branch of Records and Data Management.*

[FR Doc.77-20909 Filed 7-20-77;8:45 am]

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[M 32698]

### MONTANA

**Filing of Plat of Survey and Order Providing for Opening of Lands**

JULY 13, 1977.

The plat of survey of an island in the Yellowstone River described below will be officially filed at the Montana State Office effective 10 a.m., on August 29, 1977.

PRINCIPAL MERIDIAN, MONTANA

T. 12 N., R. 50 E.,
Sec. 13: Lot 9.

The area described contains 11.39 acres in Prairie County.

The surveyed island is situated in the Yellowstone River about two and one-half miles west of Terry, Montana. During early spring runoff, it is prone to flooding. It has potential for non-intensive open space recreation purposes. It will be managed for multiple resource use in accordance with the Federal Land Policy and Management Act of 1976 (43 USC 1712) with the nearby public lands.

At 10 a.m. on August 29, 1977, the above described land shall be open to the operation of the public land laws, generally, subject to valid existing rights, the provision of existing withdrawals and classifications, and the requirements of applicable laws. These public lands have been and will continue to be open to location and entry under the United States mining laws, and to leasing under the mineral leasing laws.

Inquiries concerning these lands should be addressed to Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

EDNA A. HAVERLAND,
*Chief, Branch of Records and Data Management.*

[FR Doc.77-20910 Filed 7-20-77;8:45 am]

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[CA 1729]

### CALIFORNIA

**Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal**

JULY 11, 1977

The Bureau of Reclamation, U.S. Department of the Interior, filed application Serial No. CA 1729 on March 27, 1974, for a withdrawal in relation to the following described lands:

*Eldorado National Forest*

MOUNT DIABLO MERIDIAN, CALIF

T. 10 N., R. 12 E.,
Sec. 13, SW¼NE¼SE¼SE¼, S½NW¼SE¼SE¼, and W½SE¼SE¼SE¼.

The area described aggregates 22.50 acres.

The applicant desires that the land be reserved for the location of a reservoir and related facilities to be built as a part of the Federally constructed El Dorado Irrigation District distribution system.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on November 14, 1974, page 40178, F.R. Doc. 74-26685.

Pursuant to sec. 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825, on or before August 22, 1977. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 22, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws (30 U.S.C., Ch. 2), to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation.

In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825.

JOAN B. RUSSELL,
*Chief, Lands Section, Branch of Lands and Minerals Operations.*

[FR Doc.77-20947 Filed 7-20-77;8:45 am]

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[CA 3652]

### CALIFORNIA

**Notice of Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal**

JULY 12, 1977.

The National Park Service, U.S. Department of the Interior, filed application Serial No. CA 3652 on April 22, 1976, for a withdrawal of the mineral estate in the following described lands:

*Pinnacles National Monument*

MOUNT DIABLO MERIDIAN, CALIF

T. 17 S., R. 7 E.,
Sec. 13, E½NE¼ and NE¼SE¼.

The area described aggregates 120 acres in San Benito County, Calif.

The applicant desires that the land be reserved for the purpose of protecting the scenic and environmental values of the land until proposed legislation (H.R. 7209) is enacted, authorizing the expansion of the Pinnacles National Monument.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on July 1, 1976, page 27097, FR Doc. 76-19078.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825, on or before August 23, 1977. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 23, 1977.

The mineral estate in the above described lands is temporarily segregated







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from all forms of appropriation under the United States mining laws (30 U.S.C., Ch. 2) and from leasing under the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825.

JOAN B. RUSSELL,
*Chief, Lands Section, Branch of Lands and Minerals Operations.*

[FR Doc.77-20948 Filed 7-20-77;8:45 am]

[Group 658]

## CALIFORNIA

### Filing of Plats of Survey

JULY 15, 1977.

1. The plats of survey described below will be officially filed in the California State Office, Bureau of Land Management, Sacramento, Calif., effective at 10 a.m. on September 2, 1977.

SAN BERNARDINO MERIDIAN

T. 11 N., R. 21 E.,
A dependent resurvey of a portion of the Second Standard Parallel North through Range 21 East and a portion of the subdivisional lines.

T. 10 N., R. 22 E.,
A dependent resurvey of a portion of the former boundary of the Fort Mohave Indian Reservation, portions of the subdivisional lines and a portion of the right bank of the Colorado River with the survey of the corrected north, south, and west boundaries of the Fort Mohave Indian Reservation, the completion survey of sections 22 through 27 and the survey of the subdivision of sections 25 and 26.

The plat of T. 11 N., R. 21 E., in one sheet and the plat of T. 10 N., R. 22 E., in two sheets were accepted on March 2, 1977.

2. If protests against the surveys, as shown on these plats, are received prior to the date of official filing, the filing will be stayed pending consideration of the protests. These plats will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

3. The plats will be placed in the open files of the California State Office, Bureau of Land Management, Federal Office Building, Room E-2841, 2800 Cottage Way, Sacramento, Calif. 95825, and will be available to the public as a matter of information only. Copies of the plats in three sheets may be obtained from that office upon payment of $1 per sheet.

4. A person or party who wishes to protest against the survey must file with the State Director, Bureau of Land Management, Sacramento, Calif., a notice that he wishes to protest prior to the proposed official filing date given above. A statement of reasons for the protest may be filed with the notice of protest to the State Director or with the Director, Bureau of Land Management, Washington, D.C. 20240. The statement of reasons must be filed with the Director within 30 days after the proposed official filing date.

ED HASTEY,
*State Director.*

[FR Doc.77-20949 Filed 7-20-77;8:45 am]

[Colorado C-029008-A, C-029008-B, & C-029008-C]

## WESTERN SLOPE GAS CO.

### Pipeline Application

JULY 14, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Western Slope Gas Company, P.O. Box 840, Denver, Colorado 80201, has applied for a right-of-way to be located in Garfield County, Colorado. The right-of-way will consist of three (3) 4-inch natural gas gathering lines to be connected to applicant's Carbonera Field Gathering System, approximately 3,100 linear feet, across the following public lands:

SIX PRINCIPAL MERIDIAN, COLORADO

T. 7 S., R. 104 W.,
Sec. 23, NW¼SW¼;
Sec. 27, S½NE¼;
Sec. 29, SE¼SE¼;
Sec. 32, E½NE¼;
Sec. 33, W½NW¼.

The facility will enable applicant to meet the increasing demands for adequate supplies of natural gas in the Grand Junction, Colorado market area to meet residential, commercial, and industrial requirements.

The purposes of this notice are: To inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; to allow interested parties to comment on the application, and to allow any persons asserting a claim to the lands or having bona fide objections to the proposed natural gas pipeline right of way to file their objections in this office. Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

THOMAS HARDIN,
*Chief, Branch of Adjudication.*

[FR Doc.77-20950 Filed 7-20-77;8:45 am]

## NEW MEXICO

### Notice of Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 12, 1977.

The Bureau of Reclamation, U.S. Department of the Interior, filed application NM 27417 on January 5, 1976 for a withdrawal in relation to the following described land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 26 E.,
Sec. 16, SW¼NW¼.

The area described aggregates 40 acres in Eddy County, New Mexico.

The applicant desires the land for use in connection with the Brantley Dam and Reservoir Project.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on February 5, 1976, Volume 41, page 5325; FR Doc. 76-3442.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, (90 Stat. 2754), notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, Department of the Interior, P.O. Box 1449, Santa Fe, New Mexico 87501, on or before August 22, 1977. If a public hearing is scheduled, a notice will be published in the FEDERAL REGISTER giving the time and place of such hearing. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 22, 1977.

The above-described land is temporarily segregated from all forms of appropriation under the public land laws. Current administrative jurisdiction over the segregated land will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should





be addressed to the undersigned, Bureau of Land Management, Department of the Interior, P.O. Box 1449, Santa Fe, New Mexico 87501.

July 12, 1977.

FRED E. PADILLA,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-20951 Filed 7-20-77;8:45 am]

[NM 30704]

## NEW MEXICO

### Application; Correction

JULY 13, 1977.

In FEDERAL REGISTER Doc. 77-17277, appearing on page 30694 in the issue of June 16, 1977, the following correction is hereby made:

The township in the land description is corrected from "T 13 N.," to "T 31 N.,".

FRED E. PADILLA,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-20925 Filed 7-20-77;8:45 am]

[OR 338]

## OREGON

### Order Providing for Opening of Public Land

JULY 15, 1977.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following land has been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 24 S., R. 43 E.,
Sec. 20, S½SW¼ and SW¼SW¼;
Sec. 29, W½E½, E½W½, W½NW¼ and NW¼SW¼.

The area described contains 560 acres in Malheur County.

2. All minerals in the SW¼SE¼ of Sec. 20 and in the SW¼NW¼, NW¼SW¼, E½SW¼, and W½SE¼ of Sec. 29 were and continue to be in United States' ownership and are already open to operation of the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws.

3. The United States did not acquire any mineral rights with the land in the S½SW¼ of Sec. 20 and in the W½NE¼, E½NW¼, and NW¼NW¼ of Sec. 29.

4. The subject land is located approximately 37 miles southwest of the town of Vale. Elevation averages 3,900 feet above sea level, and the topography varies from level to moderately steep. Vegetation consists primarily of sagebrush and native grasses. In the past, the land has been used for livestock grazing purposes, and it will be managed, together with adjoining public lands, for multiple use.

5. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land described in paragraph 1 hereof is hereby open (except as provided in paragraphs 2 and 3 hereof) to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10:00 a.m., August 19, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

6. Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

LELAND D. MORRISON,
*Acting Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-20953 Filed 7-20-77;8:45 am]

[OR 6252]

## OREGON

### Order Providing for Opening of Public Land

JULY 15, 1977.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following land has been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 40 S., R. 35 E.,
Sec. 22, NW¼SE¼.

The area described contains 40 acres in Harney County.

2. The subject land is located in southern Harney County approximately six miles north of the Nevada border. Elevation averages 4,300 feet above sea level, and the topography varies from gently rolling to fairly steep. Vegetation consists primarily of sagebrush and native grasses. In the past, the land had been used for livestock grazing purposes, and it will be managed, together with adjoining public lands, for multiple use.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land described in paragraph 1 hereof is hereby open to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10:00 a.m. August 19, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oreg. 97208.

LELAND D. MORRISON,
*Acting Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-20954 Filed 7-20-77;8:45 am]

[Roseburg 022911]

## OREGON

### Order Providing for Opening of Public Land

JULY 15, 1977.

1. In an exchange of lands made under the provisions of the Act of July 31, 1939, 53 Stat. 1144, the following land has been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 7 S., R. 6 W.,
Sec. 34, SW¼SE¼.

The area described contains 40 acres in Polk County, Oregon.

2. The subject land is administered under the policy of sustained-yield forest management which governs the administration of the revested Oregon and California Railroad lands.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of law applicable to revested Oregon and California Railroad lands, the land described in paragraph 1 hereof is hereby open to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.), and the mineral leasing laws. All valid applications received at or prior to 10 a.m. August 19, 1977, shall be considered as simultaneously field at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oreg. 97208.

LELAND D. MORRISON,
*Acting Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-20955 Filed 7-20-77;8:45 am]

[W-53415—Amendment]

## WYOMING

### Notice of Application

JULY 12, 1977

Notice is hereby given that pursuant to section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185), Glacier Park Company of Billings, Mont., filed an application for an amendment to existing right-of-way Wyoming 53415 to construct a 6-inch pipeline parallel to and 15 feet west of the existing 4-inch pipeline for the purpose of transporting crude oil across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 46 N., R. 63 W.
Sec. 2, SE¼SW¼.

The pipeline will transport crude oil from Butte Pipe Line Station in sec. 2, T. 46 N., R. 63 W., Weston County, Wyo., to the Glacier Park Co. refinery located in sec. 23, T. 46 N., R. 63 W., and carry unfinished crude oil consisting of a blend of naphtha and fuel oil from the Glacier Park Co. refinery to Butte Pipe Line Station.



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The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 2834, Union and Overland Blvd., Casper, Wyo. 82601.

HAROLD G. STINCHCOMB,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-20956 Filed 7-20-77;8:45 am]

[Wyoming 59840]

**WYOMING**

**Notice of Application**

JULY 12, 1977.

Notice is hereby given that pursuant to section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185) Stauffer Chemcal Co. of Green River, Wyo., filed an application for a right-of-way to construct a 12-inch and 8-inch pipeline, and 3-inch, 4-inch, and 6-inch lateral lines across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

*Sweetwater and Lincoln Counties*

T. 20 and 21 N., R. 109 W.
T. 21 N., R. 110 W.
Tps. 21, 22 and 23 N., R. 111 W
Tps. 21, 22 and 23 N., R. 112 W

The lateral lines will convey natural gas from wells located at points in secs. 30 and 31, T. 23 N., R. 111 W., sec. 6, T. 22 N., R. 111 W., secs. 10 and 14, T. 21 N., R. 112 W., and sec. 32, T. 23 N., R. 112 W., to points of connection with the 8-inch pipeline, which joins the 12-inch pipeline, and the 12-inch pipeline. The natural gas will then be conveyed through the 12-inch pipe-line from a point in sec. 11, T. 21 N., R. 112 W., to a point on Stauffer's existing pipeline in sec. 23, T. 20 N., R. 109 W., in Lincoln County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 North, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-20957 Filed 7-20-77;8:45 am]

[Wyoming 59893]

**WYOMING**

**Application**

JULY 15, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Powder River Pipeline Co. of Casper, Wyo., filed an application for a right-of-way to construct a 6⅝ inch pipeline for the purpose of transporting crude oil across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 44 N., R. 77 W.,
Sec. 2, lot 3.
T. 45 N., R. 77 W.,
Sec. 15, SW¼SW¼;
Sec. 22, W½W½;
Sec. 27, W½NW¼;
Sec. 28, SE¼NE¼ and E½SE¼;
Sec. 33, E½NE¼;
Sec. 34, N½SW¼, W½SE¼, and SE¼SE¼;
Sec. 35, SW¼.

The pipeline will transport crude oil from wells in sec. 2, T. 44 N., R. 77 W. and sec. 35, T. 45 N., R. 77 W. to present facilities in sec. 16, T. 45 N. R. 77 W., in Johnson County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Union and Overland Blvd., P.O. Box 2834, Casper, Wyo. 82601.

HAROLD G. STINCHCOMB,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-20958 Filed 7-20-77; 8:45 am]

[Wyoming 59871]

**WYOMING**

**Notice of Application**

JULY 13, 1977.

Notice is hereby given that pursuant to section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185) Cities Service Gas Co. of Oklahoma City, Okla., filed an application for an 8-inch natural gas pipeline and appurtenant facilities across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 19 N., R. 93 W.,
Sec. 2, lot 3, S½NE¼, NE¼SE¼.
T. 20 N., R. 93 W.,
Sec. 28 NE¼NE¼;
Sec. 34, NE¼, NE¼SE¼.

The pipeline will transport natural gas from a point in sec. 1, T. 19 N., R. 93 W., Carbon County, Wyo., to a point of connection with an existing pipeline in sec. 16, T. 20 N., R. 93 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 670, 1300 Third Street, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-20959 Filed 7-20-77;8:45 am]

[Wyoming 59867]

**WYOMING**

**Notice of Application**

JULY 13, 1977.

Notice is hereby given that pursuant to section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185), Northern Gas Co. of Casper, Wyo., filed an application for a right-of-way to construct a 4-inch natural gas gathering pipeline and a 200 ft. x 200 ft. compressor station across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 24 N., R. 88 W.,
Sec. 6.
T. 25 N., R. 88 W.,
Secs. 20, 21, 29, and 32.

The natural gas gathering pipeline, together with the necessary dehydration, compression and metering facilities, will gather, dehydrate, compress, and deliver natural gas from the Sherard Dome Field in Carbon County, Wyo., to an existing compressor station 8-inch transmission line.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 670, 1300 Third Street, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-20960 Filed 7-20-77;8:45 am]

**Office of the Secretary**

**SAN LUIS UNIT TASK FORCE**

**Hearings**

Pub. L. 95-46 provides for the creation of a Task Force to review the management, organization and operation of the San Luis Unit of the Central Valley Project, California, to determine the extent to which they conform to the Reclamation Acts of June 17, 1902 and June 3, 1960. Section 2(a) of Pub. L. 95-46 requires the Task Force to conduct at least three public hearings of which at least two shall be within the State of California. A report of the Task Force is due no later than January 1, 1978.

Notice is hereby given that, in accordance with the requirements of Pub. L. 95-46, the San Luis Unit Task Force will hold public hearings as follows:





Fresno, CA: Fresno City College Theatre, 1101 E. University Street, August 3, 1977, 9 a.m. to 5:30 p.m.
Sacramento, CA: State Resource Building, 1416 9th Street, August 4, 1977, 9 a.m. to 5:30 p.m.

Press arrangements should be made through Pat Taylor in Fresno, telephone 209-442-4600 ex-8702 and through Ms. Addie Grubs in Sacramento, telephone 916-445-3758.

The purpose of the hearings is to gather initial data and information for the Task Force for formulation of preliminary reports and to offer interest groups and the general public the opportunity to make their views known. Additional hearings to review preliminary reports will be announced at a later date. Those wishing to testify are requested to provide information on any of the 10 issues described in Pub. L. 95-46 for study by the Task Force. They are as follows:

(1) A detailed accounting of funds expended for planning or construction of facilities utilized by landowners within the San Luis Unit, and the specific legislative authority for each feature of the project;

(2) An analysis of the compatibility of the present design and plan of the San Luis Unit with the original feasibility report, environmental impact statement, and cost estimates;

(3) An analysis of existing repayment obligations, including rates and types of repayment, the duration of repayments, and the desirability of maintaining present repayment timetables or of modifying them in order to ensure that an equitable burden of repayment falls on all project beneficiaries;

(4) A review of the contractual commitments for water delivery to water districts of the unit, and the developments of new methods for calculating and, on a periodic basis, recalculating all future water services charges;

(5) The fiscal and future environmental impacts of the completion, under current plans, of the San Luis interceptor drain north of Kesterson Reservoir, and recommendations as to the feasibility of implementing alternative uses of waste water such as reclamation for agricultural or industrial reuses;

(6) A procedure to provide greater public awareness of and participation in the design and review of future water delivery contracts by all potentially affected parties by means of public notice and the opportunity for a public hearing;

(7) The adequacy of present levels of authorization for completing the unit and recommendations for funding such completion, such as indexing of authorization or periodic reauthorization;

(8) The record of enforcement of the requirements concerning the disposition of excess lands by persons receiving Federal water or major project benefits, and the residency requirement of the Act of June 17, 1902 (32 Stat. 388), to the extent required by law, and an evaluation of the success of the project in fostering family farms, including the adequacy of present legislation and departmental rules and regulations pertaining to these provisions;

(9) The impact of the commitment of water from the Sacramento-San Joaquin Delta in excess of that obligated in the existing long-term contract, for delivery to the unit under future contracts;

(10) The fiscal and agricultural impacts of extending the project to encompass federally constructed ground water integration operations. It would be appreciated if witnesses would identify the specific issues to which they address their testimony.

An Administrative Law Judge of the Office of Hearings and Appeals, Department of the Interior, will preside at the hearings. Members of the Task Force will sit as a panel. Members of the Task Force are:

NAME AND OFFICE

Chairman, Guy R. Martin, Assistant Secretary—Land & Water Resources, Department of the Interior.
Leo M. Krulitz, Solicitor, Department of the Interior.
Keith Higginson, Commissioner, Bureau of Reclamation, Department of the Interior.
Richard J. Wood, Associate Director, General Accounting Office.
Anthony Kline, Office of the Governor, State of California.
Richard E. Raminger, Director, Department of Food and Agriculture, State of California.
Adolph Moskovitz, Attorney representing Westlands Water District.
Berge Bulbulian, President, National Land for People.
John Garamendi, California State Senator.
Larry Moss, Planning and Conservation League.
Rose Ann Vuich, California State Senator.
Curtis Lynn, Tulane County Agriculture Extension Agent.

Organizations and individuals wishing to make oral statements will be allowed 10 minutes each in representative order to achieve balance and fairness.

At a first organizational meeting on July 8, 1977, the Task Force concluded that to achieve adequate coverage and structure of these fact-finding hearings, special time allotments should be made to primary interest and representative groups. These include: The State of California, the Westlands Water District, National Land for People, Association of California Water Agencies, California Rural Legal Assistance, and panels representing Delta area interests, environmental interests, consumer groups, and Eastside Central Valley Project interests. Those desiring to participate on panels or to testify at either of the hearings should communicate immediately with Marcel Veilleux, Office of the Assistant Secretary, Land and Water Resources, Department of the Interior, Washington, D.C., 20240, Telephone: 202-343-5413 or 343-6606. A coordinator will be designated by the Department to organize panels.

Written statements of any length are encouraged and may be filed with the Task Force at the hearings or sent to the address above.

Dated: July 14, 1977.

GUY R. MARTIN,
*Assistant Secretary, Land and Water Resources.*

[FR Doc.77-20979 Filed 7-20-77;8:45 am]

**Office of Hearings and Appeals**

[Docket No. M 77-217]

**INCOAL COAL CO.**

**Petition for Modification of Application of Mandatory Safety Standard**

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Incoal Coal Company, Langley, Kentucky 41645, has filed a petition to modify the application of 30 CFR 75.-1710-1, cabs or canopies, to its Mine No. 2, located in Knott County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner's mine is a drift mine in a coal seam which has an average height of 32 to 36 inches.

2. Petitioner's electric face equipment and the height of each piece of equipment is as follows:

4 Elkhorn industrial scoop, model AR4, 27 inches high.
1 Galis roof bolter, model 300, 28 inches high.

3. In addition to the fact that the seam of coal is low, Petitioner has uneven bottom conditions in this area. These existing conditions make it very hazardous for a man to operate this equipment with a canopy over the deck of the machine. This would require that he extend his head out the side of the machine to see adequately. Petitioner believes that the addition of canopies to machinery actually would result in a diminution of safety to the miners. For these reasons, Petitioner requests that the regulation be modified for its operation.

REQUEST FOR HEARING COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director, Office of Hearings and Appeals*

JULY 7, 1977.

[FR Doc.77-20967 Filed 7-20-77;8:45 am]

[Docket No. M 77-204]

**JONES & LAUGHLIN STEEL CORP.**

**Petition for Modification of Application of Mandatory Safety Standard**

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Jones & Laughlin Steel Corporation, 9 North, 3 Gateway Center, Pittsburgh, Pennsylvania 15263, has filed a petition to modify the application of 30 CFR 75.305, weekly examinations for hazardous conditions, to its Vesta No. 4 Mine, located in Washington County, Pennsylvania.



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The substance of Petitioner's statement is as follows:

1. Petitioner's Mine is old with many worked-out areas. The return air entries for the location in question, Richeyville Shaft to E Face–F Face of Vesta No. 5 Mine, were developed approximately 55 years ago before the advent of roof bolting to control roof conditions. The timbers that had been installed for roof support during the mining cycle have deteriorated. Thus, there have been numerous roof falls in the subject return airways.

2. The return air entries at issue were not traveled prior to the Federal Coal Mine Health and Safety Act of 1969 because of the conditions noted in Paragraph 1 above. However, air and methane readings can be taken in certain areas along the return airways to assure that the return air is traveling in its proper course and usual volume, so that methane does not accumulate beyond legal limits. The return air courses in question are located in non-coal producing areas.

3. The subject return air courses are not capable of being traveled today. To restore these returns to a travelable condition would be an almost impossible task requiring exorbitant expenditures of money and years of work under potentially hazardous conditions.

4. A practical and feasible alternative to the application of the mandatory safety standard would be the establishment of six air measuring stations from Richeyville Shaft to E Face–F Face of Vesta No. 5 Mine. The six air measuring stations would assure that the criteria outlined in 30 CFR 75.305 would be satisfied. The return air in question would at no time have any effect on the present workings. Furthermore, with respect to the use of the six air measuring stations, Petitioner agrees to comply with the following provisions:

A. Methane determinations and air readings shall be taken daily at each measuring station by a certified, competent person.

B. Methane shall not be permitted to accumulate in the return air courses beyond legal limits, as determined at the six underground measuring stations.

C. The access to and the vicinity of the measuring stations shall be maintained in a safe and travelable condition.

D. A date board shall be located at each measuring station. Air quantities and methane determinations shall be taken and recorded with the certified person's initials, date and time required to be affixed to the date board.

E. A mine map showing the area around the measuring station with the direction of air flow shall be posted at each station.

F. The results of the daily air measurements and methane determinations shall be recorded in a book provided for that purpose on the surface.

G. If there is a marked variation in air quantity or an increase in methane content of 0.5 percent or more, immediate action shall be taken to determine the cause and appropriate action taken when necessary.

H. The number of employees working in the subject area will be minimal and each person working in the area will be and is required to carry a one-hour self-rescuing device on his person at all times.

I. All persons required to take measurements at the underground stations shall be certified on the basis of state examinations.

J. The location of the six monitoring stations shall be shown on the ventilation map to be submitted in accordance with the regulation at 30 CFR 75.316.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JULY 7, 1977.

[FR Doc.77-20968 Filed 7-20-77;8:45 am]

[Docket No. M 77-213]

## KENTUCKY CARBON CORP.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Kentucky Carbon Corporation, c/o C. Lynch Christian III, P.O. Box 553, Charleston, West Virginia, has filed a petition to modify the application of 30 CFR 75.1103–1, automatic fire sensors, to its Kencar No. 1 Mine, located in Phelps, Kentucky.

The substance of Petitioner's statement is as follows:

1. The coal mined in the Kencar No. 1 Mine is transported from the working faces to a tipple where the impurities and other mine refuses are separated out. This refuse is then carried from the tipple to a collecting bin by a conveyor belt system approximately 2,200 feet in total length. This system is comprised of two conveyor belts, the second of which is approximately 1,300 feet in length. This second belt, which is the subject of this petition, travels 1,200 feet underground in a straight entry before reaching the dumping point at the refuse collection bin.

2. Three switches for turning the belt on and off are provided along the underground portion of the belt at approximately 400-foot intervals. Cut-off switches are also located at the belt's tailpiece near the tipple and at the dumping point over the refuse collection bin. Additionally, a telephone is located near the tailpiece.

3. No mining activity is carried on in the immediate area of the belt entry and the underground portion of the belt can be reached only by entry at the points where the belt enters and exits the ground. One man is assigned to operate and maintain this belt on the B shift. At all other times there is no need for employees to travel the belt entry.

4. The belt entry is regularly rock dusted by Petitioner and firefighting equipment is provided at both ends of the belt. In addition, there is a water source provided for firefighting purposes within 300 feet of the belt tailpiece at the tipple. These precautions are taken despite the fact that the material carried on the belt is normally wet and muddy and not ignitable.

5. On June 2, 1977, a federal mine inspector issued to Petitioner a "notice" for an alleged violation of 30 CFR 75.-1103–1. Such notice requires that Petitioner provide a fire-censor system along this belt conveyor in order that an automatic warning including audible and visual signals would be given if a fire occurs on the belt. The alleged violation is to be totally abated by 8 a.m. on June 16, 1977.

6. After a thorough investigation by Petitioner, it has been determined that its present system of fire protection along this particular belt conveyor is an alternative method which at all times will guarantee no less than the same measure of protection afforded the miners of the Kencar No. 1 Mine as would be afforded by 30 CFR 75.1103–1.

7. No danger is involved. Petitioner requests that in lieu of the mandatory standard contained in 30 CFR 75.1103–1, that it be permitted to continue to operate the conveyor belt here in question in the manner described above.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JULY 7, 1977.

[FR Doc.77-20969 Filed 7-20-77;8:45 am]

[Docket No. M 77-214]

## KENTUCKY CARBON CORP.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Kentucky Carbon Corporation, c/o Lynch Christian III, P.O. Box 553, Charleston, West Virginia, has filed a petition to modify the application of 30 CFR 75.1100–2(b), quantity and location of firefighting equipment, belt conveyors, to its Kencar No. 1 Mine, located in Phelps, Kentucky.





The substance of Petitioner's statement is as follows:

1. The coal mined in the Kencar No. 1 Mine is transported from the working faces to a tipple where the impurities and other mine refuse are separated out. This refuse is then carried from the tipple to a collecting bin by a conveyor belt system approximately 2,200 feet in total length. This system is comprised of two conveyor belts, the second of which is approximately 1,300 feet in length. This second belt, which is the subject of this petition, travels 1,200 feet underground in a straight entry before reaching the dumping point at the refuse collection bin.

2. Three switches for turning the belt on and off are provided along the underground portion of the belt at approximately 400-foot intervals. Cut-off switches are also located at the belt's tailpiece near the tipple and at the dumping point over the refuse collection bin. Additionally, a telephone is located near the tailpiece.

3. No mining activity is carried on in the immediate area of the belt entry and the underground portion of the belt can be reached only by entry at the points where the belt enters and exits the ground. One man is assigned to operate and maintain this belt on the B shift. At all other times there is no need for employees to travel the belt entry.

4. The belt entry is regularly rock dusted by Petitioner and firefighting equipment is provided at both ends of the belt. In addition, there is a water source provided for firefighting purposes within 300 feet of the belt tailpiece at the tipple. These precautions are taken despite the fact that the material carried on the belt is normally wet and muddy and not ignitable.

5. On June 6, 1977, a federal mine inspector issued to Petitioner a "notice" for an alleged violation of 30 CFR 75.-1100–2. Such notice requires that Petitioner provide water lines parallel to the entire length of this belt equipped with firehose outlets at 300-foot intervals. The notice also requires that Petitioner provide 500 feet of fire hose at strategic locations along this water-line system for connection to the outlet valves. The alleged violation is to be totally abated by 8 a.m. on June 16, 1977.

6. After a thorough investigation by Petitioner, it has been determined that its present system of fire protection along this particular belt conveyor is an alternative method which will at all times guarantee no less than the same measure of protection afforded the miners of the Kencar No. 1 Mine as would be provided by 30 CFR 75.1100–2(b).

7. No danger is involved. Petitioner requests that in lieu of the mandatory standard contained in 30 CFR 75.1100–2 (b), that it be permitted to continue to operate the conveyor belt here in question in the manner described above.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JULY 7, 1977.

[FR Doc.77-20970 Filed 7-20-77;8:45 am]

[Docket No. M 77-209]

## LIGON PREPARATION CO.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Ligon Preparation Company, P.O. Box 47, Drift, Kentucky 41619, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its G–65 Mine, located in Floyd County, Virginia.

The substance of Petitioner's statement is as follows:

1. Petitioner's mine is a drift mine in a coal seam which has an average height of 35 inches.

2. Petitioner's electric face equipment and the height of each piece of equipment is as follows:

1—Elkhorn industrial scoop, model AR4, 29 inches high.
1—Acme roof bolter, model D1, 30 inches high.

3. In addition to the fact that Petitioner's seam of coal is low, Petitioner has uneven bottom conditions in this area. These existing conditions make it very hazardous for a man to operate this equipment with a canopy over the deck of the machine. This would require that he extend his head out the side of the machine to get adequate vision. Petitioner believes that the addition of canopies to its machinery actually would result in a diminution of safety to the miners. For these reasons, Petitioner requests that the regulation be modified for its operation.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JULY 7, 1977.

[FR Doc.77-20971 Filed 7-20-77;8:45 am]

[Docket No. M 77-208]

## PEERLESS EAGLE COAL CO.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Peerless Eagle Coal Co., Farmers and Merchants Bank Building, Summersville, West Virginia 26651, has filed a petition to modify the application of 30 CFR 75.1710–1, cabs or canopies, to its Mine 2A and Mine No. 3, located in Nicholas County, West Virginia.

The substance of petitioner's statement is as follows:

1. *Mine 2A.* Total seam height is 30 to 46 inches. The electric face equipment subject to the regulation in this mine consists of the following:

A. (2) Joy 11 Ru coal cutters.
B. (2) S&S Una-A-trac scoops.
C. (2) Joy 14 BU 10–11 AE loaders.
D. (4) Galis 300 roof drills.
E. (4) Joy 18 SC shuttle cars.
F. (2) Joy RBD15 converted coal drills.

2. *Mine No. 3.* Total seam height is 32 to 38 inches. The electric face equipment subject to the regulation in this mine consists of the following:

A. (1) Joy 11RU coal cutter.
B. (1) Joy 14 BU 10–11AE loader.
C. (2) Joy 18SC shuttle cars.
D. (3) Galis 300 roof drills.
E. (1) Joy RBD15 converted coal drill.
F. (2) S&S Una-A-trac scoop.
G. (1) S&S battery tractor.
H. (1) Lee Norse 245 continuous miner.
I. (2) Jay 21 SC shuttle cars.

3. Petitioner has not applied to the Assistant Administrator — Technical Support for an approval of devices to be used in lieu of cabs or canopies as permitted by 30 CFR 75.1710–1(f) since Petitioner is without knowledge of any alternate device which would be safe and otherwise suitable for use in these mines.

4. Petitioner feels that the application of 30 CFR 75.1710–1 to these mines will result in a dimunution of safety to the operator of the equipment and also to any other miner nearby.

5. With canopies installed operators will not have as good vision as they would have without the cabs or canopies. They will tend to lean out from the cab or canopy and possibly be dragged off, or fall off, the equipment. They will not be able to see their fellow miners as well and therefore endanger them. The cabs or canopies will drag on check curtains or line curtains and cause improper ventilation. They will be tearing down hanging trailing cables and possible fires will result, burning the miners. Canopies will be shearing off roof bolts or dislodging other roof support and endangering the operator and other miners by falling rock.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must



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be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JULY 7, 1977.

[FR Doc.77-20972 Filed 7-20-77;8:45 am]

[Docket No. M 77-200]

## PYRO MINING CO., INC.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Pyro Mining Co., Inc., P.O. Box 267, Sturgis, Kentucky 42459, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its Pyro No. 11 Mine, located in Union County, Kentucky.

The substance of Petitioner's statement is as follows:

1. The Petitioner is applying for modification of the standard because the use of canopies or cabs on electric face equipment will result in diminution of safety to its miners.

2. The mining height, compared to the size of the equipment, is the most evident reason for the diminution of safety to the miners.

3. The average height of the coal is 54 inches and therefore there is a mining height of 42 inches.

4. The clearance between the equipment and the normal roof (excluding any other objects and/or cross bars) will not permit the safe use of canopies or cabs. Canopies have been taken off, or torn off, due to the size of the equipment compared to the mining height of the coal.

5. At this time the following number and types of electric face equipment, including shuttle cars, are being used:

| Equipment | Type | Number |
|---|---|---|
| Shuttle car | 6L-68 (FMC) | 2 |
| Cutting machine. | 15RU-5BN (Joy) | 1 |
| Loading machine. | 14BU10-11BH (Joy) | 1 |
| Coal drill | CDB-2000-4D (Schroder) | 1 |
| Roof bolters | 320 (FMC) | 2 |

6. The two most valuable assets a miner possesses are hearing and sight. He depends on sight more than hearing for his safety. The canopies or cabs reduce his vision by approximately 72 percent.

7. Installation of canopies or cabs would cause more injuries, and perhaps death, than would occur if they were not used at all. There have been several deaths that were directly attributed to canopies or cabs since the enforcement of this safety standard. One such accident occurred on February 3, 1976. This accident claimed the life of a car driver in West Virginia. The coal height was 48 inches to 56 inches, respectively.

8. The immediate roof is hard limestone which averages 6 feet in thickness with 0 to 1 foot of hard black shale on top of the coal.

9. The average roof at Pyro No. 11 Mine is the best in this mining area. The mine was closed from April 1969 to April 1977. During this time the mine was full of water. The mine has since resumed production and there has not been a single fall of roof in the entire mine from April 1969 to May 24, 1977.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JULY 7, 1977.

[FR Doc.77-20973 Filed 7-20-77;8:45 am]

[Docket No. M 77-210]

## PYRO MINING CO.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Pyro Mining Co., P.O. Box 267, Sturgis, Ky. 42459, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies to its Pyro No. 6 Mine, located in Union County, Ky.

The substance of Petitioner's statement is as follows:

1. The Petitioner makes application to modify these standards for the reason that the use of canopies or cabs on electric face equipment will result in diminution of safety to the miners in Pyro No. 6 Mine.

2. The mining height compared to the size of the equipment is the most evident reason for the diminution of safety to the miners.

3. The average height of the coal is 42 inches and, therefore, there is a mining height of 30 inches.

4. The clearance between the equipment and the normal roof (excluding any other objects and/or cross bars) will not permit the safe use of canopies or cabs.

5. The following number and types of electric face equipment, including shuttle cars, will be used on each working section. The following equipment consists of the lowest models (in size) currently being manufactured by the companies noted:

| Equipment | Type | Number |
|---|---|---|
| Shuttle car | 21SC-56AXHE-1 | 2 |
| Cutting machine. | 15RV-AH (Joy) | 1 |
| Loading machine. | 14A W10-11 (Joy) | 1 |
| Coal drill | CDR 2000 A-40 (Schroder) | 1 |
| Roof bolters | 300 (FMC) | 2 |

6. The two most valuable assets a miner possesses are hearing and sight. He depends on sight more than hearing for his safety and canopies or cabs reduce his vision by approximately 72 percent.

7. Installation of canopies or cabs would cause more injuries, and perhaps death, than would occur if cabs or canopies were not used at all. There have been several deaths, that were directly attributed to canopies or cabs, since the enforcement of this safety standard.

8. The immediate roof is hard black shale averaging 2.4 feet in thickness.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JULY 7, 1977.

[FR Doc.77-20974 Filed 7-20-77;8:45 am]

[Docket No. M 77-211]

## SEWELL COAL CO.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Sewell Coal Co., Nettie, W. Va. 26681, has filed a petition to modify the application of 30 CFR 75.1105, housing of underground transformer stations, battery-charging stations, to its Sewell No. 4 Mine, located in Nicholas County, W. Va.

The substance of Petitioner's statement is as follows:

1. Petitioner's Sewell No. 4 Mine has a permanent pump station located near the No. 1 Shaft and the 5 West Entries adjacent to the supply track.

2. This pump is ventilated directly by intake air. Only a very small portion of the air passing through the entries where the pump is located would reach any working areas.

3. Petitioner proposes to ventilate this pump in the manner aforesaid rather than causing the air ventilating the pump to be directly coursed into the return airway. In addition to this ventilating plan, Petitioner will cause the pump to be protected by automatic heat sensors which will activate a 20-pound dry-type chemical fire suppression device located in the fireproof structure. This automatic fire suppression device satisfies the requirements of section 75.1107 of the regulations.

4. Additionally, the following safeguards will be employed:

(a) The motor will be provided with overload and short-circuit protection as required in safety standard 30 CFR 75.518.

(b) A metal door will be provided for the enclosure, hinged on the top, and a chain or similar linkage will be connected to a thermal heat link located over the motor that would open, on not more than 155 degrees F, and close door.

(c) A switch will be provided and interconnected into the electrical system so that when the metal door closed, the power circuit would be deenergized at the beginning of branch circuit.

(d) Firefighting equipment required by safety standard 30 CFR 75.1100-2(e) will be provided.

5. Petitioner states that the proposed method of ventilating the pump, together with the additional fire protection installed thereon, would, at all times guarantee no less than the same measure of protection as would be provided by the application of the mandatory standard. The addition of the extraordinary fire suppression system in this pump station would, in fact, improve the safety measures provided in Petitioner's mine beyond that required by the mandatory standard.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JULY 7, 1977.

[FR Doc.77-20975 Filed 7-20-77;8:45 am]

[Docket No. M 77-218]

## SLY BRANCH COAL CO.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Sly Branch Coal Co., Box 126, Langley, Ky. 41645, has filed a petition to modify the application of 30 CFR 75.1710-1, cabs or canopies, to its No. 1 & 2 Section Mines, located in Knott County, Ky.

The substance of Petitioner's statement is as follows:





1. Petitioner's mine is a drift mine in a coal seam which has an average height of 32 to 36 inches.

2. Petitioner's electric face equipment and the height of each piece of equipment is as follows:

3 S&H scoops, model 105A, 27 inches high.
1 Galis roof bolter, model 300, 27 inches high.
1 Acme roof bolter, model D-1, 27 inches high.
1 Wilcox continuous miner, model 20PU, 24½ inches high.

3. In addition to the fact that the seam of coal is low, Petitioner has uneven bottom conditions in this area. These existing conditions make it very hazardous for a man to operate this equipment with a canopy over the deck of the machine. This would require that he extend his head out the side of the machine to see adequately. Petitioner believes that the addition of canopies to machinery would result in a diminution of safety to the miners. For these reasons, Petitioner requests that the regulation be modified for its operation.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JULY 7, 1977.

[FR Doc.77-20976 Filed 7-20-77;8:45 am]

[Docket No. M 77-212]

## SOUTH-EAST COAL CO.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), South-East Coal Co., c/o James W. Craft, 7-10 Bank Building, Whitesburg, Ky. 41858, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its Mine No. 406, located in Knott County, Ky.

The substance of Petitioner's statement is as follows:

1. The following equipment is used in Petitioner's mine: continuous miners, Elkhorn scoops, Long-Airdox coal drills, Joy shuttle cars, Galis roof bolting machines.

2. The application of the mandatory standard would constitute a danger to the operators of the equipment listed herein since the coalbed height is such that a canopy would diminish the vision of the operators of such equipment to such an extent that they would endanger the lives of other men working in the mine because they would not have adequate vision to properly control their machines.

3. A canopy cannot be placed on this equipment without greatly increasing the possibility that such equipment would strike the roof supports, dislodge them, and thereby create a danger of a roof fall.

4. Petitioner has investigated the possibility of fitting the aforesaid equipment with canopies in accordance with the requirements of 30 CFR 75.1710 and such an investigation has been done in good faith, in an effort to comply with the requirements of the aforesaid statute. To date, no satisfactory canopy has been found which would not diminish the safety of the operator and the other men working in the mine.

5. There have been no serious injuries or fatalities, as a result of roof falls, suffered by any of the operators of the equipment in this mine since the mine was put into production in 1974.

6. Attached hereto, and made a part hereof, is a copy of a Notice signed by the Safety Director of South-East Coal Company which has been posted at conspicuous places at the entrance to the mine.[1]

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JULY 7, 1977.

[FR Doc.77-20977 Filed 7-20-77;8:45 am]

[Docket No. M 77-198]

## V. J. COAL CO.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), V. J. Coal Co., Van, Letcher County, Ky. 41857, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its No. 2 Mine, located in Letcher County, Ky.

The substance of Petitioner's statement is as follows:

1. Petitioner feels that having canopies installed on its equipment will create a hazard to operators.

2. Petitioner's equipment consists of the following:

| | Inches |
|---|---|
| 1 Paul's roof bolter | 36 |
| 1 14 Joy loader | 40 |
| 1 cutting machine | 42 |

3. The No. 2 Mine is in the Hazard No. 4 seam which averages 46 inches in

[1] The attached notice is available for inspection at the address listed in the last paragraph of this petition.



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height. In this seam Petitioner is daily running into rolling top. Petitioner also has rolls in the floor which contributes to the difficulty of using canopies.

4. Petitioner feels that since the equipment operator's vision is limited and because of the position required in order to be seated in the equipment, the installation of canopies could be a contributing factor to accidents that may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JULY 7, 1977.

[FR Doc.77-20978 Filed 7-20-77;8:45 am]

## Office of Hearings and Appeals

[Docket No. M 77-218]

### ABD&G COAL CO.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861 (c) (1970), ABD&G Coal Co., Route No. 2, Box 248A, Clinton, Tenn. 37716, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its No. 1 Mine, located in Anderson County, Tenn.

The substance of Petitioner's statement is as follows:

1. Installing canopies or cabs on equipment will create more hazards then presently exist.

2. The mine roof is not uniform, and the average thickness of the coal is approximately 36 inches, or less, so that the operator could be fatally injured by the projection of the canopy or cab higher than the space provided in the mine. Commercials showing the safety value of the canopies are photographed in mines where the coal is 5 to 6 feet in height, which is ideal for their use.

3. Present safety rules in effect at the mine have prevented accidents to operators of electric face equipment, including shuttle cars in low-seam mining; and the measures already taken will be of more benefit than the installation of the canopies or cabs as ordered by the Mining Enforcement and Safety Administration.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JULY 7, 1977.

[FR Doc.77-20961 Filed 7-20-77;8:45 am]

[Docket No. M 77-216]

### ADKINS COAL CO.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Adkins Coal Company, Langley, Ky. 41645, has filed a petition to modify the application of 30 CFR 75.1710-1, cabs or canopies, to its No. 11 Mine, located in Knott County, Ky.

The substance of Petitioner's statement is as follows:

1. Petitioner's mine is a drift mine in a coal seam which has an average height of 30 to 35 inches.

2. Petitioner's electric face equipment and the height of each piece of equipment is as follows:

12 Elkhorn industrial scoop, Model AR 4, 27 inches high.
3 Galis roof bolter, Model 300, 28 inches high.

3. In addition to the fact that the seam of coal is low Petitioner has uneven bottom conditions in this area. These existing conditions make it very hazardous for a man to operate this equipment with a canopy over the deck of the machine. This would require that he extend his head out the side of the machine to see adequately. Petitioner believes that the addition of canopies to machinery would result in a diminuation of safety to the miners. For these reasons, Petitioner requests the regulation be modified for its operation.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JULY 7, 1977.

[FR Doc.77-20962 Filed 7-20-77;8:45 am]

[Docket No. M 77-203]

### BADGER COAL CO.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Badger Coal Company, Lebanon, Va. 24266, has filed a petition to modify the application of 30 CFR 75.305, weekly examinations for hazardous conditions, to its No. 14 Mine, located in Philippi, W. Va.

The substance of petitioner's statement is as follows:

1. There are two fans for petitioner's mine: The "B" portal fan will be ventilating all working sections and the No. 1 fan ventilates the old part of the mine as well as the bleeder off the old pillar panels.

2. The return airway for No. 1 fan has several falls in it. The falls are located from Station Nos. 4722, 4723 to inby Station Nos. 6319, 6320 and 6321. (See attached map.[1])

3. Petitioner requests a waiver from walking the above return in its entirety. Several areas in this return will be spot checked each week. Petitioner believes that this alternate system is a satisfactory replacement for the standard which otherwise mandates that one walk the return airway in its entirety. Compliance with the standard might be dangerous for the certified person who is required to comply with its mandates.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JULY 7, 1977.

[FR Doc.77-20963 Filed 7-20-77;8:45 am]

[Docket No. M 77-201]

### BETHLEHEM MINES CORP.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Bethlehem Mines Corporation, Martin Tower Rm. 1871, Bethlehem, Pa. 18016, has filed a petition to modify the application of 30 CFR 75.305, weekly examinations for hazardous conditions, to its Mine No. 33, located in Cambria County, Pa.

The substance of Petitioner's statement is as follows:

1. For the reasons specified below, Petitioner seeks modification of that portion of 30 CFR 75.305 which requires a certified person to make a weekly examination in each return split of air with respect to the return air courses in which longwall operations exist under circumstances comparable to those described below. The areas in question are not designated escapeways.

2. Cambria Slope Mine No. 33 was opened in 1964; initial operations were located in the "B" or Lower Kittanning Seam and mining operations now also occur in the "C" or Upper Kittanning Seam. Longwall operations presently exist in both seams. Development work is done with continuous mining machines and all entries are supported according to approved roof control plans. In the areas of the present longwall operations, roof falls and bottom heaving in the return air course have occurred. The falls and heaving are accompanied, in most cases, by accumulations of water which are a result of pillar caving. Where roof falls occur, they result from weak roof areas that cannot maintain the pressure of the longwall operation, despite the utilization of procedures required by the approved roof control plans. Roof falls and bottom heaving, along with associated water accumulation, have created areas in which it is hazardous for employees to travel in accordance with the provisions of 30 CFR 75.305. In the areas in question, these conditions have made portions of the return virtually impassable without exposing employees to additional hazards.

3. Petitioner proposes an alternate method for achieving the result contemplated by 30 CFR 75.305, which will at all times guarantee no less than the same protection as would be afforded by the mandatory standard. This alternate method also eliminates the hazards which would be encountered if attempts were made to travel in the areas in question.

4. In view of the above-described conditions which exist in the return aircourses in the areas in question, Petitioner proposes to install two safe monitoring stations in the areas of each longwall operation, at which examinations for hazardous conditions can be conducted, as well as tests for methane, and for compliance with the mandatory health or safety standards. Air and methane readings will also be made at these monitoring stations to assure the air flow is in its proper course and usual volume.

5. Methane and air readings shall be made at these locations by a certified, competent person on a weekly basis, if not more frequently.

6. Methane will not be permitted to accumulate in the return air courses, as determined at the underground measuring stations, beyond legal limits.

7. Both access to and the measuring stations themselves will continue to be kept in safe condition.

8. A date board shall be located at each measuring station, and air quantity and methane readings shall be taken and recorded, including the initials of the certified person taking such readings, as well as the date and time the readings are taken.

9. All employees required to perform measurements at the underground stations will be certified for such work on the basis of state examinations.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JULY 7, 1977.

[FR Doc.77-20964 Filed 7-20-77;8:45 am]

## Office of Hearings and Appeals

[Docket No. M 77-199]

### BUFFALO MINING CO.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Buffalo Mining Co., c/o Robert C. Kota, Esq., Lebanon, Va. 24266, has filed a petition to modify the application of 30 CFR 75.305, weekly examinations for hazardous conditions, to its Mark Mine, located in Lyburn, W. Va.

The substance of Petitioner's statement is as follows:

1. The coal seam being mined is the No. 2 Gas which ranges in thickness to 46 inches. The mine currently produces about 1,800 tons per day in a two-production shift operation, utilizing four production sections. That is, cutting machines, loaders, shuttle cars, etc., and one continuous miner section.

2. The main return air course from the No. 3 section is impassable due to a roof fall at station spad number 891.

3. Petitioner states that approval of this alternate system would be a satisfactory replacement for the standard which otherwise would mandate walking the return by a certified person. Under the alternate system this mine would be subject to the following conditions:

A. The Mark Mine of the Buffalo Mining Co. will set up a monitoring point at a strategic location;

B. Adequate roof support will be provided at the strategically located station;

C. The required checks for methane gas direction and velocity of air flow will be made by a certified person once every 7 days and the results will be recorded in a book.

4. Attached is a map for information purposes.[1]

REQUEST FOR HEARING OF COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JULY 7, 1977.

[FR Doc.77-20965 Filed 7-20-77;8:45 am]

[Docket No. M 77-205]

### ELRO COAL CORP.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Elro Coal Corp., Box 230, Appalachia, Va. 24216, has filed a petition to modify the application of 30 CFR 75.-1710-1, cabs or canopies, to its Elro Mine No. 2, located in Wise County, Va.

The substance of Petitioner's statement is as follows:

1. Petitioner wishes to modify the mandatory standard because it will create a hazard to the operators of the equipment.

2. All cabs and canopies had to be removed before the equipment could be taken to the section because clearance is as low as 36 inches on main line. Due to varying roof and bottom conditions, clearance on the working section is 46 to 60 inches.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 22, 1977. Such request or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director,*
*Office of Hearings and Appeals.*

JULY 7, 1977.

[FR Doc.77-20966 Filed 7-20-77;8:45 am]

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### MANUFACTURE OF CONTROLLED SUBSTANCES

### Application

Section 303(a)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a)(1)) states:

The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effec-

[1] The attached map is available for inspection at the address listed in the last paragraph of this petition.

[1] The enclosed map is available for inspection at the address listed in the last paragraph of this petition.







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tive date of this part. In determining the public interest, the following factors shall be considered:

(1) Maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

Pursuant to Section 1301.43 of Title 21 of the Code of Federal Regulations (CFR), notice is hereby given that on May 20, 1977, Applied Science Laboratories, Inc., 139 North Gill Street (Box 440), State College, Pa. 16801, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

| | *Schedule* |
|---|---|
| Drug: | |
| Morphine-n-oxide | I |
| Normorphine | I |
| Codeine | II |
| Ecgonine | II |
| Methadone | II |
| Morphine | II |

Pursuant to section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with 21 CFR 1301.43(a), notice is hereby given that the above firm has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances indicated, and any other such person, and any existing registered bulk manufacturer of the above substances may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on the application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections, and requests for a hearing may be filed no later than August 22, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street NW., Washington, D.C. 20537.

Dated: July 13, 1977.

DANIEL P. CASEY,
*Acting Deputy Administrator,*
*Drug Enforcement Administration.*

[FR Doc.77-21014 Filed 7-28-77;8:45 am]

## NATIONAL CAPITAL PLANNING COMMISSION

### TENTATIVE AGENDA ITEMS

In order to provide notice regarding matters which may be acted upon by the Commission and to solicit written comments prior to and oral comments at meetings of the Commission in accordance with the Commission's Procedures for Citizen Participation and Intergovernmental Liaison, approved April 7, 1977, there is set forth below a list of agenda items tentatively scheduled for consideration by the Commission at its meeting at 9:30 A.M. on August 4 and 11, 1977 and at subsequent meetings. The Commission meets in its Tenth Floor Conference Room at 1325 G Street NW., Washington, D.C.

| *File No.* | *Item* |
|---|---|
| | *August 4 and 11, 1977* |
| CP01/1203 | Comprehensive Plan for the National Capital: Foreign missions and international agencies. (Commission action requested: Adoption of proposed element and related conforming modifications to other elements pursuant to sec. 4 of the National Capital Planning Act |
| | National Naval Medical Center, Bethesda, Md. |
| MP59 | a. Revised master plan. (Commission action requested: Approval pursuant to sec. 5 of the National Capital Planning Act of 1952.) |
| 1611 | b. Bowling alley. (Commission action requested: Approval of final site and building plans pursuant to sec. 5 of the National Capital Planning Act of 1952.) |
| 1648 | c. Interim wastewater treatment facility. (Commission action requested: Approval of final site and building plans pursuant to sec 5 of the National Capital Planning Act of 1952.) |
| 1649 | d. Animal research facility. (Commission action requested: Approval of final site and building plans pursuant to sec. 5 of the National Capital Planning Act of 1952.) |
| 1650 | e. Navy exchange. (Commission action requested: Approval of preliminary site and building plans pursuant to sec. 5 of the National Capital Planning Act of 1952.) |
| MP122 | Veterans Administration National Cemetery, Quantico, Va.—master plan. (Commission action requested: Approval pursuant to sec 5 of the National Capital Planning Act of 1952.) |
| MP124 | Henderson Hall, Arlington County, Va.—master plan. (Commission action requested: Approval pursuant to sec. 5 of the National Capital Planning Act of 1952.) |
| 1198 | Pennsylvania Ave. Development Corp. plan—western sector. (Commission action requested: Approval of development concepts pursuant to sec. 5 of the National Capital Planning Act of 1952.) |
| 1508 | Metropolitan Washington Council of Governments, metropolitan growth policy program. (a) Impact assessment reports. (b) Draft metropolitan growth policy statement. (Commission action requested: Comments to Metropolitan Washington Council of Governments.) |
| 1694 | Smithsonian Institution—East Garden, Castle and Arts and Industries Bldg., Jefferson Dr. (Commission action requested: Approval of final site development plan pursuant to sec. 5 of the National Capital Planning Act of 1952 and D.C. Code, sec. 5-428.) |
| 1696 | Fort Belvoir, Fairfax County, Va., Davison U.S. Army Airfield—D C National Guard Army Aviation Support Facility. (Commission action requested: Approval of preliminary site and building plans pursuant to sec. 5 of the National Capital Planning Act of 1952.) |
| 1697 | Change to the permanent system of highways plan—elimination of Valley Ave. SE., from west line of parcel 223/26 (S.O. 76-22). (Commission action requested: Approval pursuant to D.C. Code, sec. 7-122.) |
| 1703 | Walter Reed Army Medical Center, D.C.—interim helicopter landing site, limited air ambulance service. (Commission action requested: Approval of final site and building plans pursuant to sec. 5 of the National Capital Planning Act of 1952 and D.C. Code, sec. 5-428.) |
| | *September 8 and 15, 1977* |
| | West Potomac Park, D.C. |
| MP49 | a. Subarea master plan. (Commisison action requested: Approval pursuant to sec. 5 of the National Capital Planning Act of 1952.) |
| 0570 | b. Franklin Delano Roosevelt Memorial. (Commision action requested: Approval of preliminary site and building plans pursuant to sec. 5 of the National Capital Planning Act of 1952.) |
| 1018 | U.S. Postal Service, Dale City Branch, Woodbridge, Prince William County, Va. (Commission action requested: Approval of revised location pursuant to sec. 5 of the National Capital Planning Act of 1952.) |

The Commission affords interested and affected organizations and individuals an opportunity to present their views on any of the items in writing prior to and/or in person at the meeting at which such item is considered, with such limitations on the number and length of oral presentations as the agenda item and the length of the agenda appear to warrant.

Organizations and individuals desiring to make a statement or otherwise communicate their views on any item tentatively scheduled for the August 4 and 11 meeting should advise Samuel K. Frazier, Jr., Chief, Office of Public Affairs, National Capital Planning Commission, Washington, D.C. 20576, telephone 382-1161. Copies of the Executive Director's Recommendation on any action item on the agenda for the August 4 and 11 meeting may be obtained from Mr. Frazier on or after August 2. Agenda items with respect to which no organization or individual has advised Mr. Frazier by Thursday, July 28, 12 noon, of a desire to present views in person to the Commission and on which the Executive Director recommends approval or a favorable report, may be placed on the "consent calendar" and acted upon by the Commission, without presentation or discussion, at the beginning of the Commission meeting on August 4. To insure that written comments on any items are placed before the Commission prior to Commission action thereon, written statements must be received by Mr. Frazier by Wednesday, August 3, 12 noon.

The Commission's Procedures for Citizen Participation and Intergovernmental Liaison, copies of which may be obtained from Mr. Frazier, generally provide that comments on District plans and projects should address their effect on the Federal establishment and/or on Federal interests in the National Capital Region.

DANIEL H. SHEAR,
*Secretary.*

July 15, 1977.

[FR Doc.77-20980 Filed 7-20-77;8:45 am]





## NUCLEAR REGULATORY COMMISSION

[Docket No. PRM-50-16A]

### PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Notice of Denial of Petition for Rulemaking

Notice is hereby given that a petition for rulemaking filed by Edward J. Morris, Esq., and William G. Cohen, Esq., by letter dated September 8, 1976, with the Nuclear Regulatory Commission on behalf of the Pennsylvania Public Utility Commission, Room 118, North Office Building, Harrisburg, Pennsylvania, requesting amendment of the Commission's regulations "Licensing of Production and Utilization Facilities," 10 CFR Part 50 and "Physical Protection of Plants and Materials," 10 CFR Part 73, is denied. The petition was published for comment on October 7, 1976 (41 FR 44233). The general consensus of public comments was that the rulemaking requested by the petitioner was not needed because of the protection applied to operating reactors.

The petitioner requests the Commission to amend 10 CFR Part 50 by adding the following at the end of § 50.34(c), *Physical security plan:*

At multi-unit stations, each application to construct a production or utilization facility shall include a physical security plan for portions of the facility under construction from which access to an operating facility can be gained. The physical security plan for such facilities under construction shall consist of the same Parts I and II as the physical security plans for operating units.

The petitioner also requests the Commission to amend 10 CFR Part 73 by adding the following at the end of § 73.40, *Physical Protection: General requirements at fixed sites:*

At multi-unit stations, each production or utilization facility under construction shall provide physical protection against industrial sabotage and against theft of special nuclear material, if applicable, for those portions of the facility contiguous to an operational facility or from which access to an operational facility can be gained.

The petitioner also requests the Commission to issue regulations under which the Commission would exercise discretion to conduct investigations of labor disputes which threaten security.

The Commission believes that the recent adoption of § 73.55, published February 24, 1977, deals appropriately with the matters that are the subject of the instant petition. The principal safeguards concern at the multi-unit site is the protection of the operating facility. Section 73.55(a) expressly requires that the mandated level of protection be maintained at all operating reactors, including a reactor that is adjacent to a reactor power plant under construction. Since the petitioners' concerns have been appropriately responded to, the initiation of further, separate rulemaking proceeding is not required. With respect to the request that the Commission amend its regulations to provide for Nuclear Regulatory Commission investigation of labor disputes, it is the view of the Commission that the requested amendments are not necessary since the Nuclear Regulatory Commission already has authority to investigate at the site, in its discretion, any problem that might lessen security at such plants.

Accordingly, the petition for rulemaking filed by the Pennsylvania Public Utility Commission is denied.

Dated at Washington, D.C., this 12th day of July 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
*Secretary of the Commission.*

[FR Doc.77-20674 Filed 7-20-77;8:45 am]

[Docket No. PRM-50-16]

### PUBLIC INTEREST RESEARCH GROUP ET AL.

### Denial of Petition for Rulemaking

Notice is hereby given that the petition for rulemaking dated April 16, 1976, filed by Louis J. Sirico, Jr., Esquire, with the Nuclear Regulatory Commission on behalf of the Public Interest Research Group, Environmental Coalition on Nuclear Power, Citizens for a Safe Environment, and York Committee for a Safe Environment, requesting amendment of the Commission's regulations "Licensing of Production and Utilization Facilities," 10 CFR Part 50 and "Physical Protection of Plants and Materials," 10 CFR Part 73, is denied. This petition was published for comment on June 24, 1976 (41 FR 26081). The general consensus of public comments was that the rulemaking requested by the petitioners was not needed because of the protection applied to operating reactors.

The petitioners requested the Commission to amend 10 CFR Part 50 by adding the following at the end of § 50.34(c), *Physical security plan:*

At multi-unit stations, each application to construct a production or utilization facility shall include a physical security plan, for portions of the facility under construction from which access to an operating facility can be gained. The physical security plan for such facilities under construction shall consist of the same Parts I and II as the physical security plans for operating units.

The petitioners also requested the Commission to amend 10 CFR Part 73 by adding the following at the end of § 73.40, *Physical Protection: General requirements at fixed sites:*

At multi-unit stations, each production or utilization facility under construction shall provide physical protection against industrial sabotage and against theft of special nuclear material, if applicable, for those portions of the facility under construction form which access to an operating facility can be gained.

The Commission believes that the recent adoption of § 73.55 published February 24, 1977, deals appropriately with the matters that are the subject of the instant petition. The principal safeguards concern at the multi-unit site is the protection of the operating facility. Section 73.55(a) expressly requires that the mandated level of protection be maintained at all operating reactors, including a reactor that is adjacent to a reactor power plant under construction. Since the petitioners' concerns have been appropriately responded to, the initiation of further, separate rulemaking proceeding is not required. The petition for rulemaking filed by the Public Interest Research Group, Environmental Coalition on Nuclear Power, Citizens for a Safe Environment, and York Committee for a Safe Environment is thus denied as moot.

Dated at Washington, D.C., this 12th day of July 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
*Secretary of the Commission.*

[FR Doc.77-20678 Filed 7-20-77;8:45 am]

[Docket No. PRM-50-14]

### PUBLIC INTEREST RESEARCH GROUP, ET AL.

### Denial of Petition for Rulemaking

*Correction*

In FR Doc. 77-20007, appearing at page 36326 in the issue for Thursday, July 14, 1977, on page 36328, the correct title for Mr. Samuel J. Chilk is "Secretary of the Commission" instead of "Secretary of Transportation."



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## NATURALLY OCCURRING AND ACCELERATOR-PRODUCED RADIOACTIVE MATERIALS

### Task Force Report

A Nuclear Regulatory Commission Task Force has completed a review of the matter of regulation of naturally occurring and accelerator-produced radioactive materials. These materials are not presently regulated by NRC because they do not come within the scope of the definitions of nuclear materials in the Atomic Energy Act. The scope of the study, as prescribed for the Task Force, was limited to review of Federal and State regulation of naturally occurring and accelerator-produced radioactive materials. Sources of ionizing radiation involving radiation-producing equipment, such as X-ray machines, were not included in the study.

The conclusions and recommendations of the Task Force are as follows:

1. The regulation of naturally occurring and accelerator-produced radioactive material (NARM) is fragmented, non-uniform and incomplete at both the Federal and State level. Yet, these radioactive materials are widely used—excluding those who would be exempt from licensing, about 30% of all users of radioactive materials use NARM. There are an estimated 6,000 users of NARM at present. The use of accelerator-produced radioisotopes, particularly in medicine, is growing rapidly.

2. One NARM radioisotope—$^{226}$Ra—is one of the most hazardous of radioactive materials. $^{226}$Ra is used by about ⅓ of all radioactive material users. Also, there are about 85,000 medical treatments using $^{226}$Ra each year.

3. All of the 25 Agreement States and 5 non-Agreement States have licensing programs covering NARM users. The Agreement States' programs for regulating NARM are comparable to their programs for regulating byproduct, source and special nuclear materials under agreements with NRC. But there are 7 States who exercise no regulatory control over NARM users, and the remaining States have control programs which are variable in scope. There are no national, uniformly applied programs to regulate the design, fabrication and quality of sources and devices containing NARM or consumer products containing NARM which are distributed in interstate commerce.

4. Naturally occurring radioactive material (except source material) associated with the nuclear fuel cycle is only partially subject to NRC regulation, i.e., when it is associated with source or special nuclear material being used under an active NRC license.

5. Because of the fragmented and non-uniform controls over radium and other NARM, information on the impact of the use of NARM on public health and safety is fragmentary. Thus, it is difficult to know, in an overall sense, whether proper protection is being provided to workers and the public. A number of the incidents involving NARM and other data, however, which have come to the attention of public health authorities give definite indications of unnecessary and possibly excessive radiation exposure of workers and the public.

### Recommendation

The Task Force recommends that the NRC seek legislative authority to regulate naturally occurring and accelerator-produced radioactive materials for the reason that these materials present significant radiation exposure potential and present controls are fragmentary and non-uniform at both the State and Federal level.

The Commission believes that opportunity for public comment should be afforded before the Commission reaches any decision on the Task Force recommendations. All interested persons who desire to submit written comments on the report and its recommendations should send them by September 19, 1977, to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Copies of the complete report are available for inspection and copying at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and at the Commission's local Public Document Rooms. Copies of the comments received in response to this notice will be placed in the Commission's Public Document Room in Washington, as received. Single copies of the report may be obtained without charge, to the extent of supply, by writing to the Division of Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the report NUREG–0301 will be available for sale at the National Technical Information Service, Springfield, Va. 22161.

Dated at Washington, D.C., this 8th day of July 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
*Secretary of the Commission.*

[FR Doc.77-21030 Filed 7-20-77;8:45 am]

[Docket No. PRM-50-21]

## NORTHERN STATES POWER CO. AND WISCONSIN ELECTRIC POWER CO.

### Filing of Petition for Rulemaking

Notice is hereby given that Gerald Charnoff, Esquire, and Jay E. Silberg, Esquire have filed with the Commission on behalf of the Northern States Power Co., and the Wisconsin Electric Power Co. a petition for rulemaking dated June 2, 1977.

The petitioners request the Commission to amend 10 CFR 50.34(c) so as to include plant security information within the definition of Restricted Data, or alternatively within the definition of National Security Information, to amend 10 CFR 2.905 so as to assure that discovery of plant security information is subject to the protection of Subpart I to 10 CFR Part 2, to amend Subpart I to 10 CFR Part 2 to explicitly recognize that its protection extends to information not under Commission control, and to delete 10 CFR 2.790(d)(1).

It is the view of the petitioners that the requested amendments would afford to plant security information the protection against unauthorized disclosure afforded by Subpart I to 10 CFR Part 2, protection commensurate with the sensitivity of the information.

A memorandum in support of proposed rule making is attached to the petition which sets forth the need, and the statutory and regulatory basis for the proposed rule requested by the petitioners.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

A copy of the petition for rulemaking may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All interested persons who desire to submit written comments or suggestions concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by September 19, 1977.

Dated at Washington, D.C., this 14th day of July 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
*Secretary of the Commission.*

[FR Doc.77-21024 Filed 7-20-77;8:45 am]

## NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 77-29]

## ACCIDENT REPORT; SAFETY RECOMMENDATIONS AND RESPONSES

### Availability and Receipt

*Railroad accident report.*—The National Transportation Safety Board on July 11 made public the report of its investigation of last year's collision of two Consolidated Railroad Corp. (ConRail) commuter trains at New Canaan, Conn.

The report, No. NTSB–RAR–77–4, indicates that at 6:28 p.m. on July 13, 1976 ConRail commuter train No. 1994 collided with the rear of commuter train No. 1992 which was standing on the main track in New Canaan. The first car of No. 1994 and several cars of No. 1992 derailed. Two passengers were killed and 30 persons were injured.

The Safety Board has determined that the probable cause of this accident was the failure of the engineer of train No. 1994 to perceive the train ahead and to apply the brakes at the earliest possible time. Contributing to the accident was the excessive speed of the train as it passed the controlling signal at Cane and the inadequacy of the signal system to convey to the engineer the situation ahead and to insure compliance with the indications of the signals.

In its conclusions, the Board said the on-coming train struck the standing train at a speed of more than 20 miles an hour. It also concluded that a rail flange lubricator was out of adjustment on the day of the accident and was supplying an excessive amount of lubricant. However, the Board said that tests made following the accident showed the lubricant probably did not adversely affect the braking of the train.

During its investigation of this accident, the Safety Board issued last summer two Class I, urgent followup recommendations (R–76–46 and 47) concerning the signal system to the Connecticut Department of Transportation and two Class I recommendations (R–76–48 and 49) jointly to the Connecticut Department of Transportation and the Metropolitan Transportation Authority concerning the operation of exit doors. A Class II, priority followup recommendation (R–77–13) to the Federal Railroad Administration to promulgate regulations on the operation and construction of commuter cars was issued last month. (See 41 FR 32795 and 360911, August 5 and 26, 1976; 42 FR 29580, June 9, 1977.) These recommendations are reproduced in the New Canaan report.

Also reproduced in the report is a reiterated recommendation (R–75–35) on eliminating unsafe conditions in M–1 commuter car interiors. The recommendation was first made following a similar commuter train accident at the Metropolitan Transportation Authority's Botanical Garden Station in New York City on January 2, 1975. (See 40 FR 34202, August 14, 1975.)

The Board's report also notes that the Connecticut Department of Transportation has taken the following corrective action:

The eastbound signal at Cane has been changed to display a "Stop-and-Proceed" aspect. The signalling of the track between Cane and New Canaan Station is still under consideration.

An emergency release mechanism that can be operated easily from either inside or outside is being designed for the side doors of M–1- and M–2-type cars.

Arrangements are being made to change the hazard-producing features in the cars' interiors.

Fire and rescue personnel along commuter train routes are being trained in the operation of these cars.

The pressure on the end doors of the M–2-type cars has been reduced for easier operation of the doors.

Emergency exit ladders are being installed beneath the cars.

*Aviation safety recommendations A–77–49 and 50.*—Board investigation of a Dassault Falcon Jet accident at Naples, Fla., last November 12 has disclosed a serious defect in the seatbelt attachment fittings of both pilots' seats. The Board believes that this defect can hinder survivability of pilots.

In this accident, the pilot experienced lateral decelerative loads and was ejected from his seatbelt and his shoulder harness when the right seatbelt fitting deformed and the retaining pin separated from the fitting. He struck numerous cockpit surfaces and sustained blunt trauma to the abdomen and a lacerated right elbow. The copilot's right seatbelt fitting failed similarly, but fortunately the seatbelt did not slip free of the retaining pin and he remained in his seat.

Examination of both right-hand fittings by the Board's laboratory disclosed that the retaining pins had been brazed to the fittings, rather than oxygen/argon welded in accordance with Dassault's recommended procedures. Therefore, the Board believes that the manufacturing and quality control practices of the seat subcontractor must be reviewed.

Accordingly, the Safety Board on July 11 recommended that the Federal Aviation Administration—

Issue an Airworthiness Directive to inspect the seatbelt fittings on all Dassault pilot seats for compliance with Dassault's manufacturing procedures and to replace those fittings which are found to be defective. (Class I—Urgent Followup) (A–77–49)

Review the manufacture and quality-control practices of these pilot seats to insure that they are in accordance with Dassault procedures and FAA criteria. (Class I—Urgent Followup) (A–77–49)

*Aviation safety recommendation A–77–51.*—The Safety Board has issued another recommendation to the Federal Aviation Administration as a result of the investigation of the New York Airways Sikorsky S61L helicopter accident last May 16 atop the Pan American Building in New York City. The helicopter overturned during passenger operations on the heliport. Immediately following the accident, the Safety Board issued to FAA recommendations A–77–32 and 33 concerning the main landing gear attachment fittings and more frequent periodic inspections.

The accident resulted from a failure of a portion of the right landing gear. As the helicopter rolled over, the cockpit door, which consists of two sliding panels, slid almost closed and jammed in the door track. Currently, New York Airways' Operations Specifications allow helicopter operations to be conducted without a flight attendant if fewer than 19 passengers are being transported. Without a flight attendant, clear and rapid crew access to the cabin area is imperative during an emergency. The Safety Board believes that the cockpit door must not be allowed to obstruct the crew or rescuers as it did in this accident. Accordingly, on July 13 the Board recommended that FAA—

Require that the sliding cockpit door on the Sikorsky S61 helicopter be removed or retained open so that it cannot obstruct the entrance from the cockpit to the cabin area. (Class II—Priority Followup) (A–77–51)

*Pipeline safety recommendation P–77–15.*—Enforcement of notification procedures has been urged by the Safety Board following investigation of the gas pipeline explosion which last March 13 destroyed a house in Monongahela, Pa. One person was killed by the explosion and another person was hospitalized.

Investigation showed that 27 hours elapsed between the time of occurrence of the accident and the arrival on the scene of a Safety Board investigator—a delay which hampered the Board's ability to obtain eyewitness statements, to evaluate the extent of gas leakage, and to determine the source of the leak. The late notification of this accident to the Office of Pipeline Safety Operations (Materials Transportation Bureau, U.S. Department of Transportation) is not unique. So far this year, the Safety Board has investigated 12 pipeline accidents involving Equitable Gas Co. and other companies; three notifications were from 4 days to 1 month late, and an average of 10 hours elapsed between the accident and its notification in the other nine cases. The earliest notification was 4 hours after the accident.

Title 49 CFR 191.5, Telephonic Notice of Certain Leaks, provides for telephonic notification (202–426–0700) by the gas facility operator at the earliest practicable moment following discovery of any leak that (1) caused a death or a personal injury requiring hospitalization; (2) required the taking of any segment of transmission pipeline out of service; (3) resulted in gas igniting; (4) caused estimated damage to the property of the operator, or others, or both, of a total of $5,000 or more; or (5) in the judgment of the operator was significant even though it did not meet the criteria of (1), (2), (3), or (4).

Accordingly, on June 11 the Safety Board recommended that the Office of Pipeline Safety Operations—

Enforce the notification requirements as stated in 49 CFR 191.5 in view of the continuing noncompliance of pipeline operators. (Class I—Urgent Followup) (P–77–16)

*Pipeline safety recommendations P–77–16 and 17.*—Two Class I recommendations were issued by the Safety Board on July 15, one week after an explosion and fire at Alyeska Pipeline Service Co.'s Pump Station No. 8 on the Trans-Alaska pipeline resulted in the death of one person and injury to a number of others.

The Board's ongoing investigation indicates that the explosion at Pump Station No. 8 occurred when crude oil was turned into Pump No. 1 while the workers were servicing the pump's strainer. The oil, under a pressure of about 400 p.s.i., sprayed out of the open cover and rapidly filled the building with vaporized crude oil. The vapor was ignited by one of several possible sources and exploded, heavily damaging the building; the gushing crude oil was ignited. Control personnel at Valdez, Alaska, immediately shut down the system. While damage to the environment was minimal, the pump station was practically destroyed, the Board said.

The Board does not know yet why the employees opened the strainer cover without complying with Alyeska's prescribed procedures. The procedures required that the controller at Pump Station No. 8 be granted permission by the central controller at Valdez before working on the pump, and that those persons who were going to do the work isolate the pump electrically by locking out the circuit, tagging the switch with a distinctive prescribed warning tag, and applying tags to the valves on both sides of the pump before beginning the work. None of the foregoing was done.







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The Board's preliminary study of the startup and operating plans indicates that Alyeska recognized the need for coordination among its many technicians and supervisors, employees on loan from Alyeska's parent companies, and contract engineers and technicians who were required in the startup of the pipeline operation. Alyeska also foresaw the need for assigning specific responsibilities to certain personnel in addition to their routine duties. However, at Pump Station No. 8, there apparently was a failure to completely coordinate the written startup and operating plans.

Because of the loss of Pump Station No. 8, Pump Station No. 9 must be activated ahead of its original schedule, thereby increasing the opportunity for error and the inclination to deviate from procedures. Increased emphasis upon proper management and supervision of the startup operations and insistence upon precise compliance with procedures is necessary to insure the safe startup and operation of Pump Station No. 9 and of other facilities whose schedules must be advanced. Therefore, to minimize the possibility of another accident when the pumping resumes, the Safety Board recommends that Alyeska—

Designate a manager or management team at each pump station with the responsibility and authority to supervise and require all personnel involved in the operation of the pump station to comply completely and consistently with all written procedures during the startup period and the continuing operations of such stations. (P-77-16)

Review all procedures and practices which apply to pipeline startup and the ensuing operation to insure that all critical actions will be done in a safe manner. Particular attention should be given to the interrelationships between those procedures which apply to startup and those which apply to the ensuing operations to insure complete coordination of functions. (P-77-17)

RESPONSES TO AVIATION SAFETY RECOMMENDATIONS

*A-77-18 and 19.*—Federal Aviation Administration's letter of July 7 responds to the Safety Board's recommendations issued following investigation of the crash during an emergency landing last August 6 of a North American TB-25N at Chicago's Midway airport. The flight was conducted to prepare a pilot for a B-25 type-rating examination. (See 42 FR 24131, May 12, 1977.)

Recommendation A-77-18 asked that FAA expand the program currently in effect in its Southern Region to include vintage and military surplus aircraft and rotorcraft, and expand the program to include all FAA Regions. In response, FAA notes that its Southern Region's high priority special surveillance program was generated by a series of accidents spanning a 5-year period, involving approximately 85 large airplanes engaged in carrying passengers and cargo, and that FAA diverted manpower from other important safety functions to accomplish this task. FAA states: "We do not believe the single accident involving the B-25 warrants the concentrated efforts being made in the Southern Region unless a definite trend of noncompliance of significantly larger proportions were to develop."

Recommendation A-77-19 asked that FAA review existing maintenance requirements to determine that those in effect suffice to assure the maximum level of safety in the operation of surplus and vintage aircraft and rotorcraft. FAA's response: "We have reviewed maintenance requirements and believe that they are satisfactory."

*A-77-24 and 25.*—Federal Aviation Administration's letter of June 30 expresses the belief that these recommendations, resulting from investigation of a Piper Cherokee Cruiser accident last December 19 at the Baltimore (Md.) Memorial Stadium, have merit. (See 42 FR 25269, May 19, 1977.)

FAA concludes that the authority to obtain and use alcohol tests could help in enforcing present rules relating to the use of alcohol and could also be a deterrent. FAA states: "Accordingly, we have initiated a regulatory project aimed at promulgating rules for 'implied consent' to alcohol tests by airmen engaged in aircraft operations including penalties for refusal to submit to tests. In addition, the alcohol level at which a pilot is considered to be under the influence will be included."

*A-77-34 and 35.*—Federal Aviation Administration's July 6 letter is in answer to recommendations resulting from two Safety Board investigations involving transportation of bulk cargoes of cattle. (See 42 FR 29579, June 9, 1977.)

In response to A-77-34, which recommended issuance of an Advisory Circular to establish criteria for the design, installation, and use of livestock restraining systems and to insure that carriage of livestock will not adversely affect the operation of the aircraft or the function of its crewmembers, FAA reports that its October 19, 1970, Order 8000.20 containing guidelines for livestock restraining systems was inadvertently cancelled on April 30, 1975. FAA states that the order has been updated recently and distributed for comment; reissuance is expected within 90 days. FAA believes that an updated order is more effective and preferable to an Advisory Circular.

In response to A-77-35, asking FAA to conduct an engineering analysis to determine the adequacy of livestock restraining systems which are currently approved for use, FAA says that it is presently auditing engineering approvals of livestock restraint systems; this audit is expected to be completed by October 1.

*A-77-12 and 13.*—The American Association of Airport Executives (AAAE) on July 6 forwarded to the Safety Board comments on recommendations issued last March 14 after the Board learned that many noncertificated airports receiving passenger service by commuter air carriers have either rudimentary crash/fire/rescue capabilities or are entirely dependent on firefighting equipment from nearby communities. (See 42 FR 15993, March 24, 1977.)

Recommendation A-77-12 asked the Federal Aviation Administration to formulate, in cooperation with the National Fire Protection Association (NFPA), a training program for use by local fire departments as a minimum standard for firefighting personnel involved in crash/fire/rescue activities at noncertificated airports. A-77-13 asked FAA to disseminate the training program, in coordination with the Commuter Airlines Association of America, the National Fire Prevention and Control Administration, and the American Association of Airport Executives, to State and local governments and airport operators and urge them to adopt it in the interest of passenger safety.

AAAE reports that for many years it has been deeply involved in the training of airport based crash/fire/rescue personnel. This involvement has consisted primarily of AAAE active participation in the NFPA Sectional Committee on Aircraft Rescue and Firefighting, which developed training material, and AAAE sponsorship of crash/fire/rescue personnel training courses in various sections of the country on a recurring basis.

Based upon input from the AAAE membership and other organizations, AAAE states that it is now compiling a standardized, nonstructural training syllabus for firefighting personnel at noncertified airports. The syllabus will be distributed without cost to all affected organizations and its use promoted. FAA's and NFPA's input is being sought and AAAE is trying to reach nonairport (structural) fire departments, that might have occasion to assist airport-based departments or take primary responsibility in case of off-airport accidents, to acquaint them with AAAE regional training courses and to invite them to participate.

NOTE.—The above notice consists of summaries of Safety Board documents made available, and safety recommendation responses received, during the week preceding publication of the notice in the FEDERAL REGISTER. The accident report and the safety recommendation letters in their entirety are available to the general public; single copies are obtainable without charge. Copies of the full text of responses to recommendations and any Board correspondence may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by the recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
*Federal Register Liaison Officer.*

JULY 18, 1977.

[FR Doc.77-20983 Filed 7-20-77;8:45 am]





## SECURITIES AND EXCHANGE COMMISSION

### NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

**Self-Regulatory Organizations; Proposed Rule Change**

[Release No. 34-13753; File No. SR-NASD-77-8]

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975) notice is hereby given on July 7, 1977, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

TEXT OF PROPOSED RULE CHANGES

The following is the full text of proposed new rule Section 35 of Article III of the Rules of Fair Practice.

ARTICLE III, SECTION 35

(a) A member or a person associated with a member shall not underwrite or participate in any way in the distribution to the public of units of a direct participation program, or sponsor a direct participation program, the provisions of which are inconsistent with rules, regulations and procedures prescribing standards of fairness and reasonableness in respect thereto adopted by the Board of Governors pursuant to the authorization granted in subsection (b) hereof.

(b) The Board of Governors is authorized, for the purpose of preventing fraudulent and manipulative acts and practices, promoting just and equitable principles of trade, providing safeguards against unreasonable profits or unreasonable rates of commissions or other charges, and for the protection of investors and the public interest, to adopt rules, regulations and procedures prescribing standards of fairness and reasonableness for direct participation programs relating to:

(1) The underwriting or other terms and conditions concerning, directly or indirectly, the distribution of units of such programs to the public, including, but not limited to, all elements of compensation in connection therewith, among other factors;

(2) The terms and conditions concerning the operation, structure and management of such programs in which a member or an affiliate of a member is a sponsor including, but not limited to:

a. The rights of participants in such programs;

b. Conflicts or potential conflicts of interest of sponsors thereof, or others;

c. The financial condition of sponsors of such programs;

d. All elements of sponsor's compensation including, but not limited to, working interests, net profit interests, promotional interests, program management fees, overriding royalty interests, sharing arrangements, interests in program revenues, and overriding interests of all other kinds, general and administrative expenses and organization and offering expenses;

e. The minimum unit value which may be offered and the minimum subscription amount per investor;

f. The retention and/or exchange of units of the program held by participants;

g. The assessments, mandatory, optional or otherwise, to be made on participants in a program in addition to the unit price;

h. The reinvestment of revenues derived from the operation of the program;

i. The duty of the program to render operational and financial reports to participants;

j. The liquidation of units in a program; and

k. Any other terms, conditions or arrangements relating to the operation of the program which the Board of Governors determines are required for the protection of investors and the public interest;

(3) The standards of suitability for investment in such programs by investors;

(4) The content and filing with the Association of advertising and sales literature to be used in connection with the distribution of direct participation programs; and,

(5) The definitions of words commonly used in connection with such programs including words used in this section unless they are otherwise defined herein.

(c) The rules, regulations and procedures authorized by subsection (b) hereof shall be incorporated into Appendix F to be attached to and made a part of these Rules of Fair Practice. The Board of Governors shall have the power to adopt, alter, amend, supplement or modify the provisions of Appendix F from time to time without recourse to the membership for approval, as would otherwise be required by Article VII of the By-Laws, and Appendix F shall become effective as the Board of Governors may prescribe unless disapproved by the Securities and Exchange Commission.

(d) For the purposes of this section, the following terms shall have the stated meanings: (1) Affiliate, when used with respect to a member or sponsor, shall mean any person which controls, is controlled by, or is under common control with, such member or sponsor, and includes:

a. Any partner, officer or director (or person performing similar functions) of (a) such member or sponsor or (b) a person which beneficially owns 50 percent or more of the equity interest in, or has the power to vote 50 percent or more of the voting interest in, such member or sponsor.

b. Any person which beneficially owns or has the right to acquire 10% or more of the equity interest in or has the power to vote 10% or more of the voting interest in (a) such member or sponsor, (b) a person which beneficially owns 50% or more of the equity interest in, or voting interest in, such member or sponsor.

c. Any person with respect to which such member or sponsor, the persons specified in subparagraph a. or b., and the immediate families of partners, officers or directors (or persons performing similar functions) specified in subparagraph a. or other persons specified in subsection b., in the aggregate beneficially own or have the right to acquire 10% or more of the equity interest or have the power to vote 10% or more of the voting interest.

d. Any person an officer of which is also a person specified in subparagraph a. or b. and any person a majority of the board of directors of which is comprised of persons specified in subparagraph a. or b.; or

e. Any person controlled by a person or persons specified in subparagraphs a., b., c. or d.

(2) Direct Participation Program (program), a program which provides for flow-through tax consequences regardless of the structure of the legal entity or vehicle for distribution including, but not limited to, oil and gas programs, real estate programs, agricultural programs, cattle programs, condominium securities, Subchapter S corporate offerings and all other programs of a similar nature, regardless of the industry represented by the program, or any combination thereof. A program may be composed of one or more legal entities or programs but when used herein and in any rules or regulations adopted pursuant hereto the term shall mean each of the separate entities or programs making up the overall program and/or the overall program itself. Excluded from this definition are real estate investment trusts, tax qualified pension and profit sharing plans pursuant to Sections 401 and 403(a) of the Internal Revenue Code and individual retirement plans under Section 408 of that Code, tax sheltered annuities pursuant to the provisions of Section 403(b) of the Internal Revenue Code, and any company, including separate accounts, registered pursuant to the investment Company Act of 1940.

(3) Equity Interest, when used with respect to a corporation means common stock and any security convertible into, exchangeable or exercisable for common stock, and, when used with respect to a partnership, means an interest in the capital or profits or losses of the partnership.

(4) Sponsor, a person who directly or indirectly provides management services for a direct participation program whether as general partner, pursuant to contract or otherwise.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

PURPOSE OF PROPOSED RULES

The purpose of proposed Section 35 of the Rules of Fair Practice is to establish a system of regulation in connection with the distribution of "direct participation" programs by members of the Association. Subsection (a) of proposed Section 35 would prohibit a member or person associated with a member from underwrit-



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ing or participating in the distribution of a direct participation program which contained provisions inconsistent with the rules, regulations and procedures prescribing standards of fairness and reasonableness adopted by the Board of Governors of the Association.

Subsection (b) would give the Board authority to adopt for the protection of investors and the public interest, among other purposes, such rules, regulations and procedures. Subsections (b) (1), (3), (4) would effect that authority in the areas of underwriting compensation, investment suitability and form and content of sales literature, respectively. Subsection (b) (2) would give the Board authority to adopt rules, regulations and procedures regarding the management, structure and operations of direct participation programs in which members or affiliates of members are a sponsor. Subsection (b) (5) gives the Board authority to define words commonly used in direct participation programs.

Subsection (c) gives the Board authority to adopt, alter, amend, supplement or modify the substantive rules, regulations and procedures authorized by Subsection (b) and contained in Appendix F thereto, without recourse to the membership for approval. While a vote of the membership is not necessary to effect a change in Appendix F, any substantive changes will be forwarded to the membership for comment.

Subsection (d) defines certain terms that are used in Section 35. These include: (1) affiliate; (2) direct participation program (program); (3) equity interest; and (4) sponsor.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

Section 15A(b) (2) of the Securities Exchange Act of 1934 provides that an association of brokers and dealers shall not be registered as a national securities association unless the Commission determines that its rules provide it with the capacity to carry out the purposes of the Act, to enforce compliance with the Act by its members and persons associated with its members, and the rules and regulations thereunder, and to protect investors and the public interest. Further, Section 15A(b) (6) requires that the rules of the Association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and in general to protect investors and the public interest. In addition, Section 15A(b) (7) requires that the rules of the Association provide that its members and persons associated with its members shall be appropriately disciplined for violation of any provisions of the Act or the rules and regulations thereunder, or the rules of the Association, by imposition of appropriate penalties. The provisions of Article III, Section 35 would prohibit a member or person associated with a member from underwriting or participating in the distribution of a direct participation offering which does not adhere to the rules, regulation, and procedures adopted by the Board of Governors. These rules, regulations and procedures prescribe standards of fairness and reasonableness with respect to direct participation programs.

COMMENTS RECEIVED FROM THE MEMBERS, PARTICIPANTS OR OTHERS ON THE PROPOSED RULES AND AMENDMENTS

Proposed Article III, Section 35 was submitted to the membership of the Association three times, twice for comment and suggestion and finally for the membership's approval vote. Comments were not solicited in connection with the final submission. The following is a summary of those comments and suggestions and the manner of their integration into the proposed rule.

The first submission of the proposed rule for comment and suggestion was made in a Notice to Membership dated May 9, 1972. Comments received centered on one policy question and a number of structural and definitional suggestions for amending the proposed rule. The policy question involved the delegation to the Board of Governors of the Association of the authority under subsection (c) to "adopt, alter, amend, supplement or modify" the substantive provisions of the appendix attached to the rule without first submitting the same to the membership for approval. The question was raised as to whether this practice was permissible since Article IV, Section 2(b) and Article III, Section 1 of the By-Laws of the Association require membership approval for amendments to the Rules of Fair Practice. Section 3 of Article VII of the By-Laws does delegate to the Board the power to make and issue interpretations in administration and enforcement of the Rules of Fair Practice. In was determined that since the substantive provisions of the appendix merely implement in the rule which was to be approved by the membership, the Board held the power under Article VII, Section 3 to function in the manner indicated in proposed Article III, Section 35 (c) of the Rules of Fair Practice.

In response to suggestions, the element of materiality of flow-through tax benefits was deleted from the definition of "tax shelter program." Clarifying amendments were also made to indicate that pension and profit sharing plans qualifying under Section 401 and annuity plans meeting the requirements of Section 403(b) of the Internal Revenue Code were excluded from the scope of the rule.

The initial proposal had been directed toward all tax shelter programs in which NASD members were participating and extended jurisdiction not only over the members but also over independent issuers. Responding to the inherent questions regarding regulation of issuers of securities, the Securities and Exchange Commission requested comment from the public under Securities Exchange Act Release 34–10260. The Association contemporaneously issued its amended proposal under Notice to Members 73–50, the thrust of which wa unchanged, to assist in the public dialogue of this matter. As a result of the comments received from SEC Release 34–10260 and subsequent directive from the Commission of May 6, 1974, the rule was subsequently altered in its issuer-directed provisions to apply only to those programs where a member or an affiliate of a member involved in the distribution acts as sponor. In this manner it was felt the conflicts of interest involved in the self-underwriting of integrated direct participation programs could still be monitored and controlled.

The proposed rule was finally submitted to the membership for its approval on January 21, 1977 in Notice to Members 77–3. Comments were not solicited in connection with this submission. Several changes were made in the proposed rule from previous submissions. The limiting of issuer-related sections to the context of self-underwritten offerings indicated in the previous paragraph had not previously been submitted to the membership but was consistent with the suggested amendments resulting from SEC Release 34–10260. In addition, the definitions of affiliate and sponsor were altered to conform to the new focus of the issuer-related provisions. The new operational definition "direct participation program" was also considered to be more appropriate to the intent of the proposed rule and was substituted for the definition "tax sheltered program."

The Association is currently soliciting comments from members on substantive regulations ("Appendix F") it may adopt pursuant to subsection (b) of the proposed rule. Appendix F will be filed with the Securities and Exchange Commission as a proposed rule change.

BURDEN ON COMPETITION

It is the position of the National Association of Securities Dealers, Inc. that the proposed rule imposes no burden of competition that is not necessary and in furtherance of the purposes of the Securities Exchange Act of 1934, as amended.

On or before August 25, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the abovementioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 30 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 15, 1977.

[FR Doc.77-20996 Filed 7-20-77;8:45 am]





## MIDWEST STOCK EXCHANGE, INC.

### Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

JULY 13, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f) (1) (B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Chicago Bridge & Iron Co., common stock—$5 par value, File No. 7–4964.

Upon receipt of a request, on or before July 29, 1977, from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-20993 Filed 7-20-77;8:45 am]

## NATIONAL MARKET ADVISORY BOARD

### Meeting; Amended Place of Meeting

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 110(a), that the National Market Advisory Board will conduct open meetings on August 15 and 16, 1977, at the offices of First National City Bank, New York, N.Y.

A notice of the August meeting was published in the FEDERAL REGISTER on July 1, 1977, announcing the place of meeting as 500 North Capitol Street, Washington, D.C.

Further information may be obtained by writing Martin L. Budd, Executive Director, National Market Advisory Board Staff, Securities and Exchange Commission, Washington, D.C. 20549.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-20992 Filed 7-20-77;8:45 am]

## PHILADELPHIA STOCK EXCHANGE, INC.

### Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

JULY 13, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f) (1) (B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Storage Technology Corp., common stock—$0.10 par value, File No. 7–4963.

Upon receipt of a request, on or before July 29, 1977, from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-20994 Filed 7-20-77;8:45 am]

[Release No. 9850; 812-4094]

## THE VANGUARD GROUP, INC., ET AL.

### Filing of Application

JULY 15, 1977.

Notice is hereby given that Wellington Fund, Inc., Windsor Fund, Inc., Ivest Fund, Inc., Wellesley Income Fund Inc., W. L. Morgan Growth Fund, Inc., Exeter Fund, Inc., Gemini Fund, Inc., Westminster Bond Fund, Inc., Trustees' Equity Fund Inc., Explorer Fund Inc., Whitehall Money Market Trust, Qualified Dividend Portfolio, Inc., Qualified Dividend Portfolio II, Inc., and First Index Investment Trust (collectively, "Vanguard Funds"), diversified management investment companies registered under the Investment Company Act of 1940 ("Act") and The Vanguard Group, Inc. ("Vanguard"), a corporation which performs management and administrative functions for the Vanguard Funds (collectively, "Applicants") have filed an application on February 24, 1977, and amendments thereto on May 9, May 11, June 6, 1977, July 5, 1977, and July 12, 1977, for orders of the Commission, pursuant to Rule 17d–1 under the Act, permitting Applicants to effect certain proposed transactions; pursuant to section 17(b) of the Act, exempting certain proposed transactions from the provisions of section 17(a); and pursuant to section 6(c) of the Act, exempting Applicants to the extent noted below, from the provisions of sections 2(a) (19), 2(a) (35), and 22(c) and Rules 2a–4 and 22c–1 thereunder. All interested persons are refered to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Except for Whitehall and First Index, which are business trusts organized under the common law of Pennsylvania, each Vanguard Fund is incorporated under the laws of the State of Maryland. Except for Exeter and Gemini, all of the Vanguard Funds continuously offer and redeem their shares (referred to as the "Continuously Offered Funds"). Exeter continually redeems its shares, although its shares are not currently offered to the public except to those existing shareholders who elect to receive dividend income or capital gains distributions in additional shares rather than in cash. Gemini is a closed-end investment company. On December 31, 1976, the Vanguard Funds had net assets of approximately $2.05 billion.

On May 1, 1975, the existing Vanguard Funds, which until that time were traditional, externally managed investment companies, "internalized" their corporate management and administrative functions through Vanguard, a service company wholly and jointly owned by the Vanguard Funds. After issuance of a Commission order (Investment Company Act Release No. 8676, February 18, 1975) permitting such internalization, shareholders of the then existing Vanguard Funds approved the Funds Service Agreement ("Agreement") pursuant to the tems of which that internalization was accomplished. Wellington Management Company ("Wellington") continued to serve as the investment adviser and principal underwriter to the Vanguard Funds under a renegotiated advisory and distribution contract containing significantly reduced fee schedules. The then existing Vanguard Funds represented that the internalized structure was in the best interest of the Vanguard Funds principally because it established a structure for the complex which enhanced the independence of the funds from any person providing serv-



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ices, and it produced demonstrable savings in operating costs for the funds.

Subsequently, one of the original Vanguard Funds was liquidated and four new investment companies became parties to the Agreement. Three of the new investment companies, Whitehall, QDP, and QDP II, were organized by Wellington, which bore their organizational expenses and serves as their adviser. The fourth company, First Index, has no investment advisor. First Index completed an underwritten public offering in August 1976, realizing approximately $11,300,000. Its initial organization and offering expenses, which were approximately $79,000, have been borne by First Index and they are being amortized over five years. By adding First Index to the Agreement, Applicants state that the expenses of the other Vanguard Funds have been reduced by approximately $30,000 per year through the allocation of essentially fixed costs over a now larger asset base.

Under the internalized structure, the Vanguard Funds have their own executive officers, staff, and employees who, in turn, have no affiliations with any external investment adviser to or distributor for the Vanguard Funds. With minor exceptions, ten of the twelve directors of the Vanguard Funds are neither interested persons of the Vanguard Funds nor of Wellington; one director is an affiliated person or interested person of Wellington; and one is president of Vanguard and of each of the Funds. The Board of directors of Vanguard is composed of the ten independent directors of the Funds and the person who is president of Vanguard and of each of the Funds. Through Vanguard, the Vanguard Funds obtain the following principal services on an at cost basis: (1) executive staff; (2) accounting and financial; (3) legal and regulatory; (4) shareholder reporting; (5) transfer agency (since June 1976); (6) monitoring and control of custodian relationships; and (7) review of advisory, distribution, and other services externally provided to the Vanguard Funds.

Each Vanguard Fund bears specified expenses (such as legal, auditing, custodian, and directors' fees) directly related to and identifiable with its continued corporate existence and operations. In addition, each Vanguard Fund bears its portion of the actual costs of operation of Vanguard. These costs are allocated among each of the Vanguard Funds using various methods agreed upon by the funds. Voting and liquidation rights in Vanguard held by the Vanguard Funds as well as the amounts which each fund has contributed to the capital of Vanguard are adjusted periodically on the basis of the relative net assets of the Vanguard Funds in order to retain proportional ownership. Applicants represent that as a result of these arrangements the Vanguard Funds and their shareholders have recognized actual annual savings, compared with the arrangements in existence prior to internalization of management and administrative functions, of more than $1 million.

The nine Vanguard Funds which had charged a sales load state that Wellington, as their principal underwriter, has retained a portion of the sales commission paid by purchasers of such Funds. Applicants estimate that from 1971 to 1976 the total sales charges paid by investors in those nine Vanguard Funds amount to approximately $38 million. Applicants also state that in 1976 approximately 50 percent of the shares sold by the Vanguard Funds (excluding shares acquired through dividend reinvestments at net asset value) were purchased by existing shareholders; and that even with a significant increase in sales to new investors, sales to existing shareholders would continue to represent approximately 20–25 percent of the annual sales of the Vanguard Funds.

Applicants state that on February 8, 1977, after several studies were conducted, the boards of directors of nine Vanguard Funds which charged a sales load determined that those funds should become no-load funds immediately. Applicants represent that this decision was made in conjunction with the determination by the boards of the Continuously Offered Funds that it would be in the best interests of those funds to "internalize" their distribution function. To effect this internalization, Applicants propose: (1) to amend the Agreement to provide for joint sharing of distribution expenses by allocating those expenses, with certain exceptions, among the Continuously Offered Funds on a no-load their relative net assets; (2) to direct Vanguard to utilize Vanguard Marketing Corporation ("Marketing"), which was organized as a subsidiary by Vanguard and is in the process of registering with the Commission as a broker-dealer, as the principal underwriter for the Continuously Offered Funds on a no-load basis; and (3) to enter into new investment advistory agreements, already negotiated, with Wellington providing for a reduction in the aggregate investment advisory fee paid by the Funds of approximately $2,131,000. Applicants represent that based upon Marketing's initial proposed annual distribution budget of $1,300,000, the aggregate net savings to the Vanguard Funds are expected to be approximately $831,000 in the first year of internalized distribution. Applicants state that the initial marketing and promotional expenditures approved by the board's represent approximately 0.05 percent of the current net assets of the Vanguard Funds, and that Applicants do not presently anticipate such annual expenditures to exceed 0.10 percent of the aggregate net assets of the Vanguard Funds.

The Agreement, as amended, will provide expressly that distribution expenses may include the expenses incurred from time to time in forming one or more new investment companies which are to become members of the Vanguard Group, as well as the expenses of offering shares of those companies to the public. No such new fund will be organized without the approval of two-thirds of the independent directors of Vanguard, and not more than $50,000 will be spent on the organization of any single new fund.

With respect to First Index, Applicants represent that they have determined that until First Index has fully amortized its initial organization and offering expenses, it will not bear any expenses related to the distribution of shares of the Vanguard Funds. First Index, however, will bear such distribution expenses at the earlier of the conclusion of a five year amortization period or the date upon which its organization and offering expenses have been fully amortized. In any event, First Index will bear distribution expenses to the extent the expenses it amortizes are proportionately less than the amounts which other Vanguard Funds are bearing for distribution expenditures.

With respect to Exeter and Gemini, which do not continuously offer their shares to the public, Applicants represent that those funds will bear a full share, in proportion to their relative net assets of certain administrative expenses related to distribution, which were previously borne by Wellington as principal underwriter and investment adviser. Those expenses are represented to be necessary to the functioning of all the Funds, regardless of whether there is any marketing activity. However, Exeter and Gemini will bear no portion of the marketing and promotional expenses related to the distribution of shares of the Continuously Offered Funds.

Section 17(d) of the Act and Rule 17d–1 thereunder provide that it shall be unlawful for an affiliated person, or an affiliated person of an affiliated person, of a registered investment company, acting as principal, to participate in or effect any transaction in connection with any joint enterprise or arrangement in which any such registered investment company, or company controlled by such registered investment company, is a participant, unless an application regarding such arrangement has been granted by the Commission. In passing upon such application, the Commission will consider whether the participation of such registered investment company is on a basis different from, or less advantageous than, that of the other participants. Applicants state that each of the Vanguard Funds may be deemed to be affiliated persons of each and all of the other Vanguard Funds, and that Vanguard and Marketing may be deemed to be affiliated persons of each of the Funds. Applicants further state that the arrangements described above may be deemed a joint enterprise or arrangement. Accordingly, Applicants request that the Commission issue an order pursuant to Rule 17d–1 permitting the amendment of the Funds Service Agreement to authorize the proposed actions and distribution arrangements.

In support of this request, Applicants state that the proposed actions and distribution arrangements are consistent with the provisions, policies, and purposes of the Act because they will advance the interests of the shareholders of the Vanguard Funds, rather than the interests of others, in the operation and administration of those Funds by providing management of each Fund with increased independence from external entities. Applicants represent that the internalization will provide the Vanguard Funds with the best available management, advisory, and distribution services at the lowest reasonable costs. These goals, Applicants assert, are consistent with the policies and objectives of the Act. Applicants also argue that benefits from the proposed transactions will flow to each Fund and its shareholders. For example, Applicants state that by assuming responsibility for distribution of their own shares, the Funds were able to negotiate advisory services from Wellington at a substantially reduced cost. In addition, Applicants assert that capital contributed to organize new funds benefits the existing Funds and their shareholders by making a broader range of investment products available to Fund shareholders and by increasing the asset base of the complex over which the fixed costs of Vanguard are borne. Applicants cite their experience with First Index whereby $30,000 in annual operating costs for Vanguard are now borne by First Index.

Section 17(a) of the Act provides, in part, that it shall be unlawful for any affiliated person of a registered investment company knowingly to sell any security or other property to such registered company, or knowingly to purchase from such registered investment company any security. Section 17(b) of the Act provides, however, that the Commission upon application may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Applicants state that because the Funds may be deemed to be affiliated persons of each other and because Vanguard may be deemed to be an affiliated person of the Funds, they request an order, pursuant to section 17(b) of the Act, exempting from section 17(a) the issuance by Vanguard, and the purchase by the Funds of, securities of Vanguard and periodic purchase and sale of Vanguard securities among the Funds in order to maintain ownership of Vanguard proportional to their assets.

In support of this request, Applicants state that under the proposed arrangements each Fund contributes to the capital of Vanguard in proportion to its then current net assets and that contributions are adjusted from time to time so that no Fund has a disproportionate amount invested in the capital of Vanguard. Applicants assert that the proposed transaction is fair and reasonable, and in light of the working capital needs of Vanguard does not involve overreaching on the part of any person concerned.

Section 2(a)(19) of the Act, in pertinent part, defines an "interested person" of an investment company to include any affiliated person of such company, any affiliated person of a registered broker or dealer, and any "interested person" of such company's principal underwriter. Section 2(a)(19) of the Act further defines an "interested person" of a principal underwriter for an investment company to include any affiliated person of such principal underwriter. Section 2(a)(3) of the Act, in pertinent part, defines an affiliated person of another person to include any officer or director of such other person.

Section 6(c) of the Act provides, in pertinent part, that the Commission may upon application conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provisions of the Act, or any rule thereunder, if and to the extent such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The Vanguard Funds request an order, pursuant to section 6(c) of the Act, exempting their "independent" directors from the definition in section 2(a)(19) of the Act to the extent that such directors would be deemed to be interested persons of any of the Vanguard Funds or of Marketing solely by reason of the implementation of the proposed distribution arrangements.

Applicants represent that, except for their interests as directors, the independent directors have no significant economic or other interest in Marketing which is merely a vehicle the Vanguard Funds will use to distribute their shares on an internalized, no-load, at-cost basis. Accordingly, Applicants assert that the exemption is necessary in the public interest and consistent with the protection of investors and with the purposes of the Act.

Applicants also state that it has been asserted from time to time that sections 2(a)(35) and 22(c) of the Act, and Rules 2a–4 and 22c–1 thereunder, alone or in combination might be interpreted to prohibit the proposed distribution arrangements. These provisions deal generally with the price at which shares of the Continuously Offered Funds and of Exeter may be sold to or redeemed from investors. Although Applicants assert that they do not believe these provisions preclude the proposed distribution arrangements, they request an exemption pursuant to section 6(c) from any or all of these provisions to the extent deemed necessary by the Commission.

Applicants state that the proposed distribution arrangements should be exempted, to the extent necessary, from sections 2(a)(35) and 22(c) of the Act, and Rules 2a–4 and 22c–1 thereunder because the expenditures which may be deemed to constitute a "sales charge" are reasonable in relation to the other benefits being received by the Vanguard Funds; such "sales charge" would not be "hidden" since the arrangement and its financial impact will be disclosed to investors; and the differing "charges" which shareholders would pay are reasonable and fair in light of the benefits to be obtained and do not discriminate improperly among shareholders.

Applicants consent to the following conditions with respect to any order issued in this matter:

(1) That the Vanguard Funds' annual marketing and promotional expenses will not exceed 0.20 percent of their average month-end net assets over a calendar year; provided that if the Commission adopts a rule which would permit greater expenditures, the Vanguard Funds may conform their expenditures to the provisions of such rule;

(2) that Vanguard and/or Marketing shall file annual reports, within 30 days after the close of each year, to the Commission commencing 12 months after the date the proposed distribution arrangements become effective. Such reports shall contain financial information setting forth the distribution expenses of a marketing and promotional nature incurred by the Vanguard Funds and Marketing during the year and the projected expenditures as a percentage of the average month-end net assets of the Continuously Offered Funds over the past year and the estimated net assets of the Continuously Offered Funds for the following year. With respect to annual reports to be filed after the report covering the first 12 months of actual operations, Vanguard may, with the written consent of the Director of the Division of Investment Management, file such reports on a calendar year basis. Vanguard's obligation to file reports pursuant to this condition shall terminate if and to the extent the Commission adopts a rule (or rules) or an interpretive release of general applicability to registered investment companies which by its terms would permit the Vanguard Funds to engage in the financing of the distribution activities without a requirement for periodic reporting to the Commission; and

(3) That, with regard to exemptive orders from section 17(d) and Rule 17d–1 and from sections 2(a)(35) and 22(c) and Rules 2a–4 and 22c–1, such orders will be subject to and preempted prospectively by any Commission decision on the general subject of mutual fund distribution in the form of a rule, interpretive release, announcement or similar action of general applicability to registered investment companies which by its terms would preclude the operation of any or all aspects of this proposal. Notwithstanding any such order granted in this matter, Applicants agree to conform their distribution operations to the limitations contained in any such Commission decision: *Provided, however,* That is such Commission decision is other than by means of a rule, and there has







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been no opportunity for public comment prior to such Commission decision. Applicant shall have 90 days to conform their distribution operations.

Notice is further given that any interested person may, not later than August 9, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-20995 Filed 7-20-77;8:45 am]

## SMALL BUSINESS ADMINISTRATION

[Application No. 05/05-5121]

### SAGERA VENTURE CORP., INC.

**Application for a License to Operate as a Small Business Investment Company**

An application for a license to operate as a small business investment company under section 301(d) of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 *et seq.*) has been filed by Sagera Venture Corporation, Inc. (Applicant) with the Small Business Administration (SBA) pursuant to 13 C.F.R. 107.102 (1977).

The officers and directors are as follows:

Gerald A. Stone, President, General Manager, Director and Sole Stockholder, 9707 Mill Creek Drive, Eden Prairie, Minnesota 55343.

Thomas P. Gray, Vice President, Director, 5 Manitoba Road, Hopkins, Minnesota 55343.

Stephanie Stone, Secretary/Treasurer, Director, 9707 Mill Creek Drive, Eden Prairie, Minnesota 55343.

Richard B. Heist, Director, 5610 Cambridge Street, St. Louise Park, Minnesota 55432.

Richard L. Peterson, Director, 717 Robinwood Lane, Hopkins, Minnesota 55343.

**The applicant will maintain an office at 7710 Computer Avenue, Edina, Minnesota 55435, and will begin operations** with paid-in capital and paid-in surplus of $500,000, derived from the sale of 1,000 shares of common stock at $500 per share to Gerald A. Stone. Mr. Stone is President and sole owner of The Woodhill Corporation which is engaged in the development of Sale/Lease back properties all over the United States.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owner and management and the probability of successful operations of the applicant under this management, including adequate profitability and financial soundness, in accordance with the Act and SBA rules and regulations.

Any person may, not later than August 5, 1977, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Edina, Minnesota.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: July, 13, 1977.

PETER F. MCNEISH,
*Deputy Associate Administrator for Investment.*

[FR Doc.77-20903 Filed 7-20-77;8:45 am]

## DEPARTMENT OF STATE

[CM-7/93]

### U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

**Meeting**

The Department of State announces that the U.S. National Committee for the International Radio Consulative Committee (CCIR) will meet on August 17, 1977, at 9:30 a.m., in Room 1105, Department of State, 22nd and C Streets NW., Washington, D.C.

The U.S. National Committee assists in the resolution of administrative/procedural problems pertaining to U.S. CCIR activities; provides advice on matters of policy and positions in preparation for CCIR Plenary Assemblies and meetings of the international Study Groups; and recommends the disposition of proposed U.S. contributions to the international CCIR which are submitted to the Committee for consideration.

The main purposes of the meeting will be:

(a) Review of preparations for the international meetings of Study Groups, September–October 1977 and January–February 1978, and consideration of position papers;

(b) Review of preparations for the 1979 World Administrative Radio Conference;

(c) Any other business.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is requested that prior to August 17, members of the general public who plan to attend the meeting inform their name and address to Mr. Gordon L. Huffcutt, Office of International Communications Policy, Department of State; the telephone number is Area Code 202–632–2592. All non-Government attendees must use the C Street entrance to the building.

Dated: July 15, 1977.

GORDON L. HUFFCUTT,
*Chairman,*
*U.S. National Committee.*

[FR Doc.77-20911 Filed 7-20-77;8:45 am]

[CM-7/92]

### STUDY GROUP 5 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

**Meeting**

The Department of State announces that Study Group 5 of the U.S. National Committee of the International Radio Consultative Committee (CCIR) will meet on August 18, 1977 from 9:30 a.m. to 1 p.m., in the Aspen Room, Office of Telecommunications, Department of Commerce, 1325 G Street NW., Washington, D.C.

Study Group 5 deals with propagation of radio waves (including radio noise) at the surface of the earth, through the nonionized regions of the earth's atmosphere, and in space where the effect of ionization is negligible. The purpose of the meeting will be a final review of U.S. preparations for the international meeting of Study Group 5 in September 1977.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: July 15, 1977.

GORDON L. HUFFCUTT,
*Chairman,*
*U.S. CCIR National Committee.*

[FR Doc.77-20912 Filed 7-20-77;8:45 am]





## DEPARTMENT OF TRANSPORTATION

### NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

[Docket No. IP77-9; Notice 1]

### VESPA OF AMERICA CORP.

**Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance**

Vespa of America Corp. of San Francisco, Calif., has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.123 Motor Vehicle Safety Standard No. 123 *Motorcycle Controls and Displays*. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Petitioner is an importer of motor scooters which are defined as "motorcycles under the Federal motor vehicle safety standards. Pursuant to Table 3 of Standard No. 123 a motorcycle speedometer is required to be identified as follows: "Major graduations and numerals appears at 10 m.p.h. intervals. Minor graduations at the 5 m.p.h. intervals." Vespa has imported approximately 2,800 vehicles between April 1975 and May 1977 with speedometer face calibrations beginning at 10 m.p.h. instead of zero, and which omit minor graduations at the 5 m.p.h. increments. Petitioner argues that the nonconformance is inconsequential because "as the products involved are intended for street and highway use at speeds up to legal limits, the probability that vehicles will be operated in situations requiring speed less than 10 MPH is remote."

This notice of receipt of a petition for a temporary exemption is published in accordance with section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit comments on the petition for inconsequentiality by Vespa of America Corp. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date. Comments received after the closing date will also be filed and will be considered to the extent practicable. Notice of final action on the petition will be published in the FEDERAL REGISTER.

Comment closing date: September 6, 1977.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on: July 15, 1977.

ROBERT L. CARTER,
*Associate Administrator,*
*Motor Vehicle Programs.*

[FR Doc.77-21007 Filed 7-20-77;8:45 am]

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

### GRANTING OF RELIEF PURSUANT TO SECTION 925(c), TITLE 18, UNITED STATES CODE

Notice is hereby given that pursuant to 18 U.S.C. Section 925(c) the following named persons have been granted relief from disabilities imposed by Federal laws with respect to acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to my satisfaction that the circumstances regarding the convictions of each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Adan, Richard R., 3924 West Sherman, Phoenix, Arizona, convicted on February 5, 1973, in the United States District Court for the District of Arizona.

Barriere, Robert L., 4840 New Jersey Avenue North, Crystal, Minnesota, convicted on November 8, 1973, in the District Court, Fourth Judicial District, Minnesota.

Benight, William Danford, 2320 Williamsburg Drive, Cincinnati, Ohio, convicted on March 13, 1945, in the United States District Court, Southern District of Ohio.

Bennett, Barbara, 306 Royal Springs, Georgetown, Kentucky, convicted on October 26, 1970, in the United States District Court, Eastern District, Lexington, Kentucky.

Bennett, Carl E., 306 Royal Springs, Georgetown, Kentucky, convicted on October 26, 1970, in the United States District Court, Lexington, Kentucky.

Bester, George, Jr., 1821 18th Street, Ensley, Birmingham, Alabama, convicted on July 13, 1961, in the Jefferson County Circuit Court, Tenth Judicial District, Alabama.

Birdwell, John D., Jr., 1551 Reckinger Road, Aurora, Illinois, convicted on December 10, 1948, in the United States District Court, Northern District of Alabama, Southern Division, Birmingham, Alabama.

Carnes, Robert L., Rainey Road, Temple, Georgia, convicted on November 14, 1973, in the United States District Court, Northern District of Georgia, Newnan Division.

Carpenter, Kenneth R., 1115 North Road Street, Elizabeth City, North Carolina, convicted on November 17, 1971, in the Chesapeake Circuit Court, Chesapeake, Virginia; and on July 10, 1972, in the Nansemond County Circuit Court, Virginia.

Caves, Junior, R.R. #3, Salem, Indiana, convicted on March 9, 1953, in the Washington Circuit Court, Indiana.

Cline, Stephen M., Lot No. 34, Gypsy Lane Estates, Bowling Green, Ohio, convicted on August 25, 1970, in the Wood County Common Please Court, Bowling Green, Ohio.

Cox, Delmas B., Route 4, Box 307, London, Kentucky, convicted on November 10, 1964, in the United States District Court, Eastern Judicial District, London, Kentucky.

Croddy, Ralph W., Jr., P.O. Box 24, Hartsville, Indiana, convicted on March 20, 1970, and on March 26, 1956, in the Bartholomew County Superior Court, Indiana.

Cunningham, Herman, L., 24 Jefferson, Elgin, Illinois, convicted on February 23, 1951, and on September 10, 1951, in the United States District Court, Eastern District of Missouri, Eastern Division, St. Louis, Missouri.

Deverell, Robert William, Jr., 1045 "N" Street, Springfield, Oregon, convicted on March 18, 1966, in the United States District Court, Central District, Oregon; and on September 12, 1966, in the Circuit Court of Josephine County, Oregon.

Douglas, Larry P., Route 2, Adrian, Georgia, convicted on April 29, 1969, in the Superior Court of Emanuel County, Swainsboro, Georgia.

Gerrish, Thomas L., 12 Northwood Drive, Lebanon, Ohio, convicted on June 24, 1966, in the Court of Common Pleas, Franklin County, Ohio.

Gordon, Alden F., Route 7, Box 585, Yakima, Washington, convicted on May 19, 1949, in Superior Court of Washington in and for Yakima County.

Hale, Harry R., Jr., 242 Darwin Place, Colorado Springs, Colorado, convicted on April 26, 1974, in the United States District Court, Judicial District of Colorado.

Hamilton, John M., 736 Clancy NE., Grand Rapids, Michigan, convicted on April 24, 1959, in the Circuit Court for the County of Oceana, Michigan.

Hickerson, Larry W., 5022 Regent Drive, Nashville, Tennessee, convicted on January 29, 1964, in the Davidson County Court, Tennessee.

Higgins, Jimmy D., 1303 Mormac Road, Richmond, Virginia, convicted on May 31, 1973, in the Circuit Court of the County of Chesterfield, Virginia.

Hileman, Randall L., 423 Nebraska, Brewster, Kansas, convicted on May 21, 1973, in the District Court, Rawlings County, Atwood, Kansas.

Hyland, David R., 1960 E. Ocean View Avenue, Norfolk, Virginia, convicted on January 10, 1974, in the United States District Court for the District of Arizona.

Johnson, Richard H., 120 South Wisconsin, Salina, Kansas, convicted on August 2, 1971, in the District Court, Lincoln County, Kansas.

Lake, William, J., Jr., 1012 Kelsey, Lansing, Michigan, convicted on December 13, 1957, and on November 4, 1965, in the Recorder's Court, Detroit, Michigan; on or about April 16, 1962, in the Pomona County Court, Los Angeles, California; and on or about February 15, 1963, in the Superior Court, Yavatui County, Arizona.

Lesky, John Urban, 24252 Shakespear, East Detroit, Michigan, convicted on March 13, 1975, in the United States District Court, Eastern District, Michigan.

Lippert, Ronald C., 2071 Reservoir Drive, Carlisle, Pennsylvania, convicted on April 23, 1968, in the Court of Oyer and Terminer, Cumberland County, Pennsylvania.

McLamb, Carlyle, 205 Eleanor Street, Dunn, North Carolina, convicted on April 6, 1959, in the United States District Court for the Eastern District of North Carolina.

Mahon, Eugene Francis, 7566-1 Plantation Road, Charleston Heights, South Carolina, convicted on May 17, 1971, in the United States District Court, Southern District, Georgia.

Manuel, Ira T., 5660 South Pawnee Road, Virginia Beach, Virginia, convicted on October 22, 1958, in the United States District Court, District of Connecticut, New Haven, Connecticut.



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Markowski, Eugene Michael, 349 North Sixth Street, Reading, Pennsylvania, convicted on September 25, 1963, and on December 14, 1964, in the Court of Oyer and Terminer, Pennsylvania.

Medina, Steven L., 525 Walnut, Emmett, Idaho, convicted on June 4, 1962, in the Circuit Court of the State of Oregon, County of Malheur.

Merica, Richard L., Route 1, Box 334-A, Shenandoah, Virginia, convicted on February 20, 1973, in the United States District Court, Western District, Virginia.

Montagna, Kenneth A., 120 E. Hampton, Marquette, Michigan, convicted on January 6, 1956, in the Marquette County Circuit Court, Marquette, Michigan.

Morris, James M., Route 1, Box 145, Greenville, North Carolina, convicted on September 11, 1974, in the Edgecombe County Superior Court, Tarboro, North Carolina.

Niswander, William E., 339 Ridge Avenue Hagerstown, Maryland, convicted on March 23, 1965, in the Washington County Circuit Court, Hagerstown, Maryland.

O'Connell, James J., 960 Holly Hock, New Braunfels, Texas, convicted on September 23, 1957, in the Criminal Court of Cook County, Illinois.

O'Connor, Robert Patrick, 5644 Gateshead, Detroit, Michigan, convicted on April 20, 1956, in the Circuit Court for Wayne County, Michigan.

Pacilla, Louis J., 26 Corio Drive, Washington, Pennsylvania, convicted on November 3, 1966, in the United States District Court, Western District, Pittsburgh, Pennsylvania.

Pence, Ronald L., Rt. 1, Box 157K, Broadway, Virginia, convicted on April 13, 1970, in the Circuit Court of Rockingham County, Virginia.

Pipitone, Frank M., 2154 Belle Street, San Bernardino, California, convicted on December 11, 1974, in the San Bernardino Superior Court, California.

Pojeky, David Joseph, 9223 Green Road, Goodells, Michigan, convicted on September 21, 1955, in the Circuit Court for Macomb County, Michigan.

Pyle, Albert E., 295 South Marshall Road, Beulah, Michigan, convicted on June 17, 1949, in the Grand Traverse County, Circuit Court, Michigan.

Quinones, Roberto M., 275 John Knox Road, Tallahassee, Florida, convicted on January 6, 1972, in the United States District Court for the Southern District of Florida

Reid, James C., III, 17821 Buehler Road, Olney, Maryland, convicted on December 7, 1962, and on June 19, 1963, in the United States District Court for the District of Columbia; and on January 25, 1963, in the Montgomery County People's Court, Rockville, Maryland.

Rizzatti, Russell Victor, 88-73 193 Street, Hollis, New York, convicted on February 15, 1973, in the Supreme Court of Queens County, New York.

Salyer, Thomas W., 7726 Sipes Lane, Annandale, Virginia, convicted on March 29, 1972, in the Circuit Court for Dickenson County, Virginia.

Sanders, Paul Haddon, Jr., 740 Somerset Court, Marietta Georgia, convicted on August 29, 1974, in the United States District Court, Southern District of Mississippi.

Smith, Lacy, 4702 Sherwood Avenue, Columbus, Georgia, convicted on April 8, 1974, Muscogee County Superior Court, Columbus, Georgia.

Smith, Samuel E., Jr., 3620 Toledano Street, New Orleans, Louisiana, convicted on May 29, 1974, in the United States District Court, Eastern Judicial District of Louisiana.

Snider, Michael R., P.O. Box 70, East Berlin, Pennsylvania, convicted on August 23, 1968, in the District Court, Comanche County, Oklahoma.

Sprague, Lester G., 160 West Larch Road, Harrison, Michigan, convicted on February 17, 1958, in the Circuit Court, Clare County, Michigan.

Staubs, William E., 756 221st Street, Pasadena, Maryland, convicted on December 21, 1953, in the Criminal Court of Baltimore, Baltimore, Maryland.

Stevenson, Bobby R., 5326 Pueblo Street, Abilene, Texas, convicted on November 6, 1972, in the District Court of Taylor County, 104th Judicial District, Texas.

Stodolnik, Raymond L., 938 Marie Avenue, New Castle, Pennsylvania, convicted on March 3, 1967, in the Court of Quarter Sessions of Lawrence County, New Castle, Pennsylvania.

Stoudt, Robert H., Jr., R.D. # 2, Box 45EE, Dushore, Pennsylvania, convicted on September 7, 1971, and on December 16, 1971, in the Court of Common Pleas of the County of Bradford, Pennsylvania.

Towne, Edward S., 1937 10th Avenue, Sacramento, California, convicted on December 23, 1968, in the Superior Court of the State of California in and for the County of Solano.

Townley, Clarence G., Route 4, Box 42-B, Cantonment, Florida, convicted on March 22, 1968, in the Escambia County Court, Pensacola, Florida; and on December 13, 1972, in the United States District Court, Southern District of Alabama.

Turner, Arthur B., 9213 Lansbrook Lane Oklahoma City, Oklahoma, convicted on February 26, 1970, in the United States District Court, Houston, Texas.

Walrond, John D., 5708 Peters Creek Road, NW., Roanoke, Virginia, convicted on November 14, 1966, in the United States District Court for the Western District of Virginia.

Wilkerson, Elisha, Jr., Rt. 1, Box 166, Macclenny, Florida, convicted on September 23, 1957, in the United States District Court, Southern District of Georgia; and on July 8, 1968, in the Circuit Court, Baker County, Florida.

Willingham, Billy Ray, 625 Ross Street, Abilene, Texas, convicted on November 24, 1975, in the 104th Judicial District Court of Taylor County, Texas.

Signed at Washington, D.C., this 11th day of July 1977.

REX D. DAVIS,
*Director, Bureau of Alcohol, Tobacco, and Firearms.*

[FR Doc. 77-20916 Filed 7-20-77;8:45 am]

## Office of the Secretary

## TREASURY SMALL BUSINESS ADVISORY COMMITTEE

### Name Change and Solicitation of Nominations for Membership

The Department of the Treasury's Small Business Advisory Committee on Economic Policy has been renamed the "Treasury Small Business Advisory Committee."

The objective of the Committee is to provide information and advice to the Secretary through an effective and representative membership on the broad range of economic and administrative issues which from time to time affect the small business community.

The Secretary is selecting a new membership for the renamed Committee. This notice is to inform the public that nominations for membership on the Treasury Small Business Advisory Committee are now being accepted. Committee members will be selected to achieve a geographically, socially and professionally diverse membership. An effort will be made to involve operators and owners of small businesses as well as lawyers, accountants, academicians, and public interest groups. The membership will be rotated periodically to ensure that differing points of views on current issues and concerns are presented.

Because of the Secretary's desire to establish the Committee as soon as possible, nominations must be submitted in writing to:

The Deputy Secretary. Attention: Committee Manager, Treasury Small Business Advisory Committee, Department of the Treasury, Washington, D.C. 20220

on or before August 5, 1977.

Dated: July 11, 1977.

ROBERT CARSWELL,
*Deputy Secretary.*

[FR Doc 77-20082 Filed 7-20-77;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Volume No. 26]

## PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

JULY 15, 1977

PETITIONS FOR MODIFICATION, INTERPRETATION, OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

The Commission has recently provided for easier identification of substantive petition matters and all documents should clearly specify the "docket", "sub", and "suffix" (e.g. M1, M2) numbers identified by the FEDERAL REGISTER notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission on or before August 22, 1977. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 200 (Sub-No. 272) M1 (Notice of filing of petition to broaden commodity description), filed June 8, 1977. Petitioner: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, Missouri 64142. Petitioner's representative: Ivan E. Moody, 903 Grand Avenue, Kansas City, Missouri 64106.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.





Petitioner holds a common carrier certificate in MC-200 (Sub-No. 272) issued November 4, 1975 authorizing transportation over irregular routes of: *"Chemicals, in containers,* From the facilities of the Bacroft Company, at Seaford and Lewes, Del., to points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, Wisconsin and Wyoming. Restriction: The authority granted herein is restricted to the transportation of traffic originating at the named facilities and destined to the named destination states. By the instant petition, petitioner seeks to add "drugs, medicines, and toilet preparations" as additional commodities in addition to chemicals in containers.

No. MC 133119 (Sub-No. 20) M1 (Notice of filing of petition to delete Restriction), filed June 3, 1977. Petitioner: HEYL TRUCK LINES, INC., P.O. Box 206, 200 Norka Drive, Akron, Iowa 51001. Petitioner's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Petitioner holds a motor *common carrier* Certificate in No. MC 133119 (Sub-No. 20), issued May 27, 1976, authorizing the transportation in foreign commerce of *meats, meat products, and meat by-products,* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), over irregular routes, from Sioux City, Iowa, to ports of entry on the United States-Canada Boundary line located in Washington, Idaho, and New York, and *meats, meat products, meat by-products, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from points in Iowa, Minnesota, Illinois, Indiana, South Dakota, and Nebraska, to ports of entry on the United States-Canada Boundary line, located in Montana, North Dakota, Minnesota, and Michigan; from points in Iowa, Minnesota (except Austin), Illinois (except Joslin), Indiana, South Dakota, and Nebraska, to ports of entry on the United States-Canada Boundary line, located in New York; and from ports of entry on the United States-Canada Boundary line located in Montana, North Dakota, Minnesota, Michigan, and New York, to points in Ohio, Nebraska, Minnesota, Wisconsin, Iowa, Kansas, Missouri, Illinois, Indiana, Kentucky, Pennsylvania, New York, New Jersey, North Carolina, South Carolina, Georgia, Florida, Tennessee, Virginia, Massachusetts, and Connecticut; the authority above is restricted against the interchange and interline of shipments at the United States-Canada Boundary line. By the instant petition, petitioner seeks to delete the restriction in the authority above.

MC No. 140596, M1, filed June 3, 1977, (Notice of filing of petition to delete restriction). Petitioner: NEWPORT AIR FREIGHT, INC., Airport Road, Newport, Vermont 05855. Petitioner's representative: S. Arnold Smith, Craftsbury, Vermont 05826. Authority sought to modify Petitioner's authority under MC 140596 to operate as a *contract carrier* by motor vehicle over irregular routes, as pertinent, between Newport, Vermont, on the one hand, and, on the other, Logan International Airport at or near East Boston, Massachusetts, transporting *snowmobile parts* for Bombardier Ltee/Ltd without being restricted, as now, to the transportation of its traffic that has a prior or subsequent movement by air. Petitioner's authority in the Permit above was issued September 11, 1975.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 113678 (Sub-No. 600) (Republicaton), filed November 7, 1975, published in the FEDERAL REGISTER issue of December 4, 1975, republished in the FEDERAL REGISTER issue of June 3, 1976 with the MC number omitted, and republished this issue. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. An Order of the Commission, Review Board Number 3, dated May 5, 1976, and served May 20, 1976, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *frozen and refricated sandwiches and food products* from Phoenix, Ariz., to points in Colorado and New Mexico. The purpose of this republication is to indicate the correct docket number assigned to this proceeding, and to indicate the addition of points in New Mexico as additional destination points in applicant's grant of authority.

No. MC 134922 (Sub-No. 176) (Republication), filed June 14, 1976, published in the FEDERAL REGISTER issue of July 15, 1976, and republished this issue. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). An order of the Commission, Review Board Number 3, dated May 20, 1977, and served June 1, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of chemicals, plastics and plastic products, cleaning compounds, and animal feed supplements (except in bulk) in vehicles equipped with mechanical refrigeration, (1) from points in Brazoria County, Tex., (except from the facilities of Amoco Chemical Corp., and the Monsanto Chemical Corp., at or near Chocolate Bayou (Alvin), Tex.), to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, and to points in Iowa on and west of U.S. Highway 169 (except Council Bluffs, Iowa, and points in its commercial zone), in Minnesota (except Minneapolis and St. Paul, Minn., and points in their commercial zones), and in Nebraska (except Lincoln and Omaha, Nebr., and points in their commercial zones), and (2) from Lima, Ohio, to points in Arizona, Colorado, California, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, restricted in (1) and (2) above to the transportation of shipments originating at the named origins and destined to the named destination points; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate (a) the grant of plastic products in applicant's commodity description; and (b) to indicate the grant of Wyoming as a destination state in part (1) of applicant's territorial description.

No. MC 136640 (Sub-No. 11) republication), filed April 8, 1976, published in the FEDERAL REGISTER issue of May 13, 1976, and republished this issue. Applicant: Robert L. Allen, doing business as ALLEN TRANSPORT, P.O. Box 321, Pocomoke City, Md. 21851. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. A Decision and Order of the Commission, Review Board Number 3, dated May 12, 1977, and served May 27, 1977 authorizes service, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, in the transportation of (1)(a) *frozen bakery products* when moving in mixed loads with commodities named in (b), and (b) *commodities* otherwise exempt from economic regulation under Section 203(b)(6) of the Interstate Commerce Act, when moving in mixed loads with frozen bakery products, from Boston, Mass., to points in Alabama, Arkansas, Delaware, Florida, Georgia,



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Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, North Carolina, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia, and (2) *cartons and boxes* from Chambersburg, Pa., to Boston, Mass., under a continuing contract or contracts with Boston Bonnie, Inc., of Boston, Mass. The purpose of this republication is to indicate the authority to transport "commodities otherwise exempt from economic regulation under Section 203(b)(6) of the Interstate Commerce Act".

No. FF-490 (Republication), filed November 11, 1976, published in the FEDERAL REGISTER issue of December 9, 1976, and republished this issue. Applicant: 44 AIR EXPRESS SYSTEMS, INC., 20 Henry Street, Teterboro, N.J. 07608. Applicant's representative: Edward M. Alfano, 550 Mamaroneck Avenue, Harrison, N.Y. 10528. An Order of the Commission, Review Board Number 3, dated June 10, 1977, and served June 29, 1977, finds that service by applicant as a *freight forwarder*, in interstate commerce, through use of the facilities of common carriers by rail, motor, and water, in the transportation of *general commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities which because of size or weight require the use of special equipment, motor vehicles, and unaccompanied baggage), between points in the United States (including Alaska and Hawaii), restricted to the transportation of shipments having an immediately prior or subsequent movement by air in the air freight forwarder service by 44 Air Express Systems, Inc.; will be consistent with the public interest and the national transportation policy; that applicant is ready, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate that the FEDERAL REGISTER publication of December 9, 1976 was incorrect in stating applicant seeks only to add Alaska and Hawaii to its present authority; applicant holds no authority from the Commission and seeks an initial permit.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the Federal Register of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 5888 (Sub-No. 41), filed June 6, 1977. Applicant: MID-AMERICAN LINES, INC., 127 West Tenth Street, Kansas City, Mo. 64105. Applicant's representative: Louis A. Hoger (Same address as applicant). Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: Fibrous glass products and materials, mineral wool, mineral wool products and materials, insulated air ducts, insulating products and materials, glass fibre rovings, yarn and strands and glass fibre mats and matting between the warehouse and storage facilities of CertainTeed Corp., at or near New Haven, Ind., on the one hand, and on the other, points in Illinois, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Ohio and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 8973 (Sub-No. 45), filed May 31, 1977. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: Plastic articles, materials, equipment and supplies used in the manufacture and sale of plastic articles (except liquid commodities in bulk in tank vehicles) (1) Between the facilities of Colorite/Gering Products, Division of Dart Industries at Ridgefield, N.J., on the one hand, and, on the other points in the States of North Dakota South Dakota, Nebraska, Kansas, Oklahoma, Texas, California, Arizona, New Mexico, Nevada, Utah, Colorado, Wyoming, Montana, Idaho, Washington, Oregon, (2) Between the facilities of Colorite/Gering Products, Division of Dart Industries at Sparks, Nev., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Washington, D.C.

No. MC 19157 (Sub-No. 41), filed May 31, 1977. Applicant: McCormack's Highway Transportation, Inc., R.D. 3, Box 4, Campbell Road, Schenectady, New York 12306. Applicant's representative: Paul Montarello (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Polyurethane, Polyurethane foam and compounds* (except in bulk) (1) Between Frazer and Conshohocken, Pennsylvania and Brooksville, Vermont (2) Between Knollwood and Dunbar, West Virginia and Burlington, Maine.

NOTE.—Common control may be involved. If a hearing is deemed nesessary, the Applicant requests it be held at Albany, New York or Washington, D.C.

No. MC 19227 (Sub-No. 227), filed March 22, 1976. (Republished this issue to amend the commodity and territorial scope.) Applicant: LEONARD BROS. TRUCKING CO., INC., 2515 N.W. 20th Street, Miami, Florida 33152. Applicant's representative: William O. Turney, 7101 Wisconsin Avenue, Suite 1010, Washington, D.C. 20014. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products*, and supplies, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bristol, Franklin, and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi; Dunkirk, New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *Zinc and zinc alloys* (except in bulk) between the plantsites of Alumax, Inc. and its subsidiary affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii.)

NOTE.—The purpose of this republication is to delete Lebanon, Indiana from Part (1), add Boise, Idaho; St. Charles, Illinois; Bicknell, Indiana; Dunkirk, New York; and Dennison, Texas to part (1), add part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Folls, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 20992 (Sub No. 40), filed June 6, 1977. Applicant: DOTSETH TRUCK LINE, INC., Knapp, Wisconsin 54749. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebraska 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Precast concrete products, castings, and accessories and parts thereof*, from Menomonie and Maiden Rock, Wisconsin, to points in the United States (except Alaska and Hawaii); and (2) *Equipment, materials, and supplies* used in the manufacture, production and distribution of the commodities named in (1) above (except commodities in bulk, in tank vehicles), from points in the United States (except Alaska and Hawaii) to Menomonie and Maiden Rock, Wisconsin. Restriction: Restricted to the transportation of traffic originating at or destined to Menomonie and Maiden Rock, Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minnesota. Common control may be involved.

No. MC 25798 (Sub-No. 295), filed June 6, 1977. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Macaroni, noodles, spaghetti, vermicelli and soybean products and dried soup mix*, from Minneapolis, Minn., to points in Florida, Georgia, North Carolina, South Carolina, California and Arizona.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Minneapolis, Minn., or Tampa, Fla.

No. MC 29910 (Sub-No. 176), filed May 27, 1977. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Applicant's representative: Don A. Smith, P.O. Box 43-510 N. Greenwood, Fort Smith, AR 72902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-electric traffic control devices and related equipment and supplies; steel railing; abrasives, reflective liquids; and glass and plastic materials;* (except in bulk): From Jackson, Miss., to points in Arkansas, Oklahoma, Texas, Kansas, Missouri, Iowa, Wisconsin, Tennessee, Georgia, North Carolina, South Carolina, Kentucky, Illinois, Indiana, Ohio, Pennsylvania, New York, Rhode Island, Massachusetts, Connecticut, New Jersey and Michigan.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Jackson, Miss. or New Orleans, La.

No. MC 31389 (Sub-No. 228), Filed: May 31, 1977. Applicant: McLean Trucking Company, a Corporation, P.O. Box 213, Winston-Salem, North Carolina 27102. Applicant's representative: David F. Eshelman, P.O. Box 213, Winston-Salem, North Carolina 27102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): serving the plantsite and distribution facilities of Ditto of California, Inc., located at or near Colfax, La., as an off-route point in conjunction with applicant's regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Baton Rouge Louisiana or Washington, D.C.

No. MC 32882 (Sub-No. 77), filed June 21, 1977, (Republished this issue to amend the commodity and territorial scope). Applicant: MITCHELL BROS. TRUCK LINES, 3841 N. Columbia, P.O. Box 17039, Portland, Oregon 97217. Applicant's representative: David R. Parker, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products*, and supplies, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites and facilities of Alumax, Inc. and its subsidiary and affiliated companies located at or near Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado, Boise and Twin Falls, Idaho; Tulsa and Checotah, Oklahoma; Stayton and Umatilla, Oregon; Dennison and Mansfield, Texas; and Spokane and Ferndale, Washington, on the one hand, and, on the other, points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming; (2) *Zinc and zinc alloys* (except in bulk) between the plantsites and facilities of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; and Checotah, Oklahoma, on the one hand, and, on the other, points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington and Wyoming.

NOTE.—The purpose of this republication is to identify shipper's subsidiary and affiliated companies' plantsites and facilities in (1), and to add (2) dealing with zinc traffic.

No. MC 47583, (Sub-No. 49), filed May 27, 1977. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, Kansas 66115. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, Kansas 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over IRREGULAR routes, transporting: (1) *cellulose insulation*, in bags, and blowing machines and replacement parts and supplies (except commodities in bulk), from the plantsite and storage facilities of Thermo Products Loose Fill, Inc., at or near Broken Arrow, Oklahoma, to points in the United States; and (2) *materials, equipment and supplies* used in the manufacture and distribution of cellulose insulation (except commodities in bulk), from points in the United States to the plantsite and storage facilities of Encro Industries, Inc., at or near Broken Arrow, Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Missouri.

No. MC 52657 (Sub-No. 741), filed May 27, 1977. Applicant: ARCO AUTO CARRIERS, INC., 16 West 151 Shore Court, Burr Ridge, Ill. 60521. Applicant's representatives: James Bouril, 16 West 151 Shore Court, Burr Ridge, Ill. 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles, trucks, and chassis*, from the plant facilities of the Jeep Corporation, a subsidiary of American Motors Corporation, located in Toledo, Ohio, to points in the United States, except Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Detroit, Mich.

No. MC 52704 (Sub-No. 146), filed June 7, 1977. Applicant: GLENN McCLENDON TRUCKING CO., INC., P.O. Drawer "H," LaFayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St. NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic containers*, from Opelika, Ala., to points in Florida, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia; and (2) *materials, equipment, and supplies used in the manufacture and distribution of plastic containers (except commodities in bulk)*, from points in Texas, to Opelika, Ala.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 60014 (Sub-No. 43), filed February 2, 1977 (republished this issue to





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amend the commodity and territorial scope). Applicant: AERO TRUCKING, INC., Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products, and supplies, materials, and equipment used in the manufacture of aluminum and aluminum products (except in bulk)*, between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Decatur, Ala.; Casa Grande, Ariz.; Long Beach, Riverside, Visalia, Perris Valley, and Woodland, Calif.; Loveland, Colo.; Ocala and Plant City, Fla.; Peachtree City and Jonesboro, Ga.; Boise and Twin Falls, Idaho; Chicago, Morris, and St. Charles, Ill.; Bristol, Franklin, and Bicknell, Ind.; McPherson, Kans.; Frederick, Md.; Montevideo, Minn.; St. Louis, Mo.; Hernando, Miss.; Dunkirk, N.Y.; Reidsville, N.C.; Cleveland, Ohio; Tulsa and Checotah, Okla.; Stayton, Oreg.; Bloomsburg, Pa.; Dennison and Mansfield, Tex.; Harrisonburg, Va.; Spokane and Ferndale, Wash.; and Marshfield, Wis., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *Zinc and zinc alloys* (except in bulk) between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Long Beach, Calif.; Chicago, Ill.; Cleveland, Ohio; and Checotah, Okla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Ind.; Hialeah, Fla.; Niles, Mich.; and Umatilla, Oreg. from Part (1), add Bicknell, Ind.; Dunkirk, N.Y.; and Dennison, Tex. to Part (1), add Part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys Inc., Kawneer Co., Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 73165 (Sub-No. 394), filed October 26, 1976 (republished this issue to amend the commodity and territorial scope). Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, 830 North 33d St., Birmingham, Ala. 35202. Applicant's representative: William P. Parker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *aluminum, aluminum products, and supplies, materials, and equipment used in the manufacture of aluminum and aluminum products (except in bulk)*: Between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Decatur, Ala.; Casa Grande, Ariz.; Long Beach, Riverside, Visalia, Perris Valley, and Woodland, Calif.; Loveland, Colo.; Ocala and Plant City, Fla.; Peachtree City and Jonesboro, Ga.; Boise and Twin Falls, Idaho; Chicago, Morris, and St. Charles, Ill.; Bicknell, Bristol, and Franklin, Ind.; McPherson, Kans.; Frederick, Md.; Montevideo, Minn.; St. Louis, Mo.; Hernando, Miss.; Dunkirk, N.Y.; Reidsville, N.C.; Cleveland, Ohio; Tulsa and Checotah, Okla.; Stayton, Oreg.; Bloomsburg, Pa.; Dennison and Mansfield, Tex.; Harrisonburg, Va.; Spokane and Ferndale, Wash.; and Marshfield, Wis., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *Zinc and zinc alloys* (except in bulk) between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Long Beach, Calif.; Chicago, Ill.; Cleveland, Ohio; and Checotah, Okla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Ind. from Part (1), add Boise, Idaho; St. Charles, Ill.; Bicknell, Ind.; Dunkirk, N.Y.; and Dennison, Tex., to part (1), add part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Co., Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 73165 (Sub-No. 408), filed June 7, 1977. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, Birmingham, Ala. 35202. Applicant's representative: John W. Cooper, 200 Woodward Bldg., 1927 First Ave., North, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *roofing and roofing materials*, from the facilities of Elk Corporation, located at or near Stephens and East Camden, Ark., to points in Alabama, Kentucky, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Birmingham, Ala., or Dallas, Tex.

No. MC 73165 (Sub-No. 409), filed June 7, 1977. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, Birmingham, Ala. 35202. Applicant's representative: William P. Parker, P.O. Box 11086, Birmingham, Ala. 35202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *roofing and roofing materials*, from the facilities of Masonite Corporation, Roofing Division, located at or near Meridian, Miss., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, North Carolina, South Carolina, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Jackson, Miss., or Birmingham, Ala.

No. MC 74321 (Sub-No. 124), filed September 1, 1976 (republished this issue to amend the commodity and territorial scope). Applicant: B. F. WALKER, INC., P.O. Box 17–B, 1555 Tremont Place, Denver, Colo. 80217. Applicant's representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele Street, Denver, Colo. 80209. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products, and supplies, materials, and equipment used in the manufacture of aluminum and aluminum products (except in bulk)*: (a) between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Decatur, Ala.; Casa Grande, Ariz.; Long Beach, Riverside, Visalia, Perris Valley, and Woodland, Calif.; Loveland, Colo.; Ocala and Plant City, Fla.; Peachtree City and Jonesboro, Ga.; Boise, Idaho; Chicago, Morris, and St. Charles, Ill.; Bristol, Franklin, and Bicknell, Ind.; McPherson, Kans.; Frederick, Md.; Montevideo, Minn.; St. Louis, Mo.; Hernando, Miss.; Dunkirk, N.Y.; Reidsville, N.C.; Cleveland, Ohio; Tulsa and Checotah, Okla.; Stayton, Oreg.; Bloomsburg, Pa.; Dennison and Mansfield, Tex.; Harrisonburg, Va.; Spokane and Ferndale, Wash.; and Marshfield, Wis., on the one hand, and, on the other, points in the United States (except Alaska, Hawaii, Arizona, California, Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming); (2) *Zinc and zinc alloys* (except in bulk) between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Long Beach, Calif.; Chicago, Ill.; Cleveland, Ohio; and Checotah, Okla., on the one hand, and, on the other points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Ind., from Part (1), add Boise, Idaho; St. Charles, Ill.; Bicknell, Ind.; Dunkirk, N.Y.; and Dennison, Tex., to part (1), add part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Co., Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 82063 (Sub-No. 80), filed June 6, 1977. Applicant: KLIPSCH HAULING CO., a corporation, 10795 Watson Road, Sunset Hills, St. Louis, Mo. 63127. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk between the plantsite of Arkansas Eastman Co., located at or near Magness, Ark., on the one hand, and on the other, points in the United States (except points in Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Memphis, Tenn.

No. MC 82079 (Sub-No. 50), filed June 6, 1977. Applicant: KELLER TRANSFER LINE, INC., 5635 Clay Avenue SW., Grand Rapids, Mich. 49508. Applicant's representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, Mich. 49503. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen food products in mechanically refrigerated vehicles, except in bulk*, from the plantsites and warehouse facilities of Ore-Ida Foods, Inc., in Greenville, Mich., to points in Ohio, Indiana, and Illinois,

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Lansing, Mich., or Chicago, Ill. Common control may be involved.

No. MC 82492 (Sub-No. 157), filed June 7, 1977. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from points in the lower peninsula of Michigan, to points in Kansas, Minnesota, Missouri, Wisconsin, those points in Illinois north of Interstate Highway 74 and Champaign, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 83539 (Sub-No. 449), filed December 15, 1976 (Republished this issue to amend the commodity and territorial scope). Applicant: C & H TRANSPORTATION CO., INC., Post Office Box 5976, Dallas, Texas 75222. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *(1) Aluminum, aluminum products, and supplies*, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bristol, Franklin and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi; Dunkirk, New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *Zinc and zinc alloys* (except in bulk) between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Indiana from Part (1), add Boise, Idaho; St. Charles, Illinois; Bicknell, Indiana; Dunkirk, New York; and Dennison, Texas to part (1), add part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 105566 (Sub-No. 143), filed June 6, 1977. Applicant SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, Virginia 22150. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting *paint, paint ingredients, paint materials, putty, caulking and glasing compounds, adhesive cement, and glue*, from Dayton, Ohio to points in Idaho, Oregon, Utah, and Washington, and from Tipp City, Ohio to points in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 105566 (Sub No. 147), filed June 7, 1977. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, Va. 22150. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting (a) *Glassware and glass articles*, from Jeannette, Pa., to points in Louisiana, Oklahoma, and Texas; (b) *earthenware, chinaware, porcelainware, and stoneware*, from Sebring, Ohio, to points in Louisiana, Oklahoma, and Texas; (c) *plastic articles and plastic materials*, from Lake City, Pa., to points in Louisiana, Oklahoma, and Texas; and (d) *earthenware, chinaware, porcelainware, and stoneware*, from Bedford Heights, Ohio, to points in Louisiana, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held in Chicago, Ill., or Washington, D.C.

No. MC 106497 (Sub-No. 142), filed May 27, 1977. Applicant: PARKHILL TRUCK COMPANY, a corporation, P.O. Box 912, Joplin, Missouri 64801. Applicant's representative: A. N. Jacobs, P.O. Box 113, Joplin, Missouri 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products and particle board*, from Winnfield and Lillie, La. and Huttig, Ark., to points in Arkansas, Kansas, Louisiana, Missouri, Nebraska, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either New Orleans, Louisiana or Little Rock, Arkansas.

MC 106497 (Sub-No. 143), filed June 7, 1977. Applicant: PARKHILL TRUCK COMPANY, a corporation, P.O. Box 912 (Bus Rte I–44 east), Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs, P.O. Box 113, Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bins, hoppers, tanks, iron and steel articles, ducts, weldments*, and *parts, attachments* and *accessories* used in the installaion thereof, from points in Maury County, Tenn., to points in the United States (except Alaska and Hawaii); and (2) *equipment, materials, supplies* and *parts* used in the manufacture of commodities in (1) above, points in the United States (except Alaska and Hawaii), to Maury, County, Tenn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Nashville, Tenn., or Birmingham, Ala.

No. MC 106644 (Sub-No. 225), filed October 26, 1976 (Republished this issue to amend the commodity and territorial scope). Applicant: SUPERIOR TRUCKING COMPANY, INC., Post Office Box 916, Atlanta, Georgia 30301. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products*, and *supplies*, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bristol, Franklin and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi; Dunkirk, New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *zinc, and zinc alloys* (except in bulk) between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Indiana from Part (1), add Boise, Idaho; St. Charles, Illinois; Bicknell, Indiana; Dunkirk, New York; and Dennison, Texas to part (1), add part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.







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No. MC 106603 (Sub-No. 154), filed June 6, 1977. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, Michigan 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Michigan 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: (1) *Gypsum and gypsum products*, and materials and supplies used in the installation and distribution thereof, from the plantsite and warehouse of Georgia-Pacific Corporation at or near Wilmington, Delaware, to points in Ohio, and Allegheny, Armstrong, Beaver, Butler, Clarion, Crawford, Erie, Fayette, Forest, Greene, Lawrence, Mercer, Venango Warren, Washington, and Westmoreland Counties, Pennsylvania; and (2) *Gypsum board paper* from the plantsite and warehouse of Georgia-Pacific Corporation at or near Delair, New Jersey, to Grand Rapids, Michigan.

NOTE.—Common control may be involved. If a hearing is deemed necessary, Applicant requests that it be held at Washington, D.C. or Philadelphia, Pennsylvania.

No. MC 107012 (Sub-No. 240), filed June 6, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Road, P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Swainsboro, Ga., to points in Mississippi, Tennessee, South Carolina, Virginia, Kentucky, Maryland, Delaware, West Virginia, and North Carolina.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Atlanta, or Savannah, Ga.

No. MC 107403, (Sub-No. 1021), filed June 6, 1977. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Landsdowne, PA 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, over irregular routes, transporting *Sugar and Molasses*, in bulk, from Findlay and Fremont, Ohio, to points in Indiana, Michigan, New York, Ohio, and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Washington, D.C.

No. MC 109397 (Sub-No. 330), filed June 7, 1976 (Republished this issue to amend the commodity and territorial scope). Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Missouri 64801. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th Street, Oklahoma City, Oklahoma 73112. Applicant seeks to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products*, and *supplies*, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia, Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bristol, Franklin and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota, St. Louis, Missouri; Hernando, Mississippi; Dunkirk; New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *Zinc and zinc alloys* (except in bulk) between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Indiana from Part (1), add Boise, Idaho; St. Charles, Illinois; Bicknell, Indiana; Dunkirk, New York; and Dennison, Texas to part (1), add part (2), add "and its subsidiary and affiliated companies" to the plantsites to be served, add "or near" to the territorial description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

MC 109397 (Sub-No. 363), filed June 6, 1977. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, Missouri 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-cut buildings*, and *parts, attachments, materials*, and *supplies* when moving with pre-cut buildings, from points in Polk County, Arkansas, to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Little Rock, Arkansas or New Orleans, Louisiana.

MC 109689 (Sub-No. 311), filed May 31, 1977. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, Utah 84087, P.O. Box 1825, Salt Lake City, Utah 84110. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: *Sulphur*, from Uintah and Sweetwater Counties, Wyoming to all points and places in Idaho.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Salt Lake City, Utah.

No. MC 109689 (Sub-No. 312), filed May 31, 1977. Applicant: W. S. HATCH CO., a corporation, 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium Chlorate*, in bulk, from the plant site of Kerr McGee Chemical Corporation at Henderson, Nevada to points in Arizona, Colorado, New Mexico, Texas and Utah. Restricted against service to Phoenix, Arizona.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Salt Lake City, Utah or Los Angeles, California.

No. MC 111274 (Sub-No. 24), filed May 23, 1977. Applicant: Elmer C. Schmidgall and Benjamin G. Schmidgall, d.b.a. SCHMIDGALL TRANSFER, P.O. Box 249, Tremont, Illinois 61568. Applicant's representative: Frederick C. Schmidgall, P.O. Box 356, Morton, Illinois 61550. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *materials and components* used in the manufacture of grain dryers, restricted to traffic having a subsequent movement by motor vehicle, from Mound Ridge, Kans., London, Ohio, and Buckner, Ky., to Morton, Illinois, under a continuing contract, or contracts, with Meyer Morton.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill.; St. Louis, Mo. or Springfield, Ill.

No. MC 11274 (Sub-No. 25), filed May 23, 1977. Applicant: Elmer C. Schmidgall and Benjamin G. Schmidgall, d.b.a. SCHMIDGALL TRANSFER, P.O. Box 249, Tremont, Illinois 61568. Applicant's representative: Frederick C. Schmidgall, P.O. Box 356 Morton, Illinois 61550. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *materials and components used in the manufacture and construction of pole buildings*, restricted to traffic having a subsequent movement by motor vehicle, from points in Indiana, Michigan, Missouri, Ohio, Iowa, Minnesota, Nebraska, North Dakota, South Dakota, Kansas, Kentucky, Tennessee, and Mississippi to the plant site of Morton Buildings, Inc., located at or near Morton, Illinois, under a continuing contract, or contracts, with Morton Buildings, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Springfield or Chicago, Ill. or St. Louis, Mo.

No. MC 111545 (Sub-No. 232), filed January 10, 1977. Republished this issue to amend the commodity and territorial scope). Applicant: HOME TRANSPORTATION COMPANY, INC., P. O Box 6426, Station A, Marietta, Georgia 30065. Applicant's representative: Robert E. Born (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting (1) *aluminum, aluminum products, and supplies, materials and equipment used in the manufacture of aluminum and aluminum products* (*except in bulk*): Between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bicknell, Bristol and Franklin, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi, Dunkirk, New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *zinc and zinc alloys* (*except in bulk*): Between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Indiana from Part (1), add Boise, Idaho; St. Charles, Illinois; Bicknell, Indiana; Dunkirk, New York; and Dennison, Texas to part (1), add part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.





No. MC 112304 (Sub-No. 108), filed July 26, 1976. (Republished this issue to amend the commodity and territorial scope). Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus Ohio 43215. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products*, and *supplies*, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bristol, Franklin and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; Hernando, Mississippi; Dunkirk, New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *Zinc and zinc alloys* (except in bulk) between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Indiana from Part (1), add Boise, Idaho; St. Charles, Illinois; Bicknell, Indiana; Dunkirk, New York; and Dennison, Texas to part (1), add part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 112801 (Sub-No. 194), filed June 7, 1977. Applicant: Transport Service Co., a corporation, 2 Salt Creek Lane, Hinsdale, Ill. 60521. Applicant's representative E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle) over irregular routes, transporting: *Acids, chemicals, alcohol, denatured alcohol solvents and polythylene resins*, in bulk or hopper type vehicles, from Tuscola, Ill., to points in the United States on and east of U.S. Highway 85, including Utah.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Indianapolis, Ind., or Chicago, Ill.

No. MC 113460 (Sub-No. 8), filed May 26, 1977. Applicant: BLACKHAWK TRANSPORTATION, INC., 3909 E. 29th Street, Des Moines, Iowa 50317. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from LaCrosse and Milwaukee, Wis. to Des Moines, Chariton, and Red Oak, Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at Chicago, Ill., Minneapolis, Minn. or Kansas City, Mo.

No. MC 113855 (Sub-No. 366), filed Dec. 6, 1976 (Republished this issue to amend the commodity and territorial scope). Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road, S.E., Rochester, Minnesota 55901. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, North Dakota 58102. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products*, and *supplies*, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bristol, Franklin and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi; Dunkirk, New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *Zinc and zinc alloys* (except in bulk) between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Indiana from Part (1), add Boise, Idaho; St. Charles, Illinois; Bicknell, Indiana; Dunkirk, New York; and Dennison, Texas to part (1), add part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 114457 (Sub-No. 311), filed June 6, 1977. Applicant: DART TRANSIT COMPANY, a corporation, 2120 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Adhesive cement, tackless strips, carpet accessories and advertising material* from the facilities of Taylor Industries at or near Conyers, Ga., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas; (2) *Equipment, materials and supplies* used in the manufacture of the aforementioned articles from the destination territory described above to Conyers, Ga.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga., or Nashville, Tenn.

No. MC 114632 (Sub-No. 112), filed June 6, 1977. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, South Dakota 57042. Applicant's representative: Robert Gisvold, 1000 First National Bank Bldg., Minneapolis, Minnesota 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk) from Kansas City, Missouri to points in Ohio, Maryland, Pennsylvania, Connecticut, New Jersey, New York, Massachusetts, West Virginia, Virginia, Vermont, Michigan, Indiana, and Illinois.



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NOTE.—Applicant holds motor contract carrier authority in No. MC–129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Missouri.

No. MC 114896 (Sub-No. 53), filed June 6, 1977. Applicant: PUROLATOR SECURITY, INC., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Currency, coin, securities, food stamps and other matters of value*, between Chicago, Ill., on the one hand, and, on the other, points in Indiana, Iowa, and Wisconsin, under contract with the 7th Federal Reserve District, located at Chicago, Ill.

NOTE.—Applicant holds common carrier authority in No. MC 140345 (Sub-No. 1), therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill. or Washington, D.C.

No. MC 115826 (Sub-No. 267), filed June 6, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088TA, 1960 31st Street, Denver, Colorado 80217. Applicant's representative: Charles J. Kimball, Suite 350, Capitol Life Center, 1600 Sherman, Denver, Colorado 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, meat, meat products, wine, fruit juice, and juice concentrates* (except commodities in bulk). (1) From points in California to points in the United States (except Alaska and Hawaii), (2) from points in Arizona to points in Colorado, New Mexico, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at San Francisco and Los Angeles, California and Denver, Colorado. Common control may be involved.

No. MC 116077 (Sub-No. 382), filed June 24, 1977. Applicant: ROBERTSON TANK LINES, INC., 4550 Post Oak Place Drive, P.O. Box 1505, Houston, Texas 77001. Applicant's representative: Pat H. Robertson, 500 West Sixteenth Street, P.O. Box 1945, Austin, Texas 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid Petro Chemicals*, in bulk, in tank vehicles, from points in Harris County, Texas, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Maine, Maryland, Missouri, Massachusetts, Nevada, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Utah, Virginia, Washington; (2) *liquid petro chemicals*, in bulk, in tank vehicles, from points in Galveston County, Texas, to points in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Kansas, Kentucky, Louisiana, Missouri, Montana, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Utah, Wisconsin; (3) *petro chemicals*, in bulk, in tank vehicles, from points in Calhoun County, Texas, to points in Alabama, Florida, Georgia, Indiana, Kentucky, Louisiana, Missouri, Mississippi, Ohio; (4) *liquid petro chemicals*, in bulk, in tank vehicles, from points in Travis County, Texas, to points in Arkansas; (5) *liquid petro chemicals*, in bulk, in tank vehicles, from points in Jim Wells County, Texas, to points in Florida; (6) *liquid petro chemicals*, in bulk, in tank vehicles, from points in Nueces County, Texas, to points in Florida and Georgia; (7) *liquid petro chemicals*, in bulk, in tank vehicles, from points in Chambers County, Texas, to points in Georgia, Illinois, Missouri, New Jersey, Ohio, South Carolina, Virginia; (8) *petro chemicals*, in bulk, in tank vehicles, from points in Orange County, Texas, to points in Kentucky and North Carolina; and (9) *liquid petroleum products*, in bulk, in tank vehicles, from points in Harris County, Texas, to points in Louisiana.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Houston, Texas, on a consolidated record with McNair Transport, Inc., Docket No. MC 102567 (Sub-No. 194), and Cango Corporation, Docket No. MC 121496 (Sub-No. 3).

No. MC 116849 (Sub-No. 5), filed June 6, 1977. Applicant: ISLAND TRANSPORTATION CORP., 299 Main St., Westbury, N.Y. 11590. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum lubricating oil*, in bulk, from Paulsboro, N.J. to New York, N.Y.; points in Nassau, Suffolk, Putnam, Westchester and Orange Counties, N.Y.; and points in Fairfield County, Conn.

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held at New York, N.Y.

No. MC 117548 (Sub-No. 4), filed June 9, 1977. Applicant: M & M TANK LINES OF VIRGINIA, INC., P.O. Box 30006, Washington, D.C. 20014. Applicant's representative: William P. Sullivan, Federal Bar Building West, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Ground, pulverized, and crushed limestone; silica sand materials and premixed materials* from Buchanan, Virginia, to points in the District of Columbia, Kentucky, Maryland, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Washington, D.C.

No. MC 117574 (Sub-No. 277), filed October 15, 1976. (Republished this issue to amend the commodity and territorial scope.) Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, Pa. 17013. Applicant's representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, Pa. 17108. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Aluminum, aluminum products, and supplies, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bristol, Franklin and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi; Dunkirk, New York, Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) Zinc and zinc alloys (except in bulk) between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is delete Lebanon, Indiana from Part (1), add Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Boise and Twin Falls, Idaho; Chicago and St. Charles, Illinois; Bicknell, Indiana; Dunkirk, New York; Stayton, Oregon; Dennison, Texas; Spokane and Ferndale, Washington to Part (1), add Part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 117883 (Sub-No. 215), filed June 6, 1977. Applicant: SUBLER TRANSFER, INC., 100 Vista Drive, Versailles, Ohio 45380. Applicant's representative: Neil E. Hannan, P.O. Box 62, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Meats, meat products, and meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from the plantsite and/or storage facilities of Marhoefer Packing Company, Inc., located at or near Muncie, Indiana, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and the District of Columbia. Restricted to traffic originating at the named origin and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Indianapolis, Indiana or Columbus, Ohio.





No. MC 119726 (Sub-No. 96), filed June 6, 1977. Applicant: N. A. B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, Ind. 46217. Applicant's representative: James L. Beattey, 130 E. Washington Street, Suite One Thousand, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic and Rubber Articles*, from Wooster, Ohio, to points in North Carolina, South Carolina, Georgia, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Indianapolis, Indiana, or Cincinnati, Ohio.

No. MC 121161 (Sub-No. 2), filed June 6, 1977. Applicant: EDWARD J. RYAN, doing business as RYAN EXPRESS, East Lincoln Highway, Exton, Pa. 19341. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment); between Philadelphia, and Malvern, Pa., serving all intermediate points from Philadelphia over U.S. Highway 30 to Malvern and return over the same route.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 123048 (Sub-No. 355), filed April 18, 1977. (Republished this issue to amend the commodity and territorial scope.) Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, Wis. 53406. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Aluminum, aluminum products, and supplies, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bristol, Franklin and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi; Dunkirk, New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) Zinc and zinc alloys (except in bulk) between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Labanon, Indiana from Part (1), add Boise, Idaho; St. Charles, Illinois; Bicknell, Indiana; Dunkirk, New York; and Dennison, Texas to part (1), add part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 123233 (Sub-No. 75), filed June 6, 1977. Applicant: PROVOST CARTAGE INC., 7887 Grenache Street, Ville d'Anjou, Que., Canada H1J 1C4. Applicant's representative J. P. Vermette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Catalyst, in bulk, in tank vehicles, between the Ports of Entry on the International Boundary Line between the United States and Canada located in New York and Michigan, on the one hand, and, on the other, Alma, MI, Catlettsburg, KY, Indianapolis, IN, Lemont, IL, Lima, OH, Lockport, IL, Roxana, IL, Pine Bend, MN and Superior, WI., restricted to the transportation of traffic having an immediate prior or subsequent movement in foreign commerce.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, DC or Montpelier, VT.

No. MC 123502 (Sub-No. 50), filed June 6, 1977. Applicant: FREE STATE TRUCK SERVICE, INC., P.O. Box 760, Glen Burnie, Md. 21061. Applicant's representative: W. Wilson Corroum (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Activiated Carbon*, in bulk, in dump vehicles, from Catlettsburg, Kentucky, Neville Island, Pennsylvania, and Bayport, Texas, to points in the United States, (except Alaska and Hawaii); and *Spent Carbon*, in bulk, in dump vehicles, on return; (2) *Coal*, in bulk, in dump vehicles from points in Illinois, Kentucky, Maryland, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia, to Catlettsburg, Kentucky, and Neville Island, Pennsylvania; (3) *Pitch*, in bulk, in dump vehicles, from Follansbee, West Virginia, to Catlettsburg, Kentucky; (4) *Raw Materials* used in the manufacture and processing of activated carbon, in bulk, in dump vehicles, from Ironton, Ohio, to Catlettsburg, Kentucky; and (5) *Coconut Shells*, in bulk, in dump vehicles, from Baltimore, Md. to Neville Island, Pennsylvania.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C. or Pittsburgh, Pa.

No. MC 124078 (Sub-No. 735), filed June 6, 1977. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soda ash*, in bulk, from the Schwerman Distribution Centers, Inc. located at Milwaukee, Wisconsin, to points in Illinois and Indiana.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Illinois.

No. MC 124078 (Sub-No. 737), filed June 6, 1977. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, Wis. 532115. Applicant's representative: James R. Ziperski, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Hudson and Greenport (Columbia County), New York, to points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or New York, New York.

No. MC 124211 (Sub-No. 286), filed January 31, 1977. (Republished this issue to amend the commodity and territorial scope.) Applicant: HILT TRUCK LINE, INC., Post Office Box 988 D.T.S., Omaha, Nebraska 68101. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Aluminum, aluminum products, and supplies, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bristol, Franklin and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi; Dunkirk, New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washingtn; and Marsfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) Zinc and zinc alloys (except in bulk) between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand,



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and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Indiana from Part (1), add Boise, Idaho; St. Charles, Illinois; Bicknell, Indiana; Dunkirk, New York; and Dennison, Texas to part (1), add part (2), add "at or near" to the territory description of the plantsites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 124692 (Sub-No. 173), filed February 4, 1977. (Republished this issue to amend the commodity and territorial scope). Applicant: SAMMONS TRUCKING, P.O. Box 4247, Missoula, Mont. 59801. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Aluminum, aluminum products and supplies, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk) between the plant sites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bristol, Franklin and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi; Dunkirk, New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa, and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) zinc and zinc alloys (except in bulk) between the plant sites of Alumax, Inc. at its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; and Checotah, Oklahoma, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

No. MC 125254 (Sub-No. 38) (Correction), filed March 28, 1977, published in the FEDERAL REGISTER issue of May 12, 1977 as MC 124511 Sub-30, republished as corrected this issue. Applicant: MORGAN TRUCKING CO., a corporation, 1201 E. 5th Street, Muscatine, Iowa 52761. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except in bulk), from the facilities of H. J. Heinz Company located at Iowa City, Iowa, to Minneapolis, St. Paul, and Hopkins, Minn.

NOTE.—The purpose of this republication is to correct docket number MC 125254 (Sub-No. 38) in lieu of MC 124511 (Sub-No. 30) which was published in error. If a hearing is deemed necessary, the applicant requests it be held at either Des Moines, Iowa or Pittsburgh, Pa.

No. MC 125368 (Sub-No. 19), filed June 6, 1977. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, North Carolina 28445. Applicant's representative: C. W. Fletcher, same address. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Meat, meat products, meat by-products and articles distributed by meat packing houses as described in Sections A and C of Appendix I to the report in Motor Carrier Certificates 61 MCC 209 and 766 (except hides and commodities in bulk), from the plant site and storage facilities of Armour and Company at or near Worthington, Minnesota to Alabama, Florida, Georgia, North Carolina, South Carolina and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held at either Washington, D.C. or Chicago, Illinois.

No. MC 125433 (Sub-No. 89), filed November 19, 1976. Applicant: F. B. TRUCK LINE, INC., 1891 W. 2100 South, Salt Lake City, Utah. Applicant's representative: Michael Norton, P.O. Box 2135, Salt Lake City, Utah. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products and supplies, materials, and equipment* used in the manufacture of aluminum and aluminum products (except in bulk) between the plant sites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Decatur, Ala.; Casa Grande, Ariz.; Long Beach, Riverside, Visalia, Perris Valley, and Woodland, Calif.; Loveland, Colo.; Ocala and Plant City, Fla.; Peachtree City and Jonesboro, Ga.; Boise and Twin Falls, Idaho; Chicago, Morris, and St. Charles, Ill.; Bristol, Franklin, and Bicknell, Ind.; McPherson, Kans.; Frederick, Md.; Montevideo, Minn.; St. Louis, Mo.; Hernando, Miss.; Dunkirk, N.Y.; Reidsville, N.C.; Cleveland, Ohio; Tulsa and Checotah, Okla.; Stayton, Oreg.; Bloomsburg, Pa.; Dennison and Mansfield, Tex.; Harrisonburg, Va.; Spokane and Ferndale, Wash.; and Marshfield, Wis., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *zinc and zinc alloys* (except in bulk) between the plantsites of Alumax, Inc., at its subsidiary and affiliated companies located at or near Long Beach, Calif.; Chicago, Ill.; Cleveland, Ohio; and Checotah, Okla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this republication is to delete Lebanon, Ind. from Part (1), add Boise, Idaho; St. Charles, Ill.; Bicknell, Ind.; Dunkirk, N.Y.; and Dennison, Tex. to part (1), add part (2), add "at or near" to the territory description of the plant sites, and to identify Alumax Mill Products, Inc.; Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc.; and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 125770 (Sub-No. 10), filed June 6, 1977. Applicant: SPIEGEL TRUCKING, INC., Cape May Street, Harrison, N.J. 07029. Applicant's representative: Joel J. Nagel, 19 Back Drive, Edison, N.J. 08817. Authority sought to operate as a *contract carrier* by motor carrier over irregular routes, transporting: *Furniture parts and materials* used in the manufacture of office and library furniture, between points in Pennsylvania and Newark, N.J., on the one hand and on the other, points in Connecticut, Florida, Georgia, Illinois, Indiana, Massachusetts, Maryland, New York, North Carolina, Rhode Island, Ohio, South Carolina, Tennessee, and Virginia, under a continuing contract, or contracts, with Art Metal—U.S.A., Inc./Steel Sales, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Newark, N.J., or New York, N.Y. Common control may be involved.

No. MC 125996 (Sub-No. 52), filed June 6, 1977. Applicant: ROAD RUNNER TRUCKING, INC., 13080 Renfro Circle, P.O. Box 37491, Omaha, Nebr. 68137. Applicant's representative: Thomas J. Beener, P.O. Box 5000, Waterloo, Iowa 50704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee, Wis., to Huron and Mitchell, S. Dak., restricted to shipments originating at the above named origin and destined to the named points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 126276 (Sub-No. 176), filed May 31, 1977. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: James C. Hardman, 33 N. LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from Burlington, Wis., and Cleveland, Ohio, to points in Connecticut, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, New Jersey, Missouri, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, and Virginia, under a continuing contract with the Continental Group, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 126736 (Sub-No. 99), filed June 6, 1977. Applicant: FLORIDA ROCK & TANK LINES, INC., P.O. Box 1559, Jacksonville, Fla. 32201. Applicant's representative: L. H. Blow (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic waste gypsum and ferrous sulfate*, in bulk, from Savannah, Ga. to points in Florida.





NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Jacksonville, Fla.

No. MC 129219 (Sub-No. 11), filed May 27, 1977. Applicant: CMD TRANSPORTATION, INC., 12340 SE. Dumolt Road, Clackamas, Oreg. 97015. Applicant's representative: Phillip G. Skofstad, P.O. Box 594, Gresham, Oreg. 97030. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Waste paper products for recycling or reuse in furtherance of recognized pollution control programs*, from Salt Lake City, Utah, to Newberg, Oregon City, and Portland, Oreg.; and (2) *newsprint paper*, in rolls, from Oregon City and Newberg, Oreg. to Salt Lake City, Utah, under a continuing contract or contracts with Publishers Paper Company.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg.

No. MC 129219 (Sub-No. 12), filed May 27, 1977. Applicant: CMD TRANSPORTATION, INC., 12340 SE. Dumholt Road, Clackamas, Oreg. 97015. Applicant's representative: Philip G. Skofstad, P.O. Box 594, Gresham, Oreg. 97030. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric storage batteries and allied components* thereof which are necessary and incidental to the manufacture of electric storage batteries, (a) between Denver, Colo., on the one hand, and, on the other, Los Angeles and San Jose, Calif., and (b) from Denver, Colo., to points in Idaho, Montana, California, Nevada, Oregon, Utah, and Washington; and (2) *scrap, defective and obsolete electric storage batteries*, from points in Idaho, Montana, California, Nevada, Oregon, Utah, and Washington, to Denver, Colo., Los Angeles and San Jose, Calif., under a continuing contract or contracts with ESB, Inc., Automotive Division.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg.

MC 129576 (Sub-No. 7), filed May 26, 1977. Applicant: HORNER TRUCK SERVICE, INC., 301 Lewis Street, Canton, Mo. 63435. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphatic fertilizer solutions*, in bulk, in tank vehicles, from Gregory Landing (Clark County), Mo., to points in Iowa and Illinois.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 129645 (Sub-No. 60), filed June 7, 1977. Applicant: BASIL J. SMEESTER AND JOSEPH G. SMEESTER, a partnership, d.b.a. SMEESTER BROTHERS TRUCKING, 1330 South Jackson Street, Iron Mountain, Mich. 49801. Applicant's representative: John M. Nader, Route 3, Box 4, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, particleboard, hardboard, moulding, plastic articles, and accessories* used in the installation thereof, from the plant and storage facilities in Weyerhaeuser Co., located at Chesapeake, Va., to points in Ohio, Michigan, Indiana, Illinois, Iowa, Wisconsin, Minnesota, Missouri, Kansas, North Dakota, South Dakota, and Nebraska.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Chicago, Ill., or Norfolk, Va.

No. MC 129663 (Sub-No. 8), filed May 31, 1977. Applicant: BORIGHT TRUCKING CO., INC., Boright Avenue, Kenilworth, N.J. 07033. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles* (except in bulk) from the facilities of Gilbert Plastics, Inc., at Ontario and La Murada, Calif., to points in Oregon, Washington, Idaho, Montana, Utah, Nevada, Arizona, New Mexico, Colorado, Wyoming, Texas, Oklahoma, Nebraska, North Dakota, and South Dakota, under a continuing contract or contracts with Glibert Plastics, Inc., Kenilworth, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Newark, N.J.

No. MC 133356 (Sub-No. 2), filed June 6, 1977. Applicant: SUNVAN WASHINGTON, INC., 100 West Harrison Plaza, Seattle, Wash. 98119. Applicant's representative: George H. Hart, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Empty household goods shipping containers*, set up or knocked down, between points in King, Pierce, Thurston, Snohomish, Kitsap, Clallam, Jefferson, Mason, Grays Harbor, and Pacific Counties, Wash.; and (2) *household goods*, as defined by the Commission, between points in King, Kitsap, and Pierce Counties, Wash., on the one hand, and, on the other, points in Clallam, Jefferson, Mason, Grays Harbor, and Pacific Counties, Wash., restricted to the transportation of shipments having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

MC 133591 (Sub-No. 36), filed May 31, 1977. WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, Mo. 65712. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Neb. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by wholesale and retail grocery stores (except commodities in bulk); (2) *medicinal herbs;* and (3) *commodities*, the transportation of which is exempt from economic regulations under section 203(b)(6) of the Interstate Commerce Act, in mixed loads with the commodities in (1) through (2) above (except commodities in bulk), from points in California, Oregon, and Washington to Springfield, Mo. Restrictions: Restricted to traffic originating at the named origins and destined to the named destination.

NOTE.—Applicant holds contract carrier authority in MC 134494 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis or Kansas City, Mo.

MC 133689 (Sub-No. 132), filed June 6, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles* (except commodities in bulk) from Fitchburg, Mass., to points in North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Indiana, Ohio, Virginia, North Carolina, South Carolina, and Georgia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 135046 (Sub-No. 12), filed June 6, 1977. Applicant: ARLINGTON J. WILLIAMS, INC., 1398 South DuPont Hwy., Smyrna, Del. 19977. Applicant's representative: S. W. Earnshaw, 833 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Control panels and related control equipment* (except commodities requiring special equipment or special handling, uncrated and blanket-wrapped), from the plant site of Emerson Electric Co., located at or near Santa Ana, Calif., to Waynesboro, Martinsville, and Ampthill, Va.; Wilmington and Seaford, Del.; Chattanooga and Old Hickory, Tenn.; Graingers, N.C.; and Lugoff and Cypress Gardens, S.C.; (2) *control panels and related control equipment, uncrated*, from the plant site of Emerson Electric Co., located at Santa Ana, Calif., to Cape Fear, N.C.; (3) *synthetic fiber, yarn and staple*, between Seaford, Del., and the storage facilities of E. I. Dupont de Newmours & Co. located at Charlotte, N.C.; (4) *synthetic fiber yarn*, on beams, between Graingers, N.C., and Denver, Colo.; (5) *lubricating oil and greases*, in packages, from Kansas City, Kans., to Dover, Lewes, Lincoln, and Wilmington, Del.; Cape May Courthouse, Mays Landing, Millville, Salem, Clinton, Somerville, Livingston, Newark, Lyndhurst, and Trenton, N.J.; Aspers, Carlisle, Gettysburg, Hanover, Harrisburg, Mechanicburg, New Freedom, New Oxford, Red Lion, Seven Stars, Stewartstown, York, Carbondale, Daleville, Evans Falls, Luzerne, Elkins Park, Willow Grove, Hazle-



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ton, Lehighton, Tamaqua, Martinsburg, Montrose, Perkasie, Philadelphia, Phoenixville, Pottstown, Scranton, and Tunkhannock, Pa.; and (6) *lubricating oils and grease*, in containers, from Kansas City, Kans., to Brandywine, Frederick, Gaithersburg, Hancock, and Laytonsville, Md.; Centerport, Danville, Elizabethtown, Everett, Falls Creek, Huntingdon, and Ridgeway, Pa.; and Keyser, W. Va.

NOTE.—By instant application applicant seeks to convert its contract carrier authority in MC 113024 (Subs 18, 24, 43, 97, and 107) to common carrier authority. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 135231 (Sub-No. 25), filed May 26, 1977. Applicant: NORTH STAR TRANSPORT, INC., Rt. 1, Highway 1 and 59 West, Thief River Falls, MN 56701. Applicant's representative: Robert P. Sack, P.O. Box 6010, W. St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Recreational vehicles and equipment; parts and accessories* thereof, and paraphernalia used in connection with, recreational vehicles and equipment, from Lancaster County, Nebr., (1) to points in the United States (excluding Alaska and Hawaii), and (2) to the ports of entry on the international boundary line between the United States and Canada, for furtherance in (2) above to Winnipeg, Manitoba; Toronto, Ontario; Montreal, Quebec; Edmonson, Alberta; Moncton, New Brunswick; Saskatoon, Saskatchewan; and points in the Provinces of Nova Scotia and Newfoundland, Canada.

NOTE.—Applicant holds motor contract carrier authority in MC 134145 (Sub-No. 3 and other subs); therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either San Francisco or Los Angeles, Calif.

No. MC 135284 (Sub-No. 5) (Correction), filed June 1, 1977, published in the FEDERAL REGISTER issue of July 8, 1977, and republished as corrected this issue. Applicant: FLEETWOOD TRANSPORTATION CORP., 1030 Reeves Street, Dunmore, Pa. 18512. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses (except commodities in bulk), between the plantsite of Land-O-Lakes located at or near Laurel, Md., on the one hand, and, on the other, points in Connecticut, Delaware, Massachusetts, Maryland, New Jersey, New York, Pennsylvania, Rhode Island, and Virginia, under continuing contract or contracts with Agfoods, Inc.

NOTE.—The purpose of this republication is to indicate that applicant seeks contract carrier authority rather than common carrier authority as previously published in error. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 136087 (Sub-No. 5), filed June 6, 1977. Applicant: JAMES E. CHELF, WILLIAM F. SHARP, JR., ALVIN C. ELLIOT, and LOY GENE COKER, doing business as Jim Chelf and Associates, 5226 Brighton Boulevard, Denver, Colo. 80216. Applicant's representative: Leslie R. Kehl, Suite 1600, Lincoln Center Building, 1660 Lincoln Street, Denver, Colo. 80264. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Waste products* for reuse or recycling, from points in Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming, to points in California, under a continuing contract or contracts with Mountain States Telephone & Telegraph Co. (Mountain Bell), at Denver, Colo.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo. Common control may be involved.

No. MC 136087 (Sub-No. 6), filed June 7, 1977. Applicant: JAMES E. CHELF, WILLIAM F. SHARP, JR., ALVIN C. ELLIOT, and LOY GENE COKER, doing business as Jim Chelf and Associates, 5226 Brighton Boulevard, Denver, Colo. 80216. Applicant's representative: Leslie R. Kehl, Suite 1600, Lincoln Center Building, 1660 Lincoln Street, Denver, Colo. 80264. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Construction equipment*, between the facilities of H. W. Moore Equipment Co., located at Denver and Grand Junction, Colo.; Casper, Wyo.; and Rapid City, S. Dak., on the one hand, and, on the other, points in Colorado, South Dakota, and Wyoming, under a continuing contract or contracts with H. W. Moore Equipment Co.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo. Common control may be involved.

No. MC 136343 (Sub-No. 108), filed May 27, 1977. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Pulpboard, wrapping paper, paper bags, paper and paper products* (except commodities in bulk in tank vehicles) from the facilities of Gilman Paper Company at or near Saint Marys, Georgia to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, Wisconsin, and District of Columbia. Restricted to traffic originating at the facilities of Gilman Paper Company at or near Saint Marys, Georgia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga. or Washington, D.C.

No. MC 138104 (Sub-No. 41), filed June 6, 1977. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, Tex. 76106. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, in bulk, in dump vehicles, from points in Saline and Pulaski Counties, Ark., to points in Ellis County, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Fort Worth or Dallas, Tex.

No. MC 138420 (Sub-No. 16), filed May 31, 1977. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, Wisconsin. Applicant's representative: Wayne W. Wilson, P.O. Box 8004, Madison, Wisconsin 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and prepared foodstuffs* from the plantsite and warehouse facilities of Lakeside Packing Company at or near Manitowoc, Wisconsin and Plainview, Minnesota to points in Michigan, Indiana and Pennsylvania.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Madison or Milwaukee, Wis.

No. MC 138420 (Sub. No. 18), filed June 7, 1977. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, Wisc. 53063. Applicant's representative: Wayne W. Wilson, P.O. Box 8004, Madison, Wisc. 53708. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising premiums, materials and supplies and malt beverage dispensing equipment*, from Columbus, Ohio to Chicago and Rockford, Ill.; and (2) *rejected shipments and used, empty malt beverage containers and dispensing equipment*, from Chicago and Rockford Ill., to Columbus, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Madison, Wis.

No. MC 138420 (Sub-No. 19), filed June 7, 1977. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, Wisconsin 53063. Applicant's representative: Wayne W. Wilson, P.O. Box 8004, Madison, Wisconsin 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials and supplies and malt beverage dispensing equipment* when moving therewith, from LaCrosse, Wisconsin, to points in Jefferson, Franklin, St. Charles and St. Louis Counties, Missouri and points in Monroe, St. Clair, and Madison Counties, Illinois; and (2) *rejected shipments and empty malt beverage containers*, from points in Jefferson, Franklin, St. Charles and St. Louis Counties, Missouri and points in Monroe, St. Clair, and Madison Counties, Illinois, to La Crosse, Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Milwaukee or Madison, Wis.





No. MC 139495 (Sub-No. 236), filed May 31, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kansas 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Peanut butter*, from Livonia, Mich. to points in the United States and (2) *agricultural commodities*, the transportation of which is otherwise exempt from economic regulation pursuant to Section 203(b)(6) of the Interstate Commerce Act, in mixed loads with peanut butter from Onsted, Mich. to points in the United States.

NOTE.—Applicant holds contract carrier authority in MC-133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 140598 (Sub-No. 4), filed June 6, 1977. Applicant: MELLO TRUCK LINES, INC., 8265 Hanford/Armona Road, Hanford, California 93230. Applicant's representative: Gilbert W. Howell, 701 N. Irwin, Hanford, California 93230. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed formulas* composed of hominy feed, almond meal, cottonseed meal, salt, limestone flour, urea, minerals, buffermin, bakery waste and solulac in bulk and sacks, from Stockton, California, to Reno, Minden, Fallon, Fernley, Elco, Winnemuca, and Yerrington, Nev.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Fresno, California.

No. MC 140849 (Sub-No. 10), filed June 6, 1977. Applicant: ROBERTS TRUCKING CO., INC., U.S. Highway 271 South, Poteau, Oklahoma 74953. Applicant's representative: Prentiss Shelley, P.O. Drawer G, Poteau, Oklahoma 74953. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fabrics, piece goods, materials and supplies used in the manufacture of curtains, draperies and bedspreads*, from points in Virginia, North Carolina, South Carolina and Georgia, to Clinton, Okla., under a continuing contract or contracts with Kellwood Company.

NOTE.—Applicant holds common carrier authority in MC 126243 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Oklahoma City, Okla. or Washington, D.C.

No. MC 141124 (Sub-No. 6), filed May 31, 1977. Applicant: Evangelist Commercial Corporation, P.O. Box 1709, Wilmington, Delaware 19899. Applicant's representative: Boyd B. Ferris, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pressure sensitive tape*, between North Brunswick, New Jersey, on the one hand, and, on the other Ft. Wayne, Indiana.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 141363 (Sub-No. 5), filed June 6, 1977. Applicant: J. M. MARC TRANSPORTATION, INC., 7 Ladik Street, Piermont, New York 10968. Applicant's representative: Bruce J. Robbins, 118-21 Queens Boulevard, Forest Hills, New York 11375. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, and *materials, equipment and supplies* used in the manufacturer and distribution of paper and paper products (except in bulk); between Piermont, N.Y. and points in New Jersey, on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey and Rhode Island, and point in Pennsylvania on and east of U.S. Highway 15., under a continuing contract or contracts with CLEVEPAK CORP. of White Plains, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y.

No. MC 141740 (Sub-No. 1), filed June 2, 1977. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, Ind. 46012. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: *Electrical appliances and components, cabinets, bathroom fixtures, stove hoods, blower or fan housings, radiation or ventilating unit housings, mirrors, scales, pipe and duct plastic tubing and advertising displays, stove splasher wall plates, fans and roof ventilators*, from the plant site of Nutone Division of Scovill Company at or near Cincinnati, Ohio to the facilities of the Nutone Division of Scovill Company at Fullerton, California, under a continuing contract, or contracts, with Nutone Division of Scovill Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Indianapolis, Ind. or Cincinnati, Ohio.

No. MC 141804 (Sub-No. 62), filed June 6, 1977. Applicant: WESTERN EXPRESS, division of Interstate Rental, Inc., P.O. Box 422, Goodlettsville, Tennessee 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebraska 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture* and *furniture parts*, from California, to points in the United States in and east of Wisconsin, Illinois, Kentucky, Tennessee and Mississippi.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Los Angeles, California or Lincoln, Nebraska.

No. MC 141804 (Sub-No. 63), filed June 6, 1977. Applicant: WESTERN EXPRESS, division of Interstate Rental, Inc., P.O. Box 422, Goodlettsville, Tennessee 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebraska 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture* and *furniture parts* from points in Tennessee, Arkansas, Alabama, and Louisiana to points in Washington, Montana, Idaho, Oregon, California, Nevada, New Mexico, Utah, and Arizona.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, California or Lincoln, Nebraska.

No. MC 141914 (Sub-No. 9), filed June 6, 1977. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, Oklahoma 74332. Applicant's representative: Gary Brasel, Mezzanine Floor, Beacon Building, Tulsa, Oklahoma 74103. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting: *Residential heating and cooling units, their components, accessories and equipment used in the manufacturing thereof*, from the plant site of Rheem Manufacturing Company, Heating and Air-Conditioning Division located at Fort Smith, Arkansas, to points in Washington, Oregon, California, Nevada, Arizona, New Mexico, and Colorado.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Little Rock, Arkansas.

No. MC 142059 (Sub-No. 2), filed November 17, 1976. (Republished this issue to amend the commodity and territorial scope.) Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, Illinois 60436. Applicant's representative: J. Michael Farrell, O'Connor, Farrell & Daly, 1725 K Street NW., Suite 814, Washington, D.C. 20006. Applicant seeks to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Aluminum, aluminum products, and supplies, materials and equipment used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho, Chicago, Morris and St. Charles, Illinois; Bristol, Franklin and Bicknell, Indiana; McPherson, Kansas; Frederick, Maryland; Montevideo, Minnesota; St. Louis, Missouri; Hernando, Mississippi, Dunkirk, New York; Reidsville, North Carolina; Cleveland, Ohio; Tulsa and Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington; and Marshfield, Wisconsin, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) Zinc and zinc alloys (except in bulk) between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio, and Checotah, Okla-



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homa, on the one hand, and on the other, points in the U.S. (except Alaska and Hawaii.)

NOTE.—The purpose of this republication is to delete Lebanon, Indiana, from part (1); add Bicknell, Indiana, Dunkirk, New York, and Dennison, Texas; to part (1), add part (2); and to identify Alumax Mill Products, Inc., Alumax Extrusions, Inc.; Alumax Foils, Inc.; Apex International Alloys, Inc.; Kawneer Company, Inc. and Alumax of Maryland, Inc., as subsidiary and affiliated companies.

No. MC 143215 (Amendment) filed May 3, 1977, published in the FEDERAL REGISTER issue of June 9, 1977, and republished as amended this issue. Applicant: CYCLES LIMITED, P.O. Box 5715, Jackson, Miss. 39208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering and floor tile, and materials, supplies and equipment used in the installation and maintenance of floor covering and floor tile*, between Rabun Gap, Dalton and Chatsworth, Ga., McGehee, Ark., Chatanooga, Tenn., Glasgow, Va., Willow Grove and Fogelsville, Pa., and the plant sites of Armstrong Cork Co., at Lancaster, Pa., and East Hempfield Township located at or near Landisville, Pa., on the one hand, and, on the other, points in California, Nevada, Oregon and Arizona.

NOTE.—The purpose of this amendment is to broaden the scope of the commodity description. Applicant holds contract carrier authority in MC 135425 and sub numbers thereunder, there for dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held in San Francisco, Calif.

No. MC 143246 (Sub-No. 1), filed June 6, 1977. Applicant: LAND TRANSPORT CORPORATION, 24 Sabrina Road, Wellesley, Massachusetts 02181. Applicant's representative: James E. Mahony, 84 State Street, Boston, Massachusetts 02109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are sold in drug, chain, discount and department stores (except commodities in bulk, in tank vehicles) between the distribution centers and warehouses of Zayre Corporation, located in Massachusetts, Georgia, Florida, Illinois, Minnesota, Indiana and Pennsylvania, on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Rhode Island, Connecticut, Massachusetts, New York, New Jersey, Pennsylvania, Illinois, Wisconsin, Minnesota, Kentucky, Maryland, Alabama, North Carolina, South Carolina, Ohio, Missouri, Indiana, Michigan, Tennessee, Virginia, Georgia, Florida, Iowa, Delaware, and West Virginia, under a continuing contract, or contracts, with Zayre Corporation and its subsidiaries: Newton Buying Corporation, Beaconway Fabrics, Inc., and Commonwealth Trading Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Boston, Mass. or Hartford, Conn.

No. MC 143312 (Sub-No. 1), filed May 31, 1977. Applicant: PIONEER TRANSPORT, INC., Route 2, Box 450, Portland, Oregon 97231. Applicant's representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, Oregon 97205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from Fairfield, California to Portland, Oregon and Beaverton, Oregon; and (2) *empty beverage containers*, from Portland, Oregon and Beaverton, Oregon to Fairfield, California and Winters, California, under a continuing contract or contracts with Columbia Distributing Co. and Maletis, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Portland, Oregon.

No. MC 143332, filed June 1, 1977. Applicant: WESLEY D. CONDA, INC., 5325 Eldorado Springs Drive, Boulder, Colorado, 80303. Applicant's representative: William T. Secor, P.O. Box 658, Longmont, Colo. 80501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick, tile, cinder block, concrete block, clay and clay products*, between points in Colorado, on the one hand, and points in Wyoming, Nebraska, Utah, New Mexico and South Dakota, on the other hand, under a continuing contract, or contracts, with Colorado Brick & Tile Company and Lakewood Brick & Tile Co.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Denver, Colo.

No. MC 143339, filed June 6, 1977. Applicant: A. A. LEXINGTON MOVING & STORAGE CO., Inc., P.O. Drawer 630, Mt. Holly, New Jersey 08060. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *used household goods*, in containers, restricted (1) to the transportation of shipments having a prior or subsequent movement, in containers, beyond the points authorized, and (2) to the performance of pickup and delivery service in connection with packing, crating, or containerization, or unpacking, uncrating, or decontainerization of such shipments, between points in New York City, Ulster, Dutchess, Nassau, Suffolk, Westchester, Rockland, Orange, and Putnam Counties, New York; New Castle County, Delaware; Philadelphia, Delaware, Montgomery, Chester, Bucks, Lancaster, Dauphin, Berks, Lehigh, Northampton and Lebanon Counties, Pennsylvania; and points in New Jersey (except Sussex, Passaic and Bergen Counties), as a non-radial movement.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Mt. Holly, N.J.

No. MC 143383, filed June 7, 1977. Applicant: DALE E. NICHOLSON, Potosi, Missouri 63664. Applicant's representative: Dale E. Nicholson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Nonferrous ores or concentrates in bulk in dump trucks and dump trailers (1) from the facilites of Amax Lead Co., a division of Amax Inc. located at or near Buick, (Iron County) Missouri, to the facility of Amax Zinc Inc. a subsidiuary of Amax Inc. located at Sauget, Illinois; and, (2) from said Buick, Missouri facilities to, St. Louis, Missouri, restricted in (2) above to traffic having a subsequent movement by water.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jefferson City, Mo.

No. MC 118552 (Sub-No. 3), filed May 9, 1977. Applicant: PIEDMONT COACH LINES, INC., 3636 Glenn Avenue, Winston-Salem, N.C. 27105. Applicant's representative: Kyle Hayes, P.O. Drawer 1105, North Wilkesboro, N.C. 28659. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (1) Regular routes: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, Between North Wilkesboro, N.C. and Boone, N.C. From North Wilkesboro, over U.S. Highway 421-A to its junction with North Carolina Highway 16, thence over North Carolina Highway 16 to Millers Creek, N.C., thence over Wilkes County Road No. 1304 to its junction with U.S. Highway 421 through Deep Gap to Boone, N.C., and return over the same route; and (2) irregular routes: *Passengers and their baggage*, in round trip charter operations, and in special operations, in round trip sight seeing and pleasure tours, beginning and ending at points in Watauga, Wilkes, Yadkin, Forsyth, Stokes and Surry Counties, N.C., and Patrick County, Va., and extending to points in the United States, except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Boone or North Wilkesboro, N.C.

No. MC 142834 (Sub-No. 2), filed June 6, 1977. Applicant: FETTES COACH LINES LIMITED, 184 Main Street South, Mount Forest, Ontario, Canada NOG 2LO. Applicant's representative: Robert D. Gunderman, Suite 710, Statler Hilton, Buffalo, New York 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter and special operations, in sightseeing and pleasure tours, beginning and ending at ports of entry on the International Boundary line between the United States and Canada and extending to points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Buffalo, New York.

No. MC 142960 (Sub-No. 1), filed May 10, 1977. Applicant: HUGH AND LAILA PIXLEY, doing business as, PIXLEY TRANSPORTATION, P.O. Box 6525, Sheridan, Wyo. 82801. Applicant's representative: (No representative.) Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Railroad crews and their baggage*, in the same vehicle with passengers, between Sheridan, Wyo., and points in Sheridan, Big Horn, Johnson, and Campbell Counties, Wyo., and Big Horn, Powder River, Yellowstone, Treasure and Stillwater Counties, Mont., a non-radial movement under a continuing contract or contracts with Burlington Northern.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Glendive or Billings, Mont., or Sheridan, Wyo.

No. MC 143341, filed June 3, 1977. Applicant: ABBEY TRANSPORTATION SYSTEM, a corporation, 4588 West Shaw Avenue, Fresno, California 93711. Applicant's representative: Ronald L. Murov, 111 Sutter Street, San Francisco, California 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in scheduled special and charter operations, from points in Merced, Madera, and Fresno Counties, California, (except the towns of Burrel, Coalinga, Huron, Kingsburg, Lanare, Orange Cove, Parlier, Reedley, Riverdale, San Joaquin and Selma in Fresno County, California) to points in the United States, including Alaska, but excluding Hawaii and return.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Fresno, California or San Francisco, Calif.

## FINANCE APPLICATIONS

### NOTICE

The following applications seek approval to consolidate, purchase, merge, lease, operating rights and properties, or acquire control through owenership of stock, or rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protests shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.-240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

### NOTICE

Southern Pacific Transportation Company, One Market Plaza, Southern Pacific Building, San Francisco, California 94105, and St. Louis Southwestern Railway Company, P.O. Box 1319, Houston, Texas 77001, represented by John MacDonald Smith, One Market Plaza, Southern Pacific Building, San Francisco, California 94105 and Roy P. Cosper, P.O. Box 1319, Houston, Texas 77001, respectively, hereby give notice that on the 26th day of April 26, 1976, as supplemented, June 6, 1977, they filed with the Interstate Commerce Commission at Washington, D.C., a joint application under Section 5(1) of the Interstate Commerce Act for an order approving and authorizing pooling of service between various points in Texas, whereby traffic of St. Louis Southwestern Railway Company (SSW) movine between points on SSW's lines extending from Lufkin through Tyler, Corsicana and Waco to Lime City, on the one hand, and SSW's lines Dallas and north, on the other hand, presently handled via a circuitous route through Tyler and Mount Pleasant, will be bridged for SSW by Southern Pacific Transportation Company (SP) trains operating over shorter routes between Jacksonville, Athens and Corsicana, Texas, on the one hand, and Dallas and Fort Worth, Texas, on the other hand, which application is assigned Finance Docket No. 28177.

Applicants state that approximately 183 cars per month will be bridged by SP for SSW, with savings of 50,000 gallons of fuel and $68,294 in annual operating costs. Service will be provided pursuant to a pooling agreement dated March 19, 1976.

In the opinion of the applicants, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), Implementation—National Environmental Policy Act, 1969, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra, at p. 487.

The proceedings will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission and the aforementioned counsels for applicants, no later than 30 days from the date of first publication in the FEDERAL REGISTER.

### SOUTHERN PACIFIC TRANSPORTATION COMPANY

### ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

### NOTICE

Des Moines Union Railway Company, 203 Hubbell Building, 902 Walnut Street, Des Moines, Polk County, Iowa 50309, and Des Moines Terminal Company, 205 Hubbell Building, 902 Walnut Street, Des Moines, Polk County, Iowa 50309, represented by James E. Cook, Secretary and Auditor, Des Moines Union Railway Company, Room 419, Hubbell Building, 902 Walnut Street, Des Moines, Iowa 50309 and Robert G. Beers, President, Des Moines Terminal Company, 205 Hubbell Building, Des Moines, Iowa 50309, respectively, hereby give notice that on the 28th day of June, 1977, they filed with the Interstate Commerce Commission at Washington, D.C., a joint application under Section 5(2) of the Interstate Commerce Act for an order approving and authorizing the exchange by each the Des Moines Union Railway Company and the Des Moines Terminal Company of certain railway properties belonging to the other located within the City of Des Moines, Iowa, which application is assigned Finance Docket No. 28496.

The proposed transaction would allow for a more efficient operation of the properties by accommodating to changes in circumstances and styles of warehousing within the terminal area known as the Factory Addition and served by the Des Moines Union Railway Company. Rail operations will not be affected by the proposed exchange of properties.

Approval of the Commission is also being sought for the modification of the terms of payment contained in the agreement by which the Des Moines Union Railway Company operates over the rail properties of the Des Moines Terminal Company within the Factory Addition as well as a revision of the list of properties covered by the operating agreement.

In the opinion of the applicants, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), Implementation—National Environmental Policy Act, 1969, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See implementation—National Environmental Policy Act, 1969, supra, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 28496 and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than 45 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. Such written comments shall include the following: The person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file







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such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

DES MOINES UNION RAILWAY COMPANY DES MOINES TERMINAL COMPANY

No. MC–F–13253. Authority sought for continuance in control by PAUL ERIK ALBRECHTSEN (non-carrier), Box 3195, Sherwood Park, Alberta, T8A 2A7, Canada, of (B) Paul's Hauling Ltd., a Manitoba corporation, 272 Oak Point Road, Box 71, Dickens P.O., Winnipeg, Manitoba, R3E 1TO, Canada, (MC–128515 and Subs.), (BB) Western Asphalt (1972) Ltd. an Alberta corporation, P.O. Box 3195, Sherwood Park, Alberta, T8A 2A7, Canada, (MC–141768) pending, (BBB) Westcan Bulk Transport Ltd., (non-carrier) an Albert corporation, 3780–76th Avenue S.E., Calgary, Alberta, T2C 1J8, Canada, (BBBB) Willms Transport (1964) Ltd., (non-carrier) a Saskatchewan corporation, 850 Manitoba Street East, Box 490, Moose Jaw, Saskatchewan, S6H 4P1, Canada, and (BBBBB) Gardewine and Sons Limited, a Manitoba corporation, 300 Oak Point Road, Box 71, Dickens P.O., Winnipeg, Manitoba, R3E 1TO, non-carrier, and for acquisition by Paul Erik Albrechtsen, #205–1200 Sixth Street, S.W., Calgary, Alberta T2R 0Z2, Canada, of control of such rights through the transaction. Applicant's attorney: Daniel C. Sullivan, 10 South La Salle Street, Chicago, IL., 50503. Operating rights sought to be controlled: Only (B) Paul's Hauling Ltd. holds authority from the Commission in Docket No. MC 128515 and subs thereunder which is as follows: Agricultural chemicals, as a common carrier over irregular routes from ports of entry on the United States-Canada Boundary line located in Minnesota and North Dakota, to points in Washington, Oregon, Idaho, Montana, Wyoming, North Dakota, South Dakota, Minnesota, Wisconsin, Utah, Colorado, Nebraska, Kansas, Iowa, Missouri, Illinois, Indiana, New Mexico, Texas, Oklahoma, and Arkansas, with restrictions: by-products of distilling and fermenting operations, (animal feed supplements), in bulk, from ports of entry on the United States-Canada Boundary line at or near Noyes, Minn., and Dunseith, N. Dak., to points in Minnesota and North Dakota; petroleum and petroleum products, in bulk, from ports of entry on the United States-Canada Boundary line in Minnesota and North Dakota to points in North Dakota, South Dakota, Minnesota, Illinois, Wisconsin, Iowa, and Montana; agricultural chemicals, in bulk (except animal and poultry feed and animal and poultry feed ingredients), from points in North Dakota and Minnesota to port of entry on the United States-Canada Boundary line in North Dakota and Minnesota. Also presently pending before the Commission is authority for (BB) Western Asphalt (1972) Ltd., under (MC 141768 pending) to operate as a common carrier of asphalt and asphalt products, in bulk, between ports of entry on the International boundary line between the United States and Canada located in Montana, on the one hand, and, on the other, points in Montana. Application for temporary authority under section 210a(b) has not been filed.

NOTE.—This application is being filed pursuant to an order of Review Board No. 3, Served March 17, 1977 in Docket No. MC 141768, Western Asphalt (1972) Ltd. Motion to dismiss MC–F–13253 filed concurrently with said application.

No. MC–F–13259. Authority sought for purchase by VAN BUS DELIVERY COMPANY, d/b/a United Van Bus Delivery, 26011 32nd Avenue South, Minneapolis, MN 55406, of the operating rights of Castonguay Transfer, Inc., 5333 University Avenue, N.E., Minneapolis, MN 55421, and for acquisition by James Goldberg, Arnold C. Hillman, and Joe Cohen, all of 2601 32nd Avenue South, Minneapolis, MN 55406, of control of such rights through the purchase. Applicants' attorneys: Thomas A. Stroud and Warren A. Goff, 2008 Clark Tower, 5100 Popular Avenue, Memphis, TN 38137. Operating rights sought to be transferred: *Such merchandise* as is dealt in by mail order houses, and *Materials and supplies* used in the conduct of such business (except in bulk), as a *contract carrier* over irregular routes between St. Cloud, Minn., and Minneapolis, Minn., restricted to the transportation of shipments having a prior or subsequent movement by rail, under a continuing contract with Finger Hut Corporation. Vendee is authorized to operate as a *common carrier* in Minnesota. Application has not been filed for temporary authority under section 210(b).

No. MC–F–13268. Authority sought for purchase by UNITED STATES TRANSPORTATION INC., 8345 Clough Pike, Cincinnati, OH., 45244, of a portion of the operating rights of The Manfredi Motor Transit Company, 11250 Kinsman Road, Newbury, OH. 44065, and for acquisition by William J. Kopp, 8345 Clough Pike, Cincinnati, OH., 45244, of control of such rights through the purchase. Applicants' attorneys: Paul F. Beery, 275 East State Street, Columbus, OH., 43215, and John P. McMahon, 100 East Broad Street, Columbus, OH., 43215. Operating rights sought to be transferred: Liquid resins, core compounds, formaldehyde, acetone, methanol, phenol, ethanol, and nitrogen fertilizer solutions, in bulk, in tank vehicles, as a contract carrier over irregular routes between the plant site of Georgia Pacific Corporation, located in Franklin County, Ohio, on the one hand, and, on the other, points in Illinois located within the Chicago, Ill., Commercial Zone, as defined by the Commission, Aurora and Danville, Ill., Gary and Griffith, Ind., Pikesville, Md., Kalamazoo and Mt. Clemens, Mich., Erie and Petrolia, Pa., and Milwaukee and New London, Wis., with restrictions. Vendee is authorized to operate as a common carrier in Ohio, Kentucky, Indiana, Michigan, Illinois, Maryland, Michigan, Pennsylvania, and Wisconsin. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–13275. Authority sought for purchase by CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA., 94025, of the operating rights of G. E. Wolfe Transportation Lines, Inc., 100 Perry Street, Buffalo, NY., 14204, and for acquisition by Consolidated Freightways, Inc., 601 California Street, San Francisco, CA., 94108, of control of such rights through the purchase. Applicant's attorney: Eugene T. Liipfert, 1660 L Street, NW., Washington, D.C., 20036. Operating rights sought to be transferred: (Now held under Certificate of Registration No. MC 56983 (Sub-No. 1): (1) General commodities, as defined by the Commission in case MT–4467: (a) between all points in Erie County, New York; (b) from all points in Erie County, New York, to all points in Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Cortland, Fulton, Genesee, Livingston, Madison, Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Schuyler, Seneca, Steuben, Tioga, Tompkins, Wayne, Wyomong, and Yates Counties, New York; (c) from all points in Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Genesee, Lewis, Livingston, Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Seneca, Steuben, Tioga, Tompkins, and Wyoming Counties in New York to all points in Erie County, New York; (d) from all points in Niagara County, New York, to all points in Allegany, Broome, Cattaraugus, Cayuga, Chemung, Chenango, Cortland, Genesee, Jefferson, Lewis, Livingston, Madison, Monroe, Oneida, Onondaga, Ontario, Orleans, Oswego, Schuyler, Steuben, Tioga, Tompkins, Wayne, and Yates Counties, New York; (e) from all points in Chautauqua County, New York, to all points in Cattaraugus County, New York; (f) from all points in Cattaraugus County, New York, to all points in Chautauqua County, New York; (g) from all points in Tompkins County, New York, to all points in Jefferson and Onondaga Counties, New York; (2) new furniture: (a) between all points in Erie County, New York; (b) from all points in Erie County, New York, to all points in Allegany, Cattaraugus, Chautauqua, Genesee, Livingston, Monroe, Orleans, Steuben, and Wyoming Counties, New York; (c) from all points in Chautauqua, Monroe, Orleans, and Steuben Counties, New York, to all points in Erie County, New York: (d) from all points in Chautauqua County, New York, to all points in Niagara County, New York. Vendee is authorized to operate as a common carrier in all States in the United States (except Hawaii). Application has been filed for temporary authority under section 210a(b).





NOTE.—MC 42487 (Sub-No. 867) is a directly related matter.

No. MC–F–13276. Authority sought for purchase by McCORMICK DRAY LINE, INC., Avis, PA., 17721, of a portion of the operating rights of H. C. Gabler, Inc., R.D. #3, Chambersburg, PA., 17201, and for acquisition by G. Henry McCormick, Sunset Pines, Pine Tree Lane, Lock Haven, PA., 17745, of control of such rights through the purchase. Applicants' attorneys: David A. Sutherland, Suite 400, 1150 Connecticut Ave., NW., Washington, D.C. 20036, and Christian V. Graf, 407 North Front Street, Harrisburg, PA., 17101. Operating rights sought to be transferred: Glass stop, in rolls, metal stove shovels, metal roofing and siding, and fricated metal building products, as a common carrier over irregular routes from the site of the plant of Penn Supply and Metal Corporation, Inc., at Philadelphia, Pa., to points in Indiana, Illinois and Michigan with no transportation on return except as authorized. Vendee is authorized to operate as a common carrier in Indiana, Illinois, Michigan, Ohio, and Pennsylvania. Application has not been filed for temporary authority under section 210a(b).

MOTOR CARRIER OF PASSENGERS

No. MC–F–13277. Authority sought for purchase by CENTRAL TEXAS BUS LINES, INC., 320 South 16th Street, Waco, TX., 76703, of a portion of the operating rights and property of Texas Bus Lines, P.O. Box 418, Galveston, TX., 77553, and for acquisition by Claud Kincannon, Jr., 320 South 16th Street, Waco, TX., 76703, of control of such rights through the purchase. Applicants' attorney: Mike Cotten, P.O. Box 1148, Austin, TX., 78767. Operating rights sought to be transferred: Passengers and their baggage, and express and newspapers, in the same vehicles with passengers, as a common carrier over regular routes between Tyler, Tex., and Lufkin, Tex., serving all intermediate points: From Tyler over U.S. Highway 69 via Jacksonville and Rusk, Tex., to Lufkin, and return over the same route; Passengers and their baggage, and express, newspapers, and mail, in the same vehicle with passengers, as a common carrier over regular routes between Lufkin, Tex., and Beaumont, Tex., serving all intermediate points: From Lufkin over U.S. Highway 69 to Beaumont, and return over the same route. Vendee is authorized to operate as a common carrier in Texas. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–13278. Authority sought for continuance of control by LEASEWAY TRANSPORTATION CORP., (non-carrier), 21111 Chagrin Boulevard, Cleveland, OH., 44122, of Custom Deliveries, Inc., (non-carrier), 24680 Mound Road, Warren, MI., 48091, and for acquisition by W. J. O'Neil and F. J. O'Neil, both of 2300 Chagrin Boulevard, Cleveland, OH., 44122, of control of such rights through the transaction. Applicant's attorney: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH., 44114. Operating rights sought to be continued in control: Custom Deliveries, Inc. is not a motor carrier at this time. However, it has pending before the Commission an Application for Authority to Operate as a contract carrier in the transportation of motor vehicles parts on behalf of Chrysler Corporation from several origin points to designated distribution areas, all under continuing contract or contracts with Chrysler Corporation. Temporary authority has been granted under Order dated March 8, 1977 in Docket No. MC 142693-TA (Corrected Order served April 4, 1977). Custom Deliveries, Inc., was incorporated on April 3, 1973 as a Leaseway Transportation Corp. subsidiary, and it is now proposed to make Custom Deliveries, Inc., a contract carrier and Leaseway Transportation Corp. is hereby seeking approval to continue in control of Custom Deliveries, Inc., when it becomes a carrier. Leaseway Transportation Corp., holds no authority from this Commission. However it is in control of with Commission approval, through 100% stock ownership (except as otherwise noted) of the following nine motor carriers: (1) Anchor Motor Freight, Inc., is a contract carrier of automobiles and trucks for General Motors Corporation, its sole shipper. It operates from assembly plants located at Buffalo, New York, Baltimore, Maryland; Tarrytown, New York; Linden, New Jersey; Wilmington, Delaware; Framingham, Massachusetts; and Norwood and Lordstown, Ohio, and from various rail sites and import points. Its contract carrier Permits are docketed under MC 808 and Subs thereunder. (2) Gypsum Haulage, Inc. is a contract carrier of gypsum products and commodities for the National Gypsum Company. It operates between points in 24 states and the District of Columbia. Its contract carrier permits are docketed under MC 112113 and Subs thereunder. (3) Signal Delivery Service, Inc. is a contract carrier of merchandise for Sears, Roebuck & Co., appliances for Whirlpool Corporation, and empty steel drums and containers for Cortland Container Corporation. Sears, Roebuck & Co. has a twenty percent (20%) stock interest in Signal by virtue of its having purchased five hundred (500) shares of its common stock pursuant to authority granted by the Commission in Finance Docket No. 26434. Leaseway holds all of the remaining eighty percent (80%) of the common stock of Signal. Its contract carrier permits are docketed under MC 108393 and Subs thereunder.

(4) Sugar Transport, Inc. is a contract cerrier of sweeteners for Savannah Foods & Industries, Inc. of Savannah, Georgia, and of molasses for Kaiser Agricultural Chemicals, Division of Wentworth, Georgia and Wilmington, North Caroline to points in 15 states. Its contract carrier permits are docketed under MC 115924 and Subs thereunder. (5) Dedicated Freight System, Inc. is a contract carrier authorized to serve Ford Motor Company in the transportation of automobile parts from Cuyahoga Heights (Cleveland), Ohio to points in part of Ohio and named western counties of Pennsylvania and New York. Its contract carrier permit is docketed under MC 139583, Sub 1. (6) Pep Lines Trucking Co. is a common carrier operating in the State of Michigan and the District of Columbia area. Its Certificates are docketed under MC 120184 and Subs thereunder. It also serves Montgomery Ward & Co., Inc. at several locations as a contract carrier under Permit MC 135280 and Subs. (7) Mitchell Transport, Inc. is a common carrier authorized to transport cement from named plant site locations of Lehigh Portland Cement Company, Alpha Portland Cement Company, The Flintkote Company, and Bessemer Cement Company in 16 states and to destinations in 36 states. Its certificates are docketed under MC 124212 and Subs thereunder. (8) Refiners Transport & Terminal Corporation is a common carrier of petroleum and petroleum products, chemicals, acids and other liquid bulk commodities, operating over irregular routes between origin points located principally in the midwestern portion of the United States with destination areas located in 35 states and the District of Columbia. Its Certificates are docketed under MC 50069 and Subs thereunder. Refiners also holds all of the outstanding stock of A. R. Gundry, Inc. of Rochester, New York, a common carrier of liquid bulk commodities, operating under Certificate MC 25562 and Subs thereunder. This acquisition and control were authorized in Docket No. MC–F–12777. (9) Max Binswanger Trucking is a common carrier transporting dry bulk commodities, principally cement, in California, Nevada, Arizona, Colorado and Utah. Its Certificates are docketed under MC 116314 and Subs thereunder. Application has not been filed for temporary authority under section 210a(b).

! No. MC–F–13279. Authority sought for control by O. M. Lattavo and Phillip Lattavo, both of 2230 Shepler Church Avenue, S.W., Canton, Ohio 44706, of PEOPLES CARTAGE, INC., 8045 Navarre Road, N.W., Massillon, OH., 44646. Applicant's attorney: James Muldoon, 50 West Broad Street, Columbus, OH., 43215. Operating rights sought to be controlled: Under MC 123685 and subs thereunder, General commodities, with exceptions as a common carrier over regular routes between Wheeling, W. Va., and Clarksburg, W. Va., serving all intermediate points; and all off-route points in West Virginia and Ohio within 10 miles of Wheeling, W. Va.; between Wheeling, W. Va., and Fairmont, W. Va., serving all intermediate points; and all off-route points in West Virginia and Ohio within 10 miles of Wheeling, W. Va.; between Wheeling, W. Va., and Morgantown, W. Va., serving all intermediate points; and all off-route points in West Virginia and Ohio within 10 miles of Wheeling, W. Va.; between Wheeling, W. Va., and Clarksburg, W. Va., serving all intermediate points (except New Martinsville, W. Va., and those between New Martinsville and Moundsville, W. Va.); between junction U.S. Highway



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250 and West Virginia Highway 89, near Cameron, W. Va., and Morgantown, W. Va., serving all intermediate points (except Waynesburg, Pa.); general commodities, with exceptions as a common carrier over irregular routes between points in Franklin County, Ohio, on the one hand, and, on the other, points in Ohio; between points in Stark County, Ohio, points in Brown Township, Carroll County, Ohio, points in that part of Smith Township, Mahoning County, Ohio, on and west of Brandy Road, and points in that part of Green Township, Summit County, Ohio, on and south of Greensburg Road, and on and east of U.S. Highway 241, on the one hand, and, on the other, points in Ohio, building materials, clay products, and commodities in bulk, in dump trucks, between points in Wayne County, Ohio (except Wooster, Ohio), on the one hand, and, on the other, points in Ohio; commodities in bulk, in dump trucks, between points in Cuyahoga County, Ohio, on the one hand, and, on the other, points in Ohio; commodities, in bulk, in dump trucks (except lime and sand), between Mansfield, Ohio, and Springfield Township, Monroe Township, and Sharon Township, Richland County, Ohio, on the one hand, and, on the other, points in Ohio.

Fertilizer, fertilizer ingredients, and pesticides, in bags, and in bulk, in dump vehicles, between Orrville, Ohio, and the plant site of Swift Agriculture Chemicals Corp., located at or near Cincinnati, Ohio, on the one hand, and, on the other, points in Indiana, Illinois, Kentucky, Michigan, Ohio, Pennsylvania, New York, and West Virginia; salt and salt products, and products used in agriculture, water treatment, food processing, wholesale grocery, and institutional supply industries, when shipped in mixed shipments with salt and salt products, from St. Clair, Mich., to points in Kentucky, Ohio, and West Virginia; from Akron, Ohio, to points in Indiana, Kentucky, and West Virginia, with restrictions; dry fertilizer and dry pesticides, from Cairo and Washington Court House, Ohio, to points in Pennsylvania and West Virginia; household goods as defined by the Commission, between points in Wood, Ritchie, Calhoun, Roane, Jackson, Pleasants, and Wirt Counties, W. Va., on the one hand, and, on the other, points in Ohio, Pennsylvania, Kentucky, North Carolina, Virginia, Maryland, New Jersey, New York, and the District of Columbia; oilfield equipment and supplies, between points in Wood County, W. Va., on the one hand, and, on the other, points in Ohio and Pennsylvania; general commodities, with exceptions between points in Woods County, W. Va., on the one hand, and, on the other, points in Washington, Athens, and Meigs Counties, Ohio; between Parkersburg, W. Va., on the one hand, and, on the other, points in that part of West Virginia on and west of U.S. Highway 21; plastic pipe, and fittings and accessories for plastic pipe, from the facilities of the Olin Corporation at Carrollton and Canton, Ohio, to points in West Virginia and those in Washington and Green Counties, Pa.; pulpboard, pulpboard products and paper wrappers, from the plant site of Greif Board Corporation, located in Perry Township, Stark County, Ohio, to points in Illinois, Indiana, Kentucky, Michigan, New York (except New York City and its commercial zone as defined by the Commission), and Pennsylvania (except Allegheny and Westmoreland Counties); sand, in bulk, from Dundee, Ohio, to points in Indiana, Illinois, Kentucky, Michigan, New York, and West Virginia; fertilizer and pesticides, in containers, from Wadsworth, Ohio, to points in Indiana, Kentucky, Michigan, Pennsylvania, New York and West Virginia, with restrictions; ALTERNATE ROUTE FOR OPERATING CONVENIENCE ONLY: General Commodities, with exceptions between Clarksburg, W. Va., and Parkersburg, W. Va., in connection with carrier's otherwise authorized regular route operations, serving no intermediate points, and serving the termini for purpose of joinder only: from Clarksburg over U.S. Highway 50 to Parkersburg, and return over the same route.

(1) Salt and salt products and (2) salt brine tanks and tank parts, condiments, and food serving accessories in mixed loads with salt and salt products, from St. Clair, Michigan, to points in Virginia, Maryland, New York, Pennsylvania, and the District of Columbia; from Akron, Ohio, to points in Virginia, Maryland, Michigan, Pennsylvania, New York, and the District of Columbia, with restrictions; mail between Cleveland, Youngstown, and Warren, Ohio, between Cleveland, Akron, Canton, Steubenville, and Bridgeport, Ohio, and Wheeling, W. Va., between Columbus, Ohio, and Akron, Ohio, between Detroit, Mich., Toledo, Marion, Columbus, Chillicothe, and Portsmouth, Ohio; Ashland, Ky., Huntington, and Charleston, W. Va., between Canton, Mansfield, and Cincinnati, Ohio, between Cincinnati, Columbus, Youngstown, Akron, and Mansfield Ohio, between Pittsburgh, Pa., Moundsville, Wheeling, New Martinsville, Parkersburg, and Charleston, W. Va., between Richmond, Va., and Cincinnati, Ohio; General commodities, with exceptions between Columbus, Ohio, on the one hand, and, on the other, points in West Virginia on and west of U.S. Highway 21, between points in Washington, Athens, and Meigs Counties, Ohio, on the one hand, and, on the other, points in that part of West Virginia, on and west of U.S. Highway 21; general commodities with exceptions between Parkersburg, W. Va., on the one hand, and on the other, those points in West Virginia east of U.S. Highway 21, with restrictions. O. M. Lattavo and Phillip Lattavo hold no authority from this Commission. However, O. M. Lattavo controls Lattavo Brothers, Inc., MC 45194, which is authorized to operate as a common carrier in Indiana, Illinois, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, South Carolina and West Virginia. Application has been filed for temporary authority under section 210a(b).

ABANDONMENT APPLICATIONS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A Certificate of Abandonment will be issued to the applicant carriers 30 days after this FEDERAL REGISTER publication unless the instructions set forth in the notices are followed.

[Docket No. AB-12 (Sub-No. 44)]

SOUTHERN PACIFIC TRANSPORTATION COMPANY ABANDONMENT NEAR LITCHFIELD PARK IN MARICOPA COUNTY, ARIZONA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on June 3, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Southern Pacific Transportation Company of its line of railroad extending from railroad milepost 892.25 near Litchfield Park in a northerly direction to the end of the branch at railroad milepost 894.26 at Litchfield Park, a distance of 2.01 miles in Maricopa County, Arizona. A certificate of abandonment will be issued to the Southern Pacific Transportation Company based on the above-described findings of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services





over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-19 (Sub-No. 31)]

BUFFALO, ROCHESTER AND PITTSBURGH RAILWAY COMPANY ABANDONMENT AND ABANDONMENT OF OPERATIONS BY THE BALTIMORE AND OHIO RAILWAY COMPANY BETWEEN GUTHRIE SPUR JUNCTION AND TIDEDALE IN INDIANA COUNTY, PENNSYLVANIA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on June 2, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the former and abandonment of operations by the latter, of a portion of its line known as the Guthrie Mine Spur between valuation station 95+68 at Guthrie Spur Junction and valuation station 165+76 at end of the spur at Tidedale, a distance of approximately 1.33 miles, all of which lies in Indiana County, Pennsylvania. A certificate of abandonment will be issued to the Buffalo, Rochester and Pittsburgh Railway Company and The Baltimore and Ohio Railway Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-19 (Sub-No. 38)]

BALTIMORE AND OHIO RAILROAD COMPANY—DISCONTINUANCE OF CARFLOAT OPERATIONS IN NEW YORK HARBOR AND VICINITY

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Order dated July 1, 1977, a finding, which is administratively final, was made by the Commission, Division 3, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *New Orleans Union Passenger Terminal Case*, 232 I.C.C. 271, and those provided pursuant to Section 405 of the Rail Passenger Service Act (45 USC 565), the present and future public convenience and necessity permit the discontinuance of carfloat service operated out of the St. George Lighterage, Staten Island, New York, to points in Richmond, Kings, Queens, Bronx and New York Counties, New York, and Middlesex, Union, Essex and Hudson Counties, New Jersey, as defined in items 2585 and 2590 of Tariff No. 788, I.C.C. C-653. A certificate of public convenience and necessity permitting discontinuance of carfloat service was issued to the Baltimore and Ohio Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the regulations that publication of notice of abandonment or discontinuance decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to section 1121.38(b) (2) and (3) of the regulations. If no such offer is received, the certificate of public convenience and necessity authorizing discontinuance shall become effective 45 days from the date of this publication.

H. G. HOMME, JR.,
*Acting Secretary.*

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 34952 (Sub-No. 2), filed June 24, 1977. Applicant: D & N TRANSPORTATION CO., INC., 28 Privilege Street, Woonsocket, R.I. 02895. Applicant's representative: Frank J. Weiner, Esq., 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, commodities in bulk and those commodities requiring special equipment), between points in Massachusetts.

NOTE.—The purpose of this filing is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This matter is directly related to a Section 5(2) finance proceeding in Docket No. MC-F-13269, published in the FEDERAL REGISTER issue of July 14, 1977. If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass., or Providence, R.I.

No. MC 42487 (Sub-No. 867), filed July 7, 1977. Applicant: CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, 185 Linfield Drive, Menlo



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Park, Calif. 94025. Applicant's representative: Eugene T. Liipfert, Suite 1000, 1660 L Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *General commodities*, (a) between points in Erie County, N.Y.; (b) from point in Erie County, N.Y., to points in Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Cortland, Fulton, Genesee, Livingston Madison, Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Schuyler, Seneca, Steuben, Tioga, Tompkins, Wayne, Wyoming, and Yates Counties N.Y.; (c) from points in Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Genesee, Lewis, Livingston Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Seneca, Steuben, Tioga, Tompkins, and Wyoming Counties N.Y., to points in Erie County, N.Y.; (d) from points in Niagara County, N.Y., to points in Allegany, Broome, Cattaraugus, Cayuga, Chemung, Chenango, Cortland, Genesee, Jefferson, Lewis, Livington, Madison, Monroe, Oneida, Onondaga, Ontario, Orleans, Oswego, Schuyler, Steuben, Tioga, Tompkins, Wayne, and Yates Counties, N.Y.; (e) from points in Chautauqua County, N.Y., to points in Cattaraugus County, N.Y.; (f) from points in Cattaraugus County, N.Y., to points in Chautauqua County, N.Y.; (g) from points in Tompkins County, N.Y., to points in Jefferson and Onondaga Counties, N.Y. Applicant states that the application is directly related to its application under Section 5 to acquire the interstate rights of Wolfe Transportation Lines, Inc., in Certificate of Registration No. MC 56983 (Sub-No. 1).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C., or Buffalo, N.Y. Notice of the application in the directly related finance proceeding docketed at MC-F-13275 appears in a prior section of this FEDERAL REGISTER issue.

No. MC 98478, (Sub-No. 7), filed June 20, 1977. Applicant: ROBBINS TRUCK LINE, INC., Route No. 1, Hardinsburg, Ky. 40143. Applicant's representative: Rudy Yessin, 314 Wilkinson St., P.O. Box B, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), between Rhodelia, Ky., and Tip Top, Ky., serving all intermediate points except Fort Knox, Ky., from Rhodelia over Kentucky Highway 144 to its junction with U.S. Highway 31-W (near Radcliff); thence over U.S. Highway 31-W to Tip Top, and return over the same route.

NOTE.—The authority is sought in conjunction with the finance proceeding in Docket No. MC-F-13017 wherein Billy Rankin, Charles Robbins, C. A. Van Lahr, and R. B. Chambliss seek authority to acquire control of Robbins Truck Line, Inc. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. The authority sought is now being served under a certificate of registration. Notice of the application filed in MC-F-13017 appeared in the FEDERAL REGISTER issue of November 24, 1976.

No. MC 133689 (Sub-No. 123), filed April 19, 1977. Applicant: OVERLAND EXPRESS, INC., P.O. Box 2667, New Brighton, Minn. 55112. Applicant's representative: Charles W. Singer, 2440 E. Commercial Blvd., Ft. Lauderdale, Fla. 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *such merchandise* as is dealt in by wholesale and retail department stores (except foodstuffs), and in connection therewith, materials and supplies used in the conduct of such business (except commodities of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and uncrated furniture, furnishings, fixtures, appliances, cabinets, and kitchen equipment), from Newark, N.J. and New York, N.Y., to Minneapolis-St. Paul, Minn.

NOTE.—The instant application is directly related to the application in No. MC-F-13200 (FR, May 12, 1977, p. 24153-24154) seeking approval of the purchase by applicant of Certificate No. MC 71593 issued to C. G. Potter, doing business as Maumee Express. The purpose of the instant application is to eliminate Ridgefield, N.J. (in Bergen County), as a gateway in connection with the combined operations of applicant and Maumee Express and to receive the direct authorization from and to the points involved in connection therewith. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

## MOTOR CARRIER ALTERNATE ROUTES DEVIATIONS

### NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

## MOTOR CARRIERS OF PROPERTY

No. MC 30504 (Deviation No. 18), TUCKER FREIGHT LINES, INC., P.O. Box 3144, South Bend, Ind. 46619, filed July 5, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Coffeyville, Kans., over U.S. Highway 166 to junction U.S. Highway 75, thence over U.S. Highway 75 to junction U.S. Highway 60, thence over U.S. Highway 60 to junction U.S. Highway 169, thence over U.S. Highway 169 to junction U.S. Highway 66, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Coffeyville, Kans., over U.S. Highway 166 to junction U.S. Highway 69, thence over U.S. Highway 69 to junction U.S. Highway 66, thence over U.S. Highway 66 to junction Interstate Highway 44, thence over Interstate Highway 44 to Tulsa, Okla., and return over the same route.

No. MC 109324 (Deviation No. 8), GARRISON MOTOR FREIGHT, INC., P.O. Box 1278, Harrison, Ark. 72601, filed July 1, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 71 and Interstate Highway 540 over Interstate Highway 540 to junction Interstate Highway 40, thence over Interstate Highway 40 to junction Oklahoma Highway 2, thence over Oklahoma Highway 2 to junction U.S. Highway 64, thence over U.S. Highway 64 to Tulsa, Okla., thence over U.S. Highway 169 to Collinsville, Okla., thence over Oklahoma Highway 20 to junction U.S. Highway 75, thence over U.S. Highway 75 to junction Interstate Highway 35, thence over Interstate Highway 35 to junction Kansas Highway 150, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From junction U.S. Highway 71 and Interstate Highway 540 over U.S. Highway 71 to junction Arkansas Highway 10S, thence over Arkansas Highway 10S to Greenwood, Ark., thence over Arkansas Highway 10 to Perryville, Ark., thence over Arkansas Highway 60 to Conway, Ark., thence over U.S. Highway 65 to Springfield, Mo., thence over Missouri Highway 13 to junction Missouri Highway 7, thence over Missouri Highway 7 to junction U.S. Highway 71, thence over U.S. Highway 71 to junction Missouri Highway 150, thence over Missouri Highway 150 to the Kansas-Missouri State Line, thence over Kansas Highway 150 to junction Interstate Highway 35, and return over the same route.

No. MC 111231 (Deviation No. 61), JONES TRUCK LINES, INC., 610 E. Emma Ave., Springdale, Ark. 72764, filed July 6, 1977. Carrier's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, D.C. 20014. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Little Rock, Ark., over Interstate Highway 30 to junction Arkansas Highway 24, thence over Arkansas Highway 24 to junction Arkansas Highway 7, thence over Arkansas Highway 7 to El Dorado, Ark., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Little Rock, Ark., over U.S. Highway 65 to junction U.S. Highway 82, thence over U.S. Highway 82 to El Dorado, Ark., and return over the same route.





No. MC 112713 (Deviation No. 46), YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Ave., Shawnee Mission, Kans. 66207, filed July 6, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Nevada, Mo., over U.S. Highway 54 to junction U.S. Highway 65 near Preston, Mo., thence over U.S. Highway 65 to junction Missouri Highway 64, thence over Missouri Highway 64 to junction U.S. Highway 66 near Lebanon, Mo., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Nevada, Mo., over U.S. Highway 71 to junction U.S. Highway 66, thence over U.S. Highway 66 to junction unnumbered highway near Conway, Mo., thence over unnumbered highway to junction U.S. Highway 66, thence over U.S. Highway 66 to Lebanon, Mo., and return over the same route.

## MOTOR CARRIER INTRASTATE APPLICATION(S)

### NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Alaska Docket No. 77-153-MF/O, filed June 20, 1977. Applicant: RAVEN TRANSIT, INC., 3541 Amber Bay Loop, Anchorage, Alaska 99510. Applicant's representative: John M. Stern, Jr., Box 1672, Anchorage, Alaska 99510. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities* having a prior or subsequent movement by air (except articles which, because of size, shape, or weight, require the use of special equipment and Classes A and B explosives and commodities in bulk), between or from and to the airports of Kenai and Soldotna, Alaska, on the one hand, and points within a 35 mile radius of the airports on the other hand, including between the above named airports. Intrastate, interstate, and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to the Alaska Public Utilities Commission, 1000 MacKay Building, 338 Denali Street, Anchorage, Alaska 99501, and should not be directed to the Interstate Commerce Commission.

Nebraska Docket No. M-11467, Sup. 1, filed April 13, 1977, published in the FEDERAL REGISTER issue of May 5, 1977, and republished as corrected this issue. Applicant: VALORUS MILLS, doing business as Mills Film Transfer, 1234 South Ninth Street, Lincoln, Nebr. 68502. Applicant's representative: Bradford E. Kistler, Box 82028, Lincoln, Nebr. 68501. Authority sought to operate a freight service over regular routes as follows: Transportation of *commodities generally* (except commodities in bulk, household goods as defined by the Interstate Commerce Commission in practices of motor common carriers of household goods, 17 M.C.C. 467 (1939), or commodities requiring special equipment), between Omaha and Lincoln, Nebr., over U.S. Highway 6, serving no intermediate points, and serving points in the commercial zones, as defined by the Interstate Commerce Commission, of Omaha and Lincoln, Nebr., as off-route points in connection with carrier's regular route operations.

NOTE.—The purpose of this republication is to indicate the correct type of routes to read: over *regular* in lieu of irregular. Intrastate, interstate, and foreign commerce authority sought. Hearing: Date, time, and place to be determined later. Requests for procedural information should be addressed to the Nebraska Public Service Commission, 301 Centennial Mall South, P.O. Box 94927, Lincoln, Nebr., and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, JR.,
*Acting Secretary.*

[FR Doc.77-20681 Filed 7-20-77;8:45 am]

[Notice No. 440]

## ASSIGNMENT OF HEARINGS

JULY 18, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 10761 (Sub-No. 282), Transamerican Freight Lines, Inc., now being assigned August 2, 1977 (14 days), in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Ill.

MC 136008 (Sub 79), Joe Brown Company, Inc., now assigned July 21, 1977, is cancelled.

MC 82841 (Sub-No. 198), Hunt Transportation, Inc., now assigned September 20, 1977, at Omaha, Nebr., will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th and Dodge.

MC 113651 (Sub-No. 203), Indiana Refrigerator Lines, now assigned September 21, 1977, at Omaha, Nebr., will be held in Room 616 Union Pacific Plaza, 110 North 14th Street, 14th and Dodge.

MC 133095 (Sub-No. 138), Texas Continental Express, Inc., now assigned September 26, 1977, at Omaha, Nebr., will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th and Dodge.

MC 139850 (Sub-No. 9), Four Star Transportation, Inc., now assigned September 27, 1977, at Omaha, Nebr., will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th and Dodge.

MC 123872 (Sub-No. 65), W & L Motor Lines, Inc., and MC 139091 (Sub-No. 18), Logan Motor Lines, Inc., now assigned September 28, 1977, at Omaha, Nebr., will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th and Dodge.

MC 80430 (Sub-No. 160), Gateway Transportation Co., Inc., MC 82492 (Sub-No. 141), Michigan & Nebraska Transit Co., Inc., and MC 134477 (Sub-No. 147), Schanno Transportation, Inc., now assigned September 29, 1977, at Omaha, Nebr., will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th and Dodge.

H. G. HOMME, JR.,
*Acting Secretary.*

[FR Doc.77-21006 Filed 7-20-77;8:45 am]

[Ex Parte No. 137]

## CONTRACTS FOR PROTECTIVE SERVICES

AGENCY: Interstate Commerce Commission.

ACTION: Report and order.

SUMMARY: The Interstate Commerce Commission approved four mechanical protective service contracts and ordered the Pacific Fruit Express Co. (PFE) and various carriers to enter into those contracts.

FOR FURTHER INFORMATION:

Deputy Director Rosenak or Assistant Deputy Director Gobetz, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423 (202-275-7693).

SUPPLEMENTARY INFORMATION: The report, found at 353 I.C.C. 812, was issued pursuant to the referral by the United States District Court for the Northern District of California which directed the Commission to approve, disapprove, or modify proposed protective service contracts that were submitted by the defendant carriers and Pacific Fruit Express. The Commission was to determine whether the contracts complied with our decisions at 318 I.C.C. 111 (codified at 49 CFR Part 1032) and 340 I.C.C.



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754. Seven contracts were submitted, two by PFE and five by the carriers. The Commission found that PFE's contracts warranted approval while the five carrier contracts warranted disapproval. Two of the carrier contracts were modified and approved.

By the Commission. Commissioners Hardin, Gresham, and MacFarland did not participate.

H. G. HOMME, Jr.,
*Acting Secretary.*

ORDER

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 6th day of June 1977.

[Ex Parte No. 137]

CONTRACTS FOR PROTECTIVE SERVICES

It appearing, that upon referral of the order of June 9, 1976, of the United States District Court for the Northern District of California, the Commission was directed to approve, disapprove, or modify proposed mechanical protective service contracts to determine whether they complied with our reports and orders in this proceeding at 318 I.C.C. 111 (1962) and 340 I.C.C. 754 (1972) and the Court's injunctive judgment and order, 355 F. Supp. 700 (N.D. Cal. 1973), aff'd. 524 F. 2d 1025 (9th Cir. 1975), cert. denied 424 U.S. 911 (1976).

It further appearing, that petitions for approval of proposed mechanical protective service contracts were filed on June 29, 1976, by Pacific Fruit Express Co. (PFE) which contained the CNW (Appendix A) and Southern (Appendix B) proposed contracts; on July 8, 1976 by the Norfolk and Western; on July 9, 1976, by certain defendants which contained the Chessie System (Appendix C) and the Illinois Central (Appendix D) proposed contracts and the divisional proposal; on July 29, 1976, by the Rock Island; and on August 16, 1976, as a supplement to the petition of certain defendants, by the Chicago, Milwaukee, St. Paul & Pacific Railroad Co.;

And it further appearing, that some of the defendants listed in the District Court's June 9, 1976, order submitted proposed mechanical protective service contracts with PFE long after the 30-day period in which to submit such contracts had expired (Appendix H);

Wherefore:

*It is ordered,* That the CNW and Southern proposed contracts (Appendices A and B) be, and they are hereby, approved.

*It is further ordered,* That the divisional proposal and the Norfolk and Western, the Chessie System, Illinois Central, the Rock Island and the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. proposed contracts be, and they are hereby, disapproved.

*It is further ordered,* That modified Chessie System and Illinois Central contracts (Appendices E & F) be, and they are hereby, approved.

*It is further ordered,* That the request of certain defendants for oral hearing and the request of the Norfolk and Western for consolidation of these petitions with the Petition for Rulemaking and Modification and Clarification of the Rules filed on June 14, 1976, by certain Eastern Railroads be, and they are hereby, denied.

*It is further ordered,* That PFE and all defendants listed in the District Court's June 9, 1976, order who did not submit contracts with PFE after the District Court's 30-day period, enter into one of the approved contracts (Appendices A, B, E, and F) within 45 days from the date of service.

*It is further ordered,* That should the Commission not approve any of the contracts between PFE and the defendants listed in Appendix H who filed contracts with PFE after the District Court's 30-day period, PFE and the involved defendants shall enter into one of the approved contracts (Appendices A, B, E, and F) within 45 days from the date of service of such order.

*And it is further ordered,* That a copy of this order shall be delivered to the Director, Office of the Federal Register, for publication therein.

This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

By the Commission.

NOTE.—A copy of each appendix mentioned in this document is available from the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

[FR Doc.77-20990 Filed 7-20-77;8:45 am]

[Notice No. 199]

## MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before August 22, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76981, filed June 23, 1977. Transferee: BAY AREA FORWARDERS, INC., 2500 Pier St., Oakland, Calif. 94607. Transferor: Charles A. Fuller, doing business as Modern Van & Storage, 867 Isabella Street, Oakland, Calif. 94607. Applicant's representative: Thomas M. Loughran, Attorney at Law, 100 Bush Street, San Francisco, Calif. 94104. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 136674, issued March 29, 1973, as follows: *Used household goods,* over irregular routes, with restrictions, between points in San Francisco, Alameda, Contra Costa, San Mateo, Marin, and Santa Clara Counties, Calif. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77143, filed May 24, 1977. Transferee: WHEEL HORSE EXPRESS, Rural Route No. 1, Rantoul, Kans. 66079. Transferor: The Hall Truck Line, Inc., P.O. Box 188, Olathe, Kans. 66061. Applicant's representative: Clyde N. Christey, Attorney at Law, 514 Capitol Federal Building, Topeka, Kans. 66603. Authority sought for purchase by transferee of the operating rights set forth in Certificate Nos. MC 105367 and MC 105367 (Sub-No. 4), issued April 29, 1958, and July 15, 1977, respectively, as follows: *General commodities,* with the usual exceptions, between specified points in Kansas, and between specified points in Kansas and Missouri; *milk, empty containers for milk, livestock and feed, petroleum products, hardware, seeds, agricultural implements and parts, fencing materials, building materials, roofing, hardware, twine, nursery stock, feed, poultry remedies, poultry, hatchery supplies, motor oil, agricultural machinery, eggs, egg cases, tractors, soya beans, and grain,* from, to, and between specified points in Kansas and Missouri. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77146, filed May 23, 1977. Transferee: DAVID DALE TRANSPORT, INC., 2 Franklin Street, West Medway, Mass. 02053. Transferor: Country Wide Truck Service, Inc., 1110 South Reservoir Street, Pomona, Calif. 91766. Applicant's representatives: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108; Paul M. Daniell, P.O. Box 872, Atlanta Ga. 30301. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Permit No. MC 138941 (Sub-No. 5) and MC 138941 (Sub-No. 10) issued October 8, 1975, and August 13, 1976( respectively, as follows: *Plastic articles* from Lowell, Mass., and Stratford, Conn., to points in California, Washington, Oregon, Texas, Georgia, and Illinois. Transferee presently holds no authority from the Commission. Application has not been filed for temporary authority under section 210a(b).





No. MC-FC-77181, filed June 20, 1977. Transferee: KEITH BOTKINS TRUCKING, INC., 112 West Rollins Street, Moberly, Mo. 65270. Transferor: J. J. Gillan Trucking Co., Inc., 1028 Sinnock Avenue, P.O. Box 297, Moberly, Mo. 65270. Applicant's representative: Thomas P. Rose, Attorney at Law, P.O. Box 205, Jefferson City, Mo. 65101. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Permit No. MC 142358 (Sub-No. 3), issued May 20, 1977, as follows: *Coal,* from points in Missouri to points in Illinois and Iowa. Transferre is presently authorized to operate as a common carrier under Certificate No. MC-124202. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77201, filed July 5, 1977. Transferee: NEEL TRANSPORTATION CO., INC., R.D. No. 6 Box 516, Washington, Pa. 15301. Transferor: BRENNAN WASHNER, R.D. No. 2, Ridge Rd., Washington, Pa. 15301. Applicant's representative: John A. Pillar, Attorney at Law, 205 Ross St., Pittsburgh, Pa. 15219. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 106663, issued March 20, 1973, as follows: *Corrugated paper boxes and fillers,* from points in North Strabane Township (Washington County), Pa., to Pittsburgh, Pa., points in Ohio and Maryland, and that part of West Virginia on and north of U.S. Highway 50. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77-21004 Filed 7-20-77;8:45 am]

[Notice No. 90]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 14, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 44605 (Sub-No. 46TA), filed June 28, 1977. Applicant: MILNE TRUCK LINES, INC., 2500 West California Avenue, Salt Lake City, Utah 84104. Applicant's representative: Edward J. Hegarty, 100 Bush Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value), Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment: (1) Between Yucca, Ariz., and Kingman, Ariz., (2) from Yucca over Interstate Highway 40 (U.S. Highway 66) to Kingman and return over the same route, serving all intermediate points, and (2) Between Wickenburg, Ariz., and Las Vegas, Nev., (a) from Wickenburg over U.S. Highway 93 to Las Vegas and return over the same route, serving all intermediate points in Arizona. Applicant intends to tack this authority with that in their MC 44605 and subs. Applicant also intends to interline with other carriers at Las Vegas, Nev., Los Angeles, Calif., and Phoenix, Ariz., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately thirty-three statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 63417 (Sub-No. 104TA), filed June 24, 1977. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, Va. 24034. Applicant's representative: William E. Bain (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts,* from Sumter, S.C., Vander, N.C., and the plantsite and facilities of Coleman Furniture Co., at Pulaski, Va., to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. Returned shipments of above commodities from above destinations to above origins, for 180 days. Supporting shippers: Coleman Furniture Corp., Pulaski, Va. 24301; International Wall System, Inc., Fayetteville, N.C. 28301; Williams Furniture, Division of Georgia Pacific Corp., Sumter, S.C. 29150; Sumter Cabinet Co., Sumter, S.C. 29150. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 65475 (Sub-No. 12TA), filed June 24, 1977. Applicant: JETCO, INC., 4701 Eisenhower Avenue, Alexandria, Va. 22304. Applicant's representative: J. G. Dail, Jr., P.O. Box 567, McLean, Va. 22101. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Aluminum,* between the facilities of Howmet Aluminum Corp. located at or near Frederick, Md., and Lancaster and Marietta, Pa., on the one hand, and, on the other, the facilities of Consolidated Aluminum Co., located at or near New Johnsonville, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Howmet Aluminum Corp., 475 Steamboat Road, Greenwich, Conn. 06830. Send protests to: Interstate Commerce Commission, 12th & Constitution Avenue NW., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 89697 (Sub-No. 32TA), filed June 20, 1977. Applicant: KRAJACK TANK LINES, INC., 480 Westfield Ave., Roselle Park, N.J. 07204. Applicant's representative: Mr. Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Water reducing admixture, liquid,* in bulk, in tank vehicles, from Linden, N.J.; to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Maryland, Delaware, District of Columbia, Pennsylvania, West Virginia, Ohio, and Virginia, for 180 days. Supporting shipper: Penn-Dixie Chemical Co. 2 Porete Ave. North Arlington, N.J. 07032. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 95540 (Sub-No. 987TA), filed June 21, 1977. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, Fla. 33801. Applicant's representative: Benjy W. Fincher (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cheese and smoked meats:* (1) from the plantsite of



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Cudahy Foods at or near Harrodsburg, Ky., and Cynthiana, Ky., to Omaha, Nebr., and (2) from the plantsite of Sugar Creek Packing at or near Dayton and Washington Court House, Ohio, to Omaha, Nebr., for 180 days. There is no environmental impact involved in this application. Supporting shipper: Cudahy Foods Co., P.O. Box 43612, Atlanta, Ga. 30336. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, BOp, Monterey Building, Suite 101, 8410 Northwest 53rd Terrace, Miami, Fla. 33166.

No. MC 106074 (Sub-No. 32TA), filed July 1, 1977. Applicant: B AND P MOTOR LINES, INC., P.O. Box 727, Forest City, N.C. 28043. Applicant's representative: George W. Clapp, 109 Hartsville St., P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Decorations and ornaments*, from Gastonia, N.C., and points in its commercial zone, to points in Illinois, Indiana, Michigan, Ohio, and Wisconsin, and points in the United States in and west of Minnesota, Iowa, Missouri, Arkansas and Louisiana (except Alaska and Hawaii), for 180 days. Supporting shipper: Rauch Industries, Inc., P.O. Box 609, Gastonia, N.C. 28052. Send protests to: District Supervisor Terrell Price, Interstate Commerce Commission, 800 Briar Creek Rd., Mart Office Bldg., CC-516, Charlotte, N.C. 28205.

No. MC 108676 (Sub-No. 106TA), filed June 30, 1977. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, N.E., Knoxville, Tenn. 37917. Applicant's representative: William T. McManus (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refuse containers and refuse container systems and parts, attachments and attachments therefor*, from the Dempster Dumpster Systems, Inc., plantsite at Danville, Pa., to points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dempster Dumpster Systems, Division of Carrier Corporation, Springdale & North Central Avenues, Knoxville, Tenn. 37917. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations—Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 111289 (Sub-No. 5TA), filed June 13, 1977. Applicant: RICHARD D. FOLTZ, 806 N. Warren Street, Orwigsburg, Pa. 17961. Applicant's representative: S. Berne Smith, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *contract carrier*, by motor *vehicle*, over irregular routes, transporting: (1) *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from Derry Township, Dauphin County, Pa., to those points in the State of New York on and north and west of a line following U.S. Route 44 from the New York-Connecticut state line west to the junction of U.S. Route 209 and south on U.S. Route 209 to the New York-Pennsylvania state line; and (2) *materials and supplies* used in the production of foodstuffs (except in bulk), and return shipment of foodstuffs, from the points in the State of New York as described above to Derry Township, Dauphin County, Pa. Restriction: Limited to a transportation service to be performed, under a continuing contract, or contracts, with Hershey Foods Corporation, Hershey, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hershey Foods Corporation, Hershey, Pa. 17033. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 112617 (Sub-No. 368TA), filed June 2, 1977. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Bruce Kraemer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used chemicals and used petroleum products*, in bulk, in tank vehicles, from the plantsite of Reliance Universal, Inc., at or near Clinton, Miss., and Franklin, Tenn., to the plantsite of George W. Whitesides Company at Louisville, Ky., for 180 days.

NOTE.—Letter from carrier attached hereto requesting that its application be changed to include 'plantsite restriction' as shown above. Please substitute this Notice for the one dated June 21, 1977. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority.

Supporting shipper: George W. Whitesides, President, George W. Whitesides Company, 31st and Michigan Drive, Louisville, Ky. 40212. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Offie Building, Louisville, Ky. 40202.

No. MC 113651 (Sub-No. 225TA), filed June 17, 1977. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 North Broadway, Munice, Ind. 47303. Applicant's representative: George E. Batty (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, by-products and articles distributed by meat packinghouses*, from Worthington, Ind., to Detroit, Mich.; Amarillo and El Paso, Tex.; Tupelo and West Point, Miss.; Atlanta, Ga.; Canton and Massillon, Ohio; points in Florida, Illinois, Iowa, Massachusetts, New York, New Jersey, Pennsylvania, Virginia, and to the ports of entry on the International Boundary Line between the United States and Canada located at Buffalo and Niagara Falls, N.Y., and Detroit, Mich. Restriction: Restricted to traffic originating at the plant site and storage facilities of Herkly Packing Company located at or near Worthington, Ind., and destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Herkly Packing Company, Inc., U.S. 231 North, Box No. 1, Worthington, Ind. 47471. Send protests to: J. H. Gray, District Supervisor, Bureau of Operation, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 114045 (Sub-No. 468TA), filed June 27, 1977. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, Tex. 75261. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, toilet preparations, chemicals, and all materials* used in the manufacture, sale, packaging and distribution of same in mechanically refrigerated equipment, from Philadelphia, Pa., Lewes and Seaford, DE Commercial zones to all points in the State of Arkansas (Bentonville, Harrison and Little Rock), for 180 days. Supporting shipper: William H. Rorer, Inc., 500 Virginia Drive, Fort Washington Pa. 19034. Send Protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 114569 (Sub-No. 182TA), filed June 24, 1977. Applicant: SCHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motorcycles, recreational vehicles, and machines accessories and parts*, and (2) *equipment, materials and supplies* used in the manufacture, distribution, or sale of the commodities named in (1) above, except commodities in bulk, Between Lincoln, Nebr., on the one hand, and, on the other, Nevada, Oregon, Washington, Idaho and Montana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kawaski Motors Corp., U.S.A., P.O. Box 11447, Santa Ana, Calif. 92711. Send protests to: Charles F. Myers, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 114632 (Sub-No. 116TA), filed July 1, 1977. Applicant: APPLE LINES, INC., 212 S.W. Second St., P.O. Box 287, Madison S. Dak. 57042. Applicant's representative: Robert A. Applewick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products including returned or refused shipments*, from International Falls, Minn., to points in Arkansas, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Hampshire, New Jersey, New





York, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia and Wisconsin, for 180 days. Supporting shippers: Boise Cascade Corporation, 2121 S. W. Broadway Drive, P.O. Box 2885, Portland, Oregon 97208. G. B. "Jerry" Bundy, Assistant General Manager, Transportation Services. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, S. Dak. 57501.

No. MC 116519 (Sub-No. 42TA), filed June 9, 1977. Applicant: FREDERICK TRANSPORT LIMITED, R.R. 6, Chatham, Ontario, Canada. Applicant's representative: Jeremy Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Combines and parts and attachments thereof*, when moving in mixed loads therewith, from ports of entry on the United States-Canada International Boundary line located in Michigan and New York, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia. Restrictions: (1) The transportation authorized herein is restricted to foreign commerce. (2) The transportation authorized herein is restricted to the transportation of shipments originating at the facilities of Massey-Ferguson Industries, Limited, Brantford, Ontario, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Massey-Ferguson Industries, Ltd., George Stephenson, Traffic Manager—Canada, Brantford, Ontario, Canada. Send protests to: James A. Augustyn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell Avenue, Detroit, Mich. 48226.

No. MC 119793 (Sub-No. 152TA), filed June 24, 1977. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, West 20th St. Road, Joplin, Mo. 64801. Applicant's representative: Harry Ross, 58 South Main, Winchester, Ky. 40391. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and siding materials, composition shingles, rolled roofing, roofing compounds and accessories*, thereto, from the plant sites and facilities of Elk Corporation located at Stephens & Camden, Ark., to all points and places in the states of Missouri, Oklahoma, Texas, Kentucky, Tennessee, Alabama, Mississippi and Louisiana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Elk Corporation, P.O. Box 37, Stephens, Ark. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission,—BOp, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 121654 (Sub-No. 3TA), filed June 15, 1977. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7177, 2700 Louisville Rd., Savannah, Ga. 31408. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, from Chatham County, Ga. to Florida, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Certain-Teed Corp., P.O. Box 860, Valley Forge, Pa. 19482. Send protests to: District Supervisor, G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay St., Jacksonville, Fla. 32202.

No. MC 124692 (Sub-No. 176TA), filed June 22, 1977. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, Mont. 59801. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mineral wool or mineral wool products and* (2) *insulating or protective materials, viz., calcium silicated and fibre combined or felts saturated with asphalt or not saturated*, from the plant sites and warehouse facilities of Johns-Manville Corporation at (1) Alexandria, Ind., to points in Montana and (2) from Waukegan, Ill., to points in California, Colorado, Utah, Oregon and Washington, for 180 days. Supporting shipper(s): Edwin T. Sinclair, Regional Traffic Manager, Johns-Manville Sales Corporation, 2222 Kensington Court, Oak Brook, Ill. 60521. Send protests to: District Supervisor Paul J. Lane, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 125433 (Sub-No. 108TA), filed June 28, 1977. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, Utah. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors*, (2) *industrial, construction, excavating, and material handling equipment*, and (3) *parts and attachments* for (1) and (2) above (except truck tractors, truck tractor attachments, and commodities which by reasons of size or weight require the use of special equipment), from the facilities of J. I. Case Company at or near Burlington and Bettendorf, Iowa, to points in Arizona, Utah, Idaho, Washington, Oregon, Nevada and California, for 180 days. Supporting shipper: J. I. Case Company, 700 State Street, Racine, Wis. 53404 (Robert L. Henderson). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 125770 (Sub-No. 12TA), filed June 30, 1977. Applicant: SPIEGEL TRUCKING, INC., 1000 South 4th Street, Harrison, N.J. 07029. Applicant's representative: Joel J. Nagel, 19 Back Drive, Edison, N.J. 08817. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts and materials* used in the manufacture of home, office and library furniture; between points and places in the State of Pennsylvania and Newark, N.J., on the one hand, and, on the other, points and places in the States of Connecticut, Florida, Georgia, Illinois, Indiana, Maryland, North Carolina, New Jersey, New York, Ohio, Rhode Island, South Carolina, Tennessee and Virginia. Restriction: Operations authorized herein are to be limited to a transportation service to be performed under a continuing contract, or contracts, with Art Metal-U.S.A. Inc./Steel Sales, Inc. of Newark, N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Art Metal-U.S.A., Inc./Steel Sales, Inc., 290 Passaic Street, Newark, N.J. 07104. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 129455 (Sub-No. 21TA), June 20, 1977. Applicant: CARRETTA TRUCKING, INC., 301 Mayhill St., Saddle Brook, N.J. 07662. Applicant's representative: Mr. Joseph Carretta, 350 Mayhill St., Saddle Brook, N.J. 07662. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Redwood products*, from the United States-Mexican border at Calexico, Calif., to points in the United States (except Alaska and Hawaii), (2) *materials, supplies and equipment* used in the manufacture of redwood products, from points in California to the United States-Mexican border at Calexico, Calif., for 180 days, under a continuing contract with Quaker City Industries, Inc., 301 Mayhill St., Saddle Brook, N.J. 07662. Send protests to: District Supervisor, Joel Morrows, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 133095 (Sub-No. 163TA), filed July 5, 1977. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, 2603 W. Euless Blvd., Euless, Tex. 76039. Applicant's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Hair care toiletries and equipment*, from Stamford, Conn., and the plantsite of Lake Center Industries at or near Rochester, Minn., to points in the United States in and west of Wisconsin, Illinois, Missouri, Arkansas and Mississippi, (except Alaska and Hawaii), with no transportation for compensation on return except as otherwise authorized. (B) *Hair*



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*care toiletries and equipment*, from Stamford, Conn., to Memphis, Tenn.; Atlanta, Ga., and Detroit, Mich.; From the plantsite of Lake Center Industries at or near Rochester, Minn., to Atlanta, Ga.; Baltimore, Md.; and Stamford, Conn. Restriction: Restricted to traffic originating at the plantsite and facilities of Clairol, Inc. and subcontractors of Clairol, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Clairol, Inc., 345 Park Avenue, New York, N.Y. 10022. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 133097 (Sub-No. 19TA), filed June 24, 1977. Applicant: SYSTEM REEFER SERVICE, INC., 4614 Lincoln Avenue, Cypress, Calif. 90630. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Engines, transmissions, axles, automotive parts and accessoires, carriers, pallets, and skids.* (1) Between Allentown, Pa., and its commercial zone, on the one hand, and, on the other, Hayward, Calif., and its commercial zone. (2) Between Allentown, Pa., and Bridgewater, N.J., and their respective commercial zones, on the one hand, and, on the other, Chicago, Ill., and its commercial zone. (3) Between Chicago, Ill., and its commercial zone, on the one hand, and, on the other, Hayward, Calif., and its commercial zone, for 180 days. Supporting shipper: Mack Trucks, Inc., Box M, Allentown, Pa. 18105. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 136291 (Sub-No. 7TA), filed June 21, 1977. Applicant: CUSTOMIZED PARTS DISTRIBUTION, INC., 2701 S. Bayshore Drive, Miami, Fla. 33133. Applicant's representative: Albert W. Stout, 3600 N.W. 82nd Avenue, Miami, Fla. 33166. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid argon, liquid nitrogen, liquid oxygen* in specially designed cryogenic vehicles provided and owned by the shipper from Gadsden, Ala., to points in Georgia, Kentucky, Tennessee and Mississippi, Louisiana, North Carolina, South Carolina, Florida and Arkansas, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Union Carbide Corporation, 270 Park Avenue, New York, N.Y. 10017. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, BOp, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 136315 (Sub-No. 16TA), filed June 21, 1977. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, Miss. 39350. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials, composition shingles, rolled roofing, roofing compounds and accessories thereto*, from the plantsite and storage facilities of Elk Corporation located at or near Stephens, Arkansas, and Camden, Arkansas, to points in Alabama, Kentucky, Louisiana, Mississippi, Oklahoma, Tennessee and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Elk Corporation, Stephens, Ark. 71764. Send protests to: District Supervisor Tarrant, Interstate Commerce Commission, Rm. 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 138144 (Sub-No. 23TA), filed July 1, 1977. Applicant: FRED OLSON CO., INC., 6022 West State Street, Milwaukee, Wis. 53213. Applicant's representative: Paul R. Bergant, 10 S. LaSalle St., Suite 1600, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured or distributed by manufacturers of (1) buildings, complete, knockdown, or in sections; (2) building sections and panels, (3) component parts, materials and supplies for (1) and (2) above, and (4) parts, accessories, and equipment used in the installation of (1), (2) and (3) above (except commodities in bulk), from the facilities of Sonoco Buildings, a Division of Sonoco Products Company, located at or near the town of Brookfield, Wis., and Milton, Pa., to points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sonoco Buildings, A Division of Sonoco Products Co., 19775 Sommer Drive, Waukesha, Wis. 53186, (E. Ellis Mason). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 138308 (Sub-No. 14TA), filed June 20, 1977. Applicant: KLM, INC., 2102 Old Brandon Rd., P.O. Box 6098, Jackson, Miss. 39208. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39208. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department and variety stores (except commodities in bulk), from points in Alabama, Arkansas, California, Florida, Georgia, Illinois, Louisiana, Massachusetts, Missouri, North Carolina, New York, Ohio, Pennsylvania, South Carolina, Texas and Washington, to the facilities of W. E. Walker Stores, Inc. at or near Columbia, Mississippi, and Diboll, Texas, restricted to shipments originating in the above states and destined to the above specified points, for 180 days. Supporting shipper: W. E. Walker Stores, Inc., P.O. Box 9407, Jackson, Miss. 39206. Send protests to: District Supervisor Alan C. Tarrant, Interstate Commerce Commission, Rm. 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 138869 (Sub-No. 11TA), filed June 14, 1977. Applicant: W. T. MYLES TRANSPORTATION CO., P.O. Box 321, 4481 Moreland Ave., Conley, Ga. 30027. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree Street, NW., Atlanta, Ga. 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feeds, mineral mixtures, tonics, medicines, insecticides, pesticides, feeders and equipment and advertising matter and premiums related to such commodities*, except the transportation of liquid commodities in bulk, from the plant and warehouse facilities of Moorman Manufacturing Co., at or near Quincy, Ill., to points in the states of South Carolina, Georgia and Florida, under a continuing contract, or contracts, with Moorman Manufacturing Co., 1001 North 30th Street, Quincy, Ill. 62301. Send Protests To: E. A. Bryant, District Supervisor, Interstate Commerce Commission, Room 300, 1252 West Peachtree Street, NW., Atlanta, Ga. 30309.

No. MC 141511 (Sub-No. 5TA), filed June 23, 1977. Applicant: ROBERT W. RETTIG, doing business as Protein Express, Route 3, Hartford, Wis. 53207. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Electrical equipment and appliances and materials, equipment and supplies* used in the manufacture, installation and sale thereof, from the facilities of Broan Manufacturing Co., Inc., located at or near Hartford, Wis., to Montebello, Calif.; Salt Lake City, Utah, Pasco, Wash.; Kansas City, Mo. and Denver, Colo. restricted to the transportation of shipments originating at the named origin and destined to the named destinations, for 180 days. Supporting Shipper: Broan Manufacturing Co., Inc., Box 140 Hartford, Wis. 50327. (Ronald Ver Strate). Send Protests To: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 142624 (Sub-No. 2TA), filed June 28, 1977. Applicant: HOMER D. MILLER, doing business as H M Carrier Service, P.O. Box 68, Stone Ridge, N.Y. 12484. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Laboratory animals*, between Carworth, Division of Charles River Breeding Laboratories, Inc., in Stone Ridge, N.Y., on the one hand, and, on the other, Albany County Airport, Albany, N.Y.; Kennedy International Airport in New York City; Newark Airport in New Jersey; Ridgefield, Conn.; Bloomfield, Newark, Somerville, Orange, Nutley and Morristown, N.J.; Wilmington, Mass., under a continuing contract, or contracts, with Carworth, Division of Charles River Breeding Laboratories, Inc., P.O. Box 241, Stone Ridge, N.Y. 12484. Send Protests To: Robert A. Radler, District Supervisor, P.O. Box 1167, 518 Federal Building, Albany, N.Y. 12201.





No. MC 143030 (Sub-No. 1TA), filed June 23, 1977. Applicant: CHARLES M. MYERS, doing business as T & G Enterprises, 222 Valley Circle, Riverton, Wyo. 82501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* having immediate, prior, or subsequent movement by air, between Natrona County Airport west of Casper, Wyo. and Shoshoni, Riverton, Pavillion, Gas Hills and Lander, Wyo., for 180 days. Supporting Shippers: There are approximately nine (9) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send Protests To: District Supervisor Paul A. Naughton, Rm. 205 Federal Bldg., and Court House, 111 South Wolcott, Casper, Wyo. 82601.

No. MC 143370 (Sub-No. 1TA), filed June 20, 1977. Applicant: EMPIRE TRUCKING COMPANY doing business as H. D. Jordan and Emmett O. McKenzie, a Partnership, P.O. Box 206, Old Washington, Ohio 43768. Applicant's representative: E. H. Van Deusen, P.O. Box 97, Dublin, Ohio 43017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, except in bulk, from the facilities of Quaker State Oil Refining Corporation at or near Emlenton, Pa.; Buffalo, N.Y.; and Congo and St. Marys, W. Va., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas, for 180 days. Supporting Shipper: Quaker State Oil Refining Corporation, P.O. Box 989, Oil City, Pa. 16301. Send Protests To: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg. and Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 143391TA, filed June 14, 1977. Applicant: CICIO TRUCKING CO., INC., P.O. Box 661, Woodridge, N.Y. 12789. Applicant's representative: Roy D. Pinsky, 345 So. Warren St., Syracuse, N.Y. 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ice*, from Sullivan ounty, N.Y., to points in New York, New Jersey and Pennsylvania, (2) *materials and supplies* used in the production of egg cartons, from Westboro, Mass., to Sullivan County, N.Y., (3) *materials and supplies* used in packaging and distribution of eggs, from Palmer, Mass., to Sullivan County, N.Y.; from Sullivan County, N.Y., to points in New York, New Jersey, Pennsylvania, Connecticut and Massachusetts, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shippers: There are approximately six (6) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send Protests To: Robert A. Radler, District Supervisor, 518 Federal Building, P.O. Box 1167, Albany, N.Y. 12201.

No. MC 143435TA, filed June 27, 1977. Applicant: MONDAY'S EXPRESS, INC., 201 Johnson Street, Covington, Ky. 41101. Applicant's representative: Charles P. Gore, 107 Church Street, Lexington, Ky. 40507. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pre-mixed clay;* (2) *raw castings*; and (3) *empty metal containers*, (1) Cincinnati, Ohio to and from McMinnville, Tenn.; (2) McMinnville, Tenn., to Akron, N.Y.; (3) McMinnville, Tenn., to and from Detroit, Mich.; (4) McMinnville, Tenn., to Lake City, Minn.; and (5) McMinnville, Tenn., to Buffalo, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Powermatic Houdaille, Inc., P.O. Box 70, McMinnville, Tenn. 37110. Send protests to: Linda H. Sypher, Interstate Commerce Commission, 216 Bakhaus Building, 1500 West Main Street, Lexington, Ky. 40505.

No. MC 143448TA, filed June 30, 1977. Applicant: DOONAN TRUCK AND EQUIPMENT, INC., P.O. Box 1286, Great Bend, Kans. 67530. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled or repossessed vehicles and trailers and replacement vehicles and trailers for such wrecked or disabled vehicles.* Between points and places in Kansas, on the one hand, and, points and places in the United States (except Alaska and Hawaii), on the other hand. Restricted, however to transport no trailers designed to be drawn by passenger automobiles, nor mobile homes, nor buildings in sections, traveling on their own or removable undercarriages, unless they are wrecked, for 180 days. Supporting shippers: There are approximately eighteen (18) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, 110 North Market, Wichita, Kans. 67202.

No. MC 143449TA, filed June 30, 1977. Applicant: RED BALL WRECKER SERVICE, INC., 235 West 10th, Wichita, Kans. 67203. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Building, 700 Kansas Avenue, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled or repossessed vehicles and trailers and replacements* vehicles and trailers for such wrecked or disabled vehicles, between points and places in Kansas, on the one hand, and, points and places in the United States (except Alaska and Hawaii), on the other hand. Restricted however, to transport no trailers designed to be drawn by passenger automobiles, nor mobile homes, nor buildings in sections, traveling on their own or removable undercarriages, unless they are wrecked, for 180 days. Supporting shippers: There are approximately seventeen (17) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: M.E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, 110 North Market, Wichita, Kans. 67202.

By the Commission.

H. G. Homme, Jr.,
*Acting Secretary.*

[FR Doc.77-21005 Filed 7-20-77;8:45 am]



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# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: July 28, 1977, 9:30 a.m.

LOCATION: 3rd Floor Hearing Room, 1111 18th St., NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *State of California Petition for Exemption* of its Standard for Children's Wearing Apparel from Preemption under the Flammable Fabrics Act. The California State Fire Marshal requested this exemption in October, 1976. The Commission held hearings on the request, in Washington and in California, in February 1977, following publication of a proposed exemption in the December 27, 1976 FEDERAL REGISTER.

2. *Final Rule Requiring Identification and Warning on Consumer Aerosol Products containing Chlorofluorocarbon Propellants.* On April 29, 1977, the Commission proposed a rule which would require manufacturers (including importers) to label these products to state a warning that they contain a chlorofluorocarbon propellent that may harm the public health and environment by reducing ozone in the upper atmosphere.

3. *EPA Request for Access to Product Ingredient Information.* The Commission is considering furnishing the Environmental Protection Agency with data derived from the chemical information submitted to the Commission under its Special Order of August 18, 1975. EPA has requested the information under section 26(a)(2) of the Toxic Substances Control Act for use in compiling a priority list of chemicals which EPA may test under provisions of that act. By notice in the July 11, 1977, FEDERAL REGISTER, the Commission announced its intention to release the data, and sought public comment.

4. *Policy on Establishing Priorities for Commission Action.* In publishing this regulation, in July 1976, the Commission had sought public comment. This document, if approved by the Commission, amends the policy for setting priorities for Commission action under the five acts which it administers.

5. *Petition on Snowmobiles, CP 76-9.* The Commission will consider this petition from George A. Peters, of Los Angeles, to develop mandatory safety standards for snowmobiles.

6. *Petition on Ventilation Fans, CP 77-3.* The Commission will consider this petition in which Lawrence H. Chapman, Harvey, Louisiana, asked the Commission to require labeling of attic ventilation fans because of possible fire hazards.

7. *Possible Substantial Product Hazard: Milwaukee Electric Tool Corp. circular saws, ID 77-35.* The staff has recommended that the Commission accept the corrective action plan which this company has implemented to deal with a possible hazard associated with certain circular saws which may have defective blade guards.

8. *Petition on Bicycle Reflectors, HP 76-16.* In this petition, Norbert Kirk, of Chicago, has asked the Commission to amend its bicycle reflector requirements to allow use of an in-motion reflector which Mr. Kirk manufactures.

9. *Petition on "Pop-Zit" Toy, HP 76-2.* In this petition, Quentin Steinberg, an attorney in Seattle, Washington, has asked the Commission to take action to remove this propelled-object toy from the marketplace because it poses an unreasonable risk of injury.

10. *Possible Substantial Product Hazard: B. Altman & Co. trolley ride toy, ID 77-14.* The Commission will consider additional information which the staff has obtained relating to this possible hazard. The staff has recommended that the Commission close the case.

11. *Proposed Regulations for section 6(b) of the Consumer Product Safety Act.* These rules would establish procedures for manufacturers and other sellers to comment on Commission publicity and publications about consumer products, or to request retraction of inaccuracies in published information. The rules would express the Commission's interpretation of section 6(b) of the CPSA.

12. *Petition on Home Insulation, CP-77-1.* The Commission will consider a petition from Colorado State's Attorneys offices to regulate alleged hazards associated with various types of home insulation.

13. *Electrical Extension Cords.* The Commission will consider a variety of options for action on electric shock and mouth burn hazards associated with extension cords.

14. *Petition from Laminators Safety Glass Association.* This association has made three requests concerning the Commission's standard for architectural glazing materials (which became effective July 6, 1977, a stay of the effective date; a petition to amend the standard; and a request for limited exceptions to and a petition to reconsider the standard.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon Butts, Assistant Secretary, Suite 300 1111 18th St., N.W., Washington, D.C. 20207, telephone 202-634-7700.

[S-933-77 Filed 7-18-77;2:50 pm]

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:

S-909-77, 42 F.R. 36910, July 18, 1977, and S-924-77.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., July 20, 1977.

CHANGE IN THE MEETING: The following item, originally announced for the open session, has been deleted from the agenda:

(2) *Guidelines on Employee Selection Procedures*

A majority of the entire membership of the Commission has determined by recorded vote that the business of the Commission requires this change and that no earlier announcement was possible.

The vote was as follows: In favor of change:

Eleanor Holmes Norton, Chair, 7-18-77.

Ethel Bent Walsh, Vice Chair, 7-18-77.

Daniel E. Leach, Commissioner, 7-19-77.

Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued July 19, 1977.

[S-941-77 Filed 7-19-77;10:28 am]

3

FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: 2:30 p.m. July 25, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open meeting.





CONTACT PERSON FOR MORE INFORMATION:

Mr. Henry Judy (202-624-7107).

MATTERS TO BE CONSIDERED: Consideration of status report on move to FHLBB new building consideration of CMAC—mortgage insurance company approval.

No. 49, July 18, 1977.

RONALD A. SNIDER, *Assistant Secretary.*

[S-934-77 Filed 7-18-77;2:51 pm]

4

FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: At the conclusion of the open meeting to be held at 2:30 p.m., July 25, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Closed Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Henry Judy (202-624-7107).

MATTERS TO BE CONSIDERED: Consideration of appointment of Assistant Secretary.

No. 50, July 18, 1977.

RONALD A. SNIDER, *Assistant Secretary.*

[S-935-77 Filed 7-18-77;2:51 pm]

5

FEDERAL RESERVE SYSTEM (Board of Governors).

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 36588, July 15, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, July 20, 1977.

CHANGES IN THE MEETING: Addition of the following closed items to the meeting:

1. Request from the Subcommittee on Economic Growth and Stabilization of the Joint Economic Committee, and the Subcommittee on Government Regulation and Small Business Advocacy of the Select Committee on Small Business, for the Board's comments on S. 1726, the "Small Business Economic Policy and Advocacy Reorganization Act of 1977".

2. Personnel assignments within the Board's staff. (The previously announced meeting included consideration of any agenda items carried forward from a previous meeting; this matter was originally scheduled for a meeting on May 20, 1977.) [1]

[1] 30 days has expired since the initial meeting at which this item was announced and a new vote has been taken.

Previously announced closed items:

1. Appointment of an officer at a Federal Reserve Bank.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: (202-452-3204).

Dated: July 18, 1977.

THEODORE E. ALLISON.

[S-932-77 Filed 7-18-77; 11:55 am]

6

FEDERAL RESERVE SYSTEM (Board of Governors).

TIME AND DATE: 10 a.m., Monday, July 25, 1977.

PLACE: 20th St. and Constitution Ave. NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed statement to be presented to the House Committee on Banking, Finance and Urban Affairs, regarding H.R. 8094, a bill "to promote the accountability of the Federal Reserve System".

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board (202-452-3204).

Dated: July 18, 1977.

THEODORE E. ALLISON.

[S-937-77 Filed 7-18-77;4:25 pm]

7

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Thursday, July 28, 1977 (NM-77-23).

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Ave. SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Regulation*—Part 850, USCG, NTSB Marine Casualty Investigations.

2. *Recommendation* to National Park Service re traffic barriers on the George Washington Memorial Parkway.

3. *Request* for depositions re Continental B-727 accident, Tucson, Ariz., June 3, 1977.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-755-4930.

[S-936-77 Filed 7-18-77;3:31 pm]

8

SECURITIES AND EXCHANGE COMMISSION.

TIME AND DATE: July 18, 1977, 11 a.m.

PLACE: Room 825, 500 North Capitol St. Washington, D.C.

STATUS: Closed meeting.

SUBJECT MATTER TO BE DISCUSSED: Regulatory matters bearing enforcement implications.

Chairman Williams, Commissioners Loomis, Evans, and Pollack voted to close the meeting and determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

JULY 18, 1977.

[S-939-77 Filed 7-18-77;4:25 pm]

9

SECURITIES AND EXCHANGE COMMISSION.

TIME AND DATE: July 15, 1977, 5:25 p.m.

PLACE: Room 825, 500 North Capitol St., Washington, D.C.

STATUS: Closed meeting.

SUBJECT MATTER: Regulatory matters bearing enforcement implications.

Chairman Williams, Commissioners Loomis, Evans, and Pollack voted to close the meeting and determined that Commission business required consideration of the matter and that no earlier notice thereof was possible.

JULY 18, 1977.

[S-938-77 Filed 7-18-77;4:25 pm]

10

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: July 28, 1977, 9 a.m.

PLACE: Board Room, Room 2200, Trans Point Bldg., 2100 2nd St., SW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS: Portions closed to the public—9 a.m.

1. Consideration of internal personnel matters.

2. Review of Conrail proprietary and financial information for monitoring and investment purposes.

3. Review of Delaware & Hudson Railway Company proprietary and financial information for monitoring and investment purposes.

4. Review of Missouri-Kansas-Texas Railroad Company proprietary and fi-



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nancial information for monitoring and investment purposes.

5. Litigation report.

PORTIONS OPEN TO THE PUBLIC—11 a.m.

6. Approval of minutes of the June 30, 1977 Board of Directors meeting.

7. Report on Conrail monitoring.

8. Consideration of Conrail Drawdown requests for August & September.

9. Status report on section 211(h) loans.

10. Consideration of section 211(h) loan to Conrail.

11. Consideration of D&H Drawdown request for $2 million.

12. Discussion of Congressional mandated studies of Conrail.

13. USRA budget and financial reports.

14. Litigation status reports.

15. GAO audit.

16. Contract actions.

CONTACT PERSON FOR MORE INFORMATION:

Alex Bilanow—(202–426–4250).

[S–940–77 Filed 7–19–77;2:25 pm]



federal register

THURSDAY, JULY 21, 1977

PART II




# CIVIL AERONAUTICS BOARD

■

# CERTIFICATED AIR CARRIERS

## Lease Transactions Disclosure Standards

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Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1013, Amdt. 28]

# PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

## Disclosure Standards for Lease Transactions

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: This amendment establishes disclosure standards for lease transactions which will require air carriers to disclose on the face of the balance sheet certain types of leases and the obligations to pay for them. In addition, the amendment will incorporate detailed accounting and reporting standards for these and other types of leases, including leases of property and equipment to others. These changes in the Board's accounting and reporting requirements for certificated air carriers reflect recent developments in the way that the American business community accounts for lease transactions. They are being made in the interests of improving financial disclosure and in order to keep the Board's accounting and reporting regulations abreast of changes in generally accepted accounting principles.

DATES: Effective: August 20, 1977. Adopted: July 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. (202-673-5270).

SUPPLEMENTARY INFORMATION: In EDR-318, dated February 4, 1977 (42 FR 8392, February 10, 1977) the Board gave notice of an intention to incorporate newly evolved standards of accounting and reporting for lease transactions into Part 241 of the Economic Regulations. The Board also expressed the tentative view that the proposed standards would put to rest a long-standing concern of the Board's regarding the economic realities which were inherent in certain types of leases; namely, that certain types of leases constituted a long-term drain on working capital and represented an inescapable financial burden as real as any bank loan or conditional sales contract.[1]

The standards which the Board intended to incorporate into Part 241 were promulgated in November 1976 by the Financial Accounting Standards Board (FASB), an authoritative professional body which molds accounting and disclosure standards for use in the American business community. Among other things, the FASB established criteria for determining the types of leases which should be capitalized by lessees and the disclosure requirements for both capital leases and other types of leases. It also permitted business entities to apply the new standards to all leases in effect regardless of when they were entered into or to phase-in the new standards through December 31, 1980; for all leases entered into after January 1, 1977, the FASB standards would be mandatory.

In the rulemaking notice, the Board also made mention of the fact that FASB standards are usually incorporated into Securities and Exchange Commission regulations[2] and that incorporation of the FASB standards into CAB regulations would be consistent with the concept of the CAB/SEC single reporting system initiated in ER-980, adopted December 23, 1976. That particular amendment implemented a single system of reports which can be submitted to both the Board and the SEC in satisfaction of certain of our respective financial reporting requirements.

Since standards promulgated by the FASB have a wide acceptance in the American business community and, in this case, would allay the Board's original concerns with respect to leasing activities and be consistent with the CAB/SEC single reporting system, the Board issued EDR-318 in order to elicit the comments of interested parties.

### The Comments

Comments in response to the rulemaking notice were submitted by the Air Transport Association of America (ATA) on behalf of fifteen certificated route air carriers[3] and Trans World Airlines, Inc. (TWA). Upon consideration of the comments received, the Board has decided to adopt the proposed rule with some modifications which are discussed in the following paragraphs.

The ATA supported the Board's intention to incorporate the FASB standards into Part 241 of the Economic Regulations and praised the Board's efforts to maintain its accounting and reporting regulations up-to-date with generally accepted accounting principles. TWA, while supporting the objectives of EDR-318, made two specific suggestions. One concerned the mechanism for reporting rental expense which would have been recorded for leases which are capitalized and the other concerned the proposed account numbers.

One of the changes outlined in EDR-318 concerned a requirement for carriers to report the amount of additional rent expense which would have been recorded if leases had not been capitalized on the face of the balance sheet. TWA objected to this requirement indicating that it would necessitate dual expense records for the same leases, the ones which are capitalized would be accounted for as capitalized leases and at the same time footnote disclosure of rent expense would be required as if they had not been capitalized.

We see no merit to TWA's contentions on reporting of rental expense. The carrier would have to maintain records of its rental expense for its own purposes in addition to its accounting records for the capitalization of the lease. What we are requiring is the reporting of this information on both bases. The capitalization of aircraft leases is not currently recognized for ratemaking purposes. The Board recognizes only the actual rental expense unless extraordinary circumstances exist.[4]

The adoption of these rules do not change the ratemaking standard. The separate showing of rental expense is required in order to implement current ratemaking policy. If at some time in the future, the Board wants to reconsider its policy concerning the treatment of lease expense, it will need both the rental expense and the data on capitalized leases in order to gauge the effect of any changes in the ratemaking standard. For these reasons, the Board must have the appropriate information regarding rental expense for capitalized leases.

The second point raised by TWA concerned the account numbers assigned to leased property under capital leases. TWA suggested that instead of having property obtained under capital leases recorded in one account, that individual accounts should be established for the different types of leased property. For example, the TWA suggestion would have individual capital lease accounts for airframes, engines, and so on with at least one individual capital lease account for each account provided for owned property and equipment. Additionally, TWA recommended that capital lease property be separated in the system of accounts between operating and nonoperating property and equipment.

We have examined TWA's comment in light of the Board's regulatory needs and the requirements of the FASB pronouncement. As a result, we have concluded that there is no need for an expansion of accounts to the extent TWA has suggested. It would, in our view, be unnecessarily burdensome and we will not require it in the final rule. In making mention of this, TWA and other carriers should note that carriers can establish any subaccounts and maintain any internal documentation they desire under

[1] EDR-266, April 5, 1974.

[2] The Securities and Exchange Commission has already initiated an amendment of their regulations on this matter. On March 2, 1977, the SEC issued a notice of proposed rulemaking to modify its lease disclosure requirements to recognize most of the principal features of the new FASB standard (SEC File S7-680).

[3] Aloha Airlines, Inc., American Airlines, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., Frontier Airlines, Inc., Hughes Air Corporation, d/b/a Hughes Airwest, National Airlines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Texas International Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc.

[4] See Section 399.43 of the Board's Policy Statements. "• • • where the leased aircraft value • • • in relation to net book value of owned aircraft operated by the same air carrier is significantly in excess of the ratio for the aggregate of the domestic trunklines and local service carriers • • • a reasonable profit element may be added. • • •."





the provisions of Subsection 1-3(c) of Part 241.

While we do not feel that expansion of the proposed accounts is necessary, we have noted that TWA's proposed separation of operating and nonoperating property under capital leases has merit. In the final rule, two new accounts will be included for capital leases of nonoperating property and equipment.

In order to accommodate the new accounts in the final rule, the account numbers originally intended for property leased to others have been redesignated. The accounts for property leased to others will immediately follow the new nonoperating accounts and the new property and equipment accounts established by this rule will read as follows:

1695 Leased property under capital leases.
1696 Leased property under capital leases—accumulated amortization.
1795 Nonoperating leased property under capital leases.
1796 Nonoperating leased property under capital leases—accumulated amortization.
1797 Property on operating-type lease to others and property held for lease.
1798 Property on operating-type lease to others and property held for lease-accumulated depreciation.

Also in connection with the numbering of accounts, it should be noted that, in the final rule, the objective account number for foreign exchange gains or losses has been changed from objective account 76 to objective account 61. There are not a sufficient number of objective account numbers to accommodate both foreign exchange gains and losses and the amortization of leases in close numerical proximity to depreciation and other amortization objective accounts. Since the Board has always tried to maintain a logical sequence in its account numbering systems and it would be more appropriate to have lease amortization in close numerical proximity to depreciation and other amortization accounts, the foreign exchange gains or losses will be moved to account 61.

### The Final Rule

As stated earlier, the final rule will require air carriers to record in balance sheet accounts capital leases and the obligations to pay for them. In addition, provision will be included for property being leased to others under operating-type leases which are not comparable to financing or sales-type arrangements and those which are, in essence, financing or sales-type arrangements. Accounts are also provided for leveraged leases which involve three parties, a lessee, a long-term creditor, and a lessor.

New lease terminology will be defined in Section 03, "Definitions for Purposes of This System of Accounts and Reports" and specific accounting instructions will be set forth in a new Section 2-20 to be entitled "Accounting for Leases." The new section will be broken down into two parts, one for lessees and another for lessors. The new section incorporates the essential elements of the new standards promulgated by the FASB in Statement of Financial Accounting Standards No. 13, "Accounting for Leases" (FASB-13).

Carriers will note that, in connection with leases of property and equipment to others, Section 2-20 provides for expenses incurred in connection with leasing operations to be matched with revenues received from such operations in nonoperating expense accounts. The purpose of this instruction is to insure the continued segregation of revenues and expenses related to "large-scale" leasing operations in the nonoperating category. The term "large-scale" refers to operations which have grown beyond the scope of what would normally be considered a transport-related operation and which necessitated separate record keeping systems under Section 1-6 of Part 241. Since investments in leasing operations are no longer relegated to Account 1520, "Investments in Nontransport Divisions" under this amendment, a separate record keeping system is no longer required. However, carriers should keep in mind that proper segregations between operating and nonoperating revenues and expenses must be maintained.[5]

Carriers will be required to disclose quarterly on Schedule P-2, "Notes to CAB Form 41 Report," the additional amount of rent expense, broken out by function, which would have been recorded if capitalized leases had not been capitalized. These will be shown as follows:

| Function: | *Rental expense amount* |
|---|---|
| 5100 | xxxx |
| 5300 | xxxx |
| 5500 | xxxx |
| 6100 | xxxx |
| 6200 | xxxx |
| 6300 | xxxx |
| 6400 | xxxx |
| 6500 | xxxx |
| 6600 | xxxx |
| 6700 | xxxx |
| 6800 | xxxx |
| 6900 | xxxx |
| Total | xxxx |

In addition, for any leases which meet the criteria for capitalization but have not been capitalized, the following information will be required each calendar quarter: (1) The additional amounts of the asset and the liability that would have been included in the balance sheet had the uncapitalized leases been capitalized and (2) the effect on operating and nonoperating income brought about by amortization and interest, and changes in rent expense, that would have resulted if the uncapitalized leases had been capitalized.

In order to comply with the FASB requirements, the following information will be required annually as of the close of each calendar year for capitalized leases: (1) Future minimum lease payments as of the date of the balance sheet presented, in the aggregate and for each of the five succeeding years, with separate deductions from the total for the amount representing executory costs, including any profit thereon, included in the minimum lease payments and for the amount of the imputed interest necessary to reduce the net minimum lease payments to present value; (2) the total of minimum sublease rentals to be received in the future under noncancelable subleases as of the date of the balance sheet presented; and (3) total contingent rentals actually incurred for the calendar year.

Also, in order to be consistent with FASB requirements, the following information will be disclosed annually as of the close of the calendar year for operating leases: (1) Future minimum rental payments required as of the date of the balance sheet presented, in the aggregate and for each of the five succeeding years; (2) the total of minimum rentals to be received in the future under noncancelable subleases as of the date of the balance sheet presented; (3) the rental expense for the calendar year with separate amounts for minimum rentals, contingent rentals, and sublease rentals, but rental payments under leases with terms of a month or less that were not renewed need not be included; and (4) a general description of the lessee's leasing arrangements including, but not limited to: The basis on which contingent rental payments are determined; the existence and terms of renewal or purchase options and escalation clauses; and restrictions imposed by lease agreements, such as those concerning dividends, additional debt, and further leasing. The first two disclosure requirements apply only to operating leases having initial or remaining noncancelable lease terms in excess of one year and the last two requirements apply to all operating leases.

This information to be reported on Schedule P-2, "Notes to CAB Form 41 Report," may, however, be provided on Schedule B-2, "General Notes to Financial Statements," in lieu of Schedule P-2 by those carriers who file the Schedule B-2 at the close of their fiscal year if it coincides with the close of the calendar year. This will avoid any unnecessary duplication.

In EDR-318, we also proposed to provide for the termination of Schedule B-14 "Summary of Property obtained Under Long-Term Leases"; however, a close examination of the disclosure requirements of FASB-13 and our regulatory data needs has revealed the need for the retention of Schedule B-14 at the present time. The data to be submitted on Schedule B-14 are the lease data applicable to capital leases which have not been capitalized due to the carrier's elected option for delaying the implementation of the retroactive application of the Board's new disclosure standards for leases. In the future, when all capital leases have been capitalized and Schedule B-14 data are no longer necessary, we will eliminate the schedule.

[5] Account 8186, "Income from nontransport ventures," may still be used to record revenues and expenses related to leasing operations of the magnitude described in Section 1-6.



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Certain other schedules will also be amended by the following final rule—either for the purpose of including the lease amortization expense account, the interest account for liabilities related to long-term leases, or as previously discussed, relocating the foreign exchange gain or loss account.

The FASB envisioned that the lease disclosure standards it promulgated would be applicable to all leases entered into after January 1, 1977. With respect to leases entered into before January 1, 1977, the FASB standards permitted several options with respect to implementation. As indicated in EDR–318, it is the Board's intention to follow this same procedure for leases entered into on or before January 1, 1977. Carriers may elect to (1) capitalize all of these leases immediately and disclose them in quarterly reports to the Board; or (2) carriers may decide to take advantage of the 4-year period allowed before capitalization is mandatory and disclose this by providing footnote disclosure of these leases; or (3) carriers may defer a decision until the end of their fiscal year to allow time to collect the necessary information and at that time decide to capitalize these leases or wait until December 31, 1980.

The detailed accounting and reporting instructions to be followed prior to the effective date of this rule have already been issued by the Director, Bureau of Accounts and Statistics in the form of an Accounting and Reporting Directive which was issued February 9, 1977 (A & R Directive No 52). The amendments in the final rule will supplant the instructions contained in A & R Directive No. 52 with one notable exception which relates to the refiling of certain schedules by carriers who elect to defer until the close of their fiscal year, a decision on whether or not to capitalize certain leases entered into before January 1, 1977.

Carriers who elect to capitalize these leases will be required to refile Schedules B–1, B–5, P–1.1, or P–1.2, P–3 and P–5.1 or P–5.2, for each of the first three quarters of the calendar year as if the carrier had decided to apply the new FASB standards to all leases regardless of their inception date. Carriers who elect to wait until December 31, 1980, will be required to refile Schedule P–2 for each of the three preceding calendar quarters in order to provide the information required by paragraph (m) of the reporting instruction for Schedule P–2 filed by route air carriers and paragraph (l) of the reporting instructions for Schedule P–2 for supplemental air carriers.

THE SEC RULE

The SEC has recently issued a proposed rule (see footnote 2) which would incorporate the FASB standards into that Commission's regulations. However, in contrast with the FASB phase-in concept, the SEC would require the FASB standard to be fully operational by the close of this calendar year instead of December 31, 1980, as the FASB had contemplated. The only exceptions would occur in cases where a registrant has been unable to resolve problems in connection with restrictive clauses in loan indentures or other agreements where application of the new standards would place the registrant in violation of such indentures and agreements. In addition, the SEC also proposes that when early application would result in such violations, the disclosure of that fact would be required.

We wish to emphasize that Sections 22(e) and 32(e) of Part 241 of the Board's Economic Regulations require CAB Form 41 reports to be in agreement with the carrier's books of account. Therefore, in the event that the SEC rule is adopted as proposed, the Board anticipates that the SEC rule will be duly reflected in the Board's rules by future amendment. As a result, all leases capitalized on the carriers' books of account for SEC purposes will likewise be capitalized for Part 241 accounting and reporting purposes. This is consistent with the concept underlying the CAB/SEC single reporting system.

EFFECTIVE DATE

Although this amendment will be made effective after the normal 30-day period from publication in the FEDERAL REGISTER, this effective date should not be viewed as prohibiting earlier implementation of the following accounting and reporting requirements. On the contrary, the Board wishes to encourage implementation of the new requirements, including retroactive application to leases entered into before January 1, 1977, as soon as possible.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 241 of its Economic Regulations effective as follows:

1. Amend the Table of Contents of the Uniform System of Accounts and Reports by adding a new section 2–20 to read in pertinent part as follows:

Sec.

* * * * *

2–19 Accounting for pension plans.
2–20 Accounting for leases.

BALANCE SHEET CLASSIFICATIONS

* * * * *

**Section 03—[Amended]**

2. Amend Section 03—Definitions for Purposes of This System of Accounts and Reports as follows:

A. By adding a new definition immediately following *"Equivalent unit"* to read as follows:

* * * * *

*Estimated economic life of leased property*—The estimated remaining period during which the property is expected to be economically usable by one or more users, with normal repairs and maintenance, for the purpose for which it was intended at the inception of the lease, without limitation by the lease term.

* * * * *

B. By adding a new definition immediately following *"Interchange agreement"* to read as follows:

* * * * *

*Interest rate implicit in the lease*—The discount rate that, when applied to (1) the minimum lease payments, excluding that portion of the payments representing executory costs to be paid by the lessor, together with any profit thereon, and (2) the unguaranteed residual value accruing to the benefit of the lessor, causes the aggregate present value at the beginning of the lease term to be equal to the fair value of the leased property to the lessor at the inception of the lease, minus any investment tax credit retained by the lessor and expected to be realized by him.

* * * * *

C. By adding six new definitions immediately following *"Liability, contingent"* to read as follows:

* * * * *

*Lease, capital*—A lease which meets one or more of the following criteria: (1) The lease transfers ownership of the property to the lessee by the end of the lease term; (2) the lease contains a bargain purchase option; (3) the lease term is equal to 75 percent or more of the estimated economic life of the leased property; or (4) the present value at the beginning of the lease term of the minimum lease payments, excluding that portion of the payments representing executory costs such as insurance, maintenance and taxes to be paid by the lessor, including any profit thereon, equals or exceeds 90 percent of the excess of the fair value of the leased property to the lessor at the inception of the lease over any related investment tax credit retained by the lessor and expected to be realized by him.

*Lease, direct financing*—Leases other than leveraged leases that do not give rise to manufacturer's or dealer's profit (or loss) to the lessor but that meet one or more of the criteria for a capital lease and also if the collectibility of the minimum lease payments is reasonably predictable and there are no important uncertainties surrounding the amount of unreimbursable costs yet to be incurred by the lessor under the lease.

*Lease, leveraged*—A lease which embodies all of the following characteristics: (1) Except for the exclusion of leveraged leases from the definition of a direct financing lease, otherwise meets that definition; (2) the lease involves at least three parties: A lessee, a long-term creditor, and a lessor; (3) the financing provided by the long-term creditor is nonrecourse as to the general credit of the lessor and the amount of the financing is sufficient to provide the lessor with substantial "leverage" in the transaction.

*Lease, operating*—All leases other than capital leases, sales-type leases, direct financing leases, and leveraged leases.

*Lease, sales-type*—Leases that give rise to manufacturer's or dealer's profit (or loss) to the lessor and that meet one or more of the criteria applicable to capital leases and the collectibility of the minimum lease payments is reasonably predictable and there are no important uncertainties surrounding the amount of unreimbursable costs yet to be incurred by the lessor under the lease.





*Lessee's incremental borrowing rate*—The rate that, at the inception of the lease, the lessee would have incurred to borrow over a similar term the funds necessary to purchase the leased asset.

* * * * *

D. By adding a new definition immediately following *"Miles, scheduled aircraft"* to read as follows:

* * * * *

*Minimum lease payments*—The payments that the lessee is obligated to make or can be required to make in connection with the leased property. This includes (1) the minimum lease payments called for by the lease over the lease term; (2) any guarantee by the lessee of the residual value at the expiration of the lease term; and (3) any payment that the lessee must make or can be required to make upon failure to renew or extend the lease at the expiration of the lease term. Regarding the lessor, such payments also include any guarantee of the residual value or of rental payments beyond the lease term by a third party unrelated to either the lessee or the lessor: *Provided*, The third party is financially capable of discharging the obligations that may arise from the guarantee.

* * * * *

3. Amend Section 2–3 by revising paragraph (f) to read in pertinent part as follows:

**Sec. 2–3 Transactions in foreign currencies.**

* * * * *

(f) Exchange gains and losses which result from the application of the provisions of paragraphs (a), (b), (c), (d) and (e) of this section shall be included in determining net income for the accounting period in which the rate changes. Such gains or losses which result from normal, routine, current fluctuations in rates of foreign exchange shall be charged to Accounts 6861 or 6961, Foreign Exchange Gains and Losses. * * *

* * * * *

4. Add a new Section 2–20 to read as follows:

**Sec. 2–20 Accounting for leases.**

(a) *Accounting by lessees.* (1) All leases shall be classified as either a capital or operating lease.

(2) The lessee shall record a capital lease as an asset (Account 1695, Leased Property under Capital Leases) and an obligation (Account 2080, Current Obligations under Capital Leases, or Account 2280, Noncurrent Obligations under Capital Leases), at an amount equal to the present value at the beginning of the lease term of minimum lease payments during the lease term, excluding that portion of the payments representing executory costs such as insurance, maintenance, and taxes to be paid by the lessor, together with any profit thereon. However, if the amount so determined exceeds the fair value of the leased property at the inception of the lease, the amount recorded as the asset and obligation shall be the fair value.

(3) Except for land, lessees shall amortize, by charging Account 7076, Amortization Expense—Capital Leases and crediting Account 1696 Leased Property under Capital Leases—Accumulated Amortization, the asset recorded under a capital lease as follows: (i) If the lease either transfers ownership of the property to the lessee by the end of the lease term or contains a bargain purchase option, the asset shall be amortized in a manner consistent with the lessee's normal depreciation policies for owned assets or (ii) if the lease does not meet either of the preceding criteria, the asset shall be amortized in a manner consistent with the lessee's normal depreciation policy except that the period of amortization shall be the lease term.

(4) During the capital lease term, each minimum lease payment shall be allocated between a reduction of the obligation (Account 2080, Current Obligations under Capital Leases) and interest expense (Account 8181.2, Interest Expense—Capital Leases) so as to produce a constant periodic rate of interest on the remaining balance of the obligation.

(5) A termination of a capital lease shall be accounted for by removing the asset and obligation, with gain or loss recognized for the difference.

(6) Rental on an operating lease shall be charged to expense over the lease term as it becomes payable.

(b) *Accounting by lessors.* (1) All leases shall be classified as either a sales-type lease, direct financing lease, or operating lease. For accounting and reporting purposes, all expenses related to the conduct of leasing operations should be matched with revenues related to such operations in the nonoperating category.

(2) Sales-type leases shall be accounted for by the lessor as follows:

(i) The minimum lease payments plus the unguaranteed residual value accruing to the benefit of the lessor shall be recorded as the gross investment in the lease.

(ii) The difference between the gross investment in the lease and the sum of the present values of the two components of the gross investment shall be recorded as unearned income. The net investment in the lease (Accounts 1280 and 1580) shall consist of the gross investment less the unearned income. The unearned income shall be amortized to income over the lease term so as to produce a constant periodic rate of return on the net investment in the lease. Contingent rentals, including rentals based on variables such as the prime interest rate, shall be credited to income when they become receivable.

(iii) The present value of the minimum lease payments computed at the interest rate implicit in the lease shall be recorded as the sales price. The cost or carrying amount, if different, of the leased property, plus any initial direct costs, less the present value of the unguaranteed residual value accruing to the benefit of the lessor, computed at the interest rate implicit in the lease, shall be charged against income in the same period.

(iv) A termination of the lease shall be accounted for by removing the net investment from the accounts, recording the leased asset at the lower of its original cost, present fair value, or present carrying amount, and the net adjustment shall be charged to income of the period.

(3) Direct financing leases shall be accounted for by the lessor as follows:

(i) The minimum lease payments plus the unguaranteed residual value accruing to the benefit of the lessor shall be recorded as the gross investment in the lease.

(ii) The difference between the gross investment in the lease and the cost or carrying amount, if different, of the leased property shall be recorded as unearned income. The net investment in the lease (Accounts 1280 and 1580) shall consist of the gross investment less the unearned income. Initial direct costs shall be charged against income as incurred, and a portion of the unearned income equal to the initial direct costs shall be recognized as income in the same period. The remaining unearned income shall be amortized to income over the lease term so as to produce a constant periodic rate of return on the net investment in the lease. Contingent rentals, including rentals based on variables such as the prime interest rate, shall be credited to income when they become receivable.

(4) Operating leases shall be accounted for as follows: (i) The leased property shall be depreciated following the lessor's normal depreciation policy; (ii) rent shall be reported as income over the lease term as it becomes receivable according to the provisions of the lease; and (iii) initial direct costs shall be deferred and allocated over the lease term in proportion to the recognition of rental income.

(c) *Accounting for leased terminal space and other airport facilities.* Leases involving terminal space and other airport facilities which are owned by a governmental unit or authority shall be classified as operating leases when: (1) The economic life of the leased facilities for purposes of classifying the lease is essentially indeterminate; (2) the concept of fair value is not applicable to the lease; and (3) the lease does not provide for a transfer of ownership or a bargain purchase option.

(d) *Accounting for leveraged leases.* (1) From the standpoint of the lessee, leveraged leases shall be accounted for as accounted for in the same manner as non-leveraged leases. (See paragraph (a) of this section.)

(2) From the standpoint of the lessor, leveraged leases shall be accounted for as follows:

(i) The lessor shall record the investment in a leveraged lease net of the nonrecourse debt. The net of the balances of the following accounts shall represent



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the initial and continuing investment in leveraged leases: (A) Rentals receivable, net of that portion of the rental applicable to principal and interest on the non-recourse debt; (B) a receivable for the amount of the investment tax credit to be realized on the transaction; (C) the estimated residual value of the leased asset; (D) unearned and deferred income consisting of (*1*) the estimated pretax lease income (or loss), after deducting initial direct costs, remaining to be allocated to income over the lease term and (*2*) the investment tax credit remaining to be allocated to income over the lease term. The investment in leveraged leases less deferred taxes arising from differences between pretax accounting income and taxable income shall represent the lessor's net investment in leveraged leases.

(ii) Given the original investment and using the projected cash receipts and disbursements over the term of the lease, the rate of return on the net investment in the years in which it is positive shall be computed. The rate is that rate which when applied to the net investment in the years in which the net investment is positive will distribute the net income to those years and is distinct from the interest rate implicit in the lease. In each year, whether positive or not, the difference between the net cash flow and the amount of the income recognized, if any, shall serve to increase or reduce the net investment balance. The net income recognized shall be composed of three elements: Two of which, pretax lease income (or loss) and investment tax credit, shall be allocated in proportionate amounts from the unearned and deferred income included in the net investment; the third element is the tax effect of the pretax lease income (or loss) recognized, which shall be reflected in tax expense for the year. The tax effect of the difference between pretax accounting income (or loss) and taxable income (or loss) for the year shall be charged or credited to deferred taxes.

(iii) If the projected net cash receipts over the term of the lease are less than the lessor's initial investment, the deficiency shall be recognized as a loss at the inception of the lease. Likewise, if at any time during the lease term the application of the method prescribed in subdivisions (i) and (ii) of this subparagraph would result in a loss being allocated to future years, that loss shall be recognized immediately.

(iv) Any estimated residual value and all other important assumptions affecting estimated total net income from the lease shall be reviewed at least annually. If during the lease term the estimate of the residual value is determined to be excessive and the decline in the residual value is judged to be other than temporary or if the revision of another important assumption changes the estimated total net income from the lease, the rate of return and the allocation of income to positive investment years shall be recalculated from the inception of the lease. The accounts constituting the net investment balance shall be adjusted to conform to the recalculated balances, and the change in the net investment shall be recognized as a gain or loss in the year in which the assumption is changed. An upward adjustment of the estimated residual value shall not be made.

(v) For accounting and reporting, all expenses related to the conduct of leasing operations should be matched with revenues related to such operations in the nonoperating category.

**Sec. 3 [Amended]**

5. Amend Section 3—Chart of Balance Sheet Accounts by revising the account number of Account 2340 and by adding new Accounts 1280, 1570, 1580, 1695, 1696, 1795, 1796, 1797, 1798, 2080, 2280 and 2340.2 to read in pertinent part as follows:

| Name of account | General classification | Operating | Nonoperating |
|---|---|---|---|
| Current assets: | | | |
| • • • | • | • | • |
| Accounts receivable | 1270 | | |
| Net investment in direct financing and sales-type leases, current | 1280 | | |
| Allowance for uncollectible accounts | 1290 | | |
| • • • | • | • | • |
| Special funds | 1550 | | |
| Investment in leveraged leases | 1570 | | |
| Net investment in direct financing and sales-type leases, noncurrent | 1580 | | |
| Property and equipment | 1600-1700 | | |
| • • • | • | • | • |
| Airframes | 1601 | | 1701 |
| • • • | • | • | • |
| Construction work in progress | 1689 | | 1789 |
| Leased property under capital leases | 1695 | | 1795 |
| Leased property under capital leases, accumulated amortization | 1696 | | 1796 |
| Property on operating-type lease to others and property held for lease | | | 1797 |
| Property on operating-type lease to others and property held for lease, accumulated depreciation | | | 1798 |

| General classification | |
|---|---|
| Other assets: | |
| • • • | • |
| Accounts payable, other | 2025 |
| Current obligations under capital leases | 2080 |
| Accrued salaries, wages | 2110 |
| • • • | • |
| Stock purchase plan liability | 2260 |
| Noncurrent obligations under capital leases | 2280 |
| Other noncurrent liabilities | 2290 |
| • • • | • |
| Deferred credits: | |
| Deferred income taxes | 2340.1 |
| Deferred taxes arising from leveraged leases | 2340.2 |
| Deferred investment tax credits | 2345 |
| • • • | • |

6. Amend Section 5–3 by revising paragraph (c) to read as follows:

**Sec. 5–3 Property and equipment.**

• • • • •

(c) Property obtained under capital leases shall be recorded in Accounts 1695 and 1795 for operating and nonoperating property, respectively, while property on an operating-type lease to others and property held for lease shall be recorded in Account 1797.

• • • • •

**Section 6—[Amended]**

7. Amend Section 6—Objective Classification of Balance Sheet Elements as follows:

A. By adding a new Account 1280 immediately following Account 1270—Accounts Receivable to read as follows:

**1280 Net Investment in Direct Financing and Sales-Type Leases—Current.**

(a) Record here the net investment in direct financing and salestype leases which is reasonably expected to be amortized within one year.

(b) Three subaccounts shall be maintained for: (1) The minimum lease payments receivable (debit); (2) the unguaranteed residual value accruing to the benefit of the lessor (debit); and (3) unearned income (credit).

B. By adding new Accounts 1570 and 1580 immediately following Account 1550—Special Funds to read as follows:

**1570 Investment in leveraged leases.**

(a) Record here the lessor's total investment in leveraged leases.

(b) Four subaccounts shall be maintained for: (1) Rentals receivable, net of that portion of the rental applicable to principal and interest on the nonrecourse debt; (2) a receivable for the amount of the investment tax credit to be realized on the transaction; (3) the estimated residual value of the leased asset; and (4) unearned and deferred income consisting of the estimated pretax lease income (or loss), after deducting initial direct costs, remaining to be allocated to income over the lease term and the investment tax credit remaining to be allocated to income over the lease term.

**1580 Net investment in direct financing and sales-type leases—noncurrent.**

(a) Record here the net investment in direct financing and sales-type leases which is not reasonably expected to be amortized within one year.

(b) Three subaccounts shall be maintained for: (1) The minimum lease payments receivable (debit); (2) the unguaranteed residual value accruing to the benefit of the lessor (debit); and (3) unearned income (credit).

C. By adding new Accounts 1695 and 1696 immediately following Account 1689—Construction Work in Progress to read as follows:

**1695 Leased property under capital leases.**

Record here the total cost to the air carrier for all property obtained under capital leases as provided in Section 2–20(a).





**1696 Leased property under capital leases—accumulated amortization.**

Record here accruals for amortization of leased property obtained under capital leases as provided in Section 2–20(a).

D. By revising Account 1700—Nonoperating Property and Equipment to read as follows:

**1700 Nonoperating property and equipment.**

The total cost to the air carrier of nonoperating property and equipment and related allowances for depreciation shall be recorded in balance sheet accounts 1701 through 1796 which, as set forth in Section 3, Chart of Balance Sheet Accounts, parallel balance sheet accounts 1601 through 1696, for recording the cost of operating property and equipment. In addition to these accounts, Account 1797 has been established for recording the cost of property on operating-type leases to others and property held for lease; any accumulated depreciation applicable to the assets contained in Account 1797 shall be recorded in Account 1798.

E. By adding new Accounts 1797 and 1798 immediately following Account 1700—Nonoperating Property and Equipment to read as follows:

**1797 Property on operating-type lease to others and property held for lease.**

Record here the total cost to the air carrier of property on operating-type lease to others and property held for lease as provided in Section 2–20.

**1798 Property on operating-type lease to others and property held for lease—accumulated depreciation.**

Record here accruals for depreciation of property on operating-type leases to others and property held for lease as provided in Section 2–20.

F. By adding a new Account 2080 immediately following Account 2025—Accounts Payable—Other to read as follows:

**2080 Current obligations under capital leases.**

Record here the total current liability applicable to property obtained under capital leases as provided in Section

G. By adding a new Account 2280 immediately after Account 2260—Stock Purchase Plan Liability to read as follows:

**2280 Noncurrent obligations under capital leases.**

Record here the total noncurrent liability applicable to property obtained under capital leases as provided in Section 2–20(a).

H. By changing the account number of Account 2340 to read as follows:

**2340.1 Deferred income taxes.**

• • • • •

I. By adding a new Account 2340.2 to read as follows:

**2340.2 Deferred taxes arising from leveraged leases.**

Record here the total deferred taxes arising from differences between pretax accounting income and taxable income due to the lessor's investment in leveraged leases.

**Section 7 [Amended]**

8. Amend Section 7—Chart of Profit and Loss Accounts to read in pertinent part as follows:

| Objective classification of profit and loss elements | Functional or financial activity to which applicable (00) Group I carriers | Group II carriers | Group III carriers |
|---|---|---|---|
| Operating revenues and expenses; Transport revenues: | | | |
| • • • | • | • | • |
| 60 Advertising | 60 | 67 | 65 |
| 61 Foreign exchange gains and losses | 60 | 68 | 68 |
| 62 Other promotional and publicity expenses | 60 | 67 | 66 |
| • • • | • | • | • |
| 75.9 General ground property | 70 | 70 | 70 |
| 76 Amortization expense, capital leases | 70 | 70 | 70 |
| 77 Uncleared expense credits | | | |
| • • • | • | • | • |
| Nonoperating income and expense: | | | |
| 80 Interest income | 81 | 81 | 81 |
| 81 Interest on long-term debt and capital leases: | | | |
| 81.1 Interest expense, long-term debt | 81 | 81 | 81 |
| 81.2 Interest expense, capital leases | 81 | 81 | 81 |
| 82 Other interest | 81 | 81 | 81 |
| • • • | • | • | • |

**Section 10—[Amended]**

9. Amend Section 10—Functional Classification—Operating Expenses of Group I Air Carriers by revising functional classification 7000 to read as follows:

**7000 Depreciation and amortization.**

This function shall include all charges to expense to record losses suffered through current exhaustion of the serviceability of property and equipment due to wear and tear from use and the action of time and the elements, which are not replaced by current repairs as well as losses in serviceability occasioned by obsolescence, supersession, discoveries, change in popular demand or action by public authority. It shall also include charges for the amortization of capitalized developmental and preoperating costs, leased property under capital leases, and other intangible assets applicable to the performance of air transportation. (See Sections 2–20 and 5–5, and 6–1696, 1830 and 1880.)

**Section 11—[Amended]**

10. Amend Section 11—Functional Classification—Operating Expenses of Group II and Group III Air Carriers by revising functional classification 7000 to read as follows:

**7000 Depreciation and amortization.**

This function shall include all charges to expense to record losses suffered through current exhaustion of the serviceability of property and equipment due to wear and tear from use and the action of time and the elements, which are not replaced by current repairs as well as losses in serviceability occasioned by obsolescence, supersession, discoveries, change in popular demand or action by public authority. It shall also include charges for the amortization of capitalized developmental and preoperating costs, leased property under capital leases, and other intangible assets applicable to the performance of air transportation. (See Sections 2–20 and 5–5, and 6–1696, 1830 and 1880.)

**Section 12—[Amended]**

11. Amend Section 12—Objective Classification—Operating Revenues and Expenses as follows:

A. By adding a new Account 61 to read as follows:

**61 Foreign exchange gains and losses.**

Record here gains or losses from transactions involving currency translations resulting from normal, routine, current fluctuations in rates of foreign exchange in accordance with provisions of Section 2–3. Gains or losses of a nonroutine abnormal character and gains or losses which arise from long-term debt principal and interest transactions shall not be entered in this account but in a profit and loss Account 85, Foreign Exchange Gains and Losses.

B. By changing the title and text of Account 76—Foreign Exchange Gains and Losses to read as follows:

**76 Amortization expense—capital leases.**

Record here amortization charges applicable to assets recorded under capital leases in Account 1695—Leased Property under Capital Leases.

12. Amend Section 14—Objective Classification—Nonoperating Income and Expense as follows:



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A. By changing the title and text of Account 81—Interest on Long-Term Debt and adding new subaccounts 81.1 and 81.2 to read as follows:

**81 Interest on long-term debt and capital leases.**

(a) Record here interest expense applicable to long-term debt and capitalized leases.

(b) This account shall be subdivided as follows by all air carrier groups:

**81.1 Interest expense—long-term debt.**

Record here interest on all classes of long-term debt. This includes interest expense applicable to all portions of long-term debt which are classified as either current (Account 2000) or long-term (Account 2210) for balance sheet classification purposes.

**81.2 Interest expense—capital leases.**

Record here, for all capitalized leases, that portion of each lease payment which represents interest expense.

B. By revising the text of Account 82 to read as follows:

**82 Other interest expense.**

Record here interest on all classes of short-term debt.

C. By revising the text of Account 89.9 to read as follows:

**89.9 Other miscellaneous nonoperating debits.**

Record here all debits of a nonoperating character not provided for otherwise, such as fines or penalties imposed by governmental authorities; amortization expense attributable to capital leases recorded in balance sheet Account 1795—Leased Property under Capital Leases; costs related to property held for future use; donations for charitable, social or community welfare purposes; • • •

**Section 23—[Amended]**

13. Amend Section 23—Certification and Balance Sheet Elements as follows:

A. By adding a new paragraph (i) to the reporting instructions for Schedule B–5 to read as follows:

*Schedule B–5—Property and Equipment*

• • • • • •

(i) For property obtained under capital leases, all columns shall be completed with the exception of column 8—Regulatory Components of the Allowance for Depreciation, and column 12 — Flight Equipment Airworthiness Allowance.

B. By revising paragraphs (b) and (j) of the reporting instructions for Schedule B–7 to read in pertinent part as follows:

*Schedule B–7—Airframes and Aircraft Engines Acquired*

• • • • •

(b) The indicated data shall be reported for each individual airframe identified by type, model, and design of cabin as to use for passengers exclusively, cargo exclusively, or both passengers and cargo in combination. Data pertaining to aircraft engines shall be reported in aggregate for each type or model; however, aircraft engines obtained under capitalized leases shall be separately reported under a caption entitled: Capital Leases—Aircraft Engines. Airframe units leased from others for a period of more than 90 days shall be classified and reported in a separate subsection of this schedule, captioned as follows: Capital Leases — Airframe Units; and Operating Leases—Airframe Units. In addition, a notation shall be made by license number of airframe units of the air carrier returned after lease to others for a period of more than 90 days. Airframe units obtained through interchange lease arrangements shall not be so reported. For property obtained under capital leases, all data columns shall be completed with the exception of column 15 — Flight Equipment Airworthiness Allowance.

• • • • • •

(j) Columns 12 and 15 "Allowance for Depreciation or Amortization" and • • •

C. By revising paragraph (b) of the reporting instructions for Schedule B–8 to read as follows:

*Schedule B–8—Property and Equipment Retired*

• • • • • •

(b) The indicated data shall be reported for the sale or retirement of each airframe, each type of aircraft engine (stating the number of units retired) and, to the extent retired along with airframes and engines, in aggregates by accounts, for operating property and equipment included in Account 1608 and nonoperating property and equipment included in Account 1708. Disposition of properties in Accounts 1608 and 1708 not related to airframe and aircraft engine retirements shall be reported in a separate group for each account. Ground property and equipment disposed of shall be reported in aggregate for all accounts, with subdivisions between operating, nonoperating, capital-leased, sales-type leased, and direct financing leased property and equipment. Airframe units leased from others for a period of more than 90 days shall be reported, upon return to the lessor, in a separate subsection of this schedule and captioned as follows: Capital Leases—Airframe Units; and Operating Leases—Airframe Units. In addition, a notation shall be made by license number and name of lessee of airframe units leased to others for a period of more than 90 days; moreover, airframe units leased to others under sales-type or direct financing leases shall be separately captioned and reported on this schedule. Airframe units leased under interchange arrangements shall not be so reported. Aircraft engines obtained under capital leases shall be separately reported under a caption entitled: Capital Leases—Aircraft Engines. For property obtained under capital leases, all data columns shall be completed with the exception of column 11—Flight Equipment Airworthiness Allowance. Additionally, aircraft engines leased to others under sales-type or direct financing leases shall be separately captioned and reported on this schedule.

D. By revising paragraph (c) of Schedule B–14 to read as follows:

*Schedule B–14—Summary of Property Obtained Under Long-Term Leases*

• • • • • •

(c) This schedule shall reflect data for all leases which meet the criteria established in Section 2–20 for capitalizing leases, but, however, have not been capitalized.

• • • • • •

E. By revising paragraphs (d) and (e) of Schedule B–43 to read as follows:

*Schedule B–43—Inventory of Airframes and Aircraft Engines*

• • • • • •

(d) Data in this schedule shall be grouped and subtotaled as between data pertaining to airframes and data pertaining to aircraft engines. Data pertaining to nonoperating airframes and aircraft engines shall be reported in a group below the data for operating equipment. Data pertaining to airframes and aircraft engines obtained under capital leases shall be reported in a separately captioned grouping below nonoperating airframes and aircraft engines and subgrouped therein according to operating and nonoperating equipment.

(e) The data to be reported shall include owned and capitalized leased airframes and aircraft engines currently in operation or in conversion. Data pertaining to airframes and aircraft engines obtained under capital leases shall be captioned separately from owned equipment and data for capital leases shall be reported in columns 1 through 7 and in column 13; the cost of improvements thereto shall be listed in columns 8 through 12.

• • • • • •

14. Amend Section 24—Profit and Loss Elements by changing the title and adding new paragraphs (l), (m), (n) and (o) to the reporting instructions for Schedule P–2 to read as follows:

*Schedule P–2—Notes to CAB Form 41 Report*

• • • • • •

(l) For capitalized leases, carriers shall report the additional rental expense which would have been recorded if the capitalized leases had not been capitalized:

| Function: | Amount |
|---|---|
| 5100 | xxxx |
| 5300 | xxxx |
| 5500 | xxxx |
| 6100 | xxxx |
| 6200 | xxxx |
| 6300 | xxxx |
| 6400 | xxxx |
| 6500 | xxxx |
| 6600 | xxxx |
| 6700 | xxxx |
| 6800 | xxxx |
| 6900 | xxxx |
| Total | xxxx |

(m) For any leases which meet the criteria of a capital lease but have not been capitalized, the following information shall be presented: (1) The additional amounts of the asset and the liability that would have been included in the balance sheet had the uncapitalized leases been capitalized and (2) the effect on operating and nonoperating income brought about by amortization and interest, and changes in rent expense, that would have resulted if the uncapitalized leases had been capitalized. Carriers who elect to defer until the close of their 1977 fiscal year, a decision not to capitalize leases entered into before January 1, 1977, shall report the data required by this paragraph quarterly beginning no later than the report filed for the quarter ended December 31, 1977, or the close of their fiscal year, whichever comes first.

(n) For capitalized leases the following information shall be disclosed annually as of the close of the calendar year: (1) Future minimum lease payments as of the date of the balance sheet presented, in the aggregate and for each of the five succeeding years, with separate deductions from the total for the amount representing executory costs, including any profit thereon, included in the minimum lease payments and for the amount of the imputed interest necessary to reduce the net minimum lease payments to present value; (2) the total of minimum sublease rentals to be received in the future under noncancelable subleases as of the date of the balance sheet presented; and (3) total contingent rentals actually incurred for the calendar year.

(o) For operating leases the following information shall be disclosed annually as of the close of the calendar year: (1) Future minimum rental payments required as of the date of the balance sheet presented, in the aggregate and for each of the five succeeding years; (2) the total of minimum rentals to be received in the future under noncancelable subleases as of the date of the balance sheet presented; (3) the rental expense for the calendar year with separate amounts for minimum rentals, contingent rentals, and sublease rentals. Rental payments under leases with terms of a month or less that were not renewed need not be included; and (4) a general description of the lessee's leasing arrangements including, but not limited to, the basis on which contingent rental payments are determined; the existence and terms of renewal or purchase options and escalation clauses; and restrictions imposed by lease agreements, such as those concerning dividends, additional debt, and further leasing. The first two disclosure requirements apply only to operating leases having initial or remaining noncancelable lease terms in excess of one year and the last two requirements apply to all operating leases.

15. Amend Section 33—Certification and Balance Sheet Elements as follows:

A. By revising paragraphs (b) and (i) of the reporting instructions for Schedule B–7 to read in pertinent part as follows:

*Schedule B–7—Airframes and Aircraft Engines Acquired*

• • • • •

(b) The indicated data shall be reported for each individual airframe identified by type, model, and design of cabin as to use for passengers exclusively, cargo exclusively, or both passengers and cargo in combination. Data pertaining to aircraft engines shall be reported in aggregate for each type or model; however, aircraft engines obtained under capitalized leases shall be separately reported under a caption entitled: Capital Leases—Aircraft Engines. Airframe units leased from others for a period of more than 90 days shall be classified and reported in a separate subsection of this schedule, captioned as follows: Capital Leases—Airframe Units; and Operating Leases—Airframe Units. In addition, a notation shall be made by license number of airframe units of the air carrier returned after lease to others for a period of more than 90 days. Airframe units obtained through interchange lease arrangements shall not be so reported. For property obtained under capital leases, all data columns shall be completed with the exception of column 15—Flight Equipment Airworthiness Allowance.

• • • • • •

(i) Columns 12 and 15 "Allowance for Depreciation or Amortization" and • • •

B. By revising paragraph (b) of the reporting instructions for Schedule B–8 to read as follows:

*Schedule B–8—Property and Equipment Retired*

• • • • • •

(b) The indicated data shall be reported for the sale or retirement of each airframe, each type of aircraft engine (stating the number of units retired) and, to the extent retired along with airframes and engines, in aggregates by accounts, for operating property and equipment included in Account 1608 and nonoperating property and equipment included in Account 1708. Disposition of properties in Accounts 1608 and 1708 not related to airframe and aircraft engine retirements shall be reported in a separate group for each account. Ground property and equipment disposed of shall be reported in aggregate for all accounts, with subdivisions between operating, nonoperating, capital-leased, sales-type leased, and direct financing leased property and equipment. Airframe units leased from others for a period of more than 90 days shall be reported, upon return to the lessor, in a separate subsection of this schedule and captioned as follows: Capital Leases—Airframe Units; and Operating Leases—Airframe Units. In addition, a notation shall be made by license number and name of lessee of airframe units leased to others for a period of more than 90 days; moreover, airframe units leased to others under sales-type or direct financing leases shall be separately captioned and reported on this schedule. Airframe units leased under interchange arrangements shall not be so reported. Aircraft engines obtained under capital leases shall be separately reported under a caption entitled: Capital Leases—Aircraft Engines. For property obtained under capital leases, all data columns shall be completed with the exception of column 11—Flight Equipment Airworthiness Allowance. Additionally, aircraft engines leased to others under sales-type or direct financing leases shall be separately captioned and reported on this schedule.

C. By revising paragraph (b) of Schedule B–14 to read as follows:

*Schedule B–14—Summary of Property Obtained under Long-Term Leases*

• • • • • •

(b) This schedule shall reflect data for all leases which meet the criteria established in Section 2–20 for capitalizing leases, but, however, have not been capitalized.

• • • • • •

D. By revising paragraphs (c) and (d) of Schedule B–43 to read as follows:

*Schedule B–43—Inventory of Airframes and Aircraft Engines*

• • • • • •

(c) Data in this schedule shall be grouped and subtotaled as between data pertaining to airframes and data pertaining to aircraft engines. Data pertaining to nonoperating airframes and aircraft engines shall be reported in a group below the data for operating equipment. Data pertaining to airframes and aircraft engines obtained under capital leases shall be reported in a separately captioned grouping below nonoperating airframes and aircraft engines and subgrouped therein according to operating and nonoperating equipment.

(d) The data to be reported shall include owned and capitalized leased airframes and aircraft engines currently in operation or in conversion. Data pertaining to airframes and aircraft engines obtained under capital leases shall be listed in columns 1 through 7 and in column 13; the cost of improvements thereto shall be listed in columns 8 through 12.

• • • • • •

16. Amend Section 34—Profit and Loss Elements by changing the title and adding new paragraphs (h), (i), (j) and (k) to the reporting instructions for Schedule P–2 to read as follows:

*Schedule P–2—Notes to CAB Form 41 Report*

• • • • • •

(h) For capitalized leases carriers shall report the additional rental expense which would have been recorded if the capitalized leases had not been capitalized:

| Function: | Amount |
|---|---|
| 5100 | xxxx |
| 5300 | xxxx |
| 5500 | xxxx |
| 6100 | xxxx |
| 6200 | xxxx |
| 6300 | xxxx |
| 6400 | xxxx |
| 6500 | xxxx |
| 6600 | xxxx |
| 6700 | xxxx |
| 6800 | xxxx |
| 6900 | xxxx |
| Total | xxxx |







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(i) For any leases which meet the criteria of a capital lease but have not been capitalized, the following information shall be presented: (1) The additional amounts of the asset and the liability that would have been included in the balance sheet had the uncapitalized leases been capitalized and (2) the effect on operating and nonoperating income brought about by amortization and interest, and changes in rent expense, that would have resulted if the uncapitalized leases had been capitalized. Carriers who elect to defer until the close of their 1977 fiscal year, a decision not to capitalize leases entered into before January 1, 1977, shall report the data required by this paragraph quarterly beginning no later than the report filed for the quarter ended December 31, 1977, or the close of their fiscal year, whichever comes first.

(j) For capitalized leases the following information shall be disclosed annually as of the close of the calendar year: (1) Future minimum lease payments as of the date of the balance sheet presented, in the aggregate and for each of the five succeeding years, with separate deductions from the total for the amount representing executory costs, including any profit thereon, included in the minimum lease payments and for the amount of the imputed interest necessary to reduce the net minimum lease payments to present value; (2) the total of minimum sublease rentals to be received in the future under noncancelable subleases as of the date of the balance sheet presented: and (3) total contingent rentals actually incurred for the calendar year.

(k) For operating leases the following information shall be disclosed annually as of the close of the calendar year: (1) future minimum rental payments required as of the date of the balance sheet presented, in the aggregate and for each of the five succeeding years; (2) the total of minimum rentals to be received in the future under noncancelable subleases as of the date of the balance sheet presented; (3) the rental expense for the calendar year with separate amounts for minimum rentals, contingent rentals, and sublease rentals. Rental payments under leases with terms of a month or less that were not renewed need not be included; and (4) a general description of the lessee's leasing arrangements including, but not limited to, the basis on which contingent rental payments are determined; the existence and terms of renewal or purchase options and escalation clauses; and restrictions imposed by lease agreements, such as those concerning dividends, additional debt, and further leasing. The first two disclosure requirements apply only to operating leases having initial or remaining noncancelable lease terms in excess of one year and the last two requirements apply to all operating leases.

17. Amend CAB Form 41 schedules to reflect the foregoing changes in accounting, as shown in the exhibits attached hereto[*] and made a part hereof as follows:

| Schedule No.: | Exhibit |
|---|---|
| B-1 | A |
| B-5 | B |
| B-7 | C |
| B-8 | D |
| P-1.1 | E |
| P-1.2 | F |
| P-1(a) | G |
| P-3 | H |
| P-5.1 | I |
| P-5.2 | J |
| P-6 | K |
| P-7 | L |

(Secs. 204(a), 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; (49 U.S.C. 1324, 1377).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
*Secretary.*

[*] Exhibits filed as part of the original document.

[FR Doc.77-20918 Filed 7-20-77;8:45 am]



federal register

THURSDAY, JULY 21, 1977
PART III




# DEPARTMENT OF THE TREASURY

Fiscal Service
Bureau of the Public Debt

■

# U.S. INDIVIDUAL RETIREMENT BONDS

Debt Circular
Public Debt Series 1-75

First Amendment

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Title 31—Money and Finance

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

## PART 346—REGULATIONS GOVERNING UNITED STATES INDIVIDUAL RETIREMENT BONDS

### Miscellaneous Amendments

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: This amendment to the regulations governing United States Individual Retirement Bonds makes the changes necessitated by the Tax Reform Act of 1976. This is being accomplished by the addition of a $75 bond denomination and the revision of the annual purchase limitation. Certain addresses contained in the regulations are also being changed to reflect a transfer of operations within the Department.

EFFECTIVE DATE: July 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Albert E. Martin, Attorney-Adviser, Bureau of the Public Debt, 202–376–0636.

SUPPLEMENTAL INFORMATION: Individual Retirement bonds have been offered for sale since 1975 as one of the investments that eligible individuals may utilize to fund an individual retirement account (IRA) under the Internal Revenue Code. Since the Code prescribes a maximum amount that may be annually deducted for contributions to such an account, the regulations governing Individual Retirement bonds have contained an annual purchase limitation equal to this maximum amount. Until passage of the Tax Reform Act of 1976 (Pub. L. 94–455), this annual limitation was 15 percent of earned income up to a maximum of $1,500.

Under section 1501 of the Tax Reform Act, however, certain married individuals eligible to purchase Individual Retirement Bonds are entitled to elect a higher annual deduction limitation. Under this new limitation, if the spouse of an individual eligible for IRA participation has no earned income during the year, the working eligible spouse may purchase bonds for tax deduction in that year up to either of the following two limitations:

(1) The working spouse may purchase bonds in his or her own name up to a maximum of 15 percent of earned income or $1,500, whichever is less, the deduction therefor to be taken under section 219 of the Internal Revenue Code; or

(2) Bonds may be purchased in each spouse's name, up to a total maxium of 15 percent of the working spouse's earned income or $1,750, whichever is less, the deduction therefor to be taken under section 220 of the Code.

Section 220 of the Code also requires that the IRA contributions made in each spouse's name for deduction under the 15 percent $1,750 limitation must be in equal amounts. Thus, an eligible married couple desiring to fund their IRA solely with bonds can only obtain the maximum $1,750 deduction by purchasing $875 in bonds in each spouse's name. In order to make such purchases possible, the Department is providing a new $75 bond. This will now make bonds available in denominations of $50, $75, $100, and $500. The annual limitation on purchases of bonds is also being revised to make provision for the new Code Section 220 alternative limitation.

The Department is also making several address changes in the regulations to reflect a transfer of certain operations. Certain bond transactions previously handled by the Division of Securities Operations in the Washington Office of the Bureau of the Public Debt will now be handled by the Division of Transactions and Rulings in the Parkersburg Office of the Bureau.

The primary author of this document is Albert E. Martin, Attorney-Adviser, Bureau of the Public Debt.

Accordingly, to accomplish these changes, Department of the Treasury Circular, Public Debt Series, No. 1–75 (31 CFR Part 346) is hereby amended as follows:

1. In § 346.1, the first sentence of paragraph (c) is revised to read:

**§ 346.1 Description of bonds.**

* * * * *

(c) *Denominations-issue date.* Individual Retirement Bonds will be available only in registered form and in denominations of $50, $75, $100, and $500.

2. Section 346.5 is revised to read:

**§ 346.5 Limitation on holdings.**

(a) Except as provided in paragraph (b) of this section, the amount of Individual Retirement Bonds which may be registered in any one individual's name is limited to the amount for which an annual deduction may be taken under either section 219 or 220 of the Internal Revenue Code.[1] These limitations are as follows:

(1) In the case of an individual electing to deduct his or her bond purchase under section 219, the face amount of bonds purchased for tax deduction in any given year may not exceed 15 percent of the individual's earned income for that year or $1,500, whichever is less.

(2) In the case of an individual electing to deduct his or her bond purchases under Section 220, the total face amount of bonds purchased for tax deduction in any given year in the name of the individual and in the name of his or her nonworking spouse, may not exceed 15 percent of the working spouse's earned income for that year or $1,750, whichever is less.[2]

(b) The above limitations do not apply to rollover bond purchases, as described in sections 402(a)(5), 403(a)(4), or 408(d)(3) of the Internal Revenue Code.

**§ 346.3 [Amended]**

3. Footnote 1 to paragraph (d)(2) of § 346.8 is redesignated as footnote 3.

**§§ 346.8, 346.9, 346.10, and 346.12 [Amended]**

4. The references in the sections listed below to "Bureau of the Public Debt, Division of Securities Operations, Washington, D.C. 20226" are changed to read: "Bureau of the Public Debt, Division of Transactions and Rulings, Parkersburg, West Virginia 26101."

(1) Section 346.8(b)(2); (2) footnote 3 to § 346.8(d)(2); (3) section 346.9(a); (4) section 346.10(a); (5) section 346.10(b); and (6) section 346.12.

* * * * *

[1] NOTE.—Under the Internal Revenue Code, bonds issued during any given year or within 45 days thereafter may be deducted in that year.

[2] NOTE.—Code Section 220 requires, in effect, that the total IRA contributions in each spouse's name to be deducted in any one year be in equal amounts. While it is permissible for an eligible married couple to utilize several different forms of IRA investments within the same year, this means that couples investing solely in bonds must purchase equal amounts of bonds in each spouse's name.





5. The Table of Redemption Values following § 346.15 is replaced by the new Table set out below:

*Table of redemption values providing an investment yield of 6 percent per annum for bonds bearing issue dates beginning Jan. 1, 1975*

NOTE.—This table shows how Individual Retirement Bonds bearing issue dates on or after Jan. 1, 1975, by denomination, increase in redemption value during the successive half-year periods following issue. The redemption values provide an investment yield of approximately 6 pct/annum, compounded semiannually, on the purchase price from issue date to the beginning of each half-year period. No increase in redemption value is shown, however, until 1 year after issue date since no interest may be paid on bonds redeemed before that time. The period to maturity is fixed in accordance with the provisions of § 346.1(b) of this circular.

| Issue price | $50.00 | $75.00 | $100.00 | $500.000 |
|---|---|---|---|---|
| Period after issue date | Redemption values during each half-year period (values increase on 1st day of period shown) | | | |
| 1st yr | $50.00 | $75.00 | $100.00 | $500.00 |
| 1 to 1½ yr | 53.05 | 79.57 | 106.10 | 530.50 |
| 1½ to 2 yr | 54.64 | 81.95 | 109.28 | 546.40 |
| 2 to 2½ yr | 56.28 | 84.41 | 112.56 | 562.80 |
| 2½ to 3 yr | 57.96 | 86.95 | 115.92 | 579.60 |
| 3 to 3½ yr | 59.70 | 89.55 | 119.40 | 597.00 |
| 3½ to 4 yr | 61.49 | 92.24 | 122.98 | 614.90 |
| 4 to 4½ yr | 63.34 | 95.01 | 126.68 | 633.40 |
| 4½ to 5 yr | 65.24 | 97.86 | 130.48 | 652.40 |
| 5 to 5½ yr | 67.20 | 100.79 | 134.40 | 672.00 |
| 5½ to 6 yr | 69.21 | 103.82 | 138.42 | 692.10 |
| 6 to 6½ yr | 71.29 | 106.93 | 142.58 | 712.90 |
| 6½ to 7 yr | 73.43 | 110.14 | 146.86 | 734.30 |
| 7 to 7½ yr | 75.63 | 113.44 | 151.26 | 756.30 |
| 7½ to 8 yr | 77.90 | 116.85 | 155.80 | 779.00 |
| 8 to 8½ yr | 80.24 | 120.35 | 160.48 | 802.40 |
| 8½ to 9 yr | 82.64 | 123.96 | 165.28 | 826.40 |
| 9 to 9½ yr | 85.12 | 127.68 | 170.24 | 851.20 |
| 9½ to 10 yr | 87.68 | 131.51 | 175.36 | 876.80 |
| 10 to 10½ yr | 90.31 | 135.46 | 180.62 | 903.10 |
| 10½ to 11 yr | 93.01 | 139.52 | 186.02 | 930.10 |
| 11 to 11½ yr | 95.81 | 143.71 | 191.62 | 958.10 |
| 11½ to 12 yr | 98.68 | 148.02 | 197.36 | 986.80 |
| 12 to 12½ yr | 101.64 | 152.46 | 203.28 | 1,016.40 |
| 12½ to 13 yr | 104.69 | 157.03 | 209.38 | 1,046.90 |
| 13 to 13½ yr | 107.83 | 161.74 | 215.66 | 1,078.30 |
| 13½ to 14 yr | 111.06 | 166.60 | 222.12 | 1,110.60 |
| 14 to 14½ yr | 114.40 | 171.59 | 228.80 | 1,144.00 |
| 14½ to 15 yr | 117.83 | 176.74 | 235.66 | 1,178.30 |
| 15 to 15½ yr | 121.36 | 182.04 | 242.72 | 1,213.60 |
| 15½ to 16 yr | 125.00 | 187.51 | 250.00 | 1,250.00 |
| 16 to 16½ yr | 128.75 | 193.13 | 257.50 | 1,287.50 |
| 16½ to 17 yr | 132.62 | 198.93 | 265.24 | 1,326.20 |
| 17 to 17½ yr | 136.60 | 204.89 | 273.20 | 1,366.00 |
| 17½ to 18 yr | 140.69 | 211.04 | 281.38 | 1,406.90 |
| 18 to 18½ yr | 144.91 | 217.37 | 289.82 | 1,449.10 |
| 18½ to 19 yr | 149.26 | 223.89 | 298.52 | 1,492.60 |
| 19 to 19½ yr | 153.74 | 230.61 | 307.48 | 1,537.40 |
| 19½ to 20 yr | 158.35 | 237.53 | 316.70 | 1,583.50 |
| 20 to 20½ yr | 163.10 | 244.65 | 326.20 | 1,631.00 |

These amendments are being issued under the authority of 5 U.S.C. 301, 26 U.S.C. 220, and 31 U.S.C. 757. As they either involve the fiscal policy of the United States or are administrative in nature, notice and public procedures thereon are found to be unnecessary. These amendments are effective upon publication.

Dated: June 27, 1977.

DAVID MOSSO,
*Fiscal Assistant Secretary.*

[FR Doc.77-20069 Filed 7-20-77;8:45 am]



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# federal register

FRIDAY, JULY 22, 1977

## highlights

**EDUCATIONAL WORKSHOPS ON HOW TO USE THE FEDERAL REGISTER**

CORRECTION: On the cover of the issue for Wednesday, June 20, 1977, the dates for the Boston, Mass. workshops were incorrectly announced as 10–7—10–9 inclusive. These dates should have read 9–7—9–9 inclusive.

**"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"**

OUT OF TOWN WORKSHOPS PREVIOUSLY ANNOUNCED
New York, N.Y., 8–15, 8–16, 8–17, 8–18, 8–19
(Details: 42 FR 36040, 7/13/77)
For reservations call: Dorothy Gemmallo
at (212) 264–3514
Boston, Mass., 9–7, 9–8, 9–9
(Details: 42 FR 37261, 7–20–77)
For reservations call: Mrs. Louise Conboy
at (617) 223–7121

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## AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

| Monday | Tuesday | Wednesday | Thursday | Friday |
|---|---|---|---|---|
| NRC | USDA/ASCS | | NRC | USDA/ASCS |
| DOT/COAST GUARD | USDA/APHIS | | DOT/COAST GUARD | USDA/APHIS |
| DOT/NHTSA | USDA/FNS | | DOT/NHTSA | USDA/FNS |
| DOT/FAA | USDA/REA | | DOT/FAA | USDA/REA |
| DOT/OHMO | CSC | | DOT/OHMO | CSC |
| DOT/OPSO | LABOR | | DOT/OPSO | LABOR |
| | HEW/ADAMHA | | | HEW/ADAMHA |
| | HEW/CDC | | | HEW/CDC |
| | HEW/FDA | | | HEW/FDA |
| | HEW/HRA | | | HEW/HRA |
| | HEW/HSA | | | HEW/HSA |
| | HEW/NIH | | | HEW/NIH |
| | HEW/PHS | | | HEW/PHS |

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

**ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.**


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# reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

### Rules Going Into Effect Today

DOT/CG—Boats, low powered and non-powered; capacity and safe loading requirements..... 2683; 1–13–77
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FCC—FM broadcast station; table of assignments; Mechanicsville, Va.... 30622; 6–16–77

### List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

H.R. 6893.....Pub. L. 95–67
To amend title 4 of the United States Code to make it clear that Members of Congress may not, for purposes of State income tax laws, be treated as residents of any State other than the State from which they were elected. (July 19, 1977; 91 Stat. 271). Price: $.35.





# presidential documents

## Title 3—The President

**Executive Order 12003** • **July 20, 1977**

### Relating to Energy Policy and Conservation

By virtue of the authority vested in me by the Constitution and the statutes of the United States of America, including the Energy Policy and Conservation Act (89 Stat. 871, 42 U.S.C. 6201 *et seq.*), the Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 1901 *et seq.*), Section 205(a) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(a)), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Section 1 of Executive Order No. 11912 of April 13, 1976, is amended to read as follows:

"Section 1. (a) The Administrator of General Services is designated and empowered to perform, without approval, ratification or other action by the President, the function vested in the President by Section 510 of the Motor Vehicle Information and Cost Savings Act, as amended (89 Stat. 915, 15 U.S.C. 2010). In performing this function, the Administrator of General Services shall:

(1) Promulgate rules which will ensure that the minimum statutory requirement for fleet average fuel economy is exceeded (i) for fiscal year 1978 by 2 miles per gallon, (ii) for fiscal year 1979 by 3 miles per gallon, and (iii) for fiscal years 1980 and after by 4 miles per gallon.

(2) Promulgate rules which will ensure that Executive agencies do not acquire, subsequent to fiscal year 1977, any passenger automobile unless such automobile meets or exceeds the average fuel economy standard for the appropriate model year established by, or pursuant to, Section 502(a) of the Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 2002(a)); except that, such rules (i) shall not apply to automobiles designed to perform combat-related missions for the Armed Forces or designed to be used in law enforcement work or emergency rescue work, and (ii) may provide for granting exemptions for individual automobiles used for special purposes as determined to be appropriate by the Administrator of General Services with the concurrence of the Administrator of the Federal Energy Administration.

"(b) The Administrator of General Services shall promulgate rules which will ensure that each class of nonpassenger automobiles acquired by all Executive agencies in each fiscal year, beginning with fiscal year 1979, achieve for such fiscal year a fleet average fuel economy not less than the average fuel economy standard for such class, established pursuant to Section 502(b) of the Motor Vehicle Information and Cost Savings Act, as amended (89 Stat. 903, 15 U.S.C. 2002(b)), for the model year which includes January 1 of such fiscal year; except that, such rules (1) shall not apply to automobiles designed to perform combat-related missions for the Armed Forces or designed to be used in law enforcement work or emergency rescue work, and (2) may provide for granting exceptions for other categories of automobiles used for special purposes as determined to be appropriate by the Administrator of General Services with the concurrence of the Administrator of the Federal Energy Administration.".



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SEC. 2. Executive Order No. 11912 of April 13, 1976, is further amended by adding the following new Section:

"Sec. 10. (a) (1) The Administrator of the Federal Energy Administration, hereinafter referred to as the Administrator, shall develop, with the concurrence of the Director of the Office of Management and Budget, and in consultation with the Secretary of Defense, the Secretary of Housing and Urban Development, the Administrator of Veterans' Affairs, the Administrator of the Energy Research and Development Administration, the Administrator of General Services, and the heads of such other Executive agencies as he deems appropriate, the ten-year plan for energy conservation with respect to Government buildings, as provided by section 381(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6361(a)(2)).

(2) The goals established in subsection (b) shall apply to the following categories of Federally-owned buildings: (i) office buildings, (ii) hospitals, (iii) schools, (iv) prison facilities, (v) multi-family dwellings, (vi) storage facilities, and (vii) such other categories of buildings for which the Administrator determines the establishment of energy-efficiency performance goals is feasible.

"(b) The Administrator shall establish requirements and procedures, which shall be observed by each agency unless a waiver is granted by the Administrator, designed to ensure that each agency to the maximum extent practicable aims to achieve the following goals:

(1) For the total of all Federally-owned existing buildings the goal shall be a reduction of 20 percent in the average annual energy use per gross square foot of floor area in 1985 from the average energy use per gross square foot of floor area in 1975. This goal shall apply to all buildings for which construction was or design specifications were completed prior to the date of promulgation of the guidelines pursuant to subsection (d) of this Section.

(2) For the total of all Federally-owned new buildings the goal shall be a reduction of 45 percent in the average annual energy requirement per gross square foot of floor area in 1985 from the average annual energy use per gross square foot of floor area in 1975. This goal shall apply to all new buildings for which design specifications are completed after the date of promulgation of the guidelines pursuant to subsection (d) of this Section.

"(c) The Administrator with the concurrence of the Director of the Office of Management and Budget, in consultation with the heads of the Executive agencies specified in subsection (a) and the Director of the National Bureau of Standards, shall establish, for purposes of developing the ten-year plan, a practical and effective method for estimating and comparing life cycle capital and operating costs for Federal buildings, including residential, commercial, and industrial type categories. Such method shall be consistent with the Office of Management and Budget Circular No. A-94, and shall be adopted and used by all agencies in developing their plans pursuant to subsection (e), annual reports pursuant to subsection (g), and budget estimates pursuant to subsection (h). For purposes of this paragraph, the term "life cycle cost" means the total costs of owning, operating, and maintaining a building over its economic life, including its fuel and energy costs, determined on the basis of a systematic evaluation and comparison of alternative building systems.

"(d) Not later than November 1, 1977, the Administrator, with the concurrence of the Director of the Office of Management and Budget, and after consultation with the Administrator of General Services and the heads of the Executive agencies specified in subsection (a) shall issue guidelines for the plans to be submitted pursuant to subsection (e).





"(e) (1) The head of each Executive agency that maintains any existing building or will maintain any new building shall submit no later than six months after the issuance of guidelines pursuant to subsection (d), to the Administrator a ten-year plan designed to the maximum extent practicable to meet the goals in subsection (b) for the total of existing or new Federal buildings. Such ten-year plans shall only consider improvements that are cost-effective consistent with the criteria established by the Director of the Office of Management and Budget (OMB Circular A-94) and the method established pursuant to subsection (c) of this Section. The plan submitted shall specify appropriate energy-saving initiatives and shall estimate the expected improvements by fiscal year in terms of specific accomplishments—energy savings and cost savings—together with the estimated costs of achieving the savings.

(2) The plans submitted shall, to the maximum extent practicable, include the results of preliminary energy audits of all existing buildings with over 30,000 gross square feet of space owned and maintained by Executive agencies. Further, the second annual report submitted under subsection (g)(2) of this Section shall, to the maximum extent practicable, include the results of preliminary energy audits of all existing buildings with more than 5,000 but not more than 30,000 gross square feet of space. The purpose of such preliminary energy audits shall be to identify the type, size, energy use level and major energy using systems of existing Federal buildings.

(3) The Administrator shall evaluate agency plans relative to the guidelines established pursuant to subsection (d) for such plans and relative to the cost estimating method established pursuant to subsection (c). Plans determined to be deficient by the Administrator will be returned to the submitting agency head for revision and resubmission within 60 days.

(4) The head of any Executive agency submitting a plan, should he disagree with the Administrator's determination with respect to that plan, may appeal to the Director of the Office of Management and Budget for resolution of the disagreement.

"(f) The head of each agency submitting a plan or revised plan determined not deficient by the Administrator or, on appeal, by the Director of the Office of Management and Budget, shall implement the plan in accord with approved budget estimates.

"(g) (1) Each Executive agency shall submit to the Administrator an overall plan for conserving fuel and energy in all operations of the agency. This overall plan shall be in addition to and include any ten-year plan for energy conservation in Government buildings submitted in accord with Subsection (e).

(2) By July 1 of each year, each Executive agency shall submit a report to the Administrator on progress made toward achieving the goals established in the overall plan required by paragraph (1) of this subsection. The annual report shall include quantitative measures and accomplishment with respect to energy saving actions taken, the cost of these actions, the energy saved, the costs saved, and other benefits realized.

(3) The Administrator shall prepare a consolidated annual report on Federal government progress toward achieving the goals, including aggregate quantitative measures of accomplishment as well as suggested revisions to the ten-year plan, and submit the report to the President by August 15 of each year.

"(h) Each agency required to submit a plan shall submit to the Director of the Office of Management and Budget with the agency's annual budget submission, and in accordance with procedures and requirements that the Director shall establish, estimates for implementation of the agency's plan. The Director of the Office of Management and Budget shall consult with the Administrator about the agency budget estimates.



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"(i) Each agency shall program its proposed energy conservation improvements of buildings so as to give the highest priority to the most cost-effective projects.

"(j) No agency of the Federal government may enter into a lease or a commitment to lease a building the construction of which has not commenced by the effective date of this Order unless the building will likely meet or exceed the general goal set forth in subsection (b)(2).

"(k) The provisions of this Section do not apply to housing units repossessed by the Federal Government.".

Jimmy Carter

THE WHITE HOUSE,
*July 20, 1977.*

[FR Doc.77-21414 Filed 7-21-77;12:11 pm]





**Executive Order 12004** • **July 20, 1977**

## Relating to Federal Pay Administration

By virtue of the authority vested in me by Sections 5304 and 5305 of Title 5 of the United States Code, and as President of the United States of America, in order to improve the process by which the President receives advice relating to the Federal pay systems, Executive Order No. 11721 of May 23, 1973, relating to Federal pay administration, is hereby amended as follows:

SECTION 1. Section 201 is amended to read as follows:

"Section 201. The Secretary of Labor, the Director of the Office of Management and Budget, and the Chairman of the United States Civil Service Commission are hereby designated to serve jointly as the President's agent under section 5305 of title 5, United States Code, and shall be known in this capacity as the President's Pay Agent.".

SEC. 2. A new Section 204 is added as follows:

"Sec. 204. (a) The Advisory Committee on Federal Pay shall advise the President of its own opinion on any unresolved issues referred to it by the President's Pay Agent or the Federal Employees Pay Council. The Advisory Committee shall inform the President's Pay Agent and the Federal Employees Pay Council of its opinion on such issues as soon as practicable. To facilitate the exercise of this authority and the early resolution of such issues, the Advisory Committee shall attend, or be represented at, meetings between the President's Pay Agent and the Federal Employees Pay Council, and moderate and direct the discussion.

"(b) The President's Pay Agent, in its annual report to the President pursuant to section 5305 of title 5, United States Code, shall include a full discussion of each issue upon which the Advisory Committee has submitted, in accordance with subsection (a), an opinion.".

Jimmy Carter

THE WHITE HOUSE,
*July 20, 1977.*

[FR Doc.77-21415 Filed 7-21-77;12:12 pm]



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# rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 5—Administrative Personnel

## CHAPTER I—CIVIL SERVICE COMMISSION

## PART 213—EXCEPTED SERVICE

### Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Assistant Secretary for Tourism is excepted under Schedule C because of its confidential nature.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3314(1)(5) is added as set out below:

**§ 213.3314 Department of Commerce.**

* * * * * *

(1) *U.S. Travel Service.* * * *

(5) One Special Assistant to the Assistant Secretary for Tourism.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77–21048 Filed 7–21–77;8:45 am]

## PART 213—EXCEPTED SERVICE

### Department of Defense

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This addition excepts under Schedule C the following positions because they are confidential in nature: one position of Assistant to the Special Assistant to the Secretary of Defense, and one position of Confidential Assistant to the Deputy Assistant Secretary of Near Eastern, African and South Asian Affairs.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3306(a)(88) and (89) are added as set out below:

**§ 213.3306 Department of Defense.**

(a) *Office of the Secretary.* * * *

(88) One Assistant to the Special Assistant to the Secretary of Defense.

(89) One Confidential Assistant to the Deputy Assistant Secretary (Near Eastern, African and South Asian Affairs), Office of the Assistant Secretary of Defense for International Security Affairs.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77–21044 Filed 7–21–77;8:45 am]

## PART 213—EXCEPTED SERVICE

### Executive Office of the President: Office of Management and Budget

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Congressional Relations Officer (Reorganization) to the Executive Associate (Assistant) Director for Reorganization and Management is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3303(a)(18) is added as set out below:

**§ 213.3303 Executive Office of the President.**

(a) *Office of Management and Budget.* * * *

(18) One Congressional Relations Officer (Reorganization) to the Assistant Director (Reorganization and Management.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77–21043 Filed 7–21–77;8:45 am]

## PART 213—EXCEPTED SERVICE

### Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This section is amended to reflect the change in title of one position of Special Assistant to the Assistant Secretary for Policy Development and Research to Staff Assistant to the Assistant Secretary for Policy Development and Research to more appropriately reflect the duties of the position.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3385(i)(5) is amended as set out below:

**§ 213.3384 Department of Housing and Urban Development.**

* * * * * *

(i) *Office of the Assistant Secretary for Policy Development and Research.* * * *

(5) Two Special Assistants and one Staff Assistant to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77–21049 Filed 7–21–77;8:45 am]

## PART 213—EXCEPTED SERVICE

### Department of the Interior

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Assistant to the Administrator—Energy Conservation, Bonneville Power Administration is reestablished under Schedule C because it is confidential in nature.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3312(j)(4) is added as set out below:

**§ 213.3312 Department of the Interior.**

* * * * * *

(j) *Bonneville Power Administration.* * * *

(3) [Reserved]

(4) Assistant to the Administrator—Energy Conservation.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77–21045 Filed 7–21–77;8:45 am]



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## PART 213—EXCEPTED SERVICE

### Department of the Interior

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This addition excepts from the competitive service under Schedule C one position of Confidential Assistant to the Commissioner, Bureau of Reclamation.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3312(n) is added as set out below:

**§ 213.3312 Department of the Interior.**

* * * * *

(n) *Bureau of Reclamation.*

(1) One Confidential Assistant to the Commissioner.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77-21047 Filed 7-21-77;8:45 am]

## PART 213—EXCEPTED SERVICE

### Department of Justice

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This addition excepts under Schedule C the following positions because they are confidential in nature: one position of Secretary (Steno) for the Attorney General and one position of Confidential Assistant to the Deputy Attorney General.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CR 213.3310(a) (13) and (b)(7) are added as set out below:

**§ 213.3310 Department of Justice.**

(a) *Office of the Attorney General.* * * *

(13) One Secretary (Steno) for the Attorney General.

(b) *Office of the Deputy Attorney General.* * * *

(7) One Confidential Assistant to the Deputy Attorney General.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77-21046 Filed 7-21-77;8:45 am]

## PART 713—EQUAL OPPORTUNITY

### Age Group Coverage—Nondiscrimination on Account of Age

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Part 713 is amended to redefine the age group covered by the regulations from employees or applicants who are at least 40 and less than 65 years of age; to (a) employees who are at least 40 and less than 70 years of age and (b) applicants who are at least 40 and less than 65 years of age. The purpose of these amendments is to comply with a recent court decision (*Christie* v. *Marston*, 7th Circuit Court 1977, 551 F. 2d 1080).

EFFECTIVE DATE: March 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Jeanne M. Monk, Age Discrimination in Employment Act Program Coordinator, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415 (202–254–9470).

SUPPLEMENTARY INFORMATION: On March 4, 1977, the 7th Circuit Court of Appeals ruled that "* * * Federal employees between the ages of 65 and 70 are protected from age discrimination by the ADEA." That decision also stated an expectation "* * * that the regulation will henceforth be administered in accordance with this ruling." Therefore, the effective date of the amendments is March 4, 1977.

COMMISSION GUIDANCE

The Commission, in its Federal Personnel Manual instructions, will provide that, subject otherwise to complaint timing and purview provisions in Part 713, the amendments are to be effective for complaints from employees age 65 to less than 70:

a. If a complaint of age discrimination is based on alleged discriminatory action(s) occurring on or after March 4, 1977.

b. If a complaint of age discrimination was the subject of administrative proceedings in process (e.g., a grievance) on March 4, 1977.

c. If an individual complaint of age discrimination was filed on or after March 4, 1977, based on an alleged discriminatory action which occurred within the 30 days immediately preceding March 4, 1977.

d. If a class complaint of age discrimination was filed on or after April 18, 1977, based on an alleged discriminatory action which occurred no earlier than 90 days immediately preceding April 4, 1977 (these dates are provided to comply with effective dates established for the promulgation of class complaint regulations).

EXCEPTIONS

The Federal Personnel Manual instructions will also provide for the following exceptions:

a. The amendments do not apply to employment situations involving mandatory retirement between ages 65 and 70. The court decision stated that it did not deal with employees "* * * who, because of other statutes or regulations, are subject to mandatory retirement at an age earlier than 70 * * *"

b. Federal employees age 65 to less than 70 who apply for jobs in their own or other Federal agencies are "employees" and not "applicants" for purposes of coverage and entitlements under the ADEA, Part 713, and related regulations and instructions. For example, a Federal employee's complaint of age discrimination under Part 713 may not be rejected on grounds that he/she is complaining as an applicant rather than an employee.

Accordingly, 5 CFR § 713.501(b)(4), § 713.512, and § 713.601(d) are amended to read as follows:

**§ 713.501 Purpose and applicability.**

* * * * *

(b) *Applicability.* * * *

(4) This subpart applies to (a) employees who are at least 40 and less than 70 years of age and (b) applicants for employment who are at least 40 and less than 65 years of age.

* * * * *

**§ 713.512 Coverage.**

The agency shall provide in its regulations for the acceptance of a complaint from many aggrieved employee or applicant for employment with that agency who believes that he or she has been discriminated against on account of age and who, at the time of the action complained of, was (a) an employee at least 40 but less than 70 years of age or (b) an applicant at least 40 but less than 65 years of age. A complaint may also be filed by an organization for the person with his or her consent.

* * * * *

**§ 713.601 Definition.**

* * * * *

(d) "Age" is an inclusive term which means (1) in the case of employees, the ages of 40 to less than 70 years and (2) in the case of applicants, the ages of 40 to less than 65 years.

(5 U.S.C. 1301, 3301, 3302, 7154, 7301; 86 Stat. 11; E.O. 10577, 3 CFR 1954–58 Comp., p. 218; E.O. 11222, 3 CFR 1964–1965 Comp., p. 306; E.O. 11478, 3 CFR 1966–70 Comp., p. 803; 29 U.S.C. 633a.)

NOTE.—The Civil Service Commission has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A–107.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77-21001 Filed 7-21-77;8:45 am]





### Title 7—Agriculture

### CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amendment No. 117]

## PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

### Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable monthly income standards for the one-person household in Alaska, effective July 1, 1977. This revision is necessary to increase such income eligibility standards in line with the recently issued 1977 Secretary's income poverty guidelines.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Grant Tolley, Chief, Program Development Branch, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–8325).

SUPPLEMENTARY INFORMATION: On May 20 (42 F.R. 26002–03), the Department published a final rule revising the Maximum Eligibility Standards and Basis of Coupon Issuance for Alaska, effective July 1, 1977 (Appendix B—FSP Notice No. 1977–2.2).

Currently the Food Stamp Program Regulations provide that the national income standards of eligibility shall be the higher of poverty guidelines issued by the Secretary of Agricluture on the basis of data reported by the Census Bureau or the level at which the total coupon allotments equals 30 percent of income.

The Secretary's poverty guidelines used for the Food Stamp Program are the same as those for the Child Nutrition Program which are based on changes in the Consumer Price Index for the 12-month period ending in April.

Therefore, in line with the recently issued 1977 Secretary's guidelines (42 FR 29030) the maximum allowable income standards are increased for the one-person household from $307 to $328 and the two-person household from $427 to $430 The following table should be substituted for the table appearing in FR Doc. 77–14145 at page 26002 in the FEDERAL REGISTER of May 20, 1977.

| Household size: | *Maximum allowable monthly income standards—Alaska* |
|---|---|
| 1 | [1] $328 |
| 2 | [1] 430 |
| 3 | 614 |
| 4 | 780 |
| 5 | 927 |
| 6 | 1,113 |
| 7 | 1,227 |
| 8 | 1,407 |
| Each additional member | +173 |

[1] 1977 USDA Poverty Guideline.

Also, the table shown on page 26002, headed "Monthly Coupon Allotment and Purchase Requirements" is amended for the one-person household at the level of income of $310 to $329.99, by inserting a purchase requirement of $56.

In view of the need for placing this notice into effect on July 1, 1977, and the mandatory nature of the subject matter, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: July 17, 1977.

CAROL TUCKER FOREMAN,
*Assistant Secretary.*

[FR Doc.77-21067 Filed 7-21-77;8:45 am]

[Amendment No. 118]

## PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

### Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable monthly income standards for the one-person household in Hawaii, effective July 1, 1977. This revision is necessary to increase such income eligibility standards in line with the recently issued 1977 Secretary's income poverty guidelines.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Grant Tolley, Chief, Program Development Branch, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–8325).

SUPPLEMENTARY INFORMATION: On May 20 (42 FR 26003–04), the Department published a final rule revising the Maximum Eligibility Standards and Basis of Coupon Issuance for Hawaii, effective July 1, 1977 (Appendix C—FSP Notice No. 1977–3.2).

Currently the Food Stamp Program Regulations provide that the national income standards of eligibility shall be the higher of poverty guidelines issued by the Secretary of Agriculture on the basis of data reported by the Census Bureau or the level at which the total coupon allotment equals 30 percent of income.

The Secretary's poverty guidelines used for the Food Stamp Program are the same as those for the Child Nutrition Program which are based on changes in the Consumer Price Index for the 12-month period ending in March. Therefore, in line with the recently issued 1977 Secretary's guidelines (42 FR 29030) the maximum allowable income standards are increased for the one-person household from $273 to $286. The following table should be substituted for the table now appearing in FR Doc. No. 77–14146 at page 26003 in the FEDERAL REGISTER of May 20, 1977.

| Household size: | *Maximum allowable monthly income standards—Hawaii* |
|---|---|
| 1 | [1] $286 |
| 2 | 413 |
| 3 | 593 |
| 4 | 453 |
| 5 | 893 |
| 6 | 1,073 |
| 7 | 1,187 |
| 8 | 1,354 |
| Each Additional Member | +166 |

[1] 1977 USDA Poverty Guideline.

In view of the need for placing this notice into effect on July 1, 1977, and the mandatory nature of the subject matter, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: July 17, 1977.

CAROL TUCKER FOREMAN,
*Assistant Secretary.*

[FR Doc.77-21068 Filed 7-21-77;8:45 am]

[Amendment No. 119]

## PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

### Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable monthly income standards for the one- and two-person households in Puerto Rico, effective July 1, 1977. These revisions are necessary to increase such income eligibility standards in line with the recently issued 1977 Secretary's income poverty guidelines.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Grant Tolley, Chief Program Development Branch, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–8325).

SUPPLEMENTARY INFORMATION: On May 20 (42 FR 26004–05), the Department published a final rule revising the Maximum Eligibility Standards and Basis of Coupon Issuance for Puerto Rico, effective July 1, 1977. (Appendix D—FSP Notice No. 1977–4.2).

Currently the Food Stamp Program Regulations provide that the national income standards of eligibility shall be the higher of poverty guidelines issued by



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the Secretary of Agriculture on the basis of data reported by the Census Bureau or the level at which the total coupon allotment equals 30 percent of income.

The Secretary's poverty guidelines used for the Food Stamp Program are the same as those for the Child Nutrition Program which are based on changes in the Consumer Price Index for the 12-month period ending in April. Therefore, in line with the recently issued Secretary's guidelines (42 FR 29030) the maximum allowable income standards are increased for the one-person household from $245 to $262 and for the two-person household from $322 to $344. The following table should be substituted for the table now appearing in FR Doc. 77-14147 at page 26004 in the FEDERAL REGISTER of May 20, 1977.

| Household size: | *Maximum allowable monthly income standards—Puerto Rico* |
|---|---|
| 1 | [1] $262 |
| 2 | [1] 344 |
| 3 | 453 |
| 4 | 573 |
| 5 | 680 |
| 6 | 820 |
| 7 | 900 |
| 8 | 1,033 |
| Each Additional Member | +127 |

[1] 1977 USDA Poverty Guideline.

Also, the table on page 26005, headed "Monthly Coupon Allotments and Purchase Requirements" is amended for the one-person household at the level of income of $250 to $269.99, by inserting a purchase requirement of $42; and for the two-person household at the income level of $330 to $359.99, by inserting a purchase requirement of $74.

In view of the need for placing this notice into effect on July 1, 1977, and the mandatory nature of the subject matter, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: July 17, 1977.

CAROL TUCKER FOREMAN,
*Assistant Secretary.*

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

[FR Doc.77-21069 Filed 7-21-77;8:45 am]

[Amendment No. 120]

## PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

### Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable monthly income standards for the one-person household in the Virgin Islands, effective July 1, 1977. This revision is necessary to increase such income eligibility standards in line with the recently issued 1977 Secretary's income poverty guidelines.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Grant Tolley, Chief, Program Development Branch, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-8325).

SUPPLEMENTARY INFORMATION: On May 20 (42 FR 26005-06), the Department published a final rule revising the Maximum Eligibility Standards and Basis of Coupon Issuance for the Virgin Islands, effective July 1, 1977 (Appendix E—FSP Notice No. 1977-5.2).

Currently the Food Stamp Program Regulations provide that the national income standards of eligibility shall be the higher of poverty guidelines issued by the Secretary of Agriculture on the basis of data reported by the Census Bureau or the level at which the total coupon allotment equals 30 percent of income.

The Secretary's poverty guidelines used for the Food Stamp Program are the same as those for the Child Nutrition Program which are based on changes in the Consumer Price Index for the 12-month period ending in April.

Therefore, in line with the recently issued 1977 Secretary's guidelines (42 FR 29030) the maximum allowable income standards are increased for the one-person household from $245 to $262. The following table should be substituted for the table now appearing in FR Doc. 77-14148 at page 26006 in the FEDERAL REGISTER of May 20, 1977.

| Household size: | *Maximum allowable monthly income standards—Virgin Islands* |
|---|---|
| 1 | [1] $262 |
| 2 | 393 |
| 3 | 560 |
| 4 | 713 |
| 5 | 847 |
| 6 | 1,013 |
| 7 | 1,127 |
| 8 | 1,287 |
| Each Additional Member | +160 |

[1] 1977 USDA Poverty Guideline.

Also, the table on page 26006, headed "Monthly Coupon Allotments and Purchase Requirements" is amended for the one-person household at the level of income of $250 to $269.99, by inserting a purchase requirement of $50.

In view of the need for placing this notice into effect on July 1, 1977, and the mandatory nature of the subject matter, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: July 17, 1977.

CAROL TUCKER FOREMAN,
*Assistant Secretary.*

[FR Doc.77-21070 Filed 7-21-77;8:45 am]

[Amendment No. 121]

## PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

### Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable monthly income standards in Guam, effective July 1, 1977. This revision is necessary to increase such income eligibility standards in line with the recently issued 1977 Secretary's income poverty guidelines.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Grant Tolley, Chief, Program Development Branch, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-8325).

SUPPLEMENTARY INFORMATION: On May 20 (42 FR 26006-07), the Department published a final rule revising the Maximum Eligibility Standards and Basis of Coupon Issuance for Guam, effective July 1, 1977 (Appendix F—FSP Notice No. 1977-6.2).

Currently the Food Stamp Program Regulations provide that the national income standards of eligibility shall be the higher of poverty guidelines issued by the Secretary of Agriculture on the basis of data reported by the Census Bureau or the level at which the total coupon allotment equals 30 percent of income.

The Secretary's poverty guidelines used for the Food Stamp Program are the same as those for the Child Nutrition Program which are based on changes in the Consumer Price Index for the 12-month period ending in March.

Therefore, in line with the recently issued 1977 Secretary's guidelines (42 FR 29030) the maximum allowable income standards are increased for the one-person household from $273 to $286. The following table should be substituted for the table now appearing in FR Doc. 77-14149 at page 26007 in the FEDERAL REGISTER of May 20, 1977.





| Household size: | *Maximum Allowable Monthly Income Standards—Guam* |
|---|---|
| 1 | [1] $286 |
| 2 | 427 |
| 3 | 614 |
| 4 | 780 |
| 5 | 927 |
| 6 | 1,113 |
| 7 | 1,227 |
| 8 | 1,407 |
| Each Additional Member | +173 |

[1] 1977 USDA Poverty Guideline.

In view of the need for placing this notice into effect on July 1, 1977, and the mandatory nature of the subject matter, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: July 17, 1977.

CAROL TUCKER FOREMAN,
*Assistant Secretary.*

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

[FR Doc.77-21071 Filed 7-21-77;8:45 am]

[Amendment No. 122]

## PART 272—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS, MEAL SERVICES, AND BANKS

## PART 273—ADMINISTRATIVE AND JUDICIAL REVIEW—FOOD RETAILERS, FOOD WHOLESALERS AND MEAL SERVICES

### Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule states that the final date for filing a request for review of an administrative action shall be the 10th day after the day the firm received the notice of adverse action, unless the 10th day falls on a Saturday, Sunday, or legal holiday. If the 10th day falls on a Saturday, Sunday, or a legal holiday, the final date for filing a request for review shall be the next business day.

This rule is designed to ensure that all firms have 10 days to request review, even when the day that would normally be the final date for requesting review falls on a day on which post offices are not open.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, Director, Food Stamp Program, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (C202-447-8982).

SUPPLEMENTARY INFORMATION: The amendment is made to bring this provision of the regulations into conformity with generally prevailing practice with respect to notice periods.

It is the policy of the Department that the public be given the opportunity to comment on regulatory changes before issuance. However, since this amendment will not adversely affect firms charged with violations, it is determined to be contrary to the public interest to give notice of proposed rulemaking with respect to this amendment.

Accordingly, Part 272 is amended as follows:

**§ 272.6 [Amended]**

In § 272.6, paragraph (d) is amended by deleting the phrase "within 10 days", and inserting in its place the phrase, "within the period specified in § 273.5".

**§ 272.8 [Amended]**

In § 272.8, paragraph (a) is amended by deleting the phrase "within 10 days of the date of delivery to the firm of notice of such administrative action," and inserting in its place the phrase, "within the period specified in § 273.5".

Part 273 is amended as follows:

In § 273.5, paragraph (c) is revised to read as follows:

### Subpart B—Rules of Procedure

**§ 273.5 Manner of filing requests for review.**

* * * * *

(c) Such a request shall be filed with the Food Stamp Review Officer within ten days of the date of delivery of the notice of the action for which review is requested. For purposes of determining whether such a request was timely filed: (1) The filing date shall be deemed to be the postmark date of the request, or equivalent if the written request is filed by a means other than mail; (2) In computing the ten day period, the day of delivery of the notice of the action for which review is requested shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. As used herein, "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day designated as a holiday by the President or the Congress of the United States.

* * * * *

(78 Stat. 703, as amended (7 U.S.C. 2011-2026).)

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: July 14, 1977.

CAROL TUCKER FOREMAN,
*Assistant Secretary.*

[FR Doc.77-21011 Filed 7-21-77;8:45 am]

## CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Regulation 102]

## PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

### Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period July 24-30, 1977. This regulation is needed to provide for orderly marketing of fresh lemons for the regulation period because of the production and marketing situation confronting the lemon industry.

EFFECTIVE DATE: July 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.*—(1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such lemons, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the specified week stems from the production and marketing situation confronting the lemon industry.



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(i) The committee has submitted its recommendation for the quantity of lemons it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for lemons is similar to last week, with size 140's and smaller very good. Average f.o.b. price was $6.44 per carton the week ended July 16, 1977, compared to $6.31 per carton the previous week. Track and rolling supplies at 215 cars were up 50 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for lemons and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of lemons. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on July 19, 1977.

**§ 910.402 Lemon Regulation 102.**

* * * * *

(b) *Order.*—(1) The quantity of lemons grown in California and Arizona which may be handled during the period July 24, 1977, through July 30, 1977, is established at 295,000 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: July 21, 1977.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77-21408 Filed 7-21-77;11:34 am]

## CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regulations, 1976 Crop Wheat Supplement, Amdt. 2]

### PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

**Subpart—1976 Crop Wheat Loan and Purchase Program**

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Correction.

SUMMARY: This document corrects a final rule that appeared at page 4400 in the FEDERAL REGISTER of January 25, 1977 (FR Doc. 77-2172).

EFFECTIVE DATE: (Date of publication in FR) January 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Merle Strawderman, (ASCS) (202–447–9223).

The following correction is made to § 1421.488(a): On page 4400, right column, under heading "Virginia" the entry that reads "all other counties $2.24" is changed to read "all other counties $2.26."

Signed at Washington, D.C., on July 14, 1977.

RAY FITZGERALD,
*Executive Vice President, Commodity Credit Corporation.*

[FR Doc.77-21061 Filed 7-21-77;8:45 am]

## CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATION

[FmHA Instruction 462.1]

### PART 1871—CHATTEL SECURITY

**Subpart A—Servicing Chattel Security**

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations concerning subordinations. The intended effect is to clarify the purposes for subordinating chattel liens securing emergency loans and to limit the amount of proposed subordinations.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Thomas B. Baden, (202–447–2331).

SUPPLEMENTARY INFORMATION: The Farmers Home Administration published at page 45576 of the FEDERAL REGISTER for October 15, 1976, a proposal to amend § 1871.11 of Subpart A of Part 1871, Title 7 Code of Federal Regulations (36 FR 1110; 37 FR 17543; 41 FR 24700). No comments were received and therefore the proposal is adopted with only editorial changes. The amendment establishes that the amount of any new subordination plus any existing subordination does not exceed the operating or emergency loan approval authority of the loan official. The addition of paragraph (10) clarifies the purpose of subordinating chattle liens securing emergency loans.

As amended, § 1871.11(b)(10)(i), (ii), and (iii) and (c) read as follows:

**§ 1871.11 Use of other credit and subordination of chattel security.**

* * * * *

(b) *Purposes and limitations.*

* * * * *

(10) FmHA may subordinate chattel liens securing EM loans to another creditor or permit that creditor to loan for any authorized EM loan purpose including capital purchases, providing it is determined:

(i) The borrower needs the loan to continue his farming operation and it will be to his benefit to receive such a loan.

(ii) The loan will enhance the borrower's possibility of accomplishing the objectives of loans made by FmHA.

(iii) FmHA's financial interest will not be adversely affected.

(c) *Approval authorization.* Loan approval officials are authorized to approve subordinations and waivers of FmHA lien priority provided the amount of the proposed subordination or waiver, plus the principal balance of existing subordinations or waivers does not exceed their loan approval authority stated in Subpart A of Part 1901 of this chapter for the type of loan being subordinated.

When the lien priority for more than one type of loan is subordinated or waived, the total amount of the approval officials authority will be limited to the amount of the loan approval authority for the type of loan with the lowest approval authority for that official, as stated in Subpart A of Part 1901 of this chapter. However, the State Director may approve subordinations or waivers regardless of the amount, except as provided in paragraph (b)(9) of this section. State Directors may redelegate their authority for approving subordinations to qualified State Office personnel, including District Directors.

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 P.L. 93-357, 88 Stat 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: July 15, 1977.

GORDON CAVANAUGH,
*Administrator, Farmers Home Administration.*

[FR Doc.77-21063 Filed 7-21-77;8:45 am]





## Title 9—Animals and Animal Products

## CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

### PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCES AND SHIPPING CONTAINERS THEREON

**Importation of Cattle From Canada**

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends importation requirements for cattle from Canada by deleting exceptions made in the current regulations for brucellosis testing of certain cattle originating in specified areas of that country, and amends importation requirements for calves of dairy and beef breeds with respect to the ages at which they must be vaccinated for brucellosis to qualify for importation without a negative brucellosis test. This action is required to prevent the introduction of diseases into the United States by cattle imported under exceptions presently appearing in the regulations and to make importation requirements for calves comparable with requirements for interstate movement. The intended effects of these amendments are to decrease the probability of introduction of disease through imported cattle and to make calves imported from Canada without brucellosis tests eligible for interstate movement following their importation.

EFFECTIVE DATE: July 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, Maryland 20782. (301–436–8170).

SUPPLEMENTARY INFORMATION: Exceptions are now contained in the regulations concerning certain cattle originating in specified areas of Canada, and cattle from specified herds in Canada, which may be imported into the United States under less restrictive brucellosis testing requirements than other cattle from Canada. The Department has found that cattle imported under certain of these exceptions have introduced disease into the United States. Therefore, to protect the livestock of the United States, the exceptions now in effect which relate to brucellosis testing of cattle from specified areas are deleted. The effect of this deletion will be to remove the special considerations presently given to cattle originating in areas of Canada which have been designated by Canadian officials as having special brucellosis status, and to require that all cattle imported into the United States from Canada meet uniform brucellosis testing requirements. Therefore, the exemption presently found in § 92.20(c)(1) which allows the importation of cattle from herds not known to be affected with brucellosis in certified areas in Canada on the basis of only one negative brucellosis test within 30 days of the date of entry is deleted. The effect of this deletion is to require that certain cattle imported from Canada meet the requirements of new § 92.20(c)(3) of these amendments. That section will require that certain cattle to be imported from herds other than brucellosis certified free herds shall be accompanied by a Canadian certificate showing that all the cattle are from a herd which has special brucellosis test status to qualify for export and that the cattle to be imported, with certain exceptions, must have been tested for brucellosis with negative results, within the 30 days prior to their date of entry. To maintain a brucellosis certified free status in Canada, a herd of cattle is required to be tested for brucellosis annually, with negative results. In addition, all cattle entering such herd must originate from herds which are also brucellosis certified free. All cattle to be imported from Canada shall be conveyed by direct movement to the port of entry without contact with cattle not eligible for certification.

The importation requirement for brucellosis-vaccinated female calves, presently found in § 92.20(c)(4) of the regulations, is amended to change the ages at which calves of dairy and beef breeds must be vaccinated and provides that, to qualify for importation without a negative brucellosis test, such vaccinated calves shall not be more than 18 months of age on the date of importation. The term "Bulls" has been deleted from the section because vaccination provisions of that section will not apply to male calves and they will have to meet the same importation test requirements as certain other cattle.

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended in the following respects:

1. In § 92.1, paragraph (r) is amended to read as follows:

**§ 92.1 Definitions.**

* * * * *

(r) *Brucellosis certified free herd.* A herd in which all eligible cattle in the herd proved negative to brucellosis tests under the Canadian requirements and which is officially certified by the Canadian Government.

* * * * *

2. In § 92.20(c), subparagraph (4) is redesignated subparagraph (5); new subparagraphs (4) and (6) are added; and the introductory paragraph, subparagraphs (1) and (3) and redesignated subparagraph (5) are amended to read:

**§ 92.20 Cattle from Canada.**

* * * * *

(c) *Brucellosis test or vaccination certificates.* Importations from Canada of cattle six months of age or older, except steers and all cattle for immediate slaughter, shall be in compliance with the following conditions and requirements:

(1) Cattle from herds designated as brucellosis certified free herds by the Canadian Government, except as provided in subparagraph (3) of this paragraph, shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government. This certificate shall show them to be from such herds and that the cattle to be imported have been tested for brucellosis with negative results within 30 days prior to their date of entry. If one or more reactors or suspects are disclosed in such a herd as a result of a brucellosis test at any time, cattle from the herd shall not be imported into the United States unless after such test the cattle to be imported and the herd are tested for brucellosis and found negative and such cattle are accompanied by a certificate in accordance with subparagraph (2) of this paragraph or the herd is officially certified by the Canadian Government as a brucellosis certified free herd under Canadian regulations.

(2) * * *

(3) All other cattle to be imported from Canada, except as provided in subparagraph (5) of this section, shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing that the cattle originated from a herd which is officially certified by the Canadian Government as a brucellosis qualified for export herd. A brucellosis qualified for export herd is a herd which meets at least one of the following conditions:

(i) All of the cattle have been maintained as a herd unit for at least two years prior to importation and all of the cattle eligible for brucellosis testing (hereinafter referred to as eligible cattle) have been tested for brucellosis and found negative in accordance with Canadian requirements within 12 months of the date of importation; *Provided,* Such herd unit may include cattle which were born and raised within such herd unit during said period, or cattle which were moved directly from another herd unit of like status. *Provided, further,* Such herd unit may include any other cattle if: (a) Such other cattle have been tested for brucellosis and found negative within 30 days prior to entry into such herd unit and all eligible cattle in such herd unit have been tested for brucellosis and found negative not less than 90 days following the date when the last of such other cattle had been added to such herd unit or (b) all eligible cattle in the herd unit have been tested negative for brucellosis no less than 90 days nor more than 12 months prior to the date of importation.

(ii) All of the cattle are from herd units qualified under subparagraph (i) of this paragraph; *Provided,* That if all of the cattle are not from herd units qualified under paragraph (c)(3)(i) of this section, all eligible cattle have been tested for brucellosis and found negative to three laboratory tests administered at intervals of at least 90 days.

(4) All cattle from a brucellosis qualified for export herd offered for importation, except as described in para-



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graph (c)(5) of this section, shall be tested negative for brucellosis within 30 days prior to the date of importation into the United States.

(5) Female cattle under 18 months of age that originate in herds in which cattle were tested as described in subparagraphs (c)(1) and (2) of this section are exempted from the test requirement for brucellosis, *Provided, however,* They are accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing that they were officially vaccinated against brucellosis as calves between the ages of 2–6 months (60–179 days old) for dairy breeds and from 2–10 months of age (60–299 days old) for beef breeds. The certificate accompanying such officially vaccinated cattle shall comply with paragraph (d) of this section except that it shall show, in lieu of the date and place of testing, the date of vaccination and the age of the animal at the time of vaccination.

(6) All cattle to be imported from Canada which originate from a brucellosis-free herd or a brucellosis-qualified for export herd shall move directly to the port of entry without contact with cattle which are not from a brucellosis-free herd or a brucellosis-qualified for export herd.

* * * * *

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, and 11, 76 Stat. 129, 130, 132 (21 U.S.C. 111, 134a, 134b, 134c, and 134f); 37 FR 28464, 28477; 38 FR 19141.)

These amendments impose additional restrictions on the importation of cattle from Canada. The amendments are of an emergency nature and should be placed in effect immediately in order to protect the livestock of the United States from the introduction and dissemination of disease.

Therefore, for such good cause the Department finds that notice and public comment are impracticable, unnecessary and contrary to the public interest and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 15th day of July 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement Under Executive Order 11821 and OMB Circular A–107.

PIERRE A. CHALOUX,
*Acting Deputy Administrator, Veterinary Services.*

[FR Doc.77-20933 Filed 7-21-77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 77C-0207]

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

**Guanine**

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations to "permanently" list guanine for use in externally applied drugs and in cosmetics generally, including drugs and cosmetics intended for use in the area of the eye. The Cosmetic, Toiletry, and Fragrance Association, Inc., filed a petition for such use: This rule will remove guanine from the provisional listing.

DATES: Effective August 22, 1977; objections by August 22, 1977.

ADDRESS: Written objections to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, (202–472–5740).

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of August 6, 1973 (38 FR 21200), stated that a petition (CAP 8C0074) for the "permanent" listing of natural pearl essence (guanine) as a color additive for use in externally applied cosmetics, including lipsticks and those for use in the area of the eye, had been filed by the Cosmetic, Toiletry, and Fragrance Association, Inc. (1133 15th Street NW., Washington, D.C. 20005), c/o Hazleton Laboratories, P.O. Box 30, Falls Church, Va. 22046. The petition was filed pursuant to section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376). A notice published in the FEDERAL REGISTER of March 5, 1976 (41 FR 9584), amended the filing of this petition to include the additional use of natural pearl essence (guanine) in all types of cosmetics subject to ingestion. A notice published in the FEDERAL REGISTER of June 17, 1977 (42 FR 30893), amended the filing of this petition to include the additional use of guanine (pearl essence) in externally applied drugs.

This order "permanently" lists guanine for use in externally applied drugs and in cosmetics generally, including those for use in the area of the eye, under new § 73.1329 (21 CFR 73.1329) for drug use and new § 73.2329 (21 CFR 73.2329) for cosmetic use. The provisional listing of guanine (pearl essence) for use in cosmetics under § 81.1(g) (21 CFR 81.1(g)), which was extended to August 30, 1977, by regulation published in the FEDERAL REGISTER of July 1, 1977 (42 FR 33724), is being deleted because it will become obsolete when this order becomes effective on August 22, 1977, unless this order is stayed by the timely filing of objections.

The Commissioner, having evaluated the data in the petition and other relevant material, concludes that guanine is safe under the conditions set forth below for use in coloring cosmetics generally and in externally applied drugs, including cosmetics and drugs for use in the area of the eye, and that certification is not necessary for the protection of the public health.

The original filing notice for the petition identified the color additive as "natural pearl essence," although the color additive is provisionally listed as "guanine (pearl essence)." The Commissioner, in evaluating the data for this color additive concludes that both the term "natural pearl essence" and the parenthetical expression "(pearl essence)" are inappropriate for identifying this color additive because they are ambiguous and do not reflect the true nature of the color. The Commissioner further concludes that the name "guanine" would be more appropriate nomenclature, and he identifies the color by that name in the order set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), and (d))) and the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 73 and 81 are amended as follows:

1. Part 73 is amended:

a. By adding new § 73.1329 to Subpart B, to read as follows:





**§ 73.1329 Guanine.**

(a) *Identity.* (1) The color additive guanine is the crystalline material obtained from fish scales and consists principally of the two purines, guanine and hypoxanthine. The guanine content will vary from 75 to 97 percent, and the hypoxanthine will vary from 3 to 25 percent, depending on the particular fish and tissue from which the crystals are derived.

(2) Color additive mixtures for drug use made with guanine may contain only those diluents listed in this subpart as safe and suitable for use in color additive mixtures for coloring externally applied drugs.

(b) *Specifications.* The color additive guanine shall conform to the following specifications and shall be free from impurities other than those named to the extent that such other impurities may be avoided by good manufacturing practice:

Guanine, not less than 75 percent.
Hypoxanthine, not more than 25 percent.
Ash (ignition at 800° C), not more than 2 percent.
Lead (as Pb), not more than 20 parts per million.
Arsenic (as As), not more than 3 parts per million.
Assay, not less than 96 percent total purines.
Mercury (as Hg), not more than 1 part per million.

(c) *Uses and restrictions.* Guanine is safe for use in coloring externally applied drugs, including those intended for use in the area of the eye, in amounts consistent with good manufacturing practice.

(d) *Labeling.* The color additive and any mixture prepared therefrom intended solely or in part for coloring purposes shall bear, in addition to any information required by law, labeling in accordance with § 70.25 of this chapter.

(e) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore, batches thereof are exempt from certification pursuant to section 706(c) of the act.

b. By adding new § 73.2329 to Subpart C, to read as follows:

**§ 73.2329 Guanine.**

(a) *Identity and specifications.* (1) The color additive guanine shall conform in identity and specifications to the requirements of § 73.1329 (a)(1) and (b).

(2) Color additive mixtures of guanine may contain the following diluents:

(i) For coloring cosmetics generally, only those diluents listed under § 73.1001 (a)(1);

(ii) For coloring externally applied cosmetics, only those diluents listed in § 73.1001(b) and, in addition, nitrocellulose.

(b) *Uses and restrictions.* The color additive guanine may be safely used in cosmetics generally, including cosmetics intended for use in the area of the eye, in amounts consistent with good manufacturing practice.

(c) *Labeling requirements.* The color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall bear, in addition to any other information required by law, labeling in accordance with the provisions of § 70.25 of this chapter.

(d) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore, batches thereof are exempt from certification pursuant to section 706(c) of the act.

**§ 81.1 [Amended]**

2. In § 81.1 *Provisional lists of color additives* by amending paragraph (g) by deleting the listing for "Guanine (pearl essence)."

Any person who will be adversely affected by the foregoing order may at any time on or before August 22, 1977, file with the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of § 71.30 (21 CFR 71.30). If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Four copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this order. Received objections may be seen in the Hearing Clerk's office, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date: August 22, 1977, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Sec. 706 (b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), and (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. note).)

Dated: July 14, 1977.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.77-20783 Filed 7-21-77;8:45 am]

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[Docket No. 77C-0210]

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

**Zinc Oxide**

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document "permanently" lists zinc oxide for use in externally applied drugs and in cosmetics generally, including those intended for use in the area of the eye. The Cosmetic, Toiletry, and Fragrance Association, Inc., filed a petition for such use. The color additive will be removed from the provisional listing.

DATES: Effective August 22, 1977; objections by August 22, 1977.

ADDRESS: Written objection: Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Gerald L. McCowin, Bureau of Foods (HFF–334), Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, (202–472–5740).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs, having evaluated the data in a petition (CAP 6C0122) filed by the Cosmetic, Toiletry, and Fragrance Association, Inc. (1133 15th Street NW., Washington, D.C. 20005), and other relevant material, concludes that zinc oxide is safe and suitable for use, under the conditions prescribed in the regulations, in coloring externally applied drugs and in coloring cosmetics generally, including drugs and cosmetics intended for use in the area of the eye, and that certification is not necessary for the protection of the public health. This order "permanently" lists zinc oxide for use in externally applied drugs under new § 73.1991 (21 CFR 73.1991) and also "permanently" lists zinc oxide for use in cosmetics generally, including those for use in the area of the eye, under new § 73.2991 (21 CFR 73.2991).

The provisional listing of zinc oxide for use in cosmetics under § 81.1(g) (21 CFR 81.1(g)) will be deleted when this order becomes effective on August 22, 1977, unless this order is stayed by the timely filing of objections.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399–403, as amended (21 U.S.C. 376 (b), (c), and (d))) and the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note)), and under authority delegated to the Commissioner (21 CFR 5.1), Parts 73 and 81 are amended as follows:

1. By amending Part 73:

a. By adding new § 73.1991 to Subpart B, to read as follows:

**§ 73.1991 Zinc oxide.**

(a) *Identity.* (1) The color additive zinc oxide is a white or yellow-white amorphous powder manufactured by the French process (described as the indirect process whereby zinc metal isolated from the zinc-containing ore is vaporized and then oxidized). It is principally composed of Zn.

(2) Color additive mixtures for drug use made with zinc oxide may contain only those diluents listed in this subpart as safe and suitable in color additive



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mixtures for coloring externally applied drugs.

(b) *Specifications.* Zinc oxide shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by good manufacturing practice:

Zinc oxide (as ZnO), not less than 99 percent.
Loss on ignition at 800° C, not more than 1 percent.
Cadmium (as Cd), not more than 15 parts per million.
Mercury (as Hg), not more than 1 part per million.
Arsenic (as As), not more than 3 parts per million.
Lead (as Pb), not more than 20 parts per million.

(c) *Uses and restriction.* The color additive zinc oxide may be safely used for coloring externally applied drugs, including those used in the area of the eye, in amounts consistent with good manufacturing practice.

(d) *Labeling.* The color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall bear, in addition to any information required by law, labeling in accordance with the provisions of § 70.25 of this chapter.

(e) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from certification pursuant to section 706(c) of the act.

b. By adding new § 73.2991 to Subpart C, to read as follows:

**§ 73.2991 Zinc oxide.**

(a) *Identity and specifications.* The color additive zinc oxide shall conform in identity and specifications to the requirements of § 73.1991 (a) (1) and (b).

(b) *Use and restrictions.* Zinc oxide may be safely used in cosmetics, including cosmetics intended for use in the area of the eye, in amounts consistent with good manufacturing practice.

(c) *Labeling.* The color additive and any mixture prepared therefrom intended solely or in part for coloring purposes shall bear, in addition to any information required by law, labeling in accordance with § 70.25 of this chapter.

(d) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from certification pursuant to section 706(c) of the act.

**§ 81.1 [Amended]**

2. Part 81 is amended in § 81.1 *Provisional lists of color additives*, by deleting the entry for "Zinc oxide" in paragraph (g).

Any person who will be adversely affected by the foregoing order may at any time on or before August 22, 1977, file with the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of § 71.30 (21 CFR 71.30). If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Four copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in the heading if this order. Received objections may be seen in the Hearing Clerk's office during working hours, Monday through Friday.

*Effective date:* August 22, 1977, except any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Sec. 706 (b), (c), and (d), 74 Stat. 399-403 as amended (21 U.S.C. 376 (b), (c), and (d)); sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note).)

Dated: July 14, 1977.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.77-20782 Filed 7-21-77;8:45 am]

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**SUBCHAPTER D—DRUGS FOR HUMAN USE**

[Docket No. 76N-0028]

## PART 310—NEW DRUGS

### Requirements for Inhalation Anesthetic Drug Products: Studies for Carcinogenic and Teratogenic Potential

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document requires animal studies and reports to the Food and Drug Administration (FDA) on the potential of inhalation anesthetic drug products to cause cancer and fetal abnormalities. The regulation, based on concern expressed in the medical literature and on findings in personnel exposed while administering these drugs, requires all holders of approved new drug applications (NDA's) and abbreviated new drug applications (ANDA's) for halogenated inhalation anesthetic drug products to conduct appropriate animal studies and to submit reports on the studies to FDA. Also, all NDA's and ANDA's for nonhalogenated and new halogenated inhalation anesthetic drug products approved on or after August 22, 1977, must contain the results of such studies.

DATES: Effective August 22, 1977. Workshop: December 5, 1977. Notification of intent to participate in workshop: October 20, 1977. Submission of preliminary study protocols: September 20, 1977. Submission of final protocols: February 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael C. McGrane, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.

FOR NOTIFICATION OF INTENT TO PARTICIPATE IN THE WORKSHOP AND SUBMISSION OF INITIAL AND FINAL PROTOCOLS CONTACT:

I. David Wolfson, Bureau of Drugs (HFD-160), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3500.

SUPPLEMENTARY INFORMATION: In a proposal published in the FEDERAL REGISTER of April 8, 1976 (41 FR 14888), the Commissioner of Food and Drugs proposed to require that holders of NDA's and ANDA's for halogenated inhalation anesthetic drug products and applicants for pending and future NDA's and ANDA's for all nonhalogenated and new halogenated inhalation anesthetic drug products conduct studies in animals to determine the carcinogenic potential and effects on reproduction, including the teratogenic potential, of their drug products and submit reports on the studies to FDA. Interested persons were given 60 days to submit comments on the proposal.

Eleven comments were received on the proposal: six from manufacturers of halogenated inhalation anesthetic drug products, three from professors of anesthesiology, one from an association of medical-gas manufacturers, and one from a government agency. A summary of the comments and the Commissioner's conclusions regarding them are as follows:

1. One comment objected to the proposal on the grounds that section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) does not authorize FDA to require NDA holders to conduct studies on their drug products after their NDA's have been approved. The comment observed that section 505(j) of the act provides that NDA holders may be required to maintain records and make reports concerning data and information "received or otherwise obtained by such applicant with respect to such drugs * * *." It was the position of the comment that section 505(j) of the act only authorizes FDA to require the submission of records and reports obtained by the NDA holder in the normal conduct of its business and that it does not represent authority under which the agency can require that studies be conducted on drugs to generate records that will then be subject to the reporting requirements of that section.

The Commissioner concludes that this comment too narrowly construes the applicable statutory scheme. Section 505(j) of the act expressly authorizes FDA to monitor the marketing of a drug subject to an approved NDA to provide a basis for subsequently determining whether that approval should be withdrawn under section 505(e) of the act (21 U.S.C. 355 (e)). Section 505(e) of the act clearly demonstrates the Congressional intent that an NDA, once approved, can later be found to be not approvable on the basis of new evidence of clinical experience, tests by new methods, or tests by methods not previously considered to be applicable. Accordingly, the Commissioner cannot agree that, when questions arise concerning the safety or effectiveness of a previously approved drug, FDA must wait until the NDA holder has obtained sufficient data and information in the normal course of business to resolve them. The Commissioner has authority under sections 505(j) and 701(a) of the act (21 U.S.C. 371(a)) to require that animal studies be conducted to determine the carcinogenic potential and effects on reproduction of currently marketed halogenated inhalation anesthetic drug products.

2. Several comments observed that the bibliography listed in the proposal indicates that the concern for carcinogenic and teratogenic effects of halogenated inhalation anesthetic drug products has resulted from findings in occupationally exposed personnel involved in the administration of anesthetic agents and that those findings have been augmented by results obtained from studies in other mammalian species. One comment noted that the carcinogenic and teratogenic effects of these drug products are believed to be due to repeated low-level exposures to inhalation anesthetic agents, particularly halogenated anesthetics and that, while patients undergoing anesthesia might not be exposed repeatedly for long periods of time to these drug products, health personnel are so exposed. Another comment argued that such concern related to a "work situation" within the meaning of the Williams-Steiger Occupational Safety and Health Act (29 U.S.C. 651), and that that act gives authority to establish and conduct "work situation" studies to the Occupational Safety and Health Administration (OSHA) and the National Institute of Occupational Safety and Health (NIOSH). The comment contended that the proposed studies are within the jurisdiction of those agencies rather than FDA. Two comments further observed that devices and techniques are presently available to reduce the level of exposure of inhalation anesthetics to operating room personnel. Those comments submitted copies of reports in the medical literature which provide practical guidance on steps that can be taken to reduce atmospheric pollution in operating rooms as far as possible. One comment recommended that FDA protocols for studying the carcinogenic and teratogenic potential of these drug products address both the acute single exposure typical of the patient as well as the chronic occupational exposure typical of operating room personnel. In addition, that comment recommended that whether or not the studies require chronic exposure testing, the animals should be observed for at least 18 months after onset of exposure and that the study should include young animals who may be more susceptible to carcinogens.

The Commissioner agrees that the FDA concern for the carcinogenic and teratogenic potential of inhalation anesthetic drug products has resulted from findings in occupationally exposed personnel involved in the administration of these agents and that these findings have been augmented by animal studies. He also agrees that the effects may be related to repeated low-level exposure to inhalation anesthetic agents. At its October 14, 1976 meeting, the Anesthesiology Advisory Committee recommended to the Commissioner that both acute (high dose at intervals) and chronic (low dose and prolonged) exposure to the halogenated inhalation anesthetics be included in the test protocols. A copy of the minutes of that meeting has been placed on file in the office of the Hearing Clerk, Food and Drug Administration. The Commissioner accepts that recommendation and concludes that the protocols for the studies should include both types of testing.

The Commissioner does not believe the Occupational Safety and Health Act precludes FDA from requiring the proposed studies to be conducted. Neither OSHA nor NIOSH has jurisdiction to consider the safety of a drug product to the patient who is receiving it. The statutory mandate of FDA to ensure the safety and effectiveness of marketed drug products is directed to assuring that the drug products are safe for both the patients who receive them and the health care personnel who administer them. Although these studies are expected to answer questions concerning the safety to the persons administering them, they are directed at the safety of the drug to the patient. The Commissioner concludes that it would be unwise for FDA to separate the studies into those affecting the patient and those affecting the administrator, and then defer studies involving the latter to other agencies. Such a course of action might cause duplicative studies and might delay answering important health questions for several years until the other agencies can integrate studies of occupational exposures to these products into their priority of programs.

3. One comment suggested that, while animal studies are valuable in providing guidance regarding the safety of investigational new drugs, the value of the animal model as the principal method of assessing the safety of anesthetic drug products that have enjoyed world-wide use for over 20 years is not convincing. The comment observed that there are tens of thousands of operations involving the use of halothane conducted daily throughout the world, and it suggested that however well the protocols may be developed, the primary evidence for safety of that drug product must come from that human experience rather than from an artificial animal model. Accordingly, the comment suggested that efforts should be devoted to reviewing the existing record of the use of these drug products in humans.

The Commissioner agrees that continual review of the existing human experience with these drug products is important, and he notes that such a review is underway. Controlled reproduction and carcinogenicity studies, however, cannot ethically or practically be conducted in humans, only empirical observations are possible. Carcinogenicity experience with these drug products in humans is inadequate in terms of time, number of patients, and the necessary followup. The proposed animal studies of the potential carcinogenicity and teratogenicity of these drug products are predictive; that is, because every known human carcinogen is also an animal carcinogen, evidence of an absence of carcinogenicity in animals indicates the noncarcinogenicity of the drug in humans. In addition, animal studies may reveal potential hazards from these drugs before they can be identified in humans.

4. Several comments recommended that FDA meet with the distributors of the drugs to be tested to discuss the implementation of the studies before publishing a final regulation. Another comment recommended that the workshop to discuss the design of the studies be held before publication of the final regulation, since the proposed protocols might influence that final regulation.

The Commissioner does not agree with these comments. While the regulation requires that the NDA holders establish and conduct certain animal studies for their drug products and provides a timetable under which they must report the results of those studies to FDA, the regulation is not intended to describe the manner in which those studies will be conducted. Accordingly, the Commissioner does not agree that the content of the final regulation would be influenced by the design of the protocols under which the studies will be conducted.

As the Commissioner stated in the preamble to the proposal, he believes that these drugs should be tested under standardized conditions and under a common protocol so that interpretable data on the comparative potential risk of each drug product are developed. Accordingly, the Commissioner is scheduling the workshop for December 5, 1977, at the Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. The Commissioner is inviting representatives from the National Cancer Institute and NIOSH, anesthesiologists, the NDA holders, and other interested persons to attend the workshop at which the preliminary protocols submitted under this final regulation will be reviewed and discussed. On or before October 20, 1977, interested persons should notify the Bureau of Drugs, Division of Surgical-Dental Drug Products (HFD-160), 5600 Fishers Lane, Rockville, MD 20857, of their intent to participate in the workshop.

5. A comment suggested that the proposed action to require new animal studies of inhalation anesthetic drug products or the adoption of protocols for such studies is prema-







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ture at present because of the imminent completion of two studies and the probability of the early completion of a third study concerning these drug products. The comment observed that the American Cancer Society, with the help of the American Society of Anesthesiologists, is studying mortality rates among anesthesiologists from 1955 to 1975 and nurse anesthetists from 1959 to 1975. Those rates will be compared to mortality rates for all physicians and nurses, respectively, and, if there are significant differences in mortality rates, the causes of death will be examined. The comment suggested that this would be a highly significant epidemiological study. The comment also stated that NIOSH is conducting a study in rats to determine the reproductive and teratogenic effects, mutagenic effects, and carcinogenic effects of two levels of a nitrous oxide-halothane mixture. The comment further suggested that NIOSH is planning an epidemiological study of American dentists that will isolate the effects of an exposure to nitrous oxide from those of an exposure to the halogenated anesthetic-nitrous oxide mixtures commonly used in the operating room. The comment argued that it would be a mistake to design protocols and initiate new animal studies without taking advantage of the information that these studies already begun or now being planned will yield.

The Commissioner does not agree with this comment. The studies mentioned by the comment are not being conducted by FDA, and it may be several years before they are completed. The Commissioner recognizes that NIOSH is conducting animal studies of two levels of a nitrous oxide-halothane mixture. Representatives from NIOSH will be invited to attend the workshop described in paragraph 4 of this preamble, and they will be invited to discuss the design of their study at that time. The Commissioner concludes, however, that the animal studies required under this regulation should not be delayed until the NIOSH study is completed and the results published.

6. Several comments contended that the results of a recent study that was conducted to determine the reproductive and teratologic effects of exposure of rats and rabbits to anesthetic concentrations of halothane suggest that further teratogenic work with halothane may not be indicated at this time. (See Kennedy, G. L., S. H. Smith, M. L. Keolinger, and J. C. Calandra, "Reproductive and Teratologic Studies with Halothane," *Toxicology and Applied Pharmacology*, 35:467–474, 1976; a copy has been placed on file in the office of the Hearing Clerk, Food and Drug Administration.) One comment contended that that study, as well as two other studies (see Doenicke, A., and R. Whitman, "Teratogenic Effect of Halothane on the Fetus of the Rat," *Anesthesie, Analgesie, Reanimation*, (32)1:47–55, 1975; Doenicke, A., and R. Wittman, "The Abortive Effect of Halothane," *Anesthesie, Analgesie, Reanimation*, (32) 1:41–46, 1975, copies of which have been placed on file in the office of the Hearing Clerk, Food and Drug Administration), demonstrates that halothane has already been adequately tested for teratogenic potential.

The Commissioner does not agree with these comments. Although the study by Kennedy, et al, indicated that no adverse reproductive effects were observed and that no evidence of teratologic activity was obtained, the authors indicate that there was a suggestion of an effect on fetal survival in rats exposed during late pregnancy that requires further validation and explanation. The two other studies were conducted in pregnant rats; the studies showed both teratogenic and abortive effects from exposure to halothane and suggest that halothane poses a risk for both pregnant patients and pregnant operating-room personnel. The Commission concludes that these studies reinforce the need for additional testing in animals. At its meeting on October 14, 1976, the FDA Anesthesiology Advisory Committee considered the significance of these studies in relation to the proposed testing of halothane. The committee also concluded that the articles relied upon by the comments do not support the exclusion of halothane from the proposed testing.

7. One comment contended that a careful analysis of the literature references cited in the proposal does not support the conclusion that new studies on halothane are necessary. The comment submitted a detailed critique of the medical literature, including all the papers cited by FDA and several additional references. The commentor concluded that, taken together, the studies do not indicate any danger to humans, i.e., there is no danger from trace levels of halothane to which operating-room personnel are habitually exposed; nor do the studies indicate danger to patients, other than pregnant women and their fetuses, exposed to surgical levels of halothane. The comment also contended that a thoughtful reading of the data in the cited papers gives no indication that halothane is a carcinogen. The comment suggested that the studies present a picture of possible teratogenic action by general anesthetics at surgical levels, but not at light surgical levels. The comment maintained that the probable mechanism for the possible teratogenesis involved the profound effects and side effects associated with deep anesthesia rather than a specific pharmacological phenomenon. Accordingly, the comment concluded that there is no basis from human experience or animal studies to suspect that trace amounts of halothane cause spontanous abortion or fetal abnormalities. The comment observed that, because of the lack of clear data showing halothane to be safe for use in pregnant women, the current labeling for the drug warns against such use. It was argued, therefore, that the contemplated animal studies could neither add nor subtract from that warning.

The Commissioner does not agree with this comment. The literature references cited in the proposal were reviewed by the FDA Anesthesiology Advisory Committee at its May 10, 1975 meeting, and it concluded that those articles, taken together, contain sufficient evidence to cause concern regarding the potential carcinogenicity and effects on reproduction, including teratogenicity, of marketed halogenated inhalation anesthetic drug products. The committee recommended to the Commissioner that animal studies on those products be conducted to dispel that concern. As stated in the proposal, the Commissioner agrees with the committee, and he concludes that animal studies are needed to resolve these safety questions.

8. One comment did not agree with the Commissioner's conclusion, as stated in the proposal, that the regulation would not cause a major inflationary impact. The comment contended that the inflation impact of the required studies would be substantial. That comment, as well as other comments, suggested that the cost of the studies could be substantially reduced if only one study is performed for each drug, rather than several drug firms each performing the identical study on the same drug. The comments suggested that a single study be conducted for each inhalation agent, under the guidance and supervision of the National Cancer Institute or similar organization, at qualified laboratories and that the cost of the studies be equitably shared by the respective firms. One comment suggested that each firm's share of the cost of the studies be in proportion to its share of the market for that drug.

The Commissioner reiterates his conclusion that this regulation will not cause a major inflationary impact. Although the comment did not substantiate its contention that the required studies would pose a major inflationary impact, the Commissioner remains convinced that the regulation does not pose a major inflationary impact, when evaluated under Executive Order 11821, OMB Circular A–107, and HEW guidelines issued on June 16, 1976.

As stated in the preamble to the proposal, the Commissioner believes that these drugs should be tested under standardized conditions and under a common protocol so that interpretable data on the comparative potential risk of each drug can be developed. He encourages the NDA holders to work together in performing the required studies for each anesthetic drug under the protocols developed at the workshop; joint studies would be acceptable to FDA. The Commissioner has no legal authority, however, to compel joint studies or to allocate costs of such studies among participants; that must depend upon private agreements among the NDA holders required to perform the studies.

9. One comment suggested that, if the primary motivation underlining the proposed studies is patient exposure, parenteral anesthetic or potent analgesic drug products should be studied concurrently with the inhalation anesthetic drug products. The comment observed that, if the inhalation anesthetics are shown





to have either a carcinogenic or teratogenic potential and accordingly are prohibited or their use otherwise restricted, there will be an increased use of parenteral agents that may, in fact, be potentially more carcinogenic or teratogenic then the inhalation agents. The comment contended that without concurrent testing of both the inhalation and parenteral agents it would be impossible to determine the relative risks of the inhalation versus the parenteral agents. Another comment suggested that if the studies of nitrous oxide in combination with other drug products are deemed necessary, then the question of multiple interactive effects in general is introduced and the supplemental use of parenteral agents with the inhalation anesthetics should also be considered in conducting the proposed studies.

The Commissioner notes that the FDA Anesthesiology Advisory Committee at its meeting on October 14, 1976, considered whether animal studies to determine the carcinogenic and teratogenic potential of parenteral anesthetic agents should be required at this time. The committee concluded that such studies would be desirable, and it recommended to the Commissioner that a separate workshop be held on aprenteral drugs used as anesthetics and anesthetic adjuvants to evaluate their carcinogenic and teratogenic potential and determine whether animal studies on those products should be required. The Commissioner is considering the committee's recommendation and is currently conducting a search of the scientific literature on this subject. If a review of the literature raises questions regarding the safety of the parenteral anesthetic drug products, as it has for the inhalation anesthetics, required testing of those products may be proposed in the FEDERAL REGISTER. However, the Commissioner does not believe that the publication of this final regulation and commencement of these studies should be delayed pending the outcome of that literature review.

10. Two comments disagreed with the Commissioner's conclusion in the preamble to the proposed regulation that appropriate methods for mutagenicity studies of inhalation anesthetics are not currently available. One comment observed that a recent study has shown that the mutagenicity assay (Ames test) can detect mutagenic effects of haloalkanes (Brem. H, A. E. Sein, and H. Rosenkranz, "The Mutagenicity and DNA-modifying Effect to Haloalkanes," *Cancer Research*, 34:2576–2579, 1974; a copy has been placed on file in the office of the Hearing Clerk, Food and Drug Administration). That comment suggested that until such time as the state of the art develops more fully, the Ames test may be useful as a rapid screen for mutagenicity. Another comment suggested that, since no single method can detect all possible types of mutations, a combination of methods must be used. That comment noted that the Environmental Protection Agency proposed, in the FEDERAL REGISTER of June 25, 1975 (40 FR 26899), the use of three mutation tests with acceptable protocols and methods for the mutagenic study of pesticides. That comment also observed that the Department of Health, Education, and Welfare (HEW) Committee to Coordinate Toxicology and Related Programs is receiving a draft document prepared by its Subcommittee on Environmental Mutagenesis, entitled "Methods for Determining the Mutagenic Properties of Chemicals." (A copy has been placed on file in the office of the Hearing Clerk, Food and Drug Administration.) The comment suggested that that document be considered on the final FDA evaluation of whether mutagenicity testing would be appropriate at this time for the inhalation anesthetic drug products.

The Commissioner remains convinced that requiring mutagenicity testing of inhalation anesthetics would be inappropriate at this time. The HEW review of methods for determining mutagenesis is continuing, and the Commissioner concludes that it would be premature to require a particular method for testing the mutagenicity of inhalation anesthetics before that review is completed.

11. One comment observed that the intent of proposed § 310.511(f) appeared to be that NDA's for inhalation anesthetic drug products submitted before the effective date of a final regulation could continue to be processed, evaluated, and approved by FDA without awaiting completion of the required animal studies, if, as a condition of the approval, the applicant agreed to conduct animal studies for its drug product under the same protocol as that required by the regulation. The comment noted that such an applicant may have already undertaken either a teratogenicity or a comparative carcinogenicity study of its drug product as a prerequisite for NDA approval and that the protocols for the drug product may not have been approved by FDA. Such protocols might not cover nitrous oxide and probably would not be identical to the protocol finally devised for the industry study. The comment asked whether such an applicant would also have to duplicate the entire industry study, thus undertaking two similar but probably not identical carcinogenicity or teratogenicity studies. The comment suggested that § 310.511(f) be revised to clarify whether those phases of carcinogenicity and teratogenicity studies that were required for NDA approval and that are substantially similar but not identical to phases of the final industry study have to be duplicated for the purpose of complying with the final regulation. That comment also objected to the phrase "and pending approval" in § 310.511(f) on the grounds that under the normal procedures involved in the evaluation and approval of an NDA, FDA often requires that additional data and information be submitted (after the initial submission of the NDA), and it has not been clear whether such an application is deemed to have been continually "pending approval" since the date of the initial submission. The comment suggested that the paragraph be clarified by substituting the phrase "but not yet approved" for the phrase "and pending approval."

The Commissioner agrees with the comment that § 310.511(f) of the proposed regulation was intended to permit FDA to approve, after the effective date of the final regulation an NDA submitted before the effective date, provided the applicant agreed to conduct animal studies on the carcinogenicity and teratogenicity potential of its drug product. The Commissioner concludes, however, that it would be inappropriate to approve an NDA for a new inhalation anesthetic drug product if appropriate animal studies concerning its carcinogenic and teratogenic potential have not been performed. Accordingly, he is revising § 310.511(f) to permit the approval of NDA's or ANDA's for any currently marketed halogenated inhalation anesthetic, i.e., enflurane, fluoxene, halothane, and methoxyflurane, before the completion of the animal studies required by this regulation, provided the application is otherwise approvable and the applicant agrees to conduct animal studies of the drug product to determine its carcinogenic potential and effects on reproduction. The Commissioner is also revising § 310.511(g) to clarify that NDA's and ANDA's for halogenated inhalation anesthetics, other than the four drugs listed above, and for nonhalogenated inhalation anesthetics will be approved on or after the effective date of this final regulation only if the application is otherwise approvable and it contains data and information from animal studies on the carcinogenic potential and effects on reproduction of the drug product.

12. The holder of the approved NDA for Ethrane (enflurane) noted that FDA had required it to undertake a study of the teratogenic potential of its drug product as a condition of approval of its original NDA. The comment noted that the protocol for and result of that study from a part of the approved NDA for that product. Accordingly, the comment questioned the need for an additional teratogenic study of that drug product. The comment also asked whether the teratogenic studies reported in the literature or submitted as a condition of NDA approved were considered unreliable or incomplete and, if they were considered unreliable, on what basis was that conclusion reached. The comment also asked what criteria were used for accepting or rejecting published data relating to teratology.

The Commissioner advises that previous animal studies of Ethrane have generally employed anesthetic concentrations approximating those used for patients, but have not involved the long-term subanesthetic concentrations to which operating-room personnel are exposed. In addition, previous studies do not answer the questions regarding the transplacental effects of those concentrations. The Commissioner further advises that teratogenic studies are evaluated independently using the FDA



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"Guidelines for Reproduction Studies for Safety Evaluation of Drugs for Human Use" (a copy has been placed on file in the office of the Hearing Clerk, Food and Drug Administration) as a general guide in considering the data.

13. One comment suggested that the time period proposed for the submission of preliminary protocols, i.e., 30 days after the effective date of the final regulation, was inadequate for the development of the technology and for conducting pilot studies that might be required to determine the proper dosages for the products to be studied. The comment suggested that a minimum of 90 days be allowed for submission of preliminary protocols.

The Commissioner does not agree with this comment. The final regulations provides the NDA holders with 60 days from the date of the publication of the final regulation within which to submit the preliminary protocols for the studies, i.e., 30 days after the effective date of the final regulation which is 30 days after the date of publication. The Commissioner concludes that the 60-day period, together with the substantial time since the studies were proposed, is more than adequate for the preparation and submission of the preliminary protocols. After a discussion of those protocols at the workshop, the NDA holders will have additional time to prepare and submit the final protocols for the studies. Accordingly, the Commissioner concludes that the time frame for submission of the preliminary protocols is appropriate. Section 310.511(b) is revised to require the submission of the final protocols to be used in the studies, on or before February 13, 1978.

14. Two comments objected to proposed § 310.511(c)(2) on the grounds that the 30-month time limit being proposed for the submission of the final report of the test results to FDA is too restrictive. One comment contended that that time limit did not permit sufficient time to conduct properly such highly complex studies, analyze the findings, and prepare an adequate summary report. The comment suggested a minimum of 3 years should be stipulated, with allowance for extensions of time, should the need arise. The other comment suggested that 36 to 42 months was a more realistic time frame for the completion of the studies.

The Commissioner agrees that, since the final protocols for the studies have not yet been determined, the 30-month time limit may not be adequate. Accordingly, § 310.511(c)(2) of the final regulation provides that the final report on the carcinogenicity and teratogenicity studies shall be submitted to FDA within 6 months of the completion of the studies.

15. One comment included a brief synopsis of the results of a study of the teratogenic effects of halothane in offspring of gravid rats. The study involved the investigation of the behavioral, neurochemical, and ultrastructural tissue effects of chronic exposure to low levels of halothane. The comment suggested the study be considered in developing the protocols under the final regulation. Another comment suggested that it would be foolish to use a protocol in conducting the required studies that differed significantly from that proposed in the "Guidelines for Carcinogen Bioassay in Small Rodents," published by NCI, Division of Cancer Cause and Prevention. (A copy has been placed on file in the office of the Hearing Clerk, Food and Drug Administration.) One comment asked whether the protocol for the teratogenic studies would be directed to continuous exposure throughout gestation, only after implantation, or single- or short-term exposures (2 to 3 days) during the critical days of maximal organogenesis, or all three. That comment also asked whether behavioral toxicology and behavioral teratogenic assessments would be included in the protocol.

The Commissioner concludes that these comments address the content of the protocols under which the studies will be conducted and not the proposed regulation to require them. The scope and content of the protocols for the required animal studies will be determined at the workshop, and these comments would be more appropriately considered in that context. He agrees, however, that the NCI guidelines provide a basis upon which the preliminary protocols for the required animal studies can be developed.

16. Several comments objected to the proposed requirement that all holders of NDA's or ANDA's for halogenated inhalation anesthetic drug products also must conduct studies on nitrous oxide. The comments contended that if such studies are necessary, the manufacturers of nitrous oxide for anesthetic use should be required to perform them, or alternatively, be required to participate in the studies with the producers of halogenated inhalation anesthetic drug products. Also, several comments suggested that the requirement that all holders of NDA's and ANDA's for halogenated anesthetics conduct studies on nitrous oxide appeared to be duplicative and unnecessary, and it was argued that a single study of nitrous oxide should be adequate. One comment requested clarification of the basis upon which nitrous oxide is included in the proposed study. The comment suggested that, if studies on nitrous oxide are required on the basis that the halogenated inhalation anesthetics will be used in combination with it, then the combination approach to nitrous oxide-halogenated anesthetic studies should be emphasized and not merely the single determination of carcinogenic and teratogenic potential of nitrous oxide as stated in the proposal. One comment suggested that the proposal did not adequately address the question of interactions between nitrous oxide and other halogenated hydrocarbon anesthetic agents with regard to teratogenic and carcinogenic hazards.

Nitrous oxide is included in the required studies since it is standard medical practice to use nitrous oxide when administering the halogenated inhalation anesthetics listed in the proposal, and the labeling for those drug products recommends or suggests that they be used in combination with nitrous oxide. It is therefore appropriate that suppliers of halogenated inhalation anesthetics, rather than suppliers of nitrous oxide, perform these studies. As the Commissioner stated in paragraph 8 of this preamble, FDA will accept, but cannot compel, joint studies of any of the drugs included in this regulation. The Commissioner also advises that it is FDA policy to require interaction studies of a drug in animals when the drug is usually used clinically in combination with other drugs.

17. Since the proposal was published, an ANDA has been approved for American Hospital Supply, McGaw Park, Illinois 60085, to market halothane. Accordingly, that ANDA holder is added to the list of NDA holders in § 310.511(d) who are required to conduct the animal studies.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 505, 701 (a), 52 Stat. 1052–1053 as amended, 1055 (21 U.S.C. 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 310 is amended by adding new § 310.511 to read as follows:

**§ 310.511 Inhalation anesthetic drugs.**

(a) The Commissioner of Food and Drugs has found, on the recommendation of the Anesthesiology Advisory Committee (formerly the Respiratory and Anesthetic Drugs Advisory Committee) and from a review of the scientific literature, that there is sufficient evidence to cause concern regarding the carcinogenic potential and effects on reproduction, including the teratogenic potential, of halogenated inhalation anesthetic drug products and of nitrous oxide. He has therefore concluded that it is necessary, under section 505(j) of the act, to require holders of approved new drug applications and abbreviated new drug applications for halogenated inhalation anesthetic drug products to establish and conduct studies in animals on the carcinogenic potential and effects on reproduction, including the teratogenic potential, of such drug products and of nitrous oxide, and to make reports on such studies to the Commissioner to enable him to determine whether there is ground for requiring revision of the labeling to provide for safer use of these drugs or ground for withdrawing approval, under section 505(e) of the act, of any of the approved new drug applications for these drug products.

(b) The holders of the new drug applications (NDA's) or abbreviated new drug applications (ANDA's) listed in paragraph (d) of this section shall submit to the Food and Drug Administration, on or before September 20, 1977, the preliminary protocols that each proposes to follow in conducting studies in animals on the carcinogenic potential and effects on reproduction, including the teratogenic potential, of their drug product(s) and of nitrous oxide. The preliminary protocols may be discussed with the Bureau of Drugs, Division of Surgical-Dental Drug Products (HFD–160), 5600 Fishers Lane, Rockville, MD 20857. The NDA and ANDA holders shall submit the final protocols for the studies to FDA, on or before February 13, 1978.

(c) Reports on the carcinogenicity and reproduction studies shall be submitted to the Food and Drug Administration as follows:

(1) Status reports of the ongoing studies at 3-month intervals, beginning 90 days after the applicant has received written acceptance of the protocol from the Food and Drug Administration.

(2) The final report within 6 months of the completion of the studies.

(d) Holders of the following new drug applications (NDA's) and abbreviated new drug applications (ANDA's) shall conduct studies in animals to determine the carcinogenic potential and effects on reproduction, including teratogenic potential, of their drug products and of nitrous oxide:

| NDA or ANDA No. | Drug name | Firm |
|---|---|---|
| 10-690 | Fluoromar (fluroxene). | Ohio Medical Products, Murray Hill, N.J. 07974. |
| 11-338 | Fluothane (halothane). | Ayerst Laboratories (division of American Home Products Corp.), 685 3d Ave., New York, N.Y. 10017. |
| 13-056 | Penthrane (methoxyflurane). | Abbott Laboratories, North Chicago, Ill. 60084. |
| 17-067 | Ethrane (enflurane). | Ohio Medical Products. |
| 80-810 | Halothane Liquid. | Halocarbon Ontario, Ltd., Ontario, Canada. |
| 83-254 | do. | Abbott Laboratories. |
| 84-077 | Halothane | American Hospital Supply, McGaw Park, Ill. 60085. |

(e) Holders of the new drug applications or abbreviated new drug applications listed in paragraph (d) of this section who have studies in progress to determine the carcinogenic potential and effects on reproduction, including teratogenic potential, of their drug products or nitrous oxide, or both, may send the protocols, with starting and projected concluding dates, for such studies to the Food and Drug Administration at the address listed above. Such studies may be accepted by the Food and Drug Administration in lieu of those required under this section.

(f) Before receipt of the final reports on the animal studies under pargaraph (c)(2) of this section, the Food and Drug Administration shall approve a full or abbreviated new drug application for enflurane, fluoxene, halothane, or methoxyflurane that does not contain these results of studies in animals to determine the carcinogenic potential and effects on reproduction, including the teratogenic potential of the drug product, if all the following conditions are met:

(1) The application is otherwise approvable.

(2) The applicant agrees to conduct studies in animals to determine the carcinogenic potential and effects on reproduction, including the teratogenic potential of the drug product that is the subject of the application.

(g) On or after August 22, 1977, the Food and Drug Administration shall approve a full or abbreviated new drug application for an inhalation anesthetic drug product except enflurane, fluoxene, halothane, and methoxyflurane if all of the following conditions are met:

(1) The application is otherwise approvable.

(2) The application contains the results of studies in animals to determine the carcinogenic potential and effects on reproduction, including the teratogenic potential of the drug product.

Effective date: This regulation shall be effective on August 22, 1977.

(Secs. 505, 701(a), 52 Stat. 1052 as amended, 1055 (21 U.S.C. 355, 371(a)).)

Dated: July 14, 1977.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.77-20781 Filed 7-21-77;8:45 am]

[Docket No. 76N-0115]

## PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

### Streptomycin and Streptomycin-Containing Drugs; Updating and Technical Revision; Correction

AGENCY: Food and Drug Administration.

ACTION: Correction.

SUMMARY: This document corrects a final rule that was published in the FEDERAL REGISTER of Tuesday, April 26, 1977. An omitted word is added.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Joan M. Eckert, Bureau of Drugs (HFD–140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4292.

SUPPLEMENTARY INFORMATION: In FR Doc. 77–11764 appearing at page 21274 in the FEDERAL REGISTER for Tuesday, April 26, 1977, the following correction is made: On page 21275, column 3, in the second sentence of paragraph (a)(1) of § 444.270b *Streptomycin sulfate injection*, the word "preservatives" is omitted. The sentence is corrected to read "It may contain one or more suitable and harmless preservatives, buffer substances, and stabilizing agents."

Dated: July 11, 1977.

MARY A. MCENIRY,
*Assistant Director for Regulatory Affairs, Bureau of Drugs.*

[FR Doc.77-21042 Filed 7-21-77;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

## PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

### Dexamethasone-21-Isonicotinate Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) submitted by Norden Laboratories, Inc., for use of an injectable drug in the treatment of dogs, cats, and horses for various musculoskeletal inflammations.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md., 20857. (301–443–3420).

SUPPLEMENTARY INFORMATION: Norden Laboratories, Inc., submitted an NADA (93–600V) proposing safe and effective use of dexamethasone-21-isonicotinate suspension (injectable) in the treatment of dogs, cats, and horses for various musculoskeletal inflammations.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday, except on Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 522 is amended by adding new § 522.542 to read as follows:

**§ 522.542 Dexamethasone-21-isonicotinate suspension.**

(a) *Specifications.* Each milliliter of sterile suspension contains 1 milligram of dexamethasone-21-isonicotinate.

(b) *Sponsor.* No. 011519 in § 510.600 (c) of this chapter.

(c) *Conditions of use.* (1) The drug is used in the treatment of various inflammatory conditions associated with the musculoskeletal system in dogs, cats, and horses.

(2) It is recommended for intramuscular administration as follows: Dogs—0.25 to 1 milligram; cats—0.125 to 0.5 milligram; horses—5 to 20 milligrams. Dosage may be repeated.







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(3) Clinical and experimental data have demonstrated that corticosteroids administered orally or parenterally to animals may induce the first stage of parturition when administered during the last trimester of pregnancy and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis.

(4) Not for use in horses intended for food.

(5) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date: This regulation shall be effective July 22, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b (i)).)

Dated: July 13, 1977.

RICHARD P. LEHMANN,
*Acting Director,*
*Bureau of Veterinary Medicine.*

[FR Doc.77-20797 Filed 7-21-77;8:45 am]

## PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

### Oxytetracycline Hydrochloride Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application held by Diamond Shamrock Corp. for use of a higher concentration injectable oxytetracycline dosage for treating certain diseases of cattle and swine.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Myron C. Rosenberg, Bureau of Veterinary Medicine (HFV-125), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-1788).

SUPPLEMENTARY INFORMATION: In accordance with section 512(i) of the Federal Food, Drug, and Cosmetic Act, Part 522 (21 CFR Part 522) is amended to reflect approval of a new animal drug application (NADA 97-452V) held by Diamond Shamrock Corp., Nutrition and Animal Health Division, 1100 Superior Ave., Cleveland, Ohio 44114.

In compliance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, during regular working hours.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), § 522.1662a is amended by adding new paragraph (g), to read as follows:

§ 522.1662a Oxytetracycline hydrochloride injection.

* * * * *

(g)(1) *Specifications.* Each milliliter of sterile solution contains 100 milligrams of oxytetracycline as oxytetracycline hydrochloride.

(2) *Sponsor.* See No. 025001 in § 510.600(c) of this chapter.

(3) *Conditions of use.* The drug is used for the treatment of diseases due to oxytetracycline-susceptible organisms as follows:

(i) *Beef cattle, beef calves, nonlactating dairy cattle, and dairy calves.*—(a) *Amount.* 3 to 5 milligrams of oxytetracycline per pound of body weight per day.

(b) *Indications for use.* For the treatment of pneumonia and shipping fever complex associated with *Pasteurella spp., Hemophilus spp.,* or *Klebsiella spp.*

(c) *Limitations.* Administer by intramuscular or intravenous injection. In severe forms of the indicated diseases, administer 5 milligrams of oxytetracycline per pound of body weight per day. Continue treatment 24 to 48 hours following remission of disease symptoms, not to exceed a total of 4 consecutive days. If no improvement is noted within 48 hours, consult a veterinarian. Do not inject more than 10 milliliters per injection site intramuscularly in adult cattle; no more than 1 milliliter per site in calves weighing 100 pounds or less. Discontinue treatment at least 20 days prior to slaughter.

(ii) *Sows.*—(a) *Amount.* 3 milligrams of oxytetracycline per pound of body weight approximately 8 hours before farrowing or immediately after completion of farrowing.

(b) *Indications for use.* As an aid in the control of infectious enteritis (baby pig scours, colibacillosis) in suckling pigs caused by *Escherichia coli* by treating the sow.

(c) *Limitations.* Administer intramuscularly. If no improvement is noted within 24 hours, consult a veterinarian. Do not inject more than 5 milliliters per site. Discontinue treatment at least 20 days prior to slaughter.

Effective date: This amendment shall become effective July 22, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 13, 1977.

RICHARD P. LEHMANN,
*Acting Director,*
*Bureau of Veterinary Medicine.*

[FR Doc.77-20801 Filed 7-21-77;8:45 am]

## PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM; NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

### Oxytocin Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: National Laboratories Corp. requested the withdrawal of approval of a new animal drug application (NADA) for oxytocin injection, noting that it is no longer interested in marketing the product. The animal drug regulations are amended to reflect the company's request.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

W. D. Price, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3442).

SUPPLEMENTARY INFORMATION: National Laboratories Corp., 1721 Baltimore Ave., Kansas City, Mo. 64108, requested that its approval (NADA 46-665V) be withdrawn.

In accordance with § 514.115(d) (21 CFR 514.115(d)), the Commissioner of Food and Drugs is withdrawing, without prejudice, approval of NADA 46-665V and all supplements and amendments thereto. The notice of the withdrawal appears elsewhere in this issue of the FEDERAL REGISTER.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner (21 CFR 5.1), Part 522 is amended in § 522.1680 *Oxytocin injection* in paragraph (b) by deleting sponsor No. "011811."

Effective date: This regulation becomes effective July 22, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b (i)).)

Dated: July 13, 1977.

RICHARD P. LEHMANN,
*Acting Director,*
*Bureau of Veterinary Medicine.*

[FR Doc.77-20799 Filed 7-21-77;8:45 am]

## PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

### Lincomycin With Lasalocid

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application submitted by the Upjohn Co. for use of a medicated chicken feed containing lincomycin and lasalocid for broilers and fryers for increased rate of weight gain and improved feed efficiency and as an aid in the prevention of coccidiosis.





EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-147), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4317).

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, Mich. 49001, filed a new drug application (101-689V) proposing safe and effective use of the drug specified above.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, during regular working hours.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 558 is amended as follows:

1. In § 558.311, by revising paragraph (e) to read as follows:

§ 558.311 Lasalocid sodium.

* * * * *

(e) *Conditions of use.* It is used as follows:

| Lasalocid sodium activity in grams per ton | Combination in grams per ton | Indications for use | Limitations | Sponsor |
|---|---|---|---|---|
| (1) 68 (0.0075 pct) | | Broiler or fryer chickens; for the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.* | For broiler or fryer chickens only; feed continuously as the sole ration; withdraw 5 d before slaughter. | 000004 |
| (2) 68 (0.0075 pct) | Roxarsone 45.4 (0.005 pct). | Broiler or fryer chickens; for the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima* and as an aid in the reduction of oocysts and lesions due to *E. tenella.* | For broiler or fryer chickens only; feed continuously as the sole ration; as sole source of organic arsenic; withdraw 5 d before slaughter; roxarsone provided by No. 017210 in sec. 510.600(c) of this chapter. | 000004 |
| (3) 68 (0.0075 pct) | Lincomycin 2 (0.00044 pct). | Broiler or fryer chickens; for the prevention of coccidiosis caused by *Eimeria mivati, E. brunetti, E. tenella, E. acervulina, E. maxima,* and *E. necatrix*; for increased rate of weight gain and improved feed efficiency. | For broiler and fryer chickens only; feed continuously as sole ration; withdraw 5 d before slaughter finished feed must be used within 4 weeks of manufacture; as lincomycin hydrochloride monohydrate. | 000009 |

2. In § 558.325, by adding paragraph (f)(3)(x) to read as follows:

§ 558.325 Lincomycin.

* * * * *

(f) * * *

(3) * * *

(x) Lasalocid sodium in accordance with § 558.311.

Effective date: This regulation becomes effective July 22, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b (i)).)

Dated: July 13, 1977.

RICHARD P. LEHMANN,
*Acting Director,*
*Bureau of Veterinary Medicine.*

[FR Doc.77-20798 Filed 7-21-77;8:45 am]

## PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

### Lincomycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document approves safe and effective use of 2 grams of lincomycin per ton of complete boiler feed for treating certain intestinal inflammations. The Upjohn Co. filed an application for this use. The Commissioner of Food and Drugs is amending the animal drug regulations to reflect this approval.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-147), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, (301-443-4317).

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed a supplemental new animal drug application (34-085V) to provide for safe and effective use of 2 grams of lincomycin per ton of complete broiler feed for control of necrotic enteritis caused by *Clostridium spp.*

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 558 is amended in § 558.325 by revising paragraph (f)(1) to read as follows:

§ 558.325 Lincomycin.

* * * * *

(f) *Conditions of use.* (1) It is used in broiler feeds as follows:

(i) *Amount per ton.* 2 to 4 grams.

(a) *Indications for use.* For increase in rate of weight gain and improved feed efficiency.

(b) *Limitations.* As lincomycin hydrochloride monohydrate.

(ii) *Amount per ton.* 2 grams.

(a) *Indications for use.* For control of necrotic enteritis caused by *Clostridium spp.* or other susceptible organisms.

(b) *Limitations.* As lincomycin hydrochloride monohydrate.

* * * * *

Effective date: This regulation becomes effective on July 22, 1977.

(Sec 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: July 13, 1977.

RICHARD P. LEHMANN,
*Acting Director,*
*Bureau of Veterinary Medicine.*

[FR Doc.77-20785 Filed 7-21-77;8:45 am]

SUBCHAPTER F—BIOLOGICS

[Docket No. 75N-0129]

## PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

### Cryoprecipitated Antihemophilic Factor (Human)

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: This is an amendment of a rule published in the FEDERAL REGISTER of April 29, 1977 (42 FR 21772). A reference within a section is changed.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

John Singleton, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20014, (301-443-4626).

SUPPLEMENTARY INFORMATION: A final rule was published in the FEDERAL REGISTER of April 29, 1977 (42 FR 21772) that amended the biologics regulations to permit Cryoprecipitated Antihemophilic Factor (Human) to be manufactured from plasma obtained by plasmapheresis and to reorganize the regulations for consistency. It has come to the attention of the Commissioner of Food and Drugs that due to an oversight, the amended regulations in § 640.53(c) referenced



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paragraphs (f) and (g) of § 640.69. But paragraphs (f) and (g) of § 640.69 had been redesignated as §§ 640.71 and 640.72, the reference from § 640.69 (f) and (g) to §§ 640.71 and 640.72.

Accordingly, § 640.53(c) is being amended, as set forth below, to change the reference from § 640.69 (f) and (g) to §§ 640.71 and 640.72.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 640 is amended by revising § 640.53(c) to read as follows:

**§ 640.53 Testing the blood.**

* * * * *

(c) Manufactures of Cryoprecipitated Antihemophilic Factor (Human) obtained from plasma collected by plasmapheresis shall have testing and recordkeeping responsibilities equivalent to those prescribed in §§ 640.71 and 640.72.

Under the Administrative Procedure Act (5 U.S.C. 553(b) and (d)), the Commissioner concludes that notice, public procedure, and delayed effective date are unnecessary for the amendment of § 640.53(c) because it does not impose an additional duty or burden on any person, but rather corrects an inadvertent error.

Effective date: This amendment becomes effective on July 22, 1977.

(Sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262))

Dated: July 13, 1977.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.77-20802 Filed 7-21-77;8:45 am]

[Docket No. 76N-0459]

## PART 740—COSMETIC PRODUCT WARNING STATEMENTS

### Certain Fluorocarbon (Chlorofluorocarbon) Propellants in Self-Pressurized Containers; Warning Statement Requirement; Partial Extension of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Partial extension of effective date of final rule.

SUMMARY: The Commissioner extends until December 31, 1977, the effective date for compliance by cosmetic fragrances and gift pack with the label warning required when using chlorofluorocarbon propellants. The warning alerts the consumer to the risks of ozone depletion in the upper atmosphere posed by chlorofluorocarbons. The Cosmetic, Toiletry and Fagrance Association requested the extension until after the Christmas sales period for certain seasonal products to avoid disruption and increased production costs.

DATES: Except for cosmetic gift packs and fragrance preparations, these regulations shall continue to be effective October 31, 1977 for finished products initially introduced into interstate commerce on or after that date. Cosmetic gift packs, i.e., assortments of cosmetic products sold together in a single package, and fragrance products falling within the product categories identified in 21 CFR 720.4(c) initially introduced into interstate commerce on or after December 31, 1977 shall fully comply.

FOR FURTHER INFORMATION CONTACT:

Taylor M. Quinn, Bureau of Foods (HFF-300), Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, (202-245-1567).

SUPPLEMENTARY INFORMATION: The Commissioner issued a final rule under § 740.11 (21 CFR 740.11), published in the FEDERAL REGISTER of April 29, 1977 (42 FR 22018), that required a warning on certain foods, drugs, medical devices, and cosmetics in self-pressurized containers in which the propellant contains fully halogenated chlorofluoroalkanes (chlorofluorocarbons). The regulation requires that all regulated products, including cosmetics, initially introduced into interstate commerce on or after October 31, 1977 shall bear the required warning statement.

On May 19, 1977, the Commissioner received a petition from the Cosmetic, Toiletry and Fragrance Association requesting that the effective date for cosmetic fragrances and gift packs be extended until January 31, 1978.

Although designated a petition for reconsideration, the petition is in effect a petition for administrative stay of action and has been treated in accordance with the regulation under § 10.35 (21 CFR 10.35) governing such petitions. The petition and related material are on file (Docket No. 76N-0459) in the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be seen between the hours of 9 a.m. and 4 p.m., Monday though Friday.

The petition states that fragrances and gift packs have a high concentration of sales during the Christmas season, and the existing effective date would require considerable overlabeling at "enormous expense." Most of these products are either already manufactured and in inventory or are currently in production, with packaging orders already placed. According to the petition, it is impossible to include the warning in permanent labeling. Many, but not all, of the products will be initially introduced into interstate commerce before the current effective date. The chlorofluorocarbons used for production will be released ultimately to the atmosphere even if the warning appears.

In the case of products described in the petition, commitments have already been made for production for the upcoming season. Failure to extend the effective date would cause manufacturers to incur increased production costs. Because the effective date is so close to the marketing, there is an unusual potential for disruption. The objectives of the warning requirement will not be significantly impaired by granting the extension. The products involved are responsible for not more than 2 to 3 percent of annual chlorofluorocarbon emissions in the United States. The petitioner states that this problem concerning the effective date was not raised during the comment period on the proposal because the petitioner did not foresee that the effective date, as changed by the Commissioner in the final regulation, would fall directly before the Christmas season.

The Commissioner agrees that the regulation will have a greater impact on fragrances and gift packs than on other regulated aerosol products because of their seasonality. An extension of the effective date for this limited class of products as referred to in the petition is therefore warranted. The seasonal production pattern makes it impractical to include the warning in permanent labeling for this season and makes overlabeling especially difficult. In contrast, the warning can be included in the labeling for nonseasonal products in an orderly fashion by the effective date. Accordingly, the Commissioner believes it is equitable to extend the effective date for labeling these seasonal products.

The Commissioner has endeavored to minimize the need for overlabeling because of the expense and possible disruption involved. He does not believe, however, that the effective date should be set to eliminate the need for any overlabeling on any product. This could lead to overproduction for the Christmas season because the unsold products could be disposed of without the required warning during special promotional sales thereafter. The appearance of the warning on all products would thus be inordinately delayed. Therefore, the Commissioner concludes that the extension should be limited to goods manufactured for sale during the Christmas season.

Accordingly, in the case of cosmetic fragrances and gift packs, the Commissioner modifies the effective date for complying with § 740.11 as follows:

All finished aerosol cosmetic products containing chlorofluorocarbon propellants sold together in a gift package, and all finished cosmetic fragrance preparations as listed in § 720.4(c) (21 CFR 720.4(c)) initially introduced into interstate commerce on or after December 31, 1977, shall comply with § 740.11.

All other finished products containing chlorofluorocarbon propellants shall continue to comply with the October 31, 1977 effective date as established by regulation published in the FEDERAL REGISTER of April 29, 1977 (42 FR 22018).

This document is issued under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 301, 402, 403, 501, 502, 505, 507, 512, 601, 602, 701(a), Pub. L. 717, 52 Stat. 1041-1043 as amended, 1046-1048 as amended, 1049, 1051-1053 as amended, 1054-1055, 57 Stat. 463 as amended, 82 Stat. 343-351 (21 U.S.C. 321(n)), 331, 342, 343, 351, 352, 355, 357, 360b, 361, 362, and 371(a)) and the National Environmental Policy Act of 1969 (sec. 102(2), Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332)), and under authority delegated to the Commissioner (21 CFR 5.1).

(Secs. 201(n), 301, 402, 403, 501, 502, 505, 507, 512, 601, 602, 701(a), Pub. L. 717, 52 Stat. 1041-1043 as amended, 1046-1048 as amended, 1049, 1051-1053 as amended, 1054-1055, 57 Stat. 463, as amended, 82 Stat. 343-351 (21 U.S.C. 321(n), 331, 342, 343, 351, 352, 355, 357, 360b, 361, 362, and 371(a)); sec. 102(2), Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332).)

Dated: July 18, 1977.

JOSEPH P. HILE,
*Associate Commissioner for Compliance.*

[FR Doc.77-21243 Filed 7-21-77;8:45 am]





## Title 24—Housing and Urban Development

## CHAPTER XX—OFFICE OF ASSISTANT SECRETARY FOR NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS AND CONSUMER PROTECTION

[Docket No. R-77-459]

## AMENDMENT TO CHAPTER HEADING

AGENCY: Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, HUD.

ACTION: Final rule.

SUMMARY: This rule amends the Chapter XX Heading from Office of Assistant Secretary for Consumer Affairs and Regulatory Functions to Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection. This change of title is being made to reflect the expansion of the functions of this Office to include a new responsibility with respect to Neighborhood and Voluntary Organizations.

EFFECTIVE DATE: July 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael Esposito, Director, Administrative and Field Support Staff, Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development, Washington, D.C 20410, 202-755-6314.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of the Secretary of the Department of Housing and Urban Development, contained in section 4(a) of the Department of Housing and Urban Development Act, 42 U.S.C. Sec. 3533, 24 CFR Chapter XX is amended as follows:

Wherever the title "Assistant Secretary for Consumer Affairs and Regulatory Functions" appears in Title 24, CFR, it is changed to read "Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection."

It is the general policy of the Department of Housing and Urban Development to allow time for interested parties to take part in the rulemaking process. However, this amendment is administrative in nature. Therefore, the rulemaking process, involving comment and public procedure, is waived, and this amendment will become effective immediately.

Issued at Washington, D.C., July 15, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary of Housing and Urban Development.*

[FR Doc.77-21111 Filed 7-21-77;8:45 am]

## Title 29—Labor

## CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

## PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

### Alaska Plan Amendments to Level of Federal Enforcement

AGENCY: Occupational Safety and Health Administration

ACTION: Amendment to Operational Agreement entered into by the State of Alaska and the Occupational Safety and Health Administration on June 5, 1975.

SUMMARY: This document codifies amendments to the Operational Agreement entered into by the State of Alaska and the Occupational Safety and Health Administration on June 5, 1975, to reflect that Alaska is now operational in the health area and in the areas of pulp, paper and paperboard mills; textiles; bakery equipment; and laundry machinery and operations; and to reflect the State's election not to cover on-shore maritime activities under its plan.

EFFECTIVE: January 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Veronica Allen, Project Officer, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-8031.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Part 1954 of Title 29, Code of Federal Regulations, sets out procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for the evaluation and monitoring of State plans which have been approved under section 18(c) of the Act and 29 CFR Part 1902. Section 1954.3 of this chapter provides guidelines and procedures for the exercise of discretionary Federal enforcement authority under section 18(e) of the Act with regard to Federal standards in issues covered under an approved State plan. In accordance with § 1954.3 (b) of this chapter, Federal enforcement authority will not be exercised as to occupational safety and health issues covered under a State plan where a State is operational.

A State is determined to be operational under § 1954.3(b) of this chapter when it has provided for the following requirements: enacted enabling legislation, approved State standards, a sufficient number of qualified enforcement personnel and provisions for review of enforcement actions. In determining whether and to what extent a State plan meets the operational guidelines, the results of evaluations conducted under 29 CFR Part 1954 are taken into consideration. Once this determination has been made, under § 1954.3(f) of this chapter, a notice of the determination of the operational status of a State plan as described in an agreement setting forth the Federal-State responsibilities is to be published in the FEDERAL REGISTER.

On September 2, 1975, a notice was published in the FEDERAL REGISTER (40 FR 40157) that it had been determined that Alaska had met the conditions for operational status and of the signing of an agreement effective June 5, 1975, between Edmund N. Orbeck, Commissioner of the Alaska Department of Labor and James W. Lake, Regional Administrator for Occupational Safety and Health.

NOTICE OF THE AMENDMENTS TO ALASKA OPERATIONAL AGREEMENT

In accordance with § 1954.3(f)(3) of this chapter, notice is hereby given that an amended operational status agreement effective January 6, 1977, and incorporated as part of the Alaska plan, has been entered into between Edmund N. Orbeck, Commissioner of Alaska Department of Labor, and James W. Lake, Regional Administrator for Occupational Safety and Health, U.S. Department of Labor, to amend the agreement that became effective June 5, 1975, to reflect that (1) Alaska is considered to be operational in the health area and in the areas of pulp, paper and paperboard mills; textiles; bakery equipment; and laundry machinery and operations, and (2) Alaska has elected to relinquish coverage of on-shore maritime activities under its plan. The agreement is described below.

The Alaska State plan when approved provided for four (4) industrial hygienists. On February 5, 1976, the State submitted a change to its plan to reduce the number of industrial hygienists employed under its plan to three industrial hygienists (two (2) enforcement; one (1) consultation) who are presently employed by the State. Notice of approval of this revision was published in the FEDERAL REGISTER on November 30, 1976 (41 FR 52556).

On July 22, 1976, Acting Regional Administrator, Richard L. Beeston approved State standards comparable to 29 CFR 1910.261 on Pulp, Paper and Paperboard Mills. Notice of approval of these standards was published in the FEDERAL REGISTER on September 14, 1976 (41 FR 39112). On September 30, 1976, Acting Regional Administrator John A. Granchi approved State standards comparable to 29 CFR 1910.262 on Textiles, 1910.263 on Bakery Equipment, and 1910.264 on Laundry Machinery and Operations. Notice of approval of these standards was published in the FEDERAL REGISTER on October 29, 1976 (41 FR 47613).

Also, on June 2, 1976, the State submitted a change to its plan to withdraw from coverage of the maritime issue as set forth in its original plan. Notice



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of approval of this change was published in the FEDERAL REGISTER on November 30, 1976 (41 FR 52556).

This agreement is subject to revision or termination by the Assistant Secretary of Labor for Occupational Safety and Health upon substantial failure by the State to comply with any of its provisions, or when the results of evaluation under 29 CFR Part 1954 reveal that State operations covered by the agreement fail in a substantial manner to be at least as effective as the Federal program.

In accordance with this agreement and effective as of January 6, 1977, Subpart R of 29 CFR Part 1952 is hereby amended as set forth below:

Section 1952.242 is revised to read as follows:

**§ 1952.242 Level of Federal enforcement.**

(a) Pursuant to §§ 1902.20(b)(1)(iii) and 1954.3 of this chapter under which an agreement has been entered into with Alaska as amended effective January 6, 1977, and based on a determination that Alaska is operational in the issues covered by the Alaska occupational safety and health plan, discretionary Federal enforcement authority under Section 18(c) of the Act (29 U.S.C. 667(c)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Parts 1910, 1926 and 1928. The U.S. Department of Labor will continue to exercise authority, among other things with regard to: Federal standards promulgated subsequent to the agreement where necessary to protect employees as in the case of temporary emergency standards promulgated under section 6(c) of the Act (29 U.S.C. 655(c)) in the issues covered under the plan and agreement until such time as Alaska shall have adopted equivalent standards in accordance with Subpart C of 29 CFR Part 1953; complaints about violations of the discrimination provisions of section 11(c) of the Act (29 U.S.C. 660); Federal standards contained in the issues covered by Subpart B—Ship repairing, Shipbuilding, Shipbreaking, and Longshoring, 29 CFR 1910.13 through 1910.16; and investigation and inspection for the purpose of evaluation of the Alaska plan under sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)).

(b) The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for resumption of exercise of Federal enforcement authority under section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in the State of Alaska.

(Secs. 8(g)(2), 18 Pub. L. 91-596, 84 Stat. 1600, 1608; (29 U.S.C. 657(g), 667)).

Signed at Washington, D.C. this 14th day of July 1977.

EULA BINGHAM,
*Assistant Secretary of Labor.*

[FR Doc.77-21129 Filed 7-21-77;8:45 am]

## PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

### California Plan; Approval of Supplement

AGENCY: Occupational Safety and Health Administration.

ACTION: Approval of Supplement to California Plan on Completion of Developmental Step.

SUMMARY: This rulemaking acknowledges that the State of California has completed a developmental step under its Occupational Safety and Health Plan by providing for the development and enforcement of standards covering temporary labor camps.

EFFECTIVE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Daniel C. Hoeschen, Office of State Programs, Occupational Safety and Health Administration, Room N-3608, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-8041.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The California Occupational Safety and Health Plan was approved under section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter called the Act) and Part 1902 of this Chapter on April 24, 1973 (38 FR 10717). Under the plan the State made commitments to complete certain developmental steps by June 1, 1976, including adoption of standards covering temporary labor camps. Part 1953 of this Chapter provides procedures for the review and approval of State developmental change supplements by the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary).

DESCRIPTION OF SUPPLEMENT

On March 11, 1977, the State of California submitted a supplement to its plan which provides a program for the development and enforcement of standards pertaining to temporary labor camps. This was in response to deficiencies found in an earlier proposal. The program consists of three components. The first component provides for the adoption of a standard by the California Occupational Safety and Health Standards Board requiring employers providing housing for employees to have a valid labor camp housing permit issued by the Department of Housing and Community Development under the California Employee Housing Act. In order to secure such a permit, standards adopted under Title 25 of the California Administrative Code must be met. These standards were found to be at least as effective as the comparable Federal standards concerning temporary labor camps (42 FR 18671, April 8, 1977). The absence of such a valid permit is a regulatory violation of the California Occupational Safety and Health Act, subjecting the employer to a citation and proposed penalty.

The second component of the program provides that in conducting inspections of workplaces including employment-related housing or upon receipt of a complaint involving employee housing, the Division of Industrial Relations (hereinafter referred to as the Division) will enforce the labor camp permit standard and will refer apparent violations of the Title 25 standards to the Department of Housing and Community Development (DHCD) for appropriate action in accordance with an inter-agency agreement further described below. The Division will cite for lack of a valid permit, issue a notice of penalty and advise DHCD so that agency may take appropriate enforcement action under the California Employee Housing Act.

The third component concerns an inter-agency agreement, which is included in the supplement, between the Agriculture and Services Agency (the California Designee), the Department of Industrial Relations in that agency, the Division and the Department of Housing and Community Development. The agreement also provides that reports on Division inspections and complaints of alleged violations will be transmitted to DHCD for necessary enforcement action under its authority. The Division will evaluate DHCD reports on the referrals.

Th Department of Housing and Community Development, among other things, will maintain and enforce a standard under Title 25 of the California Administrative Code which is at least as effective as the Federal labor camp standard; inspect labor camps referred by the Division and take necessary enforcement action under the Employee Housing Act; transmit Division referrals to local government agencies authorized to conduct inspections under the Employee Housing Act and in such referrals DHCD will require documentation relating to the inspection and enforcement action taken. The agreement also provides that DHCD and authorized local government agencies will incorporate certain OSHA procedures in their inspections resulting from Division referrals. These procedures are:

1. *Variances.* When an employer requests an alternate use of any material, appliance, installation, device, etc., the agency shall advise employees and obtain their views.

2. *Complaints.* Complaint referrals from the Division alleging a serious violation will be responded to within three days and those alleging nonserious violations within 14 days; the complainant's name will be kept confidential; complainants will be notified if no compliance action is taken along with the reasons why and of their right to review of these decisions; and protection is provided to employees against discharge or discrimination for exercising rights.

3. *Walkaround.* In conducting post-occupancy inspections, DHCD will provide an opportunity for employees or their representatives, on the premises at the time of the inspection, to accompany the inspector.





4. *Advance notice.* In conducting post-occupancy inspections, the inspector may not give advance notice of the inspection.

5. *Hearings.* Employees or their representatives are to be given an opportunity to attend and participate in any hearings in which an employer is appealing alleged violations or abatement dates.

In addition, the agreement provides that DHCD agrees to monitoring by the Occupational Safety and Health Administration of its performance under the inter-agency agreement in accordance with section 18(f) of the Act.

It should be noted that the inter-agency agreement is an interim agreement and is subject to appropriate adjustments when a revised Federal standard on temporary labor camps is promulgated.

LOCATION OF THE PLAN AND ITS SUPPLEMENT FOR INSPECTION AND COPYING

A copy of the plan and its supplement may be inspected and copied during normal business hours at the following locations: Technical Data Center, Occupational Safety and Health Administration, 200 Constitution Avenue, Room S-6212, Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 9470, San Francisco, California 94102; and the California Occupational Safety and Health Administration, 455 Golden Gate Avenue, Room 3052, San Francisco, California 94102.

PUBLIC PARTICIPATION

Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. Approval of this supplement protects the continuity necessary to the regulation of employee-related housing under the California plan. This supplement is based on standards which are as effective as Federal standards and incorporates the necessary employee protections of the State's Occupational Safety and Health Plan, as approved. Moreover, implementation of the supplement will not result in any significant change in the extent of coverage or standards relating to temporary labor camps within California as it merely provides certain procedures to bring coverage of temporary labor camps within the purview of the Division. Good cause is therefore found for approval of the supplement, subject to evaluations, without public comment and notice.

The implementation of the California program for the enforcement of standards concerning employment related housing is approved as a completion of a developmental step. This decision incorporates the requirements of the Act and the implementing regulations applicable to State plans generally.

Accordingly, § 1952.174 of Part 1952 of this Chapter is amended by adding a new paragraph (o) which reads as follows:

**§ 1952.174 Completed developmental steps.**

* * * * * * *

(o) Enforcement of standards pertaining to temporary labor camps was implemented in March 1977.

(Secs. 8(g)(2), 18, Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 657(g), 667).)

Signed at Washington, D.C. this 14th day of July 1977.

EULA BINGHAM,
*Assistant Secretary of Labor.*

[FR Doc.77-21130 Filed 7-21-77;8:45 am]

## Title 40—Protection of Environment

### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

### SUBCHAPTER C—AIR PROGRAMS

[FRL 761-1]

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

### Approval of Revisions to the Louisiana Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action approves a number of variances to emission limiting regulations of the Louisiana plan. The variances were adopted by the State of Louisiana to conform with schedules in EPA enforcement orders, which were designed to bring various sources into compliance with applicable regulations.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Oscar Cabra, Jr., Air Program Branch, Environmental Protection Agency, Region VI, Dallas, Texas 75270, 214-749-3837.

SUPPLEMENTARY INFORMATION: On April 22, 1976 Louisiana submitted to the Regional Administrator individual source compliance schedules as proposed revisions to the State implementation plan. These schedules were established by the State as variances to emission limiting regulations already in effect, and were adopted following the issuance of EPA enforcement orders which established dates for compliance by the affected sources.

The proposed variances were reviewed and were found to meet all procedural requirements for implementation plan revisions. Accordingly, a proposed approval of the variances was published in the FEDERAL REGISTER on April 1, 1977.

PUBLIC COMMENTS

Interested persons were given 30 days in which to submit comments for consideration by EPA in making a final approval/disapproval decision. No comments on the proposed approval were received. Therefore, there is no evidence or data which conflicts with a final approval decision.

CURRENT ACTION

In this action, approval of the variances to emission limiting regulations is being promulgated as proposed.

This notice of final rulemaking is issued under the authority of section 110 of the Clean Air Act, as amended, 42 U.S.C. 1857c-5.

Dated: July 18, 1977.

BARBARA BLUM,
*Acting Administrator.*

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

### Subpart T—Louisiana

1. In § 52.970, paragraph (c) is amended by adding a new subparagraph (7), reading as follows:

**§ 52.970 Identification of plan.**

* * * * * * *

(c) * * *

(7) Variances to Emission Limiting Regulations adopted by the Louisiana Air Control Commission on October 29, 1975, December 12, 1975, and April 6, 1976, and submitted by the Governor on April 22, 1976.

2. Section 52.980 is added as follows:

**§ 52.980 Compliance schedules.**

(a) The compliance schedules for the sources identified below are approved as revisions to the plan pursuant to §§ 51.6 and 51.15 of this chapter. All regulations cited are air pollution control regulations of the State and have immediately effective dates.

| Source, location | Regulation involved | Date schedule adopted | Final compliance date |
|---|---|---|---|
| **WEST MONROE** | | | |
| Olinkraft: | | | |
| (a) Wood waste boiler | 18.2, 23.4.1(4) | Apr. 6, 1976 | May 31, 1976. |
| (b) Recovery furnace No. 3 | 18.2, 23.4.1(1) | do | Mar. 20, 1977. |
| (c) Recovery furnace No. 1 | 23.4.1(1) | do | Mar. 21, 1977. |
| (d) Recovery furnace No. 2 | 23.4.1(1) | do | Do. |
| (e) Smelt tank vent No. 1 | 23.4.1(2) | do | Do. |
| (f) Smelt tank vent No. 2 | 23.4.1(2) | do | Do. |
| **BOGALUSA** | | | |
| Crown-Zellerbach: | | | |
| (a) Wood waste boiler 10-C | 18.2, 21.3 | Oct. 29, 1975 | July 1, 1976. |
| (b) Recovery furnace No. 19 | 18.2, 23.4.1(1) | do | Oct. 31, 1975. |
| (c) Smelt tank vent No. 19 | 23.4.1(2) | do | Sept. 29, 1975. |
| (d) Lime kiln | 23.4.1(3) | do | Sept. 15, 1975. |
| **BASTROP** | | | |
| International Paper (Bastrop mill): (a) Wood waste boiler | 21.3 | Dec. 12, 1975 | May 30, 1977. |



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| Source, location | Regulation involved | Date schedule adopted | Final compliance date |
|---|---|---|---|
| BASTROP | | | |
| International Paper (Louisana mill): | | | |
| (a) Recovery furnace No. 4 | 18.2, 23.4.1(1) | do | Jan. 31, 1978. |
| (b) Recovery furnace No. 5 | 18.2, 23.4.1(1) | do | July 15, 1976. |
| (c) Wood waste boiler | 18.2, 23.4.1(1) | do | Dec. 31, 1977. |
| SPRINGHILL | | | |
| International Paper (Springhill mill): | | | |
| (a) No. 2 power boiler | 18.2 | do | Feb. 15, 1976. |
| (b) No. 4 wood waste boiler | 18.2, 23.4.1(4) | do | Oct. 30, 1976. |
| (c) No. 1 wood waste boiler | 23.4.1(4) | do | Do. |
| (d) 6 power boilers | 21.3 | do | Dec. 31, 1976. |
| (e) Recovery furnace No. 1 | 23.4.1(1) | do | Feb. 15, 1976. |
| (f) Recovery furnace No. 2 | 23.4.1(1) | do | Do. |
| (g) Smelt tank vent No. 1 | 23.4.1(2) | do | Do. |
| (h) Smelt tank vent No. 2 | 23.4.1(2) | do | Do. |
| (i) No. 1 lime kiln | 23.4.1(3) | do | Jan. 15, 1977. |
| (j) No. 3 lime kiln | 23.4.1(3) | do | Do. |
| (k) Recovery furnace No. 3 | 23.4.1(1) | do | Dec. 22, 1975. |
| (l) Smelt tank vent No. 3 | 23.4.1(2) | do | Do. |

[FR Doc.77-21019 Filed 7-21-77;8:45 am]

[FRL 761-5]

## PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

### North Dakota Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves a revision to the North Dakota State Implementation Plan (SIP) submitted by the Governor of North Dakota on December 22, 1976, extending the final compliance date for the W. J. Neal Power Plant near Velva, North Dakota, to December 31, 1978. EPA is taking this action because the State has approved the extension and has demonstrated that no violations of the Federal Air Quality standards will occur.

EFFECTIVE DATE: Immediately upon promulgation.

FOR FURTHER INFORMATION CONTACT:

Louis W. Johnson, Chief, Planning and Operations Section, Air Programs Branch. U.S. Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, 303-837-3711.

SUPPLEMENTARY INFORMATION: On December 24, 1975 (40 FR 59439), pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved the compliance schedules for 24 sources covered by the North Dakota SIP.

On December 22, 1976, the Governor of North Dakota submitted a revision to the compliance schedule of one of these 24 sources, the Basin Electric William J. Neal Power Plant near Velva, North Dakota. EPA proposed to approve the North Dakota SIP revision on April 20, 1977 (42 FR 20480) and requested public comment. No comments were received.

The revision extends the final compliance date for the W. J. Neal Plant from November 1, 1975, to December 31, 1978. The final compliance date now extends beyond the attainment date for the national secondary ambient air quality standard for particulate matter. However, a demonstration was included in the revision that the secondary particulate standard is being maintained in the area affected by the power plant, and that no violations of any of the national ambient air quality standards will occur as a result of this action.

Requirements for public hearings, plan revisions, and compliance schedules (40 CFR 51.4, 51.6, and 51.5) have been met by the State's proposed revision. The demonstration that the area affected by the W. J. Neal Plant will continue to maintain the national ambient air quality standards has been reviewed and is consistent with EPA modeling techniques.

The Administrator finds that the North Dakota SIP revisions meet the substantive and procedural requirements of Section 110 of the Clean Air Act and 40 CFR Part 51. Therefore, the Administrator approves the North Dakota SIP revisions as set forth in this rulemaking.

This rulemaking will be effective immediately upon publication. The Agency finds that good cause exists for not deferring the effective date of this rulemaking because the regulations are already in effect under State law and Federal approval imposes no new burdens.

(Sec. 110, Clean Air Act, as amended (40 U.S.C. 1857c-5); sec. 301 as amended (42 U.S.C. 1857g).)

Dated: July 18, 1977.

BARBARA BLUM,
*Acting Administrator.*

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

### Subpart JJ—North Dakota

1. In § 52.1820, paragraph (c)(8) is added as follows:

**§ 52.1820 Identification of plan.**

* * * * *

(c) * * *

(8) A revised compliance schedule for the Basin Electric Power Plant at Velva submitted on December 22, 1976, by the Governor.

2. In § 52.1830, the fifth line of the table is revised as follows:





**§ 52.1830 Compliance schedules.**

| Source | Location | Regulation involved | Date of adoption | Effective date | Final compliance date |
|---|---|---|---|---|---|
| Basin elec | Velva | 23 to 25 | Dec. 13, 1976 | Dec. 13, 1976 | Dec. 31, 1978 |

[FR Doc.77-21023 Filed 7-21-77;8:45 am]

### Title 45—Public Welfare

### CHAPTER XVI—LEGAL SERVICES CORPORATION

## PART 1621—CLIENT GRIEVANCE PROCEDURE

AGENCY: Legal Services Corporation.

ACTION: Final regulation.

SUMMARY: This regulation establishes a client grievance procedure for legal services programs that receive financial assistance from the Legal Services Corporation. The procedure provides a remedy for a person who believes that he or she has been denied legal assistance improperly, or who is dissatisfied with assistance provided. The procedure will help to insure that legal services programs are accountable to those whom they are expected to serve.

EFFECTIVE DATE: August 24, 1977.

ADDRESSES: Legal Services Corporation, 733 15th Street NW., Suite 700, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT:

Linda Davis, 733 15th Street NW., Suite 700, Washington, D.C. 20005 (202-376-5113).

SUPPLEMENTARY INFORMATION: A proposed regulation establishing a client grievance procedure for adoption by legal services programs receiving funds from the Legal Services Corporation was published on January 26, 1977. Public comments were received and considered by the Corporation's Board of Directors, and on July 7, 1977 the Board approved the following final regulation.

A person who is denied legal assistance by a recipient, or who is dissatisfied with the assistance rendered, generally is unable to obtain legal assistance from another source. This lack of choice and the fact that the client does not pay a fee make it essential that adequate recourse be available when the client believes that the services provided by a recipient do not meet the high professional standards required by the Act. Further, the fact that a recipient carries on its activities with funds from a public source imposes an additional responsibility beyond those imposed on every lawyer by the Code of Professional Responsibility. An effective client grievance procedure is an appropriate means of insuring the accountability of a recipient to its clients, and maintaining a proper balance in the attorney-client relationship.

The regulation requires the governing body of a recipient to establish a grievance committee with authority to consider complaints that have not been resolved by staff action. A recipient that serves a very large geographic area, such as a statewide program, may establish separate local committees. A client is not, of course, required to submit her or his grievance to such a committee, and a decision to do so will not interfere with the right to complain to Bar committees or other bodies charged with overseeing the performance of attorneys.[1] The procedures contemplated by the regulation may, however, provide clients with a forum that is more sympathetic to them, and give programs an opportunity to correct improper practices without disruptive intervention by outside entities.

The Code of Professional Responsibility does not prevent a committee containing nonlawyers from inquiring into a lawyer's conduct of a case when the committee is acting at the request of the client. Ethical prohibitions against interference with the professional judgment of a lawyer are designed to insure that the lawyer will be directly responsible to the client, and not subject to interference or control by an intermediary. See ABA Formal Opinions 237 and 294. Inquiry by a grievance committee acting at the request of the client is consistent with these opinions.

The notice given to a person about the complaint procedure should also inform the client of the existence of a local group, such as the National Clients Council or the National Welfare Rights Organization, that may be able to counsel the client about the subject of the complaint.

The requirement in the proposed draft that a recipient provide assistance to a client in presenting a complaint has been omitted to avoid jeopardizing a recipient's malpractice insurance. Instead, Section 1621.3 requires a recipient to transcribe a brief statement made by a complainant, for inclusion in the file, if the complainant so desires.

Section 1621.4 was added in response to comments received on the proposed regulations. It authorizes a simplified procedure for handling complaints about eligibility determinations and similar decisions denying legal assistance, the number of which may make it unduly burdensome to follow the more detailed procedures. It is recognized that even these simplified procedures may not act quickly enough to provide relief where an applicant is facing an emergency.

Most offices, however, currently provide immediate review of eligibility determinations when an applicant protests. It is expected that such practices will continue. The further review contemplated by the regulation will enable applicants who have non-emergency problems to obtain service, and alert programs to problems in their intake process.

[1] The State Advisory Council is not the proper forum for complaints about the quality of assistance rendered, because its jurisdiction is limited to notifying the Corporation of any apparent violation of the prohibitions of the Act and Regulations. See Section 1004(f) of the Act and Section 1603.5 (a) of Corporation Regulations.

Secs.

1621.1 Purpose.
1621.2 Grievance Committee.
1621.3 Complaints about legal assistance.
1621.4 Complaints about denial of assistance.

AUTHORITY: Sec. 1006(b)(1), 41 U.S.C. 2996e(b)(1); sec. 1006(b)(3), 42 U.S.C. 2996e(b)(3); sec. 1007(a)(1), 42 U.S.C. 2996f(a)(1).

**§ 1621.1 Purpose.**

By providing an effective remedy for a person who believes that legal assistance has been denied improperly, or who is dissatisfied with the assistance provided, this Part seeks to insure that every recipient will be accountable to those it is expected to serve, and will provide the legal assistance required by the Act.

**§ 1621.2 Grievance Committee.**

The governing body of a recipient shall establish a grievance committee or committees, composed of lawyer and client members of the governing body in approximately the same proportion in which they are on the governing body.

**§ 1621.3 Complaints about legal assistance.**

(a) A recipient shall establish procedures for determining the validity of a complaint about the manner or quality of legal assistance that has been rendered.

(b) The procedures shall provide at least:

(1) Information to a client at the time of the initial visit about how to make a complaint, and

(2) Prompt consideration of each complaint by the director of the recipient, or the director's designee, and, if the director of the recipient is unable to resolve the matter,

(3) An opportunity for a complainant to submit an oral and written statement to a grievance committee established by the governing body. The complainant may be accompanied by another person. Upon request, the recipient shall transcribe a brief written statement, dictated by the complainant, for inclusion in the recipient's complaint file.

(c) A file containing every complaint and a statement of its disposition shall be preserved for examination by the Corporation. The file shall include any written statement submitted by the complainant.

**§ 1621.4 Complaints about denial of assistance.**

A recipient shall establish a simple procedure for review of a decision that a person is financially ineligible, or that



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assistance is prohibited by the Act or Corporation Regulations, or by priorities established by the recipient pursuant to Section 1620. The procedure shall include information about how to make a complaint, adequate notice, an opportunity to confer with the director of the recipient or the director's designee, and, to the extent practicable, with a representative of the governing body.

THOMAS EHRLICH,
*President,*
*Legal Services Corporation.*

[FR Doc.77-21052 Filed 7-21-77;8:45 am]

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**Title 50—Wildlife and Fisheries**

**CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR**

**SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE**

**PART 20—MIGRATORY BIRD HUNTING**

**Final Regulations Frameworks (Except Shooting Hours) for 1977–78 Early Hunting Seasons on Certain Migratory Game Birds in the Contiguous United States, Alaska, and Hawaii**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final frameworks that is the outer season limits, daily bag and possession limits and geographical areas (except shooting hours) for early season migratory bird hunting regulations from which States may select season dates and daily bag and posession limits for the 1977–78 season.

DATES: Effective on July 22, 1977. Season selections due from the States by July 27, 1977.

ADDRESS: Season selections from States to Director (FWS/MRMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

John P. Rogers, Chief, Office of Migratory Bird Management, Department of the Interior, Washington, D.C. 20240, telephone 202–343–8827.

SUPPLEMENTARY INFORMATION: On March 10, 1977, the U.S. Fish and Wildlife Service (hereinafter the Service) published for public comment in the FEDERAL REGISTER (42 FR 13311) proposals to amend 50 CFR Part 20, with a comment period ending May 18, 1977. That document dealt with minor modifications in § 20.11 of Subpart B, the addition of § 20.40 in Subpart D, and with establishment of seasons, limits and shooting hours for migratory game birds under §§ 20.101 through 20.107 of Subpart K. On May 25, 1977, the Service published for public comment in the FEDERAL REGISTER (42 FR 26669) a second document in the series consisting of supplemental proposed rulemaking dealing specifically with a number of supplemental or modified proposals and clarification or correction of minor portions of the earlier document. On July 5, 1977, the Service published in the FEDERAL REGISTER (42 FR 34305) a third document in the series consisting of final rulemaking dealing specifically with final frameworks from which wildlife conservation agency officials in Puerto Rico and the Virgin Islands could select season dates for hunting certain migratory birds in Puerto Rico and the Virgin Islands during the 1977–78 season. On July 5, 1977, the Service also published for public comment in the FEDERAL REGISTER (42 FR 34342) a fourth document in the series consisting of supplemental proposed rulemaking dealing specifically with proposed frameworks for early season migratory bird hunting regulations from which, when finalized, States could select season dates and daily bag and possession limits for the 1977–78 season, and clarification of the Pacific Flyway boundary description as it relates to New Mexico. The present final rulemaking is the fifth in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with final frameworks (except shooting hours) for early season migratory game bird hunting regulations from which State wildlife conservation agency officials may select season dates and daily bag and possession limits for the 1977–78 season.

A public hearing was held in Washington, D.C., on June 21, 1977, as announced in the FEDERAL REGISTER on May 25, 1977 (42 FR 26709), and proposed early season migratory game bird hunting regulations were discussed. The public was invited to participate in the hearing and/or submit written statements.

REVIEW OF PUBLIC COMMENTS AND THE SERVICE RESPONSE TO SAME

A total of 156 written comments about initial and supplemental proposed rulemaking regarding early season migratory game bird regulations for the 1977–78 hunting season had been received as of July 15, 1977. These proposals were published in the FEDERAL REGISTER on March 10 (42 FR 13311), May 25 (42 FR 26669), and July 5, 1977 (42 FR 34342). In many instances it was not possible to categorize the comments by early seasons (hunting seasons beginning prior to October 1, 1977) or late seasons (hunting seasons commencing on or after October 1, 1977) proposals. Of the 156 comments, 100 (including 3 routed through Members of Congress) were from individuals, 30 were from organizations, and 7 were from water-fowl flyway councils or migratory game bird technical committees.

In addition, 13 verbal comments, some supported by prepared statements, were received during the early season public hearing held on June 21, 1977, to review population status information and proposed regulations, and to receive public comments. These statements were made on behalf of 8 organizations, 3 State conservation agencies, and 3 waterfowl councils and migratory bird technical committees. In some instances, more than one statement was made per organization. Sometimes one joint statement was made on behalf of several organizations. Many of those submitting or presenting statements at the public hearing had commented in writing previously.

The service intends that the public comments relating to proposed early season migratory game bird hunting regulations be summarized, evaluated and considered prior to the adoption of final regulations. The following information is confined to that portion of the 156 comments received by July 15, 1977, which clearly relate to proposed hunting regulations for early seasons. In addition, all comments regarding shooting hours are included even though most of them clearly refer to waterfowl shooting hours because the same general shooting hours are being considered for both early and late seasons. Comments, either in favor of or in opposition to the Service's proposal, are categorized according to the Service's latest proposals. Some comments to the March 10, 1977, FEDERAL REGISTER were in opposition to the Service's proposals. In a few instances, the Service modified its proposals to such an extent that the initial adverse comments, in effect, became comments favoring the Service's latest proposals. An example is the proposal that hunting seasons for lesser sandhill cranes in portions of North Dakota and South Dakota be held in early September. Originally, the Service had proposed that the crane season be held in November, as in past years. Written comments opposing the November season proposal usually recommended a substitute season in September. Also, it should be noted that within the summary of written comments are 6 from State conservation agencies which expressed support of all Service proposals but which did not offer item-by-item comment.

The subject matter commented upon and responded to follows the same sequence and numbering as it appeared in the FEDERAL REGISTER of March 10, 1977.

1. *Shooting hours.* Those favoring retention of the usual one-half hour before sunrise to sunset shooting hours for migratory game birds including 13 individuals, 11 State conservation agencies, 2 organizations, and 2 flyway councils or technical committees. Those opposing these hours included 8 individuals, 2 organizations, and 1 State conservation agency. Another individual took no position but offered some observations on avian behavior. Of the opposing written comments, 7 individuals expressed opposition to hunting commencing one-half hour before sunrise. Of these, 4 recommended shooting hours commencing at sunrise while 3 urged that shooting be delayed until one-half hour after sunrise. Five individuals recommended that consideration be given to extending shooting hours to one-half hour after sunset. Of two dissenting organizations, one urged that shooting hours be confined to one-half hour after sunrise to sunset and the other urged modification of shooting hours to one-half hour after sunrise to





one-half hour before sunset. Opposition to the proposed shooting hours centers on species identification by hunters. Those opposing the proposed hours believe that hunters are unable to properly identify allowed species, particularly ducks, during early morning and evening. This, they allege, exposes protected and endangered species to risk of being mistakenly shot.

It should be noted that Defenders of Wildlife brought suit against the Secretary of the Interior et al. in U.S. District Court, Washington, District of Columbia, (Civil Action No. 76–1443) on August 3, 1976, regarding migratory game bird shooting hours starting one-half hour before sunrise and ending at sunset. Defender's main argument was that such hours did not enable hunters to distinguish between protected and endangered species and nonprotected species, thus jeopardizing those for which protection was desired. By the time that the U.S. District Court had rendered its declaration and order, the last of the 1976–77 hunting seasons had terminated, making the issue moot insofar as those regulations were concerned. Nonetheless, Judge Gerhard A. Gesell declared that the 1976–77 shooting hours were, "arbitrary and unlawful for failure to weigh the impact of such hours on protected species." Judge Gesell thereupon instructed the Service to "proceed with the current shooting hour rulemaking proceedings to identify and consider the impact of such hours on protected species."

In the 1977–78 regulatory cycle, the Service set forth its rationale for its proposed shooting hours in the March 10 FEDERAL REGISTER (42 FR 13311) before Judge Gesell's declaration was rendered. It subsequently completed a draft environmental assessment of shooting hours and announced the availability of the assessment in the FEDERAL REGISTER dated July 15, 1977 (42 FR 36495). The Service actively solicited comments on the draft assessment and hand-carried copies of the assessment to the plaintiffs in last year's lawsuit and other environmental groups. In preparing the environmental assessment, the Service analyzed information from waterfowl hunter observation surveys, wing collection survey receipts, and other sources. In conjunction with the preparation of the environmental assessment, a biological opinion was issued as a result of section 7 consultation under the Endangered Species Act of 1973. This opinion resulted from over 500 man hours of consultation conducted between the Office of Endangered Species and the Office of Migratory Bird Management on the impact of migratory game bird hunting on endangered and threatened species. A final environmental assessment will be prepared following a review and consideration of comments made on the draft assessment.

In order to comply with the procedural requirements of the National Environmental Policy Act and Judge Gesell's order, the Service will delay publishing final frameworks for shooting hours relating to the early season regulations until the comment period on the Assessment closes on July 25, 1977. The Service will then publish a separate final rulemaking for shooting hours frameworks for the early seasons, based upon the present information in the administrative record and any comments that are received on the draft assessment. State conservation agencies are advised, therefore, that the present final rulemaking contains final frameworks on all aspects of the early seasons for migratory game bird hunting except shooting hours which will be covered in a subsequent final rulemaking.

5. *Sea ducks.* Six comments, 5 from State conservation agencies and 1 from the Atlantic Flyway Council, favored retention of special seasons for sea ducks (scoters, eiders, and oldsquaws). The dissenting view was from a representative from Wildlife Preserves, Inc., who stated that such special seasons should be eliminated to simplify the regulations. The Service is of the view that such action would significantly reduce the opportunity to hunt sea ducks and that this is unnecessary from a management viewpoint.

6. *September teal season.* Eleven comments, originating from 8 State conservation agencies, 2 flyway councils or migratory bird technical committees, and 1 organization, favored retention of this special season. One individual suggested that the season length be extended to 20 days. The representative from Wildlife Preserves, Inc., opposed special seasons for certain species as a means of simplifying regulations. The Service's position and response is given under item 5.

16. *Migratory game bird seasons in Alaska.* Eight individuals and 6 State conservation agencies indicated support for the proposed Alaska migratory bird hunting regulations. No opposition to the proposal has been expressed. The representative from the Alaska Department of Fish and Game requested favorable consideration of the proposed migratory game bird regulations at the June 21 public hearing. Consequently, the Service intends to implement the proposed regulations.

17. *Migratory game bird seasons for falconers.* Eight individuals, chiefly falconers, expressed support for the proposal along with 13 State conservation agencies. The Tucson Audubon Society opposed the proposal for fear that the special regulations would set a precedent for other special interest groups. The Service believes that management options should be decided upon their own merits. The Service believes that this provision will have negligible impact upon the prey species and will afford some additional recreational opportunity to falconers.

18. *Lesser sandhill (little brown) cranes.* Six State conservation agencies, 1 individual, and 1 organization indicated support of the supplemental proposal to allow North Dakota and South Dakota to select sandhill crane seasons in early September rather than in November, as in the past. The Central Flyway Council supported the new September season but asked that hunting also be permitted during the November 12–30 period. The Service believes that the November period would allow little additional hunting opportunity as relatively few cranes would normally be present. A representative from the National Audubon Society expressed concern that an 11-day season in North Dakota and South Dakota might result in an excessive sandhill crane harvest. The Service subsequently modified its proposal to allow 5 consecutive days of hunting in the two States, during the period September 1 through 11 (42 FR 34342; July 5, 1977).

22. *Common (Wilson's) snipe.* Nine States and the Central Flyway Council concurred with the proposal that no changes be made in hunting regulations for this species. No dissenting opinions were expressed.

23. *Woodcock.* Six State conservation agencies and the Central Flyway Council concurred with the proposed woodcock hunting regulations. Four other State conservation agencies and two migratory bird technical committees endorsed the proposal that New Jersey be allowed to undertake experimental zoning of the State into North and South Zones for the purpose of setting woodcock hunting seasons. Representatives from the New Jersey Division of Fish, Game, and Shellfisheries presented testimony at the June 21 public hearing in support of experimental zoning in that State for woodcock seasons. No opposition to the proposal was expressed. The Service is of the view that a test of zoning in New Jersey, with provisions for guarding against an undesirable increase in harvest would provide useful information applicable to future management of woodcock hunting. One individual suggested that the woodcock season in North Carolina be lengthened so that it would coincide with the snipe season. The Service is of the view that the proposed 65-day season affords ample woodcock hunting opportunity and that further regulatory relaxations are unwarranted at this time.

24. *Band-tailed pigeons.* Three State conservation agencies endorsed the proposed regulations. Another State generally endorsed the proposals for this species but suggested that the season framework be extended from January 15 to January 20. No rationale or data accompanied the request. The Central Flyway Council urged deletion of the usual provision that States issue hunting permits for the Interior Population, which is found in Arizona, Colorado, New Mexico, and Utah. Two States concurred with the proposal that the hunting permit requirement be retained. The Service is of the opinion that the permit requirement should be retained for the present because it provides useful information on band-tailed pigeon hunting.

25. *Mourning doves.* A number of comments were received with respect to proposed hunting regulations for this species. Ten States, 1 individual, 1 flyway council and 1 organization supported the



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regulations being proposed. Opposition to the proposals, mainly in regard to hunting in September was expressed by 5 individuals and 2 organizations. Two individuals recommended opening dove hunting seasons before September 1, a measure prohibited by the Migratory Bird Treaty Act. One individual urged that consideration be given to half-day hunting because of locally reduced populations, allegedly from severe winter weather. Another individual expressed total opposition to dove hunting.

In addition to written comments, 7 organizations, 2 flyway councils or technical committees, and 1 State submitted statements at the June 21 public hearing in support of the regulatory proposals. The eight organizations which opposed the early season mourning dove hunting were the Animal Welfare Institute, Committee for Dove Protection, Defenders of Wildlife, Desert Protective Council, Inc., Fund for Animals, Fund for Animal Welfare, The Humane Society of the United States and Let-Live. In some instances, the views of several organizations represented were conveyed in a joint statement. The statements, sometimes detailed and documented with references to past dove studies, opposed the continuation of early autumn dove hunting on biological, legal, and moral grounds. The views of these organizations are generally represented within two statements selected from among the group of comments presented.

The first is the statement from Let-Live and a number of affiliated organizations. The representative for Project Monitor stated that the mourning dove population is declining; the demand for hunting is increasing; evidence of glandular crop activity has been noted in hunter-killed adults; the length of time for young to become independent of their parents has not been fully investigated; mourning dove nesting occurs in September and October; young doves are fed by their parents during a period varying from 8 to 16 days; the age at which both nestlings could successfully be reared by one parent is not well documented; and that hunting activities often coincide with the nesting period.

Other representative views were conveyed in a letter submitted by members of The Humane Society of the United States, dated May 18, 1977, part of which is quoted below:

> This letter constitutes the comments of The Humane Society of the United States ("HSUS") on the "Proposed 1977–78 Migratory Game Bird Hunting Regulations (preliminary)" published on March 10, 1977, in FR Doc. 77–6969 (42 FR 13311, et seq.) pursuant to the authority of the Migratory Bird Treaty Act.
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> HSUS challenges the propriety of the Fish and Wildlife Service's longstanding policy, which is confirmed by the 1977–78 proposed regulations, of allowing the hunting of mourning doves during September when a certain percentage of the nationwide dove population is still nesting. The hunting of the nesting segment of the adult dove population results in a secondary impact upon the overall population since, when adults are shot, nestlings starve and die without parental feeding and care, leaving aside for the moment the question of the exact extent of this impact.
>
> Our concern relates, first, to the quantitative issue of the possible numerical depression of the species resulting from such nestling mortality, and second, to the undesirability from the point of view of humaneness and sound wildlife management of deliberately setting a policy which promotes any nesting mortality, regardless of the number of birds involved, especially when feasible alternatives are apparently available.
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> HSUS is familiar with FWS' allegations on this matter, to wit, that the number of doves nesting in September is insignificant, that nesting doves are exposed to less hunting pressure than non-nesting doves which tend to congregate in flocks, and that nestling mortality does not necessarily result from an adult being shot because a single adult is frequently capable of rearing young to the fledgling state.
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> * * * Regardless of the statistical extent of nestling mortality, any such mortality resulting from September hunting is totally unnecessary in the Deep South and Border States. FWS could eliminate it with the stroke of a pen simply by shifting the opening of the mourning dove season in the South to October 1, and adding a commensurate 2–3 weeks onto the end of the season in January. (The Service's apparent rationale for not delaying the opening of the dove season in the Northern States, namely that most doves have migrated out of the North by September 15th, simply does not apply to the South.) The proposed regulations offer several Southern States an option of a season starting on September 20th, which would indicate that no significant adverse impact on hunting opportunities could result from a season commencing on October 1. There is no indication that FWS ever has considered this alternative for the Southern States.
>
> Furthermore, FWS' reliance upon statistics which shew that the mourning dove as a species cannot be depleted by nestling mortality in September is misplaced. Nestling mortality is a distasteful, cruel and barbaric result not intended or contemplated by the Migratory Bird Treaty Act in granting the Secretary of the Interior discretion to allow the taking of birds by public hunting. The Act's direction to the Secretary to take a species' breeding habits into account in determining rules governing the taking of migratory birds was not intended to insure maintenance of an overall species population level—other factors mentioned by the Act have that purpose (specifically, distribution and abundance)—but rather to incorporate into the Act the oft invoked ethic of sport hunting which proscribes the death of immature members of a species, or members of a species which are caring for young. Moreover, the absolute numbers of birds involved are not at all insignificant; only the percentages seem to be. When the 7% figure, which FWS asserts as an estimate of the amount of September nesting occurring, is applied to the nationwide estimated total population of 500 million mourning doves (FWS, "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds," p. 203, June 1975), the number of nesting birds and young which may be at stake is significant, to wit, 35–70 million, even when mitigating circumstances such as the frequent ability of a single adult to rear nestlings are taken into account.[1]
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> It is inexcusable for FWS to sanction a hunting policy which causes, directly or indirectly, any such nestling mortality. The numbers of immature doves exposed to the hazards of September hunting run in the several millions, even as a conservative estimate. FWS could appreciably reduce this risk immediately by requiring the Southern States to begin their mourning dove season no sooner than October 1st, and should so amend the proposed regulations.

[1] A footnote by HSUS has been omitted by the Service.

It should be noted that the Service commented in detail on the rationale for allowing dove hunting in September in the FEDERAL REGISTER on March 10, 1977 (42 FR 13319), May 25, 1977 (42 FR 26669), and on July 5, 1977 (42 FR 34342) advised that an environmental assessment on the subject was in preparation. On July 18, 1977, the Director signed a negative declaration on the early dove hunting season environmental assessment, concluding that the decision to retain such seasons does not constitute a major federal action which could significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. This assessment includes an evaluation and summary of all pertinent data and studies and is available to the public. This document addresses the specific points raised by opponents to the proposed regulations and other considerations. This assessment may be viewed at or obtained by telephone or mail from the Office of Migratory Bird Management at the address stated earlier in this document.

26. *White-winged doves.* All but one comment on this species were in support of the proposed regulations for this species. Seven States supported the proposals in their entirety. One State favored the proposals but recommended that the season framework be extended from January 15 to January 20. No rationale or data were provided to support the request. One individual urged that the season be closed in Texas because of excessive harvests in Mexico. This allegation cannot be verified because of the absence of harvest data from Mexico. A representative of the Texas Parks and Wildlife Department presented information on the status of white-winged doves in Texas at the June 21 public hearing, and recommended that 5 days of hunting be allowed in areas where the species occurs. The Service announced its intention to accept this recommendation (42 FR 34342; July 5, 1977).

27. *Hawaii Mourning Doves.* No comments were received regarding the mourning dove hunting season proposed for Hawaii.

28. *Migratory game birds in Puerto Rico and doves and pigeons in the Virgin Islands.* One comment was received from the Puerto Rico Department of Natural Resources after the final regulatory frameworks had been submitted to the FEDERAL REGISTER. The letter indicated support for hunting seasons opening no earlier than September 1 for doves and pigeons. The comment contained biological data indicating that an earlier season would be unwise, even if it were possible under treaty obligations. The migratory game bird hunting regulations frameworks for Puerto Rico were finalized in the FEDERAL REGISTER on July 5, 1977 (42 FR 34305).





Comments on the Service's regulations proposals are available for public inspection during normal business hours at the Service's Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 2243, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

### STEEL SHOT REGULATIONS

Non-toxic shot requirements in some areas apply to waterfowl regulations frameworks being finalized here. On April 28, 1977, the Service published in the FEDERAL REGISTER (42 FR 21614) final regulations regarding areas in the Atlantic and Mississippi Flyways in which shotshells loaded with steel shot will be required for waterfowl hunting in seasons commencing in 1977. Subsequently, the Service proposed in the FEDERAL REGISTER (42 FR 33354; June 30, 1977) that these requirements would apply only to 12 gauge shotshells. These requirements, as initially proposed or as modified, will be finalized before the early season regulations become effective. The intended effect of establishing these steel shot regulations is to reduce the number of deaths of waterfowl caused by ingesting spent lead pellets. The regulations appear under 50 CFR 20.21 and 20.108, and will also be summarized in the Service's regulations leaflets to be published late this summer.

### ENVIRONMENTAL REVIEW

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES–75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the FEDERAL REGISTER on June 13, 1975 (40 FR 24241).

### COMPLIANCE WITH SECTION 7 OF THE ENDANGERED SPECIES ACT OF 1973

Section 7 of this act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act," and "by taking such action necessary to insure that actions authorized, funded, or carried out * * * do not jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species * * * which is determined to be critical." Consequently, the Service reviewed all migratory bird regulations being contemplated for early seasons in the United States this year and concluded in a biological opinion that none of the proposals, including shooting hours, if implemented, would result in jeopardizing the continued existence of any species designated as endangered or threatened under the act, or adversely modify their critical habitat or habitats that may be determined as critical in the future. This opinion resulted from over 500 man hours of consultation conducted between the Office of Endangered Species and the Office of Migratory Bird Management. Likewise, the biological opinion concluded that the proposed regulations are not contrary to, and do not undermine, the Service's obligation to conserve endangered or threatened species. The proposed early season frameworks were evaluated as to possible impacts upon a number of endangered species, including the Aleution Canada goose (*Branta canadensis leucopareia*), Mexican duck (*Anas diazi*), whooping crane (*Grus americana*), bald eagle (*Haliaeetus leucocephalus*), peregrine falcon (*Falco peregrinus*), and the Everglade kite (*Rostrhamus sociabilis plumbeus*). As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species. An example of such consideration is the closure of a specific area in Alaska to all Canada goose hunting for the protection of the Aleutian Canada goose.

The Service's biological opinion resulting from its consultation under section 7 is considered a public document and is available for public inspection in the Office of Endangered Species and the Office of Migratory Bird Management, Department of the Interior.

### REGULATIONS PROMULGATION

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rulemakings were published on March 10, May 25, and July 5, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the States would have insufficient time to select their season dates, and bag limits; to communicate those selections to the Service, and finally to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

Accordingly, the Service prescribes the final frameworks setting forth the species to be hunted, daily bag and possession limits, season lengths, the earliest opening and latest closing season dates, and special closures from which State conservation agency officials may select open season dates. Upon receipt of season selections from State officials, consideration of comments arising from reviews of the shooting hours environmental assessment and the publication of a final supplemental framework for shooting hours, the Service will publish in the FEDERAL REGISTER final rulemaking amending certain sections of Subpart K of 50 CFR Part 20 to reflect seasons, limits and shooting hours for the contiguous United States, Alaska, and Hawaii for the 1977–78 season.

### FINAL REGULATIONS FRAMEWORKS (EXCEPT SHOOTING HOURS) FOR 1977–78 EARLY HUNTING SEASONS ON CERTAIN MIGRATORY GAME BIRDS

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved final frameworks which prescribe season lengths, limits, and outside dates within which States may select seasons for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; for September teal seasons; for sea ducks in certain defined areas of the Atlantic Flyway; sandhill cranes in designated portions of North Dakota and South Dakota; and for waterfowl, coots, snipe, and sandhill cranes in Alaska. For the guidance of State conservation agencies, these frameworks are summarized below. Shooting hours will be finalized at a later date, following consideration of comments on the environmental assessment on shooting hours.

NOTE.—Any State desiring its season on gallinules, woodcock, snipe, or cranes to open in September must make its selection no later than July 27, 1977. Those States which desire their gallinule, woodcock, snipe or crane season to open after September may make their selection at the time they select their regular waterfowl season.

Those Atlantic Flyway coastal States desiring their seasons on sea ducks in certain defined areas to open in September must make their selections no later than July 27, 1977. Those Atlantic Flyway coastal States which desire their seasons on sea ducks in certain defined areas to open after September may make their selections at the time they select their regular waterfowl seasons.

### MOURNING DOVES

Between September 1, 1977, and January 15, 1978, except as noted, States may select hunting seasons and bag limits as follows:

*Eastern Management Unit:* (All States east of the Mississippi River and Louisiana).

1. Shooting hours[2] (to be finalized later);

2. Daily bag and possession limits not to exceed 12 and 24, respectively, in all States;

3. Hunting seasons of not more than 70 half-days which may run consecutively or be split into not more than three periods.

4. As an option to the above, Alabama, Georgia, Louisiana, and Mississippi may elect to zone their States as follows:

A. Two zones per State having the following descriptions or division lines:

*Alabama.*—The South Zone consists

[2] The hours to be finalized later will also apply to hawking (taking by falconry).



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of the area south of U.S. Highway 84 running east to the Covington County line, and including Coffee, Covington, Dale, Geneva, Henry, and Houston Counties. The North Zone consists of the remainder of Alabama.

*Georgia.*—U.S. Highway 280 east to Abbeville, thence along Ocmulgee and Altamaha Rivers to the Atlantic Ocean.

*Louisiana.*—Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell, and Interstate Highway 10 from Slidell to the Mississippi State line.

*Mississippi.*—State Highway 12 from Arkansas State line to Kosciusko, and State Highway 14 from Kosciusko to the Alabama State line.

B. Within each zone, these States may select hunting seasons of not more than 70 half-days which may run consecutively or be split into not more than three periods.

C. The hunting seasons in the South Zones of these States may commence no earlier than September 20, 1977.

*Central Management Unit:* (Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming).

1. Shooting hours (to be finalized later);

2. Daily bag and possession limits not to exceed 10 and 20, respectively, in all States;

3. Hunting seasons in all States of not more than 60 full days which may run consecutively or be split into not more than three periods.

4. *Texas* may select hunting seasons for each of two previously established zones subject to the following conditions:

A. The hunting season may be split into not more than two periods.

B. The North Zone may have a season of not more than 60 days between September 1, 1977, and January 22, 1978.

C. The South Zone may have a season of not more than 60 days between September 20, 1977, and January 22, 1978. In that portion of Texas where white-winged dove hunting is allowed, the mourning dove season may be held concurrently with the white-winged dove season and with shooting hours coinciding with those for white-winged doves. However, the remainder of the season (60 days less the number of days of the white-winged dove season) must be within the September 20, 1977–January 22, 1978, period.

5. In New Mexico, daily bag and possession limits of mourning and white-winged doves may not exceed 10 and 20, singly or in the aggregate of the two species.

*Western Management Unit:* (Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington).

1. Shooting hours (to be finalized later);

2. Daily bag and possession limits not to exceed 10 and 20, respectively.

3. Hunting seasons of not more than 50 full days which may run consecutively or be split into not more than three periods.

In the Nevada Counties of Clark and Nye, and in the California Counties of Imperial, Riverside, and San Bernardino, daily bag and possession limits of mourning and white-winged doves may not exceed 10 and 20, respectively, singly or in the aggregate of the two species.

### White-Winged Doves

*Arizona, California, Nevada, New Mexico,* and *Texas* may select hunting seasons between September 1, 1977, and December 31, 1977, and daily bag and possession limits as stipulated below. Shooting hours (to be finalized later).

*Arizona* may select a hunting season for the entire State of not more than 25 consecutive days, to run concurrently with the first period of the split mourning dove season. The daily bag and possession limits may not exceed 10 white-winged doves.

*California* may select a hunting season for the Counties of Imperial, Riverside, and San Bernardino only. The daily bag and possession limits may not exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

*Nevada* may select a hunting season for the Counties of Clark and Nye only. The daily bag and possession limits may not exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

*New Mexico* may select a hunting season with daily bag and possession limits not to exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

*Texas* may select a hunting season of not more than 5 days for that portion of the State where the species occurs. The daily bag and possession limits may not exceed 10 and 20 white-winged doves, respectively. The season may be split within the overall time frame.

### Band-Tailed Pigeons

*West Coast States* (California, Oregon, and Washington).

These States may select hunting seasons not to exceed 30 consecutive days between September 1, 1977, and January 15, 1978. Shooting hours (to be finalized later). The daily bag and possession limits may not exceed 8 band-tailed pigeons.

*California* may zone by selecting hunting seasons of 30 consecutive days for each of the following two zones:

1. In the Counties of Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity; and

2. The remainder of the State.

*Four-Corners States* (Arizona, Colorado, New Mexico, and Utah)

These States may select hunting seasons not to exceed 30 consecutive days between September 1 and November 30, 1977. Shooting hours (to be finalized later). The daily bag and possession limits may not exceed 5 and 10, respectively. These seasons shall be open only in the areas delineated by the respective States in their hunting regulations.

*Provided,* That each hunter must have been issued and carry on his person while hunting band-tailed pigeons a valid band-tailed pigeon hunting permit issued by the respective State conservation agency, and such permit will be valid in that State only: *And provided further,* That this season shall be open only in the areas delineated by the respective States in their hunting regulations.

*New Mexico* may divide its State into two zones, along a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and along Interstate Highway 25 from Socorro to the Texas State line. Between September 1, 1977, and November 30, 1977, in the North Zone, and October 1, 1977, and November 30 1977, in the South Zone, hunting seasons not to exceed 20 consecutive days in each zone may be selected by New Mexico.

### Rails

(Clapper, King, Sora, and Virginia)

The States included herein may select seasons between September 1, 1977, and January 20, 1978, on clapper, king, sora, and Virginia rails as follows:

The season length for all species of rails may not exceed 70 days.

Shooting hours between (to be finalized later).

*Clapper and King Rails*

1. In Rhode Island, Connecticut, New Jersey, Delaware, and Maryland, the daily bag and possession limits may not exceed 10 and 20 clapper and king rails, respectively, singly or in the aggregate of these two species.

2. In Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina and Virginia, the daily bag and possession limits may not exceed 15 and 30 clapper and king rails, respectively, singly or in the aggregate of the two species.

3. The season will remain closed on clapper and king rails in all other States.

*Sora and Virginia Rails*

In addition to the prescribed limits for clapper and king rails, daily bag and possession limits not exceeding 25, singly or in the aggregate of sora and Virginia rails, are prescribed in States in the Atlantic, Mississippi, and Central Flyways.[3]

[3] The Central Flyway is defined as follows: Colorado and Wyoming (east of the Continental Divide), Kansas, Montana (east of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nebraska, New Mexico, (east of the Continental Divide and outside the Jicarilla Apache Indian Reservation).





No hunting season is prescribed for rails in the Pacific Flyway.[4]

### Woodcock

States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1977, and February 28, 1978, of not more than 65 days, with daily bag and possession limits of 5 and 10, respectively, *Provided,* That in the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia the season must end by January 31. Shooting hours (to be finalized later). Any State may split its woodcock season without penalty. An option to allow New Jersey to experimentally set woodcock seasons by north and south zones, divided by State Highway 70, is provided. Seasons in each zone may not exceed 55 days.

### Common (Wilson's) Snipe

States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1977, and February 28, 1978, not to exceed 107 days, except that in the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia the season must end no later than January 31. Seasons between September 1, 1977, and February 28, 1978, and not to exceed 93 days, may be selected in the Pacific Flyway portions of Montana, Wyoming, Colorado and New Mexico.

All States in the Pacific Flyway, except those portions of Colorado, Montana, New Mexico, and Wyoming in the Pacific Flyway, must select their snipe seasons to run concurrently with their regular duck seasons. In these Pacific Flyway States, except portions of the four States noted previously, it will be unlawful to take snipe when it is unlawful to take ducks.

Shooting hours (to be finalized later). Daily bag and possession limits may not exceed 8 and 16, respectively. Any State may split its snipe season without penalty.

States or portions thereof in the three eastern Flyways may defer selections of snipe seasons at this time and make the selections in August when they select waterfowl seasons. In that event, the daily bag and possession limits will remain the same but shooting hours must conform with those for waterfowl.

### Lesser Sandhill (Little Brown) Cranes

North Dakota and South Dakota may select sandhill crane seasons not to exceed 5 consecutive days during the period September 1 through 11, 1977, in certain designated areas.

In North Dakota, the season is confined to Kidder, Stutsman, Benson, Emmons, Pierce, McLean, Sheridan, and Burleigh Counties. In South Dakota the season is confined to Campbell, Walworth, Potter, Dewey, and Corson Counties. Shooting hours (to be finalized later). In both States, the bag limit is 3 birds daily and the possession limit is 6 birds. Each person participating in the season must obtain and carry in his possession while hunting a Federal lesser sandhill crane hunting permit.

### Gallinules

States in the Atlantic, Mississippi and Central Flyways may select hunting seasons between September 1, 1977, and January 20, 1978, of not more than 70 days. States in the Pacific Flyway must select their hunting seasons within the waterfowl seasons. States may split their seasons without penalty. Shooting hours (to be finalized later). The daily bag and possession limits may not not exceed 15 and 30, respectively.

States may select their gallinule seasons at the time they select their waterfowl seasons. If the selection is deferred, daily bag and possession limits will remain the same, but shooting hours must conform with those for waterfowl, and the season length will be the same as that for waterfowl, or 70 days, whichever is the shorter period. *Exception:* A gallinule season selected by any State in the Pacific Flyway may not exceed its waterfowl season, and the daily bag and possession limits may not exceed 25 coots and gallinules, singly or in the aggregate of the two species.

### Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)

A maximum season of 107 days for taking scoter, eider, and oldsquaw ducks is prescribed during the period between September 18, 1977, and January 20, 1978, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut; in those coastal waters of the State of New York lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the town of Riverhead to Red Cedar Point in the town of Southampton, including any ocean waters of New York lying south of Long Island; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in the States of New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in the States of Delaware, Maryland, North Carolina, and Virginia: *Provided,* That any such areas have been described, delineated, and designated as special seaduck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

The daily bag limit is 7 and the possession limit is 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily limit of 7 and a possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

Shooting hours (to be finalized later).

Any State desiring its sea duck season to open in September must make its selection no later than July 27, 1977. Those States desiring their sea duck season to open after September may make their selection at the time they select their waterfowl season.

In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season, or special falconry season) exceed 107 days for any geographical area.

### September Teal Season

Between September 1 and September 30, 1977, an open season on all species of teal may be selected by the States of Alabama, Arkansas, Colorado (Central Flyway portion only), Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, (Central Flyway portion only), Ohio, Oklahoma, Tennessee, and Texas in areas delineated by State regulations.

Shooting hours (to be finalized later). The season may not exceed 9 consecutive days with a bag limit of 4 teal daily and 8 in possession. States must advise the Service of season dates and special provisions to protect non-target species by July 27, 1977.

In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season, or falconry season) exceeed 107 days for any geographical area.

### Migratory Game Bird Seasons in Alaska

Between September 1, 1977, and January 26, 1978, Alaska may select seasons on waterfowl, coots, snipe, and cranes, subject to the following limitations:

1. Shooting hours (to be finalized later).

2. *Season lengths:* A. In the Pribilof and Aleutian Islands, except Unimak Island, an open season of 107 consecutive days for ducks, geese, brant, and coots. In the Kodiak (State game management unit 8) area, an open season of 107 days for ducks, geese, brant, and coots and the season may be split without penalty.

B. Exception: the season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain.

C. In the remainder of Alaska including Unimak Island, an open season of

[4] The Pacific Flyway is defined as follows: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; those portions of Colorado and Wyoming lying west of the Continental Divide; New Mexico west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation; and in Montana, the counties of Hill, Chouteau, Cascade, Meagher, and Park, and all counties west thereof.



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107 consecutive days for ducks, geese, brant, and coots.

D. An open season for snipe concurrent with the duck season.

E. An open season for lesser sandhill (little brown) cranes concurrent with the duck season.

3. *Bag and Possession Limits:* A. *Ducks.*—Except as noted, a basic daily bag limit of 7 and a possession limit of 21 ducks. Daily bag and possession limits in the North Zone are 10 and 30, and in the Gulf Coast Zone they are 8 and 24, respectively. In addition to the basic limit, there is a daily bag limit of 15 and a possession limit of 30 scoter, eider, oldsquaw, harlequin, and American and red-breasted mergansers, singly or in the aggregate of these species.

B. *Geese.*—A basic daily bag limit of 6 and a possession limit of 12, of which not more than 4 daily and 8 in possession may be white-fronted or Canada geese, singly or in the aggregate of these species. In addition to the basic limit, there is a daily bag limit of 6 and a possession limit of 12 Emperor geese.

C. *Brant.*—A daily bag limit of 4 and a possession limit of 8.

D. *Coots.*—A daily bag and possession limit of 15.

E. *Snipe.*—A daily bag limit of 8 and a possession limit of 16.

F. *Lesser sandhill (little brown) cranes.*—A daily bag limit of 2 and a possession limit of 4.

SPECIAL FALCONRY REGULATIONS

Any State that provides special falconry hunting seasons may select extended seasons for taking certain migratory game birds in accordance with the following provisions:

1. Seasons must fall within the framework dates provided for selecting regular hunting seasons for the various groups of species (e.g. October 1–January 20 for waterfowl, etc.).

2. Season lengths for all permitted methods of hunting within a given area may not exceed 107 days for any species.

3. Hunting hours (to be finalized later).

4. Daily bag and possession limits for waterfowl (ducks, geese, and mergansers) shall not exceed 2 and 4 birds, respectively, singly or in the aggregate.

5. Daily bag and possession limits for certain other species (coots, gallinules, rails, snipe, woodcock, doves and pigeons only) shall not exceed 4 and 8 birds, respectively, singly or in the aggregate.

6. States offering extended seasons shall evaluate and report to the Service the results of each hunting season (regular and extended) each year.

Hunting by falconry during regular migratory game bird seasons is permitted in accordance with applicable regulations.

States selecting extended falconry seasons must inform the Service of seasons and other regulations and publish said regulations.

DRAFTING INFORMATION

This final rulemaking was authored by Dr. John P. Rogers, Chief, Office of Migratory Bird Management.

ECONOMIC IMPACT REVIEW

The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Issued in Washington, D.C., July 19, 1977.

LYNN A. GREENWALT,
*Director, United States Fish and Wildlife Service.*

[FR Doc.77–21072 Filed 7–21–77;8:45 am]

## CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

## PART 611—FOREIGN FISHING

### Authorized Fishing Area; Atlantic Herring

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final Regulations.

SUMMARY: The Foreign Fishing Regulations under the Fishery Conservation and Management Act of 1976, are amended concerning the description of the authorized area for the directed fishery for Atlantic herring by foreign fishing vessels during the open season because the existing regulation would tend to mislead foreign fishermen concerning the general location of the authorized fishing area.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard Schaefer, Fishery Management Operations Division, National Marine Fisheries Service, Washington, D.C. 20235, (202–634–7454).

SUPPLEMENTARY INFORMATION: Section 611.53 of the foreign fishing regulations (42 FR 8813) describes the specific regulations for Atlantic herring. Under paragraph (c) "open season and areas", a statement is included relative to adjacent waters to the west and south within Statistical Area 6. Reference to Statistical Area 6 is inconsistent with the conditions and restrictions outlined in the preliminary management plan for the Atlantic herring which does not refer to Statistical Area 6. In addition the authorized fishing area identified in the preliminary management plan does not extend into Statistical Area 6 and, therefore, reference to that area is not relevant. Therefore, the Secretary finds that the formal notice of proposed rulemaking is impractical, unnecessary and contrary to the best interest of the United States because the existing regulation would tend to mislead foreign fishermen concerning the general location of the authorized fishing area.

Therefore, paragraph (c) of § 611.53 is revised to read as follows:

**§ 611.53 Atlantic herring.**

* * * * *

(c) *Open season and areas.* The open season for the directed fishery for Atlantic herring by foreign fishing vessels shall be from August 15, 1977, to September 30, 1977, in Division 5Z of Subarea 5 of the ICNAF convention area, bounded by straight lines joining the following coordinates: 42°10′ N., 69°00′ W.; 42°10′ N., 68°35′ W.; 41°30′ N., 68°35′ W.; 41°10′ N., 69°00′ W.

Issued on July 18, 1977, at Washington, D.C.

WINFRED H. MEIBOHM,
*Associate Director, National Marine Fisheries Service.*

[FR Doc.77–21085 Filed 7–21–77;8:45 am]

## PART 661—SALMON FISHERY

### Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final regulations.

SUMMARY: National Oceanic and Atmospheric Administration publishes final 1977 regulations for the commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California as recommended by the Pacific Fishery Management Council to the Secretary of Commerce in support of their fishery management plan. These regulations set forth among other things, management areas, open seasons and areas, gear restrictions, and size restrictions for commercial fisheries and certain catch and size limits for recreational fisheries.

EFFECTIVE DATE: 0001 hours, July 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald Johnson, Northwest Regional Director, National Marine Fisheries Service, Seattle, Washington 98109. (206–442–7575).

SUPPLEMENTARY INFORMATION: On April 26, 1977, the Secretary published emergency regulations (42 FR 2142) implementing the Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California fishery management plan prepared by the Pacific Fishery Management Council. The promulgation of the emergency regulations is authorized under section 305(e) of the Fishery Conservation and Management Act of 1976 for a 45 day period, which ended on June 9, 1977. On May 24, 1977, an amendment to the emergency regulations was published (42 FR 26580) that changed the opening and closing fishing dates in Management Areas A through E, the minimum length of chinook salmon from 26 to 28 inches, and established new sections about the rights of the Makah Indian Tribe and test fisheries. This amendment was also published for a 45 day period, ending on July 8, 1977. On June 9, 1977, the emergency regulations





as amended, which were originally published on April 26, 1977 were repromulgated (42 FR 29845) for an additional 45 day period, as authorized under section 305(e) of the Act. That period will end on July 24, 1977. On June 24, 1977, a second amendment was published (42 FR 32250) to provide fishing rights to the Quileute Indian Tribe.

During the period the emergency regulations were in force, numerous letters were received in addition to the public comments which had been made at the six hearings which were conducted prior to the promulgation of the emergency regulations. The public comments, both oral and written, centered on the following major issues.

1. Ocean commercial fishermen stated that the regulations were discriminatory against them. Other user groups have been restricted by management actions in recent years, while the only effective restriction upon ocean commercial fishermen has been inclement weather. The management bodies believe these regulations create a reasonable balance of treatment among the various groups.

2. Some trollers stated that the regulations favored foreign fishermen, particularly Canadians. Canadians fishing in the U.S. zone are required to observe the same restrictions as U.S. fishermen and other foreign fishermen are not permitted to catch or retain any salmon.

3. Adjustments in commercial harvest by inside net fisheries was an alternative to meet conservation requirements. The inshore net fishermen have borne the brunt of restrictions and closures for several years and recreational fishermen in Washington were restricted beginning in 1976. However, offshore trollers have had almost no new restrictions in recent years. The results of those regulations will be carefully monitored to determine the impact on user groups, but existing information indicates that these regulations will maximize fishing opportunities for all user groups.

4. Some California fishermen stated that the regulations had resulted in an influx of boats from Washington and Oregon. California Department of Fish and Game hold-inspection reports show that the distribution of boats by home port is about the same as that observed during similar periods in previous years.

5. Some comments indicated that citizen inputs on proposed regulations were not effective. Important modifications of the regulations have occurred throughout the development process. In response to citizen comments, the Pacific Fishery Management Council and the Secretary of Commerce have taken steps which have resulted in modification of proposed regulations. Impact on trollers has been reduced by reducing the mid-season closure from 30 days to 15. This section undoubtedly reduced the potential for a large influx into California of Washington and Oregon boats.

A variety of other comments were made questioning the adequacy of data that provided the basis of the proposed regulations. There were comments to the effect that the increased minimum size would increase the mortality rate of release fish. Some disagreed with the estimated values expressed in the plan. There were also comments that some values were not adequately considered such as the secondary economic impact on coastal communities and regional economic activity. We believe these points were discussed in the Plan to the extent they can be.

Alternative means were also suggested to enhance fishery production, especially improved fish habitat through pollution control or expanded supplemental production such as fish hatcheries. The Pacific Fishery Management Council is currently working on a comprehensive plan that will address a variety of factors concerning the fresh water part of the life cycle which were not reflected in the proposed regulations. The current plan was developed for 1977 and changes such as habitat protection will not alter productivity within this time span.

The changes to final regulations which have been made in correcting these emergency regulations based on similar approved modifications to the fishery management plan made by the Pacific Fishery Management Council.

Therefore, under section 305(a) of the Act, the Secretary may now publish final regulations. These final regulations are published in their entirety to provide fishermen in Washington, Oregon, and California a complete single document, including amendments.

Issued at Washington, D.C., and dated July 18, 1977.

WINFRED H. MEIBOHM,
*Associate Director, National Marine Fisheries Service.*

Sec.


661.1 Purpose.
661.2 Relation to State laws.
661.3 Definitions.
661.4 Salmon Fishery Management Areas.
661.5 Restrictions.
661.6 Penalties.
661.7 Emergency Regulations.
661.8 Commercial fishing.
661.9 Recreational fishing.
661.10 Treaty Indian Rights.
661.11 Test fisheries.


AUTHORITY: 16 U.S.C. 1801–1882.

**§ 661.1 Purpose.**

Regulations of this section apply to salmon taken seaward of Washington, Oregon and California, in the area over which the United States exercises exclusive fisheries management authority (the Pacific Council Management Area). However, these regulations do not apply to fishing conducted under the Convention for the Protection, Preservation, and Extension of the Sockeye Salmon Fishery of the Fraser River System, as amended by the Pink Salmon Protocol.

**§ 661.2 Relation to State laws.**

Regulations of this section implement the Pacific Regional Fishery Management Council's Fishery Management Plan for salmon fisheries of the Pacific Ocean pursuant to authority conferred by the Fishery Conservation and Management Act of 1976. These regulations recognize that State laws, otherwise valid pertaining to vessels registered under the laws of that State which are consistent with the Salmon Management Plan, including State landing laws, will continue to apply to the fisheries addressed in these regulations.

**§ 661.3 Definitions.**

(a) Act—Means the Fishery Conservation and Management Act of 1976, Pub. L. 94–265 (16 U.S.C. 1801–1882).

(b) Angling—Means fishing by means of a rod and/or line capable of being held in hand while taking the fish.

(c) Authorized Officer—Means: (1) Any commissioned, warrant, or petty officer of the Coast Guard;

(2) Any enforcement agent of the National Marine Fisheries Service;

(3) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary or the Commandant of the Coast Guard to enforce the provisions of the Act; and

(4) Any Coast Guard personnel accompanying and acting under the direction of any person described in subparagraph (1) of this paragraph.

(d) Commercial fishing—Means fishing for the purpose of sale or barter.

(e) Fishing—Means: (1) The catching, taking, or harvesting of fish;

(2) The attempted catching, taking or harvesting of fish; or

(3) Any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish.

(f) Fishing vessel (or vessel)—Means any boat, ship or other craft which is used for, equipped to be used for, or of a type which is normally used for fishing.

(g) Land or landing—Means bringing fish to shore or off-loading fish from a fishing vessel.

(h) Recreational fishing—Means fishing for personal use.

(i) Salmon—Means any anadromous species of the family *Salmonidae* and genus Oncorhynchus, commonly known as salmon, including but not limited to:

Chinook (or King) salmon—*Oncorhynchus tshawytscha.*

Coho (or Silver) salmon—*Oncorhynchus kisutch.*

Pink (or Humpback) salmon—*Oncorhynchus gorbuscha.*

Chum (or Dog) salmon—*Oncorhynchus keta.*

Sockeye (or Red, Blueback) salmon—*Oncorhynchus nerka.*

(j) Salmon length—Means the shortest distance between the tip of the snout or jaw (whichever extends further) and the tip of the longest lobe of the tail, measured while the salmon is lying on its side, without resort to any force (including squeezing the tail) or mutilation of the salmon.

(k) Secretary—Means the Secretary of Commerce or a designee.

(l) Single/barbless hook—Means a hook with a single shank and point, with no secondary points or barbs curving or projected in any other direction.



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(m) Troll gear—Means gear which consists of one or more lines used to drag lures behind a moving vessel, which lines originate from a spool or receptacle fastened to the vessel, and the extension or retraction of which is directly to the spool or receptacle without disengaging any gurdy or outboard arm from its fixed position on the vessel.

**§ 661.4 Salmon fishery management areas.**

(a) The Pacific Council Management Area shall be divided into the following management areas for the regulation of salmon fishing, with the following lateral limits:

(1) Management Area A—(i) Northern limit (United States-Canada) is a line connecting the following coordinates:

48°29'37.19" N. lat., 124°43'33.19" W. long.;
48°30'11" N. lat., 124°47'13" W. long.;
48°30'22" N. lat., 124°50'21" W. long.;
48°30'14" N. lat., 124°52'52" W. long.;
48°29'57" N. lat., 124°59'14" W. long.;
48°29'44" N. lat., 125°00'06" W. long.;
48°28'09" N. lat., 125°05'47" W. long.;
48°27'10" N. lat., 125°08'25" W. long.;
48°26'47" N. lat., 125°09'12" W. long.;
48°20'16" N. lat., 125°22'48" W. long.;
48°18'22" N. lat., 125°29'58" W. long.;
48°11'05" N. lat., 125°53'48" W. long.;
47°49'15" N. lat., 126°40'57" W. long.;
47°36'47" N. lat., 127°11'58" W. long.;
47°22'00" N. lat., 127°41'23" W. long.;
46°42'05" N. lat., 128°51'56" W. long.;
46°31'47" N. lat., 129°07'39" W. long.

(ii) Southern limit: 47°18'19" N. lat. (Point Grenville Light).

(2) Management Area B—(i) Northern limit: 47°18'19" N. lat. (Point Grenville Light).

(ii) Southern limit: 42°00'00" N. lat. (Tillamook Head Lighthouse).

(3) Management Area C—(i) Northern limits: 45°56.2' N. lat. (Tillamook Head Lighthouse).

(ii) Southern limit: 42°00'00" N. lat. (Oregon-California border).

(4) Management Area D—(i) Northern limit: 42°00'00" N. lat. (Oregon-California Border).

(ii) Southern limit: 38°14'27" N. lat. (Tomales Point—Northern tip).

(5) Management Area E—(i) Northern limit: 38°14'27" N. lat. (Tomales Point—Northern tip).

(ii) Southern limit: (United States-Mexico) is a line connecting the following coordinates:

32°35'22.11 N. lat., 117°27'49.42" W. long.;
32°37'37.00" N. lat., 117°49'31.00" W. long.;
31°07'58.00" N. lat., 118°36'18.00" W. long.;
30°32'31.20" N. lat., 121°51'58.37" W. long.

(b) Any person fishing subject to these regulations shall be bound by the above described international boundaries, notwithstanding any dispute or negotiation between the United States and any neighboring country regarding their respective jurisdictions, until such time as new boundaries are published by the United States.

(c) The inner boundary of each Management Area is a line coterminous with the seaward boundaries of Washington, Oregon and California, and the outer boundary of each Management Area is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

**§ 661.5 Restrictions.**

The following restrictions apply to all salmon fishing in Management Areas A, B, C, D, and E, except that the restrictions in these regulations shall not apply to fishing for pink and sockeye salmon pursuant to the Convention for the Protection, Preservation, and Extension of the Sockeye Salmon Fishery of the Fraser River System, as amended by the Pink Salmon Protocol, north of 48°00'00" north latitude.

(a) No person shall use nets to fish for salmon except that a landing net may be used to bring hooked salmon on board a vessel.

(b) No person shall take any species of salmon.

(1) Which is less than the minimum size (measured in terms of the salmon's length as defined in § 661.3(j)) specified in these regulations;

(2) During closed seasons or in closed areas specified in these regulations;

(3) In numbers greater than any catch limit specified in these regulations; or

(4) By means of gear or methods prohibited by these regulations.

(c) No person shall possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, export, or land, any species of salmon or salmon part which was taken in violation of the Act, these regulations, or any other regulation issued under the Act.

(d) No person shall possess on board a vessel any salmon taken in the Pacific Council Management Area for which a size limit is set forth in these regulations, in such condition that its size cannot be determined.

(e) No person shall fish while on a vessel which has aboard:

(1) Any salmon which is less than the minimum length for that species in the Management Area where the fishing is taking place; or

(2) Any species of salmon for which the season is closed in the Management Area where the fishing is taking place; or

(3) Any salmon in such condition that its size cannot be determined.

(f) No person, while on board a fishing vessel, shall mutilate or otherwise disfigure any salmon in a manner which extends its length to conform to any minimum size requirement specified in these regulations.

(g) No person shall: (1) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act, these regulations, or any other regulation issued under the Act;

(2) Forcibly assault, resist, oppose, impede, intimidate or interfere with any Authorized Officer in the conduct of any search or inspection described in subparagraph (1) of this paragraph;

(3) Resist a lawful arrest for any act prohibited by these regulations; or

(4) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person knowing that such other person has committed any Act prohibited by these regulations.

**§ 661.6 Penalties.**

Any person or vessel found to be in violation of these regulations will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act.

**§ 661.7 Emergency regulations.**

The Secretary may issue emergency regulations, if and when needed, under section 305(e) of the Act, announced by publication of a notice in the FEDERAL REGISTER.

**§ 661.8 Commercial fishing.**

(a) *Open seasons and areas.* All open seasons shall begin at 0001 hours and terminate at 2400 hours on the dates specified herein. Unless otherwise specified, Pacific Daylight Time will apply. The Pacific Council Management Area is closed to commercial salmon fishing except for the following open seasons and areas:

(1) In Management Area A the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, except coho, shall begin on May 1, 1977, and terminate on June 14, 1977.

(ii) The season for all salmon species, including coho, shall begin on July 1, 1977, and terminate on September 15, 1977.

(2) In Management Area B, the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, except coho, shall begin on May 1, 1977, and terminate on June 14, 1977.

(ii) The season for all salmon species, including coho, shall begin on July 1, 1977 and terminate on October 31, 1977, at 2400 hours Pacific Standard Time.

(3) In Management Area C, the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, except coho, shall begin on May 1, 1977, and terminate on June 14, 1977.

(ii) The season for all salmon species, including coho, shall begin on June 15, 1977, and terminate on October 31, 1977, at 2400 hours Pacific Standard Time.

(4) In Management Areas D and E the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, except coho, shall begin on April 15, 1977, and terminate on May 14, 1977.

(ii) The season for all salmon species, including coho, shall begin on May 15, 1977, and terminate on September 30, 1977.

(b) *Gear restrictions:* (1) Only troll gear shall be used for commerical salmon fishing while in the Pacific Council Management Area. However, in Management Areas D and E troll gear need not be





fixed to the vessel as specified in § 661.3 (m).

(2) Only single/barbless hooks shall be used for commercial salmon fishing before July, 1977, while in Management Areas A and B.

(c) *Size restrictions.* (1) No person shall take and retain any chinook salmon (*Oncorhynchus tshawytscha*) while aboard a vessel used for commercial fishing less than:

(i) Twenty-eight inches in length in Management Areas A and B; or

(ii) Twenty-six inches in length in Management Areas C, D and E.

(2) No person shall take and retain any coho salmon (*Oncorhynchus kisutch*) less than:

(i) 16 inches in length in Management Areas A, B and C; or

(ii) 22 inches in length in Management Areas D and E while aboard a vessel used for commercial fishing.

(d) *Vessel inspection and certification.* (1) Any vessel subject to State hold inspection, fishing in Management Areas A and B between July 1 and July 10, 1977, must have on board documentation of such inspection as may be issued by the State adjacent to such Management Area.

(2) Any vessel 26 feet or longer with coho salmon on board in Management Areas D and E between May 15 and May 25, 1977, shall have on board documentation of hold inspection issued by the State adjacent to such Management Areas.

(e) No person shall take and retain any steelhead (*Salmo gairdneri*) within the Pacific Council Management Area.

**§ 661.9 Recreational fishing.**

(a) *Open seasons and areas.* All seasons shall begin at 0001 hours and terminate at 2400 hours on the dates specified herein. Unless otherwise specified, Pacific Daylight Time will apply. The Pacific Council Management Area is closed to recreational salmon fishing except for the following open seasons and areas:

(1) In Management Areas A and B the season shall open on April 30, 1977, and terminate on October 31, 1977, at 2400 hours Pacific Standard Time.

(2) In Management Area C, the season shall open on April 30, 1977, and terminate on October 31, 1977, at 2400 hours Pacific Standard Time.

(3) In Management Area D the season shall be open the entire year.

(4) In Management Area E, the season shall open on February 12, 1977, at 0001 hours Pacific Standard Time and terminate on November 13, 1977, at 2400 hours Pacific Standard Time.

(b) *Gear restrictions.* (1) No gear other than angling gear may be used for recreational salmon fishing, except that in Management Areas D and E, during the commercial salmon season (§ 661.8(a)(4)), closely attended rods and/or lines may be used.

(2) No person shall use more than one rod and/or line while fishing in Management Areas A, B and C.

(3) There shall be no limit on the number of rods and/or lines used for fishing in Management Areas D and E.

(c) *Size restrictions.* (1) In Management Areas A and B no person shall take and retain any chinook salmon less than 24 inches in length or any coho salmon less than 16 inches in length.

(2) In Management Area C there shall be no limit on the length of salmon which may be taken and retained.

(3) In Management Areas D and E no person shall take and retain any salmon less than 22 inches in length, except that one salmon per day may be less than 22 inches but not less than 20 inches in length.

(d) *Catch limits.* No person shall take and retain, or possess more than three salmon per day while in the Pacific Council Management Area.

**§ 661.10 Treaty Indian rights.**

(a) Persons entitled to exercise rights under the Treaty with the Makah may fish for all salmon species in that portion of Management Area A north of 48°-07'36" north latitude from May 1, 1977, to October 31, 1977. Such persons are otherwise subject to the provisions of this Part 661, the Act and any other regulation issued under the Act.

(b) Members of the Quileute Tribe entitled to exercise rights under the Treaty of Olympia may fish for all salmon species in that portion of Management Area A, south of 48°07'36" north latitude and north of 47°31'42" north latitude from May 1, 1977, to October 31, 1977. Such persons are otherwise subject to the provisions of this Part 661, the Act, and any other regulations issued under the Act.

(c) The Secretary will give due consideration in promulgating emergency regulations under § 661.7 to the treaty rights of Indian tribes with usual and accustomed fishing grounds in the area affected by such regulations.

**§ 661.11 Test fisheries.**

The Secretary may, upon recommendation of the Pacific Council, allow in the Pacific Council Management Area such limited test fisheries for scientific purposes as may be proposed by the Pacific Council, the Federal Government, State Governments and Treaty Indian Tribes having usual and accustomed fishing grounds in the Pacific Council Management Area.

[FR Doc.77-21053 Filed 7-21-77;8:45 am]



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# proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### [ 7 CFR Part 1040 ]

[Docket No. AO–225–A32]

### MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

### Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The decision would amend the present order based on industry proposals considered at a public hearing held January 4–5, 1977. The principal amendments proposed relate to the rates used to adjust milk prices for different plant locations and to the performance standards for pooling distributing plants. The proposed amendments are needed to reflect recent increases in hauling costs and to aid the orderly marketing of milk by dairy farmers. Dairy farmer cooperatives will be polled to determine whether dairy farmers supplying the market favor issuance of the proposed amended order.

FOR FURTHER INFORMATION CONTACT:

Irving E. Sutin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–4829.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing, issued November 11, 1976; published November 16, 1976 (41 FR 50453).

Emergency final decision (partial), issued February 9, 1977; published February 14, 1977 (42 FR 9027).

Final order, issued February 16, 1977; published February 23, 1977 (42 FR 10680).

Recommended decision, issued June 6, 1977; published June 10, 1977 (42 FR 29881)

#### Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Southern Michigan marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at East Lansing, Michigan, on January 4–5, 1977, pursuant to notice thereof issued on November 11, 1976 (41 FR 50453).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Administrator, on June 6, 1977, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modification:

Under "1. Location adjustments", paragraphs 19, 23, 24, and 46 are revised and five paragraphs are added immediately following the last paragraph.

The material issues on the record relate to:

1. Revision of location adjustments.

2. Pool plant status of a plant that qualifies for pooling under Southern Michigan and another order in the same month.

3. Extending the time a quarantined producer may retain his established base.

4. Classification of frozen yogurt and frozen yogurt mixes.

5. Need for emergency action on Proposal No. 3.

This decision deals with all the above issues except Issue Nos. 3 and 5. These issues were dealt with separately in a prior partial decision on this record.

#### Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Location adjustments.* The location adjustments (the amounts by which the Class I price, uniform price, adjusted uniform price and uniform price for base milk are reduced) at plants located within specified geographic areas in the State of Michigan, which are designated as Zones II, III, IV, V, VI, and VII, should be increased 2 cents for each zone: from 3, 5, 7, 9, 12, and 15 cents, respectively, to 5, 7, 9, 11, 14, and 17 cents, respectively.

The 8-cent per hundredweight "direct delivery differential", an additional amount that handlers must pay producers for milk delivered directly from their farms to plants in Wayne County and the townships of Royal Oak and Southfield in Oakland County, should be increased to 10 cents. There was no proposal at the hearing to change the other direct delivery differential under the order, the 4-cent rate at plants in Oakland County outside the townships of Royal Oak and Southfield. Nine pool distributing plants are located in the present 8-cent direct delivery differential area and one in the 4-cent area. The territory included in the direct delivery differential areas is, in effect, the Detroit metropolitan area.

A principal effect of this decision is to increase by 4 cents per hundredweight the difference between the price a handler must pay for milk delivered from farms to his plant in the Detroit area and the Class I price at any plant where a location adjustment applies. The uniform price, the adjusted uniform price and the uniform price for base milk would be similarly affected.

The 7 designated location adjustment zones, which are unchanged by this decision, are as follows:

(a) Zone I, where no location adjustment applies and for which no change is proposed in this decision, includes Genesee, Lenawee, Macomb, Monroe, Oakland, and Wayne Counties; and major portions of Bay, Saginaw, St. Clair, and Washtenaw Counties.

(b) Zone II includes Ingham, Jackson, and Livingston Counties and the townships in Washtenaw County that are not in Zone I.

(c) Zone III includes Arenac, Clinton, Eaton, Gladwin, Gratiot, Huron, Isabella, Lapeer, Midland, Sanilac, Shiawassee, and Tuscola Counties; major portions of Ionia and Montcalm Counties; and the townships in Bay, Saginaw, and St. Clair Counties that are not in Zone I.

(d) Zone IV includes Barry, Branch, Calhoun, Hillsdale, Kalamazoo, Kent, Mecosta, and St. Joseph Counties; and the townships in Ionia, Montcalm, and Allegan Counties that are not in Zone III or Zone V.

(e) Zone V includes Berrien, Cass, Clare, Iosco, Lake, Mason, Missaukee, Muskegon, Newaygo, Oceana, Ogemaw, Osceola, Ottawa, Roscommon, and Van Buren Counties and a major portion of Allegan County.

(f) Zone VI includes Alcona, Crawford, Grand Traverse, Kalkaska, Manistee, Oscoda, and Wexford Counties.

(g) Zone VII includes Alpena, Antrim, Benzie, Charlevoix, Cheboygan, Emmet, Leelanau, Montmorency, Otsego, and Presque Isle Counties.

The designated counties and townships in Zone I, where no location adjustment applies, are within or close to the Detroit metropolitan area. The increasingly larger location adjustments in Zones II through VII reflect the costs of transporting milk from distant locations to the Detroit metropolitan area. For example, Zone VII, where the largest zone location adjustment applies, is the zone farthest from the Detroit metropolitan area.

The location adjustment at a plant located outside the designated zones is





calculated by adding to the location adjustment applicable at the nearest point in the nearest zone one cent for each 10 miles from such point to the plant. There was no proposal to change the basis for computing location adjustments at such plants.

Michigan Milk Producers Association (MMPA), whose producer-members deliver milk to plants in all location adjustment zones, proposed increasing the direct delivery differential from 8 cents to 10 cents, as is provided in this decision. It also proposed increasing the location adjustments in Zones II, III, IV, V, and VI of 3, 5, 7, 9, and 12 cents, respectively, to 5, 8, 10, 12, and 15 cents, respectively.

The MMPA spokesman contended that adoption of the cooperative's proposal would give recognition to the increase in hauling costs that has occurred since the present rates were adopted in 1968. The revised rates are necessary, he said, to insure the delivery of a continuing and reliable supply of milk from producers' farms to plants in the principal population centers in the market, particularly to Class I packaging plants in the Detroit metropolitan area.

In its hearing notice proposal, McDonald Dairy Cooperative Association (hereinafter referred to as McDonald) proposed the same zone location adjustment changes as MMPA. In addition, McDonald proposed a zoning change that would include its pool supply plant in Chesaning in Zone II. Chesaning is now in Zone III, for which zone an 8-cent location adjustment was proposed in the hearing notice. McDonald argued that the present 5-cent location adjustment now applicable at Chesaning should be retained whether or not any location adjustment changes resulted from the hearing.

The Chesaning plant is basically a manufacturing operation. McDonald argued that retention of the location adjustment now applicable at the Chesaning plant is warranted because Chesaning is a balancing plant for the total McDonald operation. That is, the plant is a source of supplemental supplies for McDonald's Class I operations and takes off the market and utilizes for manufacture McDonald's producer-member milk when it is not needed at McDonald's other plants for Class I purposes.

McDonald currently receives milk from producer-members at its pool distributing plants in Flint, Bay City, and Detroit. All three plants are in Zone I (no location adjustment) and the milk received at the Detroit plant is subject to the plus 8-cent direct delivery differential. McDonald is in the process of transferring its Detroit Class I operations to Flint. The supply of producer milk currently being shipped to the Detroit plant will be shifted to the Flint plant.

At the hearing and in its exceptions McDonald opposed increasing the 8-cent direct delivery differential to 10 cents. In support of that position its spokesman suggested that the hauling costs of producers who will be shifted from Detroit to Flint would be reduced less than the 8-cent direct delivery differential they now receive for milk delivered from their farms to Detroit. To adopt the 10-cent direct delivery differential and to increase the location adjustments at Chesaning and other outlying locations, the McDonald spokesman argued, would enable Detroit handlers to outbid supply plants and pool distributing plants at urban locations outside the Detroit area (e.g., Flint) for producer milk supplies in the outlying areas.

Kraft, Inc., which operates two pool supply plants using relatively large quantities of milk in Class III, opposed increasing the direct delivery differential from 8 cents to 10 cents. The handler also opposed changing the location adjustment rates applicable to the Class I price and to producer prices. Kraft contended that the changes proposed are not warranted under current conditions in the market and would damage rather than benefit the orderly marketing of milk under the order.

The two plants operated by Kraft, located in Pinconning in Zone III and in Clare in Zone V, are subject to location adjustments of 5 cents and 9 cents, respectively. The handler proposed zoning changes to include Pinconning in Zone I (no location adjustment) and Clare in Zone III (a 5-cent location adjustment). The basis for these proposed changes is that these plants perform a service for the market by handling producer milk supplies when they are not needed for fluid use. If these plants were not in operation, Kraft claimed, the cost of handling the market's reserve supplies would be greatly increased. Kraft also argued that its proposed location pricing at Pinconning and Clare is justified because of the proximity of these plants to zones with lower location adjustments.

According to Kraft, Pinconning is so located that milk from the north coming into Detroit actually passes that plant on a main highway within one mile of Pinconning. The Kraft spokesman claimed that paying producers an increased direct delivery differential of 10 cents plus increasing the location adjustment, which would reduce the producer pay price applicable at Pinconning and Clare, would attract milk away from its plants to Detroit. If this should happen, Kraft claimed, it would have to increase its present rate of producer payments above the minimum order prices to keep its producer supply.

At the hearing and in its exceptions Michigan Producers Dairy (MPD), which operates two pool supply plants, opposed making any changes in the present location adjustment provisions. MPD's plants are located in Adrian and Sebewaing. No location adjustment is applicable at Adrian (Zone I) and a 5-cent location adjustment is applicable at Sebewaing (Zone III). None of the proposals at the hearing would change the location pricing at Adrian.

The MPD spokesman contended that the present location adjustment provisions are currently satisfying their intended objectives and that the various changes proposed are unwarranted. Some of the proposed changes, he stated, would adversely affect its Sebewaing operation and could result in forcing MPD to close its Sebewaing plant. This plant, according to MPD, is performing a valuable service as a balancing plant for the market. Forcing it to close would be a significant loss to the market of a needed outlet for reserve supplies.

Increasing the direct delivery differential by 2 cents (from 8 cents to 10 cents) and the Zone III location adjustment by 3 cents (from 5 cents to 8 cents), as proposed by MMPA, would raise from 13 cents to 18 cents the additional amount per hundredweight a Sebewaing producer would receive for milk delivered to Detroit. Such an increase, MPD stated, would provide a strong incentive for producers to leave the Sebewaing plant and ship directly to Detroit.

MPD opposed the proposals of McDonald and Kraft to change the pricing zones in which their supply plants at Chesaning and Pinconning, respectively, are now included. These plants, along with the MMPA supply plant located in Ovid, are now, and historically have been, in the same zone (Zone III) as Sebewaing. Adopting the McDonald and Kraft proposals, MPD argued would unjustifiably give their supply plants a significant procurement advantage over Sebewaing.

Independent Cooperative Milk Producers Association Inc., proposed that the present location adjustments in most of Zone I and in all of Zones II through V, which now range from zero to 9 cents, be fixed at 5 cents. "Independent" is a major supplier of pool distributing plants in the Grand Rapids area. Grand Rapids, which is 149 miles west of Detroit, is in the heart of a heavy milk production area. Milk of Independent's producer-members in excess of its buying handlers' Class I needs is delivered to the cooperative's supply plant in Kalamazoo for manufacture. Grand Rapids and Kalamazoo are in Zone IV, where a 7-cent location adjustment applies.

The Independent spokesman acknowledged the need for a direct delivery differential for milk delivered from producers' farms to the Detroit area. He contended, however, that a single location adjustment of not more than 5 cents at plants in Zones I through V is necessary to enable Grand Rapids area handlers and handlers in cities outside the Detroit area to compete with Detroit handlers for supplies of producer milk.

Currently, the price payable to a producer under the order for milk delivered from his farm to a plant in Grand Rapids is 15 cents less than for milk delivered from the same farm to a plant in Detroit. For milk delivered to Grand Rapids, the producer pay price is subject to a 7-cent location adjustment. For milk delivered to Detroit no location adjustment is applicable and the payment to the producer is increased by the 8-cent direct delivery differential. The 5-cent location adjustment proposed by Independent in conjunction with the 10-cent direct delivery differential adopted in this de-



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cision would retain the present 15-cent difference between the producer pay prices at Grand Rapids and Detroit.

Borden, Inc., which operates a pool distributing plant in the Detroit area where the 8-cent direct delivery differential applies, opposed increasing the differential to 10 cents. It contended that the 2-cent increase and adoption of the proposed location adjustment rates would adversely affect Borden in competing in their common sales areas with distribution from plants in different pricing zones. Borden competes for sales with distribution from plants in Lansing and Grand Rapids. The Borden spokesman argued that increasing the location adjustments by 2 cents and 3 cents, respectively, at these locations (as proposed by MMPA) and adopting the proposed 2-cent increase in the direct delivery differential would increase by 4 cents and 5 cents, respectively, the price Borden must pay over their Lansing and Grand Rapids competitors for producer milk.

Borden and other pool plant operators subject to the 8-cent direct delivery differential now pay an additional 2 cents per hundredweight to MMPA for its producer-member milk delivered to their plants. Although Borden testified in opposition to increasing the direct delivery differential to 10 cents, its spokesman stated that including the 10-cent differential in the order would be acceptable to Borden if it had assurance that the applicable order prices were the actual prices it was required to pay MMPA for producer milk.

Liberty Dairy proposed that any change in the location pricing resulting from the hearing should be applicable in the farthest out zone, Zone VII, and at plant locations beyond Zone VII. Liberty operates a pool distributing plant in Zone V and has been receiving some milk from farther out plants. The handler contended that if there is any justification for increasing the location adjustment rates for Zones II through VI, such justification would be equally applicable with respect to Zone VII and at plant locations beyond Zone VII.

The purpose of location adjustments and the direct delivery differential is to assure that milk is delivered as efficiently as possible to plants where it is needed for Class I purposes. Such adjustments, insofar as it is practicable, should be reflective of the cost of transporting milk from outlying locations to the principal consumption center in the market.

These factors were given appropriate consideration in establishing the present zone pricing structure and direct delivery differential arrangement in the order, which were strongly supported at the hearing. There were no proposals for a different system of zone pricing and direct delivery differentials from that presently used. The positions taken by the various producer associations and proprietary handlers at the hearing differed only with regard to the rates that should be applicable in specified zones and with regard to limited changes in the territory to be included in several zones.

The present system of location pricing and direct delivery differentials has been in effect in the order continuously since 1965. The rates applicable in each zone and the direct delivery differentials in their present form became effective May 1, 1968.

The cost of transporting milk from producers' farms to handlers' plants has increased substantially in recent years. This had made it necessary for a major cooperative to subsidize producer hauling costs in order to get enough milk for handlers' Class I needs delivered to the Detroit area plants. Since March 1974, this cooperative has charged Detroit area handlers a 2-cent per hundredweight "special transportation charge" for milk delivered to their plants. This is in addition to the 8-cent direct delivery differential such handlers are required to pay under the order. The fund created by the 2-cent special transportation charge is distributed by the cooperative among haulers at the rates necessary to obtain adequate supplies of Class I milk delivered to the market.

More than 60 percent of the Class I milk under the order is distributed from plants in the direct delivery differential areas. More than 20 percent of the market's Class I distribution is from those plants in Zone I outside the direct delivery differential areas and from plants in Zone II, in which zones the location adjustments are zero and minus 3 cents, respectively. The preponderance of the marketing area population is included in the contiguous area comprising Zones I and II, the hub of which is the Detroit metropolitan area.

Most of the regular needs of the market's fluid milk processors is met by milk delivered directly from producers' farms, including milk delivered through pump-over stations (reload points). Reflective of the increased cost of transporting milk in recent years is the experience of the major cooperative that operates a number of reload points from which milk is moved regularly to Detroit area plants.

One reload point operated by the cooperative is in Lowell, Michigan, about 125 miles from Detroit. The milk handled at that reload point is a part of the regular supply of a Detroit area processor. This cooperative engages a private hauler on a bid basis to transport the milk from Lowell to Detroit. The cost during the past year for such hauling was 20.56 cents per hundredweight, 4.65 cents more than the cooperative paid for the same hauling in 1973. Increases in hauling costs since 1973 to Detroit from other of the cooperative's reload points ranged from 3 cents to 5 cents per hundredweight.

The changes adopted herein would result in Detroit area handlers paying 4 cents more for Class I milk received at their plants from producers' farms than plant operators in Zone II and beyond. While the Detroit operators would be subject to a 2-cent per hundredweight direct delivery differential increase (from 8 cents to 10 cents), the location adjustment at plants in Zone II and beyond would decrease their Class I prices by 2 cents per hundredweight. The 4-cent increase in the difference between the prices handlers would pay for producer milk f.o.b. Detroit as compared to delivery to plants in Zone II and beyond represents to a substantial degree the increase in hauling costs in recent years for milk delivered from outlying areas to Detroit.

Producer milk is not available to plants in the 8-cent direct delivery differential area at less than a 10-cent direct delivery charge. Both producers and handlers recognize that an additional cost (beyond that reflected in the location adjustment rates) is incurred in delivering milk from producers' farms to plants in the heavily trafficked and densely populated area where the 8-cent charge applies. The 2-cent increase in this charge adopted herein reflects the increase since 1968 (when the 8-cent direct delivery charge became effective) in the cost of having producer milk delivered to inner city plants.

Opposition to increasing the 8-cent direct delivery differential to 10 cents was principally from handlers who would not be directly affected by the change. It is apparent from the record that a payment of at least 2 cents per hundredweight, in addition to the present 8-cent direct delivery differential, is necessary to get producer milk delivered to Detroit area plants. The increased rate, which is a needed incentive to encourage the delivery of adequate supplies of producer milk to Detroit area processors for their Class I needs, will be helpful in maintaining orderly marketing conditions under the order.

The 2-cent increase in the location adjustment rates for Zone II and beyond is the same as the increase proposed by various proponents for Zone II (from 3 cents to 5 cents). The same proponents proposed increasing the rates for Zones III through VI by 3 cents. One handler proposed a 3-cent location adjustment rate increase for Zone VII and beyond. No testimony was presented to justify a different increase at locations beyond Zone II than in Zone II or for not applying the same location adjustment rate increases in Zone VII and beyond as is applied in other zones. The basis adopted herein for increasing the location adjustment rate 2 cents per hundredweight is equally applicable for all zones and for plant locations beyond Zone VII.

The 10-cent direct delivery differential adopted in this decision and the 2-cent increase in the location adjustment rates together give reasonable recognition to the increased costs of transporting milk from outlying locations to the Detroit metropolitan area. These adjustments will be helpful in achieving a better relationship between the f.o.b. prices applicable at such plant locations and the cost of transporting milk to Detroit area plants for Class I use.

A cooperative proposed increasing the Class I price by an amount that, when combined with any change in location





pricing resulting from this decision, would result in no reduction in the prices paid producers. As proposed, the Class I price would be increased by an amount necessary to offset any reduction in returns to producers attributable to the 2-cent increase in the location adjustment at plants in Zones II and beyond.

The location pricing adopted in this decision will result in negligible, if any, change in the total returns to producers. This is because the amount realized from the 2-cent per hundredweight increase in the direct delivery differential that handlers will have to pay for all milk delivered to Detroit area plants will approximate or exceed that resulting from the 2-cent increase in the location adjustment deduction from the Class I price at plants in Zones II and beyond. Thus, there will be practically no change in the total amount of money paid by handlers for distribution to producers.

As indicated elsewhere in this decision, the purpose of location adjustments is to encourage the delivery of milk to plants in the market center (the Detroit area) to meet their Class I needs and to reflect the cost of transporting milk from outlying locations to such plants. The location pricing adopted in this decision gives appropriate recognition to these factors. In this circumstance, and in view of the more than adequate production to meet the market's Class I needs, the proposal to increase the Class I price is denied.

The proposals to achieve lower location adjustment rates at McDonald's Chesaning and Kraft's Pinconning and Clare plants relative to other plants under the order should not be adopted. The principal argument for including these pool supply plants in lower location adjustment zones is that they are performing a service for the market by taking milk off the market when it is not needed for Class I purposes. The three plants are basically manufacturing operations.

Increasing the producer prices at Chesaning, Pinconning and Clare relative to other plant locations, as proposed, would tend to encourage the delivery of milk to these plants for manufacturing rather than to distributing plants at the consumption centers for Class I use. This would be inconsistent with the need for attracting milk to city distributing plants. Also, to adopt the location pricing proposed by McDonald and Kraft for their supply plants would provide them with an unwarranted advantage in their procurement over other plants in the same region. No evidence was presented on the record that would justify a location adjustment for these plants different from that applicable to other plants similarly situated.

The proposed 5-cent location adjustment for Zones I through V, which was made by a cooperative supplying handlers in the Grand Rapids area where a 7-cent location adjustment now applies, is denied. A principal basis for the cooperative's proposal was that a lower location adjustment should apply at plants in Grand Rapids and at other marketing area cities outside the Detroit area to attract milk to these urban areas.

The supply of milk in the areas in proximity to Grand Rapids and other cities outside the Detroit area is substantially in excess of the Class I needs of the pool plants in these urban areas. The combination of location adjustment rates and direct delivery differentials that have been effective in the order, and updated by this decision, tends to appropriately relate the location value of producer milk f.o.b. the principal population center in the market (the Detroit metropolitan area) with its value at whatever plant it is delivered to.

In its exceptions, the cooperative supplying handlers in the Grand Rapids area repeated its claim that a 5-cent location adjustment, instead of the 9-cent rate adopted in this decision, should be applicable at Grand Rapids. It argued that the lower location adjustment is justified because its principal buying handler in the Grand Rapids area is paying the cooperative a Class I price for producer milk that is 4 cents more than the Class I price applicable under the order.

It is a common practice in the Southern Michigan market for cooperatives to negotiate "over-order" prices with handlers. The over-order payments often reflect factors unrelated to the availability of milk supplies relative to demand or to the location value of producer milk at the plant to which delivered. In fact, the over-order payments may represent a payment for services provided by the cooperative to its buying handlers that equates with the value of such services. The payment of a negotiated over-order price thus may not necessarily reflect a greater value of Class I milk at a specific location relative to other locations in the marketing area.

It was argued in exceptions filed by McDonald that a 2-cent location adjustment increase in Zones II through VII and beyond is inappropriate because "increased costs of moving milk in cents per hundredweight are greater at longer distances than at shorter distances". Although McDonald proposed no specific location adjustment rate for each zone, its exceptions suggested that the same location adjustment percentage increase should be made in each zone. On that basis, the increase from 3 to 5 cents in the Zone II location adjustment adopted in this decision would call for a 10-cent increase in the Zone VII location adjustment, from 15 cents to 25 cents.

An exhibit at the hearing, "An Analysis of the Milk Hauling Cost Structure in Lower Michigan",[1] analyzed the hauling costs of 22 "short haul" and 20 "long haul" milk haulers for the months of August and September 1975. The average daily round trip distance for the short haul routes was 133 miles and for the long haul routes was 287 miles. The average cost per hundredweight of milk per 10 miles hauled was 3.06 cents for the 22 short haul haulers and 1.73 cents for the 22 long haul haulers. In view of this, it cannot be concluded, as McDonald claims, that the costs per hundredweight of moving milk are greater at longer distances than at shorter distances.

In its exceptions, Kraft reiterated the position it took at the hearing and argued in its brief, i.e., the present location pricing provisions of the order should not be changed except to provide lower location adjustments at Kraft's Clare and Pinconning plants. For the reasons already stated in this decision, the location pricing changes adopted herein are necessary to effectuate the intent of the Act under current conditions in the market. The Kraft exceptions are without merit and are denied.

2. *Pooling a plant that qualifies under Southern Michigan and another order in the same month.* A distributing plant that qualifies for pooling under this and another order in the same month should be pooled under the Southern Michigan order until the third consecutive month in which its route disposition in the marketing area of the other order is greater than in the Southern Michigan marketing area.

The present order provides that a distributing plant qualified for pooling under the Southern Michigan order and another order in the same month shall be pooled under the other order in the first month in which its route disposition in the marketing area of the other order is greater than in the Southern Michigan marketing area. A supply plant qualified for pooling under the Southern Michigan order and another order in the same month is pooled under the other order in the first month in which shipments to pool distributing plants under roder in the first month in which its shipments to pool distributing plants under the Southern Michigan order. There was no proposal to change the basis for pooling such a supply plant.

The provision adopted in this decision, which is commonly referred to as a "lock-in" provision, is the same as in the nearby Indiana order and is included in a number of Federal orders. Its inclusion in the Southern Michigan order was proposed by a Southern Michigan handler (McDonald Cooperative Dairy) who also operates a fully regulated distributing plant under the Indiana order. Fluid milk products from that plant, located in Benton Harbor, Michigan, are distributed in the Indiana and Southern Michigan marketing areas and in places outside these marketing areas. No testimony was presented in opposition to the proposal.

Although proponent's witness foresaw no immediate problem regarding the order under which the Benton Harbor plant would be regulated, he stated that the proposed lock-in provision was needed to achieve uniform and equitable treatment for any distributing plant qualifying under Southern Michigan and another order in the same month. He called attention particularly to the disruptive marketing conditions and the confusion among producers that would result if regulation of the plant they

[1] Research Report 325—Agricultural Business. From the Michigan State University Agricultural Experiment Station, East Lansing and the Cooperative Extension Service, December 1976.



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supplied shifted back and forth between the Southern Michigan and Indiana orders. The proposed lock-in provision, he contended, would provide an appropriate safeguard against such a shifting back and forth between orders.

The Indiana order provides for a "takeout-pay back" fall production incentive plan, which withholds 20 cents per hundredweight from the payments otherwise due producers for their deliveries in April–July. This money is distributed to producers on the basis of their production in the pay back months of September–December. Under the Southern Michigan order, producers are paid on a base-excess plan throughout the year. The base on which each producer is paid is determined by his deliveries in the preceding August-December. Unless a plant were to shift permanently from one market to another, the producers involved could lose the benefits of the producer payment plan in the order under which their milk is usually pooled without obtaining the comparable benefits realized by producers regularly associated with the other order.

Ideally, a distributing plant that qualifies for pooling under the two orders should be regulated under the order applicable to the marketing area in which its route disposition is greater. In this way, all handlers having their principal sales in a market are subject to the same price and other regulatory provisions of their main competitors. However, appropriate consideration must be given to the adverse effects of shifting back and forth from month to month by a distributing plant that is usually associated with the Southern Michigan market.

It must be recognized that an unanticipated loss or gain of a substantial sales outlet by a distributing plant having sales in two regulated markets could result in shifting regulation from one order to another. When such a shift of sales takes place unexpectedly, the plant operator may elect to adjust the plant's distribution in its various sales areas to insure its regulation by the order under which it had been continuously regulated. A lock-in provision, as herein provided, (i.e., not regulating a Southern Michigan handler under another order until the third consecutive month of greater route disposition from his plant in the other order market) will afford him adequate time to take whatever steps are necessary to assure the continued regulation of his plant under either the Southern Michigan order or the other order.

Pooling a distributing plant under the Southern Michigan order until the third consecutive month in which its route disposition is greater in another order market is a reasonable basis for concluding that the plant has become more associated with the other market than with the Southern Michigan market. This is an appropriate standard for determining when the sales pattern of a plant has changed to the extent that it will continue to have greater route disposition in the marketing area of the other order. The stability of both order markets would be best realized by keeping such a plant pooled under Southern Michigan until it was evident that the plant continued for a reasonable period to have more route disposition in the other market.

Under certain conditions, the order should exempt from pooling a distributing plant with greater route disposition in the Southern Michigan marketing area than in the marketing area of the other order, but which is nevertheless subject to full regulation under the other order. This is necessary to avoid the possible conflict of the two orders. Accordingly, the lock-in provision herein adopted would not be applicable if the other order does not release a plant from regulation for the first two months in which it had more route disposition in such other marketing area. Also, since a number of other orders have lock-in provisions, it is appropriate to provide (as is commonly provided in other orders) that a plant with more route disposition in the Southern Michigan marketing area than in the marketing area of another order be exempt from pooling under Southern Michigan for the months it is pooled under the other order's lock-in provision.

4. *Classification of frozen yogurt and frozen yogurt mixes.* The products commonly referred to as frozen yogurt and frozen yogurt mixes should be classified in Class III.

The McDonald Cooperative Dairy, which proposed a Class III classification for these products, produces and processes a frozen yogurt mix and distributes it along with ice cream mixes and ice milk mixes to its customers. The proponent contends that frozen yogurt and frozen yogurt mixes are frozen dessert items and should be classified in the frozen dessert classification (Class III). There was no opposition to its proposal.

Frozen yogurt, a new product that first appeared in the market about six months ago, has been sold in other parts of the country for several years. Neither frozen yogurt nor frozen yogurt mix is referred to in the order as a product to which a specified classification is applicable.

Before frozen yogurt mix is sold for consumption as frozen yogurt, it is run through a "soft-serve" type freezer. The product is sold as a soft-serve frozen dessert product in the same manner as high-solids ice milk mixes are marketed.

Except for the addition of a culture, the ingredients used in the manufacture of frozen yogurt are the same as those used in the manufacture of ice milk mix, namely: cream, milk, skim milk, condensed milk, sucrose, corn sugar, stabilizers, emulsifiers and whey solids. The consistencies of frozen yogurt and ice milk as sold to the consumer are essentially the same.

From the above, it is apparent that frozen yogurt and frozen yogurt mixes are considered in a category of those products known as frozen desserts. It is appropriate, therefore, that the order include frozen yogurt and frozen yogurt mixes in the classification specified for frozen desserts, Class III.

### Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

### General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

### Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

### Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an order amending the order





regulating the handling of milk in the Southern Michigan marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

*It is hereby ordered*, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

### Determination of Producer Approval and Representative Period

May 1977 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Southern Michigan marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on: July 18, 1977.

ROBERT H. MEYER,
*Assistant Secretary for Marketing Services.*

Order[1] amending the order, regulating the handling of milk in the Southern Michigan marketing area.

### Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations set forth in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Southern Michigan marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

*Order relative to handling.* It is therefore ordered that on and after the effective date hereof the handling of milk in the Southern Michigan marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Acting Administrator on June 6, 1977, and published in the FEDERAL REGISTER on June 10, 1977 (42 FR 29881) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

1. In § 1040.7, paragraph (c) is revised to read as follows:

**§ 1040.7 Pool plant.**

* * * * *

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant;

(3) A distributing plant from which the Secretary determines there is a greater proportion of route disposition (except filled milk) in another marketing area regulated by another order issued pursuant to the Act than in the Southern Michigan marketing area and such plant is fully subject to regulation of such other order: *Provided*, That a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which it has a greater proportion of its route disposition (except filled milk) in such other marketing area, unless, notwithstanding the provisions of this subparagraph, it is regulated by such other order;

(4) A distributing plant which meets the requirements of paragraph (a) of this section which also meets the pooling requirements of another order on the basis of its route disposition in such other marketing area and from which the Secretary determines there is a greater quantity of route disposition (except filled milk) during the month in this marketing area than in such other marketing area but which plant is nevertheless fully regulated under such other order; and

(5) A supply plant which during the month is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to paragraph (b) of this section and a greater volume of fluid milk products (except filled milk) is moved to pool distributing plants than is moved to plants qualified as fully regulated plants under such other order on the basis of route disposition in the other marketing area.

2. In § 1040.40, paragraph (c)(1)(iv) is revised to read as follows:

**§ 1040.40 Classes of utilization.**

* * * * *

(c) * * *

(1) * * *

(iv) Milk shake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts (including frozen yogurt), and frozen dessert mixes (including frozen yogurt mixes);

* * * * *

**§ 1040.50 [Amended]**

3. In § 1040.50, paragraph (a)(1) is amended by changing "Zone II, 3 cents", "Zone III, 5 cents", "Zone IV, 7 cents", "Zone V, 9 cents", "Zone VI, 12 cents" and "Zone VII, 15 cents" to "Zone II, 5 cents", "Zone III, 7 cents", "Zone IV, 9 cents", "Zone V, 11 cents", "Zone VI, 14 cents" and "Zone VII, 17 cents", respectively.

**§ 1040.75 [Amended]**

4. In § 1040.75, paragraph (a)(3) is amended by changing "8 cents" to "10 cents".

[FR Doc.77-21064 Filed 7-21-77;8:45 am]

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.



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**[7 CFR Part 1065]**

[Docket No. AO 86-A37]

## MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

### Decision on Proposed Amendments to Marketing Agreement

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision proposes several amendments to the Nebraska-Western Iowa Federal milk marketing order. The decision is in response to industry proposals considered at a public hearing in October 1976. Dairy farmer cooperatives will be polled to determine whether producers favor issuance of the proposed amended order.

A principal amendment would reduce the quantity of milk that a supply plant must ship to distributing plants to be a fully regulated plant under the order. This would help supply plants avoid unnecessary and costly milk shipments that might otherwise be made just to keep the plant qualified as a pool plant. Another amendment, intended to simplify the administration of the order, would alter the manner in which a cooperative association is paid for farm bulk tank milk that it delivers to a regulated pool

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plant. This would not affect a plant operator's cost of milk or the level of payments to producers.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing. Issued September 15, 1976; published September 20, 1976 (41 FR 40495).

Notice of Extension of Time for Filing Briefs. Issued November 12, 1976; published November 17, 1976 (41 FR 50696).

Recommended Decision. Issued May 10, 1977; published May 16, 1977 (42 FR 24744).

Notice of Extension of Time for Filing Exceptions to the Recommended Decision. Issued June 2, 1977; published June 6, 1977 (42 FR 28897).

PRELIMINARY STATEMENT

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Nebraska–Western Iowa marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Omaha, Nebraska, on October 6–7, 1976 pursuant to notice thereof.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Administrator on May 10, 1977, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under the heading "1. *Pooling standards for a supply plant.*":

a. Seven new paragraphs are added after paragraph 25.

b. Paragraph 28 is changed.

c. Three new paragraphs are added after paragraph 29.

d. Two new paragraphs are added after paragraph 32.

e. A new paragraph is added after paragraph 33.

2. Under the heading "2. *The Class I price zones within the marketing area and the applicable price for each zone.*", two new paragraphs are added after paragraph 32.

3. Under the heading "3. *Payment and accounting for farm bulk tank milk received by a handler from a cooperative association.*", a new paragraph is added at the end of the discussion.

The material issues on the record of the hearing relate to:

1. The pooling standards for a supply plant.

2. The Class I price zones within the marketing area and the applicable price for each zone.

3. The payment and accounting for farm bulk tank milk received by a handler from a cooperative association.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pooling standards for a supply plant.* The pooling requirements for a supply plant (other than a cooperative balancing plant) should be revised to require that at least 40 percent of the plant's monthly receipts of Grade A milk from dairy farmers (including milk diverted from the plant) be shipped as fluid milk products to pool distributing plants. Additionally, a plant that was pooled as a supply plant in each of the months of September through December should be provided continuing pool plant status during each of the following months of January through August in the event the plant does not meet the 40 percent shipping requirement, unless the plant operator requests that the plant be a nonpool plant.

Under the terms of the present order, a supply plant must ship at least 50 percent of its receipts of Grade A milk from dairy farmers (excluding diversions to nonpool plants) to pool distributing plants during the month to qualify for pooling in such month. A plant which is pooled as a supply plant in each of the months of August through December is accorded automatic pooling status in the subsequent months of January through July unless nonpool plant status is requested.

The order also provides that a supply plant operated by a cooperative association may qualify as a pool plant on the basis of the cooperative's total milk movements to pool distributing plants either by transfer from a supply plant or directly from member producers' farms. This provision is not at issue in the proceeding. However, for the purpose of this discussion, such a pool supply plant shall be referred to herein as a "cooperative balancing plant."

A cooperative association proposed that a supply plant no longer be granted automatic pooling status but instead be required to ship at least a specified amount of milk each month to qualify for pooling. As proposed, a supply plant that had met the 50 percent shipping requirement during each of the months of August through December could continue to be a pool plant during the subsequent January through July period by shipping a minimum of 30 percent of its receipts each month. If the fall shipping requirement was not met, then the plant would have to meet the 50 percent requirement in any month for which pooling is desired.

Additionally, the cooperative proposed that for the purpose of determining a plant's qualification for pooling, milk diverted from a supply plant to a nonpool plant be treated as a receipt of producer milk at the supply plant. Also, it proposed that any route disposition in the marketing area from the supply plant be treated as a shipment by such plant.

In its post-hearing brief, the proponent cooperative modified its initial position and concluded that a 40 percent and 25 percent shipping requirement would be acceptable for the August through December period and the January through July period, respectively. This modification was made on the basis that diverted milk be included as a receipt at the supply plant in determining whether the plant qualifies for pool status.

The proponent cooperative indicated that its proposal for year-round shipping requirements was prompted by the recent increase in manufacturing plants that have become pool supply plants under the order. The cooperative alleged that the automatic pooling provision provides an opportunity for a supply plant operator to pool a supply of milk without assuming any responsibility to supply the fluid market on a continuing basis throughout the year. Proponent maintained that additional manufacturing plants are qualifying as pool supply plants under the order so that the plant operators can use the marketwide pool to help them pay a competitive price (the order's blend price) to their dairy farmers and thus insure a supply of milk at their plants. The proponent cooperative reasoned that since most of the new supply plants are primarily engaged in manufacturing they should be required to maintain a substantial association with the fluid market by meeting year-round shipping requirements.

In further support of its position, the cooperative presented testimony on how it serves the fluid milk needs of handlers on a year-round basis. It was noted that every effort is made by the cooperative to meet the requirements of its fluid milk customers at all times. In this connection, the cooperative indicated that it is a source of supply for 15 of the 16 pool distributing plants in the market. Such supply needs of the distributing plants are met by direct shipments from member producers' farms or by transfers from the cooperative's four pool balancing plants. It was pointed out that the cooperative's monthly shipments to distributing plants in 1975 ranged from 68 to 83 percent of the total producer receipts under the order.

As indicated, the proponent cooperative proposed that milk diverted from a supply plant be counted as a receipt at the plant in determining its qualification as a pool plant. In support of this change, the proponent's witness contended that the exclusion of diversions as a receipt at the supply plant permits the pooling of substantial additional milk supplies which may not be available to meet the fluid needs of the market but which are intended solely for manufacturing use. The witness also indicated that such exclusion of diversions can result in a potential inequity between handlers who maintain dual plant operations (facilities for the separate handling of Grade A milk and manufacturing grade milk at the same location) and those who do not since the latter probably would not divert milk to a manufacturing plant and thus would have to meet higher shipping requirements. In addition, the witness indicated that since other provisions of the order treat milk diverted from a pool plant as part of such plant's total supply, it is only appropriate to include diverted milk as a receipt in determining the pool status of a supply plant.





A second cooperative in the market that operates a pool supply plant opposed the modification of the pool supply plant provisions as initially proposed by proponent. A similar position was also taken by still another cooperative association which had commenced qualifying a plant as a pool supply plant in September 1976. The principal concern expressed by the two cooperatives was the recommendation to include milk diverted from a supply plant as a receipt at such plant for pooling purposes. They held that the inclusion of diverted milk as a receipt without any accompanying reduction in the shipping requirements during the qualifying period would effectively deny pool status to plants now pooled as supply plants under the order.

The witness for one of these cooperatives claimed that if diversions are included as a receipt for pool plant qualification purposes, about 40 percent more milk would have to be shipped from the cooperative's supply plant in order to meet the 50 percent shipping requirement. The witness further testified that even under the existing shipping requirements the cooperative has incurred financial losses in order to maintain pool status for its plant during the qualifying months of August through December.

Both of these cooperatives, on the other hand, proposed at the hearing that any deliveries of milk by a cooperative directly from the farms of member producers to a pool distributing plant be considered as having been received first at a plant of such cooperative. This recommendation was supported in its post-hearing brief by the cooperative that proposed the year-round supply plant shipments.

At the hearing, one of these cooperatives also proposed (1) the elimination of August as a qualifying month for automatic pooling of supply plants, (2) the continuation for one month of the pool status of a supply plant if it fails to meet the shipping requirements, provided it was a pool plant during each of the preceding 12 months, and (3) if diverted milk from a supply plant is included as part of the plant's receipts, a reduction of the shipping requirements for a pool supply plant to 35 percent of its receipts during the qualifying period and to 20 percent during the remainder of the year.

Six proprietary handlers who are operating pool supply plants with extensive manufacturing operations opposed any of the proposals or modifications thereto that would "tighten" pooling standards for supply plants. They generally favored a lower shipping requirement during the fall qualifying period for automatic pooling status, the continuance of the automatic pooling feature, and the elimination of August as a qualifying month. Five of the six handlers recommended in their post-hearing brief a 30 percent shipping standard in each of the months of September through December, with the continuance of the automatic pooling provision for the remaining months.

One of the proprietary handlers testified about the problems he encountered during the most recent qualifying period in making the required shipments to distributing plants. He indicated that in order to maintain pool status for one of his supply plants (a pool plant under the order since 1974) he had to arrange to deliver more milk from his supply plant to a distributing plant than it needed, and then backhaul the excess to his supply plant for manufacturing. He also expressed concern that the continuation of the present pooling standards could jeopardize his ability to maintain continued pool plant status because of competition from a greater number of supply plants competing for distributing plant outlets.

The representative of another proprietary handler who recently qualified his supply plant as a pool plant denied that it was their intent to take advantage of the automatic pooling provision and exploit the pool, as suggested by the proponent cooperative. He stated that milk associated with their supply plant has been and would be available to distributing plants when needed and that substantial quantities of the supply plant's producer receipts were being shipped to distributing plants.

The purpose of pooling standards for supply plants is to distinguish between those plants substantially engaged in serving the fluid needs of the regulated market and those plants that do not serve the market to a degree that warrants their sharing, through pooling, in the market's Class I returns. It is necessary, then, to establish pooling standards that reflect the needs of the local market. Basically, the minimum performance requirements should assure that supply plants associated with the market will make milk available to distributing plants at the times and in the quantities needed. Supply plants regularly serving the market should not be required, however, to ship substantial quantities of milk when it is not needed.

Presently, the order permits supply plants that have met the minimum shipping requirements during the months of August through December to remain pooled during the other months without making shipments to distributing plants at the same minimum level as during the short production months. This reflects the customary situation where the demand for supply plant milk is usually greater during the months of seasonally low milk production than during other months. A distributing plant's needs for supply plant milk may be substantially reduced during the months of seasonally high production when direct deliveries from producers largely fulfill the distributor's needs for milk. The automatic pooling provisions thus eliminate the need for supply plants to make costly, unneeded shipments to distributing plants during the months of heavier production merely to maintain their pool plant status. Moreover, such provisions permit those producers who have established their association with the fluid market by shipping to a pool supply plant to continue to share in the market's Class I sales during the period when supply plant milk may not be needed for fluid use.

The adoption of year-round shipping requirements should be based on an indication that distributing plants are having difficulty in obtaining adequate milk supplies from pool supply plants. This record does not demonstrate that this is the case. Instead, it is apparent that distributing plants are able to acquire from supply plants whatever milk supplies they need and when needed. This is so even at a time when distributors have become increasingly dependent on supply plant milk because of changes in their bottling patterns and their desire for milk of a standardized butterfat test.

Dairy farmers in the supply area for this market have been shifting from Grade B to Grade A milk production. This has resulted in an expanding Grade A milk supply seeking to share in the market pool. The principal means by which new producers enter the pool is by delivering to an existing pool plant or to a supply plant that later becomes fully regulated by its shipments to distributing plants. As was pointed out at the hearing, the pooling of these additional Grade A supplies has been accomplished principally by manufacturing plants upgrading their total farm supply to Grade A status and then making the required shipments to distributing plants.

At the time of the hearing, there were six such manufacturing plants that had established pool qualification under the order. Three of these plants have been pool supply plants for several years while the remainder acquired pool status at or near the beginning of the most recent qualifying period.[1] Most of the receipts at these plants are from dairy farmers who recently converted their production facilities to meet Grade A inspection requirements. Part of the milk supply at these plants, however, is being furnished by producers who have been associated with the market for quite some time.

Proponent's basic contention was that the automatic pooling feature has encouraged manufacturing plants to affiliate with the market to maintain a supply of milk for manufacturing purposes rather than to serve the fluid market on a substantial and continuing basis. By implication, proponent's position sug-

[1] Official notice is taken of the Nebraska-Western Iowa market administrator's monthly uniform price announcements for 1974–1976.



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gests that such plants are meeting only the minimum shipping requirements during the qualifying period and then failing to make needed shipments to distributing plants during the period in which shipments are not required by the order. This is not supported by the record evidence. Supply plants are making milk supplies available to distributing plants when the milk is needed.

It is recognized that there can be an incentive for operators of manufacturing plants to associate milk supplies with the market for manufacturing purposes. Because of this, and in view of the number of such plants operating in this market, it is reasonable that the order provide greater assurance that milk supplies will be committed to fluid uses when needed by distributors.

As indicated previously, there have been instances where a supply plant operator, for the purpose of qualifying his plant, has made specific prearrangements for a distributing plant to receive the necessary qualifying shipments of milk and then ship the milk back to the supply plant for manufacturing uses. While this practice involves additional hauling and handling costs and results in uneconomic movements of milk, it has off-setting benefits to the supply plant operator in that he can acquire his milk at the Class III price and yet pay his producers the higher uniform price through the marketwide pool. Such practice in essence constitutes a predetermined commitment of pool milk for manufacturing use. The order should provide a safeguard against such exploitation of the pool.

Accordingly, to help assure that each supply plant pooled represents a continuing, reliable source of milk for the fluid market, the order should provide that only the net amount of milk shipped during the month to a pool distributing plant from the supply plant shall be counted as qualifying shipments. For example, a supply plant may ship fluid milk products to a distributing plant and arrange to have the latter plant transfer fluid milk products back to the supply plant in the same month. In this case, only that quantity of the supply plant's shipments not offset by the return shipments should count toward meeting the minimum shipping requirement for the supply plant. Also, a supply plant operator could operate another plant (pool or nonpool) and arrange to ship milk from his supply plant to a pool distributing plant and then have it transferred to his other plant for manufacturing, thereby facilitating the pooling of the supply plant. In this circumstance, the supply plant's shipments to the distributing plant should be reduced by the transfers to the supply plant operator's second plant in determining the quantity of qualifying shipments by the supply plant. These net shipment provisions should discourage any circumvention of the intent of the present supply plant performance provisions of the order without having any significant impact on normal marketing practices of pool supply plant operators.

Several of the proprietary handlers who operate pool supply plants with extensive manufacturing operations excepted to the requirement that only net shipments to a pool distributing plant count toward meeting the shipping requirement of a supply plant. Exceptors argued that such a requirement would jeopardize their ability to continue pool status when they are unable to make the necessary qualifying shipments to distributing plants. They further contended that any loss of pool plant status because of the net shipment requirement would unreasonably deny to some Grade A producers access to the fluid milk market.

Contrary to exceptors' position, loss of pooling status for any supply plant as a result of the net shipment requirement would demonstrate that there was an insufficient association of such plant with the fluid market to warrant its sharing in the market's higher Class I proceeds. Such loss of pooling status would not be inappropriate under existing marketing conditions in the market.

One of the pool supply plant operators also excepted to the net shipment requirement on the basis that there was no proposal presented at the hearing for such a provision. It is true that the net shipment requirement adopted herein was not proposed by the industry. However, the adoption of such a provision is fully within the scope of this proceeding.

Included in the notice of hearing was a proposal to change the pooling standards for supply plants. To quote from the Administrative Procedure Act (5 U.S.C. 553(b)), this provided the industry with notice of the "terms or substance of the proposed rule or a description of the subjects and issues involved." At the hearing the proponent of this proposal described the basis for the proposal, contending in part that a change in the current pooling standards was necessary to preclude the pooling of milk intended solely for manufacturing uses. In conjunction with this review of the present pooling standards, several modifications of the present standards were proposed at the hearing by other parties as well. Through these several proposals, industry concerns were brought out on the record relative to the appropriateness of the current pooling standards.

As already indicated, the evidence does not show that more stringent shipping requirements need to be imposed upon supply plants to assure that such plants are meeting the necessary association with the fluid market. At the same time, the evidence demonstrates a means whereby the current pooling standards can be circumvented if plant operators are inclined to do so. It cannot be overlooked that several supply plant operators in the market are in the manufacturing business. In view of this, it is not unreasonable to take steps to assure the integrity of the present standards. The net shipment requirement represents a reasonable means of doing this.

Although this provision was not specifically considered at the hearing, such a provision represents an alternative means of dealing with the concerns of the industry that were explored on the record. The Secretary cannot be restricted to adopting solely those changes that may be proposed in specific terms at a hearing. If this were so, he could be in a position of having a record that demonstrates a need for order amendments to remedy certain marketing problems but not having before him specific industry proposals that would result in the corrective action needed. Within the scope of the hearing proposals and evidence received, he must have the latitude to propose those order changes that will best meet the marketing problems before him.

The changes in the pooling standards adopted herein are not designed to necessarily lessen the amount of milk that may be pooled under the order. Neither are they intended to affect the pooling status of any such plant having a bona fide association with the market. Rather, such changes will promote the orderly and efficient marketing of milk in the marketing area.

The proposal that the pool qualifications for a supply plant be based on the actual receipts of Grade A milk from dairy farmers at the plant plus the milk of producers diverted from such plant should be adopted. Diverted milk may now be pooled without being counted as a part of the supply of the plant from which diverted in determining the plant's pool status.

Under the present arrangement, the current 50 percent minimum shipping requirement for a pool supply plant can be effectively reduced depending on the extent of such plant's total diversions. For example, if 30 percent[2] of the producer milk normally associated with such plant is diverted without being counted as part of the plant's total producer milk supply, the plant could qualify as a pool plant by shipping to pool distributing plants only 35 percent (rather than 50 percent) of its regular supply of producer milk. On the other hand, a supply plant that diverts no milk would have to ship 50 percent of its actual producer receipts to qualify for pooling. This procedure, which is currently being employed by some of the pool supply plants, results in inequity among supply plants in acquiring and maintaining pool status. It is reasonable, therefore, to include milk diverted from a supply plant as a receipt in determining such plant's pool status.

Such a change, however, requires a reduction in the present shipping percentage for pool supply plants. Including diverted milk as part of a supply plant's total receipts from producers for pooling purposes could result in some plants having difficulty in meeting the shipping requirements unless they adjusted their present operations. The change in the diversion arrangement adopted herein is

[2] The maximum allowable diversions by a pool supply plant operator is 30 percent during each of the months of January–March and September–November, and 40 percent during any other month, of the producer milk actually received at the plant.





not expected to result in substantial adjustments.

In view of current supply-demand conditions existing in this market, a reduction of 10 percentage points (from 50 to 40 percent) in the shipping standard appears reasonable. This lower shipping standard should be adequate to assure that milk associated with supply plants will continue to be available to distributing plants when needed.

A cooperative association that recently qualified a supply plant under the order excepted to the concept of including diverted milk as part of a supply plant's receipts in determining such plant's pooling status. The cooperative contended that adoption of the proposed change would make it difficult to maintain continuing pool status for its supply plant without resorting to unnecessary hauling and handling of milk. It is not apparent from its exception how the cooperative arrives at this conclusion. However, if the proposed changes result in nonpool status for the supply plant, this could not be construed as being inappropriate since it would be a direct manifestation of such plant's insufficient association with the fluid market.

In its exceptions, a cooperative that operates a pool supply plant reiterated its position taken at the hearing that the minimum shipping requirement for a supply plant should be no more than 35 percent of the plant's total receipts if diverted milk is included as a plant receipt in determining a supply plant's eligibility for pooling. The exceptor claimed that this minimum shipping requirement would be more appropriate because it would correspond to the total amount of milk that a supply plant can now pool under the order during the fall qualifying period on the basis of the present pooling and diversion provisions. Exceptor alleged that failure to adopt its recommendation could possibly result in uneconomic milk movements having to be made during the qualifying months solely for the purpose of maintaining pool status for its plants.

The record however, does not support exceptor's contention. Exceptor's witness conceded at the hearing that its supply plant could meet a 40 percent shipping standard based on including diversions as a plant receipt providing August was eliminated as a qualifying shipping month. As previously noted, this month is proposed to be eliminated as a qualifying shipping month. Moreover, there was no indication on the record that any other pool supply plant operator would experience difficulty in meeting the proposed 40 percent shipping standard. Thus, there is no need for shipping standards lower than initially adopted in the recommended decision.

The months of September–December, rather than August–December, should be used as the qualifying period in which a supply plant may earn automatic pooling status for the following months when there is less demand for supply plant milk. This change would more nearly reflect the current seasonal production pattern for the market. The four months of September–December is the period when milk production is lower relative to demand than in the remaining months of the year. During the most recent such four-month period (September through December 1975) for which data were available at the hearing, Class I utilization of producer milk was 59 percent. In the following eight months (January through August 1976) the comparable Class I utilization was 48 percent.

August, which would be eliminated as a qualifying month for automatic pooling, is now a month of relatively high production relative to demand. For the years 1974, 1975 and 1976, the Class I utilization of producer milk in August was 47 percent, 50 percent and 44 percent, respectively. These percentages for August are essentially at the same level as for the months of seasonally high production in this market. In fact, over the same three-year period, only the months of May, June and July had a lower Class I utilization than did August. In this circumstance, supply plants should not be forced to make substantial shipments when there is little demand for the milk. The qualifying period of September through December should be adequate to establish a supply plant's association with the fluid market.

Qualifying shipments by a supply plant that is not a cooperative balancing plant should not include milk delivered directly from farms to distributing plants by the supply plant operator. This was proposed at the hearing by a cooperative for the purpose of facilitating the continued pooling of its supply plant. The order already provides for this type of pooling arrangement in that a cooperative's plant may be a pool balancing plant if 51 percent or more of the cooperative's producer milk is moved to pool distributing plants either by transfer from the balancing plant or directly from members' farms. Thus, there is no need for the type of change proposed by the cooperative. Moreover, other changes in the pooling provisions adopted herein should aid the cooperative with respect to the pooling of its plant.

The two cooperative associations that operate pool supply plants in this market urged in their exceptions that cooperatives be allowed to meet supply plant shipping requirements on the basis of direct deliveries from producers' farms. The cooperatives' exceptions provide no basis, however, for taking a different position on this matter. For the reasons previously cited, direct deliveries from producer farms to distributing plants should not be considered as qualifying shipments of a supply plant.

In its exceptions, a proprietary handler requested that appropriate provisions be adopted to permit the proprietary operator of a pool supply plant to divert milk directly from the farm to a distributing plant and allow such diversions to count as a qualifying shipment from the supply plant. The need for this type of provision for proprietary handlers was not explored at the hearing. Thus, there is no adequate basis on this record to make an evaluation of the request.

At the hearing, a cooperative association proposed that a supply plant which fails to meet the shipping percentage requirement in any month nevertheless be permitted to remain pooled for such month if it was a pool supply plant in each of the preceding 12 months. This should not be adopted. The spokesman for the cooperative did not present any specific testimony on this issue other than merely offering the proposal. Moreover, the record provides no evidence of marketing problems that would warrant the implementation of such a "depooling" safeguard.

A group of proprietary pool supply plant operators excepted to this conclusion on the basis that a "depooling" safeguard is needed to offset any unforeseen circumstance beyond the control of the plant operator that would prevent milk movements from occurring. The exception provides no basis, however, for changing the conclusion reached in the recommended decision on this matter.

No action is taken on the proposal that route disposition in the marketing area from a supply plant be counted as a qualifying shipment for pooling purposes. This suggested change was included in the supply plant definition as initially proposed in the hearing notice. However, there was no testimony presented at the hearing either in support of or in opposition to the proposal.

2. *The Class I price zones within the marketing area and the applicable price for each zone.* No change should be made on the basis of this record in the zone price structure now applicable to pool plants located within the marketing area.

Currently, the marketing area is divided into three pricing zones. Zone 1 includes 39 eastern Nebraska counties, five western Iowa counties plus part of the Iowa county of Pottawattamie, and a portion of Union County, South Dakota. The largest cities in the marketing area are located in Zone 1, which include Omaha and Lincoln, Nebraska, and Council Bluffs and Sioux City, Iowa.

The extreme eastern part of the marketing area is included in Zone 2. This zone comprises 11 Iowa counties and that part of Pottawattamie County, Iowa, not included in Zone 1. The zone is predominately rural, with the largest populated center being Le Mars, Iowa.

The western portion of the marketing area, consisting of 31 Nebraska counties and extending westward from Zone 1 to the Wyoming State line, is included in Zone 3. Grand Island, Hastings, North Platte, Kearney and Scottsbluff, Nebraska, are the principal cities in Zone 3.

The Class I price at plants located in Zone 1 is $1.60 over the basic formula price. The Zone 2 Class I price is 10 cents less. The Zone 3 Class I price is 15 cents more than the Zone 1 price.

Six pricing proposals by three proprietary handlers, all of which would revise the zone price structure, were included in the hearing notice. At the hearing, however, proponents revised many of the proposals, or abandoned them.



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Proposals initially offered by a handler at Le Mars, Iowa, who operates the only pool distributing plant in Zone 2, would have changed the prices applicable in each of the present zones, plus establishing an additional price zone. At the hearing, the handler modified his proposals set forth in the hearing notice and supported changes that: (1) would reduce the Zone 2 Class I price by 10 cents per hundredweight and (2) would establish a new two-county price zone comprising Woodbury County, Iowa, and Dakota County, Nebraska, both of which are now in Zone 1. The handler recommended that a Class I price 15 cents less than the Zone 1 price apply to the new zone.

The primary reason cited by the representatives of the proponent handler for the zone price revisions was that they would restore the historical Class I price relationships that existed between the Le Mars handler and handlers in Sioux Falls, South Dakota, prior to the June 1, 1976, amendment to the Eastern South Dakota order. This amendment reduced the Eastern South Dakota order's Class I differential from $1.50 to $1.40. Prior to the amendment, the Eastern South Dakota's Class I differential was identical to the Nebraska-Western Iowa Zone 2 Class I differential. Proponent claimed that the lowering of the Class I differential in the Eastern South Dakota market has seriously affected his ability to compete with handlers regulated under that order in his principal area of distribution.

In supporting the handler's position, witnesses stated that historically the alignment of Class I prices in Federal order markets has been based on the cost of transporting milk from Eau Claire, Wisconsin, which is in an area that is an important source of alternative milk supplies for various markets. They held that the Sioux Falls price is properly aligned with Eau Claire and that the Le Mars price should be similarly aligned. The witnesses reasoned that since the distance from the alternative milk supply area to Le Mars and to Sioux Falls is about the same, the $1.40 Class I price differential applicable at Sioux Falls is also proper for Le Mars.

Witnesses for the proponent handler also contended that the Zone 2 price has always been too high relative to the Omaha price (Zone 1). They maintained that their proposed Zone 2 price would improve the price alignment between Le Mars and Omaha.

To facilitate the alignment of prices, the handler also proposed establishing a new price zone encompassing Dakota County, Nebraska, and Woodbury County, Iowa (principally the Sioux City, Iowa area) with a Class I price differential of $1.45. It was argued by proponent that this would more accurately reflect the location value of milk in this area in relation to Omaha.

In further support of his position, the proponent handler noted that a factor considered by the Department in reducing the Eastern South Dakota order's Class I price was the availability of additional milk supplies for Sioux Falls handlers from the nearby heavy milk producing area of Swift, Yellow Medicine and Brown Counties, Minnesota. Since this milk production area is about equi-distant from Le Mars and Sioux Falls, proponent maintained that a Class I differential of $1.40 at Le Mars would be high enough to attract milk supplies from these three counties to his plant when needed.

Two proposals included in the hearing notice by the operator of three pool distributing plants at Grand Island and Omaha, Nebraska, and Sioux City, Iowa, which would revise the zone price structure as to territory and price, were abandoned at the hearing. Instead, the handler proposed the elimination of price zones and recommended that a differential of $1.60 (the present Zone 1 differential) apply throughout the marketing area. Additionally, he proposes that a 10-cent credit be allowed on any Class I sales in a lower-priced Federal order market by a pool handler. The handler believed that his proposed changes would enhance producer prices and improve handler equity from a competitive standpoint.

A third handler who operates a pool distributing plant at Norfolk, Nebraska (Zone 1), originally proposed the consolidation of Zones 1 and 2, with the present Zone 1 Class I price applying to the entire area. At the hearing, the handler did not support the proposal. Instead, he urged that no change be made in the Class I price structure until it can be reviewed at a hearing dealing with the merger of several orders in the region.[3] He did state, however, that if it were determined that a change in the zone price structure is necessary, then his recommendation would be to consolidate Zones 1 and 2 and have a $1.40 Class I differential apply to the entire area. Another alternative recommendation advanced by the handler was that if the proposed $1.40 Class I differential is adopted for Zone 2, then the proposed new two-county pricing zone should be expanded to include 10 additional counties now in Zone 1. Under this recommendation, the handler's plant would be included in the new price zone. The handler stated that his alternative recommendations were intended to maintain the same general competitive relationship with the two handlers at Sioux City and Le Mars that now exists under the present zone price structure.

At the hearing, a cooperative association opposed any change in the price structure for Sioux City and Zone 2 that would have the effect of reducing prices in those areas. The witness for the cooperative held that any price reduction would have an adverse effect on the maintenance of an adequate milk supply at distributing plants in these areas, particularly the single Zone 2 plant. He also maintained that any change in the price structure would disrupt the historical competitive relationship between handlers in Zones 1 and 2.

The cooperative did propose at the hearing, however, shifting to Zone 1 all the territory east of Garden and Deuel Counties, Nebraska, now included in Zone 3. The shift would involve 19 Zone 3 Nebraska counties, including the population centers of North Platte, Grand Island and Hastings. There are presently eight pool plants located in this 19-county area—four distributing plants, three supply plants and one cooperative balancing plant. Under its proposal, the "panhandle" section of Nebraska, comprising 11 western Nebraska counties, would be the only territory remaining in Zone 3.

The principal reason cited by the cooperative for the change was that the 15-cent higher price in Zone 3 relative to Zone 1 is no longer necessary to attract an adequate supply of milk at the distributing plants located in the 19-county area. In support of its position, the cooperative's witness claimed that marketing conditions have changed since the adoption in June 1968 of the present price structure for the 19-county area. One change cited was the decline in the number of distributing plants in the area—from five in 1968 to four at the present time. Another change was the supply-demand situation. The witness claimed that milk supplies in Zone 3 have become excessive in relation to the Class I sales of the distributing plants located in the area. He further testified that as a result of the increased supplies available in Zone 3 the cooperative has found it necessary to seek alternative outlets in a higher-priced market to enhance the returns to its member producers. This was accomplished, according to the witness, by pooling their former Nebraska-Western Iowa order pool supply plants at Broken Bow, Nebraska, and Ellis, Kansas, under the Eastern Colorado order.

Another cooperative that supplies several pool distributing plants in the market, although it did not testify at the hearing regarding zone pricing, supported in its post-hearing brief the proposal to shift 19 Zone 3 counties to Zone 1.

A handler who operates two pool distributing plants (at Lincoln and North Platte, Nebraska) opposed any change in the present zone price structure. The handler's representative stated that any price change for a single zone, as advocated by the Le Mars, Iowa, handler, would disrupt the historical price relationships among the three zones and as between adjoining markets. He further held that if the proposal to reduce the Zone 2 price by 10 cents is adopted, then the price in the other zones should be reduced the same amount in order to maintain historical price relationships within the marketing area.

Another handler who operates distributing plants at Lincoln and Grand Island, Nebraska, also opposed any change in the present zone price structure. The witness for the handler held

[3] The orders referred to here would include at least Eastern South Dakota, Greater Kansas City and Nebraska-Western Iowa. Such a merger, however, is not a matter pending before the Secretary at this time.





that the proposals to reduce the Zone 2 and Sioux City Class I prices, if adopted, would have an adverse effect on the handler's Lincoln plant in competing with the two plants at Le Mars and Sioux City. In his post-hearing brief, the handler revised his position taken at the hearing against any changes and supported the limited proposal to shift 19 Zone 3 counties to Zone 1.

At the hearing two other handlers (operators of a pool distributing plant and a pool supply plant, respectively) opposed any change in the present zone price structure. In their post-hearing briefs, the operators of several pool supply plants also expressed opposition to any change in the provisions establishing zone pricing.

The order's present zone price structure was established on the basis of the Assistant Secretary's decision issued April 15, 1968 (33 FR 6046) when the Sioux City, Iowa, order was merged with the Nebraska-Western Iowa order. It was reviewed at a public hearing held in May 1974. As a result of that hearing, the Assistant Secretary concluded in his decision issued November 26, 1974 (39 FR 41729), that no change should be made in the boundaries of Zones 1, 2 and 3 of the marketing area or in the prices applicable to such zones.

Except for the testimony of the handler who proposed that the same Class I price apply throughout the marketing area, the testimony presented at the current hearing supported the continuance of zone pricing under the order. The handler's proposal for a single Class I price throughout the marketing area would have the effect of reducing the Zone III Class I price by 15 cents and increasing the Zone II price by 10 cents. The handler's witness presented no specific facts or marketing problems supporting the proposal. There was no reason given why the Zone III price should be reduced. Neither was there any indication why the value of milk in Zone II should be more than what the present price reflects.

Under such a pricing scheme, producers obviously would want to deliver their milk only to the plants located nearest their farms to escape the transportation cost involved in more distant movements to other plant locations at which milk is needed. The likely result of this would be to increase the total handling and transportation costs for some handlers as opposed to others in obtaining adequate milk supplies. Accordingly, a single uniform Class I price applicable throughout the expansive marketing area would be inappropriate and could contribute to disorderly marketing conditions.

Under the order's price structure, Class I prices at various locations increase in relation to distance from the eastern to the western segment of the marketing area. This graduation of prices reflects the additional value that milk has at the various plant locations within the marketing area relative to the cost of obtaining milk supplies on a regular basis from alternative sources (an important source of alternative milk supplies for this market as well as for many other markets is the Upper Midwest region). It is anticipated that even in the absence of a regulatory program the Class I price structure would gradually increase in a westerly direction from the heavy milk producing Upper Midwest region reflecting the variable cost of moving milk supplies from this region.

The Class I prices that now apply at various locations in the Nebraska-Western Iowa market were thus established to reflect the value of an economic service to handlers by distant producers bearing the cost of moving their milk to a handler's plant. This is the case even though a handler may obtain his entire supply from local producers. In the absence of an adequate local supply, the handler would have to procure milk from other areas. Thus, the value of milk at such plant's location necessarily must reflect the cost of obtaining milk from alternative supply sources.

Additionally, the economic value of milk to the producer is determined by the alternative outlets for his milk. If this value is not properly reflected in the Class I price at various locations, the milk, over time, would not be available to plants at such locations.

The record evidence does not demonstrate that the present Class I price structure for the Nebraska-Western Iowa market is inappropriate or is contributing to disorderly marketing conditions. To the contrary, it appears that the present price structure is providing adequate milk supplies at all locations at which milk is delivered by producers and the necessary alignment of prices not only with other markets but also among the various segments within the market. Accordingly, the Class I zone price structure now applicable to the marketing area should be retained.

Present marketing conditions do not warrant a reduction in the Zone 2 Class I prices. As previously noted, the proponent handler's basic argument for reducing the Zone 2 Class I differential by 10 cents was that the present Eastern South Dakota Class I price applicable at Sioux Falls plants provides such plants with a competitive advantage over his Le Mars, Iowa, plant. Two Sioux Falls plants compete with the Le Mars plant for Class I sales, principally in the Sioux City, Iowa, area of Zone 1. Le Mars and Sioux Falls are located 25 miles and 85 miles, respectively, north of Sioux City. Based on the location differential rate of 1.5 cents per 10 miles contained in the order, the 85-mile distance from Sioux Falls to Sioux City would suggest a hauling cost of about 14 cents per hundredweight. In contrast, the cost of moving bulk milk from Le Mars to Sioux City would be about 4 cents. This would suggest a price difference of 10 cents per hundredweight between Sioux Falls and Le Mars, which is presently the case. Thus, this price difference cannot be regarded as disruptive to the Le Mars handler in competing with Sioux Falls handlers for fluid milk sales in the Sioux City area.

In further support of his basic argument, the proponent handler claimed that following the 10-cent reduction in the Eastern South Dakota order Class I price, he lost a bid on a sizeable wholesale account at Vermillion, South Dakota, to a Sioux Falls handler. Considering the greater distance to Vermillion from Sioux Falls (about 55 miles) than from Le Mars (about 36 miles), it is unlikely that Sioux Falls milk could be delivered to Vermillion at a cost significanty less than what the Le Mars handler would incur in serving the area.

The argument of the Le Mars handler that he has substantial sales in other markets where Class I prices are lower provides no basis, in itself, for reducing the Zone 2 Class I differential. A handler may distribute milk in any area he chooses. Should he decide to sell milk in an area where handlers have a lower cost, he must assume any competitive risks involved. It would be uneconomic to have the order provide a handler with cost comparability at any location at which he may choose to distribute milk.

The fact that the Le Mars handler has the same access, distance-wise, as Sioux Falls handlers to the three-county supply area in southwestern Minnesota referred to earlier provides no compelling basis for adopting the Le Mars handler's Zone 2 price proposal. There is no indication on this record that the present price for milk delivered to the Le Mars location does not reflect the economic value that such milk has to the Le Mars handler.

The Le Mars handler excepted to the above recommendation that the present Zone 2 Class I price should be retained. Exceptor's arguments generally implied that the Department applied different standards in denying his proposal for a 10 cent lower price in Zone 2 than was used in the Upper Midwest decision which reduced the Eastern South Dakota Class I price 10 cents. As evidence of this, the exceptor cited selected parts of the Upper Midwest decision to argue his points. In this connection, exceptor argues that the appropriate Class I pricing structure for Zone 2 should be based essentially on the cost of obtaining milk supplies from the nearest sources of reserve milk. He claims that this was the prime consideration used in reducing the Eastern South Dakota order's Class I price and supports his position regarding a 10-cent lower price for Zone 2.

This argument, however, fails to recognize that in providing an appropriate pricing structure for a market, it is most important that consideration be given both to the level of prices that are necessary to assure an adequate supply of milk and the necessary alignment of prices not only with other markets but also among the various segments within the market. Establishing a pricing structure on the basis advocated by the exceptor is only a peripheral consideration. Accordingly, exceptor's position is not supportable and there is no basis



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for reaching a different conclusion on the Zone 2 Class I price.

The proposal to remove Woodbury County, Iowa, and Dakota County, Nebraska, from Zone 1, and include them in a new pricing zone with a 15-cent lower Class I price, which would affect only the price structure at the Sioux City plant, was proposed by the Le Mars handler as a corollary proposal to his proposed price reduction at Le Mars. Since the latter proposal is not adopted, further consideration is not given to the proposed 15-cent reduction at Sioux City. Moreover, the operator of the Sioux City plant testified that he was opposed to any price reduction at this time that might adversely affect producer returns and ultimately affect milk supplies in the market.

The proposal to reduce the Class I price 15 cents per hundredweight in 19 Zone 3 counties by shifting these counties to the lower-priced Zone 1 cannot be justified by the record evidence. Contrary to the proponent cooperative's position, the record evidence suggests that milk supplies in and around this area are not excessive and that additional supplies for plants in the area are obtained from the heavy production region in northcentral Nebraska (principally in the Zone 1 area), which is a principal supply area for Omaha distributing plants. The use of a 15-cent per hundredweight higher price in this 19-county area of the marketing area reflects the graduation of Class I prices from east to west that is necessary to reflect the differences in economic value that milk has to handlers in Zone 1 and 3. Without this alignment of prices, plants in the Omaha area, because of distance, would be preferential outlets for milk produced in northcentral Nebraska relative to plants in Zone 3.

Further, some of the milk produced in the 19-county area is delivered to plants regulated by orders south and west of this area where the price is higher. The present higher price in this general area provides the necessary alignment with such higher-priced markets. A 15-cent decrease in that portion of Zone 3, as proposed, could impair the ability of plants located therein to compete for the supplies available in the local area. The economic value of milk produced locally is determined by the alternative outlets for the milk. If this value is not properly reflected in the Class I prices at various locations, the milk, over time, probably would not be available to plants at those locations. The present 15-cent higher price in the 19-county area reflects the additional value that milk has at plants in this area.

As indicated previously, a handler proposed at the hearing that a 10-cent per hundredweight credit be granted to a pool handler on any Class I sales made in a lower-priced Federal order market. This proposal, however, does not comport with the Act since the Act provides for the pricing of producer milk at "the location at which delivery * * * is made." Moreover, the price established under the order at each plant location is the price that is considered necessary to bring forth an adequate supply of milk at that location. To reduce the price at any location because the handler has route distribution into a lower-priced area could jeopardize the ability of the handler to continue over time to receive an adequate supply of milk. Accordingly, the proposal is denied.

3. *Payment and accounting for farm bulk tank milk received by a handler from a cooperative association.* The method of payment to a cooperative association as the handler for farm bulk tank milk should be revised.

Presently, a pool plant operator who receives milk from a cooperative bulk tank handler is required to pay the cooperative association at the classified use value of such milk. Under this payment procedure, the cooperative association is responsible to the producer-settlement fund at class prices for such milk delivered to a pool plant rather than the pool plant operator.

A cooperative association proposed that the order provide that milk received at a pool plant from a cooperative bulk tank handler be paid for at the uniform price and the pool plant operator be obligated to the producer-settlement fund for such milk at its classified use value. There was no opposition to the proposal.

The cooperative's representative testified that the present payment procedure on such milk involves unnecessarily a third party (the cooperative bulk tank handler) in the transaction as related to obligations to the producer-settlement fund. In this connection, the witness contended the proposal would simplify the accounting for such milk received by the pool plant operator and would result in more effective administration of the order regarding the billing and collection of audit adjustments resulting from changes in classification of milk.

The order should specify, as proposed, that milk delivered to a pool plant by a cooperative bulk tank handler be treated as a receipt of producer milk and be paid for at the uniform price by the pool plant operator. The pool plant operator in turn would be responsible, rather than the cooperative, to the producer-settlement fund for the accounting of the utilization of such milk.

This change will simplify the accounting for such milk by the pool plant operator and will facilitate the administration of the order with respect to matters of financial responsibility, enforcement, and subsequent audit adjustments that may arise. Since the actual utilization of such milk reflects the receiving pool plant's operations, it is reasonable, therefore, that the responsibility for its accounting and payment be placed directly on the pool plant operator.

Under the revision adopted herein, a cooperative's obligation to the producer-settlement fund would continue to be the same as presently required (1) on producer milk received at its pool plant, (2) on producer milk it diverts to a nonpool plant from its own pool plant or from another pool plant, and (3) on any milk for which it is the bulk tank handler that exceeds the quantity of such milk delivered to pool plants. Also, the pool plant operator would continue to be responsible for the administrative assessment on the milk received from the cooperative bulk tank handler as is the case now under the order.

To accommodate the adopted change in the method of payment and accounting for cooperative farm bulk tank milk received by a handler, it is necessary to revise certain other provisions of the order to conform to the change. A group of pool supply plant operators excepted to the conforming revisions that were made in the classification of producer milk provisions on the basis that such revisions will deny a market to nonmember producers. Exceptors misunderstand the effect of the conforming changes. Such changes are not substantial and have no bearing on the availability of a market for member or nonmember producers.

### Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

### General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.





### Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

### Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Nebraska-Western Iowa marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

*It is hereby ordered*, That this entire decision, except the attached marketing agreement, be published in the Federal Register. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

### Determination of Producer Approval and Representative Period

May 1977 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Nebraska-Western Iowa marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on July 18, 1977.

Robert H. Meyer,
*Assistant Secretary for Marketing Services.*

*Order[1] amending the order, regulating the handling of milk in the Nebraska-Western Iowa marketing area.*

### Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Nebraska-Western Iowa marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

*Order relative to handling.* It is therefore ordered that on and after the effective date hereof the handling of milk in the Nebraska-Western Iowa marketing area shall be in conformity and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Acting Administrator on May 10, 1977, and published in the Federal Register on May 16, 1977 (42 FR 24744) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

1. In § 1065.7, the word "July" where it appears in paragraph (d)(3) is changed to "August", and paragraph (b) is revised to read as follows:

**§ 1065.7 Pool plant.**

* * * * * * *

(b) A supply plant from which the volume of fluid milk products, except filled milk, shipped during the month to pool plants qualified pursuant to paragraph (a) of this section (excluding fluid milk products transferred from any such distributing plant to the supply plant or to any other plant operated by the operator of the supply plant) is not less than 40 percent of the Grade A milk received at such plant from dairy farmers (including receipts of producer milk diverted from the plant pursuant to § 1065.13) and handlers described in § 1065.9(c) during such month. A supply plant that qualifies as a pool plant in each of the immediately preceding months of September through December shall be a pool plant for the months of January through August unless the plant operator requests of the market administrator, in writing, that such plant not be a pool plant, such nonpool plant status to be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments.

* * * * * * *

2. In § 1065.13, paragraphs (a) and (b) are revised to read as follows:

**§ 1065.13 Producer milk.**

* * * * * * *

(a) Received at a pool plant directly from a producer or a handler described in § 1065.9(c);

(b) Received by a handler described in § 1065.9(c) from producers in excess of the quantity delivered to pool plants; or

* * * * * * *

3. In § 1065.41, paragraph (b)(1) is revised to read as follows:

**§ 1065.41 Shrinkage.**

* * * * * * *

(b) * * *

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1065.9(c));

* * * * * * *

4. In § 1065.42, the semicolon at the end of paragraph (a)(1) is changed to a period; the word "and" immediately following is deleted; all of paragraph (a)(2) is revoked; and the introductory text of paragraph (a) is revised to read as follows:

**§ 1065.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as follows:

* * * * * * *

5. In § 1065.44, paragraphs (a)(8)(ii) (b) and (13) are revised to read as follows:

**§ 1065.44 Classification of producer milk.**

* * * * * * *

(a) * * *

(8) * * *

(ii) * * *

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pur-

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.



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suant to paragraph (a)(7)(vi) of this section; and

* * * * *

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1065.42(a); and

* * * * *

6. In § 1065.45, paragraph (d) is revised to read as follows:

**§ 1065.45 Market administrator's reports and announcements concerning classification.**

* * * * *

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the class utilization of producer milk received by each handler from a cooperative association or from members of the association. For the purpose of this report, the milk caused to be so delivered by an association shall be prorated to each class in the proportion that the total receipts of milk received from producers by such handler were used in each class.

7. In § 1065.73, paragraph (d)(2) is revised to read as follows:

**§ 1065.73 Payments to producers and to cooperative associations.**

* * * * *

(d) * * *

(2) On or before the 14th day after the end of each month not less than the value of such milk at the uniform price as adjusted by the butterfat differential specified in § 1065.74 applicable at the location of the receiving handler's plant, less payment made pursuant to paragraph (d)(1) of this section;

* * * * *

8. In § 1065.85, paragraph (a) is revised to read as follows:

**§ 1065.85 Assessment for order administration.**

* * * * *

(a) Producer milk (including such handler's own production);

* * * * *

[FR Doc.77-21068 Filed 7-21-77;8:45 am]

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**Commodity Credit Corporation**

**[ 7 CFR Part 1435 ]**

**PRICE SUPPORT PAYMENT PROGRAM FOR 1977—CROP SUGAR**

**Extension of Comment Period**

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Extension of time for comment on proposed rule.

SUMMARY: The purpose of this notice is to extend the time allotted for comments in the original notice of proposed rulemaking. The extension has been granted at the request of officials in the sugar industry.

DATE: Additional comments must be received on or before August 1, 1977, to be sure of receiving consideration.

ADDRESS: Mail comments to Chairman, Sugar Task Force, USDA-ASCS, Post Office Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Robert R. Stansberry, Jr. (202–447–5735).

SUPPLEMENTARY INFORMATION: On June 14, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (42 FR 30409) to advise that the Secretary of Agriculture proposes to establish a price support payments program beginning with the 1977 crop of sugar, and to provide that any written comments must be received on or before July 14, 1977. After reviewing concerns expressed to the Department by some officials of the sugar industry who asked for more time to analyze the proposed regulations, the comment period is being extended to assure all interested parties adequate opportunity to prepare written comments. Prior to adopting the program, the Department will give consideration to comments submitted in writing within the comment period, as extended, to the Chairman, Sugar Task Force. All written submissions made pursuant to this notice will be made available for inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 3639, South Building, 14th and Independence Avenue SW., Washington, D.C. (7 CFR 1.27 (b)).

Signed at Washington, D.C., on July 18, 1977.

RAY FITZGERALD,
*Executive Vice President,*
*Commodity Credit Corporation.*

[FR Doc.77-21117 Filed 7-21-77;8:45 am]

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**Rural Electrification Administration**

**[ 7 CFR Part 1701 ]**

**RURAL ELECTRIC PROGRAM**

**Electric Distribution Borrowers' Financial and Statistical Report**

AGENCY: Rural Electrification Administration, USDA.

ACTION: Advance notice of proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend Bulletin 108–1, Electric Distribution Borrowers' Financial and Statistical Report, containing instructions for completion of REA Form 7, Financial and Statistical Report, and REA Form 7a, Annual Supplement to Financial and Statistical Report. It is proposed that these reports be revised to provide REA more current information and to delete unnecessary information. The revisions are intended to create a more useful and pertinent report for the REA borrowers.

DATE: Public comments must be received by REA on or before August 18, 1977.

ADDRESS: Interested persons may submit written data, views or comments to the Director, Electronic Borrowers' Management Division, Room 3346, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director, Electric Borrowers' Management Division, during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles R. Weaver, Director, Electric Borrowers' Management Division, Rural Electrification Administration, Room 3346, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–5900.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to revise REA Bulletin 108–1 issued October 29, 1964. The proposed revisions to REA Bulletin 108–1 are as follows:

1. *REA Form 7, Part A:* Line 7.1, Customer Service and Informational Expense, this line is added to the format to provide for reporting balances in accounts "907 through 910" as prescribed in the Uniform System of Accounts for REA Borrowers. The instructions covering the preparation of this report are also revised to include this new line.

2. *REA Form 7, Certification:* The treasurer is no longer required to execute the operating report and the lines for such execution have been deleted from this section of the report.

3. *REA Form 7, Part C, Balance Sheet:* Margins earned during the current year are no longer to be reported as patronage capital on line 26 for the December 31 report. The asterisks for lines 28, 29, 30 and the footnote after line 45 are deleted from the format. The instructions are also revised accordingly.

4. *REA Form 7, Part D, Consumer Sales and Revenue Data:* Consumer classes have been consolidated or revised to conform with FPC classifications as prescribed in the Uniform System of Accounts. Major changes are:

a. Sales for residential and domestic service regardless of location (excluding such sales made on a seasonal basis which are still handled as a separate classification) are now to be reported as one classification.

b. *Single phase service* to schools, churches, lodges and other public buildings are now to be classified as residential and domestic service and reported accordingly.

c. *Multiphase service* to schools, churches, lodges and other public buildings are now to be classified as commercial and industrial service and reported accordingly.

d. Sales to air force bases, missile sites, military bases, municipalities, and other divisions or agencies of federal or state governments, under special agreements or service classifications applicable only to public authorities, are now to be reported as Other Sales to Public Authorities.

e. Sales for Resale are now reported as one classification.

f. Security Light Data (former lines 14 and 15) are deleted from the report.

5. *REA Form 7a, Part B, Analysis of Accumulated Provision for Depreciation and Amortization—Total Utility Plant:* This part has been expanded to add a column for Balance, Beginning of Year.

6. *REA Form 7a, Part C, Estimate of Funds Invested in Plant During Year:* This part has been deleted and dropped from the report and the instructions.

7. *REA Form 7a, Parts D through M* of the old form are relettered as Parts C through L.

8. *REA Form 7a, Part N, Continuing Property Records:* This part has been deleted from the report and the instructions.

9. *REA Form 7a, Parts P through V* of the old form are relettered as Parts M through T.

10. *REA Form 7a, Part R, Maintenance Renewal and Replacement Calculation* has been deleted and dropped from the report.

11. *REA Form 7a, Part P, Long Term Debt and Debt Service* has been added to furnish data, not currently available, that is necessary to evaluate the effect of supplemental and alternative financing on individual borrowers and on the rural electric program as a whole.

12. The instructions thoughout the bulletin have been revised to incorporate the above changes.

13. Requirements for submitting REA Form 7 to REA are changed to an annual submission of the report for the period ending December 31, unless the individual borrower is requested to submit the report on a more frequent basis.

A copy of the proposed revision of REA Bulletin 108–1 and REA Forms 7 and 7a may be secured in person or by written request from the Office of the Director, Electric Borrowers' Management Division.

Dated: July 14, 1977.

RICHARD F. RICHTER,
*Acting Administrator.*

[FR Doc.77-20931 Filed 7-21-77;8:45 am]





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**FEDERAL ENERGY ADMINISTRATION**

**[ 10 CFR Part 212 ]**

**POSTED PRICE MANUAL**

**Extension of Time for Filing of Comments**

AGENCY: Federal Energy Administration, (FEA).

ACTION: Extension of comment period.

SUMMARY: The Federal Energy Administration ("FEA") is extending the comment period for its notice of inquiry on a preliminary list of posted prices for domestic crude oil. The extension is granted in response to several requests for additional time.

DATES: The comment deadline is extended to August 12, 1977.

ADDRESSES: Comments to: Federal Energy Administration, 2000 M Street, NW., Room 6304G, Washington, D.C. 20460. Attention: Theodore L. Flood.

FOR FURTHER INFORMATION CONTACT:

Theodore L. Flood (Office of Regulatory Programs), 2000 M Street, NW., Room 6304G, Washington, D.C. 20460 (202–254–8690).

SUPPLEMENTARY INFORMATION: On June 27, 1977, FEA issued a notice of inquiry on a preliminary list of posted prices for domestic crude oil (42 FR 34660, July 6, 1977). The notice solicited comments on the adequacy and accuracy of that list, and established July 22, 1977 as the deadline for the submission of such comments.

FEA has received several requests for an extension of the deadline for filing written comments due to the fact that the list, as printed in the FEDERAL REGISTER, was in part illegible. In addition, several persons have advised the FEA that the preparation of comments in response to the notice of inquiry is considerably more complex and time-consuming than originally anticipated.

Accordingly, in order to obtain the most comprehensive information possible, the deadline for filing comments in this proceeding is extended to August 12, 1977.

Issued in Washington, D.C., July 18, 1977.

ERIC J. FYGI,
*Acting General Counsel,*
*Federal Energy Administration.*

[FR Doc.77-21041 Filed 7-21-77;8:45 am]

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**DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

**Food and Drug Administration**

**[ 21 CFR Part 500 ]**

[Docket No. 77N–0133]

**METHYLENE BLUE**

**Oral Use in Dogs and Cats**

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The agency proposes to require approved new animal drug applications (NADA's) for animal drugs that contain methylene blue and are orally administered to cats and dogs, because studies indicate such drugs are neither safe nor effective.

DATES: Comments by September 20, 1977.

ADDRESSES: Written comments to the Hearing Clerk (HFC–20), Room 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Andrew J. Beaulieu, Bureau of Veterinary Medicine (HFV–214), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3183).

SUPPLEMENTARY INFORMATION: The thiazine dye, methylene blue, (tetramethylthionine chloride) has been used by oral administration as a weak antiseptic for the treatment of urinary tract infections in cats and dogs. It has been demonstrated to produce Heinz bodies indicative of hemolytic anemia in these animals. The reaction can be severe enough to cause death in cats.

In 1890, Robert Heinz, described the action of certain chemical substances, especially phenylhydrazine and its derivatives, to produce characteristic inclusion bodies in red blood cells (R. Heinz, "Morphologische Veranderungen der rothen Blutkorperchen durch gifte," Archow's Archives of Pathology and Anatomy, 122:112–116, 1890). Since that time, many substances, particularly aromatic compounds containing amino-, nitro-, or hydroxy-groups, have been found to produce "Heinz bodies" in the erythrocytes of many species of animals. Although the precise nature of Heinz bodies and the exact mechanism by which they are formed is unclear, some sources believe these inclusion bodies are a reliable sign of an existing or threatening anemia and that the Heinz-body test is a simple method for predicting substances that are destructive to red blood cells.

In 1949, it was demonstrated in a laboratory test that methylene blue could cause Heinz bodies in red blood cells of cats (S. S. Spicer, and Thompson, E. C., "Heinz Body Formation in vivo A property of Methylene Blue", Journal of Industrial Hygiene and Toxicology, 31:206–208, July 1949). In a more recent study (Schecter, Schalm and Kaneko, "Heinz Body Hemolytic Anemia Associated with the Use of Urinary Antiseptics Containing Methylene Blue in the Cat," Journal of the American Veterinary Medicine Association, (162) 1:37–44, January 1, 1973), two urinary antiseptic-antispasmodic preparations for oral use that contain methylene blue caused Heinz-body hemolytic anemia in cats when used according to label directions. One of six animals died, and several others had reactions that reportedly would have resulted in their death had not counteracting therapy been instituted. The drugs used in this study were representative of a large number of similar products that generally contain methylene blue, atropine sulfate, hyoscyamine sulfate, gelsemium, methenamine, salol and benzoic acid. The cause of adverse reactions was determined to be methylene blue, which was present in the amount of 5.4 milligrams per tablet. The products were administered at the recommended dosage levels three times daily for periods ranging from 2 to 15 days. Methylene blue has also been demonstrated to produce a Heinz-body hemolytic anemia reaction in dogs under laboratory conditions.

In addition to finding these drugs unsafe, the Commissioner finds that the effectiveness of orally administered methylene blue as a urinary antiseptic is open to question. It appears that following oral administration, methylene blue is poorly and erratically absorbed and also slowly and erratically excreted in the urine. Studies in the dog indicated it is excreted in the urine essentially as leuko-methylene blue stabilized in some manner. Methylene blue itself is stepwise demethylated in alkaline solutions (alkaline urine being a frequent consequence of urinary infection) to Azure B, Azure A, and Azure C. The antiseptic efficacy of all of these excretion products is unsubstantiated.

In view of the foregoing, the Commissioner concludes that methylene blue for oral administration to cats and dogs is neither safe nor generally recognized as



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effective. Therefore, animal drugs containing methylene blue for such use are now considered new animal drugs within the meaning of section 201(w) of the act (21 U.S.C. 321(w)) for which approved new animal drug applications are required. Accordingly, all prior formal and informal opinions expressed by FDA that such drugs are "not new drugs" or "no longer new drugs" are hereby revoked.

Animal drugs that contain methylene blue for oral use in cats and dogs and are not the subject of an approved NADA will be deemed to be adulterated under the provisions of section 501(a) (5) and/or (6) and/or misbranded under section 502(a) of the act (21 U.S.C. 351(a) (5) and (6) and 352(a)) and subject to regulatory action 30 days after the date of publication of a final order based on this proposal. Sponsors of such products may submit NADA's in conformity with § 514.1 Applications (21 CFR 514.1), which will be processed in accord with section 512 of the act. Submission of an NADA will not constitute grounds for continued marketing of this substance until the NADA is approved.

A copy of the article "Heinz Body Hemolytic Anemia Associated with the Use of Urinary Antiseptics Containing Methylene Blue in the Cat" and other supporting data for this proposal are on file in the office of the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701 (a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b, 371(a))), and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that new § 500.50 be added to Subpart A, to read as follows:

**§ 500.50 Methylene - blue - containing drugs for use in animals.**

(a) New information requires a reevaluation of the status of drugs containing methylene blue (tetramethylthionine chloride) for oral use in cats or dogs.

(1) (i) It has been demonstrated that two orally administered urinary antiseptic-antispasmodic preparations that contained methylene blue caused Heinz-body hemolytic anemia in cats when used according to label directions. The specific cause of the reaction was determined to be the methylene blue contained in the preparations. The reaction can be severe enough to cause death of treated animals.

(ii) The Heinz body hemolytic anemia reaction to methylene blue has also been demonstrated in dogs under laboratory conditions. The precise mechanism by which methylene blue produces the characteristic erythrocytic inclusion bodies (Heinz bodies) and associated hemolytic anemia is unclear.

(2) The effectiveness of orally administered methylene blue as a urinary antiseptic is open to question. It appears that following oral administration, methylene blue is poorly and erratically absorbed and also slowly and erratically excreted in the urine. Studies in the dog indicate it is excreted in the urine essentially as leuko-methylene blue stabilized in some manner. Methylene blue itself is stepwise demethylated in alkaline solutions (alkaline urine being a frequent consequence of urinary infection) to Azure B, Azure A, and Azure C. The antiseptic efficacy of all of these excretion products is unsubstantiated.

(3) In view of the foregoing, the Commissioner has concluded that animal drugs containing methylene blue for oral use in cats or dogs are neither safe nor generally recognized as effective within the meaning of section 201(w) of the act and are therefore considered new animal drugs. Accordingly, all prior formal and informal opinions expressed by the Food and Drug Administration that such drugs are "not new drugs' or "no longer new drugs" are hereby revoked.

(b) Animal drugs that contain methylene blue for oral use in cats or dogs and not the subject of an approved new animal drug application (NADA) are deemed to be adulterated under the provisions of section 501(a) (5) and/or (6) and/or misbranded under section 502(a) of the act and subject to regulatory action as of 30 days after the date of publication of the final regulation.

(c) Sponsors of animal drugs that contain methylene blue for oral use in cats or dogs and not the subject of an approved new animal drug application (NADA) may submit an application in conformity with § 514.1 of this chapter. Such applications will be processed in accordance with section 512 of the act. Submission of an NADA will not constitute grounds for continued marketing of this drug substance until such application is approved.

(d) New animal drug applications required by this regulation pursuant to section 512 of the act shall be submitted to the Food and Drug Administration, Bureau of Veterinary Medicine, Office of Scientific Evaluation (HFV–100), 5600 Fishers Lane, Rockville, Md. 20857.

Interested persons may, on or before September 20, 1977, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: July 14, 1977.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.77–20784 Filed 7–21–77;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 765–8; PP 6E1792/P51]

**[ 40 CFR Part 180 ]**

**PESTICIDE PROGRAMS**

**Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Proposed Tolerances for the Pesticide Chemical Aldicarb**

AGENCY: Office of Pesticide Programs (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes a tolerance for residues of the insecticide aldicarb on bananas. This proposal was submitted by Union Carbide Corp. This amendment will establish a maximum permissible level for residues of aldicarb on bananas.

DATE: Comments must be received on or before August 22, 1977.

ADDRESS: Comments to: Federal Register Section, Technical Services Division (WN–569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St. SW, Washington DC 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank Sanders, Product Manager (PM) 12, Registration Division (WH–567), Office of Pesticide Programs, EPA, 202–426–9425.

SUPPLEMENTARY INFORMATION: Union Carbide Corp., 1730 Pennsylvania Ave. NW, Washington DC 20006, has submitted a pesticide petition (PP6E1792) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.269 be amended by the establishment of a tolerance for combined residues of the insecticide aldicarb (2-methyl-2-(methylthio-propionaldehyde *O*-(methylcarbamoyl) oxime and its cholinesterase - inhibiting metabolites 2 - methyl - 2 - (methylsulfinyl) propionaldehyde *O* (methylcarbamoyl) oxime and 2-methyl-2-(methylsolponyl) propionaldehyde *O* (methylcarbamoyl) oxime in or on the raw agricultural commodity bananas at 0.3 part per million (ppm).

The data submitted in the petition and all other relevant material have been evaluated, and it is concluded that the tolerance of 0.3 ppm established by amending 40 CFR 180.269 will protect the public health. The scientific data submitted with this petition to support the proposed tolerance consisted of two 18-month mouse feeding studies, a three-generation rat reproduction study, a dominant lethal mutagenicity study, a





90-day dog-feeding study, a cholinesterase-inhibition study, acute oral and dermal $LD_{50}$ (lethal dose) studies and an inhalation study. Previously submitted studies were twoyear rat-feeding, hen neurotoxicity, and rat teratogenicity studies were two-year rat-feeding, hen year dog-feeding study with a no-effect level (NEL) of 3.3 ppm, a two-year rat-feeding study with a 2 ppm NEL, and a three-generation rat reproduction study with a 2 ppm NEL.

In addition, the degradation of aldicarb in plants and animals is understood and an adequate analytical method (gas chromatography using a flame-photometric detector) is available. Tolerances have previously been established for aldicarb from 1 ppm to 0.002 ppm on a wide variety of raw agricultural commodities. The pesticide is considered useful for the purpose for which tolerances are sought, and there is no reasonable expectation of residues in eggs, meat, milk, or poultry, as delineated in 40 CFR 180.6(a)(3) from the proposed use. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, within 30 days after publication of this notice in the FEDERAL REGISTER, that this proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosemtic Act.

Interested persons are invited to submit written comments on the proposed regulation. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must bear a notation indicating both the subject and the petition/document control number, "PP6E1792/P51". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

STATUTORY AUTHORITY: Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)].

Dated: July 15, 1977.

DOUGLAS D. CAMPT,
*Acting Director, Registration Division.*

It is proposed that Part 180, Subpart C, § 180.269 be amended by alphabetically inserting the new item "bananas" in the table, as follows:

**§ 180.269 Aldicarb; tolerances for residues.**

| Commodity: | *Parts per million* |
|---|---|
| • • • | • • • |

[FR Doc.77–21031 Filed 7–21–77;8:45 am]



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# notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## ADVISORY COMMITTEE ON FEDERAL PAY

### PROPOSED ADJUSTMENT IN FEDERAL PAY FOR FISCAL 1978

#### Public Discussions

The Advisory Committee on Federal Pay announces that its public discussions of the proposed adjustment in Federal pay for Fiscal 1978, scheduled for July 27 and 28 (announced in the FEDERAL REGISTER of July 13) have been postponed. The dates for the discussions will be announced in a subsequent issue of the FEDERAL REGISTER.

JEROME M. ROSOW,
*Chairman, Advisory Committee on Federal Pay.*

[FR Doc.77-21294 Filed 7-21-77;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### FARMER-TO-CONSUMER DIRECT MARKETING ACT OF 1976

#### Policies and Procedures Governing Administration

AGENCY: Extension Service, Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: This document establishes the policies, procedures and responsibilities for distributing and allocating funds appropriated to carry out section 5 of the Farmer-to-Consumer Direct Marketing Act of 1976.

EFFECTIVE DATE: It is to the benefit of the public that this program be made effective as soon as practicable in order to allow implementation during the summer period when direct marketing is of the most advantage to both the producer and the consumer. Accordingly, good cause is found that notice and opportunity for public comment is impracticable, unnecessary and contrary to public interest, and good cause is found to make this program effective July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Sharon Hoobler, Extension Service, telephone 202-447-5633, and James Toomey, Agricultural Marketing Service, telephone 202-447-2704, U.S. Department of Agriculture, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: The Farmer-to-Consumer Direct Marketing Act of 1976 provides for support from both the State Extension Services and the State Departments of Agriculture for aiding in the development and expansion of direct farmer-to-consumer marketing of agricultural products. Funds will be allocated to the State Cooperative Extension Services and State Departments of Agriculture based on approved project proposals.

SECTION 1. *Project Proposals.*—The project proposals, where possible, should contain the proposed educational program to be provided by a State Extension Service, the services to be carried out by a State Department of Agriculture and an estimate of funds needed by each agency for each fiscal year to complete the total project. Project proposals are to be submitted to the Administrators of Agricultural Marketing Service and Extension Service, USDA. Guidelines for submitting project proposals and budgets will be forwarded to State Extension Services and State Departments of Agriculture. The appropriated funds will be used to support projects submitted by the States for the purpose of conducting new and additional programs which will help individuals and groups evaluate direct marketing-to-consumer alternatives, help establish such facilities and arrangements, where appropriate, and help increase the efficiency and effectiveness of direct farmer-to-consumer marketing operations, including helping farmers identify consumer groups interested in direct marketing and to work more closely with consumers for their common interest. The activities shall include, but shall not be limited to:

1. Sponsoring conferences to facilitate the sharing of information (among farm producers, consumers, and other interested persons or groups), concerning the establishment and operation of direct marketing from farmers to consumers, and to discuss research findings and other information important in direct marketing;

2. Compiling laws and regulations relevant to the conduct of the various methods of such direct marketing within the state, formulating drafts to enabling legislation needed to facilitate such direct marketing;

3. Determining feasible locations for additional facilities for such direct marketing;

4. Preparing and communicating practical information needed on the establishment and operation of such direct marketing; and

5. Providing assistance to interested individuals or groups in establishing arrangements for direct marketing from farmers to consumers, including projects for the inner city and those emphasizing programs for limited resource farmers.

Final date for submission of Project proposals will be July 25, 1977.

SEC. 2. *Criteria for Evaluating Project Proposals.*—The Administrators of Extension Service and Agricultural Marketing Service will jointly review proposals in consultation with representatives from Economic Research Service, Farmer Cooperative Service, State Departments of Agriculture and State Cooperative Extension Services.

In evaluating project proposals, priority will be given to:

1. Those of a prototype nature, and emphasizing new and innovative approaches which can have a significant impact on the development and/or expansion of effective direct farmer-to-consumer markets for farm products and carry out the purposes of the Farmer-to-Consumer Direct Marketing Act of 1976.

2. Proposals from states with staffs available to develop and conduct significant prototype programs during the two-year period (FY 1977 and 1978).

3. Proposals which provide for an evaluation of the contribution of the project to increasing the volume of direct farmer-to-consumer sales, and estimates of benefits to producers in terms of increased returns and benefits to consumers in terms of reduced costs and/or improved quality.

Programs encompassing two or more states will be considered.

SEC. 3. *Approvals.*—Project proposals will be approved for not to exceed a two-year period, subject to the availability of funds for Fiscal Year 1978.

SEC. 4. *Progress Reports.*—A report of progress and accomplishment shall be submitted by State Departments of Agriculture and State Extension Services to the Administrators of Extension Service and Agricultural Marketing Service, U.S. Department of Agriculture, six months from the date of approval of the project proposal, and at every six-month interval thereafter until completed.

Dated: June 23, 1977.

JOHN S. BOTTUM,
*Acting Administrator, Extension Service.*

Dated: June 27, 1977.

WILLIAM T. MANLEY,
*Acting Administrator, Agricultural Marketing Service.*

[FR Doc.77-21116 Filed 7-21-77;8:45 am]

### Animal and Plant Health Inspection Service

### NEW YORK ANIMAL IMPORT CENTER, NEWBURGH, NEW YORK

#### Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Animal and Plant Health Inspection Service, Department of Agriculture, has prepared a draft environmental statement for the proposed New York Animal Import Center, Newburgh, New York, USDA-APHIS-ADM-76-1-D.

The draft environmental statement concerns the construction of a proposed Animal Import Center on a site at Stewart Airport near Newburgh, New York. This proposed Animal Import Center will replace an existing facility in Clifton, New Jersey.

The draft environmental statement was transmitted to the Council on Environmental Quality on June 17, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, APHIS, ASD, Architectural Engineering Branch, Room 522, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782.

Metropolitan Transportation Authority, Stewart Airport, Newburgh, New York 12550.

Public Library, Grand Street, Newburgh, New York 12550.

A limited number of single copies are available upon request to Architectural Engineering Branch, Administrative Services Division, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 522, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782.

Copies of the draft environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public, from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and request for additional information should be addressed to Dr. Francis J. Mulhern, Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 316-E, Administration Building, 14th and Independence Avenue, SW., Washington, D.C. 20250.

Dated: July 15. 1977.

F. J. MULHERN,
*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc.77-20932 Filed 7-21-77;8:45 am]

### Extension Service

### FARMER TO CONSUMER DIRECT MARKETING ACT OF 1976

#### Policies and Procedures for Administration

CROSS REFERENCE: For a document issued jointly by the Agricultural Marketing Service and the Extension Service, USDA, on the administration of the Farmer to Consumer Direct Marketing Act of 1976, see FR Doc. 77-21116, appearing under the Agricultural Marketing Service in the Notices Section of this FEDERAL REGISTER.





### Rural Electrification Administration

### DAIRYLAND POWER COOPERATIVE, LACROSSE, WISCONSIN

#### Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration intends to prepare a Draft Environmental Impact Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with certain Federal approvals required by Dairyland Power Cooperative, LaCrosse, Wisconsin 54601, to construct transmission facilities.

The proposed transmission facilities consists of a 19-mile 161 kV transmission line between the Dairyland Power Cooperative's generating plant near Genoa, Wisconsin, and the Interstate Power Company generating plant near Lansing, Iowa. It is intended that the Environmental Impact Statement will study the effects of the transmission line crossing a wildlife refuge near Lansing, Iowa.

Interested persons are invited to submit comments which may be helpful in preparing the Draft Environmental Impact Statement.

Comments should be forwarded to the Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, with a copy to the borrower whose address was given above. Additional information may be obtained at the borrower's office during regular business hours.

Dated at Washington, D.C., this 14th day of July 1977.

RICHARD F. RICHTER,
*Acting Administrator.*

[FR Doc.77-20930 Filed 7-21-77;8:45 am]

### UNITED POWER ASSOCIATION, ELK RIVER, MINNESOTA

#### Proposed Loan Guarantee

Under the authority of Public Law 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $12,178,000 to United Power Association of Elk River, Minnesota. These loan funds will be used to finance generating facilities consisting of three 25 MW combustion turbines to be constructed in Minnesota near the towns of Pine City, Cambridge, and Maple Lake, respectively.

Legally organized lending agencies capable of making, holding, and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Philip O. Martin, Manager, United Power Association, Elk River, Minnesota 55330.

In order to be considered, proposals must be submitted on or before August 22, 1977, to Mr. Martin. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as United Power Association and the Rural Electrification Administration deem appropriate. Prospective lenders are advised that guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 13th day of July 1977.

DAVID A. HAMIL,
*Administrator, Rural Electrification Administration.*

[FR Doc.77-20796 Filed 7-21-77;8:45 am]

### UNITED POWER ASSOCIATION

#### Negative Determination

Notice is hereby given that the Rural Electrification Administration (REA) has made a negative determination on the need for an environmental impact statement by REA in connection with a loan commitment from the Rural Electrification Administration for United Power Association of Elk River, Minnesota (UPA), to construct the Bunker Lake 345/230 kV substation adjacent to an existing distribution substation near Andover, Minnesota, in Anoka County.

UPA has prepared an Environmental Report of the proposed action in which REA has had extensive input. The Environmental Report is in compliance with REA's environmental guidelines an numerous commitments have been made by UPA to satisfy Federal, State, and local requiremnts.

Our independent evaluation of the proposed project leads us to conclude that REA's financial assistance for this project does not represent a major Federal action that would significantly affect the quality of the human environment.

Based on REA's independent evaluation, our review of the Environmental Report and REA experience with installations of this type and the subsequent environmental effects, a negative determination was made under Section 5K of REA Bulletin 20-21.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator-Electric. Rural Electrification Administra-



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tion, U. S. Department of Agriculture, Washington, D.C. 20250.

Final REA action with respect to this matter may be taken after fifteen (15) days, from the date of the FEDERAL REGISTER publication of this notice, but only after REA has reached satisfactory conclusions with respect to its environmental effects and compliance with the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 15th day of July 1977.

RICHARD F. RICHTER,
*Acting Administrator, Rural Electrification Administration.*

[FR Doc.77-21066 Filed 7-21-77;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket 31114; Agreement CAB 26142; Order 77-7-46]

### ALASKA AIRLINES, INC. AND WIEN AIR ALASKA, INC.

**Substitute Service Facilitation Agreement; Order Deferring Action and Requesting Comments**

Issued under delegated authority, July 12, 1977.

Pursuant to section 412(a) of the Federal Aviation Act of 1958, as amended (the Act), and Part 261 of the Board's Economic Regulations, Alaska Airlines, Inc. and Wien Air Alaska, Inc. have filed with the Board an agreement (Agreement CAB 26142) providing for certain cooperative working arrangements during periods of strikes and other work stoppages. The pact is referred to as a substitute service facilitation agreement. More specifically, in the event of a strike or other work stoppage resulting in a substantial reduction of one of the carrier's flight operations, the agreement provides, inter alia, that the other carrier (the operating carrier) may request exemption authority from the Board to provide substitute for the period of the strike or work stoppage in any of the struck carrier's markets within or to Alaska which have experienced a substantial reduction in certificated flight operations. Moreover, the agreement provides that upon grant of such exemption authority, the struck carrier will make available for the period of the strike or work stoppage to the operating carrier its facilities and ground equipment at those stations where it provided service and its employes willing to provide assistance at those points.

In a preamble to the agreement, it is noted, inter alia, that Alaska and Wien provide the only transportation services to a number of communities in the State of Alaska, and that the occurrence of a strike or other work stoppage can cause economic loss and harm to those communities as well as to other communities in the state.

Upon consideration of the instant agreement, and the present factual record, it has been concluded that a more thorough evidentiary record is needed in order to determine whether this agreement should be approved. Accordingly, further consideration of the agreement will be deferred temporarily to afford the parties enumerated here, and other interested persons, an opportunity to state their views on the proposal as well as the additional issues set forth herein. Copies of this order will be served on Alaska, Wien, the Airline Pilots Association, the United States Departments of Justice and Transportation, and the State of Alaska. Should these parties, or any other interested persons, elect to comment on the agreement they should address themselves to the questions of whether approval of the agreement would be adverse to the public interst; whether the agreement should be approved subject to certain conditions; whether the agreement is anticompetitive or in restraint of trade; and other matters deemed appropriate. Such comments will be due within 20 days of the date of service of this order.

Therefore, pursuant to authority duly delegated by the Board in its Regulations, 14 CFR 385.3, it is found that action on Agreement CAB 26142 should be deferred and comments requested.

Accordingly, *it is ordered* that:

1. Action on Agreement CAB 26142 is deferred;

2. This order shall be served on Alaska Airlines, Inc., Wien Air Alaska, Inc., the Airline Pilots Association, the United States Departments of Justice and Transportation, and the State of Alaska; and

3. The above-mentioned parties, and other interested persons, are granted 20 days to comment on Agreement CAB 26142 and the matters set forth above.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order shall be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-21122 Filed 7-21-77;8:45 am]

[Order No. 77-7-37; Docket No. 30332; Agreement C.A.B. 26717 R-1 through R-15; Agreement C.A.B. 26720 R-1 through R-12]

### IATA

**Agreements Relating to General Cargo Rates and Specific Commodity Rates; Order**

Issued under delegated authority, July 11, 1977.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreements were adopted at the Composite Cargo Traffic Conference held in Vancourver in May 1977.

Agreement C.A.B. 26717 and C.A.B. 26720, which pertain to cargo air transportation within TC2 (Europe/African/Middle East) and over the South Atlantic, respectively, would increase general cargo rates, minimum charges, and assorted container rates and charges by various amounts; would establish charges for the use of member-owned unit load devices; and would establish adjustment factors for the sales of cargo transportation in order to relate local currency rates more closely with fluctuating foreign exchange values. The agreements would also amend the specific commodity rate structures in their respective areas.

We will approve those portions of the agreements governing rates which are combinable with rates to/from United States points, and thus have indirect application in air transportation as defined by the Act. Jurisdiction will be disclaimed on the remaining portions of the agreements, which involve noncombinable specific commodity rates between foreign points and thus have no application within the meaning of the Act.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14:

1. It is not found that the following resolutions, which have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

| Agreement CAB | IATA No. | Title | Application |
|---|---|---|---|
| 26717: | | | |
| R-1 | 001c | Cargo Tie-In Resolution—Europe/Middle East-Africa (new) | 2 |
| R-2 | 001j | Two Year Effectiveness Escape—Cargo (readopting) | 2 |
| R-3 | 001pp | Special Europe/Middle East-Africa Escape Resolution—Cargo (new) | 2 |
| R-4 | 001x | Review of Cargo Rates (Readopting) | 2 |
| R-5 | 002 | Standard Revalidation Resolution | 2 |
| R-6 | 014b | Construction Rule for Cargo Rates (Revalidating and Amending) | 2 |
| R-7 | 022aa | TC2 Adjustment Factors for Sales of Cargo Air Transportation (new) | 2 |
| R-8 | 115n | Meeting Rates, Charges and Practices from Europe to Africa (new) | 2 |
| R-9 | 501 | Minimum Charges for Cargo (Revalidating and Amending) | 2 |
| R-10 | 515a | Air Ferry Rates for Live Horses and Attendants (Revalidating and Amending). | 2 |
| R-11 | 521 | Charges for the Use of Unit Load Devices (Revalidating and Amending). | 2 |





| Agreement CAB | IATA No. | Title | Application |
|---|---|---|---|
| R-12 | 521c | Shipper Packed Unit Rates (Revalidating and Amending) | 2 |
| R-13 | 522 | Charges for the Use of Member Owned Unit Load Devices (new) | 2 |
| R-14 | 552 | TC2 General Cargo Rates | 2 |
| R-1 | 001c | Cargo Tie-in Resolution—South Atlantic | 1/2 |
| R-2 | 001l | Two Year Effectiveness Escape—Cargo (Readopting) | 1/2 |
| R-3 | 001x | Review of Cargo Rates (Readopting) | 1/2 |
| R-4 | 001zz | South Atlantic Escape Resolution—Cargo | 1/2 |
| R-5 | 002 | Standard Revalidation Resolution | 1/2 |
| R-6 | 022m | JT12 (South Atlantic) Adjustment Factors for Sales of Cargo Air Transportation (new). | 1/2 |
| R 7 | 501 | Minimum Charges for Cargo—South Atlantic (Revalidating and Amending). | 1/2 |
| R 8 | 521 | Charges for the Use of Unit Load Devices (Revalidating and Amending). | 1/2 |
| R 9 | 522 | Charges for the Use of Member Owned Unit Load Devices (new) | 1/2 |
| R 10 | 534c | Charges for Bulk Unitization—South Atlantic (Revalidating and Amending). | 1/2 |
| R 11 | 554c | South Atlantic General Cargo Rates | 1/2 |

2. It is not found that the following resolutions affect air transportation within the meaning of the Act:

| Agreement CAB | IATA No. | Title | Application |
|---|---|---|---|
| 26717: R 15 | 590 | Specific Commodity Rates Board (Revalidating and Amending) | 2 |
| 26720: R 12 | 590 | Specific Commodity Rates Board (Revalidating and Amending) | 1/2 |

Accordingly, *it is ordered*, That: 1. Those portions of Agreements C.A.B. 26717 and C.A.B. 26720 set forth in finding paragraph 1 above are approved; and 2. Jurisdiction is disclaimed with respect to those portions of Agreements C.A.B. 26717 and C.A.B. 26720 set forth in finding paragraph 2 above.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77 20998 Filed 7-21-77;8:45 am]

[Docket 29123; Agreement C.A.B. 26654; R-1 through R-5; Order No. 77-6-150]

### INTERNATIONAL AIR TRANSPORT ASSOCIATION

**Order; Passenger Fare Matters**

*Correction*

In FR Doc. 77-19196, appearing at page 34540 in the issue of Wednesday, July 6, 1977, the Order Number should have been included, as set forth in the headings above.

## CIVIL SERVICE COMMISSION

### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

**Grant of Authority To Make a Noncareer Executive Assignment**

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Equal Employment Opportunity Commission to fill by noncareer executive assignment in the excepted service the position of Executive Director, Office of the Executive Director, Office of the Chairman.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77 20780 Filed 7-21-77;9:45 am]

## DEPARTMENT OF COMMERCE

### Maritime Administration

[Docket No. S-566]

**PARTICIPATION BY VESSELS BUILT WITH CDS IN THE CARRIAGE OF ALASKAN OIL IN THE DOMESTIC TRADE**

**Applications by Boston VLCC Tankers, Inc. II and Boston VLCC Tankers, Inc. IV**

Notice is hereby given that Boston VLCC Tankers, Inc. II and Boston VLCC Tankers, Inc. IV have applied for written permission under section 506 of the Merchant Marine Act, 1936, as amended, for the temporary employment of their respective tankers, the SS *Massachusetts* and the SS *New York*, in the carriage of Alaskan oil in the domestic trade. The vessels are expected to commence making voyages from Alaska to the Panama Canal in August/September 1977 and would engage in this trade for three six-month periods, with intervening periods of six months during which times the vessels would not engage in this trade. The voyages would be made in accordance with the provisions set forth in Part 250 of Chapter II, Title 46, of the Code of Federal Regulations as published in the FEDERAL REGISTER issue of June 29, 1977 (42 FR 33035). The SS *Massachusetts* and SS *New York*, each of about 264,000 dwt, were built with construction-differential subsidy and are under time charter to Petroleo Brasileiro S/A (Petrobras); a subcharter to Sohio Petroleum Company is to be arranged.

Interested parties may inspect the applications in the Office of the Secretary, Maritime Administration, Room 3099-B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Any person, firm or corporation who is a "competitor," as defined in § 250.2 of the regulations, and desires to protest such applications should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20230. Protests must be received by July 29, 1977. If a protest is received, the applicants will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Assistant Secretary for Maritime Affairs. Within five working days after the due date for the applicants' response, the Assistant Secretary will advise the applicants as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest is received concerning the applications, the Assistant Secretary will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.500 Construction-Differential Subsidies (CDS).)

By order of the Assistant Secretary for Maritime Affairs.

Dated: July 18, 1977.

JAMES S DAWSON, Jr.,
*Secretary.*

[FR Doc.77 21024 Filed 7-21-77;8:45 am]

### National Oceanic and Atmospheric Administration

**PRELIMINARY MANAGEMENT PLAN FOR ATLANTIC PELAGIC LONGLINE FISHERY**

**Availability of Draft Environmental Impact Statement/Preliminary Management Plan and Notice of Public Hearing**

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Oceanic and Atmospheric Administration, Department of Commerce, has prepared a draft environmental impact statement for the proposed implementation of a Preliminary Management Plan (PMP) for the Atlantic Foreign Pelagic Longline Fishery. In accordance with provisions of the Fishery Conservation and Management Act of 1976 (P.L. 94-265), this plan will remain in effect until such time as the appropriate Regional Fishery Management Councils develop a Fishery Management Plan for approval and implementation by the Secretary of Commerce.

The environmental statement concerns a proposal to adopt and implement a preliminary management plan for the Atlantic Pelagic Longline Fishery pursuant to the Fishery Conservation and Management Act of 1976, which extends U.S. jurisdiction over marine fishery resources to 200 nautical miles and established a program for their management. Upon approval, the plan will serve as the basis for regulation of pelagic fishery



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resources in the western Atlantic Ocean, Gulf of Mexico and Caribbean Sea for optimum yield; and for determination of foreign surplus. The plan recommends certain conservation measures designed to prevent overfishing and to maintain an orderly fishery.

Individuals or organizations wishing to comment on the DEIS/PMP may do so at public meetings to be held in conjunction with the Gulf of Mexico or the South Atlantic Fishery Management Councils, which are currently working on the fishery management plan for this fishery. The times and locations are listed below:

AUGUST 9, 1977—FT. WALTON BEACH, FLORIDA

Mariner Room, Ramada Inn, U.S. Highway 98 E., Miracle Strip Parkway, 7 to 11 p.m.

AUGUST 16, 1977—MOREHEAD CITY, NORTH CAROLINA

Pine Knoll Shores, Roosevelt Drive, Route 1, 7:30 to 10 p.m.

AUGUST 18, 1977—CORPUS CHRISTI, TEXAS

Research and Extension Service Auditorium, Texas A&M University, Texas Highway 44, 7 to 11 p.m.

AUGUST 19, 1977—GALVESTON, TEXAS

Jury Assembly Room, Galveston County Courthouse, 722 Moody, 7 to 11 p.m.

AUGUST 23, 1977—MOBILE, ALABAMA

Room 3, Mobile Municipal Auditorium, 401 Auditorium Drive, 7 to 11 p.m.

AUGUST 24, 1977—NEW ORLEANS, LOUISIANA

Council Chamber Room, City Hall, 1300 Perdido, 7 to 11 p.m.

AUGUST 30, 1977—FT. FISHER, NORTH CAROLINA

North Carolina Marine Resources Center, (Wilmington/Carolina Beach area), 7:30 to 10 p.m.

AUGUST 30, 1977—ST. PETERSBURG, FLORIDA

Bahia Room, Bayfront Center Auditorium, 400 First Street, South, 7 to 11 p.m.

AUGUST 31, 1977—DUCK KEY, FLORIDA

Bermuda Hall, Indes Inn, Route 1, 7 to 11 p.m.

Copies of the DEIS/PMPs are available for inspection from the Regional Director, National Marine Fisheries Service, 9450 Gandy Boulevard, St. Petersburg, Fla. 33702, telephone 813–893–3141. Written comments on the DEIS/PMP's from the public may be submitted to the Regional Director not later than September 1, 1977 at the above address.

Dated this 20th day of July 1977, at Washington, D.C.

WINFRED H. MEIBOHM,
*Associate Director, National Marine Fisheries Service.*

[FR Doc.77-21263 Filed 7-21-77;8:45 am]

## WESTERN PACIFIC FISHERY MANAGEMENT COUNCIL

### Public Meeting

Notice is hereby given of a meeting of the Western Pacific Fishery Management Council established in accordance with Section 302 of the Fishery Conservation and Management Act of 1976 (P.L. 94–265).

The Western Pacific Fishery Management Council has authority over fisheries within the Fishery Conservation Zone adjacent seaward of Hawaii, American Samoa and Guam. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on foreign fishing applications, and conduct public hearings.

The meeting of the Council will be held from August 10–14, 1977, at the King Kamehameha Hotel in Kailu, Kona, Hawaii. The meeting will commence at 9 a.m., and will adjourn at approximately 6 p.m., on August 10, 11 and 12, and will be scheduled as other related activities permit on August 13 and 14. The August 11 session will include an informational hearing on a proposed plan for the management of billfishes and related pelagic species, with special attention to receiving testimony from the interested public. The meeting may be extended or shortened depending upon progress of the meeting.

PROPOSED AGENDA

1. Administrative and financial reports.
2. Report of foreign fishing activity.
3. Report of the Third Meeting of the Scientific and Statistical Committee.
4. Consideration of a proposed management plan for billfishes and related pelagic species.
5. Consideration of the requirements for adequate enforcement of fishery management authority in the region.
6. Progress report on the NMFS contract study of the Kona recreational billfish fishery.

This meeting is open to the public, and there will be seating for approximately 50 members of the public on a first-come, first-served basis.

Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact, on or about August 1, 1977:

Mr. Wilvan G. Van Campen, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1506, Honolulu, Hawaii 96813. Telephone 808–523–1368.

Aside from the time set aside on August 11, for an informational hearing, interested members of the public may, at the discretion of the Council, be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to submit written comments should do so by submitting them to Mr. Van Campen at the above address. To receive due consideration and to facilitate inclusion of these comments in the record of the meeting, typewrittn statements should be received within 10 days after the close of the Council meeting.

Dated: July 19, 1977.

WINFRED H. MEIBOHM,
*Associate Director, National Marine Fisheries Service.*

[FR Doc.77-21093 Filed 7-21-77;8:45 am]

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### CERTAIN MEN'S AND BOYS' SUITS FROM THE REPUBLIC OF KOREA

### Adjusting Import Restraint Level

JULY 20, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Granting an increase for flexibility in part of Category 224 (men's and boys' man-made fiber suits).

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), as amended on December 31, 1975 (40 FR 60220), December 30, 1971 (41 FR 56881), January 21, 1977 (42 FR 3888), and March 7, 1977 (42 FR 12898).

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea, provides for percentage increases in certain specific category ceilings for flexibility. Pursuant to paragraph 5(b) of the agreement, the import restraint level for part of Category 224 (men's and boys' man-made fiber suits) is being increased for the agreement year which began on October 1, 1976 and extends through September 30, 1977.

EFFECTIVE DATE: July 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert C. Woods, International Trade Specialist, Office of Textiles, U. S. Department of Commerce, Washington, D.C. 20230 (202–377–5423).

SUPPLEMENTARY INFORMATION: On October 1, 1976, a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the FEDERAL REGISTER (41 FR 43440), which established import restraint levels for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea and exported to the United States during the twelve-month period which began on October 1, 1976. A correction in certain of the levels of restraint was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48765). In the letter published below the Commissioner of Customs is directed by the Chairman of the Committee for the Implementation of Textile Agreements, in accordance with the bilateral agreement, to increase the twelve-month level of restraint previously established for part of Category 244 (men's and boys' man-made fiber suits) to 36,474 dozens.

ARTHUR GAREL,
*Acting Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce.*

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS,
*July 20, 1977*

COMMISSIONER OF CUSTOMS,
*Department of the Treasury, Washington, D.C.*

DEAR MR. COMMISSIONER: On September 29, 1976, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption or withdrawal from warehouse for consumption during the twelve-month period beginning on October 1, 1976 and extending through September 30, 1977 of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in Korea, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to paragraph 5(b) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea, and in accordance with the provisions of Executive Order 11651, of March 3, 1972, you are directed to increase, effective on July 26, 1977, the twelve-month level of restraint established in the directive of September 29, 1976 for T.S.U.S.A. Numbers 380.0420 and 380.8143 in Category 224 to 36,474 dozen.[2]

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of man-made fiber textile products from Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of the Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc.77-21378 Filed 7-21-77;9:59 am]

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea which provide, in part, that: (1) Within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to reflect any imports after September 30, 1976.





### HAITI

### Increasing Import Levels for Certain Cotton and Man-Made Fiber Apparel

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing consultation levels for cotton and man-made fiber dressing gowns in Categories 55 and 231, produced or manufactured in Haiti and exported to the United States during the year which began on January 1, 1977.

SUMMARY: The Government of Haiti, under the terms of paragraph 7 of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 22, 1976, as amended, between the Governments of the United States and Haiti has requested permission to exceed the consultation levels for Categories 55 and 231 during the agreement year which began on January 1, 1977. The two governments have agreed on a new authorized shipment level of 1.7 million square yards equivalent (33,333 dozen) for each category.

EFFECTIVE DATE: July 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Edmond Callahan, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230. (202–377–5423).

SUPPLEMENTARY INFORMATION: On December 30, 1976, a letter of December 27, 1976 was published in the FEDERAL REGISTER (41 FR 56879) from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint applicable to certain specified categories of cotton and man-made fiber textile products, produced or manufactured in Haiti and exported to the United States during the twelve-month period which began on January 1, 1977. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry of cotton and man-made fiber dressing gowns in Categories 55 and 231 in excess of the designated levels of restraint during the agreement year which began on January 1, 1977.

ARTHUR GAREL,
*Acting Chairman, Committee for the Implementation of Textile Agreements.*

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS,
*July 21, 1977.*

COMMISSIONER OF CUSTOMS,
*Department of the Treasury, Washington, D.C.*

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on December 27, 1976 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain specified categories of cotton and man-made fiber textile products, produced or manufactured in Haiti.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 22, 1976, as amended, between the Governments of the United States and Haiti, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on July 25, 1977 and for the twelve-month period which began on January 1, 1977 and extends through December 31, 1977, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 55 and 231 in excess of 33,333 dozen in each category.[1]

The actions taken with respect to the Government of Haiti and with respect to imports of cotton and man-made fiber textile products from Haiti have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc.77-21377 Filed 7-21-77;9:59 am]

## COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

### PROCUREMENT LIST 1977

### Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1977 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: July 22, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703–557–1145.

SUPPLEMENTARY INFORMATION: On May 6, 1977 and May 27, 1977 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (42 FR 23187) and (42 FR 27278) of proposed additions to Procurement List 1977, November 18, 1976 (41 FR 50975).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Government under 41 U.S.C. 46–48(c), 85 Stat. 77.

[1] These levels have not been adjusted to reflect any imports after December 31, 1976.



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Accordingly, the following commodities are hereby added to Procurement List 1977:

*Class 7530*

Notebook, Stenographer, 7530-00-223-7939, increase in quantity produced from 1,720,800 to 2,100,000 annually.

*Class 6630*

Tube, bleeding (polypropylene), 6630 01-NIB 0001.

*Class 6695*

Sampling kit, spectro-metric, oil analysis 6695 NC 609 651P.

E. R. ALLEY, Jr.,
*Acting Executive Director.*

[FR Doc.77-21075 Filed 7-21-77;8:45 am]

## PROCUREMENT LIST 1977

### Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1977 commodities to be produced by and services to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 25, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47 (a) (2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1977, November 18, 1976 (41 F.R. 50975):

*Class 7510*

Binder, Looseleaf, 7510-00-984-5787.

*Class 7930*

Detergent, General Purpose, 7930-00-985-6945, 7930-00-985-6946, 7930-00-530-8067, 7930-00-527-1207, 7930-00-527-1237.

Polish, Furniture, 7930-00-266-7121, 7930-00-205-2876.

*SIC 7699*

Mattress and box spring, Rehabilitation, GSA Region 8.

*SIC 0782*

Grounds Maintenance, U.S. Army Reserve Center, Belmont and Manley Streets, Brockton, Massachusetts.

E. R. ALLEY, Jr.,
*Acting Executive Director.*

[FR Doc.77-21078 Filed 7-21-77;8:45 am]

## COUNCIL ON ENVIRONMENTAL QUALITY

### LIST OF ENVIRONMENTAL IMPACT STATEMENTS

### Availability

The following is a list of environmental impact statements received by the Council on Environmental Quality from July 11 through July 15, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (September 5, 1977.) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250, 202-447-6827.

FOREST SERVICE

*Draft*

Bear Planning Unit, Gifford Pinchot National Forest, Skamania County, Wash., July 14: Proposed action is the implementation of a comprehensive management plan for the 27,490-acre Bear Planning Unit in Gifford Pinchot National Park. The preferred alternative provides for almost every resource use except Wilderness and domestic range. The Wind River Experimental Forest will be continued and 4,370 acres within the Columbia River Gorge would be recommended for classification as a Special Interest Area. Timber Management areas total 13,380 acres. Additional people using the area would cause minor physical and biological impacts. Logging and road construction would cause soil compaction and disturbance and some water quality degradation. (ELR Order No. 70869.)

*Final*

South Fork Salmon River Unit Plan, Valley County, Idaho, July 12: Proposed is a land use plan for the 348,328-acre South Fork Salmon River Planning Unit. Of this acreage, 246,000 lie within the Krassel Ranger District of Payette National Forest and 102,328 acres are in the Cascade Ranger District of Boise National Forest. The Unit also includes 855 acres of privately owned land, and 3,840 acres of State owned land (remote school sections that have no access). Land allocation areas include recreation, wilderness study and big game winter range. Comments made by: AHP, DOI, EPA, USDA, State and local agencies, and concerned citizens. (ELR Order No. 70856.)

Elk River Unit Plan, St. Joe National Forest, Clearwater and Latah Counties, Idaho, July 12: Proposed is the implementation of a land use plan for the 42,500 acre Elk River Planning Unit, St. Joe National Forest. The plan divides the planning unit into five management units which reflect differences in land capability and sensitivity. Adverse effects relate to timber harvest and access road construction and include decreased land productivity and environmental quality, loss of wildlife and fisheries values, and reduced economic and social benefits. Comments made by: COE, EPA, DOI, State and local agencies, and concerned citizens. (ELR Order No. 70863.)

SOIL CONSERVATION SERVICE

*Draft*

Tehuacana Creek Watershed, McLennan, Hill, and Limestone Counties, Tex., July 13: Proposed is the completion of a watershed project in McLennan, Hill, and Limestone Counties, Texas. The project contains provisions for needed land treatment measures on the watershed and the installation of 27 floodwater retarding structures, and channel work. Remaining land treatment measures are to be applied on about 11,000 acres of agricultural land and the remaining 23 grade stabilization structures, 3 floodwater retarding structures and 10.1 miles of channel work are to be installed for completion of the project. Destruction of wildlife habitat will occur on the 72 acres used for installation of dams and emergency spillways of structures (ELR Order No. 70866.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202 693-6795.

*Supplement*

Tallahala Creek Dam and Lake, Miss., July 12: The proposed project consists of construction of a 7,829 foot dam for the purpose of impounding waters of Tallahala Creek. The action would provide flood control, additional water supply, water quality control, and recreation including fish and wildlife enhancement. Adverse impacts include loss of 4,845 acres of agricultural and forest land and associated wildlife, loss of a free-flowing stream fishery, and disruption of inhabitants of the project area. (Mobile District.) (ELR Order No. 70864.)

*Final*

Muskingum River Basin, Flood Control System, Holmes and Richland Counties, Ohio, July 11: Proposed is the continuation of the present operation and management of the Muskingum River Flood Control System of 16 lakes and two local flood protection levees located on the Muskingum River and its tributaries, Ohio. The original 14 lakes were constructed in the 1930's, with the two remaining lakes completed in 1960 and 1971. The two levee projects were completed in 1951 and 1960. Continued operation and management of the system will have minimal adverse effects on the hydraulic behavior of the present river system. (Huntington District.) Comments made by: AHP, USDA, DOI, EPA, DOT, USCG, and concerned citizens. (ELR Order No. 70851.)

NOTE.—CEQ erroneously published the following statement as a draft in the FEDERAL REGISTER of July 15, 1977. It should be listed as a final.

*Final*

West Point Lake, Chattahoochee River, Georgia and Alabama, July 7: Proposed is construction of a multipurpose concrete and earth dam on West Point Lake and Chattahoochee River in Alabama and Georgia. The dam would provide 73,375 kW of hydroelectric power, flood control, general recreational facilities, improved fishery and would aid downstream navigation. The project will result in loss of wildlife and timber resources in the 25,900 acres, relocation of 61 families and 29 cemeteries, and low oxygen concentrations and increased iron and manganese concentrations during periods of lake stratification. (Savannah District.) Comments made by: EPA, HEW, DOI, FPC, DOT, State and local agencies, and interested parties. (ELR Order No. 70833.)





ENVIRONMENTAL PROTECTION AGENCY

Contact: Ms. Rebecca W. Hamner, Director, Office of Federal Activities, Room WSMW 537, 401 M Street SW., Washington, D.C. 20460, 202-755-0777.

*Final*

Los Angeles County Joint Outfall System, Los Angeles County, Calif., July 11: This statement covers the environmental impacts of alternative plans for water pollution control for the joint sanitation districts of Los Angeles County, California. This report will affect the future of the sewer and treatment plant network known as the Joint Outfall System. This network processes and disposes of wastewater (sewage from home and business and liquid industrial wastes) for over half of Los Angeles County's residents, more than three and one-half million people. The selected plan is a modification of the "Emphasize Inland Treatment and Water Reuse" alternative. (Region IX.) Comments made by: AHP, FPC, USDA, EPA, COE, DOI, GSA, DOT, DOC, HEW, State and local agencies, and concerned citizens. (ELR Order No. 70854.)

FEDERAL ENERGY ADMINISTRATION

Contact: Mr. Robert Stern, Director, Office of Environmental Programs, Federal Energy Administration, New Post Office Building, Room 7119, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9760.

*Final*

Ironton Mine, Strategic Petroleum Reserve, Lawrence County, Ohio, July 15: This project involves the implementation of the Strategic Petroleum Reserve, Title I, Part B, of the Energy Policy and Conservation Act of 1975 (P.L. 94-163). The present action is part of the Early Storage Reserve and proposes to store 21 million barrels of oil in an underground limestone mine located near Ironton, Ohio. The proposed storage of oil at Ironton Mine would be implemented at an abandoned underground limestone mine presently owned by the Alpha-Portland Cement Company. Comments made by: USDA, USA, DOC, HEW, DOT, TREA, EPA, FPC, NPC, State and local agencies, and concerned citizens. (ELR Order No. 70871.)

*Supplement*

Bryan Mound Salt Dome, Strategic Petroleum Reserve (S-1), Brazoria County, Tex., July 15: This statement supplements a final EIS filed with CEQ in January 1977. The FEIS evaluated the development of the Bryan Mound Salt Dome as a storage site for the Strategic Petroleum Reserve. It has been determined that the original brine disposal and water supply systems proposed would be inadequate for long term requirements for filing and withdrawing oil at the site. This supplement discusses the construction and operation of two types of brine disposal systems and a new water supply system. (ELR Order No. 70872.)

FEDERAL POWER COMMISSION

Contact: Dr. Jack M. Heinemann, Advisor on Environmental Quality, Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-4791.

*Draft*

TAPCO Project, July 11: The action discussed in this statement relates to a proposal by Tenneco Atlantic Pipeline Co. (TAPCO), to import natural gas at the U.S.-Canadian border near Calais, Maine. This gas would be shipped as LNG from Algeria to New Brunswick. After vaporization, the gas would be transported to the U.S.-Canada border near Calais, where it would be purchased by TAPCO. The applications discussed in this EIS would authorize the construction and operation of 495 miles of TAPCO pipeline and related appurtenance required to transport this imported gas from Calais, Maine, to Milford, Pennsylvania. (ELR Order No. 70847.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, 202 755 6308.

*Draft*

Westlake, Glendale Heights, Du Page County, Ill., July 12: Proposed is the granting of FHA/HUD home mortgage insurance for Westlake, a partially completed planned unit development located in the Villages of Glendale Heights and Bloomingdale, Illinois. This application is for 180 multifamily apartment units that comprise an intermediate stage of the development, which will eventually total 4,035 units. The action will result in increased air pollution, depletion of ground water, and an increased burden on the existing school system. (ELR Order No. 70862.)

Huntington Park Subdivision, Unit 2, Ouachita County, La., July 11: The proposed action is for HUD to accept the 69.5-acre Unit 2 of the Huntington Park Subdivision near Monroe, Louisiana, for home mortgage insurance. The development will provide 191 new houses for moderate-income families in a suburban subdivision setting. The major adverse effect will be the conversion of approximately 70 acres of land now used primarily for agricultural purposes. A portion of the project site is located wholly within the "Discretionary-Normally Unacceptable" noise zone, and 45 percent of the site is located within a 100-year flood zone. (ELR Order No. 70848.)

Riviera East Subdivision, Harris County, Tex., July 11: Proposed is the approval of an application for HUD/FHA home mortgage insurance for the Riviera East Project in Harris County, Texas. The 402.28-acre planned community development will consist of single family homes, multifamily units, and some commercial reserves. Adverse effects include loss of open space and an increased demand for fossil fuels through heavy dependence on the automobile for transportation. (ELR Order No. 70850.)

Shiloh Hills, Spokane County, Wash., July 11: The proposed action is approval of the application of the M&R Development Co. for HUD/FHA mortgage insurance for the Shiloh Hills Development, in Spokane, Washington. The 240-acre development will consist of 750 single family residential lots and will provide suitable housing for 350 to 600 residents a year for the next 6 to 10 years. The population growth will add to the load on utilities, transportation facilities, and governmental services for the area. (EIR Order No. 70845.)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD.)

Section 104(h)

*Draft*

Mena, Ark., Water Construction Projects, Polk County, Ark., July 12: Proposed is the completion of an on-going water construction program in the city of Mena, Arkansas. Specifically, the improvements to be constructed consist of approximately 82,250 lineal feet of water lines, a pump station, two pressure reducing stations and approximately 50 fire hydrants. The water lines vary in size from 12- to 6-inch. Adverse impacts include temporary construction phase inconveniences and fire hydrant intrusions. (ELR Order No. 70865.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

*Final*

Sierra Pacific Power Co.—230/345 kv Transmission, Idaho, Nevada, July 11: The proposed action is the construction of a 230/345 kv transmission line from Oreana, Nevada to Hunt, Idaho. Depending on the route selected, total distance varies between 286 and 360 miles. The project includes construction of a substation and upgrading of two substations. Among negative impacts will be an increment of damage to soil on from 276 to 843 acres, disruption of land and aquatic wildlife habitat and effects on the visual and recreation resource values of the area. Comments made by: AHP, COE, DOI, DOT and State and local agencies, concerned citizens. (ELR Order No. 70849.)

NATIONAL PARK SERVICE

*Final*

Wilson's Creek Nat'l Battlefield, Master Plan, Green, Christian, Mo., Counties July 11: Proposed is the adoption of a master plan to guide the development, management, and use of Wilson's Creek National Battlefield. Implementation of the plan will protect and perpetuate the Battlefield and provide the visitor services contemplated by the establishment legislation. Adverse effects of the action are primarily short term and will be minimized. Developments such as interior road will destroy vegetation species with minimal effects upon wildlife and aesthetics and closure of the existing country road across the area will pose a minor inconvenience to a few persons residing immediately adjacent to the Battlefield. Comments made by: USDA, DOI, EPA and State and local agencies, concerned citizens. (ELR Order No. 70846.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

*Final*

Ocean City Airport Expansion, Md., Worcester County, Md., July 12: Proposed is the expansion of the existing aviation airport in Ocean City, Maryland. The project consists of acquisition of 154 acres of land; construction of a new 3,200' x 75' runway, a 1000' x 75' extension to the existing runway, taxiways, and an apron expansion; relocation of a portion of S.R. 611; closing of the existing roadway; and improvement of alternate access to a trailer park. Implementation of the plan will result in the relocation of 4 homes and 50 trailers and the clearing of 124 acres of oak-pine forest. Comments made by: EPA, DOI, DOT, USDA, DOD, DOC, FPC



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and concerned citizens. (ELR Order No. 70859.)

Chemung County Airport, Big Flats, Chemung County, N.Y., July 12: Proposed is a project for various improvements at the Chemung County Airport near Elmira, New York. Project plans call for the following: (1) Extension and strengthening of Runway 6-24, (2) extension of parallel taxiway, (3) relocation of NAV-AIDS, (4) acquisition of 161 acres for clear zones, (5) relocation of a creek, (6) installation of new runway and taxiway lighting, and (7) the removal and replacement of approach lighting. Adverse effects include loss of approximately 21 acres of farmland, and the relocation of two families Comments made by: DOT, HUD, EPA, DOI, COE, USDA and State and local agencies, concerned citizens. (ELR Order No 70861).

FEDERAL HIGHWAY ADMINISTRATION

*Draft*

Alabama Highway 35, Rainsville - Fort Payne, De Kalb County, Ala., July 13: The proposed project consists of the widening, improving and or relocating of Alabama Highway No. 35 in De Kalb County, Alabama. The 15.5-mile facility will extend from a point 1 mile east of Rainsville to a point 2.2 miles east of Fort Payne. Plans call for a four-lane divided rural highway except for 3 miles, through urban areas, which will be either an undivided five-lane urban type facility or a four-lane with a raised concrete or grassed median. The project will require the relocation of between 38 and 71 residences. (Region 4.) (ELR Order No. 70867.)

S.R. 18 Improvement near Marion, Grant County, Ill., July 11: This statement proposes a highway improvement which would upgrade State Road 18 near Marion, Illinois. The project would begin at the Norfolk and Western Railroad on 3rd and 4th Streets and extend east approximately 2.0 miles to the completed four-lane rural limited access facility constructed under another project. The action would result in displacement of some residences and businesses, severance of some agricultural land, and reduction in wildlife habitat. (Region 5.) (ELR Order No. 70852.)

Nebraska Highway 12, Niobrara, Knox County, Nebr., July 14: The proposed action consists of improving and relocating Nebraska Highway 12 through the relocated townsite of Niobrara, Nebraska. Project plans call for the construction of a 2.8 mile segment of two-lane highway from just west of the Mormon Canal Bridge in Knox County, Nebraska, to one mile east of Niobrara including widening Mormon Canal Bridge and a replacement bridge across the Niobrara River. Some impact on local wildlife is anticipated and approximately four acres from present Niobrara State Park will be needed to construct the replacement bridge. (ELR Order No. 70870.)

S.R. 153, Hixson Pike Connector to Southern RR, Hamilton County, Tenn., July 12: The proposed action is the construction of Federal Aid Urban (FAU) Route 603 (formerly FA-94 Spur), S.R. 153, in Hamilton County and within the City of Chattanooga, Tennessee. The project begins at the interchange of FAU 603 and the Hixson Pike Connector south of Hamill Road and extends northeastward across existing S.R. 153 to the Southern RR. Negative effects include displacement of residences and businesses, reduction of open space zoned industrial, and increases in air and noise pollution. (Region 4.) (ELR Order No 70860.)

*Final*

Williams Interstate Freeway, I-40, Coconino County, Ariz., July 11: The statement concerns a 5.4 mile section of I-40 approximately .5 mile north of the City of Williams, Arizona. The project provides for the construction of two divided 38-foot roadways with an interchange in West Williams at Second Street and three railroad overpasses. The facility will require right-of-way on largely unimproved land. Comments made by: DOI, EPA, DOT, USDA, State and local agencies, and concerned citizens. (ELR Order No. 70855.)

U.S. 27 Flatrock to Greenwood, McCreary County, Ky., July 14: The project consists of the improvement of U.S. 27 from Flatrock to Greenwood, 6 miles in length, to a 2-lane facility with stabilized shoulders the truck passing lanes. Adverse impacts include the displacement of 10 families and one business, a serious threat of excessive erosion and sedimentation, undesirable aesthetic effects, minimal increases in noise and air pollutants. (Region 4.) Comments made by: HEW, EPA, DOI, USDA, State and local agencies, and concerned citizens. (ELR Order No. 70858.)

Relocated S.R. 32 (Patuxent Freeway), Howard, Anne Arundel Counties, Md., July 11: Proposed is construction of a section of Relocated Maryland Route 32 and Relocated Route 32 Spur, in Howard County, Maryland. The 10.4-mile facility will begin at Maryland Route 108 at Clarksville and extend to the Baltimore-Washington Parkway near Fort George G. Meade in Anne Arundel County. A 4(f) statement is included for 2 historical properties affected by this action. The project will result in higher levels of air and noise pollution. (Region 3.) Comments made by: DOI, DOD, USDA, EPA, State and local agencies. (ELR Order No. 70853.)

*Final*

I-55, Woodrow Wilson Dr. to I-220, Jackson, Hinds, Madison Counties, Miss., July 12: Proposed is the modification and alteration of the existing Interstate No. 55 located largely within the city limits of Jackson, Mississippi. The project is approximately 6 miles in length and extends in a northerly direction from Woodrow Wilson Drive in Jackson to Interstate No. 220. Construction is to take place on existing right of way where feasible; however, approximately 22 acres of additional right of way will be required. Six families and 14 businesses will be forced to relocate. (Region 4.) Comments made by: EPA, DOI, USDA, HUD, State and local agencies, and concerned citizens. (ELR Order No. 70857.)

I-464, Virginia, July 12: Proposed is construction of a 4.715-mile section of I-464 in Chesapeake and Norfolk, Virginia. The project begins .928 mile north of the intersection of Route 64 in Chesapeake, generally traverses the area in a northerly direction, and terminates .101 mile south of the south end of the Berkeley Bridge in Norfolk. The facility will require relocation of 160 families, 7 businesses, and 7 non-profit organizations; and will increase levels of air and noise pollution. (Region 3.) Comments made by: DOI, HUD, HEW, EPA, COE, DOT, State and local agencies, and concerned citizens. (ELR Order No. 70858.)

I-64 Widening, Hampton, Virginia, July 14: The proposed action involves widening I-64 to a six-lane from a four-lane facility and modifying three interchanges between a point west of LaSalle Avenue and the north end of the Hampton Roads Bridge Tunnel, a distance of 3.4 miles. The project will displace an estimated 42 dwelling units, 0.2 acres of wetlands, 1.7 acres of fringing marshlands, 3.2 acres of non-tidal freshwater marsh, and a limited amount of wildlife habitat. Construction will involve negligible shellfish and finfish losses. The facility's increased traffic will cause some rise in air and noise pollution levels. (Region 3.) Comments made by: EPA, USDA, USA, DOC, HEW, DOT, State and local agencies, and interested parties. (ELR Order No. 70871.)

U.S. COAST GUARD

Contact: Mr. Don Dumlao, Environmental Impact Branch, U.S. Coast Guard, G-WEP 7/73, Washington, D.C. 20590.

*Draft*

Johns Creek Railway Line, Pike County, Ky., July 15: The proposed action consists of construction of 8.33 miles of new railway line located in the eastern part of Kentucky near the Virginia, West Virginia border. The purpose of the line is to transport coal more efficiently from the John Creek drainage to the Luka Fork drainage and on to regional markets. Adverse impacts include disturbance of 150 acres of land and construction related effects. (ELR Order No. 70874.)

*Final*

Highway Bridge Across Wolf River Fremont, Waupaca County, Wis., July 15: The project entails construction of a four-lane highway bridge to cross the Wolf River as part of the proposed realignment of U.S. 10 through Fremont, Wisconsin. Adverse impacts include acquisition of 0.7 acre of village park land, relocation of 4 families, relocation of a historical marker, slight noise impact upon the northern tip of the park, and short-term siltation and water pollution. Comments made by: DOT, DOI, COE, EPA, State and local agencies, and concerned citizens (ELR Order No. 70873.)

NATIONAL AERONAUTICS AND SPACE ADMIN

Contact: Mr. Nathaniel Cohen, Director Office of Policy Analysis, National Aeronautics and Space Administration, 400 Maryland Avenue, Washington, D.C. 20546.

*Final*

Subsonic Wind Tunnel Mod, Ames Research Center, Santa Clara County, Calif., July 11: Proposed is the modification of the existing 40- x 80-foot subsonic wind tunnel at Ames Research Center, Moffet Field, California, to provide a national facility for testing full-scale aircraft systems under simulated flight conditions. Tunnel construction activities will be divided into two phases ground clearance and excavation activities and tunnel erection and fabrication. These construction activities are expected to encompass an approximate 21-month period. Associated adverse effects include decrease in habitat and increases in levels of air pollution emission and noise. Comments made by: EPA, DOI, AHP, DOT, HUD, and interested parties. (ELR Order No. 70844.)

NICHOLAS C. YOST,
*Acting General Counsel.*

[FR Doc.77-21139 Filed 7-21-77;8:45 am]

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### DRAFT ENVIRONMENTAL IMPACT STATEMENT

### Extension of Comment Period

JULY 14, 1977.

The comment period for the revised Draft Environmental Impact Statement on the proposed reduction of Loring Air Force Base, Maine, as published in FR 42 29327, June 8, 1977, is extended from July 13, 1977 to August 12, 1977.

Any comments or questions should be directed to the Special Assistant for Environmental Quality (SAF/MIQ), the Pentagon, Room 4C885, Washington, D.C. 20330, Phone: 202-697-9297.

FRANKIE S. ESTEP,
*Air Force Federal Register Liaison Directorate of Administration.*

[FR Doc.77-21092 Filed 7-21-77;8:45 am]





## FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1068]

### PETITIONS FOR RECONSIDERATION
### Actions in Rulemaking Proceedings Filed

JULY 18, 1977.

| Docket or RM No. | Rule No. | Subject | Date received |
|---|---|---|---|
| 20613 | Pts. 2, 13, 81 and 83.. | Amendment of pts. 2, 13, 81, and 83 to implement changes in frequencies, operating procedures, technical standards and other criteria relating to the use of radiotelegraphy in the maritime services adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974. Filed by Walter H. Morse, attorney for RCA Global Communications, Inc. | July 14, 1977 |

NOTE.—Oppositions to petitions for reconsideration must be filed on or before Aug. 8, 1977. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

[FR Doc.77-21089 Filed 7-21-77;8:45 am]

## FEDERAL POWER COMMISSION

[Project No. 1051]

### ALASKA POWER AND TELEPHONE CO.

### Notice of Land Withdrawal (Additional) Alaska

JULY 12, 1977.

The Alaska Power and Telephone Company filed as parts of an application for new license (minor) map Exhibit K, sheets 1 and 2 (FPC (Nos. 1051-3 and -4), on June 8, 1976; map Exhibit K, sheets 1 and 2 (FPC Nos. 1051-13 and -14), on December 29, 1976; and map Exhibit K, sheet 2 (FPC No. 1051-15), on May 11, 1977, delimiting the project boundary for the Skagway Project, located near the town of Skagway and designated as Project No. 1051.

Therefore, in accordance with the provisions of section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the land hereinafter described, insofar as title thereto remains in the United States, is from the dates of filing of applications on June 8, 1976, December 29, 1976, and May 11, 1977, reserved from entry, location or other disposal under the laws of the United States until otherwise directed by this Commission or by Congress:

All portions of the following described subdivisions lying within the project boundary as shown on map Exhibit K, sheets 1 and 2 (FPC Nos. 1051-13 and -15):

COPPER RIVER MERIDIAN, ALASKA

T. 28 S., R. 59 E., (Unsurveyed)
Sec. 12, E½NE¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 13, N½NE¼, SE¼NE¼, NW¼, W½SW¼;
Sec. 14, E½SE¼.
T. 28 S., R. 60 E., (Unsurveyed)
Sec. 6, NE¼SW¼, S½SW¼;
Sec. 7, NW¼NW¼;
Sec. 18, S½NW¼, E½SW¼, W½SE¼.

NOTE.—The aforementioned project subdivisions are described in accordance with currently unapproved protraction diagrams for the townships listed above.

The total area of U.S. lands affected by this notice is approximately 215.95 acres. Of these lands, approximately 108 acres were reserved for power purposes by a prior withdrawal on January 6, 1930, for Project No. 1051. The additional U.S. lands are included in the project as a result of three modifications: (1) The expansion of project boundaries at Upper and Lower Dewey Lakes, Icy Lake, the project reservoir, Snyder Creek Diversion Dam, and Reid Falls Dam; (2) The widening of rights-of-way from 100 feet to 200 feet for all project conduits; and (3) The inclusion of an access road from the powerhouse to Lower Dewey Lake and the project reservoir. Approximately 32.40 acres of U.S. lands in the project are located within the Tongass National Forest.

Copies of the aforementioned map exhibits have been transmitted to the Geological Survey, Bureau of Land Management, and Forest Service.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-21104 Filed 7-21-77;8:45 am]

[Project No. 2742—Alaska]

### COPPER VALLEY ELECTRIC ASSOCIATION, INC.

### Availability of Staff Draft Environmental Impact Statement

Notice is hereby given in the captioned Project, that on or about July 22, 1977, as required by Section 2.81(b) of Commission Order No. 415-C, a draft environmental impact statement prepared by the Staf of the Federal Power Commission was made available for comments. This statement deals with the environmental impact of the proposed Solomon Gulch Project, FPC Project No. 2742. The project would include a rockfill dam located at the site of an existing low dam at the outlet of Solomon Lake, two rockfill dikes, a reservoir (Solomon Lake) with its elevation raised by the dam, a steel penstock, a powerhouse with 12,000 kW of generating capacity, a 138 kV transmission line extending approximately 104 miles to Glennallen, a 25 kV transmission line approximately 5 miles in length, and appurtenant facilities. The project would be located in the Third Judicial Division, State of Alaska, in the vicinity of the city of Valdez.

This statement has been circulated for comments to Federal, State and local agencies, has been placed in the public files of the Commission, and is available for public inspection both in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426, and at its San Francisco Regional Office located at 555 Battery Street, San Francisco, California 94111. Copies may be ordered from the Commission's Office of Public Information, Washington, D.C. 20426.

Any person who wishes to do so may file comments on the staff draft statement for the Commission's consideration. All comments must be filed on or before September 6, 1977.

Any person who wishes to present evidence regarding environmental matters in this proceeding must file with the Commission a petition to intervene pursuant to Section 1.8 of the Commission's Rules of Practice and Procedure. Petitioners must also file timely comments on the draft statement in accordance with Section 2.81(c) of Order No. 415-C.

All petitions to intervene must be filed on or before September 6, 1977.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21105 Filed 7-21-77;8:45 am]

### EL PASO NATURAL GAS CO.

### Notice Shortening Response Time and Extending Procedural Dates

JULY 15, 1977.

On July 14, 1977, Staff Counsel filed a motion to hold in abeyance the procedural schedule set forth in Commission Order issued June 6, 1977, in the above designated docket. It also request a shortening of the time for filing responses to the petition to reopen the proceeding in this case, which was filed by the People of the State of California and the Public Utilities Commission of the State of California (CPUC). The motion states that counsel for El Paso Natural Gas Company, Pacific Gas and Electric Company and CPUC do not object to the requested change in procedural dates.

In support of its motion, Staff Counsel states that a delay of filing of environmental briefs will allow parties to the proceeding adequate opportunity to respond to the CPUC petition and the Commission to act thereon; concurrently, a shortening of response time will help meet the need for expedition in this proceeding.

Upon consideration, notice is hereby given that the time for filing responses



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to the CPUC petition to reopen the proceeding is shortened to July 22, 1977. The procedural schedule set forth in the June 3, 1977, Order is amended as follows:

Initial Briefs to the Administrative Law Judge, August 11, 1977.
Reply Briefs to the Administrative Law Judge, August 16, 1977.
Final Initial Decision, August 26, 1977.
Briefs on Exceptions on all issues, September 15, 1977.
Reply Briefs on all issues, September 26, 1977.
Commission decision, October 12, 1977.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-21100 Filed 7-21-77;8:45 am]

[Project No. 2788]

## F.W.E. STAPENHORST, INC.

### Application for Minor License for Hydroelectric Project

JULY 15, 1977.

Public notice is hereby given that application for a minor license under the Federal Power Act (U.S.C. 791.–825r) was filed on February 14, 1977, by F.W.E. Stapenhorst, Inc. (Correspondence to: F.W.E. Stapenhorst, Inc., c/o Melvin and Melvin, Attorneys and Counselors at Law, 700 Merchants Bank Building, Syracuse, New York 13202) for renovation of the Colliersville Hydro Plant, formerly FPC Project No. 2455, which is located on the North Branch of the Susquehanna River located in Otsego County, New York. The applicant proposes to acquire the existing dam, the Goodyear Lake reservoir, a generating station and other related project works and proposes to renovate the hydroelectric plant by overhauling the existing works and installing new machinery, equipment and related facilities. The dam, 200 feet long and 36 feet high, is of reinforced concrete construction and of the Ambursen design. The power canal, 50 by 20 feet at the head gates and 100 by 16 feet at the forebay proper, is 550 feet long. The powerhouse is of reinforced-concrete design and is approximately 103 by 33 feet in dimensions. With 30 feet of head, each of the two planned turbine/generator units would have a capacity of 960 horsepower. Applicant states that all power generated would be sold to New York State Electric and Gas Corporation for delivery to its consumers within New York State.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 21, 1977, file with the Federal Power Commission, Washington, D.C. 20462, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act (16 U.S.C. § 825g, § 825h) and the Commission's Rules of Practice and Procedure, specifically Section 1.32(b) (18 CFR § 1.32(b)), as amended by the Order No. 518, a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein and if the applicant or initial pleader requests that the shortened procedure of § 1.32(b) be used. If an issue of substance is so raised or applicant or initial pleader fails to request the shortened procedure, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-21102 Filed 7-21-77;8:45 am]

[Docket No. E-9566]

## DEPARTMENT OF THE INTERIOR; BUREAU OF RECLAMATION

### Amendment to Filing

JULY 19, 1977.

Take notice that on July 12, 1977, the Department of the Interior (Interior) on behalf of the Bureau of Reclamation (Bureau), submitted an amended filing requesting Commission confirmation and approval of proposed rates and charges for the sale of power and energy generated at Amistad and Falcon Dam Projects. The rates and charges are contained in a proposed contract with the Bureau and the South Texas Electric Cooperative and the Medina Electric Cooperative. Under the terms of the proposed contract, the cooperatives have agreed to pay all amortization, operation, maintenance, replacements, and administrative costs of both projects, including the accumulated interest on the Amistad penstocks, during the 50-year period of the proposed contract.

Any person desiring to comment on said application should file written comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. All such comments should be filed by July 25, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21094 Filed 7-21-77;8:45 am]

[Docket No. E-9599]

## MAJOR POWER OUTAGE ON ENTIRE SYSTEM OF CONSOLIDATED EDISON CO. OF N.Y. JULY 13–14, 1977

### Order Instituting Formal Investigation

JULY 14, 1977.

The President has directed a prompt and thorough investigation of the blackout which occurred on the evening of July 13, 1977, at about 8:35 p.m., when the electric system of Consolidated Edison Co. of New York (ConEd) was hit by lightning. The lightning caused one 345 kV line from Ladentown to Buchanan to go out of service and at the same time Indian Point No. 3 generator was disconnected from service. In a spreading series of events, another 345 kV line went out of service. Other events followed necessitating severing of all ConEd's connections with other utilities to the North and East and within an hour all ConEd's connections with all other utilities had been severed. Immediately thereafter, the Commission staff undertook preliminary investigation and analysis pursuant to Section 2.11 of the Commission's Regulations under the Federal Power Act.

Massive power blackouts cause severe public health and safety problems and they are intolerable. Since the northeast blackout of November 9, 1965, many steps have been taken by the electric industry to avoid a serious recurrence of that very unfortunate episode.[1] Recent events demonstrate that those preventative measures have been insufficient in ConEd's service area.

Under Section 202(a) of the Federal Power Act, this Commission is charged with "assuring an abundant supply of electric energy". Section 311 of the Act gives us the authority "to conduct investigations regarding the generation, transmission, distribution and sale of electric energy throughout the United States * * * whether or not subject to the jurisdiction of the Commission."

We note that Mayor Beame of New York City has also asked the Commission to investigate the blackout. We are hereby directing our staff to investigate and prepare a formal report of the causes of ConEd's massive blackout, to report to us in 2 weeks, and to prepare recommendations for corrective action to be undertaken. We hereby direct ConEd, all companies interconnected with ConEd and all personnel of the New York Power Pool to fully cooperate with the Commission's staff in its investigation. The Commission's staff will cooperate with the staff of the New York Public Service Commission in the conduct of this agency's investigation. The results of our staff's investigation will be shared fully with the President, the Congress and the consuming public.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-21097 Filed 7-21-77;8:45 am]

[1] On July 19, 1967, the Commission sent to President Johnson a 3-volume report on the Prevention of Power Failures.





[Docket Nos. RP71-16; RP74-29; PGA77-4; DOA77-2]

## MIDWESTERN GAS TRANSMISSION CO.

### Filing Pursuant to Tariff Rate Adjustment Provisions

JULY 15, 1977.

Take notice that on June 16, 1977, Midwestern Gas Transmission Company (Midwestern) tendered for filing Nineteenth Revised Sheet No. 5 and Second Revised Sheet No. 5A to its FPC Gas Tariff, Third Revised Volume No. 1, to be effective August 1, 1977. Midwestern states that the sole purpose of the revised tariff sheets is to reflect adjustments to its rates pursuant to rate adjustment provisions in Articles XVII, XVIII, and XIX of the General Terms and Conditions of its tariff.

Midwestern states that as to the Southern System, Nineteenth Revised Sheet No. 5 reflects (1) a Current Purchased Cost Rate Adjustment pursuant to Section 2 of Article XVII which is based on rate changes reflected in the filing by Tennessee Gas Pipeline Company, a Division of Tenneco Inc. on May 16, 1977, in Docket Nos. RP73–114, RP74–24, and RP74–73 and (2) a revised Surcharge for Amortizing the Unrecovered Purchased Gas Cost Account for the Southern System of a negative 0.51 cents per Mcf pursuant to Section 3 of Article XVII. According to Midwestern, the revised tariff sheet also reflects a Current Rate Adjustment of 1.75 cents per Mcf to reflect curtailment credits applicable to the Southern System pursuant to Section 9 of Article XIX.

Midwestern states that as to the Northern System, Second Revised Sheet No. 5A reflects a revised Surcharge for Amortizing the Unrecovered Purchased Gas Cost Account for the Northern System of a negative 5.42 cents per Mcf as specified in Section 3 of Article XVIII.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-21098 Filed 7-21-77;8:45 am]

[Project No. 1394]

## SOUTHERN CALIFORNIA EDISON CO.

### Land Withdrawal; (Additional) California

JULY 12, 1977.

On January 6, 1977, the Southern California Edison Company filed, as part of an application for amendment of license (major) for Project No. 1394, may Exhibit K, sheets 9 through 11 (S.C.E. Drawing Nos. 5130273, 5149658, and 5152395), which depicted two modifications to the project area. The first modification was the relocation of approximately 4.29 miles of a 55 kV transmission line in secs. 25, 34, and 35, T. 7S., R. 31 E., and secs. 3 and 4, T. 8 S., R. 31 E., Mount Diablo Meridian. The second modification was the inclusion of an existing access road, borrow pit, and leach lines within the project boundary.

Therefore, in accordance with the provisions of section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the land hereinafter described insofar as title thereto remains in the United States is, from the date of said filing, reserved from entry, location or other disposal under the laws of the United States until otherwise directed by this Commission or by Congress:

All portions of the following described subdivisions lying within 25 feet of the centerline of the transmission line as delimited on map Exhibit K, sheets 9 and 10 (S.C.E. Drawing Nos. 5130273 and 5149658):

MOUNT DIABLO MERIDIAN, CALIFORNIA

T 7 S., R. 31 E.,
Sec. 25, E½NE¼, SW¼NE¼, E½SW¼, SW¼SW¼, NW¼SE¼;
Sec. 34, E½SE¼, SW¼SE¼;
Sec. 35, N½NE¼, SE¼NW¼.
T. 8 S., R. 31 E.,
Sec. 3, lots 2, 4, N½SE¼NW¼;
Sec. 4, E½SE¼.
(Aggregating approximately 3.00 acres).

All portions of the following described subdivision lying within the project boundary as delimited on map Exhibit K, sheet 11 (S.C.E. Drawing No. 5152395):

MOUNT DIABLO MERIDIAN CALIFORNIA

T. 7 S., R. 32 E.,
Sec. 20, N½N½SW¼NW¼.
(Aggregating approximately 9.21 acres).

In addition to the aforementioned U.S. lands, it was found that a portion of a transmission line within the project had not been listed in any of the previous notices of land withdrawal for Project No. 1394. Though this parcel of land is not affected by the current application for amendment of license and has been reserved for the project by a prior withdrawal for Power Site Reserve No. 279, it is included in this notice in order to correct its omission from those U.S. lands reserved for the project.

All portions of the following described subdivision lying within 50 feet of the centerline of the transmission line as delimited on map Exhibit K, sheet 11 (S.C.E. Drawing No. 5152395):

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 7 S., R. 32 E.,
Sec. 17, SE¼SW¼SE¼.
(Aggregating approximately 0.13 acres).

The total area of U.S. lands included in this notice is approximately 12.34 acres of which approximately 3.00 acres are located within the Inyo National Forest. All of these lands have been variously reserved for power purposes by prior withdrawals for Power Site Reserve No. 279, Power Site Classification No. 71, and FPC Project No. 1394.

The realignment of the 55 kV transmission line is very slight along the affected right-of-way. The land subdivisions cited in identifying the transmission line location are similar to those used in earlier notices of land withdrawal for the project. However, the change in location was substantial enough to include additional U.S. lands in the project area.

Copies of the aforementioned map exhibits have been transmitted to the Geological Survey, Bureau of Land Management and Forest Service.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-21103 Filed 7-21-77;8:45 am]

[Docket Nos. CP70–57; CP70–56]

## TENNESSEE GAS PIPELINE CO. AND NATURAL GAS PIPELINE CO. OF AMERICA

### Petition To Amend

JULY 15, 1977.

Take notice that on July 1, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603 (Petitioners), filed in Docket No. CP70–57 and CP70–56 a petition to amend the Commission's order of December 8, 1969, issued in the instant dockets (42 FPC 1099) pursuant to section 7 of the Natural Gas Act so as to provide for revised exchange service at existing authorized points of exchange, an extension of the term of the exchange agreement, additional points of exchange between (Petitioners), and other minor revisions to certain operational provisions of the exchange agreement, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is indicated that pursuant to the Commission's order issued December 8, 1969, Petitioners were authorized to exchange gas under an exchange agreement dated July 15, 1954, which provides for the delivery of natural gas by Natural to Tennessee at exchange points in Brooks and Wharton Counties, Texas, and for the redelivery of natural gas by Tennessee to Natural at an exchange point in Cameron Parish, Louisiana. It is stated that the exchange agreement is currently filed with the Commission as Tennessee's Rate Schedule X–24 (comprising Sheet Nos. 447 through 461 of Tennessee's FPC Gas Tariff, Sixth Revised Volume No. 2) and Natural's Rate Schedule No. X–22 (comprising Sheet Nos. 128 through 150 of Natural's FPC Gas Tariff, Second Revised Volume No. 2).



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By this petition, Petitioners request authorization to render revised exchange service in accordance with the terms of an amendment to the exchange agreement dated October 15, 1976, which amendment revises certain portions of the exchange agreement to conform more closely to the present operating needs of Petitioners, it is said.

It is stated that the exchange agreement contained certain provisions which restricted the operations to be performed at existing exchange points, i.e. limitations with respect to the volumes to be delivered and received, periods of time during which deliveries could be accomplished, and the specific party to deliver and receive volumes at such points. Petitioners states that the amendment provides that either party may deliver or receive gas at the points specified therein upon such conditions as they would mutually agree and as permitted by operating conditions on their respective pipeline systems. Petitioners further state that the term of the exchange agreement is extended by the amendment to terminate on December 31, 1978, or at the end of any successive twelve-month period thereafter at the option of either party.

Petitioners indicate that the amendment provides for additional exchange points between Petitioners, including certain points where either Tennessee or Natural can deliver gas, for the account of the other party, to a third party pursuant to exchange agreements between either Tennessee and/or Natural and said third parties. Such exchange points, and a brief description thereof, are listed below:

EXCHANGE POINTS AND DESCRIPTION

1. Eugene Island 367.—The interconnection in the Eugene Island Area, Offshore Louisiana, between the existing Project 349 facilities jointly owned by Tennessee, Texas Eastern Transmission Corporation (Texas Eastern), and Texas Gas Transmission Company, and the existing Project 367 facilities jointly owned by Tennessee and Natural.

2. West Cameron 639.—At the outlet of measurement facilities located on the producer-owned platform in West Cameron Block 639, Offshore Louisiana, where Natural and Tennessee purchase gas and where Natural receives gas into its capacity entitlement in the Stingray Pipeline System.

3. West Cameron 616.—At the outlet of measurement facilities located on the producer-owned platform in West Cameron Block 616, Offshore Louisiana, where Natural receives gas into its capacity entitlement in the Stingray Pipeline System.

4. Cocodrie.—An existing point of exchange between Tennessee and Columbia Gulf Transmission Company (Columbia Gulf) at the outlet of the Blue Water Project Facilities in Terrebonne Parish, Louisiana.

5. Henry.—At the tailgate of Texaco's Henry Plant near Erath, Louisiana, where Columbia Gulf receives exchange gas into its existing facilities for Tennessee's account.

6. Fontenot.—The interconnection between the existing facilities of Natural and Texas Eastern in Cameron Parish, Louisiana.

7. Bay City East.—At the tailgate of Amoco's Bay City East Plant in Matagorda County, Texas, where Tennessee and Natural receive gas into their respective existing pipeline systems.

8. Egan.—The interconnection near Egan, Acadia Parish, Louisiana, between the Blue Water Project facilities and Tennessee and Columbia Gulf's onshore pipeline system.

It is stated that the amendment also provides for revisions to the exchange agreement with respect to the elimination of imbalances in daily volumes exchanged thereunder and determination of the thermal content of such volumes.

Petitioners maintain that the proposed changes would allow them to receive needed gas supplies without incurring the expense of constructing additional facilities and that such would also give their respective systems added flexibility and greater assurance of continuity of receipt of dedicated gas supplies in the event of producers operating problems or of operating difficulties on either of the Petitioners' systems.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 8, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-21099 Filed 7-21-77;8:45 am]

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[Docket Nos. CI77-329; CP77-304; CP64-97]

## TEXACO INC. AND SABINE PIPE LINE CO.

### Order Granting Temporary Stay, Providing for Comments and Granting Joint Motion Subject to Certain Conditions

JULY 14, 1977.

On July 12, 1977, Texaco Inc. and Sabine Pipe Line Company filed a response to this Commission's order of July 7, 1977. The companies' response is in the nature of a joint motion in CI77-329, CP77-304, and CP64-97. The joint motion seeks a resolution of all issues in the above-titled proceedings and an emergency stay of the Commission's July 7, 1977 order.

In issuing our earlier order, it was the Commission's intent and purpose to secure compliance with all requirements of the Natural Gas Act at the earliest practicable time. It was the Commission's purpose to secure for the interstate resale market equivalent volumes of natural gas which were previously utilized by Texaco Inc. and Sabine for refinery operations in Texaco's Port Arthur refinery. The Port Arthur refinery produces substantial quantities of gasoline, lubricants, jet fuel, and home heating oils for the Nation's ultimate consumers. The Commission is mindful of engineering and operating requirements associated with changing refinery operations to prevent damage to equipment, and of potential employment factors associated with refinery disruption. It is mindful of the Nation's consumers' need for refined petroleum products including gasoline, jet fuel, and home heating oils which are produced at the Port Arthur refinery.

In bringing this matter to a conclusion in the manner set forth in the July 7 order, the Commission intended to utilize its legal authorities to achieve a public interest resolution to this matter.

The companies' July 12 joint motion is responsive to the Commission's intent. It does not in all respects meet Commission requirements for an ultimate resolution of this matter on the merits. The Commission's conditions and directives to complete these proceedings are set forth infra.

By reason of the actions taken in these dockets and the remedial measures which will be completed by reason of Commission directives, the Commission has found it unnecessary to refer this matter to the courts for enforcement decrees.

Texaco and Sabine request Commission authorization covering past and future operations on the following terms and conditions:

1. Sabine Pipe Line Company will accept a condition to its certificate authorization in Docket No. CP64-97 prohibiting transportation of natural gas produced in offshore Federal Domain areas for the steam generation requirements at Texaco's Port Arthur Refineries, provided that this certificate condition allows an incentive option for conversion of such steam generation equipment as prescribed in paragraph 4 hereinafter.

2. Sabine Pipe Line Company will accept a condition to its certificate authorization in Docket No. CP64-97 reducing the average daily volumes of Federal Domain gas located in the Lighthouse Point and Tiger Shoal Fields from their current level of 132 MMcf/D to 50 MMcf/D. Unless otherwise authorized by the Commission or any successor, Sabine's monthly transportation volumes from the Federal Domain shall not exceed a quantity determined by multiplying 50 MMcf/D times the number of days in the month. If operational problems result in greater deliveries in any month, Sabine shall balance out the difference in the next succeeding month. If lesser deliveries occur in any month, Sabine shall have the option of making up the difference in the succeeding month.

3. Within six months from the date of the Commission's order on this motion, Texaco shall pay back the volume of gas transported by Sabine from the federal domain areas of the Tiger Shoal and Lighthouse Point Fields to the Port Arthur Refineries prior to July 7, 1977, by entering into a contract or contracts for the interstate sale(s) of natural gas from reservoirs containing proved gas reserves of not less than 200 billion cubic feet. Although nothing in this pay back requirement shall be construed to impair or limit Texaco's right to negotiate the terms and conditions of the interstate sale, Texaco shall file for any appropriate and required federal authorizations within 30 days of the date of its interstate contract(s) for the sale of the gas.

4. If Texaco is willing to convert the steam generation facilities at the Port Arthur Plants from natural gas, Sabine may deliver the following limited quantities of natural gas from the federal domain areas of the Lighthouse Point and Tiger Shoal Fields to the Port Arthur Refineries in addition to the gas authorized in paragraph (2) to facilitate an orderly conversion of the existing steam generation equipment during a three-year period:

October 1, 1977 through December 31, 1978, 60 MMcf/D.
January 1, 1979 through December 31, 1979, 40 MMcf/D.
January 1, 1980 through July 7, 1980, 20 MMcf/D.
July 8, 1980, zero.

5. The conditions and obligations imposed in paragraphs (1), (2), (3), and (4) above shall be effective on the date the Commission issues a final and nonappealable order in these captioned proceedings. Pending the Commission's final and nonappealable order, the Commission will stay the effectiveness of its July 7, 1977, order.

Upon full consideration of the Texaco-Sabine proposal, we have determined that it is an equitable resolution of the issues in this proceeding. In our view, protracted litigation is not in the public interest during these difficult times when the entire nation is experiencing an energy crisis.

Accordingly, the Texaco-Sabine proposal will be approved, subject, however, to the procedures and conditions we impose, as discussed below.

Texaco-Sabine's proposed payback of offshore gas transported to Port Arthur by Sabine, paragraph 3 of the proposal, will be conditioned to require that such payback gas volumes come from sources other than the offshore Federal Domain.

Although Texaco has not requested Commission authorization for the transportation of offshore Federal Domain gas from Lighthouse Point and Tiger Shoals fields to the Henry Plant onshore, it is our view that authorization must exist for such transportation to continue. Accordingly, we will in this order grant authorization to Texaco for this transportation.

The action taken by us herein will become effective as of July 27, 1977, except to the extent we may modify this order prior to that date. In the meantime, we shall stay the provisions of our July 7, 1977 order. In addition, we shall require Texaco to supply additional information on or before 12 a.m., e.d.t., July 19, 1977, and shall provide for a public conference commencing at 10 a.m., e.d.t., on July 20, 1977, concerning such information. Finally, we shall provide for the filing of comments on this order on or before July 21, 1977.

The Commission orders: (A) The Texaco-Sabine Proposal for resolution of the issues in this proceeding, as set forth in Paragraph II of the "Joint Motion of Texaco Inc. and Sabine Pipe Line Company", filed herein July 12, 1977, is accepted and approved, subject however, to the terms and conditions of this order.

(B) The proposed payback of offshore gas transported by Texaco from the Federal Domain and by Sabine to its Port Arthur Refineries, as provided in paragraph 3 of the Proposal, is conditioned to require that such payback gas volumes come from sources other than the offshore Federal Domain.

(C) The certificate of public convenience and necessity issued Sabine in Docket No. CP64-97 is amended to permit Sabine to transport offshore Federal Domain gas from Texaco's Henry Plant to its Port Arthur refinery as provided in the Texaco-Sabine Proposal.

(D) Texaco Inc., is issued a certificate of public convenience and necessity to transport offshore Federal Domain gas from Lighthouse Point and Tiger Shoals, offshore Louisiana, to its Henry Plant, onshore, Louisiana, as provided in the Texaco-Sabine Proposal.

(E) Texaco on or before 12 a.m., e.d.t., July 19, 1977, shall file a full and complete verified response to the information requested in Appendix A attached hereto.

(F) A public conference shall be held commencing at 10 a.m., e.d.t., on July 20, 1977, concerning the response Texaco is required to submit under Ordering Paragraph (E) above in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

(G) Comments on this order shall be filed on or before July 22, 1977.

(H) The Commission's July 7, 1977, order in the above-entitled proceedings is stayed until July 27, 1977.

(I) This order shall become effective as of July 27, 1977, except to the extent we may modify it prior to that date.

(J) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

(K) Texaco and Sabine, over the signature of a responsible officer of each company, shall file with the Commission on or before July 22, 1977, an original and one copy of their acceptance or rejection of the terms and conditions of this order. If this order is modified by the Commission, the acceptance of this order by Texaco and Sabine shall not be binding on them without their express agreement.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

APPENDIX A

A. Provide a list which shows for each of Texaco's existing intrastate gas sales contracts, date of execution, the expiration date, the buyer, buyer's location, the buyer's renewal rights, the daily volumes which Texaco is obligated to deliver, whether Texaco's obligation is firm or interruptible, buyer's end-uses, the name and location of the field or fields from which the natural gas is supplied, identification of the transporting pipeline system(s), and pipeline system maps showing general location of facilities, size of pipe and identification of Texaco's natural gas customers.

B. In light of the condition limiting the payback to sources other than offshore federal domain in the order, detail how Texaco plans to repay the 200 Bcf of gas reserves from sources other than offshore federal domain specifying the fields and projected delivery volumes by year.

C. Provide complete operational piping blueprint of all the Mount Point Field facilities from individual wells to the A, B, and C platforms and from the platforms to the Henry Plant and to the Floodway Plant.

D. For the lower 48 states, excluding the OCS area of the Gulf of Mexico and gas dedicated to interstate pipeline companies, provide the following:

(1) List of fields in which Texaco owns, controls or purchases gas, containing 10 Bcf of reserves or more as of 1-1-77.

(2) Reserves and deliverability for each of the above fields as of 1-1-77.

(3) List of fields in which Texaco owns, controls or purchases gas, containing less than 10 Bcf of reserves.

(4) Total reserves and deliverability attributable to fields containing less than 10 Bcf as of 1-1-77.

(5) Report reserves for all fields in items 1-4 above by area, e.g., Southern Louisiana State offshore, South Louisiana onshore, State of Oklahoma, Texas, by TRC districts, etc.

(6) Reserves obtained by purchase from processing plants, pipelines or other such sources.

(7) List by field or source in which Texaco owns, controls or purchases gas, the reserves, deliverability and purchases, for such fields or sources, which were acquired between 1-1-77 and 7-1-77.

(8) Maps showing locations of all fields or facilities in 1 through 7 above.

E. Refer to Joint Motion of Texaco Inc. and Sabine Pipe Line Company, filed July 12, 1977, in Docket Nos. CI77-329, et al.

(1) On page 3, it is stated in footnote No. 1, "A portion of gas used at Port Arthur is refinery generated * * *" Approximately how much gas is generated daily, or, to be more precise, how much refinery generated gas do you project to be generated/barrel?

(2) Please list each boiler which is in operation and furnish the following information:

(a) Lbs of steam per hour and quality of steam (pressure and temperature).

(b) Type of boiler (fire tube or water tube).

(c) Manufacturer and date of manufacture and installation.

(d) Can the boiler presently use a fuel other than gas, and if so, for what period of time can it use a supplemental fuel?

(e) What supplemental fuels can presently be used on each boiler (No. 2, No. 6, propane, etc.)?

(f) What would be involved in converting boilers so that they could use a fuel oil (No. 2 or No. 6) on a regular sustained basis? Give time frame for converting and cost of each unit.

(g) On page 5 it is stated "Almost all of the steam from the boilers is passed through turbo-generators where a small portion of the energy is used for the cogeneration of electric power at very high efficiency."

(1) What is meant by cogeneration in the context quoted?

(2) Is the generation system as far as the steam is concerned open or closed?

(3) Please furnish a schematic flow diagram of the steam showing pressure-enthalpy along the route of the steam flow.

(4) Also, please show the route of the steam after it leaves the turbo-generators showing how it is used and the pressure-enthalpy along the path.

(3) On Page 6 you state that converting to oil/diesel would reduce the capacity of the Port Arthur refineries to about 31% of capacity. Would you please detail these computations?

(4) Please furnish schematic diagrams of all trains.

(5) List all gas burning equipment giving the following information: (a) Name of equipment; (b) Purpose; (c) Can it be converted, and if so, what type of fuel would be used?; and (d) Amount of gas utilized per day by each piece of equipment.

The data should be filed under oath and attested to by a responsible company official. The data should be filed with the Secretary with copies hand delivered to the Office of the Chief, Bureau of Natural Gas.

[FR Doc.77-21096 Filed 7-21-77;8:45 am]







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[Project No. 710]

## WISCONSIN POWER AND LIGHT CO.

### Issuance of Annual License(s)

JULY 15, 1977.

On November 8, 1976, Wisconsin Power and Light Company, Licensee for the Shawano Project No. 710, located on the Wolf River in Shawano County, Wisconsin, filed an application for a new license pursuant to the Federal Power Act and Commission Regulations thereunder.

The license for Project No. 710 was issued effective July 20, 1927, for a period ending July 19, 1977. In order to authorize the continued operation and maintenance of the project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to Wisconsin Power and Light Company.

Take notice that an annual license is issued to Wisconsin Power and Light Company for the period July 20, 1977, to July 19, 1978, or until Federal takeover, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Shawano Project No. 710 subject to the terms and conditions of the original license. Take further notice that if Federal takeover or issuance of a new license does not take place on or before July 19, 1978, a new annual license will be issued each year thereafter, effective July 20 of each year, until such time as Federal takeover takes place or a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-21101 Filed 7-21-77;8:45 am]

# FEDERAL RESERVE SYSTEM

[H.2, 1977 No. 27]

## ACTIONS OF THE BOARD

### Applications and Reports Received During the Week Ending July 2, 1977

ACTIONS OF THE BOARD

Document entitled "The Burden of Federal Reserve Membership, NOW Accounts, and the Payment of Interest on Reserve Balances," sent to members of the Senate Banking, Housing, and Urban Affairs Committee and to selected members of the House Banking, Finance and Urban Affairs Committee.

Request by First Women's Bank, New York, New York, for consent to interlocking relationships under the Board's minority bank exception to Regulation L, Interlocking Bank Relationships Under the Clayton Act.

Amendment to Regulation V, Loan Guarantees for Defense Production, changing the name of the Defense Supply Agency to the Defense Logistics Agency.

Report on bills H.R. 2733, H.R. 3928, and H.R. 6954, bills that involve activities of certain Federal employees and officers, letter to Chairman Nix of the House Committee on Post Office and Civil Service.

First Security Corporation, Salt Lake City, Utah, letter relating to proposed divestiture of interest in First Security Savings and Loan Association, Pocatello, Idaho.

Huntington National Bank of Bellefontaine, Bellefontaine, Ohio, proposed merger with Bellefontaine National Bank, Bellefontaine, Ohio, report to the Comptroller of the Currency on competitive factors.[1]

Huntington National Bank of London, London, Ohio, proposed merger with The Central National Bank of London, London, Ohio, report to the Comptroller of the Currency on competitive factors.[1]

Josey State Bank, Carrollton, Texas, proposed merger with First Bank & Trust, Carrollton, Texas, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Yarmouth Bank, National Association, Yarmouth, Massachusetts, proposed merger with The First National Bank of Yarmouth, Yarmouth, Massachusetts, report to the Comptroller of the Currency on competitive factors.[1]

Banks of Iowa, Inc., Cedar Rapids, Iowa, extension of time to August 31, 1977, within which to acquire shares of First Trust & Savings Bank, Davenport, Iowa.[1]

First Maywood, Inc., Maywood, Illinois, extension of time to August 11, 1977, within which to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to the First National Bank of Maywood, Maywood, Illinois.[1]

First Okmulgee Corporation, Okmulgee, Oklahoma, extension of time to September 30, 1977, within which to consummate the acquisition of First National Bank & Trust Company, Okmulgee, Oklahoma.[1]

Windsor Bancshares, Inc., Windsor, Missouri, extension of time to August 1, 1977, within which to file its registration statement.[1]

Farmers State Bank of Yuma, Yuma, Colorado, investment in bank premises.[1]

### To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

Fidelity Union Trust Company, Newark, New Jersey. Branch to be established in The Rickel's Pathmark Shopping Center at the intersection of Route 22 and Springfield Road, Union Township.[2]

Long Island Trust Company, Garden City, New York. Branch to be established in the Southwest corner of Horseblock Road and County Road 83, Farmingville, Suffolk County.

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### To Become a Member of the Federal Reserve System Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

Piedmont Bank, Collinsville, Virginia.[2]

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### To Merge Pursuant to Section 18(c) of the Federal Deposit Insurance Act.

APPROVED

Piedmont Bank, Collinsville, Virginia, for prior approval to merge with Piedmont Trust Bank, Collinsville, Virginia.[2]

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[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

### To Organize, or Invest in, a Corporation Doing Foreign Banking and Other Foreign Financing Pursuant to Section 25 or 25(a) of the Federal Reserve Act.

APPROVED

Philadelphia National Bank: To establish an Edge Corporation to be known as "Philadelphia Overseas Banking Corporation", Philadelphia, Pennsylvania.

### International Investment and Other Actions Pursuant to Sections 25 and 25(a) of the Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

Chase Manhattan Bank, National Association: Investment, additional shares in Familienbank, A.G., Dusseldorf, Germany, including a merger of Chase Manhattan Bank, N.A., German Subsidiaries.

Citibank Overseas Investment Corporation: Investment, indirectly acquire additional shares of Citicorp Credit Multiple (CREDIM), Dijon, France.

Bamerical International Financial Corporation: Investment, additional shares of Lisban, S.A., Madrid, Spain.

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### To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

WITHDRAWN

The Mattatuck Bancorp, Inc., Waterbury, Connecticut, for approval to acquire 80 percent (less directors' qualifying shares) of the voting shares of The Mattatuck Bank and Trust Company, Waterbury, Connecticut.

APPROVED

Piedmont Bankgroup Incorporated, Martinsville, Virginia, for approval to acquire 100 percent of the voting shares of the successors by merger to Piedmont Trust Bank, Collinsville, Virginia and Bank of Carroll, Hillsville, Virginia.[2]

Norris Bancor Ltd., Cantril, Iowa, for approval to acquire 80 percent or more of the voting shares of State Savings Bank, Cantril, Iowa.[2]

Old Canal Bankshares, Inc., Lockport, Illinois, for approval to acquire 80 percent or more of the voting shares of Heritage First National Bank of Lockport, Lockport, Illinois.[2]

DCB Investment Co., Inc., David City, Nebraska, for approval to acquire 80 percent or more of the voting shares of David City Bank, David City, Nebraska.[2]

Midland Capital Co., Oklahoma City, Oklahoma, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of Northwest Bank, Oklahoma City, Oklahoma.

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### To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

APPROVED

Florida Bankshares, Inc., Hollywood, Florida, for approval to acquire an additional 12.5 percent of the voting shares of First National Bank of Sebring, Sebring, Florida.

Valley Bancorporation, Appleton, Wisconsin, for approval to acquire 80 percent or more of the voting shares of Shawano National Bank, Shawano, Wisconsin.

J.R. Montgomery & Co., Lawton, Oklahoma, for approval to retain 3,730 voting shares of The City National Bank and Trust Company of Lawton, Oklahoma, Lawton, Oklahoma.[2]

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### To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

PERMITTED

Citicorp, New York, New York, notification of intent to relocate de novo activities (making of consumer installment personal loans, purchasing consumer installment sales finance contracts; sale of credit related life/accident and health insurance; and sale by a licensed agent of insurance which protects personal and real property subject to a security agreement with Nationwide Financial Corporation of New Mexico) from 3416 Central Avenue, S.E., Albuquerque, New Mexico to Coronado Shopping Center, corner of Menaul & Louisiana, N.E., Albuquerque, New Mexico, through its subsidiary, Nationwide Financial Corporation of New Mexico (7/1/77).[3]

Barnett Banks of Florida, Inc., Jacksonville, Florida, notification of intent to engage in de novo activities (performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company including activities of a fiduciary, agency or custodial nature in the manner authorized by Federal and State law; provided, however, that loans and investments will be made and deposits accepted only in conformity with Regulations of the Board of Governors of the Federal Reserve System) at 11 Fifth Street, Southwest, Winter Haven, Florida, through a subsidiary, Barnett Banks Trust Company, N. A. (6/26/77).[3]

Fulton National Corporation, Atlanta, Georgia, notification of intent to engage in de novo activities (the sale of credit life insurance and credit disability insurance directly related to extensions of credit by The Fulton National Bank of Atlanta, a subsidiary of Applicant) at 55 Marietta Street, N. W., Atlanta, Georgia (6/30/77).[3]

Associated Bank Corporation, Mason City, Iowa, notification of intent to engage in de novo activities (leasing personal property and equipment or acting as agent, broker, or adviser in leasing of such property where at the inception of the initial lease the expectation is that the effect of the transaction and reasonably anticipated future transactions with the same lessee as to the same property will be to compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease and where the lease otherwise conforms with Section 225.4(a)(6)(a) of Regulation Y, as amended, by the Board of Governors of the Federal Reserve System) at 5 West State Street, Mason City, Iowa, through its subsidiary, Leasing, Inc. (6/26/77).[3]

Midland Bancorp, Inc., Chicago, Illinois, notification of intent to engage in de novo activities (the business of making consumer installment loans and consumer finance loans) at Suite 103, 106 Wilmot Road, Deerfield, Illinois, through its subsidiary, SBT Financial Corp. (7/1/77).[3]

County National Bancorporation, St. Louis, Missouri, notification of intent to engage in de novo activities (the business of originating, making acquiring, and servicing of real estate loans and other extensions of credit such as would be made by a real estate mortgage company; and acting as an agent or broker in the sale of credit life insurance and credit health and accident insurance which is directly related to extensions of mortgage loan credit and mortgage loan servicing) at The Clayton Tower, Suite 602, 7751 Carondelet, Clayton, Missouri, through its subsidiary, General Mortgage Company (7/5/77).[3]

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.





County National Ban-Corporation, St. Louis, Missouri, notification of intent to engage in de novo activties (the business of originating, making acquiring, and servicing of real estate loans and other extensions of credit such as would be made by a real estate mortgage company; and acting as an agent or broker in the sale of credit life insurance and credit health and accident insurance which is directly related to extensions of mortgage loan credit and mortgage loan servicing( at 305 Eastgate Building, Columbia, Missouri, through its subsidiary, General Mortgage Company (7/5/77).[3]

County National Bancorporation, St. Louis, Missouri, notification of intent to engage in de novo activities (the business of origination, making, acquiring, and servicing of real estate loans and other extensions of credit such as would be made by a real estate mortgage company) at 10111 Lincoln Trail, Fairview Heights, Illinois, through its subsidiary, General Mortgage Company (7/5/77).[3]

County National Bancorporation, St. Louis, Missouri, notification of intent to engage in de novo activties (the business of originating, making, acquiring, and servicing of real estate loans and other extensions of credit such as would be made by a real estate mortgage company; and acting as an agent or broker in the sale of credit life insurance and credit health and accident insurance which is directly related to extensions of mortgage loan credit and mortgage loan servicing) at The Tower Building, 116 West 47th, Kansas City, Missouri, through its subsidiary, General Mortgage Company (7/5/77).[3]

Mercantile Bancorporation Inc., St. Louis, Missouri, notification of intent to relocate de novo activities (making, acquiring, or servicing loans or other extensions of credit for personal, family or household purposes such as are made by a finance company; and acting as insurance agent or broker in connection with selling to consumer finance borrowers credit life insurance and credit accident and health insurance) from 2796 Lakewood Avenue SW., Atlanta, Georgia to 3375 Roosevelt Highway, Red Oak, Georgia, through its subsidiary, Franklin Finance Company (6/30/77).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account loans and other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, and making loans secured by real and personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit made or acquired by FinanceAmerica Consumer Discount Company) at Royal Oaks Shopping Center, Golden Mile Highway, Monroeville, Pennsylvania, through its indirect subsidiary, FinanceAmerica Consumer Discount Company (6/30/77).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to relocate de novo activities (making or acquiring, for their own account extensions of credit such as would be made or acquired by a finance company; FinanceAmerica Corporation will engage in making consumer installment loans, loans and other extensions of credit to small businesses and loans secured by real or personal property; FinanceAmerica Industrial Plan, Inc. will engage in purchasing installment sales finance contracts; both corporations will act as agent or broker for the sale of credit related life and credit related accident and disability insurance and credit related property insurance in connection with extensions of credit made or acquired by FinanceAmerica Corporation or FinanceAmerica Industrial Plan, Inc.) from 249 West Orange Avenue, Cocoa Beach, Florida to 715 North Courtenay Parkway, Merritt Island, Florida, through its indirect subsidiaries, FinanceAmerica Corporation (a Florida Corporation) and FinanceAmerica Industrial Plan, Inc. (6/30/77).[3]

APPROVED

Continental Illinois Corporation, Chicago, Illinois, for approval to acquire Great Lakes Life Insurance Company, Phoenix, Arizona.

Midland Capital Co., Oklahoma City, Oklahoma, for approval to acquire 75 per cent of the voting shares of Midland Mortgage Co. and Johnston-Records Co., both in Oklahoma City, Oklahoma.

DENIED

NBC Co., Lincoln, Nebraska, for approval to acquire 100 percent of the voting shares of Fremont State Company, Fremont, Nebraska.

### APPLICATIONS RECEIVED

### To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

The Southern Ohio Bank, Cincinnati, Ohio. Branch to be established at Cornell Road and Reed Hartman Highway, Blue Ash, Hamilton County.

The Peoples Savings Bank Company, Delta, Ohio. Branch to be established at 110 Airport Highway, Swanton, Fulton County.

The Western Security Bank, Sandusky, Ohio. Branch to be established in the Sandusky Mall, State Route No. 250 and Hull Road, Unit 350, Perkins Township, Erie County.

The Harter Bank and Trust Company, Canton, Ohio. Branch to be established in the immediate vicinity of Locust Street and Towpath Street, Canal, Fulton, Stark County.

The Detroit Bank–Southfield, Southfield, Michigan. Branch to be established at the southeast corner of Southfield and Mt. Vernon Roads, Southfield, Oakland County.

Manufacturers Bank of Livonia, Livonia, Michigan. Branch to be established in the vicinity of the northwest corner of Six Mile Road and Newburgh Road, Livonia, Wayne County.

First Bank and Trust Company of South Bend, South Bend, Indiana. Branch to be established at 3606 E. Cedar St. (within Thrif-T-Mart Supermarket, Inc.) South Bend, St. Joseph County.

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### To Become a Member of the Federal Reserve System Pursuant to Section 9 of the Federal Reserve Act

40 Main Street Bank, Hempstead, New York.
Utah Independent Bank, Salina, Utah.
Sandy State Bank, Sandy, Utah.



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To Merge Pursuant to Section 18(c) of the Federal Deposit Insurance Act.

40 Main Street, Hempstead, New York, for prior approval to merge with Hempstead Bank, Hempstead, New York.

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To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act

Rainier National Bank: Branch—Manila, Philippines.
Security Pacific National Bank: Branch—Makati, Philippines.

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To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956

Columbus Bancshares, Inc., Columbus, Kansas, for approval to acquire 90.92 percent of the voting shares of The Columbus State Bank, Columbus, Kansas.
Jackson Hole Banking Corporation, Jackson, Wyoming, for approval to acquire 80 percent of the voting shares of The Jackson State Bank, Jackson, Wyoming.
Rose Creek, Inc., Hubbell, Nebraska, for approval to acquire 100 percent (less directors' qualifying shares) of the voting shares of Hubbell Bank, Hubbell, Nebraska.

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To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956

Ameribanc, Inc., St. Joseph, Missouri, for approval to acquire 80 percent or more of the voting shares of Morgan County Bank, Versailles, Missouri.
United Banks of Colorado, Inc., Denver, Colorado, for approval to acquire 80 percent or more of the voting shares of United Bank of Arvada National Association, Arvada, Colorado, a proposed new bank.

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To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

Shawmut Corporation, Boston, Massachusetts and Texas American Bancshares, Inc., Fort Worth, Texas, notification of intent to continue to engage in de novo activities (agricultural commodity financing, servicing such financing and related and incidental activities, and in general, making, servicing or acquiring, for its own account or for the account of others, loans and other extensions of credit to agricultural enterprises or secured by agricultural commodities) in Arizona, California, Idaho, Nevada, Utah, and Wyoming, through a joint venture, American AgCredit Corporation, Guymon, Oklahoma at offices in Guymon, Oklahoma; Amarillo, Texas; and Denver, Colorado (6/29/77).[2]
Chemical New York Corporation, New York, New York, notification of intent to engage in de novo activities (extending direct loan credit, purchasing sales finance contracts, and making such other extensions of credit as would be made or acquired by a consumer finance company operating under the South Carolina Consumer Protection Code; and providing, at the election of debtors of said consumer finance company, group credit life/accident and health insurance directly related to such extensions of credit) at CP&L Building, 2160 Hoffmeyer Road, Florence, South Carolina, through its subsidiary, Sun Finance Company–1203, Inc. (7/1/77).[2]
Chemical New York Corporation, New York, New York, notification of intent to engage in de novo activities (extending direct loan credit, purchasing sales finance contracts and making such other extensions of credit as would be made or acquired by a consumer finance company operating under the Indiana Uniform Consumer Credit Code; and providing, at the election of debtors of said consumer finance company, group credit life and group accident and health insurance directly related to such extensions of credit) at Ayr-Way South Shopping Center, 3788 South East Street, Indianapolis, Indiana, through its subsidiary, SunAmerica Financial Corp. (7/1/77).
Fidelcor, Inc., Rosemont, Pennsylvania, notification of intent to relocate de novo activities (making and acquiring, consumer and mortgage loans to individuals including second mortgages on properties in N.J. where the loans are owned by direct or indirect subsidiaries of Fidelcor; engaging in a general consumer finance business; purchasing installment contracts arising from the sale of personal property or services; and, with respect to all of the above, selling credit life and credit accident and health insurance, mortgage life and disability insurance, accidental death insurance and casualty insurance on the collateral; and through Master Life Insurance Company, an indirect subsidiary of Fidelcor, reinsuring consumer type credit life insurance sold; the location indicated is relevant to the reinsurance only as establishing a location of credit transactions to which the insurance relates) from 92 Roosevelt Avenue, Carteret, New Jersey to 1363 Roosevelt Avenue, Carteret, New Jersey, through its subsidiary, Fidelcor Financial Centers, Inc. (6 24 77).
Union Trust Bancorp, Baltimore, Maryland, notification of intent to engage in de novo activities (make secondary mortgage loans secured in whole or in part by mortgage, deed of trust, security agreement, or other lien on real estate situated in the State of South Carolina which property may be subject to one or more encumbrances or other leasehold interests; and act as agent in the sale of credit life insurance and credit accident and health insurance in connection with its extension of credit) at 4 Carriage Lane, Charleston, South Carolina, through its subsidiary, Union Home Loan Corporation (6/30/77).[2]
Landmark Banking Corporation of Florida, Fort Lauderdale, Florida, for permission to engage de novo in providing bank management consulting advice which would include advice concerning bank operations, systems and procedures, computer operations and mechanization, cost analysis and site planning.
Financial Services Corporation of the Midwest, Rock Island, Illinois, for approval to acquire the voting shares of Federal Discount Corporation, Dubuque, Iowa (engaged in making consumer installment personal loans, purchasing consumer installment sales finance contracts, and acting as agent for the sale of consumer credit related life and accident and health insurance).
Investment Management, Inc., Bettendorf, Iowa, for permission to retain the shares of Lloyd's Plan, Inc., Davenport, Iowa (engaged in operating a small loan company and industrial loan company under the laws of the State of Iowa and the sale of credit related insurance).
River Cities Investment Co., Bettendorf, Iowa, for permission to retain the shares of Lloyd's Plan, Inc., Davenport, Iowa (engaged in operating a small loan company and industrial loan company under the laws of the State of Iowa and the sale of credit related insurance).
BankAmerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (making and acquiring, for its own account loans and other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit; such activities will include, but not be limited to, making loans and other extensions of credit to small businesses and making loans secured by real property; acting as agent or broker for the sale of credit related life insurance in connection with extensions of credit made or acquired by FinanceAmerica Mortgage Services, Inc.) at 762 Wolcott Road, Waterbury, Connecticut, through its indirect subsidiary, FinanceAmerica Mortgage Services, Inc. (6/24/77).[2]
Security Pacific Corporation, Los Angeles, California, notification of intent to relocate de novo activities (making and acquiring, for its own account or for the account of others, loans and other extensions of credit including secured and unsecured consumer, commercial and agricultural loans, sale contracts and other forms of receivables and such other types of loans and credit extensions as are customarily made or acquired by a finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) from 1214 Main to 5193 Overland, Boise, Idaho, through its subsidiary, The Bankers Investment Company (6/27/77).[2]
United Bancorp, Roseburg, Oregon, notification of intent to engage in de novo activities (to provide bookkeeping or data processing services for the internal operations of the holding company and its subsidiaries; to store and process other banking, financial or related economic data such as performing payroll, accounts receivable or payable, or billing services) at S.E. Oak and Kane Streets, Roseburg, Oregon, through its subsidiary, United D.P. Co. (6/23/77).[2]

• • • • •

To Expand a Bank Holding Company Pursuant to Section 4(c)(12) of the Bank Holding Company Act of 1956.

American Financial Corporation, Cincinnati, Ohio, and its subsidiaries, notification of intent to acquire from 5 percent to 35 percent of the outstanding voting shares of the following companies: Alpha Portland Industries, Inc., Easton, Pennsylvania; Florida Gas Company, Winter Park, Florida; Integrated Resources, Inc., New York, New York; and Pacific Holding Corporation, Los Angeles, California (6/24/77).[2]
Berkshire Hathaway Inc., New Bedford, Massachusetts, notification of intent to indirectly acquire more than 5 percent of the outstanding voting stock of United Merchants & Manufacturers, Inc., New York, New York, a textile manufacturing and retail clothing chain, through its subsidiary, Blue Chip Stamps (6/29/77).[2]

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REPORTS RECEIVED

None.

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PETITIONS FOR RULEMAKING

None.

[2] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.





Board of Governors of the Federal Reserve System, July 15, 1977.

RUTH A. REISTER,
*Assistant Secretary of the Board.*

[FR Doc.77-21059 Filed 7-21-77;8:45 am]

## CENTRAL BANCORPORATION, INC.

### Order Approving Acquisition of The Central Security National Bank of Lorain County, Lorain, Ohio

The Central Bancorporation, Inc., Cincinnati, Ohio (Applicant), a bank holding company within the meaning of the Bank Holding Company Act, has applied for approval of the Board of Governors of the Federal Reserve System, under Section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)), to acquire up to 100%, less directors' qualifying shares, of the successor by merger to The Central Security National Bank of Lorain County, Lorain, Ohio (Bank). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application affording opportunity for interested persons to submit comments and views has been given in accordance with Section 3(b) of the Act. The time for filing comments and views has expired and none have been timely received. The Reserve Bank has considered the application in light of the factors set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the eighth largest banking organization in Ohio, controls nine banks with aggregate deposits of $1,120.5 million or 3.53 percent of total deposits in commercial banks in the State.[1] Upon consummation of the proposal, Applicant's share of total deposits in the State would increase to 3.81 percent, and it would not change its relative position in the State.

Bank, headquartered in Lorain, is the 13th largest of 32 banking organizations competing in the Cleveland banking market and has deposits of $90.1 million, representing approximately 0.97 percent of market deposits.[2] There is no significant existing competition between Bank and Applicant's current or proposed subsidiary banks[3] as none of them operates in the Cleveland banking market. Thirty-five miles and two counties separate the nearest office of any of Applicant's subsidiary banks from an office of Bank. Although Applicant has the size and resources to enter the Lorain County portion of the Cleveland market de novo, such entry does not appear attractive in view of the low population and deposits per banking office in the County relative to State averages. In addition, the acquisition of Bank could be considered a foothold entry into the Cleveland market given that Bank controls less than one percent of total market deposits and there are only two other smaller independent banks in Lorain County. Accordingly, consummation of the proposed transaction would appear to have no adverse effects on existing or potential competition.

The financial and managerial resources and prospects of Applicant, its subsidiary banks, and Bank are consistent with approval. There is no evidence that the banking needs of the Cleveland banking market are not currently being met. However, Applicant plans to assist Bank in providing international banking services and expanding its trust services. Therefore, factors related to convenience and needs of the communities to be served are consistent with approval of the application. It has been determined that consummation of the proposal would be in the public interest and that the application should be approved.

On the basis of the record summarized above, the Federal Reserve Bank of Cleveland approves the application provided that the transaction shall not be consummated (a) before the thirtieth calendar day following the date of this Order or (b) later than three months after the date of this Order, unless such period is extended for good cause by the Board or by this bank pursuant to delegated authority.

By order of the Federal Reserve Bank of Cleveland, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System effective July 5, 1977.

WILLIS J. WINN,
*President.*

[FR Doc.77-21054 Filed 7-21-77;8:45 am]

[Docket No. TCR 76-116]

## EDUCATORS INVESTMENT COMPANY OF KANSAS, INC.

### Prior and Final Certifications Pursuant to the Bank Holding Company Tax Act of 1976

Educators Investment Company of Kansas, Inc., Emporia, Kansas ("Educators"), has requested a prior certification pursuant to § 6158(a) of the Internal Revenue Code (the "Code"), as amended by § 3(a) of the Bank Holding Company Tax Act of 1976 (the "Tax Act"), that the sale on November 1, 1975, by Flint Hills Manor, Inc., Emporia, Kansas ("Flint Hills"), a wholly-owned subsidiary of Educators, of substantially all of the assets of Flint Hills, was necessary or appropriate to effectuate § 4 of the Bank Holding Company Act (12 U.S.C. § 1843) ("BHC Act"). Educators has also requested a final certification pursuant to § 6158(c)(2) of the Code that Educators has (before the expiration of the period prohibited property is permitted under the BHC Act to be held by a bank holding company) disposed of all the property the disposition of which is necessary or appropriate to effectuate section 4 of the BHC Act.[1]

In connection with this request, the following information is deemed relevant for purposes of issuing the requested certification: [2]

1. Educators is a corporation organized under the laws of the State of Kansas on December 22, 1960. Flint Hills is a corporation organized under the laws of the State of Kansas. Educators acquired 20,000 shares, representing 100 percent of the outstanding shares, of Flint Hills on June 1, 1970.

2. On June 5, 1965, Educators acquired ownership and control of 33,445 shares, representing 55.7 percent of the outstanding voting shares, of Citizens National Bank & Trust Company, Emporia, Kansas ("Bank").

3. Educators became a bank holding company on December 31, 1970, as a result of the enactment of the 1970 Amendments to the BHC Act by virtue of its ownership and control at that time of more than 25 percent of the outstanding voting shares of Bank, and it registered as such with the Board on September 29, 1971. Educators would have been a bank holding company on July 7, 1970, if the BHC Act Amendments of 1970 had been in effect on such date, by virtue of its ownership and control on that date, of more than 25 percent of the outstanding voting shares of Bank. On November 1, 1975, Educators owned and controlled 33,445 shares of Bank, representing 55.7 percent of the outstanding voting shares of Bank.

4. On November 1, 1975, Educators held property acquired by it on or before July 7, 1970, the disposition of which would be necessary or appropriate to effectuate § 4 of the BHC Act if Educators were to continue to be a bank holding company beyond December 31, 1980, which property is "prohibited property" within the meaning of §§ 6158(f)(2) and 1103(c) of the Code.

5. On November 1, 1975, Flint Hills sold substantially all of its assets to Robert W. Rieger ("Rieger") for $630,000. Such assets consisted of real property of approximately 5 acres and the improvements thereon known as Flint Hills Manor Nursing Home, situated on the east side of the 1600 block of Wheeler Street, Emporia, Kansas, including plans, specifications and architectural renderings

[1] Banking data are as of September 30, 1976, unless otherwise indicated.

[2] The Cleveland banking market, which is the relevant banking market, is approximated by all of Cuyahoga, Lake and Geauga Counties, the northwestern quarter of Portage County, the northern third of Summit County, all but the southern most tier of townships in Medina and Lorain Counties, and the City of Vermilion which is located in both Lorain and Erie Counties. Data for individual market shares are as of June 30, 1975.

[3] Applicant also has a pending application before the Board of Governors to acquire the First National Bank of Mercer County, Celina, Ohio.

[1] Pursuant to §§ 2(d)(2) and 3(e)(2) of the Tax Act, in the case of any sale that takes place on or before December 31, 1976 (the 90th day after the date of the enactment of the Tax Act), the certification described in § 6158(a) shall be treated as made before the sale, and the certification described in § 6158(c)(2) shall be treated as made before the close of the calendar year following the calendar year in which the last such sale occurred, if application for such certification was made before the close of December 31, 1976. Educators' application for such certifications was received by the Board on December 28, 1976.

[2] This information derives from Educators' correspondence with the Board concerning its request for certification, Educators' Registration Statement filed with the Board pursuant to the BHC Act, and other records of the Board.



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prepared for a 60-bed expansion to the already existing building, together with all the furniture, fixtures, equipment, general and medical supplies and usual inventory as consistent with the normal operation of a nursing home as required by the State Health Department. In exchange for such assets, Rieger paid to Flint Hills $150,000 in cash and assumed three outstanding mortgages on the above-described real property in the aggregate amount of $313,741.85. Under the terms of the installment sales contract, the remainder is to be paid to Flint Hills in monthly payments of $1,500 at 8.5 percent per annum on the unpaid balance, with the remaining unpaid balance due at the end of 5 years, provided that Rieger may pay the remaining unpaid balance to Flint Hills in full at any time without penalty. Flint Hills holds a fourth mortgage on such property.

6. Flint Hills does not engage in any activity, and it remains in existence for the sole purpose of holding Rieger's note and receiving payments from Rieger under the terms of the installment sales contract.

7. Rieger is not an officer, director (including honorary or advisory director), or employee with policymaking functions of Educators or any of its subsidiaries. Rieger does not hold any interest in Educators or any of its subsidiaries. Other than as a result of his acquisition of the assets of Flint Hills, Rieger is not indebted to Educators or any of its subsidiaries.

On the basis of the foregoing information, it is hereby certified that:

(A) at the time of the sale by Flint Hills of substantially all of its assets to Rieger, Educators was a qualified bank holding corporation, within the meaning of § 6158(f)(1) and subsection (b) of section 1103 of the Code, and satisfied the requirements of that subsection;

(B) the assets sold by Flint Hills were "prohibited property" within the meaning of §§ 6158(f)(2) and 1103(c) of the Code;

(C) the sale of substantially all the assets of Flint Hills was necessary or appropriate to effectuate § 4 of the BHC Act; and

(D) Educators has (before the expiration of the period prohibited property is permitted under the BHC Act to be held by a bank holding company) disposed of all of the property the disposition of which was necessary or appropriate to effectuate § 4 of the BHC Act.

This certification is based upon the representations made to the Board by Educators and upon the facts set forth above. In the event the Board should hereafter determine that facts material to this certification are otherwise than as represented by Educators, or that Educators has failed to disclose to the Board other material facts, it may revoke this certification.

By order of the Board of Governors acting through its General Counsel, pursuant to delegated authority (12 CFR § 265.2(b)(3)), effective July 15, 1977.

RUTH A. REISTER,
*Assistant Secretary of the Board.*

[FR Doc.77-21055 Filed 7-21-77;8:45 am]

## FIRST COMMERCE CORP.

### Proposed Acquisition of Downtown Finance Plan, Inc.

First Commerce Corporation, New Orleans, Louisiana, has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Downtown Finance Plan, Inc., New Orleans, Louisiana. Notice of the application was published on May 4 and 5, 1977, in The Times Picayune and The New Orleans States-Item, newspapers circulated in New Orleans, Louisiana.

Applicant states that the proposed subsidiary would engage in the activities of entering into consumer extensions of credit and acting as agent for the sale of credit life and credit accident and health insurance in connection with extensions of credit. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 12, 1977.

Board of Governors of the Federal Reserve System, July 15, 1977.

RUTH A. REISTER,
*Assistant Secretary of the Board.*

[FR Doc.77-21056 Filed 7-21-77;8:45 am]

## KEOKUK COUNTY BANKSHARES, INC.

### Formation of Bank Holding Co.

Keokuk County Bankshares, Inc., Sigourney, Iowa, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Keokuk County State Bank, Sigourney, Iowa. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 9, 1977.

Board of Governors of the Federal Reserve System, July 18, 1977.

RUTH A. REISTER,
*Assistant Secretary of the Board.*

[FR Doc.77-21057 Filed 7-21-77;8:45 am]

## SECURITY STATE BANK HOLDING CO.

### Formation of Bank Holding Company

Security State Bank Holding Company, Hannaford, North Dakota, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 96 percent or more of the voting shares of Security State Bank of Hannaford, Hannaford, North Dakota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 15, 1977.

Board of Governors of the Federal Reserve System, July 18, 1977.

RUTH A. REISTER,
*Assistant Secretary of the Board.*

[FR Doc.77-21078 Filed 7-21-77;8:45 am]

## GENERAL ACCOUNTING OFFICE

### REGULATORY REPORTS REVIEW

### Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on July 18, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FEA request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before August 9, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL ENERGY ADMINISTRATION

The FEA requests clearance of a new single-time "Survey of Manufacturers' Alternative Energy Capabilities 1977, Form MA-400." The FEA has contracted with the Bureau of the Census to initiate this supplement to the existing Annual Survey of Manufacturers for the year 1976. This supplemental survey will be conducted under the authority of title 13, United States Code, sections 182, 224 and 225 (Census Bureau), and section 13(a) of the Federal Energy Administration Act of 1974 (FEA) (Pub. L. 93-275).

The data received from this survey will provide the information necessary to develop estimates of alternative energy capabilities in manufacturing. The information will be used for energy analysis and policy guidance and have significant application to the needs of the public and industry. The data to be collected are not currently available from nongovernmental or other Government sources. This survey as a supplement to the Annual Survey of Manufacturers will request a measure of substitutable and nonsubstitutable energy capabilities by types of energy. The potential type and magnitude of the substitution capability as well as the time required to implement substitutions will also be measured. Data will be collected from a subsample of the Annual Survey of Manufacturers establishments. The sample will consist of approximately 5250 establishments and accounts for about 70 percent of the purchased energy consumed by manufacturers. Respondent burden is estimated by FEA to average one hour per response.

NORMAN F. HEYL,
*Regulatory Reports, Review Officer.*

[FR Doc.77-21073 Filed 7-21-77;8:45 am]

## REGULATORY REPORTS REVIEW

### Receipt and Approval of a Proposed Report

A request for clearance of a proposed report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on July 13, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice is to inform the public of such receipt and the action taken by GAO.

FEDERAL ENERGY ADMINISTRATION

The Federal Energy Administration requested emergency clearance of the proposed form FEA-U544-S-O, Office of Consumer Services Grant Application. The Energy Conservation and Production Act (ECPA), Title II, Section 205 (Public Law 94-385) provides for Federal financial assistance for the establishment and/or operation of State Offices of Consumer Services to support consumer representation in proceedings before electric utility regulatory commissions. All 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Samoa, Guam, the Trust Territory of the Pacific, and the Tennessee Valley Authority are eligible to apply for this financial assistance. A total of $2 million was appropriated for this program in May 1977 and must be obligated by September 30, 1977. Final guidelines for the program were published in the FEDERAL REGISTER on July 8, 1977. The estimated response burden is calculated by FEA at approximately 56 hours per response.

GAO granted clearance of the form FEA-U544-S-O on July 18, 1977, under number B-181254 (RO459) because the application form conformed to GSA Standard Form 424 and the Federal Management Circular 74-7.

NORMAN F. HEYL,
*Regulatory Reports Review Officer.*

[FR Doc.77-21074 Filed 7-21-77;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

[NADA 46-665V]

## NATIONAL LABORATORIES CORP.

### Oxytocin Injection; Withdrawal of Approval of New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This is a notice of withdrawal of approval of a new animal drug application (NADA) held by National Laboratories Corp. for oxytocin injection. In a document appearing elsewhere in this issue of the FEDERAL REGISTER, that portion of the regulations representing this approval is being deleted.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

W. D. Price, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301-443-3440).

SUPPLEMENTARY INFORMATION: The application, held by National Laboratories Corp., 1721 Baltimore Ave., Kansas City, MO 64108, was originally approved June 27, 1973, for obstetrical use and milk let-down in dogs, cats, horses, cattle, swine, and sheep. The firm informed the agency that it is no longer interested in marketing the product and requested withdrawal of approval of the application without prejudice.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner (21 CFR 5.1), the following notice is issued:

In accordance with § 514.115(d) (21 CFR 514.115(d)), notice is given that approval of NADA 46-665V and all supplements and amendments thereto for oxytocin injection is hereby withdrawn, effective July 22, 1977.

Published elsewhere in this issue of the FEDERAL REGISTER is an amendment to § 522.1680 *Oxytocin injection* (21 CFR 522.1680) to reflect this notice.

Dated: July 13, 1977.

RICHARD P. LEHMANN,
*Acting Director, Bureau of Veterinary Medicine.*

[FR Doc.77-20809 Filed 7-21-77;8:45 am]

## National Institutes of Health

### COMMISSION FOR THE CONTROL OF HUNTINGTON'S DISEASE AND ITS CONSEQUENCES

### Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Commission for the Control of Huntington's Disease and Its Consequences, National Institutes of Health, on August 5-7, 1977, in Conference Room 9, Building 31, NIH, Bethesda, Maryland 20014.

The entire meeting will be open to the public from 9 a.m. to 5 p.m., subject to space available. The purpose of the meeting is for the Commission to approve the final report and recommendations.

Dr. Nancy S. Wexler, Executive Director, Commission for the Control of Huntington's Disease and Its Consequences, NIH, Building 31, Room 8A11, Bethesda, Maryland 20014, (301-496-9275), will provide substantive program information.

Mr. Robert Hinkel, Acting Chief, Office of Scientific and Health Reports, NINCDS, Building 31, Room 8A02, Bethesda, Maryland 20014, (301-496-5751, will provide summaries of the meeting and rosters of Commission members.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health)

Dated: July 15, 1977.

SUZANNE L. FREMEAU,
*Committee Management Officer, National Institutes of Health.*

[FR Doc.77-20929 Filed 7-21-77;8:45 am]

## EXECUTIVE SUBGROUP OF THE CLEARINGHOUSE ON ENVIRONMENTAL CARCINOGENS

### Notice of Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Executive Subgroup of the Clearinghouse on Environmental Carcinogens, National Cancer Institute, National Institutes of Health, August 1, 1977, which was published in the FEDERAL REGISTER on July 8, 1977 (42 FR 35224).

Dated: July 13, 1977.

SUZANNE L. FREMEAU,
*Committee Management Officer, National Institutes of Health.*

[FR Doc.77-20690 Filed 7-21-77;8:45 am]

## PRESIDENT'S CANCER PANEL

### Amended Notice of Meeting

Notice is hereby given of a change in the meeting date of the President's Cancer Panel, National Cancer Institute, August 9, 1977, which was published in the FEDERAL REGISTER on July 8, 1977 (42 FR 35224).

The meeting was to have convened at 9:30 a.m. on August 9, 1977, but has been changed to 9:30 a.m., August 5, 1977, Building 31C, Conference Room 7, National Institutes of Health, Bethesda,





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Maryland. The meeting will be entirely open to the public.

Dated: July 13, 1977.

SUZANNE L. FREMEAU,
*Committee Management Officer, National Institutes of Health.*

[FR Doc.77-20691 Filed 7-21-77;8:45 am]

## Office of the Secretary

## COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

### Comments

Pursuant to Section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Center for Education Statistics, and The U.S. Office of Education have proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before and should be addressed to Administrator, National Center for Education Statistics, ATTN: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: July 19, 1977.

MARIE D. ELDRIDGE,
*Administrator, National Center for Education Statistics.*

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

**Design and implementation of the national vocational education data reporting and accounting system. (Feasibility Study).**

2. AGENCY/BUREAU/OFFICE

**National Center for Education Statistics.**

3. AGENCY FORM NUMBER

NCES 2404, 2404-1, 2404-2, 2404-3, 2404-4.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Sec. 161(a)(1) "The Commissioner and the Administrator of the National Center for Education Statistics shall, by September 30, 1977, jointly develop information elements and uniform definitions for a national vocational education data reporting and accounting system. This system shall include information resulting from the evaluations required to be conducted by section 112(b) (as such section will be in effect on October 1, 1978) and other information on vocational—

"(A) students (including information on their race and sex),

"(B) programs,

"(C) program completers and leavers,

"(D) staff,

"(E) facilities, and

"(F) expenditures * * *

(3)(A) After the completion of the development of those information elements and uniform definitions pursuant to paragraph(1), the Administrator shall immediately begin to design, implement, and operate this information system which shall be in full operation for fiscal year beginning October 1, 1978. (Title II, P.L. 94-482 as amended by P.L. 95-40(21 and 22). 20 USC 2391.)

VOLUNTARY OBLIGATORY NATURE OF RESPONSE

Feasibility study—voluntary.

6. HOW INFORMATION COLLECTED WILL BE USED

All information collected will be used to develop the comprehensive vocational education data reporting and accounting system mandated by the statute cited above, in order for the Federal government to assist the States in operating the best possible programs of vocational education. P.L. 94-482, Sec. 112(a)). Feasibility study data will provide information about the capability of the States to collect federally mandated data which will be used in establishing and administering effective programs of vocational education, and to explore the level of specificity necessary to fully utilize the data for planning and evaluation purposes at the Federal, State and local levels.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Aug. 1977-Nov. 1977.
c. Frequency: One time.

8. RESPONDENTS

a. Type: Local Education Agencies (LEA's) and Postsecondary Institutions (PSI's).
b. Number: Sample—56 LEA's and 40 PSI's.
c. Estimated average manhours for respondent: 6 hours.

9. INFORMATION TO BE COLLECTED

*Form 2404*

Enrollments by instructional program title and sex by: Enrollments during year (unduplicated counts). Race/Ethnic Group (duplicated counts). Program Level (duplicated counts). Special Needs (duplicated counts). Cooperative vocational educational program (duplicated counts). Student termination during the year (unduplicated counts). Duplicated and unduplicated totals.

Enrollment in special and support programs by sex: Enrollment during year (unduplicated counts). Race/ethnic Group (duplicated counts). Program Level (duplicated counts). Special Needs (duplicated counts).

Enrollment by handicapped condition and regular, separate, separate facility or other program.

*Form 2404-1*

Number of instructional and supplemental staff by program (duplicated and unduplicated).

Number of instructional staff for job skill training 9th grade and higher by program title by: sex, minority, handicap, bilingual, full-time equivalent.

Number of supplemental staff by: sex, minority, handicap, bilingual, full-time equivalent.

Number of instructional staff for job skill training 9th grade and higher by program title by: sex, minority, handicap, bilingual, full time equivalent.

Number of supplemental staff by: sex, minority, handicap, bilingual, full time equivalent.

Number of instructional staff vacancies, or inadequately filled positions by program.

*Form 2404-2*

Number of classroom/laboratory facilities by program.

Maximum capacity of facility by program.

Number of class sessions per week by program.

*Form 2404-3*

Expenditures by program by Federal or non-Federal source.

*Form 2404-4*

This form actually provides data on a sample of students in vocational education programs. LEA's and PSI's will be asked to supply the following information on the student forms.)

Vocational education instructional field studied; State; school identification number, SMSA; labor market area; congressional district; participation in targeted education programs; bilingual (for limited English speaking ability students), disadvantaged, handicapped, cooperative education, work study; student financial aid received (postsecondary only).

Vocational objective; completion status; date left or completed school (month, year).

(NOTE.—The following data will be added to the above by a sample of students.)

Student's full name; student ID number; sex; year of birth; racial/ethnic self-designation; current address; permanent address; address and telephone number of someone likely to always know your location.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Application for Teacher Centers Program and Higher Education Personnel Training Program.

2. AGENCY BUREAU/OFFICE

U.S. Office of Education, Bureau of Occupational and Adult Education, Division of Educational Systems Development.

3. AGENCY FORM NUMBER

OE Form 335.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Sec. 532. (a)(1) The Commissioner is authorized to make grants to local educational agencies * * *

"Sec. 532. (f) Notwithstanding the provisions of subsection (a)(1) of this section with respect to the requirement that teacher centers be operated by local educational agencies, 10 per centum of the funds expended under this section may be expended directly by the Commissioner to make grants to institutions of higher education to operate teacher centers, subject to the other provisions of this section." (20 U.S.C. 1119a).





"Sec. 533. (a) The Commissioner is authorized to make grants to institutions of higher education to assist such institutions in the training of individuals." (P.L. 94-482, 20 U.S.C. 1119a-1).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

The information will be used to award grants under the Teacher Centers Program and the Higher Education Personnel Training Program.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Fall and Winter.
c. Frequency: Annually.

8. RESPONDENTS

a. Type: Colleges and universities.
b. Number: 80.
c. Estimated average man-hours per respondent: 40.
a. Type: Local Education Agencies.
b. Number: 720.
c. Estimated average man-hours per respondent: 40.

9. INFORMATION TO BE COLLECTED

All respondents will be required to provide information requested on the standard non-construction application for Federal Assistance. Special emphasis will be given to including statutory requirements and to addressing the technical review criteria in the program narrative.

DESCRIPTION OF PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Financial Status and Performance Reports for Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships Program.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education/Bureau of Higher and Continuing Education Division of Training and Facilities.

3. AGENCY FORM NUMBER

OE 405-1 and OE 405-2.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Sec. 961. (a) It is the purpose of this part to provide fellowships—(1) to assist graduate students of exceptional ability who demonstrate a financial need for advanced study in domestic mining and mineral and mineral fuel conservation including oil, gas, coal, oil shale, and uranium * * *". (P.L. 92-318, as amended, 20 U.S.C. 1134n).

"Sec. 408. (a) Each administrative head of an education agency in order to carry out functions otherwise vested in him by law is * * * (1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of the agency * * * (4) * * * to enter into and perform such * * * transactions as may be necessary for the conduct of such agency * * *". (P.L. 93-380, 20 U.S.C. 1221e-3).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain benefit.

6. HOW INFORMATION COLLECTED WILL BE USED

Financial information collected will be used to determine accountability of each award in terms of expenditure of funds. Performance Report will be used to determine whether goals and objectives are achieved.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Fall.
c. Frequency: One a year.

8. RESPONDENTS

a. Type: Institutions of higher education.
b. Number: 52.
c. Estimated average man-hours per respondent: 3 man-hours.

9. INFORMATION TO BE COLLECTED

Number of fellowships awarded, number of fellows who left the program during the academic year, number of fellows who found employment related to their fellowship training.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Application for Grants for Improving Qualifications of Personnel and Improving Supervisory Services under Sec. 344(a), and for Coordination of Guidance and Counseling Programs under Sec. 344(b), P.L. 94-482.

2. AGENCY BUREAU, OFFICE

Office of Commissioner Guidance and Counseling Task Force.

3. AGENCY FORM NUMBER

OE 578-2.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

(a) "Sec. 344(a) The Commissioner is authorized, on a competitive basis, to enter into contracts and make grants to State and local educational agencies, to institutions of higher education, and to private nonprofit organizations to assist them in conducting institutes, work shops, and seminars designed to improve the profesional guidance qualifications of teachers and counselors in State and local educational agencies and nonpublic elementary and secondary school systems, including opportunities for teachers and guidance counselors in such agencies and systems to obtain experience in business and industry, the professions, and other occupational pursuits, and including, for the purpose of such improvement, such programs, services, or activities which bring individuals with experience in such pursuits into schools as counselors or advisors for students, and which bring students into the workplaces of such pursuits to acquaint students with the nature of the work and to provide training for supervisory and technical personnel in such agencies and systems having responsibilities for guidance and counseling, and to improve supervisory services in the field of guidance and counseling."

(b) "Sec. 344—(b) The Commissioner is authorized to make grants to States to assist them in carrying out programs to coordinate new and existing programs of guidance and counseling in the States." (20 U.S.C. 2534).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION COLLECTED WILL BE USED

Determining Eligibility to receive grants.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Fall, 1977.
c. Frequency: Annually.

8. RESPONDENTS

a. Type: State Education Agencies. b. Number: 57. c. Estimated average man-hours per respondent: 40. a. Type: Local education agencies. b. Number: 500. c. Estimated average man-hours per respondent: 20. a. Type: Nonpublic, nonprofit elementary/secondary schools. b. number: 100. c. Estimated average man-hours per respondent: 20. a. Type: Colleges and universities. b. Number: 300. c. Estimated average man-hours per respondent: 20. a. Type: Nonpublic junior colleges. b. Number: 50. c. Estimated average man-hours per respondent: 20.

a. Type: Public junior colleges. b. Number: 75. c. Estimated average man-hours per respondent: 20. a. Type: Vocational/technical postsecondary institutions. b. Number: 50. c. Estimated average man-hours per respondent: 20. a. Type: Nonprofit organization b. Number: 50 c. Estimated average man-hours per respondent: 20.

9. INFORMATION TO BE COLLECTED

The standard (nonconstruction) application in the Federal Management Circular 74-7 will be used with minor supplementation required by law and regulations.

DESCRIPTION OF PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Certificate of project costs and capitalized interest.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education/Bureau of Higher and Continuing Education Division of Training and Facilities.

3. AGENCY FORM NUMBER

OE 1143, 1144.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Sec. 782. (3)(A) The term "development cost," with respect to an academic facility, means the amount found by the Commissioner to be the cost, to the applicant for a grant or loan under this title, of the construction involved and the cost of necessary acquisition of the land on which the facility is located and of necessary site improvements to permit its use for such facility." (P.L. 92-318, 20 U.S.C. 1132e-1).

5. VOLUNTARY/OBLIGATORY NATURE OF

Required to maintain benefits.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

To determine the amount of eligible costs relating to eligible constructed facilities. This information is required in order to ascertain that matching costs requirements have been met.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Throughout the year.
c. Frequency: Annually.

8. RESPONDENTS

a. Type: Institutions of postsecondary education.
b. Number: 100.
c. Estimated average man-hours per respondent: 1.

9. INFORMATION TO BE COLLECTED

a. OE 1143—Costs of facilities, and project description.

b. OE 1144—Interest costs for facilities construction, itemized by lender.

[FR Doc.77-21121 Filed 7-21-77;8:45 am]



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## NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

### Meeting

The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research will meet on August 12 and 13, 1977, in Conference Room 6, C Wing, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. The meeting will convene at 9 a.m. each day and will be open to the public, subject to the limitations of available space. Topics included in the mandate to the Commission under the National Research Act (Pub. L. 93–348), as amended, including research involving children, research involving the institutionalized mentally infirm, the performance of institutional Review Boards, research not subject to regulation by the Secretary of Health, Education, and Welfare, the application of research guidelines to the delivery of health services by DHEW, and other matters identified in the legislative mandate to the Commission, will be the agenda for this meeting.

Written materials of any length may be submitted to the Commission at any time. Requests for information should be directed to Ms. Betsy Singer, Information Officer (301–496–7776), Room 125, Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland 20016.

Dated: July 18, 1977.

MICHAEL S. YESLEY,
*Staff Director, National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.*

[FR Doc.77-21114 Filed 7-21-77;8:45 am]

## NATIONAL ADVISORY COUNCIL ON SERVICES AND FACILITIES FOR THE DEVELOPMENTALLY DISABLED

### Meeting

The National Advisory Council on Services and Facilities for the Developmentally Disabled was established by Section 133(a)(1) of Public Law 91–517, which was signed October 30, 1970, to advise the Secretary with respect to any regulations promulgated or proposed to be promulgated by him in the implementation of the Act and study and evaluate programs authorized by the Act with a view to determining their effectiveness in carrying out the purposes for which they were established.

Notice is hereby given, pursuant to P.L. 92–463, that the National Advisory Council on Services and Facilities for the Developmentally Disabled will hold a meeting on August 9 and 10, 1977. The meeting will be held in Room 425–A, South Portal Building, Department of Health, Education, and Welfare, 200 Independence Avenue SW., Washington, D.C. from 9 a.m. to 5 p.m. Agenda: Discussion of Developmental Disabilities Definition Study; Special Projects; UAF Satellite Centers; Protection and Advocacy; and the Annual Report to Congress.

This meeting is open for public observation.

Further information on the Council may be obtained from Mr. Francis X. Lynch, Executive Secretary, National Advisory Council on Services and Facilities for the Developmentally Disabled, Room 3070, Mary Switzer Building, 330 "C" Street SW., Washington, D.C. 20201. Telephone 202–245–0335.

FRANCIS X. LYNCH,
*Executive Secretary.*

JULY 11, 1977.

[FR Doc.77-21060 Filed 7-21-77;8:45 am]

## TELECOMMUNICATIONS DEMONSTRATION PROGRAM

### Solicitation

Pursuant to Section 392A of the Communications Act of 1934, as amended by Section 8 of the Educational Broadcasting Facilities and Telecommunications Demonstration Act of 1976, the Assistant Secretary for Planning and Evaluation (hereafter the Assistant Secretary) is seeking applications from public and private non-profit agencies, organizations, and institutions for the purpose of carrying out telecommunications demonstrations in non-broadcast technology.

A. APPLICABLE REGULATIONS

The regulations applicable to the Telecommunications Demonstration Program are:

1. The regulations for "Grant Programs Administered by the Office of the Assistant Secretary for Planning and Evaluation" (45 CFR Part 63), which were published in the Code of Federal Regulations on October 1, 1976;

2. Amendments to the above regulations, which will govern the Telecommunications Demonstration Program, and which were published in the FEDERAL REGISTER on July 13, 1977; and,

3. 45 CFR Part 74—Administration of Grants.

The regulations define program objectives, limitations, and criteria for evaluation of proposed demonstration projects.

B. EFFECTIVE DATE AND DURATION

1. This Solicitation is intended for grant applications and awards to be made on or about November 30, 1977. Should this Solicitation remain in effect for any succeeding Fiscal Year or portion thereof, it shall be applied as if issued in said Fiscal Year, subject only to those changes in specification of dates necessary to allow it to be read as applying to such year.

2. This Solicitation shall not be construed as limiting or preventing the issuance of additional solicitations by the Department under these authorities in Fiscal Year 1977, even though such additional solicitations would reduce the amount of funds under this Solicitation or might duplicate in part the substantive scope of this Solicitation.

3. In order to avoid unnecessary delays in the preparation and receipt of applications, this notice is effective immediately. Applications will be accepted no later than 45 days from issuance.

C. STATEMENT OF FUNDS AVAILABILITY

1. The Act authorizes $1,000,000 for the Fiscal Year ending September 30, 1977, for the award of grants. This sum carries forward to Fiscal Year 1978 and is to be awarded as a result of this Solicitation.

2. Since it is desired to explore a variety of innovative and cost effective telecommunications technologies which improve the delivery of health, education, rehabilitation and social services, it is expected that up to twenty projects may be funded, although the proposal review committee will retain flexibility on size and number of grants based on the proposals received. Obviously, this may simultaneously limit the size of individual grants and may generally require that significant support, in addition to this Program, be available to most projects. Such support and its sources should be substantiated in individual applications.

3. Funds will not be available for acquisition or development of programming materials and content, and/or acquisition of studio production equipment, primarily because alternative funding authorities for such support exist in other programs.

4. Applications may be submitted for projects of up to three years duration, but funds awarded under this Solicitation will be awarded for only one year of any project, so as to respond to the greatest possible number of applicants. However, projects which propose three-year demonstrations, and which are accepted for first year awards, will be eligible for second or third year funding on a non-competitive basis, providing funds are available in succeeding years and projects are performing acceptably. To be considered for a three-year period of performance, applications must contain detailed work statements and budgets that reflect reduced levels of funding for succeeding years in order to provide for gradual transition of projects to self-sustaining operation. Since there can be no guarantee of continuous funding, projects should be designed to produce significant results during the first year of performance and applicants should be aware that continued funding will depend, in part, upon renewed legislative authority for the program.

D. APPLICATION PROCESSING

1. Grant applications will be reviewed and awards made by an Interagency Panel of HEW staff with expertise in substantive and technology disciplines. Advice and assistance will be sought, where appropriate, from outside agencies such as the National Aeronautics and Space Administration, the Federal Communications Commission, the public broadcasting community, and outside consultants.





2. Applicants will be judged as to eligibility and, if eligible, as to priority for award, strictly according to the criteria set forth in section 63.6(c) of the Final Regulations. Priority will be given to applicants who, in the judgment of the Assistant Secretary, best meet these criteria.

3. Applications judged to be below an acceptable level on any criterion may be classified as conditionally unacceptable, regardless of overall point standing. Such proposals would require modification and, for practical purposes, would have to be deferred for consideration under Fiscal Year 1978 funding.

4. Applications should begin with a brief, overall description of the project, including a simple, line drawing of the proposed system. This should be followed by a detailed project description and then, a series of brief sections addressing how each of the specific program criteria in the regulations would be met. Supporting material should be annexed at the back of the application.

5. Applications which propose access to specific telecommunications systems in order to carry out a demonstration must show adequate evidence that such access is assured in order to demonstrate the technical feasibility of the project.

6. Nothing in this Solicitation should be construed as committing the Assistant Secretary to dividing available funds among all qualified applicants.

E. APPLICATIONS SENT BY MAIL

An application sent by mail will be considered to be received on time by the Grants Officer if:

1. The application was sent by registered or certified mail not later than 45 days from issuance of this Solicitation as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

2. The application is received on or before the closing date by the Department of Health, Education, and Welfare Mail Room in Washington, D.C. In establishing the date of receipt, the Assistant Secretary will rely on the time-date stamp of such Mail Room or other documentary evidence of receipt maintained by the Department of Health, Education and Welfare.

F. HAND-DELIVERED APPLICATIONS

An application to be hand-delivered must be taken to the Grants Officer at the address listed at the end of this Solicitation. Hand-delivered applications will be accepted daily between the hours of 9 a.m. and 5:30 p.m. (Washington, D.C. time), except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 5:30 p.m. on the closing date.

G. DISPOSITION OF APPLICATIONS

1. *Approval, disapproval, or deferral.* On the basis of the review of an application, the Assistant Secretary will either (a) approve the application in whole or in part, for such amount of funds and subject to such conditions as he deems necessary or desirable for the completion of the approved project, (b) disapprove the application, or (c) defer action on the application for such reasons as lack of funds or a need for further review.

2. *Notification of disposition.* The Assistant Secretary will notify the applicants in writing of the disposition of their applications. A signed notification of grant award will be issued to notify the applicant of an approved project application.

H. APPLICATION INSTRUCTIONS AND FORMS

Questions concerning the preceding information, copies of application forms, and applicable regulations shall be obtained from, or submitted to:

Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health, Education, and Welfare, 200 Independence Avenue SW., Room 442–E, HEW South Portal Building, Washington, D.C. 20201.

Dated: July 18, 1977.

HENRY AARON,
*Assistant Secretary for Planning and Evaluation.*

[FR Doc.77-21051 Filed 7-21-77;8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

[Docket No. D–77–489]

### AMENDMENT TO DELEGATION OF AUTHORITY

AGENCY: Department of Housing and Urban Development.

ACTION: Amendment to Delegation of Authority.

SUMMARY: This Notice amends the delegation of authority from the Secretary to the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, dated May 12, 1976.

EFFECTIVE DATE: July 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael Esposito, Director, Administrative and Field Support Staff, Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development, Washington, D.C. 20410, 202–755–6314.

SUPPLEMENTARY INFORMATION: By publication in the Notice section of today's FEDERAL REGISTER the Secretary of the Department of Housing and Urban Development has announced a change of title from the old title of Assistant Secretary for Consumer Affairs and Regulatory Functions to a new title of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection. This announcement is made to give public notice of an amendment to the original delegation of authority to what is now the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

By publication in the FEDERAL REGISTER on March 16, 1971, at 36 FR 5005, the Secretary of Housing and Urban Development delegated to the Assistant Secretary for Housing Management and the Deputy Assistant Secretary for Housing Management the authority to exercise the Secretary's power and authority under sections 101(e) and 106(a) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701w and 1701x (a)) and section 237(e) of the National Housing Act (12 U.S.C. 1715z–2(e)), with respect to the provision of information, advice, and technical assistance, including but not limited to counseling on household management, self-help, budgeting, money management, child care, and related counseling services. By publication in the FEDERAL REGISTER at 36 F.R. 12918, on July 9, 1971, the Assistant Secretary for Housing Management redelegated to the Director, Office of Counseling and Community Services, most of the authority which the Secretary had delegated to the Assistant Secretary for Housing Management at 36 F.R. 5005, supra.

The title of the Office of Counseling and Community Services has subsequently been changed to Housing Consumer Programs Division. The responsibilities of the Housing Consumer Programs Division have remained the same as they were when its title was the Office of Counseling and Community Services. In addition, the Housing Consumer Programs Division continued to function under the auspices of the Assistant Secretary for Housing Management until June 14, 1976.

On June 18, 1976, by publication in the FEDERAL REGISTER at 41 FR 24755, the Secretary of Housing and Urban Development announced, effective June 14, 1976, the abolition of the former positions of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner and Assistant Secretary for Housing Management and the establishment of a new position of Assistant Secretary for Housing, Federal Housing Commissioner. All of the authority and functions which had been exercised by the Assistant Secretary for Housing Production and Mortgage Credit, Federal Housing Commissioner and the Assistant Secretary for Housing Management were delegated and assigned to the new Office of the Assistant Secretary for Housing, Federal Housing Commissioner. The June 18, 1976 notice of the establishment of the position of Assistant Secretary for Housing, Federal Housing Commissioner also announced the continuation in effect of all delegations of authority by the Deputy Assistant Secretary for Housing Management and all redelegations of authority by the Assistant Secretary for Housing Management that were in effect as of June 18, 1976. Therefore, the supervision of the Housing Consumer Pro-



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grams Division was transferred, effective June 14, 1976, from the old Assistant Secretary for Housing Management to the new Assistant Secretary for Housing, Federal Housing Commissioner.

The Department has decided to transfer the functions of the Housing Consumer Programs Division from the Assistant Secretary for Housing, Federal Housing Commissioner to the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

Accordingly, the delegation of authority to the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection published at 41 FR 19365 on May 12, 1976, is amended as follows:

(1) By redesignating Sections C, D, and E as Sections D, E, and F respectively and adding a new Section C to read as follows:

Section C. Additional Authority Delegated. The Secretary delegates to the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection the power and authority of the Secretary of Housing and Urban Development under sections 101(e) and 106(a) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701w and 1701x(a)) and section 237(e) of the National Housing Act (12 U.S.C. 1715z–2(e)), with respect to the provision of counseling and advice to tenants and homeowners in reference to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership.

(2) By amending new Section E to read as follows:

Section E. Authority to Redelegate. The Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection is authorized to redelegate to employees of the Department and to agents of the Department any of the power and authority delegated under Section A, B, and C of this delegation except the power and authority to issue rules and regulations.

(3) By amending new Section F to read as follows:

Section F. Delegation revoked and Superseded. This delegation revokes paragraph 2 of Section A of the delegation of authority fom the Secretary to the Assistant Secretary for Housing Management at 36 FR 5005, March 16, 1971, as amended; the redelegation of authority from the Assistant Secretary for Housing Management to the Director and the Deputy Director, Office of Counseling and Community Services, at 36 FR 12918, July 9, 1971; the redelegation of authority from the Assistant Secretary for Housing Management to Regional Administrator et al. at 37 FR 9182, May 5, 1972; the delegation of authority to the Interstate Land Sales Full Disclosure Act, published at 37 FR 5701, March 9, 1972; and the delegation of authority to the Assistant Secretary for Housing Production and Mortgage Credit, Federal Housing Administration Commissioner with respect to the National Mobile Home Construction and Safety Standards Act of 1974, published at 40 FR 26578, June 24, 1975; and this delegation supersedes the delegation of authority to the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection with respect to the Real Estate Settlement Procedures Act of 1974, published at 41 FR 12917, March 29, 1976, except that all regulations issued and actions taken under these delegations remain valid as if issued or taken under this delegation. Sec. 7(d), Department of HUD Act: 42 U.S.C 3535(d).

Issued at Washington, D.C., July 15, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary of Housing and Urban Development.*

[FR Doc.77-21112 Filed 7-21-77;8:45 am]

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**Office of the Secretary**

[Docket No. N-77-781]

## PRIVACY ACT OF 1974

### Proposed New Notice of System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed new Notice of System of Records.

SUMMARY: The Department hereby publishes for comment the description of a new system of records containing personal information that will be maintained by the Department.

DATE: Comments due August 22, 1977.

ADDRESS: Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, telephone 202–755–6703.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Rosenthal, Departmental Privacy Act Officer, telephone 202–755–5192.

SUPPLEMENTARY INFORMATION: The proposed new system will result from tracking individual consumer complaint actions on automatic data processing equipment. Any person interested in commenting on the routine use portion of the system of records contained in this notice may do so by submitting comments in writing to the address set forth above.

A new system report was filed with the Speaker of the House, the President of the Senate, the Privacy Protection Study Commission, and the Office of Management and Budget on March 29, 1977.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

It is fully certified that the economic and inflationary impacts of this proposed notice of system of records have been carefully evaluated in accordance with OMB Circular A–107.

HUD DEPT-53

*System name:*

Consumer Complaint Handling System.

*System location:*

Headquarters.

*Categories of individuals covered by the system:*

Any member of the public who writes a letter of complaint to HUD, including but not limited to: Community Development Block Grant (CDBG) recipients or individuals who use facilities or services supported by CDBG money; mortgagors/mortgagees having or seeking FHA-insured mortgages; tenants in FHA-insured projects; tenants in HUD-supported Low Rent Housing Projects; employees on HUD-assisted or insured construction projects and their unions; and public interest groups. Excluded are complaints from HUD employees arising out of the administration of internal HUD policies or procedures.

*Categories of records in the system:*

Complaints expresing dissatisfaction with a Departmental program, policy, or service. Name of complainant and action dates.

*Routine uses of records maintained in the system, including categories of users and the purposes of such uses:*

See Routine Uses paragraphs in prefatory statement. Other routine uses: the following may receive individual records to assist in the resolution of a complaint—State and local officials; public and private counseling agencies; building associations; developers; financial institutions holding HUD-insured mortgages; Federal, State, and local Consumer Affairs offices; Consumer Protection agencies; State and local real estate and planning Commissions.

*Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the System:*

*Storage:*

In file folders, cassettes, computerized tape, disc, and drum.

*Retrievability:*

Control number, date of receipt, name of writer, date of letter, HUD program category, assigned due date, date of interim reply, date of last update on the System, and HUD Office to which complaint was referred for action.

*Safeguards:*

Access to the automated System is accomplished by passwords and code identification codes limited in use to authorized personnel. Cassettes and computer/data files will be stored in computer facilities which are secured and accessible only to authorized personnel. File folders of pending and closed cases to be stored in lockable file cabinets.

*Retention and disposal:*

Correspondence file is closed upon final response, and purged after six months. Correspondence pending response will remain open and active until final response is sent. Obsolete records will be disposed of in accordance with HUD Handbook.





*System manager and address:*

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

*Notification procedure:*

For inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with procedures in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

*Record access procedures:*

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

*Contesting record procedures:*

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

*Record source categories:*

Letters of complaint from individuals, and consumer oriented agencies on behalf of individuals.

AUTHORITY: 5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d) Department of HUD Act (42 U.S.C. 3535 (d)).

Issued at Washington, D.C., July 15, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary of Housing and Urban Development.*

[FR Doc.77-21113 Filed 7-21-77;8:45 am]

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**Office of the Secretary**

[Docket No. N-77-780]

## PROCEDURES FOR PROTECTION AND ENHANCEMENT OF THE ENVIRONMENT

### Further Extension of Time

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of further extension of time.

SUMMARY: This Notice extends for an additional six months the effectiveness of certain special procedures for the first segment of large-scale subdivisions requiring an Environmental Impact Statement.

EFFECTIVE DATE: June 11, 1977.

COMMENT DUE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Donna Letwin, Office of Environmental Quality, Room 7262, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTAL INFORMATION: On June 11, 1976, the Secretary amended Handbook 1390.1 (38 FR 19182), July 18, 1973) and provided, among other things, for certain special procedures for the first segment of large-scale subdivisions requiring an Environmental Impact Statement (41 FR 23878, 23879). These special procedures were limited under the terms of the amendment to a period of one year from the date the amendment was published, or until June 11, 1977. Paragraph 5.a. (10)(c), Handbook 1390.1, as amended.

The Secretary now finds that the effectiveness of these special procedures shall be continued for an additional six months or until December 11, 1977.

This extension of time is continuous with that previously granted and governs applications from June 11, 1977, until December 11, 1977, in order to permit the first phase of large scale development to begin under certain conditions during environmental review. However, the Secretary is considering the adoption of these special procedures for an indefinite period, and is interested in a public response to continuation of the procedures on a regular basis. Interested persons are invited to file comments, views and suggestions with the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Comments should refer by name to the Special Environmental Procedures. All submittals received before the comment closing date will be considered by the Secretary before deciding on adoption of the procedures on a regular and continuing basis. Copies of all submittals received will be available for inspection and copying in the Office of the Rules Docket Clerk during normal business hours.

A finding has been made that this amendment does not significantly affect the quality of the human environment and a copy of that finding has been prepared and is available for copying and inspection in the Office of the Rules Docket Clerk.

The requirements of OMB Circular A–107 and Executive Order 11923 have been complied with.

(Section 7(d) of the Department of HUD Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., July 13, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary, Department of Housing and Urban Development.*

[FR Doc.77-21087 Filed 7-21-77;8:45 am]

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## DEPARTMENT OF LABOR

### Employment and Training Administration

## EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

### Notice of Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal Assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 18th day of July, 1977.

ERNEST G. GREEN,
*Assistant Secretary for Employment and Training.*



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*Applications received during the week ending July 15, 1977*

| Name of applicant | Location of enterprise | Principal product or activity |
|---|---|---|
| Stature Electric, Inc. (tenant of Jefferson County Industrial Park). | Watertown, N.Y. | Manufacture of universal electric motor parts. |
| Hunterdon Tennis Center II | Flemington, N.J. | Indoor tennis and racket ball center. |
| Romeo of Alabama, Inc | Pine Hill, Ala. | Manufacture of heavy machinery and equipment. |
| The Strawberry Bowl | Plant City, Fla. | Bowling and family recreation center. |
| Whitakers Gin Co., Inc | Whitakers, N.C. | Cotton ginning. |
| Southland Motel | New Albany, Miss. | Motel and restaurant services. |
| Tenn-Flake Fabricators, Inc | Morristown, Tenn. | Manufacture of laminated products. |
| Advance Transformer Co. (tenant of City of Platteville). | Platteville, Wis. | Coil winding for fluorescent ballasts. |
| Wrightco Products, Inc | Monticello, Minn | Manufacture and distributing of egg products and distributing bakery products. |
| Menard Inc | Chester, Minn | Retail lumber and home center sales, agri-building sales and erection, retail food sales. |
| Long Prairie Packing Co., Inc | Long Prairie, Minn. | Slaughtering and processing of beef and hogs. |
| Ten-Flake Fabricators, Inc | Morristown, Tenn. | Processing and cutting of particleboard, medium density fiberboard, and hardwood ply wood. |
| Western Fibers, Inc. (tenant of Hollis Development Trust). | Hollis, Okla | Manufacture of cellulose insulation. |
| Lincoln & Richardson Enterprises, Inc | Charleston, Mo. | Nursing home. |
| Colorado Beef Packers, Inc | Lamar, Colo | Beef packing plant. |
| Wheatland Tire Co | Sedney, Mont | Retail and wholesale tire sales and service. |
| Jim's Water Service of Colorado, Inc | Brighton, Colo. | Service oil field drilling operations. |
| H. & U., Inc | Avondale, Ariz. | Manufacture of women's blouses. |
| Richard A. Shaw, Inc | Watsonville, Calif. | Freezing of vegetables for the retail and institutional markets. |

[FR Doc.77-21086 Filed 7-21-77;8:45 am]

## FEDERAL-STATE EXTENDED BENEFITS

### National "off" Indicator for Extended Benefits

This notice announces the National "off" indicator for Extended Benefit Periods in the States, effective on July 23, 1977.

BACKGROUND

The Federal-State Extended Unemployment Compensation Act of 1970 (title II of Public Law 91-373), as implemented in State unemployment compensation laws, created the Extended Benefits Program as a permanent feature of the Federal-State Unemployment Compensation Program. Extended Benefits are payable under State laws for up to 13 weeks to individuals who have exhausted their rights to regular benefits under the State laws or under permanent Federal unemployment compensation laws administered by the States. Extended Benefits are payable only during an Extended Benefit Period, which may be triggered "on" in a State by either a State or National indicator, when insured unemployment in the State or in the Nation reaches the high rates set in the Act. Similarly, an Extended Benefit Period will end in a State or in all States when insured unemployment drops below the high rates set in the Act.

There was a National "on" indicator for the week ending on February 8, 1975, and an Extended Benefit Period therefore commenced with the week beginning on February 23, 1975, in all States in which an Extended Benefit Period was not already in effect. Extended Benefit Periods have remained in effect in all States since that date by reason of the National "on" indicator. Now that there has been a National "off" indicator for the week ending on July 2, 1977, the Extended Benefits Program will no longer remain in effect in most States after the week which ends on July 23, 1977. There are some States, however, where Extended Benefit Periods will continue in effect after July 23, 1977, because State indicators will remain "on" in those States. A notice will be published soon, announcing those States in which Extended Benefit Periods will continue in effect.

DETERMINATION OF "OFF" INDICATOR

I have determined in accordance with the Act, as amended by section 311(a) of the Unemployment Compensation Amendments of 1976 (Public Law 94-566, approved October 20, 1976; 90 Stat. 2667, 2678), and as authorized by the Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a National "off" indicator for Extended Benefits for the week ending on July 2, 1977, and that Extended Benefit Periods terminate with the week ending on July 23, 1977, in all States with respect to which there was also a State "off" indicator for the week ending on July 2, 1977.

INFORMATION FOR CLAIMANTS

Individuals currently filing claims for Extended Benefits in States in which Extended Benefit Periods will end on July 23, 1977, will receive written notices from the employment security agency of their State, advising them of the end of the Extended Benefit Period with respect to that State and the termination of further payments of Extended Benefits.

Even in those States where the Extended Benefit Period terminates, some may continue to qualify for Federal Supplemental Benefits because of the different "off" indicator in effect for these benefits. In those States, therefore, Federal Supplemental Benefits will continue to be payable so long as that program remains in effect in each State.

Persons who wish information about their rights to Extended Benefits or Federal Supplemental Benefits in any State should contact the nearest employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on July 20, 1977.

ERNEST G. GREEN,
*Assistant Secretary for Employment and Training.*

[FR Doc.77-21313 Filed 7-21-77;8:45 am]

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

### RECORDS AND REPORTS; NEW RACE/ETHNIC CATEGORIES

**Employer Information (EEO-1); Apprenticeship Information (EEO-2); Local Union (EEO-3)**

In a memorandum from the Office of Management and Budget dated October 13, 1976, the Equal Employment Opportunity Commission was advised that OMB had changed the government-wide standard race/ethnic categories. This revision requires EEOC to change its race/ethnic categories. These definitions do not revise the underlying regulations. Accordingly, the following changes are being made in the EEO-1, EEO-2, and EEO-3 survey definitions:

1. *White, not of Hispanic Origin.*—Persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
Change: Indian Subcontinent deleted.
2. American Indian or Alaskan Native.—Persons having origins in any of the original peoples of North America, *and who maintain cultural identification through tribal affiliation or community recognition.*
Change: Italicized wording added.
3. Asian or Pacific Islander.—Persons having origins in any of the original peoples of the Far East, Southeast Asia, *the Indian Subcontinent,* or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.
Change: Indian Subcontinent added.

With this notice, employers, joint labor-management apprenticeship committees, and local unions should have no difficulty implementing the changes, and will have ample time to change their internal records to reflect the changes.

The Equal Employment Opportunity Commission hereby gives notice that the Employer Information Report (EEO-1) as required by 29 CFR 1602.7 for 1978 and for subsequent years will reflect five (5) revised race/ethnic categories. The same race/ethnic categories will also be reflected on the Apprenticeship Information Report (EEO-2), 29 CFR 1602.15, and the Local Union Report (EEO-3), 29 CFR 1602.22 for 1977 and subsequent years. The five race/ethnic categories are defined as follows:

*White, not of Hispanic Origin.*—Persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

*Black, not of Hispanic Origin.*—Persons having origins in any of the Black racial groups of Africa.

*Hispanic.*—Persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race.

*American Indian or Alaskan Native.*—Persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

*Asian or Pacific Islander.*—Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

Signed at Washington, D.C., this 14th day of July 1977.

ELEANOR HOLMES NORTON,
*Chair, Equal Employment Opportunity Commission.*

[FR Doc.77-21115 Filed 7-21-77;8:45 am]



## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

### ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH

**Meeting**

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on Tuesday August 9, 1977, starting at 9 a.m., in the Departmental Auditorium, Conference Room B, between 12th and 14th Streets on Constitution Avenue NW., Washington, D.C. The meeting is open to the public.

The purpose of this meeting is to continue discussion of the OSHA standard on scaffolds, consider and recommend a priority schedule for review of Part 1926—Construction Standards—on a subpart basis, and evaluate research projects related to construction standards.

Written data, views, or arguments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the Chairman, depending on the extent to which time permits.

Communications may be mailed to:

Ken Hunt, Office of Public and Consumer Affairs, Department of Labor, Occupational Safety and Health Administration, Third Street and Constitution Avenue NW., Room N-3635, Washington, D.C. 20210, phone: 202-523-8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C., this 15th day of July 1977.

EULA BINGHAM,
*Assistant Secretary of Labor, Occupational Safety and Health.*

[FR Doc.77-21118 Filed 7-21-77;8:45 am]

### ALASKA

**Approval of Plan Supplement; Revised Plan**

AGENCY: Occupational Safety and Health Administration.

ACTION: Notice of Approval of Alaska's Revised Developmental plan.

SUMMARY: This document gives notice of the approval of Alaska's revised developmental plan. The revisions are editorial in nature: clarifying and updating the original plan and eliminating duplications, conflicting time frames, and extraneous information.

FOR FURTHER INFORMATION CONTACT:

Veronica Allen, Project Officer, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-8031.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for the review of changes and progress in States which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the FEDERAL REGISTER (38 FR 21628), of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision and a description of the plan. On February 26, 1976, and March 30, 1976, the State of Alaska submitted a supplement to the plan involving a State-initiated change to the Seattle Regional Office of the Occupational Safety and Health Administration. Following regional review, the supplement was forwarded to the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) for her determination as to whether it should be approved. The supplement is described below.

DESCRIPTION OF THE SUPPLEMENT

Pursuant to 29 CFR Part 1953, Subpart E, the State submitted a State-initiated change thoroughly revising the Alaska State plan. The revisions are editorial in nature which clarify and update the original plan that was submitted December 8, 1972. Sections of the plan are updated where legislation has been adopted to conform with corresponding Federal occupational safety and health regulations. The revisions eliminate duplications in the original narrative, conflicting time frames, and extraneous information. The various pledges which are scattered through the original plan are consolidated in a new Appendix G. Some of the original appendixes have been eliminated as they did not relate to the developmental goals or to the occupational safety and health program as it has evolved since December 8, 1972. The revisions also reflect the status of Alaska's developmental plan and relate to the progress made to meet the stated goals. All developmental steps mentioned in the original plan are identified in the revised plan as well.

LOCATION OF THE PLAN AND ITS SUPPLEMENT FOR INSPECTION AND COPYING

A copy of the State's plan and its supplement may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3112, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, Seattle, Washington, 98184; and the Alaska Department of Labor, Juneau, Alaska 99801.

PUBLIC PARTICIPATION

Under § 1953.2 of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any good cause which may be consistent with applicable law. The change incorporates elements of the plan which have either already been approved by the Assistant Secretary or are editorial in nature and do not impact upon the effectiveness of the plan. Accordingly, it is found that public comment is not necessary.

DECISION

After careful consideration, the Alaska plan supplement described above is hereby approved under Subpart E of Part 1953 of this chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Washington, D.C., this 14th day of July 1977.

EULA BINGHAM,
*Assistant Secretary of Labor.*

[FR Doc.77-21038 Filed 7-21-77;8:45 am]

## NATIONAL COMMISSION ON THE OBSERVANCE OF INTERNATIONAL WOMEN'S YEAR

### STATE MEETING ELECTION CHALLENGES

**Closing Date for Receipt of Documentation**

Notice is hereby given that pursuant to the authority contained in sections 4 and 5 of Public Law 94-167, the National Commission on the Observance of International Women's Year will receive any documentation that purports to show that the election of delegates to the National Women's Conference at the State Meeting for Women, held pursuant to section 6(a) of Pub. L. 94-167, did not comply adequately with Pub. L. 94-167 or with the regulations established by the Commission (45 CFR 1901 through 1904).

In order to assure full consideration of any challenges, to provide for their timely disposition, and to prevent the raising of stale claims which might cloud the certification of any elected delegate,



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any challange and all documentation in support of such a challenge must be received by the National Commission on or before August 8, 1977.

All challanges and supporting documentation sent by mail will be considered to be received on time by the Commission if they are sent by registered or certified mail not later than August 5, 1977 as evidenced by the U.S. Postal Service postmark or on the original receipt from the U.S. Postal Service or if the materials are received in the Commission's offices on or before August 8, 1977.

All materials submitted should be addressed to:

National Commission on the Observance of International Women's Year, D IWY, U.S. Department of State, Washington, D.C. 20520, (1) Attention: General Counsel.

Dated: July 20, 1977.

LINDA COLVARD DORIAN,
*General Counsel, National Commission on the Observance of International Women's Year.*

[FR Doc.77-21371 Filed 7-21-77;8:45 am]

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Arts

### MUSIC ADVISORY PANEL

#### Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Music Advisory Panel (Opera Section) to the National Council on the Arts will be held on August 8, 1977, from 2 p.m. to 5:45 p.m., August 9-10, from 9:15 a.m. to 5:45 p.m. and August 11, from 9:15 a.m. to 12:45 p.m., in the Santa Fe Hilton Inn, 100 Sandoval Street, Santa Fe, New Mexico 87501.

A portion of this meeting will be open to the public on August 10, from 2 p.m. to 5:45 p.m. and August 11, from 9:15 a.m. to 11:15 a.m. on a space available basis. Accommodations are limited. The agenda for this session will include a discussion of guidelines, policy and question and answer session.

The remaining sessions of this meeting on August 8, from 2 p.m. to 5:45 p.m., August 10, from 9:15 a.m. to 2 p.m. and August 11, from 11:15 a.m. to 12:45 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER, March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6377.

Dated: July 19, 1977.

ROBERT M. SIMS,
*Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.*

[FR Doc.77-21091 Filed 7-21-77;8:45 am]

## NATIONAL SCIENCE FOUNDATION

### INTERNATIONAL DECADE OF OCEAN EXPLORATION PROPOSAL REVIEW PANEL

#### Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: International Decade of Ocean Exploration Proposal Review Panel.
Date: August 9-12, 1977.
Time: 8:30 a.m. to 5 p.m. each day.
Place: National Science Foundation, 1800 G St. NW., Washington, D.C. 20550. Room 628 (August 9 and 10). Room 643 (August 11 and 12).
Type of meeting: Closed.
Contact person: Mr. Feenan D. Jennings, Head, Office for the International Decade of Ocean Exploration, Room 605, National Science Foundation, Washington, D.C. 20550. Telephone 202-632-7356.
Purpose of panel: To provide advice and recommendations concerning support of research by programs of the Office for the International Decade of Ocean Exploration.
Agenda: Review and evaluate research proposals.
Reason for closing: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-643. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
*Acting Committee Management Officer.*

JULY, 18, 1977.

[FR Doc.77-21038 Filed 7-21-77;8:45 am]

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-333]

### POWER AUTHORITY OF THE STATE OF NEW YORK

#### Notice of Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-59 issued to the Power Authority of the State of New York (the licensee), for operation of the James A. FitzPatrick Nuclear Power Plant (the facility), located in Oswego County, New York.

In accordance with the licensee's request dated July 7, 1977, the amendment would consider a reevaluation of Emergency Core Cooling System (ECCS) cooling performance submitted in accordance with the Commission's Order for Modification of License dated March 11, 1977. This reevaluation not only corrected the errors noted in the March 11, 1977 Order but also included the effect of certain other recently approved model changes in the ECCS evaluation models. These changes would permit an increase in authorized Maximum Average Planar Linear Heat Generation Rates, and are the aspects of the amendment covered by this notice.

The Commission will act upon the amendment upon: (1) the completion of a Safety Evaluation by the Office of Nuclear Reactor Regulation; and (2) completion of the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By August 22, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Lex Larson, Esquire, LeBoeuf, Lamb, Leiby & MacRae, 1757 N Street NW., Washington, D.C. 20036, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the licensee's request dated July 7, 1977, and General Electric's submittal dated June 29, 1977, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, New York.

Dated at Bethesda, Maryland, this 20th day of July 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
*Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.*

[FR Doc.77-21380 Filed 7-21-77;10:26 am]





## OFFICE OF MANAGEMENT AND BUDGET

### CLEARANCE OF REPORTS

#### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the office of management and budget on July 14, 1977 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, office of management and budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Producers' and Importers' Questionnaire—Bolts, Nuts, and Large Screws of Iron or Steel, single-time, producers and importers of nuts, bolts and large screws, Evinger, S. K., 395-3710.

GENERAL SERVICES ADMINISTRATION

Report on Procurement by Executive Agencies, (Supplement to Report on Procurement by Civ. Exec. Agencies), SF-37-A, semi-annually, U.S. Government, Office of Federal Procurement Policy, 395-3436.

U.S. COMMISSION ON CIVIL RIGHTS

Survey Questionnaire on Undocumented Workers, single-time, individuals, Kathy Wallman, 395-6140.

GENERAL SERVICES ADMINISTRATION

Product Improvement Idea Collection Form, on occasion, industry/manufacturers, Warren Topelius, 395-5872.

NATIONAL SCIENCE FOUNDATION

Visiting Women Scientists Program Application Form, single-time, Women Scientists, Warren Topelius, 395-5872.

VETERANS ADMINISTRATION

Evaluation of the Chaplain Service (Patients), single-time, patients in hospitals, housing, veterans and labor division, Raynsford, R., 395-3532.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Student's Statement Regarding Continuance of School Attendance, SSA-1388B, annually, student beneficiaries or their representative payees, Warren Topelius, 395-5872.

Center for Disease Control, National Immunization Survey-Current Population Survey Supplement, CPS-1, single-time, 41,000 interviewed households in September. CPS sample, Richard Eisinger, 395-6140.

EXTENSIONS

NATIONAL CREDIT UNION ADMINISTRATION

Monthly sample (Federal) Monthly Sample (State), NCUA 5301, NCUA 5303, monthly, Federal and State credit unions, C. Louis Kincannon, 395-3211.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Application for Exclusive Patent License, NASA1496, on occasion, applicants for exclusive license, Marsha Traynham, 395-4529.

Application for Nonexclusive Patent License, NASA1495, on occasion, applicants for nonexclusive license, Marsha Traynham, 395-4529.

TENNESSEE VALLEY AUTHORITY

Tennessee Valley Commercial Fisherman Survey, TVA 5595, quarterly, Commercial Fishermen in Tennessee Valley, Marsha Traynham, 395-4529.

DEPARTMENT OF TRANSPORTATION

Coast Guard: Application for Coast Guard Port Security Card, CG-2685, on occasion, civilian worker using vessel for waterfront installations, Warren Topelius, 395-5872.

PHILLIP D. LARSEN,
*Budget and Management Officer.*

[FR Doc.77-21076 Filed 7-21-77;8:45 am]

### CLEARANCE OF REPORTS

#### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on July 15, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

ENVIRONMENTAL PROTECTION AGENCY

Economic Impact Analysis Questionnaire, June 23, 1976, Oil Spill—St. Lawrence River, single time, recreation/tourism related establishments, Ellett, C. A., 395-5867.

REVISIONS

ENVIRONMENTAL PROTECTION AGENCY

National Pollutant Discharge System: Monitoring Report, EPA-3320-1, on occasion, NPDES permittees discharging pollutants in U.S. waters, Natural Resources Division, Ellett, C. A., 395-6827.

EXTENSIONS

ENVIRONMENTAL PROTECTION AGENCY

Estimate of Municipal Wastewater Treatment Facility requirements, EPA-1, on occasion, contractors, Natural Resources Division, Ellett, C. A., 395-6827.

DEPARTMENT OF COMMERCE

Bureau of Census:
Selected Heating and Cooking Equipment, MA-34-N, annually, manufacturing establishments, C. Louis Kincannon, 395-3211.
Motors and Generators, MA-36H, annually, manufacturing establishments, C. Louis Kincannon, 395-3211.

PHILLIP D. LARSEN,
*Budget and Management Officer.*

[FR Doc.77-21077 Filed 7-21-77;8:45 am]

## TREASURY DEPARTMENT

### Office of Foreign Assets Control

### IMPORTATION FROM CANADA OF FERRO-CHROMIUM AND CHROMIUM-BEARING STEEL PRODUCTS UNDER THE RHODESIAN SANCTIONS REGULATIONS

#### Issuance by the Government of Canada of Special Certificates Verifying Non-Rhodesian Origin of Chromium Content

Special Certificates of Origin issued by the Department of Industry, Trade and Commerce of the Government of Canada are now available for imports of ferrochromium and specialty steel products from Canada. These certifi-



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cates are issued pursuant to a formal certification procedure agreed upon by an exchange of letters between the Department of Industry, Trade and Commerce and the Office of Foreign Assets Control, Department of the Treasury. They will serve to establish that Canadian materials exported to the United States do not contain any chromium of Rhodesian origin. This arrangement replaces the arrangement which has been in effect since May 3, 1977, to permit importation of specialty steel products from Canada. After July 18, 1977, only materials certified under this arrangement may be imported under Section 530.503 of the Rhodesian Sanctions Regulations. (31 CFR 530.503)

Dated: July 15, 1977.

STANLEY L. SOMMERFIELD,
*Acting Director.*

Approved:

BETTE B. ANDERSON,
*Under Secretary.*

[FR Doc.77-21082 Filed 7-20-77;8:45 am]

## IMPORTATION FROM THE EUROPEAN COMMUNITIES OF FERROCHROMIUM AND CHROMIUM-BEARING STEEL PRODUCTS UNDER THE RHODESIAN SANCTIONS REGULATIONS

### Issuance of Special Certificates Verifying Non-Rhodesian Origin of Chromium Content

A formal certification agreement has been concluded between the United States and the Commission of the European Communities. Special certificates of origin for imports of ferrochromium and specialty steel mill products from the European Community will be issued under this agreement. They will serve to establish that ferrochromium and chromium-bearing steel mill products exported from the Member States of the European Community to the United States do not contain any chromium of Rhodesian origin.

The Commission of the European Communities and the Governments of the Member States have full responsibility for administration of the detailed control measures provided for in the certification agreement. The Member States will authorize producers within their States of ferrochromium and specialty steel products to state on the commercial invoice covering products being exported to the United States that the goods have been produced under the agreed certification procedures. This special certification will be presented to Customs at the time of importation. The certificate will state that it is issued pursuant to special certification procedures agreed upon between the Commission of the European Communities and the Government of the United States. These special certificates will become available on varying dates between July 18 and September 18, 1977, as each Member State is able to put into effect all of the control measures called for by the certification agreement.

In view of this fact, the following procedures will govern imports of ferrochromium and specialty steel products from the European Community:

(1) Imports from Member States issuing special certificates as of July 18, 1977. Such imports may be made under customery import procedures, provided the goods are accompanied by special certificates as required. An announcement will be published in the FEDERAL REGISTER of the availability of the special certificate as soon as the Treasury is informed by the European Communities of this fact.

(2) Imports from a Member State which commences to issue special certificates after July 18, 1977, and before September 18, 1977. Such imports may be made under interim certificates until an announcement is published in the FEDERAL REGISTER of the availability of special certificates from that country. However, the entry will not be liquidated until the importer subsequently presents a special certificate for the imported goods under the agreed procedures. Such certificates must be obtained from the producer and filed by the importer with Customs on or before September 18, 1977, to complete liquidation. In the event of failure to file the special certificate by September 18, 1977, the goods will be subject to redelivery into Customs custody.

(3) Imports from Member States after September 18, 1977, may only be made when accompanied by special certificates.

Dated: July 15, 1977.

STANLEY L. SOMMERFIELD,
*Acting Director.*

Approved: BETTE B. ANDERSON,
*Under Secretary.*

[FR Doc.77-21081 Filed 7-20-77;8:45 am]

## IMPORTATION FROM NORWAY OF FERROCHROMIUM AND CHROMIUM-BEARING STEEL PRODUCTS, RHODESIAN SANCTIONS REGULATIONS

### Issuance by the Government of Norway of Special Certificates Verifying Non-Rhodesian Origin of Chromium Content

Special certificates of origin issued by the Norwegian Customs Service of the Government of Norway are now available from Norway. These certificates are issued pursuant to a formal certification agreement between the Government of Norway and the Government of the United States. They will serve to establish that Norwegian materials exported to the United States do not contain any chromium of Rhodesian origin. The agreement replaces the interim arrangements which have been in effect since March 18, 1977, to permit importation of specialty steel products from Norway. After July 18, 1977, only materials certified under this agreement may be imported under Section 530.503 of the Rhodesian Sanctions Regulations (31 CFR 530.503).

Dated: July 15, 1977.

STANLEY L. SOMMERFIELD,
*Acting Director.*

Approved:

BETTE B. ANDERSON,
*Under Secretary.*

[FR Doc.77-21080 Filed 7-20-77;8:45 am]

## IMPORTATION FROM SPAIN OF FERROCHROMIUM AND CHROMIUM-BEARING STEEL PRODUCTS RHODESIAN SANCTIONS REGULATIONS

### Issuance by the Government of Spain of Special Certificates Verifying Non-Rhodesian Origin of Chromium Content

Special certificates of origin issued by the "SOIVRE" (Servicio Oficial de Investigacion y Vigilancia y Regularizacion de Exportacion) of the Ministry of Commerce of the Government of Spain are now available for import of ferrochromium and specialty steel products from Spain. These certificates are issued pursuant to a formal certification agreement between the Government of Spain and the Government of the United States. They will serve to establish that Spanish materials exported to the United States do not contain any chromium of Rhodesian origin. The agreement replaces the interim arrangements which have been in effect since March 18, 1977, to permit importation of specialty steel products from Spain. After July 18, 1977, only materials certified under this agreement may be imported under Section 530.503 of the Rhodesian Sanctions Regulations (31 CFR 530.503).

Dated: July 15, 1977.

STANLEY L. SOMMERFIELD,
*Acting Director.*

Approved:

BETTE B. ANDERSON,
*Under Secretary.*

[FR Doc.77-21083 Filed 7-20-77;8:45 am]

## Office of the Secretary

## VISCOSE RAYON STAPLE FIBER FROM BELGIUM

### Antidumping Proceeding Notice

AGENCY: Treasury Department.

ACTION: Initiation of antidumping investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether or not imports of viscose rayon staple fiber from Belgium are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market.

EFFECTIVE DATE: This investigation will begin on July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Barbara Victor, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone (202-566-5492).

SUPPLEMENTARY INFORMATION: On June 17, 1977, information was received in proper form pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Avtex Fibers, Inc., Valley Forge, Pennsylvania, a domestic producer of the subject merchandise, indicating a possibility that viscose rayon staple fiber from Belgium is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.S. 160 et seq.).

For purposes of this notice, the term "viscose rayon staple fiber" refers to viscose rayon staple fiber in noncontinuous form, not carded, not combed and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments).

There is evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States. This evidence indicates that imports of viscose rayon staple fiber from Belgium commenced during the later part of 1976, and significantly expanded their portion of the U.S. market during the first quarter of 1977. Further, there is information indicating that the margin by which domestic producers are being undersold by Belgian imports would be virtually eliminated were the price differential between prices in the Austrian home market and for export to the United States eliminated.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined that there are grounds for doing so, the United States Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

HENRY C. STOCKELL, Jr.,
*Acting General Counsel of the Treasury.*

JULY 18, 1977.

[FR Doc.77-21025 Filed 7-21-77;8:45 am]



## INTERSTATE COMMERCE COMMISSION

[Notice No. 441]

### ASSIGNMENT OF HEARINGS

JULY 19, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 98864 Sub-No. 2 Edward Sitar Trucking Co., Inc. now assigned October 26, 1977 at Chicago, Illinois, will be held in Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

No. 36277, Increased Absorption of Switching Charges at Mobile, Ala., now assigned July 19, 1977, at Washington, D.C., is cancelled. The proceeding is discontinued.

No. 36597, Increased Fares, Asbury Park New York Transit Corporation, May 1977, now assigned July 25, 1977, at New York, New York, is postponed to August 29, 1977, in Court-Room A, Room 238, Court of Claims, 26 Federal Plaza, New York, New York. Cost studies and any other studies will be due on or before July 25, 1977.

MC 138141 Sub-No. 4 Louis Sanitora, Jr., d.b.a., AAA United Limousine Service now being assigned October 11, 1977 (4 days) at Piscataway, New Jersey, will be held in Sheraton Regal Motel Kingsbridge Road.

MC 129480 Sub-No. 26 Tri-Line Expressways Ltd., now being assigned October 12, 1977 (8 days) for hearing in Denver, Colorado, in a hearing room to be later designated.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77-21124 Filed 7-21-77;8:45 am]

[AB 18 (Sub-No. 6); Finance Docket No. 2412]

## CHESAPEAKE AND OHIO RAILWAY CO. AND ANN ARBOR RAILROAD CO.

### Abandonment of Railroad Services

JULY 13, 1977.

In the matter of Chesapeake and Ohio Railway Company, abandonment between Coleman and Union, Isabella County, Michigan.

Finance Docket No. 27412, Chesapeake and Ohio Railway Company, trackage rights, a line of railroad of the Ann Arbor Railroad Company between Mt. Pleasant and Clare, in Isabella County, Michigan.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceedings has not caused the Commission's Section of Energy and Environment to modify its previous conclusion that these proceedings do not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321, et seq.

Said comments have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7011.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77-21125 Filed 7-21-77;8:45 am]

## FOURTH SECTION APPLICATION FOR RELIEF

JULY 19, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before August 8, 1977.

FSA No. 43399—Joint Water-Rail Container Rates—A. P. Moller-Maersk Line. Filed by A. P. Moller-Maersk Line, (No. 6), for itself and interested rail carriers. Rates on general commodities, from Mediterranean ports, to rail terminals on the U.S. Pacific Coast.

Grounds for relief—Water competition.

By the Commission.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77-21123 Filed 7-21-77;8:45 am]

[Ex Parte No. MC-106]

## INVESTIGATION TO CONSIDER MODIFICATION OF ADMINISTRATIVE RULING NO. 84

AGENCY: Interstate Commerce Commission.

ACTION: Notice of the Institution of Investigation to Consider Modification of Administrative Ruling No. 84.

SUMMARY: The Commission deems it to be in the public interest to now examine whether present economic, regulatory, and service conditions affecting the regular-route motor freight industry on a national scale require the modification of Part (b) of Administrative Ruling No. 84 to allow motor common carriers of property authorized to serve all intermediate points on a designated route or a defined route segment the right to serve points within 5 airline miles on both sides of said authorized route or route segment. This proposed modification would expand the so-called off-route point territory authorized in Administrative Ruling No. 84 from 1 to 5 airline miles. The decision to institute this investigation is based on this Commission's review and consideration of recommendation No. 33 of the so-called Blue Ribbon Study Panel.

DATES: Comments on or before September 20, 1977.

ADDRESSES: Send comments to: The Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Interestate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423 (202-275-7292).

SUPPLEMENTARY INFORMATION: On April 23, 1940 in response to inquiries by the public, the Bureau of Motor Car-



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riers (now the Bureau of Operations) of the Interstate Commerce Commission issued Administrative Ruling No. 84 which pertains to regular-route motor common carriers of property holding authority to serve all intermediate points on a designated route or a definite portion or segment thereof and which reads as follows:

Authority to serve all intermediate points on a designated route or a definite portion or segment thereof includes the right to serve—

(a) All places within the corporate limits of those incorporated boroughs, cities, towns (other than those of the New England type), or villages, all integral parts of unincorporated communities and villages, and all separate places located on the highway or highways composing such route, portion or segment thereof; and

(b) All municipalities, communities, and villages of the types mentioned in paragraph (a) of this item and all separate places that lie and are situated wholly within one mile of the highway or highways composing such route, portion or segment thereof.

If the authority is to serve certain named intermediate points, excluding others, the provisions of paragraph (a) of this ruling apply to the intermediate points so authorized.

The language "wholly within one mile of the highway or highways" as used in Administrative Ruling No. 84 permits carriers which come under its provisions to serve any place, that is any place of business, home, building, etc., which lies within one airline mile of the highway; *Provided*, That if it located within a municipality, community, or village of the type described in the ruling, the entire municipality, community, or village must be within one mile of the highway. See *Lavigne* v. *J. E. Faltin Motor Transp., Inc.*, 54 M.C.C. 503 (1952).

Recommendation No. 33 of the Commission's Blue Ribbon Panel would amend the above-noted portion of part (b) of Administrative Ruling No. 84 "to allow regular-route carriers to serve all points within 5 air miles of the highway, maintaining the other limitations of the present policy." See Interstate Commerce Commission press release No. 187–75, dated July 7, 1975. After careful consideration the Commission has instituted this proceeding in order to determine whether economic, demographic, environmental and service conditions require implementation of this recommendation.

Consideration of the proposed modification will include a determination whether the so-called 1-mile off-route point authority provisions of Administrative Ruling No. 84 should be modified to allow the regular-route carrier to serve not only all points within 1 airline mile, or some other fixed distance, of the authorized regular route, but also to allow service at all portions of any municipality, community, or village which, while partly within the designated service corridor, extends beyond it. Compare Property Motor Carrier Superhighway Rules, 117 M.C.C. 119, 150–151, footnote 12 (1972).

The Commission will also consider whether the rights to be conferred should be permissive or obligatory. At present the rights conferred by part (b) of Administrative Ruling No. 84 are permissive in nature and do not require the carrier to provide the involved service.

The Commission will also consider whether the 5-mile expansion proposed by the Blue Ribbon Panel represents the appropriate scope of the regular-route motor carriers' service corridor, or whether adoption of regulations establishing some other greater or lesser distance from the authorized regular route would better serve the public interest.

No oral hearing is contemplated at this time, but anyone wishing to present views and evidence, either in support of, or in opposition to the action proposed in the Commission's order may do so by submission of written evidence or views. Likewise, any person desiring to comment upon the environmental issues raised by this proceeding is hereby invited to do so by the submission of written evidence or views. An original and 15 copies (wherever possible) of such evidence or views shall be filed with this Commission within 60 days of the publication of this notice in the FEDERAL REGISTER. Written submissions will be available for public inspection during regular business hours at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77-21128 Filed 7-21-77;8:45 am]

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[No. 36591]

## LOUISIANA

### Intrastate Freight Rates and Charges, 1977

In the matter of petition for investigation of intrastate freight rates and charges, within the State of Louisiana.

By joint petition authorized under section 13(3) of the Interstate Commerce Act, filed May 22, 1977, petitioners, class I common carriers by railroad [1] subject to Part I of the Interstate Commerce Act, and also operating in intrastate commerce in the State of Louisiana request that this Commission institute an investigation of Louisiana intrastate freight rates and charges, under section 13 and 15a of the Interstate Commerce Act, wherein they will seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte No. 330, Increase Freight Rates—West and Interterritorial—1976, and Ex Parte No. 336, Increase Freight Rates and Charges—1977.

By applications filed October 5, 1976, and January 7, 1977, respectively, with the Louisiana Public Service Commission, petitioners sought to make the increases granted in Ex Parte Nos. 330 and 336, supra, applicable on Louisiana intrastate traffic. Hearings were held on February 15, 1977 and May 11, 1977, but the Commission has failed to act finally on the applications within 120 days.

Petitioners contend that present interstate freight rates from, to, and within Louisiana are just and reasonable and that the proposed intrastate rates will not exceed a just and reasonable level; that transportation conditions for intrastate traffic in Louisiana are not more favorable than for interstate traffic; that traffic moving under present Louisiana intrastate rail freight rates and charges fails to provide its fair share of earnings; that the present Louisiana intrastate rail freight rates and charges create undue and unreasonable advantage, preference, and prejudice between persons and localities in intrastate commerce within Louisiana and interstate and foreign commerce, and result in undue, unreasonable, and unjust discrimination against and an undue burden on interstate commerce in violation of section 13 and 15a of the Interstate Commerce Act, among others, to the extent that they do not include the increases authorized in Ex Parte No. 330 and 336, supra; and that the State Commission has failed to act on the change in intrastate rates within 120 days of the date of filing such change as required by section 13(5) of the Interstate Commerce Act.

Under section 13(4) and 13(5) of the Interstate Commerce Act, this Commission is directed to institute an investigation, into the lawfulness of intrastate rail freight rates and charges, upon filing of a petition by the railroads pursuant to section 13(3) of the Act, after the appropriate State agency has reached a final decision or has failed to act within 120 days after a carrier by railroad has filed with such appropriate state body a change in an intrastate rate, fare, or charge for the purpose of adjusting such rates, fare, or charge to the rate charged on similar traffic moving in interstate or foreign commerce. This Commission may act notwithstanding the laws or constitution of any State, or the pendency of any proceeding before any State court or other State authority. We note the failure of the Public Service Commission of the State of Louisiana to act finally within 120 days after filing by petitioners for an appropriate change in intrastate rates, vesting our jurisdiction.

Wherefore, and good cause appearing therefore:

[1] The Alabama Great Southern Railroad Company, The Arkansas & Louisiana Missouri Railway Company, Chicago Rock Island and Pacific Railroad Company, The Atchison, Topeka and Sante Fe Railway Company, Illinois Central Gulf Railroad Company, The Kansas City Southern Railway Company, Louisiana & Arkansas Railway Company, Louisiana Southern Railway Company, Louisville & Nashville Railroad Company, Missouri Pacific Railroad Company, New Orleans & Lower Coast Railroad Company, New Orleans Terminal Company, St. Louis Southwestern Railway Company, Southern Pacific Transportation Company, and Tremont & Gulf Railway Company.





*It is ordered*, That the petition be, and is, hereby granted; and that an investigation, under section 13 and 15a of the Interstate Commerce Act, be, and it is, hereby instituted to determine whether the Louisiana intrastate rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex. Parte Nos. 330 and 336, supra; and to determine if any rates or charges, or maximum or minimum charges, or both, shall be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

*It is further ordered*, That all common carriers by railroad operating in the State of Louisiana subject to the jurisdiction of this Commission, be, and they are hereby made respondents in this proceeding.

*It is further ordered*, That all persons who wish to actively participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before August 8, 1977. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. The Commission desires participation of only those who intend to take an active part in the proceeding.

*It is further ordered*, That as soon as practicable after the date of indicating a desire to participate in the proceeding has passed, the Commission will serve a list of names and addresses of all persons upon whom service of all pleadings must be made and that thereafter this proceeding will be assigned for oral hearing or handling under modified procedure.

*And it is further ordered*, That a copy of this order be served upon each of the petitioners and respondents herein; that the State of Louisian be notified of the proceeding by sending copies of this order of the instant petition by certified mail to the Governor of the State of Louisiana and the Louisiana Public Service Commission; and that further notice of this proceeding be given to the public by depositing a copy of this order in the Office of the Secretary of the Interstate Commerce Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 30th day of June 1977.

By the Commission, Commissioner Hardin.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77-21127 Filed 7-21-77;8:45 am]

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[Finance Docket No. 28334]

## OCTORARO RAILWAY, INC.

### Operation Over Southeastern Pennsylvania Transportation Authority at Wawa, Delaware and Chester Counties, Pennsylvania, and Colora, Cecil County, Maryland; Correction

JUNE 30, 1977.

By notice dated June 30, 1977 (42 FR 36342, July 14, 1977), the Commission made public the conclusion by its Section of Energy and Environment that the above-entitled proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA) and that preparation of a detailed environmental impact statement will not be required under NEPA.

The last paragraph of said notice erroneously referred to discontinuance instead of reinstitution of service over the involved line. Consequently, in the center column, page 36342, the first sentence of the last paragraph of the notice should be corrected to read as follows:

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit operations over the involved line.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77-21126 Filed 7-21-77;8:45 am]



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# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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1

FEDERAL POWER COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 36911, July 18, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: July 20, 1977, 10 a.m.

CHANGE IN THE MEETING: The following items have been added:

*Item No., Docket No., and Company*

P–13.—ER76–303, Wisconsin Electric Power Company; ER76–399, Wisconsin Michigan Power Company.

P–14.—E–8121, Gulf States Utilities Company.

P–15.—ES77–43, Iowa Public Service Company.

P–16.—ES77–45, Pacific Power & Light Company.

G–23.—RP71–29, et al. (Phase III), RP75–69 and RP75–71, United Gas Pipe Line Company.

G–24.—CP–315, Tarpon Transmission Company.

G–25.—CP77–394, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

G–26.—CP77–419, Tennessee Gas Pipeline Company; CP77–431, Tennessee Gas Pipeline Company; CP77–433, East Tennessee Natural Gas Company; CP77–444, Consolidated Gas Supply Corporation.

G–27.—CP77–359, Mountain Fuel Supply Company; CP77–379, Northwest Pipeline Corporation.

LOIS D. CASHELL,
*Acting Secretary.*

[S–942–77 Filed 7–19–77;2:18 pm]

2

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., July 27, 1977.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the Public.

Docket 144, *Pillager Bands of Chippewa Indians in the State of Minnesota.*
Docket 196, *Hopi Tribe.*
FY 1978 Reporting Contract.

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, telephone 202–653–6184.

[S–943–77 Filed 7–19–77;2:51 pm]

3

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., July 28, 1977.

PLACE: Room 177, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Reorganization.
2. Agenda.
3. Minutes.
4. Certain headwear (Inv. TA–201–23)—vote.
5. Any items left over from previous agenda.

Portions closed to the public:

1. Reorganization (portions respecting the selection of personnel).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202–523–0161.

[S–944–77 Filed 7–19–77;3:53 pm]

4

FEDERAL POWER COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 F.R. 36911, 7/18/77.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: July 20, 1977, 10 a.m.

CHANGE IN THE MEETING: The Regular Commission Meeting scheduled for Wednesday, July 20, 1977, at 10 a.m., has been changed to 2 p.m.

LOIS D. CASHELL,
*Acting Secretary.*

[S–945–77 Filed 7–19–77;4:03 pm]

5

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, No. 137, page 36910, Monday, July 18, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., July 19, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202–376–3012.

CHANGES IN THE MEETING: The following item has been added to the agenda for the open portion of the meeting—Consideration of Proposed Restriction on Use of Definitive Form of Federal Home Loan Bank Securities.

No. 51, July 19, 1977.

[S–946–77 Filed 7–19–77;4:24 pm]

6

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of July 25, 1977, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, July 26, 1977, at 3:45 p.m., unless scheduled Congressional testimony is postponed, in which case, certain items on the closed meeting agenda will be discussed at a 10 a.m. closed meeting on Tuesday. Open meetings will be held on Tuesday, July 26, 1977 at 2:30 p.m. and on Wednesday, July 27, 1977, at 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4) (8) (9)A, and (10) and 17 CFR 200.402 (a) (4) (8) (9)(i), and (10).

Chairman Williams and Commissioners Pollack and Evans voted to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, July 26, 1977 will be:

Formal orders of investigation; institution of injunctive actions; settlement of injunctive actions; institution of administrative proceedings; settlement of administrative proceedings; simultaneous institution and settlement of injunctive action and/or administrative proceedings; referral of investigative files to Federal, State, or self regulatory authorities; amendment of advisory report; amendment of administrative proceeding; appointment of receiver; bankruptcy proceeding; and post-oral argument discussion.





The subject matter of the open meeting scheduled for Tuesday, July 26, 1977 at 2:30 p.m. will be:

1. Oral argument regarding an appeal from an Initial Decision by the Administrative Law Judge in the matter of Glen Woo.

The subject matter of the open meeting scheduled for Wednesday, July 27, 1977 at 2:30 p.m. will be:

1. Consideration of an extension of time for the Special Review Committee of E. T. Barwick Industries, Inc., to prepare and submit its Report to the Board of Directors, as required by the Final Judgement of Permanent Injunction entered against the company.
2. Consideration of the re-entry application of John W. Bendall, Jr. which would allow him to be employed by a registered broker-dealer, as a registered representative, in a non-supervisory, non-proprietary capacity, with adequate supervision.
3. Consideration of the adoption of certain temporary provisions of the net capital rule, Rule 15c3–1, and the extension of temporary amendments of the rule which deal with certain receivables relating to municipal securities underwritings, undue concentration haircuts on positions in municipal securities and the treatment of municipal securities for which there is no ready market.
4. Consideration of approval of the public representatives elected to the Municipal Securities Rulemaking Board.
5. Consideration of an application by Arthur Andersen and Company for an order under Section 3(a)(2) of the Securities Act, which would exempt interests in its Profit Sharing Plan and Profit Sharing Trust from certain registration requirements.
6. Consideration of an application by the Putnam Fund and Putnam Fund Distributors for an order permitting the offer of fund shares at net asset value plus a fixed, reduced sales load to certain qualified groups.
7. Consideration of an application by Merrill Lynch Municipal Bond Fund, Inc., for an order which would conditionally exempt from the provisions of Section 10(f) of the Investment Company Act of 1940 certain proposed purchases of municipal securities from affiliated underwriting syndicates.
8. Consideration of an amendment to the Commission's Statement of Policy governing mutual fund sales literature that would allow the use of certain additional charts and tables reflecting investment results on a total return basis. Consideration will also be given to the adoption of a new interpretive letter procedure whereby the staff would be able to express its opinion on the use of charts and tables not included in the Statement of Policy.

FOR FURTHER INFORMATION CONTACT:

Susan E. Auerbach at 202–376–8097 or Sam Knight at 202–376–8068.

JULY 19, 1977.

[S–947–77 Filed 7–20–77;9:03 p.m.]

7

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10:00 a.m., Wednesday, July 27, 1977.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: (1) Personnel assignments within the Board's staff, and (2) Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: 202–452–3204.

Dated: July 20, 1977.

THEODORE E. ALLISON,
*Secretary of the Board.*

[S–948 Filed 7–20–77;9:47 am]

8

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S–909–77, 42 FR 36910, July 18, 1977. S–924–77 and S–941–77.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., July 20, 1977.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

CHANGE IN THE MEETING: This meeting has been rescheduled to start at 1 p.m. at which time the open meeting will start, to be followed by a closed meeting.

A majority of the entire membership of the Commission has determined by recorded vote that the business of the Commission requires this change and that no earlier announcement was possible.

The vote was as follows—In favor of change: Eleanor Holmes Norton, Chair, 7–20–77, Ethel Bent Walsh, Vice Chair, 7–20–77, Daniel E. Leach, Commissioner, 7–20–77; Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202–634–6748.

This Notice Issued July 20, 1977.

[S–949–77 Filed 7–20–77;11:16 am]



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federal register

FRIDAY, JULY 22, 1977

PART II




# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

■

# PROGESTATIONAL DRUG PRODUCTS FOR HUMAN USE

### Requirements for Labeling Directed to the Patient

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Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N-0384]

## PART 310—NEW DRUGS

### Requirement for Labeling Directed to the Patient

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is issuing final regulations to require patient labeling for all prescription estrogenic drug products for general use. The new regulation specifies the kind of information to be contained in the patient labeling and how it is to be made available to the patient. The regulation does not apply to estrogen-progestagen oral contraceptives and oral diethylstilbestrol (DES) products intended for postcoital contraception.

EFFECTIVE DATE: September 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Philip L. Paquin, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-5220).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of September 29, 1976 (41 FR 43108) the Commissioner of Food and Drugs proposed new requirements for patient labeling for estrogens for general use. Interested persons were invited to submit comments on the proposal by November 29, 1976. More than 300 comments were received. Comments came from drug establishments, drug trade associations, professional societies, consumer groups, and individual citizens. A summary of the comments and the Commissioner's response are set forth below:

1. *Statutory authority.* Several comments contend that the Food and Drug Administration (FDA) lacks the requisite legal authority to require patient labeling. The comments note that the proposal to add new § 310.515 (21 CFR 310.515) cites sections 502, 505 and 701 (a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352, 355, 371(a)) as authority for requiring patient labeling for estrogens, and none of these sections provides such authority. The comments also refer to congressional intent expressed at the time of enactment of section 503(b) of the act, together with previous FDA statements on the subject, to urge that the patient labeling proposal is without statutory basis. Specifically, they argue that the enactment of section 503(b)(2) of the act in 1951 reflected a clear understanding by Congress that prescription drugs need not bear labeling containing directions for patient use and that this section exempts prescription drugs at the time the drug is dispensed by the pharmacist from any requirement that the labeling bear adequate directions for use and warnings under section 502(f) of the act. They also point to two bills introduced but not enacted in the last session of Congress that would have permitted patient labeling under varying circumstances.

The comments contend that sections 505 and 701(a) of the act contain no language authorizing promulgation of a patient labeling regulation. It is claimed that section 505 of the act contains nothing suggesting or pertaining to authority to require patient labeling for new drugs while section 701(a) of the act provides FDA with only general rule making authority, and allows for promulgation of regulations only on subjects that are specifically covered by some other section of the act.

The Commissioner disagrees with these contentions. The Food and Drug Administration's legal authority for requiring patient labeling was explained in detail in paragraph 4 of the preamble to the proposed new format for prescription drug labeling published in the FEDERAL REGISTER of April 7, 1975 (40 FR 15392). The Commissioner affirms that explanation. Section 505 of the act provides that a new drug application (NDA) may be approved only if a new drug is shown to be safe and effective in use under the conditions set out in its labeling, and section 201(p) of the act (21 U.S.C. 321(p)) similarly provides an exemption from the requirement of an NDA only if the drug is generally recognized as safe and effective under the conditions of use set out in its labeling. Moreover, both sections 502(a) of the act and section 505(d) of the act prohibit prescription drug labeling that is false or misleading in any particular, and section 201(n) of the act explicitly provides that the failure to reveal material facts can be misleading. Accordingly, the act requires the Commissioner to make a determination that the information contained in the labeling for a prescription drug is sufficient to assure the safe and effective use of that drug by consumers. The Commissioner concludes that such determination may well require specific information to be provided to consumers about the drug, as has already been required for the oral contraceptives in § 310.501 (21 CFR 310.501).

The primary purpose of the provision in section 503(b)(2) of the act exempting a prescription drug from adequate directions for use and warnings is to avoid self-diagnosis and self-administration of drugs that require professional supervision for safe use. Requiring a prescription drug product to contain printed patient information does not contradict this purpose. For estrogens, such information will inform the patient of the advantages and risks associated with the use of these drugs and will ensure safe and effective use of the drug after it has been prescribed by the physician. Nothing in the legislative history of section 503(b) or in any other section of the act suggests that Congress intended to preclude a requirement of labeling directed to the patient that promotes safe and effective use of the drug.

The introduction of two bills in the last session of Congress to provide for patient labeling is not an indication that Congress believes that FDA lacks statutory authority to require patient labeling for prescription drugs absent such legislation. The Commissioner believes that these bills have resulted from the recognition by certain members of Congress that arguments such as have been raised by the comments have been and will continue to be made. Legislation specifically providing for patient labeling would resolve questions about the agency's authority once and for all.

The Commissioner also disagrees with the contention that section 701(a) of the act allows only for the promulgation of substantive regulations on subjects that are specifically authorized by some other section of the act. Rather, section 701(a) of the act empowers the Commissioner to promulgate substantive rules to facilitate enforcement of the act. *United States* v. *Nova Scotia*, 417 F. Supp. 1364 (E.D. NY., August 17, 1976); *National Nutritional Foods Association* v. *Weinberger*, 512 F. 2d 688 (2d Cir. 1975); *Weinberger* v. *Hynson, Wescott and Dunning, Inc.*, 412 U.S. 609 (1973); *Ciba Corp.* v. *Weinberger*, 412 U.S. 645 (1973). Accordingly, the Commissioner concludes that a regulation issued pursuant to section 701(a) of the act may lawfully establish a requirement for patient labeling for a prescription drug product.

2. *Consistency of procedures employed by FDA with section 505 of the act.* Several comments allege that the procedure followed by FDA is inconsistent with section 505 of the act. They note that the products to which the proposal would apply are subject to approved NDA's and argue that under section 505(d)(6) of the act, the agency's approval of those applications was based in part on a determination that labeling submitted with them, including physician labeling, was not "false or misleading in any particular." They insist that section 505(e) of the act provides the only procedure by which FDA may withdraw approval for an NDA and that withdrawal must be based upon a determination that labeling contained in the NDA is false or misleading in light of "new information." The comments argue that FDA cannot circumvent this procedure by issuing a notice of its intent to treat as misbranded drugs those whose labeling is in full compliance with NDA's that have been approved by the agency.

The Commissioner disagrees. Although section 505(e) of the act provides that FDA may withdraw approval of an NDA if new information demonstrates that the approved labeling is false or misleading, section 505 of the act is not the exclusive method for regulating new drugs. All drug products, including those subject to section 505, are subject to the adulteration and misbranding provision of sections 501 and 502 of the act. If a new drug product is misbranded under section 502(a) of the act, the Commissioner has the option to proceed with enforcement action under either section 502 or section 505 or both. Proceeding





under section 502 is in no way inconsistent with section 505.

3. *Infringement upon the practice of medicine.* Several comments alleged that the proposed regulation would result in a direct and substantial Federal involvement in the patient/physician relationship and would be an infringement upon the practice of medicine. The comments argued that under the traditional patient/physician relationship, the physician provides such information to the patient concerning drug therapy as the physician considers appropriate. The language of section 503(b) of the act, it was suggested, reflects this relationship. The comments argued further that intrusion into the practice of medicine is compounded by statements in the patient labeling (see the FEDERAL REGISTER of October 29, 1976 (41 FR 47576)) that encourage the patient to ask the doctor or pharmacist for the package insert (physician labeling), which by definition is directed to trained professionals. This, it is argued, will unduly increase a patient's concern about the drug and the therapy unless the patient is fully conversant with complicated medical and scientific terminology.

The Commissioner believes that the findings linking postmenopausal estrogen use to endometrial cancer, the reports of an association between intrauterine exposure to estrogens and congenital anomalies, and the findings of an increased risk of vaginal cancer in adolescent daughters exposed in utero to an estrogen (DES) must not only be carefully considered by physicians who prescribe these drugs, but also by patients who take them. The advantages and risks associated with the use of these products are of a type that can and should be assessed by patients.

The Commissioner does not agree that the requirement for patient labeling interferes with the physician/patient relationship or infringes on the practice of medicine. Indeed, by directing the patient to consult with her physician the labeling requirement explicitly recognizes the primary responsibility of the prescribing physician to convey to the patient, information regarding prescribed drugs. This regulation, therefore, is not intended to preempt the physician's responsibility, nor will it have that effect. Rather, in situations where physicians are conscientious in describing the relative benefits and risks of these drugs with their patients, the patient labeling will simply reinforce what the physician has explained to the patient and serve as a written reminder that can be referred to by the patient during the course of therapy.

At the same time, the Commissioner recognizes that information regarding the benefits and risks of estrogen drug products is sometimes not fully provided by physicians. Even when it is, it is likely to be given verbally and may thus be misinterpreted or forgotten by patients. For these reasons it is additionally necessary that these drugs contain patient labeling. But under no circumstances is the presence of the labeling intended to supersede the role of the physician in informing the patient or to interfere in any way with communications between the physician and his or her patients.

The statement in the patient labeling that refers to the physician insert is intended primarily to advise the patient that such an insert exists and that it is available to the patient if the patient is interested in reading it. The Commissioner believes that it is necessary and proper to inform patients that they may obtain additional information on the use of these drugs if they so desire. The existence and availability of such inserts is already known to many patients and the Commissioner believes the information should be available equally to those patients who are less informed. Moreover, as the Commissioner has made patient labeling selective in scope—it does not attempt to describe all the information that is included in physician labeling—he would view as inappropriate the failure to advise patients that the patient labeling insert does not contain all the known information on the drug. Therefore, the Commissioner concludes that the reference to the physician labeling should be retained in patient labeling.

4. *Product liability consequences.* Several comments contend that patient labeling could have a substantial adverse effect on the liability of manufacturers by imposing a standard of "absolute" liability. The comments explain that in recent years there has been a trend among the courts to adopt the concept of "strict liability" as expressed in the "Restatement (Second) of Torts" (a highly regarded but unofficial legal treatise). The comments argue that under 402(A) of the Restatement, a manufacturer may be held strictly liable for personal injury to a consumer without regard to negligence on the part of the manufacturer if injury follows the normal and reasonable use of the product. The comments claim that when applied to prescription drugs, owing to the inherent nature of such products, the doctrine will result in the application on manufacturers of an "absolute liability" standard.

The Commissioner does not agree that the imposition of a requirement for patient labeling will necessarily affect adversely the standard of civil tort liability that is imposed on drug manufacturers. Whether or not a manufacturer is to be held liable in a given situation will depend upon the facts surrounding the manufacture, sale, and use of the drug product. It will also depend on the nature of the injury and the applicable civil law. Moreover, the Commissioner believes that giving patients information on the hazards associated with estrogen drug products will as likely result in reduced potential manufacturer liability, owing to improved patient compliance and a corresponding decrease in drug-induced injury. In any event, however, whether particular labeling may alter a manufacturer's liability in a given instance cannot be considered as a dispositive factor by the Commissioner in reaching a decision on the proposal. The Commissioner concludes that to assure the safe and effective use of estrogen products it is necessary that the patient be provided with certain specific information in the form of patient labeling, in addition to the instructions normally received from the prescribing physician. The Commissioner believes it proper that a regulation requiring such labeling be promulgated, notwithstanding the possibility that it may have an effect on a manufacturer's liability in isolated instances.

5. *Consistency with previously announced FDA policy.* Several comments contend that the finalization of this proposal would be inconsistent with announced FDA policy. They point to the statement in the FEDERAL REGISTER of November 7, 1975 (40 FR 52075) in which FDA announced its intent to consider the patient labeling concept in depth, prior to implementation. Because of this statement and other activities in this area undertaken by FDA, such as public seminars and FDA contracts with outside groups to study the feasibility of such labeling, the comments state that they have been assuming that the agency was carefully studying the concept of patient labeling and the problems inherent with it, and point to the November 7, 1975 FDA notice, which requested comments as to methods of drafting such labeling, as supporting that assumption. They argue that there is no medical or legal need to abandon this "reasonable" approach, particularly since the controversy in recent months over the appropriateness of estrogen therapy has served to highlight to physicians the complex medical problems of such therapy. Moreover, such a course of action may, they argue, constrict the agency in overall implementation of patient labeling requirements, such as proper modes of distribution, language and educational considerations and consideration of cost, if legal authority for patient labeling, which they argue does not currently exist, is obtained.

The Commissioner does not view the proposed requirement for patient labeling for estrogen drug products as conflicting with previously announced FDA policy. The November 7, 1975 notice clearly stated that the concept of patient package inserts is not an entirely new one to the agency. The notice also explained that FDA, in consultation with advisory committees and professional, trade, and consumer groups, was evaluating the usefulness of patient package inserts in order to establish an overall policy on patient labeling. The Commissioner did not, however, intend to imply that FDA would defer the adoption of requirements for patient labeling for specific drugs when the need for such labeling was clearly demonstrated. The Commissioner believes that such a need has been demonstrated for estrogen drug products. The advantages and risks associated with the use of these products are a type that can and should be assessed by patients, particularly the findings linking postmenopausal estrogen use to endometrial cancer, the reports of an association between intrauterine exposure to estrogens and congenital



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anomalies, and the finding of an increased risk of vaginal cancer in adolescent daughters exposed in utero to an estrogen (DES). Therefore, the Commissioner views the requirement for patient labeling for these drugs as not conflicting with previously announced DA policy.

The Commissioner acknowledges at the same time, that there is still a proposal outstanding for a comprehensive plan for the development, issuance, and distribution of patient labeling for prescription drugs which, when issued in final form, may lead to modification of the patient labeling for oral contraceptives, estrogens, and other products for which earlier regulations were adopted.

6. *Inflationary aspects of the proposal.* Several comments questioned the statement in the preamble to the proposal that the Commissioner found that it would cause no major inflation impact. These comments argued that the requirement that bulk packages of estrogen products contain adequate numbers of patient package labeling would cause a substantial increase in cost for estrogen drug products. The comments argue that this requirement will necessitate in many instances that the outer carton be redesigned to provide sufficient space to accommodate the patient package labeling material. Because almost all packages will have to be redesigned, this will result in a one-time increase in cost. They argue further that the proposed regulation will also necessitate the redesign of machines used for machine packaging estrogen drug products. In many instances, it will make obsolete the manufacturers ability to use machines for final packaging, forcing the use of hand labor with a resultant increase in labor cost. Thus, depending on whether the machines can be adapted, or whether hand packaging will be required as an ongoing activity, the regulation will either cause a significant one-time cost increase or cost increases that will continue during the lifetime of the product. There will also be an increase in costs for pharmacists in terms of requirements for increased shelf space and for time to respond to patients' questions.

The comments also anticipate that many questions will be generated by the patient labeling and that the vast majority of these questions will be directed, appropriately, to the prescribing physician. Again, if the questions raised by the patient labeling become a burden upon the time available to the prescribing physician, he will have no other recourse than to charge the patient for the extra time needed to answer the patient's questions.

The Commissioner notes that neither the direct cost nor the indirect cost of the proposed requirements has been fully quantified. But the direct cost of printing package inserts and distributing them with the drug to the wholesaler and retailer and the cost of storage of these inserts appear to be very small. The Commissioner believes that the approximately 2.4 million dollars per year figure included in the agency's inflation impact assessment is a fairly accurate representation of the direct cost based on present rates of use. The Commissioner acknowledges that this approximate figure does not take into account the possibility that equipment used for machine packaging of estrogen drug products may have to be redesigned, or that in some instances the product may have to be hand packaged. In preparing the inflation impact assessment, however, the Commissioner did consider the slight increase in costs that result from the necessity of increased shelf space in the pharmacy. This is included in the 2.4 million dollar per year figure.

As estrogen patient labeling will be a new experience for patients, prescribers, dispensers, drug manufacturers and regulators, accurate predictions of the extent to which patient labeling will effect professional time demands are not possible. The past experience with oral contraceptive patient labeling, however, suggests that demands for professional time are not significantly increased by patient labeling. A conscientious physician presumably already advises each patient about the drugs that he prescribes—providing information on directions for use, cautioning against misuse, and giving warnings about possible adverse reactions. The patient labeling will simply reiterate this information and serve as a reminder for what the patient might forget. As experience is gained, physicians will be able to anticipate questions that might be stimulated by the patient labeling, and will be able to provide answers to these questions as part of the routine instructions provided to the patient. Thus, the Commissioner concludes that it is unlikely that the questions raised by the patient labeling will measurably lengthen the time of the patient's visit, except possibly in the case of a physician who is not accustomed to advising the patient about the drugs that are prescribed. The Commissioner notes, as well, that it is unlikely that the patient labeling will significantly burden pharmacists with an increase in questions regarding the drugs because the patient labeling specifically suggests that patients direct their questions to the prescribing physician.

7. *Availability of patient information on estrogens.* One comment contends that although patient labeling dispensed by pharmacists will help patients to some extent, the decision whether or not to prescribe the drug occurs in the doctor's office rather than in the pharmacy, and it is there that the patient most needs the information for discussing drug therapy. Moreover, the comment argues that if the patient has this information in hand while the decision is being made, the doctor has a strong incentive to be familiar with the contents of the various labels, and with the use of the drug in general. Once the patient has left the doctor's office, however, her opportunity to participate in the decision is gone, as is her opportunity to be sure the doctor is knowledgeable and careful about drug prescribing. Another comment recommends that the physician be required to provide the patient with the patient labeling at the time of prescribing, because the distribution of the patient labeling pieces to physicians by manufacturer representatives or by mail is less disruptive of the normal packaging procedures and may be less inflationary in the long run. The comment suggests that the storage and distribution of patient labeling pieces can be more easily managed in the doctor's office than in the pharmacy.

In response to this comment, the Commissioner notes that when the physician dispenses, or as in the case with injectables, administers the drug, he becomes the dispensor and under the regulation bears the responsibility for providing the patient with the patient labeling. In such cases the patient will be able to review the patient labeling at the time of administration, as recommended by the comment.

In other cases, however, which constitute the overwhelming majority, the patient labeling will be dispensed by the pharmacist along with the drug. The Commissioner views this result as the correct one.

The Commissioner agrees that the decision whether or not to prescribe a drug is usually made in the doctor's office. But this decision is made following examination and diagnosis. The physician would have to make a diagnosis, dispense the patient labeling, give the patient the opportunity to read the patient labeling and then discuss the advantages and disadvantages of estrogen therapy with the patient. Although the Commissioner would not object to this process, it is his opinion that the proper role of the patient labeling is to reinforce and augment oral information given by the physician. Furthermore, it is not reasonable to assume that physicians would have the available time and facilities commonly to engage in this process. Physicians have the primary responsibility to advise patients about drugs and provide such information as directions for use, cautions against misuse, and warnings about possible adverse reactions. Patient labeling should serve primarily as an adjunct to this discussion. Even when physicians elect to rely mainly on written communication of drug information to their patients, and where patient labeling will serve as a primary informational source to patients, that labeling still suggests that the patient make decisions regarding the use of the drug in consultation with her physician. The Commissioner concludes, therefore, that distribution by physicians would offer little advantage to the patient over obtaining the labeling from the pharmacist when the drug is dispensed.

The Commissioner disagrees with comments contending that for economic reasons physicians should distribute labeling. The Commissioner believes that labeling should be related to the distribution of the product. Such distribution provides for better control of the labeling in the channels of distribution in that the labeling can be tied into the





product's lot-numbering system. This permits recall of labeling, if required, and assures that revised and updated labeling can be dispensed with those products packaged after the occurrence of a revision or an updating of the patient labeling. On the other hand, if labeling were provided only by physicians, it would be virtually impossible to update or recall obsolete labeling. It would also be necessary to send copies of revised labeling to every physician in the country. This would require excessive copies to be printed at additional cost and result in unnecessary distribution costs. Moreover, the Commissioner believes that pharamacies are more likely than doctor's offices to have the kinds of storage, access, and filing systems necessary for the efficient and reliable distribution of patient package inserts.

Finally, the Commissioner is of the opinion that the pertient sections of the act do not appear to authorize regulation of the prescribing function of physicians to the extent contemplated by the comment. The Commissioner does, however, strongly encourage the voluntary distribution of patient labeling by prescribing physicians. He urges manufacturers in their promotional campaigns to supply prescribing physicians with the patient labeling pieces and other supplies necessary to carry out the voluntary distribution program. As discussed above, when the physician dispenses, or (as in the case with injectables) administers the drug, he becomes the dispensor and under the regulation bears the responsibility for providing the patient with the patient labeling.

8. *Ongoing distribution of patient labeling.* One manufacturer suggested that § 310.515(d)(2), which requires each bulk package to include a sufficient number of patient-labeling pieces to assure that each patient package contain an insert, imposes unnecessary burdens and is inefficient. The comment suggests, for example, that pharmacists might remove the drug bottle from the carton or other enclosure for the patient-labeling pieces and inadevertently discard the carton with the patient labeling. The comment recommends that § 310.515(d)(2) be amended to permit the use of alternative methods of patient-labeling distribution. In particular, the comment urges that the use of a "pad system" be permitted. In this system the manufacturer or labeler would supply pads of patient labeling to the pharmacist for particular drug products along with instructions on how to order additional labeling. This system, it is argued, would be more efficient and effective in assuring that pharmacies have patient-labeling pieces available for inclusion with prescriptions.

The Commissioner believes that it is not desirable to separate the distribution of patient labeling from the shipment in bulk of estrogen drug products to the dispensor. Such a distribution system would increase the likelihood that the labeling would not be successfully tied into and connected with the drug product either in shipment or at the point of dispensing. The use of such a system, moreover, could result in the pharmacist (or physician, when he or she dispenses or administers the drug) either failing to dispense any patient labeling or in dispensing the wrong labeling. Finally, the Commissioner notes that traditionally, labeling has been included in bulk shipments of drug products and wholesale distributors and retail pharmacies have developed satisfactory procedures to ensure the proper distribution of the labeling. He is confident that manufacturers can devise packaging that will militate against pharmacists inadvertently disposing of enclosed labeling

To prevent ambiguity, nonetheless, the Commissioner is amending § 310.515(d)(2) to indicate more clearly that in bulk packages intended for multiple dispensing, a sufficient number of patient labeling pieces must physically accompany the drug product, i.e., be included in or with each bulk package. The labeling pieces may be in individual or in "pad" form.

As a result of certain questions arising from activities of the agency, the Commissioner is further amending proposed § 310.515(d)(1) and (2) to make it clear that drug products dispensed or administered by physicians (e.g., injectables, etc.) are subject to these requirements, and that multiple-dose vials, like bulk packages intended for multiple dispensing, must also include in or with each package a sufficient number of patient-labeling pieces to assure that one piece can be given to every patient administered the drug.

The Commissioner expects that manufacturers and labelers will employ a reliable statistical method to determine the sufficiency of the number of patient-labeling pieces to be included in or with each bulk package and multiple-dose vial. He recognizes, however, that in some cases additional patient-labeling pieces may for a variety of reasons be required. The Commissioner is adding a sentence in § 310.515(d)(2) to indicate that the manufacturer or labeler may also employ a supplementary system to supply additional patient labeling to the dispensor. That system may not, however, act as a substitute for the requirement that patient labeling must be supplied in or with the bulk package.

9. *Patient labeling and self-medication.* One comment contends that a total patient package insert program that includes detailed information on indications for the use of drugs will result in the trading or exchanging of prescription medications by patients. A consumer may not understand that a specific drug has been prescribed for the sole purpose of treating that individual's illness. In some instances the results of such substitutions could be extremely harmful to the individual.

The Commissioner recognizes that this is a potential problem and that patients should be warned of the possible hazards of such a practice. The Commissioner agrees with this comment and is adding § 310.515(b)(8) accordingly.

10. *Effect of patient labeling on patient compliance and suggestion-induced adverse reactions.* Several comments expressed the opinion that patient labeling will greatly diminish patient compliance with dosage regimen. Consumers who learn of possible side effects, indications, and contraindications for a given medication may decide to discontinue or alter therapy without the benefit of medical advice. Alternatively, the comments suggest that patients may develop the suspected symptoms by suggestion.

The Commissioner believes that it is ultimately the patient's decision whether she wishes to take estrogens. Estrogen patient labeling should help patients make decisions about drug therapy on the basis of accurate and complete information. The factors behind patient adherence to agreed medication regimens are complex. With the present state of knowledge it is impossible to predict accurately the influence that patient labeling will have on adherence to agreed medication regimens.

Experience with oral contraceptive patient labeling suggests, however, that patient experience with drug therapy, rather than written information, primarily determines discontinuation of drug therapy. Furthermore, in the case of estrogens, the Commissioner firmly believes patients should take these drugs for as brief a period as possible and that women should be appraised of the reasons why this is the case. In the suggested wording of the patient labeling, patients are consistently referred to their physician so that decisions can be made in the context of appropriate medical advice.

If a patient decides to follow the instruction of her physician, the Commissioner does not believe that patient labeling will significantly increase the incidence of suggestion-induced side effects. Suggestion effects, moreover, seem to play a minimal role in determining serious adverse reactions. It is, in any event, possible to hypothesize beneficial as well as negative effects of suggestion. Clear expectations about the effects of drug therapy, reinforced by patient labeling, may make patients more sensitive and aware of certain physical or psychological reactions. Effects which might otherwise go unnoticed may be identified as drug related. Although this may have the effect of nominally increasing the reported incidence of less serious adverse reactions it also may have beneficial results. Patients may be more sensitive to "warning signals" of serious adverse effects. Accurate expectations may help reduce uncertainty and anxiety about possible effects of treatment. The patient may also be better able to interpret and identify more accurately the cause of drug-induced reactions, and treatment decisions will accordingly be based on more precise information. It is the Commissioner's opinion that the possible positive effects of supplying accurate side-effect information outweigh the possible negative effects.

At the same time, the Commissioner recognizes that there may be some drugs for which patient labeling is required and the physician concludes that the labeling should not be given to the patient—for



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example, where the patient would be adversely affected by some of the information in the patient labeling. The Commissioner does not, however, believe that estrogens fall into this category, and such option is not provided in this regulation.

11. *Flexibility in providing patient labeling in hospital settings.* A comment stated that hospitals and other health care institutions would require some flexibility in meeting the proposed requirements. It noted that the proposal is unequivocal; the "dispensor" must give labeling to the patient when an estrogen drug product is dispensed, or the drug will be deemed misbranded. The comment noted that in institutional health care, pharmacists, physicians, and nurses closely monitor a therapeutic course, and in that situation the patient can rely on personal contact and professional expertise for drug information to assure safe and effective therapy. The comment argued that hospital pharmacists be permitted to use professional discretion in determining the method of transmitting information, depending upon the seriousness of adverse affects, the condition of the patient, and the frequency with which the drug will be administered. The comment further argued that it would be impractical for a hospital using a unit-dose drug distribution system to provide patient labeling whenever a drug is dispensed, because the drug is dispensed one dose at a time. The comment recommended, therefore, that the regulation permit acute care hospitals to provide patient labeling to inpatients on estrogen therapy before administration of the first dose of estrogen, and in long-term care facilities, before the first administration and every 30 days thereafter. The comment also urged that if clinical services substantially furnish the information called for, misbranding should not be deemed to occur if the actual labeling were not provided.

The Commissioner agrees that hospitals and other health care institutions should have some flexibility in meeting the requirements of this regulation. He concludes that it would be impractical and unnecessary to require patient labeling to be made available to the hospitalized patient every time a drug is administered. Therefore, the final regulation is revised by adding a new sentence to § 310.515(d)(1) that states that the requirements of § 310.515 are met in the case of estrogen drug products prescribed in an acute care hospital or in long-term facilities if the patient labeling is provided to the patient before administration of the first dose of estrogen and every 30 days thereafter as long as the therapy continues.

However, the Commissioner does not agree that clinical services should be permitted to merely "substantially" convey the information called for in this proposal. He advises that the requirement for patient labeling for this drug product cannot be satisfied by oral communication of the information by either the pharmacist or physician. The written patient labeling is intended to be a supplement to any oral communication of this information, or in the absence of any oral communication, to at least furnish the patient with basic information necessary for the patient's safe and effective use of the product.

12. *Type size in patient labeling.* Comments were received objecting to the proposed requirement that 9-point (noncondensed) type be used in patient labeling. One comment contended that the requirement for 9-point type is not a valid method of specifying type height or legibility. The comment argued that an 8-point type face may in some cases be significantly more legible and easier to read than some 9-point faces. The comment further pointed out that the 9-point type is not a standard size (the standards for type size are 6, 8, 10, and 12 point) and, therefore, is not available in many different type faces and styles. Mandating a 9-point size requirement will, therefore, complicate machine finishing and will not permit many of the procedures that are currently being followed by manufacturers to be applied to patient labeling. It could, for example, make it necessary to redesign bulk package outer cartons, result in larger cartons, and increase the amount of shelf space needed to store the drug product in the pharmacy. The comment recommends that the regulation not specify a minimum type size, but instead contain language requiring that the patient labeling be legible.

The Commissioner has given further consideration to the question of type size and legibility of patient labeling and has concluded that language requiring only that the labeling be "legible" would be unduly vague. A more objective standard that can be uniformly applied to all patient labeling is necessary. Therefore, a minimum type size must be established. The Commissioner is, however, persuaded that specifying a particular point type size is not, by itself, a valid method of specifying type height or legibility. Accordingly, the final regulation is revised to specify that the minimum type size shall be at least $\frac{1}{16}$ inch in height. The height pertains to lower case letters, and it is the lower case "o" or its equivalent that shall meet the minimum standard. The body copy shall be 1-point leading and noncondensed type, and shall not contain any light face type or small capital letters. It is the opinion of the Commissioner that this requirement will result in a type size that will ensure legibility without imposing a significant burden on the manufacturer.

13. *Effective date provisions.* Comments were received objecting to the provision in the proposed regulation that would allow estrogen drug products in the possession of a wholesaler or retailer before the effective date to be shipped or sold if adequate numbers of copies of the patient labeling are furnished to the wholesaler or retailer to permit any retail purchaser after the effective date to obtain such labeling with the product. The comments suggested that this section be deleted and that the effective date be predicated upon the date on which the estrogen drug products are packaged. They argued that distribution of the patient labeling separate from the product is inappropriate since control of labeling is lost. An opportunity also exists that one manufacturer's package labeling may inadvertently be given to a patient when in fact another manufacturer's product was dispensed. The proposed process would also provide no means of revising the labeling or alerting the retailer that the patient labeling has been revised or otherwise updated.

The Commissioner does not believe that it would be in the best interest of the patient to establish as the effective date of the regulation the date on which the products are packaged. That choice would afford manufacturers the opportunity to stockpile supplies of the drug not containing patient labeling, and could result in significant delays in providing the patient with the labeling. It could also result in a wide variation regarding the time when the products of various manufacturers would begin to be furnished to patients with patient labeling. The intent of the effective date provision as proposed is to prevent any further distribution of the subject drug without patient labeling on or after the effective date, without requiring the recall of stock in possession of persons who are not responsible for the content of the labeling, i.e., wholesalers or retailers. The distribution of patient labeling separate from the product on an interim basis will assure the prompt availability of the patient labeling as of the effective date of the final regulation, thus avoiding the necessity of a recall. Although a physician who dispenses or administers the drug is considered to be a retailer under the regulations, the Commissioner has concluded that it would be impractical to require the forwarding of separate patient labeling, within the specified time frame, to such physicians for those products in their possession before the effective date. Accordingly, the requirement that any estrogen drug product be dispensed with patient labeling, as applied to physicians who dispense or administer the drug, will not be effective for supplies in their possession on the effective date, but will apply only to supplies received thereafter.

14. *Applicability of the proposed regulation.* One comment expressed the concern that the proposal, although obviously intended to apply only to estrogen drug products that are restricted to prescription distribution, did not clearly state that the proposal is not applicable to over-the-counter drugs or cosmetics. The comment requested that the Commissioner expressly state that proposed § 310.515 is only applicable to prescription drugs.

The comment is correct in stating that the proposal only applies to estrogen drug products that are restricted to prescription distribution. The final regulation is revised in § 310.515(a) to include a specific statement to that effect.

The Commissioner advises that he is not aware of any over-the-counter estro-





gen drug product intended for internal use. There are, however, several over-the-counter estrogen-containing drug products intended for topical use. These preparations, currently being reviewed by the OTC Advisory Review Panel for Miscellaneous External Products, will not be affected in any way by this regulation.

15. *Content of patient labeling: § 310.515(b) of the proposed rule.* Section 310.515(b) of the proposal prescribes certain specific points of information that shall be included in the patient labeling. Several comments were received on those points of information. The most significant comments and the Commissioner's response to those comments follow.

a. One comment recommended that endorsement of estrogen for short-term use for moderate vasomotor symptoms of menopause be deleted from § 310.515(b)(3). In the opinion of the comment, the patient information should not recommend estrogens for anything but the most severe and incapacitating vasomotor symptoms—otherwise known as "hot flashes." The comment argued that for estrogen use to be suggested merely because the patient is going through menopause is unacceptable, considering the unequivocal animal and human evidence that estrogens cause cancer.

The Commissioner responds that, although the labeling allows for the use of estrogens for moderate vasomotor symptoms, the labeling is not intended to suggest that estrogen use is appropriate merely because the patient is going through menopause. While "moderate" and "severe" are subjective terms, and may have different meanings to physicians and patients, the Commissioner believes the labeling clearly indicates that a significant symptom is necessary to justify use. For the type of vasomotor symptoms (hot flashes) for which estrogens are indicated there is no alternative therapy, and such therapy is intended for short-term use only. With these considerations in mind the Commissioner concludes that to limit the use to severe vasomotor symptoms would be unnecessarily restrictive, and that the regulation should not be revised in this respect.

b. A comment objected to the statement in proposed § 310.515(b)(3) that estrogens are not indicated for the treatment of nervousness. The comment contends that a number of investigators have studied the effects of estrogen on emotional symptoms associated with the menopause and generally have found estrogens beneficial in alleviating such conditions. Such studies have included several double-blind studies, e.g., those by Douglas (Medical Annals of the District of Columbia, 38:437, 1969), Sheffrey (Medical Annals of the District of Columbia, 38:433, (1969), and Lozman, et al. (Southern Medical Journal, 46: 1079, 1972). In addition, it is argued, studies by Klaibern, et al. (American Journal of Psychiatry, 128:1492; and Conference on Biorhythm and Human Reproduction, New York, October, 1972) have shown that conjugated estrogens are effective in alleviating depression in women, probably because of restoration in initially depressed patients of more normal levels of essential adrenergic functioning. The comment concludes that there is sufficient evidence that estrogens are effective in alleviating certain nervous symptoms or depression that may occur during the menopause, and that a statement to the contrary is inappropriate.

The Commissioner is familiar with the references cited by the comment, but does not agree that the studies offer substantial evidence that estrogens are effective for the treatment of nervousness. Estrogens have been shown to be effective in treating moderate to severe vasomotor symptoms. In the presence of such symptoms many women also exhibit signs of nervousness or depression. It is the Commissioner's view that it is the successful treatment of the vasomotor symptoms that removes the cause of the nervousness and depression; hence, these symptoms are alleviated. He notes, moreover, that there is no evidence that estrogens are effective in alleviating nervous symptoms or depression that are not caused by conditions for which estrogens have been shown to be effective.

c. A comment was received in regard to the terminology "cancer of the uterus" used in § 310.515(b)(4)(i). The comment contends that the correct term is "endometrial carcinoma," and not "cancer of the uterus," which includes cervical as well as other types of cancer.

The Commissioner agrees with this comment and § 310.515(b)(4)(i) is revised accordingly.

d. A number of comments expressed concern regarding the risk of endometrial carcinoma (cancer of the uterus) for women who have had hysterectomies. They suggested that neither the proposed rule nor the labeling text adequately addressed this issue.

To allay any unnecessary concerns, the final rule is revised to require a statement in the patient labeling that indicates that women who have had total hysterectomies have no risk of endometrial carcinoma.

e. One comment contended that the patient labeling should mention "liver tumors" and not "benign liver tumors" as proposed by § 310.515(b)(6). The comment argues that although the majority of tumors associated with estrogen use as reported in the published literature have been classified as "benign," some tumors have been classified as malignant. Moreover, it is argued, those tumors classified as "benign" have malignant potential if not surgically excised. The comment suggests that use of the term "benign" when there is malignant potential, and where malignant liver tumors have also occurred in oral contraceptive users, is deceptively soothing to the ordinary consumer.

The Commissioner agrees that although the majority of tumors associated with estrogen use as reported in the published literature have been classified as benign, some tumors associated with the use of estrogen containing oral contraceptives have been classified as malignant. The Commissioner believes that deleting the word "benign" would be more accurate under the circumstances. The regulation is revised accordingly.

### Date of Most Recent Revision

The Commissioner is revising § 310.515(b)(8) to provide that the date, identified as such, of the most recent revision of the labeling be prominently placed immediately after the last section of the labeling. This conforms to the present practice of many manufacturers and should, therefore, not be disruptive of labeling processes.

### Status of Patient Labeling Text: Revisions of October Guideline

Section 310.515(f) requires that FDA make available and publish in the Federal Register patient labeling for estrogens that is responsive to all items specified in § 310.515(b). The suggested text of patient labeling that met the requirements of the proposed rule was published in the Federal Register of September 29, 1976 (41 FR 43117) and revised in the Federal Register of October 29, 1976 (41 FR 47573). In this final regulation, as a result of comments received on proposed § 310.515(b), the Commissioner is making a number of rule changes and determines that corresponding changes in the patient labeling text are necessary.

Published elsewhere in this issue of the Federal Register is the precise language of the revised patient labeling text that will be considered to meet the requirements of the final rule. The Commissioner advises that the text of the patient labeling is intended as a guideline (21 CFR 10.90) which if followed will enable any person to comply with the requirements of § 310.515(b).

Those manufacturers and suppliers who have deferred preparing patient labeling until the publication of the final rule have until September 20, 1977, to implement the revised labeling requirement. For those manufacturers and suppliers who put into use the October 29, 1976 patient labeling text prior to the issuance of the final order, the October labeling will continue to be considered by the Commissioner as meeting the requirements of § 310.515(b) until November 21, 1977. After November 21, 1977, the labeling text published on October 29, 1976 can no longer be relied upon as meeting the requirements of § 310.515(b).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701(a), 52 Stat. 1050–1053 as amended, 1055 (21 U.S.C. 352, 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 310 is amended by adding new § 310.515 to Subpart E, to read as follows:

**§ 310.515 Estrogens; labeling directed to the patient.**

(a) The Commissioner of Food and Drugs concludes that the safe and effective use of drug products containing estrogens requires that patients be fully informed of the benefits and risks involved in the use of these drugs. Accordingly, except as provided in paragraph



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(e) of this section, each estrogen drug product restricted to prescription distribution, including products containing estrogens in fixed combination with other drugs, e.g., estrogen-tranquilizer combinations, that is the subject of a new drug application approved either before or after the Drug Amendments of 1962 and any identical, related, or similar drug product, whether or not it is the subject of an approved new drug application, shall be dispensed to patients with labeling in lay language containing information concerning effectiveness, contraindications, warnings, precautions, and adverse reactions. The patient labeling shall be provided as a separate printed leaflet independent of any additional materials.

(b) The patient labeling shall specifically include the following:

(1) Name of the drug.

(2) Name and place of business of the manufacturer, packer, or distributor.

(3) A statement regarding the proper use of estrogens, particularly short-term use in moderate to severe vasomotor symptoms of the menopause and prevention of breast engorgement. It is to be stated that estrogens are not indicated for certain conditions, i.e., nervousness, preservation of supple skin, or maintenance of a youthful feeling. The limited usefulness in preventing breast engorgement is also to be noted.

(4) A warning regarding the most serious dangers of estrogens and the relative risk in users versus nonusers, where known, including:

(i) Endometrial carcinoma. The importance of minimizing dose and duration of use is to be stressed, as is the importance of using estrogens only when necessary. A statement indicating that women who have had total hysterectomies have no risk of endometrial carcinoma.

(ii) Other possible cancer. The importance of annual examinations is to be stressed. Special attention to women with breast nodules, adnormal mammograms, or a family history of breast cancer is to be mentioned.

(iii) Gall bladder disease.

(iv) Abnormal blood clotting.

(v) Damage to exposed fetus.

(5) A statement of contraindications.

(6) A discussion of other side effects of estrogens, including oral contraceptives, such as nausea and vomiting, breast tenderness, growth of fibroids, liver tumors, jaundice, mental depression, fluid retention, and darkening of the skin.

(7) A discussion of the danger signs of which the patient must be aware, including abnormal vaginal bleeding, symptoms suggesting thrombophlebitis, pulmonary embolus, stroke or heart attack, breast lumps, jaundice, and depression.

(8) A statement cautioning the consumer that this drug has been prescribed for the sole purpose of treating the individual's illness and that the drug must not be given to others.

(9) The date, identified as such, of the most recent revision of the labeling prominently placed immediately after the last section of such labeling.

(c) The patient labeling shall be printed in accordance with the following specifications:

(1) The minimum letter size (lowercase letter "o" or its equivalent) shall be not less than 1/16 inch in height.

(2) The body copy shall contain 1-point leading and noncondensed type, and shall not contain any light face type or small capital letters.

(d) (1) Patient labeling for each estrogen drug product shall be provided in or with each package of the drug product intended to be dispensed or administered to the patient. However, patient labeling for drug products dispensed in acute care hospitals or long-term-care facilities will be considered to have been provided in accordance with this section if provided to the patient prior to administration of the first dose of estrogen and every 30 days thereafter, as long as the therapy continues.

(2) In the case of estrogen drug products in bulk packages intended for multiple dispensing, and in the case of injectables in multiple-dose vials, a sufficient number of patient labeling pieces shall be included in or with each package to assure that one piece can be included with each package or dose dispensed or administered to every patient. Each bulk package shall be labeled with instructions to the dispensor to include one patient labeling piece with each package dispensed or, in the case of injectables, with each dose administered to the patient. This section does not preclude the manufacturer or labeler from distributing additional patient labeling pieces to the dispensor.

(3) Any estrogen drug product restricted to prescription distribution, except as noted in paragraph (e) of this section, that is not labeled as required by this section and that is either introduced or delivered for introduction into interstate commerce, or held for sale after shipment in interstate commerce is misbranded pursuant to section 502 of the act. However, an estrogen drug product in the possession of a wholesaler or retailer before the effective date of this section is not misbranded if adequate numbers of copies of the patient labeling are furnished to the wholesaler or retailer to permit any retail purchaser after the effective date to obtain such labeling with the product. The requirement that any estrogen drug product be dispensed with patient labeling, as applied to physicians who dispense or administer the drug, will not be effective for supplies in their possession on the effective date, but will apply only to supplies received thereafter.

(e) This section does not apply to estrogen-progestagen oral contraceptives and oral diethylstilbestrol (DES) products intended for postcoital contraception, which shall be labeled according to the requirements of § 310.501.

(f) The Food and Drug Administration has available patient labeling for estrogens that includes information responsive to all items specified in paragraph (b) of this section. The labeling has been published in the FEDERAL REGISTER as part of a DESI notice, and updated versions will continue to be published as guides as changes occur. Any person may rely on the latest published version of this labeling as complying with paragraph (b) of this section.

(g) Holders of new drug applications for estrogen drug products that are subject to this section must submit supplements under § 314.8(d) of this chapter to provide for the labeling required by paragraph (a) of this section. The labeling may be put into use without advance approval by the Food and Drug Administration.

Effective date: This regulation shall be effective on September 20, 1977.

(Secs. 502, 505, 701(a), 52 Stat. 1050–1053 as amended, 1055 (21 U.S.C. 352, 355, 371(a)).)

Dated: July 15, 1977.

DONALD KENNEDY,
*Commissioner of Food and Drugs.*

[FR Doc.77-20820 Filed 7-21-77;8:45 am]





## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

**Food and Drug Administration**

**[ 21 CFR Part 310 ]**

[Docket No. 77N-0149]

## PROGESTATIONAL DRUG PRODUCTS FOR HUMAN USE

**Requirements for Labeling Directed to the Patient**

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This document proposes to require patient labeling for progestational drug products because recent scientific reports indicate that pregnant women who use sex hormones during the first 4 months of pregnancy risk damage to the fetus. The new regulation specifies the kind of information and warnings to be contained in the patient labeling and how it is to be made available to the patient. The regulation does not apply to progestagen-containing products intended for contraception.

DATES: Comments by September 20, 1977. Proposed effective date: 60 days after publication of a final regulation in the FEDERAL REGISTER.

ADDRESSES: Written comments to the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3650).

SUPPLEMENTARY INFORMATION: During the past several years, scientific literature reports have indicated that the use of sex hormones during the first 4 months of pregnancy may seriously damage the fetus. Based on these reports, the Food and Drug Administration (FDA) and its Obstetrics and Gynecology Advisory Committee have concluded that a warning regarding this hazard and a statement that progestational drug products are contraindicated as a diagnostic test for pregnancy must be included in physician labeling. The Committee also concurred with the agency's recommendation that a short patient-labeling piece, bearing the warnings in layman's terms, be given to the patient when the drug is dispensed.

Accordingly, the Commissioner of Food and Drugs is proposing to require patient labeling for these drugs. Elsewhere in this issue of the FEDERAL REGISTER, the Director of the Bureau of Drugs is issuing a drug efficacy study implementation (DESI) notice (Docket No. 77N–0098) specifying the text of the warning and contraindications statement for the physician labeling and the text of the patient labeling. The reports upon which this new warning and contraindication are based are cited in the physician labeling. Copies of these reports are filed with the Hearing Clerk, Food and Drug Administration, as part of the file on Docket No. 77N–0098.

The Commissioner recognizes that it is primarily the responsibility of the prescribing physician to convey to the patient information regarding prescribed drugs. But because of the serious threat that this drug product presents to the unborn child when the drug is used during the first 4 months of pregnancy, it is the Commissioner's opinion that patient labeling is necessary to assure that the oral instructions of the physician are not misinterpreted or forgotten by the patient. The patient labeling will reinforce what the physician has explained to the patient and will serve as a written reminder that can be referred to by the patient during the course of the therapy.

The Commissioner proposes to establish new § 310.516 (21 CFR 310.516), which would require certain warnings in the form of patient labeling concerning the use of progestational drug products to be given to the patient either when the drug is dispensed or when it is administered. The patient labeling would be provided by the manufacturer, repacker, or own-label distributor as a separate, printed leaflet, independent of any additional printed materials. A sufficient number of patient-labeling leaflets would be required to be provided with any bulk shipment of progestational drug products to assure that the leaflet can be included with each package dispensed to the patient. The dispensor would then be responsible for providing the patient with the labeling leaflet. Failure to do so would result in the misbranding of the drug product by the dispensor. In the case of drugs intended to be administered directly to patients, sufficient leaflets must be included in the package to provide for distribution to each patient. The minimum letter size used in the leaflet shall be one-sixteenth of an inch in height. The height pertains to lower-case letters, and it is the lower-case "o" or its equivalent that shall meet the minimum standard. The body copy shall be 1-point leading, noncondensed type, and it shall not contain any light-face type or small capital letters.

Patient labeling warnings for progestational drug products are based on the warnings in the approved physician labeling for these drug products and would apply to all such products that are the subject of new drug applications (NDA's) approved either before or after the Drug Amendments of 1962 (21 U.S.C. 355(d)). They would also apply to any identical, related, or similar drug product (as defined in 21 CFR 310.6), whether or not that product is the subject of an approved NDA. This labeling would not, however, apply to progestagen-containing products intended for contraception, which are required to be labeled in accordance with regulations specifically applicable to those drugs (21 CFR 310.501). A list of drug entities that, along with their salts and esters, are examples of progestational agents to which this labeling applies is included in the DESI notice (Docket No. 77N–0098), published elsewhere in this issue of the FEDERAL REGISTER.

The Commissioner proposes to make § 310.516 effective 60 days after the date of its publication as a final order in the FEDERAL REGISTER. Manufacturers and suppliers are advised, and the proposed rule provides, that the language in the accompanying DESI notice (Docket No. 77N–0098) will be considered by the Commissioner to meet the requirements of the final order establishing § 310.516. Manufacturers, repackers, and own-label distributors may therefore put into use immediately, without advance approval by FDA, the patient labeling in the accompanying DESI notice. The Commissioner encourages that this patient labeling be provided in this fashion on a voluntary basis before the publication of a final regulation. He considers it in the interest of the public health that this needed information be provided to patients in as timely a manner as possible.

Supplements to approved NDA's that provide for patient labeling should be submitted under the provisions of § 314.8 (21 CFR 314.8). The changes that are provided for by these supplements will not have a substantial effect on the quality of the human environment, and therefore they need not be accompanied by environmental impact analysis reports.

On or after the effective date of the final regulation, no person would be permitted to introduce or deliver for introduction into interstate commerce, or to hold for sale after shipment in interstate commerce, any progestational drug product to which this regulation applies, unless the labeling of that product complies with the requirements set forth in this regulation. The Commissioner would, however, consider a progestational drug product in the possession of a wholesaler or retailer before the effective date to comply with the order if adequate numbers of copies of the patient labeling that include information responsive to all items in § 310.516 (b) are furnished to the wholesaler or retailer to permit any retail purchaser after the effective date to obtain such labeling with the product. Although a physician who dispenses or administers the drug would be considered to be a retailer under the proposed regulations, the Commissioner believes that it would be impractical to require the forwarding of separate patient labeling, within the specified time frame, to such physicians for those products in their possession before the effective date. Accordingly, the proposed requirement that any progestational drug product be dispensed with patient labeling, as applied to physicians who dispense or administer the drug, would not be effective for supplies in their possession on the effective date, but would apply only to supplies received thereafter.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701(a), 52 Stat. 1050–1053 as amended, 1055 (21 U.S.C. 352, 355, 371(a))) and



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under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 310 be amended by adding new § 310.516 to Subpart E, to read as follows:

**§ 310.516 Progestational drug products; labeling directed to the patient.**

(a) The Commissioner of Food and Drugs concludes that the safe and effective use of any progestational drug product requires that patients be informed that there is an increased risk of birth defects in children whose mothers have taken this drug during the first 4 months of pregnancy. Accordingly, except as provided by paragraph (d) of this section, any progestational drug product that is the subject of a new drug application approved either before or after October 9, 1962 and all identical, related, or similar drug products as defined in § 310.6, whether or not the subject of an approved new drug application, shall be dispensed to patients with labeling in lay language containing such a warning. The patient labeling shall be provided as a separate printed leaflet independent of any additional materials.

(b) The patient labeling shall specifically include the following:

(1) Name of the drug.

(2) Name and place of business of the manufacturer, packer, or distributor.

(3) A warning that there is an increased risk of birth defects in children whose mothers take this drug during the first 4 months of pregnancy.

(4) A brief discussion of the nature of the risks of birth defects resulting from the use of these drugs during the first 4 months of pregnancy.

(5) A brief statement that these drugs are no longer considered safe as a test for pregnancy.

(6) A statement that the patient should inform her physician as soon as possible if she discovers that she was pregnant when she took the drug.

(c) The patient labeling shall be printed in accordance with the following specifications:

(1) The minimum letter size shall be one-sixteenth of an inch in height.

(2) Letter heights pertain to the lowercase letter "o" or its equivalent that shall meet the minimum height standard.

(3) Type used shall conform to the minimum letter height. The body copy shall contain 1-point leading, noncondensed type, and shall not contain any light-face type or small capital letters.

(d) This section does not apply to a progestagen-containing product intended for contraception, which shall be labeled according to the requirements of § 310.501.

(e) (1) Patient labeling for each progestational drug product shall be provided in or with each package intended to be dispensed to the patient.

(2) In the case of progestational drug products in bulk packages intended for multiple dispensing, each bulk package shall include a sufficient number of patient-labeling pieces to assure that one can be included with each package dispensed to every patient. Each bulk package shall be labeled with instructions to the dispensor to include one patient-labeling piece with each package dispensed to the patient.

(3) In the case of progestational drug products for injection, each package shall include a sufficient number of patient labeling pieces for the volume of the vial, and instructions to the practitioner administering the drug to give one patient-labeling piece to each premenopausal woman, except those in whom childbearing is impossible, receiving the drug.

(4) Any progestational drug product, except as noted in paragraph (d) of this section, that is not labeled as required by this section and is either introduced or delivered for introduction into interstate commerce, or held for sale after shipment in interstate commerce, is misbranded pursuant to section 502 of the Federal Food, Drug, and Cosmetic Act. However, a progestational drug product in the possession of a wholesaler or retailer before (the date 60 days after the date of publication of the final regulation) is not misbranded if adequate numbers of copies of the patient labeling are furnished to the wholesaler or retailer to permit any retail purchaser after that date to obtain such labeling with the product. The requirement that any progestational drug product be dispensed with patient labeling, as applied to physicians who dispense or administer the drug, will not be effective for supplies in their possession on the effective date, but will apply only to supplies received thereafter.

(f) The Food and Drug Administration has available patient labeling for progestational drug products that includes information reponsive to all items specified in paragraph (b) of this section. The labeling has been published in the FEDERAL REGISTER as part of a drug efficacy study implementation (DESI) notice. Any person may rely on this labeling as complying with paragraph (b) of this section after the effective date of this section.

(g) Holders of new drug applications for progestational drug products that are subject to this section shall submit supplements under § 314.8 of this chapter to provide for the labeling required by paragraph (a) of this section on or before (the date 60 days after the date of publication of the final regulation). The labeling may be put into use without advance approval by the Food and Drug Administration.

Interested persons may, on or before September 20, 1977, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: July 12, 1977.

DONALD KENNEDY,
*Commissioner of Food and Drugs.*

[FR Doc.77-20819 Filed 7-21-77;8:45 am]





## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

[Docket No. 76N–0381; DESI Nos. 740, 1543, 2238, and 7661]

### PATIENT LABELING FOR ESTROGENS FOR GENERAL USE

### Drugs for Human Use; Drug Efficacy Study Implementation

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: The Food and Drug Administration is revising the guideline text for patient labeling for prescription estrogenic drug products. The revised text can be relied upon as meeting the requirements of the estrogen patient labeling rule (21 CFR 310.515) published elsewhere in this issue of the FEDERAL REGISTER.

DATE: Effective Tuesday, September 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Philip L. Paquin, Bureau of Drugs (HFD–30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, (307–443–5220).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of September 29, 1976 (41 FR 43117), as amended in the FEDERAL REGISTER of October 29, 1976 (41 FR 47573), the Director of the Bureau of Drugs published the text of patient labeling for estrogenic drug products and invited public comment. The text was based upon a proposed new requirement, also published on September 29, 1976 (41 FR 43108), for labeling directed to patients using estrogenic drug products. The final order promulgating the regulation (21 CFR 310.515) requiring patient labeling for such products appears elsewhere in this issue of the FEDERAL REGISTER. As a result of revisions made in the regulation in response to public comments, certain changes in the text of the patient labeling are also necessary, as follows:

1. After the third paragraph under the heading "The dangers of estrogens 1. *Cancer of the uterus.*" by adding as a new paragraph the sentence "If you have had your uterus completely removed (total hysterectomy), there is no danger of developing cancer of the uterus."

2. In the sixth paragraph under the heading "Other effects of estrogens," by deleting the word "benign."

3. Under the heading "Summary," by adding as the last paragraph the statement "Based on his or her assessment of your medical needs, your doctor has prescribed the drug for you. Do not give the drug to anyone else."

The Director is continuing to review the several hundred comments received on the text of the patient labeling. After considering the comments and consulting with FDA's Obstetrics and Gynecology Advisory Committee on the major issues raised by the comments, further revision of the patient labeling text may be necessary. Any revision will be published in the FEDERAL REGISTER and can be relied upon as meeting the requirements of § 310.515(b) (21 CFR 310.515).

The review of the patient labeling text will not be completed for several months. The Director is aware that several supplemental new drug applications requesting marketing approval of additional indications for certain estrogenic drug products are being reviewed by the Agency and that if such applications are approved, appropriate revision of the physician and patient labeling will be necessary. Pending the outcome of the review, the guideline text published in this notice represents the latest published revision of patient labeling. Inclusion of indications not contained in the current patient labeling guideline will be deemed as misbranding the drug.

Manufacturers and suppliers are advised that the revised patient labeling text can be relied on as meeting the requirements of the estrogen patient labeling final rule (21 CFR 310.515).

Accordingly, the October 29, 1976 patient labeling text is amended to read as follows:

WHAT YOU SHOULD KNOW ABOUT ESTROGENS

Estrogens are female hormones produced by the ovaries. The ovaries make several different kinds of estrogens. In addition, scientists have been able to make a variety of synthetic estrogens. As far as we know, all these estrogens have similar properties and therefore much the same usefulness, side effects, and risks. This leaflet is intended to help you understand what estrogens are used for, the risks involved in their use, and how to use them as safely as possible.

This leaflet includes the most important information about estrogens, but not all the information. If you want to know more, you can ask your doctor or pharmacist to let you read the package insert prepared for the doctor.

USES OF ESTROGEN

Estrogens are prescribed by doctors for a number of purposes, including:

1. To provide estrogen during a period of adjustment when a woman's ovaries no longer produce it, in order to prevent certain uncomfortable symptoms of estrogen deficiency. (All women normally stop producing estrogens, generally between the ages of 45 and 55; this is called the menopause.)

2. To prevent symptoms of estrogen deficiency when a woman's ovaries have been removed surgically before the natural menopause.

3. To prevent pregnancy. (Estrogens are given along with a progestagen, another female hormone; these combinations are called oral contraceptives or birth control pills. Patient labeling is available to women taking oral contraceptives and they will not be discussed in this leaflet.)

4. To treat certain cancers in women and men.

5. To prevent painful swelling of the breasts after pregnancy in women who choose not to nurse their babies.

THERE IS NO PROPER USE OF ESTROGENS IN A PREGNANT WOMAN

ESTROGENS IN THE MENOPAUSE

In the natural course of their lives, all women eventually experience a decrease in estrogen production. This usually occurs between ages 45 and 55 but may occur earlier or later. Sometimes the ovaries may need to be removed before natural menopause by an operation, producing a "surgical menopause."

When the amount of estrogen in the blood begins to decrease, many women may develop typical symptoms: Feelings of warmth in the face, neck, and chest or sudden intense episodes of heat and sweating throughout the body (called "hot flashes" or "hot flushes"). These symptoms are sometimes very uncomfortable. A few women eventually develop changes in the vagina (called "atrophic vaginitis") which cause discomfort, especially during and after intercourse.

Estrogens can be prescribed to treat these symptoms of the menopause. It is estimated that considerably more than half of all women undergoing the menopause have only mild symptoms or no symptoms at all and therefore do not need estrogens. Other women may need estrogens for a few months, while their bodies adjust to lower estrogen levels. Sometimes the need will be for periods longer than six months. In an attempt to avoid over-stimulation of the uterus (womb), estrogens are usually given cyclically during each month of use, that is three weeks of pills followed by one week without pills.

Sometimes women experience nervous symptoms or depression during menopause. There is no evidence that estrogens are effective for such symptoms and they should not be used to treat them, although other treatment may be needed.

You may have heard that taking estrogens for long periods (years) after the menopause will keep your skin soft and supple and keep you feeling young. There is no evidence that this is so, however, and such long-term treatment carries important risks.

ESTROGENS TO PREVENT SWELLING OF THE BREASTS AFTER PREGNANCY

If you do not breast feed your baby after delivery, your breasts may fill up with milk and become painful and engorged. This usually begins about 3 to 4 days after delivery and may last for a few days to up to a week or more. Sometimes the discomfort is severe, but usually it is not and can be controlled by pain relieving drugs such as aspirin and by binding the breasts up tightly. Estrogens can be used to try to prevent the breasts from filling up. While this treatment is sometimes successful, in many cases the breasts fill up to some degree in spite of treatment. The dose of estrogens needed to prevent pain and swelling of the breasts is much larger than the dose needed to treat symptoms of the menopause and this may increase your



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chances of developing blood clots in the legs or lungs (see below). Therefore, it is important that you discuss the benefits and the risks of estrogen use with your doctor if you have decided not to breast feed your baby.

THE DANGERS OF ESTROGENS

1. *Cancer of the uterus.* If estrogens are used in the postmenopausal period for more than a year, there is an increased risk of *endometrial cancer* (cancer of the uterus). Women taking estrogens have roughly 5 to 10 times as great a chance of getting this cancer as women who take no estrogens. To put this another way, while a postmenopausal woman not taking estrogens has 1 chance in 1,000 each year of getting cancer of the uterus, a woman taking estrogens has 5 to 10 chances in 1,000 each year. For this reason *it is important to take estrogens only when you really need them.*

The risk of this cancer is greater the longer estrogens are used and also seems to be greater when larger doses are taken. For this reason *it is important to take the lowest dose of estrogen that will control symptoms and to take it only as long as it is needed.* If estrogens are needed for longer periods of time, your doctor will want to reevaluate your need for estrogens at least every six months.

Women using estrogens should report any irregular vaginal bleeding to their doctors; such bleeding may be of no importance, but it can be an early warning of cancer of the uterus. If you have undiagnosed vaginal bleeding, you should not use estrogens until a diagnosis is made and you are certain there is no cancer of the uterus.

If you have had your uterus completely removed (total hysterectomy), there is no danger of developing cancer of the uterus.

2. *Other possible cancers.* Estrogens can cause development of other tumors in animals, such as tumors of the breast, cervix vagina, or liver, when given for a long time. At present there is no good evidence that women using estrogen in the menopause have an increased risk of such tumors, but there is no way yet to be sure they do not; and one study raises the possibility that use of estrogens in the menopause may increase the risk of breast cancer many years later. This is a further reason to use estrogens only when clearly needed. While you are taking estrogens, it is important that you go to your doctor at least once a year for a physical examination. Also, if members of your family have had breast cancer or if you have breast nodules or abnormal mammograms (breast x-rays), your doctor may wish to carry out more frequent examinations of your breasts.

3. *Gall bladder disease.* Women who use estrogens after menopause are more likely to develop gall bladder disease needing surgery as women who do not use estrogens. Birth control pills have a similar effect.

4. *Abnormal blood clotting.* Oral contraceptives increase the risk of blood clotting in various parts of the body. This can result in a stroke (if the clot is in the brain), a heart attack (clot in a blood vessel of the heart), or a pulmonary embolus (a clot which forms in the legs or pelvis, then breaks off and travels to the lungs). Any of these can be fatal.

At this time use of estrogens in the menopause is not known to cause such blood clotting, but this has not been fully studied and there could still prove to be such a risk. It is recommended that if you have had clotting in the legs or lungs or a heart attack or stroke while you were using estrogens or birth control pills, you should not use estrogens (unless they are being used to treat cancer of the breast or prostate). If you have had a stroke or heart attack or if you have angina pectoris, estrogens should be used with great caution and only if clearly needed (for example, if you have severe symptoms of the menopause).

The larger doses of estrogen used to prevent swelling of the breasts after pregnancy have been reported to cause clotting in the legs and lungs.

SPECIAL WARNING ABOUT PREGNANCY

You should not receive estrogen if you are pregnant. If this should occur, there is a greater than usual chance that the developing child will be born with a birth defect, although the possibility remains fairly small. A female child may have an increased risk of developing cancer of the vagina or cervix later in life in the teens or twenties). Every possible effort should be made to avoid exposure to estrogens during pregnancy. If exposure occurs, see your doctor.

OTHER EFFECTS OF ESTROGENS

In addition to the serious known risks of estrogents described above, estrogens have the following side effects and potential risks:

1. *Nausea and vomiting.* The most common side effect of estrogen therapy is nausea. Vomiting is less common.

2. *Effects on breasts.* Estrogens may cause breast tenderness or enlargement and may cause the breasts to secrete a liquid. These effects are not dangerous.

3. *Effects on the uterus.* Estrogens may cause benign fibroid tumors of the uterus to get larger.

Some women will have menstrual bleeding when estrogens are stopped. But if the bleeding occurs on days you are still taking estrogens you should report this to your doctor.

4. *Effects on liver.* Women taking oral contraceptives develop on rare occasions a tumor of the liver which can rupture and bleed into the abdomen. So far, these tumors have not been reported in women using estrogens in the menopause, but you should report any swelling or unusual pain or tenderness in the abdomen to your doctor immediately.

Women with a past history of jaundice (yellowing of the skin and white parts of the eyes) may get jaundice again during estrogen use. If this occurs, stop taking estrogens and see your doctor.

5. *Other effects.* Estrogens may cause excess fluid to be retained in the body. This may make some conditions worse, such as epilepsy, migraine, heart disease, or kidney disease.

SUMMARY

Estrogens have important uses, but they have serious risks as well. You must decide, with your doctor, whether the risks are acceptable to you in view of the benefits of treatment. Except where your doctor has prescribed estrogens for use in special cases of cancer of the breast or prostate, you should not use estrogens if you have cancer of the breast or uterus, are pregnant, have undiagnosed abnormal vaginal bleeding, clotting in the legs or lungs, or have had a stroke, heart attack or angina, or clotting in the legs or lungs in the past while you were taking estrogens.

You can use estrogens as safely as possible by understanding that your doctor will require regular physical examinations while you are taking them and will try to discontinue the drug as soon as possible and use the smallest dose possible. Be alert for signs of trouble including:

1. Abnormal bleeding from the vagina.
2. Pains in the calves or chest or sudden shortness of breath, or coughing blood (indicating possible clots in the legs, heart, or lungs).
3. Severe headache, dizziness, faintness, or changes in vision (indicating possible developing clots in the brain or eye).
4. Breast lumps (you should ask your doctor how to examine your own breasts).
5. Jaundice (yellowing of the skin).
6. Mental depression.

Based on his or her assessment of your medical needs, your doctor has prescribed this drug for you. Do not give the drug to anyone else.

HOW SUPPLIED

(A description of the particular product, to be supplied by manufacturer.)

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82) (recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)).

Dated: May 18, 1977.

J. RICHARD CROUT,
*Director, Bureau of Drugs.*

[FR Doc 77 20818 Filed 7-21-77;8:45 am]

[Docket No. 77N-0098; DESI Nos. 9238 and 11839]

## PHYSICIAN LABELING AND PATIENT LABELING FOR PROGESTATIONAL DRUG PRODUCTS; WARNINGS AND CONTRAINDICATIONS

### Drugs for Human Use; Drug Efficacy Study Implementation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice requires that the physician labeling for progestational drug products include an additional contraindication and a warning, and sets forth the text of labeling directed to the patient.





DATES: Physician labeling to be revised on or before September 20, 1977.

Supplements to approved NDA's due on or before September 20, 1977.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference numbers DESI 9238 and 11839 and Docket No. 77N–0098 and directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Metabolism and Endocrine Drug Products (HFD–130), Rm. 14B–04, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: As part of the Drug Efficacy Study Implementation (DESI) project, notices were published in the FEDERAL REGISTER of September 9, 1971 (36 FR 18115) (DESI 9238) and July 27, 1972 (37 FR 15033) (DESI 11839) concerning specific progestational agents. The drug products named in these notices were initially classified as effective, probably effective, possibly effective, and/or lacking substantial evidence of effectiveness. A followup notice was published in the FEDERAL REGISTER of October 10, 1973 (38 FR 27947) for these drugs, requiring deletion of all less-than-effective indications and all pregnancy-related indications from the labeling on the basis of lack of proof of safety or lack of substantial evidence of effectiveness, or both. The notice offered an opportunity for a hearing on these issues. Neither a request for hearing nor comments were received, and all such indications have now been deleted from the labeling of these products.

This notice applies not only to the particular progestational agents subject to the Drug Efficacy Study, but to all such products that are the subject of new drug applications approved either before or after the Drug Amendments of 1962 and also to any identical, related, or similar drug product (21 CFR 310.6), whether or not it is the subject of an approved new drug application. However it does not apply to progestagen-containing products intended for contraception which are required to be labeled in accordance with regulations specifically applicable to those drugs (21 CFR 310.501). It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes (21 CFR 310.6). Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes by writing to Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

The following drug entities, and their salts and esters, are examples of progestational agents which are covered by this notice, although this is not intended to be an exhaustive listing: dimethisterone, dydrogesterone, ethinylestrenol, ethynodiol, hydroxyprogesterone, medroxyprogesterone, megestrol, norethindrone, norethynodrel, norgestrel, and progesterone.

The Food and Drug Administration is charged with assuring that drugs are safe and effective for their intended use and that their labeling provides adequate information for such use and is not false or misleading. The full disclosure of information to physicians concerning warnings and contraindications is an important element in the discharge of that responsibility. The statutory scheme anticipates that new information concerning the safety and effectiveness of marketed drugs may require that FDA prescribe changes in their labeling to reveal limitations on use or warn of previously unanticipated hazards. Many labeling changes have been effected as a result of the Drug Efficacy Study.

Reports during the past several years have indicated that the use of sex hormones during early pregnancy may seriously damage the offspring. Several reports suggest an association between intrauterine exposure to sex hormone treatment and congenital anomalies, including congenital heart defects and limb reduction defects. Progestational agents have been used beginning with the first trimester of pregnancy in an attempt to prevent habitual abortion or to treat threatened abortion. There is no satisfactory evidence that they are effective for this use, and there is evidence of potential harm to the fetus when such drugs are given during the first four months of pregnancy. Furthermore, in the vast majority of women, the cause of abortion is a defective ovum, which progestational agents could not be expected to influence. Therefore, the use of such drugs during the first four months of pregnancy is not recommended.

The FDA and its Obstetrics and Gynecology Advisory Committee have concluded that the potential risk of teratogenicity (malformation) when the fetus is exposed to sex hormones in early pregnancy is such that these hormones should not be used as a diagnostic test for pregnancy. This use is unnecessary in view of the general availability of satisfactory chemical tests for pregnancy. Moreover, if pregnancy is demonstrated or reasonably suspected in a patient receiving oral contraceptives, this form of contraception should be discontinued immediately. Obviously, every effort should be made to assure that a woman is not pregnant before prescribing sex hormones either for contraception or for any other approved indication.

In view of the adverse effects on the fetus that may be associated with its exposure to pregestational hormones, the Director of the Bureau of Drugs concludes that this information should be required in labeling, including promotional labeling, of all progestational drug products except those for use as contraceptives. Accordingly, it is now required that the physician labeling for such products be revised to include under the Contraindications section the following contraindication:

As a diagnostic test for pregnancy.

It is also required that the following Box Warning and the references cited therein be added to the labeling.

THE USE OF PROGESTATIONAL AGENTS DURING THE FIRST FOUR MONTHS OF PREGNANCY IS NOT RECOMMENDED

Progestational agents have been used beginning with the first trimester of pregnancy in an attempt to prevent habitual abortion or treat threatened abortion. There is no adequate evidence that such use is effective and there is evidence of potential harm to the fetus when such drugs are given during the first four months of pregnancy. Furthermore, in the vast majority of women, the cause of abortion is a defective ovum, which progestational agents could not be expected to influence. In addition, the use of progestational agents, with their uterine-relaxant properties, in patients with fertilized defective ova may cause a delay in spontaneous abortion. Therefore, the use of such drugs during the first four months of pregnancy is not recommended.

Several reports suggest an association between intrauterine exposure to female sex hormones and congenital anomalies, including congenital heart defects and limb reduction defects (Refs. 1–5). One study (Ref. 4) estimated a 4.7-fold increased risk of limb reduction defects in infants exposed in utero to sex hormones (oral contraceptives, hormone withdrawal test for pregnancy, or attempted treatment for threatened abortion). Some of these exposures were very short and involved only a few days of treatment. The data suggest that the risk of limb reduction defects in exposed fetuses is somewhat less than 1 in 1,000.

If the patient is exposed to (name of drug) during the first four months of pregnancy or if she becomes pregnant while taking this drug, she should be apprised of the potential risks to the fetus.

REFERENCES

1. Gal, I., B. Kirman, and J. Stern, "Hormonal Pregnancy Tests and Congenital Malformation," Nature, 216:83, 1967.

2. Levy, E. P., A. Cohen, and F. C. Fraser, "Hormone Treatment During Pregnancy and Congenital Heart Defects," Lancet, 1:611, 1973.

3. Nora, J. and A. Nora, "Birth Defects and Oral Contraceptives," Lancet, 1:941, 1973.

4. Janerich, D. T., J. M. Piper, and D. M. Glebatis, "Oral Contraceptives and Congenital Limb-Reduction Defects," New England Journal of Medicine, 291:697, 1974.

5. Heinonen, O. P., D. Slone, R. R. Monson, E. B. Hook, and S. Shapiro, "Cardiovascular Birth Defects and Antenatal Exposure to Female Sex Hormones," New England Journal of Medicine, 296:67, 1977.

Reprints of the above references have been placed on file with the Hearing Clerk (HFC–20), Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen between the hours of 9 a.m. and 4 p.m. Monday through Friday.



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Elsewhere in this issue of the FEDERAL REGISTER the Commissioner of Food and Drugs is proposing to amend 21 CFR Part 310 by adding a new § 310.516 that would require certain warnings in the form of patient labeling concerning the use of progestational drug products (Docket No. 77N-0149). Proposed § 310.516 specifies the kind of information to be contained in the patient labeling, without giving the text of the labeling, and the way it is to be made available to the patient. The text of such patient labeling is as follows:

PATIENT LABELING FOR (NAME OF DRUG)
WARNING FOR WOMEN

There is an increased risk of birth defects in children whose mothers take this drug during the first four months of pregnancy.

(Name of drug) is similar to the progesterone hormones naturally produced by the body. Progesterone and progesterone-like drugs are used to treat menstrual disorders, to test if the body is producing certain hormones, and to treat some forms of cancer in women.

They have been used as a test for pregnancy but such use is no longer considered safe because of possible damage to a developing baby. Also, more rapid methods for testing for pregnancy are now available.

These drugs have also been used to prevent miscarriage in the first few months of pregnancy. No adequate evidence is available to show that they are effective for this purpose and there is evidence of an increased risk of birth defects, such as heart or limb defects, if these drugs are taken during the first four months of pregnancy. Furthermore, most cases of early miscarriage are due to causes which could not be helped by these drugs.

The exact risk of taking this drug early in pregnancy and having a baby with a birth defect is not known. However, one study found that babies born to women who had taken sex hormones (such as progesterone-like drugs) during the first three months of pregnancy were 4 to 5 times more likely to have abnormalities of the arms or legs than if their mothers had not taken such drugs. Some of these women had taken these drugs for only a few days. The chance that an infant whose mother had taken this drug will have this type of defect is about 1 in 1,000.

If you take (name of drug) and later find you were pregnant when you took it, be sure to discuss this with your doctor as soon as possible.

The Director of the Bureau of Drugs advises that the patient labeling set forth above complies with the patient labeling requirement proposed in § 310.516 and can be relied upon by manufacturers, packers, and distributors to meet those requirements.

At such time as patient labeling is required pursuant to final promulgation of proposed § 310.516, or when patient labeling is put into use in advance of such requirement, the Precautions section of the physician labeling shall include the following:

Information for the Patient. See text of Patient Package Insert which is printed below.

(The text of the patient labeling set forth above in this notice shall then be included in the appropriate place in the physician labeling.)

The physician labeling for parenterally administered products should state that the patient leaflet should be given to all premenopausal women, except those in whom childbearing is impossible.

Supplements containing appropriate revision of the physician labeling of drug products affected by this notice shall be submitted on or before September 20, 1977. After that date, because of the importance of the above labeling information and the need for its prompt dissemination, the Food and Drug Administration will regard any progestational drug product covered by this notice and not labeled substantially as stated above, as misbranded, and no person will be permitted to introduce or deliver for introduction into interstate commerce or to hold for sale after shipment in interstate commerce any such drug product without the physician labeling required by this notice. However, this prohibition will not apply to any drug product that was received prior to the effective date by any distributor (other than an own-label distributor) or retailer. The purpose of the prohibition is to prevent the further distribution after the effective date by any person involved in the production of these drug products who has responsibility for the content of the labeling.

The requirements in regard to physician labeling thus exempt those who merely distribute or sell products whose labeling is the responsibility of others. It will allow distribution (but not own-label distributors) and retailers to exhaust supplies existing as of the effective date.

Both the physician and patient labeling may be put into use in advance of approval or submission of a supplement to a new drug application.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 503, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82) (recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)).

Dated: April 29, 1977.

J. RICHARD CROUT,
*Director, Bureau of Drugs.*

[FR Doc.77-20821 Filed 7-21-77;8:45 am]



federal register

FRIDAY, JULY 22, 1977
PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

# DEPARTMENT OF LABOR

## Occupational Safety and Health Administration

■

# COMMERCIAL DIVING OPERATIONS

## Occupational Safety and Health Requirements

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Title 29—Labor

## CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

## COMMERCIAL DIVING OPERATIONS

### Occupational Safety and Health Requirements

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final standard.

SUMMARY: This final standard establishes mandatory occupational safety and health requirements for commercial diving operations. It reflects OSHA's determination, based on evidence that has been placed in the public record of this rulemaking proceeding, that commercial diving operations involve significant hazards to employees necessitating Federal regulation. By this final standard the Occupational Safety and Health Administration has established safety and health standards for personnel and medical requirements, operations procedures, equipment procedures and requirements, and recordkeeping.

EFFECTIVE DATE: October 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph J. LaRocca, Office of Standards Development, OSHA, Third Street and Constitution Avenue NW., Room N-3716, Washington, D.C. 20210 (202-523-7085).

SUPPLEMENTARY INFORMATION:

I. Procedural History

On August 8, 1975, a petition by the United Brotherhood of Carpenters and Joiners of America, AFL-CIO, was presented to the Secretary of Labor, stating the petitioner's belief that a situation of grave danger existed within the diving industry and urging that an emergency temporary standard (ETC) be issued with respect to diving operations to protect exposed employees. An informal fact-finding hearing was convened by OSHA in Washington, D.C., November 11-14, 1975. Based on the evidence gathered and evaluated by OSHA, with the assistance of an inter-agency federal task force and several independent experts, the Assistant Secretary of Labor for Occupational Safety and Health determined, in accordance with section 6(c) of the Act, that an ETS was appropriate to protect employees engaged in commercial diving from occupational exposure to grave danger.

On June 15, 1976, the Assistant Secretary issued an ETS for Diving Operations (41 FR 24272) as Subpart T of 29 CFR Part 1910, § 1910.401 et seq., pursuant to sections 6(c) and 8(c) of the Act, Secretary of Labor's Order No. 8-76, and 29 CFR Part 1911. The evidence and findings supporting issuance of the ETS and a discussion of its provisions are set forth at 41 FR 24272-24285.

The ETS was to have been effective on July 15, 1976. However, following a temporary stay, the U.S. Court of Appeals for the Fifth Circuit issued an indefinite stay of the ETS on August 11 pending a final decision on a suit filed by several diving contractors challenging the validity of the agency's action, *Taylor Diving and Salvage Co., Inc. et al. v. U.S. Department of Labor*, Civil Action No. 76-2886 (CA 5, 1976). Pursuant to the Court's order, the ETS was not enforced by OSHA. For the reasons stated in the Federal Register notice published on November 5, 1976 (41 FR 48742), the ETS was withdrawn. As a result, the Court dismissed the suit on the grounds that the issues raised by the case were moot.

In formulating the proposed permanent standard, OSHA reevaluated the underlying evidence and the substantive provisions of the ETS in conjunction with information made available to the agency subsequent to publication of the ETS. In this task, technical support was provided by individuals from the U.S. Coast Guard, the U.S. Navy, the National Institute for Occupational Safety and Health (NIOSH) of the Department of Health, Education, and Welfare, the National Oceanic and Atmospheric Administration (NOAA) of the Department of Commerce, and the Smithsonian Institution.

Inasmuch as many diving operations are closely associated with, or related to, construction activities, OSHA considered it appropriate prior to formulation of a proposed permanent standard to seek the advice and recommendations of the agency's Advisory Committee on Construction Safety and Health (the Advisory Committee), established under the Construction Safety Act. This action was taken pursuant to 29 CFR 1911.10 and 29 CFR 1912.3. All available materials were presented to the Advisory Committee. In August 1976, the Advisory Committee met to discuss materials and information relating to the occupational safety and health aspects of commercial diving operations. On August 9 and 10, the Advisory Committee considered the provisions of the ETS and the background materials contemplated for inclusion in the new proposal. On August 26 and 27, the Advisory Committee reconvened to consider an OSHA draft technical proposal which was prepared in advance for the Advisory Committee and simultaneously made available to the public. The Advisory Committee made its recommendations to OSHA at that time. In developing the proposed permanent standard, OSHA considered all the recommendations of the Advisory Committee in addition to public comments presented during its proceedings.

The proposed permanent standard and notice of hearings was published in the Federal Register on November 5, 1976 (41 FR 48950), with necessary corrections made on November 12, 1976 (41 FR 50008). A similar notice of hearing was issued by the U.S. Coast Guard on the same date (41 FR 48969). Public hearings on the proposal were held with the joint participation of the Coast Guard in New Orleans, La., on December 16-21, 1976, and January 10-14, 1977. A total of eighty-one individuals appeared at the hearings as witnesses. Among the witnesses were offshore and shallow water diving contractors, large corporate and small business employers, representatives from the affected workforce including divers, supervisors, and surface support personnel, diving instructors, marine scientists, experts in hyperbaric medicine, diving physiologists, equipment specialists, and other interested parties. Public participation was representative of virtually the entire diving community. The verbatim transcript of the hearings, as well as numerous comments and exhibits submitted to OSHA before, during, and after the hearings, were made part of the rulemaking record. The hearing record was originally scheduled to close on January 31, 1977, but at the request of several parties, it was kept open to February 28, 1977. Before the close of the record, OSHA met with each of the major parties represented at the hearings for the purpose of suggesting issues to be addressed in their respective written post-hearing comments.

This final standard is based on a careful consideration of the entire record in this proceeding, including materials submitted for the fact-finding hearing, materials relied on in the ETS, information submitted to and recommendations of the Advisory Committee, materials referenced in the proposal, and the record of the informal rulemaking hearing including the transcript exhibits and pre-hearing and post hearing written comments. Copies of the official list of hearing exhibits, comments, and notices of intent to appear at the hearings can be obtained from the Docket Office, Rm. S-6212, U.S. Department of Labor, Third and Constitution Avenue NW., Washington, D.C. 20210 (202-523-7894). References to exhibit or comment numbers which appear in this preamble are based on the numbering system in that list. Reference to transcript pages which appears in the preamble are based on the pagination of the certified transcript of the informal public hearings on the proposed standard for commercial diving operations.

II. Nature of the Diving Industry

Commercial divers perform a variety of underwater tasks and are engaged in diving throughout the country's coastal waters, the Outer Continental Shelf, in many of the nations' rivers and inland lakes, as well as in artificial and industrial waters. A March 1975 analysis made by NOAA indicated that there were approximately 2,300 commercial divers in the United States as of January 1973. The NOAA study estimated the diver population in the Gulf of Mexico alone to be 905 full-time and 450 part-time divers (ETS Ex. 12).

The structure of the commercial diving industry is such that approximately 90 percent of all offshore operations are conducted by 23 contractors who employ over half of the country's commercial divers. In addition, there are approximately 400 small and medium size diving companies, whose work is principally confined to relatively shallow waters in harbors and inland waterways.

Prior to 1960 almost all commercial diving in the United States was conducted in harbors and inland waterways, and consisted mainly of construction, repair and salvage work. However, within the past fifteen years, in conjunction with the national search for energy and mineral resources, new areas located in coastal waters and further offshore areas have been opened for exploration and development. Divers are utilized extensively in all phases of the offshore oil industry—exploration, construction, and production.

While the majority of inland and harbor diving occurs at depths less than 100 feet of seawater (fsw), the offshore diver works at depths which range from very shallow to 300 fsw or more, and occasionally to 500-1000 fsw. Technology is sufficiently advanced to enable diving to depths exceeding 1,000 fsw. Based on the current trend in offshore oil exploration, deeper and longer working dives can be anticipated.

III. The Diver's Work Environment

Divers are called upon to use their skills in activities such as construction, repair, salvage, scientific observation, inspection, pipe laying, and rescue operations.

Commercial diving involves exposure to a high degree of risk. The diver's work environment is inherently hazardous. Many divers are subjected to the dangers commonly associated with maritime and construction work. Their work often involves such operations as welding and the manipulation of heavy objects. In addition, many times they work in isolation for relatively long periods of time and are exposed to decompression-related injuries and illnesses.

In diving, several techniques and modes are utilized. Their appropriateness for any particular situation depends on a number of factors, including depth, time, nature of the operation to be performed, and the experience and technical capabilities of the persons involved. Each has unique operational advantages and poses special hazards.

SCUBA diving, where the divers carry their own breathing gas supply, is used primarily for inspection and search activities. Diver inwater mobility and ease of operation are its principal assets. However, the possibility of the diver's getting lost in relation to the dive location (i.e., the vessel or surface from which the dive is conducted), the limited breathing gas supply, and the usual absence of voice communications limit the usefulness of SCUBA in commercial activities and pose hazards which can largely be avoided by using the surface-supplied mode.

Surface-supplied diving is more common than SCUBA diving for commercial operations. This method involves supplying the working diver with the breathing gas, either air or mixed gas, through a hose, from a source located at the dive location. This method of supplying the diver with life support allows monitoring of the diver, who is tethered and in communication with dive location. A major safety limitation of this mode is the duration of inwater exposure. The diver working in the water is continuously subjected to temperatures, currents and other adverse factors of the work environment. In addition, if a diver is decompressed in the water, these factors are intensified by the additional exposure required by this procedure.

When a dive is particularly deep or lengthy, these inherent hazards make the use of a diving bell appropriate. A diving bell is a device which allows the diver to be transported to and from the underwater worksite in an enclosed, dry compartment. It may be pressurized (closed), or it may be unpressurized (open). With a bell, the diver, when tethered to the bell, has a shorter umbilical or life support bundle than if surface supplied, is closer to a place of refuge, and can be decompressed in the relative safety of an enclosed environment.

Mixed-gas diving is carried out with mixtures of oxygen and gases such as helium and/or nitrogen; an oxygen-helium (heliox) mixture is most commonly used. Mixed gas replaces air as the breathing mixture when the increased partial pressure of nitrogen in the compressed air becomes narcotic. Consequently, mixed gas is used during deeper and sometimes during longer dives. Mixed gas is used commercially in conjunction with surface-supplied, bell and saturation diving.

Saturation diving, in which the body tissues become saturated with inert gas, is used in situations where the diver will be exposed to hyperbaric (or high pressure) underwater conditions for long periods of time. For example, for diving depths exceeding 400 fsw with working times over two hours, saturation diving is commonly used. The advantage of saturation is that once the diver's body tissues become essentially saturated with inert gas at any given depth, no additional decompression time is needed regardless of the length of time the diver stays at that depth, because additional time spent at pressure results in little additional gas uptake. However, the saturation mode usually involves very long periods of decompression and isolation for the affected divers. This can be physiologically and, in some cases, psychologically wearing.

Liveboating is a technique in which a surface-supplied diver is supported from a vessel which is underway. This gives the diver greater mobility on the bottom for tasks such as pipeline inspection than would be possible if the diver were tethered to a fixed vessel or surface structure. Because the vessel is underway, however, liveboating poses the potential hazard of hose entanglement in the turning propellers.

Whatever the diving technique or mode used, divers must rely completely on external life-support systems while working under severe performance limitations to perform their tasks. Factors such as environmental, psychological and physiological stress, makeshift or poorly designed tools and inadequate training can further impede the diver's efforts. A close working relationship between the diver and surface support personnel must be established, and an experienced, trained person must be present and in charge of each diving operation. The dive team must be trained or experienced in the diving mode to which it is assigned and the use of the tools necessary to perform its tasks. This is especially true of divers, because many of the work tasks they perform underwater, such as burning, welding, and using explosives, are themselves hazardous. In addition, divers and others who are likely to be exposed to hyperbaric conditions and underwater exposure must by physically fit. It is essential, therefore, that a high level of training, experience, fitness, and supervision prevail for each diving operation.

In addition to having qualified personnel who are medically fit, a dive team must follow sound operating procedures to promote the diving operation's safety and efficiency. Advanced planning is essential to the proper selection of techniques and equipment which will achieve maximum safety under anticipated conditions, especially when the exact conditions to be encountered are not fully known in advance. Effective planning requires a thorough evaluation of what the diver must do to complete the job as well as anticipation of present or developing hazards. Environmental conditions often affect the choice of diving procedures and frequently determine whether diving can be carried out safely. Sea state, sea and air temperatures, weather conditions, underwater visibility and currents, and the nature of the bottom all have significant influence on diving safety, and these factors need to be evaluated prior to and throughout any diving operation.

Proper planning for emergencies and development of appropriate contingency plans are essential to the safety of all diving activities. In an emergency many forms of outside aid may be required. Careful consideration must be given to potential emergencies before any operation is undertaken, so that necessary aid may be obtained as quickly as possible. Moreover, means for emergency transportation must be considered and made available. Because the dive team's isolation can transform any accident or injury into a serious medical emergency, there is also a need for first aid training and careful advanced planning so that personnel may respond to such emergencies in a manner which reduces the likelihood of aggravated injury and illness.

Other safety precautions must be routinely incorporated into the diving operation. Examples of precautions which are necessary under certain conditions, are maintaining the diver in thermal balance, having sufficient breathing gas reserves in case of failure or depletion of the primary source of supply, and providing a standby diver to aid the working diver promptly when inwater assistance is necessary. Similarly, whenever diving outside the no-decompression time-depth limits is planned, appropriate decompression tables designed to return the diver to the surface safely must be followed. In the event that decompression sickness does develop, a decompression chamber, oxygen or treatment gas mixtures, and treatment tables and instructions must







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be readily available to treat this condition effectively.

The contribution of comprehensive instruction and effective communication to safety is not limited to emergency or contingency situations; many types of communications are vital to safe diving. Whether used to warn other vessels in the area that a diving operation is underway, to summon emergency aid, or to coordinate operations between the diver and the dive location or bell, reliable two-way communication is essential.

The equipment used in a diving operation is also critical. It must be in proper operating condition and carefully inspected prior to use in diving operations. For example, compressors must be well maintained and located away from sources of contamination locations. The safety implications of equipment failure or misuse for the diver warrant the greatest attention to equipment condition and suitability.

### IV. Physiological Hazards

Divers are particularly, and in some cases uniquely, exposed to certain kinds of physiological hazards. On any dive, a diver is exposed to such potentially harmful physical agents as pressure, breathing gas, and water. One pervasive variable is the element of depth. Increased depth means an increase in the pressure exerted on the diver's body, 1 atmosphere (14.7 pounds per square inch) for every 33 feet of depth. While every increase in pressure does not necessarily create a proportionately greater physiological risk, many diving hazards are inherently pressure-related.

In a hyperbaric environment, the increased pressure of the breathing gas forces more gas to be dissolved in the body than is the case at atmospheric pressure. Subsequent ascent to a lesser ambient pressure can cause much of this absorbed gas to come out of solution in the form of bubbles, which are the cause of decompression sickness and other diving-related disorders, either directly or indirectly. The probability of these disorders is minimized by controlling the ascent rate of the diver.

The term decompression sickness is applied to a disease which may occur as the result of a reduction in ambient pressure. The symptoms vary from mild local pain or itching of the skin to neurological effects or collapse with unconsciousness. Decompression sickness symptoms usually occur shortly after completion of a dive or other pressure exposure, or before reaching the surface from deeper dives.

Serious decompression sickness may involve permanent or residual damage to the central nervous system (CNS) or to the audio-vestibular system. Decompression sickness involving the audio-vestibular system may be manifested as partial or total hearing loss, a ringing of the ears, or a sudden severe dizziness and nausea. This type of decompression sickness occurs more often during decompression from very deep dives. Among the symptoms indicating possible CNS involvement are numbness, dizziness, nausea and vomiting, weakness, abdominal pain, visual disturbances, speech difficulty, shock and unconsciousness.

Research using ultrasonic monitoring during decompression has produced convincing evidence that some bubbles may exist during most decompressions, even in the absence of overt symptoms of decompression sickness. These bubbles may damage the linings of the blood vessels and cause changes in the blood itself. Eventually, they may also cause other subtle physiological effects on various organs of the body.

Divers as a class are also subjected to increased risk of skeletal damage. There is evidence that this damage, known as dysbaric osteonecrosis, is decompression-related, the result of gas bubbles trapped in bone tissue which cause the death of such tissue. Dysbaric osteonecrosis may appear as a benign lesion of a long bone, but a lesion situated critically at or near a joint may cause structural failure, which results in painful limitation of movement and eventual loss of joint function. At the present time, ways to prevent dysbaric osteonecrosis entirely are unknown, and it is also not possible to relate the occurrence of osteonecrosis to any particular diving exposure with certainty.

Divers are subject to other decompression-related medical problems. An example is gas embolism, the result of gas being forced into the bloodstream, which is usually caused by a diver holding the breath while ascending. This gas acts as an obstruction, or embolus, which blocks the proper flow of blood to the brain or spinal cord. Embolism causes such serious symptoms as weakness, disorientation, visual and hearing disturbances, dizziness, nausea, shock or unconsciousness; it may be fatal or result in permanent damage unless recompression is accomplished immediately. Similarly, gas may also leak into the pleural cavity or flow under the skin and collect around the heart or in the chest, and may cause collapse of a lung.

Other problems may arise if the pressure in the rigid cavities of the body are not equalized. This condition is known as barotrauma or squeeze. If the pressure imbalance is great enough, ruptured blood vessels or other tissue damage may result. This form of barotrauma most commonly affects the middle ear, but may also occur in the sinuses, teeth, or lungs. Similar effects can result from unequal pressure between the ambient environment and spaces enclosed by the mask or folds of the suit.

In addition to the hazards caused, directly or indirectly, by the increased pressure divers are also exposed to a number of hazards because they breathe compressed air or artificial gas mixtures and must rely on special equipment to furnish the gas (compressors, pressure, vessels, valves, hoses, masks, regulators, and helmets). Among the potential dangers, those associated with oxygen present the greatest hazard in diving. If the partial pressure of oxygen in the breathing mixture is too low, oxygen deficiency (hypoxia) will result; this condition can produce unconsciousness without warning, and can be fatal if not corrected. Excessive oxygen in the inspired breathing gas can cause convulsions resembling those of epilepsy; prolonged exposure to somewhat lower levels of oxygen may cause lung irritation which increases if exposure continues. In addition, excessive nitrogen in the inspired breathed gas can produce narcotic or anesthetic effects which impair the diver's cognitive function.

The possible presence of contaminants in the breathing gas is another hazard associated with diving. Several potentially harmful contaminants have been found in air supplied to divers from engine-driven air compressors. These contaminants can be picked up by a compressor intake or be produced by the compressor itself. The most significant one is carbon monoxide, which combines with the blood's hemoglobin and interferes with oxygen transport to the tissues. This can result in reduced cognitive function; if the level of carbon monoxide is high enough, death can result. Carbon dioxide, while a normal metabolite and not toxic at low levels, can cause unconsciousness and convulsion if it accumulates in a breathing system, especially during exertion. Oil mist causes coughing and nausea, and if it reaches a lung, can damage its sensitive lining and lead to the development of lung edema.

In addition, divers are exposed to the hazards inherently associated with water as a work environment, as well as those which accompany other physically demanding and stressful occupations. The normal hazards of such work are compounded by the fact that the diver is in the water, limited in mobility and visibility, working with heavy objects and sometimes restricted to a physically confining space. The possibility of serious traumatic injury is therefore always present.

### V. Summary and Explanation of the Standard

The standard applies to all diving operations conducted in connection with all types of work and employment within OSHA's jurisdiction unless specifically exempted. Because of the interrelated nature of every diving operation, it has been necessary to include requirements which address personnel qualifications and assignments, medical fitness, operational procedures, both generally and by diving mode, equipment, and recordkeeping. The approach taken has been to develop a standard which, based on the full record of this proceeding, promotes employee safety and health by providing for safe and healthful working conditions so far as possible, is technically correct, and is technologically and economically feasible. The major issues raised in the proceedings as well as the purpose and rationale of each requirement of the standard is addressed in the section-by-section discussion which follows this introduction.

No serious question has been raised covering the technological feasibility of the standard. The techniques, equipment and procedures mandated by the standard are known to and used by substantial portions of the commercial diving industry today. To the extent that there will be any difficulty in complying with the standard by the effective date, the difficulty will stem from short-term shortages of some types of equipment and not from any infeasibility of the standard. To a great extent, these possible short-term supply problems have been remedied by providing delayed effective dates in the standard for some of the equipment requirements. Based on evidence in the record and in consideration of the time period that has already elapsed since the notice of proposed rulemaking and the hearings, the standard accordingly requires employers to comply as soon as possible but in no case later than 6 months after the effective date (9 months after the publication date) with provisions where decompression chambers or bells are required and such equipment is not yet available (Tr. 174–6; Ex. 43). To the extent that even after this period all employers may not have been able to obtain the necessary equipment, the provisions for temporary variances in section 6(b)(6)(A) of the Act are appropriate and adequate to provide the relief necessary.

In considering the economic impact of the standard, OSHA has relied on its Inflationary Impact Assessment (IIA) (Ex. 27) and evidence in the record presented by professional economists, individual employers and others connected with the industry. Prior to the proposal, OSHA prepared within the time and resources available to it an IIA in accordance with Executive Order No. 11821 (39 FR 41501, November 29, 1974), OMB Circular A–107 (January 28, 1975), Secretary's Order No. 15–75 (40 FR 54484, November 24, 1975), and the U.S. Department of Labor Temporary Directive No. 1 (November 17, 1975). Based on the data collected in the IIA, OSHA was able to conclude that the proposed standard was not a "major" action which would necessitate further inflationary impact evaluation, because the threshold criteria established by the enabling orders were not exceeded.

The proposal invited information, data and comments concerning economic feasibility and inflationary impact for presentation at the hearings; and testimony was heard on the subject. A panel which was sponsored by the major industry group and which had been contracted by them to conduct a cost impact survey presented testimony challenging the methodology and conclusions of the IIA and introducing their own cost estimates of the impact of the proposed standard (Tr. 1854–1917). After the hearings, OSHA had Arthur Young & Co., its economic consultant in this matter, review this critique and a similar one by the Council on Wage and Price Stability (Ex. 127); this review was entered into the record (Ex. 128). The industry economic panel then commented upon the analysis of the OSHA economic consultant (Ex. 182). Based on the analysis of its consultant, OSHA has determined that the IIA adequately addressed the specific threshold criteria and properly concluded that they were not exceeded.

A finding of a non-major inflationary impact is not necessarily equivalent to a finding of economic feasibility, particularly when a relatively small industry is involved. OSHA has therefore considered the economic impact of this standard on the regulated industry. In assessing economic impact, only the incremental impact of the standard vis a vis current and projected industry practice is relevant; that is, only costs imposed on employers which would not otherwise be incurred can be considered. In making this determination, the agency must rely on whatever data on costs, revenues, profits, and market structure exists in the record, as well as its knowledge of current and expected industry practices. In approaching the data that has been presented, OSHA recognizes that at the time the data was collected, many of the employers surveyed either by OSHA or the industry contractor, and particularly the small business employers, had an inaccurate and often exaggerated conception of what the proposal would require (Tr. 1883, 1912); and, secondly, there was insufficient appreciation of the extent to which diving companies would already be in compliance with the standard given their standard operating procedures (Tr. 1901–12).

The IIA estimated an annualized yearly cost of $22 million for the entire industry, an estimate which was, if anything, intentionally biased on the high side because it did not take into account a report by a major contractor that there would be no significant economic impact (Ex. 27, p. III–4). This figure can be compared to the estimated total domestic revenues of less than $100 million. The industry-sponsored statistician was of the opinion that, because of the sample size used, there was a 25 percent chance that the IIA cost estimates were over or understated by as much as 30 per cent. (TR. 1861, 1889), which would place the annualized yearly cost in a range of approximately $14.7 million to $29.3 million; while the analysis of the OSHA economic consultant, after review of a survey presented by the major industry group of its membership (ETS Post-Hearing Comment 13), indicates that the IIA estimate of total domestic revenues appears warranted.

By contrast, the industry economic panel estimated the total annual cost of compliance to be $34.3 million to $40.2 million (TR. 1885). It presented no precise estimate of total revenues for the industry as a whole, but indicated that they certainly exceeded $100 million in domestic sales and $200 million in worldwide sales (TR. 1872, 1884; Ex. 182). Unfortunately, the background information for the companies it surveyed and upon which its estimates were based was not entered into the record, so that careful analysis of the conclusions presented is not possible. In addition, several individual employers who classified themselves as small businessmen performing mostly shallow-water diving testified in general terms that the economic impact of the standard would be significant on their individual firms (TR. 592, 626–31, 722–3, 1262, 1274, 1277, 1414, 1416–7, 1421–4, 1689, 1693–6), but none provided an itemized breakdown of costs or was willing to divulge revenue or profit information (Tr. 1423–4), and none was in a position to project cost impact for the industry as a whole or any particular sector. No evidence was presented on profits within the industry, either individually or industry-wide; and given the lack of publicly held corporations in the industry, no such evidence was independently available. The information provided by the industry, and over which it was uniquely in control, was therefore of limited usefulness.

Much of the substantive testimony at the hearings and in the record concerned actual industry practice and indicated that it did not differ significantly from much of the proposal; reference to such testimony is made when appropriate in the section-by-section discussion of the standard. Examination of the most common industry manual (ETS Ex. 4), which is endorsed and used by approximately half the industry and nearly all the offshore contractors, confirms this to be true.

In considering cost impact, it should also be recognized that there are differences between this standard and the proposal. For example, costs associated with first aid training and supplies, medical examinations, compressor systems, and recordkeeping should generally be lower than was true of the proposal; while there may be some increased costs with regard to standby divers, reserve breathing supplies, and decompression chambers. On the whole, however, the cost impact of the standard has probably been reduced because care has been taken to eliminate those items of the proposal identified as "liability traps;" other requirements have been modified or deleted to accord with evidence presented in the record; whenever possible to do so without compromising the safety and health of employees, it is left to the employer to seek the most cost-effective means of achieving a particular performance requirement; and close attention has been paid to recommendations from individuals with practical experience in the industry and particularly to evidence of current industry practice. Moreover, there should be no disproportionate impact on market structure, because the nature of the standard is such that the greatest cost impact of the standard will be felt by the portion of the industry best able to bear the cost, namely the larger offshore contractors who do mostly deep diving in conjunction with the oil industry and should be able to pass on much of the cost to their client industry (Ex. 128); while the cost impact on the smaller contractors who do almost exclusively shallow-water work will be correspondingly less. Finally, to the extent that temporary supply bottlenecks can be anticipated due to the initial start-up costs of compliance with







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certain capital cost requirements of the standard, the extended effective dates for these requirements should eliminate that potential short-term problem. Accordingly, OSHA is able to determine that the standard is both technically and economically feasible.

In so concluding, OSHA has, of course, also considered the benefits which will accrue from compliance with the standard in the reduction of injuries, illnesses, and fatalities and the accompanying reduction in tangible and intangible social costs. Evidence that deaths, injuries, and illnesses have occurred as a result of the hazards associated with diving is found throughout the records (ETS Exs. 34, 41, 42, 44, 45, 47, 48, 49, 50, 52; ETS Post Hearing Comments 13, 14; Exs. 17, 62, 76, 100; Comments P, Y, MM); much of the statistical information presented has been compiled in a single document by OSHA (Ex. 44B). While no dollar figure is possible, OSHA believes that the benefit to be derived from the standard is significant and serves the legislative mandate of the Act.

In addition, OSHA is able to reaffirm its determination (41 FR 48959) that the standard is not a major Federal action significantly affecting the quality of the human environment and that an environmental impact statement is therefore not required. The only potential impact that has been raised relates to its effect on the offshore oil industry. The IIA found that there would be virtually no impact on either the nation's energy supply or demand, and no impact on supplies of critical materials as a result of the standard (Ex. 27, IV–7). There was testimony by the industry economic panel that the standard could result in some marginal oil wells becoming economically infeasible and an increase in the mobilization time for the diving industry which would cause pipelines and wells needing repairs to be shut down for longer periods of time (Tr. 1869, 1871; Ex. 182). However, this assumption fails to take into account the fact that the increased costs to the diving industry compared to the economic costs of lost production, particularly when considered in light of demand for oil and the ability of the oil industry to absorb an increase in the cost of diving services, is such that no significant impact on energy supplies, and hence on the environment, can reasonably be anticipated (Ex. 128). It is also noted that the standard permits deviation from its requirements, in emergency situations, to the extent necessary to prevent major environmental damage.

1. *Scope and application* (§ *1910.401*). The standard applies wherever OSHA has statutory jurisdiction. Consequently, unless specifically excluded from the standard, diving in any natural or artificial inland body of water, as well as diving along the coasts of the United States and possessions listed in Section 4(a) of the Act, 29 U.S. 655, or within the Outer Continental Shelf surrounding them, is covered. Diving outside of the Outer Continental Shelf is not covered by this standard.

The standard applies to diving and related support operations conducted in connection with all types of work and employments over which OSHA has jurisdiction, except in cases where exclusion from the standard has been explicitly provided. For this reason, and to avoid any possible ambiguity, the standard is not only adopted as a subpart of Part 1910 of 29 CFR (general industry), but is also incorporated into Parts 1915 (ship repairing), 1916 (shipbuilding), 1917 (shipbreaking), 1918 (longshoring), and 1926 (construction). Sections 803 and 804 of 29 CFR Part 1926, which apply to compressed air and decompression in construction work, do not apply to diving operations in view of the specific provisions in Subpart T which deal with these subjects as they pertain to diving. Nor does the standard apply to agricultural operations within the meaning of Part 1928 (agriculture).

Pursuant to Section 4(b)(1) of the Act, the standard does not apply to working conditions over which other Federal agencies exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health. OSHA has been advised of the U.S. Coast Guard's intention to publish proposed regulations, within its area of jurisdiction, on commercial diving operations.

Specific exclusions have been provided where the nature of the diving operations is such that inclusion in this standard would be inappropriate, or where the safety and health of divers is governed by rules or regulations of another Federal agency. The three exclusions are: (1) Instructional diving utilizing only open-circuit compressed air SCUBA within the no-decompression limits; (2) search, rescue and related public safety diving by or under the control of a governmental agency; and (3) diving governed by to the Protection of Human Subjects regulations of the Department of Health, Education and Welfare (HEW) or equally effective rules or regulations of another Federal agency.

In addition, pursuant to Section 3(5) of the Act, employees of Federal agencies of the United States government are excluded from the jurisdiction of the standard. Instead, such employees would be protected in accordance with Section 19 of the Act under which it is the responsibility of each agency which engages in diving operations to establish and maintain an effective and comprehensive safety and health program which is consistent with this standard. Because of the nature of this standard, OSHA recognizes that certain Federal agencies such as the U.S. Coast Guard and those within the Department of Defense have unique activities and obligations which may require adjustments to this standard consistent with their diving operations.

Several parties, and the Construction Advisory Committee, have argued against any exclusions from the standards, and particularly against those which appeared in the proposal for instructional and scientific/educational divers whose operations utilized open-circuit compressed air SCUBA and were conducted within the no-decompression depth-time limits. Their reasoning was essentially that no valid distinction can be drawn between commercial diving and that performed by the excluded groups, because divers in both groups are employees, both work in the same marine environment, and both are subject to some of the same inherent hazards and physiological effects of diving. It has also been stated that SCUBA diving is at least as hazardous as surface-supplied diving (Tr. 779, 797, 1391; Ex. 35, 178 p. 81).

OSHA has concluded, however, that a valid distinction can be made between the class of SCUBA instructors and that of commercial divers, and that exclusion of SCUBA instructors, in the circumstances indicated, is warranted. The comments presented by the sport and recreational diving instruction groups provide a convincing rationale for such a distinction (Ex. 148). The diving instructor, who is an employee, is student oriented, not task oriented. The dive site is not determined by the location of a particular job as it is in commercial applications, where operations must of necessity be conducted under environmental conditions which are often adverse. The SCUBA instructor, by contrast, selects a location which is usually clear, shallow, and warm. Indeed, a swimming pool is the dive site for most SCUBA instruction. Such dives are discontinued if the slightest difficulty occurs. SCUBA instructors do not utilize construction tools, handle explosives, or use welding or burning tools. As a result of these factors, SCUBA instructors are rarely exposed to adverse sea states, temperature extremes, great depths poor visibility, or heavy work loads, some or all of which are common to the great majority of commercial diving operations.

However, OSHA recognizes that some diving techniques or conditions pose greater potential hazards than others, regardless of the purpose of the dive. Thus, this exclusion for instructional diving has been ilimited to a restricted diving range, a particular specific mode, and equipment. The exclusion from the standard applies only to instructional diving which uses open-circuit compressed air SCUBA and is conducted within the no-decompression limits. The standard defines no-decompression limits as the depth-time limits of the "no-decompression limits and repetitive dive group designation table for no-decompression air dives" of the U.S. Navy Diving Manual, or equivalent limits which the employer can demonstrate to be equally effective. No distinction per se is made between instructors of prospective sport and recreational divers and instructors of prospective commercial divers. However, by its very nature, the training for commercial divers involves diving that is surface-supplied, uses mixed gas as a breathing gas, or requires decompression; each of these factors potentially increases the hazard





of the operation. Once the instructional environment exceeds the specified limits, the standard applies. Coverage of instructors who work outside these limits protects the instructors' own health and safety, and also serves to introduce proper compliance with the standard at the formal training level.

In addition, it should be noted that individuals engaged in recreational or sport diving for their own personal enjoyment, and not otherwise related to their respective employments, are not within the jurisdiction of the Act, and therefore are outside the scope of this standard. On the other hand, SCUBA diving for a commercial rather than instructional purpose is covered by the standard, regardless of equipment or depth-time range.

The second category to be excluded from the standard is diving operations performed solely for search, rescue, or related public safety purposes by or under the control of a governmental agency. Although not in a class explicitly excluded by the proposal, OSHA has received a number of comments from persons engaged in diving which is incidental to police and public safety functions, who have urged the specific exclusion of this group from the standard (Comments J, W, AA, FF) and OSHA has concluded that such an exclusion is appropriate. The "by or under control of" language is intended to make the exclusion applicable to all divers whose purpose is to provide search, rescue, or public safety diving services under the direction and control of a governmental agency (e.g., local, state or federal government) regardless of whether or not such divers are, strictly speaking, government employees. Diving contractors who occasionally perform such services privately on an emergency basis, and who are not under the control of a governmental agency engaging their services, do not come under this exclusion. This may, however, be covered by the provision concerning application of the standard in an emergency, which is discussed below. In exempting these search and rescue operations, OSHA has determined that safety and health regulation of the police and related functions are best carried out by the individual States or their political subdivisions.

In contrast to the proposal, the category of scientific/educational diving is treated separately in the standard from SCUBA instructors because the record does not adequately support a conclusion that the work conditions and risk exposure of scientific divers differ measurably from those of commercial diving (Tr. 1769–80). They are therefore generally covered by the standard. A portion of the scientific diving community is, however, excluded from this standard. Diving operations which are governed by 45 CFR Part 46 do not come within the scope of this standard; such operations involve research and development or related scientific activities requiring human subjects and receive HEW grants or contracts. Compliance with the HEW regulations is mandatory for such employers or contractors, and the regulations are designed to promote safety and health. Similarly, any other Federal agency which adopts rules or regulations that are equally effective, i.e., similar in design, purpose, and effect to those of HEW, will come under this exemption. The exclusion is appropriate and supported in the record on the grounds that it would permit continued scientific research designed to extend the safe limits of diving physiology and technology (Tr. 1318, 1335–7). The long-term safety and health interests of divers are best served by the continuation of this research, and such diving cannot reasonably be expected to comply in every respect with a standard which is designed to reflect current operational practice.

OSHA has received numerous comments from employers whose operations are predominantly or exclusively confined to relatively shallow waters, requesting that their operations be excluded from the standard or at least be treated separately by a two-tiered standard. OSHA has determined that this would not be appropriate. First, the record indicates that shallow water divers are often subjected to many of the same hazards as the deeper water divers, and occasionally to the increased hazards of repetitive diving (Tr. 105, 748–9, 923–4, 9440–1, 1109; Ex. 178, pp. 13–16). Second, the standard is designed to reflect good operating practice, which is equally relevant to shallow water diving operations. Nevertheless, while a separate set of provisions has not been created for the shallow water diving sector, OSHA has been sensitive to the need to promulgate suitable requirements for this segment of the industry and has endeavored to provide appropriate distinctions wherever it could be done without compromising employee safety or health.

In addition to the exclusions discussed above, the emergency provision has been included in the standard because of the unique situations in which the diving industry is at times placed. Contractor comments urged "that the designated person in charge be given the discretion to take whatever action he deems necessary to cope with emergency situations requiring immediate action, so long as he takes the proper precautions to provide for safety under unusual conditions" (Ex. 178, p. 7). OSHA agrees that in such emergencies the overriding consideration should be the preservation of life and the protection of the environment. The emergency provision, which reflects these concerns, is restricted to permitting deviations from the requirements of the standard in those situations where death, serious physical harm, or major environmental damage is likely, but only to the extent that such action is immediately necessary to prevent or minimize the harm. No exemption is provided for situations where purely economic or property damage is likely, nor is the emergency waiver intended to substitute for the statutory variance procedures (sections 6(b)(6)(A), 6(b)(6)(C), 6(d), and 16 of the Act). This emergency provision anticipates the unique circumstances for which diving services are sometimes needed and thus obviates the need for a continuous OSHA variance capability to make ad hoc determinations in emergency situations, as has been recommended (Ex. 178, p. 5). Although temporarily exempt from inappropriate substantive portions of the standard in such emergency situations, the employer is required to notify the OSHA Area Office within 48 hours and, upon request of the Area Director, to submit a record of the notification, with an indication and explanation of what deviations from the standard were taken as a result of the emergency. This requirement will enable OSHA to monitor the use of this exemption.

As in all OSHA standards, the responsibility for compliance with its requirements is placed upon the employer. Throughout the proceedings, several individuals questioned why some legal responsibility could not also be placed directly upon employees, because the diver must exercise a large measure of individual responsibility and, while underwater, is to a large extent beyond the direct control of the employer/supervisor (TR. 143–4, 178, 1250–1, 1747–52). However, while the Act directs each employee to "comply with occupational safety and health standards * * * which are applicable to his own activities and conduct" (§ 5(b)), there is no mechanism under the Act by which such standards can be enforced against an employee. The legislative history (S. Rep. No. 91–1282, 91st Cong., 2d Sess. 10–11 (1970)) and case law (*Atlantic & Gulf Stevedores v. OSHRC*, 534 F.2d 541 (3rd Cir. 1976)) are clear that "final responsibility for compliance with the requirements of this act remain (sic) with the employer" and Congress did not intend to confer on the Secretary [of Labor] or the [Occupational Safety and Health] Commission the power to sanction employees, because the OSHA Act provides for "an enforcement scheme directed solely at employers."

While placing legal responsibility for compliance solely upon the employer, OSHA has carefully endeavored throughout the standard to take the realities of the diving environment into account and to make the substantive requirements, and hence the responsibility for compliance, consistent with the degree of control the employer has over particular aspects of a diving operation. Moreover, performance of particular functions for which the standard makes the employer responsible may in fact be delegated to the employer's designated person-in-charge or to other employees; however, such delegation does not dilute the employee's legal responsibility for compliance with this standard.

2. *Definitions* (§ *1910.402*). The list of definitions in the standard has been greatly reduced from that which appeared in the proposal. The purpose in providing definitions for key terms is to clarify the intent of these terms as used



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in substantive provisions of the standard. For instance, "dive location" refers only to the vessel or surface from which the diving operation is conducted, and never to the underwater site of the dive. Certain definitions which appeared in the proposal have been deleted because they were considered identical to their common, unambiguous meanings (e.g., "decompression," "exhaust valve"); others have been deleted because they no longer appear anywhere in the standard (e.g., "ascent time," "hot tapping," "PVHO"). Of the definitions which remain, many have been modified in the interest of precision and in accordance with testimony and comments received in connection with the hearings on the proposal (Tr 149–152, 188–90, 1721–3, 1936–9, 1979–85, 2006–7; Exs. 154, p. 6–9, 165, 178, p. 17–22).

3. *Personnel qualifications (§ 1910.-410).* In the diving industry, employee qualifications are critical to safety and health since lack of adequate training and experience has been one of the most frequent contributing causes to diving accidents and injuries (Tr. 781–3, 843, 921–23, 1814, 2208; Ex. 17, 44, 62, 76, 77). Employee safety and health can be maximized by establishing basic criteria for experience and training of participants in diving operations (Tr. 781, 783, 1366).

The standard specifies that all dive team members, i.e., divers and support employees involved in diving operations, including the designated person-in-charge, must have experience or training in the use of tools, equipment, systems, techniques, operations and emergency procedures which pertain to their assigned tasks and diving modes, i.e., SCUBA, surface-supplied air, or mixed gas. These required elements of experience or training are essentially unchanged from the proposal and is supported by testimony (Tr. 134). In addition, dive team members who are exposed to or control the exposure of others, to hyperbaric conditions (e.g., a chamber operator) must be trained in diving-related physics and physiology. Training in diving-related physics was specifically included at the recommendation of a hearing witness who noted that an understanding of the effects of pressure on gases is as essential to a basic understanding of diving as is knowledge of the physiological effects of diving (Tr. 134). However, under the standard's formulation, for example, a beginning tender or other dive team member who is not exposed to hyperbaric conditions nor responsible for the exposure of others will not be required to have this training.

The level of experience or training required by the standard depends upon the particular function an employee fulfills on a dive team and the diving mode to which the employee is assigned. For example, a tender employed in shallow air diving would be required to have a basic understanding of the breathing air system and the operating and emergency procedures which pertain to this mode and the equipment associated with it. A mixed-gas diver, by contrast, would be required to have a greater degree of understanding, including a working knowledge of mixed-gas equipment, such as a decompression chamber, bell and mixed-gas breathing gas supply system, the operations and emergency procedures associated with this diving mode and the equipment used with it, and an understanding of the physics and physiology of mixed gases. By allowing employee qualifications in these areas to be achieved through either field experience or classroom training, or a combination of both, the standard acknowledges industry practice, which is to train dive team members on the job, including those who are graduates of formal diving courses. Most divers begin as tenders and advance to diving status after a year or more of field experience (Tr. 606; Ex. 64Aii, Ex. 154, p. 10–19).

In addition, each dive team member must be trained in cardiopulmonary resuscitation and standard first aid. This requirement replaces the proposal's requirement that there be one person trained in advanced first aid at every dive location, and a diving paramedic (Emergency Medical Technician/Diving) at the location of certain remote or particularly deep dives. While the need for first aid training is widely recognized, there has been considerable testimony and comment that a diving paramedic (EMT/D) requirement is both inappropriate and infeasible at this time (Tr. 77, 314, 645–6, 649, 1542–45, 1792–3, 1926–7, 2060–1; Comments B, 00; Ex. 178, p. 52–5) although some testimony supported the concept in principle (Tr. 900, 901, 981–5, 1027–31). OSHA has determined that requiring all dive team members to be trained to handle basic trauma and breathing emergencies offers the broadest possible protection to the greatest number of personnel (Tr. 77, 314, 645–6, 649, 717, 901, 1158–9, 1272–3, 1545, 1654, 1733, 2113, 2214–17; Ex. 178, p. 51–2; Ocean Systems letter—3–17–77, late submission 3). An American Red Cross standard course (14 hours) or equivalent training is specified because the combination of both field experience and formal instruction, is considered the best method of gaining necessary first aid knowledge and skills. First aid and cardiopulmonary resuscitation courses of instruction meeting the requirement in the standard are offered throughout the country.

The requirement of the standard concerning job assignments is similar to that for "employee training" in the proposal. It is intended to assure that job assignments are consonant with an employee's experience and training. Dive team members may receive such training on the job when under the direct supervision of an employee already experienced in the task to be performed (Tr. 605–6, 924–5).

The requirement that no employee be exposed to hyperbaric conditions against the employee's will derives from similar provisions in the proposal (§ 1910.421(d)(2) and (e)) and is consistent with traditional and well-understood industry practice (Tr. 2107–8; Ex. 64Aiv,1.2a.2). However, notwithstanding an individual's desires, the standard anticipate that it may become necessary to prolong the diver's hyperbaric exposure to complete a decompression or treatment procedure to avoid serious or fatal consequences (Tr. 137–8, 1748–52; Ex. 178, p. 58–9).

The requirement that a dive team member not be permitted to dive or be otherwise exposed to hyperbaric conditions for the duration of any physical impairment or condition known to the employer and likely to affect adversely the safety or health of a dive team member derives from the "temporary impairment or condition" section of the proposal. Exposure with such as impairment or condition could be detrimental to the employee's health and possibly jeopardize others. However, the "known to the employer" language reflects the requirement that an employer must inquire into, and make an assessment of, the physical fitness of the dive team member before each dive. The list of specific impairments from the proposal has been deleted because these were intended to be merely illustrative, rather than all inclusive (Tr. 2186).

The standard maintains the proposal's requirement that the employer designate a person to be in charge of all aspects of the diving operation affecting the safety and health of dive team members. This requirement was supported by hearing testimony which emphasized the importance of such a person to operational safety (Tr. 143–4, 178, 1748–52, 1768–9; Ex. 178, p. 26–7). The person who fulfills this function may be either the employer or an employee who has had experience and training in the conduct of the assigned diving operation. Depending on the size of the diving operation, the designated person-in-charge may either act as a full-time supervisor or may carry out this role in conjunction with other duties at the dive location. The "affecting the safety and health of dive team members" phrase has been added to clarify that the requirement is not directed to functions which are unrelated to safety or health, such as payroll, contracting, and other management responsibilities. The standard's requirement that the designated person-in-charge be experienced and trained in the conduct of the assigned diving operation derives from testimony that such prior experience is crucial to the safety of the operation and that lack of such experience has resulted in accidents and fatalities in the past (Tr. 843–8). The proposal would have required that the designated person-in-charge be currently or formerly qualified as a commercial or military diver. This was supported by some evidence at the hearings (Tr. 819–20, 1264, 1429, 2105). However, this requirement has been deleted in favor of the general experience requirement because of testimony that it is not necessary in all cases to have been a diver to be an effective supervisor, but it is essential that the person must be experienced and familiar with the operational aspects of the work (Tr. 94–5, 207–8, 435; Ex. 178, p. 27–8).

4. *Medical requirements (1910.411).* The medical requirements of this standard are premised on the fact that diving





is basically a high-stress occupation performed under difficult environmental conditions, and that the safety of the diver and other dive team members can depend on the health of the individual diver. For this reason, OSHA considers it appropriate to require mandatory medical examinations for employees in this occupation who are, or are likely to be, exposed to hyperbaric conditions. In addition, the requirement for medical examinations implements the purposes of section 6(b)(7) of the Act to determine whether the health of such employee is adversely affected by this occupational exposure.

As in the proposal, the employer is ultimately responsible for determining whether affected dive team members are medically fit to perform assigned tasks in a safe and healthful manner. However, the decision is to be based on the best available medical opinion.

For the employer to have sufficient information on which to base that determination, the standard requires the employer to provide dive team members who are, or are likely to be, exposed to hyperbaric conditions with medical examinations at no cost to the employee. The proposal required examinations for "employees engaged as divers or otherwise subjected to hyperbaric conditions." It has been recommended to OSHA that only divers be provided with the required examinations, a recommendation which would exclude all non-diving support employees from the medical requirements (Ex. 178, pp. 23–4, 30–1). However, the standard as written reflects the view, expressed by a commercial diving physician at the hearings (Tr. 71), that any dive team member who is to be exposed to hyperbaric conditions should be medically fit beforehand. Being subjected to pressure and undergoing decompression are stresses which warrant inclusion of this group of employees in the medical requirements of the standard. For the purposes of the standard, "are, or is likely to be exposed" applies to any employee who is expected to dive, enter a decompression chamber, or be otherwise exposed to increased pressure. In addition to divers, this requirement would apply, for example, to dive team members such as tenders or designated persons-in-charge who might reasonably be expected to enter a decompression chamber to treat, or aid in the treatment of, a diver suffering from decompression sickness.

Objection has been raised to the requirement that employers bear the cost of the examinations, particularly with regard to the issue of providing an examination for transient divers hired on a temporary basis for specific jobs. Nevertheless any employer exposing employees to hyperbaric conditions, except in emergency situations, would be obligated to pay for their medical examinations unless it could be demonstrated that an equivalent medical examination were taken within the preceding 12 months. (Tr. 716–7, 926; Ex. 178, p. 30). The cost of medical examinations being borne by the employer is mandated by statute (§ 6(b)(7) of the Act) and reflects a purpose that the medical fitness of all employees is the responsibility of the employer.

There was considerable testimony about the importance of the physician's familiarity and knowledge of diving medicine (Tr. 125, 378, 1011, 1391, 1456), and OSHA believes such concerns are justified. Accordingly, it is expected that employers will seek out and engage the services of physicians who are knowledgeable in the physiological effects of hyperbaric conditions. Such an understanding is important to enable a physician to examine diving employees and to render an informed opinion as to the fitness of an employee based on an employer's indication of likely hyperbaric exposure and types of assigned work. However, no specific qualifications for the training of physicians performing the required medical examinations are prescribed, because there is no formally recognized sub-specialty of hyperbaric medicine at this time.

The requirement that medical examinations be provided at one-year intervals from the date of the initial or last equivalent examination reflects standard medical practice (Tr. 70). Since there will be a 90 day effective date for the standard, OSHA believes there will be adequate time to provide the required examinations (Comment Y). Employees hired after the effective date of this standard must be provided the examination before being assigned to tasks requiring hyperbaric exposure so that the determination of fitness can be made before exposure. As in the proposal, the standard permits an employee who has had an examination within the preceding year which is equivalent to the one required by the standard to meet the examination requirement. This will avoid unnecessary medical examinations.

The reexamination requirement after an injury or illness appeared in the proposal, but the criterion for when such a reexamination is necessary has been modified in accordance with testimony of diving physicians (Tr. 57–8, 73, 1649). The testimony recommended that hospitalization in excess of 24 hours would be proper and adequate, since it reflects current medical practice which requires patients to be hospitalized for observation for a 24-hour period in cases where the seriousness of symptoms or signs is undetermined. After the observation period, those patients whose conditions warrant hospital treatment are admitted, while those whose injuries or illnesses have resolved or are clearly minor in nature are discharged. The standard therefore requires reexamination only for that group of employees whose conditions are medically judged to warrant such hospital admittance, and further provides that the nature and extent of such reexamination be determined by the examining physician. After such a reexamination, an employee cannot be reassigned until the employer determines that the employee is fit to return to the assigned work based upon the physician's report.

The requirement that the employer provide the physician with certain basic information derives from a similar provision in the proposal, as modified by testimony (Tr. 71); this is consistent with general OSHA policy. The examining physician must be supplied with a copy of the medical requirements of the standard. In addition, the employer must provide the physician with a summary statement of the nature and extent of the hyperbaric conditions to which the dive team member will be exposed. For instance, such a statement might indicate that a chamber attendant will be exposed to a pressure equivalent to 165 fsw (6ATA), but would not be exposed to the underwater work environment. The physician must also be told by the employer what modes of diving and what types of work a diver will be performing; such a description might note that the employee will be diving in the saturation mode, which requires prolonged exposure to stressful and isolated hyperbaric conditions, or is expected to perform heavy construction work.

Each initial and annual examination must include a medical history, a diving-related work history, a basic physical examination, the tests required by Table I, and any additional tests the physician considers necessary. In contrast to the proposal, the required work history is limited to diving-related matters, because other details of work history would not be relevant except to the extent they have become a part of the medical history (Tr. 72). The proposal's requirement for "any tests deemed necessary to establish the presence or absence of any * * * disqualifying conditions" has been deleted. This was done because the intent of that provision has been met in the standard by leaving the physician the discretion to administer other tests deemed necessary by sound medical practice, because the absence of a condition cannot be definitively established, and because the specific disqualifying conditions of the proposal are no longer a mandatory part of the standard (Tr. 72, 1650; Ex. 178, p. 35–6).

The required medical tests which appear in Table I are basic examination requirements and are somewhat modified from those which appeared in the proposal. The EKG (Standard 12L) identifies certain cardiac abnormalities not detectable by auscultation (Tr. 85). A hearing test is essential because hearing degradation is common in diving and hearing is essential if the critical voice communication requirements specified in the standard are to be used effectively (Tr. 85). A visual acuity test is necessary to the extent vision may be relevant to job performance. A color blindness test is necessary because color coding is commonly used for piping and hose markings; appropriate work assignments or adjustments should be made if there is a problem in this area (Tr. 86). Blood and urine tests are important because some conditions (anemia, diabetes) can only be detected this way. Diabetes could produce unconsciousness; anemia reduces work capacity and therefore fa-



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tigue and exhaustion (Tr. 86). A white blood count is an indication of acute infection. The sickle test index tests for hemoglobinopathies. Abnormal hemoglobins produce sickling under conditions of hypoxia, which causes blockage of blood vessels throughout the body and injury to many organs and tissues (Tr. 52–3 1205); exposure to low oxygen partial pressure might precipitate a sickling crisis, which would be incapacitating underwater. The chest X-ray detects restrictive or obstructive lung disease, which is hazardous for a diver whose pulmonary function is less than normal because of stress imposed by breathing under pressure; certain chest disorders cannot be detected without an X-ray (Tr. 8[illegible]). In addition, because the physiological effects of the normal aging process begin to be detectable at about age 35, a single routine (12 lead) EKG is required at age 35 or over to establish a base-line record of heart function.

Medical tests which were required only "when medically indicated" have been deleted from the tables, since these and other relevant medical tests and procedures may be required at the discretion of the physician after consideration of the employee's work and medical history and the results of any other required tests. The requirement that all divers involved in decompression dives undergo a triennial long-bone and joint X-ray survey has been deleted from the standard because testimony on this issue was contradictory (Tr. 89–96, 72–3, 643–5, 1059–65, 1204, 106–7, 1397–9, 1651–3), and because of a reluctance to mandate a periodic X-ray procedure as a diagnostic technique where no established relationship between the procedure and effective treatment is clearly established. Similarly, the chest X-ray is required only initially; whether to require it at the annual reexamination is left to the discretion of the physician.

The report written by the examining physician has been modified from that required by the proposal to include the overall results of the examination only, rather than the test results, because they would be difficult for the employer to decipher and revealing such results could perhaps be an infringement of the employee's privacy (Tr. 1764–6). In addition to the examination results, the report must include the physician's opinion of the employee's fitness to be exposed to hyperbaric conditions, including any recommended restrictions or limitations to such exposure. The intent of this provision is that a medical condition should be disqualifying only to the extent dictated by sound medical judgment. For example, the physician might recommend that a diver with an ulcer could dive without jeopardizing the individual's or another dive team member's health or safety so long as the diver only participates in shallow air diving in a harbor or lake, where medical aid is readily accessible and the diver's decompression obligation is minimal. On the other hand, a physician would probably insist that a mixed-gas or saturation diver be in excellent medical condition before declaring such a diver fit to work in such circumstances.

The employer's decision on diving assignments must be consistent with medical opinion. Therefore, the function of the physician's medical report is to serve as a basis of the employer's determination. If the physician's opinion is that an employee is medically fit, the employer should be able to rely on that opinion and assign the employee to any task for which the employee is otherwise qualified. On the other hand, if the physician recommends a restriction or limitation on the employee's hyperbaric exposure, OSHA recognizes that both the employer and employee are put in a difficult position by the standard's requirement that employees who are medically unfit, as determined by the employer based on a mandatory medical examination, not be permitted further hyperbaric exposure. By its nature, diving demands that employees whose assignments require hyperbaric exposure be medically fit. It is recognized that certain medical conditions may be incompatible with diving; persons with these conditions who continue to be exposed jeopardize not only their own lives but may risk the lives of others as well. OSHA must also be cognizant of the employees' countervailing rights to be protected in their choice of occupation. The agency must endeavor not to create, through a health and safety standard, a situation which restricts entry into a profession or allows employees to be dismissed for a cause which is less than substantial.

The proposal provided a procedure to be used if an adverse medical opinion, based on certain mandatory disqualifying conditions, led to an employer's determination to withdraw an employee from further hyperbaric exposure. This decision gave the employee the right to obtain a second opinion from a physician chosen by the employee. If the two medical opinions rendered were in disagreement, the proposal's procedure would have required that a binding third opinion by a physician agreed upon by the first two physicians be obtained. This procedure for the determination of medical fitness was endorsed by employee interests, who believe that it provided a necessary safeguard against unwarranted disqualification. On the other hand, several objections to this procedure were raised at the hearings. First, it was said that it would result in the employment or retention of divers who were marginally fit (Tr. 58–9, 1322–4, 1698–1701; Ex. 178, p. 43). Second, it was argued that the employer, who bears the ultimate responsibility and potential liability for diver safety, should not be required to bear the cost and be bound by the opinion of a physician whom he has not consulted and in whom he may place little confidence (Tr. 76, 1322–4, 1438, 1642, 1675–6, 16999, Ex. 178, p. 44). Third, it was argued that the first examination would often be conducted by the physician who knows the employee and the particular diving and medical background better than any other physician, so that, if anything, the first opinion should carry more weight than later ones (Tr. 76–7, 1642, 1675; Ex. 178, p. 44). Finally, it was claimed that the procedure implied an unwarranted distrust of physicians and medical ethics (Tr. 75, 1700, Ex. 178, p. 45). However, these arguments do not reach the fundamental policy balance between the need for a mandatory medical examination and the employee's right to a thorough medical assessment.

A second opinion by a physician selected by the employee, provides a firmer and broader basis on which to make a determination of medical fitness. This second opinion will benefit both the employer and the employee in planning future action. Moreover, it will help protect the employee from being barred or dismissed from employment or certain job assignments on the basis of a single medical opinion which may be incomplete or inaccurate. In addition, peer review may result in the first physician reconsidering the original opinion after comparing the findings of the second physician. This requirement for a second opinion is in fact not significantly different from current medical practice, since testimony indicated that physicians often consult with other physicians whenever a difficult medical diagnosis or a critical opinion is made (Tr. 1707–8, Ex. 178, p. 44), and patients often seek a second opinion on their own. If there is a concurrence between the medical opinions, the employer must act consistent with the medical opinions.

Where there is a difference between the first and second medical opinions, it is essential to provide a third determinative medical opinion in order to balance the requirement for a mandatory medical examination with the employee's corollary right to a thorough medical assessment of potentially disqualifying, limiting or restricting conditions. The employer's assignment shall be consistent with the third physician's opinion. However, the employer and the employee are free to agree on an assignment which is consistent with any two physicians' opinions. All medical examinations are to be provided at the cost of the employer.

The proposal's list of disqualifying conditions is now included in an appendix, entitled "example of conditions which may restrict or limit exposure to hyperbaric conditions" (Appendix A) which is intended to be advisory in nature. The physician is alerted that the conditions listed may be restricting or limiting depending on severity, presence of residual effects, response to therapy, number of occurrences, and the diving mode, or degree and duration of isolation. This is in accord with testimony (Tr. 76, 685–8, 1466). The conditions listed are essentially the same as those which appeared as mandatory disqualifying conditions in the proposal. However, the appendix is not intended to be binding or exclusive, and the absence of a particular condition from the list should not be construed to mean that the physician should recommend restriction or limitation for a particular condition or inhibit the physician from recommending that a particular physical condition not included in the appendix should be cause for prohibiting or limiting further hyperbaric exposure by the employee. The standard requires that the recommended restrictions or limitations be reasonably related to the nature and extent of exposure to hyperbaric conditions.





5. *Safe practices manual* (§ *1910.420*). The requirement that the employer develop and maintain a safe practices manual is similar to a comparable provision in the proposal. Testimony supported the importance of such a document to operational diving safety (Tr. 134–5, 178, 196–97, 780–1), and indicated that it is general industry practice to have one available (Tr. 178, 196–7, 604, 1718–9, 1769–70). The requirement does reflect, however, testimony which recommended that the manual would be more manageable and useful if made specific to the particular diving modes used by the employer (Tr. 1470, 1499–1501, 1729–30; Ex. 178, p. 46–7). The requirement is also more specific as to what topics the manual must include and makes clear that the purpose of the manual is to contain the employer's policies for implementing the requirements of the OSHA standard. For this reason, a copy of the standard must be included in every safe practices manual. For each diving mode engaged in, the employer's manual shall include safety procedures and checklists for diving operations, dive team assignments and responsibilities, equipment procedures, and emergency procedures, with appropriate checklists to be used to inspect equipment and brief employees before and after each operation. The required safe practices manual is to be distinguished from an employer's operations manual in that the standard mandates inclusion only of items and procedures relating to safety and health, and not to other company policies or business matters; an employer may, however, combine operational and safety procedures in a single document.

6. *Pre-dive procedures* (§ *1910.421*). This section corresponds with, but is generally a reordering and reworking of, several sections of the proposal which appeared under the "general operations procedures" section of the proposal (§ 1910.421) and were formerly designated: (b) Emergency aid; (d) hazards to diving operations; (f) inspection of tools, equipment and operational systems; (g) diving plan; (k) diving at altitude; (l) thermal exposure; (n) underwater hazardous conditions; (o) warning display; and (s) positioning. It contains those provisions of general applicability, i.e., not specific to a particular diving mode, which must be considered and complied with before the diver enters the water.

The emergency aid requirement of the standard is essentially the same as the one in the proposal. There was broad support at the hearing for the need to maintain a list of sources of emergency aid at the dive location (Tr. 135, 904–6, 1544), as well as testimony that this is already industry practice (Tr. 1716–7). The category of "air transportation" has been replaced by "available means of transportation" in response to testimony that air transportation may not always be the most appropriate means to transport an injured diver to a medical treatment facility (Tr. 179).

The requirement for first aid supplies approved by a physician at each dive location is similar to the one in the proposal. When used in a decompression chamber or bell, the first aid kit must be suitable for use under hyperbaric conditions because certain items in a standard kit (e.g., bottles of liquids, mercury thermometers, ammonia capsules) create a hazard when subjected to high pressure use in a decompression chamber or bell (Tr. 1939, Ex. 178, p. 49). The requirement that an American Red Cross standard first aid handbook or equivalent be available is related to the level of first aid training required of dive team members, who will be able to use this as a basic and necessary reference source. The bag-type manual resuscitator with transparent mask and tubing is specified because such equipment would not always be included in a standard industrial first aid kit, but could be a life-saving aid in some breathing emergencies (Tr. 59). Unlike other types of resuscitators, the bag-type manual resuscitator, without oxygen flasks, minimizes the danger of overpressurizing the lungs and the hazard associated with the use of oxygen in chambers (Ex. 178, p. 51). A transparent mask and tubing enables the operator to determine whether the passages are clear.

The requirement for planning and assessment of the diving operation derives from the proposal's "diving plan" requirement. Task assessment and planning are closely related to the safety of a dive and central to the role of the designated person-in-charge. From the standpoint of safety and health, task assessment must include consideration of at least the factors listed in the standard. These factors are directly related to other affirmative requirements of the standard.

Examples of surface and underwater conditions which may appropriately be evaluated include not only natural conditions such as weather, water temperature, current, and bottom conditions, but surface conditions which may pose a hazard to the operation; they also include underwater hazards such as mechancial devices in the vicinity of the dive which are capable of creating strong water currents, or high intensity sonar, or electric fields created by cathodic protection. Although it is recognized that it may not always be possible to shut such devices off completely (Tr. 674–9; Comment GG), evaluation should include consideration of appropriate precautions which can be taken to inactivate the device or otherwise minimize or avoid the hazard.

The one resource essential to any diver on any dive is air or other breathing gas. Both the proposal and the standard require a reserve breathing gas supply; the planning called for in the standard should include consideration of such factors as depth and duration of dive, work load, anticipated bottom time, breathing equipment, and gas handling and reclamation capability.

Consideration of thermal protection includes protective clothing and other measures which may be necessary to keep the diver's body temperature in relative thermal balance. Both hypothermia and hyperthermia can be problems in diving. At the hearing, there was testimony that specific thermal protection requirements should be included in the standard (Tr. 80, 140, 155, 739, 755; Comments R, Y; Ex. 154, p. 27). However, because of the complexity of this subject and the indefinite state of the art, OSHA has determined that it is premature to regulate further in this area because there is no satisfactory way to specify what steps must be taken to achieve the goal of diver thermal balance in the widely varying conditions which prevail in diving operations, other than to require that thermal requirements be carefully considered before each dive (Tr. 2067–30; Ex. 177, 178, p. 68–9).

The repetitive dive designation or residual inert gas status of dive team members must be considered because each diver's residual gas obligation affects selection of the proper decompression table (Tr. 105, 748–9, 923–4, 940–1, 1109). Consideration of decompression procedures includes choosing a decompression table suited to the depth and bottom time, breathing mixture, work load, and water temperature. Altitude corrections must be applied to decompression tables, if appropriate. It is also appropriate to review all appropriate emergency procedures.

The requirement for employee briefing follows directly from the task assessment requirement and also derives from the "diving plan" requirement of the proposal. To perform their work safely, dive team members must be told in advance by the designated person-in-charge about the tasks to be undertaken, safety procedures for the diving mode, unusual hazards or environmental conditions, as well as any modifications to the safe practices manual necessitated by the specific diving operation. This is currently a widespread practice within the industry (Ex. 178, p. 62–3), and the need for pre-dive instruction of the dive team was testified to at the hearings (Tr. 138–9, 186). The dive team members must also be asked to disclose any current problems affecting physical fitness and be told the procedures for reporting physical problems or adverse physiological effects during the dive. That affirmative requirement follows from the requirement concerning temporary impairments or conditions in the personnel section of the standard. In response to other testimony, however, it is considered unnecessary and impractical to require that the briefing always be in writing (Tr. 1439–40, 1499–5101, 1735–7, 1749, 1967–8; Comment R). Rather, an oral briefing is considered sufficient to satisfy the goal served by this requirement, and



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may in fact be preferable to a written dive plan in many cases because of the greater opportunity afforded for group discussion, coordination, and interchange. In conjuction with this requirement, the safe practices manual which is a written document and generally applicable to all diving operations is to be available to dive team members at the dive location.

The equipment inspection requirement prior to each dive derives from a comparable provision in the proposal and relates directly to the equipment checklist requirement in the safe practices manual, which was the subject of testimony (Tr. 138, 180–1). It specifies that the breathing supply system including reserve breathing gas supplies, masks, helmets, thermal protection, and bell handling mechanism (when appropriate) be inspected prior to each diving operation. Items singled out for pre-dive equipment inspection are those which are critical for the safety of the dive operation; however, this list is not intended to be all inclusive. It is expected that the items of equipment included in the check list which require visual inspection will vary depending on mode and individual company policies. An issue was raised at the hearings concerning employer-provided versus employee-owned equipment and whether the diver or designated person-in-charge should be responsible for the required pre-dive equipment inspection (Tr. 138, 181, 1127–9, 1394, 1734–5, 1798–9, 2193; Ex. 178, p. 60–2). However, the standard's inspection requirement recognizes no such distinction. The employer is responsible for overall compliance and a designated person is in charge of each diving operation; how particular functions required by this standard are apportioned or delegated is the employer's responsibility, so long as the performance required by the standard is met.

The standard requires the international code flag "A" to be displayed at the dive location on structures other than vessels which are situated in areas which support marine traffic. As of July 15, 1977, a similar warning display requirement applies to all diving operations supported from vessels, pursuant to Congressional ratification of the "International Regulations for Preventing Collisions at Sea 1972, Rule 27." The further requirement that the warning display be illuminated at night is responsive to testimony (Tr. 215–7; Comment N). Other warning displays such as the American dive flag may still be flown, but not in lieu of the international code flag "A".

The requirement that diving operations be coordinated with other activities in the vicinity which are likely to interfere with the diving operation corresponds to the "hazards to diving operations" requirement of the proposal, which was generally supported in the hearings (Tr. 136, 1733). The purpose of such coordination is to make appropriate arrangements to minimize hazards to the dive team. Nearby blasting, movement of surface vessels, or movement of materials directly over the dive location would be examples of such activities. In response to testimony, the requirement has been modified to require coordination only with those activities in the vicinity which are "likely" to interfere with the diving operation, and not with all operations that "may" interfere; the warning display should be sufficient notice to such other activities to stay clear of the diving operation (Tr. 2037–8).

7. *Procedures during dive* (§ *1910.422*). The requirements in this section relate primarily to procedures which must be followed between the time the diver enters and the time the diver leaves the water.

The requirements for water entry and exit are similar to that of the proposal, although a greater measure of specificity has been introduced by requiring that the means provided be "capable of supporting the diver" and that they "extend below the water surface" when the diver is exiting (Tr. 739–41, 927, 1927). In conjunction with this modification the proposal's provision on "positioning" (formerly § 1910.421(s)) has been deleted since the concept of a stable work platform is embodied to a great extent in the final standard's requirement for a means of entry and exit which is capable of supporting the diver. In some situations, depending on sea state and other factors, a diver's entry into and exit from the water can be extremely hazardous, as evidenced from the hearing record (Tr. 849, 2203). Recommendations included requiring an open-bottom bell (Tr. 849) or a stage for all mixed-gas diving (Tr. 740). There was also testimony that the British require a skip, stage, or basket which is incapable of turning over (Tr. 2203). However, because there are a large number of possible alternatives for different operations under a variety of circumstances, precise means have not been specified (Ex. 178). As written, the requirement permits discretion, depending on sea state, diver dress, stress or fatigue, or any other factor which might affect the driver's ability to enter or exit the water safely, so long as the means provided are capable of supporting the diver. Such means might range from a stable work platform in the case of a SCUBA diver in calm water, to a ladder for a diver in a lightweight diving outfit, or a stage and winch for a diver in heavy gear who may be carrying several hundred pounds of suit and equipment and has greatly limited mobility. The latter situation relates closely to the standard's requirement for an inwater stage for heavy-gear diving as well as for mixed-gas diving, discussed below. Similarly, the provision requiring that the means for exiting the water extend below the water is a recognition that divers are often fatigued at the completion of a dive (Tr. 927). This fact, combined with the weight they carry, necessitates that whatever means are provided be easily accessible to the diver upon surfacing. This is even more critical in the case of an injured diver, for whom, the standard, like the proposal, requires a means to be provided for assistance from the water; for example, a hoist might be required to help a tender assist a disabled diver into a bell.

The requirement for an operational two-way voice communication system between each surface-supplied air or mixed-gas diver and a dive team member at the dive location or bell (when provided or required) is essentially the same as the proposal's requirement for communication between the diver and the tender, which was broadly supported at the hearings (Tr. 135, 141, 622, 719, 783, 200, 1739–40). The requirement for two-way voice communication between the bell and the dive location is also a particular application of the proposal's requirement and equally necessary to the safety of the operation. Pull signals are not considered an adequate substitute for voice communication; the only exception to this rule is SCUBA diving, where reliable voice communications are not generally an available or technologically feasible alternative (Tr. 783). The requirement for operational two-way communications at the dive location to obtain emergency assistance is essentially the same as that which appeared in the "emergency aid" requirement of the proposal. The need for this requirement was supported in the hearing record (Tr. 135, 720) and is in consonance with an existing Coast Guard requirement for vessels (Tr. 622, 720).

The requirements that appropriate decompression tables be at the dive location and a depth-time profile be made for each diver and maintained for the duration of the dive are basically the same requirements as those which appeared in the proposal's "pressure vessel for human occupancy (PVHO)" and "employer's record of dives" provisions. The tables are necessary to decompress the diver within prescribed limits or to assure that the diver remains within the no-decompression limits. Maintaining a record of the dive profile, including any breathing gas changes, enables the designated person-in-charge or the dive team member managing the decompression to determine if the diver is staying within the no-decompression limits, or is being decompressed or compressed in accordance with the planned decompression table (Tr. 1546–9). The proposal's requirement for automatic recording of time and depth for dives deeper than 190 fsw and for all mixed-gas dives has been deleted because testimony indicated that automatic recorders were unreliable for field use (Tr. 194, 1361–2, 1942–4; Ex. 178, p. 75), cannot be used to calculate a diver's decompression obligation (Tr. 1476–8, 1547; Ex. 178, p. 75), and would not increase the diver's safety (Tr. 653, 1547, 1760–1; Ex. 178, p. 75). Therefore, the required information may be recorded by whatever means and in whatever form the employer deems appropriate so long as the dive profile is maintained accurately.

The requirements for hand-held power tools are similar to those in the proposal. Requiring that hand-held electrical tools and equipment be de-energized before being placed into or retrieved from the water is a good safety





precaution against shock because a diver in the water is immersed in a conductive medium which diverts stray currents; when a tool is held out of the water by a partially immersed diver, the only path for leakage current is through the diver's body (Ex. 178, p. 92). The requirement for a constant pressure switch or control on the tool has been deleted in accordance with testimony (Ex. 178, p. 92). It is not always necessary that these tools be controlled from the dive location. There is a requirement however, that if power is supplied from the dive location, the tools not be energized until the diver requests that they be turned on. This provision assures that these tools or equipment will not be supplied with power when it is not wanted or the diver is not ready.

The welding and burning requirements are similar to those that appeared in the proposal. The requirement for a current supply switch to interrupt the current flow to the welding or burning electrode is necessary to control the power supplied to the welding equipment (Tr. 933). The tending requirement is intended to enable the tender or person-in-charge to operate the equipment and oversee the operation at all times; voice communication is essential to operations of this type because of the need for coordination between the power supply at the dive location and the diver working underwater (Ex. 12B, p. 66, 232). The switch has to be in the open position except during the actual welding so that power is not supplied to the welding or burning equipment at other times. The grounding requirement comes from the proposal and serves to protect against the hazard of shock to the diver (Ex. 12B p. 66, 232). The requirements for proper insulation and for equipment capable of carrying the maximum current are also addressed to the shock hazard (Tr. 919, 1743–4, 2019; Ex. 12B, p. 66, 231–2). Testimony supported the safety benefits of insulated gloves but it was also pointed out that employers cannot ensure that the diver underwater will wear them (Tr. 1745, 2018). The venting, flooding, or purging requirement derives from the proposal and is directed to the possibility of explosion in enclosed spaces containing flammable vapors or where such vapors may be generated by the application of hot-work and ignited (Tr. 2019; Ex. 154, p. 34; Ex. 178, p. 93–4). There have been serious accidents caused by explosives of this nature (Ex. 44B). Closed compartments, structures and pipelines already under flow, as in hot tapping operations, are flooded by definition and therefore meet this requirement.

The issue of whether or not the standard should prohibit the use of alternate current (AC) welding machines and direct current (DC) rectifiers in underwater welding was raised at the hearings. The NIOSH document (Ex. 12B, p. 231) and the National Academy of Sciences Marine Board Report, entitled Underwater Electrical Safety Practices, recommend prohibition of these machines because AC current (or AC leakage from DC rectifiers) is physiologically more hazardous than DC. However, testimony indicated that DC rectifiers and AC machines have been widely and safely used in underwater welding (Tr. 2044–9, Ex. 138, 178, p. 94–5). Post-hearing comments recommended that this issue should be investigated further because the Marine Board is at present reconsidering the matter (Ex. 46F; Comment R). OSHA has, therefore, determined that it would be premature to prohibit the use of alternating current and rectified direct current for underwater welding at this time.

The explosives requirements are similar to those in the proposal. No serious issues were raised concerning this section and consequently little testimony was presented on the subject. There was general testimony, however, concerning the hazardous nature of underwater demolition and the need for skill and knowledge in handling explosives (Tr. 903–4). The requirements of this section are addressed to the need for proper handling, storage, and use of explosives and the hazard of premature detonation when the diver is still in a position of risk.

The requirement concerning the termination of dives brings together several concepts which were explicit or implicit in the proposal. Termination refers only to the working interval of the dive; decompression procedures should not be omitted if this practice would add greatly to the diver's overall physical risk. Termination of a dive at the diver's request restates the proposal's prohibition against making a diver dive unwillingly (Tr. 137, 2107–8); it is presumed that the diver would only request termination in the event of serious difficulty. If a diver fails to respond correctly to communications or signals, the dive should be terminated because of the likelihood that something is wrong with the diver, who may be unconscious, out of breathing gas, or otherwise disabled (Tr. 844–7, 853). Requiring that the working interval be terminated when communications are lost between the diver and a dive team member at the dive location or bell (either voice or line pull, as appropriate) is a corollary to the standard's two-way communication requirement, which requires such communication during the dive. Communication is essential to supporting the diver safely. Because of the high potential for hazards to the diver in liveboating operations, a similar termination provision is included when communication is lost between the designated person-in-charge and the person controlling the vessel in these operations. Finally, the dive must be terminated when the diver begins to use the diver-carried reserve or when the dive-location rseerve breathing gas supply is reduced to an amount sufficient only to supply the divers during decompression. This follows from the proposal's reserve breathing gas supply requirements. Because the diver-carrier reserve (bail-out bottle), the manual air reserve valve (J valve) of a SCUBA cylinder and the reserve supply available in heavy-gear dress are sufficient for only 3–5 minutes depending on depth, it is imperative that the diver stop work immediately and seek refuge or another source of breathing gas. Similarly, when the dive-location reserve supply is reduced to a level which will only support the divers during decompression, the working interval must cease and the diver must begin decompression.

8. *Post-dive procedures* (§ *1910.423*). This section is concerned with procedures which must be followed after the completion of a dive. The requirement concerning post-dive precautions is similar in most respects to that of the proposal. The steps to be taken must include checking the diver's physical condition and watching for signs and symptoms of decompression sickness. This requirement applies to all divers because of tesimony that there may be sufficient inert gas in the tissues of a no-decompression diver to warrant post-dive surveillance (Tr. 322). After completion of a decompression dive, the diver must also be instructed to report any physical problems or adverse physiological effects, including symptoms of decompression sickness. Similarly, the diver must be advised of the location of an available decompression chamber. Decompression sickness symptoms may not be apparent until several hours after the dive, at which time the dive team may no longer be at the dive location. In such a situation, the diver should know exactly what to do to obtain proper treatment. Instruction on the hazards of flying after decompression diving derives from the proposal and testimony in support of the provision (Tr. 906, 1208, 1737), although omission of a time or altitude limitation reflects evidence that the state of the art in this area is not sufficiently developed to prescribe specific restrictions (Tr. 322, 1323, Ex. 178, p. 76–8). In addition, for those dives which require the presence of a decompression chamber, the diver must be instructed to remain awake and in the vicinity of the chamber for at least one hour after the dive including decompression or, if appropriate, treatment (Tr. 1104, 1472–3). These requirements are comparable to similar provisions in the proposal, and reflect a recognition that delayed decompression effects can occur, and that sleep may conceal the onset of symptoms of decompression sickness.

The requirements for decompression chambers derives from the pressure vessel for human occupancy (PVHO) section of the proposal. The acronym PVHO is a general term encompassing any pressure vessel designed to be occupied by a human being. Because of the potential confusion in using a term which is currently not used in the industry, "PVHO" has been omitted from the standard (Tr. 1485–6; Ex. 178, p 64). Pressure vessels for human occupany other than decompression chambers (e.g., closed bells and personnel transfer capsules) are not specifically addressed in this standard except in respect to their recompression capability. As defined in the standard, the term decompression chamber is used to mean any pressure vessel, whether deck



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chamber or bell/deep diving system, used for the purpose of treatment.

The standard requires a decompression chamber to be ready for use at the dive location for any dive which is outside the no-decompression limits or deeper than 100 fsw. Throughout the standard, the no-decompression limits and 100 fsw are used as a dividing line for the imposition of certain requirements which are made mandatory only outside these limits. For instance, the requirements concerning standby divers and diver-carried reserves, as well as the requirements for a decompression chamber, are based on these limits. This tiering of the standard reflects a determination that there is an increasing level of hazard associated with dives outside these limits. Decompression dives are deeper or longer than no-decompression dives, and they subject the diver to greater exposure times and increase the likelihood of diver fatigue and decompression sickness. These dives may also involve greater operational complexity. There is also a relationship between depth and increasing hazard. The diver is more frequently exposed to colder water on deep dives, and is constantly subjected to the added risks of greater pressure and pressure changes. All of these factors contribute to the increased stress associated with depth.

OSHA recognizes that decompression chambers involve relatively significant cost outlays and are sometimes cumbersome to transport, but their importance to diver safety is clear (Tr. 809, 817, 1272). Decompression chambers serve two primary functions. First they provide the only effective therapy—recompression—for decompression sickness and embolism. Second, decompression chambers are used for surface decompression, to reduce the amount of time the diver must be exposed underwater (Tr. 1272). Testimony on the issue of when to require a decompression chamber resulted in a number of alternative suggestions (Tr. 61, 181, 229–30, 239–40, 314–15, 397, 433, 598, 608–9, 720, 737, 747–8, 927–8, 969, 1645, 1941; Ex. 144, 145, 147, 154, p. 26 178, p. 65 Comment A). These ranged from a statement recognizing that a decompression chamber could be useful on all dive sites regardless of depth or conditions (Tr. 229), to a recommendation that it be required at 132 fsw if more than 30 minutes of ascent time is involved in the dive (Tr. 315). Other testimony supported the concept of a combination of time and depth as a determinant for decompression chamber availability (Tr. 61). Other specific depth-time combination recommendations included from any mixed gas dive, or dive deeper than 66 fsw decompression dive (Ex. 12B, p. 70), to 60 or 70 fsw and any decompression dive (Tr. 1941, 1972), to 120 fsw (Tr. 720). By setting a depth limit of 100 fsw in addition to the no-decompression/decompression cut-off, OSHA has attempted to weigh the conflicting evidence and has chosen the limit which had the widest support in the record (tr. 68, 181, 230, 608, 968; Ex. 154, p. 26; Comment V). By adding a depth limit to the decompression chamber requirement, the standard sets a specified depth at which all diving operations will require a chamber, eliminating the safety hazard inherent in operations which are planned below that depth to no-decompression limits without an on-site chamber, but which exceed those limits when the job is actually carried out (Ex. 178, p. 65). While it is difficult for a single rule to take into account all conditions where a decompression chamber might be needed, OSHA believes that this provision will result in recompression capability being available for the great majority of diving situations where the probability of its being needed is greatest.

Most, if not all, decompression chambers currently used in the field should already meet the 6 ATA requirement (Tr. 193). The requirement for a surface treatment capability to the maximum depth of the dive for dives exceeding 300 fsw can be met by a large-capacity deck decompression chamber, or a closed bell equipped for treatment, or a closed bell capable of mating with the chamber under pressure. A pressure capability of 6 ATA is sufficient for most decompression sickness treatment, but recompression capability to the depth of the dive is necessary for very deep dives because of the possibility of having to recompress a deep mixed-gas diver to the depth of the dive to carry out effective treatment (Tr. 192–3). If a bell or deep diving system is used as a decompression chamber, it must meet the other requirements for decompression chambers as well.

The treatment chamber must be dual-lock (two compartments) so that supplies and personnel may be transferred into and out of the main compartment (Tr. 950–1). Multiplace means that at least the main compartment must be large enough to accommodate and decompress two persons (a diver and an attendant) simultaneously (Ex. 178, p. 66). The requirement that the chamber be located within 5 minutes of the dive location is in consonance with the proposal's requirement that the chamber be "ready for use" and was supported in testimony (Tr. 738, 1091). The requirement that the chamber be located within 5 minutes of the dive location is necessary because the surface decompression tables are commonly designed to be used with equipment which meets this criterion (Tr. 193).

The requirement for a pressure gauge for each compartment capable of being pressurized follows from the dual-lock requirement and also derives from the depth gauge requirement of the proposal; it is comparable to the requirement that a depth gauge be used for each dive. A separate pressure gauge for each compartment is essential for dual-lock chambers to control pressure in each of two chambers if two divers are being treated in different locks, or if personnel have been transferred from outside and must be brought to the pressure of the inner lock (Tr. 170, 1069; Ex. 12B, 42, 178; Comment N).

The built-in-breathing-system requirement derives from the same section of the proposal, but has been made mandatory in response to testimony that all surface decompression and treatment tables in existence today are designed to use oxygen as an internal part of the decompression or treatment process (Tr. 181, 1069, 1073, 1272; Ex. 178, p. 110). The requirement for voice communication between chamber occupants and support personnel allows monitoring of a diver undergoing decompression or treatment, and is identical to the proposal's requirement. A viewport is essential so that chamber occupants can be observed when in the chamber; this provision also appeared in the proposal.

The requirement that the chambers be capable of illumination to permit observation of occupants and essential equipment is basic to the operation and tending of the chamber and its occupants from the outside (Tr. 1700, 1069).

The requirement that treatment tables, oxygen or other treatment gas, and sufficient breathing gas to pressurize the chamber during treatment be present when treatment is conducted reflects the need to treat divers with pressure-related illnesses or injuries and is based on testimony that proper and prompt treatment must be available to divers under such circumstances (Tr. 199, 1073, Ex. 178, p. 110). The requirement that a dive team member be available to operate the chamber for one hour after a dive derives from the proposal's requirement that a chamber operator be available to operate the chamber and that divers should remain in the vicinity of a chamber for one hour after completion of a dive. This provision reflects the fact that decompression sickness may occur within approximately an hour of surfacing; a chamber without a qualified operator would be of no help to a diver needing treatment and could itself pose a hazard (Tr. 1077–8).

The requirement to maintain a record of dives is similar to the one in the proposal. The hearing record indicates that keeping dive records is industry practice (Tr. 794–5, 801, 1549, 1575) and supports the need for accurate dive records (Tr. 1546–7). The main difference between this requirement and the proposal's is that certain items of information are required to be kept for all dives, and other information must be kept only for dives which are outside the no-decompression limits, deeper than 100 fsw or involve mixed gas, and others must be kept only for dives in which decompression sickness is suspected or its symptoms evidenced. Dive records are particularly relevant to accident reconstruction, determining individual diver sensitivities, and for making necessary operational adjustments in decompression procedures. The recordkeeping requirement for shallow water dives has been reduced, as recommended by evidence in the record (Comments A, B). In addition, the details of underwater and surface conditions have been modified and need only be approximate (Tr. 1757–8; Ex. 178 p. 73–4). The breathing gas profile and the residual inert gas obligation of each diver at the beginning of the dive,





in addition to the depth-time profile has been included in the list of required information for dives deeper than 100 fsw, outside the no-decompression limits, or using mixed gas to provide a complete record of the essential dive information (Tr. 1562). The approach which the standard takes toward reducing the incidence of decompression sickness is based on assessment of the past performance of tables and procedures, and consequently relies on the availability of records such as these.

Employers are required to keep accurate records of those decompression dives in which decompression sickness is suspected or symptoms are evidenced. These records are to include the depth and time of onset and description of decompression sickness symptoms, and the description and results of treatment. Many companies already keep such records (Tr. 1545–8, 1560–2) and the offshore diving industry where the impact of this provision is likely to be greatest generally recommends such a recordkeeping program (Ex. 178, p. 74–5). This requirement is in addition to the required investigation, evaluation and appropriate corrective action required in the decompression procedure assessment section.

The standard's requirements for decompression procedure assessment reflect the testimony and comments received in connection with the proposal's "decompression table assessment" section. The evidence presented by experts in the field of decompression indicated that the present state of decompression table development, performance, and verification is not sufficiently advanced to warrant inclusion of specific numerical field performance criteria of the type which appeared in the proposal (Tr. 300–303). However, the record does support a program of recordkeeping, investigation and evaluation of each incident of decompression sickness, with corrective action to be taken, after evaluation of the incident, to reduce the probability of recurrence of decompression sickness (Tr. 321, 886–7, Ex. 178, p. 89–91). The factors to be considered in the required investigation are the relevant information contained in the dive record, including such factors as work, temperature, diver's repetitive status, consideration of the past performance history of the decompression table in question, and the individual susceptibility of the diver, since these would be necessary to any investigation to determine what corrective action would be appropriate. The advantage of this approach compared to the criteria method of the proposal is that this approach requires every incident of decompression sickness to be assessed without waiting for the number of incidents to exceed a prescribed numerical ceiling (Tr. 309, 327). Because the performance criteria concept has been deleted, the need for a decompression assessment advisory committee, an idea which was explored by the panel of expert witnesses at the hearings (Tr. 328, 341), is not being pursued by OSHA at this time. However, after sufficient experience with the standard's decompression assessment provision has been gained, OSHA will seek to have the data reviewed and endeavor to reevaluate its regulatory approach in this area of concern.

The decompression procedure assessment section is designed to aid employers in the evaluation of the field performance of their decompression procedures (Tr. 311, 305). It is believed that such evaluation will lower the incidence of this occupational hazard, regardless of diving mode or current incidence, by eliminating or modifying those tables whose performance is not adequate and by revealing other procedures or conditions which may be causing decompression sickness (Tr. 307). OSHA anticipates that this requirement will result in continuing improvement in decompression tables and procedures so that divers in the field can be protected to the extent possible from the hazard of decompression sickness.

9. *SCUBA Diving* (*§ 1910.424*). The limits for SCUBA diving reflect testimony as to industry practice and procedure (Tr. 60–1, 779, 796–7, 851–2; Ex. 154, p. 30, 178, p. 80–1), and NIOSH and Navy recommendations (ETS Ex. 6, I–4–9, Ex. 12B, p. 79–82). Because the SCUBA diver has a limited breathing supply, does not generally have voice communication, and is often not monitored or controlled by surface support personnel, more stringent limits than those for surface-supplied air diving are considered appropriate to this mode (Tr. 1391, 1408). These factors have caused OSHA to limit commercial open-circuit SCUBA diving operations to depths shallower than 130 fsw. Although some testimony was presented to OSHA recommending an extension of the SCUBA depth limitation for divers using self-propulsion devices (Tr. 60; Ex. 154, p. 31, 178, p. 81), OSHA believes that the increased risks associated with the greater depths and a severely limited breathing gas supply do not justify this extension, particularly since most tasks can be more safely accomplished using other diving modes.

The standard requires a decompression chamber ready for use at depths deeper than 100 fsw or outside the no-decompression limits. No distinction between SCUBA and surface-supplied diving is made in this regard; and the reasons for the requirement are the same.

Untethered SCUBA diving, i.e., where the diver is not line-tended from the dive location, has been prohibited against currents greater than 1 knot, because divers in such situations must exert considerable effort to swim upstream, and the risk of disorientation and running out of breathing gas is a distinct hazard (Tr. 1391, 1408; ETS Ex. 6, I–4–9; Ex. 12B, p. 79–82). This requirement does not preclude work swimming with, rather than against, the current. Similarly, the requirement that a SCUBA diver not be allowed to perform work in enclosed and physically confining spaces unless line-tended has been included because of the danger of the diver's exhausting the breathing gas supply before reaching the surface in circumstances where the possible risk of temporary entrapment or disorientation is high (ETS Ex. 6, I–4–17; Ex. 62).

The procedures required for SCUBA diving include a standby diver available at the dive location while a diver is in the water. The purpose of a standby diver is to be ready to aid a diver who needs assistance in the water. This requirement for the SCUBA mode is based on a recommendation made by the diving contractors, who testified that SCUBA diving is generally not as safe as surface-supplied air diving, and that requiring a standby is an appropriate means of reducing the hazards associated with this mode (Ex. 178, p. 81).

The requirement that the diver be supported by either a diver in the water in continuous visual contact or a dive team member line-tending from the surface derives from the proposal's exception to the communications requirement for "buddy diving" in the SCUBA mode, and is a clarification of the intent of that provision. While line-tending the SCUBA diver from the dive location is considered preferable to buddy diving (Tr. 1391–2), it is recognized that the latter is an accepted practice and is relatively safe in clear and calm waters, such as should prevail when there are currents less than 1 knot. The "in continuous visual contact" restriction has been added because the safety advantage of having two divers in the water tending each other (buddy diving) is lost if this condition is not fulfilled; without visibility, divers cannot tend each other adequately (Tr. 796).

Stationing a diver at the underwater point of entry to an enclosed or confining space was a requirement of the proposal which was endorsed as industry practice in testimony, and is necessary because of the increased danger of entanglement or disorientation when diving in such circumstances (Tr. 140, 791, 822). The diver at the point of entry is required in addition to any standby diver at the dive location. Because of the configuration of many underwater structures, the diver in a physically confining space must be able to rely on immediate assistance in an emergency, particularly since in very narrow spaces, such a diver may not be able to carry an independent reserve breathing supply. This is a particularly important requirement for line-tended SCUBA diving in such circumstances because of the limited air supply.

The requirement that a diver-carried reserve breathing gas supply with either a manual reserve (J valve) or an independent reserve cylinder be provided for each diver allows alternative means of carrying a reserve breathing gas supply when diving in the SCUBA mode, such a supply is essential to the safety of the SCUBA diver (Ex. 178, p. 81). Requiring that the manual reserve valve or supply valve on the independent reserve cylinder be in the closed position prior to each dive is a safety precaution to assure that the air reserve will not be depleted inadvertently during the dive (ETS Ex. 6–5–1; Ex. 12B, p. 141).



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10. *Surface-supplied air diving* (§ *1910.425*). The surface-supplied air diving limits are the same as those which appeared in the proposal; they were generally supported by testimony (Tr. 142, 689–92; Ex. 178, p. 82). Beyond these limits air diving is considered unsafe because of nitrogen narcosis.

The standard requires that a decompression chamber be available and ready for use at the dive location for any surface-supplied air dive outside the no-decompression limits or deeper than 100 fsw; the reasons for such a requirement are the same as those discussed in connection with the requirement for recompression capability. The standard also requires the use of a bell for any dive with an inwater decompression time greater than 120 minutes, except when heavy gear is worn or diving is conducted in physically confining spaces. The 120 minute limit for bell diving, which appeared in the proposal, is now specified as "inwater" decompression time because it is time actually spent in the water which most affects the diver (Tr. 1574, 1952; Ex. 154, p. 31, 178, p. 83). The exceptions to the bell requirements have been modified to conform with testimony in the record. Heavy-gear diving with an inwater decompression time in excess of 120 minutes is permitted without a bell because this type of gear affords the diver relatively greater protection (ETS Ex. 6, I–6–1), and is too cumbersome to be used safely in conjunction with an open-bottom bell. This modification accords with the NIOSH recommendation (Ex. 12B, p. 82, 256) and with testimony (Tr. 157, 190–1, 1969, 1978). Second, the proposal's exception for "structurally enclosed dives" has been reworded as "physically confining spaces" to make it clear that the exception relates to any space whose configuration is such that use of the bell is hazardous because of the likelihood of entanglement, or infeasible because of the smallness of the space (Tr. 646, 1298, 1951; Ex. 178, p. 83). An example of such a situation would be inspection or work inside the structure of an offshore platform. No depth requirements are established for the use of a closed bell in surface-supplied air diving, because such diving is not permitted at the depths at which the standard requires closed bells to be used. The depth limits for closed bells are therefore discussed in connection with mixed-gas diving.

The requirement for each diver to be continuously tended while in the water is a basic safety practice for surface-supplied air diving. The requirement for a diver to be stationed at the underwater point of entry of an enclosed or physically confining space is included for the same reasons as stated in the discussion of SCUBA diving. The requirements that there be a primary breathing gas supply recognizes the most essential component of surface-supplied air diving. The system which provides air to the surface-supplied diver must have the capability to support all divers for the duration of the planned dive including decompression. (Ex. 12B, p. 36, 160).

Because of the generally greater hazards and complexity associated with deeper or longer dives, the standard specifies that one member of the dive team shall tend each diver in the water for dives deeper than 100 fsw or outside the no-decompression limits, because the safety of the diver could easily be compromised if the tender were also responsible for tending a second diver. This provision is supported by testimony (Tr. 925; Ex. 154, p. 24).

The requirement for a standby diver for all dives deeper than 100 fsw and outside the no-decompression limits is similar to the proposal's. The inclusion of a depth factor in this provision is another recognition by OSHA of the increasing hazard associated with increasing depth. Testimony indicated that this practice is essential to diver safety. (Tr. 610, 720, 929).

The requirement for a diver-carried reserve breathing gas supply for surface-supplied air dives deeper than 100 fsw or outside the no-decompression limits derives from a comparable section in the proposal and has been amended to accord with testimony recommending that greater specificity in this requirement would increase diver safety (Tr. 80, 141, 157; Comment R). A diver-carried reserve breathing gas supply is also required if a diver is prevented by the configuration of the dive area from directly reaching the surface, because of the greater risk of diver entrapment (Tr. 1927; Ex. 154). The diver-carried reserve required by the standard must be sufficient under standard operating conditions to allow the diver to reach the surface or another source of breathing gas, or to be reached by a standby diver. Heavy-gear diving is exempted from these provisions, because the gear itself carries its own reserve. There is also an exemption where the physical space of the dive area is such that a reserve supply cannot be carried safely.

The requirement for a dive-location reserve breathing gas supply at depths deeper than 100 fsw or outside the no-decompression limits derives from the reserve breathing gas supply section of the proposal. The supply is intended to function as a surface reserve supply. That this reserve system must be sufficient to support the divers during decompression follows from the fact that the working interval of the dive must be terminated as soon as the dive-location reserve is reduced to the amount needed to decompress any divers adequately. The working interval of a dive may continue, however, if this reserve is itself supplemented by an additional reserve supply. This requirement interrelates with the requirement for a diver-carried reserve sufficient to get the diver to a bell or other underwater place of refuge (which would have to be supplied by the dive-location system), the surface (where the diver may need a decompression chamber supplied by the dive-location system), or to support the diver while awaiting a standby diver (who must be supplied by the dive-location system) (Ex. 12B, p. 84, 259).

The requirements for an extra breathing gas hose capable of supplying breathing gas to the diver in the water and available to the standby diver at the dive location when heavy gear is worn for dives deeper than 100 fsw or outside the no-decompression limits is important because the established way to rescue the diver whose breathing gas supply has been lost is by sending a standby diver with a spare hose which is either attached to a secondary supply or contains an emergency air reserve. To be effective, the standby dive must also have the necessary tools to attach the spare hose (Tr. 868; Ex. 12B, p. 84). Similarly, an inwater stage is provided for heavy-gear diving outside these diving limits. This will limit the fatigue to which a heavy-gear diver is subject by providing a place when the diver can rest and from which a reserve breathing gas supply may be suspended (Tr. 157, 190–1, 850).

11. *Mixed-gas diving* (§ *1910.426*). Mixed gas must be used as the breathing gas for any dive which exceeds the depth and bottom time limits for surfaced-supplied air diving. This requirement is unchanged from the one in the proposal, and the need for mixed gas at least at these limits is generally recognized.

A decompression chamber is required for all mixed-gas dives because of the greater likelihood of decompression sickness associated with this diving mode (Tr. 283–4; Ex. 12B, p. 70, 238). In addition, diving bells are required for such diving below 220 fsw or if the inwater decompression time exceeds 120 minutes, and closed bells are required below 300 fsw, with exceptions made when heavy gear is worn in the 220–300 fsw and the over 120 minute inwater decompression ranges, and for diving in physically confining spaces. The basic depth limits for mixed-gas diving with a bell appeared in the proposal, and are supported in the record (Ex. 154, p. 31). There was also testimony that bells always enhance job safety (Tr. 695) and some suggestion that bells should become mandatory at depths as shallow as 165 fsw, as is required in Great Britain (ETS Ex. 7); but contrary testimony urged a limit of 350 fsw (Comment EE). While the Association of Diving Contractors manual parallels the bell limits provision in many respects, the depth-time combinations of the manual would on occasion lead to different results (Tr. 1764, 1713–14; ETS Ex. 4). Testimony in the record, however, was more concerned with discussing what appropriate exceptions to the bell requirements should be rather than taking issue with the prescribed depth limits (Ex. 178, p. 82–3). As in surface-supplied air diving, exceptions are made for heavy-gear diving and diving conducted in physically confining spaces. The exception for heavy-gear diving does not extend deeper than 300 fsw because the hazards associated with such depths are not offset by the relatively greater safety advantages of heavy gear.

It should be noted that the standard does not include the section from the proposal on limits for oxygen partial pressures, long-duration oxygen exposure, and partial pressures of nitrogen. Testimony at the hearing was opposed to the proposal's limits because such limits were too conservative (Tr. 81, 647), have not yet been definitively established (Tr. 1332, 1348–9; Ex. 178, p. 87), might interfere rather than enhance diver safety (Tr. 316, 647, 1392), and would prohibit a number of safe and successful procedures (Tr. 317, 647, 1332, 1348–9).





The procedures required for mixed-gas diving are similar to those for surface-supplied air diving and the same rationale supports them, except that no depth or time distinctions are made with regard to the requirements for a separate dive team member to tend each diver, a standby diver, and a dive-location reserve breathing gas supply. This is because mixed-gas dives are inherently complex operations. Regardless of depth or time in the water, mixed-gas diving presents a relatively greater risk than does air diving. Also, because of the cumbersomeness of the gear and the fatigue to which mixed-gas divers are subject, an inwater stage is required to be provided for all mixed-gas dives deeper than 100 fsw or outside the no-decompression limits without access to a bell and for all heavy-gear dives regardless of time or depth (Tr. 927). As a practical matter, however, most mixed-gas dives are conducted for times or at depths at which the comparable requirements would be applied if the surface-supplied air diving mode were used.

In the case of mixed-gas diving, the requirements with regard to the amount of breathing gas that must be available is particularly significant because the mixed-gas supply is fixed in quantity and must be either mixed at the dive location or brought pre-mixed. Further, these dives are likely to be longer and deeper, and the likelihood of decompression sickness is consequently greater, thus necessitating relatively longer dependence on the available breathing supply. Moreover, because the decompression chamber is generally supplied with air even though the dive itself was on mixed gas, both primary and dive-location reserve systems must include sufficient air capacity in addition to the mixed-gas supply.

12. *Liveboating* (§ *1910.427*). Liveboating is defined as the practice of supporting a surface-supplied air or mixed-gas diver from a vessel which is underway. It is considered to be one of the more hazardous divings operations because the vessel is moving and the possibility exists of the diver's hose becoming entangled in the propeller (Tr. 741–2). As in the proposal, liveboating is limited by the surface-supplied air diving limits, although mixed-gas may also be used to 220 fsw. This represents a determination that liveboating is too hazardous for greater times or depths and corresponds with the minimum time and depth limits at which use of a diving bell is required (Tr. 751, 1432; Ex. 154, p. 32). Since liveboating cannot practically or safely be conducted with a bell (Tr. 751; Ex. 178, p. 184), it is not permitted beyond these depths. There are alternative methods of accomplishing the same work tasks performed by liveboating operations (Comment EE). The limit for decompression time has been changed to "inwater decompression time," in accordance with testimony, and for the reasons stated in the discussion of the diving bell limits. The requirement that liveboating not be conducted in rough seas has been made "rough seas which significantly impede diver mobility or work function" in response to suggestions that this be specified (Tr. 750, 1144–5; Ex. 154, p. 32), the determination of rough seas is therefore directly related to their affect on the safe conduct of the operation. The prohibition on diving in other than daylight hours remains because of the excessive hazard of liveboating in the dark, when the diver and hose cannot be adequately monitored.

The procedures required for liveboating apply in addition to those for surface-supplied air or mixed-gas diving, and are necessitated by the particular characteristics and relative hazards of this technique. The standard requires that the propellers of the vessel supporting liveboating be stopped before the diver leaves the last water stop (Tr. 742). This is a necessary precaution against hose entanglement. Second, a device must be used in all liveboating operations to protect the diver's hose from accidental entanglement with the vessel's propeller. Suggestions for the necessary device ranged from a propellor shroud (Tr. 742) to a weighted fair lead system (Tr. 930–2, 1703–4), to an air tugger with a heavy weight (Tr. 1430). Some of these devices are said to interfere significantly with the vessel maneuverability and thus to increase the hazard (Ex. 178), and other testimony indicates that using a weight off the bow is ineffective (Tr. Darr). Because of the conflicting testimony and the lack of firm data as to which is the preferred method, the standard does not specify which device must be used, so long as a device or apparatus is used to minimize the hazard of hose entanglement. Third, the proposal's requirement for two-way communication has been extended to include such equipment between the designated person-in-charge at the liveboating dive location and the person controlling the vessel from which the operation is supported (Tr. 1132, 1431). This provision allows the person-in-charge instant communication with the vessel captain should an emergency such as hose entanglement occur. Finally, a standby diver must be available and a diver-carried reserve breathing gas supply must be carried during all liveboating operations in recognition of the relatively greater hazard, particularly the risk of entanglement inherently associated with this diving technique. In addition, the working interval of a liveboating operation must be terminated if communication is lost between the diver and the dive location, or between the person-in-charge and the person controlling the vessel. The general personnel requirements that each dive team member must be assigned tasks in accordance with the individual's experience and training, and that the designated person-in-charge have experience and training in the conduct of the assigned diving operation, are of particular importance in liveboating (Tr. 741, 778–9, 1134, 1952).

13. *Equipment* (*1910.430*). The equipment section provides basic requirements for equipment essential to diving operations. The general requirement that work done on or to equipment used in diving operations be recorded is similar to the "equipment log" section of the proposal. Such recording is basic safety procedure; the failure to keep records concerning such operations as equipment modification, repair, testing, calibration or maintenance service could constitute a serious hazard to the health or safety of the diver (Tr. 142–3). The standard permits either tagging or logging of the recorded information, whichever the employer finds more useful or appropriate, in accordance with testimony (Tr. 2072, Ex. 178, p. 112). Requiring the recording of the date and nature of the work performed and the name or initials of the person performing the work should provide the basic information necessary to ascertain the conditions of the equipment in question and whether or not it is in need of maintenance, testing, or replacement. The record, i.e., log or tag, must be kept until replaced by a subsequent, up-to-date record or when the equipment to which the record refers is withdrawn from service, because that is the period in which the record will be useful to the employer and employees.

The air compressor system requirements are similar to the proposals. The standard specifies that compressors must be equipped with a volume tank. The volume tank requirement is essentially the same as in the proposal, except that a drain valve has been included in the list of required items, in accordance with testimony (Tr. 977; Ex. 12B, p. 37). The check valve prevents loss of air from the volume tank if the compressor fails; the pressure gauge tells how much pressure is available, and the relief valve prevents excessive pressure buildup in the vessel. The drain valve can be used to drain water from the volume tank. The requirement that air compressor intakes located in an area away from exhaust and other contaminants is a basic and undisputed requirement designed to protect the purity of the diver's breathing air.

The air purity standards of the proposal reflect a concern with the quality of breathing air in diving operations, which was testified to by several divers (Tr. 781, 898, 1054–5, 1087–9). The contaminant levels contained in the proposal have been revised, however, in accordance with testimony and the new U.S. Navy air purity standards for divers, which indicate that 20 ppm for carbon monoxide and 1000 ppm for carbon dioxide are acceptable exposure levels for divers (Tr. 83, 317–20, 567–87 1647, 1657–59; Ex. 178, p. 106–7, Ex. 181). The proposal's hydrocarbon limit of 5 milligrams per cubic meter has been defined as oil



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mist, as recommended in testimony (Tr. 569–71; Ex. 178, p. 106–7). Where the air sample should be taken is an important factor in determining air purity (Tr. 194–5). Requiring sampling at the connection to the distribution system allows air to be monitored near where it enters the system, i.e., diver's hose or chamber. This provides a truer indication of what the diver is breathing. The exclusion from oil mist testing of air delivered by compressors which do not use oil for lubrication is in accordance with testimony that such testing is unnecessary, and the use of such non-oil lubricated compressors should be encouraged (Tr. 167; Ex. 12B, p. 161–2, Ex. 178, p. 107). The proposal's requirement that air purity be tested every 1000 hours has been deleted to respond to testimony that compressors which run frequently have fewer problems than those run intermittently (Tr. 168, 183–4, 571–2); the requirement for testing at least every six months remains and was supported by testimony (Tr. 167–8).

The requirements for breathing gas supply hoses, connections and umbilicals are similar to those in the proposal. The requirement that the hoses shall have a working pressure at least equal to the working pressure of the total breathing gas system derives from, but is more specific than, the proposal's requirement that such hoses "be capable of the required gas flow rates of the system used." The requirement for bursting pressure was in the proposal and is a basic engineering principle, while the pressure testing requirement has been reworded to better achieve the intent. (Tr. 611, 2014–5, 2075–7; Ex. 178, p. 104). A test of 1.5 times the working pressure, rather than the maximum allowable working pressure, is appropriate to determine hose strength but places less stress on the hose, since the pressure prescribed will be well within the designed pressure capability of the hose. Requiring the open ends of hoses to be taped, capped or plugged when not in use is essentially the same requirement as appeared in the proposal and is designed to prevent the entry of foreign matter into hoses. With regard to breathing gas supply hose connectors, the standard makes it clear that the connectors, like the hoses themselves, must have a working pressure at least equal to the working pressure of the hose to which they are attached. That they be "resistant to accidental disengagement" has been specified in accordance with testimony indicating that such wording establishes an achievable requirement (Tr. 163). The requirements for hose markings, kink-resistance, and calculation of working pressure in relation to depth apply specifically to breathing gas supply hoses (umbilicals) between the supply source (i.e., the drive location or a bell) and the diver, because they are not necessary for other hoses used on the surface. The requirement for markings at 10 ft. interval has been extended to 100 ft. because some decompression tables require stops deeper than 50 ft. While the hose markings should never be used as the primary means of depth measurement, they have sometimes been used as a back-up when the pneumofathometer is disconnected (Tr. 821–2, 934, 1165, 1433). The requirement for calculating the working pressure relative to the supply source is so stated because the calculation is different depending on whether the supply source is on the surface or a submerged bell under pressure. The determining factor is the pressure differential between the supply source and the diver (Tr. 162–3).

The buoyancy control requirement is similar to the proposal's "dry suits (variable volume)" requirement, but is modified in accordance with testimony (Tr. 2030–1; Ex. 178, p. 103). The purpose of requiring exhaust valves in connection with buoyancy control is to minimize the possibility of uncontrolled ascent by the diver. The requirement for a buoyancy compensator, if used in SCUBA diving, to have an inflation source separate from the breathing gas supply is related to the SCUBA reserve supply requirement and is necessary to prevent diversion of the primary or reserve supply to non-emergency use. The provision for an inflatable flotation device for SCUBA diving has been given design specifications because an improperly designed device can be a greater safety hazard than aid (ETS Ex. 6, I–4–9). Requiring the manually activated device allows for quick inflation while the oral inflation device provides for a back-up capability. The function of the exhaust valve is the same on an inflatable flotation device as on any buoyancy-changing equipment.

The requirements for compressed gas cylinders are similar to those in the proposal. Specific design, construction and maintenance criteria for such equipment are already included in an existing OSHA regulation (29 CFR §§ 1910.166–177), and the applicable provisions of that standard apply to diving operations as well. The protection cap requirement has been modified to make clear that a cap is not required when the cylinder is manifolded or when used for SCUBA diving (Tr. 2059; Ex. 178, p. 111). The requirements for protection from excessive heat and falling are designed to prevent accidental rupture of the cylinders.

Design and maintenance criteria have been included for decompression chambers in that the standard requires such chambers to be built in accordance with the ASME (American Society of Mechanical Engineers) Boiler and Pressure Vessel Code, Section VIII or an equivalent. There was testimony that other pressure vessel codes, such as Det Norske Veritas, Lloyds, and the American Bureau of Shipping, establish acceptable standards which are recognized within the industry (Tr. 320; Comment R). These would be considered equivalent codes under this standard. However, decompression chambers manufacturered prior to the effective date of the standard will be in compliance if they are maintained in conformance with the code requirements, to which they were built, or their equivalent.

The requirement for means of maintaining the oxygen concentration in the chamber atmosphere below a level of 25% by volume derives from the "installed oxygen breathing system" section of the proposal, which has been modified based on testimony (Tr. 1486–8, 1442, 1953–4). Some means to control the chamber's oxygen level is essential when oxygen is being administered by mask for treatment or in surface decompression, as a protection against fire, particularly since the mask can leak (Tr. 1791). The means employed may be a ventilation system or an overboard dump system. While no written records or oxygen analysis are required, OSHA would anticipate that the oxygen concentration would be periodically analyzed during oxygen administration (Ex. 178, p. 110–11).

The muffler requirement has been included in accordance with testimony (Tr. 170, 184, 203, 1104; Ex. 154, p. 40; Comment R). Noise suppression in the chamber is essential to protect against hearing loss and to permit communication (Ex. 12B, p. 55, 209). It is recognized, however, that noise mufflers can be a fire hazard because oil collects on them. Accordingly, they must be regularly inspected and maintained. The exhaust muffler protects hearing of personnel outside the chamber and also prevents the noise of decompression from excessive disruption of voice communications.

The requirements for guards on exhaust line openings and a means for extinguishing fire are essentially the same as appear in the proposal, and have not been the subject of comment. They are directed to the suction and fire hazards that can occur in chambers. The requirement to equip and maintain the chamber to minimize sources of ignition and combustible materials is directly addressed to the problem of chamber fires. It has been modified from the proposal in accordance with testimony that fire hazards can and must be minimized, but cannot always be eliminated entirely (Tr. 169).

The requirement of a depth gauge for all divers is essentially the same as in the proposal and follows from the need to monitor the diver's depth-time profile, which is a basic component in calculating decompression (Ex. 178, p. 75). This gauge must be readable at the dive location for all surface-supplied and mixed-gas dives, but, as in practice carried by the SCUBA diver. A pneumofathometer is not specifically required because a digital gauge may also be used. The requirement for deadweight testing or calibration against a master reference gauge every 6 months appeared in the proposal and is intended to achieve the necessary accuracy (Tr. 1545). The factor of 2% discrepancy is based on testimony (Tr. 320). A timekeeping device is also specified to effect the requirement for maintaining and recording the key times of each dive.

The requirements for masks or helmets are similar to those in the proposal. The non-return valve was specified in the proposal and is designed to prevent reverse flow of the breathing gas if the supply is cut off; this is a protection against diver squeeze. The exhaust valve





requirement is the helmet/mask equivalent to the proposal's dry suit exhaust valve; the valve is used to control buoyancy and reduce the risk of uncontrolled ascent to the surface. This is standard equipment (ETS Ex. 6, I–69, Ex. 64Aiii, 1.2e1, e2). The mask or helmet ventilation requirement for surface-supplied air diving is identical to the one appearing in the proposal, except that the standard adds a performance specification which would allow helmets or masks with lower ventilation rates to be used or developed, provided they meet the performance requirements. This modification is in accord with the testimony at the hearings (Tr. 160–2, 195–6, 204–6), and NIOSH (Ex. 12B, p. 32–33).

The requirements for oxygen safety procedures have systemwide application. The oxygen safety requirement addresses primarily the hazard of combustion, and derives from the "oxygen cleaning" and the "oxygen piping in PVHO's" requirements of the proposal. That equipment used with oxygen or mixtures containing over 40% by volume oxygen must be designed for oxygen service was testified to at the hearings (Tr. 1393). Examples of metals which are suited to oxygen service are copper, brass, and monel. Non-metal materials should have low flammability (Ex. 12B, p. 133). Structural factors such as avoiding sharp turns and edges and using slow-opening valves should also be considered in determining suitability for oxygen service. The requirement concerning cleaning for oxygen service generalizes the proposal's requirement by applying it to all components (except umbilicals) used in oxygen service, in accordance with testimony (Tr. 164). Umbilicals are excluded from the requirement because there is no agreement as to how they should be cleaned and this is not current industry practice (Tr. 164). The standard does not specify which cleaning agents should or should not be used, because of lack of a generally recognized preferred method, and because many effective agents can be used. It should be noted, however, that NIOSH recommends that trichloroethylene, a non-fluorinated chlorinated hydrocarbon, should not be used because of potentially toxic effects of the solvent and its breakdown products; tri-sodium phosphate, trichlorotrifluoroethane and non-ionic detergents are considered acceptable agents, while use of ultrasonic cleaning devices facilitates quick and effective cleaning (Ex. 12B, p. 63).

The requirement for slow-opening shut-off valves in high-pressure systems also addresses the hazard of combustion. It is intended to prohibit the use of a ball valve or other quick-opening valve because quick-opening valves allow a rapid buildup of pressure, and therefore heat, in the piping system. If any hydrocarbons are present in such a situation, combustion may result. It is not meant to apply to hull-stop valves, which are open under normal operating conditions. Compressed air systems over 500 psig are included in this requirement because a similar combustion hazard exists in high-pressure air systems.

The weights and harnesses requirements derive from similar provisions in the proposal. The weight belt or assembly requirement its intended to permit weight assemblies, such as weights carried in pockets, to be used; this is preferable to specifying only belts. In accordance with the proposal and testimony, the standard requires the weights to be quick release, but does not specify that the quick release must be "simple" (Tr. 141, 152, 423, 1949; Ex. 178, p. 80). The harness requirement exempts SCUBA diving in addition to heavy-gear diving, since harnesses are not used or needed in these situations. The harness requirement has been modified in accordance with testimony that the harness does not have to be "separate" (Ex. 178, p. 82). No testimony was presented against the positive buckling device requirement, which remains from the proposal. The attachment and lifting point requirements have been modified slightly to achieve the intent both of preventing strain on the mask or helmet and distributing the force over the diver's body.

14. *Recordkeeping requirement (§ 1910.440).* The recordkeeping requirements of the standard are consistent with general OSHA policy concerning the recording, reporting, and availability of records. Part 1904 of 29 CFR is the basic OSHA regulation on the recording and reporting of occupational injuries and illnesses. Reference to 29 CFR Part 1904 is included in the final standard, as in the proposal, to remove any uncertainty as to its applicability. In addition, employers are required to record the occurrence of any diving-related injury or illness which requires hospitalization of 24 hours or more. Because of the relatively small size of the diving population and of individual diving operations, reports of fatalities or five or more hospitalizations, as required by 29 CFR Part 1904, may leave unrecorded a substantial proprortion of diving accidents. Requiring a record of hospitalizations of 24 hours or more will preserve information which can provide a more complete indication of the incidence of disease and injuries in the diving industry. The 24-hour hospitalization period has been used for the same reasons that have been discussed in relation to the reexamination after injury or illness requirement; again, this represents a modification of the 72-hour hospitalization or 5 days' treatment by a doctor criteria which appeared in the proposal.

In addition to recording and reporting of occupational injuries and illnesses there are other documents or reports which the standard requires. These are:

(1) Notification of deviations from the standard in an emergency situation and a written submission of the same upon request of the Area Director (§ 1910.401 (c));

(2) Physician's written report to the employer (§ 1910.411(e));

(3) Safe practices manual (§ 1910.420 (b));

(4) List of emergency aid (§ 1910.421 (b));

(5) Record of each dive (§ 1910.423 (d));

(6) Written evaluation of the decompression procedures assessment (§ 1910.-423(e)); and

(7) Tagging or logging of equipment procedures (§ 1910.430(a)). The rationale and record support for each of these documentation requirements have already been discussed in the order in which they appear in the standard.

The requirement to make records available to OSHA officials and to retain records required by the standard for varying periods depending on the type of record, remains from the proposal. Records which contain essential medical information, including dive team medical records, records of dives when there has been an incident of decompression sickness, decompression procedures assessment evaluations, and records of hospitalizations, are required to be kept for 5 years. This is consistent with the retention period for occupational illnesses and injuries reports required by 29 CFR Part 1904. The five year retention period is considered an appropriate time period in which employers must maintain the data from which the safety and health problem of diving can later be studied. After a record has been retained five years by the employer, the records must be forwarded to the National Institute for Occupational Safety and Health, which, under Section 20 and 22 of the Act, is authorized to conduct research, experiments, and demonstrations relating to occupational safety and health.

Depth-time profiles are required to be kept until completion of the recording of dive or, if appropriate, a decompression procedure assessment. A separate record of the profile information is not needed at that point. Records of dives, when there has been no incident of decompression sickness, must be retained for a year for OSHA enforcement purposes; they may also be used for research or study by NIOSH or OSHA. The safe practice manual and equipment records must be current because they serve only an operational function for which no historical record is necessary.

In addition, the standard provides for the availability of any record which pertains directly to the employee for inspection and copying by employees, former employees or their authorized representatives. This reflects a statutory provision in section 8(c)(3) of the Act that employees have a right to know their work exposures and medical status. A provision which requires successor employers to keep dive and employee medical records and the forwarding of records of the type required to be kept for 5 years to NIOSH in the event that an employer ceases to do business and there is no successor, has been included so that such records will be preserved for at least the required retention period.

In developing these requirements, OSHA has endeavored to require recordkeeping to the extent which is minimally necessary from the standpoint of safety



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and health. On the whole, the requirements should be less burdensome for the shallow water employer, because the safe practices manual will be less complex, less information is required to be kept for each dive, and the need to assess an incident of decompression sickness should not arise in these operations.

Moreover, the recordkeeping requirements have been simplified in other respects from the proposal. First, as has been discussed, there is no requirement for automatic recording of time-depth profiles, and no need to maintain complicated statistical data in order to satisfy specified performance criteria for decompression sickness. Secondly, the requirement for a diver's log has been deleted. OSHA believes that since the log would, by its nature, have to be maintained by the employee, it would be difficult and unrealistic to enforce against the employer. Testimony at the hearings maintained that employers would not be willing to rely on the diver's log to verify an employee's diving-related work history or experience (Tr. 1522–7), that employer logkeeping placed an unnecessary burden on both employer and employee (Tr. 1478–81, 1711–2, 1753–6; Ex. 178, p. 78), and that such a log could not be used as a substitute for an accurate and complete diving-related medical history for each diver (Tr. 1478–81, 1522–7). OSHA encourages divers to maintain logs for their own personal use, but the agency has determined that the essential information required by this section of the proposal can best be obtained and maintained in the form of accurate dive and medical records, such as those required by the standard.

### VI. Legal Authority

This standard is promulgated pursuant to sections 6(b), 6(c), and 8(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593, 1596, 1599; 29 U.S.C. 655, 657), Secretary of Labor's Order No. 8–76 (41 FR 25059), and Title 29, Code of Federal Regulations (CFR) Part 1911. By that authority, Part 1910 of 29 CFR is amended by adding a new permanent occupational safety and health standard for commercial diving operations as Subpart T, §§ 1910.401–1910.441. In addition, pursuant to the above authority and section 41 of the Longshoremen's and Harbor Workers' Compensation Act, as amended (44 Stat. 1444; 33 U.S.C. 941) and section 107 of the Contract Work Hours and Safety Standards Act (the Construction Safety Act) (83 Stat. 96; 40 U.S.C. 333), Parts 1915, 1916, 1917, 1918, and 1926 of 29 CFR are amended by adding to those Parts references to the new standard for commercial diving operations to clarify the applicability of this standard to diving operations conducted in the maritime and construction industries. A conforming amendment is also made to 29 CFR 1928.21(b), to include this Subpart T of Part 1910 among the general industry standards not applicable to agriculture.

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–2315, Washington, D.C. (202–523–9261).

Signed at Washington, D.C., this 15th day of July 1977.

Eula Bingham,
*Assistant Secretary of Labor.*

## PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Part 1910 of Title 29 of the Code of Federal Regulations is amended by adding a new subpart T to read as follows:

### Subpart T—Commercial Diving Operations


General

1910.401 Scope and application.
1910.402 Definitions.

Personnel Requirements

1910.410 Qualifications of dive team.
1910.411 Medical requirements.

General Operations Procedures

1910.420 Safe practice manual.
1910.421 Pre-dive procedures.
1910.422 Procedures during dive.
1910.423 Post-dive procedures.

Specific Operations Procedures

1910.424 SCUBA diving.
1910.425 Surface-supplied air diving.
1910.426 Mixed-gas diving.
1910.427 Liveboating.

Equipment Procedures and Requirements

1910.430 Equipment.

Recordkeeping

1910.440 Recordkeeping requirements.
1910.441 Effective date.

Appendix

Appendix A: Examples of Conditions Which May Restrict or Limit Exposure to Hyperbaric Conditions.


Authority: Sec. 6, 8, 84 Stat. 1593, 1596, 1599 (29 U.S.C. 655, 657); Secretary of Labor's Order 8–76 (41 FR 25059); 29 CFR Part 1911; sec. 41, 44 Stat. (33 U.S.C. 941); sec. 107, 83 Stat. 96 (40 U.S.C. 333).

### Subpart T—Commercial Diving Operations

#### General

#### § 1910.401 Scope and application.

(a) *Scope.* (1) This subpart (standard) applies to every place of employment within the waters of the United States, or within any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, Wake Island, Johnston Island, the Canal Zone, or within the Outer Continental Shelf lands as defined in the Outer Continental Shelf Lands Act (67 Stat. 462, 43 U.S.C. 1331), where diving and related support operations are performed.

(2) This standard applies to diving and related support operations conducted in connection with all types of work and employments, including general industry, construction, ship repairing, shipbuilding, shipbreaking and longshoring. However, this standard does not apply to any diving operation:

(i) Performed solely for instructional purposes, using open-circuit, compressed-air SCUBA and conducted within the no-decompression limits;

(ii) Performed solely for search, rescue, or related public safety purposes by or under the control of a governmental agency; or

(iii) Governed by 45 CFR Part 46 (Protection of Human Subjects, U.S. Department of Health, Education, and Welfare) or equivalent rules or regulations established by another federal agency, which regulate research, development, or related purposes involving human subjects.

(b) *Application in emergencies.* An employer may deviate from the requirements of this standard to the extent necessary to prevent or minimize a situation which is likely to cause death, serious physical harm, or major environmental damage, provided that the employer:

(1) Notifies the Area Director, Occupational Safety and Health Administration within 48 hours of the onset of the emergency situation indicating the nature of the emergency and extent of the deviation from the prescribed regulations; and

(2) Upon request from the Area Director, submits such information in writing.

(c) *Employer obligation.* The employer shall be responsible for compliance with:

(1) All provisions of this standard of general applicability; and

(2) All requirements pertaining to specific diving modes to the extent diving operations in such modes are conducted.

#### § 1910.402 Definitions.

As used in this standard, the listed terms are defined as follows:

"Acfm": Actual cubic feet per minute.

"ASME Code or equivalent": ASME (American Society of Mechanical Engineers) Boiler and Pressure Vessel Code, Section VIII, or an equivalent code which the employer can demonstrate to be equally effective.

"ATA": Atmosphere absolute.

"Bell": An enclosed compartment, pressurized (closed bell) or unpressurized (open bell), which allows the diver to be transported to and from the underwater work area and which may be used as a temporary refuge during diving operations.

"Bottom time": The total elapsed time measured in minutes from the time when the diver leaves the surface in descent to the time that the diver begins ascent.

"Bursting pressure": The pressure at which a pressure containment device would fail structurally.

"Cylinder": A pressure vessel for the storage of gases.

"Decompression chamber": A pressure vessel for human occupancy such as a surface decompression chamber, closed bell, or deep diving system used to decompress divers and to treat decompression sickness.

"Decompression sickness": A condition with a variety of symptoms which





may result from gas or bubbles in the tissues of divers after pressure reduction.

"Decompression table": A profile or set of profiles of depth-time relationships for ascent rates and breathing mixtures to be followed after a specific depth-time exposure or exposures.

"Dive location": A surface or vessel from which a diving operation is conducted.

"Dive-location reserve breathing gas": A supply system of air or mixed-gas (as appropriate) at the dive location which is independent of the primary supply system and sufficient to support divers during the planned decompression

"Dive team": Divers and support employees involved in a diving operation, including the designated person-in-charge.

"Diver": An employee working in water using underwater apparatus which supplies compressed breathing gas at the ambient pressure.

"Diver-carried reserve breathing gas": A diver-carried supply of air or mixed gas (as appropriate) sufficient under standard operating conditions to allow the diver to reach the surface, or another source of breathing gas, or to be reached by a standby diver.

"Diving mode": A type of diving requiring specific equipment, procedures and techniques (SCUBA, surface-supplied air, or mixed gas).

"Fsw": Feet of seawater (or equivalent static pressure head).

"Heavy gear": Diver-worn deep-sea dress including helmet, breastplate, dry suit, and weighted shoes.

"Hyperbaric conditions": Pressure conditions in excess of surface pressure.

"Inwater stage": A suspended underwater platform which supports a diver in the water.

"Liveboating": The practice of supporting a surfaced-supplied air or mixed gas diver from a vessel which is underway.

"Mixed-gas diving": A diving mode in which the diver is supplied in the water with a breathing gas other than air.

"No-decompression limits": The depth-time limits of the "no-decompression limits and repetitive dive group designation table for no-decompression air dives", U.S. Navy Diving Manual or equivalent limits which the employer can demonstrate to be equally effective.

"Psi(g)": Pounds per square inch (gauge).

"SCUBA diving": A diving mode independent of surface supply in which the diver uses open circuit self-contained underwater breathing apparatus.

"Standby diver": A diver at the dive location available to assist a diver in the water.

"Surface-supplied air diving": A diving mode in which the diver in the water is supplied from the dive location with compressed air for breathing.

"Treatment table": A depth-time and breathing gas profile designed to treat decompression sickness.

"Umbilical": The composite hose bundle between a dive location and a diver or bell, or between a diver and a bell, which supplies the diver or bell with breathing gas, communications, power, or heat as appropriate to the diving mode or conditions, and includes a safety line between the diver and the dive location.

"Volume tank": A pressure vessel connected to the outlet of a compressor and used as an air reservoir.

"Working pressure": The maximum pressure to which a pressure containment device may be exposed under standard operating conditions.

#### Personnel Requirements

#### § 1910.410 Qualifications of dive team.

(a) *General.* (1) Each dive team member shall have the experience or training necessary to perform assigned tasks in a safe and healthful manner.

(2) Each dive team member shall have experience or training in the following:

(i) The use of tools, equipment and systems relevant to assigned tasks;

(ii) Techniques of the assigned diving mode; and

(iii) Diving operations and emergency procedures.

(3) All dive team members shall be trained in cardiopulmonary resuscitation and first aid (American Red Cross standard course or equivalent).

(4) Dive team members who are exposed to or control the exposure of others to hyperbaric conditions shall be trained in diving-related physics and physiology.

(b) *Assignments.* (1) Each dive team member shall be assigned tasks in accordance with the employee's experience or training, except that limited additional tasks may be assigned to an employee undergoing training provided that these tasks are performed under the direct supervision of an experienced dive team member.

(2) The employer shall not require a dive team member to be exposed to hyperbaric conditions against the employee's will, except when necessary to complete decompression or treatment procedures.

(3) The employer shall not permit a dive team member to dive or be otherwise exposed to hyperbaric conditions for the duration of any temporary physical impairment or condition which is known to the employer and is likely to affect adversely the safety or health of a dive team member.

(c) *Designated person-in-charge.* (1) The employer or an employee designated by the employer shall be at the dive location in charge of all aspects of the diving operation affecting the safety and health of dive team members.

(2) The designated person-in-charge shall have experience and training in the conduct of the assigned diving operation.

#### § 1910.411 Medical requirements.

(a) *General.* (1) The employer shall determine that dive team members who are, or are likely to be, exposed to hyperbaric conditions are medically fit to perform assigned tasks in a safe and healthful manner.

(2) The employer shall provide each dive team member who is, or is likely to be, exposed to hyperbaric conditions with all medical examinations required by this standard.

(3) All medical examinations required by this standard shall be performed by, or under the direction of, a physician at no cost to the employee.

(b) *Frequency of medical examinations.* Medical examinations shall be provided:

(1) Prior to initial hyperbaric exposure with the employer, unless an equivalent medical examination has been given within the preceding 12 months and the employer has obtained the results of the examination and an opinion from the examining physician of the employee's medical fitness to dive or to be otherwise exposed to hyperbaric conditions;

(2) At one year intervals from the date of initial examination or last equivalent examination; and

(3) After an injury or illness requiring hospitalization of more than twenty-four (24) hours.

(c) *Information provided to examining physician.* The employer shall provide the following information to the examining physician:

(1) A copy of the medical requirements of this standard; and

(2) A summary of the nature and extent of hyperbaric conditions to which the dive team member will be exposed, including diving modes and types of work to be assigned.

(d) *Content of medical examinations.* (1) Medical examinations conducted initially and annually shall consist of the following:

(i) Medical history;

(ii) Diving-related work history;

(iii) Basic physical examination;

(iv) The tests required by Table 1; and

(v) Any additional tests the physician considers necessary.

(2) Medical examinations conducted after an injury or illness requiring hospitalization of more than 24 hours shall be appropriate to the nature and extent of the injury or illness as determined by the examining physician.

Table I.—*Tests for diving medical examination*

| Test | Initial examination | Annual reexamination |
|---|---|---|
| Chest X-ray | X | |
| Visual acuity | X | X |
| Color blindness | X | |
| EKG: standard 12L[1] | | |
| Hearing test | X | X |
| Hematocrit or hemoglobin | X | X |
| Sickle cell index | X | |
| White blood count | X | X |
| Urinalysis | X | X |

[1] To be given to the employee once, at age 35 or over.

(e) *Physician's written report.* (1) After any medical examination required by this standard, the employer shall obtain a written report prepared by the examining physician containing:



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(i) The results of the medical examination; and

(ii) The examining physician's opinion of the employee's fitness to be exposed to hyperbaric conditions, including any recommended restrictions or limitations to such exposure (see Appendix B).

(2) The employer shall provide the employee with a copy of the physician's written report.

(f) *Determination of employee fitness.* (1) The employer shall determine the extent and nature of the dive team member's fitness to engage in diving or be otherwise exposed to hyperbaric conditions consistent with the recommendations in the examining physician's report.

(2) If the examining physician has recommended a restriction or limitation on the dive team member's exposure to hyperbaric conditions, and the affected employee does not concur, a second physician selected by the employee shall render a medical opinion on the nature and extent of the restriction or limitation, if any.

(3) If the recommendation of the second opinion differs from that of the examining (first) physician, and if the employer and employee are unable to agree on the nature and extent of the restriction or limitation, an opinion from a third physician selected by the first two physicians shall be obtained. The employer's determination of the dive team member's fitness shall be consistent with the medical opinion of the third physician, unless the employer and employee reach an agreement which is otherwise consistent with the recommendation or opinion of at least two of the physicians involved.

(4) Nothing in this procedure shall be construed to prohibit either a dive team member from accepting, or an employer from offering, an assignment which is otherwise consistent with at least one medical opinion while a final determination on the employee's fitness is pending.

GENERAL OPERATIONS PROCEDURES

**§ 1910.420 Safe practices manual.**

(a) *General.* The employer shall develop and maintain a safe practices manual which shall be made available at the dive location to each dive team member.

(b) *Contents.* (1) The safe practices manual shall contain a copy of this standard and the employer's policies for implementing the requirements of this standard.

(2) For each diving mode engaged in, the safe practices manual shall include:

(i) Safety procedures and checklists for diving operations;

(ii) Assignments and responsibilities of the dive team members;

(iii) Equipment procedures and checklists; and

(iv) Emergency procedures for fire, equipment failure, adverse environmental conditions, and medical illness and injury.

**§ 1910.421 Pre-dive procedures.**

(a) *General.* The employer shall comply with the following requirements prior to each diving operation, unless otherwise specified.

(b) *Emergency aid.* A list shall be kept at the dive location of the telephone or call numbers of the following:

(1) An operational decompression chamber (if not at the dive location);

(2) Accessible hospitals;

(3) Available physicians;

(4) Available means of transportation; and

(5) The nearest U.S. Coast Guard Rescue Coordination Center.

(c) *First aid supplies.* (1) A first aid kit appropriate for the diving operation and approved by a physician shall be available at the dive location.

(2) When used in a decompression chamber or bell, the first aid kit shall be suitable for use under hyperbaric conditions.

(3) In addition to any other first aid supplies, an American Red Cross standard first aid handbook or equivalent, and a bag-type manual resuscitator with transparent mask and tubing shall be available at the dive location.

(d) *Planning and assessment.* Planning of a diving operation shall include an assessment of the safety and health aspects of the following:

(1) Diving mode;

(2) Surface and underwater conditions and hazards;

(3) Breathing gas supply (including reserves);

(4) Thermal protection;

(5) Diving equipment and systems;

(6) Dive team assignments and physical fitness of dive team members (including any impairment known to the employer);

(7) Repetitive dive designation or residual inert gas status of dive team members;

(8) Decompression and treatment procedures (including altitude corrections); and

(9) Emergency procedures.

(e) *Hazardous activities.* To minimize hazards to the dive team, diving operations shall be coordinated with other activities in the vicinity which are likely to interfere with the diving operation.

(f) *Employee briefing.* (1) Dive team members shall be briefed on:

(i) The tasks to be undertaken;

(ii) Safety procedures for the diving mode;

(iii) Any unusual hazards or environmental conditions likely to affect the safety of the diving operation; and

(iv) Any modifications to operating procedures necessitated by the specific diving operation.

(2) Prior to making individual dive team member assignments, the employer shall inquire into the dive team member's current state of physical fitness, and indicate to the dive team member the procedure for reporting physical problems or adverse physiological effects during and after the dive.

(g) *Equipment inspection.* The breathing gas supply system including reserve breathing gas supplies, masks, helmets, thermal protection, and bell handling mechanism (when appropriate) shall be inspected prior to each dive.

(h) *Warning signal.* When diving from surfaces other than vessels in areas capable of supporting marine traffic, a rigid replica of the international code flag "A" at least one meter in height shall be displayed at the dive location in a manner which allows all-round visibility, and shall be illuminated during night diving operations.

**§ 1910.422 Procedures during dive.**

(a) *General.* The employer shall comply with the following requirements which are applicable to each diving operation unless otherwise specfied.

(b) *Water entry and exit.* (1) A means capable of supporting the diver shall be provided for entering and exiting the water.

(2) The means provided for exiting the water shall extend below the water surface.

(3) A means shall be provided to assist an injured diver from the water or into a bell.

(c) *Communications.* (1) An operational two-way voice communication system shall be used between:

(i) Each surface-supplied air or mixed-gas diver and a dive team member at the dive location or bell (when provided or required); and

(ii) The bell and the dive location.

(2) An operational, two-way communication system shall be available at the dive location to obtain emergency assistance.

(d) *Decompression tables.* Decompression, repetitive, and no-decompression tables (as appropriate) shall be at the dive location.

(e) *Dive profiles.* A depth-time profile, including when appropriate any breathing gas changes, shall be maintained for each diver during the dive including decompression.

(f) *Hand-held power tools and equipment.* (1) Hand-held electrical tools and equipment shall be de-energized before being placed into or retrieved from the water.

(2) Hand-held power tools shall not be supplied with power from the dive location until requested by the diver.

(g) *Welding and burning.* (1) A current supply switch to interrupt the current flow to the welding or burning electrode shall be:

(i) Tended by a dive team member in voice communication with the diver performing the welding or burning; and

(ii) Kept in the open position except when the diver is welding or burning.

(2) The welding machine frame shall be grounded.

(3) Welding and burning cables, electrode holders, and connections shall be capable of carrying the maximum current required by the work, and shall be properly insulated.

(4) Insulated gloves shall be provided to divers performing welding and burning operations.

(5) Prior to welding or burning on closed compartments, structures or pipes, which contain a flammable vapor or in which a flammable vapor may be generated by the work, they shall be





vented, flooded, or purged with a mixture of gases which will not support combustion.

(h) *Explosives.* (1) Employers shall transport, store, and use explosives in accordance with this section and the applicable provisions of § 1910.109 and § 1926.912 of Title 29 of the Code of Federal Regulations.

(2) Electrical continuity of explosive circuits shall not be tested until the diver is out of the water.

(3) Explosives shall not be detonated while the diver is in the water.

(i) *Termination of dive.* The working interval of a dive shall be terminated when:

(1) A diver requests termination;

(2) A diver fails to respond correctly to communications or signals from a dive team member;

(3) Communications are lost and can not be quickly re-established between the diver and a dive team member at the dive location, and between the designated person-in-charge and the person controlling the vessel in liveboating operations; or

(4) A diver begins to use diver-carried reserve breathing gas or the dive-location reserve breathing gas.

**§ 1910.423 Post-dive procedures.**

(a) *General.* The employer shall comply with the following requirements which are applicable after each diving operation, unless otherwise specified.

(b) *Precautions.* (1) After the completion of any dive, the employer shall:

(i) Check the physical condition of the diver;

(ii) Instruct the diver to report any physical problems or adverse physiological effects including symptoms of decompression sickness;

(iii) Advise the diver of the location of a decompression chamber which is ready for use; and

(iv) Alert the diver to the potential hazards of flying after diving.

(2) For any dive outside the no-decompression limits, deeper than 100 fsw or using mixed gas as a breathing mixture, the employer shall instruct the diver to remain awake and in the vicinity of the decompression chamber which is at the dive location for at least one hour after the dive (including decompression or treatment as appropriate).

(c) *Recompression capability.* (1) A decompression chamber capable of recompressing the diver at the surface to a minimum of 165 fsw (6 ATA) shall be available at the dive location for:

(i) Surface-supplied air diving to depths deeper than 100 fsw and shallower than 220 fsw;

(ii) Mixed gas diving shallower than 300 fsw; or

(iii) Diving outside the no-decompression limits shallower than 300 fsw.

(2) A decompression chamber capable or recompressing the diver at the surface to the maximum depth of the dive shall be available at the dive location for dives deeper than 300 fsw.

(3) The decompression chamber shall be:

(i) Dual-lock;

(ii) Multiplace; and

(iii) Located within 5 minutes of the dive location.

(4) The decompression chamber shall be equipped with:

(i) A pressure gauge for each pressurized compartment designed for human occupancy;

(ii) A built-in-breathing-system with a minimum of one mask per occupant;

(iii) A two-way voice communication system between occupants and a dive team member at the dive location;

(iv) A viewport; and

(v) Illumination capability to light the interior.

(4) Treatment tables, treatment gas appropriate to the diving mode, and sufficient gas to conduct treatment shall be available at the dive location.

(5) A dive team member shall be available at the dive location during and for at least one hour after the dive to operate the decompression chamber (when required or provided).

(d) *Record of dive.* (1) The following information shall be recorded and maintained for each diving operation:

(i) Names of dive team members including designated person-in-charge;

(ii) Date, time, and location;

(iii) Diving modes used;

(iv) General nature of work performed;

(v) Approximate underwater and surface conditions (visibility, water temperature and current); and

(vi) Maximum depth and bottom time for each diver.

(2) For each dive outside the no-decompression limits, deeper than 100 fsw or using mixed gas, the following additional information shall be recorded and maintained:

(i) Depth-time and breathing gas profiles;

(ii) Decompression table designation (including modification); and

(iii) Elapsed time since last pressure exposure if less than 24 hours or repetitive dive designation for each diver.

(3) For each dive in which decompression sickness is suspected or symptoms are evident, the following additional information shall be recorded and maintained:

(i) Description of decompression sickness symptoms (including depth and time of onset); and

(ii) Description and results of treatment.

(e) *Decompression procedure assessment.* The employer shall:

(1) Investigate and evaluate each incident of decompression sickness based on the recorded information, consideration of the past performance of decompression table used, and individual susceptibility;

(2) Take appropriate corrective action to reduce the probability of recurrence of decompression sickness; and

(3) Prepare a written evaluation of the decompression procedure assessment, including any corrective action taken, within 45 days of the incident of decompression sickness.

SPECIFIC OPERATIONS PROCEDURES

**§ 1910.424 SCUBA diving.**

(a) *General.* Employers engaged in SCUBA diving shall comply with the following requirements, unless otherwise specified.

(b) *Limits.* SCUBA diving shall not be conducted:

(1) At depths deeper than 130 fsw;

(2) At depths deeper than 100 fsw or outside the no-decompression limits unless a decompression chamber is ready for use;

(3) Against currents exceeding one (1) knot unless line-tended; or

(4) In enclosed or physically confining spaces unless line-tended.

(c) *Procedures.*

(1) A standby diver shall be available while a diver is in the water.

(2) A diver shall be line-tended from the surface, or accompanied by another diver in the water in continuous visual contact during the diving operation.

(3) A diver shall be stationed at the underwater point of entry when diving is conducted in enclosed or physically confining spaces.

(4) A diver-carried reserve breathing gas supply shall be provided for each diver consisting of:

(i) A manual reserve (J valve); or

(ii) An independent reserve cylinder with a separate regulator or connected to the underwater breathing apparatus.

(5) The valve of the reserve breathing gas supply shall be in the closed position prior to the dive.

**§ 1910.425 Surface-supplied air diving.**

(a) *General.* Employers engaged in surface-supplied air diving shall comply with the following requirements, unless otherwise specified.

(b) *Limits.* (1) Surface-supplied air diving shall not be conducted at depths deeper than 190 fsw, except that dives with bottom times of 30 minutes or less may be conducted to depths of 220 fsw.

(2) A decompression chamber shall be ready for use at the dive location for any dive outside the no-decompression limits or deeper than 100 fsw.

(3) A bell shall be used for dives with an inwater decompression time greater than 120 minutes, except when heavy gear is worn or diving is conducted in physically confining spaces.

(c) *Procedures.* (1) Each diver shall be continuously tended while in the water.

(2) A diver shall be stationed at the underwater point of entry when diving is conducted in enclosed or physically confining spaces.

(3) Each diving operation shall have a primary breathing gas supply sufficient to support divers for the duration of the planned dive including decompression.

(4) For dives deeper than 100 fsw or outside the no-decompression limits:

(i) A separate dive team member shall tend each diver in the water;

(ii) A standby diver shall be available while a diver is in the water;



V 42 141 JUL 22 77 UMI

(iii) A diver-carried reserve breathing gas supply shall be provided for each diver except when heavy gear is worn; and

(iv) A dive-location reserve breathing gas supply shall be provided.

(5) For heavy-gear diving deeper than 100 fsw or outside the no-decompression limits:

(i) An extra breathing gas hose capable of supplying breathing gas to the diver in the water shall be available to the standby diver.

(ii) An inwater stage shall be provided to divers in the water.

(6) Except when heavy gear is worn or where physical space does not permit, a diver-carried reserve breathing gas supply shall be provided whenever the diver is prevented by the configuration of the dive area from ascending directly to the surface.

§ 1910.426 Mixed-gas diving.

(a) *General.* Employers engaged in mixed-gas diving shall comply with the following requirements, unless otherwise specified.

(b) *Limits.* Mixed-gas diving shall be conducted only when:

(1) A decompression chamber is ready for use at the dive location; and

(i) A bell is used at depths greater than 220 fsw or when the dive involves inwater decompression time of greater than 120 minutes, except when heavy gear is worn or when diving in physically confining spaces; or

(ii) A closed bell is used at depths greater than 300 fsw, except when diving is conducted in physically confining spaces.

(c) *Procedures.* (1) A separate dive team member shall tend each diver in the water.

(2) A standby diver shall be available while a diver is in the water.

(3) A diver shall be stationed at the underwater point of entry when diving is conducted in enclosed or physically confining spaces.

(4) Each diving operation shall have a primary breathing gas supply sufficient to support divers for the duration of the planned dive including decompression.

(5) Each diving operation shall have a dive-location reserve breathing gas supply.

(6) When heavy gear is worn:

(i) An extra breathing gas hose capable of supplying breathing gas to the diver in the water shall be available to the standby diver; and

(ii) An inwater stage shall be provided to divers in the water.

(7) An inwater stage shall be provided for divers without access to a bell for dives deeper than 100 fsw or outside the no-decompression limits.

(8) When a closed bell is used, one dive team member in the bell shall be available and tend the diver in the water.

(9) Except when heavy gear is worn or where physical space does not permit, a diver-carried reserve breathing gas supply shall be provided for each diver:

(i) Diving deeper than 100 fsw or outside the no-decompression limits; or

(ii) Prevented by the configuration of the dive area from directly ascending to the surface.

§ 1910.427 Liveboating.

(a) *General.* Employers engaged in diving operations involving liveboating shall comply with the following requirements.

(b) *Limits.* Diving operations involving liveboating shall not be conducted:

(1) With an inwater decompression time of greater than 120 minutes;

(2) Using surface-supplied air at depths deeper than 190 fsw, except that dives with bottom times of 30 minutes or less may be conducted to depths of 220 fsw;

(3) Using mixed gas at depths greater than 220 fsw;

(4) In rough seas which significantly impede diver mobility or work function; or

(5) In other than daylight hours.

(c) *Procedures.* (1) The propeller of the vessel shall be stopped before the diver enters or exits the water.

(2) A device shall be used which minimizes the possibility of entanglement of the diver's hose in the propeller of the vessel.

(3) Two-way voice communication between the designated person-in-charge and the person controlling the vessel shall be available while the diver is in the water.

(4) A standby diver shall be available while a diver is in the water.

(5) A diver-carried reserve breathing gas supply shall be carried by each diver engaged in liveboating operations.

EQUIPMENT PROCEDURES AND REQUIREMENTS

§ 1910.430 Equipment.

(a) *General.* (1) All employers shall comply with the following requirements, unless otherwise specified.

(2) Each equipment modification, repair, test, calibration or maintenance service shall be recorded by means of a tagging or logging system, and include the date and nature of work performed, and the name or initials of the person performing the work.

(b) *Air compressor systems.* (1) Compressors used to supply air to the diver shall be equipped with a volume tank with a check valve on the inlet side, a pressure gauge, a relief valve, and a drain valve.

(2) Air compressor intakes shall be located away from areas containing exhaust or other contaminants.

(3) Respirable air supplied to a diver shall not contain:

(i) A level of carbon monoxide (CO) greater than 20 ppm;

(ii) A level of carbon dioxide ($CO_2$) greater than 1,000 ppm;

(iii) A level of oil mist greater than 5 milligrams per cubic meter; or

(iv) A noxious or pronounced odor.

(4) The output of air compressor systems shall be tested for air purity every six months by means of samples taken at the connection to the distribution system, except that non-oil lubricated compressors need not be tested for oil mist.

(c) *Breathing gas supply hoses.* (1) Breathing gas supply hoses shall:

(i) Have a working pressure at least equal to the working pressure of the total breathing gas system;

(ii) Have a rated bursting pressure at least equal to 4 times the working pressure;

(iii) Be tested at least annually to 1.5 times their working pressure; and

(iv) Have their open ends taped, capped or plugged when not in use.

(2) Breathing gas supply hose connectors shall:

(i) Be made of corrosion-resistant materials.

(ii) Have a working pressure at least equal to the working pressure of the hose to which they are attached; and

(iii) Be resistant to accidental disengagement.

(3) Umbilicals shall:

(i) Be marked in 10-ft. increments to 100 feet beginning at the diver's end, and in 50 ft. increments thereafter;

(ii) Be made of kink-resistant materials; and

(iii) Have a working pressure greater than the pressure equivalent to the maximum depth of the dive (relative to the supply source) plus 100 psi.

(d) *Buoyancy control.* (1) Helmets or masks connected directly to the dry suit or other buoyancy-changing equipment shall be equipped with an exhaust valve.

(2) A dry suit or other buoyancy-changing equipment not directly connected to the helmet or mask shall be equipped with an exhaust valve.

(3) When used for SCUBA diving, a buoyancy compensator shall have an inflation source separate from the breathing gas supply.

(4) An inflatable flotation device capable of maintaining the diver at the surface in a face-up position, having a manually activated inflation source independent of the breathing supply, an oral inflation device, and an exhaust valve shall be used for SCUBA diving.

(e) *Compressed gas cylinders.* Compressed gas cylinders shall:

(1) Be designed, constructed and maintained in accordance with the applicable provisions of 29 CFR § 1910.166–171;

(2) Be stored in a ventilated area and protected from excessive heat;

(3) Be secured from falling; and

(4) Have shut-off valves recessed into the cylinder or protected by a cap, except when in use or manifolded, or when used for SCUBA diving.

(f) *Decompression chambers.* (1) Each decompression chamber manufactured after the effective date of this standard, shall be built and maintained in accordance with the ASME Code or equivalent.

(2) Each decompression chamber manufactured prior to the effective date of this standard shall be maintained in conformity with the code requirements to which it was built, or equivalent.





(3) Each decompression chamber shall be equipped with:

(i) Means to maintain the atmosphere below a level of 25% oxygen by volume;

(ii) Mufflers on intake and exhaust lines, which shall be regularly inspected and maintained;

(iii) Suction guards on exhaust line openings; and

(iv) A means for extinguishing fire, and shall be maintained to minimize sources of ignition and combustible material.

(g) *Gauges and timekeeping devices.* (1) Gauges indicating diver depth which can be read at the dive location shall be used for all dives except SCUBA.

(2) Each depth gauge shall be deadweight tested or calibrated against a master reference gauge every six months, and when there is a discrepancy greater than two percent (2%) of full scale between any two equivalent gauges.

(3) A cylinder pressure gauge capable of being monitored by the diver during the dive shall be worn by each SCUBA diver.

(4) A timekeeping device shall be available at each dive location.

(h) *Masks and helmets.* (1) Surface-supplied air and mixed-gas masks and helmets shall have:

(i) A non-return valve at the attachment point between helmet or mask and hose which shall close readily and positively; and

(ii) An exhaust valve.

(2) Surface-supplied air masks and helmets shall have a minimum ventilation rate capability of 4.5 acfm at any depth at which they are operated or the capability of maintaining the diver's inspired carbon dioxide partial pressure below 0.02 ATA when the diver is producing carbon dioxide at the rate of 1.6 standard liters per minute.

(i) *Oxygen safety.* (1) Equipment used with oxygen or mixtures containing over forty percent (40%) by volume oxygen shall be designed for oxygen service.

(2) Components (except umbilicals) exposed to oxygen or mixtures containing over forty percent (40%) by volume oxygen shall be cleaned of flammable materials before use.

(3) Oxygen systems over 125 psig and compressed air systems over 500 psig shall have slow-opening shut-off valves.

(j) *Weights and harnesses.* (1) Except when heavy gear is worn, divers shall be equipped with a weight belt or assembly capable of quick release.

(2) Except when heavy gear is worn or in SCUBA diving, each diver shall wear a safety harness with:

(i) A positive buckling device;

(ii) An attachment point for the umbilical to prevent strain on the mask or helmet; and

(iii) A lifting point to distribute the pull force of the line over the diver's body.

RECORDKEEPING

§ 1910.440 Recordkeeping requirements.

(a) *Recording and Reporting.* (1) The employer shall record and report occupational injuries and illnesses in accordance with requirements of 29 CFR Part 1904.

(2) The employer shall record the occurrence of any diving-related injury or illness which requires any dive team member to be hospitalized for 24 hours or more, specifying the circumstances of the incident and the extent of any injuries or illnesses.

(b) *Availability of records.* (1) Upon the request of the Assistant Secretary of Labor for Occupational Safety and Health, or the Director, National Institute for Occupational Safety and Health, Department of Health, Education and Welfare or their designees, the employer shall make available for inspection and copying any record or document required by this standard.

(2) Upon request of any employee, former employee or authorized representative, the employer shall make available for inspection and copying any record or document required by this standard which pertains to the individual employee or former employee.

(3) Records and documents required by this standard shall be retained by the employer for the following period:

(i) Dive team member medical records (physician's reports) (§ 1910.411)—5 years;

(ii) Safe practices manual (§ 1910.420)—current document only;

(iii) Depth-time profile (§ 1910.422)—until completion of the recording of dive, or until completion of decompression procedure assessment where there has been an incident of decompression sickness;

(iv) Recording of dive (§ 1910.423)—1 year, except 5 years where there has been an incident of decompression sickness;

(v) Decompression procedure assessment evaluations (§ 1910.423)—5 years;

(vi) Equipment inspections and testing records (§ 1910.430)—current entry or tag, or until equipment is withdrawn from service;

(vii) Records of hospitalizations (§ 1910.440)—5 years.

(4) After the expiration of the retention period of any record required to be kept for 5 years, the employer shall forward such records to the National Institute for Occupational Safety and Health, Department of Health, Education, and Welfare.

(5) In the event the employer ceases to do business:

(i) The successor employer shall receive and retain all dive and employee medical records required by this standard; or

(ii) If there is no successor employer, dive and employee medical records shall be forwarded to the National Institute for Occupational Safety and Health, Department of Health, Education, and Welfare.

§ 1910.441 Effective date.

This standard shall be effective on October 20, 1977, except that for provisions where decompression chambers or bells are required and such equipment is not yet available, employers shall comply as soon as possible thereafter but in no case later than 6 months after the effective date of the standard.

APPENDIX A

EXAMPLES OF CONDITIONS WHICH MAY RESTRICT OR LIMIT EXPOSURE TO HYPERBARIC CONDITIONS

The following disorders may restrict or limit occupational exposure to hyperbaric conditions depending on severity, presence of residual effects, response to therapy, number of occurrences, diving mode, or degree and duration of isolation.

History of seizure disorder other than early febrile convulsions.

Malignancies (active) unless treated and without recurrence for 5 yrs.

Chronic inability to equalize sinus and/or middle ear pressure.

Cystic or cavitary disease of the lungs.

Impaired organ function caused by alcohol or drug use.

Conditions requiring continuous medication for control (e.g., antihistamines, steroids, barbiturates, moodaltering drugs, or insulin).

Meniere's disease.

Hemoglobinopathies.

Obstructive or restrictive lung disease.

Vestibular end organ destruction.

Pneumothorax.

Cardiac abnormalities (e.g., pathological heart block, valvular disease, intraventricular conduction defects other than isolated right bundle branch block, angina pectoris, arrhythmia, coronary artery disease).

Juxta-articular osteonecrosis.

## PART 1915—SAFETY AND HEALTH REGULATIONS FOR SHIP REPAIRING

2. A new § 1915.59 is added to 29 CFR Part 1915 to read as follows:

§ 1915.59 Commercial diving operations.

Commercial diving operations shall be subject to Subpart T of Part 1910, §§ 1910.401–1910.441, of this Chapter.

## PART 1916—SAFETY AND HEALTH REGULATIONS FOR SHIPBUILDING

3. A new § 1916.59 is added to 29 CFR Part 1916 to read as follows:

§ 1916.59 Commercial diving operations.

Commercial diving operations shall be subject to Subpart T of Part 1910, §§ 1910.401–1910.441, of this Chapter.

## PART 1917—SAFETY AND HEALTH REGULATIONS FOR SHIPBREAKING

4. A new § 1917.59 is added to 29 CFR Part 1917 to read as follows:

§ 1917.59 Commercial diving operations.

Commercial diving operations shall be subject to Subpart T of Part 1910, §§ 1910.401–1910.441, of this Chapter.

## PART 1918—SAFETY AND HEALTH REGULATIONS FOR LONGSHORING

5. A new section 1918.99 of 29 CFR Part 1918 is added to read as follows:

§ 1918.99 Commercial diving operations.

Commercial diving operations shall be subject to Subpart T of Part 1910, §§ 1910.401–1910.441, of this chapter.



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## PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

6. Paragraph (e) of § 1926.605 is amended to read as follows:

**§ 1926.605 Marine operations and equipment.**

* * * * *

(e) *Commercial diving operations.* Commercial diving operations shall be subject to Subpart T of Part 1910, §§ 1910.401–1910.441, of this Chapter.

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## PART 1928—SAFETY AND HEALTH STANDARDS FOR AGRICULTURE

**§ 1928.21 [Amended]**

7. Section 1928.21(b) of 29 CFR Part 1928 is amended by substituting the letter T for S in the fourth line of the paragraph.

(Secs. 6, 8, 84 Stat. 1596, 1599 (29 U.S.C. 655, 657); Sec. 41, 44 Stat. 1444 (33 U.S.C. 941); Sec. 107, 83 Stat. 96 (40 U.S.C. 333); Secretary of Labor's Order 8–76 (41 FR 25059); 29 CFR Part 1911).

[FR Doc.77–20943 Filed 7–21–77;8:45 am]



register

federal

FRIDAY, JULY 22, 1977

PART IV




# DEPARTMENT OF STATE

# FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

## Applications for Permits To Fish Off the Coasts of the United States

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UMI

## DEPARTMENT OF STATE

[Public Notice 556]

### FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

**Applications for Permits to Fish Off the Coasts of the United States**

The Fishery Conservation and Management Act of 1976 (P.L. 94-265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Applications for fishing during 1977 have been received from the Government of Japan, and are published herewith.

Dated: July 14, 1977.

ALBERT L. ZUCCA,
*Director, Office of Fisheries Affairs.*

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FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JA-77-0341

Permit Period AUGUST 1,1977 Application No. JA-77-0341
Applied For: TO DECEMBER 31, 1977 For Use of Issuing Office

State: JAPAN

1. Name of Vessel KONGO MARU
2. Vessel No.: Hull No. (TOEN-703) Registration No. FO 1-221
3. Name and Address of Owner
   Name NIPPON SUISAN KAISHA, LTD.
   Address 6-2, OTEMACHI 2-CHOME,
   CHIYODA-KU, TOKYO 100 JAPAN
   Cable Address NISSUI TOKYO
   Name and Address of Charterer
4. Homeport and State of Registry: TOKYO JAPAN
5. Type of Vessel STERN TRAWLER
6. Tonnage (Gross) 3,249.32 M.T. (Net) 1,741.93 M.T.
7. Length 102.264 M. 8. Breadth 16.0 M. 9. Draft 6.681 M.
10. Horsepower 4,400 shp. 11. Maximum Speed 16.4 kt.
11. Propulsion: Diesel (•), Steam ( ), Diesel/Electric ( ),
    Other -
13. Date Built DECEMBER 3, 1968
14. Number and Nationality of Personnel 62 JAPAN
    Officers 11 Crew 27 Other (Specify) 24 WORKERS
15. Communications: VHF-FM (•), AM/SSB, Voice ( ), Telegraphy ( ),
    Other -
    International Radio Call Sign JJSM
    Radio Frequencies Monitored 500KHZ
    Other Working Frequencies SEE THE ATTACHED PAPER 1
    Schedule WATCH TIME : 24 HOURS ( BERING SEA & ALEUTIAN IS. GULF OF ALASKA )
16. Navigation Equipment: Loran C (•), Loran A (•), Omega ( ), Decca ( ), Navsat ( ), Radar (•), Fathometer (•),
    Other -
17. Cargo Capacity (MT)

| | | | |
|---|---|---|---|
| Salted Fish | | Freezer | 1.2.3. FROZEN FISH HOLD |
| Fresh Fish | | Dry Hold | 4.5. FISH MEAL HOLD |
| Frozen Fish | 900 M.T. | Tanks | 6.7. FISH OIL TANK |
| Fish Meal | 330 M.T. | Other | |
| Other | FISH OIL 190 M.T. | | |

18. Cargo Space

| Number | Name |
|---|---|
| SEE THE ATTACHED PAPER 2 | |

19. Processing Equipment (Indidate daily capacity,MT)

| | | |
|---|---|---|
| HEADING & GUTTING MACHINE | 3SETS | 45M.T./DAY (MAX) |
| FILLETTING MACHINE | 3SETS | 8M.T./DAY (MAX) |
| QUICK FREEZING SET | 18SETS | 50M.T./DAY (MAX) |
| PACKER | 1SET | 50M.T./DAY (MAX) |
| MEAL PLANT | 1SET | FISH MEAL 16T./DAY (MAX) FISH OIL 8KL/DAY (MAX) |

20. Fisheries for which Permit is Requested:

| Ocean Area | Period (From-To) | Species | Contemplated Catch (MT) | Gear to be Used |
|---|---|---|---|---|
| SEE THE ATTACHED PAPER 3 | | | | |
| BERING SEA<br>ALEUTION IS.<br>GULF OF ALASKA | AUG-DEC | | | MID WATER TRAWL<br>BOTTOM TRAWL |

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

JA-77-0341

ATTACHED PAPER 1

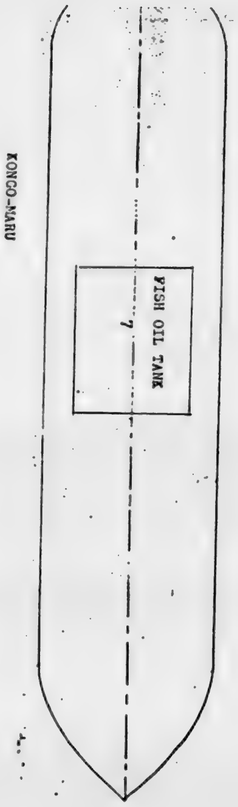
OTHER WORKING FREQUENCIES

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| A1 A2 | 410 | 425 | 432 | 454 | 468 | 480 | 500 | 512 KHZ |
| A1 | 1650 | 6280.5 | 2070 | 2091 | 16748 | 22246 | | |
| | 4187 | 6273.3 | 8374 | 12561 | 16728.8 | 22234 | | |
| | 4182.2 | 6299.25 | 8364.4 | 12546.6 | 16798 | 22299 | | |
| | 4199.5 | 6309 | 8399 | 12598.5 | 16824 | | | |
| | 4206 | 6315 | 8412 | 12618 | 16840 | 22302.5 | | |
| | 4210 | 6321.75 | 8420 | 12630 | 16858 | 22252.5 | | |
| | 4214.5 | 6291 | 8429 | 12643.5 | 16776 | 22260 | | |
| | 4194 | | 8388 | 12582 | | | | |
| A3J | 27054.5 | 27226.5 | 27274.5 | 27346.5 | 27374.5 KHZ | | | |
| F3 | 156.05 | 156.10 | 156.15 | 156.20 | 156.25 | 156.35 | 156.40 | |
| | 156.45 | 156.50 | 156.30 | 156.55 | 156.60 | 156.65 | 156.70 | |
| | 156.80 | 156.90 | 156.95 | 157.00 | 157.05 | 157.10 | 157.15 | |
| | 157.20 | 157.25 | 157.30 | 157.35 | 157.40 | 159.21 | | |

(EMERGENCY ONLY)

| | | | | | |
|---|---|---|---|---|---|
| A1 A2 | 410 | 425 | 468 | 500 KHZ | |
| A1 | 2091 KHZ | | | | |

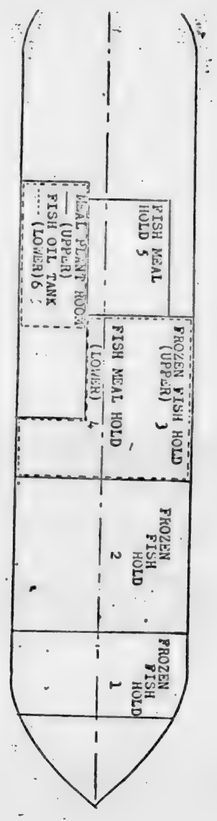
KONGO-MARU




JA-77-0341

HOLD ARRANGEMENT

ATTACHER PAPER 2




JA-77-0341

THE ATTACHED PAPER II

This vessel applies for fishing a portion of the allocations for the species in the ocean areas as described below;

Bering Sea and Aleutian Islands

| | | |
|---|---|---|
| Rockfishes | 12,000 MT | |
| Pacific Cod | 45,000 | |
| Flounders | 130,000 | |
| Black Cod | 7,000 | |
| Herring | 10,000 | |
| Squid | 10,000 | |
| Pollock | 800,000 | bycatch |
| Other Groundfish | 40,000 | bycatch |
| Shrimp | 500 | bycatch |

Gulf of Alaska

| | | |
|---|---|---|
| Rockfishes | 22,000 MT | |
| Pacific Cod | 1,000 | |
| Flounders | 16,000 | |
| Black Cod | 17,500 | |
| Atka Mackerel | 2,000 | |
| Pollock | 50,000 | bycatch |
| Other Groundfish | 12,000 | bycatch |

JA-77-1087

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

1087

Permit Period MARCH 1, 1977 TO
Applied For: DECEMBER 31, 1977

Application No. ____ For Use of Issuing Office

State: JAPAN

1. Name of Vessel SHINANO MARU
2. Vessel No.: Hull No. ——— Registration No. TK1-518
3. Name and Address of Owner — Name and Address of Charterer
   Name NICHIRO GYOGYO KABUSHIKI KAISHA —
   Address 12-1, YURAKU-CHO 1-CHOME —
   CHIYODA-KU, TOKYO, 100, JAPAN —
   Cable Address NICHIROGYO TOKYO —
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATED TRANSPORT
6. Tonnage (Gross) 8,852.49 MT (Net) 5,116.18 MT
7. Length 153.27 M. 8. Breadth 20.80 M. 9. Draft 7.270 M.
10. Horsepower 6,500 shp. 11. Maximum Speed 16.9 kt.
11. Propulsion: Diesel (•), Steam ( ), Diesel/Electric ( ),
    Other ———
13. Date Built NOVEMBER, 1964
14. Number and Nationality of Personnel 45 JAPAN
    Officers 13 Crew 32 Other (Specify) ———
15. Communications: VHF-FM (•), AM/SSB, Voice ( ), Telegraphy (•),
    Other ———
    International Radio Call Sign J P E V
    Radio Frequencies Monitored 500 KHz
    Other Working Frequencies SEE THE ATTACHED PAPER I
    Schedule 24 Hours

JA-77-1087

16. Navigation Equipment: Loran C (•), Loran A (•), Omega (•),
Decca ( ), Navsat ( ), Radar (•), Fathometer (•),
Other _____

17. Cargo Capacity (MT)

Salted Fish _____
Fresh Fish _____
Frozen Fish 4680 MT
Fish Meal _____
Other _____

18. Cargo Space

| | Number | Name |
|---|---|---|
| Freezer | SEE ATTACHED PAPER II | |
| Dry Hold | | |
| Tanks | | |
| Other | | |

19. Processing Equipment (Indicate daily capacity,MT)

_____
_____
_____
_____

20. Fisheries for which Permit is Requested:

| Ocean Area | Period (From-To) | Species | Contemplated Catch (MT) | Gear to be Used |
|---|---|---|---|---|

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

_____
_____
_____

PAPER I SHINANO MARU

JA-77-1087

OTHER WORKING FREQUENCIES

A1
A2 410, 425, 432, 454, 468, 490, 500, 512 KHz
A1 4181.8, 6272.7, 8363.6, 12545.4, 16727.2, 22232 KHz
4185.8, 6278.7, 8371.6, 12557.4, 16743.2, 22244 KHz
4192.5, 6288.75, 8385, 12577.5, 16770, 22282.5 KHz
4213.5, 6320.25, 8427, 12640.5, 16854, 22306.5 KHz
F3 01 ch TO 25 ch

37680

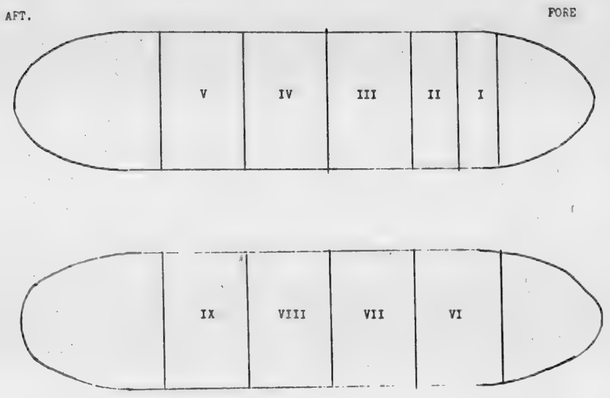
NOTICES



PAPER II SHINANO MARU

JA-77-1087

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A Bering Sea and Aleutian Islands Trawl and Herring Gillnet Fishery
B Gulf of Alaska Trawl Fishery
C Sablefish Fishery
D Crabs Fishery
E Snails Fishery
F Seamount Groundfish Fishery
G Squids Fishery-Atlantic
H Other Finfish Fishery-Atlantic

NOTICES

37681

JA-77-1087

SUMMARY OF ADDITIONAL APPLICATION

| Number of Page | Name of Support Vessel | Type of Fishery |
|---|---|---|
| No.1087 | SHINANO MARU | A,B,C,D,E,G,H |
| No.1088 | KIZAN MARU | A,B,C,D,E,G,H |

JA-77-1088

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period MARCH 1, 1977 TO
Applied For: DECEMBER 31, 1977

Application No. 1088
For Use of Issuing Office

State: JAPAN

1. Name of Vessel KIZAN MARU
2. Vessel Net Roll No. —— Registration No. TKI-432
3. Name and Address of Owner
   Name NICHIRO GYOGYO KABUSHIKI KAISHA
   Address 12-1, YURAKU-CHO 1-CHOME
   CHIYODA-KU, TOKYO, 100, JAPAN
   Cable Address NICHIROGYO TOKYO
   Name and Address of Charterer
   Name ——
   Address ——
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATED TRANSPORT
6. Tonnage (Gross) 8,859.94 MT (Net) 4,780.31 MT
7. Length 149.81 M. B. Breadth 20.40 M. C. Draft 8.119 M.
10. Horsepower 6,500 shp. 11. Maximum Speed 16.5 kt.
11. Propulsion: Diesel (•), Steam ( ), Diesel/Electric ( ),
    Other ——
13. Date Built DECEMBER, 1961
14. Number and Nationality of Personnel 45 JAPAN
    Officers 13 Crew 32 Other (Specify) ——
15. Communications: VHF-FM (•), AM/SSB, Voice ( ), Telegraphy (•).
    Other ——
    International Radio Call Sign J B R H
    Radio Frequencies Monitored 500 KHz
    Other Working Frequencies SEE THE ATTACHED PAPER I
    Schedule 24 Hours

JA-77-1088

15. Navigation Equipment: Loran C (•), Loran A (•), Omega (•),
    Decca ( ), Navsat ( ), Radar (•), Fathometer (•),
    Other ——
17. Cargo Capacity (MT)

| | | | |
|---|---|---|---|
| Salted Fish | —— | Freezer | SEE THE ATTACHED PAPER II I TO XIII FROZEN FISH HOLD |
| Fresh Fish | —— | Dry Hold | |
| Frozen Fish | 4460 MT | Tanks | |
| Fish Meal | —— | Other | |
| Other | —— | | |

18. Cargo Space

| Number | Name |
|---|---|

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

| Ocean Area | Period (From-To) | Species | Contemplated Catch (MT) | Gear to be Used |
|---|---|---|---|---|

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

PAPER I KIZAN MARU JA-77-1088

OTHER WORKING FREQUENCIES

A1
A2 410, 425, 432, 454, 468, 480, 500, 512 KHz

A1 4181.8, 6272.7, 8363.6, 12545.4, 16727.2, 22232 KHz
4185.8, 6278.7, 8371.6, 12557.4, 16743.2, 22244 KHz
4192.5, 6288.75, 8385, 12577.5, 16770, 22282.5 KHz
4213.5, 6320.25, 8427, 12640.5 16854, 22306.5 KHz

F3 01 ch TO 28 ch





37683

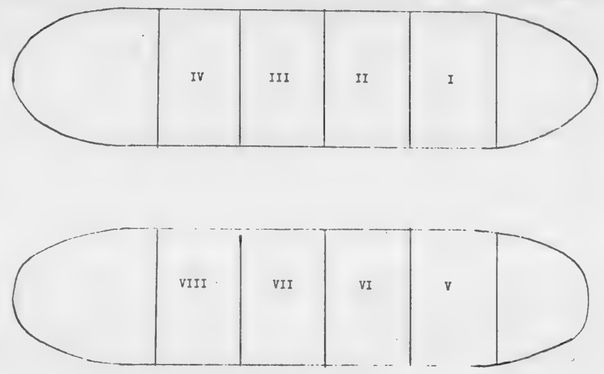
NOTICES

FEDERAL REGISTER, VOL. 42, NO 141—FRIDAY, JULY 22, 1977

JA-77-1088

JA-77-1088






A Bering Sea and Aleutian Islands Trawl and Herring Gillnet Fishery

B Gulf of Alaska Trawl Fishery

C Sablefish Fishery

D Crabs Fishery

E Snails Fishery

F Seamount Groundfish Fishery

G Squids Fishery-Atlantic

H Other Finfish Fishery-Atlantic



JUMMARY OF ADDITIONAL APPLICATION JA-77-1088

| Number of Page | Name of Support Vessel | Type of Fishery |
|---|---|---|
| No.1087 | SHINANO MARU | A,B,C,D,E,G,H |
| No.1088 | KIZAN MARU | A,B,C,D,E,G,H |

[FR Doc. 77-20902 Filed 7-21-77;8:45 am]



federal register

FRIDAY, JULY 22, 1977
PART V




OFFICE OF MANAGEMENT AND BUDGET

BUDGET RESCISSIONS AND DEFERRALS

Reports to Congress

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V 42 N 141

## OFFICE OF MANAGEMENT AND BUDGET

### PROPOSED BUDGET RESCISSIONS

**Reports**

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $462.0 million in procurement funds appropriated to the Department of Defense for the B-1 bomber. In addition, I am proposing rescission of $1.4 million provided to the Department of Defense for procurement of the short range attack missile (SRAM-B).

The details of the proposed rescissions are contained in the attached reports.

Jimmy Carter

THE WHITE HOUSE, JULY 19, 1977.

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

| Rescission # | Item | Budget Authority |
|---|---|---|
| | Department of Defense-Military: | |
| R77-18 | Aircraft procurement, Air Force | 462,000 |
| R77-19 | Missile procurement, Air Force | 1,400 |
| | Total, rescissions | 463,400 |

SUMMARY OF SPECIAL MESSAGES
FOR FY 1977
(in thousands of dollars)

| | Rescissions | Deferrals |
|---|---|---|
| Fifteenth special message: | | |
| New items | 463,400 | --- |
| Changes to amounts previously submitted | --- | --- |
| Effect of the fifteenth special message | 463,400 | --- |
| Previous special messages | 1,263,530 | 7,454,057 |
| Total amount proposed in special messages | 1,726,930 (in 19 rescission proposals) | 7,454,057 (in 62 deferrals) |

NOTE: All amounts listed represent budget authority except for $134,807,092 consisting of two general revenue sharing deferrals of outlays only (D77-26 and D77-27A). Reports for D77-26 and D77-27A are included in the special messages of October 1, 1976, and December 3, 1976, respectively.





Rescission Proposal No: R-77-18



### PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

| | |
|---|---|
| Agency: Department of Defense | New budget authority (P.L. 94-419 ___): $6,067,700.00 |
| Bureau | Other budgetary resources: 696,800.00 |
| Appropriation title & symbol: Aircraft Procurement, Air Force 577/93010 | Total budgetary resources: 6,764,500.00 |
| | Amount proposed for rescission: $ 462,000.00 |
| OMB identification code: 57-3010-0-1-051 | Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other |
| Grant program: ☐ Yes ☒ No | |
| Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1979 (expiration date) ☐ No-year | Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other |

Justification

Due to recent evolution of the air-launched cruise missile as an effective weapons system and the continued ability to use the B-52 bomber well into the 1980's, the President has directed that B-1 bomber production be halted. Of the amount appropriated for the B-1 bomber, $462.0 million is proposed for rescission. These funds are in excess of estimated termination liabilities.

Estimated Effects

If this rescission proposal is accepted, no additional B-1 bombers would be produced. In lieu of producing B-1 bombers, additional funding in 1978 will be sought for acceleration of air-launched cruise missile programs and for enhancing the capabilities of the present bomber force.

Outlay Effects (estimated in millions of dollars)

Comparison with the President's 1978 budget:

| | |
|---|---|
| 1. Budget outlay estimate for FY 1977 | $3,515.0 |
| 2. Outlay savings, if any, included in the budget outlay estimate | 0 |

Current outlay estimate for FY 1977:

| | |
|---|---|
| 3. Without rescission | 3,348.0 |
| 4. With rescission | 3,306.4 |
| 5. Current outlay savings (line 3 - line 4) | 41.6 |
| Outlay savings for FY 1978 | 189.7 |
| Outlay savings for FY 1979 | 138.6 |
| Outlay savings for FY 1980 | 55.4 |

R77-18

3

DEPARTMENT OF DEFENSE - MILITARY

TITLE IV

PROCUREMENT

Aircraft Procurement, Air Force
(Including Transfer of Funds)

Of the funds appropriated under this head in the Department of Defense Appropriation Act, 1977, $462,000,000 are rescinded.



Rescission Proposal No: R-77-19

R77-19
2

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

| | |
|---|---|
| Agency Department of Defense | New budget authority (P.L. 94-419 ___) $1,827,700,000 |
| Bureau | Other budgetary resources 104,630,569 |
| Appropriation title & symbol: Missile Procurement, Air Force 577/93020 | Total budgetary resources 1,932,330,569 |
| | Amount proposed for rescission $1,400,000 |
| OMB identification code: 57-3020-0-1-051 | Legal authority (in addition to sec. 1012): ☐ Antideficiency Act |
| Grant program ☐ Yes ☒ No | ☐ Other |
| Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1979 (expiration date) ☐ No-year | Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other |

Justification

Due to recent evolution of the air-launched cruise missile as an effective weapons system and the continued ability to use the B-52 bomber well into the 1980's, the President directed that B-1 bomber production be halted. The short range attack missile (SRAM-B) is no longer required since it was designed exclusively for use with the B-1. Of the amount appropriated for the SRAM-B missile, $1.4 million is proposed for rescission. These funds are in excess of the estimated termination liability.

Estimated Effects

If the Congress accepts this rescission proposal, no SRAM-B missiles would be produced. In lieu of producing B-1 bombers and the associated SRAM-B missile, additional funding in 1978 will be sought for acceleration of air-launched cruise missile programs and for enhancing the capabilities of the present bomber force.

Outlay Effects (estimated in millions of dollars)

Comparison with the President's 1978 budget:

| | |
|---|---|
| 1. Budget outlay estimate for FY 1977 | $1,642.0 |
| 2. Outlay savings, if any, included in the budget outlay estimate | 0 |
| Current outlay estimate for FY 1977: | |
| 3. Without rescission | 1,642.0 |
| 4. With rescission | 1,641.7 |
| 5. Current outlay savings (line 3 - line 4) | 0.3 |
| Outlay savings for FY 1978 | 0.7 |
| Outlay savings for FY 1979 | 0.3 |
| Outlay savings for FY 1980 | 0.1 |

NOTICES





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DEPARTMENT OF DEFENSE - MILITARY

TITLE IV

PROCUREMENT

Missile Procurement, Air Force
(Including Transfer of Funds)

Of the funds appropriated under this head in the Department of Defense Appropriation Act, 1977, $1,400,000 are rescinded.

[FR Doc.77-21264 Filed 7-20-77;11:48 am]

## PROPOSED BUDGET RESCISSIONS AND DEFERRAL

### Reports

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith propose two new rescissions totalling $96.1 million in budget authority and report one new deferral of $12.5 million in budget authority.

The rescission proposals pertain to the foreign military credit sales program and the General Services Administration's Federal Buildings Fund. The new deferral relates to the Department of Defense, Uniform Services University of the Health Sciences.

I urge the Congress to act favorably on the rescission proposals.

Jimmy Carter

THE WHITE HOUSE, JULY 19, 1977.

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

| Rescission # | Item | Budget Authority |
|---|---|---|
| | Funds Appropriated to the President: International Security Assistance | |
| R77-16 | Foreign military credit sales..... | 21,090 |
| | General Services Administration: | |
| R77-17 | Federal Buildings Fund..... | 75,000 |
| | Subtotal, rescissions..... | 96,090 |
| Deferral # | | |
| | Department of Defense - Military: | |
| D77-62 | Military personnel and Operation and maintenance..... | 12,465 |
| | Total, rescissions and deferrals.. | 108,555 |

* * * * * * * * * * * * * * * * * * * * * * *

SUMMARY OF SPECIAL MESSAGES
FOR FY 1977
(in thousands of dollars)

| | Rescissions | Deferrals |
|---|---|---|
| Fourteenth special message: | | |
| New items..... | 96,090 | 12,465 |
| Changes to amounts previously submitted..... | --- | --- |
| Effect of the fourteenth special message..... | 96,090 | 12,465 |
| Previous special messages..... | 1,167,440 | 7,441,592 |
| Total amount proposed in special messages..... | 1,263,530 (in 17 rescission proposals) | 7,454,057 (in 62 deferrals) |

NOTE: All amounts listed represent budget authority except for $134,806,092 consisting of two general revenue sharing deferrals of outlays only (D77-26 and D77-27A). Reports for D77-26 and D77-27A are included in the special messages of October 1, 1976, and December 3, 1976, respectively.





Rescission Proposal No: R77-16

### PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

| | |
|---|---|
| Agency: Funds Appropriated to the President | New budget authority (P.L. 94-441, 95-15): $ 698,500,000 |
| Bureau: International Security Assistance | Other budgetary resources: -0- |
| Appropriation title & symbol: Foreign Military Credit Sales, 1977 1171082 | Total budgetary resources: 698,500,000 |
| | Amount proposed for rescission: $ 21,090,000 1/ |
| OMB identification code: 11-1082-0-1-052 | Legal authority (in addition to sec. 1012): ☒ Antideficiency Act |
| Grant program: ☐ Yes ☒ No | ☐ Other |
| Type of account or fund: ☒ Annual; ☐ Multiple-year (expiration date); ☐ No-year | Type of budget authority: ☒ Appropriation; ☐ Contract authority; ☐ Other |

Justification

Pursuant to Public Law 90-629, the Foreign Military Sales Act, approved October 22, 1968, as amended (including Title II of Public Law 94-329, the International Security Assistance and Arms Export Control Act of 1976, approved June 30, 1976), and Executive Order No. 11501 of December 22, 1969, as amended, the Secretary of Defense, under the continuous supervision and general direction of the Secretary of State, uses appropriated funds to make loans to friendly foreign countries and international organizations to finance procurement of defense articles and defense services from the United States and to guarantee loans made by private U.S. financial institutions or the Federal Financing Bank for the same purpose.

Public Law 94-441, the "Foreign Assistance and Related Programs Appropriations Act, 1977," approved October 1, 1976, appropriated $740,000,000 for the period October 1, 1976, through September 30, 1977, "to enable the President to carry out the provisions of the Foreign Military Sales Act" (now known as the Arms Export Control Act). On March 25, 1977, $41,500,000 of the amount was rescinded (Public Law 95-15), leaving a balance of $698,500,000 in this account.

It has now been determined that an additional $21,090,000 will not be required to carry out the full objectives and scope of the program for which it was provided and a rescission of that amount is proposed. This excess budget authority results from changes in program plans that place increased reliance on guaranteed loans rather than direct credit during fiscal year 1977. Under the guarantee program, funds equal to 10% of the face value are obligated to guarantee loans provided to foreign aid recipients by the Federal Financing Bank or private lending institutions. In contrast, the full face value of the loans is obligated by the U.S. Government in direct credit transactions. The program could operate at its full authorized level ($2,022.1 million) if the rescission is accepted.

1/ This amount was included in deferral D77-38. The amount currently deferred, net of this $21.1 million and routine releases, is $49.5 million.



Estimated Effects

The planned 1977 program of $2,022.1 million would not be affected by this rescission proposal because the proposal is concerned only with a change in the method of financing the loans--not in the level of loans.

Outlay Effect (Estimated in millions of dollars) 1/

Comparison with the President's 1978 budget:

| | |
|---|---|
| 1. Budget outlay estimate for 1977..... | 575.0 |
| 2. Outlay savings, if any, included in the budget outlay estimate..... | --- |
| Current outlay estimate for 1977: | |
| 3. Without rescission..... | 550.0 |
| 4. With rescission..... | 545.0 |
| 5. Current outlay savings (line 3-line 4)..... | 5.0 |
| Outlay savings for 1978..... | 10.0 |
| Outlay savings for 1979..... | -- |
| Outlay savings for 1980..... | -- |

1/ The outlay savings listed are savings from on-budget outlays. The shift from direct loans to loan guarantees results in a corresponding shift from on-budget to off-budget (Federal Financing Bank) outlays in the same amount as the "outlay savings" when the loans are made by the Federal Financing Bank.

TITLE II - FOREIGN MILITARY CREDIT SALES

Foreign Military Credit Sales

Of the funds appropriated under this head in the Foreign Assistance and Related Programs Appropriations Act, 1977, $21,090,000 are rescinded.





Rescission Proposal No: R77-17



**PROPOSED RESCISSION OF BUDGET AUTHORITY**

Report Pursuant to Section 1012 of P.L. 93-344

| | |
|---|---|
| Agency: General Services Administration<br>Bureau | New budget authority (P.L. 95-26) $125,000,000<br>Other budgetary resources -0-<br>Total budgetary resources 125,000,000 |
| Appropriation title & symbol<br>Federal Buildings Fund<br>47X4542 | Amount proposed for rescission $75,000,000 * |
| OMB identification code:<br>47-4542-0-4-804 | Legal authority (in addition to sec. 1012):<br>☐ Antideficiency Act |
| Grant program ☐ Yes ☒ No | ☐ Other |
| Type of account or fund:<br>☐ Annual<br>☐ Multiple-year (expiration date)<br>☒ No-year | Type of budget authority:<br>☒ Appropriation<br>☐ Contract authority<br>☐ Other |

Justification

The Supplemental Appropriations Act, 1977, (Public Law 95-26) provided $125 million to the Federal Buildings Fund (FBF) for alterations and major repairs projects.

At that time the supplemental appropriation was under consideration by the Congress in February and March, the economy was still lagging in its recovery, and unemployment was higher than it is currently. The stated purpose of the $125 million which was appropriated was to provide additional jobs on a nationwide basis, while at the same time improving the quality of Federal buildings. Subsequent to the passage of the supplemental appropriation, economic conditions improved significantly with unemployment decreasing and activity increasing in the construction industry as well as in the general economy. Thus, only $50 million of the appropriation--which would bring the 1977 repairs and alterations level up to its 1976 (and historic) level of approximately $100 million--is now needed and planned for use during the remainder of the fiscal year 1977. The major effort to achieve the other objective--improving the quality of Federal buildings will be met by doubling repair and alteration activity in 1978 when the level is planned to be $200 million. This level of funding--nearly twice the amount ever provided in the past--will fund the planned high priority repairs and alterations of GSA facilities. Funding of this magnitude permits work on a large number of geographically dispersed projects affecting all construction trades. Planning for this doubling of effort has been under way since January and has just been approved by the Congress in its actions on the regular 1978 appropriations.

* The entire $125 million appropriation was withheld from availability for the first two weeks in July, 1977 while this proposal was being considered.

Estimated Effects

The alterations and major repair work that would have been funded by the amount proposed for rescission will be carried out in 1978 and beyond.

Outlay Effect (estimated in millions of dollars)

Comparison with President's 1978 Budget:

| | |
|---|---|
| 1. Budget outlay estimate for 1977 | $10.8 |
| 2. Outlay savings, if any, included in the budget outlay estimate | 0 |

Current Outlay Estimates for 1977: 1/

| | |
|---|---|
| 3. Without rescission | -39.5 |
| 4. With rescission | -40.0 |
| 5. Current outlay savings (line 3-4) | +0.5 |
| Outlay Savings for 1978 | +35.0 |
| Outlay Savings for 1979 | +39.5 |

1/ The revised outlay estimate reflects consideration of the current outlay trend. The fund is now expected to have negative outlays in 1977 that would be increased by the rescission.

T I T L E I
CHAPTER XIII
INDEPENDENT AGENCIES
GENERAL SERVICES ADMINISTRATION
Federal Buildings Fund
Alterations and Major Repairs

Of the funds appropriated under this head in the Supplemental Appropriations Act, 1977, $75,000,000 are rescinded.



Deferral No: D77-62

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

| | |
|---|---|
| Agency: Department of Defense<br>Bureau: | New budget authority (P.L. 95-26): $12,465,000<br>Other budgetary resources: -0-<br>Total budgetary resources: 12,465,000 |
| Appropriation title & symbol: See Coverage section below | Amount to be deferred:<br>Part of year: $<br>Entire year: 12,465,000 |
| OMB identification code: See Coverage section below<br>Grant program: ☐ Yes ☒ No | Legal authority (in addition to sec. 1013):<br>☒ Antideficiency Act<br>☐ Other |
| Type of account or fund:<br>☐ Annual<br>☒ Multiple-year September 30, 1978 (expiration date)<br>☐ No-year | Type of budget authority:<br>☒ Appropriation<br>☐ Contract authority<br>☐ Other |

Coverage:

| Account Title | Appropriation Symbol | OMB Identification Code | Amount |
|---|---|---|---|
| Military personnel, Army | 217/82010 | 21-2010-0-1-051 | $ 1,167,000 |
| Military personnel, Navy | 177/81453 | 17-1453-0-1-051 | 888,000 |
| Military personnel, Air Force | 577/83500 | 57-3500-0-1-051 | 910,000 |
| Operation and maintenance, Defense Agencies | 977/80100 | 97-0100-0-1-051 | 9,500,000 |
| | | | $12,465,000 |

Justification:

The amounts listed above are for the Uniformed Services University of the Health Sciences. These funds were appropriated in the Supplemental Appropriations Act, 1977 and made available until the end of 1978. The Congress appropriated the funds for operating the University in 1978. The purpose of this deferral is to postpone use of these funds until 1978 in accordance with the intent of Congress. The deferral will be maintained throughout 1977 to accomplish this purpose.



Estimated Effects:

There are no programmatic or budgetary effects resulting from this deferral since the funds will be apportioned in 1978 to comply with the intent of Congress.

Outlay Effects:

There are no outlay effects resulting from this deferral.

[FR Doc.77-21265 Filed 7-20-77;11:48 am]

federal register

FRIDAY, JULY 22, 1977

PART VI




# DEPARTMENT OF LABOR

## Employment Standards Administration

■

# MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

## General Wage Determination Decisions

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## DEPARTMENT OF LABOR

### Employment Standards Administration

### MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

### General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

#### MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

#### NEW GENERAL WAGE DETERMINATION DECISIONS

| | |
|---|---|
| Michigan | MI77–2104 |

#### MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

| | | |
|---|---|---|
| Alabama: | | |
| | AL77–1040 | Apr. 1, 1977. |
| Arizona: | | |
| | AZ77–5058; AZ77–5060 | June 17, 1977. |
| Arkansas: | | |
| | AR77–4106 | May 27, 1977. |
| | AR77–4107 | June 3, 1977. |
| | AR77–4112; AR77–4114 | June 10, 1977. |
| | AR77–4147 | July 1, 1977. |
| California: | | |
| | CA77–5039; CA77–5040 | Apr. 22, 1977. |
| Connecticut: | | |
| | CT76–2173 | Dec. 28, 1976. |
| Michigan: | | |
| | MI76–2140 | Nov. 19, 1976. |
| Mississippi: | | |
| | MS77–1030; MS77–1032 | Mar. 25, 1977. |
| Missouri: | | |
| | MO77–4162 | July 15, 1977. |
| Minnesota: | | |
| | MN77–2043 | May 6, 1977. |
| Nevada: | | |
| | NV77–5061 | June 17, 1977. |
| | NV77–5146 | Apr. 29, 1977. |
| New Mexico: | | |
| | NM77–4116 | June 17, 1977. |
| Pennsylvania: | | |
| | PA77–3032 | Mar. 25, 1977. |
| | PA77–3033 | Feb. 18, 1977. |
| | PA77–3043 | Apr. 8, 1977. |
| | PA77–3056 | May 13, 1977. |
| Tennessee: | | |
| | TN77–1082 | July 8, 1977. |
| Texas: | | |
| | TX77–4097 | May 6, 1977. |
| | TX77–4102 | May 13, 1977. |
| | TX77–4151; TX77–4152; TX 77–4153; TX77–4155; TX 77–4158; TX77–4159. | July 8, 1977. |

#### SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

| | |
|---|---|
| Alabama: | |
| AL77–1039 (AL77–1085) | Apr. 22, 1977. |
| Massachusetts: | |
| MA76–2095 (MA77–3062); MA76–2100 (MA77–3067). | Aug. 13, 1976. |
| MA76–2103 (MA77–3070) | Aug. 20, 1976. |
| MA76–2104 (MA77–3071) | Sept. 3, 1976. |
| Montana: | |
| MT77–5021 (MT77–5073) | Mar. 4, 1977. |
| Pennsylvania: | |
| PA76–3208 (PA77–3103) | July 2, 1976. |
| PA77–3026 (PA77–3104) | Feb. 4, 1977. |
| PA77–3039 (PA77–3102) | Apr. 8, 1977. |
| Tennessee: | |
| TN77–1036 (TN77–1080) | Apr. 1, 1977. |
| Wisconsin: | |
| WI76–2157 (WI77–2105); WI76–2158 (WI77–2106); WI76–2160 (WI77–2109); WI76–2161 (WI77–2110). | Dec. 17, 1976. |
| West Virginia: | |
| WV77–3027 (WV77–3101) | Feb. 18, 1977. |

Signed at Washington, D.C. this 15th day of July, 1977.

RAY J. DOLAN,
*Assistant Administrator,*
*Wage and Hour Division.*





NEW DECISION

STATE: Michigan
DECISION NO: MI77-2104
DESCRIPTION OF WORK: Residential Construction consisting of a single family homes and garden type apartments up to and including 4 stories.

COUNTY: Chippewa
DATE: Date of Publication

| | Basic Hourly Rates | Fringe Benefit Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Carpenters | $6.07 | .25 | .20 | | .01 |
| Cement Masons | 8.82 | .60 | .50 | | |
| Electricians: Units up to and including 2 story, garden type apartments (excluding buildings requiring the installation of an elevator or buildings that are steel fabricated or reinforced concrete frame) | 6.64 | .40 | 1% | | ½ of 1% |
| All other Residential Construction | 10.15 | .40 | 1% | | $25.00/yr. |
| Drywall Hangers | 7.50 | | | | |
| Laborers - Common | 5.01 | | | | |
| Painters - Brush | 5.00 | | | | |
| Plumbers & Pipefitters | 8.82 | .65 | .60 | 1.00 | .02 |
| Roofers | 7.31 | | | | |
| Soft Floor Layers | 5.00 | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Bulldozer Operator | 6.80 | | | | |
| Backhoe Operator | 6.06 | | | | |
| WELDERS - Rate for craft | | | | | |



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MODIFICATIONS P. 1

| Decision # A177-1[illegible]40 - Mod. # [illegible] (42 FR 17752 - April 1, 1977) Madison County, Alabama | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: | | | | | |
| Carpenters | 8.40 | | | | .03 |
| Laborers: | | | | | |
| Laborers, mason tenders | 4.87 | .25 | .40 | | |
| Air tool operator (jackhammer, vibrator) mortar mixers | 5.12 | .25 | .40 | | |
| Millwrights | 8.90 | | | | .03 |

MODIFICATIONS P. 2

| DECISION NO. A277-5058 - Mod. #2 (42 FR 31056 - June 17, 1977) Statewide, Arizona | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: | | | | | |
| Electricians (Flagstaff Area): | | | | | |
| Zone A | | | | | |
| Electricians | $ 12.20 | .96 | 3%+.78 | | 1/2% |
| Cable Splicers | 12.20 | .96 | 3%+.78 | | 1/2% |
| Zone B | | | | | |
| Electricians | 14.50 | .96 | 3%+.78 | | 1/2% |
| Cable Splicers | 14.50 | .96 | 3%+.78 | | 1/2% |
| Electricians (Gallup Area-Northern Apache County): | | | | | |
| Electricians | 12.60 | .60 | 3%+.70 | | 1/2% |
| Cable Splicers | 13.65 | .60 | 3%+.70 | | 1/2% |
| Electricians (Globe-Miami Area): | | | | | |
| Zone A | | | | | |
| Electricians | 13.09 | 6% | 3%+8% | | 1/2% |
| Cable Splicers | 13.34 | 6% | 3%+8% | | 1/2% |
| Zone B | | | | | |
| Electricians | 13.79 | 6% | 3%+8% | | 1/2% |
| Cable Splicers | 14.04 | 6% | 3%+8% | | 1/2% |
| Zone C | | | | | |
| Electricians | 14.39 | 6% | 3%+8% | | 1/2% |
| Cable Splicers | 14.64 | 6% | 3%+8% | | 1/2% |
| Zone D | | | | | |
| Electricians | 15.09 | 6% | 3%+8% | | 1/2% |
| Cable Splicers | 15.34 | 6% | 3%+8% | | 1/2% |
| Electricians (Yuma Area): | | | | | |
| Zone A | | | | | |
| Electricians | 11.88 | 5.25% | 3%+8.35% | | |
| Cable Splicers | 12.13 | 5.25% | 3%+8.35% | | |
| Zone B | | | | | |
| Electricians | 12.58 | 5.25% | 3%+8.35% | | |
| Cable Splicers | 12.83 | 5.25% | 3%+8.35% | | |
| Zone C | | | | | |
| Electricians | 13.18 | 5.25% | 3%+8.35% | | |
| Cable Splicers | 13.43 | 5.25% | 3%+8.35% | | |
| Zone D | | | | | |
| Electricians | 13.88 | 5.25% | 3%+8.35% | | |
| Cable Splicers | 14.13 | 5.25% | 3%+8.35% | | |



MODIFICATIONS P. 3

| DECISION NO. A277-5060 - Mod. #2 (42 FR 31070 - June 17, 1977) Pima County, Arizona | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: | | | | | |
| Electricians: | | | | | |
| Zone A | $ 9.39 | 8.4% | 3% | | 1/2% |
| Zone B | 9.89 | 8.4% | 3% | | 1/2% |
| Zone C | 10.39 | 8.4% | 3% | | 1/2% |
| Zone D | 10.89 | 8.4% | 3% | | 1/2% |

MODIFICATIONS P. 4

| DECISION NO. AR77-4106 - Mod. #4 (42 FR 27563 - May 27, 1977) Conway, Faulkner, Van Buren, Cleburne and Perry Counties, Arkansas | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CHANGE: | | | | | |
| LABORERS: | | | | | |
| Group I | $6.00 | .25 | .52 | | |
| Group II | 6.25 | .25 | .52 | | |
| Group III | 6.40 | .25 | .52 | | |
| Group IV | 6.50 | .25 | .52 | | |
| Group V | 6.65 | .25 | .52 | | |
| Group VI | 6.90 | .25 | .52 | | |
| Group VII | 6.80 | .25 | .52 | | |
| ROOFERS | 7.95 | | .10 | | |
| DECISION NO. AR77-4107 - Mod. #3 (42 FR 28757 - June 3, 1977) Pulaski County, Arkansas | | | | | |
| CHANGE: | | | | | |
| LABORERS: | | | | | |
| Group I | $6.00 | .25 | .52 | | |
| Group II | 6.25 | .25 | .52 | | |
| Group III | 6.40 | .25 | .52 | | |
| Group IV | 6.50 | .25 | .52 | | |
| Group V | 6.65 | .25 | .52 | | |
| Group VI | 6.90 | .25 | .52 | | |
| Group VII | 6.80 | .25 | .52 | | |
| ROOFERS | 7.95 | | .10 | | |

MODIFICATIONS P. 5

DECISION NO. AR77-4112 - Mod. #2
(42 FR 30104 - June 10, 1977)
Garland, Hot Springs and Clark Counties, Arkansas

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CHANGE: | | | | | |
| LABORERS: | | | | | |
| Group I | $6.00 | .25 | .52 | | |
| Group II | 6.25 | .25 | .52 | | |
| Group III | 6.40 | .25 | .52 | | |
| Group IV | 6.50 | .25 | .52 | | |
| Group V | 6.65 | .25 | .52 | | |
| Group VI | 6.90 | .25 | .52 | | |
| Group VII | 6.80 | .25 | .52 | | |
| ROOFERS | 7.95 | | .10 | | |

DECISION NO. AR77-4114 - Mod. #3
(42 FR 30106 - June 10, 1977)
Sebastian, Crawford and Washington Counties, Arkansas

| | | | | | |
|---|---|---|---|---|---|
| CHANGE: | | | | | |
| LABORERS: | | | | | |
| Group I | $6.00 | .25 | .52 | | |
| Group II | 6.25 | .25 | .52 | | |
| Group III | 6.40 | .25 | .52 | | |
| Group IV | 6.50 | .25 | .52 | | |
| Group V | 6.65 | .25 | .52 | | |
| Group VI | 6.90 | .25 | .52 | | |
| Group VII | 6.80 | .25 | .52 | | |
| ROOFERS | 7.95 | | .10 | | |

MODIFICATIONS P. 6

DECISION NO. AR77-4147 - Mod. #1
(42 FR 34156 - July 1, 1977)
Union & Ouachita Counties, Arkansas

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CHANGE: | | | | | |
| LABORERS: | | | | | |
| Group I | $6.00 | .25 | .52 | | |
| Group II | 6.25 | .25 | .52 | | |
| Group III | 6.40 | .25 | .52 | | |
| Group IV | 6.50 | .25 | .52 | | |
| Group V | 6.80 | .25 | .52 | | |
| Group VI | 6.90 | .25 | .52 | | |
| Group VII | 6.75 | .25 | .52 | | |
| ROOFERS | 7.95 | | .10 | | |





MODIFICATIONS P. 7

DECISION NO. CA77-5039- Mod. #3
(42 FR 20991 - April 22, 1977)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: | | | | | |
| Carpenters: | | | | | |
| Carpenters | $ 11.65 | $ 1.22 | $ 1.71 | .85 | .06 |
| Hardwood Floor Layers; Power Saw Operators; Saw Filers; Shinglers; Steel Scaffold Erectors and/or Steel Shoring Erectors | 11.80 | 1.22 | 1.71 | .85 | .06 |
| Millwrights | 12.15 | 1.22 | 1.71 | .85 | .06 |
| Electricians: | | | | | |
| Lake, Marin, Mendocino and Sonoma Counties | | | | | |
| Electricians | 12.35 | 1.11 | 3%+ .30 | | .02 |
| Cable Splicers | 13.61 | 1.11 | 3%+ .30 | | .02 |
| Butte, Glenn, Lassen, Modoc, Plumas, Shasta, Siskiyou, Tehama and Trinity Counties | | | | | |
| Electricians | 12.24 | 1.12 | 3%+ .70 | | .04 |
| Cable Splicers | 13.46 | 1.12 | 3%+ .70 | | .04 |
| Tunnel: | | | | | |
| Electricians; Cable Splicers Helpers | 12.85 | 1.12 | 3%+ .70 | | .04 |
| Cable Splicers | 14.14 | 1.12 | 3%+ .70 | | .04 |

MODIFICATIONS P. 8

DECISION NO. CA77-5039 (Cont'd)

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Lathers: | | | | | |
| San Benito and Santa Clara Counties | $ 12.69 | $ .98 | $ 1.75 | | |
| Plumbers; Steamfitters: | | | | | |
| Amador (Northern half of County), Sacramento, Yolo, El Dorado, Nevada, Placer, and Sierra Counties (excluding Lake Tahoe Area) | 13.84 | 1.32 | 1.81 | | .14 |
| Sheet Metal Workers: | | | | | |
| Amador, Butte, Colusa, El Dorado, Glenn, Lassen, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Sutter, Tehama, Yolo and Yuba Counties | 11.68 | .73 | 1.65 | | .11 |
| Add: | | | | | |
| Line Construction: | | | | | |
| Lake, Marin, Mendocino and Sonoma Counties | | | | | |
| Groundman | 9.89 | 1.11 | 3%+ .80 | | .02 |
| Line Equipment Operators | 11.12 | 1.11 | 3%+ .80 | | .02 |
| Linemen | 12.35 | 1.11 | 3%+ .80 | | .02 |
| Cable Splicers | 13.61 | 1.11 | 3%+ .80 | | .02 |

| DECISION NO. CA77-5040 - Mod. #3 (42 FR 21012 - April 22, 1977) | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Alameda, Alpine, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties, California | | | | | |
| Change: | | | | | |
| Carpenters: | | | | | |
| Carpenters | $ 11.65 | $ 1.22 | $ 1.71 | .85 | .06 |
| Hardwood Floor Layers; Power Saw Operators; Saw Filers; Shinglers; Steel Scaffold Erectors and/or Steel Shoring Erectors | 11.60 | 1.22 | 1.71 | .85 | .06 |
| Millwrights | 12.15 | 1.22 | 1.71 | .85 | .06 |
| Electricians: | | | | | |
| Marin and Sonoma Counties | | | | | |
| Electricians | 12.35 | 1.11 | 3%+ .30 | | .02 |
| Cable Splicers | 13.61 | 1.11 | 3%+ .30 | | .02 |
| Tehama County | | | | | |
| Electricians (4 stories): | | | | | |
| Electricians | 12.24 | 1.12 | 3%+ .70 | | .04 |
| Cable Splicers | 13.46 | 1.12 | 3%+ .70 | | .04 |
| Lathers: | | | | | |
| San Benito and Santa Clara Counties | 12.69 | .98 | 1.75 | | |
| Plumbers; Steamfitters: | | | | | |
| Amador (Northern half of County), Sacramento, Yolo, Eldorado, Nevada and Placer Counties (excluding Lake Tahoe Area) | 13.84 | 1.32 | 1.81 | | .14 |
| Sheet Metal Workers: | | | | | |
| Amador, El Dorado, Nevada, Placer, Sacramento, Sutter, Tehama, Yolo and Yuba Counties | 11.68 | .73 | 1.65 | | .11 |



| DECISION NO. CT76-2173 - Mod. #2 (41 FR 56581 - December 28, 1976) Hartford, Middlesex, New Haven, New London and Tolland Counties, Connecticut | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CHANGE: | | | | | |
| ELECTRICIANS: | | | | | |
| Middlesex County: | | | | | |
| Centerbrook, Chester, Clinton, Cobalt, Deep River, Durham, E. Hampton, Essex, Haddam, Higganum, Ivoryton, Middle Haddam, Moodus, Old Saybrook, Rockfall and Westbrook | $10.36 | 1.20 | 1% +.40 | | |
| New Haven County: | | | | | |
| Ansonia, Branford, Cheshire, Derby, Guilford, Madison, Meriden, New Haven, N. Branford, N. Haven, Northford, Orange, South Britain and Wallingford | 10.36 | 1.20 | 1%+.40 | | |
| New London County: | | | | | |
| Old Lyme and Waterford | 10.36 | 1.20 | 1%+.40 | | |







| DECISION #MI76-2140 - Mod. #4 (41 FR 51316 - November 19, 1976) Statewide, Michigan | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CHANGE: | | | | | |
| Cement Masons: | | | | | |
| Zone 1 | | | | | |
| Genesee, Livingston, Macomb, Monroe, Oakland, Saginaw, Washtenaw & Wayne Counties Cement Masonry related to Highway, Road & Street Construction | $10.90 | .50 | .25 | | .02 |
| Zone 2 | | | | | |
| Remainder of State | 10.55 | .50 | .25 | | .02 |
| Power Equipment Operators: | | | | | |
| Zone 1 - Wayne, Monroe, Washtenaw, Oakland, Macomb & Genesee | | | | | |
| Class 1 | 9.45 | .80 | .85 | 10% | .05 |
| Class 2 | 9.22 | .80 | .85 | 10% | .05 |
| Class 3 | 8.76 | .80 | .85 | 10% | .05 |
| Class 4 | 8.63 | .80 | .85 | 10% | .05 |
| Zone 2 - Remainder of State | | | | | |
| Class 1 | 9.36 | .80 | .85 | 10% | .05 |
| Class 2 | 9.10 | .80 | .85 | 10% | .05 |
| Class 3 | 8.65 | .80 | .85 | 10% | .05 |
| Class 4 | 8.39 | .80 | .85 | 10% | .05 |
| Truck Drivers: | | | | | |
| Zone 1 - Genesee, Lapeer, Lenawee, Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw & Wayne Counties | | | | | |
| Class 1 | 9.27 | a27.50 | a28.00 | .40 | |
| Class 2 | 9.37 | a27.50 | a28.00 | .40 | |
| Class 3 | 9.52 | a27.50 | a28.00 | .40 | |
| Zone 2 - Remainder of State | | | | | |
| Class 1 | 9.17 | a27.50 | a28.00 | .40 | |
| Class 2 | 9.27 | a27.50 | a28.00 | .40 | |
| Class 3 | 9.42 | a27.50 | a28.00 | .40 | |



DECISION #MI76-2140 - Mod. #4 - Cont'd.

| LABORERS | ZONE 1 | ZONE 2 | ZONE 2A | ZONE 3 | ZONE 3A |
|---|---|---|---|---|---|
| | Basic Hourly Rates | Basic Hourly Rates | Basic Hourly Rates | Basic Hourly Rates | Basic Hourly Rates |
| CLASS A | $ 8.78 | $ 8.26 | $ 8.01 | $ 7.90 | $ 7.75 |
| CLASS B | 8.56 | 8.03 | 7.78 | 7.60 | 7.45 |
| CLASS B-1 | 8.43 | 8.12 | 7.87 | 7.68 | 7.73 |
| CLASS B-2 | 8.24 | 7.93 | 7.68 | 7.70 | 7.55 |
| CLASS C | 8.35 | 7.87 | 7.62 | 7.55 | 7.40 |
| CLASS D | 8.24 | 7.71 | 7.46 | 7.35 | 7.20 |
| CLASS E | 8.18 | 7.65 | 7.40 | 7.25 | 7.10 |
| CLASS F | 8.15 | 7.57 | 7.32 | 7.20 | 7.05 |
| FRINGE BENEFITS FOR ALL ZONES AND ALL CLASSIFICATIONS | | | | | |
| .55 Health & Welfare | | | | | |
| .35 Pension | | | | | |
| .65 Vacation and Holiday | | | | | |
| .04 Apprentice Training | | | | | |

ZONE DEFINITIONS

ZONE 1 - Genesee, Macomb, Monroe, Oakland, Washtenaw, & Wayne Counties.

ZONE 2 - Allegan, Barry, Bay, Berrien, Branch, Calhoun, Cass, Clair, Clinton, Eaton, Gratiot, Hillsdale, Huron, Ingham, Jackson, Kalamazoo, Lapeer, Lenawee, Livingston, Midland, Muskingum, St. Joseph, Saginaw, Sanilac, Shiawassee, Tuscola, & Van Buren.

ZONE 2A - Ionia, Kent, Montcalm, & Ottawa Counties.

ZONE 3 - Alcona, Alger, Alpena, Antrim, Arenac, Baraga, Benzie, Charlevoix, Cheboygan, Chippewa, Clare, Crawford, Delta, Dickinson, Emmet, Gladwin, Gogebic, Grand Traverse, Houghton, Iosco, Iron, Isabella, Kalkaska, Keweenaw, Lake, Leelanau, Luce, Mackinac, Manistee, Marquette, Mason,, Menominee, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Ontonagon, Oscoda, Otsego, Presque Isle, Roscommon, Schoolcraft, and Wexford Counties.

ZONE 3A - Mecosta and Osceola Counties.

DECISION #MI76-2140 - Mod. #4 - Cont'd

LABORERS

CLASSIFICATION DEFINITIONS

CLASS A - Line form setter for curb or pavement.

CLASS B - Pipe layers, oxygen gun.

CLASS B-1 - Asphalt Raker.

CLASS B-2 - Asphalt tamper and asphalt raker helper.

CLASS C - Tunnel miner (Highway work only), finishers tenders, guard rail builder, highway and median barrier installer, fence erector, bottom man, powder man, wagon drill and air tractor operators, curb and side rail setters' helper, diamond and core drills.

CLASS D - Mixer Operator (less than 5 sacks), air or electric tool operator (jack hammer, etc.), spreader, boxman (asphalt, stone, gravel, etc.), concrete paddler, power chain saw operator, paving batch truck dumper, asphalt screed checker, grade checker and tunnel mucker (highway work only), concrete saw (under 40 h. p.), and dry pack machine.

CLASS E - Cement handler or dockman, topman, asphalt dust handler.

CLASS F - Asphalt shoveler or loader, asphlat plant misc., axle man, batch bin (no power), burlap man, carpenters helper, subgrade labor (hand tools), yard man, guard rail builder's helpers, highway and median barrier installer's helper, fence erector helper, dumper (wagon, truck, etc.), jetting labor, joint filling labor, misc. unskilled labor, powder monkey (helper), sprinkler labor, form setting labor, pavement reinforcing, handling and placing (e. g. wire mush, steel mats, dowell bard, etc.), masons or bricklayer tender on manholes, headwalls, etc.



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Decision # MS77-1030-Mod. # 1 (42 FR-16356 - March 25, 1977) Hancock, Harrison, Jackson, & Pearl River Counties, Mississippi. | | | | | |
| Change: | | | | | |
| Electricians: | | | | | |
| Electricians | 9.40 | 5% | 3%+.20 | | 1/8 of 1% |
| Cable splicers | 9.65 | 5% | 3%+.20 | | 1/8 of 1% |
| Ironworkers: | | | | | |
| Jackson Co. & eastern 1/3 of Harrison Co. (incl. Biloxi, Keesler AFB, & towns of Hawkinson & Success) | | | | | |
| Structural, Ornamental, & Reinforcing | 9.88 | .40 | .50 | | |
| Line Construction: | | | | | |
| Linemen | 9.40 | .25 | 3%+.20 | | 1/8 of 1% |
| Cable splicers | 9.65 | .25 | 3%+.20 | | 1/8 of 1% |
| Plumbers and steamfitters | 10.14 | .31 | .50 | | .02 |
| Sprinkler fitters | 10.35 | .65 | .95 | | .08 |
| Decision # MS77-1032 - Mod. # 2 (42 FR-16359 - March 25, 1977) Hinds County, Mississippi | | | | | |
| Change: | | | | | |
| Electricians | | | | | |
| Electricians | 9.25 | .35 | 3%+.50 | | .04 |
| Cable splicers | 9.50 | .35 | 3%+.50 | | .04 |
| Ironworkers | 8.95 | .30 | .35 | | .04 |
| Lathers | 8.45 | | | | .01 |
| Line Construction: | | | | | |
| Linemen | 8.88 | | 3% | c+2% | 1/2% |
| Cable splicers | 9.19 | | 3% | c+2% | 1/2% |
| Groundmen (over 1 yr.) | 5.38 | | 3% | c+2% | 1/2% |
| Groundmen (under 1 yr.) | 4.99 | | 3% | c+2% | 1/2% |
| Plasterers | 7.60 | .25 | .50 | | .05 |
| Roofers: | | | | | |
| Roofers | 8.25 | | .20 | | |
| Kettlemen | 6.50 | | .20 | | |
| Paper rollers | 6.50 | | .20 | | |
| Helpers | 5.10 | | .20 | | |
| Sprinkler fitters | 10.35 | .65 | .95 | | .08 |









| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION #MO77-4162 - Mod. #1 (42 FR - July 15, 1977) Description of Work and Locations: Heavy and Highway Construction, Missouri | | | | | |
| Change: | | | | | |
| Ironworkers Zone 4 | $10.10 | .45 | .65 | | .12 |
| DECISION #MN77-2043 - Mod. #2 (42 FR 23390 - May 6, 1977) Anoka, Carver, Hennepin, Scott, Dakota, Ramsey & Washington Counties, Minnesota | | | | | |
| CHANGE: | | | | | |
| Bricklayers & Stonemasons | $10.01 | .655 | .53 | .56 | .05 |
| Boilermakers | 11.30 | .85 | 1.00 | | .02 |
| Cement Masons: | | | | | |
| Building, Site Preparation, Excavation & Incidental Paving | 10.13 | .60 | .60 | | |
| Ironworkers | 10.85 | .75 | .60 | | .02 |
| Lathers: | | | | | |
| Anoka, Carver & Hennepin Counties | 9.71 | .45 | .35 | | .01 |
| Sprinkler Fitters | 11.38 | .65 | .95 | | .08 |



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION #NV77-5061 - Mod. #2 (42 FR 31074 - June 17, 1977) Clark County (does not include the Nevada Test Site), Nevada | | | | | |
| Change: | | | | | |
| Cement Masons: | | | | | |
| Cement Masons | $11.40 | $1.00 | .70 | | .08 |
| Cement Floor Finishing Machine; Color Work | 11.65 | 1.00 | .70 | | .08 |
| Add: | | | | | |
| Plasterer Tenders | 11.12 | .66 | 1.35 | | |
| Change: | | | | | |
| Plasterers | 11.68 | 1.00 | .70 | | .08 |
| DECISION #NV77-5146 - Mod. #4 (42 FR 22082 - April 29, 1977) Statewide (does not include the Nevada Test Site and Tonopah Test Range, and does not include highway construction in Douglas County), Nevada | | | | | |
| Change: | | | | | |
| Bricklayers; Stonemasons: | | | | | |
| Remaining Counties and Nye County (north of Hwy. #6) | $11.45 | .50 | .60 | | .01 |
| Carpenters: | | | | | |
| Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6, including City of Tonopah): Zone 1: Area within the city limits of Henderson, Nevada, and Boulder City, Nevada; area within a 10-mile radius of Las Vegas, Nevada; area within a 5-mile radius of Tonopah, Nevada; present fenced area of Nellis Air Force Base, as well as that adjacent to Nellis Air Force base bounded on the north by the Nellis spur track and on the west by the train line of the Union Pacific Railroad: | | | | | |
| Carpenters | 11.36 | .65 | .90 | 1.00 | .10 |
| Floor layers; Patent scaffold erectors; Power saw operators | 11.51 | .65 | .90 | 1.00 | .10 |
| Piledrivermen | 11.56 | .65 | .90 | 1.00 | .10 |
| Millwrights | 12.06 | .65 | .90 | 1.00 | .10 |





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DECISION #NV77-5146 (Cont'd):

Change (Cont'd):

Carpenters (Cont'd):

Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6, including City of Tonopah) (Cont'd):

Zone 2: Area outside of Zone 1 and not more than 20 road miles from the communities described above:

| | Basic Hourly Rates | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| | | Fringe Benefits Payments | | | |
| Carpenters | $11.86 | .65 | .9Ø | $1.00 | .1Ø |
| Floor layers; Patent scaffold erectors; Power saw operators | 12.01 | .65 | .90 | 1.00 | .10 |
| Piledrivermen | 12.06 | .65 | .90 | 1.00 | .10 |
| Millwrights | 12.56 | .65 | .90 | 1.00 | .10 |

Zone 3: Area over 20 miles and not more than 40 miles from the communities described above:

| | | | | | |
|---|---|---|---|---|---|
| Carpenters | 12.11 | .65 | .90 | 1.00 | .10 |
| Floor layers; Patent scaffold erectors; Power saw operators | 12.26 | .65 | .90 | 1.00 | .10 |
| Piledrivermen | 12.31 | .65 | .90 | 1.00 | .10 |
| Millwrights | 12.81 | .65 | .90 | 1.00 | .10 |

Zone 4: Area over 40 miles from the communities described above:

| | | | | | |
|---|---|---|---|---|---|
| Carpenters | 13.36 | .65 | .9Ø | 1.00 | .10 |
| Floor layers; Patent scaffold erectors; Power saw operators | 13.51 | .65 | .90 | 1.00 | .10 |
| Piledrivermen | 13.56 | .65 | .90 | 1.00 | .10 |
| Millwrights | 14.06 | .65 | .90 | 1.00 | .10 |

Cement Masons:

Clark, Lincoln, Nye Counties:

| | | | | | |
|---|---|---|---|---|---|
| Cement Masons | 11.40 | 1.00 | .7Ø | | .08 |
| Cement Floor Finishing Machine and Color Work | 11.65 | 1.00 | .70 | | .0Ø |



DECISION #NV77-5146 (Cont'd):

Change (Cont'd):

Clark, Esmeralda, Lincoln, Nye Counties

Ironworkers:

Elko, Eureka, White Pine Counties

Fence Erectors; Machinery Movers; Ornamental; Reinforcing Steel Setters; Structural

Laborers:

Remaining Counties

Building construction:

Zone 1: Area within 5 road miles of the following communities - Carson City, Elko, Fallon, Hawthorne, Lovelock, Minden, Tonopah, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada; also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than one foot of the mountains to the east or west side of Washoe Valley; also the area of Steamboat Springs, Nevada, and Tahoe Basin from the Summit to the Lake:

| | Basic Hourly Rates | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| | $13.5Ø | .5Ø | .4Ø | | .05 |
| Laborers: | 10.65 | .65 | 1.15 | | .05 |

Remaining Counties

Building construction:

Zone 1: Area within 5 road miles of the following communities - Carson City, Elko, Fallon, Hawthorne, Lovelock, Minden, Tonopah, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada; also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than one foot of the mountains to the east or west side of Washoe Valley; also the area of Steamboat Springs, Nevada, also the Air Force Depot also the Tahoe Basin from the Summit to the Lake:

| | | | | | |
|---|---|---|---|---|---|
| Group 1 | 8.20 | .70 | .90 | | .10 |
| Group 2 | 8.30 | .70 | .90 | | .10 |
| Group 3 | 8.45 | .70 | .90 | | .10 |
| Group 4 | 8.70 | .70 | .90 | | .10 |
| Group 5 | 9.00 | .70 | .90 | | .10 |
| Group 6-A | 9.00 | .70 | .90 | | .10 |
| Group 6-B | 8.70 | .70 | .90 | | .10 |
| Group 6-C | 8.35 | .70 | .90 | | .10 |



DECISION #NV77-5146 (Cont'd):

Change (Cont'd):

Laborers (Cont'd):

Remaining Counties (Cont'd):

Heavy and Highway construction:

Area 1:

| | | | | | |
|---|---|---|---|---|---|
| Group 1 | $8.2Ø | .70 | .90 | | .10 |
| Group 2 | 8.3Ø | .70 | .90 | | .10 |
| Group 3 | 8.45 | .70 | .90 | | .10 |
| Group 4 | 8.70 | .70 | .90 | | .10 |
| Group 5 | 9.00 | .70 | .90 | | .10 |
| Group 6-A | 9.00 | .70 | .90 | | .10 |
| Group 6-B | 8.70 | .70 | .90 | | .10 |
| Group 6-C | 8.35 | .70 | .90 | | .10 |

Area 2:

| | | | | | |
|---|---|---|---|---|---|
| Group 1 | 9.35 | .70 | .90 | | .10 |
| Group 2 | 9.45 | .70 | .90 | | .10 |
| Group 3 | 9.60 | .70 | .90 | | .10 |
| Group 4 | 9.85 | .70 | .90 | | .10 |
| Group 5 | 10.15 | .70 | .90 | | .10 |
| Group 6-A | 10.15 | .70 | .90 | | .10 |
| Group 6-B | 9.85 | .70 | .90 | | .10 |
| Group 6-C | 9.50 | .70 | .90 | | .10 |

Add:

Marble Masons:

Remaining Counties and Nye County (north half)

Plasterer Tenders:

Clark, Esmeralda, Lincoln, Nye Counties

Plasterers:

Clark, Lincoln, Nye Counties

Rooters:

Remaining Counties and Nye County (north half)

Sheet Metal Workers:

Remaining Counties and Nye County (north half)

Sole Floor Layers:

Clark, Esmeralda, Lincoln, Nye Counties

Terrazzo Workers; Tile Setters:

Remaining Counties and Nye County (south half)

| | | | | | |
|---|---|---|---|---|---|
| | 11.45 | .50 | .60 | | .01 |
| | 11.12 | .66 | 1.35 | | |
| | 11.68 | 1.00 | .70 | | .08 |
| | 11.60 | .70 | .50 | | .02 |
| | 10.34 | 1.04 | 2.13 | | .05 |
| | 12.67 | .65 | | | .15 |
| | 11.45 | .50 | .60 | | .01 |





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DECISION #PA77-3032 - Mod. # 3
(42 FR 16373 - March 25, 1977)
Lycoming County, Pennsylvania

| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Change#1: | | | | | |
| Asbestos workers | $10.70 | .65 | .60 | .01 | |
| Electricians | 9.48 | .50 | 3%+.50 | .60 | .02 |
| Ironworkers | 11.28 | .84 | 1.36 | .20 | .03 |
| Plasterers | 10.20 | | | | |
| Plumbers & Steamfitters | 10.56 | .69 | .50 | .20 | .05 |

DECISION #PA77-1033 - Mod. # 4
(42 FR 1026# - February 18, 1977)
Northampton County, Pennsylvania

| | | | | | |
|---|---|---|---|---|---|
| Change#1: | | | | | |
| Laborers: | | | | | |
| Laborers Window Cleaners Operator of jackhammer, paving breaking and other pneumatic and mechanical tools comfnr. laborers, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe and the making of joints for the same and collerdams (below 10') | $7.45 | .35 | .25 | | |
| Mason drills and men handling bursting torches in the wrecking of buildings | 7.70 | .35 | .45 | | |
| Plaster and mason tenders. scaffold builders and handling of all materials to be used by plasterers and masons, brick and block loaded on pallets, cement finisher tenders, gunnitting and molded-D and sandblaster helpers, power buggies, all floor hardner and "cure" application shall be the work of the mason tender. All pump such as the concrete, plaster, mortar and water, installing plastic or other non-solid refractory materials in connection with the boiler work | 8.20 | .35 | .45 | | |
| Barko Tamper Operator | 8.47 | .35 | .45 | | |
| Sprinkler Fitters | 11.86 | .65 | .95 | | .08 |

MODIFICATIONS P. 23

DECISION #PA77-3043 - Mod. # 2
(42 FR 1R783 - April 8, 1977)
Carbon, Monroe County, Including Tobyhanna Army Depot, and Pike County, Pennsylvania

| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Change#1: | | | | | |
| Asbestos workers | $10.70 | .65 | .60 | | .01 |
| Bricklayers & Stonemasons | | | | | |
| Zone 1 | 10.30 | .60 | 1.15 | | |
| Zone 5 | 10.05 | .55 | .30 | | .01 |

AREA COVERED BY BRICKLAYERS & STONEMASONS ZONE TO READ

ZONE - 1 Remainder of Carbon County

| | | | | | | |
|---|---|---|---|---|---|---|
| Cement Masons | | | | | | |
| Zone 1 | 11.25 | | | | | |
| Electricians | | | | | | |
| Zone 1 | 10.90 | .35 | 3%+.80 | | | .02 |
| Zone 2 | 10.37 | .55 | 3%+.25 | a | | b |
| Zone 3 | 11.20 | 6% | 3%+1+100 | | | .02 |
| Laborers: | | | | | | |
| Zone 2 | 7.45 | .35 | .45 | | | |
| Class 1 | 7.70 | .35 | .45 | | | |
| Class 2 | 7.85 | .35 | .45 | | | |
| Class 3 | 8.47 | .35 | .45 | | | |
| Class 4 | 9.65 | .40 | .70 | | | |
| Plasters | | | | | | |
| Zone 2 | | | | | | |
| Ironworkers | | | | | | |
| Zone 1 | 11.45 | .84 | 1.21 | | | |
| Marble Setters | | | | | | |
| Zone 1 | 8.70 | .80 | 1.15 | | | |
| Painters | | | | | | |
| Zone 2 | 10.21 | .40 | .25 | | | .01 |
| Piledrivermen | 10.77 | 2.13 | 1.30 | 8 | | .12 |
| Plumbers | | | | | | |
| Zone 2 | 11.49 | .50 | .50 | | | .01 |
| Soft Floor layers | | | | | | |
| Zone 1 | 8.88 | .40 | .50 | | | .03 |
| Terrazzo Workers | | | | | | |
| Zone 1 | 8.95 | .80 | 1.15 | | | |
| Tile Setters | | | | | | |
| Zone 1 | 8.70 | .80 | 1.15 | | | |

MODIFICATIONS P. 24





DECISION NO. NM77-4116 - Mod. 03
(42 FR 31094 - June 17, 1977)
Statewide, New Mexico

| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| CHANGE - LABORERS CLASSIFICATION DEFINITIONS FOR BUILDING, HEAVY CONSTRUCTION AND RESIDENTIAL CONSTRUCTION GROUP III TO READ "Air power tool operator, asphalt cutters, cutting torch operators, demolition, burnt tebound men, fog machine operators, power buggy operators, rodmen, sandblasters (potmen), window washers, wagon, core and diamond driller tenders outside." | | | | | |
| CHANGE: | | | | | |
| LABORERS (BUILDING & HEAVY CONST.): | | | | | |
| Group I | $ 6.41 | .53 | .67 | | .05 |
| Group II | 6.61 | .53 | .67 | | .05 |
| Group III | 6.61 | .53 | .67 | | .05 |
| Group IV | 6.91 | .53 | .67 | | .05 |
| Group V | 7.06 | .53 | .67 | | .05 |
| LAYOUTMEN (RESIDENTIAL CONSTRUCTION): | | | | | |
| Group I | 5.02 | .53 | .67 | | .05 |
| Group II | 5.32 | .53 | .67 | | .05 |
| Group III | 5.42 | .53 | .67 | | .05 |
| Group IV | 5.62 | .53 | .67 | | .05 |
| SOUND INSTALLERS: | | | | | |
| SOUNDMEN | | | | | |
| Zone 1 | 10.10 | .60 | 3% | | 1/2% |
| Zone 2 | 11.36 | .60 | 3% | | 1/2% |
| Zone 3 | 13.89 | .60 | 3% | | 1/2% |
| TECHNICIAN | | | | | |
| Zone 1 | 8.08 | .60 | 3% | | 1/2% |
| Zone 2 | 9.36 | .60 | 3% | | 1/2% |
| Zone 3 | 11.87 | .60 | 3% | | 1/2% |
| SOUND INSTALLERS | | | | | |
| Zone 1 | 6.57 | .60 | 3% | | 1/2% |
| Zone 2 | 7.83 | .60 | 3% | | 1/2% |
| Zone 3 | 10.36 | .60 | 3% | | 1/2% |

MODIFICATIONS P. 21

DECISION NO. NM77-4116

| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| CHANGE: | | | | | |
| PLUMBERS-PIPEFITTERS: | | | | | |
| Area I | $10.85 | .63 | 1.42 | | .16 |
| Area II | 11.35 | .63 | 1.42 | | .16 |
| Area III | 12.60 | .63 | 1.42 | | .16 |
| Specific Area | 11.48 | .63 | 1.42 | | .16 |
| Residential | 6.50 | .63 | 1.42 | | .16 |
| ADD: | | | | | |
| LATHERS (ZONE III) | | | | | |
| Dona Ana & Otero Counties | 6.55 | | | | .01 |

MODIFICATIONS P. 22

MODIFICATIONS P. 25

| DECISION NO. PA77-3043 - Mod. # 2 Cont'd. | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| OMIT: | | | | | |
| Bricklayers & Stonemasons | | | | | |
| Zone 3 | $8.90 | .60 | .95 | | |
| ADD: | | | | | |
| Laborers | | | | | |
| Zone 2 | | | | | |
| Class 5, to read: | | | | | |
| Wagon drills and men handling burning torches in the wrecking of buildings | 8.20 | .35 | .45 | | |
| DECISION #PA77-3098 - Mod. # 2 (42 FR 24698 - May 13, 1977) Lehigh County, Pennsylvania | | | | | |
| Change: | | | | | |
| Laborers: | | | | | |
| Laborers & window cleaners | $7.45 | .35 | .45 | | |
| Operator of jackhammer, paving breaking and other pneumatic and mechanical tools coming under the jurisdiction of laborers, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe and the making of joints for same and coffordams (below 10') | 7.70 | .35 | .45 | | |
| Wagon drills and men handling burning torches in the wrecking of buildings | 8.20 | .35 | .45 | | |
| Plaster and mason tenders, scaffold builders and handling of all materials to be used by plasterers and masons, brick and block loaded on pallets, cement finisher tenders, gunniting and muldem-D and sandblaster helpers, power buggies, all floor hardner and "cure" application shall be the work of the mason tender, all pumps such as the concrete, plaster, mortar and water, installing plastic or other non-solid refractory materials in connection with the boiler work | 7.85 | .35 | .45 | | |
| Barko Tamper Operator | 8.47 | .35 | .45 | | |
| Sprinkler Fitters | 11.86 | .65 | .95 | | .08 |

MODIFICATIONS P. 26

| Decision # TN77-1082 - Mod. # 1. (42 FR 35603 - July 8, 1977) Knox and Monroe Counties, and that portion of Anderson and Roane Counties which comprise the Oak Ridge E.R.D.A. site, Tennessee. | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Helmts: | | | | | |
| Helpers | | | | | |
| DECISION #TX77-4097 - Mod. #2 (42 FR 24699 - May 6, 1977) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties, Texas | | | | | |
| Change: | | | | | |
| Carpenters: | | | | | |
| Zone 1: | | | | | |
| Carpenters | $ 9.825 | .30 | .30 | | .005 |
| Millwrights | 10.225 | .30 | .30 | | .005 |
| Piledrivermen | 10.325 | .30 | .30 | | .005 |
| Line Constructima: | | | | | |
| Linemen; Linemen operators | 11.52 | | 3% | | 1/2% |
| Cable splicers | 12.67 | | 3% | | 1/2% |
| Groundman, 1st 6 months | 6.91 | | 3% | | 1/2% |
| Groundman, 2nd 6 months | 7.49 | | 3% | | 1/2% |
| Groundman, 1 year & over | 8.06 | | 3% | | 1/2% |
| DECISION #TX77-4102 - Mod. #6 (42 FR 24707 - May 13, 1977) Galveston & Harris Cos., Texas | | | | | |
| Change: | | | | | |
| Glaziers | 11.17 | .60 | .425 | | .01 |
| Sheet metal workers: | | | | | |
| Harris County | 10.48 | .275 | .645 | .42 | .06 |





MODIFICATIONS P. 27

| DECISION #TX77-4151 - Mod. #1 (42 FR 35605 - July 8, 1977) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Change: | | | | | |
| Building Construction: | | | | | |
| Asbestos workers: | | | | | |
| Zone 1 | $10.35 | .60 | .60 | | .08 |
| Line Construction: | | | | | |
| Linemen; Linemen operators | 11.52 | | 3% | | 1/2% |
| Cable splicers | 12.67 | | 3% | | 1/2% |
| Groundman, 1st 6 months | 6.91 | | 3% | | 1/2% |
| Groundman, 2nd 6 months | 7.49 | | 3% | | 1/2% |
| Groundman, 1 year & over | 8.06 | | 3% | | 1/2% |
| DECISION #TX77-4152 - Mod. #1 (42 FR 35609 - July 8, 1977) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas | | | | | |
| Change: | | | | | |
| Line Construction: | | | | | |
| Zone 2: | | | | | |
| Lineman; Operator | 11.52 | | 3% | | 1/2% |
| Cable splicer | 12.67 | | 3% | | 1/2% |
| Groundman, 1st 6 months | 6.91 | | 3% | | 1/2% |
| Groundman, 2nd 6 months | 7.49 | | 3% | | 1/2% |
| Groundman, 1 year & over | 8.06 | | 3% | | 1/2% |

MODIFICATIONS P. 28

| DECISION #TX77-4153 - Mod. #1 (42 FR 35612 - July 8, 1977) Brazos County, Texas | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Change: | | | | | |
| Glaziers | $11.17 | .60 | .425 | | .01 |
| Line Construction: | | | | | |
| Lineman & cable splicer | 11.62 | .40 | 3% | | 1/2% |
| Groundman (1st 6 months) | 4.07 | .40 | 3% | | 1/2% |
| Groundman (2nd 6 months) | 4.88 | .40 | 3% | | 1/2% |
| Groundman | 6.74 | .40 | 3% | | 1/2% |
| Sheet metal workers | 10.48 | .275 | .645 | .42 | .06 |
| DECISION #TX77-4155 - Mod. #1 (42 FR 35615 - July 8, 1977) Lubbock County, Texas | | | | | |
| Change: | | | | | |
| Painters: | | | | | |
| Brush | 6.95 | .30 | .20 | | .04 |
| Spray | 7.70 | .30 | .20 | | .04 |
| DECISION #TX77-4158 - Mod. #1 (42 FR 35618 - July 8, 1977) Travis County, Texas | | | | | |
| Change: | | | | | |
| Asbestos workers | 10.35 | .60 | .60 | | .08 |
| Line Construction: | | | | | |
| Linemen | 10.30 | .40 | 3% | | 1/2% |
| Groundmen | 5.67 | .40 | 3% | | 1/2% |
| Groundmen (1st year) | 5.15 | .40 | 3% | | 1/2% |

MODIFICATIONS P. 29

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION #TX77-4159 - Mod. #1 (42 FR 35620 - July 8, 1977) Wichita County, Texas | | | | | |
| Change: | | | | | |
| Line Construction: | | | | | |
| Lineman; Lineman Operator | $11.52 | | 3% | | 1/2% |
| Cable splicer | 12.67 | | 3% | | 1/2% |
| Groundman, 1st 6 months | 6.91 | | 3% | | 1/2% |
| Groundman, 2nd 6 months | 7.49 | | 3% | | 1/2% |
| Groundman, 1 year & over | 8.06 | | 3% | | 1/2% |

SUPERSEDEAS DECISION

STATE: Alabama COUNTY: Mobile
DECISION NUMBER: AL77-1085 DATE: Date of Publication
Supersedes Decision No.: AL77-1039 dated April 22, 1977, in 42 FR 20986
DESCRIPTION OF WORK: Building Construction (does not include residential construction consisting of single family homes and garden type apartments up to and including 4 stories).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Asbestos workers | 10.35 | .495 | 1.00 | a | .02 |
| Boilermakers | 9.50 | .75 | 1.00 | | .02 |
| Bricklayer, caulkers, cleaners, marble setters, pointers, stonemasons, terrazzo workers, & tile setters | 10.11 | | 1.70 | | |
| Marble, tile & terrazzo helpers | 6.22 | .30 | .40 | | |
| Carpenters: | | | | | |
| Carpenters & soft floor layers | 9.97 | .40 | .50 | | |
| Carpenters on creosote material, power saw operator | 10.22 | .40 | .50 | | |
| Piledrivermen | 10.24 | .40 | .50 | | |
| Piledrivermen on creosote material | 10.49 | .40 | .50 | | |
| Millwrights | 10.52 | .40 | .50 | | |
| Cement masons | 9.24 | .40 | .50 | | |
| Electricians: | | | | | |
| Electricians | 10.49 | .30 | 3%+.25 | .475 | 1/10%+.05 |
| Cable splicers | 10.74 | .30 | 3%+.25 | .475 | 1/10%+.05 |
| Elevator constructors | 9.69 | .495 | .32 | 4%+b+c | .02 |
| Elevator constructors' helpers | 70%JR | .495 | .32 | 4%+b+c | .02 |
| Elevator constructors' helpers (prob.) | 50%JR | | | | |
| Glaziers | 6.70 | .30 | .15 | | |
| Ironworkers | 10.38 | .40 | .50 | | |
| Lathers | 9.08 | .35 | .35 | | .01 |
| Line Construction: | | | | | |
| Linemen | 10.49 | .30 | 3%+.25 | .475 | 1/10%+.05 |
| Cable splicers | 10.74 | .30 | 3%+.25 | .475 | 1/10%+.05 |
| Painters: | | | | | |
| Brush | 9.91 | .40 | .35 | | .01 |
| Industrial | 10.16 | .40 | .35 | | .01 |
| Hazardous | 10.41 | .40 | .35 | | .01 |
| Spraying bituminous coatings | 10.26 | .30 | .25 | | .01 |
| Plasterers | 10.47 | .40 | .50 | | |
| Plumbers, steamfitters | 10.40 | .30 | .45 | d | .03 |
| Roofers | 8.84 | | .30 | e | |
| Sheet metal workers | 10.28 | .45 | .55 | | .04 |
| Sprinkler fitters | 10.35 | .65 | .95 | | .08 |
| Welders - rate for craft. | | | | | |

Page 2

AL77-1085 - (Cont'd)

PAID HOLIDAYS:
A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day.

FOOTNOTES:

A. 2 Paid Holidays: D and E. providing the employee works at least one day out of the 3 work days prior to the paid holidays, and the first work day after the paid holidays.

B. 6 Paid Holidays: A through E.

C. Employer contributes 4% basic hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% basic hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

D. 8 Paid Holidays: A,C,D,E,F, Day after Thanksgiving Day, Christmas Eve, and Mardi Gras.

E. 40 hours paid vacation after 1 year of employment, 2 paid holidays: A & C.

AL77-1085 - (Cont'd)

| LABORERS: | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GROUP A | 6.45 | .40 | .50 | | |
| GROUP B | 6.67 | .40 | .50 | | |
| GROUP C | 6.95 | .40 | .50 | | |
| GROUP D | 7.84 | .40 | .50 | | |
| GROUP E | 8.11 | .40 | .50 | | |
| GROUP F | 7.55 | .40 | .50 | | |
| GROUP G | 7.31 | .40 | .50 | | |
| GROUP H | 6.87 | .40 | .50 | | |
| GROUP I | 7.01 | .40 | .50 | | |
| GROUP J | 7.68 | .40 | .50 | | |
| GROUP K | 7.04 | .40 | .50 | | |
| GROUP L | 7.55 | .40 | .50 | | |
| GROUP M | 7.01 | .40 | .50 | | |

GROUP A - General Building Construction Laborers

GROUP B - Mortar mixers (any method), hod carriers, paving breakers, breaking & chipping concrete (any method), air operating tools (elec. or gas), mason and plaster tenders, tile setter & terrazzo helpers, handling creosote or coppertox materials, glass wool and all types insulation, kettle man, asphalt raker & tamper, drills, vibrators, concrete dump bucketman, All concrete rollers, wheel barrows, Georgia buggies, pipe cleaners & pipe layers (of clay, terra cotta, ironstone, vitrified concrete or nonmetallic pipe for main & side sewers and drainage only), pipe wipers (inside and out).

GROUP C - Gunnite or pressure concrete workers, nozzleman, gunman, rodman, power driven buggy mobiles, height: all work performed 40 ft. on scaffolds, inside and out (except where scaffolds are solid from wall to wall inside)

GROUP D - Cofferdam or tunnel workers (underground)

GROUP E - Blasting (powderman)

GROUP F - Concrete sawman

GROUP G - Form setters, roadways, runways, highways

GROUP H - Track laborer

GROUP I - Brick washers (laborers)

GROUP J - Burners on dismantling (anything not to be reused)

GROUP K - Stack laborers

GROUP L - Stack laborers (over 40 ft.)

Group M - Tank cleaners (caustic chemical)









AL77-1085 - (Cont'd)

| BUILDING CONSTRUCTION - POWER EQUIPMENT OPERATORS: | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GROUP A | 10.42 | .40 | .50 | | |
| GROUP B | 10.09 | .40 | .50 | | |
| GROUP C | 9.48 | .40 | .50 | | |

GROUP A: HEAVY EQUIPMENT
Heavy duty mechanic, crane, shovel, derrick operator (2 or more drums), draglines, pile driver operator, hoist operator ( 2 or more drums), cableways, excavators, front end loaders, backhoe, rubber tired backhoe, dredges, leverman, welders, mounted rotary drill machines, cherry pickers, side boom tractors, paving machines, motor patrols, pumpcrete machines, gradalls, johnson mixers, hydro-lift trucks, all batch plant and header house operators, panel board (ready-mix), hydro hammers on demolition work, concrete plants, asphalt plants, helicopter pilots and concrete paving trains, tugboats

GROUP B: MEDIUM EQUIPMENT:
Dozer scrapers, turnapull, one drum hoist, self-propelled rollers, construction elevators, locomotive engineer, elevating grader tractors with power control attachments, winch truck, mixers, asphalt spreaders, drilling machines, form graders, asphalt distributors, fork-lift, well point & dewatering systems, subgraders, finishing machines, motorized compactors, wagonmobiles and push carts, riding trenching & ditching machines.

GROUP C: LIGHT EQUIPMENT:
Light plants, generators, welding machines, air compressors, pumps, conveyors, motor boats under 30 feet, tow tractors, and pile driver hammers (diesel, gas, air or electric) fireman outboard, motor boat operators and brakemen.



AL77-1085 - (Cont'd)

| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GROUP A | 6.46 | .40 | .50 | | |
| GROUP B | 7.25 | .40 | .50 | | |
| GROUP C | 7.57 | .40 | .50 | | |
| GROUP D | 7.84 | .40 | .50 | | |
| GROUP E | 8.15 | .40 | .50 | | |
| GROUP F | 8.36 | .40 | .50 | | |
| GROUP G | 9.15 | .40 | .50 | | |
| GROUP H | 9.87 | .40 | .50 | | |

GROUP A: Truck helpers

GROUP B: Truck helpers when unloading creosote or coppertox materials; Drivers-trucks up to but not including 1½ tons; Stations wagons; Jeeps and automobiles; Truck spotters; General warehousemen.

GROUP C: Mechanic helper; Filling station attendant; Tire repairmen; Grease and wash rack man

GROUP D: Drivers 1½ tons up to but not including 5 tons

GROUP E: Receiving and issuing clerk

GROUP F: Scalemen

GROUP G: Truck drivers on rated 5 tons or 6 yard and over, including heavy equipment such as pole trucks; midd or corning wagons; dumpsters; semi-drivers; agitators; ross carriers; dempsey dumps; euclid trucks; fork lift trucks in warehouse and similar equipment such as tractors; 10 wheelers; jeeps or dump trucks or pickup trucks pulling of four wheel trailers; hauling equipment.

GROUP H: Truck & automobile mechanics

SUPERSEDEAS DECISION

STATE: Massachusetts
COUNTY: Barnstable
DECISION NO.: MA77-3062
DATE: Date of Publication
Supersedeas Decision No. MA76-2095, dated August 13, 1976 in 41 FR 34501.
DESCRIPTION OF WORK: Building Construction (excluding single family home and garden type apartments up to and including 4 stories), heavy, highway & marine construction.

| BUILDING, HEAVY AND HIGHWAY CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS: | | | | | |
| Barnstable, Bourne, Falmouth, Mashpee & Sandwich | $10.28 | 1.00 | 1.18 | | |
| Remainder of County | 10.26 | .80 | .80 | | .01 |
| BOILERMAKERS | 10.00 | .60 | 10% | | .01 |
| BRICKLAYERS; CEMENT MASONS; CEMENT FINISHERS; PLASTERERS; STONEMASONS | 10.25 | .80 | .80 | | .06 |
| CARPENTERS AND SOFT FLOOR LAYERS: | | | | | |
| All work over $1½ million including residential | 9.30 | .50 | .85 | | .02 |
| Work from $1 million - 1½ million | 8.83 | .50 | .65 | | .02 |
| Work from $500,000 - 1 million | 8.37 | .50 | .65 | | .02 |
| Work from $200,000 | 6.97 | .50 | .65 | | .02 |
| Residential up to 4 stories & commercial up to $200,000 | 6.97 | .50 | .65 | | .02 |
| ELECTRICIANS: | | | | | |
| Repair, jobbing & commercial, remodel, rewiring jobs & electrical contracts under $25,000 | 7.85 | .11 | .11 | | a |
| All other commercial | 10.00 | .55 | 10%+.70 | | a |
| ELEVATOR CONSTRUCTORS | 11.445 | .545 | .35 | 4%+b+c | .02 |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .545 | .35 | 4%+b+c | .02 |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%JR | | | | |
| GLAZIERS | 8.88 | .52 | 1.03 | | .01 |
| IRONWORKERS | 9.43 | .70 | 1.50 | | .05 |
| LABORERS (BUILDING): | | | | | |
| Laborers; carpenter tenders; wrecking laborers | 7.50 | .60 | .70 | | .10 |
| Jackhammer op., pavement breakers; aphalt rakers; carbide core drilling machine, chain saw op.; pipelayer; Barco type jumping tampers; laser beam; concrete pump; mason tenders; mortar tar mixers; ride-on motorized buggy, fence & beam rail erectors & plasterer's tenders | 7.75 | .60 | .70 | | .10 |



DECISION NO. MA77-3062

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LABORERS (CONT'D) | | | | | |
| Air track; block pavers, tampers curb setters | 8.00 | .60 | .70 | | .10 |
| Blasters; powdermen | 8.25 | .60 | .70 | | .10 |
| Open air caisson; cylindrical work & boring crew | | | | | |
| Laborer; Top man | 7.50 | .60 | .70 | | .10 |
| Helper | 7.62 | .60 | .70 | | .10 |
| Bottom man | 8.25 | .60 | .70 | | .10 |
| Driller | 8.37 | .60 | .70 | | .10 |
| LATHERS | 9.45 | .65 | .55 | | .01 |
| LEADBURNERS | 9.25 | .35 | | e | .01 |
| LINE CONSTRUCTION: | | | | | |
| Linemen | 11.50 | .65 | 1%+.50 | e | 3/8 of 1% |
| Driver - Groundman | 8.53 | .65 | 1%+.50 | e | 3/8 of 1% |
| Groundmen | 7.18 | .65 | 1%+.50 | e | 3/8 of 1% |
| Equipment Operators | 10.78 | .65 | 1%+.50 | e | 3/8 of 1% |
| MARBLE & TILE SETTERS; TERRAZZO WORKERS | 9.80 | .85 | 1.10 | | |
| MARBLE SETTERS' HELPERS | 8.71 | .85 | .25 | | |
| MILLWRIGHTS | 10.00 | .60 | 1.00 | | .57 |
| PAINTERS: | | | | | |
| Brush, roller, tapers, steel on ground | 8.55 | .60 | .45 | | |
| Sandblasting, chipping hammer, power brush | 10.05 | .60 | .45 | | |
| Structural steel | 11.80 | .60 | .45 | | |
| Spray | 9.80 | .60 | .45 | | |
| Paperhangers and vinyl installers | 9.05 | .60 | .45 | | |
| PILEDRIVERMEN | 10.15 | .60 | 1.00 | | |
| PLUMBERS & STEAMFITTERS | | | | | |
| Bourne & Sandwich | 10.95 | .80 | .80 | | .05 |
| Remainder of County | 9.15 | .76 | 1.16 | | .15 |
| ROOFERS: | | | | | |
| Roofers, kettlemen & waterproofers | 9.20 | .60 | .20 | | |
| Roofers' helpers, Class A | 8.50 | .60 | .20 | | |
| Roofers' helpers, Class B | 5.52 | .60 | .20 | | |
| Mechanic on shingle work | 7.36 | .60 | .20 | | |







DECISION NO. MA77-3062

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| SHEET MATAL WORKERS | 9.48 | .95 | .45 | | |
| SPRINKLER FITTERS | 11.63 | .65 | .95 | | .08 |
| TERRAZZO WORKERS' HELPERS | 9.95 | | .25 | | .05 |
| TILE SETTERS' HELPERS | 8.71 | .85 | .25 | | |

Welders - Rate For Craft

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $1.00 per journeyman Electricians per week.

b. Employer contributes 4% basic hourly rate for 5 years or more of service of 2% basic hourly rate for 6 months to 5 years' service as vacation pay credit.

c. Holidays: A through F.

d. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days during 120 calendar days prior to the holiday & the regular scheduled days immediately preceding and following the holiday.

e. Holidays: A through F, and Bunker Hill Day, provided the employee has been employed 10 working days prior to the holiday.



DECISION NO. MA77-3062

HEAVY & HIGHWAY CONSTRUCTION

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LABORERS: | | | | | |
| CLASS I | 7.50 | .60 | .70 | | .10 |
| CLASS II | 7.75 | .60 | .70 | | .10 |
| CLASS III | 8.00 | .60 | .70 | | .10 |
| CLASS IV | 8.25 | .60 | .70 | | .10 |

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

DECISION NO. MA77-3062

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS: | | | | | |
| CLASS I | 10.61 | 1.10 | .80 | a | .02 |
| CLASS II | 10.49 | 1.10 | .80 | a | .02 |
| CLASS III | 8.86 | 1.10 | .80 | a | .02 |
| CLASS IV | 9.67 | 1.10 | .80 | a | .02 |
| CLASS V | 7.84 | 1.10 | .80 | a | .02 |
| CLASS VI | 8.32 | 1.10 | .80 | a | .02 |

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills,post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour

CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paying screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pullsometers, concrete mixers, values controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragn pump, lighting plants

CLASS IV Assistant engineers (firemen)

CLASS V Oilers and apprentices (other than truck cranes and gradalls)

CLASS VI Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.



DECISION NO. MA77-3062

| HEAVY & HIGHWAY CONSTRUCTION: | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS | | | | | |
| GROUP 1 | 10.61 | 1.10 | .80 | a | .02 |
| Hourly premium for boom lengths including jib | | | | | |
| Over 150 feet + $ .45 | | | | | |
| Over 185 feet + .80 | | | | | |
| Over 210 feet + 1.15 | | | | | |
| Over 250 feet + 1.75 | | | | | |
| Over 295 feet + 2.50 | | | | | |
| GROUP 2 | 10.49 | 1.10 | .80 | a | .02 |
| GROUP 3 | 8.86 | 1.10 | .80 | a | .02 |
| GROUP 4 | 9.67 | 1.10 | .80 | a | .02 |
| GROUP 5 | 7.84 | 1.10 | .80 | a | .02 |
| GROUP 6 | 8.32 | 1.10 | .80 | a | .02 |

CLASSIFICATIONS

GROUP 1 Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines,three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders. asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers

GROUP 3 Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generators lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing).







DECISION NO. MA77-3062

CLASSIFICATIONS CONT'D

GROUP 4 Assistant engineers (firemen)

GROUP 5 Oilers (other than truck cranes & gradalls)

GROUP 6 Oilers (on truck cranes & gradalls)

FOOTNOTES:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day



DECISION NO. MA77-3062

| MARINE CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS: | | | | | |
| GROUP I | 10.61 | 1.10 | .80 | a | .02 |
| GROUP II | 11.61 | 1.10 | .80 | a | .02 |
| GROUP III | 10.56 | 1.10 | .80 | a | .02 |
| GROUP IV | 10.49 | 1.10 | .80 | a | .02 |
| GROUP V | 8.86 | 1.10 | .80 | a | .02 |
| GROUP VI | 9.67 | 1.10 | .80 | a | .02 |
| GROUP VII | 7.84 | 1.10 | .80 | a | .02 |
| GROUP VIII | 8.32 | 1.10 | .80 | a | .02 |

CLASSIFICATIONS

GROUP I - Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers two or more drum machines, lighters, derricks boats, trenching, mechanics hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, pumpcrete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site, paving concrete mixers; Booms over 150' including jib - additional $.45 per hour - booms over 185' including jib - additional $.80 per hour; Booms over 210' including jib - additional $1.15 per hour; Booms over 250' including jib - additional $1.75 per hour; Booms over 295' including jib additional $2.50 per hour

GROUP II - Master Mechanic

GROUP III - Swinger ENgines

GROUP IV - Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, tractors york rakes, mulching machines, rollers, spreaders, tampers self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance, cal tracks, ballast, regulator, switch tampers, rail anchor machines, tire trucks

GROUP V - Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, well point systems, augers - powered by independence engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors

GROUP VI - Assistant engineers (firemen)

DECISION NO. MA77-3062

CLASSIFICATIONS CONT'D

GROUP VII - Oilers (other than truck cranes and gradalls)

GROUP VIII - Oilers on truck cranes and gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. 10 paid holidays: A through F; Washington's Birthday; Patriots' Day; Columbus Day & Veterans' Day



DECISION NO. MA77-3062

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| TRUCK DRIVERS: | | | | | |
| CLASS I | 7.24 | .545 | .575 | a+b | |
| CLASS II | 7.39 | .545 | .575 | a+b | |
| CLASS III | 7.44 | .545 | .575 | a+b | |
| CLASS IV | 7.54 | .545 | .575 | a+b | |
| CLASS V | 7.64 | .545 | .575 | a+b | |
| CLASS VI | 7.89 | .545 | .575 | a+b | |
| CLASS VII | 8.14 | .545 | .575 | a+b | |

CLASSIFICATIONS

CLASS I Station wagons, panel trucks and pickup trucks

CLASS II Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators

CLASS III Three axle equipment and tiremen

CLASS IV Four and five axle equipment

CLASS V Specialized earth moving equipment under 35 tons othe than conventional type trucks, low bed, vachual, mechanics, paving restoration equipment, mechanics

CLASS VI Specialized earth moving equipment over 35 tons

CLASS VII Trailers for earth moving equipment, (double hookup)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.





SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Hampden
DECISION NO.: MA77-3067 DATE: Date of Publication
Supersedeas Decision No. MA76-2100, dated August 13, 1976 in 41 FR 34522
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and highway construction



DECISION NO. MA77-3067

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS | $ 9.95 | .94 | 1.25 | | .01 |
| BOILERMAKERS | 10.00 | .60 | 10% | | .01 |
| BRICKLAYERS: | | | | | |
| Cement masons, Marble masons, Plasterers, Stone masons, Terrazzo workers, and Tile setters | 9.55 | .55 | .80 | | .06 |
| CARPENTERS & SOFT FLOOR LAYERS | 9.65 | .45 | .65 | | .02 |
| ELECTRICIANS: | | | | | |
| Chester, Holyoke & that portion of Chicopee Township north of the following line: McKinstry Avenue from the Connecticut River to Gratten Street, South on Gratten to Lafayette Street, east on Lafayette to York Street, north on York to McKinstry, east on McKinstry to Grady Road & projects to the West-over Air Force fence & that area north of West over field: | | | | | |
| Contracts 75,000 & over | 10.51 | .70 | 10%+.40 | | .02 |
| Contracts under $75,000 | 8.60 | .70 | 10%+.40 | | .02 |
| Shaft & tunnel work | 11.01 | .70 | 10%+.40 | | .02 |
| Remainder of County | 9.85 | .70 | 10%+.30 | .43 | .03 |
| ELEVATOR CONSTRUCTORS | 9.71 | .445 | .29 | 3%+a+b | .02 |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .445 | .29 | 3%+a+b | .02 |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%JR | | | | |
| GLAZIERS | 9.45 | .47 | .45 | | |
| IRONWORKERS: | | | | | |
| Ornamental, Reinforcing and Structural | 10.05 | .70 | 1.75 | | .09 |
| LABORERS (Building) | | | | | |
| Laborers, Wrecking, laborers and carpenter tenders | 7.50 | .60 | .70 | | .10 |
| Asphalt rakers, Carbide Core Driller Ops., Saw Ops., Pipe-layers, Jackhammer & Paving Breaker Op., Barco-type jumping tampers, Laser Beams op., concrete pump ops., & wagon drill ops., mason tenders, mortar mixers & ride-on motorized buggy ops. and plasterers tenders | 7.75 | .60 | .70 | | .10 |
| Air track op., Block pavers, Rammers & curb setters | 8.00 | .60 | .70 | | .10 |
| Blasters & powdermen | 8.25 | .60 | .70 | | .10 |
| Open air caison, cylindrical work & boring crew: | | | | | |
| Botton man | 8.25 | .60 | .70 | | .10 |
| Top man | 7.50 | .60 | .70 | | .10 |
| Test Boring: | | | | | |
| Driller | 8.37 | .60 | .70 | | .10 |
| Helper | 7.62 | .60 | .70 | | .10 |
| LATHERS | 9.40 | .45 | .25 | | .01 |
| Drywall | 8.30 | .45 | .25 | | .01 |
| LEADBURNERS | 9.25 | .35 | | d | .01 |
| LINE CONSTRUCTION: | | | | | |
| Linemen | 10.16 | .40 | 1% | e | 3/8 of 1% |
| Groundmen, Driver | 7.32 | .40 | 1% | e | 3/8 of 1% |
| Equipment Operator | 9.48 | .40 | 1% | e | 3/8 of 1% |
| MARBLE, MOSAIC & TERRAZZO WORKERS' HELPERS | 8.95 | | | | |
| MILLWRIGHTS | 10.20 | .80 | 1.00 | | .07 |
| PAINTERS: | | | | | |
| Brush & roller | 8.92 | .65 | .40 | | .03 |
| Spray | 11.8933 | .8666 | .5333 | | .04 |
| Swing stage under 40' steel | 9.107 | .65 | .40 | | .03 |
| Swing stage over 40' steel | 9.42 | .65 | .40 | | .03 |
| PILEDRIVERMEN | 10.15 | .60 | 1.00 | | |
| PLUMBERS | 9.85 | .96 | 1.00 | w | .10 |
| ROOFERS: | | | | | |
| Composition, damp & waterproof-ing | 9.165 | .82 | 1.06 | | |
| Slate, tile, precast concrete | 9.82 | .82 | 1.06 | | |
| SHEET METAL WORKERS | 9.41 | .85 | 1.16 | | .03 |
| SPRINKLER FITTERS | 11.38 | .60 | .90 | | .08 |
| STEAMFITTERS | 10.68 | .57 | .95 | .08 | .03 |

DECISION NO. MA77-3067

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; D-Christmas Day.

FOOTNOTES:

b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

c. 6 paid holidays: A through F.

d. 9 paid holidays: A through F, Washington's Birthday, Good Friday & Christmas Eve, provided the employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

e. 9 paid holidays: A through F, provided the employee has been employed for at least 5 days prior to the holiday and is available for work the day before and after the holiday, plus one floating holiday, Washington's Birthday, and Patriots Day.

f. 1 paid holiday: Fourth of July

g. 1 paid holiday: Independence Day & Labor Day provided the employee has been employed 7 days prior to the holiday for the same employer.



DECISION NO. MA77-3067
HEAVY & HIGHWAY CONSTRUCTION

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LABORERS: | | | | | |
| CLASS I | 7.50 | .60 | .70 | | .10 |
| CLASS II | 7.75 | .60 | .70 | | .10 |
| CLASS III | 8.00 | .60 | .70 | | .10 |
| CLASS IV | 8.25 | .60 | .70 | | .10 |

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen









DECISION NO. MA77-3067
BUILDING CONSTRUCTION

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS: | | | | | |
| CLASS I | 9.73 | .85 | .75 | a | .07 |
| CLASS II | 9.53 | .85 | .75 | a | .07 |
| CLASS III | 9.33 | .85 | .75 | a | .07 |
| CLASS IV | 8.96 | .85 | .75 | a | .07 |
| CLASS V | 8.24 | .85 | .75 | a | .07 |
| CLASS VI | 7.78 | .85 | .75 | a | .07 |
| CLASS VII | 7.03 | .85 | .75 | a | .07 |

CLASSIFICATIONS

CLASS I Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Bakchoes, Gradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, three drum Hoisting and Trenching Machines, Belt-type Loaders, Front End Loader-5¼ yards or over, Dual Drum Paver, Automatic Grader (i.e. C.M.I.) Combination Back Hoe-Loader-3/4 yard hoe or over

CLASS II Rotary Drill (with mounted compressor), compressor house (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Graders, Front End Loaders-4 yards to 5½ yards, two Drum Hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers-21 yards and over (struck load), Sonic Hammer Console

CLASS III Combination Backhoe-Loader-up to 3/4 hom, Bulldozers, Push Cats, Scraper-up to 21 yards (Struck Load)-self propelled or tractor drawn, Fireman, Front End Loaders-up to 4 yards, Asphalt Paver, Asphalt Roller-10 ton or over, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete Pumps and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant, Well Point, Electric Pumps used in Well Point System, Pumps-12 inches and over (total discharge), compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators, (manually or remote controls), Grout Pumps, Boom Truck, Hydraulic Cranes-under 10 ton

CLASS IV Asphalt Roller-under 10 ton



DECISION NO. MA77-3067

CLASSIFICATIONS CONT'D

CLASS V Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A Frame Trucks, Fork Lifts ip to 15 feet

CLASS VI Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps-4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers, Rubber, Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding

CLASS VII Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on Grease Truck, and Grease Trucks with hand greasing equipment

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Holidays: A through F, Veterans' Day and Columbus Day

DECISION NO. MA77-3067

| HEAVY & HIGHWAY CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS: | | | | | |
| CLASS I | 9.73 | .85 | .75 | a | .07 |
| CLASS II | 9.53 | .85 | .75 | a | .07 |
| CLASS III | 9.33 | .85 | .75 | a | .07 |
| CLASS IV | 8.96 | .85 | .75 | a | .07 |
| CLASS V | 8.24 | .85 | .75 | a | .07 |
| CLASS VI | 7.78 | .85 | .75 | a | .07 |
| CLASS VII | 7.03 | .85 | .75 | a | .07 |
| * The Above Rates Are For Contracts $175,000.00 and Above | | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| CLASS I | 9.45 | .85 | .75 | a | .07 |
| CLASS II | 9.25 | .85 | .75 | a | .07 |
| CLASS III | 9.05 | .85 | .75 | a | .07 |
| CLASS IV | 8.68 | .85 | .75 | a | .07 |
| CLASS V | 8.00 | .85 | .75 | a | .07 |
| CLASS VI | 7.55 | .85 | .75 | a | .07 |
| CLASS VII | 6.82 | .85 | .75 | a | .07 |
| * The Above Rates Are for Contracts Under $175,000.00 | | | | | |

CLASSIFICATIONS

CLASS I Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processing Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader-5½ yards and over, Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Pavers, Automatic Graders-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

CLASS II Rotary Drill (with mounted Compressor), Compressor House 3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5½ yards, Scraper-21 yards and over (Struck Load), Forklifts-7 ft. lift and over or 3 ton capacity and over, Sonic Hammer Console



DECISION NO. MA77-3067

CLASSIFICATIONS CONT'D

CLASS III Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-prmpelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well Point Operators, Electric Pumps used in Well Point system, Tiremen, Pumps-16 inches or over total discharge, Compressors (1 or 2) (1) cu. ft. and over, Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-Propelled Hydraulic Cranes-up to 10 ton

CLASS IV Asphalt Muller-up to 10 tmn

CLASS V Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker, Self-prmpelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant

CLASS VI Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot toller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil

CLASS VII Compressor (up to 315 cu. ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat

FOOTNOTES:

a. Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving Day and Christmas Day









DECISION NO. MA77-3067

| BUILDING, HEAVY AND HIGHWAY CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| TRUCK DRIVERS: | | | | | |
| CLASS I | 7.24 | .545 | .575 | a+b | |
| CLASS II | 7.39 | .545 | .575 | a+b | |
| CLASS III | 7.44 | .545 | .575 | a+b | |
| CLASS IV | 7.54 | .545 | .575 | a+b | |
| CLASS V | 7.64 | .545 | .575 | a+b | |
| CLASS VI | 7.89 | .545 | .575 | a+b | |
| CLASS VII | 8.14 | .545 | .575 | a+b | |

CLASSIFICATIONS

CLASS I Station wagons, panel trucks and pickup trucks

CLASS II Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators

CLASS III Three axle equipment and tiremen

CLASS IV Four and five axle equipment

CLASS V Specialized earth moving equipment under 35 tons othe than conventional type trucks, low bed, vachual, mechanics, paving restoration equipment, mechanics

CLASS VI Specialized earth moving equipment over 35 tons

CLASS VII Trailers for earth moving equipment, (double hookup)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Norfolk
DECISION NO.: MA77-3070 DATE: Date of Publication
Supersedes Decision No. MA76-2103, dated August 20, 1976 in 41 FR 35373.
DESCRIPTION OF WORK: Building Construction, (Including Residential), heavy and highway construction.

| BUILDING, HEAVY & HIGHWAY CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS: | | | | | |
| Bellingham, Franklin, Plainville & Wrentham | $10.28 | 1.00 | 1.18 | | |
| Remainder of County | 10.26 | .80 | .80 | | .01 |
| BOILERMAKERS | 10.00 | .60 | 10% | | .01 |
| BRICKLAYERS; CEMENT MASONS; PLASTERERS & STONEMASONS: | | | | | |
| Dover, Needham & Wellesley | 10.10 | .60 | 1.15 | | .08 |
| Medfield, Medway & Mills | 9.65 | 1.20 | 1.00 | | .08 |
| Avon, Holbrook, Randolph & Stoughton | 9.85 | .85 | 1.15 | | .06 |
| Bellingham, Canton, Dedham, Foxboro, Franklin, Norfolk, Norwood, Plainville, Sharon, Walpole, Westwood & Wrentham | 9.95 | 1.10 | .80 | | .06 |
| Braintree, Cohasset, N. Weymouth, Quincy, S. Weymouth & Weymouth | 10.15 | .85 | .85 | | .06 |
| BRICKLAYERS & STONE MASONS: | | | | | |
| Brookline & Milton | 9.90 | .85 | 1.10 | | .05 |
| CARPENTERS AND SOFT FLOOR LAYERS: | | | | | |
| Avon, Holbrook, Randolph and Stoughton | 9.30 | .50 | .65 | | .02 |
| Remainder of County | 10.20 | .60 | 1.00 | | .07 |
| CEMENT MASONS: | | | | | |
| Brookline & Milton | 10.45 | .95 | .50 | | .10 |
| ELECTRICIANS: | | | | | |
| Avon, Holbrook, Randolph & Stoughton | | | | | |
| Electrical contracts under $40,000 | 9.15 | 6% | 5% | 2% | .5% |
| Electrical contracts $40,000 or over | 11.05 | 6% | 5% | 2% | .5% |
| Residential | 6.60 | .50 | 5% | 2% | .5% |
| Plainville | 9.40 | .40 | 1%+1.40 | | .02 |
| Residential | 5.75 | .37 | 1% | | .02 |
| Remainder of County | 11.25 | .75 | 1%+1.55 | | .05 |
| ELEVATOR CONSTRUCTORS | 11.44[5] | .545 | .35 | 4%+a+b | .02 |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .545 | .35 | 4%+a+b | .02 |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%JR | | | | |

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| DECISION NO. MA77-3070 | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GLAZIERS: | | | | | |
| S. Bellingham | 8.88 | .52 | 1.03 | | .01 |
| Remainder of County | 10.40 | .57 | .64 | | .03 |
| IRONWORKERS: | | | | | |
| Plainville & Cape Cod | 9.43 | .70 | 1.50 | | .05 |
| Remainder of County | 10.49 | .70 | 1.50 | | .06 |
| LABORERS (BUILDING): | | | | | |
| Laborers, carpenter tenders, wrecking laborers | 7.50 | .60 | .70 | | .18 |
| Jackhammer op., pavement breaker, asphalt rakers, carbide core drilling machine, chain saw op.,pipelayer, barco type jumping tamper, laser beam concrete pump, mason tender, mortar mixer, ride-on buggy, fence and beam rail erectors and plasterers' tenders | 7.78 | .68 | .70 | | .10 |
| Air track, block paver, rammer, curb setter | 8.00 | .60 | .70 | | .10 |
| Blasters, powdermen | 8.25 | .60 | .70 | | .10 |
| Open air caisson, cylindrical work & boring crew: | | | | | |
| Laborer, top man | 7.50 | .60 | .70 | | .10 |
| Helper | 7.62 | .60 | .70 | | .10 |
| Bottom men | 8.25 | .60 | .70 | | .10 |
| Driller | 8.37 | .60 | .70 | | .10 |
| LATHERS | 9.25 | .45 | .55 | | |
| LEADBURNERS | 9.25 | .35 | | e | .01 |
| LINE CONSTRUCTION: | | | | | |
| Linemen | 11.50 | .65 | 1%+.50 | d | 3/8 of 1% |
| Equipment Operator | 10.78 | .65 | 1%+.50 | d | 3/8 of 1% |
| Driver Groundman | 8.53 | .65 | 1%+.50 | d | 3/8 of 1% |
| Groundman | 7.18 | .65 | 1%+.50 | d | 3/8 of 1% |
| MARBLE & TILE SETTERS, TERRAZZO WORKERS | 9.80 | .85 | 1.10 | | |
| MARBLE SETTERS' HELPERS | 8.71 | .85 | .25 | | |
| MILLWRIGHTS | 10.20 | .60 | 1.00 | | .07 |



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| DECISION NO. MA77-3070 | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PAINTERS: | | | | | |
| Bellingham: | | | | | |
| Brush | 9.05 | .55 | .90 | | |
| Steel & Steam cleaning | 9.30 | .55 | .90 | | |
| Spray & Potter | 10.15 | .55 | .90 | | |
| Dover, Medfield, Medway, Mills Needham & Wellesley | | | | | |
| Brush | 7.85 | .35 | .35 | | |
| Steel | 8.10 | .35 | .35 | | |
| Spray | 8.80 | .35 | .35 | | |
| Remainder of County: | | | | | |
| New Construction | | | | | |
| Brush, Taper | 9.76 | .72 | 1.05 | | .04 |
| Steel | 11.88 | .72 | 1.05 | | .04 |
| Spray | 10.76 | .72 | 1.05 | | .04 |
| Repaint, Alternations & Residential | | | | | |
| Brush | 8.61 | .72 | 1.05 | | .04 |
| Steel | 11.88 | .72 | 1.05 | | .04 |
| Spray | 9.61 | .72 | 1.05 | | .04 |
| PILEDRIVERMEN | 10.15 | .60 | 1.03 | | |
| PLASTERERS: | | | | | |
| Brookline & Milton | 9.25 | .45 | 1.30 | | .02 |
| Veneer Plasterers | 8.85 | .45 | .30 | | .02 |
| PLASTERER'S TENDERS | 7.75 | .60 | .70 | | .10 |
| PLUMBERS & STEAMFITTERS: | | | | | |
| Avon, Holbrook, Randolph & Stoughton | 9.50 | .45 | .70 | | .03 |
| Dover, Medfield, Medway, Wellesley | 11.22 | .98 | .85 | | .05 |
| PLUMBERS & GASFITTERS: | | | | | |
| Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Foxboro, Franklin, Millis, Milton, Needham, Norfolk, N. Wymouth, Norwood,Plainville, Quincy, Sharon, S. Weymouth, Walpole, Westwood, Weymouth & Wrentham | 11.20 | 1.02 | 1.28 | | .05 |
| ROOFERS | 9.75 | .70 | 1.20 | | .05 |
| Reroofing and repair | 9.20 | .70 | 1.20 | | .05 |
| Pitch work | 10.75 | .70 | 1.20 | | .05 |
| SHEET METAL WORKERS | 10.23 | 1.16 | 1.10 | | .06 |

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| DECISION NO. MA77-3070 | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| SPRINKLER FITTERS | 11.63 | .65 | .95 | | .08 |
| STEAMFITTERS: | | | | | |
| Bellingham, Brookline, Canton, Dedham, Foxboro, Franklin, Medway, Milton, Needham, Norfolk, Norwood, Plainville, Quincy, Sharon, Walpole, Westwood & Wrentham | 11.76 | .94 | 1.20 | | .07 |
| TERRAZZO WORKERS' HELPERS | 9.95 | | .25 | | .05 |
| TILE SETTERS' HELPERS | 8.71 | .85 | .25 | | |

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months or 5 years of service as VAcation Pay Credit.

b. Holidays: A through F.

c. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding the following holiday.

d. Holidays: A through F and Buncker Hill Day provided the employee has been employed 10 working days prior to the listed holidays.

e. Employer pays $5.00 per day extra above the brush rate.

DECISION NO. MA77-3070

| HEAVY & HIGHWAY CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LABORERS: | | | | | |
| CLASS I | 7.50 | .60 | .70 | | .10 |
| CLASS II | 7.75 | .60 | .70 | | .10 |
| CLASS III | 8.00 | .60 | .70 | | .10 |
| CLASS IV | 8.25 | .60 | .70 | | .10 |

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen



DECISION NO. MA77-3070

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS: | | | | | |
| CLASS I | 10.61 | 1.10 | .80 | a | .02 |
| CLASS II | 10.49 | 1.10 | .80 | a | .02 |
| CLASS III | 8.86 | 1.10 | .80 | a | .02 |
| CLASS IV | 9.67 | 1.10 | .80 | a | .02 |
| CLASS V | 7.84 | 1.10 | .80 | a | .02 |
| CLASS VI | 8.32 | 1.10 | .80 | a | .02 |

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills,post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour
CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paving screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)
CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pullsometers, concrete mixers, values controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragn pump, lighting plants
CLASS IV Assistant engineers (firemen)
CLASS V Oilers and apprentices (other than truck cranes and gradalls)
CLASS VI Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.









DECISION NO. MA77-3070

| HEAVY & HIGHWAY CONSTRUCTION: | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS | | | | | |
| GROUP 1 | 10.61 | 1.10 | .80 | a | .02 |
| Hourly premium for boom lengths including jib | | | | | |
| Over 150 feet + $ .45 | | | | | |
| Over 185 feet + .80 | | | | | |
| Over 210 feet + 1.15 | | | | | |
| Over 250 feet + 1.75 | | | | | |
| Over 295 feet + 2.50 | | | | | |
| GROUP 2 | 10.49 | 1.10 | .80 | a | .02 |
| GROUP 3 | 8.86 | 1.10 | .80 | a | .02 |
| GROUP 4 | 9.67 | 1.10 | .80 | a | .02 |
| GROUP 5 | 7.84 | 1.10 | .80 | a | .02 |
| GROUP 6 | 8.32 | 1.10 | .80 | a | .02 |

CLASSIFICATIONS

GROUP 1 Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines,three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders. asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers

GROUP 3 Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generators lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)



DECISION NO. MA77-3070

CLASSIFICATIONS CONT'D

GROUP 4 Assistant engineers (firemen)

GROUP 5 Oilers (other than truck cranes & gradalls)

GROUP 6 Oilers (on truck cranes & gradalls)

FOOTNOTE:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

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DECISION NO. MA77-3070

| BUILDING, HEAVY AND HIGHWAY CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| TRUCK DRIVERS: | | | | | |
| CLASS I | 7.24 | .545 | .575 | a+b | |
| CLASS II | 7.39 | .545 | .575 | a+b | |
| CLASS III | 7.44 | .545 | .575 | a+b | |
| CLASS IV | 7.54 | .545 | .575 | a+b | |
| CLASS V | 7.64 | .545 | .575 | a+b | |
| CLASS VI | 7.89 | .545 | .575 | a+b | |
| CLASS VII | 8.14 | .545 | .575 | a+b | |

CLASSIFICATIONS

CLASS I Station wagons, panel trucks and pickup trucks

CLASS II Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators

CLASS III Three axle equipment and tiremen

CLASS IV Four and five axle equipment

CLASS V Specialized earth moving equipment under 35 tons othe than conventional type trucks, low bed, vachual, mechanics, paving restoration equipment, mechanics

CLASS VI Specialized earth moving equipment over 35 tons

CLASS VII Trailers for earth moving equipment, (double hookup)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.



SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Plymouth
DECISION NO.: MA77-3071 DATE: Date of Publication
Supersedes Demision No. MA76-2104, dated September 3, 1976 in 41 FR 37485
DESCRIPTION OF WORK: Building Construction, (including Residential), heavy and highway construction.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS: | | | | | |
| Lakeville, Mattapoisett, Middleboro, Rochester & Wareham | 10.28 | 1.00 | 1.18 | | |
| Remainder of County | 10.26 | .80 | .80 | | .01 |
| BOILERMAKERS | 10.00 | .60 | 10% | | .01 |
| BRICKLAYERS; CEMENT MASONS & STONEMASONS: | | | | | |
| Abington, Bridgewater, Brocton Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Middleboro, Norwell, Pembroke, Plymouth, Rockland, W. Bridgewater & Whitman | 9.85 | .85 | 1.15 | | .06 |
| BRICKLAYERS; CEMENT MASONS; PLASTERERS & STONEMASONS: | | | | | |
| Hingham, Hull, Scituate & the Islands of Quincy | 10.15 | .85 | .85 | | .06 |
| Lakeville | 9.95 | 1.10 | .80 | | .06 |
| Marion, Mattapoisett, Rochester & Wareham | 10.25 | .80 | .80 | | .06 |
| CARPENTERS; SOFT FLOOR LAYERS: | | | | | |
| Duxbury, Hanover, Hingham, Hull, Marshfield, Norwell, Pembroke, Rockland & Scituate | 10.20 | .60 | 1.00 | | .07 |
| Remainder of County: | | | | | |
| All work over 1½ Million including Residential | 9.30 | .60 | 1.00 | | .02 |
| Work from $1 million 1½ million | 8.83 | .60 | 1.00 | | .02 |
| Work from $500,000 - 1 million | 8.37 | .60 | 1.00 | | .02 |
| Work from $200,00-500,000 | 7.44 | .60 | 1.00 | | .02 |
| Residential up to 4 stories & commercial up to $200,000 | 6.97 | .60 | 1.00 | | .02 |
| ELECTRICIANS: | | | | | |
| Hingham, Hull | 11.25 | .75 | 1%+1.55 | | .05 |
| Mattapoisett, Rochester & Wareham: | | | | | |
| Repair, jobbing & commercial, remodel, rewiring on jobs with electrical contracts under $25,000 | 7.85 | .55 | 1%+.70 | | a |
| All other commercial | 10.00 | .55 | 1%+.70 | | a |

Page 2

DECISION NO. MA77-3071

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ELECTRICIANS (CONT'D): | | | | | |
| Residential | 5.70 | .40 | 1%+.50 | | a |
| Lakeville & Middleboro | 11.00 | .75 | 1% | | .1% |
| Residential | 8.10 | .50 | 1% | | .1% |
| Remainder of County: | | | | | |
| Electrical contracts $40,000 or more | 11.05 | 6% | 5% | 2% | .5% |
| Electrical contracts under $40,000 | 9.15 | 6% | 5% | 2% | .5% |
| Residential | 6.60 | .50 | 5% | 2% | .5% |
| ELEVATOR CONSTRUCTORS | 11.445 | .545 | .35 | 4%+b+c | .02 |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .545 | .35 | 4%+b+c | .02 |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%JR | | | | |
| GLAZIERS: | | | | | |
| Carver, Lakeville, Middleboro, Marion, Mattapoisett, Rochester and Wareham | 8.88 | .52 | 1.03 | | .01 |
| Remainder of County | 10.40 | .57 | .64 | | .03 |
| IRONWORKERS: | | | | | |
| Bridgewater, Brockton, Hanover, Hanson, Marfield, Norwell, Pembroke, Rockland, Scituate, W. Bridgewater & Whitman | 10.48 | .70 | 1.80 | | .06 |
| Lakeville, Marion, Mattapoisett, Middleboro, Rochester & Wareham | 9.43 | .70 | 1.50 | | .06 |
| LABORERS (BUILDING): | | | | | |
| Laborers, carpenter tenders, and wrecking laborers | 7.80 | .60 | .70 | | .10 |
| Jackhammer op; pavement breakers asphalt rakers, carbide core drilling machine; chain saw ops; pipelayer; barco type jumping tampers; laser beam ops, concrete pumps op#, mason tenders, mortar mixers, ride-on motorized buggy ops, fence & beam erectors | 7.75 | .60 | .70 | | .10 |
| Air track, block pavers, rammers curb setters | 8.00 | .60 | .70 | | .10 |
| Blasters, powdermen | 8.25 | .60 | .70 | | .10 |

| DECISION NO. MA77-3071 | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LABORERS (CONT'D): | | | | | |
| Open air caisson, cylindrical work & boring crew: | | | | | |
| Laborer, Top man | 7.50 | .60 | .70 | | .10 |
| Helper | 7.62 | .60 | .70 | | .10 |
| Bottom man | 8.25 | .60 | .70 | | .10 |
| Driller | 8.37 | .60 | .70 | | .10 |
| LATHERS | 9.25 | .45 | .55 | | |
| LEADBURNERS | 8.75 | .30 | | d | .01 |
| LINE CONSTRUCTION: | | | | | |
| Linemen | 11.50 | .65 | 1%+.50 | e | 3/8 of 1% |
| Equipment Operator | 10.78 | .65 | 1%+.50 | e | 3/8 of 1% |
| Groundmen | 7.18 | .65 | 1%+.50 | e | 3/8 of 1% |
| Driver Groundman | 8.53 | .65 | 1%+.50 | e | 3/8 of 1% |
| MARBLE & TILE SETTERS & TERRAZZO WORKERS | 9.80 | .85 | 1.10 | | |
| MARBLE SETTERS' HELPERS | 8.71 | .85 | .25 | | |
| MILLWRIGHTS | 10.00 | .60 | 1.00 | | .07 |
| PAINTERS: | | | | | |
| Marion, Mattapoisett, Rochester and Wareham: | | | | | |
| Brush, rollers and taping | 8.55 | .60 | .45 | | |
| Spray | 9.80 | .60 | .45 | | |
| Steel | 11.80 | .60 | .45 | | |
| Sandblasting, chipping hammer, power brush | 10.05 | .60 | .45 | | |
| Paperhangers and vinyl installers | 9.05 | .60 | .45 | | |
| Remainder of County: | | | | | |
| Brush, tapes (New Construction | 9.76 | .72 | 1.05 | | .04 |
| Steel (New Construction) | 11.88 | .72 | 1.05 | | .04 |
| Spray (New Construction) | 10.76 | .72 | 1.05 | | .04 |
| Brush (repaint, alterations, residential) | 8.61 | .72 | 1.05 | | .04 |
| Steel (repaint, alterations, residential | 11.88 | .72 | 1.05 | | .04 |
| Spray (repaint, alterations, residential) | 9.61 | .72 | 1.05 | | .04 |
| PILEDRIVERMEN: | | | | | |
| Marion, Mattapoisett, Rochester & Wareham | 8.75 | .50 | .50 | | .02 |
| Remainder of County: | 10.15 | .60 | 1.00 | | |



| DECISION NO. MA77-3071 | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PLASTERERS: | | | | | |
| Norwell | 9.25 | .45 | 1.30 | | .02 |
| Veneer plasterers | 8.85 | .45 | .30 | | .02 |
| Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Middleboro, Pembroke, Plymouth, Plympton, Rockland, W. Bridgewater & Whitman | 8.45 | .55 | .45 | | .02 |
| PLASTERERS' TENDERS: | | | | | |
| Abington, Bridgewater, Brockton Carver, Duxbury, E. Bridgewater Halifax, Hanover, Hanson, Hingham, Hull, Kingston, Marshfield Norwell, Pembroke, Plymouth, Plympton, Rockland, Scituate, W. Bridgewater & Whitman | 7.75 | .60 | .70 | | .10 |
| PLUMBERS: | | | | | |
| Marion, Mattapoisett, Rochester & Wareham | 9.90 | .76 | 1.16 | | .15 |
| Residential | 8.91 | .76 | 1.16 | | .15 |
| Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Norwell, Pembroke, Plymouth, Plympton, Rockland, W. Bridgewater & Whitman | 10.95 | .80 | .80 | | .05 |
| PLUMBERS, GASFITTERS: | | | | | |
| Hingham, Hull & Scituate | 10.25 | .70 | .80 | | .03 |
| PLUMBERS, STEAMFITTERS: | | | | | |
| Lakeville, Middleboro | 8.87 | .60 | .73 | | |
| ROOFERS: | | | | | |
| Abington, Bridgewater, E. Bridgewater, Halifax, Hanover, Hanson, Marshfield, Norwell, Pembroke, Plympton, Rockland, Scituate, W. Bridgewater | 9.75 | .70 | 1.20 | | .05 |
| Reroofing and repair | 9.20 | .70 | 1.20 | | .05 |



| DECISION NO. MA77-3071 | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ROOFERS (Cont'd) | | | | | |
| Pitch work | 10.75 | .70 | 1.20 | | .05 |
| Brockton | 8.50 | | | | |
| Carver, Lakeville, Marion, Mattapoisett, Middleboro, Rochester, Wareham & Hingham | | | | | |
| Roofers and kettlemen | 9.20 | .80 | .20 | | |
| Helpers, Class "A" | 8.50 | .60 | .20 | | |
| Helpers, Class "B" | 5.52 | .60 | .20 | | |
| Mechanic on shingle work | 7.36 | .80 | .20 | | |
| SHEET METAL WORKERS: | | | | | |
| Marion, Mattapoisett, Rochester & Wareham | 9.48 | .95 | .45 | | |
| Remainder of County | 10.23 | 1.16 | 1.10 | | .06 |
| SPRINKLER FITTERS | 11.63 | .65 | .95 | | .08 |
| STEAMFITTERS: | | | | | |
| Marshfield, Hingham, Hull, Scituate | 11.96 | .94 | 1.00 | | .07 |
| TERRAZZO WORKERS' HELPERS | 9.95 | | .25 | | .05 |
| TILE SETTERS' HELPERS | 7.94 | .40 | .25 | | |

PAID HOLIDAYS:
A-New Year's Day; B- Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F- Christmas Day

FOOTNOTES:

a. Employer contribution of $1.00 per journeyman electricians per week.

b. Employer contibutes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service vacation pay credit.

c. Holidays: A through F.

d. Holidays: A through F, Washington's Birthday, Good Friday & Christmas Eve, provided the employee has worked at least 45 full days during the 120 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

e. Holidays: A through F, and Bunker Hill Day, provided the employee has been employed 5 working days prior to any one of the listed holidays.



| DECISION NO. MA77-3071 HEAVY & HIGHWAY CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LABORERS: | | | | | |
| CLASS I | 7.50 | .60 | .70 | | .10 |
| CLASS II | 7.75 | .60 | .70 | | .10 |
| CLASS III | 8.00 | .60 | .70 | | .10 |
| CLASS IV | 8.25 | .60 | .70 | | .10 |

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

BUILDING CONSTRUCTION

DECISION NO. MA77-3071

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| TRUCK DRIVERS: | | | | | |
| CLASS I | 7.24 | .545 | .575 | a+b | |
| CLASS II | 7.39 | .545 | .575 | a+b | |
| CLASS III | 7.44 | .545 | .575 | a+b | |
| CLASS IV | 7.54 | .545 | .575 | a+b | |
| CLASS V | 7.64 | .545 | .575 | a+b | |
| CLASS VI | 7.89 | .545 | .575 | a+b | |
| CLASS VII | 8.14 | .545 | .575 | a+b | |

CLASSIFICATIONS

CLASS I Station wagons, panel trucks and pickup trucks

CLASS II Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators

CLASS III Three axle equipment and tiremen

CLASS IV Four and five axle equipment

CLASS V Specialized earth moving equipment under 35 tons othe than conventional type trucks, low bed, vachual, mechanics, paving restoration equipment, mechanics

CLASS VI Specialized earth moving equipment over 35 tons

CLASS VII Trailers for earth moving equipment, (double hookup)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.



DECISION NO. MA77-3071

BUILDING CONSTRUCTION

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS: | | | | | |
| CLASS I | 10.61 | 1.10 | .80 | a | .02 |
| CLASS II | 10.49 | 1.10 | .80 | a | .02 |
| CLASS III | 8.86 | 1.10 | .80 | a | .02 |
| CLASS IV | 9.67 | 1.10 | .80 | a | .02 |
| CLASS V | 7.84 | 1.10 | .80 | a | .02 |
| CLASS VI | 8.32 | 1.10 | .80 | a | .02 |

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills,post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 180, including jib additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour

CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paying screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pullsometers, concrete mixers, values controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragn pump, lighting plants

CLASS IV Assistant engineers (firemen)

CLASS V Oilers and apprentices (other than truck cranes and gradalls)

CLASS VI Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.







DECISION NO. MA77-3071

HEAVY & HIGHWAY CONSTRUCTION:

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS | | | | | |
| GROUP 1 | 10.61 | 1.10 | .80 | a | .02 |
| Hourly premium for boom lengths including jib | | | | | |
| Over 150 feet + $ .45 | | | | | |
| Over 185 feet + .80 | | | | | |
| Over 210 feet + 1.15 | | | | | |
| Over 250 feet + 1.75 | | | | | |
| Over 295 feet + 2.50 | | | | | |
| GROUP 2 | 10.49 | 1.10 | .80 | a | .02 |
| GROUP 3 | 8.86 | 1.10 | .80 | a | .02 |
| GROUP 4 | 9.67 | 1.10 | .80 | a | .02 |
| GROUP 5 | 7.84 | 1.10 | .80 | a | .02 |
| GROUP 6 | 8.32 | 1.10 | .80 | a | .02 |

CLASSIFICATIONS

GROUP 1 Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines,three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders. asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers

GROUP 3 Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generators lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)



DECISION NO. MA77-3071

CLASSIFICATIONS CONT'D

GROUP 4 Assistant engineers (firemen)

GROUP 5 Oilers (other than truck cranes & gradalls)

GROUP 6 Oilers (on truck cranes & gradalls)

FOOTNOTES:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

SUPERSEDEAS DECISION

STATE: Montana
DECISION NUMBER: MT77-5073
COUNTIES: Statewide
DATE: Date of Publication
Supersedes Decision No. MT77-5021 dated March 4, 1977, in 42 FR 12631
DESCRIPTION OF WORK: Building Construction (does include single family homes and garden type apartments up to and including 4 stories)

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS | $ 11.60 | .44 | $ 1.10 | | |
| BOILERMAKERS | 10.30 | .85 | 1.00 | | .02 |
| BRICKLAYERS: | | | | | |
| Beaverhead, Deer Lodge, Granite, Jefferson (except Northern Tip of County), Madison, Powell and Silver Bow Counties | 10.65 | | .55 | | |
| Gallatin and Park Counties | 10.05 | | | | |
| Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Sweet Grass, Steelwater, Treasure, Wibaux Yellowstone Counties | 10.60 | | .35 | | .01 |
| Broadwater, Lewis and Clark and Meagher Counties | 9.75 | .30 | | | |
| Cascade, Chouteau, Glacier, Pondera and Teton Counties | 10.40 | .50 | .55 | | |
| Blaine, Daniels, Hill, Liberty, Phillips, Roosevelt, Sheridan, Toole and Valley Counties | 10.50 | .55 | .55 | | .05 |
| Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties | 9.50 | .40 | .25 | | |
| CARPENTERS: | | | | | |
| Cascade, Chouteau, Fergus, Glacier, Judith-Basin, Liberty, Meagher, Pondera, Teton and Toole Counties | | | | | |
| Carpenters | 8.64 | .45 | .75 | | .02 |
| Piledrivermen; Saw Filers; Sawmen | 8.89 | .45 | .75 | | .02 |
| Millwrights | 9.14 | .45 | .75 | | .02 |
| Blaine and Hill Counties | | | | | |
| Carpenters | 8.36 | .30 | .45 | | .02 |
| Broadwater, Lewis and Clark and Jefferson Counties | | | | | |
| Carpenters | 8.27 | .45 | .75 | | .02 |
| Piledrivermen | 8.42 | .45 | .75 | | .02 |
| Millwrights | 8.52 | .45 | .75 | | .02 |

DECISION NO. MT77-5073 Page 2

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CARPENTERS: (Cont'd) | | | | | |
| Deer Lodge, Granite (all area lying south of a line running due east from the N.W. corner of Granite County to the N.E. corner of Granite County) and Powell (area lying south of the N.E. corner of Granite County) Counties | | | | | |
| Carpenters | $ 8.76 | .45 | .75 | | .02 |
| Piledrivers | 9.26 | .45 | .75 | | .02 |
| Millwrights | 9.01 | .45 | .75 | | .02 |
| Granite (area lying north of a line running due east from the N.W. corner of Granite County to the N.E. corner of Granite County) Lake (southern area, south of and including the Town of Ravalli), Mineral (area southeast of Southeast City limits of the Town of Superior), Missoula, Powell (area lying north of the N.E. corner of Granite County), Ravalli and Sander (Southeastern portion) Counties | | | | | |
| Carpenters | 8.01 | .45 | .75 | | .02 |
| Millwrights; Piledriver | 8.26 | .45 | .75 | | .02 |
| Carter, Custer, Daniels, Dawson, Fallon, McCone, Phillips, Powder River, Prairie, Richland, Roosevelt, Sheridan, Valley and Wibaux Counties | | | | | |
| Carpenters | 7.84 | .45 | .75 | | .02 |
| Piledrivermen | 8.09 | .45 | .75 | | .02 |
| Millwrights | 8.34 | .45 | .75 | | .02 |



DECISION NO. MT77-5073 Page 3

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CARPENTERS: (Cont'd) | | | | | |
| Flathead, Lincoln, Lake (Northern area including Town of Ravalli from a point where Hwy. #10A and Hwy. #93 intersect), Mineral (Northern area including the Town of Superior), Sanders (except S.E. corner portion) Counties | | | | | |
| Carpenters | $ 8.22 | .45 | .75 | | .02 |
| Sawmen; Filers, Piledrivers; carpenters working burned, charred, creosoted or similary treated material | 8.42 | .45 | .75 | | .02 |
| Millwrights and Machine Erectors | 8.57 | .45 | .75 | | .02 |
| Big Horn, Carbon, Garfield, Golden Valley, Musselshell, Petroleum, Rosebud, Stillwater, Treasure, Wheatland and Yellowstone Counties | | | | | |
| Carpenters | 8.18 | .45 | .75 | | .02 |
| Floor Sander; Sawmen | 8.33 | .45 | .75 | | .02 |
| Piledrivermen | 8.33 | .45 | .75 | | .02 |
| Millwrights | 8.68 | .45 | .75 | | .02 |
| Beaverhead and Silver Bow Co: | | | | | |
| Carpenters | 8.56 | .55 | 1.00 | .75 | .02 |
| Millwrights and Piledrivermen | 8.81 | .55 | 1.00 | .75 | .02 |
| Gallatin, Madison, Park and Sweetgrass Counties | | | | | |
| Carpenters | 8.06 | .45 | .75 | | .02 |
| Millwrights and Piledrivermen | 8.31 | .45 | .75 | | .02 |
| CEMENT MASONS: | | | | | |
| Flathead, Glacier, Lake (North of the City of Ronan), Lincoln and Sanders (North of the City of Plains) Counties | 6.95 | .37 | | | |

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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CEMENT MASONS: (Cont'd) | | | | | |
| Granite (Northern half), Lake (Southern area, including the City of Pablo), Mineral, Missoula, Powell (Northern area including the City of Helmsville), Ravalli and Sanders (South portion including the City of Paradise) Counties | $ 8.0775 | .50 | .35 | | |
| Big Horn, Carbon, Golden Valley, Stillwater, Treasure, Wheatland and Yellowstone Counties | 7.33 | .40 | | | |
| Gallatin, Park and Sweet Grass Counties | 6.50 | .35 | .2% | | |
| Carter, Custer, Dawson, Fallon, Powder River, Prairie, Richland, Rosebud and Wibaux Counties | 7.50 | .50 | .25 | | |
| Beaverhead, Deer Lodge, Granite (Southern half), Jefferson (Southern area including Town of Wickes), Madison, Powell (South portion including the Town of Deer Lodge) and Silver Bow Counties | 8.95 | .50 | .25 | | |
| Broadwater, Jefferson (Area north of a line running E-W established south of the Town of Wickes and north of the Town of Basin), Lewis and Clark and Meagher Counties | 6.22 | | | | |
| Blaine, Cascade, Chouteau, Hill, Liberty, Pondera, Teton and Toole Counties | 8.35 | .44 | | | |
| ELECTRICIANS: | | | | | |
| Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Silver Bow and Powell Counties | 9.90 | .50 | 3%+.35 | | 1/2% |
| Gallatin County | 10.35 | .40 | 3% | | 1/2% |
| Broadwater, Lewis and Clark and Meagher Counties | | | | | |
| Electricians | 9.55 | .55 | 3%+.50 | | 1/2% |

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ELECTRICIANS: (Cont'd) | | | | | |
| Blaine, Hill, Liberty and Phillips Counties | | | | | |
| Electricians | $ 10.35 | | 3%+.50 | | 1/2% |
| Cascade, Chouteau, Glacier, Judith-Basin, Pondera, Teton and Toole Counties | | | | | |
| Electricians | 10.75 | .55 | 3%+.75 | | 1/2% |
| Cable Splicers | 11.00 | .55 | 3%+.75 | | 1/2% |
| Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties | | | | | |
| Electricians | 10.68 | .42 | 3% | | 1/2% |
| Cable Splicers | 11.18 | .42 | 3% | | 1/2% |
| Big Horn, Carbon, Golden Valley, Musselshell, Powder River, Rosebud, Stillwater, Treasure and Yellowstone Counties | | | | | |
| Electricians | 9.97 | .40 | 3%+.50 | | 1/2% |
| Cable Splicers | 10.42 | .40 | 3%+.50 | | 1/2% |
| Fergus, Petroleum and Wheatland Counties | | | | | |
| (Electrical contracts less than $20,000) | 8.75 | .30 | 3% | | 1/2% |
| (Electrical contracts $20,000 or more) | 9.75 | .20 | 3% | | 1/2% |
| Park and Sweet Grass Counties | 8.95 | .40 | 3%+.50 | | 1/2% |
| Carter, Daniels, Dawson, Fallon, McCone, Prairie, Richland, Roosevelt, Sheridan, Valley and Wibaux Counties | 9.20 | .55 | 3%+.75 | | 1/2% |
| Custer and Garfield Counties | 9.08 | | 3% | | 1/2% |
| ELEVATOR CONSTRUCTORS | 10.20 | .495 | .35 | 3%+a | .02 |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .495 | .35 | 3%+a | .02 |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 80%JR | | | | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| IRONWORKERS: | | | | | |
| Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis and Clark, (Southern half including Wolf Creek), Madison, Park, Powell, Ravalli and Silver Bow Cos. | $10.66 | .65 | $ 1.15 | | .05 |
| Flathead, Glacier, Lake, Lincoln, Mineral, Missoula and Sanders Counties | 11.15 | .58 | 1.00 | | .05 |
| Remaining Counties (including Northern half of Lewis and Clark County) | 10.66 | .65 | 1.15 | | .05 |
| MARBLE MASONS: | | | | | |
| Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties | 9.50 | .40 | .25 | | |
| Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Stillwater, Sweet Grass, Treasure, Wibaux and Yellowstone Counties | 10.60 | | .35 | | .02 |
| Gallatin and Park Counties | 10.05 | | | | |
| Broadwater, Lewis and Clark, Meagher and Jefferson (northern area) Counties | 9.75 | .30 | | | |
| Cascade, Chouteau, Glacier, Pondera Teton Counties | 10.40 | .60 | .55 | | .05 |
| Blaine, Daniels, Hill, Liberty, Phillips, Roosevelt, Sheridan, Toole and Valley Counties | 10.50 | .55 | .55 | | .05 |
| PAINTERS: | | | | | |
| Beaverhead, Jefferson (Southern area, south of the City of Boulder), Madison (west of a line running north-south through the west limits of Harrison and Silver Bow Cos. | | | | | |
| Painter, brush | 7.60 | .15 | .10 | | |
| Power taping machine | 7.87 | .25 | .10 | | |
| Paint mitts and work over 30 feet | 8.12 | .25 | .10 | | |
| Application of cold tar; Spray work; Pressure Roller; Sand blasting and steam cleaning; Stacks and steeples | 10.40 | .25 | .10 | | |







| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PAINTERS: (Cont'd) | | | | | |
| Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, Wheatland, (South of the City of Harlowtown), Wibaux and Yellowstone Counties | | | | | |
| Brush | $ 8.13 | .49 | .20 | | |
| Steel | 8.38 | .49 | .20 | | |
| Spray | 9.11 | .49 | .20 | | |
| Cascade, Chouteau (south of a line running East and West through the Southern limits of Big Sandy), Daniels, Fergus, Glacier (excluding Glacier National Park), Garfield, Judith-Basin, Lewis and Clark, (Northern portion from a line running East and West through the northern limits of Craig), McCone, Phillips, Pondera, Petroleum, Richland, Roosevelt, Sheridan, Teton, Toole, Valley and Wheatland(northern area from a line running East and West thru the southern limits of Harlowtown) Counties | | | | | |
| Painter brush, Preparatory work, Pot tender, Parking lot and related work, Roller up to 9 inches | 8.94 | .49 | .40 | | 1/2% |
| Paperhanger, Brush on steel | 9.44 | .49 | .40 | | 1/2% |
| Water and Sandblasting, Application of cold tar products, Epoxies, Polyurethanes and acid resistant paints, Spraying and airless spray | 11.19 | .49 | .40 | | 1/2% |
| Roller over 9" long | 12.54 | .49 | .40 | | 1/2% |
| Taper | 9.34 | .49 | .40 | | 1/2% |



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PAINTERS: (Cont'd) | | | | | |
| Deer Lodge County and the southern part of Granite County from a line east-west through the southern limits of Phillipsburg | | | | | |
| Painter and prefataper | $ 7.60 | | | | |
| Paint mitts | 8.12 | | | | |
| Application of cold tar products, epoxies, polyurethanes and acid resistant paints; Water sandblasting and steam cleaning; Stacks and steeples; Brushing of steel; Spraying and airless spraying; Work over 30 feet | 10.40 | | | | |
| Broadwater, Gallatin, Jefferson (northern area from a line running east and west five miles south of the southern city limits of Boulder), Lewis and Clark (Southern portion from a line tunning east and west through the southern limits of Craig), Madison (east of the west city limits of Harrison), Meagher, Park, Powell (northern area from a line running east and west through the southern city limits of Helmsville) | | | | | |
| Parking lot striping and related work | 8.69 | .25 | .20 | | .03 |
| Paper Hanger | 9.19 | .25 | .20 | | .03 |
| Perfataper: | | | | | |
| Hand | 9.19 | .25 | .20 | | .03 |
| Spray | 9.69 | .25 | .20 | | .03 |
| Machine | 9.94 | .25 | .20 | | .03 |
| Blaine, Hill, Liberty and Chouteau (north of the Southern limits of the City of Big Sandy) Counties | 6.76 | | | | |

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and or Appr. Tr. |
| PAINTERS: (Cont'd) | | | | | |
| Flathead, Granite (northern area north limits of Phillipsburg), Lake (Southern area including City of Ronan), Lincoln, Mineral, Missoula, Powell (northern area through south limits of Helmsville), Ravalli and Sanders Counties | $ 9.35 | .44 | .4[illegible] | | .04 |
| PLASTERERS: | | | | | |
| Big Horn, Carbon, Golden Valley, Stillwater, Treasure, Wheatland and Yellowstone Counties | 7.38 | .40 | | | |
| Carter, Custer, Dawson, Fallon, Powder River, Prairie, Richland, Rosebud and Wibaux Counties | 7.5[illegible] | .[illegible] | .25 | | |
| Gallatin, Park and Sweet Grass Counties | 6.50 | .35 | .25 | | |
| Granite, Lake (Southern area, including the City of Pablo), Mineral, Missoula, Powell (Northern area including the City of Helmsville), Ravalli and Sanders (south portion, including the City of Paradise), Counties | 7.85 | .40 | .25 | | |
| Beaverhead, Deer Lodge, Jefferson (Southern area, including the Town of Wicken), Madison, Powell (South of a line running E-W south of the Town of Deer Lodge) and Silver Bow Counties | 8.95 | .[illegible]0 | .25 | | |
| Flathead, Glacier, Lake (Northern area, including the City of Ronan), Lincoln and Sanders (north of the City of Plains) Counties | 6.45 | .2[illegible] | | | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and or Appr. Tr. |
| PLUMBERS: | | | | | |
| Flathead, Lake, Lincoln, Mineral, Missoula and Sanders Counties | $ 1[illegible].53 | .35 | .70 | | .05 |
| Blaine, Cascade, Chouteau, Fergus, Glacier, Hill, Judith-Basin, Liberty, McCone, Meagher, Phillips, Pondera, Roosevelt, Teton, Toole and Valley Cos. | 11.60 | .[illegible]5 | .95 | | 1[illegible] |
| Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis and Clark, Madison, Park, Powell, Silver Bow and Sweet Grass Counties | 11.7[illegible] | .[illegible] | .75 | | .10 |
| Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, Golden Valley, Musselshell, Petroleum, Powder River, Prairie, Richland, Rosebud, Sheridan, Stillwater, Treasure, Wheatland, Wibaux and Yellowstone Counties | 11.25 | .40 | .[illegible]0 | | .10 |
| ROOFERS: | | | | | |
| Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Richland, Rosebud, Stillwater, Treasure, Wibaux and Yellowstone Counties | 8.79 | | .25 | | |
| Blaine, Cascade, Chouteau, Daniels, Fergus, Garfield, Glacier, Hill, Judith-Basin, Liberty, Lewis and Clark, McCone, Petroleum, Phillips, Pondera, Roosevelt, Sheridan, Teton, Toole and Valley Cos. | 9.20 | | | | |
| Beaverhead, Deer Lodge, Jefferson, Madison, Powell and Silver Bow Counties | [illegible].49 | .50 | .40 | .75 | |





| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ROOFERS: (Cont'd) | | | | | |
| Flathead, Granite, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties | $ 8.49 | .60 | | | .01 |
| Broadwater, Gallatin, Meagher, Park, Sweet Grass and Wheatland Counties | 8.50 | .47 | | | |
| SHEET METAL WORKERS: | | | | | |
| Broadwater, Jefferson (including North half of the City of Boulder), Lewis and Clark and Meagher Counties | 10.31 | .77 | .25 | | .10 |
| Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties | 10.23 | .82 | .25 | | .10 |
| Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Fergus, Gallatin, Garfield, Golden Valley, McCone, Musselshell, Petroleum, Phillips, Powder River, Park, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Sweet Grass, Valley, Wheatland, Wibaux, Treasure and Yellowstone Counties | 9.39 | .37 | 3%+.45 | | .10 |
| Blaine, Cascade, Chouteau, Glacier, Hill, Judith-Basin, Liberty, Pondera, Teton and Toole Counties | 10.27 | .66 | .25 | | .07 |
| Beaverhead, Deer Lodge, Granite, Jefferson (S½), Madison, Powell, and Silver Bow Counties | 9.15 | .37 | .40 | 1.00 | .02 |
| SPRINKLER FITTERS | 10.42 | .65 | .95 | | .08 |
| TERRAZZO WORKERS & TILE SETTERS: | | | | | |
| Broadwater, Lewis and Clark, Meagher and Jefferson (Northern area north of Boulder Hill) Counties | 9.75 | .30 | | | |
| Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Sweet Grass, Stillwater, Treasure, Wibaux and Yellowstone Counties | 10.60 | | .35 | | .02 |



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| TERRAZZO WORKERS & TILE SETTERS: (Cont'd) | | | | | |
| Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties | $ 9.50 | .40 | .25 | | |
| Gallatin and Park Counties | 10.05 | | | | |
| Cascade, Chouteau, Glacier, Pondera and Teton Counties | 8.25 | .60 | .55 | | |

FOOTNOTE:

a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

| LABORERS | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Beaverhead, Deer Lodge, Jefferson, Madison, Powell (excluding S.E. portion) and Silver Bow Counties | | | | | |
| Group 1 | $ 6.88 | .50 | .40 | .75 | .03 |
| Group 2 | 6.95 | .50 | .40 | .75 | .03 |
| Group 3 | 6.96 | .50 | .40 | .75 | .03 |
| Group 4 | 6.97 | .50 | .40 | .75 | .03 |
| Group 5 | 6.98 | .50 | .40 | .75 | .03 |
| Group 6 | 7.00 | .50 | .40 | .75 | .03 |
| Group 7 | 7.04 | .50 | .40 | .75 | .03 |
| Group 8 | 7.05 | .50 | .40 | .75 | .03 |
| Group 9 | 7.06 | .50 | .40 | .75 | .03 |
| Group 10 | 7.10 | .50 | .40 | .75 | .03 |
| Group 11 | 7.13 | .50 | .40 | .75 | .03 |
| Group 12 | 7.15 | .50 | .40 | .75 | .03 |
| Group 13 | 7.16 | .50 | .40 | .75 | .03 |
| Group 14 | 7.23 | .50 | .40 | .75 | .03 |
| Group 15 | 7.26 | .50 | .40 | .75 | .03 |
| Group 16 | 7.28 | .50 | .40 | .75 | .03 |
| Group 17 | 7.38 | .50 | .40 | .75 | .03 |
| Group 18 | 7.48 | .50 | .40 | .75 | .03 |
| Group 19 | 7.13 | .50 | .40 | .75 | .03 |
| Group 20 | 7.12 | .50 | .40 | .75 | .03 |
| Group 21 | 7.00 | .50 | .40 | .75 | .03 |
| Broadwater (northern area), Lewis and Clark, Meagher, Powell (that portion lying east of a N-S line at the west edge of the Town of Elliston) Counties | | | | | |
| Group 1 | 7.52 | .50 | .40 | | .03 |
| Group 2 | 7.68 | .50 | .40 | | .03 |
| Group 3 | 7.77 | .50 | .40 | | .03 |



LABORERS
Beaverhead, Deer Lodge, Jefferson, Madison, Powell (excluding SE portion) and Silver Bow Counties

Group 1: General Laborers; Axeman; Carpenter Tender; Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Cosmolene, applying and removing; Fence Erector and Installer including the installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers); Form Stripper; Form Setter; Landscape Laborer; Nozzleman - air and water, gunnite and place machine; Pilot Car; Riprap Helper; Scaleman; Sod Cutter (hand operated) (General Laborer); Stake Jumper for equipment; Tool Checker, Toolhouseman

Group 2: Riprapper; Sandblaster; Sandblaster Tailhouseman; Pot Tender

Group 3: Hand Faller

Group 4: Post Hole Digger (power Auger)

Group 5: Concrete or asphalt saws; Tar Pot Operator

Group 6: Powderman Helper

Group 7: Caisson Workers (free air); Choker Setter; Spike Driver, single or dual or hand

Group 8: Drills, Air-tract, self-propelled car or truck mount air operated drills; Jackhammer, Pavement Breaker, Wagon Driller, mechanical Tamper, Vibrating Roller hand steered and other power tools; Pipe Wrapper, Power Saw (bucking)

Group 9: Asphalt raker; Dumpman (grademan)

Group 10: High Pressure Machine Nozzleman

Group 11: Pipelayer (all types); Cutting Torch Operator

Group 12: Powderman

Group 13: Grade Setter





LABORERS (Cont'd)
Beaverhead, Deer Lodge, Jefferson, Madison, Powell (excluding SE portion) and Silver Bow Counties

Group 14: High Scaler

Group 15: Dumpman (spotter)

Group 16: Power Saw (falling)

Group 17: Rigger

Group 18: Core Drill Operator

Group 19: Concrete Worker, wet or dry; Tending Masons when pouring and finishing concrete

Group 20: Vibrator Operator; Tending Stonesetters, Marble Setters, Tile Setters, Skagiola and Terrazzo Workers; Tending brick masons or brick or stone work; Tending Plasterers or stuccoing or plastering; (this does not include rubbing down of foundation or concrete walls), Surekete, Stonehard and Rubberslate; Concrete Conveyor Swinger Operator

Group 21: Power Driven Concrete Buggies

Broadwater (Northern area), Lewis and Clark, Meagher, Powell (that portion lying east of a N-S line at the west edge of the Town of Elliston) Counties

Group 1: General Laborer; Car and truck loader; Concrete Handler; Form Stripper; Fence Erector and Installer

Group 2: Concrete Buggy; Vibrator; Jackhammer; Wagon Driller; Barco Tamper; Pavement Breaker; Powderman Helper

Group 3: All power tools; Rodder and Spreader; Non-metallic Pipe Layers; Pipe Wrappers; Sandblasters; Pot Tenders; Curb Form Setter; Concrete Tenders

Group 4: Mortar Mixer; Powderman



| LABORERS (Cont'd) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Broadwater (Southern portion including the City of Tosten), Gallatin, Park, Sweet Grass and Wheatland Counties | | | | | |
| Group 1 | $ 6.70 | .50 | .40 | | .03 |
| Group 2 | 6.95 | .50 | .40 | | .03 |
| Flathead, Glacier National Park, Lincoln and that area of Lake and Sanders Counties lying 5 miles north of the 5th Parallel | | | | | |
| Group 1 | 7.47 | .50 | .40 | | .03 |
| Group 2 | 7.64 | .50 | .40 | | .03 |
| Group 3 | 7.81 | .50 | .40 | | .03 |
| Carter, Custer, Dawson, Fallon, Powder River, Prairie and Wibaux Counties | | | | | |
| Group 1 | 7.55 | .55 | .45 | | .05 |
| Group 2 | 7.77 | .55 | .45 | | .05 |
| Group 3 | 7.80 | .55 | .45 | | .05 |
| Big Horn, Carbon, Golden Valley, Musselshell, Rosebud, Stillwater, Treasure and Yellowstone Counties | | | | | |
| Group 1 | 7.70 | .55 | .45 | | .05 |
| Group 2 | 7.92 | .55 | .45 | | .05 |
| Group 3 | 7.95 | .55 | .45 | | .05 |

| LABORERS (Cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Granite, Lake (Southern area), Mineral, Missoula, Ravalli and Sanders (Southern area) Counties | | | | | |
| Group 1 | $ 7.335 | .50 | .40 | | .03 |
| Group 2 | 7.585 | .50 | .40 | | .03 |
| Group 3 | 7.735 | .50 | .40 | | .03 |
| Cascade, Chouteau, Fergus, Glacier (excluding Glacier National Park), Judith-Basin, Pondera, Teton and Toole Counties | | | | | |
| Group 1 | 7.52 | .50 | .40 | | .03 |
| Group 2 | 7.67 | .50 | .40 | | .03 |
| Group 3 | 7.87 | .50 | .40 | | .03 |
| Group 4 | 7.92 | .50 | .40 | | .03 |
| Group 5 | 8.02 | .50 | .40 | | .03 |
| Group 6 | 8.27 | .50 | .40 | | .03 |
| Group 7 | 8.12 | .50 | .40 | | .03 |
| Blaine, Daniels, Garfield, Hill, Liberty, McCone, Petroleum, Phillips, Richland, Roosevelt, Sheridan and Valley Cos. | | | | | |
| Group 1 | 7.52 | .50 | .40 | | .03 |
| Group 2 | 7.62 | .50 | .40 | | .03 |
| Group 3 | 7.77 | .50 | .40 | | .03 |
| Group 4 | 7.92 | .50 | .40 | | .03 |
| Group 5 | 8.02 | .50 | .40 | | .03 |
| Group 6 | 8.27 | .50 | .40 | | .03 |



LABORERS (Cont'd)

Broadwater (Southern portion including the City of Townsend), Gallatin, Park, Sweet Grass and Wheatland Counties

Group 1: Common Laborers

Group 2: Semi-skilled; Hod Carriers; Jackhammer Operator; Vibrator; Mixer Operator; Concrete pump tender; Nozzleman; Concrete machiner; Curb form setter

Flathead, Glacier National Park, Lincoln, and that portion of Lake and Sanders Counties lying 5 miles north of the 5th Parallel

Group 1: General Laborers; Scaleman; Form Strippers; Car and Truck Loaders

Group 2: Concrete handlers, conveying and handling concrete, Nozzlemen (air or water); Sand blast tail hose man; Powderman helper; Power driven wheelbarrow; Rodder and spreader; Form Setters (paving); Buckетman; Small air tool operators, including blow pipes and small power tool operators; Chuck Tenders; Asphalt rakers, Dumpman; Rip rapping; Pipe wrapper; Pot tender; Concrete pumper hoseman; Jackhammer; Pavement Breaker; Vibrator; Mechanical tamper and other air tools; Cement handlers (sack or bulk); Burning bar

Group 3: Pipe Layers (non-metallic); Metal culvert pipe layers; Mason and plaster tenders; Cement finisher tender; Small concrete mixer operator; Shoring and lagging open ditches; Powderman; Drills, Air-trac, wagon drill, cat or truck mounted air operated drills, Sand blaster (wet or dry); Gunite Nozzleman; Barco tamper

Carter, Custer, Dawson, Fallon, Powder River, Prairie and Wibaux Counties

Group 1: General Laborers

Group 2: Jackhammer operator; Mechanical tampers; Pipelayers (all types); Pavement breakers; Pneumatic and electric tools operator; Pipewrappers

Group 3: Mason and plasterer's tenders







LABORERS (Cont'd)

Big Horn, Carbon, Golden Valley, Musselshell, Rosebud, Stillwater, Treasure and Yellowstone Counties

Group 1: General Laborers; Concrete Laborers; Chuck tenders and nippers

Group 2: Cement Handler (sack or bulk; Jackhammer Operator; Mortarman; Pipelayer (all types); Pipewrapper; Primerhouseman

Group 3: Mason and Plasterer's tenders

Granite, Lake (Southern area), Mineral, Missoula, Ravalli and Sanders (Southern area) Counties

Group 1: Laborers

Group 2: All power tools, creosote workers; Jackhammer; Marble and tile setters' tenders; Pipelayers; Pipewrappers; Pot tenders; Small concrete mixers; Vibrators

Group 3: Cement Masons and plasterer's tenders; Mason tenders; pumpcrete, gunite and plaster pump

Cascade, Chouteau, Fergus, Glacier (excluding Glacier National Park, Judith-Basin, Pondera, Teton and Toole Counties

Group 1: General and building laborers' and Scale Men; Concrete Laborers (wet or dry breaking of concrete requiring sledge hammer); Dumpman (spotter) and Flagman; Fence Erectors and Installers, including the installation and erection of fences, guardrials, mediam rails, reference posts, guide posts and right-of-way markers; Vibrators, under 1½" in diameter; Small Air Tools such as Chippers, Clay Spades, etc.; Stake Setters; Stake Jumper, Rodder and Spreader; Form Stripper; Caisson Workers (free air); Vibrator 1½" to 2½" in diameter

Group 2: Concrete or Asphalt Saws; Creosote material handler; Curb Machine form setter (slab steel forms); Diamond drills up through 3 inches in diameter; Jackhammer, pavement breaker, Wagon driller, cat or truck mounted air operated drills, and other air tools; Diesel Tamper, Wacker, Jay, Turtle, Pogo Sticks, etc., Mechanical tampers; Nozzlemen, air and water, gunite and Placo, Machine (grout); Pipe layer (all types); Power saw (bucking and falling); Power driven wheelbarrow; Chuck Tenders, Muckers and Nippers, Primeman

Group 3: Sand Blaster

Group 4: Vibrators, 2½" to 4" in diameter; Brick tenders; Dumpmen (grade); Small Concrete Mixers





LABORERS (Cont'd)

Cascade, Chouteau, Fergus, Glacier (excluding Glacier National Park), Judith Basin, Pondera, Teton and Toole Counties

Group 5: Diamond drills up through 6 inches in diameter; Hod Carriers and plaster tenders (1-one mixerman per crew); Asphalt raker and tamper; High scaler; Powderman helper; Concrete nozzleman; Miners; Barco Tamper; Air-trac

Group 6: Diamond drill, over 6 inches in diamater; Self-propelled drills, with the exception of size differential, such as Mustang drills or twin stack drills; Core drill operator; Laser equipment and tools, excluding transit; Powderman

Group 7: Concrete Vibrator, 4" and over

Blaine, Daniels, Garfield, Hill, Liberty, McCone, Petroleum, Phillips, Richland, Roosevelt, Sheridan and Valley Counties

Group 1: General and building laborers' and scale men; Form stripper and Carpenter tender; Car and truck loaders; Concrete laborers (wet or dry breaking of concrete requiring sledge hammer); Dumpmen (spotter and flagman); Small power tools, Chippers, Clay Spaders, Pogo Stick, etc.; Fence erectors and Installers, installation and erection of fences, guard rails, median rails, reference posts, guide posts, and right-of-way markers

Group 2: Dumpmen (grade)

Group 3: Power driven concrete buggies or power driven wheelbarrows; Pipe layers (non-metallic); Sandblaster, Concrete nozzleman, Place operator, Jackhammer, Pavement breaker, Vibrator (2½ inches and over) Barco Tamper, Vibrator Turtle; Small concrete mixers, concrete saw; Nozzleman (air and water); Sandblaster, tailhoseman, pot tender, tar pot tender; Gunite nozzleman; Caisson workers (free air); Tunnels and shafts (free air); Bull gang, pot tender; Chuck tender, muckers and nippers, Primerhouseman

Group 4: Brick tenders handling bricks and blocks only)

Group 5: Hod carriers and plaster tenders (men carrying motor mither by Hod, pail or barrow); High scaler; Wagon driller, cat or truck mounted air operated drills; Asphalt rakers and tampers, Gunite, Form Setter (slab steel forms); Stake setter, Stake jumper, Rodder and spreader, Grademan; Concrete nozzleman; Miners

Group 6: Powdermen; Laser Tools and Equipment

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| A-Frame Truck Crane, Winch Truck and similar | $ 9.85 | .55 | .55 | .35 | .05 |
| Air Compressor, single | 9.54 | .55 | .55 | .35 | .05 |
| Air Compressor, two or more | 9.06 | .55 | .55 | .35 | .05 |
| Air Doctor | 10.01 | .55 | .55 | .35 | .05 |
| Asphalt Paving Machine | 10.01 | .55 | .55 | .35 | .05 |
| Asphalt Paving Machine Screed | 10.01 | .55 | .55 | .35 | .05 |
| Automatic Finegrader, Gurries and other similar types | 10.14 | .55 | .55 | .35 | .05 |
| Belt Finish Machine | 9.71 | .55 | .55 | .35 | .05 |
| Bit Grinder | 10.01 | .55 | .55 | .35 | .05 |
| Bituminous Mixer Paving, Travel Plant | 10.01 | .55 | .55 | .35 | .05 |
| Boring Machine (small), Jeep, Pickup or Farm Tractor mounted | 9.60 | .55 | .55 | .35 | .05 |
| Boring Machine (large) | 10.01 | .55 | .55 | .35 | .05 |
| Broom, Self-propelled | 9.68 | .55 | .55 | .35 | .05 |
| Cableway Highline | 10.52 | .55 | .55 | .35 | .05 |
| Cement Silo | 9.80 | .55 | .55 | .35 | .05 |
| Central Mixing Plants, Concrete dam and stationary | 10.26 | .55 | .55 | .35 | .05 |
| Chain Bucket Loader | 9.73 | .55 | .55 | .35 | .05 |
| Chip or Gravel Spreader, Self-propelled | 9.73 | .55 | .55 | .35 | .05 |
| Concrete Batch Plant, one and two mixers | 10.01 | .55 | .55 | .35 | .05 |
| Concrete Batch plant, three and four mixers | 10.21 | .55 | .55 | .35 | .05 |
| Concrete Batch Plant, five mixers and over | 10.41 | .55 | .55 | .35 | .05 |
| Concrete Batch Plant Oiler, up to and including two mixers | 9.53 | .55 | .55 | .35 | .05 |
| Concrete Batch Plant Oiler, three mixers and over | 9.84 | .55 | .55 | .35 | .05 |
| Concrete Bucket Dispatcher | 10.01 | .55 | .55 | .35 | .05 |
| Concrete Curing Machine | 10.01 | .55 | .55 | .35 | .05 |
| Concrete Finish Machine Paving | 10.01 | .55 | .55 | .35 | .05 |
| Concrete Float-Spreader | 10.01 | .55 | .55 | .35 | .05 |
| Concrete Mixer, three bags and under | 9.60 | .55 | .55 | .35 | .05 |
| Concrete Mixer, four bags and over | 9.77 | .55 | .55 | .35 | .05 |



| POWER EQUIPMENT OPERATORS (Cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Concrete Power Saw, self-propelled | $ 10.01 | .55 | .55 | .35 | .05 |
| Concrete Travel Batcher | 10.01 | .55 | .55 | .35 | .05 |
| Concrete Conveyor under 40 ft. | 9.59 | .55 | .55 | .35 | .05 |
| Concrete Conveyor over 40 ft. | 10.34 | .55 | .55 | .35 | .05 |
| Concrete Pump | 10.34 | .55 | .55 | .35 | .05 |
| Conveyor Loader Operator, up to and including 42' belt | 9.59 | .55 | .55 | .35 | .05 |
| Conveyor Loader Operator over 42" belt | 9.71 | .55 | .55 | .35 | .05 |
| Crane, to and including 80' boom | 10.17 | .55 | .55 | .35 | .05 |
| Crane, 81' to 130' boom | 10.32 | .55 | .55 | .35 | .05 |
| Crane, 131' to 150' boom | 10.37 | .55 | .55 | .35 | .05 |
| Crane, 151' boom and over | 10.42 | .55 | .55 | .35 | .05 |
| Crane Oiler | 9.58 | .55 | .55 | .35 | .05 |
| Crane with jibs an additional $.15 per hour | | | | | |
| Crusher | 10.01 | .55 | .55 | .35 | .05 |
| Crusher Oiler and Helper | 9.50 | .55 | .55 | .35 | .05 |
| Crusher Conveyor, when required | 9.47 | .55 | .55 | .35 | .05 |
| Distributor | 10.01 | .55 | .55 | .35 | .05 |
| DW 10, 15, or 20 Tractor pulling Roller | 9.73 | .55 | .55 | .35 | .05 |
| Electric Overhead Cranes | 10.19 | .55 | .55 | .35 | .05 |
| Elevating Grader | 10.01 | .55 | .55 | .35 | .05 |
| Farm type Tractor, up to and including 50 HP engine | 9.47 | .55 | .55 | .35 | .05 |
| Farm type Tractor, over 50 HP engine | 9.55 | .55 | .55 | .35 | .05 |
| Field Equipment Serviceman | 9.93 | .55 | .55 | .35 | .05 |
| Field Equipment Serviceman Helper | 9.50 | .55 | .55 | .35 | .05 |
| Fireman | 9.60 | .55 | .55 | .35 | .05 |
| Forklift, on construction job site | 9.82 | .55 | .55 | .35 | .05 |
| Form Grader | 9.78 | .55 | .55 | .35 | .05 |
| Gradall | 10.01 | .55 | .55 | .35 | .05 |
| Grade Setter | 9.47 | .55 | .55 | .35 | .05 |





| POWER EQUIPMENT OPERATORS (Cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Heavy Duty Drill, all types | $ 10.01 | .55 | .55 | .35 | .05 |
| Heavy Duty Driller Helper | 9.60 | .55 | .55 | .35 | .05 |
| Herman-Nelson Heaters and similar type | 9.55 | .55 | .55 | .35 | .05 |
| Hoist, two or more drums | 10.01 | .55 | .55 | .35 | .05 |
| Helicopter Hoist | 10.51 | .55 | .55 | .35 | .05 |
| Hot Plant | 10.01 | .55 | .55 | .35 | .05 |
| Hot Plant Fireman, when in operation | 10.01 | .55 | .55 | .35 | .05 |
| Hot plant Oiler, 100 ton per hour or over | 9.50 | .55 | .55 | .35 | .05 |
| Hydra lift and similar types | 9.91 | .55 | .55 | .35 | .05 |
| Industrial Locomotive all classes | 10.01 | .55 | .55 | .35 | .05 |
| Mechanic and/or Welder on job | 10.11 | .55 | .55 | .35 | .05 |
| Mechanic and/or Welder Helper on job | 9.80 | .55 | .55 | .35 | .05 |
| Mechanic, Shop (Dec. 1 to April 1) | 9.71 | .55 | .55 | .35 | .05 |
| Mechanic Helper, Shop (Dec. 1 to April 1) | 9.17 | .55 | .55 | .35 | .05 |
| Mixermobile | 10.09 | .55 | .55 | .35 | .05 |
| Motor Patrol | 10.14 | .55 | .55 | .35 | .05 |
| Mountain Logger or similar type | 10.01 | .55 | .55 | .35 | .05 |
| Mucking Machine | 10.01 | .55 | .55 | .35 | .05 |
| Oiler-Driver, Rubber Tired Cranes | 9.58 | .55 | .55 | .35 | .05 |
| Oilers, other than shovels and cranes | 9.50 | .55 | .55 | .35 | .05 |
| Oiler, hoist house, dams | 9.91 | .55 | .55 | .35 | .05 |
| Pavement Breaker, Emsco and similar | 10.01 | .55 | .55 | .35 | .05 |
| Paving and Mixing Machine | 10.14 | .55 | .55 | .35 | .05 |
| Power Auger, Large Truck or Tractor mounted and Punch | 10.01 | .55 | .55 | .35 | .05 |
| Power Mixer, single or double drum | 10.02 | .55 | .55 | .35 | .05 |
| Power Saw, multiple cut, self-propelled | 10.01 | .55 | .55 | .35 | .05 |
| Pumpcrete or Grout Machine | 10.01 | .55 | .55 | .35 | .05 |
| Pumpman | 9.45 | .55 | .55 | .35 | .05 |
| Push Tractor | 10.01 | .55 | .55 | .35 | .05 |



| POWER EQUIPMENT OPERATORS (Cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Quad Cat | $ 10.31 | .55 | .55 | .35 | .05 |
| Quad Loader and similar type | 10.59 | .55 | .55 | .35 | .05 |
| Radiator Repairman | 9.82 | .55 | .55 | .35 | .05 |
| Haygo Gaint | 10.59 | .55 | .55 | .35 | .05 |
| Refrigeration Plant | 10.01 | .55 | .55 | .35 | .05 |
| Retort | 9.60 | .55 | .55 | .35 | .05 |
| Roller, on blade or hot mix oil paving | 10.01 | .55 | .55 | .35 | .05 |
| Roller, on other blade or hot Mix paving | 9.71 | .55 | .55 | .35 | .05 |
| Roller, 25 ton or over | 10.01 | .55 | .55 | .35 | .05 |
| Ross and similar type carriers, on construction site | 10.01 | .55 | .55 | .35 | .05 |
| Rubber-tried Dozer | 10.01 | .55 | .55 | .35 | .05 |
| Rubber-tired Front End Loader, 1 yard and under | 9.78 | .55 | .55 | .35 | .05 |
| Rubber-tired Front End Loader, 1 yard to and including 3 yds. | 10.01 | .55 | .55 | .35 | .05 |
| Rubber-tired Front End Loader, over 3 yards to and including 5 yards | 10.13 | .55 | .55 | .35 | .05 |
| Rubber-tired Front End Loader, over 5 yards to and including 10 yards | 10.23 | .55 | .55 | .35 | .05 |
| Rubber-tired Front End Loader, over 10 yards to and including 15 yards | 10.33 | .55 | .55 | .35 | .05 |
| Rubber-tired Front End Loader, over 15 yards | 10.43 | .55 | .55 | .35 | .05 |
| Scraper, DW 15, 20, 21 and similar type if power unit is not used | 10.01 | .55 | .55 | .35 | .05 |
| Scraper, single or twin engine pulling belly dump trailer | 10.39 | .55 | .55 | .35 | .05 |
| Scraper, single engine | 10.14 | .55 | .55 | .35 | .05 |
| Scraper, twin engine | 10.24 | .55 | .55 | .35 | .05 |
| Scraper, tandem engine or 3 engine | 10.59 | .55 | .55 | .35 | .05 |
| Self-propelled Sheepfoot and similar type | 10.01 | .55 | .55 | .35 | .05 |

| POWER EQUIPMENT OPERATORS (Cont'd) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Shovels, including all attachments, under 1 cu. yd. | $ 10.01 | .55 | .55 | .35 | .05 |
| Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds. | 10.19 | .55 | .55 | .35 | .05 |
| Shovels, including all attachments, over 3 cu. yds. to and including 5 cu. yds. | 10.46 | .55 | .55 | .35 | .05 |
| Shovels, including all attachments, over 5 cu. yds. | 10.59 | .55 | .55 | .35 | .05 |
| Shovel Oiler, 3 yards and under | 9.50 | .55 | .55 | .35 | .05 |
| Shovel Oiler, over 3 cu. yds. | 9.91 | .55 | .55 | .35 | .05 |
| Slip Form Paver | 10.14 | .55 | .55 | .35 | .05 |
| Stiff Leg Derrick and Guy Derrick | 10.46 | .55 | .55 | .35 | .05 |
| Track-type Front End Loaders, up to and including 5 cu. yds. | 10.01 | .55 | .55 | .35 | .05 |
| Track-type Front End Loaders, over 5 cu. yds. to and including 10 cu. yds. | 10.24 | .55 | .55 | .35 | .05 |
| Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds. | 10.34 | .55 | .55 | .35 | .05 |
| Track-type Front End Loaders, over 15 cu. yds. | 10.44 | .55 | .55 | .35 | .05 |
| Track-type Tractor w/wo attachments | 10.01 | .55 | .55 | .35 | .05 |
| Track-type Tractor, on Euclid Loader | 10.19 | .55 | .55 | .35 | .05 |
| Trenching Machine | 10.01 | .55 | .55 | .35 | .05 |
| Turnhead Conveyor, or Head Tower on Batch Plant | 10.01 | .55 | .55 | .35 | .05 |
| Wagner Roller and similar type | 10.01 | .55 | .55 | .25 | .05 |
| Whirley Crane | 10.54 | .55 | .55 | .35 | .05 |
| Whirley Crane Oiler | 9.91 | .55 | .55 | .35 | .05 |
| Water Pull when used for compaction | 10.01 | .55 | .55 | .35 | .05 |
| Washing and Screening Plant | 10.01 | .55 | .55 | .35 | .05 |
| Washing and Screening Plant Oiler | 9.50 | .55 | .55 | .35 | .05 |
| Yo-Yo Cat, both ends | 9.56 | .55 | .55 | .35 | .05 |



| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Statewide, except Gallatin, Park, Sweet Grass, Broadwater (south of U. S. Highway #12) Counties | | | | | |
| COMBINATION TRUCK; Concrete Mixer and Transit Mixer: To and including 4 cu. yds. | $ 9.01 | .65 | .50 | | |
| Over 4 cu. yds. to and including 6 cu. yds. | 9.09 | .65 | .50 | | |
| Over 6 cu. yds. to and including 8 cu. yds. | 9.17 | .65 | .50 | | |
| Over 8 cu. yds. to and including 10 cu. yds. | 9.25 | .65 | .50 | | |
| Over 10 cu. yds. - additional $.08 per hour each additional 2 cu. yds. increment | | | | | |
| DISTRIBUTOR DRIVER and HELPER | 8.99 | .65 | .50 | | |
| DRY BATCH TRUCKS: 3 Batch or under | 8.76 | .65 | .50 | | |
| Over 3 Batch to and including 5 Batch | 8.89 | .65 | .50 | | |
| Over 5 Batch to and including 10 Batch | 9.05 | .65 | .50 | | |
| Over 10 Batch to and including 15 Batch | 9.21 | .65 | .50 | | |
| Over 15 Batch - addtional $.15 per hour each additional 5 Batch increment | | | | | |
| PICKUP DRIVER, HAULING MATERIALS | 8.86 | .65 | .50 | | |
| DUMPMAN, GRAVEL SPREADER BOX OPERATOR; Pilot Car Driver, Teamsters and Helpers | 8.76 | .65 | .50 | | |





| TRUCK DRIVERS (Cont'd) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| WAREHOUSEMEN, Partsmen, Cardex Men, Warehouse Expediter | $ 9.69 | .66 | .50 | | |
| DUMP TRUCKS AND SIMILAR EQUIPMENT DW 20, DW 21, or EUCLID TRACTORS, Pulling P.R. 21 or similar Dump Wagons: Water Level Capacity, including Sideboards | | | | | |
| 7 cu. yds. or less | 8.76 | .65 | .50 | | |
| Over 7 cu. yds. to and including 10 cu. yds. | 8.80 | .65 | .50 | | |
| Over 10 cu. yds. to and including 15 cu. yds. | 9.05 | .65 | .50 | | |
| Over 15 cu. yds. to and including 20 cu. yds. | 9.19 | .65 | .50 | | |
| Over 20 cu. yds. to and including 25 cu. yds. | 9.25 | .65 | .50 | | |
| Over 25 cu. yds. to and including 30 cu. yds. | 9.31 | .65 | .50 | | |
| Over 30 cu. yds. to and including 35 cu. yds. | 9.37 | .65 | .50 | | |
| Over 35 cu. yds. to and including 40 cu. yds. | 9.43 | .65 | .50 | | |
| Over 40 cu. yds. to and including 45 cu. yds. | 9.45 | .65 | .50 | | |
| Over 45 cu. yds. - additional $.10 per hour each additional 5 cu. yds. increment | | | | | |
| DUMPSTERS | 8.89 | .65 | .50 | | |
| SERVICEMEN | 9.60 | .65 | .50 | | |
| POWER TRUCK DRIVER (bulk unloader type) | 8.94 | .65 | .50 | | |
| FLAT TRUCKS: To and including 3 tons | 8.91 | .65 | .50 | | |
| over 3 tons Factory rating | 9.11 | .65 | .50 | | |



| TRUCK DRIVERS (Cont'd) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| SERVICE TRUCK DRIVERS; FUEL TRUCK DRIVERS; TIREMEN | $ 9.35 | .65 | .50 | | |
| LOWBOYS, FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER | 9.11 | .65 | .50 | | |
| LUMBER CARRIERS, LIFT TRUCKS AND FORK LIFTS | 9.01 | .65 | .50 | | |
| POWER BROOM | 8.85 | .65 | .50 | | |
| WATER TANK DRIVERS, PETROLEUM PRODUCTS DRIVERS: 2,500 gallons and under | 8.76 | .65 | .50 | | |
| Over 2,500 gallons to and including 4,500 gallons | 9.05 | .65 | .50 | | |
| Over 4,500 gallons to and including 6,000 gallons | 9.25 | .65 | .50 | | |
| Over 6,000 gallons to and including 8,000 gallons | 9.31 | .65 | .50 | | |
| Over 8,000 gallons to and including 10,000 gallons | 9.39 | .65 | .50 | | |
| Over 10,000 gallons - additional $.10 per hour each additional 2,000 gallons increment | | | | | |
| TRUCK WITH POWER EQUIPMENT IF UNDER TEAMSTERS JURISDICTION, SUCH AS: Winch, A-frame, Swedish Crane, Hydra-lift, Groutcrete, and Combination mulching, seeding and fertilizing | 9.01 | .65 | .50 | | |
| TRUCK MECHANIC | 9.75 | .65 | .50 | | |

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| TRUCK DRIVERS (Cont'd) Gallatin, Park, Sweet Grass, Broadwater (South of U. S. Highway #12) | | | | | |
| DUMP, 7 yards or less; Pickup; hauling materials; Flat trucks less than 2 ton; Service and A-Frame Trailers | $ 7.08 | .60 | .30 | | |
| HOUSE MOVERS | 7.12 | .60 | .30 | | |
| DUMP, over 7 yards to and including yards; Flat trucks 5-8 tons; Semi and four wheel trailers | 7.33 | .60 | .30 | | |
| DUMP, over 10 yards to and including 15 yards | 7.49 | .60 | .30 | | |
| DUMP, over 15 yards to and including 20 yards | 7.63 | .60 | .30 | | |



MONTANA LINE CONSTRUCTION

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LINE CONSTRUCTION Flathead, Lake and Lincoln Counties | | | | | |
| All construction of "H" fixtures and steel tower transmission lines wihth capacity of 69 K.V. voltages and over, Switch yard and substation rated at 5000 K.V.A. and all work not covered by schedule "B". | | | | | |
| SCHEDULE "A" | | | | | |
| Lineman | $10.29 | .45 | 1% | | 1/2% |
| Cable Splicer | 11.44 | .45 | 1% | | 1/2% |
| Powderman, Jackhammer, Compressorman | 7.60 | .45 | 1% | | 1/2% |
| Line Equipment Operators | 8.76 | .45 | 1% | | 1/2% |
| Groundman | 6.15 | .45 | 1% | | 1/2% |
| Groundman (Experienced) | 7.13 | .45 | 1% | | 1/2% |
| All work for power utilities except work covered under Schedule "A", all highway lighting, street lighting and motor traffic controlling. | | | | | |
| SCHEDULE "B" | | | | | |
| Lineman | 9.19 | .45 | 1% | | 1/2% |
| Cable Splicers | 10.22 | .45 | 1% | | 1/2% |
| Pole Sprayer | 9.08 | .45 | 1% | | 1/2% |
| Line Equipment Operators | 7.97 | .45 | 1% | | 1/2% |
| Powderman, Jackhammer, Compressorman | 6.94 | .45 | 1% | | 1/2% |
| Groundman | 6.52 | .45 | 1% | | 1/2% |
| Tree Trimmer | 9.44 | .45 | 1% | | 1/2% |







MONTANA LINE CONSTRUCTION

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LINE CONSTRUCTION (Cont'd) | | | | | |
| Remaining Counties | | | | | |
| Jobs over 69,000 volts: | | | | | |
| Lineman, Pole Sprayer | $ 9.41 | .45 | 3%+.25 | | 1/2% |
| Cable Splicer | 10.27 | .45 | 3%+.25 | | 1/2% |
| Line Equipment Operator; Powderman | 8.89 | .45 | 3%+.25 | | 1/2% |
| Groundman | 7.27 | .45 | 3%+.25 | | 1/2% |
| Jobs 69,000 volts or less: | | | | | |
| Lineman | 9.08 | .45 | 3%+.25 | | 1/2% |
| Cable Splicer | 10.07 | .45 | 3%+.25 | | 1/2% |
| Line Equipment Operators; Powderman | 8.88 | .45 | 3%+.25 | | 1/2% |
| Groundman | 6.11 | .45 | 3%+.25 | | 1/2% |
| Experienced Groundman (1000 hours); Truck Drivers | 6.93 | .45 | 3%+.25 | | 1/2% |

SUPERSEDEAS DECISION

STATE: PENNSYLVANIA
DECISION NO.: PA77-3102

COUNTIES: CLINTON, CENTRE, HUNTINGDON, FULTON & MIFFLIN
DATE: DATE OF PUBLICATION

SUPERSEDES DECISION NO. PA77-3039, dated April 8, 1977, IN 42 FR 18778.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION, (DOES NOT INCLUDE SINGLE FAMILY HOMES AND GARDEN TYPE APARTMENTS UP TO AND INCLUDING 4 STORIES).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS | | | | | |
| ZONE 1 | $10.70 | .65 | .60 | | .01 |
| ZONE 2 | 10.11 | .52 | .70 | | .01 |

AREA COVERED BY ASBESTOS WORKERS ZONES

ZONE - 1 Clinton County
ZONE - 2 Centre, Huntingdon, Fulton and Mifflin Counties

| | | | | | |
|---|---|---|---|---|---|
| BOILERMAKERS | 12.85 | .75 | 1.00 | | .02 |
| BRICKLAYERS & STONEMASONS | | | | | |
| ZONE I | 9.55 | .60 | .80 | | .03 |
| ZONE II | 9.50 | .55 | .65 | | |
| ZONE III | 9.60 | .45 | .50 | | .025 |
| ZONE IV | 10.55 | .80 | .80 | | .03 |

AREA COVERED BY BRICKLAYERS AND STONEMASONS ZONES

ZONE - 1 Fulton and Huntingdon Counties
ZONE - 2 Mifflin County
ZONE - 3 Clinton County in its entirety, and the Remainder of Centre County
ZONE - 4 Townships in Centre County, Rush, Halfmoon, Taylor, Patton, Worth and Huston

| | | | | | |
|---|---|---|---|---|---|
| CARPENTERS & SOFT FLOOR LAYERS | 9.80 | 6% | 8% | 6% | .40 of 1% |
| CEMENT MASONS | | | | | |
| ZONE 1 | 10.39 | | | | |
| ZONE 2 | 9.25 | 12% | 6% | | |
| ZONE 3 | 10.035 | .55 | .40 | | |

AREA COVERED BY CEMENT MASONS ZONES

ZONE - 1 Centre, Clinton and Mifflin Counties
ZONE - 2 Huntingdon County
ZONE - 3 Fulton County

DECISION NO. PA77-3102 Page 2

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ELECTRICIANS | | | | | |
| ZONE- 1 | $11.35 | .35 | .20+3% | .60 | .10 |
| ZONE- 2 | 10.36 | .65 | 3%+.31 | | 3/4 of 1% |
| ZONE- 3 | 9.23 | .40 | 3%+.35 | .60 | .02 |

AREA COVERED BY ELECTRICIANS ZONES

ZONE - 1 Fulton, Huntingdon and Remainder of Centre County
ZONE - 2 Mifflin County
ZONE - 3 Clinton Countyin its entirety; Townships in Centre County; Burnside, Curtin, Liberty, Howard, Marion, Walker, Miles and Haines

| | | | | | |
|---|---|---|---|---|---|
| ELEVATOR CONSTRUCTORS | 10.20 | .545 | .35 | 4%+a+b | .02 |
| ELEVATOR CONSTRUCTORS HELPERS | 70% mfJR. | .545 | .35 | 4%+a+b | .02 |
| ELEVATOR CONSTRUCTORS HELPERS (PROB) | 50 of JR. | | | | |
| IRONWORKERS | | | | | |
| ZONE- 1 | 10.835 | .70 | 1.155 | | .07 |
| ZONE- 2 | 11.28 | .84 | 1.36 | | .03 |
| ZONE- 3 | 10.24 | .60 | .50 | | |

AREA COVERED BY IRONWORKERS ZONES

ZONE - 1 Centre and Clinton Counties
ZONE - 2 Huntingdon and Mifflin Counties
ZONE - 3 Fulton County

| | | | | | |
|---|---|---|---|---|---|
| LABORERS | | | | | |
| ZONE - 1 | | | | | |
| Unskilled laborers | 7.70 | 10% | 8% | | |
| Plasterers Tenders | 7.75 | 10% | 8% | | |
| ZONE - 2 | | | | | |
| Unskilled laborers | 7.55 | 10% | 8% | | |
| Plasterers Tenders | 7.60 | 10% | 8% | | |

AREA COVERED BY LABORERS ZONES

ZONE - 1 Clinton, Centre and Mifflin Counties
ZONE - 2 Fulton and Huntingdon Counties



DECISION NO. PA77-3102 Page 3

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LATHERS | | | | | |
| ZONE - 1 | $8.97 | | .20 | | .01 |

AREA COVERED BY LATHERS ZONES

ZONE - 1 Centre, Clinton and Huntingdon Counties

| | | | | | |
|---|---|---|---|---|---|
| LEAD BURNERS | 10.75 | .40 | .25 | c | .01 |
| LINE CONSTRUCTION | | | | | |
| Zone - 1 | | | | | |
| Lineman | 12.04 | .40 | 3% | | 3/8% |
| Groundman | 7.20 | .40 | 3% | | 3/8% |
| Winch truck operators | 8.41 | .40 | 3% | | 3/8% |
| ZONE - 2 | | | | | |
| Lineman, dynamite man, heavy equipment operators | 10.30 | .35 | 3% | | 3/8% |
| Groundman | 6.97 | .35 | 3% | | 3/8% |
| Winch truck operator | 7.20 | .35 | 3% | | 3/8% |
| ZONE - 3 | | | | | |
| Lineman | 10.81 | .40 | 3% | | 3/8% |
| Winch truck operators | 7.54 | .40 | 3% | | 3/8% |
| Groundman | 6.45 | .40 | 3% | | 3/8% |

AREA COVERED BY LINE CONSTRUCTION ZONES

ZONE - 1 Centre, Fulton and Huntingdon Counties
ZONE - 2 Clinton County
ZONE - 3 Mifflin County

| | | | | | |
|---|---|---|---|---|---|
| MILLWRIGHTS | 9.86 | 6% | 6% | 22% | 1/2% |
| PAINTERS | | | | | |
| ZONE - 1 | | | | | |
| Brush | 8.65 | .40 | .30 | | .05 |
| Tapers | 8.91 | .40 | .30 | | .05 |
| Hazardous | 9.91 | .40 | .30 | | .05 |
| ZONE - 2 | | | | | |
| Conmercial | | | | | |
| Brush & Roller | 8.59 | .75 | .45 | | .12 |
| Spray | 9.09 | .75 | .45 | | .12 |
| Industrial | | | | | |
| Brush, Steel & Tank | 9.44 | .75 | .45 | | .12 |
| Spray | 9.94 | .75 | .45 | | .12 |

DECISION NO. PA77-3102 Page 4

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |

AREA COVERED BY PAINTERS ZONES

ZONE - 1 Centre, Fulton, Huntingdon, Mifflin Counties
ZONE - 2 Clinton County

| | | | | | |
|---|---|---|---|---|---|
| PILEDRIVERMEN | 11.15 | 5.5% | 10% | | .50% |
| PLUMBERS & STEAMFITTERS | | | | | |
| ZONE - 1 | 10.56 | .69 | .50 | .20 | .05 |
| ZONE - 2 | 11.20 | .78 | 1.03 | | .22 |
| ZONE - 3 | 10.85 | .30 | .65 | | .12 |

AREA COVERED BY PLUMBERS AND STEAMFITTERS ZONES

ZONE - 1 Clinton County
ZONE - 2 Huntingdon County
ZONE - 3 Centre, Fulton & Mifflin Counties

| | | | | | |
|---|---|---|---|---|---|
| ROOFERS | | | | | |
| ZONE- 1 | | | | | |
| Composition, damp and waterproof workers | 7.90 | .35 | .40 | | |
| Slate and tile roofers | 8.35 | .35 | .40 | | |
| ZONE - 2 | | | | | |
| Composition & kettleman | 9.20 | .75 | .70 | | |
| ZONE 3 | | | | | |
| Composition roofers | 11.41 | .77 | 1.50 | | .06 |
| ZONE 4 | | | | | |
| Composition roofers | 9.71 | .60 | .55 | | |

AREA COVERED BY ROOFERS ZONES

ZONE - 1 Fulton County
ZONE - 2 Clinton County
ZONE - 3 Huntingdon County
ZONE - 4 Centre & Mifflin Counties

| | | | | | |
|---|---|---|---|---|---|
| SHEET METAL WORKERS | | | | | |
| ZONE - 1 | 11.12 | .50 | .50 | | .02 |
| ZONE - 2 | 9.76 | 1.17 | 1.03 | | .03 |

AREA COVERED BY SHEET METAL WORKERS ZONES

ZONE - 1 Clinton County
ZONE - 2 Centre, Huntingdon, Fulton, Mifflin Counties

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| SPRINKLER FITTERS | $11.86 | .65 | .95 | | .08 |
| TRUCK DRIVERS: | | | | | |
| ZONE - 1 | | | | | |
| Service, dump, flat top, jeep, fuel & water | 6.96 | d | e | | |
| Transit mix, dump trailer, winch truck | 7.04 | d | e | | |
| Euclids & tractor trailer | 7.11 | d | e | | |
| Helpers | 6.86 | d | e | | |
| ZONE - 2 | | | | | |
| Pick-ups, dump, service trucks, flat trucks to and including 2 license plates | 7.99 | f | g | | |
| Transit-mix, winch trucks, tractor, all types euclids, ross lumber & trucks over 2 plates | 8.24 | f | g | | |
| ZONE - 3 | 7.20 | | | | |

AREA COVERED BY TRUCK DRIVERS ZONES

ZONE - 1 Centre, Huntingdon, Fulton Counties
ZONE - 2 Mifflin County
ZONE - 3 Clinton County



Welders - Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

Footnotes:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Paid Holidays: A through F.

c. 8 paid holidays, A through F and Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holiday.

d. $59.90 per month.

e. $14.00 per week.

f. $71.37 per month per employee who have worked sixty (60) hours during the month.

g. $41.95 per month for employee who have worked sixty (60) hours or more during the month.













| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS | | | | | |
| CLASS 1 | $11.875 | .65 | .80 | | .09 |
| CLASS 1 - A | 12.125 | .65 | .80 | | .09 |
| CLASS 1 - B | 12.375 | .65 | .80 | | .09 |
| CLASS 1 - C | 12.625 | .65 | .80 | | .09 |
| CLASS 2 - | 11.725 | .65 | .80 | | .09 |
| CLASS 3 | 10.10 | .65 | .80 | | .09 |
| CLASS 3 A | 10.60 | .65 | .80 | | .09 |
| CLASS 4 | 9.45 | .65 | .80 | | .09 |
| CLASS 5 | 8.40 | .65 | .80 | | .09 |
| CLASS 6 | 8.70 | .65 | .80 | | .09 |
| CLASS 6 - A | 8.80 | .65 | .80 | | .09 |
| CLASS 6 - B | 8.95 | .65 | .80 | | .09 |
| CLASS 6 - C | 9.45 | .65 | .80 | | .09 |

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 1 - Austin-Western or similar type Under 25 ton, austin-western or similar type 25 ton or over, auto grader (CMI or similar, backhoe, batch plant when conveyors are used for direct feedling or discharge, batch plant no conveyors for direct feeding or discharge (without oiler), cableway, caisson drill, central mix plant, cranes (excluding overhead)(truck or crawler type), cranes tower (mobile) cranes tower (stationary) (climbing type) use of oiler to be discussed at pre job) cranes tower (climbing type) cranes hydraulic self contained over 18 ton cranes hydraulic self contained - 18 ton or less, derrick traveler (self propelled), derrick (all types )(when assistance required it will be an oiler or apprentice) derrick boats, dragline, dredge, engineer maintenance franki or similar type pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), helicopter hoist operators (when used for erection purposes), hi-lift 4 yds. or over, hoist-hod 2 cages up to 10 floors) Chicago Boom Attached hoist (50 ft. or over) (stacks, staves or furnaces) hoist (slipform jobs hop to or similar type with 100° swing hop to or similar type with 360° swing kocal kochring scooper, metro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobiling or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice), post driver-guard rail (truck mounted), post driver-guard rail (skid type), pumpkrete - mobile or similar type, quad nine, shovels (all types), slip form paver (CMI or similar), tractors - Boom Mounted (all types), tractors (all types with hydraulic backhoe attached), tug boat, whirley

CLASS 1-A - Austin-Western or similar type under 25 ton with jib, austin-western or similar type 25 ton or over with jib, cranes (boom or mast 100 ft. or over up & including 150 ft. +$.25) (truck or crawler type), cranes mobile (any type 15 ton or over placed on any bldg. structure + $.25), hoist-hod (2 cages over 10 floors) Class I rate +$.25, hoist single cage with

CLASS 1-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. + $.50) (truck or crawler type), engineer lead

CLASS 1-C - Cranes (boom or mast over 200 ft. + .75)

CLASS 2- Asphalt plant operator, Athey loader, Auger - truck or tractor, mounted, back filling machine, boat material or personnel carrying (powered) boat - job work (inboard or outboard), bulldozer, cable layer, compactor with blade, compressor (1) and air tugger (1) (combination), compressor (1) and gunite machine (1) (combination), concrete belt placer, crane - overhead, crushinf & screening plants, drill - davey or similar type drill - core (truck or skid mounted), drill - well & core (truck mounted), elevator (New buildings), euclid loader, excavating equipment (all Other), forklift-lull or similar, grader, grader-elevating, greasor-equipment (head), hi-lift - less than 4 yds., hoist - one drum (4 floors or over), hoist - hod (buildings 4 floors or more), hoist - ( 2 drums or more in one unit), jumbo operator, locomotive, lift slab machine (hydraulic) mixer - paving, muching machine, pipe cleaning machine, refrigeration plant (used for construction jobs that is, cooling concrete & holding banks), ross carrier (or similar type), scoop (single bowl) (self-powered & tractor drawn), spreader - concrete, asphalt and stone, tower mobile (hoisting or lowering material), trencher, well point systems, (The following machines shall be considered minor), compressors (3 within a reasonable distance); generators electric (3) ( over) 5 KW up to 20 KW), pumps (1½" discharge or less) ( 4 to 5 within reasonable distance), pumps (3) (over 1½" discharge) (within reasonable distance), welding machines ( 4 to 6 within reasonable distance) (other than electrically driven), grout pump (10 H. P. or over), elevator (when used for alterations & remodeling all buildings), paver operator - asphalt (spreader), pumpkrete or similar type (not self-propelled), pumperete machine operator (stationary), tire repairman (when assigned job), welder (repairman)

CLASS 3 - Boiler, compactor (ridden or self-propelled), compressor (over 125 CFM and air pump), compressor (1) and sand blasting machine (1), (combination), crane (carry), curb builder (self-propelled), drills-well & horizional truck mounted, forklifts (ridden or self-propessed), hoist one drum (regradless of power used), pavement breaker (self-propelled or ridden), pipe dream, roller, saw (concrete), soil stabilizer (pump type), stone crusher, stone spreader self- propelled, tractors (when used for snaking and hauling), tube finisher (CMI or similar type), tugger, truck, (winch) truck or hydraulic boom (when hoisting & p) ing), (The following machines shall be considered minor) compressors (2 . generators (2 ), mortar machine over 1 cu ft., and single unit conveyor, pumps (1½" discharge or less ( 2 to 3), pumps (over 1½" discharge (2) in bank) (within reasonable distance), welding machine (2 to 3), (other than electrically driven)

CLASS 3-A - Conveyors 4 units or more

CLASS 4 - Ballast regulator, boring machine, broom, power (except push type), compressor - single (over 65 CFM), conveyor over 1 and up to 3 units (regardless of power used) form line machine, generator (over 5 KW), hoist (monorail) (regardless of power used) hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used) mixer mortar - over 10 cu. ft. (regardless of power used) pump (over 1½" discharge regardless of power used) spray curo machine (power driven) steam jenny (or similar type) syphon (steam or air) welding machine single (300 amp or over) (other than electrically driven) plant, private or industrial air of steam valve

CLASS 5 - Compressor - 65 cubic ft. or under (regardless of power used) conveyor one (1) unit (regardless of power used) heaters - up to and including 6 jack motor hydraulic (single type) power driven ladavator, mixer mortar, (10 cubic ft. or under), mulching machine, pin puller (powered) pulverizer, pump - 1½" discharge or less, seeding machine, spreader side delivery, shoulder (attachment) tie tamper (multiple heads) tractor farm (when used for landscaping) water blaster, oiler-truck crane 50 ton up to not incl. 100 ton

CLASS 6 - Brake man, deck hand, helicopter signalman, oiler, mechanic helper

CLASS 6-A Crane truck oiler & fireman

CLASS 6-B Oiler - Truck crane 50 ton up to & incl. 100 ton

CLASS 6-C Oiler - Truck crane 100 ton and over



SUPERSEDES DECISION

STATE: Pennsylvania COUNTIES: Bradford, Tioga & Union
DECISION NO.:PA77-3103 DATE: Date of Publication
Supersedes Decision No.:PA76-3208, dated July 2, 1976, in 41 FR 27535.
DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Asbestos Workers | $10.70 | .65 | .60 | | .01 |
| Boilermaker | 12.05 | .75 | 1.00 | | .02 |
| Bricklayers & Stonemasons | 9.60 | .45 | .50 | | .025 |
| Carpenters | 10.14 | .40 | .50 | | .03 |
| Cement Masons | 9.45 | .. | | | |
| Electricians | | | | | |
| ZONE I | 9.48 | .50 | 3%+.50 | .60 | .02 |
| ZONE II | 10.95 | .35 | 3%+.20 | | .05 |
| ZONE III | 10.20 | .50 | 3%+.50 | | .10 |

AREA COVERED BY ELECTRICIANS ZONES

ZONE I - Tioga County; Remainder of Union and Bradford Counties

ZONE II - E. Buffalo, Union & Lewisburg Borough in Union County

ZONE III - Town of Towanda, that portion of the County last of the Susquehanna River South of Towanda and last of U. S. Highway 309, North of Towanda

| | | | | | |
|---|---|---|---|---|---|
| Elevator Constructors | 10.20 | .545 | .35 | 4%+a+b | .02 |
| Elevator Constructors Helpers | 70% of JR | .545 | .35 | 4%+a+b | .02 |
| Elevator Constructors Helpers (Prob.) | 50% of JR | | | | |
| Glaziers | | | | | |
| ZONE I | 9.65 | .40 | .70 | | .01 |
| ZONE II | 9.39 | .40 | .40 | | |

Area Covered By Glaziers Zones

ZONE I - Bradford & Tioga Counties

ZONE II - Union County



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Ironworkers | $11.28 | .84 | 1.36 | | .03 |
| Laborers | | | | | |
| CLASS I | 7.20 | .40 | .35 | | |
| CLASS II | 7.35 | .40 | .35 | | |

LABORER CLASSIFICATION DEFINITIONS

CLASS I - Unskilled laborers, scaffold builders, wrecking, window cleaners & demolition

CLASS II - Operator of jackhammers, paving breakers, vibrators & other pneumatic & mechanical tools coming under the jurisdiction of laborers, wagon drill operators, excavating for caisson, under pinning & pier holes (below 12'), non-metallic pipe layers, plaster tenders, mortar men (mixed by hand), handling & using cutting or burning torches in the wrecking of buildings & mason tenders

| | | | | | |
|---|---|---|---|---|---|
| Lead Burners | 10.75 | .40 | .25 | c | .01 |
| Line Construction: | | | | | |
| Lineman, dynamite man, heavy equipment operator | $10.30 | .35 | 3% | | 3/8 of 1% |
| Winch truck drivers | 7.28 | .35 | 3% | | 3/8 of 1% |
| Groundman | 6.97 | .35 | 3% | | 3/8 of 1% |
| Millwrights | 11.29 | .40 | .50 | | .03 |
| Painters: | | | | | |
| Brush | 8.65 | .40 | .30 | | .05 |
| Tapers | 8.91 | .40 | .30 | | .05 |
| Hazardous | 9.91 | .40 | .30 | | .05 |
| Piledrivermen | 10.77 | 2.13 | 1.30 | d | .12 |
| Piledrivermen | 10.77 | 2.13 | 1.30 | d | .12 |
| Plasterers | | | | | |
| ZONE I | 9.30 | .40 | .40 | | |
| ZONE II | 10.20 | | | | |

AREA COVERED BY PLASTERERS ZONES

ZONE I - East of Susquehanna River in Bradford County

ZONE II - Tioga, Union and Remainder of Bradford County

DECISION NO. PA77-3103

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Plumbers & Steamfitters | | | | | |
| ZONE I | $10.56 | .69 | .50 | | .05 |
| ZONE II | 10.74 | .40 | .75 | | .04 |

AREA COVERED BY PLUMBERS AND STEAMFITTERS ZONES

ZONE I - Tioga & Unimn Counties and Eastern half of Bradford County

ZONE II - Western half of Bradford County

| | | | | | |
|---|---|---|---|---|---|
| Power Equipment Operators | | | | | |
| GROUP 1 | 12.29 | 5.5% | 9.5% | a | 1.2% |
| GROUP 2 | 12.00 | 5.5% | 9.5% | a | 1.2% |
| GROUP 3 | 11.13 | 5.5% | 9.5% | a | 1.2% |
| GROUP 4 | 10.36 | 5.5% | 9.5% | a | 1.2% |
| GROUP 5 | 9.89 | 5.5% | 9.5% | a | 1.2% |
| GROUP 6 | 8.98 | 5.5% | 9.5% | a | 1.2% |
| GROUP 7 | 12.54 | 5.5% | 9.5% | a | 1.2% |
| GROUP 7-A | 12.79 | 5.5% | 9.5% | a | 1.2% |
| GROUP 7-B | 13.03 | 5.5% | 9.5% | a | 1.2% |



DECISION NO. PA77-3103

CLASSIFICATIONS DEFINITIONS

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lift, 20 ft lift and over machine to the above

GROUP 3: Conveyers, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft lift, machines similar to the above

GROUP 4: Welding machines, well oints, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to the above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core driller helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft and over

GROUP 7A: 150 ft. and over

GROUP 7B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Daym and Christmas Day, provided the employee works the day before and after the holiday.







DECISION NO. PA77-3103

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Roofers | | | | | |
| Composition & Kettleman | $9.20 | .75 | .70 | | |
| Sheet Metal Workers | 11.12 | .73 | .40 | | .02 |
| Soft Floor Layers | 8.88 | .40 | .50 | | .03 |
| Sprinkler Fitters | 11.86 | .65 | .95 | | .08 |
| Truck Drivers | | | | | |
| ZONE I | 7.20 | | | | |
| ZONE II | | | | | |
| CLASS 1 | 7.20 | .20 | .20 | | |
| CLASS 2 | 7.30 | .20 | .20 | | |
| CLASS 3 | 7.40 | .20 | .20 | | |
| CLASS 4 | 7.50 | .20 | .20 | | |
| CLASS 5 | 7.35 | .20 | .20 | | |
| CLASS 6 | 7.70 | .20 | .20 | | |
| CLASS 7 | 7.80 | .20 | .20 | | |
| CLASS 8 | 7.45 | .20 | .20 | | |

TRUCK DRIVERS CLASSIFICATIONS DEFINITIONS

CLASS 1 - Trucks up to 30,000 lbs. (includes pickups, fuel and water trucks), warehousemen

CLASS 2 - Trucks over 30,000 lbs. (includes fuel and water trucks)

CLASS 3 - Tri-Axle Trucks over 30,000 lbs. (includes fuel and water trucks, Semi trailer

CLASS 4 - Low Boy

CLASS 5 - Concrete micer trucks

CLASS 6 - Earth moving equipment up to 35 ton (belly dump, side dump, end dump, etc.), distributor truck (oil, jar, asphalt, etc.)

CLASS 7 - Earth moving equipment over 35 ton (belly dump, side dump, end dump, etc.)

CLASS 8 - A-frame and winch trucks (when used for hauling material on bed of truck), concrete, mixer trucks (tri-axle)



DECISION NO. PA77-3103

AREA COVERED BY TRUCK DRIVERS ZONES

ZONE 1 - Union County

ZONE 2 - Tioga County

Welders - receive rate prescribed for craft performing operation to which welding is incidental

PAID HOLIDAYS (WHERE APPLICABLE);
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Six Paid Holidays: A through F.

c. Nine Paid Holidays: A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to to the holiday and is available for work the days preceding and following the holiday.

d. Paid Holidays: Washington's Birthday, Good Friday, Memorial Day, Labor Day, Presidential Election Day, Veterans Day and Thanksgiving Day.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Lancaster
DECISION NO.: PA77-3104 DATE: Date of Publication
Supersedes Decision No.: PA77-3026, dated February 4, 1977 in 42 FR 7066.
DESCRIPTION OF WORK: Building construction, (does not include single family homes and garden type apartments up to and including 4 stories)

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Asbestos workers | $10.11 | .52 | .70 | | .01 |
| Boilermakers | 12.05 | .75 | .100 | | .02 |
| Bricklayers | 9.55 | .43 | .45 | | .01 |
| Carpenters | 10.14 | .40 | .50 | | .03 |
| Cement masons | 9.59 | .35 | .25 | | .01 |
| Electricians: | | | | | |
| W. Calico, E. Calico, Brecknock, E. Carl, & Caernarvon Twps. | 10.49 | .73 | 3% | | .03 |
| Remainder of County | 9.70 | .45 | 3% | | 1/8 of 1% |
| Elevator Constructors | 10.20 | .545 | .35 | 4%+a+b | .02 |
| Elevator Constructors' Helpers | 70% of JR | .545 | .35 | 4%+a+b | .02 |
| Elevator Constructors' Helper (Prob) | 50% of JR | | | | |
| Glaziers | 8.89 | .40 | .30 | | .01 |
| Ironworkers | 11.28 | .84 | 1.36 | | .03 |
| Laborers: | | | | | |
| General Laborers | 6.70 | .40 | .45 | | |
| Operators of Jackhammer | 6.90 | .40 | .45 | | |
| Wagon drill | 7.00 | .40 | .45 | | |
| Handling of all materials | 6.85 | .40 | .45 | | |
| Laborers assisting tile | 6.75 | .40 | .45 | | |
| Handling & using dynamite | 7.03 | .40 | .45 | | |
| Caisson Work (Top Men) | 6.95 | .40 | .45 | | |
| Caisson Work (Bottom Man) | 7.15 | .40 | .45 | | |
| Mixer Man | 7.10 | .40 | .45 | | |
| Lathers | 9.01 | .25 | .25 | | .01 |
| Lead burners | 10.75 | .40 | .25 | c | .01 |
| Line Construction: | | | | | |
| Linemen | 11.51 | .40 | 3% | | 3/4 of 1% |
| Cable splicers | 11.51 | .40 | 3% | | 3/4 of 1% |
| Groundman | 6.87 | .40 | 3% | | 3/4 of 1% |
| Winch truck operators | 8.03 | .40 | 3% | | 3/4 of 1% |
| Marble setters | 8.00 | .45 | .45 | | .03 |
| Millwrights | 11.29 | .40 | .50 | | .03 |

DECISION #PA77-3104 Page 2

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Painters: | | | | | |
| Elizabeth Dowetal Township | | | | | |
| Brush | $8.23 | .26 | .24 | | |
| Steel | 8.68 | .26 | .24 | | |
| Spray | 8.98 | .26 | .24 | | |
| Remainder of County | | | | | |
| Brush | 8.95 | .70 | .55 | | |
| Steel | 10.00 | .70 | .55 | | |
| Spray | 10.00 | .70 | .55 | | |
| Roller | 8.95 | .70 | .55 | | |
| Piledrivermen | 10.77 | 2.13 | 1.30 | e | .12 |
| Plasterers | 8.60 | .35 | .25 | | .01 |
| Plumbers | 10.85 | .30 | .65 | | .12 |
| Roofers: | | | | | |
| Composition, damp & waterproofing | 10.60 | .45 | .25 | d | |
| Slate, tile & Asbestos | 11.15 | .45 | .25 | d | |
| Roofers, precast slab | 11.40 | .45 | .25 | d | |
| Sheet metal workers | 9.76 | 1.17 | 1.03 | | .05 |
| Sprinkler fitters | 11.86 | .65 | .95 | | .08 |
| Soft floor layers | 8.88 | .40 | .50 | | .03 |
| Steamfitters | 10.85 | .30 | .65 | | .12 |
| Stonemasons | 9.55 | .45 | .45 | | .01 |
| Terrazzo workers | 8.00 | .45 | .45 | | |
| Tile setters | 8.00 | .45 | .45 | | |
| Welders - Receive rate prescribed for craft performing operation to which welding is incidental. | | | | | |



DECISION #PA77-3104 Page 3

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
b. Six (6) paid holidays: A through F
c. Nine paid holidays: A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holidays.
d. Paid Holidays: C
e. Paid Holiday: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day and Thanksgiving Day

DECISION #PA77-3104 Page 4

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr |
| GROUP 1 | $12.29 | 5.5% | 9.5% | a | 1.2% |
| GROUP 2 | 12.00 | 5.5% | 9.5% | a | 1.2% |
| GROUP 3 | 11.13 | 5.5% | 9.5% | a | 1.2% |
| GROUP 4 | 10.36 | 5.5% | 9.5% | a | 1.2% |
| GROUP 5 | 9.89 | 5.5% | 9.5% | a | 1.2% |
| GROUP 6 | 8.98 | 5.5% | 9.5% | a | 1.2% |
| GROUP 7 | 12.54 | 5.5% | 9.5% | a | 1.2% |
| GROUP 7-A | 12.79 | 5.5% | 9.5% | a | 1.2% |
| GROUP 7-B | 13.03 | 5.5% | 9.5% | a | 1.2% |

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION



STATE: Tennessee COUNTIES: *See below
DECISION NO.: TN77-1080 DATE: Date of Publication
Supersedes Decision No.: TN77-1038 dated April 1, 1977 in 42 FR-17782
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments of 4 stories or less), and Heavy Construction.

*Counties: Hamilton (Building and Heavy Construction); Bradley, Marion, Meigs, Polk & Rhea (Building Construction ONLY).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Asbestos workers | 10.00 | .45 | .20 | | .01 |
| Boilermakers | 9.50 | .75 | 1.00 | | .02 |
| Bricklayers; Concrete block-layers; Marble setters; Stone-masons; Terrazzo workers; Tile setters | 9.85 | .45 | .30 | | |
| Carpenters: | | | | | |
| Carpenters, soft floor layers | 8.68 | .45 | .40 | | .03 |
| Piledrivermen | 8.505 | .45 | .40 | | .03 |
| Millwrights | 9.13 | .45 | .40 | | .03 |
| Cement masons: | | | | | |
| Cement masons | 8.70 | | | | |
| Power machine operator, Swing ing scaffold & bos'n chair | 8.90 | | | | |
| Electricians: | | | | | |
| Electricians | 9.35 | .65 | 1%+.45 | | 1% |
| Cable splicers | 9.60 | .65 | 1%+.45 | | 1% |
| Elevator constructors | 9.095 | .545 | .35 | 4%+a+b | .02 |
| Elevator constructors' helpers | 70%JR | .545 | .35 | 4%+a+b | .02 |
| Elevator constructors' helpers (prob.) | 50%JR | | | | |
| Glaziers | 8.14 | | | c | |
| Ironworkers | 8.61 | .55 | .50 | | 1% |
| Lathers | 8.95 | | | | .01 |
| Leadburners | 10.25 | .35 | | d | .01 |
| Painters: | | | | | |
| Commercial | 7.50 | | .25 | | |
| Industrial | 7.75 | | .25 | | |
| Sandblasting | 8.00 | | .25 | | |
| Plasterers | 9.05 | | | | |
| Plumbers, steamfitters | 9.40 | .35 | .40 | .20+f | .01 |
| Roofers: | | | | | |
| Composition, damp & water-proofers | 8.80 | | .10 | | |
| Slate and tile | 9.00 | | .10 | | |
| Kettlemen | 8.40 | | .10 | | |
| Sheet metal workers | 9.34 | .47 | .50 | | .01 |
| Sprinkler fitters | 10.35 | .65 | .95 | | .01 |
| Truck Drivers: | | | | | |
| Up to 3 tons | 6.71 | e | g | | |
| 3 to 5 tons | 6.86 | e | g | | |
| 5 to 7 tons | 7.01 | e | g | | |
| Helpers and warehousemen | 6.66 | e | g | | |
| Special equipment | 7.21 | e | g | | |

TN77-1080 - (Cont'd)

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Welders - receive rate for craft to which welding is incidental. | | | | | |

PAID HOLIDAYS WHERE APPLICABLE:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Washington's Birthday; H-Good Friday; J-Christmas Eve.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employer who has worked in business more than 5 years, and 2% for employee who has worked less than 5 years.

c. Employee who has worked more than 1, but less than 5 years, 2% of gross wages; 5 years or more, 4% of gross wages.

d. Holidays, A through J, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holiday.

e. $21.50 per week for each employee.

f. Paid Holidays: D-provided employee has been on payroll for (2) two weeks prior to the holiday and works the regular scheduled work days immediately preceding & following the holiday.

g. $ 18.00 per week for each employee.







TN77-1080 (Cont'd)

BUILDING & HEAVY CONSTRUCTION

| LABORERS | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GROUP A | 6.25 | .20 | .20 | | |
| GROUP B | 6.35 | .20 | .20 | | |
| GROUP C | 6.45 | .20 | .20 | | |
| GROUP D | 6.55 | .20 | .20 | | |
| GROUP E | 6.60 | .20 | .20 | | |
| GROUP F | 6.90 | .20 | .20 | | |
| GROUP G | 6.95 | .20 | .20 | | |
| GROUP H | 6.65 | .20 | .20 | | |
| GROUP I | 6.80 | .20 | .20 | | |
| GROUP J | 6.80 | .20 | .20 | | |
| GROUP K | 7.05 | .20 | .20 | | |

GROUP A: Concrete laborers, general laborers, carpenter tenders, window and floor cleaners, and flagman on road and street crossings, form strippers, handling of rope to clam bucket, grout men, laborers working on demolition work, handling cleaning and pulling of nails from materials

GROUP B: Powder man helpers, vibrator operators, tenders to all trowel trades and terrazzo work, carrying reinforced steel, operating motorized wheel barrows, doping and painting of pipe, railroad track laborers, air spade operators, snake men on pipe work.

GROUP C: Sanitary and storm pipe layers or any other pipe outside of foundation, grade checker, yarner and pot man, steel form setters, mortar mixers by hand or machine, power saw operators, jackhammer, operator, pavement breaker operator, air tool operators, regular air tamp operators, wacker tamp operator, chipping hammer operator, hand operated ditching machine operator, concrete grinder, floor sweeping machine operator, concrete buffer and grinder power operator, concrete pumping machine operator.

GROUP D: Asphalt raker, wagon drill operator, sand blasting, track drill operator concrete saw operator, using cutting torch or burner on demolition work, flagging of rigs.

GROUP E: Barco tamp operator and specially designed tamp operator, black top or concrete curbing machine operator

GROUP F: Powderman, motorized post hole digger operator and terrazzo machine grinder

GROUP G: Pneumatic concrete gun operator and nozzleman

FREE AIR SHAFTS AND TUNNELS

GROUP H: Tunnel laborers

GROUP I: Chuck tender

GROUP J: Top lander on Shaft Work

GROUP K: Tunnel miner, including men required to go in pier holes drilled by





TN77-1080 - (Cont'd)

| POWER EQUIPMENT OPERATORS: | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GROUP A | 8.55 | .30 | .30 | | |
| GROUP B | 7.55 | .30 | .30 | | |
| GROUP C | 7.18 | .30 | .30 | | |
| GROUP D | 6.85 | .30 | .30 | | |

GROUP A: Backhoes; cableways; ross carrier; clamshells; cranes; derricks; draglines; turnapulls; pans; scrapers; scoops; head tower machines; end-loaders; locomotives (over 20 tons); shovels; dozers; fork-lifts (over 8' lift); core drills; foundation drills; graders; mechanics; welders; winch truck with A-Frame; skimmer scoops; locomotive cranes; overhead cranes; skid rigs; piledrivers; side boom tractors; euclid loaders; derrick boat; dredge boats; hoist (any size handling steel or stone); engines used in connection with hoists material; mucking-machines; cherrypickers; tower cranes; skylift; gradall.

GROUP B: Tractors; farm type tractors (with attachments); central compressor plants; elevators (used for hoisting building materials); central mixing plants; hoist; (not handling steel or stone); pump-crete machine; concrete pumps; backfillers (other than cranes); tracmobile; crushing plant; elevating graders; earth augers; forklifts; (8' lift or under); paving machines (Blacktop/concrete); boat operator or engineer (30 tons or over); blacktop rollers; switchman; locomotive (under 20 tons); maintainers.

GROUP C: Asphalt plant; barber-green type loader; engine tender (other than steam); mixers (over 2 bags, not to include central plants); pumps (not more than 3); scrifiers; spreader box (bituminous); asphalt mixers; portable compressors (not more than 3); roller; sub-grader machine; tractors (farm type without attachments); cable head tower engineman; dredge booster pump; boat operator or engineers (under 30 tons); finishing machine; fireman & oiler (Combination); motor crane oiler & driver; welding machines (not more than 3); heaters (stationary or portable, not more than 5); compressors (portable, not more than 3); greaser or fuel truck.

GROUP D: Air compressor (1 portable); fireman; portable crushers; welding machine (1); conveyors; pump (1);oiler; heater (1).

SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTIES: Ashland, Bayfield and Douglas

DECISION NUMBER: WI77-2105

DATE: Date of Publication

Supersedes Decision No. WI76-2157 dated December 17, 1976 in 41 FR 55292

DESCRIPTION OF WORK: Building (including residential) Construction

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS | $10.95 | .30 | | | |
| BOILERMAKERS | 10.30 | .85 | 1.00 | | .02 |
| BRICKLAYERS | 10.06 | .45 | .45 | | .01 |
| CARPENTERS: Ashland County | 7.94 | .30 | .25 | .15 | |
| Bayfield & Douglas Cos | 9.65 | .30 | .40 | .30 | |
| (Residential) Bayfield & Douglas Cos. | 5.45 | .45 | .40 | | .03 |
| (Residential) Ashland | 5.55 | .45 | .30 | | .03 |
| CEMENT MASONS: Douglas County | 9.65 | .30 | | | |
| Ashland & Bayfield Counties | 9.24 | .45 | .45 | | |
| ELECTRICIANS | 10.80 | 4% | 3% | 11% | 3% |
| Residential | 7.00 | .35 | 3% | | 40f1% |
| ELEVATOR CONSTRUCTORS: | | | | | |
| Constructors | 9.325 | .495 | .32 | 4%+a+b | .02 |
| Helpers | 70%JR | .495 | .32 | 4%+a+b | .02 |
| Helpers (Prob.) | 50%JR | | | | |
| IRONWORKERS | 11.35 | .30 | .55 | | .02 |
| LATHERS | 10.55 | .30 | | | |
| LINE CONSTRUCTION: | | | | | |
| Linemen | 9.37 | .35 | 5% | | .5% |
| Digger, crane, tractor, winch truck operators | 7.77 | .35 | 5% | | .5% |
| Truck tractor & line trucks w/o winch | 6.16 | .35 | 5% | | .5% |
| Experienced Groundman | 5.88 | .35 | 5% | | .5% |
| MILLWRIGHTS & PILEDRIVERMEN: | | | | | |
| Ashland County | 8.14 | .30 | .25 | .15 | |
| Bayfield & Douglas Counties | | | | | |
| Millwrights | 9.88 | .30 | .40 | .30 | |
| Piledrivermen | 9.65 | .30 | .40 | .30 | |
| PAINTERS: | | | | | |
| Brush | 9.43 | .30 | .40 | | .08 |
| Spray | 9.93 | .30 | .40 | | .08 |
| PLASTERERS | 10.20 | .30 | | .45 | |
| PLUMBERS | 10.41 | .30 | .75 | 1.00 | .05 |
| ROOFERS | 9.23 | .30 | .25 | 1.00 | |
| SHEET METAL WORKERS | 9.60 | .62 | .40 | | .03 |
| SOFT FLOOR LAYERS | 9.65 | .30 | .40 | .30 | |
| SPRINKLER FITTERS | 11.40 | .60 | .90 | | .08 |
| TERRAZZO WORKERS | 10.06 | .45 | .45 | | .01 |
| TILE SETTERS | 10.06 | .45 | .45 | | .01 |

Welders receive rate prescribed for craft performing operation to which welding is incidental.

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DECISION NO. WI77-2105

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years

c. Holidays: A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, regularly scheduled work days immediately preceding and following the holiday.



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DECISION NO. WI77-2105

WISC. 10 - LAB G

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LABORERS: | | | | | |
| GENERAL LABOR: | | | | | |
| Handling of material for carpenters, craftsman, cleaning forms, rough, grading, digging shallow trenching, tool checkers, general labor around building & construction work | 8.50 | .30 | .35 | | |
| CONCRETE WORK: | | | | | |
| Concrete, bituminous concrete aggregates for walls, footings foundations, floors, any other const. Mixing, handling, conveying, pouring, vibrating, gunniting, etc. Operating motorized wheelbarrows, buggies or machines of similar character, the hooking on, signaling dumpling & unhooking of bucket when concrete or aggregates are conveyed by crane, derrick or similar method. Placing of concrete or aggregates, Assembly, uncoupling cleaning, etc. of equipment used in mixing or conveying concrete, aggregates or mortar, all vibrating, grinding, spreading, flowing, puddling, leveling and strike-off of concrete or aggregates by floating, rodding or screening, Loading, unloading, etc., of prestressed or prs-cast concrete, slabs, wall, etc. Mixing, handling, conveying, placing & spreading of grout, cutting of concrete or aggregate | 8.50 | .30 | .35 | | |
| Jackhammer, concrete busters, air spades, sheeting drivers, air hammers, jumping jack tamper | 8.75 | .30 | .35 | | |
| Vibrators, mason tenders, tile & terrazzo helpers demolition & wrecking laborers, Lanscaping | 8.50 | .30 | .35 | | |

PAGE 4

DECISION NO. WI77-2105

WISC. 10 LAB G

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LABORERS: | | | | | |
| CONCRETE WORK: (CONT'D) | | | | | |
| Steel burners & steel form setters, mixing by hand for two or more bricklayers, hod carriers & plaster laborers | 8.75 | .30 | .35 | | |
| Mixing by hand for one bricklayer, operator of power machinery used in cleaning brick roofing helper & Kettlemen, jack men on slip forms, underpinning, lagging, bracing, prupping, shoring and all basement work etc. | 8.50 | .30 | .35 | | |
| Miners, shafts, tunnels, underground sewers, drilling & blasting & compressed air work under ground or in compression chamber | 8.85 | .30 | .35 | | |
| SEWER WORK: | | | | | |
| Pipelayers, cement manhole builder | 8.75 | .30 | .35 | | |
| Bottom man and bracrers, caulker & joint man, swamper on a pipe gang, buffing machine man | 8.65 | .30 | .35 | | |
| Kettlemen, top man | 8.50 | .30 | .35 | | |
| DYNAMITE MAN | 8.95 | .30 | .35 | | |
| Handling creosoted lumber, pileing square timber & like material where covered with creosote applying bit, or creosote on wood, steel or cement | 8.75 | .30 | .35 | | |
| Work on towers or scaffolds 25 ft. or more above gground | 8.75 | .30 | .35 | | |
| BITUMINOUS WORKER: | | | | | |
| Dumper, ironer, smoother, shoveler, loader, utility man | | | | | |
| Raker, lutsman | 8.65 | .30 | .35 | | |
| STEEL WORK: | | | | | |
| Handling of all rods, mesh & material for use in reinforcing concrete const. hoisting rods, mesh & other materials except when a derrick or outrigger-operated by other than hand is used | 8.50 | .30 | .35 | | |

DECISION NO. WI77-2105

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GROUP I | 10.67 | .75 | .90 | | .10 |
| GROUP II | 10.42 | .75 | .90 | | .10 |
| GROUP III | 10.12 | .75 | .90 | | .10 |
| GROUP IV | 10.02 | .75 | .90 | | .10 |
| GROUP V | 9.81 | .75 | .90 | | .10 |
| GROUP VI | 9.57 | .75 | .90 | | .10 |

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sidboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tamper-compactors riding type),Assistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric),Oiler and greaser, Boiler operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)



SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTIES: Barron, Dunn, Polk & St. Croix Counties

DECISION NUMBER: WI77-2106

DATE: Date of Publication

Supersedes Decision No. WI75-2158, dated December 17, 1976 in 41 FR 55295

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

49-Wisconsin B

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS | $10.48 | .60 | .65 | | .02 |
| BOILERMAKERS | 10.30 | .85 | 1.00 | | .02 |
| BRICKLAYERS | 9.75 | .65 | .25 | | .04 |
| CARPENTERS: | | | | | |
| Carpenters | 9.67 | .45 | .50 | | .03 |
| Millwrights & Piledrivermen | 10.07 | .50 | .50 | | .03 |
| CEMENT MASONS | 9.19 | .55 | .25 | | .04 |
| ELECTRICIANS: (Hudson, St Joseph & Troy Twps. in St. Croix Co. | 10.65 | 5 3/4% | 4% | 11½% | 1% |
| ELECTRICIANS (Remainder of Area) | 10.92 | 5% | 3% | | 1% |
| ELEVATOR CONSTRUCTORS: | | | | | |
| Constructors | 10.345 | .545 | .35 | 4%+a+b | .02 |
| Helpers | 7.24 | .545 | .35 | 4%+a+b | .02 |
| Helpers (Prob.) | 50%JR | | | | |
| IRONWORKERS: Structural, Ornamental and Reinforcing | 11.10 | .55 | .55 | | .02 |
| LABORERS: | | | | | |
| Laborers, common | 7.83 | .30 | .35 | | .02 |
| Mortar mixer & plasterer laborer air, gas & electric equipment, vibrator operator, Kettlemen, dumpmen & pittmen, Burner on wrecking,Scaffold builder & washing walls on swinging scaffold | 7.98 | .30 | .35 | | .02 |
| Gunnite man & nozzle men, puddlers (when concrete pumps & when working behind paving machine, Cement dumper | 7.98 | .30 | .35 | | .02 |
| Jackhammer | 8.08 | .30 | .35 | | .02 |
| LATHERS | | | | | |
| Western ½ OF County | 10.55 | .30 | | | |
| Eastern ½ of County | 9.30 | | | | |
| LINE CONSTRUCTION: | | | | | |
| Linemen | 9.37 | .35 | 5% | | .5% |
| Heavy Truck Driver | 6.46 | .35 | 5% | | .5% |
| Light Truck Driver | 6.16 | .35 | 5% | | .5% |
| Groundmen 1st 6 Months | 5.09 | .35 | 5% | | .5% |
| Equipment Operator | 7.77 | .35 | 5% | | .5% |
| Groundmen - Thereafter | 5.88 | .35 | 5% | | .5% |



DECISION NO. WI77-2106

49 - Wisconsin

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PAINTERS: | | | | | |
| Brush | 8.80 | | | 5% | |
| Structural Steel | 9.05 | | | 5% | |
| Sandblaster & Spray | 9.30 | | | 5% | |
| Swing Stage | 9.05 | | | 5% | |
| PLASTERERS | 9.50 | | | 5% | |
| PLUMBERS & STEAM FITTERS | 9.47 | .45 | .60 | 1.00 | |
| ROOFERS | 10.07 | | | 3%+.10 | |
| SHEET METAL WORKERS | 10.20 | .62 | .55 | | .03 |
| TRUCK DRIVERS: | | | | | |
| Two axle | 8.05 | g | h | .20 | |
| 3 or more axles | 8.15 | g | h | .20 | |

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day;

FOOTNOTES:

A. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

b. Holidays A through F

c. Holidays, A thru F plus Washington's Birthday, Good Friday and Christmas eve, providing employee has worked 45 full dyas during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holidays.

g. $14.25 per week for each employee.

h. $13.00 per week for each employee

DECISION NO. WI77-2106

POWER EQUIPMENT OPERATORS

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GROUP I | 10.67 | .75 | .90 | | .10 |
| GROUP II | 10.42 | .75 | .90 | | .10 |
| GROUP III | 10.12 | .75 | .90 | | .10 |
| GROUP IV | 10.02 | .75 | .90 | | .10 |
| GROUP V | 9.81 | .75 | .90 | | .10 |
| GROUP VI | 9.57 | .75 | .90 | | .10 |

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or track mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (whmel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, Endloader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and Derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type),Asssistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3"., Augers (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric),Oiler and greaser, Boiler operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)





SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTIES: Brown, Door, Kewaunee & Oconto

DECISION NUMBER: WI77-2109

DATE: Date of Publication

Supersedes Decision No. WI76-2160, dated December 17, 1976 in 41 FR 55297

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories)

5 - Wisconsin

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS | 10.06 | .60 | .50 | .50+c | .05 |
| BOILERMAKERS | 10.30 | .85 | 1.00 | | .02 |
| BRICKLAYERS & MARBLE SETTERS & STONEMASONS | 9.20 | .65 | .40 | | .02 |
| CARPENTERS | 9.32 | .45 | .50 | | .02 |
| CEMENT MASONS | 8.70 | .65 | .40 | | .02 |
| ELECTRICIANS | 10.93 | .60 | 3% | | 1/8% |
| ELEVATOR CONSTRUCTORS: | | | | | |
| Constructors | 10.04 | .545 | .35 | 4%+a+b | .02 |
| Helpers | 70%JR | .545 | .35 | 4%+a+b | .02 |
| Helpers (Prob.) | 50%JR | | | | |
| IRONWORKERS: | | | | | |
| Structural, Ornamental & Reinforcing | 10.66 | 1.10 | .80 | 1.15 | .15 |
| LATHERS | 8.15 | .50 | | .50+a | .01 |
| MILLWRIGHTS & PILEDRIVERMEN | 9.72 | .45 | .50 | | .03 |
| PAINTERS: | | | | | |
| Brush | 7.95 | .60 | | | |
| Structural | 8.35 | .60 | | | |
| Spray | 8.35 | .60 | | | |
| Swing Stage | 8.35 | .60 | | | |
| PLASTERERS | 9.20 | .65 | .40 | | .02 |
| PLUMBERS & STEAMFITTERS | 10.40 | .55 | .90 | | .03 |
| ROOFERS: Composition | 9.88 | | | .50 | |
| SHEET METAL WORKERS | 9.47 | .51 | .33 | .90 | .02 |
| SOFT FLOOR LAYERS | 9.20 | .45 | .50 | | .03 |
| TERRAZZO WORKERS & TILE SETTERS | 9.20 | .65 | .40 | | .02 |
| Welders - receive rate prescribed for craft performing operation to which welding is incidental. | | | | | |



DECISION NO. WI77-2109 5 - Wisconsin

PAID HOLIDAYS:

A-New Year's Day B-Memorial Day; D-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays, a through F

b. Employer contributes 4% regularly hourly rate to vacaion pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employer who has worked in businesss less than 5 years

c. .05 holiday pay.

DECISION NO. WI77-2109

WISCONSIN 15 - LAB

BUILDING CONSTRUCTION

| LABORERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| CLASS I | 7.88 | .30 | .30 | | .02 |
| CLASS II | 7.93 | .30 | .30 | | .02 |
| CLASS III | 8.08 | .30 | .30 | | .02 |

CLASS I - Construction laborers, form stripper. form oiler, form cleaner, dump men, pit men, building wrecker, plumbers laborer, motorized buggy operator, concrete laborer, air spade and chipping hammer, drag tender and signal man, concrete pumps and nozzle man, bituminous worker

CLASS II - Plasterer tender, hod carrier, dry cement handler, kettlemen, vibrator operator, slacking line, tile setter helperm, core drill operator

CLASS III - Jackhammer operator,driller gunite men, burner on wrecking, air operated concrete breaker, sheeting driver, power tamper, fork lift operator, jumping jack, terrazzo grinder, mortar and plaster mixer, creosote worker, bob cat operator, sand blaster, welder, mud jack operator, precast erector bituminous raker and luteman



DECISION NO. WI77-2109

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| GROUP I | 10.67 | .75 | .90 | | .10 |
| GROUP II | 10.42 | .75 | .90 | | .10 |
| GROUP III | 10.12 | .75 | .90 | | .10 |
| GROUP IV | 10.02 | .75 | .90 | | .10 |
| GROUP V | 9.81 | .75 | .90 | | .10 |
| GROUP VI | 9.57 | .75 | .90 | | .10 |

GROUP I - Cranes, Shavels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor
GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)
GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)
GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type),Assistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)
GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)
GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric),Oiler and greaser, Boiler operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)





SUPERSEDEAS DECISION

STATE: Wisconsin
DECISION NUMBER: WI77-2110
COUNTIES: Columbia, Dane, Iowa & Sauk
DATE: Date of Publication
Supersedes Decision No. WI76-2161, dated December 17, 1976 in 41 FR 55299
DESCRIPTION OF WORK: Building Construction and residential construction in Dane County only.

13 - Wisconsin

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| ASBESTOS WORKERS | $10.57 | .60 | .70 | 1.00 | .04 |
| BOILERMAKERS | 10.30 | .85 | 1.00 | | .02 |
| BRICKLAYERS | 9.79 | .65 | .60 | | |
| CARPENTERS | 9.77 | .45 | .50 | | .03 |
| Residential | 5.70 | .45 | .15 | | .03 |
| ELECTRICIANS | 9.95 | .74 | 3% | 7% | .75% |
| Residential | 5.53 | .74 | 3% | 7% | .75% |
| ELEVATOR CONSTRUCTORS: | | | | | |
| Constuctors | 10.175 | .545 | .35 | 4%+a+b | .02 |
| Helpers | 7.12 | .545 | .35 | 4%+a+b | .02 |
| Helpers (Porb.) | 50%JR | | | | |
| GLAZIERS | 9.18 | .40 | .30 | .45 | .01 |
| IRONWORKERS: STructural, ornamental & reinforcing | 10.22 | .50 | .25 | | .03 |
| BRICKLAYERS: (Columbia & Sauk Counties) | 9.35 | .55 | .40 | | |
| LATHERS | 9.05 | .45 | .20 | .50 | .01 |
| LINE CONSTRUCTION: | | | | | |
| Linemen | 9.37 | .35 | 5% | | .5% |
| Digger, crane & tractor operator | 7.77 | .35 | 5% | | .5% |
| Winch truck or truck tractor | 6.46 | .35 | 5% | | .5% |
| Line Truck w/o winch | 6.16 | .35 | 5% | | .5% |
| Experienced groundman | 5.08 | .35 | 5% | | .5% |
| MILLWRIGHTS & PILEDRIVERMEN | 10.17 | .45 | .50 | | .03 |
| PAINTERS: | | | | | |
| Brush | 9.28 | .70 | .30 | .30 | .01 |
| Spray | 10.04 | .70 | .30 | .30 | .01 |
| Structural steel (brush) | 9.44 | .70 | .30 | .30 | .01 |
| Swing stage | 9.54 | .70 | .30 | .30 | .01 |
| Sandblaster | 9.29 | .70 | .30 | .30 | .01 |
| PLASTERERS (Columbia & Sauk Cos.) | 9.36 | .55 | .40 | | |
| PLASTERERS | 9.60 | .65 | .65 | | |
| PLUMBERS | 10.64 | .45 | .40 | | .3% |
| SOFT FLOOR LAYERS | 9.77 | .45 | .50 | | .03 |
| SPRINKLER FITTERS | 11.40 | .60 | .90 | | .08 |
| SHEET METAL WORKERS | 10.54 | .60 | .35 | | |
| STEAMFITTERS | 10.39 | .45 | .65 | | .3% |
| TERRAZZO WORKERS | 9.75 | .65 | .30 | | |
| TILE SETTERS | 9.50 | .65 | .30 | | |



DECISION NO. WI77-2110

Welders receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Holidays: AthroughE.

b. Employer contributes 4% of regular hourly rate to Vaction Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay credit for employee who has worked in business less than 5 years.

c. Holidays, A thro F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holidays.

Wisconsin 14 - Lab A

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| BUILDING, SEWER, WATER, EXCAVATING AND INCIDENTAL PAVING | | | | | |
| Laborers, Building; | | | | | |
| Pneumatic tool op., air hammer, jackhammer, concrete buster, sheeting driver, air spade | 9.23 | .40 | .35 | | .02 |
| Vibrator, air tamper & mortar mixer | 9.13 | .40 | .35 | | .02 |
| General laborer, concrete work, form stripeers, mason tenders, Building wreckers | 8.98 | .40 | .35 | | .02 |

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DECISION NO. WV77-2110

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GROUP I | 10.67 | .75 | .90 | | .10 |
| GROUP II | 10.42 | .75 | .90 | | .10 |
| GROUP III | 10.12 | .75 | .90 | | .10 |
| GROUP IV | 10.02 | .75 | .90 | | .10 |
| GROUP V | 9.81 | .75 | .90 | | .10 |
| GROUP VI | 9.57 | .75 | .90 | | .10 |

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Asssistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and greaser, Boiler operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)



SUPERSEDEAS DECISION

STATE: West Virginia
LOCATION: State of West Virginia excluding the Counties of Berkeley Jefferson, Morgan, Nicholas & Preston
DECISION No.: WV77-3101 DATE: Date of Publication
Supersedes Decision No. WV77-3027 dated February 18, 1977 in 42 FR-10281
DESCRIPTION OF WORK: Building construction (does not include single family homes and garden type apartments up to and including 4 stories). (See Heavy and Highway Construction General Wage Determination for all work in connection with the clearing and grading of the site, also all paving incidental to the project, and all incidental water lines and sewers utilities to within 5 feet of the building line, when such work is let as a separate contract by the owner or as a subcontract by the prime contractor).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS: | | | | | |
| AREA 1 | $10.77 | .59 | .89 | | .03 |
| AREA 2 | 11.10 | .60 | .70 | | |
| AREA 3 | 11.05 | .50 | .70 | | .03 |

AREAS COVERED BY ASBESTOS WORKERS

AREA 1 - Hampshire and Hardy Counties.

AREA 2 - Barbour, Brooke, Grant, Hancock, Harrison, Marion, Marshall, Mineral, Monongalia, Ohio, Taylor, Tucker, Tyler and Wetzel Counties.

AREA 3 - Boone, Braxton, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Greenbrier, Jackson, Kanawha, Lewis, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Pendleton, Pleasants, Pocahontas, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Upshur, Wayne, Webster, Wirt, Wood and Wyoming Counties.

| BOILERMAKERS: | | | | | |
|---|---|---|---|---|---|
| AREA 1 | 9.40 | .75 | 1.00 | 1.40 | .02 |
| AREA 2 | 9.815 | 7 5% | 7% | | .01 |

AREAS COVERED BY BOILERMAKERS

AREA 1 - Barbour, Boone, Braxton, Brooke, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hardy, Harrison, Jackson, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, McDowell, Mercer, Mineral, Mingo, Monongalia, Monroe, Ohio, Pendleton, Pleasants, Pocahontas, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Wayne, Webster, Wetzel, Wirt, Wood and Wyoming Counties.

AREA 2 - Hancock County.

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DECISION NO. WV77-3101

| BRICKLAYERS, STONE MASONS, MARBLE MASONS, TERRAZZO WORKERS, & TILE LAYERS | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| AREA 1 | 10.34 | | .40 | | |
| AREA 2 | 10.43 | .55 | .50 | a | .03 |
| AREA 3 | 8.70 | | | | |
| AREA 4 | | | | | |
| Bricklayers & Stone masons | 10.72 | .65 | .75 | | |
| Marble masons, Terrazzo workers, & Tile layers | 10.65 | .65 | .25 | | |
| AREA 5 | | | | | |
| Bricklayers & Stone Masons | 11.04 | .30 | .30 | | |
| Marble Masons, Terrazzo Workers & Tile Layers | 9.95 | .30 | .30 | | |
| AREA 6 | | | | | |
| Bricklayers & Stone Masons | 10.05 | .60 | | | |
| Marble Masons, Terrazzo Workers & Tile Layers | 9.55 | .60 | | | |
| AREA 7 | | | | | |
| Bricklayers & Stone Masons | 9.63 | .60 | 6% | | .02 |
| Tile Layers | 9.48 | .60 | 6% | | .02 |
| AREA 8 | | | | | |
| Bricklayers, Stone Masons & Marble Masons | 10.73 | .50 | .25 | | .02 |
| Tile Setters & Terrazzo Workers | 6.98 | .50 | .25 | | .02 |

DECISION NO. WV77-3101

AREAS COVERED BY BRICKLAYERS, STONEMASONS ETC

AREA 1 - Hampshire & Mineral Counties.

AREA 2 - Barbour, Doddridge, Gilmer, Grant, Hardy, Harrison, Lewis, Marion, Monongalia, Pendleton, Pocahontas, Randolph, Taylor, Tucker, Upshur and Webster Counties.

AREA 3 - McDowell, Mercer, Monroe & Wyoming Counties.

AREA 4 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, Putnam, Raleigh, Summers, and Logan Counties

AREA 5 - Cabell, Lincoln, Mason, Mingo, and Wayne Counties.

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Roane, Wirt, and Wood Counties.

AREA 7 - Marshall, Ohio, Tyler, and Wetzel Counties.

AREA 8 - Brooke & Hancock Counties.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CARPENTERS & PILEDRIVERMEN: | | | | | |
| AREA 1 | | | | | |
| Carpenters | | | | | |
| Contracts under $100,000 | 10.20 | .40 | .20 | | .04 |
| Contracts $100,000 or more | 10.45 | .40 | .20 | | .04 |
| Piledrivermen | | | | | |
| Contracts under $100,000 | 10.70 | .40 | .20 | | .04 |
| Contracts $100,000 or more | 10.95 | .40 | .20 | | .04 |



DECISION NO. WV77-3101

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and or Appr. Tr. |
| AREA 2 | | | | | |
| Carpenters | 10.45 | .45 | .25 | | .02 |
| Piledrivermen | 10.75 | .45 | .25 | | .02 |
| AREA 3 | | | | | |
| Carpenters | 9.85 | .85 | .65 | | .02 |
| Piledrivermen | 10.24 | 5% | 10% | | 2 of 1% |
| AREA 4 | | | | | |
| Carpenters | 11.27 | .50 | .35 | | .02 |
| Piledrivermen | 11.52 | .50 | .35 | | .02 |
| AREA 5 | | | | | |
| Carpenters | 10.16 | .50 | .25 | | .02 |
| Piledrivermen | 10.41 | .50 | .25 | | .02 |
| AREA 6 | | | | | |
| Carpenters | 10.17 | .50 | 75 | | .03 |
| Piledrivermen | 10.46 | .50 | 75 | | .03 |
| AREA 7 | | | | | |
| Carpenters | 10.42 | .50 | .35 | | .02 |
| Piledrivermen | 10.67 | .50 | .35 | | .02 |
| AREA 8 | | | | | |
| Carpenters | 10.35 | .50 | .35 | | .02 |
| Piledrivermen | 10.60 | .50 | .35 | | .02 |
| AREA 9 | | | | | |
| Carpenters | 10.42 | .50 | .35 | | .02 |
| Piledrivermen | 10.67 | .50 | .35 | | .02 |

AREAS COVERED BY CARPENTERS & PILEDRIVERMEN

AREA 1 - Barbour, Braxton, Doddridge, Gilmer, Harrison, Lewis, Marion, Monongalia, Pleasants, Randolph, Taylor, Tucker, Tyler, Upshur, Webster & Wetzel Counties.

AREA 2 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 3 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 4 - Boone, Clay, Greenbrier, Jackson (southern portion including the towns of Leon, Ripley & Hereford), Kanawha, Lincoln, Mason, Monroe, Pocahontas, Putnam & Roane Counties.

AREA 5 - Calhoun, Jackson (remainder of county), Ritchie, Wirt & Wood Counties.







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AREAS COVERED BY CARPENTERS & PILEDRIVERMEN (CONT'D)

AREA 6 - Cabell, Mingo & Wayne Counties.

AREA 7 - Fayette, McDowell, Mercer, Summers & Wyoming Counties.

AREA 8 - Logan County.

AREA 9 - Raleigh County.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CEMENT MASONS & PLASTERERS: | | | | | |
| AREA 1 | 10.34 | | .40 | | |
| AREA 2 | 9.90 | | | | |
| AREA 3 | 8.70 | | | | |
| AREA 4 | | | | | |
| Cement Masons | 10.62 | .70 | | | |
| Plasterers | 9.10 | | | | .01 |
| AREA 5 | | | | | |
| Cement Masons | 8.11 | 40 | | | .01 |
| Plasterers | 8.25 | .25 | | | |
| AREA 6 | | | | | |
| Cement Masons | 9.71 | .65 | | | .01 |
| Plasterers | 8.51 | .30 | | | |
| AREA 7 | | | | | |
| Cement Masons | 10.90 | | | | |
| Plasterers | 10.25 | | | | .01 |
| AREA 8 | | | | | |
| Cement Masons | 7.36 | .38 | .05 | .30 | .03 |
| AREA 9 | 11.12 | .70 | | | |
| AREA 10 | | | | | |
| Cement Masons | 6.90 | 35 | | | |



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AREAS COVERED BY CEMENT MASONS & PLASTERERS

AREA 1 - Hampshire & Mineral Counties.

AREA 2 - Calhoun, Gilmer, Jackson, Mason (northern portion of the county, south to but not including Point Pleasant), Pleasants, Ritchie, Tyler, Wirt, & Wood Counties.

AREA 3 - McDowell, Mercer, Monroe & Wyoming Counties.

AREA 4 - Boone, Braxton, Clay, Fayette, Kanawha, Lincoln (eastern half of county), Logan, Putnam, Raleigh & Roane Counties.

AREA 5 - Brooke (the northern portion of county to Buffalo Creek) and Hancock Counties.

AREA 6 - Brooke (remainder of county), Marshall, Ohio & Wetzel Counties.

AREA 7 - Barbour, Doddridge, Harrison, Lewis, Taylor, Tucker, Upshur and Webster Counties.

AREA 8 - Marion, Monongalia Counties.

AREA 9 - Cabell, Lincoln (remainder of county), Mason (remainder of county) & Wayne Counties.

AREA 10 - Greenbrier County.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ELECTRICIANS: | | | | | |
| Barbour, Doddridge, Harrison Lewis, Randolph & Upshur Counties: | | | | | |
| Wiremen | 9.10 | .50 | 3%+.52 | 2.02 | .03 |
| Cable Splicers | 10.01 | 50 | 3%+.52 | 2.02 | .03 |
| Jackson, Pleasants, Ritchie, Tyler, Wirt & Wood Counties: | | | | | |
| Wiremen | 10.65 | .50 | 3%+1.02 | 1.02 | .04 |
| Cable Splicers | 10.90 | .50 | 3%+1.02 | 1.02 | .04 |

| DECISION NO. WV77-3101 | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Brooke (Buffalo Twp. only), Marshall, Ohio & Wetzel Counties: | | | | | |
| Wiremen | 10.50 | .50 | 3%+.32 | 1.02 | .04 |
| Cable Splicers | 10.75 | .50 | 3%+.32 | 1.02 | .04 |
| Brooke (remainder of county) and Hancock Counties: | | | | | |
| Wiremen | 12.00 | 6% | 9% | 8% | ½ of 1% |
| Cable Splicers | 12.40 | 6% | 9% | 8% | ½ of 1% |
| Cabell & Wayne Counties: | | | | | |
| Wiremen | 11.02 | .50 | 3%+.52 | 1.02 | .04 |
| Cable Splicers | 11.57 | .50 | 3%+.52 | 1.02 | .04 |
| Lincoln County: | | | | | |
| Wiremen | 11.22 | .50 | 3%+.52 | 1.02 | .04 |
| Cable Splicers | 11.75 | 50 | 3%+.52 | 1.02 | .04 |
| Logan, Mason & Mingo Counties: | | | | | |
| Wiremen | 11.47 | .50 | 3%+.52 | 1.02 | .04 |
| Cable Splicers | 12.04 | .50 | 3%+.52 | 1.02 | .04 |
| Mineral County: | | | | | |
| Wiremen | 10.15 | .5[illegible] | 3% +.25 | | 1% |
| Hampshire County: | | | | | |
| Wiremen | 10.35 | .50 | 3% +.[illegible]5 | | 1% |
| [illegible]rant County: | | | | | |
| Wiremen | 10.55 | .50 | 3% +.25 | | 1[illegible] |
| Greenbrier, McDowell, Mercer, Monroe & Pocahontas Counties: | | | | | |
| Wiremen | 8.51 | .30 | 3% | | ½ of 1% |
| Cable Splicers | 8.91 | .30 | 3% | | ½ of 1% |
| Hardy & Pendleton Counties: | | | | | |
| Contracts under $30,000: | | | | | |
| Wiremen | [illegible].25 | .50 | 3% | | 3/4 of 1% |
| Contracts $30,000 or more: | | | | | |
| Wiremen | 9.65 | .50 | 3% | | 3/4 of 1% |
| Marion, Monongalia, Taylor & Tucker Counties: | | | | | |
| Contracts under $12,000: | | | | | |
| Wiremen | 6.05 | .5[illegible] | 3%+1.[illegible]2 | 1.52 | .[illegible]2 |
| Contracts over $12,000 | | | | | |
| Wiremen | 9.40 | .50 | 3%+1.02 | 1.52 | .02 |
| Cable Splicers | 9.55 | .50 | 3%+1.02 | 1.52 | .02 |



| DECISION No. WV77-3101 | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Summers & Wyoming Counties: | | | | | |
| Contracts $15,000 or less: | | | | | |
| Wiremen | 8.02 | .50 | 3%+.12 | .77 | .06 |
| Cable Splicers | 8.32 | .50 | 3%+.12 | .77 | .06 |
| Contractors over $15,000: | | | | | |
| Wiremen | 10.92 | .50 | 3%+.12 | .77 | .06 |
| Cable Splicers | 11.22 | .50 | 3%+.12 | .77 | .06 |
| Fayette (except Falls & Kanawha Twps.) County: | | | | | |
| Contractors $15,000 or less: | | | | | |
| Wiremen | 7.82 | .50 | 3%+.12 | .77 | .06 |
| Cable Splicers | 8.12 | .50 | 3%+.12 | .77 | .06 |
| Contracts over $15,000: | | | | | |
| Wiremen | 10.72 | .50 | 3%+.12 | .77 | .06 |
| Cable Splicers | 11.02 | .50 | 3%+.12 | .77 | .06 |
| Raleigh (except Clear Fork & Marsh Fork Twps.) County: | | | | | |
| Contracts $15,000 or less: | | | | | |
| Wiremen | 7.52 | 50 | 3%+.12 | .77 | .06 |
| Cable Splicers | 7.82 | .50 | 3%+.12 | .77 | .06 |
| Contracts over $15,000: | | | | | |
| Wiremen | 10.42 | .50 | 3%+.12 | .77 | .06 |
| Cable Splicers | 10.72 | .50 | 3%+.12 | .77 | .06 |
| Boone, Braxton, Calhoun, Clay Fayette (Falls & Kanawha Twps), Gilmer, Kanawha, Putnam, Raleigh (Clear Fork & Marsh Fork Twps.), Roane & Webster Counties: | | | | | |
| Wiremen | 11.70 | .50 | 3%+.25 | .25 | 04 |
| Cable Splicers | 12.87 | .50 | 3%+.25 | .25 | .04 |
| ELEVATOR CONSTRUCTOR: | | | | | |
| Boone, Clay, Fayette, Kanawha Logan, Mingo, Putnam, & Raleigh Counties: | | | | | |
| Mechanics | 9.895 | .495 | .32 | 4%+b+c | .02 |
| Helpers | 6.93 | .495 | .32 | 4%+b+c | .02 |
| Probationary Helpers | 4.95 | | | | |



| DECISION NO. WV77-3101 | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Cabell, Mason & Wayne Counties: | | | | | |
| Mechanic | 10.985 | .545 | .35 | 4%+b+c | .02 |
| Helpers | 7.66 | .545 | .35 | 4%+b+c | .02 |
| Probationary Helpers | 5.47 | | | | |
| Brooke, Hancock, Harrison, Marshall & Ohio Counties: | | | | | |
| Mechanics | 9.20 | .495 | .32 | 4%+b+c | .02 |
| Helpers | 6.44 | .495 | .32 | 4%+b+c | .02 |
| Probationary Helpers | 4.60 | | | | |
| GLAZIERS: | | | | | |
| AREA 1 | 9.33 | | | | |
| AREA 2 | 10.00 | | .50 | | |
| AREA 3 | | | | | |
| Inside | 5.40 | .26 | .20 | .60+p | |
| Outside | 6.10 | .26 | .20 | .60+p | |

AREAS COVERED BY GLAZIERS

AREA 1 - Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties.

AREA 2 - Boone, Cabell, Calhoun, Clay, Fayette, Greenbrier, Kanawha, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Pendleton, Pocahontas, Putnam, Raleigh, Summers, Wayne & Wyoming Counties.

AREA 3 - Barbour, Braxton, Doddridge, Gilmer, Harrison, Lewis, Marion, Randolph, Taylor, Tucker, Upshur & Webster Counties.

| IRONWORKERS -Structural, Ornamental & Reinforcing | | | | | |
|---|---|---|---|---|---|
| AREA 1 | 10.57 | .90 | 1.05 | | .01 |
| AREA 2 | 11.28 | .70 | .85 | | .03 |
| AREA 3 | 10.83 | .90 | 1.05 | | .09 |
| AREA 4 | 10.24 | .60 | .90 | | |
| AREA 5 | 9.55 | .60 | .65 | | .03 |
| AREA 6 | | | | | |
| Zone 1 - 10 miles from Union Hall | 11.27 | .90 | 1.05 | | .01 |
| Zone 2 - 10-15 miles from Union Hall | 11.42 | .90 | 1.05 | | .01 |
| Zone 3 - 15-20 miles from Union Hall | 11.52 | .90 | 1.05 | | .01 |
| Zone 4 - 20-25 miles from Union Hall | 11.62 | .90 | 1.05 | | .01 |



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AREA COVERED BY IRONWORKERS

AREA 1 - Calhoun, Doddridge, Gilmer, Jackson, Lewis, Mason, Pleasants, Ritchie, Roane, Upshur, Wirt & Wood Counties.

AREA 2 - Barbour, Braxton, Hancock, Harrison, Marion, Marshall, Monongalia, Ohio, Taylor, Tyler & Wetzel Counties.

AREA 3 - Boone, Braxton, Clay, Fayette, Kanawha, Lincoln, Logan, McDowell Putnam, Raleigh, Webster & Wyoming Counties.

AREA 4 - Grant, Hampshire, Hardy, Mineral, Pendleton, Randolph & Tucker Counties.

AREA 5 - Greenbrier, Mercer, Monroe, Pocahontas & Summers Counties.

AREA 6 - Cabell, Mingo & Wayne Counties.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LABORERS | | | | | |
| AREA 1 | | | | | |
| Group 1 | 7.92 | .40 | .40 | | .03 |
| Group 2 | 8.22 | .40 | .40 | | .03 |
| Group 3 | 8.57 | .40 | .40 | | .03 |
| AREA 2 | | | | | |
| Group 1 | 7.46 | .40 | .40 | | .03 |
| Group 2 | 7.76 | .40 | .40 | | .03 |
| Group 3 | 8.11 | .40 | .40 | | .03 |
| AREA 3 | | | | | |
| Group 1 | 7.20 | .40 | .40 | | .03 |
| Group 2 | 7.50 | .40 | .40 | | .03 |
| Group 3 | 7.85 | .40 | .40 | | .03 |
| AREA 4 | | | | | |
| Group 1 | 8.06 | .40 | .40 | | .03 |
| Group 2 | 8.36 | .40 | .40 | | .03 |
| Group 3 | 8.71 | .40 | .40 | | .03 |
| AREA 5 | | | | | |
| Group 1 | 7.63 | .40 | .40 | | .03 |
| Group 2 | 7.93 | .40 | .40 | | .03 |
| Group 3 | 8.28 | .40 | .40 | | .03 |
| AREA 6 | | | | | |
| Group 1 | 7.60 | .40 | .40 | | .03 |
| Group 2 | 7.90 | .40 | .40 | | .03 |
| Group 3 | 8.25 | .40 | .40 | | .03 |

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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| AREA 7 | | | | | |
| Group 1 | 8.10 | .40 | .40 | | .03 |
| Group 2 | 8.40 | .40 | .40 | | .03 |
| Group 3 | 8.75 | .40 | .40 | | .03 |
| AREA 8 | | | | | |
| Group 1 | 7.60 | .55 | .40 | | .05 |
| Group 2 | 7.765 | .55 | .40 | | .05 |
| Group 3 | 7.80 | .55 | .40 | | .05 |
| Group 4 | 7.845 | .55 | .40 | | .05 |
| Group 5 | 7.93 | .55 | .40 | | .05 |
| Group 6 | 8.10 | .55 | .40 | | .05 |
| Group 7 | 8.13 | .55 | .40 | | .05 |
| Group 8 | 8.28 | .55 | .40 | | .05 |
| Group 9 | 8.43 | .55 | .40 | | .05 |
| Group 10 | 8.50 | .55 | .40 | | .05 |

CLASSIFICATION DEFINITION
LABORERS - AREAS 1,2,3,4 5,6,7

GROUP 1 - Laborers; carpentor tender; flagmen; water boy; demolition worker; fire watch; landscape labmrer.

GROUP 2 - Powderman helper; semi-skilled laborer; scaffold builders; chainmen & rod men; grade checker; signal man; brick masons tenders; plasterer tenders; cement finishers tenders; stone masons tenders; lathers tenders; tile'setters tenders; mortar mixers jackhammer operators; vibrator operators; tamper operators; pavement buster operators; chipping & Peening hammer operators; air syphon & air pump operators; riprap finishers; concrete saw operators; concrete technician; pwer saw operators; chain saw operators; motorized buggy operators; pipelayers helpers; drill operators helpers; sheeters & Shorers; post hole digger operators; asphalt rakers; lance and/or water blaster operators; blacksmith helpers; batch house scale operators; workmen working with acid mortar, acid brick, acid or mastic asphalt; workmen working creosote; nozzlemen for gunnite or sandblasting; tool room attendants; ride or walk roller tampers.

GROUP 3 - Blacksmith; powdermun; air track operator; pipe layer (including laser beam set-up); burner.







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LABORERS - AREA 8

GROUP 1 - General laborers; carpenter tenders.

GROUP 2 - Brick handlers; tenders for brick masons, plasterers, stone masons; tile setters; montarmen for masons & plasterers; men mixing cement for cement finishers.

GROUP 3 - Operators of concrete busters, jackhammers, air spades, chipping hammers, air tampers, vibrators, power buggy, cement saw, power saw, sand-blaster, acetylene burners; welders; scuba divers; panel cleaning machines; all power driven tools operators; air pump operators; air blow pipe operators; pipe layers & helpers working in ditches or tunnels; hand spikers on railwoads.

GROUP 4 - Ditches, trenches, caissons & coffers over 6' Deep (open top).

GROUP 5 - Laborers performing work pertaining to or in connection with repair stoves, blast furnaces & basic oxygen process furnaces, steeples & stacks, annealing process furnaces, Kilns, soaking pits, coke battries on industrial work; demolition of stacks 50' to 100'; tunnel laborers, muckers, including caisson & coffers, horizontal & underground.

GROUP 6 - Demolition of stacks 100' to 150'.

GROUP 7 - Miners, including caissons & coffers, horizontal or underground; mucking machine operators.

GROUP 8 - Blaster men & Helpers; billmen & Lancer; bottom-men in blast furnaces; stacks, stoves & dust covers.

GROUP 9 - Gunnite nozzlemen.

GROUP 10 - Demolition of stacks over 150'.





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AREAS COVERED BY LABORERS

AREA 1 - Boone, Clay, Fayette, Kanawha, Putnam & Roane Counties.

AREA 2 - Barbour, Braxton, Doddridge, Gilmer, Grant, Hampshire, Hardy, Harrison, Lewis, Marion, Mineral, Monongalia, Pendleton, Randolph, Taylor, Tucker, Upshur & Webster Counties

AREA 3 - Greenbrier, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers & Wyoming Counties.

AREA 4 - CaBell, Lincoln, Mason & Wayne Counties.

AREA 5 - Logan & Mingo Counties.

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Tyler, WIrt & Wood Counties.

AREA 7 - Marshall, Ohio & Wetzel Counties.

AREA 8 - Brooke & Hancock Counties.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LATHERS: | | | | | |
| AREA 1 | 10.925 | | .10 | | |
| AREA 2 | 10.25 | | .20 | | .01 |
| AREA 3 | 9.76 | .50 | .10 | | .01 |
| AREA 4 | 8.98 | .45 | 1.10 | | .01 |
| AREA 5 | 9.315 | | .10 | | |
| AREA 6 | 9.58 | | .15 | | .01 |



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AREAS COVERED BY LATHERS

AREA 1 - Boone, Clay, Fayette, Kanawha, Putnam & Roane Counties.

AREA 2 - Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion, Monongalia, Taylor, Tyler, Upshur & Wetzel Counties.

AREA 3 - Brooke, Marshall & Ohio Counties.

AREA 4 - Hancock County

AREA 5 - Cabell, Mason & Wayne Counties

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Wirt & Wood Counties.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LINE CONSTRUCTION: | | | | | |
| Greenbrier, McDowell, Mercer, Monroe & Pocahontas Counties: | | | | | |
| Linemen | 8.66 | .35 | 3% | | 1/2 of 1% |
| Cable Splicers | 9.06 | .35 | 3% | | 1/2 of 1% |
| Equipment Operators | 7.45 | .35 | 3% | | 1/2 of 1% |
| Truck with earth boring auger | 6.06 | .35 | 3% | | 1/2 of 1% |
| Truck with winch & groundmen | 4.76 | .35 | 3% | | 1/2 of 1% |
| Mineral County: | | | | | |
| Linemen | 10.15 | .50 | 3%+.25 | | 1/2 of 1% |
| Equipment Operators | 9.64 | .50 | 3%+.25 | | 1/2 of 1% |
| Truck drivers & groundmen | 6.80 | .50 | 3%+.25 | | 1/2 of 1% |
| Hampshire County: | | | | | |
| Linemen | 10.35 | .50 | 3%+.25 | | 1/2 of 1% |
| Equipment Operators | 9.84 | .50 | 3%+.25 | | 1/2 of 1% |
| Truck drivers & groundmen | 6.80 | .50 | 3%+.25 | | 1/2 of 1% |
| Grant County: | | | | | |
| Linemen | 10.55 | .50 | 3%+.25 | | 1/2 of 1% |
| Equipment Operators | 10.04 | .50 | 3%+.25 | | 1/2 of 1% |
| Truck drivers & groundmen | 7.00 | .50 | 3%+.25 | | 1/2 of 1% |
| Hardy & Pendleton Counties: | | | | | |
| Linemen, cable splicers & equipment operators | 12.11 | .45 | 3% | | 1/2 of 1% |
| Truck with winch, pole or steel handling | 7.43 | .45 | 3% | | 1/2 of 1% |
| Groundmen | 7.17 | .45 | 3% | | 1/2 of 1% |

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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Raleigh | | | | | |
| Linemen & equipment Operators | 10.42 | .50 | 3%+.52 | .77 | 1/2 of 1% |
| Cable Splicer | 10.72 | .50 | 3%+.52 | .77 | 1/2 of 1% |
| Groundmen | 8.34 | .50 | 3%+.52 | .77 | 1/2 of 1% |
| Summers & Wyoming Counties: | | | | | |
| Linemen & equipment operators | 10.92 | .50 | 3%+.52 | .77 | 1/2 of 1% |
| Cable Splicers | 11.22 | .50 | 3%+.52 | .77 | 1/2 of 1% |
| Groundmen | 8.74 | .50 | 3%+.52 | .77 | 1/2 of 1% |
| Fayette County: | | | | | |
| Linemen & Equipment Operators | 10.72 | .50 | 3%+.52 | .77 | 1/2 of 1% |
| Cable Splicers | 11.02 | .50 | 3%+.52 | .77 | 1/2 of 1% |
| Groundmen | 8.58 | .50 | 3%+.52 | .77 | 1/2 of 1% |
| Marion, Monongalia, Taylor & Tucker Counties: | | | | | |
| Linemen & Equipment Operators | 9.50 | .50 | 3%+1.02 | 1.52 | 1/2 of 1% |
| Cable Splicers | 10.45 | .50 | 3%+1.02 | 1.52 | 1/2 of 1% |
| Groundmen & Truck Drivers | 7.60 | .50 | 3%+1.02 | 1.52 | 1/2 of 1% |
| Jackson, PLeasants, Ritchie, Tyler, Wirt & Wood Counties: | | | | | |
| Linemen & Equipment Operators | 10.70 | .45 | 3%+1.02 | 1.02 | 1/2 of 1% |
| Cable Splicers | 11.77 | .45 | 3%+1.02 | 1.02 | 1/2 of 1% |
| Groundmen | 8.56 | .45 | 3%+1.02 | 1.02 | 1/2 of 1% |
| Brooke (Buffalo Twp. only), Marshall,Ohio & Wetzel Counties: | | | | | |
| Linemen & Equipment Operators | 10.50 | .50 | 3%+.32 | 1.02 | 1/2 of 1% |
| Cable Splicers | 10.75 | .50 | 3%+.32 | 1.02 | 1/2 of 1% |
| Grmundmen | 8.40 | .50 | 3%+.32 | 1.02 | 1/2 of 1% |
| Brooke (except Buffalo Twp.) & Hancock Counties: | | | | | |
| Linemen & Equipment Operator | 10.80 | 5% | 8% | 8% | 1/2 of 1% |
| Cable splicers | 11.20 | 5% | 8% | 8% | 1/2 of 1% |
| Groundmen | 7.02 | 5% | 8% | 8% | 1/2 of 1% |
| Barbour, Doddridge, Harrison Lewis, Randolph, and Upshur Counties: | | | | | |
| Linemen & Equipment Operators | 9.10 | .50 | 3%+.52 | 2.02 | 1/2 of 1% |
| Cable Splicers | 10.01 | .50 | 3%+.52 | 2.02 | 1/2 of 1% |
| Groundmen & truck drivers | 7.28 | .50 | 3%+.52 | 2.02 | 1/2 of 1% |
| Boone, Braxton, Cabell, Calhoun Clay, Gilmer, Kanawha, Lincoln, Logan, Mason, Mingo, Putnam. Roane, Wayne & Webster Counties: | | | | | |

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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Linemen & Equipment Operators | 11.08 | .45 | 3%+.52 | 1.02 | 1/2 of 1% |
| Cable Splicers | 12.19 | 45 | 3%+.52 | 1.02 | 1/2 of 1% |
| Groundmen | 8.86 | .45 | 3%+.52 | 1.02 | 1/2 of 1% |
| MARBLE MASON HELPERS, TERRAZZO WORKER HELPER & TILE LAYER HELPER: | | | | | |
| Cabell, Lincoln, Mason, Mingo & Wayne Counties | 7.93 | .30 | .30 | | |
| MILLWRIGHTS: | | | | | |
| AREA 1 | 10.81 | .45 | .25 | | .02 |
| AREA 2 | 10.79 | .40 | .37 | | .03 |
| AREA 3 | 10.725 | .40 | .20 | | .04 |
| AREA 4 | 10.37 | 50 | 6% | | 02 |
| AREA 5 | 11.55 | .50 | .35 | | .02 |
| AREA 6 | 10.40 | .50 | .55 | | .10 |

AREAS COVERED BY MILLWRIGHTS

AREA 1 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 2 - Cabell & Wayne Counties

AREA 3 - Barbour, Doddridge, Gilmer, Harrison, Marion, Lewis, Monmngalia, Randolph, Taylor, Tucker, Upshur & Webster Counties.

AREA 4 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 5 - Boone, Clay, Fayette, Greenbrier, Jackson (Southern portion including the towns of Leon, Rippley & Hereford), Kanawha, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Pocahontas, Putnam, Raleigh, Roane, Braxton, Lincoln, Summers, and Wyoming Counties

AREA 6 - Calhoun, Jackson (remainder of county), Pleasants, Ritchie, Tyler, Wetzel, Wirt, and Wood Counties





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DECISION NO. WV77-3101

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PAINTERS: | | | | | |
| AREA 1 | | | | | |
| Brush, rollers, hanging wallcovering & installing seemless type floors | 7.95 | | .50 | | |
| Spray, sandblasting & use of toxic materials | 8.45 | | .50 | | |
| Drywall: | | | | | |
| Taping, spackling,sanding & finishing | 9.85 | | .50 | | |
| AREA 2 | | | | | |
| Painters - | | | | | |
| An area within 50 miles of Huntington, W.V. | 8.22 | .30 | .35 | | .02 |
| An area 50 miles and beyond of Huntington, W.V. | 9.47 | .30 | .35 | | .02 |
| Vinyl & all other wall covering; drywall taping - | | | | | |
| An area within 50 miles of of Huntington, W.V. | 8.72 | .30 | .35 | | .02 |
| An area 50 miles and beyond of Huntington, W.V. | 9.97 | .30 | .35 | | .02 |
| Repaint work (limited to Public Schools) - | | | | | |
| An area within 50 miles of Huntington, W.V. | 6.38 | .30 | .35 | | .02 |
| An area 50 miles and beyond of Huntington, W.V. | 7.63 | .30 | .35 | | .02 |
| AREA 3 | | | | | |
| Brush & roller | 6.42 | .50 | | | .01 |
| Paper & vinyl hangers | 6.42 | .50 | | | .01 |
| Seemless floors | 6.42 | .50 | | | .01 |
| Glove | 6.67 | .50 | | | .01 |
| Perfa-taping | 6.79 | .50 | | | .01 |
| Brush height over 40' | 6.92 | .50 | | | .01 |
| Spray, sandblast,seemless floor, epoxy & steam cleaning | 7.42 | .50 | | | .01 |
| AREA 4 | | | | | |
| Brush & roller | 6.20 | .50 | .40 | | |
| Spray | 7.20 | .50 | .40 | | |
| Vinyl hanging & taping | 8.15 | .50 | .40 | | |

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DECISION NO. WV77-3101

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| AREA 5 | | | | | |
| Commercial | 8.40 | .50 | .20 | .30 | |
| Drywall finishers | 8.65 | .50 | .20 | .30 | |
| Swing & boat swain chair | 8.75 | .50 | .20 | .30 | |
| Vinyl wall covering | 8.90 | .50 | .20 | .30 | |
| Structural steel after erection | 9.25 | .50 | .20 | .30 | |
| Repaint structural steel | 8.50 | .50 | .20 | .30 | |
| Spray painting | 9.40 | .50 | .20 | .30 | |
| Towers, tanks & stacks | 9.65 | .50 | .20 | .30 | |
| Sandblasting | 10.25 | .50 | .20 | .30 | |
| Extra pay of heights 50' to 100' (+.50 per hour); over 100' (+ $1.00 per hour) | | | | | |
| AREA 6 | | | | | |
| New Construction: | | | | | |
| Brush | 9.16 | | .30 | | .01 |
| Roller | 9.42 | | .30 | | .01 |
| Spray & blast | 10.18 | | .30 | | .01 |
| Pot-men | 10.18 | | .30 | | .01 |
| Commercial Repaint: | | | | | |
| Brush | 7.74 | | .30 | | .01 |
| Roller | 8.02 | | .30 | | .01 |
| Paperhanger | 9.16 | | .30 | | .01 |
| Drywall | 9.61 | | .30 | | .01 |
| Spray, pot-men | 10.18 | | .30 | | .01 |
| Paper & vinyl hangers | 9.16 | | .30 | | .01 |
| Open structural steel | 10.51 | | .30 | | .01 |
| Drywall pointers & tapers | 9.61 | | .30 | | .01 |
| Liquid tile brush | 9.93 | | .30 | | .01 |
| Stacks, vent pipes, flag poles, electrical, radio & T.V. towers & tanks over 30' high | 10.11 | | .30 | | .01 |
| Hydrojet, steam cleaning & glove work | 10.18 | | .30 | | .01 |
| Operating mechanical taping machines | 10.61 | | .30 | | .01 |

DECISION NO WV77-3101

| | REPAINT Basic Hourly Rates | NEW Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|---|
| AREA 7 | | | | | | |
| Air Compressor Operator | 7.32 | 8.14 | | | | |
| Brush Painting | 7.32 | 8.14 | | | | |
| Roller, Dry-Wall Painters & Tapers, Dipping & Mitten Work & Spray | 7.00 | 8.46 | | | | |
| Water Blasters, Steam Jenny Nozzlm Men, Swinging Scaffold & Boatswain Chair, Window Jack Work | 8.43 | 8.99 | | | | |
| Brush Painters on Bridges, Rudele Bean, Cable Work, Power Tool Work, Brush & Flame Cleaning | 8.86 | 9.37 | | | | |
| Operating Mechanical Taping Machines | 9.08 | 9.73 | | | | |
| Sand Blasters | 9.12 | 9.70 | | | | |
| All Stacks, Vent Pipe, Flag Poles in excess of 30' high, all Towers Water Towers, Elevated Towers, Electrical Switch Yards, Transformer Banks & Television Towers | 10.25 | 10.65 | | | | |
| Vinyl hangers & Paper hangers (with tools | 7.67 | 8.46 | | | | |



DECISION NO. WV77-3101

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| AREA 8 | | | | | |
| Brush & roller: | | | | | |
| Commercial repaint | 6.75 | | | | |
| New commercial | 7.25 | | | | |
| Paperhanging-wall covering under 48": | | | | | |
| Commercial repaint | 6.75 | | | | |
| New commercial | 7.25 | | | | |
| Drywall finishing: | | | | | |
| Commercial repaint | 6.75 | | | | |
| New commercial | 7.25 | | | | |
| Drywall machine tool: | | | | | |
| Commercial repaint | 7.00 | | | | |
| New commercial | 7.50 | | | | |
| Lining machine work, power cleaning tools: | | | | | |
| Commercial repaint | 7.25 | | | | |
| New commercial | 7.75 | | | | |
| Wall covering 48" or over: | | | | | |
| Commercial repaint | 7.25 | | | | |
| New commercial | 8.25 | | | | |
| Spray, sandblasting, mittens, structural steel, material emitting toxic vapors: | | | | | |
| Commercial repaint | 7.50 | | | | |
| New commercial | 8.25 | | | | |
| Height clause: An additional $1.00 per hour per 100' over the appropriate scale | | | | | |









DECISION NO. WV77-3101

AREAS COVERED BY PAINTERS

AREA 1 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 2 - Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties.

AREA 3 - Brooke (south of Buffalo Creek), Marshall, Ohio & Wetzel Counties.

AREA 4 - Brooke (remainder of county) & Hancock Counties.

AREA 5 - Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion, Randolph, Taylor, Tucker, Upshur & Webster Counties.

AREA 6 - Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties.

AREA 7 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, McDowell, Mercer, Monroe, Pocahontas, Putnam, Raleigh, Summers & Wyoming Counties.

AREA 8 - Monongalia County

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| PLUMBERS & PIPEFITTERS: | | | | | |
| AREA 1 | 10.02 | .50 | .60 | 10% | .04 |
| AREA 2 | 10.27 | .50 | .60 | 10% | .04 |
| AREA 3 | 10.52 | .50 | .60 | 10% | .04 |
| AREA 4 | 10.77 | .50 | .60 | 10% | .04 |
| AREA 5 | 10.45 | .40 | 8% | 10% | .05 |
| AREA 6 | 10.46 | .40 | 7% | 8% | .05 |
| AREA 7 | | | | | |
| Comercial WOrk | 10.23 | .40 | .50 | | |
| Repair WOrk | 10.04 | .40 | .50 | | |
| AREA 8 | | | | | |
| ZONE 1 - within an 8 mile radius of CAbell County courthouse, Huntington, W.V. | 10.58 | .80 | 1.00 | | .02 |
| ZONE 2 - 8 to 15 miles from the courthouse | 10.78 | .50 | 1.00 | | .02 |
| ZONE 3 - 15 to 25 miles from the courthouse | 10.98 | .50 | 1.00 | | .02 |
| ZONE 4 - Over 25 miles from the courthouse | 11.23 | .50 | 1.00 | | .02 |
| AREA 9 | | | | | |
| Contracts to $75,000 | 8.05 | .45 | .50 | | .09 |
| Contracts above $75,000 | 10.52 | .45 | .50 | | .09 |



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AREAS COVERED BY PLUMBERS & PIPEFITTERS

AREA 1 - Harrison, Marion & MonongaLia Counties.

AREA 2 - Barbour, Doddridge, Lewis, Taylor & Upshur Counties.

AREA 3 - Braxton (that portion north of the southern corporate limits of the city of Sutton), Gilmer, Randolph, Tucker & Webster (that portion north of the southern city limits of Webster Springs) Counties.

AREA 4 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 5 - Brooke (south of Buffalo Creek), Marshall, Ohio & Wetzel Counties.

AREA 6 - Brooke (remainder of county) & Hancock Counties.

AREA 7 - Calhoun, Jackson (northern portion to but not including the Town of Ripley), Pleasants, Ritchie, Roane (northern portion up to but not including Spencer), Tyler, Wirt & Wood Counties.

AREA 8 - Boone (southwest portion to but not including the Towns of Madison & Whitesville), Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties.

AREA 9 - McDowell, Mercer, Monroe, Raleigh Wyoming Counties.

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| PLUMBERS & STEAMFITTERS: | | | | | |
| Plumbers | 9.78 | .45 | .30 | | .05 |
| Steamfitters | 9.82 | .45 | .15 | | .05 |

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AREA COVERED BY PLUMBERS & STEAMFITTERS

Boone (remainder of county)) Braxton (remainder of county), Clay, Fayette Greenbrier, Jackson (remainder of county), Kanawha, Pocahontas, Putnam, Roane (remainder of county), SUmmers & Webster (remainder of county) Counties.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS: | | | | | |
| GROUP 1 | 10.92 | .45 | .55 | | .04 |
| GROUP 2 | 10.42 | .45 | .55 | | .04 |
| GROUP 3 | 10.02 | .45 | .55 | | .04 |
| GROUP 4 | 9.62 | .45 | .55 | | .04 |
| GROUP 5 | 8.92 | .45 | .55 | | .04 |

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

GROUP 1 - Operating cranes, derricks, tower cranes, and similar equipment, having a reach from the top of its boom to the ground of 175' or a lifting capacity of 70 tons; all shovels, draglines, clamshells, backhoes, end-loaders, and concrete mixing plants of 4 cubic yard capacity or over; hoist with 18,000 pound line pull or over.

GROUP 2 - All mechanics and those operating cranes, derricks and similar equipment hydraulic cranes in excess of 15 tons capacity; all shovels, draglines, clamshells, gradealls, tug or tow boats; concrete clamshells, gradealls, tug or tow boats - concrete mixing plants of 3 cubic yards capacity; endloaders in excess of 2½ cubic yards capacity; backhoes in excess of ½ cubic yard capacity; hoist in excess of 5,000 pounds line pull; side boom cat, standards guage locomotive.

GROUP 3 - Hydraulic cranes up to and including 15 tons capacity; endloaders up to and including 2½ cubic yards capacity; backhoes up to and including ½ cubic yard capacity; two drum hoist; well point system, concrete mixing plants, elevators, core drills, fork lift, toss carrier, air compressor (60 CFM or over), high compression equipment, concrete pumps double.

GROUP 4 - Trencher, air tugger, concrete mixer, (2 bag) material hoist, (single) "A" frame truck, rubber tired scraper, power grader, dozer, tractor and pan, push cat, all tractors, oiler's standard guage locomotive crane, truck cranes; over 15 tons, grease truck operator and greaser, fireman, deckhand, asphalt and concrete paving equipment operators.



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CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 5 - Roller and compactor, concrete mixer, (1 bag) Barbour Greene loader, mechanic helper, crawler crane oiler, air compressor, welding machine, gasoline powered) light plant, generator, conveyor, mechanical heater and pump operator.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ROOFERS: | | | | | |
| AREA 1 | 9.68 | .60 | .20 | | |
| AREA 2 | 11.15 | .45 | .30 | | .02 |
| AREA 3 | | | | | |
| Commercial: | | | | | |
| Roofers | 9.60 | | .10 | | .01 |
| Waterproofers | 9.85 | | .10 | | .01 |
| Unprotected roofing or reroofing: | | | | | |
| Roofers | 7.25 | | .10 | | .01 |
| Waterproofers | 7.50 | | .10 | | .01 |

AREA COVERED BY ROOFERS

AREA 1 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 2 - Boone, Cabell, Clay, Fayette, Greenbrier, Kanawha, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Putnam, Raleigh, Summers, Wayne, Webster & Wyoming Counties.

AREA 3 - Barbour, Braxton, Calhoun, Doddridge, Gilmer, Grant, Hardy, Harrison, Jackson, Lewis, Marion, Mineral, Monongalia, Pendleton, Pleasants, Pocahontas, Randolph, Ritchie, Roane, Taylor, Tucker, Tyler, Upshur, Wetzel, Wirt & Wood Counties.









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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| SHEETMETAL WORKERS: | | | | | |
| AREA 1 | 10.20 | | .25 | 1.80 | .02 |
| AREA 2 | 11.05 | .50+a | .55 | | .05 |
| AREA 3 | 8.93 | 45 | .45 | | .02 |
| AREA 4 | 11.30 | .45 | .55 | | .04 |
| AREA 5 | 9.28 | .35 | .30 | | .04 |

AREAS COVERED ON SHEETMETAL WORKERS

AREA 1 - Grant, Hampshire, Hardy & Mineral Counties.

AREA 2 - Cabell, Lincoln, Logan, Mingo & Wayne Counties.

AREA 3 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 4 - Boone, Clay, Fayette, Greenbrier, Kanawha, Mason, McDowell, Mercer, Monroe, Putnam, Raleigh, Summers, Webster & Wyoming Counties.

AREA 5 - Barbour, Braxton, Calhoun, Doddridge, Gilmer, Harrison, Jackson, Lewis, Marion, Monongalia, Pendleton, Pleasants, Pocahontas, Randolph, Ritchie, Roane, Taylor, Tucker, Tyler, Wetzel, Wirt & Wood Counties.

| | | | | | |
|---|---|---|---|---|---|
| SOFT FLOOR LAYERS: | | | | | |
| AREA 1 | 9.85 | .87 | .65 | | .02 |
| AREA 2 | 10.17 | .50 | .75 | | .03 |
| AREA 3 | 10.42 | .50 | .35 | | .02 |
| AREA 4 | 10.35 | .50 | .35 | | .02 |
| AREA 5 | 11.27 | .50 | .35 | | .02 |
| AREA 6 | 9.76 | .40 | .25 | | .02 |



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AREAS COVERED BY SOFT FLOOR LAYERS

AREA 1 - Brooke, Hancock Marshall & Ohio Counties.

AREA 2 - Cabell, Mingo & Wayne Counties.

AREA 3 - Fayette, McDowell, Mercer, Raleigh, Summers & Wyoming Counties.

AREA 4 - Logan County

AREA 5 - Boone, Clay, Greenbrier, Jackson (southern portion including the Towns of Leon, Ripley & Hereford), Kanawha, Lincoln, Mason, Monroe, Pocahontas, Putnam & Roane Counties.

AREA 6 - Calhoun, Jackson (remainder of county), Ritchie, Wirt & Wood Counties.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| SPRINKLER FITTERS | 11.48 | .65 | .95 | | .08 |
| TRUCK DRIVERS: | | | | | |
| AREA 1 | | | | | |
| GROUP 1 | 8.16 | f | g | | |
| GROUP 2 | 8.26 | f | g | | |
| GROUP 3 | 8.41 | f | g | | |
| GROUP 4 | 8.46 | f | g | | |
| GROUP 5 | 8.51 | f | g | | |
| GROUP 6 | 8.61 | f | g | | |
| GROUP 7 | 8.81 | f | g | | |
| AREA 2 | | | | | |
| GROUP 1 | 6.30 | h | i | | |
| GROUP 2 | 6.40 | h | i | | |
| GROUP 3 | 6.55 | h | i | | |
| GROUP 4 | 6.70 | h | i | | |
| GROUP 5 | 6.95 | h | i | | |
| GROUP 6 | 7.05 | h | i | | |

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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| AREA 3 | | | | | |
| GROUP 1 | 9.08 | h | j | 1.00 | |
| GROUP 2 | 9.18 | h | j | 1.00 | |
| GROUP 3 | 9.33 | h | j | 1.00 | |
| GROUP 4 | 9.38 | h | j | 1.00 | |
| GROUP 5 | 9.43 | h | j | 1.00 | |
| GROUP 6 | 9.48 | h | j | 1.00 | |
| GROUP 7 | 9.73 | h | j | 1.00 | |
| AREA 4 | | | | | |
| GROUP 1 | 6.10 | k | i | | |
| GROUP 2 | 6.20 | k | i | | |
| GROUP 3 | 6.40 | k | i | | |
| GROUP 4 | 6.45 | k | i | | |
| GROUP 5 | 6.50 | k | i | | |
| GROUP 6 | 6.88 | k | i | | |
| AREA 5 | | | | | |
| GROUP 1 | 5.85 | l | m | n | |
| GROUP 2 | 5.88 | l | m | n | |
| GROUP 3 | 5 90 | l | m | n | |
| GROUP 4 | 6.00 | l | m | n | |
| GROUP 5 | 6.08 | l | m | n | |
| GROUP 6 | 6.13 | l | m | n | |
| GROUP 7 | 6.16 | l | m | n | |
| GROUP 8 | 6.43 | l | m | n | |
| GROUP 9 | 6.50 | l | m | n | |
| GROUP 10 | 6.53 | l | m | n | |
| AREA 6 | | | | | |
| GROUP 1 | 5.37 | o | | | |
| GROUP 2 | 5.38 | o | | | |
| GROUP 3 | 5.42 | o | | | |
| GROUP 4 | 5.45 | o | | | |
| GROUP 5 | 5.47 | o | | | |
| GROUP 6 | 5.70 | o | | | |
| GROUP 7 | 6.00 | o | | | |
| GROUP 8 | 6.10 | o | | | |



DECISION NO. WV77-3101

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| AREA 7 | | | | | |
| GROUP 1 | 7.56 | .60 | .70 | | |
| GROUP 2 | 7.71 | 60 | .70 | | |
| GROUP 3 | 7.91 | 60 | .70 | | |
| GROUP 4 | 8.10 | .60 | .70 | | |
| GROUP 5 | 8.34 | .60 | .70 | | |

CLASSIFICATION DEFINITIONS
TRUCK DRIVERS - AREA 1

GROUP 1 - Warehousemen, yardmen, truck helpers, pick-ups, stationwagons, panel trucks, flatbody material truck (straight job), greasers, washers, tiremen, gas pumps attendants, dump trucks (up to 5 cubic yards)
GROUP 2 - Tank truck (straight)
GROUP 3 - Dump trucks (5 cubic yards and over), semi-dump trucks, semi trailers, (whether flat rack, or pole and hauled or pushed by truck or tractor), agitator or mixer trucks (up to 5 cubic yards), farm type tractor, tank truck (semi).
GROUP 4 - Low-Boy trailers, winch trucks, fork trucks, distributor trucks (front and back end), truck crane, moni-rail truck.
GROUP 5 - Material checker and receiver, mechanics helpers.
GROUP 6 - Agitator or mixer truck (5 cubic yards and over).
GROUP 7 - Mechanics, euclid, dumpster, turnarocker, ross carriers, athey wagon or similar equipment, A-frame, hydrolift, dual purpose trucks.

TRUCK DRIVERS AREA 2

GROUP 1 - Warehousemen, yardmen, truck helpers, pick-ups, stationwagons, panel trucks.
GROUP 2 - Flatbody material trucks (straight jobs), dump trucks (up to 5 cubic yards), greasers, washers, tiremen, gas pump attendants, mechanic helpers, material checkers & receivers, tank truck (straight).
GROUP 3 - Dump trucks (5 cubic yards & over), semi-dump trucks, semi-trailer (whether flat, rack or pole and hauled or pushed by truck or tractors), agitators or mixed trucks (up to 5 cubic yards), tank trucks (semi), monorails.
GROUP 4 - Low-boy trailers, winch trucks, fork truck, distributor trucks (front and back end), truck crane, agitators or mixer trucks (5 cubic yards & over), hydraulic tail gate, farm type tractors.
GROUP 5 - Euclids, dumpsters, turnarockers, ross carriers, athey wagons or similar equipment, A-frame, hydrolift, dual purpose trucks.
GROUP 6 - Mechanics.









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TRUCK DRIVERS - AREA 3

GROUP 1 - Warehousemen, yardmen, truck helpers, pick-ups, stationwagons, panel trucks, flatbed material truck (straight job), greasers, washers, tiremen, gas pump attendants, dump trucks (up to 5 cubic yards)
GROUP 2 - Tank truck (straight)
GROUP 3 - Dump trucks (5 cubic yards and over), semi-dump trucks, semi trailers (whether flat rack or pole and hauled or pushed by truck or tractors), agitator or mixer trucks (up to 5 cubic yards), tank truck (semi)
GROUP 4 - Low-boy trailers, winch trucks, fork trucks, distributor trucks (front and back end), truck crane, moni-rail truck.
GROUP 5 - Material checker and receiver, mechanics helpers.
GROUP 6 - Agitator or mixer truck (5 cubic yards and over).
GROUP 7 - Mechanics, tri-axle dump trucks, hydraulic lift tailgate truck and farm type tractors, end dumpsters, turnarockers, ross carriers, athey wagon or similar equipment, A-frame, hydrolift, dual purpose trucks.

TRUCK DRIVERS - AREA 4

GROUP 1 - Warehouse, yardmen, truck helpers, pick-ups, stationwagons, panel trucks,team 2 - up.
GROUP 2 - Flatbody material trucks (straight jobs), dump trucks (up to 5 cubic yards), material checkers, material receivers, team 4 - up, greasers, tiremen and mechanic helpers (truck)
GROUP 3 - Semi-dump truck, semi-trailers (flat rack or pole), low-boy trucks, distributor trucks, agitators or mixer trucks (up to and including 5 yards) dump trucks and dumpster (5 to 12 yards).
GROUP 4 - Dump truck, agitator or mixer trucks and other hauling equipment (12 yards to 20 yards), mucker trucker, rubber-tired tractors (towing or pushing)
GROUP 5 - Dump truck, agitator or mixer trucks and other hauling equipment (20 yards and over)
GROUP 6 - "A" Frame operator, mechanics (truck).



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TRUCK DRIVERS - AREA 5

GROUP 1 - Flat bed material trucks, dump trucks, semi-dump trucks.
GROUP 2 - Tank trucks (straight & semi).
GROUP 3 - Semi-trailers, tractor trailers.
GROUP 4 - Pole trailer.
GROUP 5 - Agitator & mixer trucks (up to 5 cubic yards)
GROUP 6 - Euclids, dumpsters, turnarocker, ross carriers, athey wagons.
GROUP 7 - Agitator & mixer trucks (over 5 cubic yards)
GROUP 8 - Low-boy trailers, winch trucks, ford trucks (front and back end) truck crane.
GROUP 9 - A-Frame.
GROUP 10 - Mechanics.

TRUCK DRIVERS - AREA 6

GROUP 1 - Warehousemen, yardmen, truck helpers.
GROUP 2 - Greasers, washers, tiremen, gas pump attendants, mechanics helpers.
GROUP 3 - Flatbed material trucks, dump trucks, semi-trucks.
GROUP 4 - Tank trucks (straight & semi)
GROUP 5 - Semi-trailers & tractor trailers.
GROUP 6 - Euclids, dumpsters, turnarockers, ross carriers, athey wagons.
GROUP 7 - Low-boy trailers, winch trucks, A-frame, fork trucks, distributor (front & back end), truck crane.
GROUP 8 - Mechanics.

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TRUCK DRIVERS - AREA 7

GROUP 1 - Dumpmen & flagmen.
GROUP 2 - Pick-up trucks, dump tracks under 5 yard capacity, straight trucks.
GROUP 3 - Panel trucks, straight truck with multiple axle, dumpsters under 5 yard capacity, transit mix, dump trucks from 5 to 9 yard capacity, flat body material trucks (straight jobs), greasers, tiremen & mechanic helpers, rubber-tired (towing or pushing flatbody vehicles) & form trucks.
GROUP 4 - Dump trucks 10-15 yard capacity.
GROUP 5 - Dump trucks over 15 yard capacity, bottom and end dump euclids, all other euclid type trucks, turnarockers, ross carriers, athey wagons, A-frames, mechanics, semi-trailer or tractor trailers, low boy trucks, asphalt distributor trucks, agitator mixer, dumpcretes or batch trucks, specialized earth moving equipment, off-highway tandem back-dump, twin engine equipment and double hitched equipment (where not self-loaded)

AREAS COVERED BY TRUCK DRIVERS

AREA 1 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, McDowell, Mercer, Monroe, Pocahontas, Putnam, Raleigh, Summers, Webster & Wyoming Counties.

AREA 2 - Calhoun, Gilmer, Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties.

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DECISION NO. WV77-3101

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E- Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holiday: Christmas Day.

b. PAid Holidays: A through F.

c. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Employer contributes 2¢ per hour per employee from June 1 to December 31.

e. Employer contribution of 3% per hour to the Sasmi Fund per employee and is based on the basic hourly rate, plus pension, plus health and welfare.

f. Employer contributes $41.16 per month per employee employed 30 days or more.

g. Employer contributes $34.67 per month per employee.

h. Employer contributes $32.33 per month per employee employed 30 days or more.

i. Employer contributes $26.00 per month per employee employed 30 days or more.

j. Employer contributes $32.00 per month per employee employed 30 days or more.

k. Employer contributes $28.50 per month per employee employed 30 days or more.

l. Employer contributes $6.30 per week per employee.

m. Employer contributes $6.00 per week per employee.





DECISION NO. WV77-3101

FOOTNOTE (Cont'd):

n. One week's paid vacation.

o. Employer contributes $9.50 per week per employee.

p. Paid Holidays: A through F, Plus Christmas Eve.

[FR Doc.77-20841 Filed 7-21-77;8:45 am]

*Advance Orders are now being Accepted*
*for delivery in about 6 weeks*

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| Monday | Tuesday | Wednesday | Thursday | Friday |
|---|---|---|---|---|
| NRC | USDA/ASCS | | NRC | USDA/ASCS |
| DOT/COAST GUARD | USDA/APHIS | | DOT/COAST GUARD | USDA/APHIS |
| DOT/NHTSA | USDA/FNS | | DOT/NHTSA | USDA/FNS |
| DOT/FAA | USDA/REA | | DOT/FAA | USDA/REA |
| DOT/OHMO | CSC | | DOT/OHMO | CSC |
| DOT/OPSO | LABOR | | DOT/OPSO | LABOR |
| | HEW/ADAMHA | | | HEW/ADAMHA |
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| | HEW/FDA | | | HEW/FDA |
| | HEW/HRA | | | HEW/HRA |
| | HEW/HSA | | | HEW/HSA |
| | HEW/NIH | | | HEW/NIH |
| | HEW/PHS | | | HEW/PHS |

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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# reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

**Rules Going Into Effect Today**

DOT/FAA—Airworthiness directives; Hawker Siddeley Aviation, Ltd., model DH/BH–125 airplanes (3 documents). 31767–8; 6–23–77

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ICC—Motor carriers; freight rate tariffs, charges, and notification of pickup and shipment deliveries..... 31795; 6–23–77

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**List of Public Laws**

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.





# rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

**Title 5—Administrative Personnel**

**CHAPTER I—CIVIL SERVICE COMMISSION**

**PART 213—EXCEPTED SERVICE**

**Federal Deposit Insurance Corporation**

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Secretary to the Counsel to the Chairman of the Board of Directors is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: July 25, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling. (202–632–4533).

Accordingly, 5 CFR 213.3333(j) is added as set out below:

**§ 213.3333 Federal Deposit Insurance Corporation.**

* * * * * *

(j) One Secretary to the Counsel to the Chairman of the Board of Directors.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77–21434 Filed 7–22–77;8:45 am]

**Title 7—Agriculture**

**CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE**

[Valencia Orange Regulation 564, Amendment 1]

**PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA**

**Limitation of Handling**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to Final rule.

SUMMARY: This amendment increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period July 15–21, 1977. The amendment recognizes that demand for Valencia oranges has improved, since the regulation was issued. This action will increase the supply of oranges available to consumers.

DATES: Weekly regulation period July 15–21, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Valencia Orange Administrative Committee, established under the marketing agreement and order, and other available information, it is found that limitation of handling of Valencia oranges as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the Valencia orange markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit orange handlers to ship a larger quantity of Valencia oranges to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 175,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information became available upon which this amendment is based and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Valencia oranges.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i), and (ii) of § 908.864 Valencia Orange Regulation 564 (42 FR 36231) are hereby amended to read as follows:

**§ 908.864 Valencia Orange Regulation 564.**

* * * * * *

(b) * * *

(i) District 1: 310,000 cartons;

(ii) District 2: 465,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: July 20, 1977.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77–21278 Filed 7–22–77;8:45 am]

**PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA**

**Pear Commodity Committee Expenses and Rate of Assessment**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $535,624 and a rate of assessment of $0.125 per lug box of pears for the functioning of the Pear Commodity Committee for the 1977–78 fiscal period. The committee is established under a Federal marketing order program regulating the handling of fresh pears, plums, and peaches grown in California. The regulation will enable the committee to collect assessments from first handlers on all assessable pears handled and to use the resulting funds for its expenses.

DATES: Effective for the period March 1, 1977, through February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: On June 28, 1977, notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 32802) regarding proposed expenses and rate of assessment, under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917) regulating the handling of fresh pears, plums, and peaches grown in California. This notice allowed interested persons 13 days during which they could submit written comments pertaining to these proposals. None were submitted. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

After consideration of all relevant matter presented, including the proposals set forth in the notice, which were submitted by the Pear Commodity Committee (established under the marketing agreement and order), it is found and determined that:



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**§ 917.217 Pear Commodity Committee expenses and rate of assessment.**

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Pear Commodity Committee during the fiscal period March 1, 1977, through February 28, 1978, will amount to $535,624.

(b) *Rate of assessment.* The rate of assessment for the fiscal period payable by each handler in accordance with § 917.37 is established at $0.125 per No. 29B special lug box of pears, or its equivalent in other containers or in bulk.

(c) *Terms.* Terms used in this section shall have the same meaning as when used in the amended marketing agreement and order, and "No. 29B special lug box" shall have the same meaning as set forth in Section 1387.11 of the "Regulations of the California Department of Food and Agriculture".

It is further found that good cause exists for not postponing the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Shipments of the current crop of fresh pears grown in California are underway; (2) provisions of the marketing agreement and this part require that the rate of assessment shall apply to all assessable fresh pears handled during the fiscal period; and (3) the fiscal period began March 1, 1977, and the rate of assessment will automatically apply to all fresh pears handled during the period.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated: July 20, 1977.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77-21358 Filed 7-22-77;8:45 am]

## PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

### Plum Commodity Committee Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $938,928 and a rate of assessment of $0.095 per lug of plums for the functioning of the Plum Commodity Committee for the 1977–78 fiscal period. The committee is established under a Federal marketing order program regulating the handling of fresh pears, plums, and peaches grown in California. The regulation will enable the committee to collect assessments from first handlers on all assessable plums handled and to use the resulting funds for its expenses.

DATES: Effective for the period March 1, 1977, through February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: On June 16, 1977, notice of proposed rule making was published in the FEDERAL REGISTER (42 FR 30626) regarding proposed expenses and rate of assessment, under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917) regulating the handling of fresh pears, plums, and peaches grown in California. This notice allowed interested persons 19 days during which they could submit written comments pertaining to these proposals. None were submitted. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

After consideration of all relevant matter presented, including the proposals set forth in the notice, which were submitted by the Plum Commodity Committee (established under the marketing agreement and order), it is found and determined that:

**§ 917.218 Plum Commodity Committee expenses and rate of assessment.**

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Plum Commodity Committee during the fiscal period March 1, 1977, through February 28, 1978, will amount to $938,928

(b) *Rate of Assessment.* The rate of assessment for the fiscal period payable by each handler in accordance with § 917.37 is established at $0.095 per No. 22D standard lug box of plums, or its equivalent in other containers or in bulk.

(c) *Terms.* Terms used in this section shall have the same meaning as when used in the amended marketing agreement and order, and "No. 22D standard lug box" shall have the same meaning as set forth in Section 1387.11 of the "Regulations of the California Department of Food and Agriculture".

It is further found that good cause exists for not postponing the effective date until 60 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Shipments of the current crop of fresh plums grown in California are underway; (2) provisions of the marketing agreement and this part require that the rate of assessment shall apply to all assessable fresh plums handled during the fiscal period; and (3) the fiscal period began March 1, 1977, and the rate of assessment will automatically apply to all fresh plums handled during the period.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated: July 20, 1977.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77-21361 Filed 7-22-77;8:45 am]





### Title 8—Aliens and Nationality

### CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

## PART 214—NONIMMIGRANT CLASSES

### Labor Certification Requirements for Nonimmigrant Alien Workers in the Territory of Guam

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This is an amendment to the regulations of the Immigration and Naturalization Service requiring that petitions to import nonimmigrant alien workers into the Territory of Guam must be accompanied by a labor certification issued by the U.S. Secretary of Labor or his designated representative, or a notice that such certification cannot be made. This action is necessary because present Service regulations concerning the importation of nonimmigrant alien workers provide that labor certifications must be applied for to the U.S. Secretary of Labor when the alien workers sought are to be employed in the United States except that a certification made by the Employment Service of the Territory of Guam will be accepted when the alien workers sought are to be employed in the Territory of Guam. This amendment will make the consultations and labor certification process required to be followed in these cases uniform throughout the United States.

EFFECTIVE DATE: July 25, 1977. However, interested parties may submit written representations to the Commissioner of Immigration and Naturalization by September 8, 1977.

ADDRESSES: Please submit written representations, in duplicate, to the Commissioner of Immigration and Naturalization, Room 7100, 425 I Street NW., Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536. Telephone: (202) 376–8373.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 214.2(h)(3)(i) is being published in accordance with section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93–502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1.

Section 101(a)(15)(H)(ii) of the Immigration and Nationality Act provides for the classification as a nonimmigrant, of an alien who is coming to the United States temporarily to perform temporary services or labor if unemployed persons capable of performing such service or labor cannot be found in this country. Section 101(a)(38) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(38)) provides that for the purposes of administration of the immigration laws, the term "United States" includes Guam.

Section 214(c) of the Act (8 U.S.C. 1184(c)) provides that the question of importing any alien as a nonimmigrant under section 101(a)(15)(H) of the Act in any specific case or specific cases shall be determined by the Attorney General, after consultation with appropriate agencies of the Government, upon petition of the importing employer. The Immigration and Naturalization Service exercises the delegated authority of the Attorney General in determining the appropriate agency to be consulted in the question of the importation of nonimmigrants under sections 214 and 101(a)(15)(H). In the exercise of that authority, the Service has considered the United States Department of Labor as the appropriate agency for the consultation required under section 214(c) of the Act on account of its expertise in labor matters.

This statutory consultation requirement is further implemented in 8 CFR 214.2(h)(3)(i) which provides that every nonimmigrant visa petition to accord an alien nonimmigrant classification as a temporary worker under section 101(a)(15)(H)(ii) of the Act shall be accompanied by a certification by the Secretary of Labor or his designated representative stating that qualified persons in the United States are not available and that the employment of the beneficiary will not adversely affect the wages and working conditions of workers in the United States similarly employed, or a notice that this certification cannot be made.

However, this regulation provides an exception for the Territory of Guam in that the Service will accept a labor certification issued by the Employment Service of the Territory of Guam in suoport of a petition to import nonimmigrant alien temporary workers into that Territory, in lieu of a certification issued by the U.S. Secretary of Labor or his designated representative.

The Service has determined that the consultation and labor certification requirements which must be met before nonimmigrant alien workers may be imported into the United States should be uniform throughout the United States. In order to imolement this decision, 8 CFR 214.2(h)(3)(i) will be amended by deleting the second sentence which provides for acceptance by the Service of labor certifications issued by the Employment Service of the Territory of Guam.

Henceforth, the Service will ask that the Employment Service of the Territory of Guam only receive the application for labor certification and transmit that application to the appropriate office of the U.S. Department of Labor for issuance of the required labor certification or the notice that the certification cannot be made. This is the manner in which all other state and local employment service offices throughout the United States process applications for labor certification in cases involving petitions to classify aliens as nonimmigrant temporary workers filed under section 101(a)(15)(H)(ii) of the Immigration and Nationality Act.

On and after the effective date of this regulation, the Service will no longer accept petitions filed on Form I–129B to import nonimmigrant alien "H–2" workers into the Territory of Guam unless the petitions are accompanied by labor certifications issued by the U.S. Secretary of Labor or his designated representative, or by his notices that such certifications cannot be made.

In the light of the foregoing, 8 CFR 214(h)(3)(i) is hereby revised to read as follows:

In Part 214, § 214.2(h)(3)(i) is revised by deleting the second sentence thereof. As revised § 214.2(h)(3)(i) reads as follows:

**§ 214.2 Special requirements for admission, extension, and maintenance of status.**

* * * * *

(h) *Temporary employees.* * * *

(3) *Petition for alien to perform temporary service or labor—(i) Labor certification.* Either a certification from the Secretary of Labor or his designated representative stating that qualified persons in the United States are not available and that the employment of the beneficiary will not adversely affect the wages and working conditions of workers in the United States similarly employed, or a notice that such a certification cannot be made, shall be attached to every nonimmigrant visa petition to accord an alien a classification under section 101(a)(15)(H)(ii) of the Act. If there is attached to the petition a notice from the Secretary of Labor or his designated representative that certification cannot be made, the petitioner shall be permitted to present countervailing evidence that qualified persons in the United States are not available and that the employment policies of the Department of Labor have been observed. All such evidence submitted will be considered in the adjudication of the petition.

* * * * *

(Secs. 101(a)(38), 103 and 214(c); 8 U.S.C. 1101(a)(38), 1103 and 1184(c).)

Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendment relates to agency procedure relative to consultation with appropriate governmental agencies with respect to the question of the importation of nonimmigrant alien temporary workers under section 101(a)(15)(H) of the Immigration and Nationality Act, as required by section 214(c) of the Act. However, in the spirit of 5 U.S.C. 553, opportunity will be given interested parties to submit written comments, data, views and arguments concerning this final rule on or before September 8, 1977. Any written comments should be submitted to the Commissioner of Immigration and Naturalization at the above address.

Effective date: This rule will become effective on July 25, 1977.

Dated: July 20, 1977.

LEONEL J. CASTILLO,
*Commissioner of Immigration and Naturalization.*

[FR Doc.77-21310 Filed 7-22-77;8:45 am]

### Title 10—Energy

### CHAPTER II—FEDERAL ENERGY ADMINISTRATION

## PART 450—ENERGY MEASURES AND ENERGY AUDITS

### Energy Measures List

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: The Federal Energy Administration, by final rule, establishes a list of energy conservation measures and renewable-resource energy measures it has developed after consultation with the Secretary of Housing and Urban Development. This document provides a subpart to, and thereby combines the list of energy measures with, the energy audit rulemaking. Depletion of the Nation's domestic resources of fossil fuels has focused attention on the need to identify energy conservation and renewable-resource energy measures which can be implemented in existing residential or commercial buildings and industrial plants.

DATE: Effective date: July 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Allen Jaisle, Office of Program Development, Office of Conservation, Federal Energy Administration, Washington, D.C. 20461 (202–566–7856).
John Pulice, Office of Synfuels, Solar and Geothermal Energy, Office of Energy Resource Development, Federal Energy Administration, Washington, D.C. 20461 (202–566–6192).

SUPPLEMENTARY INFORMATION: 1. Introduction. 2. Section 450.3 Definitions. 3. Section 450.31 Energy Conservation Measures, and Section 450.32 Requirements and Limitations For Energy Conservation Measures. 4. Section 450.33 Renewable-Resource Energy Measures, and Section 450.34 Requirements for Renewable-Resource Energy Measures.

1. INTRODUCTION

On June 10, 1977, the Federal Energy Administration (FEA) published a notice of proposed rulemaking, 42 FR 29906 et seq., to amend Part 450, Chapter II of Title 10, Code of Federal Regulations (CFR), to establish a list of energy conservation and renewable-resource energy measures (energy measures) developed by FEA, after consultation with the Department of Housing and Urban Development (HUD), under Section 432 (d), 42 U.S.C. 6325 (e)(1), of the Energy Conservation and Production Act (Act); Pub. L. 94–385, 90 Stat. 1125 et seq. Section 432 amends Part C of Title III of the



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Energy Policy and Conservation Act (EPCA), 42 U.S.C. 6321–6326.

FEA published proposed procedures for energy audits on April 15, 1977, at 42 FR 20012, and published a final rule for energy audits on June 29, 1977, at 42 FR 33158. This rulemaking for energy measures amends the energy audit rulemaking by adding a new Subpart D to combine energy audits and energy measures in one consolidated part and by providing additional necessary definitions.

FEA solicited comments for its consideration from interested persons on the proposed energy measures list if submitted by June 30, 1977, and FEA held a public hearing in Washington, D.C. on June 29, 1977.

In response to the notice of proposed rulemaking, six persons presented oral testimony and 19 written comments were received by FEA. This final rule contains revisions to the proposed rule which reflect FEA's consideration of the comments as well as other information available to FEA.

Some comments mistook an energy measure for a regulatory requirement applicable to construction, alteration or retrofit of a building or industrial plant. No one is required to use or install any energy measures in a residential or commercial building or an industrial plant. Anyone may use an energy measure, with or without regard to the requirements prescribed in this rulemaking.

The energy measures list does not establish performance or prescriptive standards but instead, as explained in the proposed rulemaking, has only three identifiable uses.

First, the energy measures list will be used by States participating in the program for supplemental State energy conservation plans. To be eligible for financial assistance, section 432 of the Act (42 U.S.C. 6326), provides that a supplemental plan shall include procedures for carrying out a continuing public education effort to increase significantly public awareness of energy and cost savings which are likely to result from implementation of energy measures. Moreover, each supplemental plan must also contain procedures to encourage energy audits. An energy audit is a process which identifies energy and cost savings likely to be realized through the purchase and installation of energy measures such as those identified by the proposed list. Final guidelines for supplemental plans were published by FEA on May 24, 1977, at 42 FR 26413, and Congress has appropriated $12 million dollars for this program.

Secondly, an energy measure on the list is eligible, on a national or regional basis, for financial assistance pursuant to section 509 of the Housing and Urban Development Act of 1970 or thirdly, for obligation guarantees under section 451 of the Act. No funds have been appropriated to provide financial assistance for implementation of either program. Therefore, for all practical purposes, this list is to be used at the present time only in connection with the program for supplemental State energy conservation plans. Whether Congress may at some future time appropriate funds for the other two programs or enact a new Federal program to provide financial assistance for or otherwise provide for the use of an energy measure included in this list is purely speculative and beyond the scope of this rulemaking.

Some comments questioned whether and, if so, how FEA coordinated the rulemaking process for the energy measures list and energy audits. Both rulemakings have been consolidated in Part 450 because they are interdependent. Both the list of energy measures and the energy audit procedures identify a modification as an energy measure so that both must employ identical definitions, administrative findings and interpretations.

The energy measures list and energy audits use the qualifying conditions for an energy measure prescribed in § 450.4 as the basic criteria for assessing a modification and are predicated on the fuel price projections contained in Appendix A to Part 450. FEA has made certain that the consolidation of the list of energy measures with energy audit procedures is internally consistent.

Numerous comments concerned energy price projections contained in Appendix A of Part 450 which FEA employed to evaluate cost recovery for a modification. These prices were criticized as being too low, being average "rolled-in" prices, and being representative of past policies. Similar questions were raised regarding the proposed energy audit rulemaking which published these prices, and these comments were considered by FEA prior to issuance of the final rule for energy audits which only slightly changed the proposed price projections. Reconsideration of these prices by FEA would be untimely and unnecessary since the final energy audit rule was only published on June 29, 1977.

At that time, FEA stated:

> FEA intends to revise its projections when appropriate and may hold public hearings where significant changes are made to these projections. FEA will endeavor to provide up-to-date projections but not with such frequency as to cause undue burdens, uncertainty, and confusion for energy auditors. 42 FR 33159.

One comment urged FEA to be less rigorous in its application of cost recovery criteria in assessing energy measures because of the degree of imprecision and because so many significant factors are excluded from consideration. The comment also pointed out that the approach of the energy measures list is much more detailed than the lists of energy saving investments in the National Energy Act as proposed by the Administration.

FEA has fully considered the restrictions on precision necessary to develop a broadly inclusive energy measures list. For this reason, FEA has not included modifications unless FEA obtained information and data which FEA determined provided a reasonable level of precision and reliability. The explicitness of the cost recovery provisions of the Act leaves little room for establishing a less restrictive evaluation which could provide a more inclusive list with fewer requirements and limitations. FEA is aware of the different approach proposed in the National Energy Act. However, this rulemaking is confined to the authorities established by the Act and cannot at this time reflect or otherwise anticipate future changes in legislation which may be enacted by Congress.

One comment suggested a 30-day extension of the comment period. FEA does not believe this was necessary because no similar request was received from any other person, and the comment presented a full and carefully considered discussion of the commenter's concern. Accordingly, FEA has decided to adhere to the original comment period because an adequate discussion of the issues has been made possible by this comment period.

Some comments urged that FEA undertake an active program to educate consumers and businessmen about energy measures, to encourage their use and to identify effective conditions for installation of an energy measure. While these comments do not directly address this rulemaking, FEA appreciates these comments on educational and informational efforts to complement rulemaking in this area. FEA is undertaking such an effort in conjunction with the States under the program for supplemental State energy conservation plans.

### 2. Section 450.3 Definitions

One comment suggested that the energy measures list be broadened to include modifications other than "hardware". Presumably this means design or operational adjustments should be considered modifications eligible for inclusion in the energy measures list. Because of the definitions contained in the Act for "energy conservation measure" and "renewable resource-energy measure," an energy measure may only include a modification to a building or industrial plant (the latter term including an industrial process) which has been purchased and installed. For this reason, FEA has interpreted the Act to require that a "modification" cannot include a design or operational change which cannot be purchased and installed.

One comment drew attention to the proper definition for the abbreviation of ASTM as the American Society for Testing and Materials. The definition has been so changed.

A few comments indicated that "heating degree days" and "cooling degree days" should use a different base temperature than 65° F. The data is provided by the National Oceanic and Atmospheric Administration, Department of Commerce. FEA has retained this definition because it represents the best currently available standardized collection of climatic information which can be readily adapted to the needs of FEA's conservation program.

Some comments indicated that the "R-Value" definition should include specification of the mean temperature at which the R-Value is measured because thermal conductivity varies with temperature. The definition in § 450.3 is modified so that the R-Value is to be measured at the mean temperature of the insulation under design conditions. FEA, however, decided it would be unnecessarily complex to specify the mean temperatures for different types of uses.

FEA has also provided definitions for "ANSI Standard" and "IEEE Standard" to clarify the source of referenced commercial standards.





### 3. Section 450.31 Energy Conservation Measures and Section 450.32 Requirements and Limitations for Energy Conservation Measures

Proposed § 450.31 identified and described energy conservation measures included in the energy measures list. Proposed § 450.32 stated the requirements and limitations for each energy conservation measure identified in proposed § 450.31. Comments on both these sections are combined for clarity and presented below. Comments proposing the addition of an energy conservation measure to the proposed list are addressed either in the discussion of closely related energy conservation measures or separately.

#### a. Ceiling insulation

Some comments suggested that ceiling insulation not be limited to installation between the heated top level living area and the unheated attic space but also include installation of insulation on the surface of the ceiling. FEA agrees and has changed the definition accordingly.

One comment suggested the R-Value level be broadened to include up to R–38 for residential ceiling insulation in all climate zones when the residence is both heated and air conditioned. FEA does not believe the evidence of energy saving in the cooling season is sufficiently clear to justify this increase in the thickness of insulation.

#### b. Wall insulation

The use of insulation on the building interior surface of a wall with an exterior exposure was recommended by some comments. Upon review, FEA agrees and has changed the provision in § 450.31(b) to include this installation of interior insulation. FEA has also revised the requirement so that only a wall with an exterior exposure is to receive wall insulation. FEA has found that insulation of partition walls is generally not worth the cost and the regulation is not formulated to take into account exceptional conditions.

Some comments suggested that § 450.32(b) restricting installation of wall insulation to a 4 inch wall cavity was too restrictive. FEA agrees and has deleted reference to a maximum thickness for the wall cavity. For the climate zones specified, it is unlikely that variations in wall cavity size will result in applications with insufficient cost recovery. Further it seems unlikely that too much interior insulation would be applied since there is a natural inclination to maximize interior space.

One comment suggested insulated aluminum siding as an energy conservation measure. If this modification were eligible, it could be included within the definition of wall insulation. The insulating value of such siding is typically quite low in relation to its cost. FEA does not believe that a reasonable judgment can be made that insulated aluminum siding will have sufficient cost recovery from energy savings so that this modification meets neither the primary purpose nor the cost recovery criteria.

#### c. Floor insulation

No comments were received and no changes have been made.

#### d. Pipe insulation

Some comments pointed out that a level of R–19 may be too broad where there are space limitations or where pipe sizes are very large. FEA, however, only specified R-9 in proposed § 450.32(d) as a maximum which may not be exceeded. A lower R-Value could be installed. Upon further consideration however, FEA concludes that pipe insulation has such a high cost recovery in nearly all applications that no R-Value limitations are considered necessary for this energy measure. Moreover, FEA is reluctant to be overly restrictive concerning pipe insulation because cost recovery is expected in any reasonable application. Any excessive use of pipe insulation application would most likely occur in commercial and industrial installations where purchasers have both the knowledge and incentive to avoid such a misallocation of resources. Accordingly, § 450.32(d) does not contain an R-Value restriction.

Some comments suggested that FEA Conservation Paper No. 46, entitled "Economic Thickness of Industrial Insulation," should be used to establish mandatory requirements for pipe and other insulation applications. FEA has not followed this suggestion because the degree of control is not warranted for the reasons discussed but FEA recommends its use as a source of information on sound business practice.

#### e. Caulking and weatherstripping

No comments were received and no changes have been made.

#### f. Roof insulation

Some comments suggested proposed § 450.31 include insulation installed on the surface of a roof facing a building interior. FEA agrees and has changed the definition to include this installation.

#### g. Clock thermostat

One comment suggested that an additional energy conservation measure be included for a very advanced form of time and temperature controller. FEA believes that the definition in proposed § 450.31(g) is sufficiently broad to include this device.

#### h. Hot water heater insulation

Some comments indicated that R–19 may be too large a thickness for hot water heater insulation because of space limitations. Proposed § 450.32(h) set R–19 as a maximum which may not be exceeded.Where space limitations preclude use of the maximum amount of insulation, FEA finds it unnecessary and redundant to provide that a lower level of insulation may be used. FEA has retained the proposed maximum requirement.

#### i. Duct insulation

Comments on space limitations similar to those noted above have been made concerning duct insulation. FEA has retained the proposed maximum R-Value for reasons similar to those discussed above.

#### j. Storm windows

After review of its cost recovery calculations, FEA has discovered an error resulting from the exclusion of the savings multiplier. The corrected calculation justifies extension of his energy conservation measure to heating zone 2, and § 450.32(j) has been so changed.

One comment suggested inclusion of thermalized and thermal break aluminum windows. Another comment suggested various additional types of replacement windows. One comment suggested that a modification of double glazed to triple glazed windows be considered an energy conservation measure for areas which have not less than 8000 heating degree days.

The suggested modifications are essentially intended to achieve energy savings by preventing infiltration and temperature transmission through penetration similar to those savings achieved by storm windows combined with caulking and weatherstripping. In FEA's judgment, the suggested modifications have insufficient cost recovery for inclusion in the list of energy conservation measures. Essentially the modifications provide similar energy savings to storm windows combined with weatherstripping but are substantially more expensive because of the increased cost of purchase and installation of replacement windows. Accordingly, FEA has not changed the storm window definition or otherwise included the suggested modifications on the list.

#### k. Lighting

One comment suggested that proposed § 450.31(k) be expanded to include a change from mercury vapor to high pressure sodium lighting systems. The comment further suggested that proposed § 450.32(k) delete the word "incandescent" so that a doubling of useful light output is required regardless of the lighting system used. FEA believes the suggested changes will usefully broaden this energy conservation measure while achieving cost recovery; therefore, the suggested changes have been made

One comment suggested specifications regulating the amount of illumination allowable for different uses. FEA has not adopted this recommendation because it is extrinsic to the energy and cost savings likely to be derived from the purchase and installation of an energy measure.



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Regulation of how much energy may be consumed for a particular use is beyond the scope of this rulemaking and the provisions of the Act.

L. MIXING VALVE

No comments were received and no changes have been made.

M. FLOW RESTRICTOR

No comments were received and no changes have been made.

N. RESIDENTIAL OIL BURNER

One comment objected to the requirement in proposed § 450.32(n) that residential oil burners be eligible only in heating systems which cannot be adjusted to achieve a minimum efficiency level specified for each heating zone. FEA has retained this requirement because residential users should get the immediate energy conservation benefits and cost savings of furnace adjustment, the cost of which is low relative to installation of a replacement oil burner. Moreover, it is likely that cost recovery for a residential oil burner will not be attained where indicated efficiency levels can be achieved by furnace adjustment. As for its impact on businessmen, FEA finds retention of this requirement will not be burdensome or overly complex for oil dealers and others who install this equipment because these businessmen are presumed knowledgeable concerning furnace adjustment and their operations are generally restricted to one heating zone.

FEA's judgment that 82 percent efficiency is a reasonable expectation from new burners was confirmed by comments. However, FEA recognizes that this performance is predicated on proper matching of the new burner with other components of the heating system.

O. INDIVIDUAL METERS

One comment suggested that this energy conservation measure be limited to changes from master to individual metering without changing energy sources. FEA believes this requirement was self evident in the proposed language of § 450.32(o) and has therefore not made any change.

P. BURNERS AND CONTROLS FOR COMMERCIAL BUILDINGS AND INDUSTRIAL PLANTS

One comment noted that the requirements for this energy conservation measure are very stringent. The proposed requirements are retained in the final rule because cost recovery is only likely where there is a large gain in efficiency. Other comments concurred with the requirements of this energy conservation measure. Again, FEA recognizes that expected performance is predicated on properly matched heating system components.

Q. LIGHTING CONTROLS

No comments were received, and no changes have been made.

R. HVAC CONTROL SYSTEM

One comment suggested that automated computer, microprocessor and logic controller devices be included in this energy conservation measure. FEA agrees and has added § 450.32(r)(6) to include these modifications.

S. HIGH EFFICIENCY ELECTRIC MOTORS

One comment noted that the specifications in the proposed rule were based on totally enclosed fan cooled motors but that other categories of motors can achieve similar efficiencies at even lower costs. Upon further consideration, FEA concludes that the energy measure should be both broadened and simplified. Therefore, FEA has changed the requirement so that § 450.32(s) requires only that the efficiency improvement be as specified and that the service duty be substantially continuous, which means 5,000 hours minimum annual use.

Broadening of this energy conservation measure to include motor controls as well as motors to achieve high efficiency electric motor operation was suggested by another comment. Motor controls capable of achieving the stated efficiency increase are judged by FEA to be likely to cost less than a high efficiency motor itself. Accordingly, § 450.32(s) includes such controls.

One comment noted a discrepancy between the technical support document and the proposed rulemaking. The technical support document stated that the attributed life was 10 years, and proposed § 450.32(s) was calculated upon the basis of an attributed life of 7.5 years. FEA finds the attributed life to be 10 years as stated in the technical support document, and the revised subparagraph is consistent with this conclusion.

T. VENTILATION

Some comments suggested that ventilation devices other than the whole house ventilation fan be included in the list of energy conservation measures. Test results submitted have been reviewed, and FEA remains unconvinced that other ventilation devices can be included at this time. After joint industry-government tests which have been planned are conducted, FEA may obtain more reliable information which could serve as a basis to reconsider inclusion of other ventilation devices.

U. ADDITIONS TO THE LIST

Several comments suggested the addition of modifications to the list which were not previously proposed by FEA. FEA is reluctant to add such modifications to the list without first providing an opportunity for public review and comment. FEA believes that some of the modifications recommended appear unlikely to meet the criteria for an energy measure. An example is a respiratory personnel protection system, which appears to be primarily for occupational health and safety purposes.

FEA will modify the list when a modification can be properly assessed and when a revision of the energy measures list is appropriate.

4. SECTION 450.33 RENEWABLE-RESOURCE ENERGY MEASURES AND SECTION 450.34 REQUIREMENTS FOR RENEWABLE-RESOURCE ENERGY MEASURES

Proposed § 450.34 has been revised because many comments apparently misunderstood the requirement for a verification audit. FEA has determined that, with two exceptions, the likelihood of cost recovery cannot be ascertained, at this time, without a verification audit. Therefore § 450.34(a) requires use of an energy audit except for the two applications set forth in § 450.34 (b) and (c) respectively, each of which requires the use of a simple formula for establishing cost recovery. However, a person may choose to use a verification audit in lieu of the formulas. A person may select this option, for instance, to obtain more precise information about energy and cost savings or where information required for the formula cannot be obtained.

Three comments expressed concern that FEA was favoring electricity over more efficient fuel systems by mentioning only measures which use or generate electricity. FEA has selected energy measures which it believes most effectively meet the requirements of the Act. Some of these may require the use of electricity; others, such as a wood-fired boiler or an urban waste pyrolysis system, may not. The purpose of designating renewable-resource energy measures is to encourage the use of nondepletable resources.

The Act requires an increase in efficiency for an energy conservation measure but not for a renewable-resource energy measure. The reason for the distinction is that increased efficiency need not be demonstrated for a renewable-resource energy measure so long as the use of a renewable-resource results in the decreased use of a depletable energy source. Accordingly, although the list is not intended to favor the use of electricity, the renewable-resource energy measures are intended to diminish the use of oil and gas which are depletable sources of energy by substitution of nondepletable sources. Furthermore, FEA has developed the list of renewable-resource energy measures so that there will be a net decrease in the consumption of a depletable energy source resulting from a change of energy systems required by the installation of a modification.

A. SOLAR WATER HEATER

No comments were received and no changes have been made.

B. AIR SOURCE HEAT PUMP

Four comments recommended the exclusion of heat pumps because such equipment does not utilize a renewable-resource. FEA has determined that an air source heat pump extracts a portion of the heat contained in the ambient air which has been heated by the sun outside of a building and transfers it into the building, thereby using solar energy as a resource to heat the building. The electric energy necessary to run the heat pump is not assumed to be derived from a renewable resource, so only a part of the fuel requirements of a building are changed to a renewable energy source by installing a heat pump. However, the





Act specifically defines a renewable-resource energy measure to include a change "in whole or part" from a depletable to a non-depletable source of energy, and FEA has determined that a heat pump satisfies this requirement.

Three comments recommended that an air-source heat pump be removed from the list because its use tends to encourage purchase by the consumer of a reverse-cycle heat pump which also provides air conditioning. They argued that the resulting use of air conditioning could cause an increase in the consumption of a depletable energy source in excess of the system it replaced. FEA recognized this in the proposed rulemaking and, for this reason, requires an energy audit for the installation of a reverse-cycle heat pump except when the installation replaces both electric resistence heating and air conditioning. Where electric air conditioning already is in operation, FEA concluded that it is highly likely there would be a net saving in energy costs attributable to the heating cycle performance of the heat pump.

Six comments recommended that the heat pump be excluded from the list because a heat pump uses electricity and stated that electricity is a very inefficient energy system by comparison with heating systems which use oil or gas.

FEA does not deny that oil and gas home heating systems may, in many cases, be more efficient in their use of depletable resources than a heat pump system. It is for precisely this reason that FEA structured the list so that the procedure specified in § 450.34(c) only be used when a heat pump is to be installed in place of an electric resistance heating system. Several comments indicated that a heat pump will significantly reduce fuel consumption when installed to replace an electric resistance heating system, and FEA has also reached this conclusion. The installation of a heat pump requires an energy audit to ensure that there is a change to a nondepletable source of energy pursuant to § 450.34(a) except where—(1) a heat pump with only heating capability replaces electric resistance space heating; or (2) a reverse cycle heat pump replaces electric resistance space heating and air-conditioning.

One comment indicated that insufficient information is available to a consumer considering the purchase of a heat pump to enable him or her to carry out the calculation provided in proposed § 450.34(a). FEA, however, believes that in most instances a consumer can obtain the needed information. Where this is impracticable, a verification audit is required.

One comment reflected a concern that prices for electricity used to develop the values in the Table of Climatic Factors for heat pumps in proposed § 450.34(c) do not accurately reflect electric heating costs the homeowner will actually pay. The homeowner uses his or her actual previous year's heating cost to compensate for variations between actual heating costs and regional electric prices. The purpose of the Table is to determine the estimated cost savings attributable to the installation of a heat pump taking into consideration regional use projections. The result, however, is adjusted for the homeowner by the use of his or her actual heating costs.

Three comments questioned FEA's decision not to use a heat pump coefficient of performance (COP) in its formulation of the Table of Climatic Factors. FEA used a heat pump seasonal performance factor (SPF). The use of SPF includes the heat pump COP and additional factors. SPF takes into account heat pump capacity and degree hours at various temperature ranges and includes consideration of the supplemental resistance heat required at low temperatures. SPF, but not COP, allows for a evaluation of the performance of heat pump in changing temperatures and FEA considers it to be a better overall indicator of annual performance.

FEA used data provided by manufacturers in its analysis of a heat pump. One comment mentioned a heat pump study conducted by the National Bureau of Standards which reported discrepancies between the data found by testing and data published by one manufacturer. FEA does not conclude that this study provides a reasonable basis for an inference that data supplied by a manufacturer is likely to be inaccurate.

FEA believes that its calculations are based upon the performance of a representative heat pump and that it has used accurate data. However, additional research is being conducted in both the government and the private sector, and FEA welcomes the submission of new information. FEA will review its Table of Climatic Factors in the light of new information and data as may be appropriate.

Two comments recommended the exclusion of a heat pump because it is an "appliance". FEA finds that an air-source heat pump is an integral part of the central heating system of a structure, and thus is not an appliance. For purposes of Part 450, the definition of "appliance" in § 450.3 makes this clear. A modification may constitute a "consumer product" under Part B of Title V of the Energy Policy and Conservation Act, 42 U.S.C. 6201. However, this does not necessarily indicate that such a consumer product is an "appliance" as that term is used by FEA for an energy measure under the Act. Part B does not use or define the term "appliance".

One comment addressed the reliability and repair cost of heat pumps, suggesting that heat pump failure rates and associated repair costs were excessive, and requested that heat pumps be eliminated from the list for that reason. FEA has determined that maintenance and repair costs which can reasonably be anticipated are likely to be more than repaid by the energy savings resulting from replacing an electric resistance heating system with a heat pump. Two comments expressed concern over FEA's determination of a 15 year heat pump life. FEA held discussions with the National Bureau of Standards and several major heat pump manufacturers to collect information to determine a valid system life for residential heat pumps. On the basis of these discussions, FEA has chosen a system life of 15 years as the most valid assumption for and has thus retained the 15 year life figure in §450.34(c).

One comment expressed concern that FEA does not provide a method for calculating annual electric space heating costs in proposed § 450.34(c)(3)(ii). FEA does not believe that one method should be prescribed by regulation. Several methods can be used, each of which provides satisfactory results. A method acceptable to FEA for determining the annual space heating costs is to choose a month when neither heating nor air-conditioning was used. The electricity cost for this month is the appliance base load. Subtracting this amount from each month's electric bill when heating was required will give the heating cost for each month. The previous year's total heating cost is the sum of the monthly heating costs.

C. WATER SOURCE HEAT PUMP

One comment reflected concern that FEA did not establish requirements for the installation of a water-source heat pump. This results from a misunderstanding. A verification audit is required for this energy measure in accordance with § 450.34(a), regardless of the system it is replacing. The energy audit will indicate whether the installation of a water-source heat pump will result in a decrease or an increase in the use of depletable energy resources.

D. ADDITIONAL COMMENTS

One comment reflected concern over the inclusion of a water-powered generator proposed in § 450.33(q). The renewable-resource used by a water-powered generator is the potential and kinetic energy in moving water, and FEA believes that the energy audit requirement will assure that its use will not result in an increased use of depletable resources.

Another comment reflected a concern that the use of a skylight may not necessarily result in a reduction in energy consumption. FEA finds that the requirement that this measure undergo an energy audit ensures that any such installation will meet the requirements of the law, and a skylight is listed as an energy measure in § 450.33(g).

One comment recommended a wording change with regard to proposed §§ 450.33 (k) and (n) to allow the inclusion of the word "system" to describe these measures. The final rule has been changed by referring to a "system" with regard to an energy measure to make clear that all components necessary for the proper operation of an energy measure are included as part of the measure, and proposed § 450.33 (b), (c), (f), (i), (j), (k), (n), (o), and (q) have been revised accordingly.

One comment recommended the inclusion of "hydraulic ram pumps" on the list. An hydraulic ram pump is a device



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which uses the energy in moving water to provide pressurized running water for a building. FEA finds that it has insufficient information to determine whether such a modification is an energy measure. However, FEA welcomes the submission of additional information concerning this technology.

One comment urged the addition of ocean thermal energy conversion to the list of measures. While ocean thermal gradients constitute a potentially renewable source of energy, FEA has determined that the technology does not currently meet the standards for selection of energy measures.

E. SECTION 450.35 CLIMATE ZONES

A comment suggested that Puerto Rico and the American Virgin Islands be included in cooling zone 1. FEA agrees and has changed the climate zones to include these jurisdictions in cooling zone 1 and heating zone 0.

The proposed regulation was reviewed in accordance with Executive Order 11821 and OMB Circular A-107 issued November 7, 1976, by Executive Order 11949 and has been determined not to be a major proposal requiring an evaluation of its inflationary impact.

(Part B of Title IV of the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1125 et seq.; also issued under Part C of Title III of the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 871 et seq., 42 U.S.C. 6321 et seq.; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, 15 U.S.C. 761 et seq.; Executive Order 11790, 39 FR 23185).

In consideration of the foregoing Part 450, Subchapter D, Chapter II of Title 10 Code of Federal Regulations is amended as set forth below, effective immediately.

Issued in Washington, D.C., July 15, 1977.

ERIC J. FYGI,
*Acting General Counsel,*
*Federal Energy Administration.*

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1. In 10 CFR Part 450, the title of the part is revised to read as set forth above.

2. Section 450.1 is revised to read as follows:

**§ 450.1 Purpose and scope.**

This part designates energy measures and the types of, and requirements for, energy audits as required by the Federal Energy Administration, pursuant to section 432(d) of the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1125 et seq., which adds section 365(e) (1) and (2), 42 U.S.C. 6325(e) (1) and (2), to the Energy Policy and Conservation Act, 42 U.S.C. 6201 et seq. This part also contains the projections of future energy prices which shall be used in calculating the changes in energy costs which will result from installation of a particular modification in a building or industrial plant, and includes the criteria for determining whether the installation of a particular modification meets certain requirements of the Act for designation as an energy measure.

3. 10 CFR 450.3 is amended to add, in appropriate alphabetical sequence, definitions of ASTM Standard, ANSI Standard, climatic zone, compressor hours, cooling degree days, cooling zone, Federal Region, heating degree days, heating zone, HVAC, IEEE Standard, and R-Value.

**§ 450.3 Definitions.**

* * * * *

"ANSI Standard" means a standard prescribed by the American National Standards Institute.

* * * * *

"ASTM Standard" means a standard prescribed by the American Society for Testing and Materials.

* * * * *

"Climatic zone" means a geographical area of the United States designated by FEA.

"Compressor hours" means the average number of hours which an air conditioning compressor must operate to provide the cooling needed for space conditioning for a cooling zone.

"Cooling degree days" means the annual arithmetic sum of the negative differences of the average daily outside temperature, in degrees Fahrenheit, subtracted from 65 degrees Fahrenheit.

"Cooling zone" means a climatic zone based on cooling degree days or compressor hours.

* * * * *

"Federal Region" means one of the 10 standard regions as described in OMB Circular A-105, Standard Federal Regions.

"Heating degree days" means the annual arithmetic sum of the positive differences of the average daily outside temperature, in degrees Fahrenheit, subtracted from 65 degrees Fahrenheit.

"Heating zone" means a climatic zone based on heating degree days.

"HVAC" means heating, ventilating and air conditioning.

* * * * *

"IEEE Standard" means a standard prescribed by the Institute of Electrical and Electronic Engineers.

* * * * *

"R-Value" means a measurement of the ability of insulation to resist the flow of heat, expressed in English units at the mean temperature of the insulation under design conditions.

4. Part 450 is amended by establishing Subpart D as follows:

**Subpart D—Energy Measures**

Sec.
450.30 Purpose and scope.
450.31 Energy conservation measures.
450.32 Requirements and limitations for energy conservation measures.
450.33 Renewable-resource energy measures.
450.34 Requirements for renewable-resource energy measures.
450.35 Climate zones.

AUTHORITY: Part B of Title IV of the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1125 et seq.; also issued under Part C, Title III, of the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 871 et seq. (42 U.S.C. 6321 et seq.); Federal Energy Administration Act of 1974, as amended, Pub. L. 93-225 (15 U.S.C. 761 et seq.); E.O. 11790, 39 FR 23185.

**§ 450.30 Purpose and scope.**

This part establishes a list of energy conservation and renewable-resource energy measures developed by FEA after consultation with the Secretary of Housing and Urban Development Depletion of the Nation's domestic resources of fossil fuels has created a need to identify energy measures which can be carried out in residential and commercial buildings and industrial plants.

**§ 450.31 Energy conservation measures.**

Subject to the requirements and limitations set forth in § 450.32, an energy conservation measure shall be—

(a) Ceiling insulation in a residential or commercial building, which is a material which is installed on the surface of the ceiling facing the building interior or between the heated top level living area and the unheated attic space and which resists heat flow through the ceiling;

(b) Wall insulation in a residential or commercial building or industrial plant, which is a material which is installed on the surface facing the building interior, or in the cavity, of an exterior wall and which functions to resist heat flow through the wall;

(c) Floor insulation in a residential or commercial building, which is a material which resists heat flow through the floor between the first level heated space and the unheated space beneath it, including a basement or crawl space;

(d) Insulation for hot bare pipes in a residential or commercial building or industrial plant, which is a material which resists heat flow from the pipes to the surrounding space;

(e) (1) Caulks and sealants in a residential or commercial building or industrial plant, which are nonrigid materials placed in joints of buildings to prevent the passage of heat, air and moisture;

(2) Weatherstripping in a residential or commercial building or industrial plant, which consists of narrow strips of flexible material placed over or in movable joints of windows and doors to reduce the passage of air and moisture;

(f) Roof insulation in a commercial building or industrial plant, which is insulation placed on the surface of the roof facing the building interior or between a roof deck and its water repellent roof surface;

(g) Clock thermostat in a residential building, which is a temperature control device for interior spaces incorporating more than one temperature control point and a clock for switching from one control point to another;

(h) Exterior insulation for a hot water heater in a residential or commercial building or industrial plant, which is a material placed around the tank which resists the heat flow from the hot water heater to its surrounding space;





(i) Insulation for forced air ducts in a residential or commercial building or industrial plant, which is a material which resists heat flow from the duct to its surrounding space;

(j) Storm window in a residential or commercial building, which is an extra window, normally installed to the exterior, but which may be installed to the interior, of the primary or ordinary window, to increase resistance to heat flow and to decrease air infiltration;

(k) Efficient lighting fixture or lamp in a residential or commercial building or industrial plant, which is one which—

(1) Replaces an incandescent fixture or lamp with a type of lighting system including fluorescent, mercury vapor, metal halide, and high pressure sodium or ellipsoidal reflector lamps; or

(2) Replaces a mercury vapor fixture or lamp with a high pressure sodium lighting system.

(l) Mixing valve for a hot water supply line in a residential or commercial building or industrial plant, which is a type of valve mounted in the hot water supply line, close to the water heater, which mixes cold water with hot, reducing the temperature of the water in the hot water distribution system;

(m) Flow restrictor for hot water lines in a residential or commercial building or industrial plant, which is a device that limits the rate of flow of hot water from shower heads and faucets;

(n) Burner for oil fired heating equipment in a residential building, which is a device which atomizes the fuel oil, mixes it with air and ignites the fuel-air mixture, and is an integral part of an oil fired furnace or boiler, including the combustion chamber;

(o) Individual meters to replace a master meter for gas, electricity and hot water in a commercial building, which are meters that measure the consumption of gas, electricity or centrally distributed hot water for individual users, instead of the total consumption which is measured by a master meter;

(p) (1) New oil burner in a commercial building or industrial plant, which is a device that meters, atomizes, ignites and mixes the oil with air for the combustion process of a boiler; or

(2) New boiler controls in a commercial building or industrial plant, which are devices that sense the need for reducing of increasing the firing rate and change the combustion air and oil flow rate accordingly;

(q) Controls for lighting in a residential or commercial building or industrial plant, which are manual or automatic cut off switches for lighting systems that allow cut off of all lighting or a portion of the lighting systems when lighting is not required;

(r) Automatic HVAC control system in a commercial building or industrial plant, which is a device which adjusts the supply of heating or cooling to meet space conditioning requirements;

(s) High efficiency electric motor or motor controls in a commercial building or industrial plant, which replace an existing motor or motor controls, resulting in not less than a specified increase in efficiency at a specified level of use, as determined by FEA; and

(t) Whole house ventilation fan in a residential building, which is a fan which removes air from the inside of a residential building to the outside.

**§ 450.32 Requirements and limitations for energy conservation measures.**

(a) Ceiling insulation shall be that amount which is required to raise the total ceiling insulation in a heating zone as measured by an R-Value, to levels not greater than—

| Heating zone: | *R-Value* |
|---|---|
| 0 | 26 |
| 1 | 26 |
| 2 | 26 |
| 3 | 30 |
| 4 | 33 |
| 5 | 38 |

(b) Wall insulation shall be eligible in heating zones 2, 3, 4, and 5.

(c) Floor insulation shall be that amount which is required to raise the total floor insulation in a heating zone, as measured by an R-Value, to levels not greater than—

| Heating zone: | *R-Value* |
|---|---|
| 0 | 0 |
| 1 | 0 |
| 2 | 13 |
| 3 | 19 |
| 4 | 22 |
| 5 | 22 |

(d) Insulation for hot bare pipes shall be eligible in all climate zones.

(e) Caulks, sealants, and weatherstripping shall be eligible in all climate zones.

(f) Roof insulation shall be no greater than that amount which is required to raise the total insulation to the level of R-Value 20 in heating zone 5. In all other heating zones, this amount of roof insulation is eligible where the structure is air conditioned by an absorption chiller.

(g) Clock thermostats shall automatically change a temperature setting to match heating and cooling demands, and complete not less than one cycle of adjustment in a 24 hour period, in all climate zones.

(h) Exterior insulation for hot water heaters shall be no greater than that amount which is required to raise the total exterior insulation to the level of R-Value 19, in all climate zones.

(i) Insulation for forced air ducts shall be no greater than that amount which is required to raise the total insulation to the level of R-Value 19, in all climate zones.

(j) Storm windows shall be eligible in heating zones 2, 3, 4, and 5, provided that existing windows are single glazed.

(k) Efficient lighting fixtures and lamps shall produce more than twice the useful light per watt of the lighting system they replace, in all climate zones.

(l) Mixing valves for an hot water supply line shall be capable of manual adjustment of water temperature, without water shut off or disconnection, in all climate zones.

(m) Flow restrictors for hot water lines shall be eligible for all shower heads and faucets in all climate zones.

(n) Residential burners for oil fired heating equipment shall—

(1) Cost less than $340 installed;

(2) Be certified by the manufacturer to be capable of yielding an efficiency rating of 82 percent or higher in a new furnace as measured by a standard steady state efficiency test measuring $CO_2$ and stack temperature; and

(3) Replace inefficient burners, which shall be burners that cannot be adjusted using the procedures and tests prescribed in E.P.A. publication 600/2-75-069A, entitled Guidelines for Residential Oil Burner Adjustments, Oct., 1975, to perform at an efficiency not less than—

| Zone: | *Efficiency after adjustment* |
|---|---|
| 0 | 0.57 |
| 1 | .65 |
| 2 | .69 |
| 3 | .73 |
| 4 | .74 |
| 5 | .75 |

(o) Individual meters to replace master meters for gas, electricity and hot water shall be permitted in all climate zones.

(p) New commercial or industrial oil burners and controls shall—

(1) Replace oil burners that cannot maintain 10 percent $CO_2$ at ¼ firing rate, 11 percent $CO_2$ at ½ firing rate and 14 percent $CO_2$ at full firing rate, while producing less than number two smoke spot number for No. 2 oil or less than number three smoke spot number for No. 6 oil, using the test prescribed in ASTM Standard D2156-65(70); and

(2) Be certified by the manufacturer to maintain 11 percent $CO_2$ at ¼ firing rate, 12.5 percent $CO_2$ at ½ firing rate, and 14.5 percent $CO_2$ at full firing rate, while producing less than number two smoke spot number for No. 2 oil or less than number three smoke spot number for No. 6 oil using the test prescribed.

(q) Controls for lighting shall be installed on a circuit having a wattage of more than 1,500 watts for automatic controls and 400 watts for manual branch circuit switches, in all climate zones.

(r) HVAC controls, in all climate zones, shall be—

(1) Automatic, turn down, time actuated thermostats;

(2) Steam controls, valves, thermostats, timers, or external temperature sensors to limit space temperatures;

(3) Economizer controls and systems to utilize outside air in lieu of conditioned air when outside air temperatures will assist;

(4) Controls to reduce air distribution volume to meet demand;

(5) Controls to reduce heating or air conditioning systems output to minimum levels during unoccupied periods; or

(6) Automated computer, microprocessor and logic controller associated with HVAC control.

(s) High efficiency motors or motor controls shall have substantially con-



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tinuous annual use, 5,000 hours minimum, and shall increase efficiency of operation not less than—

| Motor horsepower: | *Efficiency increase percentage points* [1] |
|---|---|
| 1.5 | 5.7 |
| 2 | 5.4 |
| 5 | 3.9 |
| 7.5 | 3.9 |
| 10 | 3.4 |
| 15 | 3.0 |
| 20 | 2.4 |
| 25 | 2.3 |

[1] Efficiencies shall be determined by IEEE standard 112A method B, under ANSI standard C.50.2. Percentage points efficiency increase is the arithmetic sum of the efficiency of the new motor operation less the efficiency of the existing motor operation.

(t) Whole house ventilation fans shall have the capacity to provide one complete exchange of air in less than two minutes, provided that the residential buildings are air conditioned and located in cooling zones 1, 2, or 3.

**§ 450.33 Renewable-resource energy measures.**

Subject to the requirements set forth in § 450.34, a renewable-resource energy measure shall be a—

(a) Solar water heater, which is a system which captures energy radiated by the sun, and uses it to heat water;

(b) Air source heat pump, which is a system which is part of the central heating system and which has the capability of extracting heat from a body of air and transferring this heat to a body of liquid or to another body of air for space conditioning purposes;

(c) Water source heat pump, which is a system which is part of the central heating system and which has the the capability of extracting heat from a body of water and transferring this heat to another body of liquid or to a body of air for space conditioning purposes;

(d) Solar space heating or cooling system, which is a system which captures energy radiated by the sun, and uses it for space conditioning purposes;

(e) Solar process heating system, which is a system which captures energy radiated by the sun for use in industrial or agricultural processes;

(f) Solar powered pump, which is a system which captures energy radiated by the sun, and uses this energy to power a pump;

(g) Skylight, which is a device which is installed to replace small portions of a roof for the purpose of supplying a portion of the lighting requirements of a building;

(h) Solar electric dispersed photovoltaic system, which is a system which involves the use of small arrays of cells which convert solar radiation into electric power for on-site use;

(i) Wind powered generator, which is a system which captures and stores the energy transmitted by the wind and transforms this energy into electric power;

(j) Wind powered water pump, which is a system which captures the energy transmitted by the wind and uses this energy to extract water from a reservoir;

(k) Urban waste-fired boiler, which is a system which is partially or entirely fueled by refuse or a refuse derived fuel;

(l) Urban waste pyrolysis system, which is a system which uses urban wastes as a fuel and processes the wastes into a liquid or gaseous fuel;

(m) Agricultural waste-fired boiler, which is a system which is partially or completely fueled by agricultural residues;

(n) Wood-fired stove, which is a stove fueled by wood and which is installed primarily for space conditioning purposes;

(o) Wood-fired boiler, which is a system which is partially or completely fueled by wood or wood residues;

(p) Geothermal space heating or cooling system, which is a system that uses heat extracted from the earth for either electrical generation or space conditioning purposes; and

(q) Water powered generator, which is a system which captures and stores the energy contained in moving water and transforms this energy into electricity.

**§ 450.34 Requirements for renewable-resource energy measures.**

(a) Except as provided in paragraphs (b) or (c) of this section, a renewable-resource energy measure listed in § 450.33 must be evaluated by a verification audit in accordance with the procedures in Subpart C of this part to determine whether cost savings in a specific application are sufficient to recover the costs of purchase and installation within the attributed life of the energy measure.

(b) A solar water heater shall not be required to be evaluated by a verification audit if it is a system which—

(1) Is installed in a residential building; and

(2) Replaces an electric resistance water heater; and

(3) Is purchased, installed, and maintained at a total cost which shall not exceed the maximum allowable cost which shall be computed by—

(i) Selecting the correct system life factor in the Federal Region in which the system will be installed for the attributed life of the solar heater specified by the manufacturer in the following table—

*Table of system life factors*

| Federal region | Years | | | |
|---|---|---|---|---|
| | 10 | 15 | 20 | 25 |
| 1 | 280 | 340 | 380 | 410 |
| 2 | 270 | 330 | 370 | 390 |
| 3 | 280 | 350 | 390 | 420 |
| 4 | 300 | 370 | 410 | 440 |
| 5 | 290 | 360 | 400 | 430 |
| 6 | 330 | 410 | 460 | 490 |
| 7 | 290 | 360 | 400 | 430 |
| 8 | 280 | 350 | 390 | 410 |
| 9 | 300 | 370 | 420 | 445 |
| 10 | 320 | 400 | 460 | 490 |

(ii) Multiplying the system life factor by the current year's electricity rate for water heating in effect for the user of the system to be installed expressed in cents per kilowatt hour; and

(iii) Multiplying the product by the percent of the total hot water demand the system will supply.

(c) An air source heat pump shall not be required to be evaluated by a verification audit if it is a system which is—

(1) Installed in a residential building; and

(2) (i) A heat pump with only heating capability which replaces electric resistance space heating; or

(ii) A heat pump with both heating and cooling capability which replaces electric resistance space heating and air conditioning; and

(3) Purchased, installed, and maintained at a total cost which shall not exceed the maximum allowable cost which shall be computed by—

(i) Selecting the correct climate zone factor for the Federal Region and heating zone in which the system will be installed using the following table—

*Table of climatic factors*

| Federal region | Heating zones | | | | | |
|---|---|---|---|---|---|---|
| | 0 | 1 | 2 | 3 | 4 | 5 |
| 1 | — | — | — | 3.9 | 2.8 | — |
| 2 | — | — | 3.9 | 3.8 | 2.7 | — |
| 4 | 5.1 | 4.8 | 4.3 | — | — | — |
| 5 | — | — | 4.2 | 4.1 | 2.9 | 2.7 |
| 6 | 5.6 | 5.4 | 4.8 | 4.7 | 3.4 | — |
| 7 | — | — | 4.3 | 4.2 | 3.0 | — |
| 8 | — | — | — | 4.0 | 2.8 | 2.6 |
| 9 | — | 4.9 | 4.4 | 4.3 | 3.1 | — |
| 10 | — | — | 4.7 | 4.6 | 3.3 | — |

NOTE.—Dashes in table correspond to points where a heating zone and a Federal region do not coincide.

(ii) Multiplying this factor by the previous year's heating cost for the user of the system to be installed.

**§ 450.35 Climate zones.**

(a) FEA shall determine whether to restrict an energy measure to a climate zone.

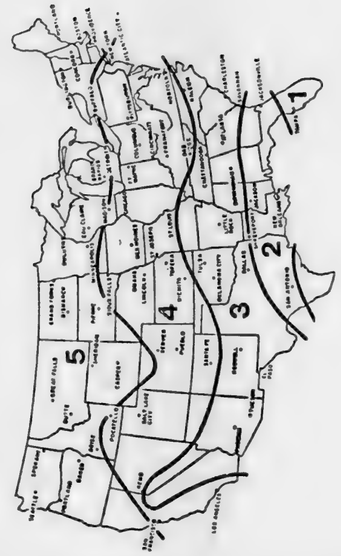
(b) FEA shall designate climate zones, consisting of heating zones as shown in Appendix B or cooling zones as shown in Appendix C.





Appendix C

COOLING ZONES FOR ENERGY MEASURES



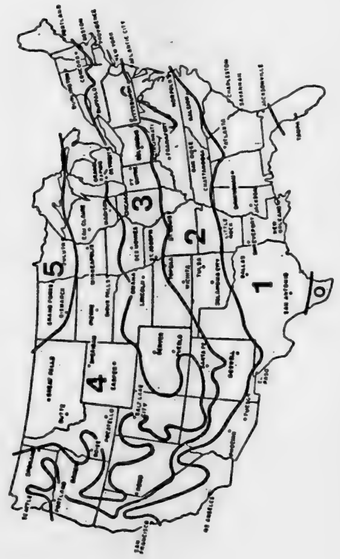

Notes:

1. Alaska is included in Cooling Zone 5.
2. Hawaii, Puerto Rico and the Virgin Islands are included in Cooling Zone 1.

[FR Doc.77-21084 Filed 7-22-77;8:45 am]

Appendix B

HEATING ZONES FOR ENERGY MEASURES




Notes:

1. Alaska is included in Heating Zone 5.
2. Hawaii, Puerto Rico and the Virgin Islands are included in Heating Zone 0.



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Title 12—Banks and Banking

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 720—DESCRIPTION OF OFFICE, DISCLOSURE OF OFFICIAL RECORDS, AVAILABILITY OF INFORMATION, PROMULGATION OF REGULATIONS

**Updating and Clarification of Regulations**

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: Certain updates and clarifications are hereby added to the National Credit Union Administration's regulations on description of offices, disclosure of official records, availability of information, and promulgation of regulations. An introductory paragraph is added to clarify that the Regulations set forth in this Part apply to the National Credit Union Administration only and do not apply to Federal credit unions. The Section on central and regional organization is amended to reflect certain restructuring and redefinitions of duties. And the Section on fees for document search is amended to specify that fees for document search may be waived if the request originates from a member of Congress or from any Federal, State, or local government entity.

DATES: These regulations are to be effective July 25, 1977.

ADDRESS: National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Robert M. Fenner, Office of the General Counsel, National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456, telephone 202–254–9810.

SUPPLEMENTARY INFORMATION: 5 U.S.C. 553 excludes "rules of agency organization, procedure, or practice" from the general requirements of allowing comment periods for and delaying the effective dates of proposed rules. Since this rule deals with mere organizational technicalities, it falls within this exception and no comment period is necessary. The changes presented are already in effect and this publication is to serve simply as a notice of a final rule.

Accordingly, 12 CFR Part 720 is amended as set forth below:

The following introductory paragraph is hereby added as a paragraph (a) to § 720.1, and the existing paragraph is designated as (b).

**§ 720.1 Scope and application.**

(a) *Scope.* Subparts A and B of Part 720 implement the Federal Freedom of Information and Privacy Acts, respectively. Those Acts regulate the information practices of Federal agencies only, and thus, Part 720 pertains to the activities of the National Credit Union Administration only and does not apply to Federal credit unions.

* * * * *

Section 720.2(b) is revised as follows:

1. Subparagraph (3) is revised and redesignated as subparagraph (4).

2. Subparagraph (4) is redesignated as paragraph (5) and is revised by inserting after the words "divisions of Federal credit unions" the words "examiner training, and consumer inquiries." It is also revised by adding after the words "Directors of Chartering and Insurance, and Examination" the words "and Consumer Affairs" and by deleting the word "and" before the word "Examination."

3. Subparagraph (5) is redesignated as paragraph (3).

4. Subparagraph (7) is redesignated as subparagraph (9).

5. A new subparagraph is added, designated as subparagraph (7).

6. A new subparagraph is added, and designated as subparagraph (8).

7. Paragraphs (b)(4), (b)(7) and (b)(8) now read as follows:

**§ 720.2 Central and regional organization.**

* * * * *

(b) * * *

(4) *Assistant Administrator, Office of Administration.* The Assistant Administrator for Administration is the official custodian of records for the Administration and performs duties relating to management analysis, personnel management, career development, training (exclusive of examiner and credit union related training), equal employment opportunity, direction of general services, internal security, coordination of publication services, and is responsible for appellate determinations on requests for information. He is aided by a Deputy Assistant Administrator, Planning Officer, and Directors of Management Analysis, Personnel, Office Services, and Training and Career Development.

* * * * *

(7) *Assistant Administrator, Office of Fiscal Affairs.* The Assistant Administrator for Fiscal Affairs performs duties relating to the financial management activities of the Administration in the areas of preparation and control of financial plans, fiscal accounting and budget, management of the Operating and Share Insurance Funds, investments, assets acquired from liquidating credit unions, and operations of loan management and share payout functions. He also coordinates certain disbursing activities with respect to liquidations with the Assistant Administrator for Examination and Insurance. The Assistant Administrator for Fiscal Affairs is assisted by a Deputy Assistant Administrator, Budget Officer, and Directors of Financial Management, Acquired Assets, and Information Systems.

* * * * *

(8) *Assistant Administrator, Office of Research and Analysis.* The Assistant Administrator for Research and Analysis conducts research and analytical studies in the field of cooperative thrift and credit and other matters of concern to the Administration. Provides advice to the Administrator and operating officials concerning the use of qualitative and research techniques by the National Credit Union Administration for operations, programs, and policies. Serves as the repository for financial and statistical data for all federally insured credit unions, designs and conducts regular data collection programs and prepares various reports for use by the Administration. He is assisted by Directors of Research, and Statistical Analysis.

* * * * *

**§ 720.5 [Amended]**

8. Section 720.5(e) is amended by (i) inserting after the word "if" and before the words "the responsible officer" the following: "the request originates from a Member of Congress or from any Federal, State, or local governmental entity, or if"; and (ii) inserting the word "otherwise" after the words "Information Center" and before the word "determines."

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).)

LORENA C. MATTHEWS,
*Acting Administrator.*

JULY 7, 1977.

[FR Doc.77-21283 Filed 7-22-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-GL-17, Amdt. 39-2977]

PART 39—AIRWORTHINESS DIRECTIVES

**Detroit Diesel Allison Model 250B and 250C Series Engines**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires that the power turbine outer coupling nut Part Number (P/N) 6846278 installed in Detroit Diesel Allison 250–B15/17 and 250–C18/20 series engines be inspected, and replaced as necessary. Certain identifiable coupling nuts are subject to severe corrosion which could result in failure of the nut. This AD will identify those coupling nuts subject to corrosion thereby significantly reducing the probability of failure. Two failures of this type have resulted in disengagement of the power turbine resulting in $N_2$ overspeed and turbine disc failure.

DATE: Effective date—July 27, 1977. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: Copies of Detroit Diesel Allison Commercial Service Letters referenced herein may be obtained by contacting: Detroit Diesel Allison, Division of General Motors Corporation, P.O. Box 894, Indianapolis, Indiana 46206.

Copies of the service information incorporated in this AD are contained in the Rules Docket, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois 60018 and Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

W. Ashworth, Engineering and Manufacturing Branch, Flight Standards Division, AGL–214, Federal Aviation Administration, 2300 E. Devon Avenue, Des Plaines 60018, telephone: 312–694–4500, extension 308.

SUPPLEMENTARY INFORMATION: There recently have been two instances of power turbine outer coupling nut failures due to corrosion. Both failures resulted in catastrophic engine failure due to resultant disengagement of the power turbine.

Investigations revealed that in each instance, the most probable cause of these failures was excessive corrosion resulting from operation in extremely humid areas which have abnormal amounts of sulphur in the atmosphere. New P/N 6846278 coupling nuts are corrosion proofed with a coating that allows them to be identified visually.

Since this condition is likely to exist or develop in other engines of this type design with certain identifiable power turbine outer coupling nuts installed, an airworthiness directive is being issued to inspect and replace these nuts as necessary.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In accordance with Departmental Regulatory Reform, dated March 23, 1976, an evaluation of the anticipated impacts has been made and it is expected that within a normal range of pertinent considerations this final rule will be neither costly nor controversial.

DRAFTING INFORMATION

The principal authors of this document are W. Ashworth, Flight Standards Division, Great Lakes Region, and J. McLaughlin, Office of the Regional Counsel, Great Lakes Region.

ADOPTION OF THE AMENDMENT

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following Airworthiness Directive:

DETROIT DIESEL ALLISON. Applies to 250–B15/17 and 250–C18/20 series engines equipped with power turbine outer coupling nuts P/N 6846278 as installed in aircraft certificated in all categories.

Compliance schedule—Compliance required as follows unless previously accomplished

(a) For engines with turbine sections having more than 400 hours or one calendar year time in service since installation in an aircraft, initial compliance must be accomplished within the next 100 hours time in service.

(b) For engines with turbine sections having less than 400 hours and less than one calendar year time in service since installation in an aircraft, initial compliance must be accomplished within 500 hours or one year time in service since installation in an aircraft, whichever occurs first.

(c) For each turbine section incorporating an uncoated coupling nut which exhibits no evidence of corrosion, repetitive compliance is required at intervals not to exceed 500 hours or one calendar year time since last inspection, whichever occurs first.

To preclude possible engine failure resulting from power turbine outer coupling nut failure: Inspect the power turbine outer coupling nut P/N 6846278 in accordance with Detroit Diesel Allison Commercial Service Letter Number 88 for the C18 series, 1060 for the C20 series, 25 for the B15 series, and 1030 for the B17 series engines. All Service Letters are revision 3 or later FAA Approved revisions. If any evidence of corrosion is found the nut shall be replaced with a corrosion proofed nut, identified in the above referenced Allison Service Letters, before further flight, except that the aircraft may be flown in accordance with FAR 21.197 to a base where the repair can be performed. All P/N 6846278 coupling nuts not incorporating the corrosion proofing shall be removed from service at next turbine disassembly regardless of condition.

The Detroit Diesel Allison specifications and procedures identified in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). The Detroit Diesel Allison Service Letters incorporated herein may be obtained upon request to Detroit Diesel Allison, Division of General Motors Corp., P.O. Box 894, Indianapolis, Indiana 46206. These documents may also be examined at the FAA Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018 and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and the Great Lakes Region.

This amendment becomes effective July 27, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Des Plaines, Ill., on July 13, 1977.

LEON C. DAUGHERTY,
*Acting Director,*
*Great Lakes Region.*

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.77-21039 Filed 7-22-77;8:45 am]

[Docket No. 15549; Amdt. 39-2983]

PART 39—AIRWORTHINESS DIRECTIVES

**Hawker Siddeley Aviation, Ltd., Model DH–114 Airplanes**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires a modification and reidentification of the main landing gear damper ram on Hawker Siddeley Model DH–114 airplanes to prevent the possible seizure of the damper ram and subsequent damage to the airplane during landing.

DATES: Effective August 24, 1977. Compliance required within the next 300 hours time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable technical news sheet may be obtained from Hawker Siddeley Aviation, Ltd., Hatfield Hertfordshire, England, AL109TL, Attn: Technical Manuals Distribution Center.

The applicable service bulletin may be obtained from Dunlop Limited Aviation Division, Holbrook Lane, Foleshill, Coventry, Warwickshire CV6–4AA, England.

A copy of both the technical news sheet and service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Donald C. Jacobsen, Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium. Tel. 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires a modification and reidentification of the main landing gear damper ram on Hawker Siddeley Model DH–114 airplanes was published in the FEDERAL REGISTER at 41 FR 14898, April 8, 1976. The proposal was prompted by a report of damage occurring in the damper ram that could cause possible seizure of the damper ram and subsequent extensive damage to the aircraft during landing.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Although no objections were received, the FAA has reevaluated the need for the proposed amendment and determined that it should be adopted. Accordingly, the proposal is adopted without change.

The principal authors of this document are F. J. Karnowski, Europe, Africa, and Middle East Region, J. F. Zahringer, Flight Standards Service, and S. Hauselt, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

HAWKER SIDDELEY AVIATION, LTD. Applies to Model DH–114 airplanes certificated in all categories.

Compliance is required within the next 300 hours time in service after the effective date of this AD, unless already accomplished.





V 42 142 JUL 25 77 UMI

To prevent the possible seizure of the main landing gear damper ram, and consequent damage to the aircraft upon landing, accomplish the following:

(a) Modify the damper ram, P/N AC11164, in accordance with Part A of the section entitled "Accomplishment Instructions" of Dunlop Aviation Division Service Bulletin 32-824, dated April 5, 1973, or an FAA-approved equivalent.

(b) Upon completion of the modification specified in paragraph (a) of this AD, re-identify the modified damper ram as P/N AC65528, Mod. 1. (Hawker Siddeley Aviation, Ltd., Series: Heron (114), TNS. U. 15, Issue 2, dated April 30, 1973, refers to this same subject.)

This amendment becomes effective August 24, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 15, 1977.

R. P. SKULLY,
*Director,*
*Flight Standards Service.*

[FR Doc.77-21255 Filed 7-22-77;8:45 am]

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[Docket No. 77-WE-18-AD; Amdt. 39-2978]

## PART 39—AIRWORTHINESS DIRECTIVES

### Hughes Helicopters Model 369D Helicopter

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: An emergency airworthiness directive (AD) was issued by the Federal Aviation Administration on June 22, 1977, as a result of reports of failed laminations in the main rotor retention straps at exceptionally low service times. This AD requires an initial inspection and repetitive visual inspections for cracks or breaks in the strap laminates to prevent possible loss of a main rotor blade.

DATES: Effective—July 28, 1977 for all persons except those to whom it was made effective by air mail letter dated June 23, 1977. Initial compliance—Within the next 10 hours time in service after the effective date of this AD.

FOR FURTHER INFORMATION CONTACT:

Wallace M. Frei, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: There have been occurrences of Model 369D helicopters with one or more laminates broken in the main rotor strap pack. These defects have been found in straps having only 9 to 190 hours time in service. The first required inspection of the strap pack by type design is at 600 hours time in service. Three laminates in either the lead leg or the lag leg of any one of the five strap packs are allowed to break before the main rotor hub must be replaced. Since the causes of the broken straps are unknown at this time and it appears that enough laminates could break prior to the 600 hour inspection to create an unsafe condition the FAA concluded that mandatory safety action was necessary. This AD which requires visual inspection of the strap pack within 10 hours time in service and at intervals not to exceed 25 hours time in service thereafter is considered to provide the necessary safety action. These inspections are in addition to and do not supersede the 600 hour inspection for the strap pack per Hughes Handbook of Maintenance Instruction and this clarification has been added to the AD in the form of a note.

Subsequent to the issuance of the emergency AD, the manufacturer submitted several proposed substantive changes to the proposed FEDERAL REGISTER publication of the AD. Briefly stated, these changes included recommendations for extended compliance times within which to accomplish the required inspections, authorization for pilot crewmembers to perform the inspections in addition to certificated mechanics or other authorized persons, and authorization for issuance of special flight permits for hub replacements, although the presence of three or more cracked laminates was already known.

The FAA disagrees. Service data is insufficent at this time to permit extension of the compliance times in the AD. Also, the FAA believes that the inspection should be performed by certificated persons to ensure that level of airworthiness of the aircraft intended by the AD. Finally, data is insufficient to authorize issuance of special flight permits under FAR's 21.197 and 21.199 when three or more laminates are known to be cracked. The AD, as published herein, therefore adheres to the orginal substantive provisions of the emergency AD as to these matters.

This AD includes editorial changes, minor changes for clarification, and the addition of a reporting request to the text of the emergency air mail letter dated June 23, 1977.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. owners and operators of model 369D helicopters upon receipt of individual airmail letters dated June 23, 1977. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

DRAFTING INFORMATION

The principal authors of this document are James R. Haynes, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

HUGHES HELICOPTERS. Applies to Hughes Model 369D helicopters, certificated in all categories.

Compliance required as indicated.

To prevent failure of the main rotor retention straps which can result in loss of a main rotor blade accomplish the following:

(a) Within 10 hours time in service after the effective date of this AD, and at intervals not to exceed 25 hours time in service thereafter, visually inspect with a light and mirror for cracks or breaks in the main rotor retention strap pack lamination, P/N 369D-21210, in the area of, and within the pitch housing where the straps are accessible to view.

(b) If 3 or more laminates in either the lead leg or the lag leg of any one of the five strap packs are cracked or broken, replace the main rotor hub P/N 369D21200 with a serviceable hub prior to further flight and continue the inspection in (a) above at intervals not to exceed 25 hours time in service.

(c) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to operate aircraft to a base for the accomplishment of the inspection required by paragraph (a) of this AD.

(d) If cracked or broken laminates are found as a result of the inspections performed in compliance with this AD, it is requested that the aircraft serial number, rotor hub serial number, time in service and description of failures be reported to Chief, Aircraft Engineering Division, FAA Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009 (Reporting approved by the Office of Management and Budget under OMB No. 04-R-0174).

NOTE.—These inspections are in addition to and do not supersede the 600 hour inspection for the retention straps prescribed by the type certificate data sheet and Hughes Handbook of Maintenance Instruction.

This amendment becomes effective July 28, 1977, for all persons except those to whom it was made effective by airmail letter dated June 23, 1977 which contained this amendment.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Los Angeles, Calif. on July 13, 1977.

ROBERT H. STANTON,
*Director, FAA Western Region.*

[FR Doc.77-21027 Filed 7-22-77;8:45 am]





[Docket No. 77-WE-11-AD; Amdt. 39-2979]

## PART 39—AIRWORTHINESS DIRECTIVES

### McDonnell Douglas Model DC-8-62, -62F, -63 and -63F Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspections and repair of the wing structural compaments on all McDonnell Douglas Model DC-8-62, -62F, -63, and -63F airplanes to preclude the possibility of hazardous fatigue cracking of the wing structure.

DATES: Effective date—July 28, 1977. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: Copies of Douglas DC-8 Service Bulletins 54-58 and 57-83 may be obtained by writing to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846. Attention: L. A. Eisenberg, CI-750, 54-60.

Copies of the service bulletins are contained in the Rules Docket in Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Wallace M. Frei, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: On May 4, 1977, the FAA proposed to amend Part 39 of the Federal Aviation Regulation (14 CFR Part 39) by adding a new AD applicable to McDonnell Douglas Model DC -8-62, 62F, -63, and 63F airplanes (42 FR 24751). The AD requires inspection for cracks of the wing lower skin, tee doubler, and lower front spar cap at the pylon attach points and repair if necessary. McDonnell Douglas DC-8 Service Bulletins 54-58 and 57-83 pertain to this same subject.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all comments received in response to the notice of proposed rulemaking. Except for editorial changes, and except as specifically discussed, this amendment and the reasons for it are the same as those contained in the notice.

One commenter suggested changes to three different areas of the AD. In the first area, he states that the AD as written requires jacking of the wing for inspection. Since he has completed inspections of his fleet without using the jacking procedure, the AD as proposed would require that he redo all the inspections. He further states that the manufacturer advised that jacking was optional. The FAA agrees that the jacking procedure should be optional. The manufacturer has revised Service Sketch 2575 to so indicate.

In another comment, he suggested that the proposed Paragraph (f) was confusing, in that it called for repair of the tee doubler in accordance with DC-8 Service Bulletin 54-58, whereas Service Bulletin 54-58 only contains tee doubler crack limitations. The FAA agrees and Paragraph (f) has been revised to clarify that tee doublers must be replaced if cracked beyond the limits of Service Bulletin 54-58.

In his final comment, he suggested that the proposed Paragraph (h) is confusing, in that it apparently intended to allow ferry flight for repair, but actually speaks only to inspections. The FAA disagrees. It was not the FAA's intention to permit ferry with known cracked skin and/or spars. The FAA does not have data showing that such ferry flights could be accomplished without fear of structural failure if skin or spar cracking exists. However, a situation could occur, such as with a small operator operating under contract in areas outside the United States, where inspection facilities would not be available before the AD compliance time was exceeded. A ferry permit could allow that operator to fly to a base where such facilities could be found.

A second commenter stated that it was his understanding that the manufacturer had performed fatigue testing which showed that a tee doubler cracked within the limits of DC-8 Service Bulletin 54-58 would not have any detrimental effect on fatigue life of the wing skin. In light of these findings, the commenter felt that the FAA should review the test results and evaluate the experience of the operators in determining initial inspection thresholds and repetitive inspection intervals.

In establishing the inspection times of Service Bulletin 57-83, the manufacturer and the FAA did take into consideration the test data and service experience which was available. It was felt that the established hours were the maximum permissible commensurate with continued airworthiness of the airplane. The FAA does not know of any later data which would change those conclusions. The FAA agrees that tee doublers cracked within the limits of Service Bulletin 54-58 have been shown by test to be safe for continued flight and Paragraph (f) was intended to allow this. Because of possible confusion, Paragraph (f) has been revised as discussed above to clarify the meaning.

DRAFTING INFORMATION

The principal authors of this document are Everett W. Pittman, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

In consideration of the comments received and pursuant to the authority delegated to me by the Administrator, (14 CFR 11.89) § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

MCDONNELL DOUGLAS. Applies to Model DC-8-62, -62F, -63, and -63F airplanes, certificated in all categories.

Compliance required as indicated.

To detect cracks and prevent failure of the wing lower forward spar cap, tee doubler, and wing skin, comply with the following:

(a) For airplanes with 35,000 or more hours time in service on the effective date of this AD, within the next 800 hours time in service, unless already accomplished within the last 2400 hours, and thereafter at intervals not to exceed 3200 hours time in service, accomplish Paragraph (e).

(b) For airplanes with 30,000 to 34,999 hours time in service on the effective date of this AD, within the next 1200 hours time in service, unless already accomplished within the last 2000 hours, and thereafter at intervals not to exceed 3200 hours time in service, accomplish Paragraph (e).

(c) For airplanes with 25,000 to 29,999 hours time in service on the effective date of this AD, within the next 1600 hours time in service, unless already accomplished within the last 1600 hours, and thereafter at intervals not to exceed 3200 hours time in service, accomplish Paragraph (e).

(d) For airplanes with less than 25,000 hours time in service on the effective date of this AD, within the next 3200 hours time in service, unless already accomplished per McDonnell Douglas DC-8 Service Bulletin 57-83, and thereafter at intervals not to exceed 3200 hours time service, accomplish Paragraph (e).

(e) Perform an X-ray inspection of lower wing structure at all four pylon areas for cracks as outlined in Service Sketch 2575 of McDonnell Douglas DC-8 Service Bulletin 57-83, dated April 15, 1977, or later FAA approved revision.

(f) If cracks are found in the wing spar cap and/or wing skin as a result of the inspections of Paragraph (e), repair before further flight in accordance with the provisions of McDonnell Douglas DC-8 Service Bulletin 57-83, dated April 15, 1977 or later FAA approved revision. Cracked pylon tee doublers shall be replaced before further flight if the cracks exceed the limits in McDonnell Douglas DC-8 Service Bulletin 54-58, dated May 15, 1970, or later FAA approved revision.

(g) Equivalent inspections and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(h) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

This amendment becomes effective July 28, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on July 14, 1977.

ROBERT H. STANTON,
*Director, FAA Western Region.*

[FR Doc.77-21026 Filed 7-22-77;8:45 am]



V 42 142 JUL 25 77 UMI

[Airworthiness Docket No. 77-SW-15; Amdt. 39-2962]

## PART 39—AIRWORTHINESS DIRECTIVES

### Mooney Aircraft Corp. Models M20E, F, and J Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment is being issued to amend Airworthiness Directive (AD) 77-08-06 to revise the list of affected oil coolers and airplanes and to require removal of suspect oil coolers before further flight.

DATES: Effective date July 25, 1977, and was effective upon receipt for all recipients of the airmail letter dated July 8, 1977. Compliance required prior to further flight after the effective date of this AD except that the airplane may be flown in accordance with FAR 21.197 to a base where the removal can be performed.

FOR FURTHER INFORMATION CONTACT:

James O. Price, Office of the Regional Counsel, or Martin J. Saunders, Propulsion Section (ASW-214), Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: 817-624-4911, extension 524.

SUPPLEMENTARY INFORMATION: The FAA has received reports of failure in service of the Stewart-Warner Model 8423H oil coolers identified in Amendment 39-2877, 42 FR 21102 (AD 77-08-06), as amended by Amendment 39-2903, 42 FR 25723. Therefore, the compliance section of this AD is being revised.

The principal authors of this document are Martin J. Saunders, Flight Standards Division, and James O. Price, Office of the Regional Counsel.

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) Amendment 39-2877, 42 FR 21102, Airworthiness Directive 77-08-06 as amended by Amendment 39-2903 42 FR 25723 is amended as follows:

1. By amending the list of applicable airplanes to read as follows:

MOONEY. Applies to Models M20E (Serial Numbers 101 through 466, 470 through 1217, 1219, 1221, 1223 through 1308, 672001 through 670062, 690001 through 690073, 700001 through 700039, 700041 through 700043, 700045 through 700052, 700055, 700056, 700060, 700061, 21-0001 through 21-1180); M20F (Serial Numbers 670001 through 670363, 670365 through 670385, 670387 through 670482, 670484 through 670539, 680001 through 680206, 690001 through 690090, 690092, 700001 through 700061, 700063, 700066, through 700070, 700072, 22-0001 through 22-1437); M20J (Serial Numbers 24-0001 through 24-0237) airplanes.

2. By amending paragraph (a) of the compliance section to read as follows:

(a) Before the next flight of the affected airplanes, remove the engine cowl and visually check the engine oil cooler to determine whether it is a Stewart-Warner Model 8432H (S/N 001 and Up) 8432F (S/N 1610 through 1717).

(1) If the oil cooler is not of the model and serial numbers listed above, make an entry in the aircraft maintenance records indicating that this Airworthiness Directive (AD) has been accomplished and the airplane may be returned to service.

NOTE.—If your airplane was manufactured prior to March 1, 1975, and your oil cooler has not been replaced since that date, then your airplane does not have a suspect oil cooler.

(2) If the oil cooler is of a model and serial number listed above, before further flight after the effective date of this AD, the oil cooler must be removed and replaced with a serviceable Stewart-Warner Model 8432F-1 oil cooler, except that the airplane may be flown in accordance with FAR 21.197 to a base where the removal and replacement can be performed.

A pilot may perform the visual checks outlined in item (a)(1) above pursuant to the provisions of FAR 43.3(h).

NOTE.—For the requirements regarding the listing of compliance and method of compliance with paragraphs (a)(1) and (a)(2) of this AD in the aircraft permanent maintenance record, see FAR 91.173.

3. By deleting paragraph (b).

NOTE.—Mooney Service Bulletin M20-203, dated July 7, 1977, pertains to this same subject.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Amendment 39-2877 became effective on April 21, 1977, and was effective upon receipt for all recipients of the airmail letter dated April 15, 1977.

Amendment 39-2903 became effective May 19, 1977, and was effective upon receipt for all recipients of the airmail letter dated May 16, 1977.

This Amendment 39-2962 becomes effective July 25, 1977, and was effective upon receipt for all recipients of the airmail letter dated July 8, 1977.

Issued in Fort Worth, Texas, on July 8, 1977.

HENRY L. NEWMAN,
*Director, Southwest Region.*

[FR Doc.77-21040 Filed 7-22-77;8:45 am]

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[Airspace Docket No. 77-WE-10]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of a VOR Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will lower the floor of VOR Airway (V-257) between Grand Canyon, Ariz., and Bryce Canyon, Utah. This action will allow air traffic control to provide increased service to aircraft transiting into and out of Bryce Canyon Airport on V-257.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. David F. Solomon, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202-426-8530.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to lower the floor of VOR Airway (V-257) between Grand Canyon, Ariz., and Bryce Canyon, Utah. Subpart C of Part 71 of the Federal Aviation Regulations was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 307).

A recent flight inspection of a segment of V-257 revealed that lower flight altitudes could be used from Bryce Canyon, Utah, to the INT of the Bryce Canyon 161°M and the Page, Ariz., 261°M radials. The establishment of a noncompulsory reporting point is proposed for this INT to assist in reporting the safe position for an altitude change. For IFR flights to take advantage of the lower altitudes, the floor of the airway along this segment of V-257 is lowered.

Under the circumstances presented, the FAA concludes that this action is of benefit to the flying public and a minor matter on which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Mr. David F. Solomon, Air Traffic Service, and Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) is amended, effective 0901 GMT, October 6, 1977, as follows:

In § 71.123: V-257 "Grand Canyon; 38 miles 12 AGL, 40 miles 125 MSL, 26 miles 12 AGL, Bryce Canyon, Utah;" is deleted and "Grand Canyon; 38 miles 12 AGL, 24 miles 125 MSL, 16 miles 95 MSL, 26 miles 12 AGL, Bryce Canyon, Utah;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 19, 1977.

WILLIAM E. BROADWATER,
*Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.77-21256 Filed 7-22-77;8:45 am]





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## Title 17—Commodity and Securities Exchanges

## CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5843; 34-13758; 35-20112; 39-476; IC-9857; IA-596]

## PART 203—RULES RELATING TO INVESTIGATIONS

### Delegation of Authority To Furnish Copies of Formal Orders

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: In the interests of increased administrative efficiency, the Commission has delegated to Regional Administrators, Division Directors, Associate Directors and Assistant Directors authority to decide whether to furnish to witnesses copies of formal orders of investigation. Formerly this authority was limited to Division Directors. The amendment will relieve the Division Directors of a needless expenditure of time, and yet insure that the decision to grant these requests will be exercised by experienced senior personnel of the Commission.

FOR FURTHER INFORMATION CONTACT:

Thomas D. Hamill, Chief Counsel, Division of Enforcement, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-376-8131).

SUPPLEMENTARY INFORMATION: Under Rule 7 of the Commission's Rules Relating to Investigations, a witness shall, upon request, be shown a copy of the order of investigation. Prior to this amendment, the Rule further provided that witnesses shall not be provided with copies for their retention except with the express approval of the Director of the Division or Divisions conducting the investigation. As amended, the Rule authorizes Regional Administrators, and Associate and Assistant Directors of concerned Divisions, as well as Directors, to make this decision.

In view of the fact that this amendment relates solely to agency organization, procedure or practice, the Commission finds that notices and procedures under 5 U.S.C. 533 are unnecessary. Accordingly, 17 CFR Part 203 is amended by revising paragraph (a) of § 203.7 to read as follows:

**§ 203.7 Rights of witnesses.**

(a) Any person who is compelled or requested to furnish documentary evidence or testimony at a formal investigative proceeding shall upon request be shown the Commission's order of investigation. Copies of formal orders of investigations shall not be furnished, for their retention, to such persons requesting the same except with the express approval of a Regional Administrator, or a Director, Associate Director or Assistant Director of the Division or Divisions conducting or supervising the investigation. Such approval shall not be given unless the person granting such approval, in his discretion, is satisfied that there exist reasons consistent both with the protection of privacy of persons involved in the investigation and with the unimpeded conduct of the investigation.

* * * * * *

(15 U.S.C. 77s, 78w, 79t, 77sss, 80a-37, 80b-11).

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 15, 1977.

[FR Doc.77-21311 Filed 7-22-77;8:45 am]

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## Title 24—Housing and Urban Development

## CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 3208]

## PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

### Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to list those communities where the sale of flood insurance is authorized under the National Flood Insurance Program. Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state.

DATES: The date that appears in the fourth column of the table is the effective date of authorization for the sale of flood insurance.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line, 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234) requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The addresses of the National Flood Insurers Association Servicing companies where flood insurance policies can be obtained, are published at § 1912.7 (24 CFR Part 1912).

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronolgy of effective dates appears for each listed community. The entry reads as follows:



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**§ 1914.6 List of eligible communities.**

| State | County | Location | Effective date of authorization of sale of flood insurance for area | Hazard area identified | Community No. |
|---|---|---|---|---|---|
| • | • | • | • | • | • |
| Alabama | Mobile | Citronelle, city of | July 23, 1975, emergency; June 17, 1977, regular. | Jan. 31, 1975 | 010027A |
| Do. | Lauderdale | Florence, city of | May 24, 1973, emergency; May 16, 1977, regular; May 16, 1977, suspended; June 10, 1977, reinstated. | May 17, 1974<br>Mar. 26, 1976 | 010140A |
| Kentucky | Logan | Lewisburg, city of | Mar. 27, 1975, emergency; June 17, 1977, Regular. | May 17, 1974<br>Feb. 20, 1976 | 210149-B |
| South Carolina | Laurens | Clinton, town of | Apr. 4, 1974, emergency; June 17, 1977, Regular. | June 7, 1974<br>June 18, 1976 | 450123B |
| Illinois | Clinton | Unincorporated areas | June 10, 1977, emergency | Dec. 20, 1974<br>Apr. 15, 1977 | 170044A |
| Maine | Piscataquis | Medford, town of | June 22, 1977, emergency | Feb. 14, 1975 | 230410 |
| Do. | Cumberland | Bebago, town of | do | Jan. 17, 1975<br>Mar. 11, 1977 | 230206-A |
| New Jersey | Sussex | Green, township of | do | Nov. 1, 1974<br>May 14, 1976 | 340529-A |
| Maine | Penobscot | Hudson, town of | June 24, 1977, emergency | Jan. 14, 1977 | 230392A |
| New York | Cayuga | Conquest, town of | do | Aug. 16, 1974<br>Sept. 12, 1975 | 360108A |
| Oklahoma | Pittsburg | Aldersen, town of | June 23, 1977, emergency | Apr. 9, 1976 | 400257 |
| Do. | Comanche | Indianmoma, town of | June 24, 1977, emergency | Nov. 5, 1976 | 400288 |
| Washington | Wahkiakum | Cathlamet, town of | do | Apr. 2, 1976 | 530277 |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator (34 FR 2680, Feb. 27, 1969) as amended, 39 FR 2787, Jan. 24, 1974.)

Issued: June 29, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21131 Filed 7-22-77;8:45 am]

## Title 26—Internal Revenue

### CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

#### SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7491]

### PART 54—PENSION, ETC., EXCISE TAXES

**Exemptions for the Provision of Services or Office Space to Employee Benefit Plans, the Investment of Plan Assets in Bank Deposits, the Provision of Bank Ancillary Services to Plans, and the Transitional Rule for the Provision of Services to Plans**

*Correction*

In FR Doc. 77-17894 appearing at page 32383 in the issue for Friday, June 24, 1977, in § 54.4975-6(a)(6) Example (2), appearing in the middle column of page 32386, the 9th line should be deleted, and in its place the following should be inserted: "• • • is not a disqualified person with respect to • • •".

## Title 29—Labor

### CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

### PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

**Iowa—Change in Level of Federal Enforcement and Notice of Intended Modification of Operational Agreement**

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Change in Level of Federal Enforcement.

SUMMARY: This document provides notice that Federal concurrent enforcement authority with respect to occupational health issues under section 18(e) of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) (29 U.S.C. 667(e)) will be exercised in the State of Iowa effective July 25, 1977.

EFFECTIVE: July 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Mabel Stanton, Project Officer, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-3608, Washington, D.C. 20210, 202-523-8041.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Part 1954 of Title 29, Code of Federal Regulations, sets out procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for the evaluation and monitoring of State plans which have been approved under section 18(c) of the Act and 29 CFR Part 1902. Section 1954.3 of this chapter provides guidelines and procedures for the exercise of discretionary Federal enforcement authority under section 18(e) of the Act with regard to Federal standards in issues covered under an approved State plan. In accordance with § 1954.3 (b) of this chapter, Federal enforcement authority will not be exercised as to occupational safety and health issues covered under a State plan where a State is operational. A State is determined to be operational under § 1954.3(b) of this chapter when it has provided for the following requirements: enacted enabling legislation, approved State standards, a sufficient number of qualified enforcement personnel, and provisions for the review of enforcement actions. In determining whether and to what extent a State plan meets the operational guidelines, the results of evaluations conducted under 29 CFR Part 1954 are taken into consideration. Once this determination has been made, under § 1954.3(f) of this chapter, a notice of the determination of the operational status of a State plan as described in an agreement setting forth Federal-State responsibility is to be published in the FEDERAL REGISTER.

On July 20, 1973, notice of approval of the Iowa 18(b) plan was published (38 FR 19368) and on October 31, 1975, notice was published in the FEDERAL REGISTER (40 FR 50717) that it had been determined that Iowa had met the conditions for operational status and of the signing of an agreement effective June 18, 1975, between Jerry Addy, Commissioner of the Iowa Bureau of Labor and J. A. Reidinger, Assistant Regional Director for Occupational Safety and Health, U.S. Department of Labor. The operational agreement sets forth the scope of the exercise of concurrent Federal authority, specific areas of State responsibility and delineates continuing Federal responsibilities in the State. Under the terms and conditions of this agreement the State is obligated, among other things, to retain a sufficient number of qualified safety and health personnel employed under an approved merit system. Condition 3 of the Agreement specifies retention of a minimum of three (3) industrial hygienists (in addition to various safety inspectors and safety engineers) to satisfy this obligation. As a result of evaluation reports received under the monitoring system (29 CFR 1954.3(c)(1)) it was determined by the Assistant Secretary that problems primarily in the recruiting and training of qualified industrial hygienists resulted in the Iowa State program no longer meeting the criteria for operational status in the occupational health area. In view of this determination, under 29 CFR 1954.3 (c)(3) provision is made for reinstatement of the appropriate level of concurrent Federal enforcement activity to assure occupational safety and health protection to employees. By telegram dated July 20, 1977, the Assistant Secretary confirmed notification by the Regional Administrator on July 18, 1977, advising the State that effective July 25, 1977, Federal concurrent enforcement authority will be exercised in the State with respect to occupational health issues as long as necessary to assure occupational health protection to employees. This resumption of Federal concurrent enforcement is intended to supplement the State's enforcement activities to assure maximum worker health protection, to allow the State reasonable time to concentrate efforts for the recruitment and training of its industrial hygiene staff and, finally, provide Federal occupational health consultation assistance to State industrial hygiene personnel.

The operational agreement will be formally modified to reflect the exercise of Federal concurrent enforcement authority with respect to occupational health issues.

LOCATION OF THE PLAN AND THE OPERATIONAL STATUS AGREEMENT FOR INSPECTION AND COPYING

A copy of the operational status agreement, along with the approved plan, may be inspected and copied during the normal business hours at the following locations: Office of the Directorate, Room N-3605, 200 Constitution Ave. NW., Washington, D.C. 20210; OSHA Technical Data Center (TDC), Room N-3620 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, 911 Walnut Street, Room 3000, Kansas City, Missouri 64106; Iowa Bureau of Labor, State House, East 7th and Court Avenue, Des Moines, Iowa 50319.

Signed at Washington, D.C. this 21st day of July, 1977.

EULA BINGHAM,
*Assistant*
*Secretary of Labor.*

[FR Doc.77-21450 Filed 7-22-77;8:45 am]





## Title 33—Navigation and Navigable Waters

### CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-105]

### PART 110—ANCHORAGE REGULATIONS

**Special Anchorage Areas, Trinidad Bay, California**

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: This amendment establishes a special anchorage area in Trinidad Bay, California. The establishment of a special anchorage area in Trinidad Bay is needed because the number of vessels regularly using and mooring in the harbor has substantially increased in the past few years. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

EFFECTIVE DATE: This amendment is effective August 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1477).

SUPPLEMENTARY INFORMATION: On December 23, 1976 the Coast Guard published a proposed rule (41 FR 55897), concerning this amendment. Interested persons were given until February 4, 1977 to submit comments. No comments were received.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: LCDR H. E. Snow, Project Manager, Office of Marine Environment and systems, and Mr. S. D. Jackson, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations is amended by adding § 110.127c to read as follows:

**§ 110.127c Trinidad Bay, California.**

The waters of Trinidad Bay beginning at the southern most point of Trinidad Head at latitude 41°03'04" N., longitude 124°08'56" W.; thence east to Prisoner Rock at latitude 41°03'09" N., longitude 124°08'37" W.; thence east to latitude 41°03'09" N.; longitude 124°03'19" W.; thence north to latitude 41°03'26" N., longitude 124°08'21" W.; thence following the shoreline to Trinidad Bay in a westerly and southerly direction to the point of beginning.

NOTE.—The area will be principally for use by sport and commercial fishing vessels. Temporary floats and buoys for anchoring will be allowed in the area. Fixed moorings, piles or stakes are prohibited. All moorings shall be placed so that no vessel when anchored or moored shall at any time extend beyond the limits of the area. The anchoring of all vessels and placing of all moorings will be under the supervision of the City of Trinidad or such other authority as may be designated by the City Council of the City of Trinidad, California.

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat. 937; (49 U.S.C. 1655(g)(1)(B)), 49 CFR 1.46(c)(2).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended and OMB Circular A-107.

Dated: July 18, 1977.

O. W. SILER,
*Admiral, U.S. Coast Guard,*
*Commandant.*

[FR Doc.77-21323 Filed 7-22-77;8:45 am]

## Title 36—Parks, Forests, and Public Property

### CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

### PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

**Glacier National Park, Mont. and Great Smoky Mountains National Park, N.C.-Tenn.; Food Storage Requirements**

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This regulation restricts people from leaving food open under conditions where it would attract and be available to wildlife. This action is necessary to minimize property damage and personal injury incidents which result from foraging activities of bears and other wildlife.

EFFECTIVE DATE: July 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Phillip R. Iversen, Superintendent, Glacier National Park, West Glacier, Montana 59936, telephone 406-888-5441; or Boyd Evison, Superintendent, Great Smoky Mountains National Park, Gatlinburg, Tennessee 37738, telephone 615-436-5615.

SUPPLEMENTARY INFORMATION: The purpose of these regulations is to enhance the safety of park visitors while at the same time ensuring the protection and continued existence of free-ranging wild animal populations by establishing controls on food and food containers in campsites. The experience of the National Park Service has shown that wild animals, particularly bears, can be attracted to readily available human foods, with the result that property can be damaged or personal injury and even death can occur. In a number of parks, the reduction of the availability of human food to wildlife through proper food storage and handling by campers has demonstrated that the possibility of wildlife/human confrontations with tragic results is lessened. Thus wildlife will not become addicted to human foods, become nuisances or present threats to the safety of park visitors, nor will individual animals need to be removed from the animal populations of the parks.

Regulations similar to this one have been promulgated by a number of parks which have experienced difficulties with bears or other wildlife attracted to campgrounds by food. These regulations when proposed, did not result in a significant degree of public comment and have been generally well received by park visitors who are affected by the restrictions. In view of this situation and the fact that the summer travel season has already begun, it is deemed unnecessary and impracticable to provide a notice of proposed rulemaking on this action or to delay its effective date for 30 days after



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this publication. However, interested persons who wish to make comments or suggestions on these regulations may do by writing to either of the respective park superintendents. All comments received will be reviewed to determine if revision of these regulations is necessary.

(Section 3 of the Act of August 25, 1916. 39 Stat. 535 (16 U.S.C. 3); Section 4 of the Act of August 22, 1914, 38 Stat. 700 (16 U.S.C. 170); Section 3 of the Act of April 29, 1942. 56 Stat. 259 (16 U.S.C. 403h–3); and 245 DM–1 (42 FR 12931).)

DRAFTING INFORMATION

These regulations were drafted by the respective park superintendents, as identified above.

NOTE.—The National Park Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: July 20, 1977.

WILLIAM J. WHALEN,
*Director,*
*National Park Service.*

In consideration of the foregoing, §§ 7.3 and 7.14 of Title 36, Code of Federal Regulations, is hereby amended as set forth below:

1. A paragraph (h) is added to § 7.3 to read as follows:

**§ 7.3 Glacier National Park.**

* * * * *

(h) *Camping.* All food or similar organic material, as well as ice chests, cooking utensils, and food containers, must be kept in a closed vehicle that is constructed of solid, nonpliable material, or must be suspended at least 10 feet above the ground and 4 feet from any post, tree trunk, or limb. This restriction does not apply to food that is being transported, eaten, or prepared for eating.

2. A paragraph (c) is added to § 7.14 to read as follows:

**§ 7.14 Great Smoky Mountains National Park.**

* * * * *

(c) *Camping.* All food or similar organic material, as well as ice chests, cooking utensils, and food containers, must be kept in a closed vehicle that is constructed of solid, nonpliable material or in a trial shelter having bear exclosure fencing, or must be suspended at least 10 feet above the ground and 4 feet from any post, tree trunk, or limb. This restriction does not apply to food that is being transported, eaten, or prepared for eating.

[FR Doc.77–21340 Filed 7–22–77;8:45 am]

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**Title 40—Protection of Environment**

**CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY**

[FRL–749–1]

**PART 600—FUEL ECONOMY OF MOTOR VEHICLES**

**Fuel Economy Labeling Procedures and Requirements for 1978 and Later Model Year Automobiles; Deletion of Fuel Economy Labeling Procedures for 1976 Model Year Automobiles**

AGENCY: Environmental Protection Agency.

ACTION: Interim rule.

SUMMARY: The Environmental Protection Agency (EPA) is establishing a new set of requirements for the format and content of the fuel economy labels for the 1978 and later model years. For the 1978 model year, these requirements may be used in place of the present requirements at the manufacturer's option. This action is intended to improve the impact of the labels by highlighting the pertinent information on the label and directing the consumer to the EPA/FEA Gas Mileage Guide for details. EPA will require a single label format to be used by all manufacturers for 1979 and subsequent model year automobiles. This action also deletes the obsolete 1976 labeling regulations.

DATES: Effective date: July 25, 1977. Date for submission of comments: October 25, 1977.

ADDRESS: Administrator, Environmental Protection Agency, Attention: Office of Mobile Source Air Pollution Control (AW–455), 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Gary E. Timm, Technical Advisor, Regulatory Management Staff, Office of Mobile Source Air Pollution Control, U.S. Environmental Protection Agency, Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: The requirements for the presently-used fuel economy labels and sample labels were issued on November 10, 1976 (41 FR 49752; 40 CFR Part 600, Subpart D) under section 506 of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2006. It appears that these labels do not have the impact on the consumer which was originally intended. The label is too wordy and repeats information which appears on the price sticker and in the Guide.

The new format contains less required text than the 1977 labels and heightens the visual impact of the label by rearranging the presentation of information. The new format is not required for the 1978 model year because of lead time constraints on manufacturers, but is being offered as an optional format for use by manufacturers. A single format will be made mandatory for later model year automobiles. In the meantime, manufacturers' cooperation is solicited in adopting the new format provided for in this document as soon as practicable.

The following changes in the labeling format are being made. The label shall be titled "EPA Fuel Economy Estimates" to identify the source of the information and to emphasize that the values are estimates. The fuel economy data for the vehicle will then be displayed in a horizontal row with a box around the combined mpg and the annual fuel cost estimate. This information will be followed by the vehicle description, then by the mpg range for comparable vehicles. At the bottom of each label will be a general reminder notice: "These numbers are estimates. Your actual mileage and cost will probably be different because of how, when, and where you drive. Compare these estimates with others listed in the Gas Mileage Guide. Your dealer has Free copies."

The currently required statements that the tests are conducted or approved by EPA and that the fuel economy and annual fuel cost estimates are based on tests of vehicles with frequently purchased options have been eliminated.

EPA finds that notice and public procedure before promulgating these interim regulations would be impracticable and contrary to the public interest because the lead time for manufacturers to make changes to their labeling plans for 1978 is critically short; this action extends to manufacturers the opportunity of implementing a format which will result in a simpler, clearer, more understandable label; and this action imposes no additional regulatory burden or cost upon the industry. For the same reasons, the Agency finds that there is good cause for making these interim regulations effective on the date of publication in the FEDERAL REGISTER.

EPA invites interested parties to submit comments on these interim regulations. These interim regulations will be replaced with final regulations after consideration of comments. Any changes in the final regulations will apply beginning no earlier than the 1979 model year since labeling for the 1978 model year will already be taking place by the time the final regulations are issued.

Regulations for the labeling of 1976 model year vehicles were published as Subpart H of Part 600 of Title 40 on March 19, 1976 (41 FR 11506) under section 506 of the Motor Vehicle Information and Cost Savings Act. Since these regulations were applicable only to the 1976 model year which has passed, they are obsolete and are being deleted. Because these regulations have no further effect, EPA finds good cause for deleting them without prior notice and public procedure and effective on July 25, 1977.

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major action requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A–107.

(Sec. 301, Pub. L. 94–163, 89 Stat. 910 (15 U.S.C. 2006).)

Dated: July 18, 1977.

BARBARA BLUM,
*Acting Administrator.*

40 CFR Part 600 is amended as follows:

**Subpart D—Fuel Economy Regulations for 1977 and Later Model Year Automobiles—Labeling**

1. By adding a new § 600.306–78 identical to § 600.306–77 except that paragraphs (a)(1) and (a)(2) read as follows:





**§ 600.306–78 Labeling requirements.**

(a) * * *

(1) Each manufacturer shall affix or cause to be affixed a general label as described in § 600.308–77, or (at the option of the manufacturer) § 600.308–78, or

(2) At the option of the manufacturer, the requirements of this paragraph may be satisfied by labeling an automobile with a specific label, as described in § 600.309–77 or (at the option of the manufacturer) § 600.309–78 in place of the general label.

* * * * *

2. By adding a new § 600.307–78 with paragraph (a) identical to paragraph (a) of § 600.307–77, and otherwise reading as follows:

**§ 600.307–78 Format of labels.**

The fuel economy label must:

* * * * *

(b) Contain the following information which is illustrated on the sample label:

(1) The title: EPA Fuel Economy Estimates.

(2) The combined fuel economy, annual fuel cost, city fuel economy, and highway fuel economy for the labeled vehicle as calculated in § 600.206 or § 600.207 as applicable, and as approved by the Administrator.

(3) The word "Model" or the phrase "For This Car" as appropriate for general and specific fuel economy labels, respectively, followed by the model year, car line name and description of the labeled vehicle as described in the manner and degree of detail specified in § 600.308 or § 600.309, as applicable.

(4) A statement as to the availability of the fuel economy and cost ranges containing the date of availability and the vehicle class identification followed by the range of fuel economy estimates, and annual fuel costs. The ranges are determined according to § 600.311 and supplied to the manufacturer by the Administrator.

(c) Include the following: "Reminder—These Numbers Are Estimates. Your actual mileage and fuel cost will probably be different because of how, when, and where you drive. Compare these estimates with others listed in the Gas Mileage Guide. Your dealer has Free copies."

A sample fuel economy label format for the 1978 model year is included in Appendix V.

3. By adding a new § 600.308–78 identical to § 600.308–77 except that paragraphs (c) and (d) are omitted and paragraph (a) reads as follows:

**§ 600.308–78 General label contents.**

The general fuel economy label must contain the following:

(a) The information and statements described in § 600.307 (a) through (c).

* * * * *

4. By adding a new § 600.309–78 identical to § 600.309–77 except that paragraph (b) is omitted and reserved, paragraphs (d) and (e) are omitted, and paragraph (a) reads as follows:

**§ 600.309–78 Specific label contents.**

The specific fuel economy label must contain the following:

(a) The information and statements as described in § 600.307 (a) through (c);

* * * * *

5. By deleting Subpart H.

**Subpart H—[Deleted]**

6. By adding a new Appendix V to read as follows:

APPENDIX V—OPTIONAL FUEL ECONOMY LABEL FORMAT FOR THE 1978 MODEL YEAR

The following sample label illustrates the optional label format permitted for the 1978 model year:

EPA FUEL ECONOMY ESTIMATES

Federal Energy Administration

| Combined MPG | Annual Fuel Cost | City MPG | Highway MPG |
|---|---|---|---|
| 12 | $ 812 | 10 | 16 |

MODEL — 1978 Ajax with 300 cubic inch engine, 8 cylinders, automatic transmission, catalyst, 2 barrel carburetor

As of September 16, 1977 the range of all LARGE cars was: — 9 to 15 Combined MPG; $ 1083 to $ 650 Annual Fuel Cost

REMINDER — THESE NUMBERS ARE ESTIMATES. Your actual mileage and fuel cost will probably be different because of how, when and where you drive. Compare these estimates with others listed in the Gas Mileage Guide. Your dealer has FREE copies.

[FR Doc.77–21032 Filed 7–22–77;8:45 am]



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## Title 45—Public Welfare

### CHAPTER XX—NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION, DEPARTMENT OF COMMERCE

### PART 2010—REIMBURSEMENT FOR COSTS OF FIREFIGHTING ON FEDERAL PROPERTY

#### Establishment of Chapter

*Correction*

In FR Doc. 77-19988 appearing in the issue for Monday, July 18, 1977 the following corrections should be made:

1. On page 36954, the paragraph entitled, "FOR FURTHER INFORMATION", the telephone number should read, "202-632-9685.".

2. On page 36955, the 1st column, 2nd full paragraph, 3rd line should read, "§ 2010.03(1) is revised so as to make it * * *".

(a) In the 2nd column, 2nd paragraph, 2nd sentence should read, "Only if technical legal title is in the United States can there be reimbursement.".

(b) In the 4th paragraph, 5th sentence, the word "expressly" should be corrected.

3. On page 36956, in § *2010.02 Scope.*, the 1st word should read, "Fire * * *".

4. On page 36957, in § 2010.11(j), in the 3rd column, should read:

* * * * *

(j) Itemized list of direct expenses (e.g., hours of equipment operation, fuel costs, consumables, overtime pay and wages for any specially hired personnel) and direct losses (e.g., damaged or destroyed equipment, to include purchase cost, estimate of the cost of repairs, statement of depreciated value immediately preceding and subsequent to the damage or destruction and the extent of insurance coverage) actually incurred in fighting the fire. A statement should be included explaining why each such expense or loss is considered by the claimant not to be a normal operating cost, or to be in excess of normal operating costs:

* * * * *

5. On page 36958, in § 2010.13(a), the 2nd sentence should read as follows: "* * * The Administrator will upon notice of protest and receipt of additional evidence reconsider his determination of the amount of Federal payments under § 2010.12(a)(2) but not his determination of the amount of costs under § 2010.12(a)(1).".

## Title 47—Telecommunication

### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 19478 and RM-1842]

### PART 91—INDUSTRIAL RADIO SERVICES

#### Expanding the Permissible Uses of 450-470 MHz Off-Set Frequencies in the Business Radio Service; Correction

PREAMBLE

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: This document corrects the document appearing at 42 FR 24274, May 13, 1977. (FR Doc. 77-13785).

EFFECTIVE DATE: June 13, 1977: Released: May 31, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. James E. McNally, Jr., Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau (202-632-6497).

SUPPLEMENTARY INFORMATION: In the matter of Amendment of Part 91 of the Commission's Rules and Regulations to expand the permissible uses of 450-470 MHz off-set frequencies in the Business Radio Service.

The Appendix of the Commission's Memorandum Opinion and Order, FCC 77-299, released May 7, 1977, and published as 42 FR 24274 is corrected by amending § 91.8(a)(1)(ix) to read as follows:

(ix) Any application involving a frequency in the 216-220 MHz band.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

[FR Doc.77-21240 Filed 7-22-77;8:45 am]

## Title 49—Transportation

### CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

[Docket No. 75-28; Notice 3]

### PART 567—CERTIFICATION

### PART 568—VEHICLES MANUFACTURED IN TWO OR MORE STAGES

#### Certification of Multistage Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This notice amends the regulations that specify how a truck manufacturer meets its statutory responsibility to certify compliance of its products with Federal motor vehicle safety standards. Most trucks are constructed in at least two separate stages and these regulations have required the basic "chassis-cab" manufacturer to provide necessary engineering calculations to the subsequent manufacturer that permits him to finish the vehicle and certify compliance. The decision in *Rex Chainbelt* v. *Brinegar*, 511 F. 2d 1215 (7th Cir. 1975) directed the NHTSA to amend this regulation so that both manufacturers certify compliance to the degree their work affects the vehicle.

DATE: Effective date July 25, 1977.

ADDRESS: Petitions for reconsideration should refer to the docket number and be submitted to: Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

David Fay, Motor Vehicle Programs, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-2817.

SUPPLEMENTARY INFORMATION: This notice amends 49 CFR Part 567, Certification, by adding a labeling requirement for chassis-cab manufacturers and modifying the labeling requirements for final stage manufacturers, in accordance with the decision in *Rex Chainbelt, Inc.* v. *Brinegar*, 511 F. 2d 1215 (7th Cir. 1975). Conforming amendments are made to 49 CFR Part 568, Vehicles Manufactured in Two or More Stages. Certification labeling requirements for intermediate manufacturers are proposed in a companion notice issued today (Notice 4, 42 FR 37831).

The notice is based on a proposal that was published as Notice 1 on October 3, 1975 (40 FR 45847). Seventeen comments were received in response to the proposal. The amendments are adopted essentially as proposed. The major change is that the list of permissible locations for the required certification labels has been extended to include the inward-facing surface of the driver's door, in order to accommodate the larger sizes of labels that can now be expected. Any submitted suggestions for changes that are not specifically mentioned herein are declined for action or proposal at this time, on the basis of all the information presently available to the agency.

The existing scheme for the certification of multistage vehicles is found in Parts 567 and 568 of Title 49, Code of Federal Regulations. Briefly, it requires a final-stage manufacturer to certify that his completed vehicle complies with all applicable Federal motor vehicle safety standards, on the basis of (i) the work he has performed, and (ii) the information concerning the incomplete vehicle's conformity status with respect to each standard, found in a document (the "Part 568 document") supplied by those who have previously performed work on the incomplete vehicle. This scheme is more fully described in the notice of proposed rulemaking at 40 FR 45847.

Petitioners in the *Rex Chainbelt* case attacked the validity of the scheme as it applied to a company mounting cement mixers on chassis-cabs. The U.S. Court of Appeals for the Seventh Circuit, in its first opinion in this case, invalidated the scheme to the extent that it required a final-stage manufacturer who builds on a chassis-cab to make the "sole certification of compliance of the entire vehicle." *Rex Chainbelt, Inc.* v. *Volpe*, 486 F. 2d 757, 761-762 (7th Cir. 1973). In its last opinion, the Court restated its holding as meaning that "in instances where the customer purchases a chassis-cab from its manufacturer and thereafter the mixer from the mixer manufacturer, the 'entire vehicle' must be certified via two certifications, with the chassis-cab manufacturer certifying its chassis-cab, and with the mixer manufacturer certifying its mixer and the effect of the mounting, if any, to thus obtain effective certification of the 'entire vehicle.'" *Rex Chainbelt, Inc.* v. *Brinegar*, 511 F.2d 1215, 1216 7th Cir. 1975).

Parts 567 and 568 are amended today to conform to this decision. The basic change in Part 567 is to require the manufacturer of a chassis-cab to affix a certification label to his incomplete vehicle, certifying its conformity status with respect to each standard that will be applicable to the vehicle as completed. He will divide the standards into three categories, according to the degrees to which conformity with them is approached in his product, and certify essentially the same facts about them as have merely, up to now, been required to be indicated in the Part 568 document. The final stage manufacturer who uses the chassis-cab will then make a three-part certification statement (to the extent that the three parts are applicable), corresponding to the three statements made by the chassis-cab manufacturer.

More specifically, in the first category on its label, the chassis-cab manufacturer will state, "This chassis-cab conforms to Federal Motor Vehicle Safety Standard Nos. _____," listing the numbers of the standards for which the statement is correct. In the corresponding first category on its label, the final-stage manufacturer will state, "Conformity of the chassis-cab to Federal Motor Vehicle Safety Standard Nos. _____ has not been affected by final-stage manufacture." This couplet conforms precisely to the mandate of the Court that the chassis-cab manufacturer certify its chassis-cab, and the final-stage manufacturer certify as to the "effect" of its work. It is not necessary for all the standards that were placed in the first category by the chassis-cab manufacturer to be similarly included by the final-stage manufacturer in his first category. The latter manufacturer is free to "affect" the manner in which the completed vehicle conforms to any such standards, e.g., by removing and replacing mirrors or lights, as long as he ultimately certifies in his third (final) statement conformity to those affected standards. In the extreme case, if the final-stage manufacturer wishes to exclude all of the standards from the first category, he may omit this statement altogether.

The second category of standards, those that are necessarily strongly affected by what both the chassis-cab and final-stage manufacturers do, is the main target of the regulatory scheme. In its second statement the chassis-cab manufacturer will certify, "This vehicle will conform to Standard Nos. _____ if it is completed in accordance with the instructions contained in the incomplete vehicle document furnished pursuant to 49 CFR Part 568." The final-stage manufacturer's corresponding statement will be, "With respect to Standard Nos. _____, the vehicle has been completed in accordance with the chassis-cab manufacturer's instructions." This statement also conforms to the Court's opinion, although the treatment of this category cannot be as simple. The final-stage manufacturer, in considering a standard such as the one on air brakes that its work must crucially "affect," will thus have a choice. He may confrom his completion work to the instructions of the chassis-cab manufacturer, in which case he need only make a statement to that effect, thereby throwing the burden of conformity onto the chassis-cab manufacturer. Or, he may deviate from those instructions, in which case the second statement becomes inapplicable as far as that standard is concerned, and instead include the standard in the residual third statement. Thus, the final-stage manufacturer will describe the "effect of (his) mounting, if any" either by saying he had remained within the Part 568 document's limits, thereby actuating the chassis-cab manufacturer's certification, or by making an original certification of conformity. Again, if the final-stage manufacturer chooses to omit all standards from this second category, the second statement may be omitted.

The third statement by the chassis-cab manufacturer will be, "Conformity to the other safety standards applicable to this vehicle when completed is not substantially affected by the design of the chassis-cab." The expression "substantially affected" replaces "substantially determined", which appeared in the notice of proposed rulemaking, in order to clarify the meaning of this third statement. This subject is discussed further below. The third statement by the final-stage manufacturer will be, "This vehicle conforms to all other applicable Federal Motor Vehicle Safety Standards in effect in (month, year)." Obviously, conformity to standards concerning which the chassis-cab manufacturer makes no representation whatever, or to those where the final-stage manufacturer chooses not to follow the chassis-cab manufacturer's instructions, must be assumed by the final-stage manufacturer. The regulation provides that where the first two statements are omitted, the word "other" be omitted from the third statement. In this form it covers both the cases where the final-stage manufacturer chooses not to follow the chassis-cab manufacturer's instructions concerning any standards, and the cases involving incomplete vehicles other than chassis-cabs, to which the dual-certification scheme is inapplicable. Finally, it covers the cases where the final-stage manufacturer considers the simple conformity statement to adequately represent his rights and duties.

The Motor Vehicle Manufacturers Association (MVMA) and several chassis manufacturers objected to the chassis-cab manufacturer's type (1) certification, "[t]his chassis-cab conforms to Federal Motor Vehicle Safety Standard Nos. _____", on several grounds. The essence of these objections was that such a certification would be both misleading and beyond the statutory authority of the NHTSA to require, because there are no standards applicable to chassis-cabs. These commenters have referred to Section 114 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1391 et seq.) (the Act), which requires certification that each "(motor) vehicle or item of motor vehicle equipment conforms to all applicable Federal motor vehicle safety standards." They have correctly pointed out that a chassis-cab, because it is an incomplete vehicle, is not a "motor vehicle" as that term is defined in section 102(3) of the Act. A chassis-cab is an item of "motor vehicle equipment", as that term is defined in section 102(4). While Federal motor vehicle safety standards have been issued for certain types of motor vehicle equipment, e.g., tires and motorcycle helmets, no such standards have been issued for chassis-cabs or other incomplete vehicles. The NHTSA agrees that the chassis-cab manufacturer's type (1) certification specified in the rule adopted today is therefore not the certification that is explicitly required by section 114 of the Act. Even so, the NHTSA considers the former certification to be meaningful and appropriate as part of a scheme for ensuring the full certification of completed motor vehicles by the proper manufacturing parties. Conformity of a physical object (in this case, a chassis-cab) to a safety standard is a concept distinct from that standard's legal applicability to the object. For example, a chassis-cab is not statutorily required to conform to Standard No. 101, Control Location, Identification, and Illumination, because chassis-cabs are not listed in S3. Application of that standard. Nevertheless, a chassis-cab that does in fact meet the substantive requirements of the standard is accurately described as "conforming" to it.

The NHTSA does not consider the type (1) certification to be misleading provided that it is factually accurate. Any intimation to the reader of such a statement that the safety standards enumerated in it are applicable to the chassis-cab is outweighed by the need for full certification of completed motor vehicles. An untrue type (1) statement, of course, would be considered a noncompliance with 49 CFR Part 567.

Ford Motor Company has suggested that, through the new certification scheme, the NHTSA seeks to impose safety standards on chassis-cabs indirectly—without a statutorily required consideration of whether they are "reasonable, practicable, or appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which (they are) prescribed." This characterization of the new scheme is incorrect. With the three part certification statement, the chassis-cab manufacturer is merely certifying his product's status of conformity with respect to each of the safety standards that apply to the completed vehicle. The only standards to which a chassis-cab must actually conform are those that he has placed in the first category, and he is free to leave that category empty by including all the standards in the succeeding two.

Indeed, the NHTSA has specifically rejected the concept, urged by Ford and others, of Federal motor vehicle safety standards that apply to chassis-cabs. It is the completed motor vehicle with which the NHTSA is most concerned, because that is what is driven on the







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public highways. The performance capabilities of a chassis-cab affect motor vehicle safety only through their effect on the performance of the vehicle into which the chassis-cab is completed. The consequent inappropriateness of standards applicable to chassis-cabs was discussed fully in the notice of proposed rulemaking.

The MVMA and several chassis manufacturers also objected to the second type of chassis-cab certification—that the chassis-cab will conform to enumerated standards if it is completed in accordance with the instructions found in the incomplete vehicle document. These commenters argued that such a certification statement would require the chassis-cab manufacturer to anticipate conduct over which he has no control. Because conditions on subsequent manufacturing are contained within a chassis-cab manufacturer's type (2) certification statement, however, the statement's truth or falsehood is established at the time of chassis-cab manufacture. The work that is actually performed on a chassis-cab following such a certification has no bearing on that truth or falsehood. These objections are thus without foundation. The chassis-cab manufacturer is protected against the wide variety of possible methods of completion over which the NHTSA readily agrees he has no control.

In a similar vein, the MVMA suggested that the chassis-cab certification statements would be susceptible to amendments made to the standards between the time of manufacture of the chassis-cab and the completion of the vehicle, and would thus be unacceptably open-ended. The MVMA is mistaken. The NHTSA interprets all the statements on the chassis-cab manufacturer's label as made with respect to the Federal motor vehicle safety standards in effect at the time of manufacture of the chassis-cab, as that time is indicated on the label.

As noted in the notice of proposed rulemaking, there is a factual limitation on the chassis-cab manufacturer's use of the third type of certification. Where the chassis design is an important determinant of a vehicle's ability to conform to a given standard, it is incorrect to state (whether on a certification label or in a Part 568 document) that conformity to that standard is "not substantially determined by the design of the chassis-cab." Ford and General Motors objected to this position, arguing that where the work of the final-stage manufacturer substantially determines conformity, the design of the chassis-cab must of necessity not substantially determine conformity. The NHTSA rejects these objections. It is possible for a completed vehicle's conformity to a standard to be substantially determined by both the design of the chassis-cab and the manner of completion by the final-stage manufacturer. Indeed, this is often the case with the braking standards and the fuel system integrity standard, among others. To more precisely characterize the agency's intention and to eliminate further confusion on this subject, the expression "substantially determined" in the chassis-cab manufacturers' type (3) certification is replaced by "substantially affected". In addition, an interpretive amendment is made to the description in Part 568 of the incomplete vehicle document, to effect the same substitution.

Rexnord, Inc. (formerly Rex Chainbelt) argued that the proposed certification scheme would not comply with the *Rex Chainbelt* holding because it would require "that the Final Mfr. certify the Chassis Mfr.'s materials, workmanship and design in some situations." The situations referred to are those in which a final-stage manufacturer affects the manner of conformity to a standard to which the chassis-cab has been certified in category (1) or departs from the completion instructions for a standard respecting which the chassis-cab has been certified in category (2). Rexnord objects to the requirement that, in these situations, the final-stage manufacturer "unconditionally" certify the completed vehicle in category (3), on the ground that he should be able to "preserve so much of the prior certification as he has a right to rely on" despite his departure from the anticipated manner of completion.

The infinite number of modifications that can be made by a final-stage manufacturer in departing from the incomplete-vehicle manufacturer's disposition make "preservation" of the remnants of a prior certification extremely difficult under the general allocation provisions of Part 567. For this reason, the final-stage manufacturer must rely on the requirement that the chassis-cab manufacturer's certification is permanently affixed to the vehicle and thereby "preserves" that portion of the prior certification that can continue to be relied upon.

Rexnord also argued that the completion instructions supplied by chassis-cab manufacturers are often unreasonably restrictive. It urged that a new regulation be established to require those manufacturers to test and certify various "approved modifications" of their chassis-cabs. The NHTSA considers such an approach to be as unwise as the establishment of chassis-cab standards. While there may be many instances in which the chassis manufacturer is in a better position than the final-stage manufacturer to take responsibility for the safety of a modification to the chassis, the variety of manufacturing situations militates against government interference with the freedom of manufacturers to allocate responsibility among themselves as they find it most appropriate.

In response to Rexnord's suggestion, the rule specifies that the name of the chassis-cab manufacturer be preceded on the label affixed by him by the words "CHASSIS-CAB MANUFACTURED BY" or "CHASSIS-CAB MFD BY". Omission of these words from the proposed rule was an oversight. The additional suggestion that the final-stage manufacturer's name be preceded on his label by "FINAL STAGE MANUFACTURE BY" (or an abbreviation) rather than "MANUFACTURED BY" (or an abbreviation), however, is not adopted. Even though the latter designation may oversimplify the final-stage manufacturer's status, such a characterization is necessitated by the Act. In any event, the intimation that he is responsible for the entire vehicle is negated by the accompanying identification of the chassis-cab manufacturer.

The NHTSA declines the suggestion of Mack Trucks that Gross Vehicle and Gross Axle Weight Ratings be required, or at least permitted as an option, to appear on the chassis-cab label. There is great potential for user confusion if chassis-cab and final-stage manufacturers' labels indicate different weight ratings. The need to avoid this confusion outweighs an interest in placarding weight ratings other than those of the completed vehicle. Therefore, Rexnord's request—that the final stage manufacturer who does not depart from a chassis-cab manufacturer's weight ratings be permitted to refrain from "restating" those ratings—cannot be granted.

The Recreation Vehicle Industry Association (RVIA) suggested a change in the definition of "chassis-cab" to include certain incomplete vehicles that are completed as motor homes. These "chopped vans" and "Type C" motor home chassis, however, appear to lack the prerequisite completed occupant compartments of the proposed definition. Because completeness of the occupant compartment is what sets chassis-cabs apart from other incomplete vehicles, the RVIA suggestion is declined. Accordingly, the definition is adopted as proposed. For convenience, it is located in § 567.3 rather than the definitions section of Part 571 of this title. Manufacturers are reminded that Part 568 continues to require the provision of a document with every incomplete vehicle, regardless of whether the incomplete vehicle, by virtue of being a chassis-cab, is also required by the rule issued today to be certified.

The new chassis-cab certification requirements will take effect in one year. This is longer than all the lead times requested by commenters. It provides ample time for chassis-cab manufacturers to prepare for compliance. It also enables the NHTSA to evaluate the comments and take final action on the accompanying proposal to add certification requirements for intermediate manufacturers with sufficient lead time remaining for those manufacturers.

In consideration of the foregoing, the following amendments are made in Chapter V of Title 49, Code of Federal Regulations.

A. Part 568, Vehicles Manufactured in Two or More Stages, is amended as follows:

**§ 568.4 [Amended]**

1. In § 568.4(a)(7), the reference to "subparagraph (7)" is changed to "subparagraph (6)" and the word "determined" in the third statement is replaced by the word "affected".





2. § 568.6(b) is amended to read:

**§ 568.6 Requirements for final-stage manufacturers.**

(a) • • •

(b) Each final-stage manufacturer shall affix a label to the completed vehicle in accordance with § 567.5 of this chapter.

**§ 568.7 [Amended]**

3. In § 568.7(a), the expression "§ 567.5(b) of this part" is changed to "§ 567.5(e) of this chapter".

4. In § 568.7(b), the expression "§ 567.5(c) of this part" is changed to "§ 567.5(f) of this chapter".

**§ 567.3 [Amended]**

B. Part 567, Certification, is amended as follows:

1. A definition is added at the end of § 567.3 to read:

"Chassis-cab" means an incomplete vehicle, with a completed occupant compartment, that requires only the addition of cargo-carrying, work-performing, or load-bearing components to perform its intended functions.

2. Section 567.4(c) is amended to read:

**§ 567.4 Requirements for manufacturers of motor vehicles.**

• • • • • •

(c) Except for trailers and motorcycles, the label shall be affixed to either the hinge pillar, door-latch post, or the door edge that meets the door-latch post, next to the driver's seating position, or if none of these locations is practicable, to the left side of the instrument panel. If that location is also not practicable, the label shall be affixed to the inward-facing surface of the door next to the driver's seating position. If none of the preceding locations is practicable, notification of that fact, together with drawings or photographs showing a suggested alternate location in the same general area, shall be submitted for approval to the Administrator, National Highway Traffic Safety Administration, Washington, D.C. 20590. The location of the label shall be such that it is easily readable without moving any part of the vehicle except an outer door.

• • • • • •

3. Section 567.5 is amended to read:

**§ 567.5 Requirements for manufacturers of vehicles manufactured in two or more stages.**

(a) Except as provided in paragraph (e) of this section, each manufacturer of a chassis-cab shall affix a label to each chassis-cab manufactured on or after July 25, 1978, in the location and form specified in § 567.4, that contains the following statements, to the extent that they are applicable.

(1) "This chassis-cab conforms to Federal Motor Vehicle Safety Standard Nos. ------." The statement shall be completed by inserting the numbers of the safety standards (e.g., 101, 207) to which the chassis-cab conforms.

(2) "This vehicle will conform to Standard Nos. ------ if it is completed in accordance with the instructions contained in the incomplete vehicle document furnished pursuant to 49 CFR Part 568." The statement shall be completed by inserting the numbers of the safety standards conformity to which is substantially affected by both the design of the chassis-cab and the manner in which the vehicle is completed (i.e., the standards listed under category (ii) in paragraph 568.4(a)(7) of this chapter).

(3) "Conformity to the other safety standards applicable to this vehicle when completed is not substantially affected by the design of the chassis-cab."

(4) Name of chassis-cab manufacturer preceded by the words "CHASSIS-CAB MANUFACTURED BY" or "CHASSIS-CAB MFD BY".

(5) Month and year of manufacture of chassis-cab. This may be spelled out, as in "JUNE 1970", or expressed in numerals, as in "6/70". No preface is required.

(b) [Reserved].

(c) Except as provided in paragraphs (e) and (f) of this section, each final-stage manufacturer, as defined in § 568.3 of Title 49 of the Code of Federal Regulations, of a vehicle manufactured in two or more stages shall affix to each vehicle a label, of the type and in the manner and form described in § 567.4 of this part, containing the following statements:

(1) Name of final-stage manufacturer, preceded by the words "MANUFACTURED BY" or "MFD BY".

(2) Month and year in which final-stage manufacture is completed. This may be spelled out, as in "JUNE 1970", or expressed in numerals, as in "6/70". No preface is required.

(3) Name of original manufacturer of the incomplete vehicle, preceded by the words "INCOMPLETE VEHICLE MANUFACTURED BY" or "INC VEH MFD BY". This item and item (4) may be omitted in cases where the incomplete vehicle was a chassis-cab.

(4) Month and year in which the original manufacturer of the incomplete vehicle performed his last manufacturing operation on the incomplete vehicle, in the same form as (2) above.

(5) "GROSS VEHICLE WEIGHT RATING" or "GVWR", followed by the appropriate value in pounds, which shall not be less than the sum of the unloaded vehicle weight, rated cargo load, and 150 pounds times the vehicle's designated seating capacity. However, for school buses the minimum occupant weight allowance shall be 120 pounds.

(6) "GROSS AXLE WEIGHT RATING" or "GAWR", followed by the appropriate value in pounds for each axle, identified in order from front to rear (e.g., front, first intermediate, second intermediate, rear). The ratings for any consecutive axles having identical gross axle weight ratings when equipped with tires having the same tire size designation may be stated as a single value, with the label indicating to which axles the ratings apply.

EXAMPLES OF COMBINED RATINGS

GAWR: (a) All axles—4080 with 7.00 x 15 LT(D) tires; (b) Front—12,000 with 10.00 x 20(G) tires. First intermediate to rear—15,000 with 12.00 x 20(H) tires.

(7) The following statements, as appropriate. Statements (i) and (ii) shall be made only for vehicles that were originally delivered by an incomplete vehicle manufacturer as a chassis-cab.

(i) "Conformity of the chassis-cab to Federal Motor Vehicle Safety Standard Nos. ------ has not been affected by final-stage manufacture." The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, to which the chassis-cab manufacturer has certified the vehicle under paragraph (a)(1) of this section. This statement may be omitted at the discretion of the final-stage manufacturer.

(ii) "With respect to Standard Nos. ------, the vehicle has been completed in accordance with the chassis-cab manufacturer's instructions." The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, to which the chassis-cab manufacturer has made the conditional statement under paragraph (a)(2) of this section. This statement may be omitted at the discretion of the final-stage manufacturer.

(iii) "This vehicle conforms to all other applicable Federal Motor Vehicle Safety Standards in effect in (month, year)." The date shown shall be no earlier than the manufacturing date of the incomplete vehicle, and no later than the date of completion of final-stage manufacture. This statement may be omitted only if all standards applicable to the completed vehicle have been listed in the preceding two statements. If the first two statements are both omitted, the word "other" shall be omitted from this statement.

(8) Vehicle identification number.

(9) The type classification of the vehicle as defined in § 571.3 of Title 49 of the Code of Federal Regulations (e.g., truck, MPV, bus, trailer).

(d) More than one set of figures for GVWR and GAWR, and one or more tire sizes, may be listed in satisfaction of the requirements of paragraphs (c)(5) and (6) of this section, as provided in § 567.4(h).

(e) If an incomplete vehicle manufacturer assumes legal responsibility for all duties and liabilities imposed by the Act, with respect to the vehicle as finally manufactured, the incomplete vehicle manufacturer shall ensure that a label is affixed to the final vehicle in conformity with paragraph (c) of this section, except that the name of the incomplete vehicle manufacturer shall appear instead of the name of the final-stage manufacturer after the words "MANUFACTURED BY" or "MFD BY" required by subparagraph (c)(1) of this section, the additional manufacturer's name required by subparagraph (c)(3) of this section shall be omitted, and the date required by subparagraph (c)(4)



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of this section shall be preceded by the words "INCOMPLETE VEHICLE MANUFACTURED" or "INC VEH MFD."

(f) If an intermediate manufacturer of a vehicle assumes legal responsibility for all duties and liabilities imposed on manufacturers by the Act, with respect to the vehicle as finally manufactured, the intermediate manufacturer shall ensure that a label is affixed to the final vehicle in conformity with paragraph (c) of this section, except that the name of the intermediate manufacturer shall appear instead of the name of the final-stage manufacturer after the words "MANUFACTURED BY" or "MFD BY" required by subparagraph (c)(1) of this section.

Effective dates: Part 567: All changes to the text of the Code of Federal Regulations should be made immediately, to minimize confusion resulting from changes in the designation of paragraphs. The chassis-cab labeling requirements are effective as indicated in § 567.5(a). Findings: Because § 567.5(c) allows an alternative means of compliance with requirements previously set out in § 567.5(a) and creates no additional burden, the National Highway Traffic Safety Administration finds that an immediate effective date is in the public interest. Paragraphs (d) through (f) of § 567.5 are simply the prior paragraphs (b) through (d) transposed, with corrected cross-references. Because the amendment to § 567.4(c) also allows an alternative means of compliance and creates no additional burden, the NHTSA finds that an immediate effective date for this amendment is also in the public interest. Similarly, the addition of a definition to § 567.3 creates no additional burden.

Part 568: These amendments are effective immediately. The amendment to § 568.4(a)(7) is interprective in nature. Because the amendments to §§ 568.6 and 568.7 relieve restrictions and create no additional burdens, the NHTSA finds that an immediate effective date for them is also in the public interest.

The principal program official and lawyer responsible for preparation of this rulemaking document are David Fay and Mark Schwimmer, respectively.

(Secs. 103, 108, 112, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1397, 1401, 1403, 1407); delegation of authority at 49 CFR 1.50.)

Issued on July 8, 1977.

JOAN CLAYBROOK,
*Administrator.*

[FR Doc.77-21119 Filed 7-22-77;8:45 am]





# proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### [ 7 CFR Part 945 ]

### IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

### Vegetables: Import Regulations; Notice of Proposed Amendment No. 1 to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed amendment to the handling regulation would require fresh market shipments of potatoes grown in certain counties in Idaho and Malheur County, Oregon, to be inspected and meet minimum grade, size, cleanliness, maturity and pack requirements during the period August 16, 1977, through July 31, 1978. The amendment would promote orderly marketing of such potatoes by keeping less desirable sizes and qualities from being shipped to consumers.

DATE: Comments due August 9, 1977.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 98 and Order No. 945, both as amended (7 CFR 945), regulate the handling of potatoes grown in designated counties in Idaho and Malheur County, Oregon. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Idaho-Eastern Oregon Potato Committee, established under the order, is responsible for its local administration.

This notice is based upon recommendations made by the committee at its public meeting in Twin Falls, Idaho, on June 15, 1977.

The proposed amendment would extend the current regulation, which is similar to those issued during past seasons.

The grade, size, cleanliness, maturity, pack and inspection requirements recommended herein are necessary to prevent potatoes of low quality or undesirable sizes from being distributed to fresh market outlets. The specific proposed requirements would benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area, thereby promoting orderly marketing and would tend to effectuate the declared policy of the act.

Exceptions would be provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

A specified quantity of potatoes would be exempt from maturity requirements in order to (1) permit growers to make test diggings without loss of the potatoes so harvested or (2) allow a lot to be shipped which afer regrading, meets the grade and size requirements but then fails to meet the maturity requirements, possibly due to further "skinning" as a result of running the potatoes over the grader again.

Shipments would be permitted to certain special purpose outlets without regard to minimum grade, size, cleanliness, maturity and pack requirements, provided that safeguards were met to prevent such potatoes from reaching unauthorized outlets. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments would also be exempt. Certified seed and seed pieces cut from stock eligible for certification would also be so exempted, because requirements for this outlet differ grealty from those for fresh market.

Potatoes used for experimentation have special requirements and do not normally enter commercial channels of trade. Potatoes for most processing uses are exempt under the legislative authority for this part.

Requirements for export shipments differ from those for domestic markets. While the standard quality requirements are desired in foreign markets, smaller sizes are more acceptable. In commercial prepeeling, operators can use potatoes with surface defects which would be undesirable for the tablestock market, and smaller sizes are acceptable. Therefore, different requirements are proposed for export and prepeeling shipments.

The proposed amended handling regulation is as follows:

**§ 945.336 Handling regulations.**

During the period August 16, 1977, through July 31, 1978, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a), (b), (c) and (d) of this section, or unless such potatoes are handled in accordance with paragraphs (e), (f), or (g) of this section.

(a) *Minimum quality requirements*—(1) *Grade. All varieties.*—U.S. No. 2 or better grade.

(2) *Size*—(i) *Round red varieties.*—1⅞ inches minimum diameter.

(ii) *All other varieties.* 2 inches minimum diameter, or 4 ounces minimum weight.

(iii) *All varieties.* Size B if U.S. No. 1 or better grade.

(3) *Cleanliness. All varieties.* "Fairly clean."

(b) *Minimum maturity requirements.*—(1) *White Rose and red skin varieties.*—Beginning the effective date hereof through December 31, 1977, "moderately skinned"; thereafter no maturity requirements.

(2) *Norgold variety.* "Slightly skinned."

(3) *All other varieties.* "Slightly skinned."

(4) *Exceptions.* (i) Subject to compliance with subdivision (iii) of this subparagraph, any lot of potatoes not exceeding a total of 50 hundredweight of each variety may be handled for any producer without regard to the foregoing maturity requirements.

(ii) If an officially inspected lot of potatoes meets the foregoing maturity requirements, but fails to meet the grade and size requirements, the lot may be regraded. If, after regrading, such lot then meets the grade and size requirements but fails to meet the maturity requirements, as indicated by the applicable Federal-State inspection certificate, such lot if not exceeding 100 hundredweight shall be exempt from the foregoing maturity requirements if the handler complies with subdivision (iii) of this subparagraph.

(iii) Prior to each shipment of potatoes exempt from the foregoing maturity requirements, the handler thereof shall report to the committee the name and address of the producer of such potatoes, and each such shipment shall be handled as an identifiable entity.

(c) *Pack.* (1) When 50-pound containers (except master containers) of long varieties of potatoes are marked with a count, size or similar designation they must meet the count, average count and weight ranges for the count designation listed below.



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| | Range | | |
|---|---|---|---|
| | Count | Average count | Weight |
| Larger than 50 | 10 pct over or under | 5 pct over or under | 15 oz or larger |
| 50 | 45 to 55 | 48 to 53 | 12 to 19. |
| 60 | 54 to 66 | 57 to 63 | 10 to 16. |
| 70 | 63 to 77 | 67 to 74 | 9 to 15. |
| 80 | 72 to 88 | 76 to 84 | 8 to 13. |
| 90 | 81 to 99 | 86 to 95 | 7 to 12. |
| 100 | 90 to 110 | 96 to 105 | 6 to 10. |
| 110 | 99 to 121 | 105 to 116 | 5 to 9. |
| 120 | 108 to 132 | 114 to 126 | 4 to 8. |
| 130 | 117 to 143 | 124 to 137 | 4 to 8. |
| 140 | 126 to 154 | 133 to 147 | 4 to 8. |
| Smaller than 140 | 10 pct over or under | 5 pct over or under | 4 to 8. |

[1] Applicable to lots.

The following tolerances by weight, are provided for potatoes in any lot which fail to meet the weight range for the designated count:

(i) Not to exceed 5 percent for undersize; and

(ii) Not to exceed 10 percent for oversize.

(2) Potatoes packed in 50-pound cartons shall be U.S. No. 1 or better grade.

(d) *Inspection.* (1) No handler shall handle potatoes unless such potatoes are inspected by either the Idaho Federal-State Inspection Service or Oregon Federal-State Inspection Service and are covered by a valid inspection certificate except when relieved of such requirement pursuant to paragraph (e), (f), or (g) of this section.

(2) Each lot moving by truck shall be accompanied by a copy of a valid inspection certificate.

(e) *Special purpose shipments.* (1) The minimum grade, size, cleanliness, maturity and pack requirements set forth in paragraphs (a), (b) and (c) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

(i) Charity;

(ii) Certified seed;

(iii) Seed pieces cut from stock eligible for certification as certified seed;

(iv) Experimentation; and

(v) Canning, freezing and "other processing" as hereinafter defined: Except shipments of potatoes for the purpose specified in this subdivision (v) shall be exempt from inspection requirements specified in § 945.65 and paragraph (d) of this section and from assessment requirements specified in § 945.42.

(2) The minimum grade, size, cleanliness, maturity and pack requirements set forth in paragraphs (a), (b) and (c) of this section shall be applicable to shipments of potatoes for each of the following purposes:

(i) *Export.* Except potatoes of a size not smaller than 1½ inches in diameter may be shipped if the potatoes grade not less than U.S. No. 2; and

(ii) *Prepeeling.* Except potatoes of a size not smaller than 1½ inches in diameter may be shipped if the potatoes grade not less than Idaho Utility or Oregon Utility grade.

(f) *Safeguards.* (1) Each handler making shipments of potatoes for charity, seed pieces cut from stock eligible for certification, experimentation, export, or for prepeeling pursuant to paragraph (e) of this section shall:

(i) First, apply to the committee for and obtain a Certificate of Privilege to make shipments for each purpose;

(ii) Upon request by the committee, furnish reports of each shipment pursuant to the applicable Certificate of Privilege;

(iii) At the time of applying to the committee for a Certificate of Privilege, or promptly thereafter furnish the committee with a receiver's or buyer's certification that the potatoes so handled are to be used only for the purpose stated in the application and that such receiver will complete and return to the committee such periodic receiver's reports that the committee may require.

(iv) Mail to the office of the committee a copy of the bill of lading for each Certificate of Privilege shipment promptly after the date of shipment;

(v) Bill each shipment directly to the applicable receiver.

(2) Each handler making shipments of potatoes for canning, freezing, or "other processing" pursuant to paragraph (e) of this section shall:

(i) First apply to the committee for and obtain a Certificate of Privilege to make shipments for processing;

(ii) Make shipments only to those firms whose names appear on the committee's current list of manufacturers of potato products;

(iii) Upon request by the committee, furnish reports of each shipment pursuant to the applicable Certificate of Privilege;

(iv) Mail to the committee's office a copy of the bill of lading for each Certificate of Privilege shipment promptly after the date of shipment;

(v) Bill each shipment directly to the applicable processor.

(3) Each receiver of potatoes for processing pursuant to paragraph (e) of this section shall:

(i) Complete and return an application form for listing as a manufacturer of potato products;

(ii) Certify to the committee and to the Secretary that potatoes received from the production area for processing will be used for such purposes and will not be placed in fresh market channels;

(iii) Report on shipments received as the committee may require and the Secretary approve.

(g) *Minimum quantity exception.* Each handler may ship up to, but not to exceed, five hundredweight of potatoes any day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any shipment that exceeds five hundredweight of potatoes.

(h) *Definitions.* The terms "U.S. No. 1," "U.S. No. 2," "Size B," "fairly clean," "moderately skinned," and "slightly skinned," shall have the same meaning as when used in the United States Standards for Potatoes (§§ 51.1540–51.1566 of this title), including the tolerances set forth therein. The term "prepeeling" means the commercial preparation in a prepeeling plant of clean, sound, fresh potatoes by washing, peeling or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 of the United States Standards for Peeled Potatoes (7 CFR Part 52). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form of stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." The terms "Idaho Utility" grade and "Oregon Utility" grade shall have the same meaning as when used in the respective standards for potatoes for the respective States. Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 98 and Order No. 945, both as amended.

(i) *Applicability to imports.* Pursuant to section 8e of the act and § 980.1 "Import regulations" (7 CFR 980.1), Irish potatoes of the long varieties imported during the effective period of this section shall meet the grade, size, quality and maturity requirements specified in paragraphs (a) and (b) of this section.

Dated: July 20, 1977.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77-21359 Filed 7-22-77;8:45 am]

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**[7 CFR Part 947]**

## IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES IN CALIFORNIA AND IN ALL COUNTIES IN OREGON EXCEPT MALHEUR COUNTY

### Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.





SUMMARY: This proposed regulation would require fresh market shipments of potatoes grown in Modoc and Siskiyou Counties in California and all counties in Oregon except Malheur County to be inspected and meet minimum grade, size, cleanliness, pack and maturity requirements. The regulation should promote orderly marketing of such potatoes by keeping less desirable sizes and qualities from being shipped to consumers.

DATE: Comments due August 9, 1977.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 114 and Order No. 947, both as amended, regulate the handling of potatoes grown in designated counties of California and Oregon. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Oregon-California Potato Committee, established under the order, is responsible for its local administration.

This notice is based upon recommendations made by the committee at its public meeting in Klamath Falls, Oregon, on June 16, 1977.

The grade, size, maturity, pack, cleanliness and inspection requirements recommended herein are the same as those issued during the last season. They are necessary to prevent potatoes of low quality or undesirable sizes from being distributed to fresh market outlets. These specific proposals would benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area, thereby promoting orderly marketing and would tend to effectuate the declared policy of the act.

The committee recommends that potatoes grown in and shipped from District No. 5 be a minimum of 2 inches or 4 ounces. All handlers in District 5 desired this amendment because it makes size requirements in their district conform to those in effect under Marketing Order 946 covering the State of Washington. District No. 5 borders on Washington. Washington handlers are their direct competitors, and potatoes move freely across the State line.

Exceptions would be provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

Inspection requirements would be modified for certain handlers whose facilities are located far enough from major production areas to cause a substantial financial burden in maintaining a full-time Federal-State inspector.

A specified quantity of potatoes would be exempt from maturity requirements in order to permit growers to make test diggings without loss of the potatoes so harvested.

Shipments would be permitted to certain special purpose outlets without regard to minimum grade, size, cleanliness, maturity, pack and inspection requirements, provided that safeguards were met to prevent such potatoes from reaching unauthorized outlets. Certified seed would be so exempt, subject to the safeguard provisions only when shipped outside the district where grown.

Shipments for use as livestock feed within the production area or to specified adjacent areas would likewise be exempt; a limit to the destinations of such shipments would be provided so that their use for the purpose specified would be reasonably assured. Shipments of potatoes between Districts 2 and 4 for planting, grading, and storing would be exempt from requirements because these two areas are homogenous and have no natural division. Other districts are more clearly separated and do not have this problem. For the same reason, potatoes grown in District 5 may be shipped without regard to the aforesaid requirements to the Counties of Adams, Benton, Franklin and Walla Walla in the State of Washington, and Malheur County, Oregon, for grading and storing. Since no purpose would be served by regulating potatoes used for charity purposes, such potatoes are exempt. Also potatoes for most processing uses are exempt under the legislative authority for this part.

Requirements for export shipments differ from those for domestic markets. While the standard quality requirements are desired in foreign markets, smaller sizes are more acceptable. Therefore, different requirements for export shipments are proposed.

The proposal is as follows:

### § 947.335 [Removed]

1. *Termination of regulations.* Handling regulation § 947.335, as amended, effective August 5, 1976 through October 15, 1977 (41 FR 32695 and 52058) shall be terminated upon the effective date of this section.

2. Section 947.336 is added to read as set forth below.

### § 947.336 Handling regulation.

During the period August 15, 1977, through October 15, 1978, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a) through (f) of this section or unless such potatoes are handled in accordance with paragraphs (g), (h), or (i) of this section.

(a) *Grade requirements.* All varieties—U.S. No. 2, or better grade.

(b) *Size requirements.* All varieties—1⅞ inches minimum diameter except potatoes from District No. 5 shall be 2 inches minimum diameter or 4 ounces minimum weight. However, potatoes for export may be 1½ inches minimum diameter.

(c) *Cleanliness requirements.* All varieties and grades—As required in the United States Standards for Grades of Potatoes, except that U.S. Commercial may be no more than "slightly dirty."

(d) *Maturity (skinning) requirements.* (1) All varieties—no more than "moderately skinned."

(2) Not to exceed a total of 100 hundredweight of potatoes may be handled during any seven day period without meeting these maturity requirements. Prior to shipment of potatoes exempt from the above maturity requirements, the handler shall obtain from the committee a Certificate of Privilege.

(e) *Pack.* Potatoes packed in 50-pound cartons shall be U.S. No. 1 grade or better, except that potatoes that fail to meet the U.S. No. 1 grade only because of hollow heart and/or internal discoloration may be shipped provided the lot contains not more than 10 percent damage by hollow heart and/or internal discoloration, as identified by U.S.D.A. Color Photograph E (Internal Discoloration—U.S. No. 2—Upper Limit), POT–CP–9, May, 1972, or not more than 5 percent serious damage by internal defects.

(f) *Inspection.* (1) Except when relieved by paragraphs (g), (h) or (i) of this section and subparagraph (2) of this paragraph, no person shall handle potatoes without first obtaining inspection from an authorized representative of the Federal-State Inspection Service.

(2) Handlers making shipments from facilities located in an area where inspection costs would otherwise exceed one and one-half times the current per-hundredweight inspection fee, are exempt from on site inspection provided such handler has made application to the committee for inspection exemption on forms supplied by the committee, and provided further that such handler signs an agreement with the committee to report each shipment on a daily basis and pay the committee a sum equal to the current inspection fee.

(3) For the purpose of operation under this part each required inspection certificate is hereby determined, pursuant to § 947.60(c) to be valid for a period of not to exceed 14 days following completion of inspection as shown on the certificate. The validity period of an inspection certificate covering inspected and certified potatoes that are stored in mechanically refrigerated storage within 14 days of the inspection shall be 14 days plus the number of days that the potatoes were held in refrigerated storage.

(4) Any lot of potatoes previously inspected pursuant to § 947.60(a) and certified as meeting the requirements of this part is not required to have additional inspection under § 947.60(b) after regrading, resorting, or repacking such potatoes, if the inspection certificate is valid at the time of regrading, resorting, or repacking of the potatoes.

(g) *Special purpose shipments.* The minimum grade, size, cleanliness, pack, maturity and inspection requirements



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set forth in paragraphs (a) through (f) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

(1) Certified seed, subject to applicable safeguard requirements of paragraph (h) of this section.

(2) Livestock feed: However, potatoes may not be handled for such purposes if destined to points outside of the production area, except that shipments to the Counties of Benton, Franklin and Walla Walla in the State of Washington and to Malheur County, Oregon, may be made, subject to the safeguard provisions of paragraph (h) of this section.

(3) Planting in the district where grown, except that potatoes for this purpose grown in District No. 2 or District No. 4 may be shipped between those two districts.

(4) Grading or storing under the following provisions:

(i) Between districts within the production area for grading or storing if such shipments meet the safeguard requirements of paragraph (h) of this section.

(ii) Potatoes grown in District No. 2 or District No. 4 may be shipped for grading or storing between those two Districts without regard to the safeguard requirements of paragraph (h) of this section.

(iii) Potatoes grown in District No. 5 may be shipped for grading and storing to points in the Counties of Adams, Benton, Franklin and Walla Walla in the State of Washington, or to Malheur County, Oregon, without regard to the safeguard provisions of paragraph (h) of this section.

(5) Charity: Except that shipments for charity may not be resold if they do not meet the requirements of the marketing order, and that shipments in excess of 5 hundredweight per charitable organization shall be subject to the safeguard provisions of paragraph (h) of this section.

(6) Starch manufacture.

(7) Canning, freezing, prepeeling, and "other processing" (except starch manufacturing), as hereinafter defined (including storage for such purposes).

(h) *Safeguards.* (1) Each handler making shipments of certified seed outside the district where grown pursuant to paragraph (g) shall obtain from the committee a Certificate of Privilege, and shall furnish a report of shipments to the committee on forms provided by it.

(2) Each handler making shipments of potatoes pursuant to subparagraphs (2), (4)(i), and (5) of paragraph (g) of this section shall obtain a Certificate of Privilege from the committee, and shall report shipments at such intervals as the committee may prescribe in its administrative rules.

(3) Each handler making shipments pursuant to subparagraph (7) of paragraph (g) of this section may ship such potatoes only to persons or firms designated as manufacturers of potato products by the committee, in accordance with its administrative rules.

(i) *Minimum quantity exemption.* Any person may handle not more than 19 hundredweight of potatoes on any day without regard to the inspection requirements of § 947.60 and to the assessment requirements of § 947.41 of this part except no potatoes may be handled pursuant to this exemption which do not meet the requirements of paragraphs (a), (b), (c), (d) and (e) of this section. This exemption shall not apply to any part of a shipment which exceeds 19 hundredweight.

(j) *Definitions.*

(1) The terms "U.S. No. 1," "U.S. Commercial," "U.S. No. 2," and "moderately skinned" shall have the same meaning as when used in the U.S. Standards for Grades of Potatoes (§§ 51.1540–51.1566) including the tolerances set forth therein.

(2) The term "slightly dirty" means potatoes that are not damaged by dirt.

(3) The term "prepeeling" means the commercial preparation in a prepeeling plant of clean, sound, fresh potatoes by washing, peeling or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale, in one or more of the styles of peeled potatoes described in § 52.2422 United States Standards for Grades of Peeled Potatoes (7 CFR Part 52).

(4) The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, or starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or applying material to prevent oxidation does not constitute "other processing."

(5) Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 114, as amended, and this part.

Dated: July 20, 1977.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77-21360 Filed 7-22-77;8:45 am]

## FEDERAL HOME LOAN BANK BOARD

**[ 12 CFR Part 563 ]**

[No. 77-445]

### FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

**Loans Involving Mortgage Insurance**

JULY 19, 1977.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: Present regulations prohibit an FSLIC-insured institution from insuring loans with a mortgage insurance company in which the institution and service corporation(s) and insiders thereof have an ownership interest in excess of specified limits, but provide an exception for such a company which was in existence on March 11, 1976, and is entirely owned by insured institutions, no one of which owns more than twenty-five percent of any class of equity securities of the company. The Board believes that the purpose of these regulations would be furthered by tightening this exception, and the proposed amendment would have this effect. The proposed amendment would modify the exception to (1) prevent an insured institution from increasing its investment under the exception; (2) prevent an institution which reduces its investment from subsequently increasing it under the exception; and (3) prevent an institution whose interest is presently less than prescribed maximum limits from increasing its interest to exceed such limits.

DATES: Comments must be received on or before August 26, 1977.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 320 First Street NW., Washington, D.C. 20552. Comments available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board (202–376–3556) at the above address.

SUPPLEMENTARY INFORMATION: Present § 563.44(b)(4) of the Rules and Regulations for Insurance of Accounts (12 CFR 563.44(b)(4)) prohibits an insured institution or service corporation affiliate thereof from insuring, on and after January 1, 1977, any loan with a mortgage insurance company in which such insured institution or service corporation affiliate or directors, officers, or controlling persons thereof have an equity ownership interest as specified, unless a compelling justification is made that no conflict of interest would result thereby. Section 563.44(c) provides an exception from such prohibition for any mortgage insurance company in existence on March 11, 1976, which is entirely owned, directly or indirectly, by insured institutions, no one of which owns more than twenty-five percent of any class of equity securities of such mortgage insurance company.

In adopting § 563.44(c), the Board intended only to "grandfather" the investment then held by insured institutions in the only mortgage insurance company known to be owned entirely by insured institutions, the Pennsylvania Mortgage Insurance Company ("PAMICO"). This "grandfathering" of such investment was based on the Board's review of the operations of the four insured institutions which indirectly owned PAMICO and its determination that such operations did not appear to involve the sort of abuses that § 563.44 was intended to prevent. The Board noted in the preambles to the resolutions which adopted





paragraph (c) and which later, in essence, limited its scope to PAMICO that it remained concerned with this exception and might modify or revoke the exception on the basis of later experience with it.

Since adoption of § 563.44(c), the parent company of PAMICO, Pennsylvania Thrift Services Corporation ("Pennsylvania Thrift"), has issued additional stock and increased the number of indirect owning insured institutions of PAMICO beyond the original four. This action in the face of repeated expression by the Board of concern with paragraph (c) was apparently based on the view that the language of this provision arguably exempts from the limitations in § 563.44(b) not only the investment in PAMICO of its original owners but also that of other insured institutions which might invest in the company. The present proposal would effectuate the Board's intent with respect to paragraph (c) by modifying it to make clear that the prohibitions in § 563.44(b) apply to any insured institution during any period that it owns directly or indirectly equity securities of a mortgage insurance company acquired after the date of publication of this proposed amendment in excess of the limitations in that § 563.44(b)(4).

It should be noted that the proposal would subject to the § 563.44(b) prohibitions any insured institution acquiring equity securities in excess of the § 563.44(b)(4) limitations even if such acquisition merely added to an existing ownership interest "grandfathered" by § 563.44(c). The proposal would also subject to the § 563.44(b) prohibitions any insured institution with a "grandfathered" investment in a mortgage insurance which decreased such investment and thereafter increased it again other than within the § 563.44(b)(4) limitations.

Although the Board believes the amendment to § 563.33(c) hereby proposed would be useful for the purposes discussed above, the Board emphasizes that it remains concerned with the exception in § 563.44(c) and may in the future further modify or even revoke the exception if experience with it indicates that such action is warranted.

Accordingly, the Board hereby proposes to amend paragraph (c) of § 563.44 to read as follows:

**§ 563.44 Loans involving mortgage insurance.**

* * * * *

(c) *Exception.* Paragraph (b)(4) of this section does not apply to any mortgage insurance company in existence on March 11, 1976, which is entirely owned, directly or indirectly, by insured institutions. This exception does not, however, exclude from the provisions of said paragraph (d)(4) any insured institution during any period when it owns directly or indirectly equity securities of a mortgage insurance company acquired after July 25, 1977, in excess of the limitations specified in that paragraph.

* * * * *

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. §§ 1725, 1726, 1730). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
*Secretary.*

[FR Doc.77-21297 Filed 7-22-77;8:45 am]

## NATIONAL CREDIT UNION ADMINISTRATION

**[ 12 CFR Part 720 ]**

### PRIVACY ACT OF 1974

**Description of Office, Disclosure of Official Records Availability of Information, Promulgation of Regulations**

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: It is proposed that the National Credit Union Administration's (NCUA) regulations implementing the Privacy Act be amended. Experience with the present regulations has indicated that individuals not sophisticated in dealing with administrative agencies may find certain requirements needlessly complex and discouraging. Proposed changes include simplifying the identity of the recipient for written requests, decreasing copying costs, extending the suggested time frame for appeals to access denial (and clarifying the nonmandatory nature of this limit), and shortening the time for agency acknowledgement of requests.

DATES: Comments must be received on or before August 5, 1977.

ADDRESS: National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Robert M. Fenner, Office of the General Counsel, National Credit Union Administration, 2025 M Street, NW., Washington, D.C. 20456. Telephone: (202–254–9810).

SUPPLEMENTARY: Where previously NCUA's Privacy Act regulations required that all requests be sent to the Administration official identified in the access procedure section of the descriptive notice(s) for the appropriate system(s) of records as published in the FEDERAL REGISTER, an official is now identified as a person to whom requests can be made by persons not familiar with the published descriptive notices.

Where previously there was no allowance for personal information over the phone, a new subsection has been added so this may be accomplished with proper oral identification (i.e., statement of home address, date of birth, or social security number). Identification requirements for in person or by mail requests are to be modified so that the responsible official may waive some of the required identifiers if those provided are deemed sufficient. This will allow greater flexibility and consideration of the nature of the information requested.

Where previously the regulations provided that a Statement of Disagreement (with access denial) may be furnished by the individual within 30 days, the amended version would read: "It is requested that they be furnished within 180 days." This is in consideration of the fact that the Privacy Act is silent on time limits for filing such statements.

In addition, the time limit for agency response to requests concerning a single system of records which do not require consultation with or requisition of records from another agency is to be decreased from 20 to 10 days. Also, the cost of document copies is decreased from $.25 to $.10.

The proposed changes should make the procedure more manageable for the average person, thus furthering the purpose of the Privacy Act to provide safeguards for individuals against invasion of personal privacy. Yet the process is still efficient from the Agency point of view.

Accordingly, it is proposed to amend 12 CFR Part 720 as set forth below:

**§ 720.21 [Amended]**

1. In § 720.21, by designating each paragraph as (a) through (g).

**§ 720.22 [Amended]**

2. In § 720.22(a), by (i) deleting the words "in person or in writing," and (ii) by inserting the following at the end of paragraph (a): "An individual who does not have access to the FEDERAL REGISTER and who is unable to determine the appropriate official to whom his request should be submitted may submit his request to the Assistant Administrator for Administration, National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456, in which case the request will then be referred to the appropriate Administration official(s) and the date of receipt of the request will be determined as the date of receipt by that official(s)."

**§ 720.23 [Amended]**

3. In § 720.23, as follows:

(i) Paragraph (a) by deleting the word "minimum" and by inserting after the word "request" the words "either in person or by mail,";

(ii) Subparagraph (a)(1) by deleting the word "may" and inserting, in lieu thereof, the words "shall, if not personally known to the Administration official responding to the request,";

(iii) Subparagraph (a)(2) by deleting the word "shall" and inserting, in lieu thereof, the word "may," and by inserting after the words "other document" a period and the following: "If less than all of this requisite identifying information is provided, and unless that which is provided is considered sufficient to establish the requestor's identity, in view of the nature of the information requested, the Administration official responding to the request may require fur-



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ther identifying information prior to any notification or responsive disclosure;";

(iv) By adding a new paragraph (c) as follows: "(c) Individuals may request notification of the existence of and access to records about themselves and contained in a system of records by telephone. In such a case, the Administration official responding to the request shall require, for the purpose of comparison and verification of identity, at least two items of identifying information (such as date of birth, home address, social security number) which are already possessed by the Administration. If the requisite identifying information is not provided, or otherwise at the discretion of the responsible Administration official, the individual may be required to submit his request by mail or in person in accordance with paragraph (a), above.";

(v) Paragraph (c) by redesignating it as paragraph (d);

(vi) Paragraph (d) by redesignating it as paragraph (e) and by deleting the word "and" after the words "in paragraph (a)," and inserting a comma in lieu thereof, and inserting after "(b)" the words "and (c)."

**§ 720.23 [Amended]**

4. In § 720.23, as follows:

(i) Paragraph (a) by deleting the words "within thirty days" and by inserting, in lieu thereof, the words "preferably within 180 days.";

(ii) Subparagraph (b)(1) by deleting the number "20" and by inserting, in lieu thereof, the number "10";

**§ 720.26 [Amended]**

5. In § 720.26(a), by adding the following to the end of paragraph (a): "An individual who does not have access to the Administration's "Notices of Records Systems," and to whom the appropriate address is otherwise unavailable may submit this request to the Assistant Administrator for Administration, National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456, in which case the request will then be referred to the appropriate Administration official and the date of receipt of the request will be determined as of the date of receipt by that official."

**§ 720.27 [Amended]**

6. In § 720.27, as follows:

Paragraph (c) by inserting a period following the words "by the individual" and by inserting after that period the words "It is requested that they be furnished."

**§ 720.34 [Amended]**

7. In § 720.34, as follows:

(i) Paragraph (a) by deleting the colon following the words "to pay" and by inserting, in lieu thereof, the words "or the cost of collecting the fee:";

(ii) Subparagraph (a)(1) by deleting the figure "$.25" and by inserting, in lieu thereof, the figure "$.10";

(iii) Paragraph (b) by deleting the words "Where it is anticipated" and by inserting, in lieu thereof, the words "If it is determined."

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

LORENA C. MATTHEWS,
*Acting Administrator.*

JULY 7, 1977.

[FR Doc.77-21254 Filed 7-22-77;8:45 am]

## CIVIL AERONAUTICS BOARD

**[ 14 CFR Chapter II ]**

[EDR-327A; Docket 30460]

### CURRENCY EXCHANGE CONDITIONS

**Supplemental Advance Notice of Proposed Rulemaking**

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental Advance Notice of Proposed Rulemaking.

SUMMARY: This notice extends for 30 days the filing date for comments in a rulemaking proceeding concerning the currency exchange problems of U.S. flag carriers in foreign countries. The extension was requested by the Air Transport Association (ATA).

DATES: Dated: July 19, 1977. Commented: August 21, 1977.

ADDRESSES: Comments should be sent to Docket 30460, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as received.

FOR FURTHER INFORMATION CONTACT:

Simon J. Eilenberg, Rules Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202-673-5442).

SUPPLEMENTAL INFORMATION: By Advance Notice of Proposed Rulemaking EDR-327, 42 FR 28898, dated May 31, 1977, the Board stated that it had under consideration a proposal to adopt rules designed to alleviate the currency exchange problems experienced by U.S. flag carriers in certain foreign countries.

In a letter dated July 15, 1977, the counsel for ATA requested an extension of 30 days for the filing of comments in response to EDR-327. In support of the request, counsel stated that additional time is required to arrange coordination among ATA members and to submit the specific information requested by the Board.

Upon consideration of the foregoing, the undersigned finds that good cause has been shown for the granting of the requested extension. It does not appear that this extension will prejudice any party to the proceeding.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR 385.20 (d)), the time for filing of comments is extended to August 21, 1977.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

SIMON J. EILENBERG,
*Associate General Counsel,*
*Rules Division.*

[FR Doc.77-21370 Filed 7-22-77;8:45 am]

## DEPARTMENT OF TRANSPORTATION

**Federal Aviation Administration**

**[ 14 CFR Part 39 ]**

[Docket No. 17044]

### AIRWORTHINESS DIRECTIVES

**Avions Marcel Dassault-Breguet Aviation Model Falcon 10 Airplanes**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require replacement of Badin Crouzet total-pressure probes, P/N 33790-10 and impose a life limitation upon their use in service when installed on certain Avions Marcel Dassault-Breguet Aviation, Model Falcon 10 airplanes. There have been reports of failure of the internal tubing of the Badin Crouzet probes, attributed to thermal fatigue which resulted in failure of the ice-protection provisions of the air speed indicating system. As a result of such a failure the safe operation of the airplane is jeopardized in atmospheric icing conditions.

DATES: Comments must be received on or before September 8, 1977.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-24) Docket No. 17044, 800 Independence Avenue SW., Washington, D.C. 20591.

The applicable service bulletin may be obtained from: Falcon Jet Corp., Teterboro Airport, N.J. 07608. Tel. 201-288-5300.

A copy of the service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

M. E. Gaydos, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel. 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Instances have been reported of failure of the internal tubing of Badin Crouzet total-pressure probes, P/N 33790-10, of the airspeed indicating system. Such failure, which is attributed to thermal fatigue, results in loss of the ice-protection provisions of the air speed indicating system, which could jeopardize safe operation of the airplane in atmospheric icing conditions. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require replacement of the probes and would impose a life limitation upon their use in service.

DRAFTING INFORMATION

The principal authors of this document are M. E. Gaydos, Europe, Africa, and Middle East Region, C. Birkenholz, Flight Standards Service, and R. Burton, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

AVIONS MARCEL DASSAULT-BREGUET AVIATION (AMD-BA). Applies to Model Falcon 10 airplanes, S/N 1 through 56, certificated in all categories, and any other Model Falcon 10 airplane incorporating Badin Crouzet total-pressure probes, P/N 33790-10.

Compliance is required as indicated.

To prevent failure of total-pressure probe accomplish the following:

(a) Prior to the accumulation of 600 total airplane flights or within the next 100 flights after the effective date of this AD, whichever occurs later, replace both total-pressure probes, P/N 33790-10, with new parts of the same part number, or with probes of improved design, P/N 33790-20, in accordance with paragraph 2 of Falcon 10 Service Bulletin No. F10.34.007, dated July 17, 1975, or an equivalent approved by the Chief, Aircraft Certification Staff for Europe, Africa, and Middle East Region, c/o American Embassy, A.P.O. New York, N.Y. 09667.

(b) Replacement probes P/N 33790-10 are hereby life limited to 600 flights.

(c) For the purpose of this AD, a flight is defined as a single takeoff and landing. If records are not maintained of each takeoff and landing, the number of flights may be determined by dividing each airplane's hours time in service by the operator's fleet average time from takeoff to landing for the airplane type, subject to acceptance by the assigned FAA airworthiness inspector.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 15, 1977.

R. P. SKULLY,
*Director,*
*Flight Standards Service.*

[FR Doc.77-21257 Filed 7-22-77;8:45 am]

**[ 14 CFR Part 135 ]**

[Docket No. 17045; Notice No. 77-14]

### AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

**Air Ambulance Service**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Advance notice of proposed rule making.

SUMMARY: This notice proposes regulations governing the transportation in small aircraft operated for compensation or hire of persons who may need assistance in meeting their medical needs while in flight. They are intended to provide air ambulance standards which will ensure that the medical needs of these persons are met without compromising safety.

DATE: Comments must be received on or before October 25, 1977.

ADDRESS: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-24), Docket No. 17045, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-755-8716.

SUPPLEMENTARY INFORMATION:

EARLY PUBLIC PARTICIPATION

This advance notice of proposed rulemaking is being issued pursuant to the FAA's policy for early institution of public proceedings in action related to rulemaking. An "advance" notice is issued to invite public participation in the identification and selection of a course or alternate courses of action with respect to a particular rule-making problem.

COMMENTS INVITED

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number, and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. Communications should be received on or before October 25, 1977, to assure proper consideration. All comments submitted will be available in the Rules Docket, both before and after the closing date for comment, for examination by interested persons. If it is determined to proceed further, after consideration of the available data and the comments received in response to this notice, a notice of proposed rule-making will be issued. A report summarizing each substantive public contact with FAA personnel concerned with this rule making will be filed in the docket.

AVAILABILITY OF NPRMS

Any person may obtain a copy of this advance notice of proposed rule making (ANPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this ANPRM. Persons interested in being placed on a mailing list for future ANPRM's and NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

HISTORY

For the past several years, there has been a growing awareness, on the part of the DOT and on the part of Part 135 certificate holders, of the need to establish standards for air ambulance operations. In December of 1974 a DOT working group, consisting of members from the FAA, the United States Coast Guard, and the National Highway Traffic Safety Administration, was formed to develop definitive minimum standards for air ambulances. In this connection, two public meetings were held in July of 1975 to obtain public comment on a preliminary series of items for inclusion in those standards. The meetings were held at Denver, Colorado, and Washington, D.C. Careful consideration has been given to the comments received at those meetings in the preparation of this ANPRM.

THE PROPOSAL

It has been urged that whatever standards are adopted should be applied only to those certificate holders who hold themselves out to the public as operating "air ambulances." A member of the public with a medical problem could then choose to obtain transportation from a certificate holder operating an "air ambulance," and be assured that the certificate holder would provide him with transportation in an aircraft that contains the equipment and personnel necessary to meet his medical needs. On the other hand, this same member of the public, after determining that his medical problem will not need any specialized





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attention during flight, could choose other air transportation that would not involve the additional cost that might be charged for transportation in an air ambulance.

However, the FAA believes that air ambulance standards, since they apply to the safety of passengers with specific medical needs and to the safe operation of the aircraft, should apply to the carriage of these persons by any Part 135 certificate holder, regardless of whether the aircraft used is characterized as an "air ambulance." This is predicated not only on the personal safety of the person being carried, but also on the risk of inflight emergencies that could occur if the aircraft does not have proper medical equipment and personnel. For this reason the requirements proposed herein would apply to all certificate holders.

The FAA believes that those operators who regularly provide emergency medical transportation, and hold themselves out to the public as prepared to provide this service, have the time to prepare and should be required to have proper medical equipment and staffing for medical emergencies. Under the proposed regulations these certificate holders would be designated "rescue air ambulance operators."

The phrase "holding out to the public," as it would be applied to rescue air ambulance operators, would be given the same meaning as it has been given with respect to the question of when a person is involved in common carriage. In other words, a certificate holder providing emergency medical transportation would not be able to avoid compliance with the proposed standards simply by not advertising. Establishment of a reputation for, or communication by word-of-mouth of, a willingness to provide rescue air ambulance service could be sufficient to establish the certificate holder as a rescue air ambulance operator.

### General Requirements

For the purpose of the rules proposed herein, a patient would be defined as a person who is sick, injured, wounded, or otherwise incapacitated or helpless. No certificate holder would be allowed to carry a patient unless that certificate holder meets the general requirements of proposed § 135.285. Under paragraphs (a) and (b) of this section certain equipment requirements would apply regardless of the patient's individual need. Other equipment, such as a ventilation unit or a demand-type resuscitator, would be required by paragraph (c) only if it were needed to meet an anticipated need of the patient.

### Intensive Care

With respect to the transportation of patients who are in constant need of special medical attention, a certificate holder would not be allowed to carry a patient who is expected to need intensive care or life-support measures while aboard the aircraft without meeting the additional requirements of proposed § 135.287. In addition to the equipment required by proposed § 135.285 (a) and (b), these "intensive care air ambulance operators" would be required to have all of the equipment required by § 135.285(c), since these patients should not be carried without this equipment being immediately available in flight. In addition, each intensive care patient would have to have at least one medical attendant assigned to him and to no other patient.

### Rescue Air Ambulance Service

Air ambulance operators who hold themselves out to the public as being able to provide air ambulance service to meet a medical emergency would be required, under proposed § 135.289, to carry an auxiliary medical oxygen unit and a poison kit. In addition, the "rescue air ambulance operator" would have to have certain equipment appropriate for emergency or rescue operations readily available for carriage in his aircraft and would be required to carry it when he knows or has reason to know that it is necessary to meet the anticipated needs of the patient. He would also be required to have at least one medical attendant aboard the aircraft.

### Medical Personnel

Each certificate holder providing intensive care air ambulance service would be required to have a physician available, either in person or by telephone or radio communication, to advise him with regard to the transportation of patients. Moreover, a certificate holder would not be allowed to carry a patient who might need a medical attendant during flight unless there would be enough medical attendants aboard to provide for his needs and the needs of all other patients needing an attendant.

For the purposes of proposed Subpart J "medical attendant" would be defined to mean a physician, registered nurse, registered physician's assistant or a person registered by the National Registry of Emergency Medical Technicians or certified by a State, territory or possession of the United States as meeting standards acceptable to the Administrator. The FAA is considering issuing an Advisory Circular that would describe acceptable standards for the qualification of medical attendants. Each medical attendant would be required by proposed § 135.293 to have received appropriate training within the preceding 12 calendar months. This same section would prescribe standards for training.

### Medical Oxygen

Standards are also proposed for medical oxygen units used by certificate holders. In addition to an appropriate humidification attachment, each unit would have to be capable of manual control with an appropriate flow gauge, so that proper flow can be maintained regardless of the aircraft's altitude. Units provided to meet a patient's specific need would have to have an adequate supply of medical oxygen. Auxiliary units would have to contain enough medical oxygen to operate for at least 20 minutes at a flow rate of 10 liters per minute.

### Emergency Medical Kit

Each aircraft carrying a patient would be required to contain a basic emergency medical care kit, to assist in meeting any anticipated inflight medical emergency involving the patient. The contents of this kit would be specified in a new Appendix B to Part 135.

### Litter Patient

A specific section would be adopted regarding litter patients. A certificate holder would not be allowed to carry a patient who must be carried on a litter unless certain loading and positioning requirements could be met. The patient would have to be carried in a horizontal position that would not interfere with the performance of any duty by any flight crewmember or medical attendant or prevent access to the patient's upper body. Under this requirement the patient could not be carried so as to obstruct a pilot's vision or prevent access to controls or equipment.

### Aircraft and Equipment

Carriage and maintenance requirements would also be adopted for the equipment to be carried in accordance with the proposed new Subpart J. Cleaning and disinfecting requirements for equipment and items such as linens and blankets that come in contact with the patient are proposed in § 135.303. Proposed § 135.301 provides for the secure stowage of these items.

Under proposed Subpart J, no aircraft could be used to carry a patient unless it has adequate lighting for patient care and has adequate electrical power available to operate the medical equipment carried, in addition to the electrical power needed for operation of the aircraft.

### Procedures Manual

In order to ensure that each person to whom a certificate holder assigns responsibilities under proposed Subpart J is aware of those responsibilities, the operator would be required to prepare and keep current a manual that contains procedures for ensuring the proper handling of patients, the responsibilities of flight crewmembers to patients, and any appropriate emergency procedures. The manual would have to contain a list of each person assigned responsibilities under Subpart J, and the appropriate portions of the manual would have to be made available to each of those persons. This manual could be contained in the manual required by § 135.27(a), for those certificate holders required to have that manual.

### Deviation in Emergency

Finally, proposed § 135.309 would provide for deviation from the rules of proposed Subpart J in a medical emergency when no other practical means of transportation (including any other properly equipped certificate holder) is reasonably available, to the extent necessary to meet the emergency. A reporting requirement the same as that provided in § 135.7(c) would also be adopted.

Part 135 does not presently apply to rescue operations, which are specifically excluded by § 135.1(b)(4)(v). To be consistent with the proposed requirements for rescue air ambulance service, § 135.1(b)(4)(v) would be revised to exclude from Part 135 rescue operations other than rescue air ambulance service.





### Specific Questions

The FAA solicits the views of all interested persons concerning the establishment of standards for air ambulance operations and the specific regulations proposed in this notice. In accordance with the Department of Transportation regulatory reform policy, the FAA is particularly interested in receiving comments that will assist it in analyzing these proposals with particular consideration of their costs, benefits and other impacts on Part 135 certificate holders, on consumers, on the medical community, on State and local governments, and on other Federal agencies. Comments are requested on the impact of the proposed regulations on the following:

1. Estimated capital investment costs, other than aircraft, including:
(a) Cost per aircraft of purchasing new required equipment.
(b) Cost per aircraft of leasing new required equipment.
(c) Cost per aircraft of installing new required equipment.
(d) Loss of earnings per aircraft due to aircraft downtime for equipment installation.
(e) Total fleet capital investment costs.
(f) Any other costs related to capital investment.

2. Maintenance costs, other than for aircraft, including:
(a) Cost per unit of operation of maintenance of medical equipment and supplies.
(b) Other (specify).

3. Administrative costs, including:
(a) Costs of processing orders for new or leased medical equipment and supplies.
(b) Other specific administrative costs that compliance with these proposals would necessitate.

4. Consumer costs, including:
(a) Current costs to consumer per air ambulance nautical mile.
(b) Estimated costs to consumer per air ambulance nautical mile that would be necessitated by these proposals.

5. Social benefits, including:
(a) Degree of comfort and care that compliance with the proposed rules would afford those persons requiring air ambulance service.
(b) Other specific benefits to the public.

The FAA is also interested in comments regarding any other impact that these proposed rules may have.

During the course of the meetings held in Denver and Washington in July of 1975 the question was posed as to the FAA's authority under the Federal Aviation Act of 1958 to engage in rule making regarding air ambulance activities. While the FAA is satisfied that it has adequate statutory authority for the proposed regulations, public comment is nevertheless invited on this question.

In addition, the FAA would like to receive comments on the following:

1. The number, make, and model of aircraft that would be operated as air ambulances under the proposed rules.
2. The applicability of the proposed rules, as specified in proposed § 135.283.
3. Adequacy of definitions contained in this notice.
4. Any other items in this notice that should also be defined.

### Drafting Information

The principal authors of this document are Frank M. Jamison, Jr., and Bernard A. Geier, Flight Standards Service, and Donald P. Byrne, Office of the Chief Counsel.

### The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Part 135 of the Federal Aviation Regulations (14 CFR Part 135) as follows:

1. By amending § 135.1 by revising paragraph (b)(4)(v) to read as follows:

**§ 135.1 Applicability.**

* * * * *

(b) This part does not apply to—

* * * * *

(4) Aerial work operations, including—

* * * * *

(v) Rescue operations other than rescue air ambulance service provided by a rescue air ambulance operator as defined in 135.283(b)(4).

* * * * *

2. By adding a new Subpart J to read as follows:

**Subpart J—Air Ambulance Service**

**§ 135.283 Applicability.**

(a) This subpart prescribes operating rules, in addition to those prescribed in other subparts of this part, governing the transportation of patients.

(b) As used in this subpart:

(1) "Air ambulance service" means transportation by air that is specifically designed to accommodate the medical needs of a patient.

(2) "Intensive care air ambulance service" means air ambulance service provided to a patient who is expected to need intensive care or life-support measures while aboard the aircraft in which he is being carried.

(3) "Rescue air ambulance service" means air ambulance service provided to meet a medical emergency.

(4) "Rescue air ambulance operator" means an air ambulance operator who holds himself out to the public as able to provide rescue air ambulance service.

(5) "Patient" means a person who is sick, injured, wounded, or otherwise incapacitated or helpless.

(6) "Medical attendant" means a physician, registered nurse, registered physician's assistant, or a person either registered by the National Registry of Emergency Medical Technicians or certified by a State, territory, or possession of the United States as meeting standards acceptable to the Administrator.

(7) "Litter" means any device for the transportation of a passenger in a horizontal position.

**§ 135.285 Air ambulance service.**

No certificate holder may carry any patient unless the aircraft in which the patient is carried contains at least the following:

(a) Regardless of the number of passengers carried:
(1) Two plastic trash bags with a capacity of not less than 20 gallons.
(2) One flashlight using two "D" batteries, or the equivalent, with two spare batteries, in addition to the flashlight required by § 135.153.
(3) Six disposable face masks.
(b) For each patient:
(1) One blanket.
(2) One pillow with a cover impervious to moisture.
(c) For each patient, when the certificate holder knows, or has reason to know, that it is necessary to meet an anticipated need of that patient:
(1) One litter with approved restraints.
(2) One locking hook for each intravenous fluid container anticipated to be used simultaneously.
(3) One hand-operated bag mask ventilation unit or demand-type resuscitator, with a mask appropriate to the user, that can be used in conjunction with any medical oxygen system required by this section.
(4) One emesis basin.
(5) One urinal.
(6) One bedpan.
(7) One blood pressure manometer, cuff, and stethoscope or equivalent equipment.
(8) A medical oxygen unit and auxiliary medical oxygen unit that meet the requirements of § 135.295, with a mask appropriate to the user.
(9) One portable suction unit.

**§ 135.287 Intensive care air ambulance service.**

No certificate holder may carry any patient who he knows, or has reason to know, is expected to need intensive care or life-support measures while aboard the aircraft unless the aircraft in which he is carried—

(a) Contains the items listed in § 135.285 (a) and (b) and all of the equipment listed in § 135.285(c); and

(b) Has aboard a medical attendant assigned to that patient only.

**§ 135.289 Rescue air ambulance service.**

No rescue air ambulance operator may provide rescue air ambulance service to a patient unless—

(a) The aircraft in which the patient is carried contains at least—



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(1) The items listed in § 135.285 (a), (b), and (c) (1) through (7);

(2) An auxiliary medical oxygen unit that meets the requirements of § 135.295;

(3) A poison kit; and

(4) Each item listed in paragraph (b) of this section when the operator knows, or has reason to know, that it is necessary to meet the anticipated needs of the patient.

(b) The operator has readily available for carriage in the aircraft at least—

(1) One sterile obstetrical kit;

(2) Two padded boards, four and one-half feet long and three feet wide;

(3) Two padded boards, three feet long, of material comparable to four-ply wood, suitable for coaptation splinting of the leg or thigh;

(4) Two padded wooden, cardboard, plastic, or wire-ladder splints, fifteen by three inches, suitable for splinting the forearm;

(5) One adult-size and one child-size backboard, with appropriate accessories;

(6) One 43-inch long traction splint for a lower extremity with a hinged half-ring nine inches in diameter, commercial limb support slings, padded ankle hitch, and traction strap; and

(7) Two sterile burn sheets.

(c) There is at least one medical attendant aboard the aircraft.

**§ 135.291 Physician.**

No certificate holder may provide intensive care air ambulance service unless a physician is available, either in person or by telephone or radio communication, to advise the certificate holder with regard to the transportation of the patient.

**§ 135.293 Medical attendants.**

(a) No certificate holder may carry any patient who he knows, or has reason to know, may need the care of one or more medical attendants while aboard the aircraft unless a sufficient number of medical attendants are aboard to provide adequate care for all the patients who may need it.

(b) No certificate holder may use any person, nor may any person serve, as a required medical attendant unless within the preceding 12 calendar months that person has received training in the following subjects:

(1) Attendant responsibilities.

(2) Airway obstruction, pulmonary arrest, and resuscitation.

(3) Cardiac arrest and cardiopulmonary resuscitation.

(4) Bleeding and shock.

(5) Wound care.

(6) Fractures of the upper extremities.

(7) Fractures of the lower extremities.

(8) Injuries of the head, face, neck, and spine.

(9) Injuries of the eye, chest, abdomen, pelvis, and genitalia.

(10) Childbirth and care of newborn infants.

(11) Lifting and moving patients.

(12) Environmental emergencies, including altitude and temperature changes.

**§ 135.295 Medical oxygen.**

(a) Each medical oxygen unit required by this subpart must—

(1) Be capable of being manually controlled;

(2) Have an appropriate flow gauge; and

(3) Have an appropriate attachment for humidification.

(b) Each medical oxygen unit required by this subpart to meet the anticipated need of a patient must contain a quantity of oxygen sufficent to supply the patient at the appropriate flow rate for the period of time it is anticipated oxygen will be needed, but not less than 10 liters per minute for 20 minutes.

(c) Each auxiliary medical oxygen unit required by this subpart must—

(1) Meet the requirements of paragraph (a) of this section; and

(2) Contain a quantity of oxygen sufficient to supply a patient at flow rate of not less than 10 liters per minute for 20 minutes.

**§ 135.297 Emergency medical care kit.**

No certificate holder may carry any patient unless the aircraft is equipped at the time of initial departures with an emergency medical care kit that meets the specifications and requirements of Appendix B. If any of the contents of the kit are used en route, the certificate holder may continue to carry patients until such time as it is practicable to replenish the contents of the kit.

**§ 135.299 Litter patients.**

No certificate holder may carry any patient who must be carried in a litter unless the litter—

(a) Can be loaded through the aircraft door without rotating it more than 30 degrees about the longitudinal axis or 45 degrees about the lateral axis;

(b) Can be carried in a horizontal position;

(c) Is located so that the upper surface of the litter is not less than 30 inches from the ceiling of the aircraft and not less than 30 inches from the under surface of any other litter;

(d) Is located so as not to obstruct the pilot's vision or interfere with the performance of any duty by a flight crewmember or medical attendant; and

(e) Is located so as to provide access to the patient's upper body.

**§ 135.301 Carriage of medical equipment.**

No certificate holder may carry any patient unless all medical equipment in the aircraft is carried in an approved rack, bin, or compartment or is otherwise secured by an approved means.

**§ 135.303 Maintenance of medical equipment and supplies.**

No certificate holder may use any medical equipment or supplies unless they are maintained as follows:

(a) Each piece of linen and each blanket used for a patient must be clean.

(b) Each piece of equipment coming in contact with a patient must have been properly washed and disinfected before being used by the patient.

(c) Each stretcher pad, mattress, and pillow must be impervious to moisture or entirely covered with an impervious cover.

(d) Each cover for any pad, mattress, and pillow, and each pad, mattress, and pillow, if used without a cover, must have been cleaned and disinfected after being soiled by any patient.

**§ 135.305 Aircraft requirements.**

No certificate holder may operate an aircraft in operations under this subpart unless—

(a) The aircraft is equipped with interior lighting adequate for patient care under all anticipated circumstances; and

(b) Adequate electrical power is available for each piece of medical equipment, in addition to the electrical power needed for the operation of the aircraft under all anticipated circumstances.

**§ 135.307 Manual requirement.**

(a) No certificate holder may carry any patient unless it has a current manual that contains—

(1) The identity of each person assigned responsibilities in operations under this subpart, including responsibility for required medical equipment;

(2) Procedures for ensuring the proper handling of patients;

(3) Responsibilities of flight crewmembers to patients; and

(4) Appropriate emergency procedures regarding operations under this subpart.

(b) The appropriate portions of the manual containing the information required by paragraph (a) of this section shall be made available to each person assigned responsibilities under this subpart.

(c) The manual required by this section may be contained in the manual required by § 135.27(a), for certificate holders required to have that manual.

**§ 135.309 Medical emergencies.**

(a) In a medical emergency, when no other practical means of transportation (including any other properly equipped certificate holder) is reasonably available, a certificate holder may deviate, to the extent necessary to meet the medical emergency, from the rules of this subpart.

(b) Each certificate holder who, under the authority of this section, deviates from a rule of this subpart shall, within 10 days after the deviation, send to the certificate holding FAA Flight Standards District Office a complete report of the operation involved. Including a description of the deviation and the reasons for it.

3. By adding a new Appendix B to Part 135 to read as follows:

APPENDIX B—EMERGENCY MEDICAL CARE KIT

The emergency medical care kit required by § 135.297 must meet the following requirements:

| Contents: | Quantity |
|---|---|
| Large gauze dressing | 2 |
| Sterile gauze pad | 6 |
| Nonsterile gauze pad | 12 |
| Adhesive tape, 1-in standard roll | 2 |
| Adhesive tape, 2-in standard roll | 2 |
| Adhesive tape, 3-in standard roll | 2 |
| Mouth gag | 2 |
| Bandage scissors | 1 |
| Triangle bandage (cravat) | 2 |
| Oropharyngeal airway, adult-size | 1 |
| Oropharyngeal airway, child-size | 1 |
| Soft-roller self-adhering bandage standard roll | 2 |
| Eye cover | 6 |
| Constricting bands | 2 |
| Waterless towelettes | 12 |
| Tongue depressers | 12 |
| Ammonia inhalants | 4 |
| Sterile nonporous dressings | 4 |

(Secs. 313(a), 601, and 604, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1424); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 18, 1977.

J. A. FERRARESE,
*Acting Director,*
*Flight Standards Service.*

[FR Doc.77-21261 Filed 7-22-77;8:45 am]





## FEDERAL TRADE COMMISSION

**[ 16 CFR Part 13 ]**

[Docket No. 8910]

**STANDARD OIL CO. (OHIO)**

**Consent Agreement With Analysis To Aid Public Comment**

*Correction*

In FR Doc. 77-20328 appearing a page 36480 in the issue for Friday, July 15, 1977, add the following line to the bottom of the third column on page 36481: "* * * request Sohio to notify him whether or not * * *".

## DEPARTMENT OF THE TREASURY

**Internal Revenue Service**

**[ 26 CFR Part 1 ]**

[LR-7-73]

**INVESTMENT CREDIT**

**Withdrawal of Proposed Rulemaking**

AGENCY: Internal Revenue Service, Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws the notice of proposed rulemaking relating to investment credit that appeared in the FEDERAL REGISTER on March 17, 1976 (41 FR 11175). The notice is being withdrawn because it does not reflect provisions of new legislation.

FOR FURTHER INFORMATION CONTACT:

Lawrence M. Axelrod of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-4454) (not a toll-free call).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document withdraws the notice of proposed rulemaking that appeared in the FEDERAL REGISTER on March 17, 1976 (41 FR 11175). That notice proposed amendments to the regulations under section 46, section 47, and section 48 of the Internal Revenue Code of 1954. The amendments would have provided rules for the determination of useful life for purposes of computing investment credit for property depreciated by a method which does not measure the useful life of the property in years and would have revised the rules relating to investment credit for motion picture and television films and tapes.

The Tax Reform Act of 1976 made significant changes in the treatment of films and tapes for purposes of the investment credit. The notice being withdrawn was issued prior to the enactment of the Tax Reform Act and therefore does not reflect the provisions of the new law. The Service anticipates issuing a new notice of proposed rulemaking to reflect changes in investment credit made by the Tax Reform Act of 1976.

DRAFTING INFORMATION

The principal author of this document was Lawrence M. Axelrod of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing this document, both in matters of substance and style.

The proposed amendments to 26 CFR Part 1 relating to investment credit published in the FEDERAL REGISTER (41 FR 11175) on March 17, 1976, are hereby withdrawn.

S. B. WOLFE,
*Acting Commissioner of Internal Revenue.*

Approved: July 18, 1977.

LAURENCE N. WOODWORTH,
*Assistant Secretary of the Treasury.*

[FR Doc.77-21336 Filed 7-22-77;8:45 am]

## DEPARTMENT OF DEFENSE

**Department of the Air Force**

**[ 32 CFR Part 806b ]**

[AF Reg. 12-35]

**PRIVACY ACT OF 1974**

**Exemption**

*Correction*

In FR Doc. 77-18798 appearing in the issue for Friday, July 1, 1977, on page 33776, in the 2nd column, § 806.58(m)(3), the 1st sentence should read, "(3) *Reasons.* The release of information used to determine suitability, eligibility, or qualification for Federal Military Service would cause the identity of a confidential source to be revealed.".

## ENVIRONMENTAL PROTECTION AGENCY

**[ 40 CFR Part 52 ]**

[FRL 766-2]

**APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

**Revisions to the Trinity County Air Pollution Control District's Rules and Regulations in the State of California**

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Trinity County Air Pollution Control District (APCD) has adopted changes to rules concerning the monitoring of stationary sources of air pollution. The intended effect of these rules is to ascertain the extent of compliance with other APCD rules. The revisions have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board as revisions to the California State Implementation Plan (SIP). The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to August 24, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco, Calif. 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air & Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco, Calif. 94111. Attn: David R. Souten, 415-556-7288.

SUPPLEMENTARY INFORMATION: The November 10, 1976 submittal included the following revised rules: Rule 240(d)—Compliance Verification, and Rule 240(e)—Mandatory Monitoring Requirements.

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision.

The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relevant comments received on or before August 24, 1977, will be considered. Comments received will be available for public inspection at the Region IX Office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

Trinity County Air Pollution Control District, 400 Barbara Avenue, Weaverville, Calif. 96093.



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California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, Calif. 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

(Secs. 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 1857c-5).)

Dated: July 1, 1977.

PAUL DE FALCO, JR.,
*Regional Administrator.*

[FR Doc.77-21229 Filed 7-22-77;8:45 am]

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**[ 40 CFR Part 52 ]**

[FRL 766-4]

## APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

### Proposed Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposal announces receipt of a request from New York State to revise its State Implementation Plan so as to include in this plan a recently amended section of the State's Environmental Conservation Law and a section of its regulations. The unamended law and the regulatory section were previously disapproved by EPA because they did not, when read together, provide adequate legal authority to ensure for the public availability of air pollutant emission data. Public availability of data is required by Environmental Protection Agency regulations.

DATES: Comments must be received on or before August 24, 1977.

ADDRESSEES: All comments should be addressed to:

Gerald M. Hansler, P.E., Regional Administrator, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007.

Copies of the proposal are available for public inspection during normal business hours at:

U.S. Environmental Protection Agency, Air Programs Branch, Room 908, Region II Office, 26 Federal Plaza, New York, New York 10007.

New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Warren Llewellyn, Office of Regional Counsel, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007 (212-264-4299).

SUPPLEMENTAL INFORMATION: The State submittal, dated February 14, 1977, consists of section 19-0305(2)(a) of New York States' Environmental Conservation Law (ECL) as amended by Chapter 760, McKinney's 1975 Session Laws of New York, and also an opinion, dated January 27, 1977, by the Honorable Louis J. Lefkowitz, Attorney General of the State of New York, interpreting the amended ECL § 19-0305(2)(a). This opinion states that the amended statute unambiguously provides for the public availability of emission data and that a claim of confidentiality can not be utilized to withhold such emission data. The opinion further states that 6 NYCRR 200.2, when read in conjunction with the amended statute, similarly protects the public's access to emission data.

A preliminary review by the EPA Regional Office of the State submittal indicates that the amended ECL § 19-0305(2)(a) and the present 6 NYCRR 200.2 adequately provide for public availability of emission data as required under 40 CFR 51.10(e). Consequently, EPA expects to approve the proposed plan revision and to revoke 40 CFR 52.1685(a), (b).

This Federal regulation was promulgated by EPA on September 26, 1974 (39 FR 34537) and amended on November 28, 1975 (40 FR 55332). These two actions had the effect of disapproving the New York regulation pertaining to public access to emission data (6 NYCRR 200.2) and of promulgating a substitute Federal regulation to correct the deficiency in the SIP that resulted from such disapproval. By revoking 40 CFR 52.1685(a), EPA will be rescinding its earlier disapproval of 6 NYCRR 200.2 and, consequently, 40 CFR 52.1685(b), the substitute Federal regulation, will no longer be necessary.

The preliminary review by the Regional Office also indicates that the amended ECL § 19-0305(2)(a) gives the State adequate legal authority to make emission data available to the public as required under 40 CFR 51.11(a)(6). Consequently, EPA expects to approve inclusion of the amended ECL as part of the SIP and to revoke 40 CFR 52.1686(a). This regulation, promulgated by EPA on September 26, 1974 (39 FR 34537), had disapproved the then existing version of ECL § 19-0305(2)(a).

This notice is issued as required by Section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted as to whether the proposed revision to the New York State Implementation Plan should be approved or disapproved. The Administrator's decision regarding approval or disapproval of this proposed plan revision will be based on whether it meets the requirements of Section 110(a)(2)(A)-(H) of the Clean Air Act and EPA regulations in 40 CFR Part 51.

Dated: July 6, 1977.

G. M. HANSLER,
*Regional Administrator,*
*Environmental Protection Agency.*

[FR Doc.77-21364 Filed 7-22-77;8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

**[ 46 CFR Parts 32, 33, 35, 37, 72, 75, 77, 78, 79, 92, 94, 96, 97, 99, 100-139, 190, 192, 195, 196 ]**

[CGO 74-125]

### ELECTRICAL ENGINEERING

### Revision to Subchapter J

AGENCY: Coast Guard, DOT.

ACTION: Announcement of the availability of complete copies of proposed rules.

SUMMARY: In FR Doc. 77-18086 that appeared on pages 32700 through 32743 in the issue of Monday, June 27, 1977, a mistake in the binding of FEDERAL REGISTER Vol. 42, No. 123, has been noted and there exists the possibility that pages 32704 through 32736 are missing in some copies. This notice announces where complete copies may be obtained.

ADDRESSES: Any person not having these pages may obtain a copy from the nearest Coast Guard Marine Inspection Office or from the Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTAL INFORMATION: It should also be noted that the comment period has been extended to September 12 1977, by a notice contained in the Monday, July 18, 1977 issue of the FEDERAL REGISTER at page 36845.

O. W. SILER,
*Admiral, U.S. Coast*
*Guard Commandant.*

JULY 21, 1977.

[FR Doc.77-21433 Filed 7-22-77;8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

**[ 47 CFR Part 15 ]**

[Docket No. 20990; RM-1617, 2152, 2223]

### REMOTE CONTROL AND SECURITY DEVICES

### Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: An extension of time in which to file reply comments has been requested in Docket No. 20990. Because of the importance of this proceeding to both the manufacturers and consumers, the Commission is granting a sixty (60) day extension.

DATES: Reply comments must be received by September 28, 1977.





ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Leslie A. Wall, RF Devices and Experimental Branch, Office of Chief Engineer (202-632-7095).

SUPPLEMENTARY INFORMATION:

In the matter of Amendment of Part 15 of FCC Rules to provide for remote control and security devices (Docket No. 20990, RM-1617, RM-2152, RM-2223).

Adopted: July 15, 1977.

Released: July 20, 1977.

1. The Security Equipment Industry Association (SEIA) has requested an extension of time within which to file reply comments in the above-captioned proceeding (42 FR 15442; March 22, 1977). The presently specified date for filing reply comments is July 28, 1977, and SEIA has requested an extension of sixty (60) days to September 28, 1977.

2. SEIA states that it is not possible to submit meaningful reply comments within the period available (before July 28, 1977). For one, because of the administrative handling required, there is an inherent delay before the comments filed in the proceeding are made available for evaluation. Secondly, SEIA's members are widely dispersed. Distributing comments of other parties and getting feed back from SEIA members to develop a coordinated SEIA position is a slow, time consuming procedure that cannot be completed within the thirty days provided.

3. Because of the importance of this proceeding to both the manufacturers and the consumers; and because of the Commission's desire to have the most definitive responses possible, an extension of time to September 28, 1977, for filing or reply comments is hereby ordered pursuant to the authority granted by Section 0.241(d) of the Commission's Rules.

RAYMOND E. SPENCE,
*Chief Engineer.*

[FR Doc.77-21306 Filed 7-22-77; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[ 49 CFR Parts 567, 568 ]**

[Docket No. 75-28; Notice 4]

### MOTOR VEHICLE SAFETY REGULATIONS

### Certification by Intermediate Manufacturers of Multistage Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Proposed rule.

SUMMARY: This proposal would amend the regulation that specifies how truck manufacturers meet their statutory responsibility to certify compliance of vehicles with Federal motor vehicle safety standards. Some trucks are constructed in three or more separate stages, and the regulations will soon require that the first and the final manufacturers certify compliance to the degree their work affects the vehicle. This proposal would include "intermediate stage" manufacturers in the certification scheme and would complete revision of the regulations required by *Rex Chainbelt* v. *Brinegar*, 511 F.2d 1215 (7th Cir. 1975).

DATES: Comments due September 23, 1977. Proposed effective date July 2, 1978.

ADDRESS: Comments should refer to the docket number and be submitted to: Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

David Fay, Motor Vehicle Programs, National Highway Traffic Safety Administration, Washington, D.C. 20590. (202-426-2817.)

SUPPLEMENTARY INFORMATION: This notice proposes amendment of 49 CFR Part 567, *Certification*, to add a labeling requirement for intermediate manufacturers who perform work on chassis-cabs. Conforming amendments to 49 CFR Part 568, *Vehicles Manufactured in Two or More Stages*, are also proposed.

An intermediate manufacturer is presently required by 49 CFR § 568.5 to pass along the incomplete vehicle document that he receives from the incomplete vehicle manufacturer or a prior intermediate manufacturer. If the work that he performs on the incomplete vehicle affects the validity of any of the statements in that document, he is required to furnish an addendum to the document. The addendum contains his name and mailing address, and an indication of all changes that should be made in the document to reflect changes that he made in the vehicle.

By separate notice issued today (42 FR 37814) (Notice 3), the National Highway Traffic Safety Administration has established a new scheme for the certification of multi-stage vehicles that are manufactured from chassis-cabs, in accordance with the decision in *Rex Chainbelt* v. *Brinegar*, 411 F2d. 1215 (7th Cir. 1975). Under that scheme, a chassis-cab manufacturer will affix a label to his product, with a three-part certification statement. This certification is made by dividing the safety standards that will be applicable to the completed vehicle into three categories. The standards in the first category are those to which the chassis-cab conforms. In the second category are those to which conformity is substantially affected by both the design of the chassis-cab and the manner in which the vehicle is completed. For standards in this category, the incomplete vehicle document contains completion instructions. In the third category are those standards to which conformity is not substantially affected by the design of the chassis-cab. The final-stage manufacturer who uses the chassis-cab will then make a three-part certification, to the extent that the three parts are applicable, corresponding to the chassis-cab manufacturer's three-part certification.

Because the above-described scheme makes no provision for intermediate manufacturers whose work may affect the conformity status of a chassis-cab before the final-stage manufacturer begins his work, this notice proposes certification requirements for intermediate manufacturers. The new requirements would apply only with respect to those incomplete vehicles that are delivered to intermediate manufacturers as chassis-cabs. Further, an intermediate manufacturer would be required to affix a certification label to a chassis-cab only if he is already required by 49 CFR § 568.5 to furnish an addendum to the incomplete vehicle document accompanying the chassis-cab.

At the conclusion of an intermediate manufacturer's modifications of a chassis-cab, the safety standards can once again be divided into the categories described above. The intermediate manufacturer's label, described in paragraph (b) of § 567.5, would include his name, the month and year in which he concluded his manufacturing operations on the chassis-cab, and the statements described in paragraphs (b)(1)(A), (b)(1)(B), (b)(2), and (b)(3), to the extent that they are applicable. The paragraph (b)(1)(A) and (b)(1)(B) statements would cover standards that he has "shifted" into the first category from another category. The paragraph (b)(2) statement would cover standards that he has shifted into the second category. It would also cover standards that remain in the second category from their previous certification but that nevertheless need amended completion instructions. The paragrah (b)(3) statement would cover standards that he has shifted into the third category.

More specifically, for the standards to which the intermediate manufacturer has created conformity by following the instructions found in the incomplete vehicle document that he received, he would make the paragraph (b)(1)(A) certification statement: "With respect to Standard Nos. _____, the instructions of prior manufacturers have been followed so that the chassis-cab now conforms to these standards." In this manner, he would actuate the conditional certification that had been made by the chassis-cab manufacturer or, pursuant to paragraph (b)(2), by a prior intermediate manufacturer.

For the other standards to which the intermediate manufacturer has created conformity, he would make the paragraph (b)(1)(B) certification: "This chassis-cab conforms to Federal Motor Vehicle Safety Standard Nos. _____." This statement, identical with chassis-cab manufacturers' certifications of standards in the first category, is an original certification of conformity. Listed in it would be standards previously in the second category, to which the intermediate manufacturer has created conformity in a manner of



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his own, rather than by following the instructions found in the incomplete vehicle document. Standards previously included in the third category (conformity not substantially affected by chassis-cab design) could also be listed in this statement.

The intermediate manufacturer's paragraph (b)(2) statement would be: "This vehicle will conform to Standard Nos. _____ if it is completed in accordance with the instructions contained in the amended incomplete vehicle document furnished pursuant to 49 CFR Part 568." This is a conditional certification, much like the chassis-cab manufacturer's certification of standards in the second category. It would be used by the intermediate manufacturer for standards which he has shifted from the first or third category into the second. It would also be used for standards, already in the second category when he received the chassis-cab, for which he has amended the completion instructions.

The paragraph (b)(3) statement would be: "Conformity to Standard Nos. _____ is no longer substantially affected by the design of this chassis-cab." The intermediate manufacturer would make this statement for standards that he has shifted from the first and second categories into the third. Manufacturers should note that this statement includes a factual element, precluding its use in certain situations. This subject has already been discussed in Notice 3.

In consideration of the foregoing, it is proposed that the following amendments be made in Chapter V of Title 49, Code of Federal Regulations.

1. In Part 568, *Vehicles Manufactured in Two or More States*, § 568.5 would be amended to read:

**§ 568.5 Requirements for intermediate manufacturers.**

(a) Each intermediate manufacturer of an incomplete vehicle shall furnish the document required by § 568.4 of this part, in the manner specified in that section. If any of the changes in the vehicle made by the intermediate manufacturer affect the validity of the statements in the document as provided to him he shall furnish an addendum to the document that contains his name and mailing address and an indication of all changes that should be made in the document to reflect changes that he made in the vehicle.

(b) Each intermediate manufacturer shall, in accordance with § 567.5 of this chapter, affix a label to each chassis-cab respecting which he is required by paragraph (a) above to furnish an addendum to the document required by § 568.4 of this part.

2. In Part 567, *Certification*, § 567.5 would be revised by adding a new paragraph (b) and amending paragraphs (c)(7)(i) and (c)(7)(ii) to read:

**§ 567.5 Requirements for manufacturers of vehicles manufactured in two or more stages.**

* * * * *

(b) Except as provided in paragraphs (e) and (f) of this section, each intermediate manufacturer of a vehicle manufactured in two or more stages shall affix a label, in the location and form specified in § 567.4, to each chassis-cab respecting which he is required by § 568.5 of this chapter to furnish an addendum to the incomplete vehicle document described in § 568.4 of this chapter. However, this paragraph applies only to chassis-cabs that have been certified by a chassis-cab manufacturer in accordance with paragraph (a) of this section.

(1) (A) "With respect to Standard Nos. _____, the instructions of prior manufacturers have been followed so that the chassis-cab now conforms to these standards." The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was in the form prescribed in paragraph (a)(2) or (b)(2).

(B) "This chassis-cab conforms to Federal Motor Vehicle Safety Standard Nos. _____." The statement shall be completed by inserting the numbers of the other standards to which the chassis-cab conforms, excluding those standards respecting which the latest prior certification statement was in the form prescribed in paragraph (a)(1), (b)(1)(A), or this paragraph.

(2) "This vehicle will conform to Standard Nos. _____ if it is completed in accordance with the instructions contained in the amended incomplete vehicle document furnished pursuant to 49 CFR Part 568." The statement shall be completed by inserting the numbers of the standards conformity to which is substantially affected by both the design of the chassis-cab (as modified by the intermediate manufacturer) and the manner in which the vehicle is completed.

(3) "Conformity to Standard Nos. _____ is no longer substantially affected by the design of this chassis-cab." The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was in the form prescribed in paragraph (a)(1), (a)(2), (b)(1)(A), (b)(1)(B), or (b)(2).

(4) Name of intermediate manufacturer, preceded by the words "INTERMEDIATE MANUFACTURE BY" or "INTERMEDIATE MFR BY".

(5) Month and year in which the intermediate manufacturer performed his last manufacturing operation on the chassis-cab. This may be spelled out, as "JUNE 1970", or expressed as numerals, as "6/70". No preface is required.

(c) * * *

(7) The following statements, as appropriate. Statements (i) and (ii) shall be made only for vehicles that were originally delivered by an incomplete vehicle manufacturer or an intermediate manufacturer as a chassis-cab.

(i) "Conformity of the chassis-cab to Federal Motor Vehicle Safety Standard Nos. _____ has not been affected by final-stage manufacture." The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was made by a chassis-cab manufacturer pursuant to paragraph (a)(1) of this section or by an intermediate manufacturer pursuant to paragraph (b)(1)(A) or (b)(1)(B). This statement may be omitted at the discretion of the final-state manufacturer.

(ii) "With respect to Standard Nos. _____, the vehicle has been completed in accordance with the prior manufacturers' instructions." The statement shall be completed by inserting the numbers of all or less than all of the standards, and only those standards, respecting which the latest prior certification statement was a chassis-cab manufacturer's conditional statement under paragraph (a)(2) of this section or an intermediate manufacturer's conditional statement under paragraph (b)(2). This statement may be omitted at the discretion of the final stage manufacturer.

* * * * *

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

In the case of comments that contain materials for which confidential treatment is requested, those materials should be deleted from the copies submitted to the docket. A copy of the complete comments should be submitted to the Office of Chief Counsel at the above address, with an indication of which portions of the comments are the subject of the request for confidentiality.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

NOTE.—The economic and inflationary impacts of this rulemaking have been carefully evaluated in accordance with OMB Circular A-107, and an Economic Impact Statement is not required.

The program official and lawyer principally responsible for the development of this rulemaking are David Fay and Mark Schwimmer, respectively.

(Secs. 103, 108, 112, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1397, 1401, 1403, 1407); delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on July 18, 1977.

ROBERT L. CARTER,
*Associate Administrator,*
*Motor Vehicle Programs.*

[FR Doc.77-21120 Filed 7-22-77;8:45 am]





# notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forest Service

### U.S. BORAX MINING ACCESS ROAD FOR THE QUARTZ HILL PROSPECT

### Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the U.S. Forest Service, Department of Agriculture, has prepared a final environmental statement for the U.S. Borax Mining Access Road for the Quartz Hill Prospect, USDA-FS-FES (Adm)-77-04.

The Forest Service proposes to issue a special use permit to the U.S. Borax and Chemical Corporation in behalf of Pacific Mines, Inc., to construct a road to a mineral exploration property located due east of Ketchikan on the mainland of southeast Alaska. Tongass National Forest. The road would be used for intensive development drilling and for the extraction of mineralized rock for pilot testing (bulk sampling).

This final environmental statement was transmitted to the Council on Environmental Quality on July 18, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agricultural Building, Room 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20013.

U.S. Forest Service, Alaska Region, Federal Office Building, Juneau, Alaska 99802.

Forest Supervisor, Chatham Area, Tongass National Forest, Federal Building, Sitka, Alaska 99835.

Forest Supervisor, Stikine Area, Tongass National Forest, Federal Building, Petersburg, Alaska 99833.

Forest Supervisor, Ketchikan Area, Tongass National Forest, Federal Building, Room 313, Ketchikan, Alaska 99901.

A limited number of single copies are available upon request to the Forest Supervisor, Ketchikan Area, Tongass National Forest, P.O. Box 2278, Ketchikan, Alaska 99901.

Copies of this environmental statement have been sent to various Federal, State and local agencies as outlined in the CEQ guidelines.

R. MAX PETERSON,
*Deputy Chief.*

JULY 18, 1977.

[FR Doc.77-21321 Filed 7-22-77;8:45 am]

## CIVIL AERONAUTICS BOARD

[Dockets 27838 and 30818]

### AEROVIAS QUISQUEYANA, C. POR A., ET AL.

### Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Thomas P. Sheehan. Future communications should be addressed to Judge Sheehan.

Dated at Washington, D.C., July 19, 1977.

HENRY M. SWITKAY,
*Acting Chief,*
*Administrative Law Judge.*

[FR Doc.77-21318 Filed 7-22-77;8:45 am]

[Docket No. 26724; Order 77-7-83]

### CANCELLATION OF MILITARY FARES PROPOSED BY VARIOUS CARRIERS

### Order To Dismiss Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of July 1977.

In the spring of 1974, carriers[1] serving U.S. Mainland-Puerto Rico/Virgin Islands markets filed tariffs canceling military discount fares in those markets. By order 74-5-149, dated May 31, 1974, the Board suspended various cancellations and instituted an investigation upon complaint filed by the Department of Defense. The complainant alleged that cancellation of all military discount fares between the U.S. Mainland and Puerto Rico/Virgin Islands would cause undue financial hardship on servicemen stationed in Puerto Rico and the Virgin Islands who depend upon scheduled air transportation between their duty stations and home.

Shortly thereafter, Delta Air Lines, Inc., (Delta) and Pan American World Airways, Inc. (Pan Am) withdrew their pending military discount fares cancellations, which were under suspension, and continued offering their discount fares.[2]

Subsequently, the Board completed its general investigation of all passenger fares, including military discount fares, for the U.S. Mainland-Puerto Rico/Virgin Islands ratemaking entity and established policies and standards affecting the levels of fares in that entity. "Mainland U.S.-Puerto Rico/Virgin Islands Fares," Docket 24353, Orders 74-10-78 and 76-8-100. The relatively attractive level of fares in the markets at issue, normal as well as military fares, was not disturbed and, in fact, service at reasonable fares, was assured by the Board's adoption of load-factor standards and promotional-fare policies which benefit all passengers, military and civilian, in those markets.[3]

In view of the foregoing developments, we have reassessed our previous decision to proceed with an investigation of this matter and have reached a determination that the investigation is no longer warranted and should be dismissed. The hardships alleged by the Department of Defense do not appear to have materialized to the extent anticipated and, apparently, the fare structure as it now exists in these markets adequately meets the needs of the air-traveling public.[4]

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204 and 404 thereof,

*It is ordered*, That: 1. The investigation in Docket 26724 be and it hereby is dismissed; and 2. copies of this order shall be served upon all parties to Docket 26724.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,[5]
*Secretary.*

[FR Doc.77-21320 Filed 3-22-77;8:45 am]

[Docket 30662]

### FLYING TIGER LINE, INC. V. SCANDINAVIAN AIRLINES SYSTEM

### Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge William A. Kane. Future communications should be addressed to Judge Kane.

Dated at Washington, D.C., July 19, 1977.

HENRY M. SWITKAY,
*Acting Chief,*
*Administrative Law Judge.*

[FR Doc.77-21316 Filed 7-22-77;8:45 am]

[1] American Airlines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., and Pan American World Airways, Inc.

[2] The tariffs of Delta and Pan Am had been suspended and placed under investigation while the effective cancellations of American and Eastern had been placed under investigation only.

[3] The domestic fare for a comparable distance is approximately 130 percent of the coach fare between New York and San Juan, the most dense market in the Mainland-Puerto Rico/Virgin Islands entity.

[4] The fact that some carriers continue to offer military discount fares in the markets at issue augurs well that they can be responsive to the interests of the national defense. While the Board has permitted carriers to offer discount fares for personal military travel, it has never required them. See Order 74-3-67 for a discussion of the requirements of the Act regarding military fares.

[5] All members concurred.



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[Docket 30681]

### NICHOLSON AIR SERVICES, INC. D/B/A CUMBERLAND AIRLINES

**Assignment of Proceeding**

This proceeding is hereby assigned to Administrative Law Judge Thomas P. Sheehan. Future communications should be addressed to Judge Sheehan.

Dated at Washington, D.C., July 19, 1977.

HENRY M. SWITKAY,
*Acting Chief,*
*Administrative Law Judge.*

[FR Doc.77-21317 Filed 7-22-77;8:45 am]

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[Docket Nos. 29058, etc.]

### NORFOLK-ATLANTA

**Environmental Rejection**

*Correction*

In FR Doc. 77-20415, appearing in the issue for Friday, July 15, 1977 on page 36532, the 4th line should read, ". . . the Board's Procedural Regulations, with . . .".

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[Docket 28140]

### OIL, CHEMICAL AND ATOMIC WORKERS INTERNATIONAL UNION, AFL-CIO V. UNITED AIR LINES, INC.

**Assignment of Proceeding**

This proceeding is hereby assigned to Administrative Law Judge William A. Kane. Future communications should be addressed to Judge Kane.

Dated at Washington, D.C., July 19, 1977.

HENRY M. SWITKAY,
*Acting Chief,*
*Administrative Law Judge.*

[FR Doc.77-21315 Filed 7-22-77;8:45 am]

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[Docket 30613]

### PAN AMERICAN WORLD AIRWAYS, INC. AND MACKENZIE TOURS HAWAII, RESPONDENTS ENFORCEMENT PROCEEDING

**Assignment of Proceeding**

This proceeding is hereby assigned to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., July 18, 1977.

HENRY M. SWITKAY,
*Acting Chief,*
*Administrative Law Judge.*

[FR Doc. 77-21314 Filed 7-22-77;8:45 am]

## COMMISSION ON CIVIL RIGHTS

### CALIFORNIA ADVISORY COMMITTEE

**Agenda and Notice of Open Meeting**

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the California Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 1 p.m. on August 15, 1977, in the Hyatt Hotel, 6225 West Century Boulevard, Cabana #210, Los Angeles, California 90045.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is a meeting of the Public Information Subcommittee to discuss program planning.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 19, 1977.

JOHN I. BINKLEY,
*Advisory Committee Management Officer.*

[FR Doc.77-21298 Filed 7-22-77;8:45 am]

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### IDAHO ADVISORY COMMITTEE

**Agenda and Notice of Open Meeting**

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning and factfinding meeting of the Idaho Advisory Committee (SAC) of the Commission will convene at 9 a.m. and will end at 12:30 p.m. on August 13, 1977, Sheraton Downtown, Teton Room, 1901 Main Street, Boise, Idaho 83706.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwest Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is to review proposal draft and plan for field work.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., on July 19, 1977.

JOHN I. BINKLEY,
*Advisory Committee Management Officer.*

[FR Doc.77-21299 Filed 7-22-77;8:45 am]

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### ILLINOIS ADVISORY COMMITTEE

**Agenda and Notice of Open Meeting**

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 3 p.m. on August 22, 1977, 230 South Dearborn Street, Room 3280 Chicago, Illinois 60604.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is that the Chicago Desegregation Subcommittee will meet to discuss the progress of the Chicago School System in the desegregation plan development.

The Subcommittee will prepare a report for the Illinois SAC of its activities and future programs.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., on July 19, 1977.

JOHN I. BINKLEY,
*Advisory Committee Management Officer.*

[FR Doc.77-21300 Filed 7-22-77;8:45 am]

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### NEW HAMPSHIRE ADVISORY COMMITTEE

**Agenda and Notice of Open Meeting**

Notice is hereby given pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Hampshire Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 10 p.m. on August 16, 1977, in the New Hampshire Highway Hotel.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss progress reports of SACs projects.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 19, 1977.

JOHN I. BINKLEY,
*Advisory Committee Management Officer.*

[FR Doc.77-21301 Filed 7-22-77;8:45 am]

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### RHODE ISLAND ADVISORY COMMITTEE

**Agenda and Notice of Open Meeting**

Notice is hereby given pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Rhode Island Advisory Committee (SAC) of the Commission will convene at 4 p.m. and will end at 6 p.m. on August 30, 1977, in the Central Congregational Church, 296 Angell Street, Providence, Rhode Island.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this open meeting is to discuss progress report of SACs projects.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 19, 1977.

JOHN I. BINKLEY,
*Advisory Committee Management Officer.*

[FR Doc.77-21302 Filed 7-22-77; 8:45 am]





### TEXAS ADVISORY COMMITTEE

**Agenda and Notice of Open Meeting**

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Texas Advisory Committee (SAC) of the Commission will convene at 9 a.m. on August 23, 1977 and at 1 p.m. on August 24, 1977, in the Hilton Inn 2721 So. 10th Street, Crockett Room, McAllen, Texas.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, New Moore Building, Room 231, 106 Broadway, San Antonio, Texas 78205.

The purpose of these meetings are: 1) SAC orientation meeting and planning meeting, 2) Discussions on the Immigration Project.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 19, 1977.

JOHN I. BINKLEY,
*Advisory Committee Management Officer.*

[FR Doc.77-21303 Filed 7-22-77;8:45 am]

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### VERMONT ADVISORY COMMITTEE

**Agenda and Notice of Open Meeting**

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of U.S. Commission on Civil Rights, that a planning meeting of the Vermont Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 11 p.m. on August 15, 1977, in the Tavern Motor Inn, Montpelier, Vermont.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss progress reports of SACs projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 19, 1977.

JOHN I. BINKLEY,
*Advisory Committee Management Officer.*

[FR Doc.77-21304 Filed 7-22-77;8:45 am]

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### WASHINGTON ADVISORY COMMITTEE

**Agenda and Notice of Open Meeting**

Notice is hereby given pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Washington Advisory Committee (SAC) of the Commission will convene at 9 a.m. and will end at 12:30 p.m. on August 20, 1977, 915 Second Avenue, Room 2866, Seattle, Washington 98174.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwest Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington, 98174.

The purpose of this meeting is a brief SAC on National Indian Project.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., July 19, 1977.

JOHN I. BINKLEY,
*Advisory Committee Management Officer.*

[FR Doc.77-21305 Filed 7-22-77;8:45 am]

## DEPARTMENT OF COMMERCE

### Domestic and International Business Administration

### FOREIGN AVAILABILITY SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

**Notice of Open Meeting**

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, August 9, 1977, at 3:00 p.m. in Room 5611, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist bloc countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

The Subcommittee meeting agenda has three parts:

(1) Opening remarks by the Subcommittee Chairman.
(2) Presentation of papers or comments by the public.
(3) Discussion of foreign availability report.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

Dated: July 20, 1977.

LAWRENCE J. BRADY,
*Acting Director, Office of Export Administration Bureau of East-West Trade Department of Commerce.*

[FR Doc.77-21281 Filed 7-22-77;8:45 am]

## DEPARTMENT OF DEFENSE

### Department of the Army

### PRIVACY ACT OF 1974

**System of Records: Amendment**

The Department of the Army proposes certain amendments in an Army system of records described below. These amendments do not fall within the purview of Office of Management and Budget Circular No. A-108, Transmittal Memorandum No. 1 dated September 30, 1975, which requires submission of a report of an agency's intention to establish or alter systems of records, as required by the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a(o)). This OMB guidance was set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975. The amendment will be effective as proposed, without further notice, within 30 days of this publication (August 24, 1977) unless comments are received which result in a contrary determination requiring publication.

In FR Doc. 75-21075 published in the FEDERAL REGISTER of August 18, 1975 (40 FR 35230), the Department of the Army published system of records AO708.21 DAAG, entitled: Statement of Employment Files. Since publication of this system notice, responsibility for maintenance of this system of records, together with the records, were transferred from The Adjutant General, Reserve Components Personnel and Administration Center, St. Louis, MO to the Commander, US Army Finance and Accounting Center, Indianapolis, IN. This action necessitates amendment to the system of rec-



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ords to reflect accurate location of the records, the System Manager, and, in the interest of clarifying officers covered by the system of records, to include warrant officers.

Following a brief identification of the specific changes, the complete system notice is published in its entirety.

**A0708.21DAAG**

**System name:**

708.21 Statement of Employment Files (40 FR 35230)

**Changes:**

System identification is changed to read: "A0708.21DACA".

**System location:**

Delete entry and substitute therefor: "Retired Pay Operations, US Army Finance and Accounting Center (USAFAC), Indianapolis, IN 46249".

**Categories of individuals covered by the system:**

After "Regular Army officers", insert "and warrant officers * * *".

**Routine uses of records maintained in the system, including categories of users and the purpose of such uses:**

After "Regular Army officers", insert "and warrant officers * * *".

**Retrievability:**

Change entry to read: "By social security number (SSN) and name of individual".

**Retention and disposal:**

Insert after "officer" the phrase "or warrant officer * * *".

**System manager(s) and address:**

Delete entry and substitute: "Commander, USAFAC, Indianapolis, IN 46249".

**Notification procedure:**

Change address to read: "Commander, US Army Finance and Accounting Center, ATTN: FINCM, Indianapolis, IN 46249. Telephone: Area Code 317/542-3911; 800-428-2290".

The record system, as amended, is published in its entirety below.

**A0708.21DACA**

**System name:**

708.21 Statement of Employment Files.

**System location:**

Retired Pay Operations, US Army Finance and Accounting Center (USA FAC), Indianapolis, IN 46249.

**Categories of individuals covered by the system:**

United States Regular Army officers and warrant officers retired from active Army service.

**Catergories of records in the system:**

File contains all data concerning his/her employment, to include employer's name, address, product employer sells or offers for sale, individual's position and duties with company, and other related correspondence concerning his/her employment.

**Authority for maintenance of the system:**

Executive Order 11222, Prescribing Standards of Ethical Conduct for Government officers and employees.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:**

To obtain information concerning employment of Regular Army officers and warrant officers who are retired from active military service.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:**

Paper records in file folders.

**Retrievability:**

By social security number (SSN) and name of individual.

**Safeguards:**

Records are maintained in areas accessible only to authorized personnel. Building is secured through 24 hour guard service. Entry to building is by authorized badge only.

**Retention and disposal:**

Records are retained until officer or warrant officer is deceased; then destroyed.

**System manager(s) and address:**

Commander, US Army Finance and Accounting Center, Indianapolis, IN 46249.

**Notification procedure:**

Information may be obtained from: Commander, US Army Finance and Accounting Center, ATTN: FINCM, Indianapolis, IN 46249, Telephone: Area Code 317-542-3911; 800-428-2290.

**Record access procedures:**

Written requests for information should contain the full name of the individual, current address and telephone number, office symbol that appears on all correspondence from this Center and form number of Form Letter that may be at bottom of left corner of correspondence from the Center.

For personal visits, the individual should provide acceptable identification, i.e., Identification Card, driver's license, employing office identification card, and give verbal information that can be verified from his/her employment statement.

**Contesting record procedures:**

The Army's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

**Record source categories:**

Completed form from individual; correspondence from employing agency.

**Systems exempt from certain provisions of the act:**

None.

MAURICE W. ROCHE,
*Director, Correspondence and Directors, OASD Comptroller).*

JULY 1, 1977.

[FR Doc.77-21248 Filed 7-22-77;8:45 am]

## PRIVACY ACT OF 1974

### New System of Records

The Department of the Army systems of records notices as prescribed by the Privacy Act of 1974 have been published in the FEDERAL REGISTER as follows:

FR Doc 75-21075 (40 FR 35151) August 18, 1975.
FR Doc 75-22781 (40 FR 41970) September 9, 1975.
FR Doc 75-26296 (41 FR 2952) January 20, 1976.
FR Doc 76-20187 (41 FR 28806) July 13, 1976.
FR Doc 76-21185 (41 FR 30824) July 26, 1976.
FR Doc 76-27015 (41 FR 39798) September 16, 1976.
FR Doc 76-32920 (41 FR 49960) November 11, 1976.
FR Doc 77-5005 (42 FR 9700) February 17, 1977.
FR Doc 77-9080 (42 FR 16465) March 28, 1977.
FR Doc 77-11071 (42 FR 20172) April 18, 1977.
FR Doc 77-11277 (42 FR 20326) April 19, 1977.
FR Doc 77-11857 (42 FR 21310) April 26, 1977.
FR Doc 77-14423 (42 FR 25904) May 20, 1977.

Notice is hereby given that the Department of the Army submitted a proposed new system of records on July 1, 1977 pursuant to the provisions of Office of Management and Budget (OMB) Circular No. A-108, Transmittal Memorandum No. 1, dated September 30, 1975, and Transmittal Memorandum No. 3, dated May 17, 1976, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a(o)).

The Department of the Army invites public comments concerning the proposed new record system. Interested persons are invited to submit written data, views and arguments to Headquarters, Department of the Army (DAAG-AMR-R), Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC 20314 on or before August 24, 1977. The system will become effective, within 30 days (August 24, 1977), as proposed without further notice unless comments are received which result in a contrary determination.

**A0302.06cDACS**

**System name:**

302.06 Accounting for Personal Money Allowances (PMA).

**System location:**

Office of the Director of Management, Office, Chief of Staff Army (OCSA), Headquarters, Department of the Army (HQDA), Washington, DC 20310.





**Categories of individuals covered by the system:**

Army general officers in receipt of a Personal Money Allowance under 37 U.S.C. 414.

**Categories of records in the system:**

Annual report accounting for the receipt and disposition of PMA funds received during the reporting period.

**Authority for maintenance of the system:**

Title 10, U.S.C., § 3012.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:**

To maintain a record of the receipt and disposition of the funds received. Annual reports will be filed with and reviewed by the Director of Management, OCSA. The results of the review will be reported to the Assistant Secretary of the Army for Financial Management.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:**

Maintained in file folders.

**Retrievability:**

By name of general officer.

**Safeguards:**

Records are stored in locked cabinets.

**Retention and disposal:**

Retained for three years after the date for which report is submitted, then destroyed.

**System manager(s) and address:**

Director of Management, OCSA, HQDA, Washington, DC 20310.

**Notification procedure:**

Information may be obtained from the SYSMANAGER.

**Record access procedures:**

Individual can obtain assistance from the SYSMANAGER.

**Contesting record procedures:**

The Army's rules for access to records and for contesting and appealing initial determinations are contained in 32 CFR Part 505 and Army Regulation 340-21.

**Record source categories:**

Information is obtained from each Army general officer in receipt of a Personal Money Allowance.

**Systems exempted from certain provisions of the act:**

None.

MAURICE W. ROCHE,
*Director, Correspondence and Directives, OASD (Comptroller).*

JULY 15, 1977.

[FR Doc.77-21292 Filed 7-22-77;8:45 am]

## Defense Logistics Agency

### PRIVACY ACT OF 1974

### Proposed Amendments to Systems of Records

The Defense Logistics Agency systems of records notices as prescribed by the Privacy Act of 1974 have been published in the FEDERAL REGISTER as follows:

FR Doc 75-21075 (40 FR 36045) August 18, 1975.
FR Doc 75-26296 (41 FR 2970) January 20, 1976.
FR Doc 75-26296 (41 FR 3045) January 20, 1976.
FR Doc 76-21185 (41 FR 31002) July 26, 1976.
FR Doc 76-21185 (41 FR 31142) July 26, 1976.
FR Doc 76-22251 (41 FR 32249) August 2, 1976.
FR Doc 77-4680 (42 FR 9200) February 15, 1977.
FR Doc 77-7056 (42 FR 13339) March 10, 1977.
FR Doc 77-19235 (42 FR 34906) July 7, 1977.

Notice is hereby given that the Defense Logistics Agency proposes to amend four systems of records. The proposed changes therein are not considered to be within the provisions of the Office of Management and Budget (OMB) Circular No. A-108, Transmittal Memorandum No. 1, dated September 30, 1975, and Transmittal Memorandum No. 3, dated May 17, 1976, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a(o)). This OMB guidance was set forth in FEDERAL REGISTER (40 FR 45877) on October 3, 1975.

Following the identification code of the record systems and the specific changes made therein, the complete revised record systems, as amended, are published in their entirety.

Interested persons are invited to submit comments, including written data, views or arguments concerning the proposed amended systems of record to Headquarters, Defense Logistics Agency, Attention DLA-XA, Cameron Station, Alexandria, Virginia 22314, on or before August 24, 1977. The amendments as proposed will become effective in 30 days (August 24, 1977) without further notice unless comments are received which would result in a contrary determination and requiring republication.

**S150.20 DLA-T**

**System name:**

150.20 Security Violations Files (42 FR 34906) July 7, 1977 and (41 FR 3045) January 20, 1976.

**Changes:**

Systems exempted from certain provisions of the act: Delete entire entry and substitute "Parts of this system may be exempt under Title 5 U.S.C. 552a (k) (2) as applicable. Agency rules pertaining to this exemption are set forth in Appendix C of 32 CFR Part 1286 and DLA Regulation 5400.21. For additional information, contact the System Manager."

**S153.01 DLA-T**

**System name:**

153.01 Personal Security Files (42 FR 34906) July 7, 1977 and (41 FR 3045) January 20, 1976.

**Changes:**

Systems exempted from certain provisions of the act: Delete entire entry and substitute "Parts of this system may be exempt under Title 5 U.S.C. 552a (k) (2) and (5) as applicable. Agency rules pertaining to this exemption are set forth in Appendix C of 32 CFR Part 1286 and DLA Regulation 5400.21 For additional information, contact the System Manager."

**S160.50 DLA-T**

**System name:**

160.50 Criminal Incidents/Investigations File (42 FR 34906) July 7, 1977 and (41 FR 3046) January 20, 1976.

**Changes:**

Systems exempted from certain provisions of the act: Delete entire entry and substitute "Parts of this system may be exempt under Title 5 U.S.C. 552a(k) (5) as applicable. Agency rules pertaining to this exemption are set forth in Appendix C of 32 CFR Part 1286 and DLA Regulation 5400.21. For additional information, contact the System Manager."

**S155.53 DLA-NS**

**System name:**

155.53 Industrial Personnel Security Clearance File (42 FR 34906) July 7, 1977 and (42 FR 13339) March 10, 1977.

**Changes:**

Systems exempted from certain provisions of the act: Delete entire entry and substitute "Parts of this system may be exempt under Title 5 U.S.C. 552a(k) (5) as applicable. Agency rules pertaining to this exemption are set forth in Appendix C of 32 CFR Part 1286 and DLA Regulation 5400.21. For additional information, contact the System Manager."

**S150.20 DLA-T**

**System name:**

150.20 Security Violations Files (41 FR 3045) January 20, 1976.

**Security location:**

Primary System—Reports of the more serious security violations involving information or material classified in the interests of national defense: Command Security Office, Headquarters, Defense Logistics Agency (HQ DLA), Decentralized segments—Above files plus all other reports of security violations: DLA Primary Level Field Activities (PLFAs).

**Individual-category:**

Civilian and military personnel currently or formerly employed by or as-



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signed to DLA, employees of Department of Defense (DOD) contractor facilities, and other persons who may be involved in security violations.

**Record-category:**

Reports of informal and formal administrative inquiries, investigations, statements of witnesses, photographs, and related papers regarding security violations pertaining to DLA activities.

**Authority:**

E.O. 11652 which pertains to the protection of information and material classified in the interests of national defense. DOD Directive 5200.1–R.

**Routine-uses:**

The information in the system is used by Security Officers in HQ DLA and PLFA's for the following: Determining the suitability of DLA personnel involved in security violations to have continued access to classified information; Evaluating the safeguards established within the DLA to protect classified information and material; and referring violations involving Atomic Energy information and those in which espionage is suspected to the Justice Department as required should contain the full name, current address and telephone number of the individual and must be accompanied by a notorized statement attesting to by law.

**Policy-practice storage:**

Paper records in file folders.

**Retrievability:**

Filed alphabetically by name of any individual held to be responsible for the violation.

**Safeguards:**

As a minimum, records are stored in locked containers whenever authorized DLA personnel are not present to control access to them. Any of these files containing classified documents are maintained in security containers approved by HQ DLA for storage of classified information.

**Retention:**

Normally, records are retained in the active file two years after all aspects of the case are closed and then destroyed. Reports concerning violations of a sufficiently serious nature to be considered felonies are retained for two years in the active file and then held eight years in the inactive files and subsequently destroyed.

**Sysmanager:**

Command Security Officer, HQ DLA; Security Officers, DLA Primary Level Field Activities.

**Notification:**

Written or personal requests for information may be directed to the SYS MANAGER. Individuals must provide their full names and the identity of DLA activity at which the violation occurred as well as the date of its occurrence.

**Access:**

Official mailing addresses of the SYSMANAGER are in the DOD Directory in the appendix to the DLA systems notice. Written requests for information the identity of the requestor and containing the following: "I understand tha knowingly and willfully seeking or obtaining access to records about another individual under false pretenses is punishable by a fine of up to 5,000 dollars under the provisions of the Privacy Act of 1974." For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employment office identification card, and give some verbal information that could be verified with his file. If the requestor cannot present suitable evidence of identification a notarized statement similar to that described above may be required.

**Contest:**

The agency's rules for contesting contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

**Source:**

Officials appointed to conduct administrative inquiries, informal or formal investigations as well as reports from DOD or other federal investigative agencies.

**Exemption:**

Parts of this system may be exempt under Title 5 U.S.C. 552a(k)(2), as applicable. Agency rules pertaining to this exemption are set forth in Appendix C of 32 CFR Part 1286 and DLA Regulation 5400.21. For additional information, contact the SYSMANAGER.

## S153.01 DLA–T

**System name:**

Personnel Security Files (41 FR 3045) January 20, 1976.

**Security location:**

Primary System—Investigatory records containing unfavorable information requiring clearance action by the Defense Logistics Agency (DLA) Central Clearance Group (CCG) and records pertaining to persons involved in highly sensitive projects: Command Security Office, Command Security Officer, Headquarters Defense Logistics Agency (HQ DLA). Decentralized segments—above files plus all other investigatory records: Security Officer, DLA Primary Level Field Activities (PLFAs).

**Individual-category:**

All civilian employees and military personnel who have been the Subject of a National Agency Check (NAC); a Background Investigation (BI); or Special Background Investigation (SBI) pertaining to their qualifications for access to classified information.

**Record-category:**

Reports of investigations conducted by the Civil Service Commission (CSC), the Federal Bureau of Investigation (FBI), the Defense Investigative Service (DIS), the investigative units of the Army, Navy and Air Force, and other Federal investigative organizations. Also, evidence of security clearances and access to classified information granted to individuals and certifications of security briefings and debriefings signed by individuals.

**Authority:**

Executive Order (E.O.) 10450, as amended, which was issued by virtue of the authority vested in the President by Section 7532 of Title 5, United States Code and other statutes enumerated in E.O. 10450.

**Routine-uses:**

The investigatory reports are used by appropriate Security Officers and Commanders or other designated officials as a basis for determining a person's eligibility for access to information classified in the interests of national defense.

**Policy-practice storage:**

Paper records in file folders.

**Retrievability:**

Reports are filed alphabetically by name, date and place of birth. No indices are used to retrieve individual records from the system.

**Safeguards:**

As a minimum, records are stored in locked containers whenever authorized DLA personnel are not present to control access to them. Any of these files containing classified documents are maintained in security containers approved by HQ DLA for storage of classified information.

**Retention:**

Reports are retained as long as the person is employed or assigned to DLA. After the person leaves DLA, the reports are placed in an inactive file, retained for two years, and then destroyed or returned to the agency which conducted the investigation.

**Sysmanager:**

Command Security Officer, HQ DLA: Security Officers of Primary Level Field Activities.

**Notification:**

Written or personal request for information may be directed to the SYSMANAGERS.

**Access:**

Official mailing address of the SYSMANAGERS are in the Department of Defense Directory in the appendix to the DLA systems notice. Written requests for information should contain the full name, date and place of birth, current address, and telephone number of the requestor. For personal visits, the requestor must be able to provide some acceptable identification (i.e., driver's license, parent's name, identification card, date and place of birth, dates and place(s) of employment with DLA, if





applicable). Written requests must be accompanied by a notarized statement attesting to the requestor's identity and containing the following: "I understand that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is punishable by a fine of up to 5,000 dollars under the provisions of the Privacy Act of 1974."

**Contest:**

The Agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

**Source:**

Reports of investigations conducted by the CSC, FBI, DIS, investigative units of the Army, Navy, and Air Force, as well as other Federal investigative organizations.

**Exemption:**

Parts of this system may be exempt under Title 5 U.S.C. 552a(k) (2) and (5) as applicable. Agency rules pertaining to this exemption are set forth in Appendix C of 32 CFR Part 1286 and DLA Regulation 5400.21. For additional information, contact the SYSMANAGER.

## S160.50 DLA–T

**System name:**

160.50 Criminal Incidents/Invesigations file (41 FR 3046) January 20, 1976.

**Security location:**

Primary System—case files on all incidents of known or suspected criminal activity or other serious incidents which may arouse local or national news media or Congressional interest: Command Security Office, Headquarters Defense Logistics Agency (H DLA). Decentralized segments—above files plus incidents of minor nature: HQ DLA principal staff elements, DLA Primary Level Field Activities (PLFA).

**Individual-category:**

Civilian and military personnel of DLA, contractor employees, and other persons who committed or are suspected of having committed a felony or misdemeanor on DLA controlled activities or may be a party of interest.

**Record-category:**

Reports of Investigation, messages, statements of witness, subjects and victimes, photographs, laboratory reports, and other related papers.

**Authority:**

Section 21, Internal Security Act of 1950 (Pub. L. 831, 81st Congress) DOD Instruction 5200.22, Reporting of Security and Criminal Violations, and Memorandum Deputy Secretary of Defense dated 7 May 1974, which assigned to the Director of DLA the responsibility for identifying all DLA activities requiring criminal investigative support and crime prevention surveys, provide control coordination of such investigation and surveys, and to ensure optimum investigative support and mutual exchange of relevant information between participating agencies.

**Routine-uses:**

Information is maintained for the purpose of monitoring the progress of investigations, identification of crime conducive condition, crime and loss prevention, and preparation of statistical data required by higher authority. Information may be referred to local, state, or federal law enforcement agencies when the information indicates a violation of local, state, or federal laws. Information is used by: DLA Security personnel—to monitor progress of cases, develop nonpersonal statistical data on crime and loss incidence; crime and loss prevention and to enable planning of required criminal investigative support for the future. DLA counsel—review of cases and determination of proper legal action. DLA supervisors and managers—to determine actions required to correct the causes of losses, and to take appropriate action against DLA employees in cases of their involvement.

**Policy-practice storage:**

Paper records, photographs, laboratory reports in file folders, bound logs, and card index files.

**Retrievability:**

Filed chronologically by DLA case number and cross indexed in a log and card index file. Indexed either by name of the individual or firm involved, when such are known, if not by DLA activity or facility having primary interest in the case.

**Safeguards:**

Records are maintained in areas accessible only to DLA security personnel.

**Retention:**

Records are destroyed 5 years after submittal or receipt of a final report in each case or when no longer needed, whichever is later.

**SYSMANAGER:**

Command Security Officer, DLA; Heads of PLFAs.

**Notification:**

Written or personal requests for information may be directed to the SYS MANAGER.

**Access:**

Official mailing addresses of the SYS MANAGERS are in the Department of Defense Directory in the appendix to the DLA systems notice. Written requests for information should contain the full name, current address and telephone numbers of the individual. For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office identification card, and give some verbal information that could be verified with the file.

**Contest:**

DLA's rules for contesting contents as well as appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

**Source:**

Reports of investigation by DLA Security Officers, Federal, State, and Local law enforcement agencies.

**Exemption:**

Parts of this system may be exempt under Title 5 U.S.C. 552a(k)(2) as applicable. Agency rules pertaining to this exemption are set forth in Appendix C of 32 CFR Part 1286 and DLA Regulation 5400.21. For additional information, contact the SYSMANAGER.

## S155.53 DLA–NS

**System name:**

155.53 Industrial Personnel Security Clearance File (42 FR 13339) March 19, 1977.

**Security location:**

Defense Industrial Security Clearance Office, Defense Construction Supply Center, P.O. Box 2499, Columbus, Ohio 43216. A duplicative file of the Defense Industrial Security Clearance Office record of Overseas Security Eligibilities is retained by the Office of Industrial Security, Europe, Brussels, Belgium.

**Individual-category:**

Employees of Government contractors who have been issued, now possess, or are in process for personnel security clearances, including Overseas Security Eligibilities.

**Record-category:**

Information contained in each record in the automated portion of the system may include: Name of the Individual; aliases; maiden name; date of birth, place of birth, Social Security Account number; name and address of employer; level of security clearance granted; date security clearance granted; type of investigation; date of investigation; identity of investigating agency; file or case number; location of file; record of Communication Security (COMSEC) security clearance and sequential record of security clearance terminations, transfers, and reinstatements. Information contained in each record in the manual portion of the system may contain the original application for security clearance (Personnel Security Questionnaire); a copy of the personnel security investigation; a record of security clearance; record of COMSEC security clearance; Overseas Security Eligibility; Control records; foreign travel reports; all correspondence concerning the processing of the initial clearance, termination, reinstatement, transfer, emergency suspension, revocation or denial of security clearance; adjudication suspense records; adverse information reports; security violation reports; and internal Government correspondence and interoffice memoranda relative to the security clearance process.



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**Authority:**

Presidential Executive Order 10865 as amended by Executive Order 10909, both titled, Safeguarding Classified Information Within Industry.

**Routine-uses:**

The automated portion of the system is retained as a central record of industrial security clearances granted. Access to this record is restricted to authorized Defense Logistics Agency employees. The Defense Industrial Security Clearance Office will verify security clearance status only to cleared Department of Defense contractors and authorized Government agencies. Also, on occasion, the clearance record may be used to reconcile security clearance records maintained by the individual's employer. The manual portion of the system serves as a central repository for all hard copy material concerning an applicant for industrial security personnel clearance. All information contained in this record is used to back up the security clearance determination. Disclosure of this record is permitted only to personnel of the Department of Defense involved in the industrial personnel clearance process or to a legally constituted law enforcement activity within or under the control of the United States when: (i) a violation of law relative to the purpose of the security clearance program is suspected, or (ii) requested by the head of the law enforcement activity or his designated representative provided that the portion of the record desired is specified and the law enforcement activity identified. Disclosure of foreign travel information contained in the record will be permitted to Federal Government investigative agency personnel for civil or criminal law enforcement activity.

**Policy-practice storage:**

Automated Records are maintained in computer disc packs, magnetic tapes, and associated data processing files used to initially build or update the master file. The individual records in the manual part of the system are microfiche, 5 x 8 cards and hard copy paper records maintained in file folders.

**Retrievability:**

Automated records are accessed by individual Social Security Account number. Computerized indices are required to retrieve records from the system. Manual Records are accessed by Social Security Account number or alphabetically by name.

**Safeguards:**

In the automated part of the system special codes, available only to authorized Defense Logistics Agency personnel, are required to access records by means of cathode ray tube readers located only in the Defense Industrial Security Clearance Office area. Access to the manual records is limited to authorized personnel of the Defense Industrial Security Clearance Office. The Defense Industrial Security Clearance Office area is on a military controlled installation and segregated from other Government operational areas. All visitors are badged and escorted. During nonworking hours the entire area is secured and protected by a perimeter alarm system and roving guard patrols, motorized and on foot.

**Retention:**

The automated records are retained for 25 months following the termination of a security clearance. A record concerning an individual is retained, following termination, until the individual would reach the chronological age of 80 years in those cases where adverse information is existant or the clearance is terminated because of the death of the holder. Destruction is accomplished through degaussing the disk pack entry or magnetic tape. Retention of the manual records is authorized for 30 years after the date of the last action; however, records are purged 10 years after the date of the last action. Destruction is by burning. Microfiche records are updated at approximately 30-day intervals and superseded records are burned.

**Systems manager:**

The official responsible for policies and procedures governing this system is the Executive Director of Industrial Security, Defense Logistics Agency. Operational management of the system is exercised by the Chief, Defense Industrial Security Clearance Office.

**Notification:**

An individual who wishes to be notified if the system contains a record about him or her should direct the request to the Chief, Defense Industrial Security Clearance Office, Defense Construction Supply Center, P.O. Box 2499, Columbus, Ohio 43216. Requests must contain the full name, date and place of birth, and Social Security Account number. An individual may also visit the Defense Industrial Security Clearance Office to determine if the system contains a record pertaining to him or her. For visits to the Defense Industrial Security Clearance Office the individual must present proof of identity such as birth certificate, driver's license, or employee identification card, and proof of Social Security Account number.

**Access:**

An individual can obtain access to or a copy of any record pertaining to him or her, except for the personnel security investigation, by directing a request to the Chief, Defense Industrial Security Clearance Office, Defense Construction Supply Center, P.O. Box 2499, Columbus, Ohio 43216. Requests for personnel security investigations will be promptly referred to the appropriate investigative agency which is authorized to release the record. A record can be released at the Defense Industrial Security Clearance Office, Columbus, Ohio, or through one of the 11 Regional Offices of Industrial Security or a Field Office of any Regional Office of Industrial Security. A release will take place at the Office of Industrial Security nearest the residence of place of employment of the requester. The 11 Regional Offices of Industrial Security are located in Atlanta, Boston, Chicago, Cleveland, Dallas, Detroit, Los Angeles, New York, San Francisco, Philadelphia, and St. Louis. A record may also be released by mail in those cases where the requestor was provided an original notarized authorization for such release.

**Contest:**

The Agency's rules for contesting contents and appealing initial determination by the individual concerned may be obtained from the Office of Industrial Security.

**Source:**

The sources of information contained in a record are the employer and the Defense Investigative Service which is responsible for conducting personnel security investigations.

**Exemption:**

Parts of this system may be exempt uder Title 5 U.S.C. 552a(k)(5) as applicable. Agency rules pertaining to this exemption are set forth in Appendix C of 32 CFR Part 1286 and DLA Regulation 5400.21. For additional information, contact the SYSMANAGER.

WILLIAM A. SMITH,
*Chief, Administrative Management Division, Office of Administration.*

MAURICE W. ROCHE,
*Director, Correspondence and Directives Office of the Assistant Secretary of Defense (Comptroller).*

JULY 20, 1977.

[FR Doc.77-21247 Filed 7-22-77;8:45 am]

## PRIVACY ACT OF 1974

### New System of Records

The Defense Logistics Agency (DLA) systems of records notices as prescribed by the Privacy Act of 1974 have been published in the FEDERAL REGISTER as follows:

FR Doc. 75-22781 (40 FR 36045) August 18, 1975.
FR Doc. 75-76296 (41 FR 2970) January 20, 1976.
FR Doc. 75-26296 (41 FR 3045) January 20, 1976.
FR Doc. 76-21185 (41 FR 31002) July 26, 1976.
FR Doc. 76-21185 (41 FR 31142) July 26, 1976.
FR Doc. 76-22251 (41 FR 32249) August 2, 1976.
FR Doc. 77-7056 (42 FR 13339) March 10, 1977.
FR Doc. 77-19235 (42 FR 34906) July 7, 1977.

Notice is hereby given that the Defense Logistics Agency submitted a proposed new system of records on July 11, 1977 pursuant to the provisions of Office of Management and Budget (OMB Circular A-108, Transmittal Memorandum No. 1, dated September 30, 1975, and Transmittal Memorandum No. 3, dated May 17, 1976, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a(o)). This OMB guidance was set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975.

The Defense Logistics Agency invites public comments concerning the proposed new record system. Interested persons are invited to submit written data, views, and arguments to Headquarters, Defense Logistics Agency, Attn: DLA-XA, Cameron Station, Alexandria, Virginia 22314 on or before August 24, 1977. This system will become effective within 30 days of the date of this publication (August 24, 1977), as proposed without further notice unless comments are received which result in a contrary determination.





### S390.05 DCRB-M

**System name:**

S390.05 Boston Equal Employment Opportunity (EEO) Skills Bank.

**System location:**

Equal Employment Office, Defense Contract Administration Services Region (DCASR), Boston.

**Categories of individuals covered by the system:**

Personnel presently employed by DCASR, Boston and referrals from other agencies.

**Categories of records in the system:**

Individual skills records, including name of individual, present position, present grade and length of time in grade, occupational skills, educational background, types of jobs presently for which qualified, areas of job interest (future), geographic work areas where individual is willing to locate.

**Authority for maintenance of the system:**

E.O. 11478, EEO in the Federal Government and EEO Act of 1972 (Pub. L. 92-261) amending the Civil Rights Act of 1964.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:**

The purpose of this system is to assure that qualified employees are informed of upward mobility opportunities. Information is used as a means of referral of candidates when specific organizational elements make requests so that candidates may be alerted to be sure necessary background materials are in files; as a means of referral of candidates to other Federal and public agencies when specific inquiries are made; as a means for notifying possible candidates of training courses in present or anticipated fields. Data relative to outstanding referrals from other agencies as well as walk-in applicants may be added to the system for referral purposes.

**Storage:**

Magnetic tapes and computer printouts stored in file cabinet.

**Retrievability:**

Information is retrieved by grade, occupational skills, present job qualifications, job avocation, and location (entered by category code), and therein alphabetically by name.

**Safeguards:**

Magnetic tapes are maintained in tape library which are accessible only to authorized personnel. Computer Personnel who process reports are appropriately cleared. Paper records are maintained in files in the Equal Employment Opportunity Office in file cabinets, which are locked during non-duty hours.

**Retention and disposal:**

Records on current employees will be destroyed upon employee's separation. Records on outside referrals will be retained for one year after which they will be destroyed.

**Sysmanager:**

EEO Officer, DCASR, Boston.

**Notification procedure:**

Written or personal requests for information may be directed to the SYSMANAGER. For personal visits, positive identification such as a DLA identification card, driver's license, social security number or any identification containing a picture of the requestor must be presented. Written requests must contain full name, and social security number or date of birth.

**Record access procedures:**

Written or personal requests directed to the EEO Officer, DCASR, Boston.

**Contesting record procedures:**

The agency's rules for contesting contents and appealing initial determination by the individual concerned may be obtained from the SYSMANAGER.

**Record source categories:**

Forms filled out by individual employees and applicants. Participation in Skills Bank is voluntary. Data will be updated at the request of the individual candidate or applicant.

**Systems exempted from certain provisions of the Act:**

None.

MAURICE W. ROCHE,
*Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).*

JULY 15, 1977.

[FR Doc.77-21291 Filed 7-22-77;8:45 am]

## Office of the Secretary of Defense

## PRIVACY ACT OF 1974

### Amendments to Systems of Records

In FR Doc. 76-21185 published in the FEDERAL REGISTER of July 26, 1976, the Office of the Secretary of Defense set forth systems of records as prescribed by subsection 3(e) (4) and (11) of the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a) within the Office of the Secretary of Defense.

Notice is hereby given that the Office of the Secretary of Defense is amending certain of these systems of records. The proposed changes therein are not deemed to fall within the provisions of Office of Management and Budget (OMB) Circular A-108, Transmittal Memorandum No. 1, dated September 30, 1975, and Transmittal Memorandum No. 3, dated May 17, 1976, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act of 1974. This OMB guidance was set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975.

Following a brief identification of the systems of records and the changes made therein, the complete revised systems of records, as amended, are published in their entirety.

Interested persons are invited to submit comments, including written data, views, or arguments, concerning the proposed changes to the system manager identified in the specific notice on or before August 24, 1977. The systems of records will become effective within 30 days of the date of this publication (August 24, 1977), without further notice unless comments are received which result in a contrary determination.

### DM&RA 12.0

**System name:**

DM&RA 12.0 Reserve Components Common Personnel Data System (RCCPDS) (41 FR 31049).

**Changes:**

**Routine uses of records maintained in the system, including categories of users and the purpose of such uses:**

Add the following routine use below the last use now indicated: "Records may be disclosed to the Director, Selective Service System upon official request."

**Retention and disposal:**

Delete the sentence: "Inventory files are current; one year's monthly inventory tapes and end of fiscal year inventories are maintained on a permanent basis," and insert the following: "Inventory files are current; quarterly history files for the master and transaction files are maintained on a permanent basis."

### DM&RA 14.0

**System name:**

DM&RA 14.0 MARDAC Data Base (41 FR 31050).

**Changes:**

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:**

Add the following routine use below the last use now indicated: "Name and address information of former military personnel obtained from the Veterans Administration or the Military Department may be released to a number of DoD Components for use in attempting to recruit and reenlist prior service per-



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sonnel through direct contact methods. These components are as follows: U.S. Army Recruiting Command; U.S. Army Forces Command; Navy Recruiting Command; Chief of Naval Personnel; Chief of Naval Reserves; U.S. Air Force Recruiting Service; U.S. Air Force Tactical Air Command; Headquarters Air Force Reserve; National Guard Bureau; Headquarters, U.S. Marine Corps; District Directors, U.S. Marine Corps; Commanding General, 4th Marine Division; Commanding General, 4th Marine Air Wing; Commandant, U.S. Coast Guard."

### DM&RA 12.0

**System name:**

DM&RA 12.0 Reserve Components Common Personnel Data System (RCCPDS).

**System location:**

Air Force Data Service Center, Room 1D167, The Pentagon, Washington, D.C. 20330.

Back-up locations for processing: U.S. Army Management System Support Agency, Room BD972, The Pentagon, Washington, D.C. 20310.

W. R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93940.

National Military Command System Support Center, Room BE685, The Pentagon, Washington, D.C. 20331.

**Categories of individuals covered by the system:**

Any individual currently a member of any Reserve or National Guard component, and retired reservists.

**Categories of records in the system:**

File contains individual's Social Security Account Number, component, and other personnel information such as race, sex, rank, age, and length of service.

**Authority for maintenance of the system:**

10 U.S.C. 136.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:**

The purpose of the file is to generate official statistics concerning Reserve Forces' strength, gains, losses, and characteristics of the force.

Office of the Deputy Assistant Secretary of Defense (Reserve Affairs)—used to generate and disseminate official statistics. Individual records are used to provide aggregate statistical data.

Any individual record contained in the system may be transferred to any other Department of Defense Component having the need-to-know in the performance of official business.

Records may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

Records of Federal civilian employees who are reservists may be disclosed to Federal agencies for use in emergency mobilization planning. Records may be disclosed to the Civil Service Commission concerning pay benefits, retirement deductions, and other information necessary for the Commission to carry out its Government-wide personnel management functions.

Records may be disclosed to the Director, Selective Service System upon official request.

**Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:**

**Storage:**

Magnetic computer tape.

**Retrievability:**

Records are retrievable by component, rank, age, sex, location, or other attributes, including Social Security Account Number.

**Safeguards:**

The primary location is a TOP SECRET facility. The U.S. Army Management Systems Support Agency is a TOP SECRET facility. The National Military Command Systems Support is a TOP SECRET facility. Tapes located at the W. R. Church Computer Center, Monterey, CA. are stored in a locked cage in machine room, which is a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

**Retention and disposal:**

Inventory files are current; quarterly history files for the master and transaction files are maintained on a permanent basis.

**System manager(s) and address:**

Deputy Assistant Secretary of Defense (Reserve Affairs), Room 3C980, The Pentagon, Washington, D.C. 20301.

**Notification procedure:**

Information may be obtained from: Assistant Director, Reserve Personnel Program, Office of the Deputy Assistant Secretary of Defense (Reserve Affairs), Room 3C980, The Pentagon, Washington, D.C. 20301. Telephone: Area Code 202-697-0624.

**Record access procedures:**

Requests from individuals should be addressed to: Assistant Director, Reserve Personnel Program, Office of the Deputy Assistant Secretary of Defense (Reserve Affairs), Room 3C980, The Pentagon, Washington, D.C. 20301.

Written requests for information should contain the full name, Social Security Account Number, component, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license, or military or other ID card.

**Contesting record procedures:**

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSTEM MANAGER.

**Record source categories:**

Data records are obtained from the six Reserve components.

**Systems exempted from certain provisions of the Act:**

None.

### DM&RA 14.0

**System name:**

DM&RA 14.0 MARDAC Data Base.

**System location:**

Primary location: W. R. Church Computer Center, Navy Postgraduate School, Monterey, CA 93940.

Back-up locations for processing: Air Force Data Services Center, Room 1D167, The Pentagon, Washington, D.C. 20330.

U.S. Army Management Systems Support Agency, Room BD972, The Pentagon, Washington, D.C. 20310.

National Military Command Systems Support Center, Room BE685, The Pentagon, Washington, D.C. 20331.

Back-up files maintained at two offices of the DoD Manpower Research and Data Analysis Center, 7th Floor, 300 N. Washington St., Alexandria, VA 22314 and 2nd Floor, 550 Camino El Estero, Monterey, CA 93940.

Selected historic files are maintained at Air Force Data Services Center, Room 1D167, The Pentagon, Washington, D.C. pursuant to court order in IBM antitrust case. These files will be withdrawn from current location when legally permissible.

Decentralized segments, military personnel research centers, and military personnel centers of the services; selected civilian contractors with research contracts in manpower area; other Federal agencies.

**Categories of individuals covered by the system:**

All officer and enlisted personnel who served on active duty from July 1, 1968 and later; or who have been a member of a reserve component since July 1975; or are retired reservists; participants in Project 100,000 and Project Transition and the evaluation control groups for these programs; all individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later; DoD civilian employees or civilian employees separated since January 1, 1971; all veterans who have utilized Vietnam-era GI Bill education and training entitlements, who visited a State Employment Service office since July 1, 1971, or who participated in a Department of Labor special training program since July 1, 1971; all individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute, all individuals who participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969, individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the DHEW, Office of Education and Longitudinal Survey.

**Categories of records in the system:**

Name, Service Number, Selective Service Number, Social Security Account Number, demographic information such as home town, age, sex, race, and educational level, civilian occupational information, military personnel information such as rank, length of service, military occupation; aptitude scores, post-service education, training, and employment information for veterans; participation in various in-service education and training programs.

**Authority for maintenance of the system:**

10 U.S.C. 136.

**Routine uses of records maintained in the sysem, including categories of users and the purposes of such uses:**

The purpose of the system of records is to provide a longitudinal statistical analysis capability for assessing military manpower trends and evaluation programs impacting of military personnel, potential enlistees, and veterans.

Manpower Research and Data Analysis Center, used to analyze accession patterns and trends, promotion and occupation patterns and trends, loss patterns and trends, qualification rates, effectiveness of recruiting programs, participation in education and training programs, force characteristics, post-service experiences of veterans, evaluation of military special pays and bonuses; evaluation of special programs affecting military personnel; to select sample population for surveys; to provide statistical data to OMB, GAO, the Military Services, DoD civilian contractors, educational institutions and other Federal agencies.

Personnel Research and Personnel Management activities of the Military Services, uses are same as those specified above.

Veterans Administration, Management Sciences Staff, Reports and Statistics Service, Office of the Comptroller, used to select sample for surveys asking veterans about the use of veterans benefits and satisfaction with VA services.

Office of Research and Statistics, Social Security Administration, used for statistical analyses of impact of military service and use of GI Bill benefits on long term earning.

DoD Civilian Contractors, used by contractors performing research on manpower problems for statistical analyses.

Aggregate data and/or individual records contained in the record system may be transferred to other Federal agencies having legitimate use for such information and applying appropriate safeguards to protect data so provided.

Records may be disclosed to the Civil Service Commission concerning pay, benefits, retirement deductions; and other information necessary for the Commission to carry out its Government-wide personnel management functions.

Any record contained in the system of records may be transferred to any other component of the Department of Defense having the need-to-know in the performance of official business.

Name and address information of former military personnel obtained from the Veterans Admininstration or the Military Department may be released to a number of DoD Components for use in attempting to recruit and reenlist prior service personnel through direct contact methods. These components are as follows: U.S. Army Recruiting Command; U.S. Army Forces Command; Navy Recruiting Command; Chief of Naval Personnel; Chief of Naval Reserve; U.S. Air Force Recruiting Service; U.S. Air Force Tactical Air Command; Headquarters Air Force Reserve; National Guard Bureau; Headquarters, U.S. Marine Corps; District Directors, U.S. Marine Corps; Commanding General, 4th Marine Division; Commanding General, 4th Marine Air Wing; Commandant, U.S. Coast Guard.

**Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:**

**Storage:**

Magnetic computer tape.

**Retrievability:**

Retrievable by name. SSAN, age, occupation, or any other data element contained in system.

**Safeguards:**

Primary location; at W. R. Church Computer Center, tapes are stored in a locked cage in machine room, which is a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

At back-up locations in Alexandria, VA and Monterey, CA tapes are stored in rooms protected with cypher locks, buildings are locked after hours, and only properly cleared and authorized personnel have access.

The Air Force Data Services Center, the U.S. Army Management Systems Support Agency, and the National Command Systems Support Center are all TOP SECRET facilities.

**Retention and disposal:**

Files constitute a historical data base and are permanent.

**System manager(s) and address:**

Director, Department of Defense Manpower Research and Data Analysis Center (MARDAC), 550 Camino El Estero, Monterey, CA 93940.

**Notification procedure:**

Information may be obtained from: Director, Department of Defense Manpower Research and Data Analysis Center, 550 Camino El Estero, Monterey, CA 92940. Telephone: Area Code 408/646-2951.

**Record access procedures:**

Requests from individuals should be addressed to Director, MARDAC, 550 Camino El Estero, Monterey, CA 93940.

Written requests for information should contain the full name, Social Security Account Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license, or military or other ID card.

**Contesting record procedures:**

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSTEM MANAGER.

**Record source categories:**

The Military Services, the Veterans Administration, the Office of Education of the Department of HEW, from individuals via survey questionnaires, the Department of Labor.

**Systems exempted from certain provisions of the Act:**

None.

MAURICE W. ROCHE,
*Director, Correspondence and Directives OASD (Comptroller).*

JULY 15, 1977.

[FR Doc. 77-21290 Filed 7-22-77;8:45 am]

## CHEMICAL PROPULSION ADVISORY COMMITTEE

### Cancellation of Meeting

In FR Doc. 77-10567 which appeared on page 37028 of the FEDERAL REGISTER of July 19, 1977, is hereby cancelled.

NAME: JANNAF Advisory Working Group on Safety and Environmental Protection, Hazard Evaluation Committee.

DATE: 2-4 August 1977.

PLACE: Ballistic Research Laboratory, Bldg. 330, Aberdeen Proving Ground, Md. 21005.

D. C. BEATTY,
*Lt. Col., HQ USAF/RDPS, Chairman, JANNAF Safety and Environmental Protection, Working Group.*

[FR Doc.77-21524 Filed 7-22-77;10:16 am]

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-50316; FRL 767-4]

### AGRICULTURE DEPARTMENT, FOREST SERVICE, ET AL.

### Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and sub-







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ject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 27586-EUP-22. U.S. Department of Agriculture, Forest Service, Washington, D.C. 20013. This experimental use permit allows the use of 45 pounds of the insecticide chlorpyrifos on pine trees to evaluate control of the southern pine bettle. A total of 144 trees is involved; the program is authorized only in the States of Alabama, Arkansas, Colorado, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, Tennessee, and Virginia. The experimental use permit is effective from June 15, 1977, to June 15, 1978.

No. 27586-EUP-21. U.S. Department of Agriculture, Forest Service, Washington, D.C. 20013. This experimental use permit allows the use of 65 pounds of the insecticide carbaryl on pine trees to evaluate control of pine bettles. A total of 180 trees is involved; the program is authorized only in the State of Colorado. The experimental use permit is effective from June 17, 1977, to June 17, 1978.

No. 27586-EUP-20. U.S. Department of Agriculture, Forest Service, Washington, D.C. 20013. This experimental use permit allows the use of 110 pounds of the insecticide chlorpyrifos-methyl on pine trees to evaluate control of southern and western pine beetles. A total of 284 trees is involved; the program is authorized only in the States of Alabama, Arkansas, Colorado, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, Tennessee, and Virginia. The experimental use permit is effective from June 15, 1977, to June 15, 1978.

No. 38334-EUP-1. Department of Entomology, University of Arizona, Tucson, Ariz. 85721. This experimental use permit allows the use of 100 grams of the pheromone (z,z)-7,11-hexadecadien-1-ol acetate and (z,E)-7,11-hexadecadien-1-ol acetate in traps placed in cotton to evaluate control of pink bollworm. A total of 20,000 acres is involved; the program is authorized only in the State of Arizona. The experimental use permit is effective from June 15, 1977, to June 15, 1978.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: July 15, 1977.

DOUGLAS D. CAMPT,
*Acting Director,*
*Registration Division.*

[FR Doc.77-21234 Filed 7-22-77;8:45 am]

[OPP-50314; FRL 767-3]

## ELANCO PRODUCTS CO., ET AL.

### Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 1471-EUP-43. Elanco Products Co., Indianapolis, Ind. 46206. This experimental use permit allows the use of 4,000 pounds of the herbicide tebuthiuron to evaluate brush control on rangelands and permanent pastures. A maximum of 4,000 acres is involved; the program is authorized on a maximum of 18 sites within selected States. All States except Alaska are potentially involved. The experimental use permit is effective from June 15, 1977, to June 15, 1978. Temporary tolerances for residues of the active ingredient in or on grasses (pasture and rangeland) and grass hay; liver and kidney of cattle, goats, horses, and sheep; in meat, fat, and meat byproducts of cattle, goats, horses, and sheep; and in milk have been established.

No. 1016-EUP-37. Union Carbide Corp., Washington, D.C. 20006. This experimental use permit allows the use of 573 pounds of the nematicide insecticide 2-methyl-2-(methylsulfonyl) propanol O-(methylamino) carbonyl) oxime also called 2-methyl-2-(methylsulfonyl) proprionaldehyde O-(methylcarbonyl) oxime on cotton to evaluate control of aphids, nematodes, fleahoppers, spider mites, and thrips. A total of 135 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Arizona, California, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. The experimental use permit is effective from June 3, 1977, to June 3, 1978. It has been determined that residues in or on cottonseed resulting from application of this pesticide will be permitted if in accordance with 40 CFR 180.269.

No. 100-EUP-48, 100-EUP-49, 100-EUP-50, and 100-EUP-51. Ciba-Geigy Corp., Greensboro, N.C. 27409. These experimental use permits allow the use of 1,000 pounds of the insecticide O-(5-chloro-1-(methylethyl) - 1H - 1,2,4-triazol-3-yl) O,O-diethyl phosphorothioate on turf to evaluate control of chinch bugs, cutworms, mole crickets, sod webworms, and white grubs. No. 100-EUP-48 will use 200 pounds; and No. 100-EUP-49 will use 300 pounds; No. 100-EUP-50 will use 200 pounds; and No. 100-EUP-51 will use 300 pounds. A total of 124.5 acres is involved in all four permits; the programs are authorized only in the 48 contiguous States, Hawaii, and Puerto Rico. The experimental use permits are effective from July 1, 1977, to July 1, 1978. The permits will use the same active ingredient, but different formulations.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: July 15, 1977.

DOUGLAS D. CAMPT,
*Acting Director,*
*Registration Division.*

[FR Doc.77-21233 Filed 7-22-77;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 767-5]

### MANAGEMENT ADVISORY GROUP TO THE MUNICIPAL CONSTRUCTION DIVISION

#### Open Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the Management Advisory Group (MAG) to the Municipal Construction Division will be held at 9:00 a.m. on August 15-16, 1977. The meeting will be held at the Environmental Protection Agency's Region X Office, 1200 Sixth Avenue, Seattle, Washington.

The purpose of the meeting is to review and discuss the following subjects: MAG's Report on the National Water Quality Commission's Recommendations, Legislative Situations and EPA/EDA Jobs Bill Cooperation. Legislative Initiatives of the Administration, Municipal/Industrial Dicharge Enforcement Policy, Streamlining the Program, Grant and Project Processing Procedures, Operation and Maintenance Issues, Reuse and Recycling, Minority Enhancement in A/E and Construction Contracting, Pretreatment, Land Treatment, and Ocean Discharges.

The meeting will be open to the public. Any member of the public wishing to attend should contact the Executive Secretary, Mr. Harold P. Cahill, Jr., Director, Municipal Construction Division, EPA, Washington, D.C. 20460. The telephone number is area code 202-426-8986.

THOMAS C. JORLING,
*Assistant Administrator for*
*Water and Hazardous Materials.*

JULY 19, 1977.

[FR Doc.77-21367 Filed 7-22-77;8:45 am]

[FRL 766-1]

### MINNESOTA-WISCONSIN

#### Joint Marine Sanitation Device Standard

On January 4, 1977, (42 FR 837), notice was published that the States of Minnesota and Wisconsin jointly had petitioned the Administrator, U.S. Environmental Protection Agency (the Agency) to determine that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the Minnesota-Wisconsin portions of Lake Superior, for the Mississippi River from the Iowa border to Lock and Dam No. 2 at Hastings, Minnesota, and for the St. Croix River from its mouth to Taylors Falls, Minnesota (42 FR 837, January 4, 1977). This petition was filed pursuant to Section 312(f)(3) of Pub. L. 92-500.

Section 312(f)(3) states:

> After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such State require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply.

With respect to the Minnesota portions of Lake Superior, the State of Minnesota certifies that four pumpout facilities and thirteen septic tank pump truck operators are available to service vessels operating on the waters of Lake Superior. Of the four cited pumpout facilities, two are in Duluth, one is in Knife River, approximately 18 miles north of Duluth, and the fourth is in Grand Marais, approximately 110 miles north of Duluth. Of the thirteen cited septic tank pump truck operators, seven are in Duluth, two are in Two Harbors, approximately 28 miles north of Duluth, one is in Beaver Bay, approximately 52 miles north of Duluth, and one is in Grand Marais, approximately 110 miles north of Duluth. The remaining two cited septic tank pump trucks are located in Cloquet, approximately 18 miles southwest of Duluth.

The State of Minnesota also certified that Mr. Richard Amatuzio, owner and operator of North Star Marine Operators, of Duluth, had purchased a 5,000-gallon self-propelled barge for use in pumping out commercial vessels in the Duluth/Superior harbor. The State further certified that the barge is capable of reaching all docks in the harbor. Communication by the Agency with Mr. Amatuzio revealed that he has purchased a surplus U.S. Navy gasoline pumper barge for such an intended use.

The State of Minnesota certified that although the listed pumpout facilities handle only recreational vessels, the combination of fixed pumpout facilities and available septic tank pump trucks will exclude no vessel because of insufficient water depths adjacent to a facility, and further, that all wastes removed from vessels by either fixed pumpout facilities or by septic tank pumpers are required to be disposed of at a National Pollutant Discharge Elimination System (NPDES)-permitted facility, or on land in conformance with applicable Federal, State, and local requirements.

The State of Wisconsin certifies that pumpout facilities are available for recreational vessels at five sites in Bayfield, and at two sites in La Pointe in the Wisconsin portions of Lake Superior. The State further certifies that septic tank pump trucks are available to service recreational vessels at Ashland and at Superior and that septic tank pump trucks are available to service commercial vessels at Ashland and non-ore carrying commercial vessels at Superior. The State indicates that because of the loading system used by the ore-carrying vessels (which represent about 50 percent of the commercial vessel traffic in Superior Harbor), it is not possible to pump sewage wastes from these vessels while at the ore docks. The State indicates, however, that it is possible for ore vessels to be serviced by septic tank pumpers from the grain-loading docks, either prior to being loaded with ore or prior to leaving the harbor.

Four comments were received in opposition to this application; of the four, three were from individuals and one was from the Lake Carriers Association. The communications from the private parties all stated that there are insufficient pumpout facilities for vessels operating on the Lake, and that the distances between available facilities is far too large. The Lake Carriers Association contends (and the State of Wisconsin acknowledges) that there is no possible way for a septic tank pump truck to be driven onto the ore-loading docks to pump out a vessel, because of the configuration and structure of the docks. The Lake Carriers Association acknowledges that it may be possible to have the ore boats pumped out by septic pumpers at the grain-loading docks; however, to do so, would require the ore vessel to be moved to the grain docks, causing added expense in addition to lost operating time, and would require space to be available at the grain docks for the ore vessel. The U.S. Coast Guard in Duluth/Superior confirms that space at the grain docks often may not be available.

Investigations by the Agency reveal that approximately 2,200 commercial vessels used the Duluth/Superior harbor in 1976; these figures are confirmed by the U.S. Coast Guard. The State of Minnesota stated in their petition that information on commercial traffic at other harbors generally is not available; however, investigations by the Agency reveal that three Minnesota ports on the western shore of Lake Superior have commercial vessel traffic in significant amounts. Two Harbors, Silver Bay, and Taconite Harbor are all loading points for taconite ore extracted from the Mesabi Range. In 1976, approximately 280 commercial vessels called at Two Harbors (confirmed by the Duluth, Mesabi, and Iron Range Mining Company), approximately 565 commercial vessels called at Silver Bay (confirmed by the Reserve Mining Company), and approximately 360 commercial carriers called at Taconite Harbor (confirmed by the Erie Mining Company).

Further investigations by the Agency revealed that there are no pumpout facilities available for commercial ore vessels in Duluth/Superior, Two Harbors, Silver Bay, or Taconite Harbor. Septic tank pumpers cannot service the ore docks in Duluth/Superior. It was also found that no commercial ore vessel had been pumped out by a septic tank pumper in Two Harbors, Silver Bay, or Taconite Harbor.

Discussions by the Agency with Mr. Amatuzio as recently as May 10, 1977, confirm that his self-propelled pumper barge is still not operational, even though it has been approved for operation by the U.S. Coast Guard. It is the Agency's understanding that operation of the barge will require a financial commitment by the State to cover a portion of the first year's operating costs, and that this requirement has not been met. Pumpout facilities are not now adequate for commercial vessels.

Following an examination of the petition and the supporting information, as well as the additional information ascertained by the Agency, and a consideration of all comments received pursuant to the January 4 FEDERAL REGISTER notice, I have determined that adequte facilities for the safe and sanitary removal and treatment of sewage from all vessels are not reasonably available for the Minnesota-Wisconsin portions of Lake Superior. This determination is made pursuant to Section 312(f)(3) of Pub. L. 92-500.

With respect to the Mississippi River from the Iowa border to Lock and Dam No. 2 at Hastings, Minnesota, and the St. Croix River from its mouth to Taylors Falls, Minnesota, the State of Minnesota certifies that four pumpout facilities are available to service vessels on the St. Croix River, and ten pumpout facilities are available to service vessels on the Mississippi River. One of the ten pumpout facilities cited on the Mississippi is a gasoline service station located more than a quarter-mile from the river. In addition, the State of Minnesota certifies that seventeen septic tank pump truck operators are available to service commercial vessels on the Mississippi and St. Croix Rivers. Of the seventeen, three are located in municipalities on the St. Croix River, eight are located in municipalities on the Mississippi River, two (Leon D. Gilbert and Caleb Tentis) are located in a municipality approximately four miles from the Mississippi, one (Roger F. Weierke) is located in a municipality approximately six miles from the Mississippi, one (Bob Freiermuth Sanitation Service) is located in a municipality approximately 14 miles from the Mississippi, one (Marty's Sewer Service) is located in a municipality approximately 6 miles from the St. Croix and 10 miles from the Mississippi, and one (A&B Sanitation Service) is located in a municipality approximately 16 miles from the St. Croix and 10 miles from the Mississippi.

The State of Minnesota also certifies that additional pumpout facilities are







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available farther upstream adjacent to the Mississippi River. The State points out that a majority of towboats use the commercial pumpout facility in St. Paul for taking on fuel, effecting repairs, and pumping out sewage. However, it should be noted that the facility referred to by the State, Twin City Barge and Towing Company, is 18 river miles north of the northern limit of this petition.

The State of Minnesota believes that the combination of stationary pumpout facilities and septic tank pumpers will exclude no vessels because of insufficient water depth. Although the stationary pumpouts handle recreational vessels primarily, the septic tank pumpers are, to the best of the State's knowledge, able to reach all docks, recreational and commercial. In addition, the State of Minnesota has certified that all wastes from vessels removed at stationary pumpout facilities and by septic tank pumpers are required to be disposed of at an NPDES-permitted facility or applied on land in conformance with applicable Federal, State, and local requirements.

The information submitted to me by the State of Wisconsin pertaining to the Mississippi and St. Croix Rivers certifies that two pumpout facilities (both in the same municipality) are available to service vessels on the St. Croix River, and eleven pumpout facilities (in four municipalities) are available to service vessels on the Mississippi River. The four municipalities (Prescott, Pepin, Alma, and LaCrosse) are separated by distances of 44, 15, and 54 river miles respectively; there is an additional distance of 24 river miles from LaCrosse to the southern limit of this petition, terminating at the northern Iowa border. The State believes that the distances between pumpout facilities do not cause any hardship to recreational craft. The State of Wisconsin indicates that there are no "in-place" pumpout facilities for commercial vessels along the Mississippi within the limits of this petition, but states that towboats have used facilities to the north and south of the Wisconsin portions of the river (in Minnesota and Illinois, respectively) in the past. The State claims that it is possible to service towboats by septic tank pump trucks in LaCrosse; however, neither numbers of available tank trucks nor operators of such trucks are specified. It should be noted that LaCrosse is 135 river miles south of Twin City Barge and Towing Co., in St. Paul, which is, as noted above, 18 river miles beyond the northern limits of this petition.

Twelve comments were received in opposition to this application; of the twelve, one was from an individual and eleven were from commercial barge and towboat operators. The private communication stated that the individual was aware from personal experience that present pumpout facilities are often neither safe nor sanitary; equipment does not function properly, hoses break or come unfastened, spillage is common, and most marina personnel are not trained in waste handling. In addition, the commenter states that in his view adequate and reasonably available pumpout facilities do not exist in this area.

The communications from the commercial barge and towboat operators made several points:

(1) In none of the pumpout facilities cited by the States of Minnesota and Wisconsin is there sufficient depth of water to allow a towboat drawing 8½ to 9 feet of water to enter the facility to pump out.

(2) Even assuming a towboat could get into the marina, in most cases there is insufficient room to maneuver a 140 to 160 foot towboat up to a dock in order to pump out. To attempt to do so would result in a potentially severe danger to other boats, docking areas, hoselines and people.

(3) Even assuming a pumpout facility existed that could accommodate a vessel the size and weight of a commercial towboat in order to pump out, no method exists to safely moor the barges, which total approximately 60 million pounds deadweight.

(4) In one of the twelve pumpout facilities cited by the State of Wisconsin and in two of the ten pumpout facilities cited by the State of Minnesota, a pumpout capability does not exist. This is confirmed in signed statements by the facility owners.

(5) One of the twelve pumpout facilities cited by the State of Wisconsin in its petition of June 13, 1975, was out of operation.

The State of Wisconsin indicates that there are no "in-place" pumpout facilities for commercial vessels along the Mississippi River within the limits of this petition, and further, that public dockage for commercial towboats generally is not available. Although the State claims it is possible to service towboats by septic tank pump trucks at LaCrosse, no available septic tank pumpers have been identified by the State.

In summary, although the evidence submitted reveals that adequate facilities for the removal of sewage from recreational vessels are reasonably available for both the Mississippi and St. Croix Rivers, the information available also reveals that there are neither identified pumpout facilities for the removal of sewage from commercial towboats operating on the portion of the St. Croix River addressed by this petition, nor are there reasonably available pumpout facilities for the removal of sewage from commercial vessels operating on the portion of the Mississippi River addressed by this petition.

Following an examination of the petition and the supporting information, as well as the additional informtion ascertained by the Agency, and a consideration of all comments received pursuant to the January 4 FEDERAL REGISTER notice, I have determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are not reasonably available for the Mississippi River from the Iowa border to Lock and Dam No. 2 at Hastings, Minnesota, and for the St. Croix River from its mouth to Taylors Falls, Minnesota. This determination is made pursuant to Section 312(f)(3) of Pub. L. 92–500.

Dated: July 15, 1977.

BARBARA BLUM,
*Acting Administrator.*

[FR Doc.77-21232 Filed 7-22-77;8:45 am]

[OPP-50317; FRL 766-7]

## MONSANTO AGRICULTURAL PRODUCTS CO., ET AL.

### Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 524-EUP-35. Monsanto Agricultural Products Company, St. Louis, Missouri 63166. This experimental use permit allows the use of 800 pounds of the herbicide alachlor on corn to evaluate control of various grasses and broadleaf weeds, especially sandburs. A total of 400 acres is involved; the program is authorized only in the States of Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Carolina, Ohio, South Dakota, and Wisconsin. The experimental use permit is effective from May 27, 1977, to May 27, 1978. A permanent tolerance for residues of the active ingredient in or on corn has been established (40 CFR 180.249).

No. 4090-EUP-24. Gulf Oils Chemical Company, Merriam, Kansas 66202. This experimental use permit allows the use of 393 pounds of the herbicide butam on soybeans and peanuts to evaluate broad spectrum weed control. A total of 108.8 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississipoi, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from June 27, 1977, to June 27, 1978. This permit is being issued under the condition that all treated crops are destroyed or used for research purposes only.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202–755–4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: July 15, 1977.

DOUGLAS D. CAMPT,
*Acting Director,*
*Registration Division.*

[FR Doc.77-21235 Filed 7-22-77;8:45 am]





[OPP-31011; FRL 766-8]

## PENNWALT CORP., ET AL.

### Receipt of Applications to Register Pesticide Products Entailing Changed Use Patterns

Applications to register pesticide products entailing changed use patterns have been made to the Environmental Protection Agency (EPA). Notice of receipt of these applications are given in accordance with the provisions of Section 3(c)(4) of FIFRA (40 CFR 162.2(b)(6)) and does not indicate a decision by this Agency on the applications.

Any Federal agency or other interested persons are invited to submit written comments on any applications to the Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must be received within 30 days from the publication of this notice and should bear a notation indicating the EPA File Symbol number of the applications to which the comments pertain. Comments received within the specified time period will be considered before a final decision is made with respect to the pending applications. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the applications. Specific questions concerning the following applications should be directed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address or by telephone.

Notice of approval or denial of the applications to register the pesticide product listed will be announced in the FEDERAL REGISTER. The label furnished by each applicant as well as all written comments will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: July 15, 1977.

DOUGLAS D. CAMPT,
*Acting Director,*
*Registration Division.*

APPLICATIONS RECEIVED

EPA Reg. No. 4581-223. Pennwalt Corp., Agchem Div., PO Box C, King of Prussia PA 19406. HERBICIDE 273. Active Ingredients: Dipotassium salt of Endothall (7-oxabicyclo[2.2.1]-heptane - 2,3 - dicarboxylic acid equivalent 28.6%) 40.3%. Application proposes a change in the use pattern from ground application to include aerial application. Application also proposes that the product be classified for general use. PM24 (202/755–2196)

EPA File Symbol 40810-R. Ciba-Geigy Corp., Plastics and Additives Division, 444 Saw Mill River Rd., Ardsley, NY 10502. IRGAROL B1549. Active Ingredients: Triphenyl lead acetate 90%. Application proposes a change in the use pattern from formulated product to technical chemical. Application also proposes that the product be classified for restricted use. PM24 (202/755–2196)

[FR Doc.77-21236 Filed 7-22-77;8:45 am]

[PF75; FRL 767-2]

## PESTICIDE PROGRAMS

### Filing of Pesticide Petition

Dow Chemical Company, P.O. Box 1706, Midland MI 48640, has submitted a petition (PP 7F1970) to the Environmental Protection Agency which proposes the establishment of a tolerance for residues of 6-chloropicolinic acid resulting from the use of the microbiocide nitrapyrin [2-chloro-6-(trichloromethyl)pyridine] in or on the raw agricultural commodities potatoes at 1 part per million (ppm); endive, grain crops (except rice), lettuce, sugar beets (tops and roots) and tomatoes at 0.1 ppm. The proposed analytical method for determining residues of the metabolite is a gas chromatographic method.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning this petition may be directed to Product Manager (PM) 24, Registration Division (WH–567), Office of Pesticide Programs, at the above address, or by telephone at 202–755–2196. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: July 15, 1977.

DOUGLAS D. CAMPT,
*Acting Director,*
*Registration Division.*

[FR Doc.77-21237 Filed 7-22-77;8:45 am]

[PF73A; FRL 767-1]

## PESTICIDE PROGRAMS

### Filing of Pesticide Petition; Correction

In FR Doc. 77–18660, appearing on page 33363 in the issue of June 30, 1977, first paragraph, the 15th line down should read "broccoli at 2.0 parts per million (ppm); brussels sprouts at 1.0 ppm; * * *."

Dated: July 15, 1977.

DOUGLAS D. CAMPT,
*Acting Director,*
*Registration Division.*

[FR Doc.77-21238 Filed 7-22-77;8:45 am]

[OPP-30135; FRL 767-6]

## PESTICIDE PROGRAMS

### Receipt of Applications To Register Pesticide Products Containing New Active Ingredients

Applications have been submitted to the Environmental Protection Agency (EPA) to register pesticide products containing active ingredients which have not been included in any previously registered pesticide products. Notice of receipt of these applications is made in accordance with the provisions of Sections 3(c)(4) of FIFRA (40 CFR 162.6(b)(6)) and does not indicate a decision by the Agency on the applications.

Any Federal agency or other interested persons are invited to submit written comments on any applications to the Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must be received within 30 days from the publication of this notice and should bear a notation indicating the EPA File Symbol number of the application to which the comments pertain. Comments received within the specified time period will be considered before a final decision is made with respect to the pending applications. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Notice of approval or denial of the applications to register pesticide produces listed will be announced in the FEDERAL REGISTER. The labels furnished by each applicant as well as all written comments filed will be available for public inspection in the Office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: July 13, 1977.

DOUGLAS D. CAMPT,
*Acting Director,*
*Registration Division.*

APPLICATIONS RECEIVED

EPA File Symbol 1471-RRN. Elanco Products Co., Box 1750, Indianapolis IN 46206. NITROXANE. Active Ingredients: *5-bromo-2-methyl-5-nitro-1,3-dioxane* 100%. Application proposes that this product be classified for general use as a bacterial and fungal preservative. PM 33

EPA File Symbol 372-LR. Mallinckrodt, Inc., 3606 N. Second St., St. Louis MO 63147. MELTATOX. Active Ingredients: *4-cyclododecyl-2,6-dimethylmorpholinium acetate*



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43%. Application proposes that this product be classified for restricted use as a packing mildew on roses. PM21

EPA File Symbol 677-GEI. Diamond Shamrock Corp., Agricultural Chemicals Div., 1100 Superior Ave., Cleveland OH 44114. DECAMOX ST. Active Ingredients: *Thiofanox (3,3-dimethyl-1-(methylthio)-2-butanone 0-[(methylamino)carbonyl]-oxime* 39.4%. Application proposes that this product be classified as a miticide insecticide for restricted use for seed treatment on cotton. PM12

EPA File Symbol 677-GET. Diamond Shamrock Corp., Agricultural Chemicals Div., 1100 Superior Ave., Cleveland OH 44114. DACAMOX 10G. Active Ingredients: *Thiofanox (3,3-dimethyl-1-(methylthio-2-butanone 0-[(methylamino)carbonyl]-oxime* 10%. Application proposes that this product be classified as a miticide insecticide for restricted use for soil treatment on cotton. PM12

[FR Doc 77-21306 Filed 7-22-77;8:45 am]

[FRL 768-1]

## SCIENCE ADVISORY BOARD ECOLOGY ADVISORY COMMITTEE

### Open Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the Ecology Advisory Committee of the Science Advisory Board will be held on August 15-16, 1977, beginning at 8:30 a.m. in Conference Room 11G, Environmental Protection Agency, Region X Office, 1200 6th Avenue, Seattle, Washington.

This is the thirteenth meeting of the Ecology Advisory Committee. The Agenda includes briefings on the role of the Regional Office in EPA's operational programs, Region X Water Program, Region X Air and Hazardous Materials Program, Region X Enforcement Operations, Region X Surveillance and Analysis Operation, and the relation of the Office of Research and Development to Regional operations; discussion of possible roles of the Ecology Advisory Committee in Regional Office affairs/programs; report on Science Advisory Board activities; presentation and consideration of the Ad Hoc Study Group report on "Biological and Climate Effects Research (BACER)—Effects of Stratospheric Modification;" discussion on river drainage basin ecosystems research; reports on annual program reviews of EPA's Environmental Research Laboratories at Research Triangle Park, North Carolina, at Gulf Breeze, Florida, at Corvallis, Oregon, and at Duluth, Minnesota; discussions on the National Research Council's report, "Research and Development in the Environmental Protection Agency," future Committee meetings and activities, and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend, participate or obtain information should contact Dr. J Frances Allen, Executive Secretary, Ecology Advisory Committee, (703) 557-7720.

Dated: July 20, 1977.

RICHARD M. DOWD,
*Staff Director,*
*Science Advisory Board.*

[FR Doc 77-21368 Filed 7-22-77;8:45 am]

[FRL 767-8]

## SCIENCE ADVISORY BOARD, TECHNOLOGY ASSESSMENT AND POLLUTION CONTROL ADVISORY COMMITTEE

### Open Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the Technology Assessment and Pollution Control Advisory Board will be held beginning at 8:30 a.m., August 12, 1977, in Room 1101 (West Tower) U.S. Environmental Protection Agency, Waterside Mall, 401 M Street, S.W., Washington, D.C.

This meeting is a regularly scheduled meeting of the Committee. The Committee will review a draft report on its assessment of the quality of EPA's research and development related to pollution control technology, discuss future Committee activities, and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend or submit a paper should contact Lloyd T. Taylor, Executive Secretary, Technology Assessment and Pollution Control Advisory Committee, (703) 557-7720, by c.o.b. August 8, 1977.

RICHARD M. DOWD,
*Staff Director,*
*Science Advisory Board.*

JULY 20, 1977.

[FR Doc.77-21369 Filed 7-22-77;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

### BROADCAST STATIONS

### Notification List

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standards broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

*Canadian list No. 364, June 27, 1977*

| Call letters | Location | Power (kilowatts) | Antenna | Schedule | Class | Antenna height (feet) | Ground system: Number of radials | Ground system: Length (feet) | Proposed date of commencement of operation |
|---|---|---|---|---|---|---|---|---|---|
| CFQC... | Saskatoon, Saskatchewan, N. 52°06'43", W. 106°16'25" (PO 5 kW, DA-N, ND-D-175). | 600 kHz 10 | DA-2 | U | III | | | | EIO June 27, 1978. |
| CKOK... | Regina, Saskatchewan, N. 50°19'36" W, 104°37'18" (PO 5 kW, DA-N, ND-D-194) (correction of geographical coordinates from N. 50°19'28", W. 104°37'18"). | 800 kHz 10 | DA-2 | U | III | | | | Do. |
| CKRC... | Winnipeg, Manitoba, N. 49°45'51", W. 97°07'57" (correction of geographical coordinates from N. 49°46'00", W. 97°08'07"). | 800 kHz 10 | | U | III | | | | |
| CHIC... | Brampton, Ontario, N. 43°35'20", W. 79°52'54" (now in operation) | 700 kHz 5 | DA-2 | U | III | | | | |
| CHML... | Hamilton, Ontario, N. 43°20'00", W. 80°07'15" (PO 5 kW, DA-1, N. 43°10'52", W. 79°41'07".) | 900 kHz 50 | DA-1 | U | II | | | | Do. |





| Call letters | Location | Power (kilowatts) | Antenna | Schedule | Class | Antenna height (feet) | Ground system: Number of radials | Ground system: Length (feet) | Proposed date of commencement of operation |
|---|---|---|---|---|---|---|---|---|---|
| CKLY... | Lindsay, Ontario, N. 44°10'41", W. 78°41'57" (change in antenna radiation patterns) (PO 1 kW, DA-1) (conditional upon successful implementation of frequency change from 910 to 920 kHz by CBO, Ottawa, Ontario). | 910 kHz 10(D)/5N | DA-2 | U | III | | | | |
| CFLS... | Levis, Quebec, N. 46°48'26", W. 71°08'37" (PO N. 46°47'50", W. 71°08'33", 1240 kHz, 0.25 kW, ND-184, U. IV). | 920 kHz 1 | DA-N | U | III | | | | EIO Aug. 20, 1977. |
| CKWX... | Vancouver, British Columbia, N. 49°09'22", W. 123°04'00" (PO DA-N, ND-D-190, N. 49°10'48", W. 123°04'38"). | 1130 kHz 50 | DA-1 | U | I-B | | | | EIO June 27, 1978. |
| CFIX... | Cornwall, Ontario, N. 45°00'27", W. 74°37'05", (change of call letters from CFML). | 1170 kHz 10 | DA-D | D | II | | | | |
| CJBK... | London, Ontario, N. 42°52'06", W. 81°13'58" (change in daytime antenna radiation pattern) (PO 10 kW, DA-1). | 1290 kHz 10 | DA-2 | U | III | | | | Do. |
| CFBQ... | Parry Sound, Ontario, N. 45°20'42", W. 80°01'23" (change of call letters from CKAR-1). | 1540 kHz 0.25 | ND-182 | U | IV | 122 | 120 | 132 3.5 | |
| CKVT... | Temiscamingue, Quebec, N. 46°44'06", W. 79°03'30" (PO 0.25 kW) | 1540 kHz 1D/0.25N | ND-185 | U | IV | 170 | 120 | 293 | Do. |
| CFOR... | Orillia, Ontario, N. 44°35'53", W. 79°20'22" (PO 10D/1N, ND-200, 200, 1-0,251). | 1570 kHz 10D/5N | DA-N ND-D-200. | U | II | | | | Do. |

WALLACE E. JOHNSON,
*Federal Communications Commission,*
*Chief, Broadcast Bureau.*

[FR Doc.77-21090 Filed 7-22-77;8:45 am]

## PRIVATE LAND MOBILE ADVISORY COMMITTEE

### Notice of Meeting

In preparation for the 1979 World Administrative Radio Conference (WARC), the Private Land Mobile Advisory Committee, headed by Neal Pike, will hold a meeting on August 11, 1977, in Washington, D.C. The meeting will be held in Conference Room 7327, Federal Communications Commission, 2025 M Street, N.W., at 9:00 A.M. The purpose of the meeting is to consider reply comments in Docket 20271, Fifth Notice of Inquiry for a General World Administrative Conference in 1979. The meeting is open to the public and will be conducted in accordance with the following agenda.

1. Call of the agenda.
2. Opening remarks of the Chairman.
3. Consideration of reply comments in Fifth Notice of Inquiry, Docket 20271.
4. Further Business.
5. Adjournment.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

[FR Doc.77-21295 Filed 7-22-77;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Health Care Financing Administration

### MEDICAL ASSISTANCE PROGRAM

### Handbook of Public Assistance Administration Supplement D; Proposed Revocation

AGENCY: Health Care Financing Administration, HEW.

ACTION: Notice of intent.

SUMMARY: This notice proposes to revoke Handbook of Public Assistance Administration Supplement D, Medical assistance Programs Under Title XIX of the Social Security Act. All material in Supplement D either has been superseded or is no longer applicable. The proposal would result in Supplement D's use as precedent material only.

DATES: Closing date for receipt of comments: September 8, 1977. Please refer to MSA-208-NI. Agencies and organizations are requested to submit comments in duplicate.

ADDRESSES: Address written comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, PO. Box 2366, Washington, D.C. 20013.

Beginning two weeks from today, the public may review comments on Monday through Friday of each week, from 8:30 a.m. to 5 p.m.: Department of Health, Education, and Welfare, Health Care Financing Administration, Room 5225, 330 C Street S.W., Washington, D.C., 202-245-0950.

FOR FURTHER INFORMATION CONTACT:

Pat Hufford, 245-1960.

SUPPLEMENTARY INFORMATION: Supplement D of the Handbook of Public Assistance Administration contains certain requirements, interpretations, informational materials, and instructions for the administration of the medical assistance program under title XIX of the Social Security Act. Supplemental D was initially issued June 17, 1966. Additional transmittals were issued as needed.

On August 11, 1975 (40 FR 33697), Parts I, II, and III, and Supplements A, B, and C of the Handbook were revoked. All material in those parts and supplements had been either superseded by regulations published in 45 CFR Chapter II, reissued in Social and Rehabilitation Service instructions or interpretations, or outdated by statutory revisions.

Supplement D was not revoked at that time because of one provision which was still in effect and had not been superseded or reissued. Section D-5840, Pooled Funds, of Part D-5800, Federal Financial Participation in Medical Assistance Programs, allowed a public assistance agency to establish, maintain, and operate a pooled fund for medical care. The States that used a pooled fund have since closed them; the last as of September 30, 1976.

The Department now proposes to revoke Supplement D. Although it is still useful as precedent material, it is not to be relied on as current policy.

(Section 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program).

NOTE.—The Health Care Financing Administration has determined that this document does not require preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: June 20, 1977.

ROBERT A. DERZON,
*Administrator, Health Care Financing Administration.*

Approved: July 19, 1977.

JOSEPH A. CALIFANO, Jr.,
*Secretary.*

[FR Doc.77-21312 Filed 7-22-77;8:45 am]



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## FEDERAL ENERGY ADMINISTRATION

### DOMESTIC CRUDE OIL ALLOCATION PROGRAM

### Entitlement Notice for May 1977

In accordance with the provisions of 10 CFR § 211.67 relating to FEA's domestic crude oil allocation program the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for May 1977 submitted to FEA by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports and imported naphtha utilized as a petrochemical feedstock in Puerto Rico, application of the entitlement adjustment for residual fuel oil production for sale in the East Coast market provided in § 211.67(d)(4), and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for May 1977 is calculated to be .280251.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of May 1977, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .337398 of a barrel of deemed old oil.

The issuance of entitlements for the month May 1977 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR § 211.67(i)(4), FEA hereby fixes the price at which entitlements shall be sold and purchased for the month of May 1977 at $8.77, which is the exact differential as reported for the month of May between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil, less the sum of 21 cents.

In accordance with 10 CFR § 211.67(b), each refiner that has been issued fewer entitlements for the month of May 1977 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of May 1977 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of May 1977 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months September 1975 through April 1977 pursuant to 10 CFR § 211.67(j)(1).

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by FEA pursuant to § 211.67(h).

The listing contained in the Appendix identifies in a separate column additional entitlements issued to refiners pursuant to relief granted by FEA's Office of Exceptions and Appeals. Also set forth in this column are the adjustments for relief granted by the Office of Exceptions and Appeals for 1975, which adjustments are being reflected in monthly installments commencing with the September 1976 entitlement notice. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, see Beacon Oil Company, et al, 4 FEA par. 87,024 (November 5, 1976).

For the purposes of the adjustments to refiners' crude run volumes under § 211.67(d)(4), total production of residual fuel oil for sale in the East Coast market (in excess of the first 5,000 barrels per day thereof for each refiner reporting such production) was 8,997,774 barrels for May 1977. For that month, imports of residual fuel oil eligible for entitlement issuances totaled 26,549,034 barrels.

The total number of entitlements required to be purchased and sold under this notice is 23,920,624.

Payment for entitlements required to be purchased under 10 CFR § 211.67(b) for May 1977 must be made by July 31, 1977.

On or prior to August 10, 1977, each firm which is required to purchase or sell entitlements for the month of May 1977 shall file with FEA the monthly transaction report specified in 10 CFR § 211.66(i) certifying its purchases and sales of entitlements for the month of May. FEA has mailed the monthly transaction report forms for the month of May to reporting firms. FEA requests that firms which have been unable to locate other firms for required entitlement transactions by July 31, 1977, contact FEA at 202-254-6296 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to July 31, 1977, FEA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR § 211.67(k).

This notice is issued pursuant to Subpart G of FEA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with FEA's Office of Exceptions and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before August 24, 1977.

Issued in Washington, D.C., on July 19, 1977.

ERIC J. FYGI,
*Acting General Counsel.*





APPENDIX
ENTITLEMENTS FOR DOMESTIC CRUDE OIL

| REPORTING FIRM SHORT NAME | DEEMED OLD OIL ADJUSTED RECEIPTS | ********** TOTAL ENTITLEMENT POSITION ISSUED AND EXCEPTIONS | PRODUCT ENTITLEMENTS | 10 MONTH CLEANUP | REQUIRED TO BUY | ********** REQUIRED TO SELL |
|---|---|---|---|---|---|---|
| A-JOHNSON | 0 | 113,475 | 0 | 0 | 0 | 113,475 |
| ALLIED | 63,423 | 150,731 | 0 | 0 | 0 | 87,308 |
| AMER-PETROFINA | 2,033,294 | 1,324,455 | 158,315 | 0 | 708,839 | 0 |
| AMERADA-HESS | 2,119,645 | 3,406,029 | 0 | 0 | 0 | 1,286,384 |
| AMOCO | 12,661,547 | 8,442,376 | 0 | 0 | 4,219,171 | 0 |
| APCO | 433,165 | 493,632 | 0 | 0 | 0 | 60,467 |
| ARCO | 5,834,496 | 5,968,484 | 6,755 | 0 | 25,404 | 133,988 |
| ARIZONA | 73,577 | 48,173 | 0 | 0 | 0 | 25,404 |
| ASAMERA | 173,339 | 220,991 | 0 | 0 | 0 | 47,652 |
| ASHLAND | 1,616,154 | 3,120,407 | 205,661 | 0 | 0 | 1,504,253 |
| ASIATIC | 0 | 205,661 | 0 | 0 | 0 | 205,661 |
| BASIN | 68,428 | 154,555 | 29,668 | 0 | 41,714 | 86,127 |
| BAYOU | 54,721 | 160,359 | 79,552 | 0 | 0 | 103,638 |
| BEACON | 245,435 | 203,721 | 0 | 0 | 0 | 0 |
| BELCHER | 4,735 | 79,552 | 0 | 0 | 0 | 79,552 |
| BI-PETRO | 0 | 157,550 | 0 | 0 | 0 | 152,815 |
| C&H | 106,425 | 153,551 | 0 | 0 | 0 | 153,551 |
| CALUMET | 73,069 | 157,392 | 0 | 0 | 664 | 50,967 |
| CANAL | 111,883 | 72,405 | 0 | 0 | 0 | 0 |
| CARIBOU | 1,463,482 | 134,655 | 107,935 | 0 | 423,946 | 22,772 |
| CHAMPLIN | 294,761 | 1,039,536 | 0 | 0 | 0 | 0 |
| CHARTER | 8,352,625 | 530,704 | 37,039 | 0 | 0 | 235,943 |
| CHEVRON | 0 | 10,890,556 | 19,414 | 0 | 0 | 2,537,931 |
| CIRILLO | 3,998,776 | 19,414 | 0 | 0 | 1,628,773 | 19,414 |
| CITGO | 69,077 | 2,370,003 | 0 | 0 | 7,938 | 0 |
| CLAIBORNE | 347,892 | 61,139 | 0 | 0 | 0 | 0 |
| CLARK | 280,857 | 1,029,410 | 13,923 | 0 | 0 | 676,518 |
| COASTAL | 0 | 1,107,068 | 13,997 | 0 | 0 | 826,211 |
| COLONIAL | 3,048,789 | 13,923 | 255,769 | 0 | 482,043 | 13,923 |
| CONOCO | 0 | 2,966,746 | 336,908 | 0 | 0 | 0 |
| CORCO | 430,957 | 1,372,969 | 0 | 0 | 0 | 1,372,969 |
| CRA-FARMLAND | 50,363 | 688,759 | 0 | 0 | 0 | 257,802 |
| CROSS | 355,075 | 154,930 | 0 | 0 | 0 | 106,571 |
| CROWN | | 660,736 | | | | 305,661 |



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| REPORTING FIRM SHORT NAME | DEEMED OLD OIL ADJUSTED RECEIPTS | ********** TOTAL ISSUED | ENTITLEMENT POSITION EXCEPTIONS AND APPEALS | PRODUCT ENTITLEMENTS | 10 MONTH CLEAN-UP | REQUIRED TO BUY | ********** REQUIRED TO SELL |
|---|---|---|---|---|---|---|---|
| CRYSTAL-OIL | 218,513 | 194,900 | 0 | 0 | 0 | 23,613 | 0 |
| CRYSTAL-REF | 601 | 55,928 | 0 | 0 | 0 | 0 | 55,327 |
| DELTA | 395,055 | 379,324 | -26,222 | 0 | 0 | 15,731 | 0 |
| DEMENNO | 20,398 | 98,278 | 0 | 0 | 0 | 0 | 77,880 |
| DIAMOND | 731,614 | 510,823 | 0 | 0 | 0 | 220,791 | 0 |
| DILLMAN | 0 | 2,008 | 0 | 0 | 0 | 0 | 2,008 |
| DORCHESTER | 9,141 | 15,440 | 0 | 0 | 0 | 0 | 6,299 |
| DOW | 66,145 | 178,116 | 0 | 0 | 0 | 0 | 111,971 |
| E-SEABOARD | 0 | 66,197 | 0 | 66,197 | 0 | 0 | 66,197 |
| ECO | 103,742 | 143,702 | 0 | 0 | 0 | 0 | 39,960 |
| EDDY | 43,771 | 151,380 | 0 | 0 | 0 | 0 | 107,609 |
| EDGINGTON-OIL | 0 | -9,781 | -9,781 | 0 | 0 | 9,781 | 0 |
| ENERGY-COOP | 34,797 | 1,207,256 | 0 | 0 | 0 | 0 | 1,172,459 |
| EVANGELINE | 46,302 | 144,075 | 0 | 0 | 0 | 0 | 97,773 |
| EXXON | 13,265,325 | 12,521,343 | 0 | 439,559 | 0 | 743,982 | 0 |
| EZ-SERVE | 115,361 | 156,228 | 0 | 0 | 0 | 0 | 40,867 |
| FARMERS-UN | 252,590 | 421,386 | 0 | 0 | 0 | 0 | 168,796 |
| FLETCHER | 0 | 152,524 | 0 | 0 | 0 | 0 | 152,524 |
| FLINT | 10,048 | 12,810 | 0 | 0 | 0 | 0 | 2,762 |
| GARY | 59,317 | 156,370 | 0 | 0 | 0 | 0 | 97,053 |
| GETTY | 1,501,779 | 1,543,687 | 0 | 0 | 0 | 0 | 41,908 |
| GIANT | 26,757 | 157,369 | 0 | 0 | 0 | 0 | 130,612 |
| GIBSON | 47,724 | 143,398 | 0 | 0 | 0 | 0 | 95,674 |
| GLACIER-PARK | 93,844 | 57,507 | 0 | 0 | 0 | 36,337 | 0 |
| GLADIEUX | 61,232 | 157,634 | 0 | 0 | 0 | 0 | 96,402 |
| GLENROCK | 3,688 | 153,181 | 0 | 0 | 0 | 0 | 149,493 |
| GOLDEN-EAGLE | -1,156 | 157,147 | 0 | 0 | 0 | 0 | 158,303 |
| GOLDKING | 59,609 | 158,290 | 0 | 0 | 0 | 0 | 98,681 |
| GOOD-HOPE | 84,244 | 345,892 | 0 | 0 | 0 | 0 | 261,648 |
| GUAM | 0 | 229,415 | 0 | 0 | 0 | 0 | 229,415 |
| GULF | 10,484,173 | 7,588,683 | 0 | 45,705 | 0 | 2,895,490 | 0 |
| GULF-STS | 78,809 | 159,019 | 0 | 0 | 0 | 0 | 80,210 |
| HIRI | 0 | 496,902 | 0 | 0 | 0 | 0 | 496,902 |
| HOWARD | 0 | 40,196 | 0 | 40,196 | 0 | 0 | 40,196 |





| REPORTING FIRM SHORT NAME | DEEMED OLD OIL ADJUSTED RECEIPTS | ********** TOTAL ISSUED | ENTITLEMENT POSITION EXCEPTIONS AND APPEALS | PRODUCT ENTITLEMENTS | 10 MONTH CLEAN-UP | REQUIRED TO BUY | ********** REQUIRED TO SELL |
|---|---|---|---|---|---|---|---|
| HOWELL | 558,560 | 355,871 | 0 | 0 | 0 | 202,689 | 0 |
| HUDSON-OIL | 54,037 | 239,758 | 0 | 0 | 0 | 0 | 185,721 |
| HUNT | 289,128 | 308,630 | 0 | 0 | 0 | 0 | 19,502 |
| HUSKY | 736,951 | 736,951 | 300,420 | 0 | 0 | 0 | 0 |
| INDEPENDENT-REF | 205,066 | 182,517 | 0 | 0 | 0 | 22,549 | 0 |
| INDIANA-FARM | 73,865 | 251,862 | 0 | 0 | 0 | 0 | 177,997 |
| INGER-OIL | 711 | 157,048 | 0 | 0 | 0 | 0 | 156,337 |
| J&W | 246,618 | 246,618 | 118,825 | 0 | 0 | 0 | 0 |
| KENCO | 22,648 | 142,144 | 0 | 0 | 0 | 0 | 119,496 |
| KENTUCKY | 2,910 | 5,212 | 0 | 0 | 0 | 0 | 2,302 |
| KERN | 458,574 | 458,574 | 215,266 | 0 | 0 | 0 | 0 |
| KERR-MCGEE | 1,436,454 | 1,265,494 | 0 | 0 | 0 | 170,960 | 0 |
| KOCH | 313,521 | 375,160 | 0 | 0 | 0 | 0 | 61,639 |
| LAGLORIA | 460,303 | 399,691 | 0 | 0 | 0 | 60,612 | 0 |
| LAKESIDE | 1,133 | 100,757 | 0 | 0 | 0 | 0 | 99,624 |
| LAKETON | 70,582 | 70,582 | 9,064 | 0 | 0 | 0 | 0 |
| LITTLE-AMER | 1,385,486 | 1,219,782 | 577,845 | 0 | 0 | 165,704 | 0 |
| LOUISIANA-LAND | 306,484 | 352,077 | 0 | 0 | 0 | 0 | 45,593 |
| MACMILLAN | 41,527 | 182,502 | 0 | 0 | 0 | 0 | 140,975 |
| MARATHON | 5,315,024 | 4,451,295 | 0 | 0 | 0 | 863,729 | 0 |
| MARION | 189,495 | 230,569 | 0 | 0 | 0 | 0 | 41,074 |
| MID-AMER | 60,046 | 139,823 | 0 | 0 | 0 | 0 | 79,777 |
| MID-TEX | 23,139 | 157,297 | 0 | 0 | 0 | 0 | 134,158 |
| MIDLAND | 0 | -10,052 | -10,052 | 0 | 0 | 10,052 | 0 |
| MOBIL | 8,083,029 | 7,235,859 | 0 | 34,058 | 0 | 847,170 | 0 |
| MOHAWK | 489,462 | 427,743 | 94,724 | 0 | 0 | 61,719 | 0 |
| MONOCO | 0 | 14,725 | 0 | 14,725 | 0 | 0 | 14,725 |
| MONSANTO | 333,911 | 387,334 | 0 | 0 | 0 | 0 | 53,423 |
| MORRISON | 30,354 | 157,615 | 0 | 0 | 0 | 0 | 127,261 |
| MOUNTAINEER | 8,755 | 9,250 | 0 | 0 | 0 | 0 | 495 |
| MURPHY | 944,933 | 852,619 | 0 | 0 | 0 | 92,314 | 0 |
| N-AMER-PETRO | 117,301 | 156,796 | 0 | 0 | 0 | 0 | 39,495 |
| NATL-COOP | 427,267 | 546,189 | 0 | 0 | 0 | 0 | 118,922 |
| NAVAJO | 358,432 | 358,432 | 13,074 | 0 | 0 | 0 | 0 |

| REPORTING FIRM SHORT NAME | DEEMED OLD OIL ADJUSTED RECEIPTS | ********** TOTAL ISSUED | EXCEPTIONS AND APPEALS | ENTITLEMENT POSITION PRODUCT ENTITLEMENTS | 10 MONTH CLEAN-UP | REQUIRED TO BUY | ********** REQUIRED TO SELL |
|---|---|---|---|---|---|---|---|
| NEVADA | 97,194 | 142,081 | 0 | 0 | 0 | 0 | 44,887 |
| NEW-EDGINGTON | 521,295 | 544,768 | 270,935 | 0 | 0 | 0 | 23,473 |
| NEW-ENGL-PETRO | 0 | 409,815 | 0 | 409,815 | 0 | 0 | 409,815 |
| NEWHALL | 99,544 | 123,835 | -5,475 | 0 | 0 | 0 | 24,291 |
| NORTHEAST-PETRO | 0 | 13,228 | 0 | 13,228 | 0 | 0 | 13,228 |
| NORTHLAND | 29,580 | 135,376 | 0 | 0 | 0 | 0 | 105,996 |
| OKC | 234,560 | 292,461 | 0 | 0 | 0 | 0 | 53,901 |
| OXNARD | 15,094 | 119,579 | 0 | 0 | 0 | 0 | 104,485 |
| PASCO | 0 | -196,223 | -196,223 | 0 | 0 | 196,223 | 0 |
| PENNZOIL | 619,056 | 497,779 | 0 | 0 | 0 | 121,277 | 0 |
| PESTER | 123,699 | 205,581 | 0 | 0 | 0 | 0 | 81,882 |
| PHILLIPS | 5,143,063 | 2,531,734 | 0 | 0 | 0 | 611,329 | 0 |
| PHILLIPS-PR | 0 | 190,318 | 0 | 190,318 | 0 | 0 | 190,318 |
| PIONEER | 33,042 | 156,727 | 0 | 0 | 0 | 0 | 123,685 |
| PITTSTON | 0 | 49,549 | 0 | 49,549 | 0 | 0 | 49,549 |
| PLACID | 266,114 | 380,001 | 0 | 0 | 0 | 0 | 113,887 |
| PLATEAU | 142,992 | 162,874 | 0 | 0 | 0 | 0 | 19,882 |
| POWERINE | 62,924 | 350,144 | 5,444 | 0 | 0 | 0 | 287,220 |
| PRIDE | 159,365 | 350,171 | 0 | 0 | 0 | 0 | 190,806 |
| PRINCETON | -1,831 | 132,302 | 0 | 0 | 0 | 0 | 134,133 |
| QUAKER-ST | 53,771 | 261,814 | 0 | 0 | 0 | 0 | 208,043 |
| RANCHO-REF | 116,442 | 142,198 | 0 | 0 | 0 | 0 | 25,756 |
| RICHARDS | 324 | 138,628 | 0 | 0 | 0 | 0 | 138,304 |
| ROAD-OIL | 0 | 54,042 | 0 | 0 | 0 | 0 | 54,042 |
| ROCK-ISLAND | 338,432 | 304,363 | -22,115 | 0 | 0 | 34,069 | 0 |
| SABER-TEX | 24,710 | 167,024 | 0 | 0 | 0 | 0 | 142,314 |
| SABRE-CAL | 91,551 | 109,850 | 52,863 | 0 | 0 | 0 | 18,299 |
| SAGE-CREEK | 4,335 | 5,767 | 0 | 0 | 0 | 0 | 1,432 |
| SAN-JOAQUIN | 180,675 | 189,565 | 0 | 0 | 0 | 0 | 8,890 |
| SEMINOLE | 16,375 | 157,312 | 0 | 0 | 0 | 0 | 140,937 |
| SHELL | 12,381,949 | 9,215,117 | 0 | 14,009 | 0 | 3,166,832 | 0 |
| SIGMOR | 9,640 | 158,274 | 0 | 0 | 0 | 0 | 148,634 |
| SO-HAMPTON | 57,743 | 199,945 | 0 | 0 | 0 | 0 | 142,202 |
| SOHIO | 1,703,183 | 3,620,322 | 0 | 0 | 0 | 0 | 1,917,179 |







| REPORTING FIRM SHORT NAME | DEEMED OLD OIL ADJUSTED RECEIPTS | ********** TOTAL ISSUED | EXCEPTIONS AND APPEALS | ENTITLEMENT POSITION PRODUCT ENTITLEMENTS | 10 MONTH CLEAN-UP | REQUIRED TO BUY | ********** REQUIRED TO SELL |
|---|---|---|---|---|---|---|---|
| SOMERSET | 43,615 | 69,982 | 0 | 0 | 0 | 0 | 26,367 |
| SOUND | 126,566 | 156,752 | 0 | 0 | 0 | 0 | 30,186 |
| SOUTHERN-UNION | 271,873 | 362,808 | 0 | 0 | 0 | 0 | 90,935 |
| SOUTHLAND | 469,093 | 333,075 | 72,494 | 0 | 0 | 136,018 | 0 |
| SOUTHWESTERN | 78,294 | 87,694 | 0 | 0 | 0 | 0 | 9,400 |
| SPRAGUE | 0 | 39,196 | 0 | 39,196 | 0 | 0 | 39,196 |
| STEUART | 0 | 82,208 | 0 | 82,208 | 0 | 0 | 82,208 |
| SUNLAND | 1,525 | 157,589 | 0 | 0 | 0 | 0 | 156,064 |
| SUNOCO | 6,004,434 | 4,223,642 | 0 | 18,860 | 0 | 1,780,792 | 0 |
| SWANN | 0 | 20,665 | 0 | 20,665 | 0 | 0 | 20,665 |
| TENNECO | 1,133,600 | 799,718 | 0 | 0 | 0 | 333,882 | 0 |
| TESORO | 981,122 | 698,121 | 0 | 0 | 0 | 283,001 | 0 |
| TEXACO | 10,444,489 | 9,524,627 | 0 | 323,628 | 0 | 919,862 | 0 |
| TEXAS-AMERICAN | 29,504 | 151,598 | 0 | 0 | 0 | 0 | 122,094 |
| TEXAS-ASPH | 19,859 | 174,095 | 0 | 0 | 0 | 0 | 154,236 * |
| TEXAS-CITY | 448,347 | 444,597 | 0 | 0 | 0 | 3,750 | 0 |
| THAGARD | 858,197 | 858,197 | 535,048 | 0 | 0 | 0 | 0 |
| THRIFTWAY | 39,525 | 152,997 | 0 | 0 | 0 | 0 | 113,472 |
| THUNDERBIRD | 97,570 | 110,540 | 0 | 0 | 0 | 0 | 12,970 |
| TONKAWA | 34,207 | 145,520 | 0 | 0 | 0 | 0 | 111,313 |
| TOSCO | 1,936,616 | 1,424,644 | 226,716 | 0 | 0 | 511,972 | 0 |
| TOTAL-PETROLEUM | 236,082 | 294,667 | 0 | 0 | 0 | 0 | 58,585 |
| TRANS-OCEAN | 0 | 151,010 | 0 | 0 | 0 | 0 | 151,010 |
| UCC-CARIBE | 0 | 134,451 | 0 | 134,451 | 0 | 0 | 134,451 |
| UNION-OIL | 5,554,929 | 3,715,027 | 0 | 0 | 0 | 1,839,902 | 0 |
| UNION-PETRO | 0 | 55,723 | 0 | 55,723 | 0 | 0 | 55,723 |
| UNTD-IND | 96,572 | 154,347 | 0 | 0 | 0 | 0 | 57,775 |
| UNTD-REF | 232,166 | 447,068 | 0 | 0 | 0 | 0 | 214,902 |
| US-OIL | 19,582 | 222,287 | 0 | 0 | 0 | 0 | 202,705 |
| USA-PETROCHEM | 31,725 | 135,720 | 0 | 0 | 0 | 0 | 103,995 |
| VICKERS | 273,854 | 549,840 | 0 | 0 | 0 | 0 | 275,986 |
| VULCAN | 64,047 | 368,790 | 0 | 0 | 0 | 0 | 304,743 |
| WALLACE | 0 | 10,123 | 0 | 10,123 | 0 | 0 | 10,123 |
| WARRIOR | 49,891 | 50,908 | 15,207 | 0 | 0 | 0 | 1,017 |

| REPORTING FIRM SHORT NAME | OPENED OLD OIL ADJUSTED RECEIPTS | ********** TOTAL ISSUED | EXCEPTIONS AND APPEALS | ENTITLEMENT POSITION 10 MONTH CLEAN-UP | REQUIRED TO BUY | ********** REQUIRED TO SELL |
|---|---|---|---|---|---|---|
| WEST-COAST | 52,089 | 60,157 | 0 | 0 | 0 | 8,068 |
| WESTERN | 66,475 | 108,636 | 0 | 0 | 0 | 42,161 |
| WINSTON | 105,832 | 197,329 | 0 | 0 | 0 | 91,497 |
| WIREBACK | 0 | 878 | 0 | 0 | 0 | 878 |
| WITCO | 54,985 | 216,148 | 0 | 0 | 0 | 161,163 |
| WYATT | 0 | 19,209 | 0 | 0 | 0 | 19,209 |
| YETTER | 0 | 1,059 | 0 | 0 | 0 | 1,059 |
| YOUNG | 117,122 | 117,122 | 49,926 | 0 | 0 | 0 |
| TOTAL | 146,129,487 | 146,129,487 | 2,687,590 | 2,886,231 | 23,920,624 | 23,920,624 |

* Reflects adjustments for 1975 exceptions relief as provisionally modified by FEA pending agency review consistent with court order. For discussion, see December entitlement notice, 42 FR 12133 (March 2, 1977).

** This does not include the purchase obligation stayed by court order in Texas Asphalt & Refinery Co. v. FEA Civ. Action No. 4-75-268 (N.D. Tex., filed filed October 31, 1975).

[FR Doc.77-21079 Filed 7-22-77;8:45 am]





## FEDERAL HOME LOAN BANK BOARD

[H. C. No. 229]

### NEW MEXICO FINANCIAL CORP. ET AL.

**Receipt of Application for Permission To Acquire Control of Belen Savings and Loan Association, Inc.**

JULY 20, 1977.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from New Mexico Financial Corporation, Forest Products Company, Inc. and McNary Lumber Company, Inc. all holding companies located in Albuquerque, New Mexico, for approval of acquisition of control of Belen Savings and Loan Association, Belen, New Mexico, an insured institution, under the provisions of Section 408 (e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and Section 584.4 of the Regulations for Savings and Loan Holding Companies, said acquisition to be effected through the purchase of the majority of the outstanding shares of Belen Savings and Loan Association's capital stock. Comments on the proposed acquisition should be submitted to the Director, or Deputy Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, by August 24, 1977.

J. J. FINN,
*Secretary, Federal Home Loan Bank Board.*

[FR Doc.77-21293 Filed 7-22-77;8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. ER77-485]

### CAROLINA POWER & LIGHT CO.

**Order Accepting for Filing and Suspending Proposed Increased Rates, Initiating Hearing, and Establishing Procedure**

JULY 19, 1977.

On June 29, 1977, Carolina Power & Light Company (Company) tendered for filing proposed increased rates and charges for jurisdictional sales to 18 REA, 24 municipal, and 2 privately owned customers.[1] The filing would increase the Company's revenues by $10,418,214 or 7.5 percent, based on the 12-month period ending December 31, 1977.

A review of Company's filing indicates that the proposed increase in rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: (1) Good cause exists to accept for filing and suspend the proposed increased rates and charges tendered by the Company on June 29, 1977, as hereinafter ordered.

(2) It is necessary and proper in the public interest to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing to determine the justness and reasonableness of the proposed increased rates and to establish procedures for that hearing, as hereinafter ordered.

The Commission orders: (A) The proposed increased rates and charges tendered by the Company on June 29, 1977, are hereby accepted for filing.

(B) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations Under the Federal Power Act, a public hearing shall be held concerning the lawfulness of the proposed increased rates and charges tendered by the Company on June 29, 1977.

(C) Pending such hearing and decision thereon, the increased rates and charges tendered by the Company on June 29, 1977, are hereby suspended and the use thereof deferred until December 29, 1977, when they shall become effective subject to refund.

(D) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before October 28, 1977 (see, Administrative Order No. 157).

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see, Delegation of Authority, 18 CFR 3.5(d)), shall preside at an initial conference in this proceeding to be held on November 7, 1977, at 10:00 a.m. (ET) in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE, Washington, DC 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH A. PLUMB,
*Secretary.*

ATTACHMENT

CAROLINA POWER & LIGHT COMPANY

DOCKET NO. ER77-485,

RATE SCHEDULE DESIGNATIONS

Filing Date: June 29, 1977.
Instrument Date: June 29, 1977.
Description: (1) Resale Service, Schedule RS-12. (2) Fuel Adjustment Clause, Rider No. 2A

*Other Party and Rate Schedule Designations*

Town of Apex: Rate Schedule FPC No. 72. (1) Supplement No. 15 (Supersedes Supplement No. 12). (2) Supplement No. 16 (Supersedes Supplement No. 13 and No. 14).

Town of Bennettsville: Rate Schedule FPC No. 49. (1) Supplement No. 15 (Supersedes Supplement No. 12). (2) Supplement No. 16 (Supersedes Supplement No. 13 and No. 14).

Town of Benson: Rate Schedule FPC No. 73. (1) Supplement No. 12 (Supersedes Supplement No. 9). (2) Supplement No. 13 (Supersedes Supplement No. 10 and No. 11).

City of Camden: Rate Schedule FPC No. 50. (1) Supplement No. 13 (Supersedes Supplement No. 10). (2) Supplement No. 14 (Supersedes Supplement No. 11 and No. 12).

Town of Clayton: Rate Schedule FPC No. 74. (1) Supplement No. 15 (Supersedes Supplement No. 11). (2) Supplement No. 16 (Supersedes Supplement No. 12 and No. 13).

Fayetteville No. 1: Rate Schedule FPC No. 93. (1) Supplement No. 11 (Supersedes Supplement No. 8). (2) Supplement No. 12 (Supersedes Supplement No. 9 and No. 10).

Fayetteville No. 2: Rate Schedule FPC No. 102. (1) Supplement No. 8 (Supersedes Supplement No. 5). (2) Supplement No. 9 (Supersedes Supplement No. 6 and No. 7).

Town of Fremont: Rate Schedule FPC No. 81 (1) Supplement No. 13 (Supersedes Supplement No. 10). (2) Supplement No. 14 (Supersedes Supplement No. 11 and No. 12).

City of Kinston: Rate Schedule FPC No. 99. (1) Supplement No. 10 (Supersedes Supplement No. 7). (2) Supplement No. 11 (Supersedes Supplement No. 8 and No. 9).

Town of La Grange: Rate Schedule FPC No. 83. (1) Supplement No. 14 (Supersedes Supplement No. 11). (2) Supplement No. 15 (Supersedes Supplement No. 12 and No. 13).

Town of Louisberg: Rate Schedule FPC No. 68. (1) Supplement No. 15 (Supersedes Supplement No. 12). (2) Supplement No. 16 (Supersedes Supplement No. 13 and No. 14).

City of New Bern: Rate Schedule FPC No. 84. (1) Supplement No. 13 (Supersedes Supplement No. 10). (2) Supplement No. 14 (Supersedes Supplement No. 11 and No. 12).

Town of Pikeville: Rate Schedule FPC No. 85. (1) Supplement No. 14 (Supersedes Supplement No. 11). (2) Supplement No. 15 (Supersedes Supplement No. 12 and No. 13).

Town of Red Springs: Rate Schedule FPC No. 77. (1) Supplement No. 14 (Supersedes Supplement No. 11). (2) Supplement No. 15 (Supersedes Supplement No. 12 and No. 13).

City of Rocky Mount: Rate Schedule FPC No. 94. (1) Supplement No. 12 (Supersedes Supplement No. 8). (2) Supplement No. 13 (Supersedes Supplement No. 9 and No. 10).

Town of Smithfield: Rate Schedule FPC No. 87. (1) Supplement No. 15 (Supersedes Supplement No. 12). (2) Supplement No. 16 (Supersedes Supplement No. 13 and No. 14).

City of Southport: Rate Schedule FPC No. 79. (1) Supplement No. 16 (Supersedes Supplement No. 12). (2) Supplement No. 17 (Supersedes Supplement No. 13 and No. 14).

Town of Wake Forest: Rate Schedule FPC No. 88. (1) Supplement No. 13 (Supersedes Supplement No. 10). (2) Supplement No. 14 (Supersedes Supplement No. 11 and No. 12).

Town of Waynesville: Rate Schedule FPC No. 89. (1) Supplement No. 14 (Supersedes Supplement No. 11). (2) Supplement No. 15 (Supersedes Supplement No. 12 and No. 13).

City of Wilson: Rate Schedule FPC No. 90. (1) Supplement No. 13 (Supersedes Supplement No. 10). (2) Supplement No. 14 (Supersedes Supplement No. 11 and No. 12).

Laurel Hill Electric Company: Rate Schedule FPC No. 51. (1) Supplement No. 14 (Supersedes Supplement No. 11). (2) Supplement No. 15 (Supersedes Supplement No. 12 and No. 13).

Pinehurst, Inc.: Rate Schedule FPC No. 105. (1) Supplement No. 9 (Supersedes Supplement No. 6). (2) Supplement No. 10 (Supersedes Supplement No. 7 and No. 8).

Tariff Customers: FPC Electric Tariff, First Revised Volume No. 1 (Supersedes Original Volume No. 1).

[FR Doc.77-21335 Filed 7-22-77;8:45 am]

[Docket No. CP77-486]

### COLUMBIA GAS TRANSMISSION CORP.

**Application**

JULY 18, 1977.

Take notice that on July 5, 1977, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue

[1] The rates proposed to be superseded by the instant submittal are being collected subject to refund in Docket No. ER76-495. The rate schedule designations for the instant filing are set forth in the Attachment to this order.



JUL 25 77 V 42 142 UMI

SE., Charleston, W. Va. 25314, filed in Docket No. CP77–486 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 160 Mcf of natural gas per day for Ball Corporation (Ball), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to transport the proposed volumes of gas for two years for Ball, which volume would be received by Applicant into its Line V–W11449 in Milton Township, Mahoning County, Ohio, at a specific point to be mutually agreed upon. Applicant states that it would redeliver the gas for the account of Ball by reducing its scheduled receipts from Panhandle Eastern Pipe Line Company (PEPL) at an existing point of receipt in Harrison Township, Darke County, Ohio, and that PEPL would subsequently deliver the transported volumes to Indiana Gas Company, Inc. (Indiana) for use at Ball's Muncie, Ind., plant.

It is stated that Ball was severely curtailed by Indiana, with the result that the Muncie plant was completely shut down for approximately four weeks, and that Ball has felt it necessary to secure intrastate gas as a means of assuring the continuing operation of its Muncie home canning closure plant in the event of a 1977–78 winter season curtailment.

It is indicated that Ball's Muncie plant produces caps and lids for home canning jars, and the caps and lids are blanked from decorated tinplate and lined with liquid plastisol before being transported to gas fired ovens where the liquid plastisol compound is cured. The curing process is essential to the setting and puffing of the compound, both of which are required for adequate sealing, it is indicated. Applicant asserts that Ball has installed a standby system utilizing No. 2 fuel oil as alternate fuel capability to replace natural gas at the Muncie plant, where possible, and that the curing process requires a clean burning fuel to avoid contamination of the caps and lids which are used for the preparation and preservation of home canned food products.

Applicant states that it would transport up to 485 Mcf of natural gas per day for Ball, up to 160 Mcf per day which would be transported hereunder and up to 325 Mcf of gas per day would be transported under a companion filing.

It is indicated that Montara Petroleum Company and Mutual Oil and Gas Company (Producers) have contracted to sell to Ball for use at its Muncie plant up to 125 Mcf of natural gas per day from Producers' wells located in Mahoning County, Ohio. It is further indicated that the subject gas has never been sold in interstate commerce and that it would not be sold in interstate commerce at present interstate price rates. The price at which Ball would purchase gas from Producers is $2.20 per Mcf for the first contract year and $2.50 per Mcf for the second contract year, it is said. Applicant states that Ball would be required to make an investment in field gathering facilities costing approximately $25,000, which facilities would be used for this and other transportation arrangements for Ball.

Applicant indicates that it would charge its average system-wide unit gathering, storage and transmission costs exclusive of company-use and unaccounted-for gas which is currently 24.75 cents per Mcf for the proposed transportation service. Applicant further indicates that it would retain for company-use and unaccounted-for gas a percentage of the total volumes received for the account of Ball, which percentage is currently 3.1 percent.

The gas transported hereunder is subject to diversion to Applicant in emergency periods when, in its sole judgment, such gas is required for the protection of Priority 1 requirements on its system.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 29, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21330 Filed 7-22-77;8:45 am]

[Docket No. ER77-488]

## EL PASO ELECTRIC CO.

### Order Accepting for Filing and Suspending Proposed Increased Rates

JULY 19, 1977.

On July 1, 1977, El Paso Electric Company (Company) tendered for filing proposed increased rates and charges for jurisdictional sales to Rio Grande Electric Cooperative (at Dell City and Van Horn delivery points) and Community Public Service Company.[1] The filing would increase the Company's revenues by $883,936, or 15.75%, based on the 12-month period ending August 1, 1978. Company proposes an effective date of August 1, 1977.

As part of its justification for the increase in its rates, the Company included an amount for construction work in progress (SWIP) in its rate base. The CWIP was related to its Palo Verde Nuclear Generating Project and was based on a claim of financial hardship. However, our Order Nos. 555 and 555–A precludes the inclusion of similar CWIP in rate base prior to issuance of a final Commission order. Therefore, we will accept Company's rate proposal for filing, but will require the Company to file revised rate schedules to exclude CWIP from its rate proposal. Additionally, El Paso's rate contains a fuel adjustment clause that appears to meet the requirements of Order No. 517 except that nuclear fuel is not specified. The Company will be directed to revise its fuel clause to include nuclear fuel at the time it makes other revisions directed herein.

A preliminary review of Company's filing indicates that the proposed increase in rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: Good cause exists to accept for filing and suspend the proposed increased rates and charges tendered by the Company on July 1, 1977, and to require Company to file revised rate schedule supplements, all as hereinafter ordered.

The Commission orders: (A) The proposed increased rates and charges tendered by the Company on July 1, 1977, are hereby accepted for filing.

(B) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations Under the Federal Power Act, a public hearing will be held at a time and place to be specified in a subsequent Commission order concerning the lawfulness of the proposed increased rates and charges tendered by the Company on July 1, 1977.

(C) Pending such hearing and decision thereon, the increased rates and charges tendered by the Company on July 1, 1977, are hereby suspended and the use thereof deferred until December 1, 1977, when they shall become effective subject to refund.

(D) Within 90 days from the date of issuance of this order, Company shall refile:

(1) Revised rate schedule supplements which shall become effective December 1, 1977, as set forth in ordering paragraph (C) above; (2) revised Statements, Period I; (3) revised billing data; and (4) revised fuel clause to include nuclear fuel.

Subparagraph (1) and (2) above shall reflect only the effect of excluding CWIP from the rate base.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

ATTACHMENT

EL PASO ELECTRIC COMPANY
SCHEDULE DESIGNATIONS

Dated: Undated:

Filed: July 1, 1977.

(1) Supplement No. 5 to Rate Schedule FPC No. 17 (Supersedes Supplement No. 3 to FPC No. 17).
(2) Supplement No. 4 to Rate Schedule FPC No. 18 (Supersedes Supplement No. 3 to FPC No. 18).
(3) Supplement No. 4 to Rate Schedule FPC No. 19 (Supersedes Supplement No. 3 to FPC No. 19).

[FR Doc.77-21327 Filed 7-22-77;8:45 am]

[1] The filing is designated in the Attachment to this order.

[Docket No. CP77–502]

## GREAT LAKES GAS TRANSMISSION CO.

### Application

JULY 18, 1977.

Take notice that on July 12, 1977, Great Lakes Gas Transmission Company (Applicant), 2100 Buhl Building, Detroit, Mich. 48226, filed in Docket No. CP77–502 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 23.9 miles of 36-inch pipeline loop on its existing pipeline system in Minnesota, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the loop would be added parallel to its existing system which is used to render natural gas service to its interstate and foreign customers. Applicant further states that it would be constructed in two segments; one segment would consist of 11.3 miles and would be constructed from mile 86.4 to mile post 97.7 which are between Applicant's existing compressor station Nos. 2 and 3 at Thief River Falls and Shevlin, Minnesota, respectively; the other segment would be 12.6 miles between Applicant's existing compression station Nos. 4 and 5 at Deer River and Cloquet, Minnesota, respectively.

The total cost of the proposed loop is estimated at $13,432,200, which would be financed from internally generated funds together with borrowings from banks under short-term line of credit, if required, it is said.

Applicant states that it is estimated that the addition of the proposed loop on its system would have approximately 1,348,000 Mcf of natural gas on an annual basis, and that over the next decade it would save approximately 13,000,000 Mcf of natural gas. It is stated that the economic justification for addition of the loop is mainly attributed to the rapidly escalating export price of Canadian gas. All of the fuel gas used by Applicant is imported from Canada, and the current export price of the Canadian gas is $1.94 (Canadian) per Mcf, and effective September 23, 1977, the export price would be increased to $2.16 (U.S.) per Mcf, it is indicated. Applicant asserts that the price of Canadian gas has increased very substantially in the past three years and it is likely that this trend would continue in the foreseeable future. Applicant asserts that based upon the purchase price of $2.16 per Mcf, and the anticipated fuel saving of 1,348,000 Mcf annually, the fuel costs on its pipeline system would be reduced by $2,911,700 annually as a result of the addition of the proposed looping.

Applicant states that the construction of the 12.6 miles of loop between Deer River and Cloquet would also provide added security of service to Applicant's customers. It is stated that approximately 12 miles of Applicant's existing mainline between Deer River and Cloquet traverses the swamp area, and that almost all (99 percent) of the gas transported by Applicant is delivered downstream of the swamp area. Applicant indicates that any line break in this area could result in interruption of service for a minimum of two weeks, except in severe winter weather when the ground is frozen and the pipe is easily accessible. (It is indicated that in the latter case it would take less time.) Applicant states that the construction of 12.6 miles of the loop would provide reinforcement of the pipeline in the swamp area.

Applicant further states that the addition of the loop would result in reduced usage of two compressor units, which would be maintained for emergency standby, and that these units would be used only in emergency situations and are required for prudent operation of Applicant's pipeline system. It is indicated that during periods of severe energy shortage, such as faced by our nation in the past winter, these units would enable Applicant to provide additional service to those in need.

The 12.6 miles of loop between Deer River and Cloquet traverses the swamp area and can only be constructed during the coldest part of the winter when the ground is frozen and the area is accessible, it is said. Applicant states that past experience indicates that this would occur during January or February and would be limited to a period of about 30 days. Applicant asserts that in order to implement the proposed conservation program at the earliest possible time, it proposes to construct the entire 12.6 mile section in January–February, 1978, and the remaining segment of loop would be constructed during the summer of 1978. Consequently, applicant requests that the requested authorization be issued prior to December 1, 1977, in order that the proposed construction can commence during the proposed period.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 8, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21332 Filed 7-22-77;8:45 am]

[Docket Nos. AR64–1, et al.]

## HUGOTON-ANADARKO AREA, ET AL.

### Order Directing Disbursement of Refunds

JULY 14, 1977.

On March 17, 1975, the Hugoton-Anadarko Area order, Docket Nos. AR64–1, et al, was issued which required the producers to disburse their refund monies and submit disbursement reports and buyers' releases on or before June 1, 1975. On August 19, 1975, the Southern Louisiana order, Docket Nos. AR61–2 and AR69–1, et al. was issued which required the producers to disburse their refund monies and submit disbursement reports







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and buyers' releases on or before October 30, 1975. On February 23, 1976, the Other Southwest Area, Docket Nos. AR67–1 et al. and Texas Gulf Coast Area, Docket Nos. AR64–2, et al. orders were issued which required the producers to disburse their refund monies and submit disbursement reports and buyers' releases on or before June 1, 1976.

This order addresses those producers who have not complied with the Commission's refund disbursement orders in the area rate proceedings and directs them to immediately disburse their refund monies, and file the required reports and releases.

Staff's report [1] lists those producers who have not complied with the Commission's refund disbursement orders. The estimated refund amounts were compiled from the producer's initial refund reports, purchasers' reports, or purchasers' flow through plans where reflected as delinquent. In some instances, the estimated refund amounts were unavailable.

We have decided to exclude from the provisions of this order those producers owing $1,000 or less.[2] The administrative burdens that could be incurred by this Commission in locating these producers, their sucessors or heirs in order to require refunds would be inordinate in relation to the small amounts owed.

The Commission finds: It is necessary and proper both in the public interest and in carrying out the provisions of the Natural Gas Act that the refunds subject to this order be disbursed, and that the required reports and releases be filed.

The Commission orders: (A) Within sixty days of issuance of this order, each producer, to which Ordering Paragraph (B) is not applicable, still owing refunds under the respective area rate opinions, including interest as required under the provisions of the applicable order requiring the disbursement of refunds, shall (1) disburse all the refunds to the purchaser, (2) file three copies of a release from the purchaser.

(B) Those producers whose refund obligations are $1,000.00 or less are not subject to this order. Those producers whose estimated refund obligations are unavailable at this time are not exempt from this order.

(C) Any purchaser to which refunds are disbursed pursuant to the provisions of this order shall file a plan for the flow through of such refunds in accordance with the provisions of the applicable order requiring the disbursement of such refunds. Upon notification by the Secretary, and to the extent directed thereby, purchasers shall proceed with the distribution of refunds to their jurisdictional customers.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

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See Attached Appendix A.

The exclusion has no applicability to those situations where the estimated refund amounts are not available.

APPENDIX.—*Independent producers who have not filed refund disbursement reports and buyers' releases*

(Opinion No. 586, as Amended; Refund Disbursement Order Issued March 17, 1976, as Amended)

| Producer | FPC gas rate schedule No.(s) | Approximate refund due (dollar) |
|---|---|---|
| *Hugoton-Anadarko Area* | | |
| Kansas Petroleum Inc. (Braden Drilling, Inc.) | 10 | [1] 600 |
| Austin Brady | 2,7 | [1] 1,300 |
| Fullston, Siefkin, Powers & Eberhardt (Earl C. Brookover) | 1 | 5,400 |
| H. N. Burnett | 13, 14, 15 | 1,000 |
| W. J. Coppinger | 6 | [1] 18,000 |
| Cleary Petroleum Corp | 12 | 1 |
| Cotton Petroleum Corp | 2 | 300 |
| Eason Oil Co | 10 | 100 |
| Global Oils, Inc | 8, 6 | 10,500 |
| GHK Corporation (Glover & Hofner Petroleum Management Corp.) | 1 | [1] 1,800 |
| George, Kenan, Robertson & Lindsey (Paul E. Kloberdanz) | 2 | [1] 500 |
| Marion Corp | 6 | 3,200 |
| PWC Oil Co | 3 | [1] 600 |
| Shenandoah Oil Corp. (James Davis, Jr., d.b.a. Bolar Oil Co.) | 2 | [1] 600 |
| Crown Central Petroleum Corp. (Sunset International Petroleum Corp., Delaware) | 19, 20, 35, 40, 41 | 5,100 |
| Yucca Petroleum Co | 6, 8, 14, 15 | [1] 10,000 |

(Opinion No. 607, as Amended; Refund Disbursement Order Issued February 23, 1976, as Amended)

| | | |
|---|---|---|
| *Other Southwest Area* | | |
| S. P. Borden (Estate) | 1 | (3) |
| D. H. Byrd | 1 | 6,500 |
| Claiborne Gasoline Co | 4 | 200 |
| Grigsby Oil & Gas (Jack W. Grigsby) | 5, 6 | 257,000 |
| D. C. Latimer | 1 | 60,600 |
| Heidelberg, Woodruff & Franks (Miss-Tex Oil Producers) | 2, 3 | 12,000 |
| Dorchester and Mortimer (Betty D. Mortimer) | 1 | (4) |
| North Central Oil Corp | 2 | 8,100 |
| Pioneer Oil and Gas Co., Inc | 1, 3, 5 | (4) |
| J. E. Stack, Jr | 1 | 53,600 |
| Suburban Propane Gas Corp | 2 | 19,800 |
| Joseph E. Seagram & Sons (Texas Pacific Oil Co.) | 30 | [2] 2,600 |
| Mr. Robert M. Key (J. C. Trahan Drilling Contractor, Inc.) | 4, 8, 9, 22 | (4) |
| Douglas Whitaker (Estate) | 3 | (4) |

(Opinion No. 595, as Amended; Refund Disbursement Order Issued February 23, 1976, as Amended)

| | | |
|---|---|---|
| *Texas Gulf Coast Area* | | |
| Joe Coleman, Esq. (J. S. Abercrombie Mineral Co., Inc.) | 1 | [1] 900 |
| Mr. Neal Powers, Jr. (Adams Production Co.) | 1 | 110 |
| American Petrofina Co. of Texas | 1, 6, 72, 76 | 31,000 |
| Mr. Tom Vessels (Bass & Vessels) | 7, 9 | (4) |
| Coy Burnett | 1 | (4) |
| J. Brown Cutbirth | 1 | (4) |
| Differential Corp | 1 | [1] 13,000 |
| Diversa, Inc | 5, 7 | (4) |
| Lloyd M. Eland | 1 | 800 |
| Vernon W. Frost | 1 | 1,600 |
| W. C. Ginther (Ginther, Warren & Co.) | 1, 2 | 116,000 |
| Robert O. Gockel | 1 | (4) |
| HNG Oil Co. (Houston Natural Gas Production Co.) | 23 | 74 |
| Investors Syndicate of the Southwest, Inc | 1 | (4) |
| Kilroy Properties, Inc | 1 | 263,000 |
| J. A. Kimmey | 1 | (4) |
| Kirby Petroleum Co | 12 | 2,000 |
| Logue and Patteson | 2 | (4) |
| Mrs. Mae Lusk | 1 | [4] 43,300 |
| John F. Merrick | 1, 3 | (4) |
| Mr. H. J. Mosser | 8 | (4) |
| Mr. John A. Newman | 1 | (4) |
| RCA Investment Corp | 1 | (4) |

| Producer | FPC gas rate schedule No.(s) | Approximate refund due (dollar) |
|---|---|---|
| Joe A. Rayzor (Jack P. Rayzor), Republic National Bank of Dallas, Trustee | 1 | 5,000 |
| Sibley Corp | 1 | 1,300 |
| South States Oil & Gas Co | 1, 4 | 155,000 |
| TransOcean Oil, Inc | 1 | 241,000 |
| Union Carbide Petroleum Corp | 3 | 170 |
| Scott & Douglas (James A. Wood, Trustee) | 2 | 63,000 |

(Opinion No. 598, as Amended; Refund Disbursement order issued August 19, 1975)

| | | |
|---|---|---|
| *Southern Louisiana Area* | | |
| Phoenix Energy Co. (Aladdin Production Co.) | 1 | [1] 1,000 |
| Wright & Kerstein (Earl G. Bateman) | 5 | [1] 28,000 |
| Falcon Management Corporation, Inc. (Beck Oil Co.) | 2 | [1] 300 |
| D. C. Bintliff | 5, 6 | [1] 5,200 |
| T.N.T., Inc. (Leslie Bowling) | 1 | [1] 4,000 |
| David Crow, Trustee | 3 | [1] 11,000 |
| Crown Central Petroleum Corp | 7 | [1] 6,000 |
| A. A. Mughrabi, Agent (Crownwell Oil Co., Inc.) | 3 | [1] 900 |
| Jack E. Harance | 1 | [1] 80 |
| Ollie B. Brown, Jr., Attorney (H. L. Hawkins & H. L. Hawkins, Jr.) | 5, 6, 16, 20 | [1] 3,000 |
| Hugh A. Hawthorne | 2 | [1] 21 |
| R. E. Hillibert | 6 | [1] 2,000 |
| Jacob Goldberg, Attorney (R. E. Hubbard, Jr.) | 1 | [1] 1,200 |
| Hudson Gas & Oil Corp | 6 | [1] 2,000 |
| McCarter Oil Co | 1 | [1] 1,000 |
| Muttontown Oil Co., Inc | 1 | [1] 650 |
| Pioneer Oil and Gas Co | 2 | [1] 750 |
| D. J. Robichaux, Jr | 1 | [1] 400 |
| W. E. Walker-Freedom Minerals, Inc | 1 | [1] (5) |

[1] Producer did not file an initial refund report pursuant to the applicable opinion. All others filed initial refund reports. The requirement for filing initial refund reports is now moot, since disbursements have been ordered.
[2] Estimated by buyer.
[3] Refund disbursement report filed after tabulation compiled.
[4] Preliminary report filed and escrow agent directed to disburse refunds to buyer.

[FR Doc.77–21095 Filed 7–22–77;8:45 am]

[Docket No. ER77–412]

## ILLINOIS POWER CO.

### Filing of Modification No. 3

JULY 18, 1977.

Take notice that on June 30, 1977, Illinois Power Company ("Illinois Power") tendered for filing proposed Modification No. 3 to the Interconnection Agreement ("Agreement") dated August 19, 1974, between Illinois Power and the City of Mascoutah, Illinois. Illinois Power indicates that the Commission has previously designated the August 18, 1974 Agreement as Illinois Power Rate Schedule FPC No. 71.

Illinois Power states that Modification No. 3 provides for a proposed increase in the demand charges for Short-Term Firm Capacity and Maintenance Capacity transactions. An effective date of July 1, 1977 is requested, and Illinois Power therefore requests waiver of the Commission's notice requirements.

A copy of the filing was served upon the City of Mascoutah and the Illinois Commerce Commission, according to Illinois Power.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 1, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77–21334 Filed 7–22–77;8:45 am]

[Docket No. ER77–416]

## ILLINOIS POWER CO.

### Filing of Modification No. 3

JULY 18, 1977.

Take notice that on June 30, 1977, Illinois Power Company ("Illinois Power") tendered for filing proposed Modification No. 3 to the Interconnection Agreement ("Agreement") dated August 26, 1974, between Illinois Power and the City of Highland, Illinois. Illinois Power indicates that the Commission has previously designated the August 26, 1974 Agreement as Illinois Power Rate Schedule FPC No. 72.

Illinois Power states that Modification No. 3 provides for a proposed increase in the demand charges for Short-Term Firm Capacity and Maintenance Capacity transactions. An effective date of July 1, 1977 is requested, and Illinois Power therefore requests waiver of the Commission's notice requirements.

A copy of the filing was served upon the City of Highland and the Illinois Commerce Commission, according to Illinois Power.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 1, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77–21333 Filed 7–22–77;8:45 am]





[Docket No. ER77–411]

## ILLINOIS POWER CO.

### Filing of Modification No. 3

JULY 18, 1977.

Take notice that on June 30, 1977, Illinois Power Company ("Illinois Power"), tendered for filing proposed Modification No. 3 to the Interconnection Agreement dated August 13, 1974, between Illinois Power and the Cities of Breese and Carlyle, Illinois. Illinois Power indicates that the Commission has previously designated the August 13, 1974 Agreement as Illinois Power Rate Schedule FPC No. 70.

Illinois Power states that Modification No. 3 provides for a proposed increase in the demand charges for Short-Term Firm Capacity and Maintenance Capacity transactions. An effective date of July 1, 1977, is requested and Illinois Power therefore requests waiver of the Commission's notice requirements.

A copy of this filing was served upon the Cities of Breese and Carlyle and the Illinois Commerce Commission, according to Illinois Power.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 1, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77–21331 Filed 7–22–77;8:45 am]

[Docket No. ER77–482]

## MICHIGAN POWER CO.

### Order Accepting for Filing and Suspending Proposed Increased Rates, Waiving Notice Requirements, Initiating Hearing, and Establishing Procedure

JULY 19, 1977.

On July 1, 1977, Michigan Power Company (Company) tendered for filing a proposed two-step increase in its rates and charges for jurisdictional sales to Indiana & Michigan Electric Company (Indiana). The filing has been designated as Supplement No. 1 to Supplement No. 2 to Company's Rate Schedule FPC No. 25 and would increase the Company's revenues by $266,577, or 1,203% based on the 12-month period ending August 1, 1978. Company proposes an effective date of August 1, 1977, for its first-step increase and December 1, 1977, for its second-step increase, with waiver of the 90-day notice provision requested.

The filing sets forth a two-step increase in rates. Effective August 1, 1977, the proposed rates will be $0.858 per Kw times the sum of the respective single maximum non-coincident 15-minute integrated Kw demands for the month at each of the delivery points between Company and Indiana's customer, Fruit Belt Electric Cooperative. Effective December 1, 1977, the proposed rates will be raised to $1 per Kw.

In support of its proposed increases, Company bases its August 1 rate on its plant in service for 1976, adjusting it for reclassification and retirement of certain electric plant in service. The higher December 1 rate is proposed to become effective on that date to correspond to the in-service date of four additional delivery points and to provide compensation for additions to plant in 1977, requested by Indiana, and is supported by adjustments to 1976 cost-of-service.

A review of Company's filing indicates that the proposed increase in rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: (1) Good cause exists to waive the 90-day notice requirement and to accept for filing and suspend the proposed increased rates and charges tendered by the Company on July 1, 1977, as hereinafter ordered.

(2) It is necessary and proper in the public interest to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing to determine the justness and reasonableness of the proposed increased rates and to establish procedures for that hearing, as hereinafter ordered.

The Commission orders: (A) The notice requirement of our Regulations (18 CFR, 35.3) is hereby waived and the proposed increased rates and charges tendered by the Company on July 1, 1977, are hereby accepted for filing.

(B) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations Under the Federal Power Act, a public hearing will be held concerning the lawfulness of the proposed increased rates and charges tendered by the Company on July 1, 1977.

(C) Pending such hearing and decision thereon, the first-step increased rates and charges proposed to become effective on August 1, 1977, are hereby suspended and the use thereof deferred until November 1, 1977, when they shall become effective subject to refund; and the second-step increased rates and charges proposed to become effective December 1, 1977, are hereby suspended and



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the use thereof deferred until December 2, 1977, when they shall become effective subject to refund.

(D) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before November 15, 1977 (see, Administrative Order No. 157).

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see, Delegation of Authority, 18 CFR 3.5(d)), shall preside at an initial conference in this proceeding to be held on November 22, 1977, at 10 a.m. (ET) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-21325 Filed 7-22-77;8:45 am]

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[Project No. 5]

## MONTANA POWER CO.

### Order Providing for Hearing

JULY 19, 1977.

On August 18, 1976, the Confederated Salish and Kootenai Tribes of the Flathead Reservation (Tribes) filed through their attorney a motion to consolidate for hearing earlier filed petitions: (1) That a readjustment be made of the annual charges paid to the tribes pursuant to Section 10(e) of the Federal Power Act (Act), 16 U.S.C. 803(e), and Article 30(d) of the project license for use of Tribal lands by The Montana Power Company (Licensee), Licensee for Kerr Project No. 5; and (2) that Licensee be compelled to establish and maintain amortization reserves pursuant to section 10(d) of the Act; 16 U.S.C. 803(d), and Article 34 of the project license. The License filed a petition for readjustment of annual charges on March 30, 1971. The Tribes also filed a petition for the readjustment of annual charges on May 28, 1975. On May 10, 1965, the Tribes petitioned the Commission to compel the Licensee to establish and maintain amortization reserves for Project No. 5. By motion filed July 6, 1976, the Tribes moved that the May 10, 1965, petition be set for hearing.

The Kerr Project has an installed capacity of 168,000 kW and is located on the Flathead River approximately five miles downstream from Poulson, in Flathead and Lake Counties, Montana. The project dam is located entirely on Tribal lands. The Tribes also own one-half of the land inundated by the reservoir. On May 23, 1930, the Commission issued a 50-year license to Rocky Mountain Power Co. pursuant to the Federal Water Power Act and the Act of March 7, 1928, 45 Stat. 200. Rocky Mountain Power Co., Project No. 5, 10th Ann. Rpt. 112, 222 (1930). In 1938 the license for Project No. 5 was transferred to the current Licensee.

ANNUAL CHARGES

The annual charges paid by the Licensee to the Tribes for Project No. 5 have been readjusted twice by the Commission. The most recent readjustment occurred in 1967 when the Commission issued Opinion No. 529 and Order Readjusting Annual Charges, The Montana Power Co., 382 FPC 766 (1967), ruling denied, 39 FPC 321 (1968). Opinion No. 529 readjusted the annual charges from $238,375 to $950,000 effective as of May 20, 1959, with a simple interest rate of six percent per annum from such date. The Court of Appeals upheld the Commission's Opinion and Order with exception of reducing the rate of interest from six percent to four percent per annum. The *Montana Power Co.* v. *FPC;* 459 F. 2d 863 (CADC–1972), cert. denied, 408 U.S. 930 (1972). By Order of July 20, 1972, the Commission vacated its stay of Opinion No. 529 and ordered the Licensee to pay to the Tribes $11,249,213.81 for the period May 20, 1959 through December 31, 1971. The Montana Power Co., 48 FPC 135 (1972).

As mentioned above, on March 30, 1971, Licensee petitioned the Commission to set for hearing the matter of the readjustment of the annual charges for use of Tribal lands for the period commencing May 23, 1969. The Licensee further requested that it be allowed to submit evidence that the arbitration clause contained in Article 30(d)[1] of the license was a bargained for feature of the license. The Licensee stated that it has not been afforded the opportunity to present evidence that the arbitration clause was bargained for. The Licensee stated further that the Court of Appeals suggested that the Licensee prove the clause was bargained for, *The Montana Power Co.* v. *FPC*, 445 F. 2d 739 (CADC–1970), cert. denied 400 U.S. 1013 (1970). The Licensee stated that if allowed to produce such evidence, and the Commission agrees that the clause was bargained for, then the readjustment for the period beginning May 23, 1969, should be submitted to arbitration.

By pleading of June 28, 1971, and by letter of May 2, 1972, the Tribes responded to the Licensee's petition stating that the question of whether or not the arbitration clause was bargained for had already been litigated and that the Licensee was bound by the decision. The Tribes stated that the Court of Appeals in the 1970 decision held that any readjustment of the annual charges was to be made by the Commission after notice and opportunity for hearing. Furthermore, the Tribes stated that when the Commission ordered a hearing on the petition, including the issue of Commission jurisdiction, the Licensee sued to enjoin the proceedings, but the suit was dismissed. (U.S.D.C. Montana Civil No. 1251, Order entered May 24, 1965).[2] The Tribes claimed that it would not approve of a new readjustment proceeding until the proceeding pending before the Court of Appeals was concluded. By letter of July 13, 1972, the Department of the Interior (Interior) indicated that it supported the Tribes position.

On May 28, 1975, the Tribes petition the Commission for a readjustment of the annual charges to be paid to the Tribe by the Licensee for the period beginning May 20, 1975, and ending May 23, 1980, the expiration date of the license for Project No. 5. No response to the petition was filed by the Licensee. On July 11, 1975, the Tribes in a separate, but related, proceeding advised the Commission that negotiations were being undertaken between the Licensee and the Tribes respecting the annual charges for Project No. 5.[3]

By motion filed on July 1, 1976, the Tribes requested that their petition for readjustment of annual charges be set for hearing, because the Tribes and the Licensee have failed to reach agreement on the readjustment. The Tribes argued that the current annual charge for the use of their lands is no longer reasonable, based on the commercial value of the Tribal lands involved. In its response filed July 16, 1976, the Licensee stated that it does not oppose the Tribes' request for a hearing on the readjustment of annual charges. The Licensee, however, requested that any hearing ordered commence no earlier than six months from the date of any ruling on the motion.

On June 16, 1977, the Tribes filed an amended petition requesting that the

[1] Article 30(d) of the license provides that:

The annual charges payable under this license may be readjusted at the end of twenty (20) years after the beginning of operation under this license and at periods of not less than ten (10) years thereafter by mutual agreement between the Commission and the Licensee, with the approval of the Secretary of the Interior. In case the Licensee, the Commission, and the Secretary of the Interior cannot agree upon readjustment of such charges, it is hereby agreed that the fixing of readjusted charges shall be submitted to arbitration in the manner provided for in The United States Arbitration Act (U.S.C. Title 9), such readjusted annual charges to be reasonable charges fixed upon the basis provided in Section 5 of Regulation 14 of the Commission, to wit, upon the commercial value of the tribal lands involved, for the most profitable purposes for which suitable, including power development.

[2] Subsequent to the Commission order setting for hearing the readjustment of annual charges in 1965, the Licensee sued in the U.S. District Court of Montana to compel compliance with the arbitration clause in the license and for the appointment of an arbitrator. The court dismissed the suit holding that it would not have jurisdiction unless it was held in the proceeding pending before the Commission, subject to the review of the Court of Appeals, that the arbitration provision controls.

[3] See "Motion for Extension of Time Within Which to Answer or Object to Motion of Staff Counsel to Dismiss Application for License" filed July 11, 1975 in Project No. 2507. The application for license for Project No. 2507 was dismissed by Commission order issued December 15, 1975.





effective date of any readjustment of annual charges be May 20, 1969. As stated above, the Licensee requested its petition of March 30, 1971, an effective date of May 23, 1969. By filing dated July 1, 1977, the Licensee requested that the amended petition be striken and that any readjustment be effective May 28, 1975.

We believe that it is appropriate to provide for a hearing to determine whether or not the annual charges paid to the Tribes by the Licensee should be readjusted, and if so, what such readjustment should be and what the effective date should be. Concerning the Licensee's request of a six-month delay before the start of the hearing, we are delegating the authority to fix the hearing dates to the Presiding Administrative Law Judge. We expect the Judge to take the Licensee's request into consideration when setting the hearing date.

We believe the Licensee should not be allowed to present evidence on the issue of whether or not the arbitration clause contained in Article 30(d) was bargained for. The court has rejected the Licensee's argument that the arbitration clause was bargained for, *The Montana Power Co.* v. *FPC*, 445 F.2d at 750. The court further stated:

> We see nothing in the negotiations, or in the license itself, to suggest that the arbitration provision was more than simply a means of achieving the goal of impartial application of the general standard embodied in the license. (at page 754).

Licensee presented no new facts or law that would necessitate a hearing on the issue. In *Seatrain Lines* v. *Pennsylvania*, 207 F. 2d 225, 259 (CA3–1952), the court stated:

> Normally, if such an issue, albeit concerning the jurisdiction of the tribunal itself, has once been decided between the parties be competent court, another court will not permit the matter to be relitigated between the same parties in another case. * * * The present case does not present the additional consideration that the first decision was by * * * administrative tribunal, rather than a court. But in the circumstances that should make no difference. There was a contested proceeding before the Commission, with decision pending upon the present issues and the parties taking opposite sides upon it. Res Judicata should and does apply.

The Supreme Court has upheld the principle that if an issue has been resolved in a contested proceeding then the parties or the agency are collaterally estopped from arguing the issue in a subsequent proceeding. *U.S.* v. *Utah Construction Co.*, 384 U.S. 391 (1966). The Court stated at pages 421–22:

> Occasionally courts have used language to the effect that res judicata principles do not apply to administrative proceedings, but such language is certainly too broad. When an administrative agency is acting in a judicial capacity and resolves disputed issues of fact properly before it which the parties have had an adequate opportunity to litigate, the courts have not hesitated to apply res judicata to enforce respose. *Sunshine Anthracite Coal Co.* v. *Adkins*, 310 U.S. 381 (1939).

As stated previously, the Court of Appeals rejected Licensee's argument that the arbitration clause was a bargained for license provision. We are, therefore, denying the Licensee's request that the hearing include the taking of evidence on the arbitration clause as a bargained for portion of the license.

AMORTIZATION RESERVES

On July 7, 1976, the Tribes moved the Commission to set for hearing their petition filed May 10, 1965[4] requesting the Commission to compel the Licensee to establish and maintain amortization reserves pursuant to Section 10(d) of the Act and Article 34 of the project license. On August 5, 1976, the Licensee respended to the motion requesting that it be denied or dismissed as moot because the Licensee was undertaking to determine the amount, if any, to be placed in the amortization reserve. By direction of the Commission, the Secretary requested the Licensee on December 17, 1976, to submit a computation of annual project earnings and the current effect on the amortization reserve for the project consistent with the principles set forth in Order No. 387 and Opinion No. 596–A. The Licensee filed the requested information on February 15, 1977.

As noted above, on August 18, 1976, the Tribes moved for consolidation of the readjustment of annual charges and the amortization reserve questions. The Licensee responded to the motion to consolidate on August 30, 1976, objecting to the motion. Licensee stated that there was nothing to consolidate, because it has undertaken to establish and maintain an amortization reserve. By motion filed April 29, 1977, Interior requested that the Commission grant the Tribes Motion to consolidate.

We do not believe that the amortization reserve question and the readjustment of annual charges question should be consolidated for hearing. As noted by the Licensee in its answer filed on August 5, 1976, the amount that it pays to the Tribes for annual charges affects its earnings which in turn would affect any amounts to be placed in the amortization reserves. Thus, until the question of annual charges has been finally determined it would be appropriate to defer any hearing on the amounts, if any, to be placed in the amortization reserves. Of course, the Licensee should continue to follow the principles set forth in Order No. 387 and Opinion No. 596–A to determine annually, subject to Commission review, the amounts to be placed in the amortization reserve. We are, however, deferring any action on the Tribes' petition respecting amortization reserves until the appropriate time.

PETITION TO INTERVENE

On April 29, 1977, the Secretary of the Interior petitioned to intervene in the proceeding respecting the proposed readjustment of the annual charges. The petition stated that the Tribal lands utilized by the project are under the supervision of the Secretary of the Interior. No response to the petition to intervene has been received.

The Commision finds. (1) It is appropriate and in the public interest for the purposes of the Federal Power Act to hold a hearing, as hereinafter provided, respecting whether or not the annual charge for the use and occupancy of Tribal lands by Project No. 5 should be readjusted; and, if so, what the readjusted annual charge should be and what the effective date of such charge should be.

(2) It is appropriate and in the public interest that Licensee's request to present evidence on whether or not the arbitration clause in Article 30(d) was bargained for be denied.

(3) It is appropriate and in the public interest that the Tribe's motion of August 18, 1976, requesting consolidation be denied.

(4) Participation by the Secretary of the Interior in this proceeding may be in the public interest.

The Commission orders. (A) Pursuant to the authority contained in, and subject to the jurisdiction conferred upon, the Federal Power Commission by the Federal Power Act, particularly Sections 10(e) and 308, thereof; the license for Project No. 5; and the Commission's Rules of Practice and Procedure; a Prehearing Conference shall be held at 9:30 a.m. on August 17, 1977, in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. respecting the matters involved and the issues presented in finding (1) above.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to Section 3.5(d) of the Commission's Rules and Regulations, 18 CFR 3.5(d) (1976), shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates and to rule on all motions with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss.

(C) The Commission's Rules of Practice and Procedure shall apply in this proceeding, except to the extent they are modified and supplemented herein.

(D) Licensee's request to submit evidence at the hearing respecting the issue of whether or not the arbitration clause of Article 30(d) of the license was bargained for is hereby denied.

(E) The Secretary of the Interior is hereby permitted to intervene in the pro-

[4] Beginning in 1965, the Licensee and the Tribes have made several requests respecting the amortization reserves. Also, on January 18, 1966, Interior filed a petition to intervene in the proceeding concerning the Tribes' petition of May 10, 1965. It should be noted that because a rulemaking proceeding involving a statement of policy regarding net investment and amortization reserves was ongoing at that time and culminated in Commission Order No. 387, 42 FPC 329 (1969), and because a subsequent proceeding involving a similar type of amortization reserve question in Project No. 82, which was not completed until August 31, 1976, no action was taken on the Tribes' petitions in this matter. (See also, Opinion No. 596, Alabama Power Co., 45 FPC 1068 (1971), reversed *Alabama Power Co.*, v. *FPC*, 482 F. 2d 1218 (CA5–1973); and Opinion 596–A issued August 31, 1976.)



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ceeding subject to the Commission's Rules and Regulations: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in its petition to intervene; *Provided further,* That the admission of such intervenor in these proceedings shall not be construed as recognition by the Commission that the intervenor might be aggrieved by any order or orders entered in these proceedings.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-21329 Filed 7-21-77;8:45 am]

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[Docket No. CI77-298]

## TENNECO INC. AND AMOCO PRODUCTION CO., ET AL.

### Order Granting Motion

JULY 19, 1977.

On June 20, 1977, Mobil Oil Corporation (Mobil) filed a motion in this proceeding requesting the Commission to join Channel Industries Gas Company (Channel), Tennessee Gas Pipeline Company, a division of Tenneco Inc. (Tennessee) and Tenneco Oil Company, a division of Tenneco, Inc. (Tenneco Oil) as party respondents.[1] Mobil states in support of its motion that these parties are involved in the transactions which are the subject of the investigation instituted in this docket.

Mobil states that Tenneco Inc.'s Petition for Declaratory Order, filed February 28, 1977, as amended, which constitutes the basis for the subject investigation is replete with references to the significant involvement of Channel and Tennessee in the sale of natural gas from the fields enumerated therein. Mobil also alleges that Tenneco Oil is a non-signatory party to the Mobil contract with Channel covering sales to Channel from the Seeligson Field. In the Commission's June 6, 1977 order which set this proceeding for hearing, these Seeligson sales were specifically made subject to this investigation.

In order to permit a full evaluation of all the facts and circumstances relating to the sales of natural gas which are the subject of this investigation, we find that it is appropriate to join as respondents the parties listed in Mobil's motion. Therefore, we shall grant Mobil's June 20, 1977 motion.

The Commission orders. Mobil's June 20, 1977 motion is hereby granted and Channel, Tennessee and Tenneco Oil are hereby made respondents.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-21326 Filed 7-22-77;8:45 am]

[1] On June 27, 1977, Atlantic Richfield Company, Shell Oil Company and Sun Company, Inc. joined in Mobil's motion.

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[Docket No. RP 75-74]

## TRANSWESTERN PIPELINE CO.

### Order Accepting Settlement and Remanding Rate of Return Issue

JULY 19, 1977.

The proceedings in this docket were initiated by a general rate increase filing on March 14, 1975, by Transwestern Pipeline Company. On October 1, 1975, the Commission set the matter for hearing. We now have before us a settlement certified to the Commission by Presiding Administrative Law Judge Israel Convisser on December 21, 1976. The certification states that a partial settlement has been reached and certain issues reserved for hearing. These reserved issues are currently pending before the Administrative Law Judge. While settlement was not reached on a proper allowed rate of return, all parties agreed to argue their cases in initial and reply comments before the Commission rather than in hearing. Thus, our action on the contested reserved rate of return issue does not impact upon acceptance of the settlement to which no party or the Commission staff objected. The rates involved herein were effective for the lock-in period October 1, 1975, to June 1, 1977.

The only intervenor who appeared at the hearing, City Service Gas Company, concurs in the rate of return contained in the settlement agreement and no other parties object except staff and the Public Utilities Commission of the State of California. Staff counters with its own proposal as to rate of return.

Upon review of the settlement agreement, we will accept the settlement and grant waiver of the Commission's Rules necessary to effectuate all the provisions of the stipulation and agreement.

Upon our review of the evidentiary record on rate of return, we find that insufficient information exists for a reasoned determination of the facts upon which to establish the rate of return. We, therefore, order that this issue in the proceeding be remanded to the Presiding Judge for hearings and for the presentation of further evidence and argument by the parties on this issue. We outline below some of the areas in which the record is deficient and to which the parties should give special attention in their new submittals.

The agreement provides in Article I for the filing of revised tariff sheets upon final action by the Commission on the issues which are reserved by Article II, and provides for the payment of appropriate refunds. Article II outlines six reserved issues which are now pending before the Presiding Administrative Law Judge. Article III provides specifically that cost allocation, classification, and rate design shall be applied in accordance with final Commission order in Docket No. RP74-52, and specifically reserves to staff the right to raise these issues in subsequent filings by Transwestern. Article IV defines "advance payment tracking" and outlines certain provisions with reference to the application of advance payment tracking. Article V outlines the effectiveness of the proposed settlement and Article VI provides for the term of the agreement.

Acceptance of the settlement will not result in any immediate filing of revised tariff sheets reflecting the settlement nor immediate refunds. The settlement provides such revised tariff sheets need not be filed until within 10 days after the date of a final Commission order (no longer subject to judicial review) determining the issues reserved by the settlement for hearing. It further provides that refunds are required only within 60 days after the date of a final Commission order determining the reserved issues. The hearing on the reserved issues has concluded, briefs have been filed with the Administrative Law Judge and the issues are awaiting this decision.[1] Therefore, any refunds flowing to customers as a result of this settlement will not be distributed until after the reserved issues are finally decided. Remand of the rate of return issue will necessarily require some additional procedural time but we believe it necessary on this record and that the resultant delay will be minimal, if any, if the Law Judge immediately reopens the proceedings on the reserved issues to permit submittal of evidence and cross-examination on the rate of return question and then rules on all issues before him in this docket in a single initial decision.

### RATE OF RETURN

The initial and reply comments of Company and Staff argue solely the issues of rate of return on common equity and overall rate of return. The settlement would provide an overall rate of return of 10.5% with a resulting rate of return on equity of 13.704%. Staff proposes a 9.75% overall rate with a 12.37% rate on common equity. The settlement, however, contains no reference to agreement on the proper capital structure or cost rate for debt. The Commission must determine these questions if it is to issue an order on the proper rate of return to allow on rate base. In our review of the testimony presented by Company and Staff, we find it necessary to reject both proposals put forth on these issues.

Company witness Bixby would have us include in the adjusted capitalization for September 30, 1975, a prospective long term debt issue at a rate of 12% that was apparently never issued (see Staff Reply Comments, App. B, p. 2 of 3). While this sale may have been reasonably included in the capitalization at the time of the initial filing in early 1975, the Company had ample opportunity to offer updated capitalization figures for purposes of the comments. Staff revised its capitalization and rate of return recommendation in July of 1976.

Staff witness Adelman, on the other hand, would substitute a lesser amount of

[1] The hearing was closed on January 21, 1977, and the last briefs were submitted, on April 6, 1977.





short term debt at a rate of 10% for Transwestern's prospective 12% issue. Staff's argument for the inclusion of short term debt is "to bring total capitalization in line with the staff-adjusted rate base." (Tr. 162). No evidence, however, was presented to show a need on the part of Transwestern for employing short term debt in its rate base financing. Staff simply noted that "the company presumably has relied on short-term debt to finance a portion of jurisdictional rate base since permanent capital (long-term debt, preferred stock and common equity) falls * * * short." (Tr. 162). This does not appear to be sufficient cause for including short term debt in the capitalization. Indeed, the Commission ruled in its previous order on Transwestern (Docket No. RP74-52) that short-term debt should be excluded. In that case, however, permanent capital was approximately equal to rate base.

Transwestern is practically a wholly owned subsidiary of Texas Eastern which has 99.47% ownership. There is evidence in the record that, in this parent-subsidiary relationship, Transwestern does not act as an autonomous corporate entity. The staff witness noted that "Transwestern's equity ratio is currently somewhat thicker than either its parent or the [three comparable utility] groups, due primarily to net earnings retention averaging 71.5% which is substantially greater than is traditional for regulated industries." (Tr. 160.) Staff argued that this is due to Texas Eastern's ability to set Transwestern's dividend payout ratio in relation to Texas Eastern's financial requirements.

In general, the capital structure used to arrive at the overall allowable rate of return should represent the prospective capital structure of the utility consistent with the risk profile of is operations. Staff's Exhibit 42 shows that the average common equity ratio of 13 Major Class A and B Pipelines increased from 33% to 38% during the period 1970 through 1974. During the same period Transwestern's equity ratio changed from 28% to 41%. The capital structures proposed by Transwestern and Staff as of September 30, 1975, reflect common equity ratios of 42% and 43%, respectively. Further, Staff's reply brief notes that the capital structure proposed by Transwestern in its latest filing (RP77-19) includes an equity ratio of 54%. These statistics raise questions concerning the extent to which Transwestern's capital structure is influenced by its parent's overall operations with little regard to Transwestern's financing risks. The propriety of its use in determining the overall allowed rate of return for Transwestern is therefore questionable.

Concerning the issue of rate of return on common equity, we find Staff's basing its final recommendation on the Commission's ruling in an earlier docket an insufficient basis for determining return on common equity. Staff, in initial testimony, argued that a 12% rate of return on common equity was fair and reasonable. On March 2, 1976, the Commission issued an order approving a settlement agreement in Docket No. RP74-52 including an overall rate of return for Transwestern of 9.75% for the locked-in period July 11, 1974, to October 1, 1975. Subsequently, Staff revised its capitalization exhibit to yield the same overall rate of return of 9.75% in the instant docket and thereby offering a rate of return of 12.37% on common equity for the locked-in period beginning October 1, 1975, and ending June 1, 1977. We reject this procedure.

In remanding this case for hearings and for the presentation of additional evidence, we are directing all parties to address the following issues:

(1) The appropriate capitalization to be used in determining an overall rate of return for Transwestern;

(2) The propriety of including short-term debt in Transwestern's capitalization during the period in question, and

(3) The extent that the rate of return on common equity allowed in the earlier docket is appropriate and relevant for the period covered by this docket. Parties should take into account changes in the cost of common equity resulting from changes in the money market, changes in the equity ratio, and other changes in the period since the earlier docket.

The Commission finds: (1) It is desirable and in the public interest that the settlement agreement submitted by Transwestern Pipeline Company in this proceeding be accepted.

(2) Good cause exists to remand for hearing the issue of the appropriate rate of return for Transwestern Pipeline Company.

The Commission orders: (A) The Stipulation and Agreement submitted by Transwestern Pipeline Company certified on March 14, 1975, and incorporated herein by reference is approved.

(B) Revised tariff sheets shall be filed by Transwestern Pipeline Company in accordance with Article I of the Stipulation and Agreement, at such time as designated therein, subject to approval of the Commission.

(C) Within 30 days of the Commission's approval of Transwestern Pipeline Company's substitute tariff sheets in accordance with Paragraph (B), above, or within 60 days after the date upon which the Commission order determining the issues reserved by Article II of the Stipulation and Agreement becomes final (as provided in Article I, Part 2(d)), whichever is later, Transwestern shall refund to its customers for the period October 1, 1975, to June 1, 1977, all amounts, if any, collected in excess of those which would have been payable under the rates and charges approved, in accordance with Paragraph (A), above, and in accordance with such other orders of the Commission on the reserved and remanded issues, herein, together with interest at a rate of nine percent per annum from the date of payment to Transwestern Pipeline Company to the date of refund.

(D) Within 15 days after refunds have been made, Transwestern shall file with the Commission a compliance report showing monthly billing determinants and revenues under prior, present, and adjudicated rates; monthly adjudicated rate increase, monthly rate refund, and the monthly interest computation, together with a summary of such information for the total refund period. A copy of such report shall also be furnished to each state commission within whose jurisdiction the wholesale customer distributes and sells natural gas at retail.

(E) The issue of the proper rate of return for Transwestern Pipeline Company in this docket is remanded for hearing for consideration with the remainder of the reserved issues in the docket presently before the Presiding Administrative Law Judge.

(F) The Administrative Law Judge shall reopen the record on the reserved issues for the receipt of evidence and cross-examination upon the issue of the proper rate or return in this proceeding.

(G) The Commission's General Rules and Regulations, including, but not limited to, Part 154 thereof, are waived to the extent necessary to effectuate all of the provisions of the Stipulation and Agreement approved in Paragraph (A), above.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-21328 Filed 7-22-77;8:45 am]

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## FEDERAL RESERVE SYSTEM

## DETROITBANK CORPORATION

### Order Approving Acquisition of Bank

DETROITBANK Corporation, Detroit, Mich., has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)), to acquire 100 percent of the voting shares (less directors' qualifying shares) of Kentwood Bank, N.A., Kentwood, Mich. (in organization), which will acquire the deposits and assume the liabilities of Kentwood National Bank, Kentwood, Mich. (Bank). The Kentwood Bank, N.A., has been organized solely as a means to facilitate the acquisition of Bank's assets and the assumption of its liabilities. Accordingly, the acquisition of the bank in organization is treated herein as the proposed acquisition of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with Section 3(b) of the Act. The time for filing comments and views has expired, and the Federal Reserve Bank of Chicago has considered the application and all comments received in light of the factors set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the third largest banking organization in Michigan, controls five banks, all located in the Detroit banking market, with aggregate deposits of $2.7 billion, representing about 8.8 percent of the total commercial bank deposits in the State.[1] Consummation of

[1] All banking data are as of June 30, 1976, and represent all holding company formations and acquisitions approved through April 30, 1977.



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this proposal would increase Applicant's total State deposits by about 0.01 of a percentage point and would not significantly affect statewide concentration of banking resources in Michigan.

Bank (deposits of $3.5 million) holds about 0.2 percent of the total deposits in commercial banks in the relevant banking market and ranks as the 14th largest of 15 banks operating therein.[2] The office of Applicant's subsidiary bank closest to an office of Bank is located 128 miles from Bank. It appears that no meaningful competition presently exists between any of Applicant's banks and Bank; nor does it appear likely that any significant competition would develop between them in the future in view of the distances involved and Michigan's restrictive branching laws. Although Applicant has the managerial and financial resources to enter the market de novo, the acquisition of a financial institution of the size of Bank is viewed as an acceptable alternative to such entry. Moreover, the proposal should have a salutary effect on competition by introducing another large banking organization to the market. Thus, it is concluded that competitive considerations are consistent with approval of the application.

Considerations relating to the financial and managerial resources and future prospects of Applicant, its existing subsidiary banks, and Bank, are generally satisfactory and consistent with approval of the application.

Bank would offer specialized services such as trust and international banking on a correspondent or referral basis through Applicant's lead bank, and Bank's lending limit would be effectively increased through loan participations with Applicant's affiliates. Considerations relating to the convenience and needs of the community to be served are consistent with and lend some weight toward approval of the application. It is the judgment of this Reserve Bank that the transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made: (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago, pursuant to delegated authority.

By order of the Federal Reserve Bank of Chicago, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective July 7, 1977.

ROBERT P. MAYO,
*President.*

[FR Doc.77-21279 Filed 7-22-77;8:45 am]

[2] The relevant banking market for purposes of analyzing the anticompetitive effects of the proposed transaction is approximated by the Grand Rapids RMA.

### LAKE VIEW BANCORP, INC.

#### Formation of Bank Holding Company

Lake View Bancorp, Inc., Northbrook, Illinois, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 99.9 percent of the voting shares of Lake View Trust and Savings Bank, Chicago, Illinois. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 15, 1977.

Board of Governors of the Federal Reserve System, July 18, 1977.

RUTH A. REISTER,
*Assistant Secretary of the Board.*

[FR Doc.77-21280 Filed 7-22-77;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[F-19148-1]

### ARCTIC SLOPE REGIONAL CORP.

#### Alaska Native Claims Selection

On November 15, 1973, pursuant to section 12(c)(3) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 702; 43 U.S.C. 1601, 1611), the Arctic Slope Regional Corporation filed selection application F-19148-1, covering the surface and subsurface estates of the lands described herein.

It has been determined that the application has been properly filed and meets all the requirements of the act and the regulations issued pursuant to the act, as well as the provisions of the special agreement between the Department of the Interior and the Arctic Slope Regional Corporation dated February 26, 1974. The selected lands described below do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, aggregating approximately 221,575 acres, are considered proper for acquisition by the Arctic Slope Regional Corporation, subject to valid existing rights, and are hereby approved for interim conveyance pursuant to section 14(e) of the act:

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

ANAKTUVUK UNIT F-19148-1

T. 13 S., R. 1 W.
Secs. 1 to 17, inclusive;
Sec. 18, excluding Native allotment F-17886 Parcel B;
Secs. 19 to 36, inclusive.

T. 13 S., R. 1 E.
Secs. 1 to 21, inclusive;
Secs. 22 and 23, excluding Native allotment F-16437;
Secs. 24 to 36, inclusive.

T. 13 S., R. 3 E.
Secs. 1 to 6, inclusive;
Secs. 7 and 8, excluding Native allotment F-16313;
Secs. 9 to 18, inclusive;
Sec. 19, excluding Native allotment F-16437, Parcel A;
Secs. 20 and 21, excluding Native allotment F-028554;
Secs. 22 to 27, inclusive;
Secs. 28 and 29, excluding Native allotments F-028554 and F-17882;
Sec. 30, excluding Native allotment F 16437, Parcel A;
Secs. 32 and 33, excluding Native allotment F-17882;
Secs. 34, 35, and 36.

T. 14 S., R. 2 E.
Secs. 1 to 24, inclusive;
Sec. 25, excluding Native allotment F 38 Parcel A;
Sec. 26;
Sec. 27, excluding Native allotment F 17887;
Secs. 28 to 34, inclusive;
Sec. 35, excluding Native allotment F-16415.

T. 14 S., R. 4 E.
Secs. 1 to 5, inclusive;
Secs. 7 to 36, inclusive.

T. 15 S., R. 1 W.
Secs. 1 to 14, inclusive;
Sec. 15, excluding Native allotment F-16431;
Secs. 16 to 21, inclusive;
Sec. 22, excluding Native allotment F 16431;
Secs. 23 to 36, inclusive.

T. 15 S., R. 1 E.
Secs. 1 to 34, inclusive.

T. 15 S., R. 3 E.
Secs. 1 to 18, inclusive;
Sec. 19, excluding Native allotment F-16445;
Secs. 20 to 24, inclusive.

T. 16 S., R. 2 E.
All.

T. 16 S., R. 4 E.
All.

T. 17 S., R. 1 W. (fractional)
All.

T. 17 S., R. 1 E. (fractional)
All.

T. 17 S., R. 3 E. (fractional)
All.

The interim conveyance issued for the surface and subsurface estates of the lands described shall contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. A right-of-way thereon for the construction of railroads, telegraph and telephone lines, as prescribed and directed by the act of March 12, 1914 (38 Stat. 305; 43 U.S.C. 975(d)).

3. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616), the following public easements referenced by easement identification number (EIN) on the easement map in case file F-21780 are reserved to the United States and subject to further regulation thereby:

a. (EIN 3 C1) A streamside easement, twenty-five (25) feet in width, along both banks of the Anaktuvuk River for public recreational use as it traverses regional selected land. This easement also includes the river bed.

b. (EIN 6 C4, L (6a and 6b)) Two (2) trails in the John River and Anaktuvuk River areas for use by the public to gain access to isolated parcels of public land. The use of these trails is to be controlled by applicable State or Federal law or regulation:

6a. An existing trail, twenty-five (25) feet in width, following the Hickel Highway route, which closely parallels the Anaktuvuk River as it traverses regional selected land.

6b. A proposed trail, fifty (50) feet in width, roughly paralleling the left bank of Kollutarak Creek as it traverses regional selected land. This trail begins near the confluence of the John River and Kollutuk Creek, and leads in a northwesterly direction to Chandler Lake, where it joins with trail 6e.

c. (EIN 19 C5 (19a, 19b, 19c, 19e)) A series of four (4) proposed spur trails that branch off of trail 6a, as they traverse regional selected lands, for use by the public to gain access to and from isolated parcels of public land. The use of these trails is to be controlled by applicable State or Federal law or regulation:

19a. A spur trail, twenty-five (25) feet in width, proceeding from the Anaktuvuk River area in protracted T. 13 S., R. 3 E., Umiat Meridian. The trail extends westerly up the right bank of Akmagolik Creek to public land in protracted T. 14 S., R. 1 E., Umiat Meridian.

19b. A spur trail, twenty-five (25) feet in width, that proceeds up the left bank of Akvalutak Creek to public land near Mount Stuver.

19c. A spur trail, twenty-five (25) feet in width, beginning at the village airstrip at Anaktuvuk Pass in protracted T. 15 S., R. 2 E., Umiat Meridian, leading in an easterly direction along the left bank of the Anaktuvuk River. This easement also includes two (2) proposed branch trails extending to public lands in protracted T. 16 S., R. 3 E., Umiat Meridian.

19e. A branch trail, twenty-five (25) feet in width, which begins at trail 6a in the John River drainage and proceeds to public lands in protracted T. 16 S., R. 1 W., Umiat Meridian.

d. (EIN 22 C5) A streamside easement, twenty-five (25) feet in width, along both banks of the John River, for public recreational use, as it traverses regional selected lands southwest of the airstrip at Anaktuvuk Pass. This easement also includes the river bed.

e. (EIN 23 C) The right of the United States to enter upon the lands herein granted for cadastral, geodetic or other survey purposes is reserved together with the right to do all things necessary in connection therewith.

f. (EIN 24 C) Easements for the transportation of energy, fuel and natural resources which are the property of the United States or which are intended for delivery to the United States or which are produced by the United States. These easements also include the right to build any related facilities necessary for the exercise of the right to transport energy, fuel and natural resources, including those related facilities necessary during periods of planning, locating, constructing, operating, maintaining or terminating transportation systems. The specific location of these easements shall be determined only after consultation with the owner of the servient estate. Whenever the use of such easements will require removal or relocation of any structure owned or authorized by the owner of the servient estate, such use shall not be initiated without the consent of the owner of such improvement; provided, however, that the United States may exercise the right of eminent domain if such consent is not given. Only those portions of these easements that are actually in use or that are expressly authorized on March 3, 1996 shall continue to be in force.

The grant of lands by the interim conveyance shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands.

2. Valid existing rights therein, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act (72 Stat. 339, 341)), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him.

3. The terms and conditions of the agreement dated August 6, 1976 between the Secretary of the Interior, Arctic Slope Regional Corporation and the eight Arctic Slope village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement casefile for Arctic Slope Regional Corporation, serialized F-21780. Any person wishing to examine this agreement may do so at the Bureal of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

No water bodies in the area are determined to be navigable by reason of travel, trade or commerce.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published one in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the Tundra Times. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 and with a copy served upon the Bureau of Land Management and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501; also:

1. Any party receiving actual notice of this decision shall have 30 days from the receipt of actual notice to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign a receipt for actual notice, shall have until August 24, 1977 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived his rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of, and requirements for, filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

ROBERT E. SORENSON,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-21250 Filed 7-22-77;8:45 am]

[F-14829-A]

### NUNAMIUT CORP.

#### Alaska Native Claims Selection

On November 15, 1973, Nunamiut Corporation, the Native corporation for the village of Anaktuvuk Pass, filed selection application F-14829-A under the provisions of section 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611), for the surface estate of certain lands in the Anaktuvuk Pass area. The application was amended on December 11, 1974, to top file lands covered by certain Native allotment applications filed pursuant to the act of May 17, 1906 (34 Stat. 197).

The application, as amended, is properly filed and meets the requirements of the act and of the regulations issued pursuant to the act. The selected lands described below are unoccupied and do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, aggregating approximately 89,646 acres, is considered proper for acquisition by Nunamiut Corporation and is hereby approved for interim conveyance pursuant to section 14(a) of the act:

UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 13 S., R. 2 E., Secs. 1 to 8, inclusive; Sec. 9, excluding Native allotment F-17893, Parcel A; Secs. 10 to 15, inclusive; Sec. 16, excluding Native allotment F-17893, Parcel A; Secs. 17 to 23, inclusive; Sec. 24, excluding Native allotment F-16437, Parcel A; Secs. 25 to 36, inclusive.
T. 13 S., R. 3 E., Sec. 31.
T. 14 S., R. 2 E., Sec. 36.
T. 14 S., R. 3 E., Secs. 1 to 8, inclusive; Secs. 17 to 20, inclusive; Secs. 29, 30, and 31.
T. 14 S., R. 4 E., Sec. 6.
T. 15 S., R. 1 E., Secs. 35 and 36.
T. 15 S., R. 2 E., Secs. 1 to 7, inclusive; Sec. 8, excluding Tracts A and B of U.S. Survey 4480; Secs. 9 to 16, inclusive; Secs. 17 and







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18, excluding Tract A of U.S. Survey 4480;
Secs. 19 to 32, inclusive; Sec. 33, excluding Native allotment F-17893, Parcel B; Secs. 34, 35, and 36.
T. 15 S., R. 3 E., Secs. 31 and 32.
T. 16 S., R. 1 W., Secs. 1 and 2; Secs. 7 to 30, inclusive; Secs. 33, 34, and 35.
T. 16 S., R. 1 E.,
Secs. 1 to 7, inclusive;
Sec. 8, excluding Native allotment F-16416;
Secs. 9 and 10;
Secs. 16 to 19, inclusive;
Sec. 21.
T. 16 S., R. 3 E.,
Secs. 4 and 5;
Sec. 8;
Sec. 17.

The interim conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. A right-of-way thereon for the construction of railroads, telegraph and telephone lines, as prescribed and directed by the act of March 12, 1914 (38 Stat. 305; 43 U.S.C. 975(d)).

3. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 702; 43 U.S.C. 1601, 1613).

4. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616), the following public easements referenced by easement identification number (EIN) on the easement map in case file F-14829-EE are reserved to the United States and subject to further regulation thereby:

a. (EIN 3 C1) A streamside easement, twenty-five (25) feet in width, along both banks of the Anaktuvuk River for public recreational use as it traverses village selected lands. This easement also includes the river bed.

b. (EIN 6 L, C4 (6a, 6b, 6c)) A series of trails in the John River and Anaktuvuk River areas for use by the public to gain access to isolated parcels of public land. The use of these trails is to be controlled by applicable State or Federal law or regulation.

6a. An existing trail, twenty-five (25) feet in width, as it traverses village selected lands, following the winter road known as the Hickel Highway closely paralleling the Anaktuvuk River and going on through Anaktuvuk Pass south through the John River drainage.

6b. A proposed trail, fifty (50) feet in width, roughly paralleling the left bank of Kollutarak Creek as it traverses village selected lands. The trail begins near the confluence of the John River and Kollutuk Creek and leads in a northwesterly direction to Chandler Lake where it joins trial 6c.

6c. A proposed trail, fifty (50) feet in width, as it traverses village selected lands, between the John River drainage and the Upper Chandler Lake area. The trail roughly follows Ekokpuk Creek along its left bank.

c. (EIN 19 C5 (19, 19b, 19c, 19d, 19f)) A series of proposed spur trails, as they traverse village selected lands, that branch off of trail 6a, and lead to isolated blocks of public land. The use of these trails is to be controlled by applicable State or Federal law or regulation.

19a. A spur trail, twenty-five (25) feet in width, which proceeds from the Anaktuvuk River area in protracted T. 13 S., R. 3 E., Umiat Meridian, and continues westerly up the right bank of Akmagolik Creek to public lands in protracted section 1, T. 14 S., R. 1 E., Umiat Meridian.

19b. A spur trail, twenty-five (25) feet in width which proceeds up the left bank of Akvalutak Creek to public lands near Mount Stuver.

19c. A spur trail, twenty-five (25) feet in width, that leaves the village airstrip at Anaktuvuk Pass in protracted T. 15 S., R. 2 E., Umiat Meridian, and travels eastward, proceeding up the left bank of the Anaktuvuk River, with two branches leading into public lands in protracted T. 16 S., R. 3 E., Umiat Meridian.

19d. A short branch trail, twenty-five (25) feet in width, that leaves trail 6a in the John River drainage and provides access to public lands in protracted T. 16 S., R. 1 E., Umiat Meridian.

19f. A proposed trail, twenty-five (25) feet in width, branching off trail 6c, roughly paralleling the right bank of Masu Creek and then proceeding in a northeasterly direction to protracted section 4, T. 16 S., R. 1 W., Umiat Meridian.

d. (EIN 22 C5) A streamside easement, twenty-five (25) feet in width, for public recreational use, along both banks of the John River extending from the north end of the airstrip at Anaktuvuk Pass southwesterly through the selection area. This easement also includes the river bed. The easement includes a proposed trail, twenty-five (25) feet in width, connecting the Anaktuvuk Pass village airstrip with the streamside easement. The use of the trail is to be controlled by applicable State or Federal law or regulation.

e. (EIN 23 C) The right of the United States to enter upon the lands herein granted for cadastral, geodetic, or other survey purposes is reserved, together with the right to do all things necessary in connection therewith.

f. (EIN 24 C) Easements for the transportation of energy, fuel, and natural resources which are the property of the United States or which are intended for delivery to the United States or which are produced by the United States. These easements also include the right to build any related facilities necessary for the exercise of the right to transport energy, fuel, and natural resources including those related facilities necessary during periods of planning, locating, constructing, operating, maintaining, or terminating transportation systems. The specific location of these easements shall be determined only after consultation with the owner of the servient estate. Whenever the use of such easements will require removal or relocation of any structure owned or authorized by the owner of the servient estate, such use shall not be initiated without the consent of the owner of such improvement; provided, however, that the United States may exercise the right of eminent domain if such consent is not given. Only those portions of these easements that are actually in use or that are expressly authorized on March 3, 1996, shall continue to be in force.

The grant of lands by the interim conveyance shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands.

2. Valid existing rights therein, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act (72 Stat. 339, 341)), contract, permit, right-of-way, or easement and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him.

3. Requirements of section 14(c) of the Alaska Native Claims Settlement Act (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions of land hereinafter granted, as are prescribed in said section.

4. The terms and conditions of the agreement dated August 6, 1976 between the Secretary of the Interior, Arctic Slope Regional Corporation, Nunamiut Corporation, and the seven other Arctic Slope village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for Nunamiut Corporation, serialized F-14829-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

5. F-030468, airport lease located in protracted sections 17, 18, and 19, T. 15 S., R. 2 E., Umiat Meridian.

Interim conveyance of the remaining entitlement to Nunamiut Corporation will be made at a later date. Interim conveyance to the subsurface estate of the land described above will be issued to the Arctic Slope Regional Corporation pursuant to section 14(f) of the act, when conveyance is issued to Nunamiut Corporation for the surface estate.

No water bodies in the selected area are determined to be navigable by reason of travel, trade, or commerce.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, and with a copy served upon the Bureau of Land Management and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501; also:





1. Any party receiving actual notice of this decision shall have 30 days from the receipt of actual notice to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign a receipt for actual notice, shall have until August 24, 1977 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived his rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of, and requirements for, filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

ROBERT E. SORENSON,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77 21249 Filed 7-22-77;8:45 am]

## Geological Survey

### COAL LAND CLASSIFICATION ORDER WYOMING NO. 153

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

SIXTH PRINCIPAL MERIDIAN

COAL LANDS

T. 18 N., R. 97 W.,
Sec. 4, lots 7 and 8, S½NW¼, W½SW¼;
Secs. 5 and 6;
Sec. 7, lots 1 and 2, NE¼, E½ NW¼;
Sec. 8, NW¼NE¼, N½NW¼, SW¼NW¼.
T. 19 N., R. 94 W.,
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼ NW¼, E½SW¼, NW¼SE¼;
Sec. 7, lots 2 to 4, inclusive, E½SW¼, W½ SE¼;
Sec. 18;
Sec. 19, lots 1 to 4, inclusive, NE¼, E½W½, W½SE¼;
Sec. 30, lot 1.
T. 19 N., R. 95 W.,
Secs. 1 to 18, inclusive;
Sec. 19, NE¼NE¼;
Sec. 20, N½, NE¼SW¼, SE¼;
Sec. 21;
Sec. 22, N½, NW¼SW¼;
Secs. 23 and 24;
Sec. 25, N½NE¼, SW¼NE¼, N½NW¼, SE¼NW¼;
Sec. 26, N½NE¼.
T. 19 N., R. 96 W.,
Secs. 1 to 20, inclusive;
Sec. 21, W½E½, W½;
Sec. 28, NW¼NE¼, NW¼, N½SW¼, SW¼ SW¼;
Secs. 29 and 30;
Sec. 31, N½NE¼;
Sec. 32, NW¼NE¼, N½NW¼.
T. 19 N., R. 97 W.,
Secs. 1 to 24, inclusive;
Sec. 25, N½N½;
Sec. 26, N½NE¼, NE¼NW¼;
Sec. 28, W½;
Secs. 29 to 32, inclusive;
Sec. 33, W½.
T. 20 N., R. 92 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Sec. 30.
T. 20 N., R. 93 W.,
Secs. 1 to 20, inclusive;
Sec. 21, N½, N½SW¼, SW¼SW¼, SE¼;
Sec. 22;
Sec. 23, N½, N½S½, SW¼SW¼;
Sec. 24, N½, N½SW¼, NW¼SE¼;
Sec. 29, NW¼NE¼, N½NW¼;
Sec. 30, lot 1, N½NE¼, NE¼NW¼.
T. 20 N., R. 94 W.,
Secs. 1 to 24, inclusive;
Sec. 25, N½NE¼, SW¼NE¼, NW¼, NW¼ SW¼;
Sec. 26, N½, N½S½;
Sec. 27, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 28, N½, SW¼, NW¼SE¼;
Secs. 29 to 31, inclusive;
Sec. 32, N½, SW¼, NW¼SE¼.
T. 20 N., R. 95 W.
T. 20 N., R. 96 W.

The area described aggregates 136,095 acres (55,078 ha), more or less, of which all are classified as coal land.

Dated: July 19, 1977.

W. A. RADLINSKI,
*Acting Director.*

[FR Doc.77-21288 Filed 7-22-77;8:45 am]

## COLOWYO COAL CO.

### Proposed Approval of Mine Plan

In accordance with the requirements of 30 CFR 211.5(c)(2), notice is hereby given that Colowyo Coal Company, a subsidiary of W. R. Grace and Company and Hanna Mining Company, 1935 E. Prentice Avenue, Building 40, Englewood, Colorado 80110, has submitted a mining plan to mine coal by open pit mining methods on Federal coal lease Denver 034365. The open pit plan was initially submitted to the Area Mining Supervisor on July 13, 1974. A modified mine plan was submitted on April 30, 1975. On May 23, 1977, an updated mine plan to comply with 30 CFR 211.10 was filed with the Area Mining Supervisor.

The Colowyo open pit mine will affect all or parts of secs. 2, 3, 4, 9, and 10 of T. 3 N., R. 93 W., 6th P.M. The plan covers mining 90 million tons of coal at the rate of 3 million tons per year for 30 years.

The plan was included in the Northwest Colorado Coal Environmental Impact Statement which was filed with the President's Council on Environmental Quality (CEQ) on January 10, 1977.

The purpose of this notice is to inform the public that the Mining Supervisor proposes to approve the mining plan. Any person having an interest, which is or may be adversely affected by this action, may request a public meeting in writing. Requests should include the name and address of the requestor and should be submitted to the Area Mining Supervisor, Conservation Division, U.S. Geological Survey, P.O. Box 25046, Stop 602, Denver Federal Center, Denver, Colorado 80225. All requests should be made by August 15, 1977. No decision on the mining plan will be made prior to 20 days from the date of publication of this notice (August 15, 1977).

Public meetings were held in preparation of the NW Colorado EIS. The Department may, after reviewing the comments on the plan, determine that as permitted by 30 CFR 211.5(c)(4) no additional public meetings will be required.

Dated: July 18, 1977.

W. A. RADLINSKI,
*Acting Director.*

[FR Doc.77-21289 Filed 7-22-77;8:45 am]

## DECKER COAL CO.

### Proposed Approval of Mine Plans

In accordance with the requirements of 30 CFR 211.5(c)(2), notice is hereby given that Decker Coal Company, P.O. Box 746, Sheridan, Wyoming 82801, has submitted mining plans to mine coal by surface mining methods on the following Federal Coal Leases: Montana 061685, Montana 057934, Montana 057934-A, Montana 073093, and Montana 06770.

The mining plan for East Decker was initially received for review by the Area Mining Supervisor on April 25, 1975. The plan proposes opening a new operation east of the Tongue River Reservoir on secs. 12, 13, and 14, T. 9 S., R. 40 E., and secs. 7, 8, 17, and 18, T. 9 S., R. 41 E. The plan proposes a peak production of about 8 million tons per year from 1980 to 1997.

The mining plan for the North Extension was initially received for review by the Area Mining Supervisor on May 28, 1975. The mining plan proposes extending the operations of the present Decker Mine into secs. 33 and 34, T. 8 S., R. 40 E., and secs. 3, 4, 9, and 10, T 9 S., R. 40 E. Production from this area will be about 2.3 million tons per year.

The purpose of this notice is to inform the public that the Mining Supervisor proposes to approve the mining plans. An Environmental Impact Statement on the two mines was filed with the President's Council on Environmental quality on June 13, 1977. Under CEQ guidelines, the Mining Supervisor will not take approval action until at least 30 days after the EIS is submitted to the CEQ and after Secretarial review and concurrence. Any person having an interest, which is or may be adversely affected by this action, may request a public meeting in writing. Requests should include the name and address of the requestor and should be submitted to the Area Mining Supervisor, Conservation Division, U.S. Geological Survey, P.O. Box 2550, Billings, Montana 59103. All requests should be made by August 15, 1977. No decision on the mining plan will be made prior to 20 days from the date of publication of this notice (August 15, 1977)

The Department held public meetings on the mine plans November 16, 17, and 18, 1976. The Department may, after reviewing the comments on the plan, determine that as permitted by 30 CFR



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211.5(c)(4) no additional public meetings will be required.

Dated: July 18, 1977.

W. A. RADLINSKI,
*Acting Director.*

[FR Doc.77-21285 Filed 7-22-77;8:45 am]

## ENERGY FUELS CORP.

### Proposed Approval of Mine Plan

In accordance with the requirements of 30 CFR Part 211.5(c)(2), notice is hereby given that Energy Fuels Corporation, 3 Park Central, Suite 443, 1515 Arapahoe Street, Denver, Colorado 80202, has submitted a modification to its approved mining plan to mine coal by strip mining methods on Federal coal leases Colorado 081330, 0128433, and Denver 052547. The mining plan was initially approved on October 16, 1962, and the mine has continued operations since that date. A modification was submitted to the Area Mining Supervisor on February 17, 1977, to comply with the Coal Mining Operating Regulations 30 CFR 211. The Energy Mine of Energy Fuels Corporation is an ongoing strip mine in secs. 28, 29, 31, 32, and 33, T. 5 N., R. 86 W., and secs. 8, 17 and 18, T. 4 N., R. 86 W., 6th P.M. The modification proposes expansion of the current operations and extending the mine into secs. 20 and 21, T. 5 N., R. 86 W. The plan covers mining of 2.3 million tons of coal per year from Federal leases through the year 1984.

The plan was included in the Northwest Colorado Coal Environmental Impact Statement which was filed with the President's Council on Environmental Quality (CEQ) on January 10, 1977.

The purpose of this notice is to inform the public that the Mining Supervisor proposes to approve the mining plan. Any person having an interest, which is or may be adversely affected by this action, may request a public meeting in writing. Requests should include the name and address of the requestor and should be submitted to the Area Mining Supervisor, Conservation Division, U.S. Geological Survey, P.O. Box 25046, Stop 602, Denver Federal Center, Denver, Colorado 80225. All requests should be made by August 15, 1977. No decision on the mining plan will be made prior to 20 days from the date of publication of this notice (August 15, 1977).

Public meetings were held in preparation of the NW Colorado EIS. The Department may, after reviewing the comments on the plan, determine that as permitted by 30 CFR 211.5(c)(4) no additional public meetings will be required.

Dated: July 18, 1977.

W. A. RADLINSKI,
*Acting Director.*

[FR Doc.77-21284 Filed 7-22-77;8:45 am]

## PEABODY COAL CO.

### Proposed Approval of Mine Plan

In accordance with the requirements of 30 CFR Part 211.5(c)(2), notice is hereby given that Peabody Coal Company, 301 North Memorial Drive, St. Louis, Missouri 63102, has submitted a plan to mine by strip mining methods coal from Federal coal leases Colorado 081251 and 081258. The mining plan was initially received for review by the Area Mining Supervisor on March 20, 1974. On May 13, 1977, the company submitted an updated mine plan to comply with the Coal Mining Operating Regulations, 30 CFR 211.

The Seneca 2-W Mine is proposed as an expansion of Peabody Coal Company's current Seneca operations. The area to be mined includes parts of secs. 14, 15, 22, 23, 26, 34, and 35 in T. 5 N., R. 88 W. 6th P.M. The mine plan is designed for the production of 900,000 tons of coal per year for the time period 1980 through 1995.

The plan was included in the Northwest Colorado Coal Environmental Impact Statement which was filed with the President's Council on Environmental Quality (CEQ) on January 10, 1977.

The purpose of this notice is to inform the public that the Mining Supervisor proposes to approve the mining plan. Any person having an interest, which is or may be adversely affected by this action, may request a public meeting in writing. Requests should include the name and address of the requestor and should be submitted to the Area Mining Supervisor, Conservation Division, U.S. Geological Survey, P.O. Box 25046, Stop 602, Denver Federal Center, Denver, Colorado 80225. All requests should be made by August 15, 1977. No decision on the mining plan will be made prior to 20 days from the date of publication of this notice (August 15, 1977).

Public meetings were held in preparation of the NW Colorado EIS. The Department may, after reviewing the comments on the plan, determine that as permitted by 30 CFR 211.5(c)(4) no additional public meetings will be required.

Dated: July 18, 1977.

W. A. RADLINSKI,
*Acting Director.*

[FR Doc.77-21287 Filed 7-22-77;8:45 am]

## National Park Service

## ADVISORY BOARD ON NATIONAL PARKS, HISTORIC SITES, BUILDINGS AND MONUMENTS; OVERSIGHT COMMITTEE

### Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Oversight Committee of the Advisory Board on National Parks, Historic Sites, Buildings and Monuments will be held on Thursday, August 11, 1977, commencing at 10:30 a.m. in Room 3119 at the Department of the Interior, 18th and C Streets NW., Washington, D.C.

The purpose of the Advisory Board is to advise the Secretary of the Interior on matters relating to the National Park System and the administration of the Historic Sites Act of 1935.

The purpose of the meeting of the Oversight Committee is to consider items to be recommended to the Director of the National Park Service for inclusion on the agenda of the regular business meeting of the Advisory Board to be held on September 30 and October 1 at LBJ State Park, Tex. The Committee also will review the status of legislative proposals concerning the National Park System.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meeting, may contact Robert M. Landau, Assistant for Advisory Boards and Commissions, National Park Service, Washington, D.C., at 202-343-2012.

Minutes of the meeting will be available for public inspection 8 to 10 weeks after the meeting in Room 3013, Interior Building, Washington, D.C.

Dated: July 18, 1977.

ROBERT M. LANDAU,
*Assistant for Advisory Boards and Commissions, National Park Service.*

[FR Doc.77-21345 Filed 7-22-77;8:45 am]

[Int Des 77-20]

## BUFFALO NATIONAL RIVER, ARK.

### Proposed Wilderness Recommendation; Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for proposed wilderness recommendations for Buffalo National River, Ark., and invites written comments within forty-five (45) days of this notice. Written comments should be addressed to the Superintendent, Buffalo National River, at the address given below.

The draft environmental statement considers the wilderness designation of 10,529 acres of Federal land and the potential wilderness addition of 25,471 acres of non-Federal lands or lands which have non-Federal interests therein for a total of 36,000 acres in three separate units within the authorized boundary of the Buffalo National River.

Copies are available from or for inspection at the following locations:

Southwest Regional Office, National Park Service, Old Santa Fe Trail, P.O. Box 728, Santa Fe, N. Mex. 87501.
Superintendent, Buffalo National River, P.O. Box 1173, Harrison, Ark. 72601.
Superintendent, Hot Springs National Park, P.O. Box 1860, Hot Springs, Ark. 71901.

Dated: June 29, 1977.

LARRY E. MEIEROTTO,
*Deputy Assistant, Secretary of the Interior.*

[FR Doc.77-21338 Filed 7-22-77;8:45 am]





## CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION

### Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, August 19, 1977, at 1:30 p.m., at the Headquarters Building, Cape Cod National Seashore, Marconi Station Area, South Wellfleet, Mass.

The Commission was established pursuant to Pub. L. 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The Commission will consider the following matters: (1) Proposed integrated trail system; (2) in-lieu-of-tax payments to towns; and (3) study of concessions operation. The Superintendent will report on a variety of matters relating to Seashore programs and operations.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to Commission members. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Lawrence C. Hadley, Superintendent, Cape Cod National Seashore, South Wellfleet, Mass. 02663; telephone 617-349-3785. Minutes of the meeting will be available for public information and copying four weeks after the meeting at the office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Mass.

Dated: July 13, 1977.

JACK E. STARK,
*Regional Director, North Atlantic Region.*

[FR Doc.77-21346 Filed 7-22-77;8:45 am]

## CAPE HATTERAS FISHING PIER, INC.

### Intention to Negotiate Concession Contract

Pursuant to the provision of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on August 24, 1977, the Department of the Interior, through the Director, National Park Service, proposes to negotiate a concession contract with Cape Hatteras Fishing Pier, Inc., authorizing it to continue to provide concession facilities and services for the public within Cape Hatteras National Seashore, for a period of five (5) years from January 1, 1978, through December 31, 1982.

An analysis of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental analysis may be reviewed in the Southeast Regional Office, National Park Service, 1895 Phoenix Blvd., Atlanta, Ga. 30349.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1977, and, therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Cape Hatteras Fishing Pier, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and preference in the award of the new contract, if the offer of Cape Hatteras Fishing Pier, Inc., is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before August 24, 1977.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: June 30, 1977.

WILLIAM J. WHALEN,
*Director, National Park Service.*

[FR Doc.77-21344 Filed 7-22-77;8:45 am]

## CHICAMACOMICO ENTERPRISES, INC.

### Intention to Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on August 24, 1977, the Department of the Interior, through the Director, National Park Service, proposes to negotiate a concession contract with Chicamacomico Enterprises, Inc., authorizing it to continue to provide concession facilities and services for the public within Cape Hatteras National Seashore for a period of five (5) years from January 1, 1978, through December 31, 1982.

An analysis of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental analysis may be reviewed in the Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, Ga. 30349.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1977, and, therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Chicamacomico Enterprises, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and preference in the award of the new contract, if the offer of Chicamacomico Enterprises, Inc., is substantially equal to others. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before August 24, 1977.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: July 1, 1977.

WILLIAM J. WHALEN,
*Director, National Park Service.*

[FR Doc.77-21343 Filed 7-22-77;8:45 am]

## CUYAHOGA VALLEY NATIONAL RECREATION AREA ADVISORY COMMISSION

### Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Cuyahoga Valley National Recreation Area Advisory Commission will be held at 7:30 p.m. (e.d.t.), August 25, 1977, at the Brecksville City Hall Community Room, 9069 Brecksville Road, Brecksville, Ohio.

The Commission was established by Pub. L. 93-555 to meet and consult with the Secretary of the Interior on matters relating to the development of the Cuyahoga Valley National Recreation Area and with respect to carrying out the provisions of the Public Law.

The members of the Commission are as follows:

Mrs. Robert F. Warren (Chairman)
Mr. Courtney Burton
Mr. Norman A. Godwin
Mr. Donald W. Haskett
Mr. Robert L. Hunker
Mr. James S. Jackson
Mr. Melvin J. Rebholz
Mrs. Roger Rossi
Mrs. George N. Seltzer
Ms. Robbie Stillman
Mr. Barry K. Sudgen
Mr. Robert W. Teater
Mr. William O. Walker

This meeting will be devoted to a discussion of public and quasipublic lands within the authorized boundaries of Cuyahoga Valley National Recreation Area. Reports on the status of land acquisition and operations will also be presented.

The meeting will be open to the public. It is expected that about 100 persons in addition to members of the Commission will be able to attend this meeting. Interested persons may submit written statements. Such statements should be submitted to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from William C. Birdsell, Superintendent, Cuyahoga Valley National Recreation Area, P.O.



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Box 158, Peninsula, Ohio 44264, telephone: 216–653–9036. Minutes of the meeting will be available for public inspection three weeks after the meeting at the office of Cuyahoga Valley National Recreation Area, located at 501 West Streetsboro Road (State Route 303), two miles east of Peninsula, Ohio.

Dated July 18, 1977.

MERRILL D. BEAL,
*Regional Director,*
*Midwest Region.*

[FR Doc.77-21350 Filed 7-22-77;8:45 am]

## GENERAL MANAGEMENT PLAN; GREAT SMOKY MOUNTAINS NATIONAL PARK, N.C. AND TENN.

### Availability of Environmental Review on Environmental Assessment

In January 1977, the National Park Service completed and placed on public review an Environmental Assessment on the General Management Plan for Great Smoky Mountains National Park. Public meetings were held in the vicinity of the park in February 1977.

After making an Environmenatl Review of the alternatives presented in the assessment and after public comment thereon, the National Park Service determined that this proposal would have a significant effect on the human environment; therefore, an Environmental Impact Statement will be prepared and will be available for public review in the spring of 1978.

Anyone needing additional information or wishing to provide information for consideration during preparation of the statement, please advise the Superintendent, Great Smoky Mountains National Park, Gatlinburg, Tenn. 37738, telephone: 615–436–5615, or the Regional Director, Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, G. 30349, telephone: 404–986–2520. Copies of the Environmental Review may be obtained from the above locations.

Dated June 21, 1977.

DAVID D. THOMPSON, Jr.,
*Regional Director,*
*Southeast Region.*

[FR Doc.77-21342 Filed 7-22-77;8:45 am]

## MID-ATLANTIC REGIONAL ADVISORY COMMITTEE

### Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Mid-Atlantic Regional Advisory Committee will be held at 8:30 a.m., e.d.t., on August 23, 24, 1977, at the office of the Regional Director, Mid-Atlantic Region, at 143 South Third Street, Philadelphia, Pa.

The Committee was established pursuant to Pub. L. 91–383 to provide for the free exhange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on programs pertinent to the Mid-Atlantic Region of the National Park Service.

The members of the Committee are as follows:

Mr. Hyman J. Cohen
Mrs. Beverly B. Fluty
Mrs. Otto F. Haas
Dr. M. Graham Netting
Mr. Meade Palmer
Mrs. A. St. Clair Wright

The matters to be discussed at this meeting include:

The Land Heritage Program in the Region
Urban Impact on Parks
Chatham House at Fredericksburg
National Historic Landmark Inspections

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file with the Committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact George A. Palmer, Special Assistant to the Regional Director, Mid-Atlantic Regional Office at 215–597–7015. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Mid-Atlantic Region, 143 South Third Street, Philadelphia, Pa. 19106.

Dated: July 12, 1977.

BENJAMIN J. ZERBEY,
*Acting Regional Director, Mid-Atlantic Region, National Park Service.*

[FR Doc.77-21348 Filed 7-22-77;8:45 am]

## MINING PLAN OF OPERATION AT GLEN CANYON NATIONAL RECREATION AREA

### Availability

Notice is hereby given that pursuant to the provisions of section 2 of the act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of Section 9.17 of 36 CFR Part 9, Century XXI Mining, Inc., has filed a plan of operations in support of proposed mining activities on lands embraced by mining claim locations within the Glen Canyon National Recreation Area. This plan is available for public inspection during normal business hours at the Glen Canyon National Recreation Area Headquarters, 337 North Navajo Drive, Page, Ariz.

Dated: May 31, 1977.

TEMPLE A. REYNOLDS,
*Superintendent, Glen Canyon National Recreation Area.*

[FR Doc.77-21349 Filed 7-22-77;8:45 am]

## PEST CONTROL PROGRAM

### Availability of Environmental Assessment

Pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4332), the National Park Service has prepared an environmental assessment on its Pest Control Program. The assessment addresses itself to all aspects of pest control activities that are currently carried out. Special attention is given to the role of pesticides and other chemicals and their relative impacts on the environment. Also discussed are the mechanical and biological methods that are used in the pest control program.

The environmental assessment examines the effects of alternative courses of action including those of taking no action. The assessment also includes and analyzes the impacts of proposed guidelines for operation of the Service's pest control program in the future.

The environmental assessment is on file and will be available upon request for inspection at the following National Park Service offices:

North Atlantic Regional Office, 150 Causeway St., Boston, Mass. 02114.
Mid-Atlantic Regional Office, 143 S. Third St., Philadelphia, Pa. 19106.
National Capital Regional Office, 1100 Ohio Dr. SW., Washington, D.C. 20242.
Southeast Regional Office, 1895 Phoenix Blvd., Atlanta, Ga. 30349.
Midwest Regional Office, 1709 Jackson St., Omaha, Nebr. 68102.
Rocky Mountain Regional Office, 655 Parfet St., P.O. Box 25287, Denver, Colo. 80225.
Southwest Regional Office, P.O. Box 728, Old Santa Fe Trail, Santa Fe, N. Mex. 87501.
Pacific Northwest Regional Office, 523 Fourth and Pike Building, Seattle, Wash. 98101.
Western Regional Office, 450 Golden Gate Ave., Box 36063, San Francisco, Calif. 94102.

Copies of the assessment are available and can be obtained from the Chief, Natural Resources Management Division, National Park Service, 18th and C Streets NW., Washington, D.C. 20240. Comments will be accepted until September 5, 1977.

Dated: July 14, 1977.

WILLIAM J. WHALEN,
*Director, National Park Service.*

[FR Doc.77-21344 Filed 7-22-77;8:45 am]

## SOUTHEAST REGIONAL ADVISORY COMMITTEE

### Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a combined meeting and field trip of the Southeast Regional Advisory Committee will be held on September 1, 1977, at 9 a.m. at the headquarters of Vicksburg National Military Park, Vicksburg, Mississippi, and on September 2 at 9 a.m. at the Ramada Inn, 130 John R. Junkin Drive, Natchez, Miss.

The purpose of the Southeast Regional Advisory Committee is to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems and programs pertinent to the Southeast Region of the National Park Service.

The members of the Advisory Committee are as follows:

Dr. John M. King (Chairman), Jackson, Miss.
Mr. Robert Gable (Secretary), Frankfort, Ky.
Mrs. Ann Smith Bedsole, Mobile Ala.
Mr. Tutt S. Bradford, Maryville, Tenn.
Dr. Arthur W. Cooper, Raleigh, N.C.
Dr. Michael V. Gannon, Gainesville, Fla.
Mr. Charles Edward Lee, Columbia, S.C.
Mrs. Jane Hurt Yarn, Atlanta, Ga.

The matters to be discussed at the meetings include:

1. Restoration and exhibition of the Gunboat Cairo.
2. Preservation alternatives for Fort Jefferson.
3. Natchez Trace Parkway operations and construction.

After meeting at Park Headquarters on September 1, the committee will tour the park and view the Gunboat Cairo, then travel to Natchez, Miss. After meeting at the Ramada the morning of September 2, the committee will view the Natchez Terminus area in the afternoon.

The meetings will be open to the public. However, facilities and space for accommodating members of the public are limited and it is expected that not more than 25 persons will be able to attend. Space will not be available for members of the public on the committee tours. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact Paul C. Swartz, Chief, Cooperative Services Division, Southeast Regional Office, at 404–996–2520, extension 253. Minutes of the meeting will be available for public inspection at the Southeast Regional Office, 1895 Phoenix Boulevard, Atlanta, Ga. 30349, approximately four weeks after the meeting.

Dated: July 13, 1977.

DAVID D. THOMPSON, Jr.,
*Regional Director,*
*Southeast Region.*

[FR Doc.77-21347 Filed 7-22-77;8:45 am]

## Office of the Secretary

## FOSSIL-FUELED STEAM ELECTRIC GENERATING STATIONS

### Guidelines for Preparation of Environmental Reports; Availability of Final Report

Notice is hereby given that United Engineers and Constructors, Inc., of Philadelphia, Pennsylvania, has recently completed a final report on Guidelines for the Preparation of Environmental Reports for Fossil-Fueled Steam Electric Generating Stations. The report applies only to the actual site and facilities of the generating station itself. It was prepared under contract to the Department of the Interior, Office of Water Research and Technology with technical advice from the Office of Environmental Project Review, under Contract Number 14–31–0001–5238.

The Department is considering the promulgation of Departmental guidelines, based upon the above final report, in order to provide utilities with advance notice of the Department's needs for environmental information to be filed with an application associated with a fossil-fueled powerplant.

Copies of the final report may be examined at the following locations:

Office of Environmental Project Review, Room 4256, Interior Building, Washington, D.C. 20240.
William P. Patterson, Regional Environmental Officer, Department of the Interior, c/o Geological Survey, Room 1304, 150 Causeway Street, Boston, Massachusetts 02114.
James H. Lee, Regional Environmental Officer, Department of the Interior, Suite 410, 148 International Boulevard NE., Atlanta, Georgia 30303.
David L. Jervis, Regional Environmental Officer, Department of the Interior, Suite 217, 2510 Dempster Street, Des Plaines, Illinois 60016.
Raymond P. Churan, Regional Environmental Officer, Department of the Interior, Post Office Box 2088, Suite 800, 5301 Central Avenue, N.E., Albuquerque, New Mexico 87103.
John E. Raybourn, Regional Environmental Officer, Department of the Interior, Room 690, Building 67, Denver Federal Center, Denver, Colorado 80225.
Charles S. Polityka, Regional Environmental Officer, Department of the Interior, Post Office Box 3737, 1500 N.E. Irving Street, Portland, Oregon 97208.
Paul D. Gates, Regional Environmental Officer, Department of the Interior, Post Office Box 120, Room 233, 1675 C Street, Anchorage, Alaska 99510.

Copies of the final report may also be purchased through NTIS, Order Number PB266071 for $6.75 per copy.

All comments received within 60 days by the Director, Office of Environmental Project Review, Room 4256, main Interior Building, Washington, D.C. 20240, will be considered.

Dated: July 18, 1977.

LARRY E. MEIEROTTO,
*Deputy Assistant Secretary of the Interior.*

[FR Doc.77-21251 Filed 7-22-77;8:45 am]

[INT FES 77-24]

## WILSON'S CREEK NATIONAL BATTLEFIELD, MISSOURI

### Master Plan; Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the master plan, Wilson's Creek National Battlefield.

The environmental statement considers the probable effects of implementation of the plan upon the natural, socioeconomic and cultural components of the environment of the Battlefield, located in Greene and Christian Counties, Missouri.

Copies of the final environmental statement are available from or for inspection at the following locations:

Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebr. 68102.
Superintendent, George Washington Carver National Monument, P.O. Box 38, Diamond, Mo. 64840.
Management Assistant, Wilson's Creek National Battlefield, Rurnl Route 2, Box 75, Republic, Mo. 65738.

Dated: July 7, 1977.

LARRY E. MEIEROTTO,
*Deputy Assistant Secretary of the Interior.*

[FR Doc.77-21337 Filed 7-22-77;8:45 am]

## INTERNATIONAL TRADE COMMISSION

[337-TA-31]

## STEEL TOY VEHICLES

### Amendment of Notice of Investigation

A complaint was filed with the United States International Trade Commission on March 11, 1977, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and the complaint was amended on March 24, 1977, on behalf of Tonka Corporation, 10505 Wayzata Boulevard, Hopkins, Minn. 55343, alleging that unfair methods of competition and unfair acts exist in the importation of certain steel toy vehicles into the United States, or in their sale, by reason of the alleged coverage of such steel toy vehicles by all claims of U.S. Letters Patent Nos. 3,462,879 and 3,730,594, and by reason of their simulation of the size, appearance, and design of certain domestically manufactured products of said Tonka Corporation in such a way as to pass off such steel toy vehicles as products of said Tonka Corporation. The complaint further alleged that the effect or tendency of the unfair methods of competition and unfair acts was to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Based on the March 24, 1977, amended complaint, a Notice of Investigation was printed in the FEDERAL REGISTER on April 15, 1977 (42 FR 19933).

A motion to amend its complaint (motion docket number 31–1) was filed on behalf of the complainant on May 27, 1977. Complainant moved to amend its complaint by additionally alleging infringement of U.S. Design Patent No. 225,251 for a toy vehicle cab design, and by amending paragraph 7 of the original complaint to delete reference to certain wheeled vehicles inadvertently listed as utilizing the tire construction of U.S. Patent No. 3,730,594. The Commission received an Order Certifying Complainant's Motion to Amend the Complaint from the presiding officer on June 9, 1977. Said Order recommended that complainant's motion be granted.

Having considered the motion, the response to said motion, and the presiding officer's recommendation, the United States International Trade Commission on June 23, 1977, voted to grant the complainment's motion thereby allowing the addition of allegations of infringement of U.S. Design Patent No. 225,251 for a toy vehicle cab design, and the amendment of paragraph 7 of the original complaint to delete reference to certain wheeled vehicles inadvertently listed as utilizing the tire construction of U.S. Patent No. 3,730,594. Therefore, *it is hereby ordered:*



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That the Notice of Investigation issued in connection with Investigation No. 337–TA–31 is amended to reflect the amendments of the complaint as granted on June 23, 1977.

The Order Certifying Complainant's Motion to Amend the Complaint is available for inspection by interested persons at the Office of the Secretary, located in the United States International Trade Commission Building, Washington, D.C. 20436, and in the New York City Office of the Commission, located at 6 World Trade Center.

Issued: July 20, 1977.

By order of the Commission.

KENNETH R. MASON,
*Secretary.*

[FR Doc.77-21365 Filed 7-22-77;8:45 am]

## DEPARTMENT OF JUSTICE

### Antitrust Division

### PROPOSED CONSENT JUDGMENT IN UNITED STATES v. PARKER-HANNIFIN CORPORATION AND COMPETITIVE IMPACT STATEMENT THEREON

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a proposed Final Judgment and a Competitive Impact Statement as set out below have been filed with the United States District Court for the Northern District of Ohio, Eastern Division, in Civil Action No. C 72–493, *United States of America* v. *Parker-Hannifin Corporation*. The Complaint in this case alleges that the merger of Parker-Hannifin Corporation (Parker) and Ideal Corporation (Ideal) violated Section 7 of the Clayton Act. The Complaint alleges that the effect of the merger of Parker and Ideal may be to substantially lessen competition in both the tire hardware and the worm-drive hose clamp markets.

The proposed Judgment requires Parker to divest itself of the Acme Air Appliance Co., Inc., a wholly-owned subsidiary of Ideal which manufactures and sells tire hardware. In the event Parker does not complete the divestiture within two (2) years from the entry of the proposed Judgment, then, upon application of the United States, the Court will appoint a trustee to accomplish the divestiture. Regardless of whether the United States applies for such appointment, the United States retains the right to request other remedies from the Court, such as a finding of contempt of Court for failure to divest within the two (2) year period. Parker and Ideal would also be prohibited, for a two (2) year period after entry of the proposed Judgment, from offering to combine certain Parker and Ideal products with worm-drive hose clamps manufactured by Ideal with the result that a customer may obtain pooled quantity discounts or meet minimum freight requirements. In addition, Parker and Ideal would be enjoined for ten (10) years from directly or indirectly acquiring entities engaged in whole or in part in the manufacture of stated tire hardware products or worm-drive hose clamps.

Public comment is invited on or before September 19, 1977. Such comments and the responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to John A. Weedon, Chief, Great Lakes Field Office, Department of Justice, Antitrust Division, 995 Celebrezze Federal Building, Cleveland, Ohio 44199.

Dated: July 15, 1977.

JOHN H. SHENEFIELD,
*Acting Assistant Attorney General, Antitrust Division.*

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO, EASTERN DIVISION

United States of America, plaintiff, v. Parker-Hannifin Corporation, defendant. (Civil No. C 72–493; Judge John M. Manos; filed: July 15, 1977.)

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A final judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to either party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendant and by filing that notice with the Court.

2. In the event Plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff and defendant in this and any other proceeding.

For the plaintiff: United States of America. John H. Shenefield, Acting Assistant Attorney General; William E. Swope, Charles F. B. McAleer, John A. Weedon, Kenneth L. Jost, Gerald H. Rubin, Joan Farragher, Saundra B. Wallack, William J. Oberdick, Attorneys, Department of Justice, Antitrust Division, 995 Celebrezze Federal Building, Cleveland, Ohio 44199. Telephone 216–522–4076.

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United States Attorney.

For the defendant: Parker-Hannifin Corporation, Thompson, Hine and Flory.

By: John F. McClatchey, National City Bank Building, Cleveland, Ohio 44114.

Dated: July 15, 1977.

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO, EASTERN DIVISION

United States of America, plaintiff, v. Parker-Hannifin Corporation, Defendants. (Civil No. C 72–493; Judge John M. Manos, filed: July 15, 1977.)

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on May 15, 1972, and Defendant, Parker-Hannifin Corporation, having appeared by its attorney and filed its Answer denying the substantive allegations of the Complaint; and the Plaintiff and Defendant, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting evidence or an admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony and upon the consent of the parties hereto, it is hereby,

Ordered, adjudged and decreed:

I

This Court has jurisdiction of the subject matter herein and of the parties hereto. The Complaint states a claim upon which relief may be granted against the Defendant under Section 7 of the Clayton Act, 15 U.S.C. § 18.

II

As used in this Final Judgment:

(A) "Person" means any individual, corportation, partnership, firm, association or other business or legal entity;

(B) "Defendant" means Parker-Hannifin Corporation and all its subsidiaries and divisions, including Ideal Corporation;

(C) "Parker" means Parker-Hannifin Corporation and all tis subsidiaries and divisions, other than Ideal Corporation, but including persons acquired by Defendant after the entry of this Final Judgment;

(D) "Ideal" means Ideal Corporation, a wholly-owned subsidiary of Parker, as it existed on May 15, 1972;

(E) "Acme" means Acme Air Appliance Co., Inc. a subsidiary of Ideal;

(F) "Tire valve" means snap-in type or clamp-in type tubeless valves for use with pneumatic tires or type type valves for attachment to tire tubes;

(G) "Tire hardware" means tire valves, tire valve extensions, tire valve core housings, tire valve cores, air pressure gauges, air line gauge assemblies, air line gauges, tire pressure gauges, service gauges, air chucks, blow guns, automatic quick change couplers and nipples, and tire valve service and repair tools;

(H) "Worm-drive hose clamp" means a device consisting of a serrated steel band with a threaded worm-drive screw which fits into an attached housing and which can be turned in the ban's serration;

(I) "Pooled quantity discounts" means any reduction in purchase price due to the quantity of products purchased from Defendant;

(J) "Minimum freight requirements" means the price or poundage which a purchaser must exceed for Defendant to pay freight costs or any part thereof.

III

The provisions of this Final Judgment shall apply to Defendant, to its subsidiaries, divisions, and affiliates, to the officers, directors, agents, employees, successors and assigns of each, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

(A) Within two years of the date of entry of this Final Judgment, Defendant shall divest all of its interest, direct and indirect, in Acme, which shall be an ongoing entity competing in the automotive aftermarket and capable of continuing so to compete as of the date of the divestiture. Pending divestiture of Acme, Defendant shall not dispose of any asset of Acme other than in the ordinary course of business, and shall not for its own benefit encumber any asset of Acme.

(B) If two years after the date of entry of this Final Judgment, Defendant has not divested itself of Acme as provided in Paragraph (A) of this Section, then, in addition to any other remedy the Plaintiff may seek





from the Court, the Court, upon application of Plaintiff and notice to the Defendant, shall appoint a Trustee. For a period of 18 months from his appointment, the Trustee shall have full authority to dispose of Acme, subject to the supervision of this Court. Defendant shall continue to manage Acme subject to Plaintiff's right to seek from the Court an order giving the Trustee managerial authority. Defendant, upon the expiration of 18 months from the appointment of the Trustee, and in the event he has not disposed of Acme, shall, upon application of Plaintiff, immediately convey to the Trustee all of its interest in Acme. The Trustee shall thereafter have full authority to manage and dispose of Acme, subject to the supervision of this Court. The Trustee shall, as expeditiously as possible after his appointment, subject to the supervision of this Court after hearing the parties on any issue presented, dispose of Acme as an ongoing entity competing in the automotive aftermarket and capable of continuing so to compete. The fees and expenses of the Trustee shall be submitted to this Court for approval and payment by Defendant.

(c) The details of any proposed divestiture under Paragraph (A) of this Section shall be submitted to the Plaintiff. Following the receipt of such details and any additional information that it may request, Plaintiff shall have thirty (30) days in which to object to the proposed divestiture. If Plaintiff does not object, the proposed divestiture may be consummated; if Plaintiff objects, the proposed divestiture shall not be consummated until Defendant obtains an order of this Court approving the proposed divestiture or Plaintiff withdraws its objection.

V

Defendant shall, until the divestiture required by Section IV of this Final Judgment is completed:

(1) Maintain Acme in its present status as a separate and viable company;

(2) Make no changes in any of Defendant's recordkeeping which may hinder the divestiture of Acme;

(3) Maintain the existing production and and distribution facilities of Acme except for changes in the ordinary course of business;

(4) Maintain a sales organization for Acme that is separate from that of Parker;

(5) Maintain sufficient and adequate personnel at Acme separate and distinct from Defendant's other personnel and capable of managing Acme effectively after divestiture by Defendant;

(6) Preserve all existing competition between Acme and other subsidiaries of Defendant;

(7) Direct Acme to continue to publicize, sell, and advertise distinctly the name of Acme in connection with products made or distributed by Acme and not indicate Acme's affiliation with it to the detriment of third parties competing with Defendant, except that Acme will be known to be a subsidiary of Ideal or Parker;

(8) Deny its TPH Division and Acme access to the trade secrets, customer lists, supplier lists and prices of the other.

VI

(A) Defendant shall keep written memoranda of all inquiries it receives, whether written, oral, telephonic, or otherwise, from persons seeking information regarding the business to be divested pursuant to Section IV. The memoranda shall include the name, business address, and business telephone number of each person seeking information, and shall indicate the nature of the inquiry. Defendant's response to the inquiry, the date of the inquiry, and the date of Defendant's response.

(B) Beginning on the 90th day after entry of this Final Judgment, and on every 90th day thereafter until the divestiture ordered by Section IV has been completed, Defendant shall furnish a written report to Plaintiff which shall include:

(1) A list of all persons who contacted Defendant during the reporting period seeking information about the business to be divested pursuant to Section IV, plus copies of the memoranda required by Paragraph (A) of this Section;

(2) A description of steps taken during the reporting period to accomplish divestiture and of the status of all ongoing negotiations for the diverstiture of Acme, unless a trustee has been appointed pursuant to Section IV (B).

VII

For two years from the date of entry of this Final Judgment, Defendant shall not offer to combine products manufactured by Defendant (other than (a) products manufactured by Ideal and (b) products internally developed by Ideal), with worm-drive hose clamps manufactured by Ideal, with the result that a customer may obtain pooled quantity discounts or meet minimum freight requirements.

VIII

For a period of ten years from the date of entry of this Final Judgment, Defendant shall not directly or indirectly acquire any person engaged in whole or in part in the manufacture of any product named in Section II(G) or II(H) of this Final Judgment.

IX

(A) For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, any duly authorized representative of the Department of Justice shall be permitted, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the Defendant made to its principal office, subject to any legally recognized privilege:

(1) Access during Defendant's office hours to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Defendant relating to any of the matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of Defendant and without restraint or interference from it, to interview officers, directors, agents, partners or employees of Defendant, who may have counsel present, regarding any of the matters contained in this Final Judgment.

(B) Defendant, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing with respect to any matters contained in this Final Judgment as may from time to time be requested.

No information obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information or documents are furnished by Defendant to Plaintiff, Defendant represents and identifies in writing the material in any such information or documents of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by Plaintiff to Defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the Defendant is not a party.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or implementation, for the modification of any of the provisions, for the enforcement of compliance, and for the punishment of violations of this Final Judgment.

XI

Entry of this Final Judgment is in the public interest.

Dated: ----------, 1977.

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*United States District Judge.*

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO, EASTERN DIVISION

*United States of America*, plaintiff, v. *Parker-Hannifin Corporation*, defendant.

Civil No. C 72–493.
*Judge* John M. Manos
Filed: July 15, 1977.

COMPETITIVE IMPACT STATEMENT

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

NATURE AND PURPOSE OF THE PROCEEDING

On May 15, 1972, the United States instituted a civil action against Parker-Hannifin Corporation ("Parker") under Section 15 of the Act of Congress of October 15, 1914, as amended (15 U.S.C. § 25), commonly known as the Clayton Act, to prevent and restrain the continuing violation by Parker of Section 7 of the Clayton Act, as amended (15 U.S.C. § 18). The Complaint alleged that the 1971 merger of Parker with the Ideal Corporation ("Ideal") violated Section 7 of the Clayton Act by eliminating actual and potential competition between Parker and Ideal in the markets discussed below, and that Ideal's leading market position in the manufacture and sale of worm-drive hose clamps may be entrenched by the merger. The Complaint requested the merger be declared unlawful, and that Parker be required to divest itself of Ideal.

II

THE EVENTS GIVING RISE TO THE ALLEGED VIOLATION

Parker is an Ohio corporation which had $211 million in sales in 1970. In 1975, Parker's sales were about $411 million. Parker is engaged in the manufacture and sale of products for fluid systems, automative uses and environmental uses. In 1965, Parker acquired Tru-Flate Inc., a manufacturer and seller of tire hardware. Tire hardware products are sold in the automative aftermarket, that is, to persons who resell them, as distributors and mass merchandisers. Prior to its merger with Ideal, the Complaint alleges, Parker was the sixth largest company in the tire hard-



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ware market, with 8.1 percent of that market.

Ideal, the acquired company, had sales in 1970 of about $27 million. Ideal was engaged in the manufacture and sale of three principal product lines: worm-drive hose clamps, tire hardware, and signal flashers. Worm-drive hose clamps are fastening devices, which are principally used to hold a piece of low pressure hose in a fixed position and consist of a serrated steel band with a threaded word-drive screw which fits into an attached housing and turns in the band's serrations, serving to tighten or loosen the clamp. Worm-drive hose clamps are sold mainly in the automotive aftermarket, but are also sold to manufacturers of mobile equipment, such as tractors and trucks. The Complaint alleges Ideal is the leading manufacturer of worm-drive hose clamps, accounting for about 49 percent of the sales in the worm-drive hose clamp market. The Complaint also alleged the four largest manufacturers accounted for about 90 percent of the total industry sales.

Ideal's manufacturing capability in tire hardware derived primarily from its 1968 acquisition of the Acme Air Appliance Co., Inc. ("Acme"). The Complaint alleges that prior to the merger of Parker and Ideal, Ideal was the fifth largest company in the tire hardware market with 10.2 percent of that market, and that combined, Parker and Ideal were the largest company in the tire hardware market with 18.3 percent of the market. The Complaint alleged that after this merger, the five largest companies in the tire hardware market accounted for about 70 percent of that market.

The Complaint alleged that Parker's acquisition of Ideal eliminated actual competition between Parker and Ideal in the tire hardware market, increased concentration in the tire hardware market, eliminated potential competition between Parker and Ideal in the manufacture and sale of worm-drive hose clamps, entrenched the market position of Ideal in the manufacture and sale of worm-drive hose clamps, foreclosed Ideal's worm-drive hose clamp competitors from selling to various customer's and increased barriers to entry as well as concentration in the manufacture and sale of worm-drive hose clamps, all in violation of Section 7 of the Clayton Act.

III

EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The United States and the defendant have agreed, in a Stipulation, that the proposed Final Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The stipulation also provides that there has been no admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(e)), entry of said Judgment by the Court is conditioned upon its determination that the proposed Judgment is in the public interest.

The proposed Final Judgment requires Parker to divest Acme within two (2) years from the date of entry of the Judgment upon terms and conditions acceptable to the Antitrust Division and the Court. If Parker does not accomplish the divestiture within two (2) years, then, upon application of the United States, the Court will appoint a trustee who will dispose of Acme as expeditiously as possible. However, regardless of whether the United States requests appointment of such trustee, the United States retains the right to request other remedies from the Court, such as a finding of contempt of Court against Parker for not divesting Acme within two (2) years. While the Complaint requested Parker be ordered to divest Ideal, the divestiture of Acme will achieve the relief requested in the tire hardware market, which was one of the primary objectives of the Complaint. That is, concentration in that market will decrease, and competition will increase as a result of Acme being independent of Parker.

The proposed Final Judgment also prohibits Parker and Ideal, for a two year period after entry of the proposed Final Judgment, from offering to combine Parker and Ideal products, other than products manufactured by Ideal or internally developed by Ideal, with worm-drive hose clamps manufactured by Ideal, with the result that a customer may obtain pooled quantity discounts or meet minimum freight requirements. This requirement should diminish any potential anticompetitive effects of the merger in the worm-drive hose clamp market.

The proposed Final Judgment prohibits Parker and Ideal for ten (10) years from, directly or indirectly, acquiring entities engaged in whole or in part in the manufacture of stated tire hardware products or worm-drive hose clamps.

Finally, the proposed Final Judgment provides the Antitrust Division with rights to inspect Parker's records and to interview its officers and employees in order to determine and secure compliance with the Final Judgment.

IV

REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

Any potential private plaintiffs who might have been damaged by the alleged violation will retain the same right to sue for monetary damages of three times the damages such persons have suffered and any other legal and equitable remedies which they would have had were the proposed Final Judgment not entered. This proposed Final Judgment, however, may not be used as *prima facie* evidence in private litigation pursuant to Section 5(a) of the Clayton Act.

V

PROCEDURES AVAILABLE FOR THE MODIFICATION OF THE PROPOSED JUDGMENT

The proposed Final Judgment is subject to a Stipulation by and between the United States and the defendant, which provides that the United States may withdraw its consent to the proposed Final Judgment until the Court has found that entry of the proposed Judgment is in the public interest. Within the statutory period of sixty (60) days (15 U.S.C. § 16) of the filing of the proposed Final Judgment with the District Court for the Northern District of Ohio in Cleveland, Ohio, any person may submit written comments regarding the proposed Final Judgment to:

John A. Weedon, Chief, Great Lakes Field Office, Antitrust Division, U.S. Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199.

Such comments and the Antitrust Division's responses thereto will be filed with the District Court and published in the Federal Register. The Department of Justice will evaluate such comments and determine, prior to its entry, whether there is any reason for withdrawal of its consent to the proposed Final Judgment.

VI

ALTERNATIVES TO THE PROPOSED JUDGMENT CONSIDERED BY THE UNITED STATES

One alternative to the proposed Final Judgment considered by the Antitrust Division of the Department of Justice was a full trial on the merits in order to obtain full divestiture by Parker of all of its interest in Ideal. The Antitrust Division believes that the divestiture of Acme, in addition to the other provisions of the proposed Final Judgement, is sufficient to dissipate the anticompetitive effects of the acquisition in the tire hardware market. Also, the Antitrust Division believes that the additional relief which might have been obtained did not warrant the substantial risk, time, and expense normally associated with a full trial on the merits. Finally, the relief contemplated by the proposed Final Judgment will be implemented more quickly than any relief obtained after a trial.

While the proposed final judgment provides only limited relief in the worm-drive hose clamp market, the Antitrust Division does not believe that a full trial on the merits would result in additional relief. Changing industry conditions together with further analysis of the allegations concerning the worm-drive hose clamp market have caused the Antitrust Division to conclude that it would be very difficult to prove the anticompetitive effect in that market.

At one point in the negotiations, the Antitrust Division sought to require Parker to divest Ideal within four years of the date of entry of the Judgment if it did not divest Acme within two years of the Judgment. Parker rejected this proposal, however, and represented to the Antitrust Division that Acme's manufacturing operations are now profitable and efficient, with further increases in profits projected, that Acme is now an attractive company to offer for sale, and that Parker anticipates no difficulty in disposing of Acme within two years. Relying on these representations and information supplied by Parker, the Antitrust Division agreed to the proposed Final Judgment which orders divestiture of Acme within two years. The Antitrust Division also deleted from the proposed Judgment a provision which would have required Parker to offer to sell certain of its products to Acme's purchaser for a four year period and which would have required Parker to offer to purchase certain of Acme's products for the same period. The Antitrust Division concluded that these requirements did not materially enhance Acme as a divestiture candidate. In addition, the Antitrust Division deleted from the proposed Judgment a provision that would have required Parker to offer to purchase varying amounts of its worm-drive hose clamp requirements over a four year period from one or more vendors other than Ideal, if stated pricing conditions were met. The Antitrust Division concluded that this provision was unnecessary inasmuch as Parker has represented that it will have only minimal requirements for worm-drive hose clamps. In addition, the pricing conditions would lead to disclosure of third party pricing data to Parker. Finally, such a provision would impart an unwarranted artificiality to the marketplace.

Further, the Antitrust Division also sought to require Parker and Ideal not to combine products with stated exceptions for a period of three years. It agreed to a two year period after the defendant dropped a requirement for a meeting of competition exception and an exception permitting it to substitute products of its TPH Division for Acme if Acme were divested within two years from the date of entry of the Judgment.

VII

DETERMINATIVE DOCUMENTS

There are no materials or documents which were determinative in formulating the proposed Final Judgment. Consequently, none are being filed by the Plaintiff pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(b)).





John A Weedon, Attorney, Department of Justice.

Gerald H. Rubin, Joan Farragher, Saundra B. Wallack, William J. Oberdick, Attorneys, Department of Justice, Antitrust Division, 995 Celebrezze Federal Building, Cleveland, Ohio 44199, Telephone: (216) 522-4076.

[FR Doc.77-21286 Filed 7-22-77;8:45 am]

## NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

### National Endowment for the Humanities

### FELLOWSHIPS PANEL

#### Notice of Meeting

JULY 20, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314, from 9:30 a.m. to 5:30 p.m. on August 11.

The purpose of the meeting is to review Fellowships for Independent Study and Research applications in the field of Sociology and Psychology submitted to the National Endowment for the Humanities for projects beginning after October 1, 1977.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0256.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.77-21267 Filed 7-22-77;8:45 am]

### FELLOWSHIPS PANEL

#### Notice of Meeting

JULY 20, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314, from 9:30 am. to 5:30 pm. on August 15.

The purpose of the meeting is to review Fellowships for Independent Study and Research applications in the field of Non-European History submitted to the National Endowment for the Humanities for projects beginning after October 1, 1977.

Because the proposed meeting will consider financial information and disclosure information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0256.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.77-21268 Filed 7-22-77;8:45 am]

### FELLOWSHIPS PANEL

#### Notice of Meeting

JULY 20, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314, from 9:30 a.m. to 5:30 p.m. on August 13.

The purpose of the meeting is to review Fellowships for Independent Study and Research applications in the field of Law and Political Theory submitted to the National Endowment for the Humanities for projects beginning after October 1, 1977.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(3) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with the operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0256.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.77-21276 Filed 7-22-77;8:45 am]

### FELLOWSHIPS PANEL

#### Notice of Meeting

JULY 20, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314, from 9:30 a.m. to 5:30 p.m. on August 17.

The purpose of the meeting is to review Fellowships for Independent Study and Research applications in the field of English Literature submitted to the National Endowment for the Humanities for projects beginning after October 1, 1977.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0256.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.77-21273 Filed 7-22-77;8:45 am]

### FELLOWSHIPS PANEL

#### Notice of Meeting

JULY 20, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314, from 9:30 a.m. to 5:30 p.m. on August 20.

The purpose of the meeting is to review Fellowships for Independent Study and Research applications in the field of Recent U.S. History submitted to the National Endowment for the Humanities for projects beginning after October 1, 1977.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.



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It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–724–0256.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.77–21266 Filed 7–22–77;8:45 am]

## FELLOWSHIPS PANEL

### Notice of Meeting

JULY 20, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314, from 9:30 a.m. to 5:30 p.m. on August 22.

The purpose of the meeting is to review Fellowships for Independent Study and Research applications in the field of English submitted to the National Endowment for the Humanities for projects beginning after October 1, 1977.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–724–0256.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.77–21268 Filed 7–22–77;8:45 am]

## FELLOWSHIPS PANEL

### Notice of Meeting

JULY 20, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314, from 9:30 a.m. to 5:30 p.m. on August 23.

The purpose of the meeting is to review Fellowships for Independent Study and Research applications in the field of Religion submitted to the National Endowment for the Humanities for projects beginning after October 1, 1977.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority To Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–724–0256.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.77–21269 Filed 7–22–77;8:45 am]

## FELLOWSHIPS PANEL

### Notice of Meeting

JULY 20, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in Room 314, from 9:30 a.m. to 5:30 p.m. on August 25.

The purpose of the meeting is to review Fellowships for Independent Study and Research applications in the field of U.S. History submitted to the National Endowment for the Humanities for projects beginning after October 1, 1977.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–724–0256.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.77–21270 Filed 7–22–77;8:45 am]

## FELLOWSHIPS PANEL

### Notice of Meeting

JULY 20, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in Room 314, from 9:30 a.m. to 5:30 p.m. on August 26.

The purpose of the meeting is to review Fellowships for Independent Study and Research applications in the field of Art History submitted to the National Endowment for the Humanities for projects beginning after October 1, 1977.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority To Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–724–0256.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.77–21271 Filed 7–22–77;8:45 am]

## FELLOWSHIPS PANEL

### Notice of Meeting

JULY 20, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314, from 9:30 am. to 5:30 pm. on August 29.

The purpose of the meeting is to review Fellowships for Independent Study and Research applications in the field of Philosophy of Mind Linguistics and Philosophy of Language Aesthetics submitted to the National Endowment for the Humanities for projects beginning after October 1, 1977.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–724–0256.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.77–21272 Filed 7–22–77;8:45 am]

## FELLOWSHIPS PANEL

### Notice of Meeting

JULY 20, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314, from 9:30 am. to 5:30 pm. on August 30.

The purpose of the meeting is to review Fellowships for Independent Study and Research applications in the field of German Literature Classics submitted to the National Endowment for the Humanities for projects beginning after October 1, 1977.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–724–0256.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.77–21274 Filed 7–22–77;8:45 am]

## FELLOWSHIPS PANEL

### Notice of Meeting

JULY 20, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314, from 9:30 am. to 5:30 pm. on August 31.

The purpose of the meeting is to review Fellowships for Independent Study and Research applications in the field of Philosophy submitted to the National Endowment for the Humanities for projects beginning after October 1, 1977.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–724–0256.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.77–21275 Filed 7–22–77;8:45 am]





## NUCLEAR REGULATORY COMMISSION

### ABNORMAL OCCURRENCE EVENT

### Overexposure of Two Radiographers

Section 208 of the Energy Reorganization Act of 1974, as amended, required the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incident was determined to be an abnormal occurrence using the criteria published in the FEDERAL REGISTER on February 24, 1977 (42 FR 10950). Appendix A (Example I, A, 1) of the Policy Statement notes that exposure of the whole body of any individual to 25 rems or more of radiation can be considered an abnormal occurrence.

OVEREXPOSURE OF TWO RADIOGRAPHERS

*Date and Place.*—On June 20, 1977, the NRC was notified by J. G. Sylvester Associates, Inc., Rockland, Mass., that two radiographers had been exposed to radiation on June 16, 1977, while working at the licensee's Rockland, Mass., facility. The licensee estimated that the dose to the head of one radiographer could have been as much as 400 rems. Film badge results indicated exposures of 3–4 rems to the bodies of the radiographers.

*Nature and Probable Consequences.*—On June 16, 1977, at approximately 5 a.m., a radiographer and radiographer's assistant completed a series of exposures using a 35 curie cobalt-60 source. They moved the guide tube attached to the cobalt-60 exposure device to another position but left the exposure device unlocked and the control cables attached. A second exposure device containing 94 curies of iridium-192 was then taken from storage, prepared for use and an exposure was begun. The control crank for the iridium-192 exposure device was placed near the control crank for the cobalt-60. At the completion of the time allotted for the iridium-192 exposure, the radiographer's assistant mistakenly operated the cobal-60 crank, resulting in the exposure of the cobalt-60 source. The radiographer's assistant then entered the cell carrying a survey instrument, but failed to detect the strong radiation field caused by the exposed sources. The assistant retrieved the exposed film and left the cell. The radiographer then entered the cell and placed a new film in place. He spent 2–3 minutes in close proximity to the exposed iridium-192 source and actually bumped the exposed source with his head twice.

From film badges worn by the two individuals and reconstruction of the incident, it is estimated that the radiographer received a dose of 4 rems to the trunk of the body, up to 11 rems to the gonads, up to 18 rems to the eyes and from 100–400 rems to two small areas of the left side of the head. It is estimated that the radiographer's assistant received a whole body exposure of 4 rems.

The consequences of this type of incident are limited to the individuals involved and are expected to be small. Both individuals were examined by a physician. No observable effects are expected for the radiographer's asistant. The radiographer may experience a slight reddening and temporary hair loss at the sites of contact with the source. The event was classified as an abnormal occurrence based on the high dose to the small area of the radiographer's head as a dose to the head is considered equivalent to a whole body dose.

*Cause or Causes.*—The direct cause of these exposures was a failure to perform an adequate radiation survey on entry into the cell. Contributing to this was the fact the radiographer's assistant was inexperienced and was not directly supervised by the radiographer in operating the crank and performing the survey.

ACTIONS TAKEN TO PREVENT RECURRENCE

*Licensee.*—All radiographers and radiographer's assistants have been retrained in the proper use of survey instruments. Radiographers have been given specific instructions concerning supervision of radiographer's assistants. Company management now conducts more frequent audits of radiograph performance.

*NRC.*—An investigation, including reenactment of the exposure, was completed on June 22, 1977. Enforcement action for activities which were not in compliance with NRC regulations is being evaluated. The NRC has contacted the President of Sylvester Associates to emphasize the seriousness of the event and express NRC's concern.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Md., this 19th day of July 1977.

LEE V. GOSSICK,
*Executive Director for Operations.*

[FR Doc.77–21392 Filed 7–22–77;8:45 am]



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### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SITING EVALUATION SUBCOMMITTEE

#### Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039 2232 b.), the ACRS Siting Evaluation Subcommittee will hold an open meeting on August 9, 1977 in Room 1062, 1717 H St. NW., Washington, D.C. 20555. The purpose of this meeting is to discuss general nuclear facility siting considerations with members of the NRC Staff.

The agenda for subject meeting shall be as follows:

TUESDAY, AUGUST 9, 1977

8:30 A.M. UNTIL CONCLUSION OF BUSINESS

The Subcommittee, with any of its consultants who may be present, will meet in Executive Session to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will meet to hear presentations by representatives of the NRC Staff, and its consultants, and will hold discussions with these groups pertinent to general nuclear facility siting considerations.

At the conclusion of this session, the subcommittee may caucus to determine whether the matters identified in the initial session have been adequately covered.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over uncompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 2, 1977, addressed to Dr. Andrew L. Bates, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 8, 1977 to the Office of the Executive Director of the Committee (telephone 202–634–1919, Attn.: Dr. Andrew L. Bates) between 8:15 and 5 p.m. EDT.

(d) Questions may be propounded only by members of the Subcommittee, its consultants, and Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after August 16 and November 9, 1977, respectively, at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: July 21, 1977.

JOHN C. HOYLE,
*Advisory Committee Management Officer.*

[FR Doc.77-21446 Filed 7-22-77;8:45 am]

### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON REGULATORY ACTIVITIES

#### Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on Regulatory Activities will hold an open meeting on August 10, 1977 in Room 1046, 1717 H St. NW., Washington, D.C. 20555.

The agenda for subject meeting shall be as follows:

WEDNESDAY, AUGUST 10, 1977

8:45 A.M.–11 A.M.

A. The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following:

(1) Regulatory Guide 1.124, Revision 1, "Design Limits and Loading Combinations for Class 1 Linear-Type Component Supports."

(2) Regulatory Guide 1.52, Revision 2, "Design, Testing, and Maintenance Criteria for Engineered-Safety-Feature Atmosphere Cleanup System Air Filtration and Adsorption Units for Light Water Cooled Nuclear Power Plants."

(3) Regulatory Guide 1.XX, "Normal Water Level and Discharge at Nuclear Power Plants."

(4) Regulatory Guide 1.ZZ, "Design, Testing, and Maintenance Criteria for Normal Ventilation Exhaust System Air Filtration and Adsorption Units of Light Water Cooled Nuclear Power Plants."

11 A.M. UNTIL THE CONCLUSION OF BUSINESS

B. The Subcommittee will hear presentations from the NRC Staff and will hold discussion with this group pertinent to activities which affect the current licensing process on reactor operations, including those related to "The Status of Modification or Lack of Modification to 10 CFR 50.55a(g) Relevant to Approval or Disapproval of ASME Codes."

Other matters which may be of a predecisional nature relevant to reactor operation or licensing activities may be discussed following this session.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(A) Persons wishing to submit written statements regarding Regulatory Guides 1.124 and 1.52 may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 3, 1977 to Mr. G. R. Guittschreiber, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

(B) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(C) Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 9, 1977 to the Office of the Executive Director of the Committee (telephone 202–634–1374, Attn: Mr. G. R. Quittschreiber) between 8:15 a.m. and 5 p.m., EDT.

(D) Questions may be propounded only by members of the Working Group, its consultants, and Staff.

The use of still, notion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be on documents, folders, etc. being used during the meeting. Recordings of the proceedings will be permitted only during those sessions when a transcript is being kept.

(F) A copy of the transcript of the portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555 on or after August 17, 1977, and November 10, 1977, respectively.

Copies may be obtained upon payment of appropriate charges.

Dated: July 21, 1977.

JOHN C. HOYLE,
*Advisory Committee Management Officer.*

[FR Doc.77-21449 Filed 7-22-77;8:45 am]

### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP NO. 2 OF THE REACTOR SAFETY RESEARCH SUBCOMMITTEE

#### Meeting; Addition to Agenda

The agenda for the meeting on Tuesday, August 9, 1977 of the ACRS Reactor Safety Research Subcommittee's Working Group No. 2 will now include review of safety research pertaining to fuel behavior as well as metallurgy and materials used in light water reactors.

Previous announcements of this meeting were made in the FEDERAL REGISTER on June 30, 1977, page 33388 and July 14, 1977, Page 36329 (change of date from July 18, 1977 to August 9, 1977).

All other items remain the same.

Dated: July 21, 1977.

JOHN C. HOYLE,
*Advisory Committee Management Officer.*

[FR Doc.77-21447 Filed 7-22-77;8:45 am]

### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP NO. 6 OF THE SUBCOMMITTEE ON REACTOR SAFETY RESEARCH

#### Meeting; Change of Time

The meeting of the ACRS Reactor Safety Research Subcommittee's Working Group No. 6 on Thursday, August 4, 1977 will begin at 10:00 a.m. instead of 8:30 a.m. as announced in the FEDERAL REGISTER, July 18, 1977, page 36900.

All other items remain the same.

Dated: July 21, 1977.

JOHN C. HOYLE,
*Advisory Committee Management Officer.*

[FR Doc.77-21448 Filed 7-22-77;8:45 am]

### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP NO. 5 OF THE REACTOR SAFETY RESEARCH SUBCOMMITTEE

#### Meeting; Change of Date

The July 27, 1977, meeting of the ACRS Reactor Safety Research Subcommittee's Working Group No. 5 announced in the FEDERAL REGISTER, July 11, 1977, page 35708, has been rescheduled to be held August 3, 1977 in Room 1046, 1717 H St. NW., Washington, D.C. 20555.

Written comments postmarked no later than July 27, 1977, addressed to Mr. John C. McKinley, ACRS, NRC, Washington, D.C. 20555 will normally be received in time to be considered at this meeting.

A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after August 10 and November 3, 1977, respectively, at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555.

All other matters pertaining to this meeting remain the same.

Dated: July 20, 1977.

JOHN C. HOYLE,
*Advisory Committee, Management Officer.*

[FR Doc.77-21381 Filed 7-22-77;8:45 am]

[Dockets Nos. 50-269, 50-270 and 50-287]

### DUKE POWER CO.

#### Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 43, 43 and 40 to Facility Operating Licenses Nos. DPR–38, DPR–47 and DPR–55, respectively, issued to Duke Power Company which revised Technical Specifications for operation of the Oconee Nuclear Station Units Nos. 1, 2, and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments delete the requirement that containment integrity be maintained when the reactor coolant system is open to the containment atmosphere and the requirements for a refueling shutdown are not met.

The application for these amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration, or environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated February 5, 1976, (2) Amendments Nos. 43, 43 and 40 to Licenses Nos. DPR–38, DPR–47 and DPR–55, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Oco-







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nee Country Library, 201 South Spring, Walhalla, South Carolina 29691.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 5th day of July 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
*Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.*

[FR Doc.77-21032 Filed 7-22-77;8:45 am]

[Docket Nos. 50-387 and 50-388]

## PENNSYLVANIA POWER AND LIGHT CO. AND ALLEGHENY ELECTRIC COOPERATIVE, INC.

### Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Pennsylvania Power and Light Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on April 12, 1977, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information adds Allegheny Electric Cooperative, Inc. as an owner of the Susquehanna Steam Electric Station, Units 1 and 2.

The information was filed by Pennsylvania Power and Light Company in connection with their application for construction permits and operating licenses for two boiling water nuclear reactors. The Pennsylvania Power and Light Company was issued two construction permits on November 2, 1973 for their Susquenhanna Steam Electric Station, Units 1 and 2. Construction is underway on a site located in Salem Township, Luzerne County, Pennsylvania.

The original antitrust portion of the application was submitted on March 23, 1971 and Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matters was published in the FEDERAL REGISTER on May 7, 1971 (36 FR 8529). The Notice of Hearing was published in the FEDERAL REGISTER on September 23, 1972 (37 FR 20090).

A copy of all the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Osterhout Free Library, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. ATTN: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the Allegheny Electric Cooperative, Inc. presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before August 23, 1977.

Dated at Bethesda, Maryland, this 16th day of June, 1977.

For the Nuclear Regulatory Commission.

ANTHONY BOURNIA,
*Acting Chief, Light Water Reactors Branch No. 3, Division of Project Management.*

[FR Doc.77-20443 Filed 7-15-77;8:45 am]

[Docket No. 50-333]

## POWER AUTHORITY OF THE STATE OF NEW YORK

### Proposed Issuance of Amendment to Facility Operating License

NOTE.—This document originally appeared at page 37608 in the FEDERAL REGISTER for Friday, July 22, 1977. It is reprinted in this issue to meet the assigned day-of-the-week publication schedule.

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-59 issued to the Power Authority of the State of New York (the licensee), for operation of the James A. FitzPatrick Nuclear Power Plant (the facility), located in Oswego County, New York.

In accordance with the licensee's request dated July 7, 1977, the amendment would consider a reevaluation of Emergency Core Cooling System (ECCS) cooling performance submitted in accordance with the Commission's Order for Modification of License dated March 11, 1977. This reevaluation not only corrected the errors noted in the March 11, 1977 Order but also included the effect of certain other recently approved model changes in the ECCS evaluation models. These changes would permit an increase in authorized Maximum Average Planar Linear Heat Generation Rates, and are the aspects of the amendment covered by this notice.

The Commission will act upon the amendment upon: (1) The completion of a Safety Evaluation by the Office of Nuclear Reactor Regulation; and (2) completion of the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By August 22, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Lex Larson, Esquire, LeBoeuf, Lamb, Leiby & MacRae, 1757 N Street NW., Washington, D.C. 20036, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petition's stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the licensee's request dated July 7, 1977, and General Electric's submittal dated June 29, 1977, which are available for public inspection at the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C. and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, New York.

Dated at Bethesda, Maryland, this 20th day of July 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
*Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.*

[FR Doc.77-21380 Filed 7-21-77;10:26 am]

## REGULATORY GUIDE

### Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.123, Revision 1, "Quality Assurance Requirements for Control of Procurement of Items and Services for Nuclear Power Plants," describes a method acceptable to the NRC staff for complying with the Commission's regulations with regard to quality assurance requirements for the control of procurement of items and services during the design, construction, and operations phases of nuclear power plants. This guide was revised as the result of public comment and additional staff review.

Comments and suggestions in connection with: (1) items for inclusion in guides currently being developed, or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 12th day of July 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
*Director, Office of Standards Development.*

[FR Doc.77-21035 Filed 7-22-77;8:45 am]

## REGULATORY GUIDE

### Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.111, Revision 1, "Methods for Estimating Atmospheric Transport and Dispersion of Gaseous Effluents in Routine Releases from Light-Water-Cooled Reactors," describes basic features of calculational models and assumptions for the estimating of atmospheric transport and dispersion of gaseous effluents in routine releases from land-based light-water-cooled reactors. This guide was reviewed as the result of public comment and additional staff review.

Comments and suggestions in connection with: (1) items for inclusion in guides currently being developed, or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 13th day of July 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
*Director, Office of Standards Development.*

[FR Doc.77-21036 Filed 7-22-77;8:45 am]

[Docket No. 50-346]

## TOLEDO EDISON CO. AND CLEVELAND ELECTRIC ILLUMINATING CO. DAVIS-BESSE NUCLEAR POWER STATION, UNIT NO. 1

### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 4 to the Facility Operating License No. NPF-3, issued to the Toledo Edison Company and the Cleveland Electric Illuminating Company, which revised Technical Specifications for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

This license is amended by making the appropriate changes to the technical specifications on pages 3/4 3-25, 3/4 3-26, 3/4 3-28, 3/4 3-30.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, negative declaration, or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) Amendment No. 4 to License No. NPF-3, (2) the Commission's related Safety Evaluation supporting Amendment No. 4 to License No. NPF-3. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Md., this 8th day of July 1977.

For the Nuclear Regulatory Commission.

JOHN STOLZ,
*Chief, Light Water Reactors Branch No. 1, Division of Project Management.*

[FR Doc.77-21033 Filed 7-22-77;8:45 am]

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

### Meeting

In accordance with the purposes of Sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on August 11-13, 1977, in Room 1046, 1717 H Street N.W., Washington, DC.

The agenda for the subject meeting will be as follows:

THURSDAY, AUGUST 11, 1977

8:30 A.M. TO 9:15 A.M.: EXECUTIVE SESSION (OPEN)

The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

The Committee will also har and discuss the report of the ACRS Subcommittee and consultants who may be present related to review of the request for Preliminary Design Approval of the Babcock and Wilcox Standard Safety Analysis Report (BSAR-205). Portions of this session will be closed if necessary to discuss Proprietary Information and security arrangements applicable to this type plant.

9:15 A.M. TO 1:15 P.M.: BABCOCK AND WILCOX STANDARD SAFETY ANALYSIS REPORT (BSAR-205) (OPEN)







V 42 N 142 JUL 25 77 UMI

The Committee will hear presentations and hold discussions with representatives of the NRC Staff and the Applicant related to the request for Preliminary Design Approval for this type facility. Portions of this session will be closed if necessary to discuss Proprietary Information and security arrangements applicable to this type plant.

2:15 P.M. TO 3 P.M.: EXECUTIVE SESSION (OPEN)

The Committee will hear and discuss the report of ACRS Subcommittees, Working Groups and Members related to Regulatory Activities, including proposed Regulatory Guides, as appropriate; integrity of reactor pressure vessels; and methodology/criterion for seismic evaluation of nuclear facilities.

3 P.M. TO 5:30 P.M.: MEETING WITH NRC STAFF (OPEN)

The Committee will hear presentations and hold discussions with members of the NRC Staff regarding recent operating experience at nuclear facilities, recent licensing actions, generic matters related to reactor licensing, and the future schedule for ACRS activities. This discussion will include:

Operating occurrences at the Crystal River Nuclear Plant and the Browns Ferry Nuclear Station proposed chemical cleaning of Dresden Nuclear Power Plant Unit 1. Probability of occurrence of the Design Basis Flood review of fuel damage limits. Control room habitability following an accident future schedule and anticipated ACRS activities.

5:30 P.M. TO 6 P.M.: EXECUTIVE SESSION (OPEN)

The Committee will hear and discuss the report of the ACRS Subcommittee, regarding ECCS upper head injection; and proposed revision of 10 CFR, Part 50, Appendix K ECCS Evaluation Models. Portions of this session will be closed if necessary to protect Proprietary Information related to these matters.

6 P.M. TO 7:30 P.M.: ECCS UPPER HEAD INJECTION (OPEN)

The Committee will hear presentations by and hold discussions with representatives of the NRC Staff and Westinghouse Electric Corporation regarding the ECCS Upper Head Injection System proposed for Westinghouse pressurized water reactors. Portions of this session will be closed if required to discuss Proprietary Information related to the design and operation of this system.

FRIDAY, AUGUST 12, 1977

8:30 A.M. TO 9 A.M.: EXECUTIVE SESSION (OPEN)

The Committee will hear and discuss the report of the ACRS Subcommittee and consultants who may be present regarding the request for review of nonseismic matters related to the request for an Operating License for the Diablo Canyon Nuclear Power Station Units 1 and 2. Portions of this session will be closed if necessary to discuss Proprietary Information and provisions for physical protection of this facility.

9 A.M. TO 1 P.M.: DIABLO CANYON NUCLEAR POWER STATION UNITS 1 AND 2 (OPEN)

The Committee will hear presentations from and hold discussions with representatives of the NRC Staff and the Applicant regarding non-seismic matters related to the request for an Operating License for this plant. Portions of this session will be closed if necessary to discuss Proprietary Information and provisions for physical protection of this facility.

2 P.M. TO 2:30 P.M.: EXECUTIVE SESSION (OPEN)

The Committee will hear and discuss the report of the ACRS Subcommittee and consultants who may be present regarding the request for a Construction Permit for the Shearon Harris Nuclear Power Plan Units 1, 2, 3, and 4. Portions of this session will be closed if necessary to discuss Proprietary Information and provisions for physical protection of this facility.

2:30 P.M. TO 5:30 P.M.: SHEARON HARRIS NUCLEAR POWER PLANT UNITS 1, 2, 3, AND 4 (OPEN)

The Committee will hear presentations from and hold discussions with representatives of the NRC Staff and the Applicant regarding the request for a Construction Permit for this plant. Portions of this session will be closed if necessary to discuss Proprietary Information and provisions for physical protection of this facility.

5:30 P.M. TO 6:30 P.M. EXECUTIVE SESSION (OPEN/CLOSED)

The Committee will hear and discuss reports of ACRS Subcommittees, Working Groups and Members related to the radioactive waste management program, the reevaluation of NRC siting policy and practice, the hypothetical core disruptive accident for LMFBR's and provisions for physical protection of nuclear facilities. Portions of this session will be closed as required to discuss Proprietary Information and National Security Information applicable to specific nuclear facilities.

The Committee will also discuss proposed reports to the Nuclear Regulatory Commission on the Babcock and Wilcox Standard Safety Analysis Report (BSAR-250), the Diablo Canyon Nuclear Power Plant Units 1 and 2, the Shearon Harris Nuclear Power Plant Units 1, 2, 3 and 4, and ECCS Upper Head Injection. Portions of this session will be closed as required to protect Proprietary Information and matters involved in NRC adjudicatory proceedings.

SATURDAY, AUGUST 13, 1977

8:30 A.M. TO 12:30 P.M.: EXECUTIVE SESSION (OPEN/CLOSED)

The Committee will complete preparation of its reports to the NRC on matters discussed during this meeting. Portions of this session will be closed as required to protect matters involved in NRC adjudicatory proceedings.

I have determined in accordance with Subsection 10(d) of Public Law 92-463 that it is necessary to close portions of the meeting as noted above to protect proprietary date (5 U.S.C. 552b.(c)(4)), to preserve the confidentiality of information related to safeguarding of special nuclear material and the physical protection of nuclear facilities (5 U.S.C. 552b.(c)(1)(4). The portions of the meeting during which the ACRS reports on the Diablo Canyon Nuclear Power Station and the Shearon Harris Nuclear Power Plant are prepared will be held in closed session pursuant to exemption (10) of 5 U.S.C. 552b.(c) since it involves the Committee's participation in an adjudicatory proceeding. Separation of factual information from information considered exempt from disclosure under exemptions (1), (4), and (10) of 5 U.S.C. 552b.(c) during these portions of the meeting is not considered practical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Committee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally deal with matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy to the Committee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview. Persons desiring to mail written comments may do so by mailing a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 3, 1977, to the Executive Director, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, D.C. 20555 will normally be received in time to be considered at this meeting. Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the following Public Document Rooms:

Diablo Canyon Nuclear Station, San Luis Obispo County Library, 888 Morro Street, San Luis Obispo, CA 93406.

Shearon Harris Nuclear Power Plant, Wake County Public Library, 104 Fayetteville Street, Raleigh, NC 27601.

(b) Those persons wishing to make oral statements regarding agenda items at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements in safety-related areas within the Committee's purview at an appropriate time chosen by the Chairman of the Committee.

(c) Further information regarding topics to be discussed, whether the meeting or portions of the meeting have been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor, can be obtained by a prepaid telephone call on August 10, 1977, to the Office of the Executive Director of the Committee (telephone 202-634-1371) between 8:15 a.m. and 5 p.m., Eastern Time. It should be noted that the above schedule is tentative, based on the anticipated availability of related information, etc. It may be necessary to reschedule items to accommodate required changes. The ACRS Executive Director will be prepared to describe these changes on August 10, 1977.

(d) Questions may be propounded only by members of the Committee, its consultants and staff.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive of the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings of the proceedings will be permitted only during those open sessions when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information other than safeguards information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed. The Executive Director of the ACRS should be informed of such an agreement at least 3 days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of this agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Executive Director at the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented will be available for inspection during the following workday at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C., on or after November 11, 1977. Copies may be obtained upon payment of appropriate charges.

Dated: July 22, 1977.

JOHN C. HOYLE,
*Advisory Committee Management Officer.*

[FR Doc.77-21515 Filed 7-22-77;8:45 am]

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

### Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups and of the full Committee, the following preliminary schedule is being published. This preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published in the FEDERAL REGISTER on June 23, 1977, page 31848. Those meetings which are definitely scheduled have had, or will have, an individual notice published in the FEDERAL REGISTER approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. Information as to whether a meeting has been firmly scheduled, cancelled or rescheduled, or whether changes have been made in the agenda for the August 11-13, 1977 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202-634-1374, Attention: Mary E. Vanderholt) between 8:15 a.m. and 5 p.m., EDT.

SUBCOMMITTEE AND WORKING GROUP MEETINGS

**Emergency Core Cooling System*, July 25, 1977, Washington, D.C. The Subcommittee will meet to review calculational results obtained when using the evaluation model for the Westinghouse Emergency Core Cooling System with upper head injection. Notice of this meeting was published in the FEDERAL REGISTER on July 7, 1977, on page 34952.

**Emergency Core Cooling System*, July 26, 1977, Washington, D.C. The Subcommittee will meet to discuss possible changes to the Emergency Core Cooling System (ECCS) Rule (10 CFR 50.46 and Appendix K to 10 CFR Part 50). Notice of this meeting was published in the FEDERAL REGISTER on July 11, 1977, page 35707.

**Babcock and Wilcox Water Reactors*, July 27, 1977, Washington, D.C. (Postponed from July 26, 1977.) The Subcommittee will meet to review the application by the Babcock and Wilcox Company for preliminary design approval of their proposed standard plant design (BSAR-205). Notice of this meeting was published in the FEDERAL REGISTER on July 11, 1977, page 35706.

**Working Group No. 5 of the Reactor Safety Research Subcommittee*, July 27, 1977, Washington, D.C. Postponed to August 3, 1977.

**Shearon Harris Nuclear Power Plant*, July 27, 1977, Washington, D.C. Postponed to August 6, 1977.

**Working Group No. 3 of the Reactor Safety Research Subcommittee*, July 28, 1977, Washington, D.C. The Working Group will meet to review matters pertaining to the scope of the site safety research currently being performed and planned by the NRC. Notice of this meeting was published in the FEDERAL REGISTER on July 11, 1977, page 35708.

**Siting Evaluation*, July 28-29, 1977, San Francisco, CA. Postponed to August 9, 1977, Washington, D.C.

**Security of Nuclear Facilities*, July 29, 1977, Washington, D.C. (Current title of this Working Group is Physical Protection of Nuclear Facilities.) The Working Group will meet to discuss progress and needs related to design provisions for protection against sabotage and to other means of enhancing industrial security. Notice of this meeting was published in the FEDERAL REGISTER on July 14, 1977, page 36330.

**Working Group No. 1 of the Reactor Safety Research Subcommittee*, July 30-31, 1977, Idaho Falls, ID. Rescheduled from August 5-6, 1977. The Working Group will meet to review various research programs being conducted at the Idaho Nuclear Engineering Laboratory. Notice of this meeting was published in the FEDERAL REGISTER on July 14, 1977, page 36329.

**Atlantic Generating Station*, August 2, 1977, Atlantic City, NJ. Postponed to August 31, 1977.

**Diablo Canyon Nuclear Station, Units 1 and 2*, August 2, 1977, Chicago, IL. The Subcommittee will meet to continue the review of the application of the Pacific Gas and Electric Company for a permit to operate this Station. Notice of this meeting was published in the FEDERAL REGISTER on July 18, 1977, page 36898.

**Working Group No. 5 of the Reactor Safety Research Subcommittee*, August







V 42 142 JUL 25 77 UMI

3, 1977, Washington, D.C. The Working Group will meet to review research needs and progress in the areas of fuel cycle development, health and environmental factors, and materials safeguards. Notice of this meeting was published in the FEDERAL REGISTER on July 11, 1977, page 35708, and notice of the change of date appears elsewhere in this issue.

*Working Group No. 6 of the Reactor Safety Research Subcommittee*, August 4, Washington, D.C. The Working Group will meet with representatives of the NRC Staff regarding programs and plans for risk assessment research. Notice of this meeting was published in the FEDERAL REGISTER on July 18, 1977, page 36900 and notice of a change of time appears elsewhere in this issue.

*Working Group No. 1 of the Reactor Safety Research Subcommittee*, August 5–6, 1977, Idaho Falls, ID. Rescheduled to July 30–31, 1977.

*Shearon Harris Nuclear Power Plant*, August 6, 1977, New Hill, N.C. The Subcommittee will meet to continue the review of the application of the Carolina Power and Light Company for a permit to construct the Shearon Harris Nuclear Power Plant. Notice of this meeting was published in the FEDERAL REGISTER on July 18, 1977, page 36899.

*Working Group No. 2 of the Reactor Safety Research Subcommittee*, August 9, 1977, Washington, D.C. (Postponed from July 18, 1977. The Working Group will meet to review safety research pertaining to metallurgy and materials and fuel behavior in light water reactors. Notice of this meeting was published in the FEDERAL REGISTER on June 30, 1977, page 33386; on July 14, 1977, page 36329 (regarding the change of date); and a notice regarding the addition of fuel behavior to the agenda appears elsewhere in this issue.

*Siting Evaluation*, August 9, 1977, Washington, D.C. The Subcommittee will meet to discuss with representatives of the NRC Staff general nuclear facility siting considerations. Notice of this meeting appears elsewhere in this issue.

*Regulatory Activities*, August 10, 1977, Washington, D.C. The Subcommittee will meet to review working papers, future Regulatory Guides, and changes to existing Regulatory Guides; also, to discuss pertinent activities which affect the current licensing process and/or reactor operations. Notice of this meeting appears elsewhere in this issue.

*Vermont Yankee Nuclear Power Plant*, August 16, 1977, Washington, D.C. The Subcommittee will meet to review operating experience and other matters pertinent to the Vermont Yankee Nuclear Power Plant.

*Greene County Plant*, August 18, 1977, Albany, NY. Postponed to September 21–22, 1977, Albany, NY.

*Transportation of Radioactive Materials*, August 23, 1977, New York, NY. The Working Group will be briefed on Sandia Laboratories' Interim Report, "Generic Environmental Assessment on Transportation of Radioactive Material Near and Through a Large, Densely Populated Area."

*Working Group No. 1 of the Reactor Safety Research Subcommittee*, August 30, 1977, Washington, D.C. The Working Group will review various research programs related to Fire Protection Research, Qualification of Class 1–E Equipment, Human Engineering, Noise Diagnostics, and Inspection and Enforcement Support.

*Atlantic Generating Station*, August 31, 1977, Atlantic City, NJ. The Subcommittee will continue its review of this project.

*Regulatory Activities*, September 7, 1977, Washington, D.C. The Subcommittee will review working papers, future Regulatory Guides, and changes to existing Regulatory Guides; also, it will discuss pertinent activities which affect the current licensing process and/or reactor operations.

*Working Group No. 1 of the Reactor Safety Research Subcommittee*, September 14–15, 1977, Oak Ridge, TN. The Working Group will meet to review various research programs being conducted at the Oak Ridge National Laboratory.

*McGuire Nuclear Station*, September 20, 1977, Washington, D.C. The Subcommittee will meet to continue its review of the application of the Duke Power Company for a license to operate McGuire Nuclear Station.

*Greene County Nuclear Power Plant*, September 21–22, 1977, Albany, N.Y. The Subcommittee will meet to review the application of the Power Authority of the State of New York for a permit to construct the Greene County Nuclear Power Plant.

*Pilgrim Nuclear Station, Unit No. 2*, September 22, 1977, Boston, MA. The Subcommittee will meet to begin its review of the application of the Boston Edison Company for a permit to construct Unit No. 2 of the Pilgrim Nuclear Station.

*Floating Nuclear Plant*, September 29, 1977, Denver, CO. The Subcommittee will meet to continue its review of the Floating Nuclear Plant design.

FULL ACRS MEETINGS

AUGUST 11–13, 1977

A. *Babcock & Wilcox Standard Safety Analysis Report (BASAR–205)—Preliminary Design Approval.

B. *Diablo Canyon Nuclear Power Station, Units 1 and 2—Operating License Review.

C. *Shearon Harris Nuclear Power Plant—Construction Permit Review.

SEPTEMBER 8–10, 1977

Agenda to be announced.

Dated: July 22, 1977.

JOHN C. HOYLE,
*Advisory Committee Management Officer.*

[FR Doc.77-21516 Filed 7-22-77;8:45 am]

## OFFICE OF MANAGEMENT AND BUDGET

### CLEARANCE OF REPORTS

#### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on July 19, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202–395–4529), or from the reviewer listed.

NEW FORMS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Summaries of Trade and Tariff Information Producers' Questionnaire, other (see SF-83), domestic manufacturers, Evinger, S.K., 395–3710.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Labor Standards Inspection Report, SCS–AS–26, weekly, construction workers, Gaylord Worden, 395–4730.

DEPARTMENT OF COMMERCE

Bureau of Census:
Survey of Manufacturer's Alternative Energy Capabilities: 1977, MA–400, single-time, manufacturers, Gaylord Worden, 395–4730.

Economic Development Administration:
Minority Business Enterprise Utilization Report, ED–530, on occasion, State and Local Govt. and Indian Tribes, economics and general government division, Lowry, R. L., 395–3451.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary, Income Survey Development Program—Site Research Forms, OS–8–77, single-time, individual and households in five urban areas, Sunderhauf, M. B., 395–6140.

REVISIONS

GENERAL SERVICES ADMINISTRATION

Report on Procurement, Civilian Executive Agencies, SF37, semi-annually, U.S. Government, Office of Federal Procurement Policy, 395–3436.

VETERANS ADMINISTRATION

Statement in Support of Claim, 21–4138, on occasion, Veterans, Warren Topellus, 395–5872.

GENERAL SERVICES ADMINISTRATION

Subcontracting Program Quarterly Report of Participating Large Company on Subcontract Commitments, OF–61, quarterly, offerors on government contracts, Office of Federal Procurement Policy, 395–3436.

EXTENSIONS

DEPARTMENT OF DEFENSE

Department of the Air Force, Course Enrollment and Career Development Program Enrollment or OCD Staff College and Training Course, DCPA–435, on occasion, Federal/State/local officials requesting DCPA training, Marsha Traynham, 395–4529.

PHILLIP D. LARSEN,
*Budget and Management Officer.*

[FR Doc.77-21457 Filed 7-22-77;8:45 am]





## SECURITIES AND EXCHANGE COMMISSION

[Release No. 13756]

### AMERICAN STOCK EXCHANGE

#### Order Approving Proposed Rule Change

JULY 15, 1977

In the matter of American Stock Exchange, 86 Trinity Place, New York, New York 10006 (SR–Amex–77–11).

On May 13, 1977, the American Stock Exchange ("Amex") filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b–4 thereunder, copies of a proposed rule change to delete the provision for five-person arbitration panels in arbitrations between a member and a non-member involving $1,000 or more.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publicaton of a Commission Release (Securities Exchange Act Release No. 13569 (May 23, 1977)) and by publication in the FEDERAL REGISTER (42 FR 29977 (June 10, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission May 13, 1977, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-21140 Filed 7-24-77;8:45 am]

[Release No. 9852; 812–4132]

### DIVERSIFICATION FUND, INC., ET AL.

#### Filing of Application for Exemption

JULY 18, 1977.

In the matter of Diversification Fund, Inc., The Exchange Fund of Boston, Inc., Depositors Fund of Boston, Inc., Capital Exchange Fund, Inc., Fiduciary Exchange Fund, Inc., Second Fiduciary Exchange Fund, Inc., Leverage Fund of Boston, Inc., Vance, Sanders Special Fund, Inc., Vance, Sanders Common Stock Fund, Inc., Vance, Sanders Investors Fund, Inc., Vance, Sanders Income Fund, Inc., Vance, Sanders Municipal Bond Trust, Vance, Sanders Exchange Fund (a California limited partnership), Vance, Sanders & Company, Inc., One Beacon Street, Boston, Massachusetts, 02108, and, William M. Griffin C/O Hartford Fire Insurance Company, Hartford Plaza, Hartford, Connecticut 06115; (812–4132).

Notice is hereby given that Diversification Fund, Inc., The Exchange Fund of Boston, Inc., Depositors Fund of Boston, Inc., Capital Exchange Fund, Inc., Fiduciary Exchange Fund, Inc., Second Fiduciary Exchange Fund, Inc., Leverage Fund of Boston, Inc., Vance, Sanders Special Fund, Inc., Vance, Sanders Common Stock Fund, Inc., Vance, Sanders Investors Fund, Inc., Vance, Sanders Income Fund, Inc., Vance, Sanders Exchange Fund (A California Limited Partnership), and Vance, Sanders Municipal Bond Trust (collectively, "Funds"), each registered under the Investment Company Act of 1940 (the "Act") as a management investment company, Vance, Sanders and Company, Inc. ("Vance Sanders"), presently investment adviser to each of the Funds except Vance, Sanders Municipal Bond Trust, which proposes to employ Vance Sanders as investment adviser, and William M. Griffin ("Mr. Griffin", referred to with the Funds and Vance Sanders collectively as "Applicants"), filed an application on April 29, 1977, and amendments thereto on June 10, 1977, and June 24, 1977, for an order of the Commission pursuant to Section 6(c) of the Act exempting Mr. Griffin from the definition of "interested person" contained in Section 2(a)(19) of the Act to the effect that Mr. Griffin shall not be deemed to be an interested person of the Funds, their investment adviser or principal underwriter by reason of his status as: (1) a director, executive vice president and chairman of the finance committee of Hartford Fire Insurance Company ("Hartford Fire"); (2) a director and president of Hartford Securities Company, Inc. ("Hartford Securities"); (3) A director, vice president and chairman of the finance committee of Hartford Life Insurance Company ("Hartford Life"); or (4) A director, vice president and chairman of the finance committee of Hartford Variable Annuity Life Insurance Company ("Hartford Variable Annuity"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that all of the Funds, except Leverage Fund of Boston, Inc., which is a closed-end investment company, are open-end investment companies; that Vance, Sanders Investors Fund, Inc., Vance, Sanders Common Stock Fund, Inc., Vance, Sanders Special Fund, Inc., and Vance, Sanders Income Fund, Inc., employ Vance Sanders as their principal underwriter; and that Vance, Sanders Municipal Bond Trust proposes to employ Vance Sanders as principal underwriter. According to the application, it is contemplated that Mr. Griffin will be nominated to be a director of Vance, Sanders Investors Fund, Inc., at a special meeting scheduled to be held shortly and that it is contemplated that, at some future time, Mr. Griffin will be nominated to join the boards of directors, or to become a trustee or magaging general partner, of the other Funds.

Applicants state that Mr. Griffin's principal occupation is executive vice president, director and chairman of the finance committee of Hartford Fire, a property and liability insurer which is a 99 percent owned subsidiary of International Telephone and Telegraph Corporation and that he is also an officer and director of a number of subsidiary companies of Hartford Fire, including Hartford Securities, Hartford Life, Hartford Variable Annuity and Hartford Equity Sales Company, Inc. ("Hartford Equity Sales"). According to the application, Hartford Securities, a wholly-owned subsidiary of Hartford Fire, is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934 ("Exchange Act") solely to enable it to engage in securities transactions on behalf of Hartford Fire and its affiliates. Applicants state that Hartford Life is another wholly-owned subsidiary of Hartford Fire, and that Hartford Variable Annuity is a wholly-owned subsidiary of Hartford Life. According to the application, Hartford Equity Sales, a wholly-owned subsidiary of Hartford Variable Annuity, is registered with the Commission as a broker-dealer under the Exchange Act solely to enable it to engage in the business of selling variable annuity contracts issued by Hartford Variable Annuity.

Section 2(a)(19) of the Act, generally, defines an "interested person" of (i) an investment company, (ii) any investment adviser of an investment company, and (iii) any principal underwriter for an investment company, to include, inter alia, any broker or dealer registered under the Exchange Act or any affiliated person of such broker or dealer. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include, inter alia, any director, officer or employee of such other person.

Applicants state that Mr. Griffin, by reason of his positions as (1) a director, executive vice president and chairman of the finance committee of Hartford Fire; (2) president and director of Hartford Securities; (3) a director, vice president and chairman of the finance committee of Hartford Life; and (4) a director, vice president and chairman of the finance committee of Hartford Variable Annuity, would be considered to be an affiliated person of Hartford Securities and possibly of Hartford Equity Sales, and thus an interested person of the Funds, and of any investment adviser or principal underwriter of the Funds.

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in



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the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants submit that Mr. Griffin's relationships with Hartford Fire and its various subsidiary companies will not impair his independence in acting on behalf of any Funds or their shareholders. They state that Hartford Securities has never acted as broker-dealer or engaged in securities transactions for any client other than Hartford Fire and its affiliates, and does not intend to act as broker-dealer or engage in securities transactions for any person which is not an affiliate of Hartford Fire. Applicants state that Hartford Equity Sales' business relates solely to the marketing of variable annuity contracts issued by Hartford Variable Annuity and further state that (1) Hartford Securities and Hartford Equity Sales do not intend to sell securities to or purchase securities from any of the Funds, (2) the Funds will not purchase securities from or through, or sell securities to or through Hartford Securities or Hartford Equity Sales, and (3) this commitment by Applicants will not cause the Funds to lose the benefit of any investment opportunities.

Applicants submit that Mr. Griffin is subject to no conflicts of interest as a result of his relationships with Hartford Fire and its subsidiary companies and that, in the opinion of the Funds, Mr. Griffin is a man of recognized experience, integrity and competence in the investment industry and in the area of financial institutions. Applicants therefore submit that it is in the public interest as well as in the interests of the Funds and their shareholders that Mr. Griffin be permitted to serve as a disinterested member of the respective boards of directors, trustees, or managing general partners of the Funds.

Notice is further given that any interested person may, not later than August 12, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof or such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-21141 Filed 7-24-77;8:45 am]

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[Release No. 34-13757 File No. SR-MSE-77-18]

## MIDWEST STOCK EXCHANGE, INC.

### Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29 (June 4, 1975), notice is hereby given that on May 31, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

MSE's STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The fee for a Regulation T extension filed with the Exchange by broker/dealers will be increased from one dollar to two dollars.

In addition, the fee for a 15c3–3 Buy-In extension filed with the Exchange by broker/dealers will be increased from one dollar to two dollars.

MSE's STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to increase the fees for the above-mentioned services due to the increase of cost in processing the forms. This fee has not been increased for ten years.

The proposed rule change represents an equitable allocation of reasonable dues—the cost being the same for each delinquent customer.

Comments have neither been solicited nor received.

The Midwest Stock Exchange, Incorporated believes that no burdens have been placed on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exhange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by August 24, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 15, 1977.

[FR Doc.77-21145 Filed 7-24-77;8:45 am]

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[Release No. 34-13747; File No. SR-PCC-77-1]

## PACIFIC CLEARING CORP.

### Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on July 7, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Pacific Clearing Corporation ("PCC") hereby requests to amend its fee schedule to increase the physical delivery charge payable by its participants from one dollar ($1.00) to one dollar fifty cents ($1.50) per item. This increase constitutes the proposed rule change.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change, by changing the fees chargeable against participants for this transaction, reflects the increased expenses of the clearing agency and relates to the equitable allocation of fees among its participants.

Comments on the proposed amendment have not been solicited, and none have been received.

The Pacific Clearing Corporation believes that the proposed rule change will not impose any burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions





should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within twenty-one days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 13, 1977.

[FR Doc.77-21146 Filed 7-24-77;8:45 am]

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[File No. 500–1]

## SCOTTI COMMERCIAL CORP.

### Suspension of Trading

JULY 15, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Scotti Commercial Corp. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:45 a.m., e.d.t., on July 15, 1977 through July 24, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-21142 Filed 7-24-77;8:45 am]

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[File No. 500–1]

## VERCO ENERGY CORP.

### Suspension of Trading

JULY 15, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Verco Energy Corp. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:45 a.m., e.d.t, on July 15, 1977 through July 24, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-21144 Filed 7-24-77;8:45 am]

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[File No. 500–1]

## WESTERN UNITED RESOURCES, INC.

### Suspension of Trading

JULY 15, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Western United Resources, Inc. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:45 a.m., e.d.t., on July 15, 1977 through July 24, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-21143 Filed 7-24-77;8:45 am]

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## SMALL BUSINESS ADMINISTRATION

[License No. 09/09-0207]

## PRODUCERS INVESTMENT CORPORATION

### Notice of Application for a License as a Small Business Investment Company

Notice is hereby given concerning the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (SBIC's) (13 C.F.R. Section 107.102 (1977)), under the name of Producers Investment Corporation, 1901 Avenue of the Stars, Suite 1750, Los Angeles, California 90067, for a license to operate in the State of California as an SBIC under the provisions of the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and principal shareholder are:

Mimi Harris, Chairman of the Board, President, 100 percent, 1923 Coldwater Canyon Drive, Beverly Hills, California 90210.

Charles Pati, Exec. Vice President, Treasurer, Director, 10540 Wilshire Boulevard, Los Angeles, California 90024.

Thomas J. Ellsworth, Secretary, Director, 1130 Palomar, San Marino, California 91108.

The company will begin operations with an initial capitalization of $500,000. No concentration in any particular industry is planned. The applicant intends to make investments in small business concerns with growth potential, located primarily within the State of California.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owner and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any interested person may submit to SBA, in writing, relevant comments on the proposed company, on or before August 9, 1977. Any communication should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Los Angeles, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: July 15, 1977.

PETER F. MCNEISH,
*Deputy Associate Administrator for Investment.*

[FR Doc.77-21252 Filed 7-22-77;8:45 am]

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## DEPARTMENT OF STATE

[Public Notice CM-7/94]

## SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

### Meeting

The working group on international multimodal transport and containers of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting from 9:30 a.m. to 5 p.m. on Wednesday, August 31, 1977, in Room 8334 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of the meeting is to discuss matters germane to multimodal transport and containers. The following specific issues will be addressed in the order indicated:

Discussion of U.S. position for meeting of Group of Rapporteurs on Container Transport (GRCT) (ECE), September 12–15, 1977, in Geneva;

Debriefing of the meeting of the IMCO Subcommittee on Containers and Cargoes held in London, July 11–15, 1977;

Status of congressional action regarding the implementation of the IMCO International Convention on Safe Containers (CSC);

Status of USG action on the implementation of the ECE Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be used for such Carriage (ATP).

Necessary documents will be distributed as early as possible.

Any questions concerning this meeting should be directed to either Mr. M. H. Allen, United States Coast Guard (202–426–1577) or Mr. Richard E. Johe, Department of State (202–632–1313).

Comments from the public will be welcomed.

CARL TAYLOR, JR.,
*Acting Director, Office of Maritime Affairs.*

JULY 18, 1977.

[FR Doc.77-21282 Filed 7-22-77;8:45 am]



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Agency for International Development

**MISSION DIRECTOR, USAID/EGYPT**

**Amendment to Redelegation of Authority No. 162–4**

Pursuant to the authority delegated to me by A.I.D. Delegation of Authority No. 38, dated June 3, 1977 (42 FR 31511) with respect to Grant Agreements, it is hereby ordered as follows:

1. Redelegation of Authority No. 162–4, dated October 20, 1976, is amended by deleting in paragraph 3.(e) the words "and under such grant agreements which are for Capital Projects" and substituting therefor the words "or grant agreements".

2. Redelegation of Authority No. 99.1.83 dated January 26, 1977 (42 FR 8037) is amended by deleting in paragraph (1) the words "and AID grant-financed host country contracts for technical assistance".

This Amendment is effective immediately.

Dated: July 12, 1977.

ALFRED D. WHITE,
*Acting Assistant Administrator,*
*Bureau for Near East.*

[FR Doc.77-21253 Filed 7-22-77;8:45 am]

## DEPARTMENT OF TRANSPORTATION

**Coast Guard**

[CGD 77-132]

**EQUIPMENT, CONSTRUCTION, AND MATERIALS**

**Approval Notice**

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from April 26, 1977 to May 18, 1977 (List No. 6–77). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

LADDERS, EMBARKATION-DEBARKATION (FLEXIBLE), FOR MERCHANT VESSELS

Approval No. 160.017/50/0, Type I, embarkation-debarkation 40 feet or less ladder, rope suspension, wooden ears, spreaders and rungs identified by COMAR dwg. No. 100X dated May 10, 1977, manufactured by Coast Marine and Industrial Supply, Inc., 398 Jefferson Street, San Francisco, California 94133, effective May 13, 1977.

SIGNALS, DISTRESS, HAND RED FLARE, FOR MERCHANT VESSELS

Approval No. 160.021/12/1, Jupiter hand red flare distress signal, manufactured by Smith & Wesson Chemical Company, Inc., general arrangement dwg. No. 6–0150–B, revision B dated December 23, 1971; parts and materials list No. 6–0150–B dated December 23, 1971, revision B, label dwg. No. 6–0152–A dated December 1, 1969, revision B is a change in handle design and striker, manufactured by Smith & Wesson Chemical Company, Inc., P.O. Box 208, 2399 Forman Road, Rock Creek, Ohio 44084, effective May 9, 1977. (It is an extension of Approval No. 160.021/12/1 dated June 9, 1972.)

LIFEBOATS

Approval No. 160.035/211/5, 22.0' x 7.5' x 3.17' steel, oar-propelled lifeboat, 30-person capacity, identified by general arrangement dwg. No. 22–2 Rev. D dated May 9, 1972, approved for 31-person capacity as a replacement in kind for an existing lifeboat requiring 31-person capacity, 46 CFR 160.035–13(c) Marking. Weights: Condition "A"=2,345 pounds; Condition "B"=8,060 pounds, manufactured by Marine Safety Equipment Corporation, Foot of Wyckoff Road, Farmingdale, New Jersey 07727, effective May 9, 1977. (It is an extension of Approval No. 160.035/211/5 dated July 31, 1972.)

Approval No. 160.035/214/5, 20.0' x 6.5' x 2.67' aluminum, oar-propelled lifeboat, 18-person capacity identified by construction and arrangement dwg. No. 20–2 Alt. G dated May 12, 1972, approved for 20-person capacity as a replacement in kind for an existing lifeboat requiring 20-person capacity, 46 CFR 160.035–13 (c) Marking. Weights: Condition "A"=980 pounds; Condition "B"=4,542 pounds, manufactured by Marine Safety Equipment Corporation, Foot of Wyckoff Road, Farmingdale, New Jersey 07727, effective May 9, 1977. (It is an extension of Approval No. 160.035/214/5 dated July 28, 1972.)

Approval No. 160.035/258/4, 20.0' x 6.5' x 2.67' steel, oar-propelled lifeboat, 18-person* capacity, identified by construction and arrangement dwg. No. 20–3, Rev. F dated July 31, 1972, 46 CFR 160.035–13(c) Marking, Weights: Condition "A"=1,725 pounds; Condition "B"=5,278 pounds, if mechanical disengaging apparatus is fitted, it shall be of an approved type and installed in accordance with drawings approved by the Commandant, *approved for 10-person capacity as a replacement in kind for an existing lifeboat requiring 20-person capacity, manufactured by Marine Safety Equipment Corporation, Foot of Wyckoff Road, Farmingdale, New Jersey 07727, effective May 9, 1977. (It is an extension of Approval No. 160.035/258/4 dated July 31, 1972.)

MARINE BUOYANT DEVICE

Approval No. 160.064/12/0, 18-inch unicellular plastic foam ring buoy, model KS–18, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–12, Type IV PFD, manufactured by Carlon Rubber Products Company, 1 New Haven Avenue, Derby, Connecticut 06418, effective May 4, 1977. (It reinstates and supersedes Approval No. 160.064/12/0 terminated March 7, 1977.)

Approval No. 160.064/76/0, Model Nos. 920 and 1020, cloth covered foam "Horseshoe Buoy", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 10, Type IV PFD, manufactured by Cal-June Corporation, P.O. Box 9551, North Hollywood, California 91606, effective May 18, 1977. (It is an extension of Approval No. 160.064/76/0 dated May 25, 1972 and addition of Model No.)

Approval No. 160.064/185/0, 19-inch, Model No. G–19, vinyl dipped foam "Ring Life Buoy", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 10, Type IV PFD, manufactured by Cal-June Corporation, P.O. Box 9551, North Hollywood, California 91606, effective May 18, 1977. (It is an extension of Approval No. 160.064/185/0 dated May 25, 1972 and change of Model No.)

Approval No. 160.064/228/0, Pony Size, Model Nos. 940 and 1040, cloth covered foam, "Horseshoe Buoy", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 10, Type IV PFD, manufactured by Cal-June Corporation, P.O. Box 9551, North Hollywood, California 91606, effective May 18, 1977. (It is an extension of Approval No. 160.064/228/0 dated May 25, 1972 and addition of Model No.)

SOUND-POWERED TELEPHONE STATION

Approval No. 161.005/68/0, sound-powered telephone station, selective ringing, common talking, 11 stations maximum, panel board or console type, dwg. No. 128–01 dated March 25, 1963, for Model SF flush mounting; Model SFR flush mounting with a relay; Model SFLR flush mounting with a light and relay, for use in locations not exposed to the weather, manufactured by Hose-McCann Telephone Company, Inc., 524 W. 23rd Street, New York, New York 10011, effective May 12, 1977. (It is an extension of Approval No. 161.005/68/0 dated June 20, 1972.)

SAFETY VALVES (POWER BOILERS)

Approval No. 162.001/231/1, Style HC–55–MS and HC–55W–MS carbon steel body pop safety valve, nozzle type, exposed spring fitted with spring cover, 1200 p.s.i. primary service pressure rating, 675° F maximum temperature, dwg. No. HV–44–MS, revised February 23, 1977, approved for sizes 1½", 2", 2½", and 3" with flanged inlet (HC) or welding end inlet (HC–W), manufactured by Crosby Valve and Gage Company, Wrentham, Massachusetts 02093, effective April 28, 1977. (It is an extension of Approval No. 162.001/231/1 dated May 9, 1972.)

Approval No. 162.001/232/1, Style HC–56–MS and HC–56W–MS carbon steel body pop safety valve, nozzle type, exposed spring fitted with spring cover, 1200 p.s.i. primary service pressure rating 750° F maximum temperature, dwg. No. HV–44–MS, revised February 23, 1977, approved for sizes 1½", 2", 2½", and 3" with flanged inlet (HC) or welding end inlet (HC–W), manufactured by Crosby Valve and Gage Company, Wrentham, Massachusetts 02093, effective April 28, 1977. (It is an extension of Approval No. 162.001/232/1 dated May 9, 1972.)

Approval No. 162.001/237/1, Style HCA–57–MS and HCA–57W–MS alloy steel body pop safety valve, nozzle type, exposed spring fitted with spring cover, 1200 p.s.i. primary service pressure rating, 900° F maximum temperature with standard inlet flange and welded inlet flange; 1050 p.s.i. primary service pressure rating, 900° F maximum temperature with optional inlet flange, dwg. No. HV–47–MS, revised February 23, 1977, approved for sizes 1½", 2", 2½, and 3", manufactured by Crosby Valve and Gage Company, Wrentham, Massachusetts 02093, effective April 28, 1977. (It is an extension of Approval No. 162.001/237/1 dated May 9, 1972.)

Approval No. 162.001/238/1, Style HCA–58–MS and HCA–58W–MS alloy steel body pop safety valve, nozzle type, exposed spring fitted with spring cover, 995 p.s.i. rating, 1,050° F maximum temperature with standard inlet flange, 595 p.s.i. rating, 1,050° F maximum temperature with optional inlet flange, 1,200 p.s.i. rating, 1,050° F maximum temperature with welded inlet flange, dwg. No. HV–47–MS, revised February 23, 1977, 1½", 2", 2½", and 3" sizes, manufactured by Crosby Valve and Gage Company, Wrentham, Massachusetts 02093, effective April 28, 1977. (It is an extension of Approval No. 162.001/238/1 dated May 9, 1972.)

Approval No. 162.001/241/2, Style HS–MS–35 carbon steel body pop safety valve, flanged nozzle type, exposed spring fitted with spring cover, 800 p.s.i. primary service pressure rating, 650° F maximum temperature, dwg. No. HV–35–MS revised February 23, 1977, approved for sizes 1½", 2", 2½", 3", and 4", revised spring cover construction from cast malleable iron to perforated sheet steel, manufactured by Crosby Valve and Gage Company, Wrentham, Massachusetts 02093, effective April 28, 1977. (It supersedes Approval No. 162.001/241/1 dated May 23, 1972 to show modified spring cover construction.)





Approval No. 162.001/242/2, Style HS–MS–36 carbon steel body pop safety valve, flanged nozzle type, exposed spring fitted with spring cover, 800 p.s.i. primary service pressure rating, 750° F maximum temperature, dwg. No. HV–35–MS revised February 23, 1977, approved for sizes 1½", 2", 2½", 3", and 4", revised spring cover construction from cast malleable iron to perforated sheet steel, manufactured by Crosby Valve and Gage Company, Wrentham, Massachusetts 02093, effective April 28, 1977. (It supersedes Approval No. 162.001/242/1 dated May 23, 1972 to show modified spring cover construction.)

Approval No. 162.001/243/2, Style HSA–MS–37 alloy steel body pop safety valve, flanged nozzle type, exposed spring fitted with spring cover, 700 p.s.i. primary service pressure rating, 900° F maximum temperature with standard inlet flange; 800 p.s.i. primary service pressure rating, 900° F maximum temperature with optional inlet flange, dwg. No. HV–36–MS revised February 23, 1977, approved for sizes 1½", 2", 2½", 3", and 4", revised spring cover construction from cast malleable iron to perforated sheet steel, deleted spindle collar, manufactured by Crosby Valve and Gage Company, Wrentham, Massachusetts 02093, effective April 28, 1977. (It supersedes Approval No. 162.001/243/1 dated May 23, 1972 to show modified spring cover construction.)

Approval No. 162.001/244/2, Style HSA–MS–38 alloy steel body pop safety valve, flanged nozzle type, exposed spring fitted with spring cover, 465 p.s.i. primary service pressure rating, 1,020° F maximum temperature with standard inlet flange, approved for sizes 1½", 2", 2½", 3", and 4"; 775 p.s.i. primary service pressure rating 1,020° F maximum temperature with optional inlet flange, approved for sizes 1½", 2", and 2½"; 800 p.s.i. primary service pressure rating, 1,020° F maximum temperature with optional inlet flange, approved for sizes 3" and 4"; dwg. No. HV–36–MS revised February 23, 1977, revised cover construction from cast malleable iron to perforated sheet steel, deleted spindle collar, manufactured by Crosby Valve and Gage Company, Wrentham, Massachusetts 02093, effective April 28, 1977. (It supersedes Approval No. 162.001/244/1 dated May 23, 1972 to show modified spring cover construction.)

Approval No. 162.001/245/2, Style HS–MS–25 carbon steel body pop safety valve, flanged nozzle type, exposed spring fitted with spring cover, 600 p.s.i. primary service pressure rating, 650° F maximum temperature, dwg. No. HV–37–MS revised February 22, 1977, approved for sizes 1½", 2", 2½", 3", and 4", revised spring cover construction from cast malleable iron to perforated sheet steel, manufactured by Crosby Valve and Gage Company, Wrentham, Massachusetts 02093, effective April 28, 1977. (It supersedes Approval No. 162.001/245/1 dated May 23, 1972 to show modified spring cover construction.)

Approval No. 162.001/246/2, Style HS–MS–26 carbon steel body pop safety valve, flanged nozzle type, exposed spring fitted with spring cover, 600 p.s.i. primary service pressure rating, 750° F maximum temperature with standard inlet flange; 425 p.s.i. primary service pressure rating, 750° F maximum temperature with optional inlet flange, dwg. No. HV–37–MS revised February 22, 1977, approved for sizes 1½", 2", 2½", 3" and 4", revised spring cover construction from cast malleable iron to perforated sheet steel, manufactured by Crosby Valve and Gage Company, Wrentham, Massachusetts 02093, effective April 28, 1977. (It supersedes Approval No. 162.001/246/1 dated May 23, 1972 to show modified spring cover construction.)

Approval No. 162.001/247/2, Style HSA–MS–27 alloy steel body pop safety valve, flanged nozzle type, exposed spring fitted with spring cover, 600 p.s.i. primary service pressure rating, 900° F maximum temperature with standard inlet flange; 350 p.s.i primary service pressure rating, 900° F maximum temperature with optional inlet flange, dwg. No. HV–38–MS revised February 23, 1977, approved for sizes 1½", 2", 3", and 4", revised sping cover construction from cast malleable iron to perforated sheet steel, deleted spindle collar, manufactured by Crosby Valve and Gage Company, Wrentham, Massachusetts 02093, effective April 28, 1977. (It supersedes Approval No. 162.001/247/1 dated May 23, 1972 to show modified spring cover construction.)

Approval No. 162.001/288/0, 2500 Series, Types 258*( )AM and 259*( ) AM, carbon steel body (ASTM A216 Gr WCB) pop safety valve, 650° F maximum temperature, inlet and outlet sizes per dwg. No. 16067, Rev. A, dated January 7, 1972, maximum set pressures as follows: *-type designation indicating corresponding pressure rating (p.s.i.g.): 5=300, 6=600, 7=800, 8=900, 9=1500, manufactured by Teledyne Farris Engineering, Palisades Park, New Jersey 07650, effective April 26, 1977. (It is an extension of Approval No. 162.001/288/0 dated April 26, 1972.)

Approval No. 162.001/289/0, 2500 Series, Types 258*( ) BM and 259*( ) BM, carbon steel body (ASTM A216 Gr WCB) pop safety valve, 750° F maximum temperature, inlet and outlet sizes per dwg. No. 16067, Rev. A, dated January 7, 1972, maximum pressures as follows: *-type designation indicating corresponding pressure rating (p.s.i.g.); 5=300, 6=600, 7=800, 8=900, 9=1500, manufactured by Teledyne Farris Engineering, Palisades Park, New Jersey 07650, effective April 26, 1977. (It is an extension of Approval No. 162.001/289/0 dated April 26, 1972.)

Approval No. 162.001/290/0, 2500 Series, Types 258*( ) CM and 259*( ) CM, alloy steel body (ASTM A217 Gr C5) pop safety valve, 900° F maximum temperature, inlet and outlet sizes per dwg. No. 16067, Rev. A, dated January 7, 1972, maximum set pressures as follows: *-type designation indicating corresponding pressure rating (p.s.i.g.); 5=300, 6=600, 7=700, 8=900, 9=1500, manufactured by Teledyne Farris Engineering, Palisades Park, New Jersey



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07650, effective April 26, 1977. (It is an extension of Approval No. 162.001/290/0 dated April 26, 1972.)

Approval No. 162.001/291/0, 2500 Series, Types 258*( )CM and 259*( )CM, alloy steel body (ASTM A217 Gr C5) pop safety valve, 1,000° F maximum temperature, inlet and outlet sizes per dwg. No. 16067, Rev. A, dated January 7, 1972, maximum set pressure as follows: *-type designation indicating corresponding pressure rating (p.s.i.g.); 5=250, 6=500, 7=500, 8=750, 9=1250, manufactured by Teledyne Farris Engineering, Palisades Park, New Jersey 07650, effective April 26, 1977. (It is an extension of Approval No. 162.001/291/0 dated April 26, 1972.)

SAFETY VALVES (STEAM HEATING BOILERS)

Approval No. 162.012/8/0, Fig 629 pop safety valve, bronze body, for steam heating boilers and unfired steam generators dwg. No. S4785, dated February 27, 1952, approved for a maximum pressure of 30 p.s.i. in the following sizes:

*Capacity (pounds per hour)*

| Size (inches) | At 15 lb/in² | At 30 lb/in² |
|---|---|---|
| | 98 | 148 |
| 1 | 163 | 246 |
| 1½ | 204 | 307 |
| 1½ | 294 | 443 |
| 2 | 457 | 688 |
| 2½ | 653 | 983 |
| 3 | 980 | 1,475 |

manufactured by The Lunkenheimer Company, P.O. Box 360, Annex Station, Cincinnati, Ohio 45214, effective April 26, 1977. (It is an extension of Approval No. 162.012/8/0 dated March 2, 1972.)

FLAME ARRESTERS FOR TANK VESSELS

Approval No. 162.016/35/0, Figure No. 53 BS, VAREC flame arrester, cast steel body, stainless steel multiple plate bank, horizontal type, flanged connections, fitted with extensible banks and removable cover plate, Dwg. No. C-749, Revision C, dated November 13, 1964, approved for 3", 4", 6", 8", 10", and 12" pipe sizes, for use with inflammable or combustible liquids of Grade A or lower, manufactured by VAREC, Division Emerson Electric Company, 301 E. Alondra Boulevard, Gardena, Calif. 90247, effective May 5, 1977.

Approval No. 162.016/36/0, Figure No. 53 SS, VAREC flame arrester, stainless steel body, stainless steel multiple plate bank, horizontal type, flanged connections, fitted with extensible banks and removable cover plate, Dwg. No. C-749, Revision C, dated November 13, 1964, approved for 3", 4", 6", 8", 10", and 12" pipe sizes, for use with inflammable or combustible liquids of Grade A or lower, manufactured by VAREC, Division Emerson Electric Company, 301 E. Alondra Boulevard, Gardena, California 90247, effective May 5, 1977.

PRESSURE VACUUM RELIEF VALVES FOR TANK VESSELS

Approval No. 162.017/67/4, Figure No. 130 pressure vacuum relief valve, enclosed pattern, weight loaded poppets, bronze, nickel, cast iron or corrosion-resistant alloy steel body, dwg. No. 130-A, Rev. 7 dated February 15, 1963, approved for sizes 3", 4", 5", 6", 8", and 10", manufactured by Mechanical Marine Division, Hayward Manufacturing Company, Inc., 900 Fairmount Avenue, Elizabeth, New Jersey 07207, formerly Mechanical Marine Company, Inc., effective April 26, 1977. (It is an extension of Approval No. 162.017/67/4 dated April 28, 1972 and change of name of manufacturer.)

Dated: July 18, 1977.

H. G. LYONS,
*Captain, U.S. Coast Guard,*
*Acting Chief, Office of Merchant Marine Safety.*

[FR Doc.77-21322 Filed 7-22-77;8:45 am]

## Federal Aviation Administration

### RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA) SPECIAL COMMITTEE 132—AIRBORNE AUDIO SYSTEMS AND EQUIPMENT

#### Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Special Committee 132 on Airborne Audio Systems and Equipment to be held August 16, 17, 18, 1977, RTCA Conference Room 261, 1717 H Street NW., Washington, D.C. commencing at 9:30 a.m. The Agenda for this meeting is as follows: (1) Chairman's Comments; (2) Approval of Minutes of Second Meeting held April 27-28, 1977; (3) Consideration of Revised Drafts of RTCA Documents DO-78A "Minimum Performance Standards—Aircraft Audio and Interphone Amplifiers", DO-85 "Audio Response of Air—Ground Communication Systems", DO-90 "Minimum Performance Standards—Aircraft Headsets and Speakers" and DO-91 "Minimum Performance Standards—Aircraft Microphones" and, (4) Assignment of Tasks.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Person wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006; 202-296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on July 18, 1977.

KARL F. BIERACH,
*Designated Officer.*

[FR Doc.77-21037 Filed 7-22-77;8:45 am]

## Federal Highway Administration

[FHWA Docket No. 77-8]

### IN THE MATTER OF BRIDGES OWNED BY THE DELAWARE RIVER PORT AUTHORITY

#### Notice of Response to Proposed Order

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of Response to Proposed Order.

SUMMARY: On May 23, 1977, a proposed order to establish a time limit during which the Administrator's toll order will be in effect was published in the FEDERAL REGISTER. Public comment was invited at that time with June 22 being established as the last date for comment. It was further noted that the failure to comment within the time period would be a waiver of any right to object or appeal the proposed order should it be entered as final. No comments were received within the prescribed period. One comment was received on June 27, 1977, 5 days after the last date for filing comment. That comment, which was submitted by Robert Weinberg, Director, Motorists for Lower Tolls, requested the opportunity to be heard in opposition to a revision of the current bridge tolls.

FOR FURTHER INFORMATION CONTACT:

Gerald M. Tierney, Office of the Chief Counsel (202-426-0346), Federal Highway Administration. Office hours are 7:45 to 4:15 ET, Monday-Friday.

DISCUSSION: Although it is technically unnecessary to address the comments by the Motorists for Lower Tolls because they were not filed within the prescribed period, the following paragraphs do address the concerns expressed in those comments.

The comments imply that the Federal Highway Administration should have personally informed all parties of record to the administrative proceedings of the intention of entering a proposed order. Such a course of action was not necessary, however, because the proposed order was suggested in settlement of the case entitled "Delaware River Port Authority v. Tiemann," U.S. Court of Appeals for the Third Circut, 77-1047, and was in conformance with the latest revision of the bridge toll procedural regulations which requires a time limit be placed on all Administrator's orders. 42 FR 2964 (Jan. 14, 1977). All parties to the court proceeding were aware of the proposed order and counsel for the Delaware River Port Authority sent a letter to other individuals and organizations which he felt would be interested. A copy of that letter was sent to the Motorists for Lower Tolls. These notices, in addition to the FEDERAL REGISTER notice, were adequate to inform all interested persons of the proposed order.

Substantively, the Motorists for Lower Tolls requested the opportunity to be heard in opposition to any revision of the bridge tolls. The proposed order does not affect the rate of tolls being charged on the bridges, and therefore, it is unnecessary to grant such a request. If, however, upon the expiration of the toll order on November 30, 1977, the Delaware River Port Authority were to raise its tolls, the Motorists for Lower Tolls would be entitled to file a complaint and request a hearing under the procedures established in the toll bridge procedural rules. 49 CFR Part 310.

FINAL ORDER: The public having received notice and the opportunity to comment, the proposed order will be entered as a final order of the Federal Highway Administrator in this proceeding upon the entry of an order by the U.S. Court of Appeals for the Third Circuit dismissing the appeal of the Delaware River Port Authority, case number 77-1047, "Delaware River Port Authority v. Tiemann." The following is the Order in this case:

ORDER IN THE MATTER OF BRIDGES OWNED BY THE DELAWARE RIVER PORT AUTHORITY

The Administrator's Toll Order of May 19, 1975, is amended to establish a time period during which the Order shall be in effect. The Order shall be in effect for 2 years to be measured from the date the Order setting the tolls originally went into effect, December 1, 1975.

Issued this 15th day of July 1977, in Washington, D.C.

(33 U.S.C. § 526, 49 CFR Part 310)

WILLIAM M. COX,
*Administrator,*
*Federal Highway Administration.*

[FR Doc 77-21393 Filed 7-22-77;8:45 am]

## Federal Railroad Administration

### PETITIONS FOR WAIVER OF REAR END MARKING DEVICES RULES

As required by 45 U.S.C. 431(c), notice is hereby given that three railroads have submitted waiver petitions to the Federal Railroad Administration (FRA) requesting permanent waiver of compliance with certain provisions of 49 CFR Part 221, Rear End Marking Devices—Passenger, Commuter and Freight Trains. This regulation was recently adopted by FRA and was published in the January 11, 1977 issue of the Federal Register (42 FR 2321).

This safety regulation became effective on February 15, 1977 and mandatory compliance with its provisions becomes effective on January 1, 1978. The regulation in essence requires that a railroad place highly visible marking devices on the last car of each train it operates.

Each of the railroads seeking a waiver is identified below. A brief description of the circumstances involved in each of the waiver requests has been provided.

Interested persons are invited to participate in these proceedings by submitting written data, views, or comments. FRA does not anticipate scheduling an opportunity for oral comment on these petitions since the facts do not appear to warrant it. An opportunity for oral comment will be provided, however, if requested by an interested person before August 3, 1977.

All communications concerning these petitions must identify the appropriate docket number (e.g. FRA Waiver Petition No. RSRM-77-1) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before August 31, 1977 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. Detailed information concerning each petition is on file with the Docket Clerk. Any comments received will also be on file. This material is available for examination by the public during regular business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C.

UNION RAILROAD CO., FRA WAIVER PETITION DOCKET NO. RSRM-1

The Union Railroad Company of East Pittsburgh, Pa. (Union) seeks a permanent waiver of compliance with the light intensity and horizontal and vertical beam width requirements for rear end marking devices contained in section 221.51(a)(1) so that it may continue to use flashing devices that comply with the requirements of the Pennsylvania Public Utilities Commission and comply with the other requirements of 221.15 pertaining to color and flashing rate. Rule 20, Paragraph B, Subtopic 15 issued by the Pennsylvania Public Utilities Commission reads as follows:

Each cabin car in use shall be equipped with electric marker lights (either flashing or constant burning of such intensity and be equipped with proper lens so as to be visible at a distance of 3,000 feet under normal atmospheric conditions.

In support of its petition, Union contends that because of an extensive automatic block and interlocking system, low speed operations, operating rules that provide special instructions for back-up movements, and its safety record with respect to rear-end collisions since 1967, compliance with section 221.15(a)(1) would have no safety benefit. Moreover, the initial cost of compliance would be between $60,000 and $80,000 and would cost $40,000 annually thereafter because Union operates at very low speeds for relatively short distances and cannot, therefore, use axle driven generator sets to power lighted rear end marking devices on its 41 cabooses.

VERMONT RAILWAY INC., FRA WAIVER PETITION DOCKET NO. RSRM-2

The Vermont Railway, Inc. (Vermont), seeks a permanent waiver of compliance with all the requirements of Part 221—Rear End Marking Devices—Passenger, Commuter and Freight Trains. As justification for the requested waiver, Vermont indicates that it operates only two trains simultaneously for a period of three to six hours each day and that those trains have positive distance separation since one operates south of Rutland and the other operates north of Rutland. Vermont also states that in its 13 years of operation, it has never had a train collision.

NORFOLK AND WESTERN RAILWAY CO. FRA WAIVER PETITION DOCKET NO. 77-3

The Norfolk and Western Railway Company (N&W) seeks a permanent waiver of compliance with the 1,000 candela maximum effective intensity for flashing rear end marking devices prescribed in section 225.15(a) with respect to its Chicago commuter trains only.

These trains are now equipped with a Xenon flasher that has a peak candlepower of 3.6 million. N&W states that since this is a flashing device, it would not tend to blind other train crews and that the high visibility it provides makes it a suitable rear end marking device.

(AUTHORITY: Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431, as amended by Sec. 5(b) of the Federal Railroad Safety Authorization Act of 1976, Pub. L. 94-348, 90 Stat. 817, July 8, 1976; § 1.49(m) of the regulations of the Office of the Secretary, 49 CFR 1.49(m).)

Issued in Washington, D.C., on July 15, 1977.

DONALD W. BENNETT,
*Chairman,*
*Railroad Safety Board.*

[FR Doc.77-21231 Filed 7-22-77;8:45 am]

## Materials Transportation Bureau

### OFFICE OF HAZARDOUS MATERIALS OPERATIONS

#### Hazardous Materials Regulations Exemption; Grants and Denials of Applications

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted June 1977. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.





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*Renewals*

| Application No. | Exemption No. | Applicant | Regulation(s) affected | Nature of exemption thereof |
|---|---|---|---|---|
| 387-P | DOT-E 2587 | Valweld, Inc., Appleton, Wis.; Mass Oxygen Equipment Co., Inc., Westborough, Mass. and The Great Plains Co., Cheyenne, Wyo. | 49 CFR 173.315(a)(2) | To become a party to exemption 2587 (see application 2587-X). (Mode 1.) |
| 3839-X | DOT-E 3839 | Allied Chemical Corp., Morristown, N.J. and Mallinckrodt, Inc., St. Louis, Mo. | 49 CFR 177.840(a), (b) | To ship nitric acid in DOT specification 33A polystyrene cases. (Mode 1.) |
| 3879-X | DOT-E 3879 | Air Products & Chemicals, Inc., Allentown, Pa. and L & V Industrial Supply, Inc., San Mateo, Calif. | 49 CFR 173.316(a), (b) | To ship liquefied hydrogen in Linde LSH 150 containers, constructed in compliance with DOT specification 4L-200 except for lighter gage steel inside container. (Mode 1.) |
| 1412-X | DOT-E 1412 | U.S. Department of Defense, Washington, D.C. | 49 CFR 173.87, 173.154. | To ship aluminum alkyls in specially designed non-DOT aluminum pressure vessel. (Mode 1.) |
| 1499-X | DOT-E 1499 | Union Carbide Corp., Tarrytown, N.Y. | 49 CFR 173.315(a)(1), 173.401. | To ship liquefied methane in a non-DOT specification cargo tank designed and constructed in accordance with sec. VIII of the ASME Code. (Mode 1.) |
| 1547-X | DOT-E 1547 | U.S. Department of Defense, Washington, D.C. | 49 CFR 173.302(a). | To ship certain nonflammable gases in a hydraulic accumulator precharged with helium and equipped with an electric squib. (Modes 1 and 2.) |
| 1734-X | DOT-E 1734 | General Electric Co., Waterford, N.Y. | 49 CFR 173.135(a)(9), 173.136, 173.247, 173.280(a)(8). | To ship certain flammable liquids and corrosive materials in a DOT specification MC 331 cargo tank with certain exceptions. (Mode 1.) |
| 1765-P | DOT-E 1765 | Milbort Chemical Co., Milwaukee, Wis. Hydrite Chemical Co., Milwaukee, Wis.; Axton Cross Co., Hullston, Mass.; Chemical Products, Inc., Tulsa, Okla.; Griffith Laboratories, Alsip, Ill.; Allied Chemical Corp., Morristown, N.J.; and Worth Chemical Corp., Greensboro, N.C. | 49 CFR 173.247(a)(2). | To become a party to exemption 1765 (see application No. 1765-X). (Modes 1 and 2.) |
| 1811-X | DOT-E 1811 | Bristol Aerojet, Ltd., Avon, England | 49 CFR 173.302 to 173.302(a)(5), 173.304. | To ship certain nonflammable compressed gases in non-DOT specification foreign-made steel cylinders. (Mode 1.) |
| 2013-X | DOT-E 2013 | Ato | 49 CFR 173.100, 173.315 to 173.315(a). | To ship liquefied helium in an insulated non-DOT specification portable tank. (Modes 1 and 3.) |
| 2592-P | DOT-E 2592 | Chemplex Co., Rolling Meadows, Ill. | 49 CFR 172.101, 173.315(a). | To become a party to exemption 2592 (see application No. 2592-X). (Mode 2.) |
| 6020-P | DOT-E 6020 | Northern Petrochemical Co., Des Plaines, Ill. | 49 CFR 172.101, 173.315(a). | To become a party to exemption 6020 (see application No. 6020-X). (Mode 1.) |
| 6215-X | DOT-E 6215 | E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. | 49 CFR 172.101, 173.315(a). | To ship liquefied hydrogen chloride in a non-DOT specification cargo tank designed and constructed in accordance with sec. VIII of the ASME Code. (Mode 1.) |
| 6518-P | DOT-E 6518 | Pennwalt Corp., Philadelphia, Pa. | 49 CFR 173.247, 173.101. | To become a party to exemption 6518 (see application No. 6518-X). (Modes 1 and 2.) |
| 6584-X | DOT-E 6584 | IMC Chemical Group, Inc., Terre Haute, Ind. | 49 CFR 173.119(a). | To ship nitromethane mixtures in DOT specification MC 306 or MC 312 tank motor vehicles. (Mode 1.) |
| 6601-X | DOT-E 6601 | Chevron Chemical Co., San Francisco, Calif. | 49 CFR 173.353(a)(2). | To ship certain Class B poison in electrolytic tin plated sheet steel cans packed in DOT 12B40 fiberboard boxes. (Mode 1.) |
| 6624-X | DOT-E 6624 | Tayco, Inc., Chatsworth, Calif. | 49 CFR 173.302(a)(1), 173.34. | To ship nonflammable compressed gases in a non-DOT specification non-refillable steel inside cylinder. (Modes 1, 2, 4, and 5.) |
| 6543-P | DOT-E 6543 | MAT Chemicals, San Francisco, Calif. | 49 CFR 173.315, 178.247, 178.-130(a)(5), 175.3. | To become a party to exemption 6543 (see application No. 6543-X). (Modes 1, 2, and 4.) |
| 6584-X | DOT-E 6584 | Gem Brothers Corp., Union, N.J. | 49 CFR Part 178, 178.19 | To manufacture, mark, and sell a 3-component polyethylene container for shipments of corrosive liquids. (Modes 1, 2, and 5.) |
| 6602-X | DOT-E 6602 | Buckeye, Inc., Decatur, Ga. | 49 CFR 173.217(a) | To ship oxidizing material cartridges in a non-DOT inside polyethylene bulk pack, overpacked in a non-DOT fiberboard box. (Mode 1.) |
| 6611-X | DOT-E 6611 | Gardner Cryogenics, Bethlehem, Pa., Phillips Petroleum Co., Bartlesville, Okla., and Air Products & Chemicals, Inc., Allentown, Pa. | 49 CFR 172.101, 173.315(a). | To ship nonflammable gases in a non-DOT specification insulated portable tank designed and constructed in accordance with the ASME Code. (Modes 1, and 3.) |
| 6641-P | DOT-E 6641 | Jones Chemicals, Inc., Caledonia, N.Y. and Continental Chemical Co., Stockton, Calif. | 49 CFR 173.263(a)(28), 173.-275(a)(6). | To become a party to exemption 6641-X. (Mode 1.) |
| 6646-X | DOT-E 6646 | Fenwal Inc., Ashland, Mass. and Boeing Co., Seattle, Wash. | 49 CFR 173.304(a)(1), 173.3. | To ship nonflammable compressed gases in a non-DOT specification, spherical, steel pressure vessel. (Modes 1, 4, and 5.) |
| 6652-X | DOT-E 6652 | Roper Plastics, Inc., Norkwalk, Calif. | 49 CFR 173.247(a) | To manufacture, mark, and sell polyethylene pails for shipments of dry oxidizing materials in non-DOT single trip polyethylene container. (Modes 1, 2, and 3.) |
| 6706-X | DOT-E 6706 | DuBois Chemicals, Cincinnati, Ohio | 49 CFR 173.256 | To ship hydrofluoric acid mixtures in DOT specification MC 311 and MC 312 cargo tanks. (Mode 1.) |
| 6767-P | DOT-E 6767 | Bokum & Welch Ltd., London, England | 49 CFR 173.119, 173.125, 173.245, 173.247, 173.346, 46 CFR 90.05-35, 98.35. | To become a party to exemption 6767 (see application No. 6767-X). (Modes 1, 2, and 3.) |
| 6815-X | DOT-E 6815 | Mobay Chemical Corp., Kansas City, Mo. | 49 CFR 173.270 | To ship a poison B liquid in DOT specification MC 312 tank motor vehicle. (Mode 1.) |
| 6823-X | DOT-E 6823 | Bio-Lab, Inc., Decatur, Ga. | 49 CFR 173.247(a) | To ship certain oxidizing materials in a non-DOT specially designed polyethylene bottle overpacked in a non-DOT fiberboard box. (Modes 1 and 2. |
| 6831-X | DOT-E 6831 | E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. | 49 CFR 173.-[illegible] | To ship liquid coal tar dye in non-DOT specification 5 trip polyethylene container overpacked in a strong plywood box. (Modes 1, 2, and 4.) |
| 6889-X | DOT-E 6889 | McDonnell Douglas Corp., Tulsa, Okla. | 49 CFR 173.304(a)(4) | To ship anhydrous ammonia in a non-DOT nonrefillable heat pipe. (Modes 1, 2, and 5). |
| 6899-P | DOT-E 6899 | Explosive Technology, Fairfield, Calif. | 49 CFR 173.100(cc), 173.53 | To become a party to exemption 6899 (see application No. 6899-X. (Modes 1, 2, and 4.) |
| 6908-P | DOT-E 6908 | Hughes Aircraft Co., Culver City, Calif. | 49 CFR 173.302 to 173.302(a)(5), 173.304. | To become a party to exemption 6908 (see application No. 6908-X). (Modes 1, 2, and 4.) |
| 6960-X | DOT-E 6960 | Pepsi-Cola Co., Purchase, N.Y. | 49 CFR 173.245(b). | To ship certain corrosive liquids in non-DOT specification stainless steel tight-head drums. (Modes 1 and 2.) |
| 7005-P | DOT-E 7005 | Dow Chemical Co., Midland, Mich.; Rhodia, Inc., New York, N.Y., and NCO Chemical, Baytown, Tex. | 49 CFR 173.119, 173.141 a(10), 173.245(a)(30); 46 CFR 90.05-35. | To become a party to exemption 7005 (see application No. 7005-X). (Modes 3 and 4.) |
| 7034-X | DOT-E 7034 | National Ammonia Co., Philadelphia, Pa. | 49 CFR 173.315(a). | To ship anhydrous ammonia in DOT specification MC 330 cargo tanks. (Mode 1.) |
| 7085-X | DOT-E 7085 | California Seal Control Corp., San Pedro, Calif. | 49 CFR 172.101, 173.86, 173.-100, 173.51(a)(7). | To ship a class C explosive in DOT specification 12B fiberboard box. (Modes 1 and 3.) |
| 7207-X | DOT-E 7207 | Matheson Gas Products, Lyndhurst, N.J. | 49 CFR 173.101, 173.315(a). | To ship liquefied ethylene in a non-DOT stainless steel cargo tank designed and constructed in accordance with sec. VIII of the ASME Code with certain exemptions. (Mode 1.) |
| 7227-P | DOT-E 7227 | Airco Industrial Gases, Houston, Tex. | 49 CFR 173.315. | To become a party to exemption 7227 (see application No. 75-187). (Mode 3.) |
| 7260-P | DOT-E 7260 | Atlas Powder Co., Dallas, Tex. | 49 CFR 176.415(e)(1). | To become a party to exemption 7260 (see application No. 7260-X). (Mode 3.) |
| 7313-X | DOT-E 7313 | Chilton Metal Products Division, Western Industries, Inc., Chilton, Wis. | 49 CFR 173.301(a)(1), 173.3, 178.37. | To manufacture, mark, and sell non-DOT cylinders for shipments of liquefied carbon dioxide. (Modes 1, 2, and 4.) |
| 7123-P | DOT-E 7123 | Dow Chemical Co., Freeport, Tex., Hart Metals, Inc., Tamaqua, Pa., Reade Manufacturing Co., Lakehurst, N.J. and Rossborough Manufacturing Co., Cleveland, Ohio. | 49 CFR 173.320 | To become a party to exemption 7123-NQ. (Modes 1, 2, and 3.) |





| Application No. | Exemption No. | Applicant | Regulation(s) affected | Nature of exemption thereof |
|---|---|---|---|---|
| 7193-N | DOT-E 7193 | Hugonnet, S.A., Paris, France | 46 CFR 90.05-35; 49 CFR pt. 173. | To ship certain hazardous materials in a non-DOT specification insulated portable tank complying with IMCO type 2 portable tank specification. (Modes 1, 2, and 3.) |
| 7195-N | DOT-E 7195 | General American Transportation Corp., Chicago, Ill. | 49 CFR 173.315(a)(1) | To manufacture, mark, and sell portable tanks comparable to DOT specification MC-331 cargo tanks for shipments of chlorine. (Modes 1, 2, and 3.) |
| 7537-N | DOT-E 7537 | Lucidol Division of Pennwalt Corp., Buffalo, N.Y. | 49 CFR 173.157(b)(3) | To ship a greater net quantity of benzoyl peroxide in DOT specification 12B fiberboard boxes. (Mode 1.) |
| 7543-N | DOT-E 7543 | Monsanto Co., St. Louis, Mo. | 49 CFR 173.154 | To ship a flammable solid in a DOT specification 56 portable tank overpacked in a modified Dempster box. (Mode 1.) |
| 7588-N | DOT-E 7588 | Hoyt Corp., Rogers, Ark. | 49 CFR 173.302(a)(1) | To ship compressed air in non-DOT specification, single trip, steel tanks. (Mode 1.) |
| 7594-N | DOT-E 7594 | Bromine Compounds Ltd., Beer Sheva, Israel. | 49 CFR 173.353 | To ship liquid methyl bromide in a non-DOT specification portable tank complying with sec. VIII of the ASME Code. (Modes 1 and 3.) |
| 7596-N | DOT-E 7596 | Puerto Rico Maritime Shipping Authority, San Juan, P.R. | 46 CFR 90.05-35; 49 CFR pt. 173. | To ship certain combustible and flammable liquids in a non-DOT specification stainless steel portable tank. (Modes 1, 2, and 3.) |
| 7607-N | DOT-E 7607 | Century Systems Corp., Arkansas City, Kans. | 49 CFR 172.101, 175.3 | To ship hydrogen in a non-DOT specification seamless st ainless stee cylinder. (Mode 4.) |
| 7610-N | DOT-E 7610 | Dewey & Almy Chemical Division, W. R. Grace & Co., San Leandro, Calif. | 49 CFR 173.119 | To ship certain flammable liquids in non-DOT portable tank designed and constructed according to sec. VIII of the ASME Code. (Modes 1 and 3.) |
| 7611-N | DOT-E 7611 | Richmond Food Stores, Inc., Richmond, Va. | 49 CFR 173.87, 173.101 | To ship small arms ammunition in inside pasteboard boxes comingled with other articles in non-DOT polyethylene boxes. (Mode 1.) |
| 7615-N | DOT-E 7615 | The Norac Co., Inc., Azusa, Calif. | 49 CFR 173.157 | To ship benzoyl peroxide slurry in a non-DOT specification liqui-pak fiber drum. (Mode 1.) |
| 7616-N | DOT-E 7616 | Missouri Pacific Railroad Co., The Texas & Pacific Railway Co., St. Louis, Mo. | 49 CFR 172.204 (a), (d) | To allow the use of a statement to aver certification on behalf of shipper to be subsstituted for the actual certification on shipping papers. (Mode 2.) |
| 7629-N | DOT-E 7629 | W. P. Butterfield (Engineers) Ltd., Shipley West Yorkshire, England. | 49 CFR 173.346, 173.268, 173.247, 173.119, 173.245; 46 CFR 90.05-35. | To ship hazardous materials in a non-DOT specification stainless steel portable tank. (Modes 1 and 3.) |
| 7657-N | DOT-E 7657 | Walker Engineering Co., Bellaire, Tex. | 49 CFR 173.302(a)(1), 173.304 (a)(1), 173.304(b)(1). | To manufacture, mark, and sell non-DOT specification stainless steel cylinders for shipments of compressed gases. (Modes 1 and 4.) |
| 7671-N | DOT-E 7671 | Hugonnet, S.A., Paris, France; Sea Containers Inc., New York, N.Y.; and Overseas Enterprises Inc., New York, N.Y. | 46 CFR 90.05-35; 49 CFR pt. 173. | To ship certain hazardous materials in a non-DOT specification IMCO type 2 insulated portable tank. (Modes 1, 2, and 3.) |
| 7690-N | DOT-E 7690 | Prestex Products Co., St. Paul, Minn. | 49 CFR 173.119 (a), (b), 173.125. | To ship certain flammable liquids in DOT specification 51 polyethylene containers. (Mode 1.) |
| 7696-N | DOT-E 7696 | Orval-Manutention, Paris, France | 46 CFR 90.05-35; 49 CFR 173.119, 173.245(a), 173.295 (a), 173.346(a). | To ship certain hazardous materials in a non-DOT specification IMCO type 1 insulated portable tank. (Modes 1 and 3.) |
| 7745-N | DOT-E 7745 | Economics Laboratory, Inc., St. Paul, Minn. | 49 CFR 172.201(a)(2) | To allow the shipping description on shipping papers to contain coded information. (Modes 1, 2, 3, 4, and 5.) |
| 7752-N | DOT-E 7752 | Hugonnet, S.A., Paris, France and Eurotainer, Paris, France. | 46 CFR 90.05-35; 49 CFR pt. 173. | To ship certain hazardous materials in a non-DOT specification IMCO type 2 insulated portable tank. (Modes 1, 2, and 3.) |

EMERGENCY EXEMPTION—APPLICATIONS RECEIVED AND GRANTED

| | | | | |
|---|---|---|---|---|
| EE7780-N | DOT-E 7780 | Chevron U.S.A. Inc., San Francisco, Calif. | 49 CFR 173.28(m) | To refill and ship gasoline in used DOT specification 17E drums requalified under modified testing procedures. (Mode 3.) |
| EE7782-N | DOT-E 7782 | Eastman Kodak Co., Rochester, N.Y. | 49 CFR 176.800(a) | To waive stowage requirements for shipments of hazardous materials in limited quantities when loaded in transport vehicles and freight containers. (Mode 3.) |
| EE7785-N | DOT-E 7785 | Stauffer Chemical Co., Westport, Conn. | 49 CFR 173.225, 177.838(a), 177.854. | To provide for the return shipment of 10 damaged DOT specification 56 metal portable tanks containing phosphorous pentasulfide. (Mode 1.) |

DENIALS

4007-X Request by Matson Navigation Co., San Francisco, Calif.—To add a new group of tanks to ship certain flammable liquids in non-DOT specification stainless steel portable tanks, denied June 20, 1977, as being unnecessary.

4239-P Request by The Boeing Co., Seattle, Wash.—To become a party to Special Permit 4239 authorizing shipment of compressed gases in a modified DOT Specification 4D cylinder, denied June 3, 1977.

4867-P Request by Valley Nitrogen Producers, Inc., Fresno, Calif.—To become a party to Exemption 4897 authorizing shipment of nitrogen tetroxide, liquid in DOT Specification 110A500-W stainless steel tanks, denied June 16, 1977. (HM-139 obviates the need.)

5167-P Request by Rohm & Haas Co., Philadelphia, Pa.—To become a party to Exemption 5167 authorizing shipment of certain guthion wettable powder formulations not exceeding 67% active ingredient, denied June 9, 1977, as being unnecessary.

5771-X Request by Hooker Chemicals & Plastic Corp., Niagara Falls, N.Y.—To ship sodium chlorate in a tank car tank having no internal operating valve, denied June 24, 1977, as being unnecessary.

6526-P Request by Cornell Chemical & Equipment Co., Inc., Baltimore, Md.—To become a party to Exemption 6526 authorizing shipment of Class B poisonous liquids, denied June 9, 1977, as being unnecessary.

6584-X Request by Stauffer Chemical Co., Westport, Conn.—To ship certain corrosive liquids in a non-DOT Specification metal/polyethylene drum, denied June 22, 1977, as being unnecessary.

6584-X Request by Monsanto Co., St. Louis, Mo.—To ship certain corrosive liquids in a non-DOT specification metal/polyethylene drum, denied June 23, 1977, as being unnecessary.

6621-P Request by Cornell Chemical & Equipment Co., Baltimore, Md.—To become a party to Exemption 6621 authorizing shipment of certain Class B poisonous liquids, denied June 9, 1977, as being unnecessary.

6628-X Request by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.—To ship 100% sulfuric acid in DOT Specification 103CW and 111A100W6 tank cars, denied June 17, 1977, as being unnecessary.

6662-P Request by Union Carbide Corp., Bound Brook, N.J.—To become a party to Exemption 6662 authorizing shipment of certain organic peroxides, denied June 9, 1977, as being unnecessary.

6714-X Request by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.—To ship difluoroethane in a DOT Specification 112A400W tank car, denied June 13, 1977, as being unnecessary.

6719-X Request by Lehigh Valley Chemical Co., Easton, Pa.—To allow the use of a DOT Specification 17E steel drum for shipment of acetone and amyl acetate, denied June 8, 1977.

EE6889-X Request by McDonnell Douglas Corp., Tulsa, Okla.—To ship heat pipes containing anhydrous ammonia, denied June 9, 1977.

7005-X Request by Dow Chemical Co., Midland, Mich.—To ship a mixture averaging 48% by weight of 1,2-butylene oxide and 52% by weight of nitromethane under the provisions of Exemption 7005, denied June 22, 1977.

7045-P Request by X-Ray Sales & Services Co., Fort Worth, Tex.—To become a party to Exemption 7045 authorizing shipment of certain corrosive solutions in bottles having a rated capacity not over five quarts each to be packed in the same outside shipping container with a non-hazardous material, denied June 20, 1977. (Docket HM-139 obviates the need.)

7256-P Request by Baker Manufacturing Co., Evansville, Wis.—To become a party to Exemption 7256 authorizing shipment of compressed air or nitrogen in non-DOT specification, single-trip, welded steel tanks, denied June 3, 1977, as being unnecessary.

7262-X Request by Hercules Inc., Wilmington, Del.—To ship nitric acid of 98 percent concentration by rail under certain conditions, denied June 17, 1977. (Docket HM-139 obviates the need.)

7419-X Request by U.S. Department of Defense, Washington, D.C.—To ship high explosives in COFC-TOFC service as prescribed in Section 174.104(b) except cars can be equipped with high phosphorus cast iron brakeshoes, denied June 13, 1977. (Docket HM-139 obviates the need.)

7523-N Request by Chemed Corp., Lake Zurich, Ill.—For an exception to the requirement to label certain limited quantities of poison B liquids, denied June 20, 1977.

7532-N Request by Fabricated Metals, Inc., Modena, Pa.—To allow shipment of nitric acid over 40%, 98% sulfuric acid, and aqua ammonia in DOT Specification 57 portable tanks, denied June 20, 1977.



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7577–N Request by Monitor Labs, Inc., San Diego, Calif.—To allow shipment of nitrogen dioxide in permeation cylinders by air transport, denied June 28, 1977.

7585–N Request by Fabricated Metals, Inc., Modena, Pa.—To authorize shipment of arsenic acid solutions in DOT Specification 57 portable tanks, denied June 16, 1977.

7609–N Request by Nenana Fuel Co., Nenana, Alaska—To authorize shipment of flammable and combustible liquids in installed tanks of over 110 gal capacity in cargo-only aircraft, denied June 27, 1977.

7616–N Request by Missouri Pacific Railroad Company, The Texas and Pacific Railroad Company, Chicago and Eastern Illinois Railroad, St. Louis, Mo.—For modification of buffer car requirements, denied June 20, 1977.

7670–N Request by McConnell Drum Service, Doraville, Ga.—To authorize markings on the side, near the top chime, for steel drums constructed in accordance to DOT–17E drums except for marking, denied June 16, 1977.

7672–N Request by Kaiser Aluminum & Chemical Corp., Oakland, Calif.—To allow compliance with the old shipping paper requirements in lieu of the new regulations prescribed in 49 CFR, denied June 24, 1977.

7692–N Request by Trans-Artic Ltd., Fairbanks, Alaska—To authorize shipment in cargo-only aircraft of certain flammable and corrosive liquids in quantities greater than authorized by 172.101, denied June 23, 1977.

7703–N Request by Big Country Flying Service, Medfra, Alaska—To authorize reuse of single-trip containers for certain flammable and combustible liquids and the filling of containers within an aircraft with certain flammable and combustible liquids, denied June 28, 1977.

7707–N Request by C. S. Industries, Long Beach, Calif.—To authorize construction of DOT Specification 3AA cylinders with a minimum of 4 threads in the I.D. neck area, denied June 9, 1977.

7715–N Request by FRECO, Plainview, N.Y.—To authorize the carriage of toluol and ISO-propyl alcohol solutions in 1-pint samples in the cabin of a passenger-carrying aircraft, denied June 14, 1977.

EE7781–N Request by Wilson America Company, Inc., Jersey City, N.J.—For an emergency exemption authorizing shipment of electric blasting caps, Class A explosives via cargo-only aircraft to Norway, denied June 22, 1977.

J. R. GROTHE,
*Chief, Exemptions Branch, Office of Hazardous Materials Operations.*

[FR Doc.77–21008 Filed 7–22–77;8:45 am]

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

### IMPORTATION FROM AUSTRIA OF FERRO-CHROMIUM AND CHROMIUM-BEARING STEEL PRODUCTS UNDER THE RHODESIAN SANCTIONS REGULATIONS

#### Issuance by the Government of Austria of Special Certificates Verifying Non-Rhodesian Origin of Chromium Content

Special certificates of origin are now available for importation from Austria of ferrochromium and specialty steel products under Section 530.503 of the Rhodesian Sanctions Regulations. These certificates are issued pursuant to a formal certification agreement between the Government of Austria and the Government of the United States. They will serve to establish that Austrian materials exported to the United States do not contain any chromium of Rhodesian origin.

The Government of Austria has full responsibility for administration of the detailed control measures provided for in the certification agreement. The Ministry for Trade and Industry of the Government of Austria will authorize producers of ferrochromium and specialty steel products to state on the commercial invoice covering products being exported to the United States that the goods have been produced under the agreed certification procedures. This special certification will be presented to Customs at the time of importation. The certificate will state that it is issued pursuant to special certification procedures agreed upon between the Government of Austria and the Government of the United States.

The agreement replaces the interim arrangements which have been in effect since March 18, 1977, to permit importation of specialty steel products from Austria. After July 18, 1977, only materials certified under this agreement may be imported under Section 530.503 of the Rhodesian Sanctions Regulations (31 CFR 530.503).

Dated: July 18, 1977.

STANLEY L. SOMMERFIELD,
*Acting Director.*

Approved:

BETTE B. ANDERSON,
*Under Secretary.*

[FR Doc.77–21308 Filed 7–22–77;8:45 am]

### CHROMIUM AND CHROMIUM-BEARING STEEL PRODUCTS UNDER THE RHODESIAN SANCTIONS REGULATIONS

### IMPORTATION FROM SWEDEN OF FERRO-

#### Issuance by the Government of Sweden of Special Certificates Verifying Non-Rhodesian Origin of Chromium Content

Special certificates of origin are now available for importation from Sweden of ferrochromium and specialty steel products under Section 530.503 of the Rhodesian Sanctions Regulations. These certificates are issued pursuant to a formal certification agreement between the Government of Sweden and the Government of the United States. They will serve to establish that Swedish materials exported to the United States do not contain any chromium of Rhodesian origin.

The Government of Sweden has full responsibility for administration of the detailed control measures provided for in the certification agreement. The Board of Trade of the Government of Sweden will authorize producers of ferrochromium and specialty steel products to state on the commercial invoice covering products being exported to the United States that the goods have been produced under the agreed certification procedures. This special certification will be presented to Customs at the time of importation. The certificate will state that it is issued pursuant to special certification procedures agreed upon between the Government of Sweden and the Government of the United States.

The agreement replaces the interim arrangements which have been in effect since March 18, 1977, to permit importation of specialty steel products from Sweden. After July 18, 1977, only materials certified under this agreement may be imported under Section 530.503 of the Rhodesian Sanctions Regulations (31 CFR 530.503).

Dated: July 15, 1977.

STANLEY L. SOMMERFIELD,
*Acting Director.*

Approved:

BETTE B. ANDERSON,
*Under Secretary.*

[FR Doc.77–21307 Filed 7–22–77;8:45 am]

[Supplement to Department Circular—Public Debt Series—No. 16–77.]

### Office of the Secretary

### TREASURY NOTES

### Series S–1979

JULY 20, 1977.

The Secretary of the Treasury announced on July 19, 1977, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 16–77, dated July 14, 1977, will be 6¼ percent per annum. Accordingly, the notes are hereby redesignated 6¼ percent Treasury Notes Series S–1979. Interest on the notes will be payable at the rate of 6¼ percent per asnum.

DAVID MOSSO,
*Fiscal Assistant Secretary.*

[FR Doc.77–21396 Filed 7–22–77;8:45 am]

## INTERSTATE COMMERCE COMMISSION

### Office of Hearings

[No. 442]

### ASSIGNMENT OF HEARINGS

JULY 20, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC 142484 (Sub-No. 1), Stringfellow Transportation Company, Inc., now being assigned September 13, 1977 (1 day), at Brimingham, Ala., in a hearing room to be later designated.

MC 73615 (Sub-No. 402), Eagle Motor Lines, Inc., now being assigned September 14, 1977 (1 day), at Birmingham, Ala., in a hearing room to be later designated.





MC 135867 (Sub-No. 2), H.T.L., Inc., now being assigned September 15, 1977, at Birmingham, Ala., in a hearing room to be later designated (2 days).

MC–F–13011, Jack I. Murphree—Continue Control—Jimco, Inc., MC 96961 (Sub-No. 3), West Tennessee Motor Express, Inc. and MC 142586, Jimco, Inc., now being assigned for continued hearing on September 19, 1977 (1 week), at Nashville, Tenn., in a hearing room to be later designated.

MC 946 (Sub-No. 7), Ferdinand Arrigoni, Inc., MC 67340 (Sub-No. 11), Bosort Bus Lines, Inc., and MC 142530 (Sub-No. 2), Pioneer Bus Corp., now being assigned October 18, 1977 (3 days) at New York, New York, in a hearing room to be later designated.

I&SM 29478, Class Rate Restructuring, C&SMFTA, May 1977 now being assigned July 27, 1977 for continued hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 109533 (Sub-No. 84), Overnite Transportation Company, now assigned September 12, 1977 at Charleston, West Virginia, will be held in Parlor "C", Daniel Boone Hotel, Capitol and Washington Streets, Charleston, West Virginia.

MC 134755 (Sub-No. 103), Charter Express, Inc., now being assigned July 27, 1977 (1 day), at Omaha, Nebraska, Room 616, Union Pacific Plaza, 110 N. 14th Street, 14th and Dodge.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77 21354 Filed ?–?–77;8:45 am]

[Rule 19, Ex Parte No. 241, Exemption 90]

### CAMINO, PLACERVILLE AND LAKE TAHOE RAILROAD CO., ET AL.

#### Exemption Under Provision of the Mandatory Car Service Rules

To all railroads.

*It appearing*, That the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

*It is ordered*, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 403, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

Camino, Placerville & Lake Tahoe Railroad Company.
Reporting Marks: CPLT.
City of Prineville.[1]
Reporting Marks: COP.
The Clarendon and Pittsford Railroad Company.
Reporting Marks: CLP.
Greenville and Northern Railway Company.
Reporting Marks: GRN.
Greenwich & Johnsonville Railway Company.
Reporting Marks: GJ.
Lake Erie, Franklin & Clarion Railroad Company.
Reporting Marks: LEF.
Louisville and Wadley Railway Company.
Reporting Marks: LW.
Louisville, New Albany & Corydon Railroad Company.
Reporting Marks: LNAC.
McCloud River Railroad Company.
Reporting Marks: MR.
Missouri-Kansas-Texas Railroad Company.
Reporting Marks: BKTY–MKT.

* * * * * *

Pearl River Valley Railroad Company.
Reporting Marks: PRV.
The Pittsburgh and Lake Erie Railroad Company.
Reporting Marks: P&LE.
Providence and Worcester Company.
Reporting Marks: PW.
Raritan River Rail Road Company.
Reporting Marks: RR.
Sacramento Northern Railway.
Reporting Marks: SN.
St. Johnsbury & Lamoille County Railroad.
Reporting Marks: SJL.
St. Lawrence Railroad.[1]
Reporting Marks: NSL.
Sierra Railroad Company.
Reporting Marks: SERA.
Terminal Railway, Alabama State Docks.
Reporting Marks: TASD.
Tidewater Southern Railway Company.
Reporting Marks: TS.
Toledo, Peoria & Western Railroad Company.
Reporting Marks: TPW.
Vermont Railway, Inc.
Reporting Marks: VTR.
WCTU Railway Company.
Reporting Marks: WCTR.
Yreka Western Railroad Company.
Reporting Marks: YW.

Effective July 15, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., July 8, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
*Agent.*

NOTE.—Ogdensburg Bridge and Port Authority deleted. (See St. Lawrence Railroad)

[FR Doc.77–21357 Filed 7–22–77;8:45 am]

[Notice No. 201]

### MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 25, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 C.F.R. Part 1132:

No. MC–FC–77215. By application filed July 13, 1977, COSTA LINES, INC., d.b.a. TRINIDAD FREIGHT SERVICE, Santa Fe Yards, Trinidad, CO 81082, seeks temporary authority to transfer the operating rights of Anna Gasperetti and John B. Gasperetti, Jr., partnership, d.b.a. The Tri-C Transfer and Storage, 111 West 10th St., Walsenburg, CO 81089, under section 210a(b). The transfer to Costa Lines, Inc., d.b.a. Trinidad Freight Service, of the operating rights of Anna Gasperetti and John B. Gasperetti, Jr., partnership, d.b.a. The Tri-C Transfer and Storage, is presently pending.

By the Commission.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77–21355 Filed 7–22–77;8:45 am]

[Notice No. 200]

### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30-days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC–FC–77199, filed July 5, 1977. Transferee: JOHN LESTICIAN TRUCKING, INC., 500 Breunig Avenue, Trenton, N.J. 08638. Transferor: John Lestician, doing business as John Lestician Trucking, 500 Breunig Avenue, Trenton, N.J. 08638. Applicant's representative: John Lestician, 500 Breunig Avenue, Trenton, N.J. 08638. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 35906 and MC 35906 (Sub-No. 2), issued June 25, 1964, and March 25, 1968, as corrected June 28, 1968, respectively, as follows: Coal from Trenton, N.J., and Yardley, Pa., to Fort Dix, N.J., and rubber goods, china, earthenware, and bathroom fixtures between Trenton, N.J., on the one hand, and, on the other, New York, N.Y., and Philadelphia, Pa. Trans-

[1] Addition.



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feree presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77202, filed July 5, 1977. Transferee: TRIPLE A TRANSPORT, INC., Littlefield Road, Springvale, Maine 04083. Transferor: Nebraska Eastern Express, Inc., P.O. Box 663, Nebraska City, Nebr. 68410. Applicant's representative: Mary E. Kelley, Attorney at Law, 11 Riverside Ave., Medford, Mass. 02155, and Michael O. Johanns, Attorney at Law, 521 South 14th St., P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permits No. MC 136529 and MC 136529 (Sub-No. 3), issued November 26, 1974, and January 22 1975, respectively as follows: *Meats, meat products, and meat by-products,* and *articles distributed by meat packinghouses,* as described in sections A and C of Appendix I to the report in Descriptions in Motor Carriers Certificates, 61 M.C.C. 209 and 766, from points in Illinois, Wisconsin, Minnesota, Iowa, Nebraska, Missouri, Kansas, Texas, Colorado, North Dakota, South Dakota, Washington, Oregon, and California to the facilities of Missouri Beef Packers, Inc., at or near Boise, Idaho, with no transportation for compensation on return except as otherwise authorized. From the facilities of Missouri Beef Packers, Inc., at or near Boise, Idaho, to points in the United States (except Alaska and Hawaii); and *such commodities* as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as described in section D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from points in the United States (except Alaska and Hawaii), to the facilities of Missouri Beef Packers, Inc., at or near Boise, Idaho. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with MBPXL Corporation, of Plainview, Tex. Also *meat, meat products, meat by-products, and articles distributed by meat packinghouses,* and such commodities as are used by meatpackers, in the conduct of their business when destined to and for use by meatpackers, as described in Section A, C, and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C 209 and 766 (except hides and commodities in bulk), with restrictions, from the facilities of MBPXL Corporation at or near Rock Port, Mo., to points in New York, New Hampshire, Massachusetts, Pennsylvania, Connecticut, Rhode Island, Virginia, New Jersey, Maryland, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

H. G. HOMME, JR.,
*Acting Secretary.*

[FR Doc.77-21356 Filed 7-22-77;8:45 am]





# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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### 1

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., July 26, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Docket 29139, Reexamination of the Board's policies concerning deliberate overbooking and oversales.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary (202-673-5068).

[S-957-77 Filed 7-20-77;4:14 pm]

### 2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., July 26, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Third Quarterly Review FY 77.

Adoption and Monitoring of Minimum Financial Requirements by Self-regulatory Organizations.

Portions closed to the public:

Recommended action on 1.35 petitions.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey (202-254-6314).

[S-959 Filed 7-21-77;8:45 am]

### 3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., July 29, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey (202-254-6314).

[S-962-77 Filed 7-21-77;11:21 am]

### 4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 36910, July 18, 1977; 42 FR 37276, July 20, 1977; S-941-77 and S-949-77.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 1 p.m., July 20, 1977.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

CHANGE IN THE MEETING:

The open portion of this meeting was rescheduled to commence at 2 p.m., and the closed portion rescheduled to commence at 1 p.m.

A majority of the entire membership of the Commission determined by recorded vote, at the start of the meeting of July 20, 1977, 1 p.m., that this change be made in order to accommodate members of the public wishing to attend the open portion of the meeting who were unaware that the time of the meeting was changed from 2 p.m. to 1 p.m., and that no earlier announcement was possible.

The vote was as follows:

In favor of change: Eleanor Holmes Norton, Chair; Ethel Bent Walsh, Vice Chair; Daniel E. Leach, Commissioner.

Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at (202-634-6748).

This Notice Issued July 21, 1977.

[S-964-77 Filed 7-21-77;11:26 am]

### 5

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIMES and DATE OF MEETINGS: 9:30 a.m. (Open), follows the Open meeting (Closed), Thursday, July 21, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open and Closed Commission Meetings.

CHANGES IN THE MEETINGS: The following sentence is added to both Public Notices: "The above meeting may be continued as necessary on Friday, July 22, 1977."

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: July 18, 1977.

[S-956-77 Filed 7-20-77;3:04 p.m.]

### 6

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:30 p.m., Wednesday, July 20, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

CHANGES IN THE MEETING: The following sentence is added to the Public Notice: "The above meeting may be continued as necessary on Friday, July 22, 1977."

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: July 18, 1977.

[S-955-77 Filed 7-20-77;3:04 p.m.]

### 7

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Thursday, July 21, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: A change has been made in the Wide Area Telecommunications Service (WATS) and previously listed as Item No. 1 of the Common Carrier Agenda. This common carrier matter will now be considered on the Special Agenda as Item No. 3. Therefore, the revised Special Agenda for the July 21st open meeting reads as follows:



V 42 142 JUL 25 77 UMI

*Agenda, Item No., and Subject*

Special—1—Amendment of Part 97 concerning operator classes, privileges, and requirements in the Amateur Radio Service (Docket No. 20282).

Special—2—Notice of proposed rule making relating to Part 13 of the Rules to restructure the radio operator examination and licensing program and to delineate operator responsibility (Docket No. 20817).

Special—3—Petitions to suspend and reject AT&T Transmittal No. 12745, revising rates for Wide Area Telecommunications Service (WATS).

Special—4—Discussion of rule making in Docket No. 21002 concerning possible amendment of Section 76.13 relating to the certification process, and Section 76.31 relating to the Commission's franchise standards.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202–632–7260.

Issued: July 19, 1977

[S-954-77 Filed 7-20-77;3:04 pm]

## 8

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 10 a.m., July 27, 1977.

PLACE: 320 First Street N.W., Room 630, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall. (202–376–3012).

MATTERS TO BE CONSIDERED:

Branch Office Application—First Federal Savings and Loan Association of Lancaster, Lancaster, Pennsylvania.

Agency Office Application—First Federal Savings and Loan Association of San Diego, San Diego, California.

Branch Office Application—Home Federal Savings and Loan Association of Palm Beach, Palm Beach, Florida.

Concurrent Consideration of Two Branch Office Applications—1) First Federal Savings and Loan Association of Huntsville, Huntsville, Alabama; and 2) Security Federal Savings and Loan Association of Huntsville, Huntsville, Alabama.

Limited Facility Application—Cleveland Federal Savings and Loan Association of Cuyahoga County, Cleveland, Ohio.

Application for Withdrawal from Membership—St. Mary's Bank, Manchester, New Hampshire.

Branch Office Application—First Federal Savings and Loan Association of Zanesville, Zanesville, Ohio.

Consideration of Termination of Receivership—Old Reliable Savings and Loan Association, Chicago, Illinois.

Branch Office Application—Naples Federal Savings and Loan Association, Naples, Florida.

Application for Change of Location of Limited Facility and Removal of Limitations—Twin City Federal Savings and Loan Association, Minneapolis, Minnesota.

Application for Amendment of Charter-Change of Name—First Federal Savings and Loan Association of Hammonton, Hammonton, New Jersey.

Application for Amendment of Charter-Change of Name—West Side Federal Savings and Loan Association of New York City, New York, New York

Consideration of IRAS and KEOGH (H.R. 10) Plans.

No. 52, July 19, 1977.

[S-950-77 Filed 7-20-77;11:36 am]

## 9

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., July 27, 1977.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Notation Items Disposed of by the Commission during June, 1977.

2. Report on times shortened for submitting comments on section 15 agreements pursuant to delegated authority.

3. Report on Applications for Admission to Practice approved during the month of June, 1977.

4. Assignment of Informal Dockets during the month of June, 1977.

5. Agreements 17–36 and 57–107: Modification of the Far East and Pacific Westbound Conferences' basic agreements to establish programs regarding misrating caused by unintentional failures to apply conference tariffs.

6. Agreement No. 17–37: Modification of the Far East Conference Agreement and Agreement No. 57–108: Modification of the Pacific Westbound Conference Agreement to authorize assessment by the neutral body of damages in the maximum amount of $120,000 per breach.

7. Agreements Nos. 9648–A–9, 9648–A–10 and 9648–A–11: Modification of the Inter-American Freight Conference Agreement to increase admission fee to $15,000; double maximum fines which may be imposed by the neutral body; and increase the security bond to $30,000.

8. Agreement No. 10159–5, filed May 12, 1977: Modification of a Rationalization Agreement to add American West African Freight Conference as a party and related amendments.

9. Latinvan, Inc.—FMC Freight Forwarder License No. 1660—Proposed Order to Show Cause regarding suspension or revocation of license.

Portions closed to the public:

1. Matson Navigation Company—General increase in rates (2%) in the trade between U.S. West Coast and Hawaii.

2. United States Lines—General Increase in rates (2%) in the trade between U.S. West Coast and Hawaii.

3. Agreement Nos. 9847–3 and 10028–5: Modifications of pooling, sailing and equal access agreements (U.S./Brazil) regarding party alignment, pool cargo, sailings and extension of term.

4. Docket No. 77–5—Agreement No. 9973–3 and Agreement No. 9863 (voting provisions of Johnson/Scanstar and Scanstar); petition for reconsideration of the Commission's May 2, 1977 order establishing schedule for filing of affidavits and memoranda.

5. Docket Nos. 76–22 and 76–59—Lakes and Rivers Transfer Corporation v. Indiana Port Commission; Request for cease and desist order regarding terminal agreements between the Port and Ceres, Inc. and Tri-State Terminal, Inc.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary. (202–523–5727.)

[S-953-77 Filed 7-20-77;2:39 pm]

## 10

FEDERAL POWER COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published July 18, 1977, 42 FR 36911.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., July 20, 1977.

CHANGE IN THE MEETING: The following items have been added:

*Item No., Docket No., and Company*

P-17.—ER77-347, Wisconsin Power & Light Company.

P-18.—ER76-92, Western Power Division, Central Telephone & Utilities Corporation.

P-19.—ES77-44, Gulf States Utilities Company.

P-20.—ER77-483, Virginia Electric and Power Company.

G-28.—CP77-496, Washington Gas Light Company. CP77-497, Transcontinental Gas Pipe Line Corporation.

LOIS D. CASHELL,
*Acting Secretary.*

[S-951-77 Filed 7-20-77;1:52 pm]

## 11

FEDERAL POWER COMMISSION.

JULY 19, 1977.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. § 552B:

TIME AND DATE: 10 a.m., July 26, 1977.

PLACE: 825 North Capitol Street.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda).

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Lois D. Cashell, Acting Secretary. Telephone (202–275–4166).

This is a list of the matter to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, Room 1000.

POWER AGENDA, 7652ND MEETING—JULY 26, 1977, REGULAR MEETING—PART I

P-1.—Docket No. ER77-495, Public Service Company of Indiana.

P-2.—Docket No. ER77-427, Minnesota Power & Light Company.

P-3.—Docket No. E-8641, et al., New England Power Company.

P-4.—Docket No. E-7172, Southwestern Power Administration.

P-5.—Docket No. E-9563, U.S. Department of the Interior, Bonneville Power Administration.

P-6.—Project No. 2331, Duke Power Company.

GAS AGENDA, 7652ND MEETING—JULY 26, 1977, REGULAR MEETING—PART I

G-1.—Docket No. CI77-329, Texaco Inc., Docket No. CP77-304, Docket No. CP64-97, Sabine Pipe Line Company.

G-2.—Docket No. RP72-6, El Paso Natural Gas Company.

G-3.—Docket Nos. RP74-48 and RP75-3, Transcontinental Gas Pipe Line Corporation.

G-4.—Docket No. RP73-110, Natural Gas Pipeline Company of America.

G-5.—Docket No. RP72-23, et al., Docket No. RP73-35, Trunkline Gas Company.

G-6.—Docket Nos. RP72-23, et al. (AP 6-14-74), Trunkline Gas Company.

G-7.—Docket Nos. RP73-65 (PGA75-5), Columbia Gas Transmission Corporation.

G-8.—Docket No. RP76-31, Louisiana-Nevada Transit Company.

G-9.—Docket No. RP76-87, Inter-City Minnesota Pipelines, Ltd.

B-10.—Docket No. RP77-11, Southwest Gas Corporation.

G-11.—Mobile Oil Corporation.

G-12.—Docket No. R177-98, Infill Wells Drilled Pursuant to New Mexico Oil Conservation Commission Order No. R-1670-T.

G-13.—Docket No. RI77-48, Elms Brothers and Company.

G-14.—Docket No. CI75-173, et al., Gulf Oil Corporation.

G-15.—Docket No. CP74-314, El Paso Natural Gas Company, Docket No. CP76-327, Northwest Pipeline Corporation, Docket No. CI77-526, Sun Oil Company, et al.

G-16.—Docket No. CP70-22, et al., Michigan Wisconsin Pipe Line Company.

G-17.—Docket No. CP77-313, Texas Eastern Transmission Corporation, Docket No. CP77-325, Consolidated Gas Supply Corporation.

G-18.—Docket No. CP77-240, Transcontinental Gas Pipe Line Corporation.

G-19.—Docket No. CP76-87, El Paso Natural Gas Company.

G-20.—Docket No. CP76-410, El Paso Natural Gas Company.

G-21.—Docket No. CP69-82, Texas Eastern Transmission Corporation, Docket No. CP72-34, Texas Eastern Transmission Corporation, Docket No. CP75-282, Texas Eastern Transmission Corporation and Transcontinental Gas Pipe Line Corporation.

G-22.—Docket No. CP77-360, et al., Tennessee Gas Pipeline Co. et al.

G-23.—Docket No. CP77-389, et al., Pacific Gas Transmission Co., et al.

G-24.—Docket No. CP77-420, Colorado Interstate Gas Co.

G-25.—Docket No. CP72-64, Tennessee Gas Pipeline Company.

G-26.—Docket No. CP75-301, Tennessee Gas Pipeline Company.

G-27.—Docket No. CP77-298, National Fuel Gas Supply.

G-28.—Docket No. CP77-115, Inter-City Minnesota Pipelines, Ltd. Inc.

G-29.—Docket No. CP77-440, Sea Robin Pipe Line Company.

G-30.—Mississippi Gas Corporation, Gas Utility District No. 2 of Pointe Coupee Parish.

G-31.—Atlantic Richfield Company.

POWER AGENDA, 7652ND MEETING—JULY 26, 1977, REGULAR MEETING—PART II

CP-1—Docket No. ER77-462, Tucson Gas & Electric Company, Nevada Power Company.

CP-2—Docket No. ER77-484, West Penn Power Company.

CP-3—Docket No. ER77-486, PJM Agreement.

CP-4—Docket No. ES77-61, Pennsylvania Power & Light Company.

CP-5—Docket No. ID-1473, Lelan F. Sillin, Jr.

CP-6—Docket DA-1124-California, State of California Department of Transportation, Lands Withdrawn in Power Site Classification No. 425 and Power Site Reserve No. 202.

CP-7—Project No. 1984, Wisconsin River Power Company.

CP-8—Project No. 803, Pacific Gas and Electric Company.

CP-9—Docket No. ER77-388, Lake Superior District Power Company.

CP-10—Docket No. E-9591, Puget Sound Power & Light Company.

MISCELLANEOUS AGENDA, 7652ND MEETING—JULY 26, 1977, REGULAR MEETING—PART II

CM-1.—Black Marlin Pipeline Company.

GAS AGENDA, 7652ND MEETING—JULY 26, 1977, REGULAR MEETING—PART II

CG-1.—Docket No. RP73-43 (PGA No. 77-3), Mid Louisiana Gas Company.

CG-2.—Docket No. RP72-133, United Gas Pipe Line Company.

CG-3.—Docket No. RP77-32, South Georgia Natural Gas Company.

CG-4.—Docket No. RP72-134 (PGA Nos. 77-5b, 77-6a, 77-7 and DCA No. 77-2a), Eastern Shore Natural Gas Company.

CG-5.—Docket No. RP74-100 (PGA No. 77-7), National Fuel Gas Supply Corporation.

CG-6.—Docket Nos. RP72-156 (PGA No. 77-4), RP72-64 (DCA No. 77-2), RP76-17 (AP No. 77-2), Texas Gas Transmission Corporation.

CG-7.—Docket No. CI77-510, McCormick 1975 Oil and Gas Program and the Dow Chemical Company.

CG-8.—Docket No. CP75-270, El Paso Natural Gas Company.

CG-9.—Docket No. CP77-405, Colorado Interstate Gas Company.

CG-10.—Docket No. CP75-362, El Paso Natural Gas Company, El Paso Abandonment Project.

LOIS D. CASHELL,
*Acting Secretary.*

[S-961-77 Filed 7-21-77;10:41 am]

## 12

THE RENEGOTIATION BOARD.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 36912, July 18, 1977.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Tuesday, July 26, 1977 at 10:00 a.m.

CHANGES IN MEETING: Items 7 and 8 are added to the previously announced agenda.

MATTER TO BE CONSIDERED:

7. Application for Commercial Exemption (List No. 2997) Pacific International Computing Corporation. Fiscal years ended December 31, 1972, 1973, 1974 and 1975.

8. Court of Claims Case: *David B. Lilly Inc.* v. *United States*, Court of Claims No. 332–77.

STATUS: Matter 7 is open to the public, Matter 8 is closed to the public.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, (202) 254–8277.

GOODWIN CHASE,
*Chairman.*

[S-952-77 Filed 7-20-77;2:37 pm]

## 13

THE RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, August 2, 1977, 10:00 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 4 will be open to the public. Matter 5 will be closed to the public. Status is not applicable to matters 6 and 7.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of meeting held July 26, 1977, and other Board meetings, if any.

2. Partial Mandatory New Durable Productive Equipment Exemption: Warner & Swasey Company, LPI No. 11476, Fiscal Year Ended December 31, 1973.

3. Report of the Chairman Concerning: a. Budget; b. Personnel Actions; c. Organization of the Staff; d. Rulemaking and Regulations.

4. Recommended Clearances Without Assignment, OSC&E List No. 1880: a. Brandt Company, Inc., Fiscal year ended June 27, 1976.

b. J. A. Jones Construction Company. Fiscal year ended September 30, 1975.

c. E. Walters and Co., Inc. Fiscal year ended March 31, 1974.

c–1 Accudyne Corporation. Fiscal year ended March 31, 1974.

d. Southwest Truck Body Company. Fiscal year ended December 31, 1975.

e. Dayco Corporation. Fiscal year ended October 31, 1974.

e–1 Flexible Metal Hose Manufacing. Fiscal year ended October 31, 1974.

e–2 GEA d.b.a. Dayton Plastics, Inc. Fiscal year ended October 31, 1974.

e–3 GJE d.b.a. Cincinnati Plastics. Fiscal year ended October 31, 1974.

e–4 R. M. Hollingshead Corporation. Fiscal year beginning November 1 and ending March 31, 1974.

f. Inland Steel Company. Fiscal years ended December 31, 1974 and 1975.

5. Court of Claims Case: Martin Manufacturing Company, Inc. Fiscal year ended June 30, 1967.

6. Approval of Agenda for meeting to be held August 16, 1977.

7. Approval of agenda for other meetings, if any.







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CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel, Secretary, 2000 M Street NW., Washington, D.C. 20446, 202–254–8277.

Dated: July 21, 1977.

GOODWIN CHASE,
*Chairman.*

[S-900-77 Filed 7-21-77;10:41 am]

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14

SECURITIES AND EXCHANGE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 36362, July 14, 1977.

PREVIOUS ANNOUNCEMENT: 42 FR DATE: July 21, 1977, 10 a.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

CHANGES IN THE MEETING: The meeting previously scheduled for 10 a.m., Thursday, July 21, 1977, will be held at 2:30 p.m. The following additional items will be discussed:

Open Agenda

1. Consideration of the renewal of the Advisory Committee on Corporate Disclosure for a period of sixty days.

2. Consideration of an extension of time for the period requesting comments regarding Rule 434(d) and amendment to Rule 134, which deal with investment company advertising.

Closed Agenda

Offers of settlement. Consideration of the issuance of a report of investigation. Access to files by Special Counsel and Special Auditor. Chairman Williams, Commissioners Loomis, Evans, and Pollack determined that Commission business required consideration of these matters and that no earlier notice thereof was possible.

JULY 20, 1977.

[S-758-77 Filed 7-21-77;8:45 am]

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15

UNITED STATES PAROLE COMMISSION.

United States Parole Commission—National Commissioners (the three Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Tuesday, August 2, 1977; 9:30 a.m.

PLACE: Room 338 Federal Home Loan Bank Board Building, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed—Pursuant to 5 U.S.C. 552b(c)(10) and 28 C.F.R. 16.205(b)(1).

MATTERS TO BE CONSIDERED: Referrals from regional directors of approximately 20 cases in which inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202–724–3094.

[S-963-77 Filed 7-21-77;11:21 am]



federal register

MONDAY, JULY 25, 1977

PART II




# DEPARTMENT OF TRANSPORTATION

## Coast Guard

## PRINCE WILLIAM SOUND

### Vessel Traffic Service

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Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-032]

## PART 161—VESSEL TRAFFIC SERVICES

### Prince William Sound Vessel Traffic Service

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a Vessel Traffic Service (VTS) at Prince William Sound, Alaska. This VTS is being established because Port Valdez, Alaska is the terminus of the Trans-Alaska pipeline; as a result of this, large tank vessels will transit Prince William Sound to ship oil from Port Valdez, Alaska to the contiguous states. The radar surveillance by the Coast Guard and the equipment and reporting requirements for vessels in the VST area are intended to lessen the potential for collisions and groundings by vessels.

EFFECTIVE DATE: These amendments are effective on July 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1477).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on February 7, 1977, (42 FR 7164). Written comments were requested and all comments received by April 6, 1977, were considered in these final rules. Public hearings were held in Juneau, Alaska on March 18, 1977, and in Anchorage, Alaska on March 21, 1977. Several interested persons testified at these hearings and their comments were also considered in these final rules.

These rules are made effective in less than 30 days after publication in the FEDERAL REGISTER. Since the first tank vessel will ship oil from the Trans-Alaska Pipeline Terminal during the last week in July, the Coast Guard feels that good cause exists to have these regulations effective within the 30 day period. It would be contrary to the public interest to have vessels moving oil through Prince William Sound before the rules establishing the vessel traffic service are in effect.

DRAFTING INFORMATION: The principal persons involved in the drafting of this rule are: Commander E. J. Hickey, Jr. and Ensign George W. Molessa, Jr., Project Managers, Office of Marine Environment and Systems, and Mr. Stephen D. Jackson, Project Attorney, Office of Chief Counsel.

### DISCUSSION OF MAJOR COMMENTS

There are several minor changes to the rules, comments not within the scope of the rulemaking, and non-substantive comments that are not discussed in this document. Except for these items the preamble discusses the changes to the rules and the comments received.

Several comments were received questioning the applicability of the rules and whether vessels must comply with the rules or just the Vessel Traffic Center (VTC) directions. Section 161.301 describes the vessels that must comply with these rules. Vessels covered by the Vessel Bridge-to-Bridge Radiotelephone Act must comply with the reporting, communications, and Valdez Narrows rules. Commercial fishing vessels towing skiffs or workboats are not considered to be commercial vessels engaged in towing for the purposes of these rules. All vessels navigating in the Traffic Separation Scheme (TSS) must comply with the TSS navigation rules. Vessels must comply with the applicable rules and also obey directions issued by the VTC under § 161.307. The rules are generally directed at the master of the vessel; however, § 161.304 prohibits any person who could authorize the operation of a vessel, including owners and pilots, from acting or ordering anyone to act contrary to these rules.

A number of comments were received regarding the VTS Operating Manual. The manual will be primarily explanatory and informational in nature. It will contain, along with the VTS rules, climatological and geographical summaries, information on fishing activity in Prince William Sound, and other material to assist the mariner in complying with these rules and to familiarize him with Prince William Sound. The manual will also address operating restrictions which the VTC may impose on vessels in the VTS Area.

A new § 161.306 is added to the final rules to require masters and pilots on vessels subject to the Bridge-to-Bridge Radiotelephone Act to have a copy of the Operating Manual on board before entering the VTS Area. This new section lists addresses where the manual may be obtained and describes the manual. The manual's availability will be widely publicized and it will be distributed free of charge.

The manual contains no requirements. The VTC might direct vessels to comply with provisions in the manual but the vessel would be complying with the VTC directions, not the manual itself.

A number of comments were received recommending that speed limits be established and that conditions under which the port of Valdez or any other portion of the VTS Area would be closed should be specified.

It would be impossible to identify all potential conditions of adverse weather or other circumstances under which port closures or other operating restrictions would be imposed. The VTC has sufficient flexibility in vessel control to adapt to rapidly changing circumstances and unforeseen situations.

The Coast Guard is not establishing speed limits in these VTS regulations. Under 33 CFR Part 160 the Captain of the Port (who is also in charge of the VTC) may establish vessel speed limits or other safety measures on a temporary basis to protect vessels and the navigable waters. The Coast Guard contemplates using this authority to set speed limits for laden tank vessels in Valdez Narrows.

Several comments were received concerning deviations from the rules under § 161.309. Some recommended no deviations at all, others recommended deviations only during an emergency, and others recommended that written requests for continuing deviation under proposed § 161.309(a) be subject to rulemaking procedures and be published in the Local Notice to Mariners. Another comment noted that vessels in the VTS Area would be unaware of a vessel authorized to deviate from the rules, and another comment questioned the Coast Guard's ability to enforce the rules if deviations were allowed.

Section 161.309(a) is being amended by dropping "for a continuing operation" from the paragraph. This change is not in response to the comments and the effect of this change is minor. The District Commander might, as a result of this change, issue an authorization to deviate for a single voyage as well as for continuing operations. The deviations from the rules granted under § 161.309(a) will only be permitted if the proposed operation can be done safely.

Authorization of the VTC to deviate for a single voyage will only be granted under extenuating circumstances, such as adverse weather, which threatens the safety of a vessel, her crew or cargo, or the environment. Vessels in the system will be advised if a vessel is authorized to deviate from any rule, and the deviation will be published in the Local Notice to Mariners, if possible. However, to subject each request under § 161.309(a) to rulemaking and require that each deviation be published in the FEDERAL REGISTER for comments is not practical. The Coast Guard must be able to authorize appropriate deviations in a timely manner. Since as the Coast Guard must approve any requested deviations, there is no lessening of the Coast Guard's authority to uphold the regulations. The authorization to deviate will be limited to specified requirements of the rules. The vessel will be required to comply with all other provisions of the rules.

Several comments were received regarding the communications rules in §§ 161.320 through 161.335 of the proposal. Five of these comments recommended that VHF-FM Channel 13 not be used as the VTS operating frequency. One comment stated that using the bridge-to-bridge frequency would violate the Vessel Bridge-to-Bridge Radiotelephone Act. Reasons cited were that Channel 13 is strictly a navigation safety frequency and that its use as the VTS operating frequency would overload the frequency and impede its primary use as the bridge-to-bridge frequency. One commenter specifically objected to the Coast Guard's plan to





broadcast weather information and traffic advisories on Channel 13.

As stated in the preamble of the notice, it is the Coast Guard's intention to use Channel 13 as the VTS frequency. The Coast Guard feels that the information to be exchanged between vessels and the VTC is navigational safety information and therefore within the Vessel Bridge-to-Bridge Radiotelephone Act. Coast Guard regulations in § 26.04(c) of this Chapter published in 1972, include communicating with shore installations to exchange necessary information for navigation safety; the information required to be reported is this type of information. Although saturation problems on Channel 13 have occurred in other ports where the Coast Guard operates a VTS, resulting in other frequencies being designated for VTS use, Prince William Sound will have a much lower traffic density. Use of Channel 13 by the VTS should not preclude its use for bridge-to-bridge communications. Were a separate channel designated for VTS use, vessels would then have to guard three VHF-FM frequencies in Prince William Sound; the VTS frequency, Channel 13, and Channel 16. While this would probably not be a problem for larger vessels, smaller vessels require to use the system would have difficulty complying. Many small craft, including fishing vessels, not subject to the VTS communication rules, already are equipped with Channel 13 capability and will want to monitor the VTS frequency to avail themselves of traffic advisory information.

Routine weather broadcasts will not be made on Channel 13. They will be made on another VHF-FM channel, preceded by notification call-up on Channel 13. Weather information affecting navigational safety and traffic advisory information will be broadcast on Channel 13.

Several comments were received which observed that the radio watch requirements did not extend beyond the area of Hinchinbrook Entrance. It was recommended that the watch requirement be extended seaward of Hinchinbrook.

Proposed § 161.328 required vessels inbound to Hinchinbrook Entrance to make an initial report to the VTC not less than one hour before arriving at the Entrance. In the final rules, this requirement has been moved to a new § 161.336, and the initial report has been expanded to require a vessel to report any alternate communications capability, if any, and any other information the VTC requires. A reporting requirement, three hours before vessels inbound to Cape Hinchinbrook would arrive there, has been added as a new § 161.334.

Several comments were received concerning radar surveillance in the VTS Area and concerning extending radio coverage south of the VTS Area. Other comments were received requesting the Coast Guard to require Loran-C retransmission capability on tank vessels.

Radar surveillance will not cover the entire VTS Area. The Coast Guard feels that the radar coverage from Port Valdez and Potato Point combined with vessels reporting movements is ample for the VTC to monitor traffic.

There will be no remote communications site on Middleton Island. The antennas on Hinchinbrook and Montague Islands will provide adequate VHF-FM coverage, extending up to 90 miles south of Hinchinbrook Entrance depending upon the shipboard antenna height and transmitter power.

The Coast Guard is not adopting the comments for requiring Loran-C retransmission at this time. The Coast Guard feels that the present surveillance system is adequate. The Coast Guard is currently planning a Loran-C based surveillance system for use in Prince William Sound, as an enhancement to existing surveillance capabilities. Rules for vessel equipment requirements will be proposed after completion of the engineering system design and evaluation.

Several comments were received regarding radio failure. One commenter observed that a vessel with an inoperative radio could enter the VTS area without the knowledge of the VTC or other vessels. The same commenter recommended that vessels not be allowed to transit the TSS if its radio has failed. Another commenter said the radio failure rule was too lax and could be used by vessels to exempt themselves from the VTS rules.

The radio failure rule is unchanged from the notice except that it is moved from proposed § 161.334 to § 161.328. Vessels required to participate in the VTS carry a variety of communications equipment. If all communications equipment becomes inoperative at a given time, it is unsafe and impractical to forbid a vessel to enter Prince William Sound in search of a safe haven. In case of a radio failure, the vessel would be exempt from only the radio guard requirement, § 161.320, and the various reporting requirements. The vessel still must comply with all other VTS rules, including use of the TSS. It is safer to have the vessel proceeding in Prince William Sound in the TSS where it will not encounter a meeting situation, than it would be to permit the vessel to navigate outside the TSS. The requirement to obtain permission from the VTC before a vessel may enter the Valdez Narrows also applies to vessels with radio failure.

Several comments were received which dealt with the vessel movement reporting requirements and reporting points in proposed §§ 161.328, 161.342, and 161.389. One commenter recommended that the Coast Guard make use of the reports which vessels make to the Jackson Point terminal. Another suggested that Middleton Island be added as a reporting point. One commenter recommended a vessel give 30-60 minutes notification of its intention to cross the TSS instead of the 10 minutes notification specified in proposed § 161.342. Another recommended a vessel report when actually beginning to join, cross, or leave a traffic lane, and again when the maneuver is completed. Also related to movement reports was a recommendation that vessels not be allowed to enter the VTS area without providing or receiving certain critical information regarding traffic, weather conditions, and ice conditions.

The Communications Rules have been reorganized and renumbered in the final rules. The initial report and final report in proposed §§ 161.328 and 161.331, have been moved from this subject area, and in the final rules are moved to the Vessel Movement Reporting Rules as §§ 161.336 and 161.342 respectively.

The Coast Guard will be in frequent contact with the Jackson Point terminal. Any vessel movement information received at that terminal will be relayed to the VTC. In § 161.334 of the final rule, a new requirement is added for a vessel inbound to Cape Hinchinbrook to make a preliminary report three hours before arrival at Hinchinbrook Entrance. Due to the distance and vessel speeds involved, tankers inbound from west coast ports would, in fact, be making this report in the vicinity of Middleton Island. However, other vessels, particularly tugs with tows, will not normally be approaching Cape Hinchinbrook from Middleton Island, but from the vicinity of Cape St. Elias to the east; therefore, the timing of the report is more appropriate than the location.

The TSS is well inside the limits of the VTS Area. Before entering the VTS Area, a vessel must make an initial report. This report, moved from proposed § 161.328 to § 161.336, requires a vessel to report its position, destination, speed, and time and place of entering the TSS. The report must be made at least thirty minutes before entering the VTS Area, and in the case of vessels entering via Hinchinbrook Entrance, 60 minutes before entering. Thus an additional notification requirement 30-60 minutes before the vessel will join, cross, or leave the TSS is not necessary. The ten minute notification requirement in proposed § 161.342 renumbered § 161.338 in the final rules, is essentially an update; therefore, an additional notification at the time of the maneuver is unnecessary. Nevertheless, the final rule has been changed to include a provision for towing vessels to give a 30 minute notification, so that if the VTC decides to prohibit the crossing there will be sufficient time for a towing vessel to maneuver its tow clear of the TSS before entering the TSS. A vessel must report when it clears the TSS after crossing under § 161.338.

The VTC will advise the vessel of traffic and weather conditions along the vessel's intended route during the initial report required by § 161.336. This information will be updated as necessary during the vessel's transit.

The reporting points have been changed and moved from proposed § 161.389 to § 161.340 of the final rules. The Bligh Reef reporting point has been deleted. The Coast Guard feels that a report at this point is not necessary since the vessel is under radar surveillance at this point. A new reporting point has been added at Naked Island. Naked Island lies just beyond the extent



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of the radar coverage, and this report will enable the VTC to identify that vessel on the radar screen when it reaches the radar coverage.

Several comments were received which addressed the requirement for and the extent of operations within a one-way traffic area in and around Valdez Narrows. Several comments were received which recommended that the rules contain a specific requirement for one-way traffic in Valdez Narrows. Several more addressed the length of the one-way area with most recommending that the southern limit be established at Rocky Point rather than a position 1.3 miles south of Jack Bay, as stated in the preamble to the proposal. One commenter recommended that tugs and fishing boats be exempt from any one-way restriction. One commenter recommended that vessels with restricted navigational ability or maneuverability should not be permitted to transit Valdez Narrows without tug escort.

The Valdez Narrows rules have been reorganized. Proposed §§ 161.370 and 161.374 are moved in the final rules to §§ 161.374 and 161.372 respectively. Section 161.372 (Entering Valdez Narrows) distinguishes between vessels under the Vessel Bridge-to-Bridge Radiotelephone Act and Tank vessels of 20,000 DWT or more. Each tank vessel must comply with all the equipment requirements in § 161.372 plus all the requirements in 161.376(a) except for the Loran-C requirement before it may enter the Valdez Narrows One-Way Traffic Area. Section 161.374 (formerly § 161.-370) is amended by requiring the person designated by the master to pilot or direct the movement of the vessel as well as the master to communicate with other vessels in the Valdez Narrows. This change reflects the communication requirements in the Vessel Bridge-to-Bridge Radiotelephone Act.

Sections 161.370 and 161.387 are new; they establish and describe the geographical limits of the Valdez Narrows One-Way Traffic Area: Rocky Point in the south, and Entrance Island in the North. The preamble to the proposal discussed the traffic limitations in Valdez Narrows; however, they were not formally incorporated in the proposed rules. Section 161.370 prohibits any vessel subject to the Vessel Bridge-to-Bridge Radiotelephone Act from entering the Valdez Narrows One-Way Traffic Area when a tank vessel is proceeding in Valdez Narrows in the opposite direction. These vessels must obtain permission from the VTC before they may enter the Narrows. The VTC is in a better position with its radar and communications capability to determine when these vessels may enter Valdez Narrows, than a vessel would be.

Several comments were received on the subject of equipment requirements on vessels. One commenter recommended that proposed § 161.376 should apply to all tank vessels of 15,000 or more gross tons instead of the 35,000 gross tons set forth in the proposal. Two others recommended that the requirement for certain tank vessels to have a rate of turn indicator be eliminated. One commenter recommended two VHF radios on tank vessels over 100,000 deadweight tons (DWT). Another suggested that tankships be required to carry a battery operated VHF radio. One commenter recommended that the requirement for certain tank vessels to have two separate operating marine radars be changed to one operating radar. Two commenters, observing that the proposal contained requirements for two operating radars and an operating Loran-C receiver on certain tank vessels, recommended the regulations contain provisions regarding what action a vessel should take if this equipment is inoperative.

The recommendation to increase the applicability to include all tank vessels using the VTS area is adopted; however, instead of 15,000 gross tons as recommended the limit will be 20,000 DWT to be consistent with President Carter's pollution prevention program as expressed in his message to Congress on March 17, 1977.

The recommendation to require two VHF–FM radios on certain tankships is adopted for tank vessels of 20,000 DWT or more. Section 161.376 of the final rules, requires tank vessels of 20,000 DWT or more to carry two VHF–FM radios, one of which must be capable of battery operation.

The comments recommending that the requirement for a rate of turn indicator be dropped noted Coast Guard comments in the January 31, 1977 FEDERAL REGISTER (42 FR 5956) that further study was necessary to form a basis for requiring this equipment. While the Coast Guard will reserve judgment concerning the efficacy of rate of turn indicators on a nationwide basis, experience in the operation of this equipment aboard the *Arco Fairbanks* in Valdez Narrows during April 1977, has demonstrated the desirability of a rate turn indicator in Valdez Narrows. Therefore, the requirement is retained in the final rules.

The proposed requirement for certain tank vessels to have two operating marine radars was intended to insure redundancy of this important piece of navigational equipment. It was not the intention of the proposal to require that both radars be in full operation and manned while the vessel is in the VTS Area. The final rule has been re-worded to require that two radars be installed, one must be in operation and the other may be on standby, but capable of immediate operation.

The recommendation that the rules provide for what a tank vessel must do in the event of failure of specified equipment is adopted in the final rules. Section 161.376 of the final rules requires a tank vessel experiencing equipment failure to immediately notify the VTC. The VTC will handle each vessel with equipment problems on an individual basis depending on the circumstances at the time.

Proposed § 161.376(b) required tug assistance for tank vessels while docking and undocking and when directed by the VTC in Valdez Narrows. In the final rules these requirements have been moved to § 161.378 with only minor changes. A description of what constitutes tug assistance and what the tank vessel must do when using tug assistance has been added to this section. This does not add any additional requirements since it was implicit in the Notice that these tank vessels would use adequate tug assistance.

Several comments were received concerning additional use of tugs in the VTS Area. These comments recommended requiring the following: tug assistance for tank vessels with restricted maneuverability, standby tugs in the Valdez Narrows Area, tug escort in Valdez Narrows and Arm for tank vessels, and tug assistance for tank vessels of 10,000 DWT or more in Valdez Narrows.

In response to the comment concerning vessels with restricted navigational ability or maneuverability, the Coast Guard is not establishing a rule which requires tugs under specified conditions. The VTC will consider all relevant factors including the vessel's maneuverability, weather, and other hazardous conditions, in determining whether tug assistance is to be required for tank vessels in Valdez Narrows.

In response to recommendations for standby tugs and tug escorts for tank vessels for each transit in Valdez Narrows and Arm, the Coast Guard feels that these measures would not appreciably prevent a potential grounding by a tank vessel in the Narrows under normal circumstances. However, there are occasions when these measures could be effective. Under § 161.378(b) the VTC can direct vessels to have tug escorts or standby tugs as the situation warrants.

In response to recommendations for tug assistance for tank vessels of 100,000 DWT or more in Valdez Narrows, the Coast Guard feels that requiring tug assistance for these vessels on every transit of Valdez Narrows is a too restrictive approach. Tugs are effective only when the tank vessel is proceeding at relatively slow speed, yet the tank vessel's maneuverability is less at low speeds. At higher speeds there are risks involved to both the vessel and the tugs. These risks must be weighed against the advantages of employing the tugs. Under § 161.378 the VTC determines whether tug assistance is appropriate on a case by case basis taking into account all relevant factors.

The Coast Guard feels that the VTC can adequately control vessel movement in Valdez Narrows. Under § 161.370 vessels must obtain permission to enter the Narrows, under § 161.307 the VTC may limit vessel movement, under § 161.378 the VTC may require tugs, and under 33 CFR Part 160 the Captain of the Port may establish speed limits and other vessel movement restrictions. By using these controls the VTC should be able to protect both vessels and the waters of Prince William Sound.

The Coast Guard recognizes that this is an environmentally sensitive area, and that the Narrows is a potentially





hazardous area. These rules represent Coast Guard determinations based on the input received; however, the Coast Guard realizes that determining the best method for vessels to transit the Narrows Area is a complex question. The Coast Guard is considering further action on whether to add the following requirements for Valdez Narrows to the VTS regulations: speed limits, tug assistance (with the tugs made up to the vessel), tug escort, and standby tugs. Further public comments on whether to add any of these provisions as permanent requirements instead of as discretionary powers of the VTC is invited.

Many comments were received recommending that the VTS Area, or "area of control", be extended some miles offshore from Cape Hinchinbrook. Two of these commenters suggested Middleton Island as the southern limit of the VTS Area.

The Coast Guard establishes and operates Vessel Traffic Services under the Ports and Waterways Safety Act of 1972. Under that Act, Coast Guard jurisdiction extends to United States waters only. United States waters extend three miles from shore; therefore, it would be beyond the scope of this act to control vessels at sea.

Several comments were received which addressed the description of the TSS in Prince William Sound. Six commenters recommended that the "dogleg" in the TSS between Naked Island and Bligh Reef be eliminated. Three of these stated that the "dogleg" required vessels to travel further west than a straight course would between Hinchinbrook Entrance and Bligh Reef and that, as a result, vessels were more likely to encounter ice from the Columbia Glacier. Two others made specific recommendations for the TSS in the form of geographic coordinates which plot as a straight line from Hinchinbrook Entrance to the vicinity of Bligh Reef. Several comments were received which stated that the outbound traffic lane in Valdez Arm was too close to the 7-fathom area charted off the west shore of Valdez Arm opposite Rocky Point. Another commenter said the TSS was poorly oriented near its termination in upper Valdez Arm, requiring vessels to make awkward course changes to negotiate Valdez Narrows. One commenter recommended that specific points of entry and departure from the TSS be set forth in the rules. Finally, one commenter recommended that Hinchinbrook Entrance be specified as the only way in or out of the VTS Area.

There is intense commercial fishing activity in Prince William Sound during various times of the year. As it is consistent with navigational safety, interference with this historical and important fishing industry will be minimized; the TSS "dogleg" is intended to accomplish this by avoiding as much fishing ground as possible. The TSS "dogleg" substitutes two moderate course changes at Naked Island and Bligh Reef for a single, more severe course change at Bligh Reef.

There should be little, if any, additional problem with Columbia Glacier ice as a result of the "dogleg" locating the TSS slightly further west than a straight TSS from Hinchinbrook Entrance to Bligh Reef would. If the ice is a problem the VTC could temporarily adjust the TSS eastward. The "dogleg" in the TSS therefore remains.

The TSS in Valdez Arm has been modified in the final rules. It has been shortened to terminate at Rocky Point instead of just south of Jack Bay. As a result of this and a slight reorientation of the traffic lane, the 7-fathom area west of Rocky Point is now further outside the TSS.

The Coast Guard is not including specific points of entry to and departure from the TSS in the final rules. The Coast Guard is also not requiring that Hinchinbrook Entrance be the only way in or out of the VTS Area.

The Coast Guard does not feel that there will be enough traffic in the TSS to require specific points of entry or departure. Section 161.356 requires vessels to notify the VTC before entering, crossing, or leaving the TSS; this requirement, with the radar surveillance, and other reporting requirements should enable the VTC to prevent any conflicts in the TSS. The Coast Guard also feels that with this control of the TSS there is no reason to prohibit vessels from entering the VTS Area through other points than Hinchinbrook Entrance.

Several comments were received concerning the offshore approaches to Hinchinbrook Entrance. The preamble to the proposed rules discussed the matter of a TSS in the international waters approaching Hinchinbrook Entrance. This TSS was printed on the most recent editions of nautical charts of the area by the National Ocean Survey of the Department of Commerce. This was done so that the mariners could become familiar with this TSS.

Most of the comments received recommended that the TSS be plotted between Seal Rocks and Cape Hinchinbrook. As a result of this response, the TSS as discussed in the Notice is being withdrawn from consideration, and a new TSS outside Hinchinbrook Entrance is currently being studied by the Coast Guard. As described in the final rules, the TSS begins at Hinchinbrook Entrance. The National Ocean Survey will be advised of this, and that part of the TSS outside Hinchinbrook Entrance as shown on the latest charts will be deleted in the upcoming editions.

Several comments were received concerning the designation of anchorage areas in Prince William Sound. The Coast Guard is studying several possible locations for anchorages. A separate rulemaking will be proposed and interested persons will be invited to comment.

A number of comments were received regarding fishing in the TSS. Article 26 of the Inland Rules of the Road states in part "• • • This section shall not give to any vessel or boat engaged in fishing the right of obstructing a fairway used by vessels other than fishing vessels or boats." (Sec. 1, 30 Stat. 102 (33 U.S.C. 211).) For the purposes of the Navigation Rules the traffic lanes in the TSS are considered to be within a fairway. Further, the TSS rules, §§ 161.-348–161.356, describe how vessels must navigate in the TSS; however, there is no specific prohibition in the VTS rules against fishing in the TSS.

Several comments were received concerning pilots on vessels and recommended that the VTS regulations set forth pilotage requirements. Federal pilots are required on U.S. vessels under license and enrollment engaged in the coastwide trade. These vessels must have a federally licensed pilot onboard when the vessel enters the inland waters of the United States. The waters of Prince William Sound are inland waters. How, when, and where the pilot boards the vessel is not in the scope of this rulemaking.

The Coast Guard filed a supplement to the Final Environmental Impact Statement (submitted February 12, 1975) with the Council on Environmental Quality on June 24, 1977.

In consideration of the foregoing, Part 161 of Title 33, Code of Federal Regulations, is amended by adding § 161.301 through § 161.387 grouped under a center-head reading as follows:

PRINCE WILLIAM SOUND VESSEL TRAFFIC SERVICE

GENERAL RULES

Sec.
161.301 Purpose and applicability.
161.303 Definitions.
161.304 Vessel operation in the VTS Area.
161.305 Laws and regulations not affected.
161.306 VTS Operating Manual.
161.307 VTC directions.
161.309 Authorization to deviate from these rules.
161.311 Emergencies.

COMMUNICATIONS RULES

161.320 Radio listening watch.
161.322 Radiotelephone equipment.
161.324 English language.
161.326 Time.
161.328 Radio failure.
161.330 Report of emergency or radio failure.
161.332 Report of impairment to the operation of the vessel.

VESSEL MOVEMENT REPORTING RULES

161.334 Preliminary report.
161.336 Initial report.
161.338 Movement reports.
161.340 Reporting points.
161.342 Final report.

TRAFFIC SEPARATION SCHEME RULES

161.348 Vessels required to use the TSS.
161.350 Vessel operation in the TSS.
161.352 Direction of traffic.
161.354 Anchoring in the TSS.
161.356 Joining, leaving, and crossing a traffic lane.

VALDEZ NARROWS RULES

161.370 One-way traffic for tank vessels.
161.372 Entering Valdez Narrows.
161.374 Communications in Valdez Narrows.

SPECIAL REQUIREMENTS FOR TANK VESSELS

161.376 Tank vessels in the VTS Area.
161.378 Tug assistance for tank vessels.



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DESCRIPTIONS AND GEOGRAPHIC COORDINATES

Sec.
161.380 VTS Area.
161.383 Separation zone.
161.385 Traffic lanes.
161.387 One-Way Traffic Area.

AUTHORITY: Sec. 402, Pub. L. 93-153, 87 Stat. 589 (33 U.S.C. 1221 nt.); Sec. 104, Pub. L. 92-340, 86 Stat. 424 (33 U.S.C. 1224); 49 CFR 1.46(n)(4).

PRINCE WILLIAM SOUND VESSEL TRAFFIC SERVICE

GENERAL RULES

**§ 161.301 Purpose and applicability.**

(a) Sections 161.301 through 161.387 prescribe rules for vessel operation in the Prince William Sound Vessel Traffic Service Area (VTS Area) to prevent collisions and groundings and to protect the navigable waters of the VTS Area from environmental harm resulting from collisions and groundings.

(b) The General Rules in §§ 161.301 through 161.311 and the Traffic Separation Scheme (TSS) Rules in §§ 161.348 through 161.354 and § 161.356 (b) and (c) apply to the operation of all vessels.

(c) The Communication Rules in §§ 161.320 through 161.332, the Vessel Movement Reporting Rules in §§ 161.334 through 161.342, the TSS Rule in § 161.356(a), and the Valdez Narrows Rules in §§ 161.370 through 161.374 apply only to the operation of:

(1) Each vessel of 300 or more gross tons that is propelled by machinery;

(2) Each vessel of 100 or more gross tons that is carrying one or more passengers for hire;

(3) Each commercial vessel of 26 feet or over in length engaged in towing another vessel astern, alongside, or by pushing ahead; and

(4) Each dredge and floating plant.

**§ 161.303 Definitions.**

As used in §§ 161.301 through 161.387:

"ETA" means estimated time of arrival.

"Person" includes an individual, firm, corporation, association, partnership, and governmental entity.

"Separation zone" means an area of the TSS that is located between two traffic lanes to keep vessels proceeding in opposite directions a safe distance apart.

"Traffic lane" means an area of the TSS in which all vessels ordinarily proceed in the same direction.

"Traffic separation scheme" (TSS) means the network of traffic lanes and separation zones in the VTS Area.

"Vessel traffic center" (VTC) means the shore based facility that operates the Prince William Sound vessel traffic service.

"Vessel traffic service area" (VTS Area) means the area described in § 161.380.

**§ 161.304 Vessel operation in the VTS Area.**

No person may cause or authorize the operation of a vessel in the VTS Area contrary to the rules in §§ 161.301 through 161.387.

**§ 161.305 Laws and regulations not affected.**

Nothing in §§ 161.301 through 161.387 is intended to relieve any person from complying with:

(a) The Navigation Rules for Harbors, Rivers, and Inland Waters Generally (33 U.S.C. 151 through 232);

(b) Vessel Bridge-to-Bridge Radiotelephone Regulations (Part 26 of this chapter);

(c) Pilot Rules for Inland Waters (Part 80 of this chapter);

(d) The Federal Boat Safety Act of 1971 (46 U.S.C. 1451 through 1489); and

(e) Any other laws or regulations.

**§ 161.306 VTS Operating Manual.**

(a) The Prince William Sound Vessel Traffic Service Operating Manual is published by the Commander, Seventeenth Coast Guard District. The operating manual contains information intended to facilitate the use of the vessel traffic service, such as:

(1) The Prince William Sound VTS regulations.

(2) A general description of Coast Guard facilities and system components.

(3) Guidelines for establishing alternate communications.

(4) Guidelines that might be used by the VTS in issuing temporary restrictions or operating requirements under § 161.307.

(b) The master and pilot of a vessel listed in § 161.301(c) shall ensure that a copy of the current edition of the Prince William Sound Vessel Traffic Service Operating Manual is available on board the vessel when in the VTS Area.

(c) Distribution of the operating manual will be made by the Coast Guard. Copies may be obtained in person or by writing:

(1) Commanding Officer, Coast Guard Vessel Traffic Service, Valdez, AK 99686; or

(2) Commander, Seventeenth Coast Guard District, Federal Building, P.O. Box 3-5000, Juneau, AK 99802.

(d) Temporary changes to the operating manual are promulgated by the Commander, Seventeenth Coast Guard District, in local notices to mariners.

**§ 161.307 VTC directions.**

(a) During conditions of vessel congestion, adverse weather, reduced visibility, or other hazardous circumstances in the VTS Area, the VTC may issue directions specifying times when vessels may enter, move within or through, or depart from ports, harbors, or other waters in the VTS Area.

(b) The master of a vessel in the VTS Area shall comply with each direction issued to him under this section.

**§ 161.309 Authorization to deviate from these rules.**

(a) The Commander, Seventeenth Coast Guard District may, upon written request, issue an authorization to deviate from any rule in §§ 161.301 through 161.387 if he finds that the proposed operation under the authorization can be done safely. An application for an authorization must state the need for the authorization and describe the proposed operations.

(b) The VTC may, upon request, issue an authorization to deviate from any rule in §§ 161.301 through 161.387 for a voyage or part of a voyage on which a vessel is embarked or about to embark.

**§ 161.311 Emergencies.**

In an emergency, any master may deviate from any rule in §§ 161.301 through 161.387 to the extent necessary to avoid endangering persons, property, or the environment.

COMMUNICATIONS RULES

**§ 161.320 Radio listening watch.**

The master of a vessel in the VTS Area shall continuously monitor the radio frequency designated in the current edition of the Prince William Sound VTS Operating Manual for the sector of the VTS Area in which the vessel is operating, except when transmitting on that frequency.

**§ 161.322 Radiotelephone equipment.**

Each report required by the Prince William Sound VTS rules to be made by radiotelephone must be made using a radiotelephone that is capable of operating on the navigational bridge of the vessel, or in the case of a dredge, at its main control station.

**§ 161.324 English language.**

Each report required by the Prince William Sound VTS rules must be made in the English language.

**§ 161.326 Time.**

Each report required by the Prince William Sound VTS rules must specify time using:

(a) The zone time in effect in the VTS Area; and

(b) The 24-hour clock system.

**§ 161.328 Radio failure.**

Whenever a vessel's radiotelephone equipment fails:

(a) Before entering or while underway in the VTS Area—

(1) Compliance with §§ 161.320 and 161.338 is not required; and

(2) Compliance with §§ 161.334, 161.336, and 161.342 is not required unless the reports can be made by other means;

(b) Before getting underway in the VTS Area permission to get underway must be obtained from the VTC;

(c) The master shall restore the radiotelephone to operating condition as soon as possible.

**§ 161.330 Report of emergency or radio failure.**

Whenever the master of a vessel deviates from any rule in §§ 161.301 to 161.387 because of an emergency or radio failure, he shall report the deviation to the VTC as soon as possible.

**§ 161.332 Report of impairment to the operation of the vessel.**

The master of a vessel in the VTS Area shall report to the VTC as soon as possible:





(a) Any condition on the vessel that may impair its navigation, such as fire, defective steering equipment, or defective propulsion machinery; and

(b) Any tow that the towing vessel is unable to control, or can control only with difficulty.

VESSEL MOVEMENT REPORTING RULES

**§ 161.334 Preliminary report.**

Three hours before a vessel enters or begins to navigate in the VTS Area through Hinchinbrook Entrance, the master of the vessel shall report to the VTC:

(a) Name, type, and draft of the vessel.

(b) Position of the vessel.

(c) Course and speed of the vessel.

(d) ETA at Hinchinbrook Entrance.

**§ 161.336 Initial report.**

At least 60 minutes before a vessel enters or begins to navigate in the VTS Area through Hinchinbrook Entrance or at least 30 minutes before a vessel enters or begins to navigate in the VTS Area from other points, the master of the vessel shall report the following information to the VTC:

(a) Name, type, and draft of the vessel.

(b) Position of the vessel.

(c) Estimated time of entering or beginning to navigate in the VTS Area.

(d) Destination in the VTS Area.

(e) ETA of the vessel at its destination.

(f) Vessel speed in the VTS Area.

(g) The time and place the vessel will enter the TSS.

(h) If the vessel is a towing vessel, the overall length of the tow, including the towing vessel.

(i) Whether or not any dangerous cargo listed in § 124.14 of this chapter is on board the vessel or its tow.

(j) Any impairment to the operation of the vessel as described in § 161.332 (a) and (b).

(k) Alternate communications capabilities, if any.

(l) Any other information requested by the VTC.

**§ 161.338 Movement reports.**

(a) While navigating in the VTS Area the master of a vessel shall report the following information to the VTC by radiotelephone:

(1) Any increase or decrease in speed of more than 1 knot.

(2) The intent to cross through the TSS at least 10 minutes (for vessels with a tow at least 30 minutes) before beginning to cross the TSS.

(3) When the vessel clears the TSS after crossing.

(b) When the vessel passes a reporting point listed in § 161.340, the master of a vessel shall report the following information to the VTC by radiotelephone:

(1) The name of the vessel.

(2) The reporting point.

**§ 161.340 Reporting points.**

The reporting points are:

(a) At Hinchinbrook Entrance, when abeam of Schooner Rock off the northeastern tip of Montague Island; and

(b) When abeam of Naked Island.

**§ 161.342 Final report.**

Whenever a vessel anchors, moors in, or departs from the VTS Area, the master shall report the place and time of anchoring, mooring, or departing to the VTC, except:

(a) When mooring or anchoring in Port Valdez, unless requested to do so by the VTC; or

(b) When departing the VTS Area at Hinchinbrook Entrance and the movement report for the reporting point in § 161.340(a) is made.

TRAFFIC SEPARATION SCHEME RULES

**§ 161.348 Vessels required to use the TSS.**

All vessels described in § 161.301(c) must use the TSS when en route to or from Valdez via Hinchinbrook Entrance or navigating any portion of that route.

**§ 161.350 Vessel operation in the TSS.**

The master of a vessel shall operate the vessel in accordance with the TSS rules prescribed in §§ 161.352 through 161.354 and § 161.356 (b) and (c).

**§ 161.352 Direction of traffic.**

A vessel proceeding in a traffic lane must keep the separation zone to port.

**§ 161.354 Anchoring in the TSS.**

No vessel may anchor in the TSS.

**§ 161.356 Joining, leaving, and crossing a traffic lane.**

(a) A vessel described in § 161.301(c) may join, cross, or leave a traffic lane only after the VTC has been notified of the point at which the vessel will join, cross, or leave the traffic lane.

(b) A vessel crossing a traffic lane shall, to the extent possible, maintain a course that is perpendicular to the direction of the flow of traffic in the traffic lane.

(c) A vessel joining or leaving a traffic lane shall steer a course to converge on or diverge from the direction of traffic flow in the traffic lane at as small an angle as possible.

VALDEZ NARROWS RULES

**§ 161.370 One-way traffic in Valdez Narrows.**

(a) The area described in § 161.387 is designated the Valdez Narrows One-way Traffic Area and is restricted to one-way traffic whenever a tank vessel of 20,000 deadweight tons (DWT) or more is navigating therein.

(b) A vessel described in § 161.301(c) may not enter the Valdez Narrows One-way Traffic Area unless:

(1) Permission to enter is obtained from the VTC; and

(2) Any directions from the VTC to remain separated from another vessel are complied with.

**§ 161.372 Entering Valdez Narrows.**

(a) A vessel described in § 161.301(c), may not enter the Valdez Narrows One-way Traffic Area, unless:

(1) The radio equipment on the vessel that is used to transmit the reports required by the Prince William Sound VTS rules is in operation;

(2) The radar on a vessel equipped with radar is in operation and manned; and

(3) The vessel is free of any conditions that may impair its navigation, such as fire, defective steering equipment, or defective propulsion machinery.

(b) A tank vessel of 20,000 DWT or more may not enter Valdez Narrows One-way Traffic Area unless:

(1) It complies with paragraph (a); and

(2) It complies with § 161.376(a) (1), (3), and (4).

**§ 161.374 Communications in Valdez Narrows.**

Before a vessel meets, overtakes, or crosses ahead of any vessel in Valdez Narrows One-way Traffic Area, the master or the person designated by the master to pilot or direct the movement of the vessel shall transmit the intentions of his vessel to the master or the person designated by the master to pilot or direct the movement of the other vessel on the frequency designated under the Bridge-to-Bridge Radiotelephone Act for the purpose of arranging safe passage.

SPECIAL REQUIREMENTS FOR TANK VESSELS

**§ 161.376 Tank vessels in the VTS Area.**

(a) Each tank vessel of 20,000 DWT or more operating in the VTS Area must—

(1) Have two separate marine radar systems for surface navigation, one of which is operating and the other either operating or capable of immediate operation;

(2) Have an operating Loran-C receiver;

(3) Have an operating rate of turn indicator; and

(4) Have at least two radiotelephones capable of operating on the designated VTS frequency, one of which is capable of battery operation.

(b) While in the VTS Area, if the tank vessel of 20,000 DWT or more is unable to comply with paragraph (a) the master shall immediately notify the VTC.

**§ 161.378 Tug Assistance for Tank Vessels.**

(a) For the purposes of this section, tug assistance means the use of a sufficient number of tugs properly manned and positioned, with enough power and maneuverability to enable the vessel to



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accomplish the intended maneuvers safely. Factors to be considered in determining the amount of tug assistance needed are—

(1) Existing and expected conditions of wind, tide, and current; and

(2) Size, displacement, and maneuvering capability of the vessel.

(b) The VTC may direct any tank vessel of 20,000 DWT or more to use tug assistance in the Valdez Narrows One-Way Traffic Area.

(c) Each tank vessel of 20,000 DWT or more must use tug assistance when docking and undocking.

(d) The master of any tank required to use tug assistance under paragraph (b) or (c) shall ensure that the number and capabilities of the tugs are adequate and that there are sufficient persons positioned on the vessel to handle lines to tugs as needed.

DESCRIPTIONS AND GEOGRAPHIC COORDINATES

**§ 161.380 VTS area.**

The VST Area consists of the navigable waters of the United States inshore of the COLREGS Demarcation Lines, 33 CFR 82.1740, 42 FR 35782, comprising the portion of Prince William Sound including Valdez Arm, between longitudes 146°40′ West and 147°20′ West, and also Valdez Narrows and Port Valdez.

**§ 161.383 Separation zone.**

The separation zone is 2,000 yards wide from Hinchinbrook Entrance to Valdez Arm west of Bligh Reef and decreases in width from 2,000 yards to 1,000 yards from the entrance to Valdez Arm to where it terminates at the entrance to the Valdez Narrows One-Way Traffic Area and is bounded by lines connecting the following latitudes and longitudes:

(a) 60°58′43″ N., 146°47′50″ W.
(b) 60°49′47″ N., 147°02′06″ W.
(c) 60°34′43″ N., 147°05′16″ W.
(d) 60°17′04″ N., 146°49′15″ W.
(e) 60°16′56″ N., 146°46′57″ W.
(f) 60°34′53″ N., 147°03′14″ W.
(g) 60°49′23″ N., 147°00′08″ W.
(h) 60°58′26″ N., 146°47′02″ W.

**§ 161.385 Traffic lanes.**

The traffic lanes are 1,500 yards wide from Hinchinbrook Entrance to Valdez Arm west of Bligh Reef, and decrease in width from 1,500 yards to 1,000 yards from the entrance to Valdez Arm to where they terminate at the entrance to the Valdez Narrows One-Way Traffic Area. The traffic lanes are as follows:

(a) The inward bound traffic lane is between the separation zone and a line connecting the following latitudes and longitudes:

(1) 60°58′09″ N., 146°46′16″ W.
(2) 60°49′07″ N., 146°46′16″ W.
(3) 60°35′00″ N., 147°01′42″ W.
(4) 60°16′49″ N., 146°45′13″ W.

(b) The outward bound traffic lane is between the separation zone and a line connecting the following latitudes and longitudes:

(1) 60°59′01″ N., 146°48′37″ W.
(2) 60°50′04″ N., 147°03′35″ W.
(3) 60°34′36″ N., 147°06′48″ W.
(4) 60°17′11″ N., 146°50′59″ W.

**§ 161.387 Valdez Narrows One-Way Traffic Area.**

The Valdez Narrows One-Way Traffic Area consists of the navigable waters of the United States in Valdez Arm, Valdez Narrows and Port Valdez north of a line bearing 307 degrees true from Rocky Point at 60°57′45″ N., 146°45′07″ W., and west of a line bearing 000 degrees true from Entrance Island at 61°05′07″ N., 146°36′40″ W.

(Sec. 402, Pub. L. 93-153, 87 Stat. 589 (33 U.S.C. 1221 nt.); Sec. 104, Pub. L. 92-340, 86 Stat. 424 (33 U.S.C. 1224); 49 CFR 1.46 (n)(4).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement, under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: July 20, 1977.

O. W. SILER,
*Admiral, U.S. Coast Guard,*
*Commandant.*

[FR Doc.77-21324 Filed 7-22-77;8:45 am]



federal register

MONDAY, JULY 25, 1977
PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES
LITTERA SCRIPTA MANET
1934

# ENVIRONMENTAL PROTECTION AGENCY

■

## STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Applicability Dates

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Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 754-3]

## PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

### Applicability Dates

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action incorporates into the regulations the dates on which the standards of performance are applicable. The dates were not a part of the regulations at the time of their promulgation and considerable confusion exists over when the standards apply. This action removes the confusion and makes future enforcement of the standards easier.

EFFECTIVE DATE: August 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Don. R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone 919-541-5271.

SUPPLEMENTARY INFORMATION: Section 111 of the Clean Air Act provides that "new source" under that section means "any stationary source, the construction or modification of which is commenced after the publication of regulations (or, if earlier, proposed regulations) prescribing a standard of performance which will be applicable to such source." Thus, for standards of performance under section 111, the proposal date (or, in the event there was no proposal, the promulgation date) of a standard constitutes its applicability date. While this information is contained in the "Applicability" section (§ 60.2) of the General Provisions, the Agency has not, until now, incorporated in the regulations the specific applicability date(s) for each standard.

The absence of these dates from the various regulations has led to some confusion. The most frequent mistake is for the applicability date to be confused with the effective date. The effective date is the day on which the regulation becomes law (usually the day the final regulation is published in the FEDERAL REGISTER). The effective date has customarily been noted in the preamble to the final regulation when it appears in the FEDERAL REGISTER. A regulation, then, usually becomes effective upon promulgation and applies to sources constructed or modified after the proposal date.

In view of past confusion and the growing number of regulations, including revisions and amendments, the Agency has decided to hereafter incorporate the applicability date(s) under the "Applicability and designation of affected facility" section of each subpart. This action should serve to clarify which facilities are affected by these regulations. This amendment provides clarification of the applicability dates only for the standards promulgated to date. An applicability statement will be added to regulations under proposal and to future regulations at the time of promulgation.

MISCELLANEOUS

As this action has no regulatory impact, but only sets forth applicability dates for the purpose of clarification, public participation was judged unnecessary.

(Secs. 111 and 301(a) of the Clean Air Act; sec. 4(a) of Pub. L. 91-604, 84 Stat. 1683; sec. 2 of Pub. L. 90-148, 81 Stat. 504 (42 U.S.C. 1857c-6, 1857g(a)).)

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: July 18, 1977.

BARBARA BLUM,
*Acting Administrator*

40 CFR Part 60 is amended by revising Subparts D through AA as follows:

**Subpart D—Standards of Performance for Fossil-Fuel-Fired Steam Generators**

1. Section 60.40 is revised as follows:

**§ 60.40 Applicability and designation of affected facility.**

(a) The affected facilities to which the provisions of this subpart apply are:

(1) Each fossil-fuel-fired steam generating unit of more than 73 megawatts heat input rate (250 million Btu per hour).

(2) Each fossil-fuel and wood-residue-fired steam generating unit capable of firing fossil fuel at a heat input rate of more than 73 megawatts (250 million Btu per hour).

(b) Any change to an existing fossil-fuel-fired steam generating unit to accommodate the use of combustible materials, other than fossil fuels as defined in this subpart, shall not bring that unit under the applicability of this subpart.

(c) Any facility under paragraph (a) of this section that commences construction or modification after August 17, 1971, is subject to the requirements of this subpart.

**Subpart E—Standards of Performance for Incinerators**

2. Section 60.50 is revised as follows:

**§ 60.50 Applicability and designation of affected facility.**

(a) The provisions of this subpart are applicable to each incinerator of more than 45 metric tons per day charging rate (50 tons/day), which is the affected facility.

(b) Any facility under paragraph (a) of this section that commences construction or modification after August 17, 1971, is subject to the requirements of this subpart.

**Subpart F—Standards of Performance for Portland Cement Plants**

3. Section 60.60 is revised as follows:

**§ 60.60 Applicability and designation of affected facility.**

(a) The provisions of this subpart are applicable to the following affected facilities in portland cement plants: kiln, clinker cooler, raw mill system, finish mill system, raw mill dryer, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging and bulk loading and unloading systems.

(b) Any facility under paragraph (a) of this section that commences construction or modification after August 17, 1971, is subject to the requirements of this subpart.

**Subpart G—Standards of Performance for Nitric Acid Plants**

4. Section 60.70 is revised as follows:

**§ 60.70 Applicability and designation of affected facility.**

(a) The provisions of this subpart are applicable to each nitric acid production unit, which is the affected facility.

(b) Any facility under paragraph (a) of this section that commences construction or modification after August 17, 1971, is subject to the requirements of this subpart.

**Subpart H—Standards of Performance for Sulfuric Acid Plants**

5. Section 60.80 is revised as follows:

**§ 60.80 Applicability and designation of affected facility.**

(a) The provisions of this subpart are applicable to each sulfuric acid production unit, which is the affected facility.

(b) Any facility under paragraph (a) of this section that commences construction or modification after August 17, 1971, is subject to the requirements of this subpart.

**Subpart I—Standards of Performance for Asphalt Concrete Plants**

6. Section 60.90 is revised as follows:

**§ 60.90 Applicability and designation of affected facility.**

(a) The affected facility to which the provisions of this subpart apply is each asphalt concrete plant. For the purpose of this subpart, an asphalt concrete plant is comprised only of any combination of the following: dryers; systems for screening, handling, storing, and weighing hot aggregate; systems for loading, transferring, and storing mineral filler; systems for mixing asphalt concrete; and the loading, transfer, and storage systems associated with emission control systems.

(b) Any facility under paragraph (a) of this section that commences construction or modification after June 11, 1973, is subject to the requirements of this subpart.





**Subpart J—Standards of Performance for Petroleum Refineries**

7. Section 60.100 is revised as follows:

**§ 60.100 Applicability and designation of affected facility.**

(a) The provisions of this subpart are applicable to the following affected facilities in petroleum refineries: fluid catalytic cracking unit catalyst regenerators, fluid catalytic cracking unit incinerator-waste heat boilers, and fuel gas combustion devices.

(b) Any facility under paragraph (a) of this section that commences construction or modification after June 11, 1973, is subject to the requirements of this subpart.

**Subpart K—Standards of Performance for Storage Vessels for Petroleum Liquids**

8. Section 60.110 is revised as follows:

**§ 60.110 Applicability and designation of affected facility.**

(a) Except as provided in § 60.110(b), the affected facility to which this subpart applies is each storage vessel for petroleum liquids which has a storage capacity greater than 151,412 liters (40,000 gallons).

(b) This subpart does not apply to storage vessels for petroleum or condensate stored, processed, and/or treated at a drilling and production facility prior to custody transfer.

(c) Subject to the requirements of this subpart is any facility under paragraph (a) of this section which:

(1) Has a capacity greater than 151,412 liters (40,000 gallons), but not exceeding 245,000 liters (65,000 gallons, and commences construction or modification after March 8, 1974.

(2) Has a capacity greater than 245,000 liter (65,000 gallons), and commences construction or modification after June 11, 1973.

**Subpart L—Standards of Performance for Secondary Lead Smelters**

9. Section 60.120 is revised as follows:

**§ 60.120 Applicability and designation of affected facility.**

(a) The provisions of this subpart are applicable to the following affected facilities in secondary lead smelters: pot furnaces of more than 250 kg (550 lb) charging capacity, blast (cupola) furnaces, and reverberatory furnaces.

(b) Any facility under paragraph (a) of this section that commences construction or modification after June 11, 1973, is subject to the requirements of this subpart.

**Subpart M—Standards of Performance for Secondary Brass and Bronze Ingot Production Plants**

10. Section 60.130 is revised as follows:

**§ 60.130 Applicability and designation of affected facility.**

(a) The provisions of this subpart are applicable to the following affected facilities in secondary brass or bronze ingot production plants: reverberatory and electric furnaces of 1,000 kg (2,205 lb) or greater production capacity and blast (cupola) furnaces of 250 kg/hr (550 lb/hr) or greater production capacity.

(b) Any facility under paragraph (a) of this section that commences construction or modification after June 11, 1973, is subject to the requirements of this subpart.

**Subpart N—Standards of Performance for Iron and Steel Plants**

11. Section 60.140 is revised as follows:

**§ 60.140 Applicability and designation of affected facility.**

(a) The affected facility to which the provisions of this subpart apply is each basic oxygen process furnace.

(b) Any facility under paragraph (a) of this section that commences construction or modification after June 11, 1973, is subject to the requirements of this subpart.

**Subpart O—Standards of Performance for Sewage Treatment Plants**

12. Section 60.150 is revised as follows:

**§ 60.150 Applicability and designation of affected facility.**

(a) The affected facility to which the provisions of this subpart apply is each incinerator which burns the sludge produced by municipal sewage treatment facilities.

(b) Any facility under paragraph (a) of this section that commences construction or modification after June 11, 1973, is subject to the requirements of this subpart.

**Subpart P—Standards of Performance for Primary Copper Smelters**

13. Section 60.160 is revised as follows:

**§ 60.160 Applicability and designation of affected facility.**

(a) The provisions of this subpart are aplicable to the following affected facilities in primary copper smelters: dryer, roaster, smelting furnace, and copper converter.

(b) Any facility under paragraph (a) of this section that commences construction or modification after October 16, 1974, is subject to the requirements of this subpart.

**Subpart Q—Standards of Performance for Primary Zinc Smelters**

14. Section 60.170 is revised as follows:

**§ 60.170 Applicability and designation of affected facility.**

(a) The provisions of this subpart are applicable to the following affected facilities in primary zinc smelters: roaster and sintering machine.

(b) Any facility under paragraph (a) of this section that commences construction or modification after October 16, 1974, is subject to the requirements of this subpart.

**Subpart R—Standards of Performance for Primary Lead Smelters**

15. Section 60.180 is revised as follows:

**§ 60.180 Applicability and designation of affected facility.**

(a) The provisions of this subpart are applicable to the following affected facilities in primary lead smelters: sintering machine, sintering machine discharge end, blast furnace, dross reverberatory furnace, electric smelting furnace, and converter.

(b) Any facility under paragraph (a) of this section that commences construction or modification after October 16, 1974, is subject to the requirements of this subpart.

**Subpart S—Standards of Performance for Primary Aluminum Reduction Plants**

16. Section 60.190 is revised as follows:

**§ 60.190 Applicability and designation of affected facility.**

(a) The affected facilities in primary aluminum reduction plants to which this subpart applies are potroom groups and anode bake plants.

(b) Any facility under paragraph (a) of this section that commences construction or modification after October 23, 1974, is subject to the requirements of this subpart.

**Subpart T—Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants**

17. Section 60.200 is revised as follows:

**§ 60.200 Applicability and designation of affected facility.**

(a) The affected facility to which the provisions of this subpart apply is each wet-process phosphoric acid plant. For the purpose of this subpart, the affected facility includes any combination of: reactors, filters, evaporators, and hotwells.

(b) Any facility under paragraph (a) of this section that commences construction or modification after October 22, 1974, is subject to the requirements of this subpart.

**Subpart U—Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants**

18. Section 60.210 is revised as follows:

**§ 60.210 Applicability and designation of affected facility.**

(a) The affected facility to which the provisions of this subpart apply is each superphosphoric acid plant. For the purpose of this subpart, the affected facility includes any combination of: evaporators, hotwells, acid sumps, and cooling tanks.

(b) Any facility under paragraph (a) of this section that commences construction or modification after October 22, 1974, is subject to the requirements of this subpart.



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**Subpart V—Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants**

19. Section 60.220 is revised as follows:

**§ 60.220 Applicability and designation of affected facility.**

(a) The affected facility to which the provisions of this subpart apply is each granular diammonium phosphate plant. For the purpose of this subpart, the affected facility includes any combination of: reactors, granulators, dryers, coolers, screens, and mills.

(b) Any facility under paragraph (a) of this section that commences construction or modification after October 22, 1974, is subject to the requirements of this subpart.

**Subpart W—Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphusphate Plants**

20. Section 60.230 is revised as follows:

**§ 60.230 Applicability and designation of affected facility.**

(a) The affected facility to which the provisions of this subpart apply is each triple superphosphate plant. For the purpose of this subpart, the affected facility includes any combination of: mixers, curing belts (dens), reactors, granulators, dryers, cookers, screens, mills, and facilities which store run-of-pile triple superphosphate.

(b) Any facility under paragraph (a) of this section that commences construction or modification after October 22, 1974, is subject to the requirements of this subpart.

**Subpart X—Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities**

21. Section 60.240 is revised as follows:

**§ 60.240 Applicability and designation of affected facility.**

(a) The affected facility to which the provisions of this subpart apply is each granular triple superphosphate storage facility. For the purpose of this subpart, the affected facility includes any combination of: storage or curing piles, conveyors, elevators, screens, and mills.

(b) Any facility under paragraph (a) of this section that commences construction or modification after October 22, 1974, is subject to the requirements of this subpart.

**Subpart Y—Standards of Performance for Coal Preparation Plants**

22. Section 60.250 is revised as follows:

**§ 60.250 Applicability and designation of affected facility.**

(a) The provisions of this subpart are applicable to any of the following affected facilities in coal preparation plants which process more than 200 tons per day: thermal dryers, pneumatic coal-cleaning equipment (air tables), coal processing and conveying equipment (including breakers and crushers), coal storage systems, and coal transfer and loading systems.

(b) Any facility under paragraph (a) of this section that commences construction or modification after October 21, 1974, is subject to the requirements of this subpart.

**Subpart Z—Standards of Performance for Ferroalloy Production Facilities**

23. Section 60.260 is revised as follows:

**§ 60.260 Applicability and designation of affected facility.**

(a) The provisions of this subpart are applicable to the following affected facilities: electric submerged arc furnaces which produce silicon metal, ferrosilicon, calcium silicon, silicomanganese zirconium, ferrochrome silicon, silvery iron, high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, ferromanganese silicon, or calcium carbide; and dust-handling equipment.

(b) Any facility under paragraph (a) of this section that commences construction or modification after October 21, 1974, is subject to the requirements of this subpart.

**Subpart AA—Standards of Performance for Steel Plants: Electric Arc Furnaces**

24. Section 60.270 is revised as follows:

**§ 60.270 Applicability and designation of affected facility.**

(a) The provisions of this subpart are applicable to the following affected facilities in steel plants: electric arc furnaces and dust-handling equipment.

(b) Any facility under paragraph (a) of this section that commences construction or modification after October 24, 1974, is subject to the requirements of this subpart.

(Secs. 111 and 301(a), Clean Air Act as amended (42 U.S.C. 1857c-6, 1857g(a)).)

[FR Doc.77-21230 Filed 7-22-77;8:45 am]



federal register

MONDAY, JULY 25, 1977

PART IV

# WATER RESOURCES COUNCIL

■

## WATER RESOURCE POLICY STUDY

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The notice in the [illegible] concerning the [illegible] President in his Environmental [illegible] to additional [illegible] the following [illegible] and on Federal issues.

The public [illegible] as well as on the [illegible] may be presented orally at the hearings (see [illegible] (42 F.R., 34563) for [illegible] Water Resources [illegible].

The record will [illegible].

JUL 21 1977

[illegible] of the Chairman, [illegible] Council [illegible]

[illegible]

[illegible] or characteristic of water [illegible] ter. Quality should [illegible] planning, development, use, [illegible] of both inseparableness, quality will [illegible] review of each of the issues by [illegible] group on the revision of [illegible] ing the feasibility of [illegible] ation in the planning system to meet [illegible] ional direct Federal programs. [illegible] that comprehensive basis, [illegible] merger of both water quality [illegible].

These [illegible] amining primarily the most [illegible] repayment of the Federal [illegible] financial financing role with [illegible] ptions on water quality [illegible] ues is also being evaluated. [illegible] market pricing for certain vendible [illegible] resources projects as an incentive [illegible] water users is under study.

[illegible] examining economic as well as legal [illegible] reduction of subsidies and more reliance on [illegible] charges to influence project choices and [illegible] charges may impel changes in industrial



processes to reduce waste water discharge costs with a consequent beneficial effect on water quality. Also, this task group is looking at water-related laws and management practices that may impair recognition of environmental values, including water quality. Particular attention is being given to the legal and institutional mechanisms to assure and protect instream values and flows.

The task group on conservation is looking at the entire spectrum of water uses and practices to determine the most productive means to reduce wastefulness, including the waste manifested by polluting practices. In this regard, water resources research will be relied upon to make a major constribution through developing efficiency-in-use techniques and through treatment technology for waste waters, allowing reuse and reduction or elimination of polluting effects. Desalination processes may be applicable here to brackish and other poor quality waters, allowing in effect for augmentation of supply without the necessity of impairing streamflows through regulating and storage structures.

An option paper on the subject of water quality is not being presented because, as was said in the original Federal Register notice of July 15 on the water policy review, the Administration's position would be presented in the testimony to the Congress on amending the Federal Water Pollution Control Act Amendments of 1972, P.L. 92-500. That testimony is presented below.

STATEMENT OF
THOMAS C. JORLING
ASSISTANT ADMINISTRATOR FOR
WATER AND HAZARDOUS MATERIALS
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
SENATE SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION
JUNE 30, 1977

Mr. Chairman and Members of the Subcommittee, I am Tom Jorling, Assistant Administrator for Water and Hazardous Materials. It is a pleasure to have this opportunity to testify before the Subcommittee on EPA's experience, to date, with the implementation of PL 92-500, the Federal Water Pollution Control Act of 1972. Your considerations of possible legislative changes in the statute which you, Mr. Chairman, once characterized as the need for "mid-course corrections," are as timely now as your analogy is apt. The 1972 legislation launched the nation upon a purposeful course of environmental achievement unprecedented in domestic program. While few fully appreciate the awesome dimensions of the task, it is a tribute to the vision and determination of the

Congress and especially the Public Works Committees of the two Houses, that in the design and enactment of PL 92-500 they fashioned a sound piece of legislation charting the nation on a determined course.

Now, nearly five years later, it is entirely appropriate that we assess the progress of the program, evaluate the soundness of the statutory strategy, consult the charts to determine if we are still on course, and make the appropriate navigational corrections to speed us toward the destination which Congress set out in the objectives of the Act, "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." It is also timely that this Hearing is scheduled on June 30, 1977, the eve of the statutory deadline for the installation of the best practicable control technology.

I am sure you have heard from previous witnesses, here and in other parts of the country about particular problems with the Act's implementation. It is a complex piece of legislation and there have been problems, but I want to strongly assert that despite the problems, the Act is working. It is gratifying to report that the great majority of industry will be in compliance with the 1977 requirements. Out of 4000 major industrial dischargers, an estimated 3,400 have complied with the deadline, and most of the remaining 600 are moving toward compliance.



I think this stands as conclusive evidence of the basic validity and effectiveness of the Act's strategy for the application of uniform standards to point source discharges. Also, it is tribute to the ingenuity, dedication and good faith demonstrated by most of America's industry toward achieving water pollution control.

Unfortunately, the progress with bringing publicly owned waste water treatment systems into compliance has not been as promising. As contrasted with industrial compliance, only about 30% of the publicly owned systems are in compliance on this bench-mark date. Reasons for this are not attributable to any basic flaw in the Act's strategy. They can be found in a time-frame which was perhaps too short considering the enormity of the job and the complexities of overcoming inertial forces of the bureaucratic system at every level of government, including those in the EPA. Uncertainties of Federal funding have plagued the municipal construction grant program over the past several years and, I might add, again imperil its efficient and expeditious functioning. Also, the lead time required for design and construction of some of the larger treatment systems has contributed to delays. Although it will take a decade or so to totally complete the task, many municipal systems will be brought into compliance in the next few years providing that adequate Federal resources are available to aid in constructing the necessary facilities.





While experience with the implementation of the Act is instructive in assessing future direction, the Committee, I assume, is more interested in EPA's judgment as to how serviceable the Act's essential structure is for moving the water pollution control program beyond the 1977 requirements, toward achievement of the stated goals and objectives.

Let me preface my comments in this regard by saying that EPA feels the Act is basically sound as a mechanism for advancing the nation's water pollution control programs. The proposals being offered by the Agency are aimed at fine tuning the Act's provisions.

In evaluating the progress to date it is important to add a word of caution in the process of identifying any area of the statute as needing change. Although the Act has been in effect almost 5 years, EPA, State and local governments, as well as industrial and municipal sources, are just now achieving the integrated implementation of the Act which was contemplated. We are just beginning to focus on actual pollutants rather than conventional parameters of pollution. We are now only at the threshold of assuring that planning will guide implementation. We therefore must be careful not to confuse administrative problems with statutory imperfection.

Regarding the future of the program EPA sees two primary themes in pursuing its mission of water pollution control: (1) to control toxic pollutants and (2) to encourage the conservation, reuse and recycling of both water resources and the valuable elements contained in the various waste streams currently being discharged to the nation's waters.



Let me explain the Agency's strategies for meeting these objectives in both the municipal and industrial areas.

MUNICIPAL STRATEGY

As EPA strategy, I would like to reassert what I believe to be the basic strategy of the Act in regard to controlling discharges from publicly owned treatment works.

- The first priority in providing federal assistance should be on construction of those treatment facilities needed to comply with the enforceable goals of the Act.

- The application of best practical waste treatment technology, should conform to section 201 and encourage alternatives to conventional treatment technologies which might constitute more environmentally compatible solutions to waste control and result in the conservation and reuse of water, water borne nutrients, and other valuable elements.

- Application of pretreatment requirements to industrial discharges should be rigorously pursued to assure removal of harmful contaminants from the municipal waste stream and minimize the degree to which these contaminants render the residuals from the municipal waste treatment process dangerous or unsuitable for land treatment and land spreading or other forms of sludge disposal.

- Swift enforcement should be taken for those communities demonstrating recalcitrance or negligence in bringing their discharges under control, or failing to operate their treatment facilities to achieve optimal control.

Admittedly, the control of municipal discharges has not moved with the facility that the Act anticipated. Nor have we been successful in overcoming inertia in the program which has prevented moving toward recycling systems. Nevertheless, we have made considerable progress toward assisting communities with the construction of the enormous back log of wastewater treatment needs.

As of May 31, 1977, the EPA construction grants program had obligated $13.3 billion for the construction of wastewater treatment facilities. Much, however, remains to be done. President Carter has already asked the Congress to make a long range federal commitement



of $45 billion over a 10 year period to aid states and communities in planning, designing and constructing these essential treatment facilities. These federal funds, coupled with matching state and local moneys,will take care of the nation's estimated priority needs for basic wastewater treatment facilities. In making this commitment however, the President was firm in his assertion that the money be spent on building those projects which take care of the highest priority needs, represent the most cost-effective solution to the treatment problem, and will not lead to secondary impacts resulting in even greater environmental assaults to the air, the water and the land. We must also tailor the scope and scale of our response to address the problems of small communities. Burdensome systems providing little marginal improvement in water quality should not be categorically imposed upon them. We must fit our solutions to the problems - not the other way around. Likewise we are offerieng an amendment which will facilitate the step two and three grant review and approval process for small communities.

The message the President is sending, and the one EPA vigorously supports, is that continued commitment of heavy public funding to this program must be predicated on an environmental objective - that of cleaning up and maintaining the quality of the nation's waters. It recognizes the fact that there are limited resources available for critical pollution control needs and that what funds we have must







be dedicated to helping communities meet the enforceable goals of the Act. One of the greatest dangers the program faces is the proclivity to shed its environmental identity and lapse into the context of a public works program - building lower priority collector sewers and interceptors without reference to remaining high priority needs or to secondary environmental impacts. If the program becomes too concerned with the flow of dollars and looses sight of its environmental objective and the opportunity to encourage the application of innovative alternatives, the Federal Water Pollution Control Program will be in danger of losing not just the President's support, but the support of the public who have worked hard over the past decade for a well-funded federal clean water program.

I might add that EPA had demonstrated its determination to keep the construction grants program on an environmental course. We recently issued a policy limiting the eligibility of funding for collector sewers and insisting upon more vigorous review of facility grant applications to insure that proposed facilities are environmentally and economically efficient and that they remedy essential pollution control needs. Additionally, we are asking for legislative reinforcement of this policy on limiting eligibilities for storm and collection sewers, reserve capacity and general sewer rehabilitation and replacement, as part of our request for restricted eligibilities.

We are recommending the elimination of storm sewers for eligible funding. We are also recommending that collection sewer systems be



eliminated from eligibility for municipal construction grant funding under PL 92-500. There are other Federal assistance programs more appropriate for assisting particularly small, low income communities, with the construction of needed collection systems. The Federal Farmers Home Administration loan program is available for this purpose and funding should be increased as necessary.

Eligibility for reserve capacity in treatment plants and sewers should be limited somewhat to the capacity to serve only the estimated near term population of the service area. Sewer rehabilitation and replacement should be eligible only in those cases where it is considered a cost effective solution to the elimination of excessive infiltration and inflow.

Additionally, I should make it clear that it will be the future policy of the Agency to fund only advance waste treatment projects essential to meeting the 1983 water quality goals. This partial prohibition, however, will not be interpreted by the Agency as a means of discouraging municipal initiatives toward recycling and land treatment alternatives.

In the past there has been an unfortunate tendency for municipal treatment technologies to become hidebound. As a new employee of the Environmental Protection Agency, I was pleased to learn that, contrary

to my apprehensions, the Agency has been making impressive advances in encouraging the application of alternative technologies to the treatment of domestic wastes. Over 13 percent of the step 2 and 3 construction grant projects now being funded involve techniques of land application. Because I know the Subcommittee has expressed an interest in this area I am submitting some information with this testimony which describes the extent to which alternative treatment technologies are being funded through EPA facilities grants. I am convinced, however, that much more can be done. The Administrator has directed that we use what influence we have to advance efforts toward wide-scale development and utilization of technologies that provide for reuse and conservation of the water as well as the nutrients and other valuable elements it carries. In a nation that is facing increasing problems of water scarcity, within a world environment never removed from the grim specter of famine, conscientious public policy demands no less.

In this same context, we will be diligent in our pursuit of physical, economic or political devices that will encourage water savings by the individual, the institutional and the industrial user. In addition to an insistence upon sewerage charges reflective of the proportionate share of the system used, we are also recommending consideration of legislative measures to encourage water conservation in the communities receiving construction grants awards. There is



compelling evidence that significant savings can be achieved in domestic usage. We recommend that the full Federal share of the construction grant be available to only those communities that indicate they are taking the initiative to reduce water use consumption. The long run result will be the conservation of a vital resource and financial savings to both the Federal government and the community.

For those municipal treatment systems receiving industrial wastes, we are developing effective pretreatment controls which will assure that the system is protected from incompatible pollutants and that incompatible toxics and heavy metals are removed from the waste stream prior to discharge into the municipal system. One of our objectives should be the generation of a treated waste residual which can confidently be placed on the land as a fertilizer, a soil conditioner or stabilizer without fear of contamination or other adverse effects. Similarly, if through pretreatment we can achieve effluent from various levels of treatment that contains nutrients and organic matter, then adoption of alternatives which use such valuable materials will become the rule rather than the exception. Where these alternatives are not optimal, for geographic or other reasons, we should be trying to minimize problems with other disposal options for the enormous volume of residuals generated in municipal facilities.







One of this Administration's management objectives will be an attempt to integrate the authorities of the Resource Conservation and Recovery Act; the Safe Drinking Water Act, and the Marine Protection Research and Sanctuaries Act. They are integral to our common life support systems and essential to the long term stability of the human system.

Along with adequate funding, we must also take a strong posture toward municipal enforcement. During its initial years, the Agency invoked its enforcement powers against municipal dischargers with hesitancy and caution. It is now evident, however, that there are two persistent problems in the municipal sector that must be addressed by firm enforcement. The first is the reluctance of a small but persistent number of municipalities to proceed with the construction of secondary treatment facilities, despite the availability of federal funding assistance. The second is the widespread failure of existing treatment facilities, secondary and otherwise, to produce an effluent meeting either secondary treatment or design specification criteria, primarily because of improper operation and maintenance. The latter problem is normally attributable to the reluctance of city officials to appropriate sufficient funds to the operation and maintenance of treatment facilities. The Agency's enforcement program has a demonstrated capability to deal with both of these problems and is committed to an enforcement strategy to minimize them. That strategy, of course,



would not seek to penalize a municipality whose failure to proceed with the installation of treatment facilities is solely attributable to a lack of adequate federal funding.

This enforcement strategy would be greatly facilitated by amending section 301 of the Act to enable the Administrator to extend the attainment date for secondary treatment on a case-by-case basis in permits to publicly owned treatment works. In this manner the Agency could more effectively use its basic regulatory tool to establish and enforce realistic construction schedules which take into account the availability of construction grant funds, and establish enforceable effluent limitations based on effective operation and maintenance pending the completion of secondary treatment facilities. Other enforcement mechanisms are also under consideration. Specifically, we are looking at the possible application of a delayed compliance fee to noncomplying municipal dischargers. We may wish to offer an amendment for the Committee consideration on this proposal at a later date.

In summary, EPA is satisfied with the strategy contained in PL 92-500 for control of municipal point sources. It is working. We hope that the Congress will keep its essential structure intact. With continued funding for construction grants at the level recommended by the President, and with several relatively small amendments which

we believe would facilitate implementation of the statute, we can move with added determination toward its goals and objectives.

In addition to the previously referenced amendments, we are also recommending a statutory change which would facilitate the delegation of certain functions of the construction grants program to those states which are qualified and interested in assuming grant management responsibilities. To assist the States, we recommend providing EPA with the authority to make up to 2 percent of the State's share of the federal construction grant funds available to the States for management needs. The authority would enable the Agency to continue its effort to make the most effective use of available resources, both within the States and other federal agencies, to effectively manage the construction grants program. For example, we are exploring possibilities with the Corps of Engineers to involve their personnel in the management of some aspects of the grant program.

In regard to amendments, I should add, that in the event that the House and Senate again fail to achieve a mutually agreeable compromise on several of the disputed areas of the Act, I wish to stress that it is absolutely imperative that the Congress provide the program with continued short term funding for the municipal construction grants program, as well as the authority for case-by-case extensions of the statutory deadline as it applies to municipalities.



PLANNING STRATEGY

Section 208 of the Act creates a continuing planning process which, if properly implemented, should provide the basic framework for integrating the facility construction grants and the NPDES permits into a coherent and implementable long range plan for the achievement and maintenance of water quality within an area. These 208 plans should comprise the state's overall strategy for achieving water quality. While there have been some problems with the implementation of the 208 program we believe it is a critical component of the Act. It deserves continued commitment of resources as well as increased management and guidance from the federal government and the states. President Carter has already asserted this Administration's commitment to the 208 planning program and has requested additional funding.

We will attempt to integrate all the planning functions of the Act -- under sections 106, 201, 208, and 303 -- into a comprehensive water quality management process. We believe we can and should do this under existing authority. Within this framework the State level of government should assume a central coordinative role with the local governments as active participants. Specific products will be expected of the planning efforts, including the development of regulatory, management and assistance programs controlling non-point sources and the location of new polluting facilities. Additionally, we are



recommending an amendment providing that continued availability of federal funds under section 207 of the Act will be premised upon the development and implementation of enforceable pretreatment standards for the introduction of pollutants into publicly owned treatment works, as well as the development of approved water quality management plans.

INDUSTRIAL

The second major category of point sources with which the Federal Water Pollution Control Act deals is industrial dischargers. The Agency, with the assistance of the states, has experienced widespread success in bringing about compliance with effluent limitations based on best practicable control technology. We expect all but about 14% of the major industrial dischargers to have met



these requirements by tomorrow. That is a tremendous accomplishment by the Agency, the states with approved permit programs, and American industry.

The Agency will be devoting the bulk of its enforcement efforts over the next year to dealing with the large industrial dischargers that will not meet the July 1 deadline. We will address first those discharges whose effluents have adverse effects on public health and those dischargers whose conduct to date has the earmarks of bad faith. In fairness to the vast majority of industries that have met their pollution control objections in a timely manner, we will be seeking penalities commensurate with the economic benefits of delayed compliance, as well as court imposed compliance schedules. The Agency will not take punitive measures, of course, against those industries that, despite good faith efforts on their part, have been unable to achieve treatment requirements in a timely manner because of delayed action by other parties. Such instances include those in which permits have not been issued in a timely manner and in which industries are scheduled and under contract to discharge their wastes in municipal treatment systems that are presently unavailable. To facilitate the Agency's enforcement program we are proposing amendments allowing the administrative assessment of a non-compliance fee commensurate with the economic benefits of delayed compliance and addressing several technical problems with the Agency's present enforcement authority.

The Agency's firm enforcement policy will assure the complete attainment of the first stage of pollution control envisioned by the Act - the control of traditionally regulated pollutants, such as biological oxygen demand (BOD), suspended solids, pH and some of the heavy metals. At the same time it sets the stage for the activation of the second round of pollution abatement - the control of toxic pollutants, particularly organic chemicals.

As you have heard from other testimony, the 1977 or BPT limitations most likely will have incidental benefits in control of toxics in some industries. However, our available data, along with recent experiences with pollutants such as Kepone, carbon tetrachloride, and carcinogenic organics in drinking water supplies, leave no doubt that even with BPT controls there will continue to be major discharges of toxic pollutants, many of which are potential threats to public health. Thousands of others pose suspected but unquantified hazards to human as well as aquatic life and welfare.

The last five years of experience in implementing PL 92-500 have left the Agency firmly convinced that the Best Available Technology requirements in the Act provide the most reasonable and most effective mechanism for dealing with the majority of these pollutant problems. The BAT process most easily accommodates the large numbers of pollutants and industry subcategories we must be concerned with. Moreover, the technology and economic tests in BAT are in general more easily met than the cause-and-effect type health based tests under Section 307(a). It is important however, to think of BAT in its most up-to-date frame of reference. Earlier BAT as well as BPT standards



focused primarily on conventional parameters. However, our current strategy calls for the use of revised BAT standards to control toxics in twenty-one high priority industrial categories with a primary focus on a group of sixty-five high priority elements, compounds and classes of compounds. I would like to point out that in formulating this strategy, which is fully authorized by sections 301 and 304 of the Act, a large measure of credit is due to the environmental groups who participated in last year's court settlement which embraced this strategy. It is an outstanding example of the value of public participation, which we will continue to encourage, as authorized, in all phases of implementation of the Act.

Let me leave no doubt that even with the technology based approach in BAT, the ultimate task of controlling toxics will not be easy. We are dealing with large numbers of very complex pollutants about which very little is known. But, as the Committee heard from Dr. Robert Harris last week, many of those pollutants have serious implications for human health. The Agency is convinced that this is the course that we must pursue, and our current work will help pave the way for eventual protection of our nation's waters from toxic discharges. Accordingly, we are making no suggestions for major changes to the BAT provision at this time. However, we are proposing under sections 304 and 402 a supplemental authority to regulate and prohibit specific measures and practices which are ancillay to traditional manufacturing processes





and which contribute significant amounts of pollution to navigable waters. Such authority would be used for special cases where portions of industrial flows are so erratic or unpredictable as to make the development of specific effluent limitations very difficult and resource intensive. We also are offering a proposal to have the review of effluent limitation and other national standards consolidated into the Court of Appeals for the District of Columbia. This would eliminate a considerable amount of confusion and delay from the standard setting process. Finally, we are offering a proposal which would limit the use of variances under section 301(c) of the Act for BAT limitations for toxics.

Our current strategy also provides for use of section 307(a) of the Act for special situations where the BAT provision, because of economic or technical constraints, cannot provide adequate protection to human health and welfare. Our past experience with section 307(a) has shown that it is not amenable to dealing with large numbers of pollutants and sources. Its health orientation and pollutant-by-pollutant approach coupled with the formal rulemaking requirement make it too resource intensive to use on a large scale. However, we believe there will be cases where BAT will lead to limitations that still leave an unacceptable threat to human health and welfare, and that the more stringent health based requirements under section 307(a) will be needed. Accordingly, we feel strongly that section 307(a) must be preserved for this special purpose and are offering



several minor changes aimed at making Section 307(a) more functional. Our proposal to change 307(a) procedures from formal to informal rulemaking is the most essential of the changes we are offering.

Having discussed the role the Agency sees for BAT for control of toxics, I should say a few words about BAT for the more traditional pollutants. It is apparent that substantial gains have been made with BPT. However, there is evidence that significant problems still remain. Using available monitoring data and information from the report of the National Commission on Water Quality projecting the impact of BPT controls, our estimates are that with BPT, there still will be between 30 and 50 percent of the nation's waters east of the Rockies and 20 to 35 percent of the waters for the entire country that fail to maintain the dissolved oxygen levels needed to support a balanced population of desirable fish and other aquatic life. It is worth noting, moreover, that these figures fail to take into account growth, which by 1985 the Commission says could offset many of the gains from BPT. Our data also indicate that the remaining dissolved oxygen problems still tend to be associated with point source rather than non-point source discharges. While non-point sources seem to account for the majority of the remaining BOD loadings after BPT, these non-point source loadings occur at high flows so that the resulting impacts on oxygen often are not significant. Finally, aggregate analyses indicates that with BPT and secondary treatment eventually in place, approximately one third of the point source loadings of BOD still will come from industrial sources.

Because of these findings, the Agency is [illegible] industrial categories it still is reasonable to seek additional abatement of BOD and other traditional pollutants through a second round of national limitations. Our analysis to date shows that it is impossible to respond in a general way to the Commission's conclusions that BAT as initially promulgated by the Agency, would be inefficient for conventional pollutants from a cost-effectiveness point of view. Rather, we have found that this question has to be addressed on an industry by industry basis. There will be some industries for which BPT controls for convential pollutants have achieved all that can reasonably be expected for the immediate future. However, there will be a number of cases where this will not be so. For example, there currently are some industries where the estimated costs of a BAT increment of control for BOD is far below even the cost of secondary treatment for municipal systems in terms of cost per pound of pollutant removed. Clearly this is not a hard and fast test of what BAT should be for industry, but it tends to substantiate the point that in some industries additional controls for conventional pollutants can be obtained under BAT for very reasonable costs. Accordingly, the Agency is in the process of reviewing its existing BAT standards for convential pollutants to insure their overall reasonableness. Where the BAT standards result in additional costs that appear to be unrealistic in light of the associated incremental reductions in pollutant loadings, the standards will be appropriately modified. We believe the Act clearly allows for such a test of "reasonableness," especially in the



absence of any toxic pollutant problems. As our analysis continues, should we find that the existing legislation does not provide suitable flexibility we will offer appropriate legislative amendments.

Before leaving the industrial area, I would like to say a few words about longer term objectives and the role of water quality standards. Clearly, the concept of water quality standards has been an element of our pollution control strategies for a number of years. However, the 1972 Act is testament to the fact that the water quality standards approach is very difficult to apply. This is especially true for toxics where, for the most part, the Agency and the States do not have specific water quality standards for any substantial number of toxic pollutants. For instance a recent Agency survey of published documents on State water quality standards revealed that 46 States and territories have no specific standards for organic toxic materials. Indeed, only 27 States had standards for one or more metals. The Agency currently is in the process of developing water quality criteria for a large number of toxic pollutants. However, it is doubtful that toxics can ever be effectively controlled in this manner since establishing cause/effect relationships is an order of magnitude more difficult for toxics than for traditional pollutants, and even the latter are not easily dealt with by water quality standards as witnessed by the 1972 Act. In the long term, the only effective ways of assuring full protection from toxic discharges will be through source controls and increased reuse and recycle of toxic waste streams. Not only will this





provide needed protection from toxics, but it will help make it more feasible to "recapture" the water resources, nutrients and other valuable elements from industrial, as well as municipal, waste streams.

Many industrial facilities already achieve extensive reuse and in most cases find it much more economical than end-of-pipe treatment. In fact, recent surveys have found over 108 industrial subcategories (out of about 650 in the 43 major industries of concern) where complete elimination of discharge has been found feasible just at the BPT level. Individual plants in numerous other subcategories also have achieved this level of control. Thus, while BAT and 307(a) limitations along with water quality based limitations serve as the immediate approach, the goals of reuse, recycle and eventually elimination of discharge are not only feasible, but provide the only certain protection geinst toxic and hazardous discharges.

Regarding the question of goals, I want to emphasize that the current goals in the Act for 1985 have been of great benefit in providing a target for our efforts and in bringing innovation and process changes into the industrial control program. It has been a valuable and commendable goal and we intend to continue to examine its utility in light of our present program and the current industrial and municipal strategies.



OTHER PROGRAMS

Although the FWPCA is focused upon the elimination of point sources of pollution, it is equally important that we more aggressively emphasize non-point source control. In many areas, non-point pollution sources, such as agricultural and urban runoff, account for significant pollutant loadings, for both traditional as well as toxic pollutants. The non-point pollution problem will be given increased agency priority in the coming years. It is appropriate to address these problems in the water quality planning and management functions of the Section 208 process. We must recognize that each category of non-point source is different and will require different control strategies. These strategies may also vary according to the locality or region. I also believe that the cooperation of other agencies which manage Federal lands is vital to the successful control of non-point water pollution. It is equally important that Federal agencies comply with pollution control requirements of both EPA and the States. The solution to the non-point problem can only be found in a coordinated intergovernmental effort.

One final area I would like to address is the 404 program for discharges of dredged or fill material. By now we are all aware that unregulated discharges of dredged or fill material have serious adverse effects on the nation's aquatic resources. Physical alteration of [illegible] and streams by such discharges can destroy [illegible] and chemical integrity. Some [illegible] destroyed

already, with the current rate of loss approaching 300,000 acres a year. Even those who oppose the 404 program concede that our remaining swamps and marshes play an essential role in our collective effort to meet the objectives of the 1972 Water Act. They provide the breeding and nursery areas for fish and wildlife, remove and recycle organic and inorganic pollutants from ground and surface water supplies, and buffer the destructive effects of storm and flood waters.

The past two years of program implementation have been a learning experience. Unnecessary regulation of minor discharges and small waterbodies is being avoided through the issuance of general and nation-wide permits. Hundreds of projects involving potentially harmful discharges have been modified to protect the aquatic environment including thousands of acres of wetlands. The Corps of Engineers will soon promulgate reorganized and greatly clarified regulations to further streamline the program's administration.

While the current program is effective and many of the criticisms made in the past are being corrected administratively, we are recommending a few limited changes. These would provide EPA with authority to transfer the Section 404 permitting responsibility for Phase II and III waters to those States that have adequate programs. We look forward to working with the Senate and House Committees on this legislation which will encourage more States to become involved in this extremely important program.



This concludes my testimony, Mr. Chairman. I believe you have some descriptive material before you on the Agency's progress with funding alternatives technology construction grants and on the federal funding of priority need. I will be pleased to discuss this material with you and to answer any questions you might have.





WATER RESOURCES RESEARCH

The President's directive to base water resources policy on water conservation puts increasing importance on research. Overall, there is a critical need to insure that Federal research activities address the rapidly changing social concerns and environmental problems in a timely and responsive manner.

Perhaps the best indication of the objective of water resources research can be obtained from the preamble to the Water Resources Research Act of 1965, as amended, which states:

> "...to assist in assuring the National at all times of a supply of water sufficient in quantity and quality to meet the requirements of its expanding population, it is the purpose of the Congress, by this Act, to stimulate, sponsor, provide for, and supplement present programs for the conduct of research, investigations, experiments, and the training of scientists in the fields of water and of resources which affect water."

In addition, there is a need for research knowledge to reduce or eliminate any adverse environmental impact from the development and use of water resources.

At the present time, over 20 Federal agencies are involved in water-related research. Most of this is carried out by agency staff or through contracts and grants with private industry, universities, and State and local governments. Four separate categories are involved:

— agency research directed toward program objectives, such as reservoir regulation by the Corps of Engineers or waste treatment technology by the Environmental Protection Agency;

— earth science research and surveys such as those undertaken by the U.S. Geological Survey and National Oceanic and Atmospheric Administration;

— research grant programs such as that sponsored by the National Science Foundation; and

— development of new technologies, such as desalination research by the Interior Department's Office of Water Research and Technology.

However, Federal research is fragmented with a minimum of coordination. This situation raises three problems.

1. Uncoordinated individual agency efforts do not produce coherent results. Overlaps, duplication, and omissions are likely.
2. Because results are not compared or evaluated, the effectiveness of the research is not known.
3. The emphasis on individual agency research results in a focus on narrow particular program objectives to the detriment of larger problems or issues. The distribution of expenditures for Federal water research activities is indicative of this situation. Approximately one-third of the funds is for water quality management and protection. Other significant research expenditures are for fish and wildlife habitat, protection against water-borne disease and hazards, hydrologic investigations, and water supply augmentation.

This situation reveals several issues to be resolved. These issues involve how coordination should be accomplished, how priorities are to

be established, how research results are to be evaluated, made known, and put into use. The role of State governments, the river basin commissions and Federal agencies, including the Water Resources Council, should be considered. Research is not a process that should occur outside the usual system of planning, development, and operation, with the "feed-into" and feed-back" left to spontaneity. Just how does research fit into the process? How much promise does research offer for improvement of the present situation? Is research confined to the "hard" and biological sciences or does it include a part for the social sciences and business arts and practices? These questions and others confront the water resources community and the general public.

The following options are presented as a means of addressing the above problems and issues and improving national policy in water resources research. These options are not the only ones conceivable or viable. They are suggested as a means to solicit discussion and to induce the expression of other options by the public.

Options

1. Centralize all water resources research in one place in the Executive Branch of the Federal Government. The central agency would establish priorities, coordinate mission-directed research of the individual water resources agencies, determine the magnitudes of budgets, and approve individual projects above a certain dollar level. The central agency would also evaluate research results and arrange for technology transfer and dissemination. The agency would also operate a central information and data system for water resources research. A variation



would be to centralize just the planning of research and setting of priorities in a new agency.

2. Maintain essentially the present dispersed system of individual agency programs but with close coordination through the Water Resources Council, or some other organization, for the establishment of priorities and research centers or excellence on a regional basis, with the participation of the river basin commissions and the States.

3. Replace the present system of individual agency programs with a block grant system to States and universities, with a portion of the grants earmarked for particular national objective projects. The national objectives would be determined and prescribed by the Water Resources Council.

4. Establish a national water resources research council composed of the directors of the National Science Foundation, the Office of Science and Technology, the National Academy of Sciences, the Chairman of the Water Resources Council, and such other officials as the President may select and including a representative of the National Governors' Conference, the National Association of Land Grant Universities, private large-scale technology industry, the National Center for Appropriate Technology, and the major national research foundations. This council would determine priorities, annual budget magnitudes, and establish evaluation criteria for awarding of grants and contract research.





FEDERAL RESERVED WATER RIGHTS

Statement of the Problem

A judicially created doctrine generally recognizes that when the United States establishes a Federal reservation such as a national park, forest, wildlife refuge, or military installation, at least as early as the date the reservation was established, a sufficient quantity of unappropriated water is reserved to accomplish the purposes for which the land was reserved. What is most significant with respect to Federal reserved water rights is the fact that the large amounts of water necessary to fulfill the purposes for which the reservation were created have not been quantified. Lack of quantification of Federal reserved water rights presents problems for both Federal and non-Federal water resource users and developers because it conflicts with the water law doctrine of appropriation which developed as the western States were created from the public domain. The domain of appropriation is not based on the ownership of the land by or over which the water flows but rather on the physical appropriation of water and its application to a beneficial use. As between competing appropriators, the one first in time is first in right, and the measure of the appropriative right is the amount of water which is actually applied to a beneficial use. This doctrine was sanctioned by the Desert Land Act (43 U.S.C. 321) wherein Congress declared that"... all surplus water...upon the public lands and not navigable, shall remain and be held



free for the appropriation and use of the public... subject to the existing rights..." (emphasis added). Subsequent to the Desert Land Act, the States have licensed and regulated the use of the waters of the public domain. However, there have been no Federal statutory criteria enacted to quantify the amount of "surplus" water subject to appropriation by the States. Since it is not possible to know with certainty the amount of water held under Federal reserved rights, effective administration is difficult. The lack of definitive guidelines for quantification of Federal reserved water rights, or surplus water within the public domain, results in time-consuming and costly litigation to determine the respective rights of competing sovereigns and other public and private entities with regard to quantities of water which may be used for any particular beneficial or authorized purpose. Moreover, the current state of the law is such that State courts may have concurrent jurisdiction with the Federal courts over controversies involving Federal rights to the use of water. Determinations of the rights of the Federal Government in State courts and vice versa only add to the complexities of the problems by creating additional arenas in which water quantification issues are addressed without definitive resolution. Lack of quantification procedures acceptable to both the Federal Government and the non-Federal entities with regard to water resource uses results in uncertainty of Federal and non-Federal water resource development. This basic recognition, coupled with such factors as the finite supply of water, new applications of water for energy priorities, and the desire to maximize present water uses, mandates a concerted effort by all elements of the public and private sector to resolve these quantification issues. It is incumbent upon the Federal Government to take the initiative in proposing solutions to resolve the present problems, not only because of its Federal

reserved water rights but also because of its commitment to establish a well-balanced and comprehensive water resources development policy. The Federal Government's navigation and flood control works constitute the largest category of Federal water control structures which affect the uses of water in the Nation's mainstreams and their tributaries. These activities, in conjunction with the operation of major irrigation works of the United States and the millions of acres of Federal lands in the western States, are more than ample justification for Governmental concern. At the same time, the United States has promoted and encouraged, through its executive agencies, water resource development and use by State and local governments as well as the private sector. Accordingly, it is in the Nation's best interest to examine the Federal reserved water rights doctrines and respective States' appropriation doctrines with a view toward proposing viable mechanisms to insure acceptable and effective water resource development and use.

The following issues and options are presented to the public for review and comment as possible courses of action open to the Federal Government and the States to assist in developing a policy that will reduce the difficulties which the lack of water quantification procedures or systems has created.

Options Under Consideration

The most extreme options open are for Federal abandonment of all Federal reserved water rights on the one hand or for a Federal claim to the use of all water associated with Federal lands on the other. These extreme measures would resolve the problem but they are not under consideration because they are not considered to be consistent with the Nation's interest or sound in terms of long-range water resource planning. Several other



options can be considered. However, none of the broad policy directions listed below address the multitude of details which will have to be addressed in implementing any one of them. In addition, attention is drawn to the fact that it is not necessary to adopt any of the suggested approaches as a national policy. It may, in fact, be considered more desirable to address the problem regionally, by State, by watershed, or by large river basin, with a range of alternatives available to the interested parties. The possible approaches to be considered for quantifying Federal reserved water rights include:

1. The status quo.

   This option would continue the present procedure of quantifying Federal reserved water rights in the courts. This option would enable the courts to continue to clarify the law governing the doctrine of reserved water rights. As this law develops, the water users in the various stream systems can approach either the courts or the Congress for resolution of their particular problems.

2. Legislative resolution

   This approach would involve adoption by the Congress of procedures and criteria by which Federal reserved water rights are to be quantified and a mechanism for management and enforcement. The Government would then apply these criteria to all Federal reservations and enclaves for which reserved water rights are to be claimed.

3. Judicial resolution

   This would recognize that certain disputes may be resolved only in





court and attempt to eliminate a number of the controversial areas that prohibit a relatively rapid judicial determination of the extent of the reserved rights.

   A. Modification of the McCarren Amendment to allow adjudication of Federal water rights only in Federal Court

   B. Action to permit the States to represent their citizens as parens patriae

   C. Creation of a Federal water court

4. Other Federal initiatives to facilitate quantification

   A. Congressional authorization to negotiate Federal-State compacts

   B. Expedited investigation and construction of water resources projects that will develop Federal reserved water rights.

Regardless of the option or mix of options that may eventually be adopted, certain specific issues regarding the extent of Federal reserved water rights have not been definitively resolved. Accordingly, we invite comment on the following issues: the right to use reserved waters off the reservations for which they were reserved; the relationship of reserved rights to interstate compacts and court decrees; management authority of reserved rights to ground water; reserved rights for in-stream purposes; projects to develop reserved rights; compensation of injured parties resulting from quantification and use of Federal reserved water rights; and, effects of changing technologies on reserved rights.



Desired Public Impact

Attention is again drawn to the fact that these options and issues are not mutually exclusive, nor is this list intended to be complete. It is the purpose of this publication to inform the public of the options being considered and to invite comments and suggestions. Finally, the public should also be aware that the present effort is not limited to an approach to the problems posed by the reserved rights doctrine but, rather, is part of the Administration's efforts to fashion a comprehensive national water resources policy in cooperation with the Congress and the public.



[FR Doc.77-21532 Filed 7-22-77;10:54 am]



37958 NOTICES

FEDERAL REGISTER, VOL. 42, NO. 142—MONDAY, JULY 25, 1977

Water Resources Council
Water Resources Policy Study
Additional Hearing

added [illegible] Auditorium at 18th and C Sts. N.W., [illegible] August 4th and 5th, 1977. [illegible] announced later.

The President's May 23 environmental message directed the Water Resources Council, the Office of Management and Budget and the Council on Environmental Quality to review existing water resource law and to recommend reforms to the President within six months. A Policy Committee, chaired by Mr. Guy Martin will carry through the study. The other members of the Committee are Mr. Elliot Cutler, Associate Director of the Office of Management and Budget for Natural Resources, Energy and Science and Mr. James Gustav Speth, Staff Member of the Council on Environmental Quality.

The message directed that the study be conducted in consultation with the public and with the Congress. Eight hearings, in Minneapolis, Denver, Boston, Atlanta, Los Angeles, Seattle, Cincinnati and Dallas, were announced by the Water Resources Council previously.

The hearing will center on water resource policy and particularly upon the "issue and options papers" published in the July 15 and July 25 Federal Register issues. Copies of those papers are available at the Water Resources Council.



Members of the Policy Committee, their representatives and other [illegible] Administration officials will be present. [illegible] wishing to present a written or oral [illegible] writing: Chairman, U.S. Water Resources Council, [illegible] 20037; telephone No. [illegible]

[illegible] at least two days prior to the hearing, [illegible]. At the hearing, those who have [illegible] statements will be limited to 10 minutes. Each witness may be allocated 5 additional minutes to respond to questions from the hearing panel. Written statements received at the Council by close of business August 1 will also be included in the record.

1. Time:

The hearing will run from 9:00 a.m. to 5:30 p.m. each day.

2. Hearing Procedure:

a. Moderator's Authority - The hearing will be chaired by a moderator responsible for conducting the hearing.

b. Hearing Panel - A hearing panel shall serve to receive testimony, question witnesses, and provide answers to any questions from any witness. The hearing panel shall consist of at least one member of the Policy Committee or their designees.

c. Record of Hearing and Availability - Each hearing shall be electronically recorded. Duplicates of each recording may be obtained at cost plus handling and mailing charges from the U.S. Water Resources Council in Washington, D.C., 2120 L Street, N.W., Washington, D.C. 20037.







d. Oral Statements - Views and comments presented at the hearing or [illegible] submitting written statements for the record as set out [illegible] intention to present an oral statement [illegible] writing to the moderator. The moderator or designate, representative of the moderator at the proper hearing at least [illegible] prior to the commencement of each hearing [illegible] witnesses and the statements [illegible] available.

The moderator shall [illegible] persons who meet such notice requirement. Those persons who fail to meet the notice requirement shall be allowed to make presentations as time permits. In scheduling witnesses, the moderators shall give top priority to elected and other government officials.

Each witness shall be allocated no more than 10 minutes to make their presentation. Additionally, each witness may be allocated 5 minutes to respond to questions from the hearing panel and the moderator.

Scheduled witnesses may ascertain the approximate time of their appearance on the day [illegible] from the public information officer of the moderator's [illegible] agency.

e. Written Statements - Written views and comments shall be introduced into the record if they are submitted to the moderator within 1 week after the termination of the hearing.



Alternatively, written comments will be included in the record if received by the U.S. Water Resources Council no later than [illegible] August 20, 1977.

Muriel F. Heard
Acting Alternate to the Chairman
Water Resources Council



[FR Doc.77-21557 Filed 7-22-77;12:02 pm]

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| Monday | Tuesday | Wednesday | Thursday | Friday |
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| DOT/FAA | USDA/REA | | DOT/FAA | USDA/REA |
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| | HEW/HSA | | | HEW/HSA |
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Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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# reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

**Rules Going Into Effect Today**

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**List of Public Laws**

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

H.R. 4585 ..... Pub. L. 95–69
To authorize appropriations for the Indian Claims Commission for fiscal year 1978; to facilitate the transfer of cases from the Indian Claims Commission to the United States Court of Claims; and for other purposes. (July 20, 1977; 91 Stat. 273.) Price: $.35.

H.R. 4992 ..... Pub. L. 95–68
To amend the Indian Financing Act of 1974 by revising the appropriations for the Indian business development program. (July 20, 1977; 91 Stat. 272.) Price: $.35.

S. 1468 ..... Pub. L. 95–70
Federal Energy Administration Authorization Act of 1977. (July 21, 1977; 90 Stat. 275.) Price: $.35.





# rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

**Title 5—Administrative Personnel**

**CHAPTER I—CIVIL SERVICE COMMISSION**

**PART 213—EXCEPTED SERVICE**

**National Foundation on the Arts and the Humanities**

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule B until September 30, 1980, three positions of program officer in the National Endowment for the Humanities, National Foundation on the Arts and the Humanities, because it is impracticable to hold a competitive examination for these positions. This amendment also revokes one position of media programs officer from Schedule A since this position is one of the three program officer positions now excepted under Schedule B and Schedule A exception is no longer required.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3182 (b) (21) is revoked and 5 CFR 213.3282(b)(8) is added as follows:

**§ 213.3182 National Foundation on the Arts and the Humanities.**

* * * * * * *

(b) *National Endowment for the Humanities.* * * *

(21) [Revoked]

* * * * * * *

**§ 213.3282 National Foundation on the Arts and the Humanities.**

* * * * * * *

(b) *National Endowment for the Humanities.* * * *

(8) Until September 30, 1980, three positions of program officer, Media Program, Division of Public Programs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77–21438 Filed 7–25–77;8:45 am]

**PART 213—EXCEPTED SERVICE**

**Smithsonian Institution**

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service up to four positions of Oriental Art Restoration Specialist in the Freer Gallery of Art because it is impracticable to fill these positions through competitive examination.

EFFECTIVE DATE: July 26, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3274(b) is added as set out below:

**§ 213.3274 Smithsonian Institution.**

* * * * * * *

(b) *Freer Gallery of Art.*—(1) Not to exceed four positions of Oriental Art Restoration Specialist at grades GS–9 through 15.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77–21439 Filed 7–25–77;8:45 am]

**PART 213—EXCEPTED SERVICE**

**Department of State; Correction**

AGENCY: Civil Service Commission.

ACTION: Correction.

SUMMARY: In FR Doc. 77–20336, page 36447, or the FEDERAL REGISTER of July 15, 1977, a new authority for three positions of Members of the Policy Planning Staff was established in error. Instead, the existing authority for Members should have been amended to reflect approval of one additional Member.

EFFECTIVE DATE: July 15, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly 5 CFR 213.3304(a) is amended as follows:

**§ 213.3304 Department of State.**

(a) *Office of the Secretary.* * * *

(29) Three Members of the Policy Planning Staff.

(30) [Revoked]

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77–21440 Filed 7–25–77;8:45 am]

**PART 213—EXCEPTED SERVICE**

**Department of Justice; Correction**

AGENCY: Civil Service Commission.

ACTION: Correction.

SUMMARY: In the FEDERAL REGISTER of July 15, 1977 (FR Doc. 77–20335), on page 36447, (j)(2) was inadvertently added; it should have been numbered (j)(3). This addition added the position of Confidential Assistant to the Deputy Commissioner.

EFFECTIVE DATE: July 15, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3310(j)(3) should read as follows:

**§ 213.3310 Department of Justice.**

* * * * * * *

(j) *Immigration and Naturalization Service.* * * *

(3) One Confidential Assistant to the Deputy Commissioner.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77–21437 Filed 7–25–77;8:45 am]

**PART 213—EXCEPTED SERVICE**

**Department of Health, Education, and Welfare**

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Confidential Assistant to the Deputy Assistant Secretary for Planning and Evaluation is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: July 26, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3316(k)(11) is added as set out below:

**§ 213.3316 Department of Health, Education, and Welfare.**

* * * * * * *

(k) *Office of the Assistant Secretary for Planning and Evaluation.* * * *

(11) One Confidential Assistant to the Deputy Assistant Secretary for Planning and Evaluation (Health).



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(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77-21436 Filed 7-25-77;8:45 am]

## PART 213—EXCEPTED SERVICE

### Export-Import Bank of the United States

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This section is amended to show the reestablishment and change of title for one position of Vice President, Public Affairs to Public Affairs Officer. This position is reestablished under Schedule C because it is confidential in nature and the title change reflects more appropriately the duties of the position.

EFFECTIVE DATE: July 26, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3342(n) is added as set out below:

**§ 213.3342 Export-Import Bank of the United States.**

* * * * *

(n) One Public Affairs Officer.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77-21435 Filed 7-25-77;8:45 am]

## PART 213—EXCEPTED SERVICE

### Executive Office of the President

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Confidential Special Assistant to the Special Representative for Trade Negotiations is excepted from the competitive service under Schedule C because of its confidential nature.

EFFECTIVE DATE: July 26, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3303(d)(4) is added as set out below:

**§ 213.3303 Executive Office of the President.**

* * * * *

(d) *Office of the Special Representative for Trade Negotiations.* * * *

(4) One Confidential Special Assistant to the Special Representative.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77-21540 Filed 7-25-77;8:45 am]

## PART 213—EXCEPTED SERVICE

### Federal Deposit Insurance Corporation

NOTE: This document originally appeared at page 37793 in the FEDERAL REGISTER for Monday, July 25, 1977. It is reprinted in this issue to meet the assigned day-of-the-week publication schedule.

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Secretary to the Counsel to the Chairman of the Board of Directors is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: July 25, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling. (202–632–4533).

Accordingly, 5 CFR 213.3333(j) is added as set out below:

**§ 213.3333 Federal Deposit Insurance Corporation.**

* * * * *

(j) One Secretary to the Counsel to the Chairman of the Board of Directors.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77-21434 Filed 7-22-77;8:45 am]

## Title 7—Agriculture

## CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

(Amendment No. 82)

## PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

### Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final Rule.

SUMMARY: This rule establishes maximum time limits within which State agencies must provide eligible households an opportunity to purchase their food stamp allotment, establishes when benefits have been delayed and must be restored, and establishes a method for immediately restoring lost benefits to households that are participating at the zero purchase level.

EFFECTIVE DATE: This amendment shall become effective July 26, 1977. The provisions of this regulation shall be implemented not later than 120 days after the effective date of this revision.

FOR FURTHER INFORMATION CONTACT:

Alberta Frost, Chief, State Agency Operations Branch, Food Stamp Division, 500 12th Street SW., Washington, D.C. 20250 (202–447–8360).

SUPPLEMENTARY INFORMATION: On March 19, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 11532) amending Part 271 of the Food Stamp Program Regulations for the purpose of: (1) Establishing a reasonable time limit within which State agencies must provide eligible households an opportunity to purchase their food stamp allotment, (2) establishing when food stamp benefits have been delayed and must be restored, and (3) providing restoration of lost benefits to households which are participating at the zero purchase level through an increase in their coupon allotment.

Interested persons were to submit written comments, suggestions, or objections regarding the proposed amendment by April 19, 1976. Thirty-six letters were received containing approximately 60 comments. An analysis of the comments and the resulting changes are discussed below.

*Standard for providing an opportunity to purchase.* The most frequent comment received was on the proposed 45 day standard for providing eligible households an opportunity to purchase their full coupon allotment. The majority of the comments opposed this provision.

Some of the persons commenting were opposed to establishing a standard for providing an opportunity to purchase on the grounds that the standard would expand the current 30 day application processing standard, making the standard unenforceable. These objections seem to imply the current 30 day application processing standard already includes delivery of benefits. Processing an application, however, includes only those steps which are necessary to approve or deny an application. It does not include the necessary steps for providing an eligible household an opportunity to purchase its allotment. Therefore, establishing a standard for providing an opportunity to purchase does not change or expand the current standard for processing applications. State agencies will still be required to meet the 30 day standard and its enforcement is accomplished, as always, through audits, investigations, administrative reviews, and through the more recent implementation of efficiency and effectiveness reviews under regulations issued pursuant to 7. U.S.C. 2024 (b) as amended, which measure the efficiency and effectiveness of a State agency's program operations. However, because the scope of the current 30 day standard has been misunderstood, clarifying language has been added which states that applications must be approved or denied by State agencies within 30 days after receiving the application.

Other persons commenting opposed the addition of a standard for providing an opportunity to purchase based on the position that the standard would result in increased delays for households. A recent study of several project areas by the General Accounting Office, however, shows that 90 percent of the cases reviewed received an ATP card within 30 days after submitting an application.[1] However, the study also shows that in one case as much as 76 days elapsed between approval of the application and delivery of benefits.[2]

Under current regulations there is nothing which prevents a State agency from taking this much time. The Department believes that the establishment of a standard for providing an opportunity to purchase will not affect those State agencies which are currently delivering benefits within the new standard. However, those State agencies which are currently exceeding the new standard will be required to conform to the new maximum standard. Therefore, establishing a standard for delivery of benefits should result in decreased rather than increased delays for households.

Many persons were opposed to the length of the proposed standard since a 45 day standard would, in some cases, span as much as a 3 month period. The use of 45 days as the maximum standard was, therefore, not adopted.

Several alternative standards were suggested by persons commenting. The suggestion that was most frequently made was one which would require State agencies to approve or deny the application and provide eligible households an opportunity to purchase their full coupon allotment within 30 days after receiving the application. The Department has included such a requirement in its proposed legislation. However, such a requirement is feasible only if the current certification process is also simplified by legislation. As long as the complexity of the current certification process is retained, an exact 30 day standard would be difficult to administer.

Until the program can be simplified by legislation, we are adopting a standard which requires that State agencies provide eligible households an opportunity to purchase their full coupon allotment no later than the month following the month the application is received. If the household is not given an opportunity to purchase in the month following the month of application, the household's benefits have been delayed and must be restored by the State agency. The amount to be restored is calculated from the first of the month following the month the application is received.

[1] Report of the Comptroller General of the United States, February 27, 1976, "Processing applications for food stamps: How long does it take?", Page 4.

[2] Ibid., page 52.

A few persons commenting were also concerned that State agencies would have to change their current standards for providing an opportunity to purchase if their standard was shorter than the maximum prescribed in these regulations. The standard prescribed in these regulations is a maximum standard. Therefore State agencies may establish any shorter standard they wish and calculate lost benefits from the standard they have chosen. For example, a State agency may choose to guarantee benefits within 30 days after receiving a household's application and restore any benefits not received on that date.

*Subsequent certifications.* Several State agencies objected to the proposed provision which would require State agencies to provide eligible households applying for subsequent certification an opportunity to purchase their full allotment within 15 days after the expiration of the certification period. State agencies argued that as long as eligible households receive a continued, uninterrupted opportunity to purchase their allotment, States should be allowed to use the second half of the month to provide benefits. Due to the complexity of the current program, the Department has adopted the rule that States are in compliance if they provide benefits during the month following the expiration of the household's certification period. However, the standard for uninterrupted benefits to households making timely application for subsequent certification will be tightened, if legislation is enacted to simplify the program.

A few State agencies also felt that households applying for subsequent certification should be provided restoration of lost benefits only if the household has submitted a timely application. Proposed regulations have been published in response to the *Basel* v. *Butz* court suit (see 42 FR 28546–28547) which would require that households submit a timely application for subsequent certification in order to receive continuation of benefits pending a fair hearing. If the application is not timely submitted, the application would be considered an initial application for application processing purposes and for the purpose of establishing entitlement to restoration of lost benefits. Until final regulations are published however, households submitting applications prior to the end of their certification period will be entitled to restoration of any benefits that are not received in the month following the expiration of the certification period, regardless of whether or not the application is submitted the day before the expiration of the certification period or 30 days before the expiration of the certification period.

*Zero purchase households.* The majority of the comments favored the proposal to compensate zero purchase households which have lost food stamp benefits by increasing their allotment by up to 50 percent until such time as all lost benefits are restored. Of those favoring the provision, many persons commenting felt this method should be expanded, and made one or more of the following suggestions: (1) Apply this method of restoration to currently ineligible households which are entitled to restoration of lost benefits, (2) apply this method to households which have a small purchase requirement, and (3) restore the lost benefits through a lump sum bonus allotment rather than in increments of 50 percent of a household's allotment.

A few of the comments opposing this provision suggested that lost benefits be restored through a lump sum cash payment rather than through adjustments in the household's allotment. The Department has recommended to Congress that the Food Stamp Act be amended to permit households to receive a cash refund when food stamp benefits have been improperly denied or terminated. The Department, however, is not now in a position to authorize the exchange of coupons for cash. In view of the likelihood of such legislation being enacted this year, the use of increased allotments has been limited to zero purchase households because there is no other method available for immediately compensating these households.

A few State agencies opposed increased allotments for zero purchase households which have lost benefits as it calls for more complex adjustments which cannot be handled by their existing computer systems. The number of zero purchase households which would require an increased allotment is small and should, therefore, not create an undue burden on State agencies.

Accordingly, the provision has been adopted as proposed.

*Excessive purchase requirements.* Questions have arisen as to whether or not a household which had been assigned an incorrectly high purchase requirement would be entitled to restoration of lost benefits if the higher purchase requirement prevented the household from purchasing all or part of its allotment. The decision of *Bermudez* v. *Butz*, 490 F. 2d 718 (1973), established that households whose benefits have been denied are entitled to restoration of lost benefits. Since households in the above situations are, in fact, denied benefits whenever a higher purchase requirement prevents participation, the Department believes they are entitled to restoration of lost benefits. Therefore, clarifying language is being added to the regulations to avoid any misunderstanding and to specify that a statement must be signed by the household attesting to the fact that the high purchase requirement prevented it from purchasing all or part of its coupon allotment.

*Technical change.* When portions of the restoration of lost benefits regulations were finalized on March 19, 1976 (41 FR 11464), paragraph (r) of § 271.1 was relettered paragraph (s). However, references to this paragraph within the paragraph were not changed at that time. Therefore paragraph (s) is amended to change the references to subparagraph (r)(1) to (s)(1).







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In the final regulations published March 19, 1976, an exception to the provision for determining the amount of a cash refund was also inadvertently left out. The exception has been included to make it clear that in cases where a household was simultaneously overcharged and received fewer total coupons than it should have received, the cash refund is computed by calculating the difference in the purchase requirements.

Clarification has also been added to specify at what point benefits are no longer considered lost in those instances where an administrative error has prevented a household from participating.

Accordingly, Part 271 of Chapter II, Title 7, Code of Federal Regulations is amended as follows:

1. In § 271.1, the first sentence of paragraph (p) is amended; a new sentence is added to the end of paragraph (q)(1); subparagraphs (q)(4) (ii) and (iii) are renumbered (iv) and (v), and new subparagraphs (ii) and (iii) are added; new subparagraph (q)(4)(iv)(a) is amended; in subparagraph (q)(5), a new paragraph (iii) is added; subparagraphs (s)(2) and (s)(4) are amended. The new sentences, the new subparagraphs and the amended subparagraphs read as follows:

**§ 271.1 General terms and conditions for State agencies.**

* * * * *

(p) *Refunds to households.* Whenever an administrative error on the part of the State agency results in a household receiving fewer bonus stamps than it is entitled because it was overcharged for its coupon allotment, the State agency shall make a cash refund to the household equal to the bonus difference except as provided in § 271.1(q)(4)(iii)(a). * * *

* * * * *

(q) *Restoration of lost benefits.* (1) Entitlement. * * * Denials include, but are not limited to, instances where a State agency has erroneously denied the application or affidavit or instances where a household attests, by signed statement, to the fact that it was unable to purchase all or part of its allotment because the State agency assigned an erroneously high purchase requirement.

* * * * *

(4) Computing the amount to be restored. * * *

(ii) If an eligible household is entitled to restoration of lost benefits because the State agency failed to meet the applicable standard required in § 271.4(a)(3) for providing the household with an opportunity to purchase its full coupon allotment, the length of time benefits were lost shall be calculated from either the first of the month following receipt of the application, the first of the month following the expiration of the certification period, or the standards established pursuant to § 271.4(a)(3) by the State agency for providing an opportunity to purchase, whichever is applicable.

(iii) Administrative errors which prevented households from participating and which entitle a household to restoration of lost benefits shall be considered to be in effect starting from the date the error took effect as described in (i) and (ii) above, and ending with either the date the error is corrected, the first month the household is found ineligible, or the first month the household reapplied and was determined eligible, whichever occurs first.

(iv) Once the length of time for which benefits were lost has been established, the State agency shall compare the totals of the actual basis of issuance against the totals of the corrected basis of issuance and compute the amount to be restored as follows:

(*a*) If the household received a smaller total coupon allotment than it should have received and was simultaneously overcharged for that allotment, the amount of benefits to be restored shall equal the difference in the total allotments and the amount of cash to be refunded is equal to the difference in the purchase requirements.

* * * * *

(5) *Method of restoration.* * * *

(iii) If a household is currently eligible to participate at the zero purchase level, the State agency shall increase the household's normal monthly coupon allotment by up to 50 percent for as many consecutive months as is necessary to restore the lost benefits or until a purchase requirement is assigned. The increase in the allotment will be made by adjusting the basis of issuance. Once the basis of issuance has been adjusted, the lost benefits shall be considered available to the household whether or not the household actually participated.

* * * * *

(s) *Implementation.* * * *

(2) With respect to any amendment to this subchapter (other than provided in the paragraph (s)(1) of this section) which relates directly to the certification of households by the State agency, put such amendment into effect for all households newly applying or being certified subsequent to their first application not later than 60 days after the effective date of such amendment, and for all other households not later than 120 days after such date, unless otherwise provided in such amendment.

* * * * *

(4) Except for paragraph (s)(1) of this section, the time limitations may be extended by FNS upon written request and justification by a State agency.

* * * * *

2. In § 271.4, paragraph (a)(3) is amended as follows:

**§ 271.4 Certification of households.**

(a) *Household certification.* * * *

(3) *Application processing.* The State agency shall approve or deny each affidavit or application for participation and notify the applicant household of the action taken within reasonable State-established time standards, which shall not exceed 30 days after receipt of such documents. Approval or denial of a household's application for subsequent certification and notification of the action taken must be completed prior to the expiration of the household's certification period. The State agency shall further provide eligible households an opportunity to purchase their full coupon allotment as soon as possible within reasonable State-established time standards, but in no event later than the month following receipt of a new application, or, in the case of applications for subequent certification, no later than the month following the expiration of the household's certification period.

* * * * *

(78 Stat. 703, as amended; (7 U.S.C. 2011–2026.)

NOTE.—The Food and Nutrition Services has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: July 20, 1977.

CAROL TUCKER FOREMAN,
*Assistant Secretary.*

[FR Doc.77–21362 Filed 7–25–77;8:45 am]

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## CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 101, Amdt. 1]

## PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

### Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period July 17–23, 1977. The amendment recognizes that demand for lemons has improved, since the regulation was issued. This action will increase the supply of lemons available to consumers.

DATES: Weekly regulation period July 17–23, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Lemon Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of lemons, as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the lemon markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit lemon handlers to ship a larger quantity of lemons to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 75,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of lemons.

(b) *Order, as amended.* Paragraph (b)(1) of § 910.401 Lemon Regulation 101 (42 FR 36466) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period July 17, 1977, through July 23, 1977, is established at 365,000 cartons."

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: July 21, 1977.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77–21407 Filed 7–25–77;8:45 am]

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[958.322]

## PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

### Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This regulation requires fresh market shipments of onions grown in certain designated counties in Idaho and Malheur County, Oregon, to be inspected and meet minimum quality and size requirements. The regulation should promote orderly marketing of such onions by keeping less desirable qualities and sizes from being shipped to consumers.



EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 130 and Order No. 958, both as amended (7 CFR Part 958), regulate the handling of onions grown in certain designated counties in Idaho and Malheur County, Oregon. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Idaho-Eastern Oregon Onion Committee, established under the order, is responsible for its local administration.

Notice of rulemaking was published in the July 1, 1977, FEDERAL REGISTER (42 FR 33766). The notice afforded interested persons through July 16, 1977, to file written data, views or arguments pertaining to that proposal. None was filed.

This regulation is based upon recommendations made by the committee at its public meeting in Ontario, Oregon, on June 20, 1977. The recommendations of the committee reflect its appraisal of the composition of the 1977 crop of Idaho-Eastern Oregon onions and the marketing prospects for this season and are consistent with the marketing policy it adopted. Harvesting of onions is expected to begin about August 1.

The grade, size, maturity and inspection requirements specified herein are necessary to prevent onions of low quality or less desirable sizes from being distributed in fresh market channels. They will also provide consumers with good quality onions consistent with the overall quality of the crop, and maximize returns to producers for the preferred quality and sizes.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable. Shipments are allowed to certain special purpose outlets without regard to the grade, size, maturity and inspection requirements, provided that safeguards are met to prevent such onions from reaching unauthorized outlets.

Special purpose shipments are allowed for planting, livestock feed, charity, dehydration, extraction and pickling since such shipments do not normally enter the commercial fresh market channels and no useful purpose would be served by regulating such shipments. Onions for canning and freezing are exempt under the legislative authority for this part.

FINDINGS

After consideration of all relevant matters, including the proposal set forth in the aforesaid notice which was recommended by the Idaho-Eastern Oregon Onion Committee, it is hereby found that the handling regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of onions grown in the production area will begin on or about the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the marketing season, (3) information regarding the provisions of this regulation, which are similar to those in effect during the previous season, has been made available to producers and handlers in the production area, (4) compliance with this regulation will not require any special preparation by handlers which cannot be completed by the effective date, and (5) notice of the proposed regulation was published in the FEDERAL REGISTER of July 1, 1977.

The regulation is as follows:

**§ 958.322 Handling regulation.**

During the period August 1, 1977, through April 30, 1978, no person may handle any lot of onions, except braided red onions, unless such onions are at least "moderately cured," as defined in paragraph (f) of this section, and meet the requirements of paragraphs (a) and (b) of this section, or unless such onions are handled in accordance with paragraphs (c), (d), or (e) of this section.

(a) *Grade and size requirements*—(1) *White varieties.* Shall be either:

(i) U.S. No. 2, 1 inch minimum to 2 inches maximum diameter; or

(ii) U.S. No. 2, if not more than 30 percent of the lot is comprised of onions of U.S. No. 1 quality, and at least 1½ inches minimum diameter; or

(iii) U.S. No. 1, at least 1½ inches minimum diameter.

However, none of these three categories of onions may be commingled in the same bag or other container.

(2) *Red varieties.* U.S. No. 2 or better grade, at least 1½ inches minimum diameter.

(3) *All other varieties.* Shall be either:

(i) U.S. No. 2 grade, at least 3 inches minimum diameter, if not more than 30 percent of the lot is comprised of onions of U.S. No. 1 quality; or

(ii) U.S. No. 1, 1½ inches minimum to 2¼ inches maximum diameter; or

(iii) U.S. No. 1, at least 2¼ inches minimum diameter.

However, none of these three categories of onions may be commingled in the same bag or other container.

(b) *Inspection.* No handler may handle any onions regulated hereunder unless such onions are inspected by the Federal-State Inspection Service and are





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covered by a valid applicable inspection certificate, except when relieved of such requirement pursuant to paragraphs (c) or (e) of this section.

(c) *Special purpose shipments.* The minimum grade, size, maturity and inspection requirements of this section shall not be applicable to shipments of onions for any of the following purposes: (1) Planting; (2) livestock feed; (3) charity; (4) dehydration; (5) canning; (6) freezing; (7) extraction; and (8) pickling.

(d) *Safeguards.* Each handler making shipments of onions for dehydration, canning, freezing, extraction or pickling pursuant to paragraph (c) of this section shall:

(1) First apply to the committee for and obtain a Certificate of Privilege to make such shipments;

(2) Prepare, on forms furnished by the committee, a report in quadruplicate on each individual shipment to such outlets authorized in paragraph (c) of this section;

(3) Bill or consign each shipment directly to the applicable processor; and

(4) Forward one copy of such report to the committee office and two copies to the processor for signing and returning one copy to the committee office. Failure of the handler or processor to report such shipments by promptly signing and returning the applicable report to the committee office shall be cause for cancellation of such handler's Certificate of Privilege and/or the processor's eligibility to receive further shipments pursuant to such Certificate of Privilege. Upon cancellation of any such Certification of Privilege the handler may appeal to the committee for reconsideration.

(e) *Minimum quantity exception.* Each handler may ship up to, but not to exceed, one ton of onions each day without regard to the inspection and assessment requirements of this part, if such onions meet minimum grade, size and maturity requirements of this section. This exception shall not apply to any portion of a shipment that exceeds one ton of onions.

(f) *Definitions.* The terms "U.S. No. 1" and "U.S. No. 2" have the same meaning as defined in the United States Standards of Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types), as amended (§§ 51.2830–51.2854 of this title), or the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (§§ 51.3195–51.3209 of this title), whichever is applicable to the particular variety, or variations thereof specified in this section. The term "moderately cured" means the onions are mature and are more nearly well cured than fairly well cured. Other terms used in this section have the same meaning as when used in Marketing Agreement No. 130 and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: July 21, 1977, to become effective August 1, 1977.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77-21496 Filed 7-25-77;8:45 am]

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**CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE**

**PART 2852—PROCESSED FRUITS, VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS**

**Subpart—United States Standards for Grades of Dehydrated (Low-Moisture) Apples**

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Correction.

SUMMARY: This document corrects a final rule that appeared at page 33259 in the FEDERAL REGISTER of Thursday, June 30, 1977 (FR Doc. 77-18575).

FOR FURTHER INFORMATION CONTACT:

Dale C. Dunham, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–4693.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-18575 of June 30, 1977, appearing at pages 33259, 33260, 33261, and 33262, make the following corrections:

1. At the beginning of the rule, change the reference to "CHAPTER I * * *" to read "CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE—DEPARTMENT OF AGRICULTURE."

2. Change "Part 52 * * *" to read, "Part 2852—PROCESSED FRUITS, VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS."

3. Throughout the document, all references to Part 52 or Section 52. * * * shall be changed to read, "Part 2852 or Section 2852. * * *," as appropriate.

Dated: July 19, 1977.

WILLIAM T. MANLEY,
*Acting Deputy Administrator, Commodity Operations.*

[FR Doc.77-21363 Filed 7-25-77;8:45 am]

**Title 9—Animals and Animal Products**

**CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE**

**SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS**

**PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCES AND SHIPPING CONTAINERS THEREON**

**Fleming Key Animal Import Center**

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment provides standards for a foreign embarkation quarantine facility to be used in conjunction with the exporation of animals from rinderpest or foot-and-mouth disease infected countries to the United States through the Fleming Key Animal Import Center.

This action is required to provide disease free facilities in which animals to be exported to the United States through Fleming Key can be assembled and processed prior to their embarkation.

The intended effect of this amendment is to provide facilities in foreign countries through which animals may be exported to the United States through the Fleming Key Animal Import Center with a minimum risk of introducing a foreign animal disease into that facility.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. A. E. George, USDA, APHIS, Veterinary Services, Room 822, Federal Building, Hyattsville, Md. 20782 (301–436–8170).

SUPPLEMENTARY INFORMATION: Section 1 of the Act of May 6, 1970 (Pub. L. 91–239, 84 Stat. 202 (21 U.S.C. 135)), provides authority for the Secretary of Agriculture to establish and maintain a maximum security international animal quarantine station within the territory of the United States into which animals may be brought from any country, including but not limited to those countries in which the Secretary determines that rinderpest or foot-and-mouth disease (MFD) exists, and be subsequently moved into other parts of the United States, in accordance with such conditions as the Secretary shall determine are adequate to prevent the introduction into and dissemination within the United States of livestock or poultry diseases or pests.

In order to guard against the importation into the Fleming Key facility of animals infected with diseases such as rinderpest and foot-and-mouth disease, it is necessary that such animals be held in a foreign embarkation quarantine facility prior to shipment to Fleming Key. Further, logistic problems would arise concerning the gathering of animals from different countries and placing them in various embarkation quarantine facilities for subsequent shipment to Fleming Key. Accordingly, a single embarkation quarantine facility with a capacity of 450 animals would minimize the problems of supervision, expense, and coordination of movement of animals into Fleming Key, and would maximize the utilization of the Fleming Key facility and reduce the chance of the introduction of communicable diseases of livestock and poultry into this country. Therefore, the Department is establishing standards of approval for such a facility.

There are no significant differences between the final rule and the proposed rule. Five comments were received, four of which were in favor of the proposed rule. One opposed establishing an embarkation quarantine facility and the subsequent importation of animals into the United States.

Comments received which pertain to the proposed standards were: That one screen be used in all openings instead of double screens; that the necropsy room be deleted; that the dipping vat be deleted and a spray machine be used for the application of insecticide; and that the outer perimeter fence location requirement of 200 feet be modified. After due consideration of these comments it was determined that double screening, the necropsy room, and the dipping vat as proposed are essential for the safe importation of animals into the United States. The 200 foot requirement for fencing in § 92.4a(b)(viii)3(i) is changed to provide that in the case of an urban or industrial area the location of the fence may be less than 200 feet as determined by the Deputy Administrator, if such action will not increase the risk that communicable diseases of livestock or poultry will be disseminated from the facility.

Accordingly, Part 92, Title 9, Code of Federal Regulations is amended by adding a new § 92.4a to read:

**§ 92.4a Embarkation quarantine facility; criteria and standards for approval.**

Criteria for the establishment of an approved embarkation quarantine facility outside the United States for the purpose of importing animals into the United States through the Fleming Key Animal Import Center are as follows:

(a) *Establishment.* (1) The Deputy Administrator, Veterinary Services, may enter into an agreement with one or more parties for the establishment of such a facility pursuant to the standards in paragraph (b) of this section.

(2) To qualify for designation as an approved embarkation quarantine facility and to retain such approval, the physical facility, and its maintenance and operation, shall meet the minimum requirements of paragraph (b) of this section.

(3) All costs associated with the establishment and operation of such an approved embarkation quarantine facility shall be borne by the owner or operator of such facility.

(4) Requests for approval and plans for proposed facilities shall be submitted to the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782. Each request for approval will be considered on the basis of the date and time it is received by the Deputy Administrator, Veterinary Services. The first such application received which can comply with the standards and regulations established in this section shall be approved by the Deputy Administrator, Veterinary Services. If the approval of any approved facility is ever terminated or revoked, then the Deputy Administrator, Veterinary Services, shall approve another application in the same manner as set forth in this paragraph.

(5) Permission to place animals in the foreign embarkation facility shall be given to any person who has received permission to import animals through the Fleming Key Animal Import Center unless the Deputy Administrator, Veterinary Services, determines that sufficient grounds exist whereby such person may be denied such permission.

(6) Fees charged by the owner or operator for the use of such facility shall be provided in private agreements between the owner or operator of the facility and the owners of the animals proposed for importation. Such fees shall be nondiscriminatory and reasonable as determined by the Deputy Administrator, Veterinary Services.

(7) Approval of any approved quarantine facility may be withdrawn at any time by the Deputy Administrator, Veterinary Services, upon his determination that any requirement of this section is not being met. Before such action is taken, the operator of the facility will be informed of the reasons for the proposed action and afforded opportunity to present his views thereon. Upon withdrawal of approval, the operator, upon request, shall be afforded opportunity for a hearing with respect to the merits or validity of such action; but such withdrawal or refusal shall continue in effect unless otherwise ordered by the Deputy Administrator, Veterinary Services.

(b) *Standards for approval of embarkation quarantine facilities.* (1) *Location.* (i) The embarkation quarantine facility shall be so located as to be isolated from all domestic ruminants, swine, and poultry and from all wild ruminants, swine, and poultry and shall be near docks from which international shipments may be made by ocean vessels.

(ii) The route of travel between the embarkation quarantine facility and the docks from which such animals are to be exported shall be through areas free of domestic and wild ruminants, swine and poultry.

(iii) The facility shall be so situated that there will be no contact between animals held in the facility with any other species of animals.

(iv) The facility shall be so situated that it will be free from contact with water and waste effluents from local livestock or poultry. Water and waste effluents from the facility shall be disposed of in a manner determined by the Deputy Administrator, Veterinary Services, to be adequate to insure no exposure to local livestock or poultry.

(2) *Building.* (i) The exterior of the building shall be of durable low maintenance, waterproof type construction that will withstand repeated cleaning and disinfecting.

(ii) Roofs shall be watertight. The styling and configuration of the roof of the animal holding building shall provide for optimum air circulation throughout the facility.

(iii) The interior finish of the building shall be durable, washable, and of low maintenance type construction. The floor shall be concrete with no cracks or crevices.

(iv) All openings in the building shall be double screened, with such mesh as to preclude the entrance of small flying insects such as mosquitos into the animal holding area.

(v) Stalls, pens, and runways shall be constructed of sufficient height and strength to confine and restrain all animals simultaneously for daily veterinary examinations.

(vi) At least 70-foot candle lighting shall be provided in the inspection area. A minimum light of 30-candle shall be available in all other areas of the facility.

(vii) A dipping vat of a concrete pit type with inspection chute, holding pen, dripping pen, and post-drip area similar to USDA Extension Plan 5940, revised, shall be provided.[1]

(viii) The waste management system shall be carefully designed to meet all applicable sanitation and quarantine requirements and the existing environmental standards of the country in which the embarkation quarantine facility is located.

(3) *Fencing.* (i) The outer perimeter of all facilities shall be surrounded by a fence which shall be of sufficiently small mesh as to preclude the entrance of small farm animals, including dogs, and of such height and strength as to prevent entrance of larger animals. This fence

[1] Copies of the USDA Extension Plan 5940, revised, may be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Hyattsville, Maryland 20782.







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shall be located at least 200 feet from the building in which quarantined animals are to be held, except that, in an urban or industrial area the location of the fence may be less than 200 feet as determined by the Deputy Administrator, if such action will not increase the risk that communicable diseases of livestock or poultry will be disseminated from the facility.

(ii) In areas affected by cattle fever ticks all such facilities shall be double fenced with the inner perimeter fence located at least 15 feet from the outer perimeter fence. When double fencing is required, the space between the outer and inner perimeter fences shall be kept free from all foliage at all times.

(iii) The outer fence of the facility shall be posted with signs in appropriate language, which shall convey the following: Restricted Area—Keep Out, Quarantine Area—Keep Out, or Registered Quarantine Area—Keep Out.

(4) *Other requirements.* (i) Access into the quarantine area shall be through a single door which shall lead into a walk-through shower area with clothes change areas located on either side of the shower and adjacent thereto.

(ii) Toilet and lavatory facilities as determined by the Deputy Administrator, Veterinary Services, to be adequate to preclude transmission of livestock or poultry disease agents from the facility shall be located within the animal holding areas.

(iii) A sufficient supply of clean clothing including towels and footwear as determined by the Deputy Administrator to be adequate to prevent the transmission of livestock or poultry disease agents from the facility, shall be maintained within the quarantine area.

(iv) A continuous supply of hot and cold running water shall be provided which shall include potable water for personnel.

(v) If lunch is to be eaten within the facility, a lunch room must be provided and all food entered into the facility must be approved by the supervising United States government veterinarian.

(vi) A separate room containing the equipment for preparation and packaging of laboratory specimens with adequate office space as determined by the Deputy Administrator, Veterinary Services, to perform his duties shall be provided for the supervising veterinary official. All records, equipment, and other materials used in the facility, must be maintained within the quarantine facility for the entire quarantine period.

(vii) A separate area situated apart from the animal holding area shall be provided for necropsies and a means for the removal of the carcasses of dead animals shall be provided without breaking quarantine security.

(viii) An animal receiving area and a chute or stocks for restraint during examination and veterinary inspection, as determined to be appropriate by the Deputy Administrator, Veterinary Services, to permit examination of the animal, shall be provided.

(ix) Feed shall be stored in such a manner that replenishment during the quarantine period does not require transporting vehicles to enter the quarantine area.

(x) Equipment necessary for the care, cleaning, feeding, waste disposal, and handling of the animals shall be provided and maintained within the quarantine area.

(xi) Additional requirements as to security, physical plant and facilities, and sanitation may be imposed by the Deputy Administrator, Veterinary Services, in each specific case in order to assure that the quarantine of the animals in such facility will be adequate to enable determination of their health status, prevent the spread of disease among animals in quarantine, and prevent escape of animal disease agents from the facility.

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, and 11, 76 Stat. 129, 130, 132 (21 U.S.C. 111, 134a, 134b, 134c, 134f and 135); 37 FR 28464, 28477; 38 FR 19141.)

Although this amendment relieves certain restrictions relating to the importation of animals into the United States from countries where certain diseases exist, it imposes restrictions on animals which are to be imported into the United States through the Fleming Key Animal Import Center.

It does not appear that further public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice and other public procedure with respect to the amendment are impracticable and unnecessary and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 20th day of July, 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
*Acting Deputy Administrator, Veterinary Services.*

[FR Doc.77-21497 Filed 7-25-77;8:45 am]

## Title 49—Transportation

### CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket 74-25; Notice 05]

### PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

**Passenger Car Tires; Correction**

*Correction*

In FR Doc. 77-21013 appearing at page 37370 in the issue for Thursday, July 21, 1977, in the amendment to § 571.109, the last number in the line of figures now reading "655" should have read "665".

## Title 18—Conservation of Power and Water Resources

### CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER C—REGULATIONS UNDER THE FEDERAL POWER ACT

SUBCHAPTER F—REGULATIONS UNDER THE NATURAL GAS ACT

[Docket No. R-424; Order No. 505-B]

### PART 101—UNIFORM SYSTEM OF ACCOUNTS FOR PUBLIC UTILITIES AND LICENSEES (CLASS A AND CLASS B)

### PART 141—STATEMENTS AND REPORTS (SCHEDULES)

### PART 201—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES

### PART 204—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES (CLASS C AND CLASS D)

### PART 260—STATEMENTS AND REPORTS (SCHEDULES)

**Uniform System of Accounts; Premium, Discount and Expense of Issue Gains, and Losses of Refunding and Reacquisition of Long Term Debt**

AGENCY: Federal Power Commission.

ACTION: Supplemental Order.

SUMMARY: This rulemaking was originally instituted to promulgate proper accounting for (1) premium, discount and expense of issue of long-term debt, (2) gains and losses on reacquired debt, when no refunding is involved, and (3) gains and losses on reacquisition of long-term debt when a refunding is involved. Earlier orders in this rulemaking were remanded by the Circuit Court of Appeals for the District of Columbia Circuit and a Settlement Offer and supplement to the Offer were submitted by Interstate Natural Gas Association and Texas Eastern Transmission Company (Petitioners). The accounting procedures adopted in Order No. 505 (39 FR 6093; February 19, 1974) are being affirmed and Petitioners' requests for settlement or vacation are being denied because of the need for accounting and financial reporting to reflect the economic effects of the rate-making processes which are present in regulated business. Such alternate accounting methods for regulated companies will best serve the public interest.

EFFECTIVE DATE: July 18, 1977.

FOR FURTHER INFORMATION CONTACT:

John Loreg, Jr., Systems and Financial Reports Division, 202-275-4050.

SUPPLEMENTARY INFORMATION:

ORDER NO. 505-B

Issued July 8, 1977.

Supplemental Order Clarifying and Affirming Commission Order No. 505 Concerning That Portion of Docket No. R-424 Relating to Accounting for Premium, Discount and Expense of Issue Gains, and Losses on Refunding and Reacquisition of Long-Term Debt.

This rulemaking was instituted to promulgate the proper accounting for: (1) Premium, discount, and expense of issue of long term debt; (2) gains and losses on reacquired debt, when no refunding is involved; and (3) gains and losses on reacquisition of long-term debt when a refunding is involved. The earlier orders in this docket have been remanded by the Circuit Court of Appeals for the District of Columbia with instructions "to prepare a new opinion if the Commission continues to adhere to the regulation contested in this appeal." *Texas Eastern Transmission Corporation* v. *FPC*, No. 74-1781 (D.C. Cir. Sept. 18, 1975), slip at 1. For the reasons stated herein, the Commission shall reaffirm its previous orders, concerning the proper accounting for these items.

Order No. 505, 51 FPC 714 (1974) (39 FR 6093; February 19, 1974), and Order No. 505-A, 51 FPC 832 (1974) (39 FR 8332, March 5, 1974), required jurisdictional utilities and natural gas companies to use accounting procedures which would track the Commission rate treatment for gains and losses for reacquired debt, first stated in Manufacturers Light and Heat Company, 44 FPC 314 (1970). The accounting procedures adopted in this rulemaking provide for, in cases where no refunding is involved amortization of the net gain or loss on an equal monthly basis over the remaining life of the respective security issues (i.e., the old original debt). Where refunding is involved and the redemption of one issue or series of long-term debt securities is financed by a new issue or series, the utility or natural gas company may elect to account for the net gain or loss from the reacquisition of the old original debt in one of three ways: (1) Write off immediately the amounts if they are insignificant; (2) amortize the amounts on an equal monthly basis over the life of the old original debt being retired; or (3) amortize the amounts on an equal monthly basis over the life of the new issue. In those cases where the regulatory authority having primary jurisdiction over a utility or natural gas company does not follow the Commission's rate treatment for amortizing gains or losses on reacquisition of long-term debt, this rulemaking allows a utility to use an alternative accounting method under which these amounts would be recognized in the year of reacquisition as income. When this alternative method is used, it would be explained in footnotes to the utility or natural gas company's financial statements.

RELATIONSHIP OF UNIFORM SYSTEMS OF ACCOUNTS TO THE DETERMINATION OF JUST AND REASONABLE RATES

Section 301(a) of the Federal Power Act and Section 8(a) of the Natural Gas Act state in part that:

> * * * The Commission may prescribe a system of accounts to be kept by licensees and public utilities (natural-gas companies) and may classify such licensees and public utilities (natural-gas companies) and prescribe a system of accounts for each class. The Commission, after notice and opportunity for hearing, *may determine by order the accounts in which particular outlays or receipts shall be entered, charged, or credited.* * * * (Emphasis added.)

The Commission established the Uniform System of Accounts for Public Utilities and Licensees, 18 CFR, Parts 101 and 104 (1976), and the Uniform System of Accounts for Natural Gas Companies, 18 CFR, Parts 201 and 204 (1976), which apply to all utilities and natural gas companies under the Commission's jurisdiction. From the inception of these systems, the Commission has required that the system of accounts be used to support all tariff filings because consistently developed information provides a framework within which filings can be consistently evaluated. Use of a uniform system facilitates comparability which not only aids analysis in rate proceedings, but also assists the Commission in making accurate cost of service determinations and helps to assure that jurisdictional utilities will state plant, income, expense and various other accounts in a similar manner.

Consequently, the Commission evaluates the need for accounting changes when changes in ratemaking policies or procedures are considered, and considers the rate implications before making official changes to the systems of accounts. Various public interest factors, such as, effect on the consumer, benefit and convenience to the utilities, and assistance to the investor, are considered before any changes are made. This process allows the systems of accounts to be structured in support of the ratemaking concepts with which they are interrelated.

The Commission generally maintains its Uniform Systems of Accounts in conformity with the standards announced by the Financial Accounting Standards Board (FASB).[1] However, in cases where there are material conflicts between FASB standards and rate making realities, the Uniform Systems of Accounts differ from such standards.

The fact that accounting for regulated industries may properly differ from the accounting for non-regulated industries was formally recognized by the Accounting Principles Board (APB), now FASB, in December 1962 with the issuance of its Opinion No. 2, which included this statement as an Addendum:

> 2. However, differences may arise in the application of generally accepted accounting principles as between the regulated and non-regulated business, because of the effect in regulated business of the rate-making process, a phenomenon not present in nonregulated business. Such differences usually concern mainly the time at which various items enter into the determination of net income in accordance with the principle of matching costs and revenues. For example, if a cost incurred by a regulated business during a given period is treated for rate-making purposes by the regulatory authority having jurisdiction as applicable to future revenues, it may be deferred in the balance sheet at the end of the current period and written off in the future period or periods in which the related revenue accrues, even though the cost is of a kind which in a nonregulated business would be written off currently. However, this is appropriate only when it is clear that the cost will be recoverable out of future revenues, and it is not appropriate when there is doubt, because of economic conditions or for other reasons, that the cost will be so recoverable.

When APB isued Opinion No. 26, Early Extinguishment of Debt (Opinion of Accounting Principles Board, October, 1972), it recognized the continuing validity and necessity of the principles of the Addendum in the matter before it.

> 2. *Applicability.* * * * This Opinion applies to regulated companies in accordance with the provisions of the Addendum to APB Opinion No. 2, Accounting for the "Investment Credit," 1962.

The Addendum recognizes an economic reality, accounting and reporting principles cannot be the same in every instance for regulated and nonregulated business, which results from the rate making process under which regulated business must operate. The basic objective of the rate making process is to match costs and revenues. To achieve this objective, it is often necessary, as the Addendum notes, to spread costs during the entire period over which related revenues will be derived, rather than enter them entirely during the chronological time period in which they are incurred, as would be the practice in nonregulated business. Recognition of the differences between regulated and nonregulated business through differences in accounting and financial reporting reflects the economic results of the rate actions of the regulating body.

In matching revenues and expenses for rate purposes, the Commission has, in the past, provided in its Uniform Systems of Accounts for amortization of costs and revenues to reflect the economic effect of the ratemaking process. Amortization of these costs and revenues by nonregulated companies would not be permitted under generally accepted accounting principles applicable to nonregulated industries. In establishing just and reasonable rates, it would not always be necessary for the Commission to provide accounting that tracks the ratemaking. However, accounting for an item of cost in a particular accounting period, in addition to matching revenues and expenses, provides the presumption that the cost or revenue will be similarly treated in future rate proceedings. Examples of these costs and revenues which are deferred and amortized are:

[1] Successor of the Accounting Principles Board (APB) of the American Institute of Certified Public Accounts. Pronouncements of the APB made and in effect prior to establishment of the FASB remain in effect unless subsequently modified by the FASB.







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(1) Extraordinary property losses [2]
(2) Purchased gas costs [3]
(3) Gains and losses from the sale of property held for future use [4]

In addition to the above examples, the Commission has provided alternate accounting, depending on the rate treatment, for the tax effect of the differences between book and tax return treatment of costs (tax allocation) in order to reflect the economics of the ratemaking process. If the Commission had adhered to generally accepted principles of accounting with respect to tax allocation without consideration of the rate aspect, the financial statements of many regulated companies would have been misleading to all but the most sophisticated readers.

In the instant situation, the Commission found that to match the costs and revenues applicable to long-term debt, it is necessary to include the costs or revenues derived from the reacquisition of debt. Manufacturers Light and Heat Company, 44 FPC 314 (1970). The Commission has consistently used the actual cost of long-term debt held by the utility in the overall rate of return determination. In *Manufacturers*, supra, the Commission held that the revenues [5] related to reacquisition of debt represented a reduction of long-term debt costs, which should be passed on to the consumer.

Patently, all legitimate costs incurred in financing or refinancing debt are part of the cost of debt, and should be passed on to the consumer. Conversely, any reduction in or savings associated with cost of debt also should be passed on to the consumer. (44 FPC 323.)

In a nonregulated business, savings from reacquisition of debt inure solely to the stockholders and there is no obligation to adjust prices to pass the savings or losses on to customers. Consistent therewith, accounting practices for nonregulated business call for the savings to be credited to income in the year received.[6] However, such accounting is not consistent with the rate objective of Manufacturers which indicates that the savings are not to become windfall profits to the regulated company but should be passed on to the consumer by lowering debt costs reflected in rates. While the rate policy under Manufacturers could be followed regardless of the accounting, consistency between the accounting and ratemaking not only facilitates the ratemaking process, but, more importantly, is necessary to avoid financial reporting that obscures the economic realities of the ratemaking process to the detriment of investors and others relying on the financial statements.

Interstate Natural Gas Association of America and Texas Eastern Transmission Company (Petitioners) submitted a Settlement Offer dated March 3, 1976, and a supplement to the Offer, dated September 3, 1976. The Offer proposes to settle the controversy in this matter by: (a) Withdrawing the accounting regulations in Order Nos. 505 and 505–A which required deferral and amortization for accounting and financial reporting purposes of gains (losses) on reacquired securities; (b) permitting the accounting treatment with respect thereto in accordance with the Commission's policy prior to issuance of such Orders, in accordance with generally accepted accounting principles; and (c) utilization in rate proceedings of the information concerning gains and losses prescribed in Statement F(3)(g) of § 154.63(e)(4) of the Commission's Regulations.

Petitioners assert that they do not object to disclosure but contend that the Statements required by Statement F(3)(g) fully satisfy the Commission's stated objectives.

What Petitioners have in effect proposed is that they be allowed to follow the accounting prescribed for nonregulated business concerns, which credits the gains or charges the losses from reacquisition of debt to current income in the year the reacquisition is made. Under their proposal, publised finanical statements would not disclose the true nature of the reported gains or losses in light of the Commission's ratemaking policy. Such deficiency cannot be overcome by the presence in the Commission's files of information provided in connection with a rate filing made months or even years prior to the issuance of finance statements. Even if the information in the public files of the Commission happened to be current, we fail to see how the public interest would be served. We should not impose on the reader of published financial statements the burden of seeking out information in the Commission's individual rate docket files to finally discover that gains (losses) used in calculating reported current net income available to stockholders do not really belong to the stockholders, but instead are to be passed on to consumers in future years through the ratemaking process. The fact that the gains (losses) are not immediately flowed through to consumers, but are instead passed on over a number of years (through reductions or increases in the debt costs entering into rate of return determinations) does not justify reporting them as current gains (losses) for the account of the stockholders.

Petitioners claim that the accounting proposed by this rulemaking places an undue and discriminatory burden on regulated utilities in competing for capital and artificially and unnecessarily limit(s) the amount of debt securities the regulated utility could issue under standard indenture restrictions thereby creating a situation whereby a utility may be forced to resort to higher cost equity financing.[7]

In support of this contention, Petitioners attached a one-page summary to the Supplement showing what they claim are the additional net income and additional indebtedness available under generally accepted accounting principles as opposed to what is available under this rulemaking. This summary shows that 11 of the largest gas pipeline companies would have had reported a total additional net income of $29 million in 1974 and $26 million in 1975. This summary shows also an increase in borrowing capacity in total for the 11 companies of $106 million in 1974 and $118 million in 1975.

We agree that our adherence to accounting for gains (losses) in a manner consistent with the economic realities of the ratemaking process lowers the total borrowing capacity of some companies and could conceivably cause a company to resort to equity financing. However, we note that, although our accounting rule was issued February 11, 1974, Petitioners have not shown or even alleged that the rule has, in fact, caused such a result. The fact that the effect of our rule on reported net income is significant lends support to our position that accounting and financial reporting needs to reflect the economic effects of the ratemaking processes.

The Commission is well aware of the critical needs of utilities for capital at a reasonable cost and, in recent years, has taken many actions to help utilities improve their financial viability. However, we cannot in good conscience attempt to meet such needs by permitting accounting and reporting which is inconsistent with the economic realities of the ratemaking process and, therefore, contrary to the interests of investors and others relying on published financial statements.

The Commission orders: (A) The accounting procedures adopted originally in Order No. 505 are hereby affirmed.

(B) Petitioners' Requests for Settlement or vacation are hereby denied.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77–21379 Filed 7–25–77;8:45 am]

[2] Parts 101–304, 104–439, 201–153, 204–282.
[3] Parts 201–155, 204–293.
[4] Parts 101–305, 311; 104–438, 44; 201–154, 161; 204–203, 288.
[5] An economic situation in which interest rates for new debt are higher than those of the debt being retired insures that reacquisition of debt will be at a savings (and, thus, revenues) to the utility. Of course, if interest rates were lower than those of the reacquired debt, reacquisition would be achieved at a premium (that is, added cost) to the utility.
[6] APB Opinion No. 26, Early Extinguishment of Debt (October 1975).
[7] Petitioners have not averred that this theoretical siutation has, in fact, occurred.





Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 76P–0500]

## PART 135—FROZEN DESSERTS

### Standards of Identity for Frozen Desserts; Confirmation of Effective Date, Partial Confirmation of Effective Date, Stay of Certain Provisions, and Request for Data and Information

*Correction*

In FR Doc. 77–19542, appearing at page 35152 in the issue for Friday, July 8, 1977:

1. In the 21st line of numbered paragraph 2, middle column, page 35153, insert the following after the word "dissolving": "the casein and reprecipitating the casein".

2. In centerheading VI, third column, page 35154, and centerheading VII, first column, page 35155, "sherbert" should read "sherbet"; and in the last line of centerheading VII "§ 135.140(A)(2)" should read "§ 135.140(a)(2)".

[Docket No. 76F–0421]

## PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

### Subpart I—Multipurpose Additives

ETHOXYLATED MONO- AND DIGLYCERIDES

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule amends the food additive regulations to provide for the use of a certain emulsifier in pan-release agents for yeast-leavened bakery products. This amendment ensues from a petition filed by Glidden-Durkee Division, SCM Corporation, to provide for such use.

EFFECTIVE DATE: July 26, 1977.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Notice was given by publication in the FEDERAL REGISTER of December 3, 1976 (41 FR 53135) that a petition (FAP 6A3132) had been filed by the Glidden-Durkee Division, SCM Corp., 900 Union Commerce Bldg., Cleveland, Ohio 44115, proposing that § 172.834 *Ethoxylated mono- and diglycerides* (21 CFR 172.834, formerly 21 CFR 121,1221 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14305)), be amended to provide for the use of ethoxylated mono- and diglycerides as an emulsifier in pan-release agents for yeast-leavened bakery products.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 172.834 should be amended as set forth below to provide for the use of the petitioned additive.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), § 172.834 is amended by revising item 1. in the listing in paragraph (c) to read as follows:

§ 172.834 Ethoxylated mono- and diglycerides.

* * * * * *

(c) * * *

| *Use* | *Limitations* |
|---|---|
| 1. As an emulsifier in pan-release agents for and as a dough conditioner in yeast-leavened bakery products. | Not to exceed levels required to produce the intended effects, total not to exceed 0.5 pct by weight of the flour used. |

* * * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before August 25, 1977, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Effective date: This regulation shall become effective July 26, 1977.

Dated: July 19, 1977.

JOSEPH P. HILE,
*Associate Commissioner for Compliance.*

[FR Doc.77–21242 Filed 7–25–77;8:45 am]

[Docket Nos. 75F–0041; 76F–0457]

## PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

### Guar Gum Modified

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations for indirect food additives. Use levels of guar gum modified are increased. This amendment ensues from food additive petitions (FAP's) from two manufacturers.

DATES: July 26, 1977, objections by August 25, 1977.

ADDRESS: Written objections to the Hearing Clerk, Food and Drug Administration (HFC–20), Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Notices published in the FEDERAL REGISTER of July 7, 1975 (40 FR 28502) and of December 10, 1976 (41 FR 54030) announced that petitions (FAP's 5B3100 and 6B3158) had been filed by General Mills Chemicals, Inc., Minneapolis, Minn., and Celanese Coatings and Specialties Co., Inc., Louisville, Ky., respectively, proposing that § 176.170 (formerly § 121.2526 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) be amended under the item "guar gum modified by treatment with * * * 2,3-epoxypropyltrimethylammonium chloride * * *" to: (1) increase the permitted use level to 0.30 percent by weight of the dry paper and paperboard fibers; and (2) increase the 7.6 weight percent limitation on the above-stated modifier.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 176.170 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 176 is amended in § 176.170 in the listing of specifications and limitations in paragraph (a)(5) by revising the item "guar gum modified with * * * 2,3-epoxypropyltrimethylammonium chloride * * *" to read as follows:

§ 172.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * * *

(a) * * *

(5) * * *



V 42 143 JUL 26 77 UMI

| List of substances | Limitations |
|---|---|
| • • • | • • • |
| Guar gum modified by treatment with not more than 25 weight percent 2,3-epoxypropyltrimethylammonium chloride such that the finished product has a maximum chlorine content of 4.5 pct, a maximum nitrogen content of 3.0 pct, and a minimum viscosity in 1 pct by weight aqueous solution of 1,000 cP at 77° F, as determined by RV-series Brookfield viscometer (or equivalent) using a No. 3 spindle at 20 r/min. | For use only as a retention aid and/or internal size employed prior to the sheet-forming operation in the manufacture of paper and paperboard, and limited to use at a level: (1) Not to exceed 0.15 pct by weight of the finished dry paper and paperboard fibers intended for use in with all types of foods, except (2) not to exceed 0.30 pct by weight of the finished dried paper and paperboard fibers for use with nonalcoholic and nonfatty food of types identified under types I, II, IV-B, VI-B, VII-B, and VIII of table I in par. (c) of this section. |
| • • • | • • • |

Any person who will be adversely affected by the foregoing regulation may at any time on or before August 25, 1977, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Effective date: This regulation shall become effective July 26, 1977.

Dated: July 19, 1977.

JOSEPH P. HILE,
*Associate Commissioner for Compliance.*

[FR Doc.77-21244 Filed 7-25-77;8:45 am]

[Docket No. 76F-0342]

## PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

### Subpart B—Substances Utilized to Control the Growth of Microorganisms

SANITIZING SOLUTIONS

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is amending the food additive regulations to provide for the safe use of an adjuvant in a sanitizing solution. A petition was filed by Airwick Industries, Inc. proposing the amendment.

DATES: Effective July 26, 1977; objections by August 25, 1977.

ADDRESS: Written objections to Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

J. J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, Washington, D.C. 20204 (202-472-5690).

SUPPLEMENTARY INFORMATION: Notice was given in the FEDERAL REGISTER of September 10, 1976 (41 FR 38539) that a petition (FAP 6H3217) had been filed by Airwick Industries, Inc., 380 North St., Teterboro, NJ 07608, proposing that § 178.1010 Sanitizing solutions (21 CFR 178.1010, formerly § 121.2547, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) be amended in paragraph (b)(16) to provide for the safe use of alpha-hydro - omega - hydroxypoly(oxyethylene) poly(oxpropylene) (15 to 18 mole minimum) poly(oxytheylene) block copolymer, having a minimum molecular weight of 1,900 as an adjuvant substance.

The Commissioner of Food and Drugs, having evaluated the data in the petition and other relevant material, concludes that § 178.1010 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 178 is amended in § 178.1010 by revising paragraph (b)(16) to read as follows:

**§ 178.1010 Sanitizing solutions.**

• • • • • •

(b) • • •

(16) An aqueous solution containing equal amounts of *n*-alkyl [$C_{12}$ $C_{16}$] benzyl dimethy ammonium chloride and *n*-alkyl ($C_{12}$ $C_{14}$) dimethyl ethylbenzyl ammonium chloride (having average molecular weights of 377 to 384), with the optional adjuvant substances tetrasodium ethylenediaminetetraacetate and/or alpha-(*p*-nonylphenol)-omega-droxypoly(oxyethylene) having an average poly(oxyethylene) content of 11 moles. Alpha - hydro - omega - hydroxypoly(oxyethylene) poly(oxypropylene) (15 to 18 mole minimum) poly (oxyethylene) block copolymer, having a minimum molecular weight of 1,900 (CAS Registry No. 9003-11-6) may be used in lieu of alpha-(*p*-nonylphenol)-omega-hydroxypoly(oxyethylene) having an average poly(oxyethylene) content of 11 moles. In addition to use on food-processing equipment and utensils, this solution may be used on food-contact surfaces in public eating places.

• • • • •

Any person who will be adversely affected by the foregoing regulation may at any time on or before August 25, 1977, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Four copies of all documents shall be filed and identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective July 26, 1977.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: July 19, 1977.

JOSEPH P. HILE,
*Associate Commissioner for Compliance.*

[FR Doc.77-21241 Filed 7-25-77;8:45 am]

### SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 77N-0062; DESI 10106]

## PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

### Certain Antibiotic—Containing Ophthalmic Combination Drugs; Effective Date of Order Revoking Provisions for Certification

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document announces that previous objections have been withdrawn concerning the revocation of provisions for certification of an antibiotic drug product containing neomycin sulfate, polymyxin B sulfate, and phenylephrine hydrochloride. The revocation order, which had been postponed pending review of the objections, is now effective. The product is a solution that has been used to treat eye infections.

EFFECTIVE DATE: July 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301-443-3650).

SUPPLEMENTARY INFORMATION: An order (DESI 10106) was published in the FEDERAL REGISTER of March 14, 1973 (38 FR 6891), amending the antibiotic drug regulations by revoking certain provisions of § 1481.15 (21 CFR 1481.15) (now 21 CFR 444.342d, pursuant to recodification published in the FEDERAL REGISTER of May 30, 1974 (38 FR 18922)) pertaining to the certification of neomycin sulfate-polymyxin B sulfate-phenylephrine hydrochloride ophthalmic solution. In response to the notice, Alcon Laboratories, Inc., filed objections and requested a hearing, thereby postponing the effective date of the order (see the FEDERAL REGISTER of May 23, 1973 (38 FR 13559)). The objections and request for a hearing filed in response to the subject order were subsequently withdrawn by Alcon.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-1051 as amended, 59 Stat. 463 as amended (21 U.S.C. 352, 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), notice is given that the order of March 14, 1973, which revised § 1481.15-(a)(1) (now paragraph (a)(1) of § 444.342d Neomycin sulfate-polymyxin B sulfate- ____ ophthalmic suspension (the blank being filled in with the established name(s) of the other active ingredient(s) present in accordance with paragraph (a)(1) of this section)), is effective (insert date of publication in the FEDERAL REGISTER). The note at the end of the section that announces the stay of effectiveness of paragraph (a)(1) is deleted.

Effective date: July 26, 1977.

(Secs. 502, 507, 52 Stat. 1050-1051 as amended, 59 Stat. 463 as amended (21 U.S.C. 352, 357).)

Dated: July 19, 1977.

JOSEPH P. HILE,
*Associate Commissioner for Compliance.*

[FR Doc.77-21245 Filed 7-25-77;8:45 am]

### SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

## PART 500—GENERAL

### Subpart B—Specific Administrative Rulings and Decisions

HEXACHLOROPHENE

*Correction*

In FR Doc. 77-18939 appearing on page 33725 in the issue for Friday, July 1, 1977, in the tenth line of § 500.46(d) insert "is the subject of a new animal drug" between the words "drug" and "application".



## Title 28—Judicial Administration

### CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 735-77]

## PART 16—PRODUCTION OR DISCLOSURE OF INFORMATION

### Subpart D—Protection of Privacy and Individual Records

DELEGATION OF AUTHORITY

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This amendment delegates to the heads of components and their designees the authority of the Attorney General to make written requests under the Privacy Act. The delegation will permit the Department of Justice to more expeditiously obtain access to records in other agencies which may be relevant to pending law enforcement investigations. This delegation will reduce the time required to obtain access to these records and avoid the necessity of having the Attorney General personally approve each request for access.

EFFECTIVE DATE: July 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Harry L. Gastley, Administrative Counsel, Office of Management and Finance, Department of Justice, Washington, D.C. 20530, 202-739-5361.

By virtue of the authority vested in me by 5 U.S.C. 301 and 552a, and 28 U.S.C. 509 and 510, § 16.40 of Subpart D of Part 16 of Chapter I of Title 28, Code of Federal Regulations, is amended by adding a new paragraph (d) as follows:

**§ 16.40 Purpose and scope.**

• • • • • •

(d) The head of a "component" (as defined in paragraph (a)) or his designee is authorized to make written requests under 5 U.S.C. 552a(b)(7), for records maintained by other agencies, if the records are necessary to carry out an authorized law enforcement activity of the component. These duties may be redelegated to other officials within the component, but not below the level of section chief or a comparable position.

Dated: July 13, 1977.

GRIFFIN B. BELL,
*Attorney General.*

[FR Doc.77-21442 Filed 7-25-77;8:45 am]

## Title 29—Labor

### CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

## PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

### Iowa—Change in Level of Federal Enforcement and Notice of Intended Modification of Operational Agreement

NOTE: This document was originally published at page 37810 in the issue of Monday, July 25, 1977. It is being reprinted here in order to meet day-of-the-week publication requirements.

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Change in Level of Federal Enforcement.

SUMMARY: This document provides notice that Federal concurrent enforcement authority with respect to occupational health issues under section 18(e) of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) (29 U.S.C. 667(e)) will be exercised in the State of Iowa effective July 25, 1977.

EFFECTIVE: July 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Mabel Stanton, Project Officer, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-3608, Washington, D.C. 20210, 202-523-8041.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Part 1954 of Title 29, Code of Federal Regulations, sets out procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for the evaluation and monitoring of State plans which have been approved under section 18(c) of the Act and 29 CFR Part 1902. Section 1954.3 of this chapter provides guidelines and procedures for the exercise of discretionary Federal enforcement authority under section 18(e) of the Act with regard to Federal standards in issues covered under an approved State plan. In accordance with § 1954.3(b) of this chapter, Federal enforcement authority will not be exercised as to occupational safety and health issues covered under a State plan where a State is operational. A State is determined to be operational under § 1954.3(b) of this chapter when it has provided for the following requirements: enacted enabling legislation, approved State standards, a sufficient number of qualified enforcement personnel, and provisions for the review of enforcement actions. In determining whether and to what extent a State plan meets the operational guidelines, the results of evaluations conducted under 29 CFR Part 1954 are taken into consideration. Once this determination has been made, under § 1954.3(f) of this chapter, a notice of the determination of the operational status of a State plan as described in an agreement setting forth Federal-State responsibility is to be published in the FEDERAL REGISTER.

On July 20, 1973, notice of approval of the Iowa 18(b) plan was published (38 FR 19368) and on October 31, 1975, notice was published in the FEDERAL REGISTER (40 FR 50717) that it had been determined that Iowa had met the conditions for operational status and of the signing of an agreement effective June 18, 1975, between Jerry Addy, Commissioner of the Iowa Bureau of Labor and J. A. Reidinger, Assistant Regional



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Director for Occupational Safety and Health, U.S. Department of Labor. The operational agreement sets forth the scope of the exercise of concurrent Federal authority, specific areas of State responsibility and delineates continuing Federal responsibilities in the State. Under the terms and conditions of this agreement the State is obligated, among other things, to retain a sufficient number of qualified safety and health personnel employed under an approved merit system. Condition 3 of the Agreement specifies retention of a minimum of three (3) industrial hygienists (in addition to various safety inspectors and safety engineers) to satisfy this obligation. As a result of evaluation reports received under the monitoring system (29 CFR 1954.3(c)(1)) it was determined by the Assistant Secretary that problems primarily in the recruiting and training of qualified industrial hygienists resulted in the Iowa State program no longer meeting the criteria for operational status in the occupational health area. In view of this determination, under 29 CFR 1954.3 (c)(3) provision is made for reinstatement of the appropriate level of concurrent Federal enforcement activity to assure occupational safety and health protection to employees. By telegram dated July 20, 1977, the Assistant Secretary confirmed notification by the Regional Administrator on July 18, 1977, advising the State that effective July 25, 1977, Federal concurrent enforcement authority will be exercised in the State with respect to occupational health issues as long as necessary to assure occupational health protection to employees. This resumption of Federal concurrent enforcement is intended to supplement the State's enforcement activities to assure maximum worker health protection, to allow the State reasonable time to concentrate efforts for the recruitment and training of its industrial hygiene staff and, finally, provide Federal occupational health consultation assistance to State industrial hygiene personnel.

The operational agreement will be formally modified to reflect the exercise of Federal concurrent enforcement authority with respect to occupational health issues.

LOCATION OF THE PLAN AND THE OPERATIONAL STATUS AGREEMENT FOR INSPECTION AND COPYING

A copy of the operational status agreement, along with the approved plan, may be inspected and copied during the normal business hours at the following locations: Office of the Directorate, Room N-3605, 200 Constitution Ave. NW., Washington, D.C. 20210; OSHA Technical Data Center (TDC), Room N-3620 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, 911 Walnut Street, Room 3000, Kansas City, Missouri 64106; Iowa Bureau of Labor, State House, East 7th and Court Avenue, Des Moines, Iowa 50319.

Signed at Washington, D.C. this 21st day of July, 1977.

EULA BINGHAM,
*Assistant Secretary of Labor.*

[FR Doc.77-21450 Filed 7-22-77;8:45 am]

## Title 38—Pensions, Bonuses, and Veterans' Relief

### CHAPTER I—VETERANS ADMINISTRATION

### PART 1—GENERAL PROVISIONS

### Authority To Withhold Information Modified

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: The Veterans Administration is amending its regulations regarding the scope of information that must be disclosed to the public by the agency. The amendment brings the VA Regulations into conformance with the Government in the Sunshine Act.

EFFECTIVE DATE: March 12, 1977, the effective date of section 5(b), Pub. L. 94-409.

FOR FURTHER INFORMATION CONTACT:

Otto M. Ireland, Assistant Director (075A), Management Services Staff, Office of Planning and Evaluation, Veterans Administration, Washington, D.C. 20420, 202-389-3616.

SUPPLEMENTARY INFORMATION: On page 26438 of the FEDERAL REGISTER of May 24, 1977, there was published a notice of proposed regulatory development to amend § 1.554 relating to withholding of information. Section 5(b) of Pub. L. 94-409 (90 Stat. 1241) eliminated certain discretionary determinations to withhold information, by authorizing withholding only: (1) If the statutory authority specifically prohibits disclosure, leaving no discretion in the matter; or (2) establishes particular criteria for withholding; or (3) refers to particular types of matters to be withheld. The amendment will not significantly affect the Veterans Administration, as the most frequently used section of Title 38, United States Code, section 3301, is a mandatory confidentiality statute and refers to particular types of matters to be withheld. In addition Veterans Administration policy, set forth in § 1.550, has been to disclose information from agency records to the extent permitted by law, including under certain conditions information that would otherwise be permitted by statute to be withheld.

ECONOMIC IMPACT: The Veterans Administration has determined that this document does not contain a major proposal requiring prepartion of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-109.

Approved: July 19, 1977.

By direction of the Administrator.

RUFUS H. WILSON,
*Deputy Administrator.*

In § 1.554, paragraph (a)(3) is revised to read as follows:

**§ 1.554 Exemptions from public access to agency records.**

(a) The exemptions in this paragraph constitute authority to withhold from disclosure certain categories of information in Veterans Administration records except that any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this paragraph.

* * * * * *

(3) Specifically exempted from disclosure by statute other than 5 U.S.C. 552b, provided that such statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld.

* * * * * *

[FR Doc.77-21441 Filed 7-25-77;8:45 am]

## Title 40—Protection of Environment

### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

### SUBCHAPTER C—AIR PROGRAMS

[FRL 766-5]

### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

### Revision of California Implementation Plan for Gasoline Vapor Recovery Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of the air pollution control district (APCD) Stage I and Stage II gasoline vapor recovery regulations identified in the notice of proposed rulemaking. No final action on the proposed disapproval of Yolo-Solano APCD Rule 2.21 is being taken because a revised version of this rule was submitted as an SIP revision during the comment period.

Additionally, it is the purpose of this action to promulgate the necessary deletions and revisions to the existing Federal Stage I regulation, 40 CFR 52.255. Relevant portions of the existing Federal regulation are being retained where the APCD regulations are not equivalent to the Federal requirements, i.e. bulk plant controls for all areas, and controls for existing sources in Kings and Madera Counties.

The Administrator is required to approve or disapprove regulations as Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are equivalent to the existing Federal requirements and are currently being enforced by the State and local APCDs.

EFFECTIVE DATE: July 26, 1977.

FOR FURTHER INFORMATION CONTACT:





Frank M. Covington, Air and Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco, California 94111, 415-556-6078, attention: Fred Thoits.

SUPPLEMENTARY INFORMATION: On March 21, 1977 in 42 FR 15344, the Agency proposed action on these APCD regulations and set forth the Administrator's basis for taking such action. No comments on the Stage II issues were received during the public comment period, therefore the proposed Stage II approvals are being finalized.

Comments from two interested parties and a relevant Implementation Plan revision were received, concerning the Stage I proposed actions. This Implementation Plan revision contained a revised version of Yolo-Solano APCD Rule 2.21, as requested in the proposal notice, and therefore, the proposal disapproval is not being finalized. A separate notice will propose action on this most recent submittal.

One commenter requested clarification of the exemption provision for new tanks used to fuel implements of husbandry. Additional language has been included in § 52.255(d)(1) for clarification.

One commenter questioned the requirement of a permanent submerged fill pipe and suggested that the language be changed to require only submerged fill. This person felt that in certain instances, submerged fill was best handled by the dispensing portion rather than by the receiving portion of the system. The requirement of a permanent submerged fill pipe has been retained and is consistent with the current California Health and Safety Code requirements, Division 26, Section 41950.

Finally, one commenter requested a two month extension of the May 31, 1977 final compliance date for small bulk plant controls. This final compliance date is not being changed because resolution of EPA's policy on small bulk plants was published on June 7, 1977, in 42 FR 29004. This June 7 notice established EPA's intention to retain and enforce the May 31, 1977 final compliance date.

In addition to the actions listed above, the following portions of 40 CFR 52.255 are being retained.

The Federal Stage I small bulk plant requirements for refilling of delivery vessels and for non-exempt storage containers serviced by small bulk plants are being retained for all portions of the AQCRs. EPA's studies of small bulk plants and consideration of an exemption provision for small bulk plants because of economic hardship for this segment of the gasoline marketing chain, have been concluded, and resolution of EPA's policy was published in the June 7, 1977 FEDERAL REGISTER. It is EPA's intent to retain Federal requirements for small bulk plants, and not to exempt any facilities, delivery vehicles or storage tanks not already exempt from these regulations.

The Federal requirements will remain in effect for tanks and facilities installed before July 1, 1975 in Kings County, and for tanks and facilities installed before January 1, 1975 in Madera County.

The Federal requirements will remain in effect for all portions of the AQCRs not affected by this action.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 1857c-5).)

Date: July 15, 1977.

BARBARA BLUM,
*Acting Administrator.*

1. Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

### Subpart F—California

Section 52.220 is amended as follows:

**§ 52.220 Identification of plan.**

* * * * *

(c) * * *

* * * * *

(24) * * *

(iii) San Diego County APCD.

(A) * * *

(B) Rule 61.

* * * * *

(ix) Yolo-Solano APCD.

(A) Rule 2.22.

* * * * *

(27) * * *

(iv) Bay Area APCD.

(A) Regulation 2, § 1302.2 and § 1302.-22.

* * * * *

(29) * * *

(ii) Sacramento County APCD.

(A) Rule 13 and 14.

(iii) Monterey Bay Unified APCD.

(A) Rule 418.

(iv) Bay Area APCD.

(A) Regulation 2, § 1302.21 and § 1302.23.

(v) San Diego County.

(A) Rule 63.

(30) * * *

(vi) San Joaquin County APCD.

(A) * * *

(B) * * *

(C) Rule 411.1 and 411.2.

(vii) * * *

(viii) * * *

(ix) Ventura County APCD.

(A) Rule 70 and 71.

(31) * * *

(v) Kings County APCD.

(A) * * *

(B) Rule 412 and 412.1.

(vi) Southern California APCD.

(A) Rule 461 and 462.

(vii) Santa Barbara County APCD.

(A) Rule 35.1 and 35.2.

(viii) Fresno County APCD.

(A) Rule 411 and 411.1.

(ix) Kern County APCD.

(A) Rule 412 and 412.1.

(x) Stanislaus County APCD.

(A) Rule 411 and 411.1.

(xi) Tulare County APCD.

(A) Rule 412 and 412.1.

(xii) Madera County APCD.

(A) Rule 411.1 and 411.2.

(32) * * *

(iii) Merced County APCD.

(A) Rule 411 and 411.1.

(33) * * *

(34) Reserved.

(35) * * *

(i) Sacramento County APCD.

(B) Rule 14.

(ii) Southern California APCD.

(A) Rule 461.

(iii) Ventura County APCD.

(A) Rule 70.

(iv) Santa Barbara County APCD.

(A) Rule 35.2.

2. Section 52.255 is revised as follows:

**§ 52.255 Gasoline transfer vapor control.**

* * * * *

(b) This section is applicable in the Metropolitan Los Angeles, Sacramento Valley, and San Joaquin Valley Interstate Air Quality Control Region, except for the air pollution control districts identified below for which the control requirements of this section are limited to facilities with a total throughput less than 20,000 gallons per day, the refilling of delivery vessels at these facilities, and storage containers serviced by these facilities.

(i) Fresno County APCD.

(ii) Kern County APCD.

(iii) Merced County APCD.

(iv Sacramento County APCD.

(v) San Joaquin County APCD.

(vi) Santa Barbara County APCD.

(vii) Southern California APCD.

(viii) Stanislaus County APCD.

(ix) Tulare County APCD.

(x) Ventura County APCD.

(c) * * *

(3) * * *

(v) Storage containers served by delivery vessels filled at distribution facilities with extended compliance dates will not be required to comply with the provisions of paragraph (c) of this section until May 31, 1977.

(vi) Deleted.

(vii) Deleted.

(d) * * *

(1) Storage containers used primarily for the fueling of implements of husbandry, if such container is equipped by May 31, 1977 with a permanent submerged fill pipe, or at the time of installation for containers installed after this date.

(2) Any storage container having a capacity of 2,000 gallons or less and installed prior to July 1, 1975, if such container is equipped with a permanent submerged fill pipe by May 31, 1977.

(3) * * *

(4) Storage containers installed after July 1, 1975 in Kings County.

(5) Storage containers installed after January 1, 1975 in Madera County.

* * * * *

[FR Doc.77-21372 Filed 7-25-77;8:45 am]



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[FRL 768-2]

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTION PLANS

### Revision to the Massachusetts Plan; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction Notice.

SUMMARY: On February 4, 1977 (42 FR 6812), EPA published a Correction to a Final Rulemaking Notice which was published on October 8, 1976 (41 FR 44395) approving a revision to the Massachusetts Implementation Plan. That Correction Notice, however, in part, attempted to amend a section of the Code of Federal Regulations (CFR) which had been previously revoked in a separate action (41 FR 42953). Therefore, this Correction Notice hereby withdraws the February 4, 1977 correction insofar as it relates to 40 CFR 52.1131.

FOR FURTHER INFORMATION CONTACT:

Deborah Ikehara, Air Branch, Environmental Protection Agency, Region I, JFK Federal Building, Room 2113, Boston, Massachusetts 02203, (617-223-5609).

Dated: July 20, 1977.

EDWARD TUERK,
*Acting Assistant Administrator for Air and Waste Management.*

[FR Doc.77-21508 Filed 7-25-77;8:45 am]

## Title 47—Telecommunication

## CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-482]

## PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS, GENERAL RULES AND REGULATIONS

## PART 97—AMATEUR RADIO SERVICE

### Assignment of Call Signs to Stations in the Amateur Radio Service

AGENCY: Federal Communications Commission.

ACTION: Amendment of rules (Order).

SUMMARY: On April 22, 1976, the Commission released a First Report and Order in Docket 20092 amending Rule Part 97 to make 1 x 2 call signs, prefixed with the letters "W" or "K", available on a phased-in basis to all Amateur Extra Class licensees. On October 21, 1976, the Commission announced that 1 x 2 call signs prefixed with the letter "N" were being made available to Amateur Extra Commission is now also making available to Amateur Extra Class licensees call signs in the 2 x 2 format which have the prefix letters AA through AL. This action is taken because of a shortage of 1 x 2 call signs in certain call sign districts.

EFFECTIVE DATE: July 29, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph Johnson, Personal Radio Division, Safety and Special Radio Services Bureau, 202-632-7175.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Parts 2 and 97 of the Commission's rules concerning the assignment of call signs to stations in the Amateur Radio Service.

Adopted: July 13, 1977.

Released: July 22, 1977.

### BACKGROUND

A Report and Order in Docket 20092 was released by the Commission on April 22, 1976, and published in the FEDERAL REGISTER on April 28, 1976, (41 FR 17734). In that Report and Order, the Commission amended Part 97 to provide for the issuance of 1 x 2[1] call signs to Amateur Extra Class licensees on a phased-in basis correlated to the date of issuance of the applicant's Amateur Extra Class license. The prefix letters available for these call signs were the letters "W" and "K". On November 2, 1976, the Commission also made available 1 x 2 call signs with the letter "N" for the prefix.

### NEED FOR THIS ORDER

Since July 1, 1976, nearly 5,000 1 x 2 call signs have been issued to Amateur Extra Class licensees. In some call sign regions, especially the 4th and 6th regions, the supply of 1 x 2 call signs available for assignment is becoming very low. As of May 20, 1977, only 243 1 x 2 call signs were available in the 4th region, and 347 in the 6th region. In order to meet the continuing demand for special call signs by Amateur Extra Class licensees, it will be necessary to make available an additional call sign prefix.

### WHAT THIS ORDER DOES

By this Order, we are amending Part 97 to provide for the issuance of 2 x 2 call signs to all Amateur Extra Class licensees in call sign regions which are exhausted of 1 x 2 call sign.[2] We are also amending Part 2 of the Commission's Rules to permit the letter "X" to appear as the first letter in the suffix of 1 x 3, 2 x 2, and 2 x 1 call signs. The 2 x 2 call signs to be made available initially are the blocks AA4AA through AA4ZZ and AA6-AA through AA6ZZ. If needed, we will proceed to make available other prefixes in the block AB-AL. The AA prefix will be available immediately, and any Amateur Extra Class licensee in the 4th and 6th districts is eligible to apply for a specific 2 x 2 call sign. Licensees in these regions may also apply for available 1 x 2 call signs with the letter "N" prefix, however, we expect the remaining few of these calls to be exhausted very quickly.

[1] A 1 x 2 call sign is a call sign consisting of a single prefix letter, followed by a single digit, followed by two letters, such as W3BE.

[2] A 2 x 2 call sign is a call sign consisting of a two-letter prefix, followed by a single digit, followed by two letters, such as AA1AA.





In other call sign regions, 1 x 2 calls with "W", "K", and "N" prefixes are still available. We will not be making 2 x 2 call signs available in these areas at this time, and we will not hold applications filed in expectation of receiving such a call sign at a later date.

### AUTHORITY FOR THIS ORDER

Authority for this amendment appears in Sections 4(i) and 303 of the Communications Act of 1934, as amended. The prior notice and procedure provisions of the Administrative Procedure Act, 5 U.S.C. § 553, are unnecessary because of the impending shortage of call signs necessary for proper administration of the Amateur Radio Service, and because the impact of these amendments is minor and no objections will be raised by Amateurs or the public. Since the amendments relieve rule restrictions, the effective date may be immediate.

In view of the foregoing, it is ordered that the Rule amendments as set forth below shall be adopted, effective July 29, 1977.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION
VINCENT J. MULLINS,
*Secretary.*

Parts 2 and 97 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 2.302, the table re Amateur Radio Service call signs is amended to read as follows:

**§ 2.302 Call signs.**

* * * * *

| Class of station | Composition of call sign | Call sign blocks |
|---|---|---|
| * * * | * * * | * * * |
| Experimental (letter "X" follows the digit) | 2 letters, 1 digit, 3 letters | KA2XAA through KZ9XZZ.<br>WA2XAA through WZ9XZZ. |
| Amateur (letter "X" may not follow digit) | 1 letter, 1 digit, 1 letter | K1A through K0Z.<br>N1A through N0Z.<br>W1A through W0Z. |
| Amateur | 1 letter, 1 digit, 2 letters | K1AA through K0ZZ.<br>N1AA through N0ZZ.<br>W1AA through W0ZZ. |
| Do | 1 letter, 1 digit, 3 letters | K1AAA through K0ZZZ.<br>N1AAA through N0ZZZ.<br>W1AAA through W0ZZZ. |
| Do | 2 letters, 1 digit, 1 letter | AA1A through AL0Z.<br>KA1A through KZ0Z.<br>NA1A through NZ0Z.<br>WA1A through WZ0Z. |
| Do | 2 letters, 1 digit, 2 letters | AA1AA through AL0ZZ.<br>KA1AA through KZ0ZZ.<br>NA1AA through NZ0ZZ.<br>WA1AA through WZ0ZZ. |
| Amateur (letter "X" may not follow digit) | 2 letters, 1 digit, 3 letters | AA1AAA through AL0ZZZ.<br>KA1AAA through KZ0ZZZ.<br>NA1AAA through NZ0ZZZ.<br>WA1AAA through WZ0ZZZ. |
| Standard frequency | | WWV, WWVB through WWVJ.<br>WWVL, WWVS. |
| * * * | * * * | * * * |

2. In § 97.51, a new paragraph (a)(11) is added to read as follows:

**§ 97.51 Assignment of call signs.**

(a) * * *

(11) The provisions of paragraphs (3) through (9) above of this section shall apply to the issuance of call signs in the block AA1AA through AA0ZZ in those call sign areas where the Commission has determined that a shortage of 1 x 2 call signs exists.

* * * * *

3. In § 97.53, a new paragraph (a) (3) is added to read as follows:

**§ 97.53 Policies and procedures applicable to assignment of call signs.**

(a) * * *

(3) 2 x 2 call signs in the block AA1AA through AA0ZZ.

[FR Doc.77-21309 Filed 7-25-77;8:45 am]



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# proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Food Safety and Quality Service

### [ 9 CFR Parts 318 and 381 ]

### HOG SCALD AGENTS, POULTRY SCALD AGENTS, DENUDING AGENTS, AND COOLING AND RETORT WATER TREATMENT AGENTS

### Proposed Rulemaking

*Correction*

In FR Doc. 77-19867 appearing in the issue for Friday, July 15, 1977 on page 36474, the section heading in the 1st column on page 36475 should read:

**§ 318.1 Products and other articles entering official establishments.**

* * * * *

## FEDERAL HOME LOAN BANK BOARD

### [ 12 CFR Parts 506 and 506a ]

[No. 77-446]

### GENERAL REGULATIONS OF THE FEDERAL HOME LOAN BANK BOARD

### Proposed Restriction on Use of Definitive Form of Federal Home Loan Bank Securities

JULY 19, 1977.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The proposed amendment would change the regulations governing issuance of and transactions in Federal home loan bank securities (with the exception of Federal home loan bank consolidated discount notes) to require such securities to be issued only in book-entry form. The change is needed because present regulations allow a choice of book-entry or definitive form, and the Board believes that elimination of the latter form would protect against losses, reduce costs, lessen paperwork, and conform to recent changes made by the Treasury with regard to issuance of Treasury bills.

COMMENTS MUST BE RECEIVED BY: August 11, 1977.

ADDRESS: Interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 320 First Street NW., Washington, D.C. 20552, as to whether the proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT:

Nancy L. Feldman, Assistant General Counsel, Federal Home Loan Bank Board, Telephone number: Area code 202-376-3074.

SUPPLEMENTARY INFORMATION: The Board believes that elimination of securities in the form of engraved certificates would provide substantial benefits to investors and the financial community, by protecting against losses due to theft, mishandling and counterfeiting, by reducing costs of issuing, storing, and delivering securities in physical form, and by moderating the burden of the paperwork created by the growing volume of public debt transactions.

Under the proposed regulations, Federal home loan bank securities would be maintained through book-entry accounts at Federal Reserve Banks. By their terms, these amendments would not apply to Federal home loan bank securities issued prior to August 15, 1977, or to Federal home loan bank consolidated discount notes.

The Board notes that, in addition to providing a public comment period upon issuance of its proposed change in this area (notice of proposed rulemaking published in the FEDERAL REGISTER, 41 FR 47959, November 1, 1976), the Department of the Treasury, in a series of public meetings and special briefings held in various parts of the country, also understook directly to acquaint investors, financial institutions, securities dealers, and others with the new mandatory book-entry system, and to solicit their reactions.

It is further noted that, while under the proposal no certificate will be received, nevertheless customers will receive a confirmation, in the form of a written advice, of each transaction affecting book-entry Federal home loan bank securities.

The Board is also taking this opportunity to propose revising its consolidated-bond-form regulation by deleting an obsolete provision regarding issuance of interim certificates, and its book-entry-servicing regulation to reflect current practice.

Accordingly, the Board hereby proposes to amend Parts 506 and 506a to read as follows:

### PART 506—BONDS AND DEBENTURES

1. Amend § 506.2 by deleting the penultimate sentence thereof, to read as follows:

**§ 506.2 Form of consolidated bonds.**

Consolidated Federal Home Loan Bank bonds shall be issued in series and all consolidated bonds of the same series shall be of like date, tenor, and effect except as to denominations, which shall be in such amounts as may be authorized by the Board. The form of each consolidated bond shall be prescribed by the Board. Consolidated bonds issued with maturities of 1 year or less may be designated consolidated notes.

### PART 506a—BOOK-ENTRY PROCEDURES FOR FEDERAL HOME LOAN BANK SECURITIES

2. Amend § 506a.1 by revising paragraph (c) thereof to read as follows:

**§ 506a.1 Definition of terms.**

In this part, unless the context otherwise requires or indicates:

* * * * *

(c) "Definitive Federal home loan bank security" means a Federal home loan bank security in engraved or printed form. Such forms will not be available with regard to securities issued after August 15, 1977, with the exception of Federal home loan bank consolidated discount notes.

* * * * *

3. Amend § 506a.2 by revising paragraph (b) thereof to read as follows:

**§ 506a.2 Authority of Reserve Banks.**

Each Reserve Bank is hereby authorized, in accordance with the provisions of this part, to

* * * * *

(b) effect conversions between book-entry Federal home loan bank securities and definitive Federal home loan bank securities, with regard to such securities issued prior to August 15, 1977;

* * * * *

4. Amend § 506a.4 by revising paragraphs (d) and (f) thereof, and adding new paragraph (g) thereto, to read as follows:

**§ 506a.4 Transfer or pledge.**

* * * * *

(d) A Reserve Bank shall, upon receipt of appropriate instructions, convert book-entry Federal home loan bank securities issued prior to August 15, 1977, into definitive Federal home loan bank securities and deliver them in accordance with such instructions; no such conversion shall affect existing interests in such Federal home loan bank securities.

* * * * *

(f) All requests for transfer or any authorized transaction must be made prior to the maturity or date of call of the securities.

(g) A Reserve Bank will issue to each depositor following any transaction affecting book-entry securities maintained for such depositor under this part a confirmation thereof in the form of an advice (serially numbered or otherwise) which shall describe the amount and maturity date thereof, and include pertinent transaction data.

5. Amend § 506a.5 by revising paragraph (a) thereof to read as follows:

**§ 506a.5 Withdrawal of Federal home loan bank securities.**

(a) A depositor of book-entry Federal home loan bank securities issued before August 15, 1977, may withdraw them from a Reserve Bank by requesting delivery of like definitive Federal home loan bank securities to itself or on its order to a transferee.

* * * * *

6. Amend § 506a.6 to read as follows:

**§ 506a.6 Delivery of Federal home loan bank securities.**

A Reserve Bank which has received Federal home loan bank securities and effected pledges, made entries regarding them, or transferred or delivered them according to the instructions of its depositor is not liable for conversion or for participation in breach of fiduciary duty even though the depositor had no right to dispose of or to take other action in respect of the securities. A Reserve Bank shall be fully discharged of its obligations under this part by the transfer of book-entry Federal home loan bank securities upon the order of its depositor or delivery of securities issued before August 15, 1977, or Federal home loan bank consolidated discount notes, in definitive form to its depositor. Customers of a member bank or other depositary (other than a Reserve Bank) may obtain Federal home loan bank securities in definitive form only by causing the depositor of the Reserve bank to order the withdrawal thereof from the Reserve bank.

7. Amend § 506a.8 to read as follows:

**§ 506a.8 Servicing book-entry Federal home loan bank securities; payment of interest; payment at maturity or upon call.**

Interest becoming due on book-entry Federal home loan bank securities shall be charged in the Federal home loan bank's Principal and Interest Account at the Federal Reserve Bank of New York on the interest due date and remitted or credited in accordance with the depositor's instructions. Such securities shall be redeemed and charged in the same account on the date of maturity, call or advance refunding, and the redemption proceeds, principal and interest, shall be disposed of in accordance with the depositor's instructions.

(Sec. 11, 47 Stat. 733, as amended; 17, 47 Stat. 736, as amended, 12 U.S.C. 1431, 1437.)

By the Federal Home Loan Bank Board.

J. J. FINN,
*Secretary.*

[FR Doc.77-21500 Filed 7-25-77;8:45 am]





## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### [ 14 CFR Part 91 ]

[Docket No. 16431; Notice No. 77-2A]

### REGULATORY REVIEW PROGRAM

### Availability of Agenda; Compilation of Proposals; and Announcement of Location and Change of Dates of Conference

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Regulatory Review.

SUMMARY: This notice announces the availability of the agenda and compilation of proposals, and the location, times, and change of dates of the conference originally scheduled for August 1-4, 1977, to consider proposals submitted pursuant to Notice 77-2 for a Part 91, Subpart B Regulatory Review Program.

DATES: Conference will be held September 13-16, 1977, instead of August 1-4, 1977, as originally announced in Notice 77-2. Written comments received during the period September 17-30 will be considered in determining which items will be included in Notices of Proposed Rule Making.

ADDRESSES: Copies of agenda and compilation of proposals may be requested from: Federal Avation Administration, Air Traffic Service, Airspace and Air Traffic Rules Division, AAT-200, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Maurice Taylor, Air Traffic Rules Branch, AAT-220, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C., 20591; Telephone 202-426-3128.

SUPPLEMENTARY INFORMATION:

HISTORY

On January 21, 1977, the Federal Aviation Administration published Notice No. 77-2 in the FEDERAL REGISTER (42 FR 3863), inviting interested persons to submit proposals for a Part 91, Subpart B, Regulatory Review Program.

COMPILATION OF PROPOSALS

As stated in Notice 77-2, the FAA has prepared a compilation of proposals after reviewing and evaluating each proposal received from interested persons. This compilation also contains FAA proposals for consideration during the Regulatory Review. The FAA hereby announces the availability of this compilation. A copy of it is being sent to each person who submitted a proposal in response to Notice 77-2. Any person desiring a copy of the compilation may write to the above address.

The proposals and related justification included in the compilation should be viewed as working proposals for further consideration. They may not represent the full or final position of the identified proponent.

AGENDA

All proposals received were considered in preparing the agenda for the Part 91, Subpart B Regulatory Review Conference and it is a part of the compilation being distributed.

POSTPONEMENT OF CONFERENCE DATES

Notice 77-2 announced that the conference would be held August 1-4, 1977. However, to provide additional time for interested persons to prepare comments on the proposals in the agenda, the FAA has determined, in the interest of obtaining the fullest participation of the public in this program, to postpone the dates of the conference to September 13-16, 1977.

LOCATION AND TIMES

The conference will be held at the Sheraton National Motor Hotel, Columbia Pike and Washington Boulevard, Arlington, Va. The conference hours September 13 will be 9 a.m. to 5 p.m. All other days the hours will be 8:30 a.m. to 5 p.m. There will be no admission fee or other charge to attend and participate in the conference. All conference sessions will be open, on a space available basis, to all interested persons who register to attend. All meetings will be taped.

PROPOSED AND FINAL RULE MAKING

The conference tapes, comments made on the proposals during the Regulatory Review Conference and written comments received at the above address during the period September 17 through September 30, 1977, will form the basis on which the FAA will make a final determination of which items will be included in Notices of Proposed Rule Making. This comment period is being provided for those interested organizations who did not receive sufficient time to fully query their membership and those individuals who are unable to attend the conference but desire to comment on the proposals.

It should be noted that the FAA may elect to undertake rulemaking procedures, separate from the Regulatory Review, on issues pertaining to proposals contained in the compilation of proposals. In such cases, the pertinent proposals may be removed from further consideration during the Regulatory Review.

DRAFTING INFORMATION

The principal authors of this document are Maurice Taylor, Air Traffic Service, and Richard W. Danforth, Office of the Chief Counsel.

(Secs. 305, 307, 312, 313(a), and 601, Federal Aviation Act of 1958, as amended (49 U.S.C.



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§§ 1346, 1348, 1353, 1354(a), and 1421); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.45.)

Issued in Washington, D.C., on July 22, 1977.

GLEN D. TIGNER,
*Acting Director,*
*Air Traffic Service.*

[FR Doc.77-21663 Filed 7-22-77;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

**[ 17 CFR Part 249 ]**

[Release No. 34-13790; File No. S7-711]

### SECO BROKERS AND DEALERS REPORTS AND ANNUAL ASSESSMENTS

**Proposed Form**

AGENCY: Securities and Exchange Commission.

ACTION: Proposed form.

SUMMARY: The Securities Exchange Act authorizes the Commission to collect such reasonable fees and assessments as may be necessary to defray the costs of additional regulatory duties required to be performed with respect to registered brokers and dealers who are not members of a registered securities association ("nonmember" or "SECO" broker-dealers). The proposed form establishes the levels for nonmember broker-assessments for the current fiscal year.

DATES: Comments must be received on or before: August 10, 1977.

ADDRESSES: Comments should be directed in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington D.C. 20549. All submissions should refer to File S7-711 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Daniel Bateman, Division of Market Regulation, Room 353, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-1345.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission has announced a proposal to adopt Form SECO-4-77 (17 CFR 249.504k) establishing the annual assessments payable to the Commission by registered broker-dealers who are not members of the National Association of Securities Dealers, Inc. ("nonmember" or "SECO" broker-dealers) for the current fiscal year. The forms which set forth initial fees for a SECO broker-dealer and its associated persons, Form SECO-5 (17 CFR 249.505) and Form U-4 (17 CFR 249.502), respectively, would not be changed.[1]

Proposed Form SECO-4-77 reflects a reduction in the assessment on gross income derived from over-the-counter ("OTC") transactions from 0.375% in 1976 to 0.2% for municipal securities transactions and 0.25% for other OTC transactions and retains the basic annual SECO firm and personnel assessments of $250 and $5, respectively.

The assessments are being reduced to adjust the anticipated revenues to more closely approximate the expected regulatory costs of the SECO program and to continue the Commission's policy over the years of maintaining general comparability with the NASD's fees and assessments.[2]

The Securities and Exchange Commission, pursuant to its authority under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) and particularly Sections 15(b)(7), 15(b)(8), and 23(a) thereof, hereby proposes to amend Part 249 of Title 17 of the Code of Federal Regulations by adopting § 249.504 as follows:

**§ 249.504k Form SECO-4-77, 1977 assessment and information form for registered brokers and dealers not members of a registered national securities association.**

This form shall be filed on or before September 1, 1977, pursuant to § 240.15b 9-2 of this chapter, accompanied by the annual assessment fee required thereunder, for the fiscal year ended September 30, 1977, by every registered broker and dealer not a member of a registered national securities association.

Copies of the proposed form have been filed with the Office of the Federal Register, and additional copies are available on request from the Commission.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 21, 1977.

[FR Doc.77-21594 Filed 7-25-77;8:45 am]

[1] The initial fee required to be paid by SECO broker-dealers is $500 and the fee to be paid on behalf of each associated person is $35. Additional fees are levied for the taking of qualifications examinations, when required.

[2] The proposed new level of fees and assessments will result in revenues of about $460,000, which closely approximates the projected direct costs to the Commission of the SECO program for the current fiscal year, based on actual experience of prior years and the present year to date.

## DEPARTMENT OF DEFENSE

**Defense Logistics Agency**

**[ 32 CFR Part 1286 ]**

[DLAR 5400.21: RCS DD(A&AR)1379]

### PRIVACY ACT OF 1974

AGENCY: Defense Logistics Agency, DOD.

ACTION: Proposed rule.

SUMMARY: The Defense Logistics Agency proposes to amend their Privacy Act regulation by changing its rules to reflect, name or abbreviation of the "Defense Supply Agency (DSA)" to the "Defense Logistics Agency (DLA)"; amending Appendix C to reflect a specific exemption instead of a general exemption; changing the suffix identification symbols of all the exempted systems to match the system notices which were recently changed; and modification of the reasons for exemption. The name of the Defense Supply Agency was changed January 5, 1977 to properly reflect the functions of the agency. These amendments will incorporate the nomenclature change as defined in the new charter.

DATES: Comments due on or before August 25, 1977.

ADDRESS: Headquarters, Defense Logistics Agency, Attention: DLA-XA, Cameron Station, Alexandria, Va. 22314.

FOR FURTHER INFORMATION CONTACT:

Mr. William A. Smith at the above address or telephone 202-274-6234.

SUPPLEMENTARY INFORMATION: On May 7, 1976, there was published in the FEDERAL REGISTER (41 FR 18836) a final rule adoption, effective September 27, 1975, pertaining to the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a) implementation by the Defense Supply Agency concerning procedures and requirements on personal privacy and rights of individuals regarding their personal privacy. This rule was subsequently amended and adopted on June 23, 1976 (41 FR 25897) and on September 15, 1976 (41 FR 39315). The rules were also published in Privacy Act Issuances, 1976 Compilation, Vol. II, pg. 441. The Defense Logistics Agency proposes to change their final rules again by amending the rules to reflect, where appropriate, the change and symbols of the agency from the Defense Supply Agency (DSA) to the Defense Logistics Agency (DLA) which became effective January 5, 1977, (42 FR 9664) February 17, 1977. Also proposed for amendment are the Exemptions and Authority to paragraphs A and C, Appendix C, Exempted Record Systems from "general exemption" to "specific exemption" since the Defense Logistics Agency maintains investigatory material compiled for law enforcement purposes other than material covered under a general exemption. The reasons for the specific exemptions are modified to justify the (k)(2) exemptions. The record system suffix identifications of paragraphs A, B, C, and D are changed to reflect the new identifications as published in the FEDERAL REGISTER of July 7, 1977 (42 FR 34906). Portions of the reasons justifying the (k)(1) exemption in the system of records identified in paragraph A are deleted since it is already covered in the preamble of Appendix C.

It is therefore proposed to amend Chapter XII, Part 1286 of 32 CFR as follows:

### CHAPTER XII—DEFENSE LOGISTICS AGENCY

### PART 1286—PERSONAL PRIVACY AND RIGHTS OF INDIVIDUALS REGARDING THEIR PERSONAL RECORDS

Sec.
1286.1 Purpose and scope.
1286.2 Policy.
1286.3 Definitions.
1286.4 Responsibilities.
1286.5 Procedures.
1286.6 Forms and reports.

AUTHORITY: Pub. L. 93-579 (5 U.S.C. 552a).

**§ 1286.1 Purpose and scope.**

(a) This Part 1286 implements the Privacy Act of 1974 (hereinafter referred to as the Act) by prescribing:

(1) The procedures whereby an individual can be notified in response to his[1] request of any system of records named by the individual contains a record pertaining to him.

(2) The requirements for verifying the identity of an individual who requests his record or information pertaining to him before the record or information will be made available to him.

(3) The procedures for granting access to an individual upon his request of his record or information pertaining to him.

(4) The procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to him, for making a determination on the request, and for an appeal of an initial adverse determination.

(5) The procedures and policies governing the collection, safeguarding, maintenance, public notice, use, and dissemination of personal information.

(6) The conditions under which disclosure of personal information may be made and procedures for exempting systems of records from certain requirements of the Act.

(b) This Part 1286 is applicable to HQDLA and all DLA field activities.

**§ 1286.2 Policy.**

It is the policy of DLA:

(a) To preserve the personal privacy of individuals, permitting an individual to know what records pertaining to him are collected, maintained, used, or disseminated in DLA, and to have access to and have a comprehensible copy made of all or any portion of such records and to correct or amend such records.

(b) To collect, maintain, use, or disseminate any record of identifiable personal information in a manner that assures that such action is for necessary and lawful purpose; that the information is timely and accurate for its intended use; and that adequate safeguards are provided to prevent misuse of such information.

**§ 1286.3 Definitions.**

(a) *Individual.* A citizen of the United States or an alien lawfully admitted for permanent residence. A legal guardian or the parent of a minor have the same rights as the individual and may act on behalf of the individual.

(b) *Maintain.* (Records on individuals) collect, use, or disseminate.

(c) *Record.* Any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(d) *Routine Use.* The disclosure of a record, or the use of such record for a purpose which is compatible with the purpose for which it was collected. Routine use encompasses not only common or ordinary uses, but also all the proper and necessary uses of the record; even if such use occurs infrequently.

(e) *System Manager.* The official responsible for the policies and practices governing the system of records.

(f) *System of Records.* A group of records under the control of any system manager from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

**§ 1286.4 Responsibilities.**

(a) *HQ DLA*—(1) *The Chief, Administrative Management Division, Office of Administration (DLA-XA)* will:

(i) Formulate policy to provide comprehensive guidance necessary for uniform compliance with the Act by all elements of DLA.

(ii) Serve as the focal point on privacy matters for DLA in communication with the Defense Privacy Board and is designated the DLA Privacy Act Officer.

(iii) Supervise the preparation for publication in the FEDERAL REGISTER of all required information or systems of records affected by the Act.

(iv) Serve as the DLA representative on the Defense Privacy Board.

(v) Review for conformity with the Act, all procedures, including DLA and DD forms, which requires an individual to furnish information, and formulate corrective or supplementary provisions, as necessary.

(vi) Maintain this DLAR in a current status and review it annually.

(2) *The Chief, Publication Division, Office of Administration (DLA-XM)* will review DLA publications to assure that those which meet the criteria for publication in the FEDERAL REGISTER are prepared in proper form and transmitted promptly for publication in the FEDERAL REGISTER as required by DLAR 5025.19, Publication of Material in the FEDERAL REGISTER.

(3) *The Counsel (DLA-G)* will review policies, practices, and procedures to ensure conformity with the Act.

(4) *The Assistant Director, Plans, Programs and Systems (DLA-LS)* will provide policies and guidance to preclude unauthorized disclosure of protective information maintained in the automatic data processing facility.

(5) *The Chief, Training and Incentives Division, Office of Civilian Personnel (DLA-KT)* will, in conjunction with the DLA Privacy Board, ensure development of appropriate training program for all personnel where duties involve responsibilities for systems of records affected by the Act.

(6) *The Heads of HQ DLA Principal Staff Elements (PSEs)* will:

(i) Ensure that the collection, maintenance, use, or dissemination of record of identifiable personal information is in a manner that assures that such action is for a necessary and lawful purpose, that the information is timely and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information.

(ii) Ensure that internal operating procedures provide for effective compliance with the Act.

(iii) Establish procedures for the granting of confidentiality in regulations and procedures for investigations (e.g., law enforcement, suitability, etc.).

(iv) Prepare and submit reports in accordance with § 1286.6.

(7) *DLA Privacy Board.* Established under the chairmanship of the Chief, Administrative Management Division, Office of Administration (DLA-XA) with membership consisting of representatives from the Comptroller, DLA, Counsel, DLA, Staff Director, Civilian Personnel, DLA, Assistant Director, Plans, Programs, and Systems, DLA, Staff Director, Military Personnel, DLA, Command Security Officer, DLA, and the Executive Director, Industrial Security, HQ DLA CAS. The Board will cause to be reviewed for conformity with the Act, each category of information in a system of records for necessity and relevance; provide assistance in the development of DLA-wide Privacy training program; and review practices and procedures established by system managers to ensure they are in conformity with the Act.

(b) *The Heads of DLA Primary Level Field Activities (PLFAs)* will:

(1) Ensure that the collection, maintenance, use, or dissemination of record of identifiable personal information is in

[1] For convenience in reading, standard pronoun gender usage will be followed in this DLAR. Where such pronouns as "he" or "him", etc., are used, it should be understood to include "she" or "hers", etc.







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a manner that assures that such action is for a necessary and lawful purpose, that the information is timely and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information.

(2) Designate a Privacy Act officer to serve as the principal point of contact on privacy matters.

(3) Ensure that internal operating procedures provide for effective compliance with the Act.

(4) Establish a training program for those personnel whose duties involve responsibilities for systems of records affected by the Act.

**§ 1286.5 Procedures.**

(a) *Access to personal information.* (1) Upon request, an individual will be informed whether or not a system of records contains a record pertaining to him, and accompanied by a person of his own choosing, if he so desires, will be permitted to review his records, and to obtain a copy of such records in a form that is comprehensible to him at a reasonable cost, unless exempted in accordance with paragraph (o)(1)(v) of this section or paragraph (d) of this section. This Part 1286 does not require that a record be created or that an individual be given access to records which are not retrieved by name or other individual identifier. Only costs of reproduction, as set forth in DLAR 5400.14, Availability to the Public of Official Information, may be charged; however, if copying is the only means whereby the record can be made available to the individual, reproduction fees will not be assessed (i.e., when a copy must be made in order to delete information contained on the record pertaining to another individual).

(i) The granting of access to a record containing personal information will not be conditioned upon any requirement by the individual to state a reason or otherwise justify the need to gain access.

(ii) Prior to granting access to personal information, individuals may be required to provide reasonable verification of his identity.

(*a*) No verification of identity will be required of an individual seeking access to records which are otherwise available to any member of the public under DLAR 5400.14.

(*b*) For the individual who seeks access in person, verification of identity will normally be made by those documents which an individual is likely to have readily available, such as employee or military identification card, driver's license, or medical card.

(*c*) When access is requested by mail, verification of identity may consist of the individual providing certain minimum identifying data, such as name and date of birth or such other information deemed necessary by the system manager having custody of the record. If the sensitivity of the data warrants, a signed notarized statement of identity may be required.

(*d*) An individual will not be denied access to his record for refusing to disclose his social security number (SSN), unless disclosure of his SSN is required by Federal Statute or required for verification purposes under a system of records existing and operating before 1 January 1975, if such disclosure was required under statute or regulation adopted prior to such a date.

(*e*) Individuals may not be denied access to a record pertaining to themselves because those records are exempted from disclosure under the provisions of DLAR 5400.14.

(iii) Access to a record or a copy thereof will not be denied solely because the record's physical presence is not readily available (i.e., on magnetic tape), or because the context of the record may disclose sensitive information about another individual. To protect the personal privacy of other individuals who may be identified in a record, an extract will be prepared to delete only that information which would not be releasible to the requesting individual under DLAR 5400.14.

(iv) A medical record will be disclosed to the individual to whom it pertains unless, in the judgement of a physician, access to such record could have an adverse effect upon the individual's physical or mental health. When it has been determined that the disclosure of medical information could have an adverse effect upon the individual to whom it pertains, the information may be transmitted to a physician named by the requesting individual.

(v) This Part 1286 does not entitle an individual to have access to any information compiled in reasonable anticipation of a civil action or proceeding.

(vi) A system manager may require an individual who wishes to be accompanied by another person when receiving access to his records to furnish a written statement authorizing discussion of the records in the presence of the accompanying person.

(vii) Any requests from an individual for access to or copies of records maintained on him will be processed in accordance with this Part 1286 and not the Freedom of Information Act. Normally, requests for access to records will be acknowledged within 10 working days of receipt and access provided within 30 working days.

(viii) Copies of investigatory records compiled by any investigative organization, but in the temporary custody of an element requesting the record for purposes of adjudication or other personnel action, are the records of the originating investigative organization. Individuals seeking access to such records will be directed to the originating investigative organization and should be instructed to direct all requests submitted under the Act to that organization. Records concerning the adjudication, or other personnel actions based on the investigative records, originated by the organization using the investigation, are the records of the using organization which shall respond to all other requests under the Act concerning them.

(2) *Amendment of personal information.* (i) An individual will be given the opportunity to request, either in person or through the mail, that his record be amended. The system manager may, however, require that such requests be made in writing. Instructions for the preparation of a request and any forms employed should be as brief and as simple as possible. Requests should contain as a minimum, identifying information to locate the record, a description of the items to be amended and the reason amendment is being requested. A request will not be rejected or required to be resubmitted unless additional information is essential to process the request. Incomplete or inaccurate requests will not be rejected categorically; the individual will be asked to clarify the request as needed. Individuals will be required to provide verification of identity as paragraph (a)(1)(ii) of this section to assure that the requester is seeking to amend records pertaining to him and not, inadvertently or intentionally, the records of another individual.

(ii) A written acknowledgement of the receipt of a request for amendment of a record must be provided to the individual within 10 working days (excluding Saturdays, Sundays, and legal public holidays) after receipt by the system managers. The acknowledgement will clearly identify the request and advise the individual when he may expect to be advised of action taken on the request. Whenever practicable, the decision will be made within 30 working days. No separate acknowledgement of receipt is necessary if the request can be either approved or denied, and the individual advised within the 10-day period. For requests presented in person, written acknowledgement should be provided at the time the request is presented.

(iii) If the system manager agrees with any portion or all of the individual's request to amend a record, the system manager will promptly advise the individual and amend the record accordingly. If disclosure accounting has been made, the system manager will advise all previous recipients of the record that the amendment has been made and the substance of the correction.

(iv) If the system manager disagrees with all or any portion of a request to amend a record, the system manager will promptly:

(*a*) Advise the individual of his refusal and the reasons therefor.

(*b*) Inform the individual that he may request a further review by the designated reviewing official.

(*c*) Describe the procedures for requesting such a review including the name and address of the official to whom the request should be directed.

(v) A review of the initial refusal to amend a record will be made if requested by the individual.

(*a*) Heads of HQ DLA PSEs and Heads of PLFAs, as applicable, are designated reviewing officials and will make a review of the initial determination. The Deputy Director, DLA, or the Deputy Director, CAS, for HQ DLA CAS elements and Defense Contract Administration Services Regions, will be the reviewing official when one of the aforementioned officials is identified as a system manager.

(*b*) If, after conducting the review, the reviewing official also refuses to amend the record in accordance with the individual's request, the individual will be notified:

(*1*) Of the refusal and the reasons therefor.

(2) Of his right to file a concise statement of reasons for disagreeing with the decisions of DLA.

(3) Of the procedures for filing a statement of disagreement and such statement will be made available to anyone to whom the record is subsequently disclosed.

(*4*) That prior recipients of the disputed record will be provided a copy of the statement of disagreement to the extent that an accounting of disclosure is maintained.

(*5*) Of his right to seek judicial review of DLA's refusal to amend a record.

(*c*) If the reviewing official determines that the record should be amended in accordance with the request, the system manager will amend the record, advise the individual, and inform previous recipients where an accounting of disclosure has been maintained.

(*d*) A final determination on the individual's request for a review of an initial refusal to amend a record must be completed within 30 days after receipt by the proper office unless the reviewing official determines that a fair and equitable review cannot be completed in that time. If additional time is required, the individual will be informed, in writing, of the reasons for the delay and of the approximate date on which the review is expected to be completed.

(vi) When an individual files a statement of disagreement, the system manager will clearly annotate the record so that the dispute is apparent to anyone who may subsequently grant access to use or disclose the record. The notation itself will be integral to the record. Where an accounting of disclosure has been made, the system manager will advise previous recipients that the record has been disputed and will provide a copy of the individual's statement.

(*a*) The individual's statement of disagreement need not be filed as an integral part of the record to which it pertains. It will, however, be maintained in such a manner as to permit ready retrieval whenever the disputed portion of the record is to be disclosed. When information which is the subject of a statement of disagreement, is subsequently disclosed, the system manager will note which information is disputed and provide a copy of the individual's statement.

(*b*) The system manager may include a brief summary of its reasons for not making an amendment when disclosing disputed information. Summaries normally will be limited to the reasons stated to the individual. The system manager's summary will be treated as part of the individual's record; however, it will not be subject to the amendment procedures.





(*b*) *Disclosure to others.* (1) Except as prescribed in paragraph (a) of this section, this Part 1286 does not require disclosure of records to anyone other than the individual to whom the records pertain.

(2) No record contained in a system of records maintained within DLA will be disclosed by any means of communication to any person, or to any agency outside DLA, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be:

(i) To those officials and employees of the Department of Defense who have a need for the record in the performance of their official duties and the use is compatible with the purpose for which the record is maintained. This includes, for example, transfer of information between components when civilians or military personnel assigned or affiliated with one component are processed by an activity of another component such as Armed Forces Examination and Entrance Stations (AFEES), Air Terminals, or Defense Investigative Service (DIS).

(ii) Required to be disclosed to a member of the public by DLAR 5400.14. Some examples of personal information pertaining to military personnel which normally are released without an unwarranted invasion of privacy are: name, rank, date of rank, salary, present, and past duty assignments, future assignments which have been finalized, office phone number, source of commission, military and civilian educational level, and promotion sequence number. Disclosure of personal information pertaining to civilian employees shall be made in accordance with the Federal Personnel Manual.

(iii) For a routine use as defined in 1286.3 and decribed in section II H of Appendix A.

(iv) To the Bureau of the Census for purpose of planning or carrying out a census or survey or related activity authorized by law.

(v) To a recipient who has provided DLA with advance adequate written assurance that:

(*a*) The record will be used solely as a statistical research or reporting record.

(*b*) The record is to be transferred in a form that is not individually identifiable, (i.e., the identity of the individual cannot be determined by combining various statistical records).

(*c*) The record will not be used to make any decisions about the rights, benefits, or entitlements of an individual.

(vi) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services, or his designee to determine whether the record has such value. A record transferred to a Federal records center for safekeeping or storage does not fall within this category since Federal records center personnel act on behalf of DLA in this instance and the records remain under the control of DLA. No disclosure accounting record of the transfer of records to Federal records centers need be maintained.

(vii) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the Head of the agency or instrumentality has made a written request to a DLA element which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought. Blanket requests for all records pertaining to an individual will not be accepted. A record may also be disclosed to a law enforcement agency at the initiative of a DLA element which maintains the record when criminal conduct is suspected, provided that such disclosure has been established in advance as a "routine use".

(viii) To a person pursuant to a showing or compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of the individual to whom the record pertains.

(ix) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, or any joint committee. This does not authorize the disclosure of any record subject to this Part 1286 to members of Congress acting in their individual capacities or on behalf of their constituents.

(x) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office.

(xi) Pursuant to the order of a court of competent jurisdiction.

(*a*) When a record is disclosed under compulsory legal process and when the issuance of that order or subpoena is made public by the court which issued it, reasonable efforts will be made to notify the individual to whom the record pertains. This may be accomplished by notifying the individual by mail at his most recent address as contained in DLA records.

(*b*) Upon being served with an order to disclose a record, the system manager will endeavor to determine whether the issuance of the order is a matter of public record and, if it is not, seek to be advised when it becomes public. An accounting of the disclosure will be made at the time the system manager complies with the order or subpoena.

(3) Each system manager, with respect to each system of records under his control will:

(i) For all disclosures under paragraph (b)(2) of this section, except those under paragraphs (b)(2)(i) and (ii) of this section, keep an accurate accounting of the following:

(*a*) The date of the disclosure.

(*b*) The nature of the disclosure; that is what was disclosed and how; for ex-



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ample, oral disclosure by telephone of home address. Other examples of disclosure include visual review of the record, written, transfer of data through telecommunications network, etc.

(c) The purpose of this disclosure. Describe the condition of the disclosure as listed in paragraphs (b)(2) (iii) thru (xi) of this section. If disclosure is for a routine use published in a records systems notice, briefly describe the specific routine use.

(d) The name and address of the person or agency to whom the disclosure is made. A system manager need not make a notation on a single document of every particular record, provided he can construction from the system for the required accounting information.

(ii) Retain the accounting made under paragraph (b)(3)(i) of this section for at least 5 years after the last disclosure or the life of the record, whichever is longer. No record of the disclosure of this accounting need be maintained.

(iii) Upon request of the individual to whom the record pertains, make available to that individual all information in the accounting of disclosures except that pertaining to disclosures for law enforcement purposes pursuant to paragraph (b)(2)(vii) of this section, and systems that have been determined to be exempt from these provisions under subsections (j) and (k) of the Act.

(4) Names and Addresses. An individual's name and address may not be sold or rented by DLA unless such action is specifically authorized by law. Requests for home addresses may be referred to the last known address of the individual for reply at his discretion and the requester will be notified accordingly. This provision will not be construed to require the withholding of names and addresses otherwise permitted to be made public.

(c) *Collection of personal information from individuals.* (1) *Collection Directly from Individuals.* Personal information shall be collected to the greatest extent practicable directly from the individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The collection of information from third parties should be minimized. Exceptions to this policy may be made under certain circumstances, such as the following:

(i) There is need to ensure accuracy of information supplied by an individual by verifying with a third party, such as in the case of verifying information for a security clearance.

(ii) The nature of the information is such that it can only be obtained from a third party, such as an evaluation of employee's performance in a previous job or assignment.

(iii) Obtaining the information from the individual would present exceptional practical difficulties or would result in unreasonable costs.

(2) *Informing Individuals From Whom Information is Requested.* Each individual who is asked to supply personal information must be told of:

(i) The authority (statute or Executive Order) which authorizes its solicitation.

(ii) The principal purpose or purpose for which it is to be used.

(iii) The routine uses, to be made of it.

(iv) Whether furnishing such information is mandatory or voluntary and the effects on him, if any, of not providing it. This notice to the individual will be made on a separate form which can be retained by the individual. This advice must be given on all media used in requesting information whether it is a "form" in the usual sense (i.e., a preprinted document with a control number and an edition date) or a format, questionnaire, survey sheet, or report rendered on a blank sheet. Supplying personal information is when individuals personally complete the fill-in information about themselves on the form or when the individuals furnish the information about themselves verbally as in an interview or question and answer type of arrangement.

(3) *Collection Documents in Use Prior to 27 Sep 75.* These documents in use before 27 Sep 75 and which are to be used on and after that date, must meet the notice requirements by use of a separate statement to go along with each such document subject to the provisions of the Act. The statement will be assigned the identifying form number/RCS/OMB Appeal Number/Form Letter Number used in collecting the information and the suffix "Privacy Act Statement", as follows:

(i) For forms in regularly-issued, numbered series, the Privacy Act Statement will bear the same number and edition date as the form to which it pertains, except as provided in paragraph 2 of Appendix B Example: For DD Form 398, Statement of Personal History, the applicable notice to each individual asked to complete the form will be identified as "DD Form 398—Privacy Act Statement" in the lower left-hand corner.

(ii) For unnumbered formats, questionnaires, surveys, and reports which are not in the regularly-issued form number series, the Privacy Act Statement will bear the report control symbol or OMB Approval Number under the authority for which the information is collected, if applicable.

*Example:* For the Air Force Junior ROTC Survey for AFJRDTC Cadets (Format A), the applicable notice to each individual asked to complete the questionnaire will be identified as "OMB Approval No. 21-RO268—Privacy Act Statement". Same reports are assigned Reports Control Symbol (RCS) numbers or OMB Approval Numbers. If these reports are controlled in a regular numbered form series, then the Privacy Act Statement will bear the form number reference in lieu of the RCS or OMB Number.

(4) *Preparation of Privacy Act statements.* (i) The proponent (i.e., the initiator) has the final responsibility for determining whether a form, format, questionnaire, survey, or report requires a Privacy Act Statement. The proponent must consult his counsel, particularly for validation of the authority for asking for the information. Statements must be sufficiently complete and specific but, at the same time be concise and couched in easily understood language.

(ii) Forms and information management officers at all echelons must assure that Privacy Act Statements are available for issuance with new forms, when required.

(iii) No Department of Defense component may deny any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his SSN, unless such disclosure is:

(*a*) Required by Federal statute.

(*b*) To any component maintaining a system of records in existence and operating before 1 Jan 75, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual. Executive Order No. 9397, 22 Nov 43, authorizes components to use SSN as a system of numerical identification of individuals.

(iv) Any component which requests an individual to disclose his SSN must inform that individual:

(*a*) Whether that disclosure is mandatory or voluntary.

(*b*) By what statutory or other authority such number is solicited.

(*c*) What uses will be made of it.

(v) If disclosure of the SSN is not required by Federal statute or is not for a system of records in existence and operating prior to 1 Jan 75, proponents are nevertheless not precluded from requesting it from individuals concerned. However, the separate Privacy Act Statement for the SSN alone, or a merged Privacy Act Statement, covering not only the SSN but also other items of personal information, must make clear that the disclosure of the SSN is voluntary. If, in such instances, the individual refuses to disclose it, the proponent concerned must be prepared to identify him by alternate means.

(d) *Exemptions.* The Director, DLA will designate the DLA records which are to be exempted from certain provisions of the Act, and DLA-XA will publish in the FEDERAL REGISTER, information specifying the name of each designated system, the specific provisions of the Act from which each system is to be exempted, and the reasons for each exemption of the record system.

(1) *General Exemptions.* To qualify for a general exemption, as defined in the Act, the system of records must be maintained by a system manager who performs as his principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities. Such system of records must consist of:

(i) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and containing only identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole, and probation status.

(ii) Information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual.

(iii) Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

(2) *Specific Exemption.* To qualify for a specific exemption, as defined by the Act the systems of records must be:

(i) Specifically authorized under criteria established by an Executive Order to be kept classified in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order.

(ii) Investigatory material compiled for law enforcement purposes other than material covered under a general exemption. However, an individual will not be denied access to information which has been used to deny him a right or privilege unless disclosure would reveal a source who furnished information to the Government under a promise that the identity of the source would be held in confidence. For investigations made after 27 Sep 75, the identity of the source may be treated as confidential only if based on the expressed guarantee that the identity would not be revealed.

(ii) Maintained in connection with providing protective services to the President of the United States or other individuals protected pursuant to 18 U.S.C. S3056.

(iv) Used only to generate aggregate statistical data or for other similarly evaluative or analytic purposes, and which are not used to make decisions on the rights, benefits, or entitlements of individuals except for the disclosure of a census record permitted by 13 U.S.C. S8.

(v) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Military Service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the source would be held in confidence, or prior to 27 Sep 75, under an implied promise that the identity of the source would be held in confidence.

(vi) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing of elimination process.

(vii) Evaluation material used to determine potential for promotion in the Armed Services, but only the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or prior to 27 Sep 75, under an implied promise that the identity of the source would be held in confidence. System managers will specify those categories of individuals for whom pledges of confidentiality may be made when obtaining information on an individual's suitability for promotion.

(e) *System of Records*—(1) *Content.* (i) Systems managers will maintain in its records systems only such information as is relevant and necessary to accomplish a purpose or mission required by statute or Executive Order of the President.

(ii) The proponent of each system of records will identify the specific provision of law, or Executive Order, which provides authority for the maintenance of information in each system of records.

(iii) Authority to establish and maintain a system of records does not convey unlimited authortiy to collect and maintain all information which may be useful or convenient to have. The proponent of each system of records will evaluate each category of information in a system for both necessity and relevance. In performing this evaluation the following points will be considered:

(*a*) Relationship of each item of information to the statutory or regulatory purpose for which the system is maintained.

(*b*) Specific adverse consequence of not colecting each category of information.

(*c*) Possibility of meeting the information requirement through use of information not individually identifiable or through sampling techniques.

(*d*) Length of time that the information is needed and, where appropriate, techniques for purging parts of the record.

(*e*) Financial cost of information maintenance compared to risk or adverse consequence of not maintaining it.

(*f*) Necessity and relevance of this information to all individuals included in the system.

(iv) Collection will be discontinued for each category or item of information which, after the above evaluation, does not appear to be fully justifiable. Moreover, such information will be withdrawn and destroyed, provided it can be economically segregated from necessary and relevant information.

(v) The evaluation prescribed above will be performed by each proponent of a system of records:

(*a*) During the design phase of a new system of records or a change in an existing system of records.

(*b*) Annually, prior to the republication of all system notices in the FEDERAL REGISTER.

(2) *Publication of record system notices*—(i) *General.* A notice of the existence of each system of records, as defined in § 1286.3(d) must be published in the FEDERAL REGISTER.

(ii) *Record System Notices.* System managers proposing new systems will prepare system notices according to Appendix A at least 60 days before the proposed system change may be legally implemented. Initial system notices will be submitted to DLA-XA.

(iii) *Change to Existing Systems Requiring Advanced Public Notice*

(a) The following proposed changes to an existing system must be published in the FEDERAL REGISTER for public comment at least 30 days before the changes are implemented:

(*1*) Those which expand the categories of individuals on whom records are maintained.

(*2*) Those which add new categories of records to the system.

(*3*) Those which add new categories of sources.

(*4*) New or changed routine uses which involve disclosure to a new category of recipient.

(*5*) Changes in procedures governing access.

(b) Notices of proposed changes to existing systems will be submitted to DLA-XA, in accordance with Appendix A.

(iv) *Changes to Existing Systems Not Requiring Advanced Public Notice.* Changes in records systems not stated in paragraph (e)(2)(iii) of this section do not require advance publication, but must be submitted for inclusion in the annual consolidated listing of records systems. Accordingly, each system manager will ensure that all such changes are forwarded to DLA-XA by 15 March of each year for annual publication in the FEDERAL REGISTER.

(v) *Reports Concerning New and Changed Systems.* Concurrently with paragraph (e)(2)(ii) and (iii) of this section, DLA-XA will provide OASD (C) advanced notice of proposals to establish new systems or to change routine uses of existing systems.

(vi) *DLA Issuances.* DLA-XA will ensure that information contained in each system notice, as published in the FEDERAL REGISTER, is incorporated and published in DLAR 5400.22, Privacy Act System of Records Notices, to ensure uniform system use and maintenance. All DLA activities will take immediate action to discontinue any system of records not contained in DLAR 5400.22.

(3) *Standards of accuracy.* (i) Records used by system managers in making determinations about an individual will be maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to ensure fairness to the individual in any determination.

(ii) Prior to disseminating any record about an individual to any person other than a Federal agency, unless the dissemination is made pursuant to DLAR 5400.14, reasonable efforts will be made to ensure that such records are accurate, complete, timely and relevant for DLA purposes.

(4) *Restriction on maintenance of certain records.* Maintenance of records describing how individuals exercise rights







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guaranteed by the First Amendment are prohibited unless expressly authorized by Federal statute or by the individual concerned, unless pertinent to and within the scope of an authorized law enforcement activity. The exercise of these rights includes, but is not limited to, religious and political beliefs, freedom of speech and the press, and the right of assembly, and to petition.

(5) *Rules of conduct.* Heads of HQ DLA PSEs and Heads of PLFAs will assure that persons including Government contractors or their employees, involved in the design, development, operation, or maintenance of any system of records, as defined in § 1286.3, are informed of all requirements to protect the privacy of the individuals who are subjects of the records. The following sanctions will be emphasized to personnel:

(i) There are criminal penalties for knowingly and willfully disclosing a record about an individual without the written consent or the written request of that individual, or unless disclosure is for one of the reasons listed in paragraph (d) of this section.

(ii) DLA may be subject to civil suit due to failure to comply with the Act.

(6) *Safeguarding personal information in records systems.* (i) System managers will establish administrative and physical safeguards to protect information from unauthorized or unintentional access, disclosure, modification, or destruction. These safeguards will apply to systems of records, in whatever medium in which personal information is processed or stored. Such safeguards will be tailored to the requirements of each system of records. Where a greater degree of protection is not prescribed by other regulations, as a minimum, all records will be afforded the same degree of protection as "For Official Use Only" documents.

(ii) Access to personal information will be restricted to those persons whose official duties require access and the individual concerned in accordance with paragraph (b) of this section.

(iii) System managers will ensure that all persons whose official duties require access to or processing and maintenance of personal information are trained in the proper safeguarding and use of such information.

(iv) Personal records and documents will be stored so as to reasonably preclude unauthorized disclosure.

(v) Disposal of records containing personal information which are no longer required will be accomplished in such a manner that will prevent the contents from being disclosed (e.g., tearing or shredding the record into pieces or burial or in the case of magnetic tapes by degaussing).

**§ 1286.6 Forms and reports.**

(a) An annual report will be prepared by DLA–XA for the preceding calendar year on its implementation of the Privacy Act of 1974 as follows:

(1) *Summary.* A brief management summary of the status of actions taken to comply with the Act, the results of these efforts, any problems encountered and recommendations for any changes in legislation, policies, or procedures.

(2) *Accomplishments.* A summary of major accomplishments; i.e., improvements in agency information practices and safeguards.

(3) *Plans.* A summary of major plans for activities in the upcoming year, e.g., area of emphasis, additional securing of facilities planned.

(4) *Exemptions.* A list of systems which are exempted during this year from any of the operative provisions of this law permitted under the terms of subsections (j) and (k) of the Act, whether or not the exemption was obtained during the year, the number of records in each system exempted from each specific provision and reasons for invoking the exemption.

(5) *Number of systems.* A brief summary of changes to the total inventory of personal data systems subject to the provisions of the Act, including reasons for major changes; e.g., the extent to which review of the relevance of and necessity for records has resulted in elimination of all or portions of systems of records or any reduction in the number of individuals on whom records are maintained.

(6) *Operational experiences.* A general description of operational experiences including estimates of the number of individuals (in relation to the total number of records in the system) requesting information on the existence of records pertaining to them, refusing to provide information, requesting access to their records, appealing initial refusals to amend records, and seeking redress through the courts.

(7) *Any available data, or estimates, of the costs of administering the Act.*

(b) Each PLFA will submit to HQ DLA, ATTN: DLA–XA during the last week in January, April, July, and October each year, a consolidated listing of those locally controlled and subordinate echelon forms affected by the Act. The listing will contain the form designation and number in numeric sequence, the edition date, and the complete title. Each group of forms will be identified by activity name. To provide the input for this consolidated listing, the forms management officer at all levels must prepare and maintain current, a listing of those forms for which they control and which are within the purview of the Act.

(d) The Reports Control Symbol for these reports will be RCS DD(A) 1379.

APPENDIX A

INSTRUCTIONS FOR PREPARATION OF RECORD SYSTEM NOTICES

SECTION I. GENERAL INSTRUCTIONS

A. For each system of records submit information in the sequence as shown in section II below. Show in this sequence even though an entry may not be required for all items.

B. Use keywords shown below (i.e., SYSNAME, RECORD-CATEGORY, etc.). Explanations of keywords are shown in parentheses, but do not use.

C. Do not use paragraph or subparagraph numbers or letters.

D. Do not underline any part of the text.

E. Do not use hyphenation at the end of a line or subdivide a word at the end of a line.

G. Each system of records notice will be typed double-spaced on a separate sheet(s) of paper, with the originating office symbol entered in the upper right corner.

H. Do not use military or Government terminology which may not be understood by the public. Authorized abbrevations may be used, provided they are first spelled out in each system notice, e.g., Defense Logistics Agency (DLA).

I. Refer to section III below for systems which may qualify for exemption.

J. Number the pages separately for each draft system notice.





K. New and revised system notices shall be prepared in accordance with instructions contained herein. All notices are to be submitted in full, i.e., no partial system notice shall be accepted).

L. For the purpose of identifying record systems and preparing system of records notices, there are five distinguished categories of record systems subject to the Act:

1. *Category 1.* Automated (ADP) systems of records identified by distinctive number and title and normally maintained according to ADP manuals. As a general rule, these systems are not individually or specifically identified by DLAM 5015.1. Files Maintenance and Disposition, although their output may be functionally identifiable through the manual. For preparation of systems notices, there are three recognizable types of ADP systems:

a. Class A and B systems managed by HQ DLA. Most of these systems are identified in the DoD Automated Data Systems Catalog LSPC 3–70–1.

b. Class C Systems. Individually designed, established, and maintained by DLA field activities.

c. DLA field activities systems which are not yet approved are classified as Class C systems, i.e., unauthorized systems.

2. *Category 2.* Exclusive of ADP Systems, those systems of records established and maintained pursuant to and specifically prescribed by statute, executive order, or DLAR.

3. *Category 3.* Exclusive of ADP Systems, those systems of records established under a function authorized by statute, Executive Order or DLAR rather than specifically prescribed by the statute, Executive Order or DSAR, that are accumulated DLA-wide by offices with similar or identical functions. Normally, decentralized segments of such systems vary only in scope and volume and not in content, for example, name files which are established in processing requests under the Freedom of Information Act. In most instances, these systems are identified in DLAM 5015.1.

4. *Category 4.* Exclusive of ADP Systems, those systems of records established and maintained entirely in response to local needs. Although often difficult to describe, these systems have certain common characteristics which can be used in identifying them for preparation of systems notices:

a. Normally, they are unique to the accumulating office.

b. They are not accumulated DLA-wide in other elements or activities which perform like functions.

c. They are seldom specifically identified in DLAM 5015.1.

5. *Category 5.* Those in the custody of DLA temporarily, which "belong" to other Federal agencies. For example, official civilian personnel files on DLA civilian employees belong to the U.S. Civil Service Commission. Most such systems are identified by DLAM 5015.1.

M. Responsibility for preparation of system of records notices.

1. For Category 1 (ADP) Systems of Records:

a. Managers of Class A and B systems of records are responsible for preparing system of record notices applicable to their automated data systems (ADS).

b. Proponents of Categories 2, 3, 4, and 5 (manual) systems of records are responsible for including in their systems of record notices all Class C and unauthorized ADP systems of records which, in effect, are automated segments of their systems of records.

c. Managers are responsible for preparation and submission of system of record notices applicable to those Class C and unauthorized ADP system of records which are not automated segments of a manual system of records.

2. For Category 2 and 3 system or records, the office having DLA-wide staff responsibility for the function or process involved is considered to be the system of records proponent. Such proponents are responsible for including in their system of record notices coverage of all decentralized segments of the particular system of records.

3. Proponents of Category 4 (local) systems of records are responsible for preparation and submission of system notices applicable to their systems.

4. For Category 5, the proponent is the Federal agency to which a system of records belongs. It is responsible for system of records notices applicable to its records that are temporarily in DLA custody. For example, the CSC will publish system of records notices applicable to all systems of records prescribed by the Federal Personnel Manual. OSC will not, however, be responsible for any modifications or additions to a CSC system of record. The DLA proponent of such modifications or additions is therefore responsible for preparing a system of records notice for the portion added by him. DSA proponents should contact the appropriate Federal agency for other systems of records temporarily in DSA custody to determine and fix responsibility for preparing applicable system of records notices. In instances where a Federal agency to which the records belong declines to cover a system of records temporarily in DLA custody, the DLA proponent will be responsible for preparing the applicable system of records notice.

SECTION II. SEQUENCE OF SUBMISSIONS AND INSTRUCTIONS

A. *Manual or Automated.* Indicate whether the system is manual or automated. An automated system would include records processed, maintained, or both, in a machine readable processing tapes and cards, etc. A manual system would include records processed, maintained, or both, in a human readable or vertical file cards, microfiche, roll microfilm, photographs, etc. A mechanized file which requires substantial human intervention for processing or maintenance is considered to be manual, rather than automated.

B. *Sysname (System Name).* Whenever applicable, identify the system by number and title prescribed in your files or records disposition manual. Use locally originated titles for files which are not described specifically and adequately in the manual or which are otherwise unique to the reporting office. If more than one system is covered by a file description, identify each system. If several files, separately described in DLAM 5015.1, are a part of a single system, identify the system only (see paragraph F below for identification of separate files which form a system). Provide system and file title in unclassified form. Do not use abbreviations, nicknames, or acronyms unless spelled out the first time used. Place acronyms in parentheses immediately following the title.

C. *Security.* Specify the Defense or other security classification for the system of records if classified pursuant to the provisions of DoD 5200.1–R, Information Security Program Regulation, DLAM 5205.1, Safeguarding of Classified Information, and implementing directives. Do not cite as a security classification For Official Use Only, Internal Working Paper, Eyes Only, or similar marking used for internal control or other handling purposes. If unclassified, including FOUO, state unclassified.

D. *Location.* If the system is maintained in a single location, provide the exact name of the office, organization, and correspondence or routine symbol. On the other hand, if it is geographically or organizationally decentralized, specify each type of organization or element that maintains a segment of the system. For example, if the system was comprised of clinical records, then medical centers and hospitals, and the National Personnel Records Center would be listed as locations. Where automated data systems encompass a central computer facility, with input/output terminals at several geographical locations, list by category, each location under this heading. In all instances where multiple locations are referred to by type of organization, state that official mailing addresses are in the Department of Defense directory in the appendix to the DLA system of record notices. However, in all cases, give the official mailing address if the office maintaining the system is not listed in the FEDERAL REGISTER. If the address is classified, so state. Be sure to list each type of organization maintaining a segment or duplicate of the system, since maintenance by a type of organization not reported herein will constitute a violation of the Act. When indicating domestic addresses, use the United States Postal Service two letter state abbreviation and the Zip Code.

E. *Individual-Category (Categories of Individuals Covered by the System).* The purpose of this requirement is to permit an individual to determine whether or not information on him might be in the system of records. Categories of individuals, therefore, should be stated in easily understood, nontechnical terms and include all categories of individuals on whom records are maintained. Avoid using broad general descriptions, such as "all civilian personnel" unless the system applies to all civilian personnel. For example, Civilian Individual Pay Record applies to all civilian employees of DLA, while a system of records of Individual Retirement Records would apply only to civilian employees covered by the Civil Service Retirement program. All categories of individuals included in the system must be listed, regardless of the frequency of inclusion or the number of records involved. All future changes to the system, which broaden or increase the categories of individuals covered, will require preparation and publication of a revised record system notice in the FEDERAL REGISTER.

F. *Record Category (Categories of Records in the System).* Briefly describe in nontechnical terms all types of records in the system. For example, under the Automatic Payroll Cost and Personnel System (APCAPS), the types would include, but not be limited to individual pay record, substantiating documents, such as certificates for deductions and retained leave and earning statements, records of travel payments, personnel actions, and time and attendance cards. For automated systems, do not list source documents unless they are retained and filed by name, SSN, or other individual identifier. Instead, list the categories of information stored in the system. Be sure to include all types of records in the system regardless of their frequency or volume of accumulation, since future additions of new types of records will require preparations and publication of revised public notices in the FEDERAL REGISTER.

G. *Authority (Authority for Maintenance of the System).* Cite the specific provision of a Federal statute or Executive Order of the President, including the title thereof which authorizes, or provides a legal basis for, maintenance of the system. Do not cite regulations. In this connection, authority for a system may be derived from a statute or Executive Order which:

1. Explicitly authorizes or directs the agency to maintain a system of records.



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2. Authorizes or directs DLA to perform a function, the discharge or which requires maintenance of the system of records.

NOTE.—Check with the appropriate Counsel for assistance in determining the statutory or regulatory basis for the system.

H. *Routine Uses (Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses)*

1. Essentially, this requirement calls for the following information in nontechnical terms:

a. The purpose(s) for which information in the system is collected.

b. Each category of user.

c. The specific use(s) made of the information by each user.

2. Each category of user and each use must be reported. Any proposed new use or category of user, or change in an existing use, which has the effect of expanding the availability of the information in the system, will require publication of a revised notice in the FEDERAL REGISTER. Any such proposed change in a routine use must also be described in an advanced notice in the FEDERAL REGISTER to permit 30 days for public comment before it is implemented.

3. As defined by 5 U.S.C. 522a, the term "routine use" means with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

4. "Uses" can be distinguished from "purposes" in that "purposes" describe the objective for collecting or maintaining information. "Uses" are the specific ways or processes in which the information is employed, including the persons or organizations to whom the record may be disclosed. For example, the purposes for collecting information may be to evaluate an application for a veteran's benefit and to issue checks. "Uses" might include verification of certain information with the appropriate Military Service and release of check data to the Department of the Treasury. List under routine uses if contractors are engaged to perform a service, such as key punch, optical scan, or telecommunications in connection with the operation of an automated data system. List also Federal agencies to which personal-type information is disclosed, including automated system interfaces, and the purposes for which the disclosures are made.

5. Each proponent of a system (i.e., that office or organization proposing, directing, or otherwise responsible for the system) must prescribe the "routine" uses of the records. Routine use does not merely encompass the common and ordinary uses to which records are put, but also includes all of the proper and necessary uses regardless of frequency. For example, individual income tax returns are routinely used by the Internal Revenue Service to audit the amount of tax due and for assistance on collection of such tax by civil proceedings. They are used less often, however, for referral to the Department of Justice for possible criminal prosecution of fraud or tax evasion. Therefore, the "routine" use of such records would include referrals to the Department of Justice. In addition, description of "routine use" shall include the fact that any individual records in a system of records might be transferred to any component of the Department of Defense. It should be expected normally that "routine use" would include disclosure to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

I. *Policy-practice (Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System).* Describe how records in the system are managed during their life-cycle. When feasible, extract pertinent information from your files or DLAM 5015.1.

1. *Storage.* In describing records storage, specify the medium in which they are maintained, such as paper records in file folders, visible or vertical file cards, computer magnetic tapes, or disks, computer paper printouts, aperature cards, microfiche, roll microfilm, photographs, video-tape, etc.

2. *Retrievability.* Specify how information is accessed and retrieved, such as by name, SSN, Military Service number, or other identification number, classification or personal characteristics, such as fingerprint classification, voice print identifier, etc. Indicate further whether conventional or computerized indices are required to retrieve individual records from the system.

3. *Safeguards.* Describe what measures are taken to prevent unauthorized disclosure of the records and state the categories of individuals authorized access to the records. Specify system safeguards, such as safes, vaults, locked cabinets or rooms, guards, personnel screening, visitor registers, computer "fail-safe" systems software, etc.

NOTE.—Do not describe security safeguards in such detail as to increase the risk of unauthorized access to the records.

4. *Retention (Retention and Disposal).* State rules on how long the records are to be maintained; if and when they are moved to Federal Records Centers, or to the National Archives or other designated depository; and if, when and how they are destroyed, or otherwise disposed of. Changes in this item will not normally require immediate publication of a revised public notice unless they reflect an expansion in the availability of or access to the system of records.

J. *Sysmanager (Title and Duty Address of the Agency Officials Responsible for the System).* In all cases, enter the title of the official who is responsible for policies and procedures governing the system; i.e., Staff Director, Civilian Personnel, HQ DLA. If the title of the official is unknown or unknowable (such as for locally evolved systems), specify the Commander or the Head of the Office as the responsible official. In addition, for geographically or organizationally decentralized system, where individuals may deal directly with agency officials at each location to exercise their rights under the Act, give the position or duty title of each category of official responsible for the system, or a segment thereof. For example, in the case of individual accident case report records, the entries should be: Staff Director, Civilian Personnel, HQ DLA, and Safety Officers of PLFAs. Do not include the duty address if already listed in organizational directories metntioned in paragraph D above.

K. *Notification (Procedure Whereby Individuals Can Be Notified at Their Request If the System Contains Records Pertaining to Them).*

1. Indicate whether or not requests from individuals should be addressed to the above SYSMANAGER as in paragraph J above. If requests are to be addressed to any other officials, list them by duty or position titles.

2. Specify what information will be required from the requesting individual to determine whether or not the system contains a record about him, such as full name, military status, SSN or service number, resident or nonresident, etc.

3. List by specific name, or categories, those offices which the requester may visit to obtain information on whether the system contains records pertaining to him or her.

4. For personel visits, specify what data the requester must present as proof of identity, such as a combination of full name, date and place of birth, parent's name, driver's license, or medicare card, etc. Do not require verification of identity for records which are disclosable under the Freedom of Information Act.

L. *Access (Procedures Whereby an Individual Can be Notified at His Request How He Can Gain Access to Any Record Pertaining to Himself contained in the system of records).* Include the title or category of officials who can provide assistance, if those officials are other than the SYSMANAGER above. If the mailing addresses are listed in the organizational directory, state that official mailing addresses are in the Department of Defense directory in the appendix to the DLA systems notice. Specific locations and telephone numbers of offices may be indicated for unique or centralized systems.

M. *Contest (Rules For Access and Contesting Contents of Records).* To comply with this requirement, merely, state: "The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER".

N. *Source (Categories of Sources of Records in the System).* List by type each source of information in the system, e.g., previous employers, financial institutions, educational institutions, trade associations, automated system interfaces, etc. Specific individuals or institutions need not be identified by name. Again, be sure to include all types, since collection of information from types of sources other than listed will require publication of a revised public notice in the FEDERAL REGISTER before any information is collected from those sources.

### SECTION III. SYSTEMS QUALIFIED AND PROPOSED FOR EXEMPTION

Generally, the following records may be exempted from the provisions of K, L, and N of section II above (subsection (e)(4) (G), (H), and (I) of the Act):

1. Records maintained by the Central Intelligence Agency.

2. Records compiled to ensure protection of the President or other officials, classified records, records required by statute to be maintained and used solely as statistical records.

3. Investigatory records, compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Military Service, Federal contracts, or access to classified information, but only to the extent as outlined in subsection (k)(5) of the Act.

4. Certain testing and examination material.

5. Certain material used to evaluate potential for promotion in the Armed Services. (All items in section II, above will be completed for systems proposed for exemption, except for K, L, M, and N). Cite the system name and specific provisions of the Act, from which the system is to be exempted and the reasons therefor. Consult with Counsel for detailed guidance for systems which may be eligible for exemption. Proponents of systems dealing with the above types of records should contact the appropriate records management staff for addition guidelines, if necessary, for preparing exemption notices for publication in the FEDERAL REGISTER. (NOTE: No system of records is exempted from the public notice requirements of the Act). Failure to publish a notice constitutes a criminal violation.

### APPENDIX B

### DETAILED INSTRUCTIONS FOR FORMS AND INFORMATION REQUIREMENTS SUBJECT TO THE PRIVACY ACT OF 1974

1. Fill-in information on the preprinted blank Privacy Act Statement format will be completed by the *functional element* responsible for the form. It will be completed by typewriter, for use as camera copy to reproduce and distribute to users to the form to which the statement applies.

2. The forms management office will assign an edition date in the block provided, and when revised, a new edition date will be assigned. Edition dates assigned the Privacy Act Statements may differ from the date of the form described in the Statement since each may be revised without revision to the other. The same edition dates will be assigned to both form and related statement when processed simultaneously as new or revised actions. When Privacy Act Statements are revised, previous editions will always be obsoleted. A supersession notice obsoleting the previous edition will be shown in the bottom border of the statement in the same manner as shown on forms when superseding a previous edition. No form number is assigned to the blank Privacy Act Statement format since it may be confused with the applicable form number entered in the space provided in the lower left hand corner.

3. When referencing a specific approved Privacy Act Statement, it will be referred to by the related form number followed by the words "Privacy Act Statement". For example, if DLA Form 0000 is entered in the lower left corner of the Statement, the Statement will thereafter be referred to as DLA Form 0000-Privacy Act Statement. This will facilitate the requisitioning of supplies of the filled-in printed Statement and for making references in correspondence.

4. Strict attention is invited to item number 1 on the Statement, "Authority". This item, when completed, *must* be coordinated with Counsel for validation. The entry in the "Authority" block must be a "Statute" or "Executive Order". When a SSN is requested, in addition to other items of personal information, the authority for requesting the SSN, if different from the authority for the other items, will also be shown in this block. When a SSN is the only personal information requested, *only* item numbers 1, 3, and 4 of the Privacy Act Statement apply.

5. A supply of *blank* "Privacy Act Statements" will be maintained by the local forms management office for issuance on request from functional staff elements. PLFAs will locally reproduce future needs of the blank statement. HQ DLA and DASC staff elements will obtain additional supplies from DLA-XA.

6. *Completed* and officially approved statements applicable to DD, DLA, DLAH, and DSC forms will be processed for initial distribution in accordance with information contained in block 9 of DLA Form 1424, Request for Processing Privacy Act Statement. HQ DLA and DASC staff elements can obtain additional copies from DASC-PD. Completed statements applicable to DD and DLA forms will be initially distributed to PLFAs, who will redistribute needs to subordinate echelons. PLFAs will locally reproduce additional needs. PLFAs will develop local procedures for printing and distributing supplies of completed and approved Privacy Act Statements applicable to locally designated and controlled forms.

7. DLA Form 1424 will be prepared by functional elements responsible for each statement. It will serve as a source document for preparing a requisition for reproduction and distribution of the approved *completed* statement to all users of the form to which it is applicable. The forms management office will be the source of supply for blank copies of DLA Form 1424.

8. HQ DLA and PLFA forms management offices will maintain a file on each approved Privacy Act Statement along with a copy of the supporting DLA Form 1424, DD Form 843, Requisition for Printing and Binding Service, and DD Form 844, Requisition for Local Duplicating Service. The method of filing is left to the discretion of local forms management officers.

### APPENDIX C

### EXEMPTED RECORD SYSTEMS

All systems of records maintained by the Defense Logistics Agency shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(k)(1) to the extent that the system contains any information properly classified under Executive Order 11652, and which is required by the Executive Order to be kept secret in the interest of national defense or foreign policy. This exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions herein may contain isolated items of information which have been properly classified.

A. *ID:* S150.20 DLA-T (Specific Exemption)

*Sys name:*

Security Violation Files.

*Exemption:*

This system of records is exempted from the following provisions of the title 5, United States Code, section 552a: (c)(3); (d); and (e)(1).

*Authority:*

5 U.S.C. 553a(k)(2).

*Reasons:*

Granting individuals access to information relating to law enforcement could interfere with ongoing investigations and the orderly administration of justice, in that it could result in the concealment, alteration, destruction, or fabrication of information; could hamper the identification of offenders or alleged offenders and jeopardize the safety and well being of informants, witnesses and their families and investigative personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources and methods used by this component and could result in the invasion of privacy of individuals only incidentally related to an investigation. Investigatory material is exempt to the extent that the disclosure of such material would reveal the identity of a source who furnished the information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975 under an implied promise that the identity of the source would be held in confidence. This exemption will protect the identities of certain sources who would be otherwise unwilling to provide information to the Government. The exemption of the individual's right of access to his records and the reason therefor necessitate the exemptions of this system of records from the requirements of the other cited provisions.

B. *ID:* § 153.01 DLA-T (Specific Exemption)

Sys Name:

Personnel Security Files.

*Exemption:*

This system of records is exempt from the following provisions of title 5, United States Code, section 552a subsection (d).

*Authority:*

5 U.S.C. 552a (k) (2) and (5).

*Reasons:*

Investigatory material is exempt to the extent that the disclosure of such material would reveal the identity of a source who furnished the information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975 under an implied promise that the identity of the source would be held in confidence. This exemption will protect the identities of certain sources who would be otherwise unwilling to provide information to the Government. Investigatory material is exempt to the extent that the disclosure of such material would reveal the identity of a source who furnished the information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975 under an implied promise that the identity of the source would be held in confidence. This exemption will protect the identities of certain sources who would be otherwise unwilling to provide information to the Government. The exemption of the individual's right to access to his records and the reason therefor necessitate the exemption of this system of records from the requirements of the other cited provisions.

D. *ID:* S155.53 DLA-NS (Specific Exemption)

*Sys name:*

Industrial Personnel Security Clearance File.

*Exemption:*

This system of records is exempt from the following provisions of title 5, United States Code, Section 552a; subsection (d).

*Authority:*

5 U.S.C. 552a(k)(5).

*Reasons:*

Investigatory material is exempt to the extent that the disclosure of such material would reveal the identity of a source who furnished the information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975 under an implied promise that the identity of the source would be held in confidence. This exemption will protect the identities of certain







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sources who would be otherwise unwilling to provide information to the Government.

By order of the Director.

Dated: July 20, 1977.

WILLIAM A. SMITH,
*Chief, Administrative Management Division, Office of Administration.*

MAURICE W. ROCHE,
*Director, Correspondence and Directives, Office of Assistant Secretary of Defense (Comptroller).*

[FR Doc.77-21394 Filed 7-25-77;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Materials Transportation Bureau

### [ 49 CFR Part 175 ]

[Docket No. HM-131; Notice No. 75-10]

### CARRIAGE BY AIRCRAFT

### Proposed Inspection and Monitoring Requirements for Radioactive Materials—Withdrawal of Notice

*Correction*

In FR Doc. 77-20676 appearing at page 37426 in the issue for Thursday, July 21, 1977, the effective date now reading "July 20, 1977" should have read "July 21, 1977".

### [ 49 CFR Part 175 ]

[Docket No. HM-152; Notice No. 77-6]

### CARRIAGE BY AIRCRAFT

### Requirements for Radioactive Materials

*Correction*

In FR Doc. 77-20677 appearing at page 37427 in the issue for Thursday, July 21, 1977, make the following corrections:

(1) On page 37428, first column, the 16th and 17th lines of the second full paragraph are transposed and therefore should be reversed.

(2) Also on page 37428, in the table, in the third column opposite "Half life", the reference to "30 d" means "30 days".





# notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## ADVISORY COUNCIL ON HISTORIC PRESERVATION

### EXECUTED MEMORANDA OF AGREEMENT

Pursuant to Section 800.6(a) of the Council's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR Part 800), notice is hereby given that the following Memoranda of Agreement were executed during the months of April and May 1977. The Memoranda of Agreement were executed in fulfillment of Federal agencies' responsibilities for protection of properties on or eligible for inclusion in the National Register of Historic Places in accordance with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f, as amended, 90 Stat. 1320).

*Rapid City Historic Commercial District*, Pennington County, South Dakota, affected by the proposed amendment of the Rapid City, South Dakota, Urban Renewal Plan, undertaken by the Department of Housing and Urban Development (4/8/77).

*Crab Bay Petroglyph*, Alaska, affected by the proposal to permit the Alaska Lumber & Pulp Company to locate a logging camp, log transfer point, gravel borrow pit, water outfall line, and associated roads in the vicinity of the Crab Bay Petroglyph, undertaken by the U.S. Department of Agriculture, Forest Service (4/11/77).

*Historic Districts*, Richmond, Wayne County, Indiana, affected by housing rehabilitation program using Community Development funds, undertaken by City of Richmond, Indiana, Department of Community Development (4/18/77).

*Laclede's Landing Historic District*, St. Louis, Missouri, affected by the proposed demolition of three structures in order to construct an access road along the south side of Martin Luther King Drive, St. Louis, Missouri, undertaken by U.S. Department of Transportation, Federal Highway Administration (4/18/77).

*Historic Properties*, Fond du Lac County, Wisconsin, affected by the proposed funding of a Supported Work Program using 1977 Community Development Block Grant funds, undertaken by the City of Fond du Lac (4/18/77).

*Lynwood Pacific Electric Railway Depot*, Los Angeles County, California, affected by the proposed construction of I-105, El Segundo-Norwalk Freeway, undertaken by the U.S. Department of Transportation, Federal Highway Administration (5/3/77).

*Old Post Office Building*, Santa Rosa, California, affected by the Santa Rosa Center Project (Urban Renewal Project No. Calif. R-45), undertaken by the U.S. Department of Housing and Urban Development (5/6/77).

*Washington Hose & Steam Fire Engine Company Number One*, Montgomery County, Pennsylvania, affected by Urban Renewal Plan, undertaken by the U.S. Department of Housing and Urban Development (5/3/77).

*Woonasquatucket Bridge*, Providence, Providence County, Rhode Island, affected by the proposed replacement of the existing bridge, undertaken by the U.S. Department of Transportation, Federal Highway Administration (5/3/77).

*Endion Passenger Depot and Branch's Hall*, Duluth, St. Louis County, Minnesota, affected by the construction of Interstate Highway 35, undertaken by the U.S. Department of Transportation, Federal Highway Administration (5/18/77).

*F. C. Hayer Building*, Minneapolis, Hennepin County, Minnesota, affected by the development of I-394 highway section, undertaken by U.S. Department of Transportation, Federal Highway Administration (5/18/77).

*Club Marquette (St. Ann's Gymnasium)*, Woonsocket, Providence County, Rhode Island, affected by the proposal to widen Cumberland Avenue, undertaken by the redevelopment Agency of the City of Woonsocket (5/23/77).

*El Paso Union Passenger Station*, El Paso, Texas, affected by the abandonment of railroad line, undertaken by the Interstate Commerce Commission (5/23/77).

*Ville de San Augustin Historic District*, Loredo, Webb County, Texas, affected by the construction of U.S. Border Station facility, undertaken by General Services Administration (5/23/77).

*Eligible Properties*, City and County of San Francisco, California, affected by the construction of the San Francisco Wastewater Management Program, undertaken by the Environmental Protection Agency (5/31/77).

*Cedarvale*, Bighorn Canyon National Recreation Area, Carbon County, Montana, affected by the proposed abandonment, undertaken by the U.S. Department of the Interior, National Park Service (5/31/77).

*Niobrara Cultural Resources*, Nebraska, affected by demolition and abandonment, undertaken by the U.S. Army Corps of Engineers (5/31/77).

*Eligible Properties*, Woonsocket, Providence County, Rhode Island, affected by the funding of a Neighborhood Improvement Program, undertaken by the Department of Planning and Development (5/31/77).

ROBERT M. UTLEY,
*Deputy Executive Director.*

[FR Doc.77-21403 Filed 7-25-77;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Federal Grain Inspection Service

### GRAIN STANDARDS

### Illinois Grain Inspection Point

Notice is hereby given that the Quincy Grain Inspection Department, which is designated under section 7(f) of the U.S. Grain Standards Act (7 CFR 79(f)) to operate as an official agency at Quincy, Illinois, has changed its name to Quincy Grain Inspection and Weighing Service. The change in name does not involve a change in management or ownership.

Done in Washington, D.C., on July 19, 1977.

D. R. GALLIART,
*Acting Administrator.*

[FR Doc.77-21406 Filed 7-25-77;8:45 am]

### Rural Electrification Administration

### PACIFIC NORTHWEST GENERATING CO.

### Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Draft Environmental Impact Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a proposed application for financing by the Rural Electrification Administration for Pacific Northwest Generating Co., P.O. Box 48, Hermiston, Oreg. 97838, to finance a 10 percent share of the Boardman Coal Plant, a 550 MW coal-fired, steam-electric generating station near Boardman in Morrow County, Oreg., and associated transmission lines all in the State of Oregon.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Environmental Impact Statement have been sent to various Federal, State, and local agencies, as outlined in the Council on Environmental Quality Guidelines. The Draft Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington,



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D.C., Room 4310, or at the borrower's address indicated above.

Comments concerning the environmental impact of the construction proposed should be addressed to Mr. Richter at the address given above. Comments must be received on or before September 26, 1977, to be considered in connection with the proposed action.

Final REA action with respect to this matter (including any release of funds) will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 15th day of July 1977.

RICHARD F. RICHTER,
*Acting Administrator, Rural Electrification Administration.*

[FR Doc.77-21488 Filed 7-25-77;8:45 am]

## DEPARTMENT OF COMMERCE

### Domestic and International Business Administration

### HARDWARE SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

#### Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, August 10, 1977, at 9 a.m., in Room 4833, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. sec. 2404(c)(1) and the Federal Advisory Committee Act. The Hardware Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving (A) technical matters (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (a) maintenance of the processor performance tables and further investigation of total systems performance; and (b) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The Subcommittee meeting agenda has four parts:

GENERAL SESSION

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Discuss program assignments.

EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formerly determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Subcommittee members have appropriate security clearance.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittee thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: July 21, 1977.

LAWRENCE J. BRADY,
*Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.*

[FR Doc.77-21511 Filed 7-25-77;8:45 am]

### TECHNOLOGY TRANSFER SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

#### Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975) notice is hereby given that a meeting of the Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, August 10, 1977, at 1 p.m., in Room 5611, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. The meeting will continue August 11, at 1:30 p.m., in Room 5230, Main Commerce Building, to its conclusion.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. sec. 2404(c)(1) and the Federal Advisory Committee Act. The Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee was initially established on April 10, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Technology Transfer Subcommittee was formed to examine the impact of transferring Automatic Data Processing technology to Communist destinations.

The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.





The Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that matters to be discussed in Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because Executive Sessions will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee in Executive Session have been properly classified under the Executive Order. All Subcommittee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone A/C 202-377-4196.

The complete Notice of Determination to close meetings or portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: July 21, 1977.

LAWRENCE J. BRADY,
*Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.*

[FR Doc.77-21512 Filed 7-25-77;8:45 am]

### TELECOMMUNICATIONS EQUIPMENT TECHNICAL ADVISORY COMMITTEE

#### Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Telecommunications Equipment Technical Advisory Committee will be held on Thursday, August 18, 1977, at 10 a.m., in Room 3817, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Telecommunications Equipment Technical Advisory Committee was initially established on April 5, 1973. On March 12, 1975, and March 16, 1977, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to telecommunications equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has four parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Discussion on draft sections of Findings—Volume I of the annual report.

EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on April 22, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone A/C 202-377-4196.

The complete Notice of Determination to close a series of meetings or portions of meetings of the Telecommunications Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on May 25, 1977 (42 FR 26682).

Dated: July 21, 1977.

LAWRENCE J. BRADY,
*Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.*

[FR Doc.77-21510 Filed 7-25-77;8:45 am]

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### AMENDMENT TO THE BILATERAL COTTON TEXTILE AGREEMENT WITH PAKISTAN

JULY 20, 1977.

ACTION: Removing bar mops (T.S.U.S.A. 366.1855) from the level of restraint established for Category 31 (terry towels, other than shop towels), exported from Pakistan during the agreement year which began on January 1, 1977.

SUMMARY: By an exchange of diplomatic notes, dated April 1 and May 4, 1977, the Governments of the United States and Pakistan have amended the Bilateral Cotton Textile Agreement of May 6, 1975 to exclude bar mops (T.S.U.S.A. 366.1855) from the level of restraint established for Category 31 (terry towels, other than shop towels) during the agreement year which began on January 1, 1977 and extends through December 31, 1977. Bar mops will continue to be charged to the Group II sublimit and to the aggregate ceiling of the agreement.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5423).

SUPPLEMENTARY INFORMATION: On January 4, 1977, a letter dated December 30, 1976 was published in the FEDERAL REGISTER (41 FR 830) from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs establishing levels of restraint for certain specified categories of cotton textile products, produced or manufactured in Pakistan and exported to the United States during the twelve-month period beginning on January 1, 1977 and extending through December 31, 1977, pursuant to the Bilateral Cotton Textile Agreement of May 6, 1975.

In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, effective on August 1, 1977 and for the period extending through December 31, 1977, not to charge bar mops (T.S.U.S.A. 366.1855) to the level of restraint established for Category 31 (terry towels,



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other than shop towels) in the directive of December 30, 1976.

ARTHUR GAREL,
*Acting Chairman, Committee for the Implementation of Textile Agreements.*

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

*July 20, 1977.*

COMMISSIONER OF CUSTOMS,
*Department of the Treasury,*
*Washington, D.C.*

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on December 30, 1976 by the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textile products, produced or manufactured in Pakistan

According to the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton Textile Agreement of May 6, 1975, as amended, between the Governments of the United States and Pakistan, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed, effective on August 1, 1977 and for the period extending through December 31, 1977, not to charge cotton textile products in T.S.U.S.A. 366.1855 to the level of restraint established for Category 31 (other) [1] in the aforementioned directive of

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implimentation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc.77-21444 Filed 7-25-77;8:45 am]

[1] All T.S.U.S.A. numbers in Category 31 except T.S.U.S.A. 366.2740. December 30, 1976

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-50315 FRL 768-4]

### ISSUANCE OF EXPERIMENTAL USE PERMITS

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 769-EUP-5. Woolfolk Chemical Works, Inc., Fort Calley, Calif. 31030. This experimental use permit allows the use of 1,600 pounds of the fungicide calcium polysulphide on soybeans to evaluate control of frogeye leaf spot. A total of 400 acres is involved; the program is authorized only in the State of Georgia. The experimental use permit is effective from June 16, 1977, to June 16, 1978. The use of lime-sulphur on soybeans is generally recognized as safe and a tolerance is not needed (40 CFR 180.2(a)).

No. 524-EUP-32. Monsanto Agricultural Products Co., St. Louis, Mo. 63166. This experimental use permit allows the use of 1.363 pounds of the herbicide alachlor, and 517 pounds of the herbicide linuron on soybeans and potatoes to evaluate control of annual grasses and certain broadleaf weeds. A total of 816 acres is involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from June 6, 1977, to June 6, 1978. Permanent tolerances for residues of the active ingredients in or on soybeans and potatoes have been established (40 CFR 180.249 and 40 CFR 180.184).

No. 7969-EUP-6. BASF Wyandotte Corp., Parsippany, N.J. 07054. This experimental use permit allows the use of 1,330 pounds of the herbicide sodium salt of bentazon on rice to evaluate control of certain broadleaf weeds, rushes, sedges, cattails, and water plantains. A total of 1,140 acres is involved; the program is authorized only in the States of California, Texas, Louisiana, Mississippi, and Arkansas. The experimental use permit is effective from June 15, 1977, to June 15, 1978. A permanent tolerance for residues of the active ingredient in or on rice has been established (40 CFR 180.355).

No. 1529-EUP-1. GAF Corp., New York, N.Y. 10020. This experimental use permit allows the use of 1,000 pounds of the plant regulator ethephon on tobacco. A total of 600 acres is involved; the program is authorized only in the States of Florida, Georgia, North Carolina, South Carolina, and Virginia. The experimental use permit is effective from June 15, 1977, to June 15, 1978.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such intetrested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: July 20, 1977.

MARTIN H. ROGOFF,
*Acting Director,*
*Registration Division.*

[FR Doc 77-21503 Filed 7-25-77;8:45 am]

[OPP-180133; FRL 768-5]

### MICHIGAN DEPARTMENT OF AGRICULTURE

#### Issuance of a Specific Exemption To Use Terramycin To Control Bacterial Spot on Peaches and Apricots

The Environmental Protection Agency (EPA) has granted a specific exemption to the Michigan Department of Agriculture (hereafter referred to as the "Applicant") to use no more than 92,925 pounds of Terramycin to control bacterial spot on 6,000 acres of peaches and apricots in Michigan. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulations to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, bacterial spot is caused by the bacterium *Xanthomonas pruni;* this plant pathogen affects leaves, fruit, and tender growing shoots. On sensitive varieties, a few lesions result in severe defoliation; heavy defoliation reduces fruit size and weakens the tree. Infected fruit develop cracks and a mottled appearance. Both these conditions render the fruit unmarketable. In Michigan, there are approximately 3,000 acres of susceptible varieties of peach crop, 2,800 acres of moderately susceptible varieties of peach crop, and 400 acres of very susceptible apricot crop. In six of the last seven years, there have been significant economic losses from crop failure on this acreage because of bacterial spot; in two of these years, growers experienced 65-100% crop loss. the Applicant stated. The disease appears to be endemic in this area and weather conditions favor disease development. The 6,000 acres are located in Berrien, Van Buren, Allegen, Kent, Oceana, Mason, and Lapeer counties in Michigan.

The Applicant stated that in the past bordeaux mix and dodine/captan tank mix were used in an unsuccessful attempt to control bacterial spot. Bordeaux mix was applied during dormacy, and while it reduced the initial inoculum, it was inefficacious for summer treatment. The dodine/captan tank mix was only suppressive and did not control the disease: in hot weather, this mixture was phytotoxic and caused as much defoliation as the disease itself, the Applicant said. Copper hydroxide has not been used in Michigan because of knowledge that it had caused defoliation elsewhere.

The Applicant proposed to use the product Myco Shield Agricultural Terramycin (containing the calcium complex of oxytetracycline), manufactured by Pfizer Chemical Division, at the rate of 12 ounces of active ingredient/100 gallons water per application per acre by ground application. There will be a maximum of 8 spray applications. Applications will be made by growers, some of whom are State-certified applicators. The Applicant's Plant Industry Division informed EPA that County Agricultural Agents will make all recommendations of Terramycin applications and base these determinations on personal observations, past history of the disease, and local weather conditions that are conducive to disease development.

In 1975, the peach crop was estimated as 27,500 tons on 14,300 acres and was valued at approximately $7,370,000; the apricot crop was estimated as 800 tons on 400 acres and was valued at about $160,000. Crop loss under severe disease conditions could be 65% on approximately 5,400 acres of peaches and 400 acres of apricots and could be valued at about $1,913,000. If the use of Terramycin is allowed, however, the economic value of crop loss could be reduced to approximately $441,445.

EPA has determined that, under heavy inoculum pressure, Terramycin (the calcium complex of oxytetracycline) would be needed to prevent large scale losses of peaches and apricots infected with bacterial spot. Tolerances for oxytetracycline hydrochloride were previously established at 0.35 ppm on pears; currently, a tolerance of 0.1 ppm in or on pears for the calcium complex of oxytetracycline has been proposed. Tolerances for peaches are pending. The use of this pesticide for this exemption is not expected to have any adverse effects to either man or the environment. Therefore, a residue level not exceeding 0.1 ppm has been determined by EPA to be adequate to protect the public health.

After reviewing the application and other available information, EPA has determined that: (a) A pest outbreak of bacterial spot on peaches and apricots has or is about to occur; (b) there is no pesticide presently registered and available for use to control the bacterial spot in Michigan; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the bacterial spot is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until July 31, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Myco Shield Agricultural Terramycin (containing the calcium complex of oxytetracycline), manufactured by Pfizer Chemical Division, is authorized;
2. Application rate shall be 12 ounces of active ingredient/100 gallons of water per application by ground spray;
3. A maximum of 8 spray applications shall be made;
4. A maximum of 6,000 acres in Michigan shall be treated, limited to the 7 counties listed above;
5. A maximum of 92,925 pounds of Terramycin product is authorized;
6. The duration of the application period shall be from the end of April until July 31, 1977;
7. Application shall be made by growers;
8. The Applicant's Plant Industry Division shall coordinate the program. County Agricultural Agents shall make recommendations on all Terramycin applications and base these determinations on observations, past history of the disease and local weather conditions. County agents shall promulgate a newsletter informing growers about the Terramycin program for peaches and apricots. Subsequently, all growers shall be requested to attend a meeting at which they will be advised of disease sysmptoms, proper dosages, application techniques, and other program criteria;
9. Workers shall not be allowed to enter orchards after Terramycin application until foliage is dry;
10. The Applicant shall inform Niagara (a subsidiary of FMC), sole distributor of this material, that records of the sale shall be kept and made available. These records shall include the name and address of the purchaser, and the quantity of material purchased;
11. A residue level of oxytetracycline not exceeding 0.1 ppm has been deemed adequate to protect the public health. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare, has been advised of this action;
12. There shall be a preharvest interval of not less than 21 days;
13. All label precautions shall be followed;
14. A final report shall be submitted to EPA by the end of 1977, summarizing the results of this program; and
15. The Applicant shall inform EPA immediately of any adverse effects to man or the environment resulting from this program and shall be responsible for ensuring that all the provisions of this exemption are followed.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: July 19, 1977.

EDWIN L. JOHNSON,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.77-21502 Filed 7-25-77;8:45 am]

[FRL 768-6]

### OCEAN DUMPING

#### Notice of Technical Meeting Regarding Ocean Incineration of Herbicide Orange

The Environmental Protection Agency (EPA) hereby gives notice that a technical meeting will be held at 9:30 a.m. on Thursday, August 4, 1977, in Room 2814-B, Waterside Mall, 401 M Street SW., Washington, D.C.

This meeting is being held to consider the results of a research burn at sea of Herbicide Orange aboard the *M/T Vulcanus* which was scheduled to be conducted between July 14 and July 23, 1977, at a disposal site in the Pacific Ocean approximately 120 miles west of Johnston Island.

On April 25, 1977, the United States Air Force received a research permit for the ocean incineration of approximately 4,200 metric tons of Herbicide Orange. Special Condition No. 23, of that permit provided that all data collected by or on behalf of the permittee and calculations by the permittee based thereon would be retained and supplied to EPA so that a technical meeting could be held on the results of the research burn. A special permit for the incineration of the remaining stores of Herbicide Orange located at Johnston Island will be issued to the Air Force if the research permit conditions were met during the first burn.

The agenda for the meeting is as follows:

1. Preliminary technical report on monitoring the research burn.
2. Vessel incinerator operations.
3. Destruction efficiency.
4. Proposed permit conditions.

This meeting is open to the public. Anyone wishing to attend should contact Ms. Barbara Ramsey, 202-245-3051. In the event that unforeseen changes in the vessel schedule force a postponement of this meeting, persons who have indicated an interest in attending will be notified by telephone 24 hours in advance.

Dated: July 20, 1977.

THOMAS C. JORLING,
*Assistant Administrator for Water and Hazardous Materials.*

[FR Doc.77-21504 Filed 7-25-77;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

### RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

#### Meetings

In accordance with Public Law 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 70, "Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment." Notice of 6th Meeting. Thursday, August 11, 1977—10 a.m. (All-day meeting.) Conference Room (Second floor), U.S. Coast Guard Marine Inspection Office, Battery Park Building, Battery Park at South Ferry, New York, New York.

Technical Specs Working Group. Full-day Meeting, August 10, 10:00 a.m. Same location as August 11 meeting.

AGENDA

1. Call to Order; Chairman's Report.
2. Confirmation of Secretary, Adoption of Agenda.
3. Acceptance of SC-70 Summary Records.
4. Reports on Work Assignments.
5. Progress Reports on Incompleted Work Assignments.
6. Review of Draft Receiver Specifications.
7. Solicitation of additional Work Assignments.
8. Other Business.
9. Confirmation of next meeting date. (August 31).

Captain Alfred E. Fiore, Chairman, SC-70, U.S. Merchant Marine Academy, Kings Point, New York 11024. Phone 516-482-8200.

To comply with the advance notice requirements of Public Law 92-463, a comparatively long interval of time







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occurs between publication of this notice and the actual meeting. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of the meeting. Those planning to attend the meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for the meeting is available at that meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. Phone 202-632-6490.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements are preferred but by previous arrangement, oral presentations will be permitted within time and space limitations.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

[FR Doc.77-21443 Filed 7-25-77;8:45 am]

## FEDERAL ENERGY ADMINISTRATION

### VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT INTERNATIONAL ENERGY PROGRAM

#### Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94-163) notice is hereby provided of a meeting of the Industry Working Party (IWP) to the International Energy Agency (IEA) to be held on August 2 and 3, 1977, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, N.Y., beginning at 9 a.m. on August 2. The agenda is as follows:

1. Status of Standing Group on Oil Market (SOM) and IWP activities and outstanding questions dealing with IWP work procedures.
2. Discuss SOM questions referred to the IWP on petroleum price and cost reporting systems.
3. Discuss SOM questions referred to the IWP on financial reporting systems.
4. Prepare a response to the SOM on Items 2 and 3 above.
5. Determine procedures for reporting IWP recommendations to the SOM.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Issued in Washington, D.C., July 21, 1977.

ERIC J. FYGI,
*Acting General Counsel,*
*Federal Energy Administration.*

[FR Doc.77-21419 Filed 7-25-77;8:45 am]

## FEDERAL MARITIME COMMISSION

### BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS AND J. YOUNG AND CO.

#### Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 15, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Joe H. Hamner, Jr., Attorney, Board of Commissioners of the Port of New Orleans, P.O. Box 60046, New Orleans, La. 70160.

Agreement No. T-2990-1 is a letter agreement which modifies the five-year lease between the Port of New Orleans and J. Young and Company, Inc., (JYC), covering France Road Berth No. 5, a public container terminal and marshalling area. The purpose of this modification is to include in the leased area a newly constructed 200-ft extension to the Berth No. 5 Wharf. In addition, JYC shall have right to the nonexclusive use of the wharf approach ramp and roadway. The guaranteed minimum rent in the basic lease shall remain the same, and the additional per-container charge and the tariff charges against vessels and cargoes shall continue to be applicable to all vessels and cargoes at the Berth No. 5 Wharf, including the aforesaid 200-foot extension. All other provisions of the basic lease will remain unchanged and in full force and effect.

By Order of the Federal Maritime Commission.

Dated: July 21, 1977.

JOSEPH C. POLKING,
*Acting Secretary.*

[FR Doc.77-21493 Filed 7-25-77;8:45 am]

### BOARD OF COMMISSIONERS, PORT OF PALM BEACH, FLA. AND UNITED STATES OF AMERICA

#### Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 15, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Mr. Dwight Green, Traffic Consultant, Port of Palm Beach, P.O. Box 9935, Riviera Beach, Fla. 33404.

Agreement No. T-3491, between the Board of Commissioners, Port of Palm Beach (Port) and the United States of America (U.S.), provides for the U.S.'s one-year (with year-to-year renewal options) lease of certain premises at the Port of Palm Beach, Fla., to be used by the U.S. Naval Reserve for governmental purposes. As compensation, the U.S. shall pay the Port an annual rental of $4,500.00.

Although this agreement may not fall within the scope of section 15, interested parties are given an opportunity to comment on it if they so desire.

By Order of the Federal Maritime Commission.

Dated: July 21, 1977.

JOSEPH C. POLKING,
*Acting Secretary.*

[FR Doc.77-21494 Filed 7-25-77;8:45 am]

## CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

#### Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by Section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

| *Certificate No.* | *Owner/operator and vessels* |
|---|---|
| 01443 | Denholm Line Steamers Ltd.: *Glenpark.* |
| 01552 | Dampskibs-Aktieselskabet Progress: *Mariane Danielson.* |
| 04767 | Texaco Inc.: *Texaco 38, Texaco 39.* |
| 05298 | Erich Drescher: *Macaela Drescher.* |
| 08715 | Niels Onstads Tankrederi A/S Aamodt's Tankrederi A/S: *Nanny Onstad.* |
| 10961 | Reading & Bates Exploration Co.: *W. D. Kent.* |
| 11253 | I/S Rederiet Ty Line: *Dorthe Ty.* |
| 11492 | Wakamatsu Kaiun Kabushiki Kaisha: *No. 3 Tensha Maru.* |
| 12175 | Hudson-Seneca Transportation Corp.: *Albany Sears, Utica Sears, Rome Sears.* |
| 12677 | Naxos Trade and Transport Ltd.: *Naxos Trader.* |
| 12678 | Cheshire Shipping Co. Ltd.: *Eastern Muse.* |
| 12681 | Bounty Shipping Ltd.: *Kalia.* |
| 12688 | Drastirios Shipping Corp.: *Drastirios.* |
| 12690 | Aeolian Sky Marine Inc.: *Elenia.* |
| 12698 | Sociedad Coop. De Prod. Pesquera Estado 29 S C L: *Estado 29.* |
| 12670 | Antarios Compania Naviera S.A.: *Maria X.* |
| 12707 | Aeolian Endurance Marine Inc.: *Thera.* |
| 12710 | Pesquera Maria Margarita S.A.: *Maria Amalia.* |
| 12712 | Summerfield Sea Transport Ltd.: *Lavinia V.* |
| 12714 | All Alaskan Seafoods, Inc.: *All Alaskan.* |
| 12722 | Azulino S.A.: *Sminarchos Frangistas.* |
| 12725 | Stolt Integrity Inc.: *Stolt Integrity.* |
| 12726 | Zephyros Maritime Corp.: *Zephyros II.* |
| 12727 | Sea Trading Ltd.: *Sankaty.* |
| 12729 | Kerr-McGee Chemical Corp.: *Birch Coulie.* |
| 12732 | Kranaia Maritime S.A.: *Arosa.* |
| 12739 | Pesquera Costa De La Luz S.A.: *Captain Jorge II.* |
| 12742 | Theologos Marine Enterprises S.A.: *Capetan Yemelos.* |
| 12748 | Jasmine Maritime Inc.: *Liliane.* |
| 12749 | Pimmerton Shipping Ltd.: *South Sun.* |
| 12750 | Silver Glory Second Shipping Co. S.A.: *Ockenfels.* |
| 12751 | Silver Light Shipping Co. S.A.: *Silver Light.* |
| 12754 | Almops Compania Naviera S.A.: *Nah Ost Pilot.* |
| 12755 | Partrederiet For M/T Jorgen J. Lorentzen: *Jorgen J. Lorentzen.* |
| 12756 | Scanlib Enterprises Inc.: *Gull.* |
| 12759 | Dynamikos Shipping Corp.: *Dynamikos.* |
| 12760 | Kristel Tankers Inc.: *Kansas.* |
| 12762 | Myrsinidi Corp. of Liberia: *Myrsinidi.* |
| 12763 | Moutsaina Corp. of Liberia: *Moutsaina.* |
| 12764 | Ekaterini Compania Maritima S.A.: *Alexandra.* |
| 12765 | Vanilla Shipping Inc.: *Scan Fuji.* |
| 12766 | Pine Company Ltd. of Liberia: *Katerina Dracopoulos.* |
| 12767 | Tidewater Nautico Inc.: *Giant Tide.* |
| 12768 | Icarus Shipping and Trading Corp. S.A.: *Petrola 80.* |
| 12769 | Plaquemine Towing Corp.: *ABC-1, ABC-2, ABC-3.* |
| 12770 | Navitrade S.A.: *Sea Venture 1.* |
| 12771 | Yasuki Nakabayashi: *Koei Maru No. 51.* |
| 12772 | Yamaichi Gyogyo Kabushiki Kaisha: *Chidori Maru No. 78.* |
| 12773 | Shimoda Sengyo Kabushiki Kaisha: *Miyuki Maru No. 26.* |
| 12774 | Kabushiki Kaisha Kyoshomaru: *Kyosho Maru No. 31.* |
| 17775 | Kabushiki Kaisha Akama Gyogyobu: *Meisho Maru No. 58.* |
| 12776 | Dainichi Gyogyo Kabushiki Kaisha: *Dainichi Maru No. 31.* |
| 12777 | Hisami Nakabayashi: *Koei Maru No. 15.* |
| 12778 | Hideo Nakabayashi: *Koei Maru No. 25, Koei Maru No. 35.* |
| 12779 | Hakko Gyogyo Kabushiki Kaisha: *Hakko Maru No. 57.* |
| 12780 | Hachiryu Gyogyo Kabushiki Kaisha: *Hachiryu Maru No. 31.* |
| 12781 | Naviera Multinacional del Caribe, S.A.: *Los Caribes.* |
| 12782 | Siva Shipping Co. Ltd: *Alexandros T.* |
| 12783 | Therissos Shipping Co. S.A.: *Therissos.* |
| 12784 | Sameiet M/S Eva: *Eva.* |
| 12785 | Pioneer Shipping Ltd. of Monrovia Liberia: *Nema.* |
| 12786 | Orei Shipping S.A.: *Orei.* |
| 12787 | Partrederiet Jespergaard I: *Danalith.* |
| 12788 | Partrederiet Terrier: *Terrier.* |
| 12790 | Aeolian Sea Marine Inc.: *Europchampion.* |
| 12791 | Aeolian Breeze Marine Inc.: *Elmare.* |
| 12793 | Kleisoura Shipping Co., Ltd.: *Irenes Duty.* |
| 12794 | Gris Shipping Co. Ltd.: *Irenes Target.* |
| 12797 | Imabari Senpaku Y.K.: *Kazuei Maru.* |
| 12799 | Petrel Marine Corp.: *Northern Victory, Western Ethics, Western Energy.* |
| 12801 | Lindinger Topaz K/S: *Lindinger Topaz.* |
| 12802 | Viemar Faith Sea Carriers, S.A.: *Despina Giavridis.* |
| 12803 | Baypark Transport Ltd.: *Repulse Bay.* |
| 12805 | Compagnie Generale D'Armements Maritimes: *Saint Servan, Commandant Henry, Saint Tropez Nadir.* |
| 12806 | Drummond Shipping Enterprises Corp.: *Marika T.* |
| 12807 | Mar Oil, S.A.: *Maria Alejandra.* |
| 12809 | Parakopi Compania Maritima, S.A.: *Parakopi.* |
| 12810 | Schulauer Schiffscharter G.m.b.H. & Co. K.G.: *Dalsland.* |
| 12812 | Delulemar S.P.A.: *Luciana Della Gatta.* |
| 12813 | Playfair Shipping Co. S.A.: *Yannis Halcoussis.* |
| 12814 | Pengwin, Inc.: *Pengwin.* |
| 12815 | Shipping Co. Kieldrecht N.V.: *Kieldrecht.* |
| 12816 | Compania Naviera Aztec S.A.: *Aztec.* |
| 12817 | Kabushiki Kaisha Yamagata Ken Suisan Kosha: *Eikyu Maru.* |
| 12818 | Pine Trio Corp.: *Scan Trio Arrow.* |
| 12819 | Fukui Ken Gyogyo Kabushiki Kaisha: *Fukui Maru No. 8, Fukui Maru No. 10.* |
| 12820 | Kabushiki Kaisha Shibajin Shoten: *Tomi Maru No. 63.* |
| 12821 | Harada Gyogyo Kabushiki Kaisha: *Kofuku Maru No. 28.* |
| 12822 | Houyo Kaiun Kabushiki Kaisha: *Seiyei Maru, Houmei Maru, Housei Maru, Housho Maru.* |
| 12823 | Compania de Navegacion Aeolus S.A.: *Sparto.* |
| 12824 | Trotter Towing Corp.: *Dorothy Hobart, Del Rio.* |
| 12826 | Lighterage Corp.: *Coastal Texas.* |
| 12828 | Astro Carisma Armadora S.A.: *Captain John.* |
| 12829 | Seaspeed Ro Ro Corp.: *Seaspeed Master.* |
| 12830 | Odin Shipping Ltd: *Lena Dan.* |
| 12831 | Sameiet M/S Log: *Log.* |
| 12833 | Sheng Fuei Fishery Co., Ltd.: *Sheng Fuei No. 16.* |
| 12834 | Central Rivers, Inc.: *Keystone.* |
| 12835 | Literatura Shipping Co. S.A.: *Ilios.* |
| 12837 | Ming Kuo Fisheries Co. Ltd.: *Ming Kuo No. 32.* |
| 12838 | Kaisei Kaiun Tsusho K.K.: *Ryusho Maru No. 5.* |
| 12839 | Moonrise Shipping Co. S.A.: *Homeric.* |
| 12840 | Moonset Shipping Co. S.A.: *Patriotic.* |
| 12841 | Municipal Oshima Minami High School: *Oshima Maru.* |
| 12842 | Kabuishiki Kaisha Kikuchi Shoten: *Shinei Maru No. 53.* |
| 12843 | Chikuyo Gyogyo Yugen Kaisha: *Nitto Maru No. 30, Kaki Maru No. 12.* |
| 12845 | Equity Shipping Corp.: *Halki.* |
| 12846 | K S Rasmussen Steamship A/S: *Polycrusader.* |
| 12848 | Dominant Navigation Ltd. of Liberia: *Messiniaki Frontis.* |
| 12850 | Reedereigeselischaft Gerhard Oltmann KG: *Karen Oltmann.* |
| 12851 | Mie Kaiun Kabuishiki Kaisha: *Mie Maru No. 7, Unique.* |
| 12852 | Sun Eagle Marine Maritime S.A.: *Sun Deneb.* |
| 12857 | Rederiet Gert Staerke I/S: *Gert Staerke.* |
| 12859 | Osaka Hinode Shipping Co. S.A.: *Tofuku Maru.* |
| 12860 | Kabushiki Kaisha Sadai Shoten: *Shinzan Maru No. 3, Shinzan Maru No. 2.* |
| 12863 | Oil Transport Co. (Saudi Arabia) Ltd.: *Esso Geneva.* |
| 12864 | Orange Car Carrier S.A.: *Orange Ace.* |
| 12865 | Naviera Zabat, S.A.: *Zabat Uno.* |
| 12867 | Partrederiet Jutlandia: *Patricia S.* |
| 12868 | C.V.G. Ferrominera Orinoco C.A.: *Icoa.* |
| 12869 | Maritima de Fertilizantes, S.A.: *Deneb.* |
| 12871 | Belsally Shipping S.A.: *Sally Ocean.* |
| 12872 | Rederij Atlantic: *Atlantic* |







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| Certificate No. | Owner operator and vessels |
|---|---|
| 12873 | Navales Cerdeiras, S.L.: *Mayi Cuatro.* |
| 12874 | Maritima Polux, S.A.: *Maposa Quinto.* |
| 12875 | Pesqueras Pineiro, S.L.: *Pineiro Correa.* |
| 12876 | Pesqueras Gabriel Gonzalez, S.A.: *Pegago Tercero.* |
| 12877 | Teisaku Kobayashi: *Taiyo Maru No. 53.* |
| 12878 | Nitto Kaiun Sangyo K.K.: *Kyoko Maru.* |
| 12879 | Prince Navigation S.A.: *Sunny Peak.* |
| 12881 | Dragon Enterprises, S.A.: *Chief Dragon.* |
| 12882 | Naviera de Productos Licuados, S.A.: *Sant Jordi.* |
| 12883 | Auxiliar Maritima, S.A.: *Amatista. Amapola.* |
| 12885 | Girasol Shipping Co., Ltd.: *Sea Hawk.* |
| 12886 | Santalatuo Shipping S.A.: *Sunrise Ocean.* |
| 12889 | Monfort Shipping Inc.: *Marilyn O.* |
| 12890 | N-Ren Corp.: *GWG 103.* |
| 12892 | Sol Este Naviera S.A.: *Ewa Maru* |
| 12894 | Liner Shipping Co., Ltd.: *Aliakmon.* |
| 12895 | Transporter Shipping Co. Ltd.: *Atlantic Helmsman.* |
| 12897 | Stolos Compania S.A. of Panama: *Admiral C.* |
| 12899 | Albatross Marine Corp.: *Euroasia Monarch, Continental Monarch. Moorfields Monarch.* |
| 12901 | Belle Yella Shipping Co. Inc.: *Semi.* |
| 12904 | Trans Coastal International Shipping S.A.: *Mistasam.* |
| 12905 | Fibra Compania Naviera S.A.: *Pyrros V.* |
| 12907 | Southland Maritime Inc.: *Diamant.* |
| 12909 | Nordic Sky Shipping Ltd.: *Nordic Sky.* |
| 12911 | Interessentskapet Wind Tankers: *Wind Enterprise, Wind Eagle.* |
| 12914 | Pacific Sealanes Corp. of Liberia: *Aristoxenos.* |
| 12916 | Isla Del Sol Compania Naviera, Inc.: *Maria L.* |
| 12917 | Japan Enterprise Inc.: *Enterprise.* |
| 12918 | Kristiansand Marine Corp.: *Oceanus Countess.* |
| 12919 | Pacific International Navigation Corp.: *Chieftain Bulker.* |

By the Commission.

JOSEPH C. POLKING,
*Acting Secretary.*

[FR Doc.77-21495 Filed 7-25-77;8:45 am]

## CITY OF MILWAUKEE AND HANSEN AND SEAWAY SERVICE, LTD.

### Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 15, 1977. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. All allegations of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreements filed by:

J. L. Haskell, Deputy Port Director, City of Milwaukee, 500 N. Harbor Drive, Milwaukee, Wis. 53202.

Agreements Nos. T-2260-1 and T-2260-2, between City of Milwaukee and Hansen Seaway Service, Ltd. (Hansen), amend the parties' basic agreement which provides for the lease of certain premises on Municipal General Cargo Terminal No. 3. Agreement No. T-2260-1 modifies paragraph 2 by providing for the increase of rental. Agreement No. T-2260-2 modifies paragraph 25 by allowing Hansen to remove a refrigeration unit, which was built at its own expense, within 120 days of the time when negotiations to extend the lease are terminated by either party.

By order of the Federal Maritime Commission.

Dated: July 21, 1977.

JOSEPH C. POLKING,
*Acting Secretary.*

[FR Doc.77-21492 Filed 7-25-77;8:45 am]

[Independent Ocean Freight Forwarder License No. 1552]

## J. D. EXPRESS CO., INC.

### Order of Revocation

By letter dated June 8, 1977, Mr. Joseph Domaniecki, President, J. D. Express Co., Inc., P.O. Box 5123, Newark, N.J. 07105, was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1552 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before July 7, 1977.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

J. D. Express Co., Inc., has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01 (c), dated June 30, 1975;

*It is ordered*, That Independent Ocean Freight Forwarder License No. 1552, issued to J. D. Express Co., Inc., be returned to the Commission for cancellation.

*It is further ordered*, That Independent Ocean Freight Forwarder License No. 1552 be and is hereby revoked effective July 7, 1977.

*It is further ordered*, That a copy of this order be published in the FEDERAL REGISTER and served upon J. D. Express Co., Inc.

LEROY F. FULLER,
*Director, Bureau of Certification and Licensing.*

[FR Doc.77-21489 Filed 7-25-77;8:45 am]

[Independent Ocean Freight Forwarder License No. 1892-R]

## SANTINI INTERWORLD AGENCIES

### Order of Revocation

On July 18, 1977, Mr. Luis R. Santini, Santini Interworld Agencies, 2720 River Rd., Des Plaines, IL 60018, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1892-R for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01 (b), dated June 30, 1975;

*It is ordered*, That Independent Ocean Freight Forwarder License No. 1872-R, issued to Santini Interworld Agencies, be and is hereby revoked effective July 18, 1977, without prejudice to reapply for a license in the future.

*It is further ordered*, That a copy of this Order be published in the FEDERAL REGISTER and served upon Santini Interworld Agencies.

LEROY F. FULLER,
*Director, Bureau of Certification and Licensing.*

[FR Doc.77-21490 Filed 7-25-77;8:45 am]

## OCEANIA LINE, INC., AND ISLAND AND NAVIGATION CO., LTD.

### Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 15, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement filed by:

Peter R. Gallagher, President, Island Navigation Co., Ltd., P.O. Box X, Agana, Guam 96910.

Agreement No. 10306, a cooperative working arrangement entered into between Oceania Line, Inc. (Oceania), and Island Navigation Co., Ltd. (Island), covers an arrangement whereby Island will (1) provide management and operational services for vessels and/or tugs and/or barges chartered by Oceania from Pacific Logistics S.A. for use in the trade between Guam and Saipan, Tinian, Rota and such other ports in the Northern Mariana Islands as may occasionally be called at; and (2) perform all customary ship agency functions, including husbanding of the vessels and/or tugs and/or barges, at the port of Guam, and solicit cargoes for the service, subject to the terms and conditions set forth in the agreement.

By order of the Federal Maritime Commission.

Dated: July 21, 1977.

JOSEPH C. POLKING,
*Acting Secretary.*

[FR Doc.77-21491 Filed 7-25-77;8:45 am]





## FEDERAL POWER COMMISSION

[Project No. 2146]

## ALABAMA POWER CO.

### Order Fixing Amount of Forfeiture or, Alternatively, Initiating Proceeding To Fix Amount of Forfeiture

JULY 19, 1977.

In Opinion No. 795, issued April 21, 1977, the Commission, among other matters, terminated its investigation of the failure of the Walter Bouldin Dam and ordered Alabama Power Co. (Alabama Power), pursuant to section 315(a) of the Federal Power Act,[1] to forfeit to the United States an amount not to exceed $1,000. The forfeiture was premised on Alabama Power's willful failure in October 1972 to notify the Commission's Regional Engineer, in compliance with Article 4 of its license for Project No. 2146 and the Commission order issuing the license, of the date upon which it would begin repairs to the eastern embankment of the Walter Bouldin Dam necessitated by an upstream slide which had been noted on October 4, 1972. In Opinion No. 795-A issued concurrently with this order, the Commission denied rehearing of Opinion No. 795.

The maximum forfeiture of $1,000 has remained unchanged since it was enacted as part of the Federal Water Power Act of 1920, the predecessor to Part I of the Federal Power Act. In the light of the substantial changes in price levels and in the value of the dollar which have occurred since that time, and in the light of Alabama Power's culpability as set out in Opinion Nos. 795 and 795-A, we find that a forfeiture which would be fixed in the maximum statutory amount of $1,000 would be an insufficient sanction, particularly in view of the substantial cost of investigating the failure of the Walter Bouldin Dam and even the relatively small, but still substantial, prospective additional cost of a hearing to fix the amount of the forfeiture. And we conclude, therefore, that the forfeiture should be fixed tentatively at $1,000.

We find, additionally, that a hearing to fix the amount of the forfeiture would not be in the public interest if Alabama Power waives its right thereto and consents to the amount fixed tentatively herein. Although Alabama Power would not be precluded from seeking judicial review of Opinion Nos. 795 and 795-A, it would be bound by the amount to which it consents herein if the imposition of a forfeiture is not reviewed or is affirmed on review. On the other hand, if Alabama Power does not waive its right to a hearing and consent to the amount fixed tentatively herein, then we find that a hearing would be in the public interest and that, subject to the procedures established by the presiding Administrative Law Judge, and subject to review by the Commission, the amount of the forfeiture should be fixed by the Judge.

[1] Any licensee or public utility which willfully falls, within the time prescribed by the Commission, to comply with any order of the Commission, to file any report required under this Act or any rule or regulation of the Commission thereunder, to submit any information or document required by the Commission in the course of an investigation conducted under this Act, or to appear by an officer or agent at any hearing or investigation in response to a subpoena issued under this Act, shall forfeit to the United States an amount not exceeding $1,000 to be fixed by the Commission after notice and opportunity for hearing.

The Commission finds: On the basis of the studies made by the Commission staff of the failure of the Walter Bouldin Dam, including the recommendations of the staff and the record of the proceeding which was terminated by Opinion Nos. 795 and 795-A, a proceeding to fix the amount of the forfeiture under section 315(a) of the Federal Power Act should be initiated as ordered hereinbelow.

*The Commission orders:* (A) Pursuant to the authority of the Federal Power Act, particularly section 315(a) thereof, a public hearing shall be held concerning the amount of the forfeiture imposed upon Alabama Power Co. by Opinion No. 795 issued April 21, 1977.

(B) The amount of the said forfeiture is hereby fixed tentatively at $1,000.

(C) If, within 30 days after the date of issuance of this order, the Secretary receives a letter from Alabama Power Co. waiving unconditionally its right to a hearing under the said section 315(a) and consenting unconditionally to the amount of the fortfeiture as fixed tentatively by Ordering Paragraph (B), the Secretary shall by letter vacate Ordering Paragraph (A) and terminate the proceeding initiated thereby. Notwithstanding that the said waiver and consent shall be unconditional, if given, Alabama Power Co. may reserve its right pursuant to section 313(b) of the Federal Power Act to file a petition for judicial review of Opinion No. 795 and Opinion No. 795-A denying rehearing.

(D) If, within 30 days after the date of issuance of this order, the Secretary does not receive a letter from Alabama Power Co. meeting the requirements of Ordering Paragraph (C), the Secretary shall by letter vacate Ordering Paragraph (B), the Chief Administrative Law Judge shall designate an Administrative Law Judge to preside over the hearing initiated by Ordering Paragraph (A) and the Commission staff shall prepare and serve its recommendations as to the amount of the forfeiture on all parties and interested state agencies within 45 days after the date of issuance of this order.

(E) The presiding Administrative Law Judge shall convene a prehearing conference on a date certain within 60 days after the date of issuance of this order in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The said presiding Administrative Law Judge is hereby authorized to establish such other procedures and such further procedural dates as may be necessary to fix the amount of the forfeiture, and as provided in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall cause prompt service of this order on the parties and interested state agencies and shall cause prompt publication of this order in the



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FEDERAL REGISTER pursuant to 18 CFR 3.141.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-21465 Filed 7-25-77;8:45 am]

[Docket No. RP73-77; PGA77-2; et al]

## ALABAMA-TENNESSEE NATURAL GAS CO.

### Pipeline Rates Purchased Gas Cost Adjustments

JULY 20, 1977.

In the matter of Alabama-Tennessee Natural Gas Company, Docket No. RP73-77 (PGA77-2); Algonquin Gas Transmission Company, Docket No. RP72-110 (PGA77-3); Arkansas Louisiana Gas Company, Docket Nos. RP74-61 and RP 76-10 (PGA77-2); Cities Service Gas Company, Docket No. RP72-142 (PGA 77-2); Colorado Interstate Gas Company, Docket No. RP72-122 (PGA77-1); Columbia Gas Transmission Corporation, Docket No. RP73-65 (PGA77-1); Consolidated Gas Supply Corporation, Docket No. RP72-157 (PGA77-2); Eastern Shore Natural Gas Company, Docket No. RP72-134 (PGA77-1a) (PGA77-2); East Tennessee Natural Gas Company, Docket No. RP71-15 (PGA77-1); El Paso Natural Gas Company, Docket No. RP72-155 (PGA77-1); Florida Gas Transmission Company, Docket No. RP72-136 (PGA 77-1); Granite State Gas Transmission, Inc., Docket No. RP73-17 (PGA77-1); Kansas-Nebraska Natural Gas Company, Docket No. RP72-32 (PGA77-1); Kentucky West Virginia Gas Company, Docket No. RP73-97 (PGA77-1); Michigan-Wisconsin Pipe Line Company, Docket No. RP73-14 (PGA77-1); Mid Louisiana Gas Company, Docket No. RP 73-43 (PGA77-1); Midwestern Gas Transmission Company, Docket No. RP 71-16 (PGA77-2); Mississippi River Transmission Corporation, Docket No. RP72-149 (PGA77-1a); Montana-Dakota Utilities Company, Docket No. RP 74-97 (PGA77-1); Mountain Fuel Resources Inc., Docket Nos. RP74-14 and RP74-34 (PGA77-1a); Mountain Fuel Supply Company, Docket No. RP76-64 (PGA76-1b); National Fuel Gas Supply Corporation, Docket No. RP74-100 (PGA 77-2); Natural Gas Pipeline Company of America, Docket No. RP71-125 (PGA77-1); Northern Natural Gas Company (People's Division), Docket No. RP73-48 (PGA77-2); Northwest Pipeline Corporation, Docket No. RP72-154 (PGA77-1); Pacific Interstate Transmission Company, Docket No. CP76-104 (PGA77-1); Panhandle Eastern Pipe Line Company, Docket No. RP73-36 (PGA77-1); South Texas Natural Gas Gathering Company, Docket Nos. RP76-53 and RP76-60 (PGA 77-1) (PGA77-1a) (PGA77-1b); Southwest Gas Corporation, Docket No. RP72-121 (PGA77-1); Tennessee Gas Pipeline Company, Docket No. RP73-114 (PGA 77-1); Tennessee Natural Gas Lines, Inc., Docket No. RP71-11 (PGA77-1); Texas Eastern Transmission Corporation, Docket No. RP74-41 (PGA77-3); Texas Gas Transmission Corporation, Docket No. RP72-156 (PGA77-1); Transcontinental Gas Pipe Line Company, Docket No. RP73-3 (PGA76-4a) (PGA77-1); Transwestern Pipeline Company, Docket No. RP74-52 (PGA77-1); Trunkline Gas Company, Docket No. RP73-35 (PGA77-1); Valley Gas Transmission Company, Docket No. RP73-94 (PGA77-1); Western Transmission Corporation, Docket No. RP72-31 (PGA77-1). Order approving PGA rate increases, accepting certain alternate, substitute, and revised PGA filings, and terminating proceedings.

On November 30, 1976, the Commission issued an order in the captioned dockets which accepted for filing revised tariff sheets reflecting increases in purchased gas adjustment (PGA) rates pursuant to Opinion Nos. 770[1] and 770-A.[2] The increases were permitted to become effective on December 1, 1976, subject to further Commission review and final action. The Commission has completed its review of the PGA filings included in the order of November 30, 1976, and finds that with certain exceptions the proposed PGA rates have been properly determined in accordance with underlying tariff provisions, Opinion No. 770-A and the Commission's Regulations, and that such PGA rates should now be accorded final approval. Eight of the filings conditionally approved by the order of November 30, 1976, require modification or further action. These filings are discussed below.

I. ALABAMA-TENNESSEE NATURAL GAS COMPANY (A-T) DOCKET NO. RP73-77 (PGA77-2)

The Commission acknowledges that A-T's PGA rate filing accepted by the prior order contained a typographical error. A-T corrected the error by filing substitute tariff sheets on November 29, 1976. The Commission shall accept for filing and approve the substitute filing.

II. ARKANSAS LOUISIANA GAS COMPANY (ARKLA) DOCKET NOS. RP74-61, RP76-10 (PGA77-2)

The Commission's review of Arkla's original filing has disclosed that the PGA rate filing conditionally accepted was calculated to flow-through the PGA increases of its pipeline suppliers allowed pursuant to Opinion 770 rather than Opinion No. 770-A. Arkla's PGA should be adjusted downward to take into account the superceding, Opinion No. 770-A filings of its suppliers. The Commission approves Arkla's PGA rate increase subject to modification to reflect proper pipeline rates. Arkla is directed to revise its original filing and make appropriate refunds.

III. EAST TENNESSEE NATURAL GAS COMPANY (EAST TENNESSEE) DOCKET NO. RP71-14 (PGA77-1)

The Tennessee Public Service Commission (TPSC) protests the proposed PGA rate increase by East Tennessee. TPSC claims that East Tennessee is proposing to flow through all increased commodity costs without affording its customers the benefits of low-priced gas in storage at the time of the supplier increases. In response to TPSC's objections, East Tennessee filed, on January 17, 1977, a revision to its Supplemental Winter Service (SWS) Rate Schedule to provide that customers purchasing gas under Schedule SWS will pay no more than the cost of gas previously injected into storage. The SWS Schedule provides that from December through March SWS customers would be charged the PGA rates as originally filed and accepted but that in April refunds would be made to these customers, without interest, to offset any collections made in excess of the cost of gas in storage. TPSC has no objection to this revised filing. The Commission finds that the revised filing more appropriately reflects the increased cost of gas to East Tennessee and, accordingly, the revised filing of January 17, 1977, shall be accepted and approved, effective December 1, 1976.

IV. EL PASO NATURAL GAS COMPANY (EL PASO) DOCKET NO. RP72-155 (PGA77-1)

El Paso has proposed that its surcharge[3] remain in effect for ten rather than twelve months as provided for in Opinion No. 770. El Paso requests this shortened period so that the surcharge would expire on the date its regular PGA rate is subject to adjustment. In view of El Paso's customer's comments submitted in support of this proposal and, in recognition of the simplicity to be gained by its adoption, the Commission finds that the shortened period is reasonable and permission to collect the surcharge for a 10-month period ending September 30, 1977, shall be granted accordingly.

V. KANSAS-NEBRASKA NATURAL GAS COMPANY (K-N) DOCKET NO. RP72-32 (PGA77-1)

K-N originally filed two, alternate PGA rates: one to be applied to its then current rates, the other to be applied to the rates which were to become effective upon Commission approval of the settlement agreement in Docket No. RP76-8. Since the settlement rates were not approved as of the date of the prior PGA order, November 30, 1976, the Commission permitted the adjustment to current rates to become effective. On December 7, 1976, the Commission approved the settlement agreement. The Commission finds that K-N's adjustment to settlement rates is now proper and shall be accepted.

VI. MISSISSIPPI RIVER TRANSMISSION CORPORATION (MRT) DOCKET NO. RP72-149 (PGA77-1a)

On November 18, 1976, MRT filed alternate tariff sheets in Docket No. RP72-149 (PGA77-2) to track a special surcharge imposed by United Gas Pipe Line Company. One alternate was designed to recover the surcharge costs over three-and-one-half months; the other to recover the special surcharge over four-and-one-half months. At the time of the instant filing (PGA77-1a), the Commission had not acted upon either of the two alternatives. Consequently, MRT's filing in PGA77-1a also took the form of alternate filings: one to accompany the shorter period; the other to accompany the longer, four-and-one-half-month recovery period. The Commission's November 30, 1976, order in the captioned dockets was silent as to which of the two alternatives was accepted. Since the shorter recovery period was put into effect in Docket No. RP72-149 (PGA77-2) by letter of December 17, 1976, the alternate filing reflecting a three-and-one-half month recovery period shall be accepted.

[1] Issued July 27, 1976 as modified August 13, 1976, and September 22, 1976, and restated October 21, 1976.

[2] Issued November 5, 1976.

[3] The surcharge is that portion of the PGA rate filings made pursuant to Opinion Nos. 770 and 770-A which is designed to recover supplier rate increases for the period July 27 to December 1, 1976.





VII. TENNESSEE NATURAL GAS LINES, INC. (TENNESSEE NATURAL) DOCKET NO. RP71-11 (PGA77-1)

TPSC objects to Tennessee Natural's PGA filing for the same reasons that it opposes East Tennessee's: the rates do not pass through the customers the benefits of low-cost gas already in storage. Tennessee Natural agrees that its PGA computation needs to be changed and proposes that the proceeding in Docket No. RP71-11 (PGA77-1) to be consolidated with Docket No. RP76-99, the proceeding on Tennessee Natural's request for a general rate increase. The Commission notes that on May 4, 1977, a settlement agreement was certified to the Commission in Docket No. RP76-99. Since the settlement agreement in the general rate increase proceeding purports to resolve the issue of proper PGA rates, and since all parties, including TPSC, concur in the settlement, the Commission defers final decision on proper PGA rates for Tennessee Natural until its review of and decision on the settlement in Docket No. RP76-99.

Accordingly, the request for consolidation is denied, the previously authorized PGA rates are permitted to remain in effect subject to refund and subject to the decision and order in RP76-99.

VIII. VALLEY GAS TRANSMISSION COMPANY (VALLEY) DOCKET NO. RP73-94 (PGA77-1)

The Commission's review of Valley's filing has disclosed that Valley calculated its PGA increase by including producer price increases which were to become effective as late as April 1, 1977. This calculation is incorrect. Opinion No. 770-A requires that the adjustment should include only price increases incurred as of December 1, 1976, the effective date of the November 30, 1976, order. The Commission finds, however, that the necessary adjustment is relatively minor and that, therefore, good cause exists to approve Valley's PGA rate increase subject to prompt revision to exclude post December 1, 1976, gas price increases. Valley shall be directed to refund any overcollections made as a result of this error.

The Commission finds: It is necessary, proper and in the public interest that the PGA filings conditionally accepted by the November 30, 1976, order in the captioned dockets be finally approved with the exceptions and modifications discussed above.

The Commission orders: (A) Except as noted below, the proposed PGA rate increases which were the subject of the Commission's order of November 30, 1976, are hereby approved.

1. A-T's substitute filing of November 29, 1976, is accepted for filing and approved.

2. Arkla's filing is accepted subject to modification to reflect proper pipeline supplier rates.

3. East Tennessee's January 17, 1977, revison to its SWS Rate Schedule is accepted for filing and approved.

4. El Paso is authorized to utilize a 10 month period for purposes of its PGA surcharge.

5. K-N's alternate filing applicable to settlement rates in Docket No. RP76-8 is approved.

6. MRT's alternate PGA rates filed to accompany the rates which were approved by the Commission by letter of December 17, 1976, are approved.

7. Tennessee Natural's filing conditionally accepted by the November 30, 1976, order is permitted to remain in effect subject to possible refund and subject to the decision and order in Docket No. RP76-99.

8. Valley's filing is accepted subject to elimination of all producer price increases include in its original filing which were not incurred as of December 1, 1976.

(B) Valley and Arkla shall file revised PGA rates to reflect the modifications ordered in Paragraph (A) above within 15 days of the issuance of this order.

(C) Within 15 days after acceptance of the revised PGA filings as required by Paragraph (B), above, Valley and Arkla shall refund all amounts collected in excess of the modified rates together with interest at the rate of percent per annum.

(D) Within 15 days after refunds have been made, Arkla and Valley shall file with the Commission a report of the refunds made in compliance with this order.

(E) The proceedings in all of the captioned dockets except those in ordering paragraphs (A) (2), (7), and (8) above, are terminated.

(F) The proceedings which are subject to ordering paragraphs (A) (2), and (8) shall be terminated upon compliance with the terms of this order.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-21474 Filed 7-25-77;8:45 am]

[Docket No. ER77-485]

## CAROLINA POWER & LIGHT CO.

### Filing of Changes in Rates and Charges

JULY 20, 1977.

Take notice that Carolina Power & Light Company (CP&L) on June 29, 1977, tendered for filing Revised Sheets Nos. 1-24 to its FPC Electric Tariff, Volume No. 1, containing revised rates and charges, revised General Terms and Conditions, Form of Service Agreement, and Index of Purchasers applicable to CP&L's 24 municipal, two private distribution utilities, and 18 rural electric cooperative sales-for-resale customers. CP&L indicates that the revised rates are contained in proposed Resale Service Schedule RS-12 and accompanying Resale Fuel Adjustment Clause Rider No. 2A. CP&L proposes to place the revised tariff sheets into effect as of July 29, 1977. The revised rates and charges would increase revenues from jurisdictional sales by $10,410,336 based on the 12-month period ending July 31, 1977, according to CP&L.

CP&L states that it expects to realize a rate of return from service to its sales-for-resale customers of only 8.55 percent during the calendar year 1977. CP&L further states that the proposed rates and charges are designed to enable CP&L to improve the rate of return realized from resale services, which return is estimated to be 10 percent if the proposed rates and charges had been in effect for the 12-month period ending December 31, 1977.

According to CP&L a copy of the appropriate portions of the filing has been served upon CP&L's jurisdictional resale customers and the State Commissions of North Carolina and South Carolina.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.10). All such petitions or protests should be filed on or before August 1, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21481 Filed 7-25-77;8:45 am]

[Docket Nos. CP77-140, CP77-307, CP77-328]

## DELHI GAS PIPELINE CORP., ET AL.

### Order Providing for the Filing of Applications

JULY 20, 1977.

On January 24, 1977, Delhi Gas Pipeline Corporation (Delhi) filed in Docket No. CP77-140 an application pursuant to Section 7(c) of the Natural Gas Act for



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a certificate of public convenience and necessity authorizing the sale of up 60,000 Mcf of natural gas per day to United Gas Pipe Line Company (United) for the period ending February 1, 1978. On March 21, 1977, Northern Natural Gas Company (Northern) in Docket No. CP77-307 and on April 4, 1977, Natural Gas Pipeline Company of America (Natural) in Docket No. CP77-328 filed applications pursuant to Section 7(c) of the Natural Gas Act for certificates of public convenience and necessity authorizing the transportation of the gas for United to be sold by Delhi in Docket No. CP77-140. Applicants' proposals are more fully set forth in the applications in this proceeding.

The natural gas proposed to be sold to United is gas that is dedicated by Delhi to Lower Colorado River Authority (LCRA). Such gas, it is stated, is used by LCRA for boiler fuel in electric generating units and because of the availability of fuel-oil, other supplies of natural gas and hydro-electric power, LCRA does not anticipate a need for the gas prior to February 1, 1978. It is further stated that the release of such gas by LCRA is subject to "call" by LCRA when in its opinion such gas is needed to satisfy its fuel requirements. Delhi would charge United $2.245 per million Btu's for such gas.

The gas is proposed to be transported for United by Natural and Northern. Northern would receive such gas at a point in Pecos County, Texas, and redeliver it to Natural at an existing point in Mills County, Iowa. Natural would then deliver the gas to United at existing points of interconnection between United and Natural in Vermilion Parish, Louisiana, or near Goodrich, Polk County, Texas. Northern would charge United 27.88 cents per Mcf for all gas transported and redelivered to Natural and Natural would charge United 12.0 cents per Mcf for all gas transported and redelivered.

Among other things, Delhi requests that the non-jurisdictional status of the facilities and operations of independent producers and other suppliers from whom it purchases gas and the sales by such independent producers and other suppliers be not affected during the term of the requested authorization. However, since the sales of gas by Delhi's producer-suppliers involved in these proceedings would be sales in interstate commerce for resale subject to the jurisdiction of the Commission and before further consideration of the proposals in these dockets, such producer-suppliers should be afforded the opportunity to file their interdependent applications pursuant to Section 7(c) of the Natural Gas Act for certificates authorizing such sales to Delhi during the limited term of the authorizations requested by Applicants in the instant dockets.

The Commission finds: (1) The sales by Delhi's producer-suppliers would be for resale in interstate commerce subject to the jurisdiction of the Commission.

(2) It is the public interest and appropriate in carrying out the provisions of the Natural Gas Act that Delhi's producer-suppliers should be afforded an opportunity in which to file their interdependent certificate applications pursuant to Section 7(c) of the Natural Gas Act for limited-term authorization to sell natural gas to Delhi for resale, prior to consideration of the applications in the instant proceedings.

The Commission orders: Delhi's producer-suppliers of the gas involved in these proceedings are allowed 30 days in which to file their interdependent certificate applications pursuant to Section 7(c) of the Natural Gas Act for limited-term authorization to sell natural gas to Delhi for resale.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-21466 Filed 7-25-77;8:45 am]

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[Docket Nos. CP73-334, et al.]

## EL PASO NATURAL GAS CO.

### Report of Revenues Collected and Costs Associated Therewith Under Special Operating Arrangements

JULY 20, 1977.

Take notice that on July 5, 1977, El Paso Natural Gas Company ("El Paso"), in accordance with Section 11.3E(d) of its FPC Gas Tariff, Original Volume No. 1 and Section 3.3E(d) of its FPC Gas Tariff, Third Revised Volume No. 2 and Original Volume No. 2A, tendered for filing a report of revenues collected and costs associated therewith under special operating arrangements for the period May, 1976, through April, 1977.

El Paso states that the adjusted revenues collected by El Paso related to the special operating arrangements are $14,707,061 and the cost actually incurred by El Paso in connection therewith is $14,113,611 for the period commencing May 1, 1976, and ending April 30, 1977. The amount of revenues collected above the actual costs experienced through April 30, 1976, is $593,450.

El Paso states that in addition to the report of revenues and costs as discussed above, the tariff provisions of said Sections 11.3E(d) and 3.3E(d) also provide that El Paso shall include in its report a plan of disposition of excess revenues collected, if any, or a plan for the recovery of deficient revenues, if any. For the reasons stated in the filing, El Paso states that it cannot at this time propose a plan of disposition of excess or deficient revenues relating to the special operating arrangements. El Paso does, however, anticipate that such plan of disposition will be known by the commencement of the 1977-78 heating season operations on November 1, 1977. Accordingly, El Paso has requested that waiver be granted of said Sections 11.3E (d) and 3.3E(d) of its FPC Gas Tariff, Original Volume Nos. 1 and 2A and Third Revised Volume No. 2, respectively, and, as well, waiver of all applicable Rules of the Commission, deemed necessary to permit El Paso to file its plan of disposition of excess or deficient revenues no later than November 1, 1977.

Any person desiring to be heard or to make any protest with reference to said tariff tender should, on or before July 29, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21477 Filed 7-25-77;8:45 am]

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[Docket No. ER77-414]

## ILLINOIS POWER CO.

### Filing of Modification No. 3

JULY 20, 1977.

Take notice that on June 30, 1977, Illinois Power Company (Illinois Power) tendered for filing proposed Modification No. 3 to the Interconnection Agreement (Agreement) dated August 6, 1974, between Illinois Power and the City of Princeton, Illinois. Illinois Power indicates that the Commission has previously designated the August 6, 1974 Agreement as Illinois Power Rate Schedule FPC No. 69.

Illinois Power states that Modification No. 3 provides for a proposed increase in the demand charges for Short-Term Firm Capacity and Maintenance Capacity transactions. An effective date of July 1, 1977 is requested, and Illinois Power therefore requests waiver of the Commission's notice requirements.

A copy of the filing was served upon the City of Princeton and the Illinois Commerce Commission, according to Illinois Power.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 1, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21478 Filed 7-25-77;8:45 am]





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[Docket No. CP77-176]

## KANSAS-NEBRASKA NATURAL GAS CO., INC.

### Order Prescribing Hearing Procedures and Granting Temporary Certificate

JULY 20, 1977.

On February 1, 1977, Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska) filed, in Docket No. CP77-176, an application pursuant to Section 7 of the Natural Gas Act for Commission approval to abandon certain existing facilities and for certificate of public convenience and necessity authorizing the construction and operation of natural gas pipeline facilities. Kansas-Nebraska states that it has recently obtained a gas purchase contract on reserves produced from the Lance and Cody formations in Fremont County, Wyoming, from which initial delivery of gas into its gathering pipeline system is estimated to average 11,300 Mcf per day with the peak day potential of approximately 17,000 Mcf per day. Kansas-Nebraska anticipates a substantial increase in daily delivery of volumes upon the 1977 completion and connection of a third Cody Well. Based on these projections, Kansas-Nebraska alleges that it must substantially increase its gathering pipeline capacity in the Cody Formation in order to meet its existing and reasonably projected future gas purchase contract obligations.

In order to do this, Kansas-Nebraska proposes to install approximately 22 miles of 12-inch pipeline extending from its existing 10-inch pipeline in Section 23, Township 37 North, Range 90 West, Fremont County, Wyoming, south to a point of delivery on the transmission pipeline system of Northern Utilities, Inc. (Northern), at an estimated cost of $1,600,000. Pursuant to an existing transportation agreement dated September 14, 1965, as submitted, Northern would deliver to Kansas-Nebraska at Casper, Wyoming, the volume of the gas delivered to Northern by Kansas-Nebraska.

Kansas-Nebraska states that the capacity in the 6-inch gathering pipeline is inadequate to transport the additional volumes of Madden Area Cody and Lance Formation gas which it has and reasonably expects to purchase but Northern Gas Company (Northern Gas) is willing to acquire said line for its intrastate operations in the area, therefore, Applicant proposes to abandon by sale approximately 29.3 miles of the 6-inch pipeline together with the connecting 2.3 mile segment of 4-inch pipeline. Kansas-Nebraska states that it will continue to purchase all gas dedicated to it from the wells presently connected to the gathering pipeline facilities to be abandoned to Northern Gas which will be received by adjustment of volumes purchased from wells whether Kansas-Nebraska and Northern Gas are joint purchasers under contracts with no restrictions for use of the gas in interstate systems.

The exchange agreement with Northern Gas will allow Northern Gas to continue taking the gas and deliver equivalent volumes to Kansas-Nebraska elsewhere. No application has been filed for certificate authorization for either the facilities or the exchange.

In order that the potential supply may be connected to the interstate system, we find that it is within the public convenience and necessity that Kansas-Nebraska be granted a temporary certificate for the construction and operation of the 22 miles of 12-inch pipeline. However, there exists some question as to whether Kansas-Nebraska or Northern Gas should have filed an application to implement the proposed exchange agreement. As the supply has previously been dedicated to interstate commerce, the exchange of this gas may be jurisdictional under Section 7 of the Natural Gas Act.

We find it appropriate that a hearing should be held on this issue, however, due to its limited nature, it would appear appropriate for a temporary certificate to be granted and for the parties to attempt to stipulate to the facts whereupon briefing of this issue could follow. In the event that the parties could not reach an agreement, a full hearing would then be necessary.

After due notice by publication in the FEDERAL REGISTER, on February 16, 1977 (42 FR 9424), no protest to the granting of the applications, petitions to intervene or notices of intervention have been filed.

The Commission finds: (1) Kansas-Nebraska Natural Gas Company, Inc. should be granted a temporary certificate, as hereinafter ordered and conditioned, to construct and operate approximately 22 miles of 12-inch pipeline extending from its existing 10-inch pipeline in Fremont, Wyoming, south to a point of delivery on the transmission pipeline system of Northern Utilities, Inc.

(2) It is necessary and appropriate that the proceeding in Docket No. CP77-176 be set for formal hearing.

The Commission orders: (A) A temporary certificate of public convenience and necessity is issued authorizing Kansas-Nebraska to construct and operate approximately 22 miles of 12-inch pipeline in Fremont County, Wyoming, as hereinbefore described and as more fully described in the application filed in Docket No. CP77-176, upon the terms and conditions of this order.

(B) The certificate issued by Ordering Paragraph (A) and the rights granted thereunder are conditioned upon Kansas-Nebraskas' compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), c(1), c(3), c(4), (e), (f) and (g) of Section 157.20.

(C) The certificate issued by Ordering Paragraph (A) is further conditioned to provide for the completion of construction and commencement of operation within one year of the date of the order in accordance with Section 157.20(b).

(D) A prehearing conference shall be convened in order to allow the parties to provide evidence as to the jurisdictional nature of the exchange and explore the possibility of reaching an agreed upon stipulation of facts. In the event they are able to reach said agreement, briefs may be filed directly with the Commission. In the event they are not, a full hearing will be held. In the later case, the Presiding Judge has the authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss) as provided for in the Rules of Practice and Procedure.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-21482 Filed 7-25-77;8:45 am]

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[Docket No. RP77-5]

## KANSAS-NEBRASKA NATURAL GAS CO., INC.

### Order Approving Pipeline Rate Settlement

JULY 20, 1977.

On April 8, 1977, Kansas-Nebraska Natural Gas Co., Inc. (K-N) filed with the Commission a proposed Stipulation and Agreement which, if approved, would resolve all issues in the captioned proceeding. For the reasons stated below, the Commission finds that the proposed settlement agreement is reasonable and should be approved.

The proceeding was initiated on October 29, 1976, when K-N tendered for filing revised tariff sheets incorporating a proposed increase in jurisdictional rates of $4.8 million annually. By order issued November 29, 1976, the Commission accepted K-N's tariff sheets for filing and suspended them for five months. The proposed rate increase, as adjusted downward by about $400,000 to reflect PGA rates pursuant to Opinion No. 770-A rather than Opinion No. 770 and removal of an improper credit to K-N's jurisdictional cost of service, became effective on April 29, 1977, subject to refund.

Following the conclusion of settlement discussions between the parties to the proceeding, including the Commission staff, the proposed settlement agreement was filed with the Commission on April 8, 1977. Public notice of the settlement was issued on April 19, 1977, with comments due on or before April 27, 1977. No objections to the proposed settlement have been received.

The proposed settlement is based on a jurisdictional cost of service of $31,417,388 as shown on Appendix A. The settlement rate of return is 10.20 percent with



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a 12.73 percent allowance for common equity as shown on Appendix B.

The settlement cost of service represents a reduction of $2,124,537 from the cost of service claimed by K–N. Of this reduced amount, $766,288 reflects a downward adjustment in the cost of purchased gas in accordance with Opinion No. 770–A. Approval of the settlement agreement will result in refunds being made for the period commencing on April 29, 1977, to the effective date of the settlement rates.

Other important provisions of the settlement agreement are as follows:

Article II explains three adjustments made to staff's cost of service as set out in the top sheets. The first adjustment corrects the method of accounting for a credit balance in the PGA account. In K–N's original filing the cost of service was incorrectly reduced by an amount equal to the positive balance in the deferred purchased gas account. The second adjustment sets the transmission depreciation rate at 3.6 percent, the rate agreed to in K–N's prior rate settlement proceedings in Docket Nos. RP74–11 and RP76–8. The third adjustment reduces rate base to reflect the elimination of unexpended leasehold commitments and the use of the actual balance in Account No. 166 as of March 31, 1977.

Article III allows K–N to continue to classify transmission and storage costs pursuant to the Atlantic Seaboard method subject to the condition that if its next general rate increase is filed on or before October 31, 1977, it will classify transmission and storage costs under the United (25–75) method and that it will not present arguments against the use of the United method in the course of its next rate hearing. Article III also provides that if K–N has not filed a general rate increase by October 31, 1977, K–N will file a rate change filing on March 31, 1978, to be effective on May 1, 1978, the sole purpose of which will be to change to the United method of cost allocation.

Article IV provides for appropriate refunds to customers if the amount K–N earns on its sales of liquid hydrocarbons exceeds the amounts included in the settlement cost of service. Refunds shall be made, if necessary, by crediting the unrecovered purchased gas cost account.

Based upon a review of the record in this proceeding including the settlement agreement itself and the pleadings, evidence, and comments submitted in support thereof, the Commission finds that the proposed settlement represents a reasonable resolution of the issues in this proceeding in the public interest and that the settlement agreement should accordingly be approved and adopted, as hereinafter ordered.

*The Commission orders:* (A) The settlement agreement filed with the Commission on April 8, 1977, in this proceeding, is incorporated herein by reference and is approved and adopted.

(B) Within 15 days of the issuance of this order, K–N shall file revised tariff sheets in accordance with the terms of the settlement agreement and of this order.

(C) Within 30 days from the date of this order, K–N shall make refunds to its customers, together with interest at the rate of 9 percent per annum, pursuant to the terms of the settlement. Within 15 days thereafter, K–N shall submit a report of such refunds to the Commission.

(D) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, the staff or any other party or person affected by this order in any proceeding now pending or hereinafter instituted by or against K–N or any other person or party.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

APPENDIX A

KANSAS–NEBRASKA NATURAL GAS CO., INC.

[Docket No. RP77–5]

| Description: | *FPC jurisdictional cost of service* |
|---|---|
| Staff cost of service per W. S. Chinn, page 3 | $30,351,318 |
| Correct for handling of credit balance in PGA account | 234,171 |
| Transmission depreciation rate—Staff 3.5 percent v. K–N 3.6 percent | 89,116 |
| Cost classification—Staff, United v. K–N, Seaboard | 810,225 |
| Adjust rate base for leasehold commitments and advance payments | (67,442) |
| Total FPC jurisdictional cost of service | 31,417,388 |

APPENDIX B.—*Kansas-Nebraska Natural Gas Company, [Docket No. RP77–5], Capitalization and Rate of Return, December 31, 1976*

| Description | Amount | Percent | Allowance (percent) | Return (percent) |
|---|---|---|---|---|
| Long-term debt | $96,348,074 | 45.90 | 8.34 | 3.83 |
| Preferred stock | 19,560,000 | 9.32 | 7.20 | .67 |
| Common equity | 93,990,139 | 44.78 | 12.73 | 5.70 |
| Total | 209,898,213 | 100.00 | | 10.20 |

[FR Doc.77–21484 Filed 7–25–77;8:45 am]

[Docket No. RI77–59]

## MARTIN EXPLORATION CO.

### Order Granting Petition for Special Relief

JULY 20, 1977.

On April 12, 1977, Martin Exploration Co. (Martin) filed a petition for special relief pursuant to section 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76) for the sale of natural gas to Transcontinental Gas Pipeline Corp. (Transco) from Martin Well No. 2, Lake Des Allemands Field, St. John the Baptist and St. Charles Parish, La., under its FPC Gas Rate Schedule No. 129. Subsequently, Martin filed an amended petition for special relief on May 26, 1977.

Martin is an independent small producer which was issued a temporary small producer certificate in Docket No. CS75–425 on August 8, 1974. Holding a 100 percent working interest in the lease, Martin is presently selling natural gas to Transco at a rate of 35.075 cents per Mcf at 15.025 psia pursuant to a contract dated February 11, 1958.

Martin requests that the Commission authorize it to collect $1.8012 per Mcf for the sale of said gas; this increased rate would enable Martin to re-enter and re-work the well in order to restore production and extend the lease term. Should this prove to be successful, Martin will drill two additional wells in the lease area. However, Martin states further drilling operations can only be undertaken if the requested relief is granted.

In a letter dated April 5, 1977, Transco has indicated its consent to the increased rate requested by Martin.

Notice of Martin's petition for special relief was issued April 20, 1977, and was published in the FEDERAL REGISTER. Notice of the amended petition for special relief was issued on June 6, 1977. Transco filed a timely petition to intervene.

Based on an analysis of data submitted by Martin, Staff estimates, that 161,679 Mcf of natural gas remain to be produced over a period of 2.4167 years, and concludes that the requested special relief is warranted. Further, although Martin's 100 percent working interest in subject well was acquired from Exxon Company U.S.A., § 157.40(c) of the Commission's General Policy and Interpretations should by waived in light of the rate we are authorizing herein.

*The Commission orders:* (A) As amended, the petition for special relief is hereby granted.

(B) Martin is authorized to collect $1.8012 per Mcf at 15.025 psia for natural gas from Martin Well No. 2, Lake Des Allemands Field, St. John the Baptist and St. Charles Parish, La., under the FPC Gas Rate Schedule No. 129, effective upon either the date of issuance of this order or the date the remedial work is completed, which ever is later.

(C) The authorization is subject to the following conditions: (1) Martin must file within 30 days of the issuance of this order the appropriate rate change filings in accordance with section 154.94 of the Commission's regulations under the Natural Gas Act (18 CFR 154.94), accompanied by an executed copy of the amended contract agreement providing for the rate increase; (2) Within 30 days of the effective date provided in Ordering Paragraph (B) above for the rate authorized herein, Martin must file a statement signed by Transco in Docket No. RI77–59 setting forth the date on which the remedial work was completed.





(D) Granting waiver of Section 157.40 (c) of the Commission's General Policy and Interpretations to the extent necessary to permit the sale to be made under the small producer certificate issued in Docket No. CS74–425, subject to the rate limitations applicable to large producers.

(E) Transco is permitted to intervene in the above-entitled proceeding, subject to the Rules and Regulations of the Commission; *Provided, however,* That its participation shall be limited to matters effecting asserted rights and interests specifically set forth in its petition for leave to intervene; and *Provided, further,* That the admission of Transco in the manner provided shall not be construed as recognition by the Commission that Transco might be aggrieved because of any order or orders entered in this proceeding, and that Transco agrees to accept the record as it now stands.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77–21469 Filed 7–25–77;8:45 am]

[Docket No. RP73–43 (PGA77–2); CI77–273; CP77–352]

## MID LOUISIANA GAS CO., ET AL.

### Order Consolidating Proceeding

JULY 20, 1977.

On May 12, 1977, Mid Louisiana Gas Co. (Mid Louisiana) filed with the Commission a motion requesting that the above-captioned proceedings be consolidated. For the reasons set forth below, the motion shall be granted.

Mid Louisiana is a natural gas company engaged in the production, transmission and sale of natural gas to distribution companies for resale and to industries for their own use. Mid Louisiana has contracted with Mobil Oil Corp. for the purchase of gas produced from the Main Pass Area, Block 140 Field, Gulf of Mexico. The gas is delivered onshore to the Grand Bay receiving station, located in Section 55, Township 20 South, Range 18 East, Plaquemines Parish, La. Mid Louisiana has contracted with Gulf Oil Corp. (Gulf) to compress and dehydrate the gas for Mid Louisiana at the Grand Bay receiving station and to then deliver the gas to Mid Louisiana at the Grand Bay station. Mid Louisiana states that Gulf has conveyed its ownership of the Grand Bay receiving station to Grand Bay Co. (Grand Bay) and has assigned its rights under the contract with Mid Louisiana to Grand Bay.

On December 17, 1976, as supplemented on January 18, 1977, Mid Louisiana filed with the Commission a proposed revised tariff sheet in Docket No. RP73–43 (PGA77–2) incorporating, inter alia, a transportation cost adjustment to track charges made by Gulf for the compression and dehydration services to be performed for Mid Louisiana as described above. On February 17, 1977, the Commission issued an order in which it accepted the filing of Mid Louisiana as of January 18, 1977, suspended the effectiveness thereof for one day until February 2, 1977, at which time Mid Louisiana's proposed rates became effective, subject to refund, and ordered a public hearing concerning the lawfulness of the claimed transportation cost adjustment. Gulf was made a respondent to the proceeding. At the prehearing conference held on April 21, 1977, in Docket No. RP73–43 (PGA77–2), it was agreed that Mid Louisiana would file the present motion to consolidate.

On February 17, 1977, in Docket No. CI77–273, the Commission also issued an order directing Gulf to file with the Commission an application for a certificate of public convenience and necessity under section 7 of the Natural Gas Act covering the subject compression and dehydration service, and to file the contract for such service as a rate schedule, or show cause why the service should not be subject to the requirements of the Natural Gas Act.

On April 21, 1977, in Docket No. CP77–352, Grand Bay filed an application for a certificate of public convenience and necessity authorizing it to provide to Mid Louisiana the described services and for approval of its rate schedule for same.

The issues raised in the three proceedings described above arise from the same set of circumstances and the interests of Mid Louisiana, Gulf, and Grand Bay are involved in each of the proceedings. It appears that the Commission's disposition of any one of these proceedings will directly affect the resolution of the other proceedings and that the parties will be bound by the Commission's final orders. In these circumstances the Commission finds that good cause exists to grant the motion to consolidate, as hereinafter ordered.

*The Commission orders:* (A) The proceedings in Docket Nos. RP73–43 (PGA77–2), CI77–273, and CP77–352 are hereby consolidated for purposes of hearing and decision thereon.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77–21470 Filed 7–25–77;8:45 am]

[Docket No. ER77–480]

## MONTAUP ELECTRIC CO.

### Order Accepting for Filing and Suspending Tendered Rate Schedule Revisions

JULY 20, 1977.

On June 27, 1977, Montaup Electric Company (Montaup) tendered for filing proposed rate schedule revisions providing a new rate "M–3" for jurisdictional firm power service at 115 kV.[1] The filing would increase Montaup's revenues by $1,672,400, or 1.4 percent, based on the 12-month period ending June 30, 1978. Montaup proposes an effective date of August 1, 1977, for its M–3 rate and that the rate be suspended for five months until January 1, 1978, in accordance with its M–2 rate settlement agreement approved by the Commission on February 25, 1977, in Docket No. ER–76–46.

A preliminary review of Montaup's filing indicates that the proposed increases in rates have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: Good cause exists to accept for filing and suspend the effectiveness of the proposed increased rates tendered by Montaup on July 27, 1977, all as hereinafter ordered.

*The Commission orders:* (A) The proposed increased rates tendered by Montaup on June 27, 1977, are hereby accepted for filing.

(B) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act, a public hearing will be held at a time and place to be specified in a subsequent Commission order concerning the lawfulness of the increased rates tendered by Montaup on June 27, 1977.

(C) Pending such hearing and decision thereon, the increased rates tendered by Montaup on June 27, 1977, are hereby suspended and the use thereof deferred until January 1, 1978, when they shall become effective subject to refund.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

MONTAUP ELECTRIC COMPANY

Dated: (1) through (4) Undated; (5) March 23, 1976.
Filed: (1) through (4) June 27, 1977; (5) October 5, 1976.
Effective: (1) through (4) January 1, 1978. Subject to Refund; (5) May 19, 1975.

| *Designations* | *Description* |
|---|---|
| Fourth Revised Sheet Nos. 4 and 6, First Revised Sheet No. 8 under FPC Electric Original Vol. No.1. (Supersedes Third Revised Sheet Nos. 4 and 6, and Original Sheet No. 8.) | Rate M–3 and General Terms and Conditions. |
| Supplement No. 10 to Rate Schedule FPC No. 33. (Supersedes Supplement No. 9.) | Amendatory Agreement with Newport Electric Corporation. |
| Supplement No. 11 to Rate Schedule FPC No. 34. (Supersedes Supplement No. 10.) | Amendatory Agreement and Exhibit "A" with Pascoag Fire District. |
| Supplement No. 11 to Rate Schedule FPC No. 36. (Supersedes Supplement No. 9.) | Amendatory Agreement with Middleboro. |

[1] The filing is designated as indicated in the attachment to this order.



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| Designations | Description |
|---|---|
| Service Agreement under FPC Electric Tariff Original Vol. No. 1. (Redesignation of Supplement No. 17A to Rate Schedule FPC No. 35.) | Narragansett Electric Company. |

[FR Doc.77-21473 Filed 7-25-77;8:45 am]

[Docket No. RI76-153]

## JOSEPH P. MUELLER

### Order Granting Petition for Special Relief

JULY 20, 1977.

On September 13, 1976, Joseph P. Mueller (Mueller) filed a petition for special relief pursuant to Section 2.56b (h)[1] of the Commission's General Policy and Interpretations for the sale of gas to Tennessee Gas Pipeline Company (Tennessee) from the J. J. Howell Lease, La Copita Field, Starr County, Texas.[2] Mueller is a small producer and was issued a small producer certificate in Docket No. CS71-269 on October 12, 1971.

In his petition Mueller states that continued gas production is uneconomical and that it will be necessary to plug and abandon the well if an adequate price increase cannot be secured. By letter agreement dated September 8, 1976, Tennessee has agreed to amend the June 1, 1972 base contract between Mueller and Tennessee to provide for the rate level found by the Commission to be just and reasonable. Mueller seeks a rate increase from 28.5 cents per Mcf to 71.5 cents per Mcf at 14.65 psia.

Notice of the petition was issued on September 21, 1976, and appeared in the Federal Register on September 27, 1976, at 41 FR 42241. A timely petition to intervene was filed by Tennessee on October 12, 1976.

Staff has reviewed the cost information supplied by Mueller and has determined that the proposed rate is cost justified based on "out-of-pocket" expenses.[3] Upon consideration of the data submitted and Staff's analysis thereof, we conclude that the petition should be granted.

The Commission finds: The petition for special relief filed by Mueller in Docket No. RI76-153 should be approved.

The Commission orders: (A) For the above-stated reasons, the petition for special relief filed by Mueller in Docket No. RI76-153 is hereby granted. Mueller is authorized to collect from Tennessee 71.5 cents per Mcf at 14.65 psia for all gas produced from the subject well effective as of the date of issuance of this order.

(B) Mueller shall file within 30 days hereof a notice of rate change in Docket No. CS71-269 to the level authorized in Ordering Paragraph (A) above.

[1] 18 C.F.R. § 2.56b(h).
[2] Mueller filed amendments to his petition on January 17, 1977, and April 27, 1977.
[3] See Appendix A, attached hereto.

(C) Within 30 days hereof Mueller shall file a copy of his contract amendment with Tennessee providing for the rate specified in Ordering Paragraph (A) above.

(D) Tennessee is permitted to intervene in the above-entitled proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene; and *Provided, further,* That the admission of Tennessee in the manner provided shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders entered in this proceeding, and that Tennessee agrees to accept the record as it now stands.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

(Joseph P. Mueller, Docket No. RI76-153)

APPENDIX A

SCHEDULE 1.—*Unit cost of gas*

| Line No. | Item (a) | Amount (b) |
|---|---|---|
| 1 | Net working interest volumes: | |
| 2 | Gas, thousand cubic feet at 14.65 psia [1] | 16,188 |
| 3 | Liquids, barrels [2] | 805 |
| 4 | Cost of production: | |
| 5 | Production expense [3] | $14,490 |
| 6 | Allocated to gas [4] | $10,002 |
| 7 | Regulatory expense [5] | 16 |
| 8 | Total cost of production | $10,708 |
| 9 | Unit cost of production (cents/Mcf at 14.65 psia): | |
| 10 | Cost of production [6] | 66.15 |
| 11 | Production tax at 7.5 pct.[7] | 5.36 |
| 12 | Total unit cost | 71.51 |

[1] 20,109 Mcf times .805 net working interest.
[2] 1,000 bbl. times .805 net working interest.
[3] Estimated operating expenses based on average of 1974-75 expenses, including 5 pct. inflation factor.
[4] Line 5 times Schedule 2, line 4.
[5] Line 2 times 8.00 Mcf per Opinion No. 749.
[6] Line 8 divided by line 2.
[7] 7.5 pct. of line 12.

SCHEDULE 2.—*Allocation of costs* [1]

(Joseph P. Mueller, Docket No. R176-153)

| Line No. | Item (a) | Amount (b) |
|---|---|---|
| 1 | Gas, MMBtu [2] | 18,519 |
| 2 | Liquids, MMBtu [3] | 6,578 |
| 3 | Total MMBtu | 25,097 |
| 4 | Percent allocated to gas [4] | 73.79 |

[1] Based on modified Btu method per Opinion No. 749.
[2] 16,188 Mcf (Schedule 1, line 2) times 1.144 MMBtu/Mcf.
[3] 805 bbl (Schedule 1, line 3) times 5.448 MMBtu/bbl. times 1.5 modifier.
[4] Line 1 divided by line 3.

[FR Doc.77-21483 Filed 7-25-77;8:45 am]

[Docket Nos. RP75-108 and RP76-106]

## NATURAL GAS PIPELINE CO. OF AMERICA

### Order Approving Pipeline Rate Settlement

JULY 20, 1977.

On April 28, 1977, Natural Gas Pipeline Company of America (Natural) filed a proposed settlement agreement in the above-captioned dockets. The proposal resolves the rate of return issue in Docket No. RP75-108 and all issues in Docket No. RP76-106. For the reasons stated, the Commission shall approve the proposed agreement.

On May 30, 1975, Natural tendered for filing a proposed rate increase which was designated as Docket No. RP75-108. This proposal was accepted for filing and suspended for five months by Commission order issued June 30, 1975. A settlement in this docket was accepted in part and rejected in part by order issued April 4, 1977. The Commission accepted all parts of the settlement except the provision concerning the rate of return for common equity. The settlement contained an equity return of 13.5 percent, the same as that approved for Natural in Opinion No. 762 (issued May 21, 1976). The City of Chicago and the Commission staff opposed this rate as too high. In rejecting 13.5 percent, the Commission stated:

> In view of the allegations raised by the City and the fact that the record evidence relied on by the Commission in Opinion No. 762 is at best over a year old, the rate of return issue should be severed from the settlement proposal and set for hearing.

During the course of settlement discussions in Docket No. RP76-106 and prior to the convening of hearings on the rate of return issue in Docket No. RP75-108, the parties agreed to a settlement of the equity return issue in RP75-108. The revised settlement rate of return is 9.58 percent including an allowance on common equity of 13.25 percent as shown in Appendix A. The Commission finds the settlement rate of return is reasonable and should be approved.

The proposed settlement in Docket No. RP76-106 is predicated upon a settlement cost of service of $822,191,505 as shown in Appendix B. Depreciation rates used in arriving at this cost of service are: 4.6 percent for depreciable transmission plant; 5 percent for production and gathering, storage, plant leased to Stingray Pipeline Company (Stingray), and general plant accounts; and, 8 percent for offshore plant other than that leased to Stingray. This cost of service reflects an overall rate of return of 9.72 percent with a rate on common equity of 13.25 percent. (See Appendix A.) Refunds of overcollections with 9 percent interest are to be made within 60 days after the date on which the settlement becomes effective. Cost classification and rate design are based upon the United method. The settlement cost of service appears reasonable and is approved.





The proposed settlement provides that rate increases or decreases of $500,000 or more relating to changes in the amount of outstanding advance payments will be reflected in Natural's rates. In addition, separate articles regarding six classes of advance payment agreements are contained in the proposed settlement. Three provisions state that Natural shall not include unrecovered amounts of advance payments under various agreements in its rate base five years from the date gas deliveries commence unless it receives authorization to do so from the Commission. Another article provides that all unrecovered amounts under an agreement with Perry R. Bass will be eliminated from Natural's rate base five years from the date gas deliveries commence or five years from the date it is determined that recovery will be in other than gas. A separate article permits Natural to refund with interest annually the difference between the advance made and the actual producer expenditures. The remaining advance payment article substitutes for rate purposes a repayment schedule different from that contained in the advance payment contract between Natural and Texaco, Inc. (Texaco). Under the settlement, Natural shall treat its rate base as if repayment were made in installments of 10 percent of the total in each of the first three years, 30 percent in the fourth year and 40 percent in the fifth year. Finally, a settlement article provides that inclusion in rate base of the unamortized portion of certain non-recoverable advance payments is conditioned upon the outcome of the appeal from the Commission's order of February 13, 1976, in Transcontinental Gas Pipe Line Company, Docket No. RP73-69.

Under the proposed settlement Natural may track semi-annually increases and decreases in Stingray's transportation change from a base level of $17,152,000. Rate changes will be made when adjustments from the base level amount to "at least one-cent per Mcf of effective demand units." Natural's rate schedule X-35 is to be based on the Stingray transportation charge to Natural. The agreement provides for a credit of $3,911,436 for revenues from short-term transportation services rendered by Natural. Refunds will be due also for any transportation revenues resulting from the Emergency Natural Gas Act of 1977.

Additional refunds with interest will be made by Natural in the event it prevails in disputes with the Internal Revenue Service concerning deductions taken by Natural for Federal income tax purposes. Provision is made for Natural to adjust its tax depreciation for rate purposes should it prevail in these disputes.

The settlement rates are based upon a sales volume of 968,810,539 Mcf for the twelve months ending November 30, 1977. In the event Natural sells more gas during this period, it will refund a principal amount equal to the difference between the settlement rates and the lower rates which result from the higher level of sales.

The term of the portion of the agreement relating to Docket No. RP75-108 is from December 1, 1975 through November 30, 1976. The term for Docket No. RP76-106 is from December 1, 1976 through November 30, 1977. Natural's superseding rates in Docket No. RP77-98 will become effective following suspension on December 1, 1977.

Public notice of the filing of the proposed agreement was issued on May 10, 1977 with comments due on or before May 23, 1977. Comments supporting the proposed agreement were filed by Natural and the City of Chicago.

Based upon a review of the record in this proceeding, including the settlement agreement and the pleadings, evidence and comments submitted in support thereof, the Commission finds that the proposed settlement agreement represents a reasonable resolution of the issues in these proceedings in the public interest, and that the agreement should be approved as hereinafter ordered.

The Commission orders: (A) The proposed settlement agreement filed by Natural on April 28, 1977, is incorporated herein by reference and is approved and adopted.

(B) Natural shall file within thirty days from the date of tihs order revised tariffi sheets in accordance with the terms of the settlement and of this order.

(C) Within 60 days from the date of this order, Natural shall refund to its jurisdictional customers all amounts collected in excess of the settlement rates, together with interest at the rate of 9 percent per annum. Within 15 days thereafter Natural shall file a report of refunds and interest with the Commission.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

APPENDIX A.—*Natural Gas Pipeline Company of America—Capitalization ratios*

(Docket No. RP75-108 and RP76-106)

| Docket no. | Percentage | Cost (percent) | Weighted return (percent) |
|---|---|---|---|
| RP75-108: | | | |
| Long-term debt | 52.57 | 7.27 | 3.82 |
| Preferred stock | 9.16 | 7.54 | .69 |
| Common equity | 38.27 | 13.25 | 5.07 |
| Overall rate of return | | | 9.58 |
| RP76-106: | | | |
| Long-term debt | 51.38 | 7.30 | 3.75 |
| Preferred stock | 8.31 | 7.56 | .63 |
| Common equity | 40.31 | 13.25 | 5.34 |
| Overall rate of return | | | 9.72 |

APPENDIX B.—*Natural Gas Pipeline Co. of America (Docket No. RP76-106) settlement cost of service*

| | |
|---|---|
| Operation and maintenance expense | $549,396,566 |
| Depreciation expense | 72,707,050 |
| Federal income taxes | 85,747,320 |
| State income taxes | 4,325,986 |
| Other taxes | 16,216,348 |
| Return | 111,797,893 |
| Donation | 159,030 |
| Credits to cost of service | (18,158,688) |
| Total cost of service | 822,191,505 |

[FR Doc.77-21485 Filed 7-25-77;8:45 am]

[Docket No. RP77-52]

## NORTHERN NATURAL GAS CO.

### Findings and Order After Statutory Hearing, Granting Intervention, and Granting Extraordinary Relief

JULY 20, 1977.

On April 5, 1977, Northern Natural Gas Company (Northern) filed a petition for extraordinary relief pursuant to Section 1.7(a) of the Commission's Rules of Practice and Procedure. Northern requests Commission authorization to provide up to 750,000 Mcf of natural gas, on a best-efforts basis, pursuant to advanced operating arrangements to its existing customers for seed grain and crop drying in accordance with its presently effective Rate Schedule ACDS-1 for a period of 12 months commencing upon the date of Commission authorization.

By Commission orders issued September 28, 1973, September 20, 1974, August 4, 1975 and October 4, 1976, at Docket Nos. CP74-63, RP75-12-1, RP75-12-3 and RP76-105-1, respectively, Northern was granted extraordinary relief to provide natural gas service to its existing utility customers for seed grain and crop drying under Rate Schedule ACDS-1. Under these orders, Northern was authorized to provide up to 750,000 Mcf, on a best efforts basis, for the six month period ending on March 15 of each respective year.

Due to favorable weather conditions during the past four grain drying seasons, as well as less than projected curtailment below contract demand, many utilities were able to satisfy their crop drying requirements out of their existing firm entitlements. Actual sales, therefore, under Rate Schedule ACDS-1 during the period September 15 through March 15 of 1973-74, 1974-75, 1975-76 and 1976-77, totaled 140,078 Mcf, 117,735 Mcf, 78,300 Mcf and 150,402 Mcf respectively.

Northern will again have available for sale under Rate Schedule ACDS-1 a total of 750,000 Mcf for the period September 15, 1977 through March 15, 1978. While it is anticipated that no ACDS-1 gas will be required other than for the period September 15, 1977 through March 15, 1978, Northern requests twelve month authorization for sale in the event that unusual operating conditions.



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abnormal weather, changes in gas supply or off-system sales occur.

Under Rate Schedule ACDS-1, the volumes will be made available daily, on a best efforts basis, under advance operating arrangements. If the volumes nominated exceed the volumes available, seed grain drying will be accorded top priority. Northern has not proposed new facilities or a change in the present ACDS–1 rate. The current rate provides for a nomination charge of 20 cents per Mcf in addition to the appropriate commodity charge under the CD, SS, WPS or PS Rate Schedules. For volumes in excess of a utilities firm entitlement, Northern will charge a rate of 129.49 cents per Mcf.

The ACDS–1 Rate Schedule is designed to provide special relief for Northern's utility customers during the crop drying season when curtailment of volumes below their firm entitlements would result in irrecoverable losses from inadequate supplies of crop drying fuel. Preservation of feed grain and especailly seed grain is recognized as an important link in the food chain. In order to be properly preserved, the moisture content of grains must be reduced below 12 percent or the grain germ will be destroyed. The service proposed herein will insure adequate service to grain dryers on Northern's system.

The request for a 12 month delivery period is apparently a precautionary measure taken by Northern to insure that gas will be available for crop drying in the event unusual operating conditions occur which result in unanticipated curtailments below contract demand. In view of the small volume of gas required for crop drying and the importance of the crop drying industry, it appears reasonable to make Rate Schedule ACDS–1 available on a 12-month basis.

After due notice by publication in the FEDERAL REGISTER on May 19, 1977, (42 FR 25762), petitions for leave to intervene were filed by the American Dehydrators Association, Iowa Southern Utilities Company, DeKalb Ag Research, Inc., North Central Public Service Co. Division of Donovan Companies, Inc., Iowa Public Service Company, and Eveleth Taconite (Eveleth). All parties except Eveleth support the petition. No party requests a formal hearing. Eveleth, while not disputing the appropriateness of a crop drying service in its petition to intervene, questioned a situation where crop drying gas volumes could be delivered in excess of existing contract demands when, in Docket No. CP77–83, Northern had filed to abandon a firm sale to Eveleth. Eveleth stated that it was not filing a protest unless the Commission deemed the instant application to be an appropriate vehicle to explore the issue.

We believe that the instant application is not the appropriate vehicle for Eveleth to raise the issue of Northern proposal to abandon firm taconite sales. Eveleth will have full opportunity at Docket No. CP77–83 to make its case against abandonment of firm taconite sales. In addition, the total volume of gas to be made available for sale under the ACDS–1 Rate Schedule represents an insignificant portion of Northern's total sales.

At a hearing held on July 13, 1977, the Commission on its own motion received and made a part of the record in this proceeding all the evidence including the application and exhibits thereto, submitted in support of the authorization sought herein and upon consideration of the record.

The Commission finds: (1) Applicant, Northern Natural Gas Company, a Delaware Corporation having its principal place of business in Omaha, Nebraska, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 6, 1943, in Docket No. G–280 (3 FPC 967).

(2) Irreparable injury to the preservation of feed and seed grains would result if Northern is not permitted to provide natural gas service to its existing utility customers under its presently effective Agricultural Crop Drying Service, ACDS–1.

(3) Participation by the above-referenced petitioners may be in the public interest.

The Commission orders: (A) Northern Natural Gas Company is granted extraordinary relief to provide natural gas service to its existing utility customers up to a maximum of 750,000 Mcf for a period of twelve months commencing with the issuance of this order under its presently effective Agricultural Crop Drying Service, Rate Schedule ACDS–1 of Northern's FPC Gas Tariff Third Revised Volume No. 1.

(B) The above-mentioned interveners are permitted to intervene subject to the Rules and Regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; and *Provided, further,* That the admission of such interveners shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) Northern shall file with the Commission, within 30 days after the termination of the extraordinary relief, a report detailing the volumes sold under the ACDS–1 Rate Schedule.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77–21467 Filed 7–25–77;8:45 am]

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[Docket No. ER77–502]

## OKLAHOMA GAS AND ELECTRIC CO.

### Filing of Wholesale Electric Service Agreements

JULY 20, 1977.

Take notice that Oklahoma Gas and Electric Company (OGE), on July 8, 1977, tendered for filing Electric Service Agreements for wholesale service for the City of Geary and the Town of Prague, Oklahoma. OGE indicates that the proposed Electric Service Agreements cancel and supersede existing contracts presently on file with the Commission. The proposed effective dates are August 8, 1977, for Geary and September 4, 1977, for Prague.

According to OGE the proposed rates are identical to those filed by OGE on December 27, 1976, in Docket No. ER77–127 and designated as Federal Power Commission Tariff, Original Volume No. 1 Municipalities.

OGE states that copies of the proposed Electric Service Agreements have been mailed to Geary, Prague and the Corporation Commission of the State of Oklahoma.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 29, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77–21480 Filed 7–25–77; 8:45 am]

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[Docket No. E–7638 and Docket No. E–7647]

## PUBLIC SERVICE CO. OF INDIANA, INC. ET AL.

JULY 20, 1977.

In the matter of Public Service Company of Indiana, Inc., and Southern Indiana Gas and Electric Company, Public Service Company of Indiana, Inc.

Take notice that on July 8, 1977, Public Service Company of Indiana, Inc. (PSI) tendered for filing, pursuant to ordering pararaph (B) of the Commission's Order Terminating Proceedings issued July 1, 1977 in the dockets herein, the following documents:

(1) Executed Stipulation of the Parties to the Hoosier Interconnection Agreement;

(2) Executed Settlement Agreement of the Parties;

(3) Statement of Bulk Power Supply Policies of Public Service Indiana; and

(4) Concurrence fo Southern Indiana Gas and Electric Company in this filing.

PSI states that this filing will become a part of its FPC Rate Schedule No. 222 and a part of Southern Indiana Gas and Electric Company's FPC Rate Schedule No. 27.

Any person desiring to be heard or to protest said filing should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before July 29, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77–21479 Filed 7–25–77;8:45 am]





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[Docket No. ER77–464]

## PUBLIC SERVICE CO. OF NEW MEXICO

### Order Accepting for Filing and Suspending Proposed Increased Rates

JULY 19, 1977.

On June 21, 1977, Public Service Company of New Mexico (Company) tendered for filing proposed increased rates and charges for jurisdictional sales to three of its customers. The filing would increase the Company's revenues by $5,053,644, or 27.06%, based on the 12-month period ending December 31, 1977. Company proposes an effective date of August 1, 1977.

A preliminary review of Company's filing indicates that the proposed increase in rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: Good cause exists to accept for filing and suspend the proposed increased rates and charges tendered by the Company on June 21, 1977, as hereinafter ordered.

The Commission orders: (A) The proposed increase rates and charges tendered by the Company on June 21, 1977, are hereby accepted for filing.

(B) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations Under the Federal Power Act, a public hearing will be held at a time and place to be specified in a subsequent Commission order concerning the lawfulness of the proposed increased rates and charges tendered by the Company on June 21, 1977.

(C) Pending such hearing and decision thereon the increased rates and charges tendered by the Company on June 21, 1977, are hereby suspended and the use thereof deferred until October 1, 1977, when they shall become effective subject to refund.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77–21475 Filed 7–25–77;8:45 am]

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[Docket Nos. CI76–633, CI76–644, CI76–678, CI76–722, and CI76–784]

## TENNECO EXPLORATION LTD.

### Supplemental Applications

JULY 19, 1977.

In the matter of Tenneco Exploration, Ltd., Tenneco Oil Company, and Texaco Inc.,

Take notice that on June 1, 1977, Tenneco Exploration, Ltd. (Tenneco Exploration), P.O. Box 2511, Houston, Texas 77001, filed in Docket Nos. CI76–633 and CI76–644 supplemental applications for certificates of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act and either Section 2.56a (g) or Section 2.75 of the Commission's General Policy and Interpretations.

On June 22, 1976 and June 28, 1976, Tenneco Exploration filed in Docket Nos. CI76–633 and CI76–644, respectively, applications for certificates of public convenience and necessity pursuant to Section 2.75 of the Commission's General Policy and Interpretations seeking authorization to sell natural gas attributable to Tenneco Exploration's interest in wells drilled into West Cameron Blocks 642 and 643, Offshore Louisiana, from the "A" Platform located in West Cameron Block 643. In Docket No. CI76–633, Tenneco Exploration seeks authorization to sell gas produced from West Cameron Block 642 to Columbia Gas Transmission Corporation (Columbia) under a gas sales agreement dated April 23, 1976. In Docket No. CI76–644, Tenneco Exploration seeks authorization to sell gas produced from West Cameron Block 643 to Tennessee Gas Pipeline Company (Tennessee) under a gas sales agreement dated February 26, 1976, and amended on June 15, 1976. Hearings on Tenneco Exploration's original applications have been held, and the proceedings are currently pending before the Presiding Administrative Law Judge.

By its supplemental applications filed June 1, 1977, Tenneco Exploration requests, as an alternative to certification of the "A" Platform project proposed in its original applications, authorization to sell not only its share of the gas produced from the "A" Platform, but also gas attributable to its interest in wells to be drilled into West Cameron Block 643 and East Cameron Blocks 370 and 371 from a proposed "B" Platform to be located in West Cameron Block 643. Specifically, as an alternative to certification of the "A" Platform project at the rate specified in its original application, as subsequently modified, Tenneco Exploration proposes in Docket No. CI76–633 to sell to Columbia all of its share of the gas to be produced from West Cameron Blocks 370 and 371 through both the "A" and "B" Platforms at an initial rate of $3.2046 per Mcf, with annual escalations of 5 cents per Mcf, under gas sales agreements dated April 23, 1976 and May 19, 1977. Similarly, Tenneco Exploration proposes in Docket No. CI76–644 to sell to Tennessee all of its share of the gas to be produced from West Cameron Block 643 through both the "A" and "B" Platforms at an initial rate of $3.2046 per Mcf, with annual escalations of 5 cents per Mcf, under gas sales agreements dated February 26, 1976, as amended, and May 18, 1977. Tenneco Exploration also requests pregranted abandonment authorization in its supplemental applications.

In conjunction with its supplemental certificate applications, Tenneco Exploration also filed on June 1, 1977 a motion in which it requests that the hearings in Docket Nos. CI76–633 and CI76–644 be reopened for the limited purpose of receiving evidence in support of certification of the sales of gas as proposed in its supplemental applications. Tenneco Exploration also requests in its motion that consideration of its original applications proceed, and that temporary certificates be granted authorizing the sales of gas from the "A" Platform at the rate determined to be just and reasonable for such sales on the basis of the evidence previously submitted, with such rate to be subject to modification upon the issuance of any permanent certificate authorizing the sale of all of the gas to be produced from both the "A" and "B" Platforms as proposed in Tenneco Exploration's supplemental applications.

Any person desiring to be heard or to make any protest with reference to said filings should on or before August 2, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77–21464 Filed 7–25–77;8:45 am]

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[Docket No. RP77–106]

## TRANSCONTINENTAL GAS PIPE LINE CORP.

### Order Accepting for Filing and Suspending Proposed Transportation Rates

JULY 20, 1977.

On June 30, 1977, Transcontinental Gas Pipeline Corporation (Transco) submitted for filing certain revised tariff sheets [1] proposing to increase interrupt-

[1] First Revised Sheet Nos. 961, 967, 973, 979, 991, 996, 1014, 1028, 1037, 1042 and 1210.



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ible transportation rates for gas purchased under order No. 533.

Transco has been charging a system-wide rate of 21.55 cents per dekatherm (dth) for the subject transportation services. The reasonableness of this rate is at issue in Transco's general rate proceeding currently pending in Docket No. RP76–136. To avoid possible undercollections for this service, Transco on December 30, 1976, filed for zoned rates of 28.2 cents, 29.8 cents, and 31.5 cents per dth for zones 1, 2, and 3 respectively. These rates were suspended by the Commission and permitted to become effective on February 1, 1977, subject to refund in Docket No. RP77–26. Docket Nos. RP76–136 and RP77–26 were also consolidated for purposes of hearing and decision.

In its present filing, Transco proposes that the same rates as those in Docket No. RP77–26 be accepted and made effective on July 1, 1977, after a requested one-day suspension, to be applied to 11 additional Order No. 533 transportation services certificated subsequent to the Commission's order in Docket No. RP77–26.

Notice of Transco's filing was issued on July 11, 1977, providing for protests or petitions to intervene to be filed on or before July 22, 1977.

The Commission finds that Transco's application should be accepted for filing, suspended for one day, and made effective on July 2, 1977, subject to refund and subject to the outcome of the consolidated proceedings in Docket Nos. RP76–136 and RP77–26. This action will result in uniform charges for equivalent transportation services, and will eliminate the existing difference in rates for such services.

The Commission orders: (A) Transco proposed transportation rates in Docket No. RP77–106 are accepted for filing, suspended for one day, and permitted to become effective on July 2, 1977, subject to refund.

(B) These transportation rates shall be subject to the outcome of the proceedings in Docket Nos. RP76–136 and RP77–26.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77–21468 Filed 7–25–77;8:45 am]

[Docket No. RP77–108]

## TRANSCONTINENTAL GAS PIPE LINE CORP.

### Order Accepting for Filing and Suspending Proposed Rate Increase, Initiating Hearing, and Establishing Procedures

JULY 20, 1977.

On July 1, 1977, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing in this docket proposed changes to its sales, transportation, and storage service rate schedules[1] which would increase jurisdictional revenues by approximately $50.8 million based on costs and sales for twelve months ended March 31, 1977, as adjusted for known and measurable changes through December 31, 1977. An effective date of August 1, 1977 is requested. As discussed below, the Commission shall accept the proposed rate increases for filing, suspend them for five months and set the matter for hearing.

Public notice of the filing was issued on July 11, 1977, providing for protests or petitions to intervene to be filed on or before July 22, 1977.

Transco states that the tendered rate increases reflect proposed increases in depreciation rates, additions to gas plant in service, and charges to be paid to the High Island Offshore System (HIOS) and U–T Offshore System (U–TOS) for transportation of Transco's offshore supplies that is expected to begin in late 1977. Transco further states that other inflationary cost increases have been offset by reductions in unit transmission costs. An overall rate of return of 10.34% is requested.

Based upon a review of Transco's filing, the Commission finds that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Therefore, the Commission shall accept Transco's proposed rate increases for filing, suspend their use for five months, or until January 1, 1978, when they shall be permitted to become effective, subject to refund, and shall set the matter for hearing.

Transco has included in its claimed rate base certain gas plant facilities which have not yet been certificated, and in its cost of service projected changes for offshore transportation commencing late in 1977. Transco's claimed rate base also includes an average of advance payment balances for the test period. Accordingly, Transco shall be required to file revised rates and supporting materials reflecting as of December 31, 1977: (1) elimination of costs associated with gas plant not in service and certificated; (2) the effective rates for transportation service by HIOS and U–TOS and (3) the actual advance payment balance in Account No. 166.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the increased rates and charges proposed by Transco, and that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed herein by Transco.

(B) Pending hearing and decision, Transco's proposed rate increases are accepted for filing and suspended for five months, or until January 1, 1978, when they shall be permitted to become effective, subject to refund, upon motion filed by Transco in accordance with the provisions of the Natural Gas Act.

(C) The Commission staff shall prepare and serve top sheets on all parties on or before November 1, 1977.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(E) Transco shall file revised tariff sheets and supplemental cost and revenue data on or before January 1, 1978, reflecting as of December 31, 1977: (1) elimination of facilities that have not been completed and placed in service; (2) the effective rates for transportation of Transco's supplies by HIOS and U–TOS; and (3) the actual advance payment balance in Account No. 166.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77–21472 Filed 7–25–77;8:45 am]

[Docket No. RP77–107]

## UNITED GAS PIPE LINE CO.

### Order Accepting for Filing and Suspending Proposed Rate Increase, Initiating Hearing, and Establishing Procedures

JULY 20, 1977.

On June 30, 1977, United Gas Pipe Line Company (United) filed in Docket No. RP77–107 proposed changes to its FPC Gas Tariff.[1] The proposed changes would increase jurisdictional revenues by $55,964,530 annually based on the costs and sales volumes for the twelve months ended February 28, 1977, as adjusted for known and measurable changes through November 30, 1977. United requests that the proposed tariff sheets be permitted to become effective on August 1, 1977. For the reasons stated below, the Commission shall accept the proposed tariff sheets for filing, suspend them for the full, five-month statutory period, and set the matter for hearing.

Public notice of United's filing was issued on July 11, 1977, providing for protests or petitions to intervene to be filed on or before July 22, 1977.

United states that the principal reasons for its proposed rate increase are a thirteen percent decline in jurisdictional sales volumes, increased transportation charges paid to others for acquisition of gas produced in off-system areas, increased gas plant investment of $54.5 million, increased operations and maintenance expenses, and increased working capital requirements. United claims a rate of return of 11.75 percent including a 14 percent allowance on common equity.

Based on a review of United's filing, the Commission finds that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept United's proposed rates for filing, suspend their use for five months or until January 1, 1978, and set the matter for hearing.

United has included in its claimed rate base an average amount of advance payments for the test period. United shall be required to file prior to the end of the prescribed suspension period revised rates reflecting the actual amount of advance payments outstanding as of December 31, 1977.

The Commission finds: It is necessary and proper in carrying out the provisions of the Natural Gas Act and it is in the public interest that the Commission enter upon a hearing concerning the lawfulness of the increased rates and charges proposed by United and that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by United.

(B) Pending hearing and decision, United's proposed rate increase is accepted for filing and suspended for five months, or until January 1, 1978, when it shall be permitted to become effective, subject to refund, upon motion filed by United in accordance with the provisions of the Natural Gas Act.

(C) United shall file revised tariff sheets and supplemental cost and revenue data on or before January 1, 1978, reflecting the actual advance payment balance in Account No. 166 as of December 31, 1977.

(D) The Commission staff shall prepare and serve top sheets on all parties on or before November 1, 1977.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

APPENDIX.—PROPOSED TARIFF SHEETS

FIRST REVISED VOLUME NO. 1

Thirty-Eighth Revised Sheet No.—4.
Ninth Revised Sheet—5.
Seventeenth Revised Sheet No.—21.
Fourteenth Revised Sheet No.—99.
Seventh Revised Sheet No.—99–A.

ORIGINAL VOLUME NO. 2

Sixth Revised Sheet No.—187.
Fifth Revised Sheet No.—226.
Sixth Revised Sheet No.—289–A.
Third Revised Sheet No.—448.
Third Revised Sheet No.—559.
Third Revised Sheet No.—574.
Second Revised Sheet No.—593.
Second Revised Sheet No.—609.
Second Revised Sheet No.—625.
First Revised Sheet No.—651.
First Revised Sheet No.—668.
Second Revised Sheet No.—685.
First Revised Sheet No.—732.
First Revised Sheet No.—753.
First Revised Sheet No.—771.

[FR Doc.77–21471 Filed 7–25–77;8:45 am]

[Docket No. ER77–483]

## VIRGINIA ELECTRIC AND POWER CO.

### Proposed Rate Change

JULY 18, 1977.

Take notice that on June 28, 1977, Virginia Electric and Power Company (VEPCO) tendered for filing a proposed change in the rate level of its electric resale rate schedules presently on file with the Commission. VEPCO also gives notice of the filing of the Company's FPC Electric Tariff, First Revised Volume No. 1 in accordance with the Settlement Agreement between VEPCO and Electri-Cities of North Carolina filed with the Commission on April 12, 1977 in FPC Docket No. E–9147 (Phase II).

VEPO requests an effective date of July 28, 1977, and therefore requests waiver of the Commission's notice requirements for the following: (1) Schedule RC, Resale Service, Rural Electric Cooperatives, (2) Schedule RC–F, Excess Facilities Service, Rural Electric Cooperatives and (3) FPC Electric Tariff, First Revised Volume No. 1, including revision to Schedule RS, Resale to Municipalities and Private Utilities and revision of the excess facilities charge.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 27, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77–21463 Filed 7–25–77;8:45 am]

[Project No. 2545]

## WASHINGTON WATER POWER CO.

### Order Providing for Hearing

JULY 20, 1977.

On August 17, 1972, the Commission issued an order granting a major license to The Washington Water Power Co. for the Spokane River Project, FPC No. 2545, located on the Spokane River at Spokane, Wash. Ordering paragraph (F) of that license reserved, without prejudice, for further Commission consideration in a later proceeding, the issues raised in the Spokane Tribe of Indians' petition to intervene as to whether the Little Falls and Post Falls developments should be included in the license for Project No. 2545.

On February 9, 1971, the Spokane Tribe of Indians filed a petition to intervene in the license proceeding. In their petition the Spokane Indians alleged: (1) That The Washington Water Power Co. has taken the dam site for Little Falls Development without paying adequate compensation to the Indians; (2) that the Tribe has received no damages for the destruction of its salmon fishing rights resulting from the construction of Little Falls dam; (3) that Little Falls dam is an integral part of a coordinated project over which the Commission has jurisdiction; (4) that Little Falls dam affects the navigability of the Columbia and Spokane Rivers, therefore resulting in Commission jurisdiction; (5) that the generating facilities at Little Falls dam are operated in coordination with the other Spokane River dams operated by The Washington Water Power Co. and are thus subject to the jurisdiction of the Commission; (6) that the operation of Little Falls dam affects lands in the Spokane Indian Reservation, and that the Indians have not received annual charges due for the use of these lands; and (7) that Little Falls dam has been substantially modified so as to require licensing by the Commission. Intervention was granted on April 12, 1971.

As stated supra, on August 17, 1972, the Commission issued a major license to The Washington Water Power Co. for Project No. 2545. As licensed, the project con-

[1] The tendered tariff sheets are listed in Appendix A.

[1] The Proposed Tariff Sheets are listed in the Appendix.







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sists of four hydroelectric developments on the Spokane River. These are the Upper Falls Development, the Monroe Street Development, the Nine Mile Development, and the Long Lake Development. To expedite the reconstruction of the Monroe Street Development and to have the Monroe Street plant constructed in time for the opening of EXPO 74, and with the concurrence of the Department of the Interior and the Spokane Tribe of Indians, the Commission considered only the aforementioned four developments in the order issuing license, reserving consideration of the Commission's jurisdiction over the Post Falls and Little Falls developments for a later date. As stated supra, the Commission ordered that the contentions raised by the the Spokane Tribe of Indians be reserved without prejudice for further consideration in a later proceeding.

On February 13, 1973, the Department of the Interior (Interior) filed a petition to intervene. In its petition Interior stated its support of the position of the Spokane Tribe of Indians, and requested the Commission to require The Washing Water Power Co. to include the Little Falls and Post Falls developments in its license for Project No. 2545. Interior further alleged that the Commission cannot effectively control utilization of the water resources of the Spokane River without the inclusion of the Little Falls and Post Falls developments in the license. In addition, Interior requested that the Commission fix a reasonable charge to be paid to the Coeur d'Alene and Spokane Indians for the use of their lands by the Company.

On March 23, 1973, The Washington Water Power Co. filed an answer to the petition of the Secretary of the Interior for leave to intervene. In that answer, the Company admitted that the Post Falls and Little Falls developments are operated in coordination with the dam and hydroelectric generating stations for which the Company has applied for license, and stated that the Little Falls and Post Falls developments are coordinated with all other dams and hydroelectric generating stations in the northwest under the terms of the Pacific Northwest Coordinating agreement. The Company also stated that if these developments were licensed, it would be appropriate for them to be included as part of the Company's Spokane River Project No. 2545. In addition, the Company denied that the Post Falls or Little Falls developments, or the reservoirs created by the dams at these developments, occupy or affect Federal lands. Moreover, the Company alleged that it has acquired full legal right and authority and all necessary permits to construct and operate its dams at Little Falls and Post Falls, and to use the waters of the Spokane River, Lake Coeur d'Alene, and their tributaries. The Company alleged that these rights were fully vested prior to the passage of the Federal Water Power Act and are thus expressly exempted from the provisions of that Act. On April 24, 1973, the Commission issued an order granting intervention to the Secretary of the Interior.

On July 2, 1973, the Coeur d'Alene Tribe of Indians filed a petition to intervene in the proceeding. In its petition, the Tribe claimed that The Washington Water Power Co. is without legal title to the Post Falls Power Site, and is accordingly without legal right to operate the Post Falls and Little Falls hydroelectric facilities and to store water in Lake Coeur d'Alene. The Tribe further alleged that it has never received any compensation or other consideration for the occupation and the use by The Washington Water Power Co. of the Post Falls Power Site, and for the storage of water in Lake Coeur d'Alene. In addition, the Tribe alleged that the Post Falls dam is an integral part of The Washington Water Power Co.'s system on the Spokane River, and should accordingly be licensed as part of Project No. 2545. Furthermore, the Coeur d'Alene Indians alleged that, according to recent court decisions, that portion of the Coeur d'Alene Lake which is within the boundaries of the Coeur d'Alene Indian reservation remained in the ownership of the Tribe (held in trust for the Tribe by the United States at the time of statehood and did no pass to the State of Idaho. Finally, the Coeur d'Alene Indians alleged that since the original installation of the Post Falls plant, The Washington Water Power Co. has substantially modified the development. As a result, the development is subject to licensing by the Federal Power Commission.

On July 10, 1973, The Washington Water Power Co. filed an answer to this petition to intervene, making substantially the same response as it furnished in its answer to the petition of the Secretary of the Interior. On September 14, 1973, the Commission granted intervention to the Coeur d'Alene Tribe of Indians.

A final determination of all of the issues raised in the aforementioned pleadings depends on a threshold determination regarding the Commission's jurisdiction over the developments. Such a determination of jurisdiction involves the following issues:

(1) Whether The Washington Water Power Co. possesses a permit or valid existing right-of-way granted prior to June 10, 1920, for the continued operation and maintenance of the Little Falls and Post Falls developments?

(2) Whether The Washington Water Power Co. has modified the original works such that it exceeded the authority contained in the original grants for Post Falls and Little Falls developments, thereby subjecting those developments to licensing, according to the holding in *Northwest Paper Co.* v. *FPC*, 344F. 2d 47 (8th Cir. 1965)?

(3) Whether operation of the Post Falls or Little Falls developments affects United States lands outside of the area covered by the permits claimed by The Washington Water Power Co.?

(4) Whether the Post Falls and Little Falls developments, operated in coordination with Project No. 2545, constitute a part of that project, and must be licensed as such, regardless of the existence of a pre-June 10, 1920, permit or valid right-of-way?

In order to decide these issues,

The Commission finds: It is appropriate for the purposes of the Federal Power Act and in the public interest to hold a hearing, as hereinafter provided, to determine whether the Post Falls and Little Falls developments operated by The Washington Water Power Co. are subject to the jurisdiction of the Federal Power Commission. The hearing shall be restricted to a determination of the Commission's jurisdiction over these developments as summarized above.

The Commission orders: (A) Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Federal Power Commission by, the Federal Power Act, particularly Sections 10(a), 10(g), 308, and 309 thereof, and the Commission's Rules of Practice and Procedure, an initial conference shall be held at 9:30 a.m. on September 15, 1977, in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C., respecting the matters involved in the issue presented in the finding above.

(B) A presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to Section 3.5 of the Commission's regulations, 18 CFR 3.5 (1976), shall preside at the hearing in this proceeding with authority to establish and change all procedural dates and to rule on all motions with the exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for.

(C) The Commission's Rules of Practice and Procedure shall apply in this proceeding except to the extent that they are modified and supplemented herein.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-21476 Filed 7-25-77;8:45 am]

## FEDERAL RESERVE SYSTEM

### HOLT COUNTY INVESTMENT COMPANY

#### Formation of Bank Holding Company

Holt County Investment Company, St. Joseph, Missouri, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 94 percent or more of the voting shares of Zook and Roecker State Bank, Oregon, Missouri. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 17, 1977.

Board of Governors of the Federal Reserve System, July 20, 1977.

RUTH A. REISTER,
*Assistant Secretary of the Board.*

[FR Doc.77-21445 Filed 7-25-77;8:45 am]

### TRADE DEVELOPMENT HOLLAND HOLDING B.V., TRADE DEVELOPMENT FINANCE (NETHERLANDS ANTILLES) N.V.

#### Proposed Retention of Republic Clearing Corporation

Notice was published June 22, 1977 (42 FR 31636) of applications by Republic New York Corporation, New York, New York, and three affiliated corporations, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) for permission to retain voting shares of Republic Clearing Corporation, New York, New York, after that company expands the activities in which it engages. The notice described the proposal more particularly and invited interested persons to express their views and to request a hearing on issues related to the applications.

By its order of June 20, 1977 (42 FR 32317), the Board of Governors of the Federal Reserve System approved applications by Trade Development Holland Holding B.V. ("TDHH"), Amsterdam, The Netherlands, and Trade Development Finance (Netherlands Antilles) N.V. ("TDFNA"), Curacao, The Netherlands Antilles, to become bank holding companies through acquisition of additional shares of Republic New York Corporation. Accordingly, TDHH and TRFNA have applied for identical permission under the same provisions of the Bank Holding Company Act to retain voting shares of Republic Clearing Corporation. Notice of the applications by TDHH and TDFNA was published July 7, 1977, in the New York Times, and the New York Post, newspapers circulated in New York, New York; the Chicago Tribune, a newspaper circulated in Chicago, Illinois; and the Wall Street Journal, a newspaper circulated in both cities.

In view of this change in the joint applications by Republic New York Corporation and its affiliated corporations, the period prescribed in the original FEDERAL REGISTER notice (42 FR 31636) for interested persons to submit views and to request a hearing on the issues specified in that notice is extended to August 6, 1977.

Board of Governors of the Federal Reserve System, July 22, 1977.

RUTH A. REISTER,
*Assistant Secretary of the Board.*

[FR Doc.77-21672 Filed 7-25-77;8:45 am]





## DEPARTMENT OF DEFENSE

### Department of the Navy

### BOARD OF VISITORS TO THE UNITED STATES NAVAL ACADEMY

#### Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 1), notice is hereby given that the Board of Visitors to the United States Naval Academy (the Board) will meet on September 9–10, 1977, in room 301, Rickover Hall at the United States Naval Academy, Annapolis, Maryland. Sessions of the meeting will commence at 8:30 a.m. and terminate at 4:00 p.m. on September 9 and commence at 8:30 a.m. and terminate at 12:00 noon on September 10.

The purpose of the meeting is to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the United States Naval Academy.

For further information concerning this meeting contact, Rear Admiral Robert W. McNitt, USN (Ret.), Secretary to the Board of Visitors, Dean of Admissions, United States Naval Academy, Annapolis, MD 21402. Telephone number (301) 267–2188.

Dated: July 19, 1977.

K. D. LAWRENCE,
*Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).*

[FR Doc.77-21404 Filed 7-25-77;8:45 am]

### Office of the Secretary

### DEFENSE SCIENCE BOARD TASK FORCE ON ORGANIZATION OF TEST AND EVALUATION IN THE OFFICE OF THE SECRETARY OF DEFENSE

#### Advisory Committee Meeting

The Defense Science Board Task Force on "Organization of Test and Evaluation in the Office of the Secretary of Defense" will meet in closed session on August 11–12, 1977 at the Pentagon.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will examine, as part of the reorganization of the Office of the Secretary of Defense, the organization and the functional responsibilities associated with the mission of Test and Evaluation, now the responibility of the Deputy Director for Test and Evaluation, Office of the Director of Defense Research and Engineering. The discussions will involve classified information of national security concern throughout.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
*Director, Correspondence and Directives, Office of the Assistant Secretary of Defense.*

[FR Doc.77-21682 Filed 7-25-77;9:58 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

[Docket No. 77F-0171]

### ARCO/POLYMERS, INC.

#### Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: ARCO/Polymers, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the use of styrene-maleic anhydride copolymers modified with butadiene in food-contact applications.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3150) has been filed by ARCO/Polymers, Inc., Frankfort Rd., Monaco, PA 15601, proposing that § 177.1820 Styrene-maleic anhydride copylymers (21 CFR 177.1820, formerly § 121.2626, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), be amended to provide for the use of styrene-maleic anhydride copolymers modified with butadiene in food-contact applications.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B–42 or the office of the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 18, 1977.

HOWARD R. ROBERTS,
*Acting Director, Bureau of Foods.*

[FR Doc.77-21397 Filed 7-25-77;8:45 am]



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[Docket No. 77F-0160]

## COSDEN OIL & CHEMICAL CO.

### Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Cosen Oil and Chemical Co. has filed a petition (FAP 7B3275) proposing that the food additive regulations be amended concerning acrylonitrile butadiene styrene copolymer to be used for food-contact applications.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B3275) has been filed by the Cosden Oil and Chemical Co. c/o Keller and Heckman, 1150 17th St. NW., Washington, D.C. 20036, proposing that the food additive regulations be amended by providing for the safe use of acrylonitrile/butadiene/styrene coplomers for use in food-contact surfaces where (1) the same come in contact with all foods except foods with high alcoholic content and (2) the same are employed under conditions of use D, E, F, and G as set forth in table 2 of § 176.170(c) (21 CFR 176.170(c), formerly § 121.2526(c) prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)).

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 18, 1977.

HOWARD R. ROBERTS,
*Acting Director,*
*Bureau of Foods.*

[FR Doc.77-21402 Filed 7-25-77;8:45 am]

[Docket No. 77F-0173]

## DOW CHEMICAL U.S.A.

### Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Dow Chemical U.S.A. has filed a petition proposing that the food additive regulations be amended by providing for the safe use of acrylonitrile butadiene styrene copolymers in food-contact applications.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B3277) has been filed by Dow Chemical U.S.A., P.O. Box 1706, Midland, MI 48640, proposing that the food additive regulations be amended by providing for the safe use of acrylonitrile butadiene/styrene copolymers for use in food-contact surfaces.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 18, 1977.

HOWARD R. ROBERTS,
*Acting Director,*
*Bureau of Foods.*

[FR Doc 77-21398 Filed 7-25-77;8:45 am]

[Docket No. 77F-0174]

## DOW CHEMICAL U.S.A.

### Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Dow Chemical U.S.A. has filed a petition proposing that the food additive regulations be amended by providing for the safe use of acrylonitrile/styrene copolymers for food-contact applications.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B3278) has been filed by Dow Chemical U.S.A., Post Office Box 1706, Midland, MI 48640, proposing that the food additive regulations be amended by providing for the safe use of acrylonitrile/styrene copolymers, containing up to 45 percent by weight acrylonitrile, as articles or components of articles intended for food-contact applications.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 18, 1977.

HOWARD R. ROBERTS,
*Acting Director,*
*Bureau of Foods.*

[FR Doc.77-21401 Filed 7-25-77;8:45 am]

[Docket No. 77F-0159]

## GOODYEAR TIRE & RUBBER CO.

### Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Goodyear Tire & Rubber Co. has filed a petition (FAP 7B3272) proposing that the food additive regulations be amended to provide for the safe use of an acrylonitrile-butadiene copolymer and vinyl chloride homopolymer blend in films in contact with dairy products.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B3272) has been filed by the Goodyear Tire & Rubber Co., Akron, Ohio 44316, proposing that the food additive regulations be amended to provide for the safe use of acrylonitrile-butadiene copolymer, containing less than 40 percent acrylonitrile, blended with polyvinyl chloride in films intended for contact with dairy products.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 18, 1977.

HOWARD R. ROBERTS,
*Acting Director,*
*Bureau of Foods.*

[FR Doc.77-21400 Filed 7-25-77;8:45 am]





[Docket No. 77F-0172]

## W. R. GRACE AND CO.

### Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The W. R. Grace and Co., Dewey and Almy Chemical Division, has filed a petition proposing that the food additive regulations concerning resinous and polymeric coatings be amended to provide for the same use of tetrakis[methylene(3,5 - di - *tert*-butyl-4-hydroxyhydrocinnamate)]methane in can-end cements.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B3303) has been filed by W. R. Grace, Dewey and Almy Chemical Division, 55 Hayden Ave., Lexington, MA 02173, proposing that § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300, formerly § 121.2514, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), be amended by allowing for the safe use of tetrakis[methylene(3,5 - di - *tert*-butyl-4 - hydroxyhydrocinnamate)] methane as an antioxidant at levels not to exceed 0.05 percent by weight of the divinylbenzene cross-linked butyl rubber component of can-end cements.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 18, 1977.

HOWARD R. ROBERTS,
*Acting Director,*
*Bureau of Foods.*

[FR Doc.77-21399 Filed 7-25-77;8:45 am]

[Docket No. 76N-0494]

## GRAS SAFETY REVIEW OF CERTAIN GLUTAMATES

### Public Hearing

*Correction*

In FR Doc. 77-20178, appearing at page 36555 in the issue for Friday, July 15, 1977:

1. In the address for Nestle Products Technical Assistance Co., which is the tenth entry in the list of requestors, first column, page 36556, "CH-1009" should read "CH-1001."

2. The fourteenth requestor in that list, now reading "David W. Alapaugh," should read "David W. Alspaugh."

3. The signature of the document, now reading "Joseph P. Hile," should read "Joseph P. Hile."

[Docket No. 77N-0046]

## SAFETY OF CERTAIN FOOD INGREDIENTS

### Opportunity for Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces an opportunity for public hearing on the safety of bentonite and clay (kaolin), pyridoxine and pyridoxine hydrochloride, and tannic acid to determine if they are generally recognized as safe (GRAS) or subject to a prior sanction.

DATE: Requests to make oral presentation at the public hearing must be postmarked on or before August 25, 1977.

ADDRESSES: Written requests for appearance to: Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, Md. 20014.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (201-472-4750).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued, in the FEDERAL REGISTER of July 26, 1973 (38 FR 20053), a notice advising the public that an opportunity would be provided for oral presentation of data, information, and views at public hearings to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (hereinafter referred to as the Select Committee), about the safety of ingredients used in food to determine if they are generally recognized as safe (GRAS) or subject to a prior sanction.

The Commissioner now gives notice that the Select Committee is prepared to conduct a public hearing on the following categories of food ingredients: bentonite and clay (kaolin), pyridoxine and pyridoxine hydrochloride, and tannic acid. The public hearing will provide an opportunity, before the Select Committee reaches its final conclusions, for any interested person(s) to present scientific data, information, and views on the safety of these substances, in addition to those previously submitted in writing pursuant to notices published in the FEDERAL REGISTER of July 26, 1973 (38 FR



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20051, 20053) and April 17, 1974 (39 FR 13798).

The Select Committee has reviewed all the available data and information on the categories of food ingredients listed above and has reached one of the five following tentative conclusions on the status of each:

1. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.

2. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current and in the manner now practiced. However, it is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard.

3. Although no evidence in the available information demonstrates a hazard to the public when it is used at levels that are now current and in the manner now practiced, uncertainties exist requiring that additional studies be conducted. (This finding does not apply to the substances covered by this notice.)

4. The evidence is insufficient to determine that the adverse effects reported are not deleterious to the public health when it is used at levels that are now current and in the manner now practiced. (This finding does not apply to the substances covered by this notice.)

5. The information available is not sufficient to make a tentative conclusion. (This finding does not apply to the substances covered by this notice.)

The following table lists each ingredient, the Select Committee's tentative conclusion (keyed to the five types of conclusions listed above), and the available information on which the Select Committee reached its conclusions:

| Substance | Select Committee tentative conclusion | Scientific literature review: Order No. | Scientific literature review: Cost | Animal study report (Order No., cost) | Other information |
|---|---|---|---|---|---|
| Bentonite and clay (kaolin) Bentonite. | 1 | PB-234-803/AS | $3.75 | | a. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe (GRAS)," available from the National Technical Information Service, PB Nos. 221-921 through 221-949. b. Evaluation of the health aspects of aluminum compounds as food ingredients (SCOGS-43) submitted by FASEB. c. Letter dated March 1, 1960 from J. K. Kirk, FDA. |
| Clay (kaolin) (used as a food-packaging material). | 1 | | | | |
| Pyridoxine and pyridoxine hydrochloride: Pyridoxine | 1 | PB-241-960/AS | 8.50 | | a. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe (GRAS)," available from the National Technical Information Service, PB Nos. 221-921 through 221-949. b. Hoffman-LaRoche, Inc., Nutley, NJ, Bibliography and unpublished reports. |
| Pyridoxine hydrochloride. | 1 | | | | |
| Tannic acid | 2 | PB-223-858/AS | 3.75 | Mutagenic evaluation (Tier 1) of tannic acid (73-56) by Litton Bionetics, Inc., under FDA contract (PB-245-473/AS $3.75). Teratogenic evaluation of tannic acid (73-56) by Food and Drug Research Labs., Inc., under FDA contract (PB-245-519/AS, $3.75). | a. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as safe (GRAS)," available from the National Technical Information Service, PB Nos. 221-921 through 221-949. b. Investigations of the toxic and teratogenic effects of GRAS substances to the developing chicken embryo: Tannic acid. FDA in-house report. c. Memorandum dated March 12, 1976 from L. F. Mansor, FDA. d. Letter dated May 17, 1976 from S. Siegel, National Cancer Institute, Bethesda, MD, and an unpublished report. |

Reports in the table with "PB" prefixes may be obtained from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, Va. 22151.

In addition to the information contained in the documents listed in the table above, the Select Committee supplemented, where appropriate, its reviews with specific information from specialized sources as announced in a previous hearing opportunity notice published in the FEDERAL REGISTER of September 23, 1974 (39 FR 34218).

The Select Committee's tentative reports on (1) bentonite and clay (kaolin), (2) pyridoxine and pyridoxine hydrochloride, and (3) tannic acid are available for review in the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. In addition, all reports and documents used by the Select Committee to review the ingredients are available for review in the office of the Hearing Clerk.

To schedule the public hearing, the Select Committee must be informed of the number of persons who wish to attend and the length of time requested to give their views. Accordingly, any interested person who wishes to appear at the public hearing to make an oral presentation shall so inform the Select Committee in writing, addressed to: the Select Committee on GRAS Substances, Life Science Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, Md. 20014. A copy of each such request shall be sent to the Hearing Clerk, address noted above, and all such requests shall be placed on public display in that office. Any such request must be postmarked on or before August 25, 1977, shall state the substance(s) on which an opportunity to present oral views is requested, and shall state how much time is requested for the presentation. As soon as possible thereafter, a notice announcing the date, time, place, and scheduled presentations for any public hearing that may be requested will be published in the FEDERAL REGISTER.

The purpose of the public hearing is to receive data, information, and views not previously available to the Select Committee about the substances listed above. Information already contained in the scientific literature reviews and in the tentative Select Committee report shall not be duplicated, although views on the interpretation of his material may be presented.

Depending on the number of requests for opportunity to make oral presentations, the Select Committee may reduce the time requested for any presentation. Due to time limitations, individuals and organizations with common interests are urged to consolidate their presentations. Any interested person may, in lieu of an oral presentation, submit written views which shall be considered by the Select Committee. Three copies of such written views shall be addressed to the Select Committee at the address noted above, and must be postmarked not later than 10 days before the scheduled date of the hearing. A copy of any written views shall be sent to the Hearing Clerk, Food and Drug Administration, and shall be placed on public display in that office.

A public hearing will be presided over by a member of the Select Committee. Hearings will be transcribed by a reporting service, and a transcript of each hearing may be purchased directly from the reporting service and will also be placed on public display in the office of the Hearing Clerk, Food and Drug Administration.

Dated: July 19, 1977.

JOSEPH P. HILE,
*Associate Commissioner for Compliance.*

[FR Doc.77-21246 Filed 7-25-77;8:45 am]

### Office of Human Development

### DENIAL OF REFUNDING OF APPLICATION FOR GRANT OF FLORIDA FARM WORKERS COUNCIL, INC.

#### Hearing

Notice of hearing is hereby given as set forth in the following letter which has been sent to Florida Farmworkers Council, Inc.





JAMES L. FELDESMAN, *Esq.*, ANN STEINBERG, *Esq., Boasberg, Hewes, Finkelstein and Klores, 2101 L Street, N.W., Washington, D.C.*

JULY 18, 1977.

DEAR MR. FELDESMAN and MS. STEINBERG: In accordance with your request dated July 11, 1977, on behalf of Florida Farmworkers Council, Inc., for a hearing on the intended denial of refunding of the pending application of that agency for financial assistance under the Head Start Program, I have set August 9, 1977, at 9:00 a.m., in Room 10234, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C., as the time and place for the hearing. This hearing is held under the authority in section 519(3) of the Economic Opportunity Act of 1964, as amended by the Headstart, Economic Opportunity, and Community Partnership Act of 1974 (P.L. 93-644), and pursuant to procedures for hearings for Head Start grantees set out in 45 CFR 1303.3-1, et seq.

Attached is a copy of the order of the Acting Director, Office of Child Development, designating the Honorable Edward L. Boisseree to preside over this hearing.

The reason for the intended denial of refunding is the ineffective and improper use of Federal funds in paying the salaries of personnel whose breach of the duty of care owed to children enrolled in the program resulted in the deaths of two of them.

Sincerely yours,

JAMES L. ROBINSON,
*Associate Director, Head Start Bureau.*

Interested persons or organizations may be permitted to participate in the proceedings if, in the discretion of the presiding officer, the participation of such persons or organizations is necessary to a proper determination of the issues involved. Any person or group requesting to participate shall file an application with the Office of Child Development Hearing Clerk, Mr. Clennie Murphy, Room 5030, 400 Sixth Street, S.W., Washington, D.C. 20201, as soon as possible, but not later than August 2, 1977. The application shall state the applicant's interest in the proceeding, the evidence or arguments the applicant intends to contribute, and the necessity for the introduction of such evidence or arguments. The hearing clerk shall forward all such applications to the presiding officer.

Dated: July 18, 1977

JAMES L. ROBINSON,
*Associate Director, Head Start Bureau.*

[FR Doc.77-21418 Filed 7-25-77;8:45 am]

### Office of the Secretary

### ADVISORY COMMITTEE ON NATIONAL HEALTH INSURANCE ISSUES

#### Amendment to Meetings

Notice of the establishment of the Advisory Committee on National Health Insurance Issues was published in the April 21, 1977 FEDERAL REGISTER (Vol. 42, No. 77, Pages 20675 and 20676).

Pursuant to the Pub. L. 92-463, notice is hereby given of one meeting of the Advisory Committee to be held on Friday, July 29, 1977, and another on Saturday, July 30, 1977.

The July 29 meeting will be held from 11:00 a.m. to 12:30 p.m. and 2:00 p.m. to 4:30 p.m. at the Marshfield Clinic, 1000 North Oak Avenue, Marshfield, Wisconsin.

The July 30 meeting will be held from 8:30 to 10:00 a.m. and from 1:30 p.m. to 4:00 p.m. at the Wisconsin Center, 702 Langdon Street, Madison, Wisconsin.

The agenda will include physican reimbursement, mental health benefits under national health insurance, health planning, and long term care.

These meetings will be open to the public.

Further information on these meetings may be obtained from either Sue-Zanne B. Hagans in Washington, D.C. (202) 472-3026 or from Bill Moran in Chicago, Illinois, (312) 353-5166.

Dated: July 19, 1977.

SUSANNE STOIBER,
*Project Coordinator.*

[FR Doc.77-21417 Filed 7-25-77;8:45 am]

### Public Health Service

### HEALTH SERVICES ADMINISTRATION

#### Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HS (Health Services Administration) of the Statement of Organization, Functions and Delegations of Authority of the Department of Health, Education and Welfare (39 FR 10463, March 20, 1974, as amended by 42 FR 14930, March 17, 1977) is amended to reflect the transfer of the architectural and engineering services function from the Office of Program Support to the Division of Hospitals and Clinics within the Bureau of Medical Services.

*Section HS-B, Organization and Functions*, is amended as follows:

Under the heading entitled "Bureau of Medical Services (HSM)," make the following changes:

1. Delete item (5) from the functional statement for the Office of Program Support (HSM13).

2. Delete the functional statement for the Division of Hospitals and Clinics (HSMB) in its entirety and substitute the following:

*Division of Hospitals and Clinics (HSMB).* (1) Directs and coordinates the provision of direct health and medical services to authorized beneficiaries in PHS hospitals and outpatient clinics, including care by contract physicans and hospitals; (2) coordinates, with other elements of the Bureau, the requirements and resources necessary for effective beneficiary services; (3) provides architectural and engineering services in collaboration with the PHS Office of Resource Management; (4) provides for training and manpower development, the coordination of research activities, and special health programs and projects of the bureau; and (5) develops and directs a comprehensive medical services program for Federal employees who sustain an injury or illness as a result of their employment and provides technical advice in the adjudication of compensation claims.

Dated: July 13, 1977.

JOHN D. YOUNG,
*Assistant Secretary for Management and Budget.*

[FR Doc.77-21412 Filed 7-25-77;8:45 am]

### NATIONAL INSTITUTES OF HEALTH

#### Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) formerly Part 8, Chapter 8 (41 FR 52724), December 1, 1976) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (40 FR 22859, May 27, 1975, as amended most recently at 42 FR 18454, April 7, 1977) is amended to reflect: (1) The establishment of the Carcinogenesis Testing Program (HNC 35) and the Carcinogenesis Research Program (HNC36) and (2) the abolishment of the Carcinogenesis Program (HNC32) within the Division of Cancer Cause and Prevention, National Cancer Institute. This action is intended to promote a clearer designation of authority and responsibility between carcinogenesis research and testing and a more effective development of priorities between the two programs.

*Sec. HN-B, Organization and Functions*, is amended as follows:

(1) Under the heading National Cancer Institute (HNC), delete the statement for the Carcinogenesis Program (HNC 32).

(2) Insert the following statements after the statement for the Viral Oncology Program (HNC34):

*Carcinogenesis Testing Program (HNC 35)*: (1) Plans, directs, and conducts a program for the in vivo and in vitro testing of chemical and physical agents in the environment for carcinogenic and cocarcinogenic effects; (2) establishes program priorities, allocates resources, evaluates effectiveness and represents program area in management and scientific decisionmaking meetings in the Institute, and coordinates with other related programs in the Institute; (3) through intramural and contract resources, administers research in the development and evaluation of standardized methods, designs and models for in vivo and in vitro carcinogenesis testing, related toxicology, and tumor pathology; (4) establishes, maintains and provides technical, scientific, and management information/reporting resources for monitoring, analyzing and disseminating program findings; (5) interacts and coordinates with the Clearinghouse for Environmental Carcinogenesis through the Director of the Division; (6) advises the Director of the Division on carcinogenesis testing and supports the activi-



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ties of the National Cancer Advisory Board and other scientific advisory committees with regard to the program.

*Carcinogenesis Research Program (HNC 36)*: (1) Plans, directs, and conducts a basic and applied research program on the role of chemical and physical causative factors and the prevention of carcinogenesis; (2) establishes program priorities, allocates resources, evaluates program effectiveness and represents program area in management and scientific decisionmaking meetings in the Institute; and coordinates with other related programs in the Institute; (3) through intramural laboratories and contracts, administers research in carcinogenesis and related toxicology, metabolism, chemistry, cell biology, and experimental tumor pathology; and (4) advises the Director of the Division and supports the activities of the National Cancer Advisory Board and other scientific advisory committees with regard to the program.

Dated: July 19, 1977.

JOHN D. YOUNG,
*Assistant Secretary for Management and Budget.*

[FR Doc.77-21416 Filed 7-25-77;8:45 am]

## OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

### Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HA (Office of the Assistant Secretary for Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (38 FR 18571, July 12, 1973, as amended by 38 FR 33785, July 12, 1973 and 41 FR 43947, October 5, 1976) is amended to reflect the transfer of the emergency preparedness function from the Immediate Office of the Office of Administrative Management to the Division of Organization and Management Analysis in the Office of Organization and Management Systems, Office of Administrative Management.

*Section HA-B, Organization and Functions*, is amended as follows:

1. Under the Office of Organization and Management Systems (HAU2), delete the third paragraph and substitute the following: "Serves as the focal point for coordinating agency management activities, including emergency preparedness, with the Office of the Secretary and other Federal agencies and offices."

2. Under the Division of Organization and Management Analysis (HAU24), amend the statement by adding the following as the last sentence: "(4) administers and coordinates PHS emergency preparedness planning and operations activities."

Dated: July 19, 1977.

JOHN D. YOUNG,
*Assistant Secretary for Management and Budget.*

[FR Doc.77-21413 Filed 7-25-77;8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Federal Disaster Assistance Administration

[Docket No. NFD-510]

### INTERAGENCY DROUGHT EMERGENCY COORDINATING COMMITTEE

### Designation of Additional Emergency Drought Impact Areas

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This is a Notice of additional designation of Emergency Drought Impact Areas by the Interagency Drought Emergency Coordinating Committee of 1977.

DATED: July 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack W. McGraw, Director, Preparedness Office, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7845).

Acting upon the request of the respective Governors, the Interagency Drought Emergency Coordinating Committee designated the following as Emergency Drought Impact Areas:

GEORGIA

| | |
|---|---|
| Chattooga | Walker |

VIRGINIA COUNTIES (56)

| | |
|---|---|
| Albemarle | Halifax |
| Alleghany | Hanover |
| Amelia | Henrico |
| Amherst | Henry |
| Appomattox | Highland |
| Arlington | King George |
| Augusta | Loudoun |
| Bath | Louisa |
| Bedford | Lunenburg |
| Botetourt | Madison |
| Brunswick | Mecklenburg |
| Buckingham | Nelson |
| Campbell | Nottoway |
| Caroline | Orange |
| Charlotte | Page |
| Chesterfield | Patrick |
| Clarke | Pittsylvania |
| Craig | Powhatan |
| Culpeper | Prince Edward |
| Cumberland | Prince William |
| Dinwiddie | Rappahannock |
| Fairfax | Roanoke |
| Fauquier | Rockbridge |
| Fluvanna | Rockingham |
| Franklin | Shenandoah |
| Frederick | Spotsylvania |
| Goochland | Stafford |
| Greene | Warren |

INDEPENDENT CITIES (23)

| | |
|---|---|
| Alexandria | Lexington |
| Bedford | Lynchburg |
| Buena Vista | Martinsville |
| Charlottesville | Petersburg |
| Clifton Forge | Richmond |
| Colonial Heights | Roanoke |
| Covington | Salem |
| Danville | South Boston |
| Fairfax | Staunton |
| Falls Church | Waynesboro |
| Fredericksburg | Winchester |
| Harrisonburg | |

INDIANA

| | |
|---|---|
| Adams | Grant |
| Allen | Jay |
| Blackford | Randolph |
| Decatur | Wells |
| DeKalb | |

LOUISIANA

Jefferson

The designation of an Emergency Drought Impact Area does not confer entitlement to drought assistance. Individuals and communities must meet the separate eligibility requirements established by each agency before assistance may be provided.

Under the authority granted to the Administrator as Secretray to the Committee by the Memorandum of Agreement (42 FR 21855, April 29, 1977), I have provided this designation for the public record.

WILLIAM E. CROCKETT,
*Acting Administrator Federal Disaster Assistance Administration.*

[FR Doc.77-21410 Filed 7-25-77;8:45 am]

[Docket No. NFD-511]

### INTERAGENCY DROUGHT EMERGENCY COORDINATING COMMITTEE

### Designation of Additional Emergency Drought Impact Areas

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of additional designation of Emergency Drought Impact Areas by the Interagency Drought Emergency Coordinating Committee of 1977.

DATED: July 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack W. McGraw, Director, Preparedness Office, Federal Disaster Assistance Administration Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7845).

Acting upon the request of the respective Governors, the Interagency Drought Emergency Coordinating Committee designated the following as Emergency Drought Impact Areas:

ALABAMA

| | |
|---|---|
| Blount | Etowah |
| Cherokee | Jefferson |
| Chilton | Lamar |
| Clay | Talladega |
| Coosa | Tallapoosa |
| Cullman | |

INDIANA

| | |
|---|---|
| Delaware | Jackson |
| Elkhart | |

WASHINGTON

| | |
|---|---|
| Pacific | Thurston |
| Skagit | Whatcom |

The designation of an Emergency Drought Impact Area does not confer entitlement to drought assistance. Individuals and communities must meet the separate eligibility requirements established by each agency before assistance may be provided.

Under the authority granted to the Administrator as Secretary to the Committee by the Memorandum of Agreement (42 F.R. 21855, April 29, 1977), I have provided this designation for the public record.

THOMAS P. DUNNE,
*Administrator, Federal Disaster Assistance Administration.*

[FR Doc.77-21411 Filed 7-25-77;8:45 am]





## DEPARTMENT OF THE INTERIOR

### National Park Service

### NATIONAL REGISTER OF HISTORIC PLACES

### Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 15, 1977. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by Friday, August 5, 1977.

WILLIAM J. MURTAGH,
*Keeper of the National Register.*

**ALABAMA**

*Henry County*

Abbeville, *Kennedy House*, 300 Kirkland St.

*Lee County*

Opelika vicinity, *Spring Villa*, 6 mi. SE of Opelika on Spring Villa Rd.

**COLORADO**

*Pueblo County*

Pueblo, *Pueblo Federal Building*, 421 N. Main St.

**ILLINOIS**

*Adams County*

Clayton vicinity, *Roy, John, Site*, S of Clayton.

*Champaign County*

Urbana, *Greek Revival Cottage*, 300 W. University.

*Cook County*

Chicago, *St. Thomas Church and Convent*, 5472 S. Kimbark Ave.

Chicago, *West Jackson Boulevard District*, roughly bounded by Lafiin, Ashland, Adams, and Van Buren.

*Du Page County*

Naperville, *Naperville Historic District*, roughly bounded by Juilian, Highland, Chicago, Jackson, Eagle, and 5th Sts.

Wheaton, *Trinity Episcopal Church*, 130 N. West St.

*Jersey County*

Nutwood vicinity, *Nutwood Site*, S of Nutwood.

*Kankakee County*

Kankakee, *Hickox, Warren, House*, 687 S. Harrison Ave.

*Stephenson County*

Cedarville, *Addams, John H., Homestead*, 425 N. Mill St.

**IOWA**

*Black Hawk County*

Waterloo, *Dunsmore House*, 902 Logan Ave.

**KENTUCKY**

*Bath County*

Owingsville, *Owings, Col. Thomas Deye, House*, Main St. and Courthouse Sq.

*Fayette County*

Lexington, *Elley Villa (Aylesford)*, 320 Linden Walk.

*Jefferson County*

Louisville, *U.S. Marine Hospital*, 2216 Portland Ave.

*Nelson County*

Bloomfield vicinity, *Forks of Simpson Creek Archeological Site*, N of Bloomfield.

*Scott County*

Georgetown vicinity, *Elkwood*, NW of Georgetown off U.S. 460.

**LOUISIANA**

*East Baton Rouge Parish*

Baton Rouge, *Magnolia Mound Plantation House Dependency*, 2530 Vermont St.

*Lafourche Parish*

Thibodaux, *St. John's Episcopal Church and Cemetery*, 702 Jackson St.

**MAINE**

*Penobscot County*

Orono, *Orono Main Street Historic District*, Main Street from Maplewood Ave. to Pine St.

*Sagadahoc County*

Topsham, *Topsham Historic District*, Elm, Perkins, Maine, and Green Sts.

**MARYLAND**

*Baltimore* (independent city)

*Kernan, James Lawrence, Hospital*, Windsor Mill Rd. and Forest Park Ave. (also in Baltimore County).

*Carroll County*

Keysville vicinity, *Terra Rubra*, 1 mi. S of Keysville on Keysville-Bruceville Rd.

*St. Mary's County*

Leonardtown vicinity, *Ellenborough*, E of Leonardtown off MD 5.

*Washington County*

Hagerstown vicinity, *Old Forge Farm*, E of Hagerstown on Old Forge Rd.

Harpers Ferry Vicinity, *Baltimore and Ohio Railroad Potomac River Crossing*, at confiuence of Potomac and Shenandoah Rivers (also in Jefferson Co. WV).

Williamsport vicinity, *Sprechers Mill House*, NE of Williamsport on Hopewell Rd.

**MASSACHUSETTS**

*Hampden County*

Springfield, *Union Trust Company*, 1351 Main St.

*Middlesex County*

Chelmsford Center, *Fiske House*, 1 Billerica Rd.

Newton, *Allen, Nathaniel Topliff, Homestead*, 25 Webster St.

Weston vicinity, *Allen, Abel, House*, 1 Chestnut St.

**NEW HAMPSHIRE**

*Rockingham County*

Portsmouth, *St. John's Church*, 105 Chapel St.

**NEW JERSEY**

*Burlington County*

Burlington vicinity, *Oxmead Farm Barn*, E of Burlington on Oxmead Rd.

Moorestown, *French, Thomas Jr., House*, 512 Camden Ave.

*Mercer County*

Princeton vicinity, *Tusculum*, N of Princeton on Cherry Hill Rd.

**NEW MEXICO**

*Bernalillo County*

Albuquerque, *Hodgin Hall*, University of New Mexico campus.

Albuquerque, *Occidental Life Building*, 119 3rd Ave. SW.

**UTAH**

*Carbon County*

Price, *Notre Dame de Lourdes Catholic Church*, 200 N. Carbon Ave.

*Salt Lake County*

Salt Lake City, *Exchange Place Historic District*, Exchange Pl. and S. Main St.

Salt Lake City, *University of Utah Circle*, University of Utah campus.

**VERMONT**

*Chittenden County*

Jericho vicinity, *Chittenden, Martin, House*, W of Jericho on VT 117.

*Orange County*

East Topsham, *Chase, Elwin, House*, off VT 25.

*Rutland County*

Sudbury, *Sudbury Congregational Church*, VT 30.

*Washington County*

Waterbury Center, *Waterbury Center Methodist Church*, VT 100.

*Windsor County*

Gaysville, *Gay Daniel, House*, VT 107.

[FR Doc.77-20917 Filed 7-25-77;8:45 am]

## DEPARTMENT OF LABOR

### Employment and Training Administration

### CONCEPTUAL RESEARCH ON LABOR MARKET PROBLEMS ISSUES CONCERNIN HISPANIC AMERICANS

### Developmental Grant Awards ETA/OPER 7705

The following is a list of applications approved for fiscal year 1977 and fiscal year 1978 under ETA/OPER 7705 Grant Announcement, "Developmental Grant Awards for Conceptual Research on Labor Market Problems/Issues Concerning Hispanic Americans." Those desiring further information may write to:

Dr. Howard Rosen, Director, Office of Research and Development, Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20213.



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APPROVED FISCAL YEAR 1977

21-08-77-30 Denver Community Development Corporation, Denver, Colorado 80211. (Ms. Sandra C. Dohm and Mr. K. L. Berry.)
21-04-77-31 The University of Arizona, Tucson, Arizona 85721. (Dr. Donald B. Holsinger and Dr. Ernest Y. Flores.)
21-06-77-27 County of Riverside, Riverside, California 92501. (Dr. Alfredo Mirande.)
21-06-77-25 Personnel Management Association of Aztlan, San Diego, California 92109. (Dr. Adolpho Sanchez.)
21-48-77-22 The University of Texas at San Antonio, San Antonio, Texas 78285. (Dr. Louise B. Wolitz.)
21-12-77-24 Florida State University, Tallahassee, Florida 32306. (Dr. Richard H. P. Kraft.)
21-18-77-28 League of United Latin-American Citizens South Bend, Indiana 46619. (Mr. Flavio Vega.)
21-10-77-33 Latin-American Community Center Wilmington, Delaware 19805. (Dr. Paul Seidenstat.)
21-48-77-32 Mexican-American Research Center, Inc. Austin, Texas 78701. (Mr. Lorenzo Garibay.)
21-27-77-34 Migrants in Action, St. Paul, Minnesota 44105. (Dr. Manuel Miranda.)
21-36-77-29 Private Concerns, Inc., New York, New York 10022. (Ms. Barbara Taylor.)
21-09-77-23 City of Bridgeport, Bridgeport, Connecticut 06604. (Dr. Henry Cauvin.)
21-20-77-26 University of Kansas, Lawrence, Kansas 66044. (Dr. David Shulenberg.)

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7705-57 National Opinion Research Center, Chicago, Illinois 60637. (Dr. Teresa A. Sullivan.)
7705-110 California Institute for Rural Studies, Davis, California 95616. (Mr. Paul Barnett.)
7705-112 University of Chicago, Chicago, Illinois 60680. (Dr. Robert Meir.)
7705-51 Mexican-American Research Center, Inc., Austin, Texas 78701. (Dr. Richard Santos and Mr. Lorenzo Garibay.)
7705-74 Pan American University, Edinburg, Texas 78539. (Dr. Charles J. Eilard.)
7705-12 Broward Manpower Council, Fort Lauderdale, Florida 33311. (Dr. Steven A. Weiss.)
7705-125 Southwest Educational Developmental Laboratory, Austin, Texas 78701. (Dr. Stuart Greenfield.)
7705-68 University of Toledo, Toledo, Ohio 43606. (Dr. R. V. Elicano.)
7705-80 Alameda County Training and Employment Board/Associated Community Action Program, Hayward, California 94541. (Mr. Michael P. Cohen and Mr. Edward W. Hutchinson.)
7705-115 University of California, Davis, California 95616. (Dr. Refugio Rochin.)
7705-40 University of Texas, San Antonio, Texas 78285. (Dr. Crandall Shifflett.)
7705-131 Rural California Manpower Laboratory, Santa Rosa, California 95401. (Dr. Edward Kissam.)
7705-109 Cornell University, Ithaca, New York 14853. (Dr. Lois Gray.)
7705-102 Texas A&I University, Kingsville, Texas 78363. (Dr. Joseph E. Rossmann, Jr.)
7705-43 Pasadena Urban Coalition, Pasadena, California 91101. (Ms. Marge Lauritsen.)
7705-120 Pan American University, Edinburg, Texas 78539. (Dr. Gilbert Cardenas.)
7705-36 Chicano Pinto Research, Inc., Los Angeles, California 90022. (Dr. Joan Moore.)
7705-127 University of Texas, San Antonio, Texas 78285. (Dr. Sammy B. Gould.)

FRANCIS O. STANARD,
*Chief,*
*Central Procurement Staff.*

July 19, 1977.

[FR Doc.77-21451 Filed 7-25-77;8:45 am]

## INDIAN AND NATIVE AMERICAN ECONOMIC STIMULUS PROGRAM

### Plans for Allocating Funds

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice provides the plans of the Employment and Training Administration for allocating funds for the Indian and native American economic stimulus program.

FOR FURTHER INFORMATION CONTACT:

Mr. Alexander S. McNabb, Director, Division of Indian and Native American Programs, Room 6402, 601 D Street NW., Washington, D.C. 20213.

SUPPLEMENTARY INFORMATION: Pursuant to the Economic Stimulus Appropriation Act of 1977, the Division of Indian and Native American Programs (DINAP) of the Department of Labor announces a program of new initiatives to support efforts to improve the internal strengths of Indian communities. The Economic Stimulus Appropriations Act of 1977 authorized the use of $14,000,000 in Fiscal Year 1977 of Comprehensive Employment and Training Act (CETA) title I discretionary funds for the funding of special employment and training projects that will assist in the process of economic development on Federal and State Indian reservations; in Indian communities in the State of Oklahoma; and in Alaska Native Villages and communities.

Six program categories have been selected for attention in Fiscal Year 1977 and will be funded by competitive process. Eligible title VI prime sponsors will be mailed copies of the Solicitation for Grant Award (SGA) and instructions for completing the grant application package which will include the Statement of Work and evaluation criteria. The Statement of Work will include the program objectives and a description of specific tasks to be performed. Eligible private nonprofit organizations will be informed through Notice in the FEDERAL REGISTER of application procedures. Governing regulations will be those contained at 29 CFR Part 97 (301/304 regulations). To the extent additional conditions are warranted, they will be included in the SGA and will be incorporated into the grants.

The six categories to be funded in Fiscal Year 1977 are: Paramedical Training, Paralegal Training, Management Training, Agricultural Training, Domestic Fuel Development Training, and Waste Disposal Training.

Eligible applicants will be those DINAP prime sponsors who are eligible for CETA title VI funds. Additionally, fully accredited nonprofit medical institutions may submit proposals for paramedical training funds, fully accredited nonprofit law schools may submit proposals for paralegal training funds and nonprofit management organizations may submit proposals for management training funds.

Proposals will be evaluated on the basis of objective criteria by a panel composed of employment and training specialists from the Department of Labor, representatives from other appropriate Federal agencies, and nonprofit national Indian and Native American organizations.

Signed in Washington, D.C., this 7th day of July 1977.

LAMOND GODWIN,
*Director,*
*Office of National Programs.*

[FR Doc.77-21460 Filed 7-25-77;8:45 am]

## NATIONAL TRAINING AND EMPLOYMENT EFFORT

### Skill Training Improvement Program

1. *Purpose.* The purpose of this notice is to announce a national training and employment effort to provide skill training for unemployed and underemployed persons.

2. *Scope and program initiation.* The Employment and Training Administration, ETA, under title III of the Comprehensive Employment and Training Act, CETA, has initiated a program known as the Skill Training Improvement Program. CETA title I prime sponsors are being advised that funds are available for programs to provide skill training in higher-skilled occupations for long-term unemployed (15 weeks or more), low-income persons and underemployed workers. This effort is being undertaken through competitive procurement procedures at the regional level of the Employment and Training Administration. A Solicitation for Grant Application, SGA, is being issued to all eligible applicants.

3. *Eligibility for a grant.* Only CETA Fiscal Year 1978 title I prime sponsors are eligible to apply for a grant for their locale. However, prime sponsors may subgrant or contract all or part of the program operations to other organizations which are capable of effectively providing services as indicated in the program description and instructions provided in the SGA. Organizations which are interested in participating in this program may contact the prime sponsor for the area in which the organization is located.





4. *Application procedures.* A grant application is being mailed to each prime sponsor by the appropriate ETA regional office on or before July 29, 1977. Prime sponsors which have not received a grant application may contact their ETA regional office. Applications must be submitted to the appropriate ETA Regional Administrator no later than October 3, 1977.

5. *Inquiries.* Prime sponsors may direct inquiries to the Regional Administrator for Employment and Training in the 10 regional offices listed below.

REGIONAL ADMINISTRATORS EMPLOYMENT AND TRAINING ADMINISTRATION

Luis Sepulveda, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, Room 1703, J. F. Kennedy Building, Boston, Mass. 02203.
Lawrence W. Rogers, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, Room 3713, 1515 Broadway, New York, N.Y. 10036.
J. Terrell Whitsitt, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, P.O. Box 8796, Philadelphia, Pa. 19101.
Juliam O. Colquitt, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, Room 405, 1371 Peachtree NE., Atlanta, Ga. 30309.
Richard C. Gilliland, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, 6th Floor, 230, South Dearborn, Chicago, Ill. 60604.
William S. Harris, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, Room 316, 555 Griffin Square Building, Dallas, Tex. 75202.
Richard G. Miskimins, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, Federal Building, Room 1000, 911 Walnut Street, Kansas City, Mo. 64106.
David T. Duncan, Acting Regional Administrator, Employment and Training Administration, U.S. Department of Labor, 16122 Federal Office Building, 1961 Stout Street, Denver, Colo. 80202.
William J. Haltigan, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, Box 36084, San Francisco, Calif. 94102.
Jess C. Ramaker, Regional Administrator, Employment and Training Administration, U.S. Department of Labor, Room 1145, Federal Office Building, 909 First Avenue, Seattle, Wash. 98174.

6. *Allocation of funds.* A total of $250,000,000 has been provided for this program. The funds are allocated on a regional basis as follows:

| | |
|---|---|
| Region I | $15,756,300 |
| Region II | 36,504,600 |
| Region III | 26,003,600 |
| Region IV | 41,712,800 |
| Region V | 48,810,200 |
| Region VI | 22,721,900 |
| Region VII | 10,440,100 |
| Region VIII | 5,669,800 |
| Region IX | 31,635,300 |
| Region X | 8,745,400 |

Signed at Washington, D.C., this 19th day of July 1977.

ROBERT J. MCCONNON,
*Deputy Assistant Secretary for Employment and Training.*

[FR Doc.77-21487 Filed 7-25-77;8:45 am]

## FEDERAL-STATE EXTENDED BENEFITS AND FEDERAL SUPPLEMENTAL BENEFITS

### States in Which EB and FSB Are Payable

A notice published in the FEDERAL REGISTER on Friday, July 22, 1977 (42 FR 37608), announced the National "off" indicator for Extended Benefit Periods in the States, effective on July 23, 1977. In most States the Extended Benefit Period ended on that date, and Extended Benefits (EB) are no longer payable for weeks of unemployment that begin after that date. At the time the notice was prepared for publication it was not known definitely which States would continue to have Extended Benefit Periods in effect after July 23, 1977. That information has now been obtained and is announced in this supplemental notice. In addition, the States in which Federal Supplemental Benefits (FSB) will continue to be payable after July 23, 1977, are listed for the further information of the public.

EXTENDED BENEFIT PERIODS

The States in which Extended Benefit Periods will continue to be in effect after July 23, 1977, by reason of State EB "on" indicators in those States, are as follows:

| | |
|---|---|
| Alaska | New York |
| California | Oregon |
| Connecticut | Pennsylvania |
| Maine | Puerto Rico[1] |
| Massachusetts | Washington |
| Michigan | Vermont |
| New Jersey | Rhode Island |

[1] If a pending bill is signed into law.

In each of those States an Extended Benefit Period will remain in effect until the end of the third week after there is an EB "off" indicator in the State.

FSB PERIODS

The States in which Federal Supplemental Benefit Periods will continue to be in effect after July 23, 1977, by reason of State FSB "on" indicators in those States, include all of the States listed above and, in addition to those States, there also will be Federal Supplemental Benefit Periods continuing in effect in the States of Illinois and Nevada. In each of those States a Federal Supplemental Benefit Period will remain in effect until the end of the third week after there is a FSB "off" indicator in the State.

ADDITIONAL ELIGIBILITY PERIODS

In the case of FSB, individuals to whom EB or FSB are payable in the last week of a Federal Supplemental Benefit Period will have 13-week additional eligibility periods immediately following the end of the Federal Supplemental Benefit Period, during which benefits will continue to be payable up to each individual's maximum entitlement. In eighteen States (not among those listed above) additional eligibility periods have commenced and will continue in effect beyond the week ending on July 23, 1977. Those States, and the beginning dates of additional eligibility periods in the States, are:

Alabama, 6-12-77.
Arkansas, 6-19-77.
Delaware, 6-12-77.
Hawaii, 5-1-77.
Idaho, 7-3-77.
Kentucky, 6-5-77.
Maryland, 6-5-77.
Minnesota, 5-29-77.
Mississippi, 6-26-77.
Missouri, 5-29-77.
Montana, 7-3-77.
New Mexico, 6-5-77.
North Carolina, 5-15-77.
North Dakota, 6-26-77.
Tennessee, 5-29-77.
Utah, 6-26-77.
West Virginia, 6-19-77.
Wisconsin, 5-29-77.

When the additional eligibility periods end in those States, FSB will no longer be payable. Any State in which a new Federal Supplemental Benefit Period is triggered on will of course resume the payment of FSB to eligible individuals.

FOR FURTHER INFORMATION

Persons who wish to obtain information about their rights to Extended Benefits or Federal Supplemental Benefits in any State should contact the nearest employment office or unemployment insurance claims office in their locality.

Signed at Washington, D.C., on July 22, 1977.

ERNEST G. GREEN,
*Assistant Secretary for Employment and Training.*

[FR Doc.77-21579 Filed 7-25-77;8:45 am]

## Office of Federal Contract Compliance Programs

## ST. REGIS PAPER CO., BATTLE CREEK, MICH., FACILITY

### Compliance Review; Decision To Retain Permanently Certain Documents

The following decision is being published in the FEDERAL REGISTER in order to inform the public of a compliance agency's right permanently to retain documents submitted to it by a Federal contractor during the course of a compliance review.

Signed at Washington, D.C., this 27th day of June 1977.

WELDON J. ROUGEAU,
*Director, Office of Federal Contract Compliance Programs.*

U.S. DEPARTMENT OF LABOR

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

In the matter of St. Regis Paper Co., Battle Creek, Michigan Facility.

DECISION

This is an appeal from a decision by the General Services Administation (GSA) to retain permanently certain documents submitted by the St. Regis Paper Company to GSA during the course of a compliance review of the company's Battle Creek, Michigan, facility.

In relevant part the facts are as follows: On September 1, 1976, the Field Director of Contract Compliance for Region 5 of the General Services Administration issued a notice to the St. Regis facility at Battle



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Creek advising the company that GSA intended to perform a compliance review. Pursuant to the procedures established in Revised Order No. 14 (41 CFR Part 60–60) supporting data necessary to perform a desk audit was requested. On September 28, 1976, St. Regis' Corporate Manager for EEO, Michael A. Roberts, advised GSA that the company intended to deliver the data requested on September 1 to the GSA regional office and to provide a company representative to assist during the desk audit. Mr. Roberts stated that upon completion of the desk audit, the company's representative would return the data to Battle Creek where it would be available for the subsequent on-site review. Mr. Roberts advised GSA that this procedure would be followed to ensure the confidentiality of the material and to preclude possible disclosure of such information by GSA pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. 552.

On October 5, 1976, Willie O. Green, GSA's Field Director, rejected St. Regis' proffer. Mr. Green suggested that instead that pursuant to 41 CFR 60.60–4, St. Regis should identify those portions of the data which the company believed were not subject to disclosure under FOIA, and that it should specify the reasons why such information was not disclosable. St. Regis was advised that it was expected to comply with the September 1 request by October 7, 1976. St. Regis did not, however, comply with the request. Thereafter, a show cause notice was issued by GSA on October 14, 1976, on the basis of St. Regis' failure to comply with the September 1 request for data. The show cause notice advised St. Regis that it could be found nonresponsible to perform any Government contracts until the show cause notice was resolved.

St. Regis, by counsel, requested that the Director of the Office of Federal Contract Compliance Programs (OFCCP) direct that a hearing be convened on the issue of retention of data by GSA pursuant to either 41 CFR 60–1.24 or 2.2(b), and that OFCCP assume jurisdiction over the matter pursuant to 41 CFR 60–1.25. On October 19, 1976, counsel for St. Regis reiterated his request for a hearing, but limited the request to a hearing pursuant to 41 CFR 60–2.2(b), claiming the question of GSA's permanent retention of contractor data raised substantial issues of law or fact as provided therein. Counsel also asked that GSA be directed by OFCCP not to find St. Regis nonresponsible on account of these outstanding issues pending their final resolution.

Before OFCCP had an opportunity to respond to the St. Regis request, GSA and the company informally agreed to conciliate the issue relating to the show cause notice. The parties also agreed that St. Regis would not be found nonresponsible during the pendency of the show cause notice. St. Regis in turn asked OFCCP to postpone a decision on its request for a hearing.

Subsequently, St. Regis complied with the September 1, 1976, request for data. GSA thereupon advised St. Regis that such material became the property of the United States Government, and that it would be retained in the custody of GSA pursuant to Executive Order 11246, as amended, and 41 CFR Part 60–2. GSA then rescinded the October 14, 1976, show cause notice.

On November 8, 1976, Mr. Roberts of St. Regis responded to the GSA letter in which the data supplied by the company was claimed as the property of the U.S. Government. Mr. Roberts stated that he found no basis in 41 CFR Part 60–2 for permanent retention of Federal contractor data provided pursuant to the requirements of 41 CFR Part 60–60. Mr. Roberts contended inter alia:

It is our position that neither that language (41 CFR 60–2) nor any other part of the regulations, nor any part of the Executive Order, provides any legal basis for the Government to claim property rights over such materials.

Mr. Roberts concluded that there is no basis for the Government's retention of such material since it is not necessary to GSA's determination of the acceptability of the Battle Creek facility's affirmative action program.

On November 10, 1976, counsel for St. Regis advised OFCCP that the company had provided the material requested by GSA on September 1, 1976. Accordingly, he requested that a hearing be conducted pursuant to the provisions of 41 CFR 60–1.24(c) to determine the validity of GSA's position on the issue of permanent retention of data obtained for the purpose of conducting compliance reviews. Thereafter, counsel for St. Regis waived whatever right to a hearing that the company may have pursuant to 41 CFR 60–1.24(c) and agreed to submit its legal arguments in support of its position to the Director, based upon the entire record of the case.

St. Regis has framed the issue as follows:

Whether a contractor who provides full access to company records requested by a compliance agency in connection with a compliance review can nevertheless be found in non-compliance with Executive Order 11246 because it refuses to permit agency retention of such company records. Whether such records become the proprety of the Government and may be retained against the will of the contractor is implicit in this issue.

St. Regis has made several arguments in support of its contention that neither Executive Order 11246, as amended (hereafter Executive Order 11246 or the Executive Order), nor its implementing rules and regulations authorize permanent retention of records and material submitted by a contractor for purposes of a compliance review.

St. Regis' first argument is that section 202(5) of Executive Order 11246 does not provide for permanent retention of information submitted by a contractor but, rather, provides only for inspection of such documents.[1]

St. Regis contends that the terms "will furnish" and "permit access to" referred to in section 202(5) are synonymous and contemplate only that relevant data will be made available to the compliance agency for its examination. It is an elementary rule of construction, however, that effect must be given, if possible, to every word, clause and sentence of a statute. *U.S.* v. *Menasche*, 348 U.S. 528, S.Ct. 513 (1955). An Executive Order, just as a statute, should be construed to give effect to all its provisions, so that no part will be inoperative or superfluous, void or insignificant. Sands, Southerland Statutory Construction, Vol. 2A, p. 63. Assuming that section 202(5) were to be interpreted as St. Regis proposes, there would be no reason for using the separate terms "will furnish" and "permit access to". Instead section 202(5) could have been drafted so as to eliminate the use of either "will furnish" or "permit access to" without changing its meaning. Accordingly, it is doubtful that the President intended his use of these terms to be regarded synonymously. Rather, the plain meaning of these words was intended. Webster's New World Dictionary, Second Edition, defines "furnish" as meaning "to supply, provide; give." The same source defines "access" as "the right to enter, approach, or use; admittance." Clearly, the President intended that section 202(5) require contractors subject to the Executive Order to supply, provide or give the Secretary of Labor or the appropriate compliance agency all information and reports required by the Order and its implementing rules, regulations, and orders, and to permit representatives of such federal agencies to enter the contractor's premises to inspect, copy or transcribe its books, records, and accounts in order to determine whether such contractor is in compliance. To read section 202(5) otherwise renders one part or the other superfluous and, therefore, contrary to elementary rules of construction.

The second part of St. Regis' argument asserts that the President did not expressly authorize the permanent retention of such records and materials and, thus, no such authority can be implied. There is no merit in this assertion. The President has the constitutional authority to require that nondiscrimination and affirmative action contract provisions be made a part of all Government contracts. See *Contractors Association of Eastern Pennsylvania* v. *Secretary of Labor*, 442 F.2d 159 (3d Cir. 1971) cert. denied 404 U.S. 854 (1971). He also has the authority to require such contractors to keep records and information relating to matters which are the appropriate subjects of governmental regulation, and the enforcement of restrictions validly established (*Wilson* v. *United States*, 221 U.S. 361 (1911); *Davis* v. *United States*, 328 U.S. 582 (1946) so long as the records or reports required by the Government bear some reasonable relationship to the matters under inquiry. (*United States* v. *Morton Salt*, 338 U.S. 632, 70 S.Ct. 357 (1950)). In *Shapiro* v. *United States*, 335 U.S. 1, at 32–33, (1948), the Court recognized that "there are limits which the government cannot constitutionally exceed in requiring the keeping of records which may be inspected by an administrative agency and may be used in prosecuting statutory violations committed by the record-keeper himself. But no serious misgivings that those bounds have been overstepped would appear to be evoked when there is sufficient relationship between the activity sought to be regulated and the public concern so that the government can constitutionally regulate or forbid the basic activity concerned, and can constitutionally require the keeping of particular records, subject to inspection by the Administrator." In this case, those "limits" have been exceeded by GSA.

The material which GSA requested from St. Regis was required to be maintained under Executive Order 11246 and its implementing rules and regulations.[2]

The second argument made by St. Regis is that Department of Labor regulations do not authorize retention by the Federal Government of records or materials submitted by a

[1] Section 202(5) reads as follows: The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders."

[2] An examination of the material submitted to GSA by St. Regis under protest, without exception, is required by "Revised Order No. 4" to be included in an acceptable affirmative action program. For instance, St. Regis objects to GSA's permanent retention of the utilization analysis prepared for the Battle Creek facility. A utilization analysis is expressly required by 41 CFR 60–2.11. The remainder of the material that St. Regis claims should be returned similarly is required to be maintained.





contractor in the course of a compliance review.

There is no merit in St. Regis' argument. Executive Order 11246 has, in effect, been ratified by the United States Congress, and it has the force and effect of law. *Contractor's Association of Eastern Pennsylvania* v. *Secretary of Labor*, 442 F.2d 149 (3rd Cir. 1971), cert. denied, 404 U.S. 854, (1971); See also: *Farkas* v. *Texas Instruments Co.*, 375 F.2d 629 (5th Cir. 1967); cert. denied, 389 U.S. 977 (1967). In addition, regulations issued by the Secretary of Labor pursuant to his authority under Section 201 of the Executive Order which are consistent with the purpose and intent of the Order also have the force and effect of law. *Maryland Casualty Company* v. *United States*, 251 U.S. 342, (1919); *United States* v. *New Orleans Public Service, Inc.*, ____ F.Supp. ____ (E.D.La. 1974), 8 FEP Cases 1089, 8 EPD ¶ 9795. (appeal pending) [3]

St. Regis also asserts that the Secretary of Labor's regulations do not permit compliance agencies to retain permanently information and records provided during a compliance review. St. Regis' interpretation of the relevant regulations is incorrect. Among the Secretary's regulations are the following:

(1) "• • • compliance agencies shall routinely request from among the Federal contractors within their jurisdiction affirmative action programs and supporting documentation, including the work-force analysis and support data for audit." (41 CFR 60.3(a).)

(2) "The Contractor must provide all data determined by the compliance officer to be necessary for off-site analysis pursuant to § 60–60.3(c) above. Such data may only be coded if the contractor makes the code available to the compliance agency. If the contractor believes that particular information which is to be taken off-site is not relevant to compliance with the Executive Order, the contractor may request a ruling by the agency Contract Compliance Officer. The contract compliance officer shall issue a ruling within 10 days. The contractor may appeal that ruling to the Director of OFCC within 10 days. The Director of OFCC shall issue a final ruling within 10 days. Pending a final ruling, the information in question must be made available to the compliance officer off-site, but shall be considered a part of the investigatory file and subject to the provisions of paragraph (d) below. The agency shall take all necessary precautions to safeguard the confidentiality of such information until a final determination is made. Such information may not be copied by the agency and access to the information shall be limited to the compliance officer and agency personnel involved in the determination of relevancy. Data determined to be not relevant to the investigation will be returned to the contractor immediately." (41 CFR 60–60.4(c).)

(3) "Information obtained from a contractor under Subpart B will be subject to the public inspection and copying provisions of the Freedom of Information Act, 5 U.S.C. 552. Contractors should identify any information which they believe is not subject to disclosure under 5 U.S.C. 552, and should specify the reasons why such information is not disclosable. The Contract Compliance Officer will consider the contractors claim and make a determination, within 10 days, as to whether the material in question is exempt from disclosure. The contract compliance officer will inform the contractor of such a determination. The contractor may appeal that ruling to the Director of OFCC within 10 days of the filing of the appeal. However during the conduct of a compliance review or while enforcement action against the contractor is in progress or contemplated within a reasonable time, all information obtained from a contractor under Subpart B except information disclosable under §§ 60–40.2 and 60–40.3 of this chapter is to be considered part of an investigatory file compiled for law enforcement purposes within the meaning of 5 U.S.C. 552(b)(7), and such information obtained from a contractor under Subpart B shall be treated as exempt from mandatory disclosure under the Freedom of Information Act during the compliance review." (41 CFR 60–60.4(d).)

(4) "The Director, the agency or the applicant, on their own motions, may require a contractor to keep employment or other records and to furnish, in the form requested, within reasonable limits, such information as the Director, agency or the applicant deems necessary for the administration of the order." (41 CFR 60–1.7(a)(3).)

(5) "Each prime contractor and subcontractor shall permit access during normal business hours to its premises for the purpose of conducting on-site compliance reviews and inspecting and copying such books, records, accounts, and other material as may be relevant to the matter under investigation and pertinent to compliance with the Order, and the rules and regulations promulgated pursuant thereto by the agency, or the Director. Information obtained in this manner shall be used only in connection with the administration of the Civil Rights Act of 1964 (as amended) and in furtherance of the purposes of the Order and that Act. (See 41 CFR Part 60–60, Contractor Evaluation Procedures for Nonconstruction-Contractors; 41 CFR Part 60–40, Examination and Copying of OFCC Documents.)" (41 CFR 60–1.43.)

As discussed hereinabove, Section 202(5) of Executive Order 11246 authorizes the permanent retention by Federal compliance agencies of information and reports required by the Order. The regulations cited above clearly contemplate the submission to the appropriate compliance agency of information described in "Revised Order No. 4" (41 CFR Part 60–2). That the information submitted by St. Regis is within the coverage of the requirements of 41 CFR 60–60.3(a) is undisputable. (See footnote No. 2 supra.)

Moreover, the provisions of 41 CFR 60–60.4(c) and (d) assume agency authority to retain possession of such documents even after the compliance review precipitating the contractor's production of such documents has been completed and even in situations in which no enforcement action against the contractor is currently contemplated.[4] Otherwise there is no reason to establish procedures for safeguarding their disclosure. St. Regis argues that 41 CFR 60–60.4 (c) and (d) are of limited application, dealing only with the treatment of information obtained during an on-site compliance review which is considered by the contractor to be confidential or irrelevant. This is a misunderstanding of § 60–60.4(d), the first sentence of which states that the section is applicable to all information obtained from a contractor under 41 CFR 60–60.3, and not just that information which a contractor believes nondisclosable under FOIA.[5] In addition § 60–60.4(c) states the circumstances under which data collected by a compliance agency must be returned to a contractor.

Similarly, St. Regis contends that 41 CFR 60–1.43 is an unlawful attempt by the Secretary of Labor to confer upon compliance agencies the power to retain information and records required by Executive Order 11246. Section 60–1.43 is, however, consistent with the provisions of Section 202(5) of the Executive Order as discussed herein. This section of the Secretary's regulations permits the inspection and copying of books, records, accounts and other material relevant to the conduct of the compliance review. Contractors, by doing business with the Government, agree to comply with Executive Order 11246 and the rules, regulations and orders of the Secretary of Labor including 41 CFR 60–1.43. See *United States* v. *New Orleans Public Service, Inc.*, supra.

This interpretation of the Secretary of Labor's regulations is consistent with the purposes of Executive Order 11246 as discussed hereinabove. Thus, the Department's regulations, just as the Executive Order, permit the retention by the compliance agencies of material provided by contractors for the purpose of determining whether such contractors are in compliance with Executive Order 11246.

St. Regis' final argument is that an "access-and-examination-only" rule, which it proposes, will not interfere with effective enforcement by the Government of the requirements of Executive Order 11246. This argument misconstrues the responsibility of the various compliance agencies to carry out their enforcement duties. Many agencies have found that it is useful to compare records and other information from earlier compliance reviews with the material furnished during a current review in order that a judgment can be made as to the relative improvement of the contractor's EEO posture. Just because earlier compliance reviews resulted in determinations that the contractor had made sufficient good faith efforts to justify a finding of compliance with Executive Order 11246 does not render the information gathered during the course of such reviews less relevant to a determination of the current compliance posture of the contractor.

For the reasons stated herein, I have determined that GSA's policy of retaining information and reports required by the Executive Order and its implementing rules, regulations, and orders, which conclude that the contractor is in compliance or the enforcement procedure concludes." This language was deleted from the current version of 41 CFR 60–60.4 which is cited hereinabove (39 FR 5630, February 14, 1974). Thus, St. Regis' contention may have had some validity under the terms of the earlier version of § 60–60.4. However, deletion of all references in the regulations to such material being "on loan to the compliance agency" clearly shows that it was the conscious intention of the Secretary of Labor to permit compliance agencies to retain material submitted during a compliance review.

[3] The secretary of Labor has delegated his authority under Section 201 for carrying out the day-to-day responsibility of implementing Executive Order 11246 to the Director of OFCCP. See 41 CFR 60–1.2.

[4] Compare the original publication of Revised Order No. 14, 41 CFR Part 60–60, (38 FR 13376, May 21, 1973) which provided in § 60–60.4(c) that whenever data was taken by a compliance agency offsite during a compliance review, the contractor and the compliance agency "may agree that the data is to be considered on loan to the compliance agency for purposes of review and the data is not considered in the custody of the agency • • •. The data shall be returned to the contractor whenever the agency con-

[5] This decision should not be regarded as precluding St. Regis Paper Company or any other Government contractor or subcontractor from exercising its rights pursuant to 5 U.S.C. 552 and the Department of Labor's regulations concerning public disclosure of contractor information submitted during the course of a compliance review.



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ulations and orders is permissible. Moreover, a contractor's refusal to furnish such information is grounds for the imposition of sanctions as provided in section 209 of Executive Order 11246 and 41 CFR 60-1.26.

Dated: April 1, 1977.

A. DIANE GRAHAM,
*Acting Director, Office of Federal Contract Compliance Programs.*

[FR Doc.77-21461 Filed 7-25-77;8:45 am]

## Occupational Safety and Health Administration

### ALASKA STATE STANDARDS

#### Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the FEDERAL REGISTER 38 FR 21628 of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision.

The Alaska plan provides for the adoption of Federal standards as State standards by reference. Section 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required." In response to Federal standards changes, the State has submitted by letter dated March 25, 1977 from Edmund Orbeck, Commissioner, to James Lake, Regional Administrator, and incorporated as part of the plan, State standards comparable to amendments to 29 CFR 1928.57, Guarding of Farm Field Equipment, Farmstead Equipment, and Cotton Gins, as published in the FEDERAL REGISTER 41 FR 46598 dated October 22, 1976. These State standards, which are contained in The Alaska Agriculture Code Chapter 14, were promulgated by resolution adopted by the Departmentof Labor on February 8, 1977, pursuant to AS 18.60.020.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly they are approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003 Federal Office Building, 909 First Avenue, Seattle, Wash. 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99801; and the Technical Data Center, Room N3620, 200 Constitution Avenue, Washington, D.C. 20210.

4. Public participation. Section 1953(c)(1) provides that when State standards are identical to or "at least as effective" as comparable Federal standards and have been promulgated in accordance with State law, approval may be effective upon publication without an opportunity for further public participation. As the standards under consideration are identical to the Federal standards and have been promulgated in accordance with State law, they are approved without an opportunity for public comment.

This decision is effective July 26, 1977.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed in Seattle, Wash., this 16th day of May 1977.

JACK R. JONES,
*Acting Regional Administrator, Occupational Safety and Health Administrator.*

[FR Doc.77-21452 Filed 7-25-77;8:45 am]

### NEVADA STATE STANDARDS

#### Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 4, 1974 notice was published in the FEDERAL REGISTER (39 FR 1008) of the approval of the Nevada plan and the adoption of Subpart W to Part 1952 of Title 29 containing the decision.

The Nevada plan provides for the adoption of Federal standards as State standards by reference. The Nevada State plan submitted on December 5, 1975 and designated as Subpart W sets forth the State's schedule for the adoption of Federal standards. By letter dated May 17, 1977 from Ralph Langley to Maria Barcos and incorporated as part of the plan, the State submitted State standards identical to 29 CFR 1910.184 (f)(6), industrial slings; 29 CFR 1910.-309(c)(1), 2 and 3, ground fault circuit interrupters; 29 CFR 1910.1001(l)1, asbestos; 29 CFR 1910.1003 through 1016, carcinogens and 29 CFR 1910.1029 coke oven emissions, to 29 CFR 1926.400(h) ground fault circuit interrupters and to 29 CFR 1928.57, Subpart D. The incorporation of these standards includes all Federal standard changes from July 28, 1975 through January 18, 1977. These standards, which are contained in Department of Occupational Safety and Health, Nevada Industrial Commission Occupational Safety and Health Standards and Safety and Health Standards for Construction, were promulgated by resolution adopted by Department of Occupational Safety and Health of the Nevada Industrial Commission between July 28, 1975 and January 18, 1977 pursuant to Nevada's Occupational Safety and Health Act.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards it has been determined that the State standards are identical to the Federal standards and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, 450 Golden Gate Avenue, Room 9470, San Francisco, Calif. 94102; Director, Department of Occupational Safety and Health, 515 East Musser Street, Carson City, Nev. 89714; and Technical Data Center, Occupational Safety and Health Administration, Room S6212, 200 Constitution Avenue, Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Nevada State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective July 26, 1977.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at San Francisco, Calif., this 10th day of June 1977.

GABRIEL J. GILLOTTI,
*Regional Administrator, Occupational Safety and Health Administration.*

[FR Doc.77-21454 Filed 7-25-77;8:45 am]

### OREGON STATE STANDARDS

#### Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes





procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the FEDERAL REGISTER 37 FR 28628 of the approval of the Oregon State plan and the adoption of Subpart D to Part 1952 containing the decision.

The Oregon plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act.

Section 1952.108 of Subpart D sets forth the State's schedule for the adoption of at least as effective State standards. By letter dated January 27, 1977 from James Wiles, Administrator, Accident Prevention Division, to James Lake, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR Part 1910.261, Pulp, Paper, and Paperboard Mills, as published in the FEDERAL REGISTER 39 FR 23602 dated June 27, 1974. These standards, which are contained in OAR 437 Part 32, Pulp, Paper, and Paperboard Mills, were promulgated after public comment request in the Secretary of State's Administrative Rules Bulletin dated December 1, 1976.

2. *Decision.* Having reviewed the State submission in comparison with Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards and accordingly are approved. Generally, the State has expanded the standards to include coverage of hazards associated with paper making processes used in the Northwest Region of the United States. The detailed standards comparison is available at the locations specified below.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Wash. 98174; Workmen's Compensation Board, Labor and Industries Building, Room 204, Salem, Oreg. 97310; and the Technical Data Center, Room N3620, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Section 1953(c)(1) provides that where State standards are identical to or "at least as effective" as comparable Federal standards, and have been promulgated in accordance with State law, approval may be effective upon publication without an opportunity for further public participation. As the standards under consideration are "at least as effective" as the Federal standards, and have been promulgated in accordance with State law, including an opportunity for public comment and/or public hearings, they are approved without an opportunity for further public comment.

The decision is effective July 26, 1977.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Seattle, Wash. this 23d day of May 1977.

JAMES W. LAKE,
*Regional Administrator, Occupational Safety and Health Administration.*

[FR Doc.77-21453 Filed 7-25-77;8:45 am]

### UTAH STATE STANDARDS

#### Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.-4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On January 10, 1973, notice was published in the FEDERAL REGISTER (38 FR 1178) of the approval of the Utah Plan and the adoption of Subpart E to Part 1952 containing the decision.

The Utah Plan provides for the adoption of Federal Standards as State Standards by:

1. Advisory Committee recommendation.

2. Publication in newspapers of general/major circulation with a 30-day waiting period for public comment and hearing(s).

3. Commission order adopting the standards and designating an effective date.

4. Providing certified copies of Rules and Regulations or Standards to the office of the State Archivist.

Section 1952.113 of Subpart E sets forth the State's schedule for adoption of Federal Standards. By letters dated November 11, 1976; January 7, 1977; January 21, 1977; March 1, 1977; and March 23, 1977, from Don J. Christiansen, Administrator, Utah Occupational Safety and Health Division, to Curtis A. Foster, Regional Administrator, and incorporated as part of the Plan, the State submitted rules and regulations concerning 29 CFR 1910.1005, 1910.1003–1910.1004–1910.1006 and 1910.-1016—Carcinogens: Deletion of Vacated Laboratory Provisions; Deletion of Vacated Standard for Occupational Exposure to 4,4' Methylene bis (2-Chloroaniline), 41 FR 35184, Friday, August 20, 1976, 29 CFR 1928.57(a)(5) Guarding of Farm Field Equipment, Farmstead Equipment and Cotton Gins; Nonsubstantive Editorial Amendments, 41 FR 46598, Friday, October 22, 1976, 29 CFR 1910.1029 Coke Oven Emissions, 41 FR 46742, Friday, October 22, 1976, 29 CFR 1910.309(c)(2), 1926.400(h)(2) Ground-Fault Protection; 41 FR 55696, Tuesday, December 21, 1976, 29 CFR 1910.1029 Exposure Coke Oven Emissions; Corrections, 42 FR 3304, Tuesday, January 18, 1977. These standards, which are contained in the Utah Occupational Safety and Health Rules and Regulations for General Industry, Agriculture and Construction, were promulgated per the requirements of Utah Code annotated 1953, Title 63-46-1, and in addition, published in newspapers of general/major circulation throughout the State. No public comment was received and no hearings held. The deletion of vacated laboratory provisions and deletion of entire occupational standard for 4,4' Methylene bis (2-Chloroaniline) was adopted by the Industrial Commission of Utah, Archives File Number 1701 on September 14, 1976. The Guarding of Farm Field Equipment, Farmstead Equipment and Cotton Gins; Nonsubstantive Editorial Amendments were adopted by the Industrial Commission of Utah, Archives File Number 1789 on November 11, 1976. The Exposure to Coke Oven Emissions were adopted by the Industrial Commission of Utah, Archives File Number 1823 on December 10, 1976. The Ground-Fault Protections were adopted by the Industrial Commission of Utah, Archives File Number 1894 on January 7, 1977. The Exposure to Coke Oven Emissions; Corrections were adopted by the Industrial Commission of Utah, Archives File Number 1989 on March 3, 1977, pursuant to Title 35-9-6 Utah Code Annotated 1953.

2. *Decision.* The State submission having been reviewed in comparison with the Federal Standards, it has been determined that the State Standards are identical to the Federal Standards and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Room 15010, Federal Building, 1961 Stout Street, Denver, Colo. 80294; Utah State Industrial Commission, UOSHA Offices at 448 South 400 East, Salt Lake City, Utah 84111; and the Technical Data Center, Room S-6212, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Utah State Plan as a proposed change and making



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the Regional Administrator's approval effective upon publication for the following reasons:

The standards were adopted in accordance with the procedural requirements of State law which permitted public comments, and further public participation would be repetitious.

This decision is effective July 26, 1977.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Denver, Colo., this third day of June 1977.

CURTIS A. FOSTER,
*Regional Administrator.*

[FR Doc.77-21456 Filed 7-25-77;8:45 am]

## WASHINGTON STATE STANDARDS

### Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 153.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the FEDERAL REGISTER 38 FR 2421 of the approval of the Washington State plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the at least as effective as status of the State program, a program change supplement to a State plan shall be required."

In response to Federal standards changes the State has submitted by letter dated March 16, 1977 from James Sullivan, Assistant Director, Department of Labor and Industries, to James Lake, Regional Administrator, and incorporated as part of the plan, State standards comparable to 29 CFR Part 1928.57, Guarding of Farm Field Equipment, Farmstead Equipment, and Cotton Gins, as published in the FEDERAL REGISTER 41 FR 10190 dated March 9, 1976.

These State standards, which are contained in Chapter 296 306 WAC, were promulgated after public hearings held on September 15, 1976.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards and accordingly are approved. The State has not addressed Cotton Gins, but has certified that it will do so should such equipment be used within the State. The detailed standards comparison is available at the locations specified below.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Wash. 98174; Department of Labor and Industries, General Administration Building, Olympia, Wash. 98504; and the Technical Data Center, Room N3620, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Section 1953 (c) (1) provides that where State standards are identical to or "at least as effective" as comparable Federal standards and have been promulgated in accordance with State law, approval may be effective upon publication without an opportunity for further public participation. As the standards under consideration are "at least as effective" as the Federal standards and have been promulgate in accordance with State law including an opportunity for public comment and/or a public hearing, they are approved without an opportunity for further public comment.

This decision is effective July 26, 1977.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Seattle, Wash., this 23d day of May 1977.

JAMES W. LAKE,
*Regional Administrator, Occupational Safety and Health Administration.*

[FR Doc.77-21455 Filed 7-25-77;8:45 am]

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Humanities

### ADVISORY COMMITTEE FELLOWSHIPS PANEL

### Meeting

JULY 20, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in the first floor conference room, from 9:30 a.m. to 5:30 p.m. on August 11, 1977.

The purpose of the meeting is to review Fellowships and Seminars for Members of Professions Outside Teaching in the field of Journalism submitted to the National Endowment for the Humanities for projects beginning after September 1, 1977.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0256.

JOHN W. JORDAN,
*Advisory Committee, Management Officer.*

[FR Doc.77-21459 Filed 7-25-77;8:45 am]

## POSTAL RATE COMMISSION

[Order No. 168; Docket No. MC77-2]

### MAIL CLASSIFICATION SCHEDULE

### Minimum Size Prohibitions; Notice and Order Instituting Proceedings

JULY 21, 1977.

The Commission has before it a Postal Service filing affecting the minimum size mail requirements contained in the Domestic Mail Classification Schedule recommended by us in Docket No. MC73-1 and subsequently adopted by the Governors. The Postal Service has requested, by a filing made on July 11, 1977, a recommended decision deferring the implementation date[1] of § 002.1 of the Domestic Mail Classification Schedule, which section contains all of the size minima referred to.[2]

The Postal Service advances as a reason for its request the fact that it is undertaking studies of the 0.007-inch minimum thickness requirement (as called for in the Docket MC73-1 settlement agreement) and of some other matters relating to size requirements. The Service believes that the studies might lead to different specifications producing equally good, or better, machine-processing characteristics of mail. In order to avoid possibly unnecessary costs on the part of mailers, it suggests that the requirements now scheduled to go into effect on April 15, 1978, not be imposed until at least one year after the data gathered in the studies have become available.

It appears from examination of the Domestic Mail Classification Schedule language, which the Postal Service wishes to have changed, that present § 002.1 does not permit unilateral postponement of the effective date of the size minima.[3]

[1] The date is April 15, 1978.

[2] By a petition filed on June 21, 1977, in Docket No. MC73-1, the Council of Public Utility Mailers (CPUM) requested that we reconsider our recommendations—adopted by the Governors on June 2, 1976, in Docket No. MC73-1—of a 3.5-inch minimum height requirement. CPUM, by a pleading filed on July 13, 1977, has asked to withdraw its request and concurrently petitioned to intervene in any proceedings instituted regarding the Service's request.





Under these circumstances, we will institute a classification proceeding to deal with the Service's request. We intend to conduct proceedings in this docket in the following manner. The issue concerning postponement of the effective date of § 002.1 clearly must be decided promptly. This issue must be resolved by a recommended decision pursuant to 39 U.S.C. 3623, but it appears to be the type of question which can probably be dealt with by conference-type proceedings rather than by a formal evidentiary hearing. We are therefore scheduling a prehearing conference, to take place on August 16, 1977, at which we wish to hear a report from the Postal Service on the scope and design of the studies to which it refers in its July 11 filing. Our hope is that a satisfactory accommodation between the Service's study program and any questions raised by other participants will be reached at that conference, if it does not already exist as a result of the way the Service has structured its studies.

We also wish the parties to be prepared, at this prehearing conference, to discuss and if possible execute a stipulation which could form the basis for a recommended decision on postponment of the effective date of § 002.1 of the Domestic Mail Classification Schedule.

It is our intention, by the procedure described above and such further procedures as may be required, to dispose as expeditously as possible of the proposal to postpone the effectiveness of the size minima. We do not contemplate initiating formal proceedings on the substantive requirements of § 002.1 until such time as the data generated by the Postal Service's studies are available. When these data are on hand, we will by further order institute such proceedings as part of this docket, including evidentiary hearings as appropriate, as might be required to reach final decision in this case.

Petitions for leave to (1) intervene or (2) appear as a limited participator herein are to be filed on or before August 5, 1977. 39 CFR 3001.19a, 3001.20. Informal comments may also be filed pursuant to 39 CFR 3001.19b, and should be filed by that date also.

*The Commission orders:* (A) A mail classification proceeding is instituted, pursuant to 39 U.S.C. 3623(b), for the purpose of considering (1) the request by the Postal Service for a recommended decision postponing the effective date of § 002.1 of the Domestic Mail Classification Schedule, and (ii) such other related matters affecting the Domestic Mail Classification Schedule as may be appropriate and necessary for decision in this proceeding.

(B) The request by Council of Public Utility Mailers to withdraw its June 21, 1977, petition for reopening of the record in Docket No. MC73-1 is granted.

(C) Petitions for leave to intervene or appear as a limited participator in this docket shall be filed on or before August 5, 1977. Comments by commenters shall also be filed on that date.

(D) A prehearing conference for the purposes described in the body of this order and for the disposition of such other business as may be necessary will be held on August 16, 1977, at 10 a.m., in the Commission's Hearing Room, Suite 500, 2000 L Street NW., Washington, D.C. 20268.

(E) Kenenth J. Neises is designated as Officer of the Commission to represent the interests of the general public, pursuant to 39 U.S.C. 3624(a).

(F) Commissioner Kieran O'Doherty is designated as Presiding Officer in this proceeding.

By the Commission.

DAVID F. HARRIS,
*Secretary.*

[FR Doc.77-21513 Filed 7-25-77;8:45 am]

[3] In Postal Bulletin No. 21081 (June 3, 1976), pp. 1-2, there is language suggesting that the Service might put the minima into effect after that date. However, the Mail Classification Schedule would be the governing requirement in case of conflict between its provisions and an announcement made in the Postal Bulletin.

## SECURITIES AND EXCHANGE COMMISSION

### CINCINNATI STOCK EXCHANGE

### Application for Unlisted Trading Privileges and of Opportunity for Hearing

JULY 18, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

American Express Company, Common stock $0.60 par. File No. 7-4960.

Upon receipt of a request, on or before August 3, 1977, from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-21420 Filed 7-25-77;8:45 am]

[Rel. No. 20115]

### COLUMBIA GAS OF OHIO, INC., ET AL.

### Proposal To Make Loans to Residential Heating Customers to Finance Home Insulation Installation

JULY 19, 1977.

In the matter of Columbia Gas of Ohio, Inc., Columbia Gas of West Virginia, Inc., Columbia Gas of Kentucky, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of New York, Inc., Columbia Gas of Maryland, Inc., 99 North Front Street, Columbus, Ohio 43215 (70-6027).

Notice is hereby given that Columbia Gas of Ohio, Inc., Columbia Gas of West Virginia, Inc., Columbia Gas of Kentucky, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of New York, Inc., and Columbia Gas of Maryland, Inc. (collectively referred to as "the subsidiaries"), all of which are wholly-owned subsidiaries of The Columbia Gas System, Inc., a registered holding company, have filed an application and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a) and 10 of the Act and Rule 40 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application for a complete statement of the proposed transaction.

The subsidiaries seek authorization to institute a Residential Ceiling Insulation Financing Program ("Program") and to acquire installment promissory notes from residential natural gas utility customers pursuant to the Program. Under the Program each subsidiary will offer to lend qualified residential heating customers amounts up to $750 for each home for ceiling insulation in owner-occupied, single or double family, gas-heated residences. The financing terms will be offered to customers whose credit has been established with the subsidiary through previous gas service and to new customers transferring to gas-heated homes served by the subsidiary. Loans to customers under the Program will be made on the following terms: 10% down payment, a maximum principal of $750, a maximum term of three years at 6% add on interest which equates to an annual percentage rate of 11.08% for a loan repaid over 36 months. Payment within 90 days will be treated as cash and will incur no interest. Billing for loans made under the Program will be separate from gas bills. Customers may select any contractor-dealer (those companies or individuals with installation capabili-



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ties) or dealer (those companies or individuals who will only sell materials to individuals who prefer to perform the installation themselves). For financing to be available under the program, the selected contractor-dealer or dealer must enter into an agreement with the appropriate Columbia subsidiary. Such agreement will provide that the contractor-dealer or dealer will inform potential attic insulation purchasers of the existence of the Program and will use only the Residential Attic Insulation Sales Agreement ("Sales Agreement") prepared by the Columbia subsidiaries in arranging financing for customers who choose to avail themselves of the Program. The Sales Agreement form includes an installment promissory note to be signed by the customer to the order of the contractor/dealer or dealer. The contractor/dealer or dealer will then assign the note to the appropriate Columbia subsidiary upon payment to the contractor/dealer or dealer by the Columbia subsidiary of the amount due to the contractor/dealer or dealer from the customer. Contractor/dealers will be responsible for surveys, estimates, sales and installations while sales by dealers will be subject to post-installation verification by personnel of the appropriate Columbia subsidiary. Inspections will be made solely for the purpose of ascertaining whether insulation has been installed; no judgment will be made to the quality of the insulation installation.

It is stated that the Program as proposed will not require additional personnel and the availability of the Program will be extensively publicized and promoted throughout the subsidiaries' operating areas through the use of funds previously allocated to advertising and promotion of conservation. The Program is designed to operate on a break-even basis for the subsidiaries and the costs of this program will not be imposed on their ratepayers. Profits, if any, which result from the operation of the Program will be applied to further promotion.

The maximum amount of the loans outstanding at any one time from all the subsidiaries will not exceed $7,000,000. The maximum amount of loans outstanding at any one time for each individual subsidiary will be as follows:

| Company: | Amount |
|---|---|
| Columbia Gas of Kentucky, Inc | $440,000 |
| Columbia Gas of Maryland, Inc | 120,000 |
| Columbia Gas of New York, Inc | 270,000 |
| Columbia Gas of Ohio, Inc | 3,800,000 |
| Columbia Gas of Pennsylvania, Inc | 1,520,000 |
| Columbia Gas of Virginia, Inc | 150,000 |
| Columbia Gas of West Virginia, Inc | 700,000 |
| | 7,000,000 |

Each subsidiary will finance its portion of the Program individually through internally-generated funds.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $3,700. The Public Service Commission of Kentucky, the Public Service Commission of New York, the State Corporation Commission of Virginia, the Public Service Commission of West Virginia, the Public Utilities Commission of Ohio and the Public Utility Commission of Pennsylvania have jurisdiction over the proposed Program under their general regulatory authority.

Notice is further given that any interested person may, not later than August 12, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-21421 Filed 7-25-77;8:45 am]

[File No. 81-189]

## FOUNDATION INVESTMENT CORP.

### Application and Opportunity for Hearing

Notice is hereby given that one of the Liquidating Agents for Foundation Investment Corporation ("Foundation") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting Foundation from the provisions of Section 12(g), 13, 14 and 15(d) of the Act.

Section 12(g) of the 1934 Act requires the registration of the equity securities of every issuer which is engaged in a business affecting interstate commerce, or whose securities are traded by use of the mails or any means or instrumentality of interstate commerce, and on the last day of the fiscal year has total assets exceeding $1 million and a class of equity securities held of record by 500 or more persons. Registration is terminated 90 days after the issuer files a certification with the Commission that the number of holders of the registered class of securities is fewer than 300 persons.

Section 15(d) of the 1934 Act requires, in part, that each issuer which has filed a registration statement under the Securities Act of 1933 which registration statement contains an undertaking which became operative pursuant to this subsection 15(d) as then in effect, shall file with the Commission in accordance with appropriate rules and regulations of the Commission such information and reports as may be required pursuant to Section 13 of the 1934 Act in respect of a security registered pursuant to Section 12 of the 1934 Act. In general such requirements are suspended as to any fiscal year at the beginning of which the issuer had less than 300 shareholders of its equity securities, or during such time as the issuer's securities are registered under Section 12 of the 1934 Act.

Section 12(h) of the 1934 empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the registration, periodic reporting and proxy soliciting provisions of the 1934 Act under Sections 12, 13, 14 and 15(d) thereof, if the Commission finds by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities, income or assets of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The application states in part:

1. The continued registration of Foundation and the filing of Annual Reports on Form 10-K and Form 10-Q is not in the public interest of investors in that Foundation is not actively engaged in any business and, in fact, has been liquidated and dissolved pursuant to the law of its state of incorporation;

2. The only funds in the hands of the liquidating agents of Foundation are the amounts to be paid to shareholders upon proper tender of their shares, and after the prescribed statutory period of time, the amounts for untendered shares will escheat to the state of Georgia;

3. Continued registration of Foundation entails certain expenses which do not appear to be necessary under the circumstances, and the funds in the hands of the liquidating agents are insufficient for these purposes;

4. Only approximately 200 shareholders appear to be "active" in the sense that apparently they continue to receive mailings requesting that their shares be tendered to Foundation for redemption, which is less than the number required by applicable statutes for deregistration, while the remaining shareholders cannot be located and Foundation does not have the funds with which to initiate an intensive investigation to determine the whereabouts of the missing shareholders.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given than any interested person not later than August 15, 1977, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request shold be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-21422 Filed 7-25-77;8:45 am]

[File No. 500-1]

## FRIGITRONICS, INC.

### Suspension of Trading

JULY 20, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Frigitronics, Incorporated being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 12 noon (EDT) on July 20, 1977 through July 25, 1977 at 10 a.m. (EDT).

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-21423 Filed 7-25-77;8:45 am]

[Rel. No. 9860]

## MASSACHUSETTS INVESTORS TRUST, ET AL.

### Filing of Application

JULY 20, 1977.

In the matter of Massachusetts Investors Trust, Massachusetts Investors Growth Stock Fund, Inc., Massachusetts Income Development Fund, Inc., Massachusetts Capital Development Fund, Inc., Massachusetts Financial Development Fund, Inc., Massachusetts Financial Bond Fund, Inc., Massachusetts Financial Services, Inc.,and Massachusetts Financial Services Company, 200 Berkeley Street, Boston, Massachusetts 02116 (812-4072)

Notice is hereby given that Massachusetts Investors Trust, Massachusetts Investors Growth Stock Fund, Inc., Massachusetts Income Development Fund, Inc., Massachusetts Capital Development Fund, Inc., Massachusetts Financial Development Fund, Inc., Massachusetts Financial Bond Fund, Inc. (collectively, "Funds"), each of which is registered under the Investment Company Act of 1940 (the "Act") as a diversified, open-end, management investment company, and Massachusetts Financial Services, Inc., filed an application on December 27, 1976, which was amended on April 8, 1977, and June 29, 1977, and in which the successor to Massachusetts Financial Services, Inc., Massachusetts Financial Services Company ("MFS") has joined (MFS together with the Funds are hereinafter referred to as "Applicants"), for an order of the Commission (1) pursuant to Section 11(a) of the Act permitting Applicants to offer shares of the Funds in exchange for shares of MFS Managed Municipal Bond Trust ("Trust"), registered under the Act as a diversified, open-end, management investment company, on a basis other than their relative net assets values per share, and (2) pursuant to Section 6(c) of the Act exempting Applicants from the provisions of Section 22(d) of the Act in connection with such exchanges. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that MFS is the investment adviser and principal underwriter of each of the Funds and the Trust; that it maintains continuous public offerings of the shares of each; and that (1) shares of the Funds are offered to the public at their respective net asset values plus a sales charge which varies, in each case, from 7.25 percent of the offering price on purchases less than $10,000, to 1.25 percent of the offering price on purchases greater than $4 million, and (2) shares of the Trust are offered to the public at net asset value plus a sales charge which varies from 4.75 percent of the offering price on purchases less than $10,000, to 1.5 percent of the offering price on purchases greater than $1 million.

According to the application, (1) shares of any of the Funds may be exchanged for shares of any of the other Funds or shares of the Trust on the basis of their relative net asset values per share at the time of exchange plus a transaction charge of $5, and (2) shares of the Trust acquired by means of any such exchange may be exchanged for shares of any of the Funds on the basis of relative net asset value per share at the time of exchange plus a transaction charge of $5.

Applicants propose to offer shares of each of the Funds to shareholders of the Trust in exchange for shares of the Trust, acquired otherwise than by an exchange of shares of the Funds, on the basis of relative net asset values per share at the time of the exchange plus a sales charge equal to the amount by which the sales charge described in the then current prospectus of the Fund whose shares are being acquired exceeds the sales charge described in the then current prospectus of the Trust, taking into account the cumulative quantity discounts then applicable to the Fund and the Trust; provided, however, that in no event shall any overall reduction or increase in sales charges on shares of the Trust cause a shareholder to pay a greater or, respectively, a lesser sales charge differential on an exchange of Trust shares acquired prior to such reduction or increase than such shareholder would have paid had there not been any such reduction or increase. Applicants state that the sales charge differential will be paid to MFS as principal underwriter of each of the Funds.

Applicants state that in the event a shareholder of the Trust desires to exchange only a portion of his shares of the Trust, those shares which may be exchanged on the basis of relative net asset values per share (plus the $5 transaction charge) will be exchanged before any shares which can only be exchanged upon payment of the sales charge differential, and that as among Trust shares which can only be exchanged upon payment of the sales charge differential, shares which can be exchanged at the lowest sales charge differential will be exchanged first. They also state that due to the administrative costs involved in effecting exchanges among the Funds and the Trust involving small dollar amounts, all exchanges must involve a minimum of $1,000 worth of shares or all of the shares in a shareholder's account.

Section 11(a) of the Act provides, in part, that it shall be unlawful for any registered open-end investment company or any principal underwriter for such company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current public offering price described in the prospectus.

Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or any rule or regulation thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants state that based upon the current public offering prices of the Funds and the trust, shares issued by







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one of the Funds pursuant to the proposed exchange offer would be issued at a price below the current public offering price described in such Fund's prospectus. They further state that the purpose of the proposed exchange offer is to permit a shareholder of the Trust who changes his investment objective to change his investment to a different investment company without paying the full sales charge otherwise applicable. Applicants submit that the exchange offer to shareholders of the Trust would be unfair if made on the basis of the relative net asset values of the shares of the Trust and the shares of the Funds because shareholders of the Trust would have paid substantially lower sales charges on their investment than similarly situated shareholders of the Funds. Applicants further submit that if shares of the Funds could be acquired by a shareholder of the Trust at net asset value through an exchange, it is possible that the exchange would be in violation of Section 22(d) of the Act because an investor would, in effect, be able to purchase shares of one of the Funds at a current public offering price other than that described in its prospectus merely by purchasing shares of the Trust and subsequently exchanging those shares at net asset value for shares of one of the Funds.

Applicants state that, but for the operation of cumulative quantity discounts, a shareholder who shifts his investment from the Trust to one of the Funds by means of the proposed exchange offer will have paid the same total sales charge that he would have paid had he made the same investment directly in the Fund. Although the operation of the cumulative quantity discounts may result in a Trust shareholder, who builds up his investment in the Trust by incremental purchases at two or more sales charge levels and then exchanges all his Trust shares for shares of one of the Funds, having paid a slightly lower total sales charge than he would have paid had he purchased his Fund shares directly in the same incremental amounts, Applicants submit that such a shareholder would not make incremental purchases of Trust shares in order to avail himself of the exchange offer because he could achieve greater savings in sales charges by making his total investment in the Fund in one lump sum. Applicants further submit that a shareholder who builds up his investment in the Trust over a period of time and then exchanges into one of the Funds would do so not to circumvent the applicable Fund sales charge, but, rather, because his investment objective has changed.

Notice is further given that any interested person may, not later than August 12, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77–21424 Filed 7–25–77;8:45 am]

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[File No. 500–1]

## MORRIS INDUSTRIES, INC.

### Suspension of Trading

JULY 20, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Morris Industries, Inc. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9 a.m. (EDT) on July 20, 1977 through July 29, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77–21425 Filed 7–25–77;8:45 am]

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[Adm. Proceeding File No. 3–5236]

[File No. 81–269]

## SKYLINE OIL CO.

### Application and Opportunity for Hearing

JULY 20, 1977.

Notice is hereby given that Skyline Oil Company ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting the Applicant from the obligation to file an annual report on Form 10–K for the fiscal year ended May 31, 1977 and all other reports required to be filed pursuant to Sections 13 and 15(d) of the 1934 Act.

Section 12(g) of the 1934 Act requires the registration of the equity securities of every issuer which is engaged in a business affecting interstate commerce, or whose securities are traded by use of the mails or any means or instrumentality of interstate commerce, and on the last day of the fiscal year has total assets exceeding $1 million and a class of equity securities held of record by 500 or more persons.

Sections 13 and 15(d) of the 1934 Act require that each issuer of securities registered pursuant to Section 12 or that has filed a registration statement which has become effective pursuant to the Securities Act of 1933, as amended, shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, certain supplementary and periodic information, documents and reports.

Section 12(h) empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the periodic reporting provisions of the 1934 Act if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors

The Applicant states, in part:

1. On April 29, 1977 Applicant became a wholly-owned subsidiary of Texas Eastern Corporation ("Texas Eastern") through the merger of a Texas Eastern subsidiary into Applicant.

2. Prior to the merger, Applicant had capital stock registered pursuant to Section 12 (g) of the 1934 Act and filed reports under Sections 13 and 15(d) of that Act.

3. As a result of the merger, the Applicant has only one shareholder, Texas Eastern.

4. Texas Eastern files reports with the Commission under Sections 13 and 15(d) of the 1934 Act.

In the absence of an exemption, Applicant would be required to file pursuant to sections 13 and 15(d) of the 1934 Act and the rules and regulations thereunder, an annual report on Form 10–K for the year ending May 31, 1977. Applicant believes that its request for an order exempting it from the provisions of sections 13 and 15(d) of the 1934 Act is appropriate in view of the fact that Applicant is now a wholly-owned subsidiary with only one stockholder of record or beneficiary. Applicant believes that the time, effort and expense involved in the preparation of additional periodic reports would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than Aug. 15, 1977 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any





such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77–21426 Filed 7–25–77;8:45 am]

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[File No. 500–1]

## VERNITRON CORP.

### Suspension of Trading

JULY 20, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the Securities of Vernitron Corporation being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 12 noon (EDT) on July 20, 1977 through 10 a.m. (EDT) on July 25, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77–21427 Filed 7–25–77;8:45 am]

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[Rel. No. 34–13776 File No. SR–Amex–77–15]

## AMERICAN STOCK EXCHANGE, INC.

### Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on June 27, 1977 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The American Stock Exchange, Inc. ("Amex") proposes to amend Exchange Rule 959 relating to cabinet trading in options. The Amendment to Rule 959 is set forth below. Italics indicate words to be added and brackets indicate material deleted.

ACCOMMODATION TRANSACTIONS [CABINET TRADING IN OPTIONS]

Rule 959. (a) Cabinet trading under the following terms and conditions shall be available for closing transactions only in each series of option contracts open for trading on the Exchange: (i) through (viii)—No change.

*(b) Notwithstanding the provisions of Rule 5(b), any (i) member, (ii) member organization, or (iii) other person who is a non-member broker or dealer and who directly or indirectly controls is controlled by, or is under common control with, a member or member organization (any such other person being referred to as an affiliated person) may effect any transaction as principal in the over-the-counter market in any class of option contracts listed on the Exchange for a premium not in excess of $1.00 per contract.*

*Commentary*

*.01 In the event of any part of a closing sell order which has been placed in the cabinet pursuant to paragraph (a) of this rule cannot be immediately executed, such order shall be filed in time sequence with any order(s) to seel at 1/16.*

*.02 For each transaction executed by a member, member organization or affiliated person pursuant to paragraph (b), a record of such transaction shall be maintained by the member or member organization and shall be available for inspection by the Exchange for a period of one year. Such record shall include the circumstances under which the transaction was executed in conformity with this rule.*

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

Rule 959, which permits the establishment of an options cabinet, is designed for accommodating *closing* transactions in option series in which there is no auction market due to the absence of bids at the lowest fractional price (1/16) per contract.

Since no *opening* orders may be entered or executed in the cabinet such orders may not be "matched" against *closing* cabinet bids or offers. Consequently, the lowest price at which an opening buy order can be executed in the "regular" auction market is at a price of 1/16. If no offerings are immediately available at 1/16, an opening buy order at 1/16 is not able to be executed unless a closing sell order which has been previously entered in the cabinet is removed from the cabinet and "elevated" to the auction market.

The Amex proposes to amend Rule 959 to provide that in situations such as the one described above, a closing sell order in the cabinet will be automatically elevated on a time sequence basis, to the auction market to be executed against an opening bid of 1/16.

The effect of this amendment will be to permit the fair and orderly execution of orders previously placed in the cabinet and to allow customers and other market participants seeking to close positions to receive a better price 1/16 in the auction market versus $1 in the cabinet). In addition the amendment would facilitate the execution of opening orders for customers and other market participants seeking to establish new positions.

The Amex also wishes to amend Rule 959 to permit members to execute transactions in Amex options as principals in the over-the-counter market for a premium not in excess of $1.00 per contract. Frequently, member firms seek to accomplish such transactions in order to accommodate their customers for tax or trading reasons (i.e., where no auction or cabinet trading is available or for options which are of little or no value to customers); however, Amex Rule 5 (relating to transactions in "equity securities" executed in the over-the-counter market) currently prohibits transactions in the over-the-counter market in options listed on the exchange.

The basis for the proposed rule change is found in Section 6(b)(5) of the Securities Exchange Act of 1934 ("the 1934 Act"), as amended, which provides, in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and protect investors and the public interest.

The proposed amendment to Rule 959 was considered and approved by the Options Committee of the Amex which is composed of Amex members and representatives of Amex member organizations.

The Amex has determined that the proposed amedment will not impose any burden on competition.

By August 30, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by August 25, 1977.



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For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 19, 1977.

[FR Doc.77-21428 Filed 7-25-77;8:45 am]

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[Rel. No. 34-13755; File No. SR-MSE-77-23]

## MIDWEST STOCK EXCHANGE, INC.

### Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 11, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

MSE's STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

A New Article is added to the Rules in its entirety as follows:

ARTICLE XVII

SUSPENSION AND TERMINATION OF SPECIAL FLOOR REGISTRATION FOR UNSATISFACTORY PERFORMANCE, SPECIAL FLOOR REGISTRATION

Rule 1. A member with a special floor registration, i.e., a member registered as a specialist, co-specialist, relief specialist, odd-lot dealer, market maker or options market maker, holds that registration subject to (a) his compliance with the federal securities laws and the rules of the Exchange and (b) his satisfactory performance of the responsibilities attendant to that registration as defined by the federal securities laws and the rules and policies of the Exchange. A member has no right to continue to hold a special floor registration after the Exchange has determined, on the basis of such information as it deems sufficient, that he has not satisfactorily performed his responsibilities.

INITIAL MEETING IN CASES OF UNSATISFACTORY PERFORMANCE

Rule 2. (a) Notification. Any member whose performance of the responsibilities attendant to his special floor registration appears to the committee of the Exchange charged with oversight of such performance (the "Committee") to be unsatisfactory shall be notified in writing of the Committee's evaluation and requested to meet informally with one or more members of the Committee at a mutually convenient time. The purpose of the meeting shall be to provide encouragement and assistance to a member who, for one or more reasons, may not be performing satisfactorily.

(b) Conduct of the Meeting. During the meeting, the member(s) of the Committee shall present the Committee's evaluation of the member's performance and the basis for that evaluation. The member shall be given an opportunity to comment on the evaluation, his view of his performance, and any mitigating circumstances. Formal rules of evidence shall not apply. Prior to the close of the meeting, the member shall be informed of the possible consequences of his continued unsatisfactory performance, including the termination of his special floor registration.

(c) Participation of Technical Consultants. One or more technical consultants (appointed by the Committee from among persons not active on the Floor of the Exchange) may be present at the meeting for the purpose of answering questions from the Committee about trading techniques and procedures and the proper performance of the various responsibilities attendant to the special floor registration of the member. The technical consultants shall not otherwise participate in the Committee's evaluation of the member's performance.

(d) Counsel. Because of the informal and hortatory nature of the meeting, counsel for the Committee and the member will ordinarily be excluded.

(e) Transcripts. No transcripts shall be kept of the meeting.

(f) Failure to Attend Meeting. If, after receiving notice in accordance with paragraph (a) of this rule, a member refuses or otherwise fails without reasonable justification or excuse to meet with members of the Committee, the Committee may take such remedial action as it believes appropriate, including filing a complaint with the President of the Exchange and requesting the commencement of disciplinary proceedings.

CONTINUED UNSATISFACTORY PERFORMANCE

Rule 3. (a) Notification. If, after a reasonable period of time following the initial meeting with a member, it appears to the Committee that the member's performance of the responsibilities attendant to his special floor registration is still unsatisfactory, the member shall be notified in writing of the Committee's evaluation and its basis. The notice shall inform the member of his right to a hearing on the evaluation of his performance and his right to obtain review of any Committee decision with respect to the limitation, suspension or termination of his special floor registration.

(b) Time of Hearing. Promptly after the member has received notice in accordance with paragraph (a) of this rule, a hearing on a member's performance of the responsibilities attendant to his special floor registration shall be scheduled at a mutually convenient time. If the member refuses to appear at a hearing or otherwise fails without reasonable justification or excuse to attend a scheduled hearing, he shall have waived his rights to such hearing.

(c) Conduct of Hearing. During the hearing, the information supporting the Committee's evaluation of the member's performance shall be presented. The member shall have the opportunity to comment on the Committee's evaluation and present any information that he believes is relevant. The member may question members of the Committee and Exchange staff with respect to the evaluation of his performance. Formal rules of evidence shall not apply.

(d) Participation of Technical Consultants. One or more technical consultants may be present at the hearing for the purpose of answering questions from the Committee about trading techniques and procedures and the proper performance of the various responsibilities attendant to the special floor registration of the member. The technical consultants shall not otherwise participate in the Committee's evaluation of the member's performance.

(e) Right to Counsel. The member may be represented by legal or other counsel. Counsel for the Exchange should be present.

(f) Transcript. A transcript shall be kept of the hearing and copies will be provided to the member upon request and payment of the costs of reproduction.

(g) Decision. After considering the entire record of the hearing, the Committee shall prepare and deliver to the member a written decision setting forth its conclusions regarding the member's performance and the action, if any, to be taken with respect to the member's special floor registration and the basis therefor. This statement shall describe the member's right to appeal the Committee's decision to the Executive Committee.

(h) Effective Date. The Committee's decision shall become effective 10 days after the member receives it unless within that period he files a written request with the Secretary of the Exchange for Executive Committee review of the Committee's decision. In the event of such a request, the Committee's action shall be stayed pending the conclusion of the member's appeal to the Executive Committee.

REVIEW

Rule 5. (a) Conduct of Review. The Executive Committee shall consider a member's appeal within a reasonable period after a request for review of the Committee's decision has been filed. The member requesting review shall be permitted to submit a written statement to the Executive Committee. The Secretary of the Exchange shall certify the record of the Committee's hearing and its written decision and shall submit these documents to the Executive Committee. The Executive Committee's review of the Committee's action shall be based solely on the record, the written decision and any written statement submitted by the member.

(b) Decision. After considering the materials before it, the Executive Committee shall prepare and deliver to the member a written statement setting forth its decision and reasons therefor. If the Executive Committee affirms the Committee's action, the action shall become effective 10 days from the date of the Executive Committee's decision.

MSE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:





The purpose of these rules is to establish procedures for the suspension and termination of special floor registration for unsatisfactory performance and to provide a means for those adversely affected by such action to obtain review thereof.

The basis for this proposal is found in Sections 6 and 19 of the Act which sets forth the procedures to be followed by national securities exchanges in making a determination denying access to the services of the Exchange.

Comments have neither been solicited nor received.

The Midwest Stock Exchange, Incorporated believes that no burdens have been placed on competition.

By August 30, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make whitten submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by August 16, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 15, 1977.

[FR Doc.77-21429 Filed 7-25-77;8:45 am]

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[Rel. No. 13760]

## STANDARDIZED OPTIONS TRADING

JULY 18, 1977.

The Securities and Exchange Commission today announced that it had sent to each national securities exchange, the Options Clearing Corporation and the National Association of Securities Dealers, Inc., a letter concerning standardized options trading. The text of the Commission's letter follows:

* * * * *

The Commission hereby requests each national securities exchange on which options are traded to refrain immediately from initiating trading in any class of options not traded on that exchange on July 15, 1977, notwithstanding any prior action by the Commission authorizing additional classes for trading, pending further notice from the Commission.

In the past few years, the Commission has permitted several exchanges to initiate pilot programs for trading standardized options. The Commission has determined that it is appropriate at this time to initiate a review of standardized options trading generally, and also of the operation of individual pilot options programs. The Commission's review will assess, among other things, the sufficiency of the regulatory programs of those exchanges and of other self-regulatory organizations for maintaining fair and orderly markets in options and in the securities underlying those options. The review will consider, among other things, (i) the implications and effects of such trading, (ii) whether self-regulatory and Commission oversight programs with respect to those matters have adequately kept pace with the dramatic expansion of standardized options trading, and (iii) whether such programs are adequate for the prevention of fraudulent and manipulative acts and practices and for the maintenance of fair and orderly markets and the protection of investors.

In the interim, the Commission does not expect to approve any pending proposed rule changes of self-regulatory organizations designed to initiate new programs for the trading of options or to expand existing ones.

* * * * *

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-21430 Filed 7-25-77;8:45 am]

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[Rel. No. 34-13775; File No. SR-PHLX 77-7]

## PHILADELPHIA STOCK EXCHANGE, INC.

### Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 8, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Philadelphia Stock Exchange, Inc. ("PHLX") proposes to amend Rule 1046 ("Restriction of Out-of-the-Money-Options") relating to the applicability of such rule. The test of the proposed amendment is as follows (italics indicate new material):

RULE 1046. RESTRICTION OF OUT-OF-THE RULE 1046. RESTRICTION OF OUT-OF-THE-MONEY-OPTIONS

(a) to (c) No change.

* * * Commentary.

.01 No change.

.02 If the two tests in clauses (a) with respect to calls and (b) with respect to puts are met at the close on a particular day, paragraphs (a) and (b) apply respectively to orders after the close on such day. *However, with regard to an option contract traded on the Exchange which has otherwise met the tests of the previous sentence, the prohibitions of paragraphs (a) and (b) will not apply to transactions on the Exchange provided such option is traded on another Participating Exchange and further provided a transaction has occurred on the last previous day on another such exchange when the closing price of such option does not meet the $.50 per share test of clause (a) with respect to calls or clause (b) with respect to puts.*

The purpose of the proposed rule change is to establish uniformity with respect to the application of the restricted option rule to dually listed exchange traded options.

At present, pursuant to PHLX Rule 1046 (a) and (b) members and member organizations may not enter an order for their own accounts or for accounts of their customers involving an opening transaction (either purchase or sale) in any call option when two conditions exist at the close of the last previous trading day: (1) The exercise price of the option is more than $5 above the price of the underlying stock in the primary market on which it is traded, and (2) the price of the option on the PHLX is less than $0.50 per share ($50 per contract). The restriction is automatic and remains in effect until the day following the close of a trading day when either condition is not met.

With the advent of dual listings in exchange traded options, the two conditions referred to above which would otherwise cause the prohibition to become effective may exist on one exchange but not on another exchange which trades the same option series. For example, as of the close of a given day, the exercise price of a dually listed call option may be more than $5 above the price of the underlying stock; however, the price of the option may close at $0.50 per share (½) on one exchange but less than that price on another exchange. As a result, opening transactions would be restricted on the former exchange.

Although the restricted option rules as adopted by each of the options exchanges provide that an exchange may make exceptions with respect to one or more options series when it is in the public interest to do so, the PHLX believes it is advisable to amend its rule to provide for uniformity among the exchanges in respect to restricted options to eliminate situations as described above.

Accordingly, the PHLX proposes to amend its restricted options rule to provide that, in the case of dually listed options only, the Exchange will not impose a restriction on an option series unless the conditions giving rise to such restriction exist on all exchanges that trade such option series.

The amendment to Rule 1046 is authorized by Section 6(b) of the Securities Exchange Act of 1934 (the "1934 Act") and the PHLX believes that such Amendment will serve to promote just and equitable principles of trade and to protect investors in dual traded exchange option contracts.



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No comments were solicited or received.

The PHLX has determined that the proposed amendment will not impose any burden on competition.

By August 30, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) to which the above mentioned self-regulatory organization consents, the Commission will: (a) By order approve such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filings will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by August 25, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 19, 1977.

[FR Doc.77-21431 Filed 7-25-77;8:45 am]

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[Release No. 34-13771; File No. SR-PHLX 77-9]

## PHILADELPHIA STOCK EXCHANGE, INC.

### Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29 (June 4, 1975), notice is hereby given that on July 8, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Philadelphia Stock Exchange, Inc. (PHLX) pursuant to Rule 19b-4 of the Securities Exchange Act of 1934 hereby proposes to amend Rule 1014(c)(i) ("Obligations of Specialists and Registered Options Traders") as follows: (Brackets indicate words to be deleted and italics indicate words to be added).

1014(c)(i) Bidding and/or offering so as to create differences of no more than [1/4] *1/8* of $1 between the bid and the offer for each option contract for which the last preceding transaction price was $.50 or less, no more than 1/2 of $1 where the last preceding transaction price was more than $.50 but did not exceed $10, no more than 3/4 of $1 where the last preceding transaction price was more than $10 but less than $20 and no more than $1 where the last preceding transaction price was $20 or more[.] *1/8 of $1 between the bid and the offer for each option contract for which the mid-point of the quote is below $1, no more than 1/4 of $1 where the mid-point of the quote is from $1 to $3, inclusive, no more than 3/8 of $1 where the mid-point of the quote is more than $3 through $6, inclusive, no more than 1/2 of $1 where the mid-point of the quote is more than $6 through $10, inclusive, no more than 5/8 of $1 where the mid-point of the quote is more than $10 through $15, inclusive, no more than 3/4 of $1 where the mid-point of the quote is more than $15 through $20, inclusive, and no more than $1 where the mid-point of the quote is more than $20*, provided that the Exchange may establish differences other than the above for one or more series or classes of options.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to strengthen the obligations of Specialists and Registered Options Traders by requiring them to conform to stricter standards relating to maintenance of a fair and orderly market. The PHLX believes that deeper and more liquid markets will result from the proposed rule change.

The proposed rule change relates to the promotion of just and equitable principles, facilitation of transactions in securities and protection of investors and of the public interest.

Comments were neither solicited nor received.

The PHLX has determined that the proposed amendment will not impose any burden on competition.

By August 30, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will: (A) By order approve such proposed rule change, or (B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof, with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number reference in the caption above and should be submitted by August 25, 1977.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 19, 1977.

[FR Doc.77-21432 Filed 7-25-77;8:45 am]

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## SMALL BUSINESS ADMINISTRATION

[License No. 01/01-0283]

## CHARLES RIVER RESOURCES, INC.

### Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Charles River Resources, Inc. (Resources), 575 Technology Square, Cambridge, Massachusetts 02139, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), has filed an application pursuant to § 107.1004 of the regulations governing small business investment companies (SBIC) (13 CFR 107.1004 (1977)), for approval of a conflict of interest transaction.

Resources desires to participate in a financing to Eastern Mountain Sports, Inc. (EMS), 1041 Commonwealth Avenue, Boston, Massachusetts. The financing consists of the purchase of $1,500,000 in principal amount of 15 Percent Subordinated Notes Due 1984 (the Notes) and warrants to purchase 50,000 shares of common stock of EMS (the Warrants). The participation of Resources is to consist of $200,000 in principal amount of Notes and Warrants to purchase 6,667 shares.

Charles River Partnership II (CRP II), which is the owner of all the outstanding capital stock of Resources, is to purchase $135,000 in principal amount of Notes and Warrants to purchase 4,500 shares. In addition, five other SBICs will acquire $1,135,000 in principal amount of Notes and Warrants to acquire 37,833 shares.

Mr. Richard M. Burnes, Jr., is an officer and director of Resources, an officer, director, and principal shareholder of C.P.R. Management, Inc., Resources' Investment Advisor, and a general partner of Charles River GP, which is the general partner of CRP II. Mr. Burnes is also a general partner of The Charles River Partnership (CRP), which in 1972 and 1973 made investments in EMS. As a result of these investments, the CRP owns less than 10 percent of the outstanding capital stock of EMS (including shares subject to warrants presently exercisable by the CRP) and $73,000 in principal amount of 8 percent Subordinated Notes due 1978 of EMS, which notes are to be paid from the proceeds of the proposed financing. At the time of the 1973 investment and pursuant to the agreements in connection with both the 1972 and 1973 financings, Mr. Burnes became a director of EMS as representative of all investors which participated in the financings, some of which are SBICs. Mr. Burnes has continued to serve as, and presently is, a director of EMS. As a result, EMS is an Associate of Resources, pursuant to § 107.3 of the Regulations.

The closing of the proposed financing was scheduled for July 6, 1977, by which date it was not possible for Resources to obtain the required approval of SBA. Both Resources and CRP II believed that an investment by Resources in EMS is strongly advantageous. Accordingly, in order to enable Resources to participate in the financing, CRP II initially purchased an aggregate of $335,000 in principal amount of the Notes and Warrants to purchase an aggregate of 11,167 shares. CRP II will hold Notes with a principal amount of $200,000 and Warrants to purchase 6,667 shares subject to an informal escrow arrangement. If, and at such time as, the SBA grants approval to Resources pursuant to § 107.1004 of the SBA Regulations, CRP II will sell to Resources $200,000 in principal amount of the Notes and Warrants to purchase 6,667 shares.

Since Mr. Burnes is a director of EMS, EMS is also an Associate of Resources, and the financing falls within the purview of § 107.1004(b)(1) of the regulations. In addition, since a part of the proceeds of the financing will be used to pay CRP, of which Messrs. Burnes, John H. Carter, and John T. Neisis, officers and directors of Resources, are general partners, the financing also falls within the purview of § 107.1004(b)(4) of the Regulations. Because of these circumstances, Resources' financing of EMS requires the written approval of SBA.

Notice is further given that any person may, on or before August 10, 1977, submit written comments to SBA on the transaction. Any such comments should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published by Resources in a newspaper of general circulation in Boston, Massachusetts.

Dated: July 19, 1977.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

PETER F. MCNEISH,
*Deputy Associate Administrator for Investment.*

[FR Doc.77-21409 Filed 7-25-77;8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Saint Lawrence Seaway Development Corporation

### ADVISORY BOARD

### Closed Meeting

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Public Law 92-463; 5 USC App I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation to be held at 11 a.m., August 12, 1977, at the Host International Hotel, Detroit Metropolitan Airport, Detroit, Michigan.

The Advisory Board is responsible for advising the Administrator with respect to the rates of charges and tolls on the St. Lawrence Seaway. At this meeting, the Advisory Board will consider various aspects of negotiations presently underway between the United States and Canada relative to rates of charges and tolls on the St. Lawrence Seaway.

Under the provisions of Section 10 of the Federal Advisory Committee Act meetings may be closed to the public when they are "concerned with matters listed in section 552.6 of Title 5, United States Code." Among the matters so listed are those dealing with information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action.

Accordingly, the Secretary of Transportation has determined that all portions of the meeting will be closed to the public because premature disclosure of the matters to be considered could significantly frustrate the agency action of negotiating with Canada a revised tariff of tolls for the St. Lawrence Seaway.

However, members of the public who wish to do so are invited to submit in writing to the Administrator material believed to be deserving of the Advisory Board's attention. Additional information may be obtained from Robert D. Kraft, Deputy General Counsel, Saint Lawrence Seaway Development Corporation, 800 Independence Avenue SW., Washington, D.C. 20591 (202-426-3574).

Issued in Washington, D.C., July 20, 1977.

D. W. OBERLIN,
*Administrator.*

[FR Doc.77-21458 Filed 7-25-77;8:45 am]

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## INTERSTATE COMMERCE COMMISSION

[Notice No. 443]

### ASSIGNMENT OF HEARINGS

JULY 21, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 123407 (Sub-No. 349), Sawyer Transport, Inc., now being assigned September 13, 1977 (1 day), for hearing in Chicago Ill., in a hearing room to be later designated.

MC 140820 (Sub-No. 2), A & R Transport, Inc., now being assigned September 14, 1977 (1 day), for hearing in Shicago, Ill., in a hearing room to be later designated.

MC 142464 (Sub-No. 1), John M. Christopher, now being assigned September 15, 1977 (1 day), for hearing in Chicago, Ill., in a hearing room to be later designated.

MC 139381 Spirit of '76 Overland Express, Inc., now assigned September 14, 1977, at Chicago, Ill., is canceled and reassigned for Calif., in a hearing room to be later designated.

MC 109495 (Sub-No. 15), Brunswick Transportation Co., Inc., now assigned October 17, 1977, at Augusta, Maine, is canceled.

AB 18 (Sub-No. 6), Chesapeake and Ohio Railway Co. Abandonment Between Coleman and Union, Isabella County, Michigan and FD 27412, Chesapeake & Ohio Railway Co.—Trackage Rights—A Line of Railroad of The Ann Arbor Railroad Co. Between Mount Pleasant and Clare, In Isabella County, Mich., now assigned September 13, 1977, at Mount Pleasant, Mich., postponed to October 13, 1977 (2 days), at Mount Pleasant, Mich., in a hearing room to be later designated.

MC 112304 (Sub-No. 114), Ace Doran Hauling & Rigging Co. now assigned July 27, 1977 at St. Louis, Mo., is canceled, application dismissed.

MC 119641 (Sub-No. 137), Ringle Express, Inc., now assigned July 25, 1977, at Chicago, Ill., is canceled, application dismissed.

MC 136816 (Sub-No. 6), The Universe Co., Inc., now being assigned September 8, 1977 (2 days), in Room 616, Union Pacific Plaza, 110 N. 14th Street, 14th & Dodge, Omaha, Nebr.

MC 2860 (Sub-No. 152), National Freight, Inc., now being assigned November 1, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 111871 (Sub-No. 10), Southeastern Freight Lines, now assigned for continued hearing on July 25, 1977, at Atlanta, Ga., is postponed to August 5, 1977 (1 week), at the Mariott Hotel, Courtland and Industrial Boulevard, Atlanta, Ga., and August 29, 1977 (1 week), at the Hyatt Regency, 265 Peachtree Street NE., Atlanta, Ga.

H. G. HOMME, JR.,
*Acting Secretary.*

[FR Doc.77-21499 Filed 7-25-77;8:45 am]

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[No. MC-F-13155; MC 78276 (Sub-No. 6) Reassigned, MC 78276 (Sub-No. 8)]

## MAZZEO & SONS EXPRESS

### Gateway Elimination

In the matter of Mazzeo & Sons Express, purchase, Joseph M. Booth, dba. Joseph M. Booth Trucking.

An application filed March 11, 1977, seeking elimination of gateways as a matter directly related to MC-F-13155 was docketed at MC-78276 (Sub-No. 6), and noticed in the FEDERAL REGISTER issue of May 5, 1977 (42 FR 23024). The Commission previously processed an application proceeding docketed at MC 78276 (Sub-No. 6) to administrative finality.

As a matter of administrative convenience the Commission has reassigned the application filed March 11, 1977, as noticed on May 5, 1977, to docket number MC 78276 (Sub-No. 8). All parties are requested to modify their records and future pleadings accordingly.







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The order directing modified procedure in MC–F–13155 dated June 23, 1977, and served June 28, 1977 remains in full force and effect.

By the Commission.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc 77-21501 Filed 7-25-77;8:45 am]

[Notice No. 444]

## ASSIGNMENT OF HEARINGS

JULY 22, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION

MC 73165 (Sub-No. 402), Eagle Motor Lines, Inc., now being assigned September 14, 1977 (1 day), at Birmingham, Ala., in a hearing room to be later designated.

This notice corrects MC 73165.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc 77-21498 Filed 7-25-77;8:45 am]





# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:30 a.m., July 28, 1977.

PLACE: Room 6135, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Recommendations regarding liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,120–L—State Bank of Clearing, Chicago, Illinois.

Case No. 43,128–L—The Hamilton Bank and Trust Company, Atlanta, Georgia.

Case No. 43,134–L—First State Bank of Northern California, San Leandro, California.

Case No. 43,135–L—International City Bank and Trust Company, New Orleans, Louisiana.

Case No. 43,137–L—Franklin National Bank, New York, New York.

Case No. 43,138–SR—Sharpstown State Bank, Houston, Texas.

Case No. 43,139–L—Northern Ohio Bank, Cleveland, Ohio.

Case No. 43,140–L—American City Bank & Trust Company, National Association, Milwaukee, Wisconsin.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202–389–4446.

[S–978–77 Filed 7–22–77;12:05 pm]

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:45 a.m., July 28, 1977.

PLACE: Room 6135, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Application for Federal deposit insurance:

Bank of the West, to be located at 6363 East Parker Road, Parker, Colorado.

Applications for consent to establish branches:

American Bank of Hallandale, Pembroke Park (P.O. Hallendale), Florida, at 1609 South University Drive, Plantation, Florida.

Central State Bank, New York (Brooklyn), New York, at 42–06 Northern Boulevard, within the Pathmark Shopping Mall, Long Island City, New York.

Application for consent to move main office:

The American Bank of Waco, Waco, Texas, from 3015 Bellmead Drive to the southeast corner of the intersection formed by Interstate Highway 35 and North Loop 340, about 0.8 miles north of its present location, both within Waco, Texas.

Application for consent to the retirement prior to maturity of an existing subordinated capital note, for consent to issue a new subordinated capital note, and for advance consent to the mandatory serial retirement of the new capital note:

The Owosso Savings Bank, Owosso, Michigan.

Application for consent to acquire assets and assume liabilities and establish two branches:

Essex County Bank and Trust Company, Lynn, Massachusetts, a State nonmember insured bank, for consent to acquire the assets of and assume liabilities of The Marblehead Bank and Trust Company, Marblehead, Massachusetts, also a State nonmember insured bank, and to establish the two offices of The Marblehead Bank and Trust Company as branches of the resultant bank.

Application for consent to consolidate and establish two branches:

Alpena Savings Bank, Alpena, Michigan, a State nonmember insured bank, for consent to consolidate with the Hillman State Bank, Hillman, Michigan, also a State nonmember insured bank, under the charter and title of Alpena Savings Bank, and to establish the two offices of Hillman State Bank as branches of the resultant bank.

Application for consent to merge and establish five branches:

Anchor Savings Bank, New York (P.O. Brooklyn), New York, an insured mutual savings bank, for consent to merge with North New York Savings Bank, White Plains, New York, also an insured mutual savings bank, under the charter and title of Anchor Savings Bank, and to establish the five offices of North New York Savings Bank as branches of the resultant bank.

Recommendations regarding liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,129–L—The Hamilton Bank and Trust Company, Atlanta, Georgia.

Case No. 43,141–L—Bank of Picayune, Picayune, Mississippi.

Memorandum re: Franklin National Bank, New York, New York.

Recommendations with respect to the initiation of cease-and-desist proceedings or termination-of-insurance proceedings against certain insured banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)ii), and (c)(10)).

Request for assistance pursuant to section 13(c) of the Federal Deposit Insurance Act:

Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202–389–4446.

[S–979–77 Filed 7–22–77;12:05 pm]

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 11 a.m., July 28, 1977.

PLACE: Board Room, Sixth Floor of the FDIC Building, 550 17th Street, Washington, D.C.



V 42 I 143 JUL 26 77 UMI

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Applications for consent to establish branches:

Mechanics and Farmers Savings Bank of Bridgeport, Bridgeport, Connecticut, at 9 Tokeneke Road, Darien, Connecticut.

Industrial Valley Bank and Trust Company, Jenkintown, Pennsylvania, at One Neshaminy Interplex, Roosevelt Boulevard and Old Lincoln Highway, Trevose, Pennsylvania.

Application for consent to establish an unmanned remote service facility and a night depository:

First Commercial Bank of Manatee County, Bradenton, Florida, at Room 105, De Soto Square Mall, 303 U.S. Highway, 301 Boulevard West, Bradenton, Florida.

Application for consent to establish remote service facilities (electronic branches):

Erie County Savings Bank, Buffalo, New York, in Big M Supermarkets, at 7277 West Main Street, Lima, New York, and 165 Main Street, Palmyra, New York; in Bells Supermarkets at 27 Slayton Avenue, Spencerport, New York; Westnar Plaza, 2150 Buffalo Road, Gates, New York; and 8845 Main Street, Clarence, New York; and in Super Duper Supermarkets at 138 South Avenue, Hilton, New York; University Plaza, 3500 Main Street, Amherst, New York; and 10 Buffalo Street, Gowanda, New York.

Request for an extension of time in which to move a branch:

The Equitable Trust Company, Baltimore, Maryland, for an extension of time to July 12, 1978, in which to move a branch from 1121 North Eutaw Street to State Office Building No. 4, Mount Royal Urban Renewal Area No. 12, southwest corner of Preston and Howard Streets, Baltimore, Maryland.

Recommendation regarding liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,136-L—Franklin National Bank, New York, New York.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Stone, Pigman, Walther, Wittmann & Hutchinson, New Orleans, Louisiana, in connection with the liquidation of International City Bank and Trust Company, New Orleans, Louisiana.

Meredith, Donnell & Edmonds, Corpus Christi, Texas, in connection with the receivership of Citizens State Bank, Carrizo Springs, Texas.

Fulbright & Jaworski, Houston, Texas, in connection with the liquidation of Northeast Bank of Houston, Houston, Texas.

Recommendations with respect to the imposition of fines for the untimely filing of Reports of Condition, March 31, 1977 Call.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports with respect to security transactions authorized by the Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-980-77 Filed 7-22-77;12:05 p.m.]

4

FEDERAL ELECTION COMMISSION

DATE AND TIME: Thursday, July 28, 1977 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

I. Future meetings.

II. Correction and approval of minutes for July 14, 1977.

III. Advisory opinions: AO 1977-16; AO 1977-25.

IV. Appropriations and budget.

V. Pending legislation.

VI. Proposal for establishing a commission task force on independent expenditures.

VII. Liaison with other Federal agencies.

VIII. Report on pending litigation.

IX. Promotion procedures/agency position descriptions.

X. Communications from OMB re log of contracts.

XI. Proposed meeting with presidential treasurers and finance chairmen.

XII. Routine administrative matters.

Portions closed to the public (Executive Session):

Audit Report No. 7 and Audit Report No. 8; Compliance; Personnel.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, Press Officer, telephone: 202-523-4065.

MARJORIE W. EMMONS,
*Secretary to the Commission.*

[S-965-77 Filed 7-21-77;4:36 pm]

5

FEDERAL POWER COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published July 25, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: July 26, 1977, 10 a.m.

CHANGE IN THE MEETING: The following items have been added:

*Item No., Docket No., and Company*

P-7.—E-9596, Wisconsin Electric Company, Wisconsin Michigan Electric Company.

P-8.—ER77-427, Minnesota Power & Light Company.

P-9.—E-9571, Potomac Edison Company.

P-10.—Project Nos. 2740 and 2503, Duke Power Company.

G-32.—RP77-18, El Paso Natural Gas Company.

G-33.—RI76-35 and CI76-804, Continental Oil Company; RI76-51 and CI76-805, Cities Service Oil Company; RI-76-42 and CI76-802, Getty Oil Company.

G-34.—CI77-..., Gulf Oil Corporation.

G-35.—CP71-68, Columbia LNG Corporation; CP71-153, Consolidated System LNG Company; CP71-151, Southern Energy Company.

G-36.—CP75-296, Texas Gas Transmission Corporation.

G-37.—CP74-322, Michigan Gas Storage Company; CP75-3, Truckline Gas Company; CI74-738, Northern Michigan Exploration Company.

G-38.—RP77-103, Algonquin Gas Transmission Company.

G-39.—CP77-394, Tennessee Gas Pipe Line Company, a Division of Tenneco Inc.

G-40.—CP77-419, Tennessee Gas Pipeline Company; CP77-431, Tennessee Gas pipeline Company; CP77-433, East Tennessee Natural Gas Company; CP77-444, Consolidated Gas Supply Corporation.

G-41.—CP77-359, Mountain Fuel Supply Company; CP77-379, Northwest Pipeline Corporation.

G-42.—CP77-496, Washington Gas Light Company; CP77-497, Transcontinental Gas Pipeline Corporation.

LOIS D. CASHELL,
*Acting Secretary.*

[S-966-77 Filed 7-21-77;4:36 pm]

6.

JULY 22, 1977.

FEDERAL POWER COMMISSION.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. § 552b:

TIME AND DATE: July 26, 1977, following Regular Commission Meeting, 10 a.m.

PLACE: 825 North Capitol Street, Room 9306, Washington, D.C. 20426.

MATTERS TO BE CONSIDERED: Pending Civil Litigation; Initiation, conduct or deposition of pending agency actions; Internal Personnel rules and practices.

CONTACT PERSON FOR MORE INFORMATION:

Lois D. Cashell, Acting Secretary, telephone 202-275-4166.

LOIS D. CASHELL,
*Acting Secretary.*

[S-977-77 Filed 7-22-77;10:48 am]





7

FEDERAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR 42, July 14, 1977, page No. 36361.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, July 20, 1977.

CHANGES IN THE AGENDA: Deletion of the following item: (1) Consideration of Commission policy regarding the retention of rough notes of witness interviews.

[S-970-77 Filed 7-22-77;10:48 am]

8

FEDERAL TRADE COMMISSION.

TIME AND DATE: Tuesday, July 19, and Wednesday, July 20, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open, Closed.

MATTERS TO BE CONSIDERED: The Commission has cancelled its Open/Closed Commission Meetings scheduled for July 19 and 20, 1977.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information: 202-523-3830; Recorded Message: 202-523-3806.

[S-97177 Filed 7-22-77;10:48 am]

9

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m. and 2 p.m., Thursday, July 21, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

10 A.M. SESSION

(1) Monthly Program Review: DB—Mergers and Joint Ventures.

2 P.M. SESSION

(1) Monthly Program Review: JO 6 Warranties and Product Reliability.

(2) Monthly Program Review: JO 8 Auto Repair.

(3) Monthly Program Review: KO 8 Auto Repair.

(4) Monthly Program Review: PO 6 Nursing Homes.

PERSON TO CONTACT FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information: 202-523-3830; Recorded Message: 202-523-3806.

[S-972-77 Filed 7-22-77;10:48 am]

10

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Friday, July 22, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Nonadjudicative Matters: (1) Maintaining Competition; (2) Consumer Protection; (3) Economic Activities.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information: 202-523-3830; Recorded Message: 202-523-3806.

[S-973-77 Filed 7-22-77;10:48 am]

11

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, July 26, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

NONADJUDICATIVE MATTERS

(1) Approval of Minutes of Nonadjudicative Matters Considered at Closed Meeting of July 12, 1977.

(2) Consideration of Proposed Disposition of Compliance Investigation In the Matter of American Iron & Steel Institute, et al., Docket No. 5508.

(3) Consideration of Disposition of (Nonpublic) Part II Matter.

(4) Consideraton of Disposition of (Nonpublic) Part II Matter.

(5) Consideration of Proposed (Nonpublic) Part II Matters and Accompanying Investigational Resolutions.

(6) Consideration of Disposition of (Nonpublic) Part II Matter.

ADJUDICATIVE MATTERS UNDER PART 3 OF THE RULES OF PRACTICE

(1) Approval of Minutes of Adjudicative Matters Considered at Closed Meeting of July 12, 1977.

(2) In the Matter of New Rapids Carpet Center, Inc., et al., Docket No. 9052: Consideration of Respondent's Request for Review of the Intial Decision.

(3) In the Matter of Cavanagh Communties Corp., et al., Consideration of Motion Certified by ALJ to Withdraw Matter from Adjudication.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information: 202-523-3830; Recorded Message: 202-523-3806.

[S-974-77 Filed 7-22-77;10:48 am]

12

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, July 27, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Consideration of Status Report on Milk Price Investigation, File 771 0038.

(2) Consideration of Disposition of Petition of the Association of Physical Fitness Centers for Addition, Deletion, and Modification of Designated Issues in the Health Spas Rulemaking Proceeding.

(3) Report from General Counsel on Congressional Matters.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information: 202-523-3830; Recorded Message: 202-523-3806.

[S-925-77 Filed 7-22-77;10:48 am

13

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, July 28, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

(1) Consideration of Fiscal Year 1978 Budget Revisions and Submission of Fiscal Year 1979 Zero-Based Budget Request for the Office of Management and Budget.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information: 202-523-3830; Recorded Message: 202-523-3806.

[S-976-77 Filed 7-22-77;10:48 am]

14

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published Friday, July 22, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., July 28, 1977.

CHANGES IN THE MEETING: Additional item added to the agenda as follows:

6. Consideration of a letter from the Office of Management and Budget (OMB) on logging outside contacts.

CONTACT PERSON FOR MORE INFORMATION:



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Kenneth R. Mason, Secretary, 202–523–0161.

[S 967–77 Filed 7–21–77;4:36 p.m.]

15

POSTAL RATE COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, July 27, 1977.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Draft of Tentative Decision Concerning the Direct Mail Marketing Association's Proposal for Multiple Address Correction Rates, Docket No. MC76–3.

2. Draft of Tentative Decision Concerning the OOC's Proposal to Eliminate Certain Mail Preparation Requirements for Billing Cards, Docket No. MC76–1.

3. Draft of Tentative Decision Rejecting MOAA's Proposal for a Degressive Rate Structure for Third-Class Books and Catalogs Based on the Total Weight of the Mailing, Docket No. MC76–3.

By recorded vote the Commission has determined that notice cannot be given at least one week prior to the meeting since Commission business requires that the meeting be called at an earlier time.

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, telephone 202–254–5614.

[S 969–77 Filed 7–22–77;9:06 a.m.]

16

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:30 a.m., Thursday, July 28, 1977.

PLACE: Conference Room B–32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

MATTERS TO BE CONSIDERED:

A—Personnel Actions

1. Change of status—Hugh G. Parris from Director of Power Resource Planning to Manager of Power Planning, Office of Power, Chattanooga, Tennessee.

2. Change of status—Charles E. Winn from Assistant to the Manager of Power to Manager of Power Engineering, Office of Power, Chattanooga, Tennessee.

3. Change of status—Harold L. Falkenberry from Chief, Power Research Staff to Manager of Energy Research, Office of Power, Chattanooga, Tennessee.

4. Change of status—Claude J. Powell from Research Coordinator to Assistant Manager of Energy Research, Office of Power, Chattanooga, Tennessee.

B—Consulting and Personal Service Contracts

1. Renewal of personal service contract with EDS Nuclear, Incorporated, San Francisco, California, requested by the Office of Engineering Design and Construction.

C—Purchase Awards

1. Req. No. 822509—Metal siding and roofing panels and accessories including installation for Cumberland Steam Plant.

2. Req. No. 107915—Galvanized structural tower steel for various transmission lines.

3. Req. No. 547378—Indefinite quantity term contracts for diesel fuel oil for various TVA projects and warehouses.

4. Req. No. 144418—Indefinite quantity term contracts for light distillate oil for Colbert, Johnsonville, Gallatin, and Allen Steam Plants.

5. Req. No. 529810—Requirement contract for wet-process phosphoric acid in tank cars for the Division of Chemical Operations.

6. Req. No. 821230—Solenoid valves for Bellefonte Nuclear Plant.

7. Amendment to contract with Dravo Corporation, Marietta, Ohio, for principal piping systems for Watts Bar Nuclear Plant.

8. Req. No. 821884—Air cleanup units for Hartsville and Phipps Bend Nuclear Plants.

9. Req. No. 821967—Steel decking for the reactor, auxiliary, fuel, and control buildings for Hartsville and Phipps Bend Nuclear Plants.

10. Req. No. 552490—Railroad tank car repairs for the Division of Chemical Development, Muscle Shoals, Alabama.

11. Req. No. 821141—Control rod drive hydraulic system piping for Hartsville and Phipps Bend Nuclear Plants.

12. Req. No. 543372—Indefinite quantity term contract for carbon steel, warehouse quantities, for any TVA project or warehouse.

D—Project Authorizations

1. No. 3240—Acquisition of land for access point—French Broad River.

2. No. 3248—Convert the Camden, Tennessee, 69-kV substation to 161-kV and construct transmission connection.

3. No. 3235—161-kV delivery point for the Jersey Miniere Zinc Company near Clarksville, Tennessee.

4. No. 3237—161-kV delivery point for the Union Carbide Corporation at Clarksville, Tennessee.

5. No. 3252—Replace roof tubes in Units 3 and 4 boilers at Gallatin Steam Plant.

E—Fertilizer Items

1. Letter agreement with BCM, Inc., Memphis, Tennessee, for exchange of nitrogen solution for phosphoric acid.

F—Power Items

1. Amendment to exploration and milling agreement with Federal-American Partners—mining of uranium ore.

2. Letter agreement with Southern Illinois Power Cooperative—purchase of surplus energy and short-term power.

3. Contracts with Environmental Protection Agency, Westinghouse Electric Corporation, and Duke Power Company, relating to study of engineering and environmental aspects of wet/dry cooling towers.

4. Grant of coal mining easement to LaFollette Hining Company affecting tract of land in Campbell County, Tennessee.

G—Real Property Transactions

1. Resolution relating to abandonment of flowage and other rights affecting .01 acre of Cherokee Reservoir land, Hawkins County, Tennessee—tract XCK–395.

2. Resolution relating to abandonment of flowage easement rights affecting a portion of Norris Reservoir land in Campbell County, Tennessee—tract XNR–679.

H—Unclassified

None.

Dated: July 21, 1977.

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–343–4537.

[S 968–77 Filed 7–21–77;4:36 pm]

17

CIVIL SERVICE COMMISSION

TIME AND DATE OF MEETING: 9 a.m., August 2, 1977.

PLACE: Commissioners' Meeting Room, Room 5H09 (fifth floor), 1900 E Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: (1) Experiments in delegating to agencies administration of examinations and maintenance of registers. (2) Continuation of discussion of Recommendations of the Task Force on Merit Staffing Review Recommendations. (3) Proposed Amendment to previously-approved Division of Leadership and Oversight among Commissioners.

CONTACT PERSON FOR MORE INFORMATION:

Georgia Metropulos, Office of the Executive Assistant to the Commissioners (202–632–5556).

United States Civil Service Commission,
James C. Spry,
*Executive Assistant to the Commissioners.*

[S 990–77 Filed 7–25–77;10:03 am]



federal register

TUESDAY, JULY 26, 1977
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## Federal Insurance Administration

## NATIONAL FLOOD INSURANCE PROGRAM

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Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No: FI-3203]

## PART 1916—CONSULTATION WITH LOCAL OFFICIALS

### Changes in Base Flood Elevations

AGENCY: Federal Insurance Administration, (HUD).

ACTION: Interim rule.

SUMMARY: The purpose of this rule is to list those communities wherein the Federal Insurance Administrator, after consultation with the Chief Executive Officer of the community, has determined that modification of the base (100-year) flood elevations of some locations is appropriate.

The numerous changes made in the base flood elevations on the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base flood elevations contained on the map. However, this notice includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

Any persons who have knowledge of changed conditions or new scientific or technical data or who wish to comment on these changes should immediately notify the Chief Executive Officer at the address listed.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (P.L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, P.L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM), in effect prior to this determination. A revised FIRM will be distributed in each community listed as soon as possible. From the date of the second publication of notice of these changes in a prominent local newspaper, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, these modified elevations may be changed.

The entry (entry not to be codified in CFR) reads as follows:

**§ 1916.8 Changes in base flood elevations.**

| State | County | Location | Date and name of newspaper where notice was published | Chief executive officer of community | Effective date of modified flood insurance rate map | New community No. |
|---|---|---|---|---|---|---|
| Colorado | Jefferson | Wheat Ridge, city of | The Wheat Ridge Sentinel, July 14, 1977 and July 21, 1977. | Hon. Hank Stites, mayor, city of Wheat Ridge, P.O. Box 610, Wheat Ridge, Colo. 80033. | July 22, 1977 | 085079A |
| Florida | Hillsborough. | Temple Terrace, city of | The Beacon, June 29, 1977 and July 6, 1977. | Hon. Joseph C. Bombi, Jr., mayor, city of Temple Terrace, P.O. Box 16030, Temple Terrace, Fla. 33687. | July 8, 1977 | 120115C |
| Do | Pinellas | | The Clearwater Sun, July 7, 1977 and July 8, 1977. | Ms. Jeanne Malchon, chairman, Pinellas County Commissioners, 315 Haven St., Clearwater, Fla. 33516. | do | 125139B |
| Do | do | Clearwater, city of | do | Hon. Gabriel Cazares, mayor, city of Clearwater, P.O. Box 4748, Clearwater, Fla. 33518. | do | 125096A |
| New Jersey | Monmouth | Deal, borough of | The Asbury Park Press, June 23, 1977 and June 24, 1977. | Hon. Daniel Kruman, mayor, borough of Deal, The Borough Hall, Durant Sq., Deal, N.J. 07723. | June 24, 1976 | 340292A |
| Pennsylvania | Luzerne | West Wyoming, borough of. | The Wilkes-Barre Times Leader Record, July 29, 1977 and Aug. 5, 1977. | Hon. John Mirin, mayor, borough of West Wyoming, West Wyoming Town Hall, West Wyoming, Pa. 18644. | July 22, 1977 | 420629-0001B |
| Tennessee | Sevier | Gatlinburg, city of | The Gatlinburg Press, July 5, 1977 and July 7, 1977. | Hon. Charels Ogle, mayor, city of Gatlinburg, City Hall, P.O. Box 388, Gatlinburg, Tenn. 37738. | July 8, 1977 | 475436B |
| Texas | Brazoria | Quintana, village of | Brazosport Facts, June 17, 1977 and June 24, 1977. | Quintana Building Committee, Quintana Village Hall, Lamar St., Quintana, Tex. 77541. | June 10, 1977 | 481301-0001B |
| Do | Galveston | Galveston, city of | Galveston Daily News, July 1, 1977 and July 8, 1977. | Mr. Stephen N. Huffman, acting city manager, city of Galveston, P.O. Box 779, Galveston, Tex. 77553. | June 24, 1977 | 485469B |
| Do | Harris | | Daily Court Review, June 24, 1977 and July 1, 1977. | Mr. Richard P. Doss, county engineer, 1004 Congress St., Houston, Tex. 77002. | do | 480287B |
| Virginia | Fairfax | | The Fairfax Journal, July 7, 1977 and July 14, 1977. | Mr. Leonard Whorton, county executive, 4100 Chain Bridge Rd., Fairfax, Va. 22030. | do | 515525C |
| Wisconsin | Wood | Wisconsin Rapids, city of | The Wisconsin Rapids Daily Tribune, July 21, 1977 and July 22, 1977. | Hon. Donald F. Penza, mayor, city of Wisconsin Rapids, 61 4th Ave. North, Wisconsin Rapids, Wis. 54494. | July 22, 1977 | 555578B |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 29, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21133 Filed 7-25-77;8:45 am]





[Docket No. FI-3206]

## PART 1916—CONSULTATION WITH LOCAL OFFICIALS

### Changes in Base Flood Elevations

AGENCY: Federal Insurance Administration, (HUD).

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator has published a notification of modification of the base (100-year) flood elevations for communities listed below, in the FEDERAL REGISTER. Since that publication, ninety days have elapsed; and the Federal Insurance Administrator has evaluated requests for changes in the base flood elevations, and after consultation with the Chief Executive Officer of each community listed, has determined that no changes in the modified flood elevations are necessary.

The numerous changes made in the base flood elevations on the Flood Insurance Rate Map (FIRM) for each community make it administratively infeasible to publish in this notice all of the base flood elevation changes contained in the maps. However, this notice includes the address of the Chief Executive Officer where the modified base flood elevation determinations are available for inspection.

The modifications are pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (P.L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

DATES: These modified flood elevations are in effect as of the dates in the 6th Column of the attached list and amend the FIRM in effect for each listed community prior to this date.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: These base flood elevations are basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The entry (entry not to be codified in CFR) reads as follows:

**§ 1916.8 Changes in base flood elevations.**

| State | County | Location | Date notice was published in the "Federal Register" | Chief executive officer of community | Effective date of modified flood insurance rate map | New community No. |
|---|---|---|---|---|---|---|
| Tennessee | Hamilton | Soddy-Daisy, city of | Feb. 10, 1977 | Hon. Gene Elliot, mayor, city of Soddy-Daisy, City Hall, Box 478, Soddy-Daisy, Tenn. 37379. | Feb. 11, 1977 | 475445A |
| Do | Marion | South Pittsburg, city of | do | Hon. L. P. Bane, mayor, city of South Pittsburg, City Hall, P.O. Box 251, South Pittsburg, Tenn. 37380. | Feb. 18, 1977 | 475417A |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 29, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21134 Filed 7-26-77;8:45 am]

[Docket No. FI-3207]

## PART 1916—CONSULTATION WITH LOCAL OFFICIALS

### Changes in Base Flood Elevations

AGENCY: Federal Insurance Administration (HUD).

ACTION: Interim rule.

SUMMARY: The purpose of this rule is to list those communities wherein the Federal Insurance Administrator, after consultation with the Chief Executive Officer of the community, has determined that modification of the base (100-year) flood elevations of some locations is appropriate.

The numerous changes made in the base flood elevations on the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base flood elevations contained on the map. However, this notice includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

Any persons who have knowledge of changed conditions or new scientific or technical data or who wish to comment on these changes should immediately notify the Chief Executive Officer at the address listed.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM), in effect prior to this determination. A revised FIRM will be distributed in each community listed as soon as possible.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, these modified elevations may be changed.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line, 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).



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These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The entry (entry not to be codified in CFR) reads as follows:

**§ 1916.8 Changes in base flood elevations.**

| State | County | Location | Date and name of newspaper where notice was published | Chief executive officer of community | Effective date of modified flood insurance rate map | New community No. |
|---|---|---|---|---|---|---|
| Texas | Brazoria | Angleton, city of | Angleton Times, June 23, 1977 and June 30, 1977. | Hon. Charles Cole, mayor of Angleton, P.O. Box 778, Angleton, Tex. 77515. | June 10, 1977 | 480064 0001B 0003B |
| Do | Galveston | League City, city of | The Daily Citizen, June 24, 1977 and July 1, 1977. | Hon. Johnnie Arolfo, mayor of League City, 300 West Walker, League City, Tex. 77573. | June 17, 1977 | 485488 0001B 0003B |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 29, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21135 Filed 7-25-77;8:45 am]

[Docket No. FI-2732]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for the Town of Branford, Connecticut

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator hereby gives notice of his final determinations of flood elevations for the Town of Branford, Connecticut, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

Final base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Town Hall, 1019 Main Street, Branford, Connecticut 06405.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

DATES: In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community. The effective date of the Flood Insurance Rate Maps will be published in the FEDERAL REGISTER under § 1915.4.

SUPPLEMENTARY INFORMATION: The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Farm River | Shore Dr. (Conn. 146). | 12 |
| | Euclid St. | 12 |
| | Elinor Pl. | 12 |
| Long Island Sound | Pentecos Rd. | 12 |
| | Bennett Rd. | 12 |
| | Harbor St. | 12 |
| | Summer Island Rd. | 12 |
| | Cronch Rd. | 12 |
| | 8th Ave. | 12 |
| | Club Parkway | 12 |
| | Indian Point Rd. | 12 |
| | Linden Point Rd. | 12 |
| Branford River | Indian Neck Ave. | 12 |
| | South Montowese Ave. | 12 |
| | Penn Central RR. | 12 |
| | Pine Orchard Rd. | 12 |
| | East Main St., Route 1. | 12 |
| | I-95. | 14 |
| | Route 139. | 23 |
| | Schoolground Rd. | 27 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 17, 1977.

RICHARD W. KRIMM,
*Acting Federal Insurance Administrator.*

[FR Doc.77-21136 Filed 7-25-77;8:45 am]

[Docket No. FI-2687]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for the City of Wheeler, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator hereby gives notice of his final determinations of flood elevations for the City of Wheeler, Oreg., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). Final base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, P.O. Box 177, Wheeler, Oreg. 97147.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

DATES: In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community. The effective date of the Flood Insurance Rate Maps will be published in the FEDERAL REGISTER under § 1915.4.

SUPPLEMENTARY INFORMATION: The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Nehalem River | Areas west of Coast Highway. | 10 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 16, 1977.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.77-21137 Filed 7-25-77;8:45 am]





[Docket No. FI-2578]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for the City of Brighton, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator hereby gives notice of his final determinations of flood elevations for the City of Brighton, Colo., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917). Final base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Municipal Building, 365 Main Street, Brighton, Colo. 80601.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

DATES: In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community. The effective date of the Flood Insurance Rate Maps will be published in the FEDERAL REGISTER under § 1915.4.

SUPPLEMENTARY INFORMATION: The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in floodprone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| South Platte River | East 160th Ave. | 4,960 |
| | Base Line Rd. | 4,963 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: May 17, 1977.

RICHARD W. KRIMM,
*Acting Federal Insurance Administrator.*

[FR Doc.77-21138 Filed 7-25-77;8:45 am]



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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Federal Insurance Administration

### [ 24 CFR Part 1917 ]

[Docket No. FI-3204]

### PROPOSED FLOOD ELEVATION DETERMINATIONS FOR THE CITY OF ASTORIA, OREGON

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Astoria, Oregon.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 1095 Duane Street, Astoria, Oregon.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Dale F. Curry, City Manager, City Hall, P.O. Box 300, 1095 Duane Street, Astoria, Oregon 97103.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Astoria, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Columbia River | Bank of Columbia River. | 9 |
| Youngs River | Youngs Bay Constline. | 9 |
| Small streams near 15th and Birch Sts. | 15th and Birch Sts | 10 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 4, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77-21259 Filed 7-25-77;8:45 am]

### [ 24 CFR Part 1917 ]

[Docket No. FI-3205]

### PROPOSED FLOOD ELEVATION DETERMINATIONS FOR THE CITY OF EVERETT, SNOHOMISH COUNTY, WASHINGTON

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Everett, Snohomish County, Washington.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the bulletin board on the first floor of Everett City Hall, 3002 Wetmore, Everett, Washington.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Robert C. Anderson, Mayor of Everett, Everett City Hall, 3002 Wetmore, Everett, Washington 98201.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Everett, Snohomish County, Washington, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Snohomish River | Head of Ebby Slough, east of Burlington Northern R.R. | 10 |
| | Between Burlington Northern R.R. and Larmer Rd., opposite the head of Ebby Slough. | 15 |
| | U.S. Route 2 | 15 |
| | Interstate Route 5 | 20 |
| | U.S. Route 99 | [illegible] |
| Possession Sound | From the mouth of the Snohomish River to a point 1,200 ft southwest of the mouth of Pigeon Creek No. 1. | 5 |
| | From a point 1,500 ft northeast of the mouth of Pigeon Creek No. 2 to the corporate limits. | 9 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 4, 1977.

HOWARD B. CLARK,
*Acting Federal Insurance Administrator.*

[FR Doc.77-21260 Filed 7-25-77;8:45 am]



Federal register

TUESDAY, JULY 26, 1977

PART III

# DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

## MILK IN CENTRAL ARKANSAS, FORT SMITH, ARKANSAS, AND MEMPHIS, TENNESSEE MARKETING AREAS

Partial Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and Orders

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## DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[ 7 CFR Parts 1097, 1102, 1108 ]

[Docket Nos. AO-243-A32, AO-237-A28, AO-219-A34, AO-243-A32-RO1, AO-237-A28-RO1, AO-219-A34-RO1]

### MILK IN THE CENTRAL ARKANSAS; FORT SMITH, ARKANSAS; AND MEMPHIS, TENNESSEE MARKETING AREAS

**Partial Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders**

AGENCY: Agricultural Market Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends a merger of the Central Arkansas, Fort Smith and Memphis orders (7 CFR Parts 1108, 1102 and 1097), based on industry proposals considered at a public hearing held December 14–16, 1976. In addition to the presently regulated areas, the proposed "Arkansas-Memphis" marketing area would include additional areas in Arkansas, Tennessee, and Mississippi. The provisions of the proposed single order are patterned largely after those of the Central Arkansas order. The merger is needed to reflect changes in market structure in that the three separately regulated areas have become, in effect, one common market.

DATE: Comments are due on or before August 15, 1977.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-4824).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notices of Hearing: Issued November 19, 1976, published November 24, 1976 (41 FR 51819); issued February 11, 1977, published February 17, 1977 (42 FR 9674); issued March 3, 1977, published March 8, 1977 (42 FR 13024); and issued March 25, 1977, published March 31, 1977 (42 FR 17130).

Extension of time for filing briefs: Issued May 18, 1977, published May 23, 1977 (42 FR 26217).

PRELIMINARY STATEMENT

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Central Arkansas, Fort Smith, Arkansas and Memphis, Tennessee marketing areas, and of the opportunity to file written exceptions thereto. This notice is issued pursuant to the provisions of the gricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., 20250, by the 20th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended, were formulated, was conducted at Little Rock, Arkansas on December 14–16, 1976, pursuant to notice thereof which was issued November 24, 1976, (41 FR 51819). A reopening of this hearing was conducted at Irving, Texas, on April 5–8, 1977, pursuant to notices thereof which were issued February 11, 1977 (42 FR 9674), March 3, 1977 (42 FR 13024) and March 25, 1977 (42 FR 17130).

The material issues on the record of the hearing relate to:

1. Whether the handling of milk produced for sale in the proposed merged and expanded marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interests commerce in milk or its products;

2. Whether the marketing areas of the present Central Arkansas, Fort Smith and Memphis orders should be included under one order;

3. Whether the proposed merged marketing area should be expanded to include additional territory in the States of Arkansas, Mississippi, and Tennessee; and

4. If a single order is issued for the proposed merged and expanded marketing area, what its provisions should be with respect to:

(a) Milk to be priced and pooled;

(b) Classification of milk;

(c) Class prices and location adjustments;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions.

A reopening of the December 1976 hearing was held in Irving, Texas, on April 5–8, 1977, for the limited purpose of considering the adoption of uniform base-excess plans in these three markets and in eight other southwest Federal order markets. A decision on that hearing is pending. This partial decision deals only with the issues considered at the December 1976 hearing session. The issue considered at the April 1977 hearing session relating to the adoption of uniform base-excess plans is reserved for a later decision.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Character of commerce.* The handling of milk in the proposed "Arkansas-Memphis marketing area" is in the current of interstate commerce and directly burdens, obstructs and affects interstate commerce in milk and its products.

Handlers located in Memphis, Tennessee distribute milk throughout the State of Arkansas and in the portions of northern Mississippi now included in the Memphis marketing area. Handlers located in Arkansas and subject to the Central Arkansas order distribute milk in the Memphis, Tennessee area. A handler who operates distributing plants in Conway, Arkansas (regulated under the Central Arkansas order) and in Memphis, Tennessee (regulated under the Memphis order) transfers packaged milk and milk products between these two plants. Some of the packaged milk that is transferred from the Conway, Arkansas plant to the Memphis, Tennessee plant is distributed on routes in the State of Mississippi.

Dairy farmers in the States of Arkansas, Mississippi, Tennessee, Missouri, Oklahoma, Texas, Illinois, and Kentucky deliver milk to plants that would be regulated under the proposed order. During the short production months supplemental milk supplies are received at distributing plants from plants in Kansas and Oklahoma.

In addition to the interstate movement of bulk and packaged fluid milk products, manufactured dairy products from other states are marketed in the proposed marketing area. Witnesses testified that various cream products are brought in from Illinois, Ohio, Kentucky, and Georgia, while butter and cheddar cheese are brought in from Oklahoma and Wisconsin.

2. *Need for merger of orders.* Marketing conditions in the three separately regulated marketing areas under consideration justify the issuance of a single order regulating the handling of milk in these areas.[1] The single order is the most appropriate means of effectuating the declared policy of the Act.

The merger of the Central Arkansas, Fort Smith and Memphis orders was proposed by Associated Milk Producers, Inc. This producer cooperative association represents a major proportion of the producers supplying milk to handlers regulated by these three orders. Mid-America Dairymen, Inc., a producer cooperative association whose members supply milk to a handler regulated under the Memphis order supported the merger proposal. Several handler witnesses also supported the merger of the three marketing areas under one order.

[1] Because there is only one plant (a distributing plant) regulated under the Fort Smith order, it is necessary for reasons of confidentiality to incorporate the statistical data concerning the Fort Smith market with data concerning the Central Arkansas market. Thus, most of the analysis set forth throughout the entire decision will contain data for the Central Arkansas and Fort Smith markets combined.





Proponent claimed that the orders should be merged because the three separate areas have now become one market. Proponent's witness stated that there is now one common procurement area from which producer milk supplies are obtained for handlers under the three orders. Further, he stated there is substantial intermarket competition for sales by handlers regulated under the separate orders.

Limited opposition to the inclusion of Memphis in the proposed merged marketing area was expressed by the representative of a cooperative association supplying milk to handlers regulated under the New Orleans-Mississippi order. The cooperative's witness testified that Memphis handlers have a substantially greater association with the New Orleans-Mississippi market than they have with the Central Arkansas and Fort Smith markets. This witness, however, did not present any factual information demonstrating Memphis' greater association with the New Orleans-Mississippi market. In the following paragraphs it is demonstrated that the Memphis market is inextricably intertwined with the Central Arkansas and Fort Smith markets and that the three markets should be regulated by a single order. For this reason, the cooperative's request that Memphis be excluded from the merger is denied.

When the three orders were promulgated, they regulated the handling of milk in areas that were generally distinguishable as separate markets for particular groups of producers. Changes in marketing practice since that time, however, have caused these separately regulated areas to become substantially interrelated in both the distribution and procurement of milk. It is reasonable to expect that the interrelationship of these present areas will become even more pronounced over time.

From a distribution standpoint the separate marketing areas were based on boundaries at which intermarket competition in the sale of fluid milk products was at a minimum among handlers that would be regulated under the individual orders. Since the respective orders were promulgated, the number of regulated distributing plants has declined significantly. When the Central Arkansas order was promulgated, there were 18 distributing plants in that market. Currently, there are only 8. In the Fort Smith market, the number of regulated distributing plants has declined from 5 to 1, while in the Memphis market the number has declined from 14 to 7. Handlers continuing in business in these three markets have increased the output of their distributing plants and have expanded their sales territory. As a result, significant intermarket competition has developed among handlers operating under these three orders.

Presently, fluid milk sales are being made in the Central Arkansas market by the Fort Smith handler and by three Memphis handlers. In the Fort Smith market, fluid milk sales are being made by a Central Arkansas handler, and in Memphis, sales are being made by two Central Arkansas handlers. Between October 1974 and October 1976, the monthly intermarket distribution among the three markets increased nearly 20 percent (from 2.9 million to 3.4 million pounds). The October 1976 intermarket sales amounted to 10 percent of the sales by regulated handlers inside the three marketing areas combined. Also, such intermarket sales represented about 6 percent of all producer receipts used in Class I in the three markets that month.

The marketing area boundaries defined by the three orders thus no longer delineate the areas within which competition in the sale of fluid milk products is substantially only among handlers regulated by an individual order. In this circumstance, separate markets for the producers supplying these handlers no longer exists.

The three markets are also characterized by a substantial overlapping of milksheds. In October 1976, dairy farmers located in 17 Arkansas counties accounted for a substantial proportion of the total number of producers delivering milk to handlers under the Memphis order and to handlers under the Central Arkansas and Fort Smith orders combined. The 264 producers located in these 17 counties who delivered milk to the Memphis market represented 42 percent of all the producers delivering milk to the Memphis market. The 406 producers in these 17 counties who delivered milk to Central Arkansas and Fort Smith handlers represented 57 percent of all the producers on those two markets.

During October 1976, nearly one-fourth of the producers delivering milk to one of these three markets were producers also under at least one of the other two orders during that same month. More specifically, of the 1,339 producers on all three markets combined in October 1976, 316 also were producers that month on at least one of the other markets.

The interrelationship of milk supplies among the three markets is recognized presently in the separate orders' base-excess plan provisions. The quantity of base milk earned by each producer during the short production months is determined by his total deliveries to handlers regulated under all three orders combined. This base is then recognized in all three orders during the subsequent base and excess paying months.

The local nature of the three markets has greatly diminished also in terms of producer marketing organizations. When the individual orders were promulgated, many of the producers in the market were members of a cooperative association that confined its marketing activities to the local marketing area. Each producer group not only marketed the bulk of the milk associated with its market but also cleared the market of milk not needed by local handlers.

The majority of the producers now supplying each of the separately regulated areas are no longer associated with local market organizations but are members of the "regional" cooperative association proposing the three-market merger. This multi-market producer group is the only cooperative operating in the Central Arkansas and Fort Smith markets, where it furnishes virtually the total market supply. In the Memphis market, the proponent cooperative and the other regional cooperative association that supported the merger furnish virtually the total market supply.

Because of proponent cooperative's varied arrangements for supplying handlers and disposing of surplus milk, many members of this regional cooperative have no regular association with a specific market. Within a single month, milk of individual members may be moved as producer milk to two or more plants all regulated under different orders. Returns from all member milk sold in all three markets are collected by the cooperative and reblended to its members. The price each member receives for his milk may or may not be closely related to the order uniform price announced for the market or markets to which his milk was delivered.

In view of these circumstances separate orders for the three areas under consideration are no longer compatible with the current marketing practices in these regulated areas. The adoption of a single regulation for an area that has become a common market will insure more orderly marketing through the application of the same regulatory provisions to all handlers and producers associated with this common market.

The cooperative proposing the merger urged that the merged order continue the provisions of the Central Arkansas order except for certain modifications. The order adopted herein generally carries out this concept. The Central Arkansas order provisions have been appropriate for achieving the ends sought by the regulatory plan for the Central Arkansas area. Many of the provisions are essentially the same as corresponding provisions in the two other orders included in the merger. On the basis of the hearing evidence, it is found that the Central Arkansas provisions, with certain modifications, will be appropriate for achieving orderly marketing conditions in the proposed Arkansas-Memphis marketing area. Only the significant modifications will be dealt with in this decision.

The order adopted herein continues the use of the part number for the present Central Arkansas order, Part 1108. The amended Part 1108, upon issuance, would supersede Parts 1097 and 1102.

Although the present three orders would no longer exist upon effectuation of the Arkansas-Memphis order, this merger action is not intended to preclude the completion of those procedures that would otherwise have existed under the separate orders with respect to milk handled prior to the effective date of the merger. Such procedures, which would need to be carried out after the merger date, include the announcement of certain class prices and butterfat differentials, submission of reports, computation of uniform prices, payment of obli-



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gations, and verification activities. The provisions of the merged order would apply only to that milk handled after the effective date of the merger.

3. *Expansion of the merged marketing area.* All territory now within the defined marketing areas of the Central Arkansas, Fort Smith and Memphis orders should be included in the marketing area of the merged order. The Arkansas-Memphis marketing area also should include all of the territory within the 2 counties containing the cities and military reservation that now comprise the Fort Smith marketing area and the 5 counties having a portion of their territory within the Memphis marketing area. It also should include 16 additional Arkansas counties and 1 additional Tennessee county that presently are not part of any Federal order marketing area. All territory occupied by government (municipal, State, or Federal) reservations, installations, institutions or other establishments, if any part thereof is within any of the designated counties of the Arkansas-Memphis marketing area, likewise should be a part of the marketing area.

The adopted marketing area consists of 40 Arkansas counties, 8 Tennessee counties and 6 Mississippi counties. The total population of these 54 counties is slightly more than 2.5 million (based on 1975 census estimates). The marketing area represents a contiguous geographical area in which handlers who would be regulated by the merged order have most of their fluid milk sales.

The present Fort Smith order designates the Camp Chaffee military reservation and the cities of Fort Smith and Van Buren as the defined marketing area of that order. These populated areas are located within the Arkansas Counties of Crawford and Sebastian.

The Memphis order designates all the territory in Fayette, Haywood, Lauderdale, Shelby and Tipton Counties, Tennessee; and De Soto, Lafayette, Tate and Tunica Counties, Mississippi; plus portions of Hardeman and Madison Counties, Tennessee; Marshall and Panola Counties, Mississippi; and Crittenden County, Arkansas as the defined marketing area.

As advocated by the merger proponent, the merged marketing area should include all the territory within every county that is part of the market. It is customary for handlers to distribute milk to available outlets throughout these counties rather than just in the regulated areas. Defining the marketing area in what is now the Fort Smith and Memphis markets on the basis of county boundaries will have no different regulatory effect on handlers.

The combined marketing area also should include one additional Tennessee county and 16 additional Arkansas counties that are presently unregulated. These counties are:

ARKANSAS

| | |
|---|---|
| Arkansas | Logan |
| Cleburne | Mississippi |
| Franklin | Montgomery |
| Greene | Perry |
| Independence | Polk |
| Jackson | Scott |
| Johnson | Van Buren |
| Lawrence | Yell |

TENNESSEE

Chester

Inclusion in the marketing area of these 17 counties was proposed by the merger proponent. The cooperative's witness indicated that such counties are a part of the sales area of handlers now regulated by the three orders and thus should be within the defined marketing area. He also testified that their inclusion in the marketing area would insure that competing handlers would be subject to the same minimum classified prices. Three presently regulated handlers supported this proposed area expansion. These handlers emphasized that they compete for retail sales with the handlers who would become regulated and that all competing handlers should be subject to the regulations.

In Chester County, Tennessee, and the 9 Arkansas counties of Greene, Independence, Jackson, Lawrence, Mississippi, Perry, and Van Buren, handlers now regulated under Federal orders have 100 percent of the fluid milk sales. Handlers who would be regulated under the merged order have 75 percent or more of the total sales in each of these 10 counties, with handlers regulated under the St. Louis-Ozarks or Paducah, Kentucky orders having the remainder of the sales. In three of these counties, handlers who would be regulated under the merged order have 100 percent of the sales.

The addition of the Arkansas counties of Franklin, Johnson, Logan, Montgomery, Polk, Scott and Yell to the merged marketing area would cause milk dealers in Mena and Paris, Arkansas to become subject to the merged order. Also, a handler located in Glenwood, Arkansas, who became fully regulated under the Central Arkansas order for the first time in November 1976, has sufficient sales in these counties to cause his plant to remain regulated in the foreseeable future.

Representatives of the Mena and Paris dairy operations (in Polk and Logan Counties, respectively) opposed the expansion of the merged marketing area. They testified that they are small, family-type operations and that regulation would inflict a financial burden upon them. They indicated that they produce enough milk on their own farms to meet most of their customers' demands. The Mena dealer stated that he has more than one-half of his total fluid milk sales in Polk County. He also has sales in two other counties within the expanded marketing area, Montgomery and Scott. The remaining 20–30 percent of his sales are in Sevier County, Arkansas, a county outside the proposed marketing area. All the fluid milk sales of the Paris dealer are within the expanded marketing area in Crawford, Franklin, Johnson, Logan and Yell Counties.

The handler in Glenwood (Pike County) also opposed expansion of the merged marketing area. His main concern, however, was the proposed addition of Montgomery County, Arkansas to the marketing area. He stated that he receives his entire milk supply from a dairy farmer and proponent cooperative association. His plant, which would be outside the proposed marketing area, is less than one mile south of the Montgomery County line. About 9 percent of his total sales are in that county. He also distributes fluid milk products in three Arkansas counties within the present marketing area—Clark, Garland, and Hot Spring. About 60–80 percent of his sales are in counties that are outside the proposed expanded marketing area.

Handlers presently regulated under the three separate orders have more than one-half of the total sales in each of these seven Arkansas counties. The counties are located between Crawford and Sebastian Counties, the general location of the Fort Smith marketing area, and the marketing areas of the Central Arkansas and Memphis orders.

The area expansion should not cause any significant changes in the operations of the two milk dealers and the handler who opposed adding any Arkansas territory to the marketing area. As described in the section dealing with "producer-handlers" those provisions should allow the milk dealers in Mena and Paris to qualify as producer-handers. The operator of the Mena plant testified that they have a family-owned operation and try to produce all of the milk they need for their fluid milk sales. At the time of the hearing, because of a temporary breeding problem, they were receiving about 5 percent of their fluid milk requirements from proponent cooperative association. In a year or so, when they have corrected the problem, they do not expect to need any supplemental milk.

The Paris milk dealer testified that only on occasion did he need supplemental milk. At the time of the hearing, it had been three months since he had received any milk from another dealer.

The Glenwood handler already is fully regulated because of his sales in the present Central Arkansas market. Further, his testimony indicated that beginning in January 1977 he probably would be regulated continually from then on. Under these circumstances, expansion of the marketing area to include additional territory in which he distributes milk presumably would not change his operations.

It is reasonable to "block-in" the marketing area by including all 17 counties listed previously. Providing for a contiguous marketing area in which





handlers that would be regulated by the order have most or all of the fluid sales will remove the necessity of handlers maintaining separate records of out-of-area sales in these counties. Such records are necessary to determine if a plant has met the minimum in-area route disposition requirement of the order.

In addition to the areas discussed previously that should be a part of the marketing area, the merger proponent also requested the inclusion of an additional 12 Mississippi and 2 Tennessee counties. Three presently regulated handlers also supported adding this territory to the marketing area. The 14 counties are:

MISSISSIPPI

| | |
|---|---|
| Alcorn | Monroe |
| Benton | Pontotoc |
| Chickasaw | Prentiss |
| Clay | Tippah |
| Itawamba | Tishomingo |
| Lee | Union |

TENNESSEE

| | |
|---|---|
| Hardin | McNairy |

This portion of the cooperative association's marketing area proposal is denied.

The inclusion of these unregulated areas in the marketing area would result in the full regulation of distributing plants at Tupelo, New Albany and Amory, Mississippi. The Tupelo plant was regulated briefly in 1975 under the Memphis order and is a partially regulated distributing plant under the Nashville, Tennessee and New Orleans-Mississippi orders by virtue of its limited fluid sales in the respective marketing areas.

Proponent claimed that full regulation of these plants is necessary to assure competitive equity between presently regulated handlers and the three unregulated plants in northeastern Mississippi with respect to fluid sales in overlapping sales areas. It was contended that these unregulated plants are buying milk for fluid use not on a classified use basis but rather on a "flat" price substantially below the Class I price applicable to regulated handlers. Proponent claimed that, in view of the high Class I utilization at these plants and their cost for raw milk, these plants have a significant price advantage over competing regulated handers in making Class I sales.

The regulation of the 14 counties in northeastern Mississippi and Tennessee in which these unregulated distributing plants have fluid milk sales was opposed by the dairy farmers who deliver milk to these plants. The manager of the cooperative association that supplies the Tupelo plant testified in opposition to the area expansion, as did two dairy farmers, who deliver milk to the New Albany milk dealer and a dairy farmer representing the eight producers delivering to the plant in Amory. These witnesses contended that they and the other dairy farmers who deliver to these three plants receive a higher price for their milk than do their neighbors who are members of proponent cooperative association.

The record evidence indicates that the Tupelo plant, by far the largest of the 3 unregulated milk plants in Mississippi, is paying producers a form of classified prices. Exhibits introduced at the hearing indicate that this milk dealer receives his supply of milk from about 50 dairy farmers. These dairy farmers belong to a cooperative association that delivers milk to this dealer plus handlers regulated under the Memphis order and the New Orleans-Mississippi order. The witness for the cooperative association testified that his cooperative receives a blended price from the Tupelo dealer that is based upon a 95 percent Class I utilization on all the milk it delivers to this plant. Also, the Class I price used by this dealer in paying the cooperative is the Memphis market price (order Class I price plus any prevailing over-order payments) adjusted upward by 16.5 cents to reflect the location of the Tupelo plant relative ot the Memphis market. The remainder of the milk is paid for at the Memphis Class III price.

The unregulated plants at Amory and New Albany do not pay classified prices to their dairy farmers. The Amory dealer receives his milk supply from 8 dairy farmers while the New Albany dealer receives his milk supply from 9 dairy farmers. None of these dairy farmers is a member of a cooperative association. Based upon their location relative to Memphis, these two plants, if fully regulated under the Memphis order, would be subject to plus location adjustments of 21 cents and 16.5 cents, respectively, for milk in Class I uses. Both plants have a relatively high Class I utilization of milk. For the period December 1975–October 1976, the prices reported to be paid to dairy farmers at the plant at Amory on a 3.5 percent butterfat basis averaged 40 cents less than the Memphis Class I price, adjusted for location of the Amory plant. At the New Albany plant for the period November 1975–May 1976, dairy farmers received 63.5 cents less than the Memphis Class I price adjusted for location of the New Albany plant.

Proponent and supporters of the marketing area expansion failed to demonstrate that disorderly marketing conditions exist in these 14 counties. The basis advanced by a Memphis regulated handler in support of the proposed marketing area expansion was that his operation has been and would continue to be disadvantaged unless his competitors' plants likewise were fully regulated.

The witness for proponent cooperative stated that members of the cooperative who live in the same area as the dairy farmers supplying the three Mississippi unregulated plants receive a lower price for their milk. This causes dissatisfaction among proponent's member producers. However, the witness stated that the cooperative pays its member producers a blend price that is based upon its total sales of milk to handlers throughout a 7-state area encompassing the cooperative's "Southern Region." In the larger markets within this Southern Region the proportion of milk utilized as Class I milk is much lower than it is in the three markets proposed herein to be merged. As a consequence of this blending of returns throughout the entire region, producers delivering to the Arkansas-Memphis market receive a lower price than if their price were based solely on returns within this market. Thus, even if the three unregulated Mississippi milk dealers were to become regulated under the merged order their dairy farmers would in all likelihood continue to receive a higher price than would members of the cooperative.

It is desirable to provide competitive equity between competing handlers. However, it is difficult to conclude that the lower costs for Class I milk at the Amory and New Albany plants make it imperative that these two plants be regulated under the merged order and subject to classified pricing. The Amory dealer's fluid milk sales are only in Monroe County, Mississippi. Handlers who would be regulated under the merged order have only 20 percent of the fluid sales in that county. The New Albany dealer has fluid milk sales only in Benton, Pontotoc, Tippah and Union Counties, Mississippi. Only in Benton County do regulated handlers have more than one-half of the total sales. None of the 5 counties in which these two dealers have fluid milk sales is heavily populated. Regulated handlers' sales in these 5 counties represent a very small proportion of their total sales.

With respect to the Tupelo plant, present marketing conditions do not warrant the regulation of this plant. As previously noted, the Tupelo plant operator pays for his raw milk supply on the basis of a pricing plan under which the prices for milk in the various use classes are reasonably comparable to the prices paid by regulated handlers. In 6 of the 14 Mississippi and Tennessee counties in which the Tupelo dealer competes with regulated handlers, regulated handlers do not have the majority of the fluid milk sales. In the remaining 8 counties, regulated handlers have slightly over one-half of the fluid milk sales in 3 counties, 60 percent of the sales in one county, and more than 60 percent in 4 counties.

None of the 14 counties is heavily populated. Moreover, the two counties with the greatest population (Lee, 51,700 and Monroe, 34,400, in Mississippi) are counties in which regulated handlers have less than one-half of the total sales. The most populated of the 8 counties in which regulated handlers have a majority of the sales in Alcorn County, Mississippi which has a population of 28,900. Thus, these 14 counties do not represent major sales areas for presently regulated handlers. In this circumstance, any adverse impact on such handlers from not including these counties in the marketing area should be relatively minor.

Although some of the route disposition of regulated handlers will extend beyond the boundaries of the merged marketing area, it is neither practical nor reasonable to extend the regulated area to



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cover all areas where a handler has or might develop some route disposition. Nor is it necessary to do so to accomplish effective regulation under the order. The marketing area herein proposed is a practical one in that it encompasses the great bulk of the fluid milk sales areas of regulated handlers.

All producer milk received at regulated plants must be made subject to classified pricing under the order, however, regardless of whether it is disposed of within or outside the marketing area. Otherwise, the effect of the order would be nullified and the orderly marketing process would be jeopardized.

If only a regulated handler's "in-area" sales were subject to classification, pricing and pooling, a regulated handler with Class I sales both inside and outside the marketing area could assign any value he chooses to his outside sales. He thereby could reduce the average cost of all his Class I milk below that of other regulated handlers having all, or substantially all, of their Class I sales within the marketing area.

Unless all milk of such a handler were fully regulated under the order, he in effect would not be subject to effective price regulation. The absence of effective classification, pricing and pooling of such milk would disrupt orderly marketing conditions within the regulated marketing area and could lead to a complete breakdown of the order. If a pool handler were free to value a portion of his milk at any price he chooses, it would be impossible to enforce uniform prices to all fully regulated handlers or a uniform basis of payment to the producers who supply the market. It is essential, therefore, that the order price all the producer milk received at a pool plant regardless of the point of disposition.

4(a) *Milk to be priced and pooled.* It is necessary to designate clearly what milk and which persons would be subject to the merged order. This is accomplished by providing definitions to describe the persons, plants and milk to which the applicable provisions of the order relate.

The following definitions included in the order will serve to identify the specific types of milk and milk products to be subject to regulation and the persons and facilities involved with the handling of such milk and milk products. Definitions relating to handling and facilities are "route disposition," "distributing plant," "supply plant," "pool plant" and "nonpool plant." Definitions of persons inelude "producer," "handler," "producer-handler" and "cooperative association." Definitions relating to milk and milk products include "producer milk," "fluid milk product," "fluid cream product," "filled milk" and "other source milk." A number of these definitions were of particular issue at the hearing and are discussed below.

*Pool plant.* Essential to the operation of a marketwide pool is the establishment of minimum performance requirements to distinguish between those plants substantially engaged in serving the fluid needs of the regulated market and those plants that do not serve the market in a way or to a degree that warrants their sharing (by being included in the pool) in the Class I utilization of the market. The pooling standards for distributing plants and supply plants that are contained in the attached order would carry out this concept under present marketing conditions.

The following discussion sets forth the pooling standards that should apply to both types of plants. To facilitate the discussion, it is convenient to note at this point that the pooling standards for a distributing plant or a supply plant provide that the plant's required association with the market shall be measured in terms of the proportion of its receipts that is disposed of from the plant. In this case, such receipts should include producer milk that is diverted from the plant to other plants. Although diverted milk is not physically received at the plant from which diverted, it is, nonetheless, an integral part of the plant's supply of milk.

Proponent supported the adoption of such a provision in the order. None of the three orders subject to the hearing presently contains such a provision.

Without associating producer milk with some pool plant, the pooling standards are weakened. Such standards are intended to insure that the milk supplies eligible to share in the Class I proceeds in the pool are those that have a reasonable association with the Class I market. Diverted milk that is not associated with a specific plant is, in effect, a "floating" supply of milk that may be used for manufacturing irrespective of the limitations that the pooling standards are intended to place on the amount of milk that may be associated with the pool for other than Class I uses.

Thus, when referring herein to a plant's receipts used in computing pooling percentages, it is intended that such receipts include producer milk diverted from the plant.

*Pool distributing plant.* Under the adopted pooling standards, any distributing plant approved by a duly constituted regulatory agency for the handling of Grade A milk would be a pool plant if during the month at least 50 percent of a specified portion of its Grade A receipts is disposed of as route disposition or moved in the form of packaged fluid milk products to other plants from which it is disposed of as route disposition in the marketing area. Also, the plant's route disposition in the marketing area must equal at least 10 percent of a specified portion of its Grade A receipts. The Grade A receipts to which these percentages should apply are receipts from producers (including allowable diversions), cooperatives acting as bulk tank handlers and other pool plants, but excluding receipts of packaged fluid milk products from other pool plants. Route disposition would mean any delivery of a fluid milk product classified as Class I milk to a wholesale or retail outlet (including any delivery through a vendor or a plant store) except delivery to any milk or filled milk receiving and/or processing plant.

These pooling standards for distributing plants are basically the same as those proposed at the hearing by the cooperative association advocating the merger. There was no opposition to these pooling standards. The representative of a handler who operates distributing plants regulated under the Central Arkansas and Memphis orders supported proponent's proposal. However, he asked that fluid milk products packaged at the Memphis plant that are shipped to the Conway plant for route disposition count toward qualifying the Memphis plant. Otherwise, he claimed, at certain times of the year the Memphis plant may not meet the 50 percent route disposition standard and, thus, would lose its pooling status.

The pooling standards under the Memphis and Fort Smith orders are quite different from those under the Central Arkansas order. This is largely because the latter order provides for the marketwide pooling of producer returns while the other two orders provide for individual handler pooling.

The Central Arkansas pooling standards specify that a distributing plant shall be a pool plant if its total route sales are 50 percent of its receipts of milk from producers, cooperatives acting as bulk tank handlers and other pool plants and 10 percent of such receipts are disposed of on routes within the marketing area. The pooling standards of the Fort Smith and Memphis orders differ in various respects, most notably with respect to the absence of any total route disposition requirement. The Fort Smith order only requires that a plant dispose of fluid milk products in the marketing area. The Memphis order requires disposition on routes in the marketing area in an amount greater than 1,000 pounds per day or not less than 5 percent of its total Class I milk disposition. There is no indication, however, that the adopted pooling standards, which are patterned after those in the Central Arkansas order, would cause any distributing plants now regulated under the three orders to lose their status as fully regulated plants.

Requiring that a pool distributing plant dispose of at least 50-percent of its specified Grade A receipts as packaged fluid milk products is consistent with the general supply situation for the area under consideration. Except during the months of seasonally heavy milk production, milk supplies in the Arkansas-Memphis market, are somewhat short relative to the demand in the area for Class I milk. It is essential in this circumstance that available milk supplies in the market be channeled primarily into fluid uses. For this reason, a pool distributing plant in this market should be primarily engaged in the fluid milk business and not in the manufacture of milk products.

Proponent cooperative proposed that a distributing plant which meets the 10-percent in-area standard during the current month and which had met the 50-percent Class I disposition requirement in the previous month continue to be a pool plant until the fourth consecutive





month in which the plant fails to meet the 50-percent standard.

Under the cooperative's proposal, a distributing plant would have to meet the 50-percent disposition requirement only once every four months. Such a minimum pooling standard would not be consistent with the record evidence which indicates that this is a relatively "tight" market and that milk supplies associated with the market should be available basically for Class I use. Accordingly, the proposal by proponent cooperative that would provide an exception to the basic 50-percent standard should be denied.

Packaged fluid milk products which are transferred between pool distributing plants should be included in the disposition of the transferor-plant in qualifying for pooling status. Thus, such receipts should be excluded from the disposition as well as from the receipts at the second plant in determining its pool plant status. Unless they are excluded in computing the Class I disposition at the second pool plant and succeeding pool plants, such receipts could be used to qualify an unlimited amount of milk by moving the packaged fluid milk products from plant to plant. This provision should accommodate the handler who transfers packaged fluid milk products between his two distributing plants at Conway, Arkansas and Memphis, Tennessee. At the Memphis plant substantially more than 50 percent of the plant's receipts are utilized as packaged fluid milk products. However, because large quantities of these packaged products are transferred to the Conway plant for route disposition, the Memphis plant in some months does not have actual route disposition amounting to 50 percent of its receipts. Under these circumstances it is desirable that the order provisions be drafted to permit this Memphis plant to retain its pool plant status.

A plant distributing less than 10 percent of its receipts inside the marketing area (either directly on routes or through other plants) should not be a fully regulated plant under the merged order. The plant, with its limited degree of association with the market, is not a major competitive factor for fully regulated handlers whose sales are largely or entirely in the marketing area. Such regulation is not necessary to assure the orderly marketing of milk in the proposed market. Payment provisions applicable to such a plant are contained in the attached order to assure that route disposition in the marketing area from such a plant is treated in such a way as to minimize any buying advantage on raw milk this plant might have relative to fully regulated handlers. The order would require a pool payment on such sales equal to the difference between the order's Class I and weighted average prices. As an alternative, the plant could pay its dairy farmers the classified use value for all receipts. These payment arrangements have been applicable under the Central Arkansas marketwide pool order for many years.

It is possible that a distributing plant may meet the pooling requirements of two orders during the same month. As under the present orders, the merged order should provide certain guidelines for determining under which order the plant should be regulated.

A distributing plant that has route disposition in two marketing areas should be regulated in the market in which it has the greater route sales. However, if a plant regulated under the merged order should have greater sales in another market, the plant should remain regulated under the merged order until the third consecutive month in which it has greater route disposition in the other marketing area. This should limit the disruptive shifting between orders on a month-by-month basis that can occur when intermarket distribution results in qualifying a distributing plant for pooling under more than one order. This procedure, which was proposed by the merger proponent, is now provided in the Memphis order. The Central Arkansas order contains a similar provision but retains regulation of the plant until the sixth consecutive month in which it has greater route disposition in the other marketing area. The Fort Smith order excepts the plant from regulation the first month in which it disposes of more Class I milk in another marketing area.

The possibility of plants being associated with the Arkansas-Memphis market and other adjacent markets does exist and such a provision could have relevancy. A "lock-in" provision comparable to the Memphis provision is reasonable and should be included in the merged order as requested by proponent. This provision should be based only on route disposition in the respective marketing areas, rather than including transfers of packaged fluid milk products to other plants from which it is disposed of as route disposition in the respective marketing areas. Otherwise, it would not be clear whether a distributing plant which has greater route disposition in another marketing area but greater overall disposition of packaged fluid milk products in this marketing area would be regulated by this order or the order in which it has greater route disposition.

*Pool supply plant.* Any supply plant approved by a duly constituted regulatory agency for the handling of Grade A milk should be a pool plant in any month in which 50 percent or more of its receipts of Grade A milk from dairy farmers and cooperatives acting as bulk tank handlers is transferred in the form of bulk fluid milk products to pool distributing plants. A plant which was pooled in each of the months of September through January should be accorded pool plant status during the following months of February through August regardless of its shipments to distributing plants during such months.

Proponent cooperative association proposed initially that a supply plant ship at least 75 percent of its specified receipts to distributing plants in order to qualify as a pool plant. At the hearing, proponent modified its proposal, lowering the shipping percentage to 50 percent to qualify in any month. However, for a supply plant to have automatic pooling status during the months of February through August, the cooperative would require the plant to ship at least 75 percent of its specified receipts during the previous September through January period. Proponent urged the higher shipping requirements because a very high proportion of milk received in this market is used in Class I and supply plants need an incentive to furnish bulk fluid milk to meet these fluid demands. It stated that this is especially true during the short production months of September through January.

The witness for a Memphis, Tennessee regulated handler proposed that the minimum shipping percentage for supply plants be 50 percent and that supply plants pooled on this basis during the months of September through January be afforded automatic pooling status the following February through August. This witness testified that the 75 percent shipping requirement supported by proponent cooperative was too high. The Memphis handler's proposal was based upon the minimum shipping requirements contained in several nearby order markets as well as the present Central Arkansas order.

The pooling provisions for supply plants in the present Central Arkansas order are very similar to those proposed by the Memphis handler, except that presently the qualifying months are October through January for automatic pooling status during the following February through September. The Fort Smith order does not provide for the regulation of supply plants. In the Memphis order supply plants are regulated every month in which they transfer 70,000 pounds or more of fluid milk products (bulk or packaged) to regulated distributing plants.

At the present time, the two plants that are supplying milk to Memphis distributing plants are the only supply plants regulated under the three orders. Proponent cooperative association operates a supply plant at Martin, Tennessee and the cooperative association that supported the merger operates one at Jackson, Missouri. Witnesses for both cooperative associations testified that virtually 100 percent of the milk received at these plants is shipped to Memphis distributing plants.

Supply plant pooling standards for the merged order should assure that supply plants associated with the market will make milk available to distributing plants at the times and in the quantities needed. The pooling standards adopted herein are designed to provide this assurance.

The 50 percent shipping requirement set forth in the attached order now is applicable in the Central Arkansas order. It is significantly higher than the requirement set forth in the Memphis order under which the two existing supply plants are now regulated. Under the individual handler type pooling in the



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Memphis market, it is not necessary to establish pooling standards to encourage supply plants to ship milk to distributing plants because each handler pays his producers a blend price that is based only upon his utilization of milk. This in itself tends to encourage the shipment of milk for Class I use. Under marketwide pooling, as contained in the Central Arkasas and the attached order, supply plants do not have as great an incentive to ship milk because an individual handler's utilization of milk does not establish the blend price that is payable to his producers. Thus, minimum performance requirements for pool supply plants that reflect local supply and demand conditions are necessary to assure that distributing plants will have adequate milk supplies for fluid use. On the basis of this record, a shipping requirement of 50 percent should assure that supply plants under the order will make sufficient quantities of milk available to distributing plants.

Although the Arkansas-Memphis market is a relatively short market, the demand for supply plant milk may not be as great in some months as in others because of seasonal swings in milk production. To avoid unnecessary, as well as uneconomical, movements of milk to the market merely to assure the continued pooling of a plant, the merged order should not require shipments to distributing plants during certain months for those plants with an established association with the market. If a supply plant is pooled under the order in each of the months of September through January, it should be allowed pool plant status for the following months of February through August irrespective of its shipments to distributing plants. The plant should be accorded pool plant status during the February–August period if such status is requested by the plant operator. If, however, the plant loses its approval to handle Grade A milk during any of these months, it should lose its automatic pooling status for the remainder of the February–August period.

The demand for supply plant milk may be less during the months of seasonally heavy milk production than during the other months. Also, demand may tend to drop during the summer with the closing of schools. With nearby milk supplies generally more adequate during the February–August period relative to consumer demand, distributing plants may not need to rely as much on supply plants for a full supply of milk. Thus, no minimum shipments should be required in the months of February through August for a plant that was a pool supply plant during the qualifying months.

The proposal set forth by the merger proponent to add September as one of the five qualifying months for supply plants to obtain automatic pooling status for the following February–August period should be adopted. September is the first month of the school year in which schools are open throughout the entire month. This causes an increase in the demand for fluid milk. At the same time, milk production beginning its seasonal decline. The demand for supply plant milk in September thus can be expected to be greater than in the earlier months of automatic pooling. The record evidence indicates that for the past 3 years Class I sales in September in the three markets exceeded such sales in August by 2–4 million pounds. Also, the percentage of producer milk used in Class I is about 5 percentage points higher in September than in August.

There is no need to require a supply plant to ship 75 percent of its receipts to distributing plants during each of the months of September–January in order to qualify for automatic pooling status during the following months of February–August. There was no demonstration on the record that a performance standard at this level is necessary to assure that supply plants will make adequate quantities of milk available to distributing plants for fluid use.

Since supply plants generally receive and assemble for transshipment to distributing plants the milk of producers located further away from the market than direct-ship producers, they are in a position to perform a "balancing" function for the market. On peak bottling days during the week, most of the milk received at a supply plant may be needed at distributing plants to fill their fluid requirements. On other days of the week, especially weekends and holidays, very little milk may be needed at distributing plants from supply plant sources. At least 8 days each month fall on weekends, and in some months there are as many as 10 weekend days. The weekend days plus holidays represent between 25 and 35 percent of the days in a month. Thus, a 75 percent shipping requirement for supply plants would mean that they would have to ship all of their receipts during the week to distributing plants plus some of their receipts on weekends and holidays. Since most distributing plants do not receive and package fluid milk on weekends and holidays, this could place an undue hardship on supply plants serving the market on a regular and continuing basis. It could result in the uneconomic movement of milk by supply plant operators who would be forced into transporting the unneeded milk to a distributing plant where it would be "received" and then backhauling the milk to a manufacturing facility to qualify the supply plant as a pool plant. Although the record indicates that the only two supply plants now involved ship virtually all of their milk, the merged order nevertheless should recognize the possibility of other supply plants coming onto the market and having a somewhat different demand situation.

The proposal to require a supply plant to ship 75 percent of its receipts during each of the months of September–January in order to qualify for automatic pooling status also would result in an inconsistent application of pooling standards to supply plants that may be associated with the merged market. The purpose of the pooling standards for supply plants is to assure that such plants associated with the market will make milk available to distributing plants for fluid use. There is no need during the qualifying months to have certain supply plants make 75 percent of their milk available while requiring other plants to make only 50 percent of their milk available to distributing plants. The same minimum level of shipments should be required of all plants during the September–January period.

The provision in the present Central Arkansas order that pools a supply plant operated by a cooperative association if total receipts at pool plants of other handlers from members of the association are not less than 50 percent of the total milk delivered by the cooperative's member producers during the month and shipments from the plant to distributing plants are not less than 25 percent of the plant's receipts of producer milk should not be included in the Arkansas-Memphis order. Proponent cooperative association proposed deletion of this provision on the basis that it has not been used to qualify a supply plant in the past and is very unlikely to be used to qualify such a plant in the foreseeable future. In view of its apparent inapplicability to current marketing practices, it is reasonable that the provision be dropped.

The pool supply plant provisions should not apply to a supply plant that has automatic pool status under another order but also qualifies as a pool plant under the merged order. On the other hand, a plant having automatic pool status under the Arkansas-Memphis order should remain pooled under this order (if the plant operator chooses to retain such status) even though the plant qualifies for pooling status under another order. A supply plant that qualifies for automatic pool plant status has demonstrated its primary association with this market. Accordingly, it should not lose its pool status during the months of automatic pooling because of shipments to another order market.

It is unlikely that the merged order can be made effective by September 1, 1977. In such event, certain transitional provisions are needed to assure that supply plants which have demonstrated an adequate association with the individual markets included in the merger (or with the merged market) will be eligible under the merged order for automatic pooling during the months of February-August 1978. For this purpose, such eligibility should be deemed to have been established if the plant was a pool supply plant under the merged order or, prior to the merger, a fluid milk plant pursuant to § 1097.7(b) of the Memphis order or a pool supply plant under the Central Arkansas order during the months of September 1977 through January 1978.

*Nonpool plant.* A definition of "nonpool plant" is provided to facilitate formulation of the various provisions of the order as they apply to such a plant. The three separate orders now contain comparable nonpool plant definitions.





*Handler.* The impact of regulation under an order is primarily on handlers. The handler definition identifies persons who will have responsibility for filing reports and making payments for milk under the merged order.

Accordingly, the order should designate handler status for the following persons:

(1) The operator of a pool plant;

(2) A Cooperative association with respect to milk that is diverted for its account;

(3) A cooperative association with respect to bulk tank milk picked up at the farm for delivery to a pool plant;

(4) The operator of a partially regulated distributing plant;

(5) A producer-handler; and

(6) The operator of an other order plant from which milk is disposed of in the market.

Such persons are now defined in most cases as handlers under the three orders. It was proposed that the designation of such persons as handlers be continued.

Although a cooperative association would continue in certain situations to be a handler for farm bulk tank milk and for diverted milk, the responsibilities of such a handler should be somewhat different than those now set forth in the individual orders. In the case of bulk tank milk, a cooperative should be a handler with respect to any such milk which it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative. However, should there be a mutual arrangement between the cooperative and the plant operator whereby the plant operator will be the handler for such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the cooperative need not act in a handler capacity with respect to such milk. These provisions are the same as those proposed by proponent cooperative. There was no opposition.

When the milk of any producer is commingled in a tank truck with that of other producers, the identity of the individual producer's milk is lost. The amount of the producer's milk in the truck and the butterfat content thereof can be determined only from measurement of the milk at the farm and from milk samples taken from the farm tank. After the milk has been pumped from the individual producer's farm tank into the tank truck of the hauler and commingled with the milk of other producers, there is no opportunity to measure, sample, or reject the milk of an individual producer.

Much of the milk received at pool plants in this marketing area is picked up at the farm in trucks owned or operated by, or under the control of, cooperative associations. In this case, it is only the association that has the opportunity to measure and sample the milk of individual producers that is received at the pool plant. In the absence of any agreement by the plant operator to be the handler for the milk, the association necessarily must be the responsible handler for the milk as it leaves the farm.

When a cooperative is the handler for farm bulk tank milk, certain accounting and payment procedures should apply under the merged order with respect to such milk. As provided in the attached order, the milk would be considered as a receipt of producer milk by the cooperative at the location of the pool plant to which the milk is delivered. The purchase of such milk by the pool plant operator would be treated as an interhandler transfer but would be classified pro rata with producer milk that the pool plant operator may receive. The pool plan operator would be obligated to the producer-settlement fund for the milk received directly from producers and by transfer from bulk tank cooperative handlers at its classified use value. The cooperative in turn would be paid from the producer-settlement fund by the market administrator at the blend price. This is in contrast to the procedure under the Central Arkansas order whereby the cooperative accounts to the pool at class prices for the milk delivered to pool plants. Under the Memphis order the milk delivered by the cooperative is now treated as a receipt of producer milk by the plant operator. The Fort Smith order does not contain a provision for a cooperative association to be a handler on bulk milk received at producers' farms for delivery to pool plants of other handlers.

The adopted accounting and payment procedure will facilitate administration of the order with respect to matters of financial responsibility and audit adjustments. It is the pool plant operator who processes the milk and distributes it to consumers. It is reasonable, then, that the responsibility for accounting for the utilization of such milk and for its payment be placed directly on the plant operator. Were settlement with the pool to be made by the cooperative association, i.e., should the plant operator settle with the cooperative at class prices and the cooperative pay to the producer-settlement fund, an unnecessary third party is involved in the transaction. Also, the adopted procedure will facilitate the handling of audit adjustments that might result from the verification of a plant's utilization of milk. An error in the reported classification of milk at the pool plant, for example, would not require a related adjustment in the cooperative's classification of milk and thus its obligation to the pool for such milk.

A pool plant operator receiving farm bulk tank milk from a cooperative also should be responsible for paying to the market administrator the administrative assessment on such milk. The audit and verification activities of the market administrator relate essentially to the operations of the pool plant where the milk is processed. As in the case of producer milk which he receives from the farm, the plant operator thus should pay his pro rata share of the administrative costs on milk received from the cooperative in its capacity as a bulk tank handler.

When the cooperative assumes its role as the responsible handler on farm bulk tank milk, the pool plant operator may buy such milk on the basis of measurements determined at the farm. Usually, the quantity of milk picked up at the farm slightly exceeds the quantity ascertained as actually received at the plant. In such cases, the difference should be considered as a receipt of producer milk by the cooperative association at the location of the pool plant where the milk in the tank truck was delivered. The cooperative should be obligated to settle with the producer-settlement fund and to pay the administrative assessment on the milk involved.

The pool plant operator should be permitted under the merged order to be the responsible handler on bulk tank milk moved by the cooperative from the farm to the plant if both the cooperative and the pool plant operator notify the market administrator that they have agreed to such a handler arrangement and that the plant operator agrees to purchase the milk on the basis of weights and tests determined at the farm. Under this arrangement, the pool plant operator would be responsible for the milk in the same manner as for producer milk that he receives at his plant directly from the farm.

A cooperative association also should be a handler with respect to the milk of a producer which is diverted for the account of the association from a pool plant of another handler to a nonpool plant that is not a producer-handler plant. All three orders proposed to be merged provide that a cooperative may act as a handler for diverted milk. Continuation of this handling arrangement will facilitate the movement of milk not needed for fluid use to nonpool plants for manufacturing.

The merged order should afford all cooperatives in the market flexibility in the arrangements under which they sell milk to pool plants or dispose of reserve supplies. If it so chooses, a cooperative should be able to pick up the milk of nonmember producers along with the milk of its members for delivery to a pool plant or for diversion to nonpool plants. This procedure will enable the cooperative to act as the marketing agent for a nonmember producer who, although he has not become a member of the cooperative, has contracted with the cooperative to act as the marketing agent for his milk. Nothing in the order would require a cooperative to pick up the milk of nonmember producers. It would provide, however, that when a cooperative does pick up milk of nonmember producers on trucks under its control it must assume varying degrees of responsibility with respect to such milk, depending on the handling arrangements made. Proponent cooperative supported such a provision at the hearing.

The Capper-Volstead Act provides the criteria by which cooperative associations are determined to be qualified cooperatives under the Agricultural Mar-



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keting Agreement Act. With the adopted handler definition, the merged order would be consistent with that provision of the Capper-Volstead Act which recognizes that cooperatives may "deal in the products of nonmembers" and which limits such dealings to amounts not greater in value than are "handled by it for members."

*Producer-handler.* The merged order should provide for the exemption of a "producer-handler" from the pooling and pricing provisions of the order. Such producer-handler provisions, however, should be modified from those contained in the present three orders.

As adopted herein, a producer-handler would be any person who operates a dairy farm and a processing plant and who receives no fluid milk products from sources other than his own farm production and by transfer from pool plants and other order plants. Any such receipts from pool plants and other order plants during the month could not exceed the lesser of 20,000 pounds or 5 percent of his Class I disposition. A producer-handler could not dispose of any other source milk in the form of a fluid milk product except receipts from other order plants and nonfat milk solids used only to fortify fluid milk products. To qualify as a producer-handler, such person would have to provide proof satisfactory to the market administrator that the care and management of the dairy farm and other resources necessary for his own farm production of milk and the management and operation of the processing plant are the personal enterprise and risk of such person.

Presently, the three orders to be merged define a producer-handler as a dairy farmer who operates a distributing plant and who receives no milk from other dairy farmers. The Central Arkansas order provides further that he shall not receive other source milk or milk a cooperative association acting as a bulk tank handler. There are no provisions in the present orders that such person provide proof satisfactory to the market administrator that all the resources necessary for his own production of milk and the management and operation of the processing plant be the personal enterprise and risk of such person.

The producer-handler definition contained herein is similar to the one proposed by the merger proponent. However, the amount of fluid milk products a producer-handler could receive from Federally regulated sources would be 10,000 pounds greater than was proposed. Also, proponent's proposal to charge producer-handlers an administrative assessment is denied.

At the hearing, a handler who operates a distributing plant regulated under the Memphis order took the position that no exemption of any kind is authorized under the Act for distributors with own-farm production. In this connection, the handler made a motion to delete from the record any testimony concerning producer-handlers and to exclude any producer-handler provisions from the order. Another Memphis handler joined in this motion, which was denied by the presiding Administrative Law Judge. In his brief, the handler who made the motion asked that the Judge's denial be reversed.

The presiding Judge was correct in denying this motion and in allowing testimony to be received concerning producer-handler provisions. Such provisions are contained in each of the present orders under consideration. Their continuation under the proposed merged order is a relevant matter in this proceeding and any testimony relating to this issue is properly a part of the record of this proceeding.

Experience under Federal orders over many years has demonstrated that effective regulation can be insured without the full regulation of individuals who produce, process, and distribute substantially only milk produced on their own farm and who buy no milk from other dairy farmers. Typically, a producer-handler conducts a relatively small family-type operation in which he processes, packages and distributes only the milk produced on his own farm. Full regulation of such operations usually results in considerable difficulty in administering the provisions of an order. For this reason, producer-handlers have been exempted under Federal orders from the pooling and pricing provisions of the orders. Such exemption has been feasible because such businesses are usually so small that their exemption does not undermine the effectiveness of the regulatory program.

Accordingly, the motion to delete from the record testimony concerning producer-handlers and to exclude such a provision from the order is denied.

The handler who made the motion proposed that the exemption be restricted considerably if the merged order contains a producer-handler provision. This handler proposed that a producer-handler operation be limited to not more than 60,000 pounds of route disposition a month, which would be roughly equivalent to the production of 50 cows. Also, it was proposed that a producer-handler not be permitted to receive during the month fluid milk products from pool plants in excess of 5,000 pounds or 5 percent of his monthly Class I sales, whichever is less.

As indicated earlier, two dairy processors located at Mena and Paris, Arkansas, would become subject to regulation by virtue of the proposed expansion of the combined marketing area. These processors, who presumably would qualify as producer-handlers under the merged order, each have own-farm milk production that exceeds the 60,000-pound limit each month. Also, testimony concerning a producer-handler operation in northwestern Mississippi indicated that its total Class I sales each month exceed the 60,000-pound limit.

No evidence was presented to show that a producer-handler distributing more than 60,000 pounds of Class I milk monthly would be a disruptive factor in the merged market. Presently, no size limitations on producer-handlers are provided under the separate orders. A restrictive provision of this nature is not needed in the merged order to assure orderly marketing conditions for fully regulated handlers.

The Mena, Arkansas, milk dealer testified that if, despite his opposition, the marketing area is expanded to include his sales territory, a producer-handler should be allowed to receive the lesser of 50,000 pounds or 25 percent of his total Class I sales of fluid milk products each month from pool plants. He claimed that the 5 percent limit adopted herein would not allow him enough leeway during certain months of the year to qualify each month as a producer-handler. However, both he and the Paris, Arkansas handler testified that usually their own-farm production would amount to 95 percent or more of their total Class I disposition.

To assure that the exemption of producer-handlers does not have an adverse impact on the market, it is reasonable to require such persons to operate basically in a self-sufficient manner. This entails relying primarily on their own milk production and assuming the burden of maintaining the reserve production needed to balance their fluid sales, which includes disposing of any daily or seasonal surpluses they may produce, usually at surplus prices. Without some reasonable restriction on supplemental purchases by producer-handlers, there could be an opportunity for such individuals to become a serious competitive factor for other handlers in the market on whom full regulation is imposed. They could do this without carrying the burden of balancing their production with their distribution needs and without sharing their Class I sales with other producers.

A limitation of the lesser of 20,000 pounds or 5 percent of his Class I disposition during the month on a producer-handler's purchases from pool plants and other order plants will tend to insure that producer-handlers will remain as relatively small and basically self-sufficient operations.

Although the adopted limit is considerably lower than what was proposed by the Mena dealer, it should permit this dealer to qualify for exemption if he so chooses. The Mena dealer, who is the larger of the two Arkansas dealers who would become subject to the order provisions as a result of this decision, has Class I sales approximately 400,000 pounds per month.

The exemption from the pricing and pooling provisions of the order should be limited to bona fide producer-handlers. Without appropriate safeguards milk distributors with own-farm production might be encouraged to seek producer-handler status. Various business arrangemens may be used to give the appearance of a true producer-handler operation. To preclude the use of such devices the order should provide that the producer-handler must provide proof satisfactory to the market administrator that the maintenance, care and management of the dairy animals and all other resources used to produce the milk as well as the resources required for the distribution of the milk are each the personal enterprise and the personal risk of the person who claims producer-handler status.





The proposal of proponent cooperative and a Memphis handler to charge producer-handlers an administrative assessment should not be adopted. Proponents claimed that since the market administrator must verify the receipts and utilization of producer-handlers the same as he does for the receipts and utilization of fully regulated handlers, producer-handlers should pay their proportionate share of the cost of administering the order.

Under each Federal order the cost of order administration is assessed on handlers only with respect to that milk on which a monetary obligation to the pool is imposed under the terms of the order. The exemption of producer-handlers from administrative assessment is analogous to the exemption of fully regulated handlers from administrative assessment with respect to other source milk receipts disposed of for Class II or Class III uses, and partially regulated handlers on milk receipts other than those disposed of as Class I milk in the marketing area. This is so even though such receipts require audit in determining the utilization of producer milk.

Under usual circumstances, the market administrator must perform varying degrees of audit on all of the operations of such handlers and, in some cases, to the same extent as that performed with respect to the fluid milk operations of the fully regulated handler. Nevertheless, the primary objectives of audit and verification procedures under milk orders is to determine the minimum financial obligations for milk and those ancillary monetary obligations which are necessary to make the pricing, pooling, and payment provisions of orders fully effective. Appropriately, therefore, a handler's pro rata share of the cost of order administration basically is measured by or related to that milk on which a pool monetary obligation accrues.

The existing procedure for prorating the cost of administration of the orders here under consideration has tended to promote orderly marketing and equity among handlers in the regulated market and should be continued.

*Producer.* The term "producer" defines those dairy farmers who constitute the regular source of supply for the merged market. The producer definition provided herein follows closely the definition proposed by the proponent of the merged order.

Producer status under the merged order should be provided for any dairy farmer who produces milk approved by a duly constituted regulatory agency for disposition in the marketing area as Grade A milk and whose milk is received at a pool plant directly from the dairy farmer or received by a cooperative association as a handler on farm bulk tank milk for delivery to a pool plant. Producer status also should be accorded such a dairy farmer who has an established association with the market and whose milk is diverted to nonpool plants on occasion for surplus disposal.

A producer-handler is exempted from the producer definition. In addition, the merged order should preclude the possibility of a dairy farmer being a producer under two orders with respect to the same milk. In this regard, the producer definition should continue the provisions of the present orders that exclude (1) a person with respect to milk which is diverted from a pool plant regulated under another order to a pool plant regulated under this order if such person is a producer under the other order with respect to such milk and it is allocated by agreement to Class II or Class III use under this order, and (2) a person with respect to milk which is diverted to an other order plant from a pool plant regulated under this order if any portion of such person's milk is assigned to Class I milk under the other order.

*Producer milk.* The "producer milk" definition is intended to define the milk that would be priced and pooled under the merged order. The definition adopted herein carries out the basic objectives set forth by the merger proponent. There was no opposition.

As provided herein, producer milk would include milk received during the month directly from a producer at a pool plant by the plant operator. It also would include milk of a producer that is received during the month by a cooperative association as a bulk tank handler for delivery to a pool plant. Milk picked up by a handler at the farm in a bulk tank truck but not received at a plant until the next month would be producer milk in the month in which picked up. Under the adopted provisions, producer milk also would include milk of producers that is diverted from pool plants to nonpool plants under specified conditions.

Under the present accounting procedures, bulk tank milk that is picked up at the farm but not physically received at a plant until the following month is treated as a receipt of producer milk in such following month. This procedure has presented accounting problems, particularly when milk passes through a reload facility and a portion of the load on the pick-up tanker is transferred to an over-the-road tanker and received at a plant that month, while the remainder is held at the reload facility for delivery to a plant the next month. While administrative guidelines have been adopted to promote uniform accounting procedures for bulk milk throughout the Federal order system, the procedures have not fully resolved the accounting problems to the satisfaction of affected parties. Further, individual producers have not understood the deferred settlement for milk that results when milk picked up in the current month is not physically received at a plant during that month.

Dairy farmers need not be required to wait one and a half months before receiving the uniform price for milk that is picked up at their farms on the last day of a month but is not received at a plant until the following month. The accounting procedure will be simplified and should be more readily accepted if milk is pooled in all cases in the month in which it is picked up at the farm. The changes provided herein will permit the pooling of producer milk in the month it is picked up at the farm irrespective of whether the milk is received at a plant in the current or the following month. Milk picked up by a handler in the current month but not received at a plant will be included in the handler's end-of-the-month inventory and will be priced at the location of the plant where the milk is physically received in the following month. Since this milk presumably will be received at a plant on the 1st or 2nd day of the following month, the handler will know the location of the plant of actual receipt in time to include this information in his monthly report, which he mails by the seventh day (or delivers in person by the eighth day) of the following month. If, however, none of the milk in the pick-up tanker is received at a plant such milk will not be included in the handler's report and he will have no pool obligation on it. This conforms with the present provisions which tie the producer milk provisions to its receipt at a plant.

If the operator of a pool plant is the first accountable handler for the milk, he will account for this producer milk as part of his end-of-the-month inventory and will be charged the Class III price in the month it is picked up at the farm. In the following month, this milk will be treated in the same manner as other fluid milk products he had in inventory.

If a cooperative association bulk tank handler is the first accountable handler, such cooperative will account for the milk in transit as inventory and at the Class III price and will be credited at the blend price. Additional conforming changes are needed to implement this procedure to insure that in the following month the cooperative is credited for its pool obligation in the preceding month on such milk. In such following month, this milk is included in the obligations of the pool plant handler who physically received it and he will account to the market administrator for this milk at the classified prices. Such monies would be deposited in the producer-settlement fund, but since the milk was pooled in the preceding month that quantity of milk would not be included in the pool computation of the current month.

It should be noted here that bulk tank milk being diverted by a cooperative from another handler's pool plant to a nonpool plant should not be included in the cooperative's ending inventory if the milk is in transit at the end of the month. Instead, the final accounting for the milk should be in the month in which it is picked up at the farm. The inventory accounting procedure is not necessary in this case since the cooperative is the only accountable handler under the order for such milk. The milk is re-



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ceived by the cooperative, of course, at the time it is picked up at the farm.

Diversions of producer milk from a pool plant to a nonpool plant (that is not a producer-handler plant) for the account of the handler operating the pool plant are recognized with specified limitations. Similar diversions could be made for the account of a cooperative from the pool plant of another handler. The adopted diversion provisions are very similar to those proposed by proponent cooperative association.

Diversion provisions are desirable to facilitate the orderly and efficient disposition of the market's reserve milk supplies. When producer milk is not needed in the market for Class I use, its movement to nonpool plants for manufacturing without loss of producer milk status should be accommodated. It is necessary, however, to safeguard against the association with the market of unneeded milk supplies through the diversion process. Accordingly, certain limitations should apply with respect to diversions of producer milk to nonpool plants.

The order should provide that milk of a dairy farmer be physically received at a pool plant before any of his milk is eligible to be diverted as producer milk. To insure that each producer whose milk is being diverted maintains his established association with the market, at least one day's production of his milk should be received at a pool plant each month. If a dairy farmer loses his producer status under the order, his milk must be reassociated with a pool plant before it may be eligible for diversion. For transitional purposes, deliveries to fully regulated plants under the three orders to be merged should be considered as deliveries to pool plants under the merged order. These requirements will assure that only the milk of producers who have established an association with the market is eligible for diversion as producer milk to nonpool plants.

A limitation should be placed on the total quantity of producer milk that may be diverted monthly to nonpool plants by a handler. As proposed by the merger proponent, the quantity of milk so diverted by a cooperative association during each of the months of September through January should not exceed one-half of the producer milk that the cooperative association causes to be delivered to and is physically received at all pool plants. During each of the months of February through August, such diversions should not exceed twice the quantity actually delivered to pool plants. Such deliveries to pool plants would include both the milk for which the cooperative is the bulk tank handler and the farm bulk tank milk for which there is an agreement that the plant operator, rather than the cooperative, will be the accountable handler.

The operator of a pool plant should be able to divert any milk that is not under the control of a cooperative association that is diverting milk during the month. The total quantity of milk so diverted during each of the months of September through January shall not exceed one-half of the producer milk physically received at such pool plant that is eligible to be diverted by the plant operator and during each of the months of February through August shall not exceed twice such quantity physically received.

Any milk diverted by a handler in excess of the quantity limitations should not be producer milk. If a diverting handler does not designate the producer deliveries to nonpool plants that are not producer milk, no milk diverted to nonpool plants by such handler during the month should be producer milk.

As provided herein, milk diverted from a pool plant would be included in the plant's receipts for purposes of determining whether or not the plant meets the applicable pooling standards. It is necessary under this procedure to safeguard against a pool plant not meeting the pooling standards because too much milk was diverted from the plant by a cooperative, perhaps without timely knowledge of this by the plant operator. Accordingly, whatever quantity of milk diverted by a cooperative from a pool plant of another handler that would cause such plant to become a nonpool plant should not be considered as producer milk.

As proposed by the merger proponent, all diverted milk should be deemed for pricing purposes to have been received by the diverting handler at the location of the plant to which the milk was diverted. This comports with requirements of the Act that milk be priced at the location of the plant of actual receipt. Pricing diverted milk at the location of the plant where such milk is physically received, rather than at the city plant from which diverted (as provided in the 3 orders under consideration), removes the possibility of subsidizing distant producers when their milk is diverted to distant manufacturing plants. This would occur if such producers received a blend price f.o.b. the city plant (as if the milk had actually moved to the city) when in fact no transportation cost to the city had been incurred because the milk was diverted to a manufacturing plant located near the producer's farm.

(b) *Classification of milk.* The uniform classification plan adopted August 1, 1974 for each of the three orders under consideration (along with 36 other milk orders) should be continued under the merged order, with one minor modification. The plan provides for the classification of milk according to use, including rules for determining the classification of milk moved from one plant to another. The plan also sets forth a procedure for allocating a handler's receipts of milk and milk products from various sources to his utilization in each class in order to determine the classification of producer milk.

A Memphis regulated handler proposed that the Class III classification in the merged order insure that skim milk and butterfat used to produce an imitation hard cheese product is classified as Class III milk. Although proponent testified that he believes the present Class III classification includes such a product he made the proposal in case additional clarifying language is needed in the order.

The present provisions in the orders classify milk used to produce cheese other than cottage cheeses as Class III, but are silent with respect to the classification of milk used to produce an imitation cheese product. To avoid any possible misunderstanding the definition of Class III milk should be revised to include skim milk and butterfat used to produce cheese and any product containing nonmilk fat (or oil) that resembles a cheese product (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese). This will assure that products of a similar nature will be priced at the same class price.

The cooperative association that proposed the merger of the three orders also proposed that bulk fluid milk products transferred from a pool supply plant to a pool distributing plant be classified pro rata to the pounds of milk in each class at the pool distributing plant rather than by agreement between the two handlers. Proponent's witness stated that they were asking for this variation from the August 1974 classification amendments to these three orders to conform with the terms and provisions of a Consent Decree entered into by the Department of Justice and Associated Milk Producers, Inc. In that Consent Decree it is required that AMPI not claim Class I utilization to the exclusion of producers who are not members of its cooperative association when milk is delivered to a pool distributing plant under an order. The witness said to insure they are in compliance with the Consent Decree, they proposed that bulk milk transferred from a supply plant to a distributing plant be classified pro rata to the pounds of milk in each class.

In most milk orders when milk is transferred from one pool plant to another pool plant, the two handlers involved may agree on the classification of the milk transferred if there is enough utilization in that class at the transferee-plant. In the absence of any agreement, a Class I classification would apply to the transfer. This is the arrangement adopted herein for the merged order with respect to transfers between pool plants. If proponent cooperative association, in order to comply with the Consent Decree, finds it necessary to transfer some or all of its milk at less than the Class I classification the provisions in the attached order would accommodate a lower classification for such transfers. It is not appropriate, however, to incorporate such a provision in the order. Pool supply plants operated by other handlers that transfer milk to pool distributing plants should not be so restricted in the classification of their transfers just because proponent cooperative is subject to the Consent Decree. Accordingly, the proposal is denied.

It should be noted that although handlers would be able to agree on the classification of transfers as between pool plants such transfers would be subject, nevertheless, to the location adjustment credit provisions of the order. These provisions limit the amount of location adjustment that may be permitted on Class I transfers between pool plants. As described later, this is necessary to guard against the use of unwarranted pool proceeds to pay transportation costs.





(c) *Class I price and location adjustments at plants within the marketing area.* The Class I price at plants located in Zone 1 (which includes the principal milk consumption centers of the Arkansas-Memphis market) should be the basic formula price for the second preceding month plus a Class I differential of $1.94. Prices applicable at plants in areas outside of Zone 1 should be determined through the use of location adjustments.

For purposes of applying location adjustments, the Arkansas-Memphis marketing area should be divided into three pricing zones. The location adjustment for each zone, the resulting Class I differential (shown parenthetically), and the counties that should be included in each zone are as follows:

ZONE 1, NO ADJUSTMENT ($1.94)

ARKANSAS COUNTIES

| | |
|---|---|
| Arkansas | Monroe |
| Clark | Montgomery |
| Cleburne | Perry |
| Conway | Phillips |
| Crawford | Polk |
| Crittendon | Pope |
| Cross | Prairie |
| Faulkner | Pulaski |
| Franklin | Saline |
| Garland | Scott |
| Grant | St. Francis |
| Hot Spring | Sebastian |
| Jefferson | Van Buren |
| Johnson | White |
| Lee | Woodruff |
| Logan | Yell |
| Lonoke | |

TENNESSEE COUNTIES

| | |
|---|---|
| Chester | Lauderdale |
| Fayette | Madison |
| Hardeman | Shelby |
| Haywood | Tipton |

MISSISSIPPI COUNTIES

| | |
|---|---|
| De Soto | Marshall |

ZONE 2, PLUS 12 CENTS ($2.06)

MISSISSIPPI COUNTIES

| | |
|---|---|
| Lafayette | Tate |
| Panola | Tunica |

ZONE 3, MINUS 14 CENTS ($1.80)

ARKANSAS COUNTIES

| | |
|---|---|
| Craighead | Lawrence |
| Greene | Mississippi |
| Independence | Poinsett |
| Jackson | |

The cooperative proposing the merged order proposed that the basic formula price now used under the separate orders be continued. There was no opposition to this proposal.

The present basic formula price in each of the separate orders is based on pay prices for manufacturing grade milk at plants in the States of Minnesota and Wisconsin. The basic formula price is used in setting Class I prices under all Federal orders. Its continued use under the merged order will assist in the maintenance of adequate supplies for the market. Also, Class I price changes under this order will remain coordinated with those under all other orders.

The cooperative also proposed that the Class I price for the Arkansas-Memphis market be established for the Fort Smith, Little Rock, Arkansas and Memphis, Tennessee area, with prices applicable at plants in other areas to be determined through the use of location adjustments. Under its proposal the Class I price level at plants within the merged marketing area would remain unchanged, except for a 1-cent reduction in the price at Fort Smith to make it the same as the price in Little Rock, and Memphis. There was no opposition to this proposal.

Basically, the Class I price for the Arkansas-Memphis market should be established at a level which, in conjunction with the Class II and Class III prices, will result in returns to producers sufficient to insure an adequate, but not excessive, supply of pure and wholesome milk for the market. This was the basis on which the present Class I differentials of $1.94 for Little Rock and Memphis and $1.95 for Fort Smith were established. There is no basis on this record to change such Class I price level other than to provide for a single differential of $1.94 at the 3 locations.

Only one Class I price should be announced under the order and that price should be applicable only at plants located in a specified portion of the marketing area. The Class I price at plants located outside this territory, defined herein as Zone 1, should be the announced Class I price adjusted for the location of the plant.

Zone 1 should include the three principal distribution centers of Little Rock, Memphis and Fort Smith. The territory within Zone 1 approximates the areas under the three separate orders in which no location adjustments apply. Since the three largest cities within the entire marketing area are located within Zone 1, this area should be the focal pricing point within the Arkansas-Memphis market.

Zone 2 should encompass four Mississippi counties in which a plus 12-cent location adjustment would apply. Located in this territory is a plant regulated under the Memphis order that presently is subject to such an adjustment.

Plants located at Batesville and Paragould, Arkansas should be in Zone 3 and subject to a location adjustment of minus 14 cents. These plants presently are regulated under the Central Arkansas order and subject to location adjustment of minus 15.0 cents at Batesville and minus 13.5 cents at Paragould. The mileage between Batesville and Little Rock is approximately the same as the mileage between Paragould and Memphis. Because the two plants are located to the north about equal distance from the two most densely populated areas within the merged market, the same Class I price should apply at both plants.

LOCATION ADJUSTMENTS AT PLANTS OUTSIDE THE MARKETING AREA

Provision should be made also for location adjustments at plants located outside the Arkansas-Memphis marketing area. No location adjustment should apply, however, at plants located in Oklahoma or in any Arkansas county adjoining the southern boundary of the marketing area. The Class I price at plants located in the Arkansas counties north of the marketing area should be adjusted on a zone pricing basis. Plants located in that part of Mississippi outside the marketing area, in that part of Arkansas outside the marketing area (except in the Arkansas counties adjacent to the southern boundary of the marketing area) and in Alabama, Louisiana, and Texas should be subject to a plus location adjustment. At all other plants, a minus location adjustment should apply. The location adjustment on Class I milk should be at the rate (either minus or plus) of 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is located from the nearer of the State Capitol in Little Rock or the city hall in Memphis.

The proposal of proponent cooperative association would result in approximately the same location adjustments as those described above, except that proponent would have included Fort Smith and Forrest City, Arkansas as basing points, would have based location adjustments at plants located in Missouri solely on the distance to Memphis, would have applied location adjustments at plants in Oklahoma.

In his post hearing brief, a Memphis regulated handler opposed proponent's proposal to base location adjustments for a plant located in Missouri solely on the mileage to Memphis even though the plant is located nearer to other basing points. This handler pointed out that such provision would provide an incentive to move milk from western Missouri into Conway or Little Rock, Arkansas rather than to Memphis. Because of the shorter distances involved in moving the milk to Conway or Little Rock, it was claimed such provision would permit the delivery of milk to these locations at a lower price than the Class I price established under the order at these locations.

No location adjustment should apply at plants located in Oklahoma. Any plant located in Oklahoma that may become associated with this market most likely would compete for milk supplies with handlers regulated under the Oklahoma Metropolitan order. Since the pricing provisions of that order establish a Class I differential of $1.98 in the Oklahoma City area and $1.88 in the Tulsa area, a Class I differential under this order of $1.94 should assure an adequate milk supply for a plant in Oklahoma that might become regulated under the merged order.

No location adjustment should apply at plants located in the Arkansas counties of Cleveland, Dallas, Desha, Howard, Lincoln, Nevada, Ouachita, Pike and Sevier. The nine Arkansas counties are



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adjacent to the southern border of the marketing area. As discussed previously, a distributing plant in Glenwood (Pike County), Arkansas, presently is regulated under the Central Arkansas order. No location adjustment is applicable at this plant under the Central Arkansas order. Milk is distributed from this plant into the Central Arkansas marketing area counties of Clark, Garland and Hot Springs. The Glenwood handler competes for fluid milk sales with a handler located at Hot Springs, Arkansas who is fully regulated by the Central Arkansas order and whose plant at Hot Springs is not subject to any location adjustments. Furthermore, one of the heavy milk production areas for the merged market is located in the northwestern Arkansas counties of Benton, Carroll, Franklin, Logan and Washington. Because Glenwood is closer to these counties of heavy milk production than is Little Rock, a Class I price at the Zone 1 level, rather than a higher price because of Glenwood's more southerly location, is sufficient to assure an adequate supply of milk for this handler.

One other plant is located in these nine counties. It is a partially regulated distributing plant under the Central Arkansas order that is located in Camden (Ouachita County), Arkansas. The Central Arkansas order provides no location adjustment at this plant.

In the 15 Arkansas counties north of the marketing area, a minus 17-cent location adjustment should apply. Four of these counties are in the St. Louis-Ozarks marketing area. At least one distributing plant located in these 4 counties (at Fayetteville) is regulated under the St. Louis-Ozarks order. The applicable Class I differential under that order at this location is $1.77, the same as is provided herein for plants located in such area and regulated under the merged order. Any plant located in these 15 counties would compete for milk supplies with pool plants located in the Arkansas-Memphis marketing area as well as with St. Louis-Ozarks handlers. Accordingly, a Class I differential of $1.77 should enable plants regulated under the merged order and which are located in these 15 counties to obtain an adequate milk supply.

The Class I price at plants in Mississippi and Arkansas that are located outside and to the south of the marketing area, except in the Arkansas counties adjacent to the southern boundary of the marketing area, and at plants in the States of Alabama, Louisiana and Texas should be subject to a plus location adjustment. Under the Central Arkansas and Fort Smith orders, Class I prices are reduced at plants located outside the marketing area. However, under the Memphis order, Class I prices increase as one moves south from Memphis into the State of Mississippi. Such pricing was adopted in the Assistant Secretary's March 14, 1960, decision (25 FR 2221), of which official notice is hereby taken. The Assistant Secretary found that south of Memphis supply-demand conditions for milk require progressively higher prices for milk corresponding to the increased cost of transporting milk from alternative sources of supply. Hence, the order was amended to provide that at all locations in Mississippi more than 50 miles from Memphis the Class I price would be increased by a factor related to the cost of transporting milk. This should be continued under the merged order. Also, it is reasonable that this pricing structure apply as well to other areas generally to the south of the marketing area since plants in the southern areas would be expected to have to pay increasingly higher prices to dairy farmers for milk supplies.

At a plant located outside the areas previously described, a minus location adjustment should apply. Plants primarily affected by this adjustment would be located to the north and east of the marketing area. Two supply plants located at Martin, Tennessee and Jackson, Missouri are pooled under the Memphis order. A supply plant regulated under the St. Louis-Ozarks order at Cabool, Missouri furnishes milk on a regular basis to a Memphis handler. Proponent also stated that supplemental milk for the market is furnished by its Texas order plant at Hillsboro, Kansas. Minus location adjustments in this general area north of the Arkansas-Memphis marketing area are needed to reflect the lesser location value of milk for this market at the more distant northern plants relative to plants nearer the marketing area.

The location adjustment on Class I milk should be at the rate (either minus or plus) of 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is located from the nearer of the State Capitol in Little Rock or the city hall in Memphis.

This location adjustment rate is reflective of the cost of moving milk and will provide uniformity of pricing as among handlers for both milk received at handlers' plants from distant plant locations and milk received directly from farms. Further, it will result in Class I prices at plants located both north and south of the marketing area that are reasonably aligned with Class I prices in other markets.

With the order merger, basing points for determining these mileages should be limited just to the State Capitol in Little Rock and the city hall in Memphis. Because these two cities are the major fluid outlets in the market for milk, they represent the focal points in the market for determining the location value for milk delivered to all plants subject to the order. With the structure of zone pricing set forth herein, it is not necessary to retain Fort Smith, Arkadelphia, and Forrest City, Arkansas as basing points.

The proposal by the merger proponent to have the location adjustment for plants located in the State of Missouri based solely on the distance to Memphis should not be adopted. The Class I price at plants in western Missouri based on the transportation rate of 1.5 cents per 10 miles from Memphis would not reflect an appropriate location value for milk in western Missouri. For example, if a plant in the Springfield area were to become regulated under the Arkansas-Memphis order and its location adjustment were based on the mileage to Memphis (approximately 285 miles), the Class I differential at that plant would be $1.505 ($1.94–$0.435). However, the Class I differential at Springfield under the St. Louis-Ozarks order for distributing plants is $1.60.[2] Consequently, if the Springfield plant were regulated under the merged order and its location adjustment were based on the distance to Memphis, producers supplying that plant would seek alternative outlets to obtain a price more commensurate with the location value of their milk. Thus, Little Rock should be used as an alternative basing point to provide a Class I differential at Springfield that is aligned with the St. Louis-Ozarks price. The use of Little Rock, which is approximately 223 miles from Springfield, would provide a Class I differential of $1.595 ($1.94–$0.345).

*Location adjustment credits.* The merged order should adopt a modified version of the provisions in the Central Arkansas order that limit Class I location adjustment credit on bulk milk transferred between plants.

Proponent cooperative proposed that Class I location adjustments apply to transfers between pool plants if such transfers are classified as Class I milk. This proposal was made in conjunction with proponent's proposal that bulk fluid milk products transferred from a pool supply plant to a pool distributing plant be classified pro rata to the pounds of milk in each class at the pool distributing plant. Proponent's witness stated they were asking for these provisions to conform with the terms and provisions of the Consent Decree described previously.

The merged order should contain the provisions in the present Central Arkansis order that preclude the application of location adjustments under certain conditions. If location adjustment credits were not limited, the pool obligation of the supply plant operator for producer milk transferred to a distrbuting pool plant as Class I milk would be the Class I price adjusted for the location of the supply plant. Under the Arkansas order, however, if the distributing plant receiving supply plant milk has sufficient milk from local direct-ship producers to cover all of its Class I sales, the supply plant operator does not receive location adjustment credit on the milk transferred since it is not needed for Class I use.

The basic concept of this limitation on location adjustment credits should be retained under the merged order. To adapt this concept to the pricing struc-

[2] It should be noted that the St. Louis-Ozarks order provides a minus 27-cent location adjustment on Class I milk at supply plants in Springfield, Missouri. However, no location adjustment applies on producer milk delivered to plants. Thus, producers delivering milk to such plants receive the same blend price as producers delivering to distributing plants in the Springfield area.





ture adopted herein (which includes the announced Class I price for Zone 1 with plus or minus price adjustments at other locations), it is necessary that the location adjustment credit provisions be revised. The intent of the limitation provided is to insure that producers on the market do not have their returns lowered through the granting of price credits on milk unnecessarily moved between pool plants for other than Class I use.

In this connection, location adjustment credits should not apply to Class I milk shipped to pool plants in lower-priced zones. Although such shipment would not be a usual movement of milk, it could occur. For example, a plant in Mississippi with receipts in excess of its fluid requirements might ship such excess to handlers in Memphis. The Class I price levels established under the Arkansas-Memphis order in Mississippi and other plus location adjustment zones are intended to attract milk to these areas for Class I use at such plant locations and not for reshipment to lower-priced zones. Such reshipments should not be encouraged through the granting of price credits on such milk movements. If the prices provided tend to attract greater quantities of milk than are needed locally, then consideration should be given to whether a lower price should be provided.

Distributing plants relying on supply plant milk for Class I use should be encouraged to draw such milk from the nearest plant or plants. It is possible that pool plant operators may attempt to circumvent such application of the order provisions by claiming that near-in supply plant milk was used in Class III while an equivalent amount of more distant supply plant milk received at the city was used in Class I. Although the more distant plant would be eligible for a location adjustment credit under the provisions adopted herein, such credit would be limited, in this example, to the lesser credit that would have been applicable to the near-in supply plant milk had it been classified as Class I milk.

*Pricing milk not needed for Class I use.* The Class II price under the merged order should be the basic formula price for the month plus 10 cents. The Class III price should be the basic formula price for the month. These prices should be announced by the 5th day after the month to which they apply.

Such prices are now applicable under each of the orders to be merged. They were adopted for all three orders in conjunction with the 39-market classification proceedings referred to earlier in this decision and are appropriate for the identical reasons for which they were adopted in the separate orders.

At the hearing, there was general agreement among producers and handlers that the Class II price should be set at 10 cents over the basic formula price. It was proposed by two Memphis handlers, however, that such price for the month be announced on the 5th day of the preceding month and be based on the basic formula price for the second preceding month. These handlers testified that in the absence of advance pricing they are disadvantaged by not knowing the cost of producer milk for Class II use until after the end of the month in which the milk is processed.

A similar proposal by handlers was denied in the 39-market proceedings and in a 1976 proceeding that involved the announcement date of the Class II price in these same markets. This merger proceeding does not present changed circumstances that require a different conclusion with respect to the Arkansas-Memphis market. The proposal is therefore denied.

*Butterfat differential.* A single butterfat differential should apply under the merged order. It should be computed by multiplying the average Chicago 92-score butter price for the month by 0.115, rounding such amount to the nearest 0.1 cent. The differential should be announced by the market administrator by the 5th day after the end of the month to which it applies. This differential is now applicable under the separate orders and was adopted in conjunction with the uniform classification plan now in use.

(d) *Distribution of proceeds to producers.* A marketwide pool should be used under the merged order as a means of distributing among all producers in the market the total proceeds derived from the use of their milk by all regulated handlers. Under marketwide pooling, a uniform price is paid to all producers regardless of how a particular producer's milk is utilized by the handler to whom it is delivered. By receiving payment at the uniform price, each producer shares in the higher-valued Class I milk in the market as well as the lower-valued Class II and Class III uses of milk. This type of pooling is now being used in the Central Arkansas market and was proposed for use under the merged order.

In the Fort Smith and Memphis markets, producers are now paid through individual-handler pools. Under this arrangement, a uniform price is determined for each handler rather than for the market, with the price for each handler reflecting the classified use value of all producer milk received by the handler. All of the producers supplying the Fort Smith handler and a substantial majority of the producers supplying the Memphis handlers are members of proponent cooperative. As described previously in this decision, the blend price paid by proponent cooperative to its producer-members is based upon its total sales of milk to all handlers throughout a 7-state area. Therefore, from a practical standpoint, there will be little impact on the handlers or the producers supplying them in changing to a marketwide pooling arrangement in these segments of the Arkansas-Memphis market.

*Payments to producers.* The merged order should provide that handlers pay all order obligations for milk to the market administrator who, in turn, would distribute such money (in terms of the uniform price(s)) to producers, cooperative associations, and handlers who elect to pay their nonmember producers.

Under the Memphis order, which provides for the individual handler pooling of producer returns, handlers pay the classified use value of their milk to the market administrator who, in turn, pays individual producers and cooperative associations. The plan adopted herein for the Arkansas-Memphis order is similar in many respects to the payment provisions of the Memphis order.

The Central Arkansas order provides that producers be paid by the handlers receiving their milk. It is necessary under this arrangement, however, that part of the money due producers from handlers with higher than market-average Class I utilization be used in paying producers supplying other handlers with less than market-average Class I utilization. This exchange of money between handlers is accomplished through a "producer-settlement fund" operated by the market administrator. Handlers with higher than market-average Class I utilization pay any excess of the value of their producer milk over its value at the uniform price into this fund. Other handlers receive from the fund payments that are included in the uniform price they pay to their producers.

Under the Fort Smith order, an individual handler pool, the handler pays his uniform price(s) directly to the producers who supply him with milk.

The cooperative advocating the merger proposed that the market administrator collect from handlers all order payments due producers. Under the cooperative's proposal, each handler would make partial payments to the market administrator by the 25th day of the month for milk received during the first 15 days of the month. The payment rate would be the Class III price for the preceding month. The remainder of the handler's obligation for milk received during the month would be paid to the market administrator by the 14th day of the following month.

Following the receipt of the partial payments by handlers, the market administrator would pay producers such monies by the 28th day of the month. The cooperative's proposal would require final payments to producers by the market administrator by the 16th day after the end of the month. In those cases where a cooperative is collecting the payments for milk of its members, the proposal would require partial and final payments by the market administrator one day prior to the date payments are due individual producers.

This payment schedule under the cooperative's proposal is predicated on the filing of handler reports of receipts and utilization by the 7th day of the month and the announcement of the uniform price by the 11th day.

Under the cooperative's proposal recognition would be given to the desire of handlers to pay the producers supplying them with milk. As proposed, any handler not delinquent with respect to any of his payment obligations who wished to pay his own producers would pay his full obligation to the market administrator. Upon receipt of the proper payment, the market administrator then



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would transfer sufficient money to the handler so that he could pay his producers.

Proponent urged the adoption of its proposed payment arrangement on the basis that this would provide handlers with a stronger incentive for making prompt payment of their order obligations. The cooperative claimed that since handlers tend to pay the market administrator on a timely basis all producer monies should be channeled through him rather than having handlers pay producers directly. Also, proponent contended that late payments by certain handlers result in an inequitable situation for those handlers making timely payments. This is because the delinquent payers are using money due producers to overcome cash flow problems while the prompt payers with similar problems must borrow money or use their own capital.

If the order is to serve the intended purpose of promoting orderly marketing in the Arkanasas-Memphis area, it is essential that handlers pay their order obligations on a timely basis. Under the customary arrangements of producers being paid twice a month, handlers have the use of producer milk for considerable periods of time before any payments for such milk are due. Producers should not be expected to wait beyond the scheduled times for their milk payments. Delayed payments not only foster uncertainty and discontent among producers but also place them in a difficult position with respect to meeting their own financial obligations on a timely basis.

From the standpoint of handlers, also, it is necessary that all order obligations be paid on time. Otherwise, handlers who are in compliance would be at a competitive disadvantage with delinquent handlers who are using monies due producers as a free source of funds for operating purposes.

For these reasons, the merged order should be structured to encourage prompt payments by handlers. Although the method now provided under the Central Arkansas and Fort Smith orders for paying producers is basically a satisfactory arrangement, there are several aspects of the payment method used in the Memphis market and adopted herein that will tend to provide producers with somewhat greater assurance that they will be paid for their milk deliveries on a timely basis.

Under a plan whereby all payments by handlers are made to the market administrator who in turn pays producers, the fact of payment to producers is a matter of the market administrator's immediate knowledge. When handlers pay producers directly, a failure to make full payment to producers by the dates specified in the order usually does not become known to the market administrator at the time of noncompliance. Some time may elapse before normal audit procedures reveal any payment irregularities.

Also, the payment plan adopted herein tends to be self-policing. Payment would not be made by the market administrator to producers delivering milk to a handler who fails to pay his obligation to the producer-settlement fund. Thus, such producers would be immediately aware of when the handler receiving their milk fails to pay his pool obligation. Presently under the Central Arkansas Order a handler may pay his producers the blend price and at the same time fail to pay an amount due the producer-settlement fund. In the absence of any knowledge of the handler's financial difficulties, the producer presumably would continue to ship milk to the handler. Only when the handler's financial problems become so great as to result in nonpayment to his producers would the producers realize the possible need for seeking a different outlet for their milk. Under the adopted payment procedure, the producers would be aware of the handler's financial difficulty in the first month of nonpayment. They then would be able to consider on a more timely basis the possible need for making other arrangements for the sale of their milk before their loss as a result of nonpayment mounts to the point that they would be placed in a severe economic bind.

In addition, the adopted payment procedure should reduce current pressures on cooperative associations to grant credit to handlers who may be delinquent in payment of the uniform price for milk received from member producers. The tendency for extension of credit by cooperatives should be minimized when handlers are required to make payments for producer milk directly to the market administrator rather than to the cooperative.

Recognition should be given under this payment arrangement to the desire of handlers to pay the producers supplying them with milk. Such payments should be permitted with respect to those producers for whom a cooperative is not collecting payments. For all practical purposes, this generally would include only those producers who are not members of a cooperative association.

As provided herein, the handler would be required to pay his full obligation for milk to the market administrator in the same manner as other handlers who are not paying producers directly. This would be so in the case of both the partial and final payments. Upon receipt of the proper payment, the market administrator then would transfer sufficient money to the handler so that he could pay his producers.

Modification of this payment arrangement was proposed by a Memphis regulated handler. He proposed that a handler choosing to pay his own producers not be required to pay his full obligation to the market administrator.

A basic purpose of changing to the payment method adopted herein is the encouragement of timely payments by handlers. To effectively implement this concept, it is desirable that the handlers purchasing milk from nonmembers as well as those obtaining milk from a cooperative pay their order obligations to the market administrator by the dates prescribed herein. Through this means, the market administrator will be immediately aware in the case of all handlers of a handler's inability to meet his order obligation.

Any handler who the market administrator determines is delinquent with respect to any payment obligation under the order should not be eligible to receive money from the market administrator for payment to producers. Any transfer of money by the market administrator to a handler in this circumstance would remove much of the incentive for a handler to consistently comply with the order's payment requirements. So that there might be a reasonable demonstration of compliance with the order, a delinquent handler should not be eligible to pay his producers until he has met all prescribed payment obligations for three consecutive months.

A Memphis regulated handler opposed this three-month requirement. This handler's witness pointed out that late payments to producers do occur occasionally becuase of human error. It was his contention that the three-month requirement classified such human errors the same as a deliberate late payment or nonpayment by a handler and penalizes the handler to the same degree in either case.

It is quite possible that a late payment to producers by a handler may occur unintentionally. There is no practical way from an enforcement standpoint, however, to distinguish between intentional and unintentional late payments. Even if there were such a way, it is questionable whether there should be any relief from the three-month requirement. As stated earlier, the purpose of the adopted producer payment method is to provide producers with greater assurance that they will be paid for their milk deliveries on a timely basis. It must be recognized that under this new payment method permitting a handler to pay his nonmember producers is to a certain extent no change from the present payment method used in the Central Arkansas and Fort Smith markets. If the order is to allow handlers the option of paying nonmembers, it is necessary that there be some incentive to pay their producers on a timely basis. In the absence of this incentive, such as losing their eligibility to pay producers for a three-month period, handlers may tend to become lax in their payment procedures.

Under the adopted payment procedure, it is imperative that the payments received by the market administrator from handlers represent sound money. This is necessary, of course, under the present payment arrangement. However, because the new procedure will result in substantially greater amounts of money being transferred in and out of the producer-settlement fund, receipt of a bad check of a substantial sum could render such fund insolvent.

With the payment schedule adopted herein, the market administrator will need to make payments to cooperatives





and certain handlers the day after the payments are due to him from all handlers. Such payments will have to be made with the belief that the checks received from handlers and deposited in the producer-settlement fund are, in fact, good. Time will not permit the clearance of such checks through the banks prior to the withdrawal of money from the producer-settlement fund. The need for the market administrator to receive only sound money is thus obvious.

The attached order does not prescribe the specific means by which handlers shall make payment to the market administrator. The need for such specificity should be based on actual experience in the market. As long as handlers make full payment by the prescribed payment dates and their checks are good, there is no problem. However, if the market administrator, because of prior experience or for other reasons, does not have reasonable assurance that payments tendered would represent sound money, it is necessary that he have the administrative discretion to prescribe the means of acceptable payment.

Under the terms of the order, the market administrator has the authority to make rules and regulations to effectuate the terms and provisions of the order. Should there be an urgent need for greater specificity with respect to the procedures for making payments, this may be accommodated through the promulgation of appropriate administrative rules with the approval of the Director of the Dairy Division and in consultation with the local industry.

A schedule of payment dates similar to those suggested by the merger proponent should apply under the merged order. In this regard, a slight modification should be made in the date by which handlers must submit their monthly report of receipts of milk from individual producers and their monthly report of receipts and utilization of milk, which are necessary in determining the amount of payment. Presently, the postmark date for submitting such reports is the 7th day after the end of the month. However, as proposed by a Memphis handler the reports should not be due until the 8th day if delivered in person to the office of the market administrator. Since it would take at least one day for a report mailed on the 7th to arrive at the market administrator's office, it should not impede the market administrator in computing the uniform price by the 11th day if handlers are given until the 8th to deliver their monthly reports in person.

As provided herein, handlers would be required to make a partial payment for milk received during the first 15 days of the month from producers who had not discontinued shipping milk to such handler prior to the 21st day of the month and for milk received from a cooperative in its capacity as a bulk tank handler. Handlers would be required to report such receipts to the market administrator by the 21st day of the month. Payment for such milk by the handlers would have to be received by the market administrator by the 26th of the month. On the 28th of the month, the market administrator would distribute these payments to producers who do not receive their payments through a cooperative association or from a proprietary handler who has requested the option of paying his own producers. In the case of producers receiving their payments from a cooperative or proprietary handler, the market administrator would make payments to such parties a day earlier so that payments to the indjvidual producers could be made at the same time as for other producers.

The rate of the partial payment would be the Class III price for the preceding month. This rate is now used under the individual orders in making partial payments to producers and producers supported its continued use.

In this connection, a handler made several proposals intended to safeguard handlers with respect to overpayments to producers that might result from the application of the order provisions relating to partial payments. It is reasonable that provisions be adopted which would help prevent the inadvertent overpayment by a handler for milk received from a producer. To accomplish this, the order should specify that in making partial payments for producers who are not members of a cooperative association the handler not be required to make such payment if the producer has discontinued shipping milk to the handler. Accordingly, there should be little likelihood of overpayment because the partial payment applies only to the first 15 days deliveries by producers and as provided herein would be paid only to those producers who still ship milk to the handler on the 21st day of the month.

Final accounting for milk from producers and cooperative bulk tank handlers would be completed in the following month. Handlers would be required to submit to the market administrator a report of the monthly receipts from individual producers and a report of all receipts and utilization by the 7th day after the end of the month if postmarked, and not later than the 8th day if the reports are delivered in person to the office of the market administrator. The weighted average price and uniform price(s) would be announced by the 11th day. Final payment to the market administrator by handlers at the classified use value for all milk received during the month would have to be received by the market administrator by the 15th day after the end of the month. Payments due producers would be distributed by the market administrator by the 17th day to individual producers who do not receive their payments through a cooperative association or a proprietary handler. Cooperative associations collecting for members and proprietary handlers who elect to pay their own producers would be paid by the market administrator by the 16th day after the end of the month so that they could pay their producers on the 17th also.

As noted earlier, the attached order does not prescribe the means by which a handler must make payment to the market administrator. Unless some specificity in this regard is found necessary later, handlers should be given the flexibility of using whatever payment means they wish. The only requirement would be that a handler's payment must be received by the market administrator by the prescribed dates. Such dates would be the 26th day of the month for the partial payment and the 15th day after the end of the month for the final payment. Payments not received by these dates would be considered late and subject to the charge on overdue accounts. Under this arrangement each handler, of course, will have to determine what means of payment will result in timely payments for him.

Recognition should be given to the occasional conflicts between scheduled payment dates and weekends. It is desirable that producers be paid as soon as possible. For this reason, the payment schedule adopted herein purposely leaves little time between the dates when handlers must make payments to the market administrator and when payments must then be made to producers by the market administrator and handlers However, should a payment date fall on a weekend when offices normally are not open for business, the "tight" payment schedule could not be adhered to in all cases.

Accordingly, if the date by which payments must be received by the market administrator, or made to producers, cooperatives or handlers falls on a Saturday or Sunday or on a day that is a national holiday, payments should not be due until the next day on which the market administrator's office is open for public business. Further, the order should provide that when the partial or final payments are so delayed, the corresponding payments by the market administrator to handlers, cooperatives and producers, as well as the subsequent payment by handlers to producers, may be delayed by the same number of days.

This schedule of reporting and payment dates will result in producers receiving their final payment for milk as soon as possible after the end of the month. Although the final payment would be made two days later than under the separate orders, adequate recognition must be given to the time that it will take to get handler reports and payments to the market administrator. This is particularly significant in view of the larger geographical area to be encompassed by the Arkansas-Memphis market than by the separate orders. It will be noted that even under the schedule adopted herein there is not sufficient time between the announcement of the uniform price and the date handlers must pay the market administrator to permit timely notification by mail of each handler's obligation. It is contemplated that the market administrator will need to notify handlers immediately by telephone of their order obligations, with written confirmation to be supplied



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later. Similarly, the adopted schedule contemplates that payments by the market administrator to proprietary handlers who are paying producers and to cooperatives collecting payments for members will be available by the next day for payments to individual producers. To assure this, it will be necessary for the market administrator to arrange for an interbank transfer of funds so that producer payments can be made on a timely basis.

In making their partial and final payments to the market administrator for deposit in the producer-settlement fund, handlers would be permitted to subtract deductions authorized in writing by producers. The cooperative proposing the merger proposed that in making the partial payment a handler may deduct from a producer's check any proper deductions authorized in writing by the producer. As proposed by the cooperative, the amounts deducted by a handler would be paid to the assignees by the time the handler payments are due the market administrator.

A handler regulated under the Memphis order opposed the cooperative's proposal that would require the amounts deducted by a handler to be paid to the assignees by the time the handler pays the market administrator. The handler made a counter proposal that handlers be allowed to hold authorized deductions from producers' partial payments until the time of final payment, approximately 15 days later. He held that making deductions for assignments authorized by producers is a service to producers and that extra expense is incurred by both the handler and the creditors if payments are made twice each month. He contended that if authorized deductions are made only at the time of final payment producers complain about unequal twice monthly payments.

A producer's written authorization for a handler to deduct monies for payment to an assignee does not relieve the handler of his obligation to make full payment for milk received from producers by the date prescribed in the order. Thus, it is expected that the amounts deducted by handlers will be paid to assignees by the time handler payments are due the market administrator. This is necessary to insure that all handlers are paying the minimum class prices for their producer milk by the dates required in the order.

*Payments for milk from cooperative association plants.* The cooperative proposing the merged order proposed that pool plant operators receiving bulk milk from a cooperative association's pool supply plant be required to pay for such milk in the same manner as it proposed for bulk tank milk received directly from the farm. This proposal should be adopted.

To a large extent, milk marketed by the proponent cooperative is moved to distributing plants directly from the farm. At the same time, however, some milk is moved to such plants, either on a regular basis or a supplemental supply basis, from the cooperative's supply plant in Martin, Tennessee. Also, the cooperative association that supported proponent's merger proposal ships milk to distributing plants from its supply plant in Jackson, Missouri. Irrespective of the supply arrangements used, the producers involved are supplying milk for the fluid market and should be assured of receiving payment for their milk. Such assurance is essential to the orderly marketing of milk and the maintenance of an adequate supply of milk for consumers. Moreover, such a payment requirement is consistent with the Act, which provides that no cooperative association may sell milk to any handler at less than the prescribed order class prices.

Accordingly, handlers receiving bulk fluid milk products from the pool plant of a cooperative should be required to make partial and final payments to the market administrator by the same dates as specified for handlers receiving milk directly from producers or a cooperative acting as a bulk tank handler. The partial payment, which would apply to receipts during the first 15 days of the month, should be at the Class III price for the preceding month. The final payment should be based on the classified use value of all bulk fluid milk products received during the month from the cooperative's pool plant. Upon receipt of the money, the market administrator would then transfer such funds to the cooperative.

In this regard, the Class I price to be used in computing a handler's obligation for plant milk from a cooperative should be the higher of the Class I prices applicable at the plants of the handler and the cooperative. Thus, in those cases where Class I milk is transferred from a cooperative's plant to a distributing plant in a higher-priced zone, the distributing plant operator would be obligated for such milk at the Class I price applicable at his plant. This price, in most cases, would reflect the value of the milk at the cooperative's plant plus the cost of transporting it to the distributing plant. This is the same price that would apply to Class I milk received at the distributing plant directly from producers or a cooperative acting as a bulk tank handler and thus provides uniformity of pricing among handlers.

Although it is unlikely in this market under present conditions, Class I milk may be transferred from a cooperative's pool plant to a pool distributing plant in a lower-priced zone. In this case, the distributing plant operator will be required to pay the cooperative (through the market administrator) for such milk at the Class I price applicable at the cooperative's plant. Payment at this price level is necessary if the payment provisions are to be consistent with the Act.

The Act states that a cooperative that is reblending the proceeds from the sale of its members' milk may not sell milk to any handler at less than the class prices applicable to the cooperative on such milk. Under the order, the cooperative would have to account to the pool for the Class I milk transferred from its plant to a lower-priced zone at the Class I price applicable at its plant. Since the cooperative could not sell the Class I milk at less than this price, this is the price that the buying handler must be required to pay. It is recognized that under this arrangement such a sale would be uneconomic to the buying handler and under most circumstances would not take place.

*Base-excess plan.* On the basis of the December 1976 hearing record, the base-excess plan provisions contained in the Central Arkansas order should be included in the merged order, modified only by the removal of the 4-cent deduction for the producer-settlement fund reserve that is made when computing the excess price. Other changes, if any, resulting from the previously noted April 1977 hearing on 11 southwestern markets will be dealt with in a later decision.

At the merger hearing, proponent proposed that the merged order contain the same type of base-excess plan now contained in each of the three separate orders. Proponent's witness testified that the reasons for adopting base-excess plans under the separate orders still exist today and will exist in the merged market for the foreseeable future. There was no opposition at the merger hearing to the continued use of a base-excess plan under the merged order. Although proponent suggested several changes in the current base-excess plan provisions at the merger hearing, the cooperative modified its position on such proposed changes at the April 5–8, 1977 hearing.

A Memphis regulated handler testified in opposition to the base transfer provisions in the proposed plan for the merged order. This handler presented the same type of opposition testimony at the 11-market base-excess plan hearing. This handler's testimony will be fully considered in the decision on the 11-market hearing.

The purpose of the base-excess plan is to encourage individual producers to modify seasonal production patterns to provide a supply of Grade A milk throughout the year that is more in line with the demand for such milk in Class I uses. The normal production pattern usually results in a greater supply during the spring and early summer than during the other months of the year. Class I demand, on the other hand, tends to be relatively level throughout the year. Base-excess plans have been useful in leveling the seasonal pattern of milk production in these three markets and should be continued under the merged order.

The 4-cent deduction in the computation of the excess price in the present Central Arkansas order should not be included in the Arkansas-Memphis order. Most excess milk will be classified and priced as Class III milk. Milk for manufacturing uses has practically the same value to milk processors wherever located. This is reflected under the order program through the use of a uniform surplus price in virtually all orders, which is equal to the average price per hundredweight for the month of manufacturing grade milk f.o.b. plants in Minnesota and Wisconsin. When the 4-cent deduction is applied to the excess price, it usually results in a price that is less than the value of manufacturing grade milk. Removal of the 4-cent deduction will be consistent with the location value of milk for manufacturing uses.





The money accumulated from a deduction from both the base and excess price is presently used to maintain a reserve in the producer-settlement fund. This reserve provides contingency funds for the market administrator to pay a handler in the event an audit adjustment of a handler's records discloses that the handler actually used milk in a lower-priced classification than he had originally reported. Deleting the 4-cent deduction in the computation of the excess price will not affect the level of the reserve fund significantly because the greater proportion of producer milk received by handlers will be base milk, which would continue to be subject to a deduction of more than 4 but not more than 5 cents for maintaining a reserve in the producer-settlement fund.

(e) *Administrative provisions—Charges on overdue accounts.* The merged order should provide for the application of a late-payment charge on handler obligations payable to the market administrator that are overdue. Such charge should be at the rate of three-fourths of one percent per month (nine percent annually). The charge should apply beginning the day following the date on which payment of an obligation is due and on the same day of each succeeding month until the obligation is paid. Currently, none of the three orders to be merged provide for such payments on overdue accounts.

The institution of a late-payment charge under the merged order was proposed by proponent cooperative association. It proposed that any unpaid obligation of a handler that is due the market administrator be increased on a daily basis, beginning the first day the obligation is overdue and continuing to the day prior to the date the obligation is paid. The spokesman for the proponent indicated that the institution of a charge on overdue obligations of handlers is necessary to encourage prompt payments to the market administrator by regulated handlers. He pointed out that prompt payments to the producer-settlement fund are necessary to enable the market administrator to make the required payments to producers.

It is essential to the effective operation of the order that all handler payments to the producer-settlement fund be made promptly. Under the payment provisions contained in the attached order it is necessary that all handlers pay the total use value of milk to the producer-settlement fund on time. Through this means, money is made available to the market administrator so that he can pay producers the uniform price on the dates prescribed. The success of this arrangement depends on the solvency of the producer-settlement fund.

Also, the prompt payment of accounts to the administrative expense fund is essential to the performance by the market administrator of the various administrative functions prescribed by the order. Delinquent payments to this fund could impair the ability of the market administrator to carry out his duties in a timely and efficient manner.

Payment delinquency also results in an inequity among handlers. Handlers who pay late are in effect borrowing money from producers. In the absence of any late-payment charge that is at least as much as the cost of borrowing from commercial sources, handlers who are delinquent in their payments have a financial advantage relative to those handlers making timely payments.

Without a late-payment charge handlers have little incentive to make their payments to the market administrator on time. Enforcement action may be taken, of course, to seek strict handler compliance with the payment dates. However, this is a cumbersome administrative route and the practicalness of such action becomes questionable in the case of handlers who are only several days late. While the charge adopted herein may not result in strict compliance by all handlers, it should provide handlers a substantial inducement to make their payments to the market administrator on time.

The late-payment charge should be established at the rate of three-fourths of one percent per month of the unpaid balance. If the charge is to have any impact on handlers in terms of encouraging prompt payments, it must be an amount that is at least as much as what a delinquent handler would be charged by commercial banks for money borrowed for short-term purposes. If this is not so, handlers who may have financial problems would be encouraged to delay their payments, knowing that the charge under the order is cheaper than borrowing money commercially at a higher loan rate. Under present conditions, a monthly charge of three-fourths of one percent should provide reasonable assurance that producer funds do not represent the cheapest source of money.

As noted earlier, it was proposed that the late-payment charge be apportioned on a daily basis so that a handler would be assessed for only the number of days he was actually late in making his payment. This procedure should not be adopted. If the late-payment charge were treated strictly as interest and computed on a daily basis, the order would merely represent a banking service for handlers who desire to use producer funds as an alternative source of money. This is not the intended purpose of the late-payment charge. Rather, it is to be a penalty that will induce handlers to pay their obligations to the market administrator on time.

The attorney for a Memphis regulated handler made a motion at the hearing to strike the proposed order provision dealing with charges on overdue accounts and to dismiss testimony relating to such provision. In making the motion, the attorney indicated that the Act does not provide for such a provision in the order and such a provision is not necessary to effect the other provisions of the order. A witness for this handler also testified against adoption of such provision in the merged order. The witness claimed that a good policing of credit is all that is necessary to protect the integrity of the order.

A late-payment charge, or "penalty," may be adopted under the statutory authority set forth in section 608c(7)(D) of the Act. This subsection specifies that an order may contain various terms that are incidental to, and not inconsistent with the terms explicitly authorized by the Act if the incidental terms are found necessary to effectuate the other provisions of the order. The late-payment charge adopted herein is considered essential to the effectuation of the payment provisions of the order.

The Act does contain provisions in § 608c(14) pertaining to certain penalties. In short, these provisions specify that a handler shall be fined a monetary amount upon being convicted of violating a provision of an order. However, we do not look upon these provisions as precluding the use of a late-payment charge, or "penalty," on overdue accounts under § 608c(7)(D). Accordingly, the motion to strike and the proposal to delete the provision dealing with charges on overdue accounts are hereby denied.

*Administrative assessment.* The maximum rate of payment by handlers for the cost of administering the merged order should be 5 cents per hundredweight. Such payments are required if the market administrator is to perform the necessary function of administering the merged order.

Currently, the maximum rate under each of the separate orders is 4 cents per hundredweight. It was proposed by the merger proponent and supported by the market administrator that the maximum rate of administrative assessment under the merged order be increased 1 cent per hundredweight from the rates in the present separate orders. The budget for the markt administrator of the three separate order for 1976 showed a deficit of $26,000 and, with the present rate of assessment, the deficits for 1977 and 1978 are projected to be approximately $33,000 and $40,000 respectively.

A Memphis regulated handler opposed the proposed 1-cent higher rate under the merged order. He claimed the present 4-cent rate under the separate orders is more than ample for administration of the merged order.

Generally, market administrators are expected to maintain a reserve fund that would cover their operating expenses for up to six months, which monies normally would be needed to carry out the market administrator's responsibilities in the event an order is withdrawn for any reason. If the reserve fund exceeds projected operating expenses for a greater length of time, then the administrative assessment is usually suspended or the rate lowered until the reserve fund has been reduced. However, the market administrator of the three separate orders must use some of the money in his



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operating reserve fund at the present time to offset some of his increased expenses that have been brought about by higher operating costs.

The Act requires handlers to pay the cost of operating an order through an assessment of milk handled. To assure that the market administrator will have sufficient funds to enable him to administer the merged order it is necessary to increase the maximum assessment rate to 5 cents. If experience indicates that at a later date a lower rate will be sufficient to provide adequate funds for the administration of the Arkansas-Memphis order, provision is made so that the Secretary may reduce the rate without the necessity of amending the order.

*Marketing service deduction.* With respect to payments to producers, the Arkansas-Memphis order should provide for a maximum deduction of 6 cents per hundredweight for marketing services furnished by the market administrator. Such deductions are necessary to enable the market administrator to conduct an adequate marketing service program for producers supplying the market.

The maximum rates now for such services are 5 cents in the Fort Smith and Central Arkansas markets and 7 cents in the Memphis market. The 6-cent rate, which was proposed without objection, should permit the market administrator to conduct an adequate marketing service program for those producers not receiving such services (including weighting, testing and providing market information) from a cooperative association. If experience indicates that the services can be performed at a lesser rate, provision is made whereby the Secretary may adjust the rate downward without the necessity of a hearing.

*Advertising and promotion program.* The merged order should provide for the continuation on a combined basis of the advertising and promotion programs now operating under the three orders.

The Agricultural Marketing Agreement Act provides that a Federal milk order may include provisions establishing research and development projects, advertising "(excluding brand advertising), sales promotion, and education and other programs designed to improve or promote the domestic marketing and consumption of milk and its products. Advertising and promotion programs, all with identical provisions, were first applicable under the three orders on November 8, 1972, with respect to marketings on and after January 1, 1973. It was proposed by the merger proponent that these programs be continued on a combined basis under the merger.

All funds for the operation of such a program would be made available only by producers who participate on a voluntary basis. Any producer who does not wish to participate may request a refund of the assessments made against his milk deliveries. In view of the support for the program by a substantial number of the producers supplying the proposed market, it is concluded that the merged order should provide for an advertising and promotion program.

The provisions of the advertising and promotion program adopted herein are identical to those contained in each of the separate orders except for those provisions necessary to effect an orderly transition from three separate programs to a single program for the Arkansas-Memphis market. The program would be funded through a 5-cent per hundredweight assessment each month on producer milk pooled during the month. The market administrator would deduct the monies from the producer-settlement fund prior to the computation of the uniform price. All of the monies so deducted, except for certain reserves withheld by the market administrator to cover refunds and his administrative costs, would be turned over to and administered by an agency organized by producers and producers' cooperative associations under the order. The agency would be responsible for the development and implementation of programs and projects approved by the Secretary and designed to carry out the purposes of the Act.

To provide an orderly transition from the three individual advertising and promotion programs, certain procedures should apply during the initial operation of the program under the merged order. The provisions adopted herein for the transition differs, however, with respect to the number of months involved in the transition period from the proposal supported by proponent. Proponent urged that if the merged order becomes effective sometime during the middle of a calendar quarter (as provided in the advertising and promotion program of the separate orders), the agencies established for the individual programs contiue to function as separate agencies until the end of that quarter. This proposal must be denied because there is no feasible way once the merged order has been in effect for one full month to associate producers with the former separate milk orders for the purpose of determining the amount of the advertising and promotion funds to be allocated to each of the separate agencies.

As adopted herein, the agencies established under the programs of the individual orders would continue to function during the first month of the merger as separate agencies. During this first month, steps would be taken under the order to select members for a new single agency. The new agency would become operative at the beginning of the second month of the merger and at such time would assume all advertising and promotion funds and obligations of the individual agencies.

For the one month of operation under the merger, the three individual agencies would retain their membership as established under the separate orders. The term of office of each member of each agency would expire at the end of such month. This would not preclude, however, their selection as a member of the new single agency.

Because of the very limited incumbency of the members of the individual agencies under the merged order, their activities should be limited essentially to the completion of "old" business, i.e., activities for which budgets have been approved by the Secretary and financial commitments made.

In organizing the new agency, the composition of the agency, as well as the eligibility of producers for agency membership, should be based on those producers who have not requested refunds with respect to milk marketed during the calendar quarter in the which the merger becomes effective. When the present programs first became effective under the individual orders, all producers were considered as participating producers for purposes of determining agency composition and membership eligibility, irrespective of whether or not they were actually participating in the program. This was because the programs were new and a history of participation had not been established. However, after the first year under the program, a producer was ineligible to serve as an elected agency member if he had requested a refund for the most recent calendar quarter. Also, the number of members on each agency was then based on the number of producers actually participating.

Since advertising and promotion programs essentially identical to the program adopted herein for the merged order are now in effect under the separate orders, a history of prior producer participation would be available at the outset of the merged order. Accordingly, the order should recognize a producer's past participation under the separate orders for the purpose of the agency's initial organization. Only those producers who have not requested refunds for the most recent calendar quarter under any order should be considered as participating producers.

The merger of the three orders can be expected to reduce somewhat the total number of agency members now serving under the individual programs. As adopted herein, the merged order, as now under the three orders, would provide that if a majority of the producers supplying the market are members of one cooperative, or combination of cooperatives, its representation on the agency would be limited to the minimum number of representatives necessary to constitute a majority of the agency's total membership.

As under the present orders, the merged order should provide that any producer who does not want to participate in the advertising and promotion program will be eligible for refund of the assessments against his producer milk deliveries by filing an application with the market administrator. Such refund application would have to be submitted within the first 15 days of the month preceding the beginning of a calendar quarter for milk deliveries during such quarter. However, a new producer who enters the market after such deadline could request a refund with respect to his deliveries made between such time of entry and the beginning of the next quarterly period for which he could make





a refund request in accordance with the regular schedule.

In this connection, a refund request filed by a dairy farmer under one of the three individual orders for the quarter in which the merger becomes effective should remain valid under the merged order for the remainder of such quarter without such person being required to file another request. On the other hand, a producer who elected to participate in the advertising and promotion program of one of the individual orders for the quarter in which the merger becomes effective should not be permitted to request a refund of the assessments against his deliveries of producer milk under the merged order until the next quarterly filing period. This latter requirement is appropriate since financial commitments by the agencies will have been made on the basis that such funds would be forthcoming for the entire quarter.

When the merged order becomes effective, all monies held by the market administrator to cover refunds and administrative costs associated with the advertising and promotion programs of the individual orders should be combined for similar use under the merged order. In making refunds for the first time under the merger, the market administrator should honor all valid refund requests filed under the advertising and promotion programs of the individual orders.

*Merger of the administrative expense, marketing service, and producer-settlement funds.* To accomplish the merger of the orders effectively and equitably, the reserves in the administrative expense funds that have been accumulated under the three separate orders should be combined. A similar procedure should be followed with respect to the marketing service fund reserves of these individual orders. Any liabilities of such funds under the individual orders should be paid from the appropriate new fund established under the merged order. Similarly, obligations that are due the several funds under the individual orders should be paid to the appropriate combined fund under the merged order.

The money paid to the administrative expense fund is each handler's proportionate share of the cost of administering the order. It is anticipated that all handlers currently regulated under the individual orders will continue to be regulated under the merged order. In view of this, it would be an unnecessary administrative and financial burden to allocate back to handlers the reserve funds under the individual orders and then accumulate an adequate reserve for the merged order. It is more efficient to combine the administrative monies accumulated under the individual orders and to pay any liabilities against such funds from the consolidated fund of the merged order.

The money accumulated in the marketing service funds of the three orders is that which has been paid by producers for whom the administrator is performing services. The producers who have contributed to the marketing service fund of each order are expected to continue to supply milk for the Arkansas-Memphis market. The consolidation of the reserves in the individual marketing service funds is therefore appropriate in view of the continuation of the marketing service program for these producers under the merged order.

The unobligated producer-settlement fund balance in the Central Arkansas order should be liquidated and paid out to producers through the blend price computed for the month immediately preceding the month the merged order becomes effective. Since both the Fort Smith and Memphis markets are individual handler pool markets, the orders contain no provisions for a producer-settlement fund. Consequently, if the balance in the Central Arkansas producer-settlement fund were not dispersed prior to the merger, it would not be fair to those producers who have contributed to the fund and would result in a windfall to producers under the Fort Smith and Memphis orders who have not contributed to a producer-settlement fund.

### Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

### General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the Arkansas-Memphis order, which amends and merges the Central Arkansas, Fort Smith and Memphis orders, and all of the terms thereof will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the Arkansas-Memphis marketing area, and the minimum prices specified in the tentative marketing agreement and the Arkansas-Memphis order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The tentative marketing agreement and the Arkansas-Memphis order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, the marketing agreements upon which a hearing has been held;

(d) All milk and milk products handled by handlers, as defined in the tentative marketing agreement and the Arkansas-Memphis order are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1108.85 of the aforesaid tentative marketing agreement and the Arkansas-Memphis order.

### Recommended Marketing Agreement and Order Amending the Orders

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the Arkansas-Memphis order. The following order regulating the handling of milk in the Arkansas-Memphis marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

## PART 1108—MILK IN ARKANSAS-MEMPHIS MARKETING AREA

### Subpart—Order Regulating Handling

#### General Provisions


| Sec. | |
|---|---|
| 1108.1 | General provisions. |


#### Definitions


| | |
|---|---|
| 1108.2 | Arkansas-Memphis marketing area. |
| 1108.3 | Route disposition. |
| 1108.4 | [Reserved] |
| 1108.5 | Distributing plant. |
| 1108.6 | Supply plant. |
| 1108.7 | Pool plant. |
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| 1108.9 | Handler. |
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| 1108.11 | [Reserved] |
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| 1108.13 | Producer milk. |
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| 1108.15 | Fluid milk product. |
| 1108.16 | Fluid cream product. |
| 1108.17 | Filled milk. |
| 1108.18 | Cooperative association. |


#### Handler Reports


| | |
|---|---|
| 1108.30 | Reports of receipts and utilization. |
| 1108.31 | Payroll reports. |
| 1108.32 | Other reports. |


#### Classification of Milk


| Sec. | |
|---|---|
| 1108.40 | Classes of utilization. |
| 1108.41 | Shrinkage. |
| 1108.42 | Classification of transfers and diversions. |
| 1108.43 | General classification rules. |
| 1108.44 | Classification of producer milk. |




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Sec.
1108.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1108.50 Class prices.
1108.51 Basic formula price.
1108.52 Plant location adjustments for handlers.
1108.53 Announcement of class prices.
1108.54 Equivalent price.

UNIFORM PRICES

1108.60 Handler's value of milk for computing uniform price.
1108.61 Computation of uniform price (including weighted average price and base and excess prices).
1108.62 Announcement of uniform prices and butterfat differential.

PAYMENTS FOR MILK

1108.70 Producer-settlement fund.
1108.71 Payments to the producer-settlement fund.
1108.72 [Reserved]
1108.73 Payments to producers and to cooperative associations.
1108.74 Butterfat differential.
1108.75 Plant location adjustments for producers and on nonpool milk.
1108.76 Payments by handler operating a partially regulated distributing plant.
1108.77 Adjustment of accounts.
1108.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1108.85 Assessment for order administration.
1108.86 Deduction for marketing services.

BASE-EXCESS PLAN

1108.90 Base milk.
1108.91 Excess milk.
1108.92 Computation of daily average base for each producer.
1108.93 Determination of monthly base of each producer.
1108.94 Base rules.
1108.95 Announcement of established bases.
1108.96 Monthly announcement of base milk and excess milk for each producer.

ADVERTISING AND PROMOTION PROGRAM

1108.110 Agency.
1108.111 Composition of Agency.
1108.112 Term of office.
1108.113 Selection of Agency members.
1108.114 Agency operating procedure.
1108.115 Powers of the Agency.
1108.116 Duties of the Agency.
1108.117 Advertising, Research, Education and Promotion Program.
1108.118 Limitation of expenditures by the Agency.
1108.119 Personal liability.
1108.120 Procedure for requesting refunds.
1108.121 Duties of the market administrator.
1108.122 Liquidation.
1108.123 Initial operating procedures under merger of orders.

AUTHORITY: Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674).

## Subpart—Order Regulating Handling

GENERAL PROVISIONS

### § 1108.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

### § 1108.2 Arkansas-Memphis marketing area.

"Arkansas-Memphis marketing area," hereinafter called the "marketing area," means all of the territory within the boundaries of the following Arkansas, Tennessee, and Mississippi counties, including all territory occupied by government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed counties:

ZONE 1

ARKANSAS COUNTIES

| | |
|---|---|
| Arkansas | Monroe |
| Clark | Montgomery |
| Cleburne | Perry |
| Conway | Phillips |
| Crawford | Polk |
| Crittenden | Pope |
| Cross | Prairie |
| Faulkner | Pulaski |
| Franklin | Saline |
| Garland | Scott |
| Grant | St. Francis |
| Hot Spring | Sebastian |
| Jefferson | Van Buren |
| Johnson | White |
| Lee | Woodruff |
| Logan | Yell |
| Lonoke | |

TENNESSEE COUNTIES

| | |
|---|---|
| Chester | Lauderdale |
| Fayette | Madison |
| Hardeman | Shelby |
| Haywood | Tipton |

MISSISSIPPI COUNTIES

| | |
|---|---|
| De Soto | Marshall |

ZONE II

MISSISSIPPI COUNTIES

| | |
|---|---|
| Lafayette | Tate |
| Panola | Tunica |

ZONE III

ARKANSAS COUNTIES

| | |
|---|---|
| Craighead | Lawrence |
| Greene | Mississippi |
| Independence | Poinsett |
| Jackson | |

### § 1108.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product classified as Class I milk to a wholesale or retail outlet (including any delivery through a vendor or a plant store) except a delivery to any milk or filled milk receiving and/or processing plant.

### § 1108.4 [Reserved]

### § 1108.5 Distributing plant.

"Distributing plant" means all of the premises and facilities of a plant which is approved by a duly constituted regulatory agency for the processing or packaging of Grade A milk and from which during the month there is route disposition in the marketing area.

### § 1108.6 Supply plant.

"Supply plant" means all of the premises and facilities of a plant which is approved by a duly constituted regulatory agency for the handling of Grade A milk and from which fluid milk products are shipped during the month to a pool plant.

### § 1108.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which during the month packaged fluid milk products, except filled milk and receipts of packaged fluid milk products from other pool plants, disposed of either as route disposition or through transfers to other plants are equal to not less than 50 percent of its receipts of bulk fluid milk products from producers (including producer milk diverted from the plant), handlers described in § 1108.9(c), and other pool plants and from which not less than 10 percent of such receipts is disposed of in the marketing area in the form of packaged fluid milk products, except filled milk and receipts of packaged fluid milk products from other pool plants either as route disposition or through transfers to other plants from which they are disposed of in the marketing area as route disposition.

(b) A supply plan from which during the month fluid milk products, except filled milk, equal to not less than 50 percent of the Grade A milk received at the plant from dairy farmers (including producer milk diverted from the plant but excluding milk received as diverted milk), and handlers described in § 1108.9 (c) is shipped to and received at distributing plants qualified pursuant to paragraph (a) of this section. Any such plant which qualifies as a pool plant (or was a fluid milk plant pursuant to § 1097.7(b) of the Memphis order or a pool supply plant under the Central Arkansas order) for each of the months of September through January may, upon written application to the market administrator before the end of such period, be designated as a pool plant for the immediately following months of February through August, unless the plant loses its Grade A status.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area;

(3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which there is a greater quantity of route disposition, except filled milk, in this marketing area than in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(4) A plant qualified pursuant to paragraph (b) of this section which has automatic pooling status under another Federal order.





### § 1108.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are shipped during the month to a pool plant qualified pursuant to § 1108.7, and which is not an other order plant nor a producer-handler plant.

### § 1108.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to milk of a producer that is diverted for the account of the cooperative association from a pool plant of another handler in accordance with § 1108.13;

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the handler for such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) Any person who is a producer-handler; and

(f) Any person in his capacity as the operator of an other order plant described in § 1108.7(c).

### § 1108.10 Producer-handler.

"Producer-handler" means any person: (a) Who operates a dairy farm and distributing plant from which there is route disposition in the marketing area;

(b) Who receives no fluid milk products from sources other than his own-farm production, pool plants and other order plants;

(c) Whose receipts of fluid milk products during the month from pool plants and other order plants do not exceed the lesser of 5 percent of his Class I disposition during the month or 20,000 pounds;

(d) Who disposes of no other source milk as Class I milk except receipts from other order plants and by increasing the nonfat milk solids content of the fluid milk products received from his own-farm production, pool plants or other order plants; and

(e) Who provides proof satisfactory to the market administrator that the care and management of the dairy farm and other resources necessary for his own farm production of milk and the management and operation of the processing plant are the personal enterprise and risk of such person.

### § 1108.11 [Reserved]

### § 1108.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted regulatory agency and whose milk is:

(1) Received at a pool plant directly from such person;

(2) Received by a handler described in § 1108.9(c); or

(3) Diverted from a pool plant in accordance with § 1108.13.

(b) "Producer" shall not include: (1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1108.44 (a) (8) (iii) and the corresponding step of § 1108.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

### § 1108.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1108.9(c);

(c) Picked up from the producer's farm tank in a tank truck owned and operated by, or under the control of, the operator of a pool plant but which is not received at a plant until the following month. Such milk shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm and shall be priced at the location of the plant where it is physically received in the following month. This paragraph shall apply in like manner to milk received by the operator of a pool plant who, in accordance with § 1108.9(c), is the handler for such milk; and

(d) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant for the account of the handler operating such pool plant or a handler described in § 1108.9(b), subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion during any month unless milk of such dairy farmer was physically received as producer milk at a pool plant under this order or the Central Arkansas, Fort Smith or Memphis orders, the dairy farmer has continuously retained producer status under any of such orders since that time and not less than one day's production of milk of such producer is physically received at a pool plant during the month. If a dairy farmer loses his producer status under this order his milk shall not be eligible for diversion until milk of such dairy farmer has been physically received as producer milk at a pool plant;

(2) The total quantity of milk so diverted by a cooperative association during each of the months of September through January shall not exceed one-half of the producer milk that the cooperative association causes to be delivered to pool plants and that is physically received thereat and during each of the months of February through August does not exceed twice such quantity received;

(3) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d) (2) of this section. The total quantity of milk so diverted during each of the months of September through January shall not exceed one-half of the producer milk received at such pool plant that is eligible to be diverted by the plant operator and during each of the months of February through August does not exceed twice such quantity received;

(4) Any milk diverted in excess of the limits prescribed in paragraph (d) (2) and (3) of this section shall not be producer milk. If the diverting handler fails to designate the dairy farmers' deliveries that are not to be producer milk, no milk diverted by the handler during the month to a nonpool plant shall be producer milk;

(5) The quantity of milk diverted for the account of a cooperative association from a pool plant of another handler that would cause the pool plant to become a nonpool plant shall not be producer milk; and



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(6) Diverted milk shall be priced at the location of the nonpool plant to which diverted.

**§ 1108.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1108.40(b)(1) from any source other than producers, handlers described in § 1108.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1108.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1108.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1108.40(b)(1) for which the handler fails to establish a disposition.

**§ 1108.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include: (1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1108.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1108.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1108.18 Cooperative association.**

"Cooperative association" means any cooperative association of producers which the Secretary determines, after application by the association: (a) To be qualified under the provisions of the Act of Congress of February 18, 1922, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members; and

(c) To have its entire activities under the control of its members.

HANDLER REPORTS

**§ 1108.30 Reports of receipts and utilization.**

On or before the 7th day after the end of each month (if postmarked), or not later than the 8th day if the report is delivered in person to the office of the market administrator, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1108.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1108.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in fluid milk products disposed of on routes in the marketing area.

(c) Each handler described in § 1108.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1108.31 Payroll reports.**

(a) On or before the 21st day after the end of each month, each handler who elects pursuant to § 1108.73(d) to pay producers shall report to the market administrator the following information:

(1) The name and address of each producer;

(2) The amounts paid each producer; and

(3) The dates such payments were made.

(b) On or before the 20th day after the end of the month, each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1108.76(b) shall report to the market administrator with respect to milk received from each dairy farmer who would have been a produced if the plant had been fully regulated the following information for such month:

(1) The name and address of each dairy farmer;

(2) The total pounds of milk received from each dairy farmer;

(3) The average butterfat content of such milk;

(4) The amount and nature of any deductions, as authorized in writing by the dairy farmer, from the payment for such milk; and

(5) The rate of payment per hundredweight and the net amount paid each dairy farmer.

**§ 1108.32 Other reports.**

(a) On or before the 21st day of each month each handler described in § 1108.9 (a), (b) and (c), except a cooperative association with respect to produced milk for which it elects to collect payments, shall report to the market administrator the following information with respect to its receipts of milk during the first 15 days of the month:

(1) The name and address of each producer from whom milk was received who has not discontinued shipping milk to the handler;

(2) The total pounds of producer milk received from such producer;

(3) The amount and nature of any deductions, as authorized in writing by the producer, to be made from the partial payment for such milk;

(4) The total pounds of milk received from a handler described in § 1108.9(c); and

(5) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(b) On or before the 7th day after the end of each month (if postmarked), or not later than the 8th day if the report is delivered in person to the office of the market administrator, each handler described in § 1108.9 (a), (b) and (c) shall report to the market administrator the following information with respect to its receipts of milk during such month:

(1) the name and address of each producer from whom milk was received;

(2) The total pounds of producer milk received from such producer, its average butterfat content and for the months of March through July the pounds of base milk;

(3) Except in the case of producer milk for which a cooperative association is collecting payments, the amount and nature of any deductions as authorized





in writing by the producer, to be made from the final payment for such milk;

(4) The total pounds of skim milk and butterfat received from a handler described in § 1108.9(c); and

(5) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(c) On or before the second day prior to the reporting dates specified in paragraphs (a) and (b) of this section, each cooperative association that operates a pool plant from which bulk fluid milk products were transferred to pool plants of other handlers within the time periods described in paragraphs (a) and (b) of this section shall report to each such pool plant operator the name and location of the transferor-plant and the total pounds and butterfat content of the bulk fluid milk products transferred from the plant.

(d) In addition to the reports required pursuant to paragraphs (a) through (c) of this section and §§ 1108.30 and 1108.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1108.40 Classes of utilization.**

Except as provided in § 1108.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1108.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce: (i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milk fat;

(v) Custards, puddings, and pancake mixes; and

(iv) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class II milk.* Class III milk shall be all skim milk and butterfat: (1) Used to produce:

(i) Cheese and any product containing nonmilk fat (or oil) that resembles a cheese product (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type and evaporated or condensed skim milk (plain or sweetened) in a consumer type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1108.15; and

(6) In shrinkage assigned pursuant to § 1108.41(a)(2) and in shrinkage specified in § 1108.41 (b) and (c).

**§ 1108.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1108.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product.

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1108.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1108.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1108.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class.



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The classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1108.44(a)(12) and the corresponding step of § 1108.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1108.44(a)(7) or the corresponding step of § 1108.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1108.44(a)(11) or (12) or the corresponding steps of § 1108.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3), of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1108.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1108.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition of fluid milk products in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first, to any remaining Class I utilization, then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

(e) *Transfers by a handler described in § 1108.9(c) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1108.9(c) to another handler's pool plant shall be classified pursuant to § 1108.44 pro rata with producer milk received at the transferee-handler's plant.





### § 1108.43 General classification rules.

In determining the classification of producer milk pursuant to § 1108.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1108.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1108.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1108.40, 1108.41, and 1108.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1108.9 (b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1108.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

### § 1108.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1108.9(a) for each of his pool plants separately the classification of producer milk and milk received from a handler described in § 1108.9(c), by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1108.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1108.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1108.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1108.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1108.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Recepts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III;

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1108.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products fom other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in recepits of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1108.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;



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(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Substract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred, or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7)(vi) and (8)(iii) of this section:

(i) Subject to the provisioins of paragraph (a)(12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantites represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1108.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combinde shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section; should the compuetations pursuant to paragraph (a)(12) (i) and (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available:

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1108.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk from a handler described in § 1108.9(c), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quality of producer milk and milk from a handler described in § 1108.9 (c) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding steps of paragraph (b) of this section.

**§ 1108.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1108.44(a)(12) and the corresponding step of § 1108.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1108.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.





CLASS PRICES

**§ 1108.50 Class prices.**

Subject to the provisions of § 1108.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.94.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

**§ 1108.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound in Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

**§ 1108.52 Plant location adjustments for handler.**

(a) For milk received at a pool plant from producers or a handler described in § 1108.9(c) and which is classified as Class I milk without movement in bulk form to another pool plant at which a higher Class I price applies, the price specified in § 1108.50(a) shall be adjusted by the amount stated in paragraph (a) (1) through (5) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1108.2, the adjustment shall be as follows:

| | *Adjustment per hundredweight* |
|---|---|
| Zone 1 | No adjustment. |
| Zone 2 | Plus 12 c. |
| Zone 3 | Minus 14 c. |

(2) For a plant located in the State of Oklahoma or in the following Arkansas counties, no adjustment shall apply:

| | |
|---|---|
| Cleveland | Nevada |
| Dallas | Ouachita |
| Desha | Pike |
| Howard | Sevier |
| Lincoln | |

(3) For a plant located in the following Arkansas counties, the adjustment shall be minus 17 cents:

| | |
|---|---|
| Baxter | Marion |
| Benton | Newton |
| Boone | Randolph |
| Carroll | Searcy |
| Clay | Sharp |
| Fulton | Stone |
| Izard | Washington |
| Madison | |

(4) For a plant located in Arkansas or Mississippi outside the areas described in paragraph (a) (1) through (3) of this section, or in the States of Alabama, Louisiana, or Texas, the adjustment shall be plus 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is located from the nearer of the State Capitol in Little Rock, Ark., or the city hall in Memphis, Tenn.; and

(5) For a plant located outside the areas described in paragraph (a) (1) through (4) of this section, the adjustment shall be minus 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is located from the nearer of the State Capitol in Little Rock, Ark., or the city hall in Memphis, Tenn.

(b) For fluid milk products transferred in bulk from a pool plant to another pool plant at which a higher Class I price applies and which are classified as Class I milk, the Class I price shall be the Class I price applicable at the location of the transferee-plant subject to a location adjustment credit for the transferor-plant which shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to § 1108.44(a)(12) an amount equal to the pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1108.9(c), and in receipts of packaged fluid milk products from other pool plants;

(2) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts of bulk fluid milk products from other pool plants, first to the transferor-plants at which the highest Class I price applies and then to other plants in sequence beginning with the plant at which the next highest Class I price applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor-plants by multiplying the hundredweight of skim milk assigned pursuant to paragraph (b)(2) of this section to each transferor-plant at which the Class I price is lower than the Class I price at the transferee-plant by the difference in Class I prices applicable at the transferor-plant and transferee-plant, and add the resulting amounts;

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(3) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1108.42(a) and at which the applicable Class I price is less than the Class I price at the transferee-plant, in sequence beginning with the plant at which the highest Class I price applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable adjustment rate determined pursuant to paragraph (b)(3) of this section for such plant. If the aggregate of this computation for all plants having the same adjustment rate as determined pursuant to paragraph (b)(3) of this section exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers from such plants; and

(5) Location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b) (1) through (4) of this section.

(c) The Class I price applicable to other source milk shall be adjusted by the amounts set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

(d) All distances determined pursuant to this section shall be the shortest hard surfaced distance as determined by the Market Administrator.

**§ 1108.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1108.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICES

**§ 1108.60 Handlers value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1108.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in § 1108.9(c) that were classified in each class pursuant to §§ 1108.43 (a) and 1108.44(c) by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage determined pursuant to § 1108.43(a) or a handler described in §1108.9(b) and the pounds of overage subtracted from each class pursuant to § 1108.44(a)(14) and the corresponding step of § 1108.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1108.74, that are applicable at the location of the plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the



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current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1108.44 (a)(9) and the corresponding step of § 1108.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1108.44(a)(7) (i) through (iv) and the corresponding step of § 1108.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1108.44(a)(7) (v) and (vi) and the corresponding step of § 1108.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1108.44(a)(11) and the corresponding step of § 1108.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) Subtract for a handler described in § 1108.9(c) the amount obtained from multiplying the Class III price as adjusted by the butterfat differential specified in § 1108.74 for the preceding month by the hundredweight of skim milk and butterfat contained in inventory at the beginning of the month that was delivered to a pool plant during the month.

**§ 1108.61 Computation of uniform price (including weighted average price and base and excess prices).**

(a) For each month the market administrator shall compute the uniform price (or weighted average price) per hundredweight of milk received from producers as follows:

(1) Combine into one total the values computed pursuant to § 1108.60 for all handlers who filed the reports prescribed by § 1108.30 for the month and who made the payments pursuant to § 1108.71 for the preceding month;

(2) Add the aggregate of all minus location adjustments and subtract the aggregate of all plus location adjustments pursuant to § 1108.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1108.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and, except for the months of March through July, shall be the "uniform price" for milk of 3.5 percent butterfat content received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk as follows:

(1) Subtract from the amount resulting from the computations made pursuant to paragraph (a) (1) through (4) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(5)(ii) of this section by the weighted average price;

(2) Compute the aggregate value of excess milk by assigning such milk, in series beginning with Class III, to the hundredweight of producer milk in each class, multiplying the quantities of milk so assigned to each class by the respective class prices less 5 cents and adding together the resulting amounts;

(3) Divide the aggregate value of excess milk obtained in paragraph (b)(2) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(4) Subtract an amount determined by multiplying the uniform price obtained in paragraph (b)(3) of this section, times the hundredweight of excess milk from the aggregate value of milk obtained in paragraph (b)(1) of this section;

(5) Divide the result obtained in paragraph (b)(4) of this section by the total hundredweight of base milk of handlers included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b)(5) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content.

**§ 1108.62 Announcement of uniform prices and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the applicable uniform prices pursuant to § 1108.61 for such month.

PAYMENTS FOR MILK

**§ 1108.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1108.71, 1108.76 and 1108.77, and out of which he shall make all payments pursuant to §§ 1108.73 (a) through (f) and § 1108.77, except that payments to a cooperative association pursuant to § 1108.73(c) shall be offset by any payments due from such cooperative association pursuant to § 1108.71 that have not been received by the market administrator.

**§ 1108.71 Payments to the producer-settlement fund.**

(a) Subject to paragraphs (c) and (d) of this section, each handler shall pay to the market administrator on or before the 26th day of the month an amount determined by multiplying the handler's receipts during the first 15 days of the month of milk from individual producers who had not discontinued shipping milk to such handler on the 21st day of the month (excluding, in the case of a handler described in § 1108.9(c), producer milk delivered to a pool plant) and milk from a handler described in § 1108.9(c) by the Class III price for the preceding month, less:

(1) Payments made by the handler on or before such date to producers for milk received during the 15-day period; and

(2) Proper deductions authorized in writing by producers from whom the handler receives milk, except that the amount deducted from each producer shall not exceed the value (at the Class III price) of the milk received from the producer during the 15-day period.

(b) Subject to paragraphs (c) and (d) of this section, each handler shall pay to the market administrator on or before the 15th day after the end of each month an amount equal to such handler's value of milk for such month determined pursuant to § 1108.60(a), as adjusted by the butterfat differential specified in § 1108.74, and pursuant to § 1108.60 (b) through (g) less:

(1) Payments made by the handler pursuant to paragraph (a) of this section for such month;

(2) Payments, other than those specified in § 1108.73(d), that were made by the handler on or before such date to producers for milk received during such month;

(3) Proper deductions for the month that were authorized in writing by producers from whom the handler received milk, except that the amount deducted for each producer shall not exceed the value of the milk received from the producer during the month; and

(4) The value at the weighted average price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value was computed pursuant to § 1108.60(f).





(c) The following conditions shall apply with respect to the payments prescribed in paragraphs (a) and (b) of this section:

(1) Payments to the market administrator shall be deemed not to have been made until such payments have been received by the market administrator; and

(2) If the date by which payments must be received by the market administrator falls on a Saturday or Sunday or on any day that is a national holiday, payments shall not be due until the next day on which the market administrator's office is open for public business.

(d) Payments due the market administrator from a cooperative association handler may be offset by payments determined by the market administrator to be due the cooperative association pursuant to § 1108.73(c).

(e) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (e)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1108.72 [Reserved]**

**§ 1108.73 Payments to producers and to cooperative associations.**

(a) Subject to paragraphs (c) through (f) of this section, the market administrator shall pay each producer on or before the 28th day of the month for milk for which payment pursuant to § 1108.71(a) has been received by the market administrator. Such payment shall be at a rate per hundredweight equal to the Class III price for the preceding month less the amounts specified in § 1108.71(a) (1) and (2).

(b) Subject to paragraphs (c) through (f) of this section, the market administrator shall pay each producer on or before the 17th day after the end of each month for milk for which payment pursuant to § 1108.71(b) has been received by the market administrator or offset pursuant to § 1108.71(d). Such payment shall be at the applicable uniform prices computed pursuant to § 1108.61 for the month, subject to the following adjustments:

(1) Any applicable adjustments pursuant to §§ 1108.74 and 1108.75;

(2) Less the payments described in § 1108.71(b)(2) and paragraph (a) of this section;

(3) Less deductions for marketing services pursuant to § 1108.86;

(4) Less the authorized deductions specified in § 1108.71(b)(3); and

(5) Any adjustments for errors in calculating payments to an individual producer for past months.

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator, on or before the day prior to the dates specified in such paragraphs, shall pay to each cooperative association that so requests with respect to those producers for whom it markets milk and who are certified to the market administrator by the cooperative association as having authorized the cooperative association to receive such payment an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraphs (a) and (b) of this section.

(d) In making payments to producers pursuant to paragraph (a) and (b) of this section, the market administrator, on or before the day prior to the dates specified in such paragraphs, shall pay to each handler who so requests for milk received by the handler from producers for whom a cooperative association is not collecting payments pursuant to paragraph (c) of this section an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraphs (a) and (b) of this section. The handler then shall pay the individual producers the amounts due them by the respective dates specified in paragraphs (a) and (b) of this section. Any handler who the market administrator determines is or was delinquent with respect to any payment obligation under this order shall not be eligible to participate in this payment arrangement until the handler has met all prescribed payment obligations for three consecutive months. In making payments to producers pursuant to this paragraph, the handler shall furnish each producer the following information:

(1) The identity of the handler and the producer and the month to which the payment applies;

(2) The total pounds and, with respect to final payments, the average butterfat content of the milk for which payment is being made including for the months in which base and excess prices apply, the pounds of base milk;

(3) The minimum rate or rates of payment required by the order and the rate of payment used if it is other than the applicable minimum rate(s);

(4) The amount and nature of any deductions from the amount otherwise due the producer; and

(5) The net amount of payment to the producer.

(e) The following conditions shall apply with respect to the payments prescribed in paragraphs (a) through (d) of this section:

(1) If the date by which such payments are to be made falls on a Saturday or Sunday or on any day that is a national holiday, such payments need not be made until the next day on which the market administrator's office is open for public business; and

(2) If the application of § 1108.71(c)(2) or paragraph (e)(1) of this section results in a delay in the partial or final payments by handlers to the market administrator or by the market administrator to handlers, the corresponding partial or final payments prescribed in paragraphs (a) through (d) of this section may be delayed by the same number of days.

(f) If the market administrator does not receive the full payment required of a handler pursuant to § 1108.71, he shall reduce uniformly per hundredweight the payments due producers for their milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall complete such payments on or before the next date for making payments pursuant to this section following the date on which the remaining payment is received from such handler.

(g) Subject to § 1108.71(c)(1) and (2), each handler who receives bulk fluid milk products from a pool plant operated by a cooperative association shall pay the following amounts for such milk to the market administrator, who in turn shall transmit such money to the cooperative association:

(1) On or before the 26th day of the month, an amount determined by multiplying such receipts during the first 15 days of the month by the Class III price for the preceding month; and

(2) On or before the 15th day after the end of each month, an amount determined by multiplying the quantity of such receipts during the month that was classified in each class pursuant to § 1108.42(a) by the applicable class price, as adjusted by the butterfat differential specified in §1108.74, less any payment made by the handler pursuant to paragraph (g)(1) of this section for such month. For the purpose of such computation, the applicable Class I price shall be the higher of the Class I prices applicable at the transferee-plant and the transferor-plant.

**§ 1108.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform prices shall be increased or decreased, respectively, for each 0.1 percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest 0.1 cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1108.75 Plant location adjustments for producers and on nonpool milk.**

(a) In making the payments required pursuant to § 1108.73, the applicable uniform prices computed pursuant to



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§ 1108.61 for the month shall be adjusted by the amounts set forth in § 1108.52 according to the location of the plant where the milk being priced was received.

(b) For purposes of computing the value of other source milk pursuant to § 1108.71, the weighted average price shall be adjusted by the amount set forth in § 1108.52 that is applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price plus 5 cents shall not be less than the Class III price.

**§ 1108.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1108.30(b) and 1108.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distuibuting plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1108.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1108.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1108.60 for such handler shall include, in lieu of the value of other source milk specified in § 1108.60(f) less the value of such other source milk specified in § 1108.71(b)(4), a value of milk determined pursuant to § 1108.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1108.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1108.30 (b) and 1108.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1108.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1108.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1108.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1108.77 Adjustment of accounts.**

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses adjustments to be made, for any reason, which result in monies due the market administrator from such handler, the market administrator shall promptly notify such handler of any such amount due, and payment thereof shall be made on or before the next day for making payment set forth in the provision under which such error occured. Any monies found to be due a handler from the market administrator shall be paid promptly to such handler, except that the market administrator shall offset any monies due a handler against monies due from such handler.

**§ 1108.78 Charges on overdue accounts.**

Any unpaid obligation of a handler pursuant to §§ 1108.71, 1108.73(g), 1108.76, 1108.77, or 1108.85 shall be increased three-fourths of 1 percent per month beginning on the first day after the due date, and on each date of subsequent months following the day on which such type of obligation is normally due, subject to the following conditions:

(a) The amount payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid charges previously computed pursuant to this section; and

(b) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.





ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1108.85 Assessment for order administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Receipts of producer milk (including such handler's own production) other than such receipts by a handler described in § 1108.9(c) that were delivered to pool plants of other handlers or held in inventory at the end of the month;

(b) Receipts from a handler described in § 1108.9(c);

(c) Other source milk allocated to Class I pursuant to § 1108.44(a) (7) and (11) and the corresponding steps of § 1108.44(b), except such other source milk that is excluded from the computations pursuant to § 1108.60 (d) and (f); and

(d) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1108.76(a)(2).

**§ 1108.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, the market administrator in making payments to producers for milk (other than milk of a handler's own farm production) pursuant to § 1108.73, shall deduct 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight as may be prescribed by the Secretary. Such money shall be used by the market administrator to provide market information and to check the accuracy of the sampling, testing and weighing of their milk for producers who are not receiving such service from a cooperative association; and

(b) In the case of producers for whom a cooperative association, as determined by the Secretary, is actually performing the services set forth in paragraph (a) of this section, the market administrator shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 16th day after the end of each month, pay such deductions to the cooperative association rendering such services accompanied by a statement showing the amount of milk for which such deduction was computed for each producer.

BASE-EXCESS PLAN

**§ 1108.90 Base milk.**

"Base milk" means milk received by handlers from a producer during any of the months of March through July which is not in excess of such producer's base computed pursuant to § 1108.93.

**§ 1108.91 Excess milk.**

"Excess milk" means milk received by handlers from a producer during any of the months of March through July which is in excess of the base milk of such producer for such month, and shall include all milk from a producer for whom no base can be computed pursuant to § 1108.93.

**§ 1108.92 Computation of daily average base for each producer.**

The daily average base for each producer shall be determined by the market administrator as follows: Divide the total pounds of milk received from such producer by handlers fully regulated under the terms of this part during the immediately preceding period of September through January by the total number of days in such period beginning with the first day on which milk is received from such producer by a handler regulated under this part, but not less than 120. In the case of producers delivering milk to a plant which first became a pool plant during or after the end of the base-forming period, the daily average base for each producer shall be that which would have been calculated for such producer for the entire base-forming period if the plant had been a pool plant during such period.

**§ 1108.93 Determination of monthly base of each producer.**

Subject to the rules set forth in § 1108.94, the market administrator shall calculate a monthly base for each producer whose milk was received by a handler as producer milk by multiplying such producer's daily base computed pursuant to § 1108.92 by the number of days in such month.

**§ 1108.94 Base rules.**

The following rules shall apply in connection with the transfer of daily average bases for each producer computed pursuant to § 1108.92:

(a) An entire base shall be transferred from a person holding such base to any other person effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the baseholder, or his heirs, and by the person to whom such base is to be transferred; and

(b) If a base is held jointly, the entire base shall be transferable only upon the receipt of such application signed by all joint holders or their heirs, and by the person to whom such base is to be transferred.

**§ 1108.95 Announcement of established bases.**

On or before February 25 of each year the market administrator shall notify each producer of the daily average base established by such producer.

**§ 1108.96 Monthly announcement of base milk and excess milk for each producer.**

On or before the 11th day after the end of each of the months of March through July, the market administrator shall notify each handler of the amount of base milk and excess milk received from each producer.

ADVERTISING AND PROMOTION PROGRAM

**§ 1108.110 Agency.**

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1108.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

**§ 1108.111 Composition of Agency.**

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1108.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1108.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1108.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

**§ 1108.112 Term of office.**

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.



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§ 1108.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1108.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1108.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1108.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1108.110;

(b) Make rules and regulations to effectuate the purposes of Pub. L. 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1108.110 and 1108.117.

§ 1108.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1108.110 and 1108.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1108.117 Advertising, research, education, and promotion program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the agency finds the such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1108.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1108.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1108.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgement, mistakes, or other acts, either of commission or ommission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1108.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1108.121 Duties of the market administrator.

Except as specified in § 1108.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1108.113(c).

(b) Set aside the amounts subtracted under § 1108.61(a)(4) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraphs (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State Law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1108.61(a)(4).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1108.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1108.61(a)(4) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1108.110 through 1108.123).

(d) Make the necessary audits to establish that all Agency funds are used only for authorized purposes.





§ 1108.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1108.70.

§ 1108.123 Initial operating procedures under merger of orders.

Notwithstanding the provisions of §§ 1108.110 through 1108.122, the following procedures shall apply during the initial operation of the advertising and promotion program under this order amending and merging the Central Arkansas; Fort Smith, Arkansas; and Memphis, Tennessee orders:

this merged order. Such individual

(a) During the first month in which this merged order is effective, the Agencies previously established under the advertising and promotion programs of the three above-listed orders shall continue to function as separate Agencies under this merged order. Such individual Agencies shall operate in accordance with the provisions of §§ 1108.110 through 1108.122, but subject to the following conditions:

(1) The composition of the Agencies as constituted under the three respective orders shall remain unchanged. Members serving on the respective Agencies immediately prior to the effective date of this amending order shall continue to serve on such Agencies except for any replacement of members in accordance with § 1108.113 (a) and (c)(2);

(2) The activities of the Agencies shall be limited to those programs set forth in § 1108.110 for which budgets have been approved by the Secretary and for which financial commitments were made prior to the effective date of this amending order; and

(3) The term of office of each member of each Agency shall expire at the end of the first month in which this merged order is effective;

(b) Within 30 days after the effective date of this amending order, a new single Agency shall be formed in accordance with §§ 1108.111 and 1108.113. Such Agency shall first become operative at the beginning of the second month in which this merged order is effective and at that time shall assume all advertising and promotion funds and obligations of the three individual Agencies provided for in paragraph (a) of this section;

(c) During the first month in which this merged order is effective, the monies set aside by the market administrator for advertising and promotion from proceeds of producer milk pooled in the preceding month under each of the three above-listed orders shall be disbursed to the respective Agencies provided for in paragraph (a) of this section;

(d) In making refunds of advertising and promotion assessments pursuant to § 1108.121(b)(3), the market administrator shall honor all valid refund requests filed under the advertising and promotion programs of the three above-listed orders;

(e) Any dairy farmer who filed a valid request for refund of advertising and promotion assessments under any of the three above-listed orders for the calendar quarter in which this merged order became effective shall be eligible without refiling for refund of assessments on his producer milk under this merged order during such quarter; and

(f) Any producer who elected to participate in the advertising and promotion program of any of the three above-listed orders for the calendar quarter in which this merged order became effective shall not be eligible to request a refund of the assessments against his deliveries of producer milk under the merged order until the next quarterly filing period.

Signed at Washington, D.C., on July 21, 1977.

WILLIAM T. MANLEY,
*Acting Administrator.*

[FR Doc.77-21408 Filed 7-25-77;8:45 am]



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federal register

TUESDAY, JULY 26, 1977
PART IV

# DEPARTMENT OF DEFENSE

## Department of the Air Force

## PRIVACY ACT OF 1974

### Systems of Records

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# DEPARTMENT OF DEFENSE
# DEPARTMENT OF THE AIR FORCE (AF)
## PRIVACY ACT OF 1974
### Systems of Records Deletions

In Privacy Act Issuances, 1976 Comp., Vol. I, pages 378 to 650, the Department of the Air Force set forth the systems of records within the agency prescribed by the Privacy Act of 1974. Notice is given that the following Department of the Air Force systems of records are deleted:

**F03501 DPMDR P**

**System name:** Military Personnel Microform Records System. (p. 442).

Reason: Microform Record System, originally an R&D project, is now an operational system and is being merged with F03501 DPMDQIA, Military Personnel Records System (Privacy Act Issuances, 1976 Comp., Vol. I, p. 441).

**F06001 OTGAMHA**

**System name:** Individual Progress Record-Synthetic Trainer (p. 546).

Reason: This system is covered by F06005 XOOFF A.

**System name:** Air Force Operations Resource Management Systems (AFORMS) (See Amendments).

**F06003 ANGBXOA**

**System name:** ANG Rated Report (p. 546).

Reason: This system is covered by F06005 XOOFF A.

**System name:** Air Force Operations Resource Management Systems (AFORMS). (See Amendments).

**F06005 OBXQPCA**

**System name:** Aircrew Data (p. 547).

Reason: This system is covered by F06005 XOOFF A.

**System name:** Air Force Operations Resource Management Systems (AFORMS). (See Amendments).

**F06005 OYUEBLA**

**System name:** Aircrew Qualifications (p. 547).

Reason: This system is covered by F06005 XOOFF A.

**System name:** Air Force Operations Resource Management Systems (AFORMS). (See Amendments).

**F06005 OJ DOVA**

**System name:** Individual Flight and Aircrew Evaluation Records (p. 549).

Reason: This system is covered by F06005 XOOFF A.

**System name:** Air Force Operations Resource Management Systems (AFORMS). (See Amendments).

**F06005 OQVDYDA**

**System name:** Military Airlift Command Aircrew Resource Management System (p. 549).

Reason: This system is covered by F06005 XOOFF A.

**System name:** Air Force Operations Resource Management Systems (AFORMS). (See Amendments).

**F06005 OQVDYDB**

**System name:** Integrated Aircrew Resource Management System (p. 549).

Reason: This system is covered by F06005 XOOFF A.

**System name:** Air Force Operations Resource Management Systems (AFORMS). (See Amendments).

**F06005 02SCEYA**

**System name:** Individual Flight Records (p. 550).

Reason: This system is covered by F06005 XOOFF A.

**System name:** Air Force Operations Resource Management Systems (AFORMS). (See Amendments).

**F16809 OSNRCHA**

**System name:** Accreditation References (p. 600).

Reason: This system is covered by F16001 SGPC A.

**System name:** Medical Professional Staffing Records (p. 583).

**F17722 OEACYVB**

**System name:** Microfilm of Military Pay Records (p. 619).

Reason: This system has been merged with F17722 OEACYVC. See amendments.

**AMENDMENTS**

In Privacy Act Issuances, 1976 Comp., Vol. I, pages 378 to 650, the Department of the Air Force set forth the systems of records within the agency prescribed by the Privacy Act of 1974. Notice is hereby given that the systems of records listed below are amended. These amendments do not fall within the purview of Office of Management and Budget (OMB) Circular No. A-108, Transmittal Memorandum No. 1, dated September 30, 1975, and Transmittal Memorandum No. 3, dated May 17, 1976, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a(o)). This OMB Guidance was set forth in the Federal Register (40 FR 45877) on October 3, 1975. Following the identification code of the record systems and the specific changes made therein, the complete revised record systems, as amended, are published in their entirety. Any public comments, including written data, views or arguments concerning the changes should be addressed to the Air Force Privacy Office, Directorate of Administration, Headquarters, United States Air Force (HQ USAF/DADMP), Bolling AFB, Washington, D.C. 20332 on or before August 25, 1977. The amendments will become effective, as proposed, without further notice within 30 days of this publication (August 25, 1977) unless comments are received which result in a contrary determination and requiring republication.

**F00401 05HCHLB**

**System name:** Sensitive Compartmented Information (SCI) Personnel Security Records (PSR) (p. 379).

Change:

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute "None".

**F01001CVAE A**

**System name:** Secretary of the Air Force Historical Records (p. 380).

Change:

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute "None".

**F01001 05HCHLC**

**System name:** Air Force Attache Record System (p. 387).

Change:

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute "None".

**F01001 05HCHLD**

**System name:** USAF Prisoner of War (PW) Debriefing Files (p. 388).

Changes:

**Notification procedure:** Delete "See Exemption" and add "Requests from individuals should be addressed to the System Manager."

**Record access procedures:** Delete "See Exemption" and add "The individual can obtain assistance in gaining access from the System Manager."

**Record source categories:** Delete "See Exemption" and add "Returned USAF prisoners of war."

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute "None".

**F01101 DPXJCC**

**System name:** USAF Reconstitution Requirements for Office of JCS and HQ USAF (p. 390).

Change:

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute "None".

**F01102 LLI A**

**System name:** 01102 LLI A Microfilm Records Congressional/Executive Inquiries (p. 400).

Changes:

**System location:** Delete "At Washington National Records Center, Washington, DC 20409."





**Retention and disposal:** Delete the entire entry and substitute "Current year plus 2 years of microfilm records will be retained in the office, then destroyed by tearing, shredding, macerating, pulping, or burning."

**F01201 DAD A**

**System name:** Privacy Act Request File (p. 408).

Change:

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute "None".

**F03003 XOXXX**

**System name:** Next of Kin Inquiries Civilian MIA/PWs (p. 418).

Changes:

**Notification procedure:** Delete "See Exemption" and add "Requests from individuals should be addressed to the System Manager."

**Record access procedures:** Delete "See Exemption" and add "Individual can obtain assistance in gaining access from the System Manager."

**Record source categories:** Delete "See Exemption" and add "Sources include information requests from next-of-kin, PW or MIA personnel; master personnel records, and intelligence reports."

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute "None".

**F03004 OEACYVA**

**System name:** Military Personnel Expense Distribution Listing (p. 426).

Changes:

**Notification procedure:** Change address in line 3 from "AFAFC/RMAD, 3800 York Street, Denver, CO. 80205, telephone area code 303/825-1161, x 6341" to "AFAFC/DAD, Lowry AFB, Denver, CO. 70279, telephone (303) 320-7553."

**Record access procedures:** Change address in line 2 from "AFAFC/RMAD,3800 York Street, Denver, CO. 80205, telephone area code 303/825-1161, x 6341" to "AFAFC/DAD, Lowry AFB, Denver, CO. 80279, telephone (303) 320-7552."

**F03004XOIACYVB**

**System name:** Processed Transactions (p. 131).

Changes:

**System name:** In line 1, change "3800 York Street, Denver, CO 80205" to "7300 East First Avenue Denver, CO 80280."

**Notification procedure:** In line 2, change "Command Documentation Officer ARPC/DAES 3800 York St, Denver Colorado 80205" to Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver CO. 80280." In line 7, change "3800 York St. Denver, Colorado, 80205, Building 2 unit G between 8 o'clock and 3 o'clock" to "7300 East First Avenue, Denver, CO. 80280 between 8 am and 3 pm."

**Record access procedures:** In line 2, change "Command Documentation Manager ARPC/DAES 3800 York St, Denver Colorado 80205, telephone area code 303 825 1161" to "Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO. 80280, telephone (303) 394-4667."

**F03004XOIACYVE**

**System name:** Periodic Reconciliation File (p. 431).

Changes:

**System name:** In line 1, change "3800 York Street, Denver, CO 80205" to "7300 East First Avenue, Denver, CO. 80280."

**Notification procedure:** In line 2, change "Command Documentation Officer ARPC/DAES 3800 York St, Denver, Colorado 80205" to "Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver CO. 80280." In line 7, change "3800 York St. Denver, Colorado, 80205, Building 2 unit G between 8 o'clock and 3 o'clock" to "7300 East First Avenue, Denver, CO. 80280 between 8 am and 3 pm."

**Record access procedures:** In line 2, change "Command Documentation Manager ARPC/DAES 3800 York St. Denver, Colorado 80205, telephone area code 303 825 1161" to "Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO. 80280, telephone (303) 394-4667."

**F03004XOIACYVF**

**System name:** Accession Listing (p. 431).

Changes:

**Notification procedure:** In line 2, change "Command Documentation Officer ARPC/DAES 3800 York St. Denver, Colorado 80205" to "Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver CO. 80280." In line 7, change "3800 York St. Denver, Colorado, 80205, Building 2 unit G between 8 o'clock and 3 o'clock" to "7300 East First Avenue, Denver, CO. 80280 between 8 am and 3 pm."

**Record access procedures:** In line 2, change "Command Documentation Manager ARPC/DAES 3800 York St. Denver, Colorado 80205, telephone area code 303 825 1161" to "Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO. 80280, telephone (303) 394-4667."

**F03004XOIACYVG**

**System name:** Input Transaction Registers (p. 432).

Changes:

**Notification procedure:** In line 2, change "Command Documentation Officer ARPC/DAES 3800 York St. Denver, Colorado 80205" to "Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver CO. 80280." In line 7, change "3800 York St. Denver, Colorado, 80205, Building 2 unit G between 8 o'clock and 3 o'clock" to "7300 East First Avenue, Denver, CO. 80280 between 8 am and 3 pm."

**Record access procedures:** In line 2, change "Command Documentation Manager ARPC/DAES 3800 York St. Denver, Colorado 80205, telephone area code 303 825 1161" to "Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO. 80280, telephone (303) 394-4667."

**F03501 AFDPG O**

**System name:** General Officer Personnel Data System (p. 437).

Change:

**System location:** In line 3, change "3800 York Street, Denver, CO 80205" to "Lowry AFB, Denver, CO. 80279."

**F03501 AFDPG Z**

**System name:** General Officer Personnel Data System (p. 437).

Change:

**System location:** In line 5, change "3800 York Street, Denver, CO 80205" to "7300 East First Avenue, Denver, CO. 80280."

**F03501 ASGPS R**

**System name:** Medical opinions on Board for Correction of Air Force Military Records Cases (BCMR) (p. 438).

Changes:

**System location:** Delete entire entry and substitute, "AFMPC/SG, Randolph AFB, Texas 78148."

**System manager(s) and address:** Delete entry and substitute, "AFMPC Surgeon, Randolph AFB, Texas 78148."

**F03501 DP 3**

**System name:** Unit Assigned Personnel Information File (p. 439).

Change:

**Record source categories:** After "Information obtained from," add "the individual concerned."

**F03501 DPMDQIA**

**System name:** Military Personnel Records System (p. 441).

Change:

**System location:** In line 5, change "3800 York Street, Denver, CO 80205" to "7300 East First Avenue, Denver, CO. 80280."

**F03501XOBXQPCA**

**System name:** Administrative Disenrollment and Investigations (p. 469).

Changes:

**Notification procedure:** Delete "See Exemption" and add "Requests from individuals should be addressed to the System Manager."

**Record access procedures:** Delete "See Exemption" and add "The individual can obtain assistance in gaining access from the System Manager."

**Record source categories:** Delete "See Exemption" and add "Information obtained from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth."



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**Systems exempted from certain provisions of the act:** Delete entire entry and add "None".

**F03501XOBXQPCC**

**System name:** USAF Academy Cadet Honor Committee Case Files (p. 469).

Change:

**Systems exempted from certain provisions of the act:** Delete entry and substitute: "None".

**F03501XOIACYVR**

**System name:** Chaplain Personnel Management Files (p. 474).

Changes:

**System manager(s) and address:** Add the following mailing address: "7300 East First Avenue, Denver CO 80280."

**Notification procedure:** Delete entry and substitute: "Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver CO between 8:00 am and 3:00 pm on normal work days. For personal visits, the individual should provide current Reserve ID Card and/or driver's license and give some verbal information that could verify his/her religion."

**Record access procedures:** Delete entry and substitute: "Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver CO 80280; telephone (303) 39404667."

**Record source categories:** Delete entire entry. Add "Information derived from master personnel records."

**Systems exempted from certain provisions of the act:** Delete entire entry and add "None."

**F03501XOIACYVW**

**System name:** Personnel Management Files (p. 475).

Changes:

**System location:** In line 3, change "3800 York Street, Denver, CO 80205" to "Lowry AFB, Denver, CO. 80279."

**Notification procedure:** In line 2, change "Command Documentation Officer ARPC/DAES 3800 York St. Denver Colorado 80205" to "Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver CO. 80280." In line 7, change "3800 York St. Denver, Colorado, 80205, Building 2 unit G between 8 o'clock and 3 o'clock" to "7300 East First Avenue, Denver, CO. 80280 between 8 am and 3 pm."

**Record access procedures:** In line 2, change "Command Documentation Manager ARPC/DAES 3800 York St. Denver Colorado 80205, telephone area code 303 825 1161" to "Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO. 80280, telephone (303) 394-4667."

**F03504 OYUEBLB**

**System name:** Commander Identification (p. 486).

Changes:

**Categories of records in the system:** Change to read, "Individuals currently performing duty as a commander and personnel selected by area commanders as possible/potential commanders."

**Storage:** Change to read, "Maintained on computer magnetic tape and computer paper printouts."

**F04004 DPCE B**

**System name:** Performance Awards and Outstanding Performance Ratings (p. 509).

Changes:

**System name:** Change to read, "Civilian Personnel Performance Awards and Outstanding Performance ratings."

**Systems exempted from certain provisions of the act:** Delete entire entry and insert "None."

**F04501 OI A**

**System name:** Air National Guard Information Personnel Background File (p. 513).

Changes:

**Authority for maintenance of the system:** After the number "3101", add "and 3012."

**F04501 OKPNQSB**

**System name:** Air Force ROTC field training administration system (p. 515).

Changes:

**System location:** Delete entire entry, substitute: "At Air Force installations hosting AFROTC field training and AFROTC detachments. Official mailing addresses are in the Department of Defense Directory in the appendix to the Air Force's Systems Notice."

**Retention and disposal:** Delete entire entry and substitute: "At installations hosting field training destroy upon completion of encampment. At AFROTC detachments, place in student's records file. Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning."

**F04501 02SCEYA**

**System name:** Military personnel folders (p. 516).

Changes:

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Correct the last sentence to read, "used by commanders, directors, supervisors."

**Record source categories:** Change to read, "Information obtained from automated system interfaces, field personnel records maintained by the Base Personnel Office, Officers Command Selection Group Records, and from the individual concerned."

**F05001 OBXQPCA**

**System name:** Cadet Information Card (p. 519).

Changes:

**Notification procedure:** Delete entire entry and substitute: "Requests from individuals should be addressed to the System Manager."

**Record access procedures:** Delete entire entry and substitute: "Individual can obtain assistance in gaining access from the System Manager."

**Record source categories:** Delete entry and substitute: "Faculty instructors."

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute: "None".

**F05002 OYUEBLD**

**System name:** Student Record (p. 530).

Change:

**Retrievability:** Amend to read "Filed by student name."

**F05002 OYUEBLE**

**System name:** Individual Academic Training Record (p. 531).

Change:

**Retrievability:** Amend to read "Filed by student name."

**F05302 OBXQPCC**

**System name:** Active Cadet Counseling File (p. 545).

Changes:

**Notification procedure:** Delete "See Exemption" and add "Requests from individuals should be addressed to the System Manager."

**Record access procedures:** Delete "See Exemption" and add "The individual can obtain assistance in gaining access from the System Manager."

**Record source categories:** Delete "See Exemption" and add "Information obtained from liaison officers."

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute "None".

**F06005 XOOFF A**

**System name:** Flight Management Data System (FMDS) Data System Designator A020 (p. 547).

Changes:

**System name:** Change system name to "Air Force Operations Resource Management Systems (AFORMS)."

**Categories of records in the system:** Change "FMDS" to "AFORMS" in line 1 and line 15.





**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Change "FMDS" to "AFORMS" in line 2.

**F07503 AA A**

**System name:** Office, Secretary of Air Force Travel Files (p. 552).

Changes:

**Retention and disposal:** Delete entire entry and reword as follows: "Records on currently assigned personnel are retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed. Transportation authorization and invitational orders are retained in office files for one year after annual cut-off then destroyed. Paying agent orders are retained in office files for two years after annual cut-off then destroyed. Records contained in this system of records are destroyed by tearing into pieces, shredding, pulping, macerating, or burning."

**F075031LGTT A**

**System name:** Personal Property Movement Records (p. 553).

Change:

**Record source categories:** Add "Information also obtained from the individual."

**F08003 OBXQPCA**

**System name:** Minnesota Multiphase Personality Inventory Research Program (p. 554).

Changes:

**Notification procedure:** Delete "See Exemption" and add "Requests from individuals should be addressed to the System Manager."

**Record access procedures:** Delete "See Exemption" and add "The individual can obtain assistance in gaining access from the System Manager."

**Record source categories:** Delete "See Exemption" and add "Individual".

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute: "None".

**F11001 IGQ A**

**System name:** Inspector General Records of Freedom of Information Act (p. 557).

Changes:

**Notification procedure:** Delete "See Exemption" and add "Requests from individuals should be addressed to the office where the complaint or query was filed or to the base inspector."

**Record access procedures:** Delete "See Exemption" and add "Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the Appendix to the Air Force's systems notices."

**Record source categories:** Delete "See Exemption" and add "Records are obtained from the individual requestor, witnesses, complainants, Department of the Air Force organizations, and agencies of Federal, state, or local governments, as applicable or appropriate, for processing the case."

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute "None".

**F11001 JACC G**

**System name:** Litigation Records; Tort Claims, Admiralty, Collection and Hospital Recovery Acts (p. 558).

Changes:

**Notification procedure:** Delete "See Exemption" and add "Requests from individuals should be addressed to the System Manager."

**Record access procedures:** Delete "See Exemption" and add "Individual can obtain assistance in gaining access from the System Manager."

**Record source categories:** Delete "See Exemption" and add "Information obtained from United States attorneys, private attorneys, and court records."

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute "None".

**F11001 JACL E**

**System name:** Civil Litigation Records (p. 559).

Changes:

**Notification procedure:** Delete "See Exemption" and add "Requests from individuals should be addressed to the System Manager."

**Record access procedures:** Delete "See Exemption" and add "Individual Can obtain assistance in gaining access from the System Manager."

**Record source categories:** Delete "See Exemption" and add "Information obtained from previous employers; financial, educational, and medical institutions; trade associations, police and investigating officers, the public media, a state or local government, a corporation, witnesses, source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth, and the individual to whom the record pertains."

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute "None."

**F11001BJACI B**

**System name:** Foreign Civil Litigation Records (p. 562).

Changes:

**System manager(s) and address:** Add the following at the end of the section: "Official mailing addresses are in the Department of the Defense directory in the Appendix to the Air Force's systems notices."

**Notification procedure:** Delete "See Exemption" and add "Requests from individuals should be addressed to the System Manager."

**Record access procedures:** Delete "See Exemption" and add "Individual can obtain assistance in gaining access from the System Manager."

**Record source categories:** Delete "See Exemption" and add "Information obtained from reports from judge advocates at bases in foreign countries, and local court records."

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute "None."

**F11002 JACP C**

**System name:** Patent Infringement and Litigation Records (p. 563).

Changes:

**Retention and disposal:** Delete the sentence "Exemption for this record system claimed pursuant to 5 USC 552A(D)(5)."

**Notification procedure:** Delete "See Exemption" and add "Requests from individuals should be addressed to the System Manager."

**Record access procedures:** Delete "See Exemption" and add "Individual Can obtain assistance in gaining access from the system Manager."

**Record source categories:** Delete "See Exemption" and add "Information received from the individual, contractors, other government agencies, and individual corporations (non-contractors). Information obtained from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth."

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute "None."

**F12401 07YLNGB**

**System name:** Investigative Applicant Processing Records (p. 568).

Changes:

**System location:** Change to read, "Air Force Office of Special Investigations (AFOSI) District Offices, Detachment Offices, and Resident Agencies."

**F12502 SPP A**

**System name:** Correction Records (p. 577).

Change:

**System location:** Change address in line 3 from "3800 York Street, Denver, CO. 80205" to "Lowry AFB, Denver, CO. 80280."

**F16002 SGPS B**

**System name:** Retirements/Separations Records System (p. 584).

Changes:

**System location:** Delete entire entry and substitute, "AFMPC/SG, Randolph AFB, Texas 78148."

**System manager(s) and address:** Delete entire entry and substitute, "AFMPC Surgeon, Randolph AFB, Texas 78148."



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**F17701 OBXQPCA**

**System name:** Cadet Accounting and Finance Code RZ, Data System Designator E516 (p. 607).

Changes:

**System location:** Change address in line 2 from "3800 York Street, Denver, CO. 80205" to "Lowry AFB, Denver, CO. 80279."

**Retention and disposal:** Change address in line 3 from "3800 York Street, Denver, CO. 80205" to "Lowry AFB, Denver, CO. 80279."

**F17705 OEACYVA**

**System name:** Accounting and Finance Officer Accounts and Substantiating Documents (p. 608).

Changes:

**Notification procedure:** Change address in line 3 from "AFAFC/RMAD 3800 York Street, Denver, Colorado 80205, telephone area code 303/825-1161-x6341" to "AFAFC/DAD, Lowry AFB, Denver, CO. 80279, telephone (303) 320-7553."

**Record access procedures:** Change address in line 2 from "AFAFC/RMAD 3800 York Street, Denver, Colorado 80205, telephone area code 303/825-1161-x6341" to "AFAFC/DAD, Lowry AFB, Denver, CO. 80279, telephone (303) 320-7553."

**F17708 OEACYVD**

**System name:** Indebtedness and Claims (p. 611).

Changes:

**Notification procedure:** In line 3, change "RMAD" to "DAD" and "303/825-1161, ext. 6341" to "(303) 320-7553."

**Record access procedures:** In line 2, change "RMAD" to "DAD" and in line 3, change "303/825-1161, ext. 6841" to "(303) 320-7553."

**F11709 OEACYVA**

**System name:** Reports of Survey (p. 612).

Changes:

**Notification procedure:** In line 3, change "RMAD" to "DAD" and "303/825-1161 ext. 6341" to "(303) 320-7553."

**Record access procedures:** In Line 2, Change "RMAD" to "DADE and "303/825-1161 ext. 6341" to "(303) 320-7553."

**F17718 OEACYVA**

**System name:** Accounts Receivable Records Maintained by Accounting and Finance (p. 613).

Changes:

**Notification procedure:** In line 3, change "RMAD" to "DAD" and "303/825-1161, ext. 6341" to "(303) 320-7553."

**Record access procedures:** In line 2, change "RMAD" to "DAD" and in line 3, change "303/825-1161 ext. 6841" to "(303) 320-7553."

**F17720 OEACYVA**

**System name:** Travel records (p. 614).

Changes:

**Notification procedure:** In line 3, change "AFAFC/RMAD, 3800 York Street, Denver, CO. 80205. Telephone area code 303/82501161 ext 6341" to "AFAFC/DAD, Lowry AFB, Denver, CO. 80279, telephone (303) 32007553."

**Record access procedures:** In line 2, change "AFAFC/RMAD, 3800 York Street, Denver, CO. 80205. Telephone area code 303/82501161 ext 6341" to "AFAFC/DAD, Lowry AFB, Denver, CO. 80279, telephone (303) 32007553."

**F17721 OEACYVA**

**System name:** Civilian Pay Records, (p. 617).

Changes:

**Notification procedure:** In line 3, change "AFAFC/RMAD, 3800 York St, Denver CO., 80205. Telephone 303/82501161 ext 6341" to "AFAFC/DAD, Lowry AFB, Denver, CO. 80279, telephone (303) 32007553."

**Record access procedures:** In line 2, change "AFAFC/RMAD, 3800 York Street, Denver CO., 80205. Telephone 303/82501161 ext 6341" to "AFAFC/DAD, Lowry AFB, Denver, CO. 80279, telephone (303) 32007553."

**Categories of records in the system:** Add to last line, "Official Correspondence; federal, state and city tax reports and/or tapes; forms covering pay changes and deductions, and documentation pertaining to garnishment of wages."

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Delete entire entry and substitute, "The records are used to accurately compute individual employee's pay entitlements and to withhold required and authorized deductions and issue payroll checks for amounts due. Output products are forwarded as required to other subject matter areas to ensure accurate accounting and recording of pay to civilian employees. These records and related products are also used to verify and balance in the civilian pay office and other applicable subject matter areas and to report information to recipients, other government, and nongovernment agencies. Such recipients and agencies include, but are not limited to, the individual employee; banks which credit the employee's account if the employee has requested his check to be sent to the bank; financial organizations which credit the employee's account if the employee has requested a savings allotment; other approved organizations which an employee has designated for an allotment; health benefit carriers to ensure proper credit for the employee authorized health benefit deductions; employee organizations for which the employee has requested a dues deduction (reasons for nondeduction of dues will be shown, if applicable); the US Treasury, which maintaines cash accountability; the Internal Revenue Service for recording withholding and social security information; the Social Security Administration and Civil Service Commission which credits the employee's account for Federal Insurance Contributions Act or Civil Service Retirement withheld; State revenue departments which credit employee's state tax withholding; State employment agencies which require wage information to determine eligibility for unemployment compensation benefits of former employees; city revenue departments of appropriate cities which credit employees for city tax withheld; any agency or component thereof that needs the information for proper accounting of funds, such as, but not limited to, for-others listings; Civil Service Commission for assistance in resolving complaints, grievances, etc. In the event of suspected fraud or other irregularity, data may be released to the Federal Bureau of Investigation, Office of Special Investigations, United States Air Force, or other investigating agencies for investigation and possible civil action or criminal prosecution. Data may also be released to a court of competent jurisdiction for court action. Disclosures are made pursuant to the Freedom of information Act. Disclosures are made to the Department of Justice for criminal prosecution, civil litigation, or investigation. Information is also supplied to the Civil Service Commission for computation of Civil service retirement annuity. Records are also used for extraction or compilation of data and reports for management studies and statistical analyses for use internally or externally as required by the Department of Defense or other Government agencies."

**F17722 OEACYVC**

**System name:** Military Pay Records (p. 619).

Changes:

**System location:** Delete entire entry and substitute, "Air Force Accounting and Finance Center, Denver, Colorado 80279." Denver Federal Archives and Records Center, Building 48, Denver Federal Center, Denver, Colorado 80225. Federal Records Center Annex, GSA, PO Box 141, Neosho, Missouri 64850."

**Categories of records in the system:** Add at beginning of first sentence, "Microfilm of Military Pay Records of individual Air Force personnel on active duty or separated."; Delete, "Wage and Tax Statement" and substitute, "Federal Income Tax Withholding Data,".

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Add before first sentence,. "Purposes are to furnish pay information from microfilm of Military Pay Records when hard copies of pay records cannot be located in Military Pay Record file. Used as back-up of hard copies of Military Pay Records which are also filed at this location." Add ":" after "following" in line 5.

**Storage:** Add, "and on roll microfilm."

**Retrievability:** Add, "Filed by other identification number or system identifier."

**Retention and disposal:** Delete entire entry and substitute, "Military Pay Records, hard copies, are retained at Air Force Accounting and Finance Center where they are sold to paper salvage companies and destroyed by shredding after a total of six years after member's separation. Microfilm of Military Pay Records is retained at Air Force Accounting and Finance Center for five years then destroyed by shredding or burning. Copies of microfilm are retained for fifty-six years at Federal Records Center Annex, GSA at Neosho. Missouri and then destroyed by shredding or burning."





**Notification procedure:** Change address in line 3 from "AFAFC/RMAD, 3800 York Street, Denver, CO. 80205. Telephone area code 303/825-1161, ext. 6341" to "AFAFC/DAD, Lowry AFB, Denver, CO. 80279, telephone (303) 320-7553."

**Record access procedures:** Change address in line 2 from "AFAFC/RMAD, 3800 York Street, Denver, CO 80205. Telephone area code 303/825-1161, ext. 6341" to "AFAFC/DAD, Lowry AFB, Denver, CO. 80279, telephone (303) 320-7553."

**F17724 OKPNQSA**

**System name:** Air Force ROTC Cadet Pay System (p. 621).

Changes:

**System location:** In line 6, change "3800 York Street, Denver, CO 80205" to "7300 East First Avenue, Denver, Colorado 80280."

**Notification procedure:** In line 3, change "AFAFC/RMAD, Denver, CO. 80279, telephone area code 303/825-1161 x6341" to "AFAFC/DAD, Lowry AFB, Denver, CO. 80279, telephone (303) 320-7553."

**Record access procedures:** In line 2, change "AFAFC/RMAD, Denver, CO. 80279, telephone area code 303/825-1161 x6361" to "AFAFC/DAD, Lowry AFB, Denver, CO. 80279, telehone (303) 320 7553."

**17725 OEACYVA**

**System name:** Air Reserve Pay and Allowances Systems (ARPAS) (p. 621).

Changes:

**System location:** In line 2 after "Air Force Accounting and Finance Center," add "Lowry AFB," and in line 6, change "3800 York Street, Denver, CO. 80205" to "7300 East First Avenue, Denver, CO. 80280."

**Notification procedure:** In line 3, change "AFAFC/RMAD, Denver, CO. 80279, telephone area code 303/825-1161 x6341" to "AFAFC/DAD, Lowry AFB, Denver, CO. 80279, telephone (303) 320-7553."

**Record access procedures:** In line 2, change "AFAFC/RMAD, Denver, CO. 80279, telephone area code 303/825-1161 x6341" to "AFAFC/DAD, Lowry AFB, Denver, CO. 80279, telephone (303) 320-7553."

**F17726 OEACYVA**

**System name:** Pay and Allotment Records (p. 622).

Changes:

**System location:** In line 2, before "Denver" add "Lowry AFB."

**Notification procedure:** In line 3, change AFAFC/RMAD Denver, CO 80271, telephone area code 303/825-1161 ext. 6341" to AFAFC/DAD, Lowry AFB, Denver, CO. 80279, telephone (303) 320-7553."

**Record access procedures:** In line 2, change AFAFC/RMAD Denver, CO. 80279, telephone area code 303/825-1161 ext. 6341" to "AFAFC/DAD, Lowry AFB, Denver, CO. 80279, telephone (303) 320–7553."

**F17730 OEACYVA**

**System name:** Joint Uniform Military Pay System (JUMPS) (41 FR 31082).

Changes:

**System location:** In line 2, before "Denver" add "Lowry AFB."

**Notification procedure:** In line 3, change "AFAFC/RMAD Denver, CO. 80279, telephone area code 303/825-1161 ext. 6341" to 6341" to "AFAFC/DAD, Lowry AFB, Denver, CO. 80279, telephone (303) 320-7553."

**Record access procedures:** In line 2, change "AFAFC/RMAD Denver, Colorado, 80279 telephone area code 303/825-1161 ext. 6341" to "AFAFC/DAD, Lowry AFB, Denver, CO. 80279, telephone (303) 320-7553."

**F17734 OEACYVA**

**System name:** United States Air Force Retired Pay System (p. 625).

Changes:

**System location:** In line 2, before "Denver" add "Lowry AFB." After the last line entry, add: "At the Air Reserve Personnel Center and Personal Affairs offices at Air Force installations. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice."

**System manager(s) and address:** After the last line entry, add: "Assistant Deputy Chief of Staff Personnel for Military Personnel, Randolph Air Force Base, TX 78148 for Survivor Benefit Plans Briefing records and Spouse Notification letters."

**Notification procedure:** In line 3, change "AFAFC/RMAD, 3800 York Street, Denver, CO. 80205. Telephone area code 303/825-1161 ext 6341" to "AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553." After the last line entry, add: "For Survivor Benefits Plans Briefing records and spouse notification data, contact the Systems Manager specified in the preceding category or Personal Affairs officials at the servicing Air Force installation. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices."

**Record access procedures:** In line 2, change "AFAFC/RMAD, 3800 York Street, Denver, CO. 80205. Telephone area code 303-825-1161 ext. 6341" to "AFAFC/DAD, Lowry AFB, Denver, CO. 80279, telephone (303) 320-7553."

**Record source categories:** After the last line entry, add: "Information also obtained from the individual concerned."

**F18201 DAC A**

**System name:** Air Force Postal Directory File (p. 628).

Changes:

**System manager(s) and address:** Add the following sentence at the end: "Submanagers include the Chief, Central Base Administration at each Air Force installation. Official mailing addresses are in the Department of Defense directory in the Appendix to the Air Force's systems notices."

**Notification procedure:** Delete "See Exemption" and add "Individuals may be notified of whether the system contains a record pertaining to them by writing to the Chief, Central Base Administration at the location(s) where postal directory services were provided."

**Record access procedures:** Delete "See Exemption" and add "Individuals may obtain assistance in gaining access as indicated in the notification procedures above."

**Record source categories:** Delete "See Exemption" and add "Individual to whom the record pertains."

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute "None".

**F20002 05HCHLA**

**System name:** Operations Security File for Foreign Intelligence Collection Activities (p. 631).

Changes:

**Notification procedure:** Delete "See Exemption" and add "Requests from individuals should be addressed to the System Manager."

**Record access procedures:** Delete "See Exemption" and add "Individual can obtain assistance in gaining access from the System Manager."

**Record source categories:** Delete "See Exemption" and add "Information obtained from AFOSI reports, studies and source documents pertaining to foreign intelligence collection operations."

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute "None".

**F20002 O5HCHLB**

**System name:** DIA Source Administration Program for Foreign Intelligence Collection Activities (p. 613).

Changes:

**System location:** Add, "Headquarters Foreign Technology Division (FTD), Wright-Patterson AFB, Ohio 45433; Det 3/FTD, APO New York 09633; Det 4/FTD, APO San Francisco 96328."

**System manager(s) and address:** Add, "Submanager: Chief, Foreign Activities Division, FTD, Wright-Patterson AFB, Ohio 45433."

**Notification procedure:** Add, "Requests from individuals should be addressed to the System Manager or Submanager, as appropriate."

**Record access procedures:** Delete "See Exemption" and add "Individual can obtain assistance in gaining access from the System Manager or Submanager, as appropriate."

**Record source categories:** Delete "See Exemption" and add "Information obtained from biographical data and records incident to foreign intelligence collection operations."



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**Systems exempted from certain provisions of the act:** Delete entire entry and substitute "None".

**F20002 05HCHLC**

**System name:** Events and Installation File (p. 632).

Changes:

**Notification procedure:** Delete "See Exemption" and add "Requests from individuals should be addressed to the System Manager."

**Record access procedures:** Delete "See Exemption" and add "Individual can obtain assistance in gaining access from the System Manager."

**Record source categories:** Delete "See Exemption" and add "Information obtained from intelligence reports, visa requests, trip reports, open source documents, news media, trade and professional publications."

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute "None".

**F20002 05HCHLD**

**System name:** Master Alpha Resource List (MARLA) (p. 632).

Changes:

**Notification procedure:** Delete "See Exemption" and add "Requests from individuals should be addressed to the System Manager."

**Record access procedures:** Delete "See Exemption" and add "Individual can obtain assistance in gaining access from the System Manager."

**Record source categories:** Delete "See Exemption" and add "Information obtained from intelligence reports, visa requests, trip reports, open source documents, news media, trade and professional publications."

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute "None".

**F20501 OUMCBVA**

**System name:** Compartmented Intelligence Access Roster (p. 633).

Changes:

**Notification procedure:** Delete "See Exemption" and add "Requests from individuals should be addressed to the System Manager."

**Record access procedures:** Delete "See Exemption" and add "Individual can obtain assistance in gaining access from the System Manager."

**Record source categories:** Delete "See Exemption" and add "Information is obtained from special security files."

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute "None".

**F20503 DPCE C**

**System name:** Security Case files (p. 634).

Changes:

**Notification procedure:** Delete entire entry and add "See Exemption."

**Record access procedures:** Delete entire entry and add "See Exemption."

**Record source categories:** Delete entire entry and add "See Exemption."

**F20505 DAI A**

**System name:** Personnel Security Record Files (p. 635).

Change:

**Systems exempted from certain provisions of the act:** Delete entire entry and add "None".

**F20505 DPMRPPD**

**System name:** Air Force Security Program Cases (p. 636).

Change:

**Systems exempted from certain provisions of the act:** Delete entire entry and add "None".

**F020505 OUMCBVA**

**System name:** Security Records Behavorial Data Reports (p. 639).

Changes:

**Notification procedure:** Delete "See Exemption" and add "Requests from individuals should be addressed to the System Manager."

**Record access procedures:** Delete "See Exemption" and add "Individual can obtain assistance in gaining access from the System Manager."

**Record source categories:** Delete "See Exemption" and add "Information obtained from security and related investigative records."

**Systems exempted from certain provisions of the act:** Delete entire entry and substitute "None".

**F90001XRDE A**

**System name:** Harold Brown Award (p. 649).

Change:

**Systems exempted from certain provisions of the act:** Delete entire entry and add "None".

**F90001XRDE B**

**System name:** USAF Research and Development Award (p. 650).

Change:

**Systems exempted from certain provisions of the act:** Delete entire entry and add "None".

The changes below, following the list of affected systems, are made to Department of the Air Force Systems of Records.

**Systems of Records Effected by this Change**

System ID and System name

F01003 OIACYVA, Background Material (p. 389).
F01102 OIACYVA, Congressional Inquiries (p. 403).
F01102 OIACYVB, Locator Personnel Data (p. 403).
F01201XOIACYVA, Fee Case File (p. 408).
F02501 OIACYVA, Manpower Standards Study Reports (p. 410).
F03001XOIACYVB, Inquiries on the Reserve Program (p. 415).
F03002 OIACYVA, Applications for Identification (ID) Cards (p. 416).
F03501 OIACYVA, Informational Personnel Records (p. 452).
F03501 OIACYVB, Informational Personnel Records (p. 452).
F03501 OIACYVC, Informational Personnel Records (p. 453).
F03501 OIACYVD, Informational Personnel Records (Mobilization Augmentee File) (p. 453).
F03501 OIACYVF, Informational Personnel Records (p. 453).
F03501 OIACYVG, Correction of Military Records of Officers and Airmen (p. 545).
F03501XOIACYVA, Reserve Supplement Officer (RSO) Case File (p. 470).
F03501XOIACYVB, Application for Separation from the Regular AF to AF Reserve/Air National Guard (p. 470).
F03501XOIACYVD, Servicemens Group Life Insurance (SGLI) Entitlement Case Files (p. 471).
F03501XOIACYVH, Air Force Service Number/Social Security Account Number Gross Reference Rosters (p. 471).
F03501XOIACYVJ, Bad Address Card Files (p. 471).
F03501XOIACYVK, Control Card for Vouchers for Medical Services (p. 472).
F03501XOIACYVL, Medical Mobilization Augmenter Personnel Management Files (p. 472).
F03501XOIACYVM, Medical Service Liaison Officer Program Card File (p. 473).
F03501XOIACYVN, Medical Actions Card File (p. 473).
F03501XOIACYVP, Air Reserve Information Squadron Biographical Files (p. 473).
F03501XOIACYVS, Personnel Management Records (p. 474).
F03501XOIACYVT, Chaplain Biographical Files (p. 475).
F03501XOIACYVV, Biographical File (p. 475).
F03504 OIACYVA, Data Change/Suspense Notifications (p. 487).
F03505 OIACYVA, Unfavorable Information Files (UIFs) on Officers and Airmen (p. 493).
F03507 OIACYVA, Flying Status Actions (p. 496).
F03508 OIACYVA, Officer Promotions (p. 499).
F03508 OIACYVB, Air Force Reserve Airmen Demotions (p. 499).
F03509 OIACYVA, Requests for Discharge From the Air Force Reserve (p. 501).
F03509 OIACYVB, Administrative Discharge for Cause on Reserve Personnel (p. 501).
F04501 OIACYVA, Air Force Reserve Applications (p. 513).
F04501 OIACYVB, Applications for Appointment Medical Corps (p. 513).





F04501 OIACYVC, Professional Officer Course (POC) and Financial Assistance Program Cadets (p. 514).
F04501XOIACYVA, Air Force Service Data of Employees and Relatives (p. 516).
F04501XOIACYVB, Air Force Reserve Applications for Extended Active Duty (p. 517).
F04501XOIACYVD, Air Force Reserve Officer Training Corps (AFROTC) Contract Violators (p. 517).
F04501XOIACYVE, Involuntary Recall (p. 518).
F04502 OIACYVA, Inactive Duty Training, Extension Course Institute (ECI) Training (p. 518).
F05001 OIACYVA, Professional Military Education (PME) (p. 520).
F16002 OIACYVA, Physical Examination Reports Suspense File (p. 585).

**Changes Effecting These Systems of Records**

**System location:** Delete entire entry and substitute: "At Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, Colorado 80280."

**System manager(s) and address:** Delete entire entry and substitute: "Commander, Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, Colorado 80280."

**Notification procedure:** Delete entire entry and substitute: "Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver Colorado 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, Colorado between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification."

**Record access procedures:** Delete entire entry and substitute: "Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280; telephone (303) 39404667."

The changes below, following the list of affected systems, are made to Department of the Air Force Systems of Records.

**Systems of Records Affected by This Change**

System ID and System name

F17707 OEACYVA, Loss of Funds Case Files (p. 608).
F17707 OEACYVA, Claims Case File—Corrected Military Pay and Allowances (p. 609).
F17708 OEACYVB (p. 610). Claims Case File—Missing in Action Data
F17708 OEACYVC (p. 610). Claims Case File—Death Gratuity Records
F17722 OEACYVA, Accrued Military Pay System, Discontinued (AMPS 360/390) (p. 618).
F17722 OEACYVD, Uniformed Services Savings and Deposit Program (p. 620).

**Changes Effecting These Systems of Records**

**System location:** Change address in line 2 from "3800 York Street, Denver, CO. 80205" to "Lowry AFB, Denver, CO. 80279."

**Notification procedure:** Change address in line 3 from 'AFAFC/RMAD, 3800 York Street, Denver, CO 80205. Telephone area code 303/825-1161, ext. 6341" to "AFAFC/DAD, Lowry AFB, Denver, CO. 80279, telephone (303) 320-7553.

**Record access procedures:** Change address in line 2 from "AFAFC/RMAD, 3800 York Street, Denver, CO. 80205. Telephone area code 303/825-1161, ext. 6341" to "AFAFC/DAD, Lowry AFB, Denver, CO. 80279, telephone (303) 320-7553.

The revised system notices, as amended above, are republished in their entirety below:

July 7, 1977.

Maurice W. Roche
*Director, Correspondence and Directives, OASD (Comptroller)*

## UNITED STATES AIR FORCE

**REQUESTING RECORDS**

Records are retrieved by name or by some other personal identifier. It is therefore especially important for expeditious service when requesting a record that particular attention be provided to the Notification and/or Access Procedures of the particular record system involved so as to furnish the required personal identifiers, or any other pertinent personal information as may be required, to locate and retrieve the record.

**BLANKET ROUTINE USES**

Certain blanket 'routine uses' of the records have been established, that are applicable to every record system maintained within the Department of Defense, unless specifically stated otherwise within a particular record system. These additional blanket routine uses of the records are published below, only once in the interest of simplicity, economy and to avoid redundancy, before the individual record system notices begin rather than repeating them in every individual record system.

**ROUTINE USE - LAW ENFORCEMENT**

In the event that a system of records maintained by this component to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

**ROUTINE USE - DISCLOSURE WHEN REQUESTING INFORMATION**

A record from a system of records maintained by this component may be disclosed as a routine use to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

**ROUTINE USE - DISCLOSURE OF REQUESTED INFORMATION**

A record from a system of records maintained by this component may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

**ROUTINE USE - CONGRESSIONAL INQUIRIES**

Disclosure from a system of records maintained by this component may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

**ROUTINE USE WITHIN THE DEPARTMENT OF DEFENSE**

A record from a system of records maintained by this component may be disclosed as a routine use to other components of the Department of Defense if necessary and relevant for the performance of a lawful function such as, but not limited to, personnel actions, personnel security actions and criminal investigations of the Component requesting the record.

**ROUTINE USE - PRIVATE RELIEF LEGISLATION**

Relevant information contained in all systems of records of the Department of Defense published on or before August 22, 1975, will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

**ROUTINE USE - DISCLOSURES REQUIRED BY INTERNATIONAL AGREEMENTS**

A record from a system of records maintained by this Component may be disclosed to foreign law enforcement, security, investigatory, or administrative authorities in order to comply with requirements imposed by, or to claim rights conferred in international agreements and arrangements including those regulating the stationing and status



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in foreign countries of Department of Defense military and civilian personnel.

ROUTINE USE - DISCLOSURE TO STATE AND LOCAL TAXING AUTHORITIES

Any information normally contained in IRS Form W-2 which is maintained in a record from a system of records maintained by this Component may be disclosed to State and local taxing authorities with which the Secretary of the Treasury has entered into agreements pursuant to Title 5, U.S. Code, Sections 5516, 5517, 5520, and only to those State and local taxing authorities for which an employee or military member is or was subject to tax regardless of whether tax is or was withheld. This routine use is in accordance with Treasury Fiscal Requirements Manual Bulletin Nr. 76-07.

ROUTINE USE - DISCLOSURE TO THE U.S. CIVIL SERVICE COMMISSION

A record from a system of records subject to the Privacy Act and maintained by this component may be disclosed to the Civil Service Commission concerning information on pay and leave, benefits, retirement deductions, and any other information necessary for the Commission to carry out its legally authorized Government-wide personnel management functions and studies.

ROUTINE USE - DISCLOSURE OF INFORMATION TO NARS (GSA)

A record from a system of records maintained by this component may be disclosed as a routine use to the National Archives and Records Service of the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

F00401 05HCHLB

**System name:** 00401 05HCHLB Sensitive Compartmented Information (SCI) Personnel Security Records (PSR)

**System location:** Personnel Security Division, Directorate of Security and Communications Management, Air Force Intelligence Service, Pentagon, Washington DC 20330 Records for personnel assigned Air Force Security Service are located with Directorate of Security Police, Air Force Security Service, Kelly Air Force Base, Texas 78243. Records for personnel assigned to Air Force Communications Service are located with Office of the Inspector General, Air Force Communications Service, Richards-Gebaur AFB, Missouri 64030. Records for personnel assigned to Air Weather Service are located with Directorate of Special Projects, Control Division, Air Weather Service, Scott Air Force Base, Illinois 62225

**Categories of individuals covered by the system:** Air Force personnel, civil service employees, and contractor personnel with current access to SCI or who have had such access within past 5 years except Air Force personnel assigned to Central Intelligence Agency, Office of the Secretary of Defense/Defense Agencies, Office of the Joint Chiefs of Staff, and the National Security Agency

**Categories of records in the system:** Statements of Personal History and allied papers prepared or submitted by individuals; Personnel Background Investigations; Statements by Commanders, Supervisors, Medical, Legal, and Security Officials, and related correspondence; Access Adjudication Records; Indoctrination Oaths; Termination Oaths; routine records/correspondence pertaining to access status or changes in status

**Authority for maintenance of the system:** Executive Order 10450

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used by designated, responsible Air Force officials to recommend/determine eligibility for access to SCI. Used to verify an individual's status with respect to SCI access or eligibility for such access, only the 'fact of' an individual's eligibility/noneligibility for SCI access is furnished to other authorized government agencies/activities and only upon request. To answer official inquiries involving an individual's eligibility/noneligibility for access to SCI, substantive information is released to responsible officials in the Air Force Inspector General Organizations, or higher Air Force authority, and to members of Congress. Used internally to determine personnel security trends and to attempt to determine causes for security deviations

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders and on roll microfilm.

**Retrievability:** Filed by Name, Social Security Number (SSN) and grade or rank

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in security file containers/cabinets and vaults.

**Retention and disposal:** Active records maintained as long as an individual is authorized access to SCI. Upon termination of access record is placed in inactive status where it is retained for 5 years and then destroyed unless sooner returned to active status. Destruction is by burning or shredding

**System manager(s) and address:** Assistant Chief of Staff, Intelligence, Headquarters United States Air Force. The Director of Security and Communications Management Air Force Intelligence Service, The Pentagon, Wash DC 20330 is designated to act in the name of the Assistant Chief of Staff/Intelligence, Hq, United States Air Force

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager. Unclassified portions of file available upon request. Include full name grade (where applicable), social security account number, date and place of birth, organization/activity to which assigned/employed at time of SCI access. Visits may be made to office of System Manager. Individuals not authorized access to Pentagon working area should contact System Manager by mail beforehand. Include all above information in letter.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Personnel Background Investigations conducted by Defense Investigative Service and/or Air Force Office of Special Investigations; Statement of Commanders, Supervisors, and medical, legal and security officials; records of adjudication processes.

**Systems exempted from certain provisions of the act:** NONE

F01001 CVAE A

**System name:** 01001 CVAE A Secretary of the Air Force Historical Records

**System location:** Washington National Records Center, Washington DC 20409. Modern Military Branch Military Archives Division National Archives and Records Service, Washington DC 20408.

**Categories of individuals covered by the system:** Employees and former employees of the Secretary of the Air Force, and anyone who has corresponded with the Secretary of the Air Force.

**Categories of records in the system:** Secretary of the Air Force correspondence files covering calendar years 1947 through March, 1972, most of which does not contain personal information.

**Authority for maintenance of the system:** 5 United States Code 301; 10 United States Code 8012.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used for research by Air Force Historian, other government agencies and private institutions.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name and Dewey Decimal System.

**Safeguards:** Access by direction of the Secretary of the Air Force only. Records are stored in locked cabinets or rooms.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Chief of Staff, Headquarters United States Air Force, Washington, D.C. 20330

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from previous employers, educational institutions, medical institutions, police and investigating officer, the public media, a corporation, and source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

**Systems exempted from certain provisions of the act:** NONE





F01001 05HCHLC

**System name:** 01001 05HCHLC Air Force Attache Record System

**System location:** Air Force Intelligence Service, Bolling AFB, DC 20332

**Categories of individuals covered by the system:** Files are maintained on Air Force Attache applicants, current Air Force Attaches and former Attaches

**Categories of records in the system:** Career Briefs, Officer Effectiveness Reports, Airman Performance Reports, Statements of Personal History, autobiographics, family photos, Armed Forces Language Aptitude and Proficiency Test scores, finger print card, Medical Fitness Statements, Statements of Interview by Commanders, Requests for National Agency Checks

**Authority for maintenance of the system:** 5 USC 301 and 10 USC 8012

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** The material is used by the Active Duty Military Staff Directory involved with the selection and service of Air Force Attaches. The purpose of collecting the information on Attache applications is to evaluate the suitability of an individual for Attache duty. The purpose of maintaining records on current Attaches is to assist in providing service to them while on station. The purpose of maintaining material on prior Attaches is to assist them in their applications for subsequent Attache duty and for analysis and historical purposes. The records are retained within the Air Force Attache System and not disclosed to personnel outside the Attache System

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, safes, or locked cabinets or rooms.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Director Air Force Attache Affairs, Air Force Intelligence Service, Ft Belvoir, VA 22060

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Individuals, Air Force Military Personnel Center, Randolph Air Force Base Texas.

**Systems exempted from certain provisions of the act:** NONE

F01001 05HCHLD

**System name:** 01001 05HCHLD USAF Prisoner of War (PW) Debriefing Files

**System location:** 7602 Air Intelligence Group (INXB), Ft Belvoir, VA 22060

**Categories of individuals covered by the system:** Air Force returned PW.

**Categories of records in the system:** Debriefing transcripts; messages concerning PWS; topical data.

**Authority for maintenance of the system:** 10USC 8012

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Intelligence file; research source documents used by Air Force Intelligence Analysts, Physicians, Casualty Resolution Personnel.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders, on computer magnetic tapes and paper printouts and on microfiche.

**Retrievability:** Filed by Name or by other identification number or system identifier.

**Safeguards:** Records are accessed by custodian of the record system. Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in safes. Records are controlled by computer system software.

**Retention and disposal:** Retire as permanent to Albert F. Simpson Historical Research Center, Maxwell AFB, AL 36112.

**System manager(s) and address:** Assistant Chief of Staff, Intelligence, Headquarters United States Air Force.

**Notification procedure:** Requests from individuals should be addressed to the System Manager.

**Record access procedures:** The individual can obtain assistance in gaining access from the System Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Returned USAF prisoners of war.

**Systems exempted from certain provisions of the act:** NONE

F01003 01IACYVA

**System name:** 01003 01IACYVA Background Material

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel.

**Categories of records in the system:** Letter request for orders, amendments, including justification on files on special authorizations when required by order publishing activity.

**Authority for maintenance of the system:** Title 10, United States Code, 1162.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Information on form is utilized for publication of discharge orders used by military personnel and AF civilian employees within the office and verify that discharge orders were published.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in card files.

**Retrievability:** Filed by Name, Social Security Number (SSN) or by other identification number or system identifier.

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

**Retention and disposal:** Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander, Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, Colorado between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve. idenficiation card and/or driving license and some verbal information that could verify the person's SSN at time of discharge.

**Record access procedures:** Individual can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.



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**Record source categories:** Information obtained from medical institutions, police and investigating officers, witnesses and source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

**Systems exempted from certain provisions of the act:** NONE

**F01101 DPXJC C**

**System name:** 01101 DPXJC C USAF Reconstitution Requirements for Office of JCS and HQ USAF

**System location:** HQ USAF/Deputy Chief of Staff, Personnel, USAF Personnel Readiness Center, Washington, DC 20330 (DC).

**Categories of individuals covered by the system:** USAF Military and Civilian Personnel identified to fill reconstitution positions for the Office of Joint Chief of Staff (OJCS).

**Categories of records in the system:** Records are maintained on electrical accounting machine (EAM) cards; cards contain name of selectee, Social Security Account Number, Command of Assignment, Installation Location, Grade of Selectee and the authorized position data.

**Authority for maintenance of the system:** Title 44, United States Code (USC), Public Printing and Documents, Chapter 31, Records Management by Federal Agencies, Section 3101.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Records are used to identify individuals to fill reconstitution requirements. Records used within the Air Force (AF) and the National Military Command Center (NMCC) for AF General Officers in support of Contingency Operations Plan and the National Security Agency (NSA) for AF personnel designated to reconstitute NSA. Records are used to manage the personnel resource designated for reconstitution.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in card files.

**Retrievability:** Filed by Name.

**Safeguards:** Complete file is maintained in accordance with USAF security directives.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Deputy Chief of Staff/Personnel, Headquarters United States Air Force.

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information derived from military personnel records and authorized manning documents, position descriptions and related correspondence.

**Systems exempted from certain provisions of the act:** NONE

**F01102 LLI A**

**System name:** 01102 LLI A Microfilm Records Congressional/Executive Inquiries

**System location:** Office of the Secretary of the Air Force, Washington DC 20330.

**Categories of individuals covered by the system:** Air Force active duty officer and enlisted personnel. Air Force civilian employees and former Air Force civilian employees. Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel. Retired Air Force general officers. Union or Association management personnel. Air Force Academy nominees/applicants. Air Force Academy cadets. Senior and Junior Air Force Reserve Officers. Dependents of military personnel. Anyone who has written to the President or a Member of Congress regarding an Air Force issue.

**Categories of records in the system:** Copies of applicable Congressional/Executive correspondence and Air Force replies.

**Authority for maintenance of the system:** 10 United States Code 8012 and 5 United States Code 7102.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Information is used as a reference base in the case of similar inquiries from other Members of Congress, in behalf of the same Air Force issue and/or follow-up by the same Member. Information may also be used by appropriate Air Force offices as a basis for corrective action and for statistical purposes.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in card files and on aperture cards.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

**Retention and disposal:** Current year plus 2 years of microfilm records will be retained in the office, then destroyed by tearing, shredding, macerating, pulping or burning.

**System manager(s) and address:** Director of Legislative Liaison, Office of the Secretary of the Air Force, Headquarters United States Air Force, Washington DC 20330.

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Personnel Records. Congressional and Executive inquiries and information from Air Force offices andorganizations.

**Systems exempted from certain provisions of the act:** NONE

**F01102 0IACYVA**

**System name:** 01102 0IACYVA Congressional Inquiries.

**System location:** at Air Reserve Personnel Center, (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel. Retired Air Force general officers.

**Categories of records in the system:** Routine and noncontroversial communications from and to members of Congress relating to unclassified information such as requests from military personnel for discharge or reassignment or other similiar type of correspondence

**Authority for maintenance of the system:** Title 10 US Code Section 1034.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used to obtain information for an interested member of Congress pertaining to personal problems relating to the Reserve of the Air Force. Used by military personnel clerks for replying to Congressmen.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name. Filed by Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards.

**Retention and disposal:** Retained for two years after end of year in which the case was closed, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC) 7300 East First Avenue, Denver Co 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Dolorado 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence





received from ARPC. Records may be reviewed in the Records Review Roomi Air Reserve Personnel Center, 7300 East First Avenue, Denver, Colorado between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's SSN at time of discharge.

**Record access procedures:** Individual can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver CO 80280, telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** information from members of Congress

**Systems exempted from certain provisions of the act:** NONE

**F01102 0IACYVB**

**System name:** 01102 0IACYVB Locator Personnel Data.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force active duty military personnel. Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel. Former military personnel and ARPC civilian employees.

**Categories of records in the system:** Cards, ledgers, record request containing individual's name or names, social security account number, and personnel data, which can contain summary of action taken or to be taken.

**Authority for maintenance of the system:** Section 10 US Code 267, 268, 269, 270, 271, 273, 275, 279.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used to control records distribution, to record location of record, actions taken or/to be taken used to manage individual's records, to answer inquiries from individual and Air Force units to which individuals are assigned or to be assigned.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders, in note books/binders, in visible file binders/cabinets, in card files, and on paper tape.

**Retrievability:** Filed by Name, Social Security Number (SSN), Military Service Number, or by other identification number or system identifier.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards.

**Retention and disposal:** Retained in office files for three months after monthly cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Retained for two years after end of year in which the case was closed, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC) 7300 East First Avenue, Denver CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, Colorado between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve idenfification card and/or driving license and some verbal information that could verify the person's SSN at time of discharge.

**Record access procedures:** Individual can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver CO 80280, telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Extract from individual records.

**Systems exempted from certain provisions of the act:** NONE

**F01201 DAD A**

**System name:** 01201 DAD A Privacy Act Request File.

**System location:** At all levels of the Air Force having responsibility for systems of records, to process requests, submit reports, and to document actions taken under the Privacy Act of 1974. This includes Headquarters United States Air Force staff agencies, major commands, separate operating agencies, installations, and activities. Official mailing addresses are in the Department of Defense directory in the appendix to the Department of the Air Force system notices (40 FR 35726).

**Categories of individuals covered by the system:** All persons who request access to, information from, or amendment of records about themselves from the Department of the Air Force under the provisions of the Privacy Act of 1974 (5 U.S.C. 552a).

**Categories of records in the system:** Letters, memoranda, legal opinions, messages, and miscellaneous documents relating to an individual's request for access to or amendment of records concerning that person, including letters of denial, appeals, statements of disagreements, and related documents accumulated in processing requests received under the Privacy Act of 1974.

**Authority for maintenance of the system:** 5 U.S.C. 552a and 44 U.S.C. 3101.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used to process and coordinate individual requests for access to or amendment of personal records; to process and record appeals on denials of requests for access or amendments to personal records; to prepare legal opinions and interpretations for systems managers and the Secretary of the Air Force. Used by the Air Force Audit Agency, the Air Force Inspector General, the Office of Management and Budget, the General Services Administration, the Civil Service Commission, the Justice Department, or other Government agencies having a direct interest in monitoring or evaluating compliance with the provisions of the Privacy Act by the Department of the Air Force, including the preparation of special studies or reports on the status of actions taken to comply with the Act, the results of those efforts, any problems encountered and recommendations for any changes in legislation, policies, or procedures. Also used by members of Congress or their staffs for resolution of constituent inquiries.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by name of requester on whom the records pertain.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

**Retention and disposal:** Disposition is pending approval under 44 U.S.C 3303(3).

**System manager(s) and address:** The Director of Administration, Headquarters United States Air Force, Washington DC 20330; or the Director of Administration of the major command or separate operating agency, or Chief, Central Base Administration at the Air Force installation where the requested or disputed records are located.

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager. Written requests should include the person's full name grade (if applicable), and some other personal information which could be verified from the person's file. For personal visits, the individual should present a valid identification card or driver's license and some verbal information which could be verified from the person's case file.

**Record access procedures:** Written requests should be addressed to the office that processed the initial inquiry, access request, amendment request, or appeal; or individual can obtain assistance in gaining access from the System Manager. Mailing addresses are



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in the Department of Defense directory in the appendix to the Air Force's systems notices (40 FR 35726).

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Records are obtained from the individual requestor, Department of the Air Force organizations, other Department of Defense organizations, and agencies of Federal, state, and local governments, as applicable or appropriate for processing the case.

**Systems exempted from certain provisions of the act:** NONE

**F01201X0IACYVA**

**System name:** 01201X0IACYVA Fee Case File

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve and Air National Guard personnel.

**Categories of records in the system:** Copies of general correspondence, chargeable case control, and public voucher for refunds involving collection of fees for reproduction of documents from an Air Force reserve or Air National Guard members master personnel record,at the request or authorization of the member for release to himself/or herself or approved agencies.

**Authority for maintenance of the system:** 10 United States Code 8012

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Purpose is for suspense and control to insure chargeable fees are collected and to verify action completed.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name and Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes.

**Retention and disposal:** Filed for two years then destroyed by tearing, pulping, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, Colorado between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve idenfification card and/or driving license and some verbal information that could verify the person's SSN at time of discharge.

**Record access procedures:** Individual can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280, telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information from other military agencies and the National Personnel Records Center, St. Louis, MO 63132.

**Systems exempted from certain provisions of the act:** NONE

**F02501 0IACYVA**

**System name:** 02501 0IACYVA Manpower standards study reports.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force active duty military personnel. Air Force civilian employees.

**Categories of records in the system:** workload and man hour record

**Authority for maintenance of the system:** Title 31 US Code sections 18,18a and 18b.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** to collect man hour and workload data for the purpose of comparing work accomplished to the standard and to expected to be done, to indentify excessive workload buildups and to determine individual employee performance.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained on computer magnetic tapes. Maintained on computer paper printouts.

**Retrievability:** Filed by Social Security Number (SSAN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards.

**Retention and disposal:** Retained in office files for three months after monthly cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, Colorado between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's SSN at time of discharge.

**Record access procedures:** Individual can obtain assistance in gaining access from Documentation Management Officer, ARPC/DADP 7300 East First Avenue, CO, 80280, telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information collected from individual.

**Systems exempted from certain provisions of the act:** NONE

**F03001X0IACYVB**

**System name:** 03001X0IACYVB Inquiries on the Reserve Program

**System location:** at Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, Co 80280.

**Categories of individuals covered by the system:** Air Force active duty officer and enlisted personnel. Air Force civilian employees. Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel. Civilians.

**Categories of records in the system:** letters from active, reserve military personnel and civilians requesting assignment, vacancy search action in the Air Force reserve program.

**Authority for maintenance of the system:** 10 USC 8012

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** ARPC personnel answer questions on the reserve program and/or try to locate vacancies.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name. Filed by Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system. Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are protected by guards.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.





**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, Colorado between 8:00 am and 3:00 pm on normal workdays. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify his/her inquiry.

**Record access procedures:** Individual can obtain assistance in gaining access from the Documentation Management Officer ARPC/DADP, 7300 East First Avenue, Denver CO 80280, telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information from individual.

**Systems exempted from certain provisions of the act:** NONE

**F03002 0IACYVA**

**System name:** 03002 0IACYVA Applications for Identification (ID) cards.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel.

**Categories of records in the system:** Applications for ID cards and discharge orders.

**Authority for maintenance of the system:** title 18 U.S.Code 499, 506 and 701.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Purpose is to suspend pending receipt of ID card or correspondence from reserviSt advising of prior disposition of identification card.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name and by Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards.

**Retention and disposal:** Destroy when notified that creDential has been returned to issuing activity by tearing into pieces, shredding, pulping, mascerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADp, 7300 East First Avenue, Denver, Colorado 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, Colorado between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's SSN at time of discharge.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information is extracted from maSter personnel record when individual is discharged from the Air Force Reserve.

**Systems exempted from certain provisions of the act:** NONE

**F03003 XOXXX**

**System name:** 03003 XOXXX Next of Kin Inquiries Civilian MIA/PWs

**System location:** Headquarters United States Air Force, Washington DC 20330.

**Categories of individuals covered by the system:** Dependents of military personnel. MIA/PW Sponsor Peace Corps and State Department personnel. and other US civilian employees

**Categories of records in the system:** Correspondence Background data Intelligence Reports

**Authority for maintenance of the system:** 10 USC 8012

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Background data for Plans and Policy Formulation

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in safes.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Division Chief, Plans and Policy Division, Hq USAF (XOXXX) Washington D.C. 20330

**Notification procedure:** Requests from individuals should be addressed to the System Manager.

**Record access procedures:** Individuals can obtain assistance in gaining access from the System Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Sources include information requests from next-of-kin, PW or MIA personnel; master personnel records, and intelligence reports.

**Systems exempted from certain provisions of the act:** NONE

**F03004 0EACYVA**

**System name:** 03004 0EACYVA Military Personnel Expense Distribution Listing.

**System location:** Elements of the record system are maintained at accounting and finance offices (AFO) and responsibility centers/cost centers (RC/CC) managers at Air Force installations listed in the Department of Defense Directory in the appendix to the Air Force system notice.

**Categories of individuals covered by the system:** Air Force active duty military personnel.

**Categories of records in the system:** records include but are not limited to listings and correspondence relating to name, grade, standard rate of pay and other accounting classifications.

**Authority for maintenance of the system:** 31 U.S.C.67(b).

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Listings are used by cost center managers and other Department of Defense Components to monitor the accuracy of the military personnel expense system. Disclosure made pursuant to the Freedom of Information Act. Disclosures to the Department of Justice for criminal prosecution, civil litigation or investigation.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in visible file binders/cabinets, in card files, on computer magnetic tapes, on disks or drums, and on computer paper printouts.

**Retrievability:** available only by computer product request or by referral to hard copy listing. Data can be obtained only by retreiving the complete list which shows all personnel for each base on a monthly basis. Data pertaining to an individual cannot be automatically separated from the list.

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are authorized personnel and properly screened and cleared



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for need-to-know. Records are protected by guards. Records are controlled by personnel screening, visitor registers and computer system software.

**Retention and disposal:** Retained in office files for two years after annual cut-off, then destoyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Comptroller of the Air Force, Headquarters United States Air Force. Director of Accounting And Finance, United States Air Force and Accounting and Finance Officers at Air Force installations.

**Notification procedure:** Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7552. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at Air Force components listed in the Department of Defense Directory in the appendix to the Air Force system notice. Requesters should be able to provide sufficient proof of identity, such as name, social security account number, military status, duty station or place of employment, or other information verifiable from the record itself.

**Record access procedures:** Requests from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7552. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at Air Force components listed in the Department of Defense Directory in the appendix to the Air Force system notice. Requesters should be able to provide sufficient proof of identity, such as name, social security account number, military status, duty station or place of employment, or other information verifiable from the record itself.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Base level military personnel system (BLMPS). Standard rate of pay from HQ USAF.

**Systems exempted from certain provisions of the act:** NONE

**F03004X0IACYVB**

**System name:** 03004X0IACYVB Processed Transactions.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280. Air National Guard activities. Air Force Reserve units. in the appendix to the Air Force's systems notice.

**Categories of individuals covered by the system:** Active Air National Guard and USAF reserve personnel.

**Categories of records in the system:** Point Credit Accounting and Reporting System (PCARS) weekly processed transactions list. Individual point credit accounts.

**Authority for maintenance of the system:** Title 10 US Code, Section 1331, Section 1332, Section 1333.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To maintain accurate listings of transactions processed to active Air Force members: point credit account.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in visible file binders/cabinets and on computer paper printouts.

**Retrievability:** Filed by Name and Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for, 7300 East First Avenue, Denver, CO 80280. need-to-know. Records are protected by guards.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC)

**Notification procedure:** Request from individual should be addressed to Command Documentation Management Officer ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written request for information should contain full name of individual, SSN (Social Security Number), current address and the case control number shown on correspondence received from center records may be reviewed in records review room ARPC, 7300 East First Avenue, Denver, CO 80280 between 8 am and 3 pm. on normal work days. For personal visits, the individual should provide current reserve ID card and or drivers license and give some verbal information that could verify his/her reserve assignment.

**Record access procedures:** Individual can obtain assistance in gaining access from 7300 East First Avenue, Denver, CO 80280, telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information from master personnel record and authorized point credit documents Information obtained from automated system interfaces.

**Systems exempted from certain provisions of the act:** NONE

**F03004X0IACYVE**

**System name:** 03004X0IACYVE Periodic Reconciliation File.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280. Air National Guard activities. Air Force Reserve units. in the appendix to the Air Force's systems notice.

**Categories of individuals covered by the system:** Air Force Reserve and Air National Guard personnel.

**Categories of records in the system:** Name and social security number (SSN) in the Point Credit Accounting and Reporting System (PCARS) master file will be compared with the same data items in the Advanced Personnel Data System (APDS) master file and air reserve pay and Allowance System (ARPAS) master file.

**Authority for maintenance of the system:** Title 10 US Code sections 1331, 1332, 1333

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used to reconcile strength of the Air National Guard and Air Force Reserve members between the various mechanized accounting systems.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in visible file binders/cabinets and on computer paper printouts.

**Retrievability:** Filed by Name and Social Security Number (SSAN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Request from individuual should be addressed to Command Documentation Management Officer ARPC/ADDP 7300 East First Avenue, Denver, CO 80280. Written request for information should contain full name of individual, SSN (social security number), current address and the case control number shown on correspondence received from center records may be reviewed in records review room ARPC, 7300 East First Avenue, Denver, CO 80280 between 8 am and 3 pm on normal work days. For personal visit, the individual should provide current reserve ID card and/or drivers license and give some verbal information that could verify his or her reserve or National Guard status.

**Record access procedures:** Individual can obtain assistance in gaining access from Command Documentation Management Officer ARPC/DADP, 7300 East First Avenue, Denver, CO 80280, telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.





**Record source categories:** Information obtained from automated system interfaces.

**Systems exempted from certain provisions of the act:** NONE

**F03004X0IACYVF**

**System name:** 03004X0IACYVF Accession Listing.

**System location:** Air National Guard activities. Air Force Reserve units. in the appendix to the Air Force's systems notice.

**Categories of individuals covered by the system:** Air Force Reserve and Air National Guard personnel.

**Categories of records in the system:** Name and social security number (SSN) of Air Force Reserve and National Guard members newly gained to the Point Credit Accounting and reporting system (PCARS).

**Authority for maintenance of the system:** Title 10 US Code sections 1331, 1332, 1333.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used to list all new members of the Air Force Reserve and Air National Guard each week.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in visible file binders/cabinets and on computer paper printouts.

**Retrievability:** Filed by Name and Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by authorized personnel who are properly screened and cleared for need-to-know. Records are protected by guards.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Request from individual should be addressed to Command Documentation Management Officer ARPC/DADP, 7300 East First Avenue, Denver CO 80280. Written request for information should contain full name of individual, SSN (social security number, current address and the case control number shown on correspondence received from center. Records may be reviewed in records review room ARPC, 7300 East First Avenue, Denver, CO 80280 between 8 am and 3 pm. on normal work days. For personal visits,the individual should provide current reserve ID card and/or drivers license and give some verbal information that could verify his or her Reserve or National Guard status.

**Record access procedures:** Individual can obtain assistance in gaining access from Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280, telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from automated system interfaces. ;and from extended active duty personnel.

**Systems exempted from certain provisions of the act:** NONE

**F03004X0IACYVG**

**System name:** 03004X0IACYVG Input Transaction Registers.

**System location:** Air National Guard activities. Air Force Reserve units. in the appendix to the Air Force's systems notice. Air reserve Personnel Center 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve and Air National Guard personnel.

**Categories of records in the system:** Certified listing summarizing manual posting to personnel Point Credit Accounting and reporting system (PCARS),from ANG and Air Force Reserve units.

**Authority for maintenance of the system:** Title 10 US Code,sections 1331,1332 and 1333.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To certify accuracy and completeness of transactions manually submitted to PCARS as required by Air Force audit requirements.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in visible file binders/cabinets and on computer paper printouts.

**Retrievability:** Filed by Name and Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Request from individual should be addressed to Command Documentation Management Officer ARPC/DADP, 7300 East First Avenue, Denver CO 80280. Written request for information should contain full name of individual, SSAN(social security account number), current address and the case control number shown on correspondence received from center. Records may be reviewed in records review room ARPC, 7300 East First Avenue, Denver, CO 80280 between 8 am and 3 pm on normal work days. For personal visits, the individual should provide current reserve ID Card and/or drivers license and give some verbal information that could verify his/her reserve status.

**Record access procedures:** Individual can obtain assistance in gaining access from Command Documentation Management Officer, 7300 East First Avenue, Denver, CO 80280, telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Authorized Point Credit Documents Information obtained from automated system interfaces.

**Systems exempted from certain provisions of the act:** NONE

**F03501 AFDPG O**

**System name:** 03501 AFDPG O General Officer Personnel Data System

**System location:** Headquarters United States Air Force, Washington DC 20330. Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Active Duty/Air National Guard/Reserve General Officers

**Categories of records in the system:** Promotion board data, effectiveness reports, 'Career Brief' data and cards, Officers Personnel Record, Photos, Award/Decoration citations, biographies, letters of appreciation,retirement letters, dependent data, promotion orders, assignment orders,- assignment preference data , demotion data, frocking letters, case studies, training points sum (Air National Guard/Reserve only), language data, and education data; and USAFR and Colonels filling General Officer position listings.

**Authority for maintenance of the system:** Title 10 United States Code - Armed Forces, Chapter 803, Department of the Air Force, Section 8012 and Chapter 805, The Air Force Staff, Sections 8032 and 8034. Title44USC 3101.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Promotions, assignment nominations/worksheets, retirements, congressional inquiries/responses, statistical analysis, force structure policies and history and strength history,career administration/planning, career profiles, Memorandums for Record affecting actions taken on general officers, vacancy lists, array of general officers by temporary/permanent grade and mandatory retirement date, seniority lists, retirement lists, personnel information is disclosed as directed to agencies within Office of the Secretary of Defense and Office of Management and Budget, The Office of the President and The Congress.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in visible file binders/cabinets/safes.

**Retrievability:** Most records are retrieved by last name and/or grade. Case studies, statistical analyses, promotion board results, congressional inquiries and responses are retrieved by topic by year of action.



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**Safeguards:** Access to these records is given only to the Chief of Staff, Deputy Chief of Staff/Personnel, Assistant for General Officer Matterse Chief of Air Force Reserve, Chief National Guard Bureau, and Air Reserve Personnel Center/Director of Reserve Record/DPFR; and RAND Corporation, and the assigned officers/noncommissioned officers and civilian and clerical help, totaling approximately 20 people. Security procedures, equivalent to the security required for Confidential and Secret data, are employed.

**Retention and disposal:** Records are maintained until retirement of the officer involved. Case studies, statistical analyses, promotion board results, promotion ballots, vacancy lists, spread sheets, seniority lists, retirement lists have been maintained since their respective creation.

**System manager(s) and address:** Deputy Chief of Staff/Personnel, Headquarters United States Air Force.

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager. An individual's full name Social Security Number active duty grade will be needed to process written requests. An individual may visit the Pentagon, Room 4E212, the Office of Assistant for General Officer Matters, Headquarters United States Air Force (HQ USAF/DPG), to obtain the information. A requester must present his Military Identification Card when appearing in person and requesting personal information. When requesting personal information in writing, the requester must have his request notarized.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager. Most records will be released upon request; however any record the release of which is questionable in the view of the Assistant for General Officer Matters, will be cleared for release by the HQ USAF DCS Personnel before it is finally released to the individual.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Personnel Data Base, Member, Inspector General Investigations.

**Systems exempted from certain provisions of the act:** NONE

**F03501 AFDPG Z**

**System name:** 03501 AFDPG Z General Officer Personnel Data System

**System location:** Headquarters United States Air Force, Washington DC 20330. Air Force Military Personnel Center, Randolph Air Force Base, TX 78148. Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Retired Active Duty General Officers and Retired Air National Guard (ANG)/Reserve General Officers.

**Categories of records in the system:** Promotion Board Data; 'Career Brief' Data/Cards; Forms 11; Photographs; Biographies; Retirement Letters; Dependent Data; Education Data; Promotion Orders; Assignment Orders; Demotion Data; Frocking Letters; Case Studies; Language Data.

**Authority for maintenance of the system:** Title 10, United States Code (USC), Armed Forces, Chapter 805, The Air Staff, Section 8032.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Individual Queries; Precedent Actions; Statistical Analyses of Historical Nature; Assignment Nominations/Worksheets; Congressional Inquiries and Responses; Memorandums for Record Affecting Actions Taken on General Officers; Career Profiles; Vacancy Lists; Array of General Officers by Temporary/Permanent Grade and Mandatory Retirement Date; Seniority Lists; Retirement Lists.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in visible file binders/cabinets card files.

**Retrievability:** Most records are retrieved by last name and/or grade. Case studies, statistical analyses, promotion board results, Congressional inquiries and responses are retrieved by topic by year of action.

**Safeguards:** Access to these records is given only to the Chief of Staff, Deputy Chief of Staff (DCS)/Personnel, Assistant for General Officer Matters, Chief of Air Force Reserve, Chief National Guard Bureau, and Rand Corporation, and the assigned officers/Noncommissioned Officers (NCOs) and civilian and clerical help, totaling approximately 20 people. Assistant for General Officer Matters (DPG), Military Personnel Center/Records Maintenance Branch (MPC/DPMDRR) and Air Reserve Personnel Center/Director of Personnel Actions (ARPC/DPAAR) are the only offices in the Air Force where this data could be maintained. Security procedures employed by DPG are equivalent to the security required for Confidential and Secret data.

**Retention and disposal:** Retired 4-star General Officer records are maintained indefinitely; Retired 1, 2 and 3-star General Officer records are retained for 3 years, reviewed to determine if there are any materials of historical value which warrant indefinite retention - if not, they are destroyed by tearing into pieces, shredding, pulping or macerating.

**System manager(s) and address:** Deputy Chief of Staff/Personnel, Headquarters United States Air Force.

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager. An individual's full name Social Security Number (SSN) active duty grade will be needed to process written requests. An individual may visit the Pentagon, Room 4E212, The Office of the Assistant for General Officer Matters, to obtain the information. A requester must present his Military Identification (ID) card when appearing in person and requesting information. When requesting personal information in writing, the requester must have his request notarized.

**Record access procedures:** An individual may obtain access to his records by either writing Headquarters United States Air Force/Assistant for General Officer Matters (HQ USAF/DPG) - The Pentagon or by appearing in person and requesting the information. Most records will be released upon request; however, any record, the release of which is questionable in the view of the Assistant for General Officer Matters, will be cleared for release by the HQ USAF/DCS Personnel before it is finally released to the individual.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Personnel Data Base; Member; Inspector General (IG) Investigations.

**Systems exempted from certain provisions of the act:** NONE

**F03501 ASGPS R**

**System name:** 03501 ASGPS R Medical Opinions on Board for Correction of Air Force Military Records Cases (BCMR)

**System location:** AFMPC/SG, Randolph AFB, Texas 78148.

**Categories of individuals covered by the system:** Files are maintained on individuals making application to the Air Force Board for Correction of Military Records on which a medical opinion has been rendered.

**Categories of records in the system:** Contains a copy of the medical advisory opinion rendered on Air Force Board for Correction of Military Records.

**Authority for maintenance of the system:** Title 10, United States Code, Section 8012.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Afford a historical reference, by name, to previous action taken regarding a specific BCMR application.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders in unlocked filing cabinets.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** AFMPC Surgeon, Randolph AFB, Texas 70148.

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager.





**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from medical institutions.

**Systems exempted from certain provisions of the act:** NONE

**F03501 DP 3**

**System name:** 03501 DP 3 Unit Assigned Personnel Information File

**System location:** Air Force Units. Headquarters United States Air Force and major command headquarters. Headquarters of major commands and at all levels down to and including Air Force installations.

**Categories of individuals covered by the system:** Active duty military personnel. Air Force Reserve and Air National Guard personnel.

**Categories of records in the system:** File copies of separation actions, newcomers briefing letters, line of duty determinations, assignment actions, retirement actions, in and out processing checklists, promotion orders, credit unition authorization, disciplinary actions, favorable/unfavorable communications, record of counselings, appointment notification letters, duty status changes, applications for off duty employment ,applications and allocations for school training.

**Authority for maintenance of the system:** 10 United States Code 8012.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Provides information to unit commanders/supervisors for required actions related to personnel administration and counseling, promotion, training, separation, retirement, reenlistment, medical examination, testing, assignment, sponsor program, duty rosters, and off duty activities.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders, note books/binders, and card files.

**Retrievability:** Filed by Name and Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

**Retention and disposal:** Retained in office files until reassignment or separation; most records are transient in nature and are maintained only as long as required to fulfill their management purpose or until superseded, then given to the individual or destroyed by shredding, pulping, macerating or burning.

**System manager(s) and address:** Deputy Chief of Staff/Personnel, Headquarters United States Air Force. Washington D.C. 20330

**Notification procedure:** Inquries from individuals should be addressed to the respective unit commander or supervisor who maintains the records in order to exercise their rights under the Act.

**Record access procedures:** Requests from individuals should be addressed to the respective unit commander or supervisor who maintains the records in order to exercise their rights under the Act. Mailing addresses are contained in the Department of Defense Directory in the appendix to the Air Force's Systems Notice.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from the individual concerned, financial institutions, educational institutionemployees, medical institutions, police and investigating officers, bureau of motor vehicles, witnesses, reports prepared on behalf of the agency, standard Air Force forms, personnel management actions, extracts from the Advanced Personnel Data System (ADPS) and records of personal actions submitted to or originated within the organization.

**Systems exempted from certain provisions of the act:** NONE

**F03501 DPMDQIA**

**System name:** 03501 DPMDQIA Military Personnel Records System

**System location:** Headquarters United States Air Force, Washington DC 20330. Air Force Military Personnel Center, Randolph Air Force Base, TX 78148. Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280. National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132. Headquarters of the major commands and separate operating agencies. At consolidated base personnel offices and other installation units. At State Adjustment General Office of each respective State, District of Columbia or Commonwealth of Puerto Rico. At Air Force Reserve and Air National guard units, official mailing addresses are in the Department of Defense Directory in the Appendix to the Air Force's Systems Notice.

**Categories of individuals covered by the system:** Air Force active duty military personnel. Officer Correspondence and Miscellaneous Document Group (C&M) at Air Force Military Personnel Center (AFMPC); Headquarters United States Air Force (HQ USAF) Selection Record Group (SR) at HQ USAF Assistant for General Officer Matters; Retired Air Force general officers. Master Personnel Record Group (MPeRGp) at AFMPC; active duty colonels at HQ USAF, Assistant for Senior Officer Management, C&M at AFMPC Air Force active duty officer personnel. MPeRGp at AFMPC Officer Command Selection Record Group (OCSR) at the respective major command or separate operating agency, Field Record Group (FRGp) at the respective Air Force base of assignment/servicing Consolidated Base Personnel Office (CBPO); Air Force active duty enlisted personnel. MPeRGp at AFMPC, FRGp at respective servicing CBPO, Senior Noncommissioned Officer (NCO) Selection Folder at the respective servicing CBPO; personnel in Temporary Disability Retired List (TDRL) status, Missing in Action (MIA), Prisoner of War (POW), Dropped From Rolls (DFR), MPeRGp at AFMPC; Reserve officers MPeRGp at Air Reserve Personnel Center (ARPC), OCSR at the respective Air Force (AF) major command (MAJCOM) when applicable, FRGp at the respective unit of assignment or servicing CBPO or Consolidated Reserve Personnel Office (CRPO); Reserve airmen MPeRGp at ARPC, FRGp at the respective unit of assignment or servicing CBPO/CRPO; Air National Guard (ANGUS) officers MPeRGp at ARPC, OCSRat the respective State Adjutant General Office, FRGp at the respective unit of assignment, ANGUS airmen MPerGp at the respective State Adjutant General Office FRGp at the respective unit of assignment; Retired Air Force military personnel; Discharged personnel MPerGp at National Personnel Records Center (NPRC); Air Force Academy cadets MPerGp at unit of assignment CBPO.

**Categories of records in the system:** Substantiating documentation such as forms, certificates, administrative orders and correspondence pertaining to appointment as a commissioned officer, warrant officer, Regular AF, AF Reserve or ANGUS; enlistment/reenlistment/extension of enlistment; assignment Permanent Change of Station (PCS)/Temporary Duty (TDY); promotion/demotion; identification card requests; casualty; duty status changes - Absent Without Leave (AWOL)/MIA/POW/Missing/Deserter; military test administration/results; service dates; separation; discharge; retirement; security; training, Precision Measurement Equipment (PME), On The Job Training (OJT), Technical, General Military Training (GMT), commissioning, driver; academic education; performance/effectiveness reports; records corrections - formal/informal; medical or dental treatment/examination; flying/rated status administration; extended active duty; emergency data; line of duty determinations; human/personnel reliability; career counseling; records transmittal; AF reserve administration; Air National Guard administration; board proccedings; personnel history statements; Veterans Administration compensations; disciplinary actions; record extracts; locator information; personal clothing/equipment items; passport; classification; grade data; Career Reserve applications/cancellations; traffic safety; Unit Military Training; travel voucher for TDY to Republic of Vietnam; dependent data; professional achievements; Geneva Convention cards; drug abuse; Federal Insurance; travel and duty restrictions; Conscientious Objector status; decorations and awards; badges; Favorable Communications (colonels only); Inter-Service transfers; pay and allowances; combat duty; leave; photographs; Advanced Personnel Data System products;

**Authority for maintenance of the system:** Title 44, United States Code, Section 3101: Records Management by Federal Agencies; Records Management by agency heads; general duties; E.O. 9397.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** In addition to satisfying the Title 44 requirement for records retention, Military Personnel Records are utilized at all levels of Air Force personnel management within the agency for actions/processes related to procure-



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ment, education and training, classification, assignment, career development, evaluation, promotion, compensation, sustentation, separation and retirement. Military Personnel Records are routinely utilized outside the Air Force for actions/processes related to assignment or transfer to other services or joint service organizations; compensation claims submitted to Veterans Administration Regional Offices; dependents and survivors requesting issuance or determination of eligibility for identification card privileges; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) eligibility and benefits requests - copies are provided to CHAMPUS, Denver, Colorado; Immigration and Naturalization - copies are provided to respective local Immigration Office; Unemployment Compensation Requests - verification of service related information provided to State Unemployment Compensation (UCX) Office; Vietnam State Bonus - information provided to respective local State offices; Civil Service requests for verification of military service for benfits; leave or Reduction in Force (RIF) purposes - copies provided to local Civilian Personnel Office; National Cemetary Burial/Headstone cases - copies provided to Superintendent National Cemetary, Army Quartermaster Corps, Virginia; Worldwide locator inquiries - response provided to legitimate requests in accordance with the Freedom of Information Act; Dual compensation cases involving former officers - provided to establish Civil Service employee tenure and leave accrual rate; Social Security Retirement Credit Verification - verification of service data provided to substantiate applicant's credit for Social Security compensation; Soldiers and Sailors Civil Relief Act requests - verification of service - related information provided to State courts in civil actions; Litigation - in event the United States, its officers or employees are involved. Changes in member's official records regarding name, Social Security Account Number, date or place of birth or home of record - required information provided to Director of Selective Service, Federal Bureau of Investigation, and Personnel Research Division of the Air Force Human Resources Laboratory at Lackland Air Force Base, Texas. Secretary of the Air Force Legislative Liaison releases when authorized by individual concerned; US Department of Agriculture for investigative and audit procedures ;US Department of the Treasury for Secret Service investigations, Coast Guard Activities Bureaus of Customs, Narcotics, Engraving and Printing and Internal Revenue Service for official activities; US State Department, Federal Aviation Agency for background investigations of employment applicants; Central Intelligence Agency for Investigations, US Postal Service for Official Postal Inspector Duties, General Services Administration for Investigation of Incumbant Employees; Department of Justice for Investigations conducted by the Federal Bureau of Investigation and Immigraton and Naturalization Small Business Administration for Investigations concerning Loans, National Security Agency Review of Records for Security Investigations United States Information Agency for Review of Records for Background Investigations. United States Civil Service Commission to conduct investigations either by personal investigations or written inquiry to determine suitability, eligibility, or qualifications of individuals for Federal employment, Federal contracts, or access to classified information or restricted areas. Separation information provided to the Veteran's Administration and Selective Service Agencies.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders placed in metal file containers or on open shelves. Microfiche placed in rotary power files; computer disk resident data file consists of Social Security Account Number (SSN) and disk location of the associated image inderecord which includes document data describing document type, date, location, and number of pages in each document.

**Retrievability:** Information in the system is retrieved by last name, first name, middle initial and Social Security Number (SSN). Records stored at National Personnel Records Center Center are retrieved by registry number, last name, first name, middle initial and SSN. Information can be displayed via closed circuit television subsystem, produced on a duplicate microfiche, or paper reproduction.

**Safeguards:** The prescribing directive for the Military Personnel Records System requires those records to be stored (after duty hours) in a locked building, room or filing cabinets. Access is specifically limited to those personnel designated by the Consolidated Base Personnel Office (CBPO) Chief and those provisions for access and release of information contained in Air Force Regulation 31-6.

**Retention and disposal:** Users who are granted access to the microfiche files are screened by computer software. Those documents designated as Temporary in the prescribing directive remain in the records until their obsolescence (superseded, member terminates his status, or retires) when they are removed and provided to the individual data subject. Those documents designated as Permanent remain in the military personnel records system permanently and are retired with the master personnel record group.

**System manager(s) and address:** Assistant Deputy Chief of Staff Personnel for Military Personnel, Randolph Air Force Base, Texas 78148 is the official responsible for the system of records. Individuals in categories included above may deal directly with agency officials at the respective records location to exercise their rights under the Act.

**Notification procedure:** The individual data subject may be notified that a record exists on him by submitting a request to or appearing in person at the responsible official's office or the respective repository for records for personnel in his particular category during normal duty hours any day except Saturday, Sunday or national and local holidays. The Saturday and Sunday exception does not apply to Reserve and National Guard units during periods of training. Response to written requests will be provided not later than ten days following receipt of request. The System Manager has the right to waive these requirements for personnel located in areas designated as Hostile Fire Pay areas.

**Record access procedures:** The same written notification or personal visit procedures which apply to notification also apply to access.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Sources of information contained in the system include data subject's applications, requests, personal history statements, supervisors' evaluations, correspondence generated within the agency in the conduct of official business, medical treatment records, educational institutions, civil authorities, other service departments, and interface with the Advanced Personnel Data System.

**Systems exempted from certain provisions of the act:** NONE

**F03501 0IACYVA**

**System name:** 03501 0IACYVA Informational Personnel Records.

**System location:** Air Reserve Personnel Center, 3800 York Street, Denver, CO 80205.

**Categories of individuals covered by the system:** Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel. Former military personnel.

**Categories of records in the system:** Documents pertaining to individual, that are not authorized for inclusion in the record groups. Case filed by names of individuals in general correspondence file.

**Authority for maintenance of the system:** Title 10 US Code Section 274 Retired Reserve.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Working files used by ARPC military personnel technicians for determining eligibility for retirement related actions.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name and Social Security Number (SSN).

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are protected by guards.

**Retention and disposal:** Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First





Avenue, Denver, Colorado between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify his/her retirement date or date of birth.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information from individual applying for retirement, statement of military service from other military branches, correspondence from servicing Consolidated Base Personnel Office/Consolidated Reserve Personnel Office.

**Systems exempted from certain provisions of the act:** NONE

**F03501 0IACYVB**

**System name:** 03501 0IACYVB Informational Personnel Records.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel.

**Categories of records in the system:** Record of each member's active duty tour.

**Authority for maintenance of the system:** 10 USC 8012.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To keep a current record of the status of the active duty tour on each individual.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in card files.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards.

**Retention and disposal:** Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver CO 80280, 7300 East

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280. Written requests for informattion should contain full name, SSN, current mailing address and, if known, the case (control) number on corespondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, Colorado between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's SSN at time of discharge.

**Record access procedures:** Individual can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver CO 80280, telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information from individual applying for a tour of active duty.

**Systems exempted from certain provisions of the act:** NONE

**F03501 0IACYVC**

**System name:** 03501 0IACYVC Informational Personnel Records.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel.

**Categories of records in the system:** Documents pertaining to individuals that are not authorized for inclusion in the group.

**Authority for maintenance of the system:** 10 US Code Section 275 Reserve Personnel.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To provide ready access to an individuals name, address, social security account number, position occupied, active duty orders file, training reports, answers to routine correspondence and routine telephone inquiries.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name and Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, Colorado between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify his/her current Reserve status.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information from individual and military orders.

**Systems exempted from certain provisions of the act:** NONE

**F03501 0IACYVD**

**System name:** 03501 0IACYVD Informational Personnel Records (Mobilization Augmentee File).

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force active duty officer and enlisted personnel. Air Force civilian employees.

**Categories of records in the system:** Documents pertaining to individuals, that are not authorized for inclusion in the record groups.

**Authority for maintenance of the system:** US Code Title 10 Section 275 Personnel Records.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used in general correspondence. Used by Air Force active duty officer and enlisted personnel, and Air Force civilian employees.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name, Social Security Number (SSN) and date of birth.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards.

**Retention and disposal:** Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.



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**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC) 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, Colorado between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify his/her informational personnel records (Mobilization Augmentee File).

**Record access procedures:** Individual can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80380; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Consolidated Base Personnel Office/Consolidated Reserve Personnel Office and major command units.

**Systems exempted from certain provisions of the act:** NONE

**F03501 0IACYVF**

**System name:** 03501 0IACYVF Informational Personnel Records.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve and Air National Guard personnel.

**Categories of records in the system:** Correspondence from reservist, reserve units requesting information and data changes as relates to reserve members.

**Authority for maintenance of the system:** Title 10 US Code 275 Personnel Records.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used to update and/or change information in computer or Individual Reservist Record, to advise reservist of action and to answer unit questions.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name, Social Security Number (SSN) or other identification number or system identifier.

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are protected by guards.

**Retention and disposal:** Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver CO 80280.

**Notification procedure:** 'Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, Colorado between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify his/her place of birth.

**Record access procedures:** 'Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information from source documents prepared on behalf of the Air Force Advanced Personnel Data System or supplied by reservist.

**Systems exempted from certain provisions of the act:** NONE

**F03501 0IACYVG**

**System name:** 03501 0IACYVG Correction of Military Records of Officers and Airmen

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel and Air National Guard personnel.

**Categories of records in the system:** case files containing letters from individual reservist requesting correction of military record, related documents and replies to reservist.

**Authority for maintenance of the system:** 10USC 275 Personnel Records.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** used by Office Managers and Section supervisors and technicians to process correction of reserve records when requested. Base files are sent to Military Personnel Center for final action

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name and Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms, protected by guards and controlled by personnel screening.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC)

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, Colorado between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's SSN at time of discharge.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** from personnel records

**Systems exempted from certain provisions of the act:** NONE

**F03501XOBXQPCA**

**System name:** 03501XOBXQPCA Administrative Disenrollment and Investigations

**System location:** United States Air Force Academy, USAF Academy CO 80840.

**Categories of individuals covered by the system:** Air Force Academy cadets.

**Categories of records in the system:** Commandant's Board Case File, Administrative Board proceedings, Administrative Inquiries and Investigations.

**Authority for maintenance of the system:** 44USC3101

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used as a case file in Commandant's Board (Disenrollment) actions initiated against





cadets. Reviewed by the Office of the Secretary of the Air Force in making final decision on disenrollment action. Reviewed by Superintendent, United States Air Force Academy in making decision to refer to Board of Officers.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in note books/binders.

**Retrievability:** Filed by Name and Military Service Number.

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are authorized and properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Director, Cadet Personnel and Administration USAF Academy CO. 80840

**Notification procedure:** Requests from individuals should be addressed to the System Manager.

**Record access procedures:** The individual can obtain assistance in gaining access from the System Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from source documents (such as reports) prepared on behalf of the Air Force bycommittees, panels, auditors, and so forth.

**Systems exempted from certain provisions of the act:** NONE

**F03501XOBXQPCC**

**System name:** 03501XOBXQPCC USAF Academy Cadet Honor Committee Case Files

**System location:** United States Air Force Academy, USAF Academy CO 80840.

**Categories of individuals covered by the system:** Air Force Academy cadets.

**Categories of records in the system:** The case files consist of evidence and statements gathered by the Cadet Honor Committee which has been used to determine if an accused cadet was guilty of violating the Cadet Honor Code. The file also includes a summary of the honor board proceedings.

**Authority for maintenance of the system:** 44USC3101 and 5USC301

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Purpose for which information in the system is collected: To enable cadet honor representatives to investigate possible violations of the Cadet Honor Code. Category of user: Cadet Honor Representatives. Specific use made of the information by each user: The information will be used as evidence at Cadet Honor Hearings.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders/ note books/binders.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by custodian of the record system. Records are stored in safes, locked cabinets or rooms.

**Retention and disposal:** Information is retained for one year in the case of first class cadets and six months in the case of underclass cadets, or until graduation or elimination from training, then destroyed by tearing into pieces, shredding, pulping, macerating or burning.

**System manager(s) and address:** Commandant's Executive for Honor and Ethics, USAF Academy CO. 80840

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager, Name and date of Cadet Honor Hearing, Office of the Commandant's Executive for Honor and Ethics, US Air Force Academy, Colorado, 80840; positive proof of identification.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information from witnesses and summaries of honor board proceedings prepared by cadets.

**Systems exempted from certain provisions of the act:** NONE

**F03501X0IACYVA**

**System name:** 03501X0IACYVA Reserve Supplement Officer (RSO) Case File.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force active duty officer personnel and enlisted personnel. Air Force civilian employees. Air Force Reserve and Air National Guard personnel.

**Categories of records in the system:** documents pertaining to requisition, assignment, reassignment, separation, or TDY assignment request, work sheet , orders, amendments, notification of receipt of application solicitation letter

**Authority for maintenance of the system:** Title 10 US Code, Section 269.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** used by the military and civilian personnel of the reserve supplement officer assignment branch information is disclosed to Consolidated Base Personnel Office and other branches within the Air Reserve Personnel Center to insure proper information is maintained on the individual for assignment.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name and Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC) 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, Colorado between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's SSN at time of discharge.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Major comands, personnel records, Air Reserve units.

**Systems exempted from certain provisions of the act:** NONE

**F03501X0IACYVB**

**System name:** 03501X0IACYVB Application for Separation from the Regular AF to AF Reserve/Air National Guard.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80200.

**Categories of individuals covered by the system:** Air Force active duty officer and enlisted personnel. Air Force civilian employees. Air Force Reserve and Air National Guard personnel.

**Categories of records in the system:** application concerning separation from the Regular Air Force to the Air Force Reserve/Air Na-



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tional Guard, documents pertaining to requisition, assignments, reassignment, separation and declination

**Authority for maintenance of the system:** US Code 10 Section 269.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** the routine use of this information is to help in obtaining a position in the Air Reserve forces. Used by Regular Air Force, Air Reservist, Air National Guard and civilian personnel to facilitate finding a position for reservists.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name and Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander, Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, AFPC/DADP, 7300 East First Avenue, Denver, Colorado 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, Colorado between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify his/her application/ declination or orders.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, AFPC/DADP, 7300 East First Avenue, Denver, Colorado 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Major commands, Consolidated Base Personnel Office, Consolidated Reserve Personnel Office.

**Systems exempted from certain provisions of the act:** NONE

**F03501X0IACYVD**

**System name:** 03501X0IACYVD Servicemens Group Life Insurance (SGLI) Entitlement Case Files.

**System location:** Air Reserve Personnel Center, 3800 York Street, Denver, CO 80205.

**Categories of individuals covered by the system:** Air Force Reserve and Air National Guard personnel.

**Categories of records in the system:** Copies of correspondence, casualty reports, record of emergency data, SGLI election, death order, death Certificate, Air Force Accounting And Finance Center (AFAFC) verification of premium payments.

**Authority for maintenance of the system:** Title 38 U.S.Code 765-776.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Purpose is to determine if an individual qualified for SGLI coverage, applied and paid for premiums for SGLI coverage and to report this information to office of SGLI, Newark NJ for processing insurance claims.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders and card files.

**Retrievability:** Filed by Name and Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards and controlled by personnel screening.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person'd identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** information from notification of death and documents pertinent to death and SGLI coverage obtained from other military branches, public health records, next of kin, or civilian organizations.

**Systems exempted from certain provisions of the act:** NONE

**F03501X0IACYVH**

**System name:** 03501X0IACYVH Air Force Service Number/Social Security Account Number Cross Reference Rosters.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** all Air Force reservists that were on strength as of 28 july 1970

**Categories of records in the system:** all Air Force reservists that were on strength as of 28 july 1970, contains grade, Air Force service number and Social Security Number (SSN).

**Authority for maintenance of the system:** 10 USC 278.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** When correspondence is received at Air Reserve personnel center with an obsolete service number or without a SSAN military personnel clerks use roster to verify if the author was/or is a member of the reserve and what his/her SSAN should be.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in note books/binders and on computer paper printouts.

**Retrievability:** Filed by Name and Air Force service number.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.





**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** advanced personnel data system

**Systems exempted from certain provisions of the act:** NONE

**F03501X0IACYVJ**

**System name:** 03501X0IACYVJ Bad Address Card Files.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve members not assigned to units who are assigned to non-affiliated reserve section, obligated reserve section, inactive status list reserve section, ready reinforcement personnel section, and retired reserve section without pay.

**Categories of records in the system:** Last recorded employer, postmaster of city of last recorded address, telephone information operator last city of good address, parents of reservist, other relatives of reservist, veterans administration if reservist has a claim number listed in the master personnel record, college or university that reservist attended, selective service boards, internal revenue service, public utilities or any other lead that may be found in the master personnel record of the reservist

**Authority for maintenance of the system:** 10 USC 275 Personnel Records.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** A search for a good address is made by address research personnel. A code is entered into the computer which stops all computer mail from going to a reservist whose address has been identified as bad. Personnel technicians cut discharge orders on reservists that cannot be located.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Metal tray on top of desk, computer cards

**Retrievability:** Filed by Name, Social Security Number (SSN) and last address of reservist.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information from last recorded employer, postmaster of city of last recorded address, telephone information operator last city of good address, parents of reservist, other relatives of reservist, veterans administration if reservist has a claim number listed in master personnel record, college or university reservist attended, Selective Service Boards, Internal Revenue Service, public utilities or any other lead that may be found in the master personnel record of the reservist.

**Systems exempted from certain provisions of the act:** NONE

**F03501X0IACYVK**

**System name:** 03501X0IACYVK Control Card for Vouchers for Medical Services.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel.

**Categories of records in the system:** Card file with name, address, SSN (Social Security Number), voucher number if applicable, and record of actions/ letters/final payment of bill regarding individual.

**Authority for maintenance of the system:** 10 USC 275.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** information in files is used to provide a record of authorizations for physical examinations at government expense or no expense, and voucher number.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in card files.

**Retrievability:** Filed by Name, Social Security Number (SSN) or other identification number or system identifier, and voucher number

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are protected by guards.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information from Master Personnel Record, P-80 microfiche roster, vouchers, Air Force Accounting and Finance Center and control logbook.

**Systems exempted from certain provisions of the act:** NONE

**F03501X0IACYVL**

**System name:** 03501X0IACYVL Medical Mobilization Augmenter Personnel Management Files.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel.

**Categories of records in the system:** copies of correspondence and other documents pertaining to Air Force Reservist assigned to Medical Mobilization Augmenter Program managed by Surgeon ARPC, maintained in case files

**Authority for maintenance of the system:** 10 USC 275.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** information in files is used to manage the reservist career in his medical career field. Information is used by military, civilian personnel



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**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are controlled by personnel screening.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC)

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving licesne and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** information from master personnel records, Surgeon Office, ARPC, Advanced Personnel Data System, manning documents and from the servicing Consolidated Base Personnel Office.

**Systems exempted from certain provisions of the act:** NONE

**F03501X0IACYVM**

**System name:** 03501X0IACYVM Medical Service Liaison Officer Program Card File.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel.

**Categories of records in the system:** Card with individuals full name, SSN (Social Security Number), corps, current address, school affiliation, servicing personnel office, and reserve status. Record to indicate if individual is authorized to earn point credit.

**Authority for maintenance of the system:** 10 USC 8012.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** information in files is used as an informational reference file and an aid for preparing point credit authorization and forwarding authenticated point credit forms to proper servicing personnel office.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in card files.

**Retrievability:** Filed by Name, Social Security Number (SSN) or other identification number or system identifier. School affiliation.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are protected by guards.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** information from Master Personnel Records, Annual Survey and Advanced Personnel Data System.

**Systems exempted from certain provisions of the act:** NONE

**F03501X0IACYVN**

**System name:** 03501X0IACYVN Medical Actions Card File.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel.

**Categories of records in the system:** card file with record of all correspondence, medical action, final disposition of individual

**Authority for maintenance of the system:** 10 USC 591 and 592 and 593 and 594.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** cards are used as comprehensive record of all medical actions taken by the Surgeons Office pertaining to each individual. Used by military and civilian personnel assigned to the Surgeons Office. Allow personnel of the Surgeons Office to readily respond to queries from individuals and/or other agencies with need to know of all medical actions taken by Surgeon regarding individuals.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in card files.

**Retrievability:** Filed by Name and Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** information from source documents, general correspondence, ARPC Form 201, medical facilities, physicians, medical specialists, and servicing Consolidated Base Personnel Offices.

**Systems exempted from certain provisions of the act:** NONE





**F03501X0IACYVP**

**System name:** 03501X0IACYVP Air Reserve Information Squadron Biographical Files.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel. assigned to the Air Reserve Information Squadron Program (ARIS).

**Categories of records in the system:** Biographies of ARIS Program members prepared by those members according to format provided by ARIS Program Manager. Includes name, rank, social security account number, service dates, date of birth, unit assignments, civilian employment, military and civilian education, military and civilian experience, aris program specialties, hobbies, and names of family members.

**Authority for maintenance of the system:** 10 USC 262.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Provide overview of skill resources available in ARIS Program. Allow selection of members best qualified to meet specific program requirements and task assignments.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in note books/binders.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC)

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information to verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** solicited from and provided by individual concerned.

**Systems exempted from certain provisions of the act:** NONE

**F03501X0IACYVR**

**System name:** 03501X0IACYVR Chaplain Personnel Management Files.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve chaplain personnel.

**Categories of records in the system:** Ecclesiastical endorsement special and annual tour orders, appointment orders, change of assignment or attachment orders, promotion orders, record of security clearance, miscellaneous correspondence to and from individual

**Authority for maintenance of the system:** Title 10 USC 8067.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To maintain a historical file on the individual, to maintain copies of all types of orders that affect his career. Used only by Chaplains Office. Information is used to process tours of active duty to maintain chronological correspondence file

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are protected by guards.

**Retention and disposal:** pending

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Request from individual should be addressed to the Documentation Management Officer, ARPC 7300 East First Avenue, Denver, CO 80280. Written request for information should contain full name SSN, current address and if known the case (control) number on correspondence received from ARPC. Records may be reviewed in Records Review Room ARPC, 7300 East First Avenue, Denver, CO 80280 between 8:00 AM and 3:00 PM on normal work days. For personal visits, the individual should provide current Reserve ID Card and/or drivers license and give some verbal information that could verify the person's identification.

**Record access procedures:** Individual can obtain assistance in gaining access from Documentation Management Office, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 347-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information derived from master personnel record.

**Systems exempted from certain provisions of the act:** NONE

**F03501X0IACYVS**

**System name:** 03501X0IACYVS Personnel Management Records

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Members and civilian/active military applicants Air Force Reserve

**Categories of records in the system:** Officer and airman assignment files which includes correspondence, memos, completed forms, messages and vacancy authorization data for assignment approvals, disapprovals, waivers, manning assistance, discharges screening, orders, evaluation reports, documents changing training category, personal data, photographs and related material.

**Authority for maintenance of the system:** 10 USC 275 and 262.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used to make determinations on discharges or mobilization, deferments,fulfillment of statutory requirements,involuntary order to extended active duty and temporary release;determine eligibility/suitability for assignment/reassignment with the Air Force Reserve;and to document replies to individuals and inquiries; used by military personnel clerks. These include but are not limited to members participating in the Air Reserve Information Squadron (ARIS) Program, Judge Advocate Program, and Surgeon General Program.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name and Social Security number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are protected by guards.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence



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received from ARPC. Records may be reviewed in the Records Review Roome Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** information from the individual requesting assignment or making the inquiry and master personnel record

**Systems exempted from certain provisions of the act:** NONE

**F03501X0IACYVT**

**System name:** 03501X0IACYVT Chaplain Biographical Files.

**System location:** Ecclesiastical endorsing agencies Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel.

**Categories of records in the system:** Name, rank, religion, civilian education, military education civilian experience, military experience, professional expertise

**Authority for maintenance of the system:** Title 10 US Code 8067

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To select chaplains for special duties according to specific expertise required. Records are used by Chaplains Office personnel.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in note books/binders.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are protected by guards.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC)

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information is obtained from individual

**Systems exempted from certain provisions of the act:** NONE

**F03501X0IACYVV**

**System name:** 03501X0IACYVV Biographical File

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel.

**Categories of records in the system:** curriculum vitaes including civilian education, military service, professional appointments, membership in professional societies, civic activities and state of licensure

**Authority for maintenance of the system:** Section 6d (1) Military Selective Act of 1967, Title 10 US Code

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used to provide the ARPC/SG, Surgeon General, Major Command Surgeons, USAF/RE, and Reserve Regions an in-depth personal history of Reservists in the 9019th Air Reserve Squadron.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by custodian of the record system, by person(s) responsible for servicing the record system in performance of their official duties and commanders of medical centers and hospitals. Records are protected by guards.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Managed by the Surgeons Office ARPC, 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Wrrtten requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** source is compiled from Individual Reservist

**Systems exempted from certain provisions of the act:** NONE

**F03501X0IACYVW**

**System name:** 03501X0IACYVW Personnel Management Files

**System location:** Headquarters United States Air Force, Washington DC 20330. Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280. United States Air Force Academy, USAF Academy CO 80840. Headquarters, of the United States Air Force, major commands and major subordinate commands.

**Categories of individuals covered by the system:** Air Force Reserve personnel.

**Categories of records in the system:** case folders of Reserve personnel placed on active duty containing copies of special and Reserve orders; correspondence;documents complete with information used for travel overseas;assignment instructions;list of actions taken by technician;board actions on involuntary Airmen;certified receipts acknowledgement of receipt of special orders card

**Authority for maintenance of the system:** 10 USC 275 Personnel Records 672 Reserve components generally,Title 10 US Code 673 Ready Reserve and Executive Order 11366, 4 Aug 67, Title 10 US Code Chapter 103 Senior Reserve Officer: Training Corps

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** used as a reference file to answer inquiries from the Reservist and Air Force personnel requiring information on the Reservist being recalled to active duty.to send gaining active units additional copies as requested.useds as substantiating documents by the Air Force Judge Advocate Office to show all action was taken in accordance to prescribing directives records are used by military personnel technicians





**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in note books/binders and in visible file binders/cabinets.

**Retrievability:** ascending AFSC order, rank, and name.

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are protected by guards.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Request from individual should be addressed to Command Documentation Management Officer ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written request for information should contain full name of individual, SSN (Social Security Number), current address and the case (control) number shown on correspondence received from Center. Records may be reviewed in Records Review Room ARPC, 7300 East First Avenue, Denver, CO 80280 between 8am and 3pm. For personal visits, the individual should provide current Reserve ID card and/or driver's license and give some verbal information that could verify his/her Military Personnel Record.

**Record access procedures:** Individual can obtain assistance in gaining access from Command Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280, telephone (303) 347-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Individual Reservist, instructions from Air Force military Personnel Center, Randolph Air Force Base,San Antonio,TX 78148, instructions and board actions from Air Force Reserve, /DPAA Robins Air Force Base, Warner Robins, GA 31093 and Air Force Officers Training Corps/SDAA, Maxwell Air Force Base, Montgomery, Alabama 36112 and the National Guard Bureau, Washington DC 20310, and other Air Commands,instructions from Headquarters/JAEC, Washington DC 20314

**Systems exempted from certain provisions of the act:** NONE

**F03504 OYUEBLB**

**System name:** 03504 OYUEBLB Commander Identification.

**System location:** At Headquarters Air Force Communications Service (DCS/p) Richards Gebaur AFB MO 64030.

**Categories of individuals covered by the system:** Air Force active duty military personnel.

**Categories of records in the system:** Individuals currently performing duty as a commander and personnel selected by area commanders as possible/potential commanders.

**Authority for maintenance of the system:** 44 USC 3101.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used to monitor the assignment and replacement of unit Commanders in Air Force Communications Service (AFCS).

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained on computer magnetic tapes and computer paper printouts.

**Retrievability:** Retrievability based on presence of commander identification code. Computerized.

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Also destroyed by degaussing.

**System manager(s) and address:** Director of Assignments Directorate of Personnel Headquarters AFCS.

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from automated system interfaces.

**Systems exempted from certain provisions of the act:** NONE

**F03504 0IACYVA**

**System name:** 03504 0IACYVA Data Change/Suspense Notification.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel.

**Categories of records in the system:** Correspondence and forms used to record discrepancies or changes.

**Authority for maintenance of the system:** 10 USC 275 personnel records.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To resolve discrepencies detected during annual records review

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name, Social Security Number (SSN) or other identification number or system identifier.

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are protected by guards.

**Retention and disposal:** Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information from source documents prepared on behalf of the Air Force Advance Personnel Data System or supplied by Reservist.

**Systems exempted from certain provisions of the act:** NONE

**F03505 0IACYVA**

**System name:** 03505 0IACYVA Unfavorable Information Files (UIFS) on Officers and Airmen.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel.

**Categories of records in the system:** Records of punishment under article 15, Uniform Code of Military Justice for written admonition or reprimand not pursuant to article 15 or sentences of court martial, results of court martials, convictions, letters of indebtedness, a reported failure to support dependents, civil and military law enforcement reports resulting in a finding of guilty, judicial or administrative, except for minor traffic violations.

**Authority for maintenance of the system:** 10 USC 262.



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**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Reviewed in connection with promotion consideration, selection for schools, assignment, and all personnel actions used by active duty personnel and AF civilian employees for all personnel actions.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name, Social Security Number (SSN) or by other identification number or system identifier.

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in safes.

**Retention and disposal:** Retained for 1 year after date of reprimand, or 1 year from date of unfavorable correspondence not related to administrative reprimands, or until member reenlists, separates, retires or dies, and then destroyed by tearing into pieces, shredding, pulping, macerating or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, Co 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from police and investigating officers, from a state or local government, from witnesses or from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth. active duty consolidated base personnel offices.

**Systems exempted from certain provisions of the act:** NONE

**F03507 0IACYVA**

**System name:** 03507 0IACYVA Flying Status Actions

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve and Air National Guard personnel.

**Categories of records in the system:** correspondence and related documents pertaining to request for suspension, nonrated officer utilization, aeronautical rating data documents that pertain to aeronautical ratings or suspensions and request for update of the uniform officer record and applications for other flying status/actions.

**Authority for maintenance of the system:** 10 USC 275.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** to maintain tracking of each action taken until computer action is complete, reservist is informed and file copy is in master personnel record.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name, Social Security Number (SSN) or other identification number or system identifier.

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are protected by guards. Records are accessed by custodian of the record system.

**Retention and disposal:** Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** information from source documents prepared on behalf of the Air Force advanced personnel data system or supplied by reservist.

**Systems exempted from certain provisions of the act:** NONE

**F03508 0IACYVA**

**System name:** 03508 0IACYVA Officer promotions.

**System location:** At Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, Colorado 80280.

**Categories of individuals covered by the system:** Air Force active duty officer personnel. Air Force Reserve personnel. Air National Guard personnel.

**Categories of records in the system:** Proceedings, findings and related documents such as rosters, board membership and board support and orders announcing promotion.

**Authority for maintenance of the system:** Title 10 United States Code 8362, 8366, 8367, 8371, Commissioned Officer selection board procedures.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used by promotion division personnel in preparation for promotion boards and by the actual promotion board when convened.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders, note books/binders.

**Retrievability:** Filed by Name, Social Security Number (SSN), other identification number or system identifier.

**Safeguards:** Records are accessed by custodian of the record system, person(s) responsible for servicing the record system in performance of their official duties, and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms, are protected by guards, or are controlled by personnel screening.

**Retention and disposal:** Retained in office files for two years after annual cut-off, then retired to Washington National Records Center, Washington DC 20409, for permanent retention.

**System manager(s) and address:** Commander, Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, Colorado 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, Colorado between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC7300 East First Avenue, Denver, Colorado 80280; telephone (303) 394-4667.





**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

**Systems exempted from certain provisions of the act:** NONE

**F03508 0IACYVB**

**System name:** 03508 0IACYVB Air Force Reserve Airman Demotions

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel.

**Categories of records in the system:** documents and rosters relating to a weighted airman selection system and case files for reserve Airmen who were demoted.

**Authority for maintenance of the system:** 10 USC 275 personnel records.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Monitor and process promotion actions by office personnel, and for research of related documents.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders/ note books/binders.

**Retrievability:** Filed by Name, Social Security Number (SSN) or by other identification number or system identifier.

**Safeguards:** Records are accessed by custodian of the record system and person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms, protected by guards and controlled by personnel screening.

**Retention and disposal:** Retained in office files for three months after monthly cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** From master personnel records and computer products, automated system interfaces and source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

**Systems exempted from certain provisions of the act:** NONE

**F03509 0IACYVA**

**System name:** 03509 0IACYVA Requests for Discharge From the Air Force Reserve.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel.

**Categories of records in the system:** Applications and other documents related to discharge or separation by reason of dependency or hardship or for the convenience of the government.

**Authority for maintenance of the system:** 10 USC 1074 Personnel Records.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To maintain tracking of each action taken until computer action is complete, reservist is informed and file copy is in Master Personnel Record.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name, Social Security Number (SSN) or by other identification number or system identifier.

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are protected by guards and stored in locked cabinets or rooms.

**Retention and disposal:** Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information from source documents prepared on behalf of the advanced personnel data system or supplied by reservist.

**Systems exempted from certain provisions of the act:** NONE

**F03509 0IACYVB**

**System name:** 03509 0IACYVB Administrative Discharge for Cause on Reserve Personnel

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel.

**Categories of records in the system:** Board proceedings, board waiver, recommendations, and other records which result in discharge.

**Authority for maintenance of the system:** 10 USC 1162.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To effect the administrative separation of officer members of the United States Air Force Reserve (USAFR) from their appointment as reserve Officers and to effect the administrative separation of enlisted members of the USAFR. From their enlistment as reserve members.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name. Filed by Social Security Number (SSN) or by other identification number or system identifier.

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in safes.

**Retention and disposal:** Retained in office files until discharged then forwarded for inclusion in the Individual's military personnel record in the National Personnel Record Center 9700 Page Blvd St Louis, MO 63132 for permanent storage.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.



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**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from medical institutions, police and investigating officers and from witensses.

**Systems exempted from certain provisions of the act:** NONE

**F04004 DPCE B**

**System name:** 04004 DPCE B Civilian Personnel Performance Awards and Outstanding Performance Ratings

**System location:** Directorate of Civilian Personnel Headquarters United States Air Force, Washington, DC 20314 Headquarters, of the United States Air Force, major commands and major subordinate commands. Headquarters of the major commands and separate operating agencies. Headquarters of major commands and at all levels down to and including Air Force installations. Air National Guard activities.

**Categories of individuals covered by the system:** Air Force civilian employees.

**Categories of records in the system:** Files include recommendations for outstanding performance ratings and rating forms. Also include recommendations for cash or honorary performance awards; nominations for awards sponsored by non-Federal organizations; records of Award Committee Actions and correspondence; annual reports

**Authority for maintenance of the system:** 5 USC 4301 through 4308 cover performance ratings. 5 USC 4501 through 4506 cover performance awards.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Files are originated when a manager or supervisor recommends an outstanding performance rating or a cash or honorary performance award in recognition of superior achievement. Case files are reviewed by local award program manager in Civilian Personnel Office and are referred to the Local Incentive Awards Committee for review. If the Committee approves, the case is recommended to the approval authority who authorizes granting the award. Individual name files are retained for one year after close of year in which final action was taken. Records of Committee actions are retained for three years. Copy of approved award is filed in employee's official personnel file

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know.

**Retention and disposal:** Retained for two years after end of year in which the case was closed, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Deputy Chief of Staff/Personnel, Headquarters United States Air Force, and Executive Secretary Air Force Incentive Awards Board Directorate of Civilian Personnel, Headquarters US Air Force, Washington, DC 20314

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Sources of information for awards are supervisors' records of performance, and employees' official personnel folders from which Social Security number, job title, and grade are obtained

**Systems exempted from certain provisions of the act:** NONE

**F04501 OI A**

**System name:** 04501 OI A Air National Guard Information Personnel Background File

**System location:** Office for Resources and Projects, Secretary of the Air Force Office of Information (SAF/OIR), Room 5C960, The Pentagon, Washington DC 20330.

**Categories of individuals covered by the system:** Individuals serving as Information Officers assigned to Air National Guard units.

**Categories of records in the system:** Questionnaires including official and home addresses and telephone numbers; specific professional skills; availability for short-notice assignments to active duty.

**Authority for maintenance of the system:** 44 USC 3101 and 3012, Establishment of a program of management.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used by the National Guard Liaison Officer as a ready reference to identify individuals for short-notice, specific active duty assignments; used as a reference by authorized personnel for coordination of Air National Guard-related information activities.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in note books/binders.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

**Retention and disposal:** Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Director of Information, Office of the Secretary of the Air Force (SAF/OI)

**Notification procedure:** Requests from individuals should be addressed to the Chief, Office for Resources and Projects, Secretary of the Air Force Office of Information (SAF/OIR), Room 5C960, Washington DC 20330. Telephone: (202) OX-73470. In written requests the individual should provide full name, current grade, and unit and location of assignment. On personal visits to the record location the individual should have in possession a current identification card, DD Form 2AF(RES).

**Record access procedures:** Individuals can obtain assistance from the Chief, Office for Resources and Projects, Secretary of the Air Force Office of Information (SAF/OIR), at the address given.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from the public media.

**Systems exempted from certain provisions of the act:** NONE

**F04501 0IACYVA**

**System name:** 04501 0IACYVA Air Force Reserve Applications

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force active duty enlisted and Air Force Reserve personnel.

**Categories of records in the system:** Copies of applications for appointment as Reserves of the Air Force and related papers correspondence and forms.

**Authority for maintenance of the system:** 10 USC 8358 and 8359.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To determine if an individual is qualified for appointment in the Reserve of the Air Force and to determine in what Air Force Specialty Code the individual qualifies.





**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name, Social Security Number (SSN) and Case control number.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know.

**Retention and disposal:** Destroy 1 year after approval or 1year after individual declines appointment by tearing, burning, shredding, macerating or pulping.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Vistors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information from individual applying for appointment in the reserve,statement of military service from Army, Navy or Marine Corps.

**Systems exempted from certain provisions of the act:** NONE

**F04501 0IACYVB**

**System name:** 04501 0IACYVB Applications for Appointment Medical Corps.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Active duty military personnel. Air Force active duty officer personnel. Air Force civilian employees. Former Air Force civilian employees. Air Force Reserve and Air National Guard personnel. Dependents of military personnel.

**Categories of records in the system:** Copies of application for appointment as reserves of the Air Force medical and medical related corps with or without component with or without prior medical service, and comparable forms, correspondence, related papers.

**Authority for maintenance of the system:** 10 USC 275.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To determine if an individual qualifies for commissioning in the USAFR medical and medical related corps. If applicant had prior military service, the Air Force Speciality Code the individual qualifies for. Applications are forwarded for approval to AFMPC/SG, Randolph AFB TX 78148.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name and by Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are protected by guards.

**Retention and disposal:** Retained for two years after end of year in which the case was closed, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC)

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information is obtained from individual reservists.

**Systems exempted from certain provisions of the act:** NONE

**F04501 0IACYVC**

**System name:** 04501 0IACYVC Professional Officer Course(POC) and Financial Assistance Program Cadets

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel.

**Categories of records in the system:** Copies of transmittal letters for disenrolled Air Force Reserve Officer Training Corps (AFROTC) cadets to be discharged.

**Authority for maintenance of the system:** 10 USC 2104 and 2107.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To determine if AFROTC cadets were identified for discharge due to disenrollment and the date identified. also to provide historical data on number discharged.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in visible file binders/cabinets.

**Retrievability:** Filed by Name and Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in security file containers/cabinets. Records are protected by guards.

**Retention and disposal:** Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Recrods Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, Colorado between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from individual reservists, from educational institutions and from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.



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**Systems exempted from certain provisions of the act:** NONE

**F04501 0KPNQSB**

**System name:** 04501 0KPNQSB Air Force ROTC Field Training Administration System.

**System location:** At Air Force installations hosting field training and AFROTC detachments. Department of Defense directory in the appendix to the Air Force's systems notice.

**Categories of individuals covered by the system:** AFROTC cadets.

**Categories of records in the system:** Student assignment/orders, in-processing checklist, counseling record, drill evaluation, weekly quarters inspection discrepancy report, observation worksheet, student performance report.

**Authority for maintenance of the system:** PI 88-647 amending title 10, USC.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used in management of field training. Following field training, information is used to determine recommendation for further AFROTC training and qualification for commissioning.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name and by Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Building locked after duty hours.

**Retention and disposal:** At installations hosting field training destroy upon completion of encampment, at AFROTC detachments, place in student's records file. Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Director of senior program, AFROTC/SD, Maxwell AFB, AL 36112

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager. Indicate name. Social security number and AFROTC detachment

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Field training staff, academic and training Officer reports

**Systems exempted from certain provisions of the act:** NONE

**F04501 02SCEYA**

**System name:** 04501 02SCEYA Military Personnel Folders.

**System location:** Air Force Inspection and Safety Center, Norton Air Force Base, CA 92409. Personnel Division (DP).

**Categories of individuals covered by the system:** All active duty and Air Force Reserve personnel assigned or attached to the Air Force Inspection and Safety Center (AFISC).

**Categories of records in the system:** Performance reports rendered while assigned to AFISC AF Forms 2095 and 2096 AF Forms 7 and 11 AF Form 298-1. record individual person enlisted

**Authority for maintenance of the system:** 10 USC 8012.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Internal management of military personnel assigned and attached to AFISC. Used by commanders, directors, supervisors.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders. Locked cabinet.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by custodian of the record system. Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms. Controlled by sign out logs.

**Retention and disposal:** Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Six months after departure.

**System manager(s) and address:** Chief of Personnel Office, Air Force Inspection and Safety Center, NortonAFB, CA.

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager. Commander Directors Supervisors gain access through the system manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from automated system interfaces, field personnel records maintained by Base Personnel Office, Officers Command Selection Group Records, and from the individual concerned.

**Systems exempted from certain provisions of the act:** NONE

**F04501X0IACYVA**

**System name:** 04501X0IACYVA Air Force Service Data of Employees and Relatives.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve and Air National Guard personnel.

**Categories of records in the system:** Personal data of active duty military personnel and civilian employees or a relative of either who are assigned to the Air Reserve Personnel Center, Members of the Air Force Reserve or Air National Guard.

**Authority for maintenance of the system:** 10 USC 275.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Information is used to identify a master personnel record and place it in a more secure file which has a limited access. when completed, the form is maintained and used by the records maintenance division (DPFR) Air Reserve Personnel Center.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in card files.

**Retrievability:** Filed by Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information from individual, member or relative.

**Systems exempted from certain provisions of the act:** NONE





**F04501X0IACYVB**

**System name:** 04501X0IACYVB Air Force Reserve Applications for Extended Active Duty.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve and Air National Guard personnel.

**Categories of records in the system:** Application for extended active duty correspondence and related documents.

**Authority for maintenance of the system:** 10 USC 672d.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To determine if individual is qualified for voluntary entry on extended active duty if the individual is qualified and a procurement quota is available when the entry on extended active duty is accomplished.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name and Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC) 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** information from individual applying for extended active duty.

**Systems exempted from certain provisions of the act:** NONE

**F04501X0IACYVD**

**System name:** 04501X0IACYVD Air Force Reserve Officer Training Corps (AFROTC) Contract Violators.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel.

**Categories of records in the system:** Cards reflecting incoming referrals annotated with name, Social Security Number (SSN), address and resume of actions taken

**Authority for maintenance of the system:** 10 USC 2107 financial assistance program

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To control and account for AFROTC contract violator cases. Used by military personnel technicians for central accounting of AFROTC contract violator.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in card files.

**Retrievability:** Filed by Name and Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information from Commandant AFROTC, Maxwell AFB Alabama 36112.

**Systems exempted from certain provisions of the act:** NONE

**F04501X0IACYVE**

**System name:** 04501X0IACYVE Involuntary Recall.

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel.

**Categories of records in the system:** Documents consist of listings of incoming referrals with name, Social Security Number (SSN), line number and resume of actions taken.

**Authority for maintenance of the system:** 10 USC 8012

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To control and account for involuntary recall of nonparticipating Airmen. Used for control by military personnel technicians.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in note books/binders.

**Retrievability:** Filed by name, Social Security Number (SSN) and line number.

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC) 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.



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**Record source categories:** Information from the National Guard Bureau, Wash, DC, 20310. Headquarters Air Force Reserve/DPAA Robins AFB Georgia 31098. ARPC/DPRM, 7300 Easst First Avenue, Denver, CO 80280.

**Systems exempted from certain provisions of the act:** NONE

**F04502 0IACYVA**

**System name:** 04502 0IACYVA Inactive Duty Training, Extension Course Institute (ECI) Training

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** authorization for inactive duty training,authorization for individual inactive duty training (for nonpay status only;for pay status authorization).certificate of completion issued on completion of volume of a course.

**Categories of records in the system:** Point credit source documents maintained on active air force reserve member.

**Authority for maintenance of the system:** 10 USC 1331, 1332 and 1333.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** The record shows the completion of each volume of a correspondence course by a reservist and shows training performed for either paid or nonpaid status.record is used by military personnel clerks to audit a reservist point credit account.it is used as a cross check to insure accuracy of the reservists yearly point credit account as it pertains to his pay account.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in visible file binders/cabinets.

**Retrievability:** Filed by Name and Social Security Number (SSAN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards.

**Retention and disposal:** Inactive duty training documents are destroyed after 5 years. ECI certificates(duplicates) are destroyed six months after reservist receives his copy.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC) , 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CoO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** information from individual reservist, Air National Guard and Air Force Reserve unit.

**Systems exempted from certain provisions of the act:** NONE

**F05001 OBXQPCA**

**System name:** 05001 OBXQPCA Cadet Information Card

**System location:** At United States Air Force Academy, CO 80840

**Categories of individuals covered by the system:** Air Force Academy cadets.

**Categories of records in the system:** Cadet Information Card

**Authority for maintenance of the system:** 10 USC 903, 10 USC 8012

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Purpose of System: Individual cards on cadets listing name, date of birth, SSN, admission examination scores, course grades and instructor evaluations concerning aptitude, attitude and performance. Category of User: Faculty departments. Specific Use: Used to evaluate potential cadets for commissioned service and to evaluate potential as future instructor.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in card files.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

**Retention and disposal:** Retained at USAF Academy, CO 80840 in the department(s). Destroyed by tearing into pieces, shredding, macerating or burning after purpose has been served or five years after graduation.

**System manager(s) and address:** Dean of Faculty, United States Air Force Academy, CO 80840

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Systems Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Faculty instructors.

**Systems exempted from certain provisions of the act:** NONE

**F05001 0IACYVA**

**System name:** 05001 0IACYVA Professional Military Education (PME).

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel.

**Categories of records in the system:** Records concerning school (pme) quotas, school selection boards results selecting a reservist to attend a pme course

**Authority for maintenance of the system:** 10 USC 262.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used to monitor, manage and comply with the requirements to fulfill the quotas allocated to reservist by the office of primary responsibility at ARPC.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders/ note books/binders.

**Retrievability:** Filed by Name, Social Security Number (SSN) or by other identification number or system identifier.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms, protected by guards, and controlled by personnel screening.

**Retention and disposal:** Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer,





ARPC/DADP, 7300 East First Avenue, Denver, CO 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information from master personnel record and individuals application.

**Systems exempted from certain provisions of the act:** NONE

**F05002 OYUEBLD**

**System name:** 05002 OYUEBLD Student Record

**System location:** 1872 School Squadron, Air Force Communications Service (AFCS), Richards-Gebaur Air Force Base, MO 64030

**Categories of individuals covered by the system:** Active Duty Air Force enlisted personnel and Air National Guard personnel.

**Categories of records in the system:** Student record which reflects individual's academic standing; student evaluation; reading laboratory progress record; record of individual counseling; Non-Commissioned Officer (NCO) Academy student roster

**Authority for maintenance of the system:** 10 USC 8012

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** used to record student progress for each academic class for the AFCS NCO Academy and AFCS NCO Leadership School; reflects written examination scores, communications skills, instructor evaluations; reflects individual's reading laboratory progress; provides record of individual counseling; is a roster of students

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders and card files.

**Retrievability:** Filed by student name.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

**Retention and disposal:** some retained in office files for one year after the end of the year the individual completes or discontinues a training course, transferred to staging area for nine additional years, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. All other records are retained in office files until graduation or elimination of the student from training, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning

**System manager(s) and address:** NCO in charge of administration, 1872 School Squadron (AFCS)

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from educational institutions, and Chief Training and Education Division Directorate of Personnel Programs, Deputy Chief of Staff for Personnel, Headquarters AFCS.

**Systems exempted from certain provisions of the act:** NONE

**F05002 OYUEBLE**

**System name:** 05002 OYUEBLE Individual Academic Training Record

**System location:** Wideband Maintenance Training Branch, Directorate of Systems Evaluation, Deputy Chief of Staff for Operations, Headquarters (HQ) Air Force Communications Service (AFCS), Richards-Gebaur Air Force Base, MO 64030

**Categories of individuals covered by the system:** Active duty military personnel. Air Force Reserve and Air National Guard personnel. Army National Guard and Department of Defense civilian personnel who are electronics engineers, communications engineers, radio relay equipment maintenance personnel, technical control personnel, and such other individuals who might apply for this training

**Categories of records in the system:** Personnel index; absentee report; class pre-graduation/graduation roster; attendance record; record of individual training

**Authority for maintenance of the system:** 10 USC 8012

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To record emergency data and course completion information. To report student absences to the Commandant of the school. Provides student class composition and list of graduating students to the Deputy Chief of Staff for Operations (DCS/Operations), HQ AFCS. An attendance record. Reflects student academic progress.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders and card files.

**Retrievability:** Filed by student name.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Stored in file cabinet

**Retention and disposal:** some retained in office files until appropriate table /rule is published in AFM 12-50. All other records retained in office file until graduation or elimination of the student from training then destroyed by tearing into pieces, shredding, pulping, macerating, or burning

**System manager(s) and address:** Commandant, Wideband Maintenance Training Branch, Deputy Chief of Staff Operations, HQ AFCS

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** information from instructor

**Systems exempted from certain provisions of the act:** NONE

**F05302 OBXQPCC**

**System name:** 05302 OBXQPCC Active Cadet Counseling File

**System location:** United States Air Force Academy, USAF Academy CO 80840.

**Categories of individuals covered by the system:** Air Force Academy cadets.

**Categories of records in the system:** Liaison Officer Evaluation

**Authority for maintenance of the system:** 10USC8012

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used by counselors assigned to Cadet Counseling to assist the cadet with one or more counseling related problems.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in safes, locked cabinets or rooms.

**Retention and disposal:** Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Director of Admissions and Registrar

**Notification procedure:** Requests from individuals should be addressed to the System Manager.

**Record access procedures:** The individual can obtain assistance in gaining access from the System Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from liaison officers.

**Systems exempted from certain provisions of the act:** NONE



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### F06005 XOOFF A

**System name:** 06005 XOOFF A Air Force Operations Resource Management Systems (AFORMS).

**System location:** Headquarters United States Air Force and major command headquarters. Air Force Inspection and Safety Center, Norton Air Force Base, CA 92409. Consolidated flight record custodians at Air Force installations.

**Categories of individuals covered by the system:** Air Force active duty military personnel. Army, Navy and Marine Corps active duty military personnel. Air Force civilian employees. Air Force Reserve and Air National Guard personnel. Exchange Officers, who are assigned to aviation duties by competent authority are attached to the USAF for flying support or who have been suspended from flying duties for a period of not more than 3 years.

**Categories of records in the system:** The base-level AFORMS data base contains a master file of flying records for each individual, in categories listed above,a month-to-date transaction file and a twelve month history file. A centralized file of selected information from each individual's master record is also maintained at HQ USAF. In addition to automated data files, this system uses manual files for maintaining historical data and important source documents. An Individual Flight Record Folder (IFR) is established for each category of fliers listed above and is the prime repository for a monthly computer listing which itemizes each individual's flight accomplishments during the month as well as various source documents which serve to validate information entered into the computer data base for the system. Each flight management office maintains a file of Military Pay Orders to provide source documentation of flying pay actions initiated by the flight manager. Information which is maintained in the automated files is derived directly from the AFORMS master file or from subsequent processing of information entered into the master file. Categories of information maintained in the master file are: IDENTIFICATION DATA - provides individual identifiers and other information directly related to each individual in the file. DUTY ASSIGNMENT DATA - Includes information such as the major command of assignment for the individual, the Air Force Specialty Code indicating professional duties, the unit, consolidated flight record custodian, base of assignment, etc. AIRCREW TRAINING AND QUALIFICATION DATA - includes information such as flight and ground professional flying training accomplishments, aircrew qualification status, physical status for flight duties, types of aircraft assigned, etc. UTILIZATION MANAGEMENT DATA - Includes flying experience information, professional qualifications, aviation duties assigned, etc. FLYING PAY ENTITLEMENT DATA - Includes information needed to administer the payment of flying incentive pay for each individual. LOCAL USE DATA - contains information used by major or local command to supplement general system information as needed to meet unique unit requirements within the categories of information listed herein. SYSTEM CONTROL DATA - Contains computer data used to automatically control internal system functions.

**Authority for maintenance of the system:** (A) 37 USC 30 (B) Public Law 92-204, section 715.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** The AFORMS provides information and automated data processing capabilities used to manage and administer Air Force operations such as aircrew training and evaluation, flight scheduling functions, flying safety and related functions needed to attain and maintain combat or mission readiness. All information is entered into the system by flight managers at the airbase level. This information is then processed for use by flying resource managers at all levels through periodic computer product reports or automated systems interfaces.The specific uses of information and user categories for this system are: BASE LEVEL ACTIVITIES - (1) to establish each member's flying pay entitlement status and to monitor continuing entitlement in accordance with existing directions; (2) to record each individual's flying activities, both hours and specific events, and provide indications of successful attainment of standards or deficiencies; (3) to establish each individual's Aviation Service code for use in indicating type of flying activity or reason for inactive status if applicable; (4) to determine each rated member's eligibility to perform operational or proficiency flying in accordance with existing USAF directives; (5) to provide an indication of each rated member's total operational flying time in terms of total aviation career duties as required by the Aviation Career Incentive Act of 1974; (6) to establish 'suspense lists' for use in scheduling flying personnel for flights, schools, tests and similar events directly related to their duties as professional airmen; (7) to provide each applicable individual and manager with all aviation career profile information needed to monitor flying career development, professional qualifications and training deficiencies; (8) to provide information requested by Operations, or other base functions, which relates to the flying duties and accomplishments of all personnel in the file; (9) to provide statistical data for management analysis and review of all aspects of each base's flying programs, including flying safety data involving AFORMS flying hour/individual information stored in the Norton AFB flying safety data bank maintained by the USAF Inspection and Safety Center. OTHER BASE USERS: CONSOLIDATED BASE PERSONNEL OFFICE - uses information provided by this system, through an automated data interface, to report the flying status of all individuals in the files; provides flying career background information used for assignment actions. ACCOUNTING AND FINANCE OFFICE - uses Military Pay Orders, prepared by flight management offices, to start and stop flying incentive pay in accordance with each individual's flying status and eligibility as reflected by the information in the system; uses the files to perform payment audits to identify individuals being paid improperly. BASE SUPPLY uses flying status information to determine which individuals are qualified to draw all authorized flying equipment. BASE MEDICAL FACILITY - uses system data to determine projected workloads associated with scheduled flight physical examinations. MAJOR COMMANDS - use all system data to measure the effectiveness of subordinate unit training programs and to check command-wide flying effectiveness. AIR FORCE MILITARY PERSONNEL CENTER - uses AFORMS information to establish assignment objectives and career development programs for USAF military personnel in the system. USAF INSPECTION AND SAFETY CENTER - uses flying hour data for each individual to establish historical files for reconstruction of lost or damaged records and to augment the Flying Safety statistical data bank. HQ USAF - uses various identification and flying data to establish statistical data needed to verify the effectiveness of standard procedures, determine the need for policy modification, provide a timely and accurate census of various types of flyers and provide a centralized point for collection and collation of data used by all levels of management.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders and on computer magnetic tapes.

**Retrievability:** Filed by Name and Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system, by person(s) responsible for servicing the record system in performance of their official duties and individuals in files. Records are stored in locked cabinets or rooms.

**Retention and disposal:** Magnetic tape and hardcopy records are maintained in consolidated flight record files for three years following suspension of an individual from flying status. At the end of that period the magnetic tape records are Destroyed by tearing into pieces, pulping, burning, shredding or macerating and the hardcopy files turned over to the individual. Personnel leaving military service are provided their hardcopy files and all tape records are routinely erased. For deceased personnel, tape records are routinely erased and hardcopy folders are provided to the survivors as part of the individual's personal effects.

**System manager(s) and address:** Deputy Chief of Staff/Plans and Operations, Headquarters United States Air Force, Washington, D.C.

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager. Include name and SSN. Make base level inquiries to base flight manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from automated system interfaces and from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

**Systems exempted from certain provisions of the act:** NONE





### F07503 AA A

**System name:** 07503 AA A Office, Secretary of Air Force Travel Files

**System location:** Office of the Secretary of the Air Force, Washington DC 20330.

**Categories of individuals covered by the system:** Military, civilian, statutory, Congressional and others sponsored by Secretaries of Air Force and/or Defense.

**Categories of records in the system:** Travel orders and transportation authorizations, paying agent orders, passport information, and travel vouchers.

**Authority for maintenance of the system:** 44 USC 3101.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To provide reference in response to individual and/or offices requests for actual purposes of travel, costs and records utilized for future planning. Copies of orders on file in Director of Administration, Headquarters U. S. Air Force, Washington DC 20330, for record of authentication. Copies of paying agent orders on file Director of Administration, Headquarters U. S. Air Force Washington DC 20330 for record of payments. Travel on file at US Air Force Accounting and Finance Center, Denver CO record of Air Force expenses.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders/ note books/binders/card files.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms. Access controlled by assistant manager and restricted to authorized personnel.

**Retention and disposal:** Records on currently assigned personnel are retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed. Transportation authorization and Invitational orders are retained in office files for one year after annual cut-off then destroyed. Paying agent orders are retained in office files for two years after annual cut-off, then destoyed. Records contained in this system are destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Administrative Assistant to the Secretary of the Air Force, the Pentagon, Washington DC 20330.

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Air Force channels from agencies and individuals requesting Air Force travel.

**Systems exempted from certain provisions of the act:** NONE

### F07503ILGTT A

**System name:** 07503ILGTT A Personal Property Movement Records

**System location:** Traffic Management Office or Air Force controlled Joint Personal Property Shipping Offices at Air Force Activities. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

**Categories of individuals covered by the system:** Persons who shippped personal property through an Air Force controlled activity.

**Categories of records in the system:** Application, orders, inventory, Government Bill of Lading, Certificates of Approval or Disapproval, Power of Attorney, carrier and/or contractor documentation, Inspection Report, and Counseling Checklist.

**Authority for maintenance of the system:** 10 USC 33.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Determination of shipment eligibility and lawful entitlements by the Traffic Management Officer. Basis for expenditure of public funds and contracts with commercial carriers. Releasable to auditors, accounting and finance, and other government services.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name.

**Safeguards:** Records are stored in locked cabinets or rooms. Records are accessed by person(s) responsible for servicing the record system in performance of their official duties.

**Retention and disposal:** Retained in office files for three years after annual cutoff; transferred to Regional Federal Records Center for indefinite retention.

**System manager(s) and address:** Deputy Chief of Staff, Systems and Logistics, Headquarters United States Air Force, Washington DC 20330.

**Notification procedure:** Request from individual should be addressed to the systems manager. Include Individual's name, service, Social Security Number, type of shipment, origin, destination, and the date of application. Any means of positive identification is acceptable.

**Record access procedures:** Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Government Inspector's Quality Control Report. Information also obtained from the individual.

**Systems exempted from certain provisions of the act:** NONE

### F08003 OBXQPCA

**System name:** 08003 OBXQPCA Minnesota Multiphase Personality Inventory Research Program

**System location:** United States Air Force Academy, USAF Academy CO 80840.

**Categories of individuals covered by the system:** Air Force Academy and Preparatory School cadets

**Categories of records in the system:** Personality tests results, group data analyses.

**Authority for maintenance of the system:** 10USC903

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Purpose of System: Used in research analyses concerning relationships, personality and personality and performance. Category of User: Superintendent and Academy Board. Specific Use: Used in a research manner to evaluate personality variables on cadet performance.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained on computer magnetic tapes, computer paper printouts and magnetic cards.

**Retrievability:** Cadet Number

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Dean of Faculty at United States Air Force Academy, Co 80205

**Notification procedure:** Requests from individuals should be addressed to the System Manager.

**Record access procedures:** The individual can obtain assistance in gaining access from the System Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Individual.

**Systems exempted from certain provisions of the act:** NONE

### F11001 IGQ A

**System name:** 11001 IGQ A Inspector General Records Freedom of Information Act

**System location:** Office of the Inspectors General and Base Inspectors



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**Categories of individuals covered by the system:** All those who have requested information from the Inspectors General or Base Inspectors under the Freedom of Information Act on matters related to the Department of the Air Force.

**Categories of records in the system:** Reports, forms, letters, messages, witness statements and miscellaneous documents. Some records are classified.

**Authority for maintenance of the system:** 5 USC 552

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Information is collected to insure just, thorough, and timely resolution and response to complaints or queries, and a means of improving morale, welfare, and efficiency of organizations, units, and personnel by providing an outlet for redress. Used by the Inspectors General and Base Inspector in the resolution of complaints and response to queries involving the Department of the Air Force and in some instances the Department of Defense. Used by the correction board for the correction of records. Used by members of Congress and their staffs to conduct research and prepare replies in response to constituent inquiries. Used by commanders and their staffs to resolve issues, take action and provide information where applicable. Used by the General Accounting Office and its officers and employees to conduct audits and other statutory functions. Used by those who request information releasable as a summary, statement of facts, or reply to query considered not exempt. In these cases, requestor should apply to office where complaint was filed.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name and Social Security Number (SSN) and year and office where complaint was filed.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes and locked cabinets or rooms and are controlled by personnel screening.

**Retention and disposal:** Retained in files for 5 years then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** The Inspector General, Headquarters United States Air Force. WASHINGTON D C 30330

**Notification procedure:** Request from individuals should be addressed to the office where the complaint or query was filed or to the Base Inspector.

**Record access procedures:** Individual can obtain access from the System Manager. Mailing addresses are in the Department of Defense Directory in the Appendix to the Air Force's Systems Notices.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Records are obtained from the individual requestor, witnesses, complainants, Department of the Air Force organizations, and agencies of Federal, State, or Local Governments, as applicable or appropriate, for processing the case.

**Systems exempted from certain provisions of the act:** NONE

**F11001 JACC G**

**System name:** 11001 JACC G Litigation Records; Tort Claims, Admiralty, Collection and Hospital Recovery Acts

**System location:** Headquarters United States Air Force, Washington DC 20330. Headquarters of major commands and at all levels down to and including Air Force installations.

**Categories of individuals covered by the system:** All military personnel and civilians filing litigation against the Air Force or against whom litigation has been filed under 28 USC 1346b, 46 USC 741-52, 781-90, 31 USC 71, 951-3, 42 USC 2651-3

**Categories of records in the system:** Pleadings, motions, interrogatories, orders and corresponeance

**Authority for maintenance of the system:** 44 USC 3101, Records Management; 10 USC 8012, Secretary of the Air Force; duties

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To provide evidence to the Department of Justice, local United States attorneys, and parties to the litigation upon which suits at law can be defended or prosecuted; to provide to Congress information upon which a reply to Congressional inquiries can be made; to obtain from the Surgeon General and of the military and civilian medical consultants thereto medical opinions upon which litigation decisions can be made by The Judge Advocate General and the Department of Justice; to provide information to the Court of Claims on legislative referral of private relief bills; when the Department of Defense or a Department of the Armed Forces is involved litigation files are provided to any agency of the Department of Defense having a need for such files; provide litigation files to the legal staffs of the Armed Forces for the purpose of training of legal, paralegal and administrative personnel.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in security file containers/cabinets.

**Retention and disposal:** Files at USAF retired permanently at Washington National Records Center, Washington, DC 20409, other levels destroy after two years upon completion of agency action; destroy after two years if filed under 42 USC 2651-3. Destroy by tearing into pieces, shredding, macerating, pulping or burning.

**System manager(s) and address:** The Judge Advocate General, Headquarters United States Air Force.

**Notification procedure:** Requests from individuals should be addressed to the System Manager.

**Record access procedures:** Individuals can obtain assistance in gaining access from the System Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from United States attorneys, private attorneys, and court records.

**Systems exempted from certain provisions of the act:** NONE

**F11001 JACL E**

**System name:** 11001 JACL E Civil Litigation Records

**System location:** Office of The Judge Advocate General, General Litigation Division, Headquarters United States Air Force, Washington DC 20330. Washington National Records Center, Washington DC 20409. JACL

**Categories of individuals covered by the system:** All those individuals who have brought suit against, or been involved in Litigation with, in a United States jurisdiction, the United States or its officers or employees concerning matters related to the Department of the Air Force, excepting those cases involving claims arising under the provisions of the Federal Tort Claims Act, 28 USC 2671-80

**Categories of records in the system:** Letters; messages; forms; reports; surveys; contracts; bids; photographs; legal opinions, answers, complaints, memoranda; personnel, medical, finance, and business records; audits; other documents including but not limited to: Environmental impact statements, contract determinations, witness statements, law enforcement agency investigative reports, administrative reports, engineering and technical reports and surveys, some records are classified

**Authority for maintenance of the system:** 44 USC 3101, 10 USC 8012

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Purpose of the collection of information is to enable the United States and its officers, employees, and members to defend and protect the legal interests of the United States in civil litigation; used by the Department of Justice and its officers and employees in the actual litigation of cases involving matters concerning the Department of the Air Force and in some instances the Department of Defense; used by the General Accounting Office and its officers and employees to conduct audits and other statutory functions; used by Members of Congress and their staffs to conduct research and prepare replies in response to constituent inquiries; used by the Veterans Administration and its officers and employees to adjudicate claims; used by law enforcement agencies, such as the Federal Bureau of Investigation, and their officers and employees in the conduct of background investigations and criminal investigations; Used by the Air Force audit agency in conducting audits; used by the Board of Correction for the Correction of Military Records; used by the US Accounting and Finance Center and its officers and employees for the adjudication of claims





**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Retrievable by name of litigant and year of litigation

**Safeguards:** Retired records accessed through JACL office Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes and controlled by personnel screening.

**Retention and disposal:** Retained in office files for two years after annual cut-off, then retired to Washington National Records Center, Washington DC 20409, for permanent retention.

**System manager(s) and address:** The Judge Advocate General, Headquarters United States Air Force.

**Notification procedure:** Requests from individuals should be addressed to the System Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the System Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from previous employers; financial, educational, and medical institutions; trade associations, police and investigating officers, the public media, a state or local government, a corporation, witnesses, source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth, and the individual to whom the record pertains.

**Systems exempted from certain provisions of the act:** NONE

**F11001BJACI B**

**System name:** 11001BJACI B Foreign Civil Litigation Records

**System location:** Headquarters United States Air Force, Washington DC 20330. Also at Headquarters of Major Commands having Supervisory responsibilities at overseas installations where judge advocates are assigned

**Categories of individuals covered by the system:** All individuals who initiate litigation against the United States in a foreign court in respect to a matter pertaining to the Air Force

**Categories of records in the system:** Letters, correspondence, messages, reports, summons, complaints, English translations of foreign documents, statements of witnesses and other evidentiary material, court orders and rulings

**Authority for maintenance of the system:** 10 USC 8012, 44 USC 3101

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** The purpose of the collection of information is to enable the United States and its officers, employees and members to defend and protect the legal interests of the United States in foreign civil litigation. Used by USAF Personnel tasked with supervisory and reporting responsibilities in connection with foreign civil litigation and by Department of Justice in defending the lawsuit.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Name of Litigant

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes and locked cabinets or rooms, and are controlled by personnel screening.

**Retention and disposal:** Retained in office files for two years after annual cut-off, then retired to Washington National Records Center, Washington DC 20409, for permanent retention.

**System manager(s) and address:** The Judge Advocate General, Headquarters United States Air Force. International Law Division JACI and Staff Judge Advocate at concerned subordinate command or installation

**Notification procedure:** Requests from individuals should be addressed to the System Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the System Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from reports from judge advocates at bases in foreign countries, and local court records.

**Systems exempted from certain provisions of the act:** NONE

**F11002 JACP C**

**System name:** 11002 JACP C Patent Infringement and Litigation Records

**System location:** Headquarters United States Air Force, Washington DC 20330. Office of The Judge Advocate General Patents Division JACP; at AF/JACPI Wright-Patterson Air Force Base, Dayton, OH 45433

**Categories of individuals covered by the system:** All claimants or petitioners who have alleged unlicensed use of their patents by the Air Force or who have brought suit against the United States concerning patent, trademark or copyright matters related to the Department of the Air Force.

**Categories of records in the system:** Letters; messages; forms; reports; contracts; bids; photographs; legal opinions; petitions; answers; discovery documents; memoranda; infringement studies; validity studies; procurement information; license agreements; other documents including but not limited to: contract determinations, witness statements, and engineering and technical reports. Some records are under military classification.

**Authority for maintenance of the system:** 10 USC 2386; 28 USC 1498; 35 USC 183

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Purpose of the collection of information is to enable the United States and its officers and employees to investigate claims and/or defend the legal interests of the United States because of claims for compensation and litigation involving patents, trademarks and copyrights. Used by the Department of Justice and its officers and employees in the litigation of cases involving patent or copyright matters concerning the Department of the Air Force and in some instances the Department of Defense. Used by by the Department of the Air Force, its officers and employees to resolve claims for compensation involving patent, trademark or copyright matters. Used by other Government Departments and agencies, such as the Departments of the Army, Navy, and Defense, to resolve claims for compensation involving patent, trademark, or copyright matters. Used in research for preparation of Air Force replies in response to Congressional inquiries.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Retrievable by name of claimant or litigant

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets/ safes and controlled by personnel screening.

**Retention and disposal:** Retained in office files for three years after end of year in which the case was closed, then retired to Washington National Records Center, Washington, D.C. 20409, for retention up to twelve years thereafter, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** The Judge Advocate General, Headquarters United States Air Force.

**Notification procedure:** Requests from individuals should be addressed to the System Manager.



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**Record access procedures:** Individual can obtain assistance in gaining access from the System Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information received from the individual, contractors, other government agencies, and individual corporations (non-contractors). Information obtained from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

**Systems exempted from certain provisions of the act:** NONE

**F12401 07YLNGB**

**System name:** 12401 07YLNGB Investigative Applicant Processing Records

**System location:** Air Force Office of Special Investigations, Washington DC 20314. Air Force Office of Special Investigations (AFOSI) District Offices, Detachment Offices, and Resident Agencies.

**Categories of individuals covered by the system:** All AFOSI personnel, allocations and applicants for AFOSI duty

**Categories of records in the system:** application documentation, results of the AFOSI applicant inquiry, and the personnel security investigation concerning the individual.

**Authority for maintenance of the system:** 44USC 3101

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Compiled to assist in the selection and retention of AFOSI personnel. Used by the AFOSI Applicant Review Board and the Director of Personnel Management to select AFOSI investigative trainees and support personnel. Used by the Commander, AFOSI to reassign or retain AFOSI personnel.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name, Social Security Number (SSN), Military Service Number, other identification number system identifier and date of birth.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

**Retention and disposal:** Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Files on nonselected personnel are destroyed when selection process is terminated. Destruction is by pulping macerating, or burning. Files at AFOSI field units are destroyed 90 days after completed action is forwarded to HQ AFOSI. Destruction is by pulping, macerating or burning.

**System manager(s) and address:** Commander, Air Force Office of Special Investigations. Washington, DC 20314

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from previous employers, financial institutions, educational institutions, medical institutions, police and investigating officers, the bureau of motor vehicles, a state or local government, an international organization, a corporation, witnesses, or source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth. Data is extracted from individual military or civilian personnel records.

**Systems exempted from certain provisions of the act:** Parts of this system may be exempt under 5 U.S.C. 552a (j) or (k), as applicable. For additional information, contact the Systems Manager.

**F12502 SPP A**

**System name:** 12502 SPP A Correction Records

**System location:** Headquarters United States Air Force, Washington DC 20330. Air Force Accounting and Finance Center, Denver, CO 80279. Air Force Military Personnel Center, Randolph Air Force Base, TX 78148. Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280. National Personnel Records Center, Civilian Personnel Records, 111 Winnebago Street, St. Louis, MO 63118. National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132. Washington National Records Center, Washington DC 20409. Maintained by the Chief of Security Police and Staff Judge Advocate at the installation where the individual was last assigned, Commander 3320th Retraining Group, Lowry AFB, Co., Commandant United States Disciplinary Barracks (USDB), Leavenworth, Ks. and the Office of the Secretary of the Air Force Personnel Council, Pentagon, Washington, D.C.

**Categories of individuals covered by the system:** Records are maintained on any individual who was placed in confinement at an installation, assigned to the 3320th Retraining Group and the USDB for purposes of retraining or confinement, placed in a federal prison system as the result of criminal conviction, or spent time in the correctional custody program at any Air Force installation.

**Categories of records in the system:** System includes prisoner personnel records consisting of confinement orders, release orders, personal history records, medical examiners report, request and receipt for health and comfort supplies, recommendations for disciplinary action, inspection records, requests for interview and evaluation reports; corrections officers records including personal deposit fund records and related documents, disciplinary books, correction facility blotters and visitor registers; prisoner records consisting of daily strength records; and reports of escaped and returned from escaped prisoners; prisoner classification summaries; retrainee test records and correctional custody case files consisting of disciplinary punishment letters, evaluation of individual and personal history, and records pertaining to any clemency/ parole actions.

**Authority for maintenance of the system:** Title 44 USC 3301 and Title 10 USC 8012.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Purpose of these records is to maintain a life file on the individual during his status as a prisoner or correctional custodee on an installation, as well as during his retrainee status at the 3320th Retraining Group or when he is an Air Force prisoner serving a sentence in a federal prison. Routine uses of the records are to establish background for either disciplinary or good conduct action as well as general administration uses of the records concerning health and welfare of the individual, as well as clemency and parole actions. Any individual record or part thereof can be transferred to any component of the Department of Defense or the Department of Justice, as well as civilian agencies such as law enforcement agencies, or law firms as a basis for consideration of civil action either against or on behalf of the individual.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders, in note books/binders, in card files, on computer paper printouts, on roll microfilm and on microfiche. Maintained as photographs.

**Retrievability:** Filed by Name, Social Security Number (SSN) and fingerprint classification.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms and controlled by visitor registers.

**Retention and disposal:** Depending on the type of record within the system, it is either destroyed after release of the prisoner/custodee/retrainee, maintained for one year after the release of the individual, or retained in the files at the facility in which the individual was confined for two years, after which time the record is either destroyed or transferred to a staging area for two additional years, then either retired to the Washington National Records Center, Washington DC 20409, for permanent retention or destroyed by tearing into pieces, shredding pulping, macerating, or burning. Records pertaining to clemency/parole actions are retained for 5 years after final action, then destroyed by burning and shredding.

**System manager(s) and address:** Chief of Security Police, Headquarters United States Air Force. The Judge Advocate General, Headquarters United States Air Force. Unit commander at the individual's last assignment; the commander of the 3320th Retraining Group, Lowry AFB, Colorado; Installation Chief of Security Police, Commandant USDB, Chairman Air Force Clemency and Parole Board.





**Notification procedure:** Requests from individuals should be addressed to the Systems Manager. Installation Chief of Security Police Installation Staff Judge Advocate Commander of unit to which individual was last assigned, or the Commander, 3320th Retraining Group. Records of clemency and parole actions are maintained by the Office of the Secretary of the Air Force Personnel Council and the Commandant USDB. Requestors should provide full name and proof of identity. When visiting, requestor will be required to provide proof of identity.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from financial institutions, medical institutions, police and investigating officers, a state or local government, witnesses or source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

**Systems exempted from certain provisions of the act:** NONE

**F16002 SGPS B**

**System name:** 16002 SGPS B Retirements/Separations Records System

**System location:** AFMPC/SG, Randolph AFB, Texas 78148.

**Categories of individuals covered by the system:** All Air Force members whose cases have been presented to a Medical Evaluation Board with a recommended disposition of return to duty; whose medical qualification for worldwide duty upon examination for retirement or separation is questionable;all retiring general officers;all members who have had their medical clearance for retirement or separation withdrawn.

**Categories of records in the system:** Retirement, separation, continued active duty Medical Evaluation Board, (if accomplished), Report of Medical Examination, Report of Medical History, Narrative Summary, Clinical Record Consultation Sheet, Electrocardiographic Record.

**Authority for maintenance of the system:** 10 USC 8012.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To determine if previous action has been taken by the system manager, and what the previous disposition was.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties.

**Retention and disposal:** Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** AFMPC Surgeon, Rnadolph AFB, Texas 78148.

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from medical institutions.

**Systems exempted from certain provisions of the act:** NONE

**F16002 01ACYVA**

**System name:** 16002 01ACYVA Physical Examination Reports Suspense File

**System location:** Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

**Categories of individuals covered by the system:** Air Force Reserve personnel.

**Categories of records in the system:** incomplete reports of physical examinations, correspondence to and from reservists/individuals.

**Authority for maintenance of the system:** section 10 US Code 275

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** information in files is used to provide control of reservists/ individual medical status.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name and Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system, by person(s) responsible for servicing the record system in performance of their official duties and by commanders of medical centers and hospitals. Records are protected by guards.

**Retention and disposal:** route for filing in the individual personnel records maintained at ARPC.

**System manager(s) and address:** commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

**Notification procedure:** Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, 7300 East First Avenue, Denver, Colorado between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's identification.

**Record access procedures:** Individuals can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, Colorado 80280; telephone (303) 394-4667.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** information from examining facilities, physicians(military and civilian),and summary of physicians evaluation.

**Systems exempted from certain provisions of the act:** NONE

**F17701 OBXQPCA**

**System name:** 17701 OBXQPCA Cadet Accounting and Finance, System Code RZ, Data System Designator E5I6

**System location:** United States Air Force Academy, USAF Academy CO 80840. Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279.

**Categories of individuals covered by the system:** Air Force Academy cadets.

**Categories of records in the system:** Individual computerized files containing pay data for all USAF Academy Cadets including Establishment/Change in Personal Checking Account, Monthly Report of Contingency Fund Status, Contingency Fund Loan Request, Cadet Pay Order, Document Control Log, Recapitulation of Cadet Pay Account, Cadet Pay Authorization, Cadet Pay Monthly Statement, Cadet Pay Record, Payment/ Collection Vouchers, Separation Control Log, Electronic Data Processing Sheets, Microfilm Files, Cadet Pay Disk File, Quarterly FICA Report, Transmittal Letter.

**Authority for maintenance of the system:** 10USC, 9331,9334,9342, 9350; 37USC, 201

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** The purpose for which the information in the system is collected is to accumulate cadet pay entitlements (basic pay and subsistence), deductions (federal tax, social security, insurance premiums) in order to properly monitor the payments disbursed to the Air Force Cadet Wing (TAFCW). The only category of user is the Accounting and Finance Office,



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Cadet Pay Section and Paying and Collection Section. The specific uses of the information include determining the correct monthly net pay to be disbursed to each cadet, preparing TD Forms W2 for the Internal Revenue Service, reporting deductions for the Federal Insurance Contribution Act to the Social Security Administration, charging the cadets for clothing issues and miscellaneous charges from authorized USAF Academy sources, and the reporting of all expenditures to the Air Force Accounting and Finance Center.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders, in visible file binders/cabinets, in card files, on computer magnetic tapes, on disks or drums, on computer paper printouts, on roll microfilm.

**Retrievability:** Filed by Military Service Number or other identification number or system identifier.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

**Retention and disposal:** The original copy of Cadet Pay Record, Cadet Pay Order, Substantiating Pay Documents and Transmittal Letter are forwarded to AFAFC, Lowry AFB, Denver, CO 80279. A microfilm copy of the Cadet Pay Record is maintained by USAF Academy Finance, Cadet Pay Section, USAF Academy, CO 80840, and is destroyed 4 years after graduation by cutting into pieces. Copies of Cadet Pay Orders, substantiating pay documents and posting media records are retained 1 year after annual cutoff in current files area and forwarded to the USAF Academy Staging Area for 2 additional years. Document Control Records are destroyed 90 days after close of FY to which they pertain. W-2 listings, quarterly FICA reports and CPITF interest distribution records are retained by Cadet Pay Section 6 years after CY to which they pertain. Audit registers are destroyed after 9 months. Financial statements, schedules and supporting data is destroyed after 4 years. Pay inquiries are destroyed after 2 years. All destruction is accomplished by tearing into pieces.

**System manager(s) and address:** Superintendent, United States Air Force Academy, Colorado, 80840.

**Notification procedure:** Director of Accounting and Finance, United States Air Force Academy, Colorado, 80840.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

**Systems exempted from certain provisions of the act:** NONE

**F17705 0EACYVA**

**System name:** 17705 0EACYVA Accounting and Finance Officer Accounts and Substantiating Documents

**System location:** Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279. Denver Federal Archives and Records Center Bldg 48 Denver Federal Center, Denver, Colorado 80225

**Categories of individuals covered by the system:** Civilian personnel employed at or paid by AF Installations, Air Force active duty military personnel, Air Force Reserve and Air National Guard personnel, Retired Air Force military personnel, and their allotees.

**Categories of records in the system:** individual military pay records; substantiating documents, such as, certificates for deductions and retained military pay orders; records of travel payments; financial record data folders; miscellaneous military vouchers and statements; copies of morning or strength reports and personal financial records.

**Authority for maintenance of the system:** 31 USC 67(b).

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** The purpose of this system is to serve as a repository from which information may be retrieved. The categories of users and uses are federal agencies including, but not limited to, the Federal Bureau of Investigation; Office of Special Investigtion, United States Air Force; Internal Revenue Service; and U. S. Attorneys for investigative purposes; And the General Accounting Office and Comptroller General for audit purposes. Also used by state, local and city governments to substantiate pay, eligibility for welfare and unemployment; the civil service commission for personnel management functions; the general public for garnishment of pay, employment purposes and by by other Air Force and Department of Defense components and Air Force members to substantiate claims, legality of payments, and service. Disclosures made pursuant to the freedom of information act. Disclosures to the Department of Justice for criminal prosecution, civil litigation or investigation.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders, in note books/binders, on computer paper printouts, on roll microfilm, and on microfiche.

**Retrievability:** Filed by Name, Social Security Number (SSN) or Military Service Number, accounting and disbursing station number and period of data requested.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms, protected by guards and controlled by personnel screening.

**Retention and disposal:** records are stored at Air Force Accounting and Finance Center, updated and accessible for 18 months after receipt from Air Force Accounting and Finance Officers worldwide; then retired to the Denver Federal Archives and Records Center where they are retained for a period of 4 years, 9 months. Destruction is accomplished by sale to a salvage company for shredding.

**System manager(s) and address:** Comptroller of the Air Force, Headquarters United States Air Force. Director Accounting and Finance United States Air Force (USAF).

**Notification procedure:** information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. Requester should be able to provide sufficient proof of identity, such as name, social security number, duty station, place of employment or other information verifiable from the record itself.

**Record access procedures:** Requests from individuals should be addressed to AFAFC/DAD Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. Requester should be able to provide sufficient proof of identity, such as name, social security number, duty station, place of employment or other information verifiable from the record itself.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information from Air Force Accounting and Finance Officers.

**Systems exempted from certain provisions of the act:** NONE

**F17707 0EACYVA**

**System name:** 17707 0EACYVA Loss of Funds Case Files

**System location:** Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279.

**Categories of individuals covered by the system:** Army, Navy and Marine Corps active duty military personnel. Air Force active duty officer and enlisted personnel. Air Force civilian employees. Former Air Force civilian employees. Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel.

**Categories of records in the system:** information source documents, reports of investigating officer(s) pertinent to losses in Air Force accounting and finance Officers: (AFOS) accountability, loss of funds settlement vouchers, material to determine cause of the loss, identification of personnel concerned in the loss, determinations of pecuniary liability, opinions from Judge Advocate General offices, opinions from the Comptroller General and from the General Accounting Office, and final determinations by the Secretary of the Air Force.

**Authority for maintenance of the system:** 31 USC 95a, 492b; 40 USC 721-729.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Loss of funds case files





record the chronological history of losses or deficiencies in AFOS money accounts. Data contained in these files are used to prepare reports and statistics, and to develop facts necessary for administrative adjudications of pecuniary responsibility. Users of the records system include, but are not limited to, attorneys, surety companies, and individuals for internal Air Force processing and outside litigation by those named in the case. Disclosures are made to the Department of Justice (for criminal prosecution, civil litigation, and investigation); to members of the general public when required by the freedom of information act, to the Comptroller General and the General Accounting Office for audit purposes and for opinions, to the Federal Bureau of Investigation and the Office of Special Investigations, United States Air Force (for investigation of possible criminal violations), and to various Air Force pay systems for implementation of administrative adjudications.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets and Records are stored in safes, protected by guards, and controlled by personnel screening and visitor registers.

**Retention and disposal:** whenever relief from pecuniary responsibility for a loss is recommended and granted, records are retained at AFAFC for four years and then destroyed by tearing into pieces, shredding ,pulping or macerating. Whenever one or more persons are held liable for a loss, and the loss is completely recovered, records are retained in AFAFC files for six years and then destroyed by tearing into pieces, shredding, pulping, or macerating.

**System manager(s) and address:** Comptroller of the Air Force, Headquarters United States Air Force. Director of Accounting and Finance United States Air Force (USAF).

**Notification procedure:** Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 3207553. The requester should be able to provide sufficient proof of identity, such as name, social security number, military or civilian status, duty station or place of employment, or other information verifiable in the record itself.

**Record access procedures:** Requests from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. The requester should be able to provide sufficient proof of identity, such as name, social security number, military or civilian status, duty station or place of employment, or other information verifiable in the record itself.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from financial institutions, police and investigating officers, witnesses and source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

**Systems exempted from certain provisions of the act:** NONE

**F17708 0EACYVA**

**System name:** 17708 0EACYVA Claims case file - corrected military pay and allowances.

**System location:** Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279. and at the Denver Federal Archives and Records Center Denver Federal Center, building 48, Denver CO 80225

**Categories of individuals covered by the system:** Air Force active duty officer personnel and enlisted personnel, and former active duty military personnel; Air Force Reserve and jair National Guard personnel. Retired Air Force military personnel. Air Force Academy cadets. Surviving dependents of military personnel.

**Categories of records in the system:** Includes but not limited to the following retired pay information; reserve pay information; statement of service; travel orders; travel vouchers; leave records; individual military pay records; discharge document; civilian earning statements; civilian earnings, wage and tax statement; income tax returns when provided by individuals to support a claim; copies of court martials; copies of non-judicial punishment, application for correction of military or naval records; requests, authorizations and pay orders for basic allowance for subsistence (BAS), separate rations; record of travel payments; military pay and allowances voucher; bills of lading; supplemental wage and tax statement; dependents: address and name; social security number of deceased retired Air Force members; pay adjustment authorization; medical bills and receipts; correspondence pertaining to above subect matters.

**Authority for maintenance of the system:** 10 USC 1552

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** The purpose of the record system is to determine the proper payment due based on the correction of military records. Users include, but are not limited to the following when claimant has his records changed to receive back pay for a period he was drawing unemployment, the amount of the payment is reported to the applicable state unemployment office. The various state unemployment offices may use the information to either institute collection process from the member or to adjust their records. Pay adjustment data and supporting documentation is submitted to the accounting and finance office for payment, and also to the Joint Uniform Military Pay System (JUMPS) for memorandum type entry on master military pay account. Disclosures made persuant to the Freedom of Information Act. Disclosures to Department of Justice for criminal prosecution, civil litigation, or investigation. Disclosures may also be made to the Internal Revenue Service and to the Social Security Administration for their determination of tax liabilities and social security entitlements flowing from corrections of military pay and allowances.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name, Social Security Number (SSN) or Military Service Number.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards, and controlled by personnel screening and visitor registers.

**Retention and disposal:** Folder is retained at Air Force Accounting and Finance Centet for 3 and 1/2 years, after which time it is sent to Denver Federal Archives and Record Center and destroyed 6 years from final closing date. Destruction is by shredding, mascerating, pulping, or burning.

**System manager(s) and address:** Comptroller of the Air Force, Headquarters United States Air Force. ; Director Accounting and Finance United States Air Force

**Notification procedure:** information as to whether the records system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. The Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, driver,s license, military status, duty station or place of employment or other information verifiable from the record itself.

**Record access procedures:** Requests from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. The requester should be able to provide sufficient proof of identity, such as name, social security number, driver:s license, military status, duty station or place of employment or other information verifiable from the record itself.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from previous employers, automated system interfaces, and source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

**Systems exempted from certain provisions of the act:** NONE

**F17708 0EACYVB**

**System name:** 17708 0EACYVB Claims case file - missing in action data

**System location:** Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279. and at the Federal Archives and Record Center Building 48 Denver Federal Center, Denver Co 80225.



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**Categories of individuals covered by the system:** Missing in action Air Force members; dependents of missing Air Force members; next of kin of missing Air Force members; and former wives of missing Air Force members.

**Categories of records in the system:** Includes, but not limited to the following statements of dependent,s expenses; Air Force Office of Special Investigation reports (OSI); correspondence requests for dependency determination; travel vouchers; travel orders; marriage certificates; birth certificates; annulments; divorce decrees; adoption papers; allotment documents (starts, stops, and changes); military pay and allowance vouchers; promotion orders ; military pay orders; financial statements; reports of casualty; wage and tax statements; guardianship papers; statements of service; records of emergency data; assignments of assistance responsibility; leave and earnings statements; acknowledgments and/or transfers of casualty assistance; records of travel payments; per diem work sheets; pay adjustment authorizations; bills of lading, tax certificate statements; returned check records; public vouchers for purchases and services; notice of premium due from commercial insurance companies; car titles; Judge Advocate General opinions and interpretative memoranda; car insurance policy statements; requests for verification of deposits in Uniformed Services Savings Deposit program; public vouchers for refunds; military pay vouchers; letters of notification of pay increases and decreases; copies of missing member:s last will and testament; Uniformed Services Savings Deposit statements; change of mailing address forms; copies of personal checks; breakdown of expenditures for investment purposes; military pay records of missing member; medical history on dependents; and newspaper clippings.

**Authority for maintenance of the system:** 37 USC 551-558

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** This record system is used for adjudication and distribution of missing member:s funds, and to make determinations of dependent:s eligibility and entitlement to pay allowances for parents, wives and children. Copies of parents: dependency affidavits and related correspondence may be furnished to the Air Force Office of Special Investigation (OSI) to verify statements made by the parents on application of claim for dependency. Data is also disclosed through correspondence with member,s dependents pertaining to distribution of monies. Copies of records may on occasion be furnished to other agencies, such as but not limited to Internal Revenue Service (IRS), Social Security Administration (SSA), and the Veterans Administration (VA), and to state and local agencies for their determination for any obligations, benefits and privileges under their respective jurisdictions. On occasion information is provided to the comptroller general and the General Accounting Office for decisions and audit purposes. Information is furnished to members of congress for replies to their constituents and for legislative purposes. Disclosures are made pursuant to the Freedom of Information act. Disclosures are made to the Department of Justice for criminal prosecution, civil litigation, or investigation. Vouchers are provided to the Automated Uniformed Services Savings Deposit Program (USSDP). Vouchers and supporting documentation are provided to local accounting and finance offices for payment.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name, Social Security Number (SSN), or Military Service Number.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards, and controlled by personnel screening and visitor registers.

**Retention and disposal:** Records are retained for the entire time member is in a missing or prisoner status. If member is returned to military control , files are returned to military pay jacket (active duty). If member is declared killed-in-action, file is processed as death case, retained at AFAFC for 3 1/2 years, then retired to Denver Federal Archives and Record Center, and destroyed 6 years after final closing date. Destruction is by shredding, mascerating, pulping, tearing, or burning.

**System manager(s) and address:** Comptroller of the Air Force, Headquarters United States Air Force. Director Accounting and Finance United States Air Force (USAF).

**Notification procedure:** Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. The requester should be able to provide sufficient proof of identity, such as name, social security number, drivers license, military status, duty station or place of employment or other information verifiable from the record itself.

**Record access procedures:** Requests from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. The requester should be able to provide sufficient proof of identity such as name, social security number, drivers license, military status, duty station or place of employment, or other information verifiable from the record itself.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from financial, educational and medical institutions; automated system interfaces; police and investigating officers; the public media; and the bureau of motor vehicles.

**Systems exempted from certain provisions of the act:** NONE

**F17708 0EACYVC**

**System name:** 17708 0EACYVC Claims case file - death gratuity records

**System location:** Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279. and at the Denver Federal Archives and Record Center building 48, Denver Federal Center, Denver, CO 80225.

**Categories of individuals covered by the system:** Deceased active duty and former active duty Air Force members; dependents of deceased air force members; beneficiaries of deceased Air Force members; next of kin of deceased Air Force members.

**Categories of records in the system:** Includes but not limited to the following claim certification and vouchers for death gratuity payments; claim for unpaid compensation of deceased members of the uniformed services; reports of casualty; travel vouchers; travel orders; military pay and allowance vouchers; wage and tax statements; miscellaneous income statements; divorce decrees; guardianship papers; death certificates; birth certificates; military pay records; statements of service; military pay orders; employees: exemption for dependents certificates; authorizations to start , stop or change allotments; mailing address payment options for Joint Uniform Military Pay System (JUMPS); authorizations to start or stop basic allowance for quarters credit; document transmittals (JUMPS); military pay orders transfer in; requests and authorizations to pay basic allowance subsistence and separate rations; records of emergency data; records of accounting and finance office authorized payments, JUMPS; assignments of assistance responsibility; leave and earnings statements; acknowledgments and/or transfers of casualty assistance cases; records of travel payments; special orders; record of courts-martial; per diem work sheets; marriage licenses; proceedings of homicide trials; court records; promotion orders; personal letters from deceased member to claimant; applications for commercial insurance; pay and allotment information on deceased members; affidavits in support of in local parentis relationships; pay adjustment authorizations; bills of lading; affidavits by natural custodian for claim on behalf of minor children; tax certificate statements; paternity admissions statements; social security wage adjustment data; leave records; claims for unpaid pay and allowances of deceased member of the uniformed services where there is no designated beneficiary of the claimant; returned check records; allotment reports; proof of adoption; and public vouchers for purchases and services.

**Authority for maintenance of the system:** 10 USC 1475-1480; 10 USC 2771

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** The purposes of the record system are to compute death gratuity payments and payments of unpaid pay and allowances and to determine the proper beneficiaries thereof. Vouchers and supporting documents are forwarded to accounting and finance offices for payment, with authorizations for local Accounting and Finance Offices to pay death gratuities. Copies of records or requested information are furnished to other agencies, such as but not limited to Internal Revenue Service (IRS), Social Security Administration (SSA), and the Veterans Administration (VA), and to state and local agencies.





Information is used by such entities to determine any obligations, benefits and privileges under their jurisdiction. Records are furnished to the General Accounting Office and the Comptroller General for determination purposes regarding proper beneficiaries and for audit. Information is furnished to members of Congress for replies to their constituents and for legislative purposes. Certified copies of past pay records are furnished to attorneys representing potential beneficiaries. Disclosures are made pursuant to the Freedom of Information Act. Disclosure to the Department of Justice for criminal prosecution, civil litigation or investigation.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name, Social Security Number (SSN) or Military Service Number.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards and controlled by personnel screening and visitor registers.

**Retention and disposal:** Retained at Air Force Accounting and Finance Center for 3 1/2 years after closing date. Folder is then forwarded to Denver Federal Archives and Records Center and destroyed six years from final closing date. Destruction is by shredding, tearing, mascerating, pulping, or burning.

**System manager(s) and address:** Comptroller of the Air Force, Headquarters United States Air Force. Director Accounting and Finance United States Air Force (USAF).

**Notification procedure:** Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 329-7553. The requester should be able to provide sufficient proof of identity, such as name, social security number, drivers license, military status, duty station or place of employment or other information verifiable from the record itself.

**Record access procedures:** Request from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. The requester should be able to provide sufficient proof of identity, such as name; social security number, drivers license, military status, duty station or place of employment or other information verifiable from the record itself.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from educational and medical institutions, automated system interfaces, police and investigating officers, the public media, a state or local government, witnesses, and source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

**Systems exempted from certain provisions of the act:** NONE

**F17708 0EACYVD**

**System name:** 17708 0EACYVD Indebtedness and claims

**System location:** Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279. Denver Federal Archives and Record Center Bldg 48 Denver Federal Center, Denver, Colorado 80225.

**Categories of individuals covered by the system:** Active duty military personnel. Air Force civilian employees. Former Air Force civilian employees. Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel. Air Force Academy cadets. Dependents of military personnel. Exchange Officers. Foreign nationals.

**Categories of records in the system:** Records of current and former military members and civilian employees pay accounts showing entitlements, deductions, payments made, and any indebtedness resulting from deductions and payments exceeding entitlements. These records include, but are not limited to, individual military pay records, substantiating documents such as military pay orders, pay adjustment authorizations, military master pay account print out from Joint Uniform Military Pay System (JUMPS), records of travel payments, financial record data folders, miscellaneous vouchers, personal financial records, credit reports, promissory notes, individual financial statements, and correspondence. Applications for waiver of erroneous payments or for remission of indebtedness with supporting documents, including but not limited to, statements of financial status (personal income and expenses), statements of commanders, statements of Accounting and Finance Officers, correspondence with members and employees. Claims of individuals requesting additional payments for services rendered with supporting documents including, but not limited to, time and attendance reports, leave and earnings statements, travel orders, travel vouchers, statements of non-availability of quarters and mess, paid receipts, and correspondence with members and employees. Delinquent accounts receivable from base Accounting and Finance Officers including, but not limited to, returned checks, medical services billings, collection records, and summaries of the Air Force Office of Special Investigation and Federal Bureau of Investigation reports. Reports from probate courts regarding estates of deceased debtors. Reports from bankruptcy courts regarding claims of the US against debtors.

**Authority for maintenance of the system:** 31 USC 951-953; 10 USC 2774; 10 USC 9837 (d); 5 USC 5584; 12 USC 1715m.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** The information is collected to determine eligibility for waiver of erroneous payments and remission of indebtedness or additional payments for services rendered. Also, information is required to attempt collection of all claims of the United States for money or property arising out of the activities of the United States Air Force. Claims of the United States may be compromised, terminated, or suspended when warranted by information collected. The records are used by, but not limited to, Air Force Accounting and Finance Center (AFAFC) Director of Accounting and Finance and Deputy Director of Accounting and Finance (HQ USAF/ACF), Assistant Secretary of the Air Force for Manpower and Reserve Personnel (SAF/MR), United States Air Force Comptroller (HQ USAF/AC), and the Comptroller General. AFAFC/CC uses the information to make final determinations or recommendations to SAF/MR, HQ USAF/AC, or the Comptroller General; to furnish legal advice to operating officials; to establish debts and respond to letters received from individuals. After action is completed, files are closed and filed in individual records. SAF/MR, HQ USAF/AC and the Comptroller General use the files for making final determinations. Disclosures made pursuant to the Freedom of Information Act. Disclosures to the Department of justice for criminal prosecution, civil litigation or investigation.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders and on magnetic cards.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards and controlled by personnel screening and visitor registers.

**Retention and disposal:** Retained in office files for one year after annual cut-off, transferred to the Denver Federal Archives and Record Center for nine additional years, and then sold to salvage paper companies to be destroyed by shredding, tearing, mascerating, pulping or burning.

**System manager(s) and address:** Comptroller of the Air Force, Headquarters United States Air Force. Director Accounting and Finance United States Air Force (USAF).

**Notification procedure:** Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Denver, CO 80279, telephone (303) 320-7553. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status , duty station or place of employment, or other information verifiable from the record itself.

**Record access procedures:** Requests from individuals should be addressed to AFAFC/DAD, Denver, CO 80279, telephone (303) 320-7553. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status , duty station or place of employment, or other information verifiable from the record itself.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.



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**Record source categories:** Information obtained from financial and medical institutions; automated system interfaces; police and investigating officers; the public media; a state or local government; and source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth; credit bureaus; Bureau of Employees Compensation, Veterans Administration; Social Security; Internal Revenue Service; Federal Housing Administration; health insurance companies; U.S. Army Finance and Accounting Center; Navy Finance Center; Base Accounting and Finance Officers, Major Commands; Comptroller General; and correspondence with individual concerned or his representative.

**Systems exempted from certain provisions of the act:** NONE

**F17709 0EACYVA**

**System name:** 17709 0EACYVA Reports of Survey.

**System location:** At Air Force Accounting and Finance Center Lowry AFB, Denver CO 80279. Headquarters, of the United States Air Force, major commands and major subordinate commands. Air Force installations.

**Categories of individuals covered by the system:** Air Force active duty officer and enlisted personnel. Air Force civilian employees and former employees. Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel. Air Force Academy cadets. Exchange Officers.

**Categories of records in the system:** Records include but are not limited to documentation of facts developed and liability ascertained pertaining to loss of, or damage to, Air Force owned or controlled property. Records are reports of survey; government property lost, damaged (GPLD) survey certificate; reports of survey register, survey Officers : reports of investigation, depositions, affidavits, exhibits such as appraisals, reports, record copies, records of property maintenance, historical and other inspection reports, procurement records, security forces investigation reports, fire department and community and state police reports, and Judge Advocate General opinions.

**Authority for maintenance of the system:** 10 USC 9832, 9835; 37 USC 1007, 32 USC 710

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** the purposes of the record system are to determine responsibility and pecuniary liability and to adjust accountability for the loss, damage, or destruction of public property under Air Force control. The category of users and uses include but are not limited to: Department of Defense and Air Forcee components; other federal agencies, including but not limited to the Department of Justice for criminal prosecution, civil litigation, or investigations; the Federal Bureau of Investigation for investigation of possible criminal violations; and the Internal Revenue Service for tax determinations resulting from Air Force adjudications of pecuniary responsibility; the Civil Service Commission for personnel management functions; and state and local courts and law enforcement agencies. The report of survey is used to record and present facts in support of a determination of pecuniary liability and to serve as, or support, a property adjustment voucher. The GPLD Survey certificate is used to authorize adjustment of property records of government property when a report of survey is not required. The facts recorded may be used in establishing cause of loss or damage to private or government property. Disclosures made pursuant to the Freedom of Information Act.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders, in note books/binders, in visible file binders/cabinets, in card files.

**Retrievability:** Filed by other identification number or system identifier. Conventional indices keyed to name.

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, in safes, vaults, locked cabinets or rooms. Records are protected by guards. Records are controlled by personnel screening and by visitor registers. Files are given the same protection as the property accountability records with which they are associated.

**Retention and disposal:** Files are destroyed three years after final action if pecuniary liability is not assessed, and three years after collection or ten years after final action, whichever is sooner. Destruction of unclassified reports may be made by shredding. Classified reports must be destroyed in presence of Records Management Officers by shredding, pulping, macerating, or burning.

**System manager(s) and address:** Comptroller of the Air Force, Headquarters United States Air Force. Director of Accounting and Finance United States Air Force (USAF).

**Notification procedure:** Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Denver, CO 80279, telephone (303) 320-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from the documentation manager at the applicable Air Force component listed in the Department of Defense directory in the appendix to the Air Forcee systems notice. Requester must present sufficient proof of identity, such as full name, social security number (SSN), military or civilian status and grade, and approximate date and location of incident involving report of survey or other information verifiable from the record itself.

**Record access procedures:** Requests should be addressed to AFAFC/DAD, Denver, CO 80279, telephone (303) 320-7553. Requester must present sufficient proof of identity, such as full name, SSAN, military or civilian status and grade, and approximate date and location of incident involving report of survey or other information verifiable from the record itself.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from police and investigating officers, the public media, the bureau of motor vehicles, a state or local government, an international organization, a corporation, witnesses, or source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth. Information also obtained from Air Force property records.

**Systems exempted from certain provisions of the act:** NONE

**F17718 0EACYVA**

**System name:** 17718 0EACYVA Account receivable records maintained by Accounting & Finance

**System location:** Air National Guard activities. Accounting and Finance Offices at Air Force bases. Air Force Reserve units. in the appendix to the Air Force's systems notice. At Air Force components listed in the Department of Defense directory in the appendix to the Air Force system notice, Denver Federal Archives and Record Center, Bldg 48, Denver Federal Center, Denver, CO. 80225.

**Categories of individuals covered by the system:** Active duty military personnel. Air Force civilian employees and former employees. Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel. Union or Association management personnel. Contracting officers and representatives. Air Force Academy cadets. Dependents of military personnel. Foreign Nationals residing in the United States. American Red Cross personnel. Peace Corps and State Department personnel. Exchange Officers. And other individuals who may be indebted to the Air Force.

**Categories of records in the system:** Records maintained by the system include but are not limited to documentation pertaining to telephone bills, utility bills, check issue discrepancies, dishonored checks, postal fund losses, reports of survey, freight losses in shipments, involuntary collections, erroneous payments, property losses and damages, administratively ascertained indebtedness of Airmen, withholding for subsistence and other supplies, losses of funds, government losses in shipments, unauthorized allotment payments, setoff of final pay, detentions of pay by reason of courts martial or forfeiture or fines documentation.

**Authority for maintenance of the system:** 5 USC 5512-5514; 10 USC 86-89; 10 USC 856; 10 USC 9832; 10 USC 9837(b); 31 USC 71; 31 USC 82(a); 31 USC 95; 31 USC 492(a)-(c); 37 USC 1007(b), (e),(f),(g); 40 USC 721-729; 49 USC 1 et. Seq.; 5 USC 552.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Records are used to support customer billings and collections. Recipients of information from the record system include, but are not limited to, the Comptroller General and the General Accounting Office (for opinions and audits); credit bureaus (for credit investigations); Internal Revenue Service (for determination of tax liabilities); Office of Special investigations-USAF, Federal Bureau of Investigation, US Secret Service, state and local law enforcement authorities (for criminal investigation and civil court proceedings); trustees in bankruptcy; Veterans: Administration (for its Administration of laws pertaining to veterans: benefits); correspondence with all of the above and their dependents and survivors and to members of the general public as required by the Freedom of Information Act. Disclosures are also made to the Department of Justice for criminal prosecution, civil litigation or investigation and to other Air Force and Department of Defense components for identification of and/or appropriate action on personnel subject to check cashing privileges.





**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders, in note books/binders, in visible file binders/cabinets, in card files and on computer magnetic tapes.

**Retrievability:** Filed by Name, Social Security Number (SSN), Military Service Number or Civilain Payroll Number.

**Safeguards:** Records are accessed by custodian of the record system. Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets or locked cabinets or rooms. Records are protected by guards. Records are controlled by personnel screening and by visitor registers.

**Retention and disposal:** Retention is for up to five years or until discrepancies are cleared. Destruction is accomplished by tearing, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Comptroller of the Air Force, Headquarters United States Air Force. Director of Accounting and Finance USAF; Accounting and Finance Officers at Air Force installations.

**Notification procedure:** Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Denver CO 80279, telephone (303) 320-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense directory to the Air Force system notice. The requester should be able to provide sufficient proof of identity, such as name, social security number, service number, military status, duty station or place of employment, or other information which may be verified from the record itself.

**Record access procedures:** Requests from individuals should be addressed to AFAFC/DAD, Denver CO 80279, telephone (303) 320-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense directory to the Air Force system notice. The requester should be able to provide sufficient proof of identity, such as name, social security number, service number, military status, duty station or place of employment, or other information which may be verified from the record itself.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from previous employers, financial institutions, educational institutions, medical institutions, trade associations, police and investigating officers, the bureau of motor vehicles, a state or local government, international organization, a corporation, witnesses, source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth. Charges and invoices from other Air Force and Department of Defense components at Headquarters, major command and base levels; Internal Revenue Service; Social Security Administration; and Veteran's Administration.

**Systems exempted from certain provisions of the act:** NONE

**F17720 0EACYVA**

**System name:** 17720 0EACYVA Travel Records

**System location:** Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279. accounting and finance offices at Air Force bases. the addresses of which are listed in the department of Defense directory in the appendix to the Air Force system notice; and at the Denver Federal Archives and Records Center, Denver Federal Center, Bldg 48, Denver, CO, 80225.

**Categories of individuals covered by the system:** Active duty military personnel. Air Force civilian employees and former employees. Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel. Air Force Academy nominees/applicants/cadets. Senior and Junior Air Force Reserve Officers. Dependents of military personnel. Foreign Nationals residing in the United States. Exchange Officers. Any other individual in receipt of competent travel orders.

**Categories of records in the system:** Documents include but are not limited to travel vouchers and subvouchers; travel allowance payment lists; travel voucher or subvoucher continuation sheets; vouchers and claims for dependent travel and dislocation or trailer allowance; certificate of government quarters and mess; multiple travel payments list; travel payment card; requests for fiscal information concerning transportation requests, bills of lading, and meal tickets; public vouchers for fees and mileage of witnesses; claims for reimbursement for expenditures on official business; claims for fees and mileage of witness; certifications for travel under classified orders; travel card envelopes; statements of adverse effect-utilization of government facilities; and correspondence relating to the above subject matter.

**Authority for maintenance of the system:** 37 USC 404-412; 5 USC 2105, 2106, 5561, 5564, 5701-5708, 5721-5730, and 5742.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** The purposes for which information in the system is collected include but are not limited to paying travel entitlements and supporting the payment of travel entitlements to military and civilian personnel. Uses made of the records by the paying Accounting and Finance Office, other Air Force and Dept of Defense components include but are not limited to the following: payment of advances; payment of per diem at temporary duty stations; settlement payments upon completion of travel; payment of mileage upon separation or release from active duty; consolidation of payments; payment of dependents: travel; payment of dislocation or trailer allowance; to support a traveler:s entitlement to a specific rate of per diem; to list multiple payments for travel and temporary duty performed under like conditions and circumstances; as a control record of all travel payments made to an individual; to query the United States Army Finance and Accounting Center for information contained on transportation requests, bills of lading, and meal tickets; payment of fees and allowances to civilian witnesses who are not u.s. Government employees; payment of expenses incurred within and around duty stations; supports the travel voucher in lieu of classified orders; updates leave records. Other users and specific uses made by them include but are not limited to Accounting and Finance Officers, who use travel records to pay travel entitlements to military and civilian personnel who perform official travel; traffic management Officers, who use travel records to support the issuance of transportation requests and to support the movement of household goods or house trailer; Internal Revenue Service, which receives and records information concerning the payment of travel allowances which are subject to federal income tax; the Civil Service Commission which uses the records for personnel management functions; General Accounting Office (GAO), which uses travel records for auditing activities and for the settlement of questionable travel claims; Office of Special Investigation, United States Air Force (OSI), which uses travel records in the investigation of suspected fraud cases; Air Force Audit Agency (AFAA), which uses travel records in performing routine audit activities; Department of Justice (disclosures for criminal prosecution, civil litigation or investigation); and disclosures made pursuant to the Freedom of Information Act.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders, note books/binders, visible file binders/cabinets, and card files.

**Retrievability:** Filed by Name, Social Security Number (SSN) or by other identification number or system identifier.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, safes, vaults, and locked cabinets or rooms. Records are protected by guards. Records are controlled by personnel screening and by visitor registers.



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**Retention and disposal:** The original voucher and related supporting documents are stored at the Air Force Accounting and Finance Center, Denver, CO, for 18 months and then moved to the Denver Federal Archives and Records Center for 4 years and 9 months after which they are sold to salvage companies for destruction by shredding. Copies of the original voucher and related supporting documents are maintained by field accounting and finance offices for 3 years and then destroyed by burning, shredding, tearing, pulping or macerating.

**System manager(s) and address:** Comptroller of the Air Force, Headquarters United States Air Force. Director Accounting and Finance United States Air Force (USAF). At base level the system manager is the local Accounting and Finance Officer.

**Notification procedure:** Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. Requester should be able to provide sufficient proof of identity, such as name, social security number, duty station, place of employment, and specify the accounting and disbursing station number, voucher number, date of voucher, or other information verifiable in the record itself.

**Record access procedures:** Request from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. Requester should be able to provide sufficient proof of identity, such as name, social security number, duty station, place of employment, and specify the accounting and disbursing station number, voucher number, date of voucher, or other information verifiable from the record itself.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information is acquired from but not limited to the individual traveler; related voucher documents such as those described above in the description of categories of records; Office of the Judge Advocate; the Comptroller;General Accounting Office; Congress; Accounting and Finance Officers; Traffic Management Officers; Consolidated Base Personnel Officers; the Air Force Accounting and Finance Center; and other Air Force and Department of Defense components.

**Systems exempted from certain provisions of the act:** NONE

**F17721 0EACYVA**

**System name:** 17721 0EACYVA Civilian Pay Records

**System location:** Air National Guard activities. Accounting and Finance Offices at Air Force bases. Air Force Reserve units. in the appendix to the Air Force's systems notice. addresses of geographically dispersed units may be obtained by reference to Air Force components listed in the Department of Defense directory in the appendix to the Air Force notice.

**Categories of individuals covered by the system:** Air Force civilian employees.

**Categories of records in the system:** Individual pay records; Individual leave records; source documents for posting leave and attendance; individual retirement deduction records; source documents maintained in connection with retirement deduction records and control files thereon; wage and separation information files; health benefit records; income tax withholding records; allowance and differential eligibility files, such as, but not limited to clothing allowances and night rate differentials; withholding and deduction authorization files, such as, but not limited to federal income tax withholding, insurance and retirement deductions; accounting document files; input data posting media, such as, but not limited to time and attendance cards and reports and personnel actions affecting pay; accounting and statistical reports and computer edit listings; claims and waivers affecting pay; control logs and collection/disbursement vouchers; listings for administrative purposes, such as, but not limited to health insurance, life insurance, bonds, locator files and checks to financial institutions; correspondence with the Civilian Personnel Office, dependents, attorneys, survivors, insurance companies, financial institutions, other governmental agencies and others; leave and earnings statements; travel records; and separation documents; official correspondence; federal, state and tax reports and/or tapes; forms covering pay changes and deductions, and documentation pertaining to garnishment of wages.

**Authority for maintenance of the system:** 5 USC Chapters 53, 55 and 81.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** The records are used to accurately compute individual employee's pay entitlements and to withhold required and authorized deductions and issue payroll checks for amounts due. Output products are forwarded as required to other subject matter areas to ensure accurate accounting and recording of pay to civilian employees. These records and related products are also used to verify and balance in the civilian pay office and other applicable subject matter areas and to report information to recipients, other government, and nongovernment agencies. Such recipients and agencies include, but are not limited to, the individual employee; banks which credit the employee's account if the employee has requested his check to be sent to the bank; financial organizations which credit the employee's account if the employee has requested a savings allotment; other approved organizations which an employee has designated for an allotment; health benefit carriers to ensure proper credit for the employee authorized health benefit deductions; employee organizations for which the employee has requested a dues deduction (reasons for nondeduction of dues will be shown, if applicable); the US Treasury, which maintains cash accountability; the Internal Revenue Service for recording withholding and social seu2curity information; the Social Security Administration and Civil Service Commission which credits the employee's account for Federal Insurance Contributions Act or Civil Service Retirement withheld; State revenue departments which credit employee's state tax withholding; State employment agencies which require wage information to determine eligibility for unemployment compensation benefits of former employees; city revenue departments of appropriate cities which credit employees for city tax withheld; any agency or component thereof that needs the information for proper accounting of funds, such as, but not limited to, for-others listings; Civil Service Commission for assistance in resolving complaints, grievances, etc. In the event of suspected fraud or other irregularity, data may be released to the Federal Bureau of Investigation, Office of Special Investigations, United States Air Force, or other investigating agencies for investigation and possible civil action or criminal prosecution. Data may also be released to a court of competent jurisdiction for court action. Disclosures are made to the Department of Justice for criminal prosecution, civil litigation, or investigation. Information is also supplied to the Civil Service Commission for computation of Civil service retirement annuity. Records are also used for extraction or compilation of data and reports for management studies and statistical analyses for use internally or externally as required by the Department of Defense or other Government agencies.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders, in note books/binders, in visible file binders/cabinets, in card files, on computer magnetic tapes, disks or drums, on computer paper printouts, on roll microfilm, on microfiche, and in microfilm jackets.

**Retrievability:** Filed by Name, Social Security Number (SSN), Civilian Payroll Number, Vehicle Registration or License Number, or other identification number or system identifier.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms, protected by guards, and controlled by personnel screening, visitor registers, and computer system software.

**Retention and disposal:** Records are retained for periods ranging up to 56 years.

**System manager(s) and address:** Comptroller of the Air Force, Headquarters United States Air Force. Director of Accounting and Finance United States Air Force (USAF); and commanders of Air Force installations

**Notification procedure:** information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO 80279 telephone (303) 320-7553. Information pertaining to geographically dispersed elements of the record system maybe obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense directory in the appendix to Air Force system notice. Requester should be able to provide sufficient proof of identity, such as name, social security number, drivers license, civilian identity card, duty station or place of employment or other information verifiable from the record itself.





**Record access procedures:** Requests from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. Information pertaining to geographically dispersed elements of the record system maybe obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense directory in the Air Force system notice. Requester should be able to provide sufficient proof of identity, such as name, social security number, drivers license civilian identity card, duty station or place of employment, or other information verifiable from the record itself.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from previous employers from financial institutions, from medical institutions, from automated system interfaces, from a state or local government, from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth, and from other Department of Defense components and other federal agencies such as, but not limited to Social Security Administration, Internal Revenue Service, State Revenue Departments, Department of the Army, Navy or State Department. Correspondence with attorneys, dependents, survivors or guardians may also furnish data for the system.

**Systems exempted from certain provisions of the act:** NONE

**F17722 0EACYVA**

**System name:** 17722 0EACYVA Accrued military pay system, discontinued (AMPS 360/390)

**System location:** Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279. and at Denver Federal Archives and Record Center Bldg 48 Denver Federal Center, Denver, CO 80225; (back-up storage).

**Categories of individuals covered by the system:** Air Force active duty officer and enlisted personnel. Retired Air Force military personnel. Separated Air Force Personnel Officers of Air Reserve and Air National Guard on extended active duty.

**Categories of records in the system:** Military pay records and related documentation including but not limited to monthly and cumulative six-months histories of pay transactions, wage and tax data, Uniformed Services Savings Deposit Program Records and Federal Insurance Contribution Act tax data contained on hard coy and/or microfilm. Military pay supporting documents and vouchers including but not limited to basic pay, special compensation positions, special pay, status adjustments, separation, reenlistment, reenlistment bonus, incentive pay, allowances, death gratuities, allotments of pay, court-martial sentences, indebtedness, and correspondence pertaining to all of the above. Sundry lists, reports and rosters including but not limited to Internal Revenue reports, Social Security reports, Veterans Administration reports and Treasury reports.

**Authority for maintenance of the system:** 37 USC 101 et seq; 10 USC 265, 8033, 8496, 9837(d); 32 USC 708.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** The purpose of these records is to provide an audit trail for audit purposes and to provide historical information for inquiries pertaining to past pay record data. It is used primarily by all components of the Air Force for answering inquiries pertaining to information contained in these discontinued records, and for reviews by the Air Force audit agency and Inspector General. Other users may include but are not limited to other components of Department of Defense such as Army and Navy which had paid Air Force members and desire to initiate claims, other federal agencies such as Internal Revenue Service for tax information on members, Social Security Administration for information regarding tax deducted from members and social security entitlements, Veterans Administration for information regarding premiums on servicemens group life insurance, General Accounting Office for audits, members of congress for complaints from constituents, and financial institutions for deposits and/or payments. Disclosure may be made pursuant to the Freedom of Information Act. Records may be disclosed to law enforcement agencies such as but not limited to Air Force Office of Special Investigation, Department of Justice, Federal Bureau of Investigations, city and state law enforcement agencies for violations of law, for investigations and possible criminal prosecution, civil court action or regulatory processes.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders/visible file binders/cabinets and on roll microfilm.

**Retrievability:** Filed by Name, Social Security Number (SSN), or Military Service Number.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards and controlled by personnel screening.

**Retention and disposal:** Local retention varies from 6 months to 10 years; records are either destroyed by tearing shredding, pulping macerating or burning, or transferred by the Air Force Accounting and Finance Center to the Denver Federal Archives and Records Center where they may be retained for a period up to 56 years. Back-up records for emergency reconstitution in the event of destruction of primary records are stored at the Federal Records Center Annex, GSA, Neosho, MO. Destruction is by shredding or burning.

**System manager(s) and address:** Comptroller of the Air Force, Headquarters United States Air Force. Director of Accounting and Finance United States Air Force

**Notification procedure:** information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO 80205, telephone (303) 320-7553. Requester should be able to provide sufficient proof of identity such as name, social security account number, military status, duty status or place of employment or other information verifiable from the record itself.

**Record access procedures:** Request from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. Requesters should be able to provide sufficient proof of identity, such as social security account number, military status, duty status or place of employment, or other information verifiable from the record itself.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from previous employers, financial and medical institutions, a state or local government, a corporation, and source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth. Accounting and Finance Offices (AFO) Consolidated Base Personnel Offices (CBPO).

**Systems exempted from certain provisions of the act:** NONE

**F17722 0EACYVC**

**System name:** 17722 0EACYVC Military Pay Records

**System location:** Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279. Denver Federal Archives and Records Center, Building 48, Denver Federal Center, Denver CO 80225. Federal Records Center Annex, GSA, PO Box 141, Neosho, Missouri 64850.

**Categories of individuals covered by the system:** Air Force active duty officer and enlisted personnel and Air Force military personnel separated from active duty.

**Categories of records in the system:** Microfilm of Military Pay Records of individual Air Force personnel on active duty or separated. Military pay records and related documentation including but not limited to monthly and cumulative six-months histories of pay transactions, Federal Income Tax withholding data, Uniformed Services Savings Deposit program records such as listings, Federal Insurance Contribution Act tax data contained on hard coy and/or microfilm. Military pay supporting documents and vouchers including but not limited to basic pay, special compensation positions, special pay, status adjustments, separation, reenlistment, reenlistment bonus, incentive pay, allowances, death gratuities, allotments of pay, court-martial sentences, indebtedness, and correspondence pertaining to all of the above. Sundry lists, reports and rosters including but not limited to Internal Revenue reports, Social Security reports, Veteran's Administration reports, and Treasury reports.

**Authority for maintenance of the system:** 37 USC 401-403; 37 USC 551-558; 10 USC 1475-1480; 10 USC 1552; 10 USC 2771.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Purposes are to furnish pay information from microfilm of Military Pay Records when hard copies of pay records cannot be located in Military Pay Record file.



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Used as back-up of hard copies of Military Pay Records which are also filed at this location. The purpose of the record system is to retain historical pay data on Air Force and former Air Force members. Categories of users and uses include but are not limited to the following furnish pay information and/or related information to Accounting and Finance Offices (AFOS) and Consolidated Base Personnel Offices (CBPOs), who use this information in answering inquiries and in determining current administrative adjustments. Copies of records on request may be furnished to Federal Bureau of Investigation (FBI) and the Air Force Office of Special Investigations (OSI), who use these data to investigate possible criminal violations. Copies of certified pay records and related documents are disclosed to military courts for court-martial action, and to Civil Courts. Furnish wage and tax statement (Form W-2) for tax purposes to State Revenue Service, Internal Revenue Service, individual members misplacing original form W-2, widows of deceased members, or to verify Air Force service on request from other services. On occasion may disclose information to members of Congress upon request for reply to constituents or for legislative purposes. Records may be disclosed for audit and inspection by the General Accounting Office, and to other Air Force and Department of Defense components. Disclosures are made pursuant to the Freedom of Information Act. Disclosures to the Department of Justice for criminal prosecution, civil litigation, or investigation.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders and on roll microfilm.

**Retrievability:** Filed by Name, Social Security Number (SSN), Military Service Number or by other identification number or system identifier.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards, and controlled by personnel screening and visitor registers.

**Retention and disposal:** Military Pay Records, hard copies, are retained at Air Force Accounting and Finance Center where they are sold to paper salvage companies and destroyed by shredding after a total of six years after member's separation. Microfilm of Military Pay Records is retained at Air Force Accounting and Finance Center for five years then destroyed by shredding or burning. Copies of microfilm are retained for fifty-six years at Federal Records Center Annex, GSA at Neosho, Missouri and then destroyed by shredding or burning.

**System manager(s) and address:** Comptroller of the Air Force, Headquarters United States Air Force. Director Accounting and Finance USAF.

**Notification procedure:** Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO 80279 telephone (303) 320-7553. The requester should be able to provide sufficient proof of identity, such as name, social security number, service number, military status, duty station or place of employment, or other information which may be determined from the record itself.

**Record access procedures:** Requests from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, CO 80205 telephone (303) 320-7553. The requester should be able to provide sufficient proof of identity, such as name, social security number, service number, military status, duty station or place of employment, or other information which may be determined from the record itself.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from previous employers, financial and medical institutions, automated system interfaces; police and investigating officers; a state or local government; a corportation; source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth; Air Force installation Accounting and Finance Pay Offices; Joint Uniform Military System (JUMPS); state agencies; state revenue services; veterans organizations; federal agencies; Internal Revenue Service; Veteran's Administration; attorneys; widows of former members; parents of members; dependents, trustees, and guardians; and other Department of Defense components.

**Systems exempted from certain provisions of the act:** NONE

**F17722 0EACYVD**

**System name:** 17722 0EACYVD Uniformed Services Savings Deposit Program (USSDP).

**System location:** Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279. and Denver Federal Archives and Record Center bldg 48 Denver Federal Center, Denver, Co 80225. Record Center Annex GSA, P.O. Box 141, Neosho, MO. 64850 (backup storage).

**Categories of individuals covered by the system:** This notice covers both the discontinued portion of USSDP and the remaining active part of the system. Effective 30 june 1974 , the USSDP program was discontinued except for those members declared missing in action (MIA) during the Vietnam conflict. Prior to 30 June 1974, the record system serviced Air Force active duty Officers and enlisted personnel serving on a permanent duty assignment outside the United States or its possessions. Effective 1 july 1974, the record system services only Air Force active duty Officers and enlisted personnel who have been declared MIA as a result of the Vietnam conflict. Dependents, next of kin, survivors and former spouses of USSDP participants.

**Categories of records in the system:** Categories of records include but are not limited to the following master account records for each depositor; transaction records of monetary data (deposits, withdrawals and adjustments); allotment records; name and social security number (SSN) change record; settled records; checkwriting and voucher register data records; interest paid records; quarterly statements records; supplemental address for interest refund records. Also included are correspondence files covering requests for information from members, federal agencies, spouses, former spouses, dependents, survivors, widows or widowers, next of kin, the American Red Cross, Congress, and other Air Force and DoD components.

**Authority for maintenance of the system:** 10 USC 1035.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** the purpose for which information in the system is collected is to provide the following mechanized and manual account maintenance including updating for deposits, withdrawals, interest accruals, adjustments and summary data for quarterly processing; capability of responding to inquiries regarding the status of each depositors account; capability to settle accounts, issue settlement statements and checks; quarterly statements to depositors showing detailed activity for the current quarters and cumulative balances for prior periods; reconciliation between the Accounting and Finance Officers (AFO ) accounts and cash control reports with appropriate audit trails; controls to insure compliance with statutory limitations on amounts deposited, desertion status and conditions under which withdrawals are permitted and; records for storage of historical data on each depositors: account. The users and uses made of the information include but are not limited to the following United States Air Force components use these records to maintain, update, settle, and report on individual members account balances. Other DoD components use various accdunt balances information to process withdrawal requests. Congress uses this information for legislative purposes and in responding to constituents: inquiries. Disclosures to the Department of Justice and other investigatory agencies for criminal prosecution, civil litigation or investigation. Veterans Administration (VA) and Social Security use this information to determine eligibility, entitlements, and addresses of and for USSDP members. Federal Housing Agency (FHA) uses this information in their loan programs. Internal Revenue Service (IRS) uses the information for tax purposes and for levy action in the collection of taxes owed. American Red Cross uses this information to determine needs of a member or his dependents in emergency situations. Widow or widower, dependent, or next of kin of deceased members use this information in settling the affairs of the former member. Information may be disclosed to the above persons or to members of the general public as required by the Freedom of Information Act.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in, visible file binders/cabinets/card files, on computer magnetic tapes and computer paper printouts, and on mircrofiche.

**Retrievability:** Filed by Name, Social Security Number (SSN), or Military Service Number.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system





in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards and controlled by personnel screening, visitor registers and computer system software.

**Retention and disposal:** all records except correspondence and balancing data (deposit, adjustment, and withdrawal) are retained for 6 years after final settlement. Correspondence is kept for 90 days; balancing data is kept for 1 year after in balance status is reached. Records are stored at Air Force Accounting and Finance Center, at the Denver Federal Archives and Record Center, and at the Record Center Annex, Neosho, MO. Destruction is by sale to salvage company for shredding.

**System manager(s) and address:** Comptroller of the Air Force, Headquarters United States Air Force. and Director Accounting and Finance United States Air force (USAF).

**Notification procedure:** Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, Colo 80279, telephone (303) 320-7553. The requester should be able to provide sufficient proof of identity, such as name, social security number, date of final settlement, duty station or place of employment, or other information verifiable from the record itself.

**Record access procedures:** Request from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, Colo 80279, telephone (303) 320-7553. The requester should be able to provide sufficient proof of identity, such as name, social security number, date of final settlement, duty station or place of employment, or other information verifiable from the record itself.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from automated system interfaces other Air ForceDoD components and dependents, next of kin, survivors, and former spouses of USSDP members.

**Systems exempted from certain provisions of the act:** NONE

**F17724 0KPNQSA**

**System name:** 17724 0KPNQSA Air Force ROTC Cadet Pay System

**System location:** 3841 CPTSS(ACFR), Maxwell AFB, AL 36112 and AFROTC(SUF), Maxwell AFB, AL 36112 and AFROTC detachments. Official mailing addresses of the detachments are in the Department of Defense directory in the appendix to the Air Force;s system notice.

**Categories of individuals covered by the system:** Senior AFROTC contract cadets

**Categories of records in the system:** monthly pay disbursement & documents for senior AFROTC contract cadets

**Authority for maintenance of the system:** 37 USC209

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** system data are used by detachments to verify entitlements, and by AFROTC to summarize costs of the program.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained on computer magnetic tapes and on computer paper printouts.

**Retrievability:** Filed by Name and Social Security Number (SSN).

**Safeguards:** Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are controlled by computer system software. Building secured after duty hours.

**Retention and disposal:** Retained in office file for three years after completion of training,then destroyed by tearing, pulping, macerating or burning.

**System manager(s) and address:** Comptroller of the Air Force, Headquarters United States Air Force Chief, Financial Management Division; AFROTC(SUF), Maxwell AFB, al 36112

**Notification procedure:** Reserve Pay Section, 3841 CPTSS(ACFR), Maxwell AFB, AL 36112. Provide name, date attended the institution, detachment number, reason for request. Requestor may visit the reserve pay section and present driver,s license or social security card.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Enrollment and attendance records as translated to pay days entitlement and submitted by detachments on the monthly AFROTC Pay Order.

**Systems exempted from certain provisions of the act:** NONE

**F17725 0EACYVA**

**System name:** 17725 0EACYVA Air Reserve Pay and Allowance System (ARPAS)

**System location:** primary system location: Air Force Accounting and Finance Center, Lowry AFB, Denver CO 80279; decentralized supporting segments are located at: Air Force Military Personnel Center, Randolph Air Force Base, TX 78148. Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280. National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132. Air National Guard activities. Air Force Reserve units. in the appendix to the Air Force's systems notice. accounting and finance offices at Air Force bases. Servicing individual Air Reserve Forces members. Denver Federal Archives and Record Center, Bldg 48, Denver federal center, Denver, Co 80225; and records Center annex GSA, p.o. Box 141, Neosho, MO 64850 (system back- up storage).

**Categories of individuals covered by the system:** Active Air Reserve Forces members in a military pay status and Dependents of military personnel thereof, except the following; Air Reserve Forces members on extended active duty and members of the Air Force Reserve Officer Training Corps.

**Categories of records in the system:** Military pay account computer records and supporting documentations relating to Air Reserve Forces military pay and allowance entitlements, deductions, and collections. Military pay computer records, including but not limited to, master individual pay account files (containing essential check and member identification data, military pay entitlement and allowance data, accounting data, tax withholding rate and amount data, collection and indebtedness data, and performance data); wage and tax withholding records; records of Air Reserve Forces calendar day performance; check issue, control and cancellations records; transaction input, system reject, and system recycle records; disbursement and collection report records; accounting report records; and other generated records supporting, substantiating, or authorizing Air Reserve Forces military pay and allowance entitlement, deduction, or collection actions. Military pay documentation records include, but are not limited to, travel orders, requests and performance records; active military duty performance records; statements of tours or performance of military duty; payroll attendance lists and rosters; document records establishing, supporting, reducing, or cancelling entitlements to basic pay; special compensations (such as medical, dental, veterinary, and optometry); special pays (such as foreign duty, hostile fire); allowances (such as basic allowance for subsistence, basic allowance for quarters, family separations, clothing maintenance and monetary allowances); incentive pays; and other entitlements in accordance with the Department of Defense Pay and Allowance Entitlement Manual; certificates and statements changing address, name, military assignment, and other individual data necessary to identify and provide accurate and timely Air Reserve Forces military pay and performance credit; allotment start, stop, or change records; declarations of benefits and waivers; military pay and personnel orders; medical certifications and determinations; death and disability documents; check issuing and cancellation records and schedules; payroll vouchers; money lists and accounting records; pay adjustment authorization records; system input certifications; member indebtedness and tax levy documentation; earnings statements; employees wage and tax reports and statements; casual payment authorization and control logs; punch card transcripts; and other documentation supporting, authorizing, or substantiating Air Reserve Forces military pay and allowance entitlement, deduction, or collection. Inquiry files, sundry lists, reports, letters, correspondence, and rosters including, but not limited to, Congressional inquiries, Internal Revenue Service notices and reports, state tax and insurance reports, Social Security Administration reports, Veterans Administration reports, inter-Department of Defense requests, treasury reports, and health education and institution inquiries.

**Authority for maintenance of the system:** 37 USC 101 et. Seq.



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**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Information is collected in the system to ensure accurate and timely military pay and allowances to supported Air Reserve Forces members; provide timely, complete master individual pay account review; document and account for Air Reserve Force military pay and allowance disbursements and collections; and provide account inquiry research response capability. Records are utilized to determine net military pay and allowances check issues to Air Reserve Force members; to verify and account for system input transactions; to identify, correct, and collect overpayments; to establish, control, and collect member collection and indebtedness notices and levies; to maintain complete accounting records for Air Reserve Forces military pay and allowance disbursements, collections, refunds, and reimbursement actions; and to provide internal and external managers with statistical and monetary reports. Other users of system record data include such Air Force components as Headquarters US Air Force, Major Air Force Commands, Air Force installations, Air National Guard and Air Force Reserve Consolidated Base Personnel Offices and Consolidated Reserve Personnel Offices, Air National Guard Base Comptrollers, and ARPAS payroll offices. Other users and uses include, but are not limited to, record transfers to components of the Department of Defense for system transaction validity and accuracy audit, accounting, and documentation utilization; other federal agencies such as the Internal Revenue Service for wage and tax withholding reporting, accounting, tax audits or levits; Social Security Administration for wage and tax withholding reporting, accounting, or tax audit; Civil Service Commission for personnel management functions; Comptroller General and the General Accounting Office for system transaction validity and accuracy audits; Veterans Administration for compensation and waiver reporting and audits, life insurance accounting, disbursement and benefit determinations; US Federal Courts for legal proceedings; Federal, State, or local Governmental agencies for reports and accounting utilization; state and local governments for tax and welfare information; educational institutions for verifying scholarship qualifications and performance; charitable institutions and military associations to render recognition for meritorious service; and financial institutions for deposits (checks to banks) and credit references. Disclosure made persuant to the Freedom of Information Act. Disclosures to the Department of Justice for criminal prosecution, civil litigation or investigation. The American Red Cross and Air Force Aid Society use this information to determine needs of a member of his or her dependents in emergency situations.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders/ in note books/binders/ visible file binders/cabinets/card files on computer magnetic tapes and computer paper printouts, on roll microfilm and microfiche.

**Retrievability:** Filed by Name and Social Security Number (SSN).

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets/safes/ vaults, protected by guards, and controlled by personnel screening, visitor registers and computer system software requiring special random input entry identifiers.

**Retention and disposal:** The system contains differing types of records subject to varied retention of from 6 months to 56 years. Records are retired to the Denver Federal Archives and Record Center, and also are stored at the Records Center annex GSA at Neosho, MO for back-up storage. Final destruction of records is by sale to a salvage company for shredding.

**System manager(s) and address:** Comptroller of the Air Force, Headquarters United States Air Force. ; Director Accounting and Finance United States Air Force (USAF); managers for geographically dispersed supporting elements to the system are Chief of Air Force Reserve, Headquarters United States Air Force. Director of Air National Guard, Headquarters United States Air Force. Accounting and Finance Officers, Consolidated Base Personnel Officers, Air National Guard Base Comptrollers, Consolidated Reserve Personnel Officers, ARPAS Payroll Officers, and designated representatives thereof.

**Notification procedure:** Information as to whether the record system contains Information on an individual may be obtained from AFAFC/DAD, Lowry AFB,, Denver, CO 80279, telephone (303) 320-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force system notice. Requesters should be able to provide sufficient proof of identity, such as name, social security account number, military status, last Air Reserve Forces unit of assignment, duty status, or place of employment, or other information verifiable from the system record itself.

**Record access procedures:** Requests from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at the Air Force component listed in the Department of Defense Directory in the appendix to the Air Force system notice. Requesters should be able to provide sufficient proof of identity, such as name, social security account number, military status, last Air Reserve Force unit of assignment, duty status, or place of employment, or other information verifiable from the system record itself.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Record system sources for information include, but are not limited to, the following: Headquarters USAF, Air Force Major Commands and Air Force installations, Consolidated Base Personnel Offices and Consolidated Reserve Personnel Offices, Air National Guard Base Comptrollers, ARPAS Payroll Offices, other DoD components; the Internal Revenue Service, Social Security Administration, Veterans Administration, and other federal agencies; financial institutions, educational institutions, medical institutions, automated system interfaces , and state and local agencies.

**Systems exempted from certain provisions of the act:** NONE

**F17726 0EACYVA**

**System name:** 17726 0EACYVA Pay and Allotment Records

**System location:** At Air Force Accounting and Finance Center, Lowry AFB, Denver CO 80279, and at Denver Federal Archives and Record Center, Building 48, Denver Federal Center, Denver, CO, 80225

**Categories of individuals covered by the system:** Air Force active duty officer and enlisted personnel. Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel. Air Force Academy cadets. Dependents of military personnel, guardians of dependents of military personnel and custodians of dependents of military personnel

**Categories of records in the system:** applications for Basic Allowance for Quarters (BAQ); request for dependency determinations for dependent travel; request for dependency determinations for Housing Allowance (HOLA) and Cost of Living Allowance (COLA); requests for dependency determinations for medical care; copies of marriage certificates, birth certificates, annulments, divorce decrees and adoption papers; certificate of residence forms; allotment documents (starts, changes and stops); special pay authorizations; copies of allotment vouchers; change of address forms; parent dependency affidavits; correspondence between the Air Force Accounting and Finance Center (AFAFC) and members and their dependents pertaining to allotments (pay information ) and determinations of dependency; Comptroller General decisions; General Accounting Office opinions; Judge Advocate General opinions and interpretative memoranda; Air Force Office Special Investigation (OSI) reports, interpretative memoranda from plans and systems (XS) at AFAFC; status request from office of civilian health and medical program of the uniformed services (CHAMPUS) regarding medical care for children over age 21; correspondence with state and local agencies; American Red Cross; and other material related to dependency determination and eligibility of dependents for pay and allowance purposes and medical care.

**Authority for maintenance of the system:** 37 USC 401; 37 USC 403 and 10 USC 1072.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Records are used to; make determinations of dependency and or relationship eligibility entitlement to pay allowances (BAQ, dependent travel, HOLA, COLA) for parents, step-children and adopted children who have income in their own right, illegitimate children and all cases where relationship or dependency is questionable; make determinations of dependency and or eligibility entitlement to medical care for





parents, parents-in-law, illegitimate children and children over age 21. Copies of affidavits, documents, related correspondence and/or information contained therein may be furnished to the service member, the claimed dependent and/or the person who furnish such information. Copies of affidavits, statements and related correspondence may be furnished OSI to verify information submitted by or in behalf of the claimed dependent. Copies of records may on occasion be furnished Federal Bureau of Investigation (FBI) through OSI for investigation in possible forgery and fraud cases. Copies of records may on occasion be furnished to federal agencies, including, but not limited to FBI for criminal investigations, Internal Revenue Service (IRS), Social Security Administration (SSA), Civil Service Commission, and the Veterans Administration (VA), and to state and local agencies for their own determinations for any obligations , benefits and privileges that come under their jurisdiction. On occasion may disclose information to the General Accounting Office for audit purposes and to Major Commands and Base Level Commander, Accounting and Finance Office, and Consolidated Base Personnel Office) upon their request for information relating to dependency determinations. Notify other services (Army, Navy, Marine Corps, Coast Guard) on approvals of BAQ in behalf of parents and illegitimate children to prevent duplicate claims. Notify the American Red Cross of status of claims to inform the member and/or their dependents. On occasion may send or disclose information to the Comptroller General for advance opinions. On occasion may disclose information to members of Congress on request. On occasion may disclose information to the Air Force Aid Society. Disclosures made pursuant to the Freedom of Information Act. Disclosures to the Department of Justice for criminal prosecution, civil litigation or investigation.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name, Social Security Number (SSN), or Military Service Number.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards and controlled by personnel screening and visitor registers.

**Retention and disposal:** records for members who have been separated from the service are purged annually and retired to the Federal Archives and Records Center at Denver Federal Center with one exception, records for which claims are received and/or a dependency determination is made after separation, are retained at the AFAFC for six years after last determination and then sent to the Denver Federal Record Center. Records are destroyed six years after member:s separation from the service or last determination, whichever is latest. Destruction is accomplished by sale to a salvage Co. for shredding,tearing or burning.

**System manager(s) and address:** Comptroller of the Air Force, Headquarters United States Air Force. Director Accounting and Finance United States Air Force Wash DC 20330 (USAF)

**Notification procedure:** Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver CO 80279, telephone (303) 320-7553. The requester should be able to provide sufficient proof of identity, such as name, social security number, service number, military status, duty station or place of employment.

**Record access procedures:** Request from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver CO 80279, telephone (303) 320-7553. The requester should be able to provide sufficient proof of identity, such as name, social security number, service number, military status, duty station or place of employment.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from previous employers, financial and medical institutions, automated system interfaces, police and investigating officers, a state or local government, source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth, applications and correspondence from members for dependency determination for BAQ, dependent travel, HOLA, COLA, and medical care; correspondence from parents, guardians and custodians of dependents, attorneys and the American Red Cross pertaining to dependency determination and support of dependents; information from other components of the department of defense.

**Systems exempted from certain provisions of the act:** NONE

**F17730 0EACYVA**

**System name:** 17730 0EACYVA Joint uniform military pay system (JUMPS)

**System location:** Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279. Air Force Military Personnel Center, Randolph Air Force Baso, TX 78148. consolidated base personnel offices at Air Force installations. accounting and finance offices at Air Force bases. At Air Force Data Systems Design Center, Gunter Air Force Station, AL 36114 (for research and test only), Denver Federal Archives and Records Center, Denver, CO 80225 (storage), Records Center Annex GSA, PO Box 141, Neosho, MO 64850 (back-up storage). Information pertaining to geographically dispersed elements of the record system (CBPO's and AFO's) may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force system notice.

**Categories of individuals covered by the system:** Air Force active duty military personnel and dependents. Retired Air Force military personnel. Separated Air Force military personnel, individuals to whom active duty military personnel authorize a direct payment of a portion of their pay, and Officers of the Air Reserve and Air National Guard on extended active duty.

**Categories of records in the system:** Military pay records and files including but not limited to; master military pay accounts, immediate access storage, six-months history, leave and earnings statements, federal insurance contribution act tax and federal income tax withholding contained on magnetic tape, magnetic discs, microfilm, microfiche and computer printed formats; pay authorization control files, central pay authorization file, deferred transaction file, reject suspense file and daily transaction record. Military pay supporting documents and vouchers including but not limited to basic pay; special compensation positions such as medical, dental, veterinary and optometry; special pay such as foreign duty, proficiency, hostile fire and diving duty; status adjustments relating to entrance on active duty, absent-without-leave, confinement, desertion, sick or injured, leave, mentally incompetent, missing, interned, permanent change of station, promotions and demotions; separation, reenlistment, reenlistment bonus; incentive pay such as flying duty, stress duty, demolition duty, parachute jumping duty and submarine duty; allowances, such as basic allowance for subsistence, basic allowance for quarters, family separation allowances, overseas station allowances, clothing monetary allowance; separation payments, death gratuities, time-in-service; allotments of pay; checks-to-banks; federal and state withholding taxes; court-martial sentences and non-judicial punishment; indebtedness resulting from but not limited to overpayment of pay and allowances and allotments, other debts to United States, certain non-government debts, and correspondence pertaining to all of the above. Inquiries files, personal financial records and sundry lists, reports and rosters including but not limited to Internal Revenue reports, state tax reports, Veterans Administration reports, Social Security Administration reports, and Treasury reports.

**Authority for maintenance of the system:** 37 USC 101 et seq.; 10 USC 265,8033,8496; 10 USC 9837 (d); 32 USC 708; E.O. 9397.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** The purposes of these records are to accurately and timely pay members of the Air Force, provide members periodic comprehensive statements of their accounts, and to respond to inquiries concerning their accounts at any time. US Air Force components such as Headquarters, Air Force Accounting and Finance Center, Major Commands and Air Force installations use these records to determine pay due military members, to verify pay affecting information, to collect overpayments made to military members, to provide accrual accounting for each covered entitlement of military pay and allowances, and to provide fund manager reports, internal manager reports and external reports. Other users include but are not limited to other components of Department of Defense such as Army and Navy which may pay Air Force members and initiate claims; other federal agencies such as the Internal Revenue Service for tax information on members, Social Security Administration for information regarding Federal Insurance Contribution Act tax deducted from members, Veterans Administration for information regarding premiums on serviceman's



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group life insurance, the General Accounting Office for audits, opinions, and fact-finding information, state and local governments for tax and welfare information, US and state courts for civil litigation and criminal prosecution purposes, members of Congress for complaints from constituents and for inquiries not generated by constituents, insurance companies for allotments made to them by military members, financial institutions for deposits (checks-to-banks) and/or payments, the American Red Cross and the Air Force Aid Society. Records may be disclosed to law enforcement agencies such as but not limited to office of Special Investigations, United States Air Force; Federal Bureau of Investigation; city and state authorities for violations of law, for investigation and possible criminal prosecution, civil court action or regulatory processes. Disclosures made pursuant to the Freedom of Information Act. Disclosures to the Department of Justice for criminal prosecution, civil litigation, or for investigatory purposes. American Red Cross uses this information to determine needs of a member or his dependents in emergency situations. The Air Force Aid Society uses this information to determine needs of a member or his dependents in emergency situations and for verification of loan applications.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders/ note books/binders/bisible file binders/cabinets/card files, computer magnetic tapes and maintained on computer paper printouts, and on roll mircrofilm and microfiche.

**Retrievability:** Filed by Name, Social Security Number (SSN), or Military Service Number.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets/ locked cabinets or rooms, protected by guards, and controlled by personnel screening, visitor registers and computer system software.

**Retention and disposal:** local retention varies from 3 to 6 years. At expiration of local retention, records are either destroyed by tearing, shredding, pulping, macerating or burning or transferred by the Air Force Accounting and Finance Center to the Denver Federal Archives and Records Center for varying retention periods up to 56 years. Destroyed by shredding. Back-up records for emergency reconstruction in the event of primary record destruction are retained by the Federal Records Center Annex GSA at Neosho MO. Destruction is by shredding.

**System manager(s) and address:** Comptroller of the Air Force, Headquarters United States Air Force.

**Notification procedure:** Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO, 80279, telephone (303) 320-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force system notice. Requester should be able to provide sufficient proof of identity, such as name, social security account number, military status, duty status or place of employment or other information verifiable from the record itself.

**Record access procedures:** Request from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, Colorado, 80279 Denver, CO, 80279, telephone (303) 320-7553. the record system may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force system notice. Requester should be able to provide sufficient proof of identity, such as name, social security account number, military status, duty status or place of employment or other information verifiable from the record itself.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from financial institutions, automated system interfaces, a state or local government, source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth, military pay information originating from telephone inquiries telegraph messages and correspondence information from federal agencies and other DoD components and information from Air Force installations, Major Commands and USAF Headquarters.

**Systems exempted from certain provisions of the act:** NONE

**F17734 0EACYVA**

**System name:** 17734 0EACYVA United States Air Force Retired Pay System.

**System location:** Air Force Accounting and Finance Center, Lowry AFB Denver CO 80279. Federal Archives and Records Center, building 48, Denver Federal Center, Denver, Colorado 80225. Records center annex, GSA, P.O. Box 141, Neosho, Missouri 64850 (back up storage only). Air Reserve Personnel Center and Personal Affairs offices at Air Force installations. Official mailing addresses are in the Department of Defense Directory in the Appendix to the Air Force's systems notice.

**Categories of individuals covered by the system:** Air Force active duty officer and enlisted personnel. Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel. Dependents and survivors of military personnel.

**Categories of records in the system:** Records include, but are not limited to, retired pay and annuitant pay master files with supporting documentation relating to entitlements, deductions, collections and allotments. Supporting documents include but are not limited to the following Retirement Orders, retirement pay orders, gross pay statements, statements of employment, employees: withholding exemption certificates, records of emergency data, retired pay allotment authorizations, retirees: United States savings bond authorizations, Air Reserve Forces retirement credit summaries, divorce decrees, computation of retired pay, death certificates, claims for unpaid pay and allowances of deceased members, marriage certificates, adoption papers, guardian papers, birth certificates, election certificates for retired servicemans: family protection plan (RSFPP), election certificates for survivor benefit plan (SBP), documents pertaining to status of childrens: schooling, and income tax withholding statements. Also included are listings of bonds, allotments, retired pay and annuitant pay checks, debts owed the government and direct remittances made by retirees for the costs of the RSFPP and SBP plans, records from dependents of retired military personnel, correspondence related to retirement entitlements such as reports from hospitals and medical review boards, printouts of members: active duty military pay accounts from the joint uniform military pay system.

**Authority for maintenance of the system:** 10 USC Chapters 61, 63, 65, 67, 69, 71, 73 and 79; 5 USC Chapter 83. 37 USC 101 et. Seq.; 38 USC 410

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** the purpose of these records is to accurately and timely pay the retired members of the Air Force and their survivors; provide members periodic statements of pay; document and account for all disbursements and collections; and to respond to inquiries concerning the retiree and annuitant accounts. Records are used to establish, maintain and close retiree and annuitant pay accounts and prepare related reports; compute retired and annuitant pay and initiate actions for monthly pay and allotment transactions; casualty cases are established upon the death of a member and arrears of pay are computed and disbursed to survivors; upon the death of a retired member, RSFPP and/or SBP accounts are established and survival annuities are paid. Users of system record data include Headquarters US Air Force and the USAF Military Personnel Center for routine and special reports which are generally statistical in nature, but occasionally include lists of retirees with related pay data. Other users include, but are not limited to, any component of the Department of Defense for inquiries, audit and document utilization; other federal agencies such as the Internal Revenue Service for normal wage and tax withholding reporting, accounting, tax audits and levies; Comptroller General and the General Accounting Office for legal interpretations and audits. Disclosures are made to the Department of Justice for criminal prosecution, civil litigation or investigation; disclosures are made to the Veteran's Administration regarding establishments, changes and discontinuances of VA compensation to retirees and annuitants; disclosures are made to the Social Security Administration regarding wages and Federal Insurance Contributions Act Tax withholding; information is furnished the American Red Cross and the Air Force Aid Society for their use in assisting retirees and their survivors; disclosures are made pursuant to the Freedom of Information Act. Information is supplied to state and local governments for use as follow-up data in welfare cases and for tax purposes. Also, there is an automated interface with the





joint uniform military pay system for data used to compute annuitant payments; checks are sent to banks for credit to the retiree:s and annuitant:s accounts including payments made under the Electronics Fund Transfer System (EFTS) transmitted through the Federal Reserve System; and allotments are mailed to other financial institutions for uses such as insurance premiums and loan repayments. Information is also supplied to the Civil Service Commission when a retiree waives his military retired pay in order to use his military service for computing his Civil Service Retirement Annuity. Records are also used for extraction or compilation of statistical data and reports for management studies and statistical analyses for use internally or externally as required by Department of Defense or by other Government agencies. Information is supplied to the courts regarding retiree pay in garnishment cases. Disclosures are also made to attorneys, law firms, and other parties acting as executors or administrators of retirees estates and information is provided to trustees of mentally incompetent members and guardians of survivors (children).

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders/note books/binders/visible file binders/cabinets/card files, computer magnetic tapes and paper printouts, and on roll microfilm and micorfiche.

**Retrievability:** Filed by Name, Social Security Number (SSN) or Military Service Number.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets/vaults/ locked cabinets or rooms, protected by guards, and controlled by personnel screening, visitor registers and computer system software.

**Retention and disposal:** the system contains differing types of records subject to varied periods of retention up to 56 years. Final destruction of records is by shredding. Records are maintained in the retired pay division office while active, and then retired to the Denver Federal Archives and Records Center. Duplicate records are maintained at the records center annex at Neosho, Missouri for storage. Destruction is accomplished by shredding or burning.

**System manager(s) and address:** Comptroller of the Air Force, Headquarters United States Air Force. Director of Accounting and Finance United States Air Force Washington DC 20330 (USAF). Assistant Deputy Chief of Staff Personnel for Military Personnel, Randolph Air Force Base, TX 78148 for Survivor Benefit Plans Briefing records and spouse notification letters.

**Notification procedure:** Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. The requester should be able to provide sufficient proof of identity, such as name, social security number, duty station or place of employment, military status, military grade or other information verifiable from the record itself. For Survivor Benefits Plans Briefing records and spouse notification data, contact the Systems Manager specified in the preceding category or Personal Affairs officials at the servicing Air Force installation. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

**Record access procedures:** Requests from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. The requester should be able to provide sufficient proof of identity, such as name, social security number, duty station or place of employment, military status, military grade or other information verifiable from the record itself.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from previous employers, financial, educational, and medical institutions, automated system interfaces, a state or local government, source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth. Also record system sources of information include but are not limited to, the following members: survivors, trustees of mentally incompetent members, guardians of survivors (children), private law firms which are executors of estates in casualty cases, the Military Personnel Center at Randolph Air Force Base, Texas, and other government agencies such as the Veterans Administration and the Social Security Administration. Information also obtained from the individual.

**Systems exempted from certain provisions of the act:** NONE

**F18201 DAC A**

**System name:** 18201 DAC A Air Force Postal Directory File

**System location:** Air Force postal and courier service activities. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

**Categories of individuals covered by the system:** Active duty military personnel and civilian employees. Retired Air Force military personnel. Contracting officers and representatives, American Red Cross and State Department Personnel.

**Categories of records in the system:** Directory cards for permanently assigned personnel, transient personnel, such as students at schools, temporary duty personnel who have departed for their place of duty, and individuals awaiting an assignment to another Air Force duty location.

**Authority for maintenance of the system:** 10 USC 8012.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Used for forwarding and directorizing individual personal mail received by Air Force postal activities, and for assignment of individual mail boxes.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in visible file binders/cabinets card files.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

**Retention and disposal:** Retained in office files for six months after reassignment, separation, or departure from the servicing postal activity, then destroyed by tearing into pieces, shredding, pulping, macerating or burning.

**System manager(s) and address:** Director of Administration, Headquarters United States Air Force. Submanagers include the Chief, Central Base Administration at each Air Force installation. Official mailing addresses are in the Department of Defense directory in the Appendix to the Air Force's systems notices. Washington D.C. 20330

**Notification procedure:** Individuals may be notified of whether the system contains a record pertaining to them by writing to the Chief, Central Base Administration at the location(s) where postal directory services were provided.

**Record access procedures:** Individuals may obtain assistance in gaining access as indicated in the notification procedures above.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Individual to whom the record pertains.

**Systems exempted from certain provisions of the act:** NONE

**F20002 05HCHLA**

**System name:** 20002 05HCHLA Operations Security File for Foreign Intelligence Collection Activities

**System location:** 7602 AINTELG/INOB, Ft Belvoir, VA 22060

**Categories of individuals covered by the system:** Air Force active duty officer and enlisted personnel. Air Force civilian employees and former employees. Retired Air Force military personnel. Primarily foreign nationals

**Categories of records in the system:** AFOSI Records of investigation and AFIS correspondence incidental to AFOSI investigations. Correspondence reporting incidents having security ramifications bearing on U.S. collection activities abroad. Studies of compromised U. S. intelligence collection projects abroad and correspondence thereto

**Authority for maintenance of the system:** National Security Act of 1947, as amended.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Routine internal 7602/AFIS reference materials used for internal orientation and study for object lesson guides for routine instruction to support operational security in U. S. foreign intelligence collection operations



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**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation. Then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** Assistant Chief of Staff, Intelligence, Headquarters United States Air Force.

**Notification procedure:** Requests from individuals should be addressed to the System Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the System Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from AFOSI reports, studies and source documents pertaining to foreign intelligence collection operations.

**Systems exempted from certain provisions of the act:** NONE

**F20002 05HCHLB**

**System name:** 20002 05HCHLB DIA Source Administration Program for Foreign Intelligence Collection Activities

**System location:** 7602 AINTELG/INOB, Ft Belvoir, VA 22060 and subordinate units: Det 1, APO San Francisco 96525; Det 2, APO San Francisco 96301; Det 3, APO San Francisco 96280; Det 5, APO San Francisco 96346; Designation and location of one overseas unit is classified. Headquarters, Foreign Technology Division (FTD), Wright-Patterson AFB, Ohio 47433; Det 3/FTD, APO New York 09633; Det 4/FTD, APO San Francisco 96328.

**Categories of individuals covered by the system:** Air Force Reserve personnel. Retired Air Force military personnel. Foreign Nationals residing in the United States. US Citizens resident aliens and foreign nationals overseas who are sources or support assets for foreign intelligence collection operations

**Categories of records in the system:** Biographic data and records incidental to utilization in foreign intelligence collection operations

**Authority for maintenance of the system:** National Security Act of 1947, Public Law 257, July 26, 1947 (61 Stat 495).

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Routine internal reference relative to use or possible use in foreign intelligence collection operations

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders. Maintained in note books/binders. Maintained on computer paper printouts. Maintained on roll microfilm. Maintained on aperture cards.

**Retrievability:** Filed by other identification number or system identifier.

**Safeguards:** Records are accessed by custodian of the record system. Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets. Records are stored in safes.

**Retention and disposal:** Prior to destruction, files are screened, purged of extraneous material, and microfilmed. Microfilm retained indefinitely.

**System manager(s) and address:** Assistant Chief of Staff, Intelligence, Headquarters United States Air Force. Washington DC 20330. Submanager: Chief, Foreign Acitivities Division, FTD, Wright-Patterson AFB, Ohio 45433.

**Notification procedure:** Requests from individuals should be addressed to the System Manager or Submanager, as appropriate.

**Record access procedures:** Individuals can obtain assistance in gaining access from the System Manager or Submanager, as appropriate.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from biographical data and records incident to foreign intelligence collectionoperations.

**Systems exempted from certain provisions of the act:** NONE

**F20002 05HCHLC**

**System name:** 20002 05HCHLC Events and Installation File

**System location:** 7602 AINTELG/INXE, Ft Belvoir, VA 22060 and AF Intelligence Service (AFIS/IND) Washington DC 20330

**Categories of individuals covered by the system:** Individuals having access to people, agencies, organizations, institutes, and companies in foreign countries of intelligence interest.

**Categories of records in the system:** Occupational and travel information derived from Intelligence Reports, Visa Requests, Trip Reports, Open Source Documents, news media, and Trade and Professional Publications

**Authority for maintenance of the system:** National Security Act of 1947, as amended.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To identify potential source of positive foreign intelligence information

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained on computer magnetic tapes and roll microfilm.

**Retrievability:** Filed by Name, organization and activity.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets.

**Retention and disposal:** Retained until no longer needed. Destroyed by conventional computer purge action.

**System manager(s) and address:** Assistant Chief of Staff, Intelligence, Headquarters United States Air Force.

**Notification procedure:** Requests from individuals should be addressed to the System Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the System Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from intelligence reports, visa requests, trip reports, open source documents, news media, trade and professional publications.

**Systems exempted from certain provisions of the act:** NONE

**F20002 05HCHLD**

**System name:** 20002 05HCHLD Master Alpha Resource List (MARLA)

**System location:** 7602 AINTELG/INXE, Ft Belvoir, VA 22060 and AF Intelligence Service (AFIS/IND) Wash DC 20330

**Categories of individuals covered by the system:** Individuals having access to people, agencies, organizations, institutes, and companies in foreign countries of intelligence interest

**Categories of records in the system:** Occupational and travel information derived from Intelligence Reports, Visa Requests, Trip reports, Open Source Documents, news media, and Trade and Professional Publications

**Authority for maintenance of the system:** National Security Act of 1947, as amended.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To identify potential source of positive foreign intelligence information

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained on computer magnetic tapes and on roll microfilm.

**Retrievability:** Filed by Name, Occupation, ethnic group, language capability





**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets.

**Retention and disposal:** Retained until no longer needed. Destroyed by conventional computer purge action.

**System manager(s) and address:** Assistant Chief of Staff, Intelligence, Headquarters United States Air Force.

**Notification procedure:** Requests from individuals should be addressed to the System Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the System Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from intelligence reports, visa requests, trip reports, open source documents, news media, trade and professional publications.

**Systems exempted from certain provisions of the act:** NONE

**F20501 0UMCBVA**

**System name:** 20501 0UMCBVA Compartmented Intelligence Access Roster

**System location:** USAFSS INS San Antonio TX 78243

**Categories of individuals covered by the system:** Army, Navy and Marine Corps active duty military personnel. Air Force active duty officer and enlisted personnel. Air Force civilian employees. Air Force Reserve personnel.

**Categories of records in the system:** Automated line entries.

**Authority for maintenance of the system:** 44 USC 3301; 10 USC 8012.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To locate personnel.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained on computer paper printouts.

**Retrievability:** Filed by other identification number or system identifier.

**Safeguards:** Records are accessed by custodian of the record system.

**Retention and disposal:** Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** HQ USAFSS INS San Antonio TX 78243.

**Notification procedure:** Requests from individuals should be addressed to the System Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the System Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information is obtained from special security files.

**Systems exempted from certain provisions of the act:** NONE

**F20503 DPCE C**

**System name:** 20503 DPCE C Security Case Files

**System location:** Primary system at the Central Clearance Group, Directorate of Civilian Personnel Decentralized segments at the Office of the Administrative Assistant to the Secretary of the Air Force (SAFAA), Installation Civilian Personnel Offices, Chiefs Security Police Defense Investigative Service (DIS) Air Force Office of Special Investigations, Washington DC 20314. Washington National Records Center, Washington DC 20409.

**Categories of individuals covered by the system:** Air Force civilian employees. and applicants for Air Force civilian employment

**Categories of records in the system:** Files include investigative reports by the DIS, Air Force Office of Special Investigations (AFOSI) and other federal investigative agencies, commander review letters, medical evaluations, forms completed by subjects, designation of civilian positions as sensitive, position description, transmittal letters, rationale and evaluations of investigative information, correspondence between the Central Clearance Group and Air Staff offices, DIS, AFOSI, Installation Medical Facilities and SAFAA, visible card files, card files and notebooks

**Authority for maintenance of the system:** 5 USC 7531-7533, Executive Order 10450.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Security case files are originated to evaluate and determine security 0statistical analyses to determine consistency of decisions, decision trends and 1the effects of program changes over time acceptability of civilian employees or prospective employees of the Air Force. Files are reviewed and evaluated by installation commanders, civilian personnel offices, Security Police, medical facility staff members, the Central Clearance Group, other appropriate Air Staff offices and SAFAA. SAFAA maintains duplicate copies of favorable decisions to evaluate the effectiveness of the program and provide program guidance to the Central Clearance Group. Users review and evaluate the file in order to consider and justify recommendations and determinations of security acceptability or nonacceptability. SAFAA makes

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Paper records maintained in file folders, note books/binders, visible file binders/cabinets and card files.

**Retrievability:** Filed by Name. and retrieved by conventional indices.

**Safeguards:** Records are stored in security file containers/cabinets, safes certified for protection of classified information up to the level of SECRET. All records are stored, processed, transmitted and protected as classified information. Records are accessed by custodian of the record system by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know and by commanders of medical centers and hospitals.

**Retention and disposal:** Upon completion of favorable determination, investigative portions are returned to AFOSI. File folders are retained in office files for two years after annual cutoff, then retired to Washington National Records Center, Washington, DC 20409, for permanent retention. Duplicate copies of approved decisions are maintained by SAFAA for four years and then destroyed. Note books, visible card files and card files are retained in Central Clearance Group office files

**System manager(s) and address:** Deputy Chief of Staff/Personnel, Headquarters United States Air Force. and executive secretary Central Clearance Group Directorate of Civilian Personnel, Headquarters United States Air Force, Washington DC 20314

**Notification procedure:** See Exemption.

**Record access procedures:** See Exemption.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** See Exemption.

**Systems exempted from certain provisions of the act:** Parts of this system may be exempt under 5 U.S.C. 552a (j) or (k), as applicable. For additional information, contact the Systems Manager.

**F20505 DAI A**

**System name:** 20505 DAI A Personnel Security Record Files

**System location:** Primary System at the Personnel Security Group Directorate of Administration Headquarters United States Air Force, Washington DC 20330. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force systems notice. Decentralized System at the offices of assignment.

**Categories of individuals covered by the system:** Air Force active duty military personnel. Air Force Reserve personnel. Air Force civilian employees. and Air Force civilians applicants nominated or assigned to positions in the offices of the Secretary of the Air Force, the Air Staff and those supporting organizations under the security clearance authority of the Personnel Security Group.

**Categories of records in the system:** Files at the Personnel Security Group include requests for security clearance action; requests for investigations to meet special access requirements and to meet the requirements for security clearance and for assignment to sensi-



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tive or nonsensitive positions; medical records checks; personnel records checks; investigative forms; requests to investigative agencies; reports of investigation by Federal investigative agencies; correspondence between the Personnel Security Group and offices of assignment, medical facilities, personnel offices, investigative agencies, other Air Staff offices, offices of the Secretary of the Air Force and offices of assignment: Unfavorable Information Files; Special Security Files; Civilian Security Documents Folders; copies of records of personnel Security investigation and clearance; copies of access certificates, and those summaries, reviews and evaluations by management, supervisory and clearance granting officials used to determine eligibility of individuals for security clearance or eligibility for assignment to sensitive positions. Upon completion of all final actions and clearance and eligibility determination, copies of all investigative reports and documents no longer required to identify individuals and to record the actions taken are destroyed. Copies of the record of personnel security investigation and clearance are maintained at the Personnel Security Group and at the office of assignment during the period of assignment.

**Authority for maintenance of the system:** 10 USC 8012.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Files are collected to evaluate the background, character and suitability of nominees and applicants for assignment to sensitive and nonsensitive positions in the offices of the Secretary of the Air Force, the Air Staff, and those organizations supporting these offices which are under the security responsibility of the Personnel Security Group, and are maintained to record security clearances, eligibility determinations and security actions taken for individuals during the period of assignment to these offices. Used to answer inquiries from other Air Force offices and agencies, and from investigative security and personnel representatives of all other Federal agencies concerning the position sensitivity, clearance status or eligibility for access of assigned individuals and the investigative basis for such determinations.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Paper records Maintained in file folders.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, safes, and vaults.

**Retention and disposal:** Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Civilian personnel files are replaced by the Civilian Security Documents Folder.

**System manager(s) and address:** Chief Personnel Security Group Director of Administration, Headquarters United States Air Force. Washington DC 20330.

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager. Request should contain full name grade date of birth and the name of the office or organization to which the individual is nominated or assigned.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Investigative reports from Federal investigative agencies, personnel and medical records information and correspondence. Information obtained from financial, educational, and medical institutions, police and investigating officers, the bureau of motor vehicles, a state or local government, witnesses, source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth and from organizations of assignment, personnel offices, Security Police offices, Air Staff offices, offices of the Secretary of the Air Force and other Federal agencies.

**Systems exempted from certain provisions of the act:** NONE

**F20505 DPMRPPD**

**System name:** 20505 DPMRPPD Air Force Security Program Cases

**System location:** At Office of the Secretary of the Air Force; Washington, D. C. 20330 Air Force Military Personnel Center, Randolph Air Force Base, TX 78148. Washington National Records Center, Washington DC 20409.

**Categories of individuals covered by the system:** Members or prospective military members of the United States Air Force (includes Air Force Reserve and Air National Guard) whose background information appears to be not in the interests of national security.

**Categories of records in the system:** Cases not processed to Hearing Boards contain computerized printouts of a personnel record, recommendations of the Military Personnel Security Committee, approval/disapproval of Committee recommendations, instruments and correspondence carrying out approval, authority decisions, and correspondence to and from the individual's commander and the Security Committee. Personnel security investigations are contained in case files until the decision is made to not process the case to a Hearing Board. At the time of retirement of the case the investigative report is removed since the investigative agency maintains the record copy. Cases processed to a Hearing Board contain the above (including the investigative report), a transcript of the hearing, recommendations of the Hearing Board, correspondence to and from the individual and the Hearing Board, recommendations of the Personnel Council, Legal opinions of the Judge Advocate General and the General Counsel of the Air Force, correspondence to and from the individual and the Personnel Council, correspondence from the individual to the Secretary of the Air Force, the decision of the Secretary of the Air Force, and instruments and correspondence carrying out the decision. Index cards and case logs are maintained on each case to record receipt of the case and to document processing points in the case.

**Authority for maintenance of the system:** 10 USC 803.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** The purpose of the initial file, which is not processed to a Hearing Board, is to determine if the information warrants discharge. Personnel assigned to Military Personnel Security Group perform administrative tasks in preparing the case for the Military Personnel Security Committee who evaluate the information and make recommendations on disposition of the case to either the Director of Personnel Programs, Air Force Military Personnel Center, the Deputy Chief of Staff, Personnel, the Administrative Assistant to the Secretary of the Air Force, or the Secretary of the Air Force for decisions on Committee recommendations. The Assistant Executive and Executive Officers of these offices perform administrative tasks in processing the case. In the instance of the Office of the Administrative Assistant to the Secretary, access to cases is limited to the Administrative Assistant, his Deputy, the Management Analyst, the Executive Officer, and two secretaries. Cases processed to Hearing Boards are used by the above for the described purposes and uses as well as a member of the Judge Advocate General's office, and the Office of the General Counsel of the Air Force for legal opinions, members of the Hearing Board (including the individual and his legal counsel), a Hearing Recorder, and an Attorney-Examiner with all others excluded from the Hearing). The purpose of the Hearing Board record is to evaluate the information and make recommendations to the Secretary of the Air Force for final disposition of the case. Hearing Board cases are processed to the Air Force Personnel Council for an impartial evaluation and recommendations to the Secretary for disposition of the case. Administrative personnel of the Council perform administrative tasks in processing the case. The purpose of the index card is to record receipt of cases received for consideration, dates processing actions are taken, and final determinations in cases. Upon request from selected personnel assignments officers, specific names of individuals being considered for sensitive assignments are screened through the index cards to determine if an adverse action was taken on the individual. Case logs is a roster of cases received and contain only name, Social Security Account Number (SSAN), and rank as a historical reference.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders, visible file binders/cabinets.

**Retrievability:** Filed by Name.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes and locked cabinets or rooms, and controlled by personnel screening.





**Retention and disposal:** Retained in office files for two years after annual cut-off, then destoyed by tearing into pieces, shredding, pulping, macerating, or burning. Retained in office files for one year after annual cut-off, transferred to a staging area for one additional year, then retired to Washington National Records Center, Washington DC 20409, for permanent retention. Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. SAF decision correspondence and retained in office files for one year after annual cut-off, then destoyed by tearing into pieces, shredding, pulping macerating, or burning.

**System manager(s) and address:** Deputy Chief of Staff/Personnel, Headquarters United States Air Force.

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

**Systems exempted from certain provisions of the act:** NONE

**F20505 0UMCBVA**

**System name:** 20505 0UMCBVA Security Records Behavioral Data Reports

**System location:** 6960 Air Base Squadron, Security Police San Antonio TX 78243

**Categories of individuals covered by the system:** Army, Navy and Marine Corps active duty military personnel. Air Force active duty officer and enlisted personnel.

**Categories of records in the system:** Behavioral data reporting records.

**Authority for maintenance of the system:** 10 USC 8012

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Unit commanders.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name and Social Security Number (SSN).

**Safeguards:** Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

**Retention and disposal:** Destroy 90 days after transfer or separation except when trans fer within command. Retained in office files for three months after monthly cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

**System manager(s) and address:** 6960Air Base Squadron

**Notification procedure:** Requests from individuals should be addressed to the System Manager.

**Record access procedures:** Individual can obtain assistance in gaining access from the System Manager.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Information obtained from security and related investigative records.

**Systems exempted from certain provisions of the act:** NONE

**F90001XRDE A**

**System name:** 90001XRDE A Harold Brown Award

**System location:** Headquarters, of the United States Air Force, major commands and major subordinate commands.

**Categories of individuals covered by the system:** All Air Force active duty military and civilian personnel engaged in some phase of the total Research and Development effort.

**Categories of records in the system:** Individual nominations, photographs, minutes of the Review Committee, Award announcement and substantiating documents.

**Authority for maintenance of the system:** 10 USC 8012

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** The purpose is to recognize a significant achievement in Research and Development by one person which led to, or demonstrated promise of, a substantial improvement in the operational effectiveness of the Air Force.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name, Social Security Number (SSN), or Military Service Number.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes.

**Retention and disposal:** Non-selected. Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Selected.H

**System manager(s) and address:** Deputy Chief of Staff/Research and Development, Headquarters United States Air Force.

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager. Request should contain name and/or social security account number.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Authorized nominating organizations.

**Systems exempted from certain provisions of the act:** NONE

**F90001XRDE B**

**System name:** 90001XRDE B USAF Research and Development Award

**System location:** Headquarters, of the United States Air Force, major commands and major subordinate commands.

**Categories of individuals covered by the system:** Air Force active duty officer personnel assigned for duty with an Air Force Research and Development organization.

**Categories of records in the system:** Individual nominations, photographs, minutes of the Selection Committee, Award announcement and substantiating documents.

**Authority for maintenance of the system:** 10 USC 8012

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** The award was established to emphasize the scientific efforts and achievements of the Air Force Research and Development program.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Maintained in file folders.

**Retrievability:** Filed by Name, Social Security Number (SSN) or Military Service Number.

**Safeguards:** Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes.

**Retention and disposal:** Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Retained in office files for two years after annual cut-off, then retired to Washington National Records Center, Washington DC 20409, for permanent retention.

**System manager(s) and address:** Deputy Chief of Staff/Research and Development, Headquarters United States Air Force.

**Notification procedure:** Requests from individuals should be addressed to the Systems Manager. Request should contain name and/or social security account number.

**Record access procedures:** Individual can obtain assistance in gaining access from the Systems Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

**Contesting record procedures:** The Air Force's rules for access to records and for contesting and appealing initial determinations by



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the individual concerned may be obtained from the Systems Manager.

**Record source categories:** Authorized nominating organizations.

**Systems exempted from certain provisions of the act:** NONE

[FR Doc.77-20070 Filed 7-20-77;8:45 am]



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# federal register

WEDNESDAY, JULY 27, 1977

## highlights

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| Monday | Tuesday | Wednesday | Thursday | Friday |
|---|---|---|---|---|
| NRC | USDA/ASCS | | NRC | USDA/ASCS |
| DOT/COAST GUARD | USDA/APHIS | | DOT/COAST GUARD | USDA/APHIS |
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| DOT/FAA | USDA/REA | | DOT/FAA | USDA/REA |
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| DOT/OPSO | LABOR | | DOT/OPSO | LABOR |
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| | HEW/CDC | | | HEW/CDC |
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| | HEW/HRA | | | HEW/HRA |
| | HEW/HSA | | | HEW/HSA |
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# reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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Cranberries grown in various states; proposed increase in expenses for 1976–77 fiscal period; comments by 8–1–77 ..... 36267; 7–14–77
Federal Grain Inspection Service—
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Mechanically harvested American (Eastern type) grapes for processing and freezing; U.S. standards for grades; comments by 7–31–77. 30626; 6–16–77
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**CONSUMER PRODUCT SAFETY COMMISSION**
Architectural glazing materials; petition to amend standards; comments by 8–1–77 ..... 36543; 7–15–77

**DEFENSE DEPARTMENT**
Air Force Department—
Privacy Act; system of records exemption; comments by 8–2–77. 33776; 7–1–77
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Emission reductions; inspection and maintenance of light duty vehicles, trucks, and motorcycles; comments extended to 8–1–77 ..... 33776; 7–1–77
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Pesticide applicators in states or Indian reservation; Federal certification; comments by 8–1–77 ..... 33352; 6–30–77
Solid Waste planning and disposal; guidelines; comments by 8–4–77. 34446; 7–5–77

**FEDERAL COMMUNICATIONS COMMISSION**
FM broadcast stations; table of assignments:
Bonita Springs, Fla.; reply comments extended to 8–5–77 ..... 33779; 7–1–77
[First published at 42 FR 26232, May 23, 1977]
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[First published at 42 FR 23615, May 10, 1977]

**FEDERAL ENERGY ADMINISTRATION**
Energy conservation program; appliances; test procedures for central air conditioners; comments by 8–1–77 ..... 30401; 6–14–77
Production and sale of "imputed stripper well crude oil" from utilized properties; comments by 8–2–77.. 36476; 7–15–77
Refinery investment; regulatory impacts; comments by 8–3–77 ..... 33338; 6–30–77

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
Food and Drug Administration—
Drugs and cosmetics; color additives; B-Carotene; comments by 8–1–77. 33722; 7–1–77
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presidential documents

# Title 3—The President

**Executive Order 12005** • **July 23, 1977**

## Amending the Generalized System of Preferences

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Title V and Section 604 of the Trade Act of 1974 (88 Stat. 2066, 19 U.S.C. 2461 *et seq.*; 88 Stat. 2073, 19 U.S.C. 2483), and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. In order to redefine an existing item for purposes of the Generalized System of Preferences (GSP), the Tariff Schedules of the United States (TSUS) are modified by deleting from item 791.74, TSUS, the description:

"In part of textile materials the aggregate weight of which exceeds the weight of any individual non-textile material contained therein",

and substituting therefor the following description:

"Containing 50% or more by weight of cotton, wool, or man-made fibers, or any combination thereof, or containing 50% or more by weight of textile materials with wool comprising 17% or more by weight of the article.".

SEC. 2. The amendment made by this order shall be effective with respect to articles that are both: (1) imported on or after January 1, 1976, and (2) entered, or withdrawn from warehouse, for consumption on or after March 1, 1977.

Jimmy Carter

THE WHITE HOUSE,
*July 23, 1977.*

[FR Doc.77–21768 Filed 7–25–77;5:02 pm]



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# rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 7—Agriculture

### CHAPTER VI—SOIL CONSERVATION SERVICE, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER B—CONSERVATION OPERATIONS

### PART 610—TECHNICAL ASSISTANCE

AGENCY: Soil Conservation Service (SCS), U.S. Department of Agriculture.

ACTION: Final rules for furnishing technical assistance through conservation operations of the Soil Conservation Service.

SUMMARY: These rules codify policies and procedures of the Soil Conservation Service for furnishing technical assistance in conservation operations. They describe the kinds of technical assistance, the recipients, and how such assistance is given.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Administrator, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013, 202-447-4531.

SUPPLEMENTARY INFORMATION: On August 27, 1974, the Soil Conservation Service published in the FEDERAL REGISTER (39 FR 30934) for comment its proposed guidelines for technical assistance. Interested persons were given 30 days to submit comments.

DISCUSSION OF MAJOR COMMENTS

Several comments received suggested restricting SCS assistance to farms, ranches, and other agricultural land units. The suggestions were not incorporated in their entirety. The public welfare would not be served by arbitrarily restricting the availability of technical assistance. In counseling on conservation problems, SCS encourages recipients to use professional assistance from private sources and, in providing technical assistance, makes frequent use of private consultants in lieu of existing staff.

One comment was received on the paragraphs on interdisciplinary assistance. Material in § 610.5 (a) and (b) that was informational and in question has been deleted.

The Soil Conservation Service, in accordance with section 1(3) of Executive Order 11593, herewith publishes its final rules for Part 610, "Technical Assistance."

Dated: July 18, 1977.

VICTOR H. BARRY, JR.,
*Deputy Administrator for Programs.*

Sec.

610.1 Purpose.
610.2 Scope.
610.3 Assistance through conservation districts.
610.4 Technical assistance furnished.
610.5 Interdisciplinary assistance.

AUTHORITY: Pub. L. 74-46, 49 Stat. 163 (16 U.S.C. 590 a-f, q).

### § 610.1 Purpose.

This part sets forth Soil Conservation Service (SCS) policies and procedures for furnishing technical assistance in conservation operations.

### § 610.2 Scope.

Conservation operations, including technical assistance, is the basic soil and water conservation program of SCS. This program is designed to provide assistance to (a) Reduce soil losses from erosion; (b) Help solve soil, water, and agricultural waste management problems; (c) Bring about adjustments in land use as needed; and (d) Reduce damage caused by excess water and sedimentation. The Soil Conservation Service is the technical agency of the U.S. Department of Agriculture for providing assistance to conservation districts and other organizations in planning and carrying out their conservation programs. SCS works with individuals, groups, and units of government to help them plan and carry out conservation decisions to meet their objectives.

### § 610.3 Assistance through conservation districts.

(a) Technical assistance is provided through and in cooperation with conservation districts in the 50 States, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. These districts, formed under authority of State laws, are operated and controlled by local citizens. They provide the leadership and the program needed to meet the conservation objectives of the district.

(b) SCS furnishes technical assistance to conservation districts as specified in memorandums of understanding. Soil conservationists assigned to conservation districts work directly with land users and others according to the program needs and the priorities established by the conservation districts.

(c) The practical experience of land users is combined with the scientific knowledge and skills of professional conservationists to plan and carry out locally formulated conservation programs.

(d) When requested, technical assistance may be provided to owners, operators, or groups using land that is under the jurisdiction of the United States Department of the Interior if such land is included in a conservation district or if assistance is in accordance with memorandums of understanding identifying the coordination of agency activities.

### § 610.4 Technical assistance furnished.

The Soil Conservation Service provides technical assistance to land users and others who are responsible for making decisions and setting policies that influence land use, conservation treatment, and resource management. Technical assistance furnished by SCS consists of: (a) program assistance; (b) planning assistance; (c) application of conservation practices; and (d) assistance in the technical phases of USDA cost-share programs.

(a) Program assistance is provided to conservation districts and other organizations concerned with the conservation of soil, water, plant, and wildlife resources. This assistance includes providing resource inventory data and identifying conservation problems and needs in order for districts to develop long-range soil and water conservation programs. Individuals, groups, and organizations requesting SCS assistance through conservation districts include:

(1) Farmers, ranchers, and other land users concerned with the conservation of land and water resources.

(2) County and other local government units such as park authorities, departments of public works, planning, zoning (rural, urban, and flood plain), school, and institution boards, highway departments, and tax assessors.

(3) Citizen groups, youth groups, recreation groups, and garden clubs.

(4) State and local units of government (highway, health, recreation, water resources, and regional planning) involved in establishing public policy regarding the use of resources.

(5) Federal departments and agencies such as Defense, Housing and Urban Development, Public Roads, Health, Education, and Welfare; and Interior.

(6) Professional consultants who provide services such as engineering, planning, environmental assessment, tax assessment, and forest management.

(b) Planning assistance includes evaluation of soil, water, vegetation, and other resource data needed for making land use, environmental and conservation treatment decisions. SCS helps land users make conservation plans for farms, ranches, and other land units. This help includes onsite planning assistance in making conservation plans. The plans



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are based on a soil survey and interpretations for the intended land uses and conservation treatment. Plans may also include other inventories of soil, water, plant, and related resources needed in the planning process. Information about the responses of each kind of soil and the conservation practices and resource management needed for different land uses is provided. The land user's decisions recorded in the plan are based on his conservation objectives. Conservation plans provide for the orderly installation of conservation practices. Conservation plans reflect changing conditions.

(c) Application assistance is provided to help land users apply and maintain planned conservation work. SCS assistance for applying the conservation practices in the plan may include: (1) Designing, constructing, and maintaining conservation practices; (2) Selecting management alternatives and cultural practices needed to establish and maintain vegetation; and (3) Other conservation practices needed to protect land and water resources.

(d) The Soil Conservation Service assists in carrying out certain phases of USDA soil and water conservation cost-share programs. SCS assists individual program participants with conservation plans needed for long-term cost-share agreements. SCS is assigned responsibility by the Secretary of Agriculture for technical phases of applying conservation practices on the land. This assignment includes: (1) Determining what practices are needed and feasible to install, (2) Selecting sites and planning and designing practices, (3) Providing assistance for installing practices, and (4) Certifying that the work done is in accordance with SCS standards and specifications.

**§ 610.5 Interdisciplinary assistance.**

Technical assistance is based on the principle that soil, water, plant, and related resources are interdependent and must be managed accordingly. Soil conservationists integrate the various technical fields in providing for the conservation of land and water resources. Staff scientists and specialists develop conservation standards, prepare necessary specifications, provide training, and review work performance. SCS uses consultants for conservation problems that require special expertise.

[FR Doc.77-21535 Filed 7-26-77;8:45 am]

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## CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Docket No. AO-86-A37; Milk Order No. 65]

## PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

### Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final order amends the Nebraska-Western Iowa Federal milk marketing order. The order as amended is in response to industry proposals considered at a public hearing in October 1976. More than the required two-thirds of dairy farmers affected approved the order as amended. This determination was made by a polling of dairy farmer cooperatives.

A principal amendment reduces the quantity of milk that a supply plant must ship to distributing plants to be a fully regulated plant under the order. This will help supply plants avoid costly milk shipments that might otherwise be made just to keep the plant qualified as a regulated pool plant. Another amendment is intended to simplify the administration of the order by altering the manner in which a cooperative association is paid for farm bulk tank milk that is delivered to a regulated pool plant. This will not affect a plant operator's cost of milk or the level of payments to producers.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 202-447-7183.

SUPPLEMENTARY INFORMATION:

PRIOR DOCUMENTS IN THIS PROCEEDING

Notice of Hearing, issued September 15, 1976; published September 20, 1976 (41 FR 40495).

Notice of Extension of Time for Filing Briefs, issued November 12, 1976; published November 17, 1976 (41 FR 50696).

Recommended Decision, issued May 10, 1977; published May 16, 1977 (42 FR 24744).

Notice of Extension of Time for Filing Exceptions to the Recommended Decision, issued June 2, 1977; published June 6, 1977 (42 FR 28897).

Final Decision, issued July 18, 1977; published July 22, 1977.

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Nebraska-Western Iowa marketing area. The hearing was held according to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined according to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1977. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Acting Administrator was issued May 10, 1977, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued July 18, 1977. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1977, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means according to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE OF HANDLING

*It is therefore ordered*, That on and after the effective date hereof, the handling of milk in the Nebraska-Western Iowa marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. In § 1065.7, the word "July" where it appears in paragraph (d)(3) is changed to "August", and paragraph (b) is revised to read as follows:

**§ 1065.7 Pool plant.**

* * * * * *

(b) A supply plant from which the volume of fluid milk products, except filled milk, shipped during the month to pool plants qualified pursuant to paragraph (a) of this section (excluding fluid milk products trasferred from any such distributing plant to the supply plant or to any other plant operated by the operator of the supply plant) is not less than 40 percent of the Grade A milk received at such plant from dairy farmers (including receipts of producer milk diverted from the plant pursuant to § 1065.13) and handlers described in § 1065.9(c) during such month. A supply plant that qualifies as a pool plant in each of the immediately preceding months of September through December shall be a pool plant for the months of January through August unless the plant operator requests of the market administrator, in writing, that such plant not be a pool plant, such nonpool plant status to be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments.

* * * * * *

2. In § 1065.13, paragraphs (a) and (b) are revised to read as follows:

**§ 1065.13 Producer milk.**

* * * * * *

(a) Received at a pool plant directly from a producer or a handler described in § 1065.9(c);

(b) Received by a handler described in § 1065.9(c) from producers in excess of the quantity delivered to pool plants; or

* * * * * *

3. In § 1065.41, paragraph (b)(1) is revised to read as follows:

**§ 1065.41 Shrinkage.**

* * * * * *

(b) * * *

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1065.9(c));

* * * * * *

4. In § 1065.42, the semicolon at the end of paragraph (a)(1) is changed to a period; the word "and" immediately following is deleted; all of paragraph (a)(2) is revoked; and the introductory text of paragraph (a) is revised to read as follows:

**§ 1065.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as follows:

* * * * * *

5. In § 1065.44, paragraphs (a)(8)(ii) (b) and (13) are revised to read as follows:

**§ 1065.44 Classification of producer milk.**

* * * * * *

(a) * * *

(8) * * *

(ii) * * *

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

* * * * * *

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1065.42(a); and

* * * * * *

6. In § 1065.45, paragraph (d) is revised to read as follows:

**§ 1065.45 Market administrator's reports and announcements concerning classification.**

* * * * * *

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the class utilization of producer milk received by each handler from a cooperative association or from members of the association. For the purpose of this report, the milk caused to be so delivered by an association shall be prorated to each class in the proportion that the total receipts of milk received from producers by such handler were used in each class.

7. In § 1065.73, paragraph (d)(2) is revised to read as follows:

**§ 1065.73 Payments to producers and to cooperative associations.**

* * * * * *

(d) * * *

(2) On or before the 14th day after the end of each month not less than the value of such milk at the uniform price as adjusted by the butterfat differential specified in § 1065.74 applicable at the location of the receiving handler's plant, less payment made pursuant to paragraph (d)(1) of this section;

* * * * * *

8. In § 1065.85, paragraph (a) is revised to read as follows:

**§ 1065.85 Assessment for order administration.**

* * * * * *

(a) Producer milk (including such handler's own production);

* * * * * *

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Effective date: August 1, 1977.

Signed at Washington, D.C. on July 21, 1977.

ROBERT H. MEYER,
*Assistant Secretary for Marketing Services.*

[FR Doc.77-21555 Filed 7-26-77;8:45 am]

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## Title 12—Banks and Banking

## CHAPTER II—FEDERAL RESERVE SYSTEM

[Reg. Z; Docket No. R-0072]

## PART 226—TRUTH IN LENDING

### Discounts for Payment by Cash, Check, or Similar Means; Exemption From Disclosure as Finance Charges

AGENCY: Federal Reserve System.

ACTION: Final amendments.

SUMMARY: These amendments clarify the conditions under which merchants who offer discounts for payment by cash, check, or similar means, rather than by credit card, are exempt from disclosing such discounts as finance charges. The amendments implement Pub. L. 94-222 which distinguishes between discounts and surcharges, declares that surcharges are illegal until February 27, 1979, and provides that discounts qualifying for non-disclosure shall not be considered a charge for credit under State usury, disclosure, and other credit laws.

EFFECTIVE DATE: July 20, 1977.

FOR FURTHER INFORMATION CONTACT:

D. Edwin Schmelzer, Chief, Fair Credit Practices Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 202-452-2412.

SUPPLEMENTARY INFORMATION: On December 28, 1976 the Board proposed to amend Part 226 (Regulation Z) to implement changes and clarifications made by Pub. L. 94-222. One of the purposes of that law was to clarify the fact that section 167 of the Truth in Lending Act (15 U.S.C. 1666(f)) was intended by Congress to exempt from disclosure certain discounts given to customers paying by cash, check, or similar means, but was not intended to provide a similar exemption for surcharges imposed upon users of credit cards. Pub. L. 94-222 not only stated that surcharges do not qualify for the section 167 exemption from disclosure, but also prohibited the imposition of surcharges on the users of credit cards for three years. The clarifying







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statutory amendments also provided that any discount qualifying for non-disclosure under section 167 shall not be considered a charge for credit under State usury, disclosure, and other credit laws.

DISCUSSION OF MAJOR COMMENTS

Most substantive comments focused upon three areas of concern. First, it was suggested that "regular price" be redefined so as to impose a more subjective standard than proposed. Commenters proposed definitions related to the price that a merchant expects to receive without taking into account the method of payment which a customer uses. The Board has carefully considered the alternative ways of defining "regular price," since any meaningful and practical distinction between a discount and a surcharge ultimately depends upon establishing the standard, intermediate price. It is of paramount importance that however "regular price" is defined, it provide sufficient certainty for those who wish to offer or take advantage of discounts. The Board believes that an objective definition of that term will better encourage merchants to offer discounts to their customers, and will facilitate enforcement of the Congressional prohibition of surcharges. Consequently, the Board has decided to leave the proposed definition of "regular price" essentially unchanged.

A second area of concern involves potential conflicts with State law. A number of States require disclosure of the "cash price" or "cash sale price" when goods or services are purchased on credit. Commenters indicated that such laws may mean that periodic billing statements would have to disclose two prices for each transaction, one of which (cash price) may not be readily available to the card issuer. To the extent that this presents a problem, the Board does not believe the problem arises from requirements imposed by either Regulation Z or the Truth in Lending Act. Any needed remedy would be more appropriately fashioned by the governmental body imposing the requirement.

One commenter suggested that another area of potential conflict with State laws may exist to the extent that such laws prohibit or restrict the posting, advertising, or disclosure of gasoline prices on service station premises. Regulation 2 requires that the availability of a discount be "clearly and conspicuously disclosed by a sign or display posted at or near each public entrance to the seller's place of business * * *" (§ 226.4(i)(1)(ii)). Because the suggested conflict does not affect retailers generally, the Board believes that it would be inappropriate to deal with such an issue within the language of Regulation Z itself. The concerns which have been voiced by oil companies can be better resolved by official staff interpretation of § 226.4(i)(1)(ii) as it applies to gasoline service stations.

The third major concern of commenters was that the amendments appear to distinguish between whether or not credit is being extended to finance a transaction, rather than whether or not a credit card is being used by a customer. To some degree the very use of a credit card is definitionally tied, by the Truth in Lending Act, to the extension of credit. In the amendments, as finalized, the Board has distinguished between payment by use of an open end credit card account, and payment by use of cash, check, or similar means. As indicated by the express language of the amendment, use of an open end credit card account is meant to include verbal orders or purchases by mail, even though the credit card is not physically used. It is not meant to include transactions that involve an extension of credit on an open end account through use of a personal check (overdraft), cash advance check, or similar instrument. The Board believes that its amendment, in all salient provisions, reflects the language and import of the Truth in Lending Act.

EXPANATION OF AMENDMENT

The amendment makes a variety of changes in and additions to Regulation Z. Definitions of three new terms, "discount," "surcharge," and "regular price," are added to § 226.2.

An explanatory footnote is added to § 226.4(i)(1), minor, clarifying changes are made in §§ 226.4(i)(1)(i), 4(i)(1)(iii), 4(i)(2), and 226.13(l)(1)(i), and a technical modification is made in § 226.5(a)(3)(ii). A new sentence in § 226.4(i)(1)(iii), a substitute paragraph § 226.4(i)(4), and a new paragraph (5) are added to § 226.4(i).

*1. New definitions.*—Three newly-defined terms—"regular price," "discount," and "surcharge"—are added to § 226.2. When read in conjunction with those definitions, § 226.4(i) provides that only discounts and not surcharges qualify for the exemption from finance charge disclosure contained in § 167 of the Truth in Lending Act. The definition of "discount" read together with that of "regular price" is intended to clarify that the price differential resulting from a pricing system in which the merchant tags or posts both a credit card price and a cash price is a discount which qualifies for non-disclosure under § 167.

The final definition of "regular price" has been modified in two respects. First, some restructuring has been done for the sake of clarity with no substantive change intended. Second, the phrase "by use of an open and credit card account," along with a limitation on the scope of that phrase, have been substituted for the term "credit card purchases." Frequently people are given an opportunity to purchase some item by mail or telephone order, and have the option of paying by use of their credit card account. Due to the lack of personal contact in the transaction, however, a person's credit card is not physically used to effect payment. Most commonly the person will supply only the number identifying the underlying credit card account. It is the Board's intent to permit non-disclosure of discounts offered for payment by cash, check, or similar means in such situations. The phrase "by use of an open end credit card account," however, would ostensibly include situations where the existence of a credit card is unrelated to the method of payment selected by a customer. For example, under an overdraft checking plan where the amount of an overdraft is debited to an open end credit account, a person paying by check may well also be paying by use of that account. The Board believes that these types of transactions are not equivalent to credit card transactions and, consequently, makes such a distinction within the definition of "regular price."

The definition of "discount," except for an additional cross-reference to the use of that term in § 226.13(l), remains unchanged from the proposed version.

The definition of "surcharge" has been altered in two respects. First, the phrase "use of an open end credit card account" and the limitation on that phrase have been substituted for "credit card purchases" for the same reasons previously discussed. Second, the definition has been rephrased to clarify that a surcharge is an additional amount imposed at the point of sale as a consequence or condition of payment by use of an open end credit card account. This is to insure that a literal reading of the definition would not include such things as sales tax.

Under the definitions of "regular price," "discount," and "surcharge," the following examples of pricing situations would involve "discounts" that would not have to be disclosed if offered in accordance with the requirements of § 226.4(i):

1. Merchant posts or tags goods with a single price which is charged for credit card purchases and offers a five percent discount off this price if payment is made by cash, check, or similar means.

2. Merchant posts or tags goods with both a credit card price and a price for payment by cash, check, or similar means which is no more than five per cent lower than the credit card price.

3. Merchant does not tag or post prices, but offers purchasers paying by cash, check, or similar means a price which is no more than five per cent lower than that offered to credit card purchasers.

Any pricing system in which the only price tagged or posted is a cash price which is not available to someone purchasing with a credit card would involve a "surcharge" and would, therefore, be illegal until February 27, 1979.

*2. Minor clarifying changes.*—The amendments add a footnote to § 226.4(i)(1) which limits the meaning of the phrase "use of an open end credit card account" in the same manner as discussed in the definition of "regular price" above. The term "regular price" has been substituted for the phrase "tag, posted, or advertised price" in § 226.4(i)(1)(i) to insure uniform application of defined terms. The Board believes that if the regular price already includes sales and other related taxes (e.g., in pricing of gasoline at service stations), then the discount may be calculated on the basis of such "gross" selling price.





The changes in §§ 226.4(i)(2) and 226.13(l)(1)(i) are intended to eliminate the descriptions of a discount as being for cash payment since the statute refers to discounts for payment by check and other means as well. A similar change was made in § 226.4(i)(1)(iii).

*3. Addition to § 226.4(i)(1)(iii).*—The sentence which is being added to § 226.4(i)(1)(iii) has been modified in two respects. First, the phrase "a discount for cash" now reads "such a discount." This change was made for the same reason discussed in the previous section. Second, the requirement that the regular price be disclosed if an advertisement specifies the discounted price has been dropped. In its place is a requirement that if a merchant advertises only a discounted price, that price must be clearly identified as being unavailable to credit card purchasers. This change prevents consumers from being misled by a low advertised price, and yet permits merchants to be more flexible in their advertising.

*4. Section 226.4(i)(4).*—This language completely replaces former paragraph (4). The original proposal has been shortened because the definition of "surcharge" is sufficiently self-contained. The paragraph repeats the Congressional prohibition on surcharges, together with the date on which that prohibition ends.

*5. New § 226.4(i)(5).*—This new paragraph essentially mirrors the statutory language which states that a discount which qualifies for non-disclosure under § 167 of the Truth in Lending Act shall, in addition, not be considered a charge for credit for purposes of State laws on usury, credit cost disclosure, and permissible credit charges. The only change made from the proposed version of paragraph (5) is the elimination of the words "for cash" since the discount would also be applicable to payment by check or similar means.

*6. Technical modification.*—Due to the fact that a footnote was added to § 226.4(i)(1) and numbered sequentially as "5a," the existing footnote designation in § 226.5(a)(3)(ii) has been changed from "5a" to "5b."

C. TEXT OF AMENDMENT

Pursuant to the authority granted in 15 U.S.C. 1604, and to implement Pub. L. 94-222, the Board amends 12 CFR Part 226 as follows:

1. Section 226.2 is amended by adding new paragraphs (tt), (uu), and (vv) as set forth below:

**§ 226.2 Definitions and rules of construction.**

* * * * *

(tt) "Regular price" means (1) The tag or posted price charged for the property or service if a single price is tagged or posted; or (2) The price charged for the property or service when payment is made by use of an open end credit card account if either (i) No price is tagged or posted, or (ii) two prices are tagged or posted, one of which is charged when payment is made by use of an open end credit card account and the other when payment is made by use of cash, check, or similar means. For purposes of this definition, payment by check, draft, or other negotiable instrument which may result in the debiting of a cardholder's open end account shall not be considered payment made by use of that account.

(uu) "Discount," as used in §§ 226.4(i) and 226.13(l), means a reduction made from the "regular price," as defined in paragraph (tt) of this section.

(vv) "Surcharge," as used in § 226.4(i), means any amount added at the point of sale to the "regular price," as defined in paragraph (tt) of this section, as a condition or consequence of payment being made by use of an open end credit card account. For purposes of this definition, payment by check, draft, or other negotiable instrument which may result in the debiting of a cardholder's open end account shall not be considered payment made by use of that account.

**§ 226.4 [Amended]**

2. Section 226.4 is amended as follows:

a. Paragraph (i)(1) is amended by adding footnote "5a" after the word "used" (i.e., "* * * whether or not a credit card is physically used,[5a] * * *"), the text of which footnote shall be as follows:

[5a] For purposes of this section, payment by check, draft, or other negotiable instrument which may result in the debiting of a cardholder's open end account shall not be considered payment made by use of that account.

b. Paragraph (i)(1)(i) is amended by deleting the words "tag, posted, or advertised" and substituting therefor the word "regular."

c. Paragraph (i)(1)(iii) is amended by:

1. Changing the phrase, "the availability of a discount for payments in cash must be clearly and conspicuously disclosed" to read as follows: "the availability of such a discount must be clearly and conspicuously disclosed;" and

2. By adding at the end of paragraph (i)(1)(iii) a new sentence as follows:

* * *If a price other than the regular price, as defined in § 226.2(tt), is disclosed in an advertisement, telephone contact, or other correspondence promoting goods or services for which such a discount is offered, than the advertisement, telephone contact, or other correspondence shall also indicate that such price is not available to credit card purchasers.

d. Paragraph (i)(2) is amended by deleting the words "for cash."

e. Paragraph (i)(4) is deleted and new paragraph (i)(4) as follows is added in lieu thereof:

* * * * *

(i) * * *

(4) No creditor in any sales transaction may impose a surcharge. This paragraph shall cease to be effective on February 27, 1979.

f. New paragraph (i)(5) is added as follows:

* * * * *

(i) * * *

(5) Notwithstanding any other provisions of this Part, any discount which, pursuant to paragraph (i)(1), of this section is not a finance charge for purposes of this Part shall not be considered a finance charge or other charge for credit under the laws of any State relating to:

(A) Usury; or

(B) Disclosure of information in connection with credit extensions; or

(C) The types, amounts, or rates of charges, or the element or elements of charges permissible in connection with the extension or use of credit.

**§ 226.5 [Amended]**

3. Section 226.5(a)(3)(ii) is amended by deleting the footnote designation "5a" and inserting, in lieu thereof, the designation "5b".

**§ 226.13 [Amended]**

4. Section 226.13(l)(1)(i) is amended by deleting the word "cash" which appears immediately before the word "discounts."

By order of the Board of Governors, July 20, 1977.

THEODORE E. ALLISON,
*Secretary of the Board.*

[FR Doc.77-21575 Filed 7-26-77;8:45 am]

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SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; FC-0094—FC-0099]

## PART 226—TRUTH IN LENDING

### Official Staff interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official Staff Interpretation(s).

SUMMARY: The Board is publishing the following official staff interpretations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs.

EFFECTIVE DATE: July 25, 1977.

FOR FURTHER INFORMATION CONTACT:

D. Edwin Schmelzer, Chief, Fair Credit Practices Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2412.

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(2) Official staff interpretations may be reconsidered upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpre-



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tation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

(3) 15 U.S.C. 1640(f).

§ 226.15(a). Two sides of a single page may be used when making consumer leasing disclosures in a combined contract-disclosure statement.

JUNE 20, 1977.

This is in response to your letter of * * *, which requested an official staff interpretation of Regulation Z. You inquire whether § 226.15(a)(1) permits, where the lessor has combined the consumer leasing disclosures and the lease contract, the use of two sides of a single page, if the required disclosures are made together and above the place for the lessee's signature.

It is the staff's opinion that § 226.15(a)(1) permits the use of two sides of a single page when making the consumer leasing disclosures required by § 226.15(b) in a combined contract-disclosure statement. As you point out in your letter, § 226.15(a)(1) should be contrasted with § 226.8(a)(1). That subparagraph states that all Truth in Lending disclosures for a consumer credit transaction must be made "*on the same side of the page* and above the place for the customer's signature." (Emphasis added.) Section 226.15(a)(1), on the other hand, states that "All of the disclosures shall be made together on * * * [t]he contract or other instrument evidencing the lease *on the same page* and above the place for the lessee's signature * * *." (Emphasis added.)

You state in your letter that the signature must be at the end of the second side to fulfill the requirements of § 226.15(a)(1). While that may be true if both sides of the single page contain required disclosures, it is the staff's opinion that compliance with § 226.15(a)(1) may also be achieved by placing the lessee's signature at the bottom of the first side, so long as *all* the required consumer leasing disclosures are made together on the first side of the two-sided document. This would permit the placement of the signature on the first side of the page and the incorporation of other non-disclosure contract provisions from the second side into the body of the contract in those instances where operational limitations (e.g., the use of carbons to make multiple copies) would dictate the use of a signature on the bottom of the first side. It should be pointed out, however, that there is no signature requirement in the regulation and that the requirement that all the disclosures be above the place for the lessee's signature applies only where, for contract or evidentiary purposes, the lessor wishes to have the lessee sign the combined contract and disclosure document.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited to the facts as outlined herein. I trust this is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
*Associate Director.*

§ 226.15(b). Proper methods of disclosure of security interests under § 15(b)(9) in consumer leasing transactions.

JUNE 29, 1977.

This is in reply to your request for an official staff interpretation clarifying the meaning of the security interest disclosure requirement in Regulation Z, § 226.15(b)(9), pertaining to consumer leases.

You indicate that your bank makes loans to leasing companies and takes assignments of consumer leases generated by those companies as security for your loans. You are concerned whether the assigned leases properly make the disclosures required under the cited section of the regulation. Your letter describes four different kinds of disclosures that either are being made or might be made in attempts to comply with the regulatory requirement:

1. You suggest that § 226.15(b)(9) might be interpreted to require disclosure only when the lessor takes a security interest in property other than the leased goods. You question whether this is normal business practice as well as whether it is the intended meaning of the regulation.

As in the case of credit transactions, the purpose of this requirement in the Consumer Leasing Act and in the regulation is to assure that consumers are aware of when their defaults might affect their continued right to possession and use of property. The staff can find no indication in the legislative history or elsewhere that this disclosure is applicable only when the lessor takes a security interest in property other than the leased goods. The fact that a lessor has taken a formal security interest in the very goods which were leased may not give the lessor any significant additional rights to those a lessor would normally enjoy, but the lessor's status as a secured party under the Uniform Commercial Code, for example, could affect the lessor's rights and duties with respect to the procedures for retaking the goods on default, or with respect to the consumer's liability for a deficiency judgment. Consequently, staff concludes that disclosures must be made whether the security interest is in the leased property or in other property.

2. As another approach, you indicate that some leases disclose that a third party financier will take a security interest in the lessor's reversionary interest in the goods and in the lessor's right to payment under the lease itself. This presumably refers to commercial security interests in the lessor's receivables retained by banks or others who make commercial loans to the lessors.

By the explicit language of § 226.15(b)(9), however, a security interest need be described only when it is "held or to be retained *by the lessor* in connection with the lease." The concern of the regulation is with interests security the lessee's obligation to the lessor, and not with secondary security interests in the chattel paper held by commercial financiers. The staff would conclude, therefore, that the disclosure of third-party security interests is inappropriate.

3. Apparently, State law in your area requires that for certain vehicle leases the lessee must be shown on the registration and title certificates as the "registered owner," and the lessor as the "legal owner." These are the same designations that would be used to describe the debtor and creditor in a traditional credit sale. You indicate that because of this requirement some lessors are disclosing the existence of a security interest in the leased vehicle whenever the lessee is designated the "registered owner."

4. You also indicate that some lessors are making a blanket statement that a security interest as defined in the Uniform Commercial Code, or as defined in Regulation Z, is being retained, and that such statements reflect an "excess of caution" by lessors who are uncertain whether a court might later treat their transactions as security interests under either of those definitions.

These latter two types of disclosures share common characteristics. In both, the lessor apparently does not intend to take a formal security interest in the leased goods and does not contract for one in the lease agreement. (Indeed it would be somewhat inconsistent with the lessor's desire to engage in "leasing" transactions to do so.) Rather, these lessors are apparently fearful that courts might subsequently find that their leases fall within the definition of a security interest in Regulation Z or in provisions of State law and are disclosing a security interest merely as a precaution. Staff believes, however, that the mere filing of a Uniform Commercial Code financing statement, or the description of the lessee as the "registered owner" on a title certificate, does not convert a true lease into a secured transaction. Such filings or notations may serve purposes quite different from *creating* a security relationship between a lessor and a lessee. Those purposes might include protecting the lessor's right from the claims of a lessee's creditors, or determining the applicability of automobile financial responsibility laws. Thus, the staff would conclude that disclosure of a security interest under § 226.15(b)(9) is not required unless the lessor in fact intends to create or reserve a security interest to secure the lessee's performance under that lease.

The staff recognizes that lessors may find themselves in something of a dilemma: if they do not mean to take a security interest and so do not disclose one, a court may later determine that the "lease" nonetheless constituted a secured transaction, and that the lessor has violated the Act by failing to disclose the security interest. The staff is not convinced, however, that the uncertainty is so great that lessors cannot make safe judgments. Since the Truth in Lending Act first went into effect in 1969, lessors have had to make similar judgments as to whether or not their "lease" transactions fit within the definition of "credit sale" under § 226.2(t) of Regulation Z, thus requiring the full range of Truth in Lending credit disclosures.

We appreciate that, with the limited scope just described, there may be relatively few instances in which true leases will need to contain security interest disclosures. Nothing in the legislative history of the Consumer Leasing Act suggests any intent to re-characterize any true lease as one constituting or containing a security interest. Those determinations remain within the province of State law and the agreement of the parties.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited in its applicability to the facts and issues outlined herein. We trust it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
*Associate Director.*

§ 226.8(g). The 8(g) disclosures constitute "all other material disclosures" referred to in 9(a) so as to begin running of the rescission period; the 8(h) disclosures along, however, are insufficient.

§ 226.8(h). The 8(g) disclosures constitute "all other material disclosures" referred to in 9(a) so as to begin running of the rescission period; the 8(h) disclosures alone, however, are insufficient.

§ 226.9(a). The 8(g) disclosures constitute "all other material disclosures" referred to in 9(a) so as to begin running of the rescission period; the 8(h) disclosures alone, however are insufficient. Right of rescission applies to each transaction on an open end account.

JULY 8, 1977.

This is in reply to your letter of * * *, in which you request an official staff interpretation concerning the operations of your client, a company selling building materials to customers who construct their own homes. Pursuant to a written agreement, the company provides the customer with the materials needed to build the "basic home." The customer agrees to pay in full within three years from the first delivery of materials, and the obligation is secured by the home being





built and the land on which it is located. The company provides the disclosures for the sale of these basic home materials as well as the notice of the customer's right to rescind.

The company also grants the customer an option to purchase certain additional materials, such as kitchen cabinets, plumbing, heating, floor tile, etc., at prices prevailing at the time of purchase. The customer may exercise the option with respect to any or all of the additional materials, and any purchase resulting from that exercise is added to the total obligation to the company. Some, but not all, of these additional purchases are secured by the company's security interest in the home. Your question concerns the manner in which you propose to treat the purchase of the additional purchases.

Where local law permits, the company intends to adopt an open end credit system, establishing a line of credit for each customer against which all of the additional purchases will be charged. Prior to the first transaction on the account, the company will provide the disclosures required by § 226.7(a) and, thereafter, will provide the disclosures required by § 226.7(b) on periodic billing statements. Whenever the amount of a particular purchase will be added to the portion of the total obligation secured by the home, the company will provide the customer with a notice of the rescission right as required by § 226.9. The company will send the notice to the customer upon receipt of the customer's order for additional materials, inserting a date in the notice for the end of the rescission period six days from the date it mails the notice to the customer. The company will delay shipping the additional material until three days following the expiration of the customer's right to rescind. The customer will be advised that, in those instances where the amount of an additional purchase will not be added to the amount secured by the home, no notice of rescission will be sent.

It is staff's opinion that the procedures described above comply with the requirements of Regulation Z, provided that the estimated dates inserted in the § 226.9(b) notice and the delay for shipping make full allowance for mailing time. It has long been staff's position that each transaction on an open end account secured by the customer's home is subject to the right to rescind. Consequently, the § 226.9(b) notice should be provided in each case, and the company should delay its performance (i.e., shipping of the additional purchases) in accordance with § 226.9(c).

In those States in which the company is precluded from utilizing an open end credit plan, it will structure its practices to comply with §§ 226.8(g) and 226.8(h). At the time the customer enters the contractual relationship with the company, he or she will be informed of the right to make additional purchases. The company will require the customer's approval of the annual percentage rate to be applied to the additional purchases as well as the method of treating any unearned finance charge on an existing outstanding balance in computing the finance charge. We understand that the company retains no security interest in property for which it has received payments equaling the sale price of that property plus any finance charge attributable thereto.

When the customer indicates a desire to exercise the option, the company mails printed information describing the additional items available, from which it is possible to determine the cash price, downpayment, finance charge, deferred payment price, annual percentage rate, and the number, frequency and amount of the payments with respect to any of the additional purchases. The specific disclosures concerning each such additional purchase will be deferred until the month during which the first payment is made with respect to that purchase. In those cases where the cost of the additional purchase will be secured by the security interest in the home, the notice of the right of rescission will be sent to the customer in the same manner set forth above in connection with the open end plan. In those instances in which the purchase price of additional materials will not be added to the amount so secured, the company will clearly indicate that fact to the customer.

You ask whether these procedures for the closed end credit plan, in which specific disclosures for a particular purchase of additional materials are delayed until the time the first payment for that purchase is due, comply with the requirements of Regulation Z. In particular, you wish to know if the timing of the rescission notice is proper and if the company has properly delayed performance in accordance with § 226.9(c).

Section 226.9(a) provides that the three-day right of rescission begins on the date the transaction is consummated or the date of delivery of the rescission notice "and all other material disclosures required by this Part, whichever is later." It is staff's opinion that where a creditor is making use of the provisions of § 226.8(g) and has provided its customers with printed information from which the items listed in that section can be determined, this information constitutes the "other material disclosures" referred to in § 226.9(a). The purpose behind the requirement that the rescission period begin only after delivery of the material Truth in Lending disclosures is to ensure that the customer has knowledge of the important credit terms and can properly evaluate whether to continue with the transaction. Since the printed information provided by the company supplies these terms, the customer should be in a position to intelligently choose whether or not the transaction should be rescinded.

Staff does not believe, however, that the information provided pursuant to § 226.8(h) would by itself be sufficient to constitute the "other material disclosures" referred to in § 226.9(a). The § 226.8(h) disclosures concern only the annual percentage rate and treatment of unearned finance charges on the existing balance; they do not provide enough information concerning all of the important credit terms so as to allow the customer to intelligently make a decision concerning rescission. Of course, since your client will be making the disclosures listed in both paragraphs (g) and (h) of § 226.8, the customer will have the necessary information to make the decision.

In the situation described above, where your client makes use of both paragraphs (g) and (h) of § 226.8, the rescission period will begin upon delivery of the § 226.9(b) notice to the customer. Since the company will delay shipping of the additional purchases until three days following expiration of the rescission period, compliance with the delay of performance requirements of § 226.9(c) will be achieved, provided again that full allowance has been made for mailing time when the company inserts the dates in the rescission notice and delays shipping of the materials.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the rgulation and limited to the facts and issues presented herein. I trust this is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
*Associate Director.*

§§ 226.808, 226.810, and 226.8(b)—Where credit plan involves both variable rates and uneven payment amounts, creditors may combine procedures under §§ 226.808 and 226.810 until Oct. 10, 1977, and §§ 226.808 and 226.8(b)(8) thereafter.

JULY 8, 1977.

This is in response to your letter of * * *, wherein you request an official Board interpretation or official staff interpretation as to whether the procedures outlined in Board Interpretations §§ 226.808 and 226.810 may be combined when making disclosures for closed end loans involving both a variable rate feature and payments which include a constant principal component and a finance charge component which is not constant. In addition, you ask whether § 226.8(b)(8), which was still in the proposed stage when you wrote your letter, and the provisions of § 226.808 may be combined when making disclosures for such loans when § 226.8(b)(8) becomes effective.

You indicate that your client makes consumer loans with repayment terms as follows:

Consecutive equal monthly instalments of principal and consecutive monthly instalments of accrued interest. The rate of interest shall be equal to 3 percent above the prime rate of creditor in effect from time to time for ninety-day loans to substantial and responsible commercial borrowers, each change in such rate to take effect on the day (whether or not a business day) such changes in such prime rate shall become effective; *Provided, however,* That the interest rate shall at no time be less than eight percent per annum or exceed fourteen and one-fourth percent per annum.

Staff believes that combining the disclosures called for in §§ 226.808 and 226.810 is permissible. The basic approach outlined in your letter by which you plan to combine the disclosures is satisfactory. Unfortunately, due to limited time and resources, staff has a policy of not reviewing individual creditors' forms. Consequently, staff cannot state whether the proposed language you submitted complies with the regulation in this regard.

You also ask several questions regarding the recent amendment to Regulation Z (§ 226.8(b)(8)) concerning variable rate disclosures. The amendment, as adopted, differs from the one proposed for comment in October, 1976, and I am enclosing a copy of the press release and related FEDERAL REGISTER material which discusses the differences. Since your questions relate to aspects of the proposed amendment which were changed in the final version, it would not be useful to answer them. Instead, I would draw your attention to the fact that § 226.8(b)(8), as finally adopted, requires disclosure of information relating only to increases in the annual percentage rate, rather than to both increases and decreases. Information concerning rate decreases may, however, be given as additional information pursuant to § 226.6(c), if the creditor so desires. You will also note that § 226.8((b)(8)(iii) and (iv) require that the hypothetical examples showing the effect of a rate change be based on an increase in the annual percentage rate of one quarter of one percent, whether or not the credit contract provides for limitations on the rate.

Section 226.8(b)(8) becomes effective on October 10, 1977, and Board Interpretation § 226.810 will be rescinded on the same date. Accordingly, your client may thereafter comply with the requirements of § 226.8(b)(8) and § 226.808 in a combined format if it wishes.

This is an official interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation. It is limited in its scope to the questions presented herein. I trust this is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
*Associate Director.*



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§ 226.6(b), 226.6(c), and 226.8(d)—State-required disclosure of per diem finance charge in connection with demand loans secured by residential real property is not inconsistent with required disclosure of total amount of finance charge and may be disclosed as additional information.

JULY 8, 1977.

This is in response to your letter of * * *, requesting an interpretation of Regulation Z with regard to a recently enacted amendment to Maryland's law.

Your letter indicates that Senate Bill No. 216, 1977, amends Md. Ann. Code, Comm'l. Law Art., Tit. 12, Subtit. 1, § 12–106(b)(1)(i) to state that before the execution of a loan contract, the lender shall furnish to the borrower a written statement which sets forth:

The total principal amount of the loan and the total amount of finance charge as defined in the Federal Truth-in-Lending Act to be paid, stated in dollars, except that on loans payable on demand, the total amount of finance charge to be paid shall be stated on a per diem basis * * *.

You state that the bill further provides:

Paragraph (1)(i) of this subsection shall not apply to any loan subject to the disclosure provisions of the Federal Truth-In-Lending Act, if the lender complies with the applicable disclosure provisions of the Federal Act and its regulations provided, however, that the disclosures required by paragraph (1)(i) of this subsection shall be made in connection with any loan secured by residential real property.

In Maryland, by virtue of the above-quoted statute, in addition to required Truth in Lending disclosures, the per diem finance charge must be disclosed in connection with consumer credit transactions involving demand loans secured by residential real property. You ask whether this State law disclosure is inconsistent with Truth in Lending requirements within the meaning of § 226.6(b)(1) and, therefore, must be disclosed in the manner prescribed by § 226.6(c)(1) or (2), or whether the State law disclosure is simply additional information which may be intermingled with the disclosures required by the Truth in Lending Act and Regulation Z.

In connection with demand loans, Regulation Z requires the creditor to disclose the total amount of the finance charge based upon the assumption that the loan will mature in one-half year or on an alternate maturity date if any is stated in connection with the loan. (See § 226.8(d)(3) and § 226.4(g).) However, staff is of the opinion that also stating the finance charge on a per diem basis is not inconsistent with the federally required statement of the total amount of the finance charge. The per diem finance charge required to be disclosed by Maryland law is merely a fractional part of the total finance charge and may be shown with the required Truth in Lending disclosures as long as it is not "stated, utilized, or placed so as to mislead or confuse the customer * * * or contradict, obscure, or detract attention from the information required * * * to be disclosed" under Regulation Z. (See § 226.6(c).)

Finally, it should be noted that § 226.8(d)(3) of Regulation Z does not require the creditor to disclose the total amount of the finance charge in the case of a loan secured by a first lien or equivalent security interest on a dwelling and made to finance the purchase of that dwelling. Hence, if a demand loan involves this type of security, disclosure of the per diem finance charge as required by Maryland law would clearly not be inconsistent with any Truth in Lending requirement but would simply be additional information to be disclosed in accordance with § 226.6(c).

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited to the facts and issues discussed herein. I trust that this is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
*Associate Director.*

§ 226.2(d)—Market research material made available to customers which contains triggering terms is not an advertisement.

JULY 6, 1977.

This is in response to your letter of * * *, in which you requested an official staff interpretation regarding §§ 226.2(d) and 226.10(c) of Regulation Z.

In your letter, you stated your client (a bank) currently operates an open end credit check overdraft plan (old plan). The bank is considering the advisability of terminating the old plan and offering a revised form of check overdraft credit (new plan), and wishes to conduct a market research project to aid in its determination of whether to convert from the old plan to the new plan. This market research project would involve interviewing approximately 400 to 600 customers of the bank at random when they came into a branch of the bank. Those interviewees who are users of the old plan would be presented with a brief description of the new plan and asked their reaction (i.e., whether they view it as more favorable, less favorable, or no different from the old plan). In addition, they would be presented with brief written comparisons on cards indicating the more fundamental differences between the old plan and the new plan. They would then again be asked what differences they perceived between the old plan and the new plan, which they would prefer, and whether they would convert to the new plan should it be offered by the bank. Interviewees who indicate that they would not wish to convert would be shown a card setting forth the effect upon their participation in the existing old plan if they did not convert and if the conversion to the new plan were effected by the bank. They would then be asked, based upon that description, whether they would convert to the new plan or decline the new plan and, if the latter, whether they would seek a similar line of credit from another bank.

You indicate that the descriptive cards which would be shown to the interviewees will disclose the differences between the monthly instalment requirements under the old plan (1/20 of the credit line) and under the new plan (at the customer's election, 1/12, 1/24, or 1/36 of his credit line, or of the balance outstanding at the end of the last month in which a loan was made, whichever is less). You point out that the disclosure in an advertisement of the number of instalments in which a loan may be repaid would constitute a disclosure of the "period of repayment" and would trigger the requirement under § 226.10(c) that the additional disclosures provided for therein be made. You have asked whether the proposed market research as described above would be considered an "advertisement" within the meaning of § 226.2(d).

Staff is of the opinion that the market research plan that you have outlined which involves the disclosure of the period of repayment for the old plan and the new plan would not be considered an advertisement as defined in § 226.2(d). The program does not constitute a solicitation for the old plan since only current participants therein will be interviewed. No extension of credit is offered or will be extended in connection with any interview, and the results of the interview could conceivably, together with other relevant considerations, result in a determination by the bank not to offer the new plan. The interviews are designed to elicit reactions, and the disclosures made are only for the purpose of providing to the interviewee the background necessary to respond to the questions. Staff does not feel that the market research outlined involves commercial messages so as to constitute an advertisement under § 226.2(d).

This is an official staff interpretation of Regulation Z issued in accordance with § 226.1(d)(3) of the regulation and confined to the facts as stated. I trust that it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
*Associate Director.*

Board of Governors of the Federal Reserve System, July 20, 1977.

THEODORE E. ALLISON,
*Secretary of the Board.*

[FR Doc.77-21648 Filed 7-26-77;8:45 am]

## Title 19—Customs Duties

## CHAPTER I—UNITED STATES CUSTOMS SERVICE

## PART 153—ANTIDUMPING

### Cast Iron Soil Pipe From Poland; Revocation

AGENCY: United States Treasury Department.

ACTION: Revocation of a finding of dumping.

SUMMARY: This notice is to inform the public that cast iron soil pipe from Poland is no longer being sold at less than fair value under the Antidumping Act, 1921. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or third countries. As a result of this action, shipments of this merchandise which were entered or withdrawn from warehouse, for consumption on or after February 10, 1977, will not be liable for special dumping duties.

EFFECTIVE DATE: February 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. William T. Trujillo, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202–566–5492.

SUPPLEMENTARY INFORMATION: On November 2, 1967, a finding of dumping with respect to cast iron soil pipe from Poland was published in the FEDERAL REGISTER as T.D. 67–252 (32 FR 15155). A "Notice of Tentative Determination to Modify or Revoke Dumping Finding" applicable to this merchandise was published in the FEDERAL REGISTER of February 10, 1977 (42 FR 8446–7).

Reasons for the tentative determination were published in the above-mentioned notice, and interested persons were afforded an opportunity to provide written submissions or request the opportunity to present oral views in connection therewith.

No written submission or requests having been received, I hereby determine that, for the reasons stated in the "Notice of Tentative Determination to Modify or Revoke Dumping Finding," cast iron soil pipe from Poland is no longer being, nor is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.), and the above-mentioned finding of dumping is hereby revoked.

Accordingly, § 153.46 of the Customs Regulations (19 CFR 153.46) is hereby amended by deleting from the column headed "*Merchandise,*" the words "Cast Iron Soil Pipe," from the column headed "*Country,*" the word "Poland," and from the column headed "T.D.," reference to T.D. 67–252.

This notice is published pursuant to § 153.44(d) of the Customs Regulations (19 CFR 153.44(d)).

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173.)

HENRY C. STOCKWELL, Jr.,
*Acting General Counsel of the Treasury.*

JULY 21, 1977.

[FR Doc.77-21538 Filed 7-26-77;8:45 am]

## Title 28—Judicial Administration

## CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 736–77]

## PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

### Subpart M—Land and Natural Resources Division

DELEGATION OF AUTHORITY UNDER PUB. L. 87–852, APPROVED OCTOBER 23, 1962 (40 U.S.C. 319)

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Under 40 U.S.C. 319 the Attorney General is authorized to grant easement rights in, over or upon real property of the United States under the control of the Department of Justice. This order delegates authority to make the requisite grants and determinations to the Assistant Attorney General, Land and Natural Resources Division.

EFFECTIVE DATE: July 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Anthony C. Liotta, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, 202–739–5092.

By virtue of the authority vested in me by 5 U.S.C. 301 and 28 U.S.C. 509, 510, Subpart M of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by adding a new section 0.69 to read as follows:

**§ 0.69 Delegation of Authority to make determinations and grants.**

The Assistant Attorney General in charge of the Land and Natural Resources Division, or such members of his staff as he may specifically designate in writing, are authorized to exercise the power and authority vested in the Attorney General by Pub. L. 87–852, approved October 23, 1962 (40 U.S.C. 319), with respect to making the determinations and grants necessary in carrying out the purposes of that Act, except those acts and instruments which in the opinion of the Assistant Attorney General involve questions of policy or for any other reason require the personal attention of the Attorney General.

Dated: July 13, 1977.

GRIFFIN B. BELL,
*Attorney General.*

[FR Doc.77-21534 Filed 7-26-77;8:45 am]

[Order No. 738–77]

## PART 16—PRODUCTION OR DISCLOSURE OF INFORMATION

### Exemption of a System of Records Under the Privacy Act; Correction

AGENCY: Department of Justice.

ACTION: Final rule; correction.

SUMMARY: This is a correction to final rulemaking by the Department of Justice to exempt a system of records maintained by the U.S. Attorneys Offices, the Pre-Trial Diversion Program Files, published as JUSTICE/USA–015, from certain provisions of the Privacy Act. This rulemaking was proposed on January 27, 1977, and published at 42 FR 5104–5105. It was adopted at 42 FR 23506.

EFFECTIVE DATE: July 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Harry L. Gastley, Administrative Counsel, Office of Management and Finance, Department of Justice, Washington, D.C. 20530 (202–739–5361).

In FR Doc. 77–13142, appearing at page 23506 in the FEDERAL REGISTER of May 9, 1977, paragraph (b)(1) of § 16.81 is corrected by adding after the second line, the following omitted line: "for disclosures pursuant to the routine."

Dated: July 19, 1977.

GRIFFIN B. BELL,
*Attorney General.*

[FR Doc.77-21607 Filed 7-26-77;8:45 am]

## Title 33—Navigation and Navigable Waters

## CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

## PART 207—NAVIGATION REGULATION

### Naval Restricted Areas in Cooper River, Charleston, South Carolina

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This rule establishes two restricted areas in the Cooper River and Charleston Harbor South Carolina Area. These areas are required by the U.S. Naval Degaussing Stations to prevent interference with the highly sensitive magnetic measurements conducted at the degaussing stations.

DATES: Effective on 15 July 1977.

FOR FURTHER INFORMATION CONTACT:

Ralph T. Eppard, 202–693–5070.

SUPPLEMENTARY INFORMATION: We published proposed regulations in the FEDERAL REGISTER on 28 April 1977 (42 FR 21622) concerning the establishment of the two Naval restricted areas in the Cooper River and Charleston Harbor. We received no comments and accordingly, we are establishing final regulations in 33 CFR 207.164c to govern the use, administration and navigation of the two restricted areas as set forth below.

Dated: June 27, 1977.

CHARLES R. FORD,
*Acting Assistant Secretary of the Army (Civil Works).*

**§ 207.164c Cooper River and Charleston Harbor, South Carolina: restricted areas**

(a) *The Restricted Areas.* (1) Area No. 1 is that portion of the Cooper River beginning near the westerly shore north of Shipyard Creek at "a" Latitude 32°–50'14", Longitude 79°56'11"; thence to "b" Latitude 32°50'14", Longitude 79°–55'37"; thence to "c" Latitude 32°49'41", Longitude 79°55'37"; thence to "d" Latitude 32°49'41", Longitude 79°55'52"; thence to "e" Latitude 32°49'47", Longitude 79°56'09"; and thence returning to "a" Latitude 32°50'14", Longitude 79°56'11".

(2) Area No. 2 is that portion of the Cooper River beginning at a point west of Shutes Folly Island at "a" Latitude 32°46'27", Longitude 79°55'31"; thence to "b" Latitude 32°46'39", Longitude 79°55'11"; thence to "c" Latitude 32°46'39", Longitude 79°54'51"; thence to "d" Latitude 32°46'28", Longitude 79°54'47"; thence to "e" Latitude 32°46'17", Longitude 79°54'51"; thence to "f" Latitude 32°46'17", Longitude 79°55'11"; and thence returning to "a" Latitude 32°46'27", Longitude 79°55'31".

(b) *The regulations.* (1) There shall be no introduction of magnetic material or magneto-electric field sources with the area.

(2) Ships transiting the areas will proceed without delay and shall not, except as noted below, lie to or anchor within the areas.

(i) Pleasure craft under 50 feet LOA will not normally be affected; however, such craft may be required to stand clear upon notification, in the event they are interfering with range operation.

(ii) Anchored commercial ships will be allowed to swing into the restricted area at the Shutes Folly Island site when the range is not in use. Shutes Folly Island Range usage will be indicated by range house display of the international DELTA signal flag.

(iii) This section shall be enforced by the Commandant, Sixth Naval District, Charleston, South Carolina, and such agencies as he may designate.

[FR Doc.77-21536 Filed 7-26-77;8:45 am]







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## Title 36—Parks, Forests, and Public Property

### CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

### PART 211—ADMINISTRATION

**Administrative Review Procedures; Correction**

AGENCY: Forest Service, USDA.

ACTION: Correction of final rule.

SUMMARY: In FR Doc. 77-18492 appearing at page 32780 in the FEDERAL REGISTER of June 28, 1977, the effective date as shown in the preamble on page 32780 is corrected to read July 28, 1977.

EFFECTIVE DATE: July 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Don D. Seaman, Range Management Staff, Forest Service, P.O. Box 2417, Washington, D.C. 20013, 703-235-8139.

JAMES NIELSON,
*Deputy Assistant Secretary for Conservation, Research and Education.*

JULY 21, 1977.

[FR Doc.77-21539 Filed 7-26-77;8:45 am]

## Title 40—Protection of the Environment

### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 742-5]

### PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

**Petroleum Refinery Fluid Catalytic Cracking Unit Catalyst Regenerators**

*Correction*

In FR Doc. 77-18129, appearing at page 32426, in Part VI of the issue of Friday, June 24, 1977, the EFFECTIVE DATE should be changed to read "June 24, 1977".

[FRL-752-2]

### PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

**Units and Abbreviations**

*Correction*

In FR Doc. 77-20557, appearing on page 37000 in the issue for Tuesday, July 19, 1977, in the second column, § 60.3(a) should be changed so that the last abbreviation reads as follows:

"μg—microgram—$10^{-6}$ gram".

## Title 47—Telecommunication

### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

### PART 73—RADIO BROADCAST SERVICES

### PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

**Reregulation of Radio and Television Broadcasting; Correction**

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: This document corrects the final rule that appeared at page 36823 in the FEDERAL REGISTER of July 18, 1977 (42 FR 36823).

EFFECTIVE DATE: July 18, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John W. Reiser, Broadcast Bureau (202-632-9660).

SUPPLEMENTARY INFORMATION:

Released: July 21, 1977.

In the Order in the above proceeding released on July 15, 1977 (FCC 77-476), 42 FR 36823, paragraph 5 of the Appendix § 73.43(c) should have referred to an "informal" application instead of an "information" application and paragraph 35 of the Appendix incorrectly shows the amended rule as § 74.482, whereas the amended rule should have been shown as § 74.582. The corrected portions of Appendix paragraphs 5 and 35 should read as follows:

**§ 73.43 Changes in equipment and antenna system.**

* * * * * *

(c) Specific authority, upon filing an informal application is required for any of the following changes:

* * * * * *

35. In § 74.582, paragraph (a) is amended to read as follows:

**§ 74.582 Station identification.**

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

[FR Doc.77-21645 Filed 7-26-77;8:45 am]

[Docket No. 20967; RM-2669]

### PART 73—RADIO BROADCAST SERVICES

**Noncommercial Educational FM Channel Assignments Under the U.S.-Mexico FM Broadcast Agreement; Changes Made in Table of Assignments; Correction**

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: This document corrects the final rule that appeared at page 36460 in the FR of July 15, 1977 (42 FR 36460).

EFFECTIVE DATE: August 1, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Leslie K. Shapiro, Broadcast Bureau (202-632-5414).

SUPPLEMENTARY INFORMATION:

Released: July 21, 1977.

In the matter of amendment of § 73.507(a), Noncommercial Educational FM Channel Assignments Under the U.S.-Mexico FM Broadcast Agreement (Austin, Boerne, Brady, New Braunfels, San Antonio, Sequin, and Victoria, Texas).

In the Report and Order in the above-entitled proceeding, adopted June 29, 1977, 42 FR 36460, the FM Channels assigned to San Antonio, Texas, were incorrectly listed. The correct assignments should read as follows:

| City: | *Channel No.* |
|---|---|
| San Antonio, Tex | 206, 211A, 219A. |

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

[FR Doc.77-21646 Filed 7-26-77;8:45 am]

[Do.'s 20638, 20880; FCC 77-483]

### PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

### PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

**Modifying the Capabilities of Ship Stations, and Providing a Service of Public Correspondence for Vessels, Their Passengers and Crew**

AGENCY: Federal Communications Commission.

ACTION: Final Report and Order in Dockets 20638 and 20880.

SUMMARY: Amendment of the rules to redefine marine utility stations, require public correspondence service by certain classes of vessels, and to provide for an associated portable ship unit. These actions were generated by the Commission to clarify its rule definitions and augment the operational flexibility of mobile stations.

EFFECTIVE DATE: August 29, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert DeYoung or Bruce Franca, Aviation and Marine Division, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTAL INFORMATION:

Adopted: July 13, 1977.

Released: July 25, 1977.

In the matter of amendment of the rules to remove locality restrictions from marine utility stations and to modify the capabilities of ship stations to meet certain operational requirements of ships. Amendment of Parts 81 and 83 to require licensees of vessels subject to Part II of Title III of the Communications Act to provide a service of public correspondence for their passengers and crew.

1. Notices of Proposed Rulemaking in the above-captioned Dockets 20638 and 20880 were released on December 2, 1975, and July 27, 1976, respectively. Because of overlapping considerations affecting marine utility stations, it will be useful to discuss both in this consolidated Report and Order.





2. In Docket No. 20638, comments were filed by American Waterway Operators, Inc., (AWO), Hawaiian Tug and Barge Co. Ltd. (HTB), the Northern California Marine Radio Council (NCMRC), Santa Fe Communications, Inc. (SF), and Tug Communications, Inc. (TUGCOM). In Docket 20880, comments were filed by the American Institute of Merchant Shipping (AIMS) and the Offshore Marine Service Association (OMSA).

DISCUSSION OF MARINE UTILITY STATIONS

3. Docket 20880 deleted the definitions of marine utility ship station and marine utility coast station and redefined the term "marine utility station". Docket 20638 proposed to delete the locality restrictions in those same definitions. All comments received on this subject in Docket 20638, strongly favored deletion of the locality restrictions in the definitions of marine utility stations. No comments in Docket 20880 opposed deletion or modification of these definitions as therein proposed. In addition, TUGCOM suggested certain references to marine utility stations and to geographic area or location should be deleted.[1]

4. For these reasons, the proposed rule amendments will be adopted with the deletions suggested by TUGCOM and with minor modification of the definition for the sake of clarity.

DISCUSSION OF ASSOCIATED PORTABLE SHIP UNITS

5. Many of the comments received seem to confuse the functions of on-board communications, utility stations, and the ship associated portable unit. The Commission expressly stated that the associated portable ship unit is not intended to be a substitute for other forms of operational communications necessary for certain vessels. The unit has the rather limited purpose of providing a ship station with a capability to work with auxiliary launches, dinghies or any other small vessel associated with e.g., launched from, the ship or principal vessel itself. The purpose of the restrictions set forth is to insure that the unit is not abused and is not used as a means of avoiding use of public coast, limited coast, marine-utility or on-board communications or for communicating on land. It is anticipated that the unit will be used primarily by recreational vessels. Commercial vessels, depending on their operational requirements, will normally obtain licenses permitting operation of marine-utility or on-board communications.

6. With these considerations in mind, it is necessary to retain the restrictions set forth in the proposed § 83.166. For purposes of clarity, certain minor additions of an editorial nature have been inserted in § 83.166 (a) and (b). Further, a provision for an appropriate unit designator has been added in §83.364.

[1] These references appear in §§ 81.40(a)(1), 81.355(c), and 81.362 of part 81 of the rules. TUGCOM also suggested other rule sections be analyzed in light of these amendments. This has been done, but no further modification of the rules is deemed necessary.

DISCUSSION OF A REQUIREMENT TO PROVIDE PUBLIC CORRESPONDENCE

7. All comments were in substantial agreement with the Notice on this question. AIMS concurred with the intent of the rule making, but expressed concern over the deletion of the reference to the order of priority of communications in § 83.304. They felt that this could be interpreted as allowing a person to transmit public correspondence during the course of emergency or rescue operations. Since this was never the intention of this rule making and to avoid any misinterpretation, the reference to the order of priority has been included in § 83.304. Although OMSA agreed that crew and passengers should have access to the ship's radio station, they felt there was some conflict between the words "reasonable demand" of the § 83.304 and "at least four hours daily" of § 83.304(b). They felt that the four hour requirement was excessive aboard small vessels (300 to 1600 gross tons) which carry no passengers and have crew sizes between 10 and 14 persons. OMSA suggested less hours, alternate days, or once weekly with some obligation to consider requests of an urgent nature. The Commission does not feel that the four hour requirements is excessive or unduly burdensome on voyages of more than 24 hours duration. Furthermore, the four hours could be divided throughout the day at the convenience of the vessel's master or the station licensee.

8. In Docket No. 20862, the Commission has amended § 83.159 to allow a person holding a radiotelephone third-class operator permit (P-3) to operate direct-printing radiotelegraph equipment. This change has been included in the attached Appendix.

9. Accordingly, *It is ordered*, That, pursuant to the authority contained in Sections 4(i), 303 (c), (h) and (r) of the Communications Act of 1934, as amended, the Commission's rules are amended, as set forth in the attached Appendix, effective August 29, 1977.

10. *It is further ordered*, That, these proceedings are terminated.

(Secs. 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

1. In 81.3, paragraphs (l) and (m) are deleted and reserved, and paragraph (n) is revised, as follows:

**§ 81.3 Maritime mobile service.**

* * * * * *

(l) [Reserved]

(m) [Reserved]

(n) *Marine-utility station.* A station in the maritime mobile service, consisting of one or more portable radiotelephone units licensed under a single station authorization, which operates under the rules applicable to ship stations when the portable unit is aboard a vessel, and under the rules applicable to limited coast stations when the portable unit is on land.

* * * * * *

2. Section 81.40(a)(1) is amended by deleting the references to use and operation in the same geographic area, as follows:

**§ 81.40 One application for plurality of stations.**

(a) * * *

(1) Applications for station licenses for marine-utility stations;

* * * * * *

(3) Section 81.355(c) is amended by deleting its first sentence, as follows:

**§ 81.355 Nature of service.**

* * * * * *

(c) Each marine-utility station on shore shall be used and operated as a limited coast station and in accordance with all rules and regulations applicable to such coast stations except it may be operated at unspecified points ashore.

4. Section 81.362(a) is deleted and designated [Reserved].

**§ 81.362 Limitations on use of marine-utility stations.**

(a) [Reserved]

1. Section 83.2(i) is amended to include reference to "associated portable ship units" as follows:

**§ 83.2 General.**

* * * * * *

(i) *Ship station license.* A license authorizing the operation of a ship station, a survival craft station associated with a ship, a ship radionavigation station, and an associated portable ship unit or units for use in the vicinity of the ship with which it is associated.

* * * * * *

2. § 83.3, subparagraphs (f), (g), (h) and (i) are revoked and reserved, and subparagraph (j) is revised, as follows:

**§ 83.3 Maritime mobile service.**

* * * * * *

(f) [Reserved]
(g) [Reserved]
(h) [Reserved]
(i) [Reserved]

(j) *Marine-utility station.* A station in the maritime mobile service, consisting of one or more portable radiotelephone units licensed under a single station authorization, which operates under the rules applicable to ship stations when the portable unit is aboard a vessel, and under the rules applicable to limited coast stations when the portable unit is on land.

* * * * * *

3. In § 83.22, subparagraphs (a) and (b) are revised, and subparagraphs (c) and (d) are deleted and reserved, as follows:

**§ 83.22 Administrative classification of stations.**

(a) Stations in the maritime mobile service subject to this part are licensed



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according to the class of station normally as designated below:

(1) Ship stations.
(2) Marine-utility stations.
(3) Survival craft stations.

(b) Ship stations employing telegraphy are divided into four categories for the international public correspondence service by the international Radio Regulations (see Art. 25).

(c) [Reserved]
(d) [Reserved]

* * * * *

4. Section 83.103 is amended by adding a reference to associated ship portable units, as follows:

**§ 83.103 Location of station.**

All components of a station on board ship subject to this part, including the antenna(s), antenna supporting structures, and source(s) of power used to energize the station equipment, shall be located on board the vessel identified in the station license, even though the vessel be temporarily moored. For purposes of communication, no component of a ship station shall be connected by wire line directly or indirectly to any equipment, apparatus, or facilities which are not located entirely on board the vessel identified in the station license: *Provided*, That the limitations on this section shall not apply (a) when the station is being operated in an emergency under the provisions of § 83.75, (b) when it is necessary, while the ship is temporarily moored, to energize one or more components of a main installation or an emergency installation by means of a source of power not located on board the ship for the purpose of assuring compliance with any applicable safety radio requirement of law, or (c) to associated ship portable units which may be used in accordance with the conditions contained in § 83.186 of this part.

**§ 83.107 [Amended]**

5. Section 83.107 is amended by deleting the word "public" where it appears before the words "ship station" in paragraph (a).

6. Section 83.159 is amended to read as follows:

**§ 83.159 Operator requirements for non-compulsory stations.**

| Description of station: | Minimum operator authorization |
|---|---|
| Ship telegraph, except direct-printing | T–2 |
| Ship direct-printing telegraph | P–3 |
| Ship telephone, more than 250 watts carrier power or 1,000 watts peak envelope power | P–2 |
| Ship telephone, not more than 250 watts carrier power or 1,000 watts peak envelope power | P–3 |
| Ship telephone, not more than 100 watts carrier power or 400 watts peak envelope power | RP |
| Marine-utility | RP |
| Ship radiolocation-test, using radar only | [1] P–2 |
| Ship earth station | RP |

[1] With ship-radar endorsement.

7. Subpart G is amended by adding a new section as follows:

**§ 83.186 Operational conditions on use of associated portable ship units.**

Use of an associated portable ship unit is restricted as follows:

(a) It shall be operated only on the safety and calling frequncy 156.8 MHz (Channel 16), and on commercial or non-commercial VHF intership frequencies appropriate to the class of ship station with which it is associated.

(b) Except for safety purposes, it shall be used to communicate only with the ship station with which it is associated or with associated ship portable units of the same ship station but portable units may not be used from or on shore.

(c) It shall be equipped to transmit on Channel 16 and at least one appropriate intership frequency.

(d) Calling shall occur on Channel 16 unless, by prearrangement, provision is made for calling and working on an intership frequency.

(e) Power is limited to one watt.

(f) The call sign of the ship station with which it is associated and an appropriate unit designator shall be used.

8. Section 83.301 is amended to read as follows:

**§ 83.301 Supplemental eligibility requirements.**

A ship station may be granted only to the owner or operator of the vessel, or to a subsidiary communications corporation of the owner or operator of the vessel, for which the station authorization is requested; or state or local government subdivision; or any agency of the Federal Government which is subject to the provisions of Section 301 of the Communications Act.

9. Section 83.302 is amended to read as follows:

**§ 83.302 Points of communication.**

Subject to the conditions and limitations imposed by the terms of the particular station license or by applicable provisions of this part with respect to the use of particular radio channels, ship stations and marine-utility stations on board ships are authorized to communicate with any station in the maritime mobile service including such other classes of stations as may be appropriately authorized in accordance with the provisions of this part for such communications.

10. Section 83.304, headnote and text, are amended to read as follows:

**§ 83.304 Service requirements for Title III, Part II vessels.**

Each ship station provided for compliance with Part II of Title III of the Communications Act shall, without discrimination and upon reasonable demand, provide, subject to the order of priority prescribed in § 83.177, a service of public correspondence on voyages of more than 24 hours for any person who, while on board in any status requests the service covering any subject matter that legally may be transmitted by radio.

(a) Vessels subject to the radiotelegraph requirements of Part II of Title III shall provide this service during the hours the radio operator is normally on duty.

(b) Vessels subject to the radiotelephone requirements of Part II of Title III shall provide this service for at least four hours daily. The hours shall be designated by the station licensee or the master of the vessel, and shall be prominently posted at the principal operating location of the station.

**§ 83.305 [Reserved]**

11. Section 83.305 is deleted and reserved.

12. Section 83.364 is amended by adding a new paragraph (f) to read as follows:

**§ 83.364 Identification of station.**

* * * * *

(f) Associated portable ship units may, in lieu of furnishing station identication as specified in paragraph (a) of this section, be identified by use of a unit identifier provided that identification by transmission of the assigned call sign is made at the end of an exchange of communications with any other station, or at least once each 15 minutes whenever an exchange of communications with any other station is sustained for a period exceeding 15 minutes.

**§ 83.371 [Amended]**

13. Section 83.371 is amended by deleting the word "public" where it appears before the words "ship station" in the first sentence.

**§ 83.372 [Amended]**

14. Section 83.372 is amended by deleting the word "public" where it appears before the words "ship station" in the first sentence.

[FR Doc.77-21644 Filed 7-26-77;8:45 am]

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[Docket No. 21028; FCC 77-479]

## PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

### Installation of VHF Transmitting Apparatus

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This amendment permits ship station licensees to install "pre-tested" VHF radiotelephones without performing additional transmitter measurements at the time and place of installation, and to require that manufactures "pre-test" all VHF transmitters. The Commission found that not all licensees were aware that they could perform this installation. The action is taken to clarify past Commission policy on installation and testing of VHF radiotelephones.

EFFECTIVE DATE: August 23, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.





FOR FURTHER INFORMATION CONTACT:

Bruce A. Franca, Aviation and Marine Division, S&SRS Bureau, 202–632–7197.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER; PROCEEDING TERMINATED

Adopted: July 1, 1977.

Released: July 15, 1977.

In the matter of Amendment of Part 83 of the rules regarding the installation of VHF transmitting apparatus and the performance of transmitter measurements.

1. A Notice of Proposed Rule Making and a Notice of Inquiry in the above-entitled matter was released on January 4, 1977, and was published in the FEDERAL REGISTER on January 10, 1977 (42 FR 2088). The period for comments and reply comments has passed.

2. The Commission by interpretation of its rules has allowed the licensee of a ship station to install a pre-tested VHF transmitter in his ship station, without performing additional transmitter measurements at the time and place of installation. In the Notice, it was proposed to amend the rules to more clearly reflect this policy, and to require that all channels furnished with the radio by the manufacturer be "pre-tested". The Commission also solicited comments on the method of recording these measurements and labeling the transmitter to this effect.

3. Comments were filed by the Northern California Marine Radio Council (NCMRC) and ITT Mackay Marine.

4. All comments were in substantial agreement with the Notice. NCMRC suggested that the rules should emphasize the fact that the licensee is solely responsible for compliance with the requirement to maintain transmitter operation within the carrier stability and modulation deviation tolerances. NCRMC also believed that documentation by the manufacturer, or vendor should include the actual frequencies measured on each channel and the maximum deviation due to modulation. They felt that these measurements should be signed by the appropriate licensed operator and that the transmitter should be internally labeled to identify the specific VHF channels equipped at the time of testing. ITT Mackay Marine indicated that in the case of vessels on which EPIRB's are installed on a mandatory basis that it would not be in the public interest to allow the installation to be made by anyone other than a licensed technician. They also indicated that they felt that the present wording of the proposed rules would require that the manufacturer measure each individual frequency for frequency synthesized equipment. They felt that a single measurement would be sufficient. They also believe that the present system of including a log sheet should be continued and that a label system would be impractical.

5. Although we share NCMRC's concern that the licensee be knowledgeable of his responsibility for the proper technical operation of his station, we feel that the present rules sufficiently emphasize this fact. We also do not feel that it is necessary to have a licensed radio operator install an EPIRB as indicated by ITT Mackay Marine. EPIRB's are small, readily portable devices that operate from a self-contained battery source. There are generally no electrical connections of any type made during their installation. On vessels required by law to carry EPIRB's, these installations are routinely inspected by the Coast Guard.

6. In the case of frequency synthesized equipment, it was never intended to require that these radios be tested on every channel or frequency. Transmitter measurements are only required on channel 16 (156.8 MHz) and the highest and lowest transmit frequencies. The Appendix, as it appeared previously in the Notice, has been amended accordingly. The Appendix also contains minor editorial changes. Since ITT Mackay Marine was the only equipment manufacturer to comment in this proceeding, and since they opposed the use of a label, we feel that the method of including a log or data sheet with each radio should be continued for the present.

7. To allow sufficient time for all manufacturers to comply with these requirements, the rules contained in the attached Appendix will not be effective until August 23, 1977.

8. Accordingly, *It is ordered*, That, pursuant to the authority contained in Sections 4(i), 303 (l) and (r) of the Communications Act of 1934, as amended, the Commission's rules are amended, as set forth below, effective August 23, 1977.

9. *It is further ordered*, That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary*.

Part 83 Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 82.111 paragraph (a), (c), and (d) are amended to read as follows:

**§ 83.111 Transmitter measurements.**

(a) Except as provided for in paragraph (d) of this section, a determination shall be made that the carrier frequencies of each transmitter are within prescribed tolerance as follows:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may affect the carrier frequencies or stability thereof;

(3) Upon receipt of an official notice of off-frequency operation.

* * * * *

(c) Except as provided for in paragraph (d) of this section, a determination shall be made that each radiotelephone transmitter is properly adjusted to produce peak modulation between 75 and 100 percent insofar as practicable as follows:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may affect its modulation characteristics.

(d) The determinations required by paragraphs (a) and (c) of this section may be made at a test or service bench, provided the load conditions are equivalent to those of actual operation. In the case of transmitters manufactured after August 23, 1977 and operating in the VHF band, these determinations shall be performed by the manufacturer for each channel or frequency installed at the point of manufacture or, in the case of frequency synthesized equipment, on channel 16 (156.8 MHz) and the highest and lowest transmit frequencies. This shall be in lieu of these measurements being performed when the transmitter is initially installed.

* * * * *

2. Section 83.162, is amended to read as follows:

**§ 83.162 Adjustment of transmitting apparatus.**

All adjustments of radio transmitting apparatus in any station subject to this part during or coincident with the installation, servicing, or maintenance of such apparatus which may affect the proper operation of such station, shall be performed by or under the immediate supervision and responsibility of a person holding a first- or second-class operator license, who shall be responsible for the proper functioning of the station equipment; *Provided, however*, That:

(a) Only persons holding a first- or second-class radiotelegraph operator license shall perform such functions at radiotelegraph stations transmitting by any type of the Morse code;

(b) Only persons holding first- or second-class operator license, containing a ship radar endorsement shall perform such functions on radar equipment.[1]

3. Section 83.164, headnote and text, are amended to read as follows:

**§ 83.164 Activities not requiring an operator authorization.**

(a) No radio operator authorization is required for the operation of a survival craft station or an emergency position indicating radiobeacon station while it is being used solely for survival purposes or to facilitate search and rescue operations.

(b) No radio operator authorization is required for the installation of a VHF transmitter in a ship station, where the installation is performed by or under the immediate supervision of the licensee of the ship station.[2]

[1] This does not prevent persons not holding such licenses, or not holding such licenses so endorsed, from making replacement of fuses or of receiving-type tubes.

[2] This does not authorize the licensee of the ship station to add or substitute channels or to make any modifications to the transmitter.



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(c) No radio operator license is required for the operation onboard ship, during the course of normal rendition of service, of a ship radar station: *Provided*, That the following conditions are met or provided for by the licensee of the station:

(1) The radar equipment shall employ as its frequency determining element a nontunable, pulse type magnetron except that other fixed tuned devices shall be used in the band 14.0 to 14.05 GHz.

(2) The radar equipment shall be capable of being operated during the course of normal rendition of service in accordance with the radio law and the rules and regulations of the Commission by means of exclusively external controls.

(d) No radio operator license is required for the operation of an on-board station: *Provided*, That the limitations set forth in § 83.160(a) (1) and (2) shall apply.

[FR Doc.77-21514 Filed 7-26-77;8:45 am]

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[FCC 77-511]

## PART 87—AVIATION SERVICES

### Allowing an Aeronautical Utility Mobile Station to Utilize a Frequency in the Band 121.600–121.925 MHz Not Shown on its Station License for a Temporary Period Until its License Can Be Modified

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Amendment of the Commission's rules to allow an aeronautical utility mobile station to utilize a frequency not shown on its station license in the band 121.600–121.925 MHz, for a temporary period until its license can be modified. This has been a routine condition of grant for aeronautical utility mobile stations. This rule making will incorporate this condition of grant into the Commission's rules.

EFFECTIVE DATE: July 29, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John Hays, Safety and Special Radio Services Bureau, 202–632–7197.

SUPPLEMENTARY INFORMATION:

Adopted: July 14, 1977.

Released: July 22, 1977.

In the matter of amendment of Part 87 of the Commission's rules to allow an aeronautical utility mobile station to utilize a frequency in the band 121.600–121.925 MHz not shown on its station license for a temporary period until its license can be modified.

1. Aeronautical utility mobile stations are mobile stations used for communications at airdromes with the aeronautical utility land station, the airdrome control station, the FAA flight service station, ground vehicles, and aircraft on the ground. Communications are limited to the management of ground traffic. The stations usually are authorized to operate on one of fourteen frequencies in the band 121.600–121.925 MHz. The frequency that is assigned to the aeronautical utility stations at an airport is the frequency that is used by the aeronautical utility land station, the airdrome control station or the FAA flight service station at the airport to communicate with ground vehicles.

2. Sometimes the Federal Aviation Administration (FAA) is required to change this frequency on short notice. To ensure continuous communication with the aeronautical utility land station, the airdrome control station or the FAA flight service station, our licensees of aeronautical utility mobile stations must be able to respond quickly and change their frequencies to coincide with the FAA change in frequency. Consequently, for the past twelve years a condition of grant permitting the licensees to make this change immediately has been typed on all aeronautical utility mobile licenses.

3. This condition of grant has proven to be in the public interest. It grants a licensee special temporary authority to use the new frequency for a period of 90 days and requires him to submit an application for modification of his station to specify the new frequency within ten days from the date he commences using the frequency.

4. Since this is a condition of grant for every aeronautical utility mobile station license, it is, in effect, a rule and should be incorporated into the Commission's rules rather than placed on the station license. It is the purpose of this order and attached appendix to accomplish this. Moreover, this will preclude considerable typing now being performed by the Commission's licensing personnel.

5. Under this rule making the frequency to which the licensee may change is restricted to one of the fourteen frequencies in the band 121.600 through 121.925 MHz which are the air traffic control frequencies generally used as utility frequencies.

6. Because this amendment is intended to place in the rules the agency's old standing procedures for obtaining special temporary authority to operate an aeronautical utility mobile station on a different frequency and does not impose any new restrictions, the prior notice, procedure and effective date provisions of 5 U.S.C. 553 do not apply. Authority for this amendment appears in Sections 4(i), 303(c) and 303(r) of the Communications Act of 1934, as amended.

7. In view of the above, *it is ordered*, That the rule amendment set forth in the attached Appendix is adopted effective July 29, 1977.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In Subpart J, Aeronautical Utility Mobile Stations, a new § 87.439 is added to read as follows:

**§ 87.439 Frequency change.**

In the event that the utility frequency is changed by the Federal Aviation Administration to another frequency in the band 121.600–121.925 MHz, the licensee has temporary authority for a period of 90 days to use the new frequency in place of the one listed on the license; provided, that an application for modification of the station license to specify the new frequency is submitted within ten days from the date that the station commences operation on the new frequency.

[FR Doc.77-21647 Filed 7-26-77;8:45 am]

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### Title 49—Transportation

### CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 324]

## PART 1109—REQUIREMENTS AND PROCEDURES RELATING TO RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

### Standards and Expeditious Procedures for Establishing Railroad Rates Based on Seasonal, Regional, or Peak-Period Demand for Rail Services

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: Rules governing the cancellation of demand-sensitive rates have been revised to preclude the suspension of a rate which otherwise would expire on a date set forth in the tariff. The purpose of the change is to redress the carriers' concern about being unable to extricate themselves from demand-sensitive rates which fail to meet expectation, a concern which they argue deters the publication of such rates in the first place.

EFFECTIVE DATE: August 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director or Harvey Gobetz, Assistant Deputy Director, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, 202–275–7693.

SUPPLEMENTARY INFORMATION: The need for this change was argued by the Association of American Railroads in its petition for reconsideration of the rules adopted by the Commission in its report and order of February 4, 1977.

49 CFR 1109.10(h) is revised to read as follows:

**§ 1109.10 Standards and expeditious procedures for establishing railroad rates based on seasonal, regional, or peak-period demand for rail services.**

* * * * *





(h) *Cancellation of a demand rate.* A demand rate published pursuant to this section and not having an expiration date in it may be cancelled on 30 days' notice and the cancellation supplement will not be suspended within 3 years of the date of its initial publication, unless an affected shipper makes a showing pursuant to paragraph (e)(7) of this section. A demand rate published pursuant to this section with an expiration date of three years or less from the date of the initial publication, once effective, will be allowed to expire on that date without suspension of said expiration date.

* * * * *

By the Commission.

H. G. HOMME, JR.
*Acting Secretary.*

[FR Doc.77-21652 Filed 7-26-77;8:45 am]

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### Title 50—Wildlife and Fisheries

### CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

## PART 611—FOREIGN FISHING

### Foreign Fishing Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final regulations.

SUMMARY: This document is being published to correct and clarify those sections of the regulations which deal with the retention of an allocated species taken incidentally in a directed fishery. The effect of this amendment will be to make the affected species a "prohibited species" in that once the allocation of a species has been reached, foreign fishing vessels will no longer be specifically authorized to retain that species.

EFFECTIVE DATE: July 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard Schaefer, Fishery Management Operations Division, National Marine Fisheries Service, Washington, D.C. 20235, 202–634–7454.

SUPPLEMENTARY INFORMATION: The effect of this amendment will be to make the affected species a "prohibited species" as defined in § 611.13(a) of the Foreign Fishing Regulations in that once the allocation of a species has been reached, foreign fishing vessels will no longer be specifically authorized to retain that species. This amendment will reconcile the incidental catch provision in paragraph (g) of §§ 611.50 through 611.53 with paragraph (f) of § 611.20 which cautions foreign nations not to exceed their allocation. An incidental catch provision was permitted recognizing that other allocated species are taken in trawl nets while fishing in a directed fishery. However, an incidental catch of an allocated species in a directed fishery must be counted as part of the total allocation for that incidentally-caught allocated species.

For example, if a nation has an allocation of 1,000 tons of a given species, it may take all of this quantity in a directed fishery, or it may reserve part of this quantity as an incidental catch in another directed fishery. Which method a nation uses depends on its fishing strategy. However, in no case may a nation exceed its total allocation for a species whether taken incidentally or in a directed fishery. Thus, if the nation caught 900 tons of a species in its directed fishery, it could take the remaining 100 tons as an incidental catch in another directed fishery. But, when a total quantity of 1,000 tons of that species is taken, all taking of that species by that nation must cease. Then the species shall be considered as a prohibited species. The incidental catch of an allocated species is not in addition to the allocation, but part of the total allocation for that species.

When the allocation of a species has been taken, counting both the directed fishery and incidental catch, the taking and retention of such species shall cease. This change in the regulation does not reduce or alter the species allocations provided to a foreign nation, but rather clarifies the intent of the regulations to a foreign nation to carefully manage its fishing vessels in taking the allocation.

**§§ 611.50—611.53 [Amended]**

Paragraph (g) in §§ 611.50, 611.51, 611.52, and 611.53 is revised to read as follows:

* * * * *

(g) *Incidental catch.* The taking of any species for which the foreign nation has an allocation is permitted as an incidental catch in any directed fishery. The total quantity taken of an allocated species, however, both as incidental catch and in a directed fishery, shall not exceed the allocation of that species provided to that foreign nation by § 611.20. When the quantity allocated has been reached, counting both the incidental catch and directed fishery catch, that species becomes a prohibited species.

* * * * *

Issued on July 21, 1977, at Washington, D.C.

WINFRED H. MEIBOHM,
*Associate Director,*
*National Marine Fisheries Service.*

[FR Doc.77-21674 Filed 7-26-77;8:45 am]

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## PART 611—FOREIGN FISHING

### Foreign Fishing Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final regulations.

SUMMARY: The Foreign Fishing Regulations under the Fishery Conservation and Management Act of 1976, are amended concerning vessels of foreign countries authorized to conduct fishery support operations. This action is taken to eliminate the inconsistency between the regulations and the understanding by foreign nations that support operations can be conducted by vessels of one nation in support of vessels of another nation.

EFFECTIVE DATE: July 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard Schaefer, Fishery Management Operations Division, National Marine Fisheries Service, Washington, D.C. 20235, 202–634–7454.

SUPPLEMENTARY INFORMATION: The National Marine Fisheries Service has been advised that the provision for fishery support operations in paragraph (b) of § 611.10 of the foreign fishing regulations published in the FEDERAL REGISTER (42 FR 8813 on February 11, 1977) is inconsistent with the understanding by foreign nations that support operations can be conducted by vessels of one foreign nation in support of another foreign nation providing that both nations have a Governing International Fishery Agreement (GIFA) in force and the required permits. During discussions with several nations concerning the development of GIFA's, this issue was raised relative to fishery support operations. It was made clear to the foreign nations that if any foreign nation operating in support of any other foreign nation has a signed GIFA and the required vessel permits, the conduct of fishery support operations is authorized. This amendment does not reduce or modify the requirements under the Act concerning permits and fees, and causes no adverse action to the conservation of the resource. The requirements of 5 U.S.C. 553 are not required because this amendment falls within the foreign affairs exception of the Administrative Procedures Act.

Therefore, paragraph (b) of § 611.10 is revised to read is follows:

**§ 611.10 Fishery support operations.**

* * * * *

(b) Fishery support operations by foreign vessels within the fishery conservation zone are allowed only in those areas and during those times in which vessels of the same foreign countries are authorized to conduct directed fisheries, and in such other areas as may be designated in this part or in an Existing International Fishery Agreement, except on a case-by-case basis in those situations where the directed fishery nation has no support capacity in the directed fishery area.

Issued on July 19, 1977, at Washington, D.C.

WINFRED H. MEIBOHM,
*Associate Director,*
*National Marine Fisheries Service.*

[FR Doc.77-21675 Filed 7-26-77;8:45 am]



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# proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

**[ 5 CFR Part 1705 ]**

### PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

**Compliance With Privacy Act and Freedom of Information Act**

AGENCY: Advisory Commission on Intergovernmental Relations.

ACTION: Proposed rule.

SUMMARY: Under the Freedom of Information Act, 5 U.S.C. 552 and section 3 of the Privacy Act, 5 U.S.C. 552a, each agency is required to inform individuals how they may gain access to records and request correction or amendment of records about themselves maintained in a system of records. On October 3, 1975, the Advisory Commission on Intergovernmental Relations published proposed regulations 40 FR 46062 to conform with the Privacy Act, but through oversight never adopted them. No Freedom of Information Act regulations were published. To comply with both Acts, the Commission proposes regulations relating to the disclosure of information under both Acts.

DATE: Comments on or before August 26, 1977.

ADDRESS: Comments to Advisory Commission on Intergovernmental Relations, 726 Jackson Place NW., Washington, D.C. 20575.

FOR FURTHER INFORMATION CONTACT:

Franklin A. Steinko, Jr., Assistant to the Executive Director, Advisory Commission on Intergovernmental Relations, 726 Jackson Place NW., Washington, D.C. 20575 (202–382–1464).

SUPPLEMENTARY INFORMATION: Interested persons are invited to submit written comments to the above-named individual. These comments must be received within thirty days of the issuance of this publication. Comments will be available for public inspection at the above address between the hours of 9 a.m. and 5 p.m., Monday through Friday. No oral hearings are contemplated.

By virtue of the authority vested in me by 42 U.S.C. 4271, 5 U.S.C. 552 and 552a, and as Executive Director of the Advisory Commission on Intergovernmental Relations, Part 1705 of Chapter VII of Title 5 of the Code of Federal Regulations is proposed as follows:

### PART 1705—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION UNDER 5 U.S.C. 552 AND 552a

Sec.

1705.1 Purpose and scope.
1705.2 Definitions.
1705.3 Procedures for requests pertaining to individual records in a records system.
1705.4 Times, places, and requirement for identification of individuals making requests.
1705.5 Disclosure of requested information.
1705.6 Special procedures: medical records.
1705.7 Request for correction or amendment to record.
1705.8 Agency review of request for correction or amendment to record.
1705.9 Appeal of initial adverse agency determination on correction or amendment.
1705.10 Disclosure of record to person other than the individual to whom it pertains.
1705.11 Fees and copies of records.

AUTHORITY: 42 U.S.C. 4271, 5 U.S.C. 552 and 552a.

**§ 1705.1 Purpose and scope.**

(a) The purpose of this part is to set forth rules to inform the public about procedures by which records subject to the Freedom of Information and Privacy Acts may be obtained from the Advisory Commission on Intergovernmental Relations. The regulations also set forth procedures by which records subject to the Privacy Act may be corrected or amended.

**§ 1705.2 Definitions.**

For the purposes of this Part, unless otherwise required by the context—

(a) "ACIR" means the agency, the Advisory Commission on Intergovernmental Relations.

(b) "Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence to the United States.

(c) "Maintain" means maintain, hold, collect, use, or disseminate.

(d) "Record" means: any item, collection, or grouping of information about an individual that is maintained by ACIR including, but not limited to, his education, financial transactions, medical history, and criminal or employment history; that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print, or a photograph.

(e) "System of records" means a group of any records under the control of ACIR from which information is retrieved by the name of the individual or by some identifying particular assigned to the individual.

**§ 1705.3 Procedures for requests pertaining to individual records in a records system.**

Individuals desiring to know if a specific system of records maintained by ACIR contains a record pertaining to them should submit written requests, stating that the request is made under the Privacy Act of 1974. Individuals desiring to know if a specific system of records maintained by ACIR contains a record pertaining to third parties should submit written requests stating that the request is made under the Freedom of Information Act.

**§ 1705.4 Times, places, and requirement for identification of individuals making requests.**

(a) Written requests should be addressed to the Assistant to the Executive Director, Advisory Commission on Intergovernmental Relations, 726 Jackson Place NW., Washington, D.C. 20575, or may be delivered to the above address during the hours of 9 a.m. to 5 p.m., Monday through Friday (except holidays).

(b) Satisfactory identification (i.e., employee identification number, other identifying number, name, current address, and other information deemed necessary for complete identification) must be provided to ACIR prior to review of the record. The requestor will be provided the opportunity to review the records between the hours of 9 a.m. and 5 p.m., Monday through Friday (except holidays) at the address in paragraph (a) of this section.

(c) The individual seeking access to his record may also have another person accompany him during his review of the records. However, the requestor must sign a statement, to be furnished to the ACIR representative at the time of the inspection, authorizing such other person to accompany him. Copies of the statement may be obtained from the ACIR representative.

**§ 1705.5 Disclosure of requested information.**

The Assistant to the Executive Director or his designated representative will advise the requestor in writing within 10 working days of receipt of the request whether, to what exent, and approximately when and where access shall be granted. Within 10 days of receipt of





the request, the records will be made available for review at the address listed in § 1705.4(a).

**§ 1705.6 Special procedures: Medical records.**

(a) If medical records are requested for inspection which contain information about which a prudent physician would hesitate to inform the subject of the record as to the exact nature and probable outcome, these records will be furnished only to a licensed physician designated by the requestor or his guardian in writing. Prior to such disclosure, the requestor or his guardian must furnish a signed, written authorization to ACIR for this purpose and the physician must furnish a written request to the Assistant to the Executive Director for the particular records.

(b) Verification of the requestor's signature will be accomplished by a comparison of signatures if such authorization is not executed within the presence of an ACIR representative.

**§ 1705.7 Request for correction or amendment to record.**

(a) If the individual disagrees with the information in the record relating to himself, he may request that the record be amended by addition or deletion. Such a request must be in writing and directed to the Assistant to the Executive Director, Advisory Commission on Intergovernmental Relations, 726 Jackson Place NW., Washington, D.C. 20575. The request must also specifically outline the amendment sought.

(b) Routine request of ACIR personnel, vendors, and mailing list recipients for such matters as address and change of title or organization may be made in writing to the Assistant to the Executive Director. If such routine requests involve other types of amendments, then the procedure to be followed is that outlined in paragraph (a) of this section.

**§ 1705.8 Agency review of request for correction or amendment to record.**

(a) The Assistant to the Executive Director or his designated representative will acknowledge receipt of the request within 10 working days from the date of receipt of such request. Under normal circumstances, not later than 10 days after receipt of the request for amendment or correction, the Assistant to the Executive Director will either:

(1) Amend or correct the record and notify the requestor in writing of the determination and to what extent the record is amended or corrected; or

(2) If the amendment or correction is denied in whole or in part, notify the requestor in writing of the determination and the reason for the denial and the requestor's right to request review by the Executive Director.

**§ 1705.9 Appeal of initial adverse agency determination on correction or amendment.**

(a) The requestor within thirty days may appeal any determination of the Assistant to the Executive Director not to amend or correct a record by submitting a written request for review of refusal to amend or correct a record to the Executive Director, Advisory Commission on Intergovernmental Relations, 726 Jackson Place NW., Washington, D.C. 20575. Such a request shall indicate the specific corrections or amendments sought. Not later than thirty days from receipt of a request for review (unless such period is extended by the Executive Director for good cause shown), the Executive Director will complete such a review and make a final determination on the request, and shall advise the requestor in a written letter of determination whether and to what extent the correction or amendment is denied, in whole or in part. The letter of determination will specify the reasons for such denial.

(b) If the Executive Director makes a final determination not to amend the record, the individual may provide ACIR a concise written statement for inclusion in the record explaining the reasons for disagreement with the refusal.

(c) In addition, the individual may file a civil action in the U.S. District Court to seek an order compelling ACIR to amend the record as requested.

**§ 1705.10 Disclosure of record to person other than the individual to whom it pertains.**

(a) The requestor seeking access to his record may also designate another person or persons to review the records. In such instance, the requestor must sign a statement, to be furnished to, and verified by, the ACIR representative at the time the designated individual appears to review the record. Copies of the statement may be obtained from the ACIR representative.

(b) A parent of a minor, upon presenting suitable personal identification, may have access on behalf of the minor of any record pertaining to the minor maintained by ACIR in a system of records. A legal guardian may similarly act on behalf of an individual declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, upon the presentation of the documents authorizing the legal guardian to so act, and upon suitable personal identification of the guardian.

(c) Nothing in this section shall be construed to entitle an individual the right to access to any information compiled in reasonable anticipation of a civil action or proceeding.

**§ 1705.11 Fees and copies of records.**

(a) Rules governing requests for copies of records are the same as those for the granting of access to the records.

(b) Fees may be assessed at a rate of five dollars per hour for services expended in locating or making available records or copies thereof under the Freedom of Information Act. Fees may only be assessed for actual copies of materials furnished pursuant to the Privacy Act.

(c) The Assistant to the Executive Director may, at no charge, provide copies of a record if it is determined the production of the copies is in the public interest.

(d) Fees will be charged as provided below except as provided in paragraphs (b) and (c) of this section.

(1) Records will be duplicated at a rate of $0.10 per page for all copying of four or more pages There is no charge for duplicating three or fewer pages.

(2) Where it is anticipated that the fees chargeable under this section will amount to more than $25, the requestor shall be promptly notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In instances where the estimated fees will exceed $25, an advance deposit may be required. The notice or request for an advance deposit shall extend an offer to the requestor to consult with ACIR personnel in order to reformulate the request in a manner which will reduce the fees, yet still meet the needs of the requestor.

(3) Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a money order.

FRANKLIN A. STEINKO, Jr.,
*Assistant to the Executive Director.*

[FR Doc.77–21572 Filed 7–26–77;8:45 am]

## DEPARTMENT OF AGRICULTURE

**Agricultural Marketing Service**

**[ 7 CFR Part 947 ]**

### IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES, CALIFORNIA, AND IN ALL COUNTIES IN OREGON, EXCEPT MALHEUR COUNTY

**Notice of Proposed Expenses, Rate of Assessment and Late Payment Charges**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on proposed expenses of $31,800 and a rate of assessment of two-tenths cent per hundred weight of potatoes for the functioning of the Oregon-California Potato Committee. The regulation would enable the committee to collect assessments from first handlers on all assessable potatoes handled and to use the resulting funds for its expenses.

DATE: Comments due August 11, 1977.

ADDRESS: Comments should be sent to: Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written materials shall be submitted. Comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone: 202–447–3545.



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SUPPLEMENTARY INFORMATION: Marketing Agreement No. 114 and Order No. 947, both as amended, regulate the handling of Irish potatoes grown in Modoc and Siskiyou Counties, California, and all counties in Oregon, except Malheur County. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Oregon-California Potato Committee, established under the order, is reponsible for its local administration.

The proposals are as follows:

**§ 947.330 Expenses and rate of assessment.**

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending June 30, 1978, by the Oregon-California Potato Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $31,800.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be $0.002 per hundredweight or equivalent quantity of assessable potatoes handled by him as the first handler during the fiscal period except seed potatoes and potatoes for canning, freezing and "other processing" as defined in the amendment to the act (Pub. L. 91–196) shall be exempt.

(c) In accordance with the provisions of § 947.41(a), late payment charges per month of $1.00 or one percent, whichever is greater, shall be charged on the unpaid balance for each past-due account. An account is past-due 60 days after the billing date.

(d) Unexpended income in excess of expenses for the fiscal period ending June 30, 1978, may be carried over as a reserve to the extent authorized in § 947.41(b).

(e) Terms used in this section have the same meaning as when used in said marketing agreement and this part.

Dated: July 22, 1977.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc 77-21556 Filed 7-26-77;8:45 am]

## CIVIL AERONAUTICS BOARD

**[ 14 CFR Parts 207, 208, 212, 214, 371, 372a, 373, 378, 378a ]**

[EDR-329; SPDR-59; Docket No. 30766; Dated: July 21, 1977]

### REEXAMINATION OF MINIMUM CHARTER GROUP-SIZE REQUIREMENTS

**Advance Notice of Rulemaking**

AGENCY: Civil Aeronautics Board.

ACTION: Advance notice of rulemaking.

SUMMARY: The Civil Aeronautics Board is undertaking a complete reexamination of its requirements for the minimum group size for all types of charter flight groups. The present requirement is generally that where more than one charter group is carried on a chartered aircraft, at least 40 seats must be allocated for each group. This action was instituted in response to a petition filed by two charter tour operators who requested elimination of the 40-seat requirement for certain types of charters.

DATES: Comments by September 12, 1977.

ADDRESSES: Interested persons may file comments in this rulemaking by submitting 20 copies of written data, views, or arguments addressed to Docket 30766, Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individual members of the general public who wish to express their interest as consumers by participating informally in this proceeding may do so by submitting comments in letter form to the same address, without having to file additional copies. Docket comments may be examined at the Docket Section, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Simon J. Eilenberg, Rules Division, Office of the General Counsel, Civil Aeronautics Board (202–673–5442).

SUPPLEMENTARY INFORMATION: Each of the Board's various charter types is, generally speaking, subject to a requirement that where less than the entire capacity of an aircraft is chartered for a single group (a so-called split charter), a minimum of 40 seats must be allocated to each charter group.[1] This minimum group-size requirement is applicable to all forms of split charters regardless of the types of charter groups or the number of chartereres involved. Thus, the 40-seat minimum is equally applicable to a single charterer who engages the entire capacity of an aircraft for use of more than one charter group and to two or more charterers who share the capacity for the use of several groups. On the other hand, there is no minimum group size required where the entire capacity of an aircraft is chartered for the use of one group.

By petition dated April 20, 1977, American Institute for Foreign Study, Inc., and Unitours, Inc., jointly request amendment of the Inclusive Tour Charter (ITC), Study Group Charter (SGC), and One-stop-inclusive Tour Charter (OTC) rules[2] to eliminate the 40-seat minimum requirement in cases where the entire aircraft capacity is contracted by a single charter or tour operator. In the alternative, petitioners seek a reduction of the minimum seat requirement to 20.

Petitioners allege that the 40-seat minimum is an anachronism and a hindrance to efficient charter operations. Petitioners contend that the requirement is legally unnecessary since each of the charter modes is subject to substantial restrictions, apart from the minimum group-size provision, which preserve the charter concept and distinguish individually ticketed services. It is claimed that the practical effect of the restriction is to limit the number of ground packages available to tour participants, to lead to a waste of aircraft seats when a tour attracts fewer than 40 participants, and sometimes to cause entire flights to be canceled. The public, it is asserted, ultimately bears the cost of these inefficiences.

Answers to the petition were filed by American Express Company (Amexco), jointly by Anne Storch International and ASTI Tours, Inc. (ASTI), Charter Travel Corporation, Charter Ventures, Inc. (CVI), Spantax S.A., United States Tour Operators Association, Inc., and jointly by three supplemental carriers, Overseas National Airways, Trans International Airlines, and World Airways (supplementals). All of the answers supported the petition at least in part, but differences were expressed over the correct interpretation of the existing minimum group-size requirements[3] and the degree of relief which should be granted. ASTI supports a reduction of the seat requirement to 20, Amexco favors elimination of the requirement altogether or a reduction to 10, and Spantax contends that any restrictions in this matter should be phrased in terms of the number of groups per flight rather than on the number of participants per group. CVI requests a broadening of the relief to include the ABC rule, and seeks expedited action to that effect without the normal notice and comment procedures. The supplementals request amendment of all the Board's special charter rules to eliminate the 40-seat minimum on all types of split charters so long as the charter of tour operator contracts for at least 40 seats in the aggregate.

The requirement of the 40-seat minimum dates to the early development of split charters in the 1960's and was initially designed to accommodate small affinity groups which, while otherwise charterworthy, had difficulty filling the entire capacity of the 80-or-more seat piston aircraft then in use in the transatlantic charter market. In 1964 the Board authorized split affinity charters to allow such groups to contract for one-half (i.e., at least 40 seats) of aircraft capacity.[4] In 1966, in recognition of the larger aircraft coming into use by the supplemental carriers, the Board permitted the supplementals to operate split charters of no more than three groups, each consisting of at least 40 persons.[5] At the same time, The Board first authorized ITC's and included in that rule a similar provision allowing a maximum of three groups of 40 or more persons per aircraft.[6] Since that time, the three-group limitation has been discarded with respect to all of our charter rules, but the 40-seat minimum has been retained for all types of split charters,[7] with the limited exception, discussed above, for 20-seat ABC's.

While the petition and several of the answers suggest that the Board has simply carried over the minimum seat requirement unthinkingly through the years, an examination of the legislative history of our charter rules indicates that the Board has deliberately retained this requirement, as one element of the necessary legal distinction between scheduled and charter services.[8] However, upon consideration of the petition and answers, we are persuaded that, with the passage of time since this requirement was first prescribed and the intervening change in charter service during the recent past, it would now be desirable to reexamine generally the basic concept—as well as the actual size—of a minimum seat number for all types of split charters.

On the other hand, we will not at this time propose the specific amendments requested by the petitioners. The differences of opinion among the several participants in this proceeding concerning the scope of any liberalization of the group-size requirements indicates that a limited amendment of only two or three charter rules, as sought by the petitioners, would be inadequate. For example, the supplemental carriers argue that any relaxation of the group-size requirements should apply equally to split charters arranged by two or more tour operators as well as to those arranged by a single operator. Nevertheless, there may be good reasons for applying a more restrictive group-size rule to the former case than should apply to the latter, in recognition of the fact that the danger of cancellation of a split charter flight tends to increase with the number of charterers sharing the capacity. Thus, a relaxation of the group-size requirement could facilitate involving larger numbers of charterers per flight and concomitantly increasing the risk of cancellations. Without prejudicing our ultimate decision, we believe that questions such as this should be addressed in the further course of this proceeding.

Consequently, the Board is inviting tour operators, direct carriers, other members of the industry, and the general public to comment on the advisability of eliminating or modifying the minimum group size requirements in our various charter regulations. In order to focus that discussion, we specifically invite comment on the following issues:

1. Should the minimum group-size requirements be retained in their present form, reduced to some lesser number, or eliminated entirely?

2. Should any relaxation of the group-size requirements be uniformly applied to all split charters, regardless of the number of charterers sharing the capacity of the aircraft?

3. Should any modification of the group-size requirements be uniformly applied to all types of charter groups?

(Secs. 101, 204, 401, 402, Federal Aviation Act of 1958, as amended; 72 Stat. 737, 743, 754, 757 (49 U.S.C. 1301, 1324, 1371, 1372).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-21673 Filed 7-26-77;8:45 am]

[1] See 14 CFR 207.11(c), 208.6(c), 212.8(b), 214.7(b), 371.10(b), 372a.10(b), 373.2 (definition of "Study group charter"), 378.2 (definition of "Inclusive tour"), 378a.10(b). The Advance Booking Charter (ABC) rule (14 CFR Part 371) provides that, on aircraft having a capacity of less than 80 seats, a split charter may be for as little as 20 seats. There is pending before the Board a proposal to amend its other charter rules in a similar manner, so that all split charters on small aircraft would be subject to a 20-seat minimum. EDR-304/SPDR-49, 41 FR 41926, September 24, 1976.

[2] 14 CFR Parts 378, 373, and 378a, respectively.

[3] The petition and some of the answers indicated some misunderstanding of the minimum group-size requirement, particularly under the ABC rule. We are, therefore, including in this notice an explanation of the group-size requirement as it applies generally, under all our charter rules, and a clarification that ABC groups are subject to the same 40-seat minimum (except for small aircraft, see note 1 *supra*), in the same manner as other charter types. See the interpretation of Supplementary Services Division, Bureau of Operating Rights to that effect in "ABC's Questions and Answers," p. 3, September 20, 1978.

[4] Transatlantic Charter Investigation, Order E–20776, 40 C.A.B. 233 at 266 (1965).

[5] Supplemental Air Service Proceeding, 45 C.A.B. 231 at 346 (1966).

[6] 45 C.A.B. at 291, 376 (1966).

[7] The minimum group-size requirement originally specified that each tour group must actually have 40 participants. In 1971 the charter rules were amended to require each group to contract for at least 40 seats in order to allow the charterer to avoid cancellation of the tour if only 39 or fewer persons participated. ER–659, 36 FR 2486 February 5, 1971 and SPR–99/100, 41 FR 7743, February 20, 1976.

[8] See, for example, the preamble to Regulation ER–659 (mimeo), at 13 et seq., adopted January 29, 1971, 36 FR 2486, February 5, 1971.





DATES: Comments must be received on or before August 24, 1977.

ADDRESSES: Comments should be sent in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549 and should refer to File No. S7–705.

FOR FURTHER INFORMATION CONTACT:

Stanley B. Judd, Esq., Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549, 202–376–8056.

SUPPLEMENTARY INFORMATION: Notice was published on June 8, 1977, 33–5833, IC–9811 (42 FR 30379, June 14, 1977) proposing the adoption of Rule 434d (17 CFR 230.434d) and an amendment to Rule 134 (17 CFR 230.134) under the Securities Act of 1933 (15 U.S.C. 77a et seq.). A request for an extension of time to August 24, 1977 was submitted on behalf of the Investment Companies and Investment Advisers Subcommittee of the American Bar Association Federal Regulation of Securities Committee ("ABA"). The ABA stated that because of the personal commitments and schedules of members of the Subcommittee, it would not be feasible for it to comment by July 25, 1977, the present expiration date of the comment period. In view of this request, the Commission has authorized an extension until August 24, 1977 of the due date for submitting comments with respect to the proposed rule and amendment. The Commission believes that this extension is appropriate and will not result in undue delay.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 21, 1977.

[FR Doc.77-21597 Filed 7-26-77;8:45 am]

**[ 17 CFR Part 230 ]**

[Release Nos. 33–5845; IC–9864; File No. S7–705]

### ADVERTISING BY INVESTMENT COMPANIES

**Extension of Comment Period for Proposed Rulemaking**

AGENCY: Securities and Exchange Commmission.

ACTION: Extension of comment period.

SUMMARY: This notice extends the period for comments on the notice published June 14, 1977 proposing a new rule and an amendment to an existing rule regarding advertising by investment companies. The proposed rule under the Securities Act of 1933 ("1933 Act") would permit any investment company registered under the Investment Company Act of 1940 which has filed a registration statement under the 1933 Act to advertise with respect to the securities covered by such registration statement subject to certain restrictions and conditions. The proposed amendment to an existing rule would remove the restriction limiting the use of expanded tombstone advertisements to investment companies whose registration statements under the 1933 Act have become effective. These proposals would permit inclusion of more information in such existing laws and rules.

**[ 17 CFR Parts 270 and 274 ]**

[Release No. IC–9861; File No. S7–710]

### DEREGISTRATION OF CERTAIN INVESTMENT COMPANIES AND QUARTERLY REPORTS OF MANAGEMENT INVESTMENT COMPANIES

**Form for Deregistration, and Reporting Requirements**

AGENCY: Securities and Exchange Commission.

ACTION: Proposed adoption and revision of rules and forms.

SUMMARY: The Commission today released for public comment proposed rules, a proposed form and a proposed amendment to a form, which would: (1) Create a form to be used by certain investment companies registered under the Investment Company Act of 1940 (the "Act") in requesting orders of the Commission declaring that such companies have ceased to be investment companies as defined by the Act, and (2) require the quarterly reports of management investment companies to contain specified



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information in the event that any such company was the surviving company of a merger or consolidation with another registered investment company, so as to provide, among other things, a basis for a determination that the latter company has ceased to be an investment company. These proposals represent another step in the Commission's program to examine its regulation of investment companies and institute appropriate modifications where practicable. The Commission believes that such rules and forms would facilitate the deregistration under the Act of companies which have ceased to be investment companies as defined in the Act.

DATE: Comments must be received on or before September 4, 1977.

ADDRESS: Send comments in triplicate to George A Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 (Refer to File No. S7-710).

FOR FURTHER INFORMATION CONTACT:

Anne Flannery, Esq., or Brenda Sneed, Esq., Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-0225.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission has published for comment:

(1) Proposed Form N-8F (17 CFR 274.218), a form to be used as an application for an order of the Commission pursuant to Section 8(f) (15 U.S.C. 80a-8(f) of the Act (15 U.S.C. 80a-1 et seq.) declaring that a registered company has ceased to be an investment company as defined in the Act, in cases where the applicant company: (a) Has distributed substantially all of its assets to its shareholders, and has effected, or is in the process of effecting, a winding-up of its affairs; (b) has never made a public offering of its securities, has not more than one hundred securityholders for the purposes of section 3(c)(1) of the Act (15 U.S.C. 80a-3(c)(1)) and the rules thereunder, and does not propose to make a public offering or engage in business of any kind; or (c) has (i) sold substantially all of its assets to another registered investment company, or (ii) merged into or consolidated with another registered investment company.

(2) Proposed Revision of Form N-1Q (17 CFR 274.106), the form for quarterly reports of registered management investment companies, to include in such form a requirement that such a company provide certain information where, during the applicable quarter, it became the surviving company after merger or consolidation with another registered investment company. Such information is designed to provide, among other things, a basis upon which the Commission could determine that such other company had ceased to be an investment company.

(3) Proposed Rule 8f-1, and Proposed Form N-8F (17 CFR 274.218), and a proposed amendment of Form N-1Q (17 CFR 274.106), to implement the foregoing proposals as forms prescribed for use under the Act and to incorporate such forms by reference into the Code of Federal Regulations.

The purpose of these proposals is to provide the Commission with reasonably current information respecting certain mergers and consolidations involving registered investment companies and to facilitate the procedures involved in determining that companies have ceased to be investment companies as defined by the Act.

Section 8(f) of the Act provides, in part, that where the Commission, upon its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and that, upon the taking effect of such order, the registration under the Act of such company shall cease to be in effect. The Commission believes that, through the use of proposed Form N-8F, certain applicants requesting orders pursuant to Section 8(f) of the Act may better be able to provide the specific information needed to process applications for deregistration. Although the use of proposed Form N-8F as an application will be limited to the situations described above, the Form might also be of assistance to other applicants as an indication of the nature of the information the Commission would consider to be significant with respect to its consideration of applications pursuant to Section 8(f) of the Act.

The Commission would encourage the use of proposed Form N-8F by registered investment companies which have merged into or consolidated with another registered investment company. However, where a registered investment company had ceased to exist because of merger or consolidation with another company, and the surviving company is itself a registered management investment company, the proposed revision of Form N-1Q is designed to provide the Commission with information concerning the merger or consolidation which would, should an application for deregistration not be filed on behalf of the non-surviving company, provide a basis for a Commission determination, on its own motion, that such company had ceased to be an investment company.

Together, these proposed measures should enable the Commission to process the more routine applications pursuant to Section 8(f) of the Act in a more expeditious manner and should assist applicants in the preparation of such applications.

In light of the above, the Commission has proposed to adopt or amend the following sections of Chapter II, Title 17 of the Code of Federal Regulations, under the Investment Company Act of 1940:

## PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Section 270.84-1 is added as follows:

**§ 270.8f-1 Form for application by certain registered investment companies for orders that such companies have ceased to be investment companies as defined by the Act.**

Form N-8F is hereby prescribed as the form for application for an order pursuant to Section 8(f) of the Act where a registered investment company (a) Has distributed substantially all of its assets to its shareholders and has effected, or is in the process of effecting, a winding-up of its affairs, or (b) Has never made a public offering of its securities, has not more than 100 security-holders for the purposes of Section 3(c)(1) of the Act and the rules thereunder, and does not propose to make a public offering or engage in business of any kind, or (c) Has (1) Sold substantially all of its assets to another registered investment company, or (2) merged into or consolidated with another registered investment company.

## PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

Section 274.218 is added as follows:

**§ 274.218 Form N-8F, for application by certain registered investment companies applying for orders pursuant to Section 8(f) of the Investment Company Act of 1940 declaring that such a company has ceased to be an investment company.**

This form shall be used as the application for an order of the Commission pursuant to section 8(f) of the Act in cases where the applicant (a) Has distributed substantially all of its assets to its shareholders, and has effected, or is in the process of effectiving, a winding-up of its affairs; (b) has never made a public offering of its securities, has not more than one hundred security holders for the purposes of section 3(c)(1) of the Act and the rules thereunder, and does not propose to make a public offering or engage in business of any kind; or (c) Has (1) Sold substantially all of its assets to another registered investment company, or (2) merged into or consolidated with another registered investment company. (Text of proposed Form N-8f appears below.)

**§ 274.106 [Amended]**

This form is amended by: 1. Renumbering current Item 12 as Item 13 to Form N-1Q; 2. Adding new Item 12 to Form N-1Q; and 3. Adding new Instruction 7 to Item 13 of Form N-1Q, as follows:

* * * * *

*Item 12. Mergers*

If, during the calendar quarter, registrant has acquired substantially all assets of, or securities issued by, a registered investment company through merger or consolidation, furnish the following information:

(a) Give the name of such registered company so acquired.

(b) State the circumstances and details of such merger or consolidation, including the date and terms thereof, and the corporate or legal proceedings related thereto. State any other facts relevant to a Commission consideration of whether such registered investment company has ceased to be an investment company.

*Item 13. Exhibits*

* * * * *





7. Copies of any merger or consolidation agreement, and other documents relevant to the information sought in Item 12, above.

STATUTORY BASIS

Proposed Form N-8F (17 CFR 274.218) and proposed Rule 8f-1 would be promulgated pursuant to the provisions of Section 38(a) of the Act (15 U.S.C. 80a-37(a)). The proposed revisions of Form N-1Q (17 CFR 274.106) would be promulgated pursuant to Sections 14(b), 30(b), and 39(a) of the Act. (15 U.S.C. 80a-14(b), 80a-29(b), 80a-37(a)).

All interested persons are invited to submit their written views and comments on the matters discussed above. These comments should be sent, in triplicate, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before September 4, 1977. Such communications should refer to File No. S7-710, and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 21, 1977.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM N-8F

Application pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act") and Rule 8f-1 thereunder for Order Declaring that Company Has Ceased to be an Investment Company.

Name of Applicant: ----------

Address of Principal Executive Office: (No. and Street, City, State, Zip Code).

Classification of Applicant (face-amount certificate company, unit investment trust, or management company):

Investment Adviser(s):

Name: ----------
Address: ----------

Principal Underwriter(s):

Name: ----------
Address: ----------

If Applicant is a management company, check appropriate box:

| Open-end: | Closed-end: |
|---|---|
| ☐ Diversified | ☐ Diversified |
| ☐ Non-diversified | ☐ Non-diversified |

If Applicant is a unit investment trust:

Depositor: ----------
Name: ----------
Address: ----------
Trustee: ----------
Name: ----------
Address: ----------

Designate the basis upon which the application is being made:

A. Applicant has never made a public offering of its securities, has not more than 100 securityholders for purposes of Section 3(c)(1) of the Act and the rules thereunder, and does not propose to make a public offering or engage in business of any kind ("Abandonment" or "Type A").

B. Applicant (1) has distributed substantilly all of its assets to its securityholders and has effected, or is in the process of effecting, a winding-up of its affairs ("Liquidation" or "Type B"), and (2) is not a "Type C" company as defined below.

C. Applicant has (1) sold substantially all of its assets or securities to another investment company; or (2) merged into or consolidated with another registered investment company ("Merger" or "Type C").

This form shall serve as an application only for such companies as defined in Rule 8f-1 adopted under the Act (17 CFR 270.8f-1). It shall be filed in the manner described in Rule 0-2 (a) and (b) promulgated under the Act (17 CFR 270.0-2 (a), (b)). The filing of this application shall be accompanied by the authorizations described in Rule 0-2(c) (17 CFR 270.0-2(c)), and by any applicable fees, in the manner and account prescribed by Rule 0-5 (17 CFR 270.0-5).

Every amendment to this application shall be filed in accordance with the provisions of Rule 0-2 in its entirety.

Any other registered investment company may use this form as a guide in the preparation of an application for an order pursuant to section 8(f) of the Act. However, in such case, the provisions of Rule 0-2, in its entirety, shall apply.

I. *ALL APPLICANTS.* — The following items shall be completed by all Applicants:

1. State the date Applicant registered under the Act, and the date any registration statement was filed by Applicant (excluding amendments thereto) pursuant to section 8(b) of the Act.

2. Describe briefly any registration statements filed, with respect to securities issued by Applicant, pursuant to the Securities Act of 1933 (excluding post-effective amendments thereto), including the date(s) of filing, the amounts, titles and classes of securities covered by such registration statements, and the date(s) on which (i) such statements became effective, and (ii) any initial public offering(s) commenced.

3. State the present status of Applicant's legal existence under the state law pursuant to which it was created.

4. State whether, within the last 18 months, Applicant has, for any reason, transferred any of its assets to a separate trust, the beneficiaries of which were or are security holders of Applicant. If such an entity has been created, describe fully the circumstances of its creation and attach a copy of all instruments relating to its creation, including a description of any assets placed therein.

5. Describe fully the method and amount of all distributions to securityholders of Applicant made in connection with the winding-up of Applicant's affairs pursuant to such company's dissolution, liquidation, or merger, including the date such event took place.

6. Describe the value of and nature of any assets retained by Applicant at the time of filing this form and the purposes for which such assets have been retained. State whether such assets have or will be invested in any securities.

7. Describe briefly the nature of any debts, other than face-amount certificates if Applicant is a face-amount certificate company, or other liabilities of Applicant which remain outstanding.

8. State whether Applicant is party to any litigation or administrative proceedings and, if so, describe the nature of such proceedings and the position taken by the Applicant therein.

9. State the number of securityholders (if any) of Applicant at the time of filing of this application.

10. State whether Applicant is now engaged, or proposes to engage, in any business activities other than those necessary for the winding-up of its affairs. If any activities other than winding-up are taking or will take place, describe the nature and extent of such activities.

11. State any other facts relevant to a consideration that Applicant has ceased to be an investment company.

II. *ABANDONMENTS.*—The following item shall be completed by Applicants designated as Type A:

12. State whether any sales were made by Applicant of securities of which it is the issuer. Indicate the date(s) and amount(s) of such sales, and the consideration received therefor.

III. *LIQUIDATIONS OR MERGERS.*—The following items shall be completed by Applicants designated as Type B or Type C:

13. State title, classes and number of securities outstanding, and net asset value attributable to each such class (in aggregate and per share) as of the nearest date practicable preceding liquidation or merger.

14. Describe the expenses incurred in connection with the liquidation or merger and how such expenses were allocated and to whom.

15. State the existence of any securityholders of Applicant to whom distributions in complete liquidation of their interests have not been made and describe briefly the plans, if any, for the distribution to, or the preservation of the interests of, such securityholders.

16. Describe briefly the disposition of portfolio securities and any other assets of the Applicant in connection with the liquidation or merger (other than distributions made to Applicant's securityholders), the basis of the price received, and the means of sale and any brokerage commissions paid thereon. Attach a balance sheet for Applicant, prepared in accordance with generally accepted accounting principles, as of a date within 90 days immediately preceding the liquidation or merger.

17. Describe briefly any legal action taken to effect the liquidation or merger, including:

(a) Any action taken by the Board of Directors or similar body authorizing or recommending such events, including the date any such action took place;

(b) Any securityholder authorization which was obtained in connection with such event, including any vote required by law and the results of any such vote;

(c) The distribution of any proxy material to securityholders regarding such event; state whether such material was filed with the Commission;

(d) The filing of any application for an order of the Commission respecting such liquidation or merger, and the disposition thereof by the Commission; and

(e) Any action required by state law; state whether Applicant has filed, or intends to file, any article of merger, certificate of dissolution, or similar document pursuant to state law.

IV. *MERGERS.*—The following items shall be completed by Applicants designated as Type C:

18. State the name of the company which Applicant has merged into, sold substantially all its assets or securities to, or which resulted from the consolidation of Applicant and any other company.

19. Briefly state the circumstances and details of such merger or consolidation, including the date and terms thereof.

Attach copies of any and all documents described in paragraphs 17 (c) and (d) above, and, in the case of a merger, a copy of the merger or reorganization agreement: any such documents which have previously been



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filed with the Commission may be incorporated herein by reference.

---
(Name of Company)

by ---
(Name)

---
(Title)

VERIFICATION

State of ---
County of --- ss:

The undersigned being duly sworn deposes and says that he has duly executed this application, dated ---, 19---, for an order pursuant to Section 8(f) of the Investment Company Act of 1940 declaring that

---
(Name of company)

has ceased to be an investment company, for and on behalf of such company; that he is the ---
(Title of officer)

of ---;
(Name of company)

and that all action by stockholders, directors, and other bodies necessary to authorize deponent to execute and file such instrument have been taken. Deponent further says that he is familiar with such instrument, and the contents thereof, and that the facts therein set forth are true to the best of his knowledge, information and belief.

---
(Signature)

---
(Type or print name beneath)

Subscribed and sworn to before me, a --- this ---
(Title of Officer)

day of ---, 19---.

[OFFICIAL SEAL]

My commission expires ---

[FR Doc.77-21598 Filed 7-26-77;8:45 am]

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

### [ 27 CFR Parts 170, 194, and 201 ]

[Notice No. 308]

## PREPARATION, DISTRIBUTION, AND USE OF DEVICES OTHER THAN STRIP STAMPS ON CONTAINERS OF DISTILLED SPIRITS AS EVIDENCE OF TAX DETERMINATION

### Advance Notice of Proposed Rulemaking

AGENCY: Bureau of Alcohol, Tobacco, and Firearms.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco, and Firearms (ATF) is issuing this advance notice to gather information from consumers and industry members on the impact, technical aspects, and feasibility of preparing, distributing and using alternatives to strip stamps on containers of distilled spirits as evidence of tax determination. The information thus obtained will be used in writing regulations to implement Public Law Law 94-569 (approved October 20, 1976), which authorizes the use of alternatives to strip stamps.

DATES: Comments must be received on or before September 26, 1977.

ADDRESSES: Comments may be submitted to the Director, Bureau of Alcohol, Tobacco, and Firearms, Washington, D.C. 20226 (Attn.: Chief, Regulations and Procedures Division).

FOR FURTHER INFORMATION CONTACT:

Wayne Miller, Coordinator, Research and Regulations Branch, Bureau of Alcohol, Tobacco, and Firearms, Washington, D.C. 20226, (202-566-7626).

SUPPLEMENTARY INFORMATION: This advance notice of proposed rulemaking is being issued in keeping with ATF's policy of implementing rules that will pose the least administrative burden to industry members while providing the most protection to Federal revenues and to consumers. An advance notice is issued when it is found that the resources of ATF and reasonable outside inquiry do not provide sufficient information to identify the best course of action, or where it would be helpful to obtain public participation in identifying the best course of action. Following is a discussion of existing requirements regarding strip stamps, proposed regulatory requirements regarding alternative devices, and a list of specific questions regarding those proposed requirements and the impact of the proposals on affected industry members.

The proposed regulatory requirements would permit the Director to authorize (1) the use of devices other than strip stamps as evidence of tax determination on containers of distilled spirits, and (2) persons outside the Treasury Department to prepare and distribute the alternative devices under such controls as are necessary to protect Federal revenues. The added flexibility thus provided would allow the Treasury Department and members of the distilled spirits industry to benefit from modern technological advances in the container closure industry, to improve efficiency of operations, and to reduce manufacturing and administrative costs.

#### Drafting Information

The principal author of this document is Wayne Miller of the Research and Regulations Branch, Bureau of Alcohol, Tobacco, and Firearms. However, personnel from other offices of the Bureau and from the Treasury Department participated in developing the document, both on matters of substance and style.

#### Public Participation

Interested persons may submit written comments or suggestions regarding these proposals, in duplicate, to the Director, Bureau of Alcohol, Tobacco, and Firearms, Washington, D.C. 20226 (Attn.: Chief, Regulations and Procedures Division) on or before September 26, 1977.

Written comments or suggestions which are not exempt from disclosure by the Bureau of Alcohol, Tobacco, and Firearms may be inspected by any person upon compliance with 27 CFR 71.22. The provisions of 27 CFR 71.31(b) shall apply with respect to designation of portions of comments or suggestions as exempt from disclosure. All communications received during the 60-day comment period will be considered by the Director before proposal rules are issued. The proposals discussed in this advance notice may be changed in the light of comments received. After consideration of all the comments received in response to this advance notice, a notice of proposed rulemaking will be issued.

#### Background

*Requirements of law.* Under previous requirements of law (sections 5205 and 5235 of the Internal Revenue Code of 1954), evidence of determination of the Federal excise tax on distilled spirits must be shown by attaching to the container what is commonly known as a "strip stamp." This is a paper stamp which must be attached to the container in such a way that it will be broken (thus voiding it) upon opening the container. Previous requirements of law (section 6801 of the Internal Revenue Code of 1954) also restricted the preparation and distribution of the strip stamps to the Treasury Department.

The need for a change from the previous requirements of law was brought about by technological advances in the distilled spirits and container closure industries, and the desire of the Treasury Department to recognize these advances and to effectively and efficiently administer the laws under its jurisdiction while maintaining protection of the Federal revenues.

Under the provisions of Pub. L. 94-569, the Director may authorize devices other than paper strip stamps to be used on containers of distilled spirits as evidence of tax determination; and he may authorize persons outside the Treasury Department to prepare and distribute these alternative devices under the controls necessary to protect Federal revenues.

*Present regulations.* Under present regulations, strip stamps are designed and issued by the U.S. Government for use as evidence of tax determination on containers of distilled spirits. The Federal revenues are collected on the basis of spirits withdrawn from the bonded premises of distillers and bottlers rather than the numbers of strip stamps used. However, since the strip stamps serve as evidence of tax determination, control is maintained over all strip stamps by a system involving requisitions, records and reports. Separate series of stamps have been designed to serve specific needs, as described below.

The strip stamps presently required are identified as red, green, blue, and white strip stamps. Red strip stamps are used on all bottled distilled spirits except alcohol bottled for industrial use and distilled spirits bottled in bond. These stamps are issued in two sizes—the "standard" size (for use on bottles of a capacity of 200 ml or more) and the "small" size (for use on miniatures). Red strip stamps represent the greatest volume of stamps used.

Green bottled-in-bond strip stamps are used on spirits meeting the requirements for bottling in bond for domestic use.





Blue bottled-in-bond strip stamps are used only on spirits which are bottled in bond especially for exportation.

Both green and blue strip stamps are issued in the standard and small sizes.

White strip stamps are used on alcohol of 190 degrees or more of proof for industrial purposes bottled in internal revenue bond. These stamps are issued in standard size only.

Standard size strip stamps are serially numbered at the time of printing. These serial numbers on stamps serve the needs of both the Government and industry. The serial numbers are identified on requisitions and, in the case of stamps for affixing to imported bottled spirits, are the basis for accounting for the stamps. They provide an enforcement tool when it becomes necessary to trace stamps to the source of supply if found in the hands of unauthorized persons or used on illegal spirits. They serve as a tool to plant proprietors in connection with quality control and the investigation of complaints, and in accounting for the stamps in proprietors' records, including taking inventories of cut stamps. They also are useful to proprietors in the areas of production accounting, tracing of pilfered goods, product authenticity, and checks with Federal and State enforcement agencies.

Serial numbers are not required on the small size strip stamps for a number of reasons. The quantity of spirits bottled in miniatures is nominal. The market for such bottled spirits is limited, i.e., primarily sales on passenger trains, planes, etc. Illegal liquors are not apt to be bottled in less than 200 ml containers; therefore there is little or no incentive to obtain these stamps in violation of the law and regulations and there is little or no need to trace them to the importer or bottler. In addition, serially numbering these stamps could be a problem because of their size.

In many instances specific information must now be "overprinted" on strip stamps after they have been issued to the bottler or importer. Most of this overprinting is done by commercial printers (at the cost of the bottler or importer) while the stamps are still in sheets (each sheet contains 50 stamps).

Green strip stamps must be overprinted with the season and year of production, the season and year of bottling, and the name of the distiller. This overprinting must be done in red ink and is done before the stamp is affixed to the bottle. Should spirits originally bottled in bond for domestic consumption be exported with benefit of drawback, the green strip stamp may remain on the bottle, but must additionally be overprinted with the word "EXPORT." This overprinting is, of course, done after the stamp has been affixed to the bottle.

Red strip stamps applied to spirits bottled in the United States after tax determination for domestic consumption are not required to bear overprinting. Red strip stamps on spirits bottled in the U.S. after tax determination for export with benefit of drawback must be overprinted with the word "EXPORT." This overprinting may be placed on the stamp either before or after the stamp is affixed, depending on when the decision to export is made.

Blue strip stamps applied to spirits bottled in bond for export with benefit of drawback must be overprinted with the word "DRAWBACK." Those applied to spirits bottled in bond for export without payment of tax need no overprinting as the word "EXPORT" is preprinted on all blue strip stamps.

White strip stamps applied to bottles of alcohol which are to be exported must be overprinted with the word "EXPORT." Those for domestic use need no overprinting.

Red strip stamps to be affixed to imported bottled spirits must be overprinted with the importer's permit number. This overprinting is done after the stamps are issued to the importer and before he affixes them or sends them abroad for affixing to bottles.

All strip stamps must be affixed to the containers in such a manner that on opening the container the stamp will be broken and a portion of the stamp, sufficient to identify the kind of stamp used, will remain attached to the container or to a cap or seal which is permanently affixed to the container.

#### Alternatives Considered

In proposing regulations to implement the provisions of Pub. L. 94-569, two approaches are being considered:

(A) To allow closure manufacturers, distillers, and other qualified persons to produce and distribute approved alternative closure devices, in a finished state, under a system of rigid controls and security, with corresponding bonding, recordkeeping and report filing requirements; or

(B) To allow closure manufacturers, distillers, and other qualified persons to produce and distribute approved alternative closure devices, in an unfinished state, with minimal recordkeeping, controls, and security, and with no bonding or report filing requirements. The alternative closure devices would be brought to a finished state and thus become accountable at the premises of distilled spirits producers and bottlers by the addition of U.S. Treasury indicia of tax determination to the devices. The indicia of tax determination would be affixed to the devices by means of plates or dies prepared to the specifications of the Treasury Department and provided by the manufacturer of the devices to the distiller or bottler authorized to use alternative closure devices.

In considering the advantages and disadvantages of each approach, the second approach seems more feasible for the following reasons:

(1) Approach B could be implemented with less cost to the taxpayer, because ATF can effectively administer this approach with little or no increase in staffing since ATF personnel are already stationed at or near distilled spirits producers' and bottlers' premises. Implementing Approach A would entail regulating an industry not previously regulated by ATF—the alternative device manufacturers—and would thus require additional ATF staffing.

(2) Approach B would provide greater security to the Federal revenues by preventing the transportation of finished alternative devices in regular channels of commerce, thus reducing the likelihood of theft and illegal use of the devices. Further, since ATF already has personnel stationed at or near distilled spirits producers' and bottlers' premises, more direct custody or control over the plates and dies bearing the Treasury indicia of taxpayment would be maintained and thus the likelihood of the plates and dies being copied or counterfeited would be reduced.

(3) Approach B would be less costly to the authorized alternative device manufacturers. Under Approach A, the device manufacturers would have to provide adequate security and controls to protect Federal revenues. Some of these security and control measures would be:

(a) Bonds covering the manufacture and disposition of and accounting for alternative devices,

(b) Records of alternative devices produced, shipped, destroyed and returned to the premises,

(c) Security measures (locked storage area, limited access areas, periodic inventories) necessary to prevent theft and to provide continuous accountability of the alternative devices; and

(d) Reports submitted periodically to reflect the numbers of devices produced, shipped, returned, and destroyed.

(4) Approach B seems more feasible administratively for two reasons:

(a) The same accountability and security measures that distillers and bottlers currently maintain for strip stamps could easily be expanded to cover alternative devices; and

(b) The necessary regulatory changes for Approach B could be made through minor changes and additions to existing regulations, while under Approach A, extensive new regulations would be required.

#### Limitations and Restrictions

In order to minimize the potential jeopardy to the Federal revenues, the Director's authorization for production, distribution and utilization of alternative closure devices would be limited to alternative devices for use on distilled spirits bottled in the United States for domestic consumption, and would be restricted to alternatives for standard and small size red strip stamps only.

The authorization would not be extended to foreign distillers or bottlers, to Puerto Rican or Virgin Islands distillers or bottlers, or to importers, because ATF could not adequately monitor the use of and the security provided for the plates or dies bearing U.S. Treasury indicia of tax determination by these distillers, bottlers, and importers.

The authorizations for producing and utilizing alternative devices would be restricted to alternatives for standard and small size red strip stamps because of problems in overprinting the devices with



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the information required for taxpaid alcohol and distilled spirits bottled in bond or bottled for export.

However, this restriction would not substantially limit the use of alternative devices since most distilled spirits produced within the United States are for domestic consumption, and are therefore packaged in containers requiring red strip stamps without overprinting.

Alternative devices to standard size red strip stamps would have to be serially numbered while alternative devices to the small size red strip stamps would not have to be serially numbered. The reasons for requiring or not requiring serial numbers were previously discussed under present regulations relating to serially numbering strip stamps.

Distillers and bottlers could continue to use strip stamps, convert completely to the use of alternative devices, or convert partially to the use of alternative devices, depending upon the needs of each proprietor. Those proprietors who elect to convert to complete or partial use of alternative devices would be allowed to return to the use of strip stamps upon notifying the Director.

DISCUSSION

*Applications.* (a) Any person wishing to produce devices for use as an alternative to red strip stamps would have to file application with the Director and furnish whatever information the Director might require to satisfy himself that the applicant would supply approved alternative devices only to qualified distillers and bottlers. The application would have to be accompanied by samples of the proposed alternative devices and by scale models or drawings of proposed plates and dies which would be used to imprint or affix required information (identity of the alternative device manufacturer, unique identifying number of the plate or die, and the indicia of tax determination as specified by the Director) to alternative devices. Upon approval of the application, the alternative device manufacturer could produce the devices.

(b) Any person (distiller, bottler, etc.) wishing to use alternative devices on containers of distilled spirits as evidence of tax determination would have to file application with the regional regulatory administrator. The application would have to contain sufficient information to satisfy the regional regulatory administrator that the Federal revenues would not be jeopardized. Upon approval of the application, a copy would be furnished the manufacturer of alternative devices as his authority to supply approved alternative devices to the person wishing to use them.

(c) (1) Any person who wishes to return containers of distilled spirits to a distilled spirits plant to have mutilated or missing alternative devices replaced, would have to file a letterhead notice with the regional regulatory administrator.

(2) Any distiller or bottler who wishes to reaffix alternative devices to containers of distilled spirits returned to his premises for that purpose, would have to file application with the ATF officer assigned to that distilled spirits plant or with the regional regulatory administrator.

*General requirements for alternative devices.* Alternative devices would have to meet certain requirements before the Director would approve them for use. The devices would have to:

(a) Be serially numbered (except for the small size devices);

(b) Be of uniform size and shape (within each of the two size categories);

(c) Bear the name or appropriate abbreviation of the manufacturer and, if the manufacturer has more than one plant or business location, some means of identifying the producing plant or business location;

(d) Bear the unique identifying number of each plate or die used to affix or imprint required information onto the alternative device;

(e) Have the capability of being securely affixed to containers of distilled spirits;

(f) Be constructed so as to be broken or severed, and thus made unfit for reuse, upon opening a container of distilled spirits;

(g) Leave an identifiable portion of the device attached to the container of distilled spirits upon opening; and

(h) Have the capability of receiving and retaining the imprint or stamp of U.S. Treasury indicia of tax determination from plates or dies.

*Imprinting alternative devices.* (a) Alternative device manufacturers would be required to imprint or affix certain information to the devices. For example, in the first stage of production, the manufacturer would apply (by means of plates or dies) to each device, the following information:

(1) The name and location of the alternative device manufacturer;

(2) A serial number; and

(3) The unique identifying number of the plate or die used to apply the information.

(b) Distillers and bottlers would (in the second stage of production, which would complete the alternative device, and which would take place at the distiller's or bottler's premises) affix the U.S. Treasury indicia of tax determination (as specified by the Director) to each alternative device by means of plates or dies furnished to the distiller or bottler by the alternative device manufacturer. Each of these plates and dies would also bear a unique identifying number which would be imprinted or affixed onto each alternative device.

(c) The Director would have to approve each plate and die to be used in applying the required information to alternative devices.

*Records and reports.* (a) Each manufacturer of alternative devices would have to maintain commercial records which clearly and accurately reflect:

(1) Each transaction involving alternative devices produced, sold, returned, destroyed, or otherwise disposed of;

(2) The unique identifying number of each plate and die prepared and the location of each plate and die; and

(3) Each transaction involving plates and dies returned, reconditioned, destroyed, or otherwise disposed of.

In addition, each alternative device manufacturer would have to retain a copy of each authorization issued by the Director permitting distillers and bottlers to obtain and use alternative devices.

(b) Each distiller or bottler authorized to obtain and use alternative devices would have to maintain daily records showing, by size, the numbers of alternative devices received, used, lost, mutilated, destroyed, or otherwise disposed of, and on hand at the beginning and end of each day. Additionally, distillers and bottlers would have to submit quarterly reports showing receipts and dispositions of alternative devices.

*Replacement of mutilated or missing alternative devices by dealers.* Specialized equipment would be necessary to apply alternative devices to containers of distilled spirits. Therefore, any unopened bottle or other approved container of distilled spirits (a) from which the alternative device is missing; (b) on which the alternative device is mutilated to the extent that the genuineness of the device cannot be determined; or (c) the contents of which are accessible without breaking the device, could (upon the approval by the regional regulatory administrator of a written application) be returned to a distilled spirits plant to have the alternative devices replaced.

QUESTIONS

To assist ATF in identifying and implementing the best course of action, comments are specifically requested on the following topics:

1. *Costs.* (a) What are the estimated costs of obtaining new equipment or converting existing equipment to utilize alternative devices?

(b) Will the small to medium size distillers and bottlers be able to use alternative devices, or will the costs be prohibitive?

(c) What is the cost impact of the proposal to require a two-step process (device manufacturer produces unfinished devices, distiller or bottler affixes tax determination indicia) to produce a finished alternative device?

(d) What are the estimated costs of producing plates, dies, and other equipment for applying the official indicia of taxpayment? (The indicia of taxpayment could be an ATF seal or an eagle crest similar to that now appearing on strip stamps.)

2. *Equipment.* (a) What types of equipment, other than plates and dies, can be used for applying the official indicia of taxpayment?

(b) Is it possible to install the equipment (plates, dies, etc.) applying the official indicia of taxpayment directly in the bottling line, or must a separate item of equipment and a separate step be used?

(c) What is the projected life of plates or dies when used to apply information to metal, plastic, and paper?





3. *Types of devices.* (a) What types of alternative devices will be proposed that meet the same requirements as strip stamps?

(b) What materials, other than paper, plastic, and metal will be proposed for use in manufacturing alternative devices?

4. *Controls.* (a) What controls would prospective manufacturers of alternative devices use to guard against counterfeiting of the unique plates or dies they would produce under the proposed regulations?

(b) Will the proposed recordkeeping and accountability requirements pose an undue administrative burden on distillers and bottlers who wish to use alternative devices?

(c) What controls could be devised to allow foreign distillers and bottlers to use alternative devices without endangering the Federal revenues?

5. *Benefits.* (a) What benefits will industry derive from the proposed system of manufacturing, distributing, using, and accounting for alternative devices?

(b) Will production and efficiency be increased through the use of alternative devices?

6. *Disadvantages.* (a) What disadvantages does industry see with the proposed system of manufacturing, distributing, using, and accounting for alternative devices?

(b) Will the proposal to limit alternative devices only to standard size and small size red strip stamps, because of problems in overprinting additional information (for export, bottled-in-bond, etc.), discourage distillers and bottlers from using alternative devices?

7. *Consumers.* What are the advantages or disadvantages for consumers regarding the use of alternative devices?

8. *Suggestions.* Suggestions and recommendations as to alternative procedures which are administratively and mechanically feasible, and which will provide the necessary degree of protection to the Federal revenues, are welcome.

This advance notice of proposed rulemaking is issued under the authority of 26 U.S.C. 5205 and 7805 (68A Stat. 917).

Signed: June 29, 1977.

REX D. DAVIS,
*Director.*

Approved: July 20, 1977.

BETTE B. ANDERSON,
*Under Secretary of the Treasury.*

[FR Doc.77-21651 Filed 7-26-77;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[ 50 CFR Part 25 ]

### PERMITS

### Appeals Procedure

*Correction*

In FR Doc. 77-19254, appearing on page 34897 in the issue for Thursday, July 7, 1977, the eighth line of § 25.44, now reading "area manager's decision may be appealed", should read "area manager. The area manager's decision may be appealed".

## DEPARTMENT OF COMMERCE

### Domestic and International Business Administration

[ 32A CFR Parts 621, 621a, 621b, 631, 633, 651 ]

### MANDATORY USE OF PRIORITY RATING ON INDIVIDUAL DELIVERY ORDERS OF $500 OR LESS

### Proposed Increase

AGENCY: Domestic and International Business Administration.

ACTION: Proposed rule.

SUMMARY: The Commerce Department proposes to amend the provisions of the Defense Priorities and Materials System's regulations and orders to increase to $2,500 from $500 the size of delivery orders which are exempt from the mandatory rating requirement for filling rated orders. Currently, the use of a priority rating is optional on delivery orders under $500. The purpose of the change is to reflect the current dollar level accepted by industry in small order procurements. This action will result in a reduction in paperwork and expense for business and government operating under the provisions of the Defense Priorities System and the Defense Materials System.

DATE: Comments must be received on or before August 26, 1977.

ADDRESS: Comments to: Deputy Assistant Secretary for Domestic Commerce, U.S. Department of Commerce, Washington, D.C. 20230, Ref. Small Order Exemption.

FOR FURTHER INFORMATION CONTACT:

Mr. Gilbert J. Breer, Mobilization Operations and Plans Divison, Office of Industrial Mobilization, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-3634.

(Defense Production Act of 1950, as amended (64 Stat. 816; 50 U.S.C. App. 2061 et seq.); Executive Order 10480, as amended, 3 CFR 1949-1953 Comp., p. 962; 50 U.S.C. App. 2153 (1970) (Supp. V, 1975); DMO 3, 32A CFR Part 103 (1976); Department of Commerce Organization Orders 10-3, 40 FR 59764, as amended, 41 FR 28334, and 40-1, 40 FR 8978; and Department of Commerce, Domestic and International Business Administration Organization and Function Orders 41-1, as amended, 39 FR 2780, 39 FR 18490; 45-1, 40 FR 10217, as amended, 42 FR 3673, and 45-2, 40 FR 10218, as amended, 40 FR 42228, 41 FR 4951, 41 FR 22619, and 42 FR 3673.)

It is proposed to change "$500" to "$2,500" in 32A CFR Chapter VI in each of the following parts:

**PART 621—BASIC RULES OF THE DEFENSE MATERIALS SYSTEM (DMS REG. 1)**

Sec. 7 [Amended]

1. In Sec. 7(c) change "$500" to "$2,500".

**PART 621a—SELF-AUTHORIZATION PROCEDURE FOR MRO NEEDED TO FILL MANDATORY ACCEPTANCE ORDERS (DMS REG. 1, DIR. 1)**

Sec. 5 [Amended]

2. In Sec. 5 change "$500" to "$2,500".

**PART 621b—CONTROLLED MATERIALS PRODUCERS AND DISTRIBUTORS (DMS REG. 1, DIR. 2)**

Sec. 6 [Amended]

3. In sec. 6 change "$500" to "$2,500".

**PART 631—IRON AND STEEL (DMS ORDER 1)**

Sec. 15 [Amended]

4. In Sec. 15 change "$500" to "$2,500".

**PART 633—ALUMINUM (DMS ORDER 3)**

Sec. 11 [Amended]

5. In Sec. 11 change "$500" to "$2,500".

**PART 651—BASIC RULES OF THE DEFENSE PRIORITIES SYSTEM (DPS REG. 1)**

Sec. 6 [Amended]

6. In Sec. 6(c) change "$500" to "$2,500".

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION,
STANLEY J. MARCUSS,
*Deputy Assistant Secretary for Domestic Commerce.*

[FR Doc.77-21546 Filed 7-26-77;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Forest Service

[ 36 CFR Part 254 ]

### LANDOWNERSHIP; NATIONAL FOREST TOWNSITES

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Agriculture is considering issuance of new regulations.

The purpose of the new regulations is to provide for implementation of the National Forest townsite provisions in the Federal Land Policy and Management Act. This act provides that in Alaska or 11 Western States the Secretary of Agriculture may set aside and designate a tract of land as a townsite upon satisfactory showing of need by any county, city, or other local governmental subdivision.

DATES: Comments must be received on or before September 12, 1977.

ADDRESS: Submit comments to: Director of Lands, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013.

All written submissions made will be available for public inspection in Room 1010, Rosslyn Plaza E, 1621 North Kent



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Street, Arlington, Virginia, 8:15 a.m. to 4:45 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

George Liddicoatt, Lands Staff, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013 (703-235-8107).

SUPPLEMENTARY INFORMATION: A separate notice of proposed rulemaking is being issued as Subpart A, Land Exchanges. Subpart B will implement section 213 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2760) and will consist of the following areas: Landownership and national forest townsites. Subparts A and B were previously section 5400 of the Forest Service Manual.

It is proposed to amend 36 CFR Chapter II by adding Part 254, consisting of Subpart B, as follows:

## PART 254—LANDOWNERSHIP

### Subpart B—National Forest Townsites

Sec.


254.20 General.
254.21 Definitions.
254.22 Applications.
254.23 Examination of tract and processing application.
254.24 Public notice of intention to designate.
254.25 Survey and appraisals.
254.26 Deeds.
254.27 Standards.
254.28 Delegation of authority.


AUTHORITY.—The provisions of this subpart are issued under section 213, Pub. L. 94-579, 90 Stat. 2743.

**§ 254.20 General.**

(a) When the Secretary of Agriculture determines that a tract of National Forest System land in Alaska or in the eleven contiguous Western States is located adjacent to or contiguous to an established community, and that transfer of such land would serve indigenous community objectives that outweigh the public objectives and values which would be served by maintaining such tract in Federal ownership, he may, upon application, set aside and designate as a townsite an area of not to exceed six hundred and forty acres of National Forest System land for any one application. After public notice, and satisfactory showing of need therefor by any county, city, or other local governmental subdivision, the Secretary may offer such area for sale to a governmental subdivision at a price not less than the fair market value.

(b) Conveyances will be limited to essential community needs resulting from internal growth and from the need to improve and modernize community facilities and services. The regulation of this subpart establishes procedures for processing townsite applications and sets standards for the enactment, maintenance, and enforcement of local zoning ordinances. These ordinances will ensure that any land so conveyed will be controlled by the governmental subdivision so that, in the judgment of the Secretary, the use of the area will not interfere with the protection, management, and development of adjacent or contiguous National Forest System lands.

**§ 254.21 Definitions.**

The following definitions apply to this subpart:

(a) "Eleven contiguous Western States" means the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

(b) "Applicant" means the designated official(s), authorized to do business in the name of a county, city, or local governmental subdivision recognized under State law, who makes application in accordance with § 254.22.

**§ 254.22 Applications.**

(a) An applicant may request transfer of not more than 640 acres nor less than 5 acres of National Forest System land by letter, ordinance, or resolution. The application shall be filed with the District Ranger or the Forest Supervisor for the National Forest area in which the lands are situated.

(b) The application must be accompanied by:

(1) A precise description of the land desired;

(2) A development plan, consisting of a narrative statement and map description;

(3) Evidence that transfer of such land would serve indigenous community objectives that outweigh the public objectives and values which would be served by maintaining such tract in Federal ownership; and

(4) A proposed zoning ordinance setting forth specific standards in accordance with § 254.27.

**§ 254.23 Examination of tract and processing application.**

(a) Upon receipt of an application meeting the requirements of § 254.22, the Forest Supervisor will:

(1) Determine whether mineral claims, special land uses, or Forest Service administrative facilities exist on the tract requested.

(2) Follow the Forest Service NEPA guidelines to assess the environmental impact of the applicant's proposed development plan on the area.

(b) Any area on which there are preexisting mineral claims or special land uses, or which is required for administrative purposes, will not be included in a townsite designation until the following applicable condition(s) is met:

(1) The claim(s) is either removed or excluded;

(2) Arrangements are made for continuance or discontinuance of special uses; and/or

(3) A satisfactory alternative location is available for the administrative site.

(c) When it has been determined that no valid conflicts exist with mineral claims, special uses or administrative needs, and the requirements of NEPA have been met pursuant to Forest Service guidelines, the application will be forwarded through channels to the Secretary for written approval relative to conformance with the applicable standards of § 254.27. Within 60 days following submission, the applicant will be notified of the Secretary's approval or disapproval of the application and zoning ordinance or amendment thereto. If additional time is required, the applicant will be advised of the expected date of decision.

**§ 254.24 Public notice of intention to designate.**

(a) When the Secretary has determined that the community needs the requested area and that the community's objectives outweigh the public objectives and values served by continued Federal ownership, the Regional Forester will prepare:

(1) A news release for wide distribution in the State or States affected by the townsite; and

(2) A notice to be inserted weekly for 4 consecutive weeks in a newspaper having circulation in the community to be affected by the townsite.

(b) The notice should include a description of the area, name of the community or governmental body making the application, and copies of the zoning ordinance and development plan proposed for the townsite. A period of 45 days will be allowed in which public comments may be filed.

**§ 254.25 Survey and appraisal.**

Townsites designated by the Secretary of Agriculture will be surveyed by a qualified surveyor, licensed in the State in which the townsite is located or by the Forest Service, to standards required in the Manual of Surveying Instructions, 1973, United States Department of the Interior, Bureau of Land Management. The survey will be submitted for review and approval to the appropriate Forest Service regional land surveyor. Upon designation as a townsite, the Forest Service or the applicant will survey, mark, and post the property boundary. The Forest Service will determine the appraised fair market value of the townsite.

**§ 254.26 Deeds.**

Title to the townsite will be conveyed to the governmental body filing the application by quitclaim deed executed by the Secretary of Agriculture or his designee. Executed deeds will be held by the Forest Supervisor for delivery to the governmental body upon adoption of a valid zoning ordinance and development plan which conforms to the standards contained in § 254.27 and upon notice from the Regional Fiscal Agent that payment has been received in full for the townsite.

**§ 254.27 Standards.**

(a) *Applicability.* The land use standards set forth in this section apply to each townsite designated by the Secretary in accordance with § 254.20, paragraph (a) and section 213 of the Federal Land Policy and Management Act of 1976.

(b) *Changes in standards.* Changes in and addition to the standards may be made from time to time by the local government subdivision with concurrence by the Forest Service.

(c) *General standards.* The following standards shall apply to each townsite designated by the Secretary:

(1) Use and development of the property will be in conformance with applicable Federal, State, and local laws, regulations and ordinances.

(2) There will be adequate provision for disposal of solid and liquid waste originating on or resulting from use of the property.

(3) All new utilities will be underground, unless waived by the Secretary.

(4) Roads will be designed, located, and constructed to minimize esthetic impact and soil movement.

(5) No structures or other improvements will be constructed within 150 feet of the exterior boundaries of the townsite adjacent to National Forest System lands except as may be necessary to construct, operate and maintain utilities, roads, trails, and similar facilities or improvements. Removal of live trees and other vegetation is limited to that necessary to accommodate installation of the improvements.

**§ 254.28 Delegation of authority.**

The Chief or Acting Chief, Forest Service, is authorized to prescribe such supplemental procedures and conditions or delegate such functions or authority as may be necessary or desirable to carry out the provisions of this subpart.

Dated: July 21, 1977.

JAMES NIELSON,
*Deputy Assistant Secretary for Conservation, Research, and Education.*

[FR Doc.77-21565 Filed 7-26-77;8:45 am]





## FEDERAL COMMUNICATIONS COMMISSION

**[ 47 CFR Part 68 ]**

[Docket No. 19528]

**INTERSTATE AND FOREIGN MESSAGE TOLL TELEPHONE SERVICE (MTS) AND WIDE AREA TELEPHONE SERVICE (WATS)**

**Order Extending Time for Filing Comments and Reply Comments**

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: Dates for comments and replies on the issues specified in the Supplemental Notice of Proposed Rulemaking in Docket No. 19528 released June 20, 1977, FCC 77-395, are extended herein to August 15, 1977 and September 15, 1977, respectively. GTE Service Corporation had requested this extension because of previously-scheduled vacation periods and shutdowns affecting the personnel responsible for preparing comments.

DATES: Comments must be received on or before August 15, 1977, and Reply Comments must be received on or before September 15, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Michael S. Slomin, Policy and Rules Division, Common Carrier Bureau, 202-632-9342.

SUPLEMENTARY INFORMATION:

Adopted: July 19, 1977.

Released: July 21, 1977.

OPINION AND ORDER

In the matter of proposals for new or revised classes of Interstate and Foreign Message Toll Telephone Service (MTS) and Wide Area Telephone Service (WATS).

1. GTE Service Corporation has requested that the comment and reply dates specified in the Commission's June 20, 1977 Supplemental Notice of Proposed Rulemaking in this proceeding (42 FR 32234), FCC 77-395, to be extended one month. These dates are currently July 30, 1977 and August 30, 1977, respectively. In support of its request, GTE cites previously-scheduled vacation and plant shutdowns during July and urges that personnel be given an opportunity to prepare and review comments upon their return.

2. The Commission has stated that "the public interest * * * requires expeditious resolution of the issues * * *" which were set for comment herein.[1] Moreover, § 1.46(a) of the Commission's Rules provides that "It is the policy of the Commission that extensions of time shall not be routinely granted.", 47 CFR 1.46(a). Thus, it is clear that the time schedule for commenting herein should not be unnecessarily extended. On the other hand, the Commission has welcomed GTE's comments in the past and wishes GTE an opportunity to develop meaningful comments herein. In these circumstances, a two weeks extension of time will be granted to allow GTE's personnel an opportunity to prepare such comments.

3. Accordingly, pursuant to authority delegated under Section 0.303 of the Commission's Rules, 47 CFR 0.303, GTE's July 14, 1977 Motion for Extension of Time is hereby granted in part, and *it is ordered*, That the dates for comments and replies on the issues specified in the Supplemental Notice of Proposed Rulemaking released June 20, 1977, FCC 77-395, are hereby revised; comments are due on or before August 15, 1977 and replies are due on or before September 15, 1977.

WALTER R. HINCHMAN,
*Chief, Common Carrier Bureau.*

[FR Doc.77-21643 Filed 7-26-77;8:45 am]

[1] Memorandum Opinion and Order (companion to the Notice) released June 20, 1977, FCC 77-396, para. 41.

**[ 47 CFR Part 73 ]**

[Docket No. 21343; RM-2782]

**TELEVISION BROADCAST STATIONS IN ANCHORAGE AND SEWARD, ALASKA**

**Proposed Changes in Table of Assignments**

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: FCC proposes to assign Channel 4 to Anchorage, Alaska, and to substitute Channel 3 for the existing Channel 4 assignment in Seward, Alaska. This action would bring a fourth commercial television station to Anchorage and results from a petition filed by Consolidated Amusement Co., Ltd. Petitioner seeks to utilize the channel for subscription television although such use requires a waiver of a Commission rule providing that authorization for such a station will be issued only if its principal community is located entirely within the Grade A contours of five or more commercial television broadcast stations (including the station of the applicant).

DATES: Comments must be received on or before September 1, 1977, and reply comments must be received on or before September 21, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: July 15, 1977.

Released: July 22, 1977.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Anchorage and Seward, Alaska).

1. The Commission, by the Chief, Broadcast Bureau, has before it for consideration a petition for rule making filed by Consolidated Amusement Co., Ltd. ("Consolidated"), and oppositions filed by James R. Hendershot ("Hendershot") and Midnight Sun Broadcasters, Inc. ("Midnight Sun"). The petition seeks amendment of § 73.606(b) of the Commission's Rules, the Television Table of Assignments, by assigning Channel 4 to Anchorage, Alaska, and substituting Channel 3 for the presently unoccupied and unapplied for Channel 4 assignment at Seward, Alaska.

2. Consolidated contends that Alaska's population has not remained static over the past twenty-five years, yet the television channel assignments for Anchorage, Seward and Fairbanks, Alaska, have remained unchanged since the Sixth Report and Order, 41 F.C.C. 148 (1952). Petitioner further asserts that although Anchorage (pop. 48,081; census division pop. 126,385) has emerged as the population center of Alaska (pop 302,173), it



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has only four television channels assigned, all of which are occupied [three are commercial operations: Channels 2 (KENI–TV), 11 (KTVA), and 13 (KIMO), and one is an educational station, *7 (KAKM)]. This complement of channels is contrasted with that of Fairbanks (pop. 14,771; census division pop. 45,864)[1] which has six channels assigned, three of which remain unoccupied. Consolidated calls for a more equitable distributation of television channels among the Alaskan communities and proposes to add a new assignment to Anchorage to partially redress what it views as an imbalance in assignments. At the same time, petitioner notes that if the proposal is adopted no community would be deprived of any assigned channel since Channel 3 would be assigned to Seward (pop. 1,587; census division pop. 2,336) in lieu of Channel 4. Seward is presently assigned Channels 4 and 9. These channels are occupied by VHF television broadcast translator stations; however, this is no impediment to the instant proposal as translator stations provide a secondary service and thus are afforded no protection should a full television broadcast station become active.

3. Petitioner contends that Anchorage's burgeoning population and commerce is presently underserved and thus the proposed assignment is warranted. Furthermore, the instant proposal, as asserted by Consolidated, would facilitate the potential use of Channel 4 at Kodiak, Alaska, in that greater flexibility would be available in the choice of location for a transmitter site. Petitioner indicates that it will apply for Channel 4 if assigned to Anchorage and plans to utilize the channel for subscription television if its application is granted.

4. Midnight Sun in opposing the petition asserts that Consolidated has not set forth evidence of need for additional television service at Anchorage.[2] Moreover, it argues, as does Hendershot, that the Commission's rules would not permit Consolidated to use Channel 4 for a subscription television station since there are not presently four operating commercial television broadcast stations at Anchorage as required by § 73.642(a)(3) of the Commission's Rules.[3] Thus, if Channel 4 were assigned to Anchorage, the petitioner would have to seek a waiver of that rule to use the assigned channel for subscription television Midnight Sun asserts that the petition should not be granted on the supposition that a waiver might be granted. However, in its reply, petitioner takes note of In the Matter of Atlanta, Georgia, 41 FR 5637, 36 R.R. 2d 188 (1975), where in spite of the fact that no present intention to apply for the particular TV assignment had been expressed, the Commission made an exception and assigned that channel to Atlanta because channel availability in the region was quite low and the area was expanding and growing. The Commission stated that if someone did not seek the use of the channel, it would consider deleting the assignment after a reasonable length of time has passed.

5. The proposed assignment and substitution meets the Commission's separation requirements and other technical criteria. Other than Seward, no changes are required as to other communities listed in the Television Table of Assignments. Any preclusion resulting from the assignment of Channel 4 to Anchorage would be minimal. As to the proposed assignment of Channel 3 at Seward, other channels remain available for assignment to the communities in the precluded areas. We also note that a fifth channel could be assigned to Anchorage if Channel 8 were substituted for Channel 9 at Seward and Channel 9 were assigned to Anchorage. Thus, four non-subscription commercial television broadcast stations could operate at Anchorage at some time in the future in compliance with § 73.642(a)(3). Accordingly, we propose to consider the assignment of Channel 4 to Anchorage, Alaska, and the substitution of Channel 3 for the Channel 4 assignment at Seward, Alaska.

6. Petitioner should, in comments, indicate whether it would be interested in operating a commercial broadcast television station if its application for waiver of § 73.642(a)(3) were not granted. We also invite comments on whether the proposal should be adopted if petitioner only wishes to use Channel 4 for subscription television and no other party would be interested in applying for the proposed assignment at Anchorage. Since we believe that this should be explored in a rule making proceeding, we propose to consider the following revisions in the Television Table of Assignments (§ 73.606(b) of the Rules) with respect to the cities listed below:

§ 73.606 [Amended]

| City | Channel No. | |
|---|---|---|
| | Present | Proposed |
| Anchorage, Alaska | 2–, *7–, 11, 13–, 4–, 9– | 2–, 4–, *7–, 11, 13–, 3–, 9– |
| Seward, Alaska | | |

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

8. Interested parties may file comments on or before September 1, 1977, and reply comments on or before September 21, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
*Chief, Broadcast Bureau.*

1. Pursuant to authority found in Sections 4(i), 5(d)(1), and 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.81(b)(6) of the Commission's Rules, it is proposed to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in this notice of proposed rule making.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuarrt to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77–21642 Filed 7–26–77;8:45 am]

[1] All population figures are taken from the 1970 U.S. Census, with census divisions being the equivalent of counties.

[2] Midnight Sun is the licensee of Stations KENI(AM) and KENI–TV, Channel 2, Anchorage; KFAR(AM) and KFAR–TV, Channel 2, Fairbanks; KINY(AM) and KINY–TV, Channel 7, Juneau; and KTKN(AM), Ketchikan, Alaska.

[3] Rule 73.642(a)(3) provides that an authorization to use a channel for subscription television service:

> • • • will be issued only for a station the principal community of which is located entirely within *the Grade A contours of five or more commercial television broadcast stations (including the station of the applicant)*, whether the principal community each station is authorized to serve is the same as that of the applicant, or is a nearby community. Only one such authorization will be granted in any community. *No such authorization will be granted unless, not counting the station of the applicant, at least four of the stations which include the community of the applicant within their Grade A contours are operating nonsubscription stations.* (Emphasis added.)







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# notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## CIVIL AERONAUTICS BOARD

[Order 77-7-84; Docket 27573, Agreement C.A.B. 26747]

### INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Order Relating to Specific Commodity Rates

Issued under delegated authority, July 20, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement adds four specific commodity rates under an existing commodity description as set forth below, reflecting reductions from general cargo rates; and was adopted pursuant to unprotested notice to the carriers and promulgated in an IATA letter dated June 1, 1977.

| Agreement CAB | Specific commodity item No. | Description and rate [1] |
|---|---|---|
| 26747 | 1053 | Cattle,[2] 159 c/kg,[3] minimum weight 2,000 kg. Chicago to Tokyo; 166 c/kg,[3] minimum weight 2,000 kg. Chicago to Osaka; 181 c/kg,[3] minimum weight 2,000 kg. Chicago to Taipei; 174 c/kg,[3] minimum weight 2,000 kg. Chicago to Seoul. |

[1] Subject to applicable currency conversion factors as shown in tariffs.
[2] To be shipped in unit load devices-IATA rate classification 21I (stalls).
[3] Expires July 31, 1978.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions ordered.

Accordingly, *It is ordered*, That: Agreement C.A.B. 26747 is approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-21671 Filed 7-26-77;8:45 am]

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[Order 77-7-105; Docket 30570]

### SERVICE TO BRUNSWICK AND SAVANNAH CASE

### Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22nd day of July 1977.

On March 2, 1977, in Order 77-3-16, the Board instituted an "investigation to consider the need for new or additional authority between and among Atlanta, Savannah, Brunswick, and Jacksonville." The Board imposed a pretrial restriction that would require all flights serving Atlanta and Jacksonville also to serve Savannah or Brunswick, made the deletion of Delta's authority to serve Brunswick an issue in this case, and rejected Delta's request that the scope of the case be enlarged to include nonstop service between Savannah and certain northeast points, finding that expanding the issues would unnecessarily delay and complicate the proposed investigation.

Delta now has filed a petition seeking reconsideration of Order 77-3-16; and a motion to consolidate its application in Docket 29491.

Southern also has petitioned for reconsideration or clarification of the pretrial restriction in Order 77-3-16 requiring all flights serving Atlanta and Jacksonville also to serve either Savannah or Brunswick.

Eastern submitted an answer in opposition to Delta's and Southern's petitions for reconsideration, arguing that they have not raised any new matters that warrant a change in Order 77-3-16. The Bureau filed an answer opposing Delta's petition for reconsideration and supporting Southern's petition for reconsideration or clarification.

1. *Delta's petition for reconsideration and motion to consolidate.* Delta asks that this case be expanded to include the issue of direct Savannah-Northeast authority. If the Board does not grant this request, Delta asks that the issues be expanded to include direct Savannah-New York authority. If the Board enlarges the scope of the case as recommended, Delta then asks that its application in Docket 29491 be consolidated with this case to the extent that the application is consistent with the scope of the case.

If the Board does not enlarge the case to include direct Savannah-Northeast authority or Savannah-New York authority, Delta asks that the Baord at least include the question of whether condition (8) in Delta's certificate for Route 24 should be removed, to the extent that this condition now prohibits Delta from offering single-plane service in certain Savannah-Northeast markets.

Finally, if the Board does not enlarge the scope of the case in any way, Delta asks that the Board impose a pretrial restriction prohibiting any carrier from offering single-plane Savannah-Northeast service as a result of an award in this case.

Delta's arguments in favor of expending the scope of this proceeding to include nonstop Savannah-Northeast or Savannah-New York authority merely reiterate matters which were fully considered and rejected in our earlier order. To include such issues would radically shift the primary forcus of this proceeding and unnecessarily delay and complicate the case, all to the detriment of the matters originally placed in issue. Therefore, Delta's request to so expand the scope of the issues will be denied. We will also deny Delta's request for a pretrial restriction. We do not, as a general rule, impose pretrial restrictions to bar the tacking of new and existing authority,[1] and Delta has not presented any valid reason for the Board to depart from this practice. The carrier will, of course, be free to present evidence and argument to support the imposition of such a condition during the course of the proceeding; however, there is no need to impair the Board's decisional flexibility on that issue now.

On the other hand, we will grant Delta's request that the amendment of condition (8) of Route 24 be placed in

[1] See, e.g., *Louisville Service Case*, Order 77-1-64, January 13, 1977, p. 6.





issue to the limited extent that the condition precludes single-plane service in certain Savannah-Northeast markets. Accordingly, we will also grant Delta's motion to consolidate its application in Docket 29491 to the extent that such an amendment is requested therein.[2] We have decided to exercise our discretion in this matter for two basic reasons which are wholly unrelated to Delta's due process arguments.

First, while it is Board's usual practice to exclude "applications from investigations of this type to the extent they seek to change the manner in which carriers may serve portions of their systems apart from markets at issue,"[3] we do not believe that the rationale for that practice[4] is applicable to this case. Thus, the inclusion of the condition (8) issue will not unduly delay or expand the scope of the proceeding. As Delta points out, most of the Atlanta-Northeast markets will likely be considered as a source of flow traffic supporting Eastern's application; to consider the same basic date with regard to Delta's condition (8) will not require much extra time or effort.[5] Moreover, as no new route segments for Delta are being considered,[6] competing applications for new Atlanta-Northeast route authority will not be entertained.[7]

A second, and equally important reason for considering this issue has to do with the history of the condition itself. Condition (8) was originally imposed in the *Southwest-Northwest Service Case* as a pretrial restriction designed to prevent a conflict with Northeast's then pending application in Docket 5192.[8] When called upon to interpret that condition in 1972, the Board concluded, interalia, that "the entire restriction may have lost much of its original purpose in light of Delta's recent acquisition of Northeast's New York-Florida route. If so, however, it cannot be removed or modified except by an appropriate proceeding for that purpose."[9] We believe that this case is an appropriate proceeding in which to consider modification of condition (8) as it affects Savannah-Northeast service, and that such action will be conducive to the proper dispatch of the Board's business and to the ends of justice.

2. *Southern's petition for reconsideration.* Southern petitioned for reconsideration or clarification of ordering, paragraph 6 in Order 77-3-16. This paragraph states:

> Any authority awarded in the Atlanta-Jacksonville market shall be subject to a restriction that all flights serving Atlanta, Georgia, and Jacksonville, Florida, shall also serve Savannah, Georgia, or Brunswick, Georgia.

Southern points out that Eastern and Delta already hold nonstop authority between Atlanta and Jacksonville, and that Southern already is restricted by Condition 4(b) in its Route 98 certificate to a minimum of one intermediate point between Atlanta and Jacksonville. Southern waives any argument that Condition 4(b) should not be made applicable to any new authority awarded to Southern in this case, Southern recognizes, however, that the order imposes the restriction only on new authority awarded in this case, and that the Board did not intend to take away nonstop or one-stop authority previously awarded in this market, or to require Brunswick or Savannah stops on all Jacksonville-Atlanta flights, under authority previously granted.

Thus, we find that Southern has presented no valid reason for eliminating the pretrial restriction and we will, therefore, deny its petition for reconsideration or clarification.

Accordingly, *it is ordered*, That: 1. Delta Air Lines' petition for reconsideration and motion to consolidate its application in Docket 29491 are granted to the extent that they seek the inclusion of the amendment of condition (8) of Delta's Route 24 so as to allow service between Savannah, on the one hand, and points north of Atlanta, on the other;

2. Except to the extent granted here, Delta Air Lines' petition for reconsideration and motion to consolidate are denied;

3. To the extent not consolidated here, Delta's application in Docket 29491 is dismissed;

4. Southern Airways' petition for reconsideration or clarification of Order 77-3-16 is denied; and

5. The following additional issue shall be included in this proceeding:

(e) Should condition (8) of Delta's Route 24 be modified or amended so as to authorize Delta to provide single-plane service between Savannah, Georgia, and points on the Atlanta-New York/Newark portion of Route 24 north of Atlanta?

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-21670 Filed 7-26-77;8:45 am]

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[Docket No. 30703]

### TRANS WORLD AIRLINES, INC. V. UNITED AIR LINES, INC.

### Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge William H. Dapper. Future communications should be addressed to Judge Dapper.

Dated at Washington, D.C., July 20, 1977.

HENRY M. SWITKAY,
*Acting Chief*
*Administrative Law Judge.*

[FR Doc.77-21669 Filed 7-26-77;8:45 am]

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[Docket No. 30503]

### TIGER INTERNATIONAL, INC., ET AL.

### Proposed Approval

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the Civil Aeronautics Board intends to issue the attached order. Interested persons are are hereby afforded until July 28, 1977, within which to file comments or request a hearing with respect to the action proposed in this order.

Dated at Washington, D.C., July 21, 1977.

PHYLLIS T. KAYLOR,
*Secretary.*

ORDER OF APPROVAL

Application of Tiger International, Inc., The Flying Tiger Line, Inc., and National Aircraft Leasing, Ltd. for approval of the

[2] Pursuant to Rule 12(d) of the Board's Rules of Practice, to the extent not consolidated, Delta's application in Docket 29491 will be dismissed.

[3] *Detroit-Nashville Nonstop Investigation*, Order 69-12-136, December 30, 1969, p. 1. See also *Dallas/Ft. Worth-Phoenix Nonstop Case*, Order E-25924, November 3, 1967, p. 4.

[4] See e.g., *Remanded Additional Service to San Diego Case (San Diego-Denver)*, Order 71-7-34, July 7, 1971, pp. 2-3.

[5] A supplemental prehearing conference and some minor extension of procedural dates may be necessary.

[6] Delta already possesses Atlanta-Northeast and Atlanta-Savannah nonstop route authority. All that is involved is a restriction that prohibits single-plane service between Savannah and certain Northeast points.

[7] The *Ashbacker* doctrine requires a comparative hearing only when applications are mutually exclusive. Delta's application, to the extent consolidated here, merely involves the question of authority to tack Delta's current Savannah-Atlanta and Atlanta-Northeast route authority. It does not involve the question of whether an additional carrier is required in the Atlanta-Northeast markets; therefore, such applications need not be consolidated here. Delta's situation in this regard is entirely different than Southern's, for example. Condition (6) of Southern's route 98 prohibits single-plan service between Atlanta and certain Northeast points. Thus, a Southern application for Savannah-Atlanta-Northeast authority would involve totally new Atlanta-Northeast nonstop route authority which would in no way be precluded by granting Delta authority to tack its existing route authority. (See, e.g., *Ozark Route Realignment Investigation*, Order E-25188, May 24, 1967, pp. 1-2; and *Application of Continental*. Order 73-2-30, February 8, 1973, n. 15.) In short, all that is involved here is an improvement in Delta's existing authority in markets in which it carries over 75 percent of the traffic. The only exception is in the Savannah-Washington, D.C. market in which Delta carried 45.2 percent of the traffic compared with National's 53.7 percent share. (O&D Survey, Table 10, Y/E March 31, 1976.) However, as National holds nonstop authority in the market, it can hardly be heard to object to our considering whether or not to upgrade Delta's on-line connecting authority to one-stop authority. (National will, of course, be entitled to intervene in this proceeding in order to oppose the ultimate grant of such authority to Delta.)

[8] See Order E-7804, October 8, 1953, p. 4; and 23 CAB 42 (1956). It was subsequently amended in a manner not material here in the *Additional Service to Columbia and Augusta Case*. Order 71-7-118, July 21, 1971.

[9] See Order 72-9-17, September 5, 1972, p. 6.



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acquisition of control of Qualitron Aero West, Inc.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 21st day of July, 1977.

By application filed February 16, 1977,[1] Tiger International, Inc. (TI), The Flying Tiger Line Inc. (FTL), and their subsidiary, National Aircraft Leasing, Ltd. (NAL)[2] request that the Board approve the acquisition of control of Qualitron Aero West, Inc. (Aero West) from Qualitron Aero, Inc. (Qualitron) under section 408(a)(6) of the Federal Aviation Act of 1958, as amended (the Act), and under ordering paragraph 6 of Order 70-6-119, dated May 5, 1970, (The Flying Tiger Line Inc. Reorganization).[3] The applicants also request that the Board disclaim jurisdiction, under section 409 of the Act, over interlocking relationships which might be established between Aero West, FTL, TI, or any of their affiliates, subsequent to NAL's acquisition of control of Aero West.

TI is an air carrier-formed holding company which wholly owns FTL, a certificated scheduled all-cargo domestic and international air carrier. TI and FTL are joint owners of TLG, a holding company subsidiary, which wholly owns NER, an equipment finance company, and NER, in turn, wholly owns NAL, an aircraft leasing company. NAL is a lessor of jet and prop-jet aircraft of different types to corporate, airline (primarily foreign air carriers) and other aircraft operators. According to the applicants, most of NAL's leases are operating leases, as opposed to finance leases,[4] and NAL arranges for the servicing and maintenance of its aircraft between leases, in addition to refurbishing aircraft to customer specifications prior to the aircraft going on lease.

Qualitron is a California subsidiary of Tenneco, Inc., a large diversified company. Its sole business is the fixed base operations of its Burbank Division located at Burbank, California, quite proximate to NAL's current base of operation.[5] The primary business of the Burbank Division is the repair of corporate and private aircraft as well as providing of hangar space for rent, primarily for corporate jets, and tie down spaces for small aircraft. It also sells aviation fuel and performs repair and installation work on avionics components. Qualitron is a Federal Aviation Administration certified class I, II, III and IV repair station and also holds a number of Supplemental Type Certificates (STC), primarily relating to corporate aircraft.

Under the terms of the purchase agreement betweetn NAL and Qualitron, assets of Qualitron's Burbank Division would be transferred to Aero West, a company incorporated by Qualitron for that purpose, and NAL would then acquire all of the stock of Aero West. The Burbank facilities which NAL would acquire through the purchase of Aero West's stock consist primarily of a leasehold on 32 acres together with several buildings located there and some equipment and tools. The lease, which expires on November 30, 1977, provides for a rent of approximately $15,000 per month. The total purchase price for Aero West's stock is expected to be approximately $350,000 for the equipment, inventory, and work in process, and approximately $150,000 for accounts receivable less the accounts payable. The purchase price will be paid in NAL notes and cash.

In addition, immediately following the closing of the agreement on July 31, 1977, Qualitron will sell to Aero West all of Qualitron's interest in its STC's acquired from the FAA and associated tooling, in consideration of a separate promissory note. The principal sum of the note is $100,000, with interest payable semi-annually at 9 percent per annum and with the principal due and payable five years after Aero West's execution of the note. NAL will unconditionally guarantee the note and Aero West will secure the note by its grant to Qualitron of a security interest in the licenses and STC's acquired from Qualitron by Aero West. Under the express terms of the agreement, should the Burbank airport be closed to general commercial aviation operations prior to maturity of the note, the note and guarantee will be cancelled and Aero West will retransfer to Qualitron all interests in the STC's, tooling, and licenses acquired from Qualitron. The agreement is subject to Board approval within ninety (90) days of its execution on April 29, 1977, and unless extended by the parties the agreement would otherwise become void.[6]

In support of the application, the applications state that the acquisition of the stock of Aero West and thus the existing assets of the Burbank Division would be the most efficient and economical means for NAL to achieve necessary augmentation of its own repair, service, and modification capabilities; that NAL currently arranges for others to do the vast majority of the repair, servicing and conversion of its aircraft; and with the purchase of Aero West, NAL could perform the type of work on its aircraft with great savings to it, while at the same time increasing its expertise and the number of services it could provide its customers.

Further, applicants state that NAL anticipates continuing to purchase used aircraft from airlines (other than FTL) and convert them for other uses or refurbish them for lease or sale to foreign air carriers; that as a result of its experience in the past with the BAC 1-11, NAL believes it has the management and technical staff to do "in house" that which it has paid others to do; that with this added capacity NAL feels it will become a stronger and more effective competitor in the used aircraft market; and that the addition of Aero West will help accomplish this result. In addition, Aero West will continue to concentrate on the corporate and private aircraft repair and servicing market.[7]

Finally, the applicants represent that it is not anticipated that Aero West will do more than a small percentage of its business with certificated carriers, and in no event will it service FTL aircraft, nor will NAL depart from its consistent policy of not engaging in any transactions with or affecting FTL.

No objections to the application or requests for a hearing have been received.

Upon consideration of the application, the Board finds that the acquisition of control of Aero West by TI and FTL through their subsidiary, NAL, does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly, and does not tend to restrain competition. Furthermore, no person disclosing a substantial interest is currently requesting a hearing and we find that the public interest does not require a hearing.

The matters set forth in the amended application and the supplementary information furnished by the application, without adverse comments being filed, present an adequate and uncontroverted factual basis for the Board's determination.

The acquisition here involves the control of Aero West, a person engaged in a phase of aeronautics by reason of its fixed base and maintenance operations, as here described. Also, Aero West's operations appear to involve no sole source services or products, and its integration with the aircraft leasing business of its immediate parent company, NAL, could result in an efficient and economic operation accruing to some extent to the benefit of FTL, as a joint owner together with TI.

In light of the latter considerations we find that acquisition of control of Aero West pursuant to section 408(a)(6) of the Act is not inconsistent with the public interest.[8] Further, we do not find that the conditions of section 408 of the Act will otherwise be unfulfilled. This determination is in accord with other instances presenting similar control, and common control relationships, heretofore approved by the Board.[9] Nor do we find the integrity of the air carrier or its ability to perform its certificate obligations would be impaired by reason of the acquisition of control of Aero West pursuant to paragraph 6 of Order 70-6-119, supra. The Board's findings here are secured by the conditions heretofore imposed on the Board's approval of The Flying Tiger Line reorganization proceeding,[10] and on the air carrier's diversification authorization.[11] As we have repeatedly stated,[12] the Board intends to continue to exercise the surveillance contemplated by such conditions over, among other things, acquisitions within an air carrier-related diversified system of companies which are or may become engaged, directly or indirectly, in common carriage or in any aeronautical activities. In these circumstances we do not find it necessary formally to impose additional conditions to ensure the representation of the applicants that, in no event, will Aero West service FTL aircraft, or NAL engage in any transactions with or affecting FTL. However, should Aero West, directly or indirectly, engage in any additional activities that may independently come within the scope of section 408 of the Act, or paragraph 6 of Order 70-6-119, supra, further filings with the Board would be required.[13]

This is not to suggest we would necessarily regard such an extension of NAL's activities as objectionable. It is to say only that we insist on an opportunity to approve or disapprove any such change.

On the basis of the foregoing, the Board concludes that it should approve without hearing under the third proviso of section 408(b) of the Act and under paragraph 6 of Order 70-6-119, supra, as amended, the acquisition of control of Aero West by TI and FTL through NAL.[14]

The applicants anticipate the creation of various interlocking relationships between Aero West, FTL, and TI subsequent to the acquisition of control of Aero West, and request that the Board disclaim jurisdiction under section 409 of the Act with respect to these interlocking relationships.

Regarding these relationships, we have decided to dismiss applicants' request in part, and to grant their request in part. No individuals have been designated or identified in the application, and it appears that the participating interlocking relationships referred to in the application are limited to the TI system of subsidiaries and affiliated companies. To the extent that a blanket exemption from or approval under section 409 of the Act are afforded the anticipated interlocking relationships by Part 287.1(e), Part 297.3(e), and Part 287.4 of the Board's Economic Regulations, the applicants' request for disclaimer of jurisdiction will be dismissed. Except to the extent dismissed here, applicants' requests for disclaimer of jurisdiction over the remaining prospective interlocking relationships, confined to the TI system of subsidiaries and affiliated companies, will be granted, since they would not come literally within section 409.

Accordingly, *It is ordered*, That:

1. The acquisition of control of Qualitron Aero West, Inc. (Aero West) by Tiger International, Inc. (TI), and The Flying Tiger Line Inc. (FTL), through National Aircraft Leasing, Ltd. (NAL), is approved;

2. Applicants' request for disclaimer of jurisdiction over interlocking relationships involving Aero West, TI, and FTL, in Docket 30503, to the extent that such interlocking relationships are exempted under Part 287, is dismissed;

3. Except to the extent here dismissed, applicants' request for disclaimer of jurisdiction over interlocking relationships involving Aero West, TI, and FTL in Docket 30503, is granted; and

4. The Board shall retain jurisdiction over this proceeding.

By the Civil Aeronautics Board.

[FR Doc.77-21668 Filed 7-26-77;8:45 am]

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[1] The application was supplemented by letter of March 14, 1977, amended on March 31, 1977, and further supplemented by letters of May 5, and May 20, 1977.

[2] Two additional intervening subsidiaries between TI/FTL and NAL are, in descending order, presently Tiger Leasing Group, Inc. (TLG) and National Equipment Rental, Ltd. (NER). Within the TI system there are numerous additional subsidiaries and affiliates none of which is in the direct line of the subject acquisition.

[3] The applicants state that this application is based on the conclusion that the proposed transaction does not constitute a corporate reorganization or acquisition "with or affecting the air carrier" (FTL) as set forth in Transaction Guideline, T.G.: (A)(10), promulgated as part of the regulatory regime of the Air Carrier Organization Investigation (ACRI), Orders 75-10-65-66, dated September 12, 1975, as amended by Order 76-1-121, January 30, 1976. As herein noted, both TI and FTL, through their subsidiary, NAL, would jointly acquire Aero West, thus "affecting" FTL. However, as discussed here, Aero West is a person engaged in a phase of aeronautics, and for this reason its acquisition by TI and FTL is subject to section 408. As noted in Order 76-5-56, May 14, 1976, the corporate reorganization and acquisition category, T.G.: (A)(10), although "with or affecting the air carrier", was not intended to cover acquisitions which are subject to section 408 jurisdiction. Nevertheless, as applicants recognize herein, this additional acquisition of Aero West by TI and FTL is subject to ordering paragraph 6 of Order 70-6-119, supra, which expressly requires that there be submitted for prior Board approval any further acquisition of control, directly or indirectly, of a common carrier or any person engaged in a phase of aeronautics by TI, by FTL, or any of their affiliates or subsidiaries. (See Order 76-3-96, March 15, 1976)

[4] As described by the applicants, an operating lease returns to the lessor during its initial noncancelable term a rental which is less than the full invoice cost of the equipment plus interest charges. A finance lease is a lease which returns to the lessor during its initial noncancelable term the invoice cost of the equipment plus interest charges, related expenses and a profit on investment.

[5] Qualitron formerly operated a repair station at Houston, Tex., which is being sold to another company, and a repair station at Fort Worth, Tex., which has been liquidated.

[6] According to the applicants, Qualitron has received approval from the FAA for the transfer of the STC's and Lockheed Air Terminals, Inc. has consented to the assignment of the leasehold covering the Burbank properties.

[7] During 1976, the Burbank Division of Qualitron (Aero West's predecessor), totaled sales of approximately $4 million with approximately two-thirds of such service being derived from aircraft repair or modification and the balance from terminal operations, i.e., fuel sales and hanger and tie-down rentals.

[8] The fact that this transaction may also be subject to section 408(a)(3) of the Act does not require further approval under the section. The public interest considerations are the same in either case.

[9] See the Robert Dollar Company of California, et al., Orders E-17077, June 30, 1961, and E-17280, August 4, 1961, and Aero Spacelines, Inc., Order E-26532, January 2, 1968.

[10] The Flying Tiger Line Inc., Order 70-6-119, dated May 5, 1970, as amended by Order 75-5-5, May 1, 1975.

[11] Air Carrier Reorganization Investigation, Orders 75-10-65-66, dated September 12, 1975, as amended by Order 76-1-121, January 30, 1976.

[12] See Tiger International, Inc. Order 77-2-124, February 25, 1977.

[13] See Order 70-6-119, (n. 13), supra, and Pan American World Airways, Order 75-2-100, February 25, 1975.

[14] Notice of intent to dispose of the application without hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General, not later than the day following such publication, both in accordance with the requirements of section 408(b) of the Act.





## DEPARTMENT OF COMMERCE

### Economic Development Administration

### BARON INTERNATIONAL CORP.

### Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Baron International Corp., 315 Fifth Avenue, New York, N.Y. 10016, a producer of leather handbags, was accepted for filing on July 19, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business on August 1, 1977.

JACK W. OSBURN, JR.,
*Chief, Trade Act Certification Division, Office of Planning and Program Support.*

[FR Doc.77-21528 Filed 7-26-77;8:45 am]

### National Oceanic and Atmospheric Administration

### AMERICAN TUNABOAT ASSOCIATION

### Receipt of Application for General Permit

Notice is hereby given that the following Applicant has applied in due form for a General Permit to take marine mammals incidental to the course of commercial fishing operations during 1978 as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the regulations thereunder.

The American Tunaboat Association, 1 Tuna Lane, San Diego, California, has applied for a general permit, category 2, "Encircling Gear, Tuna Purse Seining."

Copies of the application are available for review as follows:

Office of the Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. (telephone 202-634-7283);
and
Office of the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Interested parties may submit written data or views on this application. A public hearing on the application is scheduled to begin on August 22, 1977. The final date for filing with the Director a notice of intent to participate in the hearing is August 5, 1977, and the final date for the submission of direct expert testimony of application is August 15, 1977. Proposed amendments to regulations regarding the incidental take of marine mammals during commercial fishing operations were published on July 20, 1977 (42 FR 37217).

Dated: July 7, 1977.

ROBERT J. AYERS,
*Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.*

[FR Doc.77-21576 Filed 7-26-77;8:45 am]

### CARIBBEAN FISHERY MANAGEMENT COUNCIL

### Public Meeting

Notice is hereby given of a meeting of the Caribbean Fishery Management Council established by Section 302 of the Fishery Conservation and Management Act of 1976 (P.L. 94-265).

The Caribbean Fishery Management Council has authority over fisheries within the fishery conservation zone adjacent to Puerto Rico and the Virgin Islands. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plants with respect to fisheries within its area of authority, prepare comments on foreign fishing applications, and conduct public hearings.

The meeting will be held Tuesday through Thursday, August 16-18, 1977, at the Secret Harbor Hotel, State Nazareth, Charlotte Amalie, St. Thomas,



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Virgin Islands. The meeting will convene at 9 a.m. on August 16 and adjourn at about noon on August 18, 1977. Daily sessions will normally start at 9 a.m. and adjourn at 5 p.m., except as otherwise noted. The meeting may be extended or shortened depending upon progress on the agenda.

PROPOSED AGENDA

1. Election of Chairman and Vice-Chairman.
2. Foreign boundary discussions.
3. Japanese longline conference report.
4. Inter-Council Billfish Committee report.
5. FMP for Spiny Lobster and Reef Fish Report.
6. Initiation of new FMP discussions.
7. Administrative matters.
8. Other Council business.

This meeting is open to the public, and there will be seating for a limited number of public members available on a first-come first served bass. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meetings. To receive information on changes, if any, made to the agendas, interested members of the public should contact, on or about August 10, 1977:

Mr. Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, P.O. Box 1001, Hato Rey, Puerto Rico 00919, 809-753-4926.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of official business. Interested members of the public who wish to submit written comments should do so by addressing the Executive Director at the above address. To receive due consideration and to facilitate inclusion of these comments in the record of the meetings, typewritten statement should be received within 10 days after the close of the meetings.

Dated: July 22, 1977.

WINFRED H. MEIBOHM,
*Associate Director,*
*National Marine Fisheres Service.*

[FR Doc.77-21578 Filed 7-26-77;8:45 am]

## MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

### Meetings

Notice is hereby given of a series of public meetings to be held by the Mid-Atlantic Fishery Management Council established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265). The purpose of these public meetings is to receive public views and comments to aid with the development of a fishery management plan for billfish. The South Atlantic Council has been designated by the Secretary of Commerce as the lead Council among the several Councils of New England, Gulf of Mexico and Caribbean in developing this plan.

These meetings are for the purpose of providing an opportunity for the public input and to serve as a fact finding mechanism relative to development of a fishery management plan for the domestic and foreign billfish fishery.

The meetings will convene at 7:30 and adjourn at 10 p.m. at the following locations on the designated dates.

August 16, 1977—Montauk Fire House, Montauk, New York 11954.
August 17, 1977—Asbury Avenue Pavilion, Asbury and Ocean Avenues, Asbury Park, New Jersey 07712.
August 18, 1977—Sheraton Fontainebleau Hotel, 10100 Ocean Highway, Ocean City, Maryland 21842.
August 19, 1977—Omni International Hotel, 777 Waterfront Drive, Norfolk, Virginia 23510.

Interested members of the public may present their views on matters related to the billfish fishery and on the management plan under development. Additional information relative to these meetings can be obtained by contacting:

Dr. Jackson Davis, Project Manager, Billfish Management Plan, South Atlantic Fishery Management Council, 1 South Park Circle, Suite 306, Charleston, South Carolina 29407, 803-571-4366.

Members of the public wishing to submit written comments should do so by addressing the Project Manager. To receive due consideration and facilitate inclusion of such statements in the record of the meetings, typewritten statements should be submitted within 10 days following the close of a particular meeting.

Dated this 22nd day of July, 1977, at Washington, D.C.

WINFRED H. MEIBOHM,
*Associate Director,*
*National Marine Fisheries Service.*

[FR Doc.77-21616 Filed 7-26-77;8:45 am]

## NEW ENGLAND FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE

### Three Public Meetings

Notice is hereby given of three meetings of the Scientific and Statistical Committee of the New England Fishery Management Council, established by section 302(g) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The New England Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to fisheries within its area of authority, prepare comments on foreign fishing applications, and conduct public hearings.

The Scientific and Statistical Committee assists the Council in the development, collection and evaluation of such statistical, biological, economic, social and other scientific information as is relevant to the Council's development and amendment of fishery managament plans.

The first of the three Committee meetings will be held on August 16, 1977, from 9 a.m. to 4 p.m., at the Carriage House, Woods Hole Oceanographic Institution, Woods Hole, Massachusetts. The meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

Development of Herring, Scallop Plans.

The second of these Committee meetings will be held on September 20, 1977, from 9 a.m. to 4 p.m., at the JFK Building, Room 1112, Government Center, Boston, Massachusetts. This meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

Development of Herring, Scallop, Silver Hake Plans.

The third in this series of Committee meetings will be held on October 18, 1977, from 9 a.m. to 4 p.m., at Woods Hole Oceanographic Institution, Clark 507, Woods Hole, Massachusetts. The meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

Development of Herring, Scallop, Silver Hake Plans.

These meetings are open to the public and there will be seating at each for approximately 20 public members available on a first-come, first-served basis.

Members of the public having an specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agendas, interested members of the public should contact on or about 10 days before each of these meetings:

Mr. Spencer Apollonio, Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts 01960, 617-535-5450.

At the discretion of the Committee, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Committee business. Interested members of the public who wish to provide written comments should do so by submitting them to Mr. Apollonio at the above address. To receive due consideration and to facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of each Committee meeting.

Dated: July 22, 1977.

WINFRED H. MEIBOHM,
*Associate Director,*
*National Marine Fisheries Service.*

[FR Doc.77-21577 Filed 7-26-77;8:45 am]





## DEPARTMENT OF DEFENSE

### Department of the Navy

### CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

### Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Technology Sub-Panel (TSP) of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on August 18-19, 1977, at the Pentagon, Washington, D.C. Sessions of the meeting will commence at 8:30 a.m. and terminate at 5:30 p.m. on both days. All sessions will be closed to the public.

The agenda will consist of matters required by Executive Order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive Order. The agenda includes a review of antisubmarine warfare plans and programs and related intelligence. In addition, the Panel will review advanced technology applications to Navy sensor and weapon systems and space systems. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in Section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting, contact Commander William A. Armbruster, USN, Executive Secretary of the CNO Executive Panel Advisory Committee, 1401 Wilson Blvd., Room 405, Arlington, VA 22209, telephone number (202) 694-3191.

Dated: July 20, 1977.

K. D. LAWRENCE,
*Captain, JAGC, U.S. Navy Deputy Assistant Judge Advocate General (Administrative Law).*

[FR Doc.77-21580 Filed 7-26-77;8:45 am]

### Office of the Secretary

### DEFENSE ADVISORY COMMITTEE ON WOMEN IN THE SERVICES

### Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) will be held from 9 a.m. to 4 p.m., August 26, 1977, at the Pentagon, Room 1E801 No. 3. The session will be open to the public.

The purpose of the meeting is to review responses to earlier recommendations made by the Committee, discuss current issues relevant to women in the Services, and to plan the program for the next semi-annual meeting scheduled for October 30-November 2, 1977, in San Antonio, Texas.

DACOWITS is authorized twenty-five civilian women who provide the Department of Defense with assistance and advice on matters relating to women in the Armed Forces.

Persons desiring to make oral presentations or submit written statements for consideration at the Executive Committee Meeting must contact Lt. Colonel John A. Montefusco, Executive Secretary, DACOWITS, OASD (Manpower, Reserve Affairs, and Logistics), Room 2D259, the Pentagon, Washington, D.C. 20301, telephone 202-697-5655, no later than August 18, 1977.

MAURICE W. ROCHE,
*Director, Correspondence and Directives, OASD (Comptroller).*

JULY 22, 1977.

[FR Doc.77-21550 Filed 7-26-77;8:45 am]

## ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

### ADVISORY COMMITTEE ON GEOTHERMAL ENERGY; LEGAL AND INSTITUTIONAL SUBCOMMITTEE

### Meeting

JULY 25, 1977.

In accordance with provisions of Pub. L. 92-463 (Federal Advisory Committee Act), the Legal and Institutional Subcommittee of the Advisory Committee on Geothermal Energy will hold its second meeting Thursday, August 11, 1977 from 9:30 a.m. to 9 p.m. in the Federal Ballroom North, Capitol Hill Quality Inn, 415 New Jersey Avenue NW., Washington, D.C. The purpose of this meeting is: to review plans and activities of the Division of Geothermal Energy, U.S. Energy Research and Development Administration; in particular, to discuss and to provide advice on programs and approaches to effective government-industry cooperation with respect to legal and institutional problems in the development of geothermal energy. The meeting will be open to the public.

The tentative agenda for the meeting is as follows:

9:30 a.m.—Introductory remarks—Joseph W. Aidlin, Chairman.
9:45 a.m.—Geothermal initiatives in national energy plan—Richard Cooper, Executive Office of the President, Energy Policy and Planning.
10 a.m.—Tax legislation—Moshe Schuldinger, Treasury Department.
11 a.m.—BLM leasing program—Dale Zimmerman, Bureau of Land Management, Department of the Interior.
12 noon—Lunch.
1 p.m.—USGS permitting process—Reid T. Stone, USGS.
2 p.m.—U.S. Forest Service leasing program—Edward Johnson, U.S. Forest Service, Department of Agriculture.
3 p.m.—Streamlining task force—R. C. Stephens, DGE, ERDA.
4 p.m.—Intergovernmental coordination of permitting—David E. Pierson, Imperial County, Calif.
5 p.m.—Discussion.
6 p.m.—Dinner.
7 p.m.—Discussion and recommendations.
9 p.m.—Adjourn.

Practical considerations may dictate alterations in the above agenda. This will be a working meeting and the Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on agenda items may do so by mailing 12 copies thereof, postmarked no later than August 6, 1977, to the Director, Division of Geothermal Energy, U.S. Energy Research and Development Administration, 20 Massachusetts Avenue NW., Washington, D.C. 20545. Comment shall be directly relevant to the above agenda items.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on August 9, 1977, to the Division of Geothermal Energy Research and Development Administration, Helen Krupovich on 202-376-4904 between 8:30 a.m. and 5 p.m., E.S.T.

(c) Questions at the meeting may be propounded only by members of the Subcommittee and ERDA officials assigned to participate with the Subcommittee in its deliberations.

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, movies, and telecision cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during the recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Copies of minutes will be made available for copying, following their certification by the Chairman in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue NW., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY L. PEEBLES,
*Deputy Advisory Committee Management Officer.*

[FR Doc.77-21722 Filed 7-26-77;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 769-2; OPP-180101B]

### AGRICULTURE DEPARTMENT

### Exemption To Use Acephate in Addition to Other Chemica's Exempted for the Control of Citrus Blackfly In Florida

The Plant Protection and Quarantine Programs (PPQ), Animal and Plant Health Inspection Service, of the U.S. Department of Agriculture (hereafter referred to as "USDA") was granted a specific exemption to use dimethoate, Guthion (azinphos methyl), and malathion in a program for regulatory and control purposes to contain and eradicate the citrus blackfly (*Aleurocanthus woglumi*, Ashby) in Broward, Dade, and



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Palm Beach Counties, Florida. Notice of granting of this exemption was published in the FEDERAL REGISTER on December 13, 1976 (41 FR 54213). The total amount of pesticides to be used in the control program were not to exceed 45,000 gallons of 95 percent malathion, 1,000 pounds active ingredient dimethoate, and 450 pounds active ingredient Guthion. The exemption is to expire on October 1, 1977. Under authority of that exemption, USDA was permitted to apply malathion to nonhost plants in nurseries and host plants in urban areas, Guthion to host plants in nurseries, and dimethoate to citrus in commercial groves. The specific exemption was amended in January, 1977, for use of ground applications of acephate to host plants in urban areas. In their request for the amendment, USDA stated that malathion does not provide an efficacy level adequate to control spread of citrus blackfly under Florida conditions; however, malathion will be used in circumstances where acephate is not desirable.

AMENDMENT 1

Now the USDA has requested an amendment which would allow application of acephate by helicopter to 600 acres of commercial citrus groves and 100 acres of abandoned citrus groves. The USDA had originally requested permission to aerially apply acephate to 10,000 acres of commercial citrus groves and 600 acres of abandoned groves, but reduced the acreage so that it mght monitor treated fruit for residues of acephate in excess of the action level determined to be adequate to protect the public health. The USDA also requested that, if residues from aerial applications in commercial groves did not exceed the proposed action level at the prescribed preharvest interval, it be allowed to extend treatment to cover additional acreage.

Although dimethoate was exempted for ground application in commercial groves at a rate of one-half (0.5) pound active ingredient per 100 gallons of water, it has not been used during the citrus blackfly control program. According to USDA, laboratory data indicate that dimethoate does not provide sufficient efficacy under Florida conditions to warrant its use in an eradication program. Acephate is expected to provide more adequate control of citrus blackfly due, in part, to its systemic action. According to USDA, acephate has proven satisfactory for control of the pest on host trees in residential areas when applied by ground equipment. It is expected that aerial application of acephate to commercial groves at the proposed rate of one (1) pound of active ingredient in six to ten gallons of water per acre will protect the groves from damage resulting from the spread of the pest. A maximum of three pounds active ingredient are to be applied per acre in one growing season.

Currently, residue data for aerial application of acephate to citrus is not available. A petition for tolerances for residues of acephate and its metabolite monitor at three parts per million (ppm) on citrus has been received by EPA; no final decision has been made regarding this proposed tolerance. However, data available for low volume application of this pesticide indicates that there is a possibility that a residue level of 3 ppm may be exceeded.

Although avian dietary studies for acephate and its metabolite are lacking, available data indicates an acute hazard associated with monitor to terrestrial avian and mammalian species. Monitor, which is a plant and soil metabolite of acephate, as well as an impurity in the technical product, is acutely toxic (both orally and dermally) to mammals and orally to birds. Therefore, acute hazards are possible depending on the percentage of monitor in the formulation used and the organisms exposed.

After reviewing the application and other available information, EPA has determined that a pest outbreak of citrus blackfly is about to occur, and that there are no pesticides presently registered specifically to control the citrus blackfly in commercial citrus groves. Therefore, EPA has decided to grant the amendment to the previously-issued specific exemption. The restrictions under that specific exemption still remain in force. The amendment is subject to the following additional restrictions:

1. The treatment area is limited to Broward, Dade, and Palm Beach Counties;

2. Acephate will be applied at a maximum rate of one (1) pound of active ingredient in six to ten gallons of water per acre;

3. A maximum of three pounds of active acephate will be applied in a single growing season;

4. A maximum of 2,100 pounds of active ingredient will be applied by authority of this amendment;

5. Applications will be made to a maximum of 600 acres of commercial citrus groves and 100 acres of abandoned groves;

6. Applications are to be made at intervals of not less than twenty-one days and a minimum preharvest interval of twenty-one days will be observed;

7. EPA recommends that the application of acephate be restricted to periods when bees are not actively visiting the citrus plant (when citrus is not in bloom);

8. Spray applications will be made by personnel of the PPQ, USDA, of the Division of Plant Industry, Florida Department of Agriculture and Consumer Services (FDACS), or by licensed contractors under the supervision of PPQ or FDACS personnel;

9. EPA has determined that combined residues of acephate and its metabolite monitor not exceeding 3 ppm will not pose a hazard to the public health. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action;

10. Date obtained from low volume application of acephate indicates that the residue level of 3 ppm on citrus may be exceeded. Therefore, as a condition of issuance, EPA requires that USDA monitor treated citrus for residues, and take all necessary actions to ensure that fruit bearing residues in excess of this level do not go to market;

11. USDA will obtain residue and efficacy data for aerial application of acephate to citrus groves;

12. Any spatial extension of this exemption must be requested in writing, be supported by the available data, and be approved by EPA prior to application;

13. The lack of data obtained from avian dietary studies for acephate and monitor may preclude a temporal and/or spatial extension of this exemption. USDA should request that such data be submitted to EPA by the registrant. The EPA shall be immediately informed by USDA of any adverse effects resulting from the use of this pesticide in connection with this exemption;

14. Since USDA questions the efficacy of dimethoate for the proposed use, EPA requests that it not be applied to commercial groves as authorized by the 1976 specific exemption;

15. Precautions must be taken to avoid or minimize drift and inadvertent exposure of persons in the spray area; and

16. USDA and the State of Florida shall assume the responsibility for controlling applications in accordance with the instructions listed above.

AMENDMENT 2

USDA submitted another amendment requesting approval to extend aerial applications of acephate to an additional 9,140 acres of commercial citrus groves; the possibility of this request was discussed in Amendment 1 above. USDA stated that treatment of the citrus groves is essential if the citrus blackfly is to be contained within the present infested areas. Untreated citrus groves within treatment areas where eradication efforts are being conducted serve as pockets of reinfestation. For this control program to be effective, all host plants must be treated in infested areas. The special extension of the exemption will require approximately 9,420 additional pounds of acephate. The proposed application rate is one pound active ingredient in six to ten gallons of water per acre, which represents the minimum dilution rate supported by the available residue data for ground application to citrus.

The Fish and Wildlife Service of the U.S. Department of the Interior (USDI) has informed EPA that an endangered species, the Everglade Kite, may be exposed to the proposed applications of acephate. The greatest hazard exists where aerial applications are made to citrus groves in close proximity to the Everglades. EPA has conferred with USDI concerning development of the most appropriate procedure for controlling use of the pesticides authorized under emergency exemptions which might pose a threat to endangered species. In addition, EPA requires that detailed informaton concerning the locations of proposed application sites be submitted by USDA. This information will be forwarded to UNDI as soon as it is available.

After reviewing the application and other available information, EPA has decided to grant this amendment to the previously-issued specific exemption. Again the restrictions under that specific exemption, including the expiration date, still remain in force. This amendment is subject to the following conditions:

1. Commercial citrus groves to be treated under authority of this extension will not exceed 3,140 acres;

2. A maximum of 9,420 pounds active ingredient acephate will be applied;

3. As previously stated, EPA is aware that available data indicates residues of the active ingredient resulting from this use of acephate may exceed the toxicologically acceptable level of 3 ppm. For this reason, Amendment 1, involving aerial application of the pesticide to commercial citrus groves, was issued contingent upon USDA's monitoring treated citrus for residues and taking all necessary measures to ensure that fruit bearing residues in excess of 3 ppm do not go to market. Additionally, EPA requested that residue data be available to support this use, i.e., residue data from aerial applications, prior to a spatial extension of the exemption.

Since USDA has stated that this residue data is not yet available, but that treatment is necessary to prevent spread of the pest, USDA is hereby notified that fruit bearing residues in excess of the 3 ppm level can not be shioped in interstate commerce. The Food and Drug Administration and Florida State regulatory officials have been advised of this action;

4. USDA must inform EPA of all measures presently being taken and of those to be taken in the future to prevent citrus bearing residues in excess of 3 ppm from going to market. If the monitoring program, which will be reviewed by the Food and Drug Administration, is found to be deficient, EPA will require that USDA modify it in such a manner as to take additional measures to insure that citrus bearing residues in excess of the acceptable level are not shipped in interstate commerce; and

5. USDA is advised that the endangered species, the Everglade Kite, is endemic to the treatment area and is at risk. Therefore, USDA must confer with and obtain concurrence from the Regional Director, Fish and Wildlife Service, USDI, Atlanta, prior to all applications, as permitted under these conditions.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: July 20, 1977.

EDWIN L. JOHNSON,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.77-21666 Filed 7-26-77;8:45 am]





[FRL 769-1; OPP-240018]

## NEW JERSEY AND KENTUCKY

### Approval of Requests for Interim Certification To Register Pesticides To Meet Special Local Needs

On July 3, 1975, final regulations for the registration, reregistration, and classification of pesticides pursuant to section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.), were published in the FEDERAL REGISTER (40 FR 28241). These regulations became effective August 4, 1975. Since that date, States have been prohibited from issuing new registrations for pesticide products or uses of pesticide products which are not registered by the Environmental Protection Agency (EPA), except pursuant to certification from the Administrator in accordance with section 24(c) of FIFRA.

On September 3, 1975, proposed regulations for State Registration of Pesticides to Meet Special Local Needs under section 24(c), FIFRA, were published in the FEDERAL REGISTER (40 FR 40538). Since it did not prove possible to promulgate final section 24(c) regulations prior to the effective date of the FIFRA section 3 regulations, some interruption in the authority of States to register pesticides has occurred. In order to prevent further disruption of State registration programs (particularly in relation to minor uses), a procedure has been established by which States may request interim certification to register pesticides to meet special local needs until such time as the final section 24(c) regulations are promulgated. If such a request is granted, a State may register pesticides subject to the terms of the certification and other limitations set out in the Preamble to the proposed regulations. Interim certification will expire if the State has not submitted a plan pursuant to the final section 24(c) regulations within 60 days after the effective date of these regulations, or, if such a plan is submitted and it is disapproved by the Administrator, on the effective date of the Administrator's disapproval.

A State may request interim certification to register pesticides to meet special local needs at any time by having the Governor or Chief Executive Officer or their designee submit a request in writing to the Administrator. The request shall satisfy the requirements set out in the FEDERAL REGISTER announcement of the Interim Certification program (40 FR 40542), and the statutory standard set forth in section 24(c) of FIFRA.

The FEDERAL REGISTER announcement of the Interim Certification program provides that the Administrator shall notify the State of his approval or denial of a request for Interim Certification and publish notice of approval or denial in the FEDERAL REGISTER. The announcement further states that the Agency is not soliciting public comment with respect to requests for Interim Certification. Adequate opportunity for public comment on State plans submitted pursuant to final section 24(c) regulations is provided for in proposed section 162.158(c).

The Agency has received Requests for Interim Certification to register pesticides to meet special local needs (Requests) from the States of New Jersey and Kentucky. After reviewing the Requests, the Agency found that they satisfy the requirements set forth in the FEDERAL REGISTER document of September 3, 1975. Accordingly, notice is given that the EPA has approved the New Jersey and Kentucky Requests for Interim Certification, as described below.

NEW JERSEY AND KENTUCKY

These Requests sought authority to register "new products", as that term is defined in section 162.152(g) of the proposed regulations, to amend EPA registrations which involve "changed use patterns", as defined in section 162.152(c), and to amend EPA registrations which do not involve changed use patterns. The Agency has found that the specific requirements of the Interim Certification program are satisfied in the Requests. Procedures for product hazard review and efficacy determination are part of the States' registration programs; these procedures are adequate to assure that special local needs registrations issued by these States will be in accord with the purposes of FIFRA.

The State agencies which have been designated responsible for issuance of such registrations are the New Jersey Department of Environmental Protection and the Kentucky Department for Natural Resources and Environmental Protection. These agencies were notified on June 16, 1977, that their Requests had been approved.

Copies of the Requests for Interim Certification, along with letters reflecting the Agency's decision to approve the Requests, are available at the following locations:

Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

Pesticide Branch, Hazardous Materials Control Division, EPA, 26 Federal Plaza, Room 907, New York, N.Y. 10007 (New Jersey request only).

Pesticide Branch, Hazardous Materials Control Division, EPA, 345 Courtland Street NE., Room 204, Atlanta, Ga. 30308 (Kentucky request only).

Dated: July 20, 1977.

EDWIN L. JOHNSON,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.77-21665 Filed 7-26-77;8:45 am]

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[FRL 768-8; OPP-66035]

## PESTICIDE PROGRAMS

### Voluntary Cancellation of Registrations of Pesticide Products Containing Chlordecone (Kepone)

The following registrants of inaccessible chlordecone (Kepone) pesticide products have requested that the Environmental Protection Agency (EPA) cancel their product registrations:



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| EPA registration No. | Product | Registrant |
|---|---|---|
| 5887-63 | Black leaf ant trap | Black Leaf Products, Co., 667 N. State St., Elgin Ill. 60120. |
| 3325-4 | Hide Roach and Ant Traps | Clarence Boord & Sons, Inc., 105 E. Commercial, PO Box 379 Leon, Iowa 50144. |
| 460-17 | Lilly's Ant Trap with Kepone | F. C. Sturtevant Co., 227 Shunpike Rd., Cromwell Conn. 06416. |
| 2019-19 | Johnston's No-Roach Traps | Gaston Johnston Corp., 24-64 45th St., Long Island, N.Y. 11103. |
| 395-19 | Mysterious Ant Trap with Kepone | Lethelin Products Co., Inc., 15 MacQuesten Pkwy. S., Mount Vernon, N.Y. 10550. |
| 395-21 | Magikil Ant Trap with Kepone | |
| 395-25 | Magikil Roach Trap with Kepone | |
| 358-20 | Ant-Not Ant Trap | Nott Mfg., Inc., Pleasant Valley, N.Y. 12569. |
| 358-129 | Nott Roach Trap | |
| 506-109 | E-Z Ant Trap Containing Kepone | O. E. Linck Div., Walco Link Corp., 1234 State Hwy. 46, Clifton, N.J. 07015. |
| 506-126 | Tat Ant Trap | |
| 506-129 | Antchek Ant Trap | |

The effective date for these cancellations shall be May 1, 1978. Since all technical and manufacturing-use registrations for chlordecone have been cancelled (41 FR 24624, June 9, 1976), this means that only such chlordecone as is already in the formulation process may be formulated into inaccessible products between now and May 1, 1978.

I have determined that continued sale and use of the above inaccessible chlordecone products formulated prior to May 1, 1978, will not be inconsistent with the purposes of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136(a)) and will not have unreasonable adverse effects on the environment. Therefore, all stocks of the above inaccessible chlordecone products that are in existence before May 1, 1978, may be sold, distributed, and used indefinitely, *Provided*, That the pesticide is used consistent with labeling approved by the EPA.

This action shall become effective August 26, 1977, unless the registrant, or an interested person with the concurrence of the registrant, requests that the registration(s) be continued in effect.

Comments concerning this action, including requests approved by the registrant that the registrations of these products be continued, may be submitted in triplicate to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Comments should bear the identifying notation "OPP-66035." Any comments filed regarding this notice of cancellation will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. during normal working days.

Dated: July 21, 1977.

EDWIN L. JOHNSON,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.77-21664 Filed 7-26-77;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

### AM BROADCAST SERVICE WORKING GROUP, 1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

#### Schedule of Meeting

JULY 22, 1977.

Pursuant to Pub. L. 92-463, notice is hereby given of the following meeting for August 1977.

WARC-79 AM BROADCASTING SERVICE GROUP

Monday, August 15, 1977, 10:30 a.m. to 12:30 p.m., Room 8210, 2025 "M" Street, NW., Washington, D.C. If necessary a continuation of that meeting will be held Wednesday, August 17, 1977, from 10:30 to 12:30 p.m., Room 8210.

Chairman: D. C. Everist.
FCC Liaison: Dennis Williams.

The Agenda for the meeting is as follows:

1. Call to Order by the Chairman.
2. Approval of Minutes of the previous meeting.
3. Draft reply to Comments of Fifth Notice of Inquiry, Do. No. 20271.
4. Setting next meeting date and adjournment.

The above meeting is open to broadcast industry representatives and interested members of the public.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

[FR Doc.77-21613 Filed 7-26-77;8:45 am]

[Report No. 837]

### COMMON CARRIER SERVICES INFORMATION

#### Applications Accepted for Filing

JULY 18, 1977.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See § 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. [See §1.227(b)(3) and 21.30(b) of the Commission's Rules.]

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

JULY 18, 1977.

21424-CD-P-77 Airsignal International, Inc. (KIF350), C.P. to install standby transmitter to operate on 72.96 MHz located Atop Red Mountain, Birmingham, Alabama.

21716-CD-TC-77 Tele-Page, Inc. Consent to Transfer of Control from William R. Lea and Luanne C. Lea, Transferors to Rowie P. Simmons, Transferee. Station: KUS240, Prescott, Arizona.

21717-CD-P-77 Carolina Telephone and Telegraph Company (new), C.P. for a new 1-way station to operate on 158.10 MHz to be located at 102 South 9th Street, Morehead City, North Carolina.





21718-CD-P-(3)-77 Empire Paging Corporation (KRS674), C.P. for additional facilities to operate on 454.150 MHz at (3) new sites described as Loc. No. 15: Corner of Westview and Beechwood Drive, Danbury, Connecticut; Loc. No. 16: 24 Rockdale Road, West Haven, Connecticut; and Loc. No. 17: Video Lane, Trumbull, Connecticut.

21719-CD-P-77 Delta Valley Radiotelephone Co., Inc. (KRM983), C.P. for additional facilities to operate on 152.24 MHz to be located at a new site Loc. No. 5: At Banner Mountain, appx. 3.0 miles East of Nevada City, California.

21720-CD-P-77 J. M. Blodgett dba Radio Page (KWT885), C.P. for additional facilities to operate on 35.58 MHz at a new site described as Loc. No. 5: Penn Tower, South Broad Street & Railroad Avenue, Penns Grove, New Jersey.

21721-CD-P-(2)-77 Adirondack Mobile Telephone Co., Inc. (new), C.P. for a new station to operate on 152.06 & 152.18 MHz to be located at Marcy Hotel, 122 Main Street, Lake Placid, New York.

21722-CD-P-77 Radio Dispatch Company (new), C.P. for a new 1-way station to operate on 35.58 MHz to be located at Wilson Building, 130 North Broadway, Camden, New Jersey.

21723-CD-AL-77 Seaway Communications Consent to Assignment of License from Seaway Communications, Assignor to Answering Service of Trenton, Inc., Assignee. Station: KUS413, Ship Bottom, New Jersey.

21724-CD-P-77 Coastal Carolina Communications, Inc. (new), C.P. for a new 1-way station to operate on 158.70 MHz to be located at 6005 Bridges Street, Wilson, North Carolina.

21725-CD-P-77 Call-Com, Inc. (new), C.P. for a new 1-way station to operate on 158.70 MHz to be located 1.7 miles East of U.S. No. 19 and County Road 490, near Homosassa Springs, Florida.

21726-CD-P-(2)-77 Electropage, Inc. (KMD 986), C.P. for additional facilities to operate on 43.22 and 43.58 MHz to be located at a new site Loc. No. 3: Wolf Mountain, 6.3 miles South of Grass Valley, California.

21727-CD-P-77 Modern Communications Corporation (new), C.P. for a new 1-way station to operate on 152.24 MHz to be located at Nittany Mountain, 2.15 miles W. of Centre Hall, Pennsylvania.

21728-CD-P-77 Hawkins Communications, Inc. (KUD232), C.P. for additional facilities to operate on 454.075 MHz to be located at a new site Loc. No. 3: SE. Corner of Alabama Avenue and R Street SE., Washington, D.C.

21729-CD-P-77 Bridge Water Telephone Company (new), C.P. for a new 1-way station to operate on 158.10 MHz to be located 1.1 miles SSE. of city limits of Monticello, Minnesota.

21730-CD-P-77 Airsignal International, Inc. (KRS687), C.P. to change antenna system operating on 152.24 MHz located Atop Red Mountain, Birmingham, Alabama.

21731-CD-P-77 Houser Communications, Inc. (KSA265), C.P. for additional facilities to operate on 152.21 MHz at Loc. No. 3: Steward and Leonard Streets, Creve Cour, Illinois.

21732-CD-P-(7)-77 Southwestern Bell Telephone Company (KKV690), C.P. to change antenna system, replace transmitter and change frequency from 35.62 MHz to 158.10 MHz at Locs. No. 1: 1010 Milam Street, Houston, Texas; Loc. No. 5: 623 Eldorado Street, Clear Lake City, Texas; Loc. No. 6: 1015 Bade Street, Houston, Texas; Loc. No. 8: 6410 Fannin Street, Houston, Texas and Loc. No. 9: 418 Center Street, Deer Park, Texas; delete Locs. No. 2, 3, 4 and 7 and for additional facilities to operate on 158.10 MHz at (2) new sites located 8803 Brae Acre, Houston, Texas and 11930 Airline Drive, Houston, Texas.

MAJOR AMENDMENT

20960-CD-P-77 Cook's Communications Corporation dba Sierra Communications KOP244). Add repeater facilities on frequency 459.25 MHz at Loc. No. 3 described as at Brockway Summit, approx. 2.8 miles SE of Truckee, California. All other particulars as reported on PN No. 850 dated March 21, 1977.

CORRECTION

21689-CD-P-(2)-77 Correct to read: 21689-CD-P-(4)-77 Lubbock Radio Paging Service, Inc. (KKE970), C.P. to replace transmitter operating on 152.03 and 152.15 MHz at Loc. No. 1: 7400 University Avenue; replace transmitter operating at 152.06 and 152.12 MHz at Loc. No. 2: 85th Street and Avenue L, Lubbock, Texas.

RURAL RADIO SERVICE

60346-CR-P/ML-77 RCA Alaska Communications, Inc. (WGF45), C.P. to change antenna system and relocate facilities operating on 72.5 MHz to be located 4 miles North of downtown Sand Point, Alaska.

60347-CR-P/L-77 Cameron Telephone Company (new), C.P. for a new rural subscriber station to operate on 157.95 MHz, located appdox. 17.7 miles SE. of Cameron, Louisiana, Gulf of Mexico.

60348-CR-P/ML-77 Cameron Telephone Company (KLD64), C.P. for additional frequency to operate on 158.07 MHz located at any temporary fixed location within the territory of the grantee.

ACTIONS TAKEN

POINT TO POINT MICROWAVE RADIO SERVICE

N-Triple-C, Inc. (WOH60), 1.5 mi. NW. of Glendale, IL, (Lat. 41°54'24" N., Long. 88°06'39" W.), Granted C.P. to add 6375.2V, 6192.2V, 6256.5V and 6315.9V toward Lily Lake, IL. (2069-CF-P-76).

Same (WOH43), 1700 Farnam Street, Omaha, NE. (Lat. 41°15'30" N., Long. 95°56'20" W.) Granted C.P. to add transmitter and to add 5974.8H, 6093.5H and 6152.8H toward Bentley, IA. (3948-CF-P-76).

Same (WOH44), 4.5 miles ENE of Bentley, IA. (Lat. 41°24'35" N., Long. 95°31'04" W.) Granted C.P. to add transmitter and to add 6226.9V, 6345.5V and 6404.8V toward Omaha, NE.; 6226.9H, 6286.2H, 6345.5H and 6404.8H toward Lewis IA. (3949-CF-P-76).

Same (WOH45), 5 miles East of Lewis, IA. (Lat. 41°18'08" N., Long. 95°00'11" W.) Granted C.P. to add transmitter and to add 6034.2V, 6093.5V and 6152.8V toward Bentley, IA; 6034.2H, 6093.55H, 6152.8H, towards Casey, IA. (3950-CF-P-76).

Same (WOH46), 5.25 miles SSE of Casey, IA. (Lat. 41°26'18" N., Long. 94°29'21" W.) Granted C.P. to add transmitter and to add 6286.2V, 6345.5V, and 6404.8V toward Lewis, IA; 6226.9H, 6286.2H, 6345.5H and 6404.8H toward Adel, Iowa. (3951-CF-P-76).

Same (WOH47), 3 miles SW of Adel, IA. (Lat. 41°36'12" N, Long. 94°02'53" W.) Granted C.P. to add transmitter and to add 6034.2V, 6093.5V and 6152.8V toward Casey, IA; 6034.2H, 6093.5H and 6152.8H toward Des Moines, IA. (3952-CF-P-76).

Same (WOH48), 2.3 miles SW. of Des Moines, IA. (Lat. 41°36'51" N., Long. 93°29'05" W.) Granted C.P. to add transmitter and to add 6286.2V, 6345.5V and 6404.8V toward Adel, IA; 6286.2H, 6345.5H and 6404.8H toward Reasnor, IA. (3953-CF-P-76).

Same (WOH49), 2.5 miles NNE. of Reasnor, IA. (Lat. 41°36'27" N., Long. 93°00'30" W.) Granted C.P. to add 6034.2V, 6093.5V and 6152.8V toward Des Moines, IA. and 6034.2H, 6093.5H, 6152.8H toward Malcom, IA. (3954-CF-P-76).

Same (WOH50), 2.5 miles NW. of Malcom, IA. (Lat. 41°44'47" N., Long. 92°34'21" W.) Granted C.P. to add 6286.2V, 6345.5V and 6404.8V toward Reasnor, IA.; 6286.2H, 6345.5H and 6404.8H toward Williamsburg, IA. and to add transmitter. (3955-CF-P-76).

Same (WOH51), 4.5 miles WSW. of Williamsburg, IA. (Lat. 41°39'34" N., Long. 92°05'43" W.) Granted C.P. to add transmitter and to add 6034.2V, 6093.5V and 6152.8V toward Malcom, IA; 6034.2H, 6093.5H and 6152.8H toward Iowa City, IA. (3956-CF-P-76).

ACTIONS TAKEN

POINT TO POINT MICROWAVE RADIO SERVICE

N-Triple-C, Inc. (WOH52), 1.5 miles NE. of Iowa City, IA. (Lat. 41°40'24" N, Long 91°28'31" W) granted C.P. to add transmitter and to add 6286.2V, 6345.5V and 6404.8V toward Williamsburg, IA; 6286.2H, 6345.5H and 6404.8H toward Muscatine, IA. (3957-CF-P-76).

Same (WOH53), 5 miles NE. of Muscatine, IA. (Lat. 41°27'34" N., Long. 91°00'26" W) Granted C.P. to add transmitter and to add 6034.2V, 6093.5V and 6152.8V toward Iowa City, IA; 6034.2V, 6093.5V, and 6152.8V toward Davenport, IA. (3958-CF-P-76).

Same (WOH54), to miles NE. of Davenport, IA. (Lat. 41°34'28" N., Long. 90°29'04" W) Granted C.P. to add transmitter and to add 6286.2V, 6345.5V and 6404.8V toward Muscatine, IA and 6286.2H, 6345.5H and 6404.8H toward Clinton, IA. (3959-CF-P-76).

Same (WOH55), 10 miles NNW. of Clinton IA. (Lat. 41°56'18" N. Long. 90°15'11" W) Granted C.P. to add transmitter and to add 6034.2V, 6093.5V and 6152.8V toward Davenport, IA.; 5945.2H, 6034.2V and 6093.5V toward Sterling, IL. (3960-CF-P-76).

Same (WOH56), 5.0 miles NNW. of Sterling, IL. (Lat. 41°51'06" N., Long. 89°44'43" W) Granted C.P. to add transmitter and to add 6226.9V, 6315.9H, 6345.5V and 6375.2H toward Clinton, IL. and 6226.9H, 6286.2H, 6345.5H and 6404.8H toward Oregon, IL. (3961-CF-P-76).

Same (WOH57), 2.0 miles NE. of Oregon, IL. (Lat. 42°02'25" N., Long. 89°18'50" W) Granted C.P. to add transmitter and to add 6004.5V, 6063.8V, 6093.5H toward Sterling, IL., and 6034.2H, 6063.8V and 6093.5H toward DeKalb, IL. (3962-CF-P-76).

Same (WOH58), 4.5 miles SW. of DeKalb, IL. (Lat. 41°52'44" N., Long. 88°48'31" W) Granted C.P. to add transmitter and to add 6256.5V, 6315.9V and 6375.2V toward Oregon, IL.; 6286.2H, 6345.5H and 6404.8H toward Lily Lake, IL. (3963-CF-P-76).

Same (WOH59), 1.8 miles North of Lily Lake, IL. (Lat. 41°58'20" N., Long. 88°28'25" W) Granted C.P. to add transmitter and to add 5945.2H, 6004.5H, 6063.8H and 6123.1H toward DeKalb, IL. and 6004.5V, 6063.8V and 6093.5H towards Glendale, IL. (3964-CF-P-76).

Same (MOH60), 1.5 miles NW. of Glendale, IL. (Lat. 41°54'24" N., Long. 88°06'39" W) Granted C.P. to add transmitter and to add 6256.5V, 6315.9V and 6375.2V toward Lily Lake, IL.; 6286.2H, 6345.5H and 6404.8H toward Chicago, IL. (3965-CF-P-76).



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Same (WOH61), 875 North Michigan Avenue, Chicago, IL. (Lat. 41°53'56" N., Long. 87°37'24" W) Granted C.P. to add transmitter and to add 6034.2H, 6093.5H and 6152.8H toward Glendale, IL. (3966–CF–P–76).

Actions taken July 18, 1977:

POINT TO POINT MICROWAVE RADIO SERVICE

RCA Alaska Communications, Inc. (WAT991), Meyers Chuck, Alaska. Granted Mod. of C.P. (1485–CF–P–76) to change frequency 2112.4V to 2120.0V MHz toward Ratz Mtn., Alaska; replace transmitters and increase power output; move and replace antennas for 5974.85V, 6093.45V MHz toward Tolstoi 2 passive reflector and 5945.2H, 6063.8H MHz toward Burnet NW passive reflector (4490–CF–MP–76).

Same (WAT989), Ratz Mtn., Alaska. Granted Mod. of C.P. (1483–CF–P–75) to correct coordinates, increase structure height; change frequencies 2167.2V to 2163.0H MHz toward Klawock, Alaska, and 2162.4H to 2170.0V MHz toward Meyers Chuck, Alaska; move and replace antennas and replace transmitters and increase power output (4491–CF–MP–76).

Same (WAT992), Klawock, Alaska. Granted Mod of C.P. (1486–CF–P–75) to change frequencies 2126.8V MHz toward Wdlgh. Is. passive reflector to 2123.5V MHz toward Half Mi. passive reflector, and 2117.2H to 2113.0H MHz toward Ratz Mtn., Alaska; move and replace antennas, replace transmitters and increase power output (4492–CF–MP–76).

Same (WAT999), Craig, Alaska. Granted Mod. of C.P. (1489–CF–P–75) to change frequency 2176.8H MHz toward Wdlgh. Is. passive reflector to 2173.5V MHz toward Half Mi. passive reflector; move and replace antennas; replace transmitters and increase power output (4493–CF–MP–77).

The following application was dismissed without prejudice on July 7, 1977, at the applicant's request:

RCA Alaska Communications, Inc. (WAT994), Hydaburg, Alaska (4494–CF–MP–76).

Illinois Consolidated Telephone Co. (WCG278), Mattoon, Ill. Granted C.P. for a new station on frequency 10995V MHz toward Charleston, Ill. (1950–CF–P–77).

Same (WCG, Charleston, Ill. Granted C.P. for a new station on frequency 11145V MHz toward Mattoon, Ill. (1951–CF–P–77).

American Telephone and Telegraph Co. (KQA26), Kalamazoo County, Mich. Granted C.P. to add frequencies 3750V, 3910V MHz toward Kalamazoo, Mich. (1970–CF–P–77).

Same (WCG279*), Charleston, Ill. Granted C.P. for a new station on frequency 11445V Kalamazoo County, Mich., and 3970V MHz toward Lacey, Mich. (1971–CF–P–77).

Same (KQF61), Lacey, Mich. Granted C.P. to add frequencies 4010V MHz toward Kalamazoo, Mich. and 3990H MHz toward Parma, Mich. (1972–CF–P–77).

Same (KQF60), Parma, Mich. Granted C.P. to add frequency 4190H MHz toward Lacey, Mich. (1973–CF–P–77).

Southern Bell Telephone and Telegraph Co. (KIX68), Miami, Fla. Granted C.P. to increase structure height, move and replace antennas on frequencies 3930V, 4010V, 4170V, 4190H MHz toward Miller, Fla. (1976–CF–P–77).

Illinois Bell Telephone Co. (KSN55), Rockford, Ill. Granted C.P. to add frequency 6271.4H MHz toward Monroe Center, Ill. (2146–CF–P77).

Same (KSN56), Monroe Center, Ill. Granted C.P. to add frequencies 6019.3H MHz toward Rockford, Ill.; change polarization from vertical to horizontal on 6137.9, 6078.6 MHz and from horizontal to vertical on 6108.3, 5989.7 MHz toward Rockford (2147–CF–P–77).

Same (KSN57), De Kalb, Ill. Granted C.P. to add frequency 6271.4H MHz toward Monroe Center, Ill.; change polarization from vertical to horizontal on 6390, 6330.7 MHz and from horizontal to vertical on 6360.3, 6241.7 MHz toward Monroe Center (2148–CF–P–77).

United Telephone Co. of Florida. (KIU43), Avon Park, Fla. Granted Mod. of C.P. (4090–CF–P–76) to change frequencies 5960.0V, 6–41.6V, 6160.2V MHz to 5945.2V, 6004.5V, 6063.8V MHz toward Crewsville, Fla.; change 5945.2H to 6093.5V MHz toward Frosproof, Fla.; replace antenna on 6004.5V MHz toward Hillcrest, Fla. (2178–CF–MP–77).

The following radio station license renewals have been granted:

MICROWAVE TRANSMISSION CORP. (Term: February 1, 1976–February 1, 1981): 5294–CF–R–76, KNK 60, San Luis Obispo, Calif.; 5295–CF–R–76, KNL 31, San Juan Bautista, Calif.; 5296–CF–R–76, KNL 46, Coyote, Calif.; 5297–CF–R–76, KNL 77, San Ardo, Calif.; 5298–CF–R–76, KPR 32, Lester, Wash.; 5299–CF–R–76, KPR 33, Wenatchee, Wash.; 5300–CF–R–76, KPZ 25, Kennewick, Wash.; 5301–CF–R–76, KTR 45, Bakersfield, Calif.; 5302–CF–R–76, KTR 46, Gorman, Calif.; 5303–CF–R–76, KVH 57, Daly City, Calif.; 5304–CF–R–76, KVU 78, Santa Barbara, Calif.; 5305–CF R–76, WAH 469, Johnson, Wash.; 5306–CF–R–76, WAN 96, Pomeroy, Wash.; 5307–CF–R–76, WBO 58, Issaquah, Wash.; 5308–CF–R–76, WBO 60, Seattle, Wash.; 5309–CF–R–76, WDD 52, Casmalia, Calif.; 5310–CF–R–76, WQR 42 Tacoma, Wash.

Western Tele-Communications, Inc. (WAH 613), 1251 Wilmington Ave., Salt Lake City, Utah. Granted construction permit for new station—10835V MHz toward Nelson Peak, Utah (635–CF–P–74).

Western Tele-Communications, Inc. (KPT 21), Nelson Peak, Rural, 18 miles SW of Salt Lake City, Utah. Granted construction permit to add 6390.0H MHz toward Curlew, Idaho (636–CF–P–74).

Western Tele-Communications, Inc. (KPT 22), Curley, 17.5 miles WNW. of Malad City, Idaho. Granted construction permit to add 5960.0H, 5989.7V, 6019.3H, 6078.6H, 6108.3V, and 6137.9H MHz toward Harrison Mtn., Idaho, via power split (637–CF–P–74).

Western Tele-Communications, Inc. (WPF 83), Harrison Mtn., 12.4 miles WNW. of Malta, Idaho. Granted construction permit to add 6197.2H toward Castleford, 6226.9V, 6285.2V, 6345.5V, 6404.8V, and 6375.2H MHz toward Castleford, Twin Falls, Gooding, and Burley-Rupert, all in Idaho, via power split (638–CF–P–74).

Western Tele-Communications, Inc. (KEY 30), 8 miles WSW. of Castleford, Idaho. Granted construction permit to add 5945.2H, 6004.5H, and 6123.1H MHz toward Bennett Mountain and delete 5945.2H, 6004.5H, 6034.2V, and 6123.1H MHz toward Jerome, Idaho (639–CF–P–74).

Western Tele-Communications, Inc. (KEY 58), Bennett Mtn., 4.5 miles South of Dixie, Idaho. Granted construction permit to add 6345.5H, 6375.2V, and 6404.8H MHz toward Deer Point, Idaho (640–CF–P–74).

Western Tele-Communications, Inc. (WCG 273), Deer Point, 9 miles NE. of Boise, Idaho. Granted construction permit for new station—11175.H, 10935.V, 11095.V MHz toward Apple Valley, Idaho (641–CF–P–74).

Western Tele-Communications, Inc. (WCG 274), 5.8 miles ESE. of Apple Valley, Idaho. Granted construction permit for new station—11385.V, 11625.V, and 11505.H MHz toward New Vale, Ore., and Payette and Wieser, Idaho, 11625V, 11505H MHz toward Emmett, Boise, Nampa, and Parma, all in Idaho, via power split and to delete 11385V MHz toward Emmett, Boise, and Parma, and to delete 11585H MHz toward Nampa 642–CF–P–74).

American Television & Communications Corp. (WBA 760), 1609 Old Louisburg Road, Raleigh, N.C. Granted construction permit to add 6241.7H MHz toward Durham, N.C. (2460–CF–P–77).

CORRECTION

American Television Communications Corp. (WBA 759), Ellis Road NW. of Glover Road, Durham, N.C. This entry appearing in public notice of July 11, 1977, is corrected to show company name as above. All other particulars remain the same (2459–CF–P–77).

[FR Doc.77-21615 Filed 7-26-77;8:45 am]

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[Docket Nos. 21336; 21337; File Nos. 146–A–RL–27; 125–A–AL–37]

## HILLSBORO AVIATION CO., AND EAGLE ENTERPRISES, INC.

### Applications for an Aeronautical Advisory Station To Service Portland-Hillsboro Airport, Hillsboro, Oregon; Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: July 14, 1977.

Released: July 20, 1977.

1. Hillsboro Aviation Company (hereinafter called Hillsboro) and Eagle Enterprises, Inc. (hereinafter called Eagle) have each filed an application for aeronautical advisory facilities at the same airport. Section 87.251(a) of the Commission's rules provides that only one aeronautical advisory station may be authorized to operate at a landing area and, therefore, the above-captioned applications are mutually exclusive. Accordingly, it is necessary to designate the applications for a comparative hearing in order to determine which application should be granted. Except for the issues specified herein, each applicant is otherwise qualified.

2. Hillsboro's application is in the form of a renewal. Hillsboro was the licensee of aeronautical advisory station KVR–3 at the Portland-Hillsboro Airport, Hillsboro, Oregon from October 24, 1966, to October 18, 1976. However, Hillsboro did not file an application for renewal until November 12, 1976; therefore, its renewal was not timely filed and must be treated as an application for a new station.

3. In view of the foregoing, *it is ordered*, That, pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended, and section 0.331 of the Commission's rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order on the following comparative issues;

(a) To determine which applicant would provide the public with better





aeronautical advisory service based on the following considerations:

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications, including but not limited to operation of stations in the Aviation Services—Part 87 that may be or have been authorized to the applicant;

(5) Ability to provide information pertaining to primary and secondary communications as specified in Section 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and,

(7) The availability of the radio facilities to other fixed-base operators.

(b) To determine whether Hillsboro has operated an aeronautical advisory station at Portland-Hillsboro Airport, without a valid authorization in violation of the Commission's rules and the Communications Act of 1934, as amended and if so, the effect of such violation on Hillsboro's qualifications to be a Commission licensee.

(c) To determine the manned in which Hillsboro has operated aeronautical advisory station KVR–3 at Portland-Hillsboro Airport and whether its operation was consistent with the Commission's rules, § 87.257.

(d) To determine in light of the evidence adduced in the foregoing issues which, if either, of the applications should be granted.

4. *It is further ordered*, That the burden of proceeding with the introduction of evidence and the burden of proof on issues (b) and (c) is on Hillsboro. On all other issues, the burdens are on each applicant with respect to its application except issued (d) which is conclusory.

5. *It is ordered*, That, to avail themselves of an opportunity to be heard, Hillsboro and Eagle, pursuant to § 1.221 (c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

CHARLES A. HIGGINBOTHAM,
*Chief, Safety and Special Radio Services Bureau.*

[FR Doc.77-21612 Filed 7-26-77;8:45 am]

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## PRIVATE LAND MOBILE ADVISORY COMMITTEE

### Meeting Change

Two previously announced meetings (July 29, 1977, and August 11, 1977) of the Private Land Mobile Advisory Committee have been changed. The July 29, 1977, meeting has been cancelled due to a two week delay in the date for filing comments in the 5th Notice of Inquiry (NOI) in Docket 20271.

The previously scheduled meeting on August 11, 1977, will consider comments in the 5th NOI instead of reply comments as previously scheduled. The new agenda for the meeting will be:

1. Call of the Agenda.
2. Opening remarks of the Chairman.
3. Consideration of Comments in the 5th NOI, Docket 20271.
4. Further Business.
5. Adjournment.

This meeting (as previously scheduled) will be held in Room 7327, Federal Communications Commission, 2025 M Street, NW., Washington, D.C. at 9 a.m.

A new meeting is hereby schedulued for September 1, 1977, to consider reply comments in this same proceeding. This meeting will be held in Room 8210, Federal Communications Commission, 2025 M Street, Washington, D.C. at 9 a.m. It will be conducted in accordance with the following agenda:

1. Call of the Agenda.
2. Opening remarks of the Chairman.
3. Consideration of Reply Comments in the 5th NOI, Docket 20271.
4. Adjournment.

Both meetings are open to the public.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

[FR Doc.77-21614 Filed 7-26-77;8:45 am]

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[Docket No. 21315]

## RICHARD P. SHANKLIN

### Application for Amateur Radio Station License and Technician Class Operator License; Order Designating Application for Hearing on Stated Issues

Adopted: June 27, 1977.

Released: July 15, 1977.

The Chief, Safety and Special Radio Services Bureau, has under consideration the above-captioned application for a Technician Class Amateur operator license and an Amateur radio station license filed by Richard P. Shanklin on April 9, 1976.

1. Shanklin was granted a Novice Class Amateur operator license and radio station license on December 16, 1964, for a one-year term which expired on December 16, 1965. Shanklin's call sign was WN4WPI.

2. In September 1967, the Commission learned that Shanklin was apparently operating an Amateur radio station without a license. Shanklin represented to the Commission that was an Amateur radio operator and that his radio station was causing interference to a neighborhood television receiver. In response to a request by the Commission for information regarding that operation, Shanklin submitted a document to the Commission which purported to be a General Class Amateur license issued to Shanklin on December 18, 1965, for a five-year term, bearing the call sign WA4WPI. The Commission's license records revealed no such license grant to Shanklin. Furthermore, the face of the license document appeared to have been altered to change the call letters, issue date, expiration date and operator privileges.

3. On November 1, 1967, the Commission sent Shanklin a letter of inquiry concerning the discrepancy between its records and the document he had submitted. Shanklin, in response, stated that he had taken a General Class Amateur radio examination on December 3, 1965, and had received a General Class Amateur license approximately a month later. In response to a question concerning the alteration of the face of the license document, Shanklin stated that he had written on the face of the document to restore it after having spilled a liquid substance on it.

4. On November 29, 1968, Shanklin filed an application for a Third Class Radiotelephone Operator Permit. On March 3, 1969, Shanklin admitted to the Commission that he had altered the Amateur license document submitted to the Commission in 1967 so that it would indicate that he held a General Class license.

5. On March 7, 1969, Shanklin was advised that the Commission was unable to determine, without a hearing on the matter, whether a grant of his Third Class Radiotelephone Operator Permit application would be in the public interest. Shanklin was advised of his right to request a hearing in the matter. Shanklin did not request a hearing and his application was dismissed pursuant to Sections 1.84(d) and 0.331 of the Commission's Rules, by Order (FCC 31812) released May 5, 1969.

6. On July 30, 1971, the Commission granted Shanklin a license in the Citizens Band Radio Service. The license expired on July 30, 1976.

7. It appears that in November 1972, Shanklin filed an application for membership in the Civil Air Patrol, Fairfax Composite Squadron, Fairfax, Virginia, representing on the application that he held a First Class Radiotelephone Operator license issued by the Commission. When requested by the Civil Air Patrol to produce the license document, Shanklin produced a document which purported to be a copy of a First Class Radiotelephone Operator license issued to him bearing an issue date of March 31, 1971, and the number "PI–24–8526." Shanklin did not hold such a license at that time. According to the Commission's records, the license bearing that number was held by one Earl Morgan Tucker. Shanklin was requested to resign from the Civil Air Patrol. He did so in February 1973.

8. It appears that on February 10, 1976, Shanklin filed an application for membership in the Civil Air Patrol, Herndon Composite Squadron, Herndon, Virginia. Shanklin represented on his membership application that he possessed a Restricted Operator Permit, issued by the



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Commission. Shanklin did not hold such a permit.

9. On May 4, 1976, Shanklin apparently prepared a request for promotion in the Civil Air Patrol, Herndon Composite Squadron, on which he represented that he held a First Class Radiotelephone Operator license. He held no such license. It appears that as a result of those representations Shanklin's membership in the Civil Air Patrol was terminated on September 14, 1976.

10. It appears that on March 6, 1976, Shanklin operated radio transmitting equipment on the frequency 146.79 MHz without a radio station license, in violation of Section 301 of the Communications Act of 1934, as amended. During that operation it appears that Shanklin used a call sign not assigned to him by the Commission.

11. In view of the above, the Commission is unable to find that Shanklin possesses the requisite qualifications to become a licensee of the Commission. In light of his apparent submission of an altered license document to the Commission in 1967, and in light of his dealings with Civil Air Patrol Units concerning Commission license authorizations, it appears that Shanklin may have engaged in a pattern of fraudulently representing that he holds Commission licenses to operate radio transmitting equipment. Such a pattern of conduct may reflect adversely upon Shanklin's qualifications to be a Commission licensee by revealing a disregard for the Commission's statutory responsibility to license and regulate radio stations and operators. Therefore, issues must be specified regarding such incidents. Furthermore, an issue must be specified concerning Shanklin's apparent unlicensed radio operation.

Accordingly, it is ordered, pursuant to Section 309(e) of the Communications Act of 1934, as amended, and §§ 1.973(b) and 0.331 of the Commission's Rules, that the captioned application IS DESIGNATED FOR HEARING, at a time and place to be specified by subsequent Order, upon the following issues:

(1) To determine whether Richard P. Shanklin operated unlicensed radio apparatus on March 6, 1976, in violation of Section 301 of the Communications Act of 1934, as amended.

(2) To determine whether Richard P. Shanklin falsely represented that he held certain Commission authorizations to operate radio transmitting equipment.

(3) To determine, in light of facts adduced under issues (1) and (2), whether Richard P. Shanklin possesses the requisite qualifications to be a licensee of the Commission.

(4) To determine, in light of the foregoing issues, whether the public interest, convenience and necessity would be served by a grant of the application for Technician Class Amateur radio operator and station license.

*It is further ordered*, That, to avail himself of the opportunity to be heard, the applicant pursuant to Section 1.221 (c) of the Commission's Rules, in person or by attorney, shall within 20 days of the mailing of this Order, file with the Commission in triplicate a written notice of appearance, stating an intent to appear on a date fixed for hearing to present evidence on the issues specified in this Order.

*It is further ordered*, That a copy of this Order shall be sent by regular United States Mail to Richard P. Shanklin at his address as shown in the caption.

Chief, Safety and Special Radio Services Bureau.

GERALD M. ZUCKERMAN,
*Chief, Legal, Advisory and Enforcement Division.*

[FR Doc.77-21611 Filed 7-26-77;8:45 am]

## FEDERAL ENERGY ADMINISTRATION

### GASOLINE MARKETING ADVISORY COMMITTEE

#### Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Gasoline Marketing Advisory Committee will meet Monday, August 22, 1977, at 9 a.m., in the Press Room, Parker House Hotel, 60 School Street, Boston, Mass.

The Committee was established to provide the Administrator, FEA, with expert and technical advise concerning the wholesale and retail selling of gasoline.

The agenda for the meeting is as follows:

1. Old business—Discussion of requests and commitments from the prior committee meeting.
2. Class of purchaser/surplus products.
3. Gasoline decontrol.
4. Market shares changes.
5. Administration's energy plan.
6. New business—Items for discussion at the next meeting.
7. Remarks from the floor (10-minute rule)

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform the Director, Advisory Committee Management, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

The Transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, FEA, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on July 22, 1977.

ERIC J. FYGI,
*Acting General Counsel.*

[FR Doc.77-21551 Filed 7-26-77;8:45 am]

### STRATEGIC PETROLEUM RESERVE

#### Availability of the Draft Supplement to Final Environmental Impact Statement for Bryan Mound Salt Dome Storage Site

Pursuant to section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C), the Federal Energy Administration (FEA) has prepared a draft supplement to the final environmental impact statement (EIS) for the Bryan Mound salt dome site. This draft supplement describes the environmental impacts expected to result from a proposed new source of raw water supply and an alternative method of brine disposal at the Bryan Mound site.

The Bryan Mound site has been proposed as an element of the Strategic Petroleum Reserve (SPR). The SPR (mandated by Part B of Title I, Energy Policy and Conservation Act, 42 U.S.C. 6231-6246) will be created for the storage of crude oil and/or petroleum products for use in the event of a Presidential determination of a severe energy supply interruption or a requirement to meet the obligations of the United States under the International Energy Program.

Single copies of the draft supplement of the Bryan Mound EIS (DES-76/77-6) may be obtained from the National Energy Information Center, Room 1404, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of this supplement will also be available for public review in the FEA Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Interested persons are invited to submit data, views and arguments with respect to the supplement to Executive Communications, Box OA, Room 3309, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on the documents submitted to FEA Executive Communications with the designation "Draft supplement to the Bryan Mound EIS (DES-76/77-6)." Fifteen copies should be submitted.

All comments should be received by FEA by September 7, 1977, in order to receive full consideration.

Any information or data submitted in response to the draft supplement to the Bryan Mound EIS, considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.





Issued in Washingon, D.C., July 21, 1977.

ERIC J. FYGI,
*Acting General Counsel,*
*Federal Energy Administration.*

[FR Doc.77-21552 Filed 7-26-77;8:45 am]

## FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1555]

### BY-LINE TRAFFIC SERVICE, INC.

#### Reinstatement of License

By Federal Maritime Commission Order served and published in the FEDERAL REGISTER, By-Line Traffic Service, Inc.'s Independent Ocean Freight Forwarder License No. 1555 was revoked, effective June 5, 1977, for failure to maintain a valid surety bond on file with the Commission. The Order of Revocation was published on June 13, 1977, in 42 FR 30242.

An appropriate surety bond has been received in favor of By-Line Traffic Service, Inc., and compliance pursuant to section 44, Shipping Act, 1916, and section 510.9 of the General Order 4 has been achieved.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) section 7.04(a), dated September 15, 1973, Independent Ocean Freight Forwarder License No. 1555 shall be reissued to By-Line Traffic Service, Inc. effective June 5, 1977. A copy of this Notice of Reinstatement shall be published in the FEDERAL REGISTER and served upon By-Line Traffic Service, Inc.

FRANCIS C. HURNEY,
*Acting Managing Director.*

[FR Doc.77-21609 Filed 7-26-77;8:45 am]

### CITY OF LOS ANGELES AND AMERICAN PRESIDENT LINES, LTD.

#### Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 16, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Frank Wagner, Deputy City Attorney, City of Los Angeles, Harbor Division, P.O. Box 151, San Pedro, Calif. 90733.

Agreement No. 8325-4, between the City of Los Angeles (City) and American President Lines, Inc. (APL), modifies the nonexclusive preferential berth assignment between the parties. The purpose of this amendment is to establish the compensation payable to City on a revenue sharing basis. City's published tariff charges shall be due and payable in full from APL until such payments reach $1,772,259. All charges in excess of this amount will be shared equally between the parties. APL further agrees to a minimum annual guarantee of $1,329,195. The City's tariff charges for pilotage, use of municipal pipelines for bunkering purposes and all tariff charges attributable to passenger vessels and their cargoes will be paid by APL, but shall not be included in the compensation under this revenue sharing formula. APL may not serve any customers regularly served by the other tenants of the Port of Los Angeles without prior approval by the City. All other provisions of the basic assignment will remain unchanged.

By Order of the Federal Maritime Commission.

Dated: July 22, 1977.

JOSEPH C. POLKING,
*Acting Secretary.*

[FR Doc.77-21608 Filed 7-26-77;8:45 am]

[Docket No. 77-38]

### SEA-LAND SERVICE, INC.

#### Rates on Government Cargo; Order of Investigation

On July 21, 1977, Sea-Land Service, Inc. (Sea-Land), proposes to make effective certain rates and rules applicable to the carriage of government cargoes[1] between U.S. Atlantic ports and ports in Puerto Rico. The proposed tariff pages would establish three basic rates applicable to government cargo, viz.: Cargo N.O.S.; Refrigerated Cargo, and Vehicles. In order to take advantage of these rates, both the shipper and consignee must be a Government or Government Agency and the cargo must be tendered under a Shipping Order as opposed to a Commercial Bill of Lading. The Shipping Orders are set forth specifically in Sea-Land's tariffs.

Under consideration of the subject rates and rules and their potential conflict with the Congressional intent in the repeal of section 6 of the Intercoastal Shipping Act, 1933, the Commission is of the opinion that the proposed tariff matter should be made the subject of a public investigation to determine whether it is unjust, unreasonable or otherwise unlawful under sections 16 First and 18(a) of the Shipping Act, 1916 and/or sections 3 and 4 of the Intercoastal Shipping Act, 1933.

The Commission currently has pending an investigation of essentially identical tariff provisions in Docket No. 75-20, *Puerto Rico Maritime Shipping Authority Rates on Government Cargo*. The record in this proceeding is ripe for decision. Due to similarity of the issues herein and those in Docket No. 75-20, it is felt that any investigation in this proceeding should be delayed until the initial decision in the companion docket. This course of action is consistent with our Order served on May 20, 1977, in Docket No. 77-18, *Seatrain Gitmo, Inc.—Rates on Government Cargo*. The tariff amendments and attending circumstances of Seatrain Gitmo, Inc.'s (Seatrain) government rates and rules, which became effective on May 25, 1977, are similar to those involved herein. These parallel situations dictate our decision to treat the provisions of the two carriers in a like manner.

*Therefore, it is ordered*, That pursuant to the authority of sections 18(a) and 22 of the Shipping Act, 1916, as amended, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, as amended, an investigation is hereby ordered into the lawfulness of the proposed tariff matter set forth in Appendix A hereto for the purpose of making such findings and orders as the facts and circumstances warrant. In the event that the tariff matter hereby placed under investigation is further changed, amended, or reissued, such changes are hereby ordered to be made part of this investigation;

*It is further ordered*, That pursuant to section 16, First of the Shipping Act, 1916, as amended, a determination shall be made as to whether Sea-Land, by the subject rates and rules, is proposing to grant any undue or unreasonable preference or advantage to Government, Government agencies or Government cargoes or to subject any particular person or description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever within the meaning of that section;

*It is further ordered*, That Sea-Land Service, Inc., be named respondent in this proceeding;

*It is further ordered*, That the parties submit to the Secretary, not later than 30 days after service of the initial decision in Docket No. 75-20 individual or joint recommendations to the Commission identifying all unresolved issues and specifying the type of procedure best

[1] The applicable tariff matter is set forth in appendix A hereto.



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suited to resolve them. After consideration of these recommendations, the Commission will issue an appropriate order limiting the issues and establishing the procedure for their resolution or, alternatively, refer the matter to the Office of Administrative Law Judges for the establishment of such a procedure;

*It is further ordered*, That (1) a copy of this order be forthwith served upon the respondent and upon the Commission's Bureau of Hearing Counsel, and published in the FEDERAL REGISTER.

All persons (including individuals, corporations, associations, firms, partnerships and public bodies) having an interest in this proceeding and desiring to intervene herein should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72) with a copy to all parties to the proceeding.

By the Commission.

JOSEPH C. POLKING,
*Acting Secretary.*

APPENDIX A

Sea-Land Service, Inc.

TARIFF FMC–F NO. 34

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TARIFF FMC–F NO. 36

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[FR Doc.77–21610 Filed 7–26–77;8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. RI77–65]

### ATLANTIC RICHFIELD CO.

**Order Granting Special Relief**

JULY 20, 1977.

On May 2, 1977, Atlantic Richfield Co. (Atlantic) filed a petition for special relief pursuant to section 2.76 of the Commission's General Policy and interpretations (18 CFR § 2.76) for the sale of its 50 percent interest in natural gas produced from the Smith Gas Unit, Well No. 1–36, Clark County, Kans., to Northern Natural Gas Co. (Northern).

Atlantic is currently making this sale under a contract dated June 15, 1961, on file with the Commission as Atlantic's FPC Gas Rate Schedule No. 234, pursuant to authority granted in Docket No. CI62–105. Atlantic is currently collecting a rate of 29.45 cents per Mcf for the sale to Northern. Atlantic states that in order to prevent premature abandonment and increase present day productivity of the subject well it will be necessary to install compression facilities which will increase the production costs of the well. In an effort to achieve the optimum recovery of the gas reserves, Atlantic and Northern entered into an amendment to their gas sales agreement on December 13, 1976, which provides for a price of 40 cents per Mcf for gas produced from the well and this is the price requested in Atlantic's petition for special relief.[1]

Notice of Atlantic's petition for special relief was issued on May 13, 1977. No protests or petitions to intervene have been filed.

Based on its analysis of data submitted by Atlantic, Staff accepts Atlantic's cost of compression installation and estimate of remaining recoverable reserves as reasonable and concludes that the requested special relief is warranted. Upon considerations of the data submitted and Staff's analysis thereof, we conclude that the proposed rate is justified.

*The Commission orders:* (A) The petition for special relief of Atlantic is hereby granted.

(B) Atlantic is authorized to collect a total rate of 40 cents per Mcf at 14.65 psia for gas sold to Northern from the Smith Gas Unit, Well No. 1–36, Clark County, Kan., effective on the date of issuance of this order or on the date of completion of the proposed work, whichever is later. This authorization is contingent upon Atlantic's filing within 30 days of the effective date set forth above a statement, signed by Northern, that the proposed work has been performed to Northern's satisfaction.

(C) The contract amendment designated as Supplement No. 14 to Atlantic's FPC Gas Rate Schedule No. 234 is hereby accepted to become effective as provided in Ordering Paragraph (B).

(D) Atlantic shall file within 30 days hereof a notice of change in rate to the level authorized in Ordering Paragraph (B).

By the Commisson.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77–21638 Filed 7–26–77;8:45 am]

[Docket No. CP66–235]

### ATLANTIC SEABOARD CORP.

**Order Granting Petition for Declaratory Order**

JULY 20, 1977.

On December 28, 1976, Columbia Gas Transmission Corp. (Columbia), as successor to Atlantic Seaboard Corp. (Seaboard), filed pursuant to section 1.7(c) of the Rules of Practice and Procedure of the Federal Power Commission, a petition for a Declaratory Order in the above-captioned docket. In its petition, Columbia requests the Commission to issue an order stating that the herein described replacements to its pipelines with like-size minimum wall thickness pipe on its 20-inch gas transmission pipeline extending from Flat Top, West Virginia to Dranesville, Va., are replacements under section 2.55(b) of the Commission's Statement of General Policy.

Columbia intends to replace 35-year old 20-inch pipeline with like-size minimum wall thickness pipeline which has deteriorated. Although Columbia alleges that such replacement would fall under section 2.55(b) of the Commission's Rules of Practice and Procedure, its prior experience dictated that it file the instant petition. In 1964 and 1965, Seaboard replaced 34 miles of 20-inch pipeline with like diameter pipe, whereupon the Commission issued an order to show cause questioning whether the replacements were under section 2.55(b). The show cause proceeding was terminated by Commission Order issued September 13, 1967, at FPC Docket No. CP67–167 and CP66–235. All subsequent replacements on the gas transmission pipeline had been made pursuant to Commission authorization.

The replacements which have been made were part of a planned program to replace the pipeline in systematic large sections, as delineated in the Commission's show cause proceeding, having the long range objective of providing increased capacity for Columbia's eastern markets. With the advent of the shortage of gas supplies, in 1970, Columbia abandoned its replacement program. All replacements subsequently have been due to the deterioration of the pipeline. Columbia anticipates that any future replacements undertaken will be only as required by the Department of Transportation Regulations, class location changes or the condition of the pipe.

Due to the Commission's prior actions, Columbia seeks hearing and an order from the Commission declaring that future replacements of the limited nature herein above described not require authorization under section 7(c) of the Natural Gas Act. Columbia further states that they have no objection to the attachment of a condition to the Commission's order specifically requiring it to file for certificate in order to replace sections of a 20-inch pipeline for the purpose of increasing the capacity of the line. Further, should the Commission deem appropriate, Columbia would report on an annual basis any replacements made on a 20-inch pipeline and would file to obtain certificate authorization for utilization of any potential increase in capacity resulting in the ultimate replacement of the remaining sections of a 20-inch pipeline.

In support thereof, Columbia cites the delay inherent in the regulatory process. Upon discovery of the deteriorated pipe, Columbia must prepare the necessary filings and receive Commission authority to proceed prior to replacing the deteriorated pipe. At the time the deteriorated pipe condition becomes apparent, it would be in the public interest for Columbia to have the flexibility to immediately effect such replacement. It is difficult for us to foresee an instance when a regulatory authority would deny an application to effect such replacement. However, we do find it necessary to point out in this order that Columbia is still required to seek authorization under section 7(c) when such replacements result in any increase in capacity of the pipeline. In order to allow our staff to be informed of the replacements, we further find that Columbia should report on an annual basis any replacements made.

On April 14, 1977, Columbia filed in Docket No. CP77–341 an application for a certificate of public convenience and necessity authorizing the construction and operation of certain replacement facilities due to the Commission's inaction on its petition. The proposed replacements as described clearly fall within the exemption of section 2.55(b) in that "they constitute the replacement of the existing facilities which have or will soon become physically deteriorated * * * will not result in a reduction or abandonment of service * * * (and) shall have substantially equivalent design delivery capacity as the particular facilities being replaced." Based on the foregoing, the Commission finds that Columbia's petition should be granted under the previous states conditions and the application filed in Docket No. CP77–341 is dismissed accordingly.

*The Commission orders*: The petition for a declaratory order filed by Columbia Gas Transmission Corp. on December 28, 1976, in the above-captioned docket is hereby granted. Columbia shall file an annual report with the Commission listing all replacements of pipeline that fall within section 2.55(b) of the Commission's Statement of General Policy.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77–21636 Filed 7–26–77;8:45 am]

[Docket No. ER76–800]

### APPALACHIAN POWER CO.

**Proposed Settlement Agreement**

JULY 21, 1977.

Take notice that Appalacian Power Co. (APC) on June 16, 1977, tendered for filing a proposed Settlement Agreement between APC and Carolina Power and Light Co. (Carolina).

APC indicates that during the pendency of the proceedings in the above-noted docket, APC and Carolina entered into negotiations which have resulted in certain understandings and agreements which, if approved by the Commission, would result in the termination of the proceedings in the above-noted docket and the withdrawal of the petition for review now pending before the United States Court of Appeals for the District of Columbia Circuit.

APC indicates that the proposed Settlement Agreement includes (1) a modification to APC's FPC Rate Schedule No. 24, (2) a notice of cancellation to be effective as of 11:59 p.m. on March 31, 1977, of the Service Schedule contained in FPC's Rate Schedule No. 24, and (3) Carolina's certification of concurrence in the notice of cancellation.

Any person wishing to do so may submit comments in writing concerning the above filing. Comments should be addressed to the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, and should be submitted on or before August 1, 1977. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77–21639 Filed 7–26–77;8:45 am]

[Docket No. ER77–493]

### BLACKSTONE VALLEY ELECTRIC CO.

**Tariff Change**

JULY 21, 1977.

Take notice that Blackstone Valley Electric Co. ("Blackstone") on July 1, 1977, tendered for filing proposed changes in Exhibit D (Supplement No. 1) to its FPC Rate Schedule No. 21. Blackstone indicates that the proposed changes would increase revenues paid by Montaup Electric Company to Blackstone for certain transmission facility rentals by $21,612 for the twelve months ending August 1, 1977.

Blackstone indicates that the filing is intended to recover Blackstone's increased cost of capital.

According to Blackstone copies of the filing were served upon the affected jurisdictional customers, the Massachusetts Department of Public Utilities, the Rhode Island Public Utilities Commission Division of Public Utilities and Carriers, the Rhode Island Consumers' Council and the Attorneys General of Massachusetts and Rhode Island.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 5, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77–21621 Filed 7–26–77;8:45 am]

[Docket No. ER77–494]

### BROCKTON EDISON CO.

**Tariff Change**

JULY 21, 1977.

Take notice that Brockton Edison Co. ("Brockton") on July 1, 1977, tendered for filing proposed changes in Exhibit D (Supplement No. 1) to its FPC Rate Schedule No. 15. Brockton indicates that the proposed changes would increase revenues paid by Montaup Electric Co. to Brockton for certain transmission facility rentals by $53,230 for the twelve months ending August 1, 1977.

Brockton indicates that the filing is intended to recover Brockton's increased cost of capital.

Copies of the filing were served upon the affected jurisdictional customers, the Massachusetts Department of Public Utilities, the Rhode Island Public Utilities Commission Division of Public Utilities and Carriers, the Rhode Island Consumers' Counsel and the Attorneys General of Massachusetts and Rhode Island, according to Brockton.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 5, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77–21622 Filed 7–26–77;8:45 am]

[Project No. 2786]

### CENTRAL VERMONT PUBLIC SERVICE CORP.

**Application for Preliminary Permit**

JULY 21, 1977.

Public notice is hereby given that an application for preliminary permit was filed on January 5, 1977, under the Federal Power Act (16 U.S.C. §§ 791a–825r) by Central Vermont Public Service Corporation (Correspondence to: Seymour H. Robinson, Senior Vice President, Central Vermont Public Service Corp., 77 Grove Street, Rutland, Vt. 05701) for the proposed Ball Mountain Project No. 2786, to be located on the West River in Windham County, Vt.

Applicant proposes to develop a hydroelectric facility in conjunction with the existing Ball Mountain Dam, a flood control dam owned by the U.S. Army Corps of Engineers. The proposed project would utilize the existing conservation pool at Ball Mountain, plus additional head developed through the installation of a

[1] Atlantic's petition meets the shortened procedure criteria set forth in section 2.76 (d)(1) of the Commission's General Policy and Interpretations (18 CFR § 2.76(d)(1)). See Order No 551, mimeo, at 3.







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downstream penstock approximately 12 feet in diameter and 8,800 feet long. Although subject to modifications based on economic optimization studies, the proposed project would also consist of: (1) a bypass valve structure; (2) a semi-outdoor type powerhouse with a concrete sub-structure and removable hatchway; (3) a vertical shaft turbine rated at approximately 29,000 horsepower; (4) a tailrace to be excavated downstream from the powerhouse to the West River; (5) an outdoor substation and switchyard; and (6) a 46-kv transmission line from the proposed facility to Applicant's existing transmission line system.

The power developed by the proposed project would be utilized by Applicant to assist in meeting its present and future load requirements.

A preliminary permit does not authorize the construction of a project. A permit, if issued, gives the permittee, during the period of the permit, the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for a license.

Any person desiring to be heard or to make protest with reference to said application should, on or before September 6, 1977, file with the Federal Power Commission,, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21628 Filed 7-26-77;8:45 am]

[Docket No. E-9598]

## CLEVELAND ELECTRIC ILLUMINATING CO.

### Application

JULY 21, 1977.

Take notice that on June 29, 1977, the Cleveland Electric Illuminating Co. (Applicant) filed an application seeking an order pursuant to section 203 of the Federal Power Act authorizing it to acquire certain electric transmission facilities from the City of Cleveland, Ohio (Cleveland).

Applicant indicates that Cleveland is under the laws of the State of Ohio with its principal business office at Cleveland, Ohio, and is engaged in the electric utility business in the City of Cleveland and in nine counties in the State.

Applicant indicates that Cleveland is a municipality, a body politic of the State of Ohio and is engaged in the electric utility business in a portion of the City of Cleveland.

The Applicant proposes, subject to regulatory approval, to purchase approximately 1.6 miles of 138 kV transmission line, 20 miles of 69 kV transmission lines, 113 miles of 11 kV transmission lines, together with related auxiliary equipment, located in the City of Cleveland.

Applicant indicates that Cleveland has reported the depreciated original cost of said property as $5,270,207.

Any person desiring to be heard or to make any protest with reference to said application should, on or before August 5, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1:8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21634 Filed 7-26-77;8:45 am]

[Docket No. CP77-487]

## COLUMBIA GAS TRANSMISSION CORP.

### Application

JULY 20, 1977.

Take notice that on July 5, 1977, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP77-487 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of natural gas for Ball Corporation (Ball) for 2 years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to transport up to 325 Mcf of natural gas per day for Ball, which volumes would be received by Applicant into its Line V-W11449 in Milton Township, Mahoning County, Ohio, at a specific point to be mutually agreed upon. Applicant states that it would redeliver the gas for the account of Ball at an existing point of delivery near its Bickers Compressor Station in Greene County, Virginia, to CNG Transmission Company (CNG), who would in turn deliver the gas to Virginia Electric and Power Company (Vepco) for use at Ball's Williamburg, Virginia, plant.

It is stated that Ball was severely curtailed by Vepco during the 1976-77 winter season and has been informed that continuing curtailment is imminent. It is further stated that Ball's Williamsburg plant produces metal containers primarily for beverages, and that Ball supplies approximately 90 percent of all containers used by Anheuser-Busch at their Williamsburg brewery under a long-term contract. Ball has installed a standby system utilizing No. 2 fuel oil as alternate fuel capability to replace natural gas at the Williamsburg plant, and the gas to be transported hereunder is for process uses for which an alternate fuel can not be used, i.e., the firing of washers that clean the metal containers and for the ovens through which the containers pass three different times in the manufacturing process, it is said. It is stated that natural gas is necessary for this equipment because the products of combustion from alternate fuels would contaminate the beverage containers, making them unacceptable for consumer use.

Applicant states that it has agreed to transport up to 485 Mcf of natural gas per day for Ball; up to 325 Mcf per day of which would be transported hereunder and up to 160 Mcf per day would be transported under a companion filing.

It is indicated that Montara Petroleum Company and Mutual Oil and Gas Company (Producers) have contracted to sell to Ball up to 250 Mcf of natural gas per day from Producers' wells located in Mahoning County, Ohio. It is further indicated that the price at which Ball would purchase such gas from Producers is $2.20 per Mcf for the first contract year and $2.50 per Mcf for the second contract year. Applicant states that in order to deliver the gas into Applicant's pipeline, Ball would be required to make an investment in field gathering facilities costing approximately $25,000 which facilities would be used for this and other transportation arrangements for Ball. Applicant further states that it would not be required to construct any additional facilities to perform the proposed transportation service.

It is stated that Applicant's transportation charge for this service would be its average system-wide unit gathering, storage and transmission costs exclusive of company-use and unaccounted-for gas, which is 24.75 cents per Mcf. Applicant indicates that it would retain for company-use and unaccounted-for gas a percentage of the total volumes received for the account of Ball, which percentage is currently 3.1 percent.

It is stated that the gas proposed herein to be transported would be used for high priority use and is not available to the interstate market.

Applicant indicates that the gas transported hereunder is subject to diversion to Applicant in emergency periods when, in its sole judgment, such gas is required for the protection of Priority 1 requirements on its system.





Any person desiring to be heard or to make any protest with reference to said application should on or before August 2, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21632 Filed 7-26-77;8:45 am]

[Docket No. ER77-497]

## DELMARVA POWER & LIGHT CO.

### Change in Newark Service Agreement

JULY 21, 1977.

Take notice that Delmarva Power & Light Company (Delmarva) on July 2, 1977, tendered for filing a proposed new Service Agreement with the City of Newark, Delaware under Delmarva FPC Electric Tariff, Volume No. 6.

Delmarva indicates that the proposed Service Agreement will supersede an existing Service Agreement dated June 28, 1963, as amended by a First Amendment, dated June 8, 1972. Delmarva indicates that the proposed service agreement modifies the present Agreement to eliminate certain outmoded requirements on the parties, and to define a date (July 1, 1982) and a location (Chapel Street, in the vicinity of Kershaw Park) when and where Newark will accept service from Delmarva at a single delivery point. According to Delmarva the Service Agreement further specifies the respective rights and obligations of the parties with respect to the future transition from service at a single delivery point. Delmarva has asked waiver of notice requirements, and an effective date for the new Service Agreement of May 23, 1977.

Delmarva states that a copy of the filing has been served upon City Manager, Newark, Delaware, the only jurisdictional customer affected thereby.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 5, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21619 Filed 7-26-77;8:45 am]

[Docket No. ER77-500]

## DUKE POWER CO.

### Proposed Supplement to Electric Power Contract

JULY 21, 1977.

Take notice that Duke Power Company (Duke) tendered for filing on June 29, 1977, a supplement to the Company's Electric Power Contract with Laurens Electric Cooperative, Inc. which is proposed to become effective on June 20, 1977. Duke indicates that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FPC No. 144.

Duke indicates that this contract supplement, made at the request of the customer with the agreement obtained from the customer, provides for an additional delivery point (No. 25), cancellation of Delivery Point No. 19, and reallocation of SEPA capacity and energy to preference customers. Duke also indicates that the supplement also includes an estimate of sales and revenue for the twelve months immediately preceding and for the twelve months immediately succeeding the effective date.

Duke states that a copy of this filing was mailed to Laurens Electric Cooperative, Inc. and to the South Carolina Public Service Commission.

Duke requests waiver of the Commission's notice requirements to allow for an effective date of June 20, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 5, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21620 Filed 7-26-77;8:45 am]

[Docket No. ER77-506]

## GEORGIA POWER CO.

### Proposed Change in Rate Schedule

JULY 21, 1977.

Take notice that on July 10, 1977 Georgia Power Company (Georgia Power) tendered for filing a proposed change in its Interconnection Agreement with Crisp County Power Commission (Power Commission) (Georgia Power Company FPC Rate Schedule No. 791).

Georgia Power states that the proposed amendment does not change the level of the rates applicable to power transactions under the Agreement, and that the proposed change merely recites the sale by Georgia Power, pursuant to Commission order in Docket No. E-9594, of certain utility assets constructed to serve Power Commission to the Municipal Electric Authority of Georgia (MEAG) of which Power Commission is a member. Georgia further states that pursuant to the Amendment, Power Commission's obligation to make monthly payments of $14,828.24 toward the fixed charges associated with the facilities shall cease.

Georgia Power requests that an effective date of June 29, 1977 be assigned to the proposed modification, and therefore requests that the Commission waive the 30-day notice requirement.

Georgia Power indicates that copies of its filing have been mailed to Power Commission.

Any person desiring to be heard or to protest said applications should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 3, 1977. Protests will considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21623 Filed 7-26-77;8:45 am]



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[Project No. 2183]

## GRAND RIVER DAM AUTHORITY

### Two Applications for Approval of Change in Land Rights and One Application for Approval of Change in Land Rights and Revised Exhibit K

JULY 21, 1977.

Public notice is hereby given that two applications were filed November 1, 1976, under the Federal Power Act (the Act) (16 U.S.C. §§ 791(a)–825(r) (1970)) by Grand River Dam Authority (GRDA) (correspondence to: Robert W. Sullivan, Jr., Esq., General Counsel, Grand River Dam Authority, Administrative Headquarters, Drawer G., Vinita, Oklahoma 74301) for approval of change in land rights for Project No. 2183, known as the Markham Ferry Project, located on the Grand River, a navigable water of the United States, in Mayes County, Oklahoma. On March 14, 1977, GRDA also filed under the Act, a third application for approval of change in land rights and revised Exhibit K for the same project.

GRDA, licensee for Markham Ferry Project No. 2183, requests Commission approval of the sale of various parcels of land located within the project boundary but, according to the applications, not necessary for project purposes.

One application for approval of change in land rights describes the sale of approximately 3.6 acres of project land to an individual for probable construction of a residence. An existing house, barn and an unspecified structure, all above the 636-foot mean sea level contour (maximum flood pool elevation), are located on the lands to be sold. Approximately one-third of this land has been determined to be below the 636-foot contour.

The second application for approval of change in land rights describes the sale at public auction on October 4, 1976, of approximately one-half acre of project land, subject to Commission approval and GRDA's retention of flowage rights. The entire parcel is above the 636-foot maximum flood level established in the license for the project.

The third application for approval of change in land rights and revised Exhibit K describes the sale of approximately 10.1 acres of extremely hilly lake front property to an abutting landowner subject to GRDA's flowage rights. The application also requests approval of a revised Exhibit K drawing which shows the change in project boundary that would result from deletion of the subject lands.

Any person desiring to be heard or to make protest with reference to said application should on or before September 8, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 1.8 or § 1.10 (1976)). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by sections 308 and 309 of the Act and the Commission's Rules of Practice and Procedure, specifically section 1.32(b) (18 CFR § 1.32(b) (1976)), a hearing may be held without further notice before the Commission on its application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein and if the applicant or initial pleader requests that the shortened procedure of section 1.32 (b) be used.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for applicant or initial pleader to appear or be represented at the hearing before the Commission.

LOIS D. CASHELL,
*Acting Secretary*

[FR Doc.77-21630 Filed 7-26-77;8:45 am]

[Project No. 2756]

## GREEN MOUNTAIN POWER CORP. AND CITY OF BURLINGTON, VERMONT

### Amended Application for Preliminary Permit

Public notice is hereby given that an amended application for preliminary permit was filed on June 3, 1977, under the Federal Power Act, 16 U.S.C. § 791a–825r, by the Green Mountain Power Corporation and the City of Burlington, Vermont (Correspondence to: Mr. Raymond C. De Forge, Vice President, Engineering and Operations, Green Mountain Power Corporation, 1 Main Street, Burlington, Vermont 05401 and Mr. Robert C. Young, Superintendent, City of Burlington Electric Department, 585 Pine Street, Burlington, Vermont 05401; copies of correspondence to: Mr. Richard M. Merriman, Esq., Richard T. Witt, Esq., Reid & Priest, 1701 K Street, N.W., Washington, D.C. 20006 and Joseph E. McNeil, Esq., City Attorney, Burlington, Vermont 05401) for the proposed Chace Mill Project, FPC No. 2756, located on the Winooski River in the cities of Winooski, Burlington, and South Burlington Chittenden County, Vermont.

In its amended application, Green Mountain Power Corporation and the City of Burlington, Vermont request that the Commission include the City of Burlington, Vermont as a point applicant for a preliminary permit to study the proposed Chace Mill Project. On June 3, 1977, the City of Burlington which has previously filed a competing application for preliminary permit under FPC Project No. 2764, requested permission to withdraw its application in favor of collaborating, as a joint applicant, with Green Mountain Power.

According to the amended application, the joint applicants propose to study the feasibility of a low dam approximately 10 feet high and 500 feet long, to be located approximately 900 feet upstream from a highway bridge (U.S. Routes 2 and 7) between Burlington and Winooski. The proposed powerhouse would contain an estimated 6 megawatts of installed capacity and would be located adjacent to the dam. A tailrace channel, of sufficient length and depth to develop the full 55 feet of potential head at the site, would be cut into the rock riverbed downsteam from the powerhouse. The estimated annual energy output from the project would be about 34,000,000 kilowatt hours.

A preliminary permit does not authorize construction. A permit, if issued, gives the permittee, during the term of the permit, the right of priority of application for a license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for a license.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 26, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR §§ 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21627 Filed 7-26-77;8:45 am]

[Docket No. ER77-413]

## ILLINOIS POWER CO.

### Filing of Modification No. 3

JULY 21, 1977.

Take notice that on June 30, 1977, Illinois Power Company ("Illinois Power") tendered for filing proposed Modification No. 3 to the Interconnection Agreement ("Agreement") dated August 5, 1974, between Illinois Power and the City of Freeburg, Illinois. According to Illinois Power the Commission has previously designated the August 5, 1974 Agreement as Illinois Power Rate Schedule FPC No. 66.

Illinois Power states that Modification No. 3 provides for a proposed increase in the demand charges for Short-Term Firm Capacity and Maintenance Capacity transactions. An effective date of July 1, 1977 is requested, and Illinois Power therefore requests waiver of the Commission's notice requirements.

A copy of the filing was served upon the City of Freeburg and the Illinois Commerce Commission, according to Illinois Power.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 1, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21635 Filed 7-26-77;8:45 am]





[Docket No. ER77-415]

## ILLINOIS POWER CO.

### Filing of Modification No. 3

JULY 20, 1977.

Take notice that on June 20, 1977, Illinois Power Company (Illinois Power) tendered for filing proposed Modification No. 3 to the Interconnection Agreement (Agreement) dated August 19, 1974, between Illinois Power and the City of Peru, Illinois. Illinois Power indicates that the Commission has previously designated the August 19, 1974 Agreement as Illinois Power Rate Schedule FPC No. 67.

Illinois Power states that Modification No. 3 provides for a proposed increase in the demand charges for Short-Term Firm Capacity and Maintenance Capacity transactions. An effective date of July 1, 1977 is requested, and Illinois Power therefore requests waiver of the Commission's notice requirements.

A copy of the filing was served upon the City of Peru and the Illinois Commerce Commission, according to Illinois Power.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 1, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21629 Filed 7-26-77;8:45 am]

[Docket No. ER77-409]

## KANSAS CITY POWER & LIGHT CO.

### Filing of Service Schedule

JULY 21, 1977.

Take notice that on July 5, 1977, Kansas City Power & Light Company (KCPL) tendered for filing a Service Schedule under the Missouri Participation Agreement, KCPL's Rate Schedule FPC No. 31A, Supplement No. 2, and KCPL requests that said Service Schedule be permitted to become effective thirty (30) days after filing. KCPL states that the Service Schedule provides for the sale of Two Unit Capacity Participation Service to Associated Electric Cooperative, Inc. (AEC).

KCPL states that AEC needs to be assured of the availability of capacity from KCPL for the years 1980 and 1981.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 5, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21633 Filed 7-26-77;8:45 am]

## MONTANA POWER CO.

[Project No. 2188]

### Application for Amendment of License

JULY 21, 1977.

Public notice is hereby given that an application was filed on October 21, 1976, under the Federal Power Act, 16 U.S.C. §§ 791a–825r, by The Montana Power Company (Correspondence to: Mr. Melvyn M. Ryan, Vice President and General Counsel, The Montana Power Company, 40 East Broadway, Butte, Montana 59701) for Commission approval of an amendment to Article 28 of the license for the Missouri-Madison Project, FPC Project No. 2188, which pertains to the dates of operation of the Hebgen Lake Development for the purpose of maintaining the reservoir at summer pool level. The Hebgen Lake Development is located on the Madison River, within the boundary of Gallatin National Forest, near the Town of West Yellowstone, Gallatin County, Montana.

Applicant, upon the recommendation of the U.S. Forest Service, requests an amendment in the time period during which the elevation of the Hebgen Lake Development reservoir is required to be within four feet of full pool. Article 28 of the license for Project No. 2188 currently requires that Hebgen Lake be operated at such elevation from June 1 to October 1 of each year. The dates for maintaining the summer pool elevation have, in recent years, been temporarily modified to permit Applicant to store additional water, thereby minimizing dam stream erosion resulting from heavy spring runoff. Applicant proposes to maintain the pool at the required level from June 20 to October 1 of each year in order to achieve necessary flood control.

Applicant has requested the shortened procedure provided for under § 1.32(b) of the Commission's Rules of Practice and Procedure, 18 CFR § 1.32(b) (1976).

Any person desiring to be heard or to make any protest with reference to said application should, on or before September 6, 1977, file with the Federal Power Commission, 825 N. Capitol St. NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act, 16 U.S.C. § 825g and § 825h, and the Commission's Rules of Practice and Procedure, specifically § 1.32(b), a hearing on this application may be held before the Commission without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21631 Filed 7-26-77;8:45 am]



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[Docket Nos. ER77-427 and ER77-473]

## MINNESOTA POWER & LIGHT CO. AND SUPERIOR WATER, LIGHT & POWER CO.

### Order Accepting for Filing and Suspending Proposed Rate Increase, Establishing Procedures and Consolidating Proceedings

JULY 21, 1977.

On June 27, 1977, Superior Water, Light and Power Company (Superior) tendered for filing in Docket No. ER77-473 proposed revised rates for service to its single wholesale customer, Dahlberg Light and Power Company (Dahlberg), resulting in increased revenues of $224,144, a 14.26 percent increase, for the twelve month period succeeding the proposed effective date of July 27, 1977.

In addition to increasing the demand and energy charges, the proposed rates would eliminate an automatic cost of power adjustment clause and substitute a fuel adjustment clause conforming to Commission Order No. 517.

Superior states that the proposed increase is necessary in order to recover a proportionate share of the increased cost of power purchased from Minnesota Power and Light Company (MP&L) due to MP&L's proposed rate increase in Docket No. ER77-427. Superior purchases 87 percent of its total requirements from MP&L and generates the balance. By Commission order issued on July 1, 1977, in Docket No. ER77-427, MP&L's proposed increase was suspended for five (5) months to become effective on December 8, 1977. Inasmuch as the two proceedings have common issues of law and fact, we shall consolidate them for purposes of hearing and decision.

Public notice of Superior's filing was issued on July 6, 1977, with protests or petitions to intervene due on or before July 20, 1977. No protests or petitions to intervene have been received at this time.

Our review of Superior's filing indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unduly discriminatory or preferential, unreasonable, or otherwise unlawful. Accordingly, the proposed rates shall be suspended until December 8, 1977, whereupon they shall go into effect subject to refund.

The Commission finds: (1) Good cause exists to accept for filing the increased rates proposed by Superior and to suspend those rates until December 8, 1977, whereupon the rates shall become effective subject to refund.

(2) Good cause exists to consolidate Docket Nos. ER77-427 and ER77-473.

(3) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act, that the Commission enter upon a hearing to determine the justness and reasonableness of Superior's proposed rates and to establish procedures for that hearing.

The Commission orders: (A) Pursuant to the authority contained in the Federal Power Act, the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act, a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Superior in Docket No. ER77-473.

(B) Pending a hearing and decision thereon, Superior's proposed rates tendered in the Docket No. ER77-473 are hereby accepted for filing and suspended to become effective subject to refund on December 8, 1977.

(C) The proceedings in Docket Nos. ER77-427 and ER77-473 are hereby consolidated for purposes of hearing and decision.

(D) The dates for the top sheet procedure and the other procedures set forth in our order of July 1, 1977, in Docket No. ER77-427 shall remain in full force and effect and shall be applicable in all respects to Superior's filing in Docket No. ER77-473.

(E) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-21637 Filed 7-26-77;8:45 am]

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[Docket No. ER77-245]

## NORTHERN INDIANA PUBLIC SERVICE CO.

### Notice of Memorandum

JULY 21, 1977.

Take notice that on May 2, 1977, Northern Indiana Public Service Company (NIPSCO) tendered for filing copies of Memorandum No. 68 to its Electric Service Agreement with Commonwealth Edison Company of Indiana, Inc. (CEC) (NIPSCO Rate Schedule FPC No. 8).

NIPSCO indicates that this Memorandum is an acknowledgement by CEC of notice that NIPSCO has placed into commercial operation Unit No. 14 at the Rollin M. Schahfer Generating Station near Wheatfield, Indiana, with a net generating capacity of 320,000 kilowatts and the inclusion of this capacity in NIPSCO's capacity as of January 1, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 5, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21624 Filed 7-26-77;8:45 am]

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[Docket No. ER77-496]

## OHIO POWER CO.

### Proposed Changes in Rates and Charges

JULY 21, 1977.

Take notice that American Electric Power Service Corporation (AEP) on July 5, 1977 tendered for filing on behalf of its affiliate, Ohio Power Company (Ohio Power), Modification No. 6 dated June 1, 1977 to the Facilities and Operating Agreement dated September 6, 1962 between Ohio Power Company and Duquesne Light Company, designated Ohio's Rate Schedule FPC No. 33.

AEP indicates that Section 1 of Modification No. 6 provides for an increase in the Demand Charge for Short Term Power from $0.50 to $0.60/kW-week, and Section 2 provides for an increase in the charge for third party Short Term Power transactions from $0.125 to $0.15/kW-week.

AEP also indicates that Section 3 of Modification No. 6 provides for an increase in the minimum energy charge for Emergency Service from 17.5 mills to three $0.03 cents/kWh. All of the aforementioned schedules are proposed to become effective June 1, 1977, and AEP therefore requests waiver of the Commission's notice requirements.

AEP states that since the use of Short Term Power and Emergency Service cannot be accurately estimated, it is impossible to estimate the increase in revenues resulting from the Modification.

According to AEP copies of the filing were served upon Duquesne Light Company and sent to the Public Utilities Commission of Ohio and to the Public Utility Commission of Pennsylvania.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 5, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21640 Filed 7-26-77;8:45 am]





[Docket No. CP77-498]

## PANHANDLE EASTERN PIPE LINE CO.

### Application

JULY 21, 1977.

Take notice that on July 11, 1977, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP77-498 an application pursuant to Section 7 of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79), for a certificate of public convenience and necessity authorizing the transportation of up to 160 Mcf of Natural gas per day on a firm basis for two years for Ball Corporation, an Indiana Corporation, (Ball), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to transport certain gas supplies purchased by Ball for use at its manufacturing facility in Muncie, Indiana. Ball's Muncie Plant is served by Indiana Gas Company, Inc., (Indiana), which, in turn, is supplied by Applicant pursuant to Applicant's Rate Schedule G-1, it is indicated.

Applicant states that Ball has made arrangements to purchase for high priority use the subject gas which is unavailable to the interstate market from Montara Petroleum Company, a California corporation, and Mutual Oil and Gas Company, an Ohio corporation (Producers). It is indicated that Ball would pay Producers for each Mcf of gas delivered $2.20 for the first contract year and $2.50 per Mcf for the second contract year. During any consecutive 12-month period, Ball would be obligated to pay 75 percent of the quantities of gas for which it has contracted, whether or not taken, it is stated. Applicant states that the subject gas is produced in Mahoning County, Ohio and would be delivered to Columbia Gas Transmission Corporation (Columbia) who, in turn, would deliver by displacement to Applicant at an existing interconnection in Darke County, Ohio for the account of Ball. Applicant proposes to transport the proposed volumes of gas on a firm basis with redelivery to Indiana for the account of Ball at the existing point of interconnection between Applicant and Indiana near Muncie, Indiana. It is stated that from such point the gas would be transported by Indiana to Ball through existing distribution facilities. Applicant states that it does not propose to construct any additional facilities to perform the proposed transportation services.

It is stated that Ball would pay to Applicant a monthly transportation charge of $122 such charge being subject to increase or decrease by an amount equal to 2.50 cents for each Mcf that Applicant would transport in excess of the firm volumes on any day or fails or is unable to take on any day.

Applicant states that Ball's Muncie, Indiana, plant produces caps and lids for the home canning market, and that the caps and lids are blanked from decorated tinplate and transported to machines where they are lined with liquid plastisol. They are then transported to gas fired ovens where the liquid plastic compound is cured, it is said. Applicant indicates that the curing process is essential to the setting and puffing of the compound, both of which are required for adequate sealing, and that the curing process requires a clean burning fuel to avoid contamination of the caps and lids since they are subsequently used for the preparation and preservation of home canned food products. It is further indicated that there is no proven technically feasible alternate fuel for the natural gas requirements of the ovens.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 2, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21625 Filed 7-26-77;8:45 am]

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[Docket No. ER77-501]

## PUBLIC SERVICE CO. OF INDIANA, INC.

### Tariff Change

JULY 21, 1977.

Take notice that Public Service Company of Indiana, Inc. (PSCI) on July 8, 1977, tendered for filing pursuant to the Service Agreement between Hancock County Rural Electric Membership Corporation and Public Service Company of Indiana, Inc. a First Supplemental Agreement to become effective August 6, 1977.

PSCI indicates that the Supplemental Agreement provides for the addition of two new delivery points, namely, the Heritage Delivery Point and the Mt. Comfort Delivery Point.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before August 5, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are available for public inspection at the Federal Power Commission.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21618 Filed 7-26-77;8:45 am]

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[Docket No. RI 77-50]

## VENUS OIL CO.

### Amended Petition for Special Relief

JULY 21, 1977.

Take notice that June 30, 1977, Venus Oil Company (Venus), 2100 National Bank of Commerce Building, San Antonio, Texas 78205, filed an amendment to its petition for special relief previously filed in the captioned docket on March 25, 1977. Such petition sought special relief pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76) to enable Venus to continue a sale of natural gas then and now being made to Transwestern Pipeline Company from Venus' Archer No. 1 Well in the Hansford (Lower Morrow) Field, Hutchinson County, Texas. The rate requested by Venus was 99.76 cents per Mcf at 14.65 psia. Following filing of the petition, conferences were held between representatives of Venus and the Commission staff relative to the costs and reserves involved.

In its June 30 filing, Venus amended its petition to request Commission approval of a total rate of 77.55 cents per Mcf at 14.65 psia in lieu of the rate originally requested.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 1, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21626 Filed 7-26-77;8:45 am]



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[Docket No. RP76-97]

## GULF ENERGY & DEVELOPMENT CORP.

### Certification of Proposed Settlement Agreement

JULY 19, 1977.

Take notice that on July 11, 1977, the Presiding Administrative Law Judge certified to the Commission a proposed settlement agreement in the captioned docket. The proposed agreement allegedly resolves all issues in this proceeding.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before July 27, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-21717 Filed 7-26-77;8:45 am]

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[Docket No. RP76-31]

## LOUISIANA-NEVADA TRANSIT CO.

### Order Approving Proposed Settlement Agreement

JULY 20, 1977.

On October 30, 1975, Louisiana-Nevada Transit Company (LNT) tendered for filing a revised tariff sheet reflecting an annual rate increase of $157,059 to the single wholesale customer, the City of DeQueen, Arkansas. By order issued November 28, 1975, the proposed rate increase was accepted for filing and suspended for five months until May 1, 1976. It became effective subject to refund on May 7, 1976, the date on which LNT filed a motion to make effective the suspended tariff sheet.

Following service of Staff's top sheets and several conferences, LNT filed a proposed stipulation and agreement in settlement of the rate issues in this proceeding on January 11, 1977. Notice of the proposed stipulation and agreement was issued on February 1, 1977, providing for comments or protests to be filed on or before February 18, 1977. The Commission Staff filed comments in support of the proposed settlement on February 18, 1977. As discussed below, the Commission shall accept without modification and approve the proposed Stipulation and Agreement.

This docket also encompasses a separate and ongoing show cause proceeding, initiated by order issued March 22, 1976, that concerns the Commission's jurisdiction over producer sales to LNT out of the Walker Creek (Arkansas) Field. LNT has stated that these are intrastate sales and that therefore the producers are not required to file rate schedules covering these sales to LNT from the Walker Creek Field.

The proposed Stipulation and Agreement provides for a reduction in the filed base rate from 54.9 cents per Mcf to 46.93 cents per Mcf, and for refunding with interest of amounts collected in excess of the settlement base rate within sixty days. The proposed settlement rate reflects an overall rate of return of 10.6 percent, including a return on equity of 14.0 percent. The settlement rate does not include any amounts attributable to a decision of the United States District Court for the Western District of Arkansas in *Louisiana-Nevada Transit Company* v. *Dalton J. Woods*, et al. (Case No. T-73-C-43, issued June 9, 1975) holding LNT liable for additional payments to Walker Creek producers for gas purchased by LNT during 1972-1975. In that court case LNT sought a declaratory judgment that certain third-party sales contracts did not "trigger" the favored nation clauses in its Walker Creek contracts. The U.S. District Court has not entered a final judgment fixing LNT's exact liability. However, LNT in its original rate filing in this docket sought an allowance of 5.0 cents per Mcf to amortize its estimated maximum liability, this allowance is eliminated under the terms of the settlement.

Paragraph 4 of the Stipulation and Agreement provides that, prior to January 1, 1978, LNT may file a tracking rate increase to amortize the jurisdictional portion of any additional payments made pursuant to a final Court order. Paragraph 5 further provides that LNT will immediately flow through to the City of DeQueen the jurisdictional portion of any producer refunds finally ordered by the Commission or the Court, to the extent collected under the tracking provision of paragraph 4.

The Commission's review of the proposed Stipulation and Agreement indicates that it resolves reasonably all of the rate issues relating to the tariff sheet tendered by LNT on October 30, 1975, in this docket, and that it should be approved without modification. However, acceptance of this settlement will not directly affect or terminate the ongoing show cause proceeding pursuant to section 7 of the Natural Gas Act, initiated by order issued March 22, 1976 in this docket.

*The Commission orders:* (A) The proposed Stipulation and Agreement, filed by LNT in this docket on January 11, 1977 is hereby incorporated by reference, accepted and approved.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

APPENDIX A.—*Louisiana-Nevada Transit Co., docket No. RP76-31, derivation of jurisdictional rates*

| Line No. | | |
|---|---|---|
| 1 | Allocated jurisdictional cost | $526,484. |
| 2 | Jurisdictional sales | 1,121,851 M Mcf. |
| 3 | Settlement rate | 46.93¢/M Mcf. |





*Allocated cost of service*

| | Total | Gas supply and gathering | Transmission | Distribution | Customer accounting and collecting | Rate case expense |
|---|---|---|---|---|---|---|
| Total cost of service | 2,232,425 | 1,486,206 | 320,770 | 235,531 | 145,490 | 44,425 |
| Distribution loss | | (10,074) | | 10,074 | | |
| Net cost of service | 2,232,425 | 1,476,132 | 320,770 | 245,605 | 145,490 | 44,425 |
| Jurisdictional allocation factors | | 0.277361 | 0.277361 | | 0.021265 | (1) |
| Jurisdictional cost of service | 526,484 | 409,421 | 88,969 | | 3,094 | 25,000 |

[1] Dir. assign

*Total cost of, service, 12 mo ended June 30, 1975, as adjusted*

| Line No. | Description | Total | Gas supply and gathering | Transmission | Distribution | Customer accounting and collecting | Rate case expense |
|---|---|---|---|---|---|---|---|
| 1 | Operating and maintenance expense: | | | | | | |
| 2 | Natural gas purchased | 1,377,449 | 1,377,449 | | | | |
| 3 | Other gas supply expense | 10,331 | 10,331 | | | | |
| 4 | Transmission expense | 73,955 | | 73,955 | | | |
| 5 | Distribution expense | 85,497 | | | 85,497 | | |
| 6 | Customer accounting and collecting expense | 66,239 | | | | 66,239 | |
| 7 | Administrative and general expense | 255,127 | 12,297 | 85,901 | 80,850 | 76,079 | |
| 8 | Subtotal | 1,868,598 | 1,400,077 | 159,856 | 166,347 | 142,318 | 44,428 |
| 9 | Rate base expense | 44,428 | | | | | 44,428 |
| 10 | Total operating and maintenance expense | 1,913,026 | 1,400,077 | 159,856 | 166,347 | 142,318 | 44,428 |
| 11 | Depreciation, depletion, and amortization expense | 61,273 | 1,805 | 42,795 | 16,673 | | |
| 12 | Return at 10.6 pct | 134,956 | 51,749 | 53,827 | 27,401 | 1,979 | |
| 13 | Federal income taxes | 75,428 | 28,920 | 30,087 | 15,316 | 1,105 | |
| 14 | State income taxes | 6,034 | 2,314 | 2,407 | 1,225 | 88 | |
| 15 | Taxes other than income | 43,969 | 1,341 | 31,798 | 10,830 | | |
| 16 | Other gas revenues | (2,261) | | | (2,261) | | |
| 17 | Subtotal | 319,399 | 86,129 | 160,914 | 69,184 | 3,172 | |
| 18 | Settlement cost of service | 2,232,425 | 1,486,206 | 320,770 | 235,531 | 145,490 | |

*Capital structure and rate of return*

[In percent]

| | Ratio | Cost factor | Weighted total |
|---|---|---|---|
| Long-term debt | 50.15 | .17 | 4.10 |
| Preferred stock | 5.24 | 4.75 | .25 |
| Common equity | 44.61 | 14.00 | 6.25 |
| Total | 100.00 | | 10.60 |

[FR Doc.77-21486 Filed 7-26-77;8:45 am]

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## FEDERAL RESERVE SYSTEM

## DOWNS BANCSHARES, INC.

### Formation of Bank Holding Company

Downs Bancshares, Inc., Downs, Kansas, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent (less directors' qualifying shares) of the voting shares of Downs National Bank, Downs, Kansas. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 15, 1977.

Board of Governors of the Federal Reserve System, July 22, 1977.

RUTH A. REISTER,
*Assistant Secretary of the Board.*

[FR Doc.77-21566 Filed 7-26-77;8:45 am]

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## FEDERAL OPEN MARKET COMMITTEE

### Domestic Policy Directive of June 21, 1977

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on June 21, 1977.[1]

The information reviewed at this meeting suggests that real output of goods and services has grown in the current quarter at about the rapid rate of the first quarter. In May industrial output and employment continued to expand at a substantial pace, and the unemployment rate edged down from 7.0 to 6.9 per cent. Total retail sales increased from the advanced March-April level. The rise in the wholesale price index for all commodities slowed substantially in May, as average prices of farm products and foods changed little after having increased sharply for three consecutive months; average prices of industrial commodities also rose less than in other recent months.

The average value of the dollar against leading foreign currencies has changed little on balance over the past month. The U.S. foreign trade deficit was nearly as large in April as in March.

M-1 increased only slightly in May, after rising at an exceptionally rapid rate in April. Reflecting mainly the behavior of M-1, growth in M-2 and M-3 also slowed sharply. Inflows to banks of time and savings deposits other than large-denomination CD's continued to slacken, but inflows to nonbank thrift institutions remained sizable. Business short-term borrowing moderated from the sharply increased pace of April, and corporate borrowing in the capital markets was reduced further. Short-term market interest rates have changed little on balance in recent weeks, while longer-term yields have declined.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster bank reserve and other financial conditions that will encourage continued economic expansion and help resist inflationary pressures, while contributing to a sustainable pattern of international transactions.

At its meeting on April 19, 1977, the Committee agreed that growth of M-1, M-2, and M-3 within ranges of 4½ to 6½ per cent, 7 to 9½ per cent, and 8½ to 11 per cent, respectively, from the first quarter of 1977 to the first quarter of 1978 appears to be consistent with these objectives. These ranges are subject to reconsideration at any time as conditions warrant.

At this time, the Committee seeks to maintain about the prevailing money market conditions during the period immediately ahead, provided that monetary aggregates appear to be growing at approximately the rates currently expected, which are believed to be on a path reasonably consistent with the longer-run ranges for monetary aggregates cited in the preceding paragraph. Specifically, the Committee seeks to maintain the weekly-average Federal funds rate at about 5¾ per cent, so long as B-1 and M-2 appear to be growing over the June-July period at annual rates within ranges of 2½ to 6½ per cent and 6 to 10 percent, respectively. If, giving approximately equal weight to M-1 and M-2, it appears that growth rates over the 2-month period are approaching or moving beyond the limits of the indicated ranges, the operational objective for the weekly-average Federal funds rate shall be modified in an orderly fashion within a range of 5¼ to 5¾ per cent.

If it appears during the period before the next meeting that the operating constraints specified above are proving to be significantly inconsistent, the Manager is promptly to notify the Chairman who will then decide whether the situation calls for supplementary instructions from the Committee.

By order of the Federal Open Market Committee, July 22, 1977.

ARTHUR L. BROIDA,
*Secretary.*

[FR Doc.77-21569 Filed 7-26-77;8:45 am]

[1] The record of Policy Actions of the Committee for the meeting of June 21, 1977, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

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## FIRST CITY BANCORPORATION OF TEXAS, INC.

### Request for Determination and Notice Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors



V 42 144 JUL 27 77 UMI

of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1841(g)(3)) ("the Act"), by First City Bancorporation of Texas Inc., Houston, Texas ("First City"), for a determination that, with respect to a sale by First City (through its subsidiary, Texas Fiduciary Corporation, Dallas, Texas), of its stock interest in Commercial National Bank of Dallas, Dallas, Texas ("Bank"), to Mr. Mack L. Owens, First City is not nor will be in fact capable of controlling Bank through Mack L. Owens, notwithstanding the fact that Mack L. Owens is indebted to a subsidiary of First City, which indebtedness reulted from the financing of his purchase of said shares.

Section 2(g)(3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor, unless the Board, after opportunity for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given, that, pursuant to section 2(g)(3) of the Act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than August 19, 1977. If a request for oral hearing is filed, each request should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board subsequently will designate a time and place for any hearing it orders, and will give notice of such hearing to the transferor, the transferee, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.

Board of Governors of the Federal Reserve System, July 22, 1977.

RUTH A. REISTER,
*Assistant Secretary of the Board.*

[FR Doc.77-21567 Filed 7-26-77;8:45 am]

### FORT WORTH BANCHSHARES, INC.

#### Formation of Bank Holding Company

Fort Worth Banchshares, Inc., Fort Worth, Texas, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares (less directors' qualifying shares) of Forth Worth Bank & Trust, Fort Worth, Texas. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 17, 1977.

Board of Governors of the Federal Reserve System, July 21, 1977.

RUTH A. REISTER,
*Assistant Secretary of the Board.*

[FR Doc.77-21606 Filed 7-26-77;8:45 am]

### LANDMARK BANCSHARES CORP.

#### Acquisition of Bank

Landmark Bancshares Corporation, St. Louis, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of Fidelity Bank and Trust Company, Creve Coeur, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 19, 1977.

Board of Governors of the Federal Reserve System, July 22, 1977.

RUTH A. REISTER,
*Assistant Secretary of the Board.*

[FR Doc.77-21568 Filed 7-26-77;8:45 am]

## GENERAL ACCOUNTING OFFICE

### REGULATORY REPORTS REVIEW

#### Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on July 20, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before August 15, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

#### CIVIL AERONAUTICS BOARD

The CAB requests an extension no change clearance of the reporting requirements in Part 223 of the Board's Economic Regulations—Free and Reduced-Rate Transportation. Submission of data called for in several sections of this Part are mandatory under the Federal Aviation Act of 1958, as amended. The sections involved include reporting and recordkeeping requirements relative to providing free transportation for technical in-flight observations of equipment by representatives of aircraft and aircraft equipment companies; free or reduced rate transportation for travel agents on domestic group familiarization tours; rules and regulations of an air carrier governing its practices in connection with issuance and interchange of passes; listing of personnel and immediate families of an air carrier's affiliates who might be issued passes; application for authority to carry free or at reduced rates persons to whom the carrier would not ordinarily be authorized to furnish such transportation. CAB estimates potential respondents to be 169. Time periods for submission of reports vary with the requirements of the particular sections and CAB estimates respondent burden to average 15-60 minutes per response.

NORMAN F. HEYL,
*Regulatory Reports Review Officer.*

[FR Doc.77-21667 Filed 7-26-77;8:45 am]

## GENERAL SERVICES ADMINISTRATION

### PROGRAM ADVISORY COMMITTEE

#### Meeting

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, that the next meeting of the Program Advisory Committee of the Federal Preparedness Agency, GSA, will be held on August 25-26, 1977, in Room 5208, General Services Administration Building, 18th and F Streets NW., Washington, D.C. The meeting times are 9:30 a.m. to 4 p.m. on August 25, and 9:30 a.m. to 12 noon on August 26 and will be open to the public.

Since space is limited, those wishing to attend should call Linda Stonestreet, 566-0854.

Dated: July 18, 1977.

DALIMIL KYBAL,
*Acting Director, Federal Preparedness Agency, General Services Administration.*

[FR Doc.77-21526 Filed 7-26-77;8:45 am]





### REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

#### Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 4, August 11-12, 1977, from 9:30 a.m. to 4 p.m., Room 10E, 1776 Peachtree St., N.W., Atlanta, Georgia. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed Conversion and Renovation of the Tallahassee, FL, U.S. Post Office. The meeting will be open to the public.

Dated: July 21, 1977.

L. D. STROM,
*Regional Administrator.*

[FR Doc.77-21547 Filed 7-26-77;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Health Care Financing Administration

### PHARMACEUTICAL REIMBURSEMENT ADVISORY COMMITTEE

#### Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Advisory Committee meeting:

NAME: Pharmaceutical Reimbursement Advisory Committee.

DATE AND TIME: September 6, 1977 (1 p.m. to 5 p.m. Orientation for new members. September 7, 1977 (9 a.m. to 5 p.m.). September 8, 1977 (9 a.m. to 5 p.m.).

PLACE: Auditorium, HEW South Portal Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

PURPOSE OF MEETING: The Pharmaceutical Reimbursement Advisory Committee was established pursuant to § 19.4 of the regulations "Limitations on Payment or Reimbursement for Drugs" (45 CFR Part 19), published in the FEDERAL REGISTER, July 31, 1975 (40 FR 32284). The Committee advises the Pharmaceutical Reimbursement Board (composed of Department employees) on the appropriateness of proposed Maximum Allowable Cost (MAC) determinations submitted to it by the Board, and upon request advises the Secretary and the Board on general policies and procedures of the Department in reimbursing or paying the cost of drugs used in Departmentally funded programs.

MAC Proposals—The Board has submitted proposed MAC limits for certain forms and strengths of chlordiazepoxide HCL, propoxyphene HCL, and tetracycline HCL to the Committee. The Committee will review and advise the Board on the appropriateness of the following MAC limits:

| Drug/Strength/Dosage Form: | Proposed MAC Limit |
|---|---|
| Chlordiazepoxide HCL, 10mg capsules | 0.0378 |
| Chlordiazepoxide HCL, 5mg capsules | .0270 |
| Chlordiazepoxide HCL, 25mg capsules | .0640 |
| Propoxyphene HCL, 65mg capsules | .0317 |
| Propoxyphene HCL, w/APC, 65mg capsules | .0330 |
| Tetracycline HCL, 250mg capsules | .0250 |
| Tetracycline HCL, 500mg capsules | .0465 |

Copies of the transmittal and supportive materials are on display in Room 921 Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C. 20009. Limited single copies may be obtained from the Executive Secretary of the Committee.

Public Comments: Requests for scheduled oral presentations to the Committee on the MAC proposals should be submitted to the Executive Secretary. These requests will be accepted no later than August 11, 1977.

A summary report of the written comments received no later than August 11, 1977, will be forwarded to Committee members prior to the meeting. All written comments will be filed and will be available at the meeting for consideration. For the convenience of the Committee, written comments should address any of the following subjects as a separate report: general comments; economic justification of the MAC proposal; quality and bioequivalence justification of the MAC proposal; acquisition cost provisions of the regulations; dispensing fee provisions of the regulations.

The Committee meeting is open to the public. Public attendance is limited to space available.

All communications regarding this Committee should be addressed to: Mr. Peter J. Rodler, Executive Secretary, Pharmaceutical Reimbursement Advisory Committee, Health Care Financing Administration, Room 919 Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C. 20009.

Dated: July 20, 1977.

PETER J. RODLER,
*Executive Secretary, Pharmaceutical Reimbursement Advisory Committee.*

[FR Doc.77-21571 Filed 7-26-77;8:45 am]

### Office of Education

### NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

#### Meeting

AGENCY: National Advisory Council on Equality of Educational Opportunity.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of the forthcoming meeting of the Evaluation Task Force of the National Advisory Council. It also describes the functions of the Council in general. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C., Appendix 1, 10(a)(21)). This document is intended to notify the general public of their opportunity to attend.

DATE AND PLACE OF MEETING: August 22-23, 1977; Arlington, Va.

ADDRESS: Holiday Inn—Airport, Aldrin Room, 1489 Jefferson Davis Highway, Arlington, Va. 22202. Phone 703-521-1600.

FOR FURTHER INFORMATION CONTACT:

Rosemarie Maynez, Administrative Assistant, NACEEO, 1325 G Street NW., Suite 710 Washington, D.C. 20005. Phone: 202-724-0221

SUPPLEMENTARY INFORMATION: The National Advisory Council on Equality of Educational Opportunity is established under section 716 of the Emergency School Aid Act (Pub. L. 92-318, Title VII, as amended by Pub. L. 93-380 and Pub. L. 94-482). The Council is established to: (1) Advise the Assistant Secretary for Education with respect to the operation of the program authorized under the Emergency School Aid Act (ESAA), including the preparation of regulations and the development of criteria for the approval of applications; and (2) review the operation of the program with respect to its effectiveness in achieving its purpose as stated in the Act and with respect to the Assistant Secretary's conduct in the administration of the program.

The meeting, which is open to the public, will convene at 3:30 p.m. until 5:30 p.m. on Monday, August 22nd, and reconvene at 9 a.m. on Tuesday, August 23rd, until 3:30 p.m. The meeting will be held to review and critique the Year III ESAA Evaluation Study reports prepared by System Development Corporation of Santa Monica, Calif. for USOE. As a result of this review the Task Force will develop program recommendations for presentation to the full Council.

Requests for oral presentations by the public before the Task Force must be submitted in writing to the Executive Director of NACEEO, Mr. Leo A. Lorenzo, and should include the names of all persons seeking an appearance, the party or parties which they represent, and the purpose for which the presentation is requested. Following the presentation, the statement in writing shall be submitted to the Executive Director. In the event that the tentative agenda is completed prior to the projected time, the Task Forces will adjourn the meeting.

Records of all meetings are kept at NACEEO headquarters, 1325 G Street NW., Suite 710, Washington, D.C. 20005, and are available for public inspection.

Signed at Washington, D.C., on July 21, 1977.

LEO A. LORENZO,
*Executive Director.*

[FR Doc.77-21574 Filed 7-26-77;8:45 am]



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### Office of Education

### NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

#### Meeting

AGENCY: Office of Education, HEW.

ACTION. Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Executive Committee of the National Advisory Council on Adult Eduction. The meeting shall be open to the public. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, Section 10(a)(2)).

DATE: August 19, 1977, 10 a.m. to 8 p.m.; August 20, 1977, 8:30 a.m. to 12 noon.

ADDRESS: Office of the National Advisory Council on Adult Education, 425 13th Street, N.W., Suite 323, Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT:

Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th Street, N.W., Washington, D.C. 20004, 202-376-8892.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 311 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public.

The proposed agenda includes:

1977-78 Council Organization Structure.
Committee Chairmen Appointments.
Committee Responsibilities.
Council Operational Budget.
Council Meeting Dates and Sites.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, Room 323, Pennsylvania Bldg., 425 13th St., N.W., Washington, D.C., 20004.

Signed at Washington, D.C., on July 21, 1977.

GARY A. EYRE,
*Executive Director, National Advisory Council on Adult Education.*

[FR Doc.77-21581 Filed 7-26-77;8:45 am]

### TITLE I—AUDIT APPEAL

#### Acceptance of Application for Appeal

Notice is hereby given that, pursuant to the Notice establishing the Title I Audit Hearing Board (37 FR 23002, October 27, 1972, as amended by 41 FR 28568, July 12, 1976), an application for an appeal before the Board has been received from the State of Pennsylvania and it has met the jurisdictional requirements of Section 5 of the Notice establishing the Board.

The appeal involves the allowability of specified expenditures of funds for programs under Title I of the Elementary and Secondary Education Act during Fiscal Year 1973. The local education agency involved is Philadelphia and the sum of money involved is $25.4 million. The Audit Control Number is 50002-03.

The Prehearing Conference will be held at 10:30 a.m. on September 29, 1977, in Room 4173, 400 Maryland Avenue, S.W., Washington, D.C.

Section 7(c) of the Notice setting up the board provides:

(c) Intervention by third parties. (1) Interested third parties may, upon application to the Board Chairman, intervene in proceedings conducted under this notice. Such application must indicate to the satisfaction of the Board Chairman that the intervener has information relative to the specific issues raised by the final audit determination and that such information will be useful to the Hearing Panel in resolving those issues.

(2) When third parties are given leave to intervene in accordance with subparagraph (1) above, such parties shall be afforded the same opportunities as other parties to present written materials, to participate in informal conferences, to call witnesses, to cross-examine other witnesses, and to be represented by counsel.

All such applications for intervention will be considered if received on or before September 15, 1977.

(20 U.S.C. 241a, 1232c.)

(Catalog of Federal Domestic Assistance Number 13.428 Educationally Deprived Children—Local Educational Agencies.)

Dated: July 22, 1977.

ERNEST L. BOYER,
*Commissioner of Education.*

[FR Doc.77-21593 Filed 7-26-77;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[M 8670]

### MONTANA

#### Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 20, 1977.

The Department of Agriculture filed application, Serial No. M 8670, on January 5, 1967, for a withdrawal in relation to the following lands:

PRINCIPAL MERIDIAN, MONTANA

DEERLODGE NATIONAL FOREST

*Mormon Gulch Campground*

T. 6 N., R. 6W.,
Sec. 21, Lot 6, W½NE¼NE¼SW¼, NW¼NE¼SW¼, and N½SW¼NE¼SW¼.

Total area—59.34 acres.

*Canyon Picnic Ground*

T. 1N., R. 7W.,
Sec. 9, E½SW¼NW¼NE¼, SW¼SW¼NW¼NE¼, SE¼NW¼NE¼, NW¼NE¼SW¼NE¼, and N½NW¼SW¼NE¼.

Total area—25 acres.

*Main Gulch Campground*

T. 5 N., R. 7W.,
Sec. 23, W½SW¼NW¼NE¼, NW¼NW¼SW¼NE¼, SE¼NE¼NW¼, and N½NE¼SE¼NW¼.

Total area—22.50 acres.

*Orofino Campground*

T. 6 N., R. 8 W.,
Sec. 21, W½SW¼SW¼NE¼, SE¼SW¼SW¼NE¼, E½SE¼SE¼NW¼, SW¼SE¼SE¼NW¼, N½NE¼NE¼SW¼, SE¼NE¼NE¼SW¼, N½NW¼NW¼SE¼, and SW¼NW¼NW¼SE¼.

Total area—30 acres.

The areas described aggregate 136.84 acres in Jefferson, Silver Bow, and Deer Lodge Counties, Montana.

The applicant desires that the land be reserved for recreational areas.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on January 13, 1967, Volume No. 32, Page No. 678, Document No. 67-649, under M 1171.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested person who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Mont. 59107, on or before August 29, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 29, 1977.

The above-described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, P.O. Box 30157, Billings, Mont. 59107.

EDGAR D. STARK,
*Acting Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-21582 Filed 7-26-77;8:45 am]

[NM 31132 and 31139]

### NEW MEXICO

#### Applications

JULY 18, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 6 W.,
Sec. 12, SW¼SE¼.
T. 32 N., R. 11 W.,
Sec. 28, E½NW¼.

These pipelines will convey natural gas across 0.380 miles of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-21583 Filed 7-26-77;8:45 am]

[NM 31036, 31038, 31142, 31143, 31146, 31150, and 31151]

### NEW MEXICO

#### Applications

JULY 18, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for seven 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 27 N., R. 4 W.,
Sec. 17, NW¼NW¼.
T. 30 N., R. 8 W.,
Sec. 28 W½NE¼ and NE¼NW¼.
T. 30 N., R. 10 W.,
Sec. 11, lot 9;
Sec. 12, lots 11 and 12;
Sec. 22, lots 1, 2, and 3.
T. 31 N., R. 10 W.,
Sec. 10, lot 3.
T. 31 N., R. 11 W.,
Sec. 11, SW¼SW¼;
Sec. 14, W½NE¼ and N½NW¼.
T. 32 N., R. 11 W.,
Sec. 35, N½NE¼ and NE¼NW¼.

These pipelines will convey natural gas across 2.844 miles of public lands in Rio Arriba and San Juan Counties, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77 21584 Filed 7-26-77;8:45 am]

### Bureau of Land Management

[Wyoming 59882]

### WYOMING

#### Application

JULY 18, 1977.

Notice is hereby given that pursuant to section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application to construct a 16-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 21 N., R. 86 W.,
Secs. 4 and 24.
T. 22 N., R. 86 W.
Secs. 18, 20 and 32.
T. 22 N., R. 87 W.,
Sec. 12.
T. 23 N., R. 87 W.,
Secs. 4, 10, 22, 26 and 36.
T. 24 N., R. 87 W.,
Secs. 18, 20 and 32.
T. 25 N., R. 87 W.,
Sec. 31.
T. 25 N., R. 22 W.,
Secs. 1 and 12.
T.25 N., R. 88 W.,
Secs. 3, 4, 10, 11, 13, 14, 24 and 25.
T. 26 N., R. 88 W.,
Secs. 7, 17, 18, 20, 28, 29 and 33.
T. 30 N., R. 88 W.,
Secs. 6, 7 and 30.
T. 31 N., R. 88 W.,
Sec. 31.
T. 26 N., R. 89 W.,
Sec. 1.
T. 27 N., R. 89 W.,
Secs. 1, 12, 13, 23, 25 and 26.
T. 28 N., R. 89 W.,
Secs. 2, 11, 14, 25 and 26.
T. 29 N., R. 89 W.,
Secs 1, 2, 11, 14, 23, 26 and 35.
T. 31 N., R. 89 W.,
Secs. 1, 12, 13, 24 and 25.
T. 32 N., R. 89 W.,
Secs. 2, 11, 13, 14 and 24.
T. 33 N., R. 89 W.,
Secs. 2, 11, 14, 23 and 26.
T. 34 N., R. 89 W.,
Secs. 3, 4, 10, 11, 14, 23, 26 and 35.
T. 35 N., R. 89 W.,
Secs. 17, 20, 21, 28 and 33.
T. 36 N., R. 89 W.,
Sec. 32.
T. 37 N., R. 90 W.,
Secs. 1 and 13.
T. 38 N., R. 90 W.,
Secs. 14, 23, and 26.

The pipeline will transport natural gas from section 11, T. 38 N., R. 90 W., Fremont County, Wyoming to an existing compressor site in sec. 25, T. 21 N., R. 86 W., Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 670, 1300 Third Street, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-21523 Filed 7-26-77;8:45 am]

[Wyoming 59891]

### WYOMING

#### Application

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Kennedy & Mitchell, Inc. of Engelwood, Colo., filed an application for a right-of-







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way to construct a 4-inch pipeline for the purpose of transporting gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 25 N., R. 88 W.,
Sec. 4, W½SE¼, SE¼SE¼;
Sec. 9, E½E½;
Sec. 10, SW¼SW¼;
Sec. 15, W½W½;
Sec. 21, NE¼NE¼;
Sec. 22, NW¼NW¼.

The pipeline will transport gas from a well in sec. 4, T. 25 N., R. 88 W. to existing pipeline facilities in sec. 21, T. 25 N., R. 88 W., in Carbon County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-21525 Filed 7-26-77;8:45 am]

## Fish and Wildlife Service

## ENDANGERED SPECIES PERMIT

### Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (P.L. 93-205).

*Applicant:* Everglades National Park, U.S. Dept. of the Interior, National Park Service, Homestead, Florida 33030, John Good, Superintendent.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Research and management of the remaining population of wild American Crocodiles within Everglades National Park necessitating capture, handling, tagging and release of wild animals, and examination of active nests.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
U.S. Department of the Interior
National Park Service
Everglades National Park
Homestead, Florida 33030
305-247-6211

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION
N/A

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION.
Public Agency: U.S. National Park Service

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. John Good, Superintendent, Everglades National Park
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Florida Bay and vicinity including Everglades National Park

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☐ NO
(If yes, give license or permit number(s))
N/A

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of document(s))
Will coordinate with State of Florida

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
N/A

10. DESIRED EFFECTIVE DATE
1 June 1977

11. DURATION NEEDED
5 years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT BEING REQUESTED (See 50 CFR 17.22(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (Title and) Superintendent
DATE 6/9/77

### 12 ATTACHMENTS

CFR 17.22(a)1. Common name, American crocodile: Scientific name, *Crocodylus acutus*. Number: Less than 200 young and 50 larger animals per year. Age: All ages. Sex: Both sexes. Activity: Capturing, tagging, releasing, monitoring, studying.

CFR 17.22(a)(2). Wildlife cover is in wild.

CFR 17.22(a)(3). N/A.

CFR 17.22(a)(4). N/A.

CFR 17.22(a)(5). Wildlife taken for research purposes will be released to wild at the same location as taken and will not be maintained in captivity. Activities will be conducted in and near Everglades National Park, Homestead, Florida, 33030.

CFR 17.22(a)(6)(i). N/A Wildlife will not be held in captivity.

CFR 17.22(a)(6)(ii). Program will be accomplished by the U.S. National Park Service research and resource management personnel under the direction of Dr. James A Kushlan, a member of the Department of the Interior Crocodile Recovery Team, who has 6 years experience studying crocodilians in south Florida and holds endangered species permit for study of the American alligator, and Dr. William B. Robertson, Jr. who has 20 years experience studying wildlife populations in crocodile habitat.

CFR 17.22(a)(6)(iii). N/A.

CFR 17.22(a)(6)(iv). N/A Wildlife will not be transported.

CFR 17.22(a)(6)(v). Prior to the species being classified as endangered, efforts to hatch crocodile eggs artificially failed, probably because of improper temperature control and handling. Artificial hatching will not be attempted during the proposed study.

CFR 17.22(a)(7). N/A.

CFR 17.22(a)(8)(i). This research program will determine the population status of the crocodile in Everglades National Park and possible limiting factors associated with the population or its habitat. The program will include the following activities: 1. Surveys; 2. Censuses of nests; 3. Determining nest site characteristics; 4. Determining hatching success; 5. Determining causes mortality; 8. Capturing; 9. Tagging; 10. Releasing individuals; 11. Observing behavior; 12. Collecting food samples; 13. Monitoring effects of disturbance.

CFR 17.22(a)(8)(ii). The activities will be carried out as follows: 1. Surveys will be by 14' to 24' boat along bays and rivers by both day and night. Aerial surveys will be flown by Lake amphibious fixed-wing airplane from 50 to 200 feet and by Bell helicopter from 50 to 200 feet. Surveys will be flown on a monthly schedule and more frequently in spring and summer. They will include known and suspected crocodile habitat. 2. Nest censuses will be done similarly. 3. Nest site characteristics such as substrate, temperature, shade, water, salinity will be measured. 4. Hatching success will be determined by counting clutches before and after hatching. Eggs will be removed from the nest, counted, and immediately returned using procedures standard for crocodilian research. 5. Causes of hatching failure will be determined by observation and the data collected at nest sites. 6. This will provide information on whether procedures for protecting or otherwise increasing productivity of some nest sites are desirable. Depending on the results, potential actions may include changing the amount of plant shade at a nest site, providing alternative nesting substrate near the nest site, or protecting nests from predators or predator repellents or removal. 7. Mortality will be monitored through surveys and the survival of tagged animals. 8. As the best methods for





capturing American Crocodiles are not known, various methods will be tried and a capture system developed. Animals less than 2 feet long will be captured by hand or by dip net. Attempts to catch larger animals will be based on methods proven successful on alligators. Hand held kiefiock snares and rope nooses on poles will be used initially. A baited snare trap based on the design of the Murphy and Fendley Alligator trap (27 Conf. S.E. Assoc. Game Fish. Comm., 1973) will be tested and used if feasible. Use of manned stop nets on narrow creeks may be attempted if snares fail. Blunted No. 2 hooks on heavy monofilament line may be used on medium-sized animals. These hooks do not penetrate the hide but cause the animal to become entangled in the line and can then be noosed. Captured animals will be quieted by covering their eyes. Their jaws will be temporarily bound during capture with tape, rope or rubber bands. 9. Several types of tags will be used. Monel toe tags (National Band) will be attached to the hind toe web of one foot. Plastic spaghetti tags (Floy Tag) will be placed on the neck. Three by three inch, numbered plastic tags will be attached by rivots to tail scutes. Tracking devices will be attached to the animal by plastic collars. All procedures have been tested on alligators and other crocodilians and are without adverse effect. 10. Weight and linear dimensions will be measured on captive animals. They will then be released at the same location as they were captured. 11. Behavior will be observed whenever possible from boat, canoe, shore or helicopter. 12. Food samples will be taken by a tube method. A flexible plastic tube ¼ to ¾ inch diameter is inserted through the mouth into the gullet. When the tube is filled with water and the stomach is massaged, stomach contents are carried up the tube. The tube is then removed. This method has proven harmless and effective on Alligators. 13. The effects of human disturbance will be monitored by observation of behavior and crocodile habitat selection.

CFR 17.22(a)(8)(iii). The goal of this proposed program is to maintain a viable crocodile population in its ecosystem in Everglades National Park. The proposed project will provide information crucial to the survival of the American crocodile in the United States. All information obtained is for the purpose of determining possible causes of population limitation and for providing management strategies that will reverse any population decline and so perpetuate this species in a naturally functioning ecosystem. Proposed activities to increase hatching success and to determine causes of mortality will augment the population. The activities proposed will permit the development and institution of a program to monitor population levels. They will also permit discovery of critical unnatural limiting factors and the development of management strategies necessary to eliminate such factors. Present population status, distribution, age structure, habitat, food and nesting requirements will be determined as will critical habitat conditions such as salinity and water discharge. Together these activities will provide information essential to perpetuate the crocodile in Everglades National Park. No activities will in any way jeopardize individuals or adversely affect the population.

CFR 17.22(a)(8)(iv). No wildlife will be taken for study but dead animals encountered will be provided to a scientific institution for study specimens.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-700-07; please refer to this number when submitting comments. All relevant comments received on or before August 26, 1977 will be considered.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Permission to purchase 1 male clouded leopard (Neofelis nebulosa) from the Cheyenne Mountain Zoo, Colorado Springs, Colorado. This animal was born there on March 20, 1975.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Los Angeles Zoo
5333 Zoo Drive
Los Angeles, California 90027

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING.
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Public zoo operated by City of Los Angeles, Department of Recreation and Parks.

ANY BUSINESS AGENCY OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRES.DENT, PRINCIPAL OFFICER, DIRECTOR, ETC. Warren D. Thomas, D.V.M., Zoo Director.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Los Angeles, California

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, give license or permit number(s))
PRT-8-374-C
PRT-8-237-C

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(If yes, list jurisdictions and type of document(s))

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
-

10. DESIRED EFFECTIVE DATE
A.S.A.P.

11. DURATION NEEDED
60 days

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 17.22(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (Title and) Michael J. Crosby
DATE -

Dated: July 22, 1977.

DONALD G. DONAHOO,
*Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.*

[FR Doc.77-21559 Filed 7-26-77;8:45 am]

## ENDANGERED SPECIES PERMIT

### Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (P.L. 93-205).

Applicant: Los Angeles Zoo, 5333 Zoo Drive, Los Angeles, California 90027.



V 42 144 JUL 27 77 UMI

CHIEF,
*Branch of Permits,*
*U.S. Department of Interior.*
*Bureau of Sport, Fisheries and Wildlife,*
*Washington, D.C.*

Subject: Request to Purchase One Male Clouded Leopard (Neofelis nebulosa) from the Cheyenne Mountain Zoo, Colorado Springs, Colorado. This animal was captive born at the Cheyenne Mountain Zoo March 20, 1975.

MARCH 31, 1977.

DEAR SIR: 1. Status of Species in Wild. Ranging across southeastern Asia from India to Indonesia, the clouded leopard apparently has never been a common animal. Hunted for its pelt, the animal has become increasingly rare throughout its range.

2. *Status of Species in Captivity.* Volume 16 of the *International Zoo Yearbook* lists 113 clouded leopards in 52 zoos throughout the world.

3. *Manner of Procurement.* The animal is presently at the Los Angeles Zoo on breeding loan and was shipped by air from Colorado Springs to Los Angeles.

4. *Outline of Breeding Project.* The clouded leopard, will be paired with the female currently in the zoo's collection. The exhibit for the animals (see photographs measures approximately 35' long, 17' wide and 8' high). Attached to this is an off exhibit holding area measuring approximately 8' long, 4' wide and 3' high. Another holding area for felines containing six units is also available. Other small species and medium felines are maintained in the Los Angeles Zoo in similar enclosures.

5. *Zoological Credentials of Personnel.* Dr. Warren D. Thomas, Director of the Los Angeles Zoo, formerly the Director of the Gladys Porter Zoo, graduated from Ohio State University, Columbus, Ohio, with a Degree of Bachelor of Science and also a Doctor's Degree in Veterinary Medicine. He received a Faculty Appointment as Assistant Professor of Internal Medicine in Omaha, Nebraska, and as Assistant Professor of Research Medicine at the University of Nebraska. He was a keeper at the Columbus Municipal Zoo, Consultant for the Jardin Zoologico de Barranco in Lima, Peru, Director of the Oklahoma City Zoo, and Director of the Henry Doorly Zoo in Omaha, Nebraska He is a fellow member of the American Association of Zoological Parks and Aquariums.

Michael J. Crotty, Curator of Mammals at the Los Angeles Zoo graduated from Canisius College, Buffalo, New York, with a Bachelor of Science Degree in Biology. From February of 1966 to November of 1970, he was superintendent of the Children's Zoo, Buffalo Zoological Gardens. From November of 1970 to February of 1973, he served as General Curator at the Cheyenne Mountain Zoo, Colorado Springs, Colorado, where under the Zoo Director he was responsible for the management of the animal collection. He has held the position of Curator of Mammals at the Los Angeles Zoo since March of 1973. Mr. Crotty is a fellow member of the American Association of Zoological Parks and Aquariums and served as the editor of the 1974 1975 edition of "Zoos and Aquariums in the Americas".

6. *Propagation.* The Los Angeles Zoo will attempt to breed the clouded leopards and would retain ownership of at least two breeding pairs. The Cheyenne Mountain Zoo has had considerable success in breeding the clouded leopard (the animal we are requesting approval to purchase is the offspring of animals also born at Cheyenne Mountain Zoo. This would provide our female animals with similar type of nest box and privacy to allow her to rear her cubs.

7. *Reproductive Potential.* As mentioned earlier, considerable breeding success with the clouded leopard has been achieved by the Cheyenne Mountain Zoo. The female in our collection was also captive born at the Dallas Zoo. The Los Angeles Zoo has had considerable success in breeding various species of felines. The majority of these are maintained in enclosures much like that for the clouded leopard. The following species of felines have been bred successfuly at the Los Angeles Zoo: cacacal, serval, golden cat, margay, marbled cat, jungle cat, mountain lion, snow leopard, jaguar, black leopard and Bengal tiger. There is no reason to believe that successful reproduction will not occur between this male and the female currently owned by the Los Angeles Zoo. This male clouded leopard is a captive born animal; it represents no drain on the wild population.

8. *Cooperation in Studbook.* A studbook on the clouded leopards has recently begun. Data on our animal(s) has and will continue to be submitted to the studbook keeper.

(a) A male clouded leopard died in the collection on December 3, 1976 cause of death was pancreatitis of unknown etiology. All felines in the zoo's collection receive inoculations against panleucopenia (2 strains live virus), rhinotracheitis calicivirus and rabies (killed vaccine of murine origin).

I hereby certify that the foregoing information is complete and accurate to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining an exemption from the requirements of the Endangered Species Conservation Act of 1969 (83 Stat. 274), and regulations promulgated thereunder, and that any statement, false, hereon may be subject to the criminal penalities of 18 U.S.C. 1001

Respectfully submitted,

WARREN D. THOMAS, D.V.M.
*Director, Los Angeles Zoo.*

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-737-07; please refer to this number when submitting comments. All relevant comments received on or before August 26, 1977 will be considered.

Dated: July 22, 1977.

DONALD G. DONAHOO,
*Chief, Permit Branch,*
*Federal Wildlife Permit Office,*
*U.S. Fish and Wildlife Service.*

[FR Doc.77-21561 Filed 7-26-77;8:45 am]

## ENDANGERED SPECIES PERMIT

### Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

*Applicant:* Milwaukee County Zoo, 10001 West Bluemound Road, Milwaukee, Wisconsin 53226, George Speidel, Director.





DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Transport one (1) male Cotton-top Marmoset from Valley Zoo, Edmonton, Alberta, Canada to Milwaukee, WI for public display and propagation.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
MILWAUKEE COUNTY ZOO
10001 West Bluemound Road
Milwaukee, WI 53226
(414) 771-3040

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Non-profit, county owned and operated public Zoological Park.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. (414) 771-3040
George Speidel, Director
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Interstate shipment from Edmonton, Alberta, Canada to Milwaukee, WI

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit numbers)
See attachments #5 and #5A

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
See attachment #4

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF $

10. DESIRED EFFECTIVE DATE: 30 days

11. DURATION NEEDED: permanent

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

**CERTIFICATION**

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (Do not type) | DATE
Geo. Speidel | 3/28/77

PARK COMMISSION,
MILWAUKEE COUNTY,
*May 16, 1977.*

Mr. D. H. SWENDSEN,
*Asst. Special Agent-in-Charge, Law Enforcement District # 7, U.S. Department of the Interior, Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn.*

DEAR MR. SWENDSEN: In answer to your letter dated May 10, 1977, to Mr. George Speidel, Zoo Director, in regards to our application for an Endangered Species Permit—File # FWS/LE PRT 1-08—I am pleased to enclose the information you request.

*Section 17.22 A-1:* One (1) male Cotton-top Marmoset (SAGUINUS OEDIPUS) born Calgary Zoo, Calgary, Alberta, Canada, May 6, 1972. Activity is to import this animal on a breeding loan to the Milwaukee County Zoo.

*Section 17.22 A-4:* Male Cotton-top Marmoset born at the Calgary Zoo, Calgary Alberta, Canada on May 6, 1972. Sold to Valley Zoo, Edmonton, Alberta, Canada on April 24, 1973.

*Section 17.22 A-6II:* See attachment # 1 (Births), Zoo Director—43 years in zoo work. Assistant Zoo Director—33 years in zoo work. Keepers average 10-15 years in animal care.

*Section 17.22 A-6IV:* Size of the shipping crate will be 10" x 14" x 18", lightweight wood construction, open wire front. Since the transit time will not exceed approximately six (6) hours the animal will be provided with dry food (monkey chow) and moisture in the form of whole oranges. Animal may also be watered through the open wire front of the crate in case of a delay. The animal will be shipped via Western Airlines from Edmonton, Alberta, Canada to Denver, Colo.; then United Airlines from Denver to Milwaukee. There are three direct flights daily from Denver to Milwaukee. The animal will be transferred from Milwaukee Mitchell Field to the Zoo at the time of arrival.

*Section 17.22 A-6V:* See attachment #1.

*Section 17.22 A-8I:* To import, transport and propagate the Cotton-top Marmoset at the Milwaukee County Zoo.

*Section 17.22 A-8III:* The Milwaukee County Zoo presently has two (2) female Marmosets set up in a breeding colony at the zoo hospital. This is a humidity and temperature controlled room with automatic twelve-hour lighting. The animals are set up in smaller cages and the animal in question, who is a proven breeder, is to be placed with a female who is also a proven breeder. It is suspected that only the dominant female in any group of Marmosets will breed, therefore by parring the Marmosets we insure that each female is a dominant animal.

*Section 17.22 A-8IV:* See attachment #1.

I hope this information is satisfactory. Please notify the undersigned if additional information is needed.

Sincerely,

ROBERT BULLERMANN,
*Assistant Director.*

RB:al
Enc.

PARK COMMISSION,
MILWAUKEE COUNTY,
*March 28, 1977.*

*Director, Department of the Interior, U.S. Fish and Wildlife Service, Washington, D.C.*

DEAR SIR: Pursuant to the Code of Federal Regulations, Title 50, we hereby respectfully apply for a permit to transfer and keep endangered wildlife for the Milwaukee County Zoo.

In accordance, and to comply with all regulations affected, we include the following documentations:

1. Original of Form 3-200, Federal Fish and Wildlife License/Permit Application, duly completed and signed by the Zoo Director.

2. Official name and address: The Milwaukee County Zoo, 10001 West Bluemound Road, Milwaukee, Wis. 53226.

3. Name of Zoo Director: George Speidel.

4. Name and scientific name of animals: 50 CFR 17 Sec. 17.23A-1. One (1) male Cotton-top Marmoset (Saguinus oedipus) Property of the Valley Zoo, Edmonton, Alberta, Canada.

5. Copy of contract (letter) in which the Milwaukee County Zoo agrees to borrow 1.0 Cotton-top Marmoset from the Valley Zoo. 50 CFR 17 Sec. 17.25A-2. See attachment No. 1 and 1A.

6. Purpose of the permit: To transport, exhibit and propagate the Cotton-top Marmoset at the Milwaukee County Zoo. 50 CFR 17 Sec. 17.25A-3.

7. The Cotton-top Marmoset is in residence at the Valley Zoo, Edmonton, Alberta, Canada.

8. Description and drawing where wildlife is to be held. 50 CFR 17 Sec. 17.23 A-7 No 1. See attchment No. 2.

9. The technical expertise: The Milwaukee County Zoo presently has two (2) female Cotton-top Marmosets (Saguinus oedipus). There has been five (5) births of this species at the Milwaukee County Zoo in the past. 50 CFR 17 Sec. 17.23 A-7 No. 2.

10. The Milwaukee County Zoo is willing to participate in breeding loans to other approved zoos as evidenced by the enclosed list of breeding loan animals. 50 CFR 17 Sec. 17.23 A-3. See attachment No. 3.

11. Animals to be shipped via air carrier from Edmonton, Alberta to Denver; Denver to Milwaukee. See attachment No. 1A.

12. A report will be sent to the Director within ten days of receiving the animal covered in the permit. The Milwaukee County Zoo further agrees to report immediately any deaths or escapes, and also agrees to make the remains available to interested institutions for scientific use. 50 CFR 17 Sec. 17.23 B-1 and B-2.

13. The desired effective date of permit is 30 days from application date.

14. I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter 1 of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any



V 42 144 JUL 27 77 UMI

false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

Dated this 28th day of March, 1977.

GEORGE SPEIDEL,
*Zoo Director, Milwaukee County Zoo.*

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1115-07; please refer to this number when submitting comments. All relevant comments received on or before July 26, 1977 will be considered.

Dated: July 22, 1977.

DONALD G. DONAHOO,
*Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.*

[FR Doc.77-21562 Filed 7-26-77;8:45 am]

## ENDANGERED SPECIES PERMIT

### Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (P.L. 93-205).

Applicant: Gerald L. Warnock, 6095 Southwest Old Scholls Ferry Road, Portland, Oreg. 97223.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

XX

1. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)

Gerald L. Warnock
6095 S W Old Schoills Ferry Rd.
Portland, Or. 97223
503-292-5236

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.

I desire to import two skulls with attached horns and accompanying head skins of the Red Lechwe (Kobus leche leche) of the variet present in the Kwando flood plain of Botswan. A study in the comparative radiographic anatomy of these specimens will be performed and submitted for publication in the appropriate scientific journal.

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

| | | |
|---|---|---|
| ☒ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT 5' 11" | WEIGHT 155 |
| DATE OF BIRTH 10 March 1934 | COLOR HAIR Brown | COLOR EYES Blue |
| PHONE NUMBER WHERE EMPLOYED 503-253-1107 | SOCIAL SECURITY NUMBER 543-34-5956 | |
| OCCUPATION Physician, M. D. | | |

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:

EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

Not applicable

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED

East Portland X-ray Clinic, P. C.
133 N E 102
Portland, Or. 97220

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)

Game Division Department of Botswana
Export Permits for the two Lechwe are available upon request and would accompany

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $

10. SHIPMENTS UPON IMPORTATION OR EXPORTATION: DATE; DESIRED EFFECTIVE DATE

Immediately — 180 days

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (see 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

See accompanying explanatory cover letter relative to CFR 17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Gerald L. Warnock M.D. DATE 22 June 1977

3-200 (6/74)

The following statements are given as per your request in amplification and explanation of my request for an importation permit as follows:

17.22(a) Application requirements:

1. Red Lechwe (*Kobus leche leche*). Two in number, both mature rams, age estimated six year plus. I desire to import these for purposes to be explained below.

2. At the time of application, the wildlife to be covered by the permit have been removed from the wild and are, in fact, dead.

3. Radiography of the specimens would obviously be impossible in the live state short of full anesthesia so that adequate projections, measurements, etc., would be impossible.

4. The lechwe in question were removed from the wild in Botswana Kwando River flood plain on the 29th of August 1976.

5. The extensive radiographic and duplicating facilities of the East Portland X-ray Clinic P. C. will be utilized, situated at 133 Northeast 102nd Ave. Portland, Oreg. 97220. Following extensive radiographic analysis, and assuming head skins have not yet deteriorated, it was my intention to have the animals mounted for eventual museum display. Should the head skins be defective, the horns and skulls will be retained permanently.

6. Not applicable.

7. No contracts or agreements have been let. The bulk of the research will be performed by myself, Gerald L. Warnock, M.D., diplomat of the American Board of Radiology. In addition to special expertise in radiological technique and interpretation, I possess a Bachelor's Degree in Biology from Reed College and have written an extensive thesis in Animal Parasitology.

8. There has been some dispute as to whether the Red Lechwe of the Okavong and Kwando area of Botswana is, indeed, the same species as is present on the Kafue flats of Zambia. The purpose of the investigation will be to attempt to establish similarities or differences in the radiographic anatomy of the skulls of the individuals from the two areas. (I have available locally, skulls of the Kafue flats Lechwe and require the Red Lechwe from Botswana for comparative purposes.)

(i) Radiographs of the dried skulls of the specimens will be exposed in varying projections with accompanying scales for accurate mensuration.

(ii) Variations in contour, etc., shall be noted as well as comparison of dentition, horn development, etc.

(iii) Establishment of whether these are, indeed, separate races or subspecies of the antelope may be of further importance as to survival, particularly when plans are afoot to drain portions of the Okavongo with attendant habitat destruction.

(iv) Upon completion of the above project, the scientific paper will perhaps be presented locally at appropriate scientific session and will be submitted for publication in appropriate scientific journals. The skulls will be retained permanently by yours truly and would be available for further evaluation be interested parties. (See above No. 8.)

(b) Issuance criteria:

1. Issuance of the permit would in no way change the status of the wildlife in question.

2. Issuance of the permit would in no way affect the wild populations, the animals now dead.

3. The permit would in no way directly or indirectly conflict with any known program intended to enhance the survival probabilities of the population and may, in fact, help to enhance the survival probabilities as noted above.

4. Unlikely to have significant influence.

5. Unavailable.

6. The persons in question have more than ample expertise, facilities, and resources for accomplishment of the objective state.

I note that one must also meet the criteria under the Convention of International Trade and Endangered Species which took effect on May 23, 1977. Reading over these regulations in CFR 23.12 I feel that what I have stated in this present application should be sufficient for all information there available. Under 23.14(b) countries that are not parties (Botswana not being a party to the convention), I have been assured that an export permit with the appropriate documentation would accompany the shipment upon its departure. I am sure I could obtain this in advance if this is required. The way I read 23.12(a) is that the certificate must be available prior to importation which I would assume could accompany the shipment.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1051-07; please refer to this number when submitting comments. All relevant comments received on or before August 26, 1977 will be considered.

Dated: July 22, 1977.

DONALD G. DONAHOO,
*Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.*

[FR Doc.77-21563 Filed 7-26-77;8:45 am]

## THREATENED SPECIES PERMIT

### Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 4(d), 16 U.S.C. 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Dallas Game Farm, 5307 120th Avenue, Coal Valley, Ill. 61240, Charles R. Dallas.



DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

OMB NO. 42-R157

1. APPLICATION FOR (Indicate only one) ☐ IMPORT OR EXPORT LICENSE ☑ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:

FOR THE INTERSTATE SHIPMENT TO HEALDTO MAINTAIN, Breed, AND FURTHER ESTABLISH CERTAIN SPECIES OF ENDANGERED PHEASANTS AND GAME BIRDS, AND TO SELL AND BUY THE SAME FROM OTHER AUTHORIZED PERSONS.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)

CHARLES R. DALLAS
(Dallas Game Farm)
5307-120TH AVE.
Coal Valley, ILL. 61240
PH.-7873224

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

| | | |
|---|---|---|
| ☒ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT 6'4" | WEIGHT 210 |
| DATE OF BIRTH MAY 14, 1944 | COLOR HAIR BLK. | COLOR EYES BRN |
| PHONE NUMBER WHERE EMPLOYED 24 797 3911 | SOCIAL SECURITY NUMBER 337-36-5919 | |
| OCCUPATION Body MAN-Game Breeder | | |

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
NONE

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:

EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
N/A

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
N/A

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Residence of:
CHARLES R. DALLAS
5307-120TH AVE
Coal Valley, ILL. 61240

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☑ YES ☐ NO
(If yes, list license or permit numbers)
PRT 2-424-TW

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☑ YES ☐ NO
(If yes, list jurisdictions and type of documents)
STATE OF ILL, DEPT. of CONSERVATION GAME Coad AND ADMINISTRATIVE ORDER
WILD GAME Breeder Permit # 710

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $

10. DESIRED EFFECTIVE DATE: MARCH 1, 1977

11. DURATION NEEDED: ~~1 YR~~ 3 YRS

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (see 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
ENDANGERED WILDLIFE PERMITS: 17.22 a
50 CFR

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Charles R. Dallas DATE Jan. 22, 1977

3-200 (6/74)

APRIL 25, 1977.

INCLOSURE No. 1

The following is a list of endangered species (pheasants) which I desire to have shipped to me for the purpose of propagation:

1 pair of Elliott's Pheasants (syrmaticus elliotl) 1 year old.

1 pair of Swinhoe Pheasants (lophura swinhoii) 1 year old.

From: Bill Procyk, R.R. No. 1, Parker Road, Mokena, Ill. 60448.

The following information is submitted as inclosures as required by 50 CFR 17.

17.22a

(1) Provided above.

(2) The above will all be captive born birds.



V 42 144
JUL 27 77
UMI

(3) All of the above pheasants will be purchased as captive born stock, thus there will be no death or removal from the wild of any of the above.

(4) All of the above pheasants will be birds born in the United States of America.

(5) All of the above pheasants will be kept at Coal Valley, Ill. 61240.

(6) (i) Inclosure 2.

(6) (ii) Inclosure 3.

(6) (iii) Inclosure 4.

(6) (iv) All of the above will be shipped via air in containers approved by the carrier, that provide for the protection and safe delivery of the birds.

(6) (v) Inclosure 5.

(7) None. I can not legally acquire the above pheasants without the issuance of the permit I am applying for.

(8) (i) The interstate shipment, to me, of the above listed, captive born pheasants.

(8) (ii) The above will be purchased and shipped to me, via air, for the propagation of that species.

(8) (iii) The above pheasants will be used for the enhancement of that species through captive propagation.

(8) (iv) I do not plan to terminate my activities in raising birds. If such occurrence should ever happen it would be in accordance with any applicable federal or state regulations.

CHARLES R. DALLAS.

APRIL 25, 1977.

INCLOSURE No. 3

I have three years of experience in raising and breeding game birds.

I am a member of the Illinois Game and Pet Breeders Society and a close friend and neighbor of Mr. and Mrs. James Duffy, R.R. No. 1, Box 263-A, Moline, Ill. 61265.

Their expert advice comes with 33 years of raising exotic and ornamental Game birds and waterfowl.

I have a good circulated air incubator with which I have tremendous success, very efficient brooder systems, and enough space to insure constantly sanitary surroundings.

CHARLES R. DALLAS.

APRIL 25, 1977.

INCLOSURE No. 4

I am willing to participate in a cooperative breeding Program and to maintain such records as are necessary to insure the preservation of the species listed in Inclosure No. 1.

CHARLES R. DALLAS.

APRIL 25, 1977.

INCLOSURE No. 5.—SUMMARY OF MORTALITIES

1 Black Pheasant died from a weakened condition due to severe winter.

5 Reeves purchased from weakened inbred stock—I inspect parent stock more closely now.

1 Yellow Golden, causes unknown. Probably weakened from old age.

15 Bob White Quail killed by neighbors dog. We enclosed the pen on the bottom to prevent this.

5 Red Golden killed by owls. Lowered perches in aa pens to prevent problem.

CHARLES R. DALLAS.

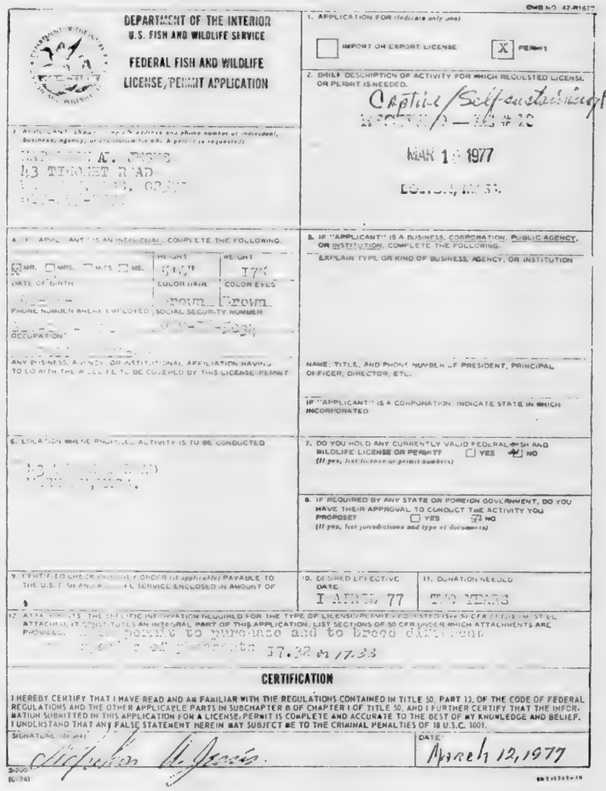
Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Rom 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-671-25; please refer to this number when submitting comments. All relevant comments received on or before August 26, 1977 will be considered.

Dated: July 22, 1977.

DONALD G. DONAHOO,
*Chief, Permit Branch, Federal Wildlife Permit Office, U.S. and Wildlife Service.*

[FR Doc.77-21558 Filed 7-26-77;8:45 am]



DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one) — ☐ IMPORT OR EXPORT LICENSE — ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: Captive/Self-sustaining Pop.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
A. JESUS
43 TIHONET ROAD
WAREHAM, MASS. 02571

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 6½" WEIGHT: 175
DATE OF BIRTH: 11/16/20
COLOR HAIR: GRAY COLOR EYES: BROWN
PHONE NUMBER WHERE EMPLOYED: HOME SOCIAL SECURITY NUMBER: [illegible]
OCCUPATION: [illegible]
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE ACTIVITY TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
[illegible]

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list licenses or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of document)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $

10. DESIRED EFFECTIVE DATE: 1 APRIL 77

11. DURATION NEEDED: TWO YEARS

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Inclosure to summarize and to breed data. 50 CFR 17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): A. Jesus. DATE: March 12, 1977

3-200 (6-74)





43 TIHONET ROAD,
WAREHAM, MASS. 02571,
*March 21, 1977.*

U.S. DEPT. OF THE INTERIOR,
*Fish and Wildlife Service, P.O. Box 277, Newtonville, Mass. 02160*

(Att. Mr. Wayne E. Sanders, Special Agent in Charge, District 13 Law Enforcement).

DEAR MR. SANDERS: Enclosed please find my application with the requested attachments as outlined in 50 CFR 17.32(a) (1) through (8), or 17. 33.

Pheasants:

1. Pair a. Edward's—Lophophorus—thuysii; Pair b. Elliot's—Syrmaticus—Ellioti; Pair c. Swinhoe's—Lophura—Swinhoii; Pair d. Mikado—Symaticus—Mikado.

2. These born in captivity.

3. To purchase from farms advertising sales in the U.S.A.

4. Same.

5. Maintained on my 3 acre farm. My home on the street side, Tihonet Road, Wareham, and the mill pond in the rear.

6. (1) Eight foot by twenty foot enclosed yard with a four foot wide, by eight foot long, and five foot high house.

(2) Have the past four years raised Ringnecks, Goldens, Reeves, and Silvers.

(3) Am interested in cooperative breeding program.

(4) Will be properly shipped by farm.

(5) In the last four years, I have hatched silvers with great luck. With the reeves, I lost a few in the first hatching before removing the male.

7. None.

8. (1) To purchase and propagate; (2) by mail; (3); (4) may deal through authorized clubs or farms.

I hope this will be sufficient information so that my application can be processed.

Sincerely yours:

NAPOLEON A. JESUS.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-937-25; please refer to this number when submitting comments. All relevant comments received on or before August 26, 1977, will be considered.

Dated: July 22, 1977.

DONALD G. DONAHOO,
*Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.*

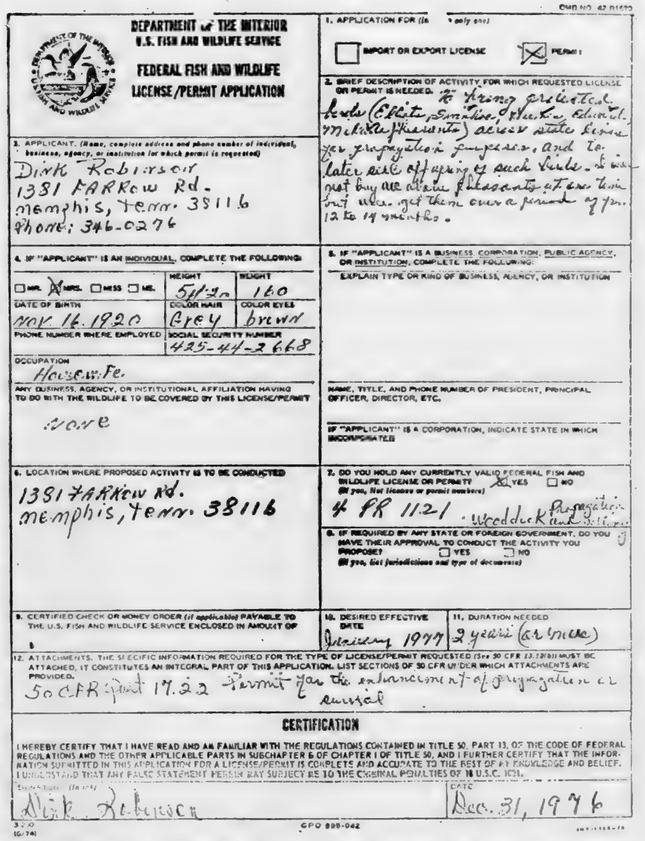
[FR Doc.77-21560 Filed 7-26-77; 8:45 am]

## THREATENED SPECIES PERMIT

### Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 4(d), 16 U.S.C. 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Dink Robinson, 1381 Farrow Road, Memphis, Tenn. 38116.



DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one) — ☐ IMPORT OR EXPORT LICENSE — ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: To bring protected birds (Elliot, Swinhoe, Mikado, Edward's, Mikado Pheasants) across state lines for propagation purposes, and to later sell offspring of such birds. I will not buy nor obtain pheasants other than what I get them over a period of from 12 to 14 months.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Dink Robinson
1381 FARROW Rd.
Memphis, Tenn. 38116
Phone: 346-0276

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☒ MRS. ☐ MISS ☐ MS.
HEIGHT: 5'2" WEIGHT: 160
DATE OF BIRTH: NOV 16 1920
COLOR HAIR: Grey COLOR EYES: brown
PHONE NUMBER WHERE EMPLOYED: SOCIAL SECURITY NUMBER: 425-44-2668
OCCUPATION: Housewife
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE ACTIVITY TO BE COVERED BY THIS LICENSE/PERMIT: none

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
1381 FARROW Rd.
Memphis, Tenn. 38116

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list licenses or permit numbers)
4 PR 1121 · Waddell Propagation

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of document)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $

10. DESIRED EFFECTIVE DATE: January 1977

11. DURATION NEEDED: 2 years (or more)

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR Part 17.22 Permit for the enhancement of propagation or survival

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Dink Robinson DATE: Dec. 31, 1976

3-200 (6-74) GPO 888-042

The applicant wishes to bring the following protected and endangered pheasants across state line for propagation purposes and later selling of offspring in interstate commerce: Elliot's Pheasant (*Syrmaticus elliotti*), captive reared; Swinehoe's Pheasant (*Lophura swinhoii*), captive reared; White-eared Pheasant (*Crossoptilon crossoptilon*), captive reared; Mikado Pheasant (*Syrmaticus mikado*), captive reared; Edward's Pheasant (*Lophura edwardsi*), captive reared; Hume's Pheasant (*Syrmaticus humiae*), captive reared.

The above pheasants will be cared for on a 4-acre home lot with covered aviaries (two) 50 ft. by 75 ft. The applicant has not encountered an outbreak of any kind of avian disease and has lost only two pheasants in previous years due to freezing weather. A veterinarian is readily available.

The applicant does not plan to import or export, and the majority shipments will only take a few hours to arrive due to the nearness of an international airport.

The applicant has been advised that separate permits are required for the Elliot's, White-eared, Hume's pheasants according to 50 CFR 17.22.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-616-25 please refer to this number when submitting comments. All relevant comments received on or before August 26, 1977, will be considered.

Dated: July 22, 1977.

FRED L. BOLWAHNN,
*Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.*

[FR Doc.77-21564 Filed 7-26-77;8:45 am]



V 421144 JUL 27 77 UMI

### Geological Survey

### OKLAHOMA

#### Proposed Approval of Coal Mining Plan

In accordance with the requirements of 30 CFR 211.5(c)(2), notice is hereby given that Garland Coal and Mining Company, P.O. Box 186, Fort Smith, Ark. 72901, has submitted a modification to its approved mining plan to mine coal by strip mining methods on Federal coal lease BLM–C–030953–031215. The mining plan was initially approved on January 10, 1973, and the mine has continued operations since that date. A modification was submitted to the Area Mining Supervisor on November 22, 1976, to comply with the Coal Mining Operating Regulations 30 CFR 211.

The Garland Coal and Mining Company Mine is an ongoing strip mine in sec. 5, T. 9 N., R. 21 E., Indian Meridian. The modification proposes expansion of the current operations by extending the mine into secs. 6 and 7, T. 9 N., R. 21 E. The plan covers mining of 180,000 tons of coal per year from the Federal lease through the year 1980.

The purpose of this notice is to inform the public that the Mining Supervisor proposes to approve the mining plan.

Any person having an interest, which is or may be adversely affected by this action, may request a public meeting in writing. Requests should include the name and address of the requestor and should be submitted to the Area Mining Supervisor, Conservation Division, U.S. Geological Survey, P.O. Box 816, 509 South Third Street, McAlester, Okla. 74501. All requests should be made on or before August 16, 1977. No decision on the mining plan will be made prior to August 16, 1977.

Dated: July 20, 1977.

W. A. RADLINSKI,
*Acting Director.*

[FR Doc.77-21522 Filed 7-26-77;8:45 am]

### Mining Enforcement and Safety Administration

### NATIONAL MINE HEALTH AND SAFETY ACADEMY

#### Payment of Fees for Training and Use of Space

The schedule of fees to be charged in connection with the training and use of the National Mine Health and Safety Academy, Beckley, W. Va., was published as a notice in the FEDERAL REGISTER on January 26, 1977 (42 FR 4910), and was made effective on that date. The notice states that the fees "are payable upon registration."

Since the fee schedule became effective, several organizations and persons have requested that they be permitted to pay for training after they have completed the training rather than "upon registration." Bookkeeping systems incompatible with pre-training payment have been the most often cited justification for the request.

After consideration of these requests, it has been determined that the Academy's goal to improve the health and safety conditions in mines through education and training may be furthered by also permitting payment of fees after the training has been received. Organizations or persons interested in post-training payment should submit in writing a request for such a fee payment arrangement to:

Superintendent, National Mine Health and Safety Academy, P.O. Box 1166, Beckley, West Virginia 25801.

The request include a justification for post-training payment and a statement that payment to the Academy will be made upon completion of the training received. Requests will be evaluated in light of the needs and goals of the Academy. Approval of post-training payment must be received from the Superintendent in writing before training may begin. The procedures for payment of fees will continue to be reviewed periodically. Information concerning future changes in payment procedures will be published in the Academy's General Catalog.

Inquiries concerning post-training payment or other Academy information should be directed to the National Mine Health and Safety Academy, P.O. Box 1166, Beckley, West Virginia 25801 (Telephone 304–245–0451).

The principal persons responsible for preparation of this notice are: Dr. Michael G. Zabetakis, Superintendent, National Mine Health and Safety Academy, MESA, and Donald R. Tindal, Assistant Solicitor, Metal and Nonmetallic Mine Health and Safety, Office of the Solicitor.

Dated: July 19, 1977.

JOAN M. DAVENPORT,
*Assistant Secretary of the Interior.*

[FR Doc.77-21585 Filed 7-26-77;8:45 am]

## DEPARTMENT OF JUSTICE

### Antitrust Division

### UNITED STATES v. DIEBOLD, INC., ET AL.

#### Proposed Consent Judgments and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that two proposed Final Judgments and a Competitive Impact Statement as set out below have been filed with the United States District Court for the Northern District of Ohio, Eastern Division, Akron, Ohio, in Civil Action No. C76–49A, *United States* v. *Diebold, Incorporated, et al.* The complaint in this case alleges that defendant Chubb & Son, Ltd., a major English manufacturer of bank security equipment, and Diebold, Incorporated, a major U.S. manufacturer in the same field, restrained United States foreign and interstate trade and commerce in bank security equipment by agreeing that Chubb would refrain from selling or distributing such equipment in the United States through Consolidated Exporters, Inc., of Canton, Ohio, and by agreeing that Diebold would refrain from selling or distributing such equipment in the United Kingdom through ADM Business Systems Ltd., London, England, its then distributor.

The proposed judgment as to Diebold prohibits the consenting defendant from securing with any manufacturer of bank security equipment, or with any person acting on behalf of any manufacturer of such equipment, agreements or understandings which would have a restrictive effect on United States foreign or domestic trade or commerce. In addition, Diebold is required, given favorable business conditions, to promote the sale and distribution of its products in the United Kingdom and to maintain careful records of its refusals to any written request to sell or distribute bank security equipment in the United Kingdom. In addition, Diebold is barred, for a term of five years, from entering representation arrangements with Chubb.

The proposed judgment as to Chubb prohibits the consenting defendant from securing with any manufacturers having United States sales of bank security equipment in excess of $12,000,000 agreements or understandings which would have a restrictive effect on United States foreign or domestic trade or commerce, while specifically encouraging the defendant to enter the U.S. market through competitive licensing or distribution arrangements. Chubb is barred, however, for a term of five years, from entering U.S. representation arrangements with Diebold. Another provision requires Chubb to report periodically to the Department of Justice on its efforts to enter the United States market.

Public comment is invited on or before September 12, 1977. Such comments and the response thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Joel Davidow, Chief, Foreign Commerce Section, Antitrust Division, Department of Justice, Washington, D.C. 20530.

Dated: July 13, 1977.

CHARLES F. B. MCALEER,
*Assistant Chief, Judgments and Judgment Enforcement Section.*

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF OHIO

*United States of America*, Plaintiff v. *Diebold, Inc., et al.*, Defendants.

Civil No. C76–49 A.
Filed: July 13, 1977.
Entered: ----------

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant Chubb & Son Limited ("Chubb") and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever, and the making of this stipulation shall be without prejudice to plaintiff and defendant Chubb in this or any other proceeding.

Dated: June 14, 1977.

For the plaintiff: John H. Shenefield, Acting Assistant Attorney General; William E. Swope, Joel Davidow, Charles F. B. McAleer, Thomas E. Sheldon, William J. Kananack, and Carl A. Cira, Jr.

For defendant Chubb & Son Limited: Jones, Day, Reavis & Pogue.

By: Richard W. Pogue, and Hugh R. Whiting.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA, PLAINTIFF v. DIEBOLD, INC., ET AL., DEFENDANTS.

Civil No. C76–49 A.
Filed: July 13, 1977.
Entered ----------

FINAL JUDGMENT AS TO CHUBB & SON, LTD.

Plaintiff, United States of America, having filed its complaint herein on February 12, 1976, and defendant, Chubb & Son Limited, having filed its answer denying the substantive allegations of the complaint; and plaintiff and defendant, Chubb & Son Limited, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence or admission by any party hereto with respect to any such issue; and this Court having determined pursuant to Rule 54(b) of the Federal Rules of Civil Procedure that there is no just reason for delay in entering a Final Judgment against the consenting Defendant Chubb & Son Limited:

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence or admission by any party hereto with respect to any such issue, and upon consent of the parties hereto it is hereby

Ordered, adjudged and decreed as follows:

I

This Court has jurisdiction of the subject matter hereof and, by consent, of the defendant solely for the purposes of this Final Judgment. The complaint states a claim upon which relief may be granted against the defendant under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment:

(a) "Chubb" means the defendant Chubb & Son Limited, a corporation organized and existing under the laws of the United Kingdom;

(b) "Diebold" means the defendant Diebold, Incorporated, a corporation organized and existing under the laws of the State of Ohio;

(c) "Bank security equipment" means any product of a type manufactured by Chubb and primarily used by banks, savings and loan institutions, credit unions, brokerage houses, insurance companies and other financial institutions for the safekeeping and protection of premises, cash, securities, documents and other valuables against the hazards of theft, robbery, burglary, fire and flood. The term includes, but is not limited to, safes, vaults, vault doors, tills, drive-in teller systems, night deposit systems, safety deposit box systems, electronic and photographic surveillance systems, robbery, burglary and fire alarms and fire-resistant files;

(d) "Person" means any individual, partnership, firm, corporation, association or other business or legal entity unaffiliated with defendant;

(e) "Representative" means any person other than an employee who promotes, facilitates or otherwise accomplishes the sale of bank security equipment.

III

The provisions of this Final Judgment shall apply to Chubb and to each of its directors, officers, agents, employees, subsidiaries, successors and assigns of each, and to all persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. For the purpose of this Final Judgment Chubb, together with its subsidiaries or affiliates as to which it owns a majority of the voting stock or exercises effective working control, along with any of their officers, directors, agents and employees, when acting in such capacity shall be deemed to be one person. This Final Judgment shall apply only to acts which have a substantial and foreseeable effect upon United States trade or commerce in bank security equipment.

IV

A. Chubb is enjoined and restrained from directly or indirectly in any manner entering into, adhering to, enforcing, claiming any rights under or in any way maintaining or attempting to secure, any contract, agreement or understanding having a substantial and foreseeable effect upon United States trade or commerce in bank security equipment with any manufacturer of bank security equipment which had sales of bank security equipment in the United States in excess of $12,000,000 in any of the three calendar years preceding the entry of this Final Judgment with respect to the manufacture and sale of a product or products falling within the definition of bank security equipment set forth in Section II(c) hereof:

1. To refuse to appoint or to terminate relations with any third person as Representative;

2. To allocate, divide, or restrict customers, territories, or product markets;

3. To refuse to sell in any territory or market or to any third person; or

4. To limit or restrict imports into or exports from the United States;

B. Provided that this section IV shall not prevent Chubb from entering into distribution or licensing arrangements with any manufacturer having sales of bank security equipment in the United States in excess of $12,000,000 in any of the three calendar years preceding the entry of this Final Judgment as long as no equivalent of the Chubb bank security equipment item which is the subject of such arrangement is manufactured or sold in the United States by the other party to the arrangement; and

C. Provided further that this section IV shall not limit the right of the United States to institute a legal action independent of an action to enforce this Final Judgment, or the right of Chubb to defend such action, regarding the legality of any agreement between Chubb and any manufacturer of bank security equipment having sales of bank security equipment in the United States not in excess of $12,000,000 in any of the three calendar years preceding the entry of this Final Judgment.

V

A. For a period of five (5) years from the date of entry of this Final Judgment, Chubb is enjoined and restrained from, directly or indirectly, acting as Representative for Diebold in the United Kingdom, or having Diebold act as its Representative in the United States, in the sale of bank security equipment; provided, however, that nothing in this Section V shall prevent Chubb from purchasing, selling or otherwise acting with respect to (a) parts or components of bank security equipment obtained from Diebold for inclusion or use in Chubb products or (b) bank security equipment bearing Chubb's own name or trademark or any other name or trademark excepting those in actual use by Diebold.

VI

A. For a period of five (5) years from the date of entry of this Final Judgment, Chubb shall retain all written inquiries and retain memoranda reflecting oral inquiries respecting the purchase or distribution of Chubb bank security equipment from the United Kingdom for export to the United States, together with copies of Chubb's response to such inquiries or a memorandum of Chubb's response where said response was oral.

B. In the event that Chubb or its subsidiaries have not commenced the regular sale of bank security equipment in the United States before the third anniversary of the entry of this Final Judgment, Chubb shall so advise plaintiff and shall furnish plaintiff with a written report setting forth the reasons why such sales were not commenced and, upon written request of plaintiff, copies of the correspondence and memoranda retained pursuant to section VI–A hereof. The same procedure shall again apply if Chubb or its subsidiaries have still not commenced such sales by the fifth anniversary of the entry of this Final Judgment.

VII

For the purpose of securing or determining compliance with this Final Judgment with regard to Chubb and for no other purpose, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, or his agent, and on reasonable notice to Chubb at either its principal business office in London, England or any successor location, and subject to any legally recognized privilege, within 60 days of receipt of such request for books, ledgers, accounts, correspondence, memoranda, and other records in the possession or under the control of Chubb, Chubb shall provide duly authenticated copies of such documents at the Department of Justice in Washington, D.C.; provided, however, that Chubb shall not be required to bring to the United States any books or other records or copies thereof when such action is prohibited by the laws of the United Kingdom or of any country or treaty organization with jurisdiction over Chubb and Chubb has exercised good faith efforts to obtain permission of the appropriate authorities, but such permission has not been secured A copy of any such request shall, insofar as it relates to documents within the United Kingdom or to information to be compiled therefrom, be sent to the Government of the United Kingdom at the same time as it is served on Chubb. Chubb shall promptly notify plaintiff of any change of address of its principal business office.

No information obtained by the means provided in this section shall be divulged by any representatives of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with any Final Judgment entered in this action or as otherwise





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required by law. If at the time information or documents are furnished by Chubb to plaintiff, Chubb indentifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Chubb marks each pertinent page of such material "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then, in the event that plaintiff asserts the right to divulge such material pursuant to this section VII, plaintiff shall give at least ten (10) days' written notice to Chubb prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which Chubb is not a party.

VIII

Jurisdiction is retained by this Court for the purpose of enabling either of the parties consenting to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provision thereof, for the enforcement of compliance therewith, and for the punishment of any violations hereof

IX

This Judgment shall be of no force or effect beyond ten years from the date of its entry.

X

Entry of this Judgment is in the public interest.

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*United States District Judge*

Dated: Akron, Ohio, ---------- 1977.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA, PLAINTIFF, V. DIEBOLD, INC., AND CHUBB & SON, LTD., DEFENDANTS.

Civil No. C76-49A
Filed: July 13, 1977
Entered ----------

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrwna its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on the defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever, and the making of this stipulation shall be without prejudice to plaintiff and defendant Diebold in this or any other proceeding.

For the plaintiff: John H. Shenefield, Acting Assistant Attorney General;
Thomas E. Sheldon,
William E. Swope,
William J. Kananack,
Joel Davidow,
Carl A. Cira, Jr.,
Kenneth L. Jost.

For defendant Diebold, Inc., Arnold & Porter.

By: Richard J. Wertheimer,
Stephen M. Sacks,
Paul S. Ryerson.

Dated: July 13, 1977.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA, PLAINTIFF V. DIEBOLD, INC.; AND CHUBB & SON, LTD., DEFENDANTS.

Civil No. 776-49A.
Filed: July 13, 1977
Entered ----------

FINAL JUDGEMENT AS TO DIEBOLD, INC

Plaintiff, United States of America, having filed its complaint herein on February 12, 1976; plaintiff and defendant Diebold, Incorporated, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence or admission by any party hereto with respect to any such issue, and this Court having determined pursuant to Rule 54(b) of the Federal Rules of Civil Procedure that there is no just reason for delay in entering a Final Judgment against the consenting defendant Diebold, Incorporated:

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence or admission by any party hereto with respect to any such issue, and upon consent of the parties hereto it is hereby

ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

I

This Court has jurisdiction of the subject matter hereof and of the parties consenting hereto. The complaint states a claim upon which relief may be granted against the defendant under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment:

A. "Diebold" means the defendant Diebold, Incorporated, a corporation organized and existing under the laws of the State of Ohio;

B. "Chubb" means the defendant Chubb & Son, Ltd., a corporation organized and existing under the laws of the United Kingdom;

C. "Bank security equipment" means any product primarily used by banks, savings and loan institutions, credit unions, brokerage houses, insurance companies and other financial institutions for the safekeeping and protection of premises, cash, securities, documents and other valuables against hazards such as theft, robbery, burglary, fire and flood. The term includes, but is not limited to, safes, vaults, vault doors, tills, drive-in teller systems, night deposit systems, safety deposit box systems, electronic and photographic surveillance systems, robbery, burglary and fire alarms, files and filing systems, data storage vaults and automated cash dispenser systems;

D. "Person" means any individual, partnership, firm, corporation, association or other business or legal entity;

E. "Representative" means any person who promotes, facilitates or in any way accomplishes the sale of bank security equipment for any other person.

III

The provisions of this Final Judgment shall apply to Diebold and to each of its directors, officers, agents, employees, subsidiaries, successors and assigns of each, and to all persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise. The provisions of this Final Judgment shall apply only to acts which affect United States trade or commerce in bank security equipment.

IV

A. Diebold is enjoined and restrained from directly or indirectly in any manner entering into, adhering to, enforcing, claiming any rights under or in any way maintaining, or attempting to secure, any contract, agreement or understanding with any manufacturer of bank security equipment, or with any person acting on behalf of any manufacturer of bank security equipment:

(1) To allocate, divide, or restrict customers, territories, products or markets for the manufacture, sale, service or use of bank security equipment;

(2) To refuse to sell bank security equipment in any territory or market or to any third person; or

(3) To refuse to appoint or to terminate relations with any third person as Representative for bank security equipment.

B. Provided that this Section IV shall not prevent Diebold from entering a distribution or licensing agreement with any manufacturer of bank security equipment, except that Diebold may not act as a United States distributor or licensee of bank security equipment not of its own manufacture unless:

(1) The manufacturer of such bank security equipment had United States sales of bank security equipment of less than $12,000,000 during calendar year 1976; or

(2) As a result of Deibold's unilateral commercial determination, no equivalent of the bank security equipment which is the subject of such distribution or licensing agreement is manufactured or sold in the United States by Diebold; or

(3) The same rights to such bank security equipment are contemporaneously made available to other United States manufacturers of bank security equipment; and

C. Provided further, that this Section IV shall not limit the right of the United States to institute a legal action, independent of an action to enforce this Final Judgment, or the right of Diebold to defend such action, regarding the legality of any agreement between Diebold and any manufacturer of bank security equipment.

V

For a period of five (5) years from the date of entry of this Final Judgment, Diebold is enjoined and restrained from directly or indirectly acting as Representative for Chubb in the United States, or having Chubb act as its Representative in the United Kingdom; provided, however, that nothing contained in this Section V of this Final Judgment shall prevent Diebold from purchasing from Chubb bank security equipment or component parts thereof for resale by Diebold in the United States under Diebold's own name or trademarks or under any other name or trademark excepting those in actual use by Chubb.

VI

For a period of five (5) years from the rate of entry of this Final Judgment:

A. Diebold shall promote in good faith the sale and distribution of Diebold bank security equipment in the United Kingdom when warranted by reasonable and prudent business considerations;

B. In the event that Diebold refuses a written request to sell or distribute bank security equipment in the United Kingdom, Diebold shall advise in writing the person making such request of the reasons for its refusal and shall retain all written inquiries,





responses and memoranda respecting each such request and refusal. Diebold shall prepare an annual written analysis of the business considerations affecting Diebold's sales and distribution of bank security equipment in the United Kingdom.

C. Diebold shall retain correspondence and all other documents relating to Diebold's sales and distribution of bank security equipment in the United Kingdom.

D. Diebold shall, upon written request of plaintiff, furnish plaintiff with copies of correspondence, memoranda or other material, retained or prepared pursuant to VI B. and VI C. hereof.

VII

For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division or of an authorized agent of either and on reasonable notice to defendant Diebold made to its principal office be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of consenting defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division or of an authorized agent of either made to consenting defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section VII or by the means provided in section VI D shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law. If at the time information or documents are furnished by consenting defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which that defendant is not a party.

VIII

Jurisdiction is retained by this Court for the purpose of enabling either of the parties consenting to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of any violations hereof.

IX

This Judgment shall be of no force or effect beyond ten years from the date of its entry.

X

Entry of this Judgment is in the public interest.

Dated: Akron, Ohio, ---------, 1977.

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United States District Judge.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA, PLAINTIFF V. DIEBOLD, INC. AND CHUBB & SON, LTD., DEFENDANTS

Civil Action No. C76-49A.
Filed: July 13, 1977.

COMPETITIVE IMPACT STATEMENT

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16 (b)-(h), the United States of America hereby files this Competitive Impact Statement relating to the two proposed Final Judgments submitted for entry in this civil antitrust proceeding against Diebold, Inc., and against Chubb & Son, Ltd.

I

THE NATURE AND PURPOSE OF THE PROCEEDING

On February 12, 1976, the Department of Justice filed a civil antitrust suit under section 4 of the Sherman Act (15 U.S.C. § 4) in order to obtain relief against a violation by the defendants, Diebold Incorporated and Chubb & Son, Ltd., of section 1 of the Sherman Act (15 U.S.C. 1).[1] Both firms are among the world's largest manufacturers and sellers of bank security equipment. Common items of bank security equipment include bank vaults, safes, safe deposit boxes, night deposit boxes, remote (television and pneumatic) teller systems, alarm systems, and tellers' cages. This civil action charges that pursuant to an agreement between Diebold, Incorporated (hereafter referred to as "Diebold") and Chubb & Son, Ltd. (hereafter referred to as "Chubb"), each discontinued commercial relations with distributors of its products in the home market of the other in violation of section 1 of the Sherman Act.

Diebold, an Ohio corporation with general offices in Canton, Ohio, is a diversified operating company engaged in the manufacture and distribution of bank security equipment, automated teller systems, and materials handling equipment. Diebold has manufacturing and/or distribution facilities throughout the United States and in many foreign countries. Much of Diebold's export business, i.e., products manufactured in the United States and shipped to destinations outside the United States, is solicited, handled and facilitated by independent agents or distributors appointed by Diebold to represent it in a particular foreign country or countries. In 1976, Diebold had net sales of over $213 million, the majority of which were sales of bank security equipment.

Chubb is a holding corporation organized under the laws of the United Kingdom with general offices in London, England. Through various operating subsidiaries in the United Kingdom and other countries, Chubb is engaged in the manufacture and distribution of bank security equipment, builders' hardware, fire protection systems and vehicles, and other products. Chubb's principal markets are the United Kingdom, Ireland, Continental Europe and countries associated with the British Commonwealth. Chubb controls a substantial manufacturer and distributor of bank security and fire protection equipment in Canada and has regularly sold some of its British-made products for export to United States, principally airport fire and rescue vehicles and safes designed for the jewelry trade. Chubb's 1976 sales were over $200 million.

The complaint in this case alleged that the defendants, between February 1974 and October 1974, mutually agreed that Chubbo would refrain from selling or distributing bank security equipment in the United States through Consolidated Exporters, Inc. and its President, Charles A. Rogler, of Canton, Ohio, and that Diebold would refrain from selling or distributing bank security equipment in the United Kingdom through ADM Business Systems Ltd. of London, England. The complaint also alleged that the effects of this agreement were to restrain the foreign commerce of the United States and to suppress potential competition between Diebold and Chubb in the United States. The relief sought was an adjudication that the agreement in question violated section 1 of the Sherman Act and a permanet injunction against the defendants' continuing, maintaining, or renewing the alleged anticompetitive agreement.

II

EVENTS GIVING RISE TO THE ALLEGED VIOLATION OF THE ANTITRUST LAWS

While both Diebold and Chubb are major competitors in various significant foreign markets, including Canada, Australia, Latin America, and Spain, there has been little exploitation by either company of the home market of the other. Chubb's sales in the United States have been sporadic, limited and have not involved the main bank security equipment products, particularly vault doors. Diebold had for some time sold certain of its products in the United Kingdom through agents or distributors. These products sold in the United Kingdom were mainly mechanical filing systems and parts thereof. Diebold's United Kingdom agent had little contact with buyers of bank security equipment and did not seek to exploit this market.

Sometimes in 1973 both Diebold and Chubb considered significant expansions of their exploitation of the other's home market. In the case of Diebold, this involved the termination, by mutual agreement, of their then agent in the United Kingdom and the search for a replacement. This search finally located ADM Systems Ltd. ("ADM") of London, a manufacturer, distributor, and importer of office equipment. A distribution agreement was signed covering most items of Diebold bank security equipment, and ADM began to service Diebold filing products installed in the United Kingdom as well as to solicit orders for other Diebold products. Chubb began specific consideration of sales into the United States market after receiving an inquiry in 1973 from Charles A. Rogler of Canton, Ohio, a former Diebold sales employee and consultant who was the President

[1] On the same day, a grand jury sitting in the Northern District of Ohio returned a one count indictment charging the same two defendants with a misdemeanor violation of 15 U.S.C. § 1. On April 29, 1976, defendant Diebold Incorporated pled nolo contendere to the charge in the indictment and was fined $30,000. A disposition of the criminal proceeding against defendant Chubb & Son, Ltd. is expected in the near future.



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of an independent manufacturers' representative firm. Consolidated Exporters, Inc. ("CEI"), which sells various products in the United States and Latin America, including certain security items used by banks and other financial institutions. Rogler's approach to Chubb suggested several ways in which Rogler believed he might aid Chubb's marketing efforts of bank security equipment in the United States and Latin America. Negotiations followed aimed at establishing CEI as a Chubb bank security equipment representative in the United States and a marketing consultant in certain Latin American markets.

Sometime in February 1974, Diebold became aware of Rogler's efforts to establish his company as a Chubb representative in the United States market. Chubb had earlier become aware of ADM's offering in the British market of several competing items of Diebold bank security equipment not previously sold there by Diebold. An exchange of communications between high officials of the two companies took place, and shortly thereafter both Chubb and Diebold took certain steps which had the effects of disengaging themselves from their newly-appointed representatives in each other's home market. The complaint alleges that these actions were the result of a mutual agreement in violation of the antitrust laws which had the effect of illegally restraining United States foreign commerce.

III

EXPLANATION OF THE PROPOSED FINAL JUDGMENTS

A. *Proposed Final Judgment as to Diebold, Inc.*—Under this proposed Final Judgment, Diebold is prohibited from securing or attempting to secure, with any manufacturer of bank security equipment or with any person acting on behalf of any manufacturer of such equipment, agreements or understandings which would have a restrictive effect on United States trade or commerce. Specifically, Diebold is barred from agreements with such manufacturers or such persons to (1) allocate, divide, or restrict customers, territories, products or markets; (2) refuse to deal in bank security equipment or with third persons; or (3) refuse to appoint third persons as representatives for bank security equipment.

Section IV contains a proviso (section IV B) which allows Diebold to deal in a limited manner with other bank security equipment manufacturers. This proviso permits Diebold to freely enter distribution or licensing agreements with minor United States sellers of bank security eequipment. However, Diebold may only enter such agreements with the major manufacturers or sellers in the United States to act as a United States distributor or licensee if the bank security equipment, which is the subject of the agreement, is not manufactured by Diebold due to it own independent business judgment, or if the same distribution or licensing rights are also made available to other United States manufacturers of bank security equipment.

A second proviso (section IV C) states that while Dibold is free to conclude certain distribution or licensing agreements, the United States is not barred by this proposed Final Judgment from a challenge of any such arrangement in an independent legal action. Conversely, this proviso does not limit defenses to the lawfulness of any such arrangement. The limitations in the provisos to Section IV of this proposed Final Judgment will largely eliminate the possibility of significant anticompetitive dealings between Diebold and its major United States competitors while permitting Diebold to remain a successful participant in the international bank security equipment market.

Section V of the proposed Final Judgment enjoins Diebold from acting as a representative for Chubb in the United States or Diebold having Chubb as its representative in the United Kingdom for five years after the date of entry of this proposed Judgment. This section does allow outright purchase by Diebold of bank security equipment or component parts thereof from Chubb for inclusion in Diebold products or resale under Diebold brands without any distributorship arrangement. This is a pro-competitive arrangement as it does not restrict the seller, in this case Chubb, from exporting the same or similar products to the United States under its own brand.

Section VI of this proposed Final Judgment is aimed at restoring Diebold to the competitive status quo as to sales in Great Britain which existed prior to Diebold's alleged agreement with Chubb to terminate distribution arrangements in the other's home country. This section requires that Diebold promote in good faith the sale and distribution of its products in the United Kingdom when warranted by reasonable and prudent commercial considerations. Diebold is also required to maintain cafeful records of any refusal by Diebold to a written request to sell or distribute bank security equipment in the United Kingdom and, upon written request, to furnish plaintiff with such records.

Finally, the proposed Final Judgment (1) binds Diebold's subsidiaries and successors, (2) allows representatives of the Department of Justice access to Diebold's records and personnel for the purpose of determining or securing compliance with the proposed Judgment, and (3) retains jurisdiction in the Court to modify or enforce the Judgment as required. This proposed Final Judgments runs for ten years.

B. *Proposed Final Judgment as to Chubb & Son, Ltd.*—Under the terms of this proposed Final Judgment, Chubb will be subjected to its terms only for its business activities which have a substantial and foreseeable impact upon United States commerce (section III). The business activities giving rise to this proposed Judgment satisfy this test. Because Chubb is an alien corporation which currently makes only sporadic sales in the United States, this is a proper limitation on the U.S. Court's supervision of Chubb's business. As recently pointed out in the Antitrust Division's Antitrust Guide for International Operations, this test of substantial and foreseeable impact on United States trade or commerce will normally be used by the Antitrust Division in evaluating business actions with international aspects for possible antitrust enforcement, and special caution is always mandated when subject matter jurisdiction over the activities of foreign corporation is asserted. See Restatement of Foreign Relations Law § 18(b) (1965). The specific injunctions of this proposed Final Judgment should provide sufficient controls on Chubb's activities to prevent a recurrence of the past anticompetitive conduct alleged in the complaint, without unduly restricting the legitimate business freedom of this foreign domiciled company.

Section IV of this proposed Final Judgment prohibits Chubb from securing or attempting to secure, with Diebold or any other manufacturer with United State sales of bank security equipment in excess of $12,000,000 in any of the three calendar years preceding the entry of this proposed Final Judgment, agreement or understandings which would have a restrictive effect on United States trade or commerce. Specifically, Chubb is barred from agreements with such manufacturers to (1) refuse to appoint third persons as representatives for bank security equipment; (2) allocate, divide, or restrict customers, territories or product markets; (3) refuse to deal in bank security equipment or with third persons; or (4) limit or restrict United States imports or exports of bank security equipment.

Section IV contains a proviso (section IV B) which allows Chubb to deal in a limited manner with major manufacturers of bank security equipment, i.e., those having United States sales in excess of $12,000,000. This proviso is intended to make clear that Chubb may enter into distribution or licensing arrangements with the principal sellers of bank security equipment in the United States, including foreign importers. However, this is permitted only as long as no item of bank security equipment comparable to the Chubb item, which is the subject of the arrangement, is manufactured or sold in the United States by the other party to the arrangement. The effect of this provision is to deny Chubb the ability to conclude a major distribution arrangement with a significant horizontal competitor and thus the provision promotes the likelihood of a more competitive entry by Chubb into the United States market.

A second proviso to section IV (IV C) states that while Chubb is free to conclude any type of distribution arrangement it wishes with horizontal competitors having sales of $12,000,000 or less within the specified time period, the United States is not prevented by this proposed Final Judgment from a challenge of any such arrangement in an independent legal action. Likewise, this proviso does not limit defenses to the lawfulness of any such arrangement with a smaller competitor. The purpose of this clause is to promote Chubb's entry into the United States market in a vigorous manner, recognizing that distribution arrangements with smaller competitors, or even the purchase of all or part of the business of such a competitor by Chubb, may provide a vehicle for Chubb's entry in a manner which need not create or tend to create a situation inconsistent with the antitrust laws. As pointed out in the Antitrust Guide for International Operations (Case J), there are serious antitrust questions raised by the appointment by a firm of a substantial competitor as distributor for its products. The limitations in the provisos to Section IV will largely eliminate the possibility of anticompetitive distributorship arrangements if Chubb chooses to enter the domestic market other than with a captive manufacturing or sales effort.

Section V of this proposed Final Judgment enjoins Chubb from acting as a representative for Diebold in the United Kingdom or Chubb having Diebold as its representative in the United States market for five years after the date of entry of this proposed Final Judgment. This Section does allow outright purchase by Chubb of items of bank security equipment and parts or components thereof from Diebold for inclusion in Chubb products or resale under Chubb brands without any distributorship arrangement. This is a pro-competitive arrangement as it does not restrict the seller, in this case Diebold, from exporting the same or similar products to the United Kingdom under its own brand.

Section VI of this proposed Final Judgment is further aimed at establishing Chubb as a significant competitor in the United States market. This Section ensures that Chubb will maintain careful records of oral or written inquiries regarding the sale or distribution of Chubb bank security equipment products in the United States. If Chubb does not begin the regular sale of its bank security equipment products in the United States within three years from the date of the entry of this proposed Judgment, it must provide a written explanation of the reasons for such failure. Chubb is further required to report after five years on any failure to that point to begin such regular sales in the United States, and to provide plaintiff with copies of the required records of inquiries and responses regarding United States sales.

Finally, this proposed Judgment (1) binds Chubb's subsidiaries and successors, (2) allows representatives of the Department of Justice access to Chubb's records for the purpose of determining or securing compliance with the proposed Judgment, and (3) retains jurisdiction in the Court to modify or enforce the Judgment as required.

This proposed Final Judgment runs for ten years. This term is felt appropriate since the regulating prohibitions concerning distribution and licensing agreements should not be needed beyond ten years if Chubb enters the U.S. market.

IV

EFFECTS OF THE PROPOSED JUDGMENTS ON COMPETITION

Because both Diebold and Chubb were only in the beginning stages of significant attempts at penetration of each other's home markets, it is difficult to accurately assess the effects on competition of the proposed Judgments. Nevertheless, they provide impetus for the renewal of sales by Diebold into the United Kingdom, and they clearly establish a framework for independent entry by Chubb into the concentrated United States bank security equipment market. The prohibitions on horizontal restrictive agreements with competitors, dealings with Diebold, and the reporting provisions will help ensure that Chubb's entry into the United States market is as pro-competitive as possible. This market remains the most significant in the world unexploited by Chubb and, at this time, the most economically healthy significant market. The Department of Justice expects Chubb to commence the regular sale of its products in the near future. During the pendency of this civil litigation, Chubb began to seek personnel and offices in order to begin such sales. These proposed Judgments require that Chubb deal in the United States independently from its major worldwide competitors. The proposed Judgments should thus provide an important source of competition, through imported products, to an oligopolistic domestic industry which has not been a model of vigorous price competition. A comparison of Chubb's export prices for certain major items of bank security equipment with those of Diebold shows that, even after transportation and duty costs, Chubb can offer significant price competition in the domestic United States market. The purpose of the proposed Judgments is to encourage the United States market entry of Chubb and to provide through such entry significant benefits to competition.

In addition, the proposed Judgments help to ensure that Diebold's future exports to the United Kingdom will be carried out in an independent manner and, therefore, to prevent any anticompetitive restraint of United States exports. Lastly, the proposed Judgments also assure the likelihood of procompetitive distribution or licensing arrangements between Diebold and its major competitors.

V

REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

Any potential private plaintiffs who might have been damaged by the alleged violation will retain the same right to sue for monetary damages and other equitable remedies which they would have had, were the proposed Judgments not entered. However, the Judgments may not be used as prima facie evidence in private litigation pursuant to section 5(a) of the Clayton Act, as amended (15 U.S.C. § 16(a)).

VI

DESCRIPTION OF PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENTS

Each proposed Final Judgment is subject to a stipulation by and between the United States and the defendants, which provides that the United States may withdraw its consent to the proposed Final Judgment at any time before the Court has found that its entry is in the public interest. By their terms, the proposed Judgments provide for retention of jurisdiction of this action in order, among other things, to permit the parties thereto to apply to the Court for such orders as may be necessary or appropriate for modification.

As provided by the Antitrust Procedures and Penalties Act, any person wishing to comment upon either proposed Judgment may, for a 60-day period, submit written comments to Joel Davidow, Chief, Foreign Commerce Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530. The Department will file with the Court and publish in the FEDERAL REGISTER all such comments together with its response to them, and will carefully evaluate all such comments to determine whether there is any reason for withdrawal of its consent to the proposed Final Judgments.

VII

DESCRIPTION AND EVALUATION OF ALTERNATIVES TO THE PROPOSAL ACTUALLY CONSIDERED BY THE UNITED STATES

In formulating the proposed Judgments, the United States considered alternative provisions. As to Diebold, the United States considered an injunction making it mandatory that Diebold distribute or sell bank security equipment of its own manufacture in the United Kingdom and thus achieve a more immediate entry into that bank security equipment market. However, current commercial realities in the British market led the United States to believe that such a requirement was not practical and might prove counterproductive.

As to Chubb, the United States considered two alternative provisions. One was a specific mandatory injunction requiring Chubb to invest specific amounts of money in developing its bank security equipment sales in the United States. The other was a provision requiring Chubb to make all good faith efforts to independently develop the United States market.

A mandatory requirement to invest or sell in the United States was rejected in favor of Chubb's reports on the reasons for any nonentry. In light of the facts of Chubb's foreign nationality, and its limited actual business in the United States, the concept of a required expenditure was thought impracticable. In addition, current and future business conditions in Chubb's home market as well as the United States and other markets may make such a rigid requirement unreasonable in light of Chubb's future business options. Chubb also requires the approval of the British Government to invest funds abroad. In light of these factors it was decided that such a required investment provision would not be pursued.

The second alternative considered but not adopted was a requirement that Chubb make good faith efforts to pursue independent entry into United States markets. This provision was not adopted because Chubb's actual activities in the United States market during the pendency of this action established a clear intention on its part to again take up efforts to develop this market, suspended since early 1974. In addition, a preference for independent entry may have dissuaded Chubb from taking advantage of an otherwise lawful joint venture agreement or acquisition of a smaller U.S. competitor, possibilities which could have a significant effect on the speed and vigor of Chubb's penetration of the domestic United States market.

As to both Diebold and Chubb, it was determined that, in view of the sufficiency of the relief obtained, it was not in the public interest to expend resources pursuing Final Judgments containing the alternative provisions. The provisions of the proposed Final Judgments should restore the competitive status quo with respect to Diebold's activities in the United Kingdom and particularly with respect to Chubb's activities in the United States market. At the time of the alleged violation Chubb was in the early stages of marketing its products in the United States. This is the current situation, with the added competitive impetus, in the proposed Judgment, of limits on dealing with its major competitor, specific prohibitions on anticompetitive activities with all competitors in the United States, and a requirement to fully inform the Antitrust Division of the reasons for any failure to develop this market after reasonable intervals have passed.

VIII

OTHER MATERIALS CONSIDERED

There are no materials or documents which the Government considered determinative in formulating these proposed Final Judgments. Therefore, no such materials are being filed along with this Competitive Impact Statement.

Joll Davidow, Thomas E. Sheldon, William J. Kananack, Carl A. Cira, Jr., Attorneys, Department of Justice, Antitrust Division, Washington, D.C. 20530 (202-739-2464).

Dated: ----------

[FR Doc.77-21527 Filed 7-26-77;8:45 am]

## NATIONAL CAPITAL PLANNING COMMISSION

### PROJECT REVIEW AND NOTIFICATION SYSTEM

#### Amendments to Procedures

The National Capital Planning Commission, at its July 14, 1977 meeting, further amended its procedures, adopted November 11, 1976, (41 FR 53375), and first amended March 3, 1977 (42 FR 17189), implementing the requirement in Section 2.a. of Part I of Attachment A to Office of Management and Budget Circular No. A-95 (Revised) on Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects, dated January 2, 1976, respecting notification to the Commission.

Pursuant to Section 2.a., the Commission is to be notified by local jurisdictions of their intent to apply for Federal assistance for projects involving land or water use and development or construction in the National Capital Region. The Commission procedures for its project review and notification system require applicants to furnish notification on Standard Form 424 of:

1. Identity of the applicant;

2. A map depicting the project's geographic boundaries;

3. A brief description of the proposed project, including estimated cost and beneficiaries. Where appropriate, drawings or other graphics shall be submitted;







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4. A list of Federal installations affected, if any, and other project characteristics which will enable the Commission to identify agencies of the Federal government in the National Capital Region having plans, programs, or projects which may be affected by the project;

5. A statement as to whether the applicant has been advised by the funding agency from which assistance is being sought that it will be required to submit environmental impact information in connection with the proposed project;

6. The Federal program title and number and agency under which assistance will be sought as indciated in the latest "Catalogue of Federal Domestic Assistance." In the case of programs not listed therein, programs shall be identified by Public Law number or U.S. Code citation; and

7. The estimated date the applicant expects to formally file an application.

With the exception of item (4) above, the procedures were identical to the requirements of OMB for all applicants seeking Federal funds.

As a result of concerns expressed through the Metropolitan Washington Council of Governments (COG), the Commission is simplifying compliance by applicants in the following respects:

1. Eliminate the requirement for a list of Federal installations affected, if any.

2. Clarify the notification procedures statement that applications "involving land or water use and development or construction in the National Capital Region" will be forwarded to NCPC, by adding a list of "covered programs", for which the Commission requires notification, with the indication that notification is not required for applications involving all other programs.

3. Consider as compliance with the requirement in Part I of Attachment A to OMB Circular A–95 (Revised) receipt of a copy of the completed Form 424 through COG rather than from the applicant directly.

The proposed amendments were published for comment in the FEDERAL REGISTER on June 20, 1977. Comments were received from OMB and the staff of COG. Both recommended changes in the list of "covered programs", suggesting both additions and deletions to the list. Many of the programs that the COG staff recommended be deleted are housing programs for which arrangements are being made for notifications to the Commission directly by the Farmers Home Administration, Federal Housing Administration and Veterans Administration rather than by the applicants. OMB recommended that the reference in the list of "covered programs" be to the "Catalogue of Federal Domestic Assistance" rather than to Attachment D of OMB Circular A–95 (Revised). The COG staff recommended that provisions be made for the Commission staff to attempt to resolve any potential problems involving adverse impact on Federal interests prior to commenting on the notifications received. The COG staff also recommended that provisions be made to forward Commission comments on notifications to the applicants and affected local jurisdictions and areawide clearinghouses. All of the comments of OMB and the COG staff have been considered in refining and modifying the proposed amendments.

The list of "covered programs" has been reduced from 92 to 47 (less than ten percent of all Federal grant programs). Of the 47 programs now proposed to be listed, ten are programs recommended for inclusion by OMB and/or the COG staff which were not previously listed. The list of 47 programs to be covered in the Commission's procedures slightly exceeds the 37 programs that the COG staff recommended be included. Most of the programs over and above the list recommended by the COG staff are programs that were suggested for the list of "covered programs" by OMB in its comments to the Commission.

The amendments are as follows: 1. Amend Section B. by

a. Numbering the first two sentences of the first paragraph thereof as paragraph "1." and deleting the last sentence:

b. Deleting in the first sentence of Paragraph 1 the words "covered by Part I of OMB Circular A–95 (Revised)" and inserting in lieu thereof the words "listed in Paragraph 3 below"; and

c. Adding the following new paragraphs: "2. If the Commission receives notification from or through the Metropolitan Washington Council of Governments at least thirty (30) days prior to the submission of the application and in the form set forth in Section C., the applicant will be deemed to have satisfied these procedures.

"3. The following programs set forth in Appendix I of the *Catalogue of Federal Domestic Assistance* are covered by these procedures:

DEPARTMENT OF AGRICULTURE

10.409 Irrigation, Drainage, and Other Soil and Water Conservation Loans (Exception: Loans to grazing associations to develop additional pasturage and loans for purchase of equipment).
10.418 Water and Waste Disposal Systems for Rural Communities.
10.419 Watershed Protection and Flood Prevention Loans.
10.423 Community Facilities Loans.
10.424 Industrial Development Grants.
10.901 Resources Conservation and Development (Exception: Small projects costing under $7,500 for erosion and sediment control and land stabilization and for rehabilitation and consolidation of existing irrigation systems).
10.904 Watershed Protection and Flood Prevention.

DEPARTMENT OF COMMERCE

11.300 Economic Development—Grants and Loans for Public Works and Development Facilities.
11.304 Economic Development—Public Works Impact Projects (Procedural variation).
11.305 Economic Development—State and Local Economic Development Planning.
11.307 Economic Development—Special Economic Development and Adjustment Assistance Program.
11.308 Grants to States for Supplemental and Basic Funding of Titles I, II, III, IV, and IX Activities.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

13.224 Community Health Centers.
13.240 Mental Health—Community Mental Health Centers.
13.295 Community Mental Health Center—Comprehensive Services Support.
13.369 Nursing School Construction—Loan Guarantees and Interest Subsidies.
13.392 Cancer—Construction.
13.408 Construction of Public Libraries.
13.427 Educationally Deprived Children—Handicapped.
13.477 School Assistance in Federally Affected Areas—Construction.
13.493 Vocational Education—Basic Grants to States.
13.626 Rehabilitation Services and Facilities—Special Projects.
13.630 Developmental Disabilities—Basic Support.
13.639 Special Programs for the Aging—Title V Multipurpose Senior Centers.
13.877 Medical Facilities Construction—Project Grants. Pub. L. 92–318 (Section 161) Construction of Academic Facilities. Pub. L. 93–641 (Section 1516 *et seq.*, Title XVI Public Health Service Act) Assistance for modernization, construction or conversion of medical facilities.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

14.203 Comprehensive Planning Assistance.
14.218 Community Development Block Grants—Entitlement Grants.
14.219 Community Development Block Grants—Discretionary Grants.

DEPARTMENT OF THE INTERIOR

15.400 Outdoor Recreation—Acquisition, Development and Planning.
15.605 Fish Restoration.
15.611 Wildlife Restoration.
15.904 Historic Preservation.

DEPARTMENT OF JUSTICE

16.502 Law Enforcement Assistance—Improving and Strengthening Law Enforcement and Criminal Justice.

DEPARTMENT OF TRANSPORTATION

20.102 Airport Development Aid Program.
20.103 Airport Planning Grant Program.
20.205 Highway Research, Planning, and Construction.
20.309 Railroad Rehabilitation and Improvements—Guarantee of Obligation.
20.500 Urban Mass Transportation Capital Improvement Grants (Planning and construction only).
20.501 Urban Mass Transportation Capital Improvement Loans (Planning and construction only).
20.506 Urban Mass Transportation Demonstration Grants.
20.507 Urban Mass Transportation Capital and Operating Assistance Formula Grants.

COMMUNITY SERVICES ADMINISTRATION

49.011 Community Economic Development.

VETERANS ADMINISTRATION

64.005 Grants to States for Construction of State Nursing Home Care Facilities.

ENVIRONMENTAL PROTECTION AGENCY

66.028 Solid Waste Demonstration Grants.
66.418 Construction Grants for Wastewater Treatment Works.

"4. These notification requirements apply to all types of applications, except augmentation applications, as defined in





the instructions to Standard Form 424 prescribed by GSA Federal Management Circular 74–7, for the programs listed in Paragraph 3. above involving: "(1) acquisition or leasing of land;

"(2) construction of a new building, structure, facility, or transportation improvement;

"(3) modification or alteration of a building, structure, facility, or transportation improvement where there is a change in its character extent: or

"(4) installation of new utilities or modification of existing utilities which provide increased capacity."

2. Amend Section C. by deleting subparagraph numbered "(4)" and renumbering subparagraphs "(5)", "(6)", and "(7)" as subparagraphs "(4)", "(5)", and "(6)", respectively.

3. Amend Section D. by adding the following new paragraphs: "4. If the Executive Director's review of a project or activity indicates a potential negative impact on the Federal establishment or other Federal interests in the National Capital Region, the Executive Director shall work with the applicant, the affected local jurisdiction and areawide clearinghouses to mitigate such potential negative impact prior to presenting the project or activity to the Commission for review and comment.

"5. Copies of the comments on all notifications shall be sent to applicants and appropriate Federal funding agencies and areawide clearinghouses."

DANIEL H. SHEAR,
*Secretary.*

JULY 21, 1977.

[FR Doc.77–21586 Filed 7–26–77;8:4 am]

## OFFICE OF MANAGEMENT AND BUDGET

### CLEARANCE OF REPORTS

#### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on July 20, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202–395–4529, or from the reviewer listed.

NEW FORMS

VETERANS ADMINISTRATION

Certification of inability to pay transportation costs, VA–07–2323, on occasion, claimant for VA benefits, Tracey Cole, 395–5870.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Questionnaire to determine the U.S. sales of beef and veal by form, single time, selected wholesalers, retailers and merchandisers of beef Evinger, S. K., 395–3710.

REVISIONS

DEPARTMENT OF AGRICULTURE

Agriculture Research Service:
Biological Shipment Records—Beneficial Organization, ARA form 442 ARA form 441, on occasion, Biological Control Research Facilities, Lowry, R. L., 395–3772.
Fruit Germanplasm Resources Inventory, ARS 185, on occasion, institutional and private fruit variety collections, Warren Topelius, 395–5872.
Food Composition Data—Nutrient Contents, ARS 200, on occasion, food processors and producers, Warren Topelius, 395–5872.
National Poultry Improvement Plan, on occasion, State agencies, Human Resources Division, Raynsford, R., 395–3532.

EXTENSIONS

DEPARTMENT OF COMMERCE

Bureau of Census,
Broad Woven Goods Finished, MA–22S, annually, finishers of broadwoven fabrics, Marsha Traynham, 395–4529.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration:
Course Evaluation, OSHA–49, on occasion, all employers and employees, Marsha Traynham, 395–4529.
Employer/Employee Application for Training, OSHA–66, on occasion, employers and employees, Marsha Traynham, 395–4529.
Application for Accreditation to Perform Gear Certification, OSHA–70, on occasion, industries using gears, Marsha Traynham, 395–4529.
Occupational Safety and Health Complaint Form, OSHA–7, on occasion, employers making observations in industries, Marsha Traynham, 395–4529.

PHILLIP D. LARSEN,
*Budget and Management Officer.*

[FR Doc.77–21713 Filed 7–26–77;8:45 am]

### CLEARANCE OF REPORTS

#### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on July 21, 1977 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202–395–4529), or from the reviewer listed.

NEW FORMS

ENVIRONMENTAL PROTECTION AGENCY

New Source Environmental Questionnaire, single time, point sources of surface discharges, Eliett, C. A., 395–5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:
Follow-up Questionnaire for A National Study of Student Progress, OE–508, single time, college students, Human Resources Division, Raynsford, R., 395–3532.

REVISIONS

ADS Student Report (Request of Additional Payment of BEOG Award), OE 304–1 on occasion, BEOG recipients and institutions they are enrolled in, Warren Topelius, 395–5872.
Request for Payment of BEOG award, OE 304, on occasion BEOG recipients and institutions they are enrolled in; Warren Topelius, 395–5872.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Fresh Market Vegetable Inquiries Acreage, Production and Prices, other (see SF–83), vegetable growers and shippers, Marsha Traynham, 395–4529.
Milk and Cream Receipts, SRSCE9209F, monthly, milk market administrators and milk plants, Marsha Traynham, 395–4529.

DEPARTMENT OF DEFENSE

Department of the Air Force, Nondiscrimination in Federally Assisted Programs, other (see SF–83), Recipients of Federal financial assistance, Lowry, R. L., 395–3772.

PHILLIP D. LARSEN,
*Budget and Management Officer.*

[FR Doc.77–21714 Filed 7–26–77;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 13786, File No. (SR–Amex–77–12)]

### AMERICAN STOCK EXCHANGE, INC.

#### Order Approving Proposed Rule Change

JULY 21, 1977.

In the matter of American Stock Exchange, Inc., 86 Trinity Place, New York, New York 10006.

On May 23, 1977, the American Stock Exchange, Inc. filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b–4 thereunder, copies of a proposed rule



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change. The rule change expands the requirements for diligent supervision of all customer accounts by requiring supervision of a member organization's options activity by a senior Registered Options Principal.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13624 (June 14, 1977)) and by publication in the FEDERAL REGISTER (42 Fed. Reg. 31507 (June 21, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on May 23, 1977, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-21599 Filed 7-26-77;8:45 am]

[Release No. 13785; (SR-CBOE-77-18)]

## CHICAGO BOARD OPTIONS EXCHANGE INC.

### Order Approving Proposed Rule Change

JULY 21, 1977.

In the matter of Chicago Board Options Exchange, Inc., LaSalle at Jackson, Chicago, Illinois 60604.

On June 2, 1977, The Chicago Board Options Exchange, Inc. ("CBOE") filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change to add a new Rule 3.19 ("Obligations of Terminating Members") to require that a member who sells or transfers his membership must be current in all filings and payments of dues, fees and charges relating to that membership, and to prescribe what action the CBOE may take if a member fails to comply with this rule.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13613 (June 9, 1977)) and by publication in the FEDERAL REGISTER (42 FR 30957 (June 17, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on June 2, 1977, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-21600 Filed 7-26-77;8:45 am]

[Release No. 9833; (812-4117)]

## COLONIAL OPTION INCOME FUND INC. AND COLONIAL MANAGEMENT ASSOCIATES INC.

### Notice of Filing of Application Pursuant to Section 11(a) of the Act To Permit an Offer of Exchange and Pursuant to Section 6(c) for an Exemption From Section 22(d)

In the matter of Colonial Option Income Fund, Inc. and Colonial Management Associates, Inc., 75 Federal Street, Boston, Massachusetts 02110.

Notice is hereby given that Colonial Option Income Fund, Inc. ("Fund"), an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), and Colonial Management Associates, Inc. ("CMAI"), the investment adviser to and the principal underwriter for the Fund (collectively "Applicants"), filed an application on April 4, 1977, and an amendment thereto on July 5, 1977, for an order of the Commission (1) pursuant to section 11(a) of the Act to permit the Fund to offer its shares in exchange for those shares of Standard & Poor's/InterCapital Liquid Asset Fund, Inc. ("S&P") which were originally acquired with proceeds from the redemption of Fund shares and from additional S&P shares received through reinvestment of dividends and capital gains distributions, upon payment of a $5 exchange fee, and (2) pursuant to section 6(c) of the Act, to exempt Applicants from section 22(d) of the Act and rules thereunder to the extent necessary to permit the sale of Fund shares through such exchange offers without the customary sales charge. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that CMAI, as principal underwriter for the Fund, will maintain a continuous public offering of the shares of the Fund at net asset value plus a sales charge. Applicants state that shares of the Fund are sold with a maximum sales charge of 8.5 percent and that there is no sales charge imposed on the reinvestment of dividends and capital gains.

S&P is an open-end investment company registered under the Act which invests primarily in short-term money market instruments, acts as its own distributor, and imposes no sales or administrative charge in connection with the sale of its shares.

Applicants propose to permit certain S&P shareholders who were formerly owners of Fund shares to obtain shares of the Fund by exchanging those shares of S&P acquired (1) by investing directly the net proceeds from a redemption of shares of the Fund and held in the shareholder's name at S&P in a Colonial Exchange Account, and (2) by the reinvestment of income dividends and capital gain distributions paid on all S&P shares held in such Colonial Exchange Account (hereinafter referred to as the "Exchange Privilege"). The customary sales charge described in the prospectus of the Fund would not be imposed in connection with such exchanges. S&P shares acquired in any other manner would not qualify for the Exchange Privilege. Applicants state that the Fund imposes no charge on redemption of its shares, and that a shareholder of the Fund will be able to redeem his Fund shares and purchase shares of S&P (provided that his minimum initial investment in S&P shares is $1,000), without payment of any redemption or sales charges, other than a $5 service fee that will be charged by Bradford Trust Company of Boston ("Bradford"), the transfer and shareholder services agent for the Fund, for setting up the shareholder's Colonial Exchange Account at S&P and for handling all exchanges made pursuant to the Exchange Privilege. Applicants represent that no other charge will be imposed by S&P or Applicants on the exchange of S&P shares for shares of the Fund. Applicants further state that a participant in a Colonial Exchange Account would be able to exercise his Exchange Privilege at any time by instructing S&P to redeem shares of S&P in his Colonial Exchange Account and apply the redemption proceeds to the acquisition of shares of the Fund.

The Exchange Privilege will not be available with respect to the proceeds from a redemption of S&P shares which are paid directly to the investor. Fund and S&P have reserved the right to establish a limit on the number of exchanges pursuant to the Exchange Privilege which any investor may make within a certain period. The Exchange Privilege will be subject to termination by the Fund or S&P on not less than six months' prior written notice to holders of the Fund's Colonial Exchange Accounts. The Exchange Privilege will lapse for an investor if his account balance of shares of the Fund shows a zero balance for a period of three consecutive years. Applicants state that an investor maintaining a Colonial Exchange Account will receive the current prospectuses of both S&P and the Fund, provided he remains entitled to the Exchange Privilege. Applicants further state that the Exchange Privilege will not be available to investors in the Colonial Prototype Keogh Profit-Sharing Retirement Plan (with or without Insurance), the Colonial Corporate Prototype Profit-Sharing Plan or Pension Plan, or the Colonial Individual Retirement Account (collectively the "Colonial Retirement Plans") since the provisions of each of the Colonial Retirement Plans restrict eligible investments by the trustees of those Plans to shares of investment companies for which CMAI acts as principal underwriter or distributor. Applicants state that the unavailability of the Exchange Privilege to investors in the Colonial Retirement Plans will be disclosed in the Fund's prospectus.





Section 11(a) of the Act provides, in part, that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus.

Applicants assert that the Exchange Privilege is an integrated arrangement, exercisable only by an investor who initially acquires S&P shares by redeeming his shares of the Fund and applying the proceeds therefrom to the purchase of S&P shares. Applicants submit that an exercise of the Exchange Privilege may be deemed an exchange on a basis other than the relative net asset values of the shares since a $5 service charge would have been imposed on the initial acquisition of S&P shares held in Colonial Exchange Accounts. Applicants represent that the $5 service charge will defray the administrative costs involved in each exchange.

Applicants state that the Exchange Privilege may also be deemed to violate section 22(d) of the Act since an investor would be able to purchase shares of the Fund without the customary sales charge. Applicants state that because each investor eligible for the Exchange Privilege must have been initially an investor in the Fund and will continue to receive current prospectuses of the Fund while he holds a Colonial Exchange Account with S&P, no additional sales efforts will be incurred by CMAI in connection with the reacquisition of shares of the Fund, and that no sales charge should be imposed on the investor in connection with his reacquisition of shares of the Fund. It is asserted that the Exchange Privilege will not enable any investor to avoid payment of the applicable sales charge on his original investment in shares of the Fund.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any class of transactions from any provisions of the Act or any rule thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 15, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-21601 Filed 7-26-77;8:45 am]

[Release No. 9859(812-4097)]

## HARTFORD VARIABLE ANNUITY LIFE INSURANCE CO., ET AL.

### Application for an Order of Exemption and for Approval of an Offer of Exchange

JULY 20, 1977.

In the matter of Hartford Variable Annuity Life Insurance Company, Hartford Variable Annuity Life Insurance Company, QP Variable Account, Hartford Fund, Incorporated, Hartford Plaza, Hartford, Conn. 06115, and Axe Securities Corporation, 400 Benedict Avenue, Tarrytown, N.Y. 10591.

Notice is hereby given that Hartford Variable Annuity Life Insurance Company ("HVA"), a stock life insurance company organized under the laws of the State of Connecticut; Hartford Variable Annuity Life Insurance Company QP Variable Account ("HVA-QP-VA"), a separate account of HVA, registered as a unit investment trust under the Investment Company Act of 1940 ("Act"); Hartford Fund, Incorporated ("Fund"), a management open-end diversified investment company registered under the Act; and Axe Securities Corporation ("Axe"), a Delaware corporation registered as a broker-dealer under the Securities Exchange Act of 1934, sponsor-depositor and principal underwriter of HVA-QP-VA, (collectively "Applicants") filed an Application on February 27, 1977 and amendments thereto on June 9 and June 30, 1977, pursuant to section 6(c) of the Act for an order exempting Applicants from the provisions of sections 12(d)(1), 22(d), 22(e), 26(a)(2), 27(a)(3), 27(c)(1), 27(c)(2) and 27(d), to the extent requested, and pursuant to section 11 of the Act for an order approving certain offers of exchange and for an order pursuant to section 9(c) of the Act for exemption from section 9(a). All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein which are summarized below.

HVA-QP-VA was created and organized as a unit investment trust class of investment company by means of a certain custodian agreement dated November 10, 1976 by and between Axe, as sponsor-depositor, and Hartford Nationtl Bank and Trust Company ("HNB"), as Custodian. HVA-QP-VA was registered with the Securities and Exchange Commission under the Act on November 26, 1976.

On May 1, 1977 Hartford Variable Annuity Life Insurance Company, a South Carolina corporation, was merged into Hartford Variable Annuity Life Insurance Company of Connecticut and, simultaneously, the name of the latter company was changed to Hartford Variable Annuity Life Insurance Company.

All of the outstanding shares of common and preferred stock of Axe are owned of record and beneficially by E. W. Axe & Co., Inc. which serves as investment adviser to the Axe-Houghton Funds group; as investment adviser to Fund, the shares of which will serve as the underlying investment media of, inter alia, HVA-QP-VA; and as investment adviser to Hartford Variable Annuity Life Insurance Company Separate Account ("HVA Separate Account"), another separate account of HVA registered under the Act.

The Group Variable Annuity Contracts (hereafter "Group Contract" or "Group Contracts" as the context requires) and the Individual Variable Annuity Contracts (hereafter "Individual Contract" or "Individual Contracts" as the context requires) to be funded by HVA-QP-VA are designed for purchase only in conjunction with tax-qualified plans, such as: corporate pension and profit sharing plans; tax-deferred annuity plans for public school teachers and employees; plans for employees of certain other tax-exempt and qualifying employers; HR-10 plans for self-employed individuals; and individual retirement accounts.

The Contracts, both Group and Individual, provide for the purchase of both fixed annuity benefits and variable annuity benefits, at the direction of the



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Contract Owner, and purchase payments made pursuant to the terms of the Contracts will be applied, after authorized deductions, to purchase fixed and/or variable benefits in accordance with the Contract Owner's instructions. Those net purchase payments or parts thereof that are to be applied to purchase variable annuity benefits will be invested, again at the direction of the Contract Owners, in Hartford Fund "Bond Series" shares or Hartford Fund "Stock Series" shares or a combination thereof.

SECTION 12 (d) (1)

Section 12(d)(1) of the Act provides that a registered investment company may not purchase or otherwise acquire securities issued by another investment company if, as a result of such transaction, the acquiring company would own in the aggregate: (i) more than 3% of the total outstanding voting stock of the acquired company; (2) securities issued by the acquired company having an aggregate value in excess of 5% of the value of the total assets of the acquiring company; or (3) securities issued by the acquired company and all other investment companies having an aggregate value in excess of 10% of the value of the total assets of the acquiring company.

However, section 12(d)(1)(E) specifically exempts a security or securities purchased or acquired by an investment company, the depositor of or principal underwriter for which is a broker-dealer registered under the Securities Exchange Act of 1934 and the investment portfolio of which consists only of such securities (or such securities are the only securities held by a registered unit investment trust issuing two or more classes or series of securities, each of which provides for the accumulation of shares of a different investment company).

Applicants assert that the Investment Company Act Amendments of 1970 amended section 12(d)(1) of the Act in order to limit the creation of new fund-holding companies and to deal with the problems raised by foreign-based fund-holding companies that invested primarily in the securities of American funds and which were not themselves subject to the federal securities laws. The exemption from the proscriptions of section 12(d)(1) provided by section 12(d)(1)(E)(ii) is not applicable to the HVA-QP-VA/Fund situation because HVA-QP-VA is a unit investment trust that issues only one class or series of Contracts which provide for investment in the shares of Fund, a series fund having two classes or series of shares.

Applicants have requested an exemption from section 12(d)(1) of the Act in order that HVA-QP-VA may acquire shares of both the "Bond Series" and the "Stock Series" of Fund in satisfaction of the directions of the Contract Owners respecting the investment of their periodic purchase payments made pursuant to the terms of the Contracts.

SECTION 26 (a) AND SECTION 27 (c) (2)

Section 27(c)(2) of the Act provides essentially that a registered unit investment trust and any depositor or underwriter for such trust are prohibited from selling periodic payment plan certificates issued with respect to such trust unless the proceeds of all payments other than the sales load are deposited with a qualified bank as trustee or custodian and held under an indenture or agreement containing certain specified provisions required by, inter alia, section 26(a)(2) of the Act.

Section 26(a)(2) of the Act requires that the custodian agreement must provide, in part, that (i) the custodian bank shall have possession of all the property of the unit investment trust and shall segregate and hold the same in trust; (i) the custodian bank shall not resign until either the unit investment trust has been liquidated or a successor custodian has been appointed; (iii) the custodian may collect fees from the income and, if necessary, from the corpus of the trust for services performed and for reimbursement of expenses incurred; and (iv) no payment to the depositor or principal underwriter shall be allowed the custodian bank as an expense, except a fee, not exceeding such reasonable amount as the Commission may prescribe, as compensation for performing bookkeeping and other administrative expenses normally performed by the custodian.

Applicants assert that HVA, as a life insurance company, may not properly place the assets of HVA-QP-VA in trust with another because the insurance laws of the State of Connecticut require HVA to retain ownership and control of the disposition of its property. Accordingly, Applicants have requested an exemption from sections 26(a) and 27(c)(2) of the Act so that the securities and other property of HVA-QP-VA need not be held by HNB as custodian in trust.

Section 26(a)(D) provides, inter alia, that the custodian shall have possession of all securities and other property in which the funds of the trust are invested subject only to the charges and collections allowed under section 26(a)(2) until distribution thereof to the security holders of the trust.

The contracts issued with respect to HVA-QP-VA provide that there shall be deducted from the periodic purchase payments made pursuant to the terms of the contracts, in addition to the deduction for sales load as permitted by section 27(c)(2), a charge for the minimum death benefit undertaking (0.75 percent) of each payment) which shall be paid over to HVA for providing such undertaking and a charge for such annuity premium taxes as may be payable in accordance with state and local laws. Further, the contracts provide that HVA is entitled to receive an amount equal to one percent (1 percent) per annum of the value of HVA-QP-VA for providing the mortality and expense undertakings in connection with the contracts.

In addition to the deductions for the minimum death benefit undertaking, annuity premium taxes and mortality and expense undertakings, HVA shall be entitled to receive an annual policy fee of $10 per annum which shall be reflected as a deduction from the value of each Contract Owner's or Contract Participant's account, as appropriate. This fee, which is charged for the servicing and handling of a Contract Owner's or Contract Participant's account, will be deducted from the value of each such account under a contract on the last business day of each calendar year; provided, however, that if the value of an account is redeemed in full at any time before the last business day of the year, the annual policy fee charge will be deducted from the proceeds of such redemption. No annual policy fee deduction will be made during the annuity payment period.

Applicants have requested that the Commission enter an Order exempting them from the provisions of Sections 26(a)(2) and 27(c)(2), to the extent necessary, to permit the deduction by HVA of the minimum death benefit premiums and payment to HVA of the minimum death benefit premiums; to permit the deduction, on a daily basis, and payment to HVA by HNB of the charges for providing the mortality and expense undertakings and for the annual policy fee charges; and, depending upon the requirements of the particular state, either: (i) to permit the deduction from purchase payments when made and payment of applicable annuity premium taxes to such state by HVA, or (ii) to permit the deduction of such taxes by HNB from the value of the Contract account or the Participant's account, and the payment of such taxes to such state at the time when an annuity is effected.

As noted above, section 26(a)(2)(D) of the Act, in pertinent part, provides, in substance, that the trustee or custodian shall have possession of all securities in which the funds of the trust are invested and shall segregate the same and hold them in trust until distribution. This has been interpreted to mean that the securities owned by the trust must be actually represented by share certificates maintained in the custody of the custodian. The custodian agreement between Axe and HNB provides that all Fund shares of both Series, and other securities and property acquired by or on behalf of HVA-QP-VA, and all income upon, accretions to, and proceeds of such property and funds shall be held by the custodian. However, Fund maintains an open-account system and certificates for shares of Fund of both Series will not be issued until such time as Fund shares are made available for purchase by members of the general public, and then, share certificates will be issued only when requested by the shareholder.

Applicants assert that the primary purpose of section 26(a)(2)(D) is to provide for the safekeeping of assets of registered unit investment trusts. Applicants contend that to require that share





certificates be physically issued by Fund to the custodian would not significantly add to the safety of the unit investment trust's assets and would result, in fact, only in unnecessary administration expenses for the trust. As noted above, the assets of HVA-QP-VA will be invested exclusively in both Series of shares of Fund. Furthermore, HNB in its capacity as custodian for Fund will have physical possession of Fund's portfolio of securities and other assets. Applicants contend that, in their view, the issuance of Fund share certificates to the custodian will not significantly add to the protective features of the custodianship.

Applicants, accordingly, have requested that the Commission enter an order of exemption from the provisions of section 26(a)(2)(D) and section 27(c)(2) in order that the custodian may accept "book shares" on the investment of the purchase payments that are made, from time to time, by the Contract Owners and invested in shares of Fund to purchase variable annuity benefits.

In support of the requested exemptions from the foregoing provisions of the Act, Applicants state that HVA will pay the custodian fees for the safekeeping of the HVA-QP-VA assets by the custodian. Applicants also state that the Fund shares acquired by HVA-QP-VA will be held in a book account (as hereinabove described) so that the ownership of Fund shares by HVA-QP-VA will be indicated only on the books of Fund and HVA-QP-VA and not evidenced by transferable stock certificates, and that under the Custodian Agreement the assets of HVA-QP-VA other than Fund shares that come into the hands of the custodian will be kept physically segregated by the custodian and held separate from the assets of any other firm, person or corporation. HVA, under the terms of a certain Recordkeeping Agreement with the custodian, will maintain a record of all purchases and redemptions of Fund shares in HVA-QP-VA.

Applicants further state that HVA is subject to the extensive supervision and control by the Connecticut Insurance Commissioner and the comparable official of each state in which it does business. Such supervision requires HVA to file complete and detailed periodic reports. Applicants also state that the activities of HVA are subject to review by the Connecticut Insurance Department and its representatives at all times and are subject to comprehensive examinations periodically. Applicants also state that any substitution of the shares of an underlying fund for the shares of Fund can only take place with the prior approval of the Commission.

Applicants contend that the foregoing laws, regulations and arrangements will provide substantial assurance that all obligations under the contracts issued by HVA will be performed.

Applicants have consented that the foregoing requested exemptions from sections 26(a) and 27(c)(2) may be made subject to the following conditions: (1) the charges to variable annuity Contract Owners for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved for such purpose, and (2) the payment of sums and charges out of the assets of HVA-QP-VA shall not be deemed to be exempted from regulation by the Commission by reason of the requested Order; provided, that Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums or charges.

SECTION 27(a)(3)

Applicants represent that the amounts deducted for sales charges from periodic payments made pursuant to the terms of the contracts, both Group and Individual, are calculated as follows:

| | Percent |
|---|---|
| *Under the Group Contracts:* | |
| Up to and including $2,500 | 6.25 |
| More than $2,500 and up to and including $50,000 | 2.75 |
| More than $50,000 and up to and including $100,000 | 1.25 |
| More than $100,000 | .25 |
| *Under the Individual Contracts:* | |
| Up to and including $2,500 | 8.25 |
| More than $2,500 and up to and including $5,000 | 6.25 |
| More than $5,000 and up to and including $50,000 | 4.25 |
| More than $50,000 and up to and including $100,000 | 2.25 |
| More than $100,000 | .25 |

The minimum periodic payment that may be made on behalf of a Group Contract Participant at any time and that may be made under an Individual Contract at any time is $30.

In determining the Group Contract sales charge percentage applicable to a purchase payment made on behalf of a Group Contract Participant, only the cumulative amount of purchase payments made on behalf of such Participant is considered.

When an employer making application for a Group Contract has 1,000 or more eligible employees, and when annualized stipulated purchase payments with respect to all Participants shall equal or approximate $750,000 at the end of the Group Contract's second anniversary, the sales deducation on aggregate contributions up to and including $2,500 with respect to all Participants shall equal or rate of 4.25 percent instead of 6.25 percent; all other sales charge percentage deductions shall be the same as shown above for Group Contracts.

Section 27(a)(3) provides, in substance, that it shall be unlawful for any investment company issuing periodic payment plan certificates or any depositor of or underwriter for such company to sell any such certificate if the amount of sales load deducted from any one of the first twelve monthly payments exceeds proportionately the amount of sales load deducted from any other such payment or the amount deducted from any subsequent payment exceeds proportionately the amount deducted from any other subsequent payment.

Because the scale of sales load deductions decreases on the basis of the total value of the periodic payments made rather than on the numerical sequence of the periodic payments, the amount of sales load deducted from ay one of the first twelve monthly payments may exceed proportionately the amount deducted from any other payment of the same series of payments (i.e., the sum of the periodic payments made after the sixth payment on behalf of a Participant equals $2,500 and, therefore, the next payment made—the seventh payment—shall be subject to a sales load deduction of 2.75 percent) or the amount deducted from any subsequent payment may exceed proportionately the amount deducted from any other subsequent payment.

Applicants have requested an exemption from the provisions of section 27(a)(3) to permit them to deduct sales charges on the basis of the sum total of the dollar amount of payments made under a contract.

SECTION 11(a) AND 11(c)

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company, or any principal underwriter for such a company, to make, or cause to be made, an offer to the holder of a security of such a company, or of any other open-end investment company, to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to and approved by the Commisisoner. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of section 11(a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

Applicants have requested an order pursuant to sections 11(a) and 11(c) of the Act in order to permit an offer to be made to certain owners of contracts issued by HVA Separate Account which has been organized as an open-end diversified, management investment company and which is registered as such under the Act. Certain of the variable annuity contracts issued with respect to HVA Separate Account have been issued in connection with tax-qualified retirement plans.

Applicants state that the requested Order permitting an offer of exchange to be made will make available to such Contract Owners certain advantages which will accrue to them from owning contracts issued by HVA with respect to HVA-OP-VA. Thus, Contract Owners will have the option of investing payments in a fixed-income portfolio of investments as well as an equity portfolio of investments, or a combination thereof, with the further option of making transfers between the two portfolios. Finally,



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those Contract Owners of older group contracts issued with respect to HVA Separate Account that are presently paying a combined sales and administrative expense charge greater than the corresponding sales charge under an HVA–QP–VA contract, may find it advantageous to exchange their contracts for an HVA–QP–VA contract because of the scale of reducing sales charges applicable to the latter class of contracts.

Applicants state that no charges will be assessed in connection with the exchange, and the principal abuse at which Section 11(a) is directed—the imposition of additional sales charges—will not be present. Applicants represent that no compensation will be paid to any sales representative in connection with any such exchange, although compensation may be paid in connection with subsequent payments made under the terms of an HVA–QP–VA contract issued in exchange for an HVA Separate Account contract. Applicants represent, however, that they will seek to assist HVA Separate Account Contract Owners in determining whether or not to make an exchange by pointing out the applicable factors, and encourage them to do so. There will be no requirement on the part of an HVA Separate Account Contract Owner to make such an exchange, and the choice of whether or not to make such an exchange shall be the Contract Owner's alone to make. Entities to whom the exchange offer is made will receive a prospectus describing the new contracts, a prospectus describing the old contracts plus such additional information as may be necessary to assist Contract Owners in determining whether to make such an exchange.

Applicants assert that, in view of the protections afforded by the proposed disclosure to Contract Owners to whom an exchange offer will be made, the proposed offer of exchange is fair and should be approved by the Commission.

Accordingly, Applicants have requested that the Commission issue an Order approving the offer of exchange, as described pursuant to the provisions of sections 11(a) and 11(c) of the Act.

SECTIONS 22(d) AND 27(a)(3)

Applicants further represent that, in connection with an exchange of an HVA Separate Account contract for an HVA–QP–VA contract, the individual account value(s) under the contract exchanged will be recognized for purposes of determining the appropriate sales charge level, if the contract exchanged provides for a graded sales charge deduction but not if the contract exchanged provides for a level sales charge deduction. There are, at present, four outstanding forms of contracts (two individual contracts and two group contracts) which have been issued with respect to HVA Separate Account in connection with tax-qualified programs. In the case of one of the individual contracts and one of the group contracts, sales and administrative expense charges are deducted upon a level-load basis of 7.75 percent and 5.25 percent respectively. In the case of the remaining group and individual contracts, sales and administrative expense charges are deducted upon a sliding scale, with the maximum charge at 6.25 percent and 8.25 percent respectively.

Applicants have stated that the Commission has previously issued an Order respecting an offer of exchange made to Contract Owners of contracts issued with respect to HVA Separate Account to exchange their level-load contracts for graded-level contracts under circumstances where no credit was given for the amounts accumulated under the exchanged contracts in determining the applicable level of sales and administrative expense deductions.

Thus, on December 19, 1974 the Commission issued an Order exempting, inter alia, HVA and HVA Separate Account from the provisions of section 27(a)(3) in connection with an offer to be made to existing Contract Owners of contracts issued with respect to HVA Separate Account to exchange their contracts, which were subject to level-load deductions for sales and administrative expenses, for contracts subject to graded-load deductions for sales and administrative expenses; provided, that the Contract Owner thus exchanging his level-load contract would not receive credit for such transferred amounts in determining the applicable level of deductions from purchase payments made under the new contracts (Investment Company Rel. No. 8620).

Applicants intend to continue to follow the same procedure with respect to the exchange of a level-load contract funded by HVA Separate Account for a graded-load contract to be funded by HVA–QP–VA, and request the Commission to issue an Order exempting the exchange from the provisions of section 27(a)(3) to the extent that such an exemptive order may be deemed necessary.

Applicants contend that, since the amount transferred to a new HVA–QP–VA contract upon exchange will not qualify the purchaser for a reduced sales charge in the event that the HVA Separate Accounts contract exchanged provided for a level sales charge, whereas it will in the event that the HVA Separate Account contract exchanged provided for a graded sales charge deduction, the provisions of section 22(d) of the Act may be violated since the reducing sales charge provisions of the contract issued with respect to HVA–QP–VA will not be applicable to sales to all persons on the same basis and, hence, may be considered to be discriminatory.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at the current offering price described in the prospectus.

Applicants assert, in support of their Application for an exemption from the provisions of section 22(d), that the amounts now being deducted, and which will be deducted in the future because the load charge is level, will be reduced under certain circumstances. Thus, a Participant under a group contract subject to a level-load charge of 5.25 percent for sales and administrative expenses will have his deductions reduced to 2.75 percent after having achieved the second sales-charge tier and thereafter, and; if he qualifies as a member of a group of 1,000 or more employees (as hereinabove described), will have his sales charge dropped immediately to 4.25 percent and thereafter. The owner of an individual contract, subject to a level-load charge of 7.75 percent, will also have his deductions reduced to 6.25 percent after having achieved the second sales-charge tier and thereafter.

Applicants have, accordingly, requested an exemption from the provisions of section 22(d) of the Act in order that they may make the offer of exchange as hereinabove described.

SECTIONS 27(c)(1), 22(e) AND 27(d)

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the governing boards of all Texas institutions of higher education to make available to certain employees an Optional Retirement Program ("Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code. The statute provides as the funding media for the Program fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. In 1973, the Texas legislature made two amendments in the Program legislation, which amendments became effective on June 14, 1973. The statutory definition of the Program was amended to provide that the benefits of such annuities are to be available only upon termination of employment in the Texas public institutions of higher education, retirement, death or total disability of the participant. The other amendment added a new section 51.358 to Subchapter G which also provides that the benefits of such annuities will be available only if the participant dies, terminates his employment due to total disability, accepts retirement, or terminates employment in the Texas public institutions of higher education.

Because of uncertainty regarding the effect of these amendments, the University of Texas System ("System") requested the opinion of the Attorney General of Texas with respect to several questions concerning such amendments. The Attorney General rendered an opinion dated February 18, 1975, in response to the System's letter. The Attorney General interpreted section 51.358 to prohibit provisions oin a variable annuity contract issued in connection with the Program on or after June 14, 1973, which provide for making available the redemption value of such contract prior to the occurrence of one of the conditions specified in the statute, i.e., termination of employment, retirement, death or total disability. Moreover, the opinion further stated that the prohibitions of section





51.358 were impliedly in effect upon the establishment of the Program (in 1967) and that notwithstanding any language which may be contained in existing contracts, a participant in the Program has never had the right to redeem his annuity contract otherwise than in accordance with the limitations described above. The opinion did not affect the right of a participant to transfer the redemption value of his annuity contract from one carrier to another; accordingly, the granting of the relief requested in the application would not affect such right.

Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless such certificate is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" to mean any security under the terms of which the holder upon its presentation to the issuer or to a person designated by the issuer is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificates unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15 per centum of the gross payments made by the certificate holder.

Applicants request exemptions from the provisions of sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with section 51.358 as it pertains to contracts issued to participants in the Program subsequent to the date of such exemptive order.

Applicants assert that if such exemptions are not granted, persons participating in the Program effectively will be denied an opportunity to select as a funding medium for their retirement benefits one of two funding media (the other being fixed annuity contracts) specifically provided in the Texas statute for such purpose. Additionally, participants will be unable to obtain the State's matching contributions for the purchase of an equity-based retirement vehicle. In this respect, the Attorney Generals' opinion indicated that these matching contributions will encourage participation in the retirement plan but that unrestricted withdrawals prior to retirement might be detrimental to an effective retirement vehicle. In view of the foregoing, Applicants assert that the Commission should grant the requested exemptions because: (1) the limited restriction on redemption would be voluntarily assumed by participants, i.e., eligible employees are not required to participate in the Program; (2) the restrictions were not formulated nor suggested by Applicants; and (3) participants' relinquishment of the full right of redemption is a reasonable requirement in exchange for the benefits bestowed by the matching contributions of the State of Texas.

Applicants will ensure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restriction on the availability of redemption values under contracts to be issued to them. This disclosure will take the form of an appropriate reference in each prospectus to the restrictions on redemption of these contracts, as well as requiring each participant, as a part of the determination that the sale of these contracts is suitable for that participant, to sign a statement indicating that he she is aware that these restrictions will be placed on his her contract when it is issued. In addition, Applicants will review all sales literature that is to be used in conjunction with the sales of these contracts for the existence of material representations that are inconsistent with the restrictions to be placed on these contracts and will instruct the salespeople involved in soliciting in this market specifically to bring this restriction to the attention of the potential participants.

SECTION 6(C)

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

SECTION 9

Section 9(a) of the Act, insofar as is pertinent here, makes it unlawful for any person, or any company with which such person is affiliated, to act in the capacity of employee, officer, director, member of an advisory board, investment adviser, principal underwriter or depositor of any registered investment company if such person is by reason of any misconduct enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security.

Section 9(c) provides that upon application the Commission shall grant an exemption from the provisions of Section 9(a) either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of Section 9(a), as applied to the applicant, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

On June 20, 1972, International Telephone and Telegraph Corporation ("ITT") and two of its subsidiaries, HVA and Hamilton Management Corporation ("HMC") applied under section 9(c) of the Act for an order exempting them from the provisions of Section 9(a) of the Act. The June 1972 application followed the entry of consent injunctions against ITT and two of its officers in a Commission enforcement action alleging misuse of inside information relating to a material change in the posture of Justice Department antitrust litigation against ITT and also alleging the sale of unregistered securities.[1]

At the time this application was filed, HMC acted as investment adviser and principal underwriter to Hamilton Funds, Inc., Hamilton Growth Fund, Inc., and Hamilton Income Fund, Inc., registered open-end investment companies. HVA (then ITT Variable Annuity Insurance Company) acted as investment adviser and principal underwriter[2] to Hartford (then ITT) Variable Annuity Insurance Company Separate Account. In addition, HMC acted as investment adviser to HVA. As subsidiaries of ITT, HVA and HMC, immediately upon entry of the injunctions referred to above, came within the ambit of section 9(a)(3) of the Act, which section, in pertinent part, prohibits any company which, by reason of any misconduct, is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in any conduct or practice in connection with the purchase or sale of any security, from serving or acting in the capacity of, inter alia, investment adviser, depositor or principal underwriter of any registered investment company. Accordingly, contemporaneously with the entry of the June 1972 injunctions, ITT, HVA and HMC applied under Section 9(c) for an order of exemption and the Commission granted a temporary order of exemption to permit the subsidiaries to continue servicing the funds involved pending the Commission's determination of the application. In January 1973 the Commission upon a request of two intervening parties ordered a hearing on the application.

Hearings on the application by ITT, HVA and HMC continued into 1975. During 1975, however, ITT sold HMC to Oppenheimer Management Corp.; additionally, E. W. Axe Co., Inc. and Axe became

[1] Litigation Release No. 5435.

[2] In 1974, Hartford Equity Sales Company, Inc. ("HESCO"), a wholly owned subsidiary of HVA, became principal underwriter for HVA and Separate Account.



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the principal underwriter and investment adviser, respectively, for Separate Account. Thus having terminated its affiliation with the underwriting, depository and investment advisory activities that were subject to the Section 9 proscription, ITT, its subsidiaries, HVA and HESCO, and HMC subsequently withdrew their applications under section 9(c) and accordingly, on November 14, 1975 such proceedings were ordered cancelled. As a result of the withdrawal of the application, the temporary order of exemption previously granted by the Commission terminated.

As noted above, HVA–QP–VA was established by means of a custodian agreement between Axe and HNB.

HVA has entered into an agreement with Axe under the terms of which HVA has agreed that it will assume responsibility for the maintenance of the records that are required to be kept by Axe as depositor under the provisions of section 26(a)(4) of the Act and by Axe as depositor and principal underwriter by the provisions of section 31(a) of the Act and Rules 31a–1 and 31a–2 thereunder.

HVA has also entered into a recordkeeping agreement with HNB under the terms of which HVA has agreed to maintain and preserve on behalf of HNB under section 31(a) of the Act and Rules 31a–1 and 31a–2 thereunder, such accounts, books and other documents as constitute the records forming the basis for financial statements required to be filed pursuant to section 30 of the Act and of the auditors certificates relating thereto.

HVA asserts that it will not receive any compensation from either Axe or HNB or HVA–QP–VA for the performance of these recordkeeping functions except to the extent that the collection of the $10 policy fee charge may be deemed compensation. However, in this respect, Applicants point out that the charge of the custodian for the performance of its services will be paid by HVA.

In connection with the issuance of such variable annuity contracts the insurance laws of Connecticut require that certain records be maintained concerning the purchasers of such contracts, the contracts themselves, the amounts of insurance reserves that must be maintained with respect to such contracts, the annuity options selected by the contract-owners, and the amounts of annuity payments made—such record information and data being necessary to demonstrate the complete business and financial aspects of HVA and for the preparation of the periodic reports which must be filed, from time to time, with the appropriate insurance regulatory authorities. The books and records that Axe as depositor and as principal underwriter is required to keep and maintain with respect to HVA–QP–VA and that HNB would be keeping as custodian of HVA–QP–VA are already being maintained in major part by HVA to satisfy these requirements of state insurance regulations.

The performance of these functions by HVA pursuant to its agreements with Axe and HNB, as well as the performance of administrative and payment processing function by HVA pursuant to requested exemptions from Sections 27(c)(2) and 26(a)(2), could constitute it as the depositor or principal underwriter of HVA–QP–VA. As a subsidiary of ITT, HVA is barred by the provisions of section 9(a) from serving as, inter alia, depositor or principal underwriter of a registered investment company. Accordingly, HVA is requesting an exemptive order under section 9(c) to the extent necessary and pursuant to section 6(c) for exemptions from the provisions of Sections 26(a) and 27(c)(2) to allow it to perform these functions.

Notice is further given that any interested person may, not later than August 15, 1977, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above.

Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following August 15, 1977, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77–21602 Filed 7–26–77;8:45 am]

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[Release No. 13789; File No. SR–OCC–77–2]

## OPTIONS CLEARING CORP.

### Order Approving Rule Change Submitted by the Options Clearing Corporation ("OCC") To Permit an OCC Clearing Member to Limit Its Liability to the OCC Clearing Fund in Accordance With a Revised Procedure

JULY 21, 1977.

In the matter of the Options Clearing Corporation, 5950 Sears Tower, 233 S. Wacker Drive, Chicago, Illinois 60606.

On April 20, 1977, The Options Clearing Corporation ("OCC") submitted, pursuant to Rule 19b–4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change to permit an OCC clearing member to limit its liability to the OCC clearing fund in accordance with a revised procedure by (i) giving notice of its intent to terminate its clearing membership, (ii) submitting no opening purchase or writing transaction for clearance thereafter, and (iii) closing out or transferring its open positions with OCC as promptly as practicable after the giving of such notice.

In accordance with Section 19(b) of the Act and Rule 19b–4 thereunder, the proposed rule change was published in the FEDERAL REGISTER (42 FR 23899, May 11, 1977), and the public was invited to submit comments until June 1, 1977. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 13504, May 3, 1977. No letters of comment were received.

The Commission has reviewed the OCC submission and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR–OCC–77–2 be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77–21603 Filed 7–26–77;8:45 am]

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## PHILADELPHIA STOCK EXCHANGE, INC.

### Application for Unlisted Trading Privileges and of Opportunity for Hearing

JULY 20, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of hte Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Avis, Inc., File No. 7–4965, Common Stock—$1.00 Par Value.

Upon receipt of a request, on or before August 4, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77–21604 Filed 7–26–77;8:45 am]





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## SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1347]

### OHIO

### Declaration of Disaster Loan Area

Portage, Richland, and Sandusky Counties and adjacent counties within the State of Ohio constitute a disaster area because of physical damage resulting from high winds, severe storms and a tornado which occurred on June 30, through July 1, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 19, 1977, and for economic injury until the close of business on April 19, 1978, at:

Small Business Administration, District Office, AJC Federal Building, Room 317, Cleveland, Ohio 44199.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 19, 1977.

A. VERNON WEAVER,
*Administrator.*

[FR Doc.77–21520 Filed 7–26–77;8:45 am]

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[Declaration of Disaster Loan Area No. 1346]

### NEW YORK

### Declaration of Disaster Loan Area

The Southwest corner of Prospect Avenue and North Third Avenue, in the City of Mount Vernon in Westchester County, New York, constitutes a disaster area because of damage resulting from a fire which occurred on June 10, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 12, 1977, and for economic injury until the close of business on April 14, 1978 at:

Small Business Administration, District Office, 26 Federal Plaza, Room 3100, New York, N.Y. 10007.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 14, 1977.

RICHARD HERNANDEZ,
*Acting Administrator.*

[FR Doc.77–21519 Filed 7–26–77;8:45 am]

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[Declaration of Disaster Loan Area No. 1348]

### NEW YORK

### Declaration of Disaster Loan Area

The five boroughs of New York City and Westchester County and adjacent counties in the State of New York constitute a disaster area because of damage resulting from lightning accompanying severe thunderstorms on the night of July 13–14, 1977, which caused a chain-of events leading to the total loss of electrical power in the above-named boroughs, county, and all businesses in the affected areas were interrupted. Widespread civil disorders led to serious looting and vandalism involving an extensive number of business premises, many suffering considerable physical damage to real property, and the loss of all merchandise. Therefore, this declaration is a result of civil disorders in the above-named Boroughs, Westchester County and adjacent counties within the State of New York. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 16, 1977, and for economic injury until the close of business on April 17, 1978, at:

Small Business Administration, District Office, 26 Federal Plaza, Room 3100, New York, New York 10007.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 15, 1977.

A. VERNON WEAVER,
*Administrator.*

[FR Doc.77–21521 Filed 7–26–77;8:45 am]

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## DEPARTMENT OF STATE

[Public Notice 558]

### CERTAIN FOREIGN PASSPORTS

### Validity

Japan is added to the list of countries which have entered into agreements with the Government of the United States whereby their passports are recognized as valid for the return of the bearer to the country of the foreign-issuing authority for a period of at least six months beyond the expiration date specified in the passport.

This notice amends Public Notice 375 of January 10, 1973 (38 FR 1224).

BARBARA M. WATSON,
*Administrator, Bureau of Security and Consular Affairs.*

JULY 21, 1977.

[FR Doc.77–21588 Filed 7–26–77;8:45 am]

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[Public Notice 557]

### CULTURALLY SIGNIFICANT OBJECTS FROM IRELAND

### Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985), Executive Order 11312 of October 14, 1966 (31 FR 13415, October 18, 1966) and delegation of authority number 113 of December 23, 1966 (32 FR 58, January 5, 1967), I hereby determine that (1) the 68 objects described in the list[1] filed as a part of this determination imported from Ireland pursuant to a loan agreement of May 17, 1977 by the Minister of Education of Ireland, the Royal Irish Academy, and Trinity College, Dublin, with Dr. Thomas Hoving, Director of the Metropolitan Museum of Art, for that Museum and other United States Museums, for temporary exhibition without profit within the United States are of cultural significance and that (2) the temporary exhibition or display of such objects entitled "Treasures of Early Irish Art from 1500 B.C. to 1500 A.D." at the Metropolitan Museum of Art, New York, New York, beginning on or about October 12, 1977 to on or about January 15, 1978; the Fine Arts Museum of San Francisco, San Francisco, California, beginning on or about February 21, 1978, to on or about May 21, 1978; the Museum of Art, Carnegie Institute, Pittsburgh, Pennsylvania, beginning on or about June 28, 1978 to on or about September 24, 1978; the Boston Museum of Fine Arts, Boston, Massachusetts, beginning on or about October 24, 1978 to on or about January 21, 1979; and the Philadelphia Museum of Art, Philadelphia, Pennsylvania, beginning on or about February 26, 1979 to on or about May 27, 1979, is in the national interest.

Public notice of this determination is ordered to be published in the FEDERAL REGISTER.

JOSEPH D. DUFFY,
*Assistant Secretary for Educational and Cultural Affairs.*

JULY 19, 1977.

[FR Doc.77–21587 Filed 7–26–77;8:45 am]

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## DEPARTMENT OF THE TREASURY

### Customs Service

### LEATHER WEARING APPAREL FROM THE REPUBLIC OF CHINA

### Preliminary Determination

AGENCY: United States Customs Service.

ACTION: Preliminary Countervailing Duty Determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a preliminary determination that the Government of the Republic of China has not given benefits which are considered to be bounties or grants on the manufacture, production or exportation of certain leather wearing apparel within the meaning of the Countervailing Duty Law. A final determination will be made

[1] Itemized list of objects included in the Exhibition "Treasures of Early Irish Art: 1500BC–1500AD". List filed as part of original document.



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by January 23, 1978. Interested persons are invited to comment on this action.

EFFECTIVE DATE: July 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald W. Eiss, Office of Tariff Affairs, United States Treasury Department, 15th and Pennsylvania Avenue, NW., Washington, D.C. 20220, telephone 202-566-8256.

On March 7, 1977, a "Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (42 FR 12941). The notice stated that a petition had been received alleging that payments, bestowals, rebates or refunds, granted by the Republic of China upon the manufacture, production or exportation of leather wearing apparel constitute the payment of a bounty or grant, directly or indirectly, within the meaning of section 303 (of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

The term "leather wearing apparel" as used in this notice indicates articles classifiable under item 791.76, Tariff Schedules of the United States.

On the basis of an investigation conducted pursuant to section 159.47(c), Customs Regulations (19 CFR 159.47 (c)), it preliminarily has been determined that the leather wearing apparel industry received benefits under certain programs administered by the Government of the Republic of China but that the benefits bestowed thereunder involve an aggregate amount of eight one-hundredths of one percent (0.08%), considered to be de minimis and do not constitute bounties or grants within the meaning of section 303 of the Act.

The programs under which benefits were paid are:

1. Income tax holidays for newly established firms and firms expanding production facilities, granted under the Statute for Encourage of Investment.
2. Loans at preferential rates of interest for companies producing for export.
3. Exemption from import duties on machinery and equipment imported by firms located in Export Processing Zones for their own use.

It has preliminarily been determined that certain practices of the Government of the Republic of China do not constitute a bounty or grant in that they do not on their face describe a bounty or grant based on the information available.

These practices are:

1. Exemption from the business tax (a gross receipts tax) on export sales.
2. Reduction in the stamp tax on export documents.
3. Refund of individual income taxes on corporate dividends.

It has preliminarily been determined that certain practices of the Government of the Republic of China do no constitute a bounty or grant in that they are either not applicable or have never been utilized by the leather wearing apparel industry. These practices are:

1. A tax incentive for sales promotion abroad, which has not been utilized by the leather wearing apparel industry.
2. Payment by installment of customs duties or exemption from customs duties on imported capital items, which was not utilized by the leather wearing apparel industry.
3. Exemption from a commodity tax for firms operating in the Export Processing Zones.
4. Export risk insurance, which was not utilized by the leather wearing apparel industry in 1976.

Accordingly, it is determined preliminarily that bounties or grants, within the meaning of section 303 of the Act, are not being paid or bestowed, directly or indirectly, upon the manufacture, production, or exportation of leather wearing apparel from the Republic of China. A final decision in this case is required on or before January 23, 1978.

Before a final determination is made, consideration will be given to any relevant data, views or arguments, submitted in writing with respect to the preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, NW., Washington, D.C. 20229, in time to be received by his office not later than August 22, 1977.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 14), July 1, 1977, the provisions of the Treasury Department Order No. 165, Revised, November 2, 1954 and § 159.47(d) of the Customs Regulations (19 C.F.R. 159.47(d)), insofar as they pertain to the issuance of a countervailing duty notice by the Commissioner of Customs, are hereby waived.

Dated: July 21, 1977.

HENRY C. STOCKELL, Jr.,
*Acting General Counsel.*

[FR Doc.77-21529 Filed 7-26-77;8:45 am]

## LEATHER WEARING APPAREL FROM ARGENTINA

### Preliminary Countervailing Duty Determination

AGENCY: United States Customs Service, Treasury Department.

ACTION: Preliminary Countervailing Duty Determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a preliminary determination that the Government of Argentina has given benefits which are considered to be bounties or grants on the manufacture or exportation of leather wearing apparel. A final determination will be made by January 21, 1978. Interested persons are invited to comment on this action.

EFFECTIVE DATE: July 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Vincent P. Kane, Operations Officer, Duty Assessment Division, Office of Operations, U.S. Customs Service, Washington, D.C. 20229 202-566-5492.

SUPPLEMENTARY INFORMATION: On April 27, 1977, a "Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (42 FR 21530). The notice stated that a petition had been received alleging that payments or bestowals conferred by the Government of Argentina upon the manufacture, production or exportation of leather wearing apparel constitute the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act"). The term "leather wearing apparel" as used in this notice indicates articles classifiable under item 791.76 Tariff Schedules of the United States (TSUS).

On the basis of an investigation conducted pursuant to section 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), it preliminarily has been determined that benefits have been received by the Argentine manufacturers/exporters of leather wearing apparel which may constitute bounties or grants within the meaning of the Act. These benefits include the granting to manufacturers and exporters a rebate on export, known as the "reembolso," preferential export financing, an income tax reduction on exports, certain economic development incentives, a drawback of duty on industrial equipment, and export risk insurance allegedly at low rates. Further inqury will be necessary to determine the nature of some of these programs and whether they are utilized by the leather apparel industry.

Programs preliminarily determined not to be bounties or grants within the meaning of the Act include the exemption from the value added tax upon exportation and the duty free entry of materials used in the production of leather wearing apparel for export.

Programs found not to be applicable to the leather wearing apparel manufacturers and exporters include the use of multiple exchange rates and the issuance of tax rebate certificates.

Accordingly, it is determined preliminarily that bounties or grants, within the meaning of section 303 of the Act, are being paid or bestowed, directly or indirectly, upon the manufacture, production or exportation of leather wearing apparel from Argentina. A final determination in this case is required on or before January 21, 1978.

Before a final determination is made, consideration will be given to any relevant data, views or arguments submitted in writing with respect to this preliminary determination. Submission should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW, Washington, D.C. 20229, in time to be received by his office not later than August 26, 1977.





This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 14), July 1, 1977, the provisions of the Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47(d) of the Customs Regulations (19 CFR 159.47(d)), insofar as they pertain to the issuance of a countervailing duty order by the Commissioner of Customs, are hereby waived.

Dated: July 21, 1977.

HENRY C. STOCKELL, Jr.,
*Acting General Counsel.*

[FR Doc.77-21530 Filed 7-26-77;8:45 am]

## LEATHER WEARING APPAREL FROM URUGUAY

### Preliminary Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Preliminary countervailing duty determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a preliminary determination that the Government of Uruguay has given benefits which are considered to be bounties or grants on the manufacture or exportation of leather wearing apparel. A final determination will be made by January 21, 1978. Interested persons are invited to comment on this action.

EFFECTIVE DATE: July 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Vincent P. Kane, Duty Assessment Division, Office of Operations, U.S. Customs Service, Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On April 27, 1977, a "Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (42 FR 21531). The notice stated that a petition had been received alleging that payments or bestowals conferred by the Government of Uruguay upon the manufacture, production, or exportation of leather wearing apparel constitute the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

On the basis of an investigation conducted pursuant to § 159.47(c) of the Customs Regulations (19 CFR 159.47 (c)), it tentatively has been determined that benefits have been received by the Uruguayan manufacturers/exporters of leather wearing apparel which may constitute bounties or grants within the meaning of the Act. These benefits include the granting to maufacturers and exporters tax certificates upon export, income tax reductions on certain export related income, and preferential financing for export.

Programs tentatively determined not to be bounties or grants within the meaning of the Act include the exemption from the value added tax upon exportation, and the rebate of import duties paid on raw materials used in the production of leather wearing apparel to be exported.

Programs found not to be applicable to the leather wearing apparel manufacturers and exporters include government sponsored export credit insurance, a tax holiday for new industries, and benefits for locating within certain free ports and zones.

Before a final determination is made, consideration will be given to any relevant data, views or arguments submitted in writing with respect to this preliminary determination. Submission should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than August 26, 1977.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

G. R. DICKERSON,
*Acting Commissioner of Customs.*

Approved: July 21, 1977.

HENRY C. STOCKELL, Jr.,
*Acting General Counsel.*

[FR Doc.77-21531 Filed 7-26-77;8:45 am]

## Internal Revenue Service

[Delegation Order No. 165 (Rev. 1)]

### DEPUTY COMMISSIONER, ET AL.

### Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The authority to respond to administrative appeals filed pursuant to the Freedom of Information Act, 5 U.S.C. 552 is extended to the Assistant Commissioner (Technical) in the absence of or at the request of the Deputy Commissioner.

EFECTIVE DATE: July 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Martha Seeman PR:I, 1111 Constitution Avenue NW., Room 3528, Washington, D.C. 20224 (202-566-4273, not toll free).

JACK G. PETRIE,
*Director, Internal Management, Documents Division.*

DELEGATION ORDER

RESPONSES TO APPEALS FILED PURSUANT TO THE FREEDOM OF INFORMATION ACT, 5 U.S.C. 552 (FOIA)

Date of issue: July 20, 1977.
Effective date: July 20, 1977.

The authority vested in the Commissioner of Internal Revenue by 31 CFR 1.5(h) and Appendix B(4) to respond to administrative appeals filed pursuant to the Freedom of Information Act, 5 U.S.C. 552, is hereby delegated to the Deputy Commissioner. In the absence of or at the request of the Deputy Commissioner, the Assistant Commissioner (Technical) may exercise this authority in his/her name for the Deputy Commissioner This authority may not be redelegated.

In addition, the authority vested in the Commissioner by 31 CFR 1.5 (h)-(4) to acknowledge receipt of FOIA appeals and assert mandatory extensions of FOIA appeal time limits is hereby delegated to the Director, Disclosure Division. This authority may be redelegated to the level of Branch Chief, Disclosure Division.

Delegation Order No. 165, issued May 23, 1977, is superseded.

JEROME KURTZ,
*Commissioner.*

JULY 18, 1977.

[FR Doc.77-21650 Filed 7-26-77;8:45 am]

[Delegation Order No. 11 (Rev. 8)]

## REGIONAL COMMISSIONERS, ET AL.

### Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The authority of the Commissioner of Internal Revenue to accept or reject offers in compromise is redelegated as set forth in the text of the delegation order which appears below.

EFFECTIVE DATE: July 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. C. McRoy, ACTS:C:T, 1111 Constitution Avenue, NW., Room 7530, Washington, D.C. 20224 (202-566-4323, not toll free).

THOMAS L. DAVIS,
*Director, Collection Division.*

DELEGATION ORDER

AUTHORITY TO ACCEPT OR REJECT OFFERS IN COMPROMISE

Date of issue: July 25, 1977.
Effective date: July 25, 1977.

The authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-25 dated June 1, 1953, as amended by Order No. 180 dated November 17, 1953, and Order No. 150-36 dated August 17, 1954, 26 CFR 301.7122-1 and 26 CFR 301.7701-9, and Treasury Department Order No. 150-60 dated June 3, 1964, is hereby delegated as follows:

1. Regional Commissioners of Internal Revenue are delegated authority under section 7122 of the Internal Revenue Code, to accept offers in compromise of tax, based solely on doubt as to liability, if the unpaid liability (including any interest, penalty, additional amount or addition to tax) is $100,000 or more. This authority does not pertain to offers in compromise of liabilities arising under laws relating to alcohol, tobacco, and firearms taxes. The authority delegated herein may not be redelegated.

2. For the Office of International Operations, the Assistant Commissioner (Compliance) is delegated authority, under section 7122 of the Internal Revenue Code, to accept offers in compromise of tax, based solely on doubt as to liability, if the unpaid liability (including any interest, penalty, additional amount or addition to tax) is $100,000 or more. This authority does not pertain to offers in compromise of liabilities arising under laws relating to alcohol, to-



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bacco and firearms taxes. The authority delegated herein may not be redelegated.

3. The Director, Collection Division is delegated authority, under section 7122 of the Internal Revenue Code, to accept offers in compromise based on doubt as to collectibility and those based on doubt as to both collectibility and liability if the unpaid liability (including any interest, penalty, additional amount or addition to tax) is $100,000 or more. In addition, the Director, Collection Division is delegated authority to accept offers in compromise submitted under section 3469 of the Revised Statutes, as amended (31 U.S.C. 194) insofar as claims arising in the administration of the internal revenue laws are concerned. The authorities delegated herein do not pertain to offers in compromise of liabilities arising under laws related to alcohol, tobacco and firearms taxes. The authorities delegated herein may not be redelegated.

4. District Directors, Assistant District Directors, the Director of International Operations and the Assistant Director of International Operations are delegated authority, under section 7122 of the Internal Code, to accept offers in compromise in cases in which the liability sought to be compromised (including any interest, penalty, additional amount or addition to the tax) is less than $100,000, to accept offers involving specific penalties, and to reject offers in compromise regardless of the amount of the liability sought to be compromised. This authority does not pertain to offers in compromise of liabilities arising under laws relating to alcohol, tobacco and firearms taxes. The authority delegated herein may not be redelegated, except that the authority to reject offers in compromise may be redelegated, but not lower than to Division Chief.

5. Service Center Directors and Assistant Service Center Directors are delegated authority, under section 7122 of the Internal Revenue Code, to accept offers in compromise limited to penalties based solely on doubt as to liability, if the unpaid liability is less than $100,000, and to reject offers in compromise limited to penalties, regardless of the amount of the liability sought to be compromised. This authority does not pertain to offers in compromise of liabilities arising under laws relating to alcohol, tobacco and firearms taxes. This authority may be redelegated, but not lower than to Division Chief.

6. This Order supersedes Delegation Order No. 11 (Rev. 7) issued May 19, 1976.

WILLIAM E. WILLIAMS,
*Acting Commissioner.*

JUNE 16, 1977.

[FR Doc.77-21649 Filed 7-26-77;8:45 am]

### Office of the Secretary

## CALCIUM PANTOTHENATE FROM JAPAN

### Antidumping; Tentative Determination to Modify or Revoke Dumping Finding

AGENCY: United States Treasury Department.

ACTION: Modification of Finding of Dumping.

SUMMARY: This notice is to advise the public that it appears that Daiichi Seiyaku of Japan is no longer selling calcium pantothenate from Japan at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. In addition, Daiichi Seiyaku has given assurances that future sales will not be at less than fair value. If this action is made final, entries of this merchandise from Daiichi Seiyaku, on or after the effective date of this notice, will no longer be liable for special duties under the Antidumping Act, 1921. Interested persons are invited to make comments.

EFFECTIVE DATE: July 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, 202-566-5492.

A finding of dumping with respect to calcium pantothenate from Japan was published as Treasury Decision 74-34 in the FEDERAL REGISTER of January 17, 1974 (39 FR 2086).

After due investigation, it has been determined tentatively that calcium pantothenate produced and sold by Daiichi Seiyaku Co., Ltd., of Japan, is not being, nor is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

STATEMENT OF REASONS ON WHICH THIS TENTATIVE DETERMINATION IS BASED

The investigation indicated that no sales have been made at less than fair value by Daiichi Seiyaku Co., Ltd., since the finding of dumping, and that producer has given assurances that future sales of calcium pantothenate to the United States will not be made at less than fair value.

Accordingly, notice is hereby given that the Department of the Treasury intends to modify the finding of dumping with respect to calcium pantothenate from Japan to exclude calcium pantothenate produced and sold by Daiichi Seiyaku Co., Ltd.

In accordance with § 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, NW., Washington, D.C. 20229, in time to be received by his office no later than August 8, 1977. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than August 26, 1977.

This notice is published pursuant to § 153.44(c) of the Customs Regulations (19 CFR 153.44(c)).

HENRY C. STOCKELL, Jr.,
*Acting General Counsel.*

July 21, 1977.

[FR Doc.77-21590 Filed 7-26-77;8:45 am]

## VETERANS ADMINISTRATION

### STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

#### Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on August 22, 1977, at 10 a.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Federal Building, U.S. Courthouse, Room A-220, 110 9th Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in West Tennessee Business College, 525 East Main Street, Jackson, Tennessee, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: July 20, 1977.

R. S. BIELAK,
*Director, VA Regional Office, Nashville, Tennessee.*

[FR Doc.77-21589 Filed 7-26-77;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[No. 445]

### ASSIGNMENT OF HEARINGS

JULY 22, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 139495 Sub No. 181 National Carriers, Inc. now being assigned October 17, 1977 (1 day) for hearing in Chicago, Illinois in a hearing room to be later designated.

MC 140792 Sub No. 3 Stanley E. Whitehead now being assigned October 18, 1977 (1 day) for hearing in Chicago, Illinois in a hearing room to be later designated.

MC 138144 Sub No. 19 Fred Olson Co., Inc., now being assigned October 19, 1977 (1 day) for hearing in Chicago, Illinois, in a hearing room to be later designated.

MC 139973 Sub No. 12 J. H. Ware Trucking, Inc., now being assigned October 20, 1977 (2 days) for hearing in Chicago, Illinois in a hearing room to be later designated.





MC 142467 Hugh A. Mitchell, DBA Mitchell Special Emergency Hauling Service, now assigned July 25, 1977 at Jackson, Mississippi is cancelled and reassigned for the 20th day of September, 1977, (4 days) at Jackson, Mississippi in a hearing room to be later designated.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77-21655 Filed 7-26-77;8:45 am]

[Rule 19, Ex Parte No. 241, Exemption No. 140]

## CENTRAL OF GEORGIA RAILROAD CO. AND SOUTHERN RAILWAY CO.

### Exemption Under Mandatory Car Service Rules

*It appearing*, That the railroads named below own numerous long plain gondolas; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

*It is ordered*, That pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars, 61-ft. in length or greater, described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 403, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "GB", which is 61-ft. in length or greater, which bear the reporting marks listed below, may be used without regard to the requirements of Car Service Rules 1 and 2.

Central of Georgia Railroad Company
Reporting Marks: CG
Southern Railway Company
Reporting Marks: SOU

Effective August 1, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., July 18, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
*Agent.*

[FR Doc.77-21658 Filed 7-26-77;8:45 am]

[Rule 19, Ex Parte No. 241, Exemption No. 139]

## CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD CO.

### Exemptions Under Mandatory Car Service Rules

*It appearing*, That the railroads named herein own numerous 40-ft. narrow-door, plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

*It is ordered*, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 403, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44-ft. 6-in. or less, equipped with doors less than 9-ft. wide; and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

* * * * *

Chicago, Milwaukee, St. Paul and Pacific Railroad Company.
Reporting Marks: MILW.
St. Louis-San Francisco Railway Company.
Reporting Marks: SLSF
Soo Line Railroad Company.
Reporting Marks: SOO.

Effective 11:59 p.m., July 21, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., July 14, 1977.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
*Agent.*

NOTE: Burlington Northern, Inc., deleted.

[FR Doc.77-21660 Filed 7-26-77;8:45 am]

[Order No. 33, Under Revised Service Order No. 1252]

## CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

### Rerouting Traffic

To all railroads: In the opinion of Joel E. Burns, Agent, the Chicago and North Western Transportation Co. is unable to transport traffic over its line between Albia, Iowa, and New Sharon, Iowa, because of fire damage to its bridge two miles south of New Sharon.

*It is ordered*, That: (a) The Chicago and North Western Transportation Company, being unable to transport traffic over its line between Albia, Iowa, and New Sharon, Iowa, because of fire damage to its bridge two miles south of New Sharon, that carrier is hereby authorized to reroute or divert such traffic via any available route to expedite the movement. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even through no contracts, agreements, or arrangements now exist between them with reference to the division of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 4 p.m., July 19, 1977.

(g) Expiration date: This order shall expire at 11:59 p.m., August 5, 1977, unless otherwise modified, changed, or suspended.

*It is further ordered*, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 19, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
*Agent.*

[FR Doc.77-21661 Filed 7-26-77;8:45 am]

## FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 22, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43400—*Various Commodities from Channelview, Tex.* Filed by Southwestern Freight Bureau, Agent (No. B-698), for interested rail carriers. Rates on various commodities, in carloads and tank-car loads, as described in the application, from Channelview, Tex., to specified points in eastern territory.



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Grounds for relief—Market competition.

Tariff—Supplement 292 to Southwestern Freight Bureau, Agent, tariff 355–C, I.C.C. No. 5062. Rates are published to become effective on August 21, 1977.

AGGREGATE OF INTERMEDIATES

FSA No. 43401—*Carbolic Acid (Phenol) from Channelview, Tex.* Filed by Southwestern Freight Bureau, Agent (No. B–699), for interested rail carriers. Rates on acid, carbolic (phenol), in tank-car loads, as described in the application, from Channelview, Tex., to Cincinnati, Ohio.

Grounds for relief—Maintenance of depressed rates published to meet market competition without use of such rates as factors in constructing combination rates.

Tariff—Supplement 292 to Southwestern Freight Bureau, Agent, tariff 355–C, I.C.C. No. 5062. Rates are published to become effective on August 21, 1977.

By the Commission.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77-21657 Filed 7-26-77;8:45 am]

## IRREGULAR ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

JULY 22, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission within 10 days from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 8973 (Sub-No. E139), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such articles, hardware, and building materials, equipment, and supplies*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, from points in Morris County, N.J., to points in that part of Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line and extending south along Connecticut Highway 198 to junction unnumbered road near Phoenixville, thence along said unnumbered road to junction Connecticut Highway 97, thence along Connecticut Highway 97 to junction Connecticut Highway 2, thence along Connecticut Highway 2 to junction unnumbered road west of Connecticut Highway 164, thence along said unnumbered road to Connecticut Highway 27, and thence along Connecticut Highway 27 to the shore of the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of the warehouse and plant facilities of Alcan Aluminum Corp. at Woodbridge, N.J.

No. MC 8973 (Sub-No. E194) (correction), filed December 17, 1976, published in the FEDERAL REGISTER issue of July 6, 1977, and republished, as corrected, this issue. Applicant: METROPOLITANT TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment and supplies used in the manufacture and sale of plastic articles* (except in bulk, and commodities requiring special equipment), between points in Passaic County, N.J., on the one hand, and, on the other, points in that part of Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line and extending south along Connecticut Highway 8 to junction U.S. Highway 44, thence along U.S. Highway 44 to junction Connecticut Highway 219, thence along Connecticut Highway 219 to junction Connecticut Highway 25, thence along Connecticut Highway 25 to junction Connecticut Highway 179, thence along Connecticut Highway 179 to junction Connecticut Highway 4, thence along Connecticut Highway 4 to junction Connecticut Highway 69, thence along Connecticut Highway 69 to junction Connecticut Highway 15, thence along Connecticut Highway 15 to junction Connecticut Highway 34, thence along Connecticut Highway 34 to junction Connecticut Highway 8, thence along Connecticut Highway 8 to junction Connecticut Highway 25, thence along Connecticut Highway 25 to Shore of Long Island Connecticut. The purpose of this filing is to eliminate the gateway of the facilities of Colorite Plastic Co., Division of Dart Industries, Inc., at Ridgefield, N.J.

NOTE.—The purpose of this correction is to include the second portion of the letter notice which was omitted in the July 6, 1977, publication.

No. MC 40215 (Sub-No. E6), filed May 17, 1974. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 N. Fifth Street, Salina, Kans. 67401. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (A) From points in Colorado on and east of a line beginning at the Colorado-New Mexico State line, and extending along Colorado Highway 389 to junction U.S. Highway 160, to junction Colorado Highway 109, to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 87, thence north along U.S. Highway 87 to the Colorado-Wyoming State line, to points in California on and south of a line beginning at the California-Arizona State line, and extending along Interstate Highway 8, thence west along Interstate Highway 8 to the Pacific Ocean; (B) from points in Colorado on and east of a line beginning at the Colorado-New Mexico State line, and extending along Colorado Highway 389 to junction U.S. Highway 160, to junction Colorado Highway 109, to junction U.S. Highway 50, to junction Colorado Highway 71, to junction Interstate Highway 70, thence east along Interstate Highway 70 to the Kansas-Colorado State line, to points in California; (C) from points in Colorado on and east of a line beginning at the Colorado-New Mexico State line and extending north along Colorado Highway 389 to junction U.S. Highway 160, to junction Colorado Highway 109, thence north on Colorado Highway 109 to the junction of U.S. Highway 50, to the Colorado-Kansas State line to points in Idaho on and north of a line beginning at the Oregon-Idaho State line, and extending east along Idaho Highway 19 to junction Idaho Highway 55, thence north along Idaho Highway 55 to junction Idaho Highway 21, thence east along Idaho Highway 21 to junction Interstate Highway 93, thence along Interstate Highway 93 to junction Idaho Highway 28, thence east along Idaho Highway 28 to the Idaho-Montana State line; (D) from points in Colorado on and east of a line beginning at the Wyoming-Colorado state line, and extending along the Colorado Highway 71 to junction Interstate Highway 70, thence east along Interstate Highway 70 to the Colorado-Kansas State line, to points in Arizona on and west of a line beginning at the international boundary line between United States and Mexico, and extending north along U.S. Highway 89, to junction Interstate Highway 10, thence west along Interstate Highway 10 to the Arizona-California State line. The purpose of this filing is to eliminate the gateway of Coolidge, Kans.

No. MC 40215 (Sub-No. E24) (partial correction), filed May 17, 1974, published in the FEDERAL REGISTER issue of May 26, 1977, and partially republished, as corrected, this issue. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 N. Fifth Avenue, Salina, Kans. 67401. Applicant's representative: James F. Flint, Ephraim & Polydoroff, 1250 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission: (8)(A) From points in Ohio to points in Nebraska on and north and west of a line beginning at the Nebraska-Kansas State line, and extending north along U.S. Highway 77, to junction Nebraska Highway 79, thence north along Nebraska Highway 79 to junction Nebraska Highway 92, thence west along Nebraska Highway 92 to junction U.S. Highway 81, thence north along U.S. Highway 81 to junction Nebraska Highway 22, thence north along Nebraska Highway 22 to junction Nebraska Highway 70, thence west along Nebraska Highway 70 to junction U.S. Highway 83, thence north along U.S. Highway 83 to the Nebraska-South Dakota State line; (B) from points in Ohio on and south of a line beginning at the Ohio-Indiana State line, and extending east along Interstate Highway 70 to the Ohio-West Virginia State line, to points in Nebraska. The purpose of this filing is to eliminate the gateway of points in Kansas. The purpose of this partial republication is to correct the highway description. The remainder of this letter-notice remains as previously published.





No. MC 40215 (Sub-No. E31) (correction), filed May 17, 1974, published in the FEDERAL REGISTER issue of May 26, 1977, and partially corrected, as published, this issue. Applicant: RICHARDSON & TRANSFER & STORAGE CO., INC., 246 N. Fifth Avenue, Salina, Kans. 67401. Applicant's representative: James F. Flint, Ephraim & Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (9) from points in Virginia on and east of a line beginning at the Virginia-West Virginia State line, and extending southeast along Virginia Highway 39 to junction U.S. Highway 60, thence east along U.S. Highway 60 to junction U.S. Highway 29, thence south along U.S. Highway 29 to the Virginia-North Carolina State line, to points in Nebraska. (14)(A) From points in Virginia on and west of a line beginning at the Virginia-West Virginia State line, and extending south along U.S. Highway 52 to the Virginia-North Carolina State line, to points in Texas on and north and west of a line beginning at the Texas-Oklahoma State line and extending west along U.S. Highway 66 to junction U.S. Highway 385, at Vega, Tex.; thence south along U.S. Highway 385 to junction Texas Highway 115, thence southwest along Texas Highway 115 to junction U.S. Highway 80, thence west along U.S. Highway 80 to junction Texas Highway 17, thence south along Texas Highway 17 to junction U.S. Highway 67, thence along U.S. Highway 67 to the international boundary between United States and Mexico. The purpose of this filing is to eliminate the gateways of points in Ohio and Kansas. The purpose of this partial correction is to correct the territory description. The remainder of this letter-notice remains as previously published.

No. MC 61825 (Sub-No. E981), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, (A) Between points in Preston and Tucker Counties, W. Va., and those points in Pendleton County, W. Va., within 125 miles of Wellsburg, W. Va., on the one hand, and, on the other, points in New York, except points in Cattaraugus, Chautauqua, and Erie Counties; (B) between points in New York, except points in Cattaraugus, Chautauqua, and Erie Counties, on the one hand, and, on the other, points in Preston and Tucker Counties, W. Va., and those points in Pendleton County, W. Va., within 125 miles of Wellsburg, W. Va. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E982), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, (A) Between points in Brooke and Hancock Counties, W. Va., on the one hand, and, on the other, points in Pennsylvania on and east of a line beginning at the Pennsylvania-New York State line, and extending along Pennsylvania Highway 449, to junction Pennsylvania Highway 49, to junction Pennsylvania Highway 44, to junction U.S. Highway 6, to junction Pennsylvania Highway 872, to junction Pennsylvania Highway 120, to junction Pennsylvania Highway 144, to junction Pennsylvania Highway 879, to junction U.S. Highway 219, to junction Pennsylvania Highway 286, to junction U.S. Highway 119, to the Pennsylvania-West Virginia line; (B) between points in Pennsylvania on and east of a line beginning at the Pennsylvania-New York state line and extending along Pennsylvania Highway 449, to junction Pennsylvania Highway 49, to junction Pennsylvania Highway 44, to junction U.S. Highway 6, to junction Pennsylvania Highway 872, to junction Pennsylvania Highway 120, to junction Pennsylvania Highway 144, to junction Pennsylvania Highway 879, to junction U.S. Highway 219, to junction Pennsylvania Highway 286, to junction U.S. Highway 119, to the Pennsylvania-West Virginia State line. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E983), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, (A) Between points in Ohio County, W. Va., on the one hand, and, on the other, points in Pennsylvania on and east and north of a line beginning at the Pennsylvania-West Virginia State line and extending along U. S. Highway 22, to junction Interstate Highway 76, to junction Pennsylvania Highway 160, to the Pennsylvania-Maryland State line; (B) between points in Pennsylvania on and east and north of a line beginning at the Pennsylvania-West Virginia State line, and extending along U.S. Highway 22, to junction Interstate Highway 76 to junction Pennsylvania Highway 160, to the Pennsylvania-Maryland State line, on the one hand, and, on the other, points in Ohio County, W. Va. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E984), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, (A) Between points in Braxton, Calhoun, Clay, Doddridge, Gilmer, Jackson, Marshall, Mason, Nicholas, Pleasants, Ritchie, Roane, Tyler, Wetzel, Wirt, and Wood Counties, W. Va., and those points within 125 miles of Wellsburg, W. Va., on the one hand, and, on the other, points in Pennsylvania on and east and north of a line beginning at the Pennsylvania-West Virginia State line, and extending along U.S. Highway 22 to junction Pennsylvania Highway 56, to junction Interstate Highway 70, to the Pennsylvania-Maryland State line; (B) between points in Pennsylvania on and east and north of a line beginning at the Pennsylvania-West Virginia State line, and extending along U.S. Highway 22, to junction Pennsylvania Highway 56, to junction Interstate Highway 70, to the Pennsylvania-Maryland State line, on the one hand, and, on the other, points in Braxton, Calhoun, Doddridge, Gilmer, Marshall, Pleasants, Ritchie, Tyler, Wetzel, Wirt, and Wood Counties, W. Va., and those points in Clay, Jackson, Mason, Nicholas, and Roane Counties, W. Va., within 125 miles of Wellsburg, W. Va. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E985), filed May 13, 1974. Applicant: ROY STONE



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TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, (A) Between points in Barbour, Harrison, Lewis, Marion, Monongalia, Taylor, Upshur Counties, W. Va. and points in Webster County, W. Va., within 125 miles of Wellsburg, W. Va., on the one hand, and, on the other, points in Pennsylvania on and north and west of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 219, to junction U.S. Highway 6, to junction Pennsylvania Highway 66, to junction Pennsylvania Highway 68 to the Pennsylvania-West Virginia State line, and, points on and east and north of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 220 to junction U.S. Highway 6, to junction Pennsylvania Highway 309, to the Pennsylvania Turnpike, to junction with Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New Jersey State line; (b) between points in Pennsylvania on and north and west of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 210, to junction U.S. Highway 6, to junction Pennsylvania Highway 66, to junction Pennsylvania Highway 68 to the Pennsylvania-West Virginia State line, and, points on and east and north of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 220 to junction U.S. Highway 6, to junction Pennsylvania Highway 309, to the Pennsylvania Turnpike, to junction with Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New Jersey State line, on the one hand, and, on the other, points in Barbour, Harrison, Lewis, Marion, Monongalia, Taylor, and Upshur Counties, W. Va., and points in Webster County, W. Va., within 125 miles of Wellsburg, W. Va. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E986), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, (A) Between points in Preston and Tucker Counties, W. Va., and those points in Randolph County, W. Va., within 125 miles of Wellsburg, W. Va., on the one hand, and, on the other, points in Pennsylvania on and north and west of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 219, to junction Pennsylvania Highway 770, thence along Pennsylvania Highway 770 to junction Pennsylvania Highway 59, to junction Pennsylvania Highway 337, to junction U.S. Highway 62, to junction Pennsylvania Highway 8, to junction Pennsylvania Highway 108, to junction Interstate Highway 79, thence along Interstate Highway 79 to junction Pennsylvania Highway 68, to the Pennsylvania-West Virginia State line. (B) Between points in Pennsylvania on and north and west of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 219, to junction Pennsylvania Highway 770, thence along Pennsylvania Highway 770 to junction Pennsylvania Highway 59, to junction Pennsylvania Highway 337, to junction U.S. Highway 62, to junction Pennsylvania Highway 8, to junction Pennsylvania Highway 108, to junction Interstate Highway 79, thence along Interstate Highway 79 to junction Pennsylvania Highway 68 to the Pennsylvania-West Virginia State line, on the one hand, and, on the other, points in Preston and Tucker Counties, W. Va., and those points in Randolph County, W. Va., within 125 miles of Wellsburg, W. Va. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E987), filed May 13, 1974. Applicant: RAY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, between points in Armstrong, Beaver, Butler, Clarion, Crawford, Forest, Indiana, Jefferson, Lawrence, Mercer, and Venango, Counties, Pa., and those points in Clearfield, Elk, Erie and Warren Counties, W. Va., within 125 miles of Wellsburg, W. Va., on the one hand, and, on the other, points in Boone, Braxton, Brooke, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Greenbriar, Harrison, Jackson, Kanawha, Lewis, Lincoln, Logan, McDowell, Marshall, Mason, Mercer, Mingo, Monroe, Nicholas, Ohio, Pleasants, Putnam, Raleigh, Roane, Summers, Tyler, Upshur, Wayne, Webster, Wetzel, Wirt, Wood, and Wyoming. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E988), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, between points in Allegheny County, Pa., on the one hand, and, on the other, points in Boone, Braxton, Calhoun, Clay, Doddridge, Fayette, Gilmer, Greenbriar, Jackson , Kanawha, Lincoln, Logan, McDowell, Mason, Mercer, Mingo, Monroe, Nicholas, Pleasants, Pocahontas, Putnam, Raleigh, Ritchie, Roane, Summers, Tyler, Wayne, Webster, Wirt, Wood, Wyoming, and Cabell Counties, W. Va. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W.Va.

No. MC 61825 (Sub-No. E989), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, between points in Cambria County, Pa., and points in Blair County, within 125 miles of Wellsburg, W. Va., on the one hand, and, on the other, points in Boone, Brooke, Cabell, Calhoun, Doddridge, Hancock, Jackson, Kanawha, Lincoln, Logan, McDowell, Marshall, Mason, Mingo, Ohio, Pleasants, Putnam, Ritchie, Roane, Tyler, Wayne, Wetzel, Wirt, Wood, and Wyoming Counties, W. Va. The purpose of this filing is to eliminate the gateway of Cokestown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E990), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, between points in Somerset and Westmoreland Counties, Pa., and those points in Bedford County, W. Va., within 125 miles of Wellsburg, W. Va., on the one hand, and, on the other, points in Brooke, Hancock and Ohio Counties, W. Va. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E991), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, between points in Fayette, Greene, and Washington Counties, Pa., on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E992), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, between points in Beaver County, Pa., on the one hand, and, on the other, points in New York





on and east of a line beginning at the New York-Pennsylvania State line, and extending along Interstate Highway 81 to junction New York Highway 57, thence along New York Highway 57 to Lake Ontario. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E993), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, between points in Lawrence County, Pa., on the one hand, and, on the other, points in New York on and east and south of a line beginning at the New York-New Jersey State line, and extending along Interstate Highway 84 to junction Interstate Highway 87, thence along Interstate Highway 87 to the United States-Canadian International Boundary line. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E994), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, between points in Butler County, Pa., on the one hand, and, on the other, points in New York on and south of a line beginning at the New York-New Jersey State line and extending along Interstate Highway 84, and thence along Interstate Highway 84 to the New York-Connecticut State line. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E995), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, between points in Allegheny and Westmoreland Counties, Pa., on the one hand, and, on the other, points in New York on and north of a line beginning at Lake Ontario and extending along New York Highway 3 and 3–A to Saranac Lake, New York, thence along New York Highway 86 to junction New York Highway 9–N to Lake Champlain. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E996), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, between points in Allegheny, Fayette, Somerset and Washington Counties, Pa., and points in Bedford County, within 125 miles of Wellsburg, W. Va., on the one hand, and, on the other, points in Ohio except points in Belmont and Jefferson Counties. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E997), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, between points in Cambria, Indiana, and Westmoreland Counties, Pa., and those points in Blair County, Pa., within 125 miles of Wellsburg, W. Va., on the one hand, and, on the other, points in Ohio except points in Belmont, Columbiana, Jefferson, Mahoning, and Trumbull Counties. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E998), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, between points in Armstrong, Beaver, Butler, Clarion, Crawford, Forest, Indiana, Jefferson, Lawrence, Mercer, and Venango Counties, Pa., and those points in Clearfield, Elk, Erie and Warren Counties, W. Va., within 125 miles of Wellsburg, W. Va., on the one hand, and, on the other, points in Ohio except points in Ashland, Ashtabula, Carroll, Columbiana, Crawford, Cuyahoga, Erie, Geauga, Hancock, Harrison, Holmes, Jefferson, Lake, Lorain, Lucas, Mahoning, Median, Ottawa, Portage, Richland, Sandusky, Seneca, Stark, Summit, Trumbull, Tuscarawas, Wayne, Wood, and Wyandot Counties. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 61825 (Sub-No. E1000), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, between points in Clarion, Forest, Jefferson, Mercer, and Venango Counties, Pa., on the one hand, and, on the other, points in Adams, Athens, Belmont, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Fairfield, Fayette, Franklin, Gallia, Greene, Guernsey, Hamilton, Highland, Hocking, Jackson, Lawrence, Licking, Madison, Meigs, Miami, Monroe, Montgomery, Morgan, Muskingham, Noble, Perry, Pickaway, Pike, Preble, Ross, Scioto, Vinton, Warren, and Washington, Counties, Ohio. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. 61825 (Sub-No. E1001), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such iron and steel articles as are used as construction materials*, between points in Crawford and Erie Counties, Pa., and those points in Warren County, within 125 miles of Wellsburg, W. Va. on the one hand, and, on the other, points in Adams, Athens, Belmont, Brown, Butler, Clermont, Clinton, Fairfield, Fayette, Gallia, Guernsey, Hamilton, Highland, Hocking, Jackson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pickaway, Pike, Ross, Scioto, Vinton, Warren, and Washington Counties, Ohio. The purpose of this filing is to eliminate the gateway of Coketown, Brooke County, W. Va.

No. MC 104149 (Sub-No. E1) (Partial correction), filed May 15, 1974, published in the FEDERAL REGISTER issue of January 19, 1976, and republished as corrected, this issue. Applicant: OSBORNE TRUCK LINE, INC., 518 North 31st. Birmingham, Ala. Applicant's representative: William P. Jackson, 919 Eighteenth St., NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (14) *Iron and Steel products* (except in bulk), the transportation of which, because of size or weight, requires the use of special equipment, in minimum shipments of 10,000 pounds: (d) between points in Louisiana on, south, and east of a line beginning at the Louisiana-Mississippi State line and extending along U.S. Highway 51 to junction Louisiana Highway 10, thence along Louisiana Highway 10 to junction Louisiana Highway 37, thence along Louisiana



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Highway 37 to junction U.S. Highway 190, thence along U.S. Highway 190 to the Mississippi River, thence along the eastern shore of the Mississippi River to the Gulf of Mexico, on the one hand, and, on the other, points in Kentucky on and east of U.S. Highway 41. (*Birmingham, Ala.; and the plantsite of Revere Copper & Brass, Inc., located at or near Scottsboro, Ala.). The purpose of this filing is to eliminate the gateways indicated by asterisks.

NOTE.—The purpose of this partial correction is to state the correct territorial description. The remainder of this letter-notice remains as previously published.

No. MC 108341 (Sub-No. E14), filed May 13, 1974. Applicant: MOSS TRUCKING CO., INC., P.O. Box 8409, Charlotte, N.C. 28208. Applicant's representative: Jack F. Counts (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass* and *glass glazing units*, restricted to the transportation of commodities which because of size or weight require the use of special equipment and commodities which because of size or weight do not require the use of special equipment when transported as part of the same shipment with commodities which because of size or weight require the use of special equipment, (A) from those points in Virginia on and east of a line beginning at the Virginia-West Virginia state line, and extending along U.S. Highway 220, thence along U.S. Highway 220 to the Virginia-North Carolina state line, to points in Louisiana, Mississippi (except points north of U.S. Highway 82), New Mexico and Texas; (B) from those points in Virginia on and east of a line beginning at the Virginia-North Carolina State line, and extending along U.S. Highway 501 to junction U.S. Highway 360, thence along U.S. Highway 360 to the Chesapeake Bay, to points in Alabama (except points north of U.S. Highway 82, Arkansas, Colorado, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Tennessee, and Wyoming. The purpose of this filing is to eliminate the gateway of Clinton and Laurinburg, N.C.

No. MC 108676 (Sub-No. E12), filed June 4, 1974. (Part I, Sec. S). Applicant: A. J. METLER HAULING & RIGGING, 117 Chicamauga Avenue, Knoxville, Tennessee 37917. Applicant's representative: A. J. Metler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Iron and steel articles*, consisting of *contractors' equipment and coal and coke mining equipment, Iron and steel articles*, consisting of *construction equipment, and parts, accessories and attachments*, therefor (not including contractors' equipment), *maintenance equipment, and part, accessories and attachments*, therefor (not including contractors' equipment), *power distribution equipment, and parts, accessories and attachments* therefor (not including contractors' equipment), and *plant equipment, and parts accessories and attachments* therefor (not including contractors' equipment). *Iron and steel articles*, consisting of *sign, sign poles and parts and accessories*, (Sec. S) (1) Between points in Kentucky in or west of Jefferson, Bullitt, Hardin, Grayson, Edmonson, Barren, and Monroe Counties, and in or south of Cumberland and Clinton Counties, on the one hand, and, on the other, points in Tennessee in or east of Hawkins, Grainger, Knox, and Blount Counties. (2) Between points in Kentucky in or west of Jefferson, Bullitt, Hardin, Grayson, Edmonson, Warren, and Allen Counties, on the one hand, and, on the other, points in Tennessee in or east of Hancock, Grainger, Union, Anderson, Knox, and Blount Counties. (3) Between points in Trimble, Henry, Franklin, Anderson, Washington, Marion, Nelson, Bullitt, Jefferson, Oldham, Shelby, and Spencer Counties and in or west of Hancock, Daviess, McLean, Hopkins, Caldwell, Lyon, Marshall, and Calloway Counties, Ky., on the one hand, and, on the other, Bristol, Tenn., and points east of Bristol, Tenn., in Sullivan County and points in or south of Johnson, Carter, Washington, Greene, Hamblen, Jefferson, Knox, and Anderson Counties, and in or east of Loudon, McMinn, and Monroe Counties. (4) Between points in Franklin, Owen, Gallatin, Carroll, Trimble, and Henry Counties, Ky., on the one hand, and, on the other, Bristol, Tenn., and points east of Bristol, Tenn., in Sullivan County and points in or south of Johnson, Carter, Washington, Greene, Hamblen, Jefferson, Knox, and Anderson Counties and in or east of Roane, Meigs, and Hamilton Counties. (5) Between points in Jefferson County and in or west of Hancock, Daviess, McLean, Hopkins, Caldwell, Lyon, Marshall, and Callaway Counties, Ky., on the one hand, and, on the other, points in Tennessee in or south of Johnson, Sullivan, Washington, Greene, Hamblen, Jefferson, Knox, and Anderson Counties and in or east of Loudon, McMinn, and Monroe Counties.

(6) Between points in or east of Mason, Robertson, Nicholas, Bourbon, Fayette, Madison, Rock Castle, Pulaski, and McCreary Counties, Ky., on the one hand, and, on the other, points in Tennessee in Knox, Blount, Monroe, McMinn, and Loudon Counties. (7) Between points in Fayette County, Ky., on the one hand, and, on the other, points in Tennessee in or south of Unicoi, Washington, Greene, Hamblen, Jefferson, Knox, and Anderson Counties, and in or east of Roane, Meigs, and Hamilton Counties. (8) Between points in or east of Boyd, Lawrence, Elliott, Morgan, Wolfe, Lee, Jackson, Laurel, and Whitley Counties, Ky., on the one hand, and, on the other, points in Tennessee in Shelby, Knox, Sevier, Blount, Monroe, McMinn, and Loudon Counties. (9) Between points in Mason, Lewis, Greenup, Carter, and Boyd Counties, Ky., on the one hand, and, on the other, points in Tennessee in or south of Cocke, Hamblen, Jefferson, Knox, Anderson, Roane, Cumberland, Bledsoe, Sequatchie, Grundy, and Coffee Counties, and in or east of Franklin County. (10) Between points in or south of Pike, Floyd, MaGoffin, Breathitt, Owsley, and Jackson Counties, and in or east of Laurel and Whitley Counties, Ky., on the one hand, and, on the other, points in Tennessee in or south of Blount, Knox, Roane, Cumberland, Van Buren, and Warren Counties, and in or east of Coffee and Franklin Counties, and in Tipton, Haywood, Madison, Hardeman, Fayette, and Shelby Counties. (11) Between points in Boyd County, Ky., on the one hand, and, on the other, points in Tennessee located in Shelby County and in or south of Cocke, Hamblen, Jefferson, Knox, Anderson, Roane, Cumberland, and Van Buren Counties and in or east of Warren, Grundy, and Marion Counties. (12) Between points in or south of Pike, Floyd, Magoffin, and Breathitt Counties, Ky., and in or east of Perry, Leslie, and Bell Counties, on the one hand, and, on the other, points in Tennessee in or south of Blount, Knox, Anderson, Roane, Cumberland, White, Dekalb, Cannon, Rutherford, Marshall, Maury, Hickman, Perry, Decatur, Henderson, Madison, Gibson, and Dyer Counties. (13) Between points in Pike, Knott, Perry, Leslie, Bell, Harlan, and Letcher Counties, Ky., on the one hand, and, on the other, points in Tennessee in or south of Blount, Knox, Anderson, Morgan, Cumberland, Putnam, Dekalb, Wilson, Davidson, Williamson, Hickman, Perry, Decatur, Henderson, Madison, Gibson, and Dyer Counties. (14) Between points in Harlan and Bell Counties, Ky., on the one hand, and, on the other, points in Tennessee in or south of Blount, Knox, Anderson, Morgan, Cumberland, Putnam, Dekalb, Wilson, Davidson, Cheatham, Montgomery, Stewart, Henry, Weakley, Obion, and Lake Counties. The purpose of this filing is to eliminate the gateway of Knoxville, Tenn.

No. MC 111785 (Sub-No. E1) (partial correction), filed May 29, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as corrected, this issue. Applicant: BURNS MOTOR FREIGHT, INC., Rural Free Delivery No. 1, U.S. Highway 219 No., P.O. Box 149, Marlinton, W. Va. 24954. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (5) *Lumber*, except plywood and veneer, from points in Highland County, Va., to points in Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Massachusetts, Michigan, New Hampshire, New Jersey, New York, those points in North Carolina on and east of U.S. Highway 301, and points in Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain, and Transylvania Counties, N.C., Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Wisconsin, Ohio, and points in West Virginia (except those in and east of Monongalia, Marion, Harrison, Doddridge, Lewis, Webster, and Pocahontas Counties (Marlinton, W. Va.) The purpose





of this filing is to eliminate the gateways indicated by asterisks above.

NOTE.—The purpose of this partial correction is to state the correct the origin territory in Part (5) above. The remainder of this letter-notice remains as previously published.

By the Commission,

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77 21654 Filed 7-26 77;8:45 am]

[Notice No. 91]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 20, 1977.

The following are notices of filing of applications for temporary authority under Section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filings of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 11207 (Sub-No. 397TA), filed July 7, 1977. Applicant: DEANTON, INC., P.O. Box 938, 317 Avenue W., Birmingham, Ala. 35201. Applicant's representative: Kim D. Mann, Attorney at Law, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Charcoal briquettes and charcoal pellets*, from Pachuta, Mississippi, to points in Alabama, Florida, Georgia, South Carolina and Tennessee, for 180 days. Supporting shippers: Masonite Corporation, Charcoal Division, P.O. Box 5534, Meridian, Miss. 39301. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 12361 (Sub-No. 5TA), filed June 30, 1977. Applicant: CANTWELL MOTOR SERVICE, INC., 1718 Pontiac Road, East St. Louis, Ill. 62203. Applicant's representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, packinghouse products and commodities used by packinghouses*, as described in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between DuQuoin, Ill., on the one hand, and, on the other, points in Posey, Vanderburgh and Warrick Counties, Ind., and Henderson, Daviess, Union and Webster Counties, Ky., for 180 days. Supporting shipper: Bobbie C. Gossett, Delivery Supervisor, DuQuoin Packing Company, East Cole Street, DuQuoin, Ill. 62832. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 56679 (Sub-No. 95TA), filed July 6, 1977. Applicant: BROWN TRANSPORT CORP., 125 Milton Ave. SE., Atlanta, Ga. 30315. Applicant's representative: John T. Coon, Director of Commerce, 352 University Avenue SW., Atlanta, Ga. 30315. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular route, transporting: *Frozen foodstuffs* and/or *frozen foodstuffs* when in mixed shipments with foodstuffs, not frozen, from Dade City, Fla. to Virginia, Maryland, Delaware, District of Columbia, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, and Maine, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Lykes Pasco Packing Company, P.O. Box 97, North Hwy. 301, Dade City, Fla. 33525. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 546, Atlanta, Ga. 30309.

No. MC 96938 (Sub-No. 8TA), filed July 1, 1977. Applicant: ARKANSAS TRANSIT HOMES, INC., 8400 Mabelvale Pike, Little Rock, Ark. 72209. Applicant's representative: Harold G. Hernly, Jr., 118 N. St., Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles (except recreational vehicles); and buildings, in sections, mounted on wheeled undercarriages (except prefabricated buildings) in secondary movements, in truckaway service; from points in Oklahoma to points in Arkansas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately six (6) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 106674 (Sub-No. 242TA), filed July 6, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy, P.O. Box 123, Remington, Ind. 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, Gypsum Products and Building Materials* (excluding commodities in bulk), from Gypsum, Ohio, to points in Indiana, Kentucky, Michigan and Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: U.S. Gypsum Company, 101 S. Wacker Drive, Chicago, Ill. 60606. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 106674 (Sub-No. 243TA), filed July 7, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy, P.O. Box 123, Remington, Ind. 47977. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Glass containers*, from plant and warehouse facilities of Midland Glass Company, Inc. at or near Warner Robins, Ga., to the facilities of Anheuser-Busch, Inc. at or near Williamsburg, Va., for 180 days. Supporting shippers: Midland Glass Company, Inc., P.O. Box 557, Cliffwood, N.J. 07721. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 111729 (Sub-No. 705TA), (Correction) filed June 7, 1977, published in the FEDERAL REGISTER issue of July 6, 1977, and republished as corrected this issue. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, and audit and accounting media of all kinds*, between Brattleboro, Vt., and W. Bridgewater, Mass., for 180 days. Supporting shipper(s): Mammoth Mart, Inc., 321 Manley Street, W. Bridgewater, Mass. 02379. Send protests to: Maria B. Kejss Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007. The purpose of this republication is to indicate Bridgewater, Mass., in lieu of Bridgewater, Maine, as was previously published in error.



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No. MC 112184 (Sub-No. 55TA), filed July 7, 1977. Applicant: The Manfredi Motor Transit Company, 11250 Kinsman Road, Newbury, Ohio 44065. Applicant's representative: David A. Turano, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Oil and gasoline additives*, in bulk, in tank vehicles, from East Liverpool, Ohio, to (1) ports of entry on the International Boundary Line between the United States and Canada which lie between Buffalo and Youngstown, N.Y., including Buffalo and Youngstown, N.Y., for furtherance to the province of Ontario, Canada, and (2) Painesville, Ohio. Restricted to traffic having a prior movement by water and, further restricted to service provided under a continuing contract, or contracts, with Lubrizol Corporation, for 180 days. Supporting shippers: Lubrizol Corporation, 294000 Lakeland Boulevard, Wickliffe, Ohio 44092. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 112963 (Sub-No. 67TA), Applicant: Roy Bros., Inc., 764 Boston Road, Pinehurst, Mass. 01866. Applicant's representative: Leonard E. Murphy, 764 Boston Road, Pinehurst, Mass. 01866. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in bulk, in rubber lined tank vehicles, from Orrington, Maine to points in Connecticut, Massachusetts, New Hampshire, New York, New Jersey, Pennsylvania, Rhode Island, and Vermont, for 180 days. Supporting shippers: International Minerals and Chemical Corp., 501 East Lange Street, Mundeleim, Ill. 60060. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Room 501, Boston, Mass. 02114.

No. MC 113528 (Sub-No. 33TA), filed July 6, 1977. Applicant: Mercury Freight Lines, Inc., P.O. Box 1247, Mobile, AL 36601. Applicant's representative: Joy Stephenson, Traffic Manager, Same as above. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, veneer, plywood, including particleboard and paneling*, from the facilities of Vanply, Inc., at or near Many, La., to points in Alabama, Georgia, North Carolina, South Carolina, with no transportation for compensation on return except as otherwise authorized, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Vanply, Inc., McDonald Drive, Many, La. 71449. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616–2121 Building, Birmingham, Ala. 35203.

No. MC 113828 (Sub-No. 246TA), filed July 8, 1977. Applicant: O'BOYLE TANK LINES, INCORPORATED, P.O. Box 30006, Washington, D.C. 20014. Applicant's representative: William P. Sullivan, American Building, Suite 500, 1320 Fenwick Lane, Silver Spring, Md. 20910, and Michael A. Grimm, P.O. Box 30006, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Botetourt County, Va., to points in Delaware, District of Columbia, Maryland, North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lone Star Cement Inc., 15 Koger Executive Center, Norfolk, Va. 23502. Send protests to: Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 113908 (Sub-No. 402TA), filed June 30, 1977. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats, oils, tallow, and blends thereof*, in bulk, from Marshall, Mo. to Tracy, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Doane Products Company, Joplin, Mo. (P.O. Box 879). Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, BOp. 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 113908 (Sub-No. 404TA), filed July 1, 1977. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Yogurt*, in bulk, from Farmington, Minn. and Lebanon and Springfield, Mo., to Atlanta, Ga. and Hutchinson, Kan. and Denver, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Mid-America Dairymen, Inc., P.O. Box 1837 S.S.S., Springfield, Mo. 65805. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, BOp. 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 115162 (Sub-No. 372TA), filed July 7, 1977. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from the facilities of Champion International Corporation at or near Oxford, Miss., to points in the States of Kansas, Nebraska, Arkansas, Oklahoma and Texas, for 180 days. Supporting shipper: Champion International Corporation, Knightsbridge Drive, Hamilton, Ohio 45020. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 115311 (Sub-No. 231TA), filed July 7, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials, composition shingles, rolled compounds and accessories and materials*, used in the installation thereof, (except in bulk), from the plant site and storage facilities of Elk Corporation at or near Stephens and Camden, Ark., to points in Alabama, Louisiana, Mississippi, Tennessee, Texas, Oklahoma, Kentucky, and Missouri, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Elk Corporation, Box 37, Stephens, Ark. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 300, Atlanta, Ga. 30309.

No. MC 115311 (Sub-No. 232TA), filed July 7, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Applicant's representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising matter*, from Latrobe, PA to points in Fla. for 180 days. Supporting shippers: Southland Dist., 4545 Dale Mabry, St. Petersburg, Fla. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 300, Atlanta Ga. 30309.

No. MC 115496 (Sub-No. 55TA), filed July 7, 1977. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Highway 23 South, Cochran, Ga. 31014. Applicant's representative: Wirgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials and panels*, from the facilities of Masonite Corporation at or near Meridian, Miss., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Masonite Corporation, P.O. Box 5777, Meridian, Miss. 39301. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Rm 300, Atlanta, Ga. 30309.





No. MC 115904 (Sub-No. 77TA), filed July 7, 1977. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Miss Irene Warr, Attorney at Law, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, from the facilities of PPG Industries, Inc., located at or near Wichita Falls, Tex. to points in California, for 180 days. Applicant does not intend to tack authority or interline with other carriers. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: PPG Industries, Inc., One Gateway Center, Pittsburgh, Pa. 15222. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 W. Fort St., Box 07, Boise, Idaho 837234.

No. MC 118989 (Sub-No. 161TA), filed July 6, 1977. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th St., Milwaukee, Wis. 53221. Applicant's representative: Roland Draves (Same as Above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibreboard cans*, with or without metal ends, with mechanical conveyor equipment from the plantsite of Boise Cascade Corporation at or near Whiting, Ind. to Cincinnati, Ohio, for 180 days. Applicant has filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Boise Cascade Corporation, P.O. Box 7747, Boise, Idaho 83707, (David W. Berg). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 119917 (Sub-No. 43TA), filed July 7, 1977. Applicant: DUDLEY TRUCKING COMPANY, INC., 724 Memorial Drive, S.E., Atlanta, Ga. 30316. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 W. Peachtree St., NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products and racks and trays* used in the transportation of bakery products, between the plantsites and shipping facilities of Flowers Industries, Incorporated, and its subsidiaries and affiliates in VA, on the one hand, and the plantsites and shipping facilities of Flowers Industries, and its subsidiaries and affiliates in NC, on the other hand; for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Flowers Baking Company, P.O. Box 5665, Norfolk, Va. 23516. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, Ga. 30309.

No. MC 121664 (Sub-No. 21TA), filed July 6, 1977. Applicant: G. A. HORNADY, CECIL M. HORNADY AND B. C. HORNADY, a partnership, doing business as HORNADY BROTHERS TRUCK LINE, P.O. Box 846, Monroeville, Ala. 36460. Applicant's representative: W. E. Grant, 1702 First Avenue, South, Birmingham, Ala. 35233. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Greenville, Ga., to points in Alabama, North Carolina, South Carolina and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Woodkraft-Wood Products Division of Georgia Kraft, P.O. Box 2489, Peachtree City, Ga. 30269. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 123048 (Sub-No. 358TA), filed June 27, 1977. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st St., P.O. Box A. Racine, Wis. 53401. Applicant's representative: Carl S. Pope (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor graders*, (2) *accessories, attachments and parts for motor graders*, from the Ports of Entry at the United States/Canada Boundary Line at Detroit and Port Huron, Mich., and Buffalo, N.Y., to points in the states of Alabama, Arkansas, Florida, Geoargia, Kansas, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dominion Road Machinery Corporation, 2015 Alsop Lane, P.O. Box 1422, Owensboro, Ky. 42301, (James N. Holeman, Jr.). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 123048 (Sub-No. 359TA), filed July 7, 1977. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, P.O. Box 19, Racine, Wis. 53401. Applicant's representative: Carl S. Pope (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition Board*, from the facilities of Champion International Corporation near Oxford, Miss., to points in Arkansas, Kansas, Nebraska, Oklahoma and Texas, for 180 days. Supporting shipper: Champion International Corporation, Knightsbridge Drive, Hamilton, Ohio 45020, (Thomas A. Egner, Jr., Assistant Supervisor). Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 123405 (Sub-No. 53TA), filed June 30, 1977. Applicant: FOOD TRANSPORT, INC., R.D. No. 1, Thomasville, Pa. 17364. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint paper and groundwood paper*, in rolls, from the plantsite and shipping facilities of Bowater Southern Paper Corp., at Calhoun, Tenn., to points in Maryland, New Jersey, New York and Pennsylvania. Restricted to traffic originating at and destined to the above-named origins and destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bowater Southern Paper Corp., Calhoun, Tenn. Send protests to: Challes F. Myers, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 126118 (Sub-No. 47TA), filed July 7, 1977. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Louisville, Ky., and Detroit, Mich., and their commercial zones, to Rowan County, N.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ben Merrill, President, Merrill Wholesale Co., Box 1023, Salisbury, N.C. 28144. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 127840 (Sub-No. 54TA), filed July 8, 1977. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. 382, Lansing, Ill. 60438. Applicant's representative: William H. Towle, 180 North LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup and blends thereof*, in bulk in tank trailers, from Fort Worth, Tex., to points in Texas having a prior movement by rail. (K.M.), for 180 days. Supporting shippers: A.E. Staley Manufacturing Co., R. L. Lighthall, Asst. to Director Corporate Transportation, 2200 East Eldorado St., Decatur, Ill. 62525. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 128112 (Sub-No. 9TA), filed July 7, 1977. Applicant: STATE TRANSPORT COMPANY, P.O. Box 1022, Corvallis, Oreg. 97330. Applicant's representative: Nick I. Goyak, Attorney at Law, 1 S. W. Columbia, Portland, Oreg. 97258. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *sand* from Valley, Wash. to the plant site of Evans



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Products Company at or near Corvallis, Oreg., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Evans Products Co., 1120 S. E. Crystal Lake Drive, Corvallis, Oreg. 97330. Send protests to: District Supervisor A. E. Odoms, Bureau of Operations, Interstate Commerce Commission 114 Pioneer Courthouse, 555 S. W. Yamhill Street, Portland, Oreg. 97204.

No. MC 134734 (Sub-No. 34TA) (Partial correction), filed June 10, 1977, published in the FEDERAL REGISTER issue of July 13, 1977, and republished as corrected this issue. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, Nebr. 68137. Applicant's representative: Joseph Winter, 33 N. LaSalle St., Chicago, Ill. 60602. Note: The purpose of this partial republication is to indicate: Send protests to: Carroll Rusell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102. The rest of the application remains the same.

No. MC 135170 (Sub-No. 20TA) (Correction) filed June 6, 1977, published in the FEDERAL REGISTER issue of June 22, 1977, and republished as corrected this issue. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, Md. 21632. Applicant's representative: James C. Hardman, 33 N. La Salle St., Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from Franklin, Va., to Baltimore, Cockeysville, Glen Burnie, Finksburg and Frederick, Md., and Philadelphia, and Allentown, Pa., under a continuing contract or contracts with Apollo Plastics, Inc., for 180 days Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mr. O. D. Griffin, Vice President/Plant Manager, Apollo Plastics, Inc., P.O. Box 621, Franklin, Va. 23851. Send protests to: Mr. William L. Huges, District Supervisor, Interstate Commerce Commission; 814–B Federal Building, Baltimore, Md. 21201. The purpose of this republication is to indicate the correct spelling of Glen Burnie, in lieu of Glen Gurnie and Frederick in lieu of Federick, Md. as was previously published in error.

No. MC 135797 (Sub-No. 72TA) (Partial Correction), filed May 2, 1977, published in the FEDERAL REGISTER issue of June 20, 1977, and republished as corrected this issue. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Hwy 71, Lowell, Ark. 72745. Applicant's representative: Don Garrison, 324 North Second Street, Rogers, Ark 72756.

NOTE.—The purpose of this partial republication is to add the rest of the District Supervisor address: "Office Building, 700 West Capitol, Little Rock, Ark. 72201", that was previously omitted. The rest of the application remains the same.

No. MC 136275 (Sub-No. 23TA), filed July 5, 1977. Applicant: WHITFIELD ASSOCIATED TRANSPORT, INC., 28 San Marcos Drive, El Paso, Tex. 79922. Applicant's representative: H. B. Dudley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel bars, reinforcement steel and fabricated steel*, between points and places in El Paso County, Tex., on the one hand, and points and places in the state of New Mexico, on the other, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Border Steel Rolling Mills, Inc., P.O. Box 12843, El Paso, Tex. 79912. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H–4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 136545 (Sub-No. 10TA) (Correction), filed June 20, 1977, published in the FEDERAL REGISTER issue of July 8, 1977, and republished as corrected this issue. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., 1109 Railroad St., P.O. Box 95, Prentice, Wis. 54556. Applicant's representative: Richard A. Westley, 4506 Regent St., Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Portable log splitters and portable wheel crushers*, from the plantsite of the La Font Corporation at or near Prentice, Wis., to points in the United States (except Alaska, Hawaii, Minnesota, and Wisconsin), for 180 days. Supporting shipper: La Font Corporation, 1319 Town Street, Prentice, Wis. 54556. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703. The purpose of this republication is to complete the commodity description.

No. MC 139294 (Sub-No. 2TA), filed July 6, 1977. Applicant: H. T. L., INC., P.O. Box 122, Fairfield, Ala. 35064. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood and particleboard*, from the plant and warehouse facilities of McMillan Bloedel, Inc., at Pine Hill and Opelika, Ala., to points in Florida, Georgia, Mississippi, Louisiana, North Carolina, South Carolina, Virginia, West Virginia, Kentucky and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: MacMillan Bloedel, Inc., 1250 Brown Marx Building, Birmingham, Ala. 35203. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 140678 (Sub-No. 1TA) (Correction), filed June 1, 1977 published in the FEDERAL REGISTER issue of June 20, 1977, and republished as corrected this issue. Applicant: ROBERT PATRICK McCARTHY, doing business as TRICO, P.O. Box 1319, Tulare, Calif. 93274. Applicant's representative: Randall M. Faccinton, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural fertilizer*, dry in bulk, in hopper type vehicles or self-unloading vehicles, from Lathrop, Calif., to points in the states of Washington and Idaho, under a continuing contract, or contracts, with Occidental Chemical Company for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Occidental Chemical Company, P.O. Box 198, Lathrop, Calif. 95330. North Pacific Trading Company, P.O. Box 3915, Portland, Oreg. 97208. Send protests to: Irene Carlos Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012. The purpose of this republication is to add the rest of carrier's name TRICO that was previously omitted and to indicate the state of Idaho in lieu of Indiana.

No. MC 141245 (Sub-No. 1TA), filed July 8, 1977. Applicant: BARRETT TRUCKING CO., INC., 16 Austin Drive, Burlington, Vt. 05401. Applicant's representative: Rea, Cross & Knebel, 700 World Center Building, 918 Sixteenth Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* from the facilities of the Joseph Schlitz Brewing Co. at or near Syracuse, N.Y., to Bennington, Rutland, and White River, Vt., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: W. E. Campbell, Inc., 217 BenMont Avenue, Bennington, Vt. 05201; Green Mountain Distributing Corp., First Street, Rutland, Vt. 05701; Twin State Fruit Corp., Railroad Row, White River Jct, Vt. 05001. Send protests to: District Supervisor David A. Demers, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, Vt. 05602.

No. MC 141485 (Sub-No. 3TA), filed June 23, 1977. Applicant: CLIFFORD RAY RUTLAND, doing business as Cliff Rutland Trucking, Rural Route No. 1, Independence, Kans. 67301. Applicant's representative: Laurel D. McClellan, P.O. Box 478, Fredonia, Kans. 66736. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) (A) *Feed ingredients* (except in bulk), from Van Buren and Jonesboro, Ark., Quincy, Ill., Cedar Rapids, Iowa, Louisville, Ky., and Ft. Worth, Tex., to Republic, Billings, Crane, Bois De Arc, Ash Grove, Ozark, Springfield, Mountain Grove, Golden, Mansfield, Ava, Carthage, Neosho, Marionville, Lebanon, Marshfield, West Plains, Hartville, Bolivar, Buffalo, Nixa, and Joplin, Mo., and Springdale, Bentonville, and Decatur, Ark.; and (B) *feed ingredients* (except in bulk), from Hutchinson and Pittsburg, Kans., Danville, Springfield, and Decatur, Ill., and Stuttgart, Ark., to Billings, Crane, Bois De Arc, Ash Grove, Ozark, Springfield, Mountain Grove, Golden, Mansfield, Ava, Carthage, Neosho, Marionville, Lebanon, Marshfield, West Plains, Hartville, Bolivar, Buffalo, Nixa, and Joplin, Mo., and Springdale, Bentonville, and Decatur, Ark., under a continuing contract or contracts with Super Sup Equine Products, Inc., of Springfield, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Agri Products, Inc., Republic, Mo.; Super Sup Equine Products, Inc., Springfield, Mo. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, Kans. 67202.

No. MC 142279 (Sub-No. 2TA) (correction), filed June 3, 1977, published in the FEDERAL REGISTER issue of June 22, 1977, and republished as corrected this issue. Applicant: RAY A. REICH, doing business as Ray Reich Trucking Co., an individual, Route 1, Box 133F, Forest Hill, La. 71430. Applicant's representative: Wallace H. Nations, 1806 Rio Grande, P.O. Box 2207, Austin, Tex. 78768. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Forest products, lumber products, and wood products*, between points in Red River Parish, La., on the one hand, and, on the other, points in Arkansas, Louisiana, Mississippi, and Texas under a continuing contract with Pineville Kraft Corp., for 180 days. Supporting shipper: Pineville Kraft Corp., P.O. Box 870, Pineville, La. 71360. Send protests to: District Supervisor Ray C. Armstrong, Jr., 701 Loyola Ave. 9038 Federal Building, New Orleans, La. 70113. The purpose of this republication is to omit the state of Arizona and add the state of Arkansas to the territorial description.

No. MC 143445TA, filed June 29, 1977. Applicant: MMAR TRANSPORTATION, INC., 36 Weldon Street, Matawan, N.J. 07747. Applicant's representative: Gerald K. Gimmel, 4 Professional Drive, Suite 145, Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, commodities of unusual value, and commodities requiring the use of special equipment), restricted to traffic moving on bills of lading of freight forwarders as defined in section 402(a)(5), between New York, N.Y., and Newark, N.J., and their commercial zones, on the one hand, and, on the other, Chicago, Peoria, and Rockford, Ill., and their commercial zones, restricted against the transportation of traffic having a prior or subsequent moving by air, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: (1) Lyons Transport, Inc., First Ave. and Route 66, McCook, Ill. 60525; (2) C. S. Greene and Co., Inc., Two Illinois Center, 233 North Michigan Avenue, Chicago, Ill. 60601; (3) Express Forwarding & Storage Co., Inc., 3150 River Road, Des Plaines, Ill. 60018. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 143466 (Sub-No. 1TA), filed July 8, 1977. Applicant: CLAYTON'S INC., P.O. Box 38, 210 W. Broadway, Ucon, Idaho 83454. Applicant's representative: David E. Wishney, 621 N. 8th, Boise, Idaho 83702. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bricks*, from Denver and Pueblo, Colo., and points in the commercial zones thereof, to Idaho counties of Fremont, Madison, Jefferson, Bonneville, Bingham, Teton, and Bannock. Applicant does not intend to tack authority or interline with other carriers, under a continuing contract or contracts with Reid Squires Brick & Masonry, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Reid Squires Brick & Masonry, 127 South 5th W., Rexburg, Idaho 83340. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 West Fort Street, Box 07, Boise, Idaho 83724.

No. MC 143468TA, filed July 6, 1977. Applicant: D & T ENTERPRISES, INC., R.R. 3, Box 390, Columbus, Ind. 47201. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from the plantsite and storage facilities of CF Industries, Inc., located at or near Cincinnati, Ohio, to Bartholomew County, Ind. Restricted to service performed under a continuing contract or contracts with Farmers Marketing Association, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Farmers Marketing Association, Inc., 1075 Second Street, Columbus, Ind. 47201. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg. and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

PASSENGER APPLICATION

No. MC 61802 (Sub-No. 14TA), filed July 8, 1977. Applicant: THE COLONIAL TRANSIT CO., INC., P.O. Box 508, Fredericksburg, Va. 22401. Applicant's representative: L. C. Major, Jr., Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, Va. 22312. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express* in the same vehicle with passengers, between Lake of the Woods, Va., and the District of Columbia as follows: From Lake of the Woods, Va., over Virginia Highway 3 to junction with Interstate Highway 95, thence over Interstate Highway 95 to junction with U.S. Highway 17, thence over U.S. Highway 17 to junction with Virginia Secondary Highway 670, thence over Virginia Secondary Highway 670 to the parking lot of the Thr-rift Inns, Ltd., thence return over Virginia Secondary Highway 670 to junction with U.S. Highway 17 to junction with Interstate Highway 95, thence over Interstate Highway 95 to the District of Columbia, and return over the same route serving all intermediate points on Virginia Highway 3 between Lake of the Woods and junction Virginia Highway 3 and County Highway 734 (Green Gate Road), at a point approximately 0.6 of a mile west of junction Virginia Highway 3 and Interstate Highway 95, and the parking lot of Thr-rift Inns, Ltd., located on Virginia Secondary Highway 670, approximately 0.2 of a mile west of junction U.S. Highway 17 and Interstate Highway 95, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: No supporting shippers: deviation in carrier's regular route operating authority. Send protests to: District Supervisor Paul D. Collins, Bureau of Operations, Rm. 10–502, Federal Building, 400 North 8th Street, Richmond Va. 23240.

By the Commission.

H. G. HOMME, JR.,
*Acting Secretary.*

[FR Doc.77–21656 Filed 7–26–77;8:45 am]

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[Order No. 32, Under Revised Service Order No. 1252]

**STRAITS CAR FERRY SERVICE CORP.**

**Rerouting Traffic**

To all railroads: In the opinion of Robert S. Turkington, Agent, the Straits







V 421144 JUL 27 77 UMI

Car Ferry Service Corp. will be unable to transport traffic routed via its car ferry between Mackinaw City, Mich., and St. Ignace, Mich., because of necessary repairs to its boat to commence on July 22, 1977.

*It is ordered*, That: (a) *Rerouting traffic*. The Straits Car Ferry Service Corp. being unable to transport traffic routed via its car ferry between Mackinaw City, Mich., and St. Ignace, Mich., because of necessary repairs to its boat to commence on July 22, 1977, to the carriers named in Section (b) herein are hereby authorized to divert and reroute such traffic over any available route to expedite the movement regardless of the routing shown on the waybill. The billing covering all such cars rerouted shall carry a reference to this order.

(b) *Carriers authorized to reroute*. Detroit and Mackinac Railway Co., Michigan Northern Railway Co., Soo Line Railroad Co., Straits Car Ferry Service Corp.

(c) *Traffic which may be rerouted*. (1) This order shall apply to traffic routed via the ferry from Mackinaw City to St. Ignace (northward or westward traffic) for movement on ferry trips, after July 14, 1977, to and including August 4, 1977; (2) This order shall apply to traffic routed via the ferry from St. Ignace, Mich., to Mackinaw City, Mich. (southward or eastward traffic), for movement on ferry trips after July 21, 1977, to and including August 4, 1977.

(d) *Concurrence of receiving roads to be obtained*. The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(e) *Notification to shippers*. Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(f) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(g) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(h) Effective date: This order shall become effective at 12:01 a.m., July 15, 1977.

(i) Expiration date: This order shall expire at 11:59 p.m., August 4, 1977, unless otherwise modified, changed or suspended.

*It is further ordered*, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the FEDERAL REGISTER.

Issued at Washington, D.C., July 15, 1977.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
*Agent.*

[FR Doc.77-21659 Filed 7-26-77;8:45 am]

## TRANSPORTATION OF WASTE PRODUCTS FOR REUSE OR RECYCLING

### Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of waste products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in *"Waste" Products*, Ex Parte No. MC-85, 124 MCC 583 (1976).

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission within 20 days from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence within 30 days of the date of its notice in the FEDERAL REGISTER, subject to its tariff publication effective date.

P-13-77 (special certificate — waste products), filed June 16, 1977. Applicant: GLENN McCLENDON TRUCKING CO., INC., P.O. Drawer H, Lafayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree Street NW., Atlanta, Ga. 30309. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *scrap or waste paper*, in bales for recycling, from points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, to Savannah, Ga., and Prattville, Ala., in furtherance of the recognized pollution programs sponsored by Union Camp Corp. of Wayne, N.J., for the purpose of collecting and transporting waste paper and scrap for recycling.

H. G. HOMME, JR.,
*Acting Secretary.*

[FR Doc.77-21662 Filed 7-26-77;8:45 am]





# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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## 1

### CIVIL AERONAUTICS BOARD

[M-37]

JULY 21, 1977.

TIME AND DATE: 10:00 a.m., July 28, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 1. Ratifications of Items Adopted by Notation [1]

2. Docket 29707, Petition of the Commuter Airline Association of America, Inc. for the establishment in domestic markets of through services, joint fares, and divisions of fares between certificated and connecting commuter air carriers.

3. Model Corporate Disclosure Regulations developed by the Interagency Steering Committee on Uniform Corporate Reporting.

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-989-77 Filed 7-25-77;8:45 am]

## 2

### CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: July 27, 1977, 9:30 a.m.

LOCATION: 3rd Floor Hearing Room, 1111-18th St., NW., Washington, D.C.

STATUS: Part is open; part is closed.

MATTERS TO BE CONSIDERED:

A. OPEN TO THE PUBLIC, 9:30 A.M.

1. *Toxic Substances Control Act:* Ken Johnson, Acting Administrator of Toxic Substances, EPA, will brief the Commission on activities under this act.

2. *Chronic Hazards:* (A) the staff will brief the Commission on numerous interagency activities with regard to chronic hazards; (B) the staff will present a paper which identifies major issues requiring Commission direction in the area of chronic hazards.

3. *701(e) Hearings:* The Office of the General Counsel will brief the Commission on procedural rules for hearings under section 701(e) of the Federal Food, Drug and Cosmetic Act.

4. *Power Lawn Mower Standard:* The staff will brief the Commission on the status of development of this regulation.

B. CLOSED TO THE PUBLIC, 2:00 P.M.

5. *Advisory Committee Members:* The Commission will vote on final selection of members to serve on the Commission's three advisory committees.

6. *Recommendations to Seek Civil Penalties* in four cases for alleged violation of the Special Order for Submission of chemical formulations.

7. *Mylar Star Kites* (CPSC Docket 75-16): The Commission will consider this matter, on which it held oral arguments in June, 1977.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th St., NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-988-77 Filed 7-25-77;8:45 am]

## 3

### FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: Follows 9:30 a.m. Open Meeting, Wednesday, July 27, 1977.

PLACE: Room 856, 1919 M Street, NW., Washington, D.C.

STATUS: Closed Commission meeting.

MATTERS TO BE CONSIDERED:

*Agenda, Item No. and Subject*

Hearing—1—Application for review of a Review Board Memorandum Opinion and Order granting a petition by Mid-west St. Louis, Inc. to add a second-year financial issue against New Life Evangelistic Center, Inc. in a comparative hearing for a new UHF television station in St. Louis, Mo. (Docket Nos. 20820, 20821).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: July 20, 1977.

[S-985-77 Filed 7-22-77;3:50 pm]

## 4

### FEDERAL COMMUNICATIONS COMMISSION

TIME AND DATE: Follows 9:30 a.m. Open Meeting, Wednesday, July 27, 1977.

PLACE: Room 856, 1919 M Street, NW., Washington, D.C.

STATUS: Closed Commission Meeting.

MATTERS TO BE CONSIDERED: The Federal Communications Commission will consider two additional agenda items both relating to Commission personnel matters.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given of these additional agenda items.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: July 22, 1977.

[S-986-77 Filed 7-22-77;3:50 pm]

## 5

### FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, July 27, 1977.

PLACE: Room 856, 1919 M Street, NW., Washington, D.C.

STATUS: Open Commission meeting.

MATTERS TO BE CONSIDERED:

*Agenda, Item No. and Subject*

General—1—Report and Order in Docket No. 20620, to amend Subpart F of Part 15 of the rules to provide for the operation of wide-band swept RF equipment used as anti-pilferage devices.

General—2—Legislative proposals concerning Section 315 of the Communications Act.

General—3—Reconsideration of Memorandum Opinion and Order in Docket No. 20682 re: broadcast entertainment formats.

[1] The ratification process provides an entry in the Board's Minutes of items already adopted by the Board through the written Notation process (memoranda circulated to the Members sequentially). A list of items ratified at this meeting will be available in the Board's Public Reference Room (Room 710, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428) following the meeting.



V 42 144 JUL 27 77 UMI

Common Carrier—1—Joint Motion by the National Association of Radiotelephone Systems (NARS) and Rogers Radio Communications Services, Inc. to stay the Commission order granting the application of Illinois Bell Telephone Company for authority to construct a developmental cellular system at 10 sites at various locations in the State of Illinois with the control point at 714 Lake Street, Oak Park, Illinois.

Common Carrier—2—Application for Review of Docket 18128—Implementation Procedures—filed by Aeronautical Radio, Inc. and the Air Transport Association of America.

Common Carrier—3—Motion of the Southern California Media Reform Workshop (SCMRW) to proceed in *forma pauperis* in the Computer Inquiry (Docket No. 20828).

Cable Television—1—Amendment of Part 76 of the Rules to add frequency channelling requirements and restrictions and to require monitoring for signal leakage from cable television systems (Docket No. 21006).

Cable Television—2—Application for Certificate of Compliance to add inconsistent Stations WMAR-TV, WBAL-TV, and WJZ-TV all Baltimore, Maryland to proposed cable television operations at Arlington County, Virginia; and oppositions filed by National Broadcasting, Inc., Metromedia, Inc., the Evening Star Broadcasting Company, Post-Newsweek Stations Capital Area, Inc., and by Channel 20, Inc.

Cable Television—3—Petition for Stay filed by Rust Craft Broadcasting Company, licensee of Station WSTV-TV, Steubenville, Ohio of Commission's Order of March 28, 1977, FCC 77-203.

Cable Television—4—Petition for Special Relief and Clarification filed on behalf of Channel 41, Inc. licensee of Station WUHQ-TV, Battle Creek, Michigan for waiver of Section 76.92 of the Commission's Rules.

Aural—1—Request for reconsideration filed by Audrain Broadcasting Corp. (KXEO and KWWR) of Commission action granting without condition application of Montgomery County Broadcasting Corp. (BPH-9844), Montgomery City, Missouri.

Broadcast—1—Notice of proposed rule making to require public notice of intent to sell a broadcast station.

Broadcast—2—Reassignment of television Channel 40 from Riverside (Fontana), California, to Santa Ana, California, and denial of a request to modify the Fontana station's license to specify the new community (Docket No. 20727).

Broadcast—3—A continuation of discussion of licensing standards for FM noncommercial educational stations.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: July 20, 1977. July 22, 1977.

[S-987-77 Filed 7-22-77;3:50 pm]

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6

FEDERAL POWER COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: To be published July 25, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: July 26, 1977, 10:00 a.m.

CHANGE IN THE MEETING: The following items have been added:

*Item No., Docket No., and Company*

P-11—Project No. 785, Consumers Power Company

G-43—C177-119, Cities Service Oil Company.

LOIS D. CASHELL,
*Acting Secretary.*

[S-984-77 Filed 7-22-77;3:50 pm]

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7

FEDERAL RESERVE SYSTEM.

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Monday, August 1, 1977.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Proposed personnel actions at Federal Reserve Banks.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: July 22, 1977.

[S-981-77 Filed 7-22-77;2:27 pm]

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8

POSTAL SERVICE

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5 (as amended, 42 FR 12863)) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 8:00 a.m. on Tuesday, August 2, 1977, in the 9th Floor Conference Room, Regional Headquarters Building, 850 Cherry Avenue, San Bruno, California 94099. The meeting is open to the public. The Board expects to discuss the matters stated in the Agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245-4632.

AGENDA

1. Minutes of the Previous Meeting.
2. Remarks of the Postmaster General.

(In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the occurrence of a recent Congressional hearing, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)

3. Quarterly report on Finance and Service Performance.

(Deputy Postmaster General Bolger will present the Quarterly Summary of Financial and Service Performance.)

4. Report of the Regional Postmaster General.

(Mr. Morris, Regional Postmaster General, will report on postal conditions in the Western Region.)

5. Review of legislative matters.

(Mr. Finch, Assistant Postmaster General, Government Relations, will report on current legislative activities involving the Postal Service.)

6. Capital Investment Project, Scranton, Pennsylvania

(Mr. Maevis, Assistant Postmaster General, Real Estate and Buildings, will present a proposed project for a new General Mail Facility and Vehicle Maintenance Facility at Scranton, Pennsylvania.

7. Capital Investment Project, Fairbanks, Alaska.

(Mr. Maevis will present a proposed project for a new Sectional Center Facility at Fairbanks, Alaska.)

8. Capital Investment Project, Computer Mail Mark-up Units.

(Mr. Dorsey, Senior Assistant Postmaster General, Operations, will present a proposal for the procurement of 480 Computer Mail Mark-up Units.)

9. Review of Public Affairs and Communications Program.

(Mr. Byrne, Assitant Postmaster General (Public and Employee Communications Department), will report on developments in the communications area.)

10. Status of implementation of Public Law 94-421 provision concerning post office closings.

(Mr. Conway, Senior Assistant Postmaster General, Employee and Labor Relations Group, will report on the current status of this matter.)

LOUIS A. COX,
*Secretary.*

[S-982-77 Filed 7-22-77;2:27 pm]

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9

RENEGOTIATION BOARD.

DATE AND TIME: Thursday, July 21, 1977, 10:45 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed.

SUBJECT MATTER:

Lockheed Aircraft Corporation (Consolidated).

Fiscal years ended December 31, 1972, December 28, 1971 and earlier.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel, Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: July 21, 1977.

GOODWIN CHASE,
*Chairman.*

[S-983-77 Filed 7-22-77;2:47 pm]



register

federal

WEDNESDAY, JULY 27, 1977

PART II




# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## Federal Insurance Administration

■

# APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

## Proposed and Final Flood Elevation Determinations for Certain Communities

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Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2838]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for Town of Fairfax, California

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of Fairfax, California. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Fairfax, California.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Fairfax. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Fairfax are available for review at Town Hall, 142 Bolinas Road, Fairfax, California.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Fairfax Creek | School St. and Park Rd. | 115.4 |
| | Spruce Rd. and Arroyo Rd. | 119.3 |
| | Scenic Rd. and Arroyo Rd. | 127.2 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21147 Filed 7-26-77;8:45 am]

[Docket No. FI-2713]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for the City of Greenwood Village, Colorado

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Greenwood Village, Colorado. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Greenwood Village, Colorado.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Greenwood Village. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninty (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Greenwood Village are available for review at 7965 East Prentice Avenue, 42 DTC, Englewood, Colorado.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Big Dry Creek | Littleton Blvd.[1] | 5,418 |
| | Orchard Rd.[2] | |
| Little Dry Creek | University Blvd. | 5,414 |
| | Williamette St. | 5,421 |
| | Long St. | 5,457 |
| Greenwood Gulch | Belleview Ave.[1] | 5,451 |
| | Holly St.[1] | 5,522 |
| | Orchard Rd.[2] | 5,529 |
| Prentice Gulch | Holly St.[2] | 5,516 |
| Goldsmith Gulch | Belleview Ave. | 5,589 |
| | Yosemite St. | 5,611 |
| | Berry Ave. | 5,623 |
| | Orchard Rd.[2] | 5,657 |
| West tributary to Goldsmith Gulch. | do.[2] | 5,656 |

[1] Upstream.
[2] Downstream.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128) and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21148 Filed 7-26-77;8:45 am]

[Docket No. FI-2823]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for Town of Woodbury, Connecticut

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of Woodbury, Connecticut. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).





EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Woodbury, Connecticut.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Woodbury. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Woodbury are available for review at Town Hall, Woodbury, Connecticut.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Pomperaug River | Pomperaug Rd. | 237 |
| | Route 317 | 243 |
| | Judson Ave. | 257 |
| Nonewang River | Route 47 | 201 |
| | Route 6 | 272 |
| | Minortown Rd. (extension). | 346 |
| | Mill Rd. | 371 |
| | Route 6 | 401 |
| | Route 61 | 446 |
| | Pumping Station Rd. | 460 |
| Weekeepeemee River. | Jacks Bridge Rd. | 264 |
| | Route 47 | 284 |
| | Paper Mill Rd. | 328 |
| | Route 132 | 367 |
| | Clobees Trail | 438 |
| Sprain Brook | Route 47 | 302 |
| | Hazel Plain Rd. | 358 |
| | Route 47 | 397 |
| | do. | 416 |
| | Ski Area Rd. | 439 |
| | Route 47 | 461 |
| Hessky Brook | Route 317 | 264 |
| | Transylvania Rd. | 285 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128) and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21149 Filed 7-26-77;8:45 am]

[Docket No. FI-2798]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for City of Algonac, Michigan

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Algonac, Michigan. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Algonac, Michigan.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Algonac. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Algonac are available for review at City Hall, 1410 Saint Clair River Drive, Algonac, Michigan.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| St. Clair River | Ruskin Ave. and Eckfield Dr. | 579 |
| | Worfolk St. and Fassett St. | 579 |
| | Delta St. | 579 |
| | Roselawn Ct. | 579 |
| | Railroad St. and Center Ave. | 579 |
| | Railroad St. and Sherwood. | 579 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128, and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21150 Filed 7-26-77;8:45 am]

(Docket No. FI-2826)

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for City of River Rouge, Michigan

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of River Rouge, Michigan. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of River Rouge, Michigan.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of River Rouge. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the



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Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of River Rouge are available for review at City Hall, 10600 Jefferson West, River Rouge, Michigan.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Detroit River | Belanger Park road area | [illegible] |
| Rouge River | ConRail RR | 577 |
| | Jefferson Ave | [illegible] |
| | D T & I RR | [illegible] |
| Short Cut Canal | do | [illegible] |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21151 Filed 7-26-77;8:45 am]

[Docket No. FI-2799]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for City of Waconia, Minnesota

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Waconia, Minnesota. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Waconia, Minnesota.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 of Toll Free Line, 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Waconia. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Waconia are available for review at 400 South Oak Street, Waconia, Minnesota.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Lake Waconia | Around the Lake Shore. | 963 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21152 Filed 7-26-77;8:45 am]

[Docket No. FI-2827]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for Town of Tunica, Mississippi

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of Tunica, Mississippi. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Tunica, Mississippi.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line, 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Tunica. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Tunica are available for review at Town Hall, Tunica, Mississippi.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Stream 1 | Upstream Harris St. | 192 |
| | Downstream Harris St. | 191 |
| | 2nd South St. West | 191 |
| | Fairyland Ave | 188 |
| Stream 2 | East side of the intersection of 4th North St. and Hospital St. | 190 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77 21153 Filed 7-26-77;8:45 am]





[Docket No. FI-2800]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for City of West Point, Mississippi

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of West Point, Mississippi. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of West Point, Mississippi.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line, 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of West Point. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of West Point are available for review at City Hall, West Point, Mississippi.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| | Meadowbrook Circle | 215 |
| | do.[1] | 215 |
| | do.[2] | 215 |
| | Brame Ave.[1] | 218 |
| | do.[2] | 219 |
| | Warrior Rd. | 224 |
| | Miller St.[1] | 225 |
| | do.[2] | 227 |
| Stream 2 | Hickory Dr.[1] | 223 |
| | do.[2] | 224 |
| | Mississippi State Highway 50.[1] | 225 |
| | do.[2] | 227 |
| | Colony Dr. | 234 |
| Town Creek | Church Hill Rd. | 207 |
| | Alternate U.S. 45 Highway.[1] | 210 |
| | do.[2] | 211 |
| | Mayhem St.[1] | 211 |
| | do.[2] | 212 |
| | Illinois Central Gulf RR.[1] | 213 |
| | do.[2] | 214 |
| | Columbus & Greenville RR. | 215 |
| | West Broad St. | 215 |
| | West Main St.[1] | 217 |
| | do.[2] | 217 |
| | Rugg St. | 221 |
| | West Half Mile St. | 222 |
| | North Division St.[1] | 224 |
| | do.[2] | 225 |
| | Illinois Central Gulf RR. | 226 |

[1] Downstream side.
[2] Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21154 Filed 7-26-77;8:45 am]

[Docket No. FI-2801]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for City of Gladstone, Missouri

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Gladstone, Missouri. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Gladstone, Missouri.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line, 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Gladstone. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Gladstone are available for review at City Hall, 7010 North Holmes, Gladstone, Missouri.

The Final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Shoal Creek | Missouri Highway No. 1 | 830 |
| Mill Creek | Antioch Rd. | 895 |
| | North Garfield Rd. | 910 |
| | North 58th Ter. | 914 |
| | North 60th Ter. | 935 |
| Rock Creek | Indiana Ave. | 858 |
| | Brook Tree Lane | 860 |
| | Antioch Rd. | 877 |
| | Prospect Ave. | 899 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21155 Filed 7-26-77;8:45 am]

[Docket No. FI-2803]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for Village of Murray, Nebraska

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Stream 1 | Illinois Central Gulf RR.[1] | 210 |
| | do.[2] | 214 |
| | Church Hill Rd.[1] | 214 |
| | do.[2] | 215 |



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SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Village of Murray, Nebraska. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Village of Murray, Nebraska.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Village of Murray. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Murray are available for review at Village Hall, Murray, Nebraska.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Tributary to Rock Creek | Campbell St., between Couchit Morrow St | 1130.6 |
| | Missour Pacific RR. | 1141.1 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21156 Filed 7-26-77;8:45 am]

[Docket No. FI-2332]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for Borough of Elmwood Park, New Jersey

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Borough of Elmwood Park, New Jersey. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Borough of Elmwood Park, New Jersey.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washinton, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Borough of Elmwood Park. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Elmwood Park are available for review at Borough Hall, Market Street, Elmwood Park, New Jersey.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Fleischer Brook | Gilbert Ave | 48 |
| | Main Ave | 47 |
| | Van Riper Ave | 43 |
| | Martha Ave | 35 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21157 Filed 7-26-77;8:45 am]

[Docket No. FI-2832]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for City of Beulah, North Dakota

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Beulah, North Dakota. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Beulah, North Dakota.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Beulah. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Beulah are available for review at City Hall, Beulah, North Dakota.

The final 100-year flood elevations for selected locations are:





| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| East tributary, Knife River | Private Bridge | 1,791 |
| | 2d St. North | 1,789 |
| | 1st St. North | 1,781 |
| | Main St | 1,780 |
| | Burlington Northern RR. | 1,778 |
| West tributary, Knife River | North Dakota State Highway 49. | 1,809 |
| | 2d St. North | 1,795 |
| | 1st St. North | 1,792 |
| | 4th Ave. West | 1,791 |
| | Main St | 1,787 |
| | N. P. St | 1,784 |
| | Burlington Northern RR. | 1,780 |
| Knife River | Burlington Northern RR. siding. | 1,782 |
| | North Dakota State Highway 49. | 1,781 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21158 Filed 7-26-77;8:45 am]

[Docket No. FI-2810]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for City of Riverside, North Dakota

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Riverside, North Dakota. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Riverside, North Dakota.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Riverside. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Riverside are available for review at City Hall, 108 West Main Avenue, West Fargo, North Dakota.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Sheyenne River | Burlington Northern RR. | 901 |
| | Northern corporate limits. | 902 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21159 Filed 7-26-77;8:45 am]

[Docket No. FI-2300]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for City of Wausau, Wisconsin

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Wausau, Wisconsin. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Wausau, Wisconsin.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Wausau. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Wausau are available for review at City Hall, 407 Grant Street, Wausau, Wisconsin.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Wisconsin River | East Thomas St | 1,170 |
| | Bridge St | 1,195 |
| Jim Moore Creek | 10th St | 1,209 |
| Eau Claire River | East Kent St | 1,171 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21160 Filed 7-26-77;8:45 am]

[Docket No. FI-2720]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for City of Smyrna, Georgia

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for



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selected locations in the City of Smyrna, Georgia. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Smyrna, Georgia.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Smyrna. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Smyrna are available for review at City Hall, Smyrna, Georgia.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Cooper Lake Creek. | Reed Rd | 872 |
| Laurel Creek | Hickory Circle | 932 |
| | Ashwood Dr | 921 |
| | South Cobb Dr | 891 |
| | Park Bridge | 878 |
| Poplar Creek | New Spring Rd | 1,020 |
| | Pine Crest Circle | 1,008 |
| | Private driveway | 978 |
| | Spring Rd | 951 |
| | Plum Tree Apartments driveway. | 898 |
| | U.S. 41 | 896 |
| Smyrna branch | Bank St | 977 |
| | La Vista Pl | 960 |
| | South Cobb Dr | 941 |
| Theater branch | Cherokee Rd | 967 |
| | Powder Springs St | 950 |
| | Bank St | 945 |
| | South Cobb Dr | 943 |
| | Old Concord Rd | 928 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77–21161 Filed 7–26–77;8:45 am]

[Docket No. FI–2724]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for City of Pembroke Pines, Florida

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected location in the City of Pembroke Pines, Florida. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Pembroke Pines, Florida.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Pembroke Pines. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Pembroke Pines are available for review at City Hall, 10211 Taft Street, Pembroke Pines, Florida.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Floodwater Ponding. | Palm Blvd | 7 |
| | University Dr. north of Hollywood Blvd. | 7 |
| | Hollywood Blvd. west of University Dr. | 7 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 29, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77–21162 Filed 7–26–77;8:45 am]

[Docket No. FI–2704]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for City of Roswell, Georgia

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Roswell, Georgia. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Roswell, Georgia.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Roswell. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas and the final elevations for the City of Roswell are available for review at City Hall, 617 Atlanta Street, Roswell, Georgia.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Chattahoochee River. | Georgia 400 | 865 |
| Willeo Creek | Willeo Rd | 859 |
| | Georgia 120 | 868 |
| | Pine Grove Rd | 914 |
| | Willeo Rd | 902 |
| | Jones Rd | 939 |
| Pine Grove Creek | Pine Grove Rd | 924 |
| | Lake Charles Dr | 967 |
| Pine Grove branch | Pond Dam | 956 |
| Riverside Creek | Azalea Rd | 861 |
| | Georgia 120 | 871 |
| | Coleman Rd | 901 |
| Big Creek | Riverside Rd | 863 |
| | Grimes Bridge Rd | 951 |
| | Hokombe Bridge Rd | 959 |
| | Georgia 400 | 993 |
| Hog Wallow Creek | Oxbo Dr | 946 |
| | Park Rd | 987 |
| | Norcross St | 997 |
| | Charles Pl | 1,008 |
| | U.S. 19 | 1,017 |
| | Alpine Dr | 1,019 |
| Crossville Creek | Crabapple Rd | 1,035 |
| | Roswell Park Rd | 1,042 |
| | Wavetree Rd | 1,056 |
| Crossville branch | Crossville Rd | 1,077 |
| Foe Killer Creek | U.S. 19 | 1,012 |
| | Hembree Rd | 1,018 |
| | Upper Hembree Rd | 1,023 |
| Hughes branch | House Rd. (downstream side). | 1,007 |
| Strickland Creek | Elkins Rd | 1,029 |
| | Old Elkins Rd | 1,032 |
| | Houze Rd | 1,052 |
| | Strickland Rd | 1,066 |
| Tributary | Riverside Rd | 867 |
| | Martin Rd | 900 |
| | Holcombe Bridge Rd | 900 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 29, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77–21163 Filed 7–26–77;8:45 am]





Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Alford are available for review at Town Hall, Great Barrington, Massachusetts.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Green River | Route 71 | 839 |
| Alford Brook | East Rd | 814 |

[Docket No. FI–2546]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for Town of Alford, Massachusetts

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of Alford, Massachusetts. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Alford, Massachusetts.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Alford. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Alford are available for review at Town Hall, Great Barrington, Massachusetts.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Green River | Route 71 | 839 |
| Alford Brook | East Rd | 814 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 29, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77–21164 Filed 7–26–77;8:45 am]

[Docket No. FI–2336]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for Borough of Peapack and Gladstone, New Jersey

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Borough of Peapack and Gladstone, New Jersey. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Borough of Peapack and Gladstone, New Jersey.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Borough of Peapack and Gladstone, New Jersey. This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.



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Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Peapack and Gladstone are available for review at Borough Hall, Prospect Street, Peapack, New Jersey.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| North branch, Raritan River. | Smith Picnic Bridge [1] | 237 |
| | C. V. Smith Bridge [1] | 265 |
| Peapack Brook | Erie-Lackawanna RR.[1] | 177 |
| | Park Avenue Bridge [1] | 218 |
| | Main Street Bridge | 238 |
| Tributary A | U.S. Route 206 [1] | 177 |
| | Holland Ave.[1] | 180 |
| Tributary C | Main Street Bridge | 239 |
| | Brook Hollow Dr. Bridge. | 261 |

[1] Downstream side of road.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 29, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21165 Filed 7-26-77;8:45 am]

[Docket No. FI-2718]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for City of Muscle Shoals, Alabama

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Muscle Shoals, Alabama. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Muscle Shoals, Alabama.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line, 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Muscle Shoals. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Muscle Shoals are available for review at City Hall, Muscle Shoals, Alabama.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Pond Creek | Highway 133 | 515 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 6, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21166 Filed 7-26-77;8:45 am]

[Docket No. FI-2717]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for City of Sheffield, Alabama

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Sheffield, Alabama. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Sheffield, Alabama.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line, 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Sheffield. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Sheffield are available for review at Municipal Building, Sheffield, Alabama.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Tennessee River | 254 mi above mouth | 429 |
| Spring Creek | Pickwick St | 431 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 6, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21167 Filed 7-26-77;8:45 am]

[Docket No. FI-2763]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for Town of Ferriday, Louisiana

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of Ferriday, Louisiana. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Ferriday, Louisiana.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line, 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Ferriday. This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Ferriday are available for review at City Hall, 212 North Second Street, Ferriday, Louisiana.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Bayou Cocodrie | Parish Rd | 56 |
| | U.S. Highway 84 and 65. | 54 |
| Panola Brake tributary No. 1. | U.S. Highway 65 | 59 |
| Panola Brake tributary No. 2. | Woodland Ave | 55 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 6, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21168 Filed 7-26-77;8:45 am]

[Docket No. FI-2710]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for Town of Corte Madera, California

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Town of Corte Madera, California. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Town of Corte Madera, California.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line, 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Corte Madera. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Corte Madera are available for review at Town Hall, Corte Madera, California.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| San Francisco Bay | Intersection of Lucky Rd. and Fifer Ave. | 6 |
| | Northwest Pacific R.R. and High Canal. | 6 |
| | High Canal and Lakeside Dr. | 6 |
| | 580 ft from south end of High Canal and 70 ft east of Pixley Ave. | 6 |
| | Intersection of Tamalpais Dr. and Sausilito St. | 6 |
| | Intersection of Meadowsweet Dr. and Conow St. | 6 |
| | Intersection of Paradise Dr. and Harbor Dr. | 6 |
| | 110 ft north of intersection of Golden Hind Passage and Prince Royal Passage. | 6 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 6, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21169 Filed 7-26-77;8:45 am]

[Docket No. FI-2729]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for City of Hazen, North Dakota

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the City of Hazen, North Dakota. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the City of Hazen, North Dakota.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line, 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.







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SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Hazen. This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Hazen are available for review at City Hall, Hazen, North Dakota.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Antelope Creek | Intersection of 5th St. and 4th Ave. East. | 1,740 |
| | Intersection of 5th St. and 2d Ave. East. | 1,741 |
| | Intersection of 5th St. and Central Ave. | 1,742 |
| | Intersection of 3d St. and Central Ave. | 1,742 |
| | Intersection of 4th St. and Central Ave. | 1,742 |
| | Intersection of 2d Ave. West and 4th St. | 1,743 |
| | Intersection of 2d Ave. West and 3d St. | 1,743 |
| | Intersection of Main St. and 2d Ave. West. | 1,743 |
| | Intersection of Main St. and 4th Ave. West. | 1,744 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 6, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21170 Filed 7-26-77;8:45 am]

[Docket No. FI-2354]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

### Final Flood Elevation Determination for Borough of New Hope, Bucks County, Pennsylvania

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base flood elevations (100-year flood) are listed below for selected locations in the Borough of New Hope, Bucks County, Pennsylvania. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: On publication of the Flood Insurance Rate Map for the Borough of New Hope, Bucks County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line, 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Borough of New Hope, Bucks County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of New Hope, Bucks County, Pennsylvania are available for review at the Bulletin Board at the Borough Hall, 41 North Main Street, New Hope.

The final 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level | Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet) | |
|---|---|---|---|---|
| | | | Left | Right |
| Delaware River | South corporate limits | 67 | (1) | 350 |
| | Dock St. (extended) | 68 | (1) | 200 |
| | U.S. Route 202 | 70 | (1) | 170 |
| | Division St. (extended) | 71 | (1) | 410 |
| | North corporate limits | 72 | (1) | 120 |
| Aquetong Creek | Delaware River Division Channel | 69 | 30 | 70 |
| | New Hope, Ivyland RR | 71 | 20 | 110 |
| | do | 85 | 110 | 60 |
| | West Mechanic St | 86 | 240 | 60 |
| | Sugar Rd | 87 | 30 | 30 |
| | New Hope, Ivyland RR | 88 | 120 | 30 |
| | West corporate limits | 89 | 70 | 20 |

[1] Outside of corporation limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4011-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 6, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21171 Filed 7-26-77;8:45 am]





## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Federal Insurance Administration

[ 24 CFR Part 1917 ]

[Docket No. FI-3173]

### MISSION HILLS, JOHNSON COUNTY, KANSAS

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Mission Hills, Johnson County, Kansas. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Manager's Office, City Hall, 6300 State Line Road, Mission Hills, Kansas.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Carl C. Schliffke, City Manager, City Hall, 6300 State Line Road, Mission Hills, Kansas.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line, 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Mission Hills, Johnson County, Kansas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Rock Creek | Upstream corporate boundary. | 881 |
| Brush Creek | Mission Hill Country Club Rd. | 853 |
| | State Park Rd. | 863 |
| | 63d St. | 890 |
| | Tomahawk Rd. | 910 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968) as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21106 Filed 7-26-77;8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3174]

### SACRAMENTO, CALIFORNIA

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Sacramento, California. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 915 I Street, Sacramento, California.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Phillip Isenberg, City Hall, 915 I Street, Sacramento, California 95814.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line, 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) listed below for selected locations in the City of Sacramento, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed based flood elevations are available for review at City Hall, 915 I Street, Sacramento, California.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Phillip Isenberg, City Hall, 915 I Street, Sacramento, California 95814.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Unionhouse Creek | Wyndham Way | 24 |
| | Frontage Rd. | 24 |
| | Highway 99 and Alternate 5. | 24 |
| | Access road | 24 |
| | Stockton Blvd. | 26 |
| | Center Parkway | 18 |
| | Franklin Blvd. | 15 |
| | Western Pacific RR. | 13 |
| Robla Creek | Sacramento Northern RR. (abandoned). | 39 |
| | Rio Linda Blvd. | 39 |
| | Western Pacific RR. | 35 |
| Natomas West Drainage Canal. | Del Paso Rd. | 12 |
| | El Centro Rd. | 12 |
| | San Juan Rd. | 12 |
| Natomas Main Drainage Canal. | I-880 | 8 |
| | West El Camino Ave. | 8 |
| Natomas East Main Drainage Canal. | Main Ave. | 33 |
| | I-880 | 32 |
| | Silver Eagle Rd. | 32 |
| | El Camino Ave. | 32 |
| | Northgate Ave. | 31 |
| | Discovery Park Entrance Rd. | 29 |
| | I-5 | 29 |
| | Jibboom St. | 29 |



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| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Natomas East Drainage Canal. | Elkhorn Blvd | 12 |
| | Del Paso Rd | 11 |
| | San Juan Rd | 10 |
| | I-5 northbound on ramp. | 10 |
| | I-5 | 10 |
| | I-5 southbound on ramp | 10 |
| Morrison Creek | Central California Traction RR. | 42 |
| | Florin Perkins Rd | 41 |
| | Army depot bridge | 40 |
| | do | 39 |
| | Army Depot Southern Pacific RR. spur. | 37 |
| | Southern Pacific RR | 35 |
| | Power Inn Rd | 30 |
| | 65th Expressway | 27 |
| | Elder Creek Rd | 25 |
| | Stockton Blvd | 24 |
| | Franklin Blvd | 16 |
| | C Parkway | 15 |
| | Meadowview Rd | 15 |
| | Elder Creek | 14 |
| | Western Pacific RR | 13 |
| Magpie Creek | Raley Blvd | 47 |
| Magpie Creek-Diversion. | Vinci Ave | 44 |
| | Dry Creek Rd | 40 |
| Lower Magpie Creek. | Rio Linda Blvd | 32 |
| | Bell Ave | 28 |
| | Jessie Ave | 26 |
| | Norwood Ave | 23 |
| Laguna Creek | Sheldon Rd | 22 |
| | Franklin Blvd | 18 |
| Florin Creek | Florin Perkins Rd | 36 |
| | Center Parkway | 18 |
| | Brookfield Dr | 17 |
| | Franklin Blvd | 16 |
| Elder Creek | Highway 99 and Alternate 5 and Frontage Rd. | 20 |
| | Center Parkway | 18 |
| | Tangerine St | 17 |
| | Franklin Blvd | 16 |
| Dry Creek | Western Pacific RR | 35 |
| Arcade Creek | Auburn Blvd | 69 |
| | Bridge Rd | 65 |
| | I-80 off ramp | 63 |
| | I-80 | 62 |
| | Watt Ave | 62 |
| | Roseville Rd | 47 |
| | Southern Pacific RR | 45 |
| | Verano St | 40 |
| | Del Paso Blvd | 40 |
| | Marysville Blvd | 39 |
| | Footbridge | 34 |
| | Rio Linda Blvd | 33 |
| | Sacramento Northern RR. (abandoned). | 33 |
| | Norwood Ave | 32 |
| | Western Pacific RR | 32 |
| American River | Watt Ave | 46 |
| | Howe Ave | 43 |
| | Guy West footbridge | 41 |
| | H St. gaging station | 39 |
| | I-80 | 35 |
| | Southern Pacific RR | 34 |
| | Western Pacific RR | 32 |
| | Abandoned railroad bridge. | 32 |
| | State Highway 160 | 32 |
| | do | 32 |
| | I-5 | 29 |
| | Jibboom St | 29 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21107 Filed 7-26-77;8:45 am]



[ 24 CFR Part 1917 ]

[Docket No. FI-3175]

## TOWN OF GUILFORD, CONNECTICUT

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Guilford, Connecticut. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Park Street, Guilford, Connecticut.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Edwin D. Bartlett, First Selectman, Town Hall, Park Street, Guilford, Connecticut 06437.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Guilford, Connecticut, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Park Street, Guilford, Connecticut.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Edwin D. Bartlett, First Selectman, Town Hall, Park Street, Guilford, Connecticut 06437.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| West River | Race Hill Rd | 167 |
| | Wood Bridge | 155 |
| | Dam | 154 |
| | Route 77 | 151 |
| | Route 80 | 113 |
| | Flat Meadow Rd | 55 |
| | Dam | 42 |
| | Sawmill Rd | 27 |
| | I-95 Connecticut Turnpike. | 19 |
| | Town Park | 14 |
| | Dam | 12 |
| | York St | 12 |
| | U.S. Route 1 | 12 |
| East River | Dam and walkway below Capello Pond. | 22 |
| | Dirt Dr. to Gravel Pit. | 18 |
| | Dirt Dr | 12 |
| | Bear House Hill Rd | 12 |
| | Clapboard Hill Rd | 12 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21108 Filed 7-26-77;8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3171]

## WASHINGTON COUNTY, MARYLAND

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Washington County, Maryland. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).







DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Washington County Planning Commission, 33 West Washington Street, Hagerstown, Maryland.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Martin L. Snook, President of the Washington County Board of Commissioners, Washington County Courthouse Annex, Summit Avenue, Hagerstown, Maryland 21740.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Washington County, Maryland, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Antietam Creek | Poffenberger Rd | 450 |
| | Interstate Route 70 | 458 |
| | Ridge Rd | 465 |
| | Mount Aetna Rd | 480 |
| | U.S. Route 40 | 481 |
| | State Route 64 | 484 |
| | Old Forge Rd | 506 |
| | Clopper Rd | 513 |
| Conoco Cheagne Creek. | Western Maryland RR. | 277 |
| | Kemp Mill Run | 377 |
| | U.S. Route 40 | 380 |
| Israel Creek, Garretts Mill. | Maryland Route 180 | 257 |
| | U.S. Route 340 | 275 |
| | Chessy system | 292 |
| | Chessy system at State Route 67. | 302 |
| | Valley Rd | 353 |
| | do | 364 |
| | Garretts Mill Rd | 390 |
| | Yarrowsburg Rd | 478 |
| | Chessy system | 487 |
| | Brownsville Rd | 513 |
| | Millbrook Rd | 524 |
| Little Antietam Creek (11). | State Route 67 | 594 |
| Little Tonoloway Creek. | Footbridge | 434 |
| Marsh Run (1) | Downstream Western Maryland RR. | 488 |
| | Upstream Western Maryland RR. | 491 |
| | Old Forge Rd | 502 |
| | Dam | 517 |
| | State Route 60 | 529 |
| | Eden Rd | 570 |
| | Lehmans Mill Rd | 570 |
| Semple Run | Hopewell Rd | 434 |
| Toms Run (1) | Interstate Route 70, southbound exit ramp. | 512 |
| | Interstate Route 70, northbound entrance ramp. | 519 |
| | Mulberry St | 538 |
| | U.S. Route 40 | 549 |
| | Boyd Rd | 568 |
| | Draper Rd | 585 |
| | Upstream limit of study. | 590 |
| Tonoloway Creek | State Route 144 | 431 |
| | Timber Ridge Rd | 431 |
| West branch | Marsh Pike | 575 |
| | Western Maryland RR. Bridge. | 584 |
| | Paradise Church Rd | 591 |
| | Showwalter Rd | 595 |
| Tributary No. 3 | U.S. Route 40 eastbound. | 435 |
| | Creek Rd | 443 |
| | Upstream limit of detailed study. | 510 |
| Tributary No. 29 | Walnut Point Rd | 377 |
| | State Route 63 | 381 |
| | Interstate 70, southbound lane. | 393 |
| Tributary No. 33 | Kemp Mill Rd | 394 |
| | Western Maryland RR. | 399 |
| | State Route 63 | 400 |
| | Hopewell Rd | 418 |
| | Interstate 81, southbound lane. | 422 |
| | U.S. Route 11 | 437 |
| | Interstate 81, east exit ramp. | 445 |
| | Doub Rd | 479 |
| Tributary No. 35 | Interstate 81 | 445 |
| | ConRail railroad spur. | 462 |
| Tributary No. 36 | Interstate 81, westbound lane. | 403 |
| | Downstream ConRail. | 445 |
| | Upstream ConRail | 455 |
| | Upstream limit of study. | 472 |
| Tributary No. 67 | Trovinger Rd | 502 |
| | Western Maryland RR. | 506 |
| | State Route 64 | 510 |
| | State Dirt Rd | 612 |
| Tributary No. 73 | Upstream limit of study. | 624 |
| Tributary No. 74 | Limit of detailed study. | 584 |
| Tributary No. 75 | State Route 60 | 551 |
| | Limit of detailed study. | 570 |
| Tributary No. 76 | Downstream limit of detailed study. | 527 |
| | Northern Ave | 527 |
| | Downstream State Route 60 | 564 |
| | Upstream State Route 60. | 566 |
| | Marsh Pike | 568 |
| | Western Maryland RR. | 586 |
| | Downstream Blue Ridge Rd | 594 |
| | Upstream Blue Ridge Rd. | 596 |
| | Downstream Briarcliffe Rd. | 599 |
| | Upstream Briarcliffe Rd. | 602 |
| | Mount Vernon Rd | 605 |
| | Appletree Dr | 606 |
| Tributary No. 78 | Downstream limit of study. | 473 |
| | Beaver Creek Rd | 497 |
| | Herb Rd | 505 |
| | State Route 40 | 534 |
| | Day Rd | 534 |
| Tributary No. 79 | Herb Rd | 501 |
| | Corporate limits | 511 |
| Tributary No. 102 | Hog Mill Rd | 523 |
| | Upstream limit of study. | 531 |
| Tributary No. 112 | Brownsville Rd | 522 |
| | Upstream limit of detailed study. | 623 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21109 Filed 7-26-77;8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3170]

## COUNTY OF FREDERICK, UNINCORPORATED AREAS, MARYLAND

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the County of Frederick, Unincorporated Areas, Maryland. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Second Floor, West Wing, Winchester Hall, East Church Street, Frederick, Maryland.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. James F. Black, President of the Frederick County



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Council of Governments, 615 East Main Street, Thurmont, Maryland 21788.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the County of Frederick, Unincorporated Areas, Maryland, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Tributary No. 36, Sabillasville, northwest Frederick County. | Harbaugh Valley Rd. | 1,036 |
| | Old Sabillasville Rd. | 1,100 |
| | Sabillasville Rd. | 1,107 |
| | Western Maryland RR. | 1,143 |
| | Fort Ritchie Rd. | 1,155 |
| Tributary No. 38, Sabillasville, northwest Frederick County. | Sabillasville Rd. | 1,107 |
| | Downstream Western Maryland RR. | 1,142 |
| | Upstream Western Maryland RR | 1,149 |
| Tributary No. 40, Emmitsburg, northwest Frederick County. | Confluence with Flat Run. | 395 |
| | Emmitsburg corporate limits. | 399 |
| | do | 407 |
| | Irish Town Rd. | 410 |
| Tributary No. 41, Emmitsburg, northeast Frederick County. | Confluence with Flat Run. | 391 |
| | Route 15 | 436 |
| | Limit of study | 477 |
| Flat Run, Emmitsburg, northeast Frederick County. | Confluence with Toms Creek. | 374 |
| | Route 15 | 385 |
| | Emmitsburg corporate limits. | 387 |
| | Route 97 | 388 |
| | Confluence with tributary A1. | 391 |
| | Route 15 | 394 |
| | Emmitsburg corporate limits and confluence with tributary No. 40. | 395 |
| High Run, Thurmont, north Frederick County. | Confluence with Hunting Creek. | 417 |
| | Abandoned railroad | 424 |
| | Frederick Rd | 506 |
| Tributary No. 74, Thurmont, north Frederick County. | Confluence with Muddy Run. | 469 |
| | Downstream Route 806. | 510 |
| Tributary No. 76, Thurmont, north Frederick County. | Confluence with Hunting Creek. | 362 |
| | Moser Rd | 395 |
| | Thurmont corporate limits. | 407 |
| Fishing Creek, Lewistown, north Frederick County. | Lewistown Rd | 365 |
| | Maryland Route 806 | 377 |
| Little Tuscarora Creek, Indian Springs, west Frederick County | Starhill Dr. | 396 |
| | Route 73 | 419 |
| | Abandoned railroad bridge. | 434 |
| Tributary No. 96, Shookstown, south west Frederick County. | Bowers Rd. | 408 |
| | Lakeview Dr. | 558 |
| | Oakmont Dr. | 580 |
| Tributary No. 99. | Confluence with Monocacy River. | 271 |
| | Gashouse Pike | 271 |
| Tuscarora Creek, Tuscarora, central west Frederick County. | Confluence with Monocacy River. | 279 |
| | Penn Central RR. | 279 |
| | Maryland Route 15 | 280 |
| | Willowbrook Rd. | 294 |
| | Downstream Bloomfield Rd. | 308 |
| Glade Creek, Tuscarora, central west Frederick County. | Confluence with Monocacy River. | 284 |
| | Fountain Rock Rd. | 284 |
| | Biggs Ford Rd. | 289 |
| | Goldsboro Pl. | 292 |
| Tributary No. 102, Libertytown, central east Frederick County. | Confluence with townbranch. | 462 |
| | Confluence with tributary No. 101. | 469 |
| | Mill St. | 469 |
| | South St. | 473 |
| | Maryland Route 26 | 475 |
| | North St. | 476 |
| Tributary No. 106, Unionville, east Frederick County. | Confluence with North Fork. | 419 |
| | Dirt Rd. | 441 |
| | Confluence with tributary No. 107. | 446 |
| | Unionville Rd. | 437 |
| | Maryland Route 26 | 438 |
| Tributary No. 107, Unionville, east Frederick County. | Confluence with tributary No. 106. | 436 |
| | Woodville Rd. | 439 |
| | Unionville Rd. | 441 |
| Rocky Fountain Run, Buckeystown, southwest Frederick County. | Route 85 | 247 |
| | Horsehead Run | 247 |
| | Keller lime plant | 248 |
| | Downstream B. & O. RR. | 256 |
| | Upstream B. & O. RR. | 263 |
| Tributary No. 126, Buckeystown, southwest Frederick County. | Confluence with tributary No. 125. | 262.6 |
| Tributary No. 125, Buckeystown, southwest Frederick County. | Confluence with Horsehead Run. | 254.5 |
| | Downstream B. & O. RR. | 264.5 |
| | Upstream B. & O. RR. | 269 |
| Horsehead Run, Buckeystown, southwest Frederick County. | Confluence with Rocky Fountain Run. | 247 |
| | Downstream Route 80. | 257 |
| | Upstream Route 80. | 259 |
| Tributary No. 124, Buckeystown, southwest Frederick County. | Confluence with Horsehead Run. | 261.1 |
| | Downstream B. & O. RR. | 275.5 |
| | Upstream B. & O. RR. | 276.3 |
| Tributary No. 127, Buckeystown, southwest Frederick County. | Pipe outlet | 245 |
| | Downstream dam | 252 |
| | Upstream dam | 277 |
| Tributary No. 129, Buckeystown, southwest Frederick County. | Old Route 80 | 247 |
| | Downstream Old Route 80. | 274 |
| | Upstream Old Route 80. | 278 |
| Bush Creek, Monrovia, southeast Frederick County. | Route 75 | 100 |
| | Confluence with tributary No. 113. | 101 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21110 Filed 7-26-77;8:45 am]



federal register

WEDNESDAY, JULY 27, 1977

PART III




# HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

■

# HARRY S. TRUMAN SCHOLARSHIP PROGRAM

Provisions for Annual Competition

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Title 45—Public Welfare

CHAPTER XVIII—HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

PART 1801—HARRY S. TRUMAN SCHOLARSHIP PROGRAM

Annual Competition for Truman Scholarships; Final Provisions

AGENCY: Harry S. Truman Scholarship Foundation.

ACTION: Final rule.

SUMMARY: The following are the regulations governing the annual competition for Harry S. Truman Scholarships, as amended by the Board of Trustees of the Harry S. Truman Scholarship Foundation on July 18, 1977. The purpose of these amended regulations is to change certain provisions which in light of the experience of the first year's scholarship competition needed clarification or correction.

EFFECTIVE DATE: August 1, 1977.

ADDRESS: Harry S. Truman Scholarship Foundation, 712 Jackson Place NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT:

Dr. Ralph N. Malvik, 202–395–4831.

SUPPLEMENTARY INFORMATION: The following regulations were adopted by the Board of Trustees of the Harry S. Truman Scholarship Foundation on September 20, 1976 and amended on July 18, 1977.

The Harry S. Truman Memorial Scholarship Act honors the thirty-third President of the United States by creating a perpetual education Scholarship program to help college students prepare for public service careers. The program was established as a living memorial to President Truman because of his high regard for the public trust, his lively exercise of political talents, his broad knowledge and understanding of the American political and economic system, and his strong desire for increased educational opportunities for young people.

The Harry S. Truman Scholarship Foundation is authorized to award Scholarships to persons preparing for a career in public service. The Foundation has defined public service to mean participation in government, with emphasis on administration and management and on potential leadership ability. Careers at all levels and functions of government are specifically included in this definition.

The Foundation will carry out an annual nationwide Scholarship competition for outstanding college students who plan to follow careers in public service. Nominees for Truman Scholarships must specify in their application their interest in pursuing a career in public service and how their educational plans will prepare them for the chosen career goal. They should detail how the planned academic program will prepare for a specific career in government. Courses in history, political science, public administration, economics and finance, and international relations are among the types of studies considered by many educators to be appropriate in this connection. No such list of areas of study can be comprehensive or exhaustive, however, and applicants should feel free to offer other germane fields of study that they believe would help them prepare for a career in government.

The regulations set forth below govern the annual Scholarship competition. They are issued under the authority of the Harry S. Truman Memorial Scholarship Act, Pub. L. 93–642 (20 U.S.C. 2001–2012).

The amendments adopted to these regulations on July 18, 1977 were technical in nature, made to clarify provisions which needed such clarification or correction in light of the first year's scholarship competition.

During the course of the first national competition for Harry S. Truman Scholarships, minor inconsistencies and confusion developed with respect to some provisions of the Foundation's regulations governing the annual competition. These could not be foreseen when the original regulations were issued on September 28, 1976 (41 FR 42666).

The definition of "Junior" in § 1801.4 has been revised to indicate that a person is eligible who will have received credit for more than half of the second year of college, but not more than half of the third year of college prior to the beginning of the year for which eligible. This recognized the increasing variations in pace with which college students pursue their academic careers, rather than the "lock-step" approach so common in the past.

A change to the definition of "Resident" in § 1801.4 was made in order to clarify the standards by which a determination of residency is made. The revised language includes the following criteria: parents' place of residence, eligibility for "in-State" tuition rates at public institutions of higher education, and place of registration to vote.

Section 1801.11(b) and 1801.15 were amended to give a more detailed explanation of the role of each college's Faculty Representative for the Truman Scholarship Program. It is the responsibility of this person to serve in a liaison capacity between the institution of higher education and the Foundation by publicizing the Truman Scholarship Program on campus, soliciting recommendations of potential nominees from members of the faculty, and insuring that the institution's nomination is properly forwarded to the Foundation by the required deadline. The effectiveness of the Faculty Representative is vital to the success of the Truman Scholarship Program.

The original § 1801.12 sought to define the universe of higher education institutions that were eligible to participate in the Truman Scholarship Program—particularly institutions that have more than one campus—on the basis of classifications originally developed by the Federal Interagency Committee on Education (FICE). During the course of the 1977 competition it became clear that trying to define the universe of higher education institutions in terms of whether each institution or component has been assigned an identification number (the FICE code) by the Federal Interagency Committee on Education was not feasible. In fact, it resulted in the inclusion in some cases of institutions that were not otherwise eligible under the Foundation's enabling legislation, such as institutions that are organized as profit making. Accordingly, § 1801.12 was amended to define the universe in a manner consistent with the annual national census of colleges and universities, the Higher Education General Information Survey (HEGIS), conducted in cooperation with all institutions. This information is published by the U.S. Department of Health, Education, and Welfare. This listing of the higher education universe is used by many other Federal agencies, including the Veterans Administration and the National Science Foundation. The new section excludes from eligibility those components of an institution that are organized solely for administrative purposes and have no students enrolled.

Another change corrects a typographical error in the Code of Federal Regulations which identified the heading for § 1801.17 as 1087.17.

New § 1801.17(c)(1) requires as supporting documentation to each nomination an essay of 600 words or less, written by the student, that discusses a particular public policy issue of interest to the student. The purpose of this requirement is to provide to those reviewing each nomination some indication of the nominee's interest in matters of public policy, the depth of the candidate's understanding of complex issues, and the student analytical capabilities. Conforming changes were made by (1) moving former §1801.17(c)(1)—with some slight editorial changes in language—and redesignating it as § 1801.17(b)(6), and (2) renumbering paragraph (b)(6) as paragraph (b)(7).

The purpose of new § 1801.23(c) was to recognize that an important part of the interview by the Regional Review Panel is the panel's assessment of each semi-finalist's potential for leadership in government. A conforming change was required in § 1801.23(b).

Revised § 1801.50 gives more information on the structure of the program—as approved by the Foundation's Board of Trustees—as one for a period not to exceed a total of four academic years, beginning at the junior level, continuing into the senior year and extending for not more than two academic years of graduate study, in accordance with the regulations established by the Foundation's Board of Trustees and subject to an annual review by the Foundation.

It is the intent of the Harry S. Truman Scholarship Foundation to issue further amendments to these regulations as additional experience is gained in the operation of the Truman Scholarship Program.





Effective date: These regulations are adopted effective October 1, 1976, and amended effective August 1, 1977.

Dated: July 22, 1977.

ROBERT E. CLEARY,
*Executive Secretary, Harry S. Truman Scholarship Foundation.*

Title 45 of the Code of Federal Regulations is amended by establishing a new Chapter XVIII to read as set forth above and adding a new Part 1801, to read as follows:

Subpart A—General

Sec.
1801.1 Annual Truman Scholarship competition.
1801.2 Truman Scholars are selected from each State.
1801.3 Students eligible for nomination.
1801.4 Definitions.

Subpart B—Nomination

1801.10 Nomination by institution of higher education.
1801.11 Annual nomination.
1801.12 Institutions with more than one campus.
1801.13 Two-year institutions.
1801.14 Submission of application to the Foundation.
1801.15 Faculty representative.
1801.16 Closing date for receipt of nominations.
1801.17 Contents of application.
1801.18 Harry S. Truman Scholarship Qualifying Test.

Subpart C—The Competition

1801.20 Selection of semi-finalists.
1801.21 Evaluation criteria.
1801.22 Interview of student with regional review panel.
1801.23 Recommendation by panel.
1801.24 Further recommendations or nominations.
1801.25 Selection of Truman Scholars by the Foundation.

Subpart D—Amount of Payments to Students

1801.30 Travel expenses of semi-finalists.
1801.31 Scholarship awards.
1801.32 Definition of "fee".
1801.33 Allowance for books.
1801.34 Allowance for room and board.
1801.35 Deduction for benefits from other sources.

Subpart E—Payment Conditions and Procedures

1801.40 Acceptance of the scholarship.
1801.41 Report at the beginning of each term.
1801.42 Definition of "term".
1801.43 Payment schedule.
1801.44 Postponement of payment.

Subpart F—Duration of Scholarship

1801.50 Renewal of scholarship.
1801.51 Termination of scholarship.
1801.52 Recovery of scholarship funds.

AUTHORITY: Pub. L. 93–642, 88 Stat. 2276 (20 U.S.C. 2001–2012).

## Subpart A—General

### § 1801.1 Annual Truman Scholarship competition.

Each year, the Harry S. Truman Scholarship Foundation carries out a Nationwide competition to select students to be Truman Scholars.

### § 1801.2 Truman Scholars are selected from each State.

(a) At least one Truman Scholar is selected each year from each State in which there is a resident applicant who meets the eligibility criteria in § 1801.3.

(b) As used in this part, "State" means each of the States, the District of Columbia, the Commonwealth of Puerto Rico, and considered as a single entity: Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

### § 1801.3 Students eligible for nomination.

A student is eligible to be nominated as a Truman Scholar if he or she:

(a) Is a matriculated student pursuing a degree at an institution of higher education during the year in which nominated;

(b) Will be a junior pursuing a bachelor's degree as a full-time student at an institution of higher education the following academic year;

(c) Has an undergraduate field of study that permits admission to a graduate program leading to a career in public service;

(d) Has an undergraduate average of at least "B" or its equivalent and ranks in the upper fourth of his or her class; and

(e) Is a national of the United States, or is in the United States for other than a temporary purpose and intends to become a permanent resident, or is a permanent resident of the Trust Territory of the Pacific Islands.

### § 1801.4 Definitions.

As used in this part:

"Academic year" means the period of time, typically 8 or 9 months, in which a full-time student would normally complete two semesters, two trimesters, three quarters, or the equivalent.

"Foundation" means the Harry S. Truman Scholarship Foundation.

"Full-time student" means a student who is carrying a sufficient number of credit hours or their equivalent to secure the degree or certificate toward which he or she is working, in no more than the length of time normally taken at the institution of higher education.

"Institution of higher education" has the meaning given in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"Junior" means a student who has received credit for more than one-half of the coursework required to complete the second year of college, but not more than one-half of the coursework required to complete the third year of college.

"President" means the principal official responsible for the overall direction of the operations of an institution of higher education.

"Public service" means a career at any level or in any function of government.

"Resident" means a person who has legal residence in the State, recognized under State law. If a question arises concerning the State of residence, the Foundation determines, for the purposes of this program, of which State the person is a resident, taking into account parents' place of residence, eligibility for "in-State" tuition rates at public institutions of higher education, and place of registration to vote.

"Sophomore" means the academic level recognized by the institution of higher education as having second year standing.

## Subpart B—Nomination

### § 1801.10 Nomination by institution of higher education.

To be considered in the competition, a student must be nominated by the institution of higher education that he or she attends.

### § 1801.11 Annual nomination.

(a) Except as provided in §§ 1801.12 and 1081.13, each institution of higher education may nominate one student annually.

(b) The nomination must be made by the President of the institution or the designated Faculty Representative, after the President asks for and considers recommendations by the faculty.

### § 1801.12 Institutions with more than one campus.

If an institution of higher education has more than one component separately listed in the current edition of the publication Education Directory: Colleges and Universities (published by the U.S. Department of Health, Education, and Welfare), each component of the institution may nominate one student. However, a component that is organized solely for administrative purposes and has no students enrolled may not nominate a student.

### § 1801.13 Two-year institutions.

If an institution of higher education does not offer education beyond the sophmore level, the institution may nominate only a student who will be a junior the following year at another institution of higher education.

### § 1801.14 Submission of application to the Foundation.

To nominate a student for the competition, the institution of higher education must send the student's application to the Foundation.

### § 1801.15 Faculty representative.

(a) Each institution which nominates a student or which has a Truman Scholar in attendance must give the Foundation the name, business address, and business telephone number of a member of the faculty who will serve as liaison between the institution and the Foundation.

(b) It is the role of this Faculty Representative to publicize the Truman Scholarship Program on campus, solicit recommendations of potential nominees from members of the faculty, and insure that the institution's nomination, with all required supporting documents, is forwarded to the Foundation by the required deadline.

### § 1801.16 Closing date for receipt of nominations.

The Foundation publishes an annual notice in the FEDERAL REGISTER of the



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date by which institutions of higher education must submit their nominations and all supporting documents in order to be guaranteed consideration by the Foundation.

**§ 1801.17 Contents application.**

(a) The Foundation provides a form that must be used as the application.

(b) Each application must include the following:

(1) A statement that the student is an applicant for a Truman Scholarship;

(2) A statement that the student plans to pursue a career in public service;

(3) A list of the student's public service activities, such as those associated with government agencies, community groups, political campaigns, and charities;

(4) A list of leadership positions the student has held during high school and during the first two years of undergraduate school;

(5) A statement that the student is willing to participate in an internship or seminar sponsored by the Foundation; and

(6) A statement of interest in a career in government, written by the student, that shows in some detail how the student's academic program and overall educational plans will prepare him or her for that chosen career;

(7) Examination papers of the Harry S. Truman Scholarship Qualifying Test completed by the student as provided under § 1801.18.

(c) In support of each nomination the following documents must also be submitted:

(1) An essay of 600 words or less written by the student that analyzes a particular public policy issue of interest to the student.

(2) Transcripts of the student's high school and undergraduate scholastic record; and

(3) Three letters of recommendation. One of these letters must be written by a faculty member in the student's field of study, and one must be written by another person who can speak to the student's potential for a career in public service.

**§ 1801.18 Harry S. Truman Scholarship Qualifying Test.**

(a) The Foundation provides the Harry S. Truman Scholarship Qualifying Test to each institution which nominates a student.

(b) The institution must administer the test in accordance with the instructions that accompany the test.

### Subpart C—The Competition

**§ 1801.20 Selection of semi-finalists.**

The Foundation selects semi-finalists from the students who are nominated.

**§ 1801.21 Evaluation criteria.**

(a) The Foundation first selects the students from each State who receive the highest scores on the Harry S. Truman Scholarship Qualifying Test.

(b) The Foundation then selects semi-finalists from the students selected under paragraph (a) of this section on the basis of the following criteria:

(1) The extent to which the student has shown an outstanding potential for leadership in the public service; and

(2) The student's academic performance.

(c) The Foundation evaluates each student solely on the basis of the information required under § 1801.17.

**§ 1801.22 Interview of student with regional review panel.**

The Foundation invites each semi-finalist to an interview with a Regional Review Panel.

**§ 1801.23 Recommendation by panel.**

(a) Each Regional Review Panel recommends two finalists from each State to the Foundation.

(b) The two finalists must be recommended by the Panel in the order of their qualification to be a Truman Scholar.

(c) The recommendations are based on the material required under Section 1801.17 and, as determined in the interview, the panel's assessment of each semifinalist's potential for leadership in government.

**§ 1801.24 Further recommendations or nominations.**

(a) The Foundation may ask a Regional Review Panel to submit the names of additional finalists for consideration, or may ask institutions of higher education to submit additional nominations.

(b) If additional nominations are made under paragraph (a) of this section, the applications must meet the requirements of Subpart B of this part, and are considered under the procedures of this subpart.

**§ 1801.25 Selection of Truman Scholars by the Foundation.**

(a) The Foundation names Truman Scholars after receiving recommendations from the Regional Review Panels.

(b) The Foundation also names an alternate for each Truman Scholar. The alternate receives the scholarship if:

(1) The person named as a Truman Scholar is not able to begin studies at the start of the following academic year, and

(2) Payments are not postponed under § 1801.44.

### Subpart D—Amount of Payments to Students

**§ 1801.30 Travel expenses of semi-finalists.**

(a) Each semi-finalist may receive reimbursement for the actual and necessary expenses of round trip transportation to the location of the Regional Review Panel.

(b) The Foundation uses the Federal Travel Regulations (referenced in 41 CFR 101–7.003) as a guide to determine the amount of the reimbursement.

(c) The foundation informs semi-finalists of the procedures for obtaining this reimbursement.

**§ 1801.31 Scholarship awards.**

Each Truman Scholar receives annually $5000 or the cost of tuition, fees, books, and room and board, whichever is less.

**§ 1801.32 Definition of "fee".**

As used in this part, "fee" means a typical and usual non-refundable charge by the institution of higher education for a service, a privilege, or the use of property.

**§ 1801.33 Allowance for books.**

The cost allowed for a student's books is $180 per year.

**§ 1801.34 Allowance for room and board.**

The cost allowed for a student's room and board is the amount the institution of higher education reports to the College Scholarship Service as the average cost of room and board for the student's institution, given the type of housing the student occupies.

**§ 1801.35 Deduction for benefits from other sources.**

(a) The cost allowed for a student's tuition, fees, books, and room and board must be reduced to the extent that the cost is paid for by another organization.

(b) This section does not apply to benefits the student receives from the Veterans Administration.

### Subpart E—Payment Conditions and Procedures

**§ 1801.40 Acceptance of the scholarship.**

To receive any payment, a Truman Scholar must sign an acceptance of the scholarship and submit it to the Foundation.

**§ 1801.41 Report at the beginning of each term.**

The Truman Scholar must submit the following material to the Foundation at the beginning of each term:

(a) A statement of the student's costs for tuition, fees, books, and room and board.

(b) A certification by an authorized official of the institution that the statement of those costs is accurate.

(c) A certification of the amounts of those costs that are paid for by another organization.

(d) A certification by an authorized official of the institution that the Truman Scholar:

(1) Is a full-time student and is taking a course of study, training, or other educational activities to prepare for a career in public service; and

(2) Is not engaged in gainful employment that interferes with the Scholar's studies.

(e) A certification by an authorized official of the institution of whether the Truman Scholar is in academic good standing.

(f) A certification by an authorized official of the institution that the institution makes continuing efforts to encourage the Truman Scholar to enter public service after completing his or her educational program.





**§ 1801.42 Definition of "term".**

As used in this part, "term" means the period which the institution of higher education uses to divide its academic year: Semester, trimester, or quarter.

**§ 1801.43 Payment schedule.**

The Foundation will pay the Truman Scholar a portion of the award after each report submitted under § 1801.41.

**§ 1801.44 Postponement of payment.**

(a) A Truman Scholar may request the Foundation to postpone one or more payments because of sickness or other circumstances.

(b) If the Foundation grants a postponement, it may impose such conditions as it decides are necessary.

### Subpart F—Duration of Scholarship

**§ 1801.50 Renewal of scholarship.**

It is the intent of the Foundation to renew scholarship awards for a period not to exceed a total or four academic years (consisting of the junior year, the senior year, and up to two academic years of graduate study), only in accordance with the regulations established by its Board of Trustees, and subject to an annual review for compliance with these requirements in this part.

**§ 1801.51 Termination of scholarship.**

(a) The Foundation may terminate a scholarship under the following specific conditions:

(1) If the Truman Scholar does not meet the criteria in § 1801.41(e) for two consecutive terms, or

(2) If the Truman Scholar does not meet the criteria in § 1801.41(d) or § 1801.3(e).

(b) Before it terminates a scholarship under these conditions the Foundation gives the student notice and an opportunity to be heard with respect to the grounds for termination.

**§ 1801.52 Recovery of scholarship funds.**

If a scholarship is terminated or if the student resigns a scholarship, all scholarship funds which have not been spent or which the student may recover must be returned to the Foundation.

[FR Doc.77 21573 Filed 7-26 77:8:45 am]



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federal register

WEDNESDAY, JULY 27, 1977
PART IV




# INTERSTATE COMMERCE COMMISSION

■

## ABANDONMENT OF RAILROAD SERVICES

System Diagram Maps of Various Railroad Companies

V 42 1 44
JUL 27 77
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## INTERSTATE COMMERCE COMMISSION

[AB 174 (SDM)]

### CENTRAL VERMONT RAILWAY, INC.

**System Diagram Map**

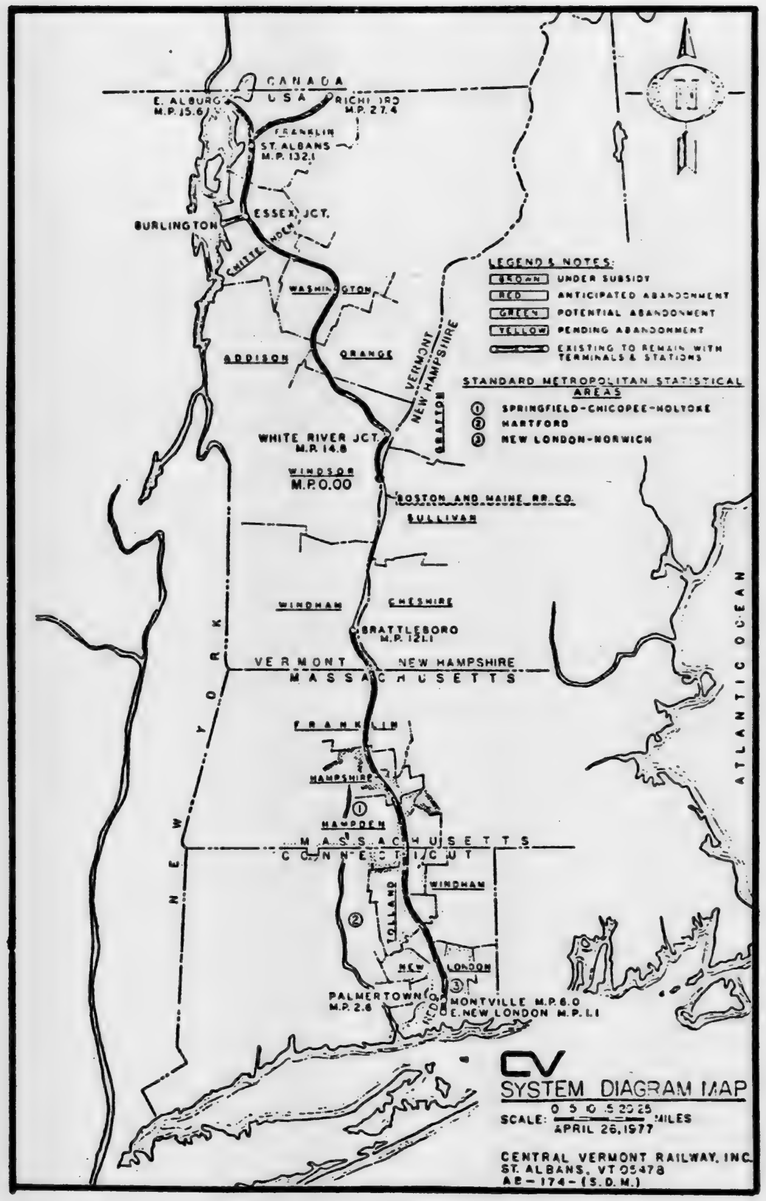
Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Central Vermont Railway, Inc., has filed with the Commission its color-coded system diagram map in docket No. AB 174 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on May 23, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 174 (SDM).

H. G. Homme, Jr.,
*Acting Secretary.*










V 42 144 JUL 27 77 UMI

§ 1121.21 DESCRIPTION OF LINE

SDM CATEGORY (1)

(a) *Carriers designation:* Palmertown Spur.*

(b) *State or States in which line is located:* Connecticut.*

(c) *County or counties in which the line is located:* New London.*

(d) *Mileposts delineating the line:* From MP–0 to 2.6.*

(e) *Agency or Terminal Stations located on the line with milepost designation.*

AB–174 (SDM)

MAY 2, 1977.

[FR Doc.77–21351 Filed 7–26–77;8:45 am]

*The line terminates in Township of Montville. The line is serviced by the Agency at New London.

[AB 111 (SDM)]

## DETROIT, TOLEDO & IRONTON RAILROAD CO.

### System Diagram Map

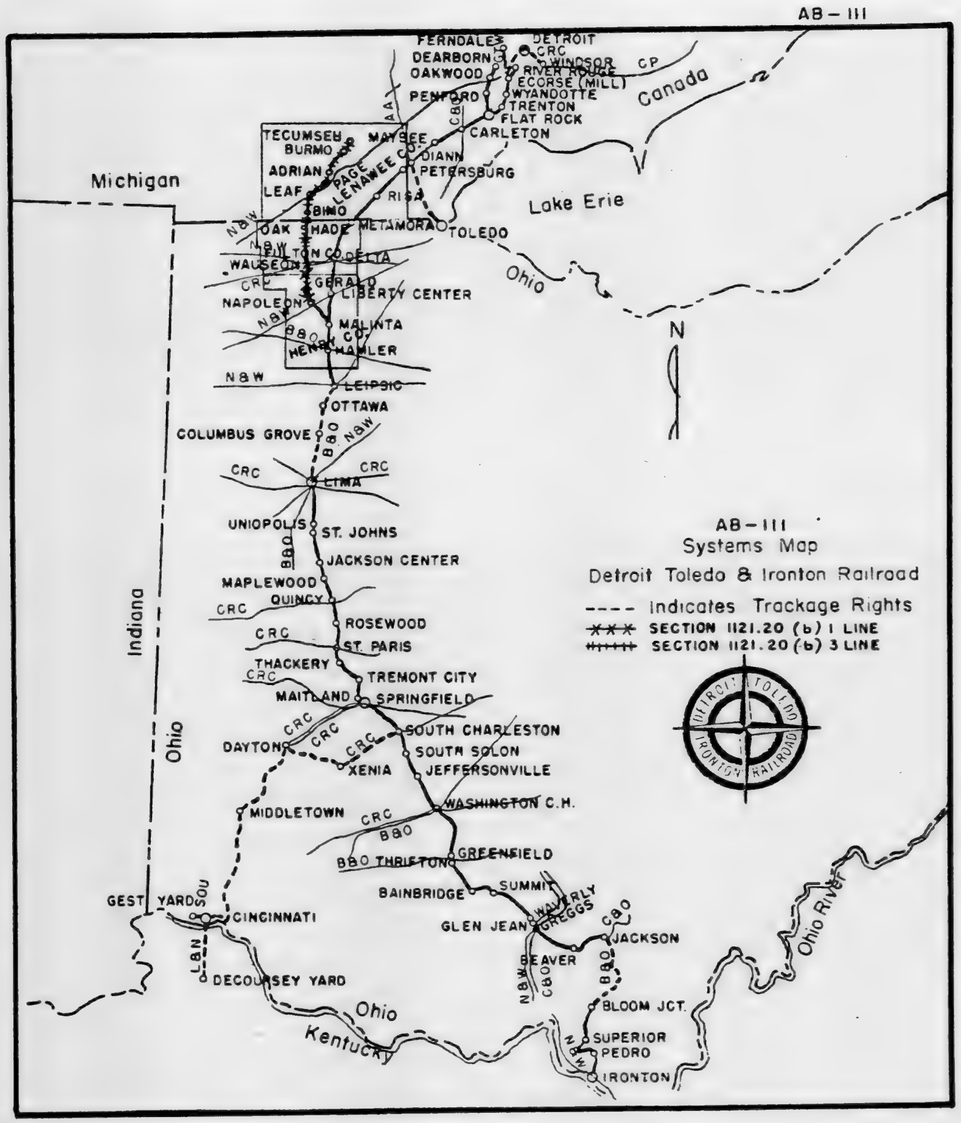
Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Detroit, Toledo & Ironton Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 111 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on July 11, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 111 (SDM).

H. G. HOMME, JR.,
*Acting Secretary.*








[FR Doc.77–21352 Filed 7–26–77;8:45 am]



V 42 144
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[AB 31 (SDM)]

## GRAND TRUNK WESTERN RAILROAD CO.

### System Diagram Map

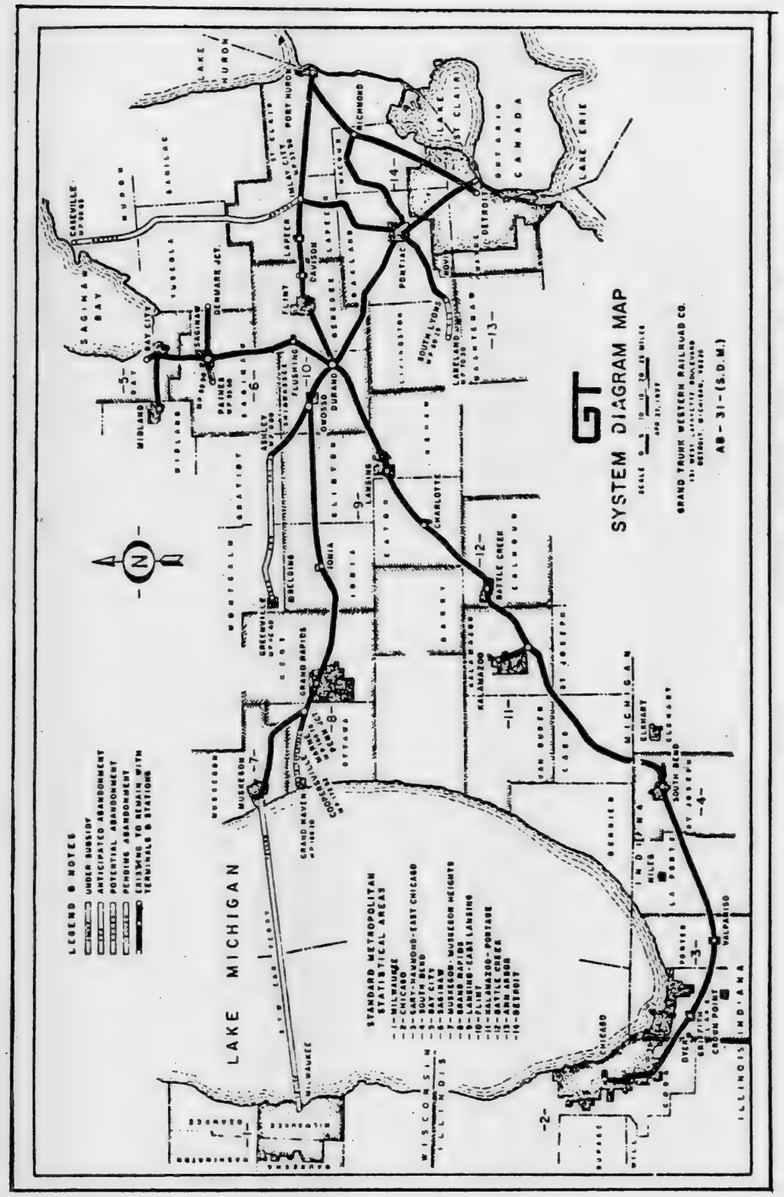
Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Grand Trunk Western Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 31 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on July 5, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 31 (SDM).

H. G. Homme, Jr.,
*Acting Secretary.*










V 42 144 JUL 27 77 UMI

§ 1121.21 DESCRIPTION OF LINE

SDM CATEGORY (3)

(a) *Carriers designation:* Grand Rapids Subdivision.[1]
(b) *State or States in which line is located:* Michigan.[1]
(c) *County or counties in which the line is located:* Ottawa.[1]
(d) *Mileposts delineating the line:* From MP–172.92 to 188.20.[1]
(e) *Agency or Terminal Stations located on the line with milepost designation.*

AB–31 (SDM)

MAY 1, 1977.

SDM CATEGORY (1)

(a) *Carriers designation:* Grand Rapids Subdivision.[2]
(b) *State or States in which line is located:* Michigan.[2]
(c) *County or counties in which the line is located:* Ottawa.[2]
(d) *Mileposts delineating the line:* From MP–166.78 to MP–172.92.[2]
(e) *Agency or terminal stations located on the line with milepost designation.*

AB–31 (SDM)

MAY 1, 1977.

SDM CATEGORY (1)

(a) *Carriers designation:* Greenville Subdivision.[3]
(b) *State or States in which line is located:* Michigan.[3]
(c) *County or counties in which the line is located:* Gratiot, Montcalm.[3]
(d) *Mileposts delineating the line:* From MP–0.00 to MP–40.40.[3]
(e) *Agency or terminal stations located on the line with milepost designation.*

Perrinton—MP–10.50, Middleton—MP–12.00, Carson City—MP–18.90.

AB–31 (SDM)

MAY 1, 1977.

SDM CATEGORY (3)

(a) *Carriers designation:* Cass City subdivision.[4]
(b) *State or States in which line is located:* Michigan.[4]
(c) *County or counties in which the line is located:* Lapeer, Tuscola, Huron.[4]
(d) *Mileposts delineating the line:* From MP–33.36 to MP–99.63.[4]
(e) *Agency or terminal stations located on the line with milepost designation.*

AB–31 (SDM)

MAY 1, 1977.

SDM CATEGORY (3)

(a) *Carriers designation:* GTW Carferry (Crossing Lake Michigan).[5]
(b) *State or States in which line is located:* Michigan, Wisconsin.[5]
(c) *County or counties in which the line is located:* Muskegon (Mich.), Milwaukee (Wisc.).[5]
(d) *Mileposts delineating the line:* Traversing the waters of Lake Michigan, approximately a distance of 88.3 miles.[5]
(e) *Agency or terminal stations located on the line with milepost designation.*

AB–31 (SDM)

MAY 1, 1977.

SDM CATEGORY (1)

(a) *Carriers designation:* Jackson Subdivision.[6]
(b) *State or states in which line is located:* Michigan.[6]
(c) *County or counties in which the line is located:* Oakland, Livingston.[6]
(d) *Mileposts delineating the line:* From MP–60.29 to 70.30.[6]
(e) *Agency or Terminal Stations located on the line with milepost designation.*

AB–31 (SDM)

MAY 1, 1977.

SDM CATEGORY (1)

(a) *Carriers designation:* Paines Spur.[7]
(b) *State or states in which line is located:* Michigan.[7]
(c) *County or counties in which the line is located:* Saginaw.[7]
(d) *Mileposts delineating the line:* From MP–98.90 (near Saginaw) to MP–95.60.[7]
(e) *Agency or terminal stations located on the line with milepost designation.*

AB–31 (SDM)

MAY 1, 1977.

[FR Doc.77–21353 Filed 7–26–77;8:45 am]

[1] The line terminates at Grand Haven MP–188.20. The line is serviced by the Agency at Coopersville MP–172.60.

[2] The line terminates at Coopersville MP–172.92. This line is serviced by the Agency at Coopersville MP–172.60.

[3] The line terminates at Greenville MP–40.40. The line is serviced by the Agencies at Greenville MP–40.40 and Sheridan MP–30.70. This line is also Partially covered by a mobile Agency headquartered at Durand. The stations affected are:

[4] The line terminates at Caseville MP–99.63. All stations on this line are serviced by the Agency at Flint. Those stations affected are: North Branch—MP–48.60, Clifford—MP–54.70, Cass City—MP–74.40, Gagetown—MP–80.00, Pigeon—MP–91.80, Caseville—MP–99.40.

[5] The Carferry is served by the Agencies at Milwaukee, Wis., and Muskegon, Mich.

[6] The line terminates at Lakeland MP–70.30. The line is serviced by the Agency at Walled Lake which is located east of South Lyon.

[7] This line terminates at Paines MP–95.60. This line is serviced by the Agency at Saginaw.



federal register

WEDNESDAY, JULY 27, 1977

PART V




# SECURITIES AND EXCHANGE COMMISSION

## INVESTMENT ADVISORS AND COMPANIES

### Miscellaneous Amendments

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## SECURITIES AND EXCHANGE COMMISSION

**[ 17 CFR Part 275 ]**

[Release No. IA-601; S7-712]

### INVESTMENT ADVISER DISCLOSURE AND RECORDKEEPING REQUIREMENTS

**Solicitation of Public Comments**

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The purpose of this document is to solicit public comments on proposed rules under the Investment Advisers Act of 1940 ("Act") which would require registered investment advisers to furnish their clients and prospective clients with written disclosure statements containing certain specified information, and to maintain a copy of such written statements as part of their books and records. In the absence of such a requirement, clients and prospective clients of registered investment advisers may not receive certain information which would assist them in evaluating and comparing advisory firms.

DATE: Comments must be received on or before September 30, 1977.

ADDRESSES: Interested persons should submit their views and comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All submissions will be made available for public inspection at the Commission's Public Reference Section, Room 6101, 1100 L Street N.W., Washington, D.C. 20005 and should refer to File No. S7-712.

FOR FURTHER INFORMATION CONTACT:

Michael Berenson, Esq., Office of the Chief Counsel, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-376-8056.

SUPPLEMENTARY INFORMATION: On March 5, 1975, the Commission issued a notice (Investment Advisers Act Release No. 442) (40 FR 11897, March 14, 1975) that it had under consideration the adoption of new Rule 206(4)-4 (17 CFR 275.206(4)-4) ("brochure rule") and new paragraph (14) of Rule 204-2(a) (17 CFR 275.204-2(a)(14)) under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) ("Act"). The Commission has considered the public comments received in response to that notice, has made certain modifications of the rules and now believes that it is appropriate to resolicit public comments on the brochure rule which is designed to ensure that investment advisers provide certain key information to clients and prospective clients to assist them in evaluating and comparing advisory firms. The proposed rule, which was originally published for comment as Rule 206(4)-4, has been reproposed pursuant to Section 204 (15 U.S.C. 80b-4) and section 206 (15 U.S.C. 80b-6) and is now designated Rule 204-4 (17 CFR 275.204-4).

In general, the rule is similar to that proposed for comment; the significant differences are that the new rule would apply only to those advisers registered or required to be registered, that it would require a current balance sheet to be included in the disclosure and that advisers could satisfy the rule by delivering their Form ADV (17 CFR 279.1) (as amended) rather than a special disclosure statement. This latter change is being proposed in conjunction with proposed revisions of the Form ADV (Investment Advisers Act Release No. 602) intended to make that document more informative. It is primarily because of this change that the "brochure rule" is being reproposed for comment rather than adopted at this time.

The Commission anticipates that the written statements required by the rule may be used by investment advisers as part of their advertising. In fact, the disclosure statements are "advertisements" as that term is used in Rule 206(4)-1 (17 CFR 275.206(4)-1) under the Act and therefore are subject to the provisions of that rule. The rule, as reproposed, does not contain a general antifraud provision of the type in the original rule since it appears to be unnecessary to prohibit in the rule conduct which is already proscribed by Rule 206(4)-1. The rule is intended to set forth those disclosures which all written statements must include. Of course, there will be many cases where special disclosure is required by the antifraud rules, depending on the facts. Compliance with the brochure rule would not necessarily be compliance with the antifraud provisions.

In addition, investment advisers are encouraged to include any additional information which they believe will assist clients and prospective clients in understanding and evaluating the material contained in the written statement. For example, an investment adviser might wish to supplement the maximum accounts per account manager information required by paragraph (e)(2)(ii) of Rule 204-4 to indicate, among other things, the amount of computerization in the advisory process or the role individuals other than account managers play in the process. However, if such supplementary information becomes materially inaccurate, Section 206 and Rule 206(4)-1 thereunder would prohibit the investment adviser from continuing to distribute a brochure containing such information. Moreover, the investment adviser may have an obligation under Section 206 to bring such material inaccuracies to the attention of those clients who received a brochure containing such inaccuracies.

#### General Provision of the Rule

Paragraph (a) of Rule 204-4 set forth the general requirement that an investment adviser registered under the Act or required to be registered must furnish each of its clients and prospective clients with a disclosure statement complying with the rule, unless it is entitled to one of the exemptions in paragraph (g) of the rule. Paragraph (a) also states that an investment adviser, in lieu of a specially prepared written statement, may deliver a copy of the Act's registration form, Form ADV, which complies with Rule 204-1(b) (17 CFR 275.204-1(b)) under the Act. Allowing investment advisers to use their Form ADV as their disclosure statement should afford investment advisers an opportunity to reduce significantly the cost of complying with the rule. Investment advisers would be able to duplicate and distribute an existing document rather than being required to prepare a disclosure statement specifically designed to meet the rule's requirements. Since the Commission's proposed revisions of Form ADV will expand the scope of Form ADV so that it will include all the information which would be required by the rule, clients and prospective clients of investment advisers who elect to furnish a copy of their Form ADV should have the same information at their disposal as clients and prospective clients of investment advisers who prepare a separate document specifically written to comply with the rule. The Commission is particularly interested in public comments on the advisability of permitting investment advisers to use their Form ADV as their written disclosure statement.

#### Time of Delivery Requirements

Paragraph (b) of the rule requires that investment advisers furnish a written disclosure statement to every client and prospective client not less than 48 hours prior to entering into any investment advisory contract with such person. The 48 hour period is designed to afford clients and prospective clients an opportunity to consider carefully the disclosures contained in the written statements. The requirement of the rule as first proposed that disclosure statements be furnished each time an investment advisory contract is extended or renewed has been eliminated; this should be unnecessary in light of the new requirement to notify clients or prospective clients of material changes in the statement delivered.

In order to provide full disclosure to existing clients at the time the rule becomes effective, paragraph (b) would require all investment advisers to furnish a written statement to all clients with whom an investment advisory contract is in effect on the effective date of the rule.

Paragraph (b)(2) of the rule provides investment advisers with an exemption from the 48 hour prior delivery requirement under certain conditions. This exemption, which does not apply to contracts for investment supervisory services or account management services, is designed for those investment advisers who provide periodic publications or reports on a subscription basis. The 48 hour prior delivery requirement would unnecessarily disrupt the normal marketing procedure for such services. Thus, the adviser may furnish written statements to clients purchasing such services not later than 30 days after the client has entered into the investment advisory contract, provided that the client is able to rescind the advisory contract without penalty within five business days after the client has received the written statement.

The investment advisory contract which triggers the requirement to furnish a written disclosure statement need not be formal or in writing. Any arrangement or understanding pursuant to which investment advice is to be furnished for compensation by an investment adviser to a client would require compliance with the rule unless an exemption is available. However, the rule would not apply where investment advice is furnished under circumstances in which an adviser has no contractual relationship of any kind with the recipients of the advice, such as an author of a book or an adviser appearing on radio or television.

#### Amended or Revised Statements

The Commission received a number of comments on what procedures the rule should require if information specified by the rule becomes materially false or misleading, or if the written statement omits any material information required by the rule. Paragraph (c) of the proposed rule provides that if any client has received a written statement and any information therein becomes materially inaccurate or incomplete, the adviser must furnish correcting information in writing to such individuals within specified time limits. With respect to existing clients, the adviser must furnish any necessary correcting information within 45 days of the date on which the earlier statement becomes deficient unless the client's advisory contract is due for extension or renewal during the 45 day period. In that case, such client must be treated as though he were a client entering an initial investment advisory contract. Stickers may be used as a means of updating disclosure statements. Alternatively, some investment advisers may wish to furnish their written statements in looseleaf form so that they can amend their disclosures by furnishing new pages to replace old ones.

#### Contents of the Written Disclosure Statement

Paragraph (d) of the rule sets forth those items of disclosure which must be covered in every written disclosure statement required by the rule. Generally, these disclosures fall into the following categories: services offered; advisory procedures and practices; qualifications of personnel; advisory fees; and affiliations with broker-dealers. As a general guideline, the disclosures in paragraph (d) should relate only to the investment adviser's usual practice in the area being described unless otherwise indicated. However, any exceptions of a material nature relating to a particular client or transaction would, of course, have to be separately disclosed to the affected persons pursuant to the antifraud provisions in Section 206 of the Act.

There are two areas of disclosure that were not included in the rule as originally proposed. Paragraph (d)(10) parallels question 24 of Form ADV and requests information concerning the investment adviser's policy with respect to securities transactions with clients or in securities recommended to clients. Although some of this information will be specifically disclosed to clients pursuant to section 206(3) (15 U.S.C. 80b-6(3)) of the Act and the rules thereunder, general disclosure of the advisers' intentions and usual practices in this area should be of interest to prospective clients.

Paragraph (d)(11) requires the adviser to include a current balance sheet in its disclosure statement. The Commission believes that clients and prospective clients should be given the opportunity to assess the extent to which an investment adviser has the financial capability to perform the services which it undertakes to provide. Such disclosure is particularly significant when an adviser is in precarious financial condition. Such a situation may present material risks that clients' prepaid fees may be lost or that their investment programs may be disrupted in the event of the adviser's insolvency or inability to continue its business. Thus, in several recent cases, the Commission has found it necessary to take enforcement action based on the antifraud provisions in Section 206 of the Act when advisers solicited clients while their financial condition was impaired without disclosing that there was a material risk that they might be unable to meet their contractual commitments. It is expected that requiring certain minimal financial disclosures to be included in the written disclosure statements required by Rule 204-4 will enable clients and prospective clients to make an informed evaluation of an adviser's financial condition before entering into an advisory contract.

The Commission recognizes that there are many types of investment advisers and that one form of balance sheet for all may be too limiting. Thus, comment is specifically requested on the question of which accounts should be reflected in the balance sheet required by the proposed rule. In addition, there are several other related questions on which the Commission particularly wishes to receive public comments:

1. Would it be appropriate to exempt certain classes of investment advisers from the balance sheet requirement and, if so, which classes should be exempted?

2a. Should the rule require audited balance sheets from either all investment advisers or certain classes of investment advisers, e.g., those who provide account management services or those with more than a specified amount of assets under management?

2b. If audited balance sheets are not required, should those investment advisers who otherwise have audited balance sheets prepared be required to use such audited balance sheets?

3. If audited balance sheets are not required, should investment advisers be required to prepare their balance sheets in accordance with generally accepted accounting principles? If yes, what difficulties, if any, would arise because of the different accounting principles and practices applicable to the preparation of balance sheets by investment advisers who operate in corporate form, as partnerships and as sole proprietorships?

4. What additional costs will be imposed on investment advisers as a result of this proposed requirement? Will investment advisers be required to maintain any records in addition to those already required by Rule 204-2 (17 CFR 275.204-2) under the Act in order to comply with this proposed requirement?

5. Should investment advisers be required to present any other financial statements in addition to a balance sheet, e.g., an income statement or a statement of changes in financial position?

The proposal would require that the balance sheet be current as of a date not more than fifteen months prior to its distribution. Of course, if the adviser's financial condition changes materially after the balance sheet is prepared, the adviser would be subject to the provisions of paragraph (c) of Rule 204-4 which deals with "Amended or Revised Statements."

The remaining disclosures required by proposed paragraph (d) are similar in most respects to those earlier proposed for comment. Some changes have been made in response to comments, however. For example, paragraph (d)(6) as proposed would have required education and business background disclosures for each of the adviser's personnel who makes final decisions on which securities are recommended or to which clients particular recommendations will be given. In response to comments, the Commission has limited the scope of paragraph (d)(6) to the members of the adviser's investment committee or similar body. The Commission is seeking education and business background disclosures for those individuals who determine a firm's overall investment philosophy, its attitude at any given time towards the securities markets in general and towards specific securities, and its general policy on how advisory accounts with particular objectives should be invested. Also in response to certain comments, the Commission has deleted certain of the numerical disclosures which would have been required by the rule as proposed, including the length of time the adviser has been in business and the number of advisory personnel in the adviser's organization.

Some commentators expressed confusion at the meaning of the term "investment techniques" which was in paragraph (b)(4) of the original rule and is in paragraph (d)(4) of the new proposal. A description of "investment techniques" would include general descriptions of the ways of investing in the securities markets investment advisers use for their clients; whether, for example, they write call options against securities in accounts they are managing, engage in margin transactions or other leveraging techniques, arbitrage or effect other transactions involving sales of borrowed securities, or limit their advice to cash transactions involving the







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purchase and sale of securities. However, the Commission is not seeking a description of any method which might be considered a proprietary secret.

Paragraph (e) of the proposed rule requires additional disclosures in the written statements furnished by investment advisers who provide either discretionary or nondiscretionary account management services. These requirements relate, generally, to information concerning ing procedures for the management of clients' securities accounts. Paragraph (e)(1) has been expanded to require a description of any conditions the adviser imposes to maintain as well as to establish an investment advisory account.

Paragraphs (e)(3) and (e)(4) seek specific information concerning the factors the investment adviser considers when choosing a broker or dealer to execute a client transaction or making a securities selection for a client. An answer to paragraph (e)(3) might indicate, for example, that the investment adviser considers commission costs, execution capabilities, research materials provided, client referrals or various other factors in selecting a broker or dealer to execute a transaction. In response to paragraph (e)(4), the factors might include, among others, the client's age, income, marital status and family obligations, retirement plans, tax bracket, other investments and insurance.

OMISSION OF INAPPLICABLE INFORMATION

Paragraph (f) of the proposed rule permits an investment adviser to omit from its disclosure statement the information required by paragraphs (4) through (8) of paragraph (d), or by paragraph (e), if such information is inapplicable to the service being offered. However, the rule is structured so that the investment adviser would be required in all cases to include certain basic information about his organization. Moreover, if the client or prospective client subsequently decides to receive a service which was not covered by the original disclosure statement, the adviser would be required to deliver the previously omitted information within the time limits set by paragraph (b).

EXEMPTIONS FROM THE RULE

Paragraph (g) sets forth two categories of investment advisory contracts which can be entered into without furnishing a disclosure statement. The first is a contract with an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) which meets the requirements of section 15(c) of that Act (15 U.S.C. 80a–15(c)). Since the board of directors of an investment company is required to receive extensive disclosures from the fund's adviser pursuant to section 15(c), subjecting the contract between the investment adviser and the investment company to the requirements of the rule would appear to be unnecessarily duplicative. The second exemption is for one-time trial subscriptions to periodic publications which last for no more than three months and cost no more than $50.

Paragraph (h) of the rule makes it clear that the rule is not intended to relieve investment advisers of any other disclosure obligations they may have pursuant to the Act, the other federal securities laws, or applicable state law.

PROPOSED RULE 204–2(a)(14)

Proposed Rule 204–2(a)(14), which is identical to the paragraph as proposed originally, would require that a copy of each disclosure statement and amendment that is given to any client or prospective client be kept as part of the adviser's records, and that records be made of when such statements were used.

AUTHORITY

Rule 204–4 and paragraph (14) of Rule 204–2(a) would be adopted pursuant to the authority contained in sections 204, 206(4), and 211(a) of the Act (15 U.S.C. 80b–4, 80b–6(4) and 80b–11(a)).

## PART 275—RULES AND REGULATIONS, INVESTMENT ADVISORS ACT OF 1940

I. It is proposed to amend Part 275 of Chapter II of Title 17 of the Code of Federal Registrations by adding new § 275.204–4 as follows:

**§ 275.204–4 Written disclosure statements.**

(a) *General requirement.* Unless an exemption is available pursuant to paragraph (g) of this section, an investment adviser registered or required to be registered pursuant to section 203 of the Act shall, in accordance with the provisions of this section, furnish each client and prospective client with a written disclosure statement which may be either in the form of a written document containing at least the information required by paragraphs (d) and (e) of this section or a copy of its Form ADV which complies with § 275.204–1(b) under the Act.

(b) *Time of delivery.* (1) An investment adviser shall furnish the statement required by this section to a prospective client not less than 48 hours prior to entering into any written or oral investment advisory contract with such prospective client, except that an investment adviser shall furnish such statement on or before the effective date of this rule to every client with whom an investment advisory contract is in effect on such date.

(2) Notwithstanding paragraph (b)(1) of this section, in the case of contracts with clients relating solely to investment advisory services other than investment supervisory services (as defined in section 202(a)(13) of the Act (15 U.S.C. 80b–2(a)(13))) or the management of investment advisory accounts for clients under circumstances not involving investment supervisory services, the investment adviser may furnish the statement to such client not later than 30 days after entering into such contract if the contract provides that it may be rescinded without penalty within five business days after the client has received the statement.

(3) For purposes of this paragraph, the term "entering into" in reference to an investment advisory contract shall not include an extension or renewal of any such contract which is in effect immediately prior to such extension or renewal.

(c) *Amended or revised statements.* If any client, or any prospective client who becomes a client, has received a statement and any information therein thereafter becomes materially inaccurate or incomplete, the investment adviser shall furnish to each such person, through an amended or revised statement or other written communication, such information as is necessary to correct any such deficiency. Such information shall be furnished at the following times: (1) With respect to an existing client, within 45 days of the date on which the event occurs or, if an investment advisory contract with such client is extended or renewed within such 45-day period, at the applicable time set forth in paragraph (b) of this section as though such extension or renewal constituted entering into an investment advisory contract; and (2) With respect to a prospective client, at the applicable time set forth in paragraph (b) of this section.

(d) *Contents of written statements.* The statement required by this rule shall disclose the following:

(1) The type or types of services which the investment adviser generally offers to clients, including, but not limited to, investment supervisory services, the management of securities accounts for clients under circumstances not involving investment supervisory services, or the issuance, on a subscription basis, of periodic publications relating to securities.

(2) The type or types of clients for which the investment adviser generally provides investment advice, including, but not limited to, individuals or specified classes of individuals, investment companies, pension and profit-sharing plans and banks;

(3) The types of securities concerning which the investment adviser generally provides investment advice;

(4) A general description of (i) The sources of information, including reference materials, used by the investment adviser as the basis for investment advice rendered to clients, (ii) The general method or methods of securities analysis employed by the investment adviser to analyze or evaluate such information, and (iii) The investment techniques for investing in the securities markets recommended or used to implement any investment advice rendered to clients;

(5) The general standards of education and business background which the investment adviser requires of persons associated with the investment adviser (other than persons whose functions are solely clerical or ministerial) whose functions or duties relate to providing investment advice to clients;

(6) (i) The formal education after high school and business background for the preceding ten years of each member of the investment adviser's investment committee or similar group, if any, which determines or approves what investment advice shall generally be rendered by the investment adviser to any client, or to which clients such investment advice shall be rendered, or (ii) In the absence of an investment committee or similar committee, the formal education after high school and business background for the past ten years of each person associated with the investment adviser who determines or approves what investment advice shall be rendered by the investment adviser to any client, or to which clients such investment advice shall be rendered;

(7) (i) The basis or bases of fees charged for the services which the investment adviser provides and when such fees are payablee, and (ii) If such fees are payable prior to the rendering of the services relating thereto, a statement as to whether, to what extent and under what conditions such fees will be refunded to clients;

(8) The procedures and conditions, if any, pursuant to which the investment adviser or any client of the investment adviser may terminate an investment advisory contract prior to the termination date set forth in the contract; and

(9) (i) That the investment adviser is a broker or dealer, if such is the case, or (ii) If he is affiliated with any broker or dealer, the nature of such affiliation, and the business relationship, if any, between such broker or dealer and the investment adviser.

NOTE.—Pursuant to section 202(a)(12) of the Act (15 U.S.C. 80b-2(a)(12)), the term "affiliated person" has the same meaning as in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(3)).

(10) (i) If any of the following is applicable, that the investment adviser as principal sells securities to or buys securities from any client; effects securities transactions as broker or agent for any client; as broker or agent for any person other than a client sells securities to or buys securities from clients; recommends to clients the purchase or sale of securities in which the investment adviser has a position or interest; and/or imposes any restrictions upon itself or any person associated with it when effecting transactions for its or their account in securities recommended to clients, and (ii) the nature of such practices or restrictions.

(11) A balance sheet, current as of a date not more than fifteen months prior to its distribution.

(e) *Additional disclosures for certain advisers.* If the investment adviser provides investment supervisory services (as defined in section 202(a)(13) of the Act) or manages investment advisory accounts for clients under circumstances not involving investment supervisory services, the statement required by this rule shall include the following information in addition to that required by paragraph (d) of this section.

(1) The minimum dollar amount of assets and any other conditions generally required by the investment adviser to establish and maintain an investment advisory account;

(2) (i) Whether and to what extent the investment adviser may have discretionary authority to purchase or sell securities for the accounts of clients without obtaining the consents of the client before such transactions are effected; and (ii) The maximum number of investment advisory accounts with respect to which any one individual associated with the investment adviser may act as portfolio or account manager;

(3) Whether and to what extent the investment adviser may have discretionary authority to select brokers or dealers to execute transactions in securities for its clients or for the accounts of its clients, and, if so, the specific factors considered in making such selections;

(4) The specific factors relating to the circumstances of any client which the investment adviser considers in making recommendation to, or effecting transactions for, such client; and

(5) (i) A description of the adviser's organizational structure, including a brief description of the role of each principal department in the organization in the usual process of arriving at investment decisions or recommendations for clients, (ii) A brief general description of the process pursuant to which the investment adviser reviews each investment advisory account including, but not limited to, the type of personnel performing the review, factors which trigger reviews, the sequence in which accounts are reviewed and the matters reviewed, and (iii) The frequency and nature of any reports furnished to clients concerning their investment advisory accounts.

(f) *Omission of inapplicable information.* If an investment adviser renders substantially different types of investment advisory services to its clients, any information required by paragraphs (d)(4) through (8) of this section or by paragraph (e) of this section may be omitted from the statement furnished to a client or prospective client if such information is applicable only to a type of investment advisory service which is not rendered or proposed to be rendered to that client or prospective client; provided, however, that no contract shall be entered into which relates to any type of investment advisory service as to which information has been omitted pursuant to this paragraph unless such information is furnished in writing to the client or prospective client at the applicable time set forth in paragraph (b) of this section.

(g) *Exemptions.* The statement required by this rule need not be furnished in connection with entering into the following investment advisory contracts:

(1) A contract with an investment company registered under the Investment Company Act of 1940 which meets the requirements of section 15(c) of that Act; or

(2) A contract for a one-time trial subscription to a periodic publication for a period of not more than three months at a total cost to the subscriber of not more than $50.

(h) *Other disclosures.* Nothing in this rule shall relieve any investment adviser from any obligation pursuant to any provision of the Act or the rules and regulations thereunder or other federal or state law to disclose any information to its clients or prospective clients not specifically required by this rule.

II. It is proposed to amend Part 275 of Chapter II of Title 17 of the Code of Federal Regulations by adding new paragraph (a)(14) to § 275.204–2 as follows:

**§ 275.204–2 Books and records to be maintained by investment advisers.**

(a) Every investment adviser who makes use of the mails or of any means or instrumentality of interstate commerce in connection with his or its business as an investment adviser (other than one specifically exempted from registration pursuant to section 203(b) of the Act) shall make and keep true, accurate and current the following books and records relating to his investment advisory business:

* * * * *

(14) A copy of each written statement and each amendment or revision thereof, given or sent to any client or prospective client of such investment adviser in accordance with the provisions of Rule 204–4 under the Act, and a record of the first and last dates that each written statement, and each amendment or revision thereof, was given to any client or prospective client.

PUBLIC COMMENT

Persons wishing to make written comments should file three copies thereof with George A. Fitzsimmons, Secretary of the Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549, not later than September 30, 1977. In filing such submissions, commentators should make reference to Commission File No. S7–712. Copies of all submissions will be made available in the Commission's Public Reference Section, Room 6101, 1100 L Street NW., Washington, D.C. 20005.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 21, 1977.

[FR Doc.77–21595 Filed 7–26–77;8:45 am]

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**[ 17 CFR Parts 275, 279 ]**

[Release No. IA–602; S7–712]

## APPLICATIONS FOR REGISTRATION AND ANNUAL FILINGS

### Solicitation of Public Comment

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules and forms.

SUMMARY: The purpose of this document is to solicit public comments on (1) proposed revisions of the form used by applicants for registration under the Investment Advisers Act of 1940 ("Act"), which would expand the information currently required by the form, reflect certain statutory changes, and correct







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certain ambiguities; and (2) a proposed new form which would be used for a proposed annual filing with the Commission by registered investment advisers. These changes in the forms registered investment advisers file with the Commission are prompted by the Commission's interest in improving the efficiency of its program of investment adviser regulation.

In addition, this document solicits public comments on proposed revisions of a rule under the Act which prescribes when a registered investment adviser must file amendments to its registration form and when the proposed new form would be filed.

DATES: Comments must be received on or before September 30, 1977.

ADDRESSES: Interested persons should submit their views and comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All submissions will be made available for public inspection at the Commission's Public Reference Section, Room 6101, 1100 L Street NW., Washington, D.C. 20005 and should refer to File No. S7–712.

FOR FURTHER INFORMATION CONTACT:

Michael Berenson, Esq., Office of the Chief Counsel, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202–376–8056.

SUPPLEMENTARY INFORMATION: The Commission is proposing to amend its Form ADV (17 CFR 279.1), the registration form under the Investment Advisers Act of 1940 (15 U.S.C., 80b–I et seq.) ("Act") for investment advisers. At the same time, the Commission is proposing Form ADV–S (17 CFR 279.3) which would require registered investment advisers to make an annual filing which would provide certain information on a current basis.

### Revisions of Form ADV

The principal reasons for the proposed revisions of Form ADV are (1) to request additional information authorized by the Securities Acts Amendments of 1975 ("1975 Amendments"), (2) to add a new Schedule G to Form ADV so that it can be used as a uniform investment adviser registration form by the Commission and those states which require investment advisers to register, (3) to seek additional information about registered advisers and the basic characteristics of the investment advisory industry, and (4) to correct certain ambiguities which currently are present in Form ADV. In addition, integrating the disclosure requirements of the Form ADV and the proposed "brochure" rule (proposed Rule 204–4 (17 CFR 275.204–4), Advisers Act Release No. 601) should allow the Commission to obtain additional infomation without significant additional burden on the adviser.

The 1975 Amendments amended section 203(e) (15 U.S.C. 80b–3(e)) of the Act to expand the enumerated grounds which can serve as the basis for a denial of an application for registration or the revocation of the registration of an investment adviser. Therefore, revised Form ADV contains questions pertaining to such grounds. To assist with the Commission's regulatory program in general, the form also includes a new question covering disciplinary actions taken by any self-regulatory organization.

The 1975 Amendments also added a new section 203(c)(1)(D) (15 U.S.C. 80b–3(c)(1)(D)) which permits the Commission to require in Form ADV "a balance sheet certified by an independent public accountant and other financial statements (which shall, as the Commission specifies, be certified) * * *." The Commission is partially exercising this authority by adding question 12 to Form ADV. This question, which parallels paragraph (d)(11) of proposed Rule 204–4, requests a balance sheet current as of the end of the investment adviser's most recent fiscal year.

The Commission recognizes that there are many types of investment advisers and that one form of balance sheet for all may be too limiting. Thus, comment is specifically requested on the question of which accounts should be reflected in the balance sheet required by the proposed rule. In addition, there are several other related questions on which the Commission particularly wishes to receive public comments:

1. Would it be appropriate to exempt certain classes of investment advisers from the balance sheet requirement and, if so, which classes should be exempted?

2a. Should the rule require audited balance sheets from either all investment advisers or certain classes of investment advisers, e.g., those who provide account management services or those with more than a specified amount of assets under management?

2b. If audited balance sheets are not required, should those investment advisers who otherwise have audited balance sheets prepared be required to use such audited balance sheets?

3. If audited balance sheets are not required, should investment advisers be required to prepare their balance sheets in accordance with generally accepted accounting principles? If yes, what difficulties, if any, would arise because of the different accounting principles and practices applicable to the preparation of balance sheets by investment advisers who operate in corporate form, as partnerships and as sole proprietorships?

4. What additional costs will be imposed on investment advisers as a result of this proposed requirement? Will investment advisers be required to maintain any records in addition to those already required by Rule 204–2 (17 CFR 275.204–2) under the Act in order to comply with this proposed requirement?

5. Should investment advisers be required to present any other financial statements in addition to a balance sheet, e.g., an income statement or a statement of changes in financial position?

Question 12 also refers to the requirement in Rule 204–1(b) under the Act, as proposed for revision, that a registrant submit a new balance sheet not later than 90 days after the end of each succeeding fiscal year after the fiscal year covered in the balance sheet furnished with its Form ADV.

Notwithstanding the fact that the Act does not impose any specific financial responsibility standards on registered investment advisers, the Commission believes that the financial condition of the adviser may be relevant to clients and prospective clients. In addition, the Commission believes that having this financial information available will enable it to develop more meaningful regulatory policies relating to advisers.

The Commission is also proposing to modify Schedules A–E of Form ADV and Form BD (17 CFR 249.501), the registration form under the Securities Exchange Act of 1934 (15 U.S.C. 78a–1 et seq.) for brokers and dealers, so that the two sets of schedules are identical. This will enable registered broker-dealers who are also registered as investment advisers and prospective dual registrants to file these schedules without as much administrative burden since they will be able to prepare one set and make a duplicate, marking each to indicate whether it relates to Form ADV or Form BD, rather than being required to prepare two sets of originals.

Questions 19–28 of Form ADV, in part, are new questions and Schedule D of Form ADV has been modified. These changes incorporate in Form ADV substantive information required by proposed Rule 204–4 which is not already included in Form ADV. Having this information filed with the Commission would lessen the need for Commission review of the brochures required by proposed Rule 204–4 and would also enable the Commission to make determinations about industry-wide policy and the need for examination of individual advisers.

The staff of the Commission and representatives of the North American Securities Administrators Association have informally discussed the need for and feasibility of adopting a uniform investment adviser registration form and have concluded that adopting such a form would significantly reduce the burdens and expense imposed on an investment adviser required to register with the Commission as well as the various states in which it does business. Accordingly, the Commission is proposing a new schedule for Form ADV, Schedule G, which seeks information required by the states beyond the information which will already be contained in Form ADV. The individual states will prepare, as necessary, a separate instruction sheet for Schedule G detailing the particular information the state requires. An applicant would be required to file Schedule G only with the appropriate states and not with the Commission. While there is no assurance at this time that the Commission and the interested states will be able to reach final agreement on a uniform investment adviser registration form, the Commission intends to work diligently with the states to accomplish this goal. In furtherance of this effort, the Commission is particularly interested in public comments on both the advisability of adopting a uniform investment adviser registration form and the proposed method of accomplishing this objective.





Revised questions 17, 19, 27 and 28 of Form ADV ask for information concerning the number of accounts and amount of assets the investment adviser has under management and the size categories into which the accounts fall. They also ask the amount of customer funds or securities over which the investment adviser has custody or possession and whether the investment adviser is involved in any civil litigation relating to its advisory business. The Commission is adding these questions so that it will have ongoing information about some of the basic characteristics of the investment advisory industry and because the information is relevant to decisions about the Commission's regulatory program.

### Form ADV–S

The Commission is also soliciting public comments on a proposal to adopt a new form, Form ADV–S, which would be filed annually by all registered investment advisers within 90 days of the end of their fiscal year. This brief form would enable the Commission to determine whether an adviser is presently engaged in the investment advisory business and whether it has filed the amendments to its Form ADV required by Rule 204–1 (17 CFR 275.204–1) under the Act. In addition, an updated balance sheet would be required to be filed with the Form ADV–S.

Since the rescission of the annual fee requirement for advisers, many advisers appear to have neglected to file required amendments to their Form ADVs; others have never commenced or have ceased their advisory activities, but have failed to withdraw from registration by filing Form ADV–W.

The proposed Form ADV–S should relieve these problems by providing the Commission with current information about active registrants and by removing inactive investment advisers from the list of registrants, either as a result of their voluntarily filing Form ADV–W or by means of a cancellation order issued pursuant to section 203(h) (15 U.S.C. 80b–3(h)) of the Act. The proposed form is brief and straightforward and the Commission does not anticipate that any registrant will find it burdensome to complete.

In order to bring its records up-to-date and to obtain the information about registered advisers, the Commission is proposing amendment of Rule 204–1(a) (17 CFR 275.204–1(a)) to require every investment adviser whose registration is effective or who has an application for registration pending on the date new Rule 204–1(a) becomes effective to file a complete new Form ADV as an amendment the first time an amendment is otherwise required and in any event not later than a date to be determined when, and if, the Commission adopts new Rule 204–1(a).

Rule 204–1(b) currently requires an investment adviser to amend its Form ADV any time the information contained therein or in an amendment thereto becomes inaccurate for any reason. Since the Commission believes that, in certain circumstances, changes in the information called for by questions 12 through 28 of Form ADV, particularly the balance sheet in question 12, may not require an immediate amendment of the investment adviser's Form ADV, the Commission proposes to modify Rule 204–1(b) so that if there is a change in the information furnished in response to questions 12 through 28, but not a material change, the investment adviser will be able to amend its Form ADV to reflect such change within the same time limit as governs its filing of the revised balance sheet required by question 12, i.e., not later than 90 days after the end of its fiscal year. However, material changes in the information called for by questions 12 through 28 and any changes in the information called for by questions 1 through 11 will still require an immediate amendment of Form ADV.

Proposed paragraph (c) of Rule 204–1 would require every investment advisor who is registered on the last day of its fiscal year to file a Form ADV–S within 90 days of the end of its fiscal year unless its registration has been withdrawn, cancelled or revoked prior to that date. If efforts to contact registrants who do not file in a timely manner are unsuccessful, the Commission would consider issuing orders pursuant to section 203(h) of the Act to cancel the registrations of the nonrespondents.

### PART 275—RULES AND REGULATIONS, INVESTMENT ADVISORS ACT OF 1940

I. It is proposed to amend Part 275 of Chapter II of Title 17 of the Code of Federal Regulations by revising § 275.–204–1 in its entirety as follows:

**§ 275.204–1 Amendments to application for registration.**

(a) Every investment adviser whose registration is effective, or whose application for registration is pending on _____, shall file as an amendment to the application a complete Form ADV (§ 279.1 of this chapter) as revised as of _____. This shall be filed the first time an amendment is required to be filed under paragraph (b) of this section, but in no event later than _____.

(b)(1) If the information contained in the response to questions 1 through 11 of any application for registration as an investment adviser, or in any amendment thereto, becomes inaccurate for any reason, or if the information contained in the response to questions 12 through 28 of any application for registration as an investment adviser, or in any amendment thereto, becomes inaccurate in a material manner, the investment adviser shall promptly file an amendment on Form ADV (§ 279.1 of this chapter) correcting such information.

(2) If the information contained in response to questions 12 through 28 of any application for registration as an investment adviser, or in any amendment thereto, becomes inaccurate but not in a material manner, the investment adviser shall file an amendment on Form ADV (§ 279.1 of this chapter) correcting such information within 90 days of the end of its fiscal year.

(c) Every investment adviser whose registration is effective on the last day of its fiscal year shall file a Form ADV–S (§ 279.3 of this chapter) within 90 days of the end of its fiscal year unless its registration has been withdrawn, cancelled or revoked prior to that date.

(d) Every amendment filed pursuant to this rule shall constitute a "report" within the meaning of sections 204 and 207 of the Act (15 U.S.C. 80b–4, 80b–7).

### PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISORS ACT OF 1940

II. It is proposed to amend Part 279 of Chapter II of Title 17 of the Code of Federal Regulations as follows:

A. Section 279.1. Form ADV, for application for registration of investment adviser, and for admendments to such registration statement. (A copy of Form ADV as proposed to be amended is attached hereto.)

B. Section 279.3. Form ADV–S, annual report of registered investment advisers. (A copy of Form ADV–S as proposed to be adopted is attached hereto.)

### Authority

The proposed revisions of Form ADV would be adopted pursuant to the authority contained in Sections 203 (15 U.S.C. 80b–3), 204 (15 U.S.C. 80b–4), and 211(a) (15 U.S.C. 11(a)) of the Act. Proposed Form ADV–S and the proposed revisions of Rule 204–1 would be adopted pursuant to the authority contained in Sections 204 and 211(a) of the Act.

### Public Comment

Persons wishing to make written comments should file three copies thereof with George A. Fitzsimmons, Secretary of the Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549, not later than September 30, 1977. In filing such submissions, commentators should make reference to Commission File No. S7–712. Copies of all submissions will be made available in the Commission's Public Reference Section, Room 6101, 1100 L Street, N.W., Washington, D.C. 20005.

By the Commission.

George A. Fitzsimmons,
*Secretary.*

July 21, 1977.



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**FORM ADV** (Instruction Sheet)

UNIFORM APPLICATION FOR REGISTRATION AS AN INVESTMENT ADVISER OR TO AMEND SUCH AN APPLICATION UNDER THE INVESTMENT ADVISERS ACT OF 1940 OR UNDER THE LAWS OF THE JURISDICTIONS ACCEPTING THIS FORM

GENERAL INSTRUCTIONS FOR PREPARING AND FILING FORM ADV AND SPECIAL INSTRUCTIONS FOR COMPLETING FORM ADV AS AN APPLICATION FOR REGISTRATION WITH THE SECURITIES AND EXCHANGE COMMISSION AS AN INVESTMENT ADVISER OR TO AMEND SUCH AN APPLICATION

1. This Form and any Schedules and continuation sheets required in connection with it shall be completed and filed in triplicate with the Securities and Exchange Commission, Washington, D.C. 20549. Retain one exact copy for your records. All information required by Form ADV and any Schedule thereunder must be submitted on the officially prescribed forms (or mechanical reproductions thereof). Additional copies are available at any office of the Commission.

2. This form is to be used to apply for registration with a number of agencies and jurisdictions. A list of these agencies and jurisdictions with the respective addresses is included as a separate page. Special Instructions Sheets for each agency and jurisdiction are also needed to complete the form. They may be obtained from the agency or jurisdiction to which you are applying and must be read in conjunction with these instructions for each agency or jurisdiction to which you are applying.

3. At the time of the filing of an application for registration under the Act, the applicant shall pay to the Commission a fee of $150, no part of which shall be refunded. There is no fee for the filing of any amendments to Form ADV.

4. Each copy of the execution page must contain an original manual signature of the appropriate duly authorized individual. Mechanical reproductions of signatures are not acceptable. All other pages containing correct information may be mechanically reproduced by any method producing clear, legible copies of identical type size. Copies must be on 8½ x 11 inch paper.

5. If Form ADV is filed by a sole proprietor, it shall be signed by the proprietor; if it is filed by a partnership, it shall be signed in the name of the partnership by a general partner; if it is filed by an unincorporated organization or association which is not a partnership, it shall be signed in the name of such organization or association by the managing agent--i.e., a duly authorized person who directs or manages or who participates in directing or managing its affairs; if it is filed by a corporation, it shall be signed in the name of the corporation by a principal officer duly authorized.

6. If the space provided for any answer on the Form is insufficient, the complete answer shall be prepared on Schedule E, which shall be attached to the Form. If the space provided for any answer on the Schedules is insufficient, the answer shall be completed on additional copies of the applicable Schedule which shall also be attached to the Form.

7. Individuals' names, except for executing signatures, shall be given in full wherever required (last name, first name, middle name). The full middle name is required. Initials are not acceptable unless the individual legally has only an initial. If this the case, so indicate after the initial.

CAUTION: WHEN ANY ITEM ON A PAGE IS AMENDED, IT IS NECESSARY TO ANSWER ALL ITEMS ON THE PAGE BEING AMENDED. PAGES WHICH CONTAIN OBSOLETE INFORMATION ARE RETIRED TO THE COMMISSION'S INACTIVE FILES.



8. Definitions. Unless the context otherwise requires:

a. All terms used in the Form have the same meaning as in the Investment Advisers Act of 1940 and the rules and regulations thereunder.

b. "Jurisdiction" means a state, a territory, the District of Columbia, the Commonwealth of Puerto Rico, or any subdivision or regulatory body thereof.

c. "Applicant" means the investment adviser or person which will be the investment adviser and not the individual completing the form unless they are identical. "Applicant" includes a "Registrant."

d. "Self-Regulatory Organization" means any national securities exchange, national securities association, or clearing agency, registered under the Securities Exchange Act of 1934.

9. UNDER SECTIONS 203(c), 204, AND 211(a) OF THE INVESTMENT ADVISERS ACT OF 1940 AND THE RULES AND REGULATIONS THEREUNDER, THE COMMISSION IS AUTHORIZED TO SOLICIT THE INFORMATION REQUIRED BY THIS FORM FROM APPLICANTS FOR REGISTRATION AS INVESTMENT ADVISERS. THE INFORMATION SPECIFIED BY THIS FORM (OTHER THAN SOCIAL SECURITY NUMBERS) MUST BE PROVIDED PRIOR TO PROCESSING OF ANY APPLICATION. DISCLOSURE OF SOCIAL SECURITY NUMBERS IS VOLUNTARY. THE INFORMATION WILL BE USED FOR THE PRINCIPAL PURPOSE OF DETERMINING WHETHER THE COMMISSION SHOULD GRANT OR DENY REGISTRATION TO AN APPLICANT. SOCIAL SECURITY NUMBERS WILL ASSIST THE COMMISSION IN IDENTIFYING APPLICANTS AND, THEREFORE, IN PROMPTLY PROCESSING APPLICATIONS. INFORMATION SUPPLIED ON THIS FORM WILL BE INCLUDED IN THE PUBLIC FILES OF THE COMMISSION AND WILL BE AVAILABLE FOR INSPECTION BY ANY INTERESTED PERSON. A FORM WHICH IS NOT PREPARED AND EXECUTED IN COMPLIANCE WITH APPLICABLE REQUIREMENTS MAY BE RETURNED AS NOT ACCEPTABLE FOR FILING. ACCEPTANCE OF THIS FORM, HOWEVER, SHALL NOT CONSTITUTE ANY FINDING THAT IT HAS BEEN FILED AS REQUIRED OR THAT THE INFORMATION SUBMITTED IS TRUE, CURRENT, OR COMPLETE. INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACT CONSTITUTE FEDERAL CRIMINAL VIOLATIONS. (See 18 U.S.C. 1001 and 15 U.S.C. 80b-17.)

SPECIAL INSTRUCTIONS FOR FILING FORM ADV AS AN APPLICATION

10. If Form ADV is being filed as an application for registration, all applicable items must be answered in full. If any "item" is not applicable, indicate by "none" or "N/A" as appropriate. Items requiring information relating to the business activities of applicant should be answered to disclose what such activities will be when registration becomes effective.

11. If any non-resident of the United States is named in the Form, consult Rule 0-2 to determine whether he is required to file a consent to service of process and a power of attorney. Non-residents of the United States should also consult Rule 204-2(j) under the Act concerning the notice or undertaking relating to books and records which non-resident investment advisers are required to file with Form ADV.





SPECIAL INSTRUCTIONS FOR AMENDING FORM ADV

12. Rule 204-1(b) requires that if the information contained in response to questions 1 through 11 of any application for registration as an investment adviser, or in any amendment thereto, becomes inaccurate for any reason, or if the information contained in response to questions 12 through 28 of any application for registration as an investment adviser, or in any amendment thereto, becomes materially inaccurate, the investment adviser shall promptly file an amendment on Form ADV correcting such information. In addition, if the information contained in response to questions 12 through 28 of any application for registration as an investment adviser or in any amendment thereto, becomes inaccurate but not in a material manner, the investment adviser shall file an amendment on Form ADV correcting such information no later than its filing of the revised information regularly required by Item 12 of Form ADV, i.e., no later than 90 days after the end of applicant's fiscal year.

13. When an amendment is necessary, only the pages being amended and the execution page need be filed, although these must be completed in full. Three copies of each of such pages and three copies of a completed execution page, including the Execution, should be filed.

INSTRUCTIONS AS TO SPECIFIC ITEMS ON FORM ADV

14. Item 2(a) - Include a street address; post office box numbers alone are not acceptable.

15. Execution - The execution must include an original manual signature. Mechanical reproductions of signatures are not acceptable.

16. Item 6 - State your current legal residence address.

17. Item 8(b) - If a registered partnership is dissolved and a new one is created to continue the business of the old one, the new partnership must file a new or successor application as an investment adviser.

18. Item 10 - Check your answers to Items 2(a), 8, and 9, and the related Schedules, for the names of all persons who are covered by any of the subsections of Item 10. Similarly, any persons who directly or indirectly control or are controlled by the applicant, including any employee, are covered by Item 10. For each affirmative answer, list each person involved on a separate Schedule D and give full details of any of these incidents, including, for example, the parties involved, time and place, subject matter, and the outcome of the proceedings.



Instructions Relating to SCHEDULES

19. Schedule A - Schedule A is for corporations.

Note: If applicant is owned directly, or indirectly through one or more intermediaries, by a corporation, then such corporation's shareholders should be considered in determining who must be listed on Schedule A.

20. Schedule B - Schedule B is for partnerships.

21. Schedule C - Schedule C is to be completed only by organizations or associations which are not sole proprietorships, partnerships, or corporations.

22. Schedule D - Schedule D is to be filed for the following classes of persons:

(a) Each natural person named in Items 2(a), 8, or 9 or any Schedule thereunder, except that Schedule D need not be furnished for any person who meets both the following conditions: (1) he owns less than 10% of any class of equity security of the applicant, and (2) he is not an officer, director or person with similar status or functions.

(b) Each person subject to any action reported under Item 10; and

(c)(1) Each member of applicant's investment committee or similar group, if any, which determines or approves what investment advice shall generally be rendered by applicant to any client, or to which clients such investment advice shall be rendered.

(2) In the absence of an investment committee or similar group, each person associated with applicant who determines or approves what investment advice shall be rendered by applicant to any client, or to which clients such investment advice shall be rendered.

23. Schedule E - Schedule E may be used (1) where the space provided for any answer on the Form is insufficient, or (2) in response to each item in the Form which requires the submission of Schedule E. Schedule E should not be used when the space on any other Schedule is insufficient. In that case use additional copies of the applicable Schedule.

24. Schedule F - Schedule F is for the balance sheet required by Item 12 and any amendments thereto.

25. Schedule G - Schedule G is to be completed only if and to the extent required by the Special Instruction Sheets of the jurisdiction(s) to which you are applying. The Special Instruction Sheets will indicate what items are to be completed for each jurisdiction.

**FORM ADV Page 1** — OFFICIAL USE

2. (a) Person to contact for further information concerning this form:

Name: _____ Title: _____

Business Address: _____ Telephone No.: _____

(b) Person other than the applicant to receive correspondence and information concerning this application's or amendment:

Name: _____ Title: _____

Business Address: _____ Telephone No.: _____

3A. Applicant's name: _____ (Last name) _____ (First name) _____ (Middle name)

3B. If applicant is a partnership, corporation, or other organization, list the name, title, and address of each person controlling the management or policies of applicant: _____ (Name and Title) _____ (Business Address)

4. Applicant is or intends to be:

☐ A corporation ☐ Partnership ☐ Sole Proprietorship

☐ Other (specify): _____

5. If applicant is a corporation:

(a) Date and place of incorporation: _____

(b) Applicant's fiscal year ends: _____ (Month) _____ (Day)

6. If applicant is a partnership:

(a) Date of formation: _____

(b) Is the partnership registered under any state law? ☐ YES ☐ NO

7. Applicant is filing an application for registration as an investment adviser with the following regulators:

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| AL ___ | AK ___ | AZ ___ | AR ___ | CA ___ | CO ___ | CT ___ | DE ___ | DC ___ | |
| FL ___ | GA ___ | HI ___ | ID ___ | IL ___ | IN ___ | IA ___ | KS ___ | KY ___ | |
| LA ___ | ME ___ | MD ___ | MA ___ | MI ___ | MN ___ | MS ___ | MO ___ | MT ___ | |
| NE ___ | NV ___ | NH ___ | NJ ___ | NM ___ | NY ___ | NC ___ | ND ___ | OH ___ | |
| OK ___ | OR ___ | PA ___ | RI ___ | SC ___ | SD ___ | TN ___ | TX ___ | UT ___ | |
| VT ___ | VA ___ | WA ___ | WV ___ | WI ___ | WY ___ | PR ___ | Other ___ (Specify) | | |

SECURITIES AND EXCHANGE COMMISSION

8. If applicant is a corporation, partnership, or other organization:

(a) Date and place of incorporation: _____

(b) Applicant's business shall be conducted primarily in (check one):

☐ Corporate form ☐ Partnership form ☐ Sole Proprietorship

(c) Applicant is (check one):

☐ Owned ☐ Controlled ☐ Under common control with

by a person who is primarily engaged in the securities business.

9. If applicant is a sole proprietorship:

(a) Date and place of incorporation: _____

(b) Applicant's business shall be conducted primarily in (check one):

☐ Corporate form ☐ Partnership form ☐ Sole Proprietorship

(c) Applicant is (check one):

☐ Owned ☐ Controlled ☐ Under common control with

by a person who is primarily engaged in the securities business.

10. (a) Applicant has custody of client funds or securities: ☐ YES ☐ NO

(b) Applicant has discretionary authority over client funds or securities: ☐ YES ☐ NO

(c) Applicant has authority to deduct fees from client accounts: ☐ YES ☐ NO

11. Applicant's fiscal year ends: _____ (Month) _____ (Day)

12. Applicant's total assets: _____

13. Applicant's total number of employees: _____

14. Applicant's total number of employees who perform investment advisory functions: _____

15. Applicant's total number of offices: _____

16. Applicant's total number of clients: _____

17. Applicant's total number of discretionary accounts: _____

18. Applicant's total number of nondiscretionary accounts: _____

19. Applicant's total number of clients who are investment companies registered under the Investment Company Act of 1940: _____

20. Applicant's total number of clients who are not investment companies registered under the Investment Company Act of 1940: _____

21. Applicant's total assets under management: _____

22. Applicant's total number of clients who are not investment companies registered under the Investment Company Act of 1940 for which applicant has authority to deduct fees from client accounts: _____

23. Applicant's total assets under management for clients who are not investment companies registered under the Investment Company Act of 1940 for which applicant has authority to deduct fees from client accounts: _____

24. Does applicant have any person (if "yes," state later address and telephone number in Schedule E.)

☐ YES ☐ NO

25. Applicant's fiscal year ends: _____ (Month) _____ (Day)

26. Applicant is filing or has filed its application for registration as an investment adviser with the following regulators: (Please a code number after each applicable agency or jurisdiction in accordance with the following: If currently applying, insert number "1." If application is pending, insert number "2." If already registered, licensed, or a member, insert number "3." If any license, registration, or membership listed below is or a restricted nature or has been suspended or terminated, or voluntarily terminated.)

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| AL ___ | AK ___ | AZ ___ | AR ___ | CA ___ | CO ___ | CT ___ | DE ___ | DC ___ | |
| FL ___ | GA ___ | HI ___ | ID ___ | IL ___ | IN ___ | IA ___ | KS ___ | KY ___ | |
| LA ___ | ME ___ | MD ___ | MA ___ | MI ___ | MN ___ | MS ___ | MO ___ | MT ___ | |
| NE ___ | NV ___ | NH ___ | NJ ___ | NM ___ | NY ___ | NC ___ | ND ___ | OH ___ | |
| OK ___ | OR ___ | PA ___ | RI ___ | SC ___ | SD ___ | TN ___ | TX ___ | UT ___ | |
| VT ___ | VA ___ | WA ___ | WV ___ | WI ___ | WY ___ | PR ___ | Other ___ (Specify) | | |

SECURITIES AND EXCHANGE COMMISSION

27. (a) Applicant is a corporation, complete Schedule A.

(b) If applicant is a partnership, complete Schedule B.

(c) If applicant is other than a sole proprietorship, partnership, or corporation complete Schedule C.

28. (a) Applicant or any person listed in response to Item 2(a) above or any Schedule hereunder, directly or indirectly through agreement or otherwise, exercise or have the power to exercise a controlling influence over the management or policies of applicant?

☐ YES ☐ NO

*(If "yes," state on Schedule E the exact name of each person (if individual, state last, first, and middle names) and describe the agreement or other basis through which such person exercises or has the power to exercise a controlling influence.)*

(b) Is the business of applicant wholly or partially financed, directly or indirectly, by any person not named in Items 2(a) and B, or any Schedule hereunder, in any manner other than by: (1) a public offering of securities made pursuant to the Securities Act of 1933; (2) credit extended in the ordinary course of business by suppliers, banks and others, or a satisfactory subordination agreement, as defined in Rule 15d-1 under the Securities Exchange act of 1934 (17 CFR 240.15d-1)?

☐ YES ☐ NO

*(If "yes," state on Schedule E the exact name (last, first, middle) of each person and describe the agreement or arrangement through which such financing is made available, including the amounts thereof.)*

*If any item on this page is amended, you must answer in full all other items on this page and file with a completed and signed execution page. No Schedule required by any item on this page need be filed with an amended item unless the Schedule itself is amended.*

**FORM ADV Page 2** — OFFICIAL USE

6. If applicant is a sole proprietor, state full residence address and social security number.

Social Security No.: _____

(NUMBER AND STREET) (CITY) (STATE) (ZIP CODE)

7. (a) Is applicant a successor to a registered investment adviser and taking over all or substantially all of the assets and liabilities and continuing the business of a registered investment adviser? ☐ YES ☐ NO

If "yes," state:

(1) Date of Succession: _____

(2) Full name, IRS Empl. Ident. No. and SEC File No. of predecessor:

Name: _____

IRS Empl. Ident. No.: _____

SEC File Number: _____

(b) Has applicant merged with or acquired another registered investment adviser? ☐ YES ☐ NO

*(If "yes," describe briefly on Schedule E.)*

8. (a) If applicant is a corporation, complete Schedule A.

(b) If applicant is a partnership, complete Schedule B.

(c) If applicant is other than a sole proprietorship, partnership, or corporation complete Schedule C.

9. (a) Does any person not named in Items 2(a) and B, or any Schedule hereunder, directly or indirectly through agreement or otherwise, exercise or have the power to exercise a controlling influence over the management or policies of applicant? ☐ YES ☐ NO

*(If "yes," state on Schedule E the exact name of each person (if individual, state last, first, and middle names) and describe the agreement or other basis through which such person exercises or has the power to exercise a controlling influence.)*

(b) Is the business of applicant wholly or partially financed, directly or indirectly, by any person not named in Items 2(a) and B, or any Schedule hereunder, in any manner other than by: (1) a public offering of securities made pursuant to the Securities Act of 1933; (2) credit extended in the ordinary course of business by suppliers, banks and others, or a satisfactory subordination agreement, as defined in Rule 15d-1 under the Securities Exchange act of 1934 (17 CFR 240.15d-1)? ☐ YES ☐ NO

*(If "yes," state on Schedule E the exact name (last, first, middle) of each person and describe the agreement or arrangement through which such financing is made available, including the amounts thereof.)*

*If any item on this page is amended, you must answer in full all other items on this page and file with a completed and signed execution page. No Schedule required by any item on this page need be filed with an amended item unless the Schedule itself is amended.*

**WARNING:** Failure to keep this form current and to file accurate supplementary information on a timely basis, or the failure to keep accurate books and records would violate the Federal securities laws and may result in disciplinary, administrative, injunctive or criminal action. INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACTS MAY CONSTITUTE CRIMINAL VIOLATIONS

**WARNING:** Failure to keep this form current and to file accurate supplementary information on a timely basis, or the failure to keep accurate books and records would violate the Federal securities laws and may result in disciplinary, administrative, injunctive or criminal action. INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACTS MAY CONSTITUTE CRIMINAL VIOLATIONS





**FORM ADV** — APPLICATION FOR REGISTRATION AS AN INVESTMENT ADVISER OR TO AMEND SUCH AN APPLICATION UNDER THE INVESTMENT ADVISERS ACT OF 1940

SEC/WRITER AND EXCHANGE COMMISSION • WASHINGTON, D.C. 20549

Approved Page

SEC USE

801-

File No.

Sec. Ex. No.

GENERAL. Read all instructions before preparing the form. Please print or type all responses. If this form is filed as an amendment, only a completed and signed execution page and those pages containing items which are being amended or which have changed since the previous filing need to be filed. Such pages should be numbered in full.

(a) If this is an APPLICATION for registration, check here. ☐ and complete all items as of the date of filing.

(b) If this is an AMENDMENT to an application, check here. ☐ and specify below all parts which are amended.

Item(s): _____ of Page 1 of Form ADV Schedule A _____ Schedule B _____

Item(s): _____ of Page 2 of Form ADV Schedule C _____ Schedule D _____ Schedule E _____

1. (a) Exact name of principal business address, mailing address, if different, and telephone number of applicant.

Full name of applicant. *(If sole proprietor, enter last, first, and middle names)* IRS Empl. Ident. No.:

Name under which business is conducted, if different.

If name of business is formerly conducted, state previous name:

Address of principal place of business: (Do not use P.O. Box Number)

(NUMBER AND STREET) (CITY) (STATE) (ZIP CODE)

Mailing Address, if different:

Telephone Number:

(AREA CODE) (TELEPHONE NUMBER) (DATE LINE IS MET)

Address of location of the books and records applicant is required to maintain, pursuant to Section 204 of the Investment Advisers Act of 1940 and the rules thereunder, if different from address of principal place of business:

EXECUTION The undersigned, being first duly sworn, deposes and says that he has executed this form on behalf of, and with the authority of, said applicant. The undersigned and applicant represent that the information and statements contained herein, including any exhibits attached hereto and other information filed herewith, all of which are made a part hereof, are current, true and complete. The undersigned and applicant further represent that to the best of their knowledge no material change has occurred in the facts set forth in the most recent Form ADV filed on behalf of applicant which has not been previously submitted or is not amended. Such information is currently accurate and complete.

Dated the _____ day of _____, 19__

(NAME OF APPLICANT)

By: _____

(SIGNATURE AND TITLE)

Attest: _____

(SIGNATURE AND TITLE)

Subscribed and sworn to before me this _____ day of _____, 19__

STATE OF _____ }
COUNTY OF _____ } ss

NOTARIAL SEAL

NOTARY PUBLIC

My commission expires:

THE SECURITIES AND EXCHANGE COMMISSION HAS NOT PASSED UPON THE ABILITIES, QUALIFICATIONS, OR BUSINESS PRACTICES OF THE INVESTMENT ADVISER DESCRIBED HEREIN.

ALL OF THE ITEMS ON THIS PAGE MUST BE ANSWERED AND COMPLETED IN FULL.

DO NOT WRITE BELOW THIS LINE. FOR OFFICIAL USE ONLY

FEDERAL REGISTER, VOL. 42, NO. 144—WEDNESDAY, JULY 27, 1977

WARNING: Failure to keep this form current and to file accurate supplementary information on a timely basis, or the failure to keep accurate books and records would violate the Federal securities laws and may result in disciplinary, administrative, injunctive or criminal action.
INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACTS MAY CONSTITUTE CRIMINAL VIOLATIONS

## FORM ADV Page 3

OFFICIAL USE

10. State whether the applicant, any person named in Items 2(a), 8 or 9, or any Schedule thereunder, or any other person directly or indirectly controlling, or controlled by applicant, including any employee of applicant:

(a) Has been found by the Securities and Exchange Commission or any jurisdiction willfully to have made or caused to be made any statement which was, at the time and in the light of the circumstances under which it was made, false and misleading with respect to any material fact, or to have omitted to state any material fact, which was required to be stated, in any application for registration or report required to be filed under the Federal securities laws or under the securities laws of any jurisdiction, or in any proceeding before the Securities and Exchange Commission or any jurisdiction relating to securities, the conduct of business or registration as a broker, dealer, municipal securities dealer, or investment adviser or associated person thereof.... YES ☐ NO ☐

(b) Has been convicted within 10 years preceding the filing of any application for registration or at any time thereafter of any felony or misdemeanor

(i) involving the purchase or sale of any security, the taking of a false oath, the making of a false report, bribery, perjury, burglary, or conspiracy to commit any such offense; ..... YES ☐ NO ☐

(ii) arising out of the conduct of the business of a broker, dealer, municipal securities dealer, investment adviser, bank, insurance company, or fiduciary; ..... YES ☐ NO ☐

(iii) involving the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities; . YES ☐ NO ☐

(iv) involving the violation of Section 152, 1341, 1342 or 1343 or Chapter 25 or 47 of Title 18, United States Code (concealment of assets, false oaths and claims, or bribery), in any bankruptcy proceeding; mail fraud; fraud by wire, including telephone, telegraph, radio or television; counterfeiting, forgery; fraud, false statements); or ..... YES ☐ NO ☐

(v) has pleaded nolo contendere to any felony or misdemeanor described in items 10(b)(i-iv)..... YES ☐ NO ☐

(c) Is enjoined permanently, or within the past 10 years has been enjoined temporarily, by order, judgment or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, or municipal securities dealer, or as an associated person or employee of any of the foregoing, or as an affiliated person or employee of any investment company, bank, or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security, or arising out of any securities or investment advisory activities ..... YES ☐ NO ☐

(d) Has been found by the Securities and Exchange Commission or any jurisdiction or any court to have violated or to have aided, abetted, counselled, commanded, induced, or procured the violation by any other person of the Federal laws, or the laws of any jurisdiction, relating to securities or relating to the conduct of business as a broker, dealer, municipal securities dealer, investment adviser, or investment company, any rule or regulation under any of such laws, or any rule of the Municipal Securities Rulemaking Board, or to have failed reasonably to supervise another person who committed such a violation, or to have been unable to comply with any of the foregoing .. YES ☐ NO ☐

*If any item on this page is amended, you must answer in full all other items on this page and file with a completed and signed execution page. No Schedule required by any item on this page need be filed with an amended item unless the Schedule itself is amended.*

## FORM ADV Page 4

OFFICIAL USE

(e) Has been or is the subject of an order of the Securities and Exchange Commission entered pursuant to subsection (f) of Section 203 of this title or paragraph (6) of Section 15(b) or paragraph (4) of Section 15B(c) of the Securities Exchange Act of 1934, or an order of a court or jurisdiction (or any agency thereof), or an order of an appropriate regulatory agency entered pursuant to paragraph (5) of Section 15B(c) of the Securities Exchange Act of 1934, barring or suspending the right of such person to be associated with an investment adviser, broker, dealer, or municipal securities dealer..... YES ☐ NO ☐

(f) Has been denied membership or registration with, or participation in, or has been suspended, revoked or expelled from membership, participation in or registration with any self-regulatory organization registered under the Securities Exchange Act of 1934; or has been suspended or barred from being associated with any member of such self-regulatory organization; or has been censured or fined by any such self-regulatory organization... YES ☐ NO ☐

(g) Has been denied registration (license) with, or suspended, revoked or expelled from registration (license) with the Securities and Exchange Commission or any jurisdiction (or any agency thereof) as a broker, dealer, investment adviser, securities salesman, or municipal securities dealer, or has been barred from being associated with a person engaged in such business..... YES ☐ NO ☐

(h) Has been found to have been a cause of (1) the denial, suspension, or revocation of any person's (a) registration with the Securities and Exchange Commission or any jurisdiction (or any agency thereof), or (b) membership or participation in any self-regulatory organization registered under the Securities Exchange Act of 1934; or (2) any person's expulsion from such self-regulatory organization..... YES ☐ NO ☐

(i) Has been, within the past 10 years, the subject of any cease and desist, desist and refrain, prohibition, or similar order which was issued by the United States or any jurisdiction arising out of the conduct of the business of a broker, dealer, municipal securities dealer, or investment adviser YES ☐ NO ☐

(j) Has been the subject of any order, judgment, decree or other sanction of a foreign court, foreign exchange, or foreign governmental or regulatory agency arising out of any securities or investment advisory activities ..... YES ☐ NO ☐

(k) State whether applicant, any person named in Items 2(a), 8 or 9, or any Schedule thereunder, or any other person directly or indirectly controlling or controlled by applicant, including any employee, is presently the subject of any proceedings in which an adverse decision would result in any of the foregoing questions being answered "yes"..... YES ☐ NO ☐

Note: For purposes of item 10, applicant is required to include representations as to clerical and ministerial employees.

11. Complete a separate Schedule D for each appropriate person in accordance with the instructions thereon and instruction 22 to this form.

*If any item on this page is amended, you must answer in full all other items on this page and file with a completed and signed execution page. No Schedule required by any item on this page need be filed with an amended item unless the Schedule itself is amended.*



## FORM ADV Page 5

OFFICIAL USE

12. Provide on Schedule F a balance sheet current as of the end of applicant's most recent fiscal year.

Note: If the information contained in this balance sheet becomes materially inaccurate, Rule 204-1(b) under the Act requires the investment adviser to file promptly with the Commission a revised balance sheet.

In any case, that rule requires an investment adviser to file with the Commission no later than 90 days after the end of its fiscal year an updated balance sheet containing, at least, the accounts set forth above.

## FORM ADV Page 6

13. Does applicant: YES NO

a) Furnish "investment supervisory services," defined as the giving of continuous advice to clients as to the investment of funds on the basis of individual needs of each client; e.g., the nature and amount of other assets, investments and insurance, and the nature and extent of the personal and family obligations of each client (distinguished from continuous advice of any nature which is not based on consideration of such relevant individual factors)? ☐ ☐

b) Manage investment advisory accounts under circumstances not involving investment supervisory services? ☐ ☐

c) Furnish investment advice through consultations (not as part of (a) or (b) above)? ☐ ☐

d) Issue periodic publications relating to securities on a subscription basis? ☐ ☐

e) Prepare or issue special reports or analyses relating to securities, not included in any service described above? ☐ ☐

f) Prepare or issue, not as part of any service described above, any charts, graphs, formulas, or other devices which clients may use to evaluate securities? ☐ ☐

g) Furnish investment advice in any manner not described above? ☐ ☐

If the answer to any of the preceding paragraphs is "Yes," the applicant shall furnish full details on Schedule E, including the precise basis or bases of compensation, e.g., a percentage of the assets under management, hourly charges, a fixed fee or an annual subscription fee in the case of a periodic publication, for the services which the investment adviser provides and the precise amounts charged, e.g., % per annum, and when such compensation is payable. If such compensation is payable prior to the rendering of the services relating thereto, the applicant should explain to what extent and under what conditions such compensation is refundable. In addition, the applicant should include the name of each publication or analysis issued on a regular basis and a general description of any special reports or analyses to be issued on an irregular basis.

The applicant should set forth the procedures and conditions, if any, pursuant to which the applicant or any client may terminate an investment advisory contract prior to the termination date set forth in the contract.

FORM ADV Page 7

14. (a) Is Applicant or Registrant engaged in any business or profession other than acting as investment adviser? (If so, describe briefly on Schedule E such other business or profession.) YES ☐ NO ☐

(b) Is the principal business of Applicant or Registrant that of an investment adviser? YES ☐ NO ☐

(c) Does a substantial part of Applicant's or Registrant's investment advisory business consist of rendering "Investment supervisory services" as defined in Item 13 above? YES ☐ NO ☐

15. (a) Does Applicant control or is Applicant controlled by, directly or indirectly, any partnership, corporation, or other organization engaged in the securities or the investment advisory business? YES ☐ NO ☐

(If "yes," state full name and principal business address of such partnership, corporation, or other organization and describe the nature of control on Schedule E)

(b) Is Applicant registered (or does Applicant have an application for registration pending) as a broker or dealer? YES ☐ NO ☐

(c) Is Applicant affiliated with any broker or dealer? ☐ ☐

(If "yes," state the nature of such affiliation and the business relationship, if any, between such broker or dealer and Applicant on Schedule E)

Note: Pursuant to Section 202(a)(12) of the Act, the term "affiliated person" has the same meaning as in Section 2(a)(3) of the Investment Company Act of 1940, which, as relevant, means

> "(A) any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of such other person; (B) any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; (C) any person directly or indirectly controlling, controlled by, or under common control with, such other person; (D) any officer, director, partner, copartner, or employee of such other person ...."

16. Does Applicant or any person associated with Applicant have discretionary authority to make any of the following determinations without obtaining the consent of the investment advisory client before the transaction is effected:

(a) Which securities are to be bought or sold? YES ☐ NO ☐

(b) Through which broker-dealer securities are to be bought or sold? ☐ ☐

(c) The total amount of the securities to be bought or sold? ☐ ☐

If the answer to any question of Item 16 is "yes" and there are limitations on such authority, describe such limitations in full detail on Schedule E.

FORM ADV Page 8

17. Does applicant, or any person associated with applicant, have custody or possession of, or have authority to obtain custody or possession of:

(a) Securities of any investment advisory client? YES ☐ NO ☐

(b) Funds of any investment advisory client? ☐ ☐

REMINDER: Rule 206(4)-2 contains special provisions relating to investment advisers who have custody or possession of securities or funds of their advisory clients.

(c) If the answer to any of the foregoing questions of item 17 is "Yes," provide the approximate value of the clients' funds and securities in registrant's custody or possession _____

18. Does applicant:

(a) As principal, sell securities to or buy securities from any investment advisory client? YES ☐ NO ☐

(b) Effect securities transactions as broker or agent for any investment advisory client? YES ☐ NO ☐

(c) As broker or agent for any person other than an investment advisory client, sell securities to or buy securities from clients? YES ☐ NO ☐

(d) Recommend to investment advisory clients or prospective clients, the purchase or sale of securities in which the applicant or registrant, directly or indirectly, has a position or interest? YES ☐ NO ☐

If the answer to any of the foregoing questions of item 18 is "Yes," describe on Schedule E the circumstances in which the investment adviser engages in such transactions and any internal procedures the investment adviser has concerning such transaction.

(e) Impose any restrictions upon itself or any person associated with it when effecting transactions for its or their account in securities recommended to clients? (If the answer to this paragraph is "yes," describe such restrictions on Schedule E.) YES ☐ NO ☐



FORM ADV Page 9

19. Check the types of clients for which the applicant generally provides investment advice and the approximate number of accounts in each category:

| | | |
|---|---|---|
| a) | Individuals | ☐ _____ |
| b) | Investment Companies | ☐ _____ |
| c) | Pension and profit-sharing plans | ☐ _____ |
| d) | Banks | ☐ _____ |
| e) | Charitable institutions | ☐ _____ |
| f) | Educational institutions | ☐ _____ |
| g) | Trust accounts | ☐ _____ |
| h) | Corporations | ☐ _____ |
| i) | Insurance companies | ☐ _____ |
| j) | Other (explain in full detail on Schedule E) | ☐ _____ |

(If the applicant imposes any limitations on the types of clients it will accept, explain in full detail on Schedule E.)

20. Check types of securities concerning which the applicant generally provides investment advice:

| | | |
|---|---|---|
| a) | Equity securities | ☐ |
| b) | Corporate debt securities | ☐ |
| c) | Warrants | ☐ |
| d) | Commercial paper | ☐ |
| e) | Bank certificates of deposit | ☐ |
| f) | Municipal securities | ☐ |
| g) | Investment company securities | ☐ |
| | 1) Variable life insurance | ☐ |
| | 2) Variable annuities | ☐ |
| | 3) Mutual fund shares | ☐ |
| h) | United States government securities | ☐ |
| i) | Options contracts on | |
| | 1) securities | ☐ |
| | 2) commodities | ☐ |
| j) | Interests in limited partnerships investing in | |
| | 1) real estate | ☐ |
| | 2) oil and gas interests | ☐ |
| k) | Other (explain in full detail on Schedule E) | ☐ |

FORM ADV Page 10

21. a) Check the sources of information, including reference materials, generally used by the applicant as the basis for investment advice rendered to clients:

1) Financial newspapers and magazines ☐
2) Company prepared information (i.e., annual reports, prospectuses, filings with the Commission, press releases, etc.) ☐
3) Meetings with corporate personnel ☐
4) Inspections of corporate activities ☐
5) Research materials prepared by others ☐
6) Corporate rating services ☐
7) Other (explain in full detail on Schedule E) ☐

b) Check the general method or methods of securities analysis employed by applicant:

1) Fundamental analysis ☐
2) Technical analysis ☐
3) Cyclical analysis ☐
4) Charting ☐
5) Other (explain in full detail on Schedule E) ☐

(Explain each method of analysis and the relative emphasis applicant places on each method in formulating its investment advice)

c) Check the types of securities transactions generally recommended or used to implement any investment advice rendered to clients:

1) Long term purchases (securities will be held at least one year except in unusual circumstances) ☐
2) Short term purchases (securities will generally be sold within one year after purchase) ☐
3) Trading (securities will generally be sold within 30 days after purchase) ☐
4) Short Sales ☐
5) Margin transactions ☐
6) Option writing ☐
   a) covered options ☐
   b) uncovered options ☐
7) Other (explain in full detail on Schedule E) ☐

22. Are there any uniform standards of education and business background which applicant requires of persons associated with applicant (other than persons whose functions are solely clerical or ministerial) whose functions or duties relate to providing investment advice to clients.

YES NO

If "yes", please furnish a complete description of such standards on Schedule E,



If the applicant provides investment supervisory services (as defined in Section 202(a)(13) of the Act) or manages investment advisory accounts for clients under circumstances not involving investment supervisory services, complete questions 23 through 27.

23. What is the minimum amount of assets applicant generally requires to establish and maintain an investment advisory account? _____

If applicant imposes any other conditions on the establishment or maintenance of an investment advisory account, explain in full detail on Schedule E.

24. Does applicant have discretionary authority to select brokers or dealers to execute transactions in securities for its clients or for the accounts of its clients? YES ☐ NO ☐

If "yes" and there are limitations on such authority, describe such limitations in full detail on Schedule E.

25. Does applicant consider factors relating to the individual circumstances of clients in making recommendations to, or effecting transactions for, such clients. YES ☐ NO ☐

If "yes," describe such factors in full detail on Schedule E.

26. Describe briefly on Schedule E:

a) applicant's organizational structure, including a description of the role of each principal department in the organization in the usual process of arriving at investment decisions or recommendations for clients,

b) the process pursuant to which applicant reviews each investment advisory account, including, but not limited to, the category of personnel performing the review, factors which trigger reviews, the sequence in which accounts are reviewed and the matters reviewed, and

c) the frequency and nature of any reports furnished to clients concerning their investment advisory accounts.







27(a)(1) Number of accounts under discretionary management _____

(2) Approximate market value of all accounts under discretionary management _____

(3) Date of valuation _____

(4) Approximate number of accounts under discretionary management in the following size categories:

(i) Less than $2,500 _____
(ii) $2,500 - $10,000 _____
(iii) $10,000 - $50,000 _____
(iv) $50,000 - $200,000 _____
(v) $200,000 - $500,000 _____
(vi) $500,000 - $1,000,000 _____
(vii) More than $1,000,000 _____

(b) What is the maximum number of investment advisory accounts with respect to which any one individual associated with applicant may act as portfolio or account manager? _____

(c) Does Applicant have advisory accounts under any other form of management or supervision? Yes ___ No ___
If the answer is "Yes," please provide:

(i) Number of such accounts _____

(ii) Approximate market value of all such accounts _____

(iii) Date of valuation _____

(iv) Approximate number of such accounts in the following size categories:

(a) Less than $2,500 _____
(b) $2,500 - $10,000 _____
(c) $10,000 - $50,000 _____
(d) $50,000 - $200,000 _____
(e) $200,000 - $500,000 _____
(f) $500,000 - $1,000,000 _____
(g) More than $1,000,000 _____

28. Is applicant or registrant a party to any civil litigation relating to its business as an investment adviser? Yes ☐ No ☐

(If "yes", describe briefly on Schedule E)

SCHEDULE A OF FORM ADV ☐ FORM BD ☐

FOR CORPORATIONS
(Answers in response to ITEM 8(a) of Form ADV or Form BD.)

OFFICIAL USE

Date as stated on the execution page of Form ADV or Form BD accompanying this Schedule:

I. Full name of applicant exactly as stated in Item 2(a) of Form ADV or Form BD: IRS Empl. Ident. No.

II. Name under which business is conducted if different:

III. Complete and mark appropriate columns for (a) each officer, director, and person with similar status or functions, and (b) each other person who is, directly or indirectly, the beneficial owner of 5% or more of the outstanding shares of any class of equity security of applicant unless applicant is the issuer of a security registered pursuant to Section 12 of the Securities Exchange Act of 1934 (or the issuer of a security which is exempted pursuant to Subsections (g)(2), (3), or (g)(2)(G) thereof) in which case each other person who is, directly or indirectly, the beneficial owner of 5% or more of any such registered class of equity security of applicant. Thus, if applicant is owned directly, or indirectly through one or more intermediaries, by a corporation, then such corporation's shareholders should be considered in determining who must be listed on Schedule A. Place an asterisk (*) after the names of the persons for whom a change in title, status, or stock ownership is being reported. Place a double asterisk (**) after the names of the persons which are ADDED to those furnished in the most recent previous filing. Designate percentage of ownership as follows: If none, enter "none," above 0% to less than 5%, enter "A," 5% to less than 5%, enter "B," 5% to less than 10%, enter "C" 10% to less than 25%, enter "D," 25% to less than 50%, enter "E," 50% to less than 75%, enter "F," 75% to 100%, enter "G."

| LAST | FIRST | MIDDLE | RELATIONSHIP: Beginning Date Mo | Yr. | Title or Status | Official Use Only | Ownership Code | Class of Equity Security | Social Security Number |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | 01 | | | |
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| | | | | | | 10 | | | |
| | | | | | | 11 | | | |
| | | | | | | 12 | | | |

IV. List below names reported in the most recent previous filing pursuant to this item which are DELETED hereby:

| LAST | FIRST | MIDDLE | Ending Date Mo | Yr. | Social Security Number | OFFICIAL USE |
|---|---|---|---|---|---|---|
| | | | | | | |
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If any item on this page is amended, you must answer in full all other items on this page and file with a completed and signed execution page.

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WARNING: Failure to keep this form current and to file accurate supplementary information on a timely basis, or the failure to keep accurate books and records would violate the Federal securities laws and may result in disciplinary, administrative, injunctive or criminal action. INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACTS MAY CONSTITUTE CRIMINAL VIOLATIONS

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INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACTS MAY CONSTITUTE CRIMINAL VIOLATIONS

## Schedule B of FORM ADV / FORM BD

FOR PARTNERSHIPS
(Answers in response to ITEM 8(b) of FORM ADV or Form BD.)

OFFICIAL USE

Check if exhibit or supplement to Form ADV or Form BD accompanying this Schedule B

I. Full name of applicant exactly as stated in Item 2(a) of Form ADV or Form BD.

IRS Empl. Ident. No.

II. Name under which business is conducted if different.

III. List all partners, whether active or inactive. For each partner, additional and until withdrawal address, telephone number, principal occupation and business affiliation for the past 10 years. Indicate whether each partner is a general partner or limited partner. Please provide complete information for each partner, even if some of the information is the same as that given in response to Item 8(b) of Form ADV or Form BD. If any partner is not a natural person, also list all partners, officers, directors or persons with similar status or functions.

IV. List below names reported in this sheet which previously have been submitted on this Schedule B or on Schedule C or D to Form ADV or Form BD and indicate whether DELETED by amendment or WITHDRAWN.

| Last | FULL NAME: First | Middle | Beginning Date: Mo. | Yr. | Ending Date: Mo. | Yr. | Type of Partner | Official Title | Date of Admission or Withdrawal: Mo. | Yr. | Social Security Number | OFFICIAL USE |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |

SCHEDULE F OF FORM ADV

(Answers in Response to ITEM 12 of Form ADV and ITEM 4 of Form ADV-S)

| 1. Full name of applicant exactly as stated in Item 2(a) of Form ADV. | IRS EMPL. IDENT. NO. |
|---|---|
| | |

Date as given on the execution page of the Form ADV accompanying this Schedule.

If any item on this page is amended, you must answer in full all other items on this page and file with a completed and executed page one.

WARNING: Failure to keep this form current and to file accurate supplementary information on a timely basis, or the failure to keep accurate books and records would violate the Federal securities laws and may result in disciplinary, administrative, injunctive or criminal action. INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACTS MAY CONSTITUTE CRIMINAL VIOLATIONS

SCHEDULE G OF FORM ADV
STATE SUPPLEMENTAL INFORMATION FORM
(DO NOT FILE WITH THE SECURITIES AND EXCHANGE COMMISSION)

OFFICIAL USE

SUPPLEMENTAL STATE INFORMATION FOR THE STATE OF:_____

Full name of applicant exactly as stated in Item 2(a) of Form ADV: | IRS Empl. Ident. No.:

Answer the following questions by referring to the Special Instruction Sheet for this state. Supply only the information required therein and indicate as appropriate the information supplied.

| | YES | NO |
|---|---|---|
| I. ADMISSION OF FOREIGN CORPORATION IN STATE OF APPLICATION. | | |
| (a) Has applicant applied for or been admitted to do business in this state? | ☐ | ☐ |
| (b) If "yes," give | | |
| (1) Date of admission:_____, (include certificate where required) or | | |
| (2) Date of application:_____ | | |
| (c) Is applicant "in good standing" in its state of incorporation? | ☐ | ☐ |
| II. INVESTMENT ADVISER BOND. | | |
| (a) Attached is the required surety bond in the penal amount of . . . $_____ | | |
| (b) Attached is a form indicating: | | |
| 1. Cash deposited in a satisfactory depository in the amount of . . . $_____ | | |
| 2. Certificates of deposit, deposited in a satisfactory depository in the amount of . . . $_____ | | |
| 3. Securities deposited in a satisfactory depository in the amount of . . . $_____ | | |
| 4. Other (Attach explanation.) | YES | NO |
| (c) Applicant claims exemption from the bond requirement . . . (If "yes," attach explanation and evidence showing circumstances which relieve applicant from obtaining bond.) | ☐ | ☐ |
| (d) 1. Has applicant ever been refused a bond by a surety company? | ☐ | ☐ |
| 2. Has applicant ever been subject to a surety bond payment? | ☐ | ☐ |
| (If "yes," attach explanation.) | | |
| III. FINANCIAL REPORTS AND PERSONNEL INFORMATION. (Check whether applicable.) | YES | NO |
| (a) Attached are____copies of applicant's latest certified financial statement | ☐ | ☐ |
| (b) Attached are_____copies of applicant's latest Joint Regulatory Report or FOCUS Report | ☐ | ☐ |
| (c) Attached are____copies of applicant's latest unaudited financial statement | ☐ | ☐ |
| (d) Attached are_____copies of applicant's latest financial statement on the form provided by the state in which application is being made | ☐ | ☐ |
| (All financial statements must be accompanied by the net capital to aggregate indebtedness ratio computations as of the same date as those reports.) | | |
| (e) Attached are copies of all currently effective subordination agreements | ☐ | ☐ |
| (If all are similar in form, attach 1 copy and a schedule showing the name and address of each lender, and the dollar value of the subordinated items on each agreement.) | | |
| (f) Submit the name and address of applicant's bank or banks | ☐ | ☐ |
| (g) Supply a list of all persons who will supervise investment advisory activities in this state | ☐ | ☐ |
| (h) Supply a list of all persons who will render investment advice or solicit clients in this state | ☐ | ☐ |
| (i) Submit number of employees | ☐ | ☐ |
| (j) Submit statement of qualifications | ☐ | ☐ |
| (k) Submit photograph(s) which has been taken within the preceding six months | ☐ | ☐ |
| (l) Submit fingerprints in a form acceptable to this state | ☐ | ☐ |
| (Where an item is checked "yes," attach the required documents.) | | |

If any item on this page is amended, you must answer in full all other items on this page and file with a completed and signed execution page.

WARNING: Failure to keep this form current and to file accurate supplementary information on a timely basis, or the failure to keep accurate books and records would violate the Federal securities laws and may result in disciplinary, administrative, injunctive or criminal action. INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACTS MAY CONSTITUTE CRIMINAL VIOLATIONS

SCHEDULE G OF FORM ADV (continued)

OFFICIAL USE

IV. ORGANIZATIONAL DOCUMENTS AND OTHER INFORMATION:
(a) If applicant is a corporation, attached are:
Articles____ By-Laws____ Amendments____ Certification____
(b) If applicant is a partnership:
(1) Attached are Partnership Agreement____ Amendments____
(2) Partnership Certificate was filed in_____ (state) (county)
on_____ (date) under_____ (state) Public Acct. No._____.
(year)
(3) The effective date of the partnership agreement is_____.
(c) If applicant is a sole proprietor:
(1) Attached is a copy of the assumed name certificate (if not applicable, so state)_____
(2) This certificate was obtained in_____ (state) on_____ (date).
(d) Attached are the following records, forms and schedules:

1. Investment Advisory Contract Forms ____
2. Discretionary or Custody Agreement Forms ____
3. Profit-sharing or other Compensation Agreements ____
4. Reports, Analyses, Publications, Periodicals, etc. ____
5. Letters of recommendation ____
6. Corporate Resolution ____
7. Executed consent to service of process (Form U-2, if applicable) ____

(e) Applicant's fiscal period begins_____and ends_____.
(f) Effective date of registration with S.E.C._____.

V. OFFICES IN THE STATE OF APPLICATION:

| | Address | Name of Person in Charge |
|---|---|---|
| Principal Office: | | |
| Branch Offices: | | |
| | | |

VI. STATE WHETHER APPLICANT:

| | YES | NO |
|---|---|---|
| (a) Had a judgment or order entered against him in any civil or administrative proceeding in which fraud was an element other than those previously described in Form ADV | ☐ | ☐ |
| (b) Has ever been subject to any bankruptcy, receivership or insolvency proceedings | ☐ | ☐ |
| (c) Has any unsatisfied judgments outstanding, including against any officer, director, or partner | ☐ | ☐ |
| (If "yes," attach explanation.) | | |

VII. FILING FEE IN THE AMOUNT OF $_____IS ATTACHED.

If any item on this page is amended, you must answer in full all other items on this page and file with a completed and signed execution page.

FORM ADV-S — ANNUAL SUPPLEMENT FOR INVESTMENT ADVISERS REGISTERED UNDER THE INVESTMENT ADVISERS ACT OF 1940

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

GENERAL INSTRUCTIONS FOR PREPARING AND FILING FORM ADV-S

1. Every investment adviser which is registered under the Act on the last day of its fiscal year is required to file Form ADV-S with the Commission. Form ADV-S (and the updated balance sheet required by item 12 of Form ADV) must be filed together no later than 90 days after the end of applicant's fiscal year unless applicant's registration has been withdrawn, cancelled, or revoked prior to that date.

2. Failure to file Form ADV-S, in addition to constituting a violation of Rule 204-1(c) under the Act, will result in the taking of appropriate steps by the Commission to determine whether a Registrant is still in existence and is still engaged in business as an investment adviser and may, therefore, lead the Commission to order cancellation of a Registrant's registration, pursuant to Section 203(h) of the Act.

3. Any Registrant answering question 2 in the negative which is not, to its knowledge, the subject of a pending Commission investigation or administrative proceeding, is strongly urged to withdraw from registration by filing a notice of withdrawal on Form ADV-W together with this form or as soon as possible thereafter. Otherwise, the Commission may order cancellation of Registrant's registration solely on the basis of Registrant's response to question 2 of this form. Copies of Form ADV-W may be obtained from any office of the Commission.

4. It is essential that, before answering question 3, Registrant carefully review its Form ADV which is currently on file with the Commission and the provisions of Rule 204-1 under the Act, which sets forth the circumstances in which amendments to Form ADV, the application for registration, are required to be filed. Any Registrant which provides an affirmative answer to question 3(a) should file the required amendment(s) together with this form or as soon as possible thereafter. Failure to do so could result in appropriate enforcement action by the Commission. Copies of Form ADV may be obtained from any office of the Commission.

Note: A Registrant which does not have a copy of its Form ADV which is currently on file with the Commission may inspect the Form at the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. 20005 or the appropriate Regional Office, or may obtain a photocopy at a nominal charge from the Public Reference Section, Securities and Exchange Commission, Washington, D.C. 20549.

Note: Registrants have a continuing obligation to file any amendments to Form ADV within the time limits set forth in Rule 204-1 under the Act and should not postpone such filings until the filing of Form ADV-S.

Page Two of FORM ADV-S

5. UNDER SECTIONS 204 AND 211(a) OF THE INVESTMENT ADVISERS ACT OF 1940 AND THE RULES AND REGULATIONS THEREUNDER, THE COMMISSION IS AUTHORIZED TO SOLICIT THE INFORMATION REQUIRED BY THIS FORM FROM REGISTRANTS UNDER THE INVESTMENT ADVISERS ACT OF 1940. THE INFORMATION SPECIFIED BY THIS FORM (OTHER THAN SOCIAL SECURITY NUMBERS) MUST BE PROVIDED PRIOR TO PROCESSING OF THE FORM. DISCLOSURE OF SOCIAL SECURITY NUMBERS IS VOLUNTARY, BUT SOCIAL SECURITY NUMBERS WILL ASSIST THE COMMISSION IN IDENTIFYING REGISTRANTS AND, THEREFORE, IN PROMPTLY PROCESSING THE FORMS. THE INFORMATION WILL BE USED FOR THE PRINCIPAL PURPOSES OF DETERMINING WHETHER REGISTRANT IS PRESENTLY ENGAGED IN BUSINESS AS AN INVESTMENT ADVISER AND WHETHER ALL INFORMATION IN REGISTRANT'S FORM ADV IS CURRENT. INFORMATION SUPPLIED ON THIS FORM WILL BE INCLUDED IN THE PUBLIC FILES OF THE COMMISSION AND WILL BE AVAILABLE FOR INSPECTION BY ANY INTERESTED PERSON. A FORM WHICH IS NOT PREPARED AND EXECUTED IN COMPLIANCE WITH APPLICABLE REQUIREMENTS MAY BE RETURNED AS NOT ACCEPTABLE FOR FILING. ACCEPTANCE OF THIS FORM, HOWEVER, SHALL NOT CONSTITUTE ANY FINDING THAT IT HAS BEEN FILED AS REQUIRED OR THAT THE INFORMATION SUBMITTED IS TRUE, CURRENT, OR COMPLETE. INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACT CONSTITUTE FEDERAL CRIMINAL VIOLATIONS. (See 18 U.S.C. 1001 and 15 U.S.C. 80b-17.)

GENERAL: Read all instructions before preparing the form. Please print or type all responses.

1. (a) Registrant's Investment Adviser Registration Number 801-_____

(b) Full name of Registrant: (If individual, state Last, first, middle name) _____ IRS Empl. Ident. No. or Soc. Sec. No.: _____

(c) Name under which business is conducted, if different: _____

(d) Address of principal place of business: (Do not use P.O. Box Number) _____

(No. and Street) (City) (State) (ZIP Code)

(e) Mailing address, if different: _____

2. Is Registrant presently engaged in business as an investment adviser? Yes ☐ No ☐

WARNING: Failure to keep this form current and to file accurate supplementary information on a timely basis, or the failure to keep accurate books and records would violate the Federal securities laws and may result in disciplinary, administrative, injunctive or criminal action. INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACTS MAY CONSTITUTE CRIMINAL VIOLATIONS.

Page Three of FORM ADV-S

3. (a) Is any amendment to Registrant's Form ADV required to be filed pursuant to Rule 204-1 under the Act to correct any information contained in Registrant's Form ADV currently on file with the Commission? Yes ☐ No ☐

(b) If the answer to question 3(a) is yes, state whether all required amendments are attached to this form. Yes ☐ No ☐

4. Attach on Schedule F of Form ADV a balance sheet, current as of the end of registrant's most recent fiscal year, meeting the requirements of ITEM 12 of FORM ADV.

EXECUTION: The undersigned represents that he has executed this form on behalf of, and with the authority of, said registrant. The undersigned and registrant represent that the information and statements contained herein, including exhibits attached hereto and other information filed herewith, all of which are made a part hereof, are current, true, and complete.

Dated the _____ day of _____ 19___

_____
(NAME OF REGISTRANT)

By: _____
(SIGNATURE AND TITLE)

[FR Doc.77-21596 Filed 7-26-77;8:45 am]

*Advance Orders are now being Accepted*
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(Revised as of April 1, 1977)

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| | | Total Order | $_____ |

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# federal register

THURSDAY, JULY 28, 1977

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## AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

| Monday | Tuesday | Wednesday | Thursday | Friday |
|---|---|---|---|---|
| NRC | USDA/ASCS | | NRC | USDA/ASCS |
| DOT/COAST GUARD | USDA/APHIS | | DOT/COAST GUARD | USDA/APHIS |
| DOT/NHTSA | USDA/FNS | | DOT/NHTSA | USDA/FNS |
| DOT/FAA | USDA/REA | | DOT/FAA | USDA/REA |
| DOT/OHMO | CSC | | DOT/OHMO | CSC |
| DOT/OPSO | LABOR | | DOT/OPSO | LABOR |
| | HEW/ADAMHA | | | HEW/ADAMHA |
| | HEW/CDC | | | HEW/CDC |
| | HEW/FDA | | | HEW/FDA |
| | HEW/HRA | | | HEW/HRA |
| | HEW/HSA | | | HEW/HSA |
| | HEW/NIH | | | HEW/NIH |
| | HEW/PHS | | | HEW/PHS |

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

**ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.**


federal register

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# reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

**Rules Going Into Effect Today**

DOT/FAA—Designation of Federal airways, area low routes, controlled airspace, and reporting points; transition area; Corry, Pa. ..... 31771; 6–23–77

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**List of Public Laws**

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.





# rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

**Title 10—Energy**

**CHAPTER II—FEDERAL ENERGY ADMINISTRATION**

**PART 450—ENERGY AUDITS**

**Correction**

AGENCY: Federal Energy Administration.

ACTION: Correction of final rule.

SUMMARY: This document corrects the final rule for energy audits which appeared at 42 FR 33158, June 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Sydney D. Berwager, Office of Program Development, Office of Conservation, Federal Energy Administration, Washington, D.C. 20461 (202–566–7474).

SUPPLEMENTARY INFORMATION: In the document which added 10 CFR Part 450 to the Code of Federal Regulations appearing at page 33158 in the FEDERAL REGISTER of June 29, 1977, both authority citations in the second column on page 33162 are corrected by changing "69 Stat. 871" to read "89 Stat. 871" in the fifth line of the first authority citation and in the fifth and sixth lines of the second authority citation.

Issued in Washington, D.C. on July 22, 1977.

ERIC J. FYGI,
*Acting General Counsel,*
*Federal Energy Administration.*

[FR Doc.77–21716 Filed 7–27–77;8:45 am]

**Title 14—Aeronautics and Space**

**CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION**

[Docket No. 74–GL–3; Amdt. 39–2984]

**PART 39—AIRWORTHINESS DIRECTIVES**

**General Electric Company CF6–6D, CF6–6D1, CF6–50A, CF6–50C, CF6–50C1, CF6–50CA, CF6–50D, CF6–50E, CF6–50E1, and CF6–50H Engines**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment rescinds an Airworthiness Directive (AD), AD 74–10–06, applicable to the General Electric Company CF6–6D, CF6–6D1, CF6–50A, CF6–50C, CF6–50C1, CF6–50CA, CF6–50D, CF6–50E, CF6–50E1, and CF6–50H Engines. Due to service experience, the FAA has determined that the provisions outlined in this AD are no longer required. This action relieves a restriction.

DATES: Effective date August 2, 1977.

FOR FURTHER INFORMATION CONTACT:

M. Mixell, Engineering and Manufacturing Branch, Flight Standards Division, AGL–214, Federal Aviation Administration, 2300 E. Devon Avenue, Des Plaines, Illinois 60018, telephone 312–694–4500, extension 308.

SUPPLEMENTARY INFORMATION: Amendment 39–1840 (39 FR 16876), AD 74–10–06 required compliance with General Electric Service Bulletin 80–1 or 80–2 and imposed 150 hour starter magnetic plug inspections and 600 hour oil changes. Since issuing Amendment 39–1840, due to service experience, the FAA has determined that the unsafe condition no longer exists. Therefore, the need for AD 74–10–06 is obviated.

Since this amendment relieves a restriction, and imposes no additional burden on any person, notices and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are M. Mixell, Flight Standards Division, and J. Brennan, Office of the Regional Counsel, Great Lakes Region.

ADOPTION OF THE AMENDMENT

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations is amended by rescinding Amendment 39–1840 (39 FR 16876), AD 74–10–06.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Des Plaines, Illinois on July 18, 1977.

JOHN M. CYROCKI,
*Director, Great Lakes Region.*

[FR Doc.77–21683 Filed 7–27–77;8:45 am]

[Docket No. 16561; Amdt. 39–2990]

**PART 39—AIRWORTHINESS DIRECTIVES**

**Israel Aircraft Industries, Ltd., Model 1123 Airplanes**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires replacement of certain hydraulic pressure lines. The AD is needed to prevent fatigue stresses and consequent rupture of the hydraulic pressure line which results in loss of essential hydraulic services and creates a possible fire hazard.

DATES: Effective August 29, 1977.

Compliance is required within the next 150 hours time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: IAI Service Bulletin WW–7A, dated December 8, 1975, may be obtained from Israel Aircraft Industries, Ltd., Ben-Gurion International Airport, Israel.

A copy of the service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

M. E. Gaydos, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel. 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires replacement of the hydraulic pressure line between the hydraulic pump and the firewall on certain Israel Aircraft Industries Model 1123 airplanes was published in the FEDERAL REGISTER at 42 FR 12190. The proposal was prompted by reports of service failures of the hydraulic pressure line between the hydraulic pump and the firewall as the result of fatigue stresses caused by the unsatisfactory bend radius of the hydraulic line. Rupture of the hydraulic pressure line results in loss of essential hydraulics and is a possible fire hazard.

In response to the proposal one comment was received which stated that issuance of an AD would be superfluous since all U.S. registered Model 1123 aircraft has been modified in accordance with IAI Service Bulletin WW–7A, dated December 8, 1975. The FAA does not concur in the position presented by the commenter since there is no adequate control of hazard from hydraulic line failure in the absence of an AD. The AD is accordingly adopted as proposed with miner clarifying changes and one substantive change. The Notice of Proposed Rule Making inadvertently stated in paragraph (d) of the AD that the bend radius may not be less than 50 inches. The correct value for maximum bend



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radius is 5.0 inches and paragraph (d) has been so changed.

DRAFTING INFORMATION

The principal authors of this document are M. E. Gaydos, Europe, Africa, and Middle East Region, J. J. Presba, Flight Standards Service, and S. Hauselt, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.133 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

ISRAEL AIRCRAFT INDUSTRIES (IAI). Applies to Model 1123 airplanes, S/N's 107, 151, 152, 153, 155 through 180, and 182 through 186, certificated in all categories, except those previously modified in accordance with IAI Service Bulletin No. WW-7A.

Compliance is required within the next 150 hours time in service after the effective date of this AD, unless already accomplished.

To prevent possible rupture of the hydraulic pressure line between the hydraulic pump and the firewall, accomplish the following:

(a) Remove and discard hose P/N 6723087-43 attached between the hydraulic pump pressure port and the AN837-6 elbow installed on pylon.

(b) For airplanes S/N's 175 through 180 and 182 through 186, remove and discard brackets P/N's 5723548-3 and -5.

(c) Remove the AN837-6 elbow from pylon, and reinstall with washer P/N 5723548-7 on engine side of firewall.

(d) Install hose P/N 6723087-57 between hydraulic pump pressure port an AN837-6 elbow, with 45-degree fitting of hose attached to elbow on pylon. (NOTE.—Position the elbow on pylon to allow hose to be as straight as possible. Bend radius of hose may not be less than 5.0 inches).

This amendment becomes effective August 29, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 21, 1977.

J. A. FERRARESE,
*Acting Director,*
*Flight Standards Service.*

[FR Doc.77-21545 Filed 7-27-77;8:45 am]

[Docket No. 15550; Amdt. 39-2985]

## PART 39—AIRWORTHINESS DIRECTIVES

### Morane Saulnier (Socata) Model MS 760 (Paris 1) and MS 760A (Paris 1A) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive inspections for cracks and replacement, if necessary, of the landing gear wheels on Morane Saulnier (Socata) Model MS 760 (Paris 1) and MS 760A (Paris 1A) airplanes to prevent wheel failures.

DATES: Effective date August 29, 1977. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from S.O.C.A.T.A. Groupe Aerospatiale, Direction Etude Paris, Aerodrome de Toussus le Noble, 78530 BUC France. A copy of the service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring repetitive inspections for cracks and replacement, if necessary, of the wheels on Morane Saulnier (Socata) Model MS 760 (Paris 1) and Model MS 760A (Paris 1A) airplanes equipped with ERAM wheels, P/N 3760-A, was published in the FEDERAL REGISTER at 41 FR 14898. The proposal was prompted by reports of cracks in the landing gear half wheel rims at the studs, that could propagate and cause failure of landing gear wheels.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Although no objections were received, the FAA has reevaluated the need for the proposed amendment and determined it should be adopted. However, the applicability statement has been clarified.

The principal authors of this document are J. F. Karnowski, Europe, Africa, and Middle East Region, T. J. Loftus, Flight Standards Service, and H. A. Bartnick, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

MORANE SAULNIER (SOCATA). Applies to Model MS 760 (Paris 1) and MS 760A (Paris 1A) airplanes, all serial numbers, certificated in all categories, that are equipped with ERAM wheels, P/N 3760-A.

Compliances is required within the next 50 hours time in service after the effective date of this AD, unless already accomplished within the preceding 50 hours time in service, and thereafter, at intervals not to exceed 100 hours time in service from the last inspection.

To detect cracks in the landing gear wheels and prevent possible wheel failure, accomplish the following:

(a) Visually inspect, using a dye penetrant procedure, each ERAM wheel, P/N 3760-A, in accordance with paragraph 2 of ERAM Service Bulletin No. 32-01, dated December 1970, as revised October 1973, or an FAA-approved equivalent.

(b) If, during an inspection required by this AD, a wheel is found to have more than one crack per stud or any crack exceeding 14 mm in length, replace that wheel with a serviceable wheel of the same part number or an FAA-approved equivalent.

This amendment becomes effective August 29, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 18, 1977.

J. A. FERRARESE,
*Acting Director,*
*Flight Standards Service.*

[FR Doc.77-21374 Filed 7-27-77;8:45 am]

[Docket No. 15581; Amdt. 39-2986]

## PART 39—AIRWORTHINESS DIRECTIVES

### British Aircraft Corporation BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires replacement of the stop on the cabin pressure discharge valve manual control on certain British Aircraft Corporation BAC 1-11 airplanes. The AD is based on reports of failures of the light alloy stop and is directed at preventing additional failures which could result in loss of cabin pressurization.

DATES: Effective August 29, 1977. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from British Aircraft Corporation, Inc., 399 Jefferson Davis Highway, Arlington, Virginia 22202, telephone (703) 979-1400. A copy of the service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of the light alloy stop and the mounting base screws on the cabin pressure discharge valve manual control on certain BAC 1-11 200 and 400 series airplanes was published in the FEDERAL REGISTER at 41 FR 15349. The proposal was prompted by reports of failures of the light alloy stops which could result in the loss of cabin pressurization.

Interested persons have been afforded an opportunity to participate in the making of the amendment. One comment was received. The commentator contended that since the related manufacturer's service bulletin has been in existence for a lengthy period of time prior to the issuance of the proposal, there was no need for the proposed 200 hour compliance time and suggested that 1500 hours be used instead. The FAA does not agree. Considering the likelihood of a failure of the light alloy stop on the cabin pressure discharge valve manual control and the possible consequences of such a failure, the FAA believes the proposed 200 hour compliance time is warranted.

The commentator also objected to the proposed mounting screw replacement since adequate screw thread engagement exits with the original screws and the commentator has had satisfactory experience in service using the original screws and the replacement stop. The FAA agrees with this comment and the proposed screw replacement requirement has been deleted.

In addition, a correction has been made to the part number specified for the air conditioning discharge valve manual control.

DRAFTING INFORMATION

The principal authors of this document are F. J. Karnowski, Europe, Africa, and Middle East Region, E. S. Newberger, Flight Standards Service, and S. Podberesky, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following airworthiness directive:

BRITISH AIRCRAFT CORPORATION. Applies to BAC 1-11 200 and 400 series airplanes, certificated in all categories.

Compliance is required within the next 200 hours time in service after the effective date of this AD, unless already accomplished.

To prevent the inadvertent loss of cabin pressure due to failure of the light alloy stop on the cabin pressure discharge valve manual control, replace the light alloy stop, P/N AB55-2301, on the gear wheel and drum assembly of the air conditioning discharge valve manual control (P/N AB55A-2425 or ED55A779) with an improved strength stop, P/N AB55-3433, or an FAA-approved equivalent. (British Aircraft Corporation Service Bulletin No. 21-PM 5139, Revision 2, dated September 5, 1973, applies to this same subject.)

This amendment becomes effective August 29, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 18, 1977.

J. A. FERRARESE,
*Acting Director,*
*Flight Standards Service.*

[FR Doc.77-21375 Filed 7-27-77;8:45 am]

[Docket No. 15615; Amdt. 39-2987]

## PART 39—AIRWORTHINESS DIRECTIVES

### Hawker Siddeley Aviation, Ltd., Model H.S. 748 Series 2A Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive inspections, repair or replacement, as necessary, and reinforcement of the elevator hinge rib area on Hawker Siddeley Aviation, Ltd., Model H.S. 748 Series 2A airplanes to prevent cracks that could result in elevator failure and consequent loss of control of the airplane.

DATES: Effective August 29, 1977. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from Hawker Siddeley Aviation, Ltd., Hatfield Hertfordshire, England AL109TL, Attn: Technical Manuals Distribution Center. Copies of the service bulletins are contained in the Rules Docket, Rm. 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Mr. D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring visual repetitive inspections, repair or replacement, as necessary, and modification of the elevator hinge rib area on Hawker Siddeley Aviation, Ltd., Model H.S. 748 Series 2A airplanes was published in the FEDERAL REGISTER at 41 FR 17400. The proposal was prompted by reports of cracks in the elevator hinge rib area that could result in elevator failure and consequent loss of control of the airplane.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Although no objections were received, the FAA has reevaluated the need for the proposed amendment and determined that it should be adopted. Accordingly, the proposal is adopted without change.

DRAFTING INFORMATION

The principal authors of this document are Mr. F. J. Karnowski, Europe, Africa, and Middle East Region, Mr. J. Kiselica, Flight Standards Service, and Ms. S. Hauselt, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive.

HAWKER SIDDELEY AVIATION, LTD. Applies to Model H.S. 748, Series 2A airplanes, all serial numbers, certificated in all categories.

Compliance is required as indicated, unless already accomplished. To prevent cracks in the outboard and center elevator hinge ribs and associated structure of the horizontal stabilizer, accomplish the following:

(a) Within the next 100 hours time in service after the effective date of this AD, and thereafter at intervals not to exceed 100 hours time in service from the last inspection, visually inspect the area of the outboard and center elevator hinge ribs in accordance with Part 2A of the section entitled "Accomplishment Instructions" of Hawker Siddeley Aviation, Ltd., Service Bulletin No. 55/11, dated October 15, 1973, or an FAA-approved equivalent.

(b) If, during an inspection required by paragraph (a) of this AD, a crack, loose rivets, or corroded support bearings or pivot pins are found, before further flight, conduct an internal inspection of the area where the affected hinge ribs attach to the stabilizer rear spar in accordance with Part 2B of the section entitled "Accomplishment Instructions" of Hawker Siddeley Aviation, Ltd., Service Bulletin No. 55/11, dated October 15, 1973, or an FAA-approved equivalent, and comply with paragraph (c) of this AD.

(c) If, during an inspection required by paragraph (a) or (b) of the AD, a crack, loose rivets, or corroded support bearings or pivot pins are found, before further flight, replace or repair the affected parts, as appropriate, in accordance with Part 2C of the section entitled "Accomplishment Instructions" of Hawker Siddeley Aviation, Ltd., Service Bulletin No. 55/11, dated October 15, 1973, or an FAA-approved equivalent, and thereafter, continue to comply with paragraphs (a), (b), and (c) of this AD.

(d) Within the next 1000 hours time in service after the effective date of this AD, replace the external gusset plates (top and bottom) at the outboard and center elevator hinge ribs with larger and heavier gusset plates and add inspection holes in accordance with Parts 2A 2B, 2C, and 2E of the section entitled "Accomplishment Instructions" of Hawker Siddeley Aviation, Ltd., Service Bulletin No. 55/12, dated January 2, 1974, or an FAA-approved equivalent.

(e) Upon incorporation of the alterations required by paragraph (d) of this AD, the repetitive inspections required by this AD may be discontinued.

This amendment becomes effective August 29, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)







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NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107

Issued in Washington, D.C., on July 18, 1977.

J. A. FERRARESE,
*Acting Director,*
*Flight Standards Service.*

[FR Doc.77-21376 Filed 7-27-77;8:45 am]

[Docket No. 17054; Amdt. No. 1083]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

## PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

### Miscellaneous Amendments

AGENCY Federal Aviation Administration (FAA), DOT.

ACTION. Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP's) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

*For examination*—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

*For purchase*—Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

*By subscription*—Copies of all SIAP's, mailed weekly, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The current annual subscription price is $150; add $30 for each additional copy mailed to the same address.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 9) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAP's). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FAR's). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAP's, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAP's but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAP's. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAP's which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAP's, an effective date at least 30 days after publication is provided.

Further, the SIAP's contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERP's). In developing these SIAP's, the TERP's criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAP's is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAP's effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

### ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAP's identified as follows:

* * * *Effective September 8, 1977.*

Bloomington, IL—Bloomington-Normal, VOR Rwy 11, Amdt. 6
Bloomington, IL—Bloomington-Normal, VOR Rwy 21, Amdt. 12
Centralia, IL—Centralia Municipal, VOR Rwy 36, Amdt. 11
Effingham, IL—Effingham County Memorial, VOR Rwy 1, Amdt. 1
Greenwood/Wonderlake, IL—Galt Field, VOR-A, Amdt. 3
Davenport, IA—Davenport Muni., VOR Rwy 2, Amdt. 3
Davenport, IA—Davenport Muni., VOR Rwy 20, Amdt. 2
Dodge City, KS—Dodge City Muni., VOR Rwy 14, Amd. 13
Kansas City, KS—Fairfax Muni., VOR Rwy 17, Amdt. 9
Kansas City, KS—Fairfax Muni., VOR-D, Amdt. 4
Dodge City, KS—Dodge City Muni., VOR/DME Rwy 32, Amdt. 1
Caribou, ME—Caribou Muni., VOR-A, Amdt. 5
East Tawas, MI—Iosco County, VOR-A, Amdt. 2
Grand Haven, MI—Grand Haven Memorial Airpark, VOR-A, Amdt. 8
Pontiac, MI—Oakland-Pontiac, VOR Rwy 9R, Amdt. 19
Pontiac, MI—Oakland-Pontiac, VOR Rwy 27L, Amdt. 9
Fishers Island, NY—Elizabeth Field, VOR-A, Amdt. 2
Burlington, VT—Burlington International, VOR Rwy 1, Amdt. 8
Chesterfield, VA—Chesterfield County, VOR Rwy 15, Amdt. 2
Beloit, WI—Beloit, VOR-A, Amdt. 2
Monroe, WI—Monroe Municipal, VOR/DME Rwy 29, Amdt. 3

2. By amending § 97.25 SDF-LOC-LDA SIAP's identified as follows:

* * * *effective October 6, 1977.*

Fairbanks, AK—Fairbanks International, LOC (BC) Rwy 1L, Amdt. 13

* * * *effective September 8, 1977.*

Bloomington, IL—Bloomington-Normal, LOC BC Rwy 11, Amdt. 2
New Bedford, MA—New Bedford Muni., LOC (BC) Rwy 23, Amdt. 1
Pontiac, MI—Oakland-Pontiac, LOC BC Rwy 27L, Amdt. 2
Cleveland, OH—Cuyahoga County, LOC BC Rwy 5, Amdt. 2





Chesterfield, VA—Chesterfield County, SDF Rwy 33, Original

* * * *effective August 11, 1977.*

Omaha, NE—Eppley Airfield, LOC (BC) Rwy 32L, Amdt. 10, cancelled

* * * *effective July 13, 1977.*

Denver, CO—Arapahoe County, LOC Rwy 34R, Amd. 2

3. By amending § 97.27 NDB/ADF SIAP's identified as follows:

* * * *effective September 8, 1977.*

Carmi, IL—Carmi Municipal, NDB Rwy 36, Amdt. 2
Pittsfield, IL—Pittsfield-Penstone Municipal, NDB Rwy 31, Amdt. 1
Boone, IA—Boone Muni., NDB Rwy 14, Amdt. 4
Boone, IA—Boone Muni., NDB Rwy 32, Original
Davenport, IA—Davenport Muni., NDB Rwy 2, Amdt. 8
Kansas City, KS—Fairfax Muni., NDB-B, Amdt. 10
New Bedford, MA—New Bedford Muni., NDB Rwy 5, Amdt. 5
Trenton, MO—Trenton Muni., NDB Rwy 17, Amdt. 2
Trenton, MO—Trenton Muni., NDB Rwy 35, Amdt. 4
Coatesville, PA—Chester County G.O. Carlson, NDB Rwy 11, Amdt. 4
Burlington, VT—Burlington International, NDB Rwy 15, Amdt. 15
Lyndaville, VT—Caledonia County, NDB Rwy 2, Original
Chesterfield, VA—Chesterfield County, NDB Rwy 33, Amdt. 2

* * * *effective August 11, 1977.*

Stow, MA—Minute Man Airfield, NDB-A, Amdt. 5

* * * *effective July 13, 1977.*

Denver, Co—Arapahoe County, NDB, Rwy 34R, Amdt. 2

4. By amending § 97.29 ILS-MLS SIAP's identified as follows:

* * * *effective October 6, 1977.*

Fairbanks, AK—Fairbanks International, ILS Rwy 1L, Amdt. 1

* * * *effective September 8, 1977.*

Bloomington, IL—Bloomington-Normal, ILS Rwy 29, Amdt. 3
Kansas City, KS—Fairfax Muni., ILS-A, Amdt. 13
New Bedford, MA—New Bedford Muni., ILS Rwy 5, Amdt. 13
Pontiac, MI—Oakland-Pontiac, ILS Rwy 9R, Amdt. 7
Cleveland, OH—Cuyahoga County, ILS Rwy 23, Amdt. 4
Allentown, PA—Allentown-Bethlehem-Easton, ILS Rwy 13, Amdt. 2
Philadelphia, PA—North Philadelphia, ILS Rwy 24, Amdt. 7
Burlington, VT—Burlington International, ILS Rwy 15, Amdt. 16

* * * *effective August 11, 1977.*

Omaha, NE—Eppley Airfield, ILS Rwy 32L, Original

* * * *effective July 14, 1977.*

Kotzebue, AK—Ralph Wien Memorial, ILS/DME Rwy 8, Amdt. 1

NOTE.—Change FAA Form 8260-3 for Miami International, Miami, Florida, ILS Rwy 9R Amdt. 2 to Amdt. 3 published in transmittal letter 77-28.

5. By amending § 97.31 RADAR SIAP's identified as follows:

* * * *effective September 8, 1977.*

Burlington, VT—Burlington International, RADAR-1, Amdt. 1

* * * *effective August 25, 1977.*

Big Springs, TX—Howard County, RADAR-1, Orig. cancelled

* * * *effective August 11, 1977.*

Beaumont-Port Arthur, TX—Jefferson County, RADAR-1, Amdt. 1

* * * *effective July 13, 1977.*

Denver, CO—Arapahoe County, RADAR-1, Amdt. 6

6. By amending § 97.33 RNAV SIAP's identified as follows:

* * * *effective September 8, 1977.*

Davenport, IA—Davenport Muni., RNAV Rwy 14, Amdt. 2
Davenport, IA—Davenport Muni., RNAV Rwy 32, Amdt. 2
Kansas City, KS—Fairfax Muni., RNAV Rwy 17, Amdt. 3
Kansas City, KS—Fairfax Muni., RNAV-C, Amdt. 5
Cleveland, OH—Cuyahoga County, RNAV Rwy 23, Amdt. 5

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354 (a), 1421, and 1510), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and Paragraph 802 of Order FSP 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 22, 1977.

JAMES M. VINES,
*Chief, Aircraft Programs Division.*

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.77-21537 Filed 7-27-77;8:45 am]

Title 16—Commercial Practices

## CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER G—RULES, REGULATIONS, STATEMENTS AND INTERPRETATIONS UNDER MAGNUSON-MOSS WARRANTY ACT

## PART 700—INTERPRETATIONS OF MAGNUSON-MOSS WARRANTY ACT

### Adoption of Interpretations and Explanatory Statement

*Correction*

In FR Doc. 77-19901, appearing at page 36112, in Part IV of the issue of Wednesday, July 13, 1977, on page 36115, in the third column, line seven of § 700.2 should read as follows: "parts used is the measuring date for".

Title 17—Commodity and Securities Exchanges

## CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5844; 34-13787; IC-9862]

## PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

### Filing and Disclosure Requirements Relating to Tender Offers

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission announces: (1) the adoption of a new schedule which sets forth the disclosure requirements for persons making certain tender offers; and (2) the amendment of an existing rule to implement the filing of the schedule with the Commission and to specify the disclosure items contained in the schedule which are to be included or summarized in the information published, sent or given to security holders in connection with such tender offers. These actions, which are necessary in light of the dynamic nature of tender offers, are intended to augment the present statutory requirements by providing necessary disclosure to investors to enable them to make informed decisions in connection with a tender offer. The adoption of the schedule is part of the Commission's plan to replace its emergency rules under the Williams Act with a comprehensive regulatory framework with respect to tender offers.

EFFECTIVE DATE: August 31, 1977.

FOR FURTHER INFORMATION CONTACT:

John Huber, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-1750

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the adoption of new Schedule 14D-1 (17 CFR 240.14d-100) and the amendment of existing Rule 14d-1 (17 CFR 240.14d-1) which relate to the filing and disclosure requirements of persons making tender offers subject to Section 14(d) of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)). These actions effectuate an intention previously announced by the Commission[1] to adopt separate schedules for reporting acquisitions subject to Section 13(d)(1) of the Exchange Act and for tender offers subject to Section 14(d)(1) of that Act. In order to facilitate an orderly transition to the use of separate schedules, the Commission today amend-

[1] Exchange Act Release No. 34-12676 (August 2, 1976) (41 FR 33004).



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ed existing Schedule 13D (17 CFR 240.13d–101) and also announced that these actions will become effective concurrently with its beneficial ownership rules and schedules [2] on August 31, 1977. By adopting a separate Tender Offer Statement on Schedule 14D–1 at this time, the Commission anticipates the necessity of only one change over, viz. from Schedule 13D to Schedule 14D–1, and has attempted to avoid the unnecessary burden of requiring two change overs, viz. from the Schedule 13D in effect prior to August 31, 1977 to amended Schedule 13D and then again to Schedule 14D–1.

These actions are intended to provide more meaningful disclosure to security holders whose securities are being sought in certain tender offers. However, in taking these actions, the Commission has been mindful that any efforts to benefit investors in the context of tender offers should be made without unnecessarily tipping the balance of regulation in favor of either the person making the tender offer (the "bidder") or the management of the company whose securities are being sought (the "subject company")

The disclosure requirements embodied in Schedule 14D–1 and the amendments to existing Rule 14d–1 are primarily based on the proposed rules and schedules relating to tender offers which were published for comment by the Commission in 1976.[3] While Schedule 14D–1 has been adopted separately from the other tender offer proposals, it should be particularly noted that the other proposals have not been withdrawn by the Commission. Subsequent to the completion of the revision of certain of these proposals in response to the comment letters received from the public, the Commission presently anticipates further rulemaking action. At that time, the existing rules under Section 14(d)(1), with the exception of Schedule 14D–1, will be replaced by permanent rules and related schedules.

### Background

The Williams Act Amendments,[4] P.L. 90–439, provided for federal regulation of tender offers. The purpose of this federal regulation was to provide investor protection by requiring disclosure of material information and by affording substantive protection to shareholders.[5]

Congress considered the situation whereby a shareholder who was faced with making an investment decision in the context of a tender offer without adequate information as being "precisely the kind of dilemma which our Federal securities laws are designed to prevent." [6]

While the primary objective of the Williams Act was to provide investor protection, Congress also recognized that "takeover bids should not be discouraged" [7] and that the act should be administered in an even-handed way "to avoid tipping the balance of regulation either in favor of management or in favor of the person making the takeover bid." [8] Thus, the act was designed to:

> * * * require full and fair disclosure for the benefit of investors while at the same time providing the offeror and management equal opportunity to fairly present their case.[9]

In order to immediately implement this statutory framework, the Commission adopted emergency rules and regulations under the Williams Act.[11] Subsequent to the passage of the 1970 Williams Act Amendments, P.L. 91–567, the Commission amended these emergency rules.[12]

In November and December 1974, the Commission conducted a Public Fact-Finding Investigation in the Matter of Beneficial Ownership, Takeovers and Acquisitions by Foreivn and Domestic Persons ("Tender Offer Hearings").[13] The written and oral testimony of witnesses and letters of comment highlighted certain issues regarding tender offers and the need for rulemaking action by the Commission.

On the basis of the Tender Offer Hearings, Congressional hearings,[14] judicial decisions and the Commission's experience with the existing regulatory framework, the Commission in August 1976 published its tender offer proposals for comment.[15] These proposals represented the Commission's first comprehensive rulemaking proposals under the Williams Act with respect to tender offers. They were intended to provide specific disclosure and dissemination requirements, additional substantive regulatory protections, particular antifraud provisions and other regulations relating to cash tender Therefore, by providing for full disclosure, Congress acted "to correct the current gap in our securities laws." [7]

offers and exchange offers. Pursuant to its request for comments, 111 letters [16] were submitted by the following commentators:

| | |
|---|---|
| Corporations | 54 |
| Law Firms and Associations | 24 |
| Securities Industry | 8 |
| Trade Organizations and Associations | 6 |
| Academicians | 2 |
| State Administrative Agencies | 2 |
| Other Interested Persons | 5 |

On the basis of the comment letters and the Commission's subsequent experience, certain of the tender offer proposals are currently undergoing revision. The Commission is of the view that the adoption of the present proposals and those now being revised, will implement the intent of Congress in enacting Sections 14(d) and 14(e) of the Exchange Act. The adoption of Schedule 14D–1 represents the first step by the Commission in establishing a comprehensive regulatory framework specifically designed for tender offers.

### Synopsis of Adopted Schedule and Amended Rule and Schedule

This synopsis is included in order to assist all interested persons in their understanding of and compliance with the filing and disclosure provisions of new Schedule 14D–1, amended Rule 14d–1, and amended Schedule 13D. However, attention is directed to the actual text of the schedules and rule for a more complete understanding.

#### A. Tender Offer Statement: Schedule 14D–1 (17 CFR 240.14D–100)

(1) *Cover sheet.* The Cover Sheet of the proposed Schedule contained an instruction that eight copies of the statement, including all exhibits, should be filed with the Commission. This instruction has been modified to require the filing with the Commission at its headquarters office of ten copies of the statement. Eight of these copies should include all exhibits, while the other two copies should include the exhibits described in Item 11(a) of the Schedule (i.e., the tender offer materials). This modification is intended to insure that the number of copies filed is sufficient to allow the Commission to transmit copies to the regional offices.

A second instruction concerning filing fees has been included on the Cover Sheet. In the release announcing the tender offer proposals (the "Tender Offer Release"),[17] the Commission indicated that a non-refundable fee would be required to be paid when the initial Schedule 14D–1 is filed and that no additional filing fees would be required for amendments thereto. The determination of the amount of such a fee includes consideration of the direct and indirect cost to the Government, the value to the recipient, public policy or interest served and other pertinent factors.[18] While the Commission still plans to require a fee for all Williams Act filings as described above, consideration of the formal fee structure has not been completed. Therefore, the issue of fees will be handled in a subsequent release. Until such time, no fee will be required with respect to the filing of Schedule 14D–1 or any amendment thereto. Instruction 2 to the Cover Sheet was added to reflect this position.

(2) *General instructions.* As published for comment, proposed Schedule 14D–1 contained four instructions which generally pertained to the preparation of the schedule and the filing of amendments thereto. With certain significant exceptions, the instructions to Schedule 14D–1 generally conform to those which were proposed.

Instruction C of the proposed Schedule recognized that disclosure is not limited to the person filing the statement when the bidder is a partnership, a limited partnership, a syndicate, other group or a corporation. However, the additional persons who are subject to the Schedule's reporting requirements should be identifiable and the number of such persons should not be so broad as to cause the benefits of disclosure to be outweighed by the burdens of compliance placed on the bidder. Consequently, proposed Instruction C was intended to clarify and to curtail, as far as feasible, the additional persons who would be subject to the disclosure requirements of Items 2–7 of the proposed Schedule. With certain modifications, this intent has been maintained in Instruction C as adopted.

If the statement is filed by a partnership, limited partnership, syndicate or other group and, thus, by operation of clauses (i) through (iv) of the Instruction, refers to a corporation or if the statement is filed by a corporation, clauses (a), (b) and (c) of Instruction C set forth the additional persons with respect to such corporation (the "bidding corporation") to whom Items 2–7 of the Schedule apply. Clause (a) makes the Instruction applicable to each executive officer and director of the bidding corporation. Each person controlling the bidding corporation is covered by clause (b), while each executive officer and director of any corporation ultimately in control of the bidding corporation is included pursuant to clause (c). Clauses (a) and (c) of Instruction C require disclosure only regarding executive officers and directors rather than all officers. The term "executive officer" is defined in Instruction C. Clause (b) requires disclosure of all persons controlling the bidding corporation which includes any corporation ultimately in control of the bidding corporation. In multiple tier corporate structures, e.g. where one or more lavers of controlling corporations exist between the bidding corporation and the corporation in ultimate control, clause (b), among other things, requires identification and disclosure concerning the corporations in the mid-tier corporate structure. An officer or director of a mid-tier corporation would not be included within clause (b) if such officer or director did not control the bidding corporation. Moreover, as is discussed below, corporations in the multiple tier structure which did not control the bidding corporation are also excluded from the operation of clause (b).

The following is furnished as an example of the operation of clauses (a), (b), and (c) of Instruction C. Corporation C (the bidding corporation) makes a tender offer. Corporation C is controlled by Corporation B (a mid-tier corporation) which is in turn controlled by Corporation A (the corporation in ultimate control of the bidding corporation). Corporation A also controls Corporation D which has no ownership of or control over Corporation C. Under clause (a), each executive officer and director of Corporation C would be subject to Instruction C. Under clause (b), Corporations B and A would be subject to Instruction C. Additionally, any officer or director of Corporation B who also controls Corporation C would be subject to Instruction C because of clause (b). Pursuant to clause (c) of Instruction C, each executive officer and director of Corporation A would be subject to that Instruction. However, since Corporation D does not control Corporation C, it would not be subject to Instruction C and none of Corporation D's officers or directors would be so subject, assuming that each such officer or director does not control Corporation C.

While Instruction C is intended for the purposes described above it should be noted that if disclosure of certain information concerning a corporation not specified above would be material to an investment decision by a security holder of the subject company whether to sell, tender or hold the securities being sought, such information should be included. For example, if a controlling person of the bidding corporation has a privately held corporation which has engaged in merger negotiations with the subject company in the subject company's fiscal year immediately prior to the tender offer, such information should be disclosed even though such privately held corporation is not specified in Instruction C. The Commission will administer Instruction C mindful that the primary purpose of the Williams Act is to provide investor protection.

Proposed Instruction C also pertained to limited partnerships. In response to the commentators, a new clause specifically dealing with limited partnerships was added to the Instruction. Clause (ii) of Instruction C would require disclosure of each partner who is denominated as a general partner or who functions as a general partner of such limited partnership. Limited partners who do not act or have the power to act in a manner substantially equivalent to general partners would be excluded. This amendment was intended to be consistent with the changes made in the disclosure required of corporations.

Instruction D of the proposed Schedule dealt with the filing of a final amendment to proposed Schedule 14D–1 upon the termination of the tender offer. Unless there had been a material change in the information previously reported on proposed Schedule 14D–1, this final amendment would have been deemed sufficient to satisfy the reporting requirements of Section 13(d) of the Exchange Act. In response to the commentators who criticized proposed Instruction D as being unclear, revisions were made to that Instruction and new Instructions E and F were adopted. Instruction D of the Schedule requires the filing of a final amendment promptly after the termination of the tender offer. The final amendment would include disclosure of material changes in the items of Schedule 14D–1, particularly Item 6(a), which have occurred since the filing of the most recent amendment to that schedule or, if no amendments have been filed, since the date of the initial filing of the schedule with the Commission. Statements that the tender offer has terminated, the date of such termination and the results of such tender offer would also be required. Instruction F of the Schedule sets forth the presumption that a final amendment which meets the requirements of Instruction D will be deemed to satisfy the reporting requirements of Section 13(d).

Instruction E of the Schedule pertains to a bidder who, prior to the filing of a Schedule 14D–1, has filed a Schedule 13D with respect to the acquisition of securities of the same class which is the subject of the bidder's tender offer. Instruction E states that a bidder in this situation must amend the previously filed Schedule 13D and permits such amendment to be made by means of the bidder's Schedule 14D–1 and amendments thereto, with the exception of the final amendment required by Instruction D. This is conditioned on the bidder making an indication on the cover sheet of the Schedule 14D–1 that it is amending its Schedule 13D by means of this statement. The final amendment required to be filed by Instruction D is excluded from the operation of Instruction E because of the provisions of Instruction F.

Although the Commission is not adopting proposed Rule 14d–1 at this time, two of the terms defined by that proposal, "bidder" and "subject company," are contained in Instruction G to Schedule 14D–1. Since these terms are repeatedly used in the Schedule, they were de-

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[2] Exchange Act Release No. 34–13291 (February 24, 1977) (42 FR 12342).

[3] Exchange Act Release No. 34–12676 (August 2, 1976) (41 FR 33004).

[4] Sections 13(d), 13(e), 14(d), 14(e) and 14(f) of the Exchange Act.

[5] S. Rep. No. 550, 90th Cong., 1st Sess. 1 (1967).

[6] Id. at 2.

[7] Id. at 3.

[8] Id.

[9] Id.

[10] Exchange Act Release No. 8370 (July 30, 1968) (33 FR 11015) amended by Release No. 8392 (August 30, 1968) (33 FR 13036). See also Release No. 8556 (March 24, 1969) (34 FR 6101).

[11] Exchange Act Release No. 9060 (January 18, 1971) (36 FR 976). The Commission has also adopted rules relating to short-tendering of securities (17 CFR 240.10b–4) and purchases during a tender offer by a bidder other than pursuant to such offer (17 CFR 240.10b–13).

[12] Securities Act Release Nos. 5529 (September 9, 1974) (39 FR 33835) and 5538 (November 5, 1974) (39 FR 41223).

[13] See, e.g., Hearings Before the Senate Committee on Banking, Housing, and Urban Affairs on Corporate Takeovers, 94th Cong., 2d Sess. (1976).

[14] Exchange Act Release No. 34–12676 (August 6, 1976) (41 FR 33004).

[15] Id. at 4.

[16] See File No. S7–649. For the convenience of the public, a copy of the summary of these comment letters, which was prepared by the staff of the Commission, has been placed in the public file. However, it should be noted that in adopting these proposals, the Commission relied on the comment letters themselves, rather than on the staff's summary of comments.

[17] Exchange Act Release No. 34–12676 (August 2, 1976) (41 FR 33004).

[18] Independent Offices Appropriations Act, 31 U.S.C. 483(a).







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fined in Instruction G in the interest of clarity.

(3) *Item 1. Security and Subject Company.* Item 1 of proposed Schedule 14D–1 require disclosure of certain information regarding the subject company and the class of equity securities of the subject company being sought by the tender offer. Partly in response to the comment letters, certain minor changes were made. First, the term "principal business address" contained in proposed Item 1(a) was changed to "principal executive offices" in order to be consistent with the disclosure required in other Commission filings. Second, a parenthetical clause was inserted in Item 1(b) of the Schedule to enable the bidder to rely on information contained in the most recently available filing with the Commission by the subject company with regard to the number of shares outstanding of the class of equity securities of the subject company being sought, unless the bidder has reason to believe that such information is not current. It should be noted that if the bidder is aware of any changes in the number of shares outstanding since the subject company's most recently available filing, reliance by the bidder on the parenthetical clause in Item 1(b) of the Schedule would be misplaced. Finally, proposed Item 1(c) was revised in two respects. It was made clear in Item 1(c) that the market price information required by that sub-item pertained to the principal market in which such securities are traded. The word "representative" which appeared in the parenthetical clause in proposed Item 1(c) was deleted since such information may not be ascertainable, particularly in the case of securities traded in the over-the-counter market.

(4) *Item 2. Identity and background.* Item 2 of the proposed Schedule pertained in part to disclosure requirements regarding the bidder and related persons concerning employment history, criminal convictions and certain civil actions for the five year period prior to the tender offer. While certain commentators criticized the proposed reduction of the ten year period previously required by Schedule 13D with regard to emolyment history and criminal convictions, others considered the proposed five year period ample. The five year time period is consistent with rulemaking action by the Commission in other areas of disclosure such as: Item 2 of amended Schedule 13D; [19] and the proposed amendments to Item 16 of Form S–1 [17 CFR 239.11], Item 19 of Form S–11 [17 CFR 239.18], Item 6 of Form 10 [17 CFR 249.210], Item 12 of Form 10–K [17 CFR 249.310] and Item 6 of Schedule 14A [17 CFR 240.-14a–101].[20]

Additionally, the introductory paragraph of Item 2 was modified. This was intended to clarify the disclosure required by Item 2 for natural persons as compared with other entities. If the person filing the statement or any person enumerated in Instruction C of the Schedule is a corporation, partnership, limited partnership, syndicate or other group of persons certain information is required. This includes: the name; the State or other place of organization; the principal business; the address of the principal office; and the information regarding criminal proceedings and civil actions required by Items 2 (e) and (f), respectively. If one or more of these is inapplicable or if the answer is in the negative, a statement should be made to that effect pursuant to Instruction A of the Schedule and/or the Instructions to Items 2 (e) and (f) respectively. While the requirement of a statement of principal business was not specifically proposed for comment, the issue of principal business was generally subject to comment and the requirement represents a codification of present tender offer practices. If the person filing the statement or any person enumerated in Instruction C is a natural person, the disclosure required by Items 2(a) through 2(g) should be provided with respect to any such person.

In the Commission's view, the expansion of disclosure required by Item 2 comports with the legislative history of the Williams Act.[21]

(5) *Item 3. Past contacts, transactions or negotiations with the subject company.* As proposed, Item 3 recognized that a tender offer may not be an isolated event in the corporate histories of the bidder and the subject company. Disclosure concerning certain events which occurred, either directly or indirectly, between these parties in the recent past is material to an investment decision by a security holder in the context of a tender offer.

Consequently, proposed Item 3(a) required disclosure of business relationships and transactions between the bidder or its affiliates and the subject company or its affiliates during the past three years. Proposed Item 3(b) called for disclosure of contacts, relationships, negotiations or transactions between those persons during a similar period which concerned events such as the following: a merger or consolidation with or acquisition of the subject company or any of its affiliates; a tender offer or other acquisition of securities of any class issued by the subject company; an election of directors of the subject company; and the sale or other transfer of a material amount of assets by the subject company or any of its subsidiaries.

Several commentators took the position that the scope of the disclosure of business relationships or transactions as well as the number of persons who would be affected by the disclosure requirements of proposed Item 3(a) were too broad. In light of these comments, the persons included within the purview of Item 3(a) were more precisely defined and a materiality standard was added. Additionally, the term "relationships" was deleted and the three year period was clarified to pertain to the period since the commencement of the subject company's third full fiscal year preceding the date of the filing of the Schedule 14D–1. By focusing the period on the subject company rather than on the bidder or calendar years, this clarification was intended to benefit the shareholders of the subject company in understanding and analyzing the disclosure. As adopted, Item 3(a)(1) of the Schedule requires disclosure for transactions between the person filing this statement, including those persons enumerated in Instruction C, and the subject company or its affiliates which are corporations only if the aggregate amount involved for such fiscal year or portion of such current fiscal year in which such transaction occurred exceeded one percent of the subject company's consolidated revenues for that fiscal year or portion thereof. Thus, the disclosure is intended to match, as far as feasible, the fiscal year or current portion thereof in which the transaction occurred with the corresponding fiscal year or current portion thereof of the subject company. Item 3(a)(2) of the Schedule requires disclosure of a transaction or a series of transactions between the person filing this statement including the persons enumerated in Instruction C, and the executive officers, directors or affiliates of the subject company which are not corporations only if the aggregate amount involved for the entire period described in Item 3(a) exceeded $40,000.

Certain changes were also made to Item 3(b). As in proposed Item 3(a), the term "relationships" in proposed Item 3(b) was deleted and the three year period was clarified in a similar manner. The scope of the persons affected by the disclosure requirements of Item 3(b) was more precisely defined and the types of events within the purview of that sub-item was modified. As adopted, Item 3(b) requires a description of any contacts, negotiations or transactions between the bidder or its subsidiaries or the persons enumerated in Instruction C and the subject company or its affiliates concerning: a merger, consolidation or acquisition; a tender offer or other acquisition of securities: an election of directors; or a sale or other transfer of a material amount of assets. This description pertains to the period since the commencement of the subject company's third full fiscal year preceding the date of the filing of the Schedule 14D–1.

The changes in Item 3 are intended to reduce, to the extent feasible, the burden placed on the bidder by such disclosure, while at the same time furnishing sufficient information concerning past contacts, negotiations and

[19] Exchange Act Release No. 34–13291 (February 24, 1977) (42 FR 12342).

[20] See Exchange Act Release No. 34–12946 (November 9, 1976) (41 FR 49493).

[21] "The competence and integrity of a company's management and of those persons who seek management positions are of vital importance to stockholders. Secrecy in this area is inconsistent with the expectations of the people who invest in the securities of publicly held corporations and impairs public confidence in securities as a medium of investment." S. Rep. No. 550, 90th Cong., 1st Sess., 2 (1967).





transactions to the shareholders of the subject company to assist them in making an informed investment decision.

(6) *Item 4. Source and amount of funds or other consideration.* Item 4 of the proposed Schedule increased the disclosure required by Schedule 13D with regard to the source and amount of funds or other consideration to be employed by the bidder in the tender offer. If any part of such funds or other consideration is borrowed or similarly obtained for the purpose of the tender offer, proposed Item 4 required disclosure of the material terms or conditions of such loan agreements such as the stated and effective interest rates as well as a description of any plans or arrangements to finance or repay such loans. If no such plans or arrangements have been made, a statement to that effect was required. To implement the provisions of Section 13(d)(1)(B) of the Exchange Act, proposed Item 4 established a procedure whereby the identity of certain banks making loans would not be available to the public, provided the bidder submitted a written request, including the identity of such bank, to the Secretary of the Commission.

With certain minor revisions, Item 4 as adopted is substantially similar to Item 4 as proposed. Several commentators questioned the meaning of the term "or similarly obtained" as proposed in Item 4. As a result of the comments submitted, the term "or similarly obtained" was deleted. However, Item 4(b) requires disclosure concerning any funds or other consideration which are expected to be, directly or indirectly, borrowed for the purpose of the tender offer as well as those which are in fact borrowed at the time of the filing of the Schedule. Additionally, the summary information required by Item 4(b)(1), if Item 4(b) is applicable, pertains to each arrangement as well as each loan agreement.

Other commentators criticized the proposed requirement that the bidder state the effective interest rate on loans obtained for the purpose of the tender offer. The Commission was not persuaded by these views. Disclosure regarding the effective interest rate is material in the context of tender offers. Disclosure of the stated interest rate and compensating balance requirements or arrangements, which was proposed by one commentator as an alternative to the effective interest rate, is not sufficient because an investor in the normal course may not be able to fully evaluate such information. However, in order to clarify the disclosure requirement where more than one loan agreement is involved, Item 4(b)(1) of the Schedule requires, among other things, the effective interest rate for each such loan agreement, rather than a combined effective interest rate.

In the Commission's opinion, the disclosure requirements of Item 4 will provide more meaningful disclosure to investors in the context of tender offers and will not place an undue burden on the bidder.

(7) *Item 5. Purpose of the tender offer and plans and proposals of the bidder.* Item 5 of the proposed Schedule concerned disclosure of the bidder's purposes in making the tender offer for the subject company's securities, as well as the bidder's plans and proposals relating to the subject company after the completion of the tender offer. To obviate the possible limitation of the disclosure of purposes to the matters covered by Item 5(a) through 5(g), the main paragraph of Item 5 now contains two sentences. In order to clarify the meaning of the term "extraordinary corporate transaction," proposed Item 5(a) was revised. The examples contained in Item 5(a) are not intended to be exclusive but rather are intended to furnish guidance as to the type of corporate transaction which necessitates disclosure. Item 5(f) was also revised to include a description of any plans or proposals which relate to or would result in causing a class of securities of the subject company to cease to be quoted in an inter-dealer quotation system of a registered national securities association. This addition was considered to be consistent with Item 5(f), as proposed, which required such disclosure regarding the delisting of a class of securities of the subject company from a national securities exchange. In other respects, this item is the same as that proposed for comment.

(8) *Item 6. Interest in securities of the subject company.* As proposed for comment, Item 6 expanded the disclosure of beneficial ownership of securities of the class of securities being sought by the tender offer which had previously been required by Item 5 of Schedule 13D. In response to the comments submitted by several writers, a parenthetical clause was added to Item 6(a) permitting reliance on the most recently available filing with the Commission by the subject company in making the determination of the percentage of the class of securities beneficially owned by such persons unless the bidder has reason to believe the information in such filing is not current. Two instructions were added to Item 6(b). The first instruction provides that the description of any transaction during the past 60 days in the class of securities reported on by a person covered by the sub-item should include, but not necessarily be limited to: the identity of such person; the date of the transaction; the amount of such securities involved; the price per share of such securities; and where and how the transaction was effected. Pursuant to the second instruction, the disclosure required by Item 6(b) may be filed with the Commission after the date of the initial filing of the Schedule 14D–1 if such information is not available to the bidder at the time of such initial filing. However, this disclosure must be filed by amendment promptly and in no event later than two business days after such initial filing. Moreover, if such information is material, it must also be disclosed to the security holders of the subject company. This instruction is intended to facilitate efforts to preserve the confidentiality of the tender offer, prior to the date it is first published, sent or given to security holders, in order to avoid possible misuse of inside information.

Although Item 6(b) of the Schedule relates to transactions in the class of securities reported on, it should be noted that the Commission would consider transactions with respect to the subject company's securities, other than the class reported on (such as other classes of securities of the subject company, warrants and options) by such persons during such period as a matter of concern. In appropriate circumstances, disclosure regarding these transactions may be required by Item 10(f) of the Schedule, which is discussed below, or by other provisions of the Exchange Act, such as Section 14(e).

(9) *Item 7. Contracts, arrangements, understandings, or relationships with respect to the subject company's securities.* As proposed, Item 7 of the Schedule, which was substantially similar to Item 6 of Schedule 13D, required disclosure concerning any contract, arrangement, understanding, or relationship between the bidder or the persons enumerated in proposed Instruction C of the Schedule and any person with respect to any securities of the subject company. In response to several comment letters, the introductory language of the proposal was revised to require a description rather than complete information as proposed. This revision is intended to indicate that only the material terms rather than every detail of any such contract, arrangement, understanding or relationship are required to be disclosed.

(10) *Item 8. Persons retained, employed, or to be compensated.* Proposed Item 8 of the Schedule required disclosure concerning any persons and classes of persons employed, retained, or to be compensated by the bidder or by any person on the bidder's behalf to make solicitations or recommendations in connection with the tender offer. This item was adopted as proposed. It should be noted that compliance with this item should include information concerning any soliciting dealer's or similar fees offered by or on behalf of the bidder, including a brief description of any limitations thereon.

(11) *Item 9. Financial statements of certain bidders.* In proposed Schedule 14D–1, disclosure of the bidder's financial statements, prepared in compliance with Form 10 as amended (17 CFR 249.-210), was required if an average, prudent investor ought reasonably to be informed of such information in deciding whether to tender, sell, or hold securities being sought in the tender offer. The commentators who were critical of this proposal expressed concern about the materiality test and the requirement of compliance with Form 10. While the concept of financial disclosure has been retained in the Schedule as adopted, several changes were made generally in response to the commentators. First, finan-



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cial information is included in a separate disclosure item. Second, compliance with new Item 9 is required only where the bidder is other than a natural person [22] and only when the bidder's financial condition is material to a decision by security holders of the subject company whether to tender, sell, or hold securities being sought in the tender offer. As Instruction 1 to Item 9 points out, a determination as to whether disclosure of financial information is material is dependent on the facts and circumstances concerning the tender offer. These may include, but are not limited to: (1) the terms of the tender offer, particularly those terms concerning the amount of securities being sought, such as any or all, a fixed minimum with the right to accept additional shares tendered, all or none, and a fixed percentage of the outstanding; (2) whether the purpose of the tender offer is for control of the subject company; (3) the plans or proposals of the bidder described in Item 5 of the Schedule; and (4) the ability of the bidder to pay for the securities sought in the tender offer and/or to repay any loans made by the bidder or its affiliates in connection with the tender offer or otherwise. It should be noted that the factors described above are not exclusive nor is it necessary that any or all such factors be present in order to trigger the materiality test. Third, assuming the conditions of Items 9, as described above, are met, current, adequate financial information concerning the bidder should be furnished or, if the bidder is controlled by another entity which is not a natural person and has been formed for the purpose of making the tender offer, current, adequate financial information concerning such parent, should be furnished. This standard represents a modification of that which was proposed. In order to provide guidance as to what constitutes current, adequate financial information, Instruction 1 to Item 9 sets forth the types of financial information which will be deemed adequate for purposes of the Item. The "safe harbor" provided by Instruction 1 to Item 9 is premised on the nature of the bidder. Form 10 financial statements will be sufficient for a domestic bidder which is otherwise eligible to use that form, while Form 20 (17 CFR 249.200) financial statements will be sufficient for a foreign bidder which is otherwise eligible to use that form. Finally, two other instructions were added to Item 9 for the purpose of limiting possible burdens on the bidder. Instruction 2 to Item 9 provides for incorporation by reference of financial statements under certain conditions if the bidder is subject to the periodic reporting requirements of the Exchange Act. Instruction 3 to Item 9 permits a bidder who is not subject to the periodic reporting requirements of the Exchange Act to furnish unaudited financial statements if audited financial statements are not available or obtainable without unreasonable cost or expense and the bidder includes a statement to that effect, disclosing the reasons therefor, in response to Item 9.

The proviso to Item 9 requires financial information concerning a parent only if: (1) the bidder is controlled by another entity which is not a natural person; and (2) the bidder has been formed for the purpose of making the tender offer. However, it should be specifically noted that the Commission will not tolerate schemes to circumvent the requirements of Item 9 by relying on this proviso. Such schemes would include, for example, a tender offer made by a bidder which is a non-operating, shell corporation controlled by another corporation and which was previously formed for purposes other than making the tender offer. In this case, assuming that financial information is material to a decision by a security holder of the subject company whether to sell, tender or hold securities being sought in the tender offer, current, adequate financial information concerning such parent would be required.

(12) *Item 10. Additional information.*[23] In the proposed Schedule, Item 9 required disclosure of certain additional information if an average, prudent investor ought reasonably to be informed of such information in deciding whether to sell, tender, or hold securities being sought in the tender offer. Generally in response to the comment letters, the proposal was revised in several respects. First, the materiality test of the proposal, which was derived from the definition of the term "material" in Rule 12b-2(j) (17 CFR 240.12b-2(j)), was replaced by the term "material." The Commission presently plans to include a definition of that term substantially similar to that in Rule 12b-2(j) in the definitional section of the tender offer proposals when they are adopted. Second, Item 9(b) was revised to limit disclosure of applicable regulatory requirements which must be complied with or approvals which must be obtained in connection with the tender offer to those requirements or approvals which are known by the bidder after reasonable investigation. Third, disclosure of any material pending legal proceedings relating to the tender offer is required by Item 10(e). This sub-item was added to the narrative of the Schedule in response to the comment letters concerning the proposal that documents or papers relating to the tender offer which are filed in any court also be filed as exhibits to the proposed Schedule. In lieu of that proposal, Item 10(e) was added along with an Instruction requiring that one copy of any document relating to a major development in a material pending legal proceeding described in Item 10(e) be promptly furnished to the Commission on a supplemental basis. This procedure coincides with the present administrative practice. These changes are intended to ensure that investors are provided with meaningful disclosure concerning material legal proceedings of courts and administrative agencies which relate to the bidder's tender offer, to avoid imposing unnecessary additional costs on the bidder and to reduce the burden on the filing systems of the Commission. Finally, Item 10(f), which is similar to Rule 408 under the Securities Act of 1933 (17 CFR 230.408) and Rule 12b-20 under the Exchange Act (17 CFR 240.12b-20), was added in response to the comment letters which had criticized the non-exclusive nature of the proposed item.[24] Under Item 10(f), disclosure is required of additional material information as may be necessary to make the statements required by the Schedule, in light of the circumstances under which they are made, not materially misleading. This disclosure would include matters which are closely related to the various items of the Schedule. For example, material litigation, other than that disclosed pursuant to Item 10(e) of the Schedule, which may reflect on the integrity of the bidder or would have a material effect on the bidder's financial condition or its ability to repay any loans made in connection with the tender offer, would be included within the purview of Item 10(f). Another example of the operation of Item 10(f) would be as follows: although Item 2(e) relates to criminal convictions during the past five years, if a person enumerated in Instruction C had been convicted in a material criminal proceeding six years prior to the date of the filing of the Schedule but had been serving a sentence or had been on probation during the five year period, disclosure of such conviction would be required by Item 10(f).

(13) *Item 11. Material to be filed as exhibits.* Proposed Item 10 required that certain materials be filed as exhibits to the proposed Schedule. Proposed Item 10(d) related to opinions prepared by legal counsel pertaining to the tender offer. This proposed filing requirement was opposed by several commentators who criticized its scope and application. Partly in response to these views, the proposal was substantially revised. Item 11(d) requires that any written opinion prepared by legal counsel at the bidder's request and communicated to the bidder which pertains to the tax consequences

[22] It should be noted, however, that under the facts and circumstances of a particular tender offer, financial information concerning a bidder who is a natural person may be material to an investment decision by holders of the class of securities being sought by such tender offer whether to tender, sell or hold such securities. Disclosure of material facts is not limited to the specific requirements of Schedule 14D-1. See, e.g., *Corenco Corporation* v. *Schiavone & Sons, Inc.*, 362 F Supp 939, 949 (S.D.N.Y. 1973) aff'd in part rem'd in part, 488 F. 2d 207 (2d Cir. 1973).

[23] Due to the additions of a separate item regarding financial statements of certain bidders, this item and the item concerning the material to be filed as exhibits were renumbered Items 10 and 11, respectively.

[24] This revision should not be misinterpreted. Disclosure of material facts is not limited to the specific requirements of Schedule 14D-1. See "Corenco" supra, note 20.





of the tender offer be filed as an exhibit to the Schedule.

B. RULE 14d-1: FILING OF SCHEDULE 14D AND FURNISHINGS OF INFORMATION TO SECURITY HOLDERS (17 CFR 240.14d-1)

Since the Commission determined to adopt Schedule 14D-1 separately from the other tender offer proposals, it became necessary to amend existing Rule 14d-1 (17 CFR 240.14d-1) on an interim basis. This action was taken to implement the filing of Schedule 14d-1 with the Commission and to ensure that the information published, sent or given to security holders of the class of securities being sought reflects the changes made by Schedule 14D-1.

Consequently, the words "Schedule 14D-1" were substituted for the words "Schedule 13D" where they had appeared in that rule. Rule 14d-1(c)(4) (17 CFR 240.14d-1(c)(4)) was also revised to reflect the items of Schedule 14D-1 which are required to be included or summarized in the information published, sent or given to security holders. Among these items is Item 9 which pertains to the financial statements of certain bidders. If Item 9 is applicable to a tender offer, the information required by it or a fair and adequate summary of such information is required to be furnished to security holders. While the financial statements necessary to present such a summary will vary depending on the facts and circumstances of a particular tender offer, the Commission believes that guidance may be helpful to bidders in making this determination. Instruction 2 to Rule 14d-1(c)(4) provides that summary financial information equivalent to that described in paragraph e of Guide 59 of the Guides for Preparation and Filing of Registration Statements will normally be sufficient summary disclosure of Item 9 of Schedule 14D-1 for purposes of Rule 14d-1(c)(4). If the financial information required by Item 9 is summarized, Instruction 2 also provides that appropriate instructions should be included stating how more complete financial information can be obtained. Revisions corresponding to those made in Rule 14d-1(c)(4) were also made to Rule 14d-1(d) (17 CFR 240.14d-1(d)).

Additionally, proposed Rule 14d-1(g) which had previously been proposed for comment,[25] was adopted. By this action, the definition of the term "beneficial owner" which is set forth in Rule 13d-3 (17 CFR 240.13d-3) for purposes of Section 13(d)(1) of the Exchange Act is applicable also for purposes of Section 14(d)(1) of that Act.

C. SCHEDULE 13D: ACQUISITION STATEMENT (17 CFR 240.13D-101)

In light of the transition to the use of separate schedules for reporting acquisitions subject to Section 13(d)(1) of the Exchange Act and for tender offers subject to Section 14(d)(1) of that Act, existing Schedule 13D (17 CFR 240.13d-101) was amended by deleting Items 7 and 8 of that schedule. This action which had been previously indicated by the Commission [26] does not affect the proposed amendments to Schedule 13D which have been published for comment.[27]

CERTAIN FINDINGS

In publishing the tender offer proposals, the Commission specifically invited comments with respect to: (1) the costs of the proposals to bidders, subject companies and others; and (2) the impact or burdens of the proposals on competition which are neither necessary nor appropriate in furthering the purposes of the Exchange Act.

The comment letters which raised questions concerning the possible costs which might be engendered by the adoption of the proposals did not provide any significant basis for concluding that the implementation of the Commission's statutory mandate in the manner proposed would be outweighed by any such possible additional costs. In view of the Congressional presumption in favor of the adoption and amendment of the schedules and rule contained herein, the Commission finds that the costs imposed upon bidders by such rulemaking action are not unreasonable and are outweighed by the benefits which will accrue to investors.

As required by Section 23(a)(2) of the Exchange Act, the Commission has specifically considered the impact which the schedules and rule adopted and amended herein will have on competition. In light of the lack of comments raising significant questions concerning the burdens on competition which the proposals adopted by the Commission would have, the Commission finds that compliance by bidders with these actions will not impose any significant burden on competition and that, in any event, any possible competitive burden will be outweighed by, and is necessary and appropriate to achieve, the benefits which disclosure of this information will provide to investors.

AUTHORITY

The Commission hereby adopts Schedule 14D-1 on a permanent basis and amends Rule 14d-1 and Schedule 13D pursuant to the authority set forth in Sections 13(d), 14(d), 14(e), and 23 of the Exchange Act. The Commission finds that any change in the adopted and amended rule and schedules from those published in the Beneficial Ownership Proposals [28] and the Tender Offer Proposals [29] have been generally subject to comment and are either technical in nature or are less burdensome than previous requirements or proposals so that further notice and other rulemaking procedures pursuant to the Administrative Procedure Act of 1946 [30] are not necessary.

TEXT OF ADOPTED SCHEDULE AND AMENDED RULE AND SCHEDULE

The following are the actions being taken:

§ 240.13d-101 [Amended]

I. In 17 CFR 240.13d-101, Item 7, Persons Retained, Employed or to be Compensated, and Item 8, Material to be Filed as Exhibits, are deleted.

II. Rule 14d-1 is amended to read as follows:

**§ 240.14d-1 Filing of Schedule 14D-1 (§ 240.14d-1) and furnishing of information to security holders.**

(a) No person, directly or indirectly, by use of the mails or any means or instrumentality of interstate commerce or of any facility of a national securities exchange or otherwise, shall make a tender offer for, or a request or invitation for tenders of, any class of any equity security which is registered pursuant to section 12 of the Act, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 12(g)(2)(G) of the Act, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940, if, after consummation thereof, such person would, directly or indirectly, be the beneficial owner of more than 5 per centum of such class, unless, at the time copies of the offer or request or invitation are first published or sent or given to security holders, such person has filed with the Commission a statement containing the information and exhibits required by Schedule 14D-1.

* * * * * * *

(c) * * *

(4) The information required by Items 1(c), 2(b), 2(e), 2(f), and 2(g); 3, 4, 5, 6, 7, 8, 9, and 10 of Schedule 14D-1 (§ 240.14d-100) or a fair and adequate summary thereof.

*Instructions.* 1. Negative responses to any such item or subitem of Schedule 14D-1 (§ 240.14d-100) need not be included in the information published or sent or given to security holders.

2. Although the financial statements necessary to present a fair and adequate summary of Item 9 of Schedule 14D-1 (§ 240.14d-100) may vary depending on the facts and circumstances involved, summary financial information equivalent to that required by paragraph e of Guide 59 of the Guides of Preparation and Filing of Registration Statements will normally be sufficient summary disclosure of Item 9 for purposes of paragraph (c)(4) of this section. If the information required by Item 9 is summarized, appropri-

[25] Exchange Act Release No. 34-12676 (August 6, 1976 (41 FR 33004).

[26] 5 U.S.C. 553.

[27] Exchange Act Release No. 34-11616 (August 25, 1975) (40 FR 42212).

[28] Exchange Act Release No. 34-13292 (February 24, 1977) (42 FR 12355).

[29] Id.

[30] Exchange Act Release No. 34-11616 (August 25, 1975) (40 FR 42212). Certain of these proposals were adopted in Exchange Act Release No. 34-13291 (February 24, 1977) (42 FR 12342) and other proposals relating to beneficial ownership were concurrently proposed for comment in Exchange Act Release No. 34-13292 (February 24, 1977) (42 FR 12355).



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ate instructions should be included stating how more complete financial information can be obtained.

(d) Any additional material soliciting or requesting such tender offer subsequent to the initial solicitation or request shall contain the name of the persons making such solicitation or request and the information required by Items 1(c), 2(b), 2(e), 2(f), and 2(g); 3, 4, 5, 6, 7, 8, 9, and 10 of Schedule 14D–1 (§ 240.14a-100), or a fair and adequate summary thereof: *Provided, however,* That such material may omit any of such information previously furnished to the persons solicited or requested for tender offers. Copies of such additional material soliciting or requesting such tender offers shall be filed with the Commission not later than the time copies of such material are first published or sent or given to security holders.

(e) Ten copies of the statement required by paragraph (a), every amendment to such statement and all other material required by this rule and such statement shall be filed with the Commission.

* * * * *

(g) The definition of beneficial owner set forth in Rule 13d–3 (§ 240.13d–3) for purposes of section 13(d)(1) of the Act shall apply also for purposes of section 14(d)(1) of the Act.

III. Schedule 14D–1 is adopted to read as follows:

**§ 240.14d–100 Schedule 14D–1. Tender offer statement pursuant to section 14(d)(1) of the Securities Exchange Act of 1934.**

(Amendment No. ____)

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(Name of Subject Company)

---

(Bidder)

---

(Title of Class of Securities)

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(CUSIP Number of Class of Securities)

---

(Name, address and telephone number of person authorized to receive notices and communications on behalf of bidder)

*Instructions.* 1. Eight copies of this statement, including all exhibits, and two additional copies of this statement, including only the exhibits described in Item 11(a) of this statement, should be filed with the Commission.

2. No fee is required to be paid to the Commission in connection with the filing of the initial statement or amendments thereto.

*General Instructions* A. The item numbers and captions of the items shall be included but the text of the items is to be omitted. The answers to the items shall be so prepared as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative, so state.

B. Information contained in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or sub-item of the statement unless it would render such answer incomplete, unclear or confusing. Matter incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required.

C. If the statement is filed by a partnership, limited partnership, syndicate or other group, the information called for by Items 2–7, inclusive, shall be given with respect to: (i) each partner of such partnership; (ii) each partner who is denominated as a general partner or who functions as a general partner of such limited partnership; (iii) each member of such syndicate or group; and (iv) each person controlling such partner or member. If the statement is filed by a corporation, or if a person referred to in (i), (ii), (iii) or (iv) of this Instruction is a corporation, the information called for by the above mentioned items shall be given with respect to: (a) each executive officer and director of such corporation; (b) each person controlling such corporation; and (c) each executive officer and director of any corporation ultimately in control of such corporation. Executive officer shall mean the president, secretary, treasurer and any vice president in charge of a principal business function (such as sales, administration or finance) and any other person who performs similar policy making functions for the corporation. A response to an item in the statement is required with respect to the bidder and to all other persons referred to in this instruction unless such item specifies to the contrary.

D. Upon termination of the tender offer, the bidder shall promptly file a final amendment to Schedule 14D–1 [§ 240.14d–100] disclosing all material changes in the items of that Schedule and stating that the tender offer has terminated, the date of such termination and the results of such tender offer.

E. If the bidder, before filing this statement, has filed a Schedule 13D [§ 240.13d–101] with respect to the acquisition of securities of the same class referred to in Item 1(a) of this statement, the bidder shall amend such Schedule 13D [§ 240.13d–101] and may do so by means of this statement and amendments thereto, including the final amendment required to be filed by Instruction D: *Provided,* That the bidder indicates on the cover sheet of this statement that it is amending its Schedule 13D [§ 240.13d–101] by means of this statement.

F. The final amendment required to be filed by Instruction D shall be deemed to satisfy the reporting requirements of section 13(d) of the Act with respect to all securities acquired by the bidder pursuant to the tender offer as reported in such final amendment.

G. For purposes of this statement, the following definitions shall apply:

(i) The term "bidder" means any person on whose behalf a tender offer is made; and

(ii) The term "subject company" means any issuer whose securities are sought by a bidder pursuant to a tender offer.

*Item 1. Security and subject company.* (a) State the name of the subject company and the address of its principal executive offices;

(b) State the exact title and the number of shares outstanding of the class of equity securities being sought (which may be based upon information contained in the most recently available filing with the Commission by the subject company unless the bidder has reason to believe such information is not current), the exact amount of such securities being sought and the consideration being offered therefor; and

(c) Identify the principal market in which such securities are traded and state the high and low sales prices for such securities in such principal market (or, in the absence thereof, the range of high and low bid quotations) for each quarterly period during the past two years.

*Item 2. Identity and background.* If the person filing this statement or any person enumerated in Instruction C of this statement is a corporation, partnership, limited partnership, syndicate or other group of persons, state its name, the state or other place of its organization, its principal business, the address of its principal office and the information required by (e) and (f) of this Item. If the person filing this statement or any person enumerated in Instruction C is a natural person, provide the information specified in (a) through (g) of this Item with respect to such person(s).

(a) Name;

(b) Residence or business address;

(c) Present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment or occupation is conducted;

(d) Material occupations, positions, offices or employments during the last 5 years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which such occupation, position, office or employment was carried on. *Instruction.* If a person has held various positions with the same organization, or if a person holds comparable positions with multiple related organizations, each and every position need not be specifically disclosed.

(e) Whether or not, during the last 5 years, such person has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give the dates, nature of conviction, name and location of court, and penalty imposed or other disposition of the case. *Instruction.* While a negative answer to this sub-item is required in this schedule, it need not be furnished to security holders.

(f) Whether or not, during the last 5 years, such person was a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting activities subject to, federal or state securities laws or finding any violation of such laws; and, if so, identify and describe such proceeding and summarize the terms of such judgment, decree or final order. *Instruction.* While a negative answer to this sub-item is required in this schedule, it need not be furnished to security holders.

(g) Citizenship(s).

*Item 3. Past contacts, transactions or negotiations with the subject company.* (a) Briefly state the nature and approximate amount (in dollars) of any transaction, other than those described in Item 3(b) of this schedule, which has occurred since the commencement of the subject company's third full fiscal year preceding the date of this schedule, between the person filing this schedule (including those persons enumerated in Instruction C of this schedule) and:

(1) The subject company or any of its affiliates which are corporations: *Provided, However,* That no disclosure need be made with respect to any transaction if the aggregate amount involved in such transaction was less than one percent of the subject company's consolidated revenues (which may be based upon information contained in the most recently available filing with the Commission by the subject company, unless the bidder has reason to believe otherwise) (i) for the fiscal year in which such transaction occurred or, (ii) for the portion of the current fiscal year which has occurred, if the transaction occurred in such year; and

(2) The executive officers, directors or affiliates of the subject company which are





not corporations if the aggregate amount involved in such transaction or in a series of similar transactions, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, exceeds $40,000.

(b) Describe any contacts, negotiations or transactions which have occurred since the commencement of the subject company's third full fiscal year preceding the date of this schedule between the bidder or its subsidiaries (including those persons enumerated in Instruction C of this schedule) and the subject company or its affiliates concerning: a merger, consolidation or acquisition; a tender offer or other acquisition of securities; an election of directors; or a sale or other transfer of a material amount of assets.

*Item 4. Source and amount of funds or other consideration.* (a) State the source and the total amount of funds or other consideration for the purchase of the maximum number of securities for which the tender offer is being made.

(b) If all or any part of such funds or other consideration are or are expected to be, directly or indirectly, borrowed for the purpose of the tender offer:

(1) Provide a summary of each loan agreement or arrangement containing the identity of the parties, the term, the collateral, the stated and effective interest rates, and other material terms or conditions relative to such loan agreement; and

(2) Briefly describe any plans or arrangements to finance or repay such borrowings, or if no such plans or arrangements have been made, make a statement to that effect.

(c) If the source of all or any part of the funds to be used in the tender offer is a loan made in the ordinary course of business by a bank as defined by section 3(a)(6) of the Act, the name of such bank shall not be made available to the public if the person filing the statement so requests in writing and files such request, naming such bank, with the Secretary of the Commission.

*Item 5. Purpose of the tender offer and plans or proposals of the bidder.* State the purpose or purposes of the tender offer for the subject company's securities. Describe any plans or proposals which relate to or would result in:

(a) An extraordinary corporate transaction, such as a merger, reorganization or liquidation, involving the subject company or any of its subsidiaries;

(b) A sale or transfer of a material amount of assets of the subject company or any of its subsidiaries;

(c) Any change in the present board of directors or management of the subject company including, but not limited to, any plans or proposals to change the number or the term of directors or to fill any existing vacancies on the board;

(d) Any material change in the present capitalization or dividend policy of the subject company;

(e) Any other material change in the subject company's corporate structure or business, including, if the subject company is a registered closed-end investment company, any plans or proposals to make any changes in its investment policy for which a vote would be required by section 13 of the Investment Company Act of 1940;

(f) Causing a class of securities of the subject company to be delisted from a national securities exchange or to cease to be authorized to be quoted in an inter-dealer quotation system of a registered national securities association; or

(g) A class of equity securities of the subject company becoming eligible for termination of registration pursuant to section 12(g)(4) of the Act.

*Item 6. Interest in securities of the subject company.* (a) State the aggregate number and percentage of the class represented by such shares (which may be based on the number of shares outstanding as contained in the most recently available filing with the Commission by the subject company unless the bidder has reason to believe such information is not current), beneficially owned (identifying those shares for which there is a right to acquire) by each person named in Item 2 of this schedule and by each associate and majority-owned subsidiary of such person giving the name and address of any such associate or subsidiary.

(b) Describe any transaction in the class of securities reported on that was effected during the past 60 days by the persons named in response to paragraph (a) of this item or by any executive officer, director or subsidiary of such person.

*Instructions.* 1. The description of a transaction required by Item 6(b) shall include, but not necessarily be limited to: (1) the identity of the person covered by Item 6(b) who effected the transaction; (2) the date of the transaction; (3) the amount of securities involved; (4) the price per share; and (5) where and how the transaction was effected.

2. If the information required by Item 6(b) of this schedule is available to the bidder at the time this statement is initially filed with the Commission pursuant to Rule 14d–1(e) [§ 240.14d–1(e)], such information should be included in such initial filing. However, if such information is not available to the bidder at the time of such initial filing, it should be filed with the Commission promptly but in no event later than two business days after the date of such filing and, if material, should be disclosed to security holders of the subject company in a manner similar to that in which the tender offer was first published, sent or given to such security holders. The procedure specified by this instruction is provided for the purpose of maintaining the confidentiality of the tender offer in order to avoid possible misuse of inside information.

*Item 7. Contracts, Arrangements, Understandings or Relationships with Respect to the Subject Company's Securities.* Describe any contract, arrangement, understanding or relationship (whether or not legally enforceable) between the bidder (including those persons enumerated in Instruction C to this schedule) and any person with respect to any securities of the subject company (including, but not limited to, any contract, arrangement, understanding or relationship concerning the transfer or the voting of any of such securities, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss, or the giving or withhold of proxies), naming the persons with whom such contracts, arrangements, understandings or relationships have been entered into and giving the material provisions thereof. Include such information for any of such securities that are pledged or otherwise subject to a contingency, the occurrence of which would give another person the power to direct the voting or disposition of such securities, except that disclosure of standard default and similar provisions contained in loan agreements need not be included.

*Item 8. Persons Retained, Employed or to be Compensated.* Identify all persons and classes of persons employed, retained or to be compensated by the bidder, or by any person on the bidder's behalf, to make solicitations or recommendations in connection with the tender offer and describe briefly the terms of such employment, retainer or arrangement for compensation.

*Item 9. Financial Statements of Certain Bidders.* Where the bidder is other than a natural person and the bidder's financial condition is material to a decision by a security holder of the subject company whether to sell, tender or hold securities being sought in the tender offer, furnish current, adequate financial information concerning the bidder *Provided,* That if the bidder is controlled by another entity which is not a natural person and has been formed for the purpose of making the tender offer, furnish current, adequate financial information concerning such parent.

*Instructions.* 1. The facts and circumstances concerning the tender offer, particularly the terms of the tender offer, may influence a determination as to whether disclosure of financial information is material. However, once the materiality requirement is applicable, the adequacy of the financial information will depend primarily on the nature of the bidder.

In order to provide guidance in making this determination, the following types of financial information will be deemed adequate for purposes of this item for the type of bidder specified: (a) Financial statements prepared in compliance with Form 10 as amended [§ 249.210 of this chapter] for a domestic bidder which is otherwise eligible to use such form; and (b) financial statements prepared in compliance with Form 20 [§ 249.200 of this chapter] for a foreign bidder which is otherwise eligible to use such form.

2. If the bidder is subject to the periodic reporting requirements of sections 13(a) or 15(d) of the Act, financial statements contained in any document filed with the Commission may be incorporated by reference in this schedule solely for the purposes of this schedule *Provided* That such financial statements substantially meet the requirements of this Item; an express statement is made that such financial statements are incorporated by reference; the matter incorporated by reference is clearly identified by page, paragraph, caption or otherwise; and an indication is made where such information may be inspected and copies obtained. Financial statements which are required to be presented in comparative form for two or more fiscal years or periods shall not be incorporated by reference unless the material incorporated by reference includes the entire period for which the comparative data is required to be given.

3. If the bidder is not subject to the periodic reporting requirements of the Act, the financial statements required by this item need not be audited if such audited financial statements are not available or obtainable without unreasonable cost or expense and a statement is made to that effect disclosing the reasons therefor.

*Item 10. Additional information.* If material to a decision by a security holder whether to sell, tender or hold securities being sought in the tender offer, furnish information as to the following:

(a) Any present or proposed material contracts, arrangements, understandings or relationships between the bidder or any of its executive officers, directors, controlling persons or subsidiaries and the subject company or any of its executive officers, directors, controlling persons or subsidiaries (other than any contract, arrangement or understanding required to be disclosed pursuant to Items 3 or 7 of this schedule);

(b) To the extent known by the bidder after reasonable investigation, the applicable regulatory requirements which must be complied with or approvals which must be obtained in connection with the tender offer;

(c) The applicability of anti-trust laws;

(d) The applicability of the margin requirements of section 7 of the Act and the regulations promulgated thereunder;



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(e) Any material pending legal proceedings relating to the tender offer including the name and location of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto and a brief summary of the proceedings; and

*Instruction.* In connection with this subitem, a copy of any document relating to a major development (such as pleadings, an answer, complaint, temporary restraining order, injunction, opinion, judgment or order) in a material pending legal proceeding should be promptly furnished to the Commission on a supplemental basis.

(f) Such additional material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not materially misleading.

*Item 11. Material to be filed as exhibits.* Furnish a copy of: (a) Tender offer material which is published, sent or given to security holders by or on behalf of the bidder in connection with the tender offer;

(b) Any loan agreement referred to in Item 4 of this schedule. *Instruction.* The identity of any bank which is a party to a loan agreement need not be disclosed if the person filing the statement has requested that the identity of such bank not be made available to the public pursuant to Item 4 of this schedule.

(c) Any document setting forth the terms of any contracts, arrangements, understandings or relationships referred to in Item 7 or 10(a) of this schedule;

(d) Any written opinion prepared by legal counsel at the bidder's request and communicated to the bidder pertaining to the tax consequences of the tender offer;

(e) In an exchange offer where securities of the bidder have been or are to be registered under the Securities Act of 1933, the prospectus containing the information required to be included therein by Rule 434b [§ 230.434b] of that Act;

(f) If any oral solicitation of security holders is to be made by or on behalf of the bidder, any written instruction, form or other material which is furnished to the persons making the actual oral solicitation for their use, directly or indirectly, in connection with the tender offer.

*Signature.* After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

(Date) (Signature)

(Name and title)

The original statement shall be signed by each person on whose behalf the statement is filed or his authorized representative. If the statement is signed on behalf of a person by his authorized representative (other than an executive officer or general partner of the bidder), evidence of the representative's authority to sign on behalf of such person shall be filed with the statement. The name and any title of each person who signs the statement shall be typed or printed beneath his signature.

(Secs. 13(d), 14(d), 14(e), 23, 48 Stat. 894, 895, 901; sec. 203(a), 49 Stat. 704; sec. 8, 49 Stat. 1379; sec. 10, 78 Stat. 580; secs. 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3–5, 84 Stat. 1497; sec. 18, 89 Stat. 155; 15 U.S.C. 78m(d), 78n (d), 78n(e), 78w.)

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 21, 1977.

[FR Doc.77-21738 Filed 7-27-77;8:45 am]

## Title 31—Money and Finance: Treasury

## SUBTITLE A—OFFICE OF THE SECRETARY OF THE TREASURY

## PART 10—PRACTICE BEFORE THE INTERNAL REVENUE SERVICE

### Revision of Provisions Governing Practice by Former Government Employees and Miscellaneous Amendments

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: The rule amends the regulations governing practice by attorneys, certified public accountants, and enrolled agents who represent clients before the Internal Revenue Service. The majority of the amendments are editorial, eliminate outdated terms and provisions, or bring the regulations into conformity with present law.

In addition, the rule amends the regulations to increase the restrictions on the representation of clients before the Internal Revenue Service by former Government employees. The purpose of this amendment is to prevent any conflict of interest, or appearance of a conflict of interest, when a former employee appears before the Service to handle a matter in which he/she may have been involved while employed by the Government.

EFFECTIVE DATE: This revision of Part 10 becomes effective on August 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Leslie S. Shapiro, Director of Practice, 202–634–5071.

SUPPLEMENTARY INFORMATION: On April 21, 1977, the Department of the Treasury published a proposed rule (42 FR 20635) to amend the regulations governing practice before the Internal Revenue Service (31 CFR Part 10). The primary purpose of the proposed changes was to increase the restrictions on former Government employees who represent clients before the Internal Revenue Service.

By and large, the comments received in response to the proposal were favorable. Several commenters, while agreeing in principle with the proposal, made suggestions warranting the clarification of provisions in the proposed rule.

### DISCUSSION OF MAJOR COMMENTS

#### SCOPE OF PROHIBITION ON FORMER GOVERNMENT EMPLOYEES

As stated in the preamble to the proposed revision, § 10.26 as revised is intended to parallel the provisions of 18 U.S.C. 207 (a) and (b) but with a slight broadening of the official responsibility rule.

Some comments have suggested that the absolute bar imposed by § 10.26 could include situations where the former employee had participated in the development of a legal position or policy while employed by the Government, but where the specific case in which the former employee seeks to represent arises subsequent to the termination of his/her employment. As such, it would materially expand the prohibitions intended by the Chief Counsel's Advisory Committee on Rules of Professional Conduct ("the Advisory Committee"). The September 21, 1976 report of the Advisory Committee (41 FR 4111) stated that the definition of the term "transaction" is intended to include within its scope "any matter in which the same facts, same issue of law, and the tax status or tax liability of the same party or parties are at issue as were involved in a matter that was the subject of the former employee's participation or official responsibility."

To assist in the alleviation of this possible confusion, and in order to remove a circular definition which appeared in the proposed rules, technical amendments have been made to the definition of "transaction". In addition, the separate definition of "specific party" has been eliminated; however, the concept (with some modification) has been retained in the definition of "transaction". As incorporated in the definition of "transaction", a specific party is defined as a party "whose rights, privileges, or liabilities under laws or regulations administered by the Internal Revenue Service, or other legal rights are determined or immediately affected therein". It is believed that this definition will more clearly reflect the intended scope of this rule. "Immediately affected" as used in the definition of "transaction", can be illustrated by the following example cited by the Advisory Committee in its September 21, 1976 report: If a former employee participated in determining the tax status of a particular taxpayer's share of an item of partnership income, the tax consequences to his co-partner of a share of the same item of partnership income would be part of the same "transaction" within the meaning of the definition, and the former employee could not represent the other partner or the spouse or assignee or transferee of any partner with respect to the tax status of the particular item of partnership income involved in the matter in which the employee had participated. However, the fact that the same issue of law and substantially identical facts might be involved with respect to a partner in a different partnership would not bring any of the partners of such other partnership within the definition of the term "transaction."

#### DEFINITION OF TRANSACTION

Two comments were received indicating a view that, in proposed § 10.26(a)(9), the phrase "or the failure to act with respect thereto" is unnecessary. The Department is persuaded that the problem at which this phrase was directed, that of a "lazy" employee profiting by his laziness, is adequately addressed by the definitions of "participate" and "official responsibility". Consequently, such language is deleted.

#### FIRM REPRESENTATION

Two comments have been received with respect to the restriction on representation or knowing assistance of specific parties to a transaction by members of a firm of which a former Government employee, who participated in such transaction, is a member. The comments point out, and the Department agrees, that the Advisory Committee intended that the cross-reference to paragraph (b)(1) in § 10.26(c)(1) should refer only to 18 U.S.C. 207(a), the personal participation situation. Accordingly, a parenthetical phrase has been inserted into § 10.26(c)(1) to clarify such intention.





#### FALSE OR MISLEADING ISOLATION STATEMENTS

One commenter suggested that the regulations specify the consequences of filing with the Director of Practice, under § 10.26, a false or misleading isolation statement. It is the opinion of the Department that the provisions currently contained in §§ 10.22(b) and 10.51(b) would cover that situation. However, to eliminate any possible confusion, technical amendments of §§ 10.22(b) and 10.51(b) are made by this final rule.

#### EFFECTIVE DATE

Two commenters have stated that, because the proposed § 10.26 materially expands restrictions on former Government employees, especially those who had official responsibility for matters within one year prior to leaving Government employment, the proposed rules should be given only prospective effect. Those comments also suggested that a delayed effective date of at least ninety days is appropriate to insure that those subject to the new rules are familiar with them and can comply with the filing requirements they impose. After analysis of the comments, the Department believes that the regulations should be given prospective effect but that thirty days is sufficient time to become familiar with the requirements of the new § 10.26. In addition, a new § 10.26(d) has been added to the final rules to permit the completion of representation commenced before the publication of these rules where such representation would not be permitted under the new rules but was proper at the time the representation commenced.

#### TYPOGRAPHICAL ERROR

One commenter drew our attention to a typographical error in § 10.51(g) of the present regulations. Accordingly, the phrase "public account" appearing therein is corrected to "public accountant."

### DISCUSSION OF MISCELLANEOUS COMMENTS

The Department does not agree that the proposed rule would be improved as suggested by some commenters and has rejected the following suggestions:

(1) That it be made clear that the prohibition in proposed § 10.31 against negotiation of taxpayer refund checks by practitioners does not apply where the practitioner does not make the initial endorsement, and in another comment, that the proposed rule provides an undue hardship on representatives of clients before the Internal Revenue Service. The intent of the proposal was to parallel 26 U.S.C., Section 6695(f). It is believed that proposed § 10.31 is sufficiently clear to demonstrate that intent.

(2) That a practitioner who received information clearly established that a client has in the course of the representation, perpetrated a fraud upon a person or tribunal shall promptly call upon his client to rectify the same and, if the client is unable or refuses to do so, the practitioner shall reveal the fraud to the affected person or tribunal unless the practitioner is an attorney and the information is protected as a privileged communication. The Department feels the proposed amendment adequately addresses a practitioner's participation in a fraud perpetrated against the Internal Revenue Service by his client. Further, it is believed that the suggested exception for privileged communications may operate in a discriminatory fashion against non-attorney practitioners.

(3) That the definition of "transaction" in proposed § 10.26(a)(9) be expanded to cover a Government employee's deliberations which do not ripen into decisions, determinations, findings, etc. The Department is of the view that the suggested expansion is unnecessary because the definitions of "transaction" and "participate" would include the conduct suggested in the comment.

(4) That the steps necessary to insure "isolation" of a former Government employee from his firm's representation be specified. The amendment to § 10.26 contained in the proposed rules provides that former Government employees must be isolated in such fashion as to not assist in a representation. It is believed that this standard provides sufficient direction to both former employees and their firms. Further, the Department is of the view that the infinite variations in the way private tax practice is conducted make formulation of a list of screening measures impracticable.

(5) That the Department maintain an active decisionmaking role for situations in which isolation statement may not adequately insure against actual abuses or appearances of impropriety in representation by partners and associates of former Government employees. Such a suggestion was rejected by the Advisory Committee. In fact, a significant rationale for making these amendments was that the existing rules require an essentially ad hoc determination in each case. It was though that an objective, absolute standard would not only be more easily understood by practitioners and more readily handled administratively, but also would be significantly fairer. So, while the Department reserves the right to reject purported isolation statements which are so patently inadequate as to not result in isolation, it is the intention of the Department to at least initially utilize the objective standards of these rules. It also should be noted that each firm is obligated to assess the facts and circumstances of each representation independently; the mere filing of an isolation statement will not automatically insulate members of a firm from disciplinary action.

(6) That proposed changes to § 10.30 which prohibits solicitation be held in abeyance in light of recent developments concerning the advertising of services by attorneys. The Treasury Department is aware of the present scrutiny which restrictions on professional advertising are undergoing by various professional associations and of the recent Supreme Court decision concerning the issue. Treasury expects that some changes regarding solicitation and advertising will occur and is carefully considering the matter. However, since there has been insufficient time to become familiar with the Supreme Court decision and/or to know the scope or exact nature of future changes in the prohibition on advertising by the professions, Treasury at this time is not modifying Section 10.30 more than that proposed.

#### COMMENTS BEYOND SCOPE

A number of comments were received which were beyond the scope of the notice of proposed rulemaking. They included:

1. Delete reference in last sentence of 31 CFR 10.30 to standards of ethical conduct adopted by the American Bar Association, the American Institute of Certified Public Accountants, and the National Society of Public Accountants;

2. Revise Revenue Procedure 68–20, 1968–1 Cum. Bull. 812, so that an individual who engages in limited practice before the Internal Revenue Service without enrollment is obligated to inform his clients of their noncompliance with the revenue laws if he is aware of such noncompliance.

3. Authorize use of the term "Enrolled Federal Tax Accountant" in classified telephone directories.

4. Authorize use of classified telephone directory headings which contain term "Enrolled Agent" or variants of that term. While the Department believes the concept is within the meaning of the proposed amendment to § 10.30, implementation is outside the Department's jurisdiction.

5. That amended § 10.26 or other regulations recognize the rights of state licensed attorneys and certified public accountants and "Federally-licensed" enrolled agents to practice before the Internal Revenue Service regardless of the type of firm by which they are employed.

#### DRAFTING INFORMATION

The principal author of § 10.26 (post employment regulations) is Mr. Meade Whitaker, former Chief Counsel, Internal Revenue Service, based on the final report of the Chief Counsel's Advisory Committee on Rules of Professional Conduct. The principal author of the other amendments is Mr. Leslie S. Shapiro, Director of Practice, Office of the General Counsel, Department of the Treasury, and members of his staff.

In view of the above, Title 31 Code of Federal Regulations Part 10 is amended as set forth below.



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1. By amending the table of contents to read as follows:

Sec.
10.0 Scope of part.

Subpart A—Rules Governing Authority To Practice

10.1 Director of practice.
10.2 Definitions.
10.3 Who may practice.
10.4 Eligibility for enrollment.
10.5 Application for enrollment.
10.6 Enrollment.
10.7 Limited practice without enrollment.
10.8 Customhouse brokers.

Subpart B—Duties and Restrictions Relating to Practice Before the Internal Revenue Service

10.20 Information to be furnished.
10.21 Knowledge of client's omission.
10.22 Diligence as to accuracy.
10.23 Prompt disposition of pending matters.
10.24 Assistance from disbarred or suspended persons and former Internal Revenue Service employees.
10.25 Practice by partners of Government employees.
10.26 Practice by former Government employees, their partners and their associates.
10.27 Notaries.
10.28 Fees.
10.29 Conflicting interests.
10.30 Solicitation.
10.31 Negotiation of taxpayer refund checks.
10.32 Practice of law.

Subpart C—Rules Applicable to Disciplinary Proceedings

10.50 Authority to disbar or suspend.
10.51 Disreputable conduct.
10.52 Violation of regulations.
10.53 Receipt of information concerning attorneys, certified public accountants and enrolled agents.
10.54 Institution of proceeding.
10.55 Conferences.
10.56 Contents of complaint.
10.57 Service of complaint and other papers.
10.58 Answer.
10.59 Supplemental charges.
10.60 Reply to answer.
10.61 Proof; variance; amendment of pleadings.
10.62 Motions and requests.
10.63 Representation.
10.64 Administrative Law Judge.
10.65 Hearings.
10.66 Evidence.
10.67 Depositions.
10.68 Transcript.
10.69 Proposed findings and conclusions.
10.70 Decision of the Administrative Law Judge.
10.71 Appeal to the Secretary.
10.72 Decision of the Secretary.
10.73 Effect of disbarment or suspension; surrender of card.
10.74 Notice of disbarment or suspension.
10.75 Petition for reinstatement.

Subpart D—General Provisions

Sec.
10.90 Records.
10.91 Effective date of regulations.
10.92 Saving clause.
10.93 Special orders.

AUTHORITY: Sec. 3, 23 Stat. 258, secs. 2–12, 60 Stat. 237 et seq.; (5 U.S.C. 301, 500, 551–559, 31 U.S.C. 1026), Reorg. Plan No. 26 of 1950, 15 F.R. 4935, 65 Stat. 1280, 3 CFR 1949–1953 Comp., except as otherwise noted.

2. By amending § 10.0 to read as follows:

**§ 10.0 Scope of part.**

This part contains rules governing the recognition of attorneys, certified public accountants, enrolled agents, and other persons representing clients before the Internal Revenue Service. Subpart A of this part sets forth rules relating to authority to practice before the Internal Revenue Service; Subpart B of this part prescribes the duties and restrictions relating to such practice; Subpart C of this part contains rules relating to disciplinary proceedings; and Subpart D of this part contains general provisions, including provisions relating to availability of official records.

**§ 10.2 [Amended]**

3. Section 10.2 is amended by deleting the last sentence of § 10.2(a).

4. Section 10.4 is amended as follows:

(a) By deleting the words "who are citizens of the United States and who are over the age of 21 years" in paragraph (c);

(b) By revoking paragraph (d);

(c) By redesignating paragraph (e) as paragraph (d); as follows:

**§ 10.4 Eligibility for enrollment.**

* * * * *

(c) *Natural persons.* Enrollment to practice may be granted only to natural persons.

(d) *Attorneys; certified public accountants.* Enrollment is not available to persons who qualify to practice under § 10.3 (a) or (b).

5. By amending § 10.5(a) to read as follows:

**§ 10.5 Application for enrollment.**

(a) *Form; fee.* An applicant for enrollment shall file with the Commission of Internal Revenue an application on Form 23, properly executed under oath or affirmation. Such application shall be accompanied by a check or money order in the amount set forth on Form 23, payable to the Internal Revenue Service, which amount shall constitute a fee which shall be charged to each applicant for enrollment. The fee shall be retained by the United States whether or not the applicant is granted enrollment.

(Sec. 501, Pub. L. 82–137, 65 Stat. 290 (31 U.S.C. 483a).)

* * * * *

6. Section 10.6 is amended as follows:

(a) By deleting paragraph (b)(2);

(b) By deleting paragraph (c);

(c) By deleting paragraph (d)(1);

(d) By redesignating paragraph (b)(1) as (b);

(e) By redesignating paragraph (d)(2) as (c); as follows:

**§ 10.6 Enrollment.**

* * * * *

(b) *Enrollment card.* The Commissioner shall issue an enrollment card to each agent who is enrolled to practice before the Internal Revenue Service after the effective date of this regulation. Each such enrollment card shall be valid so long as the holder shall remain enrolled and in good standing before the Service. Unless advised to the contrary by the Commissioner, any officer or employee of the Internal Revenue Service may consider the holder of a valid enrollment card to be duly authorized to practice before the Service.

(c) *Termination of enrollment.* The enrollment of any agent to whom an enrollment card is issued after the effective date of this regulation shall terminate at such time as such agent may become eligible to practice without enrollment under § 10.3 (a) or (b), and such agent shall forthwith return his enrollment card to the Commissioner for cancellation.

**§ 10.9 [Deleted]**

7. By deleting § 10.9:

**§ 10.10 [Deleted]**

8. By deleting § 10.10:

9. By amending § 10.21 to read as follows:

**§ 10.21 Knowledge of client's omission.**

Each attorney, certified public accountant, or enrolled agent who, having been retained by a client with respect to a matter administered by the Internal Revenue Service, knows that the client has not complied with the revenue laws of the United States or has made an error in or omission from any return, document, affidavit, or other paper which the client is required by the revenue laws of the United States to execute, shall advise the client promptly of the fact of such noncompliance, error, or omission.

10. By amending § 10.22(b) to read as follows:

**§ 10.22 Diligence as to accuracy.**

* * * * *

(b) In determining the correctness of oral or written representations made by him to the Department of the Treasury; and

* * * * *

11. By revising § 10.26 to read as follows:

**§ 10.26 Practice by former Government employees, their partners and their associates.**

(a) *Definitions.* For purposes of § 10.26. (1) "Assist" means to act in such a way as to advise, furnish information to or otherwise aid another person, directly or indirectly.

(2 "Government employee" is an officer or employee of the United States or any agency of the United tSates, including a "special government employee" as defined in 18 U.S.C. 202(a), or of the District of Columbia, or of any state, or a member of Congress or of any state legislature.

(3) "Member of a firm" is a sole practioner or an employee or associate thereof, or a partner, stockholder, associate, affiliate or employee of a partnership, joint venture, corporation, professional association or other affiliation of two or more practitioners who represent non-Government parties.

(4) "Practitioner" is an attorney, certified public accountant, enrolled agent or any other person authorized to practice before the Internal Revenue Service.





(5) "Official responsibility" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action, with or without knowledge of the action.

(6) "Participate" or "participation" means substantial involvement as a Government employee by making decisions, or preparing or reviewing documents with or without the right to exercise a judgment of approval or disapproval, or participating in conferences or investigations, or rendering advice of a substantial nature.

(7) "Rule" includes Treasury Regulations, whether issued or under preparation for issuance as Notices of Proposed Rule Making or as Treasury Decisions, and revenue rulings and revenue procedures published in the Internal Revenue Bulletin. "Rule" shall not include a "transaction" as defined in paragraph (a)(9) of this section.

(8) "Transaction" means any decision, determination, finding, letter ruling, technical advice, contract or approval or disapproval thereof, relating to a particular factual situation or situations involving a specific party or parties whose rights, privileges, or liabilities under laws or regulations administered by the Internal Revenue Service, or other legal rights, are determined or immediately affected therein and to which the United States is a party or in which it has a direct and substantial interest, whether or not the same taxable periods are involved. "Transaction" does not include "rule" as defined in paragraph (a)(7) of this section.

(b) *General rules.* (1) No former Government employee shall, subsequent to his Government employment, represent anyone in any matter administered by the Internal Revenue Service if the representation would violate 18 U.S.C. 207(a) or (b) or any other laws of the United States.

(2) No former Government employee who participated in a transaction shall, subsequent to his Government employment, represent or knowingly assist, in that transaction, any person who is or was a specific party to that transaction.

(3) No former Government employee who within a period of one year prior to the termination of his Government employment had official responsibility for a transaction shall, within one year after his Government employment is ended, represent or knowingly assist in that transaction any person who is or was a specific party to that transaction.

(4) No former Government employee shall, within one year after his Government employment is ended, appear before any employee of the Treasury Department in connection with the publication, withdrawal, amendment, modification, or interpretation of a rule in the development of which the former Government employee participated or for which, within a period of one year prior to the termination of his Government employment, he had official responsibility. However, this subparagraph does not preclude such former employee from appearing on his own behalf or from representing a taxpayer before the Internal Revenue Service in connection with a transaction involving the application or interpretation of such a rule with respect to that transaction: *Provided*, That such former employee shall not utilize or disclose any confidential information acquired by the former employee in the development of the rule, and shall not contend that the rule is invalid or illegal. In addition, this subparagraph does not preclude such former employee from otherwise advising or acting for any person.

(c) *Firm representation.* (1) No member of a firm of which a former Government employee is a member may represent or knowingly assist a person who was or is a specific party in any transaction with respect to which the restrictions of paragraph (b)(1) (other than 18 U.S.C. 207(b)) or (b)(2) of this section apply to the former Government employee, in that transaction, unless:

(i) No member of the firm who had knowledge of the participation by the Government employee in the transaction initiated discussions with the Government employee concerning his becoming a member of the firm until his Government employment is ended or six months after the termination of his participation in the transaction, whichever is earlier;

(ii) The former Government employee did not initiate any discussions concerning becoming a member of the firm while participating in the transaction or, if such discussions were initiated, they conformed with the requirements of 18 U.S.C. 208(b); and

(iii) The firm isolates the former Government employee in such a way that he does not assist in the representation.

(2) No member of a firm of which a former Government employee is a member may represent or knowingly assist a person who was or is a specific party in any transaction with respect to which the restrictions of paragraph (b)(3) of this section apply to the former employee, in that transaction unless the firm isolates the former Government employee in such a way that he does not assist in the representation.

(3) When isolation of the former Government employee is required under paragraphs (c)(1) or (c)(2) of this section, a statement affirming the fact of such isolation shall be executed under oath by the former Government employee and by a member of the firm acting on behalf of the firm, and shall be filed with the Director of Practice and in such other place and in the manner prescribed by regulation. This statement shall clearly identify the firm, the former Government employee, and the transaction or transactions requiring such isolation.

(d) *Pending representation.* Practice by former Government employees, their partners and associates with respect to representation in specific matters where actual representation commenced before publication of this regulation is governed by the regulations set forth in the June 1972 amendments to the regulations of this part (published at 37 FR 11676): *Provided*, That the burden of showing that representation commenced before publication is with the former Government employees, their partners and associates.

12. By amending § 10.30 to read as follows:

**§ 10.30 Solicitation.**

* * * In the case of an enrolled agent, the phrase "enrolled to practice before the Internal Revenue Service," when appearing on the stationery, letterhead or professional card of such enrolled agent or following the name of the enrolled agent in a classified telephone directory listing is not considered to violate this prohibition. * * *

**§ 10.32 [Redesignated from § 10.31]**

13. By redesignating § 10.31 as § 10.32.

14. By adding a new § 10.31 to read as follows:

**§ 10.31 Negotiation of taxpayer refund checks.**

No attorney, certified public accountant or enrolled agent who is an income tax return preparer shall endorse or otherwise negotiate any check made in respect of income taxes which is issued to a taxpayer other than the attorney, certified public accountant or enrolled agent.

15. By amending § 10.51(b) to read as follows:

**§ 10.51 Disreputable conduct.**

* * * * *

(b) Giving false or misleading information, or participating in any way in the giving of false or misleading information to the Department of the Treasury or any officer or employee thereof * * *

* * * * *

16. Section 10.51(g) is amended by deleting the word "Account" and substituting for it, the word "accountant."

17. By amending § 10.56(b) to read as follows:

**§ 10.56 Contents of complaint.**

* * * * *

(b) *Demand for answer.* In the complaint, or in a separate paper attached to the complaint, notification shall be given of the place and time within which the respondent shall file his answer, which time shall not be less than 15 days from the date of service of the complaint, and notice shall be given that a decision by default may be rendered against the respondent in the event he fails to file his answer as required.

18. By amending § 10.64(a) to read as follows:

**§ 10.64 Administrative Law Judge.**

(a) *Appointment.* An Administrative Law Judge, appointed as provided by 5 U.S.C. 3105 (1966), shall conduct proceedings upon complaints for the disbarment or suspension of attorneys, cer-



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tified public accountants, or enrolled agents.

* * * * *

19. By amending § 10.56(a) to read as follows:

**§ 10.65 Hearings.**

(a) *In general.* The Administrative Law Judge shall preside at the hearing on a complaint for the disbarment or suspension of an attorney, certified public accountant, or enrolled agent. * * * Hearings will be conducted pursuant to 5 U.S.C. 556 (1966).

* * * * *

20. By amending § 10.68 to read as follows:

**§ 10.68 Transcript.**

* * * (Sec. 501, Pub. L. 82–137, 65 Stat. 290 (31 U.S.C. 483a))

**§§ 10.57, 10.58, 10.62–10.62, 10.64–10.67 and 10.69–10.72 [Amended]**

21. By amending §§ 10.57(c); 10.58 (a) and (c), 10.60–10.62, 10.64(b)(2), 10.65 (b); 10.66 (a), (d) and (e); 10.67 and 10.69–10.72 to change the term "Examiner" to "Administrative Law Judge."

22. By amending § 10.91 to read as follows:

**§ 10.91 Effective date of regulations.**

The regulations in this part shall become effective on August 29, 1977, and shall supersede all prior regulations related to practice before the Internal Revenue Service except to the extent and subject to the conditions set forth in § 10.26(d).

NOTE.—The Department of the Treasury has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: July 12, 1977.

HENRY C. STOCKELL, Jr.,
*Acting General Counsel.*

[FR Doc.77–21725 Filed 7–27–77;8:45 am]

## Title 33—Navigation and Navigable Waters

### CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77–023]

### PART 3—COAST GUARD AREAS, DISTRICTS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT AREAS

**Designation of Boundaries for the Prince William Sound Captain of the Port Area**

*Correction*

In FR Doc. 77–20268, appearing at page 36251 in the issue for Thursday, July 14, 1977, on page 36252, in § 3.85–15, in the next to last line of paragraph (b), "60°–33.8′ N. latitude:" should read "69°–38.8′ N. latitude".

## Title 40—Protection of Environment

### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

### SUBCHAPTER C—AIR PROGRAMS

[FRL 766–3]

### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

**Washington Transportation Control Plan—Management of Parking Supply and Reduction in Parking Spaces**

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This rule suspends indefinitely two EPA regulations of the Washington Transportation Control Plan which regulated the supply of parking in the Seattle and Spokane central business districts. This action is being taken because EPA is prohibited by Congress from expending its funds to implement parking regulations and this action is intended to clearly document the inactive status of EPA's role in the regulation of parking.

EFFECTIVE DATE: July 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Clark L. Gaulding, Chief Air Programs Branch (MS 629), Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington 98101, 206–442–1230.

SUPPLEMENTARY INFORMATION:

BACKGROUND

In accordance with the requirements of Section 110 of the Clean Air Act Amendments of 1970 (42 U.S.C. 1857 et seq.) and 40 CFR Part 51, on November 27, 1973 (38 FR 32668), EPA promulgated transportation control measures to supplement the State of Washington's Implementation Plan to assure attainment and maintenance of national ambient air quality standards. One measure promulgated by EPA—Management of Parking Supply (40 CFR 52.2486)—required EPA review and approval of new or modified parking facilities of greater than 50 spaces to assure that such facilities not interfere with attainment or maintenance of national ambient air quality standards. Within the central business districts (CBD) of Seattle and Spokane, the regulation prohibited any increase in the number of non-residential parking spaces available at the time of promulgation of the regulation. Implementation of the regulation as it applied to the CBDs was through an EPA-administered permit program.

On November 21, 1974 (39 FR 40857), prior to implementation of the permit requirements for those sources located outside the CBDs, EPA revised the regulation to delete the requirements for EPA approval of those sources since the State of Washington had adopted a similar state review requirement. Although the State subsequently withdrew its review requirements, the Puget Sound Air Pollution Control Agency assumed authority for reviewing new and modified parking facilities of 250 or more spaces in King, Pierce and Snohomish Counties and 1,000 or more spaces in Kitsap County.

EPA retained the review requirements for the Seattle and Spokane CBDs, but in response to a provision attached to EPA's fiscal year 1975 Appropriations Act[1] restricting EPA's use of its funds to implement parking programs, the Regional Office suspended implementation of the permit program early in 1975.

Another measure promulgated by EPA in the Washington transportation control plan—Reduction in Parking Spaces (40 CFR 52.2489)—required a reduction in the number of non-residential parking spaces available for use in the Seattle and Spokane CBDs if specified reductions in vehicle miles of travel were not achieved by March 1977.

CURRENT EPA POLICY

EPA's fiscal year 1976 and 1977 Appropriations Acts[2] continue the prohibition on EPA's use of its funds to implement parking management regulations. Although the Washington regulations are not being implemented by EPA, their continued presence in the Code of Federal Regulations may cause confusion regarding EPA's regulatory responsibilities especially since the City of Seattle has adopted and is implementing a parking management plan of its own. Therefore, to clearly document the inactive status of the EPA parking management regulations, the regulations are now being formally suspended until further notice.

Should EPA's authority to regulate parking be reinstated, EPA would not resume implementation of the federal regulations in Seattle as long as adequate local plans are in effect. If the federal regulation limiting the construction of new parking spaces is reinstated, facilities commencing construction prior to reactivation of the regulation would not be subject to its limitations.

EPA continues to believe that management of parking supplies and the preconstruction review of new parking facilities are most effective when implemented at the state or local level, rather than the federal level of government. The City of Seattle and the Puget Sound Air Pollution Control Agency are commended for their action in developing local plans.

This section is effective immediately since the federal regulations are not being implemented and it serves no useful purpose to defer their formal suspension.

(Secs. 110(a)(2)(B), 110(c) and 301(a), Clean Air Act as amended (42 U.S.C. 1857–5(a)(2)(B), 1857(c) and 1857g(a)).)

Dated: July 25, 1977.

DOUGLAS M. COSTLE,
*Administrator.*

Subpart WW of Part 52 of Chapter 1, Title 40, of the Code of Federal Regulations is amended as follows:

**Subpart WW—Washington**

1. In § 52.2486, a new paragraph (q) is added to read as follows:

**§ 52.2486 Management of parking supply.**

* * * * *

(q) Notwithstanding any of the foregoing provisions to the contrary, the operation of this paragraph is hereby suspended pending further notice.

2. In § 52.2489, a new paragraph (i) is added to read as follows:

**§ 52.2489 Reduction in parking spaces.**

* * * * *

(i) Notwithstanding any of the foregoing provisions to the contrary, the operation of this paragraph is hereby suspended until further notice.

[FR Doc.77–21766 Filed 7–27–77;8:45 am]

[1] Section 510 of the Agriculture-Environmental-Consumer Protection Appropriations Act, 1975 (Pub. L. 93–568).

[2] Section 407 of the Agriculture-Environmental-Consumer Protection Appropriations Act, 1976 (Pub. L. 94–116) and Section 406 of the Agriculture-Environmental-Consumer Protection Appropriations Act, 1977 (Pub. L. 94–378).





## Title 41—Public Contracts and Property Management

### CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 179]

### PART 1–16—PROCUREMENT FORMS

**New Editions of Standard Forms**

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment of the Federal Procurement Regulations prescribes the use of the February 1977 editions of Standard Form 129, Bidder's Mailing List Application, and Standard Form 147, Order for Supplies and Services. The action is taken in order to physically incorporate on the forms the new and revised provisions which were approved for use in connection with the prior editions. The intended effect of this amendment is to eliminate the requirement to supplement the forms.

EFFECTIVE DATE: This amendment is effective November 30, 1977, but may be observed as soon as copies of the forms prescribed herein are available

FOR FURTHER INFORMATION CONTACT:

Philip G. Read, Director of Federal Procurement Regulations, 703–557–8947.

SUPPLEMENTARY INFORMATION: It is anticipated that copies of the forms will be available for use by October 31, 1977, and may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

**Subpart 1–16.8—Miscellaneous Forms**

Section 1–16.802 is revised as follows:

**§ 1.16.802 Bidder's Mailing List Application.**

Bidder's Mailing List Application (Standard Form 129, February 1977 edition) is prescribed for use in connection with the establishment and maintenance of bidders mailing lists in accordance with § 1–2.205. Supplemental information, where required, may be obtained in accordance with agency procedures.

**Subpart 1–16.9—Illustration of Forms**

Sections 1–16.901–129 and 1–16.901–147 are revised to illustrate the new editions of Standard Forms 129 and 147.

**§ 1–16.901–129 Standard Form 129, Bidder's Mailing List Application.**

(a) Page 1 of Standard Form 129.

BIDDER'S MAILING LIST APPLICATION — INITIAL APPLICATION / REVISION — FORM APPROVED OMB NO. 29–R0069

Fill in all spaces. Insert "NA" in blocks not applicable. Type or print all entries. See reverse for instructions.

TO (Enter name and address of Federal agency to which form is submitted. Include ZIP Code) — DATE

1. APPLICANT'S NAME AND ADDRESS (Include county and ZIP Code)

2. ADDRESS (Include county and ZIP Code) TO WHICH SOLICITATIONS ARE TO BE MAILED (If different from item 1)

3. TYPE OF ORGANIZATION (Check one): INDIVIDUAL; PARTNERSHIP; NON-PROFIT ORGANIZATION; CORPORATION, INCORPORATED UNDER THE LAWS OF THE STATE OF

4. HOW LONG IN PRESENT BUSINESS

5. NAMES OF OFFICERS, OWNERS, OR PARTNERS

PRESIDENT | VICE PRESIDENT | SECRETARY

TREASURER | OWNERS OR PARTNERS

6. AFFILIATES OF APPLICANT (Names, locations and nature of affiliation. See definition on reverse)

7. PERSONS AUTHORIZED TO SIGN BIDS, OFFERS, AND CONTRACTS IN YOUR NAME (Indicate if agent)

NAME | OFFICIAL CAPACITY | TEL NO. (Incl. area code)

SPECIMEN

8. IDENTIFY EQUIPMENT, SUPPLIES, MATERIALS, AND/OR SERVICES ON WHICH YOU DESIRE TO BID (See attached Federal agency's supplemental listing and instructions, if any)

9. TYPE OF OWNERSHIP (See definitions on reverse): MINORITY BUSINESS ENTERPRISE; OTHER THAN MINORITY BUSINESS ENTERPRISE

10. TYPE OF BUSINESS (See definitions on reverse): MANUFACTURER OR PRODUCER; SERVICE ESTABLISHMENT; REGULAR DEALER (Type 1); CONSTRUCTION CONCERN; REGULAR DEALER (Type 2); RESEARCH AND DEVELOPMENT FIRM; ☐ SURPLUS DEALER (Check this box if you are also a dealer in surplus goods)

11. SIZE OF BUSINESS (See definitions on reverse): SMALL BUSINESS CONCERN*; OTHER THAN SMALL BUSINESS CONCERN

*If you are a small business concern, fill in (a) and (b):

(a) AVERAGE NUMBER OF EMPLOYEES (Including affiliates) FOR FOUR PRECEDING CALENDAR QUARTERS

(b) AVERAGE ANNUAL SALES OR RECEIPTS FOR PRECEDING THREE FISCAL YEARS

12. FLOOR SPACE (Square feet): MANUFACTURING; WAREHOUSE

13. WORTH: DATE; AMOUNT

14. SECURITY CLEARANCE (If applicable, check highest clearance authorized): FOR KEY PERSONNEL / PLANT ONLY — TOP SECRET; SECRET; CONFIDENTIAL

NAMES OF AGENCIES WHICH GRANTED SECURITY CLEARANCES (Include dates)

THIS SPACE FOR USE BY THE GOVERNMENT

CERTIFICATION

I certify that information supplied herein (including all pages attached) is correct and that neither the applicant nor any person (or persons) in any connection with the applicant as a principal or officer, so far as is known, is now debarred or otherwise declared ineligible by any agency of the Federal Government from bidding for furnishing materials, supplies, or services to the Government or any agency thereof.

SIGNATURE

NAME AND TITLE OF PERSON AUTHORIZED TO SIGN (Type or print)

129–105

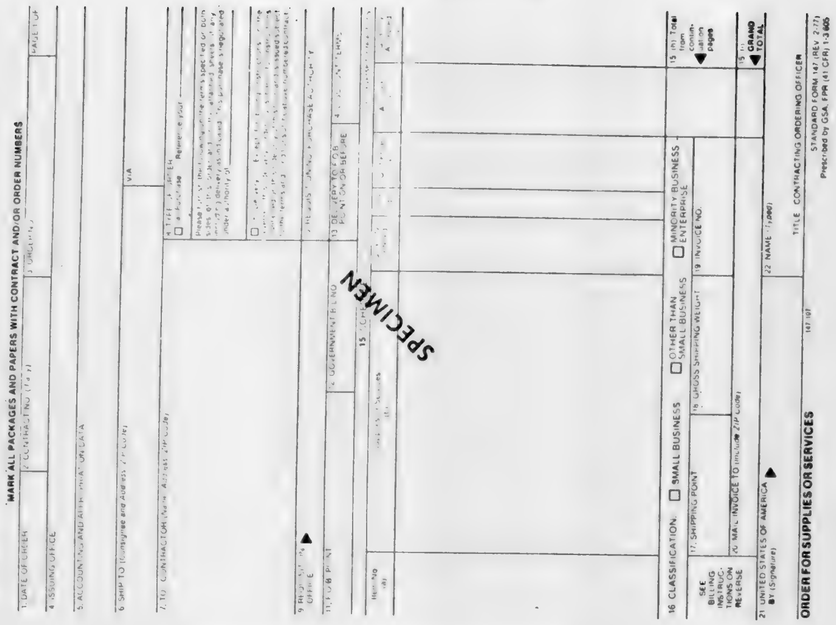
STANDARD FORM 129 (REV. 2–77)
Prescribed by GSA, FPR (41 CFR) 1–16.802



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§ 1-16.901-147 Standard Form 147, Order for Supplies or Services.

(a) Page 1 of Standard Form 147.




(b) Page 2 of Standard Form 129.

INFORMATION AND INSTRUCTIONS

Persons or concerns wishing to be added to a particular agency's bidder's mailing list for supplies or services shall file this properly completed and certified Bidder's Mailing List Application, together with such other lists as may be attached, to the application form, with each procurement office of the Federal agency with which they desire to do business. If a Federal agency has a central bidder's mailing list, the application may be filed with that office. Otherwise, the application shall be filed with each procurement office with which the applicant desires to bid. The application shall be submitted and signed by the principal as distinguished from an agent, however constituted.

After placement on the bidder's mailing list of an agency, a supplier's failure to respond (submission of bid, or notice in writing, that you are unable to bid on that particular transaction but wish to remain on the bidder's mailing list for that particular item) to invitations for Bids will be understood by the agency to indicate lack of interest and concurrence in the removal of the supplier's name from the purchasing activity's bidder's mailing list for the items concerned.

DEFINITION RELATING TO TYPE OF OWNERSHIP
(See item 9)

**Minority business enterprise.** A minority business enterprise is defined as a business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purpose of this definition, minority group members are Negroes, Spanish-speaking Americans, Orientals, American Indians, American Eskimos, and American Aleuts.

TYPE OF BUSINESS DEFINITIONS
(See item 10)

**a. Manufacturer or producer**—means a person (or concern) owning, operating, or maintaining a store, warehouse, or other establishment that produces, on the premises, the materials, supplies, articles, or equipment of the general character of those listed in item 8 or in the Federal Agency's Supplemental Commodity List, if attached.

**b. Regular dealer (Type 1)**—means a person (or concern) who owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment of the general character listed in item 8 or in the Federal Agency's Supplemental Commodity List, if attached, are bought, kept in stock, and sold to the public in the usual course of business.

**c. Regular dealer (Type 2)**—in the case of supplies of particular kinds (for example, petroleum, lumber and timber products, machine tools, raw cotton, cotton yarn, yarn, grain, feed, or straw, agricultural liming materials, tea, raw sugar, and long staple cotton (cotton linters). **Regular dealer**—means a person (or concern) satisfying the requirements of the regulations (Code of Federal Regulations, Title 41, 50-201.101(b)) as amended from time to time, issued by the Secretary of Labor under the Walsh-Healey Public Contracts Act (41 U.S.C. 35-45). For coal dealers see Code of Federal Regulations, Title 41, 50-201.604(a).

**d. Service establishment**—means a concern (or person) which owns, operates, or maintains any type of business which is principally engaged in the furnishing of nonpersonal services, such as (but not limited to) repairing, cleaning, redecorating, or rental of personal property, including the furnishing of necessary repair parts or other supplies as part of the services performed.

● **COMMERCE BUSINESS DAILY**—The Commerce Business Daily, published by the Department of Commerce, contains information concerning proposed procurements, sales, and contract awards. For further information concerning this publication, contact your local Commerce Field Office.

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STANDARD FORM 129 BACK (REV. 2-77)





(b) Page 2 of Standard Form 147.

TERMS AND CONDITIONS OF PURCHASE ORDER

1. **INSPECTION AND ACCEPTANCE.**—Inspection and acceptance will be at destination, unless otherwise provided. Until delivery and acceptance, and after any rejections, risk of loss will be on the Contractor unless loss results from negligence of the Government.

2. **VARIATION IN QUANTITY.**—No variation in the quantity of any item called for by this contract will be accepted unless such variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified elsewhere in this contract.

3. **DISCOUNTS.**—Discount time will be computed from date of delivery at place of acceptance or from receipt of correct invoice at the office specified by the Government, whichever is later. Payment is made, for discount purposes, when check is mailed.

4. **DISPUTES.**—(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall mail or otherwise furnish a copy thereof to the Contractor. This decision shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Head of the Agency. The decision of the Head of the Agency or his duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceedings under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision. (b) This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in (a) above. Provided, That nothing in this contract shall be construed as making final the decision of any Administrative Official, Representative, or board on a question of law.

5. **FOREIGN SUPPLIES.**—This contract is subject to the Buy American Act (41 U.S.C. 10 a-d) as implemented by Executive Order 10582 of December 17, 1954, and any restrictions in appropriation acts on the procurement of foreign supplies.

6. **CONVICT LABOR.**—In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment except as provided by Public Law 89-176, September 10, 1965 (18 U.S.C. 4082(c)(2)) and Executive Order 11755, December 29, 1973.

7. **OFFICIALS NOT TO BENEFIT.**—No Member of or Delegate to Congress or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

8. **COVENANT AGAINST CONTINGENT FEES.** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon any agreement or understanding for a commission, percentage, brokerage, or contingent fees, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

9. **FEDERAL, STATE, AND LOCAL TAXES.**—Except as may be otherwise provided in this contract, the contract price includes all applicable Federal, State, and local taxes and duties in effect on the date of this contract but does not include any taxes from which the Government, the Contractor or this transaction is exempt. Upon request of the Contractor, the Government shall furnish a tax exemption certificate or other evidence of exemption with respect to any such tax not included in the contract price pursuant to this clause. For the purpose of this clause, the term "date of this contract" means the date of the contractor's quotation or, if no quotation, the date of this purchase order.

SPECIMEN

PAYMENTS AND BILLING INSTRUCTIONS

Invoices shall be submitted in the ORIGINAL only, unless otherwise specified, and shall contain the following information: contract number (if any), order number, item number(s), description of supplies or services, sizes, quantities, unit prices, and extended totals. Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading. If prepaid parcel post charges are billed, the gross weight and shipping point must be shown.

NOTE.—If desired, this order (or a copy thereof) may be used by the Contractor as his invoice, in lieu of a separate invoice, provided the following statement, (signed and dated) is entered on (or attached to) the order: "Payment is requested in the amount of $_____. No other invoice will be submitted." When several orders are to be invoiced to an ordering activity during the same billing period, consolidated periodic billings are encouraged.

RECEIVING REPORT

Quantity in the "Quantity Accepted" column on the face of this order has been:
☐ inspected, ☐ accepted, ☐ received by me and conforms to contract.
Items listed below have been rejected for the reasons indicated.

| SHIPMENT NUMBER | PARTIAL / FINAL | DATE RECEIVED | SIGNATURE OF AUTHORIZED U.S. GOVT. REPRESENTATIVE | DATE |
|---|---|---|---|---|
| TOTAL CONTAINERS | GROSS WEIGHT | RECEIVED AT | TITLE | |

REPORT OF REJECTIONS

| ITEM NO. | SUPPLIES OR SERVICES | UNIT | QUANTITY REJECTED | REASON FOR REJECTION |
|---|---|---|---|---|
| | | | | |

STANDARD FORM 147 BACK (REV. 2-77)

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: July 14, 1977.

JOEL W. SOLOMON,
*Administrator of General Services.*

[FR Doc.77-21533 Filed 7-27-77;8:45 am]

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**Title 47—Telecommunication**

**CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION**

[Docket No. 19528]

**PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK**

**Interstate and Foreign Message Toll Telephone Service (MTS) and Wide Area Telephone Service (WATS); Correction**

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: A correction is issued to correct the FCC's June 20, 1977, Memorandum Opinion and Order in Docket No. 19528, FCC 77-396, which revised telephone equipment registration rules contained in the Commission's Rules and Regulations. The affected rules are: (1) an illustrative test circuit which complies with section 68.310(a), which is corrected to specify currently available transformers; and (2) the text of a rule specifying limitations on voiceband metallic signal power.



V 421145 JUL 28 77 UMI

EFFECTIVE DATE: July 20, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Michael S. Slomin, Policy and Rules Division, Common Carrier Bureau (202-632-9342).

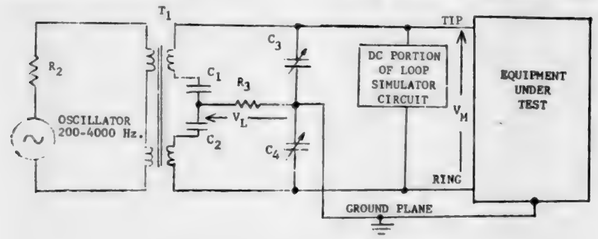
SUPPLEMENTARY INFORMATION:

Released: July 20, 1977.

In the matter of proposals for new or revised classes of interstate and foreign message toll telephone service (MTS) and wide area telephone service (WATS).

The Memorandum Opinion and Order in this proceeding released June 20, 1977, FCC 77-396, 42 FR 32234, is hereby corrected as follows:

1. Part 68 of Chapter I of Title 47 of the Code of Federal Regulations is amended to substitute the following for Figure 68.310(a) appended to § 68.310:




$T_1$ - W.E.Co. #111C or 119E, or A.D.C. #118F, or equivalent.
$C_1$, $C_2$ - 8 microfarad, 400 WVDC, matched to within 0.1%.
$C_3$, $C_4$ - 100 to 500 picofarad adjustable trimmer capacitors.
Osc. - Audio oscillator with source resistance, $R_1 \leq 600$ ohms.
$R_2$ - Selected such that $R_1 + R_2 = 600$ ohms.
$R_3$ - 500 ohms.

NOTES:
1. $V_M$ should not be measured at the same time as $V_L$.
2. Use trimmer capacitors $C_3$ and $C_4$ to balance the test circuit to 20 dB greater balance than the equipment standard for all frequencies specified, with a 600 ohm resistor substituted for the equipment under test.
3. Exposed conductive surfaces on the exterior of the equipment under test should be connected to the ground plane for this test.

Figure 68.310(a) - Illustrative test circuit complying with Section 68.310(a)

2. Part 68 of Chapter I of Title 47 of the Code of Federal Regulations is amended to substitute the following for § 68.308 (a), subparagraphs (3) and (4) thereof:

**§ 68.308 Signal power limitations.**

(a) *Voiceband metallic signal power.* * * *

(3) *One port terminal equipment and protective circuitry with provision for thrcugh transmission from other equipment, excluding data equipment and datc protective circuitry which is registered in accordance with Section 68.308 (a)(4)* (i) Registered terminal equipment and registered protective circuitry shall have no adjustments that will allow net amplification to occur in the through-transmission path within the frequency range of 200 to 4000 Hertz, when measured from a 600 hm source into a loop simulator circuit. The net gain of such equipment or circuitry shall be designed so as not to exceed 0 dB; however, the gain for any single unit of registered terminal equipment or registered protective circuitry may exceed 0 dB by as much as 1.5 dB provided that the net gain, averaged over all units of production, is no greater than 0 dB.

(ii) Where through-transmission equipment provides a dc electrical signal to equipment connected therewith (e.g. for powering of electro-acoustic transducers), dc conditions shall be provided which fall within the range of conditions provided by a loop simulator circuit, unless the combination of the through-transmission equipment and equipment connected therewith is registered as a combination which conforms to § 68.308 (a) (1)-(2).

(iii) Through-transmission equipment to which remotely connected data terminal equipment may be connected shall not be equipped with or connected to either a Universal or Programmed Data Jack used in the data configurations (see §§ 68.308(a)(4) and 68.502(e)).

(4) *Limitations on registered data terminal equipment and registered one-port protective circuitry with provision for through-transmission from data equipment.* When such equipment or circuitry is used for the transmission of data signals to the telephone network, it shall assure in all operating conditions, other than during network control signaling (see § 68.308(a)(2) above), that one of the following limitations is met, depending upon the means of connection of the equipment, or circuitry to the telephone network. The transmitted signal power, averaged over any 3-second time interval, delivered to a loop simulator circuit, shall not exceed:

(i) A maximum level adjustable to no greater than -4 dB with respect to one milliwatt, for connection to a Universal Data Jack used in the "fixed-loss loop" configurations of § 68.502(e).

(ii) A maximum level determined by means of connections in a Programmed Data Jack or Universal Data Jack, used in the "programmed" configurations of section 68.502(e), which level can be programmed in 1 dB steps from -12 dB to 0 dB with respect to one milliwatt by means of programming connections made within the jack.

(iii) A nonadjustable level no greater than -9 dB with respect to one milliwatt for connection to any other than those which implement the limitations in paragraphs (a)(4) (i) and (ii) of this section. Equipment or circuitry designed in accordance with this -9 dBm limitation shall be treated as non-live voice equipment within these Rules.

The maximum signal power specified in paragraphs (a)(4) (i) and (ii) of this section may be exceeded by as much as 1.0 dB by a single unit of equipment or circuitry, provided that the power, averaged over all units of production, complies with the specified limitations. The maximum signal power specified in paragraph (a)(4)(iii) of this section may not be exceeded by any units of production.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

[FR Doc.77-21720 Filed 7-27-77;8:45 am]

[Docket No. 20813]

## PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

## PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

### Changes in the Frequencies, Operating Procedures, Technical Standards and Other Criteria; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document makes changes in operator licensing requirements, designation of frequencies guarded by the United States Coast Guard for AMVER communications, and inclusion in the rules of technical specifications pertinent to type acceptance of radiotelegraph transmitters.

EFFECTIVE DATE: July 18, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Walter E. Weaver, Safety and Special Radio Services Bureau (202-632-7197).

SUPPLEMENTARY INFORMATION:

Released: July 18, 1977.

In the matter of amendment of Parts 2, 13, 81, and 83 to implement changes in frequencies, operating procedures, technical standards, and other criteria relating to the use of radiotelegraphy in the maritime services adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974, Docket No. 20813.

1. In the Report and Order in the instant proceeding (FCC 77-380; 42 FR 30999), released June 10, 1977, we discussed and concurred (see paragraphs 38 through 40) with the request of Mobile Marine Radio, Inc., that provision be included in § 81.152 authorizing personnel holding T3 or P3 classes of operator licenses to operate certain types of facilities, however, in the Appendix we neglected to include that amendment. § 81.152 as modified to include this amendment is set forth below:

In § 81.152, paragraph (d) is amended to read as follows:

**§ 81.152 Operator required.**

* * * * *

(d) * * *

| Description of station: | *Minimum operator authorization* |
|---|---|
| Public coast telegraph, all classes, except | T-2 |
| A1 Morse under supervision of T1 or T2 | T-3 |
| NB-DP under supervision of T1 or T2 | T-3 or P-3 |
| Coast telephone, all classes, except in Alaska: | |
| Exceed 250W carrier power or 1,500 W peak envelope power. | T-2 or P-2 |
| 250 W or less carrier power; or 1,500 W or less peak envelope power operating on frequencies below 30 MHz. | T-3 or P-3 |
| 250 W or less carrier power, or 1,500 W or less peak envelope power operating on frequencies above 30 MHz. | RP |
| Coast telephone, in Alaska: | |
| Exceeds 250 W carrier power; or 1,500 W peak envelope power, class I station. | T-2 or P-2 |
| Exceeds 250 W carrier power, or 1,500 W peak envelope power, class II or class III station. | T-3 or P-3 |
| 250 W or less carrier power, or 1,500 W or less peak envelope power, all classes. | RP |
| Marine fixed, except in Alaska | RP |
| Marine fixed, in Alaska | RP |
| Marine utility coast | RP |
| Shipyard base | RP |

* * * * *

2. The United States Coast Guard (USCG) has called our attention to the need to include in Part 83 specific designation of those A1 Morse high frequencies guarded by USCG stations for AMVER service. To accomplish this, we have revised § 83.317 (c), (d), (e), (f), and (g) by the addition of a series of footnotes, to read as follows:

In § 83.317, paragraphs (c), (d), (e), (f), and (g) are amended to read as follows:

**§ 83.317 Calling frequencies—A1 Morse radiotelegraphy.**

* * * * *

(c) World-wide common channels.

Channel Series 5 (C5): 4181.8, 6272.7, 8363.6, 12545.4 16727.2, 22232.0, 25073.0 kHz.[1]
Channel Series 6 (C6): 4182.2, 6273.3, 8364.4, 12546.6, 16728.8, 22234.0, 25073.0 kHz.[1]

(d) East coast.

| C1 | C2 | C3[2] | C4[3] |
|---|---|---|---|
| Kilohertz | kilohertz | kilohertz | kilohertz |
| • | • | • | • |

[2] Routinely guarded by all east coast radiotelegrahp stations.
[3] Routinely guarded by east coast radiotelegraph stations of the USCG for AMVER communications.

(e) Gulf Coast, Puerto Rico, and Virgin Islands.

| C7 | C8 | C9[4] | C10 |
|---|---|---|---|
| • | • | • | • |

[4] Routinely guarded by all gulf coast radiotelegraph stations.

(f) West Coast, Guam, and Hawaii.

| C11[5] | C12 | C13[6] | C14 |
|---|---|---|---|
| • | • | • | • |

[5] Routinely guarded by west coast and Pacific radiotelegraph stations of the USCG for AMVER communications.
[6] Routinely guarded by all west coast radiotelegraph stations.

(g) American Samoa.

| C15 | C16 | C17 | C18 |
|---|---|---|---|
| | | 4186.6 | |
| | | [7] 6279.9 | |
| | | [7] 8373.2 | |
| | | 12559.8 | |
| | | 16746.4 | |
| | | 22214.0 | |
| | | 25075.0 | |

[7] Routinely guarded.

* * * * *

3. In paragraphs 22 and 23, of the above referenced Report and Order, we accepted that many transmitters currently installed aboard ship do not have the capability to operate in the 25 MHz radiotelegraph band. We concluded, however, that new equipment type accepted in the future should have such capability and stated that that requirement would be included in revised § 83.315(d). Since we intended to but did not include that provision in the rules, we are correcting that oversight by the following amendment of § 83.315(d):

In § 83.315, an additional provision is added at the end of paragraph (d), to read as follows:

[1] Routinely guarded by all coast radiotelegraph stations, including coast stations of the USCG for AMVER communications.

**§ 83.315 Authorized frequencies.**

* * * * *

(d) * * *

—frequencies as necessary to fulfill the safety objectives of Resolution A. 283 of the Intergovernmental Maritime Consultative Organization (IMCO):

*Provided, however,* That transmitters type accepted for radiotelegraphy after November 30, 1977, shall have the capability to operate on all radiotelegraph frequencies in all bands, including the 25 MHz band.

* * * * *

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

[FR Doc.77-21724 Filed 7-27-77;8:45 am]

[Docket No. 20520; RM-2169; RM-2193; RM-2197; RM-2198; RM-2234; RM-2343; FCC 77-498]

## PART 73—RADIO BROADCAST SERVICES

## PART 76—CABLE TELEVISION SERVICES

### Multiple Ownership of Standard, FM, and Television Broadcast Stations and Cross-Ownership of Cable Television Systems

AGENCY: Federal Communications Commission.

ACTION: Denial of petition for reconsideration of amendment of rule; granting second petition in part to clarify language of rule.

SUMMARY: The FCC denied a petition for reconsideration of amendment of its multiple and cross ownership rules, which permits banks, insurance companies, and investment companies to own up to 5 percent in broadcast stations, daily newspapers, and CATV systems without ownership being attributed to them. The petition asked that pension funds also be permitted to own up to 5 percent. It was denied since the FCC did not wish to relax its rules any further. A second petition asking that certain language in the same rules be clarified was granted in part and the language clarified.

EFFECTIVE DATE: August 29, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Carol Foelak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

In the matter of amendment of §§ 73.35, 73.240, 73.636, and 76.501 of the Commission's Rules relating to Multiple Ownership of Standard, FM, and Television Broadcast Stations and Cross-Ownership of Cable Television Systems (stock held by insurance companies, mutual funds, and other institutional in-





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vestors). Memorandum opinion and order (41 FR 25003).

Adopted: July 13, 1977.

Released: July 25, 1977.

By the Commission: Commissioner Hooks absent.

1. The Commission has before it two timely filed petitions for reconsideration of the Report and Order in Docket No. 20520, 59 F.C.C. 2d 970 (1976),[1] filed by (a) the National Association of Broadcasters ("NAB")[2] and (b) The Prudential Insurance Company of America ("Prudential").

2. *Background.* The Commission's multiple and cross ownership rules applicable to broadcast stations and CATV systems, 47 CFR 73.35, 73.240, 73.636, and 76.501, essentially provide that no one may own, operate or control more than seven AM, seven FM, and seven TV (not more than five of which can be VHF) stations; more than one station in the same service with specified overlapping service contours; or a CATV system within the Grade B contour of the owner's TV station. Recent amendments restrict cross ownership in the same market to one AM–FM combination, or one TV station, or one daily newspaper.[3] For purposes of enforcing these rules, one may be found to own, operate, or control a broadcast facility if one has any voting stock ownership therein or is an officer or director of a corporate licensee. However, for a corporation with more than 50 voting stockholders, only stockholders who own 1 percent or more of the outstanding voting stock are considered. Ownership is attributed to the party which has the power to vote the stock, whatever the beneficial ownership of the stock may be.

3. Because of the generally passive nature of investment company holdings, the Commission raised the 1 percent benchmark to 3 percent, Report and Order in Docket No. 15627, 13 F.C.C. 2d 357 (1968) and then for banks to 5 percent, Report and Order in Docket No. 18751, 34 F.C.C. 2d 889 (1972). In the Report and Order in Docket No. 20520, supra, we raised the benchmark for broadcast, newspaper, and CATV companies, as well as investment companies, so long as the institutional stockholder exercises no control over the management or policies of the corporation. In so doing, we sought to treat equally these three types of institutional investors, all of which play similar fiduciary roles in investing and managing the funds of others and which compete for the same type of investments. We also wished to provide broadcast and cable companies as much access as possible to capital, bearing in mind that the minimum dollar investment of the institutional investors in a single company need be reasonably large to justify their research costs. Against these considerations was balanced the purpose of our multiple ownership rules—to promote maximum competition and diversity of programing sources and viewpoints through as wide as possible dispersal of ownership.

4. *The NAB petition.* The NAB supports the 5 percent benchmark for banks, insurance companies, and investment companies but argues that the rules should be further expanded to apply the 5 percent benchmark to an additional institutional investor, the "employee benefit plan" as defined and covered by the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 USCA Sec. 1001 et seq. The NAB argues that while many pension funds and other employee benefit plans are administered through other institutional investors which vote their stock and in so doing take advantage of the 5 percent benchmark, some pension funds are self administered. As illustration, it lists 13 large companies which it states have self administered pension funds with total assets exceeding $12.1 billion. Petitioner argues that since these pension funds and other employee benefit plans are now strictly regulated under ERISA, just as banks, insurance companies, and investment companies are strictly regulated under various state and federal laws, the multiple ownership rules now discriminate against self administered funds and limit broadcast and cable companies' access to this significant source of capital.

5. Several parties, noted in footnote 2, supra, filed brief comments supporting the NAB petition and generally reiterating its arguments. NCTA alleged that cable companies are generally smaller than broadcast companies, and thus are more affected by a low benchmark in their access to sources of capital. Storer stated that it had examined its records and found few instances of pension funds holding as much as 1 percent of its stock and thus concluded that pension funds shy away from investing in it because of the 1 percent benchmark. Metromedia, attaching some data allegedly indicating that the size of the assets held by some 19 self administered pension funds is a highly significant factor in the capital market, also supported extension of the benchmark.

6. The NAB petition will be denied, as it does no more than offer a general argument that self administered pension funds should be treated equally with banks, insurance companies, and investment companies. Indeed, aside from the fact that ERISA has been in effect only since January 1975, so there has been little time for any history to develop, we have been given no information as to how self administered pension funds are managed in comparison with institutional management of pension funds. Moreover, there are reasons for anticipating significant differences.[4]

7. Nor have we been given any information to indicate that any sizable proportion of pension fund assets are owned by self administered funds. Rather, there is reason to believe the contrary. See comments of Senator Lloyd Bentsen (D., Tex.), author of a bill to amend ERISA, as reported in The Washington Post, May 15, 1977, P. K 1, in which he indicated that some 15 banks, 12 insurance companies, and 24 private financial managers control more than 90 percent of pension fund assets in this country. Moreover, as a result of permitting institutional investors to vote stock totalling up to 5 percent in a broadcast or cable company, there is little likelihood that any individual pension fund or account managed by that institution would have as much as a 5 percent, or even a 1 percent interest in the same corporation, for that matter, since all such stock voted by an institutional investor, regardless of for whom or for how many persons it is held, must be aggregated.

[1] The Court of Appeals recently upheld the Report and Order in a per curiam order, *National Citizens Committee for Broadcasting* v. *F.C.C.*, case No. 1760 D.C. Cir., June 13, 1977. The appeal was directed to issues unrelated to those raised in the pending petitions for reconsideration. Rather, it challenged the Commission's decision to permit certain institutional investors to own up to 5 percent in broadcast stations, daily newspapers, or CATV systems without ownership of those media being attributed to the investor for the purpose of enforcing the multiple and cross ownership rules. Thus the Court's decision did not dispose of the questions raised in the instant petitions for reconsideration.

[2] Metromedia, American Broadcasting Companies, Inc. ("ABC"), National Cable Television Association, Inc. ("NCTA"), Storer Broadcasting Company ("Storer"), and McGraw-Hill Broadcasting Company, Inc. ("McGraw-Hill"), each filed comments supporting the NAB petition. While such comments are not specifically permitted by sec. 1.429 of the Commission's Rules, 47 CFR, Sec. 1.429, which deals with petitions for reconsideration of rule making proceedings, we will consider them as well. All were filed within the time allotted by sec. 1.429 for oppositions to the NAB petition and thus caused no delay in this proceeding. Nor would any individual party's interests be harmed by considering them. No purpose would be served by considering timely opposition pleadings but ignoring equally timely supporting pleadings.

[3] The Court of Appeals affirmed the Commission as to barring new combinations but vacated the Commission's order adopting these one-to-a-market amendments only insofar as they failed to call for full divestiture of existing combinations in violation of the new rules unless grounds for continuation of this ownership pattern were offered. *National Citizens Committee for Broadcasting* v. *F.C.C.*, Case No. 75–1064, D.C. Cir., March 1, 1977. The Commission is seeking review of the Court's decision in the Supreme Court. Its petition for certiorari, filed April 22, 1977 (Case No. 76–1471) is pending. Several other parties are also seeking review.

[4] Examples of possible differences in management are apparent from the provisions of ERISA. For instance, ERISA does not prohibit a pension fund from exercising control over a portfolio company. Further, there could be a much closer nexus between the pension fund of a broadcast or cable company and management and control of the company if the pension fund were self administered instead of managed by an outside institution; ERISA permits investment in the employer company up to 25 percent of its voting stock as a specific exception to the "prudent man" rule of sec. 1104 requiring a plan's fiduciaries to diversify investments to minimize the risk of loss. 29 U.S.C. secs. 1104 (a)(2) and 1107. Also, employees or management personnel of the employer are not barred from serving as administrators or trustees of pension funds.





In fact, since there are relatively few institutions managing pension funds, it is not unreasonable to conclude that pension funds managed by institutions probably tend to own much less than 1 percent individually in any widely-held broadcast or CATV corporation. This conclusion is buttressed by the fact that several institutional parties commenting in the original proceeding found it necessary to argue that the stock of each individual pension fund, trust, or other fund under common management should be counted separately so that each fund or trust would be able to own up to 1 percent. See our discussion in the Report and Order, supra, at 975–978, in which we concluded that all assets under common management with a bank, investment company, or insurance company should be aggregated with assets owned by the institution.

8. Finally, no self administered pension funds have come forward to support the NAB's argument. If, in the future, a fund does feel prejudiced by the 1 percent benchmark, on application we can evaluate its situation individually as we did with the College Retirement Equities Fund. Report and Order, supra, 979. However, at this time we have not been shown any justification or need for an across-the-board rule.

9. *The Prudential petition.* Prudential requests the Commission to clarify language in Notes 5 and 6 which set forth the 5 percent benchmark for investment companies, banks, and insurance companies in the amended broadcast multiple ownership rules. Specifically, it directs our attention to the second sentence in Note 6,[5] which discussed the method for calculating the percentage of voting stock which shall be attributed to these entities when they have an ownership interest in an intermediary company which, in turn, has an ownership interest in a licensee corporation or corporate daily newspaper.

[5] Note 6 to secs. 73.35, 73.240, and 73.636 provides:

NOTE. 6.—In calculating the precentage of ownership of voting stock under the provisions of Notes 4 and 5, if an investment company, bank or insurance company, directly or indirectly owns voting stock in a company which in turn directly or indirectly owns 50 percent or more of the voting stock of a corporate broadcast licensee or corporate daily newspaper, the investment company, bank or insurance company shall be considered to own the same percentage of outstanding shares of the corporate broadcast station licensee or corporate daily newspaper as it owns of outstanding voting shares of the company standing between it and the licensee corporation or corporate daily newspaper. If the intermediate company owns less than 50 percent of the voting stock of a corporate broadcast station licensee or corporate daily newspaper, the holding of the investment company, bank or insurance company, need not be considered under the 5-percent rule, but, officers or directors of the licensee corporation or of the corporate daily newspaper who are representatives of the intermediate company shall be deemed to be representatives of the investment company, bank or insurance company.

Note 3(c) to Sec. 76.501 of the Rules, the cable cross ownership rule, contains almost identical language.

10. Prudential initially states that the terms "intermediate company" and "representatives" are not precisely defined in the rules or in the Report and Order. Turning to the second aspect of its petition, Prudential notes that pursuant to the first sentence of Note 6, an insurance company could hold up to 5 percent of the stock of an intermediate company which owned 50 percent or more of a licensee without being charged with a cognizable ownership interest, no matter what the interlocking relationships between the intermediate company and the licensee might be. However, it states that read literally, the second sentence of Note 6 charges an insurance company which owns any stock, even less than 1 percent, in an intermediate company which owns less than 50 percent of a licensee (or newspaper corporation) with an interest in the licensee if an officer or director of the licensee is also a representative of the intermediate company. Prudential argues that the Commission could not have intended this paradoxical result.

11. Prudential also points out that Note 4 of the broadcast rules, which deals with the interests of investment companies, charges an investment company with an interest in a licensee or newspaper corporation "if officers or directors of the corporation are representatives of the investment company * * *," but that Note 5, dealing with the interests of banks and insurance companies, lacks this language.

12. We agree that Prudential has pointed out some inconsistencies and omissions in the wording of Notes 4, 5, and 6, and we will make editorial and interpretive changes in these Notes to remove the inconsistencies. The omission of the "representatives" language from Note 5 was inadvertent since we intended equal treatment for all three types of institutional investors, as is clear from our discussion throughout the Report and Order, supra. Note 3(b) of § 76.501 of the Rules, the cable rule, also contains the 5 percent benchmark provision and "representatives" provision for banks and insurance companies as well as investment companies. Accordingly, we will add the "representatives" language to Note 5.

13. As for Prudential's uncertainty about the meaning of "intermediate company" in the second sentence of Note 6, the term clearly refers back to language in the first sentence of Note 6, namely to a company in which the institutional investor owns stock and "which in turn directly or indirectly owns * * * voting stock of a corporate broadcast licensee or corporate daily newspaper * * *." Also, any confusion over the meaning of "representatives" should be lessened if it is kept in mind that a central concern of our multiple ownership rules is with who controls and influences management. Thus, an officer or director of a licensee who is also an officer, director or management employee of an institutional investor or intermediate company would be a representative within the meaning of Notes 4, 5, and 6. Similarly, a director who was elected by a block of stock voted by the institutional investor or intermediate company would be a representative. By extension, if several directors were representatives and voted together as a majority of the board to elect certain officers, those officers would be representatives as well.

14. Finally, we do not agree with Prudential's interpretation of the necessary result of Note 6. Rather, that Note makes initial and specific reference to the ownership benchmark of 5 percent (as set out in Notes 4 and 5) as that which is necessary to trigger the calculation of ownership of voting stock in situations when there is an intermediary corporate level between an institutional investor and a licensee corporation or corporate daily newspaper. Thus, properly construed, the application of the latter sentence of Note 6 is that officers or directors of a corporate licensee or newspaper who are representatives of an intermediate corporation shall be deemed to be representatives of an investment company, bank or insurance company if and only if the latter owns 5 percent or more voting stock in the intermediate corporation. However, in order to allay any possible confusion in this regard, we shall add language to the Note explicitly stating this proviso.

15. *Conclusions. It is ordered,* That the petition for reconsideration filed by the NAB is denied.

16. *It is further ordered,* That the petition for reconsideration filed by Prudential is granted in part, as discussed above and implemented by adoption of amendments set forth in Appendix A, and otherwise is denied.

17. *It is further ordered,* That, effective August 29, 1977, §§ 73.35, 73.240, 73.636, and 76.501 of the Commission's Rules are amended as set forth below. Authority for the adoption and amendment of rules concerning the matters involved in this proceeding is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

1. Part 73 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows: the identical Notes 5 and 6 of secs. 73.35, 73.240, and 73.636 are amended to read as follows:

**§ 73.---- Multiple ownership.**

* * * * *

NOTE 5.—In applying the provisions of paragraphs (a), (b), and (c) of this section to the stockholders of a corporation which has more than 50 voting stockholders, a bank holding stock through its trust department in trust accounts or an insurance company need be considered only if such bank or insurance company directly or indirectly owns 5 percent or more of the outstanding voting stock or if officers or directors of the corporation are representatives of the bank or insurance company. *Provided, however,* That the bank or insurance company exercise no control over the management or policies of the corporation. Holdings by banks or insurance companies shall be aggregated if the banks or insurance companies have any right to determine how the stock will be voted.



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NOTE 6.—In calculating the percentage of ownership of voting stock under the provisions of Notes 4 and 5, if an investment company, bank or insurance company, directly or indirectly owns voting stock in a company which in turn directly or indirectly owns 50 percent or more of the voting stock of a corporate broadcast licensee or corporate daily newspaper, the investment company, bank or insurance company shall be considered to own the same percentage of outstanding shares of the corporate broadcast station licensee or corporate daily newspaper as it owns of outstanding voting shares of the company standing between it and the licensee corporation or corporate daily newspaper. If the intermediate company owns less than 50 percent of the voting stock of a corporate broadcast station licensee or corporate daily newspaper, the holding of the investment company, bank or insurance company need not be considered under the 5-percent rule, but officers or directors of the licensee corporation or of the corporate daily newspaper who are representatives of the intermediate company shall be deemed to be representatives of the investment company, bank or insurance company if the investment company, bank or insurance company owns 5 percent or more of the intermediate company.

* * * * *

2. Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows: § 76.501, Note 3(c) is amended to read as follows:

**§ 76.501 Cross-ownership.**

* * * * *

NOTE 3.—(c) In calculating the percentage of ownership of voting stock under the provisions of (b), if an investment company, bank or insurance company directly or indirectly owns voting stock in an intermediate company which in turn directly or indirectly owns 50 percent or more of the voting stock of the corporation, the investment company, bank or insurance company shall be considered to own the same percentage of outstanding shares of such corporation as it owns of the intermediate company, provided, however, that such holdings need not be considered where the intermediate company owns less than 50 percent of the voting stock, but officers or directors of the corporation who are representatives of the intermediate company shall be deemed to be representatives of the investment company, bank or insurance company if the investment company, bank or insurance company owns 5 percent or more of the intermediate company

* * * * *

[FR Doc.77-21678 Filed 7-27-77;8:45 am]

## Title 49—Transportation

### CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. RSOR-2; Notice 6]

### PART 218—RAILROAD OPERATING RULES

**Protection of Trains and Locomotives**

AGENCY: Federal Railroad Administration, DOT.

ACTION: Grant of Petition for Reconsideration: Amendment of Rule.

SUMMARY: On January 27, 1977, the Federal Railroad Administration (FRA) issued a final rule that will require all railroads to have in effect an operating rule requiring train crews to provide flag protection against following train movements on the same track except in certain limited situations (42 FR 5065). The purpose of the rule is to provide a warning to the crew of a following train so as to avoid the possibility of a rear end collision with other rail equipment on the same track. On February 14, 1977, the American Short Line Railroad Association (ASLRA), on behalf of its member carriers, petitioned for reconsideration of the final rule so as to provide an exemption for railroads that operate only one train at any given time. After consideration of the petition, the FRA has decided to grant the petition and amend § 218.37(a)(2) of Title 49 of the Code of Federal Regulations accordingly.

EFFECTIVE DATE: This amendment becomes effective on August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Principal Program Person: John A. McNally, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, 202–426–9178.

Principal Attorney: Anne-Marie Hyland, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590, 202–426–8836.

SUPPLEMENTARY INFORMATION: The final rule issued by the FRA was developed in an effort to improve upon the traditional version of rule 99 contained in the Association of American Railroads' Standard Code of Operating Rules. The revised rule specifically defined those situations in which crew members must take action to protect their train against following movements, and described the manner in which protection was to be provided. In addition, the rule identified four operating conditions under which protective flagging would not be required. After August 1, 1977 each railroad must have in effect an operating rule which complies with the requirements of the final rule.

The ASLRA represents approximately 200 railroads, many of which are small railroads operating only one train at any given time. In an earlier rule making proceeding concerning train rear end marking devices, the ASLRA submitted information it developed from a survey of its membership which illustrated that 120 of the 142 railroads responding operated with no following trains. In that earlier rule making, the FRA concluded that protection against rear end train collisions by the required installation of rear end marking devices was not necessary where a railroad operated under these conditions. If there is only one train operating at any given time, there is no possibility of a rear end collision (42 F.R. 2322–23). The ASLRA contended that, since the purpose of the protective flagging requirement is similar to that of the rear end marking devices—that is, to protect against rear end collisions—the same principles should apply in defining a rational basis for the application of the flagging regulation.

On reconsideration, the FRA agrees that the inclusion of an additional exemption for railroads that operate only one train at any given time will in no way compromise the safety intended by the regulation, and will eliminate a potentially non-productive Federal rule which would otherwise create an unnecessary cost burden on smaller railroads where there is no danger of rear end train collisions. Therefore, a new provision is added to the exemptions set forth in 49 CFR 218.37(a)(2) so as to exempt from the protective flagging requirement railroads that operate only one train at any given time.

This amendment relieves qualifying railroads from the requirement to provide protective flagging where it is not needed because there are no following train movements and consequently no potential for rear end collisions. It, therefore, reduces the economic impact of § 218.37 of Title 49 of the Code of Federal Regulations, and is not a major proposal requiring economic impact analysis as prescribed in Executive Orders 11821 and 11949. In addition, the impact of the amendment is considered to be so minimal that this rule making action does not warrant a cost-benefit analysis under the Secretary's Policies to Improve Analysis and Review of Regulations (41 F.R. 16200), and is not considered to be a major Federal action significantly affecting the quality of the human environment.

In light of the foregoing, Part 218, of Title 49 of the Code of Federal Regulations is amended as follows:

1. By revising § 218.37(a)(2) to read as follows:

**§ 218.37 Flag protection.**

(a) * * *

(2) Flag protection against following trains on the same track is not required if—

* * * * *

(v) A railroad operates only one train at any given time.

* * * * *

This amendment is effective on August 1, 1977. Earlier compliance with these regulations is authorized as of the date of publication of this notice.

Issued in Washington, D.C. on July 26, 1977.

JOHN M. SULLIVAN,
*Administrator.*

[FR Doc.77-21632 Filed 7-27-77;8:45 am]

### CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. FE 76-05; Notice 3]

### PART 523—VEHICLE CLASSIFICATION

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: Title V of the Motor Vehicle Information and Cost Savings Act (the Act) specifies that certain vehicles





with a gross vehicle weight rating (GVWR) of not more than 6,000 pounds are automobiles, and, therefore, subject to the fuel economy provisions of the Act. This rule adds passenger cars with a GVWR of more than 6,000 pounds and less than 10,000 pounds to the automobile category. The rule also specifies which automobiles are passenger automobiles and which are nonpassenger automobiles. Separate fuel economy standards have been established under the Act for those automobile subcategories.

EFFECTIVE DATE: July 28, 1977.

FOR FURTHER INFORMATION, CONTACT:

Douglas Pritchard, Office of Automotive Fuel Economy, National Highway Traffic Safety Administration, Department of Transportation, Washington, D.C. 20590, 202–755–9384.

SUPPLEMENTARY INFORMATION: The essential features of this rule were first outlined in the notice of proposed rulemaking issued by this agency on petitions for reduction of the average fuel economy standards for model year 1978–1980 passenger automobiles (41 FR 46878, October 26, 1976). A notice of proposed rulemaking (NPRM) dealing directly with classification appeared at 41 FR 55368 on December 20, 1976. The NPRM followed the outlines in the proposal for reduction petitions. The NPRM proposed classifying all passenger cars with a gross vehicle weight rating (GVWR) of less than 10,000 pounds as passenger automobiles. Pickup trucks, recreational vehicles, vans, general purpose vehicles, and other similar vehicles with a GVWR of not more than 6,000 pounds were classified as nonpassenger automobiles. All comments on that proposal have been considered and the most significant ones are discussed below.

*Summary of major differences between proposed and final rules.* The only significant change in the rule is in the method for measuring the interior volume of certain automobiles for the purpose of determining whether those automobiles have greater cargo-carrying volume than passenger-carrying volume. If they do, they are a type of nonpassenger automobile. The method proposed in the NPRM differed slightly from the method used by the Environmental Protection Agency (EPA) for determining comparable classes of passenger automobiles under its fuel economy labeling program. The final rule adopts the EPA method in all respects for passenger automobiles.

*Scope of rule.* Under this rule, the passenger automobile and nonpassenger automobile subcategories consist of the same types of vehicles proposed to be included in each category in the NPRM. The only vehicles that are potentially subject to regulation under the Act and that are not classified as automobiles by this notice are pickup trucks, recreational vehicles, vans, and general purpose vehicles with a GVWR of more than 6,000 pounds and less than 10,000 pounds. The agency is contemplating initiating rulemaking late this summer to expand the nonpassenger automobile subcategory by raising the upper GVWR limit of the subcategory to at least 8,500 pounds. That proposal would make the expansion effective for the 1980 model year. Thus, the vehicles brought into the nonpassenger automobile subcategory by that proposal would become subject to average fuel economy standards beginning in that model year.

International Harvester commented that, although the preamble to the classification NPRM indicated that the nonpassenger automobile subcategory was intended to include only vehicles with a GVWR of not more than 6,000 pounds, the proposed rule itself could be interpreted as classifying vehicles which have a GVWR of more than 6,000 pounds and less than 10,000 pounds and have 4 of the 5 ground clearance characteristics specified in the rule as automobiles capable of off-highway operation. Since an automobile capable of off-highway operation is a type of nonpassenger automobile, this commenter believed that the rule would yield a result contrary to the stated intention of the preamble.

This is a misinterpretation of the rule. The provisions in the rule relating to passenger automobiles and nonpassenger automobiles, including automobiles capable of off-highway operation, have been drafted so that they set forth how any vehicle with a GVWR of less than 10,000 pounds be subcategorized if it were first categorized as an automobile. As noted above, this rule does not categorize as automobiles all vehicles that can potentially be so categorized. Under the statute, all such vehicles with a GVWR of not more than 6,000 pounds are automatically automobiles. Section 523.3(b) of this rule adds passenger cars with a GVWR greater than 6,000 pounds and less than 10,000 pounds to that category. The rule states how these automobiles are subcategorized. Yet to be included in the automobile category are pickup trucks, vans, recreational vehicles, general purpose vehicles and other similar vehicles with a GVWR greater than 6,000 pounds and less than 10,000 pounds. The rule states how these vehicles would be subcategorized when and if they are first categorized as automobiles. Thus, the crucial point to bear in mind is that a vehicle cannot fall within some subcategory of automobiles, such as automobiles capable of off-highway operation, unless it first falls within the automobile category. Since no vehicle which has a GVWR greater than 6,000 pounds and less than 10,000 pounds and has 4 or 5 of the 5 ground clearance characteristics is an automobile under this rule, no such vehicle can be an automobile capable of off-highway operation under this rule. Such vehicles may be what one might call vehicles capable of off-highway operation, but they are not yet automobiles capable of off-highway operation.

In a related comment the General Services Administration (GSA) stated that it did not understand why this agency had proposed to list a GVWR of more than 6,000 pounds as one criterion for classification of an automobile as an automobile capable of off-highway operation. The proposed and final rules include in the automobile category any vehicle that has a GVWR of less than 6,000 pounds and has 4 or 5 of the ground clearance characteristics specified in the rule. Any such automobile is an automobile capable of off-highway operation. GSA correctly interpreted the proposed rule as excluding, however, a vehicle from automobile category if the vehicle as a GVWR greater than 6,000 pounds and less than 10,000 pounds and 4 or 5 of the 5 ground clearance characteristics. To clarify this exclusion, GSA suggested the deletion of having a GVWR of greater than 6,000 pounds as one criterion for classification of an automobile as one capable of off-highway operation.

The confusion discussed by International Harvester and GSA could be eliminated if having a GVWR of greater than 6,000 pounds and less than 10,000 pounds were not viewed as an indication of a capability of off-highway operation in the same vein as 4-wheel drive or ground clearance. Section 501(3) of the Act might have been more clearly understood if it had been drafted to provide that automobiles with a GVWR of not more than 6,000 pounds had to have 4-wheel drive and another feature related to off-highway capability to be clasified as an automobile capable of off-highway operation, and that automobiles with a GVWR greater than 6,000 pounds and less than 10,000 pounds had to have only some feature, other than 4-wheel drive, related to off-highway capability to be so classified. Since that section was not so drafted and since the agency deems it desirable to follow statutory language in drafting its criteria in the regulation, the agency has decided to adopt the criteria for classification as automobiles capable of off-highway operation as proposed.

*Subclassification of nonpassenger automobiles.* Ford and International Harvester urged that the nonpassenger automobile subcategory be subdivided. International Harvester urged the creation of subcategories, one for automobiles capable of off-highway operation and another for all other nonpassenger automobiles. Ford also proposed a subcategory for automobiles capable of off-highway operation and urged that the remaining nonpassenger automobiles be divided into those with a GVWR of not more than 6,000 pounds and those with a GVWR greater than 6,000 pounds and less than 10,000 pounds. In its notice of proposed rulemaking (November 26, 1976, 41 FR 52087) on the average fuel economy standard for 1979 nonpassenger automobiles, the agency stated that it was not prepared to address fully the subclassification of nonpassenger automobiles. Based on comments by interested persons, a small subclass of nonpassenger automobiles was created for general purpose vehicles such as the AMC Jeep. The question of further subclassification of nonpassenger automobiles will be considered in connection with rulemaking to be initiated late this summer.



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*Definitions.* The NPRM defined "axle clearance", one of the criteria for classifying automobiles as automobiles capable of off-highway operation, as follows:

"Axle clearance" means the distance from the level surface on which an automobile is standing to the lowest point on the axle differential of the automobile.

International Harvester commented that this definition did not provide for the possibility that automobiles intended for off-highway operation might be equipped with independent suspension. To accommodate such automobiles, the company urged that the definition be rewritten to read as follows:

"Axle clearance" means the distance from the level surface on which an automobile is standing to the lowest point on the axle differential or other component more than 18 inches inboard of the wheels in either the front or rear of the automobile.

The reason for this change would be that the differential on independently suspended automobiles could be higher than portions of the axles on those automobiles. In contrast, the lowest portion of the differential on nonindependently suspended automobiles is typically lower than all portions of the axles of those automobiles. Thus, use of the differential as the reference point for measuring axle clearance could overstate the obstacle clearance capabilities of independently suspended automobiles.

The NHTSA generally agrees with this observation, but is unaware of any standardized ground clearance criteria which would consider all the factors involved in ground clearance. For instance, the definition proposed by International Harvester does not address the width of the vehicle being measured or the size and shape of the obstacle being negotiated. These factors are also important in determining a vehicle's obstacle clearance capabilities.

Nevertheless, the important points to be noted are that the definition of axle clearance proposed in the NPRM is a measure of ground clearance recognized by the Society of Automotive Engineers and presently reported by the Motor Vehicle Manufacturers Association and the individual manufacturers and that use of the proposed definition adequately serves its purpose and does not disadvantage any vehicle, regardless of its axle configuration or suspension system. Accordingly, in the interests of avoiding unnecessary complexity in this rule, the definition proposed in the NPRM is adopted. If a need arises in the future to amend this definition, the NHTSA will initiate rulemaking.

A number of comments were addressed to the interior volume measurement technique used in determining whether an automobile had greater cargo-carrying volume than passenger carrying volume and thus was a nonpassenger automobile. The NPRM proposed to use a technique that differed slightly from that used by the EPA in its fuel economy labeling regulation (40 CFR 600.315; November 10, 1976, 41 FR 49752) with respect to station wagons and hatchbacks. International Harvester, Ford Motor Company, and Volkswagen of America all stated that this agency should use the EPA measurement techniques to avoid the possibility of requiring the manufacturers to measure the interior volume of certain automobiles in two different ways. None of the three companies commented on whether different techniques were necessary. Ford commented also that publication of two different interior volume measurements for the same automobile would unnecessarily confuse consumers. Conversely, General Motors stated that the measurement techniques used by the two agencies need not be identical.

In the NPRM, this agency stated that use of a single measuring technique that differed slightly from the techniques used by the EPA for various types of automobiles appeared to be necessary. The EPA has one technique for station wagons and a slightly different one for hatchbacks. There is no EPA technique for vans.

After consideration of the comments and a reevaluation of the problem of differentiating between certain passenger automobiles and nonpassenger automobiles, this agency has decided to use the EPA measuring techniques for station wagons and hatchbacks. The differences between the technique proposed in the NPRM and the techniques used by the EPA are minor and do not result in different classification of any automobiles as passenger automobiles or nonpassenger automobiles. Since the results of the different techniques are the same, there appears to be no reason for burdening the manufacturers with the possibility of having to measure the interior space of the same automobile in two different manners. Further, use of the same techniques will avoid the possibility of consumers being confused by some advertisements about interior space based on one technique and other advertisements based on the other technique.

The adoption of the EPA techniques for measuring interior volume of station wagons and hatchbacks meets a number of concerns that various manufacturers had raised about the proposed techniques for measuring the interior space of station wagons. Ford and Chrysler commented that the proposed technique was not suited to 3-seated wagons whose 3rd seat was side or rear facing. The adopted EPA technique measures the 3rd seat area with the seat down in the cargo carrying position.

Chrysler noted that the proposed definition of "passenger-carrying volume" did not clearly provide dimensions for measuring the volumes of third seats. This could be a problem in passenger vans. The reference in the proposed definition to "rear seats" was intended to encompass all seats behind the front seat. The definition has been amended to provide that the dimensions for second seats be used for any seats to the rear of the second seats also.

Ford urged that certain changes be made in the EPA technique for measuring interior width and front seat leg room and that under-floor (hidden) storage space be included in determining station wagon cargo volume. These comments should be addressed to the EPA which has the responsibility under the Act for these techniques.

The measurement technique proposed in the NPRM is adopted for use with respect to all automobiles, e.g., vans, for which the EPA does not specify a measurement technique. This provision is necessary so that a measurement technique will be specified for every type of automobile.

*Automobiles.* Several commenters stated certain vehicles with off-highway capability were not automobiles and thus were not subject to average fuel economy standards under the Act. AMC contended that its Jeep CJ is designed, manufactured, and marketed primarily for off-highway operation. AMC stated that Jeeps are "built with low and medium speed capability and accommodate many off-road work-performing equipment accessories". AMC concluded that the Jeep cannot be an automobile since it is not, in that company's view, "manufactured primarily for use on the public streets, roads, and highways." Ford made a similar argument. It stated that vehicles having all of the following features are not manufactured primarily for highway use: (1) 4-wheel drive, (2) high ground clearance as evidenced by certain approach, breakover, and departure angles and by certain running and axle clearances, (3) engine oil systems capable of operation on inclines having up to a 60 percent grade, (4) relatively high axle ratios and heavy duty axle and suspension components, and (5) relatively high frontal area. The GSA took no position on the treatment of vehicles capable of off-highway operation but noted what appeared to it as an inconsistency between a statement on p. 90 in the House report on the Act regarding vehicles manufactured primarily for off-road use and the portion of the proposed rule relating to automobiles capable of off-highway operation.

NHTSA cannot accept the claims of AMC and Ford that vehicles with the characteristics set out above are not subject to fuel economy standards because their off-road characteristics place them outside the scope of Title V. These arguments have already been considered by the NHTSA and rejected in the preamble to the rule establishing average fuel economy standards for nonpassenger authomobiles produced during the 1979 model year; 42 FR 13807, March 14, 1977. The discussion that follows is a shortened version of that earlier discussion. This discussion also demonstrates that the inconsistency perceived by GSA does not exist.

The characteristics identified by the commenters are merely characteristics of vehicles which are capable of off-highway operation. There was no claim that the vehicles had characteristics that made them incapable of highway use. More important, neither manufacturer claimed that the vehicles were not intended or expected to spend a substantial portion of their operating lives on the public streets, roads, or highways. Therefore, NHTSA believes that Congress intended these vehicles to be automobiles within the meaning of Section 501 of Title V, and subject to fuel economy standards as nonpassenger automobiles.





This rule and section 501(1) of the Act define an automobile as "any 4-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, and highways * * *" The manufacturers' claims rest on an interpretation of the word "primarily" as meaning "chiefly" in the above-quoted definition of "automobile".

It is a common principle of statutory construction that the words of a statute are to be given their ordinary, everyday meanings, unless there is evidence on the face of the statute that the ordinary, everyday meaning is not applicable and that application of the ordinary, everyday meaning would frustrate the legislative intent. *Malat* v. *Riddel*, 383 U.S. 569, 571–572 (1966). However, the word "primarily" has two ordinary, everyday meanings in legal usage—"chiefly" and "substantially". See *Board of Governors of the Federal Reserve System* v. *Agnew*, 329 U.S. 441, 446 (1947); 33A Words and Phrases 206 et seq. Hence, the NHTSA must determine which of these two meanings the Congress intended to be applicable in the definition of "automobile".

The NHTSA interprets the word "primarily" as used in the definition of automobile to mean "substantially" for the reasons set forth below. Thus, even if a vehicle is manufactured chiefly for off-highway use, if highway use is a substantial use of the vehicle, it is manufactured primarily for both highway and off-highway use, and is therefore an automobile subject to Title V.

Congress clearly intended that vehicles capable of off-highway operation be subject to fuel economy standards as nonpassenger automobiles; S. Rep. No. 516, 94th Cong., 1st Sess. 153 (1975). Thus, a manufacturer must show more than an off-highway capability in order to establish that a vehicle is beyond the scope of Title V.

The phrase "manufactured primarily for use on the public streets, roads, and highways" is also found in the definitions of "motor vehicle" in Section 102(1) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391(1)) and Section 2(15) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901(15)) "Automobile" under Title V, and "motor vehicle" under both the Vehicle Safety Act and the Cost Savings Act, do not completely overlap (for instance, "automobiles" are limited to four-wheeled vehicles, while "motor vehicles" are not so limited). However, with respect to a vehicle's identity as an on-road or an off-road vehicle, the terms "motor vehicle" and "automobile" seem to refer to the same vehicles. From the experience with regulating these vehicles under the Motor Vehicle Safety Act and the Cost Savings Act, it is clear that the vehicles referred to by AMC and Ford are on-road vehicles with a capability for off-highway operation.

After more than a decade of regulation under the Vehicle Safety Act, both Ford and AMC have acted consistently with the view that vehicles referred to here are "motor vehicles". Indeed, AMC admits that the vehicles are designed to meet the Federal safety standards applicable to motor vehicles. Moreover, the legislative history of the Cost Savings Act specifically contemplates that Jeeps are subject to that Act. S. Rept. No. 92–413, 92d Cong., 1st Sess., at 20. Congress must be assumed to have been aware of this long, unchallenged regulatory practice which covered the vehicles at issue here when drafting the language found in Section 501 of Title V.

There is nothing in the legislative history of Title V which indicates that the intent of Congress was that the Title have a narrower scope than that given by the NHTSA's interpretation in the NPRM. In its comment to the NPRM, Ford quotes the following passage on p. 90 of the House report on Title V in support of its claim that vehicles with all the features suiting it for off-road use which Ford discussed were not manufactured primarily for on-road use,

> The effect of the definitional scheme of the bill is to exclude entirely vehicles not manufactured primarily for highway use (e.g., agricultural and construction equipment, and vehicles manufactured primarily for off-road rather than highway use. (emphasis supplied by Ford)).

Although this language gives some examples of the kinds of vehicles which Congress intended not to be subject to fuel economy standards under the Title, e.g., agricultural equipment and construction equipment, those vehicles are not characterized by the features which are claimed by the manufacturers to establish that a vehicle was not manufactured primarily for highway use. Furthermore, the language which Ford underscored by no means referred necessarily to the vehicles which Ford seeks to have excluded from the Title. Other vehicles, such as racing cars, fork-lifts, and runway fire apparatus, are some vehicles which are not manufactured primarily for highway use. A fuller discussion of the relevant legislative history is set forth below in the section on passenger and nonpassenger automobiles.

Finally, the purpose of the Title dictates that its provisions, especially regarding the scope of its applicability, be given a liberal construction. Congress enacted Title V in response to the energy shortage. In light of the importance of energy conservation to the Nation's economic health and standard of living, NHTSA believes that Congress intended the Title to have broad application, and that any interpretation of the Title that would have the effect of excluding an entire class of vehicles from regulation under the Title must be firmly based in the language of the Title or its legislative history. Neither AMC nor Ford has shown a clear expression of Congressional intent that the vehicles with the characteristics they described, making them suitable for off-road operation, should be exempt from fuel economy standards established under the Title. Indeed, as has been demonstrated, the intent of Congress would have those vehicles subject to the Title.

*Passenger automobiles and nonpassenger automobiles.* This rule separates vehicles classed as automobiles into two subcategories—"passenger automobiles" and "nonpassenger automobiles". The definition of "passenger automobile" in this rule is taken directly from Section 501(2) of the Act. The "nonpassenger automobile" category is a residual subcategory, consisting of all automobiles which are not passenger automobiles. Chrysler and General Motors commented that the separation of automobiles into passenger automobiles and nonpassenger automobiles is proper under the Act, and that the NPRM placed all vehicle types in the proper category.

The types of automobiles to be included in these subcategories depend upon the interpretation given to "primarily" in the definition of "passenger automobile". An explanation of this agency's interpretation should serve to eliminate any remnants of the ambiguity which GSA perceived in the NPRM regarding the automobiles capable of off-highway operation. If "primarily" were interpreted to mean "substantially", as it is in the definition of "automobile" discussed supra, then almost every automobile would be a passenger automobile, since a substantial function of almost all automobiles is to transport at least two persons. The only nonpassenger automobiles under this interpretation would be those specifically excluded by the definition of passenger automobile; i.e., automobiles capable of off-highway operation and automobiles manufactured primarily for use in the transportation of more than 10 individuals. If, on the other hand, "primarily" is interpreted to mean "chiefly" or "predominantly", then all automobiles not manufactured chiefly for use in the transportation of individuals would be nonpassenger automobiles, as well as the two types of automobiles excluded from the passenger automobile category by definition.

The NHTSA interprets the word "primarily" in the definition of "passenger automobile" to mean "chiefly". Based on the discussion below of that definition and its legislative history, Congress clearly intended that "passenger automobile" include only those vehicles traditionally regarded as passenger cars, i.e., vehicles whose major design features, including body style, reflect the purpose of carrying passengers. Examples of the design features which singly or in combination indicate that an automobile is not a passenger automobile are on open bed for carrying cargo, heavy duty suspension, and greater cargo-carrying than passenger-carrying volume.

As discussed in the above section entitled Automobiles, the use of "primarily" in the definition of "automobile" must be considered against a legislative backdrop of other statutes using the



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identical phrase, and the remedial purposes of the Act justifying a broad interpretation of those definitions which delineate the scope of its applicability. However, the use of "primarily" in the definition of "passenger automobile" brings other considerations into play. First, the remedial purposes of the Act do not require a broad interpretation of the definition "passenger automobile". Section 502(b) of the Act requires the NHTSA to set average fuel economy standards for nonpassenger automobiles at the maximum feasible level. Accordingly, the fuel efficiency of these vehicles will be improved regardless of whether they are classified as passenger or nonpassenger automobiles.

Second, interpreting "passenger automobile" as this rule does permits the NHTSA to make the passenger automobile and nonpassenger automobile categories under the Act parallel the vehicle classification scheme established under the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1381 et seq. ("passenger car", "multipurpose passenger vehicle", and "truck"), and very similar to the scheme established under the Clean Air Act, 42 U.S.C. 1857 et seq. ("light duty vehicle" and "light duty truck"). Similar classification of vehicles for all three regulatory purposes will serve to minimize the possibility of inconsistent regulatory requirements. Additionally, the manufacturers can quickly determine the class of their automobiles for fuel economy purposes by examining the classification of these vehicles under existing regulatory schemes.

Third, placing pickup trucks and vans in the passenger automobile category would be contrary to the intent of Congress, as discussed below.

In the House of Representatives, the automobile fuel economy provisions of H.R. 7014 were derived almost verbatim from the Sharp floor amendment to H.R. 6860. That amendment contained the following sections:

> Section 301(a)(3) The term "passenger automobile" means any automobile which has as its primary intended function the transportation of not more than ten individuals.
>
> Section 301(a)(4) The term "light-duty truck and multipurpose passenger vehicle" means any automobile which is not a passenger automobile.

By calling the category of automobiles other than passenger automobiles "light-duty trucks and multipurpose passenger vehicles", the bill did not draw on new, amorphous concepts, but, instead, chose terms with existing definitions under other Acts. Under the Clean Air Act, the EPA defined the term "light duty truck" at that time as "any motor vehicle rated at 6,000 pounds GVW or less, which is designed primarily for purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use"; 40 CFR § 85.202(a)(5). Under the Vehicle Safety Act, the NHTSA at the time of the adoption of the Sharp amendment defined a "multipurpose passenger vehicle" as "a motor vehicle with motive power, except a trailer, designed to carry 10 persons or less which is constructed either on a truck chassis or with special features for occasional off-road operation"; 49 CFR § 571.3. In the Cost Savings Act, Congress itself defined "multipurpose passenger vehicle" in the same way as the NHTSA had in the above quoted regulation; 15 U.S.C. 1901(2).

Vehicles similar to AMC's Jeeps had been regarded by both the EPA and the NHTSA as automobiles with special features enabling off-highway use. The EPA had classified pickup trucks and cargo vans as light duty trucks, because EPA determined that these types of vehicles were designed primarily to transport property. Passenger vans and recreational vehicles, such as campers, had also been classed with light duty trucks, since these types of vehicles were derivatives of cargo vans and pickup trucks. The NHTSA made the same classification under the Vehicle Safety Act based on the fact that these vehicles were constructed on a truck chassis. Station wagons, on the other hand, have never been classified as light duty trucks by the EPA. The EPA determined that station wagons, which are built on passenger car chassis with passenger car-type springs and suspension systems, are designed primarily to transport people, with a subsidiary ability to transport property. The NHTSA reached the same result, since station wagons are built on a passenger car chassis. By using existing terms with existing applications, Congress gave a clear indication of the types of automobiles that were intended to be treated separately from passenger automobiles. If the word "primarily" in the definition of "passenger automobile" is interpreted to mean "chiefly," those types of automobiles would be treated separately from passenger automobiles. It seems clear that the House intended H.R. 6860 to be so interpreted.

The class "light duty trucks and multipurpose passenger vehicles" was deleted from H.R. 7014 when reported from Committee. However, the Committee Report states:

> Part A to Title V of H.R. 7014 as reported is (with one exception) substantively identical to part I of Title III of H.R. 6860 as passed by the House. H.R. Rep. 94-340 at 87.

The exception noted in the report referred to the procedure for modifying the average fuel economy standards for passenger automobiles, which does not affect this discussion. The above statement in the House Report indicates that the substitution of an untitled residual category of automobiles for the "light duty truck and multipurpose passenger vehicle" category was not intended to broaden the scope of the passenger automobile so as to include vehicles designed principally for use in the transportation of property, or derivatives thereof. Hence, the House intended the word "primarily" in the definition of "passenger automobile" in H.R. 7014 to mean "chiefly."

The bill originally passed by the Senate dealing with automobile fuel economy standards was S. 1883. That bill set up two categories of vehicles, automobiles and light duty trucks, to which average fuel economy standards were applicable.

The "automobile" category in S. 1883 was identical to the "passenger automobile" category in the Act. The other category of vehicles, "light duty trucks," was defined exactly as the EPA defined it. The Senate thus manifested its intent to treat vehicles which had been classed as light duty trucks by EPA, specifically, vans, pickup trucks, general purpose vehicles, campers, and other similar vehicles, separately from the vehicles classified as "automobiles" under this bill, such as sedans, coupes, and station wagons. The language of S. 1883 was incorporated verbatim into the Senate version of S. 622.

Thus, both houses of Congress had expressed an intent that vehicles classed by EPA as light duty trucks be subject to average fuel economy standards separate from the standards imposed on passenger cars. Both houses presumably understood which types of vehicles had been classed as light duty trucks by EPA. There was, therefore, nothing for the conference to resolve on this point, since the House and Senate bills were in agreement. The adoption of the House language no more suggests a change from the Senate bill than the language in the House bill suggested a change from the Sharp amendment.

The conference report accompanying S. 622, the bill which became the Act, explains the classification of automobiles thusly:

> Automobiles are divided into two broad categories for purposes of prescribing fuel economy standards: passenger automobiles, and automobiles which are not passenger automobiles (e.g., certain light duty trucks, recreational vehicles, and other multipurpose vehicles). Automobiles capable of off-highway operation * * * are specifically designated for inclusion in the latter category. S. Rep. No. 94-516, H.R. Rep. No. 94-700 (94th Cong., 1st Sess.) at 153.

This discussion gives no indication that the types of vehicles intended to be nonpassenger automobiles changed. Indeed, the types of vehicles intended by both houses of Congress to be nonpassenger automobiles are listed as examples of the kinds of vehicles which are not passenger automobiles under the Act. The NHTSA must interpret the word "primarily" in the definition of "passenger automobile" in the way that will effectuate the legislative intent. In light of the clear indications given by Congress about the types of vehicles intended to be nonpassenger automobiles, "primarily" must be interpreted to mean "chiefly."

Under this interpretation, there are four types of nonpassenger automobiles. The first, and most obvious, type of nonpassenger automobile is an automobile designed primarily to transport more than ten persons. An example is a van with more than 10 seating positions. This type of automobile is excluded from the passenger automobile category by the Act.

The second type of automobile classed as a nonpassenger automobile by this rule is an automobile designed primarily, i.e., chiefly, for purposes of transportation of property. Section 523.5(a) (3) and (4) of the rule lists two different ways of determining when an automobile is designed primarily for use in the transportation of property. An automobile which can transport property on an open bed is not manufactured chiefly to transport individuals, since well over half of the available space on those automobiles consists of the cargo bed, which is exclusively cargo carrying area. Further, this type of automobile is designed to carry heavy loads.

Automobiles classed as nonpassenger autombiles by this feature are pickup trucks and some passenger car derivatives with open cargo beds, such as the Chevrolet El Camino and the Ford Ranchero. El Caminos and Rancheros have been permanently altered so that they have much less passenger carrying capacity and much more property carrying capacity than the passenger cars from which they are derived. The similarity of these vehicles to pickup trucks built on a truck chassis is indicated by their classification in the EPA/FEA 1977 Gas Mileage Guide as "standard pickup trucks." These considerations appear to the NHTSA to indicate that these vehicles are manufactured chiefly for use in the transportation of property, so the classification of these vehicles proposed in the NPRM is adopted in this rule.

Ford commented that it agreed that its Ranchero should be classified as a nonpassenger automobile. However, Ford urged that the Ranchero should continue to be tested under the passenger automobile test procedures, rather than the nonpassenger automobile procedures. EPA, in consultation with the NHTSA, agrees with Ford that the additional testing would be unnecessary, and so the Ranchero will be tested as a passenger automobile. This determination will appear in a rule specifying nonpassenger automobile fuel economy test procedures to be published by EPA in August.

An automobile which provides greater cargo-carrying than passenger-carrying volume is also an automobile designed primarily for purposes of transportation of property. Since more of the space inside the vehicle has been dedicated to transporting cargo, and such vehicles are typically designed to carry heavy loads, this agency concludes that the chief consideration in designing the vehicle was the ability to transport property. Automobiles that are classed as nonpassenger automobiles on the basis of this feature include cargo vans and multi-stop vehicles.

The third type of nonpassenger automobile under this rule is a derivative of an automobile designed primarily for the transportation of property. Section 523.5(a) (2) and (5) addresses this type of nonpassenger automobile. An automobile in which the cargo-carrying area has been converted to provide temporary living quarters is typically a derivative of a cargo van or pickup truck. Automobiles that are classified as nonpassenger automobiles on the basis of this feature include campers.

The other common derivative of an automobile designed primarily for the transportation of property is the passenger van. In essence, it is a cargo van in which readily removable seats have been installed in the cargo-carrying area. This derivative can be easily converted back into an automobile with greater cargo-carrying than passenger-carrying volume, i.e., a cargo van, by removing these seats with means installed by the manufacturer for that purpose or with simple tools, such as a screwdrivers or a wrench.

Although station wagons built on passenger car chassis have a convertibility feature, fold-down rear seats, this characteristics is not sufficient to exclude them from the passenger automobile category. Like the passenger van with removable seats, the station wagon with its seats folded down is easily converted back into the basic interior arrangement. Indeed, the conversion is easier since no tools are required. However, it is not the convertibility factor alone which results in passenger vans being classified as nonpassenger automobiles. It is that factor together with the derivative nature of those vans. Neither passenger vans nor station wagons have been permanently altered from the parent vehicles, as the El Camino/Ranchero vehicles have. Therefore, since a passenger van is designed with the same chassis, springs, and suspension system as a cargo van, it is treated in the same way as a cargo van. A station wagon is designed with the same chassis, springs, and suspension system as a sedan, and so is placed in the same category as a sedan.

The fourth and final type of nonpassenger automobile under this rule is an automobile capable of off-highway operation.

Ford and International Harvester commented that the 5 ground clearance measuremenis proposed in the NPRM would adequately serve to distinguish automobiles capable of off-highway operation from other automobiles. The GSA commented that all of these measurements relate solely to vertical obstacle negotiation potential, and suggested that NHTSA consider other factors, such as slope-climbing potential, vegetation override potential, and swimming potential, which would also make an automobile capable of off-highway operation. The NHTSA considered incorporating some of these other factors in the NPRM, but discovered that every vehicle with a GVWR under 6,000 pounds which had one of these other features also had four of the five characteristics listed in the rule. Therefore, in the interest of avoiding unnecessary complexity, NHTSA has decided to list only the five characteristics given in the NPRM. If a need arises in the future to establish additional criteria, the NHTSA will initiate rulemaking.

*Vehicles with a GVWR between 6,000 and 10,000 pounds.* The Act classifies as an automobile any 4-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails) which has a GVWR of not more than 6,000 pounds. Such a vehicle with a GVWR between 6,000 and 10,000 pounds may be classified as an automobile if the Administrator makes two findings. First, the Administrator must determine that average fuel economy standards are feasible for that type of vehicle. Second, the Administrator must also determine that either average fuel economy standards for this type of vehicle will result in significant energy conservation or that this type of vehicle is used for substantially the same purposes as a vehicle type with a GVWR of not more than 6,000 pounds.

The NPRM set forth the Administrator's proposed determination that average fuel economy standards are feasible for passenger cars with a GVWR between 6,000 and 10,000 pounds, and that these cars are used for substantially the same purposes as passenger cars with a GVWR of not more than 6,000 pounds. Chrysler, Ford, and General Motors commented that this determination was appropriate.

International Harvester expressed no view on the merits of the determination, but suggested that the determination should be made in separate notice. Since a proposed determination has been published and comments received thereon, it would be unnecessarily burdensome and seemingly purposeless to request commenters to address the same proposal again. Moreover, delaying publication of a determination which can be made final now would serve no useful purpose.

The Automobile Club of Southern California urged that station wagons with a GVWR of greater than 6,000 pounds be classified as nonpassenger automobiles. The basis for this suggested disparate treatment is that station wagons can carry more passengers or more cargo than other passenger cars. It was noted that when the large wagon is carrying nine passengers, the passenger miles per gallon can be the same as that of an automobile with a higher fuel economy carrying fewer passengers. When carrying cargo, the wagon is, according to the Automobile Club, serving the same purposes as other nonpassenger automobiles. Notwithstanding these observations, they would also be applicable to station wagons with a GVWR of not more than 6,000 pounds. Therefore, this agency does not perceive sufficient basis in the Automobile Club's comments for changing its treatment of station wagons with a GVWR greater than 6,000 pounds.

In light of the foregoing, Title 49, Code of Federal Regulations, is amended by adding a new Part 523, Vehicle Classification, to read as set forth below.







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The program official and attorney principally responsible for the development of this rule are Douglas Pritchard and Stephen Kratzke, respectively.

DOUGLAS PRITCHARD.
STEPHEN KRATZKE.

Issued in Washington, D.C., on July 21, 1977.

JOAN CLAYBROOK,
*Administrator, National Highway Traffic Safety Administration.*

Sec.
523.1 Scope.
523.2 Definitions.
523.3 Automobiles.
523.4 Passenger automobiles.
523.5 Nonpassenger automobiles.

AUTHORITY: Sec. 301, Pub. L. 94-163, 80 Stat. 901 (15 U.S.C. 2001).

**§ 523.1 Scope.**

This part establishes categories of vehicles that are subject to Title V of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2001 et seq.

**§ 523.2 Definitions.**

"Approach angle" means the smallest angle, in a plan side view of an automobile, formed by the level surface on which the automobile is standing and a line tangent to the front tire static loaded radius arc and touching the underside of the automobile forward of the front tire.

"Axle clearance" means the vertical distance from the level surface on which an automobile is standing to the lowest point on the axle differential of the automobile.

"Breakover angle" means the supplement of the largest angle, in the plan side view of an automobile, that can be formed by two lines tangent to the front and rear static loaded radii arcs and intersecting at a point on the underside of the automobile.

"Cargo-carrying volume" means the luggage capacity or cargo volume index, as appropriate, and as those terms are defined in 40 CFR 600.315, in the case of automobiles to which either of those terms apply. With respect to automobiles to which neither of those terms apply, "cargo-carrying volume" means the total volume in cubic feet rounded to the nearest 0.1 cubic feet of either an automobile's enclosed nonseating space that is intended primarily for carrying cargo and is not accessible from the passenger compartment, or the space intended primarily for carrying cargo bounded in the front by a vertical plane that is perpendicular to the longitudinal centerline of the automobile and passes through the rearmost point on the rearmost seat and elsewhere by the automobile's interior surfaces.

"Curb weight" is defined the same as "vehicle curb weight" in 40 CFR Part 86.

"Departure angle" means the smallest angle, in a plan side view of an automobile, formed by the level surface on which the automobile is standing and a line tangent to the rear tire static loaded radius arc and touching the underside of the automobile rearward of the rear tire.

"Gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle.

"Passenger-carrying volume" means the sum of the front seat volume and, if any, rear seat volume, as defined in 40 CFR 600.315, in the case of automobiles to which that term applies. With respect to automobiles to which that term does not apply, "passenger-carrying volume" means the sum in cubic feet, rounded to the nearest 0.1 cubic feet, of the volume of a vehicle's front seat and seats to the rear of the front seat, as applicable, calculated as follows with the head room, shoulder room, and leg room dimensions determined in accordance with the procedures outlined in Society of Automotive Engineers Recommended Practice J1100a, Motor Vehicle Dimensions (Report of Human Factors Engineering Committee, Society of Automotive Engineers, approved September 1973 and last revised September 1975.)

(a) For front seat volume, divide 1,728 into the product of the following SAE dimensions, measured in inches to the nearest 0.1 inches, and round the quotient to the nearest 0.001 cubic feet.

(1) H61-Effective head room—front.
(2) W3-Shoulder room—front.
(3) L34-Maximum effective leg room—accelerator.

(b) For the volume of seats to the rear of the front seat, divide 1,728 into the product of the following SAE dimensions, measured in inches to the nearest 0.1 inches, and round the quotient to the nearest 0.001 cubic feet.

(1) H63-Effective head room—second.
(2) W4-Shoulder room—second.
(3) L51-Minimum effective leg room—second.

"Running clearance" means the distance from the surface on which an automobile is standing to the lowest point on the automobile, excluding unsprung weight.

"Static loaded radius arc" means a portion of a circle whose center is the center of a standard tire-rim combination of an automobile and whose radius is the distance from that center to the level surface on which the automobile is standing, measured with the automobile at curb weight, the wheel parallel to the vehicle's longitudinal centerline, and the tire inflated to the manufacturer's recommended pressure.

"Temporary living quarters" means a space in the interior of an automobile in which people may temporarily live and which includes sleeping surfaces, such as beds, and household conveniences, such as a sink, stove, refrigerator, or toilet.

**§ 523.3 Automobile.**

(a) An automobile is any 4-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and that either—

(1) Is rated at 6,000 pounds gross vehicle weight or less; or

(2) Which—

(i) Is rated more than 6,000 pounds gross vehicle weight, but less than 10,000 pounds gross vehicle weight,

(ii) Is a type of vehicle for which the Administrator determines, under paragraph (b) of this section, average fuel economy standards are feasible, and

(iii) (A) Is a type of vehicle for which the Administrator determines, under paragraph (b) of this section, average fuel economy standards will result in significant energy conservation, or

(B) Is a type of vehicle which the Administrator determines, under paragraph (b) of this section, is substantially used for the same purposes as vehicles described in paragraph (a)(1) of this section.

(b) A vehicle that is rated at more than 6,000 pounds and less than 10,000 pounds gross vehicle weight, is manufactured primarily for use in the transportation of not more than 10 individuals, and does not meet the criteria in § 523.5(b)(1) for automobiles capable of off-highway operation is a type of vehicle—

(1) For which average fuel economy standards are feasible, and

(2) Which is substantially used for the same purposes as vehicles described in paragraph (a)(1) of this section.

**§ 523.4 Passenger automobile.**

A passenger automobile is any automobile (other than an automobile capable of off-highway operation) manufactured primarily for use in the transportation of not more than 10 individuals.

**§ 523.5 Nonpassenger automobile.**

(a) A nonpassenger automobile is an automobile either designed for off-highway operation, as described in paragraph (b) of this section, or designed to perform at least one of the following functions:

(1) Transport more than 10 persons;
(2) Provide temporary living quarters;
(3) Transport property on an open bed;
(4) Provide greater cargo-carrying than passenger-carrying volume; or
(5) Permit expanded use of the automobile for cargo-carrying purposes or other nonpassenger-carrying purposes through the removal of seats by means installed for that purpose by the automobile's manufacturer or with simple tools, such as screwdrivers and wrenches, so as to create a flat, floor level, surface extending from the forwardmost point of installation of those seats to the rear of the automobile's interior.

(b) An automobile capable of off-highway operation is an automobile—

(1) (i) That has 4-wheel drive; or

(ii) Is rated at more than 6,000 pounds gross vehicle weight; and

(2) That has at least four of the following characteristics (see Figure 1) calculated when the automobile is at curb weight, on a level surface, with the front wheels parallel to the automobile's longitudinal centerline, and the tires inflated to the manufacturer's recommended pressure—

(i) Approach angle of not less than 28 degrees.

(ii) Breakover angle of not less than 14 degrees.

(iii) Departure angle of not less than 20 degrees.

(iv) Running clearance of not less than 8 inches.

(v) Front and rear axle clearances of not less than 7 inches each.





[FR Doc.77-21505 Filed 7-21-77;4:57 pm]

[Docket No. FE 77-02; Notice 2]

## PART 529—MANUFACTURERS OF MULTISTAGE AUTOMOBILES

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: The purpose of this notice is to establish a rule for determining, in cases where more than one person is the manufacturer of an automobile, which person is to be treated as the manufacturer for purposes of Title V of the Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 2001 et seq.), and its implementing regulations. Section 501(8) of the Act requires such rule to be issued. In most instances, the rule makes the incomplete automobile manufacturer responsible for meeting the Title V requirements, including those relating to automobile fuel economy standards, fuel economy labeling, and reporting.

EFFECTIVE DATE: July 28, 1977.

FOR FURTHER INFORMATION, CONTACT:

Roy Dennison, National Highway Traffic Safety Administration, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590 (202-755-9384).

SUPPLEMENTARY INFORMATION: Section 501(8) of Title V requires the Administrator of the National Highway Traffic Safety Administration (NHTSA) to prescribe rules for determining, in cases where more than one person is the manufacturer of an automobile, which person is to be treated as the manufacturer of that automobile and thus responsible for compliance with the requirements of Title V. The principle requirements are those for complying with average fuel economy standards, submitting reports, and placing fuel economy labels on new automobiles.

The general outlines of a rule to implement section 501(8) were first discussed in the notice of proposed rulemaking (November 26, 1976, 41 FR 52087) on average fuel economy standards for model year 1979 nonpassenger automobiles. That notice stated that the agency contemplated issuing a proposal that would place compliance responsibilities on incomplete automobile manufacturers in most instances. A notice of proposed rulemaking (NPRM) dealing directly with multistage automobiles was published on February 14, 1977 (42 FR 9040). Consistent with the November 26 notice, the NPRM proposed that incomplete automobile manufacturers be made responsible in most instances for complying with the Title V requirements. The major exception to this assignment of responsibility was when a subsequent manufacturer, i.e., an intermediate or final-stage manufacturer, altered an automobile sufficiently to void the results of the fuel economy testing of the automobile by the incomplete automobile manufacturer. In such an instance, the subsequent manufacturer would become partially or totally responsible for complying with Title V.

A relatively minor exception was provided in the instance of a final-stage manufacturer that completed manufacture of a multistage automobile in a model year after the model year in which the incomplete automobile manufacturer finished its manufacturing operations on the automobile and that marketed the automobile as one manufactured in the latter model year. The NPRM provided that the final-stage manufacturer would assume responsibility for compliance in this circumstance also. Under either exception, the assumption of responsibility by the subsequent manufacturer would permit the incomplete automobile manufacturer to remove the automobile from its fleet of automobiles subject to the fuel economy standards.

Comments on the February 14, 1977 notice were received from American Motors Corporation (AMC), Chrysler, Ford, General Motors (GM) and the Automobile Club of Southern California (Auto Club). All comments have been considered and the most significant ones are discussed below.

*Major differences between the proposed and final rules.* The most significant differences between the proposed rule and the final rule established by this notice are set forth below:

(1) The manufacturer which attaches the portion of the automobile body containing the windshield and front seat side windows to an incomplete automobile is made responsible for affixing the fuel economy label to that automobile.

(2) An incomplete automobile manufacturer is responsible for submitting a partial semi-annual report regarding its incomplete automobiles even if it ceases to be treated as their manufacturer for purposes of standards and labeling compliance. No report is required from intermediate or final-stage manufacturers under any circumstance.

(3) The final rule does not adopt the proposed requirement that a final-stage manufacturer which sells a multistage automobile as one manufactured in the model year in which it completed its manufacturing operations must assume responsibility for complying with Title V with respect to that automobile if that model year is subsequent to the model year in which the incomplete automobile manufacturer completed its manufacturing operations.

*Assignment of responsibility.* The NPRM assigned to incomplete automobile manufacturers the responsibility for complying with the requirements of Title V and its implementing regulations that affect multistage automobiles. Ford and Chrysler agreed with this assignment, noting that the incomplete automobile manufacturer is the manufacturer of a multistage automobile which designs and builds the chassis and power train components that primarily determine the fuel economy of the completed automobile. Ford observed that incomplete automobile manufacturers generally have the engineering manpower and test facilities necessary to perform fuel economy development and testing, while intermediate and final-stage manufacturers seldom have these resources. Neither AMC nor GM objected to this assignment.

Ford and GM also stated that they did not object to the proposed assignment of responsibility because including their incomplete automobiles in their fleets for standards compliance purposes would have a negligible effect on their average fuel economy. This was said to be true even if the fuel economy of their incomplete automobiles were based upon "worst case" testing.

Ford and Chrysler did, however, limit their agreement with the proposed assignment of responsibility to those automobiles which had been completed by the subsequent manufacturers within the specifications of the incomplete automobile manufacturer. Ford and Chrysler urged, as the agency had proposed, that if an intermediate or final-stage manufacturer exceeds the maximum curb weight or maximum frontal area specified by the incomplete automobile manufacturer, thus invalidating the fuel economy values determined by the incomplete automobile manufacturer, that subsequent manufacturer should become responsible for that automobile under Title V.

*Compliance with average fuel economy standards.* The NPRM suggested alternative methods of testing to determine the fuel economy of multistage automobiles. It was noted that the practice of "worst case" testing, while appropriate for emissions certifications, might not be suited for use under Title V. For emissions standard enforcement purposes, the actual emissions levels are not too important. What is important is whether they exceed the maximum specified in the emissions standards. However, the actual tested level of performance is important under the fuel economy program. The fuel economy of each model type produced by a manufacturer is used to calculate whether and to what extent the average fuel economy of the manufacturer has fallen below or exceeded the prescribed minimum level of average fuel economy. The amount of civil penalties and credits against civil penalties are determined by the level of shortfall or excess, respectively. The NPRM noted that if an incomplete automobile manufacturer were required to determine the fuel economy of its fleet based partially on "worst case" tested incomplete automobiles, a manufacturer of a substantial number of those automobiles could be at a disadvantage relative to a manufacturer of only single-stage automobiles



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in trying to comply with the average fuel-economy standards.

The comments suggest that there would be no such disadvantage. GM said that it preferred "worst case" testing because that approach minimized GM's testing burden. Ford expressed no preference, pointing out that the use of "best case" testing instead of "worst case" testing or vice versa would make no practical difference in the resulting average fuel economy. Ford, GM, and Chrysler all noted that the sale of incomplete automobiles was such a small proportion of their total sales that the effect of the incomplete automobiles on their average fuel economy was negligible. Ford stated further that determining more representative fuel economies would require additional testing. In that company's view, that additional testing was not justified because of the insufficient effect on average fuel economy.

The NPRM also noted that "worst case" testing might be inappropriate for determining fuel economy because the fuel economy value appearing on the label would then be the lowest possible value for that automobile. That is, the value would be that for an automobile completed to the maximum permissible curb weight and frontal area specified by the incomplete automobile manufacturer. Thus, a final-stage manufacturer that completes an automobile with a curb weight and frontal area significantly less than the maxima would not be rewarded by a commensurately higher fuel economy value. Thus, there would be reduced incentive for a final-stage manufacturer to attempt to minimize curb weight and frontal area. Further, in competing with manufacturers of single-stage vehicles having a comparable size and function, the final-stage manufacturer might be at a disadvantage due to the comparatively low fuel economy that its automobiles appear to be capable of achieving. No final-stage manufacturer commented on this or any other portion of the proposed rule.

Ford, GM, and Chrysler opposed additional testing to determine the fuel economy of multistage automobiles more accurately. They stated that the cost and burden of additional testing could cause an incomplete automobile manufacturer to eliminate or sharply curtail production of those automobiles. In response to a question posed in the NPRM, the costs stated by the manufacturers for retesting an automobile after having tested it and then reset the road load would range from $200 to $400.

Chrysler stated that it believed that the fuel economy values for multistage automobiles should represent as accurately as possible the fuel economy that would result from testing the completed automobile. For the reasons stated in the immediately preceding paragraph, that company said that there is no cost-effective way of accurately establishing the fuel economy of completed multistage automobiles through testing. However, Chrysler indicated that the cost of conducting additional fuel economy tests should not prevent developing a best estimate of the fuel economy that could be achieved by the completed multistage automobiles. Chrysler suggested a method that might be used for determining a best estimate of the fuel economy of those automobiles.

Under Chrysler's suggested method, the incomplete automobile would be tested in its "worst case" condition. If the curb weight and frontal area of the completed automobile incorporating the incomplete automobile are less than the maxima specified for the incomplete automobile, then, according to Chrysler, it should be possible to estimate mathematically the fuel economy of the incomplete automobile using the fuel economy values for the completed automobile and incomplete automobile.

Ford and GM responded negatively to the suggestion in the NPRM that a more accurate determination of the fuel economy of multistage automobiles might be possible through improved communication between the incomplete and final-stage manufacturers. These commenters stated that there was no practicable means by which they could learn about the final specifications of the incomplete automobiles that they manufacture. According to these commenters, incomplete automobiles are sold to more than 1,000 different intermediate and final-stage manufacturers and converted into as many as 25 different types of automobiles, with the final-stage manufacturer having substantial latitude regarding body style and shape and options.

All of the above comments regarding methods for developing fuel economy values have been referred to the Environmental Protection Agency (EPA). The EPA has the authority under section 503 of Title V for specifying the procedures for determining fuel economy.

*Compliance with labeling requirements.* Chrysler, Ford, and GM recommended that the fuel economy label values for multi-stage automobiles be derived from the corresponding completed, single-stage automobiles manufactured by the incomplete automobile manufacturer. This comment, like the other comments on methods for developing fuel economy values, has been referred to EPA for consideration.

Chrysler, Ford, and GM also commented that they were presently complying with the labeling requirements in the same manner as for single-stage automobiles. Ford noted that most fuel economy labels for incomplete automobiles were attached to the windshields or side windows. For incomplete automobiles sold with no body, that company recommended that the labels be enclosed with the emissions certification and safety compliance information furnished by the incomplete automobile manufacturer to subsequent manufacturers. The NHTSA agrees with this recommendation. The rule has been revised to provide that while the incomplete automobile manufacturer would be responsible for preparing the fuel economy label for those incomplete automobiles, the responsibility for affixing the label would be placed on the manufacturer that adds the body to the automobile.

Ford commented that the NPRM did not completely and appropriately assign responsibility for the fuel economy labels remaining affixed to the multi-stage automobiles. That company stated that when the incomplete automobile manufacturer affixes the label to an incomplete automobile, all subsequent manufacturers of the automobile must assume responsibility and be held accountable for maintaining the label. The NHTSA agrees that there was incomplete assignment of this responsibility. The rule has been revised to ensure an unbroken chain of accountability for the fuel economy labels' remaining attached. If a manufacturer receives an incomplete automobile that has the portion of the body including the windshield and front seat side windows and therefore should be labeled, but does not have a fuel economy label, the manufacturer is required to attach a label identical to the one that should be on the automobile. The document containing the curb weight and frontal area maxima and the addenda, if any, to that document will identify the previous manufacturer of that automobile which should have prepared the missing label. Similarly, if a fuel economy label is removed from an incomplete automobile while it is in the possession of one of its manufacturers, that manufacturer must reattach that label or obtain an identical one from the manufacturer which prepared the removed label. A manufacturer is not required to replace a label that is removed in the circumstances of the immediately preceding sentence if the manufacturer has exceeded one of the maxima and must prepare a new label with new fuel economy values.

*Compliance with reporting requirements.* The NPRM assigned reporting responsibilities in the same general manner as standards compliance and labeling responsibilities, but stated that the manner of assigning reporting responsibilities would be addressed in greater detail in a subsequent notice of proposed rulemaking dealing solely with reporting requirements. That subsequent notice was published April 11, 1977, 42 FR 18867. The question of multistage manufacturers was addressed at 42 FR 18869. The reporting NPRM provided that even when an intermediate or final-stage manufacturer assumed full responsibility for the compliance of an automobile with the fuel economy standards, it would assume only partial responsibility for compliance with the reporting requirements. In commenting on the multistage NPRM, Chrysler, Ford, and GM stated that an intermediate or final-stage manufacturer which exceeds the curb weight and frontal area maxima should assume the reporting responsibilities. However, in commenting on the subsequent reporting NPRM, none of these manufacturers objected to a proposal that the reporting responsibilities be divided between the incomplete automobile manufacturer and one of the subsequent manufacturers when the latter manufacturer exceeds one of the maxima.

After considering these comments and the comments discussed above about the degree of communication between the incomplete automobile manufacturers and subsequent manufacturers, the NHTSA has decided to make several relatively minor changes in the reporting responsibilities described in the reporting NPRM. First, the incomplete automobile manufacturer would not be required to provide information relating to certain aspects of completed multistage automobiles manufactured from its incomplete automobiles. These aspects would include items such as number of designated seating positions, body style, and passenger and cargo carrying volumes. Based on the comments regarding the lack of communications between the incomplete automobile manufacturers and the subsequent manufacturers, information of this type would apparently not be available to the incomplete automobile manufacturers. Second, intermediate and final-stage manufacturers are not required to do any reporting under any circumstances, including any circumstance in which an intermediate or final-stage manufacturer exceeds the maximum frontal area or curb weight. Given the agency's expectation that intermediate and final-stage manufacturers will rarely exceed either of the maxima, these manufacturers were unlikely to have been required to submit reports in any event. For the same reason, incomplete automobile manufacturers are unlikely to be required to submit more information about their incomplete automobiles than they would have been required to do under the reporting NPRM. Further, exceeding the maxima would not affect most of the information that the incomplete automobile manufacturer is required to submit.

*Model year determination.* The NPRM provided that the final-stage manufacturer would have two options regarding the designation of model year of a multistage automobile. The manufacturer could choose to offer for sale or sell the automobile as one manufactured in either the model year in which the incomplete automobile manufacturer completed its manufacturing operations or the model year in which that final-stage manufacturer completed its manufacturing operations. It was proposed that if the final-stage manufacturer chose to offer the automobile for sale as one manufactured in the model year in which the incomplete automobile manufacturer completed its manufacturing operations, and if no subsequent manufacturer had exceeded the curb weight and frontal area maxima, the final-stage manufacturer could rely on the fuel economy testing and label of the incomplete automobile manufacturer. If, however, the final-stage manufacturer completed the automobile in a model year after the incomplete automobile manufacturer completed its manufacturing operations and if the final-stage manufacturer elected to offer the automobile for sale as one manufactured in the latter model year, the final-stage manufacturer would become the manufacturer of the automobile for the purposes of Title V and would be required to conduct fuel economy testing and to comply with the fuel economy standard and labeling requirements for that later model year.

Chrysler initially commented that the model year of a multistage automobile should be the model year in which the incomplete automobile manufacturer completed its manufacturing operations. This comment was qualified in a subsequent meeting and telephone conversation with the NHTSA which were summarized in memoranda placed in the docket. In that meeting and conversation, Chrysler stated that its suggestion regarding model year was merely meant to indicate that a multistage automobile should be subject to the average fuel economy standard for the model year in which the incomplete automobile manufacturer completes its manufacturing operations on the automobile unless a subsequent manufacturer exceeded either the maximum frontal area or maximum curb weight in a subsequent model year. With respect to the marketing of completed automobiles, Chrysler intended to suggest that the final-stage manufacturer have the option of marketing the completed multistage automobile either as one manufactured in the model year in which the manufacturer for standards compliance purposes completed its manufacturing operations or as one manufactured in the model year in which the final-stage manufacturer completed its manufacturing operations. Chrysler went further to urge that the final-stage manufacturer's election of the latter model year not cause that manufacturer to become the manufacturer of that automobile for the purposes of Title V and to be compelled to comply with the applicable fuel economy standard for that model year. Chrysler's comments stemmed from a concern that the NPRM would have motivated final-stage manufacturers to order all of their incomplete automobiles for delivery early in each model year to avoid having to market out-of-date automobiles. That company stated that it had discouraged such one-time ordering because large block ordering was disruptive of its efforts to spread orders evenly over each model year.

The NHTSA believes that the Chrysler comments have merit. To avoid unnecessarily burdening both the incomplete automobile manufacturers and final-stage manufacturers, the rule has been revised to eliminate the model-year-determination provision. The elimination of that provision leaves the manufacturer free under Part 529 to designate the model year of its automobiles as it desires. However, the fuel economy label will bear the model year in which the manufacturer for purposes of standard and labeling compliance completed its manufacturing operations. Further, other laws may limit the discretion of the manufacturer in designating a model year. See the discussion below of the Auto Club comment.

The elimination of the provision on model year determination makes it unnecessary to respond in detail to an objection by GM to that provision. That company interpreted that provision as meaning that any multistage automobile that a final-stage manufacturer completes after the model year in which the incomplete automobile manufacturer completes its manufacturing operations would be subtracted from the incomplete automobile manufacturer's fleet for that earlier model year. That interpretation was wrong in several respects. However, the essential point is that the model year in which a multistage automobile is completed has no effect on the determination of which automobiles are to be counted as being in the incomplete automobile manufacturer's fleet.

The Auto Club objected to the model-year-determination proposal on the basis that it conflicted with California law. Section 11713.5 of the California Vehicle Code prohibits a dealer or manufacturer from offering for sale a motor vehicle if the vehicle is represented to be of a model year different from the model year designated at the time of manufacture or assembly. The Auto Club stated that "if the incomplete automobile manufacturer, who is the manufacturer for purposes of Federal law, designates a model year for the incomplete automobile, then any final-stage manufacturer licensed to do business in California who attempts to sell that automobile under subdivision (a) of Section 529.7 would be in violation of (the California Vehicle Code)."

The deletion of the model-year-determination provision eliminates the problem perceived by the Auto Club. The provision was eliminated in response to the Chrysler comment discussed above and to avoid the possibility of unnecessarily interfering with California law. The agency notes that the provision might not have caused any interference. The determination under Part 529 of which manufacturer is to be treated as the manufacturer of a multistage automobile is controlling for the limited purposes of Title V only. Under the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1391 et seq.) and implementing regulation in 49 CFR Part 568, the final-stage manufacturer is treated as the manufacturer. These differing determinations of who is to be treated as a manufacturer to serve different statutory purposes do not control the determination of who is a manufacturer under California law. California, not Federal, law must be interpreted to determine which of the manufacturers of a multi-stage automobile is the manufacturer of the automobile for the purposes of § 11713.5 of the California Vehicle Code.

*Additional comments.* Ford suggested that the proposal be modified to include express reference to importers of incomplete automobiles in the definition of "incomplete automobile manufacturer." This agency does not believe that this additional language is necessary. The term "manufacture" is defined in section 501 to include the importation of automobiles into the customs territory of the United States.

Chrysler recommended that the NHTSA consider exempting an incomplete automobile manufacturer from any







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responsibility under Title V with respect to its complete automobiles if those automobiles constitute less than 2 percent of the total number of automobiles that the manufacturer produces in that class. This recommendation was based upon Chrysler's arguments about the negligible effects of those incomplete automobiles on the average fuel economy of the manufacturer. There is no authority under Title V for adopting Chrysler's suggestion. Exemption from standard compliance responsibilities are available only to low volume manufacturers of passenger automobiles. Most multistage automobiles are nonpassenger automobiles. Further, the exemptions are not complete. Alternative standards must be established for exempted manufacturers.

GM recommended that the multistage automobile rule be drafted to permit a final-stage manufacturer which manufactures less than 10,000 automobiles per year to petition for an exemption under section 502(c) of Title V. That company stated that when an exemption is granted for multistage automobiles, their incomplete automobile manufacturer should not have to include any of them in its fleet. Section 502(c) provides for the exemption of manufacturers which manufacture less than 10,000 passenger automobiles per year. As noted above, the exemptions can apply to passenger automobiles only and can be granted only if an alternative standard is established for the exempted passenger automobiles. The eligibility of a final-stage manufacturer to apply for an exemption depends upon the number of passenger automobiles it produces, assembles, or imports and upon whether it is treated under this rule as the manufacturer of those automobiles. If the final-stage manufacturer produces a multistage automobile but is not treated as its manufacturer, that final-stage manufacturer may not obtain its exemption under section 502(c). An exemption may be granted to a manufacturer for automobiles for which the manufacturer is treated as the manufacturer under Title V only if the manufacturer can demonstrate that its maximum feasible average fuel economy is less than the level of average fuel economy specified in the standard generally applicable to all manufacturers. An automobile for whose fuel economy the final-stage manufacturer has no responsibility has no bearing upon its maximum feasible average. If the final-stage manufacturer produces a multistage automobile and is treated as its manufacturer, that automobile is excluded by this rule from the incomplete automobile manufacturer's fleet irrespective of any exemption. Thus, GM's comment states no basis for changing the rule.

In light of the foregoing, Title 49, Code of Federal Regulations, is amended by adding a new Part 529, Manufacturers of Multistage Automobiles, to read as set forth below.

The program official and lawyer principally responsible for the development of this rule are Roy Dennison and Kathy DeMeter, respectively.

ROY DENNISON,
*Program Official.*

KATHY DEMETER,
*Lawyer.*

Issued in Washington, D.C., on July 21, 1977.

JOAN CLAYBROOK,
*National Highway Traffic Safety Administrator.*

Sec.
529.1 Scope and purpose.
529.2 Applicability.
529.3 Definitions.
529.4 Requirements for incomplete automobile manufacturers.
529.5 Requirements for intermediate manufacturers.
529.6 Requirements for final-stage manufacturers.
529.7 Determination of model year.

AUTHORITY: Sec. 301, Pub. L. 94-163, 80 Stat. 901 (15 U.S.C. 2001), delegation of authority at 41 FR 25015, June 22, 1976.

**§ 529.1 Scope and purpose.**

This part determines, in cases where more than one person is the manufacturer of an automobile, which person is to be treated as the manufacturer for purposes of compliance with Title V of the Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 2001 et seq.) and rules issued thereunder.

**§ 529.2 Applicability.**

This part applies to incomplete automobile manufacturers, intermediate manufacturers, and final-stage manufacturers of automobiles that are manufactured in two or more stages.

**§ 529.3 Definitions.**

(a) *Statutory terms.* (1) The term "automobile" is used as defined in section 501 of the Act and in accordance with the determinations in 49 CFR Part 523.

(2) The terms "manufacture," "manufacturer," and "fuel economy" are used as defined in section 501 of the Act.

(b) *Other terms.* (1) "Act" means the Motor Vehicle Information and Cost Savings Act (Pub. L. 92-513), as amended by the Energy Policy and Conservation Act (Pub. L. 94-163).

(2) "Completed automobile" means an automobile that requires no further manufacturing operations to perform its intended function, other than the addition of readily attachable components, such as m----- or tire and rim assemblies, or m----- finishing operations such as painting.

(3) "Curb weight" is defined the same as "vehicle curb weight" in 40 CFR Part 86.

(4) "Final-stage manufacturer" means a person who performs such manufacturing operations on an incomplete automobile that it becomes a completed automobile.

(5) "Frontal area" is used as defined in 40 CFR § 86.079-2.

(6) "Incomplete automobile" means an assemblage consisting, as a minimum, of frame and chassis structure, power train, steering system, suspension system, and braking system to the extent that those systems are to be part of the completed automobile, that requires further manufacturing operations, other than the addition of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, to become a completed automobile.

(8) "Intermediate manufacturer" means a person, other than the incomplete automobile manufacturer or the final-stage manufacturer, who performs manufacturing operations on an incomplete automobile.

(7) "Incomplete automobile manufacturer" means a person who manufactures an incomplete automobile by assembling components none of which, taken separately, constitute an incomplete automobile.

**§ 529.4 Requirements for incomplete automobile manufacturers.**

(a) Except as provided in paragraph (c) of this section, § 529.5 and § 529.6, each incomplete automobile manufacturer is considered, with respect to multistage automobiles incorporating its incomplete automobiles, the manufacturer of the multistage automobiles for purposes of the requirements of Title V and rules issued thereunder.

(b) Each incomplete automobile manufacturer shall furnish with each of its incomplete automobiles, when it is delivered to the subsequent manufacturer, (1) a document that contains the following information—

(i) Name and mailing address of the incomplete automobile manufacturer.

(ii) Month and year during which the incomplete automobile manufacturer performed its last manufacturing operation on the incomplete automobile.

(iii) Identification of the incomplete automobile or group of incomplete automobiles to which the document applies. The identification may be by serial number or otherwise, but it must be sufficient to enable a subsequent manufacturer to ascertain positively that the document applies to a particular incomplete automobile even if the document is not attached to that automobile.

(iv) Fuel economy values determined by the incomplete automobile manufacturer for the automobile in accordance with 40 CFR Part 600 and a statement that a fuel economy label containing those values has been prepared in accordance with Environmental Protection Agency regulation by the manufacturer identified in the document.

(v) Maximum curb weight that may not be exceeded by a subsequent manufacturer without invalidating the fuel economy values determined by the incomplete automobile manufacturer.

(vi) Maximum frontal area that may not be exceeded by a subsequent manufacturer without invalidating the fuel economy values determined by the incomplete automobile manufacturer.

(vii) Whether the fuel economy values have been computed with the road load horsepower set to take into account the presence of air conditioning.

(2) A fuel economy label conforming with 40 CFR Part 600.

(c) (1) The incomplete automobile manufacturer shall either attach the document specified in paragraph (b)(1) of this section to the incomplete automobile in such a manner that it will not be inadvertently detached or send that document directly to the subsequent manufacturer to which that automobile is delivered.

(2) (i) If the incomplete automobile manufacturer places the portion of the body including the windshield and front seat side windows on the incomplete automobile, that manufacturer shall attach the fuel economy label specified in paragraph (b)(2) of this section to that automobile in accordance with 40 CFR Part 600. If the incomplete automobile manufacturer does not place that portion of the body on the incomplete automobile, that manufacturer shall send that label directly to the subsequent manufacturer to which that automobile is delivered.

(ii) Upon request by an intermediate or final-stage manufacturer for a copy of a fuel economy label that is required by paragraph (b)(2) to have been prepared by the incomplete automobile manufacturer for one of its incomplete automobiles, identified by the requesting manufacturer in the same fashion as in the document specified in paragraph (b)(1) of this section, the incomplete automobile manufacturer shall send that manufacturer a copy of the label.

**§ 529.5 Requirements for intermediate manufacturers.**

(a) Except as provided in paragraph (d) of this section and in § 529.6, each intermediate manufacturer whose manufacturing operations on an incomplete automobile cause it to exceed the maximum curb weight or maximum frontal area set forth in the document furnished it by the incomplete automobile manufacturer under § 529.4(c)(1) or by a previous intermediate manufacturer under paragraph (b) of this section, as appropriate, is considered the manufacturer of the multistage automobile manufactured from that automobile for the purpose of the requirements of Title V and rules issued thereunder, other than that in Part 537, Fuel Economy Reports.

(b) Each intermediate manufacturer of an incomplete automobile shall furnish, in the manner specified in § 529.4(c), to the subsequent manufacturer of that automobile the document required by § 529.4(b) regarding that automobile. If any of the changes in the automobile made by the intermediate manufacturer affect the validity of the fuel economy values or other statement in the document or any addendum attached to the document by a previous manufacturer of the automobile, the intermediate manufacturer shall furnish an addendum to the document that contains its name and mailing address and an indication of all changes that should be made in the document to reflect changes that it made in the automobile.

(c) Each intermediate manufacturer that is required by paragraph (b) of this section to furnish an addendum to a document required by § 529.4(b) shall, within 10 days after completing its manufacturing operations, send a copy of the document and addendum to the Administrator of the Environmental Protection Agency and to the manufacturer previously considered under this part to be the manufacturer of the automobile.

(d) (1) If the intermediate manufacturer's manufacturing operations on an incomplete automobile cause it to exceed the maximum curb weight or maximum frontal area set forth in the document furnished it by the incomplete automobile manufacturer under § 529.4(c)(1) or a previous intermediate manufacturer under paragraph (b) of this section, as appropriate, that manufacturer shall prepare a new fuel economy label for that automobile in accordance with 40 CFR Part 600.

(2) If neither the intermediate manufacturer of an incomplete automobile nor any previous manufacturer of that automobile has placed the portion of the body including the windshield and front seat side windows on that automobile, the intermediate manufacturer shall send the fuel economy label furnished it by the incomplete automobile manufacturer under § 529.4(c)(2)(i) or a previous intermediate manufacturer under paragraph (d)(2) of this section or prepared by it under paragraph (d)(1) of this section, as appropriate, directly to the subsequent manufacturer to which that automobile is delivered.

(3) If the intermediate manufacturer places the portion of the body including the windshield and front seat side windows on the incomplete automobile, that manufacturer shall attach the fuel economy label furnished it under § 529.4(c)(1) or paragraph (d)(2) of this section or the fuel economy label prepared by it under paragraph (d)(1) of this section, as appropriate, to that automobile in accordance with 40 CFR Part 600.

(4) The intermediate manufacturer shall attach to the incomplete automobile in accordance with 40 CFR Part 600 a fuel economy label identical to the label that is required under this part to have been prepared by the manufacturer considered under this part to be the manufacturer of that automobile if:

(i) The portion of the body including the windshield and front seat side windows was added to the incomplete automobile by a previous manufacturer;

(ii) The intermediate manufacturer's manufacturing operations do not cause that automobile to exceed either of the maxima specified in paragraph (d)(1) of this section; and

(iii) That label is not on that automobile when received by the intermediate manufacturer or is removed from that automobile while it is in the possession of that manufacturer.

(5) Upon request by a subsequent intermediate manufacturer or by a final-stage manufacturer for a copy of a fuel economy label prepared by the intermediate manufacturer under paragraph (d)(1) of this section for one of its incomplete automobiles, identified by the requesting manufacturer in the same fashion as in the document specified in § 529.4(b)(1), the intermediate manufacturer shall send that manufacturer a copy of that label.

**§ 529.6 Requirements for final-stage manufacturers.**

(a) Except as provided in paragraph (c) of this section, each final-stage manufacturer whose manufacturing operations on an incomplete automobile cause the completed automobile to exceed the maximum curb weight or maximum frontal area set forth in the document specified in § 529.4(b) and furnished it by the incomplete automobile manufacturer under § 529.4(c)(1) or by the last intermediate manufacturer under § 529.5(b), as appropriate, is considered the manufacturer of the completed automobile for the purpose of the requirements of Title V and rules issued thereunder, other than those in Part 537, Fuel Economy Reports.

(b) Each final-stage manufacturer that becomes the manufacturer of a multistage automobile under paragraph (a) of this section shall, within 10 days after completing its manufacturing operations on that automobile, send written notification of its exceeding the curb weight or frontal area maximum to the Administrator of the Environmental Protection Agency and to the manufacturer previously considered under this part to be the manufacturer of the automobile.

(c) (1) If the final-stage manufacturer becomes the manufacturer of a multistage automobile under paragraph (a)(1) of this section, that manufacturer shall prepare a new fuel economy label for that automobile in accordance with 40 CFR Part 600.

(2) If the final-stage manufacturer places the portion of the body including the windshield and front seat side windows on the incomplete automobile, that manufacturer shall attach the fuel economy label furnished by the incomplete automobile manufacturer under § 529.4(c)(2) or by the last intermediate manufacturer under § 529.5(d)(2) or the fuel economy label prepared by the final-stage manufacturer under paragraph (c)(1) of this section, as appropriate, to that automobile in accordance with 40 CFR Part 600.

(3) The final-stage manufacturer shall attach to the completed automobile in accordance with 40 CFR Part 600 a fuel economy label identical to the label that is required under this part to have been prepared by the manufacturer consid-







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ered under this part to be the manufacturer of that automobile if:

(i) The portion of the body including the windshield and front seat side windows was added to the completed automobile by a previous manufacturer;

(ii) The final-stage manufacturer's manufacturing operations do not cause that automobile to exceed either of the maxima specified in paragraph (c)(1) of this section; and

(iii) That fuel economy label is not on that automobile when received by that manufacturer or is removed from that automobile while it is in the possession of that manufacturer.

[FR Doc.77-21507 Filed 7-21-77;4:57 pm]

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[Docket No. FE 76-04; Notice 2]

## PART 525—EXEMPTIONS FROM AVERAGE FUEL ECONOMY STANDARDS

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This notice establishes the format and content requirements for petitions which may be filed by low volume manufacturers of passenger automobiles requesting exemption from average fuel economy standards pursuant to section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended. The notice also establishes the timing requirements for the filing of such petitions, and describes the procedures that the agency will follow in acting on petitions.

EFFECTIVE DATE: July 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Douglas F. Pritchard, Office of Automotive Fuel Economy, National Highway Traffic Safety Administration, Department of Transportation, Washington, D.C. 20590 (202-755-9384).

SUPPLEMENTARY INFORMATION: Section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended, (the Act) provides that a low volume manufacturer of passenger automobiles may be exempted from the average fuel economy standards for passenger automobiles established by or under section 502(a) if those standards are more stringent that the maximum feasible average fuel economy for the low volume manufacturer, and if the Administrator of the National Highway Traffic Safety Administration (NHTSA), establishes an alternative standard for the low volume manufacturer. A low volume manufacturer under the Act is one who manufactures less than 10,000 passenger automobiles in the model year for which the exemption is sought (the affected model year), and who produced less than 10,000 passenger automobiles in the second model year preceding the affected model year. This final rule adds a new Part 525 to NHTSA regulations, and establishes the timing, content, and format requirements of petitions for exemption, and sets forth the procedure that the agency will follow in acting on petitions.

This final rule was preceded by a notice of proposed rulemaking (NPRM) 41 FR 53827, December 9, 1976. The proposed rule provided that petitions for exemptions for model year 1980 and subsequent model years must be submitted to the agency not later than 24 months before the beginning of the affected model year. Petitions for exemption for model year 1978 must be submitted not less than three months before the beginning of that model year, and petitions for model year 1979 must be submitted not later than 12 months before the beginning of that model year. The petition would have to include information showing that the petitioner was a low volume manufacturer, and data, views, and arguments that show that the petitioner's maximum feasible average fuel economy for the affected model year is less than the level of the otherwise applicable fuel economy standard. The proposed rule set out specific items of information relating to the petitioner's claimed maximum feasible average fuel economy which all petitions must include.

The NPRM further proposed that the NHTSA would publish in the FEDERAL REGISTER notice of receipt of a petition for an exemption, and would place the nonconfidential portions of the petitions in the public docket. After considering the petition and other information available to it, the NHTSA would publish a notice of proposed rulemaking announcing its proposed decision on the petition, and soliciting comments on the proposed decision. After opportunity for comment, and a consideration of any comments that might be received, the NHTSA would publish its final decision on the petition. The decision would either grant the exemption and establish an alternative average fuel economy standard that the petitioner would have to meet, or would deny the petition. The reasons for the decision would also be set forth.

Three comments to the NPRM were received by the agency. Two of the commenters were low volume manufacturers of passenger automobiles, Checker Motors Corporation and Avanti Motor Corporation. The third commenter was Miss Suzanna Goodyear, who did not indicate an affiliation with any particular interest, and who presumably commented as an interested member of the public. In addition, the agency obtained information from Checker and Avanti in a series of telephone conversations supplementing their written comments. All written comments, and written memoranda of all telephone conversations were placed in the public docket. These comments and memoranda were carefully considered by the agency in the development of the final rule.

A number of issues were raised by the comments. These issues, and their resolution, along with specific changes to the proposed rule, are described in the following discussion.

### ISSUES RAISED BY THE COMMENTS AND CHANGES TO THE PROPOSED RULE

*Exemptions for nonessential automobiles.* Miss Suzanna Goodyear commented that exemptions from fuel economy standards should be given only to vehicles that are "vital to our society, like fire engines." Miss Goodyear stated that she did not agree with exempting what she termed "specialty cars" and that she could see no reason to encourage motorized recreation. Strictly speaking, Miss Goodyear's comment relates to the decision on a petition for an exemption, rather than the procedural and format requirements governing such petitions. At this time, the agency does not believe that any manufacturer of passenger automobiles who qualifies as a low volume manufacturer under section 502(c) should be prohibited from petitioning for an exemption from an otherwise applicable fuel economy standard because of the intended use of vehicles, or for any other reason. However, although any low volume manufacturer of passenger automobiles may petition for an exemption regardless of the intended use of the vehicles manufactured, the nature of the vehicle may be relevant to the determination of the maximum feasible average fuel economy which the petitioner can achieve. Some aspects of vehicle design and performance may be deemed less critical than others compared to the need to conserve energy. Thus, in the process of establishing alternative standards for exempted manufacturers, the agency may determine that greater trade-offs can be made between those less critical aspects and improved fuel economy than can be made regarding the other aspects of design and performance.

*Need for alternative stondards.* Both Checker and Avanti questioned whether an alternative average fuel economy standard should be established for a low volume manufacturer who has received an exemption. Avanti suggested that manufacturers of less than 500 passenger automobiles per model year be completely exempted from compliance with fuel economy standards, while alternative standards be set for manufacturers producing between 500 and 10,000 passenger automobiles per model year. Section 502(c) clearly provides that exemptions can be granted only when alternative standards are established:

> The Secretary [or his delegate, the Administrator of NHTSA] may not issue exemptions with respect to a model year unless he establishes, by rule, alternative average fuel economy standards for passenger automobiles manufactured by manufacturers which receive exemptions under this subsection. • • • Each such standard shall be set at a level which the [Administrator] determines is the maximum feasible average fuel economy level for the manufacturers to which the standard applies.

It is difficult to imagine statutory language that more clearly and completely prohibits the Administrator from granting exemptions from fuel economy standards when no alternative standard is set. Congress, by including section 502(c) in





the Act, recognized that low volume manufacturers may have special problems in improving fuel economy that are not shared by the major industry manufacturers, and that these special problems could justify special treatment for the low volume manufacturers. Nevertheless, the language of section 502(c) clearly shows that Congress expected low volume manufactureres to attain the maximum level of average fuel economy consistent with their capabilities. Because of this clear expression of Congressional intent on the issue of alternative standards, the comments of Checker and Avanti in this regard must be rejected. As a final word on this point, Avanti asserted as part of its claim for total exemption, that it was disadvantaged in its effort to meet an average fuel economy standard because they produce only one type of vehicle and are therefore unable to do any fuel economy averaging. The fact that Avanti cannot average a variety of passenger automobiles will be considered by the agency in determining Avanti's maximum feasible average fuel economy, should it petition for an exemption. Therefore, Avanti's narrow product line should not disadvantage them in any way.

*Need for product and marketing information.* Avanti suggested in its comment that any low volume manufacturer which uses an engine that has been tested by the manufacturer of the engine should be exempt from any fuel economy test requirements and should not be required to file a petition containing justification for an exemption from a fuel economy standard. Avanti suggested that a statement indicating the type of engine used in the vehicle, and a reference to the testing of the engine by the engine manufacturer should be sufficient.

The automotive fuel economy program is concerned with the fuel economy of automobiles, not the fuel economy of engines alone. Although the engine of a passenger automobile has a substantial effect on its fuel economy, the engine is only one of many aspects of a passenger automobile that determine the fuel economy of that vehicle. Other aspects, such as transmissions, axle ratios, and vehicle weight, also have a substantial effect on the fuel economy of a passenger automobile. To consider only the engine, as Avanti suggests, would be to ignore many important passenger automobile attributes which relate to fuel economy, and would give an extremely inaccurate picture of the fuel economy of a particular passenger automobile. The agency must have information about a variety of passenger automobile characteristics if it is to carry out its statutory task of determining maximum feasible average fuel economy. Moreover, the Environmental Protection Agency (EPA), which has issued regulations for the fuel economy testing of passenger automobiles, does not require the testing of engines, but vehicle configurations, which are a unique combination of basic engine, engine code, inertia weight, transmission configuration, and axle ratio. Thus, engine test results would not be sufficient for the agency to rely upon. Further, as a representative of Avanti stated in a telephone conversation with an employee of the agency, the suggestion relating to engine testing would have been more appropriately directed to the EPA.

Although Avanti's suggestion that referencing engine test results is a sufficient showing to support a petition for an exemption cannot be adopted, the agency notes that the regulation is not intended to require any low volume manufacturer to conduct fuel economy testing in support of a petition. It is permissible under section 525.7(e) of the proposed and final regulation for a low volume manufacturer to submit test results of passenger automobiles with similar configurations to the passenger automobiles for which an exemption is being sought, and to extrapolate projected fuel economy values from those results. Thus, although more than engine tests will be required, the agency has endeavored to minimize the testing burden for the low volume manufacturer.

*Schedule for the submission of petitions.* Both Checker and Avanti objected to the proposed requirement that petitions for exemption for model years beyond 1980 be submitted not later than 24 months in advance of the affected model year. The objections of Checker and Avanti had the same basis. Both manufacturers purchase engines from General Motors instead of building the engines themselves. General Motors does not supply Checker or Avanti with engine data relating to fuel economy performance until shortly before the time those manufacturers begin production for a model year. Therefore, both Avanti and Checker claim that they would be unable to petition for an exemption two years in advance of the affected model year because they would have insufficient data upon which to base a projection of average fuel economy.

The objection of Checker and Avanti to the two year requirement raises a difficult problem for the agency. The agency realizes that the low volume manufacturers which purchase engines for use in their vehicles must depend on their engine suppliers for much information relating to the engine, especially the effects of the engine on fuel economy. Moreover, since General Motors, the engine supplier for both Checker and Avanti, has been continually developing engines with improved fuel economy, it is likely that the fuel economy effects of any particular size engine will change over time. Therefore, even a low volume manufacturer that traditionally buys the same size engine and plans to continue doing so will not necessarily know what effect a future engine of that size will have on fuel economy. Also, the manufacturer of the engine may be reluctant to tell the low volume manufacturer what the likely fuel economy effects of a particular engine will be on the grounds that the information is unknown, or is a trade secret. Without data relating to the fuel economy of the engine, the low volume manufacturer will have difficulty projecting the future fuel economy of its automobiles.

Nevertheless, the agency wishes to avoid the situation in which it must accept the low volume manufacturers' planned fuel economy as the maximum feasible level of average fuel economy because there is insufficient leadtime to make fuel economy improvements that the petitioner could have made with more leadtime. Such situations are likely to arise if the agency waits until just before the beginning of the affected model year to reach a decision on a petition for exemption, as it must do if petitions are accepted up until shortly before the affected model year. Further, the agency wants to make its decision on a petition for exemption and alternative standard as early as possible so that the low volume manufacturer will have a firm fuel economy target, and enough leadtime to make whatever product or marketing changes which may be necessary to meet the alternative standard, if the exemption is granted, or the general standard if the exemption is not granted.

The agency has decided to retain the two year requirement. Retention of this requirement is more consistent with the basic energy conservation purposes of the Act since it permits the setting of standards that will require greater fuel economy improvements by the exempted manufacturers. The agency believes also that it is essential that the low volume manufacturers know the fuel economy standard which they will have to meet well in advance of the beginning of the affected model year so that they may make any necessary changes in their product plans with a maximum of efficiency and a minimum of expense and disruption. Allowing petitions for exemption to be filed six or seven months before the beginning of the affected model year would barely leave the agency time to reach a decision before the manufacturer must begin production, and would leave the manufacturer little time to make any changes that may be necessary in light of the decision on the petition.

Moreover, the agency believes that the lack of engine data problem raised by Checker and Avanti is not insurmountable. Although Checker and Avanti have been unable to get the most current engine performance data, neither company has experienced significant difficulty in obtaining an engine which they desired. Thus, the low volume manufacturers know to a high degree of certainty what engines will be available for their use. With this knowledge, the low volume manufacturers should be able to make reasonable projections of the range of fuel economy which they can expect to achieve. For example, if a low volume manufacturer uses a 350 cubic inch displacement engine in the year of application (two years before the beginning of the affected model year and knows that it will be able to use a 350 cubic inch engine in the affected model year, the low volume manufacturer can assume no



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improvement in fuel economy from the engine, and can project fuel economy for the effected model year from other aspects of the vehicle, such as weight reduction or lowering the axle ratio. The low volume manufacturer can also project fuel economy improvement from using a smaller engine in the affected model year, such as a 305 cubic inch engine.

In addition, the agency believes that the low volume manufacturer may be able to project increases in fuel economy associated with particular improvements in an engine. Both Avanti and Checker indicated to the agency that General Motors has always been extremely helpful to them in their product planning to allow them to accommodate the General Motors engines. As the fuel economy performance of the engines becomes a more significant aspect of the product planning of the low volume manufacturers, they may find that General Motors will be willing to assist them by supplying advance engine information relating to fuel economy. In addition, the agency, through reporting requirements applicable to General Motors, or other engine suppliers, or through subpena, could obtain information about the fuel economy effects of a particular engine. The agency would use this information to evaluate the maximum feasible average fuel economy of the low volume manufacturer. In light of these considerations, the agency has determined that the public interest in energy conservation, as well as the interest of the low volume manufacturers will be best served by requiring petitions for exemption for model years beyond 1980 to be filed not later than two years before the beginning of the affected model year.

Notwithstanding the foregoing, the agency has determined to provide for situations where new information obtained within two years of the beginning of the affected model year can be brought to the agency's attention, and possibly modify the decision on a petition for an exemption. Therefore, section 525.11 of the final rule allows a low volume manufacturer which has had a petition denied to reapply, anytime before the beginning of the affected model year, on the basis of information that was unavailable despite due diligence, at the time of the original application. This change is intended to ensure that no low volume manufacturer is deprived of an opportunity to make a comolete showing of his maximum feasible average fuel economy by the requirement that petitions for exemotions for model years beyond 1979 be filed not later than two years before the beginning of the affected model year.

With respect to petitions for exemptions for model year 1978, the agency has decided to delete the requirement that petitions be submitted not later than three months before the beginning of that model year. Under the final rule, petitions may be submitted at any time before the beginning of the model year. This change was made since less than three months remain before model year 1978. The two low volume manufacturers that have thus far indicated an interest in petitioning for an exemption have previously been advised that if they wish to submit petitions, they could do so by following the format and content requirements of the proposed rule.

The agency has made the following technical and clarifying changes to the rule.

The phrase "content and format requirements for petitions for exemptions" is substituted for the term "guidelines" in section 525.2, to make clear that the requirements of Part 525 are mandatory and not merely advisory.

A new paragraph (b) is added to section 525.7, requiring petitioners to state whether the petitioner controls, is controlled by, or is under common control with another manufacturer of passenger automobiles, and if so, to indicate the number of passenger automobiles manufactured by such other manufacturer in the second model year immediately preceding the affected model year. The agency interprets the term "control" to include any stock ownership, credit relationship or contractual arrangement which enables one person, as a practical matter to influence the decisions of another person. Paragraphs (b) through (g) are redesignated (c) through (h).

In addition, the paragraph that was 525.7(e) in the NPRM is amended by substituting "40 CFR 600.506(a)(2)" for "40 CFR (a)(2)". This amendment corrects a typographical error which appeared in the NPRM and is not a substantive change.

The subparagraph that appeared as 525.7(d)(5) in the NPRM is amended to read "fuel metering system, including the number of carburetor barrels, if applicable". This change is not substantive, but is made to make the subparagraph consistent with terminology in EPA regulations in 40 CFR Part 600.

The subparagraph that appeared in the NPRM as 525.7(g)(5) would have required petitioners which are not considering means or strategies to comply with applicable average fuel economy standards for the affected model year to explain its reasons for not doing so. This subparagraph is amended to make it clear that the explanations are to be comprehensive. As amended, the subparagraph requires that the explanation include discussion of weight reduction, straight-line acceleration reduction, other technological changes or improvements, and shifts in production mix. This amendment will ensure that the agency receives economic and technological justification for all major aspects of potential fuel economy improvement.

All references to "Part 522" are deleted. At the time of the NPRM, the agency intended to issue a procedural regulation, Part 522, that would specify the informal rulemaking procedures used by the agency in the fuel economy area. The agency has since decided to continue to use the procedures in 47 CFR 551–553.

In light of the foregoing, Title 49, Code of Federal Regulations, is amended by adding a new Part 525, *Exemptions From Average Fuel Economy Standards*, to read as set forth below. Because these rules are procedural in nature, the agency has determined that they shall become effective on the date of publication in the FEDERAL REGISTER.

The program official and lawyer principally responsible for the development of this regulation are Douglas Pritchard and David Zisser, respectively.

DOUGLAS PRITCHARD.
DAVID ZISSER.

Issued on July 21, 1977.

JOAN CLAYBROOK,
*National Highway Traffic Safety Administrator.*

Sec.
525.1 Scope.
525.2 Purpose.
525.3 Applicability.
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525.5 Limitation on eligibility.
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525.7 Basis for petition.
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525.9 Duration of exemption.
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525.11 Termination of exemption; amendment of alternative average fuel economy standard.
525.12 Public inspection of information.
525.13 Confidential information.

AUTHORITY: Sec. 301, Pub. L. 94–163, 89 Stat. 871 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976).

### § 525.1 Scope.

This part establishes procedures under section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 2002) for the submission and disposition of petitions filed by low volume manufacturers of passenger automobiles to exempt them from the average fuel economy standards for passenger automobiles and to establish alternative average fuel economy standards for those manufacturers.

### § 525.2 Purpose.

The purpose of this Part is to provide content and format requirements for low volume manufacturers of passenger automobiles which desire to petition the Administrator for exemption from applicable average fuel economy standards and for establishment of appropriate alternative average fuel economy standards and to give interested persons an opportunity to present data, views and arguments on those petitions.

### § 525.3 Applicability.

This part applies to passenger automobile manufacturers.

### § 525.4 Definitions.

*(a) Statutory terms.* (1) The terms "fuel," "manufacture," "manufacturer," and "model year," are used as defined in section 501 of the Act.

(2) The terms "average fuel economy," "fuel economy," and "model type" are used as defined in 40 CFR 600.002–77.





(3) The term "automobile" means a vehicle determined by the Administrator under 49 CFR 523 to be an automobile.

(4) The term "passenger automobile" means an automobile determined by the Administrator under 49 CFR 523 to be a passenger automobile.

(5) The term "customs territory of the United States" is used as defined in 19 U.S.C. 1202.

*(b) Other terms.* (1) The terms "base level" and "vehicle configuration" are used as defined in 40 CFR 600.002–77.

(2) The term "vehicle curb weight" is used as defined in 40 CFR 85.002.

(3) The term "interior volume index" is used as defined in 40 CFR 600.315–77.

(4) As used in this Part, unless otherwise required by the context—

"Act" means the Motor Vehicle Information and Cost Savings Act (Pub. L. 92–513), as amended by the Energy Policy and Conservation Act (Pub. L. 94–163);

"Administrator" means the Administrator of the National Highway Traffic Safety Administration;

"Affected model year" means a model year for which an exemption and alternative average fuel economy standard are requested under this Part;

"Designated seating position" means any plan view location intended by the manufacturer to provide seating accommodation while the automobile is in motion, for a person at least as large as a fifth percentile adult female, except auxiliary seating accommodations such as temporary or folding jump seats;

"Fifth percentile adult female" means a person possessing the dimensions and weight of the fifth percentile adult female specified for the total age group in Public Health Service Publication No. 1000, Series 11, No. 8 "Weight, Height, and Selected Body Dimensions of Adults;" and

"Production mix" means the number of passenger automobiles, and their percentage of the petitioner's annual total production of passenger automobiles, in each vehicle configuration which a petition plans to manufacture in a model year.

### § 525.5 Limitation on eligibility.

Any manufacturer that manufactures (whether or not in the customs territory of the United States) 10,000 or more passenger automobiles in the second model year preceding an affected model year or in the affected model year is ineligible for an exemption for that affected model year.

### § 525.6 Requirements for petition.

Each petition filed under this part must—

(a) Identify the model year or years for which exemption is requested;

(b)(1) In the case of a petition for exemption for model year 1978, be submitted anytime before the beginning of that model year;

(2) In the case of a petition for exemption for model year 1979, be submitted not later than 12 months before the beginning of that model year;

(3) In the case of a petition for exemption for model year 1980 or any subsequent model year, be submitted not later than 24 months before the beginning of that model year;

(c) Be submitted in three copies to: Administrator, National Highway Traffic Safety Administration, Washington, D.C. 20590;

(d) Be written in the English language;

(e) State the full name, address and title of the official responsible for preparing the petition;

(f) Set forth in full data, views and arguments of the petitioner supporting the exemption and alternative average fuel economy standard requested by the petitioner, including the information and data specified by § 525.7 and the calculations and analyses used to develop that information and data. No documents may be incorporated by reference in a petition unless the documents are submitted with the petition;

(g)(1) Specify and segregate any part of the information and data submitted under this part that the petitioner wishes to have withheld from public disclosure.

(2) With respect to information and data requested to be withheld under 5 U.S.C. 552(b)(4), show that the information and data is within the scope of section 552(b)(4), show that disclosure of the information and data would result in significant competitive damage, specify the period during which the information and data must be withheld to avoid that damage, and show that earlier disclosure would result in that damage.

### § 525.7 Basis for petition.

(a) The petitioner shall include the information specified in paragraphs (b) through (g) of this section in its petition.

(b) Whether the petitioner controls, is controlled by, or is under common control with another manufacturer of passenger automobiles, and if so, the nature of that control relationship, and the total number of passenger automobiles manufactured by such other manufacturer or manufacturers.

(c) The total number of passenger automobiles manufactured or likely to be maufactured (whether or not in the customs territory of the United States) by the petitioner in the second model year immediately preceding each affected model year.

(d) For each affected model year, the petitioner's projections, based on the average fuel economy standard for passenger automobiles from which an exemption is being sought, of its total production and of its production mix of all base levels of its passenger automobiles, to be manufactured in that model year, and all vehicle configurations within each of those base levels, and a discussion demonstrating that the projections are reasonable. The discussion shall include information showing that the projections are consistent with—

(1) The petitioner's annual total production and production mix of passenger automobiles manufactured or likely to be manufactured in each of the four model years immediately preceding that affected model year;

(2) Its passenger automobile production capacity for that affected model year;

(3) Its efforts to comply with that average fuel economy standard; and

(4) Anticipated consumer demand in the United States for passenger automobiles during that affected model year.

(e) For each affected model year, a description of the following features of each vehicle configuration of the petitioner's passenger automobiles to be manufactured in that affected model year;

(1) Maximum overall body width, overall length, and overall height, determined in accordance with Motor Vehicle Dimensions SAE J1100a (report of Human Engineering Committee, approved September 1973, as revised September 1975);

(2) Vehicle curb weight;

(3) Number of designated seating positions and interior volume index;

(4) Engine type, displacement, and SAE net horsepower;

(5) Fuel metering system, including the number of carburetor barrels, if applicable,

(6) Drive train configuration and ratios; and

(7) Emission control system.

(f) For each affected model year, a fuel economy value for each vehicle configuration specified in 40 CFR 600.506(a)(2), base level, and model type of the petitioner's passenger automobiles to be manufactured in that affected model year calculated in accordance with Subpart C of 40 CFR Part 600 and based on tests or analyses comparable to those prescribed or permitted under 40 CFR Part 600 and a description of the test procedures or analytical methods.

(g) For each affected model year, an average fuel economy figure for the petitioner's passenger automobiles to be manufactured in that affected model year calculated in accordance with 40 CFR 600.510(e) and based upon the fuel economy values provided under paragraph (f) of this section and upon the petitioner's production mix projected under paragraph (d) of this section for the affected model year.

(h) Information demonstrating that the average fuel economy figure provided for each affected model year under paragraph (f) of this section is the maximum feasible average fuel economy achievable by the petitioner for that model year, including—

(1) For each affected model year and each of the two model years immediately following the last affected model year, a description of the technological means and marketing strategies selected by the petitioner for increasing the fuel economy of each vehicle configuration of its passenger automobiles to be manufactured in that model year or for increasing the average fuel economy of those passenger automobiles.

(2) A chronological description of the petitioner's past and planned efforts to implement the means and strategies de-



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scribed under paragraph (g)(1) of this section.

(3) A discussion of the effect of other Federal motor vehicle standards on the fuel economy of the petitioner's passenger automobiles.

(4) For each affected model year, a discussion of the alternative and additional means and strategies considered but not selected by the petitioner that would have enabled any vehicle configuration of its passenger automobiles to be manufactured in that affected model year to achieve a higher fuel economy than is achievable with the means described under paragraph (g)(1) of this section or enabled those passenger automobiles to achieve a higher average fuel economy that is achievable with the strategies described under that paragraph.

(5) In the case of a petitioner which is not considering means or strategies that will enable it to comply with the applicable average fuel economy standard for each affected model year, an explanation of the petitioner's reasons for not doing so. The explanation must include a discussion of why no weight reduction, straight line acceleration reduction technological improvements, or shifts in production mix are being considered.

(6) In the case of a petitioner which plans to increase the average fuel economy of its passenger automobiles to be manufactured in either of the two model years immediately following an affected model year, an explanation of the petitioner's reasons for not making those increases in that affected model year.

**§ 525.8 Processing of petitions.**

(a) Notice of receipt of each petition containing the information required by this Part is published in the FEDERAL REGISTER. The notice summarizes the petition, describes the options available to the Administrator regarding the petition and invites written public comment on the petition.

(b) If a petition is found not to contain the information required by this Part, the petition is informed about the areas of insufficiency and advised that the petition will not receive further consideration until the required information is submitted.

(c) The Administrator may request the petitioner to provide information in addition to that required by this Part.

(d) The Administrator publishes a proposed decision in the FEDERAL REGISTER. The proposed decision indicates the proposed grant of the petition and establishment of an alternative average fuel economy standard, or the proposed denial of the petition, specifies the reasons for the proposal and invites written public comment on the proposal.

(e) Any interested person may, upon written request submitted to the Administrator not later than 15 days after the publication of a notice under paragraph (d) of this section, meet informally with an appropriate official of the National Highway Traffic Safety Administration to discuss the petition or the notice.

(f) After the conclusion of the period for public comment on the proposal, the Administrator publishes a final decision in the FEDERAL REGISTER. The final decision is based on the petition, written public comments, and other available information. The final decision sets forth the grant of the exemption and establishes an alternative average fuel economy standard or the denial of the petition, and the reasons for the decision.

**§ 525.9 Duration of exemption.**

An exemption may be granted under this Part for not more than three model years.

**§ 525.10 Renewal of exemption.**

A manufacturer exempted under this Part may request renewal of its exemption by submitting a petition meeting the requirements of §§ 525.6 and 525.7.

**§ 525.11 Termination of exemption; amendment of alternative average fuel economy standard.**

(a) Any exemption granted under this Part for an affected model year does not apply to a manufacturer that is ineligible under § 525.5 for an exemption in that model year.

(b) The Administrator may initiate rulemaking either on his own motion or on petition by an interested person to terminate an exemption granted under this Part or to amend an alternative average fuel economy standard established under this Part.

(c) Any interested persons may petition the Administrator to terminate an exemption granted under this Part or to amend an alternative average fuel economy standard established under this Part.

**§ 525.12 Public inspection of information.**

Except as provided in § 525.13, any person may inspect available information relevant to a petition under this Part, including the petition and any supporting data memoranda of informal meetings with the petitioner or any other interested persons, and the notices regarding the petition, in the Docket Section of the National Highway Traffic Safety Administration. Any person may obtain copies of the information available for inspection under this paragraph in accordance with Part 7 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 7).

**§ 525.13 Confidential information.**

(a) Information made available under § 525.12 for public inspection does not include information for which confidentiality is requested under § 525.6(g) and is granted in accordance with sections 502 and 505 of the Act and section 552(b) of Title 5 of the United States Code.

(b) *Denial of confidential treatment.* When the Administrator denies a petitioner's request under § 525.6(g) for confidential treatment of information, the Administrator gives him written notice of the denial at least 10 days before making the information available for public inspection

(c) *Release of confidential information.* After giving written notice to the petitioner and allowing a reasonable time for the petitioner to respond, the Administrator may make available for public inspection information that is relevant to a proceeding under this Part or the Act and that was granted confidential treatment by the Administrator pursuant to a request by the petitioner under § 525.6(g).

[FR Doc.77-21506 Filed 7-21-77;4:57 pm]

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[Docket No. FE 76-1; Notice 5]

## PART 531—PASSENGER AUTOMOBILE AVERAGE FUEL ECONOMY STANDARDS

### Final Rule

*Correction*

In FR Doc. 77-18787 appearing at page 33534 in the issue for Thursday, June 30, 1977, make the following corrections:

1. In the seventh line from the bottom, third column, page 33535, delete "the".

2. In the third line from the end of the second full paragraph, middle column, page 33546, "0.1 percent" should read "1 percent"

3. In the fourteenth line of the first column, page 33550, "manufacturer's" should read "manufacturers' ".

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[Docket 74-25; Notice 05]

## PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

### Passenger Car Tires

*Correction*

NOTE.—The following correction was originally published at page 37970 in the issue for Tuesday, July 26, 1977. It is being reprinted here in order to meet Day-of-the-Week publication requirements.

In FR Doc. 77-21013 appearing at page 37370 in the issue for Thursday, July 21, 1977, in the amendment to § 571.109, the last number in the line of figures now reading "655" should have read "665".

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## CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1270]

## PART 1033—CAR SERVICE

### The Chesapeake and Ohio Railway Company Authorized To Operate Over Tracks Abandoned by Grand Trunk Western Railroad Company

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order.

SUMMARY: This document authorizes The Chesapeake and Ohio Railway Company to operate over approximately 0.6 mile of track authorized to be abandoned by the Grand Trunk Western Railroad, between Ferrysburg, Mich., and Grand Haven, Mich. The trackage involved is owned by the Grand Trunk Western but is used as an integral part of The Chesapeake and Ohio's line between Holland, Mich., and Muskegon, Mich. The order also authorizes The Chesapeake and Ohio to operate over an additional 0.2 mile of tracks abandoned by the Grand Trunk Western in order to provide continued rail service to a shipper located adjacent to those tracks.

DATES: Effective 12:01 a.m., July 23, 1977. Expires 11:59 p.m., January 15, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The order (Service Order No. 1270) is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 22nd day of July, 1977.

*It appearing*, That in Docket AB-31 (Sub-No. 2), the Grand Trunk Western Railroad Company (GTW) was authorized to abandon its line between milepost 172.6 at Cooperville, Mich., and milepost 188.25 at Grand Haven, Mich.; that approximately 0.6 miles of this line between milepost 187.14 at Ferrysburg, Mich., and milepost 187.71 at Grand Haven, Mich., is used by The Chesapeake and Ohio Railway Company (C&O) as a portion of its line between Holland, Mich., and Muskegon, Mich.; that a certain industry located at GTW milepost 186.96 at Ferrysburg is in need of continued rail service; that the C&O is willing to provide service to that shipper; that the GTW has consented to continued use by the C&O of its line between mileposts 187.14 at Ferrysburg and 187.71 at Grand Haven and to additional use by the C&O of its line between mileposts 186.96 and 187.14 at Ferrysburg; that use of these tracks of the GTW in the vicinity of Grand Haven and Ferrysburg by the C&O is necessary for continued operation by the C&O over its line between Holland and Muskegon and to provide continued rail service to the aforementioned shipper; that such operation by the C&O over these tracks abandoned by the GTW is necessary in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure herein are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

*It is ordered*, That:

**§ 1033.1270 Services Order No. 1270.**

(a) *The Chesapeake and Ohio Railway Company authorized to operate over tracks abandoned by Grand Trunk Western Railroad Company.* The Chesapeake and Ohio Railway Company (C&O) be, and it is hereby authorized to operate over tracks abandoned by the Grand Trunk Western Railroad Company (GTW) between GTW milepost 187.14 at Ferrysburg, Mich., and GTW milepost 187.71 at Grand Haven, Mich., and between an industrial track connection at GTW milepost 186.96 at Ferrysburg and GTW milepost 187.14, also at Ferrysburg, a distance of 0.6 miles and 0.2 miles, respectively.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Effective date.* This order shall become effective at 12:01 a.m., July 23, 1977.

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 15, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15 and 17(2), 24 Stat 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

*It is further ordered.* That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, JR.,
*Acting Secretary.*

[FR Doc.77-21679 Filed 7-27-77;8:45 am]

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## Title 50—Wildlife and Fisheries

## CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

## PART 32—HUNTING

### Opening of Waubay National Wildlife Refuge, South Dakota, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of Waubay National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Gun: November 26, 1977, through December 4, 1977; Archery: December 5, 1977, through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert R. Johnson, Waubay National Wildlife Refuge, Waubay, South Dakota 57273, phone number 605-947-4695.

SUPPLEMENTARY INFORMATION:

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

Hunting is permitted on the Waubay National Wildlife Refuge, South Dakota, only on the areas designated by signs as being open to hunting. This area, comprising 4,591 acres, is delineated on maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, 439 Federal Building, P.O. Box 250, Pierre, South Dakota 57501. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. No hunting within the 60-acre safety zone surrounding refuge headquarters
2. All refuge roads and trails within the open hunting area, other than public roads, will be closed to vehicles. All gates and trails, however, will be open to foot traffic.
3. Campfires are prohibited.
4. All deer taken on the area must be checked in at refuge checking station located at the old CCC camp site.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 20, 1977.

KENT F. HALL,
*Acting Refuge Manager.*

[FR Doc.77-21730 Filed 7-27-77;8:45 am]

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## Title 7—Agriculture

## CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 566]

## PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

### Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period July 29-Aug. 4, 1977. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the regulation period because of the production and marketing situation confronting the orange industry.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. De-







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partment of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of Valencia oranges, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantities of Valencia oranges that may be marketed from District 1, District 2, or District 3 during the specified week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation for the quantities of Valencia oranges that should be marketed during the specified week. The recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors covered in the order. The committee further reports the fresh market demand for Valencia oranges is moderately strong.

Average f.o.b. price was $4.15 per carton on 661 cars for the week ended July 21, as compared with $3.93 per carton on 613 cars the previous week.

Track and rolling supplies at 415 cars were up 33 cars from last week.

(ii) Having considered the recommendations and information submitted by the committee, and other available information, the Secretary finds that the quantities of Valencia oranges which may be handled should be established as provided in this regulation.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information became available upon which this regulation is based and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted for preparation for such effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for Valencia oranges and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning such provisions and effective time has been provided to handlers of Valencia oranges. It is necessary, to effectuate the declared policy of the act, to make this regulation effective during the period specified. The committee meeting was held on July 26, 1977.

### § 908.866 Valencia Orange Regulation 566.

(b) Order. (1) The quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period July 29, 1977, through August 4, 1977, are hereby fixed as follows:

(i) District 1: 234,000 cartons;

(ii) District 2: 366,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: July 27, 1977.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77-22007 Filed 7-27-77;12:04 pm]

## PART 946—IRISH POTATOES GROWN IN WASHINGTON

### Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of potatoes grown in Washington to be inspected and meet minimum grade, size, maturity, cleanliness, and pack requirements. The regulation should promote orderly marketing of such potatoes by keeping less desirable quality and sizes from being shipped to consumers.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 113 and Order No. 946, both as amended, regulate the handling of Irish potatoes grown in the State of Washington. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The State of Washington Potato Committee, established under the order, is responsible for its local administration.

Notice was published in the July 7, 1977, FEDERAL REGISTER (42 FR 34887) inviting written comments by July 22, 1977. None was received.

This regulation is based upon the recommendations made by the committee at its public meeting in Port Ludlow, Washington, on June 22, 1977.

The recommendations of the committee reflect its appraisal of the composition of the 1977 crop of Washington potatoes and the marketing prospects for this season. Shipments are expected to begin in late July. The grade, size cleanliness, maturity and pack requirements provided herein, which are the same as those currently in effect through July 31, 1977, are necessary to prevent potatoes of lesser maturities, low quality, or undesirable sizes from being distributed in fresh market channels. They will also provide consumers with good quality potatoes consistent with the overall quality of the crop.

The committee recommended retaining the additional 10 percent tolerance for damage due to internal defects for potatoes packed in 50-pound cartons. This problem usually occurs in the larger size potatoes—the predominant ones packed in cartons. Without this tolerance these larger potatoes would have to be shipped in bags which provide less protection to the potatoes and less ease of handling.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements are inappropriate or unreasonable.

Shipments are allowed to certain special purpose outlets without regard to minimum grade, size, cleanliness, maturity and pack requirements provided that safeguards are used to prevent such potatoes from reaching unauthorized outlets. Seed is exempted because requirements for this outlet differ greatly from those for fresh market. Shipments for use as livestock feed are likewise exempt. Potatoes grown in the production area may be shipped without regard to the aforesaid requirements to specified locations in Morrow and Umatilla Counties, Oregon, for grading and storing. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments are exempt. Exemption of potatoes for most processing uses is mandatory under the legislative authority for this part.

Requirements for export shipments differ from those for domestic markets. Quality requirements may differ in foreign markets and smaller sizes are more acceptable. The committee believes that by exempting potatoes for export it will be possible to move larger quantities into export channels. Because of this, export shipments are exempt. In commercial prepeeling, operators remove the surface defects from potatoes which would be undesirable for the tablestock market, and smaller sizes are acceptable. For these reasons potatoes for prepeeling are exempt.





*Findings.* After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice which was recommended by the State of Washington Potato Committee, established pursuant to said marketing agreement and order, it is hereby found that the handling regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area will begin on or about the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the marketing season, and (3) compliance with this regulation, which is similar to that in effect during previous marketing seasons, will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective date hereof.

The regulation is as follows:

### § 946.332 Handling regulation.

From the effective date herein through July 31, 1978, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a), (b), (c), and (g) of this section or unless such potatoes are handled in accordance with paragraphs (d) and (e) or (f) of this section.

(a) *Minimum quality requirements*—(1) *Grade—All varieties.* U.S. No. 2, or better grade.

(2) *Size*—(i) *Round varieties.* 1⅞ inches minimum diameter.

(ii) *Long varieties.* 2 inches minimum diameter or 4 ounces minimum weight.

(3) *Cleanliness.* All varieties and grades—as required in the United States Standards for Grades of Potatoes.

(b) *Minimum maturity requirements*—(1) *Round and White Rose varieties.* Not more than "moderately skinned."

(2) *Other long varieties (including but not limited to Russet Burbank and Norgold).* Not more than "slightly skinned."

(c) *Pack.* Potatoes packed in 50-pound cartons shall be U.S. No. 1 grade or better, except that potatoes which fail to meet the U.S. No. 1 grade only because of internal defects may be shipped: *Provided,* The lot contains not more than 10 percent damage by any internal defect or combination of internal defects but not more than 5 percent serious damage by any internal defects or combination of internal defects.

(d) *Special purpose shipments.* The minimum grade, size, cleanliness, maturity, and pack requirements set forth in paragraphs (a), (b), and (c) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

(1) Livestock feed;

(2) Charity;

(3) Seed;

(4) Prepeeling;

(5) Canning, freezing, and "other processing" as hereinafter defined;

(6) Grading or storing at any specific location in Morrow and Umatilla Counties in the State of Oregon; or

(7) Export, except to Alaska or Hawaii. Shipments of potatoes for the purposes specified in subparagraphs (1) through (7) of this paragraph shall be exempt from inspection requirements specified in paragraph (g) of this section except shipments pursuant to subparagraph (6) shall comply with the inspection requirements of (e)(2) of this section. Shipments specified in (1), (2), (3), and (5) shall be exempt from assessment requirements specified in § 946.41.

(e) *Safeguards.* (1) Handlers desiring to make shipments of potatoes for prepeeling shall:

(i) Notify the committee of intent to ship potatoes by applying on forms furnished by the committee for a certificate applicable to such special purpose shipments;

(ii) Prepare on forms furnished by the committee a special purpose shipment report on each such shipment. The handler shall forward copies of each such special purpose shipment report to the committee office and to the receiver with instructions to the receiver that he sign and return a copy to the committee office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for cancellation of such special purpose shipments and/or such special purpose shipments and/or the receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of such certificate, the handler may appeal to the committee for reconsideration. Such appeal shall be in writing.

(iii) Before diverting any such special purpose shipment from the receiver of record as previously furnished to the committee by the handler such handler shall submit to the committee a revised special purpose shipment report.

(2) Handlers desiring to make shipments for grading or storing at any specified location in Morrow and Umatilla Counties in the State of Oregon shall:

(i) Notify the committee of intent to so ship potatoes by applying on forms furnished by the committee for a certificate applicable to such special purpose shipment. Upon receiving such application, the committee shall supply to the handler the appropriate certificate after it has determined that adequate facilities exist to accommodate such shipments and that such potatoes will be used only for authorized purposes;

(ii) If reshipment is for any purpose other than as specified in paragraph (d) of this section, each handler desiring to make reshipment of potatoes which have been graded or stored shall, prior to reshipment, cause each such shipment to be inspected by an authorized representative of the Federal-State Inspection Service. Such shipments must comply with the minimum grade, size, cleanliness, maturity, and pack requirements specified in paragraphs (a), (b), and (c) of this section.

(iii) If reshipment is for any of the purposes specified in paragraph (d) of this section, each handler making reshipment of potatoes which have been graded or stored shall do so in accordance with the applicable safeguard requirements specified in paragraph (e) of this section.

(3) Each person desiring to transport potatoes for grading or storing to points in District No. 5 or to Spokane County in District No. 1 shall apply to the committee for and obtain a special purpose certificate authorizing such movement.

(4) Each handler making shipments of potatoes for canning, freezing, or "other processing" pursuant to paragraph (d) of this section shall:

(i) First apply to the committee for and obtain a Certificate of Privilege to make shipments for processing;

(ii) Make shipments only to those firms whose names appear on the committee's list of canners, freezers, or other processors of potato products maintained by the committee, or to persons not on the list provided the handler furnishes the committee, prior to such shipment, evidence that the receiver may reasonably be expected to use the potatoes only for canning, freezing, or other processing;

(iii) Upon request by the committee, furnish reports of each shipment pursuant to the applicable Certificate of Privilege;

(iv) Mail to the office of the committee a copy of the bill of lading for each Certificate of Privilege shipment promptly after the date of shipment;

(v) Bill each shipment directly to the applicable processor.

(5) Each receiver of potatoes for processing pursuant to paragraph (d) of this section shall:

(i) Complete and return an application form for consideration of approval as a canner, freezer, or other processor of potato products;

(ii) Certify to the committee and to the Secretary that potatoes received from the production area for processing will be used for such purpose and will not be placed in fresh market channels;

(iii) Report on shipments received as the committee may require and the Secretary approve.

(6) Each handler desiring to make shipments of potatoes for export shall:

(i) Notify the committee of intent to so ship potatoes by applying on forms furnished by the committee for a certificate applicable to such special purpose shipment. Such information shall include the quantity of potatoes to be shipped and the name and address of the exporter;

(ii) After the certificate is approved and the shipment is made, furnish the committee with a copy of the on-board bill of lading applicable to such shipment;

(iii) Before diverting any such export shipment from the receiver of record as previously furnished to the committee by the handler such handler shall submit to the committee a revised special purpose shipment report.



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(f) *Minimum quantity exemption.* Each handler may ship up to, but not to exceed 5 hundredweight of potatoes to any person without regard to the inspection and assessment requirements of this part, but this exemption shall not apply to any shipment over 5 hundredweight of potatoes.

(g) *Inspection.* Except when relieved by paragraphs (d) or (f) of this section, no handler may handle any potatoes regulated hereunder unless an appropriate inspection certificate has been issued by an authorized representative of the Federal-State Inspection Service with respect thereto and the certificate is valid at the time of shipment.

(h) *Definitions.* The terms "U.S. No. 1," "U.S. No. 2," "slightly skinned" and "moderately skinned" shall have the same meaning as when used in the United States Standards for Grades of Potatoes (7 CFR 51.1540–51.1566) including the tolerances set forth therein. The term "prepeeling" means the commercial preparation in a prepeeling plant of clean, sound, fresh potatoes by washing, peeling or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 of the United States Standards for Peeled Potatoes (7 CFR 52.–2421–52.2433). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch and flour. It includes the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or applying material to prevent oxidation does not constitute "other processing." Other terms used in this section have the same meaning as when used in the marketing agreement, as amended, and this part.

(i) *Applicability to imports.* Pursuant to § 8e of the act and § 980.1 "Import regulations" (7 CFR 980.1), Irish potatoes of the red skinned round type imported during the months of July and August in the effective period of this section shall meet the minimum grade, size, quality and maturity requirements for round varieties specified in paragraphs (a) and (b) of this section.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated July 26, 1977 to become effective August 1, 1977

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77-21932 Filed 7-27-77;8:45 am]

## PART 948—IRISH POTATOES GROWN IN COLORADO

### Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This regulation requires fresh market shipments of potatoes grown in Colorado—Area No. 3 to be inspected and meet minimum grade, size and maturity requirements. The regulation should promote orderly marketing of such potatoes by keeping less desirable qualities and sizes from being shipped to consumers.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 97 and Order No. 948, both as amended, regulate the handling of potatoes grown in designated counties of Colorado Area No. 3. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Colorado Area No. 3 Potato Committee, established under the order, is responsible for its local administration.

Notice of proposed rulemaking was published in the July 7, 1977, FEDERAL REGISTER (42 FR 34889) inviting comments by July 22, 1977. None was received.

This regulation is based upon recommendations made by the committee at its public meeting in Greeley, Colorado, on June 15, 1977.

The grade, size, maturity and inspection requirements specified herein are similar to those issued during past seasons. They are necessary to prevent potatoes of low quality or less desirable sizes from being distributed to fresh market outlets. They will benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

Shipments are permitted to certain special purpose outlets without regard to the grade, size, maturity and inspection requirements, provided that safeguards are met to prevent such potatoes from reaching unauthorized outlets. Certified seed is exempt because requirements for this outlet differ greatly from those for fresh market. Shipments for use as livestock feed likewise are exempt. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments are likewise exempt. Also potatoes for most processing uses are exempt under the legislative authority for this part.

Potatoes for prepeeling may be handled without regard to maturity requirements since skinning of such potatoes is of no consequence.

*Findings.* After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice which was recommended by the Colorado Area No. 3 Potato Committee, established pursuant to said marketing agreement and order, it is hereby found that the handling regulations, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area will begin on or about the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the marketing season, and (3) compliance with this regulation, which is similar to that in effect during previous marketing seasons, will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective date hereof.

The regulation is as follows:

### § 948.377 Handling regulation.

During the period August 1, 1977, through June 30, 1978, no person shall handle any lot of potatoes grown in Area No. 3 unless such potatoes meet the requirements of paragraphs (a), (b), and (c) of this section, or unless such potatoes are handled in accordance with paragraphs (d), (e), or (f) of this section.

(a) *Grade and size requirements—All varieties.* U.S. No. 2, or better grade, 1⅞ inches minimum diameter or 4 ounces minimum weight. However, Size B may be handled if U.S. No. 1 or better grade.

(b) *Maturity (skinning) requirements—All varieties.* For U.S. No. 2 grade, not more than "moderately skinned," and for all other grades, not more than "slightly skinned."

(c) *Inspection.* (1) No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purpose of operation under this part it is hereby determined pursuant to paragraph (d) of § 948.40, that each inspection certificate shall be valid for a period not to exceed five days following the date of inspection as shown on the inspection certficate.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of potatoes for which an inspection certificate is required unless each shipment is accompanied by a copy of the inspection certificate applicable thereto and the copy is made available for examination at any time upon request.

(d) *Special purpose shipments.* (1) The grade, size, maturity and inspection requirements of paragraphs (a), (b), and (c) of this section shall not be applicable to shipments of potatoes for: (i) Livestock feed; (ii) Charity; (iii) Canning, freezing, and "other processing" as hereinafter defined; and (iv) Certified seed potatoes (§ 948.6).

(2) The maturity requirements set forth in paragraph (b) of this section shall not be applicable to shipments of potatoes for prepeeling.

(e) *Safeguards.* Each handler making shipments of potatoes pursuant to paragraph (d) of this section shall:

(1) Prior to shipment, apply for and obtain a Certificate of Privilege from the committee;

(2) Furnish the committee such reports and documents as required, including certification by the buyer or receiver on the use of such potatoes; and

(3) Bill each shipment directly to the applicable buyer or receiver.

(f) *Minimum quantity.* For purposes of regulation under this part, each person may handle up to but not to exceed 1,000 pounds of potatoes per day without regard to the requirements of paragraphs (a) and (b) of this section, but this exception shall not apply to any shipment of over 1,000 pounds of potatoes.

(g) *Definitions.* The terms "U.S. No. 1," "U.S. No. 2," "Size B," "moderately skinned" and "slightly skinned," shall have the same meaning as when used in the United States Standards for Grades of Potatoes (§§ 51.1540–51.1566, 7 CFR Part 51) including the tolerances set forth therein. The term "prepeeling" means the commercial preparation in a prepeeling plant of clean, sound, fresh potatoes by washing, peeling, or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 United States Standards for Grades of Peeled Potatoes (§§ 52.2421–52.2433, 7 CFR Part 52). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

(h) *Applicability to imports.* Pursuant to section 8e of the act and § 980.1, "Import regulations" (7 CFR 980.1), round white varieties of Irish potatoes, except certified seed potatoes, imported into the United States during the period August 1, 1977, through June 4, 1978, shall meet the minimum grade, size, quality, and maturity requirements specified in paragraphs (a) and (b) of this section.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated July 26, 1977, to become effective August 1, 1977.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77-21931 Filed 7-27-77;8:45 am]





## CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER K—PROPERTY MANAGEMENT

[FmHA Instruction 1955–C]

## PART 1955—REAL ESTATE AND CHATTEL PROPERTIES

### Subpart C—Disposal of Acquired Property

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations to revise the interest rates and terms for credit sales. Present rates and terms restrict the marketability of certain properties. The changes are intended to increase Government ability to adequately dispose of acquired properties.

EFFECTIVE DATE: July 28, 1977. Comments must be received on or before August 29, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

R. M. Yates, 202–447–3752.

SUPPLEMENTARY INFORMATION: Sections 1955.116 (b) (1) and (b) (3) (iii), 1955.117 (b) (3), (c), (e) (1) and (2) of Subpart C of Part 1955 of Title 7, Code of Federal Regulations (41 FR 32714) are amended. § 1955.117 (c) (1) and (2) are deleted. These revisions will change the minimum downpayment for surplus property from 10 to 5 percent and allow the remaining balance to be amortized over a period not to exceed 25 years, clarify the interest rates for sale of surplus property and clarify the rates and terms which may be offered in negotiated sales. Further revisions will set forth the interest rate of RH credit sales to ineligible applicants for properties other than single family housing and clarify the rates and terms for sale of unsuitable RH property. It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the purpose of the change is to facilitate sale of acquired property and standardize the rates and terms of credit sales and any delay would be contrary to public interest. The agency is, however, interested in receiving public comments. Such comments may be sent to the address given in the "address" section of the Preamble.

As amended, §§ 1955.116 (b) (1) and (b) (3) (iii), 1955.117 (b) (3) (c), (e) (1) and (2) read as follows:

### § 1955.116 Sale of real estate that was acquired pursuant to the Consolidated Farm and Rural Development Act (CONACT).

* * * * * * *

(b) * * *

(1) *Rates and terms for surplus property.* Such property will be offered for cash or terms of not less than a 5 percent downpayment with the remaining balance amortized over a period not to exceed 25 years. The interest rate for housing property will be the current Section 515 RRH rates plus ½ percent; for Business and Industry Property, the interest rate will be the established insured Business and Industry rate plus ½ percent. The interest rate for all other surplus property will be the current operating loan rate plus ½ percent. The State Director will determine the rates and terms for surplus property within these limitations and will include the determined rates and terms in all advertisements and announcements. If, after extensive sales efforts, the State Director is unable to conclude a sale of surplus property, he may request the Administrator to grant more favorable rates and terms, which rates and terms in any event must require a downpayment and may not be more favorable than those legally permissible for eligible borrowers. The policy of the Government is that surplus property shall be offered for sale for cash or terms that will provide the best net return to the Government. In no case, however, may the terms be longer than the period the property will serve as adequate security.

* * * * * * *

(3) * * *

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(iii) *Negotiated sale.* If no acceptable bid is received either from sealed bids or at a public auction, the State Director may sell the property at the best price obtainable without further public notice by negotiating with interested parties including all previous bidders. The rates and terms offered through negotiation will be within the limitations outlined in paragraph 1955.116(b) (1) or as authorized by the Administrator.

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### § 1955.117 Sale of real estate that secured Rural Housing (RH) loans.

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(b) * * *

(3) Property not sold to eligible applicants in the periods authorized by paragraphs (b) (1) and (2) of this Section may then be offered to the general public. A sale to a person or organization ineligible for an FmHA loan, however, must be for cash or at rates and terms in accordance with paragraph (e) of this section.

* * * * * * *

(c) *Sale of unsuitable property.* Unsuitable property will be offered for sale for cash or for terms in accordance with paragraph (e) of this section.

* * * * * * *

(e) * * *

(1) The Section 502 RH above-moderate interest rate will be charged in all



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credit sales of single family housing property to ineligible applicants. On all other types of housing properties, the current Section 515 RRH interest rate plus ½ percent will be charged on credit sales to ineligible applicants. The approval official must determine that the applicant has repayment ability for the requested credit.

(2) Property will be offered for sale to ineligible applicants with not less than a 10 percent cash downpayment and usually not more than 10 amortized annual payments or 120 amortized monthly payments for the balance of the purchase price. If terms of more than 10 years are necessary because of the location of the property or conditions in the area, the State Director may authorize individual RH dwellings to be sold on longer terms, but not to exceed 15 years, and multiple housing properties on terms not to exceed 20 years. In no case, however, may the terms be longer than the period for which the property will serve as adequate security.

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93–357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO, 29 FR 14764, 33 FR 9850.)

Date July 19, 1977.

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

DENTON E. SPRAGUE,
*Acting Administrator,*
*Farmers Home Administration.*

[FR Doc.77–21765 Filed 7–27–77;8:45 am]

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## CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

## PART 980—VEGETABLES: IMPORT REGULATIONS

### Minimum Grade, Size, Quality, and Maturity Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires imports of onions to be inspected and meet minimum grade, size, quality, and maturity requirements. The regulation promotes orderly marketing of such onions by keeping less desirable qualities and sizes from being imported.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: Notice of rule making regarding proposed requirements on the importation of onions into the United States to be made effective under Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 608e–1), was published in the July 5, 1977, FEDERAL REGISTER (42 FR 34309).

The notice afforded interested persons an opportunity to file written data, views, or arguments in regard thereto not later than July 16, 1977. None was filed.

Section 8e of the act provides that whenever a Federal marketing order is in effect for onions, the importation of onions shall be prohibited unless they comply with the grade, size, quality and maturity provisions of such order. The provisions hereinafter set forth comply with those which become effective August 1, 1977, under Marketing Order No. 958 for onions grown in certain designated counties in Idaho and Malheur County, Oregon. It is not contemplated that any other marketing order will have concurrent grade, size, quality and maturity provisions in effect regulating onions until the spring of 1978.

FINDINGS

(a) After consideration of all relevant matters, including the proposal set forth in the aforesaid notice, and other available information, it is hereby found that the regulation as set forth should be issued and that imported onions comply with the grade, size, quality and maturity requirements, as hereinafter provided, applicable to onions produced in the United States, and effective under Marketing Order No. 958, as amended (7 CFR Part 958) regulating the handling of onions grown in certain designated counties of Idaho and Malheur County, Oregon. This regulation is subject to amendment with adequate notice as the domestic regulation is changed.

(b) It is hereby further found that good cause exists for not postponing the effective date of this regulation beyond the time specified (5 U.S.C. 553) in that (1) the requirements established by this regulation are mandatory under section 8e of the act; (2) notice of a proposed regulation was published in the July 5, 1977, FEDERAL REGISTER (42 FR 34309); (3) all known onion importers were notified, and such notice is determined to be reasonable.

The regulation is as follows:

**§ 980.116 Onion import regulation.**

Except as otherwise provided herein, during the period beginning August 1, 1977, and continuing through April 30, 1978, no person may import any lot of onions, except braided red varieties, unless such onions are inspected, are at least "moderately cured" and meet the other requirements of this section.

(a) *Grade and size requirements*—(1) *White varieties.* U.S. No. 2 or better grade, 1 inch minimum diameter.

(2) *Red varieties.* U.S. No. 2 or better grade, 1½ inches minimum diameter.

(3) *All other varieties.* U.S. No. 2, or better grade, 1½ inches minimum diameter.

(b) *Condition.* Due consideration shall be given to the time required for transportation and entry of onions into the United States. Onions with transit time from country of origin to entry into the United States of ten or more days may be entered if they meet an average tolerance for decay of not more than 5 percent, provided they meet the other requirements of this section.

(c) *Minimum quantity.* Any importation which in the aggregate does not exceed 100 pounds in any day may be imported without regard to the provisions of this section.

(d) *Plant quarantine.* Provisions of this section shall not supersede the restrictions or prohibitions on onions under the Plant Quarantine Act of 1912.

(e) *Designation of governmental inspection service.* The Federal or the Federal-State Inspection Service, Food Safety and Quality Service, U.S. Department of Agriculture, and the Fruit and Vegetable Division, Production and Marketing Branch, Canada Department of Agriculture, are designated as governmental inspection services for certifying the grade, size, quality and maturity of onions that are imported into the United States under the provisions of Section 8e of the act.

(f) *Inspection and official inspection certificates.* (1) An official inspection certificate certifying the onions meet the United States import requirements for onions under Section 8e of the act (7 U.S.C. 608e–1), issued by a designated governmental inspection service and applicable to a specific lot is required on all imports of onions.

(2) Inspection and certification by the Federal or Federal-State Inspection Service will be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables and other products (Part 51 of this title). Each lot shall be made available and accessible for inspection as provided therein. Cost of inspection and certification shall be borne by the applicant.

(3) Since inspectors may not be stationed in the immediate vicinity of some smaller ports of entry, importers of onions should make advance arrangements for inspection by ascertaining whether or not there is an inspector located at their particular port of entry. For all ports of entry where an inspection office is not located, each importer must give the specified advance notice to the applicable office listed below prior to the time the onions will be imported.





| Ports | Office | Advance notice |
|---|---|---|
| All Texas points | Leo M. Denbo, P.O. Box 107, San Juan, Tex. 78589; phone 512–787–4091 or 6881. | 1 d. |
| All Arizona points | Charles R. Everette, P.O. Box 1614, Nogales, Ariz. 85621; phone 602–287–2902. | 1 d. |
| All California points | T. A. Trombatore, 784 South Central Ave., room 266, Los Angeles, Calif. 90021; phone 213–688–2489. | 3 d. |
| All Hawaii points | Stevenson Chinn, P.O. Box 22159, Pawaa Substation, 1428 South King St., Honolulu, Hawaii 96822; phone 808–941–3071. | 1 d. |
| All Puerto Rico points | Ronald Nightengale, P.O. Box 9112, Santurce, Puerto Rico 00908; phone 809–783–2230 or 4116. | 2 d. |
| New York City, N.Y. | Carmine J. Cavallo, room 28A Hunts Point Market, Bronx, N.Y. 10474; phone 212–991–7699 or 7668. | 1 d. |
| New Orleans, La | Leonard E. Mixon, 5027 Federal Office Bldg., 701 Loyola Ave., New Orleans, La. 70113; phone 504–589–6741 or 6742. | 1 d. |
| Miami, Fla | Bennie C. Tiner, 1350 NW. 12th Ave., room 530, Miami, Fla. 33136; phone 305–324–6116 or 6117. | 1 d. |
| All other Florida points | C. B. Brantley, P.O. Box 1232, Winter Haven, Fla. 33880; phone 813–294–3511, extension 33. | 1 d. |
| All other points | M. A. Castille, Food Safety and Quality Service, Washington, D.C. 20250; phone 202–447–5870. | 3 d. |

(4) Inspection certificates shall cover only the quantity of onions that is being imported at a particular port of entry by a particular importer.

(5) Each inspection certificate issued with respect to any onions to be imported into the United States shall set forth, among other things:

(i) The date and place of inspection;

(ii) The name of the shipper, or applicant;

(iii) The commodity inspected;

(iv) The quantity of the commodity covered by the certificate;

(v) The principal identifying marks on the containers;

(vi) The railroad car initials and number, the truck and trailer license number, the name of the vessel, or other identification of the shipment; and

(vii) The following statement, if the facts warrant: Meets import requirements of 7 U.S.C. 608e–1.

(g) *Reconditioning prior to importation.* Nothing contained in this part shall be deemed to preclude any importer from reconditioning prior to importation any shipment of onions for the purpose of making it eligible for importation.

(h) *Definitions.* For the purpose of this section, "Onions" means all varieties of *Allium cepa* marketed dry, except dehydrated, canned or frozen onions, pickling onions in brine, onion sets, green onions or braided red onions. The term "U.S. No. 2" shall have the same meaning as set forth in the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (§§ 51.3195–51.3209 of this title), United States Standards for Grades of Creole Onions (§§ 51.3955–51.3970 of this title), or in the United Standards for Grades of Onions Other Than Bermuda-Granex-Grano and Creole Types (§§ 51.2830–51.2854 of this title), whichever is applicable to the particular variety, and variations thereof specified in this section. The term "moderately cured" means the onions are mature and are more nearly well cured than fairly well cured. Onions commonly referred to as "braided," that is, with tops, may be imported if they meet the grade and size requirements except for top length. Furthermore, braided red onions are exempt from such requirements. "Importation" means release from custody of the United States Bureau of Customs.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated: July 25, 1977, to become effective August 1, 1977.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77–21833 Filed 7–27–77;8:45 am]



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# proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### [ 14 CFR Part 39 ]

[Docket No. 17046]

### AIRWORTHINESS DIRECTIVES

### British Aircraft Corporation, Ltd. Viscount Model 744, 745D, and 810 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This notice proposes to adopt an amendment to an existing Airworthiness Directive that would require repetitive inspections to detect failed rivets and repair, as necessary, of the cockpit direct vision windows on Viscount Model 744, 745D and 810 series airplanes to prevent the loss of these cockpit windows and cabin pressurization.

DATES: Comments must be received on or before September 12, 1977.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24) Docket No. 17046, 800 Independence Avenue SW., Washington, D.C. 20591.

The applicable service bulletin may be obtained from: British Aircraft Corporation, Ltd., Commercial Aircraft Division, Brooklands Road, Weybridge, Surrey, England.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All comments received on or before the date specified above will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Amendment 39-129 (30 FR 11169), AD 65-20-4, as amended by Amendments 39-2283 (40 FR 31595) and 39-2760 (41 FR 48511), requires inspection of various areas of the fuselage for cracks and repair, as necessary, on British Aircraft Corporation, Ltd., Viscount Model 744, 745D and 810 series airplanes. After issuing Amendments 39-2283 and 39-2769, due to service experience, the FAA has determined that inspections are necessary for an additional area of the fuselage.

Therefore, the FAA is considering further amending Amendment 39-129, as amended, to require repetitive inspections of the internal structure in the area of the cockpit direct vision windows for failed rivets and repair, as necessary, on British Aircraft Corporation, Ltd., Viscount Model 744, 745D and 810 series airplanes to prevent the loss of these cockpit windows and cabin pressurization.

#### Drafting Information

The principal authors of this document are D. C. Jacobsen, Chief, Europe, Africa, and Middle East Region, J. Kiselica, Flight Standards Service, and K. May, Office of the Chief Counsel.

#### Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-129 (30 FR 11169), AD 65-20-4, as amended by Amendments 39-2283 (40 FR 31595) and 39-2760 (41 FR 48511), by redesignating paragraph (j) as paragraph (k) and adding a new paragraph (j) as follows:

British Aircraft Corporation Ltd. Applies to Viscount Model 744, 745D and 810 series airplanes.

* * * * *

(j) Cockpit window structure-section 10-rivets in the direct vision window area, located at the bottom rear corner from Stn. 102 to Stn. 108 at both Port and Starboard positions. Compliance is required as indicated in BAC PTL No. 221, Issue 8, or BAC PTL No. 94, Issue 6, as applicable, or an FAA-approved equivalent, within the next 2000 landings after the effective date of this Amendment or prior to the accumulation of 20,000 landings, whichever occurs later, and thereafter at intervals not to exceed 4,000 landings since the last compliance.

* * * * *

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR § 11.85)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 18, 1977.

J. A. FERRARESE,
*Acting Director,*
*Flight Standards Service.*

[FR Doc.77-21373 Filed 7-27-77;8:45 am]

### [ 14 CFR Part 39 ]

[Docket No. 17052]

### AIRWORTHINESS DIRECTIVES

### Rolls Royce Dart Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require inspections for wear, and replacement, as necessary, of the flame tube liners and suspension pins on Rolls Royce Dart engines Series 525 and 526 to prevent possible overheating and failure of the turbine rotors on these engines.

DATES: Comments must be received on or before September 12, 1977.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-24) Docket No. 17052, 800 Independence Avenue SW., Washington, D.C. 20591. The applicable service bulletin may be obtained from: Rolls Royce, Ltd., P.O. Box 31, Derby DE 2 8BJ, England. A copy of the service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Donald C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel. 513.38.30.

SUPPLEMENTARY INFORMATION: Interested parties are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket





number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed inthe Rules Docket.

There have been failures in the flame tube support system on certain Rolls Royce Dart engines that resulted in overheating and failure of the high pressure turbine rotor. Since this condition is likely to exist or develop in other engines of the same type design, the proposed airworthiness directive would require an initial inspection for wear, and replacement, if necessary, of flame tube liners and suspension pins on Rolls Royce Dart series 525 and 526 engines. The proposal would also reouire the determination of a Repetitive Inspection Schedule for these components based on the initial inspection, including a reduction in such schedule whenever a later inspection reveals flame tube liner wear in excess of 0.030 inches on any flame tube of any engine in the operator's fleet.

#### Drafting Information

The principal authors of this document are F. J. Karnowski, Europe, Africa, and Middle East Region, J. F. Zahringer, Flight Standards Service, and K. May, Office of the Chief Counsel.

#### The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Rolls Royce, Ltd. Applies to Dart engines Series 525, 526, and variants, featuring Modifications 748, 1243, 1244, 1432, 1448, or 1607, used on, but not limited to, Viscounts 744, 745D, and 810 aircraft, and Armstrong Whitworth Argosy AW-650 series 101 aircraft.

Compliance is required as indicated.

To prevent excessive wear in flame tube liners and suspension pins that may result in loss of flame tube support causing overheating and failure of the turbine rotors, accomplish the following:

(a) Within the next 500 hours engine time in service after the effective date of this AD, unless already accomplished, inspect the flame tube liner and suspension pin for wear in accordance with the instructions contained in paragraph 4A of Rolls Royce Dart Alert Service Bulletin Da 72-417, dated August 29, 1975 (hereafter RR SB 72-417), or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, c/o American Embassy, APO New York, New York 09667 (hereafter FAA-approved equivalent).

(b) If, during an inspection required by this AD, flame tube liner or suspension pin wear is found to exceed the limits given in paragraph 4A.2 of RR SB 72-417, or an FAA-approved equivalent, before further flight, except that the aircraft may be flown in accordance with FAR §§ 21.197 and 21.199 to a base where the work can be performed replace the affected part with a serviceable part and reinspect in accordance with either paragraph (c) or (d) of this AD, as applicable.

(c) If, during an inspection required by this AD, flame tube liner wear is in excess of 0.030 inches on any one flame tube of any engine in the operator's fleet, determine the flame tube time in service since new or overhauled, and establish a fleet Repetitive inspection time interval in accordance with paragraph 4.A(3) of RR SB 72-417, or an FAA-approved equivalent.

(d) If, during an inspection required by this AD, flame tube liner wear does not exceed 0.030 inches on any one flame tube of any engine in the operator's fleet, replace, if necessary, the affected parts according to paragraph (b) of this AD and reinspect in accordance with paragraph 4D of RR SB 72-417, or an FAA-approved equivalent, at intervals not to exceed 2,500 hours engine time in service from the last inspection.

(e) If, during a Repetitive Inspection required by paragraph (c) or (d) of this AD, flame tube liner wear exceeds 0.030 inches on any one flame tube of an engine in the operator's fleet, reduce the Repetitive Inspection Interval for all engines in the fleet in accordance with paragraph 4B of RR SB 72-417, or an FAA-approved equivalent.

(f) Record the repetitive inspection time intervals established pursuant to paragraphs (c), (d), and (e) in the aircraft maintenance records.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 19, 1977.

J. A. FERRARESE,
*Acting Director,*
*Flight Standards Service.*

[FR Doc.77-21541 Filed 7-27-77;8:45 am]

### [ 14 CFR Part 39 ]

[Docket No. 17053]

### AIRWORTHINESS DIRECTIVES

### Rolls Royce Dart Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require inspection of the "Aeroquip" fuel burner feed and manifold pipes and reworking or replacement, if necessary, of the pipes on certain Rolls Royce Dart engines to prevent the failure of the pipes which could result in fuel leaks and a fire.

DATES: Comments must be received on or before August 29, 1977.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-24), Docket No. 17053, 800 Independence Avenue SW., Washington, D.C. 20591. The applicable service bulletin may be obtained from Rolls Royce, Ltd., P.O. Box 31, Derby, DE 8 BJ, England. A copy of the applicable service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel. 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There have been reports of failures of the fuel burner feed and manifold pipes on certain Rolls Royce Dart engines that could result in fuel leakage and a fire. Since this condition is likely to exist or develop in other engines of the same type design, the proposed airworthiness directive would require the inspection and reworking or replacement, if necessary, of the "Aeroquip" fuel burner feed and manifold pipes.

#### Drafting Information

The principal authors of this document are Mr. R. E. Follensbee, Western Region, Mr. R. F. Nugent, Flight Standards Service, and Mr. K. May, Office of the Chief Counsel.

#### The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Rolls Royce Aero, Ltd. Applies to Dart engines Series 506, 510, 511, 514, 526, 528, 529, 532 and variants, installed on, but not necessarily limited to, BAC Viscount 744 and 745D; Fokker F-27 Mk. 100, 200, 300, 400, 600, 700; Fairchild F-27, 27A, 27B, 27F, 27G, 27J, 27M; Fairchild-Hiller FH-227, 227B, 227C, 227D, 227E; Armstrong Whitworth Argosy 650, Series 101;



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Grummar G–159; and Hawker Siddeley HS–748 Series 2A aircraft.

Compliance is required within the next 2,000 hours engine time in service after the effective date of this AD, unless already accomplished.

To prevent the failure of the fuel burner feed and manifold pipes that could result in fuel leakage and a fire, accomplish the following:

(a) Inspect the fuel burner feed and manifold pipes and determine if any of the pipes meet both of the following specifications:

(1) The pipe is an "Aeroequip" pipe incorporating Dart Modification 1587 and having one of the following part numbers:

RK. 38457A: Pipe Assembly—Fuel Feed to No. 4 Burner.
RK. 38455A: Pipe Assembly—Fuel Feed to Nos. 1, 2, and 7 Burners.
RK. 38456A: Pipe Assembly—Fuel Feed to Nos. 3 and 6 Burners.
RK. 38458A: Pipe Assembly—Fuel Feed to No. 5 Burner.
RK. 45363A: Fuel Manifold—Assembly No. 5 to F.C.U. Bulkhead Connection.

(2) The pipe was manufactured prior to March 1, 1974, and the metal identity tag located around the fireproof sleeve of the pipe (which contains the date of manufacture) has not been marked with—

(i) The marking "DRS. 685;"
(ii) An engine number or a running time;
(iii) A second date marking in brackets which is later than March 1, 1974; or
(iv) The marking "ZERO."

(b) If, during the inspection required by paragraph (a) of this AD, a pipe is found that meets the specifications contained in paragraph (a) of this AD, before returning the engine to service, inspect the pipe for the presence of corroded, cracked, or broken wires using 5X or 10X magnification in accordance with the instructions contained in paragraphs 4A and 4B of Rolls Royce Dart Service Bulletin Da 73–73, dated August 29, 1975 (hereinafter SB Da 73–73), or an FAA-approved equivalent, and comply with paragraph (c) and (d) of this AD, as applicable.

(c) If, during the inspection required by paragraph (b) of this AD, the pipe wires are found to be corroded, cracked or broken, before returning the engine to service, replace the pipe with a serviceable pipe or rework in accordance with paragraph 4B(7) of SB Da 73–73, or an FAA-approved equivalent.

(d) If, during the inspection required by paragraph (b) of this AD, the pipe is found to be serviceable, before returning the engine to service, clean and identify the pipe in accordance with paragraphs 4B(4) and 4B(6) of SB Da 73–73, or an FAA-approved equivalent.

(e) The FAA-approved equivalent means of compliance specified in paragraphs (b) (c), and (d) of this AD must be approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, c/o American Embassy, APO New York, NY 09667.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., on July 19, 1977.

J. A. FERRARESE,
*Acting Director,*
*Flight Standards Service.*

[FR Doc.77–21542 Filed 7–27–77;8:45 am]

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[ 14 CFR Part 39 ]

[Docket No. 17055]

## AIRWORTHINESS DIRECTIVES

### Rolls Royce Dart Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) that would require functional testing and overhaul of the low torque switch assembly on Rolls Royce Dart Engines to prevent the possible occurrence of delays in propeller auto-feathering which could result in the inability to attain minimum climb performance during take-off with one engine inoperative. There have been reports of propeller low torque switch diaphragm cracking in service.

DATES: Comments must be received on or before August 29, 1977.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC–24), Docket No. 17055, 800 Independence Avenue SW., Washington, D.C. 20591. The applicable service bulletin may be obtained from: Rolls Royce, P.O. Box 31, Derby, DE2 8BJ, England. A copy of the applicable service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel. 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There have been reports of cracking in low torque switch diaphragms on Rolls Royce Dart Engines that could cause a potentially hazardous delay in auto-feathering of the propeller that could result in the inability to attain minimum climb performance during take-off with one engine inoperative. Since this condition is likely to exist or develop in other Rolls Royce Dart Engines of the same type design, the proposed Airworthiness Directive would require functional testing and overhaul of the low torque switches.

The principal authors of this document are Mr. R. E. Follensbee, Western Region, Mr. R. F. Nugent, Flight Standards Service, and Mr. S. Podberesky, Office of the Chief Counsel.

### THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

ROLLS ROYCE AERO, LTD. Applies to Dart Engines Series 506, 510, 511, 514, 525, 526, 527, 528, 529, 531, 532, 542–4, and 542–10 installed on, but not necessarily limited to, Viscount 744, 745D, and 810, Armstrong Whitworth AW–650 series 101, Nihon YS–11, Convair 600 and 640, Handley Page Herald, Fokker F.27, Grumman Guifstream I, and Hawker Siddeley 748 Series airplanes.

Compliance is required as indicated, unless already accomplished.

To prevent snap diaphragm cracking on propeller low torque switches and potentially hazardous delay of propeller auto-feathering, accomplish the following:

(a) Within the next 1500 hours engine time or 6 months in service after the effective date of this AD, whichever occurs first, inspect and functionally test the propeller low torque switches in accordance with paragraphs 4.A. and 4.B. of Rolls Royce Service Bulletin No. Da 61–12, dated May 1976, or an equivalent approved by the Chief, Aircraft Certification Staff, FAA Europe, Africa, and Middle East Region, A.P.O. New York, N.Y. 09667 (hereinafter referred to as R.R. -SB or FRR-approved equivalent). If a switch is found to be defective during an inspection or functional test required by this paragraph, comply with paragraph (b) of this AD, for that switch, before the switch is returned to service.

(b) Within the next 4,000 hours engine time or 1 year in service after the effective date of this AD, whichever occurs first, overhaul all propeller low torque switches in accordance with the procedures of paragraph 4.C of R.R. -SB or FAA-approved equivalent.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., on July 21, 1977.

J. A. FERRARESE,
*Acting Director,*
*Flight Standards Service.*

[FR Doc.77–21543 Filed 7–27–77;8:45 am]

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[ 14 CFR Part 39 ]

[Docket No. 17056]

## AIRWORTHINESS DIRECTIVES

### Scottish Aviation, Ltd., Model B.206 Series 1 and Series 2 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would establish a service life limit for certain major parts of Model B.206 Series 1 and Series 2 airplanes to prevent possible structural failure of these parts due to fatigue.

DATES: Comments must be received on or before September 12, 1977.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–24) Docket No. 17056, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

R. A. Gambrill, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel. 513–38–30.

SUPPLEMENTARY INFORMATION: Interested parties are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

As a result of fatigue tests, calculations and operational experience, the manufacturer and the British Civil Aviation Authority (CAA) have established service life limits for the outer wing, wing center section, and empennage assemblies on Scottish Aviation, Ltd., Beagle Model B.206 Series 1 and Series 2 airplanes. Based on the existing data, the FAA has determined that the specified airframe components are service life limited and that exceeding the service lives specified in this AD could result in inflight fatigue failure of a component part with catastrophic results. There is no existing procedure or foreseen provision for further extending the service lives of the affected components, since the results of the fatigue tests conducted did not provide a basis for establishing a suitable inspection and/or modification procedure. Therefore the FAA is considering adopting an airworthiness directive that would require the replacement of these assemblies before exceeding the established service lives.

### DRAFTING INFORMATION

The principal authors of this document are R. A. Gambrill, Europe, Africa, and Middle East Region, J. J. Presba, Flight Standards Service, and K. May, Office of the Chief Counsel.

### PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

SCOTTISH AVIATION, LTD. (Formerly Beagle Aviation, Ltd.) Applies to Beagle Model B.206 Series 1 and Series 2 airplanes, certificated in all categories.

Compliance is required as indicated.

To prevent possible fatigue failure of the outer wing, wing center section, and empennage assemblies, accomplish the following:

(a) Prior to the accumulation of 11,000 hours total time in service on the outer wing, wing center section, or empennage assemblies, replace the affected assembly with an assembly of the same part number, or a part number approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, which has accumulated less than 11,000 hours total time in service.

(b) Operators who have not kept records of hours of time in service on any assembly to which a provision of this AD applies shall substitute airplane hours time in service in lieu thereof. (Scottish Aviation Limited Mandatory Service Bulletin No. B206/54 dated October 21, 1975, covers the same subject.)

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., on July 21, 1977.

J. A. FERRARESE,
*Acting Director,*
*Flight Standards Service.*

[FR Doc.77–21544 Filed 7–27–77;8:45 am]

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[ 14 CFR Part 39 ]

[Docket No. 77–NW–18–AD]

## AIRWORTHINESS DIRECTIVES

### Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: An Airworthines Directive (AD) is being considered to require that thrust lever actuated switches which operate autospeed brake and auto wheel brake inhibit circuits for Boeing Model 727 airplanes be set to provide positive operation down to —65° F temperatures.

This AD is being proposed because at low temperatures, it is possible to set the thrust levers at a position insufficient to actuate the inhibit switches, with the result that the autospeed brake or auto wheel brakes could be actuated during the takeoff roll, causing an unsafe condition.

DATES: Comments must be received on or before September 12, 1977.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 77–NW–18–AD, 9010 East Marginal Way South, Seattle, Wash. 98108.

FOR FURTHER INFORMATION CONTACT:

A.V. Rasmussen, Systems and Equipment Section, ANW–213, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108, telephone 206–767–2500.

SUPPLEMENTARY INFORMATION: The autospeed brake and auto wheel brake inhibit systems on Boeing Model 727 airplanes use thrust lever actuated switches to assure that the speed brake and wheel brakes will not operate when thrust levels are advanced for takeoff. When thrust requirements are obtained by thrust lever motion insufficient to actuate the switches, such as would be the case on a cold day or planned reduced thrust takeoff, autospeed brake and auto wheel brake inhibit circuits would not be engaged, and the takeoff warning would not be armed.

Inadvertent speed brake extension or wheel brake application during takeoff would create an unsafe condition.

The proposed AD would require adjustment of the throttle switches to provide actuation down to a minimum temperature of —65° F.

Alternate means of compliance with this AD may be accomplished by means of Engine Pressure Ratio (EPR) signals from two engines to the autospoiler inhibit circuits.

### DRAFTING INFORMATION

The principal authors of this document are A. V. Rasmusen, Engineering and Manufacturing Branch, Northwest Region, and Jonathan Howe, Regional Counsel, Northwest Region.

### THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

BOEING. Applies to all Model 727 series airplanes certificated in all categories with autospeed brake system installed and airplanes with auto wheel brakes in conjunction with JT8D–17R engines and Boeing automatic throttle clutches, except airplanes with Engine Pressure







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Ratio (ERP) activated takeoff warning system.

Compliance required as indicated.

Within 2000 hours time in service after the effective date of this AD, unless already accomplished, set the thrust lever operated switches S197 and S784 to actuate at 12.5° ± 1° thrust lever motion from idle per Boeing Service Bulletin 727-31-30.

For airplanes which have automatic throttles not designed by Boeing, the modification kits available from Boeing may not be applicable. Operators of those airplanes must submit their proposed modifications to the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Seattle, Washington on July 20, 1977.

J. H. TANNER,
*Acting Director, Northwest Region.*

[FR Doc.77-21681 Filed 7-27-77;8:45 am]

## [ 14 CFR Part 91 ]

[Docket No. 16431; Notice No. 77-2A]

## REGULATORY REVIEW PROGRAM

### Availability of Agenda; Compilation of Proposals; and Announcement of Location and Change of Dates of Conference

NOTE. The following document was originally published at page 37981 in the issue for Tuesday, July 26, 1977. It is being reprinted here in order to meet Day-of-the-Week publication requirements.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Regulatory Review.

SUMMARY: This notice announces the availability of the agenda and compilation of proposals, and the location, times, and change of dates of the conference originally scheduled for August 1-4, 1977, to consider proposals submitted pursuant to Notice 77-2 for a Part 91, Subpart B Regulatory Review Program.

DATES: Conference will be held September 13-16, 1977, instead of August 1-4, 1977, as originally announced in Notice 77-2. Written comments received during the period September 17-30 will be considered in determining which items will be included in Notices of Proposed Rule Making.

ADDRESSES: Copies of agenda and compilation of proposals may be requested from: Federal Aviation Administration, Air Traffic Service, Airspace and Air Traffic Rules Division, AAT-200, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Maurice Taylor, Air Traffic Rules Branch, AAT-220, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; Telephone 202-426-3128.

SUPPLEMENTARY INFORMATION:

### HISTORY

On January 21, 1977, the Federal Aviation Administration published Notice No. 77-2 in the FEDERAL REGISTER (42 FR 3863), inviting interested persons to submit proposals for a Part 91, Subpart B, Regulatory Review Program.

### COMPILATION OF PROPOSALS

As stated in Notice 77-2, the FAA has prepared a compilation of proposals after reviewing and evaluating each proposal received from interested persons. This compilation also contains FAA proposals for consideration during the Regulatory Review. The FAA hereby announces the availability of this compilation. A copy of it is being sent to each person who submitted a proposal in response to Notice 77-2. Any person desiring a copy of the compilation may write to the above address.

The proposals and related justification included in the compilation should be viewed as working proposals for further consideration. They may not represent the full or final position of the identified proponent.

### AGENDA

All proposals received were considered in preparing the agenda for the Part 91, Subpart B Regulatory Review Conference and it is a part of the compilation being distributed.

### POSTPONEMENT OF CONFERENCE DATES

Notice 77-2 announced that the conference would be held August 1-4, 1977. However, to provide additional time for interested persons to prepare comments on the proposals in the agenda, the FAA has determined, in the interest of obtaining the fullest participation of the public in this program, to postpone the dates of the conference to September 13-16, 1977.

### LOCATION AND TIMES

The conference will be held at the Sheraton National Motor Hotel, Columbia Pike and Washington Boulevard, Arlington, Va. The conference hours September 13 will be 9 a.m. to 5 p.m. All other days the hours will be 8:30 a.m. to 5 p.m. There will be no admission fee or other charge to attend and participate in the conference. All conference sessions will be open, on a space available basis, to all interested persons who register to attend. All meetings will be taped.

### PROPOSED AND FINAL RULE MAKING

The conference tapes, comments made on the proposals during the Regulatory Review Conference and written comments received at the above address during the period September 17 through September 30, 1977, will form the basis on which the FAA will make a final determination of which items will be included in Notices of Proposed Rule Making. This comment period is being provided for those interested organizations who did not receive sufficient time to fully query their membership and those individuals who are unable to attend the conference but desire to comment on the proposals.

It should be noted that the FAA may elect to undertake rulemaking procedures, separate from the Regulatory Review, on issues pertaining to proposals contained in the compilation of proposals. In such cases, the pertinent proposals may be removed from further consideration during the Regulatory Review.

### DRAFTING INFORMATION

The principal authors of this document are Maurice Taylor, Air Traffic Service, and Richard W. Danforth, Office of the Chief Counsel.

(Secs. 305, 307, 312, 313(a), and 601, Federal Aviation Act of 1958, as amended (49 U.S.C. §§ 1346, 1348, 1353, 1354(a), and 1421); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.45.)

Issued in Washington, D.C., on July 22, 1977.

GLEN D. TIGNER,
*Acting Director, Air Traffic Service.*

[FR Doc.77-21663 Filed 7-22-77;8:45 am]

## FEDERAL TRADE COMMISSION

## [ 16 CFR Part 13 ]

[File No. 762 3094]

## S. S. KRESGE COMPANY

### Consent Agreement With Analysis To Aid Public Comment

*Correction*

In FR Doc. 77-19946, appearing at page 35858 in the issue for Tuesday, July 12, 1977, on page 35858, in the second column, the second line from the bottom of the page should read: "the institution of or instituting retail credit collec-"

## [ 16 CFR Part 441 ]

## MOBILE HOME SALES AND SERVICE

### Modification of Designated Issues Concerning Proposed Trade Regulation Rule; Extension of Time for Comments; Deadline for Notifications of Interest

AGENCY: Federal Trade Commission.

ACTION: Modification of designated issues concerning proposed trade regulation rule; extension of time for comments; deadline for notifications of interest.





SUMMARY: The Commission has considered several petitions for review of the Presiding Officer's Final Notice in which certain issues were designated to be considered in accordance with the Commission's Rules of Practice. After careful consideration of the matter, the Commission has decided to make certain additions and modifications to the designated issues which are contained herein and to briefly extend the deadline for written comments.

DATES: Deadline for written comments and available exhibits is August 29, 1977. Notifications of Interest regarding the additions and modifications of issues are due by August 12, 1977.

ADDRESS: Send comments and notifications to Raymond L. Rhine, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Charles A. Taylor III (202-523-3660), Federal Trade Commission, Pennsylvania Avenue at Sixth Street NW., Washington, D.C. 20580; or Fred C. Austin (415-556-1270), Room 12470, Federal Trade Commission, Federal Building, 450 Golden Gate Avenue, San Francisco, Calif. 94102.

SUPPLEMENTARY INFORMATION: On May 29, 1975, the Commission published in the FEDERAL REGISTER (40 FR 23334) an initial notice of a proposed trade regulation rule concerning mobile home sales and service, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., the provisions of Part I, Subpart B of the Commission's Rules of Practice, 16 CFR 1.7-1.20, and section 553 of Subpart II, Chapter 5, Title 5 of the U.S. Code (Administrative Procedure).

On May 23, 1977, pursuant to the same authority and more specifically to the authority of § 1.12 of the Rules of Practice, the duly appointed Presiding Officer for this proceeding published the final notice of proposed rulemaking in the FEDERAL REGISTER (42 FR 26398).

Included in the final notice were 19 issues which the Presiding Officer determined to designate in his discretion pursuant to § 1.13(d)(1) of the Rules of Practice as issues to be considered in the proceedings in accordance with § 1.13(d)(5) and (6) of the Rules of Practice. Pursuant to § 1.13(c)(2)(ii) of the Rules of Practices, a number of appeals were filed challenging the Presiding Officer's designation of issues.

After careful consideration of all the views and arguments set forth in this matter, the Commission has taken the following actions.

The Commission has decided to designate the following additional issues under § 1.13(d)(1) of the Rules of Practice as issues to be considered in accordance with § 1.13(d)(5) and (6) of the Rules of Practice.

### ADDITIONAL ISSUES

20. Is proper "set up" (§ 441.1(i)) of a mobile home critical to its performance as a satisfactory dwelling?

21. Have mobile home manufacturers, dealers, or independent contractors improperly performed "set up" (§ 441.1(i)) in a significant number of instances?

22. Have warrantors disseminated written warranties that exclude from coverage "defect(s)" (§ 441.1(c)) and other damage arisoing from improper "set up" (§ 441.1(i))?

23. Have warrantors disseminated written warranties that fail to fully and forcefully disclose the exclusion from coverage or "defect(s)" (§ 441.1(c)) and other problems arising from improper "set up" (§ 441.1(i))?

24. Have mobile home dealers or others, acting in their capacity as warrantors (other than manufacturer/warrantors), also engaged in the acts and practices set forth in designated issues 2 to 10, 12, 13, and 16 above in the course of their dealings with independent contractors who have agreed to perform set up (§ 441.1(i)) or warranty service on behalf of the warrantors (insofar as such acts and practices are applicable to dealers and others acting as warrantors of mobile homes rather than acting as "authorized dealers" (§ 441.1(i))?

Also, references in designated issues 1, 11, 14, 15, and 17 to "manufacturer/warrantors" are amended to read "warrantors". Finally, designated issue 18 is amended to read as follows:

18. Have mobile home manufacturers and/or dealers represented in promotional materials the length of their mobile homes as a certain distance which includes the length of the tow hitch? Do such representations have the capacity or tendency to mislead consumers by inducing them to believe that the represented length dimension is the total distance between the front and rear walls of the mobile home rather than the overall length of the mobile home including the two hitch?

For information purposes, the designated issues in the final notice, as modified by this action, appear below:

### ISSUES DESIGNATED UNDER § 1.13(d)(1) OF THE RULES OF PRACTICE [1]

#### WARRANTY PERFORMANCE SYSTEMS—GENERAL

1. Have mobile home warrantors engaged in acts and practices which have resulted in the failure to maintain regular and effective systems which assure that every "consumer" (§ 441.1(a)) of such warrantor's mobile homes in fact receives full performance of warranty repairs in accordance with the terms of any applicable warranty within a reasonable time?

#### DISCLOSURE OF THE NATURE OF WARRANTY RIGHTS

2. Have manufacturer/warrantors disseminated written warranties which fail to disclose the true nature and extent of consumers' warranty rights as well as the manner in which such manufacturer/warrantors perform warranty repairs in the "normal course of business (§ 441.1(m))?

(a) Have manufacturer/warrantors failed to disclose to prospective purchasers the fact that those manufacturer/warrantors regard their "authorized dealer(s)" (§ 441.1(i)) as having exclusive responsibility, at least in the first instance, to perform repairs and service for certain classes of defects covered by each manufacturer/warrantor's warranty without compensation or reimbursement by such manufacturer/warrantors and without regular and effective action by such manufacturer/warrantors to determine whether such repairs and service are in fact fully performed within a reasonable time?

(b) Have manufacturer/warrantors represented that their written warranties are the sole legal warranties, that they legally exclude and disclaim all implied-in-law warranties, and that their written warranties set forth the sole legal remedy available to the consumer and disseminated such written warranties to consumers in States where the applicable law renders such exclusions, disclaimers, or limitations unenforceable?

(c) Have manufacturer/warrantors represented that as a condition precedent to obtaining full performance by manufacturer/warrantors of warranty obligations, every consumer must properly complete and mail to such manufacturer/warrantors an owner's registration card, or a similar card when in fact the manufacturer/warrantor's practice has been to provide warranty performance regardless of whether the card has been returned?

(d) Have manufacturer/warrantors represented that as a condition precedent to obtaining full performance by manufacturer/warrantors of warranty obligations every consumer must transport the defective part or, if necessary, the entire home to the manufacturer/warrantor's manufacturing plant, when in fact it is the manufacturer/warrantor's practice to provide such performance at the homesite?

#### SELECTION AND MONITORING OF DEALERS

3. Have such manufacturer/warrantors failed to scrutinize, adequately evaluate and assure that all prospective dealers, prior to their authorization, are capable of, and willing to perform warranty service or that such dealers have made adequate arrangements for performing warranty service through independent contractors?

4. Have manufacturer/warrantors failed to scrutinize, adequately evaluate, and assure that all "authorized dealer(s)" (§ 441.(i)), either directly or by action through independent contractors, notify the manufacturer/warrantor of the existence of claims initiated by consumers for warranty service or for repairs of defects covered by the warranty?

5. Have manufacturer/warrantors

[1] In this section bracketed citations refer to the Proposed Rule in the Initial Notice and indicate that the preceding word or phrase enclosed in quotation marks is used in this Section as it is used or defined in the Proposed Rule.



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failed to scrutinize, adequately evaluate, and assure that all "authorized dealer(s)" (§ 441.1(i)), either directly or by action through independent contractors, in fact fully perform and complete within a reasonable time all warranty service and repairs to be performed on behalf of the manufacturer/warrantor?

6. Have manufacturer/warrantors failed to scrutinize, adequately evaluate, and assure that all prospective dealers, prior to their authorization, either directly or by action through independent contractors, are capable and willing to perform an "inspection" (§ 441.2(e)) of a mobile home prior to its "tender of possession" (§ 441.1(j)) to assure the detection of readily ascertainable defects and to assure that the home is being delivered to the consumer free of all defects which affect the safety of the mobile home or render its substantially uninhabitable and to assure that it is properly "set up" (§ 441.1(1))?

7. Have manufacturer/warrantors failed to scrutinize, adequately evaluate, and assure that all "authorized dealer(s)" (§ 441.1(i)), either directly or by action through independent contractors, actually perform or assure the performance of, an "inspect(ion)" (§ 441.2(e)) of each mobile home prior to its "tender of possession" (§ 441.(j)) to assure the detection of readily ascertainable defects and to assure that the home is being delivered to the consumer free of all defects which affect the safety of the mobile home and render it substantially uninhabitable and to assure that it is properly "set up" (§ 441.(1))?

8. Have manufacturer/warrantors failed to scrutinize, adequately evaluate, and assure that all prospective dealers, prior to their authorization, either directly or by action through independent contractors, are capable and willing to competently "set up" (§ 441.1(1)) the manufacturer/warrantors' mobile homes at the homesite selected by the consumers?

9. Have manufacturer/warrantors failed to scrutinize, adequately evaluate, and assure that all "authorized dealer(s)" (§ 441.1(i)), either directly or by action through independent contractors, actually and competently perform the "set up" (§ 441.1(1)) of all of the manufacturer/warrantors' mobile homes?

CONSUMER COMPLAINTS AND REQUESTS FOR SERVICE

10. Have manufacturer/warrantors failed to establish and maintain an effective and regular program to ensure prompt action on and fair disposition of mobile home consumer complaints and requests for warranty service and repairs.

DISPUTES BETWEEN WARRANTORS AND DEALERS AND OTHERS

11. Have warrantors unreasonably delayed needed warranty service or repairs until after the settlement of disputes between themselves and their "authorized dealers(s)" (§ 441.1(i)) or between themselves and other parties as to which party is responsible for the service or repairs in question?

FACTORY SERVICE CAPABILITIES

12. Have manufacturer/warrantors failed to maintain an adequate factory service capability, or to make other provisions adequate to assure the full performance within a reasonable time of the repair of defects which are covered by a warranty and which the manufacturer/warrantor's "authorized dealer(s)" (§ 441.1(i)) are unwilling or unable to perform?

WARRANTY PERFORMANCE—CONCLUSIONS

13. Through the acts and practices described in designated issues 2 through 12, have such manufacturer/warrantors been, and are they now engaging in:

(a) The dissemination of warranties which fail to fully and completely inform actual or potential "consumer(s)" (§ 441.1(a)) as to the actual warranty protection offered by manufacturer/warrantors?

(b) Acts and practices which have the tendency and capacity to result in and have resulted in the failure to establish or mantain regular and effective systems which assure that manufacturer/warrantors will fully correct or repair all defects covered by their warranties within a reasonable time?

ACTUAL PERFORMANCE

14. Have the warranty performance systems maintained by warrantors impeded or delayed warranty performance beyond a reasonable time in a significant number of instances?

15. Have the warranty performance systems maintained by warrantors prevented the performance of warrantors' warranty obligations in a significant number of instances?

REASONABLE BASIS FOR WARRANTY CLAIMS

16. Do the acts and practices, as described in designated issues 2 through 12 above, if shown to exist, establish a lack of reasonable basis for those manufacturer/warrantors to believe that they can perform their warranty obligations within a reasonable time?

17. Does the dissemination of a warranty to consumers by a warrantor have the capacity or tendency to lead consumers to believe that the warrantor has a reasonable basis to believe that its warranty obligations can be fully performed within a reasonable time?

REPRESENTATIONS OF DIMENSIONS OF MOBILE HOMES

18. Have mobile home manufacturers and/or dealers represented in promotional materials the length of their mobile homes as a certain distance which includes the length of the tow hitch? Do such representations have the capacity or tendency to mislead consumers by inducing them to believe that the represented length dimension is the total distance between the front and rear walls of the mobile home rather than the overall length of the mobile home including the tow hitch?

ECONOMIC EFFECTS

19. With respect to the Proposed Rule, what would be the probable economic effect on the mobile home industry, on small businesses, and on consumers of the promulgation of such provisions in a Final Rule?

MOBILE HOME "SET UP"

20. Is proper "set up" (§ 441.1(1)) of a mobile home critical to its performance as a satisfactory dwelling?

21. Have mobile home manufacturers, dealers, or independent contractors improperly performed "set up" (§ 441.1(1)) in a significant number of instances?

22. Have warrantors disseminated written warranties that exclude from coverage "defect(s)" (§ 441.1(c)) and other damage arising from improper "set up" (§441.1(1)) by dealers?

23. Have warrantors disseminated written warranties that fail to fully and forcefully disclose the exclusion from coverage of "defect(s)" (§ 441.1(c)) and other problems arising from improper "set up" (§ 441.1(1)) by dealers?

WARRANTY AND SET UP; DEALERS AND THIRD PARTIES

24. Have mobile home dealers or others, acting in their capacity as warrantors (other than manufacturer/warrantors), also engaged in the acts and practices set forth in designated issues 2 to 10, 12, 13, and 16 above in the course of their dealings with independent contractors who have agreed to perform set up (§ 441.1(1)) or warranty service on behalf of the warrantors (insofar as such acts and practices are applicable to dealers and others acting as warrantors of mobile homes rather than acting as "authorized dealers" (§ 441.1(i)))?

The Commission also has determined not to designate, beyond the issues listed above, any additional issues pursuant to § 1.13(d)(1) of the Rules of Practice as issues for consideration in accordance with § 1.13(d) (5) and (6) of those Rules. In denying the remaining requests for additions or modifications of the initial designated issues, the Commission has determined that those issues raised are not issues which are required to be designated under § 1.13(d)(i) of the Rules of Practice. The Commission intends to further explain its decision in this regard in the near future.

In making its determination to deny the remaining appeals, the Commission notes that it has found that the Presiding Officer did not abuse his discretion in designating issues under § 1.13 (c) and (d)(1)(ii) of the Rules of Practice. The Presiding Officer may, in his discretion, employ, in whole or in part, the procedures of § 1.13(d) (5) and (6) during the proceeding for any other issues where appropriate as provided for in the Rules of Practice.

*Written comments.* In view of the above modifications and additions to the designated issues the Commission is extending the general comment period. Therefore, all interested persons may continue to submit written data, views or arguments on any issue of fact, law, policy, or discretion which may have some bearing upon the Proposed Rule until no later than August 29, 1977. Such written comments should be entitled "Mobile Home Comments" and be submitted to Raymond L. Rhine, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580. For further information on this subject, see Section A of the Presiding Officer's Final Notice published in the FEDERAL REGISTER May 23, 1977, 42 FR 26398.

*Notification of interest and requests for cross examination.* See Section F in the Presiding Officer's Final Notice published in the FEDERAL REGISTER May 23, 1977, 42 FR 26398, for further requirements and information on this subject. The Commission is allowing until no later than August 12, 1977, for interested persons to notify the Presiding Officer of their particular interest with respect to the above modifications and new designated issues, including a general brief statement of their position. Notifications will be accepted only on the modifications and the new designated issues herein. Such notifications should be entitled "Mobile Home Notification of Interest—Additional Issues".

Issued: July 28, 1977.

By direction of the Commission.

CAROL M. THOMAS,
*Secretary.*

[FR Doc.77-21727 Filed 7-27-77;8:45 am]





## DEPARTMENT OF THE TREASURY

### Customs Service

### [ 19 CFR Part 145 ]

### MAIL IMPORTATIONS

### Proposed Amendment to the Customs Regulations and Proposed Policy Statement Relating to Examination of Letter Mail

AGENCY: United States Custom Service, Department of the Treasury.

ACTION: Proposed rule and proposed policy statement.

SUMMARY: This notice contains a proposed amendment to the Customs Regulations and a proposed policy statement relating to the examination of sealed letter class mail by Customs officers or employees. The proposals are being made as a result of a recent U.S. Supreme Court decision which upheld the right of Customs officials to examine letter mail in certain circumstances. It is intended that the proposals will offer guidance as to when and how Customs will open and examine letter mail.

DATES: Comments must be received on or before: September 26, 1977.

ADDRESSES: Comments may be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Stuart P. Seidel, Attorney, Office of the Chief Counsel, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, 202-566-5476.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 145.3 of the Customs Regulations (19 CFR 145.3) provides that no Customs officer or employee shall read or authorize or allow any other person to read any correspondence contained in sealed letter mail unless a search warrant has been obtained. In *United States v. Ramsey*, No. 76-167, decided June 6, 1977, the U.S. Supreme Court affirmed the right of Customs officials to open and examine sealed letter class mail without first obtaining a search warrant under certain circumstances.

In the *Ramsey* case, a Customs officer inspecting a sack of incoming international mail from Thailand spotted eight bulky envelopes which he believed might contain merchandise. All of the envelopes appeared to have been typed on the same typewriter, were addressed to different locations in Washington, D.C., felt as if there was something other than plain paper inside, weighed three to six times the normal weight of a letter, and came from a country which is a known source of narcotics. Upon inspection, the envelopes were discovered to contain heroin.

The opening of these letters without first obtaining a search warrant was challenged as unconstitutional. The Supreme Court rejected this assertion and held constitutional the statute, R.S. 3061 (19 U.S.C. 482), which authorized the opening of envelopes coming into the United States with respect to which a Customs official may have a reasonable cause to suspect there is merchandise which was subject to duty or which was imported contrary to law. The Court also found that the circumstances under which the letters were opened provided "reasonable 'cause to suspect' that there was merchandise or contraband in the envelopes."

The Commissioner of Customs has determined that, inasmuch as section 145.3 of the Customs Regulations is silent as to when the opening of sealed letter class mail is authorized, that section should be amended to reflect the statutory standards as interpreted in the *Ramsey* case and the existing Customs practice on the subject. It is therefore proposed to add to section 145.3 a provision that no Customs officer or employee shall open sealed letter mail which appears to contain only correspondence unless a search warrant has been obtained in advance of the opening. It is also proposed to add a provision that Customs officers or employees may open and examine sealed letter mail which appears to contain matter in addition to, or other than, correspondence, provided they have reasonable cause to suspect the presence of merchandise or contraband.

This notice also contains a proposed policy statement which sets forth the policies which the Customs Service will follow in examining sealed letter class mail. The policy statement supplements the regulations by providing guidance as to the circumstances which constitute reasonable cause to suspect that merchandise or contraband is contained in sealed letter class mail.

COMMENTS

The Customs Service invites comments from all interested parties on both the proposed amendment to the Customs Regulations and the proposed policy statement. Comments submitted will be available for public inspection in accordance with section 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

DRAFTING INFORMATION

The principal authors of this document were Stuart P. Seidel and Richard M. Belanger, Attorneys, U.S. Customs Service. However, other personnel in the Customs Service and in the Department of the Treasury participated in developing the document, both on matters of substance and style.

PROPOSED AMENDMENT TO THE REGULATIONS

Section 145.3 of the Customs Regulations (19 CFR 145.3) is amended to read as follows:

**§ 145.3 Opening of Sealed Letter Mail; Reading of Correspondence Prohibited.**

(a) No Customs officer or employee shall open sealed letter mail which appears to contain only correspondence unless a search warrant has been obtained in advance of the opening from an appropriate judge or U.S. magistrate authorizing that action.

(b) Customs officers or employees may open and examine sealed letter mail arriving from outside the Customs territory of the United States (or from outside the Virgin Islands in the case of examinations within the Virgin Islands) which appears to contain matter in addition to, or other than, correspondence, provided they have reasonable cause to suspect the presence of merchandise or contraband.

(c) No Customs officer or employee shall read or authorize or allow any other person to read any correspondence contained in sealed letter mail unless a search warrant has been obtained in advance from an appropriate judge or U.S. magistrate authorizing that action.



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PROPOSED POLICY STATEMENT

EXAMINATION OF SEALED LETTER CLASS MAIL

A. Customs officers and employees shall not open any sealed letter class mail which appears to contain only correspondence unless a search warrant is obtained in advance of the opening.

B. Customs officers or employees may open and examine sealed letter class mail arriving from outside the Customs territory of the United States (or from outside the Virgin Islands in the case of examinations in the Virgin Islands) which appears to contain matter in addition to, or other than, correspondence, provided they have "reasonable cause to suspect" the presence of merchandise or contraband.

C. Custom officers and employees are prohibited from reading or allowing others to read any correspondence without a search warrant. This prohibition will continue to be strictly enforced.

D. If merchandise or contraband is discovered in sealed letter class mail, and it is believed that the corresondence may provide additional information concerning the violation (methods, dates of shipments, names of co-conspirators, etc.) and is therefore needed for further investigation or use in court (e.g., as an instrumentality or evidence of a crime) a warrant must be obtained before any corresondence is seized or read. Search warrants must be promptly sought. Corresondence may be detained while a search warrant is being obtained.

E. If no controlled delivery is arranged (see "F" below) the merchandise or contraband should be removed and any correspondence replaced in the wrapper, or a new wrapper if the original wrapper has been seized pursuant to 19 U.S.C. 1595a. The wrapper should then be resealed and marked to indicate it was opened by Customs and delivered. Appropriate seizure notices must be sent.

F. Articles of mail (including correspondence) may not be turned over to other agencies unless a warrant has been obtained, except that (1) mail may be turned over in accordance with established procedures to Postal Service channels, DEA or to other appropriate Federal agencies, to effect a controlled delivery; or (2) once a lawful seizure has been made by Customs, external wrapplugs, or copies thereof, and any contraband contents or merchandise may be provided to the appropriate investigative agency, for a follow-up investigation. However, no correspondence may be turned over for a follow-up investigation unless a search warrant has been obtained in advance.

G. When merchandise or contraband is discovered and a seizure results, the factors giving the officer or employee "reasonable cause to suspect" the presence of merchandise or contraband should be recorded on the seizure report.

H. Sealed letter class mail with the "green" Customs label or a Customs declaration may be opened without additional cause.

APPENDIX

A. DEFINITIONS

Under the various international conventions and bilateral agreements, international mail falls within two main classes, Parcel Post and Letter Post.

Parcel Post is not permitted to contain correspondence but is to be used for the transmission of merchandise and is fully subject to Customs examination in the same manner as other merchandise shipments (e.g., luggage, cargo containers, etc.). Letter Post mail is divided into "LC" mail (letters and post cards) and "AO" mail (printed papers, literature for the blind and small packets). AO mail is to be treated in the same manner as Parcel Post mail since the Universal Postal Union Convention requires that they "be made up in such a manner that they may be easily examined" and generally are not permitted to "contain any document having the character of current and personal correspondence." AO mail can usually be identified by the following words: "Imprimés" or "Printed Matter", "Cécogramme" or "Literature for the Blind", "Petit Paquet" or "Small Packet", or similar terms or their equivalents.

"LC" mail consists of letters which are usually sealed and post cards. "LC" mail is generally referred to as "sealed letter class mail" for Customs purposes.

B. REASONABLE CAUSE TO SUSPECT

Determining whether there is "reasonable cause to suspect" that merchandise or contraband is contained in letter class mail is ultimately a matter of judgment for each Customs official, based on all relevant facts and circumstances. This judgment should be exercised within the framework of the Customs policy that sealed letter class mail which appears to contain only correspondence is not to be opened unless a search warrant has been obtained in advance.

Past practice indicates that the following circumstances (which are illustrative and not exhaustive) provide reasonable cause to suspect and permit the opening of sealed letter class mail.

1. A detector dog has alerted to the presence of narcotics or explosives.

2. X-ray or spectroscopic examination indicates the presence of merchandise or contraband.

3. The weight, shape and feel of the mail article or its contents may indicate that merchandise or contraband (e.g., counterfeit bills, money or coins) could be in the mail article. Contents of a mail article which feel lumpy, powdery or spongy may, for example, indicate the presence of narcotics.

4. An outside source believed to be dependable has indicated that an identifiable mail article contains merchandise or contraband.

5. The mail article is insured.

6. The mail article is a box, carton or wrapper other than a thin envelope.

7. The sender of the mail article is a known mailer of merchandise or contraband, or the mail article contains writing or typing of a unique character which has previously been found on mail articles containing merchandise or contraband.

On the other hand, certain facts standing alone will generally not provide "reasonable cause to suspect" the presence of merchandise or contraband and therefore do not permit the opening of sealed letter class mail. For example, sealed letter class mail may not be opened merely because:

(1) The mail article is registered;

(2) The feel of a letter size envelope suggests that it contains one or a limited number of photographs;

(3) The mail article appears to be part of a mass mailing; or

(4) The mail article is from a known source country of contraband.

In cases where any one of the above facts is present, additional evidence must exist which in conjunction with that fact provides reasonable cause to suspect the presence of merchandise or contraband.

Dated: July 27, 1977.

ROBERT E. CHASEN,
*Commissioner of Customs.*

[FR Doc.77-21677 Filed 7-27-77;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### [ 46 CFR Part 12 ]

[CGD 76-203]

### REEXAMINATION PROCEDURES FOR UNLICENSED RATINGS

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is considering amending the regulations for the examination of individuals for unlicensed ratings to clarify the procedures for reexamination. Present regulations set out a requirement for a thirty day wait before making application for reexamination. This regulation has not been interpreted uniformly by field Marine Inspection Offices. The proposed changes clarify the procedures, and set up requirements for reexamination by the same Coast Guard official or by a different Coast Guard official.

DATES: Comments must be received on or before September 11, 1977.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for reexamination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1477).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include his name and address, identify this notice (GCD 76-203) and the specific section of the proposal to which his comment applies, and give the reasons for his comment. All comments received will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Lieutenant Commander James Norman, Project Manager, Office of Merchant Marine Safety, and Lieutenant Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, it is proposed that Part 12 of Title 46 of





the Code of Federal Regulations be amended as follows:

By amending § 12.02-17 to read as follows:

**§ 12.02-17 Rules for the preparation and issuance of documents.**

* * * * * *

(f) An applicant for a certificate of service or efficiency who has been duly examined and refused a certificate by an Officer in Charge, Marine Inspection may come before the same Officer in Charge, Marine Inspection for reexamination up to 30 days from the date of the initial examination without making further application. The Officer in Charge, Marine Inspection sets the time of reexamination based on the applicant's performance on the initial examination.

(g) An applicant who has been examined and refused a certificate by an Officer in Charge, Marine Inspection may not make application for examination to any other Officer in Charge, Marine Inspection until 30 days after the applicant's last failure of an examination or reexamination.

(R.S. 4405, as amended (46 U.S.C. 375); R.S. 4462, as amended (46 U.S.C. 416); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1); 49 CFR 1.46(b)).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: July 24, 1977.

O. W. SILER,
*Admiral, U.S. Coast Guard,*
*Commandant.*

[FR Doc.77-21761 Filed 7-27-77;8:45 am]

### Materials Transportation Bureau

### [ 49 CFR Part 175 ]

[Docket No. HM-131; Notice No. 75-10]

### CARRIAGE BY AIRCRAFT

### Proposed Inspection and Monitoring Requirements for Radioactive Materials—Withdrawal of Notice

*Correction*

NOTE.—The following correction was originally published at page 37992 in the issue for Tuesday, July 26, 1977. It is being reprinted here in order to meet Day-of-the-Week publication requirements.

In FR Doc. 77-20676 appearing at page 37426 in the issue for Thursday, July 21, 1977, the effective date now reading "July 20, 1977" should have read "July 21, 1977".

### [ 49 CFR Part 175 ]

[Docket No. HM-152; Notice No. 77-6]

### CARRIAGE BY AIRCRAFT

### Requirements for Radioactive Materials

*Correction*

NOTE.—The following correction was originally published at page 37992 in the issue for Tuesday, July 26, 1977. It is being reprinted here in order to meet Day-of-the-Week publication requirements.

In FR Doc. 77-20677 appearing at page 37427 in the issue for Thursday, July 21, 1977, make the following corrections:

(1) On page 37428, first column, the 16th and 17th lines of the second full paragraph are transposed and therefore should be reversed.

(2) Also on page 37428, in the table, in the third column opposite "Half life", the reference to "30 d" means "30 days".

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### [ 50 CFR Part 17 ]

### ENDANGERED AND THREATENED WILDLIFE AND PLANTS

### Review of Status of the River Otter

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Review of the status of the river otter.

SUMMARY: On April 11, 1977, the Fund for Animals (1765 P Street, N.W., Washington, D.C. 20036) petitioned the Department of the Interior to add the river otter (*Lutra canadensis*) to the U.S. List of Endangered and Threatened Wildlife, pursuant to the Endangered Species Act of 1973. As required by the Act, notice is hereby given of the Department's determination that substantial evidence has been presented by the petition, and that such evidence warrants a review of the status of the river otter to learn whether the species, or certain populations thereof, should be proposed for listing as Endangered or Threatened.

DATES: Comments should be submitted within 120 days to the Director, U.S. Fish and Wildlife Service.

ADDRESSES: Information should be submitted to the Director (FWS/OES), Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION: The Department is seeking the views of the Governors of all States of the United States, except Hawaii, and of the Government of Canada. All other interested parties are hereby invited to submit any factual information which is pertinent to this review. This information, together with that provided with the petition of the Fund for Animals, and that obtained from other sources, will be reviewed to determine whether the river otter, or any populations thereof, should be listed as Endangered or Threatened.

This notice of review was prepared by Ronald M. Nowak, Office of Endangered Species.

Dated: July 19, 1977.

LYNN A. GREENWALT,
*Director,*
*Fish and Wildlife Service.*

[FR Doc.77-21704 Filed 7-27-77;8:45 am]

## NUCLEAR REGULATORY COMMISSION

### [ 10 CFR Part 73 ]

### PHYSICAL PROTECTION OF PLANTS AND MATERIALS

### Performance Oriented Safeguards Requirements; Corrections

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule, correction.

SUMMARY: In FR Doc. 77-19051 appearing at page 34310 in the issue for Tuesday, July 5, 1977, on page 34320, § 73.46(g)(3)(ii) and § 73.55(b)(3)(iii) are corrected to correct typographical errors.

DATES: Comments must be received on or before August 19, 1977.

ADDRESSES: Comments or suggestions for consideration in connection with the proposed amendments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. L. J. Evans, Jr., Chief Requirements Analysis Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 427-4043 or Mr. R. J. Jones, Chief, Material Protection Standards Branch, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301-443-6973).

SUPPLEMENTARY INFORMATION: 1. As corrected, § 73.46(g)(3)(ii) reads as follows:

**§ 73.46 Fixed Site Physical Protection Systems, Subsystems, Elements, Components, and Procedures.**

* * * * * *

(g) Test and Maintenance Programs:

* * *

(3) * * *

(ii) Testing of communications equipment required for communications onsite, including duress alarms, for performance not less frequently than once at the beginning of each security personnel work shift. Communications equipment required for communications offsite shall be tested for performance not less than once a day.



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2. As corrected, § 273.55(b)(3)(iii) reads as follows:

* * * * * *

§ 73.55 **Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.**

* * * * * *

(b) Physical Security Organization:

* * *

(3) * * *

(iii) Provisions for a review at least every 12 months of the security system by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The review shall include a review and audit of security procedures and practices, an audit of the security system testing and maintenance program and a test of the safeguards system along with commitments established for response by local law enforcement authorities. The results of the review and audit along with recommendations for improvements shall be documented, reported to the licensee's corporate and plant management, and kept available at the plant for inspection for a period of five years.

* * * * * *

Dated at Washington, D.C., this 22nd day of July 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
*Secretary of the Commission.*

[FR Doc.77-21928 Filed 7-27-77;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

**[ 17 CFR Part 240 ]**

[Release No. 34-13802; File No. 4-180]

### OFF-BOARD TRADING RESTRICTIONS

**Postponement of Public Hearing; Extension of Comment Period**

AGENCY: Securities and Exchange Commission.

ACTION: Notice of postponement of public hearings and extension of comment period.

SUMMARY: The Commission has announced, in connection with its proceeding concerning off-board trading restrictions, postponement of the commencement of public hearings until August 2, 1977, and extension of the date by which written presentations, responding to oral or written presentations of others, must be submitted to August 31, 1977.

DATES: Public hearings, originally scheduled to commence at 10 a.m. on August 1, 1977, will begin at 9:30 a.m. on August 2, 1977. The date by which persons, wishing to respond to the written or oral presentations of others, should make written presentations has been extended from August 24 to August 31, 1977.

ADDRESSES: Public hearings will be held in Room 776, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. 4-180 and be delivered, together with 30 copies, to George A. Fitzsimmons, Secretary, Room 892, at the above address.

FOR FURTHER INFORMATION CONTACT:

George T. Simon, Division of Market Regulation, Room 390, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-376-7470).

SUPPLEMENTARY INFORMATION: On June 23, 1977, the Commission announced a proceeding, pursuant to section 19(c) of the Securities Exchange Act of 1934 ("Act"), to consider amendment of existing off-board trading rules and adoption of certain collateral rules designed to prevent overreaching of nonprofessional customers by dealers in over-the-counter principal transactions in certain listed securities.[1] In connection with the proceeding, the Commission has published for comment proposed amendments to Rule 19c-1 and proposed Rule 19c-2 under the Act. The proposed amendments to Rule 19c-1 would eliminate all off-board agency restrictions applicable to listed equity securities (except those applicable to "in-house" agency crosses) immediately upon its effectiveness. Proposed Rule 19c-2 would eliminate remaining off-board agency restrictions which preclude members from effecting "in-house" agency crosses in listed equity securities as to which last sale information is included in the consolidated transaction reporting system ("reported securities") and all off-board principal restrictions applicable to such securities as of January 1, 1978. In addition, the Commission has also published for comment four alternative proposed rules governing over-the-counter dealer conduct in reported securities with non-professional customers.

The Commission also announced that it would hold public hearings in connection with the proceeding. The tentative schedule of appearances at these hearings is as follows:

TUESDAY, AUGUST 2, 1977

William M. Batten, New York Stock Exchange, Inc., 9:30 a.m.

WEDNESDAY, AUGUST 3, 1977

William Baumol, Professor of Economics, New York University, 9:30 a.m.

Donald E. Weeden, Weeden & Co. Incorporated, 10 a.m.

Roger E. Birk, Merrill Lynch, Pierce, Fenner & Smith Incorporated, 2 p.m.

THURSDAY, AUGUST 4, 1977

Treasury Department, 9:30 a.m.

Michael Tobin, Midwest Stock Exchange, 10:30 a.m.

James French, Wellington Management Company, 2 p.m.

Edward Purcell, Association for the Preservation of the Auction Market, 2:30 p.m.

MONDAY, AUGUST 15, 1977

Thomas O'Hara, National Association of Investment Clubs, 9:30 a.m.

Paul Kolton, American Stock Exchange, Inc., 10 a.m.

Margaret Cox Sullivan, Stockholders of America, 2 p.m.

Paul Hallingby, Jr., White Weld & Co., Incorporated, 2:30 p.m.

Robert E. Muchin, Goldman Sachs & Co., 3 p.m.

TUESDAY, AUGUST 16, 1977

Robert Kanter, R. Kanter Securities Corp., 9:30 a.m.

Gordon S. Macklin, National Association of Securities Dealers, Inc., 10 a.m.

Edward O'Brien, Securities Industry Association, 2 p.m.

WEDNESDAY, AUGUST 17, 1977

Robert H. B. Baldwin, Morgan Stanley & Co., Incorporated, 2 p.m.

Jerone M. Pustilnik, Institutional Networks, Corporation, 3 p.m.

Junius Peake, Morris, Mendelson, Ralph T. Williams, 3:30 p.m.

Persons intending to appear at the public hearings are reminded that they should file with George A. Fitzsimmons, Secretary of the Commission, Room 892, 500 North Capitol Street, Washington, D.C., 20549, the text of any prepared statement, together with 30 copies, not later than four business days prior to their appearance and are invited, at the time of their appearance, to make additional copies of these statements available for the benefit of interested persons attending the hearings.

All submissions should refer to Commission File No. 4-180 and will be available for public inspection at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 25, 1977.

[FR Doc.77-21976 Filed 7-27-77;11:25 am]

[1] See Securities Exchange Act Release No. 13662 (June 23, 1977), 42 FR 33509 (1977).





# notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

### National Endowment for the Arts

### FEDERAL—STATE PARTNERSHIP PROGRAM

### Guidelines; Fiscal Year 1979

The following are guidelines for the Federal-State Partnership Program of the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the Arts throughout the United States.

The Federal-State Partnership Program application deadlines are included. Interested persons should contact Mr. Henry Putsch, Director, Federal-State Partnership Program, National Endowment for the Arts, Mail Stop 605, Washington, D.C. 20506 (202/634-6055) for further information.

Signed at Washington, D.C. on July 20, 1977.

ROBERT M. SIMS,
*Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.*

FEDERAL-STATE PARTNERSHIP

NATIONAL ENDOWMENT FOR THE ARTS PROGRAM AND FUNDING INFORMATION

Fiscal Year 1979

The National Endowment for the Arts is an independent agency of the Federal Government created in 1965 to encourage and assist the nation's cultural resources. The Endowment is advised by the National Council on the Arts, a Presidentially-appointed body composed of the Chairman of the Endowment and 26 distinguished private citizens who are widely recognized for their broad knowledge of, or expertise in, or their profound interest in, the arts. The Council advises the Endowment on policies, procedures, and programs in addition to making recommendations on grant applications. The major goals of the Endowment are to make the arts more widely available to Americans, to strengthen cultural organizations, to preserve our rich cultural heritage for present and future generations, and to encourage the creative development of our nation's finest talent.

The Federal-State Partnership Program is one of twelve major program areas. Information about the Endowment and its other programs is contained in the Endowment's Guide to Programs which is available from the Program Information Office, Mail Stop 550, National Endowment for the Arts, Washington, D.C. 20506.

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REASSESSMENT PROCESS

For the past several months, the Federal-State Partnership Program has been undergoing a thorough and extensive reassessment of its purposes, goals, priorities, and programs. The first recommendations resulting from this reassessment will be presented to the National Council on the Arts in fall 1977.

Since the reassessment process is by no means complete, this issue of the Program and Funding Information booklet reflects a one-year continuation of past programs offered by the Federal-State Partnership Program. It may be necessary to make minor adjustments in individual programs upon acceptance of a new design for Federal-State Partnership. These adjustments will be announced. However, the major program changes, if mandated by a new design, will be reflected in the next issue of this publication.

INTRODUCTION

State Arts Agencies are eligible to receive assistance under the established guidelines for any of the Endowment's 12 major programs. However, the Endowment's Federal-State Partnership Program specifically reflects the national interest in the very existence of effective State Arts Agencies which play an important part in strengthening the cultural life of the nation. This program recognizes that the Federal and State interests in cultural development are intertwined and that cooperation between the National Endowment and State Arts Agencies strengthens the help each can provide their mutual constituencies.

The types of assistance offered through the Federal-State Partnership Program are designed to meet the needs of State Arts Agencies identified in continuing dialogue between the State Agencies, the National Endowment and its advisory bodies. Assistance is offered:

To provide a base of flexible funds to supplement state funds in carrying out a general plan developed by the State Arts Agency (Basic State Agency Grant).

To help State Arts Agencies develop their program capabilities to meet both state and national program needs (Program Development).

To assist projects involving two or more states to meet needs that are best dealt with on a cooperative basis (Regional Programs)

To help State Arts Agencies strengthen and support the important local work of community arts councils in their states (Community Development).

To make available nationally a variety of services which helps State Arts Agencies develop and carry out effective programs (Services to the Field).

LEGISLATIVE BACKGROUND FOR BASIC STATE AGENCY GRANTS

The Federal-State Partnership Advisory Panel has recommended that Sections 5(g) and 5(c) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, be included in this booklet. Support for State Arts Agencies is authorized by sub-section 5(g) of the Act. Section 5(c) of the Act enumerates the standards that the Endowment must use in reviewing applications. It should be noted that by terms of the legislation, State Arts Agencies, must also apply these standards when using funds from the Endowment.

*Section 5(g): Public Law 209, as amended.* The Chairman, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of grants-in-aid to assist the several States in supporting existing projects and productions which meet the standards enumerated in section 5(c) of this Act, and in developing projects and productions in the arts in such a manner as will furnish adequate programs, facilities, and services in the arts to all the people and communities in each of the several States.

*Section 5(c): Public Law 209, as amended.* The Chairman, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of contracts with, or grants-in-aid to, groups, or, in appropriate cases, individuals of exceptional talent engaged in or concerned with the arts, for the purpose of enabling them to provide or support:

(1) Projects and productions which have substantial artistic and cultural significance, giving emphasis to American creativity and the maintenance and encouragement of professional excellence;

(2) Projects and productions, meeting professional standards of authenticity, irrespective of origin, which are of significant merit and which, without such assistance, would otherwise be unavailable to our citizens for geographic or economic reasons;

(3) Projects and productions that will encourage and assist artists and enable them to achieve wider distribution of their works, to work in residence at an educational or cultural institution, or to achieve standards or professional excellence;

(4) Workshops that will encourage and develop the appreciation and enjoyment of the arts by our citizens;

(5) Other relevant projects, including surveys, research, planning, and publications relating to the purposes of this subsection



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*Application deadlines*

| Grant category | Deadline | Announcement of Rejection or grant award[1] |
|---|---|---|
| Basic State agency grant | Jan. 6, 1978 | June 1978 |
| Program development | do | Do |
| Community development | do | Do |
| Regional programs | do | Do |
| General programs | Applications are accepted and reviewed through the year. Applicants should generally allow 6 mo between application time and beginning of grant period. | |
| Services to the field: | | |
| National service organizations, regional and national meetings, staff travel program, technical assistance. | | |

[1] Estimated

CATEGORIES OF FUNDING

BASIC STATE AGENCY GRANT

State Arts Agencies (SAA's) are eligible for Basic State Agency Grants for projects and programs as outlined in a state plan for promotion and development of the arts.

The size of the grants made from federal fiscal year (FY) 1978 funds for SAAs' FY 1979 will be based on the amount of Congressional FY 1978 appropriations to the Endowment.[1]

The law also provides that of the 20 percent mentioned above, 75 percent will be allotted among the State Agencies in equal amounts of $200,000 or more and 25 percent will be available to the Endowment for making grants to State Arts Agencies and regional groups. The minimum $200,000 block grant level will take precedence over the remaining 25 percent.

In most instances, Basic State Agency Grants will be awarded on at least a one-to-one matching basis. While the matching requirement can be waived for up to 20 percent of a Basic Grant, the federal legislation makes clear that the circumstances must be special in nature.

Criteria for approval of the Basic State Agency Grant include:

Submission of the application/state plan;

Designation by the state of an agency for the administration of the state plan;

Statement of objectives of the State Arts Agency;

Quality of past performance and current prospects of State Arts Agency programming;

Demonstrated fiscal responsibility of the State Arts Agency;

Fulfillment of State Arts Agency reporting responsibilities.

Small groups of SAA representatives are invited to attend review sessions on their basic state applications. These sessions, attended by Federal-State Partnership Advisory Panel members and Endowment staff, not only to resolve technical problems, but also give each state an opportunity to describe its overall objectives and plans. This gives an opportunity for State Arts Agencies to increase mutual awareness and cooperation.

Following the group review sessions, each application and state plan is reviewed and evaluated by the Federal-State Partnership Advisory Panel which makes recommendations to the National Council on the Arts and the Chairman of the National Endowment for the Arts who, in accordance with the legislation, must approve the application before an award is made.

*Application Procedure*

Applications should be submitted on OMB Form No. 424, Application for Federal Assistance.

PROGRAM DEVELOPMENT

The purpose of the program is to provide State Arts Agencies with opportunities to obtain increased staff assistance in order to develop their program capabilities. The Program was initially established, and is now extended, as a temporary means to help State Arts Agencies overcome the limitations of personnel restrictions that hinder the development of programming.

Program Development grants will fund only positions for which financial support is not immediately available from state sources. It is hoped that effective use of Program Development funds will generate increased state appropriations for the positions and programs involved. In no instance will federal funds replace existing state funds for the designated staff position.

The National Council on the Arts recognizes the critical importance of adequate professional staff for effective programming by State Arts Agencies. The Council is pleased and encouraged by the impressive record of states assuming continuing responsibility for the costs of key positions initially funded by the National Endowment.

In considering applications, the Endowment will be responsive to staffing priorities expressed by each State Arts Agency. It is hoped that priority will be given to the hiring of professional staff; however, consideration will also be given to requests for funding of clerical and other essential support personnel.

Grants may be awarded for salaries, fringe benefits, and other costs of staff in the following general areas:

(1) Additional staff for ongoing State Arts Agency programs and activities. This area might include, but is not limited to, music program director, crafts coordinator, community development associate, fiscal officer, public information officer. In general, there will be a two-year limit on funding any position for activity in this area.

(2) New staff to plan and implement developing State Arts Agency-initiated programs, in, for example, folk arts, media, expansion arts, crafts, architecture, theatre, touring, technical assistance. In general, there will be a two-year limit on funding any position for activity in this area.

(3) Staff necessary to coordinate national programs such as Dance Touring and Artists-in-Schools. In general, funding of positions for activity in this area of national programs may continue beyond two years. After two years, the Endowment will fund no more than 50 percent of the salary, recognizing that these costs should continue to be shared as long as the program continues under joint sponsorship. It is also recognized that there will be additional maintenance, travel, and support costs for the position which will be borne by the states.

Application may be made for more than one position. Limitation on funds available may make it necessary to reduce the amount requested as it is not expected that funds for this category will increase appreciably.

It is understood that a single staff position may encompass activities in one, two, or all three of the above general areas. Generally, the Endowment will pay no more than 50 percent of total project costs. Waivers will be made only in the most exceptional circumstances on the basis of demonstrated need.

Applications for Program Development funds will be considered at the same time as, and in conjunction with, the Basic State Agency Grant applications. For State Arts Agency Fiscal Year 1979, applications are due no later than January 6, 1978. Program Development project period dates must coincide with the state fiscal year in order to facilitate the transfer of the staff positions to full state funding.

*Application Procedure*

Applications must be submitted on OMB Form No. 424, Application for Federal Assistance (Short Form). The application should include a brief narrative description of the duties of the position, programming needs, results to be achieved, and history of previous Program Development positions. The Supplemental Information Sheet should give detailed budget breakdown of budget and support costs.

In addition to the application form, applications should contain the following:

(1) A complete job description for the position.

(2) A resume of the staff person. This is required for continuing positions.

(3) A complete list of current and projected personnel (full and part time) including job descriptions.

REGIONAL PROGRAMS

Some opportunities in the cultural development of states and communities can best be realized by strong regional cooperation. To respond to these needs the Endowment has established a program of support to State Arts Agencies working cooperatively on a multi-state basis. Regional programming is not limited to contiguous states. Applications will be accepted from any group of two or more State Arts Agencies or their designated agents.

*Application Procedure*

Applications from State Arts Agencies are accepted on OMB Form No. 424, Application for Federal Assistance. Applications from designated non-profit organizations are accepted on Project Grant Application-NEA-3 (Rev.).

COMMUNITY DEVELOPMENT

State and Community Arts Agencies are important to each other. While each has its unique role-to play, the goals are generally similar, and it is advantageous to both parties to work cooperatively in serving their mutual constituency. Funds are therefore available to State Arts Agencies for the promotion and development of Community Arts Agencies.

Endowment support under this category will respond to plans or projects resulting from the collaborative discussions between State and Community Arts Agencies. Applications to the Federal-State Partnership Program must be made by the State Arts Agency following this broad, state-wide planning.

It should be noted that Community Arts Agencies qualify for support under several other Endowment program guidelines. Application may be made directly to these programs. Please see page ___ for a list of some Endowment categories that assist Community Arts Agencies.

Among types of proposals that will be considered are the following examples:

Challenge grants to generate local government and private Community Arts Agencies.

Professional staff for Community Arts Agencies for program development.

Support for state sponsorship of meetings, conferences or workshops for existing and developing Community Arts Agencies.

Assistance for statewide assemblies of Community Arts Agencies.

Program support for Community Arts Agencies.

[1] The Arts Endowment's enabling legislation provides that monies made available to State Arts Agencies and regional groups shall constitute not less than 20 percent of the total appropriation for 5(c) (i.e., the definite monies, often referred to as "Program Monies"). The indefinite monies often referred to as the "Treasury Fund", and "Challenge Grants" are not included.





Grants must be matched at least dollar for dollar with non-federal funds.

*Application Procedure*

Applications are accepted on *OMB Form. No. 424*, Application for Federal Assistance (Short Form).

GENERAL PROGRAMS

General Programs provide a flexible means by which the Federal-State Partnership office can respond to pilot projects or other proposals that meet special needs or unique opportunities which cannot be accommodated through other program categories.

General Program awards are usually for one year only and will be renewed only under exceptional conditions. All grants must be matched. Awards will generally be under $10,000.

*Application Procedure*

Applications from State Arts Agencies are accepted on *OMB Form No. 424*, Application for Federal Assistance (Short Form). Applications from designated non-profit organizations are accepted on Project Grant Application NEA-3 (Rev.).

SERVICES TO THE FIELD

This program provides services to the field in six categories. The first category, National Service Organizations, provides direct grant assistance to national organizations; the other categories are service programs provided by the Federal-State Partnership Program directly or through grant support to another organization.

(1) NATIONAL SERVICE ORGANIZATIONS

This program provides grant assistance to national non-governmental organizations or projects which support, strengthen, and service State and Community Arts Agencies.

(2) INTERNSHIPS

The present reassessment process of the Federal-State Partnership Program will include a thorough study of the Internship Program and its implications in relationship to future goals of the Program. At the time of this printing, a design for the Internship Program is not yet available. A separate announcement may be distributed in 1977, or you may write directly to the Federal-State Program for additional information.

(3) REGIONAL COORDINATORS

Initiated in 1972, the Regional Coordinator Program currently consists of ten coordinators serving all 55 States and special jurisdictions. It is the responsibility of the Coordinators to provide assistance to State Arts Agencies, cultural organizations within the region, artists, and the Endowment. The Coordinators are well acquainted with all Endowment programs and are able to carry that information to the states and other potential grantees, as well as assist arts agencies and cultural organizations in resolving specific problems. Endowment program directors and State Arts Agency directors often call upon the Coordinators to visit grant applicants and to report on projects. The Coordinators are available to work closely with State Arts Agency directors and to attend State Arts Agency meetings when invited. They are also called upon to attend many of the Arts Endowment panel and Council meetings. Coordinators are available to help State Arts Agency personnel and potential Endowment grantees, but will seldom, if ever, be involved in program operations. Please see list of Regional Coordinators on page —— for names and addresses.

(4) REGIONAL AND NATIONAL MEETINGS

Effective communication among the National Endowment for the Arts and each of the 55 state and jurisdictional arts agencies is essential. Regional and national meetings have played an important part in this communication. In past years, an effort has been made to vary the format and style of the meetings. It is anticipated that regional meetings of State Arts Agency directors will continue to be held in conjunction with Federal-State Partnership Advisory Panel meetings. It is also hoped that the Federal-State Partnership Program can expand its meeting schedule so that it will be possible for State Arts Agency Chairmen and Council members to be more involved in these sessions.

(5) STAFF TRAVEL PROGRAM

Staff members of State Arts Agencies may apply to the Endowment for funds to travel to other State Agencies in order to acquire knowledge which will be useful to them in their jobs. Funds available under this program are limited to the cost of coach class air/rail transportation only. Letter requests are accepted by the Federal-State office throughout the year.

(6) TECHNICAL ASSISTANCE

State, Regional and Community Arts Agencies may apply to the Endowment for funds to bring in specialists to advise them on specific programs, technical matters, or administrative functions provided the state is unable to handle this type of assistance under its own basic program. The Technical Assistance Program is administered by the Associated Councils of the Arts in cooperation with the Federal-State Partnership Program. Applications for assistance should be by letter request to the Federal-State office at least six weeks prior to the proposed consultancy.

Letter requests should include the particular needs of the agency, the proposed consultant's name, credentials, and the expected costs to the agency. The tenure of the consultation will be of short term duration of from 1 to 5 days. Endowment support would provide a negotiated fee not to exceed $100 per day plus coach class travel and per diem expenses.

Letter requests are accepted throughout the year.

OTHER AREAS OF ASSISTANCE

ASSISTANCE TO STATE ARTS AGENCIES THROUGH OTHER PROGRAM OFFICES

In addition to grants made through the Federal-State Partnership Program, monies are available to State Arts Agencies through all program offices of the Endowment: Architecture and Environmental Arts, Dance, Education, Expansion Arts, Literature, Media Arts, Museums, Music, Special Projects, Theater, and Visual Arts.

Below is a chronological list of deadlines[1] for other Endowment grant categories through which State Arts Agencies can apply.

October 25, 1977, Media Arts—Regional Development: In Residence/Workshops.
November 1, 1977, Dance—Dance/Film/Video.
Media Arts—Production Aid (Pilot).
November 15, 1977, Literature—Assistance to Literary Magazines.
Expansion Arts—State Arts Agencies.
December 12, 1977, Literature—Assistance to Small Presses.
December 15, 1977, Dance—Large Company Touring.
December 19, 1977, Challenge Grants.
January 1, 1978, Folk and Traditional Arts.
January 15, 1978, Special Projects—Interdisciplinary Special Projects.
January 16, 1978, Visual Arts—Photography Exhibition, Photography Publications, Photography Surveys.
February 1, 1978, Dance—Dance/Film/Video.
February 2, 1978, Architecture + Environmental Arts.
March 15, 1978, Literature—Residencies for Writers.
April 1, 1978, Folk and Traditional Arts.
April 3, 1978, Museums—Cooperative Programs, Special Exhibitions.
April 15, 1978, Special Projects—Interdisciplinary Special Projects.
May 1, 1978, Dance—Dance/Film/Video.
June 1, 1978, Music—Jazz Organizations.
Folk/Ethnic Music Organizations/Presentations, Organizations/Documentation.
June 15, 1978, Media Arts—Regional Development: Aid to Film/Video Exhibitions.
Education—Artists-in-Schools.
Media Arts—Regional Development: Aid to Film/Video Exhibit.
Architecture + Environmental Arts.
July 1, 1978, Dance—Dance/Film/Video.
Long-Term Dance Residencies (Pilot).
Folk and Traditional Arts.
August 15, 1978, Media Arts—Regional Development: In Residence/Workshops.
September 1, 1978, Visual Arts—Works of Art in Public Places.
September 15, 1978, Media Arts—Production Aid (Pilot).
September 29, 1978, Visual Arts—Crafts Exhibition Aid, Crafts Workshops, Workshops/Alternative Spaces.
Architecture+Environmental Arts.
October 1, 1978, Folk and Traditional Arts.
October 3, 1978, Literature—Assistance to Small Presses.
November 1, 1978, Dance—Dance/Film/Video.
November 15, 1978, Literature—Assistance to Literary Magazines.
Expansion Arts, State Arts Agencies.
December 1, 1978, Challenge Grants.
October 25, 1977, Media Arts—Regional Development: In Residence/Workshops.
November 1, 1977, Media Arts—Production Aid (Pilot).
Dance—Dance/Film/Video.
November 15, 1977, Expansion Arts—Instruction and Training, Arts Exposure.
December 15, 1977, Dance—Large Company Touring.
December 19, 1977, Challenge Grants.
January 1, 1978, Folk and Traditional Arts.
January 15, 1978, Special Projects—Interdisciplinary Special Projects.
January 16, 1978—Visual Arts—Photography Exhibition, Photography Surveys.
February 1, 1978, Dance—Dance/Film/Video.
February 2, 1978, Architecture+Environmental Arts.
March 15, 1978, Literature—Residences for Writers.
April 1, 1978, Folk and Traditional Arts.
April 3, 1978, Museums—Cooperative Programs, Special Exhibitions.
April 15, 1978, Special Projects—Interdisciplinary Special Projects.
May 1, 1978, Dance—Dance/Film/Video.
June 1, 1978, Music—Jazz Organizations.
Folk/Ethnic Organizations Presentations, Organizations/Documentation.
June 15, 1978, Media Arts—Regional Development: Aid to Film/Video Exhibitions.
Architecture+Environmental Arts.
July 1, 1978, Folk and Traditional Arts.
Dance—Dance/Film/Video, Long-Term Dance Residencies (Pilot).
August 15, 1978, Media Arts—Regional Development: In Residence/Workshops.
September 1, 1978, Visual Arts—Works of Art in Public Places.
September 15, 1978, Media Arts—Production Aid (Pilot).

[1] The application deadlines are subject to change. Applicants are urged to verify deadlines with the individual programs.



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September 29, 1978. Visual Arts—Crafts Exhibition Aid, Crafts Workshops, Workshops/Alternative Spaces.
September 29, 1978. Architecture + Environmental Arts.
October 1, 1978. Expansion Arts—Special Summer Projects, Regional Tour-Events, Community Cultural Centers, Neighborhood Arts Services.
Folk and Traditional Arts.
November 1, 1978. Dance—Dance Film Video.
November 15, 1978. Expansion Arts—Instruction and Training, Arts Exposure.
December 1, 1978. Challenge Grants.

METHODS OF FUNDING

PROGRAM FUNDS METHOD

Generally, grants will be made on at least a dollar-for-dollar matching basis. Applicants requesting assistance from Program Funds must present evidence that at least one-half of the total cost of the project will be provided by the applicant. Anticipated source of matching must be identified.

*Example:* If an applicant requests from the Endowment $30,000, then applicant lists match of at least 30,000, and total project budget reflects at least $60,000.

TREASURY FUND METHOD

When the National Endowment for the Arts was created, Congress included a unique provision in its enabling legislation. This provision allows the Endowment to work in partnership with private and other nonfederal sources of funding for the arts. Designed to encourage and stimulate increased private funding for the arts, the Treasury Fund allows nonfederal contributors to join the Endowment in the grant-making process, generally for projects supported by the Endowment under the established program guidelines.

The Endowment encourages use of the Treasury Fund method as an especially effective way of combining federal and private support, and as an encouragement to all potential donors, particularly those representing new or substantially increased sources of funds.

The Endowment may accept gifts in the form of money and other property. Bequests may be made to the Endowment as well. Gifts to the Endowment are generally deductible for federal income, estate, and gift tax purposes.

Gifts may be made to the Endowment for the support of a nonprofit, tax-exempt, cultural organization which has been notified that the Endowment intends to award it a grant under its regular program guidelines—organizations such as a museum, a symphony orchestra, a dance, opera, or theatre company—or for an Endowment program, such as fellowships, touring, conferences, or workshops.

When a restricted gift is received, it frees an equal amount from the Treasury Fund, which is then made available to the grantee in accordance with the amount and conditions of the grant, as recommended by the National Council on the Arts and approved by the Chairman.

The Endowment also accepts unrestricted gifts to be used for projects recommended to the Chairman by the National Council on the Arts.

HOW A TREASURY FUND GRANT IS ARRANGED

Those interested in giving for a specific purpose should note the step by step process described below.

1. If a project is eligible for consideration under the Federal-State Partnership Program guidelines, the applicant submits to the Endowment a formal application, which may include a list of potential donors.

2. The application is reviewed first by the Federal-State Partnership Advisory Panel and then by the National Council on the Arts and is recommended for approval or rejection. Based on these recommendations, the Chairman makes the final determination and notification is sent to the applicant.

3. If the grant award is approved, the applicant then requests that the donors forward their gifts to the National Endowment for the Arts in the form of a gift transmittal letter specifying the amount and restricted purpose of the donation (i.e., the name of the applicant and specific project supported), and date by which payment will be made to the grantee organization (see below).

*Handling Procedures*

In order to simplify handling procedures for restricted donations which are to be matched by the Treasury Fund, grant recipients will receive payment directly from the donor (in cash or negotiable securities) on all restricted Treasury Fund gifts to the Endowment. Under this method, the following procedures apply:

1. Gift transmittal letter is received by the Endowment from donor with above specified information.

2. Upon receipt of payment on the gifts, grantee provides the Endowment with evidence of receipt of such payment as follows:

In the case of individual gifts of less than $5,000, grantee will forward to the Endowment a list of donors' names, addresses and amounts received, certified by an official of the organization and notarized.

In the case of individual gifts of $5,000 or more, grantee will forward to the Endowment, within the grant period, a photostatic copy of the instrument of payment, i.e., the check or negotiable securities, with a covering letter.

3 In cases where benefit proceeds are to be utilized for purposes of the Treasury Fund, evidence, such as benefit announcement circulars, invitations, posters, etcetera (which indicate donors had prior knowledge that their contributions would be used for the Treasury Fund) must be retained by grantee as evidence of donors' intent. In these cases, the grantee organization will forward to the Endowment, within the grant period, a notarized letter requesting release of the Treasury matching funds, signed by an appropriate official, certifying that the benefit was held on a specified date, yielded a specified sum for Treasury Fund gift purposes related to the grant in question, and that evidence of the benefit will be retained by grantee organization in its files.

4. In all cases, donors are to make payment on gifts at least 60 days prior to termination of the grant period, and grantee organizations will provide the Endowment with evidence of receipt of payment on gifts at least 30 days prior to the termination of the grant period.

*The Process in Terms of Money*

| | Dollars |
|---|---|
| Donor's contribution(s) to Endowment | 25,000 |
| Endowment match from the Treasury Fund | 25,000 |
| Total Endowment grant | 50,000 |
| Grantee's additional project cost | 50,000 |
| Minimum total budget of project | 100,000 |

INCREASED SUPPORT OF NATIONAL PROGRAMS

At its September 1975 meeting, the National Council noted and commended the continued activities of those State Arts Agencies that have secured both private and public funds to match and expand Artists-in-Schools and Dance Touring Programs. The Council encourages, in addition to the achievement of a cash match for Artists-in-Schools, the use of private funds and other public monies to expand these programs. Other public monies which might be used for this purpose are the Basic State Agency Grant from the Arts Endowment, other federal agency funds, state appropriations, or local tax monies.

REGIONAL COORDINATORS

NEW ENGLAND

Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island. Rudy Nashan, Regional Coordinator for New England, 30 Savoy Street, Providence, Rhode Island 02906 (401-274-4754).

MID-ATLANTIC

New York, Pennsylvania, New Jersey, Delaware, Maryland. John Wessel, Regional Coordinator for Mid-Atlantic, 271 Central Park W. (temporary), New York, New York 10024 (212-724-7251).

MID-SOUTH

West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, District of Columbia. Gerald Ness, Regional Coordinator for Mid-South, 2130 P Street NW., Washington, D.C. 20036 (202-293-9042).

GULF

Alabama, Georgia, Florida, Louisiana, Mississippi, Puerto Rico, Virgin Islands. Charles Springman, Regional Coordinator for Gulf, 630 North Blount Street, Raleigh, North Carolina 27604 (919-832-0047).

SOUTH PLAINS

Kansas, Missouri, Arkansas, Texas, Oklahoma. Frances Poteet, Regional Coordinator for South Plains, 601 East Austin, No. 1410, Alamo, Texas 78516 (512-787-6756).

GREAT LAKES

Wisconsin, Michigan, Illinois, Indiana, Ohio. Bert Masor, Regional Coordinator for Great Lakes, 4200 Marine Drive, Chicago, Illinois 60613 (312) 525-6748 or 782-7858.

NORTH PLAINS

North Dakota, South Dakota, Nebraska, Minnesota, Iowa. (Vacant), Regional Coordinator for North Plains.

SOUTHWEST

Utah, Colorado, Arizona, New Mexico, Wyoming. Bill Jamison, Regional Coordinator for Southwest. (Address to be announced.)

NORTHWEST

Washington, Montana, Oregon, Idaho, Alaska. Terry Melton, Regional Coordinator for Northwest, 728 Rural Avenue South, Salem, Oregon 97302 (503-581-5264).

PACIFIC

California, Nevada, Hawaii, Guam, American Samoa. Dale Kobler, Regional Coordinator for Pacific, P.O. Box 15187, San Francisco, California 94115 (415-921-9008).

PRIVACY ACT NOTIFICATION

In compliance with the Privacy Act of 1974, we wish to furnish you with the following information:

Section (5) of the National Foundation of the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 954), authorizes the Endowment to solicit the requested information. This information is needed to process your grant application and for statistical research and analysis of trends. The routine uses for which this information can be used





and the purposes of such use are general administration of grant review process, statistical research, congressional oversight, and analysis of trends.

Failure to provide the requested information could result in rejection of your application due to lack of sufficient facts for determining either your eligibility for a grant or the amount which should be awarded.

RESOLUTION ON ACCESSIBILITY TO THE ARTS FOR THE HANDICAPPED

One of the main goals of the National Endowment for the Arts is to assist in making the arts available to all Americans. The arts are a right, not a privilege. They are central to what our society is and what it can be. The National Council on the Arts believes very strongly that no citizen should be deprived of the beauty and the insights into the human experience that only the arts can impart.

The National Council on the Arts believes that cultural institutions and individual artists could make a significant contribution to the lives of citizens who are physically handicapped. It therefore urges the National Endowment for the Arts to take a leadership role in advocating special provision for the handicapped in cultural facilities and programs.

The Council notes that the Congress of the United States passed in 1968 (P.L. 90-480) legislation that would require all public buildings constructed, leased, or financed in whole or in part by the Federal Government to be accessible to handicapped persons. The Council strongly endorses the intent of this legislation and urges private interests and governments at the state and local levels to take the intent of this legislation into account when building or renovating cultural facilities.

The Council further requests that the National Endowment for the Arts and all the program areas within the Endowment be mindful of the intent and purposes of this legislation as they formulate their own guidelines and as they review proposals from the field. The Council urges the Endowment to give consideration to all the ways in which the agency can further promote and implement the goal of making cultural facilities and activities accessible to Americans who are physically handicapped. (Adopted by the National Council on the Arts, September 15, 1973.)

STATEMENT OF THE NATIONAL COUNCIL ON THE ARTS ON THE ROLE OF ARTISTS AND CULTURAL INSTITUTIONS IN PROMOTING NATIONAL ENERGY GOALS

The National Council on the Arts is confident that the Nation's artists and cultural institutions will respond enthusiastically to the President's call for national energy measures which will develop new and existing energy resources and also conserve them. The Council believes that through efforts already made the Nation's cultural institutions and artists will make a significant contribution to national goals.

The Council urges the National Endowment for the Arts to assist in disseminating information on legislative and administrative action that affects its constituencies and on ways to conserve energy.

The Council notes with pride that the Architecture + Environmental Arts Program of the Endowment has made special efforts to meet the President's goals. It urges that even greater consideration be given to examining ways the Endowment and other Federal agencies can assist individuals and groups to conserve energy. Some measures could include renovation of facilities, installation of climate control systems, and development of lighter, more easily transportable equipment for touring groups.

While artists and cultural institutions will make every effort to assist in meeting national energy goals the Council feels it is important to emphasize that adequate energy resources should be available to artists and cultural institutions so they can contribute to the quality of life in the United States. It is, for example, essential that our craftsmen have the fuel to fire their kilns, that transportation be available for performing arts activities, and that our nation's museums have the energy required to preserve the objects that comprise the cultural heritage of our people.

MAY 14, 1977.

Reminder. All applications should be mailed to Grants Office, National Endowment for the Arts, Washington, D.C. 20506.

[FR Doc.77 21735 Filed 7-27-77;8:45 am]

## FELLOWSHIP GRANTS FOR COMPOSERS AND LIBRETTISTS (MUSIC PROGRAM)

### Guidelines; Fiscal Year 1978

The following are guidelines for the Fellowship Grants for Composers and Librettists, Music Program of the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the Arts throughout the United States.

The Composer and Librettists Fellowship Grants Program application deadlines are included. Interested persons should contact Dr. Walter Anderson, Director, Music Program, National Endowment for the Arts, Mail Stop 553, Washington, D.C. 20506 (202/634-6390) for further information.

Signed at Washington, D.C. on July 20, 1977.

ROBERT M. SIMS,
*Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.*

FELLOWSHIP GRANTS FOR COMPOSERS & LIBRETTISTS

NATIONAL ENDOWMENT FOR THE ARTS MUSIC PROGRAM GUIDELINES
Fiscal Year 1978

MAY 23, 1977.

The National Endowment for the Arts is an independent agency of the Federal Government created in 1965 to encourage and assist the nation's cultural resources. The Endowment is advised by the National Council on the Arts, a Presidentially-appointed body composed of the Chairman of the Endowment and 26 distinguished private citizens who are widely recognized for their broad knowledge of or expertise in, or their profound interest in, the arts. The Council advises the Endowment on policies, procedures and programs in addition to making recommendations on grant applications. The major goals of the Endowment are to make the arts more widely available to Americans, to strengthen cultural organizations, to preserve our rich cultural heritage for present and future generations, and to encourage the creative development of our nation's finest talent.

The Music Program is one of twelve major Program areas. This booklet contains application guidelines and forms for its Composers/Librettists grants. The Music Program also offers assistance to symphony orchestras; opera companies; jazz, folk, and ethnic musicians and projects; national organizations concerned with artist/audience development; national service organizations; independent professional conservatories of music; and a limited number of professional choral groups. Information about these and other areas of assistance are contained in the Endowment's "Guide to Programs" which is available from the Program Information Office, National Endowment for the Arts, Washington, D.C. 20506.

JULY 1977.

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FELLOWSHIP GRANTS TO COMPOSERS, LIBRETTISTS

INTRODUCTION

In Fiscal 1978 the National Endowment for the Arts will continue its program of awarding fellowship-grants to assist composers and librettists.

The National Council on the Arts and the Music Advisory Panel believe that it is an important priority of the Music Program to encourage the creation and performance of music by Americans. Fellowships for Composers and Librettists were initiated in 1973 as the principal way of encouraging the creation of new musical works and aiding the career development of composers and librettists. The Jazz/Folk/Ethnic Program provides support for jazz composers.

Opera companies and orchestras have been encouraged to commission and perform works by Americans through their specific program guidelines. In addition, special funds will be available to a limited number of opera companies and orchestras for commissioning and performances of American works through Music Resource Projects during the 1978–1979 performance season through their respective programs.

On the advice of the Music Advisory Panel, the Endowment is proceeding now to develop plans for additional support of contemporary music. New programs will be instituted when funds become available, hope-



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fully in Fiscal 1979. It is expected that priority will be given to support of performance activities. Consideration is being given to programs that would support contemporary performance groups and/or special performance events. Special events could include a retrospective or a one-time celebration on a particular theme. They could involve, among other things, symposia, open rehearsals and public performances. Assistance is also being considered for experimental music centers and the recording of works by American composers and librettists.

GENERAL PURPOSE

The purpose of this program in support of individuals is to encourage: Creation of new compositions or the completion of works in progress; creation of new librettos or the completion of librettos in progress; professional development of the composer or librettist.

APPLICATION DEADLINE

Applications must be postmarked no later than November 1, 1977. The proposed period of grant support should not begin before July 1, 1978 and generally may not extend past June 30, 1979. Notices of grant award or rejection will not be sent before June 1, 1978. Failure to submit all materials by November 1, 1977 may result in the rejection of the application.

One set of applications may be found on page —. Additional applications may be obtained by writing to the Music Program Mail Stop 553, National Endowment for the Arts, Washington, D.C. 20506. Please request Individual Grant Application Forms, NEA–2 (Rev.), for the Composer/Librettist Program.

CATEGORIES OF SUPPORT

CATEGORY I

Non-matching Fellowship grants of up to $10,000 to composers of exceptional talent. Project activities may include:

(1) Creation of new works or the completion of works in progress. Funds are intended to support: the individual's time; copying and reproduction costs; studio expenses while working at an established electronic music facility; activities necessary to complete the works.

(2) Research related to creative activity.

CATEGORY II

Non-matching fellowship-grants of *up to $7,500* to librettists of exceptional talent for the creation of new works or the completion of works in progress. Applicants must show evidence of expertise in the opera/lyric theater styles. Funds are intended to support the individual's time, copying and reproduction costs, or other services necessary to complete the work(s).

CATEGORY III

Non-matching fellowship-grants of *up to $2,500* to aid the professional development of the composer or librettist of exceptional talent. Applications in which projects include the creation or completion of works should be submitted under Category I or Category II.

Assistance under Category III will be considered for:

(1) Copying and reproduction costs of scores and parts of completed works;

(2) Expenses necessary to provide time for research and limited expenses for the purchase of other composers' scores of librettos in order that the aspiring composer of librettist may have continuing rapport with the field, be knowledgeable concerning new technological developments, and be in a position to study and explore current trends;

(3) Expenses necessary to prepare demonstration tape recordings or excerpts of works for the purpose of providing samples for the review of performers, publishers, or recording firms;

(4) Transportation costs and lodging expenses required to discuss work(s) with conductors, artistic directors, and publishing and/or recording representatives.

COLLABORATIVE PROJECTS

Composers and librettists who wish to apply for support of collaborative projects should submit separate applications under Categories I and II respectively. This program also encourages collaborations between composers and other creative artists. As an example, a composer and a choreographer interested in collaborating on a project would apply to the Composer/Librettist Program and the Endowment's Dance Program respectively. Those interested in collaborations should write to the applicable program below for information on application procedures:

Dance Program, Mail Stop 555, National Endowment for the Arts, Washington, D.C. 20506.

Theatre Program, Mail Stop 554 National Endowment for the Arts, Washington, D.C. 20506.

Media Arts Program, Mail Stop 552, National Endowment for the Arts, Washington, D.C. 20506.

Visual Arts Program, Mail Stop 501, National Endowment for the Arts, Washington, D.C. 20506.

UNITED STATES/UNITED KINGDOM BICENTENNIAL EXCHANGE FELLOWSHIPS

Under an agreement between the governments of Great Britain and the United States, five fellowships for work and study in the United Kingdom will be awarded each year to midcareer American artists who show a clear potential to become leaders in their respective fields. A similar number of British artists will receive awards to pursue their disciplines in the United States. The program, administered jointly in the United States by the National Endowment for the Arts and the Department of State, and in the United Kingdom by the British Council, will continue through 1981.

US/UK Fellowships will normally be awarded for nine consecutive months in residence in the United Kingdom. Occasionally, US/UK Fellowships will be considered for not less than six consecutive months.

Fellowship grants of up to $15,000 are available to enable artists to pursue their disciplines in the United Kingdom. Each fellow will receive a monthly stipend of $1,600. Round-trip transportation will be provided for the fellow. Additional funds may also be made available for other extraordinary expenses directly associated with the fellowship. There is no matching requirement.

Artists applying under any Composer/Librettist fellowship category will automatically be eligible for consideration for a US/UK Fellowship.

The Composer/Librettist fellowship advisory panel will recommend one or two artists for consideration by the American Selection Committee.

Only recommended artists will be notified. This notification will follow the same time schedule as the announcement date for the Composer/Librettist Fellowship Program categories. A representative of the American Selection Committee will write to recommended artists to obtain additional information.

Recommendation for a US/UK Fellowship will not affect your application for a Composer/Librettist Fellowship.

For further information please contact the Office of Special Projects, National Endowment for the Arts, Washington, D.C. 20506, Tel.: 202–634–6020.

APPLICATION INFORMATION

ELIGIBILITY

By statute, the National Endowment for the Arts limits its fellowship programs to the awarding of grants to individuals of exceptional talent. Eligibility is further limited to individuals who can give evidence of the successful completion of the necessary foundations in training.

Ordinarily individual grants are made only to United States citizens. Under special circumstances which must be shown by the applicant, an individual award may be made to an applicant who is not a citizen but who has been lawfully admitted to the United States for permanent residence.

The Endowment funds a separate program to benefit jazz composers. These composers may request the Jazz/Folk/Ethnic Program Guidelines from the Music Program, Mail Stop 553, National Endowment for the Arts, Washington, D.C. 20506.

PROGRAM LIMITATIONS

(1) This program funds the individual composer or librettist and does not fund production costs or fees of other persons associated with production elements such as lighting design, choreography,[1] costuming, scenic design or nonmusical graphic representation.

(2) This program does not support direct costs of publication or recording for commercial release.

(3) Support is not intended for the development or completion of Master's degree theses or doctoral dissertations.

(4) Generally, Fellowship grants will not be awarded for the completion of works which have previously received support from the Endowment or any other organization.

(5) Generally, Fellowship grants under this program will not be awarded to the same individual in consecutive years, or on a continuing basis.

(6) This program does not support foreign travel costs. The limitation is not intended to prohibit a Composer/Librettist Fellowship recipient from carrying out the proposed project outside the United States, if travel expenses are supported by a source other than the Endowment.

(7) This program does not support the costs of an arranger or orchestrator to be hired by the applicant.

(8) Applicants may submit one application in one category only.

APPLICATION PROCESSING

If an application is incomplete and/or if all additional required materials have not been submitted by the deadline, the application may be rejected due to insufficient information for review. The Endowment cannot accept responsibility for delays occasioned by the late arrival of applications or requests which have been improperly submitted.

The application will be returned to the applicant if the proposed project does not fall within the scope of these guidelines. If, however, a valid application has been submitted in the wrong category, the Endowment may change that application to the correct category and will notify the applicant of such action.

APPLICATION REVIEW

All applications are judged on the quality of the works submitted for review. At no

[1] Choreographers are advised to consult Dance Program guidelines.





time does the length or medium of the proposed project become a determining factor in the deliberations of the reviewing personnel. After an application with all necessary information has been received, the file will be reviewed as follows:

The Endowment Music Staff, the Composer/Librettist Advisory Panel, and the National Council on the Arts successively review the application. (Projects in conjunction with a choreographer or dance company will be reviewed by both the Music and Dance Advisory Panels.)

Notices of approval or rejection will be sent as the Chairman authorizes, but not before June 1, 1978.

Because of the limited funds available and the anticipated number of applications, generally Fellowship grants will be awarded in amounts *less* than the stated maximums within each category of support.

TAXABILITY OF FELLOWSHIP-GRANTS

The Internal Revenue Code regulations provide that certain fellowships to individuals who are not candidates for degrees are deductible, but only up to a certain amount and for a limited period of time.

A pamphlet entitled *Tax Information for American Scholars in the U.S. and Abroad* is generally available at any Internal Revenue Service office. The booklet might be helpful in preparing an application for a proposed fellowship.

The Endowment cannot advise you as to the deductibility of all or any portion of a fellowship, should one be awarded to you. Advice should be sought from your own tax counselor or local Internal Revenue office.

FINAL REPORTS

At the conclusion of the grant period, the Endowment requires final reports from all grantees. Complete instructions on final reporting will accompany the Fellowship grant letter. All grantees will be required to submit the following:

A narrative report describing what was accomplished during the grant period.

A copy of the completed work.

A recording of the work, if possible.

Performance, publication, and recording plans for the completed work.

AMERICAN MUSIC CENTER ARCHIVE

The American Music Center is collecting and housing an archive of the scores, librettos, and recordings resulting from work accomplished under the Composer/Librettist Program. The Center is also responsible for developing a catalog of the works, and for keeping an historical record to include music, program, reviews, and other materials relevant to the Composer/Librettist Program. These materials are available to performers, conductors, and other interested musicians for review. It is hoped that, as a result, a number of performances of these works will take place.

As final reports on Composer/Librettist fellowship-grants are submitted to the Endowment, they will be reviewed and sent to the American Music Center Archive.

OTHER ENDOWMENT PROGRAMS OF INTEREST

JAZZ/FOLK/ETHNIC FELLOWSHIP-GRANTS

The Endowment funds a separate program to benefit jazz composers. These composers may request the Jazz/Folk/Ethnic Program Guidelines from the Music Program, Mail Stop 553, National Endowment for the Arts, Washington, D.C. 20506.

VISUAL ARTS IN THE PERFORMING ARTS

The Visual Arts Program offers assistance to professional performing groups that wish to engage the services of artists of exceptional talent (who are not professional stage or costume designers) in three areas; design of costumes; design of sets; and design of posters which advertise either a single production or a season's schedule.

Application deadlines for projects beginning after July 1, 1978 is January 2, 1978.

Application guidelines and forms are available from the Visual Arts Program, Mail Stop 501, National Endowment for the Arts, Washington, D.C. 20506.

PROGRAMMING IN THE ARTS

The Media Arts Program (formerly, the Public Media Program) provides assistance for production, research and development for a pilot program or an entire series of programs on the arts for national broadcast on television or radio. Projects may include film, television, or radio series designed to showcase the work of individual artists or performing or visual arts groups, or museums; or to present specific art works or art movements.

Application guidelines and forms are available from the Media Arts Program, Mail Stop 552, National Endowment for the Arts, Washington, D.C. 20506.

PRIVACY ACT NOTIFICATION

In compliance with the Privacy Act of 1974, we wish to furnish you with the following information:

Section (5) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 954), authorizes the Endowment to solicit the requested information. This information is needed to process your grant application and for statistical research and analysis of trends. The routine uses for which this information can be used and the purposes of such use are general administration of grant review process, statistical research, congressional oversight, and analysis of trends.

Failure to provide the requested information could result in rejection of your application due to lack of sufficient facts for determining either your eligibility for a grant or the amount which should be awarded.

RESOLUTION OF ACCESSIBILITY TO THE ARTS FOR THE HANDICAPPED

One of the main goals of the National Endowment for the Arts is to assist in making the arts available to all Americans. The arts are a right, not a privilege. They are central to what our society is and what it can be. The National Council on the Arts believes very strongly that no citizen should be deprived of the beauty and the insight into the human experience that only the arts can impart.

The National Council on the Arts believes that cultural institutions and individual artists could make a significant contribution to the lives of citizens who are physically handicapped. It therefore urges the National Endowment for the Arts to take a leadership role in advocating special provision for the handicapped in cultural facilities and programs.

The Council notes that the Congress of the United States passed in 1968 (Pub. L. 90–480) legislation that would require all public buildings constructed, leased or financed in whole or in part by the Federal Government to be accessible to handicapped persons. The Council strongly endorses the intent of this legislation and urges private interests and governments at the state and local levels to take the intent of this legislation into account when building or renovating cultural facilities.

The Council further requests that the National Endowmnet for the Arts and all of the program areas within the Endowment be mindful of the intent and purposes of this legislation as they formulate their own guidelines and as they review proposals from the field. The Council urges the Endowment to give consideration to all the ways in which the agency can further promote and implement the goal of making cultural facilities and activities accessible to Americans who are physically handicapped. (Adopted by the National Council on the Arts, September 15, 1973.)

[FR Doc.77-21736 Filed 7-27-77;8:45 am]

## LITERATURE PROGRAM

### Guidelines; Fiscal Years 1978 and 1979

The following are guidelines for the Literature Program of the National Endowment for the Arts, an independent agency of the Federal governmenment which makes grants to organizations and individuals concerned with the Arts throughout the United States.

The Literature Program application deadlines are included. Interested persons should contact Mr. Leonard Randolph, Director, Literature Program, National Endowment for the Arts, Mail Stop 607, Washington, D.C. 20506 (202/634–6044) for further information.

Signed at Washington, D.C. on July 20, 1977.

ROBERT M. SIMS,
*Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.*

LITERATURE

FISCAL YEAR 1978 ASSISTANCE TO SMALL PRESSES
RESIDENCIES FOR WRITERS ASSISTANCE TO LITERARY MAGAZINES

FISCAL YEAR 1979 RESIDENCIES FOR WRITERS

The National Endowment for the Arts is an independent agency of the Federal Government created in 1965 to encourage and assist the nation's cultural resources. The Endowment is advised by the National Council on the Arts, a Presidentially-appointed body composed of the Chairman of the Endowment and 26 distinguished private citizens who are widely recognized for their broad knowledge of, or expertise in, or their profound interest in, the arts. The Council advises the Endowment on policies, procedures, and programs in addition to making recommendations on grant applications. The major goals of the Endowment are to make the arts more widely available to Americans, to strengthen cultural organizations, to preserve our rich cultural heritage for present and future generations, and to encourage the creative development of our nation's finest talent.

The Literature Program is one of twelve major Program areas. Information about the Endowment and its other Program areas is contained in the Endowment's "Guide to Programs" which is available from the Program Information Office (Mail Stop 550), National Endowment for the Arts, Washington, D.C. 20506

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*Literature Program*

*Application deadline and grant calendar*

| Category | Application deadline | Announcement of rejection or grant | Project not to start before— | Grant amounts |
|---|---|---|---|---|
| Assistance to small presses fiscal year 1978. | Dec. 12, 1977 | June 1978 | June 15, 1978 | $500 to $10,000 matching. |
| Residencies for writers fiscal year 1978. | (Applications should be received approximately 6 mo prior to project starting date for projects scheduled to begin between Oct. 1, 1977, and Sept. 30, 1978. In no case applications will not be accepted postmarked later than Mar. 15, 1978.) | | | In general, up to $5,000 matching. |
| Residencies for writers fiscal year 1979. | Mar. 15, 1978 | October 1978 | Oct. 1, 1978 | Do. |
| Assistance to literary magazines 1978. | Nov. 15, 1977 | June 1978 | July 1, 1978 | Special assistance grants: Not to exceed $5,000 matching. Development grants: $15,000, $30,000, or $60,000. |

INTRODUCTION

The Endowment's Literature Program provides assistance to creative writers and encourages greater audiences for their works. During the past several years, it has concentrated in these areas: aid to writers through individual fellowships; assistance through grants to the nation's small literary magazines and presses; and sponsors of residencies by writers; aid to service organizations that provide information and technical guidance to writers; and placement of professional writers in elementary and secondary school classrooms.

Inquiries should be directed to: Literature Program (Mail Stop 607) National Endowment for the Arts, Washington, D.C. 20506 (202) 634-6044.

CATEGORIES OF FUNDING

ASSISTANCE TO SMALL PRESSES

The Literature Program will receive applications for grants to aid projects supporting publication and distribution of volumes of fiction, plays, and poetry by small presses. The purpose of these grants is to: produce a single volume or several volumes of fiction, plays, and poetry that otherwise would not be possible; encourage the publication and distribution of single volumes of fiction, plays and poetry by individual writers; assist in publishing writers who have no selected works printed; and encourage publication of experimental works by writers who already have established access to print.

*Eligibility*

Applications may be made by small nonprofit, tax-exempt presses with record of publishing volumes of fiction or poetry, either by individual writers or in anthology form.

Applications will also be accepted from official state arts agencies on behalf of specific small presses in their states.

Matching fellowships will also be made to individual small press publishers with a record of publishing volumes of poetry or fiction.

Requests from university and college presses will not be considered under this prog am. Projects in translation are now eligible for support.

*Amounts Available*

Applications may be made for sums ranging from a minimum of $500 to a maximum of $10,000. The Literature Advisory Panel urges applicants to carefully consider the amounts being requested. In most cases, grants will be awarded for the amounts requested or not at all.

Grants must be matched, at least dollar-for-dollar, by the small press or the individual publisher. For the purposes of matching in-kind contributions of press staff, outside editorial assistance, use of facilities, and contributions of materials are allowable. In addition to cash. State arts agencies may also pro' 'e non-federal funds for partial or full matching. Generally presses should not anticipate funding in consecutive years.

*Special Condition of the Grants*

It is a special condition of these grants that the author receive a minimum of 10% of the edition as, at least, partial payment of royalties, or the equivalent in cash.

*Deadline*

Applications must be postmarked no later than December 12, 1977 for projects scheduled to begin after June 15, 1978. Notices of approval or rejection will not be sent before June 1978.

*Review Process*

Applications will be received by the Arts Endowment and reviewed by the Literature Advisory Panel for recommendation to the National Council on the Arts and the Chairman.

Because of fund limitation, priority will be given to meritorious applications from presses that have not received previous funding.

*Application Procedure*

Applicant should complete and return three copies of the Project Grant Application (NEA-3) on page ____. Applications must be typed and clearly legible.

Please follow the instructions on pages ____.

Federal funds may be requested only for direct production costs such as paper, supplies, printing, proofreading, copy editing, binding, postage, distribution, et cetera. Up to 10 percent of the grant amount may be budgeted for editor's and proofreader's fees. Federal funds may not be requested for administrative salaries, rent, equipment, travel, or indirect costs (though these items may be used to match federal funds).

As examples of past work, three copies of two previous publications must be submitted with each application.

A description of the volume or volumes for which assistance is requested must be given on the application form.

Applications together with the examples of past work, should be mailed to: Grants Office (Mail Stop 500), National Endowment for the Arts, Washington, D.C. 20506.

RESIDENCIES FOR WRITERS

The Literature Program will received applications for grants to aid projects presenting published fiction writers, poets, and dramatists in long and short-term residencies.

The purpose of these grants is to: respond to an expressed need from the field for programs which will provide new audiences for contemporary published creative writers; assist writers, particularly those just achieving recognition, in establishing new sources of income; and provide communities in many areas of the country with exposure to contemporary published creative writers.

NOTE.—The Literature Advisory Panel has recommended that preference be given to projects of high quality that: provide extended residency opportunities for fiction writers, poets, and dramatists; propose to initiate new residencies and readings; and/or support residencies and readings in areas outside of large urban centers.

*Eligibility*

Applications may be made by nonprofit tax-exempt organizations such as state arts agencies, colleges, universities, libraries, museums, art centers, other public institutions (such as prisons or hospitals), and professional organizations of writers or teachers.

*Amounts Available*

In general, applications may be made for sums up to $5,000. In most cases grants will be for less. Grants must be matched, at least dollar-for-dollar, by the sponsoring organization. Funds requested from the Arts Endowment must not exceed one-half of the fee of the writer and one-half of the writer's travel and per diem expenses. Fees for writers may not be less than $150.

Deadline, FY 1978

Applications should be received approximately six months prior to Project Starting Date for projects scheduled to begin between October 1, 1977 and September 30, 1978. Applications will not be accepted postmarked later than March 15, 1978.

Deadline, FY 1979

Applications must be postmarked no later than March 15, 1978 for projects scheduled to begin after October 1, 1978. Notices of approval or rejection will not be sent before October, 1978.

*Application Procedure*

Applicant should complete and return three copies of the Project Grant Application (NEA-3) on page —. Please follow the instructions on pages —. Applications must be typed and clearly legible. The project description must include a list of writers who will be considered for a residency, together with the anticipated locations of residencies and potential local sponsors. A brief history of the sponsoring organization's past experience with scheduling and conducting residencies by writers should also be included in the application. Lack of experience will not, by itself, exclude an organization from consideration.

Applications with additional materials mentioned above should be mailed to:

Grants Office (Mail Stop 500)
National Endowment for the Arts
Washington, D.C. 20506





ASSISTANT TO LITERARY MAGAZINES

The Literature Program of the National Endowment for the Arts provides assistance to the nation's non-commercial literary magazines to aid creativity and encourage appreciation of poetry, fiction, drama, and literary criticism.

For Fiscal Year 1978, short-term Special Assistant Grants for specific activities will be available. In addition, a few long-term Development Grants will be awarded.

Magazines dedicated to special viewpoints or directed toward special audiences will be regarded as eligible to apply only if substantial attention is given to the publication of fiction, poetry, plays, or literary criticism.

In addition to direct grants from the Literature Program, the Endowment provides financial assistance to literary magazines through a grant to the Coordinating Council of Literary Magazines. For information on this program write: Coordinating Council of Literary Magazines, 80 Eighth Avenue, New York, New York 10011. The CCLM and the Arts Endowment coordinate their respective efforts to assist literary magazines.

SPECIAL ASSISTANCE GRANTS

*Eligibility*

Applications must be made by non-commercial literary magazines with tax-exempt status or by individual editors of non-commercial magazines. A magazine applying for a Special Assistance Grant must have published no fewer than three issues during the last three years.

*Project Examples*

Special Assistance Grants may be used for a variety of needs, including but not limited to:

Special issues, dealing with aspects of contemporary writing (fiction, poetry, plays, and literary criticism).

Special efforts to improve format, design, physical production, and/or increased readership.

Payment to authors and other contributors for their work.

Special issues devoted to the work of an individual writer or to contemporary translation.

*Grant Amounts*

Generally, grants will not be in excess of $5,000 and in most cases will be for less. The Literature Advisory Panel urges applicants to consider carefully the amount being requested. In most cases, grants will be awarded for the amount requested or not at all.

*Payment to Authors and Editors*

The National Council on the Arts and the Literature Advisory Panel urge that payments to authors and editors be considered.

Up to 10 percent of the total grant funds may be used for payment of fees to editors.

*Matching Requirements*

Grants must be matched at least dollar-for-dollar by the magazine or the individual editor/publisher. For purposes of matching, in-kind contributions of magazine staff, outside editorial assistance, use of facilities, and contributions of materials are allowable in addition to cash.

Applicants may not match grants under these guidelines with Endowment funds from other sources, such as funds administered by the Coordinating Council of Literary Magazines.

Receipt of a CCIM grant does not preclude a magazine from applying for support directly from the Literature Program under these guidelines.

*Deadline*

Applications must be postmarked no later than November 15, 1977 for projects which should be scheduled to begin after July 1, 1978. Notices of approval or rejection will not be sent before June 1978.

*Review Process*

Applications will be received by the Arts Endowment and reviewed by the Literature Advisory Panel for recommendation to the National Council on the Arts and the Chairman.

*Application Procedure*

Applicants should complete and return three copies of the Project Application NEA-3 (Rev.). The application must be typewritten and clearly legible.

*Six copies each of two recent issues* must be submitted as examples of past work. Examples must be sent with the application under the same cover.

The application should give an indication of publishing plans for the entire year during which support is requested. The print run for each issue of the magazine to be published during the grant period must be included as part of the project description.

DEVELOPMENT GRANTS

*Eligibility*

Applications must be made by non-commercial literary magazines with tax-exempt status or through nonprofit, tax-exempt organizations. A magazine applying for a three-year Development Grant must have published no fewer than six issues during the last two years.

*Project Examples*

Three-year Development Grants will be awarded to a few literary magazines of outstanding quality to: provide a modest base of stable financial support for current operations; assist in implementing long-range creative and editorial goals/plans; provide an opportunity for the development and implementation of efforts to secure continuing non-Federal sources of financial support.

*Grant Amounts*

Grants will be for $15,000, $30,000, or $60,000 for a three-year period. Editors should consider their needs carefully for the three-year period. The Literature Advisory Panel has recommended grants be awarded for the amount requested or not at all.

*Payment to Authors and Editors*

The National Council on the Arts and the Literature Advisory Panel urge that payments to authors and editors be considered.

Up to 10 percent of the total grant funds may be used for the payment of fees to editors.

*Matching Requirements*

Grants must be matched at least dollar-for-dollar by the magazine or the individual editor/publisher. While in-kind contributions of magazine staff, outside editorial assistance, use of facilities and contributions of materials are allowable in addition to cash for matching purposes, applicants are encouraged to provide matching for these grants on a two-to-one or three-to-one basis. The amount of cash matching should also be clearly shown on the application.

Applicants may not match grants under these guidelines with Endowment funds from other sources, such as funds administered by the Coordinating Council of Literary Magazines.

Receipt of a CCLM grant does not preclude a magazine from applying for support directly from the Literature Program under these guidelines.

*Deadline*

Applications must be postmarked no later than November 15, 1977 for projects which should be scheduled to begin after July 1, 1978. Notices of approval or rejection will not be sent before June 1978.

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*Six copies each of two recent issues* must be submitted as examples of past work. Examples must be sent with the application under the same cover.

FELLOWSHIPS FOR CREATIVE WRITERS

The National Endowment for the Arts program of fellowships for published writers of exceptional talent offers assistance to writers to enable them to set aside time for writing, research, or travel, and generally to advance their careers.

Applications for Fellowships will be received by the Literature Program in fall, 1978. Guidelines for this category will be available in the summer of 1978.

No applications will be considered in this category during the current year.

CHALLENGE GRANTS

Contingent upon receipt of appropriations, the Arts Endowment is planning a program of Challenge Grants. The purpose of these grants is to encourage cultural organizations to project and implement realistic plans for securing new and increased sources of continuing support and to assess their long-range goals.

Challenge Grants will be available to cultural institutions or groups of cultural institutions that have demonstrated a commitment to aesthetic quality and have programs of national or regional impact. It is expected that most recipients of Challenge Grants will also be grantees of other programs of the Arts Endowment.

These grants will be awarded on a minimum 3 to 1 matching basis with each federal dollar generating at least three new and/or increased dollars from other sources. Grants are awarded on a one-time basis but may cover a period of up to three years.

The specific use of the Challenge Grant and matching funds is primarily left to the discretion of the grantee. Possible uses of Challenge Grants are:

To meet increased operating costs;

To help eliminate accumulated debts;

To initiate or augment a cash reserve or an endowment fund;

To provide capital improvements for cultural facilities;

To assist a special one-time project which shows clearly that it will contribute to the basic strengthening of the grantee, and will have a beneficial impact on generating continued contributions from new and/or increased sources.

More detailed information may be obtained by writing: Challenge Grants, National Endowment for the Arts, Washington, D.C. 20506.

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Section (5) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 954), authorizes the En-



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Failure to provide the requested information could result in rejection of your application due to lack of sufficient facts for determining either your eligibility for a grant or the amount which should be awarded.

RESOLUTION ON ACCESSIBILITY TO THE ARTS FOR THE HANDICAPPED

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The Council notes that the Congress of the United States passed in 1968 (P.L. 90-480) legislation that would require all public buildings constructed, leased or financed in whole or in part by the Federal Government to be accessible to handicapped persons. The Council strongly endorses the intent of this legislation and urges private interests and governments at the state and local levels to take the intent of this legislation into account when building or renovating cultural facilities.

The Council further requests that the National Endowment for the Arts and all of the program areas within the Endowment be mindful of the intent and purposes of this legislation as they formulate their own guidelines and as they review proposals from the field. The Council urges the Endowment to give consideration to all the ways in which the agency can further promote and implement the goal of making cultural facilities and activities accessible to Americans who are physically handicapped. (Adopted by the National Council on the Arts, September 15, 1973.)

NOTE ON PUBLICATIONS

The National Endowment for the Arts strongly encourages grantees who produce books or other publications for dissemination to take advantage of the free cataloging service of the Cataloging-in-Publications Office of the Library of Congress.

Cataloging-in-Publication provides publishers with cataloging data to be printed in the book. Having the data in the book speeds up the library cataloging process and gets the book into immediate circulation—to the benefit of author, publisher, and reader.

For procedural information call or write:

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[FR Doc.77-21732 Filed 7-27-77;8:45 am]

## MUSEUM PROGRAM

### Guidelines; Fiscal Year 1979

The following are guidelines for the Museums Programs of the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the Arts throughout the United States.

The Museums Program application deadlines are included. Interested persons should contact Mr. John Spencer, Director, Museums Program, National Endowment for the Arts, Mail Stop 502, Washington, D.C. 20506 (202 634-6164) for further information.

Signed at Washington, D.C. on July 20, 1977.

ROBERT M. SIMS,
*Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.*

MUSEUMS

FISCAL YEAR 1979 (OCTOBER 1, 1978-SEPTEMBER 30, 1979)

The National Endowment for the Arts is an independent agency of the Federal Government created in 1965 to encourage and assist the nation's cultural resources. The Endowment is advised by the National Council on the Arts, a Presidentially appointed body composed of the Chairman of the Endowment and 26 distinguished private citizens who are widely recognized for their broad knowledge of or expertise in, or their profound interest in, the arts. The Council advises the Endowment on policies, procedures and programs in addition to making recommendations on grant applications. The major goals of the Endowment are to make the arts more widely available to Americans, to strengthen cultural organizations, to preserve our rich cultural heritage for present and future generations, and to encourage the creative development of our nation's finest talent.

The Museum Program is one of twelve major Program areas. Information about the Endowment and its other Programs is contained in the Endowment's "Guide to Programs" which is available from the Program Information Office (Mail Stop 550), National Endowment for the Arts, Washington, D.C. 20506. Museums may be especially interested in the Architecture & Environmental Arts, Dance, Expansion Arts, Media Arts, Music, Theater, Special Projects and Visual Arts Programs.

September 1977.

Questions should be directed to Museum Program (Mail Stop 502), National Endowment for the Arts, Washington, D.C. 20506 (202) 634 6164.

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*National endowment for the arts/museum program, fiscal year 1979; application deadlines*[1]

| Category | Application deadline | Notification date | Earliest beginning project |
|---|---|---|---|
| Museum purchase plan | Jan. 2, 1978 | June 1978 | July 1978. |
| Special exhibitions museum education cooperative programs | Apr. 3, 1978 | September 1978. | October 1978. |
| Utilization of museum collections, catalog, conservation, renovation (climate control, security, storage). | July 3, 1978 | December 1978. | January 1979. |
| Museum training, services to the field, fellowships for museum professionals. | Oct. 2, 1978 | March 1979 | April 1979. |
| Visiting specialists, general programs | Applications accepted throughout the year and reviewed quarterly. | | |

[1] Applications cannot be accepted after their appropriate deadline date unless an extension has been granted. Request for an extension must be made to the museum program prior to the appropriate deadline date and must be based on extenuating circumstances. See pages ____ to ____ for detailed instructions on completing application forms and supplementary material.

INTRODUCTION

The Museum Program of the National Endowment for the Arts was designed by professionals to meet the needs of the museums. It is guided by a Museum Advisory Panel, composed primarily of museum professionals. The Panel reviews all applications, makes policy recommendations to the Chairman of the Endowment, and recommends priorities for funding within the Program. Because the Panel regularly reviews the program, the language of the guidelines and the emphasis on certain categories changes to keep the Program as closely aligned as possible to the changing needs of American museums.

The Museum Program is guided by three basic policies:

The Program should be responsive; it should react to requests and not initiate projects. It should also remain flexible





enough to encompass any worthwhile project.

The quality of projects of regional or national importance should be the major criterion in evaluating applications. The nature of the project, not the size or location of the applicant institution must be the deciding factor.

The Program should be open to all museums for projects consistent with the legislation of the National Endowment for the Arts. Art, history, science, and children's museums are equally eligible to receive funds.

The Museum Program was developed to assist museums in carrying out the major functions of interpretation, exhibition, preservation, and acquisition through a variety of funding categories:

Museum Purchase Plan
Special Exhibitions
Museum Education
  Interpretation and Extension
  Museums and Schools
Cooperative Programs
Utilization of Museum Collections
Catalogue
  Documentation
  Computerization
  Publication
Conservation
  Surveys/Technical Consultation
  Conservation of Collections
  Conservation Training
  Regional Conservation Laboratories
Renovation (Climate Control, Security, and Storage)
  Surveys
  Implementation
Museum Training
  Formal Training Programs
  Internships
  Apprenticeships
Services to the Field
Fellowships for Museum Professionals
Visiting Specialists
General Programs

The Museum Program Guidelines represent a continuing development of a program designed to be broadly responsive to the needs of museums. The Advisory Panel and staff rely heavily on advice from the field; your comments and suggestions are always welcome.

MUSEUM PURCHASE PLAN DEADLINE: JANUARY 2, 1978

Matching grants of $5,000, $10,000, $15,000 or $20,000 to museums for the purchase of works by living American artists. The objectives of the program are to encourage museums to add to their collections of contemporary American art, to create and expand public response to works by living artists through display of their works, to raise new funds specifically for this purpose and to provide direct financial assistance for artists.

Works in all media may be purchased: paintings, sculptures, photographs, graphics, folk arts, crafts, industrial designs, costume and fashion designs, and film prints by independent filmmakers. One application from each museum is accepted each fiscal year. The application may include support of acquisitions in different media.

The grant and matching funds must be used for the direct cost of purchasing two or more works by living American artists. Insurance, crating, shipping, installation, salaries, and travel costs are not to be included.

Museum may apply for a $5,000, $10,000, $15,000 or $20,000 grant. The funds must be matched on a dollar-for-dollar basis from new money raised during the grant period specifically for this purpose. Matching funds must not come from already budgeted funds or other federal sources.

The new funds raised specifically for the purpose of matching this grant may not be received before the beginning of the project. Applicants are requested to identify possible sources of new funds on their applications.

Museums receiving acquisition funds agree that no work of art purchased under the *Museum Purchase Plan* will be deaccessioned or otherwise disposed of during the life-time of the artist except by exchange for another work or works.

*Deadline and Announcement Date*

Applications and Supplementary Information Sheets must be postmarked no later than January 2, 1978. Notices of approval or rejection will not be sent before June 1978.

*Grant Period*

The grant period will be from July 1, 1978 through June 30, 1979. If more time is needed the grant period may extend through June 30, 1980. Projects should not be scheduled to begin earlier than July 1978.

*How to Apply*

1. Previous *Museum Purchase Plan* recipients are eligible provided a final report on an earlier grant has been submitted to the Museum Program. If a final report has not been submitted, a copy must be submitted with the application.

2. Be sure to complete and return with your application the *Museum Purchase Plan Supplementary Information Sheet.* (See page —)

SPECIAL EXHIBITIONS DEADLINE: APRIL 3, 1978

Matching grants to organize temporary exhibitions of aesthetic and cultural significance. Matching grants are available to borrow exhibitions organized by other museums. Expenses for initial planning and organizing of the exhibition, catalogue, services of an outside specialist, shipping, insurance on domestic loans, and related events (excluding costs of opening reception) may be included in the total budget.

For touring exhibitions, the applicant organizing institution) must indicate on the Supplementary Information Sheets how rental fees will be reduced if an Endowment grant is awarded. If a museum borrows an exhibition that was funded by an Endowment grant, the applicant may include costs for installation and related events but *not* the rental fee. If, however, a museum borrows an exhibition that was not initially funded by an Endowment grant, it may include costs for installation, related events, *and* the rental fee.

The Arts and Artifacts Indemnity Act of 1975 (20 U.S.C. 971) authorizes federal indemnification for exhibitions in the United States (involving borrowed foreign objects), or elsewhere if part of an exchange. For further information, contact the Executive Secretary, Federal Council on the Arts and the Humanities (Mail Stop 611), Washington, D.C. 20506, (202) 634-4284.

Applications for exhibitions of the permanent collection should be submitted under the *Utilization of Museum Collections category.*

Applications for long-term loan of collections should be submitted under the Cooperative Programs category.

Applicants are encouraged to submit more than one proposal in this category.

Applicants requesting support for competitive exhibitions are encouraged to waive entry fees.

If a grant is awarded for an exhibition that includes catalogues, the grantee is required to deposit 80 complimentary copies of the catalogue with the United States Information Agency for distribution to their libraries abroad. Applicants are requested to make appropriate adjustment for the 80 copies in the budgets.

*Deadline and Announcement Date*

Applications and Supplementary Information Sheets must be postmarked no later than April 3, 1978. Notices of approval or rejection will not be sent before September 1978.

*Grant Period*

A grant period of one year is allowed. Projects should not be scheduled to begin earlier than October 1978.

*General Range of Grants*

Up to $75,000 for organizing institutions. Up to $20,000 for participating institutions. Grant amounts exceeding $30,000 will generally be made through the Treasury Fund Method (see page____).

*How To Apply*

All essential elements of the proposal must be included in a concise project summary in Section IV of the application form. Please be sure to complete and return with your application the *Special Exhibitions Supplementary Information Sheets.* (See page—)

MUSEUM EDUCATION DEADLINE: APRIL 3, 1978

Matching grants to assist museums in providing general educational opportunities that complement the goals of the institution. In general, priority will be given to those projects which rely upon professional staff for their execution. Applicants are encouraged to submit more than one proposal in this category.

*Interpretation and Extension*

Matching grants to assist museums in providing effective educational activities for the broadest number of participants. Activities that take place within or outside the museum are equally eligible.

Possible projects include:

Experimental programs in the museum that have demonstrated their worth and now deserve to be applied more widely in the museum's educational program.

Projects to adapt programs successful in other museums to the requirements of the applicant museum.

Educational programs designed to serve the needs of a segment of the museum's actual or potential audience.

Educational programs in existing mobile or satellite museums.

*Deadline and Announcement Date*

Applications must be postmarked no later than April 3, 1978. Notices of approval or rejection will not be sent before September 1978.

*Grant Period*

A grant period of one year is allowed. Projects should not be scheduled to begin earlier than October 1978.

*General Range of Grants*

Up to $30,000.

*How to Apply*

All essential elements of the proposal must be included in a concise project summary in the space provided in Section IV of the application.

Please provide the following information in five pages or less:

1. If the program is already in existence, has it been evaluated and by what means?
2. Who is intended to be served and how?
3. Will fees be charged for the services and, if so, on what basis?



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4. What are the qualifications of persons involved in the project?

5. Is it likely that additional funding will be requested from the Arts Endowment? Will it be on a descending basis?

6. What are the goals of the institution and how does this program complement those goals?

7. How will you inform museums in other regions of the results of your program?

MUSEUMS AND THE SCHOOLS

Matching grants to museums for pilot or ongoing cooperative programs between museums and their surrounding school districts.

Possible projects include: Support for museums in cooperation with schools, to develop in-service training and other programs to enhance the museum experience and the school curriculum.

Support as necessary for visits or exchanges between staff and school personnel.

Pilot projects to assess the suitability of adapting to museum use educational techniques or theories developed for the classroom.

Cooperative projects with the public schools.

DEADLINE AND ANNOUNCEMENT DATE

Applications must be postmarked no later than April 3, 1978. Notices of approval or rejection will not be sent before September 1978.

*Grant Period*

A grant period of one year is allowed. Projects should not be scheduled to begin earlier than October 1978.

*General Range of Grants*

Up to $30,000.

*How to Apply*

All essential elements of the proposal must be included in a concise project summary in the space provided in Section IV of the application.

Please provide the following information in five pages or less:

1. If the program is already in existence, has it been evaluated and by what means?
2. Who is intended to be served and how?
3. Will fees be charged for the services and, if so, on what basis?
4. What are the qualifications of persons involved in the project?
5. Is it likely that additional funding will be requested from the Arts Endowment? Will it be on a descending basis?
6. What are the goals of the institution and how does this program complement those goals?
7. How will you inform museums in other regions of the results of your program?

COOPERATIVE PROGRAMS DEADLINE: APRIL 3, 1978

Matching grants for cooperative endeavors between museums, groups of museums, museums and state or regional arts agencies or similar organizations. The program is broadly conceived and is limited only by the needs of the applicant(s) and by the appropriateness of the project to the region or group of museums to be served. Applicants are urged in each case to explain clearly the nature of the cooperative venture, to provide assurances from all participants of their cooperation, and to estimate the benefits that will accure from the cooperative program.

Possible projects might include: Decentralization of museum collections—extended loans from one museum to another.

Support can be provided for costs of preparing the objects for travel, for shipping and insurance and for related costs such as staff time and travel.

Sharing museum staff among a group of institutions. Applications have been received from groups of museums forming consortiums to pool staff for more effective sharing of expertise. Support can be provided for expenses attendant to such cooperative programs.

Providing a staff member for a state arts agency or a museum in cooperation with a state arts agency to assist in the development of activities beneficial to museums; supporting the costs of meetings and other planning activities to articulate problems and needs of museums in a state or region; and implementing other program development plans from state or regional arts agencies.

*Deadline and Announcement Date*

Applications must be postmarked no later than April 3, 1978. Notices of approval or rejection will not be sent before September 1978.

*Grant Period*

A grant period of one year is allowed. Projects should not be scheduled to begin earlier than October 1978.

*General Range of Grants*

Matching grants of up to $50,000. Grant amounts exceeding $30,000 will generally be made through the Treasury Fund Method. See page—. In cases where state arts agencies are on a biennial budget cycle, application for non-matching grants will be considered, if circumstances justify.

*How to Apply*

All essential elements of the proposal must be included in a concise project summary in the space provided in Section IV of the application.

Please provide the following information in five pages or less.

1. If the program is already in existence, has it been evaluated and by what means?
2. Who is intended to be served and how?
3. Will fees be charged for the services and, if so, on what basis?
4. What are the qualifications of persons involved in the project?
5. Is it likely that additional funding will be requested from the Arts Endowment for this project? Will it be on a descending basis?

The application should be signed by the applicant's authorizing official(s).

A letter from the participating museums and other groups supporting the application must be attached to the application.

UTILIZATION OF MUSEUM COLLECTIONS
DEADLINE: JULY 3, 1978

Matching grants to assist museums in making greater use of their collections for the benefit of the communities they serve. Funds may be used for the new installation of permanent collections in museum galleries. Permanent collections include collections formerly in storage that are now to be put on view, recently received or acquired collections, objects presently on view that are now to be brought together or to be more effectively presented. Installation may include the materials and appurtenances needed for effective presentation of the collection. Installation may not include major structural modifications of the building.

Applications for temporary exhibitions of the permonent collection should be submitted under this category and not under Special Exhibitions. Applications for long-term loan of collections should be submitted under the Cooperative Programs category.

If you wish to produce a catalogue or handbook in conjunction with an installation, please submit a separate application under Catalogue.

Applications for extensive conservation treatment of objects to be included in the installation should be submitted under Conservation.

*Deadline and Announcement Date*

Applications must be postmarked no later than July 3, 1978. Notices of approval or rejection will not be sent before December 1978.

*Grant Period*

A grant period of two years is allowed. The project should not be scheduled to begin earlier than January 1979.

*General Range of Grants*

Up to $75,000. Grant amounts exceeding $30,000 will generally be made through the Treasury Fund Method. See page—

*How To Apply*

All essential elements of the proposal must be included in a concise project summary in the space provided in section IV of the application.

Please provide the following information in five pages or less:

1. A checklist or representative sample of the collection.
2. The evident need for the project.
3. Whether the collection has ever been exhibited. The qualifications of the individual(s) who will be responsible for the project.
4. Whether the museum has previously undertaken similar projects. If so, describe them.
5. Drawings of the proposed installation.

CATALOGUE DEADLINE: JULY 3, 1978

Matching grants for the cataloguing of permanent collections and the publication of catalogues or handbooks on permanent collections of aesthetic and cultural significance. Grants are available in the following areas:

*Documentation*

Cataloguing of uncatalogued or inadequately catalogued permanent collections. Applicants are urged to consider a format that can later be transferred to one of the existing data systems.

*Computerization*

Duplication of traditional catalogue information; conversion to machine readable form. Only a few pilot grants will be made for the computerization of museum catalogues. Projects will be judged by the applicant's ability to provide follow-up documentation on the value of computerization and the problems and costs that are encountered. Applicants should indicate the existing computer program they intend to use.

*Publication*

Research and preparation of catalogue copy for publication. Services of an outside consultant may be included in the budget if applicable.

Publication of scholarly catalogues of handbooks of the whole or part of the permanent collection.

Where appropriate, applicants may wish to combine research and publication in the same application.

Requests for costs of loan exhibition catalogues should be included in the Special Exhibitions application.

*Deadline and Announcement Date*

Applications must be postmarked no later than July 3, 1978. Approval or rejection will not be sent before December 1978.





*Grant Period*

A grant period of two years is allowed. The project should not be scheduled to begin earlier than January 1979.

*General Range of Grants*

Up to $75,000. Grant amounts exceeding $30,000 will generally be made through the Treasury Fund Method. See page —.

*How to Apply*

All essential elements of the proposal must be included in a concise project summary in the space provided in Section IV of the application.

Please provide the following information in five pages or less:

1. A checklist or representative sample of the collection to be catalogued.
2. The evident need for the project.
3. The qualifications of the cataloguer.
4. Copies of existing catalogues of all or part of the collection. (These cannot be returned.)
5. The number of catalogues/handbooks to be published, who will have copyright, how they will be distributed. Specify approximate number of pages, black/white and color illustrations in the publication, the anticipated unit price and sales price, how much revenue is anticipated the first year and thereafter.
6. The grantee is required to deposit 80 complimentary copies of the catalogue with the United States Information Agency for distribution to their libraries abroad. Applicants should make appropriate adjustments for the 80 copies in the budget.

CONSERVATION
DEADLINE: JULY 3, 1978

Matching grants for conservation projects in the following areas:

*Surveys/Technical Consultation.* Matching grants to: support the planning of conservation programs or specific treatment of collections (grants up to $10,000); assist in determining the feasibility of establishing training programs, training centers or regional conservation laboratories (grants up to $10,000).

*Conservation of Collections.* Matching grants to: support the implementation of conservation treatment (grants up to $20,000). Due to limited funds, support is available only for special conservation needs that cannot be satisfied by a museum's own conservation facilities; that is, support will generally not be offered for in-house conservation projects, including staff support and purchase of equipment.

*Conservation Training*

For the training of conservators to meet the needs of American museums. Matching grants to: support existing training centers (grants up to $150,000); assist new training centers (grants up to $100,000); support short-term training workshops for museum staff (grants up to $10,000); support master-apprentice internship programs (grants up to $10,000).

*Regional Conservation Laboratories*

To encourage and assist in the formation or expansion of regional conservation laboratories by which a number of museums can obtain services they could not afford singly. Matching grants to: assist existing regional laboratories to increase capacity (grants up to $30,000); assist new regional centers (grants up to $80,000).

Applicants in this category are urged to consult the *Report from the Regional Centers Study Committee to the National Conservation Advisory Council.* Copies may be obtained from the National Conservation Advisory Council, Smithsonian Institution, Washington, D.C. 20560.

*Deadline and Announcement Date*

Applications must be postmarked no later than July 3, 1978. Notices of approval or rejection will not be sent before December 1978.

*Grant Period*

A grant period of one year is allowed for Conservation Training. A grant period of two years is allowed for Regional Conservation Laboratories and Conservation of Collections. Projects should not be scheduled to begin earlier than January 1979.

*General Range of Grants*

Grant amounts exceeding $30,000 will generally be made through the Treasury Fund Method. See page —.

*How to Apply*

All essential elements of the proposal must be included in a concise project summary in the space provided in section IV of the application.

Please provide the following information in five pages or less:

*For Surveys/Technical Consultation:*

1. Who your conservator/consultant is and his/her qualifications.
2. A checklist or representative sample of works in the collection(s).
3. What funds you have budgeted for the last three years for conservation of the permanent collection.

*For Conservation Training Applications*

1. A description of your conservation needs.
2. Where the work will be done, who your conservator/consultant is and his/her qualifications.
3. The work(s) to be treated, the nature of the treatment, and condition report(s).
4. The sum you have budgeted for the last three years for conservation of the permanent collection.

*For Conservation Training Applications*

1. The anticipated number of students.
2. The placement of the most recent graduating class.
3. Qualifications of the teaching staff.
4. A description of the conservation facilities.
5. An interim or final report if one has not already been submitted for previous Arts Endowment grants you have received for this project.

*For Regional Conservation Laboratories Applications*

1. The nature of your regional laboratory—cooperative associations, confederation, etc.
2. The organizations you propose to serve and whether they have signed agreements. If so, please attach copies.
3. Your staff and their qualifications.
4. Your laboratory facilities and equipment.
5. Your estimate of when you will be self-supporting.
6. An interim or final report, if it has not already been submitted for previous Arts Endowment grants you have received for this project.

RENOVATION DEADLINE: JULY 3, 1978

Matching grants to preserve collections of aesthetic and cultural significance. It encourages renovation of facilities for climate control, security and storage in existing structures, placing greater emphasis on storage facilities and security systems. Funds are not available for new construction; nor for the addition to or improvement of climate control systems, security systems or storage facilities in structures completed since 1971; nor for the renovation of gallery spaces except when directly related to climate control, security systems or storage facilities. Assistance is available within the following areas:

*Survey*

One-to-one matching grants for consultation services to assess renovation needs in areas of security, storage, and climate control and to suggest concrete measures to alleviate those needs. Also, for studies and working drawings for architectural and other changes necessary to accommodate the handicapped.

*Implementation*

Three-to-one matching grants for renovation projects where surveys have already been completed, including a projected plan of renovation and cost estimates.

All such grants will be awarded on the basis of at least three dollars from nonfederal sources for every dollar of Endowment funds—that is the National Endowment for the Arts will provide no more than 25% of the total project costs, and in most cases, much less. Generally, grants will be made through the Treasury Fund Method. Please see page —.

. . .

Allowable project costs for installation projects are specifically defined. For further details, see page -- for General Allowability of Project Costs.

*Deadline and Announcement Date*

Applications for this program must be postmarked no later than July 3, 1978. Notices of approval or rejection will not be sent earlier than December 1978.

*Grant Period*

A grant period of one year is allowed for Survey projects. A grant period of two years is allowed for Installation projects. Projects should not be scheduled to begin earlier than January 1978.

*How to Apply*

All essential elements of the proposal must be included in a concise project summary in the space provided in section IV of the application.

Please provide the following information in five pages or less:

*For Survey Applications:*

1. Description of your collection.
2. Who will do the installation and copies of the survey and bids or contracts.

*For installation Applications:*

1. Description of your collection.
2. Who will do the installation and copies of the estimates.

MUSEUM TRAINING DEADLINE: OCTOBER 3, 1978

Matching grants for the preparation of well-trained museum professionals and technicians.

Subject to available funds, a limited number of pilot programs for the training of volunteers may be supported. Such programs must be administered by professional museum staff.

Grants in support of museum training are awarded to museums and universities on at least a dollar-for-dollar matching basis. Priority will be given to proposals which specifically include training for people from minority groups. Generally, the following types of projects will be considered for assistance:



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*Formal Training Programs*

A limited number of graduate level programs in curatorial training, museum administration or museum education that are conducted jointly by museums and universities. A few undergraduate programs, especially those directed toward minorities or unique disciplines.

*Internships*

Internships or other professional training provided by a museum. Specific programs designed to advance staff professionally will also be considered. For example, the program can support museum career training for persons who are suitably prepared in an appropriate discipline but who lack museum expertise. The program can also assist in providing in-house training to prepare permanent staff for more responsible positions.

*Apprenticeships*

Programs of in-house training to prepare apprentices for museum positions such as installers, preparators, framers, packers, and carpenters.

*Deadline and Announcement Date*

Applications must be postmarked no later than October 3, 1978. Notices of approval or rejection will not be sent before March 1979.

*Grant Period*

A grant period of one year is allowed. Projects should not be scheduled to begin earlier than April 1979.

*General Range of Grants*

Up to $60,000.

*How to Apply*

All essential elements of the proposal must be included in a concise project summary in the space provided in Section IV of the application.

Please provide the following information in five pages or less:

1. The number of students.
2. Teacher/student ratio.
3. Specific museum experience of the teacher(s) involved.
4. Description of intern program or of any other on the job training.
5. Museum positions currently held by members of the three most recent graduating classes.
6. Syllabus of the courses, including reading lists and a general description of the ratio of theoretical classroom training to practical museum experience.

Indicate the degree to which professionals from cooperating museums participate in course planning and teaching.

7. An interim or final report if one has not already been submitted for previous Arts Endowment grants you have received for this project.

SERVICES TO THE FIELD DEADLINE: OCTOBER 3, 1978

Matching grants for services to the field such as research, publications (other than periodicals), workshops and seminars provided by museums or other organizations such state or regional arts agencies and national or regional museum associations. Projects should be of national or regional impact.

Applications for funds to carry out research must demonstrate that this is new research and that the results of the research will be published in order to serve the field.

*Deadline and Announcement Date*

Applications must be postmarked no later than the deadline of October 3, 1978. Notices of approval or rejection will not be sent before March 1979.

*Grant Period*

A grant period of two years is allowed. Projects should not be scheduled to begin earlier than April 1979.

*General Range of Grants*

Up to $30,000.

*How to Apply*

All essential elements of the proposal must be included in a concise project summary in the space provided in Section IV of the application.

Please provide the following information in five pages or less:

1. If the program is to be a continuing one, how it will be funded in the future.
2. If the program is already in existence, whether it has been evaluated and how.
3. Whether fees will be charged for the services and, if so, on what basis.
4. If a seminar, course or workshop, the syllabus.
5. Who is to be served and how?
6. The qualifications of person(s) involved in the project.

FELLOWSHIPS FOR MUSEUM PROFESSIONALS DEADLINE: OCTOBER 3, 1978

Awarded to professional members of museum staffs for leaves of absence ranging from one to twelve months. In order to conduct independent study or research, travel, write, engage in community projects, or in other ways improve professional qualifications.

Professional museum staff members of exceptional talent in areas such as administration, curatorial work, conservation or education are eligible to apply.

Fellowships are not awarded to cover study or research directed toward a graduate degree or expenses while enrolled in formal courses of study, workshops, seminars, or conferences.

Proposals must be for specific projects and must clearly demonstrate how the leave of absence will improve the applicant's professional qualifications.

Proposals directly related to a project of the employing institution should be made by the institution under the appropriate category and not by the individual.

*Deadline and Announcement Date*

Applications must be postmarked no later than the deadline of October 3, 1978. Notices of approval or rejection will not be sent before March 1979.

*Grant Period*

A grant period ranging from one to twelve months is allowed. Projects should not be scheduled to begin earlier than April 1979.

*General Range of Grants*

Grants will be made on a non-matching basis. They will not exceed $20,000 and will be considerably less in most cases. Grant amounts will be based on travel requirements, any necessary materials and any portion of salary not supported by the sponsoring institution.

*How to Apply*

1. Applicants should use the "Individual Grant Application/NEA-2 (Rev.)."
2. Each application should contain a description of the proposed project, an itemized budget including a salary item, travel (please provide a detailed breakdown of costs), and materials, if necessary.
3. Applicants should indicate a specified period of time for the leave of absence.
4. The Career Summary section of the application should be completed or a resume attached.
5. A statement from the director of the museum to the effect that the museum is willing to grant the applicant a leave of absence for the specified time and stating the applicant's salary and whether or not it will be continued during the leave of absence should be enclosed.
6. Three people should complete recommendation forms (see page —) and forward them to the Museum Program (Mail Stop 502), National Endowment for the Arts, Washington, D.C. 20506. Attn: Fellowships for Museum Professionals.

*Taxability of Fellowships*

The Internal Revenue Code regulations provide that certain fellowships to individuals who are not candidates for degrees are deductible, but only up to a certain amount and for a limited period of time.

A pamphlet, *Tax Information for American Scholars in the U.S. and Abroad*, Publication 520 of the Internal Revenue Service is generally available at any Internal Revenue Service office. The booklet might be helpful in preparing an application for a proposed fellowship.

The Endowment cannot advise you as to the deductibility of all or any portion of a fellowship, should one be awarded to you. Advice should be sought from your own tax counselor or local Internal Revenue office.

VISITING SPECIALISTS

DEADLINE: APPLICATIONS ACCEPTED THROUGHOUT THE YEAR AND REVIEWED QUARTERLY

Matching grants for temporary consultation services for a specific project. As the title of the program implies, the visiting specialist should be:

A person of considerable expertise.

A person not in the employ of the applicant institution.

A person who is *not* to be considered permanent staff but someone who can make a significant contribution to the applicant institution during a brief tenure.

Possible projects are:

Research on the permanent collection.

Preparatory research for projected exhibitions.

Development of improved methods of museum operations such as administration, registration, and installation techniques, including lighting, handling and storage.

Establishment of suitable museum library systems.

Studies to determine the changes necessary to make the building more accessible to the physically handicapped.

Plans for membership drives and other fund raising activities.

Guidance for better education and public service programs.

Development of a coordinated graphics program.

*Deadline and Announcement Date*

Applications are accepted throughout the year and reviewed quarterly. Notices of approval or rejection will be sent no later than seven months after receipt of application.

*Grant Period*

A grant period ranging from one to twelve months is allowed. Projects should not be scheduled to begin before notification.

*General Range of Grants*

Up to $15,000.

*How to Apply*

All essential elements of the proposal must be included in a concise project summary in





the space provided in Section IV of the application.

Please provide the following information in five pages or less.

1. Description of the project and the urgency of the need for a visiting specialist.
2. How the project is related to the other activities of the museum.
3. The specialist and his/her qualifications. If you are considering a number of people for this project, submit their names and descriptions of their qualifications. In all cases, document the availability of the specialist.

GENERAL PROGRAMS

DEADLINE: APPLICATIONS ACCEPTED THROUGHOUT THE YEAR AND REVIEWED QUARTERLY

The Endowment will consider proposals for specific projects which do not fit into any of the categories listed. These grants will be awarded generally on a matching basis. Applications for general operating expenses, new construction, or the establishment of new museums will not be accepted.

*Deadline and Announcement Date*

Applications are accepted throughout the year and reviewed quarterly. Notices of approval or rejection will be sent no later than seven months after receipt of application.

*Grant Period*

A grant period ranging from one to twelve months is allowed. Projects should not be scheduled to begin before notification.

*General Range of Grants*

Up to $20,000.

*How to Apply*

All essential elements of the proposal must be included in a concise project summary in the space provided in Section IV of the application.

Please provide the following information in five pages or less.

1. The qualifications of person(s) involved in the project.
2. The unique characteristics of the project.
3. The plans for disseminating the results if this is an experimental or research project.

IMPORTANT INFORMATION FOR APPLICANTS

ELIGIBILITY

1. By statute, the Endowment is limited to making grants to organizations only if no part of their net earnings inures to the benefit of a private stockholder or an individual and provided donations to such organizations are allowable as charitable contributions under Section 170(c) of the Internal Revenue Code of 1954, as amended. All organizations are required to submit a copy of their Internal Revenue Service tax exemption determination letter with each application.

2. Organizations receiving National Endowment for the Arts support must conduct their operations in accordance with the requirements of Title VI of the Civil Rights Act of 1964 and the Rehabilitation Act of 1973, as amended, which bar discrimination in federally assisted projects on the basis of race, color, national origin or handicap.

3. All laborers and mechanics employed by contractors or subcontractors on construction projects assisted by National Endowment for the Arts grant funds shall be employed and paid in accordance with applicable federal minimum wage and labor standards (Parts 3 and 5, Title 29, Code of Federal Regulations).

4. Museums, organizations serving museums, organizations providing museum functions, state arts agencies, regional arts groups, and currently employed museum professionals are eligible to apply. The Endowment generally uses the definition of museums developed by the American Association of Museums: ". . . a nonprofit institution essentially educational or esthetic in purpose with professional staff, which owns and utilizes tangible objects, cares for them, and exhibits them to the public in some regular schedule."

Accreditation by the American Association of Museums is not a prerequisite for eligibility

5. In general, to be eligible for consideration, organizations should be in operation two years prior to submitting an application.

6. To be eligible for consideration, projects should be of national or regional impact and should be of aesthetic and cultural significance. Size of the institution is not a criterion, but the nature of the project and the capacity of the institution to execute the project successfully is an important consideration.

7. Although the Endowment welcomes the vitality of new programs and under all conditions encourages applicants to develop new sources of funds, applications first and foremost should represent the genuine needs of the applicant organization. Accordingly, applicants may request support to strengthen existing programs. Support may be requested by annual application for the same project for up to three years. Organizations, however, should not attempt to extend their programs beyond their capacity to accommodate and sustain the level of proposed expansion.

APPLICATION REVIEW POLICY

The Museum Advisory Panel has adopted the following policy concerning applications:

Applications within a given category are reviewed as a group without reference to applications in other categories so that an institution will not be "competing against itself" by submitting applications in more than one category.

Multiple applications within one category will be accepted, with the exception of Museum Purchase Plan. Applicants who intend to make more than one application per category are urged to submit only those that the institution feels are most important. Insofar as limited funds permit, the Panel will support more than one project of high quality from a single institution in a particular category.

The Panel has reaffirmed its desire for the Museum Program to be responsive to any and all appropriate applications consistent with the legislation of the National Endowment for the Arts from all museums without regard to size, location, or discipline (science, history, art, children's or combinations are equally eligible). Applications are evaluated by the following criteria:

The significance and qualitative level of the project.

The ability of the museum staff to undertake and successfully execute the project.

The potential regional and national impact of the project.

The evident need for the project in relation to the museum's total program.

A realistic appraisal of anticipated costs and income related to the project.

The Endowment's Museum Program staff initially ascertains that applications conform to Endowment requirements. They are subsequently reviewed and considered by special committees, the Museum Advisory Panel and the National Council on the Arts. Upon recommendation of these bodies and action by the Chairman of the National Endowment for the Arts, the applicant will be notified in writing by the Endowment. Details of the grant award procedure are explained in the letter of notification.

METHODS OF FUNDING

PROGRAM FUNDS METHOD

Generally, grants will be made on at least a dollar-for-dollar matching basis. Applicants requesting assistance from Program Funds must present evidence in the proper space (Section X) on the application (Project Grant Application NEA-3 Rev.) that at least one-half of the total cost of the project will be provided by the applicant. Anticipated sources of matching must be identified. In all programs except Museum Purchase Plan, budgeted funds, as well as newly raised funds, may be used for matching.

Example:

| | |
|---|---|
| Applicant request from the Endowment | $30,000 |
| Applicant provides match of at least | 30,000 |
| Minimum total budget of project | 60,000 |

TREASURY FUND METHOD

When the National Endowment for the Arts was created, Congress included a unique provision in its enabling legislation. This provision allows the Endowment to work in partnership with private and other non-federal sources of funding for the arts. Designed to encourage and stimulate increased private funding for the arts, the Treasury Fund allows non-federal contributors to join the Endowment in the grant-making process, generally for projects supported by the Endowment under the established program guidelines.

The Endowment encourages use of the Treasury Fund method as an especially effective way of combining federal and private support, and as an encouragement to all potential donors, particularly those representing new or substantially increased sources of funds.

The Endowment may accept gifts in the form of money and other property. Bequests may be made to the Endowment as well. Gifts to the Endowment are generally deductible for federal income, estate, and gift tax purposes.

Gifts may be made to the Endowment for the support of a nonprofit, tax-exempt, cultural organization which has been notified that the Endowment intends to award it a grant under its regular program guidelines—organizations such as a museum, a symphony orchestra, a dance, opera or theatre company—or for an Endowment program, such as fellowships, touring, conferences, or workshops.

When a restricted gift is received, it frees an equal amount from the Treasury Fund, which is then made available to the grantee in accordance with the amount and conditions of the grant, as recommended by the National Council on the Arts and approved by the Chairman.

The Endowment also accepts unrestricted gifts to be used for projects recommended to the Chairman by the National Council on the Arts.

*How a Treasury Fund Grant is Arranged*

Those interested in giving for a specific purpose should note the step-by-step process described below.

1. If a project is eligible for consideration under the Museum Program guidelines the applicant submits to the Endowment a formal application which may include a list of potential donors.

2. The application is reviewed first by the Museum Advisory Panel and then by the National Council on the Arts and is rec-



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ommended for approval or rejection. Based on these recommendations, the Chairman makes the final determination and notification is sent to the applicant.

3. If the grant award is approved, the applicant then requests that the donors forward their gifts to the National Endowment for the Arts in the form of a gift transmittal letter specifying the amount and restricted purpose of the donation (i.e, the name of the applicant and specific project supported), and date by which payment will be made to the grantee organization (see below).

*Handling Procedures*

In order to simplify handling procedures for restricted donations which are to be matched by the Treasury Fund, grant recipients will receive payment directly from the donor (in cash or negotiable securities) on all restricted Treasury Fund gifts to the Endowment. Under this method, the following procedures apply:

1. Gift transmittal letter is received by the Endowment from donor with above specified information.

2. Upon receipt of payment on the gifts, grantee provides the Endowment with evidence of receipt of such payment as follows:

a. In the case of individual gifts of less than $5,000, grantee will forward to the Endowment a list of donor's names, addresses, and amounts received, certified by an official of the organization and notarized.

b. In the case of individual gifts of $5,000 or more, grantee will forward to the Endowment, within the grant period, a photostatic copy of the instrument of payment, i.e., the check or negotiable securities, with a covering letter.

3. In cases where benefit proceeds are to be utilized for purposes of the Treasury Fund, evidence, such as benefit announcement circulars, invitations, posters, etc. (which indicate donors had prior knowledge that their contributions would be used for the Treasury Fund) must be retained by grantee as evidence of donors' intent. In these cases, the grantee organization will forward to the Endowment, within the grant period, a notarized letter requesting release of the Treasury matching funds, signed by an appropriate official, certifying that the benefit was held on a specified date, yielded a specified sum for Treasury Fund gift purposes related to the grant in question, and that evidence of the benefit will be retained by grantee organization in its files.

4. In all cases, donors are to make payment on gifts at least 60 days prior to termination of the grant period, and grantee organizations will provide the Endowment with evidence of receipt of payment on gifts at least 30 days prior to the termination of the grant period.

The Process in Terms of Money

| | |
|---|---|
| Donor's contribution(s) to Endowment | $25,000 |
| Endowment match from the Treasury Fund | 25,000 |
| Total Endowment grant | 50,000 |
| Grantee's additional project cost | 50,000 |
| Minimum total budget of project | $100,000 |

GENERAL ALLOWABILITY OF PROJECT COSTS

Project costs are all necessary charges made by a grantee in accomplishing the objectives of a grant during the grant period. Listed below are some selected examples of the National Foundation on the Arts and the Humanities' policy regarding costs whose allowability may be difficult to determine.

ADVERTISING COSTS

Only project-related advertising costs are allowable.

BAD DEBTS

Any losses, whether actual or estimated, arising from uncollectable accounts and other claims, related collection costs, and related legal costs, are unallowable.

CAPITAL EXPENDITURES

The costs of buildings and repairs which materially increase the value or useful life of buildings are unallowable except as provided for in the grant letter. Funds may not be used for the acquisition of land, or any interest therein, except with specific prior approval.

COMMUNICATION COSTS

Costs incurred for telephone services, local and long distance telephone calls, telegrams, radiograms, cablegrams, postage and the like, are allowable.

COMPENSATION FOR PERSONAL SERVICES

Compensation for personal services covers all remuneration paid currently or accrued to the organization for services of employees rendered during the period of performances under government grants.

Such remuneration includes salaries, wages, staff benefits, and pension plan costs and is allowable.

CONTINGENCY PROVISIONS (MISCELLANEOUS)

Endowment policy is such that applications for grant increases, because of inflation factors or contributions to a contingency reserve, will not be considered allowable.

ENTERTAINMENT COSTS

Costs incurred for amusement, social activities, entertainment, meals, lodging, rentals, transportation, gratuities, and exhibition openings are unallowable.

EQUIPMENT AND OTHER FACILITIES

The cost of permanent equipment or other facilities are allowable where such purchases are approved by the Endowment or provided for by the grant. The term "permanent equipment" shall mean an item of property which has an acquisition cost of $200 or more and has an expected life service of one year or more. (In some cases, the Endowment may reserve the right to title of permanent equipment.)

FUND-RAISING

Costs of organized fund-raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are allowable.

INTEREST

Interest paid on borrowed capital, however represented, is an unallowable cost. Costs related to the physical custody and control of money and securities are allowable. (Any interest accrued on federal money must also be returned to the Treasury.)

PREAWARD COSTS

Costs incurred prior to the effective date of the grant agreement, whether or not they would have been allowable thereunder if incurred after such date, are unallowable.

PROFESSIONAL SERVICES COSTS

Costs of professional services rendered by the members of a particular profession who are not employees of the organization are allowable when reasonable in relation to the scope of the project.

TRANSPORTATION COSTS

Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. When such costs can be readily identified with the items involved, they may be charged directly as "Other" costs on the Project Grant Application Form (NEA 3–Rev.)

TRAVEL COSTS

Travel and subsistence costs incurred by permanent staff or consultants necessary for the completion of the project are allowable. All travel outside the United States must be by a U.S. flag carrier if service is available. All travel outside the United States on a non-U.S. flag carrier must be approved in writing by the Endowment in advance of travel. Requests for approval of such travel should be addressed to the Grants Officer (Mail Stop 500), National Endowment for the Arts, Washington, D.C. 20506.

RENOVATION COSTS

Costs for Renovation Implementation projects should be limited to those expenses directly related to climate control, security, and storage. Expenses such as lighting, wall covering, acoustic ceilings, floor coverings, skylights, staircases, and payment of security guards are not considered integral to the implementation of the project.

OTHER FEDERAL PROGRAMS FOR MUSEUMS

National Endowment for the Humanities, Division of Public Programs, Museums and Historical Organizations Program, Washington, D.C. 20506 (202) 382–5714.
National Museum Act, Smithsonian Institution, Washington, D.C. 20560 (202) 381–6581.
National Science Foundation, Washington, D.C. 20550 (202) 632–5722.

PRIVACY ACT NOTIFICATION

In compliance with the Privacy Act of 1974, we furnish you with the following information:

Section (5) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 954) authorizes the Endowment to solicit the requested information. This information is needed to process your grant application and for statistical research and analysis of trends. The routine uses for which this information can be used and the purposes of such use are general administration of grant review process, statistical research, congressional oversight, and analysis of trends.

Failure to provide the requested information could result in rejection of your application due to lack of sufficient facts for determining either your eligibility for a grant or the amount which should be awarded.

RESOLUTION ON ACCESSIBILITY TO THE ARTS FOR THE HANDICAPPED

One of the main goals of the National Endowment for the Arts is to assist in making the arts available to all Americans. The arts are a right, not a privilege. They are central to what our society is and what it can be. The National Council on the Arts believes very strongly that no citizen should be deprived of the beauty and the insights into the human experience that only the arts can impart.

The National Council on the Arts believes that cultural institutions and individual artists could make a significant contribution to the lives of citizens who are physically handicapped. It therefore urges the





National Endowment for the Arts to take a leadership role in advocating special provisions for the handicapped in cultural facilities and programs.

The Council notes that the Congress of the United States passed in 1968 (P.L. 90–480) legislation that would require all public buildings constructed, leased or financed in whole or in part by the Federal Government to be accessible to handicapped persons. The Council strongly endorses the intent of this legislation and urges private interests and governments at the state and local levels to take the intent of this legislation into account when building or renovating cultural facilities.

The Council further requests that the National Endowment for the Arts and all of the program areas within the Endowment be mindful of the intent and purposes of this legislation as they formulate their own guidelines and as they review proposals from the field. The Council urges the Endowment to give consideration to all the ways in which the agency can further promote and and implement the goal of making cultural facilities and activities accessible to Americans who are physically handicapped. (Adopted by the National Council on the Arts, September 15, 1973.)

NOTE ON PUBLICATIONS

The National Endowment for the Arts strongly encourages grantees who produce books or other publications for dissemination to take advantage of the free cataloging service of the Cataloging-in-Publications Office of the Library of Congress.

Cataloging-in-Publication provides publishers with cataloging data to be printed in the book. Having the data in the book speeds up the library cataloging process and gets the book into immediate circulation—to the benefit of author, publisher and reader.

For procedural information call or write:

Library of Congress, Descriptive Cataloging Division, Cataloging-in-Publication Office, Washington, D.C. 20540, Tel. (202) 426–6372.

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## MEDIA ARTS: FILM/RADIO/TELEVISION PROGRAM

### Guidelines; Fiscal Year 1978

The following are guidelines for the Media Arts: Film/Radio/Television Program of the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the Arts throughout the United States.

The Media Arts: Film/Radio/Television Program application deadlines are included. Interested persons should contact Mr. Brian O'Doherty, Director, Media Arts Program, National Endowment for the Arts, Mail Stop 552, Washington, D.C. 20506 (202/634–6300) for further information.

Signed at Washington, D.C. on July 20, 1977.

ROBERT M. SIMS,
*Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.*

MEDIA ARTS: FILM/RADIO/TELEVISION

Fiscal Year 1978

The National Endowment for the Arts is an independent agency of the Federal Government created in 1965 to encourage and assist the nation's cultural resources. The Endowment is advised by the National Council on the Arts, a Presidentially appointed body composed of the Chairman of the Endowment and 26 distinguished private citizens who are widely recognized for their broad knowledge of, or expertise in, or their profound interest in, the arts. The Council advises the Endowment on policies, procedures, and programs in addition to making recommendations on grant applications.

The Media Arts: Film/Radio/Television Program is one of twelve major Programs areas. Information about the Endowment and its other Programs is contained in the Endowment's Guide to Programs which is available from the Program Information Office, National Endowment for the Arts, Washington, D.C. 20506.

JULY 1977

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MEDIA ARTS: FILM/RADIO/TELEVISION

INTRODUCTION

These guidelines are provided to assist individuals and organizations applying to the Media Arts: Film/Radio/Television Program (formerly the Public Media Program) and to provide information needed by advisory panels to assist them in making their recommendations to the National Council on the Arts and its Chairman.

These programs are developed with the advice of numerous members of the media arts field to meet the needs of that field.



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Applicants should follow these guidelines closely and should note that *panels will not consider incomplete applications.*

The Media Arts Film/Radio/Television Program provides assistance: to major media centers for a variety of programs; for exhibition programs in film and video; for short-term residencies and workshops by film and videomakers, critics, and radio artists at public broadcasting stations, educational and cultural facilities, and other appropriate institutions; for production of film, video and radio works; to institutions and organizations to provide needed services and facilities to the field; to video artists in cooperation with the Visual Arts Program; through the American Film Institute for individual filmmakers; and through the American Film Institute for archival programs.

Inquiries concerning film, radio, or television projects which do not fall within the guidelines should be directed either by letter or telephone (202/634-6300) to the Media Arts: Film/Radio/Television Program, Mail Stop 552, National Endowment for the Arts, Washington, D.C. 20506.

The Endowment will continue support of the American Film Institute for its work in preserving and developing the nation's artistic and cultural resources in film (see page 6).

The Institute is concentrating essentially in the following areas of endeavor: archives, education, advanced training, filmmaker grants (see page 5), and research and publication.

The Media Arts: Film/Radio/Television Program also works with the Corporation for Public Broadcasting by jointly funding specific projects which foster the arts on public television.

With the cooperation of theater owners and distributors, the Endowment hopes to encourage the exhibition of a limited number of outstanding short films by American filmmakers in theaters throughout the country.

The Endowment also works with the state arts councils to develop outstanding films on the cultural resources of individual states.

The Endowment supports a small number of major series on the arts for broadcast on public television and radio. Programming in the Arts is not open to application. To date, four major series have been developed in association with other funding sources: Visions, a program of original drama for television; Earplay, a radio drama series; Dance in America; and Live from Lincoln Center.

*Application deadlines and grant calendar*

| Grant category | Deadlines | Announcement of rejection or grant award | Do not plan to start before this date |
|---|---|---|---|
| Regional Development: | | | |
| Major Media Centers | July 15, 1977 | December 1977. | January 1978. |
| Aid to film/video exhibition | Aug. 15, 1977 | March 1978 | April 1978. |
| Jiuresidence/workshop | Oct. 25, 1977 | March 1978 | April 1978. |
| Production aid | Nov. 1, 1977 | June 1978 | July 1978. |
| Fellowships: | | | |
| American film institute independent filmmaker program | Sept. 15, 1977[1] | | |
| Video artists fellowships | Oct. 14, 1977[2] | August 1978 | September 1978. |
| American film institute/arts endowment film archival program | Nov. 15, 1977 | June 1978 | July 1978. |
| Services to the field | Aug. 1, 1977 | December 1977. | January 1978. |
| General programs | Jan. 2, 1978 | June 1978 | July 1978. |
| Challenge grants | | (3) | |

[1] Apply to AFI—see p. 5.
[2] Apply to visual arts—see p. 5.
[3] To be set at later date.

CATEGORIES OF FUNDING

REGIONAL DEVELOPMENT

*Major Media Centers*

The aim of this program is to advance the appreciation by a wide public of the arts of film, video, and radio and to assist film and videomakers and radio producers in practicing their respective arts. To achieve these aims this program assists major media centers in undertaking a variety of projects which may include the following:

(1) Exhibition of quality film and/or video work, and publication of associated commentary.

(2) In-Residence/Workshop Programs involving film and videomakers, radio producers, and critics of national significance.

(3) Provision of production and post-production facilities for film, videomakers, and/or radio producers.

(4) Provision of services, including teaching, dissemination of information, and access to study and research facilities.

(5) Maintenance of film and video collections for exhibition and study.

(6) Integration and coordination of media resources and services on a regional basis.

(7) Distribution of quality film and/or video work.

*Eligibility*

A Major Media Center is defined as a tax-exempt, nonprofit organization that has carried out four or more of the above functions for at least 1 year.

The Media Center may be independent or affiliated with another organization such as a museum, university, city or state arts agency. Media Centers are expected to serve a wide public and to provide regional services.

To qualify for assistance, a Media Center should have a yearly budget of over $150,000.

Note: Major Media Centers are not eligible to apply to the Aid To Film/Video Exhibition, In-Residence/Workshop, or to the Facilities component of the Services to the Field Program.

*Grant Amounts*

Grants will be made on a matching basis up to $50,000; applications should be made for a single amount.

*Deadline and Announcement Dates*

Applications for fiscal year 1978 must be postmaked no later than July 15, 1977. Applicants will not be notified of the result of the application before December 1977. The proposed activity should not have a beginning date before January 1, 1978.

Note: The deadline for fiscal year 1979 will be May 1, 1978.

*How to Apply*

Organization should review the instructions on pages 11-15 and complete the forms entitled Project Grant Application NEA-3 (Rev.).

The applicant should provide as full information as possible about each of its activities. Specific requirements can be found under the heading "How to Apply" for each of the following programs: Aid To Film/Video Exhibition (page 3); Services (page 7); In-Residence/Workshop Program (page 4).

The applicant should include on a separate sheet a paragraph on the overall role of the Center in its area.

AID TO FILM/VIDEO EXHIBITION

The aim of this program is to assist organizations in exhibiting high quality film and video art that may not be available to an interested public through regular commercial channels.

Further aims of the program are: to clarify the contribution of film and videomakers whatever their aesthetic orientation, nationality, or period of greatest activity; to facilitate distribution of works which have not found regular commercial distribution; and to open up new markets for such work.

As an essential part of their exhibition programs, organizations should issue quality program notes to encourage audience appreciation and discussion and may sponsor visits by film and videomakers to discuss their works with local artists and the public.

*Eligibility*

An exhibition program is defined as the programming and projection of, and dissemination of information about, series of film and/or video works.

The sponsoring organization may be independent or attached to a museum, film, or video center, nonprofit gallery, state arts agency, or other tax-exempt body. College film societies are not eligible.

Generally, organizations should have been in existence for at least 1 year, or have completed 1 year of programming. *Programming must be offered at least twice weekly throughout the year.*

*Grant Amounts*

Grants up to $15,000 will be made on a matching basis. Organizations are advised to apply for what they need and can match rather than for the maximum amount. Each organization may submit only one application in this category.

*Deadline and Announcement Dates*

Applications for fiscal year 1978 must be postmarked no later than August 15, 1977. Notices of approval or rejection will not be sent before March 1978. Projects should not be scheduled to begin before April 1, 1978, and should be carried out during the succeeding 12 months.

Note: The deadline for fiscal year 1979 will be June 15, 1978.

*How to Apply*

Please review the instructions listed on pages 11-15 and complete the forms entitled Project Grant Application NEA-3 (Rev.). Please note that, regardless of the amount requested, all budgets should be itemized on the application form. Detailed information is requested for the following budget items:

(1) Costs of video and film rentals.

(2) Costs of preparing program notes, catalogues, etc.

(3) Size of staff and staff salaries.

(4) Cost of exhibition equipment. (The program allows for partial support for the purchase of equipment. When such items are included in the project budget, please indicate what material is being replaced and when it was purchased, as well as what new equipment is being requested.)





(5) Honoraria for visiting film and videomakers (when such visits are made in conjunction with exhibitions of the artists' work).

(6) Projected revenues from exhibition programs.

In addition to the above, applicants are requested to submit the following supportive material:

(1) Biographical material on the project director, including programming experience and other film or video related work.

(2) Plans for exhibition programs, including titles of works to be exhibited, names of artists scheduled to make personal appearances, and a rationale for the program.

(3) A record of programming for the previous year, including names of film and videomakers who have made personal appearances.

(4) Examples of recent program notes and related publications.

(5) A discussion of the applicant's program in relation to other exhibition programs (commercial and nonprofit) in the area.

(6) Figures on past year's attendance and fiscal activity.

Applicants with requests for unspecified general support of on-going programs will not be considered eligible. Applications that do not provide the data requested will not be brought to the panel.

IN-RESIDENCE/WORKSHOP PROGRAM

The aim of this program is to assist organizations to invite film and video-makers, radio producers, and critics of national reputation for stays of different durations for the purpose of instructing, influencing, and stimulating a variety of audiences while practicing their professions.

We believe that the circulation of such professionals of exceptional talent benefits the visiting artists, the public and the fields of film, radio and television.

Visitors may be engaged for a single lecture or a series of lectures, for a single workshop or series of workshops. They may also be invited to create new work while in residence. The length of stay should be arranged with the visting artist(s).

For the purpose of this program a workshop is defined as "a place with facilities where artists in the field of film, radio and/or video interact with their peers and/or an audience seeking to learn more about these media arts."

*Eligibility*

Organizations, which must be nonprofit and tax-exempt, may include public and cable television stations, radio stations, media centers, colleges and universities, art schools, museums, municipal and county authorities, State arts councils, community arts organizations, and alternative exhibition spaces.

*Grant Amounts*

Grant amounts range from $1,500 to $7,500. For lecture series, grant amounts will usually not exceed $1,500; for workshops, $3,000; for longer residencies, $7,500. Amounts will be based on length of stay and on the proposed schedule of activities. All grants must be matched. In this program in-kind expenses are generally not allowable. In the case of educational institutions, funds may not be used to replace existing instructional programs which are a normal part of the institution's curriculum.

*Deadline and Announcement Dates*

Applications for fiscal year 1978 must be postmarked no later than October 25, 1977. Notices of approval or rejection will not be sent before March 1978. Projects should not be scheduled to begin before April 1, 1978, and should be carried out during the succeeding 12 months.

*How to Apply*

Please review the instructions on pages 11-15 and complete the forms entitled Project Grant Application NEA-3 (Rev.).

Applications should include:

(1) Names and biographies of proposed artists and/or critics.

(2) Duration of stay.

(3) Description of proposed activity: lectures/workshops/projects or any combination of these.

(4) Audience benefited.

(5) A budget showing artists' fees and transportation costs.

PRODUCTION AID (PILOT)

The aim of this program is to improve the quality of the media arts of film, video, and radio through support of single productions by tax-exempt organizations. The emphasis must be upon the use of the media of film, radio through support of single productions radio, or video as art forms—and it is expected that the results of these production grants will be exhibited and/or broadcast to a substantial viewing or listening audience.

*Eligibility*

Matching grants will be made for single productions. While series are not eligible, pilots for series will be considered. Independent organizations and public television or radio stations may apply to this program; individuals may not apply directly. Proposed productions may be intended for national or local broadcast, but inventive local programming will receive a high priority. In all cases, special attention will be given to the qualifications of the proposed producer.

*Grant Amounts*

Matching grants up to $50,000.

*Deadline and Announcement Dates*

Applications for fiscal year 1978 must be postmarked no later than November 1, 1977. Notice of approval or rejection will not be sent before June 1978. Projects should not be scheduled to begin before July 1, 1978, and should be carried out during the succeeding 12 months.

*How to Apply*

Please review the instructions on pages 11-15 and complete the forms entitled Project Grant Application NEA-3 (Rev.). Applicants must provide:

(1) A concise description (including length) of the proposed production on page 1 of the application.

(2) Name and biography of the producer or individual with primary responsibility for completion of the project.

(3) An example of the individual's work. (Note: *Work should be properly labeled,* see page 11, Requirements for Submission of Films, Videotapes, and Audiotapes.) If not available, an example of the organization's work in a similar type of production. Film may be 16mm optical, magnetic, or double system, Super-8 magnetic or double system; all films should be loaded on standard projection reels, heads out. Videotape may be either ½" open-reel or ¾" cassette. Audiotapes must be ¼" open-reel or cassette. While every effort will be made to ensure safe handling of sample work, the Endowment will not be responsible for any loss or damage. All sample materials will be returned by regular mail (insured) following panel review. *Please note that applications unaccompanied by a sample work will not be considered.*

(4) Brief statement of plans for airing and, when relevant, other means for distributing the finished work.

(5) Applicants should include in their budgets the costs of providing two 16mm prints or two ¾" video cassettes—one to be sent to the Endowment upon completion of the project and one to be provided to the Library of Congress. Applicants requesting funds for radio productions should include the costs of providing one complete copy on 7" reel, 7½ speed, to be sent to the Endowment upon completion of the project. This material will be used by the Endowment for internal purposes only.

FELLOWSHIPS

AMERICAN FILM INSTITUTE INDEPENDENT FILMMAKER PROGRAM

The American Film Institute administers for the National Endowment for the Arts a program of grants to filmmakers working in the areas of animation, documentary, experimental, and narrative film.

The deadline for applications is September 15, 1977.

For information and application forms write to:

The American Film Institute
501 Doheny Drive
Beverly Hills, California 90210

VIDEO ARTISTS FELLOWSHIPS

Video artists are eligible for fellowships under a program jointly funded by the Media Arts: Film/Radio/Television Program and the Visual Arts Program.

The deadline for applications is October 14, 1977.

For information and application forms write to:

Visual Arts Program
National Endowment for the Arts
Mail Stop 501
Washington, D.C. 20506

AMERICAN FILM INSTITUTE/ARTS ENDOWMENT FILM ARCHIVAL PROGRAM

Matching grants are available to assist organizations in locating, identifying, documenting, restoring, preserving, and cataloging films of artistic or cultural value. The specific aims are:

(1) Identification and documentation;
(2) Safeguarding and preservation;
(3) Restoration;
(4) Cataloging of existing holdings.

*Eligibility*

Applicants must have an existing archival film collection; nonprofit, tax-exempt status; and adequate staff and equipment to carry out projects for which grant assistance is sought. They must also provide reasonable access to materials for professional colleagues. The program provides funds on a specific project basis; however, application may be made to strengthen existing activities. Applicants with requests for unspecified general support of ongoing programs will not be considered eligible. Purchase of films is generally not eligible for grant assistance.

*Grant Amounts*

Matching grants will generally be for less than $50,000. Applicants are advised to apply for what they need and can match rather than the maximum amount. All applicants must show evidence of the ability to match on a dollar-for-dollar basis the amount requested. Up to 50 percent of this matching amount may be provided with valid in-kind contributions. Each organization may submit only one application each fiscal year under this category.



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*Deadlines and Announcement Dates*

Applications must be postmarked no later than November 15, 1977. Applicants should not anticipate notification of acceptance or rejection before June 1978. Projects should not be scheduled to begin before July 1, 1978, and should be completed within a 12-month period.

*How to Apply*

All aplications should be sent to the American Film Institute, The John F. Kennedy Center for the Performing Arts, Washington, D.C. 20566.

Please review the instructions on pages 11–15 and complete the forms entitled Project Grant Application (NEA–3 Rev.). All budget figures should be broken down on the application form.

Applicants are requested to submit the following information:

(1) A concise narrative description of the project for which grant assistance is being sought.

(2) Within the prescribed 12-month period, when and where the project will be carried out.

(3) A brief history of the organization as it applies to the project summarized in the application.

(4) A list of existing equipment as it relates to the project.

(5) Resumes of key staff who will be working on the project.

(6) A copy of the organization's nonprofit charter and tax-exempt letter from the IRS.

(The American Film Institute/Arts Endowment Film Archival Grants Program is a joint program of the National Endowment for the Arts and the American Film Institute. Applications must be sent to the American Film Institute where they will be processed by Endowment and Institute staff, and reviewed by a professional panel appointed by the Endowment. The American Film Institute will notify all applicants of acceptance or rejection, dispense all grant amounts and perform all necessary administrative functions.)

For assistance in completing applications, contact The American Film Institute, (202) 833-9300.

SERVICES TO THE FIELD

The aim of this program is to assist organizations in providing services to film and videomakers and to radio producers in every aspect of their careers and to increase knowledge and opportunity in the fields of film, radio, and television.

Areas of support may include but are not limited to the following:

(1) Conferences on key issues affecting the arts of film, radio, and video. Applications which identify priorities in these fields will receive preference.

(2) Research into existing and new media, including technical research into film, audio, and video preservation. Limited support will also be available to organizations providing materials and facilities to the public for the study of the arts of film, video, and radio.

(3) Distribution of film, radio, and video works. Applications may focus on improving existing processes or developing inventive new methods of distribution.

(4) Informational materials designed to facilitate communication about the nature and practice of the media arts.

(5) Individual Services to inform independent media artists about matters pertaining to their professional careers such as medical and life insurance, copyright and tax regulations, and contract negotiations.

(6) Provision of Facilities and Working Spaces to enable independent film and videomakers and radio producers to complete their projects. For the purposes of this program, facilities are defined as "places with equipment not normally within the reach of independent artists' resources where film and video workers may stage, shoot, and/or edit film or tape." While students and public may benefit, the emphasis must be on the work of independent film and videomakers and radio producers.

*Eligibility*

Nonprofit, tax-exempt organizations—including media centers, universities, museums, established research facilities—interested in providing services to film and video workers and radio producers and which have been in existence for 1 year. In the case of facilities, equipment must be accessible at nominal or no cost. Occasionally grants will be made to individuals.

*Grant Amounts*

Grants up to $25,000 will be made on a matching basis.

*Deadline and Announcement Dates*

Applications for fiscal year 1978 must be postmarked no later than August 1, 1977. Notice of approval or rejection will not be sent before December 1977. Projects should not be scheduled to begin before January 1, 1978, and should be carried out during the succeeding 12 months.

*How to Apply*

Organizations should review the instructions on pages 11–15 and complete the forms entitled Project Grant Application NEA–3 (Rev.). The application should include:

(1) A succinct description of the project and why it is needed.

(2) A summary of previous activity in the area of your project. In the case of facilities, a log of equipment usage by film and videomakers and radio producers over the past year, including: (a) list of users and how users are selected; (b) projects undertaken and completed; (c) down time on equipment, and, when relevant, (d) proposed additions to equipment inventory. When support for the purchase of equipment is included in the project budget, please indicate what material is being replaced and when it was purchased, as well as what new equipment is being requested.

NOTE.—The Media Arts Program provides occasional and partial support for the purchase of post-production equipment.

(3) The name or names of professional staff directing or executing the project, with biographies. In the case of conferences, the names of major invited participants and their honoraria; the names of participants who have responded favorably to the proposed conference; and plans for announcing the conference.

In the case of facilities, biographical material on the facility manager and/or principal technical personnel involved in supervising the facility.

(4) A clear statement on the method by which information/research resulting from a conference or other scholarly activity is to be delivered to the public.

(5) A brief summary of the organization's overall activities.

(6) Budget report from the preceding year. Regardless of the amount requested, all budgets must be itemized on the application forms.

Organizations may submit only one application in this category.

GENERAL PROGRAMS

Projects which do not fit into any of the foregoing areas of support may be considered under General Programs. They may be one-time or ongoing propects, but in every case they must fit in with the overall Media Arts: Film/Radio/Television Program guidelines by being responsive to the needs and aims of the field.

*Eligibility*

Non-profit, tax-exempt organizations. Grants to individuals of exceptional talent occasionally will be made.

*Grant Amounts*

Grants will generally not exceed $10,000 and in the case of organizations must be matched. Individual grants will be made on a non-matching basis.

*Deadline and Announcement Dates*

Applications for fiscal year 1978 must be postmarked no later than January 2, 1978. Applicants will not be notified of the result of the application before June 1978. The proposed activity should not have a beginning date before July 1, 1978.

*How to Apply*

Organizations should review the instructions on pages 11–15 and complete the forms entitled Project Grant Application NEA–3 (Rev.). Individuals should review the instructions on page 16 and complete the forms entitled Individual Grant Application NEA–2 (Rev.). If funds are requested for film, television, or radio productions, applicants should carefully review the information provided under Production Aid, How to Apply on page 5.

NOTE.—The Endowment also supports a grant program for independent filmmakers at The American Film Institute. Inquiries should be addressed to: The American Film Institute, 501 Doheny Drive, Beverly Hills, California 90210.

CHALLENGE GRANTS

The purpose of the National Endowment for the Arts program of Challenge Grants is to encourage cultural organizations to project and implement realistic plans for securing new and increased sources of continuing support and to assess their long-range goal.

Challenge Grants will be available to cultural institutions or groups of cultural institutions that have demonstrated a commitment to aesthetic quality and have programs of national or regional impact. It is expected that most recipients of Challenge Grants will also be grantees of other Programs of the Arts Endowment.

These grants will be awarded on a minimum 3-to-1 matching basis with each federal dollar generating at least three new and/or increased dollars from other sources. Grants are awarded on a one-time basis but may cover a period of up to three years.

The specific use of the Challenge Grant and matching funds is primarily at the discretion of the grantee. Possible uses of Challenge Grants are:

To meet increased operating costs;

To help eliminate accumulated debts;

To initiate or augment a cash reserve or an endownment fund;

To provide capital improvements for cultural facilities;

To assist a special one-time project which shows clearly that it will contribute to the basic strengthening of the grantee, and will have a beneficial impact on generating continued contributions from new and/or increased sources.

More detailed information may be obtained by writing: Challenge Grants, National Endowment for the Arts, Washington, D.C. 20506.





APPLICATION INFORMATION

ELIGIBILITY—GENERAL

*For Individuals*

By statute, individuals must be of exceptional talent to qualify for grants from the Endowment. Ordinarily, grants are made only to U.S. citizens or permanent residents of the United States. Students are not eligible.

*For Organizations*

By statute, the Endowment is limited to the support of organizations which meet the following criteria:

(1) Organizations in which no part of net earnings inures to the benefit of a private stockholder or individual and to which donations are allowable as a charitable contribution under Section 170(c) of the Internal Revenue Code of 1954, as amended. A copy of the Internal Revenue Service determination letter for tax-exempt status (under Section 501c3) must be submitted with each application.

(2) Organizations receiving support must conduct their operations in accordance with the requirements of Title VI of the Civil Rights Act of 1964 and the Rehabilitation Act of 1973, as amended, which bar discrimination in federally assisted projects on the basis of race, color, national origin or handicap. Individuals or organizations receiving support from the National Endowment for the Arts who will be making payments for services to any person other than the grantee must comply with these requirements. Such grantees are required to file with the Grants Office an Assurance of Compliance Form (see page 37).

(3) Organizations which compensate all professional performers, related or supporting professional personnel, laborers and mechanics on the basis of negotiated agreements which would satisfy the requirements of Parts 3, 5, and 505 of Title 29 of the Code of Federal Regulations, or the equivalent thereto as recognized by the appropriate union, for the duration of any projects supported in whole or in part by the National Endowment for the Arts.

METHODS OF FUNDING

*For Individuals*

Fellowships are made to individuals on a non-matching basis.

*For Organizations*

*Program Funds Method*

Generally, grants will be made on at least a dollar-for-dollar matching basis. Applicants requesting assistance from Program Funds must present evidence in the proper space (Section X) on Project Grant Application NEA–3 (Rev.) that at least one-half of the total cost of the project will be provided by the applicant. Anticipated source of matching funds must be identified. Budgeted funds, as well as newly raised funds, may be used for matching in all programs.

Example:

| | |
|---|---|
| If an applicant requests from the Endowment | $30,000 |
| Then applicant lists match of at least | 30,000 |
| And total project budget reflects at least | 60,000 |

*Treasury Fund Method*

When the National Endowment for the Arts was created, Congress included a unique provision in its enabling legislation. This provision allows the Endowment to work in partnership with private and other nonfederal sources of funding for the arts. Designed to encourage and stimulate increased private funding for the arts, the Treasury Fund allows nonfederal contributors to join the Endowment in the grant-making process, generally for projects supported by the Endowment under the established program guidelines.

The Endowment encourages use of the Treasury Fund method as an especially effective way of combining federal and private support, and as an encouragement to all potential donors, particularly those representing new or substantially increased sources of funds.

The Endowment may accept gifts in the form of money and other property. Bequests may be made to the Endowment as well. Gifts to the Endowment are generally deductible for federal income, estate, and gift tax purposes.

Gifts may be made to the Endowment for the support of a non-profit, tax-exempt, cultural organization which has been notified that the Endowment intends to award it a grant under its regular program guidelines—organizations such as a museum, a symphony orchestra, a dance, opera, or theatre company—or for an Endowment program, such as fellowships, touring, conferences, or workshops.

When a restricted gift is received, it frees an equal amount from the Treasury Fund, which is then made available to the grantee in accordance with the amount and conditions of the grant, as recommended by the National Council on the Arts and approved by the Chairman.

The Endowment also accepts unrestricted gifts to be used for projects recommended to the Chairman by the National Council on the Arts.

*How a Treasury Fund Grant Is Arranged*

Those interested in giving for a specific purpose should note the step-by-step process described below.

(1) If a project is eligible for consideration under the Media Arts: Film/Radio/Television Program guidelines the applicant submits to the Endowment a formal application, which may include a list of potential donors.

(2) The application is reviewed first by the Media Arts: Film/Radio/Television advisory panel and then by the National Council on the Arts and is recommended for approval or rejection. Based on these recommendations, the Chairman makes the final determination and notification is sent to the applicant.

(3) If the grant award is approved, the applicant then requests that the donors forward their gifts to the National Endowment for the Arts in the form of a gift transmittal letter specifying the amount and restricted purpose of the donation (i.e., the name of the applicant and specific project supported), and date by which payment will be made to the grantee organization (see below).

*Handling Procedures*

In order to simplify handling procedures for restricted donations which are to be matched by the Treasury Fund, grant recipients will receive payment directly from the donor (in cash or negotiable securities) on all restricted Treasury Fund gifts to the Endowment. Under this method, the following procedures apply:

(1) Gift transmittal letter is received by the Endowment from donor with above specified information.

(3) Upon receipt of payment on the gifts, grantee provides the Endowment with evidence of receipt of such payment as follows:

In the case of individual gifts of less than $5,000, grantee will forward to the Endowment a list of donors' names, addresses and amounts received, certified by an official of the organization and notarized.

In the case of individual gifts of $5,000 or more, grantee will forward to the Endowment, within the grant period, a photostatic copy of the instrument of payment, i.e., the check or negotiable securities, with a covering letter.

(3) In cases where benefit proceeds are to be utilized for purposes of the Treasury Fund, evidence, such as benefit announcement circulars, invitations, posters, etc. (which indicate donors had prior knowledge that their contributions would be used for the Treasury Fund) must be retained by grantee as evidence of donors' intent. In these cases, the grantee organization will forward to the Endowment, within the grant period, a notarized letter requesting release of the Treasury matching funds, signed by an appropriate official, certifying that the benefit was held on a specified date, yielded a specified sum for Treasury Fund gift purposes related to the grant in question, and that evidence of the benefit will be retained by grantee organization in its files.

(4) In all cases, donors are to make payment on gifts at least 60 days prior to termination of the grant period, and grantee organizations will provide the Endowment with evidence of receipt of payment on gifts at least 30 days prior to the termination period.

*The Process in Terms of Money*

| | |
|---|---|
| Donor's contribution(s) to Endowment | $25,000 |
| Endowment match from the Treasury fund | 25,000 |
| Total Endowment grant | 50,000 |
| Grantee's additional project cost | 50,000 |
| Minimum total budget of project | 100,000 |

APPLICATION REVIEW PROCEDURE

After an application with all the necessary information has been received, the following procedure occurs:

The Endowment's Media Arts: Film/Radio/Television staff will receive and review applications and refer them to the Media Arts: Film/Radio/Television advisory panels and National Council on the Arts for recommendation to the Chairman.

The applicant is then notified concerning final action taken by the Chairman of the Endowment.

Information regarding action taken on applications cannot be made available until after the groups listed above have made their recommendations and the Chairman of the Endowment has reached a final decision. Applicants are requested not to seek information on the status of their requests.

When a grant letter has been received, the grantee applies for partial or full payment depending on the nature and schedule of the project.

All inquiries in regard to the Media Arts Program and application procedures for Media Arts grants should be directed to:

Media Arts: Film/Radio/Television Program, Mail Stop 552, National Endowment for the Arts, Washington, D.C. 20506, (202) 634–6300.

REQUIREMENTS FOR SUBMISSION OF FILMS, VIDEOTAPES, AND AUDIOTAPES

All films should be either 16mm or Super-8 and loaded on standard projection reels. Film samples may be in single- or double-system. Videotapes should be either ½" open-reel or ¾" cassette. Audiotapes should be either ¼" open-reel or cassette. Films in 35mm, 1" or 2" videotapes, and ½" audiotapes cannot be projected or played for the review



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panel. Please indicate on each container of film or tape: name of applicant; title of work; date work was completed; projection instructions (e.g., "16fps, mag sound"); whether color or black and white, monoral or stereo; running time.

All sample works will be returned by regular mail (insured) following panel review. Improperly or inadequately labeled sample works may unnecessarily jeopardize the application.

At the conclusion of the grant period the Endowment requires final reports from all grantees. Complete instructions on final reporting will accompany the grant letter.

NOTE.—Applicants requesting funds for film or television productions should include in their budgets the costs of providing two 16mm prints or two ¾" video cassettes—one to be sent to the Endowment upon completion of the project and one to be provided to the Library of Congress. Applicants requesting funds for radio productions should include the costs of providing one complete copy on 7" reel, 7½ speed, to be sent to the Endowment upon completion of the project. This material will be used by the Endowment for internal purposes only.

Additional information and guidelines may be obtained from the Media Arts: Film/Radio/Television Program, Mail Stop 552, National Endowment for the Arts, Washington, D.C. 20506 or call (202) 634-6300.

ASSURANCE EXPLANATION

Background. Section 601 et seq. of the Civil Rights Act of 1964 (42 U.S.C. 2000d, 78 Stat. 241) provides that no person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance, and requires that each government agency which is empowered to extend such financial assistance shall issue rules and regulations effectuating Title VI (Sections 601-605) of the Act with respect to such programs or activities administered by the agency. Subject to certain exceptions regarding admission policies and certain religious and military institutions, Title IX of the Education Amendment of 1972 (20 U.S.C. 1681 et seq., 86 Stat. 235) prohibits the exclusion of persons on the basis of sex from any education program or activity receiving Federal financial assistance.

NFAH Regulation. Section 1110.4 of the NFAH Regulations (45 C.F.R. Part 1110) requires, as a condition to the approval of a grant, that the Applicant execute the Assurance of Compliance Form, whether or not a comparable form has been filed with another agency.

Assurance of Compliance. The Applicant referred to in the Form is the organization itself, whose Chief Executive Officer or comparable official should sign the Assurance. The name and title of the organization and of the official should be typed on the form. The signed original should be returned with the other material which is to be returned to the Foundation. Once a properly executed Assurance Form has been filed with NFAH, it will serve as the assurance for all future applications to NFAH, and for this reason the Applicant should verify the accuracy of the assurance from time-to-time.

PRIVACY ACT NOTIFICATION

In compliance with the Privacy Act of 1974, we wish to furnish you with the following information:

Section (5) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 954), authorizes the Endowment to solicit the requested information. This information is needed to process your grant application and for statistical research and analysis of trends. The routine uses for which this information can be used and the purposes of such use are general administration of grant review process, statistical research, congressional oversight, and analysis of trends.

Failure to provide the requested information could result in rejection of your application due to lack of sufficient facts for determining either your eligibility for a grant or the amount which should be awarded.

RESOLUTION ON ACCESSIBILITY TO THE ARTS FOR THE HANDICAPPED

One of the main goals of the National Endowment for the Arts is to assist in making the arts available to all Americans. The arts are a right, not a privilege. They are central to what our society is and what it can be. The National Council on the Arts believes very strongly that no citizen should be deprived of the beauty and the insights into the human experience that only the arts can impart.

The National Council on the Arts believes that cultural institutions and individual artists could make a significant contribution to the lives of citizens who are physically handicapped. It therefore urges the National Endowment for the Arts to take a leadership role in advocating special provisions for the handicapped in cultural facilities and programs.

The Council notes that the Congress of the United States passed in 1968 (P.L. 90-480) legislation that would require all public buildings constructed, leased or financed in whole or in part by the Federal Government to be accessible to handicapped persons. The Council strongly endorses the intent of this legislation and urges private interests and governments at the state and local levels to take the intent of this legislation into account when building or renovating cultural facilities.

The Council further requests that the National Endowment for the Arts and all of the program areas within the Endowment be mindful of the intent and purposes of this legislation as they formulate their own guidelines and as they review proposals from the field. The Council urges the Endowment to give consideration to all the ways in which the agency can further promote and implement the goal of making cultural facilities and activities accessible to Americans who are physically handicapped. (Adopted by the National Council on the Arts, September 15, 1973.)

NOTE ON PUBLICATIONS

The National Endowment for the Arts strongly encourages grantees who produce books or other publications for dissemination to take advantage of the free cataloging service of the Cataloging-in-Publications Office of the Library of Congress.

Cataloging-in-Publication provides publishers with cataloging data to be printed in the book. Having the data in the book speeds up the library cataloging process and gets the book into immediate circulation—to the benefit of author, publisher and reader.

For procedural information call or write:

Library of Congress, Descriptive Cataloging Division, Cataloging-in-Publication Office, Washington, D.C. 20540 (202) 426-6372.

[FR Doc.77-21733 Filed 7-27-77;8:45 am]

## ADVISORY COMMITTEE ON FEDERAL PAY

### PROPOSED ADJUSTMENT IN FEDERAL PAY FOR FISCAL 1978

### Public Discussions

The Advisory Committee on Federal Pay announces that public discussions of the proposed adjustment in Federal pay for Fiscal 1978 have been rescheduled for Tuesday and Wednesday, August 16 and 17, in Room 10103, New Executive Office Building, 726 Jackson Place. They will start at 10:00 a.m. on August 16 and 9:30 a.m. on August 17.

At these meetings the Committee will discuss with the President's Agent its proposals for the October increase, as well as obtain the views of any organization representing Federal employees or any interested government officials regarding the Pay Agent's proposals. (Information about the availability of the Agent's draft proposals can be obtained from the Advisory Committee—Area Code 202—653-6193.) Organizations representing Federal employees or interested government officials wishing to discuss the Agent's proposals with the Committee orally or in writing should notify the Committee by Monday, August 8, either by writing or calling the Committee. Written comments on the proposals should reach the Committee—Suite 205, 1730 K Street NW., Washington, D.C. 20006—by Wednesday, August 10. Both written submissions and requests for an opportunity to discuss the issues should include a telephone number where the organization or official can be reached.

The Advisory Committee on Federal Pay, established as an independent establishment by Section 5306 of Title 5, United States Code (Pub. L. 91-656, the Federal Pay Comparability Act) is charged with assisting the President in carrying out the policies of Section 5301 of Title 5, United States Code. The Committee's fundamental obligation is to afford the President an independent judgment respecting Federal pay. Section 5306 of Title 5 requires the Committee to make findings and recommendations to the President with respect to the annual adjustment in Federal pay, after considering the written views of employee organizations, the President's Agent, other officials of the government of the United States and such experts as the Committee may consult.

NOTE.—The meetings were originally scheduled for July 27 and 28; they were announced in the FEDERAL REGISTER of July 13, and announcement of their postponement appeared in the July 22 FEDERAL REGISTER.

JEROME M. ROSOW,
*Chairman, Advisory Committee on Federal Pay.*

[FR Doc.77-21726 Filed 7-27-77;8:45 am]





## CIVIL AERONAUTICS BOARD

[Docket 31114; Agreement CAB 26142; Order 77-7-46]

### ALASKA AIRLINES, INC. AND WIEN AIR ALASKA, INC.

### Substitute Service Facilitation Agreement

Issued under delegated authority July 12, 1977.

Pursuant to section 412(a) of the Federal Aviation Act of 1958, as amended (the Act), and Part 261 of the Board's Economic Regulations, Alaska Airlines, Inc. and Wien Air Alaska, Inc. have filed with the Board an agreement (Agreement CAB 26142) providing for certain cooperative working arrangements during periods of strikes and other work stoppages. The pact is referred to as a substitute service facilitation agreement. More specifically, in the event of a strike or other work stoppage resulting in a substantial reduction of one of the carrier's flight operations, the agreement provides, inter alia, that the other carrier (the operating carrier) may request exemption authority from the Board to provide substitute for the period of the strike or work stoppage in any of the struck carrier's markets within or to Alaska which have experienced a substantial reduction in certificated flight operations. Moreover, the agreement provides that upon grant of such exemption authority, the struck carrier will make available for the period of the strike or work stoppage to the operating carrier its facilities and ground equipment at those stations where it provided service and its employees willing to provide assistance at those points.

In the preamble to the agreement, it is noted, inter alia, that Alaska and Wien provide the only transportation services to a number of communities in the State of Alaska, and that the occurrence of a strike or other work stoppage can cause economic loss and harm to those communities as well as to other communities in the state.

Upon consideration of the instant agreement, and the present factual record, it has been concluded that a more thorough evidentiary record is needed in order to determine whether this agreement should be approved. Accordingly, further consideration of the agreement will be deferred temporarily to afford the parties enumerated here, and other interested persons, an opportunity to state their views on the proposal as well as the additional issues set forth herein. Copies of this order will be served on Alaska, Wien, the Airline Pilots Association, the United States Departments of Justice and Transportation, and the State of Alaska. Should these parties, or any other interested persons, elect to comment on the agreement they should address themselves to the questions of whether approval of the agreement would be adverse to the public interest; whether the agreement should be approved subject to certain conditions; whether the agreement is anticompetitive or in restraint of trade; and other matters deemed appropriate. Such comments will be due within 20 days of the date of service of this order.

Therefore, pursuant to authority duly delegated by the Board in its Regulations, 14 CFR 385.3, it is found that action on Agreement CAB 26142 should be deferred and comments requested.

Accordingly, it is ordered that: 1. Action on Agreement CAB 26142 is deferred;

2. This order shall be served on Alaska Airlines, Inc., Wien Air Alaska, Inc., the Airline Pilots Association, the United States Departments of Justic and Transportation, and the State of Alaska; and

3. The abovementioned parties, and other interested persons, are granted 20 days to comment on Agreement CAB 26142 and the matters set forth above.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order shall be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-21769 Filed 7-27-77;8:45 am]

## CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

### Application for Amendment

JULY 25, 1977.

Notice is hereby given that the Civil Aeronautics Board on July 25, 1977, received an application, Docket 31185, from Hughes Air Corp., d/b/a Hughes Airwest for amendment of its certificate of public convenience and necessity for Route 76 so as to authorize nonstop service between Reno, Nevada, and Los Angeles, Calif., and between Reno, Nevada and Spokane, Wash.

The applicant request that its application be processed under the expedited procedures set forth in Subpart M of Part 302 (14 CFR Part 302).

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-21771 Filed 7-27-77;8:45 am]

[Docket 31182; Order 77-7-109]

## 5 STAR AIR FREIGHT CORPORATION

### Increased Excess-Valuation Charge

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 22nd day of July, 1977.

By tariff revisions[1] issued June 20 and marked to become effective July 24, 1977, 5 Star Air Freight Corporation (5 Star), an air freight forwarder, proposes to increase its excess-valuation charge from 15 cents to 30 cents per $100 or fraction thereof, by which the value of a shipment declared on the airbill exceeds 50 cents per pound or $50 per shipment, whichever is greater.

5 Star asserts that the purpose of the increased charge is to meet present costs and prevent continuing loss of revenue on such declared value shipments. The forwarder states that for each 15 cents per $100 charged for declared value (its current fee), it incurs costs totaling 31 cents per $100, broken down as follows:

| | *In cents* |
|---|---|
| Airlines' charge for declared value (avg) | 11 |
| Ground carriers' charge for declared value (avg) | 5 |
| Cargo legal liability insurance premium | 5 |
| Reserve fund for unrecoverable claim payments | 10 |
| Total cost | 31 |

Upon consideration of all relevant factors, the Board finds that the proposed charge may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposal should be suspended pending investigation.

The foregoing data do not justify the increased excess-valuation charge proposed. The additional costs shown by 5 Star are not supported by any meaningful detail and could as well apply to all shipments, rather than just to declared value shipments.

The 5-cent charge that 5 Star represents as its costs for ground carriers is not supported. As a matter of fact, when 5 Star uses the services of scheduled airlines and their pickup and delivery organization, Air Cargo, Inc. (ACI), the forwarder's payments for excess valuation to the airlines cover the service from airport to airport as well as pickup and delivery services. The forwarder has not detailed any different ground arrangements.

The forwarder does not indicate the basis for charging 5 cents per $100 of "cargo legal liability insurance premium" to excess-value shipments. If this is the average premium on liability insurance on all freight carried by 5 Star, it would appear that all of that cost should be built into the basic transportation rates.

The carrier has not explained the 10-cent cost providing for accruals to a reserve fund for unrecoverable claims. 5 Star's current excess-value charge, 15 cents per $100, exceeds the average excess-value charge it pays to airlines (11 cents per $100). Although the forwarder claims it has additional excess-value costs, its own costs are reduced to the extent that it can recover from the airlines payments made to shippers in satisfaction of claims. Thus, the forwarder has not established the need for a reserve fund for unrecoverable claim pay-

[1] Revisions to 5 Star Freight Corporation, Tariff C.A.B. No. 7.



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ments nor for the 10 cent charge for that purpose.

Most major forwarders currently have in effect an excess-value charge of 15 cents per $100 on their domestic traffic. The Board has suspended, pending investigation, a number of previous proposals to increase excess-valuation charges above this level where no showing has been made that existing excess-value revenues do not cover the amount of claim expense stemming from the declarations of excess value.[3] Furthermore, the Board, after hearing in Imperial Air Freight Service, Inc., Increased Excess Value Charges, Docket 23538, found a proposed increase in the excess-valuation charge from 15 to 25 cents per $100 unlawful, on the same grounds, and ordered it canceled (Order 72-4-141, April 26, 1972).

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof.

It is ordered that: 1. An investigation be instituted to determine whether the charge and provisions in Rule No. 160(C) on 9th Revised Page 14 of 5 Star Air Freight Corporation's C.A.B. No. 7, and rules, regulations, or practices affecting such charge and provisions are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and if found to be unlawful, to determine and prescribe the lawful charge and provisions, and rules, regulations, or practices affecting such charge and provisions;

2. Pending hearing and decision by the Board, the charge and provisions in Rule No. 160(C) on 9th Revised page 14 of 5 Star Air Freight Corporation's C.A.B. No. 7, be suspended and their use deferred to and including October 21, 1977, unless otherwise ordered by the Board, and that no change be made therein during the period of suspension except by order or special permission of the Board;

3. This proceeding be designated Docket 31182 and be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariff and served upon 5 Star Air Freight Corporation, which is hereby made a party to Docket 31182.

[3] E.g., Orders 77-7-15, 76-3-88, 75-3-125, 74-5-121, and prior orders cited therein.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[4]

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-21770 Filed 7-27-77;8:45 am]

## DEPARTMENT OF COMMERCE

### Office of the Secretary

[Dept. Organization 25-2; Amdt. 1; Transmittal 345]

### MARITIME ADMINISTRATION

### Organization Order

This order effective July 7, 1977, amends the material appearing at 42 FR 5743 of January 13, 1977.

Department Organization Order 25-2, dated December 9, 1976, is hereby amended, as shown below. The purpose of this amendment is to abolish the Office of Subsidy Administration, and to transfer its functions to four newly formed offices under the Assistant Administrator for Maritime Aids—the Office of Subsidy Contracts, the Office of Ship Financing Guarantees, Office of Ship Operating Costs, and Office of Trade Studies and Statistics.

1. Section 13 is revised to read as follows:

Section 13. Assistant Administrator for Maritime Aids. The Assistant Administrator for Maritime Aids shall be the principal assistant and advisor to the Assistant Secretary on subsidy administration, Title XI ship financing guarantees, capital construction funds, marine insurance activities, and related Government aids programs. The Assistant Administrator for Maritime Aids shall direct the activities of the following organizational units:

.01 The Office of Subsidy Contracts shall receive and process applications for construction-differential subsidy, operating-differential subsidy, construction reserve and capital construction fund agreements, and other forms of Government aid to shipping pursuant to Titles V, VI and VII of the Merchant Marine Act, 1936, as amended; conduct negotiations with applicants, obtain comments of other offices, and recommend approval or disapproval of applications by the Maritime Subsidy Board; and take other actions within delegated authority, or recommend approval or disapproval thereof, as required, in relation to the administration of the contracts and agreements entered into by the Maritime Administration in the above areas.

.02 The Office of Ship Financing Guarantees shall receive and process applications for Federal ship financing guarantees to aid in the financing of ship construction, reconstruction, and reconditioning of vessels pursuant to Title XI of the Merchant Marine Act, 1936, as amended; conduct negotiations with applicants, obtain comments of other offices, and recommend approval or disapproval of these applications; approve and take other actions within delegated authority, or recommend approval or disapproval thereof, as required, in relation to the administration of Title XI contracts and related agreements entered into by the Maritime Administration.

.03 The Office of Ship Operating Costs shall collect, analyze, and maintain data on the relative costs of operating ships under United States and foreign flags; calculate and recommend approval of operating-differential subsidy rates by the Maritime Subsidy Board; review applications for construction-differential subsidy and operating-differential subsidy with respect to proposed manning scales and estimated subsidizable operating costs; review and prepare administrative determinations and recommendations on the eligibility of costs for subsidy rate-making and accrual purposes; and develop vessel operating cost statements and reports, as required.

.04 The Office of Trade Studies and Statistics shall analyze and recommend the trade route structure and service requirements of the foreign oceanborne commerce of the United States, pursuant to Section 211 of the Act; analyze and recommend the substantiality and extent of foreign flag competition on essential trade routes; review and approve or disapprove sailing schedules of subsidized U.S.-flag operators; evaluate and prepare recommendations on requests of subsidized operators for changes in service descriptions, sailings, and related requirements; prepare reports on tariff and related aspects of applications for construction and operating-differential subsidies and ship financing guarantees; and collect, maintain, analyze, and disseminate statistical data on cargo and commodity movements in the foreign oceanborne commerce of the United States, on composition and characteristics of world's merchant fleets, and on employment and utilization of U.S.-flag ships.

.05 The Office of Marine Insurance shall develop, coordinate, control, and administer the marine insurance and the marine war risk insurance activities and programs of the Maritime Administration; maintain contact with the commercial insurance markets, analyze events and trends, and take action to meet changing conditions and foster cooperation between the Federal Government and American marine insurance underwriters in helping to strengthen the domestic marine insurance market; gather, analyze, and disseminate information on marine insurance useful to ship operators and the marine insurance industry; and settle or recommend settlement of claims of a marine insurance and marine war risk insurance nature.

2. The organization chart, Exhibit 1, attached to this amendment supersedes the organization chart dated December 9, 1976. A copy of the organization chart is on file with the original of this document with the Office of the Federal Register.

[4] All Members concurred. Chairman Kahn filed the following concurring statement: "I cannot understand the logic of our regulating these particular charges while not regulating all other rates of freight forwarders. I will concur in this suspension on the assumption that there is something unique in the nature of the excess valuation charge that makes competition an inadequate regulator of it, but only if the freight forwarders are given an opportunity to challenge that assumption if they wish to do so."





ROBERT J. BLACKWELL,
*Assistant Secretary for Maritime Affairs.*

Approved:

ELSA A. PORTER,
*Assistant Secretary for Administration.*

[FR Doc.77-21715 Filed 7-27-77;8:45 am]

## CONSUMER PRODUCT SAFETY COMMISSION

### HOME INSULATION PETITION CP 77-1

### Public Meeting

The Consumer Product Safety Commission will hold a public meeting on August 22, 1977, at 10 a.m. at the Commission's conference room, Third floor, 1111 18th Street NW., Washington, D.C., to allow interested persons an opportunity to make an oral presentation of data, views, or arguments concerning a petition the Commission has received (CP 77-1) regarding certain home insulation products.

On October 20, 1976, the Metropolitan Denver District Attorneys' Consumer Office, 655 South Broadway, Merchants Park Center, Denver, Colo. 80209 (303-777-3072), filed a petition under section 10 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2059, and the Commission's interim regulations at 16 CFR Part 1110, 41 FR 43126, requesting the Commission to initiate proceedings to develop a mandatory consumer product safety standard under section 7 of the CPSA, 15 U.S.C. 2056, for certain types of home insulation products. The petition set forth relevant facts which it is claimed establish that a mandatory standard is necessary to eliminate or reduce the following alleged risks of injury:

(1) The risk of injury from fires associated with cellulose home insulation.

(2) The risk of injury of cancer in the respiratory and gastrointestinal tracts due to the inhalation and ingestion of particles from fibrous glass home insulation.

(3) The risk of injury from fires associated with fibrous glass home insulation.

(4) The risk of injury from fires associated with plastic foam/resin home insulation (insulation made of polyurethane, polystyrene, or urea formaldehyde).

(5) The risk of injury or irritation and poisoning associated with the use of plastic foam/resin insulation by consumers during installation.

A copy of the petition and a package prepared by the staff evaluating and analyzing available information concerning the issues raised by the petition may be examined in the Commission's Office of the Secretary.

The purpose of the meeting on August 22 is to enable interested persons to present data, views, or arguments in order to assist the Commission in determining whether or not the petition should be granted.

Persons making an appearance, therefore, should confine their presentation to the issues raised by the petition.

As stated in the Commission's Interim Procedures for Petitioning for Rulemaking Under Section 10 of the CPSA, the major factors the Commission considers in deciding whether to grant or deny a petition under section 10 include the following items:

(1) Whether the consumer product involved presents an unreasonable risk of injury.

(2) Whether a consumer product safety standard is reasonably necessary to eliminate or reduce the risk of injury; and

(3) Whether failure of the Commission to initiate the rulemaking proceeding requested would unreasonably expose the petitioner or other consumers to the risk of injury which the petitioner alleges is presented by the product.

In considering these factors, the interim regulations provide that the Commission will treat as an important component of each one the relative priority of the risk of injury associated with the product about which the petition has been filed and the Commission's resources available for rulemaking activities with respect to that risk of injury. The CPSC Policy on Establishing Priorities for Commission Action, 16 CFR 1009.8, published July 8, 1976 (41 FR 27960) sets forth the criteria upon which Commission priorities are based. These criteria, briefly summarized, with respect to petitions under this policy, are as follows:

(1) Frequency and severity of injuries associated with a consumer product.

(2) Causality of injuries.

(3) Potential for a consumer product to cause chronic illness and injuries which do not become evident until some time after use or exposure to the product.

(4) Potential impact of Commission regulatory action in terms of possible reduction of injuries and increased cost to both producers and consumers, as well as potential effect on the usefulness and availability of the product.

(5) Nature of the risk of injury in terms of its foreseeability by the consumer.

(6) Special vulnerability of children, elderly, and handicapped consumers to the risk of injury presented.

(7) Probability of injury to the consumer taking into consideration such things as the number of units in use, frequency of use, and likelihood of exposure to the identified risk of injury during typical use.

(8) Any additional criteria which would lead the Commission to treat a petition as high priority matter.

MEETING PROCEDURE AND PARTICIPATION

The meeting shall be an informal, nonadversary, legislative-type meeting under section 10(c) of the CPSA at which there will be no formal pleadings or adverse parties. The procedural regulations for oral presentation 16 CFR Part 1109, issued October 14, 1975 (40 FR 49122), shall govern this proceeding.

All persons wishing to make an oral presentation should notify Richard Danca of the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207 (202-634-7770), no later than close of business August 15, 1977, for scheduling purposes. An estimate of the length of time of each presentation should also be given to the Office of the Secretary by August 15, 1977.

Persons who are unable to attend the meeting but who wish to make written comments on this matter should submit their comments, by August 22, 1977, to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Dated: July 25, 1977.

SADYE E. DUNN,
*Deputy Secretary, Consumer Product Safety Commission.*

[FR Doc.77-21707 Filed 7-27-77;8:45 am]

## ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

### ADVISORY COMMITTEE ON GEOTHERMAL ENERGY

### Meeting

JULY 25, 1977.

In accordance with provisions of Pub. L. 92-463 (Federal Advisory Committee Act), the Advisory Committee on Geothermal Energy will hold its third meeting Friday, August 12, 1977, from 9 a.m. to 5 p.m. in the Federal Ballroom North, Capitol Hill Quality Inn, 415 New Jersey Avenue NW., Washington, D.C. The purpose of this meeting is: to review plans and activities of the Division of Geothermal Energy, U.S. Energy Research and Development Administration; to discuss and to provide advice on programs and approaches to effective government-industry cooperation in the development of geothermal energy. The meeting will be open to the public. The tentative agenda for the meeting is as follows:

9 a.m.—Opening remarks—Carel Otte, Chairman.
9:30 a.m.—Minutes of January 10, 1977, meeting—Carel Otte, Chairman.
9:45 a.m.—Report of Legal and Institutional Subcommittee—J. W. Aidlin, Chairman.
11:30 a.m.—Report of Resource Subcommittee—C. W. Berge, Chairman.
1 p.m.—Lunch.
2 p.m.—Technology Utilization Subcommittee Report—Ben Holt, Chairman.
3 p.m.—Report of Geopressure Subcommittee—F. C. Repper, Chairman.
4 p.m.—General discussion—Date and location of next meeting—Carel Otte, Chairman.
5 p.m.—Adjourn.

Practical considerations may dictate alterations in the above agenda. This will be a working meeting and the Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:



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(a) Persons wishing to submit written statements on agenda items may do so by mailing 12 copies thereof, postmarked no later than August 8, 1977, to the Director, Division of Geothermal Energy, U.S. Energy Research and Development Administration, 20 Massachusetts Avenue NW., Washington, D.C. 20545. Comments shall be directly relevant to the above agenda items.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on August 10, 1977, to the Division of Geothermal Energy, Energy Research and Development Administration, Helen Krupovich on 202–376–4904 between 8:30 a.m. and 5 p.m., E.S.T.

(c) Questions at the meeting may be propounded only by members of the Subcommittee and ERDA officials assigned to participate with the Subcommittee in its deliberations.

(d) Seating to the public will be made available on a first-come first-served basis.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during the recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Copies of minutes will be made available for copying, following their certification by the Chairman in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue NW., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY L. PEEBLES,
*Deputy Advisory Committee Management Officer.*

[FR Doc.77–21774 Filed 7–27–77;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

[FCC 77–487; Docket No. 18128]

### AMERICAN TELEPHONE AND TELEGRAPH CO.

**Memorandum Opinion and Order**

Adopted: July 13, 1977.

Released: July 20, 1977.

In the matter of American Telephone and Telegraph Company, Long Lines Department, Revisions of Tariff F.C.C. No. 260, Private Line Services, Series 5000 (TELPAK).

1. By Memorandum Opinion and Order released May 20, 1977, in this proceeding, FCC 77–332, we granted in part a petition of the American Telephone and Telegraph Company (AT&T) and permitted deferral of certain tariff filings scheduled to be submitted on June 8, 1977. We also permitted AT&T to file work papers in support of required cost of service studies no later than July 8, 1977. The tariff filings are presently scheduled to be submitted between June 8 and August 1, 1977.

2. We now have before us a Petition for Clarification and Reconsideration of the May 20 Order filed by AT&T.[1] AT&T asks us to modify the provisions of that Order which require it to file tariff revisions for Message Telecommunications Service (MTS)—Overseas/International and Private Line Overseas/International Services on or before August 1, 1977. It indicates that the cost studies filed on June 8 included the two overseas categories with the respective domestic cost of service studies and that it will not be possible to conduct separate studies for the overseas categories in sufficient time for rate action to be filed on August 1. Further, AT&T asserts that submission of such studies would be inappropriate in this proceeding in view of the concurrent Preliminary Audit and Study of the Operations of International Carriers, Docket No. 20778, presently underway. It further claims that the Decision in the present proceeding, 61 FCC 2d 587 (1976), applied only to domestic categories of services, not international/overseas services. Since it has separately asked the Chief, Common Carrier Bureau to defer the date for filing the cost studies required to be filed in Docket No. 20778, AT&T requests us to reconsider and modify our May 20 Order "to provide for the filing of overseas/international [Fully Distributed Cost] studies and appropriate adjustments to distribute all costs over the sixteen categories of service within 30 days after the filing of the FDC studies in Docket 20778."

3. We have also received an opposition to AT&T's petition filed by the Department of Defense (DOD), representing all United States Executive Agencies. DOD claims that our Decision in this proceeding was not limited to domestic services, as AT&T asserts, but rather included international MTS and private line offerings as well. It also seeks denial of AT&T's petition on the ground that, unless costs of all categories of service are submitted, we will be unable to determine the presence of cross-subsidization among services.

4. At the outset, AT&T's petition appears procedurally defective. Section 1.106(a)(1) permits reconsideration only of "a final Commission action." Changing the schedule for filing tariff revisions is not a final action of the Commission, but is rather an interlocutory action for which reconsideration does not lie. However, in view of the apparent inconsistency between the requirements of this proceeding and those of Docket No. 20778, we shall treat AT&T's petition as a request for waiver of the filing requirements of Docket No. 18128 for the overseas service categories.

5. We agree with DOD that the Decision in Docket No. 18128 affected all AT&T services. Nothing has been cited by AT&T that would support its interpretation that only domestic services were dealt with, and the fact that overseas services were not specified in the Decision in no way limits it to domestic services. We note also that AT&T's cost manual for implementation of our Decision herein specifies international services as separate categories for purposes of reporting costs in this proceeding.

6. As to AT&T's cost of service filing, the revised cost manual, which essentially provided the basis of the cost of service studies submitted on June 8, was developed by AT&T, in consultation with the staff of the Common Carrier Bureau, and has not been reviewed or approved by the Commission. Therefore, we have no basis on which either to agree or disagree with AT&T's combining domestic and overseas/international MTS and private line services in its cost of service reports, since such services were not required to be reported separately in our Decision in this proceeding.

7. Towever, we agree with AT&T that it is inappropriate to require any necessary rate action regarding the international categories of service on or before August 1, 1977, in view of recent developments in the filing schedule in Docket No. 20778. At the request of the parties to Docket No. 20778, the Chief, Common Carrier Bureau, has extended the date for filing cost studies in that proceeding until November 15, 1977. In view of this postponement, it appears inappropriate for us to require cost studies and tariff revisions in this proceeding prior to submission of the cost studies in Docket No. 20778. Accordingly, we shall grant the relief AT&T requests in the form of a waiver of the requirement for rate action on or before August 1. Any such rate action will now be required on or before December 15, 1977, or one month after the cost studies are submitted in Docket No. 20778. If additional time is required for rate action, we shall entertain an additional waiver request, with justification.

8. As to the waiver request on Private Line Telegraph—Other services, AT&T asserts that the earnings ratio for these services has been recently found to be below 9.5 percent and that additional time is needed to perform the market and cost analvses required to support a rate change to raise the earnings level. The service category Private Line Telegraph—Other consists of items of teletypewriter equipment used primarily in connection with Series 1000 telegraph-grade private line services. AT&T estimates that the market and cost studies in support of rate changes for these equipment items can be completed in sufficient time to allow a tariff revision to be filed on July 27. Since we have permitted postponement of most other tariff revisions until the July 1–August 1 period, and since we can see no prejudice to any party by allowing this additional request, we shall grant the requested waiver.

9. Accordingly, *It is ordered*, That paragraph 240 of our Decision in this proceeding, 61 FCC 2d 587, 668 (1976) is waived to permit AT&T to file revised rate schedules for overseas/international services no later than December 15, 1977, and revised rate schedules for Private Line Telegraph—Other services no later than July 27, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

[FR Doc.77–21752 Filed 7–27–77;8:45 am]

[1] We also have before us a request for waiver of the requirement to file rate action in the service category Private Line Telegraph—Other on June 8, AT&T requests a postponement until July 27 of the requirement for rate action in that area.

[Docket 20271]

## INTERNATIONAL RADIO REGULATIONS

**Order Extending Time for Filing of Comments and Reply Comments**

Adopted: July 21, 1977.

Released: July 22, 1977.

In the matter of an inquiry relative to preparation for a General World Administrative Radio Conference of the International Telecommunication Union to consider revision of the international Radio Regulations.

By the Chairman, FCC WARC Steering Committee.

1. On May 20, 1977, the Commission adopted the Fifth Notice of Inquiry in the above-styled proceeding (42 FR 11258). The date for filing comments was established as August 1, 1977, and the reply comment date was August 22, 1977.

2. On July 14, 1977 a petition was filed on behalf of Western Union Space Communications, Inc. ("Spacecom") and the Western Union Telegraph Company ("WUTelco") seeking to extend the comment deadline until September 1, 1977, and the reply comment deadline until September 22, 1977.

3. In seeking the extension of time for filing comments, Spacecom and WUTelco have identified several areas within the Fifth Notice of Inquiry which could have a severe impact on planned systems and that the complex analysis of sharing called for in the Fifth Notice would require further study. Additionally, they point out that the persons preparing comments to the Fifth Notice are the same persons who have been preparing comments to the Commission's Fourth Notice in this Inquiry.

4. While the comments provided as justification for extension of time do contain merit, they are not unique to Spacecom and WUTelco. Nearly every major provider and user of telecommunications could be impacted by the 1979 WARC. The problems involved are indeed complex and are deserving of careful, concise evaluation. However, as has been stated both formally and informally throughout this proceeding, the U.S. is under very precise and limited time constraints in preparing its proposals for the 1979 WARC. To be considered are further Notices to be issued and numerous meetings, domestically as well as with other administrations, for discussion and possible resolution of conflicts in our requirements. It is essential during these discussions, some of which are imminent or have indeed already occurred, that the U.S. have the most current information available regarding our requirements and proposed modifications to the Radio Regulations if these discussions are to be fruitful. It should also be emphasized that the U.S. considers these discussions to be an essential and vital element of our overall conference preparation. In order that the U.S. have full benefit of the comments to the Fifth Notice prior to our consultations with other administrations, bearing in mind the severe time constraints under which we are operating in preparing any future Notices, any unduly lengthy extensions of time for filing comments cannot be countenanced.

5. Nevertheless, we believe an extension of two weeks for comments and reply comments could be accomplished without severe impact upon our already tight schedule. Therefore, we will extend the time for filing comments and reply comments to August 15, 1977, and September 2, 1977, respectively.

Accordingly, *It is ordered* that the subject petition, to the extent herein specified, is granted.

FEDERAL COMMUNICATIONS COMMISSION,
HARRY FINE,
*Chairman, FCC WARC Steering Committee.*

[FR Doc.77–21751 Filed 7–27–77;8:45 am]



## FEDERAL ENERGY ADMINISTRATION

### CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

**Week of June 10 Through June 17, 1977**

Notice is hereby given that during the week of June 10 through June 17, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
*Acting General Counsel.*

JULY 22, 1977.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of June 10 through June 17, 1977*

| Date | Name and location of applicant | Case No. | Type of submission |
|---|---|---|---|
| June 13, 1977 | Bowerman, R. D., d.b.a. Executive Center Gulf Station, San Antonio, Tex. (If granted: The FEA's May 23, 1977, remedial order would be rescinded and R. D. Bowerman would not be required to refund overcharges made in sales of motor gasoline during the period Nov. 1, 1973, through July 24, 1974.) | FRA–1354<br>FRS–1354 | Appeal of FEA region VI's remedial order dated May 23, 1977. |
| Do | Commonwealth Oil Refining Co., Inc., Washington, D.C. (If granted: Commonwealth Oil Refining Co., Inc., would be permitted to import crude oil and naphtha as refinery and petrochemical feedstock on a license fee-free basis.) | FPI–0122 | Exception from base fee requirements (sec. 213.35). |
| Do | Halliburton Co./Vessels Gas Processing Co., Denver, Colo. (If granted: The Halliburton Co./Vessels Gas Processing Co. would receive an extension of the exception relief granted in the FEA's Mar. 17, 1977, decision and order which would permit the firm to increase its price to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Irondale plant.) | FXE–4341 | Extension of exception relief granted in Halliburton Co./Vessels Gas Processing Co., case No. FXE–3089 (decided Mar. 17, 1977, unreported decision). |
| Do | Sabre Refining, Inc., Bakersfield, Calif. (If granted: The FEA's May 20, 1977, supplemental order issued to Sabre Refining, Inc., would be amended to review the appropriateness of the entitlements exception relief granted to the firm during 1976 based on financial results beginning with April 1976.) | FEX–0164 | Supplemental order to decision and order in *Sabre Refining, Inc.*, 5 FEA par. ------ (May 20, 1977). |
| Do | Suburban Propane Gas Corp., Whippany, N.J. (If granted: The May 25, 1977, stay which was granted to the Suburban Propane Gas Corp. would be rescinded.) | FRX–0165 | Supplemental order to decision and order in *Suburban Propane Gas Corp.*, 5 FEA par. ------ (May 25, 1977). |
| June 14, 1977 | Estates of Inez Phillips and Loyce Phillips, Austin, Tex. (If granted: The estates of Inez Phillips and Loyce Phillips would be permitted to increase their prices for natural gas liquid products produced at the Nan-Su-Gail plant to reflect nonproduct cost increases in excess of $0.005/gal.) | FEE–4342 | Price exception (sec. 212.-165). |
| Do | Indiana Farm Bureau Cooperative Association, Inc., Indianapolis, Ind. (If granted: Indiana Farm Bureau Cooperative Association, Inc., would be granted an exception which would permit it to recalculate the passthrough of increased nonproduct costs on a proportional basis for the period Jan. 1, 1975, through Jan. 31, 1976.) | FEE–4319 | Exception to sequential nonproduct cost passthrough. |
| Do | Taylor Gas, Inc., Fairburn, Ga. (If granted: The FEA's May 25, 1977, remedial order would be rescinded and Taylor Gas, Inc., would not be required to refund overcharges made on its sales of propane.) | FRA–1355 | Appeal of FEA region IV's remedial order dated May 25, 1977. |
| Do | Texaco, Inc., Houston, Tex. (If granted: Texaco, Inc., would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the following natural gas plants: Coalinga Nose, Humble, Paradis, and Pledger.) | FEE–4343 through FEE–4346 | Price exception (sec. 212. 165). |



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| Date | Name and location of applicant | Case No. | Type of submission |
|---|---|---|---|
| Do. | Texaco, Inc. (Pegasus), Houston, Tex. (If granted: Texaco, Inc., would receive an extension of the relief granted in the FEA's Nov. 19, 1976, decision and order which would permit it to increase its prices for natural gas liquid products produced at the Pegasus plant to reflect non-product cost increases in excess of $0.065/gal.) | FXE-4347 | Extension of relief granted in *Texaco, Inc.*, 4 FEA par. 83, 20 (Nov. 19, 1976). |
| Do. | W. E. Shrider Co., Columbus, Ohio. (If granted: the FEA's June 2, 1977, stay decision granted to the W. E. Shrider Co. would be modified and the firm would not be required to establish an escrow account pending the FEA's final determination of *Shrider's* appeal.) | FMR-0110 | Modification of decision and order in *W. E. Shrider Co.*, 5 FEA par. ——— (June 2, 1977). |
| June 15, 1977 | BTA Oil Producers, Midland, Tex. (If granted: BTA Oil Producers would receive an extension of the relief granted in the FEA's Jan. 27, 1977, decision and order which would permit it to sell all of the crude oil produced and sold for the benefit of the working interest owners from the JV-D Teeters lease located in Hockley County, Tex., at upper tier ceiling prices as specified in 10 CFR, pt. 212, subpt. D.) | FXE-4348 | Extension of relief granted in *BTA Oil Producers*, 5 FEA par. 83,047 (Jan. 27, 1977.) |
| Do. | Evangeline Refining Co., Inc., Jennings, La. (If granted: Evangeline Refining Co., Inc., would be granted a stay of its March 1977 entitlement purchase obligations.) | FRS-0101 | Stay request. |
| Do. | Seward, Johnny, d.b.a. Johnny's Super Shell, Chicago, Ill. (If granted: A remedial order which was issued to Johnny Seward d.b.a. Johnny's Super Shell would be rescinded and Seward would not be required to refund overcharges made on sales of motor gasoline.) | FRA-1356 | Appeal of FEA region V's remedial order. |
| June 16, 1977 | Adams Oil Co., Charlottesville, Va. (If granted: The FEA's May 25, 1977, stay decision granted to the Adams Oil Co. would be modified and the firm would not be required to establish an escrow account pending the FEA's final determination of *Adams'* appeal.) | FMR-0111 | Modification of decision and order in Adams Oil Co., 5 FEA par. ——— (May 25, 1977). |
| Do. | Hamilton Bros. Oil Co./Tesoro Petroleum Corp., Washington, D.C. (If granted: The Hamilton Bros. Oil Co. would receive various types of administrative relief from the mandatory petroleum allocation and price regulations in connection with its acquisition of the Newcastle refinery from the Tesoro Petroleum Corp.) | FEE-4349 | Exception to mandatory petroleum and price regulations (pt. 211 and pt. 212). |

[FR Doc.77-21676 Filed 7-27-77;8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. RI77-23]

### MICHEL T. HALBOUTY, ET AL.

### Order Granting Special Relief and Permitting Intervention

JULY 20, 1977.

On January 7, 1977, Michel T. Halbouty, et al. (Halbouty) filed a petition for special relief pursuant to sections 2.76 and 2.56 of the Commission's Statements of General Policy and Interpretations and section 1.7 of the Commission's Regulations seeking a rate of 56 cents per Mcf at 14.65 psia for the sale of its 100 percent working interest in natural gas produced from six wells in the Fostoria Field, Montgomery County, Tex. (Texas Gulf Coast Area), being made to United Gas Pipe Line Company (United). Halbouty is making this sale as successor in interest to contracts dated May 29, 1958, March 15, 1960, and June 22, 1959, with United on file as Halbouty's FPC Gas Rate Schedule Nos. 7, 10, and 15, respectively. On June 1, 1976, Halbouty negotiated an amendment to its basic contracts with United to provide for the 56 cent rate. Notice of Halbouty's petition was issued on February 3, 1977, and appeared in the FEDERAL REGISTER on February 11, 1977, at 42 FR 8700. United filed a petition to intervene in favor of Halbouty's petition on May 31, 1977. No other petitions to intervene or protest were filed. On May 25, 1977, notice of an informal conference between the parties and Staff was issued. Pursuant to this notice, an informal conference was held on June 1, 1977.

Halbouty proposes to recomplete two wells, the Foster Lumber Co. "B" Unit No. 1 and Gulf Unit No. 1,[1] into new zones if it is granted the relief it requests. Halbouty estimates that 304,097 Mcf and 208,496 Mcf at 14.65 psia of gas reserves can be produced from the "B" and Gulf Wells, respectively, as a result of these operations which Halbouty estimates will cost $51,100 and $59,775, respectively. Halbouty also included in its petition four other wells, the Foster Lumber Co. "P" Unit No. 1, the Foster-Bruce Unit No. 1, the Leggitt Unit No. 1, and the Foster Lumber Co. Unit No. 2, for which no additional work is planned. Subsequent to its filing, the Foster-Bruce No. 1 Unit Well was plugged and abandoned due to mechanical problems and is no longer included as part of the instant petition.

Based on Halbouty's proposed additional investment in the "B" and Gulf Wells, and utilizing cost and reserves data submitted by Halbouty and reviewed by the Commission Staff, Staff has prepared cost analyses allowing a return of, and a 15 percent return on, Halbouty's remaining book investment in these two wells. (Appendices A and B) Because Halbouty proposes no additional investment to recover additional reserves from the three remaining wells, as is required by section 2.76, the Staff has prepared analyses of the out-of-pocket operating expenses associated with maintaining production from those wells. (Appendices C, D, and E).

[1] Based on representatives of Halbouty, it appears that the proposed recompletion in the Gulf well is necessary to prevent the loss of the remaining reserves due to expected mechanical problems with one of the currently producing wells.





We shall permit Halbouty to collect its requested rate of 56 cents per Mcf from the five wells inasmuch as the proposed rate does not exceed the composite cost of the wells involved.

The Commission finds: (1) Good cause exists to grant special relief to Halbouty.

(2) It may be in the public interest to permit United to intervene in this case.

*The Commission orders:* (A) Halbouty's petition for special relief in Docket No. RI77-23 is granted.

(B) Halbouty is permitted to collect a total rate of 56 cents per Mcf at 14.65 psia from United for sales of natural gas from the five wells that are the subject of this proceeding as are described in the text of this order effective upon the date of completion of both recompletion operations as indicated above or the date of issuance of this order, whichever is later, and contingent upon receipt of an affidavit from United stating that both proposed operations have been completed to its satisfaction.

(C) Halbouty's contract amendments of June 1, 1976 are accepted for filing as Supplement Nos. 9, 9, and 12 to Halbouty's FPC Gas Rate Schedule Nos. 7, 10, and 15, respectively.

(D) Halbouty's rate increase filings to a total rate of 56 cents per Mcf at 14.65 psia are accepted as Supplement Nos. 10, 10, and 13 to Halbouty's FPC Gas Rate Schedule Nos. 7, 10, and 15 respectively, to be effective as of the date provided in Ordering Paragraph (B) above.

(E) United is permitted to intervene in Docket No. RI77-23 subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervener shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

APPENDIX A.—*Michel T. Halbouty, et al. Docket No. RI77-23, Foster Lumber Co. "B" Unit No. 1, Fostoria Field, Montgomery County, Tex.*

UNIT COST OF GAS

| Line No. | Item | Amount |
|---|---|---|
| 1 | Net Working Interest Volumes: | |
| 2 | Gas—1,000 ft³ at 14.65 lb/in²a [1] | $255,456 |
| 3 | Liquids—barrels [2] | 6,265 |
| 4 | Cost of production: | |
| 5 | Return on rate base at 15 pct [3] | 33,449 |
| 6 | DD&A [4] | 53,868 |
| 7 | Production expense [5] | 171,383 |
| 8 | Subtotal | 258,700 |
| 9 | Allocated to gas [6] | 220,464 |
| 10 | Regulatory expense [7] | 255 |
| 11 | Total cost of production | 220,719 |
| 12 | Unit cost of gas (cents per 1,000 ft³): | |
| 13 | Cost of production [8] | 86.40 |
| 14 | Production tax [9] | 7.01 |
| 15 | Total unit cost (cents per 1,000 ft³) | 93.41 |

[1] 304,097 M ft³ times .84004775 net working interest.
[2] 7,458 barrels times .84004775 net working interest.
[3] Line 18 schedule 3 times 0.15 times 9.71 yr production life.
[4] From line 6 of schedule 2.
[5] Based on estimated production expense of $14,680 for 1976 escalated 5 pct per yr for the first 5 yr of expected 9.71 yr production life.
[6] Line 8 times line 12 of schedule 2.
[7] Line 2 times 0.1 cent M ft³ per opinion No. 749.
[8] Line 11 divided by Line 2.
[9] 7.5 pct of line 15.



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INVESTMENT AND ALLOCATION OF COSTS

| Line No. | Item (a) | Amount (b) |
|---|---|---|
| 1 | Investment: | |
| 2 | Remaining net book value July 1, 1976 | $2,768 |
| 3 | Well fracing | 5,,100 |
| 4 | Total investment | 53,868 |
| 5 | Less salvage value [1] | 0 |
| 6 | Depreciable investment | 53,868 |
| 7 | Depreciation per unit of production [2] | 0.21086997 |
| 8 | Allocation of costs: [3] | |
| 9 | Gas—MBtu [4] | 295,307 |
| 10 | Liquids—MBtu [5] | 51,198 |
| 11 | Total—MBtu | 346,505 |
| 12 | Percentage allocated to gas [6] | 85.22 |

[1] No salvage value considered due to life of project.
[2] Line 6 divided by 255,456 M ft³.
[3] Modified Btu method per opinion No. 749.
[4] 255,456 M ft³ times 1.156 MBtu/M ft³.
[5] 6,265 bbls. times 5.448 MBtu/bbl. tmies 1.5 modifier.
[6] Line 9 divided by line 11.

AVERAGE INVESTMENT AND ANNUAL RATE BASE

| Line No. | Year (a) | Annual N.W.I. production (1,000 ft³) (b) | Beginning of period investment (c) | Depreciation [1] (d) | End of period investment (e) | Average investment [2] (f) |
|---|---|---|---|---|---|---|
| 1 | Average investment: | | | | | |
| 2 | 1 | 23,960 | $53,868 | $5,052 | $48,816 | [3] $25,671 |
| 3 | 2 | 42,857 | 48,816 | 9,037 | 39,779 | 44,298 |
| 4 | 3 | 36,908 | 39,779 | 7,783 | 31,996 | 35,888 |
| 5 | 4 | 31,799 | 31,996 | 6,706 | 25,291 | 28,644 |
| 6 | 5 | 27,409 | 25,291 | 5,780 | 19,511 | 22,401 |
| 7 | 6 | 23,535 | 19,511 | 4,984 | 14,527 | 17,019 |
| 8 | 7 | 20,390 | 14,527 | 4,300 | 10,227 | 12,377 |
| 9 | 8 | 17,598 | 10,227 | 3,711 | 6,516 | 8,372 |
| 10 | 9 | 15,195 | 6,516 | 3,204 | 3,312 | 4,914 |
| 11 | 10 | 13,126 | 3,312 | 2,768 | 544 | 1,928 |
| 12 | 11 | 2,579 | 544 | 544 | 0 | [4] 57 |
| 13 | Totals | 255,456 | 53,868 | 53,868 | | 201,569 |
| 14 | Average annual Investment [5] | | | | | 20,759 |
| 15 | Annual rate base: | | | | | |
| 16 | Average annual investment | | | | | 20,759 |
| 17 | Average annual working capital allowance [6] | | | | | 2,206 |
| 18 | Total annual rate base | | | | | 22,965 |

[1] Column (b) times line 7 of schedule 2.
[2] Column (c) plus column (e) divided by 2.
[3] Weighted to reflect 0.5 yr period.
[4] Weighted to reflect 0.21 yr period.
[5] Column (f) of line 13 divided by 9.71 yr productive life.
[6] .125 times line 7 of schedule 1 divided by 9.71 yr productive life.





APPENDIX B.—*Michel T. Halbouty, et al. Docket No. RI77-23, Foster-Gulf Unit No. 1, Fostoria Field, Montgomery County, Tex.*

UNIT COST OF GAS

| Line No. | Item (a) | Amount (b) |
|---|---|---|
| 1 | Net working interest volumes: | |
| 2 | Gas—1,000 ft³ at 14.65 lb/in²a [1] | $167,770 |
| 3 | Liquids—barrels | 5,193 |
| 4 | Cost of production: | |
| 5 | Return on rate base at 15 pct [2] | 20,724 |
| 6 | DD&A [3] | 62,285 |
| 7 | Production expense | 42,791 |
| 8 | Subtotal | 125,800 |
| 9 | Allocated to gas [4] | 103,219 |
| 10 | Regulatory expense [5] | 168 |
| 11 | Total cost of production | 103,387 |
| 12 | Unit cost of gas (cents per 1,000 ft³) | |
| 13 | Cost of production [6] | 61.62 |
| 14 | Production tax [7] | 5.00 |
| 15 | Total unit cost (cents per 1,000 ft³) | 66.62 |

[1] 308,496 M ft³ times 80.165 pct net working interest.
[2] 6,454 bbls times 80.165 pct net working interest.
[3] Line 14, schedule 3 times 0.15 times 5.79 yr productive life.
[4] From line 6 of schedule 2.
[5] Based on estimated production expense of $6,444 for 1976 escalated 5 pct/yr for the 1st 5 yr of expected 5.79 yr production life.
[6] Line 8 times line 12 of schedule 2.
[7] Line 2 times 0.16 M ft³ per opinion No. 749.
[8] Line 11 divided by line 2.
[9] 7.5 pct of line 15.

INVESTMENT AND ALLOCATION OF COSTS

| Line No. | Item (a) | Amount (b) |
|---|---|---|
| 1 | Investment: | |
| 2 | Remaining net book value July 1, 1976 | $2,510 |
| 3 | Well fracing | 59,775 |
| 4 | Total investment | 62,285 |
| 5 | Less salvage value [1] | 0 |
| 6 | Depreciable Investment | 62,285 |
| 7 | Depreciation Per Unit of Production [2] | 0.37125231 |
| 8 | Allocation of costs: [3] | |
| 9 | Gas—MBtu [4] | 193,942 |
| 10 | Liquids—MBtu [5] | 42,437 |
| 11 | Total—MBtu | 236,379 |
| 12 | Percentage allocated to gas [6] | 82.05 |

[1] No salvage value considered due to nature of new investment.
[2] Line 6 divided by 167,779 M ft³.
[3] Modified Btu method per opinion No. 749.
[4] 167,770 M ft³ times 1.156 MBtu/M ft³.
[5] 5,193 bbls times 5.448 MBtu/bbl times 1.5 modifier.
[6] Line 9 divided by line 11.



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AVERAGE INVESTMENT AND ANNUAL RATE BASE

| Line No. | Year | Annual N.W.I. production (1,000 ft³) | Beginning of period investment | Depreciation [1] | End of period investment | Average investment [2] |
|---|---|---|---|---|---|---|
| | (a) | (b) | (c) | (d) | (e) | (f) |
| 1 | Average investment: | | | | | |
| 2 | 1 | 28,269 | $42,285 | $10,495 | $31,790 | [3] $28,510 |
| 3 | 2 | 45,261 | 51,790 | 16,803 | 34,987 | 43,388 |
| 4 | 3 | 33,567 | 34,987 | 12,462 | 22,525 | 28,756 |
| 5 | 4 | 24,938 | 22,525 | 9,258 | 13,267 | 17,896 |
| 6 | 5 | 18,560 | 13,267 | 6,891 | 6,376 | 9,822 |
| 7 | 6 | 13,887 | 6,376 | 5,137 | 1,239 | 3,808 |
| 8 | 7 | 3,337 | 1,239 | 1,239 | 0 | [4] 620 |
| 9 | Totals | 167,770 | | | | 132,809 |
| 10 | Average annual investment [5] | | | | | 22,938 |
| 11 | Annual rate base: | | | | | |
| 12 | Average annual investment | | | | | 22,938 |
| 13 | Average annual working capital allowance [6] | | | | | 924 |
| 14 | Total annual rate base | | | | | 23,862 |

[1] Column (b) times line 7 of schedule 2.
[2] Column (c) plus column (e) divided by 2.
[3] Weighted to reflect 0.50 yr period.
[4] Weighted to reflect 0.29 yr period.
[5] Column (f) of line 9 divided by 5.79 yr production life.
[6] .123 times line 7 of schedule 1 divided by 5.79 yr production life.

APPENDIX C.—*Michel T. Halbouty, et al. Docket No. R177–23, Foster Lumber Co. No. 2 Well, Fostoria Field, Montgomery County, Tex.*

OUT-OF-POCKET UNIT COST OF GAS

| Line No. | Item | Amount |
|---|---|---|
| 1 | Net working interest volumes: | |
| 2 | Gas—1,000 ft³ at 14.65 lb/in²a [1] | $27,976 |
| 3 | Liquids—barrels | 0 |
| 4 | Cost of production: | |
| 5 | Production expense [2] | 12,880 |
| 6 | Regulatory expense [3] | 28 |
| 7 | Total cost of production | 12,908 |
| 8 | Unit cost of gas: | |
| 9 | Cost of production (cents per 1,000 ft³) [4] | 46.14 |
| 10 | Production tax [5] | 3.74 |
| 11 | Total unit cost (cents per 1,000 ft³) | 49.88 |

[1] 34,104 M ft³ times .82031433 net working interest.
[2] Based on estimated 1976 production expense of $6,602 escalated 5 pct/yr over 1.84 yr production life.
[3] Line 2 times 0.1 cent/1,000 ft³ per opinion No. 749.
[4] Line 7 divided by line 2.
[5] Texas production tax at 7.5 pct of line 11.

APPENDIX D.—*Michel T. Halbouty, et al. Docket No. R177–23, Foster Lumber Co. "P" Unit No. 1, Fostoria Field, Montgomery County, Tex.*

OUT-OF-POCKET UNIT COST OF GAS

| Line No. | Item | Amount |
|---|---|---|
| 1 | Net working interest volumes: | |
| 2 | Gas—1,000 ft³ at 14.65 lb/in²a [1] | $165,938 |
| 3 | Liquids—Bbls.[2] | 5,108 |
| 4 | Cost of production: | |
| 5 | Production expense [3] | 93,873 |
| 6 | Allocated to gas [4] | 77,008 |
| 7 | Regulatory expense [5] | 166 |
| 8 | Total cost of production [6] | 77,264 |
| 9 | Unit Cost of Gas: | |
| 10 | Cost of production (cents per 1,000 ft³) [7] | 46.56 |
| 11 | Production tax [8] | 3.78 |
| 12 | Total Unit Cost (cents per 1,000 ft³) | 50.34 |

[1] 208,500 times 0.7959 net working interest.
[2] 6,418 times 0.7959 net working interest.
[3] Based on estimated 1976 production expense of $13,864 escalated 5 pct/yr over the 1st 5 yr of a 5.86 yr production life.
[4] Estimated 82.13 pct of operating cost allocated to gas based on modified Btu method per opinion 749.
[5] Line 2 times 0.1 cent/M ft³ per opinion 749.
[6] Total of lines 6 and 7.
[7] Line 8 divided by line 2.
[8] Texas production tax at 7.5 pct of line 12.





APPENDIX E.—*Michel T. Halbouty, et al. Docket No. R177–23, Leggett Unit No. 1, Fostoria Field, Montgomery County, Tex.*

OUT-OF-POCKET UNIT COST OF GAS

| Line No. | Item | Amount |
|---|---|---|
| 1 | Net working interest volumes: | |
| 2 | Gas—1000 ft³ at 14.65 lb/in²a [1] | $164,073 |
| 3 | Liquids—barrels [2] | 2,619 |
| 4 | Cost of production: | |
| 5 | Production expense [3] | 114,647 |
| 6 | Allocated to gas [4] | 103,022 |
| 7 | Regulatory expense [5] | 164 |
| 8 | Total cost of prodction [6] | 103,186 |
| 9 | Unit cost of gas: | |
| 10 | Cost of production (cent per 1,000 ft³) [7] | 62.89 |
| 11 | Production tax [8] | 5.10 |
| 12 | Total unit cost (cent per 1,000 ft³) | 67.99 |

[1] 195,897 1,000 ft³ times 0.8375 net working interest.
[2] 3,127 barrels times 0.8375 net working interest.
[3] Based on estimated 1976 production expense of $14,732 escalated 5 pct/yr over the 1st 5 yr of a 6.66 yr production life.
[4] Estimated 90.86 pct of operating cost allocated to gas based on modified Btu method per opinion 749.
[5] Line 2 times 0.1 cent/1,000 ft³ per opinion 749.
[6] Total of lines 6 and 7.
[7] Line 8 divided by line 2.
[8] Texas production tax at 7.5 pct of line 12.

[FR Doc.77-21617 Filed 7-27-77;8:45 am]

## FEDERAL RESERVE SYSTEM

[H.2, 1977 No. 28]

### ACTIONS OF THE BOARD; APPLICATIONS AND REPORTS RECEIVED DURING THE WEEK ENDING JULY 9, 1977

ACTIONS OF THE BOARD

Interpretation of Regulation B, Equal Credit Opportunity, determining that laws that set a different age of majority for married and unmarried persons are not inconsistent with the Equal Credit Opportunity Act and Regulation B.

BankAmerica Corporation, New York, New York, letter to Bank of America, San Francisco, California, regarding a stay in the hearing on the application of BankAmerica Corporation to expand geographically the activities of its data processing subsidiary Decimus Corporation.

White Mountain Trust Company, Gorham, New Hampshire, letter denying its request for a hearing with respect to sale by Berlin City Bank, Berlin, New Hampshire, of a percentage of its stock interest in White Mountain Trust Company.

Columbia, South Carolina, proposal to operate the clearing and settlement facility for an automated clearing house at the Columbia, South Carolina office.

Seattle Branch, proposal to operate the clearing and settlement facility for an automated clearing house at the Seattle Branch.

International Bank, Washington, D.C., order granting an extension of time in the matter of the determination of control over Financial General Bankshares, Inc.[1]

First Wisconsin Corporation, Milwaukee, Wisconsin, extension of time to August 15, 1978, within which to dispose of Brookside Realty Inc.[1]

First Security Corporation, Harrison, Arkansas, request for an extension of time from July 20, 1977, until August 20, 1977, to file its registration statement.[1]

Dakota Bancorporation, Rapid City, South Dakota, request for an extension of time relating to the acquisition of 1st National Bank of Crosby, Crosby, North Dakota.[1]

Wachovia Corporation, Winston-Salem, North Carolina, prior certification pursuant to Section 6158(a) of the Internal Revenue Code, that its sale of all of the outstanding shares of Wachovia Insurance Agency, Inc., to Alexander & Alexander, Inc., Baltimore, Maryland, was necessary or appropriate to effectuate Section 4 of the Bank Holding Company Act.

Transohio Financial Corporation, Cleveland, Ohio, as successor in interest to Union Financial Corporation, Cleveland, Ohio, (1) prior certification pursuant to Section 6158(a) of the Internal Revenue Code that the sale of Port Clinton National Bank, Port Clinton, Ohio, was necessary or appropriate to effectuate the policies of the Bank Holding Company Act; and (2) final certification pursuant to Section 6158(c)(2) of the Code that Union has (before the expiration of the period prohibited property is permitted under the BHC Act to be held by a bank holding company) ceased to be a bank holding company.[1]

Shore National Bank, Brick Township, New Jersey, proposed acquisition by Garden State National Bank, Paramus, New Jersey, report to the Comptroller of the Currency on competitive factors.[1]

Barnett Bank of Palm Springs, Palm Beach County, Florida, proposed merger with Barnett Bank of West Lake Worth, National Association, Palm Beach County, Florida, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Combank/Longwood, Longwood, Florida, proposed merger with Combank/Casselberry, Casselberry, Florida, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

First Westside Bank of Vero Beach, Vero Beach, Florida, proposed merger with First Citrus Bank of Indian River County, Vero Beach, Florida, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Denver Realty Company, Denver, Iowa, proposed merger with Denver Savings Bank, Denver, Iowa, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

First National Bank of Hamilton Square, Hamilton Square, New Jersey, proposed merger with Colonial First National Bank, Red Bank, New Jersey, report to the Comptroller of the Currency on competitive factors.[1]

New University National Bank, Rockville, Maryland, proposed merger with University National Bank, Rockville, Maryland, report to the Comptroller of the Currency on competitive factors.[1]

Sun Coast Bank of St. Petersburg, St. Petersburg, Florida, proposed merger with Sun Bank and Trust Company of St. Petersburg, St. Petersburg, Florida, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Citibank Overseas Investment Corporation, Wilmington, Delaware, extension of time until July 31, 1978, within which to complete its investment in Citibank AG, Frankfurt, Germany.[1]

Rock Island Bank, Rock Island, Illinois, extension of time to September 21, 1977, within which to establish a branch at 3411–18th Avenue, Rock Island, Illinois.[1]

To establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

Manufacturers Hanover Trust Company/Central New York, Ontario, New York. Branch to be established in the Wegmens Store, 6600 Pettsford-Palmyra Road, Town of Perinton, Monroe County.[2]

Manufacturers Hanover Trust Company/Central New York, Ontario, New York. Branch to be established in the Wegmans Store, Route 31 and Lake Road, Town of Sweden, Monroe County.[2]

Manufacturers Hanover Trust Company/Central New York, Ontario, New York. Branch to be established in the Wegmans Store, 1750 East Avenue, Rochester, Monroe County.[2]

The New Waterford Bank, New Waterford, Ohio. Branch to be established at 20 South Main Street, Columbiana, Columbiana County, Ohio.[2]

Iron and Glass Bank, Pittsburgh, Pennsylvania. Branch to be established near the Century III Shopping Mall, Lebanon, Church Road and Pennsylvania Route 885, West Mifflin Borough, Alegheny County.[2]

* * * * *

International Investments and Other Actions Pursuant to Sections 25 and 25(a) of The Federal Reserve Act and Sections 4(c)(8) and 4(c)(13) of The Bank Holding Company Act of 1956, as amended.

APPROVED

Boston Overseas Financial Corporation: Investment—additional shares of Servicios Comerciales E Industriales, S.A. and to acquire 50 percent of the shares of Asesores Tenicos Administrativos, S.A., Guatemala.

State Street Bank and Trust Company: Investment—to acquire from its wholly-owned subsidiary, all of the shares of State Street Bank (Panama) Corp., Republic of Panama.

First Pennsylvania Corporation: Investment—indirectly acquire 100 percent of the shares of Manor, Limited, Israel.

Harris Trust and Savings Bank: Investment—to acquire five percent of the shares of Banque Hervet, Bourges, France.

Northwestern National Bank of Minneapolis: Investment—to acquire all of the shares of Canadian American Finance, S.A., and its wholly-owned subsidiary, Canadian American Bank, S.A., both of Luxembourg.

* * * * *

[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.



V 42 145 JUL 28 77 UMI

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

APPROVED

United Banks Corporation, Hanover, New New Hampshire, for approval to acquire 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to Hanover Bank & Trust Company, Hanover, New Hampshire and to acquire 100 percent (less directors' qualifying shares) of the voting shares of Lebanon Bank & Trust Company, West Lebanon, New Hampshire, a proposed new bank.[2]

Winner Banshares, Inc., Winner, South Da-Dakota, for approval to acquire 94.4 percent of the voting shares of Farmers State Bank, Winner, South Dakota.

Union Financial Corporation, Manhattan, Kansas, for approval to acquire 80 percent or more of the voting shares of Union National Bank and Trust Company of Manhattan, Kansas, Manhattan, Kansas.

To expand a Bank Holding Company pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956.

APPROVED

The Central Bancorporation, Inc., Cincinnati, Ohio, for approval to acquire 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to The Central Security National Bank of Lorain County, Lorain, Ohio.[2]

DETROITBANK Corporation, Detroit, Michigan, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of Kentwood Bank, N.A., Kentwood, Michigan the successor by absorption to Kentwood National Bank, Kentwood, Michigan.[2]

Old Kent Financial Corporation, Grand Rapids, Michigan, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of Old Kent Bank of Norton Shores, N.A., Norton Shores, Michigan, a proposed new bank.[2]

First International Bancshares, Inc., Dallas, Texas, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of Texas State Bank, Abilene, Texas, a proposed new bank.

Texas Commerce Bancshares, Inc., Houston, Texas, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Main Street National Bank of Dallas, Dallas, Texas.

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To expand a Bank Holding Company pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956.

PERMITTED

Chemical New York Corporation, New York, New York, notification of intent to engage in *de novo* activities (leasing real and personal property and equipment on a non-operating, full-payout basis and acting as agent, broker, and adviser with respect to such leases; financial real and personal property and equipment such as would be done by a commercial finance company; and servicing such extension of credit) at 700 108th N.E., Bellevue, Washington, through its subsidiary, ChemLease, Inc. (7/4/77)[3]

[2] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

First & Merchants Corporation, Richmond, Virginia, notification of intent to continue to engage in an activity earlier commenced *de novo* (making loans for its own account principally secured by second mortgages or second deeds of trust and such other incidental activities as may be necessary to the business of making such loans; including acting as agent for the sale of credit life, credit disability, mortgage redemption and mortgage cancellation insurance in connection with the making of such loans) at 1510 Willow Lawn Drive, Richmond, Virginia; 7825 Midlothian Turnpike, Richmond, Virginia; 9286 Warwick Boulevard, Newport News, Virginia; 14749 Warwick Boulevard, Newport News, Virginia; 11 Koger Executive Center, Norfolk, Virginia; 4336 Virginia Beach Boulevard, Virginia Beach, Virginia; 3217-B Western Branch Boulevard, Chesapeake, Virginia; 2036 Colonial Avenue, S.W., Roanoke, Virginia; 8027 Leesburg Pike, Vienna, Virginia; 6901 Old Keene Mill Road, Springfield, Virginia; 17 Executive Park Drive, N.E., Atlanta, Georgia; 2105 South Hamilton Road, Columbus, Ohio; 150 Tri-County Parkway, Cincinnati, Ohio (doing business in Ohio as First & Merchants Mortgage Corporation); 416 Hungerford Drive, Rockville, Maryland; 10750 Columbia Turnpike, Silver Spring, Maryland; and Beltway Plaza 36, Camp Springs, Maryland, through its subsidiary, First Realty Mortgage Corporation (7/9/77)[3]

First Bancgroup-Alabama, Inc., Mobile, Alabama, notification of intent to engage in *de novo* activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit) at 31 North Royal Street, Mobile, Alabama (7/7/77)[3]

Affiliated Bankshares of Colorado, Inc., Boulder, Colorado, notification of intent to engage in *de novo* activities (making, acquiring, and/or servicing commercial and residential real estate loans and other extensions of credit) at 201 West 8th Street, Pueblo, Colorado, through its subsidiary, Piedmont Mortgage and Investment Co., Inc. (7/8/77)[3]

Peoples Savings, Inc., Ottawa, Kansas, notification of intent to engage in *de novo* activities (acting as insurance agent and/or as depositor for insurance commissions with respect to the sale of the following types of insurance: credit life insurance, level term credit life insurance on single premium loans and credit health and accident insurance directly related to extensions of credit by the bank holding company's subsidiary bank, Peoples National Bank & Trust, Ottawa, Kansas) on the premises of Peoples National Bank & Trust, 434 South Main, Ottawa, Kansas (7/8/77)[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in *de novo* activities (the origination and acquisition of mortgage loans including development and construction loans on multi-family and commercial properties, for its own account or for the sale to others and the servicing of such loans for others) at 404 James Robertson Parkway, Nashville, Tennessee, through its subsidiary, Security Pacific Mortgage Corporation (7/9/77)[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in *de novo* activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer instalment personal loans, purchasing consumer instalment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a commercial finance company, and acting as broker or agent for the sale of credit related life/accident and health insurance) at 1730 South Amphlett, San Mateo, California, through its subsidiary, Security Pacific Finance Corp. (7/7/77)[3]

BankAmerica Corporation, San Francisco, California, notification of intent to engage in *de novo* activities (acting as investment or financial adviser to the extent of providing portfolio investment advice to others with emphasis on real property investments and real property interests) at 333 South Wacker Drive, Chicago, Illinois; 7801 East Belleview Avenue, Englewood, Colorado; 5401 West Kennedy Boulevard, Tampa, Florida; 57 Executive Park South, Atlanta, Georgia; 720 Main Street, Kansas City, Missouri; 7900 Xerxes Avenue South, Minneapolis, Minnesota; 500 West Wilson Bridge Road, Columbus, Ohio; 12700 Park Central Place, Dallas, Texas; and 5909 West Loop South, Bellaire, Texas, and to merge its subsidiary, BankAmerica International Realty Corporation with and into another subsidiary, BA Mortgage Company, Inc., the resulting subsidiary to be known as BA Mortgage and International Realty Corporation (7/7/77)[3]

APPROVED

Winters National Corporation, Dayton, Ohio, for approval to acquire all of the outstanding stock of Mead Financial Services, Inc., Dayton, Ohio, indirectly through its wholly-owned subsidiary, Winters National Leasing Corp.

National Detroit Corporation, Detroit, Michigan, for approval to acquire substantially all of the assets of Grand Traverse Mortgage Company, Inc., Traverse City, Michigan.

APPLICATIONS RECEIVED

To establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

The Citizens Banking Company, Perrysburg, Ohio. Branch to be established at the Intersection of State Route 64 and 582 in Haskins Village, Middleton Township, Wood County, Ohio.

The Union Commerce Bank, Cleveland, Ohio. Branch to be established at 6000 Royalton Road, North Royalton, Cuyahoga County.

The Sylvania Savings Bank Company, Sylvania, Ohio. Branch to be established at 3204 Tremainsville Road, Toledo, Lucas County.

The Farmers Savings and Trust Company, Mansfield, Ohio. Branch to be established at 800 Ashland Road, Mansfield, Richland County.

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To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

Standard Financial Corporation, New York, New York, for approval to acquire 99.4 per cent of the voting shares of Sterling National Bank & Trust Company of New York, New York, New York.

Anita Bancorporation, Newton, Iowa, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of Anita State Bank, Anita, Iowa.

Keokuk County Bankshares, Inc., Sigourney, Iowa, for approval to acquire 80 per cent or more of the voting shares of Keokuk County State Bank, Sigourney, Iowa.





Security State Bank Holding Company, Hannaford, North Dakota, for approval to acquire 96 per cent of the voting shares of Security State Bank of Hannaford, Hannaford, North Dakota.

Platte Valley Bancorporation, Saratoga, Wyoming, for approval to acquire 100 per cent (less directors' qualifying shares) of the voting shares of Saratoga Bankshares, Inc., Saratoga, Wyoming and indirectly acquire Saratoga State Bank, Saratoga, Wyoming.

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To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

Horizon Bancorp, Morristown, New Jersey, notification of intent to engage in *de novo* activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit as would be made by a mortgage company; and servicing loans and other extensions of credit for any person) at 556 North Clearwater-Largo Road, Largo, Florida, through its subsidiary, Mortgage Investment Securities, Inc. (7/8/77)[3]

Manufacturers Hanover Corporation, New York, New York, notification of intent to engage in *de novo* activities (arranging, making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made or acquired by a mortgage company and servicing such loans and other extensions of credit) at 1052 Forstdale Boulevard, Birmingham, Alabama, through its subsidiary, Citizens Mortgage Corporation (7/8/77)[3]

Standard Financial Corporation, New York, New York, for approval to retain Standard Factors Corporation, New York, New York; Atlas Leasing Company, Inc., Los Angeles, California; Universal Finance Corporation, Los Angeles, California; and Security Industrial Loan Association, Richmond, Virginia.

Standard Prudential Corporation, New York, New York, New York, for approval to retain Standard Financial Corporation, New York, New York, and its subsidiaries, Standard Factors Corporation, New York, New York; Atlas Leasing Company, Inc., Los Angeles, California; Universal Finance Corporation, Los Angeles, California; and Security Industrial Loan Association, Richmond, Virginia.

First Pennsylvania Corporation, Philadelphia, Pennsylvania, notification of intent to relocate *de novo* activities (making, acquiring, and servicing consumer loans or other extensions of consumer credit including the sale of credit insurance which is directly related to such extensions of credit) from 203 East Main Street, Newark, Delaware to 85 Brookside Shopping Center, Marrows Road, Newark, Delaware, through its subsidary, Investors Loan Corp. of Newark (7/5/77)[3]

Colonial-American Bankshares Corporation, Roanoke, Virginia, notification of intent to engage in *de novo* activities (making, acquiring, and servicing for its own account and for the account of others, leases of personal property and acting as agent, broker, or adviser in leasing such property, to the extent permitted by law and the rules and regulations of the Federal Reserve Board) at 202 South Jefferson Street, Roanoke, Virginia, through its subsidiary, Colonial-American Leasing Corporation (7/5/77)[3]

South Carolina National Corporation, Columbia, South Carolina, notification of intent to engage in *de novo* activities (financing of insurance premiums) at 132-146 South Moore Street, Sanford, North Carolina, through a subsidiary, Insurance Premium Discount Company (7/8/77)[3]

Platte Valley Bancorporation, Saratoga, Wyoming, for approval to acquire Saratoga Bankshares, Inc., Saratoga, Wyoming and to engage in the sale of insurance directly related to issuance of credit by Saratoga State Bank, Saratoga, Wyoming.

BankAmerica Corporation, San Francisco, California, notification of intent to relocate *de novo* activities (making or acquiring, for its own account loans and other extensions of credit such as would be made or acquired by a finance company; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, and making loans secured by real and personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance, and credit related property insurance in connection with extensions of credit made or acquired by FinanceAmerica Corporation of Ohio and Finance America Discount Company of Ohio) from 238 Cleveland Avenue, N.W. to 3040 West Tuscarawas Street, Canton, Ohio, through its indirect subsidiaries, FinanceAmerica Corporation of Ohio and FinanceAmerica Discount Company of Ohio (7/1/77)[3]

REPORTS RECEIVED

None.

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PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, July 22, 1977.

RUTH A. REISTER,
*Assistant Secretary of the Board.*

[FR Doc.77-21712 Filed 7-27-77;8:45 am]

## BERBANC, INC.

### Order Approving Formation of Bank Holding Company

Berbanc, Inc., Salina, Kans., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) of formation of a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of The Gypsum Valley National Bank of Gypsum, Gypsum, Kansas ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant is a newly formed corporation organized under the laws of Kansas for the purpose of becoming a bank holding company through the acquisition of Bank. Bank (deposits of $4.4 million)[1] is the 10th largest of 11 banking organizations in the relevant market[2] and controls approximately 1.7 percent of the total deposits held by commercial banks in that market. There are two banks affiliated with Bank already present in the Salina banking market.[3] It is the Board's view that consummation of this proposal would not have any significant adverse effect on existing competition in view of the relative size of these organizations, their small market shares, and the number of remaining banking alternatives in the market. Accordingly, on the basis of the facts of record, the Board concludes that consummation of the proposal would have only a slightly adverse effect on competition.

The financial and managerial resources and future prospects of Applicant and Bank are considered to be satisfactory and are consistent with approval of the application. Although Applicant will incur debt in connection with the proposal, it appears to have the necessary financial resources available to service the debt without impairing the financial condition of Bank. Applicant also proposes to sell 24 percent of its voting shares to Berco, Inc., Bennington, Kansas, in order to enable Applicant to receive additional funding to retire its debt.[4]

Applicant proposes to improve or expand several of Bank's existing services. Service charges on demand deposits are to be reduced in the near future. A method of computation of interest on savings deposits more favorable to bank customers is being instituted. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application and outweigh in the public interest the slightly adverse competitive effects that might result from consummation of the proposal. Based upon the foregoing and other considerations reflected in the record, it is the Board's judgment that the proposed acquisition is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The acquisition of Bank shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

[1] All banking data are as of December 31, 1976.

[2] The relevant market is the Salina banking market, approximated by Salina County and the southern half of Ottawa County.

[3] The Bennington State Bank, Bennington, Kans., located 25 miles north of Bank with $13.3 million in deposits, controls 5.2 percent of total deposits in commercial banks in the market. The Bank of Tescott, located 31 miles northwest of Bank with $12 million in deposits, controls 4.7 percent of total deposits in commercial banks in the market.

[4] In a related matter, the Board today approved an application by Berco, Inc., Bennington, Kans., to acquire 24 percent of the voting shares of Applicant. (See Board's Order of July 18, 1977.)



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By order of the Board of Governors,[5] effective July 18, 1977.

THEODORE E. ALLISON,
*Secretary of the Board.*

[FR Doc.77-21708 Filed 7-27-77;8:45 am]

## BERCO, INC.

### Order Approving Acquisition of Shares of a Bank Holding Company

Berco, Inc., Bennington, Kans. ("Berco"), a bank holding company by virtue of its ownership of 94.4 percent of the voting shares of the Bennington State Bank, Bennington, Kans. ("Bennington Bank"), has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 24 percent of the voting shares of Berbanc, Inc., Salina, Kans. ("Berbanc"), a proposed holding company with respect to the Gypsum Valley National Bank of Gypsum, Gypsum, Kans. ("Gypsum Bank").[1]

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the application and all comments and views received have been considered by the Board in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Gypsum Bank (deposits of $4.4 million),[2] controls 1.7 percent of the total deposits held by commercial banks in the relevant market and is the tenth largest of 11 banking organizations in that market.[3] Applicant's subsidiary bank, The Bennington State Bank (deposits of $13.3 million), controls 5.2 percent of the total deposits held by commercial banks in the relevant market and is the fifth largest of 11 banking organizations in that market. While Applicant's existing subsidiary bank and Gypsum Bank are located in the same banking market along with a third affiliated bank,[4] it appears that consummation of the proposal would not have any significant adverse effect on competition, due to the relative size of these organizations, their small market shares, and the number of remaining banking alternatives in the market. The three banks in the aggregate control only 11.6 percent of the total deposits in commercial banks in the market and together rank as the 4th largest organization in the Salina banking market, and are disbursed geographically throughout the market.[5] Accordingly, on the basis of the facts of record, the Board concludes that consummation of the proposal would have only a slightly adverse effect on competition.

The financial and managerial resources and future prospects of Applicant and its present subsidiary bank are considered satisfactory and consistent with approval. Applicant's acquisition of Berbanc's shares would not adversely affect the overall financial conditions of Applicant, Bennington Bank, or Gypsum Bank. Improved and expanded services to Gypsum Banks' customers would be instituted upon consummation of this and the related Berbanc proposal. Considerations relating to the convenience and needs of the communities to be served lend some weight toward approval of the application. It is the Board's judgment that the proposed transaction would be consistent with the public interest, and that the application to acquire shares of Berbanc should be approved.[6]

Based upon the foregoing and other considerations reflected in the record, the application is approved for the reasons summarized above. The transaction to acquire shares of Berbanc shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City, pursuant to delegated authority.

By order of the Board of Governors,[7] effective July 18, 1977.

THEODORE E. ALLISON,
*Secretary of the Board.*

[FR Doc.77-21709 Filed 7-27-77;8:45 am]

[Docket No. TCR 76-113]

## WESTLAND BANKS, INC.

### Prior Certification Pursuant to the Bank Holding Company Tax Act of 1976

Westland Banks, Inc., Lakewood, Colo. ("WBI"), formerly Weerva, Inc., has requested a prior certification pursuant to § 6158(a) of the Internal Revenue Code (the "Code"), as amended by § 3(a) of the Bank Holding Company Tax Act of 1976 (the "Tax Act"), that its sale of the trade name, good will, appointments, supplies, files, records, customer lists, transferable insurance policies, outstanding contracts, accounts receivable, and all other property except cash, bank accounts, and fixed assets of its travel agency, Westland Travel Service, to Westland Travel Service, Inc., on June 1, 1976, was necessary or appropriate to effectuate § 4 of the Bank Holding Company Act (12 U.S.C. § 1843) ("BHC Act").[1]

In connection with this request, the following information is deemed relevant for purposes of issuing the requested certification: [2]

1. WBI, formery Weerva, Inc. ("Weerva"), was organized as a subsidiary of the Wheat Ridge National Bank ("Bank"), Wheat Ridge, Colo. under the laws of the State of Colorado on December 27, 1967. In May 1968, Bank distributed all of the shares of Weerva to the shareholders of Bank. In July 1968, Weerva acquired Westland Travel Service from Bank.

2. On October 29, 1969, Weerva acquired ownership and control of 39,196 shares, representing 97.9 percent of the outstanding voting shares, of Bank.

[5] Voting for this action: Governors Wallich, Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Gardner.

[1] In a related action, the Board approved today an application by Berbanc to become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of Bank. (See Board's Order of July 18, 1977.)

[2] All banking data are as of December 31, 1976.

[3] The relevant market is the Salina banking market, approximated by Saline County and the southern half of Ottawa County.

[4] The Bank of Tescott ("Tescott Bank") (deposits of $12 million) controls 4.7 percent of total commercial bank deposits and ranks 6th in the relevant banking market.

[5] Bennington Bank is located 25 miles north of Bank and 13 miles east of Tescott Bank; Tescott Bank is located 31 miles northwest of Bank.

[6] Pursuant to the Supreme Court's holding in *Whitney National Bank of Jefferson Parish v. Bank of New Orleans and Trust Company*, 379 U.S. 411, 419 (1965), the Board may not approve an application by an bank holding company if Board approval of the proposal contemplated by such application would, by reason of ownership of the bank by a bank holding company, result in the violation of a valid State law. Kansas law prohibits the formation of "bank holding companies." The relevant statute generally defines a "bank holding company" as any company that directly or indirectly owns, controls, or holds with power to vote, 25 percent or more of the voting shares of each of two or more banks; or controls in any manner the election of a majority of the directors of each of two or more banks (K.S.A. § 9-504). Acquisition of 24 percent of the voting shares of Berbanc would not appear to contravene the provisions of Kansas law. (See Board's Order of September 15, 1975, concerning the application of Valley View Bancshares, Inc., to acquire shares of Industrial Bancshares, Inc., 1975 F.R. Bulletin 676, 677.)

Pursuant to a written commitment Applicant will upon consummation of the proposal report Berbanc and Gypsum Bank as subsidiaries of Applicant and comply with applicable provisions of Federal banking law, as if Berbanc and Gypsum Bank were subsidiaries of Applicant. In view of this commitment, and the current applicability of § 23A of the Federal Reserve Act to the relationships among Berco, Berbanc, Gypsum Bank and Bennington Bank, it is not necessary at this time to determine whether Berco controls Berbanc by virtue of § 2(a)(2)(C) of the Bank Holding Company Act. The Board notes, however, that section 225.2(b)(2) of the Board's Regulation Y establishes a rebuttable presumption that Berco controls Berbanc and Gypsum Bank on the facts of this application.

[7] Voting for this action: Governors Wallich, Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Gardner.

[1] Pursuant to § 3(e)(2) of the Tax Act, in case of any sale that took place on or before December 31, 1976 (the 90th day after the date of enactment of the Tax Act), the certification described in § 6158(a) shall be treated as made before the sale if application for such certification was made before the close of business December 31, 1976. WBI's application for such certification was received by the Board on December 27, 1976.

[2] This information derives from WBI's correspondence with the Board concerning its request for this certification, WBI's Registration Statement filed with the Board pursuant to the BHC Act and other records of the Board.





3. Weerva became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the BHC Act, by virtue of its ownership and control at that time of more than 25 percent of the outstanding voting shares of Bank, and it registered as such with the Board on July 6, 1971. Weerva would have been a bank holding company on July 7, 1970 if the BHC Act Amendments of 1970 had been in effect on such date, by virtue of its ownership and control on that date of more than 25 percent of the outstanding voting shares of Bank. Weerva changed its name to Westland Banks, Inc. on November 10, 1972. On June 1, 1976, WBI owned and controlled 100 percent (less directors' qualifying shares) of the outstanding voting shares of Bank.

4. Westland Travel Service was owned and controlled by WBI on July 7, 1970, and it engaged in the business of providing general travel agency services primarily for customers of WBI's subsidiary banks. The disposition of Westland Travel Service by WBI was necessary or appropriate to effectuate § 4 of the Act if WBI were to continue to be a bank holding company beyond December 31, 1980.[3]

5. On June 1, 1976, WBI sold the trade name, good will, appointments, supplies, files, records, customer lists, transferable insurance policies, outstanding contracts, accounts receivable and all other property except cash, bank accounts, and fixed assets of Westland Travel Services (the "Travel Service Assets") to Westland Travel Services, Inc. for $84,944 in cash.

6. Westland Travel Services, Inc., is owned and controlled by a small group of individual investors, including the manager of the agency, none of whom is affiliated with WBI or its subsidiaries.

7. Neither WBI nor any subsidiary of WBI holds any interest in Westland Travel Service, Inc.

8. Neither Westland Travel Service, Inc., nor any shareholder of Westland Travel Service, Inc., holds any interest in WBI or any subsidiary of WBI.

9. No officer, director (including honorary or advisory director) or employee with policymaking functions of WBI or any subsidiary of WBI holds any such position with Westland Travel Service, Inc.

10. WBI does not control in any manner the election of a majority of the directors, or exercise a controlling influence over the management or policies, of Westland Travel Service, Inc.

On the basis of the foregoing information, it is hereby certified that:

(A) At the time of its sale of the Travel Service Assets WBI was a qualified bank holding corporation, within the meaning of § 6158(f)(1) and subsection (b) of § 1103 of the Code, and satisfied the requirements of that subsection;

(B) The Travel Service Assets were "prohibited property" within the meaning of §§ 6158(f)(2) and 1103(c) of the Code;

(C) The sale of the Travel Service Assets was necessary or appropriate to effectuate § 4 of the BHC Act.

This certification is based upon the representations made to the Board by WBI and upon the facts set forth above. In the event the Board should hereafter determine that facts material to this certification were otherwise than as represented by WBI or that WBI has failed to disclose to the Board other material facts, it may revoke this certification.

By order of the Board of Governors acting through its General Counsel, pursuant to delegated authority (12 CFR § 265.2(b)(3)), effective July 21, 1977.

RUTH A. REISTER,
*Assistant Secretary of the Board.*

[FR Doc.77-21710 Filed 7-27-77;8:45 am]

## WINNER BANSHARES, INC.

### Order Approving Formation of Bank Holding Company; Correction

In FR Document 77-20534, appearing at page 36894 of the issue for Monday, July 18, 1977, the second sentence in the fourth paragraph should have read:

"With this addition of capital, Applicant appears to be able to service the debt it would assume incident to this proposal over a twelve-year amortization period through dividends from the Bank."

Board of Governors of the Federal Reserve System, July 21, 1977.

THEODORE E. ALLISON,
*Secretary of the Board.*

[FR Doc.77-21711 Filed 7-27-77;8:45 am]

## GENERAL ACCOUNTING OFFICE

### REGULATORY REPORTS REVIEW

### Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on July 22, 1977. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before August 15, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

INTERSTATE COMMERCE COMMISSION

ICC requests an extension no change clearance of Form BOp-102, Notice to Commission of Intent to Perform Interstate Transportation. This form is required by 49 C.F.R. 1047.23 to be filed by a cooperative association, or federation of cooperative associations as defined in the Agricultural Marketing Act, which performs or proposes to perform transportation for nonmembers, who are neither farmers, cooperative associations, or a nonfederation of cooperative associations, under Section 203(b)(5) of the Interstate Commerce Act, which transportation is not otherwise exempt under Part II of the Act. Reports are mandatory. ICC estimates that there is a universe of approximately 8,000 potential respondents and that an average of 37 file annually and that reporting burden is 30 minutes each response.

NORMAN F. HEYL,
*Regulatory Reports Review Officer.*

[FR Doc.77-21719 Filed 7-27-77;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Office of the Secretary

### PRIVACY ACT OF 1974

### Proposed Amendment of Notices of Systems of Records

The Department of Health, Education, and Welfare proposes that the following routine use be added to all of its notices of systems of records:

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

The purpose of this routine use is to facilitate exchanges of information relevant to litigation with the Justice Department, provided that such exchanges are compatible with the purpose for which the information was collected.

Consideration in accordance with the requirements of 5 U.S.C. 552a(e)(11) will be given to comments which are submitted in writing on or before August 29, 1977. Comments should be addressed to the Director, Fair Information Practice Staff, Department of Health, Education, and Welfare, 200 Independence

[3] On January 26, 1976, the Board determined that the operation of a travel agency was not a permissible nonbanking activity for bank holding companies. 62 Federal Reserve Bulletin 148.



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Avenue, S.W., Washington, D.C. 20201. Comments received will be available for inspection in Room 526-E, South Portal Building, at the above address. This routine use for the Department's systems will be adopted as of the closing date of the comment period unless comment resulting in a contrary determination is received and a revised notice published.

Dated: July 22, 1977.

JOHN D. YOUNG,
*Assistant Secretary for Management and Budget.*

[FR Doc.77-21748 Filed 7-25-77;3:55 pm]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### OREGON

### Closure to Motorized Vehicles

On June 28, 1977, there was printed in the FEDERAL REGISTER a notice closing certain public lands in Baker County, Oregon to motorized vehicles from August 27, 1977, to December 1, 1977.

Due to the complexity of the land ownership in the area of closure, the difficulty of accurately describing all the public lands and the need to make several corrections on the notice, the land description printed in the FEDERAL REGISTER notice on June 28, 1977, is hereby amended to read as follows:

Portions of Township 12 South Ranges 42 and 43 East and Township 13 South Ranges 42 and 43 East, Willamette Meridian as described on a map on file in the Baker District Office, Baker, Oregon. Copies of said map are available upon request. The area affected by this closure is commonly known as Pedro Mountain. Pedro Mountain lies approximately 7 miles west of Interstate 80, 4 miles south of Burnt River and immediately north of Dixie Creek.

GORDON R. STAKER,
*District Manager.*

JULY 21, 1977.

[FR Doc.77-21729 Filed 7-27-77;8:45 am]

[Wyoming 60183]

### WYOMING

### Application

JULY 21, 1977.

Notice is hereby given that pursuant to Section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an application for a right-of-way to construct a 4½ inch pipeline and appurtenant facilities for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 14 N., R. 102 W.
Secs. 8, 9, 11, 13, 14 and 17.

The pipeline will transport natural gas across the above public lands in Sweetwater County, Wyoming and is a proposed addition to Northwest Pipeline's gathering system.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 North, Rock Springs, Wyoming 82901.

HAROLD G. STINCHCOMB,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-21728 Filed 7-27-77;8:45 am]

[Wyoming 59861]

### WYOMING

### Application

JULY 20, 1977.

Notice is hereby given that pursuant to Section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185), Cities Service Gas. Co. of Oklahoma City, Okla., filed an application for a right-of-way to construct a 6-inch buried pipeline and appurtenant facilities for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 20 N., R. 93 W.
Sec. 8, E½NE¼, NE¼SE¼.
T. 21 N., R. 93 W.
Sec. 34, W½E½, NE¼NW¼.

The pipeline will transport natural gas from a point in section 27, T. 21 N., R. 93 W. in a southeasterly direction to a point of connection with an existing pipeline in section 16, T. 20 N., R. 93 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 670, 1300 Third Street, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-21757 Filed 7-27-77;8:45 am]

[CA 3599]

### CALIFORNIA

### Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 20, 1977.

The Forest Service, U.S. Department of Agriculture, filed application Serial No. CA 3599 on March 18, 1976, for a withdrawal in relation to the following described lands:

ELDORADO NATIONAL FOREST

HELL HOLE GUARD STATION ADMINISTRATIVE SITE, MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 14 N., R. 14 E.,
Sec. 16, NW¼NW¼.

The area described aggregates 40 acres in Placer County, California.

The applicant desires that the land be withdrawn from mining in order to protect existing Forest Service structures and improvements from possible adverse mining activities.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on July 2, 1976, page 27404, FR Doc. 76-19172.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, on or before August 29, 1977. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 29, 1977.

The above described lands are temporarily segregated from the operation of the mining laws (30 U.S.C., Ch. 2), to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

JOAN B. RUSSELL,
*Chief, Lands Section Branch of Lands and Minerals Operations.*

[FR Doc.77-21685 Filed 7-27-77;8:45 am]





[R 4761]

### CALIFORNIA

### Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 20, 1977.

The Forest Service, U.S. Department of Agriculture, filed application Serial No. R 4761 on April 24, 1972, for a withdrawal in relation to the following described lands:

SIERRA NATIONAL FOREST

GRANITE CREEK RECREATION AREA, MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 4 S., R. 25 E.,
Sec. 31, N½NE¼SE¼SE¼, E½NE¼SE¼, E½W½NE¼SE¼, W½SE¼NE¼, and W½E½SE¼NE¼ (unsurveyed);
Sec. 32, W½SW¼SW¼, W½E½SW¼SW¼, SW¼NW¼SW¼, W½SE¼NW¼SW¼, and W½NW¼NW¼SW¼ (unsurveyed).

SOLDIER MEADOW RECREATION AREA

T. 4 S., R. 25 E.,
Sec. 32, S½SE¼NE¼, S½N½SE¼NE¼, E½E½SE¼SW¼NE¼, and E½SE¼NE¼SW¼NE¼ (unsurveyed).

The areas described aggregate 148.75 acres in Madera County, California.

The applicant desires that the land be reserved for the protection of established campgrounds from surface disturbance as the result of mining operations.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on January 26, 1973, pages 2472 and 2473, FR Doc. 73-1513.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, on or before August 29, 1977. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 29, 1977.

The above described lands are temporarily segregated from the operation of the mining laws (30 U.S.C., Ch. 2), to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

JOAN B. RUSSELL,
*Chief, Land Section Branch of Lands and Minerals Operations.*

[FR Doc.77-21687 Filed 7-27-77;8:45 am]

[S 5283]

### CALIFORNIA

### Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 20, 1977.

The Bureau of Land Management, U.S. Department of the Interior, filed application Serial No. S 5283 on July 14, 1972, for a withdrawal in relation to the following described lands:

SQUAW LEAP MANAGEMENT AREA

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 9 S., R. 22 E.,
Sec. 26, SE¼SW¼;
Sec. 27, SE¼SE¼;
Sec. 33, SE¼SE¼;
Sec. 34, All;
Sec. 35, SW¼NE¼, W½, and W½SE¼.
T. 10 S., R. 22 E.,
Sec. 1, Lots 19, 20, and 21;
Sec. 2, Lots 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21, SW¼NE¼, S½NW¼, and NW¼SW¼;
Sec. 3, Lots 5, 6, 7, 8, 9, 10, 11, 12, and 13, S½NE¼, SE¼NW¼, NE¼SW¼, and N½SE¼;
Sec. 4, Lots 11 and 12;
Sec. 11, NW¼NW¼ and SW¼SW¼.

The area described aggregates 2,610.51 acres in Madera and Fresno Counties.

The applicant desires that the land be reserved for the establishment of the Squaw Leap Management Area in California.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on November 9, 1972, page 23853, FR Doc. 72-19228.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, on or before August 29, 1977. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 29, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws (30 U.S.C. Ch. 2), to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

JOAN B. RUSSELL,
*Chief, Lands Section Branch of Lands and Minerals Operation.*

[FR Doc.77-21686 Filed 7-27-77;8:45 am]

[CA 2388]

### CALIFORNIA

### Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 20, 1977.

The Forest Service, U.S. Department of Agriculture, filed application Serial No. CA 2388 on October 17, 1974, for a withdrawal in relation to the following described lands:

TAHOE NATIONAL FOREST

FORESTHILL ADMINISTRATIVE SITE, MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 14 N., R. 10 E.,
Sec. 25, Portion of Lot 4.

The area described aggregates 5.2 acres in Placer County, California.

The applicant desires that the land be reserved as expansion for the Forest Service trailer court to meet the future housing needs at the Foresthill Administrative Site.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on October 31, 1975, page 50733, FR Doc. 75-29308.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, on or before August 29, 1977. All previous



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comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 29, 1977.

The above described lands are temporarily segregated from the operation of the mining laws (30 U.S.C. Ch. 2), to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

JOAN B. RUSSELL,
*Chief, Lands Section Branch of Lands and Minerals Operations.*

[FR Doc.77-21684 Filed 7-27-77;8:45 am]

[LA 0153380]

## CALIFORNIA

### Partial Termination of Proposed Withdrawal and Reservation of Lands

JULY 20, 1977.

Notice of a Bureau of Reclamation, U.S. Department of the Interior, application, LA 0153380, for withdrawal and reservation of lands for the Coachella Division, All-American Canal System, was published as FEDERAL REGISTER Document No. 57-9629 on page 9302 of the issue of November 21, 1957. The applicant agency has cancelled its application insofar as it affects the following described lands:

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 5 S., R. 8 E.,
Sec. 28, NE¼.
T. 6 S., R. 9 E.,
Sec. 18, E½SW¼ and SE¼;
Sec. 20, S½NW¼ and SW¼.

The area aggregates 640 acres of land in Riverside County, California.

Therefore, pursuant to the regulations contained in 43 CFR 2350, such lands at 10 a.m. on August 29, 1977, will be relieved of the segregative effect of the above mentioned application.

JOAN B. RUSSELL,
*Chief, Lands Section, Branch of Lands and Minerals Operations.*

[FR Doc.77-21688 Filed 7-27-77;8:45 am]

[LA 0153380]

## CALIFORNIA

### Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 20, 1977.

The Bureau of Reclamation, U.S. Department of the Interior, filed application Serial No. LA 0153380 on February 14, 1957, for a withdrawal in relation to the following described lands:

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 7 S., R. 10 E.,
Sec. 18, All.

The area aggregates approximately 638.56 acres in Riverside County, California.

The applicant desires that the land be reserved for construction, operation, and maintenance of the Coachella Division of the All-American Canal System.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on November 21, 1957, page 9302, FR Doc. 57-9629.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a writtten request for a hearing to the State Director, Bureau of Land Management, E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, on or before August 29, 1977. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 29, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws (30 U.S.C., Ch. 2) and the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public Hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

JOAN B. RUSSELL,
*Chief, Lands Section, Branch of Lands and Minerals Operations.*

[FR Doc.77-21689 Filed 7-27-77;8:45 am]

[CA 734]

## CALIFORNIA

### Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 20, 1977.

The Corps of Engineers, U.S. Department of the Army, filed application Serial No. CA 734 on October 15, 1973, for a withdrawal in relation to the following described lands:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 26 S., R. 33 E.,
Sec. 20, All that portion of the NW¼SE¼ lying southeasterly of the relocated California State Highway No. 57.

The area described aggregates 20.07 acres.

The applicant desires the land be reserved in connection with Boulder Gulch Recreation Area at Lake Isabella in Kern County, Calif.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on November 8, 1973, page 30893, F.R. Doc. 73-23836.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825, on or before August 29, 1977. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 29, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws (30 U.S.C., Ch. 2) and the mineral leasing laws, subject to valid existing rights, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825.

JOAN B. RUSSELL,
*Chief, Lands Section, Branch of Lands and Minerals Operations.*

[FR Doc.77-21690 Filed 7-27-77;8:45 am]

[R 1665]

## CALIFORNIA

### Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 20, 1977.

The Forest Service, U.S. Department of Agriculture, filed application Serial No. R 1665 on August 16, 1968, for a withdrawal in relation to the following described lands:

INYO NATIONAL FOREST

BIG PINE RECREATION AREA, MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 9 S., R. 32 E.,
Sec. 26, SE¼SE¼SW¼ and S½SW¼SW¼SE¼;
Sec. 35, NE¼SW¼NE¼, NW¼NW¼NE¼, and N½NE¼NE¼NW¼;
Sec. 36, S½N½SE¼NW¼.

OAK CREEK CAMPGROUND

T. 13 S., R. 34 E.,
Sec. 3, Lots 13, 14, 15, and 16.

The area described aggregates 210 acres in Inyo County, California.

The applicant desires the lands be reserved for recreation purposes.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on September 6, 1968, pages 12680 and 12681, FR Doc. 68-10756.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825, on or before August 29, 1977. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 29, 1977.

The above described lands are temporarily segregated from all forms of appropriation under the mining laws (30 U.S.C., Ch. 2), to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825.

JOAN B. RUSSELL,
*Chief, Lands Section Branch of Lands and Minerals Operations.*

[FR Doc.77-21691 Filed 7-27-77;8:45 am]

## Office of Hearings and Appeals

[Docket No. M 77-202]

## BETHLEHEM MINES CORP.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Bethlehem Mines Corporation, Martin Tower, Room 1871, Bethlehem, Pa. 18016, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its Mines No. 111, 113, 116, located in Kanawha County and Raleigh County, W. Va.

The substance of Petitioner's statement is as follows:

1. Mine No. 111 employs 159 employees, 138 of whom are salaried employees. Mine No. 111 operates in the No. 2 Gas Seam. The height of the coal seam is generally between 45 and 60 inches, and the mining height is generally between 45 and 60 inches depending on roof and floor conditions. Three sections of the mine presently utilize continuous mining equipment.

2. The following mining equipment is utilized at Mine No. 111:

| Mining machines | Shuttle cars | Roof bolters | Scoop tractors |
|---|---|---|---|
| Joy 14CM.. | Joy 21SC.. Joy 6SC.. | Galis 380.. Galis 300. | S&S 74SS. Fletcher DD0C10. Fletcher DD01610. |

3. Substantial effort has been expended in an attempt to install canopies on mining equipment at Mine No. 111, and yet Petitioner has experienced serious safety problems resulting from the presence of canopies during the mining cycle.

A. For example, the operators' vision is significantly obstructed, and the operators cannot see without leaning outside the deck.

B. The canopies have struck and dislodged both crossbars and timbers.

C. Roof supports have been torn from the roof when the machinery in question was in operation.

4. Mine No. 113 employs 43 employees, 36 of whom are hourly and 7 of whom are salaried employees. Mine No. 113 operates in the Hernshaw seam. The height of the seam is generally between 46 and 48 inches and the mining height is generally between 42 and 46 inches depending on roof and floor conditions. One section of the mine presently utilizes continuous mining equipment.

5. The following mining equipment is utilized at Mine No. 113:

| Mining machines | Shuttle cars | Roof bolters | Scoop tractors |
|---|---|---|---|
| Joy 14CM.. | Joy 21SC.. | Galis 380.. | S&S 74SS. |

6. Substantial effort has been expended in an attempt to install canopies on mining equipment at Mine No. 113, and yet Petitioner has experienced serious safety problems resulting from the presence of canopies during the mining cycle.

A. The operators put themselves in jeopardy when they lean outside the canopy in order to improve their vision while operating the equipment in question.

B. Due to the poor vision caused by the canopies, operators have inadvertently run over and damaged electrical cables on the sections.

7. Mine No. 116 employs 117 employees, 102 of whom are hourly employees and 15 of whom are salaried employees. Mine No. 116 operates in the Eagle seam. The height of the coal seam is generally between 48 and 50 inches and the mining height is generally between 48 and 60 inches depending on roof and floor conditions. Two sections of the mine presently utilize continuous mining equipment.

8. The following mining equipment is utilized at Mine No. 116:

| Mining machines | Shuttle cars | Roof bolters | Scoop tractors |
|---|---|---|---|
| Joy 11CM.. | Joy 21SC.. | Galis 380.. | S&S 74SS. Kersey PAST-18-8. Kersey PAST-15-5. |

9. Substantial effort has been expended in an attempt to install canopies on mining equipment at Mine No. 116, and yet Petitioner has experienced serious safety problems resulting from the presence of canopies during the mining cycle.

A. Roof supports have been torn from the roof when the machinery in question was in operation.

B. Due to the restricted vision caused by the canopies, operators of equipment tend to operate the equipment as close to the rib as they can, on the side of the machine where the controls are located, in an attempt to avoid hitting fellow employees and line posts on the opposite







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side of the machine. While this procedure increases, to some extent, the protection afforded fellow employees in the area, it does not afford them the protection they would have if the operator's vision were not obscured by the canopy. The canopy also influences the operator to reduce the clearance between the operator's compartment and the rib. This reduction in clearance increases the possibility of serious injury to the operator when he leans out to improve his vision.

10. Petitioner's experience indicates that the application of the mandatory standard will result in a diminution of safety to miners for the following reasons, to name but a few:

A. Several instances have occurred where canopies became wedged against the roof. Such instances subject the operator to potentially serious injuries.

B. Employees strongly object to operating machinery equipped with canopies in low coal and alleged that a diminution of safety result from impaired vision and the resulting operation in cramped positions. The impaired vision and cramped positions cause the following hazards and unsafe practices:

(1) Miners attempt to operate the machinery while standing between it and the rib; this incurs a risk of being crushed, should the machine slue.

(2) The combination of impaired vision and cramped positions caused the operator to expose his body and appendages, such as head and feet, to the risk of being crushed between the machine and rib, or any other equipment.

(3) Impaired vision is given as a major cause by machine operators for the damaging or severing of power cables by running over them.

(4) Impaired vision subjects the operator and fellow employees to increased risks of injury because the operator cannot adequately see other employees and/or equipment.

(5) The canopies drag against the roof and destroy both the torque and tension of the roof bolts.

(6) The operator's reduced vision which results from canopy installation places the helpers in the area in jeopardy when working in such confined conditions.

11. At present, Petitioner is unaware of any proposed commercially manufactured canopy which could be installed and which would provide the same degree of safety to miners as would be provided by the complete removal of the canopy. Petitioner has recently requested assistance from the manufacturer of the mining equipment to determine ways in which equipment with canopies can be modified so the safety of those working in the vicinity of the equipment while it is in operation will not be diminished. Petitioner has also requested similar assistance from MESA. To date, a feasible method of modifying the equipment has not been found.

12. Under the circumstances described above, the approved roof control plans, presently utilized by Petitioner, provide no less than the same degree of protection afforded by the safety standards in question. Such approved roof control plans are deemed satisfactory for all other personnel in the mine including the helpers on self-propelled face equipment who move freely about the mine under the protection of such approved support.

13. Hence, the alternate method Petitioner proposes to establish, in lieu of the mandatory standards, is the elimination of canopies on its face equipment until such time as technology establishes beyond doubt that canopies can be safely used in Petitioner's mines.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 29, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director, Office of Hearings and Appeals.*

JULY 19, 1977.

[FR Doc.77-21392 Filed 7-27-77;8:45 am]

[Docket No. M 77-221]

## UNITED POCAHONTAS COAL CO.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), United Pocahontas Coal Company, c/o Richard McMillan, Jr., Jones, Day, Reavis & Pogue, 1100 Connecticut Avenue, N.W., Washington, D.C. 20036, has filed a petition to modify the application of 30 CFR 75.1710-1, cabs or canopies, to its Mine No. 14, located in McDowell County, West Virginia.

The substance of Petitioner's statement is as follows:

1. The United No. 14 Mine has an average mining height of 40 inches. Due to the limited clearance between equipment and roof support in a seam of this height, the operator must, necessarily, operate under conditions of reduced vision. The addition of a cab or canopy reduces vision to the point that three hazards are created:

A. Collisions with roof support:

(1) In order to allow an operator even minimal vision across the top of his machine, a canopy must add several inches of height to a piece of equipment. In a mining height of less than 48 inches, the dimensions of roof support used to supplement the regular bolting plan become very critical; thus, the strength of supplemental roof support must be limited in lower areas in order to accommodate the enlarged equipment.

(2) A canopy obscures an operator's view of overhead roof support; this, along with the accompanying increase in equipment height, substantially increases the probability of roof support being dislodged through an error in judgment by the operaor. While a roof fall is not normally the immediate result of such an occurrence, the roof is weakened each time its support is disturbed.

B. Injury to the operator:

(1) In mining heights under 48 inches, equipment operators use variations in seam height to great advantage. Whenever possible, switching and maneuvering operations are performed where seam height allows the best vision. In order for a piece of equipment to be used on a given section, its canopy must be lowered to allow clearance under the lowest conditions on that section. Thus, the advantage of using higher areas for difficult maneuvering and the safety which goes with it are lost. The operator is forced to negotiate the entire section under the limiting conditions of only a part of it.

(2) Due to the severely reduced vision caused by a cab or canopy in mining heights below 48 inches, an operator often must exten his head beyond the side support of the canopy in order to see ahead of his machine. Extending himself to the side of the equipment results in an unnatural operating position for the driver and, thus, reduces his ability to control the equipment. In this position, the operator is vulnerable to injury due to collision with the rib or other obstacles in tight-clearance situations.

C. Injury to other persons:

(1) When an operator's vision is restricted by the addition of a cab or canopy, the increased hazard to persons working near the moving equipment is obvious. This hazard is made worse when side clearances are reduced due to the installation of a cab, thereby creating a "pinch-point" for persons who happen to be beside a machine while it is in motion.

2. At present, technology is not available to allow Petitioner to install cabs or canopies on the equipment in use at the United No. 14 Mine without creating serious safety hazards.

3. On March 18, 1975, the Board of Mine Operations Appeals ruled that a violation of a mandatory health or safety standard is not established where compliance is impossible due to the unavailability of equipment, materials, or qualified technicians. On the basis and until such time as equipment is available which meets the standards set forth in Section 75.1710-1 and can be operated safely in the mining of coal at the United No. 14 Mine, Petitioner requests that the Secretary modify Section 75.1701-1, paragraph (a) by waiving subparagraphs (5) and (6) which would require the installation and use of cabs or canopies at the United No. 14 Mine.

REQUEST FOR HEARING OR COMMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before August 29, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
*Acting Director, Office of Hearings and Appeals.*

JULY 19, 1977.

[FR Doc.77-21693 Filed 7-27-77;8:45 am]





## INTERNATIONAL TRADE COMMISSION

[603-TA-3]

### MONUMENTAL TEAK WINDOWS FROM SWEDEN

#### Preliminary Investigation

Notice is hereby given that the United States International Trade Commission, pursuant to the provisions of section 603 of the Trade Act of 1974 (19 U.S.C. 2482), on July 7, 1977, ordered a preliminary investigation to determine whether to institute an investigation under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), with respect to the importation and sale in the United States of monumental teak windows from Sweden.

The investigative staff will conclude this investigation within two months of the publication of this notice in the FEDERAL REGISTER and report its findings to the Commission.

By order of the Commission:

Issued: July 25, 1977.

KENNETH R. MASON,
*Secretary.*

[FR Doc.77-21764 Filed 7-27-77;8:45 am]

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-348A & 50-364A]

### ALABAMA POWER CO. (JOSEPH M. FARLEY NUCLEAR PLANT, UNITS 1 & 2)

#### Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this antitrust proceeding:

Michael C. Farrar, Chairman
Richard S. Salzman
Jerome E. Sharfman

Dated: July 18, 1977.

MARGARET E. DU FLO,
*Secrtary to the Appeal Board.*

[FR Doc.77-21382 Filed 7-27-77;8:45 am]

[Docket No. 50-317]

### BALTIMORE GAS AND ELECTRIC CO.

#### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 22 to Facility Operating License No. DPR-53 issued to Baltimore Gas and Electric Company (the licensee), which revised the license and its appended Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant Unit No. 1 (the facility) located in Calvert County, Maryland. The amendment is effective as of the date of its issuance.

The amendment deleted the existing maximum discharge temperature limit of the condenser cooling water consistent with a recent State of Maryland National Pollutant Discharge Elimination System permit that permitted such action to be taken.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment other than the impact appraisal which will be issued by about July 31, 1977.

For further details with respect to this action, see (1) the application for amendment dated January 3, 1977, as supplemented by filings dated May 11 and 26, and June 11, 1977, (2) Amendment No. 22 to License No. DPR-53, and (3) the Commission's letter to the licensee related to the amendment. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland 20678. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 8th day of July, 1977.

For the Nuclear Regulatory Commission.

MARSHALL GROTENHUIS,
*Acting Chief, Operating Reactors Branch #2, Division of Operating Reactors.*

[FR Doc.77-21383 Filed 7-27-77;8:45 am]

[Docket No. 50-237]

### COMMONWEALTH EDISON CO.

#### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 31 to Facility Operating License No. DPR-19 issued to Commonwealth Edison Company (the licensee) for operation of Dresden Station Unit No. 2 (the facility) located in Grundy County, Illinois. The amendment is effective as of its date of issuance.

The amendment authorized operation of the reactor beyond the previously analyzed end-of-cycle scram reactivity conditions in accordance with Commonwealth Edison's request dated June 6, 1977.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 6, 1977, (2) Amendment No. 31, to License No. DPR-19 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this sixth day of July, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
*Acting Chief, Operating Reactors Branch #2, Division of Operating Reactors.*

[FR Doc.77-21384 Filed 7-27-77;8:45 am]

[Docket No. 50-213]

### CONNECTICUT YANKEE ATOMIC POWER CO.

#### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 16 to Facility Operating License No. DPR-61, issued to Connecticut Yankee Atomic Power Company for operation of the Haddam Neck Plant, located in Middlesex County, Connecticut. The amendment is effective as of the date of issuance.



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This amendment revises the Haddam Neck Technical Specifications by incorporating Augmented Inservice Inspection for piping components outside containment to control the effects of High Energy Pipe Breaks.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 10, 1976, as supplemented November 1976 and letters dated December 18, 1974, February 5, March 13, April 4, May 1 and June 20, 1975, (2) Amendment No. 16 to License No. DPR-61, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Russell Library, 119 Broad Street, Middletown, Connecticut 06457. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 14th day of 1977.

For the Nuclear Regulatory Commission.

CHARLES M. TRAMMELL,
*Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.*

[FR Doc.77-21385 Filed 7-27-77;8:45 am]

[Docket No. 50-334]

## DUQUESNE LIGHT CO., ET AL.

### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 9 to Facility Operating License No. DPR-66, issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), for operation of the Beaver Valley Power Station Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendment incorporates into the Technical Specifications changes resulting from a reanalysis of ECCS performance with the following assumptions: (1) upper head fluid temperature equal to hot leg temperatures; (2) one percent steam generator tube plugging; and (3) the rod bow linear power penalty removed for burnups less than 24,000 MWD MTU. Changes to the Technical Specifications include raising the total nuclear peaking factor to 2.32 and a deletion of the use of Axial Power Distribution Monitoring System for in-core monitoring of axial power. This amendment also terminates the Commission's Order for Modification of License dated August 27, 1976.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated February 11, 1977, (2) Amendment No. 9 to License No. DPR-66, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Beaver Area Memorial Library, 100 College Avenue, Beaver, Pennsylvania.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, 12th day of July 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
*Chief, Operating Reactors Branch #4, Division of Operating Reactors.*

[FR Doc.77-21386 Filed 7-27-77;8:45 am]

[Docket Nos. 50-335A, 50-250A, 50-251A]

## FLORIDA POWER AND LIGHT COMPANY (ST. LUCIE PLANT, UNIT NO. 1) AND FLORIDA POWER AND LIGHT COMPANY (TURKEY POINT PLANT, UNITS NO. 3 AND 4)

### Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of July 14, 1977, oral argument on the appeal of the Florida Municipal Utilities Association, *et al.*, from the Licensing Board's memorandum and order dated April 5, 1977, is calendered for 10:00 a.m., Wednesday, August 10, 1977 in the Nuclear Regulatory Commission's Public Hearing Room, 5th floor, East-West Towers, 4350 East West Highway, Bethesda, Maryland.

Dated: July 20, 1977.

For the Atomic Safety and Licensing Appeal Board.

MARGARET E. DU FLO,
*Secretary to the Appeal Board.*

[FR Doc. 77-21395 Filed 7-27-77;8:45 am]

[Docket No. 50-250]

## FLORIDA POWER AND LIGHT CO.

### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 26 to Facility Operating License No. DPR-31, issued to Florida Power and Light Company, for operation of the Turkey Point Nuclear Generating Unit No. 3, located in Dade County, Florida. The amendment is effective as of the date of issuance.

The amendment to the operating license will allow continued operation of Turkey Point Unit No. 3 until August 16, 1977 before it is brought to cold shutdown condition in order to perform a steam generator inspection.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 6, 1977, (2) Amendment No. 26 to License No. DPR-31, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C. and at the Environmental & Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington,





D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 15 day of July 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
*Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.*

[FR Doc.77-21387 Filed 7-27-77;8:45 am]

[Docket No. 50-220]

## NIAGARA MOHAWK POWER CORP.

### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 18 to Facility Operating License No. DPR-63 for the Niagara Mohawk Power Corporation (the licensee) which revised Technical Specifications for operation of the Nine Mile Point Nuclear Station, Unit No. 1 (the facility) located in Oswego County, New York. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications which will permit operation of the facility on a temporary basis with one emergency cooling system (isolation condenser) continuously inoperable.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 14, 1977, (2) Amendment No. 18 to License No. DPR-63, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oswego City Library, 46 E. Bridge Street, Oswego, New York 13126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 15 day of July 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
*Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.*

[FR Doc.77-21388 Filed 7-27-77;8:45 am]

[Docket Nos. 50-277, 50-278]

## PHILADELPHIA ELECTRIC CO. (PEACH BOTTOM ATOMIC POWER STATION, UNITS 2 AND 3)

### Order for Hearing

JULY, 18, 1977.

On February 25, 1976, the Nuclear Regulatory Commission (Commission) entered an order designed to effectuate the mandate of the Circuit Court of Appeals for the District of Columbia in *York Committee for a Safe Environment* v. *NRC*, 527 F. 2d 812 (D.C. Cir. 1975). The Commission directed the Staff to perform a cost-benefit analysis on an individualized basis in regard to reducing radioactive emissions and determining whether to modify the operating license to require additional emission control equipment. The Staff has completed the preparation of a report of the results of its Appendix I, 10 CFR Part 50, analysis of the Peach Bottom units, and copies were mailed to all parties on April 14, 1977.

The Commission's Order of February 25, 1977 further directed that "After that cost/benefit analysis is completed, the Licensing Board shall assure that an opportunity for a hearing concerning the adequacy of the cost/benefit analysis and possible modifications to the operating license is afforded parties who participated in the prior administrative proceedings in this matter."

After a conference with counsel on June 21, 1977, this Board has determined that a hearing should be held regarding the matters described in the Commission's Order. Accordingly, a hearing will be held on Tuesday, August 16, 1977 commencing at 9:30 a.m. in the Nuclear Regulatory Commission's Hearing Room, 5th Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland 20014.

Members of the public are invited to attend this hearing, and notice thereof will be published in the FEDERAL REGISTER. *It is so ordered.*

Dated at Bethesda, Maryland this 18th day of July 1977.

For the Atomic Safety and Licensing Board.

MARSHALL E. MILLER,
*Chairman.*

[FR Doc.77-21389 Filed 7-27-77;8:45 am]

[Docket No. 50-312]

## SACRAMENTO MUNICIPAL UTILITY DISTRICT

### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Facility Operating License No. DPR-54 issued to Sacramento Municipal Utility District, which revised Technical Specifications for operation of the Rancho Seco Nuclear Generating Station, located in Sacramento County, California. The amendment is effective as of its date of issuance.

The amendment makes changes to the Technical Specifications related to primary reactor containment leakage testing. In connection with this action, the Commission has granted an exemption which allows the licensee to leak test the airlock door seals at a pressure and frequency less than that required in Appendix J to 10 CFR 50, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors."

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 26, 1975, as revised October 5, 1976, (2) Amendment No. 11 to License No. DPR-54, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Business & Municipal Department, Sacramento City-County Library, 828 I Street, Sacramento, California. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 13th day of July 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
*Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.*

[FR Doc.77-21390 Filed 7-27-77;8:45 am]

[Docket No. 50-397]

## WASHINGTON PUBLIC POWER SUPPLY SYSTEM (NUCLEAR PROJECT NO. 2)

### Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the regu-



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lations of the Commission in 10 CFR Part 51, the Washington Public Power Supply System (WPPSS) has filed an environmental report, dated March 21, 1977 in support of their application to operate the WPPSS Nuclear Project No. 2 to be located in Benton County, Washington. The report, which discusses environmental considerations related to the operation of the proposed facility is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Richland Public Library, Swift and Northgate Streets, Richland, Washington. Copies of the report are also being made available at the Office of the Governor, Office of Program Planning and Fiscal Management, Olympia, Washington, and at the Benton-Franklin Governmental Conference, 906 Jadwin Avenue, Richland, Washington.

After the environmental report has been analyzed by the Division of Site Safety and Environmental Analysis staff, a Draft Environmental Statement will be prepared. Upon preparation of the Draft Environmental Statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Maryland, this 19th day of July 1977.

For the Nuclear Regulatory Commission.

WM. H. REGAN, JR.,
*Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.*

[FR Doc.77-21391 Filed 7-27-77;8:45 am]

[Docket No. 50-278]

## PHILADELPHIA ELECTRIC CO., ET AL.

### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 36 to Facility Operating License No. DPR-56 issued to Philadelphia Electric Co., Public Service Electric & Gas Co., Delmarva Power & Light Co., and Atlantic City Electric Co., which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Unit No. 3 (the facility) located in Peach Bottom, York County, Pa. The amendment is effective as of its date of issuance.

The amendment consists of changes in the Technical Specifications to revise, on an interim basis, the maximum allowable time permitted for the Reactor Core Isolation Cooling System (RCIC) to be out-of-service.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 19, 1977, (2) Amendment No. 36 to License No. DPR-56, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C., and at the Martin Memorial Library, 159 E. Market Street, York, Pa. 17401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 20th day of July 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
*Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.*

[FR Doc.77-21517 Filed 7-27-77;8:45 am]

[Docket No. 50-331]

## IOWA ELECTRIC LIGHT AND POWER CO., ET AL.

### Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-49, issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative (the licensees), for operation of the Duane Arnold Energy Center, located in Linn County, Iowa.

The amendments would revise the provisions in the Technical Specifications relating to the Maximum Average Planar Linear Heat Generation Rates (MAPLHGR) for the Duane Arnold fuel. In response to the requirement of the exemption granted to the licensee on March 11, 1977, the licensee has submitted on June 24, 1977 a reevaluation of the Emergency Core Cooling System (ECCS) cooling performance. This reevaluation not only corrected the errors noted in the March 11, 1977 exemption but also included the effect of certain other recently approved changes in the ECCS evaluation models. These changes would permit an increase in authorized Maximum Average Planar Linear Heat Generation Rate (MAPLHGR), and are the aspects of the amendment covered by this notice.

The Commission will act upon the amendments upon: (1) the completion of a Safety Evaluation by the Office of Nuclear Reactor Regulation; and (2) completion of the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

By August 29, 1977, the licensees may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license.

Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Robert Lowenstein, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue NW., Washington, D.C. 20036, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated June 24, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue SE., Cedar Rapids, Iowa 52401.

Dated at Bethesda, Maryland, this 21st day of July 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
*Chief, Operating Reactors Branch No. 3 Division of Operating Reactors.*

[FR Doc.77-21775 Filed 7-27-77;8:45 am]





[Docket No. 50-423]

## NORTHEAST NUCLEAR ENERGY CO., ET AL.[1]

### Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Northeast Nuclear Energy Company, et al., pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on April 18, 1977 and May 9, 1977, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information adds Central Maine Power Company as an owner of the Millstone Nuclear Power Station, Unit No. 3, and increases the ownership shares in the units for Massachusetts Municipal Wholesale Electric Company and Montaup Electric Company.

The information was filed by Northeast Nuclear Energy Company in connection with their application for a construction permit and operating license for a pressurized nuclear reactor. Northeast Nuclear Energy Company, et. al. was issued a construction permit on August 9, 1974 for the Millstone Nuclear Power Station, Unit No. 3. Construction is underway on a site located on the north shore of Long Island Sound, in the Town of Waterford, New London County, Connecticut.

The original antitrust portion of the application was submitted on October 31, 1972 and the Notice of Receipt of Application for a Construction Permit and Facility License; Time for Submission of Views on Antitrust Matters was published in the FEDERAL REGISTER on March 23, 1973 (38 FR 7595). The Notice of Hearing was also published in the FEDERAL REGISTER on March 23, 1973 (38 FR 7595).

A copy of all the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C., ATTN: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the Central Maine Power Company and the Massachusetts Municipal Wholesale Electric Company presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before September 26, 1977.

Dated at Bethesda, Maryland, this 21st day of July, 1977.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
*Chief, Light Water Reactors Branch No. 3, Division of Project Management.*

[FR Doc.77-21776 Filed 7-27-77;8:45 am]

[1] The following are the holders of Construction Permit No. CPPR-113: Ashburnham Municipal Light Plant, Boylston Municipal Lighting Plant, Central Maine Power Company, Central Vermont Public Service Corporation, Chicopee Municipal Lighting Plant, City of Burlington, Vermont, City of Holyoke, Massachusetts Gas and Electric Department, the Connecticut Light and Power Company, Fitchburg Gas and Electric Light Company, Green Mountain Power Corporation, The Hartford Electric Light Company, Marblehead Municipal Light Department, Massachusetts Municipal Wholesale Electric Company, Middleton Municipal Light Department, Montaup Electric Company, New England Power Company, North Attleborough Electric Department, Northeast Nuclear Energy Company, Paxton Municipal Light Department, Peabody Municipal Light Plant, Public Service Company of New Hampshire, Shrewsbury Light Plant, Templeton Municipal Lighting Plant, Town of South Hadley Electric Light Department, The United Illuminating Company, Vermont Electric Cooperative, Inc., Vermont Electric Power Company, Inc., Wakefield Municipal Light Department, West Boylston Municipal Lighting Plant, Western Massachusetts Electric Company, Westfield Gas and Electric Light Department.

## NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 77-30]

### SAFETY RECOMMENDATIONS AND RESPONSES

### Availability and Receipt

*Railroad Safety Recommendations R-77-18 and R-77-19.*—Provision of safe passageways between rapid-transit cars is sought by the National Transportation Safety Board following investigation of the death of a passenger who fell from a Chicago Transit Authority (CTA) train last April 10 as the train was leaving Chicago's Clinton station.

The accident occurred while a woman and two small children were moving from the overcrowded rear car to another car of a four-car train. As the woman stepped across the gap between the two cars, she lost her grip on her 2-year-old girl. The child slipped from the walkway and fell through the side chains to the track.

The semicircular end castings of the cars are used as the walkway between the cars when assembled, and there is a 3-inch space between the castings at the closest point. As the cars move around a curve, the opening widens between the center of the end castings, and the space between the castings is not bridged by a plate. The three loosely hanging chains secured to each car are intended to provide protection along the sides of the walkway but do not prevent someone from falling between or under the chains to the track.

CTA records indicate that there have been similar incidents and accidents in the past. In 1975, one person was killed in one of five incidents that involved movement from car to car. Three such incidents with two fatalities occurred in 1976.

Accordingly, the Safety Board on July 18 recommended that the Federal Railroad Administration—

Promulgate regulations to require provision of a safe passageway between rapid transit cars when passengers are permitted to move from one car to another. (R-77-18)

In a separate letter to CTA on July 18, the Safety Board recommended the provision of such a safe passageway (R-77-19). Both recommendations are designated "Class II, priority followup." Each recommendation letter is accompanied by two photographs of the end platforms of rapid-transit cars.

RESPONSES TO SAFETY RECOMMENDATIONS

*Aviation: A-77-16 and 17.*—Federal Aviation Administration's letter of July 11 is in response to recommendations resulting from the Texas International accident last November 16 at Stapleton International Airport, Denver, Colorado. (See 42 FR 21676, April 28, 1977.)

FAA does not concur in recommendation A-77-16 which asked for amendment of 14 CFR 139.45 to require, after a reasonable date, that extended runway safety area criteria be applied retroactively to all certificated airports. FAA notes that the design guidance contained in Advisory Circular 150/5335-4, which provides criteria for runway geometric design for airports served by certificated route air carriers, is intended for new airports and is applicable to existing airports to the extent practical and feasible. FAA states, "Extended safety areas at all existing certificated airports would be impracticable and infeasible from the standpoint of placing an unreasonable economic burden on the airport operators." FAA does plan to propose, by December 1977, an amendment to Part 139 which would require extended safety areas concurrently with construction of new airports, new runways, and major runway extensions at existing airports.

FAA concurs in A-77-17 which recommended expediting the retrofit of approach lighting system (ALS) structures with frangible materials and fittings by



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allocating additional fundings or by increasing the priority of the existing program for completion within 3 to 5 years. In response, FAA says that it is aware of the importance of frangibility in ALS support structures to improve survivability in aircraft accidents at runway ends, and that, since the inclusion of Navaids as an eligible item of airport development under the Airport and Airway Development Act of 1970, FAA criteria have stipulated frangible structures for the ALS. Construction using these criteria has been accomplished under this program since 1973 at numerous locations.

While FAA has no assurance that the retrofit program can be completed within the 3–to–5–year timeframe recommended, FAA is implementing the program "as rapidly as resources allocated by the Congress and other demands place on the agency permit." FAA reports that it is now developing an amendment to Part 139 to clarify the requirement for all objects located in any safety area to be on frangible mounted supporting structures; publication of the amendment is expected by February 1978.

*Highway: H–76–15.*—Federal Highway Administration's letter of July 8 is a followup to its response of last October 5 (41 FR 46526, October 21, 1976) concerning implementation of this recommendation. The recommendation, resulting from investigation of an automobile collision with the Yadkin River Bridge near Siloam, North Carolina, in February 1975, asked that certain skid tests be performed on timber roadway surfaces.

FHWA now reports its difficulty in finding timber bridge decks that can be safely tested with a locked wheel skid tester. According to FHWA, most bridges that have exposed timber decks are too short for testing or have such poor approach roadway geometry that testing is unsafe. Four candidate bridges have been located near Williamsburg, Virginia, but testing is not feasible at this time because of serious safety hazards posed to tourists using these park roads. FHWA anticipates that permission to skid test in the park will be granted by the National Park Service after the tourist season is over, likely in October. FHWA will provide a further report in November.

*Highway: H–72–21.*—The Safety Board has received responses from two of the four joint addressees of this recommendation, the letters being in response to the Board's July 5 inquiries concerning implementation plans. (See 42 FR 36332, July 14, 1977.) The recommendation resulted from investigation of the August 18, 1971, highway accident near Ventura, California, and asked that the driving public be informed of the purpose and intent of sections 11–1001 (a) and (b) of the Uniform Vehicle Code.

The American Automobile Association, under date of July 7, says that the recommendations made in the Ventura accident report will be incorporated in the revisions of two driver education texts, "How to Drive" for adults and "Sportsmanlike Driving" for high school driver education. The Association notes that while its present materials spell out the operator's responsibility if involved in a collision or if arriving at the scene of a collision, no real emphasis appears to be directed to making sure that one's vehicle has been removed from the main traveled portion of the roadway in case of breakdown. "How to Drive" will be available by late October; "Sportsmanlike Driving," eighth edition, will not go on the market until January 1980.

The National Safety Council's July 15 response to recommendation H–72–21 indicates that although no joint program with other organizations has been developed, the basic premise of the Board's recommendation has been integrated into several Council publications, notably the Defensive Driving Course student workbook, which reaches nearly one million students each year, and the Travel Safety Guide and Road Atlas, published last year.

*Marine: M–76–4 and M–76–21.*—U.S. Coast Guard on July 13 provided the Safety Board with a copy of its proposal, published June 27 at 42 FR 32700, to completely revise Subchapter J of Title 46 of the Code of Federal Regulations. Coast Guard notes that, as part of the revision, those vessels with more than one steering power system will have one feeder circuit from the emergency switchboard as proposed in subparagraph 111.93–5(c). In addition, the recommended spray shield rule was added as subparagraph 111.30–1(d), Coast Guard said.

Recommendation M–76–4 was isued as a result of investigation into the collision and fire of SS C.V. SEA WITCH and SS ESSO BRUSSELS in New York on June 2, 1973; recommendation M–76–21 was issued as a result of the investigation into the fire and stranding of the SS TRANSHURON on Kilton Island, September 26, 1974. The recommendations, respectively, asked Coast Guard to require that the emergency generator on future U.S. vessels provide power to the steering gear upon loss of a ship's normal electric power, and to expedite issuance of regulations to require spray shield protection when saltwater piping must be in the vicinity of switchboard or other electrical equipment. (See 42 FR 1323, January 6, 1977.)

*Marine: M–76–13.*—A second Coast Guard letter of July 13 updates information provided last February 25 in the initial response (42 FR 14942, March 17, 1977). This recommendation, issued after investigation into the sinking of the SS SILVER DOVE in the North Pacific Ocean on April 2, 1973, asked Coast Guard to make a one-time special inspection of all certified seagoing break bulk vessels constructed before 1965 to detect wastage of hull plating covered by insulation and sheathing and wastage of ventilation systems and piping systems having openings outside the hull.

Coast Guard now reports completion of the identification of those vessels prior to 1965 with the insulation installed against the hull plating. Inspection guidelines have been developed and an appropriate instruction, Commandant Notice 16711, has been issued to all Marine Safety field offices. A copy of the instruction is attached to Coast Guard's letter.

*Pipeline: P–76–6 through 9.*—Letter of July 14 from Texas Oil & Gas Corp. is in response to recommendations issued following investigation of the rupture of a 6-inch gas-gathering pipeline owned by the corporation near Meridian, Mississippi, on May 21, 1974. (See 41 FR 12359, March 25, 1976). The response letter indicates that approximately 15 miles of the subject 6-inch line was taken out of service and the next 5 miles of line was derated and placed in the corporation's low pressure system operating at approximately 50–60 psig.

In answer to P–76–6, Texas Gas & Oil Corp. reports that scrapers (pigs) are run on all high pressure lines at regular intervals with the maximum time between runs being one week. Time intervals vary according to amount of liquids received. Hydrogen probes and test coupons have been installed at various system sites and readings are made on regular intervals to help monitor corrosion.

Re P–76–7, in cooperation with the Tretolite Division of Petrolite, Texas Oil & Gas Corp. has made additional studies in type, concentration, and injection points of corrosion inhibitors. The results of the above monitoring systems are used to adjust injection rates, etc., to insure that corrosion is deterred.

Employee instruction, called for in recommendation P–76–8, is accomplished on a one-to-one basis as Texas Oil & Gas Corp. and subsidiary company supervisors instruct employees on individual projects and in monthly safety meetings where various topics are discussed. The corporation's District Safety Coordinator works closely with operations supervisors on a program to make employees fully aware of all hazards concerning their operations.

With regard to installation of pipe with the seam on the top half, recommended in P–76–9, Texas Oil & Gas Corp. states that although the manufacturers of the welded pipe have assured them that the longitudinal weld "is completely normalized," the corporation will work with its engineers and construction firms to develop this procedure, especially in lines in "sour gas service."

### NTSB Comments on FAA Proposed Rule

The Safety Board has commended the Federal Aviation Administration for its initiative in convening the recent public hearing on fire and explosion in transport category airplane fuel systems. After reviewing testimony from that hearing, the Board on July 25 responded further to FAA's notice of proposed rulemaking 74–16B, published April 25 at 42 FR 21202.

The Board's letter points to the series of recommendations made by the Board over the last 14 years on fire and explosion prevention in airplanes; 21 of the most significant recommendations are listed in the Board's special study, NTSB–AAS–77–1, "U.S. Air Carrier Accidents Involving Fire, 1965 through 1974, and Factors Affecting the Statistics." (See 42 FR 22962, May 5, 1977). These recommendations pertain to the need for systems to detect and suppress ignition sources in fuel tanks, to arrest flame propagation through fuel tank vent outlets, to eliminate ignition sources near likely fuel spillage areas, and to strengthen flammable fluid conduits.

Also recommended by the Safety Board, as noted in its July 25 letter, is the incorporation into the airworthiness requirements of effective fuel system fire safety devices to both prevent and control in-flight and postcrash fuel system fires and explosions, and the upgrading of cabin interior material flammability and toxicity requirements. Also, the Safety Board has recommended that FAA consider limiting fuel for commercial use to Jet-A fuel only.

The Board notes that some of these recommendations have been incorporated into NPRM 74–16 and has commented on what it believes to be a high priority rulemaking effort. However, after reviewing the testimony from the recent public hearing, the Board believes that the fuel system fire and explosion problem must be attacked on a broader front.

A requirement for fuel tank inerting systems is supported by the Safety Board; the U.S. Air Force's favorable experience attests to its effectiveness. A review of the accidents cited in special study AAS–77–1 shows that 172 people may have survived three of these accidents had an inerting system been operational at the time.

Having followed the research conducted by FAA and other organizations on modified fuels, the Board believes that work in the "antimisting" modified fuel program should be accelerated, and the results considered as an effective adjunct to the fire and explosion prevention program now in progress.

In summary, the Safety Board urges FAA to move decisively in a balanced, systematic effort which should include fuel ignition prevention measures when fuel tank integrity has been compromised and include measures to prevent or control fires in the interior of aircraft. The Board considers these two programs extremely important additions to FAA's current fire and explosion prevention program.

NOTE: The above notice is comprised of summaries of safety recommendation letters made available, and responses received, during the week preceding publication of the notice in the FEDERAL REGISTER. The recommendation letters in their entirety are available to the general public; single copies are obtainable without charge. Copies of the full text of responses to recommendation and other Board correspondence may be obtained at a cost of $4.00 for service and 10c per page for reproduction. All requests must be in writing, identified by the recommendation number and date of publication of this notice. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
*Federal Register Liaison Officer.*

JULY 25, 1977.

[FR Doc.77–21756 Filed 7–27–77;8:45 am]





## OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

### TRADE POLICY STAFF COMMITTEE

### Request for Written Views and Comments

1. *Solicitation of Views.* The Trade Policy Staff Committee (TPSC) hereby solicits public views and comments on tariff, nontariff, and other matters that are, or may be, under consideration in the "Tokyo Round" of Multilateral Trade Negotiations (MTN). The TPSC intends that these views and comments should supplement those received during public hearings on the same subjects held by the TPSC from June to August, 1975, and on September 16 and 17, 1975. Announcements of those hearings, and descriptions of the subject matter covered by them, were set forth in the FEDERAL REGISTERS of May 1, 1975 (40 FR 19045), May 30, 1975 (40 FR 23546), and August 18, 1975 (40 FR 34649), respectively. Material submitted previously to the TPSC, either orally or in writing, need not be resubmitted in response to this solicitation. In order to be most helpful to the TPSC, these written views and comments should be submitted by September 1, 1977. No public hearings are planned. Submissions should be addressed to Secretary, Trade Policy Staff Committee, Office of the Special Representative for Trade Negotiations, 1800 G Street, N.W., Room 728, Washington, D.C. 20506. The telephone number of the Secretary of the Committee is (202) 395–3395.

2. *Subject Matter.* While the TPSC will receive views or comments on any matter pertaining to the MTN, it is particularly interested in receiving such presentations on the following subjects:

a. *Tariffs.* One of the principal subjects under consideration in the MTN is that of reciprocal tariff reductions by the United States and its trading partners. Section 101 of the Trade Act of 1974 (19 U.S.C. 2111) authorizes the President, pursuant to trade agreements, to proclaim tariff reductions of up to 60 percent in the case of existing duty rates that are above 5 percent, and to proclaim reductions of up to 100 percent in the case of existing duty rates that are 5 percent or below.

The TPSC is especially interested in receiving views and comments on the following aspects of the tariff negotiations:

(i) Particular foreign tariff reductions that the United States should seek, and those to which the United States should give special priority;

(ii) United States tariff rates that should be considered for modifications, reductions, or eliminations;

(iii) United States tariff rates covering products that are very sensitive to import competition and, thus, should not be considered for modifications, reductions, or eliminations of tariff rates. A very thorough justification will be needed to qualify a product for such consideration. To aid persons in submitting requests that products not be considered for modifications, reductions, or eliminations of tariff rates and in preparing justifications for such requests, the Department of Commerce has developed a format/checklist of economic factors that the Government would expect to examine in assessing the import sensitivity of both industrial and agricultural products. This format/checklist may be obtained from the Secretary of the Trade Policy Staff Committee, whose address and telephone number are given in paragraphs (1) and (6) of this notice.

b. *Nontariff Measures.* Another principal subject of the MTN concerns the possible conclusion of international agreements on nontariff measures that create barriers to, or other distortions of, international trade. Section 102 of the Trade Act of 1974 (19 U.S.C. 2112) provides expedited procedures by which the Congress may enact implementing legislation to carry out any trade agreement concluded with respect to nontariff measures.

The TPSC is particularly interested in receiving views and comments on the nontariff measures set forth below. With respect to each of these measures, the TPSC is interested in receiving views and comments regarding (i) foreign practices to which United States negotiators should give priority in attempting to gain liberalization, and (ii) United States practices that *should* or *should not* be given such priority.

(i) *Subsidies affecting international trade and countervailing duties upon subsidized exports.* Subsidies may be direct export subsidies or internal subsidies that have trade-distorting effects, either by stimulating exports or by replacing imports. Countervailing duties are the additional import duties which are imposed upon subsidized exports to offset the trade-distorting effects of export subsidies. The principal United States statutory provisions with respect to countervailing duties upon subsidized exports are set forth in sections 303 and 516 of the Tariff Act of 1930 (19 U.S.C. 1303, and 19 U.S.C. 1516, respectively), as amended by section 331 of the Trade Act of 1974.

(ii) *Quantitative restrictions upon trade (including import prohibitions and "voluntary export restraints"), and import licensing procedures.* Quantitative restrictions include both quotas and licenses that have the same restrictive purpose and effect as quotas. Import licensing procedures, on the other hand, are of an administrative nature. They consist of so-called "automatic" licens-



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ing for statistical and surveillance purposes and licensing to administer certain restrictions on imports—health and sanitary regulations, for example. However, licensing procedures may be more burdensome than is necessary to accomplish legitimate purposes and, of themselves, constitute trade barriers.

(iii) *Standards, packaging and labeling.* Technical barriers to trade may result from either product standards or from product certification procedures that are either mandatory or voluntary in nature and that discriminate, or have a discriminatory effect, against imports. Such barriers may result from regional standards or certification arrangements or from national measures. Packaging and labelling requirements may also create technical barriers to trade because their effect is similar to product standards.

(iv) *Customs valuation, customs nomenclature, customs procedures, and import documentation including consular formalities and fees.* The valuation and classification practices of customs authorities may constitute barriers to trade. Customs procedures may be unduly complicated or result in unnecessary delays. Import documentation may involve excessive information requirements. Consular formalities may be difficult to comply with or involve fees that have no relationship to the services performed.

(v) *Government procurement practices.* Trade barriers may result from requirements or practices by which government agencies purchasing goods for their own use give preference to goods produced domestically. Barriers also may result from the unavailability of information with respect to purchasing specifications, criteria for awarding bids, etc.

c. *Other Matters.* Other matters that are under consideration in the MTN, and for which public views and comments are particularly solicited, include:

(i) *Safeguards,* or temporary restrictions on imports that governments may take, under certain circumstances, in order to give domestic industries that are seriously injured, or threatened with serious injury, as a result of import competition, an opportunity to adjust. Article XIX of the General Agreement on Tariffs and Trade currently permits such actions to be taken in specified circumstances; the United States legal provisions under which such actions may be taken are set forth in sections 201–203 of the Trade Act of 1974 (19 U.S.C. 2251–2253). The possible formulation of new rules governing the use of safeguard actions is being discussed in the MTN.

(ii) Improvements in the *framework* of international trading rules, including (A) rules governing the use of trade measures for balance-of-payments purposes; (B) rules governing the use of export restrictions; (C) rules with respect to consultations and procedures for the settlement of trade disputes; (D) differential and more favorable treatment for developing countries in the international trading rules, including rules governing standards of reciprocity in negotiations between developed and developing countries, and those regarding the gradual assumption by developing countries of fuller obligations in the international trading system.

3. *Suggestions for the Preparation of Written Submissions.* Each submission should state clearly on the first page the name and address of the party making the submission (as well as the party on whose behalf the submission is made, if different from the party making the submission), and the subject matter of the submission. The TPSC suggests that submissions include the following points:

(i) An introductory summary statement indicating the interest of the person or organization on whose behalf the submission is made.

(ii) Where applicable, a description of the product(s) of interest, including, where possible, the name of the product (both trade and generic), its material content, and its use unless such factors are obvious to the average person. If possible, the applicable tariff number(s) should be provided—the TSUS in the case of imports and the foreign tariff number in the case of exports.

(iii) Where applicable, a description of the United States or foreign laws, regulations, or practices of interest, sufficient to identify them clearly. Whenever possible, copies of laws or regulations which are under discussion should be appended to the submission.

(iv) A description of how the United States or foreign laws, regulations, or practices affect the interests of the person or organization on whose behalf the submission is made.

(v) Identification of any foreign country or countries whose laws, regulations, or practices are discussed in the submission.

(vi) Where appropriate, possible elements of an international agreement or other proposed solutions to the problem raised.

Persons making submissions are reminded that a special format/checklist is available for requests that products not be considered for modifications, reductions, or eliminations of tariffs. See paragraph 2(a)(iii) above.

4. *Information Exempt from Public Inspection.* Parties are referred to section 2003.6 of the TPSC regulations, published in the FEDERAL REGISTER of April 28, 1975 (40 F.R. 18419, 15 C.F.R. Ch. XX, Part 2003.6), for the rules concerning information that is "Business Confidential" and exempt from public inspection under section 135(g)(1)(A) of the Trade Act of 1974. Parties also are referred to section 135(g)(2)(B) of the Trade Act of 1974, which provides that information and advice that is not technically "Business Confidential", but that is submitted in confidence by the private sector to officers or employees of the United States in connection with trade negotiations is exempt from disclosure to any person other than Government employees designated by the Special Representative for Trade Negotiations to receive such information, members of the House Ways and Means and Senate Finance Committees, who are accredited as delegates to trade negotiations, and designated staff members of those committees, and private sector advisory committees formally chartered pursuant to section 135 of the Trade Act of 1974.

Persons making submissions containing material for which confidentiality is requested should clearly so state, and should ensure that all portions of their submissions containing such material are clearly identified (such as by stamping "Business Confidential" or "Submitted in Confidence" at the top and bottom of each page) and are easily separable.

In addition, persons making submissions may request that their submissions, or parts thereof, be withheld from distribution to the private sector advisory committees formed pursuant to section 135 of the Trade Act of 1974.

5. *Public Inspection of Written Materials.* Subject to the regulations of the TPSC, all nonconfidential written materials filed with the Committee in connection with these hearings will be open to public inspection, by appointment, at the office of the Trade Policy Staff Committee, Room 728, 1800 G Street, N.W., Washington, D.C. 20506.

6. *Communications.* All submissions and other communications regarding this solicitation should be addressed to: Secretary, Trade Policy Staff Committee, Office of the Special Representative for Trade Negotiations, 1800 G Street, N.W., Room 728, Washington, D.C. 20506. The telephone number of the Secretary of the Committee is (202) 395-3395.

WILLIAM B. KELLY, JR.,
*Chairman.*

[FR Doc.77 21826 Filed 7-27-77;8:45 am]

## OFFICE OF TELECOMMUNICATIONS POLICY

### INTERAGENCY COMMITTEE ON RURAL TELECOMMUNICATIONS

#### Meeting

Notice is hereby given that the Interagency Committee on Rural Telecommunications will hold a meeting on August 4, 1977, at 9:30 a.m., at the Office of Telecommunications Policy, 1800 G Street NW., Room 712, Washington, D.C.

The purpose of the Committee is to identify regulatory and institutional barriers to the use of telecommunication technology for improvement of social services in rural areas. The Committee includes representatives from the following Federal agencies: Department of Commerce; Department of Health, Education and Welfare, Department of Labor; Department of Agriculture; National Science Foundation; and the Office of Telecommunications Policy.

The first half of the meeting will include presentations on fiber optics by Dr. Herbert Ilion of Arthur D. Little, Dr. Charles Kau of ITT, and Mr. David Fullerton of the National Telephone Cooperative Association.

During the second half of the meeting, status reports will be presented by the Subcommittee on Regulatory Barriers, the Subcommittee on Institutional Barriers, and the Subcommittee on Demonstration Options.

The meeting will be open to the public; any member of the public will be permitted to file a written statement with the Committee before or after the meeting. Further information pertaining to the meeting may be obtained from Dr. Vincent Sardella, Office of Telecommunications Policy, Washington, D.C. 20504 (telephone, 202/395-3122).

Dated: July 22, 1977.

VINCENT SARDELLA,
*Committee Chairman.*

[FR Doc.77 21703 Filed 7-27-77;8:45 am]





## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13788, File No. SR-CSE-77-5]

### CINCINNATI STOCK EXCHANGE

#### Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29 (June 4, 1975) (the "Act"), notice is hereby given that on June 30, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

1. Completely revised Articles of Incorporation, Code of Regulations and Rules of the Cincinnati Stock Exchange are printed in Exhibit A.

STATEMENT OF BASIS AND PURPOSE

2. *Purpose of proposed rule change.* The purpose of the proposed rule change is to streamline, simplify and better organize all of the rules of CSE to accommodate more easily the new generation of securities market including trading through an electronic mechanism.

3. *Basis under the Act for proposed rule change.* The basis under the Act for adopting the proposed rule change is section 6 thereof:[1]

(a) The proposed rule change:

(i) Defines the capacity of the CSE to carry out the purposes of and to comply with the Act (see Article III, Amended Articles of Incorporation; numerous references to section 6 of the Act set forth in the Rules); and authorizes the CSE to enforce compliance with the Act and rules and regulations thereunder (see rule 5);

(ii) Authorizes simplified access to exchange facilities (see sections 1.2 and 1.3 of the Code of Regulations and Rule 2);

(iii) Provides for broad membership on the Board of Trustees and Committees thereof as well as participation of issuers and investors (see sections 2.1, 3.1 and 3.2 of the Code of Regulations);

(iv) Provides minimum charges for users and issuers (see Rule 9 A. 2);

(v) (A) See Rule 5; (B) see Rule 10; (C) see Ruless 9 and 10 through 13; (D) see Rules 2, 7, and 8; (E) see Rules.

(vi) See Rule 5.

(vii) See Rule 5A and 5E.

4. *Comments received from members, participants, or others on proposed rule change.* Comments were not solicited.

5. *Burden on competition.* It is not believed that the proposed rule change would impose any significant burden on competition.

On or before September 1, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents,[2] the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 21, 1977.

AMENDED ARTICLES OF INCORPORATION OF THE CINCINNATI STOCK EXCHANGE

ARTICLE I. The name of the Corporation is The Cincinnati Stock Exchange.

ARTICLE II. The principal office of the Corporation is in the City of Cincinnati, Hamilton County, Ohio.

ARTICLE III. The purposes for which the Corporation is formed are:

1. To maintain and provide a market place or facilities for bringing together purchasers and sellers of securities or for otherwise performing with respect to securities the functions commonly performed by a stock exchange as that term is generally understood.

2. To engage, in furtherance of the foregoing, in any lawful act or activity for which corporations not for profit may be organized under the law of the State of Ohio.

ARTICLE IV. These Amended Articles of Incorporation supersede the existing Articles of Incorporation of this Corporation.

CODE OF REGULATIONS OF THE CINCINNATI STOCK EXCHANGE

ARTICLE I—MEMBERS-USERS

Section 1.1. Members—Definitions. The members of this Corporation shall consist of those persons who have complied with the requirements for membership set forth in Section 1.2 of this Article. The terms "broker", "dealer", "person associated with a broker or dealer" and "person associated with a Member" shall have the meanings ascribed to them by Section 3 of the Securities Exchange Act of 1934.

Section 1.2. Member—Qualification. Subject to the rules and regulations promulgated by the Trustees of this Corporation, any registered broker or dealer or natural person associated with a registered broker or dealer may become a Member by purchasing and owning a certificate of proprietary membership issued by this Corporation representing a pro rata interest in the property of this Corporation and shall thereupon have all rights, privileges and duties of Members provided for herein. There shall be seventy-five Memberships authorized for issuance of which not less than fifteen shall be issued and outstanding at all times.

Section 1.3. Access Participants. Subject to the rules and regulations promulgated by the Trustees of this Corporation, any registered broker or dealer or natural person associated with a registered broker or dealer may become an Access Participant of this Exchange. Said Access Participant will be selected pursuant to, and have the rights, privileges, and duties established by, the rules and regulations promulgated by the Trustees of the Corporation and this Code of Regulations. Access Participants shall have the rights, privileges and duties of Members unless such rights, privileges and duties are specifically restricted to Members. The term "Members" shall mean only those persons who own a certificate of proprietary membership. The term "Users" shall mean both Members and Access Participants.

Section 1.4. Meetings. The annual meeting of the Members shall be held on the _____ _____ in _____. A time and place for regular meetings of the Members may be established by the Board of Trustees. Special meetings of the Members may be held upon call of the Chairman of the Board of Trustees, the President (or, in case of the President's absence, death or disability, the vice-president authorized to exercise the authority of the president), the Trustees, by action at a meeting or by a majority of Trustees acting without a meeting, or any four (4) Users, at least two of whom shall be Members. Calls for special meetings shall specify the time, place and purposes thereof.

Section 1.5. Place of Meetings. All meetings of the Members shall be held at the principal office of the Corporation or at such other place within or without the State of Ohio as may be designated in the notice of the meeting.

Section 1.6. Notice of Meetings. Written notice of special meetings of the Members stating the time, place and purposes thereof shall be given to all Users by personal delivery or by mail not less than five (5) days before the date of the meeting.

Section 1.7. Quorum. One-third (⅓) of the outstanding Memberships of the Corporation entitled to vote shall constitute a quorum at any meeting of the Members of the Corporation.

Section 1.8. Voting. Each outstanding Proprietary Membership shall be entitled to

[1] 15 U.S.C. 78f.

[2] The Cincinnati Stock Exchange has consente to an extension of time until 35 days after it has amended File No. SR-CSE-77-5 to reflect the final approval of its membership.



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one vote. Access Participants shall not be entitled to vote. The Members, at a meeting, shall act by majority vote of those Memberships present entitled to vote at any duly called meeting at which a quorum was present.

Section 1.9. Proxies. Voting at elections and votes on other matters may be concluded by mail. The holder of any Membership entitled to vote may cast his vote or may otherwise act by proxy or proxies appointed by a writing signed by such person. A telegram or cablegram appearing to have been transmitted by such person, or a photograph, photostatic or equivalent reproduction of a writing, appointing a proxy is a sufficient writing.

Section 1.10. Action Without a Meeting. Any action which may be authorized or taken at a meeting of Members may be authorized or taken without a meeting by the written consent of a majority of the Members entitled to vote.

ARTICLE II—TRUSTEES

Section 2.1. Number. The number of the Trustees shall be nine, of whom not less than three shall be Members or be partners, officers or directors of Members, at least one shall be an Access Participant or be a partner, officer or director of an Access Participant, and at least one shall be representative of issuers and investors and not be associated with a User, broker or dealer. No two or more Trustees may be partners, officers or directors of the same person or of an affiliate of such person.

Section 2.2. Election. The Trustees shall be divided into three classes, each of which shall consist of three Trustees. The term of office of the first class shall expire on the day of the next annual election of this Corporation; the term of office of the second class shall expire one year thereafter; and that of the third class two years thereafter. At each annual election after such classification, the number of Trustees equal to the number of the class whose term expires on the day of such election shall be elected for a term of three years and/or until their successors are elected and qualified.

Section 2.3. Vacancies. Any vacancy that may occur in the Board of Trustees caused by death, resignation or otherwise, shall be filled by the Trustees then in office.

Section 2.4. Removal. Any Trustee may be removed from office, either for or without cause, by action of the majority of the Members entitled to vote for the election of Trustees. Such action may be taken in any manner by which the Membership is authorized to act.

Section 2.5. Meetings. The annual meeting of the Trustees shall be held immediately following the annual meeting of Members. A time and place for regular meetings of the Board of Trustees may be established by the Board of Trustees. Special meetings of the Trustees may be held upon call of the Chairman of the Board of Trustees, the President, or any three (3) Trustees. Calls for special meetings shall specify the time, place and purposes thereof.

Section 2.6. Place of Meetings. All meetings of the Trustees shall be held at the principal office of the Corporation or at such other place within or without the State of Ohio as may be designated in the notice of the meeting.

Section 2.7. Notice of Meetings. Written notice of special meetings of the Trustees stating the time, place and purposes thereof shall be given by personal delivery or by mail, telegram or cablegram not less than two (2) days before the date of the meeting.

Section 2.8. Quorum. A majority of the members of the Board of Trustees then serving shall constitute a quorum at any meeting of the Board of Trustees.

Section 2.9. Voting. Each Trustee shall be entitled to one vote. The Board of Trustees, at a meeting, shall act by majority vote of those Trustees present at any duly called meeting at which a quorum was present.

Section 2.10. Action Without A Meeting. Any action which may be authorized or taken at a meeting of the Trustees may be authorized without a meeting by the written consent of all of the Trustees.

ARTICLE III—COMMITTEES

Section 3.1. Executive Committee. The Board of Trustees may elect an Executive Committee, to consist of not less than three Trustees, of whom at least one shall be a Member. The Board of Trustees may also appoint one or more Trustees as alternate members of the Executive Committee who shall take the place of any absent member or members at any meeting of such committee. The Executive Committee shall have and may exercise, so far as may be permitted by law, all the powers of the Board of Trustees as may be delegated to it by the Board of Trustees except that the Executive Committee shall not have the power to charge the membership of, or to fill vacancies in the Executive Committee. The Board of Trustees shall have the power at any time to fill vacancies in, to change the membership of, or to dissolve the Executive Committee. The Executive Committee may hold meetings and make rules for the conduct of its business and appoint such committees and assistants as it shall from time to time deem necessary. A majority of the members of the Executive Committee shall constitute a quorum and either the act of a majority of the members of the Executive Committee present at a meeting thereof or the act of all Members of the Executive Committee evidenced by a writing or writings shall be the act of the Executive Committee. All actions of the Executive Committee shall be reported at the meeting of the Board of Trustees next succeeding such action.

Section 3.2. Other Committees. The Board of Trustees may in its discretion appoint such other committees, to consist of not less than three Trustees, which shall have such powers and perform such duties as from time to time may be prescribed by the Board of Trustees. The membership of such committees shall be chosen in such a way as to assure fair representation of the Users in the administration of the Corporation's affairs. The Board of Trustees may also appoint one or more Trustees as alternate members of such committees who shall take the place of any absent member or members at any meeting of such committee. A majority of the members of any such committee shall constitute a quorum and may determine its action and fix the time and place of its meetings unless the Board of Trustees shall otherwise provide. Such committee may also act by the unanimous written consent of its members. The Board of Trustees shall have power at any time to change the membership of any such committee, to fill vacancies, and to discharge any such committee.

ARTICLE IV—OFFICERS

Section 4.1. Composition. The officers of the Corporation shall be a Chairman of the Board of Trustees, President, Secretary, Treausrer and such other officers or assistant officers as may be appointed by the Board of Trustees. Any person may hold more than one office except that the same person may not hold the office of both President and Chairman of the Board and Secretary.

Section 4.2. Tenure and Election. All officers shall be appointed by the Board of Trustees and shall hold office for one year and/or until their successors are elected and qualified, or for such other period as the Board of Trustees may designate.

Section 4.3. Removal. Any officer may be removed, either for or without cause, by the affirmative vote of a majority of the Trustees at any special meeting of the Board of Trustees called for that purpose or at any regular meeting of the Board of Trustees.

Section 4.4. Vacancies. Vacancies in any office of the Corporation may be filled for the unexpired term by the Board of Trustees at any special meeting of the Board of Trustees called for that purpose or at any regular meeting of the Board of Trustees.

Section 4.5. Powers and Duties. The officers of the Corporation shall each have such powers and duties as generally pertain to their respective offices, and such further powers and duties as from time to time may be conferred by the Board of Trustees or the Executive Committee.

ARTICLE V—EXECUTIVE DIRECTOR

Section 5.1. An Executive Director may be appointed by the Board of Trustees and, if so appointed, shall be the administrator of the Corporation responsible for carrying out the policies and programs of the Corporation in accordance with the regulations and policies of the Board of Trustees and applicable federal and state laws and rules and regulations. The Executive Dierctor, if appointed, shall have the authority to employ, assign, supervise and release all employees and staff of the Corporation within the framework and general limitations and policies established by the Board of Trustees.

ARTICLE VI—INDEMNIFICATION OF TRUSTEES, OFFICERS AND EMPLOYEES

Section 6.1. The Corporation shall indemnify every person who is or was a trustee, officer, or employee of the Corporation, or who is serving or has served at its request as a director, trustee, officer, or employee of any other corporation, against those expenses and liabilities incurred in connection with any pending or threatened claim, action, suit or proceeding or settlement thereof in which he may be involved or threatened to be involved in his capacity as such, to the maximum extent permitted by law.

Section 6.2. Expenses incurred with respect to any claim, action, suit, or proceeding may be advanced by the Corporation prior to the final disposition thereof upon receipt of an undertaking by the trustee, officer or employee to repay such amount as shall ultimately be determined not to be payable to him hereunder.

Section 6.3. The rights of indemnification provided hereunder shall not be deemed exclusive of other rights to which any such trustee, officer, or employee now or hereafter may be entitled, shall continue as to a person who has ceased to be a trustee, officer, or employee, and shall inure to the benefit of such person's heirs and legal representatives.

Section 6.4. The Corporation, by authorization of the Board of Trustees may purchase and maintain insurance on behalf of any person who is or was a trustee, officer, or employee of the Corporation, or who is serving or has served at its request as a director, trustee, officer, or employee of any other corporation, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under this Article VI.





ARTICLE VII—SEAL

Section 7.1. The seal of this Corporation shall consist of a flat-faced circular die with the name of the Corporation and the State of its incorporation cut or engraved thereon.

ARTICLE VIII—AMENDMENTS

Section 8.1. These Regulations may be altered, amended, or repealed and new Regulations may be adopted by action of the Membership.

RULES OF THE CINCINNATI STOCK EXCHANGE

RULE 1: DEFINITIONS

A. The term "Exchange" shall refer to The Cincinnati Stock Exchange.

B. The term "Member" shall mean only Members meeting the qualifications established by Section 1.2 of the Code of Regulations of the Exchange; the term "User" shall mean both Members and Access Participants, the latter as defined in Section 1.3 of the Code of Regulations of the Exchange.

C. The terms "broker", "dealer", "person", "Commission", "person associated with a broker or dealer", "appropriate regulatory agency", "person associated with a Member" and "national securities exchange" as used herein shall have the meanings ascribed to them by Section 3 of the Securities Exchange Act of 1934.

D. The term "person associated with an Access Participant" means any partner, officer, director or branch manager of such Access Participant (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by or under common control with such Access Participant or any employee of such Access Participant.

E. The term "registered broker or dealer" means a broker or dealer registered with the Commission pursuant to Section 15 of the Securities Exchange Act of 1934.

F. The term "registered Member" shall mean a Member who is a registered broker or dealer.

G. The term "Act" shall refer to the Securities and Exchange Act of 1934.

RULE 2: MEMBERSHIP-USERS

A. Subject to the provisions of subparagraphs 1 and 2 of this paragraph, any registered broker or dealer or natural person associated with a registered broker or dealer may become a User of the Exchange by application accepted by the Exchange and any person may become a person associated with a Member or an Access Participant.

1. Within ninety days after receipt of an application to become a User the Exchange will accept or reject such application in accordance with the provisions of Section 6 of the Act and the rules and regulations issued thereunder. For the purposes of said Section 6, a person will be considered to meet the standards of training, experience, and competence as are prescribed by the rules of the Exchange, if the person is a registered broker or dealer.

2. The Exchange shall deny Membership to a person who fails to purchase and own a Certificate of Proprietary Membership.

B. In any proceeding by the Exchange to determine whether a person shall not be permitted to become a User, barred from becoming associated with a User, or prohibited or limited with respect to access to services offered by the Exchange or a User thereof, the Exchange shall proceed in the manner prescribed by Section 6 of the Act and the rules and regulations issued thereunder.

C. Certificates of Proprietary Membership shall be sold by the Exchange to qualified persons in connection with their becoming Members at 100% of the value as of the next preceding valuation date computed pursuant to the formula set forth below and shall be purchased by the Exchange from Members after written demand, within sixty days after the next succeeding valuation date at 95% of the value as of such valuation date, computed pursuant to the formula set forth below. Valuation dates shall be January 31, April 30, July 31 and October 31 of each year.

The value of a Certificate of Proprietary Membership shall be computed by dividing the adjusted net capital of the Exchange, by the total number of issued Certificates of Proprietary Membership outstanding immediately prior to any purchase or sale. The adjusted net capital of the Exchange is its total Capital as carried on its book and records of account less (1) the net book value of Furniture and Fixtures, (2) prepaid expenses and any other assets not readily converted to cash, (3) the debit balance of Deferred Federal Income Tax account and (4) the amount actuarially determined for pension obligations that are not recorded on the books of the Exchange. The adjusted net capital shall also reflect any market-to-market adjustment to the Investment account, net of Federal Income Taxes.

RULE 3: CAPITAL

Users shall comply with the capital requirements imposed by Rule 15c3–1 adopted by the Commission under the Act; however, in no case shall a User maintain net capital less than that required by Section (a)(1) of Rule 15c3–1 adopted by the Commission under the Act.

RULE 4: BOOKS AND RECORDS

Every User shall furnish, upon request, current copies of any financial information filed with their appropriate regulatory agency, as well as any records or files pertaining to transactions executed on or through the Exchange. Further, the Exchange shall at any time be allowed access to the books and records of the User in order to obtain or verify information relating to transactions executed on or through the Exchange or activities relating to the Exchange.

RULE 5: DISCIPLINE

A. The Exchange shall enforce compliance by its Users and persons associated with Users with the provisions of the Act, the rules and regulations issued thereunder, and the Rules of the Exchange to the extent and in the manner, required by Sections 6, 17 and 19 of the Act and the rules and regulations issued thereunder.

B. Users and persons associated with Users, shall be appropriately disciplined to the extent, and in the manner, required by Section 6 of the Act and the rules and regulations issued thereunder.

C. It shall be the responsibility of the Membership Committee of the Exchange to carry out the provisions of paragraphs A and B of this Rule 5 by proceeding in accord with paragraphs D and E of this Rule 5 and by acting to relieve the Exchange of the responsibilities of said paragraphs to the extent and in the manner permitted by Section 17 of the Act and the rules and regulations issued thereunder.

D. In any proceeding before the Membership Committee to determine whether a User or person associated with a User should be disciplined, the Exchange shall proceed in the manner prescribed by Section 6 of the Act and the rules and regulations issued thereunder.

E. Any action by the Membership Committee to discipline a User or person associated with a User as provided in this Rule 5, shall be subject to review by the Board of Trustees at the written request of the person so disciplined.

F. Should the Exchange be relieved of responsibility pursuant to Section 17(d) of the Act and the rules and regulations thereunder, the Exchange, nevertheless, reserves the right from time to time to examine and review the Users' books and records with the respect to transactions executed through this Exchange.

RULE 6: STOCK LIST

A. Securities shall be listed by the Board of Trustees upon acceptance of an application by the issuer and upon receipt by the Board of Trustees of an agreement from the issuer and such information in each case in such form as the Board of Trustees shall prescribe.

Securities may be admitted to unlisted trading privileges upon terms approved by the Board of Trustees. Trading in a listed or an unlisted security may be terminated by action of the Board of Trustees.

B. Any action by the Exchange authorized hereunder shall only be taken in a manner consistent with the due process standards set forth in Section 6 of the Act and the rules and regulations thereunder.

C. No security shall be originally listed on the Exchange and no security shall continue to be listed unless the issuer thereof shall meet the following requirements:

1. Net Tangible Assets of at least $750,000;

2. At least 75 holders of the issue to be listed; and

3. At least 45,000 units to be listed outstanding.

RULE 7: COMMISSIONS

Nothing in the Articles of Incorporation, the Code of Regulations, herein, or in the practices of this Exchange shall be construed to require or authorize its Users, or any person associated with its Users to agree or arrange, directly or indirectly, for the charging of fixed rates of commission for transactions effected on, or effected by the use of the facilities of, the Exchange.

RULE 8: OFF-BOARD TRADING

No Rule, stated policy or practice of this Exchange shall prohibit or condition, or be construed to prohibit, condition or otherwise limit, directly or indirectly, the ability of any User to effect transactions on any other national securities exchange or over-the-counter in any security which is listed on the Exchange or to which unlisted trading privileges on the Exchange has been extended.

RULE 9: SINGLE DEALER AND MULTIPLE DEALER MARKETS

A. *Single Dealer Market.* 1. The Board of Trustees shall in a manner consistent with the due process requirements of Section 6 of the Act and the rules and regulations thereunder, approve not more than one Member of the Exchange to be dealer (herein called "Qualified Dealer") for each listed issue to facilitate trading in this type market by performing the following functions in the Single Dealer Market provided through the Exchange:

a. Guarantee settlement for all transactions occurring through Exchange facilities in issues for which he is the Qualified Dealer.

b. Act as clearing contra-party for all transactions occurring through Exchange facilities in issues for which he is Qualified Dealer.

c. Provide to all Users during Exchange trading hours, a continuous two-sided market in odd-lots of issues for which he is Qualified Dealer.

d. Coordinate trading in the issues for which he is Qualified Dealer in a manner



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that is posted and is consistently applied to all Users subject however to the requirements set forth in Rule 9A(1)(e) below.

e. Give precedence in trading to all public agency orders shown to him at prices equal to or better than his own bid or offer.

2. Qualified Dealers in the Single Dealer Market shall be required to pay to the Exchange $100.00 per month per issue in which they are acting as Qualified Dealer on the Exchange provided, however, that total charges to all Qualified Dealers in any one month shall not exceed the net expenses of the Exchange as reported by the Executive Director. To the extent an overage occurs, then the monthly charge shall be reduced pro-rata by issue.

B. *Multiple Dealer Market.* 1. Approved Dealers: Four categories of dealers are authorized to input bids and offers into such communication system as shall be approved by the Exchange as appropriate to service its Multiple Dealer Market. The following Approved Dealers may perform market maker functions through Exchange approved facilities by showing bids and offers to Users.

a. Designated Dealer: The Board of Trustees shall in a manner consistent with the due process requirements of Section 6 of the Act and the rules and regulations thereunder, approve not more than one Member of the Exchange for each issue traded in this type market (herein called "Designated Dealer") said Member to maintain minimum net capital of at least $500,000 pursuant to 15c3–1 of the Act. The Designated Dealer shall perform the following functions in the Multiple Dealer Market provided through the Exchange:

(1) Guarantee settlement for all transactions occurring through Exchange facilities in issues for which he is the Designated Dealer.

(2) Act as clearing contra-party for all transactions occurring through Exchange facilities in issues for which he is the Designated Dealer.

(3) Provide to all Users during Exchange trading hours, a continuous two-sided market in odd-lots of issues for which he is the Designated Dealer.

b. Specialist: A recognized specialist on any other national securities exchange may, upon becoming a User of this Exchange, offer his bids and offers through the multiple Dealer Market to other Users in his specialty issues which are traded on the Exchange.

c. Registered Market Maker: Any market maker registered under Securities and Exchange Commission Rule 17a–9 may, upon becoming a Member of this Exchange, offer his bids and offers through the Multiple Dealer Market to other Users in those issues in which he is so registered as a market maker which are traded on the Exchange.

d. Contributing Dealer: Any Member of this Exchange who maintains Net Capital of $500,000 pursuant to 15c–3–1 of the Act may register himself with the Exchange as a Contributing Dealer for particular issues which are traded through the Exchange and may thereafter offer his bids and offers through the Multiple Dealer Market to other Users in those issues traded on the Exchange for which he is so registered.

RULE 10: TRADING

A. The hours of trading on the Exchange shall be from 10:00 A.M. to 4:00 P.M. local time during normal business days.

Unless otherwise provided for in these Rules, the rules and procedures of the Uniform Practice Code of the National Association of Securities Dealers shall govern transactions executed on the Exchange.

B. The unit of trading on the Exchange shall be one hundred (100) shares.

C. Only Members may maintain employee presence at facilities of the Exchange. Employee presence includes telephone clerks, wire clerks, floor brokers and dealers.

D. Issues listed on the Exchange will be eligible for one of the following three types of trading through facilities offered by the Exchange: Non-Dealer Trading, Single Dealer Trading and Multiple Dealer Trading.

1. Non-Dealer Trading is provided through Exchange facilities in listed securities for which there is no Qualified Dealer or Designated Dealer. Bids and offers of Users shall be registered in a book maintained for such purposes by the Exchange at its facility located in Cincinnati, Ohio.

2. Single Dealer Trading shall be coordinated through the Qualified Dealer who has been approved by the Board of Trustees.

3. Multiple Dealer Trading may be accomplished through the mechanism of any communication system operated by the Exchange or by others to which the Exchange shall have access, through which bids and offers of competing dealers, as well as public bids and offers, may be consolidated for review and execution by Users. Such system may be the Weeden Holding Automated Market (WHAM) whose software disciplines will structure trading as follows:

(a) Bids or offers from brokers will be entered into the WHAM data base (herein called "data base") and be considered resident therein in accordance with the following provisions:

(i) Bids and offers entered into the data base will be grouped by price. Bids at the highest price resident in the data base in a given issue will have priority over other bids should an acceptable offering (at or below highest bid) be shown to the data base. Offerings at the lowest price resident in the data base in a given issue will have priority over other offerings should an acceptable bid (at or above lowest offering) be shown to the data base. Partial execution of a multiple offering with a multiple bid will be allocated to the participants in accordance with a priority (herein called "Trading Priority") based first on price (highest bid—lowest offering) and within price based on time of receipt of the order with absolute priority within price given to public agency orders as against orders for the principal account of a User or other broker or dealer.

(ii) Execution will occur when a bid is received at an equal or higher price than that at which shares are offered or when an offer is made at a price equal to or lower than that at which shares are bid, except that an order entered by a Member in those issues in which he is a Designated Dealer, a specialist on any national securities exchange, a registered market maker under the Securities and Exchange Commission Rule 17A–9 or approved as a Contributing Dealer by the Board of Trustees will not be executed against another such order.

The number of shares executed will be the smaller of the amounts bid or offered. Any remainder shares will remain resident in the data base.

(iii) Should a bid be received at a higher price than a resident offer or an offer be received lower than a resident bid, the execution price will be that which is resident in the data base.

(b) A given dealer may maintain a bid for a given issue at only one price and an offer for a given issue at only one price. If a dealer decreases the number of shares of a given issue bid or offered the bid or offer of said shares will retain its Trading Priority. If a dealer increases the number of shares of a given issue bid or offered, the Trading Priority of the increased bid or offer will be determined as if the bid or offer occurred at the time of said increase.

Any bid or offer by a dealer will be considered outstanding and remain resident in the data base until (i) execution of the bid or offer occurs, or (ii) the same dealer submits a new bid or offer for the same issue at the same price or at a different price, or (iii) the bid or offer is cancelled.

(c) A broker may enter orders for any given issue by specifying the issue ordered, the quantity of the issue ordered, the price at which said issue will be purchased or sold, and the time period during which the order will remain outstanding (said orders herein called "limit" orders). Limit orders will be entered into the data base as bids or offers in accordance with the provisions of clause (a) of this subparagraph 3.

(d) All bids and offers must be in one-hundred share units to be entered into the data base. Odd-lot bids, offers, and orders will be handled by the Designated Dealer in the manner the Qualified Dealer handles such matters in Single Dealer trading.

(e) Neither bids nor offers for the account of an Approved Dealer (as defined in paragraph B 1 of Rule 9) may be entered through a broker terminal unless the offeror has and maintains an offsetting limit order for a public account at the same price, quantity, and time period as that entered into data base.

(f) All orders executed on the Exchange in issues traded in the multiple dealer environment will be executed through the mechanism of WHAM or a successor system approved by the Board of Trustees of the Exchange.

(g) A dealer terminal may be acquired and used by any User for the input of bids and offers in those issues in which he is an Approved Dealer at prices and under conditions which shall be posted and consistently applied to all dealers.

A broker terminal may be acquired and used by any User for the input of bids and offers at prices and under conditions which shall be posted and consistently applied to all Users.

E. Prices of bids and offers shall be quoted in accordance with the following standards:

1. All stock issues traded on the Exchange shall be quoted ex-dividend or ex-rights on the fourth full business day preceding the record date set by the corporation or the date of the closing of transfer books, unless otherwise ruled by the Board of Trustees.

2. When a security is quoted "ex-dividend," "ex-distribution," "ex-rights" or "ex-interest" the following kinds of orders shall be reduced by the value of the payment or rights, and increased in shares in the case of stock dividends and stock distributions which result in round lots, on the day the security sells ex (proportional procedure):

(i) Open buying orders.

(ii) Open stop orders to sell (with open stop limit orders to sell: the limit, as well as the stop price shall be reduced).

Do not reduce the following orders:

(i) Open stop orders to buy.

(ii) Open selling orders.

Should the disbursement be in an amount other than the fraction in which bids and offers are made, or a multiple thereof, orders shall be reduced by the next higher fraction.

3. Proportional procedure to be followed in reducing the above kinds of orders shall be as follows:

Open buy orders and open stop orders to sell shall be reduced by the proportional value of a stock dividend or stock dividend or stock distribution on the day a security sells ex-dividend or ex-distribution. The new price of the order is determined by dividing the price of the original order by 100% plus the percentage value of the stock dividend or stock distribution.

If, as a result of this calculation, the price is not equivalent to or is not a multiple of the fraction of a dollar in which bids and offers are made in the particular security, the price should be rounded to the next lower variation.

In reverse splits, all order (including open sell orders and open stop orders to buy) should be cancelled.

When there is a stock dividend or stock distribution, open buy orders and open stop orders to sell shall be increased in shares as follows:

(i) When there is a stock dividend or stock distribution which results in one or more full shares for each share held, the number of shares in open buy orders and open stop orders to sell shall be increased accordingly.

(ii) When there is a stock dividend or stock distribution of less than a one-for-one basis and thus results in fractional shares, open buy orders and open stop orders to sell shall be increased to the lowest full round lot.

(iii) When there is a stock dividend or stock distribution which results in fractional shares combined with full shares, the number of shares in open buy orders and open stop orders to sell shall be increased to the lowest full round lot.

4. Open orders held by an odd-lot prior to the day a stock sells ex-dividend, ex-distribution or ex-rights shall be reduced in price and, if above is applicable, increased in shares by the odd-lot dealer by the value of the dividend, distribution of rights, unless he is otherwise instructed by the Users from whom the orders were received.

In this regard, a User may enter a Do Not Reduce or "DNR" order if he or it does not want the price of an order reduced for cash dividends, or a Do Not Increase or "DNI" order if he or it does not want an order increased in shares for stock dividends or stock distributions.

RULE 11: COMPARISON AND SETTLEMENT

A. Users shall name the Qualified Dealer or Designated Dealer as appropriate, for the issues traded as the contra-party (street side) wherever comparison occurs for transactions in the Single Dealer or Multiple Dealer Markets. The Qualified Dealer or Designated Dealer shall make available to Users the actual name of the contra-party(s) upon request.

B. Settlement of all transactions in the Single Dealer and Multiple Dealer Markets will be with the Qualified Dealer or Designated Dealer as appropriate, who will guarantee settlement of all transactions in his designated issues. If any transaction is not to be settled "regular way" for a "regular way" trade, or when issued for a "when issued" trade, then arrangements for settlement must be made with the Designated Dealer prior to entering the order in either the Single Dealer or Multiple Dealer market. A "when issued" trade is a trade in an unissued security which will be settled when, as, and if the security is issued. A "regular way" trade is a trade which contemplates delivery of the security traded on the fifth full business day following the day of the trade.

RULE 12: SHORT SALES

No person shall use any facility of the Exchange to effect a short sale in violation of Section 10 of the Act or the rules and regulations issued thereunder.

RULE 13: OPTIONS

No User, partner of a User or officer or director of a User, while on the Floor, shall initiate the purchase or sale on the Exchange for his own account, or for any account in which he, his User firm or any partner thereof or his User corporation or any officer or director thereof is directly or indirectly interested, of any stock in which he holds or has granted any put, call, straddle or option, or in which he has knowledge that his User firm or any partner thereof or his User corporation or any officer or director thereof, holds or has granted any put, call, straddle or option; provided, however, that the preceding prohibition shall not be applicable in respect of any option issued by The Options Clearing Corporation that was acquired or granted in a publicly reported transaction. Each person able to initiate the purchase or sale of any stock while on the Floor shall report to the Exchange, in such form and pursuant to such rules as the Exchange adopts, all options that he holds or has granted, or that his User firm or any partner thereof, or his User corporation or any officer or director thereof, holds or has granted.

No User organization acting as an odd-lot dealer, and no partner, officer or director of such User firm or User corporation shall be, directly or indirectly, interested in a pool dealing or trading in the stock in which he or it is an odd-lot dealer, nor shall he or it, directly or indirectly, acquire or grant any option to buy or sell or receive or deliver shares of stock in which such User organization is an odd-lot dealer, unless such option is issued by the Options Clearing Corporation and the transaction in which the option is acquired or granted is publicly reported. All option transactions effected pursuant to the preceding sentence must be reported to the Exchange in such form and pursuant to such rules as the Exchange adopts.

[FR Doc.77-21747 Filed 7-27-77;8:45 am]

## ADVISORY COMMITTEE ON CORPORATE DISCLOSURE

### Meeting

This is to give notice pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I 10(a), that the Advisory Committee on Corporate Disclosure which has been renewed for a period of 60 days and will now terminate on September 30, 1977 will conduct an open meeting on September 6 at 500 North Capitol Street, Washington, D.C. 20549 in Room 776 beginning at 10:00 a.m.

The summarized agenda for the meeting is as follows:

1. Consideration and Approval of the Final Report to the Commission.

2. Any Other Matters as May be Brought Before the Committee.

Further Information may be obtained from Mary E. T. Beach, Staff Director, Advisory Committee on Corporate Disclosure, Securities and Exchange Commission, Washington, D.C. 20549.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 19, 1977.

[FR Doc.77-21750 Filed 7-27-77;8:45 am]



[Rel. No. 9866; 812-4096]

## HARTFORD VARIABLE ANNUITY LIFE INSURANCE CO., ET AL.

### Application

JULY 22, 1977.

Notice is hereby given that Hartford Variable Annuity Life Insurance Company ("HVA"), a stock life insurance company organized under the laws of the State of Connecticut; Hartford Variable Annuity Life Insurance Company DC Variable Account-I ("DC–I"), a separate account of HVA, registered as a unit investment trust under the Investment Company Act of 1940 ("Act"); Hartford Fund, Incorporated ("Fund"), Hartford Plaza, Hartford, Connecticut 06115, a management open-end diversified investment company registered under the Act; and Axe Securities Corporation ("Axe"), 400 Benedict Avenue, Tarrytown, New York 10591, a Delaware corporation registered as a broker-dealer under the Securities Exchange Act of 1934, sponsor-depositor and principal underwriter of DC–I, (collectively "Applicants") filed an Application on February 27, 1977 and amendments thereto on May 16 and July 20, 1977, pursuant to Section 6(c) of the Act for an order exempting Applicants from the provisions of Sections 12(d)(1), 22(d), 26(a)(2), 27(a)(3) and 27(c)(2), to the extent requested, and pursuant to Section 11 of the Act for an change and for an order pursuant to Section approving certain offers of exchange order pursuant to Section 9(c) of the Act for exemption from Section 9(a). All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein which are summarized below.

DC–I was created and organized as a unit investment trust class of investment company by means of a certain custodian agreement dated March 10, 1976 by and between Axe, as sponsor-depositor, and Hartford National Bank and Trust Company ("HNB"), as custodian. DC–I was registered with the Securities and Exchange Commission under the Act on March 12, 1976.

On May 1, 1977 Hartford Variable Annuity Life Insurance Company, a South Carolina corporation, was merged into Hartford Variable Annuity Life Insurance Company of Connecticut and, simultaneously, the name of the latter company was changed to Hartford Variable Annuity Life Insurance Company.

All of the outstanding shares of common and preferred stock of Axe are owned of record and beneficially by E. W. Axe & Co., Inc. which serves as investment adviser to the Axe-Houghton Funds group; as investment adviser to Fund, the shares of which will serve as the underlying investment media of, inter alia, DC–I; and as investment adviser to Hartford Variable Annuity Life Insurance Company Separate Account ("HVA Separate Account"), another separate account of HVA registered under the Act.



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Fund is a series investment company which has two classes or series of stock; i.e., shares of the "Bond Series" and shares of the "Stock Series". It is registered with the Securities and Exchange Commission as an open-end, diversified, management investment company pursuant to the Act and its shares are registered pursuant to the Securities Act of 1933.

The Group Flexible Funding Annuity Contracts ("contract" or "contracts" as the context requires) to be issued by HVA with respect to DC–I are designed for purchase by public employers such as states, municipalities, other political subdivisions, and by other tax-exempt employers in conjunction with employee deferred compensation plans established by such employers which are, in all instances, tax-exempt organizations.

The purchase payments made pursuant to the terms of the contracts will be invested and reinvested in DC–I during the accumulation period under the contracts. At the time when annuity payments are due to commence on behalf of an employee under the terms of the employer's deferred compensation plan, the amounts that are held in the individual participant's account in DC–I on behalf of such employee will be transferred to Hartford Variable Annuity Life Insurance Company DC Variable Account-II (a companion separate account that has been organized as a unit investment trust class of investment company and which is registered as such with the Commission) ("DC–II"), and an annuitant's account will be created in DC–II from which annuity payments will be made with respect thereto to the employer on behalf of the employee.

The contracts provide for the purchase of both fixed annuity benefits and variable annuity benefits, at the direction of the contract owner, and periodic purchase payments made pursuant to the terms of the contracts will be applied to purchase fixed and/or variable benefits in accordance with the contract owner's instructions. Those purchase payments or parts thereof that are to be applied to DC–I during the accumulation period will, after deduction of sales charges, minimum death benefit premium charges, and any applicable annuity premium tax charges be invested, again at the direction of the Contract Owners, in Fund "Bond Series" shares or Fund "Stock Series" shares or a combination thereof.

SECTION 12(d)(1)

Section 12(d)(1) of the Act provides that a registered investment company may not purchase or otherwise acquire securities issued by another investment company if, as a result of such transaction, the acquiring company would own in the aggregate: (1) more than 3 percent of the total outstanding voting stock of the acquired company; (2) securities issued by the acquired company having an aggregate value in excess of 5 percent of the value of the total assets of the acquiring company; or (3) securities issued by the acquired company and all other investment companies having an aggregate value in excess of 10 percent of the value of the total assets of the acquiring company.

However, Section 12(d)(1)(E) specifically exempts a security or securities purchased or acquired by an investment company, the depositor of or principal underwriter for which is a broker-dealer registered under the Securities Exchange Act of 1934 and the investment portfolio of which consists only of such securities (or such securities are the only securities held by a registered unit investment trust issuing two or more classes or series of securities, each of which provides for the accumulation of shares of a different investment company).

Applicants assert that the Investment Company Act Amendments of 1970 amended Section 12(d)(1) of the Act in order to limit the creation of new fund-holding companies and to deal with the problems raised by foreign-based fund-holding companies that invested primarily in the securities of American funds and which were not themselves subject to the federal securities laws. The exemption from the proscriptions of Section 12(d)(1) provided by Section 12(d)(1)(E) is not applicable to the DC–I/Fund situation because DC–I is a unit investment trust that issues only one class or series of contracts which provide for investment in the shares of the Fund, a series fund having two classes or series of shares.

Applicants have requested an exemption from Section 12(d)(1) of the Act in order that DC–I may acquire shares of both the "Bond Series" and the "Stock Series" of Fund in satisfaction of the directions of the contract owners respecting the investment of their periodic purchase payments made pursuant to the terms of the contracts.

SECTION 26(a) AND SECTION 27(c)(2)

Section 27(c)(2) of the Act provides essentially that a registered unit investment trust and any depositor or underwriter for such trust are prohibited from selling periodic payment plan certificates issued with respect to such trust unless the proceeds of all payments other than the sales load are deposited with a qualified bank as trustee or custodian and held under an indenture or agreement containing certain specified provisions required by, inter alia, Section 26(a)(2) of the Act.

Section 26(a)(2) of the Act requires that the custodian agreement must provide, in part, that: (i) the custodian bank shall have possession of all property of the unit investment trust and shall segregate and hold the same in trust; (ii) the custodian bank shall not resign until either the unit investment trust has been liquidated or a successor custodian has been appointed; (iii) the custodian may collect fees from the income and, if necessary, from the corpus of the trust for services performed and for reimbursement of expenses incurred; and (iv) no payment to the depositor or principal underwriter shall be allowed the custodian bank as an expense, except a fee, not exceeding such reasonable amount as the Commission may prescribe, as compensation for performing bookkeeping and other administrative expenses normally performed by the custodian.

Applicants assert that HVA, as a life insurance company, may not properly place the assets of DC–I in trust with another because the insurance laws of the State of Connecticut require HVA to retain ownership and control of the disposition of its property. Accordingly, Applicants have requested an exemption from Sections 26(a) and 27(c)(2) of the Act so that the securities and other property of DC–I need not be held by HNB an custodian in trust. Applicants state that HVA is subject to extensive supervision and control by the Connecticut Insurance Commissioner pursuant to the requirements of the insurance laws of Connecticut and that such supervision and regulation provides substantial protections. Thus, Applicants assert that they should be exempted from the requirement that the custodian hold the assets of DC–I in Trust in view of the extensive state regulation of HVA.

Section 26(a)(2)(D) provides, inter alia, that the custodian shall have possession of all securities and other property in which the funds of the trust are invested subject only to the charges and collections allowed under Section 26(a)(2) until distribution thereof to the security holders of the trust.

The contracts issued with respect to DC–I provide that there shall be deducted from the periodic purchase payments made pursuant to the terms of the contracts, in addition to the deduction for sales load as permitted by Section 27(c)(2), a charge for the minimum death benefit undertaking (.75 percent of each payment) which shall be paid to HVA for providing such undertaking and a charge for such annuity premium taxes as may be payable in accordance with state and local laws. Further, the contracts provide that HVA is entitled to receive an amount equal to one percent (1 percent) per annum of the value of DC–I for providing the mortality and expense risk undertakings in connection with the contracts.

In addition to the deductions for the minimum death benefit undertaking, annuity premium taxes and mortality and expense undertakings, HVA shall be entitled to receive an annual policy fee of $10 which shall be reflected as a deduction from the value of each contract owner's or contract participant's account, as appropriate. This fee, which is charged for the servicing and handling of a contract owner's or contract participant's account, will be deducted from the value of each such account under a contract on the last business day of each calendar year; provided, however, that if the value of an account is redeemed in full at any time before the last business day of the year, the annual policy fee charge will be deducted from the proceeds of such redemption. No annual policy fee deduction will be made during the annuity payment period.

Applicants assert that the performance by HVA of these administrative and payment processing functions will avoid duplication of administrative services and reduce the costs incurred thereby.

Applicants have requested that the Commission enter an Order exempting them from the provisions of Sections 26(a)(2) and 27(c)(2), to the extent necessary, to permit the deduction by HVA of the minimum death benefit premiums and payment to HVA of the minimum death benefit premiums; to permit the deduction, on a daily basis, and payment to HVA by HNB of the charges for providing the mortality and expense undertakings and for the annual policy fee charges; and, depending upon the requirements of the particular state, either: (i) to permit the deduction from purchase payments when made and payment of applicable annuity premium taxes to such state by HVA, or (ii) to permit the deduction of such taxes by HNB from the value of the contract account or the participant's account, and the payment of such taxes to such state at the time when an annuity is effected.

As noted above, Section 26(a)(2)(D) of the Act, in pertinent part, provides, in substance, that the trustee or custodian shall have possession of all securities in which the funds of the trust are invested and shall segregate the same and hold them in trust until distribution. This has been interpreted to mean that the securities owned by the trust must be actually represented by share certificates maintained in the custody of the custodian. The custodian agreement between Axe and HNB provides that all Fund shares of both Series, and other securities and property acquired by or on behalf of DC–I, and all income upon, accretions to, and proceeds of such property and funds shall be held by the custodian. However, Fund maintains an open-account system and certificates for shares of Fund of both Series will not be issued until such time as Fund shares are made available for purchase by members of the general public, and then, share certificates will be issued only when requested by the shareholder.

Applicants assert that the primary purpose of Section 26(a)(2)(D) is to provide for the safekeeping of assets of registered unit investment trusts. Applicants contend that to require that share certificates be physically issued by Fund to the custodian would not significantly add to the safety of the unit investment trust's assets and would result, in fact, only in unnecessary administration expenses for the trust. As noted above, the assets of DC–I will be invested exclusively in both Series of shares of Fund. Furthermore, HNB in its capacity as custodian for Fund will have physical possession of Fund's portfolio of securities and other assets. Applicants contend that, in their view, the issuance of Fund share certificates to the custodian will not significantly add to the protective features of the custodianship.

Applicants, accordingly, have requested that the Commission enter an Order of exemption from the provisions of Section 26(a)(2)(D) and Section 27(c)(2) in order that the custodian may accept "book shares" on the investment of the purchase payments that are made, from time to time, by the contract owners and invested in shares of Fund to purchase variable annuity benefits.

In support of the requested exemptions from the foregoing provisions of the Act, Applicants state that HVA will pay the custodian fees for the safekeeping of DC–I assets by the custodian. Applicants also state that the Fund shares acquired by DC–I will be held in a book account (as hereinabove described) so that the ownership of Fund shares by DC–I will be indicated only on the books of Fund and DC–I and not evidenced by transferable stock certificates, and that under the Custodian Agreement the assets of DC–I other than Fund shares that come into the hands of the custodian will be kept physically segregated by the custodian and held separate from the assets of any other firm, person or corporation. HVA, under the terms of a certain Recordkeeping Agreement with the custodian, will maintain a record of all purchases and redemptions of Fund shares in DC–I.

Applicants further state that HVA is subject to extensive supervision and control by the Connecticut Insurance Commissioner and the comparable official of each state in which it does business. Such supervision requires HVA to file complete and detailed periodic reports. Applicants also state that the activities of HVA are subject to review by the Connecticut Insurance Department and its representatives at all times and are subject to comprehensive examinations periodically. Applicants also state that any substitution of the shares of an underlying fund for the shares of Fund can only take place with the prior approval of the Commission.

Applicants contend that the foregoing laws, regulations and arrangements will provide susbtantial assurance that all obligations under the contracts issued by HVA will be performed.

Applicants have consented that the foregoing requested exemptions from Sections 26(a) and 27(c)(2) may be made subject to the following conditions: (1) the charges to variable annuity contract owners for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved for such purpose, and (2) the payment of sums and charges out of the assets of DC–I shall not be deemed to be exempted from regulation by the Commission by reason of the requested Order; provided, that Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payments of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums or charges.

SECTION 27(a)(3)

Applicants represent that the amounts deducted for sales charges from periodic payments made pursuant to the terms of the contracts are calculated as follows:

| | Percent |
|---|---|
| Up to and including $2,500 | 6.25 |
| More than $2,500 and up to and including $50,000 | 2.75 |
| More than $50,000 and up to and including $100,000 | 1.25 |
| More than $100,000 | .25 |

The minimum periodic payment that may be made on behalf of a contract participant at any time is $30.

When an employer making application for a contract has 1,000 or more eligible employees, and when annualized stipulated purchase payments with respect to all participants shall equal or approximate $750,000 at the end of the contract's second anniversary, the sales load deduction on aggregate contributions up to and including $2,500 with respect to each participant shall be at the rate of 4.25 percent instead of 6.25 percent; all other sales charge percentage deductions shall be the same as shown above. Additionally, on contracts having 1,000 or more participants, the annual policy fee shall not be charged.

Section 27(a)(3) provides, in substance, that it shall be unlawful for any investment company issuing periodic payment plan certificates or any depositor of or underwriter for such company to sell any such certificate if the amount of sales load deducted from any one of the first twelve monthly payments exceeds proportionately the amount deducted from any other payment of the same series of payments or the amount deducted from any subsequent payment exceeds proportionately the amount deducted from any other subsequent payment.

As the scale of sales load deductions decreases on the basis of the total value of the periodic payments made rather than on the numerical sequence of the periodic payments, the amount of sales load deducted from any one of the first twelve monthly payments may exceed the amount deducted from any other of the first twelve monthly payments or the amount deducted from any subsequent payment may exceed proportionately the amount deducted from any other subsequent payment.

Applicants have requested an exemption from the provisions of Section 27(a)(3) to permit them to deduct sales charges on the basis of the sum total of the dollar amount of payments made under a contract.

SECTIONS 11(a) AND 11(c)

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company, or any principal underwriter for such a company, to make, or cause to be made, an offer to the holder of a security of such a company, or of any other open-end investment company, to exchange his security for a security in the same or another







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such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of Section 11(a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

Applicants have requested an Order pursuant to Sections 11(a) and 11(c) of the Act in order to permit an offer to be made to certain owners of contracts issued by HVA Separate Account which has been organized as an open-end diversified, management investment company and which is registered as such under the Act. Certain of the variable annuity contracts issued with respect to HVA Separate Account have been issued in connection with tax-qualified retirement plans.

Applicants state that the requested Order permitting an offer of exchange to be made will make available to such contract owners certain advantages which will accrue to them from owning contracts issued by HVA with respect to DC–I. Thus, contract owners will have the option of investing payments in a fixed-income portfolio of investments as well as an equity portfolio of investments, or a combination thereof, with the further option of making transfers between the two portfolios. Further, Applicants assert that income and capital gains realized on the DC–I units of interest as the result of capital gains realized and dividends paid on portfolio securities held by Fund will not be subject to federal income tax in the hands of HVA because DC–I will qualify under Subchapter M of the Internal Revenue Code. Finally, those contract owners of older group contracts issued with respect to HVA Separate Account that are presently paying a combined sales and administrative expense charge greater than the corresponding sales charge under a DC–I contract, may find it advantageous to exchange their contracts for a DC–I contract because of the scale of reducing sales charges applicable to the latter class of contracts.

Applicants state that no charges will be assessed in connection with the exchange, and the principal abuse at which Section 11(a) is directed—the imposition of additional sales charges—will not be present. Applicants represent that no compensation will be paid to any sales representative in connection with any such exchange, although compensation may be paid in connection with subsequent payments made under the terms of a DC–I contract issued in exchange for an HVA Separate Account contract. Applicants represent, however, that they will seek to assist HVA Separate Account contract owners in determining whether or not to make an exchange by pointing out the applicable factors, and encourage them to do so. There will be no requirement on the part of an HVA Separate Account contract owner to make such an exchange, and the choice of whether or not to make such an exchange shall be the contract owner's alone to make. Entities to whom the exchange offer is made will receive a prospectus describing the new contracts, a prospectus describing the old contracts, plus such additional information as may be necessary to assist contract owners in determining whether to make such an exchange.

Applicants assert that, in view of the protections afforded by the proposed disclosure to contract owners to whom an exchange offer will be made, the proposed offer of exchange is fair and should be approved by the Commission.

Accordingly, Applicants have requested that the Commission issue an Order approving the offer of exchange, as described pursuant to the provisions of Sections 11(a) and 11(c) of the Act.

SECTIONS 22(d) AND 27(a)(3)

Applicants further represent that, in connection with an exchange of an HVA Separate Account contract for a DC–I contract, the individual account value(s) under the contract exchanged will be recognized for purposes of determining the appropriate sales charge level, if the contract exchanged provides for a graded sales charge deduction but not if the contract exchanged provides for a level sales charge deduction. There are, at present, three outstanding forms of contracts (one individual contract and two group contracts) which have been issued with respect to HVA Separate Account in connection with tax-qualified programs. In the case of one of the individual contracts and one of the group contracts, sales and administrative expense charges are deducted upon a level-load basis of 7.75 percent and 5.25 percent respectively. In the case of the remaining group contract, sales and administrative expense charges are deducted upon a sliding scale, with the maximum charge being at 6.25 percent.

Applicants have stated that the Commission has previously issued an Order respecting an offer of exchange made to contract owners of contracts issued with respect to HVA Separate Account to exchange their level-load contracts for graded-load contracts under circumstances where no credit was given for the amounts accumulated under the exchanged contracts in determining the applicable level of sales and administrative expense deductions.

Thus, on December 19, 1974 the Commission issued an Order exempting, *inter alia*, HVA and HVA Separate Account from the provisions of Section 27(a)(3) in connection with an offer to be made to existing contract owners of contracts issued with respect to HVA Separate Account to exchange their contracts, which were subject to level-load deductions for sales and administrative expenses, for contracts subject to graded-load deductions for sales and administrative expenses; provided, that the contract owner thus exchanging his level-load contract would not receive credit for such transferred amounts in determining the applicable level of deductions from purchase payments made under the new contracts (Investment Company Rel. No. 8620).

Applicants intend to continue to follow the same procedure with respect to the exchange of a level-load contract funded by HVA Separate Account for a graded-load contract to be funded by DC–I, and request the Commission to issue an Order exempting the exchange from the provisions of Section 27(a)(3) to the extent that such an exemptive order may be deemed necessary.

Applicants contend that, since the amount transferred to a new DC–I contract upon exchange will not qualify the purcharser for a reduced sales charge in the event that the HVA Separate Account contract exchanged provided for a level sales charge, whereas it will in the event that the HVA Separate Account contract exchanged provided for a graded sales charge deduction, the provisions of Section 22(d) of the Act may be violated since the reducing sales charge provisions of the contract issued with respect to DC–I will not be applicable to sales to all persons on the same basis and, hence, may be considered to be discriminatory.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at the current offering price described in the prospectus.

Applicants assert, in support of their Application for an exemption from the provisions of Section 22(d), that the potential federal income tax advantages to DC–I contract owners outweigh any disadvantages that may exist because previous payments on a level-load contract will not be considered in determining the sales charges on a new DC–I contract. Applicants also assert that the amounts now being deducted, and which will be deducted in the future because the load charge is level, will be reduced under certain circumstances. Thus, a Participant under a group contract subject to a level-load charge of 5.25 percent for sales and administrative expenses will have his deductions reduced to 2.75 percent after having achieved the second sales-charge tier and thereafter, and, if he qualifies as a member of a group of 1,000 or more employees (as hereinabove described), will have his sales charge dropped immediately to 4.25 percent and thereafter. The owner of an individual contract will have his deductions reduced to 6.25 percent immediately.

Applicants have, accordingly, requested an exemption from the provisions of Section 22(d) of the Act in order that they may make the offer of exchange as hereinabove described.

SECTION 6(c)

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

SECTION 9

Section 9 of the Act, insofar as is pertinent here, makes it unlawful for any person, or any company with which such person is affiliated, to act in the capacity of employee, officer, director, member of an advisory board, investment adviser, principal underwriter or depositor of any registered investment company if such person by reason of any misconduct is enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security.

Section 9(c) provides that upon application the Commission shall grant an exemption from the provisions of Section 9(a) either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of Section 9(a), as applied to the applicant, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

On June 20, 1972, International Telephone and Telegraph Corporation ("ITT") and two of its subsidiaries, HVA and Hamilton Management Corporation ("HMC") applied under Section 9(c) of the Act for an order exempting them from the provisions of Section 9(a) of the Act. The June 1972 application followed the entry of consent injunctions against ITT and two of its officers in a Commission enforcement action alleging misuse of inside information relating to a material change in the posture of Justice Department anti-trust litigation against ITT and also alleging the sale of unregistered securities.[1]

At this time this application was filed, HMC acted as investment adviser and principal underwriter to Hamilton Funds, Inc., Hamilton Growth Fund, Inc., and Hamilton Income Fund, Inc., registered open-end investment companies. HVA (then ITT Variable Annuity Insurance Company) acted as investment adivser and principal underwriter[2] to Hartford (then ITT Variable Annuity Insurance Company Separate Account. In addition, HMC acted as investment adviser to HVA. As subsidiaries of ITT, HVA and HMC, immediately upon entry of the injunctions referred to above, came within the ambit of Section 9(a)(3) of the Act, which section, in pertinent part, prohibits any company which, by reason of any misconduct, is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in any conduct or practice in connection with the purchase or sale of any security, from serving or acting in the capacity of, inter alia, investment adviser, depositor or principal underwriter of any registered investment company. Accordingly, contemporaneously with the entry of the June 1972 injunctions, ITT, HVA and HMC applied under Section 9(c) for an order of exemption and the Commission granted a temporary order of exemption to permit the subsidiaries to continue servicing the funds involved pending the Commission's determination of the application. In January 1973 the Commission upon a request of two intervening parties ordered a hearing on the application.

Hearings on the application by ITT, HVA and HMC continued into 1975. During 1975, however, ITT sold HMC to Oppenheimer Management Corp.; additionally, E. W. Axe Co., Inc., and Axe became the principal underwriter and investment adviser, respectively, for Separate Account. Thus having terminated its affiliation with the underwriting, depository and investment advisory activities that were subject to the Section 9 proscription, ITT, its subsidiaries, HVA and HESCO, and HMC subsequently withdrew their applications under Section 9(c) and accordingly, on November 14, 1975 such proceedings were ordered cancelled. As a result of the withdrawal of the application, the temporary order of exemption previously granted by the Commission terminated.

As noted above, DC–I was established by means of a custodian agreement between Axe and HNB.

HVA has entered into an agremeent with Axe under the terms of which HVA has agreed that it will assume responsibility for the maintenance of the records that are required to be kept by Axe as depositor under the provisions of Section 26(a)(4) of the Act and by Axe as depositor and principal underwriter by the provisions of Section 31(a) of the Act and Rules 31a–1 and 31a–2 thereunder.

HVA has also entered into a recordkeeping agreement with HNB under the terms of which HVA has agreed to maintain and preserve on behalf of HNB under Section 31(a) of the Act and Rules 31a–1 and 31a–2 thereunder, such accounts, books and other documents as constitute the records forming the basis for financial statements required to be filed pursuant to Section 30 of the Act and of the auditors certificates relating thereto.

HVA asserts that it will not receive any compensation from either Axe or HNB or DC–I for the performance of these recordkeeping functions except to the extent that the collection of the $10 policy fee charge may be deemed compensation. However, in this respect, Applicants point out that the charge of the custodian for the performance of its services will be paid by HVA.

In connection with the issuance of such variable annuity contracts the insurance laws of Connecticut require that certain records be maintained concerning the purchasers of such contracts, the contracts themselves, the amounts of insurance reserves that must be maintained with respect to such contracts, the annuity options selected by the contract owners, and the amounts of annuity payments made—such record information and data being necessary to demonstrate the complete business and financial aspects of HVA and for the preparation of the periodic reports which must be filed, from time to time, with the appropriate insurance regulatory authorities. The books and records that Axe as depositor and as principal underwriter is required to keep and maintain with respect to DC–I and that HNB would be keeping as custodian of DC–I are already being maintained in major part by HVA to satisfy these requirements of state insurance regulations.

The performance of these functions by HVA pursuant to its agreements with Axe and HNB, as well as the performance of administrative and payment processing functions by HVA pursuant to requested exemptions from Sections 27(c)(2) and 26(a)(2), could constitute it as the depositor or principal underwriter of DC–I. As a subsidiary of ITT, HVA is barred by the provisions of Section 9(a) from serving as, inter alia, depositor or principal underwriter of a registered investment company. Accordingly, HVA is requesting an exemptive order under Section 9(c) to the extent necessary and pursuant to Section 6(c) for exemptions from the provisions of Sections 26(a) and 27(c)(2) to allow it to perform these functions.

Notice is further given that any interested person may, not later than August 16, 1977, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following August 16, 1977, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-21753 Filed 7-27-77;8:45 am]

[1] Litigation Release No. 5435.

[2] In 1974, Hartford Equity Sales Company, Inc. ("HESCO"), a wholly-owned subsidiary of HVA, became principal underwriter for HVA and Separate Account.







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[Rel. No. 9867; 812-4135]

## HARTFORD VARIABLE ANNUITY LIFE INSURANCE CO., ET AL.

### Application

JULY 22, 1977.

Notice is hereby given that Hartford Variable Annuity Life Insurance Company ("HVA"), a stock life insurance company organized under the laws of the State of Connecticut; Hartford Variable Annuity Life Insurance Company DC Variable Account–II ("DC–II"), a separate account of HVA, registered as a unit investment trust under the Investment Company Act of 1940 ("Act"); Hartford Fund, Incorporated ("Fund"), Hartford Plaza, Hartford, Connecticut 06115, a management open-end diversified investment company registered under the Act; and Axe Securities Corporation ("Axe"), 400 Benedict Avenue, Tarrytown, New York 10591, a Delaware corporation registered as a broker-dealer under the Securities Exchange Act of 1934, sponsor-depositor and principal underwriter of DC–II, (collectively "Applicants") filed an Application on May 16, 1977 and an amendment thereto on July 20, 1977, pursuant to Section 6(c) of the Act for an order exempting Applicants from the provisions of Sections 12(d)(1), 26(a)(2), 27(a)(3) and 27(c)(2), to the extent requested, and pursuant to Section 11 of the Act for an order approving certain offers of exchange and for an order pursuant to Section 9(c) of the Act for exemption from Section 9(a). All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein which are summarized below.

DC–II was created and organized as a unit investment trust class of investment company by means of a certain custodian agreement dated May 1, 1977 by and between Axe, as sponsor-depositor, and Hartford National Bank and Trust Company ("HNB"), as custodian. DC–II was registered with the Securities and Exchange Commission under the Act on May 13, 1977.

On May 1, 1977 Hartford Variable Annuity Life Insurance Company, a South Carolina corporation, was merged into Hartford Variable Annuity Life Insurance Company of Connecticut and, simultaneously, the name of the latter company was changed to Hartford Variable Annuity Life Insurance Company.

All of the outstanding shares of common and preferred stock of Axe are owned of record and beneficially by E. W. Axe & Co., Inc. which serves as investment adviser to the Axe-Houghton Funds group; as investment adviser to Fund, the shares of which will serve as the underlying investment media of, inter alia, DC–II; and as investment adviser to Hartford Variable Annuity Life Insurance Company Separate Account ("HVA Separate Account"), another separate account of HVA registered under the Act.

Fund is a series investment company which has two classes or series of stock; i.e., shares of the "Bond Series" and shares of the "Stock Series". It is registered with the Securities and Exchange Commission as an open-end, diversified, management investment company pursuant to the Act and its shares are registered pursuant to the Securities Act of 1933.

The Group Flexible Funding Annuity Contracts ("contract" or "contracts" as the context requires) to be issued by HVA with respect to Hartford Variable Annuity Life Insurance Company DC Variable Account–I ("DC–I") (a companion separate account that has been organized as a unit investment trust class of investment company and which is registered as such with the Commission) and DC–II are designed for purchase by public employers such as states, municipalities, other political sub-divisions, and by other tax-exempt employers in conjunction with employee deferred compensation plans established by such employers which are, in all instances, tax-exempt organizations.

The purchase payments made pursuant to the terms of the contracts will be invested and reinvested in DC–I during the accumulation period under the contracts. At the time when annuity payments are due to commence on behalf of an employee under the terms of the employer's deferred compensation plan, the amounts that are held in the individual participant's account in DC–I on behalf of such employee will be transferred to DC–II, and an annuitant's account will be created in DC–II from which annuity payments will be made with respect thereto to the employer on behalf of the employee.

The contracts provide for the purchase of both fixed annuity benefits and variable annuity benefits, at the direction of the contract owner, and periodic purchase payments made pursuant to the terms of the contracts will be applied to purchase fixed and/or variable benefits in accordance with the contract owner's instructions. Those purchase payments or parts thereof that are to be applied to DC–II will be invested, again at the direction of the contract owners, in Fund "Bond Series" shares or Fund "Stock Series" shares or a combination thereof.

SECTION 12(d)(1)

Section 12(d)(1) of the Act provides that a registered investment company may not purchase or otherwise acquire securities issued by another investment company if, as a result of such transaction, the acquiring company would own in the aggregate: (1) more than 30 percent of the total outstanding voting stock of the acquired company; (2) securities issued by the acquired company having an aggregate value in excess of 5 percent of the value of the total assets of the acquiring company; or (3) securities issued by the acquired company and all other investment companies having an aggregate value in excess of 10 percent of the value of the total assets of the acquiring company.

However, Section 12(d)(1)(E) specifically exempts a security or securities purchased or acquired by an investment company, the depositor of or principal underwriter for which is a broker-dealer registered under the Securities Exchange Act of 1934 and the investment portfolio of which consists only of such securities (or such securities are the only securities held by a registered unit investment trust issuing two or more classes or series of securities, each of which provides for the accumulation of shares of a different investment company).

Applicants assert that the Investment Company Act Amendments of 1970 amended Section 12(d)(1) of the Act in order to limit the creation of new fund-holding companies and to deal with the problems raised by foreign-based fund-holding companies that invested primarily in the securities of American funds and which were not themselves subject to the federal securities laws. The exemption from the proscriptions of Section 12(d)(1) provided by Section 12(d)(1)(E) is not applicable to the DC–II/Fund situation because DC–II is a unit investment trust that issues only one class or series of contracts which provide for investment in the shares of the Fund, a series fund having two classes or series of shares.

Applicants have requested an exemption from Section 12(d)(1) of the Act in order that DC–II may acquire shares of both the "Bond Series" and the "Stock Series" of Fund in satisfaction of the directions of the contract owners respecting the investment of their annuity purchase payments made pursuant to the terms of the contracts.

SECTION 26(a) AND SECTION 27(c)(2)

Section 27(c)(2) of the Act provides essentially that a registered unit investment trust and any depositor or underwriter for such trust are prohibited from selling periodic payment plan certificates issued with respect to such trust unless the proceeds of all payments other than the sales load are deposited with a qualified bank as trustee or custodian and held under an indenture or agreement containing certain specified provisions required by, inter alia, Section 26(a)(2) of the Act.

Section 26(a)(2) of the Act requires that the custodian agreement must provide, in part, that: (i) the custodian bank shall have possession of all property of the unit investment trust and shall segregate and hold the same in trust; (ii) the custodian bank shall not resign until either the unit investment trust has been liquidated or a successor custodian has been appointed; (iii) the custodian may collect fees from the income and, if necessary, from the corpus of the trust for services performed and for reimbursement of expenses incurred; and (iv) no payment to the depositor or principal underwriter shall be allowed the custodian bank as an expense, except a fee, not exceeding such reasonable amount as the Commission may prescribe, as compensation for performing





bookkeeping and other administrative expenses normally performed by the custodian.

Applicants assert that HVA, as a life insurance company, may not properly place the assets of DC–II in trust with another because the insurance laws of the State of Connecticut require HVA to retain ownership and control of the disposition of its property. Accordingly, Applicants have requested an exemption from Sections 26(a) and 27(c)(2) of the Act so that the securities and other property of DC–II need not be held by HNB as custodian in trust. Applicants state that HVA is subject to extensive supervision and control by the Connecticut Insurance Commissioner pursuant to the requirements of the insurance laws of Connecticut and that such supervision and regulation provides substantial protections. Thus, Applicants assert that they should be exempted from the requirement that the custodian hold the assets of DC–II in Trust in view of the extensive state regulation of HVA.

Section 26(a)(2)(D) provides, inter alia, that the custodian shall have possession of all securities and other property in which the funds of the trust are invested subject only to the charges and collections allowed under Section 26(a)(2) until distribution thereof to the security holders of the trust.

The contracts provide that there shall be deducted from the periodic purchase payments made pursuant to the terms of the contracts, if so required by state law, such annuity premium taxes as may be payable in accordance with state laws, which sums shall be deducted by HNB from the account value and supplemental payments, if any, at the time the annuity is effected and then paid over to the appropriate state. Further, the contracts provide that HVA is entitled to receive an amount equal to one percent (1%) per annum of the value of DC–II for providing the mortality and expense risk undertakings in connection with the contracts.

Applicants assert that the performance by HVA of these administrative and payment processing functions will avoid duplication of administrative services and reduce the costs incurred thereby.

Applicants have requested that the Commission enter an Order exempting them from the provisions of Sections 26(a)(2) and 27(c)(2), to the extent necessary, to permit the deduction, on a daily basis, and payment to HVA by HNB of the charges for providing the mortality and expense undertakings, and to permit the deduction of annuity premium taxes by HNB and the payment of such taxes to such state at the time when an annuity is effected.

As noted above, Section 26(a)(2)(D) of the Act, in pertinent part, provides, in substance, that the trustee or custodian shall have possession of all securities in which the funds of the trust are invested and shall segregate the same and hold them in trust until distribution. This has been interpreted to mean that the securities owned by the trust must be actually represented by share certificates maintained in the custody of the custodian. The custodian agreement between Axe and HNB provides that all Fund shares of both Series, and other securities and property acquired by or on behalf of DC–II, and al. income upon, accretions to, and proceeds of such property and funds shall be held by the custodian. However, Fund maintains an open-account system and certificates for shares of Fund of both Series will not be issued until such time as Fund shares are made available for purchase by members of the general public, and then, share certificates will be issued only when requested by the shareholder.

Applicants assert that the primary purpose of Section 26(a)(2)(D) is to provide for the safekeeping of assets of registered unit investment trusts. Applicants contend that to require that share certificates be physically issued by Fund to the custodian would not significantly add to the safety of the unit investment trust's assets and would result, in fact, only in unnecessary administration expenses for the trust. As noted above, the assets of DC–II will be invested exclusively in both Series of shares of Fund. Furthermore, HNB in its capacity as custodian for Fund will have physical possession of Fund's portfolio of securities and other assets. Applicants contend that, in their view, the issuance of Fund share certificates to the custodian will not significantly add to the protective features of the custodianship.

Applicants, accordingly, have requested that the Commission enter an Order of exemption from the provisions of Section 26(a)(2)(D) and Section 27(c)(2) in order that the custodian may accept "book shares" on the investment of the purchase payments that are made, from time to time, by the contract owners and invested in shares of Fund to purchase variable annuity benefits.

In support of the requested exemptions from the foregoing provisions of the Act, Applicants state that HVA will pay the custodian fees for the safekeeping of DC–II assets by the custodian. Applicants also state that the Fund shares acquired by DC–II will be held in a book account (as hereinabove described) so that the ownership of Fund shares by DC–II will be indicated only on the books of Fund and DC–II and not evidenced by transferable stock certificates, and that under the Custodian Agreement the assets of DC–II other than Fund shares that come into the hands of the custodian will be kept physically segregated by the custodian and held separate from the assets of any other firm, person or corporation. HVA, under the terms of a certain Recordkeeping Agreement with the custodian, will maintain a record of all purchases and redemptions of Fund shares in DC–II.

Applicants further state that HVA is subject to extensive supervision and control by the Connecticut Insurance Commissioner and the comparable official of each state in which it does business. Such supervision requires HVA to file complete and detailed periodic reports. Applicants also state that the activities of HVA are subject to review by the Connecticut Insurance Department and its representatives at all times and are subject to comprehensive examinations periodically. Applicants also state that any substitution of the shares of an underlying fund for the shares of Fund can only take place with the prior approval of the Commission.

Applicants contend that the foregoing laws, regulations and arrangements will provide substantial assurance that all obligations under the contracts issued by HVA will be performed.

Applicants have consented that the foregoing requested exemptions from Sections 26(a) and 27(c)(2) may be made subject to the following conditions:

(1) the charges to variable annuity contract owners for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved for such purpose, and (2) the payment of sums and charges out of the assets of DC–II shall not be deemed to be exempted from regulation by the Commission by reason of the requested Order; provided, that Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payments of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums or charges.

SECTIONS 11(a) AND 11(c)

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company, or any principal underwriter for such a company, to make, or cause to be made, an offer to the holder of a security of such a company, or of any other open-end investment company, to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of Section 11(a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

Applicants have requested an Order pursuant to Sections 11(a) and 11(c) of the Act in order to permit, upon retirement, the value of the contract participants' accounts to be transferred from DC–I to DC–II for the purpose of making annuity payments to such participants.

At the time of a contract participant's retirement, the value of the account set aside for such participant's benefit in



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DC–I shall be redeemed and the redemption value therof together with such supplemental annuity purchase payment as may be made, less any premium taxes that may be payable, shall be exchanged for units of DC–II and an annuitant's account created with respect to which annuity payments will be made to or for the benefit of such participant in accordance with the terms of the annuity options selected.

Applicants state that no sales or other charges will be deducted from the value of the participant's account thus transferred from DC–I to DC–II, although any additional contribution made at the time of the transfer to purchase additional annuity benefits will be subject to a deduction for sales charges but such additional sum will not have been theretofore subject to any deduction for sales charges or otherwise.

Applicants assert that there will be no pyramiding of sales charges, nor will such amount thus transferred be subject to any other deductions, except as set forth above, and that the abuses which Section 11 is designed to protect against are not present.

Accordingly, Applicants have requested that the Commission issue an Order approving the offer of exchange, as described, pursuant to the provisions of Sections 11(a) and 11(c) of the Act.

SECTION 27(a)(3)

Section 27(a)(3) provides, in substance, that it shall be unlawful for any investment company issuing periodic payment plan certificates or any depositor of or underwriter for such company to sell any such certificate if the amount of sales load deducted from any one of the first twelve monthly payments exceeds proportionately the amount deducted from any other payment of the same series of payments or the amount deducted from any subsequent payment exceeds proportionately the amount deducted from any other subsequent payment.

In addition to having the right to allocate the value of a participant's individual account held during the accumulation period to establish an annuitant's account during the annuity period, the contract owner may make additional contributions at the beginning of the annuity period for the purpose of effecting increased annuity payments. All such additional contributions shall be subject to the following schedule of sales charges, as well as any applicable premium taxes:

| Additional contribution to an Annuitant's Account | *Total Deduction Percent* |
|---|---|
| Up to and including $50,000 | 3.50 |
| More than $50,000 and up to and including $100,000 | 2.00 |
| More than $100,000 | 1.00 |

Applicants request an exemption from the provisions of Section 27(a)(3) to the extent necessary so that sales charge deductions may be made on the basis of the total amount of the purchase payments applied rather than the numerical sequence of the payments.

SECTION 6(c)

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

SECTION 9

Section 9 of the Act, insofar as is pertinent here, makes it unlawful for any person, or any company with which such person is affiliated, to act in the capacity of employee, officer, director, member of an advisory board, investment adviser, principal underwriter or depositor of any registered investment company if such person by reason of any misconduct is enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security.

Section 9(c) provides that upon application the Commission shall grant an exemption from the provisions of Section 9(a) either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of Section 9(a), as applied to the applicant, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

On June 20, 1972, International Telephone and Telegraph Corporation ("ITT") and two of its subsidiaries, HVA and Hamilton Management Corporation ("HMC") applied under Section 9(c) of the Act for an order exempting them from the provisions of Section 9(a) of the Act. The June 1972 application followed the entry of consent injunctions against ITT and two of its officers in a Commission enforcement action alleging misuse of inside information relating to a material change in the posture of Justice Department anti-trust litigation against ITT and also alleging the sale of unregistered securities.[1]

At the time this application was filed, HMC acted as investment adviser and principal underwriter to Hamilton Funds, Inc., Hamilton Growth Fund, Inc., and Hamilton Income Fund, Inc., registered open-end investment companies. HVA (then ITT Variable Annuity Insurance Company) acted as investment adviser and principal underwriter[2] to Hartford (then ITT) Variable Annuity Insurance Company Separate Account. In addition, HMC acted as investment adviser to HVA. As subsidiaries of ITT, HVA and HMC, immediately upon entry of the injunctions referred to above, came within the ambit of Section 9(a)(3) of the Act, which section, in pertinent part, prohibits any company which, by reason of any misconduct, is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in any conduct or practice in connection with the purchase or sale of any security, from serving or acting in the capacity of, inter alia, investment adviser, depositor or principal underwriter of any registered investment company. Accordingly, contemporaneously with the entry of the June 1972 injunctions, ITT, HVA and HMC applied under Section 9(c) for an order of exemption and the Commission granted a temporary order of exemption to permit the subsidiaries to continue servicing the funds involved pending the Commission's determination of the application. In January 1973 the Commission upon a request of two intervening parties ordered a hearing on the application.

Hearings on the application by ITT, HVA and HMC continued into 1975. During 1975, however, ITT sold HMC to Oppenheimer Management Corp.; additionally, E. W. Axe Co., Inc. and Axe became the principal underwriter and investment adviser, respectively, for Separate Account. Thus having terminated its affiliation with the underwriting, depository and investment advisory activities that were subject to the Section 9 proscription, ITT, its subsidiaries, HVA and HESCO, and HMC subsequently withdrew their applications under Section 9(c) and accordingly, on November 14, 1975 such proceedings were ordered cancelled. As a result of the withdrawal of the application, the temporary order of exemption previously granted by the Commission terminated.

As noted above, DC–II was established by means of a custodian agreement between Axe and HNB.

HVA has entered into an agreement with Axe under the terms of which HVA has agreed that it will assume responsibility for the maintenance of the records that are required to be kept by Axe as depositor under the provisions of Section 26(a)(4) of the Act and by Axe as depositor and principal underwriter by the provisions of Section 31(a) of the Act and Rules 31a–1 and 31a–2 thereunder.

HVA has also entered into a recordkeeping agreement with HNB under the terms of which HVA has agreed to maintain and preserve on behalf of HNB under Section 31(a) of the Act and Rules 31a–1 and 31a–2 thereunder, such accounts, books and other documents as constitute the records forming the basis for financial statements required to be filed pursuant to Section 30 of the Act and of the auditors certificates relating thereto.

HVA asserts that it will not receive any compensation from either Axe or HNB or DC–II for the performance of these recordkeeping functions. The charge of the custodian for the performance of its services will be paid by HVA.

In connection with the issuance of such variable annuity contracts the insurance laws of Connecticut require that certain records be maintained concerning the purchasers of such contracts, the contracts themselves, the amounts of insurance reserves that must be maintained with respect to such contracts, the annuity options selected by the contract owners, and the amounts of annuity payments made—such record information and data being necessary to demonstrate the complete business and financial aspects of HVA and for the preparation of the periodic reports which must be filed, from time to time, with the appropriate insurance regulatory authorities. The books and records that Axe as depositor and as principal underwriter is required to keep and maintain with respect to DC–II and that HNB would be keeping as custodian of DC–II are already being maintained in major part by HVA to satisfy these requirements of state insurance regulations.

The performance of these functions by HVA pursuant to its agreements with Axe and HNB, as well as the performance of administrative and payment processing functions by HVA pursuant to requested exemptions from Sections 27(c)(2) and 26(a)(2), could constitute it as the depositor or principal underwriter of DC–II. As a subsidiary of ITT, HVA is barred by the provisions of Section 9(a) from serving as, inter alia, depositor or principal underwriter of a registered investment company. Accordingly, HVA is requesting an exemptive order under Section 9(c) to the extent necessary and pursuant to Section 6(c) for exemptions from the provisions of Sections 26(a) and 27(c)(2) to allow it to perform these functions.

Notice is further given that any interested person may, not later than August 16, 1977, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following August 16, 1977, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77–21754 Filed 7–27–77;8:45 am]

[1] Litigation Release No. 5435.

[2] In 1974, Hartford Equity Sales Company, Inc. ("HESCO"), a wholly-owned subsidiary of HVA, became principal underwriter for HVA and Separate Account.





## NATIONAL MARKET ADVISORY BOARD

### Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 110(a), that the National Market Advisory Board will conduct open meetings on August 15 and 16, 1977 in Conference Room One, Twenty-third Floor, First National Citibank, 95 Wall Street, New York, New York. The Board will also conduct open meetings on September 19 and 20 and October 17 and 18, 1977, in Room 776, 500 North Capitol Street, Washington, D.C.

Initial notice of the August meeting was published in the FEDERAL REGISTER on June 2, 1977. An amended notice, setting forth the change of location of the meeting from Washington, D.C. to New York City, was published in the FEDERAL REGISTER on July 21, 1977.

The summarized agenda for the September and October meetings will be published in the FEDERAL REGISTER at a later date. The summarized agenda for the August meeting is as follows:

1. Discussion of the Board's letter to the Commission regarding regulation of specialists and market makers in light of the removal of off-board trading restrictions.

2. Discussion of a Board letter to the Commission regarding:

a. A composite quotation system for listed securities.

b. A broker's obligation to obtain "best execution" for its customer.

c. Proposed Commission rules 15c5–1 [A], [B], [C], and [D] regarding overreaching.

3. Request by the Midwest Stock Exchange, Inc. for access to the common message switch.

4. Report by certain Board members regarding possible Board consideration of issues concerning options.

5. Discussion of such other matters as may properly be brought before the Board.

Further information may be obtained by writing Martin L. Budd, Executive Director, National Market Advisory Board Staff, Securities and Exchange Commission, Washington, D.C. 20549.

GEORGE A. FITZSIMMONS,
*Secretary.*

JULY 22, 1977.

[FR Doc.77–21749 Filed 7–27–77;8:45 am]

[Rel. No. 9865; 812–4111]

## PURITAN FUND, INC. AND FIDELITY MANAGEMENT & RESEARCH CO.

### Application

JULY 22, 1977.

Notice is hereby given that Puritan Fund, Inc. ("Puritan"), registered under the Investment Company Act of 1940 ("Act") as an open-end diversified management investment company, and Fidelity Management & Research Company ("FMR"), 82 Devonshire Street, Boston, Massachusetts 02109, investment adviser to Puritan (collectively referred to as "Applicants"), filed an application on March 25, 1977, and an amendment thereto on June 17, 1977, for an order of the Commission pursuant to Section 6(c) of the Act exempting from the provisions of Section 22(c), Rule 22c–1 and Section 22(d) of the Act the proposed exchange of Puritan shares at net asset value without a sales charge and at a price other than the price next determined after receipt of a purchase order for substantially all of the assets of Blanchard Investment Company, Inc. ("Blanchard"), a personal holding company; and for an order pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder permitting an agreement between Puritan and FMR calling for Puritan and FMR each to bear one-half of Puritan's out-of-pocket expenses related to the above proposed exchange of shares up to a maximum of $5,000, and for all of such out-of-pocket expenses in excess of $5,000 to be borne by FMR. All interested persons are referred to the application on file with the Commission for a statement of the representations contained trerein, which are summarized below.

Puritan's shares are currently being offered by Fidelity Distributors Corp., its principal underwriter, for sale to dealers who in turn resell them to the public at public offering prices consisting of the net asset value per share plus varying sales loads described in Puritan's current prospectus. FMR is an investment adviser registered with the Commission under the Investment Advisers Act of 1940. Since FMR acts as investment adviser to Puritan it is an affiliated person of Puritan under Section 2(a)(3)(E) of the Act.

Based upon representations made by or for Blanchard, Applicants represent that Blanchard is a corporation organized and existing under the laws of Massachusetts. Its common stock, which is its only class of securities outstanding, is held of record by thirty-one individuals, trusts, estates or nominees for such persons. Puritan represents that there is no connection between it and Blanchard, no affiliated person of Blanchard is an affiliated person of Puritan, and no affiliated person of Puritan is an affiliated person of Blanchard.

Applicants state that Puritan and Blanchard have entered into an Agree-



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ment and Plan of Reorganization (the "Plan") which provides for the transfer of substantially all of the securities owned by Blanchard (which securities had a market value of $4,571,245 on December 31, 1976) to Puritan in exchange for shares of capital stock of Puritan. The shares of Puritan are to be acquired at net asset value without a sales charge. Pursuant to the Plan, Puritan shares having an aggregate net asset value equal to the value of Branchard's assets to be acquired shall be issued in exchange therefore (the number of shares to be determined by dividing the aggregate market value of Blanchard's assets to be acquired by the net asset value per share of Puritan). The net asset value per share of Puritan and the market value of the assets of Blanchard to be acquired by Puritan will be determined as of the close of business of the New York Stock Exchange on the business day next preceding the Closing Date. The actual exchange of Blanchard's assets for shares of Puritan will be on the Closing Date. If the valuation under the Plan had taken place at the close of business on April 15, 1977, approximately 477,459 shares having a net asset value of $11.07 each of Puritan would have been issued for substantially all of the assets of Blanchard having an aggregate value of $5,285,470, as of that date. Puritan currently expects to sell approximately $1,600,000 (or about 29%) of the securities to be acquired from Blanchard within a relatively short period following their acquisition.

The Plan also provides for the retention by Blanchard of an amount of cash not to exceed $25,000 to cover its expenses related to the above proposed exchange of shares, and any liabilities it may have to shareholders exercising appraisal rights granted under state law. The Plan further provides that, to the extent these expenses and liabilities are less than the amount of cash so withheld, Blanchard will invest such excess cash in additional shares of Puritan at the net asset value of such shares next computed after the excess cash is deposited with Puritan.

Applicants state that when received by Blanchard the shares of Puritan are to be distributed to Blanchard's shareholders in complete liquidation of Blanchard, in proportion to their respective stock ownership in Blanchard. It is a condition to the obligations of Puritan and Blanchard under the Plan, that, prior to the exchange of Blanchard's assets for Puritan shares, Puritan and Blanchard shall have received a written ruling from the Internal Revenue Service satisfactory to counsel for Puritan and Blanchard in form and content, or an opinion from Puritan's and Blanchard's respective counsel to the effect that the Plan, the acquisition of Blanchard's assets by Puritan and the receipt of Puritan shares in exchange therefor, and the distribution of such Puritan shares to Blanchard's shareholders will not result in taxable gains either to Blanchard or Puritan or to any of their shareholders, although such conditions may be waived by either Blanchard's or Puritan's Board of Directors.

The application states that as of December 31, 1976, the Federal tax cost basis of the Blanchard securities which are proposed to be transferred was $4,215,871, and their market value was $4,571,245. The Federal tax cost basis and market value of the securities in Puritan's portfolio was $695,718,866 and $774,910,268, respectively. The proportion of unrealized appreciation of the assets of Puritan is greater than such appreciation of the Blanchard assets to be transferred. Accordingly, the Directors of Puritan have determined that no adjustment to the Blanchard assets need be made to protect Puritan shareholders against possible tax liability resulting from the eventual disposition by Puritan of Blanchard assets, and that a net asset value exchange is appropriate under the circumstances.

The proposed exchange of shares set forth above will be accounted for as a purchase transaction and Puritan will record the market value of Blanchard's investments as its basis for cost, and thus will not recognize any unrealized appreciation or depreciation on the transaction. Applicants state that Puritan will recognize a capital loss carry forward in the amount of approximately $6,500 from the transaction since under the provisions of the Internal Revenue Code Blanchard's current $130,000 capital loss forward will be reduced by 5 percent for each percentage point that the Blanchard assets are less than 20 percent of the combined Blanchard-Puritan assets. Applicants further state that because of these factors, it is anticipated that the transaction will have no adverse impact on Puritan.

Section 22(c) of the Act and Rule 22c-1 thereunder taken together provide, in pertinent part, that a registered investment company may not issue its redeemable securities except at a price based on the current net asset value of such security which is next computed as of the close of trading on the New York Stock Exchange next following receipt of an order to purchase such security.

Section 22(d) of the Act provides, in pertinent part, that a registered investment company may sell redeemable securities issued by such company only at the current public offering price described in the prospectus. The current public offering price of the shares of Puritan as described in its prospectus is net asset value plus a sales charge.

Applicants further state that without an exemption from Sections 22(c) and 22(d) of the Act and Rule 22c-1 thereunder, Puritan would be prohibited from: (a) exchanging its shares at net asset value, without a sales charge, for substantially all of the assets of Blanchard, and (b) effecting the proposed exchange transaction on the Closing Date based on the market value of the assets of Blanchard to be transferred and net asset value per share of Puritan, both determined as of the valuation time which is the close of business on the last business day immediately preceding the Closing Date. Because the Closing Date and the Valuation Date will be fixed in advance, and in view of the short time span involved Applicants argue that the possible abuses at which Rule 22c-1 is directed will not exist.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision under the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants represent that they consider the proposed exchange of shares to be at a fair price, arrived at by arms-length bargaining, and believe that the granting of the requested exemption from the provisions of Section 22(c), Rule 22c-1 and Section 22(d) of the Act is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, and that the proposed acquisition will be beneficial to the shareholders of Puritan for the following reasons:

(1) those expenses of Puritan which do not rise proportionately with an increase in portfolio size will be spread over a larger number of shares, and therefore will be a smaller amount per share to the benefit of existing shareholders;

(2) the proposed exchange of shares will enable Puritan to acquire at one time additional securities for its existing portfolio without affecting the market in such securities; and

(3) even after offsetting brokerage commissions and approximate principal transaction costs involved in disposition of securities which Puritan does not expect to retain for any significant period after completion of the proposed exchange of shares, the transfer of portfolio securities to be retained pursuant to the proposed acquisition will cause Puritan less expense than the purchase of securities of the same issuers in the open market.

Applicants have also entered into an agreement calling for Puritan's out-of-pocket expenses related to the above proposed exchange of shares (excluding state and federal registration fees applicable to the shares of Puritan to be issued pursuant to the Plan which shall be paid by Puritan) up to a maximum of $5,000 to be borne one-half by Puritan and one-half by FMR, and for all such expenses in excess of $5,000 to be borne by FMR. The estimated expenses of the proposed transaction other than those being borne by Blanchard are expected to be $10,000 or less. Under the agreement, Puritan would bear $2,500 of these expenses and FMR would bear the balance. Because this agreement may be deemed to be a joint and several transaction by Puritan with an affiliated person of it, Applicants state that an order pursuant to the provisions of Rule 17d-1 under the Act approving the terms of the agreement may be necessary.

As noted above, Applicants have determined that Puritan will benefit from the proposed exchange of shares both from a spreading of fixed expenses over a broader asset base and because of the opportunity to obtain portfolio securities at reduced acquisition costs. On this basis, the directors of Puritan (including a majority of the disinterested directors) concluded that Puritan could properly bear all of the expenses related to the proposed exchange of shares. This being the case, the directors of Puritan (including a majority of the disinterested directors) concluded that an arrangement whereby Puritan would bear only part of such expenses, with a maximum exposure of $2500, was entirely appropriate.

Rule 17d-1, adopted by the Commission pursuant to Section 17(d) of the Act, provides, in pertinent part, that no affiliated person of any registered investment company and no affiliated person of such a person, acting as principal, shall participate in, or effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by an order. A joint enterprise or other joint arrangement as used in this Rule is any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company and any affiliated person of such registered investment company, or any affiliated person of such a person, have a joint or a joint and several participation, or share in the profits of such enterprise or undertaking. In passing upon such application, the Commission will consider whether the participation of such registered investment company in such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Puritan represents that its management believes that the granting of the application and the issuance of the requested Section 17 order would be consistent with the provisions, policies and purposes of the Act and that, to the extent that the participation of Puritan is different from that of FMR, it is more advantageous than FMR's participation because any expenses in excess of $5,000 will be borne by FMR.

Notice is further given that any interested person may, not later than August 16, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as t the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.77-21755 Filed 7-27-77;8:45 am]





## DEPARTMENT OF TRANSPORTATION

### Coast Guard

[CGD 77-137]

### PROPOSED BRIDGE ACROSS THE NEHALEM RIVER, MILE 6.5, AT NEHALEM, OREG.

#### Public Hearing

The Commandant has authorized a public hearing to be held by the Commander, Thirteenth Coast Guard District in conjunction with the Oregon State Highway Division. The hearing will be held in the Fire Hall, Nehalem, Oreg., at 7:30 p.m., September 8, 1977. Oregon State Highway Division will hold their portion of the hearing concerning a possible roadway improvement beginning 0.2 miles north of the existing Nehalem River Mile 6.5 swing drawbridge thence southerly to 0.2 miles south of the bridge for an overall length of about 0.4 miles. The Coast Guard portion of the hearing will be to determine navigation requirements of the Nahalem River at the mile 6.5 bridge. The proposed new bridge and roadway improvement will be constructed with the assistance of federal funds administered by Federal Highway Administration and the Oregon State Highway Division portion of the hearing will be conducted to meet FHWA requirements. When a specific bridge permit application is circulated, FHWA will act as the lead federal agency for the project for environmental requirements. All interested parties may present data, views and comments orally or in writing at the hearing concerning the impact of the proposed roadway and bridge on the environment and its effect on navigation.

The hearing will be informal. Oregon State Highway Division and Coast Guard representative will preside at the hearing, make brief opening statements describing the proposed work and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (oan), Thirteenth Coast Guard District, Federal Building, 915 Second Avenue, Seattle, Wash. 98174, by September 1, 1977. Such notification should include the approximate time required to make a presentation. A transcript will be made of the hearing and may be purchased by the public. Interested persons who are unable to attend this hearing may also participate in the consideration of navigation requirements by submitting their comments in writing on or before September 16, 1977, to the Commander (oan), Thirteenth Coast Guard District. Each comment should state the reasons for any objections or suggestions as to requirements for navigation and the name and address of the persons or organizations submitting the comment.

Copies of all written communications will be available for examination by interested persons at the office of the Commander (oan), Thirteenth Coast Guard District. All comments received will be considered. After the time set for the submission of comments, the Commander (oan), Thirteenth Coast Guard District will forward the record, including all written comments and his recommendations to the Commandant, U.S. Coast Guard, Washington, D.C. 20590.

(Section 502, 60 Stat. 847, as amended; 33 U.S.C. 525, 49 U.S.C. 1655(g)(6)(C); 49 CFR 1.46(c)(10).)

Dated: July 21, 1977.

A. F. FUGARO,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.77-21731 Filed 7-27-77;8:45 am]

[CGD 77-131]

### RULES OF THE ROAD ADVISORY COMMITTEE

#### Renewal of Charter

This is to give notice, in accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 5 U.S.C. App. 1), that the Rules of the Road Advisory Committee had been renewed for a two-year period beginning July 1, 1977 through July 1, 1979.

The Rules of the Road Advisory Committee was established to provide advice and consultation to the Marine Safety Council with respect to matters concerned with proposals affecting the Rules of the Road.

Interested persons may seek additional information by writing to Captain G. K. Greiner, Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590 or by calling 202-426-1477.

Dated: July 20, 1977.

A. F. FUGARO,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.77-21762 Filed 7-27-77;8:45 am]



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### National Highway Traffic Safety Administration

## PETITIONS TO COMMENCE DEFECT PROCEEDING

### Grant and Denials

This notice sets forth the reasons for the grant and denial of petitions to commence a proceeding to determine whether to issue an order pursuant to section 152(d) of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1412(b).

1. On February 24, 1977, Bronson C. La Follette, Attorney General of the State of Wisconsin, petitioned NHTSA to commence a defect proceeding with respect to the extent of power brake booster failure in 1971 to 1977 Chevrolets and other vehicles manufactured by General Motors Corporation. The petition alleged that the power brake booster system was subject to failure with the result that it was necessary to use abnormally high brake force in stopping the affected vehicles. General Motors subsequently announced that it was recalling 2.2 million 1976 model vehicles for correction of this problem. NHTSA has determined that there is a reasonable possibility that a notification and remedy order would be issued at the conclusion of a formal investigation of the other 1971 to 1977 vehicles included in Mr. La Follette's request, and accordingly granted his petition on May 24, 1977.

2. On January 22, 1976, a letter was received from Mr. LeRoy M. Schroeder of Milwaukee, Wisconsin, petitioning NHTSA to commence a defect proceeding with respect to a supposed defect in the suspension system of the 1975 Ford Elite passenger car. The petition alleged that the vehicle exhibited excessive rocking and swaying motion during low speed turning maneuvers which may lead to loss of control. The NHTSA conducted a thorough review of all available information, including consumer letters, Parts Return Program records, accident investigation reports, and Ford Motor Company Service Manuals and Technical Service Bulletins. An NHTSA engineer also test drove a 1975 Ford Elite and subjected it to a reasonable cross-section of situations encountered by a typical vehicle operator. The NHTSA has determined that the car's suspension system is such that an Elite equipped with radial tires does, in fact, exhibit a certain amount of rocking and swaying but not to the extent that there is any danger of loss of control, or that it would otherwise cause accidents and injuries. As a result it has been determined that there is no reasonable possibility that the order requested in the petition would be issued at the conclusion of the investigation. Accordingly, on May 19, 1976, the petition was denied.

3. On April 21, 1976, Mr. K. A. Farris of Oak Harbor, Washington, petitioned that a defect proceeding be initiated with respect to an alleged deficiency in transmissions of 1972 Ford Torinos. The petition alleged that transmissions were subject to premature failure which could disable vehicles in traffic thereby creating a safety hazard. The NHTSA thoroughly reviewed all available information including consumer letters, Parts Return Program records, accident investigation reports, Ford Motor Company Service Manuals and Technical Service Bulletins. The consumer complaint file contained 27 other reports of malfunctioning transmissions on the 1972 Ford Torino or Mercury Montego passenger cars, the problems generally characterized as "stopping", "clunking", or "doesn't shift properly". No accidents, injuries, or deaths were reported as a result of transmission malfunction. As a result it has been determined that there is no reasonable possibility that the order requested in the petition would be issued at the conclusion of the investigation. Accordingly, on August 6, 1976, the petition was denied.

4. On April 30, 1976, Mr. William V. Hollander petitioned NHTSA to conduct a defect proceeding with respect to dashboard illumination on Volkswagen Model 411 passenger cars. The petition alleged that the speedometer illumination is inadequate for nighttime operation, creating a safety hazard by causing the driver to direct attention from the road for an excessive period of time while trying to read the speedometer. The NHTSA conducted a thorough review of all available materials including consumer letters, Parts Return Program records, and accident investigation files. The agency also examined two used 411 vehicles, as well as a special speedometer assembly connected to a 12-volt power supply. NHTSA concluded that the illumination level of the 411 is comparable to other makes and models of vehicles, and that the condition complained of appears confined to petitioner's vehicle. As a result it has been determined that there is no reasonable possibility that the order requested in the petition would be issued at the conclusion of the investigation. Accordingly, on September 13, 1976, the petition was denied.

5. On June 2, 1976, Dr. N. Taylor Yates, Jr. of Alexandria, Va., petitioned the agency to commence a defect proceeding with respect to warning light failure in Volvo passenger cars. The petition alleged that in 1974–76 Volvo passenger cars the dashboard warning light will function only when one brake light is out but not when both are out, thereby creating a safety hazard. The NHTSA conducted a thorough review of all available information including consumer complaints, accident investigation records, Parts Return Program records, and Volvo Service Manuals and Technical Service Bulletins. The agency learned that the sensor warning light is designed to operate when one stop lamp is not functioning not both. However, the incidence of double stop lamp failure is so slight that the system design is not considered to contain a safety-related defect. As a result it was determined that there is no reasonable possibility that the order requested in the petition would be issued at the end of the investigation. Accordingly on October 4, 1976, the petition was denied.

(Sec. 124, 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1410a, 1412); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on July 21, 1977.

ROBERT L. CARTER,
*Associate Administrator,*
*Motor Vehicle Programs.*

[FR Doc.77-21462 Filed 7-27-77;8:45 am]

## TRUCK AND BUS SAFETY SUBCOMMITTEES

### Public Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of meetings of technical experts which are being sponsored and chaired by the Truck and Bus Safety Subcommittees of the National Highway Safety Advisory Committee and the National Motor Vehicle Safety Advisory Council.

The purpose of these meetings is to provide an opportunity for operators and drivers to discuss their implementation and operational problems related to FMVSS-121—air brake systems—with manufacturers and suppliers who may be able to provide solutions.

On August 16 from 8:30 a.m. to 5:00 p.m. in room 2230 of the DOT Headquarters Building, technical discussions of issues related to implementation and operation of FMVSS-121—air brake systems under various combinations of vehicle and system mix will be held. Brake application and release timing; brake torque balance at both low and high levels of brake application pressure; and hysteresis characteristics of activating valves as affected by the following vehicle mix will be discussed in that order.

A. 121 Tractor—Pre-121 Trailer Compatibility. B. Pre-121 Tractor—121 Trailer Compatibility. C. Pre-121 Tractor—Double or Triple Trailer Compatibility. D. 121 Tractor—Double or Triple Trailer Compatibility. For a discussion of compatibility problems and their proposed solutions, reference is made to a presentation by Mr. James M. Lewis, United Parcel Service, Inc., for the American Trucking Associations' Technical Advisory Group Brake Task Force. This was presented to the Truck and Bus Safety Subcommittees on May 19, 1977. Copies are available upon request to the Executive Secretary, NHTSA, address given below. The August 16 discussions will be chaired by Dr. Harold Fenner and co-chaired by Mr. Herbert Smith, both members of the Truck and Bus Safety Subcommittees.

On August 17 from 8:30 a.m. to 5:00 p.m. in room 2230 of the DOT Headquarters Building, technical discussions of issues related to antilock failure and possible concurrent brake failure, will be chaired by Mr. Joel Gustafson and co-chaired by Dr. Basil Scott, both members of the Truck and Bus Safety Subcommittees.

Technical representatives of users, both operators and drivers, with problems and tentative solutions and manufacturers of affected components or vehicles interested in participating in either or both days of these discussions are asked to contact the Executive Secretary, National Highway Traffic Safety Administration, address given below. Participants are asked to be prepared to present concrete evidence and quantitative data which will illustrate the problems and or solutions, and indicate frequency of occurrence. Data in as specific terms as possible is requested.

Further, notice is hereby given of a meeting of the Truck and Bus Safety Subcommittees. The task forces of the Subcommittees will meet from 8:30 a.m. to 10:00 a.m. on August 18 in the DOT Headquarters Building as follows:

The R. & D. Task Force will meet in room 3328 to review a staff presentation on driver fatigue and to discuss two pending draft resolutions and to also discuss old and new business.

The Safety Standards Task Force will meet in room 5332 to review a staff report on proposed 100, 200 and 300 series FMVSS for trucks and buses and to discuss old and new business.

The Operations and Driver Task Force will meet in room 4234 to discuss the FMVSS-121 related driver's manual and the mechanics manual and also to discuss old and new business.

The full Subcommittees will then meet from 10:15 a.m. to 5:00 p.m. in room 2230 of the DOT Headquarters Building to receive a status report on NHTSA sponsored-121 related-evaluation studies, reports from the chairmen of the task forces and, reports by the respective chairmen of the August 16 and 17 technical meetings. The car-truck underride issue will be discussed with NHTSA, MVMA and ATA representatives. The meeting will conclude with old and new business.

All of the above meetings are open to the public but attendance will be limited to the space available. With the approval of the Chairmen, members of the public may present oral statements at any of the meetings. Any member of the public may present a written statement to the subcommittees at any time. This meeting is subject to the approval of the appropriate DOT officials.

Additional information may be obtained from the NHTSA Executive Secretary, room 5215, 400 Seventh Street SW., Washington, D.C. telephone 202-426-2872.

Issued in Washington, D.C., on July 25, 1977.

WM. H. MARSH,
*Executive Secretary.*

[FR Doc.77-21723 Filed 7-27-77;8:45 am]

### National Highway Traffic Safety Administration

[Docket No. EX74-5; Notice 3]

## ASTON MARTIN LAGONDA (1975) LTD.

### Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

Aston Martin Lagonda (1975) Ltd, of Newport Pagnell, Engand, has petitioned for an extension of the temporary exemption granted its predecessor corporation, Aston Martin Lagonda Ltd. That exemption, from 49 CFR 271.215 Motor Vehicle Safety Standard No. 215, *Exterior Protection*, expires October 1, 1977. The basis of the petition is that compliance would cause substantial economic hardship.

In 1974 Aston Martin Lagonda petitioned for (39 FR 30374) and received (39 FR 36630) a 3-year exemption from Standard No. 215. Its petition indicated its intent to conform with the standard by October 1, 1977. However, the company went into voluntary liquidation in December 1974, and its assets were transferred by the receiver to Aston Martin Lagonda (1975) Ltd. in June 1975. Production resumed in December 1975, reaching the break-even point of six units a week in March 1976. Aston Martin lost a year's production and sales due to its financial difficulties, and as of May 1977 has shipped only 105 cars to the United States under its temporary exemption. It produced 215 vehicles in the 12-month period ending February 28, 1977. Since resuming operations its primary concern has been to develop an all-new car, the Lagonda, "designed with all known current and future European and U.S.A. regulations in mind". The bumper system on the Lagonda is not yet finalized but could be adapted to the presently-exempted Aston Martin. However, to conform by October 1, 1977, would reduce Aston Martin's profit margin by over $46,000. Petitioner has sustained a net loss of $106,000 from June 1975 to March 31, 1977, and anticipates investing any profits in fixed assets connected with its manufacturing operations. Aston Martin argues that an extension of its exemption would be in the public interest and consistent with the objectives of the National Traffic and Motor Vehicle Safety Act because (with the exception of Standard No. 215) it "conforms to all current world safety standards." It believes that its standard bumper "fitted with overriders gives adequate protection to the safety equipment in low speed accidents and prevents override and underride at high speeds."

Although Aston Martin has requested an exemption until October 1, 1980, when a conforming successor model would be introduced, any further exemption granted the company would expire not later than September 1, 1978. On that date Standard No. 215 is revoked, and the applicable requirements will be those of 49 CFR Part 581, *Bumper Standard*. In the opinion of this agency the enabling legislation (15 U.S.C. 1901 et seq.) provides no authority to exempt from its requirements passenger motor vehicles intended for general use.

This notice of receipt of a petition for a temporary exemption is published in accordance with NHTSA regulations on this subject (49 CFR 555.7), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit comments on the petition of Aston Martin described above. Comments should refer to the docket number and be submitted to: Docket Section National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. Notice of action upon the petition will be published in the FEDERAL REGISTER.

Comments closing date: August 24, 1977.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.50 and CFR 501.8.)

Issued on July 25, 1977.

ROBERT L. CARTER,
*Associate Administrator,*
*Motor Vehicle Programs.*

[FR Doc.77-21737 Filed 7-27-77;8:45 am]

## DEPARTMENT OF THE TREASURY

### Comptroller of the Currency

### MIDLAND NATIONAL BANK MILWAUKEE, WISCONSIN

### Suspension of Trading

On my opinion that the public interest and the protection of investors so require, trading in the common stock of Midland National Bank, Milwaukee, Wisconsin, is hereby suspended pursuant to sections 12(1) and 12(k) of the Securities Exchange Act of 1934 for the two-day period, commencing at the opening of business on July 25, 1977.

Dated: July 24, 1977.

JOHN G. HEIMANN,
*Comptroller of the Currency.*

[FR Doc.77-21721 Filed 7-27-77;8:45 am]

## WATER RESOURCES COUNCIL

### WATER RESOURCE POLICY STUDY

### Indian Water Rights Statement

The Secretary of the Interior is fully aware of the unique statues of the Indians as beneficiaries of the trust responsibility owing to them by the United States. Indians are the owners of a beneficial right to the use of either surface water or ground water related to their reservations. The trustee United States is obligated to protect Indian rights to the use of water.

A study of policy regarding Indian water rights will be undertaken initially by the new Assistant Secretary of the Interior for Indian Affairs. This study will be coordinated as a part of the overall study of water policy reform.

Indian water rights are not the same as "Federal rights" and, therefore, cannot be included in a policy statement involving "Federal rights" (see issues of July 6, 15 and 25 (42 FR 34563, 36788 and 37940, respectively) and no separate option paper on Indian rights to the use of water will be published.

GUY R. MARTIN,
*Alternate to the Chairman,*
*Water Resources Council,*
*Chairman, Water Resource*
*Policy Committee.*

JULY 26, 1977.

[FR Doc.77-21859 Filed 7-27-77;8:45 am]







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## INTERSTATE COMMERCE COMMISSION

[Notice No. 448]

### ASSIGNMENT OF HEARINGS

JULY 25, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 141158, Ronald Dean Clinkenbeard, common carrier application, now being assigned September 15, 1977 (1 day), at Los Angeles, Calif., and will be held in Court Room 323, Federal Building and Courthouse, 312 North Spring Street.

MC 141743 (Sub 1), Mark IV Charter Lines, Inc., now being assigned September 19, 1977 (1 week), for continued hearing at Los Angeles, Calif., and will be held in Room 324, Courthouse Building, 312 North Spring Street.

No. 36571, Idaho Intrastate Freight Rates and Charges—1977, now being assigned August 7, 1977 (3 days), at Boise, Idaho, in a hearing room to be later designated.

MC 130410, Corporate Travel Service, Inc., now being assigned for continued hearing August 16, 1977 (3 days) at 1500 Parklane Towers East, Dearborn, Mich.

MC 142920, Oliver Trucking Corp., now being assigned for hearing on October 17, 1977 (1 day), at New York, N.Y., in a hearing room to be later designated.

MC 113651 (Sub-No. 217), Indiana Refrigerated Lines, Inc., now being assigned for hearing on October 18, 1977 (2 days), at New York, N.Y., in a hearing room to be later designated.

MC 115353 (Sub-No. 25), Louis J. Kennedy Trucking Co., now being assigned October 20, 1977 (2 days), at New York, N.Y., in a hearing room to be later designated.

H. G. HOMME, JR.,
*Acting Secretary*

[FR Doc.77-21760 Filed 7-27-77;8:45 am]

[Volume No. 27]

## PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

JULY 22, 1977.

PETITIONS FOR MODIFICATION, INTERPRETATION, OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

The Commission has recently provided for easier identification of substantive petition matters and all documents should clearly specify the "docket", "sub", and "suffix" (e.g. M1, M2) numbers identified by the FEDERAL REGISTER notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 42261 (Sub-Nos. 111 and 124) (M1) (Notice of filing of petition to modify commodity and territorial descriptions) filed June 15, 1977. Petitioner: LANGER TRANSPORT CORP., Box 305, Jersey City, N.J. 07303. Petitioner's representative: W. C. Mitchell, 370 Lexington Avenue, New York, N.Y. 10017. Petitioner holds motor *common carrier* certificates in No. MC 42261 (Sub-No. 111 and 124), issued September 12, 1972 and March 25, 1977 respectively, authorizing transportation, over irregular routes, in No. MC 42261 (Sub-No. 111) of (A)(1) *Metal containers and container ends*, and (2) *accessories, materials, equipment and supplies* used in the manufacture, sale and distribution of the commodities described in (1) above, from Millis, Mass., Danbury, Conn., Edison, N.J., New York, N.Y., Fairless Hills, Hamburg and Hanover, Pa., to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia, restricted to traffic originating at the plantsites and warehouses of National Can Corporation at the aforementioned origin points, and further restricted against the transportation of commodities in bulk, and even further restricted against traffic moving from Fairless Hills, Hamburg, and Hanover, Pa., to points in Chautauqua County, N.Y.; and in No. MC 42261 (Sub-No. 124) of (B)(1) *Containers, container ends, and container closures*, and (2) *accessories, materials, equipment and supplies*, used in the manufacture, sale and distribution of the commodities in (B)(1) above (except commodities in bulk), from Fogelsville, Pa. to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and the District of Columbia, restricted against the transportation of glass containers and accessories, materials, equipment and supplies used in the manufacture, sale and distribution thereof. By the instant petition, petitioner seeks to consolidate the above authorities, so as to read: (1) *Containers, container ends, and container closures*, and (2) *accessories, materials, equipment, and supplies*, used in the manufacture, sale and distribution of the commodities in (1) above (except commodities in bulk), between points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at or destined to the facilities of National Can Corporation.

No. MC 59150 (Sub-No. 16) M1 (Corrected notice of filing of petition to remove restrictions) filed May 6, 1977. Published in the FEDERAL REGISTER issue of June 23, 1977, and republished as corrected this issue. Petitioner: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, P.O. Box 3277, Jacksonville, Fla. 32202. Petitioner's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Petitioner holds a motor *common carrier* Certificate in No. MC 59150 (Sub-No. 16), issued January 24, 1975, authorizing transportation over irregular routes, of *Tractors* (except truck tractors) and *parts, implements, attachments, accessories and supplies* therefor, when moving incidentally thereto as a part of the same shipment, between points in Arkansas, North Carolina, South Carolina, Florida, Georgia, Tennessee, Alabama, and Mississippi, restricted to the transportation of traffic originating at and destined to points within the states described above. By the instant petition, petitioner seeks to delete the phrase, in the commodity descriptions which reads "when moving incidentally thereto as a part of the same shipment," and to further remove the restriction, as stated, "restricted to the transportation of traffic originating at and destined to points within the states described below."

NOTE.—The purpose of this correction is to clarify modification sought by the petition.

No. MC 119619 (Sub-Nos. 3 and 5) M1 (Notice of filing of petition to modify certificates) filed June 6, 1977. Petitioner: DISTRIBUTORS SERVICE CO., a corporation, 2000 W. 43rd St., Chicago, Ill. 60609. Petitioner's representative: Robert W. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Petitioner holds motor *common carrier* Certificates in No. MC 119619 (Sub-Nos. 3 and 5), issued February 13, 1969, and February 4, 1969, respectively, authorizing transportation (I) in No. MC 119619 (Sub-No. 3), over irregular routes, as pertinent, of *cheese*, not frozen (in mixed loads with meat), from Philadelphia, Pa.; Boston, Mass.; Baltimore, Md.; and the New York, N.Y., Commercial Zone, as defined by the Commission, to Chicago, Ill.; and *cheese*, not frozen (in mixed loads with meat), from Chicago, Ill., to points in Maryland, New York, New Jersey, Massachusetts, Connecticut, Rhode Island, Delaware, points in that part of Pennsylvania on and east of U.S. Highway 15, and the District of Columbia, restricted (1) when moving from Philadelphia, Pa.; Boston, Mass.; Baltimore, Md.; and New York, N.Y., to shipments having an immediately prior movement by water; (2) when moving from or to Chicago, Ill., to shipments moving from or to the warehousing, processing, and manufacturing facilities of J. S. Hoffman Co., at Chicago, Ill., and (3) when moving from or to Monroe, Wis., to shipments moving from or to the warehousing, processing and manufacturing facilities of J. S. Hoffman Co., Triangle Cheese Corporation and Green County Prepak Company at Monroe, Wis.; and (II) in No. MC 119619 (Sub-No. 5), over irregular routes, of *cheese*, not frozen (in mixed loads with meat), *sliced meat, canned meat*, and *sausage*, not frozen, between Moonachie, N.J., on the one hand, and, on the other, Chicago, Ill., and Monroe, Wis., restricted (1) when moving from or to Chicago, Ill., or Moonachie, N.J., to shipments moving from or to the facilities of J. S. Hoffman Co., at Chicago, or Moonachie, and (2) when moving from or to Monroe, Wis., to shipments moving to or from the facilities of J. S. Hoffman Co., Triangle Cheese Corporation, or Green County Prepak Company at Monroe, Wis.

By the instant petition, petitioner seeks to make the following changes in the authorities above: (A) in No. MC 119619 (Sub-No. 3), to delete the parenthetical condition "in mixed loads with meat" in both places where it appears above; to delete restriction number (2); to modify restriction number (3) by deleting J. S. Hoffman Co., Triangle Cheese Corp., and Green County Prepak Co., and substituting Anderson Clayton and Co. and/or Anderson Clayton Foods in lieu thereof; and (B) in No. MC 119619 (Sub-No. 5), to delete the parenthetical condition "in mixed loads with meat"; to delete Moonachie, N.J., as the base point and substitute the New York, N.Y. Commercial Zone as defined by the Commission in lieu thereof; to modify restriction number (1) to read "when moving from or to New York, N.Y. Commercial Zone to shipments moving from or to the facilities of Anderson Clayton and Co. and/or Anderson Clayton Foods"; and to modify restriction number (2) to change the names from J. S. Hoffman Co., Triangle Cheese Corp., or Green County Prepak Company, to Anderson Clayton Co. and/or Anderson Clayton Foods.

MC 129219 (Sub-No. 8M1) (Notice of filing of petition to add an additional contracting shipper), filed June 9, 1977. Petitioner: CMD TRANSPORTATION, INC., 12340 SE Dumolt Road, Clackamas, Oregon 97015. Petitioner's Representative: Philip G. Skofstad, P.O. Box 594, Gresham, Oregon 97030. Petitioner holds a motor *contract carrier* Permit in No. MC129219 (Sub-No. 8), issued March 23, 1976 authorizing transportation over irregular routes of: *Waste Paper products* for recycling or reuse in furtherance of recognized pollution control programs, from points in California, Idaho, Montana, Nevada, Oregon, Utah, and Washington to Albany and Portland, Oregon; Los Angeles and Paso Robles, California; and Seatttle and Vancouver, Washington under a continuing contract or contracts with Western Fiber Resources. By this instant petition, petitioner seeks to modify its permit by adding Publishers Paper Company as an additional shipper.

No. MC 133758 M1 (Notice of filing of petition to add additional contracting shipper), filed May 27, 1977. Petitioner: PRINCE BROS., INC., 503 Fulton St., Antigo, Wis. 54409. Petitioner's representative: Edward Solie, Executive Building—Suite 100, 4513 Vernon Blvd., Madison, Wis. 53705. Petitioner holds motor *contract carrier* authority in No. MC 133758, issued December 29, 1969, authorizing transportation over irregular routes, of *malt beverages*, and *related advertising materials, premiums*, and malt beverage dispensing equipment in mixed loads with malt beverages, from St. Paul, Minn., to Antigo, Wis., under a continuing contract, or contracts, with Antigo Beverage Co., Inc., of Antigo, Wis. By the instant petition, petitioner seeks to add Geno McKenna and Sons, Inc., of Antigo, Wis. as an additional contracting shipper to the authority above.

MC 141124 (M1) (Notice of filing of petition to modify a certificate), filed June 10, 1977. Petitioner: EVANGELIST COMMERCIAL CORPORATION, P.O. Box 1709, Wilmington, Del. 19899. Petitioner's representative: James W. Muldoon, 50 West Broad Street, Columbus, Ohio 43215. Petitioner holds a motor *common carrier* certificate in No. MC-141124, issued March 1, 1976, authorizing the transportation, over irregular routes, of *Paper and paper products*, from the plantsites and facilities of The Mead Corporation at Chillicothe, Ohio and of Champion International, Inc. at Hamilton and Piqua, Ohio to points in Pennsylvania, Maryland, Delaware, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont, Maine, and the District of Columbia; and *Rejected and returned shipments* of paper and paper products and *commodities* used in the manufacture of paper and paper products (except commodities in bulk), from points in Pennsylvania, Maryland Delaware, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont, Maine, and the District of Columbia to the plantsites and facilities of The Mead Corporation in Chillicothe, Ohio and of Champion International, Inc. at Hamilton and Piqua, Ohio. By the instant petition, petitioner seeks to add as a service point the plantsites and facilities of Champion International Corporation in Cincinnati, Ohio.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 130425 (Republication), filed November 12, 1976, published in the FEDERAL REGISTER issue of December 23, 1976, and republished this issue. Applicant: NANCE TOURS & TRAVEL, INC., 523 East Broadway, Long Beach, Calif. 90802. Applicant's representative: David B. Boller, 2200 Broadway Plaza, 700 S. Flower, Los Angeles, Calif. 90017. An Order of the Commission, Review Board Number 2, dated June 17, 1977, and served July 7, 1977, finds that the present and future public convenience and necessity require operations by applicant at Long Beach, Calif., as a *broker* in arranging for the transportation by motor vehicle, in interestate or foreign commerce, of *Passengers and their baggage*, in round trip tours, in special and charter operations, beginning and ending at points in Kern, Los Angeles, Orange, San Diego, and Ventura Counties, Calif., and extending to points in the United States (including Alaska but excluding Hawaii and California), that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the grant of operations as a broker, at Long Beach, Calif., in lieu of Fountain Valley, Seal Beach, South Gate and Huntington Park, Calif.

No. MC 135895 (Sub-No. 12) (Republication), filed October 4, 1976, and published in the FEDERAL REGISTER issue of October 29, 1976 and republished this issue. Applicant: DON RAY BOYD AND JACKIE RODGERS doing business as B & R DRAYAGE COMPANY, P.O. Box 8534, Battlefield Station, Jackson, Miss. 39205. Applicant's representative: Douglas C. Wynn, P.O. Box 1295, Greenville, Miss. 38701. An Order of the Commission, Review Board Number 3, dated June 16, 1977, and served July 7, 1977, finds that the present and future public convenience and necessity require operations by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of: *Glass containers, closures, and returned shipments* of glass containers and closures (1) between the facilities of Chattanooga Glass Company located at or near Gulfport, Miss.,

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.







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on the one hand, and on the other, points in Alabama, Arkansas, Florida, Georgia, Louisiana, Oklahoma, Tennessee (except Memphis and points in its commercial zone), and Texas; (2) between the facilities of Chattanooga Glass Company located at or near Mineral Wells, Miss., on the one hand, and, on the other, points in Arkansas, Louisiana, Oklahoma, Tennessee, and Texas; (3) between the facilities of Chattanooga Glass Company located at or near Chattanooga, Tenn., on the one hand, and, on the other, points in Alabama, Arkansas (except Little Rock and points in its commercial zone), Florida, Georgia, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas; and (4) between the facilities of Chattanooga Glass Company located at or near Corsicana, Tex., on the one hand, and, on the other, points in Alabama Florida Georgia, and Texas; that applicant it fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is (a) to modify applicant's commodity description to read: *"Glass containers, closures, and returned shipments* of glass containers and closures" in lieu of *"Bottles, carboys, demijohns and jars, and closures, and damaged or rejected shipments* of said commodities," (b) to indicate applicant's exceptions in (1) and (3) above; (c) to include Mississippi, as additional base point as stated in (3) above; and (d) to service points in (2) to points in Arkansas, Louisiana, Oklahoma, Tennessee, and Texas; and in (4) to points in Alabama, Florida Georgia, and Texas.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's *General Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of oppostion and participation in the proceeding. A protest under these rules should comply with Section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the Federal Register of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that there will be significant effect on the quality of the human environment resulting from approval of its application.

No. MC 1824 (Sub-No. 76), filed June 9, 1977. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Boulevard, Preston, Md. 21655. Applicant's representative: Frank V. Klein (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over *regular* routes, transporting: *General Commodities* (except commodities of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Serving the plant site and warehouses of Mobil Chemical Corporation at Macedon, N.Y., as an off-route point in connection with Applicant's regular route operations between Lemoyne, Pa., and Rochester, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Rochester, N.Y., or Washington, D.C.

No. MC 2960 (Sub-No. 9), filed June 10, 1977. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS (A corporation), 2301 McKinney Street, Houston, Texas 77023. Applicant's representative: E. Larry Wells, P.O. Box 45538, Dallas, Texas 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal hides and pelts*, from Fort Worth, Tex., to Houston, Tex., restricted to traffic having a subsequent movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas, Tex., or Washington, D.C.

No. MC 40235 (Sub-No. 33) (correction), filed March 25, 1977, published in the FEDERAL REGISTER issue of May 19, 1977, and republished as corrected this issue. Applicant: I.R.C. & D MOTOR FREIGHT, INC., 128 S. 2nd Street, Richmond, Ind. 47374. Applicant's representative: Walter F. Jones, Jr. 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) between Liberty and Brookville, Ind.: From Liberty, Ind. over Indiana Highway 101 to Brookville, Ind. and return over the same route, serving all intermediate points, (2) between New Trenton and Indianapolis, Ind.: From New Trenton, Ind. over U.S. Highway 52 to Indianapolis, Ind. and return over the same route, serving all intermediate points, (3) between Connersville, Ind. and junction of Indiana Highway 121 and U.S. Highway 52: From Connersville, Ind. over Indiana Highway 44 to junction Indiana Highway 121, serving all intermediate points; and (4) between Rushville and Dunreith, Ind.: From Rushville, Ind. over Indiana Highway 3 to Dunreith, Ind. and return over the same route, serving all intermediate points and off-route points of Carthage and Mays, Ind.

NOTE.—The purpose of this republication is to indicate correct routes. If a hearing is deemed necessary, the applicant requests it be held at either Indianapolis, Ind. or Columbus, Ohio.

No. MC 42487 (Sub-No. 865), filed June 10, 1977. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, California 94025. Applicant's representative: V. R. Oldenburg, P.O. Box 5138, Chicago, Illinois 60680. Authority is sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and assembled automobiles), (1) Between Billings, Montana and junction U.S. Highways 26 and 30 near Ogallala, Nebraska as an alternate route for operating convenience only in connection with carrier's authorized regular-route operation serving no intermediate points, and serving the junction of U.S. Highways 26 and 30, the junction of U.S. Highway 75 and Nebraska Highway 2 at Nebraska City, Nebraska and the junction of Interstate Highway 29 and Iowa Highway 2 for purposes of joinder only: From Billings over Interstate Highway 90 to junction U.S. Highway 87 near Buffalo, Wyoming, thence over U.S. Highway 87 to junction U.S. Highway 26 near Casper, Wyoming, thence over U.S. Highway 26 to junction Nebraska Highway 79E near Minatare, Nebraska, thence over Nebraska Highway 79E to junction Nebraska Highway 92, thence over Nebraska Highway 92 to junction U.S. Highway 26, and thence over U.S. Highway 26 to junction U.S. Highway





30 near Ogallala, Nebraska, and return over the same route. From Billings over Interstate Highway 90 to junction Interstate Highway 25 near Buffalo, Wyoming, thence over Interstate Highway 25 to junction U.S. Highway 26 near Casper, Wyoming, thence over U.S. Highway 26 to junction Nebraska Highway 79E near Minatare, Nebraska, thence over Nebraska Highway 79E to junction Nebraska Highway 92, thence over Nebraska Highway 92 to junction U.S. Highway 26, and thence over U.S. Highway 26 to junction U.S. Highway 30 near Ogallala, Nebraska and return over the same route.

(2) Between Cheyenne, Wyoming and junction U.S. Highways 26 and 30 near Ogallala, Nebraska, as an alternate route for operating convenience only in connection with carrier's authorized regular-route operation serving no intermediate points, and serving the junction of U.S. Highways 26 and 30, the junction of U.S. Highway 75 and Nebraska Highway 2 at Nebraska City, Nebraska and the junction of Interstate Highway 29 and Iowa Highway 2 for purposes of joinder only: From Cheyenne over Interstate Highway 80 to junction U.S. Highway 30 near Pine Bluff, Wyoming, and thence over U.S. Highway 30 to junction U.S. Highway 26, and return over the same route. (3) Between junction U.S. Highways 26 and 30 near Ogallala, Nebraska and junction Interstate Highway 29 and Iowa Highway 2, as an alternate route for operating convenience only in connection with carrier's authorized regular-route operations serving no intermediate points, and serving the junction of U.S. Highways 26 and 30, the junction of U.S. Highway 75 and Nebraska Highway 2 at Nebraska City, Nebraska, and the junction of Interstate Highway 29 and Iowa Highway 2 for purposes of joinder only: From junction U.S. Highways 26 and 30 over U.S. Highway 30 to junction Nebraska Highway 25 near Sutherland, Nebraska, thence over Nebraska Highway 25 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Nebraska Highway 2, near Lincoln, Nebraska, thence over Nebraska Highway 2 to junction Iowa Highway 2 and thence over Iowa Highway to junction Interstate Highway 29, and return over the same route. (4) Between Cheyenne, Wyoming and junction Interstate Highway 29 and Iowa Highway 2, as an alternate route for operating convenience only in connection with carrier's authorized regular-route operation serving no intermediate points, and serving the junction of U.S. Highways 26 and 30, the junction of U.S. Highway 75 and Nebraska Highway 2 at Nebraska City, Nebraska and the junction of Interstate Highway 29 and Iowa Highway 2 for purposes of joinder only: From Cheyenne over Interstate Highway 80 to junction Nebraska Highway 2, near Lincoln, Nebraska, thence over Nebraska Highway 2 to junction Iowa Highway 2, and thence over Iowa Highway 2 to junction Interstate Highway 29, and return over the same route.

(5) Between junction of U.S. Highway 75 and Nebraska Highway 2 at Nebraska City, Nebraska and St. Joseph, Missouri, as an alternate route for operating convenience only in connection with carrier's authorized regular-route operation serving no intermediate points, and serving the junction of U.S. Highways 26 and 30, the junction of U.S. Highway 75 and Nebraska Highway 2 at Nebraska City, Nebraska and the junction of Interstate Highway 29 and Iowa Highway 2 for purposes of joinder only: From junction of U.S. Highway 75 and Nebraska Highway 2 at Nebraska City, Nebraska over U.S. Highway 75 to junction U.S. Highway 36 near Sabetha, Kansas and thence over U.S. Highway 36 of St. Joseph, Missouri and return over the same route. (6) Between junction Interstate Highway 29 and Iowa Highway 2 and St. Joseph, Missouri, as an alternate route for operating convenience only in connection with carrier's authorized regular-route operation serving no intermediate points, and serving the junction of U.S. Highways 26 and 30, the junction of U.S. Highway 75 and Nebraska Highway 2 at Nebraska City, Nebraska and the junction Interstate Highway 29 and Iowa Highway 2 for purposes of joinder only: From junction of Interstate Highway 29 and Iowa Highway 2 over Interstate Highway 29 to St. Joseph, Missouri and return over the same route.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. Common control may be involved.

No. MC 52680 (Sub-No. 3), filed May 25, 1977. Applicant: T. W. EXPRESS OF IND., INC., 4600 W. 34th Street, Cicero, Ill. 60650. Applicant's representative: David C. Ackerson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *General Commodities*, (except livestock and commodities in bulk, in tank vehicles) and further restricted to weights of 5,000 lbs., or less on one Bill of Lading, between points in Indiana on and North of U.S. Highway 40.

NOTE.—Applicant states it intends to tack the requested authority above with its existing authority in No. MC 52680 (Sub-No. 1) at Gary, Hammond, and Whiting, Ind., to provide a through service in the transportation of (1) Such merchandise as is dealt in by mail order houses, when such merchandise is transported for mail order or retail merchandise establishments; and (2) meat, packinghouse products and groceries, from points in Indiana on and north of U.S. Highway 40, to Danville, Ill., and points within 70 miles of Danville, restricted in (1) and (2) above against the transportation of commodities in bulk, in tank vehicles, and further restricted in (1) and (2) above to the weights of 5,000 lbs., or less on one Bill of Lading. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 67121 (Sub-No. 10), filed June 9, 1977. Applicant: HARP TRANSPORTATION LINE, P.O. Box 1159, St. Joseph, Mo. 64502. Applicant's representative: Martin J. Rosen, 256 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over *regular* routes, transporting *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Denver, Colo., and Salt Lake City, Utah serving no intermediate points and serving Salt Lake City for the purpose of joinder and interchange of traffic only. From Denver, Colo., over U.S. Highway 40 to Salt Lake City, Utah, and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, Applicant requests that it be held at Denver, Colo., or Salt Lake City, Utah.

No. MC 67210 (Sub-No. 11) (correction), filed March 16, 1977, published in FEDERAL REGISTER issue of May 12, 1977, and republished as corrected this issue. Applicant: GLENNON TRANSPORTS, INC., 1000 North Fourteenth St., St. Louis, Mo. 63106. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (A) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the off-route points of Shiloh, Ferrin, Iuka, Xenia, Camp Travis, Calhoun, West Salem, Bone Gap, Damiansville, Woodlawn, Thackery, Bungay, Liberty, Barnhill, Enterprise, Rinard, Ellery, Goldengate, Walnut Hill, Scott Air Force Base, Phillipstown, Garrison, Belle Prairie, Bluford, Keenville, Sims, and Kell, Ill., in connection with carrier's existing regular-route operations and carrier's proposed regular-route operations set out herein below. (B) Authority is also sought to transport general commodities (with the same exceptions as above), (1) Between St. Louis, Mo., and Mt. Carmel, Ill., serving all intermediate points: From St. Louis over U.S. Highway 50 to junction Illinois Highway 130, thence over Illinois Highway 130 to Albion, Ill., thence over Illinois Highway 15 to Mt. Carmel, and return over the same route; (2) Between junction U.S. Highway 50 and Illinois Highway 161, and McLeansboro, Ill., serving all intermediate points: From junction U.S. Highway 50 and Illinois Highway 161 over Illinois Highway 161 to junction Illinois Highway 15, thence over Illinois Highway 15 to Mt. Vernon, Ill., thence over U.S. Highway 460 to McLeansboro, and return over the same route; (3) Between Carlyle, Ill., and Nashville, Ill., serving all intermediate points: From Carlyle over Illinois Highway 127 to Nashville, and return over the same route; (4) Between junction U.S. Highways 50 and 45, and Carmi, Ill., serving all intermediate points: From junction U.S. Highways 50 and 45 over U.S. Highway 45 to junction U.S. Highway 460, thence over U.S. Highway 460 to Carmi, and return over the same route; (5) Between Albion, Ill., and Fairfield, Ill., serving all intermediate points:



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From Albion over Illinois Highway 15 to Fairfield, and return over the same route.

(6) Between junction U.S. Highway 45 and unnumbered highway near Cisne, Ill., and junction Illinois Highway 161 and U.S. Highway 50, serving all intermediate points: From junction U.S. Highway 45 and unnumbered highway over unnumbered highway to junction Illinois Highway 37, thence over Illinois Highway 161 to junction U.S. Highway 50, and return over the same route; (7) Between Mt. Carmel, Ill., and Carmi, Ill., serving all intermediate points: From Mt. Carmel over Illinois Highway 1 to Carmi, and return over the same route; (8) Between junction U.S. Highways 45 and 460, and McLeansboro, Ill., serving all intermediate points: From junction U.S. Highways 45 and 460 over U.S. Highway 460 to McLeansboro, and return over the same route; (9) Between McLeansboro, Ill., and Mt. Vernon, Ill., serving all intermediate points: From McLeansboro over Illinois Highway 142 to Wayne City, Ill., thence over Illinois Highway 15 to Mt. Vernon, and return over the same route; (10) Between Mt. Vernon, Ill., and Salem, Ill., serving the intermediate point of Rome, Ill.: From Mt. Vernon over Illinois Highway 37 to Salem, and return over the same route; (11) Between Fairfield, Ill., and Wayne City, Ill., serving no intermediate points: From Fairfield over Illinois Highway 15 to Wayne City, and return over the same route; (12) Between junction U.S. Highways 51 and 460, and junction U.S. Highways 51 and 50, serving the intermediate points of Richview, Centralia, and Central City, Ill.: From junction U.S. Highways 51 and 460 over U.S. Highway 51 to junction U.S. Highway 50, and return over the same route; (13) Between St. Louis, Mo., and junction Illinois Highway 3 and U.S. Highway 51: From St. Louis over U.S. Highway 50 Bypass to East St. Louis, Ill., thence over Illinois Highway 3 to junction U.S. Highway 51, and return over the same route; (14) Between junction Illinois Highways 3 and 149, and junction Illinois Highways 3 and 146: From junction Illinois Highways 3 and 149 over Illinois Highway 149 to junction Illinois Highway 127, thence over Illinois Highway 127 to junction Illinois Highway 146, thence over Illinois Highway 146 to junction Illinois Highway 3, and return over the same route.

(15) Between junction U.S. Highways 51 and 460 and Shawneetown, Ill.: From junction U.S. Highways 51 and 460 over U.S. Highway 460 to junction U.S. Highway 45, thence over U.S. Highway 45 to junction Illinois Highway 1, thence over Illinois Highway 1 to junction Illinois Highway 13, thence over Illinois Highway 13 to Shawneetown, and return over the same route; (16) Between McLeansboro, Ill., and junction Illinois Highways 13 and 1: From McLeansboro over Illinois Highway 142 to junction Illinois Highway 13, thence over Illinois Highway 13 to junction Illinois Highway 1, and return over the same route; (17) Between Carmi, Ill., and Brookport, Ill.: From Carmi over Illinois Highway 1 to junction U.S. Highway 45, thence over U.S. Highway 45 to Brookport, and return over the same route; (18) Between Mound City, Ill., and junction Illinois Highway 37 and U.S. Highway 460: From Mound City over Illinois Highway 37 to junction U.S. Highway 460, and return over the same route; (19) Between Ware, Ill., and junction Illinois Highways 1 and 13: From Ware over Illinois Highway 146 to junction Illinois Highway 1, thence over Illinois Highway 1 to junction Illinois Highway 13, and return over the same route; (20) Between junction Illinois Highways 146 and 34 and Benton, Ill.: From junction Illinois Highways 146 and 34 over Illinois Highway 34 to Benton, and return over the same route; (21) Between Harrisburg, Ill., and Carbondale, Ill.: From Harrisburg over Illinois Highway 13 and to Carbondale, and return over the same route; (22) Between Thompsonville, Ill., and Murphysboro, Ill.: From Thompsonville over Illinois Highway 149 to Murphysboro, and return over the same route; (23) Between Wittington, Ill., and Belleville, Ill.: From Wittington over Illinois Highway 183 to Sesser, Ill., thence over unnumbered highway to junction Illinois Highway 154, thence over Illinois Highway 154 to Red Bud, Ill., thence over Illinois Highway 159 to Belleville, and return over the same route; (24) Between Waltonville, Ill., and junction Illinois Highways 148 and 37: From Waltonville over Illinois Highway 148 to junction Illinois Highway 37, and return over the same route.

(25) Between Eden, Ill., and junction Illinois Highway 153 and U.S. Highway 460: From Eden over Illinois Highway 153 to junction U.S. Highway 460, and return over the same route; (26) Between Ava, Ill., and junction Illinois Highways 151 and 3: From Ava over Illinois Highway 151 to junction Illinois Highway 3, and return over the same route, serving in connection with the regular-route operations set out in (13) through (26) above, all intermediate points except those on U.S. Highway 460 between junction U.S. Highway 460 and 51 and junction U.S. Highway 460 and 45, and those points on Illinois Highway 142 between McLeansboro, Ill., and Dale, Ill.; (27) Between East St. Louis, Ill., and Cairo, Ill., serving the intermediate points of Tamaroa, Dowell, Elkville, Hallidayboro, and DeSoto, Ill., and points on U.S. Highway 460 (except Nashville, Ill.), From East St. Louis over U.S. Highway 51 to Cairo, and return over the same route, serving in connection with the regular-route operations sought in (27) above, the off-route points of Merrimac, New Hanover, Fountain, Harrisonville, Valmeyer, Foster Pond, Raddle, Jacob, Gorham, Sand Ridge, Grimsby, Neunert, Grand Tower, Fayville, Goose Island, Thebes, Horseshoe Lake Conservation Area, Miller City, Willard, Burksville, Renault, Ames, Prairie du Rocher, Kellogg, Millstadt, Preston, Walsh, Schuline, Blair, New Palestine, Shiloh Hill, Story, Conant, Denmark, Elco, Diswood, Spring Garden, Ewing, Macedonia, Akin, Lonzo, Barden, Walpole, Brownsville, Gossett, Ridgeway, Mulkeytown, Orient, Rosiclare, Brownfield, Creal Springs, Karnak, Joppa, Hillerman, Belknap, Forman, Tunnell Hill, New Federal Prison, Temple Hill, Simpson, Phillipstown, Herald, New Haven, and Equality, Ill.; (28) Between Evansville, Ind., and Harrisburg, Ill., serving all intermediate points in Illinois: From Evansville over Indiana Highway 62 to the Indiana-Illinois State Line, thence over Illinois Highway 141 to junction U.S. Highway 45, thence over U.S. Highway 45 to Harrisburg, and return over the same route; (29) Between Harrisburg, Ill., and junction of Illinois Highway 145 and U.S. Highway 45, east of Metropolis, Ill., serving all intermediate points: From Harrisburg, Ill. over Illinois Highway 145 to junction U.S. Highway 45, and return over the same route; and (30) Between Harrisburg, Ill., and junction of Illinois Highway 1 and Illinois Highway 13, serving all intermediate points: From Harrisburg, Ill., over Illinois Highway 13 to junction Illinois Highway 1, and return over the same route, serving the off-route point of Cave in Rock, Ill., in connection with routes set out in (28) through (30) above.

NOTE.—The purpose of this republication is to clarify applicant's request for authority. If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo.

No. MC 68860 (Sub-No. 26), filed June 7, 1977. Applicant: RUSSELL TRANSFER, INC., 444 Glenmore Drive, Salem, Va. 24153. Applicant's representative: Liniel G. Gregory, Jr., 444 Glenmore Drive, Salem, Va. 24153. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, separators, or partitions, paper, pulp board, cardboard, incandescent electric lamps and wooden pallets*, between St. Marys, Pa., and Roanoke, Va.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Roanoke, Va., or Washington, D.C.

No. MC 88380 (Sub-No. 25), filed: June 9, 1977. Applicant: REB TRANSPORTATION, INC., P.O. Box 4309, Fort Worth, Tex. 76106. Applicant's representative: John L. Payne (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as defined in Appendix V to the report in Description in Motor Carrier Certificates, 61 M.C.C. 209, from the facilities of Tex-Ark Joists Co., located at or near Hope, Ark., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas or Fort Worth, Tex.

No. MC 94350 (Sub-No. 388) (correction), filed May 16, 1977, published in the FEDERAL REGISTER issue of June 23, 1977, and republished as corrected this issue. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Doublewide mobile homes*, in secondary movements, from points in Kansas, to points in the United States, including Alaska but excuding Hawaii.

NOTE.—The purpose of this republication is to indicate the correct movement. Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Topeka, Kans.

No. MC 102567 (Sub-No. 198), filed June 9, 1977. Applicant: McNAIR TRANSPORT, INC., P.O. Drawer 5357, 4295 Meadow Lane, Bossier City, La. 71010. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk between the plant site of Arkansas Eastman Co. at or near Magness, Ark., on the one hand, and, on the other hand, all points in the United States (except points in Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Memphis, Tenn.

No. MC 105566 (Sub-No. 145), filed June 9, 1977. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, Mo., 63701. Applicant's representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, Va., 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glassware, earthenware, porcelainware, and stoneware*, from Bedford Heights, Ohio, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the Applicant requests it to be held in Pittsburgh, Pa., or Washington, D.C.

No. MC 105566 (Sub-No. 146), filed June 9, 1977. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, Suite 406, Executive Bldg., 6901 Old Keene Mill Road, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from Kingsport and New Canton, Tenn., to points in Colorado, Idaho, Montana, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held in Columbus, Ohio, or Washington, D.C.

MC 106195 (Sub-No. 16), filed June 9, 1977. Applicant: CLARK BROS. TRANSFER, INC., P.O. Box 388, Norfolk, Nebr. 68701. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated beverages and materials, supplies and equipment* used in the manufacture, distribution, or sale of carbonated beverages, between Norfolk, Nebr., on the one hand, and, on the other, points in Colorado, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, North Dakota, Oklahoma, South Dakota, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Omaha, Nebr.

No. MC 106497 (Sub-No. 145), filed June 10, 1977. Applicant: PARKHILL TRUCK CO., a corporation, P.O. Box 912 (Bus. Rt. I-44 east), Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs, P.O. Box 113, Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heat exchangers or equalizers* for air, gas, or liquids; *machinery and equipment* for heating, cooling, conditioning, humidifying, dehumidifying, and moving of air, gas, or liquids; and *parts, attachments, and accessories* for use in the installation or operation of the above commodities, from the plantsite, warehouse, and storage facilities of the Trane Co., located in Fayette County, Ky., to points in Arkansas, Alabama, Louisiana, Texas, Tennessee, North Carolina, South Carolina, Georgia, Florida, Missouri, Minnesota, Wisconsin, Iowa, Kansas, Illinois Nebraska, Mississippi, Ohio, and Oklahoma.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Memphis, Tenn., or Louisville, Ky.

MC 106674 (Sub-No. 238), filed June 10, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Foodstuffs*, (1) from Brownstown, Ind., to points in Arkansas, District of Columbia, Illinois, Kansas, Louisiana, Texas, Oklahoma, Maryland, Missouri, and Ohio; and (2) from Austin, Ind., to points in Texas and Oklahoma.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in either Chicago, Ill., or Indianapolis, Ind.

No. MC 107993 (Sub-No. 54), filed June 7, 1977. Applicant: J. J. WILLIS TRUCKING CO., 2608 Electronic Lane, P.O. Box 5328, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air pollution, heating and cooling equipment, and parts and accessories* for such commodities, from the plantsite and facilities of the Fuller Co., located at or near Houston, Tex., to points in the United States in and west of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Houston or Dallas, Tex.

No. MC 107993 (Sub-No. 55), filed June 7, 1977. Applicant: J. J. WILLIS TRUCKING CO., a corporation, 2608 Electronic Lane, P.O. Box 5328, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air pollution, heating and cooling equipment, and parts and accessories* for such commodities, from the plantsite and facilities of the Allied Industries, located at or near Houston, Tex., to points in the United States in and west of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Houston or Dallas, Tex.

MC 109533 (Sub-No. 92), filed June 6, 1977. Applicant: OVERNITE TRANSPORTATION CO., a corporation, 1000 Semmes Avenue, Richmond, Va. 23224. Applicant's representative: C. H. Swanson (address same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Charleston, W. Va., and Huntington, W. Va., serving no intermediate points: From Charleston over Interstate Highway 64, to Huntington and retun over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Charleston or Huntington, W. Va.

No. MC 110659 (Sub-No. 22) (amendment), filed May 10, 1977, published in the FEDERAL REGISTER issue of June 23, 1977, republished as amended this issue. Applicant: COMMERCIAL CARRIERS, INC., 975 Virginia Street W., Charleston, W. Va. 25302. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, W. Va. 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers (1) From South Volney, N.Y., to Huntington, Charleston, and Williamson, W. Va.; (2) from Eden, N.C., to Huntington, Charleston, and Williamson, W. Va.; and (3) from Williamsburg, Va., to Huntington, W. Va.

NOTE.—The purpose of this republication is to amend the territorial description. If a hearing is deemed necessary, the applicant requests it be held at either Charleston, W. Va., or Columbus, Ohio.

No. MC 110988 (Sub-No. 342), filed June 8, 1977. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Avenue, Appleton, Wis. 54911. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid ferrous chloride* from Monroe, Ohio, to the facilities of K. A. Steel Chemicals, Inc., lo-







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cated at or near Gary, Ind., and Lemont, Ill.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 111170 (Sub-No. 237), filed June 9, 1977. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, El Dorado, Ark. 71730. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, between the plantsite of Arkansas Eastman Co., at or near Magness, Ark., on the one hand, and, on the other hand, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Memphis, Tenn. Applicant requests consolidated hearing.

No. MC 111274 (Sub-No. 26), filed June 8, 1977. Applicant: SCHMIDGALL TRANSFER, INC., Box 356, R.R. No. 2, Morton, Ill. 61550. Applicant's representative: Frederick C. Schmidgall (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fencing and fencing materials, farm buildings, materials, and components of farm buildings*, between Morton, Ill., on the one hand, and, on the other, points in Mississippi, under a continuing contract or contracts with Morton Buildings, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Springfield or Chicago, Ill., or St. Louis, Mo.

No. MC 111594 (Sub-No. 76), filed June 10, 1977. Applicant: CW TRANSPORT, INC., 610 High Street, Wisconsin Rapids, Wis. 54494. Applicant's representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibrous glass products and materials, mineral wool, mineral wool products and materials, insulated air ducts, insulating products and materials; glass fibre rovings, yard, and strand, and glass fibre mats and matting*, between the warehouses and storage facilities of Certainteed Corp., at or near New Haven, Ind., on the one hand, and, on the other, points in Illinois, Indiana, Ohio, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 111956 (Sub-No. 40), filed June 7, 1977. Applicant: SUWAK TRUCKING CO., a corporation, 1105 Fayette Street, Washington, Pa. 15301. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper articles* from the facilities of Datafold Forms, Inc., located in Franklin Township, Greene County, Pa., to Richmond, Va., and points in New Jersey, New York, Ohio, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 112822 (Sub-No. 419), filed June 7, 1977. Applicant: BRAY LINES, INC., 1401 North Little Street, P.O. Box 1191, Cushing Okla. 74023. Applicant's representative: Edward T. Lyons, Jr., 1600 Lincoln Center Building, 1660 Lincoln Street, Denver Colo. 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and canned goods*, from points in California, to points in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming.

NOTE.—Applicant holds partial duplicating authority to transport the described commodities in mixed loads and is also authorized, under effective gateway elimination notices, to transport frozen foods from California or various portions thereof, varying with particular destination states, to all or portions of 17 of the named destination states. The purpose of this application is in part to eliminate the mixed-load restriction. Common control may be involved. If a hearing is deemed necessary, Applicant requests that it be held at San Francisco, Calif.

No. MC 113382 (Sub-No. 19), filed June 8, 1977. Applicant: NELSEN BROS., INC., P.O. Box 613, River Bridge, Nebraska City, Nebr. 68410. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tires, tubes, batteries, and wheels*, from Memphis, Tenn.; Batesville and Tupelo, Miss.; Texarkana, Ark.; Des Moines and Muscatine, Iowa; Warren, Ohio; Salina, Kans.; Springfield, Mo.; Cumberland, Md.; Denver, Colo.; and points in California, to points in Nebraska, Iowa, South Dakota, and Wyoming, under a continuing contract, or contracts, with T. O. Hass Tire Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Lincoln, Nebr.

No. MC 113651 (Sub-No. 224), filed June 10, 1977. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Muncie, Indiana 47305. Applicant's representative: Daniel C. Sullivan, Suite 1600, 10 S. La Salle St., Chicago, Illinois 60603. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Prepared Foodstuffs* (except commodities in bulk), from New Albany, Indiana, to points in Tennessee, Alabama, Georgia, Florida, Mississippi, North Carolina, and South Carolina.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Illinois.

No. MC 113855 (Sub-No. 381), filed June 8, 1977. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minnesota 55901. Applicant's representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, North Dakota 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: *Bearings, machinery* and *bearing* and *machinery parts*, between points in Philadelphia, Pennsylvania, on the one hand, and, on the other, points in and west of Wisconsin, Illinois, Missouri, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 114045 (Sub-No. 465), filed June 8, 1977. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D FW Airport, Texas 75261. Applicant's representative: ARNOLD L. BURKE, 180 N. LaSalle Street, Chicago, Illinois 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except in bulk, in tank vehicles), from Dunkirk, New York to Fort Worth and Dallas, Texas including their commercial zones. Restricted to traffic originating at the above named origin point and destined to the above named destination points.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Illinois. Common control may be involved.

No. MC 114045 (Sub-No. 466), filed June 10, 1977. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, Texas 75261. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, toilet preparation, chemicals, and various materials required in the manufacture, packaging, sale, and distribution of such commodities*, in vehicles equipped with mechanical refrigeration, from Lewes and Seaford, Delaware, to points in California, Colorado, Oklahoma, Oregon, Washington, and Texas, restricted against the transportation of commodities in bulk.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Philadelphia, Pa., or Washington, D.C.

No. MC 114211 (Sub-No. 307), filed June 13, 1977. Applicant: Warren Transport, Inc., 324 Manhard, P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Charles W. Singer, 2440 East Commercial, P.O. Box 4580, Fort Lauderdale, Florida 33338. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: lumber, lumber mill products, forest and wood products from Washington, Oregon, Idaho, and Montana to points in the United States including Alaska but excluding Hawaii.





NOTE.—If a hearing is deemed necessary, we request it be held at Portland, Oregon; Seattle, Washington; or Chicago, Illinois.

No. MC 114569 (Sub-No. 180), filed June 10, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *confectionery, cocoa, chocolate, and products related thereto* (except in bulk), *and materials, supplies, equipment, and machinery, used in the manufacture, production, distribution, or sale of confectionery, cocoa, chocolate, and products related thereto* from the facilities of Hershey Foods Corporation at or near Oakdale, California to Chicago, Ill.; Cincinnati, Ohio; Detroit, Mich.; East St. Louis, Ill.; Hershey, Pa.; Kansas City, Mo.; Milwaukee, Wisc.; St. Paul, Minn., and their commercial zones.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Harrisburg, Pa., or Washington, D.C.

No. MC 114632 (Sub-No. 113), filed June 8, 1977. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, South Dakota 57402. Applicant's representative: Robert Gisvold, 1000 First National Bank Bldg., Minneapolis, Minnesota 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk) from Payette, Idaho to Iowa, Colorado, Minnesota, Nebraska, and Wisconsin.

NOTE.—Applicant holds motor contract carrier authority in No. MC-129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant request it be held at Boise, Idaho.

No. MC 115311 (Sub-No. 225), filed June 8, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from the plantsite and storage facilities of Joan of Arc Company, located at or near Turkey, N.C., to points in South Carolina, Florida, Georgia, Alabama, and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 115331 (Sub-No. 425), filed June 8, 1977. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, Missouri 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, Illinois 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and composite containers and container ends* (1) from Massillon, Ohio to points Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, and Wisconsin; and (2) from Fort Madison, Iowa to Massillon, Ohio.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C. or St. Louis, Mo.

No. MC 116763 (Sub-No. 383), filed June 8, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Clay and clay products* (except in bulk, in tank vehicles); and (b) *Animal and fish feed* (except in bulk, in tank vehicles), from the plantsite of The Anschutz Corp., and warehouse facilities utilized by Sunshine Mills, Inc., at or near Ochlocknee, Georgia, to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, to the plantsite of The Anschutz Corp. and warehouse facilities utilized by Sunshine Mills, Inc., at or near Ochlocknee, Georgia, and (3) (a) *Clay and clay products* (except in bulk, in tank vehicles); and (b) *Fish food* (except in bulk, in tank vehicles), from Red Bay, Alabama and Tupelo, Mississippi, to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, and (4) *Animal feed* (except in bulk, in tank vehicles), from Red Bay, Alabama and Tupelo, Mississippi, to points in Colorado.

NOTE.—If hearing is deemed necessary, the applicant requests it be held at Denver, Colorado, or Washington, D.C.

No. MC 117765 (Sub-No. 230), filed June 8, 1977. Applicant: HAHN TRUCK LINE, INC., 5315 NW. 5th St., P.O. Box 75218, Oklahoma City, Oklahoma 73107. Applicant's representative: R. E. Hagan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Livestock Equipment, Livestock Scales and Poultry Equipment*, from Norfolk, Nebraska to Arkansas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Oklahoma City, Oklahoma.

No. MC 117940 (Sub-No. 222), filed June 8, 1977. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, Minnesota 55359. Applicant's representative: Allan L. Timmerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *garden, lawn, turf, and golf course care equipment, snow throwers*, and *parts and accessories therefor*, (except commodities in bulk), from the plantsite and warehouse facilities of The Toro Company at or near Windom, Minnesota, and at or near Tomah, Wisconsin, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York (except Buffalo and points in its Commercial Zone), Pennsylvania (except Pittsburgh and points in its Commercial Zone), Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Restricted to shipments originating at the above named origin points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis or St. Paul, Minnesota. Applicant holds contract carrier authority in No. MC 114789 (Sub-No. 16) and other subs thereunder, therefore, dual operations may be involved.

No. MC 118142 (Sub-No. 152), filed May 16, 1977. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, Kansas 67219. Applicant's representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, Kansas 67202. Authority sought to operate as a *common carrier* by motor vehicle, over *irregular routes*, transporting: *Frozen meat products*, including frozen boxed beef, From the plantsite of Del Pero Mondon Meat Company, located at or near Marysville, California, to: (a) Des Moines, Iowa; Indianapolis, Indiana; and Chicago, Illinois; and (b) from Chicago, Illinois, to Sandusky, Piqua, and Columbus, Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Wichita, Kans., or Kansas City, Mo.

No. MC 118292 (Sub-No. 38), filed June 10, 1977. Applicant: BALLENTINE PRODUCE, INC., P.O. Box 312, Alma, Arkansas 72921. Applicant's representative: Barry Roberts, 888 17th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (1) from Little Rock, Arkansas, to points in Penn-



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sylvania and West Virginia, and (2) from points in Pennsylvania to Little Rock, Arkansas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Little Rock, Arkansas.

No. MC 118535 (Sub-No. 102), filed June 3, 1977. Applicant: TIONA TRUCK LINE, INC., 111 South Prospect, Butler, Missouri 64730. Applicant's representative: Jim Tiona, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly Ash*, from Muskogee, Oklahoma to points in Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Missouri.

No. MC 119654 (Sub-No. 34), filed June 8, 1977. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, Indiana 46952. Applicant's representative: Alki E. Scopelitis, 815 Merchant's Bank Building, Indianapolis, Indiana 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods, unfrozen*, From Hoopeston and Princeville, Ill., to points in Indiana, Kentucky, Ohio and the Lower Peninsula of Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianapolis, Indiana or Chicago, Illinois.

No. MC 119789 (Sub-No. 354), filed June 10, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, TX 75222. Applicant's representative James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Confectionaries* from Chicago, Illinois to Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at New York, N.Y., or Washington, D.C.

No. MC 119789 (Sub-No. 355), filed June 10, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Texas 75222. Applicant's representative James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: Refined Sugar, in packages, from Gramercy, La. to points in Connecticut and Massachusetts.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in New Orleans or Baton Rouge, Louisiana.

No. MC 119789 (Sub-No. 356), filed June 10, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Texas 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Liquid plastic*, in containers, in mechanically refrigerated equipment, from Riverside, Calif., to points in Illinois, Indiana, Iowa, Louisiana, Michigan, Minnesota, Missouri, Nebraska, New Mexico, Oregon, Texas, Utah, and Washington.

NOTE.—If a hearing is deemed necessary applicant requests it be held in Los Angeles, Calif.

No. MC 119798 (Sub-No. 6), filed June 8, 1977. Applicant: SOUTHWEST SUPPLY, INC., 350 Roanoke Street, Bluefield, W. Va. 24701. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, W. Va. 25526. Authority sought to operate as a *common carrier* over irregular routes, transporting: *Meat, meat by-products, articles distributed by meat packing plants and foodstuffs* (except hides and commodities in bulk), from the plantsite and warehouse facilities of Geo. A. Hormel & Co. at or near Ottumwa, Iowa to points in Virginia and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Charleston, W. Va., or Columbus, Ohio.

Docket MC 119908 (Sub-No. 42), date filed June 8, 1977. Applicant: WESTERN LINES, INC., P.O. Box 1145, Applicant's representative: Austin L. Hatchell, 1102 Perry Brooks Bldg., Austin, Tex. 78701. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* from points in Georgia, to points in Arkansas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Birmingham, Ala., or New Orleans, La. Applicant holds contract carrier authority in MC 110814 and subs thereunder, therefore dual operations may be involved. Common control may also be involved.

No. MC 120646 (Sub-No. 19), (Correction), filed May 17, 1977, published in the FEDERAL REGISTER issue of June 30, 1977, and republished as corrected this issue. Applicant: Bradley Freight Lines, Inc., 35 Garfield St., Asheville, N.C. 28803. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Building, Pennsylvania Ave. & 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *New furniture* and *furniture parts*, from the plant sites and warehouse facilities of Broyhill Industries, located at or near Arcadia, La., to points in the United States (except Alaska and Hawaii); and (2) *Materials, supplies and equipment*, used in the manufacture of new furniture, and new furniture, from points in the United States (except Alaska and Hawaii), to the origin points named in (1) above.

NOTE.—The purpose of this correction is to indicate the exclusion of both Alaska and Hawaii in part (1); and to indicate the transportation of "new furniture" in part (2) in lieu of "furniture parts". If a hearing is deemed necessary, applicant requests that it be held either at Asheville, N.C., or Washington, D.C.

No. MC 121120 (Sub-No. 4), filed June 9, 1977. Applicant: SOUTHERN GARMENT DISTRIBUTING CORP., 1605 W. 33rd Place, Hialeah, Fla. 33012. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in or used by a retail department or discount store, between the terminal of Southern Garment Distributing Corp. located at or near Orlando, Fla., on the one hand, and, on the other, points in Alachua, Bradford, Brevard, Broward, Charlotte, Citrus, Clay, Collier, Dade, DeSoto, Duval, Flagler, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Lake, Lee, Manatee, Marion, Martin, Nassau, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Seminole, Sumter, and Volusia Counties, Fla. Restriction: Restricted to traffic having a prior or subsequent movement in interstate or foreign commerce by motor or air.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y. Common control may be involved.

No. MC 123157 (Sub-No. 30), (Correction), filed March 4, 1977, published in the FEDERAL REGISTER issue of April 21, 1977, and republished this issue. Applicant: CTI, A Corporation, P.O. Drawer 397, Rillito, Ariz. 85247. Applicant's representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, Ariz. 85014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Coal, from Kane and Garfield Counties, Utah (1) to railheads located in Utah and; (2) to points in Arizona. The purpose of this republication is to correct applicant's authority as requested.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Phoenix, Ariz., or Los Angeles, Calif.

No. MC 123233 (Sub-No. 68), (Correction), filed March 24, 1977, published in the FEDERAL REGISTER issue of May 26, 1977, and republished this issue. Applicant: PROVOST CARTAGE, INC., 7887 Grenache Street, Ville d' Anjou Quebec, Canada H1J 1C4. Applicant's representative: J. P. Vermette, (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar*, in bulk, in tank vehicles, from the Ports of Entry on the International Boundary Line between the United States and Canada located in New York and Vermont to points in Connecticut, Massachusetts, New York, and Vermont, restricted to the transportation of traffic having an immediate prior movement in foreign commerce. The purpose of this republication is to correct applicant's restriction.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Montpelier, Vt., or Albany, N.Y.

MC 123255 (Sub-No. 107), filed June 7, 1977. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr., 140 Everett Avenue, Newark, Ohio 43055. Authority





sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting: *Containers and materials and supplies* used in the manufacture, distribution or sale of containers (except commodities in bulk), from the facilities of National Can Corporation, located in Maryland, Pennsylvania, New Jersey, Connecticut, and Massachusetts, to St. Paul, Minn.; Sharonville, Columbus, Archbold, and Obetz, Ohio; LaCrosse and Milwaukee, Wisc.; Frankenmuth and Livonia, Mich.; Chicago, Peoria, and North Brook, Ill.; St. Louis, Mo.; Michigan City and Evansville, Ind.; and Madisonville, Ky.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it to be held at Columbus, Ohio.

No. MC 123407 (Sub-No. 383), filed June 6, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Manufactured building products*, from the plant site of C–E Morgan Building Products, a division of Combustion Engineering, Inc., at Oshkosh, Wis., to points in and east of Montana, Wyoming, Colorado, New Mexico, and Texas; and (2) *materials used in the manufacturing of building products*, from points in and east of Montana, Wyoming, Colorado, New Mexico, and Texas, to the plantsite of C–E Morgan Building Products, a division of Combustion Engineering, Inc., at Oshkosh, Wis.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Philadelphia, Pa.; or Washington, D.C.

No. MC 124078 (Sub-No. 727), (Amendment), filed May 10, 1977, published in the FEDERAL REGISTER issue of June 16, 1977, and republished as amended this issue. Applicant: SCHWERMAN TRUCKING CO., A Corporation, 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay and clay slurry*, in bulk, in tank vehicles, (a) from points in Jefferson County and Twiggs County, Georgia, and Aiken County, South Carolina, to points in Connecticut, New York, Ohio, Oklahoma, Pennsylvania, Vermont, Virginia, and West Virginia, (b) from points in Washington County and Wilkinson County, Georgia, to points in Oklahoma; (2) *clay slurry*, in bulk, in tank vehicles, from Dry Branch and Hepzibah, Georgia to Cincinnati, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga. The purpose of this republication is to indicate the changes in the territorial description in part (1) (b) above.

No. MC 124511 (Sub-No. 35), filed June 8, 1977. Applicant: JOHN F. OLIVER, P.O. Box 223, E. Highway 54, Mexico, Mo. 65265. Applicant's representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting *Roofing and roofing materials*, from the plant site and warehouse facilities of the Roofing Division of Masonite Corporation, at Little Rock, Ark., to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Missouri, Oklahoma and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Little Rock, Ark., or St. Louis, Mo.

No. MC 126118 (Sub No. 44), filed June 10, 1977. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Applicant's representative: Duane W. Acklie, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* in containers: From Louisville, Ky. to North Carolina.

NOTE.—Applicant holds motor contract carrier authority in No. MC 128375 and subnumbers thereunder, therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Greensboro, N.C. or Lincoln, Nebr.

No. MC 126243 (Sub-No. 23), filed June 10, 1977. Applicant: ROBERTS TRUCKING CO., INC., U.S. Highway 271 South, Poteau, Okla. 74953. Applicant's representative: Prentiss Shelley, P.O. Drawer G, Poteau, Okla. 74953. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid latex*, in shipper owned tank trailers, from Uniroyal Scotts Bluff Plant located at or near Baton Rouge, La., to Poteau, Wilburton, Anadarko, and Pawhuska, Okla.

NOTE.—Applicant holds contract carrier authority in No. MC 140849, Sub-No. 2, therefore, dual operations may be involved If a hearing is deemed necessary, applicant requests it be held at Fort Smith, Ark. or Washington, D.C.

No. MC 126844 (Sub-No. 40), filed June 10, 1977. Applicant: R.D.S. TRUCKING CO., INC., 1713 North Main Road, Vineland, New Jersey 08360. Applicant's representative: Terrence D. Jones, 2033 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsites and warehouse facilities of Standard Brands Incorporated located at or near Chicago, Illinois and points in its commercial zone and at or near Bensenville, Illinois to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 127575 (Sub-No. 6), filed June 9, 1977. Applicant: MOUNTAIN MOTORWAY, INC., 4902 Smith Road, Denver, Colorado 80216. Applicant's representative: Edward C. Hastings, 666 Sherman Street, Denver, Colorado 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes in the transportation of general commodities (except Classes A and B explosives, commodities in bulk, in tank vehicles, commodities requiring special equipment, and household goods as defined by the Commission) between Silver Plume, Colorado, and the East Portal of Eisenhower Memorial Tunnel on Interstate Highway 70, eleven miles westerly of Silver Plume, Colorado.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Denver, Colorado.

No. MC 128007 (Sub-No. 101), filed June 9, 1977. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, Kansas 66762. Applicant's representative: Larry E. Gregg, 641 Harrison Street, Topeka, Kansas 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alfalfa meal and alfalfa pellets*, in bulk, from the plantsite and storage facilities of Protein Processors, Division of Ralston Purina Company, at or near Dundee, Kansas, to points in Missouri, Arkansas and Louisiana.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 128356 (Sub-No. 13), filed May 25, 1977. Applicant: DOWNINGTOWN TRAILER CARRIERS, INC., 640 West Boot Road, West Chester, Pa. 19380. Applicant's representative: Byron R. LaVan, 117 S. 17th Street, Suite 400, Philadelphia, Pa. 19103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New Trailers* (except house trailers, and trailers designed to be drawn by passenger automobiles), *and parts thereof*, in truckaway service, in initial movement, from the plant sites of the Budd Company, located at Downingtown, Eagle, Honeybrook, and Lebanon, Pa., and Florence, N.J. to points in Alabama, Arkansas, California, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Oregon, South Carolina, Tennessee, Texas, Washington, and Wisconsin; and (2) *used trailers* (except house trailers and trailers designed to be drawn by passenger automobiles), and *parts thereof*, in secondary movement, from the destination points to the origin points named in (1) above.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa.

No. MC 128564 (Sub-No. 7), filed June 7, 1977. Applicant: KENNETH G. WOODARD, Rural Route No. 2, Storm Lake, Iowa 50588. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *Cheese*, from Corsica,



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S. Dak., to points in Minnesota, Wisconsin, Nebraska, Iowa, Illinois, Missouri, Kansas, Colorado, Utah, Arizona, and California; and (2) *Commodities* utilized in the production and distribution of cheese (except commodities in bulk), from points in Minnesota, Wisconsin, Nebraska, Iowa, Illinois, Missouri, Kansas, Colorado, Utah, Arizona, and California, to Corsica, S. Dak., under a continuing contract, or contracts, with Corsica Cheese, Inc., at Corsica, S. Dak.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Sioux City, Iowa.

No. MC 129994 (Sub-No. 25), filed: June 8, 1977. Applicant: RAY BETHERS TRUCKING, INC., 176 West Central Avenue, Murray, Utah 84107. Applicant's representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, from points in Arizona to points in California, Colorado, Utah, and Nevada.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Salt Lake City, Utah, or Phoenix, Ariz.

No. MC 129994 (Sub-No. 26), filed: June 8, 1977. Applicant: RAY BETHERS TRUCKING, INC., 176 West Central Avenue, Murray, Utah 84107. Applicant's representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products, gypsum wallboard, lath, plaster, lime, and materials and supplies used in the manufacture, installation or distribution thereof*, from points in Clark County, Nevada, to the facilities of Building Products, Inc. located in Salt Lake County, Utah.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Salt Lake City, Utah, or Las Vegas, Nevada.

No. MC 133867 (Sub-No. 12), filed June 9, 1977. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, Fla. 33450. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen Vegetables*, from Lewiston, Idaho; Stanwood, Wash.; Exmore, Va.; Orlando, Fla.; Bells, Tenn.; Hart, Mich.; Ogden, Utah; Trappe, Md.; Vineland, N.J.; Barker, N.Y.; Hanover, Pa.; Darien, Wis.; and points in California, to the facilities of Foodways National, Inc., at Wethersfield, Conn., under a continuing contract or contracts with Foodways National, Inc.

NOTE.—Applicant holds common carrier authority in No. MC 119349, and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Hartford, Conn., or Washington, D.C.

No. MC 135152 (Sub No. 21), filed June 8, 1977. Applicant: Casket Distributors, Inc., Rural Route No. 2, P.O. Box 327 West Harrison, Indiana 45030. Applicant's representative: Jack B. Josselson, 700 Atlas Bank Building, Cincinnati, Ohio 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *uncrated caskets and crated caskets in mixed loads with uncrated caskets* from Gardner, Massachusetts, to all points in the United States (except Alaska and Hawaii) with return of the above commodities from the above destination points to the above origin point.

NOTE.—Applicant is controlled by the holder of motor contract carrier authority in No. MC 11620 and sub numbers thereunder; therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary applicant requests it be held in Washington, D.C.

No. MC 135170 (Sub-No. 21), filed June 8, 1977. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, Md. 21632. Applicant's representative: James C. Hardman, 33 N. LaSalle St., Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container closures, and materials, equipment and supplies used in the manufacture, sale and distribution of containers and container closures* (except commodities in bulk and those which because of size or weight require the use of special equipment), (a) from Baltimore, Md., to points in Delaware; and (b) from Hanover, Pa., to points in Maryland and Delaware, under a continuing contract or contracts with National Can Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 135425 (Sub-No. 27), filed June 9, 1977. Applicant: CYCLES LIMITED, P.O. Box 5715, Jackson, Miss. 39208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by a manufacturer of toilet preparations and cleaning compounds (except in bulk), between Holyoke, Mass., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with Noxell Corporation.

NOTE.—Applicant states it holds a permit to serve the same shipper between Cockeysville, Md., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Applicant has motor common carrier authority pending in No. MC-143215 and subs thereunder, therefore dual operations may be involved. If hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 136285 (Sub-No. 21) (partial correction), filed May 20, 1977, published in the FEDERAL REGISTER issue of June 30, 1977, and republished in part as corrected this issue. Applicant: SOUTHERN INTERMODAL LOGISTICS, INC., P.O. Box 143, Thomasville, Ga. 31792. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (2) *Marine cargo containers, and chassis therefor*, from Charleston, S.C., Savannah, Ga., and Jacksonville, Fla., to points in Mississippi, Georgia, Alabama, and Tennessee.

NOTE.—The purpose of this republication in part is to correct applicant's commodity description in (2) above, which was incorrectly published in the FEDERAL REGISTER issue of June 30, 1977. If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga. Common control may be involved.

No. MC 138000 (Sub-No. 28) (correction), filed May 31, 1977, published in the FEDERAL REGISTER issue of July 8, 1977, and republished as corrected this issue. Applicant: ARTHUR H. FULTON, Post Office Box 86, Stephens City, Va. 22655. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Avenue, Post Office Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Detroit, Mich., to points in Alabama, Delaware, Georgia, Maryland, North Carolina, South Carolina, West Virginia, and the District of Columbia.

NOTE.—The purpose of this correction is to indicate the proper MC No. as Sub 28, in lieu of Sub 8. Applicant holds contract carrier authority in No. MC-129613, Sub 2, and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 138313 (Sub-No. 22) (correction), filed January 28, 1977, published in the FEDERAL REGISTER issue of April 28, 1977 and republished this issue. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street, S.W., Great Falls, Mont. 59404. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Lignite, treated or untreated, from Gascoyne, N. Dak., to Malta, Mont.; (2) *bentonite clays, lignite*, treated or untreated and *bentonite products* from the plant site of American Colloid Company located at or near Malta, Mont., to points in California, Idaho, Montana, Oregon and Washington; and (3) *bentonite clays, lignite*, treated or untreated and *bentonite products* from the plant site of American Colloid Company located at or near Malta, Mont., to the ports of entry on the International Boundary line between the United States and Canada located at Blaine; Frontier, Sumas, Oroville; Ferry, Danville, Laurier; Metaline Falls, Wash.; Port Hill and Eastport, Idaho; and Roosville; Gateway; Port of Piegan, Del Bonita; Sweetgrass; Whitlash; Simpson; Port of Turner; Port of Morgan; Opheim; Port of Scobey; Whitetail; Raymond; Willowcreek; and Wild Horse, Mont., restricted to traffic destined to the Provinces of British Columbia; Alberta; and Saskatchewan.





NOTE.—The purpose of this republication is to correct applicant's restriction to read as stated above. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Billings, Mont.

No. MC 138328 (Sub-No. 34), filed June 10, 1977. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I-80 and Hiway 50, P.O. Box 37308, Omaha, NE 68137. Applicant's representative: Donna Ehrlich (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from points in Texas to points in Colorado.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colorado. Applicant holds contract carrier authority under No. MC-133233 (Sub-No. 1 and other subs); therefore dual operations may be involved.

No. MC 138869 (Sub-No. 10), filed June 8, 1977. Applicant: W. T. MYLES TRANSPORTATION CO., a corporation, P.O. Box 321, Conley, Ga. 30027. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St., N.W., Atlanta, Ga. 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry animal and poultry feeds, mineral mixtures, tonics, medicines, insecticides, pesticides, feeders and equipment* and *advertising matter and premiums* related to such commodities, (except the transportation of liquid commodities in bulk), from the plantsite and warehouse facilities of Moorman Manufacturing Co., located at or near Quincy, Ill., to points in South Carolina, Georgia and Florida; and (2) *materials, equipment and supplies* used in the manufacture, sale and distribution of the above-named commodities, (except the transportation of liquid commodities in bulk and dry chemicals in bulk), from the above-named destination states to the plantsite and warehouse facilities of Moorman Manufacturing Co., located at or near Quincy, Ill., under a continuing contract, or contracts, in (1) and (2) above, with Moorman Manufacturing Co.

NOTE.—Applicant holds common carrier authority in No. MC 140563 (Sub-No. 1) and other subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 139360 (Sub-No. 5), filed June 8, 1977. Applicant: RAEMARC, INC., 1531 Taylor Avenue, Racine, Wisconsin 53403. Applicant's representative: Paul R. Bergant, Suite 1600, 10 South LaSalle Street, Chicago, Illinois 60603. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Materials and supplies* used in the manufacture of agricultural, industrial and construction machinery and equipment, (except commodities in bulk), between the manufacturing and storage facilities of J I Case located at or near Racine, Wisconsin, on the one hand and on the other, points in Michigan, Ohio and Iowa, under contract with J I Case Company.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Chicago, Illinois.

No. MC 139495 (Sub-No. 237) (partial correction), filed May 25, 1977, published in the FEDERAL REGISTER issue of June 30, 1977, and republished as corrected this issue. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street, NW., Washington, D.C. 20006.

NOTES.—The purpose of this partial correction is to indicate the correct Number assigned to: MC-139495 (Sub-No. 237). The rest remains the same. Applicant holds contract carrier authority in MC-133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 242), filed June 9, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebr. 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Articles* and *supplies* used in the manufacture and distribution of valves, hydrants, pipe fittings, connections and hangers, and indicator posts, from points in the United States (except Alaska and Hawaii), to the plantsite and storage facilities utilized by ITT Grinnell Corp., Kennedy Valve Division, located at or near Elmira, N.Y., restricted to shipments destined to destination above.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at New York, N.Y., or Kansas City, Mo. Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved.

No. MC 139787 (Sub-No. 3), filed June 10, 1977. Applicant: M & M TRUCKING COMPANY, INC., P.O. Box 1743, Auburn, Alabama 36830. Applicant's representative: Kim G. Meyer, 1600 First Federal Building, Atlanta, Georgia 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: crushed stone, in bulk, in dump trucks from points in Lee County, Alabama to points in Georgia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at: Atlanta, Georgia, Birmingham, Alabama.

No. MC 140889 (Sub-No. 2), filed June 10, 1977. Applicant: FIVE STAR TRUCKING, INC., 1638 West Pioneer Way, ElCajon, California 92022. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electric motors, electric welders* and *parts* and *accessories* for electric motors and electric welders, *welding supplies* and *hand truck parts* from the plantsite and storage facilities of The Lincoln Electric Company located in Cuyahoga and Lake Counties, Ohio to points in Arkansas, Iowa, Kansas, Louisiana, Mississippi, Nebraska, Oklahoma and Texas. Under a continuing contract or contracts with The Lincoln Electric Company, Cleveland, Ohio.

NOTE.—If a hearing is deemed necessary applicant requests it be held in Washington, D.C. or Cleveland, Ohio.

No. MC 141399 (Sub-No. 3), filed June 10, 1977. Applicant: GEARY S. BONVILLE, East State Street, Presque Isle, Maine 04769. Applicant's representative: Peter L. Murray, 30 Exchange Street, Portland, Maine 04111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Fertilizer, fertilizer ingredients* and *lime*, in bulk and in bags, from ports of entry on the International Boundary line between the United States and Canada located in Maine, to points in Maine, and (B) *fertilizer*, in bulk and in bags, from points in Maine, to ports of entry on the International Boundary Line between the United States and Canada located in Maine, restricted in (A) to traffic originating in the Province of New Brunswick, Canada, and restricted in (B) to traffic destined to points in the Province of New Brunswick, Canada.

NOTE.—If a hearing is deemed necessary applicant requests that it be held at Portland, Maine or Boston, Mass.

No. MC 141546 (Sub-No. 20), filed June 8, 1977. Applicant: BULK TRANSPORT SERVICE, INC., One Dundee Park, Andover, Mass. 01810. Applicant's attorney: Kenneth B. Williams, 84 State Street, Boston, Mass. 02109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in tank trucks, from points in Massachusetts, to points in New York, New Jersey, Vermont and Pennsylvania.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boston Mass. Common control may be involved.

No. MC 141546 (Sub-No. 21), filed June 8, 1977. Applicant: BULK TRANSPORT SERVICE, INC., One Dundee Park, Andover, Mass. 01810. Applicant's attorney: Kenneth B. Williams, 84 State Street, Boston, Mass. 02109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in tank trucks, from Lewiston, Maine, to points in New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut and New York.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass. Common control may be involved.

No. MC 141776 (Sub-No. 12), filed May 25, 1977. Applicant: FOODTRAIN, INC., Spring and South Center Streets, Ringtown, Pa. 17967. Applicant's representative: Richard Rueda, Suite 612, Two Penn Center Plaza, Philadelphia, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *General commodi-*



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*ties* (except those of unusual value), Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, livestock, commodities requiring special equipment, from Philadelphia, Pa., to Chicago, Ill.

NOTE.—If a hearing is necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 141804 (Sub-No. 53), (correction), filed April 25, 1977, published in the FEDERAL REGISTER issue of May 26, 1977, and republished this issue. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebr. 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boards* and sheets of *particle board* (except commodities in bulk and those which, because of their size and weight, require specialized equipment for their loading, unloading or transportation) from Anaheim, Calif. to Rockville, Ill., and Barnesville, Ga., restricted to traffic originating at or destined to the facilities utilized by Davidson Panel Company. The purpose of this republication is to clarify applicant's commodity description.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Lincoln, Nebr., or Los Angeles, Calif.

No. MC 141914 (Sub-No. 10), filed June 6, 1977. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, Oklahoma 74332. Applicant's representative: Gary Brasel, Mezzanine Floor, Beacon Building, Tulsa, Oklahoma 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *curtains and draperies* from Skowhegan, Maine to points in Arizona, California, Colorado, Oregon, Texas, Utah and Washington; (2) *molded pulp articles, plastic plates, knives and spoons* from Waterville, Maine to points in Alabama, Arkansas, Arizona, New Mexico, Louisiana, Oklahoma, Tennessee and Texas; and (3) *dowells and golf tees* from Gilford, Maine to points in California and Utah.

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held at Portland, Maine, Boston, Mass., or New York, N.Y.

No. MC 142413 (Sub-No. 4), filed June 9, 1977. Applicant: ROBERT STEVEN IRWIN, Route 1, Box 239, Live Oak, Florida 32060. Applicant's representative: Christine Rieger Milton, Post Office Box 58, Jacksonville, Florida 32201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting Roof and floor joists and materials, accessories and equipment and completed products thereof, from Valdosta, Georgia, to points in Maryland, Virginia, West Virginia and the District of Columbia, under a continuing contract or contracts with Trus Joist Corp. and restricted to traffic moving on shipper-owned trailers.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Jacksonville, FL, or Valdosta, GA.

No. MC 142461 (Sub-No. 1), filed June 10, 1977. Applicant: H & W TRUCKING CO., INC., 237 Starlite Road, Mount Airy, N.C. 27030. Applicant's representative: Eric Meierhoefer, Suite 712, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and new furniture parts*, from the plantsites and facilities used by Bassett Furniture Industries, Inc., located at or near Mt. Airy and Newton, N.C., Henry County, Va., Dublin and Macon, Ga., to points in Washington, Oregon, New Mexico, Utah, Idaho, Nevada, California, and Arizona, under a continuing contract or contracts with Bassett Furniture Industries, Inc., of Bassett, Va., and Bassett Furniture Industries of North Carolina, Inc., of Newton, N.C.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Greensboro, N.C., or Martinsville, Va.

No. MC 142859 (Sub-No. 1), filed June 10, 1977. Applicant: HARVEY L. CAUGHEY, doing business as Coy Cartage & Storage, 1113 S. Williams, Amarillo, Tex. 79102. Applicant's representative: Harvey L. Caughey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those because of size or weight require the use of special equipment), between Amarillo, Tex., and Clayton, N. Mex.: From Amarillo, Tex., over U.S. Highway 287 to junction U.S. Highway 87, thence over U.S. Highway 87 to Clayton, N. Mex., and return over the same route, serving the intermediate point of Texline, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Clayton, N. Mex., or Amarillo, Tex.

No. MC 142907 (Sub-No. 1), filed June 7, 1977. Applicant: BRUCE H. DAY and ANN D. DAY, 602 W. Hemlock St., P.O. Box 127, Coos Bay, Oreg. 97420. Applicant's representative: J. B. Bedingfield, 243 W. Commercial, P.O. Box 29, Coos Bay, Oreg. 97420. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bonded liquors, bonded tobacco, and general ship's stores*, fom Coos Bay, Oreg., to Newport, Oreg., and Eureka, Calif., under a continuing contract, or contracts, with Day Ship Supply, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 142946 (Sub-No. 1), filed June 8, 1977. Applicant: MALLORY TRANSFER AND STORAGE CO., a Corporation, 301 South Ault Street, Moberly, Mo. 65270. Applicant's representative: Alan F. Wohlstetter 1700 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods, between* points in Lafayette, Saline, Johnson, Pettis, Henry, Benton, St. Claire, Hickory, Vernon, Barton, Jasper, Newton, McDonald, Cedar, Dade, Lawrence, Barry, Polk, Greene, Christian, Stone, Taney, Webster, Douglas, Ozark, Howell, Dallas, Camden, Laclede, Pulaski, Phelps, Wright, Texas, Dent, Shannon, Miller, Maries, Oregon, Putnam, Schuyler, Scotland, Clark, Sullivan, Adair, Knox, Lewis, Linn, Macon, Shelby, Marion, Chariton, Randolph, Monroe, Ralls, Howard, Cooper, Morgan, Monitiau, Cole, Osage, Boone, Audrain, Callaway, Pike, Montgomery, Lincoln, Warren, St. Charles, Gasconade, Franklin, Jefferson, St. Louis, Crawford, Washington, St. Francois, and St. Genevieve Counties, Mo.; Worth, Cerro Gordo, Franklin, Mitchell, Floyd, Butler, Howard, Chickasaw, Bremer, Winneshiek, Fayette Allamakee, Clayton, Hardin, Grundy, Black Hawk, Buchanan, Marshall, Tama, Benton, Linn, Jasper, Poweshiek, Iowa, Johnson, Marion, Mahaska, Keokuk, Washington, Lucas, Monroe, Wapello, Wayne, Appanoose, Davis, Delaware, Dubuque, Jones, Jackson, Cedar, Clinton, Muscatine, Scott, Louisa, Jefferson, Henry, Des Moines, Van Buren and Lee Counties, Iowa; and Jo Daviess, Stephenson, Carroll, Whiteside, Rock Island, Henry, Mercer, Knox, Henderson, Hancock, McDanough, Fulton, Adams, Schuyler, Brown, Cass, Pike, Morgan, Scott, Greene, Calhoun, Warren, and Madison Counties, Ill., restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at St. Louis, Mo.

No. MC 143340, filed June 6, 1977. Applicant: DAVID SOLOW, doing business as Sam's Trucking Co., 237 West 15th Street, New York, N.Y. 10011. Applicant's representative: Alvin Altman, 888 Seventh Avenue, New York, N.Y. 10019. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Vinyl plastic sheeting* without cellulose and *plastic coated fabrics* used in manufacture of handbags and luggage from the warehouse facilities of Emak Coated Fabrics Corp., located at New York, N.Y., to East Haven, Hamden, New Haven, Conn., and Trenton, N.J., and from Stratford, Conn., to New York, N.Y., under a continuing contract with Emak Coated Fabrics Corp.; (2) (a) *vinyl plastic sheeting* without cellulose and *plastic coated fabrics* used in manufacture of handbags and luggage from plant of the Henry Richards Co., Inc., located at Hamden, Conn., to Secaucus, N.J., and return from Secaucus, N.J., to plant of the Henry Richards Co., Inc., located at Hamden, Conn.; (2) (b) *handbags, metal stampings, casting, zippers, paper tags, tissue paper, handbag frames, die cuts, and small machines* not weighing more than 100 pounds, uncrated, all used in the manufacture of handbags from New York, N.Y., to plant of the Henry Richards Co., Inc., located at Hamden, Conn., under a continuing contract with the Henry Richards Co., Inc.; (3) (a) *handbags* from plant of Char-Len Handbag Co., Inc., located at New Haven, Conn., to New York, N.Y.; (3) (b) transporting *metal stampings castings, zippers, handbag frames, die cuts, and small machines* not weighing more than 100 pounds, uncrated, all used in the manufacture of handbags from New York, N.Y., to plant of Char-Len Handbag Co., Inc., located at New Haven, Conn., under a continuing contract, or contracts, with Char-Len Handbag Co., Inc.



NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 143348 (Sub-No. 1), filed June 8, 1977. Applicant: PROFESSIONAL DELIVERY SYSTEMS, INC., 1918 Barribee Lane, Richmond, Va. 23299. Applicant's representative: Guy H. Postell, 3384 Peachtree Road N.E., Suite 713, Atlanta, Ga. 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise, equipment, and supplies, sold, used, or distributed by a manufacturer of cosmetics*, from Richmond, Va., to points in Albemarle, Amelia, Amherst, Appomattox, Augusta, Brunswick, Buckingham, Campbell, Caroline, Charles City, Charlotte, Chesterfield, Culpeper, Cumberland, Dinwidde, Essex, Fluvanna, Gloucester, Goochland, Greene, Greensville, Halifax, Hanover, Henrico, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Louisa, Lunenburg, Madison, Mathews, Mecklenburg, Middlesex, Nansemond, Nelson, New Kent, Northumberland, Notoway, Orange, Powhatan, Prince Edward, Prince George, Rockingham, Southampton, Spotsylvania, Surry, Sussex, Westmoreland, and York Counties, Va.; and, Camden, Pasquotank, Gates, Hertford, Northampton, Halifax, Warren, Vance, Granville, Person, and Caswell Counties, N.C., under a continuing contract or contracts with Avon Products, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 143384, filed June 8, 1977. Applicant: SENTER TRANSPORTATION CO., INC., 65 Hale Street, Haverhill, Mass. 01830. Applicant's representative: Sumner F. Kalman, P.O. Box 621, Plaistow, N.H. 03865. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Refined petroleum products*, in bulk, in tank vehicles, between points in Massachusetts and New Hampshire, under a continuing contract or contracts with Northeast Petroleum Corp., located at Chelsea, Mass.; P C Petroleum, Inc., located at Chelsea, Mass., and Old Colony Petroleum Co., Inc., located at Chelsea, Mass.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Boston, Mass.

No. MC 143392, filed June 7, 1977. Applicant: BLACK PINE TRUCKING CO., INC., Route 1, Box 34A, Idaho Falls, Idaho 83401. Applicant's representative: John M. Sharp, P.O. Box 158, Idaho Falls, Idaho 83401. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed supplements*, in bulk, from Idaho Falls, Idaho, to points in Montana, Wyoming, and Utah.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Idaho Falls or Boise, Idaho, or Salt Lake City, Utah, or Butte, Mont.

No. MC 143408, filed June 10, 1977. Applicant PENSACOLA INDUSTRIAL SERVICES, INC., P.O. Box 8063, Pensacola, Fla. 32505. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Calcined kaolin*, in bulk, in tank vehicles, from the plant site and storage facilities of Engelhard Minerals & Chemicals Corp., at or near McIntyre, Ga.; Freeport Kaolin Co., at or near Gordon, Ga.; Burgess Pigments Co., at or near Sandersville, Ga.; Georgia Kaolin Co., at or near Dry Branch, Ga., to the plantsite and storage facilities of Monsanto Co., located at or near Gonzales, Fla.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Pensacola, Fla.

No. MC 143410, filed June 13, 1977. Name of carrier: ELMER TIESLER, doing business as Tiesler Trucking Co., 108 Front Street, Box 341, Fulda, Minn. 56131. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, over irregular routes, transporting: *Malt beverages and related advertising materials*, from LaCrosse and Milwaukee, Wis., to Fulda, Minn., under continuing contract with Holinka Distributing, Fulda, Minn.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn.

No. MC 48315 (Sub-No. 7), filed July 13, 1977. Applicant: HOPKINS MOTOR COACH, INC., 127 N. State Street, Dover, Del. 19901. Applicant's representative: Theodore Polydoroff, Ephraim & Polydoroff, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in round-trip charter operations beginning and ending at points in Dorchester, Somerset, Wicomico, and Worcester Counties, Md., and extending to points in the United States (except Hawaii and Alaska).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Salisbury, Md.

No. MC 117633 (Sub-No. 2), filed June 9, 1977. Applicant: BLUE BIRD CAB CO., INC., 502-504 North Barry Street, Olean, N.Y. 14760. Applicant's representative: Ronald W. Malin, Bankers Trust Building, Jamestown, N.Y. 14701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers* who are railroad crew members and their equipment in vehicles limited to eleven (11) passengers or less between points in Cattaraugus, Chautauqua, Erie, and Niagara Counties, N.Y., on the one hand, and on the other, points in Cameron Clinton, McKean, and Potter Counties, Pa., under contract with Consolidated Rail Corp.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Buffalo, N.Y.

No. MC 143330, filed June 2, 1977. Applicant: EUGENE C. MAYO, JR., doing business as Mayo's Bus Service, 2414 Deslonde Street, New Orleans, La. 70117. Applicant's representative: Norman Mopsik, Jr., 505 Pere Marquette Bldg., New Orleans, La. 70112. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes transporting: *Passengers and their baggage*, beginning and ending at Mandeville, La., and extending to Memphis, Tenn., and points in Alabama, Georgia, Louisiana, Mississippi, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at New Orleans, La.

FREIGHT FORWARDERS

No. FF-497, filed May 31, 1977. Applicant: MAX GRUENHUT INTERNATIONAL, INC., 9420 W. Foster Avenue, Suite 210, Chicago, Ill. 60656. Applicant's representative: Howard G. Feldman, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006. Authority sought to engage in operation, in interstate commerce, as a *freight forwarder*, through the use of the facilities of common carriers by rail, motor, water, express, and air in the transportation of *general commodities* (except commodities in bulk and hazardous materials), in intermodal containers having a prior movement by water from U.S. Atlantic and Gulf Coast ports to points in Colorado, Georgia, Illinois, Indiana, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, Texas, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Chicago, Ill.

No. FF-498, filed June 8, 1977. Applicant: CHAPMAN FREIGHT FORWARDING, INC., 5259 North Tigua, Tucson, Ariz. 85705. Applicant's representative: Michael J. Stecher, 256 Montgomery Street, San Francisco, Calif. 94104. Authority sought to engage in operation, in interstate commerce, as a *freight forwarder*, through the use of the facilities of common carriers by motor



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vehicle, in the transportation of *general commodities*, between San Bernardino, Los Angeles, Orange, San Diego, Ventura, Riverside, Kern, San Louis Obispo, Imperial, and Santa Barbara Counties, Calif., on the one hand, and, on the other, points in Arizona.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Los Angeles, Calif., or Phoenix, Ariz.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers or motor carriers pursuant to section 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with special rules 240 (c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

NOTICE

Missouri-Kansas-Texas Railroad Co., 701 Commerce Street, Dallas, Tex. 75202, represented by William A. Thie, General Counsel, Missouri-Kansas-Texas Railroad Co., 701 Commerce Street, Dallas, Tex. 75202, hereby give notice that on the 12th day of July 1977 it filed with the Interstate Commerce Commission at Washington, D.C., an application under section 5(2) of the Interstate Commerce Act for an order approving and authorizing the acquisition of the Missouri-Kansas-Texas Railroad Co. to acquire trackage rights over the main track of the Missouri Pacific Railroad Co. between Chetopa and Coffeyville, Kans., a distance of 29.68 miles, all in Labette and Montgomery Counties, Kans., which application is assigned Finance Docket No. 28507.

Approval of the application will permit the Missouri-Kansas-Texas (MKT) Railroad Co. to acquire trackage rights over Missouri Pacific's line of railroad between Chetopa, Kans., and Coffeyville, Kans., a distance of approximately 29.68 miles. Both MKT and Missouri Pacific (MP) operate lines of railroad to or through Coffeyville. Missouri Pacific's line extends west from Nevada, Missouri, through Chetopa and Coffeyville to Conway Springs, Kans., while MKT's line to Coffeyville extends southwardly from Parson's Kans., through Mound Valley and Angola, Kans., and thence to Coffeyville.

MKT's line between Parsons and Coffeyville is presently in need of substantial rehabilitation due to deferred maintenance. In addition, a severe flood in July of 1976 washed out bridge approaches and several sections of track on the line between Parsons and Coffeyville. The condition of this line and the cost of rehabilitation has prompted MKT to seek authority to abandon this line between Parsons and Coffeyville from milepost A-139.08 to milepost A-166, a distance of 27 miles. This application for authority to abandon was filed on June 29, 1977, and docketed AB-102 (Sub-No. 3).

Although MKT will seek to abandon the line between Parsons and Coffeyville, it desires to maintain service to Coffeyville and to Bartlesville, Okla., beyond. Operation over Missouri Pacific's line from Chetopa to Coffeyville would enable MKT to maintain the present service to Coffeyville in an economical and efficient manner. MKT's main line intersects with Missouri Pacific at Chetopa and provides the best method for MKT to provide service to Coffeyville and Bartlesville. MKT is presently operating over Missouri Pacific's line under a temporary detour arrangement because of the flood damage to MKT's line.

In the opinion of MKT, the authorization by the Commission of the acquisition of trackage rights as herein requested will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. As mentioned previously, MKT filed on June 29, 1977, an application for authority to abandon its line between Parsons and Coffeyville. That application includes a Supplemental Environmental Evaluation (SEE) as required by 49 CFR 1108.12(b). Because of the relationship between the abandonment and this trackage rights application, MKT hereby incorporates by reference the SEE contained in the abandonment application. The lack of environmental impact shown therein is equally applicable to this trackage rights application because the net result of the two applications will leave the environment as it stood previous to the filing of the applications.

In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), Implementation—Nat'l Environmental Policy Act, 1969, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—Nat'l Environmental Policy Act, 1969, supra, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 28507 and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than 45 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additional, interested persons who do not intent to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

MISSOURI-KANSAS-TEXAS RAILROAD CO.

No. MC-F-11656 (Supplemental) (O'BOYLE TANK LINES, INCORPORATED—Control—and Merger—M&M TANK LINES, INC., and M&M TANK LINES OF VIRGINIA, INC.), published in the September 20, 1972, issue of the FEDERAL REGISTER on page 19412. This supplemental notice reflects the reissuance of certain portion of the operating authority of M&M Tank Lines, Inc., as described in certificate No. MC-123067 (Sub-Nos. 35, 73, and 111), to M&M Tank Lines of Virginia, Inc., in lieu of O'Boyle Tank Lines, Incorporated, as authorized in the order of the Commission, Appellate Division 3, entered June 29, 1977. That authority is as follows: Liquid asphalt and liquid products, in bulk, in tank vehicles as a common carrier over irregular routes from Roanoke, Va., to points in Barbour, Braxton, Fayette, Gilmer, Greenbrier, Lewis, Mercer, Monroe, Nichols, McDowell, Pocahontas, Raleigh, Randolph, Summers, Tucker, Upshur, Webster, and Wyoming Counties, W. Va.; chemicals, in bulk, from Chesapeake, Va., to points in Delaware, Maryland North Carolina, and Virginia. Restriction: Said operations are restricted to shipments having had an immediately prior movement by rail to the origin point named. The authority granted herein may not be tacked or joined with other authority of M&M Tank Lines, Inc., for the purpose of performing through operations. Chemicals, in bulk: From Hollins, Va., to points in Tennessee, Virginia, West Virginia, and points in that part of North Carolina on and west of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 220 to junction U.S. Highway 1, and thence along U.S. Highway 1 to the North Carolina-South Carolina State line. Restriction: Said operations are restricted to shipments having had an immediately prior movement by rail to the origin point named. The authority granted herein may not be tacked or joined with other authority of M&M Tank Lines, Inc., for the purpose of performing through operations. Dry chemicals, in bulk, from Hollins, Va., to points in that part of North Carolina on and east of a line beginning at the North Carolina-Virginia State line and U.S. Highway 220 and





extending along U.S. Highway 220 to Rockingham, N.C., thence along U.S. Highway 1 to the North Carolina-South Carolina State line. Restriction: The authority granted herein is restricted to the transportation of traffic having an immediately prior movement by rail. Salt, dry, in bulk, from points in Franklin and Roanoke Counties, Va., to points in North Carolina and Virginia. Restriction: The authority granted herein is restricted to the transportation of traffic having an immediately prior movement by rail.

No. MC-F-12093 (Supplemental) (CROUCH FREIGHT SYSTEMS, INC.—PURCHASE (PORTION)—BESTWAY FREIGHT LINES, INC.), published in the January 23, 1974, issue of the FEDERAL REGISTER. This supplemental notice reflects the decision of Division 3, as enumerated in its decision and order entered July 7, 1977, to grant the petition of Crouch Freight Systems, Inc., seeking to modify the language of the certificate, to be issued in its name, covering the operating authority to be acquired from Bestway Freight Lines, Inc. in the above-entitled proceeding. Operating rights to be acquired: General Commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a common carrier over regular routes between Dallas, Texas, and Lawton, Oklahoma, serving the intermediate points of Fort Worth and Wichita Falls, Texas, and Fort Sill, Andarko, Weatherford, Clinton, Elk City, Gayse, Mangum, Altus, and Snyder, Oklahoma, and the off-route points of Clinton-Sherman Air Force Base and Altus Air Force Base, Oklahoma, between Wichita Falls, Texas and Clinton, Oklahoma, serving the intermediate points of Frederick, Snyder, Hobart and Cordell, Oklahoma, with restrictions. The requested modification of the above authority is the deletion of one of the restrictions which provides as follows: Said operations are restricted against the joining with or tacking to any other authority held by the carrier for the purpose of providing through service from or to points other than those above authorized.

The July 7, 1977, decision and order stated that for a period of 30 days from the date of this publication, any proper party in interest may file an appropriate petition for leave to intervene in the proceeding, setting forth in detail the precise manner in which it has been prejudiced.

No. MC-F-13202. (Correction) (RONALD and CARL REAGAN—CONTROL—THE SERVICE TRANSPORT CO. and CHARTER EXPRESS, INC.), published in the May 5, 1977 issue of the FEDERAL REGISTER on pages 23021 and 23022. Your attention is directed to the following deficiencies with respect to the notice as published: (1) Third column, page 23021, line 3: Indiana should be added. (2) Third column, page 23021, following the 31st line add: "Highway 12 to Clayton, N.Y., including New York.

No. MC-F-13235. (PARAMOUNT MOVERS, INC.—PURCHASE—ECONO MOVERS,) published in the July 14, 1977, issue of the FEDERAL REGISTER. Application filed July 14, 1977, for temporary authority under section 210a(b).

No. MC-F-13251. (Correction) (CHIEF TRUCK LINES, INC.—PURCHASE—MURPHY TRANSPORTATION, INC.), published in the June 30, 1977 issue of the FEDERAL REGISTER on pages 33430-33431. Prior notice should read as follows: 1. In respect to the first grant of authority, reference is made to "regular routes". The authority actually involves "irregular routes". 2. In respect to the authority reading "conduit and pipe * * * from Glen Dale, Marshall County, West Virginia * * *", one of the destination states listed is "Arizona"; this should be Arkansas. 3. In respect to the authority reading "fibre conduit and fibre pipe * * * from Orangeburg, N.Y. 111", reference is also made to "Arizona" whereas the state actually involved is Arkansas. 4. In respect to the authority reading "plastic pipe and fittings, from the plantsite of Central Foundry Company * * *", there is a restriction which was not published, i.e., "Restriction: The authority granted herein is restricted to the transportation of shipments originating at said plantsite and destined to points in the above-named States."

No. MC-F-13280. Authority sought for purchase by COURIER-NEWSOM EXPRESS, INC., P.O. Box 270, Columbus, IN., 47201, of a portion of the operating rights of ASSOCIATED TRANSPORT, INC., THOMAS J. CAHILL, TRUSTEE IN BANKRUPTCY, c/o Authur S. Olick, 39th Floor, 630 Fifth Avenue, New York, N.Y., 10020, and for acquisition by P. Robert Newsom, P.O. Box 270, Columbus, IN., 47201, of control of such rights through the purchase. Applicant's attorneys: Jack Goodman, Axelrod, Goodman, Steiner & Bazelon, 39 South LaSalle Street, Chicago, Il., 60603, Fritz R. Kahn, Suite 1100, 1660 L Street, NW., Washington, D.C., 20036, and Lee B. Ledford, 26 Broadway, New York, N.Y., 10004 operating rights sought to be transferred: General commodities, with exceptions as a common carrier over regular routes between points in Tennessee as follows: From Knoxville over U.S. Highway 129 to Maryville. Service is authorized to and from the off route point or Alcoa. From Knoxville over U.S. Highway 25W via Caryville to Jellico. From Caryville over Tennessee Highway 63 to junction unnumbered highway near Pioneer, thence over unnumbered highway via Elk Valley to Jellico. Service is authorized to and from the off-route points of Briceville, Reech Grove and Wooldridge. From Knoxville over Tennessee Highway 33 to Halls Cross Roads, thence over unnumbered highway to junction Tennessee Highway 71, and thence over Tennessee Highway 71 to Coal Creek. From Clinton over Tennessee Highway 61 to junction Tennessee Highway 71, thence over Tennessee Highway 71 to Coal Creek. From La Follette over Tennessee Highway 63 to Arthur. Return over these routes. Service is authorized to and from all intermediate points; between Nashville, Tenn., and Knoxville, Tenn. Service is not authorized to or from the intermediate points; Service is authorized to and from the Clinton Engineer Works and Oak Ridge, Tenn., as off-route points in connection said carrier's otherwise authorized regular route operations; Service is authorized to and from Lowland, Tenn., and points within three miles of Lowland, as off-route points in connection with said carrier's presently authorized regular route operations through Morristown and Newport, Tenn.; between Knoxville, Tenn., and Chattanooga, Tenn.

Service is authorized to and from all intermediate points between Cleveland and Knoxville, including Cleveland, and the off route points of Ocoee, Tellico, Plains, Venera, and Alcoa, Tenn.; between Madisonville, Tenn., and Ducktown, Tenn., service is authorized to and from all intermediate points; between Benton, Tenn., and Copperhill, Tenn., service is authorized to and from the intermediate point of Postello, Tenn., and the off route points of Turtletown and Isabella, Tenn.; serving Greenland, Tenn., as an off route point in connection with carrier's regular route operations to and from Kingsport, Tenn.; serving the site of Melton Hill Inn of the Tennessee Valley Authority, located southwest of Knoxville, Tenn., on the Clinch River, and points within five miles thereof, as off route points in connection with carrier's regular route operations from Nashville to Knoxville, Tenn.; serving the plant site of the Blue Ridge Shoe Company (subsidiary of Melville Shoe Corporation) near Mountain City, Tenn., as an off route point in connection with carrier's regular route operations; between Nashville Tenn., and Cumberland City, Tenn., serving no intermediate points; serving the plantsite of the Firestone Tire and Rubber Company near Nashville, Tenn., as an off route point in connection with carrier's authorized regular route operations; General commodities with exceptions as a common carrier over irregular routes serving the Sequoyah Nuclear Power Plant of the Tennessee Valley Authority near Daisy, Tenn., as an off route point in connection with carriers authorized regular route operations to and from Chattanooga, Tenn. Vendee is authorized to operate as a common carrier in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, New York, Ohio, Pennsylvania, West Virginia, Wisconsin and Tennessee. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13282. Authority sought for purchase by COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Road, Columbus, OH., 43227, of a portion of the operating rights of AUTOMOTIVE MERCHANDISERS OF TEXAS, INC., AND OHIO MERCHANDISING CORPORATION, 1800 Moler Road, Columbus, OH., 43207, and for acquisi-



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tion by BANNER INDUSTRIES, INC., 24500 Chagrin Boulevard, Cleveland, OH., 44122, of control of such rights through the purchase. Applicants' attorney: John P. McMahon, George, Greek, King, McMahon & McConnaughey, 100 East Broad Street, Columbus, Ohio 43215. Operating rights sought to be transferred: General commodities, with exceptions, as a common carrier over regular routes between Ripley, West Virginia and Hartford, West Virginia, serving all intermediate points: From Ripley over U.S. Highway 33 to Hartford and return over the same route; between Point Pleasant, West Virginia and Charleston, West Virginia, serving all intermediate points and the off route points of Nitro, Dunbar, and Institute, West Virginia: From Point Pleasant over U.S. Highway 35 to Charleston, and return over the same route; between Ravenswood, West Virginia and Charleston, West Virginia, serving all intermediate points: From Ravenswood over West Virginia Highway 56 to Junction U.S. Highway 21 near Sandyville, West Virginia, thence over U.S. Highway 21 to Charleston and return over the same route; between Point Pleasant, West Virginia and Hartford, West Virginia, serving all intermediate points: From Point Pleasant over West Virginia Highway 62 to Junction U.S. Highway 33, thence over U.S. Highway 33 to Hartford, and return over the same route; between Junction U.S. Highway 35 and New West Virginia Highway 2 and Ravenswood, West Virginia, serving all intermediate points: From Junction U.S. Highway 35 and New West Virginia Highway 2 over New West Virginia Highway 2 to Ravenswood, and return over the same route;

General commodities, with exceptions as a common carrier over irregular routes between Beckley, West Virginia, on the one hand, and, on the other, Bluefield, Virginia, and points in Virginia within five miles of Bluefield; between Charleston, West Virginia and Beckley, West Virginia, serving all intermediate points and the off route points of Gatewood, Lochgelly, Minden, Concho, Carlisle, Red Star, Glen Jean, Cranberry, Stanaford, Sprague, Mabscott, Daniels, Gein Morgan, Raleigh, Sylvia, Prudence, Whipple, Harvey, Summerlee, Kilsyth, Blue Jay, Glen White, Lester, Crab Orchard, Montcoal, Marfork, Dorothy, Colcord, Blue Pennant, Red Dragon, Garrison, Highcoal, and Ferndale, West Virginia, as follows: From Charleston over U.S. Highway 21 to Beckley, and return over the same route. From Charleston over West Virginia Highway 6 to Marmet, West Virginia, thence over U.S. Highway 119 to Racine, West Virginia, thence over West Virginia Highway 3 to Beckley, and return over the same route; between Bluefield, West Virginia on the one hand, and, on the other, points in Virginia, within 75 miles of Bluefield. Vendee is authorized to operate as a common carrier in Illinois, Indiana, Kansas, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, Virginia, and West Virginia.

Application has been filed for temporary authority under section 210a(b).

NOTE.—The authority being purchased was formerly owned by Point Express, Inc., and is now owned by Automotive Merchandisers of Texas, Inc., and Ohio Merchandising Corporation pursuant to MC-FC-77023 published in the FEDERAL REGISTER April 11, 1977, approved April 4, 1977, effective May 16, 1977, and consummated May 25, 1977. The certificate has not been issued.

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 247(d) of the Commissions *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 97995 (Sub-No. 3), (Amendment), filed March 7, 1977, published in the FEDERAL REGISTER issue of April 7, 1977, and republished this issue for Amendment. Applicant: A.C.U. TRANSPORT, INC., 131 East Broad Street, P.O. Box 10177, Utica, N.Y. 13503. Applicant's representative: Jack R. Turney Jr., 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General Commodities* (except those of unusual value, commodities in bulk, household goods as defined by the Commission, Classes A and B explosives, cement in bags or in bulk, and those requiring special equipment or handling), between the cities of Utica, Oneonta, Schenectady, Amsterdam, Gloversville, and Johnstown; the Villages of Herkimer (Herkimer County) and Ilion (Herkimer County) Fort Plain (Montgomery County), Canajoharie (Montgomery County), Palatine Bridge (Montgomery County) and Nelliston (Montgomery County); and the hamlet of Central Bridge (Schoharie County), New York; and (2) *Canned Goods*, from the Village of Canahoharie (Montgomery County), New York to points in Fulton, Herkimer, Montgomery, Otsego and Schoharie Counties, New York.

NOTE.—Applicant states that the purpose of this filing is to assure that the authority embraced in the proposed Certificate of Public Convenience and Necessity is coextensive with the authority embraced in the existing Certificate of Registration under the prevailing construction placed upon the underlying intrastate authority by the issuing State agency. The purpose of this application is to convert a Certificate of Registration in MP 97995 (Sub-No. 2) to a Certificate of Public Convenience and Necessity. This is a matter directly related to a Section 5(2) finance proceedings in MC-F-13149, published in the FEDERAL REGISTER issue of March 24, 1977. Common control may be involved. If a hearing is deemed necessary, the applicant requests it to be held at Washington, D.C.

No. MC 128155 (Sub-No. 5) (correction), filed May 17, 1977, published in the FEDERAL REGISTER issue of July 8, 1977, and republished as corrected this issue. Applicant: R. C. VAN LINES, INC., 1044 Northside Drive NW., Atlanta, Ga. 30318. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household Goods* as defined by the Commission, between points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, points in Utah on and east of U.S. Highway 91, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia.

NOTE.—The purpose of this application, in part, is to eliminate gateway points in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Wisconsin, District of Columbia, Oklahoma, Arkansas, Colorado, Iowa, Kansas, Louisiana, Nebraska, Texas, and Wyoming. This application is directly related to a finance proceeding in No. MC-F-13163, published in the FEDERAL REGISTER issue of March 24, 1977. The purpose of this republication is to give proper notice of the authority sought in this proceeding. If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

No. MC 134551 (Sub-No. 10), filed July 8, 1977. Applicant: LANTER REFRIGERATED DISTRIBUTING CO., No. 3 Caine Drive, Madison, Illinois 62060. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except abrasives, detergents, soap, soap stock, and soap products), from Madison, Illinois, to points in Alexander, Franklin, Schuyler, Adams, Brown, Cass, Shelby, Montgomery, Jersey, Fayette, Effingham, Bond, Madison, Clinton, Marion, St. Clair, Washington, Jefferson, Monroe, Perry, Randolph, Hamilton, Jackson, Williamson, Saline, Union, and Johnson Counties, Ill., and Ralls, Pike, Monroe, Boone, Audrain, Lincoln, Montgomery, Warren, Callaway, Cole, St. Charles, St. Louis, Gasconade, Osage, Franklin, Jefferson, Crawford, Maries, Washington, Dent, Ste. Genevieve, Reynolds, Iron, Madison, Bollinger, Marion, Phelps, Perry, Cape Girardeau, and St. Francois Counties, Mo. and the City of St. Louis, Mo.

NOTE.—This is a matter directly related to a finance proceeding docketed in MC-F-13135 which was noticed in the FEDERAL REGISTER issue of March 10, 1977. This is a gateway elimination application seeking to eliminate an East St. Louis, Ill., gateway. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo. or Springfield, Ill.

ABANDONMENT APPLICATIONS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a (6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A Certificate of Abandonment will be issued to the applicant carriers 30 days after this FEDERAL REGISTER publication unless the instructions set forth in the notices are followed.

[Docket No. AB-9 (Sub-No. 2)]

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY — ABANDONEMENT — BETWEEN BEAUMONT AND WINFIELD, IN BUTLER AND COWLEY COUNTIES, KANSAS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on April 15, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oklahoma Ry. Co. Trustees Abandonment*, 257 I.C.C. 177, and the applicable provisions of Section 405 of the Rail Passenger Service Act and that said abandonment will not result in changes in present freight rates, charges, routing privileges or construction of short line mileage for freight making purposes, the present and future public convenience and necessity permit the abandonment by the St. Louis-San Francisco Railway Company of its line of railroad extending from milepost K-458.28 at Beaumont, Kansas, in a southerly direction to milepost 500.25 at Winfield, Kansas, a distance of 41.97 miles, in Butler and Cowley Counties, Kansas. A certificate of abandonment will be issued to the St. Louis-San Francisco Railway Company based on the above-described finding of abandonment, 30 days after





publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-35 (Sub-No. 2)]

LOS ANGELES AND SALT LAKE RAILROAD COMPANY ABANDONMENT AND ABANDONMENT OF OPERATION BY UNION PACIFIC RAILROAD COMPANY OF THE CEDAR CITY LOOP TRACK NEAR CEDAR CITY, IN IRON COUNTY, UTAH

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by an Certificate and Order dated July 14, 1977, a finding which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *New Orleans Union Passenger Terminal Case*, 232 I.C.C. 271, and those provided pursuant to Section 405 of the Rail Passenger Service Act (45 U.S.C. 565), the present and future public convenience and necessity permit the abandonment by the Los Angeles and Salt Lake Railroad and abandonment of operation by the Union Pacific Railroad Company over a branch line of railroad known as the Cedar City Loop Track between mileposts 31.83 and 33.17 near Cedar City, Utah, a distance of 1.34 miles in Iron County, Utah. A certificate of public convenience and necessity permitting abandonment was issued to the Los Angeles and Salt Lake Railroad Company and the Union Pacific Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

[Docket No. AB-43 (Sub-No. 13)]

ILLINOIS CENTRAL GULF RAILROAD COMPANY—ABANDONMENT—BETWEEN CROFT AND SHERMAN IN SANGAMON AND MENARD COUNTIES, ILLINOIS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on July 7, 1977, a finding, which is administratively final, was made by the Commission, Division 3, acting as an Appellate Division, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Company of its line of railroad extending from milepost 199.30 at Croft to milepost 209.77 at Sherman, a distance of 10.47 miles in Sangamon and Menard Counties, Ill. A certificate of abandonment will be issued to the Illinois Central Gulf Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would: (a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight



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service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

## MOTOR CARRIER ALTERNATE ROUTES DEVIATIONS

### NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

## MOTOR CARRIERS OF PROPERTY

No. MC 11220 (Deviation No. 33) GORDONS TRANSPORTS, INC., 185 W. McLemore Ave., Memphis, Tenn. 38101, filed July 19, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Selmer, Tenn., over U.S. Highway 45 to junction Bypass U.S. Highway 45, thence over Bypass U.S. Highway 45 to junction Tennessee Highway 20, thence over Tennessee Highway 20 to junction U.S. Highway 51, thence over U.S. Highway 51 to junction Tennessee Highway 78, thence over Tennessee Highway 78 to junction Interstate Highway 155, thence over Interstate Highway 155 to junction Interstate Highway 55, thence over Interstate Highway 55 to St. Louis, Mo., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Selmer, Tenn., over U.S. Highway 64, to Memphis, Tenn., thence over U.S. Highway 61 to St. Louis, Mo., and return over the same route.

No. MC 30504 (Deviation No. 19), TUCKER FREIGHT LINES, INC., P.O. Box 3144, South Bend, Ind., 46619, filed July 12, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Indianapolis, Ind., over U.S. Highway 36 to junction U.S. Highway 24, thence over U.S. Highway 24 to junction Missouri Highway 10, thence over Missouri Highway 10 to Claycomo, Mo., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Indianapolis, Ind., over U.S. Highway 40 to junction Interstate Highway 435, thence over Interstate Highway 435 to Claycomo, Mo., and return over the same route.

No. MC 30504 (Deviation No. 20), TUCKER FREIGHT LINES, INC., P.O. Box 3144, South Bend, Ind. 46619, filed July 15, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Toledo, Ohio over U.S. Highway 24 to junction U.S. Highway 51 and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Toledo, Ohio over U.S. Highway 20 to junction Indiana Highway 2, thence over Indiana Highway 2 to junction U.S. Highway 6, thence over U.S. Highway 6 to junction U.S. Highway 51, thence over U.S. Highway 51 to junction U.S. Highway 24, and return over the same route.

No. MC 30504 (Deviation No. 21), TUCKER FREIGHT LINES, INC., P.O. Box 3144, South Bend, Ind. 46619, filed July 19, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Toledo, Ohio over U.S. Highway 24 to junction U.S. Highway 66 and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Toledo, Ohio over U.S. Highway 20 to junction Indiana Highway 2, thence over Indiana Highway 2 to junction U.S. Highway 6, thence over U.S. Highway 6 to junction U.S. Highway 66, thence over U.S. Highway 66 to junction U.S. Highway 24 and return over the same route.

No. MC 30504 (Deviation No. 22), TUCKER FREIGHT LINES, INC., P.O. Box 3144, South Bend, Ind. 46619, filed July 19, 1977. Carrier proposes to operate as a *common carrier, by motor vehicle*, of *general commodities*, with certain exceptions, over a deviation route as follows: From Cincinnati, Ohio over Interstate Highway 75 to junction U.S. Highway 223, thence over U.S. Highway 223 to junction U.S. Highway 127, thence over U.S. Highway 127 to Lansing, Mich., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Cincinnati, Ohio over U.S. Highway 52 to junction U.S. Highway 31, thence over U.S. Highway 31 to junction U.S. Highway 33, thence over U.S. Highway 33 to Junction Indiana Highway 19, thence over Indiana Highway 19 to junction Michigan Highway 205, thence over Michigan Highway 205 to junction U.S. Highway 12, thence over U.S. Highway 12 to junction U.S. Highway 131, thence over U.S. Highway 131 to junction Interstate Highway 94, thence over Interstate Highway 94 to junction Michigan Highway 78, thence over Michigan Highway 78 to Lansing, Mich., and return over the same route.

No. MC 89723 (Deviation No. 40), MISSOURI PACIFIC TRUCK LINES, INC., 210 N. 13th St., St. Louis, Mo. 63103, filed July 12, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Little Rock, Ark., over Interstate Highway 40 to junction U.S. Highway 65 at Conway, Ark., thence over U.S. Highway 65 to Harrison, Ark., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Little Rock, Ark., over U.S. Highway 67–167 to junction Arkansas Highway 14, thence over Arkansas Highway 14 to junction Arkansas Highway 122, thence over Arkansas Highway 122 to Newark, Ark., thence over Arkansas Highway 69 to Melbourne, Ark., thence over Arkansas Highway 9 to junction Arkansas Highway 56, thence over Arkansas Highway 56 to Calico Rock, Ark., thence over Arkansas Highway 5 to junction unnumbered county road, approximatey three miles north of Norfolk, Ark., thence over unnumbered county roads via Buford, Ark., to junction U.S. Highway 62, thence over U.S. Highway 62 to Pyatt, Ark., thence over unnumbered county road via Zinc, Ark., to junction Arkansas Highway 7, near Bergman, Ark., thence over Arkansas Highway 7 to Harrison, Ark., and return over the same route.

## MOTOR CARRIER INTRASTATE APPLICATION(S)

### NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Alabama Docket No. 17399, filed June 29, 1977. Applicant: McCOMBS FREIGHT LINE, INC., 1201 North 20th Avenue, Birmingham, Ala. 35204. Applicant's representative: Maurice F. Bishop, 603 Frank Nelson Building, Birmingham, Ala. 35203. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities*, between Birmingham, Ala., and Harpersville, Ala., via U.S. Highway 280 with closed doors (except at the terminal points). The existing authority of McCombs Freight Line, Inc., will be tacked at the terminal points. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the Alabama Public Service Commission, P.O. Box 991, Montgomery, Ala. 36102 and should *not* be directed to the Interstate Commerce Commission.

California Docket No. A 56847, filed November 4, 1976. Applicant: AIR CARGO TRANSPORTATION, INC., 1660 Rollins Road, Burlingame, Calif. 94010. Applicant's representative: Arthur J. Shartsis, 255 California Street, San Francisco, Calif. 94111. Certificate of Public Convenience and Necessity sought to operate as a highway common carrier as follows: Transportation of *General commodities* (except as hereinafter provided), between all points and places in and within 5 miles of points in the San Francisco Territory, which is described as follows: San Francisco Territory into operate as a highway common carrier cludes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean, thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101, southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Company right-of-way at Arastradero Road, southeasterly along the Southern Pacific Company right-of-way to Pollard Road; including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits, easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue, easterly along Foxworthy Avenue to Almaden Road, southerly along Almaden Road to Hillsdale Avenue.

Easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road, northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capital Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue, easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13) northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue, northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the Campus Boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. (Except that applicant shall not transport any shipments of: (1) Used household goods and personal effects not packed in accordance with the crated property requirements set forth in Paragraph (d) of item No. 10–C of Minimum Rate Tariff No. 4–A. (2). Automobiles, trucks and buses, viz: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis. (3) Livestock viz: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags, or swine. (4) Liquids, compressed gases; commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers, or a combination of such highway vehicles. (5) Commodities when transported in bulk in dump trucks or in hopper-type trucks. (6) Commodities when transported in motor vehicles equipped for mechanical mixing in transit. (7) Cement. (8) Logs; and (9) Commodities of unusual or extraordinary value.) Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the Public Utilities Commission, State of California, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102 and should not be directed to the Interstate Commerce Commission.

California Docket No. A 57339, Amendment (Partial correction), filed June 3, 1977, published in the FEDERAL REGISTER of July 8, 1977, and republished as corrected this issue. Applicant: MERRILL E. WOLKINS, doing business as CALIFORNIA MAIL DELIVERY SERVICE, P.O. Box 77132, San Francisco, Calif. 94577. Applicant's representative: Raymond A. Greene, Jr., 100 Pine St., Suite 2250, San Francisco, Calif. 94111.

NOTE.—The purpose of this partial correction is to indicate the correct territory in paragraph (E), sub paragraph (10) to read: State Highway 180 between its intersection with State Highway 33 and its intersection with State Highway 99, inclusive; and add the word inclusive after Monterey in paragraph (E), sub paragraph (14), the rest remains the same. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the Public Utilities Commission, State of California, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102 and should *not* be directed to the Interstate Commerce Commission.

Texas Docket No. 002627B2A filed July 5, 1977. Applicant: CENTRAL FREIGHT LINES INC., P.O. Box 238, Waco, Tex. 76703. Applicant's representative: Paul D. Angenend, P.O. Box 2207, Austin, Tex. 78768. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities*, (1) Between College Station, Texas, and the plant site of Texas Municipal Power Agency, Gibbon's Creek Electric Power Station near Carlos Texas, as follows: From College Station over Texas Highway 30 to Carlos, Texas, thence over Texas FM 244 to the plant site of Gibbon's Creek Electric Power Station and return over the same route serving the termini and all intermediate points and serving as off-route points all lignite and coal mining points in Grimes County, Texas, located on and along Texas FM 244 between the plant site of Gibbon's Creek Electric Power Station and Anderson, Texas. (2) Between College Station, Texas, and Lyons, Texas, as follows: From College Station over Texas FM 60 to Lyons and return over the same route, serving the termini and all intermediate points; and (3) Between junction of Texas Highway 21 and Texas FM 50, and junction Texas FM 50 and Texas Highway 105, as follows: From junction of Texas Highway 21 and Texas FM 50 over Texas FM 50 to junction Tex-







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as FM 50 and Texas Highway 105 and return over the same route, serving the termini and all intermediate points. NOTE: Applicant proposes to tack and coordinate the proposed additional services with all services authorized in intrastate commerce under Certificates 2627, 2054, 4336 and 4337 and with all services now authorized in interstate and foreign commerce under authorities granted in Docket No. MC–30867 and all subs thereunder. Applicant seeks no duplicate authority. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place will be assigned for hearing approximately 30 days after publication in the Federal Register. Requests for procedural information should be addressed to the Texas Railroad Commission, P.O. Drawer 12967 Capitol Station, Austin, Tex. 78711 and should *not* be directed to the Interstate Commerce Commission.

By the Commission

H. G. Homme, Jr.,
*Acting Secretary.*

[FR Doc.77-21653 Filed 7-27-77;8:45 am]

[Notice No. 92]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

July 25, 1977.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

### Motor Carriers of Property

**No. MC 17745 (Sub-No. 9TA)**, filed July 7, 1977. Applicant: **CONTRACTORS CARGO CO.**, 11100 South Garfield Avenue, South Gate, Calif. 90280. Applicant's representative: John H. Briggs, 11100 South Garfield Avenue, South Gate, Calif. 90280. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Condenser tube bundles, ducts, inlets, and parts thereof*, between Orange, Calif., and Hanford, Wash., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Westinghouse Electric Corp., 2095 N. Batavia, Orange, Calif. 92666. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 20916 (Sub-No. 26TA), filed June 29, 1977. Applicant: JOHN T. SISK, Rt. 2, Box 182–B, Culpeper, Va. 22701. Applicant's representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, Va. 22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* from the sawmill site of the Taylor-Ramsey Corp. on Virginia Highway 460 two miles east of Blackstone, Va., Nottoway County, to Baltimore, Denton, Frostburg, and Hagerstown, Md.; Ambridge, Avondale, Centerport, New Freedom, Reading, Temple, Toughkenamon, and Worthington, Pa.; Washington, D.C.; Charleston, W. Va., and points in their commercial zones; and points in New Jersey, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Taylor-Ramsey Corp., P.O. Box 97, Lynchburg, Va. 24505. Send protests to: Interstate Commerce Commission, 12th and Constitution Avenue NW., Rm. 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 26396 (Sub-No. 148TA), filed June 16, 1977. Applicant: POPELKA TRUCKING CO., doing business as The Waggoners, P.O. Box 990, Livingston, Mont. 59047. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asbestos wall board, insulation board, asbestos cement pipe, and roofing and insulation materials* (except commodities in bulk and commodities which by reason of size or weight require the use of special equipment), from the facilities of Johns-Manville Sales Corp. at or near Waukegan, Ill.; and Johns-Manville Perelite Corp., at or near Joliet, Ill.; to points in Kansas, Minnesota, Nebraska, North Dakota, South Dakota, and Montana. Restriction: Restricted to traffic originating at the named origins and destined to points in the named destination states, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: E. T. Sinclair, Regional Traffic Manager, Johns-Manville Sales Corp., 2222 Kensington Court, Oak Brook, Ill. 60521. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 26396 (Sub-No. 150TA), filed June 28, 1977. Applicant: POPELKA TRCKING CO., doing business as The Waggoners, P.O. Box 990, Livingston, Mont. 59047. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings*, (a) from Jackson, Tenn., to points in Iowa, Missouri, Kansas, Nebraska, Minnesota South Dakota, and North Dakota; (b) from Wilton, Iowa, to Colorado, Utah Wyoming, and Montana. Restrictions: Restricted to traffic originating at the facilities of Johns-Manville Sales Corp' at or near Jackson, Tenn., and Wilton Iowa, and destined to points in the named destination states. Further restricted against the transportation of commodities which by reason of size or weight require the use of special equipment, for 180 days. Supporting shipper E. T. Sinclair, Regional Traffic Manager, Johns-Manville Sales Corp., 2222 Kensington Court, Oak Brook, Ill. 60521. Send protests to: District Supervisor Paul J Labane, Interstate Commerce Commission, 2602 First Avenue, North Billings, Mont. 59101.

No. MC 26396 (Sub-No. 152TA), filed July 7, 1977. Applicant: POPELKA TRUCKING CO., d.b.a. The Waggoners, P.O. Box 990, Livingston, Mont. 59047. Applicant's representative: Jacob P. Billig, 2033 K Street NW., Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings and accessories* necessary for the installation thereof, from the facilities of Certain-Teed Corp., located at or near Social Circle, Ga., to points in the States of Alabama, Florida, Kentucky, North Carolina, and South Carolina, for 180 days. Supporting shippers: Paul D. Bruno, Traffic Supervisor, Certain-Teed Corp., P.O. Box 860, Valley Forge, Pa. 19482. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 1st Avenue North, Billings, Mont. 59101.

No. MC 30618 (Sub-No. 8TA), filed July 5, 1977. Applicant: HENRY V. RABOUIN, Richmond Road, Hancock, Mass. 01237. Applicant's representative: Harris N. Aaronson, 57 Wendell Avenue, Pittsfield, Mass. 01201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Talc*, in bulk via tank vehicles, from Chester, Vt., to Woodbridge Township (Port Reading), N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: U.S. Gypsum Co., 555 White Plains Road, Tarrytown, N.Y. 10591. Send protests to: J. D. Perry, Jr., Acting District Supervisor, 436 Dwight Street, Room 338, Springfield, Mass. 01103.





No. MC 30844 (Sub-No. 593TA), filed July 11, 1977. Applicant: **KROBLIN REFRIGERATED XPRESS, INC.**, 2125 Commercial Street, Waterloo, Iowa 50702. Applicant's representative: John P. Rhodes (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Garden, lawn, turf, and golf course care equipment, snow throwers, and parts and accessories* therefor from the plantsite and warehouse facilities of the Toro Co. at or near Windom, Minn., and at or near Tomah, Wis., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York (except Buffalo and points in its commercial zone), Pennsylvania (except Pittsburgh and points in its commercial zone), Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to shipments originating at the above named origin points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Toro Company, 8111 Lyndale Avenue South, Minneapolis, Minn. 55420. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 44470 (Sub-No. 1TA), filed July 1, 1977. Applicant: TOWNSEND TRUCKING CO., INC., 300 Milik St., Carteret, N.J. 07008. Applicant's representative: Mr. Robert B. Pepper, 168 Woodbridge Ave., Highland Park, N.J. 08904. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cans, aluminum and the return of packing materials and refused or rejected shipments*; from the plant site and warehouse facilities of Reynolds Metals Company located at or near Woodbridge and Carteret, N.J. to the plant and warehouse facilities of Miller Brewing Company located at or near South Volney, N.Y.; for 180 days. Supporting shipper: Reynolds Metals Company, P.O. Box 27003, Richmond, Va. 23261. Send protests to: District Supervisor Robert S. H. Vance, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 82841 (Sub-No. 212TA), filed June 23, 1977. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, Nebr. 68127. Applicant's representative: William E. Christensen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Irrigation systems and parts for irrigation systems and accessories*, from Brownfield, Tex., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, and Oklahoma, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Don Hayden, Controller, Tri-Matic, Inc., P.O. Box 1152, 1506 Lubbock Road, Brownfield, Tex. 79316. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 95008 (Sub-No. 9TA), filed July 1, 1977. Applicant FISHER SERVICE TRUCKING, INC., R.D. 2, Box 456, Monticello, N.Y. 12701. Applicant's representative: Arthur J. Piken, 1 Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shirts and pajamas*, from Somerset, Pa., to New Hyde Park, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Greenway Manufacturing Co., Box 626, Waynesburg, Pa. 15870. Send protests to: Robert A. Radler, District Supervisor, 518 Federal Building, P.O. Box 1167, Albany, N.Y. 12201.

No. MC 100666 (Sub-No. 353TA), filed July 6, 1977. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, 1129 Grimmett Drive, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th St., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cans and pails* from the facilities of Standard Container Corp., at or near Homerville, Ga., to the facilities of Georgia-Pacific Corp., at or near Acme, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia-Pacific Corp., 1062 Lancaster Ave., Rosemont, Pa. 19010. Send protests to: District Supervisor Ray C. Armstrong, Jr., 701 Loyola Ave., 9038 Federal Bldg., New Orleans, La. 70113.

No. MC 100666 (Sub-No. 354TA), filed July 6, 1977. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, 1129 Grimmett Drive, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th St., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Salem, Mo., to points in Minnesota and Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ozark Oak Flooring Company, P.O. Box 424, Salem, Mo. Send protests to: District Supervisor Ray C. Armstrong, Jr., 9038 Federal Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 103051 (Sub-No. 398TA), filed July 1, 1977. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Ave., North, P.O. Box 90408, Nashville, Tenn. 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats, oils and blends thereof*, in bulk, in tank vehicles from Knoxville, Tenn., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Virginia, and West Virginia, for 180 days. Supporting shipper: Carl Paul Vogt Co., Inc. P.O. Box 4577, Philadelphia, Pa. 19131. Send protests to: District Supervisor Joe J. Tate, Bureau of Operations, Interstate Commerce Commission, Suite A–422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 105813 (Sub-No. 224TA), filed June 15, 1977. Applicant: BELFORD TRUCKING CO., INC., P.O. Box 1936, 1759 S.W. 12th St. Ocala, Fla. 32670. Applicant's representative: Arnold L. Burke, 180 North LaSalle St., Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and the articles distributed by meat packing houses* as described in Sections A and C of Appendix I to the *Report in Discriptions in Motor Carrier Certificates*, 61 M.C.C. 766 (except hides and commodities in bulk), from Worthington, Ind., to points in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, for 180 days. Supporting shipper: Herkly Packing Co., Inc. U.S. 231 North, P.O. Box 1, Worthington, Ind. 47471. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay St. Jacksonville, Fla. 32202.

No. MC 106523 (Sub-No. 4TA), filed July 12, 1977. Applicant: CARLSON TRANSPORT, INC., P.O. Box 20214, Billings, Mont. 59102. Applicant's representative: Charles Murray, Jr. and Thomas T. Bassett, Attorneys at Law, 207A Behner Bldg., 2822 Third Ave. North, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *commodities* which because of their size or weight require the use of special equipment and mining machinery, equipment and supplies, and other commodities which because of their size and weight require special equipment between points in Big Horn County, Mont. and all points in Montana. Restricted to traffic moving in interstate commerce, for 180 days. Supporting shipper(s): Peter Kiewit Sons' Co., 849 South 32nd St. West, Billings, Mont. 59102. Tractor & Equipment Co. P.O. Box 30158, Billings, Mont. 59107. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 1st Ave. North, Billings, Mont. 59101.

No. MC 108006 (Sub-No. 22TA), filed June 22, 1977. Applicant: MAISLIN TRANSPORT LTD., 7401 Newman Boulevard, Lasalle, Quebec, Canada H8N 1X4. Applicant's representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Rd., Fairfield, N.J. 07006. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Such commodities* as are dealt in or used by agricultural equipment, industrial equipment and lawn care product



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dealers, except commodities in bulk from ports of entry on the United States-Canada boundary line on the Niagara River to points and places in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia and the District of Columbia, limited to shipments originating at the facilities of John Deere Welland Works, Welland, Ontario, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John Deere Welland Works, Welland, Ontario, Canada. Send protests to: District Supervisor David A. Demers, Interstate Commerce Commission, P.O. Box 548, 87 State St., Montpelier, Vt. 05602.

No. MC 113908 (Sub-No. 403TA), filed July 6, 1977. Applicant: ERICKSON TRANSPORT CORP., 2105 E. Dale Street, P.O. Box 3180, G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Poloxalene—(Polyol Family)—a.k.a. Polyhydric Alcohol, in bulk, from Washington, N.J. to Lowell, Ark. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Smithkline Animal Health Products, P.O. Box 219 Hwy. 71 North, Lowell, Ark. 72745. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission—BOp, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 114045 (Sub-No. 469TA), filed June 23, 1977. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D FW Airport, Tex. 75261. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, and toilet preparations* (except in bulk), in vehicle equipped with mechanical refrigeration, from Lewes and Seaford, Del., to all points in the States of California, Colorado, Oklahoma, Oregon, Washington, and Texas, for 180 days. Supporting shipper: William H. Rorer, Inc., 500 Virginia Drive, Ft. Washington, Pa. 19034. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 114194 (Sub-No. 194TA), filed July 11, 1977. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East, St. Louis, Ill. 62201. Applicant's representative: A. Bruce Fraser (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, in bulk, in dump vehicles, from High Hill, Mo. to Canfield, Oh., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Billy J. Carter, Plant Manager, Missouri Minerals Processing, Inc., P.O. Box 186, High Hill, Mo. 63350. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 116519 (Sub-No. 46TA), filed July 11, 1977. Applicant: FREDERICK TRANSPORT LIMITED, R.R. 6, Chatham, Ontario, Canada. Applicant's representative: Jeremy Kahn, Attorney-at-Law, Suite 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Combines, combine tables, agricultural implements and agricultural machinery, and parts and attachments thereof*, when moving in mixed loads therewith, from ports of entry on the United States-Canada International Boundary Line located in Michigan and New York, to points in the United States (except Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico Oregon, Utah, Washington, Wyoming, Texas, Nebraska, Kansas, Oklahoma, Iowa, North Dakota, South Dakota, Minnesota, Wisconsin, Louisiana, Arkansas, and Missouri). Restrictions: (1) The transportation authorized herein is restricted to foreign commerce. (2) The transportation authorized herein is restricted to the transportation of shipments originating at the facilities of Massey-Ferguson Industries, Limited, Brantford, Ontario, Canada, and Toronto, Ontario, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Massey-Ferguson Industries, Ltd., Traffic Manager—Canada George Stephenson, Brantford, Ontario, Canada. Send protest to: Interstate Commerce Commission, Bureau of Operations, Erma Gray, Secretary, 604 Federal Building and U.S. Courthouse, 231 W. Lafayette, Detroit, Michigan 48226.

No. MC 117119 (Sub-No. 645TA), filed July 11, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean, P.O. Box 188, Elm Springs, Ark. 72728. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail discount and variety stores (except commodities in bulk), from New York, N.Y. to the facilities of T G & Y Stores at Shreveport, La., for 180 days. Supporting shipper(s): T G & Y Stores, 3815 N. Santa Fe, P.O. Box 25967, Oklahoma City, Okla. 73125. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 117940 (Sub-No. 227TA), filed July 7, 1977. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minnesota 55359. Applicant's representative: Larry Joe Beach, P.O. Box 104, Maple Plain, Minnesota 55359. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Garden, lawn, turf, and golf course care equipment, snow throwers, and parts and accessories therefor, except commodities in bulk*, from the plantsite and warehouse facilities of the Toro Company at or near Windom, Minn. and at or near Tomah, Wis., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, (except Buffalo and points to its Commercial Zone), Pennsylvania (except Pittsburgh and points in its Commercial Zone), Rhode Island, Vermont, Virginia, West Virginia and the District of Columbia, restricted to shipments originating at the above named origin points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Toro Company, 8111 Lyndale, Avenue South Minneapolis, Minn. 55420. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 117940 (Sub-No. 228TA), filed July 7, 1977. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman, P.O. Box 104, Maple Plain, Minn. 55359. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise* as is dealt in by discount and variety stores (except foodstuffs, commodities in bulk, and new furniture and furniture materials), and (2) *new furniture and furniture materials* when in mixed shipments with commodities in paragraph (1) above, from the facilities of U.S. Packing and Shipping Company and Chicago Shippers Association at Jersey City, New Jersey, when moving on bills of lading consigned to K-Mart Corporation, and from the facilities of K-Mart Corporation at or near North Bergen, New Jersey to points in North Carolina, South Carolina and Georgia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): K-Mart Corporation, 3100 W. Big Beaver Road, Troy, Mich. 48084. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 119555 (Sub-No. 15TA), filed June 29, 1977. Applicant: OIL AND INDUSTRY SUPPLIERS, LTD., P.O. Box 3500, 640 12th Ave., Calgary, Alberta Canada T2P 2P9. Applicant's representative: Ray F. Koby, 314 Montana Bldg., Great Falls, Mont. 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid gum*, in bulk, in tank vehicles, from the plantsite facilities of Stein Hall Chemical at Charlotte, N.C. to ports of entry on the Canada-United States International Boundary





line located at or near Niagara Falls, N.Y., Grand Portage and International Falls, Minn., and Portal, N. Dak., restricted to traffic destined to points in Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mort Williston, Manager, Chemonics Industries (Canada) Ltd., Box 745, 1860 Kelley Douglas Rd. Kamloops, British Columbia, Canada. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Ave. North Billings, Mont. 59101.

No. MC 119619 (Sub-No. 101TA), filed June 17, 1977. Applicant: DISTRIBUTORS SERVICE, CO., 2000 W. 43rd St., Chicago, Ill. 60609. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packing houses* as described in Sections A and C Appendix I to the *Report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Defiance and Troy, Ohio to Washington, D.C., Duxbury, Mass., Edison, Elizabeth, Florence, Jersey City, Kearny, Linden, Secaucus, Vineland and Woodbridge, N.J., Mount Kisco, N.Y. and Philadelphia, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Swift Processed Meats Company, A Division of Swift & Company, 115 W. Jackson Boulevard, Chicago, Ill. 60604, Trevor H. Tucker, Jr. Director of Distribution, Dinner Bell Foods, Inc., Defiance, Ohio 43512. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn St., Rm. 1386, Chicago, Ill. 60604.

No. MC 121060 (Sub-No. 45TA), filed July 6, 1977. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, 1220 West 3rd Street, Birmingham, Ala. 35207. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from South Boston, Va., to points in Kentucky, Ohio and Michigan, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Champion International Corporation, Knightsbridge Drive, Hamilton, Ohio 45020. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616–2121 Building, Birmingham, Ala. 35203.

No. MC 123048 (Sub-No. 357TA), filed June 29, 1977. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st, P.O. Box A, Racine, Wis. 53401. Applicant's representative: Carl S. Pope (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber*, from Opelika and Pine Hill, Ala.; (2) *particleboard and plywood*, from Pine Hill, Ala.; to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: MacMillan Bloedell Inc., 1250 Brown Marx Building, Birmingham, Ala. 35203. Send protests to: Gail Daugherty, Transportation Asst, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Ave., Rm 619, Milwaukee, Wis. 53202.

No. MC 123987 (Sub-No. 5TA), filed July 7, 1977. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Mangum, Okla. 73554. Applicant's representative: Jewett Scott, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, ground NOI in bags, from the plantsite of Industrial Mineral Ventures, Inc., at Imvite, Nev., in Nye County, Nev., to points in New Mexico, Texas, Oklahoma, and Kansas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Industrial Mineral Ventures, Inc., 5920 McIntyre Street, Golden, Colo. 80401. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission—Bureau of Operations, Box H–4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 124813 (Sub-No. 176TA), filed July 5, 1977. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, P.O. Box 166, Eagle Grove, Iowa 50533. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphatic feed ingredients*, from Mediapolis and Eagle Grove, Iowa to points in Missouri. Restricted to traffic having a prior movement by rail, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Occidental Chemical Company, P.O. Box 1185, Houston, Tex. 77001. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 127187 (Sub-No. 25TA), filed June 30, 1977. Applicant: FLOYD DUNEOW, INC., 1728 Industrial Park Blvd., Fergus Falls, Minn. 56537. Applicant's representative: Greg C. Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the ports of entry located on the International Boundary Line between the United States and Canada located in North Dakota and Minnesota to points in Iowa, North Dakota, South Dakota, Minnesota, and Wisconsin, restriction: restricted to traffic originating at the facilities of Manitoba Forestry Resources Ltd. in Winnipeg, Manitoba, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Manitoba Forestry Resources Ltd. Rm. 902, 213 Notre Dame, Winnipeg, Manitoba, Canada. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 127539 (Sub-No. 57TA), filed July 7, 1977. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Avenue East, Tacoma, Wash. 98421. Applicant's representative: Michael D. Duppenthaler, 515 Lyon Building, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and foodstuffs*, in vehicles equipped with mechanical refrigeration, from Los Angeles, Calif., to points in Oregon and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Pillsbury Company, 1436 Goodrich Blvd., Los Angeles, Calif. 90022. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, 915 Second Avenue, Seattle, Wash. 98174.

No. MC 127991 (Sub-No. 3TA), filed July 8, 1977. Applicant: P. F. Huntley Company, E. 6305 Mallon Street, Spokane, Wash. 99206. Applicant's representative: Christopher J. Dietzen, Richter, Wimberley and Ericson, 708 Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from points in Long Beach and Wilmington, Calif. to Pacific Fruit and Produce warehouses at points in Pasco and Spokane, Wash. for 180 days. Supporting shippers: Pacific Gamble Robinson, dba Pacific Fruit and Product, 4103 Second Avenue South, Seattle, Wash. 98134. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 128339 (Sub-No. 4TA), filed July 7, 1977. Applicant: Valley Trucking Service, Inc., 1361 Jacqueline Drive, P.O. Box 5568, Columbus, Ga. 31906. Applicant's representative: C. E. Walker, No. 8 Eleventh Street, P.O. Box 1085, Columbus, Ga. 31902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General Commodities* having a prior or subsequent



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movement by rail, in shipper or railroad-owned trailers, between Cuthbert, Randolph County, Ga. and Columbus, Ga., for 180 days. Applicant has also filed and underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Kellwood Company, 200 Sears Rd., Perry, Ga. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Room 300, Atlanta, Ga. 30309.

No. MC 133189 (Sub-No. 10TA), filed June 23, 1977. Applicant: VANT TRANSFER, INC., 4075 Mulcare Drive, Minneapolis, Minn. 55421. Applicant's representative: John B. Van De North, Jr., 4610 IDS Center, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing and insulating materials*, from the plantsites and warehouse facilities of GAF Corporation located in the Minneapolis/St. Paul, Minnesota Commercial Zone to points in Wisconsin and the Upper Peninsula of Michigan; and (2) *materials, equipment and supplies* used in the manufacture of roofing and insulating materials, except in bulk, from points in Wisconsin and the plantsites and warehouse facilities of GAF Corporation located at or near Kansas City and St. Louis, Mo., and Joliet, Ill., to the plantsites and warehouse facilities of GAF Corporation in the Minneapolis/St. Paul, Minnesota Commercial Zone. Restriction: Authority in (1) above restricted to the transportation of the described commodities in flatbed equipment, for 180 days. Supporting shipper: GAF Corporation, 1361 Alps Road, Wayne, N.J. 07470. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 133559 (Sub-No. 3TA), filed July 12, 1977. Applicant: CHARLOTTE TRUCK SERVICE, INC., P.O. Box 8414, 27 West of I–85, Charlotte, N.C. 28208. Applicant's representative: George W. Clapp, Registered Practitioner, 109 Hartsville St., P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wrecked and disabled trucks, wrecked and disabled tractors, wrecked and disabled trailers (other than those designed to be drawn by passenger vehicles), and wrecked and disabled buses*, from points in Georgia, Florida, South Carolina, Tennessee, and Virginia, to points in Cabarrus County, N.C. (2) *Replacement vehicles* for the vehicles named in (1) above, from points in Cabarrus County, N.C., to the origin points as described in (1) above. (3) *Wrecked and disabled trucks, wrecked and disabled tractors, wrecked and disabled trailers (other than those designed to be drawn by passenger vehicles), and wrecked and disabled buses*, from points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, to points in Iredell County, N.C. (4) *Replacement vehicles* for the vehicles named in (3) above, from points in Iredell County, N.C., to the origin points as described in (3) above. (5) *Wrecked and disabled trucks, wrecked and disabled tractors, wrecked and disabled trailers (other than those designed to be drawn by passenger vehicles), and wrecked and disabled buses*, from points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, to points in Lincoln County, N.C. (6) *Replacement vehicles* for the vehicles named in (5) above, from points in Lincoln County, N.C., to the origin points as described in (5) above.

(7) *Wrecked and disabled trucks, wrecked and disabled tractors, wrecked and disabled trailers (other than those designed to be drawn by passenger vehicles), and wrecked and disabled buses*, from points in the United States (except Alabama, Alaska, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Louisiana, Maryland, Massachusetts, Mississippi, New Jersey, New York, Pennsylvania, Rhode Island, South Carolina, and Virginia), to points in Mecklenburg County, N.C. (8) *Replacement vehicles* for the vehicles named in (7) above, from points in Mecklenburg County, N.C., to the origin points as described in (7) above. (9) *Wrecked and disabled trucks, wrecked and disabled tractors, wrecked and disabled trailers (other than those designed to be drawn by passenger vehicles), and wrecked and disabled buses*, from points in Alabama, Connecticut, Delaware, Florida, Georgia, Louisiana, Maryland, Massachusetts, Mississippi, New Jersey, New York, Pennsylvania, Rhode Island, South Carolina, and Virginia, to points in Mecklenburg County, N.C. (except Charlotte, N.C., and points in its Commercial Zone). (10) *Replacement vehicles* for the vehicles named in (9) above, from points in Mecklenburg County, N.C. (except Charlotte, N.C., and points in its Commercial Zone), to the origin points as described in (9) above. (11) *Wrecked and disabled trucks, wrecked and disabled tractors, wrecked and disabled trailers (other than those designed to be drawn by passenger vehicles), and wrecked and disabled buses*, from points in the United States (except Alaska and Hawaii), to points in Catawba County, N.C., and York County, S.C. (12) *Replacement vehicles* for the vehicles named in (11) above, from points in Catawba County, N.C., and York County, S.C., to the origin points as described in (11) above. (13) *Wrecked and disabled trucks, wrecked and disabled tractors, wrecked and disabled trailers (other than those designed to be drawn by passenger vehicles), and wrecked and disabled buses*, from points in Alabama, Florida, Georgia, Indiana, Kentucky, Maryland, Mississippi, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia, to points in Chester County, S.C. (14) *Replacement vehicles* for the vehicles named in (13) above, from points in Chester County, S.C., to the origin points as described in (13) above, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 8 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Terrell Price, Interstate Commerce Commission, 800 Briar Creek Rd., Mart Office Building, Room CC516, Charlotte, N.C. 28205.

No. MC 134477 (Sub-No. 179TA), filed June 22, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Rd., West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.CC. 209 and 766 (except hides and commodities in bulk), from Huron, South Dakota to points in Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, and Rhode Island, restricted to traffic originating at the plantsite and storage facilities of Huron Dressed Beef, Inc., at or near Huron, S. Dak.; and destined to points in the above named states, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Huron Dressed Beef, Inc., P.O. Box 924, Huron, South Dakota 57350. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations 414 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 134838 (Sub-No. 16TA), filed July 7, 1977. Applicant: Southeastern Transfer & Storage Co., Inc., P.O. Box 39236, Bolton Station, Atlanta, Ga. 30318. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 W. Peachtree St. NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel* articles, from Savannah, Ga. to points in Alabama, Florida, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee, for 180 days. Supporting shippers: There are approximately 9 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Room 300, Atlanta, Ga. 30309.





No. MC 135684 (Sub-No. 42TA), filed June 30, 1977. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Herbert A. Dubin, Federal Bar Bldg. West, 1819 H Street NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, execpt in bulk, from the facilities of Diamond Crystal Salt Co., at or near St. Clair, Miss., to Baltimore, Cambridge, and Hunt Valley, Md.; Fall River and Wilmington, Mass., and points in New Jersey, New York, and Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Diamond Crystal Salt Company, 916 South Riverside Ave., St. Clair, Miss. 48079. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 135684 (Sub-No. 43TA), filed July 8, 1977. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Herbert A. Dubin, Federal Bar Building West, 1819 H Street NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning products*, except in bulk, from St. Louis, Mo., to the commercial zone of Columbus, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Purex Corporation, 6901 McKissock Avenue, St. Louis, Mo. 63147. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 136343 (Sub-No. 114TA), filed July 8, 1977. Applicant: Milton Transportation, Inc., P.O. Box 355, R.D. No. 1, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *Paper Products*, from the plant site and warehouse facilities of the International Paper Company at or near Jay and Livermore Falls, Maine to points in the States of Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, District of Columbia, points in New York on and west of U.S. Highway 81, and Pennsylvania on and west of U.S. Highway 15 and Emigsville, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: International Paper Company, Room 300, 220 E. 42nd Street, New York, N.Y. 10017. Send protests to: Charles F. Myers, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 136512 (Sub-No. 13TA), filed July 7, 1977. Applicant: SPACE CARRIERS, INC., 444 Lafayette Road, St. Paul, Minn. 55101. Applicant's representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Garden, lawn turf and golf course care equipment, snow throwers, and parts and accessories* therefor, from the plantsite and warehouse facilities of The Toro Company at or near Windom, Minn. and at or near Tomah, Wis. to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York (except Buffalo and points in its commercial zone), Pennsylvania (except Pittsburgh and points in its commercial zone), Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to shipments originating at the above named origin points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Toro Company, 8111 Lyndale Avenue South, Minneapolis, Minn. 55420. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 136762 (Sub-No. 15TA), filed July 8, 1977. Applicant: OSBORNE HIGHWAY EXPRESS, P.O. Box 763, Ukiah, Calif. 95482. Applicant's representative: Edward A. Francom (415) 829–4500, 6400 Village Parkway, Dublin, Calif. 94566. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fireplace logs, extruded sawdust and parafin* combined from Stockton and the Port of Stockton, California to points in Utah and points in that part of Idaho south of a line beginning at the Oregon State Line and extending along the Salmon River to its junction with the North Fork of the Salmon River and thence along the North Fork of the Salmon River to the Montana State Line, for 180 days. Supporting shipper(s): Duraflame, Inc., P.O. Box 49, Stockton, Calif. 95201. Send protests to: District Supervisor A. J. Rodriguez, 211 Main—Suite 500, San Francisco, Calif. 94105.

No. MC 136888 (Sub-No. 9TA), filed July 7, 1977. Applicant: NORMAN & SON, INC., 2520 North 69th Street, Houston, Tex. 77020. Applicant's representative: Phillip Robinson, P.O. Box 2207, Austin, Tex. 78768. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *spent molybdenum catalysts, spent molybdenum cobalt catalysts and spent molybdenum nickel catalysts*, in bulk, in dump trailer equipment, from points in Texas to Denver, Colorado, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Philipp Brothers, 1221 Avenue of the Americas, New York, N.Y. 10020. Send protests to: District Supervisor John Mensing, Interstate Commerce Commission, 515 Rusk, Room 8610 Federal Bldg., Houston, Tex. 77002.

No. MC 138000 (Sub-No. 31TA), filed July 6, 1977. Applicant: ARTHUR H. FULTON, Post Office Box 86, Stephens City, Va. 22655. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Norfolk, Va., and its commercial zone to Detroit, Mich., and Chicago, Ill., and their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Champale Products Corp., 710 Washington Avenue, Norfolk, Va. 23504. Send protests to: Interstate Commerce Commission, 12th & Constitution Avenue, NW. Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 138252 (Sub-No. 3TA), filed July 13, 1977. Applicant: COURTESY BUS RENTAL SYSTEM, INC., Route 3, Box 617, Brandywine, Maryland 20613. Applicant's Representative: Daniel B. Johnson, 1123 Munsey Building, 1329 E Street, NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in round trip charter operations, beginning and ending at points in that part of Maryland bounded by the Chesapeake Bay on the east; the Potomac River on the south; and Prince Georges and Anne Arundel Counties on the north including points within Prince Georges and Anne Arundel Counties and the District of Columbia to points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 18 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Interstate Commerce Commission, 12th & Constitution Avenue,



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NW., Room 1413, W.C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 138469 (Sub-No 44TA), filed July 8, 1977. Applicant: DONCO CARRIERS, INC., 641 N. Meridian, P.O. Box 75354, Oklahoma City, Okla. 73107. Applicant's Representative: K. E McLinn, P.O. Box 75354, Oklahoma City, Okla. 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile glass*, from the facilities of Libbey-Owens-Ford Co., in Toledo, Ohio and points in the Toledo, Ohio commercial zone, to El Paso and Lubbock, Tex.; Phoenix and Tucson, Ariz., and Lathrop, Calif., and to points in the commercial zones of the above named destination cities, for 180 days. Applicant has also filed an underlying TAE seeking up to 90 days of operating authority. Supporting shipper(s): Libbey-Owens-Ford Company, 811 Madison Ave., Toledo, Ohio 43695. Send protests to: District Supervisor Joe Green, Room 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 138762 (Sub-No. 13TA), filed June 29, 1977. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Applicant's representative: Richard H. Streeter, Southern Bldg., 15th & H Sts., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids, chemicals, and petroleum products*, in bulk, in tank vehicles, from points in the States of Louisiana and Texas to the port of entry on the United States-Canada International Boundary line located at or near Port Huron, Mich.; destined to points in Ontario, Canada, for 180 days. Applicant has also filed an underlying ETA seeking to 90 days of operating authority. Supporting shipper: J. A. Merryless, Supervisor-Rate Development, Imperial Oil Limited, 111 St. Clair, Ave.: W., Toronto, Ontario, Canada M5W 1K3. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2605 First Ave. North, Billings, Mont. 59101.

No. MC 138970 (Sub-No. 3TA), filed July 7, 1977. Applicant: HAYWARD TRANSPORTATION, INC., Main Street, Fairlee, Vt. 05045. Applicant's representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, Mass. 01960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste glass*, in bulk, in dump vehicles, from Lebanon, N.H. and White River Junction, Vt., to Dayville, Conn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Waste Control, Inc., Woodstock Road, White River Junction, Vt. 05001. Send protests to: District Supervisor David A. Demers, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, Vt. 05602.

No. MC 139482 (Sub-No. 17TA), filed July 7, 1977. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 347, New Ulm, Minn. 56073. Applicant's Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberboard, corrugated packaging materials* from Sioux City, Iowa to New Ulm, Minn., for 180 days. Supporting shipper(s): Container Corporation of America, 500 East North Avenue, Carol Stream, Ill. 60187. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 139923 (Sub-No. 34TA), filed June 24, 1977. Applicant: MILLER TRUCKING CO., INC., P.O. Drawer "D", 105 S. 8th Street, Stroud, Okla. 74079. Applicant's representative: Max G. Morgan, 223 Ciudad Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Quicklime, hydrated lime, and ground limestone*, from the plantsite of St. Clair Lime Co., near Marble City and Sallisaw, Okla., to points in Columbia, Conway, Pulaski, and Union Counties, Ark.; Barton, Butler, Cowley, Ellis, Ford, Graham, McPherson, Russell, Sedgwick, and Sumner Counties, Kans., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: St. Clair Lime Co., P.O. Box 894, Oklahoma City, Okla. 73101. Send protests to: District Supervisor Joe Green, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 141186 (Sub-No. 3TA), filed July 6, 1977. Applicant: CLEVELAND SHELLEY, doing business as SHELLEY TRUCK LINE, Route 2, Headland, Ala. 36345. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum dust*, in bags, from Brunswick, Ga., to Abbeville, Ala., for 180 days. Supporting shipper: Home Supply Co., Bradley Street, Abbeville, Ala. 36310. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 141230 (Sub-No. 1TA), filed July 8, 1977. Applicant: CECIL "SANDY" BURNETT TRUCKING AND RADIATOR SERVICE, INC., R.R. #2, Box 30, Craig Ave., Greendale, Ind. 47025. Applicant's representative: Theodore K. High, 2208 Central Trust Tower, 4th & Vine Sts., Cincinnati, Ohio 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, bank run, sand and gravel aggregate, rock and dirt* between the plant site of Dearborn Gravel Company, at or near the town of Greendale, Dearborn County, Ind. and the plant site of American Materials Corporation located at or near the town of Harrison, Hamilton County, Ohio, for 180 days. Supporting shippers: Dearborn Gravel Company, Inc., Lawrenceburg, Ind. 47025. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Building & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 142045 (Sub-No. 2 TA), filed July 1, 1977. Applicant: McNEIL TRANSPORT LIMITED, 147 North Augusta Rd., Brockville, Province of Ontario, Canada K6V 241. Applicant's representative: Roy D. Pinsky, 345 South Warren St., Syracuse N.Y. 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* with usual exceptions between the City of Ogdensburg, N.Y.; and the International boundary between the United States and Canada located on the Ogdensburg Johnstown International Bridge, as follows: From Ogdensburg via Canadian Highway No. 16 to the International boundary located at a point on said bridge and return, restricted to traffic having a prior or subsequent movement in foreign commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: (s) Ogdensburg Bridge & Port Authority, Ogdensburg, N.Y. 13669, Jamaica Manufacturing (Canada) Ltd. Gorner Edwards St. and Churchill Rd., Prescott, Ontaria, Canada, Simplex Textile Limited, Prescott, Ontario, Canada, RCA Limited Consumer Electronics & Appliances Division, Sophia St., Prescott, Ontario, Canada, Newell Manufacturing Co., Inc. Bulldog Division, Ogdensburg, N.Y., Prescott Paper Products, 236 Wood St. Prescott, Ontario, Canada, GTE Automatic Eletric, 100 Strowger Blvd., Brockville, Ontario, Canada, J. A. Jonston Co., Div. of Genesco of Canada Co., Ltd., 105 Strowger Blvd. Brockville, Ontario, Canada, Canadian Armature Works Corp. and Danor Manufacturing Co., Ltd., 149 Parkdale Ave. Brockville, Ontario, Canada. Send protests: Mr. Morris H. Gross, District Supervisor, Interstate Commerce Commission, U.S. Courthouse and Federal Bldg., 100 S. Clinton St. Rm. 1259, Syracuse, N.Y. 13202.

No. MC 143071 (Sub-No. 2TA), filed July 11, 1977. Applicant: UNIVERSAL DEVELOPMENT, INC., P.O. Box 568, York, Nebr. 68467. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kan. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles* distributed by meat packinghouses as described in Section A and C of Appendix I to the report in Descriptions In Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the plantsite of Sunflower Beef Packers, Inc., at or near York, Nebr. to points and places in Washington, Oregon, Idaho, and Montana. Restricted to traffic originating at above named origin and destined to above named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): George Merritt Otoupal, Traffic Manager, Sunflower Beef Packers, Inc., Box 583, York, Nebr. 68467. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, Lincoln, Nebr. 68508.





No. MC 143071 (Sub-No. 3TA), filed July 11, 1977. Applicant: UNIVERSAL DEVELOPMENT, INC., P.O. Box 568, York, Nebr. 68467. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kansas 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum irrigation pipe, fittings and accessories*, from the plantsite of Kroy Metal Products, at or near York, Nebr. to points in the states of Alabama, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Iowa, Kansas, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New York, New Jersey, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin, and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kenneth T. Nordlund, Manager, Kroy Metal Products Co., R.F.S. 1, York, Nebr. 68467. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 143236 (Sub-No. 1TA), filed June 23, 1977. Applicant: WHITE TIGER TRANSPORTATION, INC., 115 Jacobus Ave., Kearny, N.J. 07032. Applicant's representative: Mr. George A. Olsen, P.O. Box 357, Gladstone, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural insecticides, fungicides and chemicals*, in mechanical refrigerated equipment, from points in New York, N.Y.; Commercial Zone as defined by the Commission, and piers in New York, N.Y.; Harbor as defined by the Commission to Bakersfield, San Francisco, Lathrop, Calif.; Danbury and Wallingford, Conn.; Wilmington and Atlas Point, Del.; Miami, Eaton Park, Tampa, Fla.; Savannah, Ga.; Carpentersville, Chicago, Northbrook, Rockford, Ill.; Indianapolis, South Bend, Ind.; Burlington, Iowa; Auburn, Maine; Boston, Chelsea, Westminster, Pittsfield, Mass.; Smithfield, Mich.; Minneapolis, Minn.; Picayune, Miss.; St. Louis, Kansas City, St. Joseph, Mo.; Buffalo, White Plains, Rochester, N.Y.; Burgaw, N.C.; Ashtabula, Cincinnati, Columbus, Cleveland, Dublin, Toledo, Akron, Ohio; Neville Island, Philadelphia, Pittsburgh, Pa.; Kingsport, Tenn.: Dallas, Houston, Tex.; Saukville, Port Washington, Milwaukee, Wis. RESTRICTED TO shipments for the account of Solchem Inc. and restricted to shipments originating at the named origins and destined to the named destinations for 180 days. Supporting shipper: Solchem Incorporated, 415 Madison Ave., New York, N.Y. 10017. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 143353 (Sub-No. 1TA), filed June 28, 1977. Applicant: BILL GILBERT, doing business as IDAHO SALVAGE POOL, 3515 Cleveland Blvd., Caldwell, Idaho 83605. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled vehicles, vessels, trailers and camper units and parts thereof*, excluding scrap automobile bodies compressed. Between points in Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming, on the one hand, and points in Ada and Canyon Counties, Idaho on the other. Applicant does not intend to tack authority or interline with other carriers, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately five (5) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 W. Fort St., Box 07, Boise, Idaho 83724.

No. MC 143417 (Sub-No. 1TA), filed June 30, 1977. Applicant: FLASH INTERSTATE DELIVERY SYSTEM, INC., 4711 W. 16th St., Cicero, Ill. 60650. Applicant's representative: Barry Roberts, 888 17th St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from points in Michigan and Ohio to Chicago, Ill., restricted to traffic having a subsequent movement by rail in trailer on flat car service, for 180 days. Supporting shipper: Bud Antle, Inc., Alfred J. Navaroli, Vice Pres., Trans., 639 S. Sanborn Rd., P.O. Box 1759, Salinas, Calif. 93901. Acme Fast Freight, Inc., Charles E. Blanck, Exec., V.P. Traffic 2335 New Hyde Park Rd., New Hyde Park, N.Y. 11040, Co-Operative Shippers, Inc., M.P. Cagnoni, Executive Director, 3752 W. 47th St., Chicago, Ill. 60632. United Shippers Association, Inc., Anthony E. Sicilia, General Manager, 356 N. Halsted St., Chicago, Ill. 60606. Send protest to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn St., Rm. 1386, Chicago, Ill. 60604.

No. MC 143447TA, filed June 30, 1977. Applicant: LATIN AMERICAN EXPRESS CORPORATION, 7300 NW. 41st St., P.O. Box 557456, Miami, Fla. 33155. Applicant's representative: Alan F. Wohlstetter, 1700 K St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household* goods between points in Dade, Broward, Palm Beach, Collier, and Monroe Counties, Fla.; restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic, for 180 days. Supporting shipper: Interconex, Inc., 444 Madison Ave.; New York, N.Y., 10022, Bowling Green Storage & Van Co., 80 Herrmann Place, Yonkers, N.Y. 10710, Crown Overseas Forwarders, 180 Quint St., San Francisco, Calif. 94124, Sunpak Movers, Inc., 100 West Harrison Plaza, Seattle, Wash. 98119, Northwest Consolidators, 1110 North 175th St., Seattle, Wash. 98133. Security Storage Company of Washington, 1701 Florida Ave. N.W., Washington, D.C. 20009. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Monterey Building, Suite 101, 8410 NW. 53rd Terrace, Miami, Fla. 33166.

No. MC 143459 TA, filed June 30, 1977. Applicant: ARROW-POCONO LINES, INC., 81–14 Baxter Ave., Elmhurst, N.Y. 11373. Applicant's representative: Thomas F. X. Foley, P.O. Box 1409, 167 Fairfield Rd., Fairfield, N.J. 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage, and unaccompanied baggage* in the same vehicle with passengers in special and charter operations; between New York, N.Y.; and the New York, N.Y. Commercial Zone and points in New Jersey, on the one hand, and, on the other, points and places in Monroe, Lehigh, Northampton, Luzerne, Pike and Carbon Counties, Pa.; for 180 days. Supporting Shipper(s): There are 10 (ten) statements of support attached to the application, which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Stephen P. Tomany, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza Rm. 1807, New York, N.Y. 10007.

No. MC 143469 TA, filed July 7, 1977. Applicant: TACOMA TOWING, INC., 12132 Pacific Highway SW., Tacoma, Wash. 98499. Applicant's representative: Raymond Winters, 12132 Pacific Highway SW., Tacoma, Wash. 98499. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled vehicles*, between points in King, Pierce and Snohomish Counties in the State of Washington and Multnomah, Milwaukee and Clackamus Counties in the State or Oregon for 180 days. Supporting shippers: There are approximately 5 statements of support attached



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**to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, 915 Second Avenue, Seattle, Wash. 98174.**

No. MC 143472 TA, filed July 7, 1977. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle NE., Atlanta, Ga. 30345. Applicant's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aquariums, aquarium supplies, materials and supplies* (except in bulk), utilized in the manufacture and distribution of aquariums, from Canton, Ga., to points in Arizona, California, Colorado, Idaho, Illinois, Louisiana, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, Wisconsin and Wyoming, for 180 days. Supporting shipper: O'Dell Manufacturing Incorporated, P.O. Box 1242, Univeter Road, Canton, Ga. 30114. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Rm. 300, Atlanta, Ga. 30309.

No. MC 143474 TA, filed July 8, 1977. Applicant: Wheeler Trucking Corporation, 3375 South Polaris, Las Vegas, Nev. 89102. Applicant's representative: R. Alan Wheeler, 3375 South Polaris, Las Vegas, Nev. 89102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, stolen, repossessed, or impounded motor vehicles and trailers or semi-trailers* designed to be towed by motor vehicles and replacement vehicles therefor, via wrecker type equipment and also via transporter type equipment equipped with power loading and off loading equipment, from points in the states of California, Arizona, Utah and Nevada, on the one hand to Las Vegas, Nevada, on the other hand, for 180 days. Supporting shipper(s): There are approximately 8 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Interstate Commerce Commission, 203 Federal Building, 705 N. Plaza St., Carson City, Nev. 89701, ATT: District Supervisor W. J. Huetig.

No. MC 49567 (Sub-No. 8TA), filed June 30, 1977. Applicant: GOLDEN BROS., INC., 234 E. McClure Street, Kewanee, Ill. 61443. Applicant's representative: Donald S. Mullins, 4704 W. Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Heating systems and power boilers, including parts and equipment incidental thereto*, from Kewanee, Ill., to Baltimore, Md., limited to a transportation service to be performed under a continuing contract, or contracts, with Kewanee Boiler Corporation of Kewanee, Ill., for 180 days. Supporting shipper: Kewanee Boiler Corporation, James C. Aercke, Traffic Manager, 101 Franklin Street, Kewanee, Ill. 61443. Sent protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 118846 (Sub-No. 18TA), filed July 8, 1977. Applicant: DALE JESSUP, R.R. #1, Box 252, Camby, Ind. 46113. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *plastic articles* from Mooresville, Ind.; Mt. Vernon and Lyonsdale, N.Y.; and Shawano, Wis. to Commerce, Calif. Restricted to traffic originating at or destined to the plant or warehouse facilities of Nice-Pack Products, Inc. Further restricted to authority under a continuing contract with Nice-Pak Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Nice-Pak Products, Inc., Mooresville, Ind. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg. & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 124328 (Sub-No. 114TA), filed July 7, 1977. Applicant: BRINK'S INCORPORATED, Suite 710, One Crossroads of Commerce, Algonquin Road & Route 53, Rolling Meadows, Ill. 60008. Applicant's representative: Richard H. Streeter, or Chandler L. van Orman, 704 Southern Building, 15th & H Streets, NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin, currency, securities, negotiable and nonnegotiable instruments, commercial paper and business records*. Between Toledo, Ohio, on the one hand, and, on the other, points in Michigan, under a continuing contract or contracts with The Toledo Trust Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: The Toledo Trust Company, R. G. Faist, Assistant Treasurer, 245 Summit Street, Toledo, Ohio 43603. Ohio Citizens Trust Co., Dean D. Davis, Assistant Vice President, No. 1 Levis Square, Toledo, Ohio 43604. The Deerfield State Bank, Robert H. Askew, Assistant Cashier, 164 Raisin St., Deerfield, Mich. 49238. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 126276 (Sub-No. 179TA), filed July 7, 1977. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: Albert A. Andrin, 180 North La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers*, from the plantsite of American Can Company at Memphis, Tenn., to the plantsite of American Can Company at Austin, Ind., and to Louisville, Ky., under a continuing contract or contracts with American Can Company, for 180 days. Supporting shipper: American Can Company, William Frazier, Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 128988 (Sub-No. 94TA), filed June 15, 1977. Applicant: JO/KEL, INC., 159 South Seventh Ave., P.O. Box 1249, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric motors and parts*, from the plantsites and facilities of Westinghouse Electric Corporation at or near Lima, Bellefontaine and Upper Sandusky, Ohio and Union City, Ind.; to points in the United States on and west of the line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn.; thence northward along the western boundaries of Itasca and Koochiching Counties, Minn.; to the International Boundary Line between the United States and Canada; and (2) *Materials, equipment, and supplies*, utilized in the manufacture, production, and distribution of the commodities named in (1) above, from points in the United States on and west of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn.; thence northward along the western boundaries of Itasca and Koochiching Counties, Minn.; to the International Boundary Line between the United States and Canada, to the plantsites and facilities of Westinghouse Electric Corporation at or near Lima, Bellefontaine, and Upper Sandusky, Ohio and Union City, Ind.; Restriction: Restricted against the transportation of commodities in bulk and commodities which by reason of size or weight require the use of special equipment, further restricted to a transportation service to be performed under a continuing contract, or contracts, with Westinghouse Electric Corporation of Pittsburgh, Pa., for 180 days. Supporting shipper: Westinghouse Electric Corporation, 290 Leger Rd. North Huntingdon, Pa. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Rm. 1321 Federal Building, 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 128988 (Sub-No. 95TA), filed June 15, 1977. Applicant: JO/KEL, INC., 159 South Seventh Ave., P.O. Box 1249, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lamps and parts for lamps*, from the facilities of Westinghouse Electric Corporation at or near Fairmont, W.Va., to points in the United States on and west of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the Western boundary of Itasca County, Minn., thence northbound along the western boundaries of Itasca and Koochiching Counties, Minn. to the International Boundary Line between the United States and Canada (except points in Arizona, California, Nevada, Oregon, Washington, and Utah), restricted against the transportation of commodities in bulk and commodities which, by reason of size or weight, require the use of special equipment, under a continuing contract, or contracts, with Westinghouse Electric Corporation of Pittsburgh, Pa.; for 180 days. Supporting shipper: Westinghouse Electric Corporation, 290 Leger Rd., North Huntingdon, Pa. 15642. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Rm. 1321 Federal Building, 300 North Los Angeles St., Los Angeles, Calif. 90012.





No. MC 129410 (Sub-No. 8TA), filed June 30, 1977. Applicant: ROBERT BONCOSKY, INC., 4811 Tile Line Rd., Crystal Lake, Ill. 60014. Applicant's representative: Eric S. Sparks, 221 N. La Salle St., Suite 1007, Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated grain bins and tanks, fans, heaters and accessories thereof, and grain dryers and parts thereof*, from the plantsites of Chicago Eastern Corporation at Marengo, Ill.; to points in the United States (except Hawaii and Alaska) with return trip of *steel* from the plantsite of Armco Steel at Ashland, Ky.; the plantsite of Wheeling-Pittsburgh Steel at Martins-Ferry, Ohio and the plantsite of Bethlehem Steel at Lackawana, N.Y.; and *nuts and bolts*, from the plantsite of Armco Steel at Kansas City, Mo.; to the plantsites of Chicago Eastern Corporation at Marengo, Ill.; under a continuing contract with Chicago Eastern Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chicago Eastern Corporation, James A. Biskus, Traffic Manager, 200 N. Prospect, Marengo, Ill.; 60152. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn St., Rm. 1386, Chicago, Ill. 60604.

No. MC 136848 (Sub-No. 14TA), filed July 12, 1977. Applicant: JAMES BRUCE LEE AND STANLEY LEE, doing business as Lee Contract Carriers, Old Route 66, P.O. Box 48, Pontiac, Ill. 61768. Applicant's Representative: Edward F. Stanula, Attorney, 837 E. 162nd Street, S. Holland, Ill. 60473. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wrought steel pipe or tubing*, from the plant site and warehouse facilities of Aladdin Steel, Inc. at or near Gillespie, Ill. to Maryville, Tennessee; Temperance, and Romulus, Michigan; Aberdeen, Belle Fourche, Brookings, Clear Lake, Menno, Mitchell, Mobridge, Philip, Pierre, Rapid City, Sioux Falls, Sturgis, Vermillion, Watertown, and Yankton, South Dakota; all points in Iowa; and all points in Nebraska, and to the plant site and warehouse facilities of Aladdin Steel, Inc. at or near Gillespie, Ill. from the plant site and warehouse facilities of the following: Charles E. Kline Company, Warren, Ohio; Miami Industries, Piqua, Ohio; Republic Steel, Ferndale, Michigan; Republic Steel and Roth Steel Tube, Cleveland, and Toledo, Ohio; U.S. Metal Company, Sharon, Pennsylvania; Pittsburgh-International, Fairbury, Illinois; and from Chicago, Illinois. Deadheading will be minimized or eliminated because some of the carriers equipment will be in Ohio, Pennsylvania, Michigan, Illinois, Tennessee, and Iowa areas making deliveries, and by utilizing exempt commodities and trip-leasing, under a continuing contract or contracts with Aladdin Steel, Inc., for 180 days. Supporting shipper(s): Aladdin Steel, Inc., E. W. Eschbacher, President, Route 16 East, Gillespie, Ill. 62033. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 139360 (Sub-No. 6TA), filed July 1, 1977. Applicant: RAEMARC, INC., 1903 Chicory Rd., Racine, Wis. 53043. Applicant's representative: Daniel C. Sullivan, 327 S. LaSalle St., Suite 1600, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies and parts* used in the manufacture and distribution of agricultural, industrial, and construction machinery and equipment (except commodities in bulk), between points in Illinois, Iowa, Indiana, Michigan, Ohio, Wisconsin, Minnesota, and Missouri under contract with J. I. Case Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: J. I. Case Company, 700 State St., Racine, Wis. 53404. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, Wis. 53202.

No. MC 141527 (Sub-No. 5TA), filed June 22, 1977. Applicant: D & D LUMBER COMPANY, INC., 2146 Amity Hill Rd., Statesville, N.C. 28677. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Ave., N.W., Suite 600, Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Upholstered chairs, uncrated*, from the plantsite and shipping facilities of Carolina Chair, a division of A. W. Furniture Co., Hickory, N.C., to Phoenix, Ariz.; Los Angeles, Calif.; and Tukwila, Wash., under a continuing contract, or contracts, with Carolina Chair, division of A. W. Furniture Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Carolina Chair, Division of A. W. Furniture Co., P.O. Box 2609, Hickory, N.C. 28601. Send protests to: District Supervisor Terrell Price, Interstate Commerce Commission, 800 Briar Creek Rd., Mart Office Bldg., Rm. CC-516, Charlotte, N.C. 28205.

No. MC 141882 (Sub-No. 4TA), filed June 20, 1977. Applicant: GAYLE T. McGARRY, doing business as EAGLE TRANSFER & STORAGE CO., P.O. Box F, 2110 1st Ave. North, Lewiston, Idaho 83501. Applicant's representative: Charles E. Johnson, 418 East Rosser Ave., Bismarck, N. Dak. 58501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Empty glass bottles*, from Portland, Oreg. and Seattle, Washington to Coeur D'Alene, Idaho; (2) *Carbonated beverages*, from Tumwater, Washington, to Coeur D'Alene, Idaho; Restriction: (Parts 1 and 2) Restricted to a transportation service to be performed under a continuing contract or contracts with Mann Bottling Company, Inc., Coeur D'Alene, Idaho; (3) *Carbonated beverages*, from Tumwater, Wash., to Lewiston, Idaho; Restriction: (Part 3) Restricted to a transportation service to be performed under a continuing contract or contracts with Idaho Beverages, Inc., Lewiston, Idaho; (4) *vending machines*, from Los Angeles, Calif., to Lewiston, Idaho; Restriction: (Part 4) Restricted to a transportation service to be performed under a continuing contract or contracts with Idaho Beverages, Inc., Lewiston, Idaho for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mann Bottling Company, Inc., 1602 Sherman, Coeur D'Alene, Idaho 83814, Idaho Beverages, Inc., 2108 First Ave., Lewiston, Idaho 83501. Send Protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 142070 (Sub-No. 1TA), filed June 21, 1977. Applicant: NEW HAMPSHIRE SECURITY GUARD SERVICE, INC., 584 Mast Road, Manchester, N.H. 03102. Applicant's representative: Arthur R. Bussiere (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Checks* (not cancelled), *non-negotiable documents* for computer processing, *inter-company correspondence and computer printed reports*, between Indian Head Banks, Inc., at Nashua, N.H., and Bellows Falls Trust Co. at Bellows Falls, Vt.; restricted to a transportation service to be performed



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under a continuing contract or contracts with Indiana Head Banks, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Indiana Head Banks, Inc., 55 High St., Nashua, N.H. 03060. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 425 Federal Building, 55 Pleasant St., Concord, N.H. 03301.

No. MC 142070 (Sub-No. 2 TA), filed June 21, 1977. Applicant: NEW HAMPSHIRE SECURITY GUARD SERVICE, INC., 548 Mast Road, Manchester, N.H. 03060. Applicant's representative: Arthur R. Bussiere (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Checks* (not cancelled), *non-negotiable documents* for computer processing, *inter-company correspondence and computer printed reports*, between Bank of New Hampshire, N. A., at Manchester, N.H.; on the one hand, and, on the other, Shawmut National Bank and Federal Reserve Bank at Boston, Mass.; and State Street Bank at Quincy, Mass.; restricted to a transportation service to be performed under a continuing contract or contracts with Bank of New Hampshire, N. A., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bank of New Hampshire, N. A., P.O. Box 600, Manchester, N.H. 03105. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 425 Federal Building, 55 Pleasant St., Concord, N.H. 03301.

No. MC 142277 (Sub-No. 2TA), filed June 20, 1977. Applicant: CONSOLIDATED PARCEL SERVICE, INC., 9847 Page Blvd., St. Louis, Mo. 63132. Applicant's representative: Douglas E. Tonkinson (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Such merchandise* as is dealt in by department stores, including but not limited to uncrated furniture, loose hanging garments (wearing apparel) on rods and in cages, and bakery goods, under a continuous contract with the May Department Stores Co., d.b.a. Famous-Barr Co., between the sites of the various department stores and/or warehouse of the May Department Stores Co., d.b.a. Famous-Barr Co. in the City of St. Louis and St. Louis County, Mo.; over Interstate Highway 55 and/or U.S. Route 66, with an intermediate stop-off in Springfield, Ill.; and thence to the site of the Famous-Barr Co. in Springfield, Ill.; including return thereof over the same route described above, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Famous-Barr Co., 3728 Market, St. Louis, Mo. 63110. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Room 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 142461 (Sub-No. 2TA), filed July 6, 1977. Applicant: H & W TRUCKING CO., INC., 327 Starlite Road, Mount Airy, N.C. 27030. Applicant's representative: Eric Meierhoefer, Suite 712, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, new furniture parts*, from the plantsites and warehouse facilities of Bassett Furniture Industries, Inc., located at or near Dublin, Ga., to points in Oregon, New Mexico, Utah, Idaho, Nevada, California, Washington, and Arizona, under a continuing contract, or contracts, with Bassett Furniture Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bassett Furniture Industries, Inc., Box 626, Bassett, Va. 24055. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, N.C. 28205.

No MC 143385TA, filed June 15, 1977. Applicant: TRANSPORT ROBERT (1973), LTEE. 130 First Street, Rougemont, County Rouville, Quebec, Canada. Applicant's representative: Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomfield Hills, Mich. 48013. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel products*, between ports of entry on the international boundary line between the United States and Canada in Michigan, Minnesota, and New York, on the one hand, and, on the other, points in Illinois, Indiana, Michigan, Minnesota, New York Ohio, Pennsylvania, and Wisconsin; (2) *materials, equipment, and supplies* used in the manufacture of steel products, from points in Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin, to ports of entry on the international boundary line between the United States and Canada in Michigan, Minnesota, and New York. Restricted in (1) and (2) above to shipments originating at or destined to points in Quebec, Canada, under continuing contracts with Sivaco Wire & Nail Co., Ltd., and Industrial Fasteners, Ltd., of Marieville, Quebec, Canada, for 180 days. Supporting shipper: Industrial Fasteners, Ltd., Rue Ouellette, Marieville, Quebec, Canada; Sivaco Wire & Nail Co., Ltd., Rue Ouelette, Marieville, Quebec, Canada. Send protests to: District Supervisor David A. Demers, Interstate Commerce Commission, P.O. Box 584, 87 State Street, Montpelier, Vt. 05602.

No. MC 143426 (Sub-No. 1TA), filed June 30, 1977. Applicant: DON ROBERTS, doing business as ROBERTS TRANSPORT, 1398 Crestwood Drive, Kamloops, British Columbia, Canada V2C 5H2. Applicants representative: Don Roberts (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rough sawn cedar lumber*, from U.S. Canada Border at points located at or near Oroville, Wash. and Bonners Ferry, Idaho, to Spokane, Wash., and Priest River, Idaho. Shipments originate in Revelstoke, British Columbia, under a continuing contract with M. Pittaway Contracting, Ltd., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: M. Pittaway Contracting, Ltd., 2011 Laforme Bldg., Revelstoke, B.C., Canada. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77-21763 Filed 7-27-77;8:45 am]





# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

FEDERAL POWER COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Pub. 7-25-77, 42 FH 37900.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: July 26, 1977, 10 a.m.

CHANGE IN THE MEETING: The following items have been added:

*Item No., Docket No., and Company*

P-12—Docket No. ES77-5, Iowa Public Service Co.

P-13—Docket No. E-6859, Southern California Edison Co. and Pacific Gas and Electric Co.

G-45—Docket Nos. RP71-130, RP72-58, and RP75-111, Texas Eastern Transmission Corp.

LOIS D. CASHELL,
*Acting Secretary.*

[S-992-77 Filed 7-25-77;2:25 pm]

2

FEDERAL POWER COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Pub. 7-25-77, 42 FR 37900.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: July 26, 1977, 10 a.m.

CHANGE IN THE MEETING: The following items have been added:

*Item No., Docket No., and Company*

G-44—CI77-436, Sun Oil Co.; CI77-446, Texas Pacific Oil Co., Inc.; CI77-447, Diamond Shamrock Corp.; CI77-454, Anadarko Production Co.

M-1—RM75-27, Amendments to uniform systems of accounts for public utilities and licensees and for natural gas companies to provide for the determination of rate for computing the allowance for funds used during construction and revision of certain schedule pages of FPC reports.

M-2—Administrative Order No. 11A, staff instruction.

LOIS D. CASHELL,
*Acting Secretary.*

[S-991-77 Filed 7-25-77;2:25 pm]

3

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., August 3, 1977.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

Portion of the meeting open to the public:

Docket 29-K, Hannahville Indian Community.
Docket 196, Hopi.
Docket 226, Caddo (two items).

Portion of the meeting closed to the public: Personnel.

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, Tel. 202-653-6174.

[S-993-77 Filed 7-25-77;3:43 pm]

4

[USITC SE-77-46]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., August 4, 1977.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Reorganization.
2. Agenda.
3. Minutes.
4. Discussion of the reopening of Commission votes.
5. Progress report on Equal Employment Opportunities (EEO).
6. Petitions and complaints (if necessary): (a) Plastic Fastener Assemblies—see recommendations of the investigative staff.
7. Investgiation TA-201-23 (Certain Headwear)—vote on remedy (if necessary).
9. Any items left over from previous agenda.

Portions closed to the public: 1. Reorganization (portions regarding the selections of personnel). 8. Promotion—see action jacket GC-77-42.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, (202-523-0161).

[S-994-77 Filed 7-25-77;3:56 pm]

5

SECURITIES AND EXCHANGE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 37614, July 22, 1977.

PREVIOUS ANNOUNCED TIME AND DATE: July 27, 1977, 2:30 p.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

CHANGES IN THE MEETING: The following additional matters will be considered by the Commission at the open meeting:

Consideration of a proposed rule which would prohibit mutual funds from implementing arrangement involving the use of fund assets to pay expenses associated with the distribution of shares.

The following additional matters will be considered by the Commission at the closed meeting:

Freedom of Information Act matter.
Appeal.

Chairman Williams, Commissioners Loomis, Evans, and Pollack determined that Commission business required consideration of these matters and that no earlier notice thereof was possible.

JULY 25, 1977.

[S-999-77 Filed 7-26-77;10:11 am]



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federal register

THURSDAY, JULY 28, 1977
PART II

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## Federal Insurance Administration

## NATIONAL FLOOD INSURANCE PROGRAM

Additions to List of Communities With Minimal Hazard Areas and Proposed Flood Elevation Determinations for Various Communities

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Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. 3211]

## PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL FLOOD HAZARD AREAS

### Notice of Communities With Minimal Hazard Areas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the Special Flood Hazard areas, that it is appropriate at this time to convert the communities listed below to the Regular Program of the National Flood Insurance Program without determining base flood elevations.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh St. SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: In these areas, there is no reason not to make full limits of coverage available. The available limits of coverage for flood insurance in these communities is increased to $70,000 for 1–4 family residential structures, $200,000 for other residential and commercial structures, $20,000 for contents of residential structures, and $200,000 for contents of commercial structures. Flood insurance is available at Zone C rates throughout the entire community.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Association servicing company for the state.

The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the FEDERAL REGISTER.

The entry reads as follows:

### § 1915.7 List of Communities with minimal hazard areas.

| State | County | Community name |
|---|---|---|
| Missouri | Saline and Lafayette | City of Emma. |
| Do | Cass | City of Garden City. |
| Do | Harrison | City of Ridgeway. |
| Do | St. Louis | City of St. John. |
| Nebraska | Richardson | Village of Salem. |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 8, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: June 29, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc 77-21172 Filed 7-27-77;8:45 am]

[Docket No. 3212]

## PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL FLOOD HAZARD AREAS

### Notice of Communities With Minimal Hazard Areas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the Special Flood Hazard areas, that it is appropriate at this time to convert the communities listed below to the Regular Program of the National Flood Insurance Program without determining base flood elevations.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh St. SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: In these areas, there is no reason not to make full limits of coverage available. The available limits of coverage for flood insurance in these communities is increased to $70,000 for 1–4 family residential structures, $200,000 for other residential and commercial structures, $20,000 for contents of residential structures, and $200,000 for contents of commercial structures. Flood insurance is available at Zone C rates throughout the entire community.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Association servicing company for the state.

The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the FEDERAL REGISTER.

The entry reads as follows:

### § 1915.7 List of communities with minimal hazard areas.

| State | County | Community name |
|---|---|---|
| Colorado | Montezuma | City of Cortez. |
| Do | Ouray | Town of Ridgway. |
| Idaho | Valley | City of Donnelly. |
| Do | Power | City of Rockland. |
| Kansas | Johnson | City of Gardner. |
| Do | Elk | City of Howard. |
| Do | Elsworth | City of Kanopolis. |
| Missouri | Boone | City of Centralia. |
| Do | St. Louis | Village of Clarkson Valley. |
| Do | Cass | City of Drexel. |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24 1974.)

Issued: June 29, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21173 Filed 7-27-77;8:45 am]





## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-3167]

### CITY OF LE MARS, IOWA

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Le Mars, Iowa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 127 Central Avenue, Northwest, Le Mars, Iowa 51031.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Donald J. Paulin, Mayor; City of Le Mars, City Hall, 127 Central Avenue, Northwest, Le Mars, Iowa 51031.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Le Mars, Iowa, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations shall also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Floyd River | At the downstream face of Illinois Central Gulf RR. | 1,190 |
| | At the upstream face of Highway 75. | 1,194 |
| | At the downstream face of County Rd | 1,194 |
| | At the corporate limits. | 1,197 |
| | At the downstream face of Iowa State Highway 3. | 1,202 |
| | At the downstream face of U.S. Highway 75. | 1,207 |
| | At the corporate limits. | 1,210 |
| | At the downstream face of Chicago & Northwestern Ry. | 1,212 |
| | At the downstream face of County Rd. | 1,217 |
| Willow Creek | At the downstream face of Chicago & Northwestern Ry. | 1,212 |
| | At the downstream face of Seney Rd. | 1,214 |
| | At the corporate limits. | 1,216 |
| | At the downstream face of Illinois Central Gulf RR. | 1,220 |
| | At the downstream face of county Rd | 1,222 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21174 Filed 7-27-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-3168]

### WRIGHT COUNTY, MINNESOTA

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Wright County, Minn. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at County Courthouse, Buffalo, Minn. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Paul McAlpine, Board Chairman of Wright County, County Courthouse, Buffalo, Minn. 55313.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Wright County, Minn. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at County Courthouse, Buffalo, Minn.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Paul McAlpine, Board Chairman of Wright County, County Courthouse, Buffalo, Minn. 55313.

The proposed 100-year flood elevations for selected locations are:



V 42 145 JUL 28 77 UMI

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Mississippi River | Minnesota 101 | 863 |
| Crow River, main stem. | CSAH 36 [1] | 856 |
| | Minnesota 104 | 869 |
| | Interstate 94 | 873 |
| | CSAH 116 | 876 |
| Crow River, north fork. | Township Road 258 | 919 |
| | Minnesota 25 | 920 |
| | Township Road 296 | 921 |
| | CSAH 12 | 921 |
| | CSAH 9 | 927 |
| | Township Road 87 | 934 |
| | CSAH 8 | 937 |
| | Old CSAH 8 | 940 |
| Crow River, south fork. | Township Road 258 | 922 |
| | Township Road 276 | 931 |

[1] CSAH, County and State aid highway.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21175 Filed 7-27-77; 8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3169]

## UNINCORPORATED AREAS OF DURHAM COUNTY, NORTH CAROLINA

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Unincorporated Areas of Durham County, North Carolina. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Durham County Soil Conservation Agency, Agriculture Building, and the Durham County Planning Department, Durham, North Carolina. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Ed Swindell, Jr., County Manager, or Mr. Deryl Bateman, Director, Durham County Planning Department, 226 East Main Street, Durham, North Carolina 27701.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Unincorporated Areas of Durham County, North Carolina in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum of 1929 |
|---|---|---|
| Stirrup Iron Creek | Upstream of S. R. 1973. | 314 |
| | Upstream of S. R. 1969. | 319 |
| Panther Creek | Upstream of S. R. 1818. | 290 |
| Chunky Pipe Creek. | Upstream of S. R. 1815. | 271 |
| Burdens Creek | Upstream of N. C. 55 | 251 |
| | Upstream of T. W. Alexander Rd. | 261 |
| Northeast Creek | Confluence with Northeast Creek, tributary C. | 242 |
| | Upstream of N. C. 54 | 359 |
| Northeast Creek, tributary B. | Approximately 1,300 ft upstream of S. R. 1954. | 306 |
| | Upstream of North-South Freeway. | 314 |
| Northeast Creek, tributary C. | Upstream of S. R. 1102. | 259 |
| | Upstream of S. R. 1101. | 279 |
| Northeast Creek, tributary D. | Confluence with Northeast Creek. | 240 |
| | Upstream of S. R. 1103. | 246 |
| North prong, Northeast Creek. | Approximately 500 ft upstream of S. R. 1182. | 270 |
| Eno River | Confluence of Seven Mile Creek. | 338 |
| | Upstream of Cole Mill Rd. | 358 |
| Eno River, tributary 3 | Confluence with Eno River. | 357 |
| | Approximately 100 ft upstream of S. R. 1119. | 419 |
| Seven Mile Creek | Upstream of S. R. 1189. | 457 |
| Crooked Creek, tributary 1. | Confluence with Crooked Creek. | 411 |
| Little River | Approximately 150 ft upstream of U.S. Highway 501. | 350 |
| | Approximately 75 ft upstream of S. R. 1611. | 377 |
| Little River, tributary 1. | Confluence with Little River. | 428 |
| | Upstream of S. R. 1003. | 452 |
| North fork, Little River | Confluence with North fork, tributary 1. | 441 |
| | Approximately 100 ft upstream of S. R. 1161. | 471 |
| North fork, Little River, tributary 1. | Approximately 125 ft upstream of S. R. 1164. | 463 |
| South fork, Little River. | Approximately 200 ft upstream of S. R. 1461. | 441 |
| | Upstream of S. R. 1003. | 466 |
| Cabin Creek | Upstream of S. R. 1686. | 322 |
| Little Lick Creek | Upstream of S. R. 1814. | 275 |
| | Upstream of S. R. 1815. | 287 |
| Little Lick Creek, tributary 1. | Confluence of Little Lick Creek. | 275 |
| | Upstream of N. C. 98. | 283 |
| Two Bottle Creek | Confluence with Burdens Creek. | 264 |
| | Approximately 100 ft downstream of N. C. 54. | 271 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 24, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21176 Filed 7-27-77; 8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3176]

## CITY OF MILFORD, CONNECTICUT

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Milford, Connecticut. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).





DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, River Street, Milford, Connecticut. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Joel R. Baldwin, City Hall, River Street, Milford, Connecticut 06460.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Milford, Connecticut in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, River Street, Milford, Connecticut.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Joel R. Baldwin, City Hall, River Street, Milford, Connecticut 06460.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Housatonic River | Merritt Parkway | 11 |
| | Connecticut Turnpike. | 11 |
| Indian River | Indian Lake Dam [1] | 40 |
| | do [2] | 35 |
| | Rose Mill Pond Dam. [1] | 34 |
| | do [2] | 23 |
| | Clark Mill Dam [1] | 18 |
| | do [2] | 11 |
| Wepawaug River | Flax Mill Rd. [1] | 66 |
| | do [2] | 64 |
| | Connecticut Turnpike (I-95). [1] | 43 |
| | do [2] | 42 |
| | U.S. 1–A | 38 |
| | New Haven Avenue Dam. [1] | 23 |
| | do [2] | 12 |

[1] Upstream.
[2] Downstream.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator (34 FR 2680, February 27, 1969), as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21177 Filed 7-27-77; 8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3177]

## DOUGHERTY COUNTY, GEORGIA

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Dougherty County, Georgia. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Dougherty County Courthouse, 225 Pine Avenue, Albany, Georgia. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Carl F. Leavy, Dougherty County Administrator, County Courthouse, P.O. Box 1827, 225 Pine Avenue, Albany, Georgia 31702.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Dougherty County, Georgia in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Coolewahee Creek | State Route 62 | 174 |
| | Central of Georgia RR. | 184 |
| | Unnamed road | 186 |
| | State Route 234 | 191 |
| Percosin Creek | Oakridge Dr. | 182 |
| | Westover Rd. | 183 |
| | Gordon Ave. | 184 |
| | Central of Georgia RR. | 192 |
| | Westover Rd. | 194 |
| Flint River | Radium Springs Country Club. | 181 |
| | Oglethorpe Ave. | 186 |
| | Broad Ave. | 186 |
| | Seaboard Coastline RR. | 187 |
| | Southern RR. | 191 |
| | U.S. Highway 19 | 191 |
| Dry Creek | State Route 3 | 177 |
| | Seaboard Coastline RR. | 177 |
| | U.S. Route 19 | 184 |
| | Nelms Rd. (west) | 198 |
| | Gravel Hill Rd. | 212 |
| | Railroad access road | 239 |
| | Georgia Northern RR. | 242 |
| | Nelms Rd. (east) | 248 |
| | County Line Rd. | 311 |
| Tributary 1 | Unnamed farm road | 234 |
| | Georgia Northern RR. | 240 |



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| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Tributary 2 | Moultrie Rd. | 244 |
| Marine Corps supply center drainage canal. | Seaboard Coastline RR. | 181 |
| | U.S. Highway 19 access ramp. | 181 |
| | U.S. Highway 19 | 182 |
| | Georgia Highway 133 access ramp. | 182 |
| Kinchafoonee Creek. | Southern RR. | 192 |
| | Philema Rd. | 192 |
| | Georgia State Highway 3. | 192 |
| | Central of Georgia RR. | 192 |
| Piney Woods Creek. | Highway 257 Bridge | 199 |
| | Old Route 82 Bridge (collapsed) | 211 |
| | Jefferson Davis Highway. | 212 |
| Tributary 3 | Hill Rd. (west) | 214 |
| | Farm Rd. | 219 |
| | Hill Rd. (east) | 230 |
| | Pine Glen Drive Bridge. | 232 |
| | County Line Rd. | 237 |
| Tributary 1 | Highway 257 | 200 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc 77-21178 Filed 7-27-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI-3178]

## PAULDING COUNTY, GEORGIA

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Paulding County, Georgia. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Paulding County Courthouse, Dallas, Georgia. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Henry A. Winn, Chairman of the Board of Commissioners, Paulding County Courthouse, Dallas, Georgia 30132.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Paulding County, Georgia in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Paulding County Courthouse, Dallas, Georgia.

Any person having knowledge, information, or wishing to make a comment of these proposed elevations should immediately notify Mr. Henry A. Winn, Chairman of the Board of Commissioners, Paulding County Courthouse, Dallas, Georgia 30132.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Pumpkinvine Creek. | Dabbs Bridge Rd. | 736 |
| | Harmony Grove Rd. | 756 |
| | Confluence with west fork. | 775 |
| | Confluence with Lawrence Creek. | 851 |
| | State Route 61 | 851 |
| | Mount Olivet Rd. | 867 |
| | U.S. Route 278 | 879 |
| | Confluence with Little Pumpkinvine Creek. | 895 |
| Little Pumpkinvine Creek. | Route 120 | 903 |
| | Confluence with Baker Creek. | 914 |
| Lawrence Creek | Old Cartersville Rd. | 851 |
| | Route 92 | 891 |
| Griffin Creek | Unnamed road at M+4,000 ft. | 880 |
| | Route 92 | 897 |
| Lane Creek | Route 120 | 882 |
| Raccoon Creek | Electric power line right-of-way at M+46,500 ft. | 755 |
| | Braswell Mountain Rd. | 802 |
| | High Shoals Rd. | 813 |
| | Confluence with Cochran branch. | 866 |
| | Southern RR. | 900 |
| | Seaboard Coastline RR. | 915 |
| Sweetwater Creek | Pine Valley Rd. | 908 |
| | State Route 92 | 919 |
| | Dorris Rd. | 909 |
| | Point Rd. | 917 |
| | Regan Rd. | 937 |
| Mill Creek | Pool Rd. | 915 |
| | Route 92 | 959 |
| | Unnamed road at M+54,400 ft. | 997 |
| Lick Log Creek | Route 92 | 919 |
| | Laird Rd. | 922 |
| | Waters Rd. | 945 |
| | Machell Rd. | 946 |
| | Nebo Rd. | 969 |
| Davis Mill Creek | Nebo Rd. | 943 |
| | Unnamed road at M+11,150 ft. | 967 |
| Powder Springs Creek. | Lake Rd. | 956 |
| Rakestraw Creek | County Line Rd. | 931 |
| | Lake Rd. | 944 |
| | Route 92 | 946 |
| Gothards Creek | do. | 917 |
| | North Flat Rock Rd. | 903 |
| Tributary 14 | Gresham Rd. | 929 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21179 Filed 7-27-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI-3179]

## SPENCER COUNTY, INDIANA

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Spencer County, Indiana.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the County Courthouse, Rock Port, Indiana.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. John L. Robert, Judge, Spencer County, County Courthouse, Rock Port, Indiana 47635.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Spencer County, Indiana in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the County Courthouse, Rock Port, Indiana.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. John L. Robert, Judge, Spencer County, County Courthouse, Rock Port, Indiana 47635.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Ohio River | Upstream county limits. | 397 |
| | U.S. Highway 231 | 389 |
| Little Pigeon River | State Road 161 | 387 |
| | Downstream county limits. | 384 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21180 Filed 7-27-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI-3180]

## CITY OF SUN VALLEY, IDAHO

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Sun Valley, Idaho.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Sun Valley, Idaho.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Winton S. Dray, City Hall, P.O. Box 416, Sun Valley, Idaho 83353.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Sun Valley, Idaho, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the County Courthouse, Rock Port, Indiana.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. John L. Robert, Judge, Spencer County, County Courthouse, Rock Port, Indiana 47635.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Trail Creek | Dollar Mountain Rd. | 5,679 |
| | House over Trail Creek. | 5,842 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21181 Filed 7-27-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI-3181]

## COUNTY OF GEM, IDAHO

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Gem County, Idaho.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.





flood-prone areas and the proposed base flood elevations are available for review at the County Courthouse, Rock Port, Indiana.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. John L. Robert, Judge, Spencer County, County Courthouse, Rock Port, Indiana 47635.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Spencer County, Indiana in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Sun Valley, Idaho.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Winton S. Dray, City Hall, P.O. Box 416, Sun Valley, Idaho 83353.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Trail Creek | Dollar Mountain Rd. | 5,679 |
| | House over Trail Creek. | 5,842 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21181 Filed 7-27-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI-3181]

## COUNTY OF GEM, IDAHO

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Gem County, Idaho.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.



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ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Gem County Courthouse, 415 East Main Street, Emmett, Idaho. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Daniel Jones, Chairman, Gem County Board of Commissioners, Gem County Courthouse, 415 East Main Street, Emmett, Idaho 83617.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Gem County, Idaho in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Gem County Courthouse, 415 East Main Street, Emmett, Idaho.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Daniel Jones, Chairman, Gem County Board of Commissioners, Gem County Courthouse, 415 East Main Street, Emmett, Idaho 83617.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Payette River (Emmett Valley area). | Plaza Bridge | 2,409 |
| | Upper end of Fuller Island. | 2,386 |
| | Lower end of Fuller Island. | 2,377 |
| | Johns Ave | 2,370 |
| | Emmett Bridge | 2,366 |
| | County line | 2,554 |
| | Montour Bridge | 2,514 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21182 Filed 7-27-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI–3182]

### CITY OF KETCHUM, IDAHO

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Ketchum, Idaho.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 407 North Main Street, Ketchum, Idaho.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. James P. Jacquet, City Administrator of Ketchum, City Hall, 407 North Main Street, Ketchum, Idaho 83340.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Ketchum, Idaho in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Warm Springs Creek. | Ski Lift Bridge | 5,884 |
| | Lewis Drive Bridge | 5,857 |
| Big Wood River | Road Bridge to Warm Springs. | 5,813 |
| Trail Creek | Route 93 (Main Ave.) | 5,799 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21183 Filed 7-27-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI–3183]

### CITY OF MERRIAM, JOHNSON COUNTY, KANSAS

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Merriam, Johnson County, Kansas. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).





DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 9000 West 62nd Terrace, Merriam, Kansas. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Charles F. Anderson, Mayor, City Hall, 9000 West 62nd Terrace, Merriam, Kansas 66202.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Merriam, Johnson County, Kansas in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected location are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| | 100 ft upstream of 63d Street Bridge. | 938 |
| | 1,850 ft downstream of 67th Street Bridge. | 940 |
| | 150 ft downstream of 67th Street Bridge. | 943 |
| | 50 ft upstream of 67th Street Bridge. | 945 |
| | 2,150 ft upstream of 67th Street Bridge. | 946 |
| | 1,900 ft downstream of 95th Street Bridge. | 960 |
| | 95th Street Bridge | 966 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21184 Filed 7-27-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI–3184]

### CITY OF MISSION, JOHNSON COUNTY, KANSAS

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Mission, Johnson County, Kansas. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Clerk's Office, 6090 Woodson, Mission, Kansas. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Sylvester Powell, Jr., Mayor, City of Mission, City Hall, 6090 Woodson, Mission, Kansas 66202.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Mission, Johnson County, Kansas, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected location are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Rock Creek | Roeland Dr. | 928 |
| | Reeds Rd. | 946 |
| Turkey Creek | Lamar Ave. | 846 |
| | Metcalf Ave. | 862 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21185 Filed 7-27-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI–3185]

### CITY OF OLATHE, JOHNSON COUNTY, KANSAS

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Turkey Creek | Antioch Road Bridge. | 930 |
| | St. Louis & San Francisco R.R. Bridge. | 934 |
| | 1,750 ft upstream of St. Louis & San Francisco R.R. Bridge | 936 |
| | Merriam Lane Bridge. | 940 |
| | 700 ft upstream of Johnson Drive Bridge. | 942 |
| | 1,600 ft upstream of Johnson Drive Bridge. | 946 |



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base flood elevations (100-year flood) listed below for selected locations in the City of Olathe, Johnson County, Kansas. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the lobby in City Hall, Olathe, Kansas. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. W. B. Tschudy, City Manager of Olathe, P.O. Box 768, Olathe, Kansas.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Olathe, Kansas, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The Community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Cedar Creek | Prairie Center Rd. | 886 |
| | Olathe Lake Dam | 940 |
| | Denis St. | 947 |
| Indian Creek | Pflumm Rd. | 946 |
| | Black Bob Rd. | 977 |
| | Mur-Len Rd. | 999 |
| | Sheridan Bridge Lane | 1,014 |
| Little Cedar Creek | Corporate limits | 912 |
| | Prairie Center Rd. | 989 |
| Mill Creek | Corporate limits | 958 |
| | Woodland St. | 963 |
| | Harold St. | 973 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc 77-21186 Filed 7-27-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI-3186]

## CITY OF PRAIRIE VILLAGE; JOHNSON CITY KANSAS

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Prairie Village, Johnson County, Kans. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Public Works Department, 3535 Somerset Drive, Prairie Village, Kans. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable William E. Franklin, Mayor, City of Prairie Village, City Hall, 7700 Mission Road, Prairie Village, Kans. 66208.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Prairie Village, Johnson County, Kans. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Brush Creek | Tomahawk Rd. | 910 |
| | 71st St. | 922 |
| | Roe Ave. | 939 |
| | 75th St. | 956 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968) as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21187 Filed 7-27-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI-3187]

## CITY OF SHAWNEE, JOHNSON COUNTY, KANSAS

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Shawnee, Johnson County, Kans. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).



DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Clerk's Office, City Hall, 11110 Johnson Drive, Shawnee, Kans. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable T. A. Soetaert, Mayor, City of Shawnee, City Hall, 11110 Johnson Drive, Shawnee, Kans. 66203.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Shawnee, Johnson County, Kans. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected location are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Little Mill Creek | 0.75 mi upstream from the mouth. | 790 |
| | At the downstream face of Warwick Ave. | 792 |
| | 1.33 mi upstream from the mouth. | 797 |
| | At the downstream face of Private Dr. | 811 |
| | At the downstream face of Penner Rd. | 848 |
| | At the downstream face of Lackman Rd. | 876 |
| | At the upstream corporate limits. | 886 |
| Mill Creek | At the downstream corporate limits. | 773 |
| | At the upstream face of Atchison Tokepa and Santa Fe Highway. | 773 |
| | At the upstream face of k-10 Highway. | 788 |
| | At the upstream corporate limits. | 806 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc 77-21188 Filed 7-27-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI-3188]

## CALDWELL, PARISH LA.

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Caldwell Parish, La. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Courthouse, Main Street, Columbia, La. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. James Mott, President, Caldwell Parish Police Jury, Courthouse, P.O. Box 37, Main Street, Columbia, La. 71418.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Caldwell Parish, La., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Courthouse, Main Street, Columbia, La.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. James Mott, President, Caldwell Parish Policy Jury, Courthouse, P.O. Box 37, Main Street Columbia, La. 71418.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Hurricane Creek | Missouri Pacific RR. | 137 |
| | U.S. Highway 165 | 141 |
| | State Highway 126 | 154 |
| | Caldwell Parish High School. | 166 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc 77-21189 Filed 7-27-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI-3189]

## CITY OF OLD TOWN, PENOBSCOT COUNTY, MAINE

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.



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SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Old Town, Penobscot County, Maine. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Lobby, Old Town Municipal Building, 51 North Brunswick Street, Old Town, Maine. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable Barbara Everett, Mayor of Old Town, Old Town Municipal Building, 51 North Brunswick Street, Old Town, Maine 04468.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Old Town, Penobscot County, Maine, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 400–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Penobscot River | Upstream corporate limits. | 123 |
| | Stillwater Ave. (extended). | 100 |
| | Middle St. (extended). | 97 |
| | Penny Rd. (extended). | 82 |
| | Downstream corporate limits. | 73 |
| Stillwater River | Private Rd. (extended). | 116 |
| | Birch Stream confluence. | 113 |
| | Coley Rd. (extended). | 112 |
| | State Route 43. | 107 |
| | Stillwater Ave. | 99 |
| | Downstream corporate limits. | 85 |
| Pushaw Stream | Upstream corporate limits. | 121 |
| | State Route 43. | 121 |
| | Corporate limits. | 116 |
| | Interstate 95. | 111 |
| | State Route 43. | 110 |
| | State Route 16. | 110 |
| | Confluence with Stillwater River. | 109 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21190 Filed 7-27-77;8:45 am]

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**[ 24 CFR Part 1917 ]**

[Docket No. FI–3172]

**TOWN OF WAKEFIELD, MIDDLESEX COUNTY, MASS.**

**Proposed Flood Elevation Determinations**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Wakefield, Middlesex County, Mass. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Engineer's Office, Town Hall, 1 Lafayette Street, Wakefield, Mass. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. John Wally Moccia, Chairman, Board of Selectmen, Town of Wakefield, Town Hall, 1 Lafayette Street, Wakefield, Mass. 01880.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Wakefield, Middlesex County, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Saugus River | Water St. | 55 |
| | Salem St. | 64 |
| | Route 128 | 77 |
| | Vernon St. | 79 |
| Lake Quannapowitt. | Entire lake | 84 |
| Mill River | Wiley St. | 55 |
| | Water St. | 58 |
| | Salem St. | 59 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21191 Filed 7-27-77;8:45 am]





**[ 24 CFR Part 1917 ]**

[Docket No. FI–3190]

**CITY OF ECORSE, MICHIGAN**

**Proposed Flood Elevation Determinations**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Ecorse, Michigan. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Ecorse Civic Center, 3869 West Jefferson Avenue, Ecorse, Michigan. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Dora Gaines, Ecorse Civic Center, 3869 West Jefferson Avenue, Ecorse, Michigan 48229.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Ecorse, Michigan, in accordance with Section 110 of the Food Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Ecorse Civic Center, 3869 West Jefferson Avenue, Ecorse, Michigan.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Dora Gaines, Ecorse Civic Center, 3869 West Jefferson Avenue, Ecorse, Michigan 48229.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Detroit River | La Salle Gage | 578 |
| Ecorse Creek | Jefferson Ave. | 578 |
| | Railroad crossing | 578 |
| North Ecorse Creek | Mill St. | 580 |
| | Southfield Rd. | 581 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21192 Filed 7-27-77;8:45 am]

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**[ 24 CFR Part 1917 ]**

[Docket No. FI–3191]

**VILLAGE OF MICHIANA, MICHIGAN**

**Proposed Flood Elevation Determinations**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Michiana, Michigan. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Village Hall, 4000 Cherokee, New Buffalo, Michigan. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Dr. W. Wayne Dunlop, president of the Village Council, Village Hall, 4000 Cherokee, P.O. Box 12E, New Buffalo, Michigan 49117.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–824–8872, Room 5270, 451 Seventh St. SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Michiana, Michigan in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| White Creek | Chickagami Trail | 599 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21193 Filed 7-27-77;8:45 am]

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**[ 24 CFR Part 1917 ]**

[Docket No. FI–3192]

**CITY OF MONTAGUE, MICHIGAN**

**Proposed Flood Elevation Determinations**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.



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SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Montague, Michigan. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 4525 Dowling Street, Montague, Michigan. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor B. Wayne Gillan, City Hall, 4525 Dowling Street, Montague, Michigan 49437.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Montague, Michigan in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 4525 Dowling Street, Montague, Michigan.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor B. Wayne Gillan, City Hall, 4525 Dowling Street, Montague, Michigan 49437.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Buttermilk Creek.. | Park St..... | 604.5 |
| | Cook St..... | 619.2 |
| White Lake.. | U.S. Highway 31 (extended). | 584.0 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21194 Filed 7-27-77;8:45 am]

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[ 24 CFR Part 1917 ]

[Docket No. FI-3193]

## TOWNSHIP OF PINCONNING, MICHIGAN

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Pinconning, Michigan.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Hall, 208 Maitou Street, Pinconning, Michigan.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Robert Hartley, Township Hall, 208 Maitou Street, Pinconning, Michigan 48650.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Pinconning, Michigan in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Hall, 208 Maitou Street, Pinconning, Michigan.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Robert Hartley, Township Hall, 208 Maitou Street, Pinconning, Michigan 48650.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Pinconning River.. | Pinconning Rd Bridge at Tover Beach Rd. | 588 |
| | Hunter Rd. over Pinconning River. | 590 |
| | Detroit & Mackinaw R.R. | 591 |
| | Mackinaw Rd..... | 599 |
| Saginaw Bay. | Avalon Rd..... | 585 |
| | Wirbell Rd. 800 ft. east of intersection with Maloney Rd. and all the way to end of road. | 585 |
| | Newman Rd. east of Two Mile Rd. | 585 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21195 Filed 7-27-77;8:45 am]





[ 24 CFR Part 1917 ]

[Docket No. FI-3194]

## GOODHUE COUNTY, MINNESOTA

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Goodhue County, Minnesota.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at County Courthouse, Red Wing, Minnesota.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Russell Tanner, County Auditor, Goodhue County, County Courthouse, Red Wing, Minnesota 55066.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Goodhue County, Minnesota in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by §1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevation for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Mississippi River.... | Lake City corporate limits (U.S.). | 682 |
| | Red Wing, upstream corporate limits. | 688 |
| | County line [1]..... | 690 |
| Cannon River..... | County Highway 7..... | 716 |
| | Welch Dam [1]..... | 719 |
| | Cannon Falls corporate limits. | 784 |
| Little Cannon River. | do..... | 821 |
| | Bridge, sec. 25, T112N, R18W. | 843 |
| | County Highway 24.... | 860 |
| | Bridge, sec. 617, T11N, R17W. | 882 |
| | Bridge, sec. 13/24, T11N, R18W. | 918 |
| | Bridge, sec. 24/25, T11N, R18W. | 927 |
| Belle Creek..... | Chicago Great Western R.R bridge. | 708 |
| | County Highway 7..... | 788 |
| | State Highway 19..... | 864 |
| | Bridge, sec. 17, T112N, R16W. | 900 |
| | Bridge, sec. 20, T112N, R16W. | 891 |
| | Bridge, sec. 29, T112N, R16W. | 920 |
| | Bridge, sec. 32, T112, R16W. | 929 |
| | County Highway 1..... | 937 |
| | Bridge, sec. 5, T11N, R16W. | 942 |
| | Bridge, sec. 17, T11N, R16W. | 969 |
| Hay Creek..... | Red Wing corporate limits. | 708 |
| | Bridge, sec. 12, T112N, R5W. | 721 |
| | Bridge, sec. 13, T112N, R16W. | 761 |
| | Bridge, N¼, sec. 24, T112N, R15W. | 773 |
| | Bridge, sec. 24, T112N, R16W. | 807 |
| Wells Creek..... | County Highway 2..... | 691 |
| | Chicago, Milwaukee, St. Paul & Pacific R.R bridge. | 699 |
| | Bridge, sec. 22, T112N, R13W. | 723 |
| | Bridge, sec. 20 and 21, T112N, R13W. | 745 |
| | Bridge, sec. 24, T112N, R14W. | 800 |
| | Bridge, N¼, sec. 25, T112N, R14W. | 818 |
| | Bridge, sec. 25, T112N, R14W. | 839 |
| | Bridge, sec. 24, T112N, R14W. | 857 |
| | County Road 45..... | 842 |
| North fork Zumbro River. | Downstream county line. | 922 |
| | County Highway 10.... | 955 |
| | County Highway 4..... | 961 |
| | U.S. Highway 52..... | 984 |
| North fork middle branch Zumbro River. | Pine Island corporate limits. | 1,012 |
| | County Road 43..... | 1,030 |

[1] Upstream.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21196 Filed 7-27-77;8:45 am]

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[ 24 CFR Part 1917 ]

[Docket No. FI-3195]

## SCOTT COUNTY, MINNESOTA

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Scott County, Minnesota.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Scott County Courthouse, 428 South Holmes, Shakopee, Minnesota.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. William Koniarski, Chairman, Scott County Board of Commissioners, Scott County Courthouse, Shakopee, Minnesota 55279.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Scott County, Minnesota in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new



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buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Scott County Courthouse, 428 South Holmes, Shakopee, Minnesota.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. William Koniarski, Chairman, Scott County Board of Commissioners, Scott County Courthouse, Shakopee, Minnesota 55279.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Minnesota River | County Highway 5 | 736 |
| | County Highway 9 | 725 |
| | Chicago & North-western R.R. | 725 |
| | State Highway 41 | 724 |
| | Chicago, Milwaukee, St. Paul & Pacific R.R. | 723 |
| Sand Creek | County Road Bridge | 733 |
| | do | 726 |
| | Chicago & North-western R.R. | 725 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21197 Filed 7-27-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI-3196]

## CITY OF DREW, MISSISSIPPI

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Drew, Mississippi.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 130 West Shaw Avenue, Drew, Mississippi.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor W. O. Williford, City Hall, 130 West Shaw Avenue, Drew, Mississippi 38737.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Drew, Mississippi in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 130 West Shaw Avenue, Drew, Mississippi.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor W. O. Williford, City Hall, 130 West Shaw Avenue, Drew Mississippi 38737.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Tributary 1 | Upstream side U.S. Highway 49W. | 138 |
| | Downstream side U.S. Highway 49W. | 137 |
| | East Park Ave. | 136 |
| | Bridge Ave. | 134 |
| Lutken Bayou | West Park Ave. | 134 |
| | South Blvd. | 134 |
| Powell Bayou | Unnamed road | 125 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator (34 FR 2680, February 27, 1969), as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21198 Filed 7-27-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI-3197]

## HANCOCK COUNTY, MISSISSIPPI

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Hancock County, Miss. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Hancock County Courthouse, Main Street, Bay St. Louis, Miss. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Adolph Keller, President, Board of Supervisors of Hancock County, P.O. Box 152, Bay St. Louis, Miss. 39520.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Hancock County, Miss., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and CFR Part 1917.





These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Hancock County Courthouse, Main Street, Bay St. Louis, Miss. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Adolph Keller, President, Board of Supervisors of Hancock County, P.O. Box 152, Bay St. Louis, Miss. 39520.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| White Cypress Creek | County road | 84 |
| | do | 67 |
| Necaise Creek | do | 119 |
| Anner Creek | do | 128 |
| Hickory Creek | do | 119 |
| | do | 92 |
| | do | 57 |
| | Highway 43 | 57 |
| Orphan Creek | County road | 79 |
| | Route 603 | 72 |
| | Highway 43 | 54 |
| Bayou Bacon | County road | 106 |
| | Route 603 | 96 |
| | County road | 57 |
| | Highway 43 | 44 |
| Catahoula Creek | County road | 127 |
| | do | 109 |
| | do | 89 |
| | Highway 43 | 66 |
| Crane Creek | County road | 109 |
| Wolf River | Hancock County boundary. | 100 |
| | do | 85 |
| Bayou La Salle | County road | 65 |
| | do | 31 |
| | Highway 43 | 13 |
| Bayou La Terre | County road | 29 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21199 Filed 7-27-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI-3198]

## HARRISON COUNTY, MISSISSIPPI

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Harrison County, Miss. These base elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Harrison County Courthouse, Gulfport, Miss. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Howard L. Hobbs, County Sheriff, Sheriff's Department, P.O. Box 1480, Gulfport, Miss. 39501.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Harrison County, Miss., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Harrison County Courthouse, Gulf Port, Miss. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Howard L. Hobbs, County Sheriff, Sheriff's Department, P.O. Box 1480, Gulf Port, Miss. 39501.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Wolf River | Interstate 10 | 14 |
| | Confluence with Pole Branch. | 25 |
| | Confluence with Sandy Creek. | 41 |
| Bernard Bayou | Smith Rd. | 53 |
| | Harrison County Farm Rd. | 66 |
| Big Creek | Poplarville and Pamchristian Rd. | 29 |
| Turkey Creek | Interstate 16 | 26 |
| | Landon Rd. | 26 |
| Little Biloxi River | U.S. Highway 49 | 37 |
| | IC Railroad County Rd | 39 |
| Biloxi River | Desoto National Forest boundary. | 17 |
| | Confluence with Little Biloxi River. | 19 |
| Pole Branch | Confluence with Wolf River. | 36 |
| | Sandy Ridge Cemetery Rd. | 60 |
| Sandy Creek | do | 65 |
| | National forest boundary. | 69 |
| Flat Branch | Dedeaux Rd. | 15 |
| | Nugent Rd. | 26 |
| | U.S. Highway 49 | 45 |
| Canal No. 1 | Pineville Rd. | 17 |
| | Commission Rd. | 15 |
| Canal No. 3 | Espy Ave. | 13 |
| | Beatline Rd. | 16 |
| | Lagget Rd. | 18 |
| | 28th St. | 21 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21200 Filed 7-27-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI-3199]

## JACKSON COUNTY, MISS.

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Jackson County, Miss. These base flood



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elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Jackson County Courthouse, Canty Street, Pascagoula, Miss. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Edward A. Khavat, President, Board of Supervisors of Jackson County, P.O. Box 998, Pascagoula, Miss. 39567.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Jackson County, Miss., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4218, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Jackson County Courthouse, Canty Street, Pascagoula, Miss.

Any person having knowledge, information, or wishing to make a comment on the proposed elevations should immediately notify Mr. Edward A. Khayat, President, Board of Supervisors of Jackson County, P.O. Box 998, Pascagoula, Miss. 39567.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Pascagoula River | Graham Ferry | 21 |
| | County Boundary | 35 |
| Bayou Costapia | Desoto National Forest boundary. | 18 |
| Johns Bayou | Policaw Bayou Road | 25 |
| Bluff Creek | Mississippi Highway 57. | 13 |
| Black Creek | Mississippi Highway 613. | 21 |
| Moungers Creek | Policaw Bayou Road | 13 |
| Perigal Creek | Desoto National Forest boundary. | 25 |
| | Confluence with ditch No. 3. | 29 |
| | Seamen Road | 41 |
| Waters Creek | County road | 24 |
| Woodmans Branch | Policaw Bayou Road | 18 |
| Empress Creek | Confluence with ditch No. 1. | 16 |
| | Confluence with ditch No. 2. | 17 |
| | Tucker Road | 29 |
| | Seamen Road | 31 |
| Ditch No. 1 | McClellan Road | 33 |
| Ditch No. 2 | County road | 45 |
| Ditch No. 3 | Tucker Road | 43 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968) effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128) and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77 21201 Filed 7-27-77;8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3201]

## CITY OF MOORHEAD, MISS.

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Moorhead, Miss. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Moorhead, Miss. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Julius M. McDaniel, City Manager, City Hall, P.O. Box 578, Moorhead, Miss. 38761.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100–year flood) for the City of Moorhead, Miss., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128 and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies establishtd by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Moorhead, Miss.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Julius M. McDaniel, City Manager, City Hall, P.O. Box 578, Moorhead, Miss. 38761.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Moorhead Bayou | Walnut St | 114 |
| | Mississippi Highway 3 | 114 |
| | Railroad | 114 |
| | do | 114 |
| | Washington St | 114 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24. 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77–21202 Filed 7–27–77;8:45 am]





[ 24 CFR Part 1917 ]

[Docket No. FI-3200]

## TOWN OF RULEVILLE, MISS.

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Ruleville, Miss. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, 200 Floyce Street, Ruleville, Miss. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Virginia S. Tolbert, Town Hall, 200 Floyce Street, Ruleville, Miss. 38771.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Ruleville, Miss., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 200 Floyce Street, Ruleville, Miss.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Virginia S. Tolbert, Town Hall, 200 Floyce Street, Ruleville, Miss. 38771.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Dougherty Bayou Tributary 3 | Floyce St | 134 |
| | Corporate limits | 135 |
| Tributary 2 | Lynx St | 133 |
| | Unnamed road | 132 |
| Tributary 1 | Floyce St | 135 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR D - 77 21203 Filed 7-27-77;8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3202]

## BUCHANAN COUNTY, MISSOURI

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Buchanan County, Missouri. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Buchanan County Courthouse, 5th and Jule Street, St. Joseph, Missouri. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable L. R. Sollars, Presiding Judge, Buchanan County Courthouse, 5th and Jule Street, St. Joseph, Missouri 64501.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Buchanan County, Missouri in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Buchanan County Courthouse, 5th and Jule Street, St. Joseph, Missouri.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable L. R. Sollars, Presiding Judge, Buchanan County Courthouse, 5th and Jule Street. St. Joseph, Missouri 64501.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Missouri River | U.S. Highway 59 | 793 |
| Platte River | State Highway 116 | 822 |
| | County Rd. E23S | 831 |
| | State Highway H | 838 |
| | County Rd. E7S | 845 |
| | State Highway 6 | 849 |
| Castile Creek | State Highway 116 | 820 |
| | County Rd. E23S | 834 |
| 102 River | State Highway 6 | 856 |
| | Cook Rd | 858 |
| Bee Creek | County Rd. E26S | 890 |
| | State Highway 116 | 897 |
| | Interstate Highway 29. | 908 |
| | County Rd. E23S | 92[illegible] |
| | County Rd. E20S | 937 |
| Jenkins Branch | State Highway DD | 833 |
| | State Highway H | 843 |
| Third Fork Platte River. | County Rd. E7S | 845 |
| | U.S. Highway 36 | 847 |
| | State Highway 6 | 854 |
| | County Rd. E2N | 864 |
| | County Highway P | 871 |
| Little Third Fork Platte River. | County Rd. N15E | 870 |



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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21204 Filed 7-27-77;8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3145]

## CLAY COUNTY, MISSOURI

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Clay Count, Missouri. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Annex Building, 616 East Mill, Liberty, Missouri. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Edward J. Bauman, Presiding Judge, Clay County, Annex Building, 616 East Mill, Liberty, Missouri 64068.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Clay County, Missouri in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Annex Building, 616 East Mill, Liberty, Missouri.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Edward J. Bauman, Presiding Judge, Clay County, Annex Building, 616 East Mill, Liberty, Missouri 64068.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Clear Creek | County road | 809 |
| | Highway 92 | 785 |
| | Confluence with Fishing River. | 770 |
| Holt Creek | Clay County line | 857 |
| | County road | 845 |
| | I-35 | 812 |
| | County road | 808 |
| | Confluence with Clear Creek. | 780 |
| Dry Fork | County road | 908 |
| | Upstream corporate limits Excelsior Springs. | 790 |
| Fishing River | Highway C | 845 |
| | County road | 820 |
| | I-35 | 792 |
| | Burlington Northern RR. | 787 |
| | Highway 33 | 784 |
| | Mosby corporate limits upstream. | 770 |
| | Confluence with East Fork Fishing River. | 744 |
| | Highway N | 735 |
| East Fork Fishing River. | County road | 748 |
| Williams Creek | do | 823 |
| | Highway 92 | 807 |
| Brushy Creek | Highway 69 | 1,022 |
| | Atchison, Topeka & Santa Fe RR. | 1,008 |
| | Clay County line | 983 |
| Brushy Creek, Tributary I. | Highway 69 | 1,025 |
| | Confluence with Brushy Creek. | 1,012 |
| Brushy Creek, Tributary II. | County road | 1,047 |
| | Highway D | 1,013 |
| | Chicago, Milwaukee, St. Paul & Pacific RR. | 1,009 |
| First and Second Creeks. | County road | 850 |
| | Highway 92 | 836 |
| | Upstream Smithville corporate limits. | 816 |
| Owens Branch | County road | 820 |
| | do | 858 |
| | Highway 169 | 822 |
| Wilkerson Creek | County road | 862 |
| | Highway 92 | 840 |
| | Upstream Smithville corporate limits. | 818 |
| Rocky Branch | County road | 955 |
| | Confluence with Wilkerson Creek. | 847 |
| Crockett Creek | County road upstream study limits. | 810 |
| | County road | 783 |
| | Upstream Mosby corporate limits. | 761 |
| Holmes Creek | County road | 770 |
| | Highway 69 | 767 |
| | Chicago, Minneapolis & St. Paul RR. | 765 |
| Williams Creek | County road | 775 |
| | Highway 69 | 761 |
| Williams Creek tributary. | County road | 857 |
| Little Platte River | Clay County line | 811 |
| Missouri River | Confluence with Shoal Creek. | 729 |
| | Clay County line | 718 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21205 Filed 7-27-77;8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3146]

## CITY OF UNIVERSITY CITY, ST. LOUIS COUNTY, MISSOURI

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of University City, St. Louis County, Missouri. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Planning and Development Department, City Hall, 4th Floor, 6801 Delmar, University City, Missouri 63130. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Nathan B. Kaufman, Mayor, City of University City, City Hall, 6801 Delmar, University City, Missouri 63130.





FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of University City, St. Louis County, Missouri in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirement on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| River Des Peres | Downstream face of Pennsylvania Ave. | 502 |
| | Downstream face of Vernon Ave. | 506 |
| | Downstream face of footbridge. | 508 |
| | Downstream face of Purdue Ave. | 511 |
| | Downstream face of Midland Blvd. | 515 |
| | Downstream face of Shaftesbury Bridge. | 520 |
| | Downstream face of Hanley Rd. | 521 |
| | Downstream face of North and South Blvd. | 524 |
| | Downstream face of Olive Blvd. | 534 |
| | At the confluence with Southwest Branch. | 538 |
| | At the downstream face of 820 Blvd. | 540 |
| | At the downstream face of Appleton Dr. | 545 |
| | At the downstream face of Kempland Pl. | 540 |
| Northeast branch of River Des Peres. | At the downstream face of Chamberlain Ave. | 496 |
| | At the downstream face of Kingsland Ave. | 502 |
| | At the downstream face of Julian Ave. | 507 |
| | At the downstream face of Raymond Ave. | 513 |
| Northwest branch of River Des Peres. | At the downstream face of Canion Ave. | 534 |
| | At the downstream face of footbridge at Wayne Ave. | 537 |
| | At the downstream face of culvert outlet. | 551 |
| Southwest branch of River Des Peres. | At the culvert inlet | 539 |
| | 600 ft upstream from from the culvert inlet. | 540 |
| | At the downstream face of McKnight Rd. | 553 |
| | At the upstream face of McKnight Rd. | 559 |
| | At the downstream face of Spoon Dr. | 565 |
| | At the upstream face of Spoon Dr. | 573 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21206 Filed 7-27-77;8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3147]

## VILLAGE OF AVOCA, NEBRASKA

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Avoca, Nebraska.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Mayor's Home, Avoca, Nebraska.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Elvin Enshoff, P.O. Box 634, Avoca, Nebraska 68307.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Avoca, Nebraska in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| South Branch of Weeping Water Creek. | County road | 1,163 |
| Tributary of South Branch of Weeping Water Creek. | North St | 1,167 |
| | House St | 1,162 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21207 Filed 7-27-77;8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3148]

## CITY OF JAMESTOWN, CHAUTAUQUA COUNTY, NEW YORK

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed



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base flood elevations (100-year flood) listed below for selected locations in the City of Jamestown, Chautauqua County, New York.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Jamestown, New York.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable Steven B. Carlson, Mayor of Jamestown, City Hall, Jamestown, New York 14701.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the city of Jamestown, Chautauqua County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Chadakoin River | East corporate limits | 1,262 |
| | Con Rail Bridge | 1,267 |
| | Buffalo St | 1,277 |
| | Chandler St | 1,289 |
| | Windsor St | 1,293 |
| | Foote Ave | 1,298 |
| | Main St | 1,302 |
| | West 6th St | 1,310 |
| | West corporate limits | 1,310 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77–21208 Filed 7–27–77;8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI–3149]

## TOWN OF KENDALL, ORLEANS COUNTY, NEW YORK

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Kendall, Orleans County, New York.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Clerk's Office, Town Hall, 1873 Kendall Road, Kendall, New York.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Michael Paduchak, Town Supervisor, 1412 Center Road, Kendall, New York 14476.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Kendall, Orleans County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flod Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Bandy Creek | New York State Route 272. | 351 |
| | 200 ft upstream of New York State Route 272. | 353 |
| | 2,200 ft upstream of New York State Route 272. | 365 |
| | 3,500 ft upstream of New York State Route 272. | 360 |
| | 1,200 ft downstream of Norway Rd. | 364 |
| | Norway Rd | 365 |
| | 1,500 ft upstream of Norway Rd. | 368 |
| | Carton Rd. downstream. | 371 |
| | Carton Rd. upstream. | 374 |
| | 2,600 ft downstream of Kendall Rd. | 375 |
| | 1,000 ft downstream of Kendall Rd. | 376 |
| | Kendall Rd. downstream. | 379 |
| | Kendall Rd. upstream. | 384 |
| Yanty Creek | Kenmore Rd | 333 |
| | 1,850 ft upstream of Norway Rd. | 335 |
| | Roosevelt Highway downstream. | 340 |
| | Roosevelt Highway upstream. | 344 |
| | Driveway Bridge South of Roosevelt Highway, 2,500 ft West of Norway Rd. | 349 |
| | Farm Bridge 600 ft. ft South of Roosevelt Highway, 1,850 ft East of Kendall Rd. | 354 |
| | 600 ft downstream of Kendall Rd. | 358 |
| | Kendall Rd. downstream. | 361 |
| | Kendall Rd. upstream. | 368 |





| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Lake Ontario | Transit Rd. to Bald Eagle Creek. | 251 |
| | Bald Eagle Creek to 1,750 ft East of Norway Rd. | 253 |
| | 1,750 ft East of Norway Rd. to New York State Route 272. | 251 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77–21209 Filed 7–27–77;8:45 am]



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federal register

THURSDAY, JULY 28, 1977

PART III




# FEDERAL ELECTION COMMISSION

■

## ADVISORY OPINION REQUESTS

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## FEDERAL ELECTION COMMISSION

[Notice 1977-41, AOR 1977-33]

### ADVISORY OPINION REQUESTS

Pursuant to 2 U.S.C. § 437f(c) and the procedures reflected in Part 112 of the Commission's regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Request 1977-33 has been made public at the Commission. Copies of AOR 1977-33 were made available on July 22, 1977. These copies of the advisory opinion request were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street, N.W., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of the General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A description of the request recently made public as well as the identification of the requesting party follows hereafter:

AOR 1977-33: May a candidate for Federal office obtain a personal loan, transfer the loan proceeds to his campaign committee for the payment of campaign expenses, and then receive repayment of principal and interest from the campaign committee if the interest is equal to that being paid by the candidate to the original lendor? How would the campaign committee report this payment of interest if permissible? May the committee pay interest to the candidate if a loan (as described) was obtained by the candidate at some considerable time before the committee began paying interest to the candidate?

Requested by Representative Marty Russo, United States House of Representatives, Washington, D.C.

Dated: July 25, 1977.

THOMAS E. HARRIS,
*Chairman for the*
*Federal Election Commission.*

[FR Doc.77-21758 Filed 7-27-77;8:45 am]



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## AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

| Monday | Tuesday | Wednesday | Thursday | Friday |
|---|---|---|---|---|
| NRC | USDA/ASCS | | NRC | USDA/ASCS |
| DOT/COAST GUARD | USDA/APHIS | | DOT/COAST GUARD | USDA/APHIS |
| DOT/NHTSA | USDA/FNS | | DOT/NHTSA | USDA/FNS |
| DOT/FAA | USDA/REA | | DOT/FAA | USDA/REA |
| DOT/OHMO | CSC | | DOT/OHMO | CSC |
| DOT/OPSO | LABOR | | DOT/OPSO | LABOR |
| | HEW/ADAMHA | | | HEW/ADAMHA |
| | HEW/CDC | | | HEW/CDC |
| | HEW/FDA | | | HEW/FDA |
| | HEW/HRA | | | HEW/HRA |
| | HEW/HSA | | | HEW/HSA |
| | HEW/NIH | | | HEW/NIH |
| | HEW/PHS | | | HEW/PHS |

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

**ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.**


**federal register**

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# reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

**Rules Going Into Effect Today**

FCC—Public safety radio services; Travelers Information Station; operation in frequency range 530 and 1610kHz. 31594; 6–22–77

HUD/FHC—Historic preservation loans for residential structures; insurance of financial institutions.... 33882; 7–1–77

**Rules Going Into Effect July 30, 1977**

HUD/FHC—Solar heating and domestic hot water systems; minimum property standards..... 33890; 7–1–77

Interior/FWS—Big game hunting; Hatchie National Wildlife Refuge, Tennessee. 32801; 6–28–77

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CAB—Air carriers and charterers; carrier charges for charter ferry mileage (4 documents)..... 33720–33721; 7–1–77

DOT/CG—Metal borings, shavings, turnings, and cuttings..... 22145; 5–2–77

USDA/FSQS—Dehydrated (low-moisture) apples; grade standards..... 33259; 6–30–77

**List of Public Laws**

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

H.R. 1551..... Pub. L. 95–71
Granting the consent of Congress to an amendment to the Sabine River Compact entered into by the States of Texas and Louisiana. (July 23, 1977; 91 Stat. 281.) Price: $.35.



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# rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

## PART 213—EXCEPTED SERVICE

### Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Private Secretary to the Administrator, Food Safety and Quality Service is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3313(v) is added as set out below:

**§ 213.3313 Department of Agriculture.**

• • • • •

(v) *Food Safety and Quality Service.* (1) One Private Secretary to the Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77-21743 Filed 7-28-77;8:45 am]

## PART 213—EXCEPTED SERVICE

### Department of Defense

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following positions are excepted under Schedule C because they are confidential in nature: one position of Private Secretary to the Personal Representative of the Secretary of Defense on the Strategic Arms Limitation Talks Delegation, one position of Special Assistant to the General Counsel, and two positions of Staff Assistant (Interdepartmental Activities) to the Assistant to the President for Personnel.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3306(a) (90), (91), and (c)(3) are added as set out below:

**§ 213.3306 Department of Defense.**

(a) *Office of the Secretary.* • • •

(90) One Private Secretary to the Personal Representative of the Secretary on the Strategic Arms Limitation Talks Delegation.

(91) One Special Assistant to the General Counsel.

• • • • •

(c) *Interdepartmental Programs.* • • •

(3) Two Staff Assistants (Interdepartmental Activities) to the Assistant to the President for Personnel.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218).

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C .SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77-21741 Filed 7-28-77;8:45 am]

## PART 213—EXCEPTED SERVICE

### Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Personal Assistant to the Commissioner of Education is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3316(c) (13) is added as set out below:

**§ 213.3316 Department of Health, Education, and Welfare.**

• • • • •

(c) *Office of Education.* • • •

(13) One Personal Assistant to the Commissioner of Education.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77-21744 Filed 7-28-77;8:45 am]

## PART 213—EXCEPTED SERVICE

### Department of the Navy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Associate General Counsel is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3308(a) (14) is added as set out below:

**§ 213.3308 Department of the Navy.**

(a) *Office of the Secretary.* • • •

(14) One Associate General Counsel.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77-21742 Filed 7-28-77;8:45 am]

## PART 213—EXCEPTED SERVICE

### Department of the Treasury

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This section is amended to except from the competitive service under Schedule C one position of Special Assistant to the Assistant Secretary (Economic Policy) because of the confidential nature of the position.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3305(a) (18) is amended as set out below:

**§ 213.3305 Department of the Treasury.**

(a) *Office of the Secretary.* • • •

(18) One Confidential Secretary, one Executive Assistant, and one Special Assistant to the Assistant Secretary (Economic Policy).

(5 U.S.C. 3301, 3302, EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77-21739 Filed 7-28-77;8:45 am]

## PART 213—EXCEPTED SERVICE

### Federal Energy Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following positions are excepted under Schedule C because they



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are confidential in nature: One position of Staff Assistant to the Administrator, and one position of Staff Assistant to the Director, Office of Communications and Public Affairs.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3388(a)(3) is amended and (c)(5) is added as set out below:

**§ 213.3388 Federal Energy Administration.**

(a) *Office of the Administrator.* * * *

(3) Three Staff Assistants to the Administrator.

* * * * * *

(c) *Office of Communications and Public Affairs.* * * *

(5) One Staff Assistant to the Director.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77–21740 Filed 7–28–77;8:45 am]

## PART 213—EXCEPTED SERVICE

### General Services Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This section is amended to show that one position of Confidential Assistant to the Director of Congressional Affairs is expected under Schedule C because it is confidential in nature.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3337(a)(20) is added as set out below:

**§ 213.3337 General Services Administration.**

(a) *Office of the Administrator.* * * *

(20) One Confidential Assistant to the Director of Congressional Affairs.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commisisoners.*

[FR Doc.77–21746 Filed 7–28–77;8:46 am]

## PART 213—EXCEPTED SERVICE

### Small Business Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One Schedule C position of Congressional Relations Officer is revoked under the automatic revocation system because it has been vacant for over 60 days. Also, the position of Congressional Relations Specialist is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3332(e) is amended and (bb) is added as set out below:

**§ 213.3332 Small Business Administration.**

* * * * * *

(e) One Congressional Relations Officer.

* * * * * *

(bb) One Congressional Relations Specialist.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77–21745 Filed 7–28–77;8:45 am]

## Title 8—Aliens and Nationality

## CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

[File No. CO 845–P]

## PART 100—STATEMENT OF ORGANIZATION

### Closing of Ports of Entry; Algoma, Wis.; Kewaunee, Wis.; Port Washington, Wis.; and Washburn, Wis.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This amendment to the regulations of the Immigration and Naturalization Service closes certain small Class C ports of entry in the State of Wisconsin because there have been no vessel arrivals there which required immigration inspection for at least the past three years. The intended effect of this regulation is to close those ports and delete reference to them from the regulations, and eliminate the need for Service personnel to be on 24 hour call to serve these locations.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone 202–376–8373.

SUPPLEMENTARY INFORMATION: On June 3, 1977, the Service published a Notice of Proposed Rule Making under the provisions of section 553 of Title 5 of the United States Code (80 Stat. 383) in which it was proposed to close the Class C ports of entry located in Algoma, Kewaunee, Port Washington, and Washburn, Wis., and delete reference to those ports from 8 CFR 100.4(c)(2) (42 FR 28547). No representations were received to the notice and the proposed rule will be adopted without change.

The reason these ports are being closed is that Service records indicate that there has been no arrival or inspection of vessels at any of these ports for more than three years, and in the case of Port Washington and Algoma, there have been no arrivals for over 10 years. The port at Kewaunee handles only small pleasure craft. Henceforth, any vessel inspection which is necessary will be handled by the U.S. Customs Service which has concurred in the Service's proposal. Finally, closing of these ports will render it unnecessary for the Service to have personnel on 24-hour call for the purpose of inspecting vessels arriving at these ports.

Therefore, the Class C ports of entry at Algoma, Kewaunee, Port Washington, and Washburn, Wis., will be closed as of the effective date of this order and those ports will be deleted from the listing of Class C ports shown under District 9, in 8 CFR 100.4(c)(2).

In the light of the foregoing, Chapter I of Title 8 of the Code of Federal Regulations is hereby amended as set forth below.

In Part 100, § 100.4(c)(2) is revised by deleting Algoma, Wis., Kewaunee, Wis., Port Washington, Wis., and Washburn, Wis., from the list of Class C ports shown under District No. 9—Chicago, Ill. As revised § 100.4(c)(2) reads in pertinent part as follows:

**§ 100.4 Field service.**

* * * * * *

(c) *Suboffices.*

* * * * * *

(2) *Ports of entry for aliens arriving by vessel or by land transportation.*

* * * * * *

DISTRICT NO. 9—CHICAGO, ILL.

* * * * * *

CLASS C

East Chicago, Ind.
Gary, Ind.
Michigan City, Ind.
Ashland, Wis.
Kenosha, Wis.
Manitowoc, Wis.
Marinette, Wis.
Racine, Wis.
Sheboygan, Wis.
Sturgeon Bay, Wis.

* * * * * *

(Sec. 103, 66 Stat. 178 (8 U.S.C. 1103).)

Dated: July 25, 1977.

LEONEL J. CASTILLO,
*Commissioner of Immigration and Naturalization.*

[FR Doc.77–21811 Filed 7–28–77;8:45 am]





## Title 10—Energy

## CHAPTER II—FEDERAL ENERGY ADMINISTRATION

## PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

### Guidelines for the Allocation of Propane and Other NGLS for Gas Utility and Gas Transmission Company Use

AGENCY: Federal Energy Administration.

ACTION: Issuance of Guidelines, Notice of Public Hearing and Opportunity for Submission of Written Comments.

SUMMARY: The Federal Energy Administration (FEA) is issuing guidelines applicable to the allocation of propane and the other allocated natural gas liquid products (NGLs) for gas utility or gas transmission company use. These guidelines are intended to provide a consistent basis for FEA action with respect to use of such products for the purpose of supplementing pipeline natural gas other than by the manufacture of synthetic natural gas. Public comments on these guidelines are requested at a public hearing and through written submissions.

DATES: Comments by August 30, 1977, 4:30 p.m.; Requests to Speak by August 25, 1977, 4:30 p.m.; Statements by September 2, 1977, 4:30 p.m.; Hearing to be held on September 6, 1977 at 9:30 a.m.

ADDRESSES: Hearing to be held at the Federal Energy Administration, Room 2105, 2000 M Street NW., Washington, D.C.

Written comments and requests to speak to: Executive Communications, Room 3317, Federal Energy Administration, Box OE, Washington, D.C. 20461.

Statements to: Federal Energy Administration, Regulations Management, Room 2214, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461 (202–566–9833).

Gerald P. Emmer (Regulatory Programs), 2000 M Street NW., Room 2304, Washington, D.C. 20461 (202–254–7200).

Finn Neilsen (Regulatory Programs), 2000 M Street NW., Room 6318, Washington, D.C. 20461 (202–254–9730).

Joel Yudson (Office of the General Counsel), 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461 (202–566–9565).

SUPPLEMENTAL INFORMATION:

I. BACKGROUND

During the winter of 1976–77, the natural gas shortage increased the demand for propane for gas utility use, and necessitated the enactment of several emergency amendments. During that time, a large number of requests were filed by gas utilities for permission to use propane for peak shaving in excess of the use limitations contained in §§ 211.10(g)(8) and 211.83(c)(v) of the Mandatory Petroleum Allocation Regulations (10 CFR Part 211). On January 18, 1977 (42 FR 4422, January 25, 1977) FEA adopted, on an emergency basis, an amendment authorizing applications to FEA for waivers of the gas utility peak shaving use limitation contained in 10 CFR 211.83(c). Thereafter, FEA issued a number of waivers of its use limitations for propane for gas utility use, which waivers were effective only during the first quarter of 1977.

On January 24, 1977 (42 FR 5033, January 27, 1977), in recognition of the difficulties gas utilities were having in meeting the demand for gas service for essential human needs and property protection, FEA took further emergency action and adopted, for the first quarter of 1977, Special Rule No. 1 to Subpart D of Part 211, which established a temporary propane allocation level for peak shaving by gas utilities for such requirements and created special priorities. However, to the extent relief could be provided, FEA found that the more effective course of action was to waive the use limitations for gas utilities.

II. EMERGENCY GUIDELINES ADOPTED

Currently, a number of requests by gas utilities are pending before FEA for waiver of the propane use limitations for new or expanded propane-air facilities to be operated in the last quarter of 1977 and the first quarter of 1978. To permit firms to prepare properly for the 1977–78 winter, FEA believes it imperative to act on these requests at this time, prior to the start of the next heating season.

Because there were no specific standards in effect applicable to waiver requests by gas utilities, FEA considered the last winter's waiver requests on a case-by-case basis, using as broad guidance the provisions of the Emergency Petroleum Allocation Act of 1973, as amended (Pub. L. 93–159, "EPAA"). Such broad standards made it difficult for applicants to determine what information to submit with their requests and what likelihood there was of receiving relief. To provide administrative certainty, FEA is issuing specific guidelines that contain the criteria which FEA will use to evaluate the pending and future gas utility requests for propane to be used for propane air injection into pipelines and for other products to be similarly used. These specific published criteria will be of assistance to affected firms, whether their applications take the form of requests for waivers of the use limitations or for assignments of a base period use. The guidelines, which will be an appendix to Subpart D of Part 211, contain a full discussion of FEA's rationale for selecting such criteria.

Although adequate supplies of natural gas and propane are being delivered to priority customers during the current period of non-peak demand, these guidelines are being issued today on an emergency basis to ensure that pending applications for gas utility and gas transmission company use of propane and other NGLs will be acted on promptly so as to avoid any possible supply problems in the upcoming winter. In this connection, one of the key elements which contributed to the precarious supply situation last winter was the overloading of existing distribution systems for propane. To mitigate the potential strain on the distribution system, FEA has provided that propane and other NGLs for gas utility and gas transmission company use will have to be transported to on-site storage facilities prior to the beginning of the heating season. If these guidelines were not adopted until after notice and a hearing, FEA would be constrained from acting on the applications until after much of the time would have lapsed during which the allocated products should be transported to avoid subsequent distribution problems in peak demand periods. FEA therefore finds that strict compliance with the notice requirements of section 7(i)(1)(B) of the Federal Energy Administration Act of 1974, as amended ("FEAA"), Pub. L. 93–275, Pub. L. 94–385, may well cause serious harm and injury to the public health, safety and welfare, and the notice requirements of that section are hereby waived. To the extent public comments regarding these guidelines raise valid issues as to the standards set forth therein, FEA will endeavor to consider such comments before issuing orders for applications not yet acted upon.

III. COMMENT PROCEDURE

1. *Written comments.* Interested persons are invited to submit written comments with respect to the guidelines to Executive Communications, FEA, Room 3317, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, Box Number OE. Comments should be identified on the outside of the envelope and on the documents submitted to FEA with the designation "Comments on Gas Utility Guidelines." Fifteen (15) copies should be submitted. All comments and related information should be received by FEA by August 30, 1977, in order to ensure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only, in accordance with the procedures set forth in 10 CFR 205.9(f). Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

2. *Public Hearing.*—a. *Request procedures.* Because these guidelines are being issued on an emergency basis, an opportunity for oral presentation of views is not possible prior to their implementation. A public hearing on the guidelines, however, will be held at 9:30 a.m., e.d.t., on September 6, 1977, in the Auditorium, Room 2105, 2000 M Street NW., Washington, D.C. to receive oral presentations from interested persons.

Any person who has an interest in the guidelines or who is a representative of a group or class of persons which has an interest in them may make a



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written request for an opportunity to make oral presentation. Such a request should be directed to Executive Communications, FEA, Box OE, Room 3317, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and must be received before 4:30 p.m., e.d.t., August 25, 1977. Such a request may be hand-delivered to Room 3317, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give concise summary of the proposed oral presentation and a phone number where he or she may be reached through August 29, 1977. Each person selected to be heard will be notified by FEA before 4:30 p.m., e.d.t., August 29, 1977, and must submit 100 copies of his or her proposed statement to Allocations Regulations Development Office, FEA, Room 2214, 2000 M Street NW., Washington, D.C. 20461 before 4:30 p.m., e.d.t., on September 2, 1977.

b. *Conduct of hearings.* FEA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, FEA, before 4:30 p.m., e.d.t., August 30, 1977. FEA will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of these guidelines have been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact thereof on the quality of the environment. The Administrator had no comments.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332 and Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; E.O. 11933, 41 FR 36641).

In consideration of the foregoing, Subpart D of Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is amended by the addition of an Appendix, as set forth below.

Issued in Washington, D.C., July 26, 1977.

J. PETER LUEDTKE,
*Acting General Counsel.*

Subpart D of Part 211 is amended by adding an Appendix thereto to read as follows:

APPENDIX—GUIDELINES FOR THE ALLOCATION OF PROPANE AND OTHER NGLS FOR GAS UTILITY AND GAS TRANSMISSION COMPANY USE

1. SCOPE

These guidelines are issued to provide a consistent basis for application of FEA regulations with respect to use of allocated natural gas liquid products for the purpose of supplementing, replacing, or displacing pipeline natural gas other than by the manufacture of synthetic natural gas. The guidelines are applicable to: (1) Assignments of base period uses for new propane-air injection facilities (propane-air plants) and similar facilities using any other allocated natural gas liquid product for gas utility use; (2) adjustments to base period uses for existing propane-air plants or similar facilities using any allocated natural gas liquid product; and (3) waivers of the special limitations on acquisition and use of allocated natural gas liquid products for gas utility use or gas transmission company use. These guidelines do not constitute regulations, and the analysis of each application shall accord with applicable regulations, with due regard given these guidelines. However, if emergency relief is needed, or a compelling situation warrants otherwise, FEA will take the action most suitable under the circumstances, notwithstanding any requirements of these guidelines

2. GENERAL

FEA is issuing these guidelines with several considerations in view. FEA recognizes that gas utilities and gas transmission companies need to prepare for the possibility of future natural gas curtailments by securing additional supplies of gaseous fuel to meet high priority demand. The construction or expanded use of propane-air plants by gas utilities or the direct injection of natural gas liquid products into pipelines are, in the near future, two ways of securing additional volumes of gaseous fuel. Other long-term efforts to deal with energy shortages arising from shortages of natural gas probably will not have a significant measurable effect upon either supply or demand during the next heating season. Therefore, FEA believes that the use of propane and other allocated natural gas liquid products will be a necessary part of the short-term effort required to meet peak requirements for gas service to high priority customers resulting from natural gas shortages.

FEA is aware of the problems that could occur if gas utilities and transmission companies were freely permitted to purchase and use propane from domestic or Canadian sources for the purpose of supplementing gas supplies. Permitting increased volumes of domestic price-controlled propane to be utilized by gas utilities could severely impact upon traditional and high priority users, especially in view of declining domestic propane production, dwindling natural gas reserves, and the inability of the existing propane transportation and distribution network to respond adequately to abnormal demand such as that of the 1976-77 winter. FEA believes that if gas utilities and gas transmission companies were permitted access to domestic propane, suppliers of traditional and high priority users would need to supplement their supplies of propane by purchasing imports. Accordingly, FEA has determined that gas utilities or transmission companies should not be given increased access to domestic propane or other allocated natural gas liquid products and will permit only non-Canadian imported propane and other such products to be used for new or expanded gas utility or gas transmission company use.

However, FEA also recognizes the countervailing factor that it may not be in the national interest to significantly increase our reliance upon imports of such products. While the use of additional volumes of imported propane will be needed in the short-term to respond to anticipated natural gas curtailments, the importation of large volumes of propane on a continuing basis might have the undesirable effect of diverting attention and resources away from more appropriate long-term solutions as outlined in the President's National Energy Plan. In addition, FEA is concerned that allowing imports of propane and other allocated natural gas liquid products to meet new gas utility demand could disrupt distribution patterns if such imports would be transported by product pipeline within the United States in large volumes during periods of peak demand.

3. PROCEDURES

Applications for adjustments, assignments or waivers of the use limitation with respect to propane or any other allocated natural gas liquid product for gas utility or gas transmission company use will be acted upon by the National Office of the FEA only. Such applications should be filed in accordance with the provisions of Subparts B, C, and G of 10 CFR Part 205, respectively. FEA requests that affected firms make application for waiver of the use limitations, since FEA does not expect to approve a request for an assignment of or an adjustment to the base period use for gas utility or gas transmission company use of propane or any other allocated natural gas liquid product unless a waiver would be insufficient to provide the necessary relief.

4. SUBSTANTIVE CRITERIA

a. All assignments, adjustments, and waivers granted for the use of propane or any other allocated natural gas liquid product for gas utility or gas transmission company use will be for non-Canadian imported allocated natural gas liquid products only.





b. No assignments, adjustments, or waivers will be granted for the purchase and use of any allocated natural gas liquid product for gas utility or gas transmission company use unless the petitioner can demonstrate a definite requirement for such use of said product and that equipment is or will be in place to supplement supplies for the impending heating season (the heating season means the six month period from October 1 through March 31 of the following year).

c. No such assignment, adjustment or waiver will be in effect for a period of greater than two years.

d. No such assignment, adjustment or waiver will be granted unless the applicant demonstrates that its supplier will incrementally price the requested product to it to the maximum extent permitted under the Mandatory Petroleum Price Regulations.

e. FEA shall not grant any application for an assignment, adjustment, or waiver for the gas utility or transmission company use of propane or any other allocated natural gas liquid product where the granting of such an application would significantly reduce the availability of such product for traditional and high priority users (e.g., by impacting upon the availability of transportation, storage, or terminaling facilities).

f. FEA shall not grant any assignment, adjustment, or waiver for the gas utility or gas transmission company use of propane or any other allocated natural gas liquid product except upon the condition that the applicant shall arrange to take possession of and transport such product to on-site storage in a manner that will not adversely impact upon traditional transportation systems for such product. "On-site storage" means storage located on, or immediately adjacent to, the site of use, or such storage from which product may be withdrawn and transported to the site of use without adversely impacting upon transportation of product for other users (e.g., as by wholly owned transport vehicles or a limited access product pipeline or natural gas pipeline).

g. FEA shall grant assignments, adjustments, and waivers for gas utility or gas transmission company use of propane only to provide gaseous fuel service to customers which would be in Federal Power Commission (FPC) priority of service classification 1 and those customers in priorities 2 and 3 (as specified in FPC Orders 467 B and C) that do not have an alternate fuel capability. For purposes of these guidelines, alternate fuel capability means having equipment in place and storage capability available to use a fuel other than natural gas or an allocated natural gas liquid product on a continuing basis. As otherwise provided in this part, all firms, regardless of FPC priority of service classification, are permitted to acquire non-Canadian imported allocated natural gas liquid products for industrial use and may have gas utilities act as agents in acquiring or delivering such products by displacement through natural gas pipelines.

5. BASIS FOR EVALUATION

In addition to satisfying the filing requirements of the appropriate subpart of Part 205, all applications for an assignment, adjustment, or waiver for the use of an allocated natural gas liquid product for gas utility or gas transmission company use should be accompanied by the following information:

a. *Natural gas supply/demand situation.*
i. A description of the design winter model of the gas utility, the character of its firm and interruptible customers by FPC priority classification and/or comparable state PUC classification, and estimated actual supply of pipeline natural gas, including intrastate gas, stored gas, and gas from any other source during the period the requested products would be used.
ii. Projected daily rates of injection into and drawdown from gas storage during the period for which the products are requested.
iii. The existence, character, and effect of any actual natural gas curtailments and/or natural gas curtailment plan affecting the market area(s) served by the gas utility, including the expected natural gas shortfall by FPC category during the period for which the allocated natural gas liquid products are desired.
iv. A description of the availability of all alternate sources of gas supplies including but not limited to liquefied natural gas (LNG), domestic synthetic natural gas (SNG), spot or emergency purchases of natural gas and the efforts made to obtain such alternate supplies, including efforts made to obtain additional supplies of domestic pipeline natural gas through the FPC or a state PUC.
v. The degree to which the gas utility has curtailed or proposed to curtail gas supplies to those customers which have an alternate fuel capability as defined herein.
vi. The degree to which conservation measures have reduced, or could reduce, gaseous fuel requirements of the gas utility's customers, and the utility's current conservation-related programs and plans and an assessment of conservation upon future demand.
vii. A statement as to the estimated growth of the applicant over the previous heating season by FPC category including numbers of new customers and volume of gas required to satisfy such requirements.

b. *Allocated natural gas liquid product supply/demand situation.* i. The volumes of the requested allocated natural gas liquid product (1) purchased or obtained, (2) contracted for delivery, and (3) actually used for each calendar quarter of the period April 1, 1972, through March 31, 1973.
ii. The volumes of the allocated natural gas liquid product for which the request is being made, by calendar quarter, and the basis for the request; i.e., a statement of the volume of the projected deficit for each of the three Federal Power Commission priority classifications for which the use of such product may be authorized.
iii. The volumes of the requested product currently in inventory, by location.
iv. The capacity and location of storage facilities owned, leased, or operated by applicant which would be available to store the requested product.
v. The names of supplier(s), location(s) of supply, price per gallon, and the arrangements made with the supplier(s) to supply product.
vi. Certification from the proposed supplier(s) that the requested product has or will be imported from non-Canadian sources or that the applicant itself will import from non-Canadian sources.
vii. A description of the arrangements for the transportation of the allocated natural gas liquid product to the site of use, or to on-site storage, including monthly volume estimates.
viii. The conversion factor (i.e., the number of gallons of the requested product that are required to produce 1 Mcf of gaseous fuel). Factors above 12.0 must be supported by engineering or system specifications and an appropriate rationale as to the need for the high-BTU propane air or other mixture.

d. *Environmental information.* A specific description of the environmental consequences of FEA granting the requested relief.

e. *Other.* Any other information that FEA may require.

[FR Doc.77-21941 Filed 7-28-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1013; Amdt. 28]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Disclosure Standards for Lease Transactions

*Correction*

In FR Doc. 77-20918 appearing at page 37509 in the issue for Thursday, July 21, 1977, in Account 2080 appearing on page 37515, first column, the third line of the text should be completed so that it reads as follows: "* * * capital leases as provided in Section 2-20(a)."

[Reg ER-1014, Amdt 10]

PART 287—EXEMPTION AND APPROVAL OF CERTAIN INTERLOCKING RELATIONSHIPS

Notice of Approval by Comptroller General

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice of approval by the Comptroller General of the reporting requirements contained in a regulation concerning the exemption of direct air carriers with respect to certain interlocking relationships. This approval is required by the Federal Reports Act, and was transmitted to the Civil Aeronautics Board by letter dated June 21, 1977.

DATES: Effective: July 25, 1977. Adopted: July 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202-673-5270).

Accordingly, the Civil Aeronautics Board amends Part 287 of its Economic Regulations (14 CFR Part 287) by adding the following note at the end of Part 287:

NOTE.—The reporting requirements contained in § 287.3a have been approved by the U.S. General Accounting Office under Number B-180226 (R0453).

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; U.S.C. 1324.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-21942 Filed 7-28-77;8:45 am]



V 42 146 JUL 29 77 UMI

## Title 18—Conservation of Power and Water Resources

### CHAPTER I—FEDERAL POWER COMMISSION

[Order No. 526-B; Docket No. RM 74-16]

### PART 3—ORGANIZATION; OPERATION; INFORMATION AND REQUESTS

### PART 260—STATEMENTS AND REPORTS (SCHEDULES)

### Order on Court Remand Prescribing FPC Form No. 40 With Amendments

AGENCY: Federal Power Commission.

ACTION: Order on court remand prescribing FPC Form No. 40 with amendments.

SUMMARY: The Commission on June 30, 1977, prescribed FPC Form No. 40 after remand from the United States Court of Appeals for the Ninth Circuit. Form 40 is a report of Proved Domestic Gas Reserves with certain exceptions, by persons found to be natural-gas companies within the meaning of the Natural Gas Act. To comply with the Court remand the Commission set forth evidentiary support for its conclusion that (1) the reserve data should be submitted on a reservoir basis, (2) the necessary data was not available from other Federal agencies and (3) the required data could be supplied by the producers. At the suggestion of certain of the producers minor changes in Form No. 40 were made that did not increase or reduce the burden of reporting.

EFFECTIVE DATE: June 30, 1977.

ADDRESS: Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Kenneth F. Plumb, Secretary (275-4166).

NATURAL GAS COMPANIES ANNUAL REPORT OF PROVED DOMESTIC GAS RESERVES: FPC FORM NO. 40

JUNE 30, 1977.

This order arises from the Court's remand in *Union Oil Company of California* v. *F.P.C.*, 542 F. 2d 1036 (CA9-1976), in which the Court found there was not sufficient record evidence to support the Commission's requirement in Order Nos. 526 and 526-A [1] for reserve information on a reservoir basis. By order of February 2, 1977, in accordance with the Court's remand, we reopened the record reciting the Court's finding of (1) a lack of evidentiary support for the reserves data on a reservoir basis rather than some other basis, (2) there was no evidence that the necessary data were not available from other agencies of the Federal Government, and (3) there was no evidence contradicting the statements of the producers that the reserve data were not kept on a reservoir basis, nor could easily become available to them.

The Commission required the Staff to file written comments on these questions, granted other parties opportunity to file answering comments, testimony and exhibits, and prescribed a hearing at which all parties, including Staff, could present rebuttal evidence.

Accordingly, on February 10, 1977, the Staff filed its comments, and answers were filed by producers and other parties.[2] The hearing was held on April 4, 1977, and witnesses presented by Superior, Amoco, and Gulf were cross-examined.

Tenneco Oil Co. on March 10, 1977, requested a public conference with regard to the consolidation of reports of natural gas reserves to interested federal agencies. The Commission stated in a notice of May 2, 1977, that this would be considered in the light of the whole record. Tenneco also made an oral motion at the hearing and a written motion on April 8, 1977, requesting that the Staff be required to make a witness available for cross-examination on its comments. Action on the motion was deferred by order of May 6, 1977, pending a determination on the whole record in the reopened proceeding. Gulf Oil Corp. on April 5, 1977, filed a motion requesting that the proceeding be expanded to consider rules concerning confidential reserve information, and action on this motion was deferred by the notice of May 2, 1977.

A petition for late intervention was filed on April 21, 1977, by Senators Hubert Humphrey, John Durkin, and James Abourezk, and by Representatives Herbert Harris, Andrew Maguire, and John Moss, and was granted by Commission Order of May 31, 1977.

#### THE COMMISSIONS NEED FOR GAS RESERVE DATA

In its comments the Commission Staff notes that the current nationwide approach to new gas wellhead ratemaking is greatly dependent upon productivity in terms of Mcf per successful foot drilled. For this purpose the Commission has had to rely on American Gas Association (AGA) data although serious shortcomings relating to those data have been alleged, and a report entitled "Staff Report on the Undated 31 Lease Investigation" showed significant reporting anomalies and deficiencies regarding field discovery dates and industry compliance with the AGA definition of proved gas reserves. The Staff believes that the Form No. 40 data will provide a more uniform and reliable series for reserve additions upon which the Commission can base its ratemaking determinations.

The Staff notes other needs for the Form 40 data. It will permit adjustment of rates of depletion where necessary in ratemaking. It will enable the Commission to observe what fraction of new gas reserve additions is being dedicated to the interstate market. Further, the data will permit the Commission to make realistic projections of future supplies of natural gas. This will enable energy planning, permit Commission determination of the appropriateness of research and development of supplemental supplies of gas and Commission planning with respect to the depreciation allowance on pipeline facilities.

The Staff is supported by the Congressmen, AGD, APGA, California and the Bureau of FTC. In general they make points similar to those advanced by the Staff. The Congressmen emphasize the inadequacy of the AGA data because the method is ill-defined and lacks known procedural steps. They contend that the members of AGA do not conform to its own definition of proved reserves, there is no standard procedure for determining the exact date of a field discovery and there are no, or only inadequate, audits of AGA data. Also they say that there have been shown substantial inaccuracies in reporting. They conclude that there is a need for an independent data base which can be relied on as an alternate to the AGA data.

APGA cites a "Report to the Secretary of the Interior on Preliminary Investigation-Production Capability and Production Levels at Selected Natural Gas Producing Fields in the Gulf of Mexico Outer Continental Shelf" issued in "February 1977" where it was stated there are "large discrepancies of operator estimates and USGS estimates of proved reserves" (p. 27); a "Report on Indicated Disparity in Reporting of Offshore Louisiana Non-Associated Natural Gas Reserves" issued by the FPC Staff in Docket No. R-389-B on March 21, 1974, where it was stated that reserves added in 1971 and 1972 reported by AGA for Federal Domain leases should have been at least 54 percent higher (p. 7); the "Staff Report on the Updated 31 lease Investigation" issued in Docket No. RM75-14 on June 21, 1976, where it was found that 1971-1972 discoveries were reported by AGA to have been discovered in other years although the estimates in total were reasonable; and the "Staff memorandum to Federal Trade Commission in American Gas Association, et al., File No. 711-0042" issued by the FPC's Bureau of Competition on March 25, 1975, where the AGA procedure was said to be deficient in that access to company data was not available to the members of the subcommittee estimating reserves and it was shown that for certain Southern Louisiana Offshore fields the pipelines stated higher

[1] —— F.P.C. ——, issued February 25, 1975; and —— F.P.C. ——, issued August 18, 1975.

[2] Amoco Production Co., The People of the State of California and the Public Utilities Commission of the State of California (California), Gulf Oil Corp., Small Producers, Mobil Oil Corp., American Public Gas Association (APGA), Sabine Production Co., Shell, Bureau of Competition of Federal Trade Commission (Bureau of FTC), Associated Gas Distributors (AGD), Getty Oil Co., Marathon Oil Co., Phillips Petroleum Co., Ashland Oil, Inc., Exxon Corp., Amerada Hess Corp., Aminoil USA, Inc., the Rodman Corp., Phillips Petroleum Co., Texaco, Inc., the Superior Oil Company, Tenneco Oil Co., and Pennzoil Co., Pennzoil Producing Co., Pennzoil Offshore Gas Operators, Inc., and Pennzoil Louisiana and Texas Offshore, Inc. (Pennzoil), Dr. Edwin Goebel, Jake L. Hamon, Samedan Oil Co.





reserves than the AGA. APGA concludes that the AGA data are unreliable and information on Form 40 is essential.

APGA requests that all four of these documents be incorporated by reference into the record of these proceedings. We have taken notice of them here, but they are not needed to show discrepancies between AGA reserve estimates and other estimates or the need for reporting on reserve estimates. The Court on remand is concerned with the record support for reporting by reservoirs discussed below, the availability of the data from other agencies and the difficulty of procuring it. For this reason we do not think it is necessary to include these documents in the record.

California notes Opinion No. 770-A [3] as showing the shortcomings of available data and the importance of a reserve estimate in the calculation of a reasonable rate of depreciation for a pipeline.

In our opinion the comments make a clear case that there is a need for the collection of data on an independent basis in order to avoid the deficiencies in the data otherwise available. The Court notes that the producers do not claim that the Commission has no regulatory need for reserve data; they only claim that the Commission does not need that data on a reservoir basis. Likewise, in their comments the producers do not, in general, contest the need for reserve data. Rodman, however, says that it calculates reserves only on occasion and proposes that it be permitted to file only such reserve information as it has in its possession. The Small Producers would like to be exempted.

We think that in the present circumstances as shown by the record it is plain that the Commission needs reserve data as accurate as possible for ratemaking, the issuance of certificates, and reporting to Congress on the state of the industry. The Court in Second National Rate Cases pointed out the deficiencies in the AGA data and said that it expected the Commission to use its own revised procedures to gather data for the next national ratemaking proceeding. As noted below, producers delivering less than 250,000 Mcf each year are exempt. In order to get reliable data all other producers who are "natural-gas companies" subject to our jurisdiction should report their reserves.

#### NEED FOR RESERVOIR DATA

As noted by the Staff, a reservoir is defined in Form 40 as:

*Reservoir.*—A porous and permeable underground formation containing an individual and separate accumulation of producible hydrocarbons (oil and/or gas) which is confined by impermeable rock or water barriers and is characterized by a single natural pressure system. In most situations, reservoirs are classified as oil reservoirs and/or gas reservoirs by a regulatory agency. In the absence of regulatory authority, classification is based on natural occurrence of the hydrocarbons in the reservoir and classification and names as determined by the respondent.

The Staff says that the actual data used in calculating proved reserve estimates are derived from many sources and include geophysical data, well logs, and the results of various engineering tests. These data are relevant to a particular well but may be extrapolated to the reservoir area. While well-by-well information is relevant for certain purposes, the Staff says that the smallest meaningful unit of occurrence of natural gas is the reservoir. It is clear from the definition that a reservoir from the standpoint of geology is a definable and coherent unit of gas and/or oil. A well or lease may be only part of a reservoir; a field may involve more than one reservoir separated vertically by impervious strata or laterally by geological barriers. The depth, size, porosity and pressure conditions can, of course, vary from one reservoir to another.

As discussed by the Staff, the use of reservoir data facilitates audit of reserve data by the Staff. Because of the extent of the data only a representative statistical sample can be audited each year. If the data were on a field basis it would be much more difficult for Staff to sample and examine the data in such manner as to simultaneously fulfill multiple audit objectives. With reservoir data the Commission Staff can select a statistically valid sample in advance at a substantial saving of time in company offices. By selecting a unique sample of reservoirs each year, it would be possible over a period of years to audit all significant reservoirs in each field.

Use of reservoir data, the Staff says, in fields which have multiple reservoirs and multiple owners, could help avoid double counting and other unacceptable statistical aberrations. Also reservoir data relate to gas under definable risk conditions and would permit consideration of the option of an improved new gas rate keyed to the level of risk incurred. Further, reservoir reporting permits consideration of the size of newly discovered reservoirs, and would enable the Commission to determine where the Nation is on the "resource exhaustion curve." On an area basis experience has shown that the large reservoirs are usually discovered early and the rate of decline in size of discoveries thereafter is an important matter.

In addition, the Staff observes that reservoir level data are essential in the analysis of shut-in reserves. The data are necessary to determine whether the reservoir is shut-in awaiting well workover, because it is non-economic to produce, or for other reasons. The Staff adds that most producers keep records by lease but these are not on a uniform basis and would present an impossible compilation and auditing task to the Commission.

The Staff is supported by the Congressmen, AGD, APGA, California, and Bureau of FTC. The Congressmen say that if the Commission is to set rates based on adequate data, reservoir level data are necessary, for the reservoir is the building block of the reserve estimates. APGA questions how a producer can know the extent of its reserves in a given lease or field if it does not know the reserves contained in each reservoir within the lease or field. The Bureau of FTC believes that if an efficient auditing procedure is to be established, the collection of reserve estimates on a reservoir basis is necessary. This will identify specific reservoirs in which major changes have occurred and inform the FPC about incentives needed to encourage the drilling of specific types of wells.

On the other hand the producers contend there is no need for reserve information on a reservoir basis. Mobile says that administrative efficiency and economy cannot be viewed as a sustainable basis for compelling reserve reporting on a reservoir basis. It says also that the fact reserves not available to the market are in a non-producing status would seem of marginal informational value. If each producer reports on each reservoir, Mobile says, it will not avoid double counting but will result in multiple counting and an inability to determine which of several reservoir estimates to use. Superior thinks the Commission has no legitimate interest in whether production and gathering take place on uncommitted reservoirs. Also it does not believe the Natural Gas Act sanctions a requirement that it furnish a report solely to satisfy anticipatory unidentified statistical parameters.

Amoco says that it does not make sense to require reservoir-by-reservoir detail for the overwhelming producing portions of reserves just so that the miniscule shut-in part of reserves can also be reported on a reservoir basis. It says that determination of how much of the new gas supply is committed to the intrastate market as compared to the interstate market can be reported on a field-by-field basis without the necessity for reservoir-by-reservoir reporting. Amoco also says that Form 40 does not permit computation of a productivity drilling factor by various types of drilling, e.g., exploratory versus development, as Staff comments claim, and since it covers only non-associated gas, the Commission could not obtain productivity of drilling data on a state or regional basis. Further, Amoco says, because of the loss of historical records it would not be possible to track the volume distribution of newly discovered reservoirs.

Gulf cautions that reserve figures are only estimates and such estimates cannot be improved by making or reporting estimates on a reservoir basis as opposed to a field or lease basis. Gulf thinks that because of the Commission's averaging of productivity figures the Staff is only conjecturing in saying that reporting deficiencies could have an impact on annual new gas additions. Gulf also says that the Staff has not shown why reservoir reporting is necessary to identify new reserves as to their geographic and geologic

[3] *Opinion and Order on Rehearing Modifying in Part Opinion No. 770 and Granting Petitions for Intervention*, —— F.P.C. ——, Docket No. RM 75-14, November 5, 1976, p. 54; affirmed *The Second National Natural Gas Rates Cases*, —— F. 2d —— (CADC-June 16, 1977).



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location, commitments and producing status and volume. Gulf adds that the reservoir data are not necessary to determine the status of shut-in reserves and uncommitted reserves which, it says, are beyond the Commission's jurisdiction. Nor, it says, has the Staff shown why it needs the data to determine the fraction of new gas committed to the intrastate market. Gulf also contends that reservoir reporting is not necessary for the Staff's audit, for an audit only requires that a valid sample be chosen.

The other producers make similar arguments. Shell, however, is not challenging the Commission's need for or power to obtain reservoir estimates; it does make a number of suggestions as to the manner of reporting as discussed below. Getty submits that the Commission has an obligation to use the information it obtains to prevent further special, splinter and politically oriented investigations and should use the information to provide incentives for wildcat and deep drilling and other activities which will add to the nation's gas reserves. Phillips says that it has revised its data system to enable it in most cases to retrieve information on a reservoir basis, and does not now contest the proposal to retrieve information on such a basis. Several producers, including Exxon, say that because of lack of records, it is impossible to develop reliable gas reserves estimates by reservoir for their royalty-owned properties or properties acquired prior to the advent of modern record keeping practices.

The record here makes clear that the reservoir is the only unit of gas reserves in which the gas is found in one body, is held under similar conditions of permeability, pressure, porosity and depth, and can be produced as a unit by one or more wells. In estimating the amount of gas reserves it would be impossible to obtain accurate results without estimating the reserves in each reservoir.

Fields, on the other hand, often contain more than one reservoir under varying conditions of depth, pressure, porosity and permeability that will have to be produced by separate wells or separate completions. To make an accurate estimate for the field it would be necessary, in any case, to make an estimate for each reservoir. Fields can involve complicated conditions so that in auditing reports filed it will be necessary to examine a statistical sample of the reservoirs in the field, and this could be difficult without reservoir data being available and filed. The reservoir requirement is thus not just a convenience for a Staff auditing team, but a necessity for an accurate result. Further, as the Staff points out, reservoir data are necessary in determining why any given gas reserve is shut-in. The question must be answered whether the reserve is shut-in for physical reasons or is shut-in pending more favorable market conditions. The reservoir data, which reflect gas reserves held under uniform conditions, will permit comparisons that will assist the Commission in devising regulatory action that will bring about production and increase the flowing gas supply.

Leases, of course, may also overlie several reservoirs or parts of one or more reservoirs. Lease records have a serious defect in that they are not kept on a uniform basis. Certain respondents filed data by lease and it was found that each respondent's records were in a different format. To use the lease data would require inspection of each lease and reconciliation of a large mass of data. Accordingly, data on a lease basis would be difficult to use and would not supply the most accurate physical information necessary to estimate the gas reserves involved.

We do not consider the need for reservoir data of importance just to enable the Staff to plan its time more efficiently, even though this may be true. The Commission needs this data to arrive at an accurate estimate of reserves and to determine what stage the development of the various fields has reached. Some of the reservoirs are being used for the supply of gas to intrastate markets; nevertheless we are concerned with such reserves in considering the state of the industry and the economic relationships between the intrastate and the interstate business.

### Availability of the Data to the Producers

In its position paper the Staff states that of the 688 natural gas companies, affiliates, and subsidiaries responding in writing to the issuance of Commission Order 526–A, 333 (52 percent) were required to and did file schedule B, "Proved Domestic Natural Gas Reserves by Natural Gas Company—Field and Reservoir," and, of these, 311 filed their reserve data on a reservoir basis as of December 31, 1974. Of the twenty-six largest petroleum companies, twenty-one filed some form of reserves data. Of these fifteen filed at least part of their data by reservoir, and twelve filed all of their data by reservoir. The Staff is cognizant that the gathering of Form 40 data may require expenditures of time, manpower and money. However, a large part of the cost relates to filling out the form the first time, and this has already been incurred. Staff also points out that pipelines have been filing reserve data on a reservoir basis on Form 15 for some time.

The Producers emphasize the difficulties and expenses they will incur in gathering the information and setting it forth in Form 40. For instance, Gulf says that Form 40 would require the producer to go beyond meaningful and useful records and to create or revise tens of thousands of records. This is because lack of records to estimate the remaining reserves in each sand would require arbitrary allocations of production. Mobil calls for a balance to be struck between the burden on respondents and agency need and relevance. Sabine estimates that 50 percent of the various types of information required for Form 40 would not be obtained by the Company for any other purpose. Getty, on the other hand, says that through its efforts it is possible it may be able to file the report on a reservoir basis within a reasonable period of time. Phillips complains that the instructions now require a reporting company to include estimates which it not only does not have, but cannot make. Amerada Hess says that discussions with the consulting firm of DeGolyer and MacNaughton indicate that attempted reconstruction of onshore reserves on a reservoir-by-reservoir basis would be prohibitively expensive (approximately $60,000 for the services of that firm and a like amount for the expenses of Amerada Hess which would entail a total of 85 man weeks). Texaco also complains of the great expense and loss of productive man hours. The Small Producers feel that they are particularly burdened.

We have considered the comments, the written evidence submitted, and the transcript of the oral cross-examination. It is plain that a large number of producers have already compiled data on a reservoir basis and others could do so with some difficulty and expense. The Commission has lacked audited reserve data for many years and has been criticized for determining rates on the industry compiled AGA data.[4] Audited reserve data, in our opinion, are absolutely essential. Since each reservoir is the largest unit in which gas is found under a given set of conditions, the data must be available on a reservoir basis to permit auditing. It is for this reason that in spite of the expenditure of money and man-hours we are requesting data on a reservoir basis.

We realize, of course, that present data does not permit accurate analysis of some of the old reservoirs, nor those reservoirs which are produced jointly. In these cases allocations and estimates may not be as accurate as full records, but we ask for nothing more than that which is feasible.

### Availability of the Data From Government Sources

As the Staff explains, some data regarding part or all of the nation's proved gas and/or oil reserves have been collected by Federal and State authorities as well as by the Congress. The Staff's position that these sources are no substitute for Form 40 is supported by some of the non-producing intervenors, including the Congressmen. Some of the producers express their opposition, Mobil in detail.

Staff notes that the FPC has collected partial reserve data from jurisdictional pipelines annually since 1963 through its Form 15. This Form covers reserve estimates made by the pipelines which are dedicated by producers to interstate pipeline companies, was specifically designed for the purpose of pipeline regulation and is thus limited to only part of the nation's reserves. The Congressmen have pointed out that the Staff in Docket No. RI75–112 have found discrepancies between the reserve estimates of the pipelines and the corresponding producer's estimates on a reservoir and field basis. Mobil suggests that if Form 15 is inadequate it could be revised. Since Form 15 is directed towards pipelines and does not cover the reserves that are not dedicated to interstate commerce, which is essential, we do not think this is a valid option. FPC Form No. 64 formerly included reserve information but not after 1974, so that Form No. 64 cannot be used in place of Form 40. Indeed, Form No. 64 was purposefully limited so as to avoid duplication with Form No. 40.

[4] The Court said, "To sum up: We do not approve or embrace the AGA figures; we simply tolerate them for purposes of this proceeding." Second National Rate Cases, supra. (Mimeo p. 62).





The Conservation Division of the United States Geological Survey (USGS) requires the operators of properties on Federal lands to file forms annually which disclose detailed engineering and reservoir data by lease. No ownership information is collected, and no data as to the cause or type of changes to reserves previously estimated, no reserve dedication data, and no breakout of internal company use of reserves appears. Staff thinks the USGS data may be useful in the audit of Form 40 data but cannot supply the continuing, current reserve reporting information necessary for ratemaking purposes.

Staff notes that Securities and Exchange Commission requests reserve estimates on a national or continental basis and retains the data submitted in its files but compiles no reserve report. The Bureau of Census provides net company interest figures for oil and gas exploration but the data is too aggregate and too out of date for Commission purposes. The Internal Revenue Service data is not available to other agencies.

Staff observes the FTC, FEA and Congressional studies were one time only, special purpose inquiries. It notes that a Senate study was concerned with corporate interrelationships, reserve ownership and production and sales but covered only 63 companies.[5] The FTC inquiry, addressed to only 60 companies was primarily concerned with sales, contract and pricing information. Reserve estimates were required by state for total Federal, state and other lease holdings. It also examined the question of shut-in reserves by field and state. The Staff concludes that the FTC data is too aggregate and obtained from too small a sample. The FEA inquiry addressed 22,000 operating firms and concentrated on production and proved reserves by state, county and field. However, reserve commitment status, ownership, and reserves by reservoir were not investigated. Staff finds that major gas producing states require the reporting of wellhead production, but only three report reserves on anything approaching an annual basis, so that the reserve data collected by the states is not adequate for Commission use.

[5] The Structure of the U.S. Petroleum Industry, A Summary of Survey Data, Special Subcommittee on Integrated Oil Operations of the Committee on Interior and Insular Affairs, United States Senate, June 1976.

The Staff explains that the calculation of proved reserves involves many variables, but the validity of the estimates cannot be ascertained by the Staff since the other surveys were not initially designed with multiple objective auditing in mind. It notes that it is the responsibility of the Commission to assure an adequate supply of gas to the interstate consumer at a just and reasonable rate and says the Commission must have the reserve data and other data from Form 40 to discharge this responsibility.

Congressmen, California and FTC agree with the Staff as to the unavailability of the necessary data from other government agencies. As the Staff suggests, they ask that the data be made available to government agencies, state and Federal, and the public.

Mobil and Superior contend that the pipelines' Form 15 should satisfy the Commission's needs. Mobil says that there are numerous reports prepared by individual producing states, which the Commission could use. As an example, it lists the numerous reports required by Texas (none of which are labelled reserve reports). It contends that from the federal and state reports, it is possible to determine the amount of gas moving in interstate and intrastate commerce by type purchases, the prices paid for the gas, the geographical and lease source of the gas volumes and, through a review of performance data, the amount of reserves located under established producing leases. Tenneco and Aminoil urge that it is in the public interest for the Commission to take the lead in attempting to rationalize the industry reporting of reserve data.

It is apparent that the data available from other federal agencies and from the states, as far as we have found will not provide us with equivalent, uniform data collected from all of the producers required to report on Form 40, either on a uniform basis or on a reservoir basis. Our Staff would be obliged to put together estimates from partial figures that it would gather from several sources utilizing differing proved reserve definitions, and which it is not able to audit. In Second National Rate Cases, the Court said that "we expect by the next biennium the Commission will have put into effect its own procedures for gathering reserves data." The Court noted that we had been prevented from using Form 40 by the Ninth Circuit but thought the objections could be overcome.

### Requests to Modify Form 40

A number of changes in Form 40 were requested by one or more producers. Some producers argued that the attestation which states that all estimates are true and correct and that the report is a correct statement of the business and affairs of the respondent is unreasonable because the corporate officer signing the form is relying on others to furnish the information which cannot be precise in any case. We agree with these producers that the phrase "to the best of his knowledge, information and belief" should be inserted in the attestation in the Form.

A number of producers contend that reporting of reserves data should be by the operators rather than by other owners of working interests and royalty owners. They argue that their burden would be greatly reduced because they would not have to file as many reports; the reports would be more accurate because it is the operator which typically possesses the most accurate data; multiple reporting of the same reserves would be eliminated; and there would be a lesser burden on the Staff. We agree that the reporting requirement for purely royalty owners can be eliminated, for companies keep reserves data on the royalty and over-riding royalty properties related to their working interests and multiple reporting would be eliminated.

However, quite often the operator may not be a jurisdictional natural-gas company and therefore would not report data on the reservoir, for which it is an operator, while one or more of the working-interest owners, who are not operators, may be natural-gas companies and so report the reserves in question. Therefore we shall retain the requirement with respect to working interest owners. The reporting instructions shall be so modified.

The small producers contend they should be exempted. The very small ones are exempted, those producing 250,000 Mcf or less gas during the year; the others produce significant amounts of gas and should be required to report, although those producers with 20 Bcf or less of proved reserves need file only schedules A and C.

Gulf Oil contends that the Commission should promulgate regulations to protect confidential information submitted by the producers. In its motion filed April 5, 1977, Gulf asked the Commission to expand the present docket to consider specific rules concerning confidential reserve information. It says that now the producers are uncertain about how the Commission will treat the data and this discourages expenditures to discover and develop new deposits of natural gas. It adds that the Commission should not have discretion about the release of information and should consider the protection of confidential information an integral part of the promulgation of Form 40.

The Union case held that the Freedom of Information Act, 5 U.S.C. § 552 was intended to protect confidential information from disclosure by government agencies. Also it held that in Form 40 the Commission proposed a potentially damaging disclosure of information which fails to consider the degree of harm such disclosure would cause to the reporting companies and that such a rule is without rational basis. The Court said that in the event disclosure of information with potentially damaging specificity would advance the public interest the Commission should determine (1) whether the information is entitled to absolute protection under the Freedom of Information Act and, if not, (2) whether the balance of interests in the



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specific case are such as to justify disclosure.

In the present context expanding the proceeding to include a general rulemaking on this matter would lead to substantial delay in the issuance of Form 40. However, we will hold administratively confidential those parts of Form 40 heretofore designated and will not make disclosure as an exercise of discretion on our part without affording the producers opportunity for a hearing. Where we are required by statute or otherwise to make disclosure to some other government body we shall notify the producer involved as much in advance as possible.

Pennzoil argues that Schedule B of Form 40 where reserves are reported on an individual reservoir basis contains no provision to reflect adjustments for performance increases or decreases over time. We are in agreement that such a change would be helpful in understanding the changes occurring from year to vear but in the interest of reducing the reporting burden, Staff will request information on significant performance changes directly from the producer.

Shell and other producers object to the term "Shut-In" for wells or reservoirs that are not producing as having the connotation that thev are ready to produce but are being held off production bv unilateral decision of the operator. We agree that the term "Non-Producing" is a preferable term, and we shall amend the Form accordingly. Shell also would amend slightly and add to the list of numbered codes to be used to justify non-production from a proven reservoir. The present lists contains an Item 9. "Other" which permits further explanation. Nevertheless the additional codes might make the Form easier to prepare and more meaningful. We agree with this reasoning and will add additional reasons.

Phillips argues that since Schedule A is presently the only schedule of Form 40 which the Commission has indicated an intention to make public the data on non-producing reserves in Schedule A that has been carried over from Schedule B should be broken down between the numbered codes of explanation, so that the public that sees Schedule A will not get a distorted picture of why reserves are not being produced. Reformatting of Schedule A is not in our view desirable due to increased filing and processing burden. However, we believe that a report indicating a breakout of non-producing volume by reason for non-production is desirable, and such a report will be made public.

Tenneco believes that the definition of proved reserves should be amended. It points out that for reporting purposes "proved reserves" is limited to reservoirs which have demonstrated the ability to produce by either actual production or a conclusive formation test. Tenneco suggests the definition be modified to require the reporting of reserves as proved also upon the basis of modern advanced and reliable techniques for interpreting well logs. Tenneco also objects to the definition as including the undrilled portion of the reservoir or field. These requests are unreasonable for a number of considerations. No other respondent requested such a change. Comparability with historical AGA (time series) data would be destroyed. The AGA definition, essentially the same as the Form 40 definition was developed by a committee comprised of API, AGA, trade association and government agency representatives. It has been used by industry and government for many years. It allows leeway for professional judgment but is definitive enough to provide reserve estimates on essentially common bases. Tenneco also asks that Form 40 should provide sufficient digits for reporting terminal pressures of over 999 psi. This request is reasonable and will be incorporated in Form 40.

Tenneco filed a petition on March 10, 1977, asking that a conference should be called so that representatives of the producers and the several government agencies involved in collecting producer reserve data could examine the feasibility of reducing individual agency reports to one consolidated reserves report form. Other producers took the same position. We note that an inter-agency conference has already been held, the final report of which took note of the essential fact that data collected for macro-analytical needs of most government agencies contains insufficient detail for use in regulatory processes where micro-analytical analysis is required. The recommendation was that FPC proceed on its own while other agencies consolidated their data requests. After considering this analysis of the needs of the other government agencies, it appears that their needs are different than those of this agency and that another conference would serve little purpose at this time. In any case it would delay the issuance of an effective Form 40 and the collection of data needed for regulatory purposes.

By our order of May 6, 1977, we deferred action on Tenneco's motion to compel the production of Staff witness Gordon K. Zareski for cross-examination on the Staff statement, pending a determination on the whole record in the reopened proceeding. We have now done so and note that the record includes the transcript of April 4, 1977, with the cross-examination of three witnesses and the related exhibits, which include the Staff statement of February 10, 1977, the comments filed by numerous parties, and the prepared testimony of the three witnesses. In our opinion this record contains substantial evidence to sustain the revised Form 40 without a Staff witness. Since this is a rulemaking proceeding the Staff statement and the written comments are acceptable as evidence without the support of a witness. There is no reason why Tenneco, which could have presented a witness but did not do so, should be permitted to make its case by calling a Staff witness.

For the purpose of obtaining complete and adequate data for estimating productivity we shall require those persons who have not done so to file Schedule A data for the calendar years 1974 and 1975.

The Commission further finds: (1) The notice and opportunity to participate in this proceeding with respect to the matters presently before the Commission through the submission in writing and at a public meeting of comments are consistent and in accordance with all procedural requirements as prescribed in Section 553, Title 5 of the United States Code.

(2) The amendment to Part 260 of the Commission's Statements and Reports to revise § 260.13 is necessary and appropriate for the administration of the Natural Gas Act.

(3) The amendment of Part 3 of the Commission's General Rules and § 3.170 of the Regulations under the Natural Gas Act is necessary and appropriate for the administration of the Natural Gas Act.

*The Commission orders:* (A) We revise § 260.13 to read as follows—

**§ 260.13 Form No. 40, natural gas companies annual report of proved domestic reserves, including those of any affiliate (associate) or subsidiary of each person found by the Commission to be a "natural-gas company" within the meaning of the Natural Gas Act.**

(a) The form of Natural Gas Companies Annual Report of Proved Domestic Gas Reserves as F.P.C. Form No. 40 is adopted.

(b) Each person found by the Commission to be a "natural-gas company" within the meaning of the Natural Gas Act shall prepare and file with the Commission an original and four copies of Schedule A, Natural Gas Companies Annual Report of Proved Domestic Gas Reserves, F.P.C. Form No. 40; shall file one original copy of Schedules B and C; and shall file Schedule D as necessary. Schedule C is not required the first report year. The report for the calendar year ending December 31, 1976, shall be filed by November 1, 1977, and thereafter the report for each calendar year ending December 31 shall be filed by April 1 of the following year.

(c) Each of the persons defined in paragraph (b) of this section who have not filed Schedule A data for the calendar years 1974 and 1975 shall do so by November 1, 1977.

(d) Schedule A shall be made available at the Commission's Offices for public inspection.

(e) Information filed pursuant to this order shall be made under oath.

(B) We revise § 3.170 of Part 3, Subchapter A, Chapter I, Title 18 of the Code of Federal Regulations to read as follows:

**§ 3.170 Approved forms, etc.**

(a) The following is a list of approved forms, statements, and reports under the Natural Gas Act, descriptions of which have been published in Subchapter G, Parts 250 and 260 of this chapter.

(b) Form No. 40, Natural Gas Companies Annual Report of Proved Domestic Gas Reserves, Including Those of Any Affiliate (Associate) or Subsidiary of Each Person Found By the Commission to be a "natural-gas company" within the meaning of the Natural Gas Act.

(C) The Secretary shall cause copies of FPC Form No. 40, as promulgated by this Order, to be transmitted to the Comptroller General of the United States.

(D) The effective date of this order shall be the date of issuance.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

(F) Tenneco's motion of March 10, 1977, requesting a public conference is denied.

(G) Tenneco's motion of April 8, 1977, that a Staff witness be made available is denied.

(H) Gulf's motion of April 5, 1977, requesting that the proceeding be expanded to consider rules on confidential reserves information is denied.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.77-20025 Filed 7-28-77;8:45 am]





**Title 21—Food and Drugs**

**CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

**SUBCHAPTER A—GENERAL**

[Docket No. 77C-0206]

**PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION**

**PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS**

**Mica**

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document "permanently" lists mica for use in externally applied drugs and cosmetics generally, including drugs and cosmetics intended for use in the area of the eye. The Cosmetic, Toiletry and Fragrance Association, Inc., filed a petition for such use. This rule will remove mica from the provisional list of color additives.

DATES: Effective August 29, 1977; objections by August 29, 1977.

ADDRESS: Written objections to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, (202-472-5740).

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of August 6, 1973 (38 FR 21200) stated that a petition (CAP 8C0076) for the "permanent" listing of mica as a color additive for use in externally applied cosmetics, including lipsticks, and those for use in the area of the eye, had been filed by the Cosmetic, Toiletry and Fragrance Association, Inc. (1133 15th St. NW., Washington, DC 20005) c/o Hazleton Laboratories, P.O. Box 30, Falls Church, VA 22046. The petition was filed pursuant to section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376). A notice published in the FEDERAL REGISTER of March 5, 1976 (41 FR 9584) amended the filing of this petition to include the additional use of mica in all types of cosmetics subject to ingestion.

A subsequent notice published in the FEDERAL REGISTER of June 17, 1977 (42 FR 30893) amended the filing of this petition to include the additional use of mica in externally applied drugs.

The Commissioner of Food and Drugs has evaluated the data in the petition and concludes that mica is safe under the conditions set forth below for use in coloring externally applied drugs and cosmetics generally, including those intended for use in the area of the eye, and that certification is not necessary for the protection of the public health. This order "permanently" lists mica for use in externally applied drugs and cosmetics generally, including those for use in the area of the eye, under new §§ 73.1496 and 73.2496 (21 CFR 73.1496 and 73.2496), respectively. The provisional listing of mica for use in cosmetics under § 81.1(g) (21 CFR 81.1(g)), which was extended to July 1, 1977 by regulation published in the FEDERAL REGISTER of February 4, 1977 (42 FR 6992), will be deleted when this order becomes effective on August 29, 1977, unless this order is stayed by the timely filing of objections.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 as amended (21 U.S.C. 376 (b), (c), and (d)) and the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618, sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note)), and under authority delegated to the Commissioner (21 CFR 5.1), Parts 73 and 81 are amended as follows:

1. Part 73 is amended:

a. By adding new § 73.1496 to Subpart B, to read as follows:

**§ 73.1496 Mica.**

(a) *Identity.* (1) The color additive mica is a white powder obtained from the naturally occurring mineral, muscovite mica, consisting predominantly of a potassium aluminum silicate, $K_2Al_4(Al_2Si_6O_{20})(OH_4)$ or, alternatively, $H_2KAl_3(SiO_4)_3$. Mica may be identified and semi-quantitatively determined by its characteristic X-ray diffraction pattern and by its optical properties.

(2) Color additive mixtures for drug use made with mica may contain only those diluents listed in this subpart as safe and suitable for use in color additive mixtures for coloring drugs.

(b) *Specifications.* Mica shall conform to the following specifications and shall be free from impurities other than those named to the extent that such other impurities may be avoided by good manufacturing practice.

Fineness, 100 percent shall pass through a 100-mesh sieve and 80 percent shall pass through a 200-mesh sieve.

Loss on ignition at 600°-650° C, not more than 2 percent.

Lead (as Pb), not more than 20 parts per million.

Arsenic (as As), not more than 3 parts per million.

Mercury (as Hg), not more than 1 part per million.

(c) *Uses and restrictions.* Mica may be safely used in amounts consistent with good manufacturing practice to color externally applied drugs, including those for use in the area of the eye.

(d) *Labeling requirements.* The label of the color additive and of any mixture prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(e) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from the certification requirements of section 706(c) of the act.

b. By adding new § 73.2496 to Subpart C, to read as follows:

**§ 73.2496 Mica.**

(a) *Identity and specifications.* The color additive mica shall conform in identity and specifications to the requirements of § 73.1496(a)(1) and (b).

(b) *Uses and restrictions.* Mica is safe for use in coloring cosmetics generally, including cosmetics applied to the area of the eye, in amounts consistent with good manufacturing practice.

(c) *Labeling.* The color additive and any mixture prepared therefrom intended solely or in part for coloring purposes shall bear, in addition to any information required by law, labeling in accordance with § 70.25 of this chapter.

(d) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from certification pursuant to section 706(c) of the act.

**§ 81.1 [Amended]**

2. Part 81 is amended in § 81.1 Provisional lists of color additives, in paragraph (g) by deleting the entry for "Mica."

Any person who will be adversely affected by the foregoing order may at any time on or before August 29, 1977, file with the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto. Objections shall be filed in accordance with the requirements of § 71.30 (21 CFR 71.30). If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in



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support of the objections in the event that a hearing is held. Four copies of all documents shall be filed and identified with the Hearing Clerk docket number found in brackets in the heading of this order. Received objections may be seen in the Hearing Clerk's office, Monday through Friday, between 9 a.m. and 4 p.m.

Effective date: August 29, 1977, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Sec. 706 (b), (c), (d), 74 Stat. 399–403 as amended (21 U.S.C. 376 (b), (c), (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note).)

Dated: July 25, 1977.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.77-21792 Filed 7-29-77;8:45 am]

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[Docket No. 77C-0208]

## PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

## PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

### Ferric Ammonium Ferrocyanide

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document "permanently" lists ferric ammonium ferrocyanide for use in externally applied drugs and cosmetics, including drugs and cosmetics intended for use in the area of the eye. The Cosmetic, Toiletry and Fragrance Association, Inc., petitioned for such use. This rule will remove the color additive from the provisional listing.

DATES: Effective August 29, 1977; objections by August 29, 1977.

ADDRESS: Written objections to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of August 6, 1973 (38 FR 21200) stated that a petition (CAP 8C0082) for the "permanent" listing of ferric ferrocyanide as a color additive for use in externally applied cosmetics, including those for use in the area of the eye, had been filed by the Cosmetic, Toiletry and Fragrance Association, Inc. (1133 15th St. NW., Washington, D.C. 20005), c/o Hazelton Laboratories, Inc., P.O. Box 30, Falls Church, VA 22046. The petition was filed pursuant to section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376). A notice published in the FEDERAL REGISTER of June 17, 1977 (42 FR 30893) amended the filing of this petition to include the additional use of ferric ferrocyanide in externally applied drugs, including those intended for use in the area of the eye.

Ferric ammonium ferrocyanide has been provisionally listed as ferric ferrocyanide for use in cosmetics under § 81.1(g) (21 CFR 81.1(g)). With permanent listing of ferric ammonium ferrocyanide under Part 73, the listing under § 81.1(g) will become obsolete.

The Commissioner of Food and Drugs has evaluated the data in the petition and concludes that ferric ammonium ferrocyanide is safe, under the conditions set forth below, for use in coloring externally applied drugs and cosmetics, including those intended for use in the area of the eye, and that certification is not necessary for the protection of the public health.

The Commissioner notes that there are some references in the literature that indicate oxalic acid may be used to alter the physical characteristics of ferric ammonium ferrocyanide. The Commissioner advises that this is not an appropriate practice for the production of this color additive.

Cosmetic labeling is required, under § 701.3 (21 CFR 701.3), to list the name of each color additive present as an ingredient in the finished cosmetic. Cosmetic labeling listing the color additive ferric ammonium ferrocyanide under its formerly accepted name "ferric ferrocyanide" may be used until current supplies are exhausted or until August 29, 1979. In a previous action published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41855) terminating provisional listing of 10 color additives, the Commissioner concluded that 1 year would be sufficient time to permit the depletion of cosmetic labeling improperly identifying the substances as color additives. The Commissioner has concluded that an additional year should be added to the time period for depletion of existing stocks of labels declaring the color as "ferric ferrocyanide" because of its inclusion as such in the 2d edition of the CTFA Cosmetic Ingredient Dictionary. The presence of the improper terminology in this dictionary, which is used widely as a reference for the declaration of ingredients on cosmetic labeling, may delay the correction of cosmetic labeling. The extended time period will also provide time for correction of the dictionary.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399–403 as amended (21 U.S.C. 376 (b), (c), and (d)), and the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note)), and under authority delegated to the Commissioner (21 CFR 5.1), Parts 73 and 81 are amended as follows:

1. Part 73 is amended: a. By adding new § 73.1298 to Subpart B, to read as follows:

**§ 73.1298 Ferric ammonium ferrocyanide.**

(a) *Identity.* (1) The color additive ferric ammonium ferrocyanide is the blue pigment obtained by oxidizing under acidic conditions with sodium dichromate the acid digested precipitate resulting from mixing solutions of ferrous sulfate and sodium ferrocyanide in the presence of ammonium sulfate. The oxidized product is filtered, washed, and dried. The pigment consists principally of ferric ammonium ferrocyanide with small amounts of ferric ferrocyanide and ferric sodium ferrocyanide.

(2) Color additive mixtures for drug use made with ferric ammonium ferrocyanide may contain only those diluents listed in this subpart as safe and suitable for use in color additive mixtures for coloring drugs.

(b) *Specifications.* Ferric ammonium ferrocyanide shall conform to the following specifications and shall be free from impurities other than those named, to the extent that such other impurities may be avoided by good manufacturing practice:

(Oxalic acid or its salts, not more than 0.1 percent.)
Water soluble matter, not more than 3 percent.
Water soluble cyanide, not more than 0.5 part per million.
Volatile matter, not more than 4 percent.
Lead (as Pb), not more than 20 parts per million.
Arsenic (as As), not more than 3 parts per million.
Nickel (as Ni), not more than 30 parts per million.
Cobalt (as Co), not more than 30 parts per million.
Mercury (as Hg), not more than 1 part per million.
Total iron (Fe), not less than 33 percent and not more than 37 percent.

(c) *Uses and restrictions.* Ferric ammonium ferrocyanide may be safely used in amounts consistent with good manufacturing practice to color externally applied drugs, including those for use in the area of the eye.

(d) *Labeling requirements.* The label of the color additive and of any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(e) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from the certification requirements of section 706(c) of the act.

b. By adding new § 73.2298 to Subpart C, to read as follows:

**§ 73.2298 Ferric ammonium ferrocyanide.**

(a) *Identity and specifications.* The color additive ferric ammonium ferrocyanide shall conform in identity and specifications to the requirements of § 73.1298(a) (1) and (b).





(b) *Uses and restrictions.* Ferric ammonium ferrocyanide is safe for use in coloring cosmetics generally, including cosmetics applied to the area of the eye, in amounts consistent with good manufacturing practice.

(c) *Labeling.* The color additive and any mixture prepared therefrom intended solely or in part for coloring purposes shall bear, in addition to any information required by law, labeling in accordance with § 70.25 of this chapter.

(d) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from certification pursuant to section 706 (c) of the act.

**§ 81.1 [Amended]**

2. Part 81 is amended in paragraph (g) of § 81.1 *Provisional lists of color additives,* by deleting the entry for "Ferric ferrocyanide (iron blue)."

Any person who will be adversely affected by the foregoing order may at any time on or before August 29, 1977, file with the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirement of § 71.30 (21 CFR 71.30). If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Four copies of all documents shall be filed and identified with the Hearing Clerk docket number found in brackets in the heading of this order. Received objections may be seen in the Hearing Clerk's office, between 9 a.m. and 4 p.m., Monday through Friday, except for holidays.

Effective date: August 29, 1977, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Sec. 706(b), (c), and (d), 744 Stat. 399–403 as amended (21 U.S.C. 376(b), (c), and (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note).)

Dated: July 25, 1977.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.77-21794 Filed 7-28-77;8:45 am]

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[Docket No. 77C-0209]

## PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

## PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS, FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOOD, DRUGS, AND COSMETICS

### Aluminum Powder

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document "permanently" lists aluminum powder for use in externally applied drugs and cosmetics including those intended for use in the area of the eye. The Cosmetic, Toiletry and Fragrance Association, Inc., filed a petition for such use. This rule will remove aluminum powder from the provisional list of color additives.

DATES: Effective August 29, 1977; objections by August 29, 1977.

ADDRESS: Written objections to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs has evaluated the data in the petition filed by the Cosmetic, Toiletry and Fragrance Association Inc., 1130 15th St. NW., Washington, D.C. 20005, and concludes that aluminum powder is safe under the conditions set forth below for use in coloring externally applied drugs and cosmetics including those intended for use in the area of the eye, and that certification is not necessary for the protection of the public health. This order "permanently" lists aluminum powder for use in externally applied drugs and cosmetics, including those for use in the area of the eye, under new §§ 73.1645 and 73.2645, respectively. The provisional listing of aluminum powder for use in cosmetics under § 81.1(g) (21 CFR 81.1 (g)), which was extended to July 1, 1977 by regulation published in the FEDERAL REGISTER of February 4, 1977 (42 FR 6992), will be deleted when this order becomes effective on August 29, 1977, unless this order is stayed by the timely filing of objections.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399–403 as amended (21 U.S.C. 376 (b), (c), and (d))) and the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note)), and under authority delegated to the Commissioner (21 CFR 5.1), Parts 73 and 81 are amended as follows:

1. Part 73 is amended: a. By adding new § 73.1645 to Subpart B, to read as follows:

**§ 73.1645 Aluminum powder.**

(a) *Identity.* (1) The color additive aluminum powder shall be composed of finely divided particles of aluminum prepared from virgin aluminum. It is free from admixture with other substances.

(2) Color additive mixtures for external drug use made with aluminum powder may contain only those diluents listed in this subpart as safe and suitable in color additive mixtures for coloring externally applied drugs.

(b) *Specifications.* Aluminum powder shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by good manufacturing practice:

Fineness, 100 percent shall pass through a 200-mesh screen and 95 percent shall pass through a 325-mesh screen.
Mercury, not more than 1 part per million
Arsenic, not more than 3 parts per million
Lead, not more than 20 parts per million.
Aluminum, not less than 99 percent.

(c) *Uses and restrictions.* Aluminum powder is safe for use in externally applied drugs, including those intended for use in the area of the eye, in amounts consistent with good manufacturing practice.

(d) *Labeling.* The color additive and any mixture prepared therefrom intended solely or in part for coloring purposes shall bear, in addition to any information required by law, labeling in accordance with § 70.25 of this chapter.

(e) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from certification pursuant to section 706(c) of the act.

b. By adding new § 73.2645 to Subpart C, to read as follows:

**§ 73.2645 Aluminum powder.**

(a) *Identity and specifications.* The color additive aluminum powder shall conform in identity and specifications to the requirements of § 73.1645(a) (1) and (b).

(b) *Use and restriction.* Aluminum powder may be safely used in coloring externally applied cosmetics, including cosmetics intended for use in the area of the eye, in amounts consistent with good manufacturing practice.

(c) *Labeling.* The color additive and any mixture prepared therefrom intended solely or in part for coloring pur-



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poses shall bear, in addition to any information required by law, labeling in accordance with the provisions of § 70.25 of this chapter.

(d) *Exemption from certification.* Certification of this color additive is not necesary for the protection of the public health, and therefore batches thereof are exempt from certification pursuant to section 706(c) of the act.

§ 81.1 [Amended]

2. Part 81 is amended in paragraph (g) of § 81.1 *Provisional lists of color additives* by deleting the entry for "Aluminum powder."

Any person who will be adversely affected by the foregoing order may at any time on or before August 29, 1977, file with the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of § 71.30 (21 CFR 71.30). If a hearing is requested, the objection shall state the issues for the hearing, be supported by grounds factually and legally sufficient to justify the relief sought, and include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Four copies of all documents shall be filed and identified with the Hearing Clerk docket number found in brackets in the heading of this order. Received objections may be seen in the Hearing Clerk's office between 9 a.m. to 4 p.m. Monday through Friday.

Effective date: August 29, 1977, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Sec. 706 (b), (c), (d), 74 Stat. 399–403 as amended (21 U.S.C. 376 (b), (c), (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note).)

Dated: July 25, 1977.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner for Compliance.*

[FR Doc.77–21793 Filed 7–28–77;8:45 am]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N–0309]

## PART 452—MACROLIDE ANTIBIOTIC DRUGS

### Erythromycin pH Determination

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: This document amends the antibiotic drug regulations to revise the sample preparation method used to determine the pH of erythromycin to ensure stability and uniformity. This rule is based on a proposal issued upon request of an antibiotics manufacturer and findings of the FDA National Center for Antibiotics Analysis concerning the need for the revision.

EFFECTIVE DATE: August 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Joan M. Eckert, Bureau of Drugs (HFD–140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301–443–4292).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of November 2, 1976 (41 FR 48125), the Commissioner of Food and Drugs proposed that § 452.10 (21 CFR 452.10) be amended to revise the sample preparation method used to determine the pH of erythromycin.

One manufacturer of erythromycin had reported that when the pH of this drug is tested by the method specified in the regulations, the pH drifts downward with time, and levels off after several hours. On further study, the drift in pH was determined to be the result of precipitation of the less soluble erythromycin base dihydrate. The concentration of the drug was determined to have an effect on the crystallization of the insoluble salts and at certain concentrations these salts were found to be soluble in methyl alcohol.

In order to attain a stable pH, the manufacturer requested that the sample preparation method designated in the regulations for erythromycin be revised to specify a definite final concentration of 2 milligrams of erythromycin base per milliliter in the test solution and that methyl alcohol be used to dissolve the drug.

The FDA National Center for Antibiotics Analysis confirmed the drift in pH and also observed that different pH values are obtained depending on whether the solution being tested is stirred or is at rest at the time of measurement. Similar variables were also noted for erythromycin produced by other manufacturers. Therefore, it was also proposed that the regulations for erythromycin be amended to require that the test solution be stirred during the pH determination.

Comments were received from two manufacturers in response to the proposed rule. Both manufacturers objected to that part of the proposal which would require the pH measurement to be taken while the solution is being stirred. Both respondents stated that stirring causes erratic results. One manufacturer submitted results of a study in support of his objection and concluded that some electrodes and pH meters are subject to inductive effects from magnetic or electric stirrers and must be read in a "quiet" solution rather than in a stirred solution.

The Commissioner has considered these comments and concludes that based on new information, the proposed stirring requirement should not be adopted, and the test method should be revised to require that the pH measurement be taken when an equilibrium value has been reached.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 452 is amended by revising paragraph (b)(4) of § 452.10 to read as follows:

§ 452.10 Erythromycin.

* * * * * * *

(b) * * *

(4) *pH.* Proceed as directed in § 436.202 of this chapter, except standardize the pH meter with pH 7.0 and pH 10.0 buffers and prepare the sample as follows: Dissolve 200 milligrams of sample in 5 milliliters of reagent grade methyl alcohol. Add 95 milliliters of water and mix. Record the pH when an equilibrium value has been reached.

Effective date: This amendment becomes effective August 29, 1977.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357).)

Dated: July 22, 1977.

MARY A. MCENIRY,
*Assistant Director for Regulatory Affairs, Bureau of Drugs.*

[FR Doc.77–21796 Filed 7–28–77;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

## PART 526—INTRAMAMMARY DOSAGE FORMS NOT SUBJECT TO CERTIFICATION

### Novobiocin Oil Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application filed by The Upjohn Co. for use of a novobiocin infusion for the treatment of mastitis in dry cows.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Myron C. Rosenberg, Bureau of Veterinary Medicine (HFV–125), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857. (301–443–1788.)

SUPPLEMENTARY INFORMATION: In accordance with section 512(i) of the Federal Food, Drug, and Cosmetic Act, Part 526 (21 CFR 526) is amended to reflect approval of a new animal drug application (NADA 102–511V) filed by The Upjohn Co., Kalamazoo, MI 49001.

In compliance with the freedom of information regulations and § 514.11 (e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC–20), Rm. 4–65, 5600 Fishers





Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 526 is amended by adding a new § 526.1590 to read as follows:

§ 526.1590 Novobiocin oil suspension.

(a) *Specifications.* Each 10 milliliters of oil suspension contains the equivalent of 400 milligrams of novobiocin (present as sodium novobiocin).

(b) *Sponsor.* See No. 000009 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.460 of this chapter.

(d) *Conditions of use.*—(1) *Amount.* Ten milliliters (equivalent to 400 milligrams of novobiocin) infused in each quarter.

(2) *Indications for use.* It is used in dry cows for the treatment of mastitis caused by susceptible strains of *Staphylococcus aureus* and *Streptococcus agalactiae.*

(3) *Limitations.* Infuse each quarter at the time of drying off, but not less than 30 days prior to calving. Do not slaughter treated animals for food use for 30 days following udder infusion. For udder installation for the treatment of mastitis in dry cows only.

Effective date. July 29, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: July 23, 1977.

C. D. VAN HOUWELING,
*Director, Bureau of Veterinary Medicine.*

[FR Doc.77–21971 Filed 7–28–77;8:45 am]

## PART 548—CERTIFIABLE PEPTIDE ANTIBIOTIC DRUGS FOR ANIMAL USE

### Bacitracin Methylene Disalicylate and Streptomycin Sulfate Oral Powder

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a supplemental new animal drug application submitted by Pitman-Moore, Inc., for use of an oral powder for treating dogs for bacterial enteritis and associated diarrhea.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301–443–3420).

SUPPLEMENTARY INFORMATION: Pitman-Moore, Inc., Washington Crossing, N.J. 08560, filed a supplemental new animal drug application (65–107V) for safe and effective use of an oral powder containing bacitracin methylene disalicylate and streptomycin sulfate with carob flour for treating dogs for bacterial enteritis and associated diarrhea.

The drug has been evaluated by the National Academy of Sciences—National Research Council, Drug Efficacy Study Group (NAS/NRC) and the Food and Drug Administration and classified as probably not effective for the treatment of bacterial diarrhea in dogs and certain other animals (see the FEDERAL REGISTER of August 18, 1970 (35 FR 13155)). Holders of new animal drug applications (NADA's) were requested to submit information to update their applications, including adequate documentation in support of the conditions of use of the products. The firm has submitted safety and efficacy data to substantiate approval of this application.

In addition, certain requirements for certification and tests and methods of assay are being revised to reflect current specifications and procedures.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC–20), Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, during regular working hours.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 548 is amended by revising § 548.112d to read as follows:

§ 548.112d Bacitracin methylene disalicylate and streptomycin sulfate oral powder.

(a) *Requirements for certification.*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin methylene disalicylate and streptomycin sulfate oral powder is composed of bacitracin methylene disalicylate and streptomycin sulfate with carob flour and with or without one or more suitable and harmless diluents, colorings, and flavorings. Each gram contains 200 units of bacitracin methylene disalicylate, streptomycin sulfate equivalent to 20 milligrams of streptomycin, and 850 milligrams of carob flour. Its bacitracin methylene disalicylate content is satisfactory if it is 90 to 165 percent of the amount of bacitracin that it is represented to contain. Its streptomycin sulfate content is satisfactory if it is 90 to 125 percent of the amount of streptomycin that it is represented to contain. Its loss on drying is not more than 7.5 percent. The bacitracin methylene disalicylate used conforms to the standards prescribed by § 539.310(a)(1) of this chapter. The streptomycin sulfate used conforms to the standards prescribed by § 539.170(a)(1) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of paragraph (c) of this section and § 510.55 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 514.50 of this chapter, each such request shall contain:

(i) The results of tests and assays on:

(*a*) The bacitracin methylene disalicylate used in making the batch for potency, safety, loss on drying, and pH.

(*b*) The streptomycin sulfate used in making the batch for potency, safety, loss on drying, and pH.

(*c*) The batch for bacitracin content, streptomycin content, and loss on drying.

(ii) Samples required:

(*a*) The bacitracin methylene disalicylate used in making the batch, 5 packages, each containing approximately 5 grams.

(*b*) The streptomycin sulfate used in making the batch, 5 packages, each containing approximately 1 gram.

(*c*) The batch: a minimum of 6 immediate containers, unless each such container is packaged to contain more than 30 grams, in which case the sample shall consist of 30 grams for each 5,000 containers in the batch, but in no case less than six 30-gram portions.

(b) *Tests and methods of assay.*—(1) *Potency.*—(i) *Bacitracin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed sample of approximately 5 grams into a high-speed glass blender jar. Add sufficient dimethylformamide so that when the sample is diluted to its reference concentration, the concentration of dimethylformamide in the final solution is not more than 20 percent. Blend 3 to 5 minutes. Filter through filter paper immediately. Remove an aliquot of the filtrate at once and dilute with 1 percent potassium phosphate buffer, pH 6.0 (solution 1) to the reference concentration of 1 unit of bacitracin per milliliter (estimated). Add sufficient dimethylformamide to the working solution of the standard so that the concentration of dimethylformamide is the same as that in the sample being tested. In lieu of the test organisms prescribed in § 436.105(a), use either of the test organisms R or V described in § 436.103(a) of this chapter.

(ii) *Streptomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1 M potassium phosphate buffer, pH 8.0 (solution 3) to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 3 to the reference concentration of 1.0 microgram of streptomycin per milliliter (estimated).

(2) *Loss on drying.* Using a 1.0-gram sample, proceed as directed in § 436.200 (b) of this chapter.

(c) *Conditions of marketing.*—(1) *Specifications.* The drug conforms to the requirements for certification in paragraph (a) of this section.

(2) *Sponsor.* No. 011716 in § 510.600(c) of this chapter.

(3) *Conditions of use.*—(i) *Dogs.*—(*a*) *Amount.* One level teaspoonful per 10 pounds of body weight, three times daily, in a small quantity of liquid or feed.



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(b) *Indications for use.* It is used for the treatment of dogs for bacterial enteritis caused by pathogens susceptible to facitracin and streptomycin, such as *Escherichia coli, Proteus* spp., *Staphylococcus* spp., and *Streptococcus* spp., and for the symptomatic treatment of associated diarrhea.

(c) *Limitations.* If no improvement is noted in 2 to 3 days, diagnosis should be reevaluated. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(ii) [Reserved]

Effective date: This regulation becomes effective on July 29, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b (i)))

Dated: July 23, 1977.

C. D. VAN HOUWELING,
*Director,*
*Bureau of Veterinary Medicine.*

[FR Doc.77-21967 Filed 7-28-77;8:45 am]

## PART 548—CERTIFIABLE PEPTIDE ANTIBIOTIC DRUGS FOR ANIMAL USE

### Bacitracin Methylene Disalicylate and Streptomycin Sulfate Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect the approval of a supplemental new animal drug application filed by Pitman-Moore, Inc., Washington Crossing, NJ 08560, for use of a tablet containing bacitracin methylene disalicylate and streptomycin sulfate with carob flour for treating dogs for bacterial enteritis and associated diarrhea. In addition, the regulations are amended by revising certain requirements for certification and tests and methods of assay to reflect current specifications and procedures.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Pitman-Moore, Inc., Washington Crossing, NJ 08560, filed a supplemental new animal drug application (65-192V) for safe and effective use of a tablet containing bacitracin methylene disalicylate and streptomycin sulfate with carob flour for treating dogs for bacterial enteritis and associated diarrhea.

This drug has been evaluated by the National Academy of Sciences—National Research Council, Drug Efficacy Study Group and the Food and Drug Administration and classified as probably not effective for the treatment of bacterial diarrhea in dogs and certain other animals (35 FR 13155, Aug. 18, 1970). Holders of new animal drug applications were requested to submit information to update their applications including adequate documentation in support of the conditions of use of the products. The firm has submitted safety and efficacy data to substantiate approval of this application.

In addition, certain requirements for certification and tests and methods of assay are being revised to reflect current specifications and procedures.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Rm. 4-65, 5600 Fishers Lane, Rockville MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 548 is amended by revising § 548.112b to read as follows:

**§ 548.112b Bacitracin methylene disalicylate and streptomycin sulfate tablets.**

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Bacitracin methylene disalicylate and streptomycin sulfate tablets are composed of bacitracin methylene disalicylate and streptomycin sulfate with carob flour and with or without one or more suitable and harmless diluents, binders, fillers, lubricants or flavorings. Each tablet contains 150 units of bacitracin methylene disalicylate, streptomycin sulfate equivalent to 15 milligrams of streptomycin, and 675 milligrams of carob flour, or 1,000 units of bacitracin methylene disalicylate, streptomycin sulfate equivalent to 100 milligrams streptomycin, and 2.8 grams of carob flour. Its bacitracin methylene disalicylate content is satisfactory if it is 90 to 145 percent of the amount of bacitracin that it is represented to contain. Its streptomycin sulfate content is satisfactory if it is 90 to 135 percent of the amount of streptomycin that it is represented to contain. Its loss on drying is not more than 5 percent. Tablets not exceeding 15 millimeters in diameter shall disintegrate within 1 hour. The bacitracin methylene disalicylate used conforms to the standards prescribed by § 539.310(a)(1) of this chapter. The streptomycin sulfate used conforms to the standards prescribed by § 539.170(a)(1) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of paragraph (c) of this section and § 510.55 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 514.50 of this chapter, each such request shall contain:

(i) The results of tests and assays on:

(a) The bacitracin methylene disalicylate used in making the batch for potency, safety, loss on drying, and pH.

(b) The streptomycin sulfate used in making the batch for potency, safety, loss on drying, and pH.

(c) The batch for bacitracin content, streptomycin content, and loss on drying.

(ii) Samples required:

(a) The bacitracin methylene disalicylate used in making the batch, 5 packages, each containing approximately 5 grams.

(b) The streptomycin sulfate used in making the batch, 5 packages, each containing approximately 1 gram.

(c) The batch: a minimum of 36 tablets.

(b) *Tests and methods of assay—(1) Potency—(i) Bacitracin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place a representative number of finely ground tablets in a high-speed glass blender jar. Add sufficient dimethylformamide so that when the sample is diluted to its reference concentration, the concentration of dimethylformamide in the final solution is not more than 20 percent. Blend 3 to 5 minutes. Filter through filter paper immediately. Remove an aliquot of the filtrate at once and dilute with 1 percent potassium phosphate buffer, pH 6.0 (solution 1) to the reference concentration of 1 unit of bacitracin per milliliter (estimated). Add sufficient dimethylformamide to the working solution of the standard so that the concentration of dimethylformamide is the same as that in the sample being tested. In lieu of the test organisms prescribed by § 436.105(a) of this chapter, use either of the test organisms R or V described in § 436.103(a) of this chapter.

(ii) *Streptomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place a representative number of finely ground tablets in a high-speed glass blender jar. Add sufficient 0.1 *M* potassium phosphate buffer, pH 8.0 (solution 3) to give a stock solution of convenient concentration. Add 1 milliliter of polysorbate 80 and blend 3 to 5 minutes. Allow to stand at room temperature for 1 hour. Blend again for 3 to 5 minutes. Pour contents of blender jar into a beaker, stir with a magnetic stirrer and while stirring, remove an aliquot and dilute with solution 3 to the reference concentration of 1.0 microgram of streptomycin per milliliter (estimated).

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(3) *Disintegration time.* Proceed as directed in § 436.212 of this chapter.

(c) *Conditions of marketing—(1) Specifications.* The drug conforms to the requirements for certification in paragraph (a) of this section.

(2) *Sponsor.* No. 011716 in § 510.600(c) of this chapter.

(3) *Conditions of use—(i) Dogs—(a) Amount.* One small tablet per 4 pounds of body weight, or one large tablet per 25 pounds of body weight, 3 times daily.

(b) *Indications for use.* It is used for the treatment of dogs for bacterial enteritis caused by pathogens susceptible to bacitracin and streptomycin such as *Escherichia coli, Proteus spp., Staphylococcus spp.,* and *Streptococcus spp.,* and for the symptomatic treatment of associated diarrhea.

(c) *Limitations.* If no improvement is noted in 2 to 3 days, diagnosis should be reevaluated. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(ii) [Reserved]

EFFECTIVE DATE: This regulation shall be effective July 29, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: July 27, 1977.

C. D. VAN HOUWELING,
*Director, Bureau*
*of Veterinary Medicine.*

[FR Doc.77-21968 Filed 7-28-77;8:45 am]





## PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

### Bacitracin Methylene Disalicylate; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations to reflect a change in the sponsor of the antibiotic bacitracin methylene disalicylate from S. B. Penick and Co. to A. L. Laboratories. A supplemental new animal drug application filed by A. L. Laboratories, Inc., provided for this change.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-147), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: In accordance with section 512(i) of the Federal Food, Drug, and Cosmetic Act, Part 558 (21 CFR 558) is amended to reflect approval of a supplemental new animal drug application (36-479V) filed by A. L. Laboratories, Inc., a subsidiary of A/S Apothekernes Laboratorium for Special-praeparater, 452 Hudson Terrace, Engelwood Cliffs, NJ 07632, providing for the change in sponsor from S. B. Penick and Co. (sponsor No. 000794), a unit of CPC International, Inc., to A. L. Laboratories (sponsor No. 046573). This intercorporate transfer of an NADA does not involve changes in the manufacturing, packaging, or quality control facilities. The approval does not require a reevaluation of the parent NADA and does not constitute a reaffirmation of the drug's safety or effectiveness.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), § 558.58 *Amprolium and ethopabate* is amended in paragraph (e)(1)(iii) in the table for bacitracin 20 to 35 plus roxarsone 34 under "Limitations" by deleting the number "000794" and inserting in its place the number "046573".

Effective date: July 29, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: July 27, 1977.

C. D. VAN HOUWELING,
*Director, Bureau*
*of Veterinary Medicine.*

[FR Doc.77-21966 Filed 7-28-77;8:45 am]

[Docket No. 76N-0496]

## PART 650—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR DERMAL TEST

### Revision of Potency Test Limits for Tuberculin Products Dried on Tines of Multiple Puncture Devices

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule amends the biologics regulations to require the potency assay of tuberculin products dried on tines of multiple puncture devices to be within ±20.0 percent of the number of U.S. Tuberculin Units (TU) claimed by the manufacturer in the license application to the Bureau of Biologics. This action is taken because the Commissioner of Food and Drugs found, based on new data presented to him by a manufacturer, that such a variation could be achieved; it should reduce the incidence of false positive and false negative test results.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Joe Holloway or Al Rothschild, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1920.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of February 25, 1977 (42 FR 11023), the Commission proposed to amend § 650.14(c)(3) by requiring tuberculin products dried on multiple puncture devices to assay within ±20 percent as opposed to the currently required ±50 percent of the U.S. Tuberculin Units (TU) claimed by the manufacturer in the license application. The Commissioner finds that a variation of ±20 percent of the amount of dried product on the tines can be achieved and should reduce the incidence of false positive and false negative test results. Interested persons were given until March 28, 1977 to submit written comments regarding the proposal.

Only one written comment was received and it supported the proposed change. Accordingly, the Commissioner concludes that the proposal should be adopted.

In addition, since the potency of all tuberculin products listed in § 650.14(c) must now be ±20 percent of the U.S. units claimed by the manufacturer in the license application and in the product labeling, there is no longer a need to separately list the potency requirement for each product, and § 650.14(c) is amended accordingly.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262)), and under authority delegated to the Commissioner (21 CFR 5.1), § 650.14 is amended by deleting paragraph (c)(1), (2), and (3). As revised, paragraph (c) reads as follows:

**§ 650.14 Potency test.**

* * * * *

(c) *Potency.* The potency of the lot is satisfactory if the results are within ±20 percent of the U.S. units claimed by the manufacturer in the license application and the product labeling.

Effective date: This regulation shall become effective July 29, 1977.

(Sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262).)

Dated: July 25, 1977.

WILLIAM F. RANDOLPH,
*Acting Associate*
*Commissioner for Compliance.*

[FR Doc.77-21970 Filed 7-28-77;8:45 am]

## Title 29—Labor

## CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

## PART 1904—RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

## PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

### Small Employers; Recordkeeping Amendment

AGENCY: Occupational Safety and Health Administration.

ACTION: Final rule.

SUMMARY: This document contains an amendment to occupational safety and health recordkeeping regulations and a conforming amendment to State Plan regulations to exempt employers with ten or fewer employees from the recordkeeping requirements of this part.

This change is made to carry out statutory requirements that the Secretary of Labor obtain information with a minimum burden on employers, especially small employers.

EFFECTIVE DATE: July 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Norman Root, Chief, Division of Record Requirements and Information, Bureau of Labor Statistics, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-9281.



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SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to sections 8(c) (1) and (2), 8(g) (1) and (2), and 24(e) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657 and 673) (hereinafter referred to as the Act) and Secretary of Labor's Order No. 8–76 (41 FR 25059) a notice was published on February 18, 1977, in the FEDERAL REGISTER (42 FR 10015) proposing to amend § 1904.15 and proposing a conforming amendment to § 1952.4(a) to exempt employers with ten (10) or fewer employees from the recordkeeping requirements of this part. The notice invited interested persons to submit written data, views, or arguments by March 21, 1977. Comments were received from the following organizations and one individual: Anclote Marine Ways, Tarpon Springs, Florida; College of American Pathologists, Skokie, Illinois; National Association of Broadcasters, Washington, D.C.; National Association of Home Builders, Washington, D.C.; National Electrical Contractors Association, Inc., Richmond, Virginia; National Fertilizer Solutions Association, Peoria, Illinois; National Lumber and Building Material Dealers Association, Washington, D.C.; National Pest Control Association, Inc., Vienna, Virginia; National Tool, Die and Precision Machinery Association, Washington, D.C.; Washington Legal Foundation, Washington, D.C.; Western Temporary Services, Honolulu, Hawaii; and Cynthia L. Mossman, Cincinnati, Ohio. All comments received on the proposed recordkeeping amendment have been favorable, some suggesting, however, that the level for determining the exemption be set higher than ten. There was also a suggestion that the amendment be broadened to supersede State Plan recordkeeping requirements.

ISSUES

The Department of Labor appropriations acts for fiscal years 1975 and 1976 (Pub. L. 93–517 and Pub. L. 94–206) exempted employers with ten or fewer employees, but the appropriations act for fiscal year 1977 (Pub. L. 94–439) did not include the "ten or fewer" recordkeeping exemption. Therefore, this amendment will continue the Congressional intent of generally exempting employers with ten or fewer employees from the recordkeeping requirements, but not from the requirement to report accidents resulting in a fatality or multiple hospitalization nor from the requirement to participate in the Bureau of Labor Statistics' annual statistical survey, if the small employer is selected to participate. This amendment will also carry out the mandate of section 8(d) of the Act which requires that information obtained under the Act be obtained with a minimum burden on employers, especially those operating small businesses (29 U.S.C. 657(d)).

Under Section 18(c)(7) of the Act (29 U.S.C. 667) and 29 CFR 1902.3(k), a State plan is required to provide that "employers in the State maintain records and make reports to the Assistant Secretary of Labor for Occupational Safety and Health in the same manner and to the same extent as if the State plan were not in affect." The primary purpose of this section is to foreclose the States from enlarging the recordkeeping exemption; it does not, however, preclude the States from having stricter recordkeeping requirements; that is, requiring records from employers of any size. Therefore, when obligations of employers arise under State law, the State, for the State's own statistical needs, may require recordkeeping by an employer who would otherwise be exempt from the Federal requirements under this amendment.

While farm employers with ten or fewer employees are also exempted from this recordkeeping requirement, Pub. L. 94–439 provides, in effect, a total exemption to these farm employers from all requirements of the Act including, of course, the reporting of fatalities and multiple hospitalizations as well as participating in the annual survey. More specifically, Title I of the Department of Labor-Department of Health, Education, and Welfare Appropriations Act for Fiscal Year 1977 (Pub. L. 94–439) which became effective October 1, 1976, and will cease to be in effect September 30, 1977, placed a limitation on the expenditure of funds for the Occupational Safety and Health Administration (hereinafter referred to as OSHA) which is applicable to all employers covered by the Act who are engaged in a farming operation and employ ten or fewer employees. Pursuant to that limitation any employer engaged in a farming operation who employs no more than 10 employees is not subject to any standard, rule, regulation, or order under the Act, including any regulation under this part. Therefore, such small employers are not subject to the "ten or fewer" recordkeeping regulations and thereby are not required to report fatalities and multiple hospitalization accidents or participate in the BLS annual statistical survey.

During the 1977 fiscal year the State may enforce any standard, rule, regulation, or order, under State law, which is applicable to any person who is engaged in a farming operation and employing ten or fewer employees. But any State which engages in such activities will not be reimbursed under sections 23(g) and 24(b) of the Act for any share of funds expended by the State for any portion of those activities applicable to the farming operation limitation. States receiving 23(g) and 24(b) grant funds must also be able to demonstrate that no portion of the grant funds has been used for the activities prohibited in the farming operation funding limitation.

After consideration of all relevant material which has been submitted by interested persons, the proposal is hereby adopted. Pursuant to the authority contained in sections 8(g) (1) and (2), and 24(e) of the Act, 29 CFR 1904.15 and 29 CFR 1952.4(a) are amended as follows: The amendments shall be effective July 26, 1977.

1. As amended § 1904.15 would read as follows:

**§ 1904.15 Small employers.**

An employer who had no more than ten (10) employees at any time during the calendar year immediately preceding the current calendar year need not comply with any of the requirements of this part except the following:

(a) Obligation to report under § 1904.8 concerning fatalities or multiple hospitalization accidents; and

(b) Obligation to maintain a log of occupational injuries and illnesses under § 1904.2 and to make reports under § 1904.21 upon being notified in writing by the Bureau of Labor Statistics that the employer has been selected to participate in a statistical survey of occupational injuries and illnesses.

2. As amended § 1952.4(a) would read as follows:

**§ 1952.4 Recordkeeping and reporting requirements.**

(a) States must adopt recordkeeping and reporting regulations which are substantially identical to 29 CFR Part 1904 "Recording and Reporting Occupational Injuries and Illnesses" except for § 1904.-13 of this chapter, which provides for variances. However, a State is not precluded from imposing stricter recordkeeping requirements; that is, requiring records from employers of any number of employees.

* * * * *

(Secs. 8(c)(1), (2), 8(g)(1), (2), 24(e); Pub. L. 91–596, 84 Stat. 1599, 1600, 1615; (29 U.S.C. 657, 673).)

Signed at Washington, D.C., this 21st day of July 1977.

JULIUS SHISKIN,
*Commissioner of Bureau of Labor Statistics.*

EULA BINGHAM,
*Assistant Secretary of Labor.*

[FR Doc.77–21548 Filed 7–28–77;8:45 am]

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## PART 1928—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR AGRICULTURE

### Applicability of General Industry Standards to Agriculture; Correction

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Correction.

SUMMARY: This document makes a minor, non-substantive amendment to the occupational safety and health standards for agriculture. The amendment corrects an error in 29 CFR 1928.21 and clarifies that the OSHA air contaminant standards do not apply to agricultural operations.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Wendell M. Glasier, OSHA, Third Street and Constitution Avenue NW., Room N–3510, Washington, D.C. 20210, 202–523–7198.





SUPPLEMENTARY INFORMATION: On May 28, 1975, OSHA published in the FEDERAL REGISTER (40 FR 23072) a recodification of the air contaminant standards, from §§ 1910.93 through 1910.93q of Subpart G of Part 1910, to §§ 1910.1000 through 1910.1017 in a new Subpart Z of Part 1910. Where various sections in Parts 1910 and 1926 had referenced the air contaminant standards of Subpart G, conforming amendments were made to change the references to the recodified sections of Subpart Z. However, a necessary conforming amendment to Part 1928 was inadvertently omitted from the recodification notice.

Section 1928.21, which specifies the standards in 29 CFR Part 1910 which are applicable to agricultural operations, also states, in paragraph (b), that all other standards contained in Subparts B through T of Part 1910 do not apply to agricultural operations. When the air contaminant standards were recodified from Subpart G to Subpart Z of Part 1910, an amendment to § 1928.21(b) should have been made to insure that the recodified sections would not be applied to agricultural operations. To correct this inadvertent error, paragraph (b) of § 1928.21 is hereby amended to provide that the standards in Subparts B through S and Subpart Z of Part 1910 are not applicable to agricultural operations. Since this amendment makes no substantive change in the standards, it is not necessary to provide notice of proposed rulemaking, opportunity for public participation or delay in the effective date.

Accordingly, paragraph (b) of § 1928.-21 is amended to read as follows:

**§ 1928.21 Applicable standards in 29 CFR Part 1910.**

* * * * *

(b) Except to the extent specified in paragraph (a) of this section, the standards contained in Subparts B through T and Subpart Z of Part 1910 of this title do not apply to agricultural operations.

(Sec. 6, Pub. L. 91–596, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911; Secretary of Labor's Order No. 8–76 (41 FR 25059).)

Signed at Washington, D.C., this 14th day of June, 1977.

EULA BINGHAM,
*Assistant Secretary of Labor.*

[FR Doc.77–21549 Filed 7–28–77;8:45 am]

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## Title 33—Navigation and Navigable Waters

## CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1105–2–166]

## PART 278—SEPARABLE RECREATION LANDS: COMPLETED LAKE PROJECTS

### Planning and Reporting Guidance for Recommendations Concerning Acquisition of Separable Recreation Land

AGENCY: Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This document presents planning and reporting guidance for recommendations concerning the acquisition of separable recreation land at completed Corps of Engineers lake projects. The OCE Chief Counsel has established that where recreation is not specifically authorized as a project purpose, the 1944 Act (Pub. L. 534, Sec. 4), as amended, does not authorize the Corps to acquire additional land at completed lake projects for the purpose of recreation without additional Congressional authorization. It is intended that this regulation will clarify for field elements the limitations of Corps authority in regard to the acquisition of separable recreation lands at completed lake projects and expedite proper reporting of separable recreation land acquisition proposals for Congressional authorization.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Berton M. MacLean, Chief, Environmental Section, Planning Division, Directorate of Civil Works, telephone 202–693–7290.

NOTE.—The U.S. Army Corps of Engineers has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: 18 July 1977.

JAMES N. ELLIS,
*Colonel, Corps of Engineers, Chief of Staff.*

Accordingly, Part 278 is added to read as set forth below:

Sec.
278.1 Purpose.
278.2 Applicability.
278.3 Reference.
278.4 Definitions.
278.5 Background.
278.6 Guidance.
278.7 Report requirements and processing.
278.8 Study authority.
278.9 Reallocation of joint costs.
278.10 Responsibilities.

AUTHORITY: Section 4, Pub. L. 534, Flood Control Act of 1944, 22 December 1944, as amended.

**§ 278.1 Purpose.**

This regulation provides guidance for consideration of the acquisition of land for the separable purpose of recreation at completed Corps of Engineers lake projects.

**§ 278.2 Applicability.**

This regulation is applicable to all OCE elements and all field operating agencies having Civil Works responsibilities.

**§ 278.3 References.**

(a) Section 4, Public Law 534, Flood Control Act of 1944, 22 December 1944, as amended.

(b) Public Law 89–72, Federal Project Recreation Act of 1965, 9 July 1965.

(c) Public Law 91–190, National Environmental Policy Act of 1969, 1 January 1970.

(d) Section 216, Public Law 91–611, Flood Control Act of 1970.

(e) ER 1105–2–507, Preparation and Coordination of Environmental Statements.

(f) ER 1110–2–1150, Post-authorization Studies.

(g) ER 1120–2–400, Recreation Resources Planning.

(h) 1120–2–404, Federal Participation in Recreational Development.

(i) ER 1165–2–400, Recreational Planning, Development, and Management Policies.

**§ 278.4 Definitions.**

Pertinent definitions include those given in Appendix II, ER 1165–2–400 and the following:

(a) "Completed Project". For the purpose of this regulation, a project is considered to be completed when all initial project construction general funds have been expended. Appropriation of construction funds under the Code 710 Program are not included within this definition.

(b) "Public Access." The assured free public ingress to and egress from the shores and waters of a Corps of Engineers lake project, including provision for the parking of automobiles and installation of public health and sanitary facilities.

(c) "Separable Recreation Lands." Lands recommended for acquisition at Corps of Engineers projects for the specific purpose of recreation use and facility development that would not otherwise be acquired for the project.

**§ 278.5 Background.**

(a) As described in paragraph 5, ER 1165–2–400, Section 4 of the Flood Control Act of 1944 authorized the Secretary of the Army, acting through the Chief of Engineers, to construct, maintain, operate and lease public park and recreation facilities at reservoir projects and to assure free public access to their waters. Subsequent legislation added to, modified and constrained this basic authority, but did not replace it. There continues to be no general authority for acquisition of lands for recreation. However, Public Law 89–72 provides for the inclusion of land acquisition for the purpose of recreation to be included in plans recommended for Congressional authorization, with cost-sharing as defined in the Act. Administrative policy selectively extended the application of Public Law 89–72 requirements for cost-sharing of recreation developments to authorized Corps lake projects. The cost-sharing policy was further extended at the beginning of FY 1974 to include any further development of recreation facilities at existing lake projects. The only exception to cost-sharing was the upgrading of sanitary facilities to meet State standards.

(b) At the time of the 1944 Act and during the two decades that followed, the intent and practice was simple accommodation of the recreating public utilizing available project lands acquired for operational purposes. The policy has been to allow acquisition of land at lake projects to assure public access, including the provision of areas for parking of



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automobiles, boat launching ramps, and installation of public health and sanitary facilities. In the last 15 years, public recreational use of Corps lake projects has grown at an accelerating rate to the point where serious overuse and resource degradation occurs because of the lack of adequate recreational land and facilities. Responding to this need, Corps planning efforts are restudying completed lake projects with a view toward optimizing project recreation and fish and wildlife potential, as well as taking advantage of opportunities for environmental enhancement. Development of project potential must be in accordance with established law, Congressional authorization, and administrative policy. In this regard, a legal opinion by the OCE Chief Counsel has established that where recreation is not specifically authorized as a project purpose, the 1944 Act, as amended, does not authorize the Corps to acquire additional land at completed lake projects for the purpose of recreation without additional Congressional authorization.

(c) Recommendations for acquisition of separable recreation land at completed Corps lake projects requires a proper reporting vehicle. Undue delays for needed project modifications have occurred as a consequence of improper reporting. This regulation clarifies appropriate reporting requirements for recommended land acquisition for completed projects.

**§ 278.6 Guidance.**

(a) Planning for modification of completed Corps lake projects, to the extent compatible with other project purposes, shall be fully responsive to existing and projected demand for recreational use of project resources, including consideration of the need for acquisition of additional recreation lands consistent with the objectives of environmental quality.

(b) Acquisition of separable recreation lands at completed lake projects, where recreation was not specifically authorized as a project purpose, requires Congressional authorization.

(c) To achieve the objectives of environmental quality and cost-sharing equity, proposals for the recreational development on project lands at completed projects shall be fully responsive to the intent of Public Law 89–72, and shall comply with the policies in ER 1120–2–404.

(d) Once a project has been fully funded for completion of construction (see § 278.4(a)), additional recreational requirements, if any, would be funded at the appropriate time under the category "Recreation Facilities at Completed Projects" (Code 710 Program).

**§ 278.7 Report requirements and processing.**

A thorough review of project authorization should be conducted prior to initiating a planning study to determine the proper report requirements, in accordance with paragraphs (a) and (b) of this section. In each case, an environmental assessment should be made to determine the need for an EIS or a supplement to the existing EIS in accordance with guidance furnished in ER 1105–2–507. In addition, reports requesting authority to acquire separable recreation lands will carefully document alternatives in the recreation market area, and shall be coordinated with the Bureau of Outdoor Recreation (BOR).

(a) *Completed Lake Projects—Recreation Not Specifically Authorized.* Before lands may be acquired (directly or indirectly) by the Corps at completed lake projects for recreational purposes, the specific extent of such acquisition shall be set forth, along with required data necessary for justification, in a report to be submitted to Congress for authorization. A letter of intent to cost-share from a non-Federal sponsor is required. Standard procedures for developing and coordinating a survey type report will be followed in the preparation of a report to modify a project to include acquisition of lands for the separable purpose of recreation. This implies application of related regulations on public involvement, coordination with Federal, State and local agencies, environmental impact, cost allocation, etc. The scope of treatment for post-construction planning reports in this category should follow the outline of Appendix B, ER 1120–2–400, as appropriate.

(b) *Completed Lake Projects—Recreation Specifically Authorized.* Where the Congressional authorization and referenced reports for a project clearly includes recreation as a project purpose, recommendations for acquisition of separable recreation lands and facility development requires the Division Engineer's approval. Proposals for recreational development at completed lake projects in this category shall be submitted by a post-construction planning report to the Division Engineer for review and approval. Four copies of the approved post-construction planning report will be furnished to HQDA (DAEN–CWP–P) WASH DC 20314 for comment, in accordance with procedures given in paragraph 21(e), ER 1110–2–1150. As a minimum, information should be presented on project purposes, authority, resource use objectives, demand, recreation attendance, planned development (include conceptual plan drawing), relation to the approved Master Plan, justification (include benefits), extent of land acquisition, cost estimates, alternatives, land use designation and environmental impacts. This information should be in sufficient depth and detail to permit adequate review of and support for recommendations made. Based upon approval of the post-construction planning report, a Real Estate Design Memorandum (REDM) is required for review and approval by HQDA (DAEN–REA) WASH DC 20314, before land can be acquired. Cost-sharing contract submission will follow the requirements of the Code 710 program.

**§ 278.8 Study authority.**

Studies required to meet the provisions of § 278.7(a) should be funded under General Investigations appropriations utilizing the authority of Section 216, Public Law 91–611. Study efforts and report preparation to comply with the requirements of § 278.7(b) may be accomplished with programmed funds from Operation and Maintenance General appropriations.

**§ 278.9 Reallocation of joint costs.**

Agreements for cost-sharing recreational development at completed lake projects shall not serve as a basis for reallocation of project joint costs.

**§ 278.10 Responsibilities.**

This regulation is effective immediately and review of on-going studies for determination of the proper report vehicle and procedure, consistent with the guidance contained herein, will be the responsibility of the reporting officer. Report needs should be developed and evaluated jointly by personnel from the planning, engineering, real estate, and operation elements. In those cases where some doubt arises as to proper report requirements, guidance from HQDA (DAEN–CWP–E, C or W) WASH DC 20314 should be sought before completion of planning studies.

[FR Doc.77–21680 Filed 7–28–77;8:45 am]

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**Title 47—Telecommunication**

**CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION**

[Docket No. 20586; FCC 77–508]

**PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS: GENERAL RULES AND REGULATIONS**

**Footnote US222 Added to Frequency Allocation Table Permitting Three Government Earth Stations in the Space Research and Earth Exploration-Satellite Service To Operate on a Coequal Basis in the 2025–2035 Band**

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: FCC amends Part 2, § 2.106 of its Rules and Regulations by adding a new footnote, US222, to the Table of Frequency Allocations. This change is in response to a request from the Interdepartment Radio Advisory Committee which proposed to make the band 2025–2035 MHz available on a coequal basis for Government earth stations in the Space Research and Earth Exploration-Satellite Service. Under the terms of the new footnote, the Department of Commerce will conduct earth-to-space transmissions for tracking, telemetry, and telecommand at Wallops, Virginia, Seattle, Washington, and Honolulu, Hawaii.

EFFECTIVE DATE: August 29, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Joseph Cesaitis, Spectrum Allocations Division, Office of Chief Engineer, 202–632–6350.





SUPPLEMENTARY INFORMATION:

Adopted: July 14, 1977.

Released: July 25, 1977.

In the matter of amendment of Part 2 of the Commission's rules and regulations to add a new US footnote to the Table of Frequency Allocations permitting the use of the frequency band 2025–2035 MHz by Government earth stations for earth-to-space transmissions for tracking, telemetry and telecommand at Wallops Island, Virginia: Seattle, Washington; and Honolulu, Hawaii (Docket No. 20586). Report and order.

1. On September 5, 1975, the Commission adopted a Notice of Proposed Rulemaking (NPRM), in response to a request from the Interdepartment Radio Advisory Committee (IRAC) of the Office of Telecommunications Policy (OTP), to amend the Commission's Rules as stated in the caption. The NPRM was published in the FEDERAL REGISTER on September 24, 1975 (40 FR 43924). Comments were received from the National Association of Broadcasters (NAB), the American Broadcasting Companies, Inc. (ABC), GTE Service Corporation (GTESC) and Fisher's Blend Station, Inc. No reply comments were received.

2. In the Notice the Commission proposed to make the band 2025–2035 MHz available to Government earth stations for earth-to-space transmissions in connection with the operational requirements of the Geostationary Operational Environmental Satellite (GOES) system. This system is used in short-range forecasting and warning of weather, ocean and solar hazards, providing nearly continuous observations of developing hazards in remote areas. The Department of Commerce (Commerce) will be responsible for operating the three earth stations located at Wallops Island, Virginia; Seattle, Washington; and Honolulu, Hawaii.

3. Those commenting on the Notice were concerned about potential harmful interference to existing broadcasters, potential harmonic interference to common carriers and depletion of scarce remote pickup channels by Government users. ABC was concerned that should the Government be allowed to use the 2025–2035 MHz band at the three sites previously mentioned, that this action would have the dual effect of limiting remaining spectrum availability, as well as creating potential interference to existing and future authorizations in this band for broadcast use. NAB opposed the adoption of the proposed rules on the same grounds as ABC. Fisher's Blend Station, Inc. opposed the proposal because it had an application pending for a license in the subject band. GTESC was concerned that if high power levels were utilized in this band, second and third order harmonics could interfere with present common carrier operations in the 4 and 6 GHz bands.

4. To determine the probability of harmful interference to existing broadcast auxiliary authorizations, the Department of Commerce ran tests in each of the three cities to determine if harmful interference would result. These tests were conducted in early 1975 with the approval of the Commission. No interference was encountered during the test period. Moreover, under the proposed footnote Commerce would protect existing broadcast auxiliary stations from harmful interference. With regard to the comment of GTESC regarding potential harmonic interference to common carrier facilities in Seattle and Honolulu, we note that harmonic emissions from the Commerce earth stations are attenuated at least 60dB, which is consistent with the existing requirement set forth in § 21.106 of the Commission's Rules. Moreover, the operating parameters of the earth station antennas, namely, narrow beam-width and elevated at least 32.7 degrees above the horizon further minimize potential interference to other stations.

5. With regard to ABC's comments concerning the future impact of the commerce authorizations on remote pickup broadcast development in the 2025–2035 MHz band, we note first of all, that none of the Government earth stations are in the large markets of Chicago, Detroit, Los Angeles, New York, San Francisco or Washington, D.C. (mentioned in ABC's comments), and therefore would not have an impact on ABC's facilities. Further, the possible future requirement of ABC or other broadcasters temporarily relocating their facilities into Wallops Island, Seattle or Honolulu can be accommodated in the 6 or 13 GHz bands which are also allocated for remote pickup stations. Moreover, the nature of the transmissions of the earth stations are such that in a 4 hour period only 10 minutes of actual transmission occurs. Therefore, there is little probability that the earth stations will interfere with broadcasters. Finally, we do not anticipate more than the three Government earth stations included in the proposed footnote because this configuration provides the necessary coverage of the satellites in orbit.

6. Fisher's Blend generally opposes the proposal on the grounds that it should include protection of all existing and future non-Government licensees in the subject band, which it contends has been the case with other Government stations operating under the authority of US90. However, the provisions of footnote US90 do not require this. The provisions of US90 do require that such authorizations in the 2025–2120 MHz band be "subject to such conditions as may be applied on a case-by-case basis". The conditions which have been proposed in US222 include protection of the non-Government stations in the three areas of Honolulu, Seattle and Wallops Island in existence at the time the Commerce facilities were authorized. However, future non-Government stations in these areas will not be protected. This provision is necessary because the Commerce earth stations cannot change their locations or their operating frequencies without adversely affecting the overall performance of the GOES system. Therefore, protection of the Commerce facilities, we believe, is consistent with the public interest and in consonance with the terms of footnote US90.

7. Fisher's Blend further argues that since it had an application pending for a remote TV pickup station in the 2025–2042 MHz band prior to the issuance of our NPRM, it should be protected from interference and, in fact, should have been considered in the coordination conducted by the Commerce Department. However, with regard to the latter point, we note that Commerce had completed its coordination activities in February 1975 which is 5 months before Fisher's Blend filed its application with the Commission. Therefore, there is no validity to Fisher's Blend's statement that it was overlooked in the process of coordinating the Commerce facility.

8. With regard to the question of whether Fisher's Blend should be protected against future interference, we do not agree that such protection would be in the best interest of the public. As mentioned, the Commerce facilities were coordinated with the Commission through normal OTP/FCC channels early in 1975 and provisions were made to protect non-Government stations in existence at that time. Based on that coordination, the Commerce stations were authorized by the Office of Telecommunication Policy (OTP) and commenced operation in February 1975 at the three sites in question. Because of the national importance of the GOES program and the extreme difficulty that would be encountered in modifying these earth stations once in operation, it was our intent that subsequently authorized non-Government stations would not be protected from interference from these Commerce facilities. Fisher's Blend filed its application in August 1975 and was authorized in December 1975. Consistent with our intent, as stated above, Fisher's Blend's license should have been conditioned that its operation would not be protected from interference from the Commerce earth station in Seattle. However, the fact that Fisher's Blend's license was not so conditioned does not alter our basic public interest finding with regard to the need to protect the Commerce earth stations. Therefore, we place Fisher's Blend on notice, that if it wishes to renew its license to operate in this band, its new license will contain the condition that its operation will not be protected against interference from the Commerce Seattle earth station. If interference occurs in the interim, we may find it necessary to initiate a modification proceeding which would resolve this problem in the best interest of the public. As a practical matter the Commission does not believe that Fisher's Blend will be adversely affected by this action for two reasons. First, the probability of Fisher's Blend receiving interference from the Commerce's earth station is remote and second, there are alternative frequencies which Fisher's Blend can use should interference become a problem in the 2025–2042 MHz band.



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9. Because of the many benefits which the GOES system will provide to the public as summarized in the Notice in this proceeding the Commission believes adoption of the proposed rules as shown in the Appendix to be in the public interest. Authority for these rule amendments is contained in Section 4(i), 303(r) of the Communications Act of 1934, as amended.

10. Accordingly, *It is ordered*, That effective August 29, 1977, Part 2 of the Commission's Rules is amended as set forth below. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

In Part 2 of Chapter I of Title 47 of the Code of Federal Regulations, Section 2.106 is amended as follows:

1. The Table of Frequency Allocations (47 CFR 2.106) is amended by adding a new footnote designator, US222, to the band 2025–2035 MHz and by adding in proper numerical sequence the text of footnote US222, following the Table, as shown below:

**§ 2.106 Table of frequency allocations.**

* * * * *

| UNITED STATES | |
|---|---|
| Band (MHz): | *Allocations* |
| 5 | 6 |
| * * * | * * * |
| 1850–2200 | NG (US90) (US111) (US219) (US222) |
| * * * | * * * |

* * * * *

US222. In the band 2025–2120 MHz Geostationary Operational Environmental Satellite Earth stations in the Space Research and Earth Exploration-Satellite Services may be authorized on a coequal basis to use the frequency band 2025–2035 MHz for earth-to-space transmissions for tracking, telemetry, and telecommand at the sites listed below:

Wallops Island, Virginia, 37°50'48" N., 75°27'33" W.

Seattle, Washington, 47°34'15" N., 122°-33'10" W.

Honolulu, Hawaii, 21°21'12" N., 157°52'36" W.

[FR Doc.77-21863 Filed 7-28-77;8:45 am]

## Title 49—Transportation

### CHAPTER X—INTERSTATE COMMERCE COMMISSION

#### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1084; Amdt. 11]

#### PART 1033—CAR SERVICE

**Chicago, Rock Island and Pacific Railroad Co., W. M. Gibbons, Trustee, Authorized To Operate Over Tracks of Chicago and North Western Transportation Co.**

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 11 to Service Order No. 1084).

SUMMARY: Service Order No. 1084 authorized the Chicago, Rock Island and Pacific to operate over a track abandoned by the Chicago and North Western Transportation Company at McClelland, Iowa, for the purpose of continuing railroad service to a shipper located adjacent to that track. Amendment No. 11 extends Service Order No. 1084 until January 31, 1978.

DATES: Effective 11:59 p.m., July 31, 1977. Expires 11:59 p.m., January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423. Telephone 202–275–7840. Telex 89–2742.

SUPPLEMENTARY INFORMATION: At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 25th day of July 1977.

Upon further consideration of Service Order No. 1084 (36 FR 22063; 37 FR 12726, 28059; 38 FR 20840; 39 FR 3827, 27672; 40 FR 5162, 31939; 41 FR 4929, 31381; and 42 FR 6371), and good cause appearing therefor:

*It is ordered*, That: § 1033.1084 *Service Order No. 1084* (Chicago, Rock Island and Pacific Railroad Company, W. M. Gibbons, Trustee, authorized to operate over tracks of Chicago and North Western Transportation Company) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., January 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., July 31, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

*It is further ordered*, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, JR.,
*Acting Secretary.*

[FR Doc.77-21937 Filed 7-28-77;8:45 am]

## Title 50—Wildlife and Fisheries

### CHAPTER III—INTERNATIONAL REGULATORY AGENCIES (FISHING AND WHALING)

#### SUBCHAPTER C—INTERNATIONAL PACIFIC SALMON FISHERIES COMMISSION

#### PART 371—FRASER RIVER SOCKEYE AND PINK SALMON FISHERY

**Fraser River Sockeye and Pink Salmon Regulations**

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Amendment to Appendix A of emergency regulations.

SUMMARY: This document amends Appendix A of the emergency regulations published on June 17, 1977, in the FEDERAL REGISTER (42 FR 30841) by adding under item 5 the adoption by the Commission of the sockeye or pink salmon regulations issued under the authority of the Convention between Canada and the United States.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald Johnson, Northwest Regional Director, National Marine Fisheries Service, Seattle, Washington 98109 (206–442–7575).

SUPPLEMENTARY INFORMATION: Under the authority of the Convention between the United States and Canada, for the protection, preservation and extension of the sockeye salmon fisheries of the Fraser River System, the International Pacific Salmon Fisheries Commission hereby makes and adopts the following Orders and Regulations by the affirmative votes of two of the Commissioners on the part of the United States of America and three of the Commissioners on the part of the Dominion of Canada.

Appendix A, Part 371 is amended by adding new paragraph 5 as follows:

APPENDIX A—INTERNATIONAL PACIFIC SALMON FISHERIES COMMISSION REGULATIONS

* * * * *

5. The following regulations adopted by the International Pacific Salmon Fisheries Commission on March 13, 1970, remain in effect for 1977:

(1) It is hereby ordered that no sockeye or pink salmon shall be fished for, or taken, at any time on the High Seas described in paragraph numbered 1 of Article I of the said Convention by any national or inhabitant or vessel or boat of the Dominion of Canada or the United States of America by any means other than by trolling gear consisting of a line, hook and lure drawn by a boat or vessel; and said gear is hereby approved for such use on the High Seas abovementioned.

(2) It is hereby further ordered that the taking of sockeye or pink salmon in respect of the said High Seas is hereby limited by and in accordance with the said Orders and Regulations above set forth.

(3) All previous regulations made and adopted by the International Pacific Salmon Fisheries Commission relating to the High Seas described in paragraph numbered 1 of Article I of said Convention are hereby repealed.

(4) Nothing in the above Orders or Regulations shall be construed to limit the means of taking of sockeye or pink salmon for investigation purposes by the International Pacific Salmon Fisheries Commission or its duly authorized representative.

Issued Washington, D.C., and dated July 26, 1977.

WINFRED H. MEIBOHM,
*Associate Director, National Marine Fisheries Service.*

[FR Doc.77-21938 Filed 7-28-77;8:45 am]



## Title 7—Agriculture

### CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

#### PART 201—FEDERAL SEED ACT REGULATIONS

**Amendments to Standards for Certified Seed**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action is being taken to promulgate amendments to the regulations. Modifications of standards were recommended by the Association of Official Seed Certifying Agencies. This action will change the standards for certified seed.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Clyde R. Edwards, Chief, Seed Branch, Grain and Seed Division, Agricultural Marketing Service, Department of Agriculture, Washington, D.C. 20250, 202–447–9340.

SUPPLEMENTARY INFORMATION: On May 19, 1977, there was published in the FEDERAL REGISTER (42 FR 25738) a notice of proposed amendment of Part 201 regulations (7 CFR 201) under the Federal Seed Act to change certain standards for certified seed. Interested persons were given an opportunity to present views orally or in writing at a public hearing on June 10, 1977, or submit written comments to the Department's Hearing Clerk. Copies of the proposals were distributed to the seed trade and to State regulatory and certifying agencies. No oral or written comments were received at the hearing. Four written comments submitted to the Hearing Clerk supported the amendments as proposed.

The proposed amendments are hereby adopted without change as set forth below:

**§ 201.76 [Amended]**

1. Section 201.76, Table 5 is amended as follows:

(a) Under land requirements for all three classes of cowpea, field pea, and mung bean, delete superscript "7" and add superscript "8."

(b) Under isolation for all three classes of cowpea, delete "10" and insert "0" in lieu thereof, and add superscript "23" for all three classes.

(c) Under isolation for the Registered and Certified classes of crambe add the superscript "24."

(d) Under isolation for all three classes of milkvetch, delete superscript "4" and add superscript "47."

(e) Under field standards for cowpea and mung bean delete "1,000," "500," and "200" for the three classes, respectively, and insert in lieu thereof, "2,000," "1,000," and "500" for the three classes, respectively.

(f) Footnote 20 is reworded as follows:

[20] These distances apply when there is no border removal. Border removal applies only to fields of 5 acres or more. Removal of a 9-foot border (after flowering) decreases the required distance for Foundation, Registered and Certified seed to 600, 225, and 100 feet respectively, for cross-pollinated species, and to 30, 15, and 15 feet respectively for apomictic and self-pollinated species. Removal of a 15-foot border (after flowering) allows a further decrease to 450, 150, and 75 feet respectively, for cross-pollinated species.

(g) Footnote 40 is reworded as follows:

[40] Isolation between varieties shall be 100 feet if aerial seeded and 50 feet if ground broadcast.

Dated: July 25, 1977.

WILLIAM T. MANLEY,
*Acting Administrator.*

[FR Doc.77-21836 Filed 7-28-77;8:45 am]

### CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

#### SUBCHAPTER A—CHILD NUTRITION PROGRAMS

[Amdt. 2]

#### PART 226—CHILD CARE FOOD PROGRAM

**Elimination of Deadline for Obtaining Tax-Exempt Status**

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment removes the twelve month time period within which institutions not having tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1954 may participate in the Child Care Food Program in a "moving toward compliance" status. FNS has been made aware of specific situations in which participants have allegedly, through circumstances beyond their control, been unable to obtain tax-exempt status within the required period of time. This amendment is made for the purpose of allowing these participants to remain in the Program until an equitable method of dealing with their situation can be proposed.

EFFECTIVE DATE: July 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William G. Boling, Manager, Child Nutrition Programs, Food and Nutrition Service, USDA, Washington, D.C. 20250, 202–447–8130.

SUPPLEMENTARY INFORMATION: Section 17 of the National School Lunch Act, as amended, provides that an institution may be approved for participation in the Child Care Food Program if, under conditions established by the Secretary, it is moving toward compliance with the requirements for tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1954. Final regulations for the Child Care Food Program (7 CFR Part 226), effective July 1, 1976 (41 F.R. 26179, June 25, 1976), require that institutions may participate for a period of twelve months while "moving toward compliance." By this amendment to section 226.9(b), FNS is deleting the twelve month restriction and making the "moving toward" provision open ended for the present. FNS will issue proposed rulemaking in the near future which will require a reasonable amount of time within which tax-exempt status should be obtained but will recognize that there are possible situations in which this is not the case. In these latter situations, participants will be provided an opportunity to present evidence that circumstances beyond their control have prevented them from meeting the mandatory deadline.

This amendment is made without proposed rulemaking and a public participation procedure because FNS believes that such procedures could adversely affect some Program participants and that no participant or member of the public will be harmed by its issuance. Accordingly, FNS finds that public participation is impractical, unnecessary and contrary to the public interest.

Accordingly, § 226.9(b) is amended to read as follows:

**§ 226.9 General provisions.**

* * * * *

(b) In order to participate in the Program, child care centers and sponsoring organizations shall have tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1954, as amended, or be moving toward compliance with the requirements for tax-exempt status (i.e., have filed a letter or application with IRS) or be participating in another Federal program which requires nonprofit status. Institutions that are moving toward compliance with the requirements for tax-exempt status may receive reimbursement for meals served under this part until such time as IRS certification is denied. The nonprofit status of family and group day care homes may be based on the tax-exempt status of the sponsoring organization.

* * * * *

Dated: July 27, 1977.

SYDNEY J. BUTLER,
*Acting Assistant Secretary for Food and Consumer Services.*

[FR Doc.77-22080 Filed 7-28-77;8:45 am]

#### PART 226—CHILD CARE FOOD PROGRAM

**Appendix—Second Apportionment of Fiscal Year 1977 Child Care Nonfood Assistance Funds Pursuant to the National School Lunch Act**



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AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This action reapportions child care nonfood assistance funds released by States among those States requesting additional funds. The purpose of this action is to effect maximum utilization of such funds.

EFFECTIVE DATE: July 21, 1977.

FOR FURTHER INFORMATION:

William G. Boling, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–8130.

Pursuant to section 17 of the National School Lunch Act, as amended by Pub. L. 94–105, child care nonfood assistance funds available for the fiscal year ending September 30, 1977, are reapportioned among the States as follows:

| State: | Total reapportionment |
|---|---|
| Connecticut | 84,650 |
| Massachusetts | 11,589 |
| Rhode Island | 2,523 |
| Subtotal | 18,762 |
| Delaware | 1,335 |
| District of Columbia | 4,416 |
| New Jersey | 14,585 |
| New York | 49,214 |
| Virginia | 21,688 |
| West Virginia | 9,936 |
| Subtotal | 101,174 |
| Indiana | 8,349 |
| Louisiana | 23,582 |
| Oklahoma | 13,010 |
| Subtotal | 36,592 |
| Colorado | 7,250 |
| Iowa | 7,724 |
| Kansas | 7,328 |
| South Dakota | 5,123 |
| Wyoming | 1,809 |
| Subtotal | 29,234 |
| Alaska | 862 |
| Hawaii | 3,144 |
| Idaho | 1,258 |
| Trust Territory | 384 |
| Subtotal | 5,648 |
| Total | 199,759 |

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: July 21, 1977.

LEWIS B. STRAUS,
*Administrator.*

[FR Doc.77–21641 Filed 7–28–77;8:45 am]

[Amdt. No. 106]

## PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

### Food Stamp Program; Addendum to Appendices A–F

AGENCY: Food and Nutrition Service, USDA.

ACTION: Addendum to Appendices A–F.

SUMMARY: This document is for the purpose of adding a sentence at the end of the note on the Economic Impact Statement which appeared at pages 22357, and 26093–26007 in the FEDERAL REGISTERS of May 3, and May 20, 1977. This action is taken because through inadvertence, the Economic Impact Statement had not received final approval as of the date of issuance of these final rules.

EFFECTIVE DATE: July 26, 1977.

SUPPLEMENTARY INFORMATION: On May 3, 1977, (42 FR 22356–57), the Department published a final rule revising the maximum eligibility standards and basis of coupon issuance for the 48 States and the District of Columbia, effective July 1, 1977. Similar amendments were published on May 20, 1977, (42 FR 26002–26007), for Alaska, Hawaii, Puerto Rico, the Virgin Islands and Guam.

Because all of these amendments were inadvertently published before the Economic Impact Statement was approved, the following sentence should be added at the end of the note regarding the Economic Impact Statement on each of the listed Appendices: "This Economic Impact Statement was approved on May 27, 1977. The Appendices are: Appendix A, FSP Notice No. 1977–1.2; Amendment 105; Appendix B, FSP Notice No. 1977–2.2, Amendment 107; Appendix C, FSP Notice No. 1977–3.2, Amendment 108; Appendix D, FSP Notice No. 1977–4.2, Amendment 109; Appendix E, FSP Notice No. 1977–5.2, Amendment 110; and Appendix F, FSP Notice No. 1977–6.2, Amendment 111.

FOR FURTHER INFORMATION CONTACT:

Grant Tolley, Chief, Program Development Branch, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (447–8325).

Dated: July 22, 1977.

CAROL TUCKER FOREMAN,
*Assistant Secretary.*

[FR Doc.77–21554 Filed 7–28–77;8:45 am]

### Title 15—Commerce and Foreign Trade

### CHAPTER VIII—BUREAU OF ECONOMIC ANALYSIS, DEPARTMENT OF COMMERCE

## PART 807—PUBLIC INFORMATION

### Public Reference Facility

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: As a result of economy measures undertaken by the Department of Commerce, the Bureau of Economic Analysis was required to discontinue its use of the Department of Commerce Freedom of Information Public Reference Facility and to establish a facility of its own. The Public Reference Facility of the Bureau of Economic Analysis has been operating consistently within the Freedom of Information rules of the Department of Commerce (See 15 CFR Part 4—Public Information); therefore, it has been determined to adopt the Department of Commerce Public Information Regulations insofar as they apply to the Bureau of Economic Analysis. Because this is an adoption of existing rules, no period for comment is provided.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Harry J. Hurrle, Bureau of Economic Analysis, Room 705–A, 1401 K Street NW., Washington, D.C. (202–523–0893).

In consideration of the above, Part 807 of Title 15, Code of Federal Regulations, is established as set forth below.

Sec.
807.1 Public Reference Facility.
807.2 Department of Commerce rules applicable.

AUTHORITY: 5 U.S.C. 552 as amended by Pub. L. 93–502; 5 U.S.C. 553; 5 U.S.C. 301; Reorganization Plan No. 5 of 1950; and 15 CFR Part 4 of Subtitle A.

### § 807.1 Public Reference Facility.

The Public Reference Facility of the Bureau of Economic Analysis is located in Room B7 of the Tower Building, 1401 K Street NW., Washington, D.C. 20230. The telephone number is 202–523–0595. The facility is open to the public from 8:30 a.m. to 5 p.m., Monday through Friday, except legal holidays.

### § 807.2 Department of Commerce rules applicable.

The rules applicable to the services provided in the facility and procedures to be followed for public inspection and copying of materials are found in Part 4 of Subtitle A of Title 15 CFR.

Effective date: July 29, 1977.

Approved: July 12, 1977.

ALLAN H. YOUNG,
*Deputy Director,*
*Bureau of Economic Analysis.*

[FR Doc.77–21927 Filed 7–28–77;8:45 am]





### Title 7—Agriculture

### CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 103]

## PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

### Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period July 31–August 6, 1977. This regulation is needed to provide for orderly marketing of fresh lemons for the regulation period because of the production and marketing situation confronting the lemon industry.

EFFECTIVE DATE: July 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Market Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such lemons, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the specified week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation for the quantity of lemons it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for lemons is similar to last week, with size 140's and smaller strong. Average f.o.b. price was $6.82 per carton the week ended July 23, 1977, compared to $6.44 per carton the previous week. Track and rolling supplies at 250 cars were up 35 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons upon which this regulation is based should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for lemons and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of lemons. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on July 26, 1977.

### § 910.403 Lemon Regulation 103.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period July 31, 1977, through August 6, 1977, is established at 300,000 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: July 28, 1977.

FLOYD F. HEDLUND,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77–22115 Filed 7–28–77;11:38 am]

[Peach Reg. 17]

## PART 919—PEACHES GROWN IN MESA COUNTY, COLORADO

### Regulation by Grade and Size

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade and size requirements for shipments of fresh peaches from Mesa County, Colorado during the 1977 season. These requirements are needed to provide for orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202–447–3545).

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 919, as amended (7 CFR Part 919), regulating the handling of peaches grown in the county of Mesa in the State of Colorado, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that this regulation will tend to effectuate the declared policy of the act.

(2) This regulation is based on the Department's appraisal of the crop and current and prospective market conditions for Colorado peaches. These grade and size requirements are necessary to prevent the handling, on and after August 1, 1977, of any peaches which do not comply with the requirements, so as to provide good quality fruit in the interest of producers and consumers pursuant to the declared policy of the act.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted for preparation for the effective time, and good cause exists for making the regulation effective as specified. The committee held an open meeting July 11, 1977, after giving due notice, to consider supply and market conditions for peaches and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of peaches. Shipments of peaches are expected to begin August 1, 1977, and this regulation should apply to all shipments of peaches in order to effectuate the declared policy of the act. Compliance with this regulation will not require of handlers any preparation which cannot be completed by August 1, 1977. It is necessary to make this regulation effective as specified, to effectuate the declared policy of the act.



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**§ 919.318 Peach Regulation 17.**

*Order.* (a) During the period August 1, 1977, through September 30, 1977, no handler shall ship:

(1) Any peaches of any variety which do not grade at least U.S. No. 1;

(2) Any peaches of any variety which are of a size smaller than 2⅛ inches in diameter: *Provided,* That any lot of peaches shall be deemed to be of a size not smaller than 2⅛ inches in diameter if (i) not more than 10 percent, by count, of such peaches in such lot are smaller than 2⅛ inches in diameter, and (ii) not more than 15 percent, by count, of the peaches contained in any individual container in such lot are smaller than 2⅛ inches in diameter.

(b) *Definitions.* When used herein, the terms "peaches", "handler", "ship", and "variety' shall have the same meaning as when used in the amended marketing agreement and order, and "U.S. No. 1", "diameter", and "count" shall have the same meaning as when used in the United States Standards for Peaches (7 CFR 51.1210–51.1223).

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated: July 26, 1977.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77–21929 Filed 7–28–77;8:45 am]

## PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

### Washington Cherry Marketing Committee Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $29,424 and a rate of assessment of $0.60 per ton of cherries handled for the functioning of the Washington Cherry Marketing Committee for the 1977–78 fiscal period. The committee is established under a Federal marketing order program regulating the handling of sweet cherries grown in designated counties in Washington. The regulation will enable the committee to collect assessments from first handlers on all assessable cherries handled and to use the resulting funds for its expenses.

DATES: Effective for the period April 1, 1977, through March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: On June 23, 1977, notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 31797), and a correction with respect to the date by which written comments must be received was published on July 7, 1977 (42 FR 34887), regarding proposed expenses and rate of assessment, under the marketing agreement, as amended, and Order No. 923, as amended (7 CFR Part 923), regulating the handling of cherries grown in designated counties in Washington. The notice, as corrected, allowed interested persons until July 22, 1977, to submit written comments pertaining to these proposals. None were submitted. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

After consideration of all relevant matter presented, including the proposals set forth in the notice, which were submitted by the Washington Cherry Marketing Committee, (established under the marketing agreement and order), it is found and determined that:

**§ 923.217 Expenses and rate of assessment.**

(a) *Expenses:* Expenses that are reasonable and likely to be incurred by the Washington Cherry Marketing Committee during the period April 1, 1977, through March 31, 1978, will amount to $29,424.

(b) *Rate of Assessment:* The rate of assessment for said period, payable by each first handler in accordance with § 923.41, is fixed at $0.60 per ton of sweet cherries handled.

(c) *Reserve:* Unexpended assessment funds in excess of expenses incurred during the fiscal period ended March 31, 1977, are hereby carried over as a reserve in accordance with § 923.42.

(d) *Terms:* Terms used in this section shall have the same meaning as when used in the amended marketing agreement and order.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the current crop of sweet cherries grown in the designated counties in Washington are now underway; (2) provisions of the marketing agreement and this part require that the rate of assessment shall apply to all assessable cherries handled during the fiscal period; and (3) the fiscal period began April 1, 1977, and the rate of assessment will automatically apply to all cherries handled during the period.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated: July 25, 1977.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77–21835 Filed 7–28–77;8:45 am]

[Prune Reg. 15]

## PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON

### Limitation of Shipments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation prescribes minimum grade and size requirements for shipment of Washington-Oregon fresh prunes during the 1977 season. It is consistent with the quality and size composition of the estimated crop of Washington-Oregon prunes, and is designed to promote orderly marketing conditions in the interest of producers and consumers.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: *Findings.* (1) On June 28, 1977, notice of proposed rule making was published in the FEDERAL REGISTER (42 FR 32802), regarding a proposed regulation to be made effective pursuant to the marketing agreement and Order No. 924, as amended (7 CFR Part 924), regulating the handling of prunes grown in designated counties in Washington and in Umatilla County, Oregon. This notice allowed interested persons until July 12, 1977, to file written data, views, or arguments pertaining thereto. None were submitted. The proposed regulation was recommended by the Washington-Oregon Fresh Prune Marketing Committee established pursuant to the said amended marketing agreement and order. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

(2) This regulation is based upon an appraisal of the crop and current and prospective market conditions. Fresh shipments of Washington-Oregon Prunes are expected to start on or about August 1, 1977, and total 19,500 tons, compared with 24,471 tons last season. The regulation is designed to prevent the handling of low quality and small size prunes which do not provide consumer satisfaction and to promote orderly marketing in the interest of producers and consumers consistent with the objectives of the act.

(3) The provision which excepts the Brooks variety of prunes from the requirements of this regulation recognizes the fact that prunes of this variety are primarily consumed locally, that they do not withstand shipment well, and the amount of prunes of this variety produced is insignificant compared to the total supply. Individual shipments, not exceeding 500 pounds of the Stanley or Merton varieties of prunes, subject to necessary safeguards, are excepted from these requirements because the production of these varieties is relatively small and those few which are produced are primarily consumed locally or are sold for home use and not for resale. Individual shipments, not exceeding 150 pounds, of any variety other than Stanley or Merton varieties of prunes sold for home use and not resale, subject to necessary safeguards, are excepted from these requirements in that the quantity of prunes so handled is relatively inconsequential when compared with the total quantity handled, and because it would be administratively impracticable to regulate the handling of such shipments due to the nearness of the source of supply.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Washington-Oregon Fresh Prune Marketing Committee, and other available information, it is hereby found and determined that the regulation as hereinafter set forth, is in accordance with the provisions of the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

(4) It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rule making concerning this regulation, with an effective date as hereinafter specified, was published in the FEDERAL REGISTER (42 FR 32802), and no objection to this regulation or such effective date was received; (2) compliance with the regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; and (3) shipments of the current crop of such prunes are expected to begin on or about the effective date hereof and this regulation should be applicable insofar as practicable, to all shipments of such prunes in order to effectuate the declared policy of the act. Therefore, a new § 924.315 is added which reads as follows:

**§ 924.315 Prune Regulation 15.**

(a) Prune Regulation 14 (41 FR 30585) is hereby terminated on August 1, 1977.

(b) During the period August 1, 1977, through August 31, 1978, no handler shall handle any lot of prunes, except prunes of the Brooks variety, unless:

(1) Such prunes grade U.S. No. 1, except that only two-thirds of the surface of the prune is required to be purplish color; and such prunes measure not less than 1¼ inches in diameter as measured by a rigid ring: *Provided,* That the following tolerances, by count, of the prunes in any lot shall apply in lieu of the tolerance for defects provided in the United States Standards for Grades of Fresh Plums and Prunes: A total of not more than 15 percent for defects, including therein not more than the following percentage for the defects listed:

(i) 10 percent for prunes which fail to meet the color requirement;

(ii) 10 percent for prunes which fail to meet the minimum diameter requirement;

(iii) 10 percent for prunes which fail to meet the remaining requirements of the grade; *Provided,* That not more than one-half of this amount, or 5 percent, shall be allowed for defects causing serious damage, including in the latter amount not more than 1 percent for decay; or

(2) Such prunes are handled in accordance with paragraph (c) of this section.

(c) Notwithstanding any other provision of this regulation, any individual shipment which, in the aggregate, does not exceed 500 pounds net weight of prunes of the Stanley or Merton varieties or 150 pounds net weight of prunes of any variety other than Stanley or Merton which meets each of the following requirements may be handled without regard to the provisions of paragraph (b) of this section and of §§ 924.41 and 924.55:

(1) The shipment consists of prunes sold for home use and not for resale, and

(2) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(d) The term "U.S. No. 1" shall have the same meaning as when used in the United States Standards for Fresh Plums and Prunes (7 CFR 51.1520–51.1538); the term "purplish color" shall have the same meaning as when used in the Washington State Department of Agriculture Standards for Italian Prunes (June 5, 1972) and in the Oregon State Department of Agriculture Standards for Italian Prunes (July 15, 1972); the term "diameter" means the greatest dimension measured at right angles to a line from the stem to blossom end of the fruit; and, except as otherwise specified, all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: July 25, 1977.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77–21933 Filed 7–28–77;8:45 am]

## PART 930—CHERRIES GROWN IN MICHIGAN, NEW YORK, WISCONSIN, PENNSYLVANIA, OHIO, VIRGINIA, WEST VIRGINIA AND MARYLAND

### Cherry Administrative Board Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $88,900 and a rate of assessment of $1.00 per ton of cherries handled for the functioning of the Cherry Administrative Board for the 1977–78 fiscal period. The committee is established under a Federal marketing order program regulating the handling of cherries grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland. The regulation will enable the committee to collect assessments from first handlers on all assessable cherries handled and to use the resulting funds for its expenses.

DATES: Effective for the period May 1, 1977, through April 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: On July 7, 1977, notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 34887) regarding proposed expenses and rate of assessment, under the marketing Order No. 930 (7 CFR Part 930) regulating the handling of cherries grown in 8 designated states. This notice allowed interested persons to submit written comments pertaining to these proposals until July 22, 1977. None were submitted. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

After consideration of all relevant matter presented, including the proposals set forth in the notice, which were submitted by the Cherry Administrative Board (established under the marketing order), it is found and determined that:

**§ 930.207 Expenses and rate of assessment.**

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Cherry Administrative Board during the fiscal period May 1, 1977, through April 30, 1978, will amount to $88,900.

(b) *Rate of Assessment.* The rate of assessment for the fiscal period payable by each handler in accordance with § 930.41 is fixed at $1.00 per ton of cherries handled.

(c) *Terms.* Terms used in this section shall have the same meaning as when used in the marketing order, and "ton of cherries" shall mean 2,000 pounds of raw unpitted cherries.

It is further found that good cause exists for not postponing the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) handling of the current crop of cherries grown in the production area is now underway; (2) provisions of the marketing order require that the rate of assessment shall apply to all assessable cherries handled during the fiscal period; and (3) the fiscal period began





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May 1, 1977, and the rate of assessment will automatically apply to all cherries handled during the period.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: July 25, 1977.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77-21934 Filed 7-28-77;8:45 am]

[Bartlett Pear Reg. 12]

## PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

### Minimum Grade, Size and Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade, size and container requirements for fresh shipments of Bartlett pears grown in Oregon (except the Medford District) and Washington during the period August 1 through September 15, 1977. This action is necessary to assure that the pears shipped will be of suitable quality and size in the interest of consumers and producers. Several containers and packs are authorized to reflect trade preferences and needs.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-3545.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued pursuant to the applicable provisions of the marketing agreement and Order No. 931 (7 CFR Part 931) regulating the handling of fresh Bartlett pears grown in Oregon and Washington. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The regulation was recommended by the Northwest Fresh Bartlett Pear Marketing Committee established under the said marketing agreement and order. It is hereby found that the regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

This action reflects the Department's appraisal of the crop and the need for regulation based on current and prospective market conditions. Committee reports indicate that fresh shipments of Washington-Oregon Bartlett pears from the 1977 crop will total about 2.4 million standard box equivalents compared to 1.9 million standard box equivalents in 1976. The regulation, as hereinafter set forth, is designed to prevent the handling during the aforesaid period of lower quality and smaller size Bartlett pears so as to provide good quality fruit in the interest of producers and consumers consistent with the objectives of the act.

The regulation provides appropriate requirements applicable to Bartlett pears affected by hail and frost damage and the exclusion from regulation of pears produced in the Medford District due to the severity of such damage in that district. The provisions which provide for less stringent regulations for certain containers recognize the fact that (1) pears packed in the "western lug" are sold primarily to markets in the Northwestern states mostly for home canning, and (2) pears packed in "14 to 15 pound containers" are sold primarily in markets in the Midwestern states mostly for home canning. Conversely, the application of more stringent regulations for pears packed in the "standard western pear box", the "L. A. lug", or their carton equivalents, the half-carton, the master container containing overwrapped consumer packages of pears, or in "tight-filled" containers recognizes the fact that pears packed in these containers are primarily sold in supermarkets throughout the country for fresh consumotion to be eaten out of hand. The special inspection requirement for minimum quantities, which exemots shipments up to an equivalent of 200 "standard western pear boxes" on any single conveyance from inspection requirements, except for spot check inspection, if certain reporting requirements are met, reflects the fact that such minimum quantity shipments are often shipped on the same conveyance as apples; that mandatory inspection of such minimum quantities would be unduly expensive and in some instances difficult to obtain; and that the total of such shipments is relatively inconsequential when compared with the total supply handled. The exemption of pears in gift packages from assessment, inspection, and certification reflects the fact that pears so handled are generally of high quality because they are sold in a market which demands high quality fruit. The exemption for individual shipments of 500 pounds or less of Bartlett pears sold for home use and not for resale and for pears in gift packages follows the custom and pattern of prior years. The quantity of pears so handled is relatively inconsequential when compared with the total quantity handled, and it would be administratively impracticable to regulate the handling of such shipments due to the nearness of markets to the source of supply.

It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than August 1, 1977. The committee held an open meeting on July 8, 1977, after giving due notice thereof, to consider supply and market conditions for fresh Bartlett pears grown in Oregon and Washington, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting; the provisions of this regulation are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such pears. Shipments of Bartlett pears of the current crop are expected to begin on or about the effective date hereof, and this regulation should be applicable, insofar as practicable, to shipments of such Bartlett pears during the effective period hereof in order to effectuate the declared policy of the act; and compliance with this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

Therefore, a new § 931.312 is added which reads as follows:

**§ 931.312 Bartlett Pear Regulation 12.**

(a) During the period August 1, 1977, through September 15, 1977, no handler shall handle any lot of Bartlett pears, except Bartlett pears grown in the Medford District, unless such pears meet the following applicable requirements or are handled in accordance with subparagraph (4) or (5) of this paragraph:

(1) *Minimum Grade and Size.* (i) Bartlett pears of varieties other than Red Bartletts, when packed in the standard western pear box, the "L.A. lug", or their carton equivalents, in halfcartons (containers with inside dimensions of 19¼ x 11½ x 5½ inches), in master containers containing overwrapped consumer packages of pears, or in "tight-filled" containers shall be of a size not smaller than 165 size and shall grade at least U.S. No. 1: *Provided*, That Bartlett pears of such varieties may be handled in such containers if they grade at least U.S. No. 2 and are of a size not smaller than 150 size. Red Bartlett variety pears, when packed in any of the containers specified in this subdivision, shall be of a size not smaller than 180 size and shall grade at least U.S. No. 1: *Provided*, That pears of such variety may be handled in such containers if they grade at least U.S. No. 2 and are of a size not smaller than 165 size;

(ii) Bartlett pears of any variety, when packed in the "western lug", shall grade at least U.S. No. 2 and be not less than 2¼ inches in diameter: *Provided*, That such pears of any variety which fail to meet the requirements of U.S. No. 2 grade only because of serious, but not very serious, damage caused by hail marks and/or frost may be shipped if





the shape of the pear is such that it will cut at least one good half; and

(iii) Bartlett pears of any variety, when packed in containers containing at least 14 pounds but not more than 15 pounds net weight, shall grade at least U.S. No. 2 grade and measure not less than 2⅛ inches in diameter: *Provided*, That such pears may be handled in such containers if they meet the minimum requirements of Washington C Grade and are not less than 2⅜ inches in diameter.

(2) *Pack or Container Requirements.* Bartlett pears of any variety shall be packed in one of the following types of containers:

(i) "Standard western pear box" or "L.A. lug" or their carton equivalents;

(ii) "Western lug" or containers having a capacity equal to or greater than said lug;

(iii) "Half-carton" containers;

(iv) Containers of at least 14 pounds but not more than 15 pounds net weight:

(v) "Tight-filled" containers; or

(vi) Master containers containing overwrapped consumer packages.

(3) *Special inspection requirements for minimum quantities.* During the aforesaid period any handler may ship on any conveyance up to, but not in excess of, an amount equivalent to 200 "standard western pear boxes" of pears without regard to the inspection requirements of § 931.55 under the following conditions: (i) Each handler desiring to make shipment of pears pursuant to this subparagraph shall first apply to the committee on forms furnished by the committee for permission to make such shipments. The application form shall provide a certification by the shipper that all shipments made thereunder during the marketing season shall meet the marketing order requirements, that he agrees such shipments shall be subject to spot check inspection, and that he agrees to report such shipments at time of shipment to the committee on forms furnished by the committee, showing the car or truck number and destination; and (ii) on the basis of such individual reports, the committee shall require spot check inspection of such shipments.

(4) *Special purpose shipments.* Notwithstanding any other provision of this section, any shipment of pears in gift packages may be handled without regard to the provisions of this paragraph and of §§ 931.41 and 931.55.

(5) Notwithstanding any other provision of this section, any individual shipment of pears which meets each of the following requirements may be handled without regard to the provisions of this paragraph and of §§ 931.41 and 931.55:

(i) The shipment consists of pears sold for home use and not for resale;

(ii) The shipment does not, in the aggregate, exceed 500 pounds net weight of pears; and

(iii) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(b) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; "U.S. No. 1", "U.S. No. 2", and "size" shall have the same meaning as when used in the United States Standards for Summer and Fall Pears (7 CFR 51.1260-51.1280); "150 size", "165 size", and "180 size" shall mean that the pears are of a size which pack, in accordance with the sizing and packing specifications of a standard pack, as specified in said United States Standards, 150, 165, or 180 pears, as the case may be, in a standard western pear box (inside dimensions 18 inches by 11½ by 8½ inches); the term "tight-filled" shall mean that the pears in any container shall have been well settled by vibration according to approved and recognized methods; the term "master container" shall mean those containers containing overwrapped consumer packages of pears; the term "very serious damage" shall mean any injury or defect which very seriously affects the appearance or the edible or shipping quality of the pears, "Washington C Grade" shall have the same meaning as when used in the State of Washington Department of Agriculture Permanent Order 103 (Effective November 10, 1966); the term "Western lug" shall mean a container with inside dimensions of 18 by 11½ by 7 inches and the term "L.A. lug" shall mean a container with inside dimensions of 16⅛ by 13½ by 5¾ inches.

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674).)

Dated: July 25, 1977, to become effective August 1, 1977.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77-21834 Filed 7-28-77;8:45 am]

## PART 948—IRISH POTATOES GROWN IN COLORADO

### Area No. 3; Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $2,389 and establishes a rate of assessment of one-half cent per hundredweight on potatoes for the functioning of the Colorado Area No. 3 Potato Committee for the 1977-78 fiscal period. The regulation enables the committee to collect assessments from first handlers on all assessable potatoes handled and to use the resulting funds for its expenses.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 97 and Order No. 948, both as amended, regulate the handling of potatoes grown in designated counties of Colorado. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Area No. 3 Committee, established under the order, is responsible for its local administration in Area 3, consisting of certain counties in Northern Colorado.

Notice was published in the July 7 FEDERAL REGISTER (42 FR 34889) inviting written comments by July 22, 1977. None was filed.

*Findings:* After consideration of all relevant matters, including the proposals in the notice, it is found that the following expenses and rate of assessment should be approved.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because this part requires that the rate of assessment for a particular fiscal period shall apply to all assessable potatoes from the beginning of such period.

The regulation is as follows:

**§ 948.277 Expenses and rate of assessment.**

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending June 30, 1978, by the Area No. 3 Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate will amount to $2,389.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be one-half cent ($0.005) per hundredweight or equivalent quantity of assessable potatoes handled by him as the first handler during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 948.78.

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: July 26, 1977.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77-21930 Filed 7-28-77;8:45 am]

## CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 30; Docket No. AO-361-A17]

## PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

### Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final order amends the Chicago Regional Federal milk order by revising performance standards for



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pool plants and the rates used to adjust milk prices for different plant locations. It is based on proposals considered at a public hearing in June 1976. The amended order will aid the efficient handling of milk and reflect recent increases in hauling costs.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Services, United States Department of Agriculture, Washington, D.C. 20240, 202-447-6273.

SUPPLEMENTAL INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued May 25, 1976; published May 28, 1976 (41 FR 21787).

Notice of Recommended Decision. Issued May 26, 1977; published June 1, 1977 (42 FR 27921).

Final Decision. Issued July 15, 1977; published July 20, 1977 (42 FR 37388).

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Chicago Regional marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1977. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Acting Administrator, was issued June 1, 1977, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued July 15, 1977. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1977, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559)

(c) *Determinations.* It is hereby determined that: (1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

*It is therefore ordered*, That on and after the effective data hereof, the handling of milk in the Chicago Regional marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. Section 1030.4 is revised to read as follows:

**§ 1030.4 Plant.**

"Plant" means a building together with its facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment: (a) that has facilities adequate for cleaning tank trucks, is approved by an appropriate health authority, and at which milk moved from the farm is transferred and commingled in another tank truck with other milk and is transshipped in such other tank truck to another plant, (b) At which milk is received from dairy farmers, or (c) At which milk is processed and packaged or manufactured.

2. Section 1030.7 is revised to read as follows:

**§ 1030.7 Pool plant.**

Except as provided in paragraph (e) of this section, "pool plant" means:

(a) A distributing plant or unit described in paragraph (a)(4) of this section from which during the month the disposition of fluid milk products specified in paragraph (a)(2) of this section is not less than 10 percent of the receipts specified in paragraph (a)(1) of this section and from which the disposition of fluid milk products specified in paragraph (a)(3) of this section as a percent of the receipts specified in paragraph (a)(1) of this section is not less than 45 percent in each of the months of September, October, November, and December, 35 percent in each of the months of January, February, March, and August, and 30 percent in all other months.

(1) The total Grade A fluid milk products, except filled milk, received during the month at such plant, including producer milk diverted to nonpool plants and to pool supply plants pursuant to § 1030.13, but excluding producer milk diverted to other pool distributing plants, receipts of fluid milk products in exempt milk, packaged fluid milk products and bulk fluid milk products by agreement for Class II and Class III uses from other pool distributing plants, and receipts from other order plants and unregulated supply plants which are assigned pursuant to § 1030.44(a)(8)(i)(*a*) and (ii) and the corresponding step of § 1030.44(b).

(2) Packaged fluid milk products, except filled milk, disposed of as either route disposition in the marketing area or moved to other plants from which it is disposed of as route disposition in the marketing area. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants.

(3) Packaged fluid milk products, except filled milk, disposed of as either route disposition or moved to other plants. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants.

(4) A unit consisting of at least one distributing plant and one or more additional plants of a handler at which milk is processed and packaged or manufactured shall be considered as one plant for the purpose of meeting the requirements of this paragraph if all such plants are located within the State of Wisconsin or that portion of the marketing area within the State of Illinois, and if, prior to the first day of the month, the handler operating such plants has filed a written request for such plants to be considered a unit with the market administrator.

(b) A supply plant or unit of supply plants described in paragraph (b)(6) of this section from which the quantity of fluid milk products (except filled milk) and condensed skim milk shipped or transhipped and physically unloaded into plants described in paragraph (b)(2) as a percent of the Grade A milk received at the plant(s) from dairy farmers (except dairy farmers described in § 1030.12(b)) and handlers described in § 1030.9(c), including producer milk diverted pursuant to § 1030.13 but excluding packaged fluid milk products that are disposed of from such plant(s) as route disposition, is not less than 30 percent for September, 35 percent for each of the months of October and November, 25 percent for December, and 20 percent for all other months, subject to the following additional conditions:

(1) A plant that was a pool plant pursuant to this paragraph during each of the months of September through March (or during six such months and was an other order plant during one such month) shall be a pool plant for each of the following months of April through August unless written application is filed with the market administrator by the plant operator on or before the first day of any such month (April-August) requesting the plant be designated a nonpool plant for such month and any subsequent month through August: *Provided*, The plant does not otherwise qualify as a pool plant.

(2) Qualifying shipments pursuant to this paragraph may be made to the following plants:

(i) Pool plants described in paragraph (a) of this section;

(ii) Plants of producer-handlers;

(iii) Partially regulated distributing plants, except that credit for such shipments shall be limited to the amount of such milk which receives a Class I classification at the transferee plant; and

(iv) Distributing plants fully regulated under other Federal orders, except that credit for shipments to such plants shall be limited to the quantity of milk shipped to pool distributing plants during the month. Shipments to other order plants may not be made on the basis of agreed-upon Class II or Class III utilization.

(3) The operator of a supply plant may include as qualifying shipments deliveries to pool distributing plants directly from farms of producers pursuant to § 1030.13(d).

(4) The quantity of condensed skim milk and fluid milk products moved (including milk diverted) from supply plants to each pool plant described in paragraphs (a) or (d) of this section that shall count towards meeting the shipping requirements of this paragraph shall be a net quantity assignable at each such pool plant pro rata to supply plants in accordance with total receipts from such plants. The net quantity shall be computed by subtracting from the quantity of fluid milk products and condensed skim milk received from supply plants the following:

(i) The quantity of condensed skim milk not disposed of in a fluid milk product and the quantity of fluid milk products in the form of bulk milk and skim milk moved from the pool distributing plant to pool supply plants plus any such bulk shipments to nonpool plants as Class II or Class III milk, other than:

(*a*) Transfers or diversions classified pursuant to § 1030.40(b)(3); and

(*b*) Transfers or diversions on New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving, Christmas, and on any Saturday if no milk is received at the pool distributing plant from a supply plant, in an amount not in excess of 120 percent of the average daily receipts of producer milk pursuant to § 1030.13(a) at the plant during the prior month, less the quantity of producer milk diverted pursuant to § 1030.13(d) on such day. If no producer milk was received in the distributing plant during the prior month, the average daily receipts during the current month shall be used for this purpose; and

(ii) If milk is diverted from the pool distributing plant on the date of the receipts from the supply plant, the the quantity so diverted, except any diversion of milk (not to exceed 3 days' production of any individual producer) made because of any emergency situation such as a breakdown of trucking equipment or hazardous road conditions if such emergency is reported to the market administrator.

(5) The shipping requirements of this paragraph applicable during the months of September through March and the diversion allowances specified in § 1030.13(d)(3) applicable during the same months may be increased or decreased by up to 10 percentage points by the Director of the Dairy Division if he finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding, the Director shall investigate the need for revision either on his own initiative or at the request of interested persons and if his investigation shows that a revision might be appropriate he shall issue a notice stating that revision is being considered and inviting data, views, and arguments. If a plant which would not otherwise qualify as a pool plant during the month does qualify as a pool plant because of a reduction in shipping requirements pursuant to this paragraph, such plant shall be a nonpool plant for such month if the operator of the plant files a written request for nonpool status with the market administrator.

(6) Two or more plants shall be considered a unit for the purpose of meeting the requirements of this paragraph if the following conditions are met:

(i) The plants are located within the State of Wisconsin or within that portion of the State of Illinois within the marketing area;

(ii) The plants included in the unit are owned or fully leased and operated by the handler establishing the unit and such plants were pool plants during the month prior to being included in a unit. In the case of plants operated by cooperative associations, two or more cooperative associations may establish a unit of designated plants by filing with the market administrator a written contractual agreement obligating each plant of the unit to ship milk as directed by such cooperatives; and

(iii) The handler or cooperatives establishing the unit submits a written request to the market administrator prior to the first day of September requesting that such plants qualify as a unit for the period September through August of the following year. The request shall list the plants in the sequence in which they shall be excluded from the unit if the minimum performance standards are not met. If the entire unit does not meet the minimum performance for the month, the handler or cooperatives establishing the unit may specify which plant or plants shall be excluded from the unit until the minimum performance standards are met. If a handler or cooperative declines to identify the plants to be excluded, then the market administrator shall exclude the plant first on the list followed by the plant second on the list, and continuing in this sequence until the remaining plants on the list have met the minimum performance standards. Each plant that qualifies as a pool plant within a unit shall continue each month as a plant in the unit through the following August unless the plant fails subsequently to qualify for pooling or the handler (or cooperative associations) establishing the unit submits a written request to the market administrator that the plant be deleted from the unit or that the unit be discontinued. Any plant that has been so deleted from the unit, or that has failed to qualify in any month, will not be part of the unit for the remaining months through August. No plant may be added in any subsequent month through the following August to a unit that qualifies in September.

(c) A plant which is operated by a cooperative association and which is not a pool plant pursuant to paragraph (a), (b), or (d) of this section shall be a pool plant if at least 50 percent of the Grade A milk of producer members of such cooperative association is received at pool plants of other handlers described in paragraph (a) of this section during the month and written application for pool plant status is filed with the market administrator on or before the first day of such month.

(d) Any plant other than a supply plant pooled in a unit that qualifies as a pool plant in each of the immediately preceding three months pursuant to paragraph (a) of this section or the shipping percentages in paragraphs (b) or (c) of this section that is unable to meet such performance standards because of unavoidable circumstances determined by the market administrator to be beyond the control of the handler operating the plant, such as a natural disaster (ice storm, wind storm, flood), fire, breakdown of equipment, or work stoppage, shall be considered to have met the minimum performance standards during the period of such unavoidable circumstances, but such relief shall not be granted for more than 2 consecutive months.

(e) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant or exempt distributing plant;







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(2) A plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless it is qualified as a pool plant pursuant to paragraph (a), (b), (c) or (d) of this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area as route disposition and to pool plants qualified on the basis of route disposition in this marketing area than is so disposed of in the marketing area regulated pursuant to such other order; and

(3) That portion of a plant that is physically separated from the Grade A portion of such plant, and is not approved by any regulatory agency for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

**§ 1030.9 [Amended]**

3. In § 1030.9, paragraph (h) is revoked, the word "or" is added after the semicolon at the end of paragraph (f), and the semicolon and word "or" at the end of paragraph (g) are replaced with a period.

3a. In § 1030.12 paragraph (b)(5) is revised to read as follows:

**§ 1030.12 Producer.**

* * * * *

(b) * * *

(5) A dairy farmer with respect to milk produced by him that is received at a handler's pool plant during the months of January through July if any milk from the same farm operated by such dairy farmer was a receipt of producer milk in any "payback" month during the preceding year under another order that provided for a seasonal incentive payment plan whereby funds previously withheld in the computation of the uniform price to producers were paid back to producers through the uniform price computation in subsequent months of the year.

4. Section 1030.13 is revised to read as follows:

**§ 1030.13 Producer milk.**

"Producer milk" means the skim milk and butterfat in milk of a producer that is:

(a) Received at a pool plant directly from producers by being physically unloaded into processing facilities, a storage tank, or, in the case of a reload facility, another tank truck, as further provided below:

(1) Any shrinkage of milk received from producers' farms which was not unloaded in a pool plant shall also be producer milk under this paragraph; and;

(2) In the event that part of a load of milk is first received at another plant(s) and the remaining part is then unloaded in the pool plant, the quantity of milk so received at each such plant shall be prorated over the total quantity of milk picked up at each producer's farm.

(b) Received at a pool plant from a handler described in § 1030.9(c).

(c) Received by a handler described in § 1030.9(c) to the extent of the shrinkage of skim milk and butterfat received from producers' farms which was not received in a pool plant pursuant to paragraph (b) of this section. In applying §§ 1030.52 and 1030.75, such skim milk and butterfat shall be deemed to have been received at the location of the pool plant to which delivery is normally made.

(d) Diverted by the operator of a pool plant, or by a handler described in § 1030.9(b), to another pool plant or to a nonpool plant (that is not a producer-handler plant), subject to the following conditions:

(1) Milk from a dairy farmer shall not be eligible for diversion unless during the period of September through March at least one day's production is physically received during the month at the pool plant from which diverted;

(2) Milk from a dairy farmer who was not a producer during the previous month shall not be eligible for diversion until at least one day's production is received at the pool plant from which diverted;

(3) Milk diverted to a nonpool plant(s) for the account of the operator of a pool plant, or a handler described in § 1030.9(b), may not exceed 65 percent during the months of September, October and November, and 80 percent during the months of December through March, of the total quantity of producer milk for which it is the handler (or, in the case of a cooperative, the producer milk that the cooperative association causes to be delivered to or diverted from pool plants) subject to temporary revision of the specified percentages pursuant to § 1030.7(b)(5);

(4) The quantity of each producer's milk to be considered as diverted milk when a portion of a tank load of milk, picked up at the farms of two or more producers, is unloaded at another plant, shall be determined by prorating the total quantity unloaded at such other plant over the total quantity of milk picked up at each producer's farm;

(5) To the extent that milk diverted by a cooperative association as a handler described in § 1030.9(b) during any month would result in a plant failing to qualify as a pool plant under § 1030.7, such diverted milk shall not be producer milk;

(6) Any milk diverted in excess of the limits prescribed in paragraph (d)(2) of this section shall not be producer milk. The diverting handler may designate the dairy farmers whose diverted milk will not be producer milk. Otherwise the milk last diverted—in lots of an entire day's production—shall be excluded first in determining which dairy farmer's milk should not be producer milk; and

(7) Diverted milk shall be priced at the location of the plant to which diverted, except that, in the case of a distributing plant, if during the month not more than 4 days' production of a producer is diverted from such plant or if the diverted milk is part of a tank truck load of milk that exceeds the milk storage capacity of such distributing plant, such milk shall be priced at the location of the plant from which diverted.

5. In § 1030.30, the introductory text of paragraph (a) and paragraph (a)(3) are revised to read as follows:

**§ 1030.30 Reports and receipts and utilization.**

* * * * *

(a) Each handler, with respect to each of his pool plants (except that if a handler so requests and the request is approved by the market administrator, a single report for supply plants and a single report for distributing plants may be filed), shall report the quantities of skim milk and butterfat contained in or represented by:

(1) * * *

(2) * * *

(3) Receipts of fluid milk products and bulk fluid cream products from pool plants of other handlers (or other pool plants, as applicable) including a separate statement of the net receipts from each supply plant computed pursuant to § 1030.7(b)(4), except that during the months of April through August no such separate statement need be made if receipts from supply plants are only from plants that were pool plants during the prior months of September through March.

* * * * *

6. Section 1030.32 is revised to read as follows:

**§ 1030.32 Other reports.**

(a) Each handler described in § 1030.9 (a), (b), and (g) shall report to the market administrator on or before the 10th day after the end of the month in detail and on forms prescribed by the market administrator as follows:

(1) Each handler described in § 1030.9(g) shall report the quantities of skim milk and butterfat in fluid milk products and fluid cream products moved for his account from each pool plant and received at each pool plant or partially regulated distributing plant during the month; and

(2) Each handler pursuant to § 1030.9 (a) and (b) shall report for each load of milk diverted for his account:

(i) The quantity of each producer's milk so diverted;

(ii) The date(s) of pickup of each producer's milk; and

(iii) The name and location of the plants to which and from which the milk was diverted; and

(3) Each handler who, during the month, received milk from a dairy farmer from whom he had not received milk during the previous calendar month shall report the name and address of the dairy farmer and the plant to which each such person previously delivered milk. Each handler who discontinues receiving milk from a producer during the month shall report each such producer's name, address, and the plant to which such person transferred.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1030.30 and 1030.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.





7. In § 1030.41, the introductory text of paragraph (a) and paragraph (b)(2) are revised to read as follows:

**§ 1030.41 Shrinkage.**

* * * * *

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant (or at all of a handler's supply plants combined or at all of a handler's distributing plants combined if such reports are filed pursuant to § 1030.30) to the respective quantities of skim milk and butterfat:

* * * * *

(b) * * *

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1030.9(c) and in milk diverted to such plant from another pool plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph shall be 2 percent;

* * * * *

8. In § 1030.42, paragraph (a) is revised to read as follows:

**§ 1030.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant (or to the pool plant of another handler if a combined report is filed pursuant to § 1030.30 by the transferor-handler) shall be classified as Class I milk unless the operators of both plants request the same classification in another class. The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1030.44(a)(12) and the corresponding step of § 1030.44(b).

* * * * *

8(a). In § 1030.40, paragraph (b)(1) and (4)(v) are revised to read as follows:

**§ 1030.40 Classes of utilization.**

* * * * *

(b) * * *

(1) Disposed of in the form of a fluid cream product, eggnog, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product or eggnog, except as otherwise provided in paragraph (c) of this section.

* * * * *

(4) * * *

(v) Custards, puddings, pancake mixes, and yogurt; and

* * * * *

9. Section 1030.43 is revised to read as follows:

**§ 1030.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1030.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1030.30 and shall compute separately for each pool plant (or plants, if applicable) and for each cooperative association with respect to milk for which it is the handler pursuant to § 1030.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1030.40, 1030.41, and 1030.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1030.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative.

10. In § 1030.44, the introductory text is revised to read as follows:

**§ 1030.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1030.9 (a), (b), and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization pursuant to paragraphs (a) through (c) of this section. For this purpose only, a handler described in § 1030.9(a) who operates more than one pool plant may elect to have his receipts allocated for each of his pool plants separately or for all of his pool plants combined, except that, if he has receipts that would be allocated pursuant to paragraph (a) (11) or (12) of this section or the corresponding steps of paragraph (b) of this section, his total receipts shall be allocated for all of his pool plants combined.

* * * * *

11. Section 1030.52 is revised to read as follows:

**§ 1030.52 Plant location adjustments for handlers.**

A location adjustment for each handler shall be computed by the market administrator as follows:

(a) The market administrator shall determine the location adjustment rate for each plant at which milk is to be priced under this part pursuant to the following schedule, except that in no event shall the adjustment result in a price less than the Class III price for the month:

| Zone | Distance in miles from city hall in Chicago | Location adjustment rate (cents per hundredweight) |
|---|---|---|
| 1 | 0–40 | 0 |
| 2 | 41–55 | −3.0 |
| 3 | 56–70 | −6.0 |
| 4 | [1] 71–85 | −9.0 |
| 5 | [2] 86–100 | −12.0 |
| 6 | 101–115 | −14.3 |
| 7 | 116–130 | −16.6 |
| 8 | 131–145 | −18.9 |
| 9 | 146–160 | −21.2 |
| 10 | 161–175 | −23.5 |
| 11 | 176–190 | −25.8 |
| 12 | 191–205 | −28.1 |
| 13 | 206–220 | −30.4 |
| 14 | 221–235 | −32.7 |
| 15 | 236–250 | −35.0 |
| 16 | [3] | −36.0 |

[1] Including Milwaukee County, Wis., and Winnebago County, Ill.
[2] Excluding Milwaukee County, Wis., and Winnebago County, Ill.
[3] Beyond 250.

(b) The mileages applicable pursuant to this section and § 1030.75 shall be determined by the market administrator on the basis of the shortest highway distance between the handler's plant and the city hall in Chicago—with fractions rounded up to the next whole mile. The market administrator shall notify each handler of the zone or mileage determination, which shall be subject to redetermination at all times. In the event a handler requests a redetermination of the mileage pertaining to any plant, the market administrator shall notify the handler of his findings within 30 days after the receipt of such request. Any financial obligations resulting from a change in mileage shall not be retroactive for any period prior to the redetermination announced by the market administrator.

(c) A handler who operates a pool distributing plant (or plants) shall receive a location adjustment credit computed as follows:

(1) Determine the aggregate quantity of Class I milk at such plant (or at all pool plants of such handler for which his total receipts are allocated for all his pool plants combined pursuant to § 1030.44, after eliminating duplication for transfers between such plants);

(2) Subtract the receipts of exempt milk and the quantity of packaged fluid milk products received at the handler's pool plant(s) from the pool plants of other handlers (or other pool plants, if applicable) and from nonpool plants if assigned to Class I milk;

(3) Subtract the quantity of bulk fluid milk products shipped from the handler's pool plant(s) to pool plants of other handlers (or other pool plants, if applicable) and to nonpool plants that are classified as Class I;

(4) Subtract the Class I milk packaged by pool supply plants and disposed of as route disposition or to other plants;

(5) Subtract the quantity of bulk fluid milk products received at the handler's pool plant(s) from other order plants and unregulated supply plants that are assigned to Class I pursuant to § 1030.44;



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(6) Assign the remaining quantity pro rata to receipts during the month from each source as specified in paragraph (c)(6)(i) and (ii) of this section:

(i) Receipts at the handler's pool distributing plant(s) of producer milk and milk diverted from other pool plants, except that if the quantity prorated to any distributing plant exceeds the Class I disposition from such plant, such quantity shall be reduced to the amount of such Class I disposition and the quantity of milk represented in such reduction shall be prorated to receipts of producer milk at other distributing plants of the handler (limited in each instance to the amount of Class I disposition at each such plant) and receipts of bulk fluid milk products at such distributing plants from other pool plants; and

(ii) Receipts of bulk fluid milk products at such distributing plants from each other pool plant according to the quantity of such receipts from each such source;

(7) If, during the month, receipts at such distributing plants of producer milk, milk diverted from other pool plants, and bulk fluid milk products from other pool plants are less than the quantity to be assigned pursuant to paragraph (c)(6) of this section, prorate the amount of such excess in the same manner over such receipts in the next prior month in which there were receipts in excess of those assigned in that month pursuant to paragraph (c)(7) of this section;

(8) Multiply by the location adjustment rates applicable at the transferor plants, the quantity assigned to receipts of producer milk and milk diverted from other pool plants at such distributing plant pursuant to paragraph (c)(6)(i) and (7) of this section;

(9) Multiply by the location adjustment rates applicable at the transferor plant, the lesser of:

(i) 110 percent of the quantities assigned to receipts from each other pool plant pursuant to paragraph (c)(6)(ii) of this section; or

(ii) Receipts specified in paragraph (c)(6)(ii) of this section;

(10) Multiply by the location adjustment rates applicable at the transferor plants, the quantities assigned pursuant to paragraph (c)(7) of this section to receipts from other pool plants in prior months;

(11) Multiply the quantity of bulk fluid milk products shipped from the handler's pool plant(s) to nonpool plants and classified as Class I by the location adjustment rate applicable at the shipping plant;

(12) Multiply the quantity of Class I milk packaged by pool supply plants and disposed of as route disposition or to other plants by the location adjustment rates applicable at the pool supply plants from which disposition is made; and

(13) Add together the minus amounts obtained pursuant to paragraph (c)(8), (9), (10), (11), and (12) of this section.

(d) A handler (other than one described in paragraph (c) of this section) who operates a pool supply plant shall receive a location adjustment credit on receipts at such plant of producer milk and milk diverted from other pool plants that is classified as Class I but is not shipped as a bulk fluid milk product to a pool distributing plant.

(e) The Class I price applicable to other source milk shall be reduced at the rates set forth in paragraph (a) of this section.

12. Section 1030.53 is revised to read as follows:

**§ 1030.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

13. In § 1030.60, the introductory text is revised to read as follows:

**§ 1030.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler described in § 1030.9(a), (b), and (c) as follows:

* * * * *

**§ 1030.71 [Amended]**

14. In § 1030.71(b)(2), the words "(but not to be less than the Class III price)" are deleted.

**§ 1030.76 [Amended]**

15. In § 1030.76(a) (4) and (5), the words "(but not to be less than the Class III price)" are deleted.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Effective date: August 1, 1977.

Signed at Washington, D.C., on: July 26, 1977.

JERRY C. HILL,
*Deputy Assistant Secretary for Marketing Services.*

[FR Doc.77-21935 Filed 7-28-77;8:45 am]

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[Milk Order No. 40; Docket No. AO-225-A32]

## PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

### Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the present order based on industry proposals considered at a pubic hearing held January 4–5, 1977. The principal amendments proposed relate to the rates used to adjust milk prices for different plant locations and to the performance standards for pooling distributing plants. The proposed amendments are needed to reflect recent increases in hauling cost and to aid the orderly marketing of milk by dairy farmers.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Irving E. Sutin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–4829).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing, issued November 11, 1976; published November 16, 1976 (41 FR 50453).

Emergency final decision (partial), issued February 9, 1977; published February 14, 1977 (42 FR 9027).

Final order, issued February 16, 1977; published February 23, 1977 (42 FR 10680).

Recommended decision, issued June 6, 1977; published June 10, 1977 (42 FR 29881).

Final decision, issued July 18, 1977; published July 22, 1977 (42 FR 37562).

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Southern Michigan marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only





to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

*It is therefore ordered,* That on and after the effective date hereof, the handling of milk in the Southern Michigan marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. In § 1040.7, paragraph (c) is revised to read as follows:

**§ 1040.7 Pool plant.**

* * * * *

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant;

(3) A distributing plant from which the Secretary determines there is a greater proportion of route disposition (except filled milk) in another marketing area regulated by another order issued pursuant to the Act than in the Southern Michigan marketing area and such plant is fully subject to regulation of such other order: *Provided,* That a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which it has a greater proportion of its route disposition (except filled milk) in such other marketing area, unless, notwithstanding the provisions of this subparagraph, it is regulated by such other order;

(4) A distributing plant which meets the requirements of paragraph (a) of this section which also meets the pooling requirements of another order on the basis of its route disposition in such other marketing area and from which the Secretary determines there is a greater quantity of route disposition (except filled milk) during the month in this marketing area than in such other marketing area but which plant is nevertheless fully regulated under such other order; and

(5) A supply plant which during the month is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to paragraph (b) of this section and a greater volume of fluid milk products (except filled milk) is moved to pool distributing plants than is moved to plants qualified as fully regulated plants under such other order on the basis of route disposition in the other marketing area.

2. In § 1040.40, paragraph (c)(1)(iv) is revised to read as follows:

**§ 1040.40 Classes of utilization.**

* * * * *

(c) * * *

(1) * * *

(iv) Milk shake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts (including frozen yogurt), and frozen dessert mixes (including frozen yogurt mixes);

* * * * *

**§ 1040.50 [Amended]**

3. In § 1040.50, paragraph (a)(1) is amended by changing "Zone II, 3 cents", "Zone III, 5 cents", "Zone IV, 7 cents", "Zone V, 9 cents", "Zone VI, 12 cents" and "Zone VII, 15 cents" to "Zone II, 5 cents", "Zone III, 7 cents", "Zone IV, 9 cents", "Zone V, 11 cents", "Zone VI, 14 cents" and "Zone VII, 17 cents", respectively.

**§ 1040.75 [Amended]**

4. In § 1040.75, paragraph (a)(3) is amended by changing "8 cents" to "10 cents".

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Effective date: September 1, 1977.

Signed at Washington, D.C., on July 26, 1977.

JERRY C. HILL,
*Deputy Assistant Secretary for Marketing Services.*

[FR Doc.77-21936 Filed 7-28-77;8:45 am]

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## CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE

## PART 2852—PROCESSED FRUITS, VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

### Subpart—United States Standards for Grades of Canned Ripe Olives [1]

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This rule changes the grade standards for canned ripe olives. The action was taken at the request of members of the olive industry. The effect of the change is to improve the U.S. Standards for Grades of Canned Ripe Olives.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Dale C. Dunham, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250. (202–447–4693).

SUPPLEMENTARY INFORMATION: On pages 40152 through 40156 of the FEDERAL REGISTER of September 17, 1976 (41 FR 40152), there was published a notice of proposed rulemaking to revise the United States Standards for Grades of Canned Ripe Olives.

The changes proposed included:

1. Reducing the number of sizes incorporated in the standards from ten (10) to five (5).

2. Redesignating the olive sizes to eliminate confusing descriptive terms.

3. Changing the method of determining sizes of olives from a count per pound to a diameter criteria.

4. Providing more accurate methodology for determining drained weights of canned ripe olives.

5. Designating the grades as U.S. Grade A, U.S. Grade B, U.S. Grade C and Substandard, and dropping the descriptive names of Fancy, Choice and Standard.

6. Editorial changes such as the elimination of text where graphic tables will reduce misunderstanding.

Interested persons were given until March 1, 1977, to submit data, views, or arguments regarding the proposed revision.

Thirty-five (35) comments were received as a result of the notice of proposed rulemaking. Of this number, fourteen (14) were from consumers supporting the proposal.

Fifteen (15) olive growers, canners, brokers or buyers commented in support of the proposed reduction in sizes, citing savings that could accrue to the consumer as a result of potential cost reductions in processing plants, and in reduced costs for labelling, storage and warehousing, and inventory control.

Three (3) canners and one (1) grower objected to reduction in number of sizes on the basis that it would mean less shelf space therefore less sales, less product movement and less in return to growers.

No substantial evidence, such as test market results, was offered to support or refute either savings or sales loss as a result of the reduction in the number sizes.

The canners contended that pitting equipment requires sorting into 10 sizes. Nothing in the proposal prohibits this practice. They also contend that growers will lose their incentive to produce quality (large) olives. Again nothing in the proposal prohibits incentive payments to growers to continue on the current basis.

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act, or with applicable State laws and regulations.



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Three (3) canners have stated their opposition as well to changing the method of determining size from an average count per pound to diameter measurement.

The Olive Administrative Committee, in a letter dated January 3, 1977, stated that the Committee had unanimously voted the following:

The Olive Administrative Committee recommends that the proposed U.S. Standards for Grades of Canned Ripe Olives relative to the size determination by diameter and all references thereto be deleted and urges that the U.S. Department of Agriculture maintain size determination by count per pound until the industry can complete sufficient study of size by diameter so proper evaluation of this method can be made.

Again, in a letter dated February 24, 1977, the Olive Administrative Committee reiterated its position on the method of determining the size of olives. In addition, the committee pointed out several editorial changes or additions that would enhance the usability or application of the standards.

One (1) canner has indicated full support of the proposal, without change.

Several comments suggested additional revisions for the betterment of the proposal.

After considering all of the relevant data, views and arguments presented, including the proposal set forth in the aforesaid notice, the Department has concluded that:

1. The number of sizes will be reduced from ten (10) to five (5) as proposed.

2. The names of the five (5) sizes will be: "Small," "Medium," "Large," "Extra Large" and "Colossal" as proposed.

3. Additional time and more supportive data is needed before determining if changing the size determination criteria for whole olives to diameter measurement is feasible. The current method of determining size on the basis of an average count per pound will be retained. The size of pitted olives must be based on diameter since the weight loss in pitting is not proportional to size. The revised standards provide pictures representative of the new size classifications and associated diameter criteria.

4. The proposed methodology for determining drained weight will be retained.

5. The grades will be designated as U.S. Grade A, U.S. Grade B, U.S. Grade C and Substandard.

6. Editorial changes that will enhance the understanding of the standards and suggested minor adjustments in tolerances for defects will be incorporated into the standards.

The proposed revision to the U.S. Standards for Grades of Canned Ripe Olives is adopted as set forth below.

*Effective date.* The revised U.S. Standards for Grades of Canned Ripe Olives shall become effective on September 1, 1977.

Sec.

2852.3751 Product description.
2852.3752 Types of canned ripe olives.
2852.3753 Styles of canned ripe olives.
2852.3754 Size designation for whole and pitted styles.
2852.3755 Minimum drained weights.
2852.3756 Grades of canned ripe olives.
2852.3757 Standard sample unit size.
2852.3758 Determining the grade of a sample unit.
2852.3759 Determining the rating for the factors which are scored.
2852.3760 Color.
2852.3761 Defects.
2852.3762 Character.
2852.3763 Determining the grade of a lot.
2852.3764 Score sheet for canned ripe olives.

AUTHORITY: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended (7 U.S.C. 1622, 1624).

**§ 2852.3751 Product description.**

Canned ripe olives are prepared from properly matured olives which have first been properly treated to remove the characteristic bitterness; are packed in a solution of sodium chloride, with or without spices and are sufficiently processed by heat in hermetically sealed containers. Canned olives which are not oxidized in processing and which possess a tan to light bronze color indicative of preparation from olives of advanced maturity and commonly referred to as "tree-ripened" or "home-cured" are not covered by the standards in this subpart.

**§ 2852.3752 Types of canned ripe olives.**

Canned ripe olives are processed as two distinct types. Unless a specific type is stated in this subpart, "canned ripe olives" refers to olives of either "ripe-type" or "green-ripe type."

(a) *Ripe type.* "Ripe-type" olives are those which have been treated and oxidized in processing to produce a typical dark brown to black color.

(b) *Green-ripe type.* "Green-ripe type" olives are those which have not been oxidized in processing; which range in color from yellow- green, green-yellow or other greenish casts; and which may be mottled.

**§ 2852.3753 Styles of canned ripe olives.**

(a) *Whole.* "Whole" olives are those which have not been pitted.

(b) *Pitted.* "Pitted" olives are those from which pits have been removed.

(c) *Halved.* "Halved" olives are pitted olives in which each olive is cut lengthwise into two approximately equal parts.

(d) *Segmented.* "Segmented" olives are pitted olives in which each olive is cut lengthwise into three or more approximately equal parts.

(e) *Sliced.* "Sliced" olives consist of parallel slices of fairly uniform thickness prepared from pitted olives.

(f) *Chopped.* "Chopped" olives are random-size cut pieces or cut bits prepared from pitted olives.

(g) *Broken pitted.* "Broken pitted" olives consist substantially of large pieces that may have been broken in pitting but have not been sliced or cut.





**§ 2852.3754 Size designations for whole and pitted style.**

(a) *General.* (1) "Average count" for canned whole ripe olives is determined from all containers in the sample and is calculated on the basis of the drained weight of the olives.

(2) Diameters of canned whole and pitted ripe olives are determined by measuring the smallest diameters at the largest circumferences at right angles to the longitudinal axes of the olives. The longitudinal axis is a line running from the stem to the apex of the olive.

(b) *Determining compliance.* (1) Single size. Canned whole or pitted olives shall be considered of a single size if the olives are at least as uniform in size as defined for U.S. Grade C in § 52.3756 of this subpart and conform with the applicable count per pound range indicated in Table I in the case of whole olives, or conform closely to the applicable illustration in Table I in the case of pitted olives.

(2) Mixed sizes. Canned whole or pitted ripe olives shall be considered "mixed sizes" when the olives do not meet the requirements of a single size.

TABLE I
SIZE - CANNED WHOLE AND PITTED RIPE OLIVES

| DESIGNATION | COUNT PER POUND | ILLUSTRATION | DIAMETER RANGE ILLUSTRATED (mm) |
|---|---|---|---|
| Small | 106 - 140 |  | 16 - 18 |
| Medium | 80 - 108 |  | 18 - 20 |
| Large | 60 - 79 |  | 20 - 22 |
| Extra Large | 44 - 59 |  | 22 - 24 |
| Colossal | 43 or less |  | 24 and over |

**§ 2852.3755 Minimum drained weights.**

(a) *General.* (1) The minimum drained weights for the various applicable styles in Table II and III are not incorporated in the grade of the finished product since drained weight, as such, is not a factor of quality for the purposes of these grades.

(2) The minimum drained weights are based on equalization of the product 30 days or more after the product has been canned.

(b) *Method for determining drained weight.* The drained weight of canned ripe olives is determined by emptying the contents of the container upon a U.S. Standard No. 8 circular sieve of proper diameter containing eight meshes to the inch (2.3 mm (0.0937 inch), ±3 percent, square openings) so as to distribute the product evenly over the sieve. Without shifting the product, incline the sieve at an angle of 17 degrees to 20 degrees to facilitate drainage and allow to drain for two minutes. The weight of drained olives is the weight of the sieve and product less the weight of the dry sieve. A sieve 20 mm (8 inches) in diameter is used for containers with total contents of 1.5 kg (3.3 lbs) and less, and a sieve 30 mm (12 inches) in diameter is used for containers with total contents greater than 1.5 kg (3.3 lbs).

(c) *Compliance with minimum drained weights.* A lot of canned ripe olives is considered as meeting the minimum drained weights if the following criteria are met:

(1) The average of the drained weights from all the sample units in the sample is equal to or greater than the acceptance value for drained weights for the size (designated as "$X_d$" in Tables II and III); and

(2) The number of sample units which fail to meet the acceptance value for drained weight lower limit for individual containers (designated as "LL" in Tables II and III) does not exceed the applicable acceptance number specified in the sampling plan contained in "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products."



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TABLE II
ACCEPTANCE VALUES FOR DRAINED WEIGHTS (OUNCES)
WHOLE

| | Small | | Medium | | Large | | Extra Large | | Colossal | |
|---|---|---|---|---|---|---|---|---|---|---|
| | $\bar{X}_d$ | LL | $\bar{X}_d$ | LL | $\bar{X}_d$ | LL | $\bar{X}_d$ | LL | $\bar{X}_d$ | LL |
| 305 X 109 | 3.7 | 3.2 | 3.5 | 3.0 | 3.5 | 3.0 | 3.5 | 2.9 | 3.2 | 2.6 |
| 307 X 113 | 3.7 | 3.2 | 3.5 | 3.0 | 3.5 | 3.0 | 3.5 | 2.9 | 3.2 | 2.6 |
| 8 Z (211 X 304) | 4.5 | 4.0 | 4.3 | 3.8 | 4.2 | 3.7 | 4.1 | 3.5 | 4.0 | 3.4 |
| No 300 (300 X 407) | 7.8 | 7.1 | 7.7 | 6.9 | 7.4 | 6.6 | 7.3 | 6.5 | 7.2 | 6.3 |
| No. 1 T (301 X 411) | 9.0 | 8.3 | 9.0 | 8.2 | 8.7 | 7.9 | 8.5 | 7.7 | 8.0 | 7.1 |
| No. 10 (603 X 700) | 66.0 | 64.1 | 65.0 | 63.0 | 64.0 | 62.0 | 64.0 | 61.9 | 64.0 | 61.8 |

PITTED

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| 305 X 109 | 2.8 | 2.3 | 3.0 | 2.5 | 3.0 | 2.5 | 3.0 | 2.5 | 2.7 | 2.1 |
| 307 X 113 | 2.8 | 2.3 | 3.0 | 2.5 | 3.0 | 2.5 | 3.0 | 2.5 | 2.7 | 2.1 |
| 8 Z (211 X 304) | 3.3 | 2.8 | 3.5 | 3.0 | 3.4 | 2.9 | 3.3 | 2.7 | 3.2 | 2.6 |
| No 300 (300 X 407) | 6.0 | 5.3 | 6.0 | 5.2 | 5.8 | 5.0 | 5.7 | 4.9 | 5.6 | 4.7 |
| No 1 T (301 X 411) | 7.0 | 6.3 | 7.5 | 6.7 | 7.2 | 6.4 | 7.0 | 6.2 | 6.5 | 5.6 |
| No. 10 (603 X 700) | 51.0 | 49.1 | 51.0 | 49.0 | 51.0 | 49.0 | 51.0 | 48.9 | 51.0 | 48.8 |





TABLE II
ACCEPTANCE VALUES FOR DRAINED WEIGHTS (GRAMS)
WHOLE

| | Small | | Medium | | Large | | Extra Large | | Colossal | |
|---|---|---|---|---|---|---|---|---|---|---|
| | $\bar{X}_d$ | LL | $\bar{X}_d$ | LL | $\bar{X}_d$ | LL | $\bar{X}_d$ | LL | $\bar{X}_d$ | LL |
| 305 X 109 | 104.9 | 90.7 | 99.2 | 85.0 | 99.2 | 85.0 | 99.2 | 32.2 | 90.7 | 73.7 |
| 307 X 113 | 104.9 | 90.7 | 99.2 | 85.0 | 99.2 | 85.0 | 99.2 | 82.2 | 90.7 | 73.7 |
| 8 Z (211 X 304) | 127.6 | 113.4 | 121.9 | 107.7 | 119.1 | 104.9 | 116.2 | 99.2 | 113.4 | 96.4 |
| No 300 (300 X 407) | 221.1 | 201.3 | 218.3 | 195.6 | 209.8 | 187.1 | 206.9 | 184.3 | 204.1 | 178.6 |
| No. 1 T (301 X 411) | 255.1 | 235.3 | 255.1 | 232.5 | 246.6 | 224.0 | 241.0 | 218.3 | 226.8 | 201.3 |
| No. 10 (603 X 700) | 1871.0 | 1817.2 | 1842.7 | 1786.0 | 1814.3 | 1757.6 | 1814.3 | 1754.8 | 1814.3 | 1752.0 |

PITTED

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| 305 X 109 | 79.4 | 65.2 | 85.0 | 70.9 | 85.0 | 70.9 | 85.0 | 70.9 | 76.5 | 59.5 |
| 307 X 113 | 79.4 | 65.2 | 85.0 | 70.9 | 85.0 | 70.9 | 85.0 | 70.9 | 76.5 | 59.5 |
| 8 Z (211 X 304) | 93.5 | 79.4 | 99.2 | 85.0 | 96.4 | 82.2 | 93.5 | 76.5 | 90.7 | 73.7 |
| No 300 (300 X 407) | 170.0 | 150.2 | 170.0 | 147.4 | 164.4 | 141.7 | 161.6 | 138.9 | 158.7 | 133.2 |
| No 1 T (301 X 411) | 198.4 | 178.6 | 212.6 | 189.9 | 204.1 | 181.4 | 198.4 | 175.8 | 184.2 | 158.7 |
| No. 10 (603 X 700) | 1445.8 | 1391.9 | 1445.8 | 1389.1 | 1445.8 | 1389.1 | 1445.8 | 1386.2 | 1445.8 | 1383.4 |



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TABLE III

ACCEPTANCE VALUE FOR DRAINED WEIGHTS (OUNCES)

| | Water Capacity Oz. Avdp. | Halved, Segmented, Sliced $\bar{X}_d$ | Halved, Segmented, Sliced LL | Chopped $\bar{X}_d$ | Chopped LL |
|---|---|---|---|---|---|
| 200 X 214 | --- | 2.3 | 1.9 | 4.2 | 3.9 |
| 211 X 200 | 4.9 | 2.3 | 1.9 | 4.2 | 3.9 |
| 305 X 109 | --- | 3.0 | 2.6 | 5.5 | 5.2 |
| 307 X 113 | --- | 3.0 | 2.6 | 5.5 | 5.2 |
| 211 X 304 | 8.65 | 3.8 | 3.4 | 7.6 | 7.2 |
| No. 300 (300 X 407) | 15.2 | 6.5 | 6.1 | 13.3 | 12.7 |
| No. 10 (603 X 700) | 109.45 | 55.0 | 53.4 | 90.0 | 87.8 |
| No. 10 (brine pack) | --- | --- | --- | 64.0 | 62.4 |
| **BROKEN PITTED** | | | | | |
| No. 300 (300 X 407) | 15.2 | 6.5 | 4.7 | | |
| No. 10 (603 X 700) | 109.45 | 51.0 | 59.0 | | |





TABLE III

ACCEPTANCE VALUE FOR DRAINED WEIGHTS (GRAMS)

| | Water Capacity | Halved, Segmented, Sliced $\bar{X}_d$ | Halved, Segmented, Sliced LL | Chopped $\bar{X}_d$ | Chopped LL |
|---|---|---|---|---|---|
| 200 X 214 | --- | 65.2 | 53.9 | 119.1 | 110.6 |
| 211 X 200 | 138.9 | 65.2 | 53.9 | 119.1 | 110.6 |
| 305 X 109 | --- | 85.0 | 73.7 | 155.9 | 147.4 |
| 307 X 113 | --- | 85.0 | 73.7 | 155.9 | 147.4 |
| 211 X 304 | 245.2 | 107.7 | 96.4 | 215.4 | 204.1 |
| No. 300 (300 X 407) | 430.9 | 184.2 | 172.9 | 377.0 | 360.0 |
| No. 10 (603 X 700) | 3102.8 | 1559.2 | 1513.8 | 2551.4 | 2489.0 |
| No. 10 (brine pack) | --- | --- | --- | 1814.3 | 1769.0 |
| **BROKEN PITTED** | | | | | |
| No. 300 (300 X 407) | 430.9 | 184.2 | 133.2 | | |
| No. 10 (603 X 700) | 3102.8 | 1445.8 | 1672.6 | | |



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**§ 2852.3756 Grades of canned ripe olives.**

(a) "U.S. Grade A" is the quality of canned ripe olives of whole, pitted, halved, segmented, sliced, and chopped styles that has a good flavor, that has a good color, that is practically free from defects, that has a good character; and that for those factors which are rated in accordance with the scoring system outlined in the subpart, the total score is not less than 90 points: *Provided*, That such canned ripe olives may have a reasonably good color if the total score is not less than 90 points; and, further, *Provided*, That in the styles of whole and pitted olives that are declared to be of single size, the variation in diameters does not exceed 4 mm. and of the 90 percent, by count, of the most uniform in size, the diameter of the largest does not exceed the diameter of the smallest by more than 3 mm.

(b) "U.S. Grade B" is the quality of canned ripe olives of whole, pitted, halved, segmented, sliced, and chopped styles that has a good flavor, that has a reasonably good color, that is reasonably free from defects, that has a reasonably good character; and that for those factors which are rated in accordance with the scoring system outlined in this subpart, the total score is not less than 80 points: *Provided*, That for the styles of whole and pitted olives that are declared to be of a single size, the variation in diameters does not exceed 8 mm, and of the 80 percent, by count, of the most uniform in size, the diameter of the largest does not exceed the diameter of the smallest by more than 4 mm.

(c) "U.S. Grade C" is the quality of canned ripe olives of whole, pitted, halved, segmented, sliced, chopped, and broken pitted styles that has a reasonably good flavor, that has a fairly good color, that is fairly free from defects, that has a fairly good character; and that for those factors which are rated in accordance with the scoring system outlined in this subpart, the total score is not less than 70 points; and *Provided*, That for the styles of whole and pitted olives that are declared to be of a single size, of the 60 percent, by count, of the most uniform in size, the diameter of the largest does not exceed the diameter of the smallest by more than 4 mm.

(d) "Substandard" is the quality of canned ripe olives of any style that fail to meet the applicable requirements for U.S. Grade C.

**§ 2852.3757 Standard sample unit size.**

Compliance with requirements for the various quality factors except "size designation" is based on the following standard sample unit size for the applicable style:

(a) *Whole and pitted*—50 olives.

(b) *Halved*—100 units.

(c) *All other styles*—255 g (9 ounces).

**§ 2852.3758 Determining the grade of a sample unit.**

(a) *General.* In addition to considering other requirements outlined in the standards the following quality factors are evaluated:

(1) *Factors not rated by score points.* (i) Flavor; (ii) Uniformity of size (styles of whole and pitted only).

(2) *Factors rated by score points.* The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given such factors are:

| | Points |
|---|---|
| (i) Color | 30 |
| (ii) Absence of defects | 40 |
| (iii) Character | 30 |
| Total score | 100 |

(b) *Definition of flavor.*—(1) *Good flavor.* (i) "Good flavor" in ripe type means a distinctive flavor characteristic of ripe type olives (including that of properly spiced olives) which have been properly prepared and processed and which are free from objectionable flavors of any kind.

(ii) "Good Flavor" in green-ripe type means a distinctive mellow flavor characteristic of green-ripe type olives which have been properly prepared and processed and which are free from objectionable flavors of any kind.

(2) *Reasonably good flavor.* "Reasonably good flavor" in either ripe type or green-ripe type (including that of properly spiced olives) means that the flavor may be slightly lacking in distinctly characteristic flavor for the respective type but the olives are free from objectionable flavors of any kind.

**§ 2852.3759 Determining the rating for the factors which are scored.**

The essential variations within each factor which is scored are so described that the value may be determined for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "27 to 30 points" means 27, 28, 29, and 30 points).

**§ 2852.3760 Color.**

(a) *General.* The evaluation of color shall be determined within five minutes after the olives are removed from the container and is based upon the uniformity of the exterior color or general appearance as to color of the olives within the container. The evaluation of color in "halved" style is based on the uncut surfaces.

(b) *Color measurement of ripe type.* The color of ripe type is determined by comparison with a spinning disc of variations in percentages of the following Munsell color discs: Red (5R 4/14), Yellow (2.5Y 8/12), and Black (N/1 Glossy).

(c) *Composite color standards.* Composite USDA Color Standards for Canned Ripe Olives are available and are comparable to the colors produced by the spinning discs.

(d) *Color appearance of green-ripe type.* Normal color for green-ripe type olives is yellow-green, green-yellow, or other greenish casts, any of which may have a mottled appearance that is typical of green-ripe type olives. Off-color means dark brown, dark purple or black olives.

(e) The USDA spinning color discs and the USDA composite color standards cited in paragraphs (b) and (c) of this section are available from the USDA licensed supplier:

Munsell Color Company, Inc., 2441 North Calvert Street, Baltimore, Md. 21218.

(f) *Grade A.* Canned ripe olives that have a good color may be given a score of 27 to 30 points. "Good color" has the following meanings with respect to the applicable type and style:

(1) *Ripe type.*—(i) *Whole; pitted; halved.* The olives or units have a practically uniform black or dark brown color. Not less than 90 percent, by count, of the olives or units have a color equal to or darker than the appropriate USDA Composite Color Standard or that produced by spinning the Munsell discs specified in paragraph (b) of this section in the following combination: 3½ percent Red, 3½ percent Yellow, and 93 percent Black.

(ii) *Segmented; sliced, chopped.* The general color impression of the olive as a mass is normal and typical of these styles prepared from olives with good color.

(2) *Green-ripe type.* The general color appearance of the olives shall be normal. Not less than 90 percent, by count, shall be practically uniform in such normal color for the type, and no off-color olives may be present.

(g) *Grade B.* If the canned ripe olives have a reasonably good color, a score of 24 to 26 points may be given. "Reasonably good color" has the following meanings with respect to the applicable type and style:

(1) *Ripe type.*—(i) *Whole; pitted; halved.* The olives or units have a reasonably uniform black, dark brown or reddish-brown color. Not less than 80 percent, by count, of the olives or units have a color equal to or darker than the appropriate USDA Composite Color Standard or that produced by spinning the Munsell color discs specified in paragraph (b) of this section in the following combination: 6 percent Red, 6 percent Yellow, and 88 percent Black.

(ii) *Segmented; sliced; chopped.* The general color impression of the olives as a mass is normal and typical of these styles prepared from olives with reasonably good color.

(2) *Green-ripe type.* The general color appearance of the olives shall be normal. Not less than 80 percent, by count, shall be reasonably uniform in such normal color for the type, and no off-color olives may be present.

(h) *Grade C.* If the ripe olives have a fairly good color, a score of 21 to 23 points may be given. Canned ripe olives that fall into this classification shall not be graded above U.S. Grade C regardless of the total score for the product (this is a limiting rule). "Fairly good color" has the following meanings with respect to the applicable type and style:

(1) *Ripe type.*—(i) *Whole; pitted; halved.* The olives or units have a fairly





uniform black, dark brown or reddish-brown color. Not less than 60 percent, by count, of the olives or units have a color equal to or darker than the appropriate USDA Composite Color Standard or that produced by spinning the Munsell color discs specified in paragraph (b) of this section in the following combination: 6 percent Red, 6 percent Yellow, and 88 percent Black.

(ii) *Segmented; sliced; chopped.* The general color impression of the olives as a mass is normal and typical of these styles prepared from olives of fairly good color.

(2) *Green-ripe type.* The general color impression of the olives shall be normal but may vary markedly for the type. Not more than 10 percent, by count, of off-color olives may be present.

(i) *Substandard (SStd.).* Canned ripe olives that are abnormal in color for any reason or that fail to meet the requirements of paragraph (h) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

**§ 2852.3761 Defects.**

(a) *General.* The factor of defects refers to the degree of freedom from harmless extraneous vegetable material, stems and portions thereof, blemishes, wrinkles, mutilated olives, and from any other defects which affect the appearance or edibility of the product.

(b) *Definition of defects.*—(1) *Blemishes.* "Blemishes" means dark-colored surface marks in either ripe type or green-ripe type which may or may not penetrate into the flesh. Olives or pieces of olives affected by blemishes are classified as follows:

(i) "Minor blemishes" are olives or pieces of olives with surface blemishes which individually or collectively materially affect the appearance of the unit.

(ii) "Major blemishes" are olives or pieces of olives with black flesh (oxidized) or with surface blemishes which may or may not be associated with a soft texture below the skin and which individually or collectively seriously affect the appearance or edibility of the unit.

(iii) "Severe blemishes" are olives or pieces of olives of the green-ripe type with dark brown, dark purple, or black surface areas; or any other blemishes, whether or not specifically defined, which severely affect the appearance or edibility of the unit.

(2) *Blowout.* A soft pitted olive in which the pit has been pushed out instead of cut out leaving an irregular ring of flesh that materially affects its appearance.

(3) *Broken piece.* A "broken piece" in halved, segmented and sliced style olives is any piece of olive flesh that appears to be less than three-fourths of a full unit. Also included are poorly cut slices and end slices less than one-half the average size slice.

(4) *Cross pitted.* Olives pitted along an axis other than the stem-flower axis. A defect is a unit where the angle of these two axes exceeds 45 degrees.

(5) *Harmless extraneous vegetable material.* "Harmless extraneous vegetable material" means any vegetable substance that is harmless.

(6) *Mechanically damaged.* A mechanically damaged unit in whole, pitted and halved styles means a unit that is punctured, cut or damaged by other means so that its appearance is materially affected.

(7) *Mutilated.* A "mutilated" olive in whole or pitted styles means an olive that is so pitter-torn or damaged by other means that the entire pit cavity is exposed or the appearance of the olive is seriously affected.

(8) *Pitter damage.* A pitted olive with a loss of skin and flesh from the pitter on the cut end exceeding the area of a circle 3 mm in diameter but is not mutilated.

(9) *Plunger damage.* A pitted olive with a loss of skin and flesh equal to or exceeding the area of a circle 5 mm in diameter.

(10) *Stem.* An attached stem is a defect when it measures 3 mm or more from the shoulder of the olive. Stems are classified as follows:

(i) A "Minor stem" is an attached stem that measures more than 3 mm but not more than 4 mm from the shoulder of the olives.

(ii) A "Major stem" is an attached stem that measures more than 4 mm from the shoulder of the olive.

(iii) A "Detached stem" is a defect when it measures 4 mm or more, and will be scored as a "minor stem" for the purposes of this subpart.

(11) *Wrinkles.* "Wrinkles" are grooves 0.5 mm or more in width. Classification of wrinkles shall be determined immediately after removing surface moisture and any increase in wrinkles due to dehydration after removing from the container shall not be considered. Olives or pieces of olives affected by wrinkles are classified as follows:

(i) "Minor wrinkles" are wrinkles which collectively do not more than materially affect the appearance or edibility of the unit.

(ii) "Major wrinkles" are wrinkles which collectively more than materially affect the appearance or edibility of the unit.

(c) *Grade A.* Canned ripe olives of whole, pitted, halved, segmented, sliced and chopped styles that are practically free from defects may be given a score of 36 to 40 points. "Practically free from defects" means that any defects present, but not specifically limited in Table IV, may not more than slightly affect the appearance or edibility of the olives; and, in addition: specified defects may be present in all other styles except "broken pitted" not to exceed the allowances for grade A provided in Table IV.

(d) *Grade B.* If canned ripe olives of whole, pitted, halved, segmented, sliced, and chopped styles are reasonably free from defects, a score of 32 to 35 points may be given. Canned ripe olives that fall into this classification shall not be graded above U.S. Grade B regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that any defects present but not specifically limited in Table V may not materially affect the appearance or edibility of the olives; and in addition; specified defects may be present in all other styles except "broken pitted" not to exceed the allowances for grade B provided in Table V.

(e) *Grade C.* If canned ripe olives of whole, pitted, halved, segmented, sliced, chopped and broken pitted styles are fairly free from defects, a score of 28 to 31 points may be given. Canned ripe olives that fall into this classification shall not be granted above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). "Fairly free from defects" means that any defects present but not specifically limited in Table VI may not seriously affect the appearance and edibility of the olives; and, in addition; specified defects may be present in all other styles not to exceed the allowances for Grade C provided in Table VI.

(f) *Substandard (SStd).* Canned ripe olives that fail to meet the requirements of paragraph (e) of this section may be given a score of 0 to 27 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).



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TABLE IV

LIMITS FOR DEFECTS IN GRADE A

| | Whole per 100 olives | Pitted per 100 olives | Halved per 200 halves | Segmented per 255 gm (9oz) | Sliced per 255 gm (9oz) | Chopped per 255 gm (9oz) |
|---|---|---|---|---|---|---|
| HEM or EVH | 1 | 1 | 1 | 1 | 1 | 1 |
| Stems | | | | | | |
| Minor and Major stems incl. | 4 | 4 | 4 | 2 | 2 | 2 |
| Major stems | 1 | 1 | 1 | 1 | 1 | 1 |
| Blemishes - Wrinkles, Mutilated and Mechanically damaged | 10 | 10 | 20 | 26 g | 26 g 1/ | — |
| Provided: Major Blemishes Major Wrinkles Mutilated and Mechanical Damage do not exceed | 5 | 5 | 10 | 13 g | 13 g 1/ | 13 g 1/ |
| Further Provided: Mutilated do not exceed | 2 | 2 | — | — | — | — |
| Broken Pieces | — | — | 16 | 20 g | 26 g | — |
| Blowouts, Cross Pitted, Plunger and Pitter Damage | — | 10 | — | — | — | — |
| Obvious Split-Pit or Misshapen | 5 | — | — | — | — | — |
| Severe Blemishes (Green-ripe type only) | 0 | 0 | 0 | — | — | — |

1/ Blemishes only - sliced and chopped styles



TABLE V

LIMITS FOR DEFECTS IN GRADE B

| | Whole per 100 olives | Pitted per 100 olives | Halved per 200 halves | Segmented per 255 gm (9oz) | Sliced per 255 gm (9oz) | Chopped per 255 gm (9oz) |
|---|---|---|---|---|---|---|
| HEM or EVH | 2 | 2 | 2 | 2 | 2 | 2 |
| Stems | | | | | | |
| Minor and major stems incl. | 6 | 6 | 6 | 3 | 3 | 3 |
| Major stems | 3 | 3 | 3 | 2 | 2 | 2 |
| Blemishes , Wrinkles, Mutilated and Mechanically Damaged | 20 | 20 | 40 | 50 g | 50 g 1/ | — |
| Provided: Major Blemishes Major Wrinkles Mutilated and Mechanical Damage do not exceed | 10 | 10 | 20 | 25 g | 26 g 1/ | 26 g 1/ |
| Further Provided: Mutilated do not exceed | 5 | 5 | 10 | 10 g | — | — |
| Broken Pieces | — | — | 30 | 40 g | 51 g | — |
| Blowouts, Cross Pitted, Plunger and Pitter Damaged | — | 20 | — | — | — | — |
| Obvious Split-Pit or Misshapen | 10 | — | — | — | — | — |
| Severe Blemishes (Green-ripe type only) | 0 | 0 | 0 | — | — | — |

1/ Blemishes only, sliced and chopped styles only.

TABLE VI

LIMITS FOR DEFECTS IN GRADE C

| | Whole per 100 olives | Pitted per 100 olives | Halves per 200 halves | Broken Pitted per 235 g (9oz) | Chopped per 235 g (9oz) | Sliced per 235 g (9oz) | Segmented per 235 g (9oz) |
|---|---|---|---|---|---|---|---|
| REM | 2 | 2 | 2 | 2 | 2 | 2 | 2 |
| Stems | | | | | | | |
| Minor and Major stems incl. | 8 | 8 | 8 | 4 | 4 | — | — |
| Major stems | 4 | 4 | 4 | 4 | 4 | 3 | 3 |
| Blemishes, Wrinkles, Mutilated and Mechanically Damaged | No limit | No limit | No limit | No limit | No limit | No limit | No limit |
| Provided: Major Blemishes, Major Wrinkles, Mutilated and Mechanical Damage do not exceed | 25 | 25 | 50 | 51 g 1/ | 51 g 1/ | 51 g 1/ | 63 g |
| Further Provided: Mutilated do not exceed | 10 | 10 | 10 | No limit | No limit | 13 g | 13 g |
| Broken Pieces | — | — | 50 | No limit | No limit | 65 g | 65 g |
| Blowouts, Cross Pitted, Plunger and Pitter Damaged | — | 30 | — | No limit | No limit | — | — |
| Severe Blemishes (green-ripe type only) | 5 | 5 | 5 | — | 0 | 0 | 0 |

1/ Blemishes only, sliced and chopped styles only.





**§ 2852.3762 Character.**

(a) *General.* The factor of character refers to the firmness, tenderness, and texture characteristic for the variety and type.

(b) *Grade A.* Canned ripe olives of whole, pitted, halved, segmented, sliced, and chopped styles that have a good character may be given a score of 27 to 30 points. "Good character" means that, for the type, the olives have a fleshy texture characteristic for the variety and size; that not less than 95 percent, by count, of whole, pitted and halved olives and by weight of other style olives are practically uniform in texture and are tender but not soft. The remaining 5 percent may be soft but not excessively soft.

(c) *Grade B.* If canned ripe olives of whole, pitted, halved, segmented, sliced and chopped styles have a reasonably good character, a score of 24 to 26 points may be given. Canned ripe olives that fall into this classification shall not be grade above U.S. Grade B regardless of the total score for the product (this is a limiting rule). "Reasonably good character" means that, for the type, the olives generally have a fleshy texture characteristic for the variety and size; that not less than 90 percent, by count, of whole, pitted and halved olives, and by weight of other style olives are practically uniform in texture and are tender but not soft. The 10 percent may be soft but not more than ½, or 5 percent, may be excessively soft.

(d) *Grade C.* If canned ripe olives of whole, pitted, halved, segmented, sliced, chopped and broken pitted styles have a fairly good character, a score of 21 to 22 points may be given. Canned ripe olives that fall into this classification shall not be graded above U.S. Grade C regardless of the total score for the product (this is a limiting rule). "Fairly good character" means that the olives generally have a fleshy texture characteristic for the variety and size; that not less than 80 percent, by count, of whole, pitted and halved olives and by weight of other style olives are practically uniform in texture and are tender but not soft. The remaining 20 percent may be soft but not more than ½, or 10 percent, may be excessively soft.

(e) *Substandard (SStd).* Canned ripe olives that fail to meet the requirements of paragraph (d) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

**§ 2852.3763 Determining the grade of a lot.**

The grade of a lot of canned ripe olives covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 2852.1 through 2852.83).

**§ 2852.3764 Score sheet.**

Number, size and kind of container ---
Label (including size declaration) ---
Container mark or identification ---
Net weight (ounces) ---
Vacuum (inches) ---
Drained weight (ounces) ---
Size ---
Style ---
Average count per pound (whole style) ---

| FACTORS | SCORE POINTS | | |
|---|---|---|---|
| Color | 30 | (A) 27 - 30<br>(B) 24 - 26<br>(C) 21 - 23 1/<br>(SStd.) 0 - 20 1/ | |
| Absence of defects | 40 | (A) 36 - 40<br>(B) 32 - 35 1/<br>(C) 28 - 31 1/<br>(SStd.) 0 - 27 1/ | |
| Character | 30 | (A) 27 - 30<br>(B) 24 - 26 1/<br>(C) 21 - 23 1/<br>(SStd.) 0 - 20 1/ | |
| Total Score | 100 | | |

Flavor ( ) Good ( ) Reasonably good ( ) Off ---
Grade ---

1/ Indicates limiting rule.

Dated: July 20, 1977.

CAROL TUCKER FOREMAN,
*Assistant Secretary for Food and Consumer Services.*

[FR Doc.77-21339 Filed 7-28-77;8:45 am]



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# proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

[ 7 CFR Part 1430 ]

### PRICE SUPPORT PROGRAM FOR MILK

### Terms and Conditions of 1977–78 Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal announces that the Secretary of Agriculture is considering whether an adjustment should be made in the support price for milk, effective October 1, 1977. This proposed rule is being issued pursuant to the announcement appearing in the Federal Register on May 2, 1977, (42 FR 22126) which stated that the support price for milk would be reviewed before October 1, 1977, to determine whether or not an adjustment to the support price was needed.

The Secretary of Agriculture is also considering changing the milk marketing year from April 1–March 31 to October 1–September 30, effective October 1, 1977. This change would enable the Secretary to determine the level of support at the end of the feed grain crop year. At this time information would be available on feed supplies for a full year ahead, thus facilitating a determination of the appropriate level of support. The Secretary is also considering the terms and conditions of the milk price support program that would accompany the proposed change in the marketing year, including the general level of prices to producers for milk and the prices for and terms of purchase by Commodity Credit Corporation of butter, nonfat dry milk and cheese.

DATE: Comments must be received on or before August 29, 1977, to be sure of consideration.

ADDRESS: Director, Commodity Operations Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, 5768 South Building, P O Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT

Sidney Cohen (ASCS), 202–447–4037.

SUPPLEMENTARY INFORMATION: Section 201(c) of the Agricultural Act of 1949, as amended, provides as follows: "The price of milk shall be supported at such level not in excess of 90 per centum nor less than 75 per centum of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs. Such price support shall be provided through purchases of milk and the products of milk."

Section 401(d) of the Agricultural Act of 1949, as amended, provides as follows: "The level of price support for any commodity shall be determined upon the basis of its parity price as of the beginning of the marketing year or season in the case of any commodity marketed on a marketing year or season basis and as of January 1 in the case of any other commodity."

Section 408(i) of the Agricultural Act of 1949, as amended, provides as follows: "'Marketing year' for any nonbasic agricultural commodity means any period determined by the Secretary during which substantially all of the crop or production of such commodity is normally marketed by the producers thereof."

In April, May and June, the first 3 months of the marketing year, milk production was 33.1 billion pounds, up 2.3 percent from a year ago. Purchases of dairy products under the support program during April through June 1977 totaled 104 million pounds of butter, 44 million pounds of cheese and 179 million pounds of nonfat dry milk compared to purchases of 0.4 million pounds of butter, 5 million pounds of cheese and 77 million pounds of nonfat dry milk during the same period a year earlier.

If the present support price of $9.00 per hundredweight is continued on October 1, 1977, milk production for the year ending March 31, 1978 is projected at 123.4 billion pounds, 2.4 billion pounds greater than a year earlier. Commodity Credit Corporation net purchases (purchases less sales) under the support program are projected at 255 million pounds of butter, 180 million pounds of cheese and 390 million pounds of nonfat dry milk. These purchases are equivalent to 7.1 billion pounds of milk. Dairy products acquired under the support program are made available for foreign and domestic donation programs.

The parity price for milk is determined under the statute as of the beginning of the marketing year. If the marketing year were changed, as proposed, it would be determined as of October 1 instead of April 1. Thus, the support would be set at a time when the total feed supply for the coming year could be estimated with a reasonable degree of certainty.

The April 1–March 31 marketing year for milk has been in effect since April 1, 1951.

If the marketing year is changed to begin on October 1, and the present level of support of $9.00 per hundredweight were to be continued, milk production is projected at 123.3 billion pounds and commercial use at 116.4 billion pounds. CCC purchases of dairy products under the support program are projected at 215 million pounds of butter, 170 million pounds of cheese and 325 million pounds of nonfat dry milk. This is equivalent to 6.2 billion pounds of milk.

The support price of $9.00 per hundredweight is estimated to be 79 percent of parity as of October 1, 1977.

PROPOSED RULE

Notice is hereby given that the Secretary of Agriculture is considering two courses of action and is soliciting comments from the public on the two proposed courses of action. First, the Secretary is considering whether or not an adjustment should be made in the support price for milk, for the second half of the 1977–78 marketing year which began April 1, effective October 1, 1977. Second, the Secretary is considering changing the milk marketing year from April 1–March 31 to October 1–September 30. The Secretary will consider the terms and conditions of the milk price support program that would accompany a change in the milk marketing year, including the general level of prices to producers for milk and the prices and terms of purchase by Commodity Credit Corporation of butter, nonfat dry milk and cheese. The public is invited to submit written data, views and recommendations to the Director, Commodity Operations Division.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Room 5768, South Building, during regular business hours (8:15 a.m.–4:45 p.m.).

This notice of proposed rulemaking is issued under authority of Section 201(c), Section 401 (d) and Section 408 (i), of the Agricultural Act of 1949, as amended (63 Stat. 1051, as amended; 7 U.S.C. 1446; 7 U.S.C. 1421 (d) and 7 U.S.C. 1428 (i)); and Sections 4 and 5 of the Commodity Credit Corporation Act, as amended (62 Stat. 1070, as amended; 15 U.S.C. 714b and 714c).

Signed at Washington, D.C., on July 26, 1977.

RAY FITZGERALD,
*Executive Vice President,*
*Commodity Credit Corporation.*

[FR Doc.77-21831 Filed 7-28-77;8:45 am]





## FEDERAL ENERGY ADMINISTRATION

[ 10 CFR Part 211 ]

### ENTITLEMENTS PROGRAM

### Proposed Amendments to Include Oil Shale Crude Oil as an Eligible Feedstock; Public Hearing

AGENCY: Federal Energy Administration.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Federal Energy Administration (FEA) hereby gives notice of a proposal to amend the domestic crude oil allocation program (the "entitlements" program) so as to permit refiners to include in their crude oil runs to stills (and thereby earn entitlements for) those volumes of synthetic crude oil processed from oil shale found within the United States that they utilize as a refinery feedstock. Adoption of this amendment is proposed to avoid the imposition of de facto price controls on oil shale crude oil, and is consistent with the determination set forth in FEA's Ruling 1976–4 that such crude oil substitutes are exempt from the ceiling price rules applicable to most domestically produced crude oil.

DATES: Comments by August 24, 1977, 4:30 p.m.; Requests to speak by August 17, 1977, 4:30 p.m.; Hearing date: August 29, 1977, 9:30 a.m.

ADDRESSES: Comments and requests to speak to: Executive Communications, Room 3317, Federal Energy Administration, Box NP, Washington, D.C. 20461; Hearing Location: Room 2214, 2000 M Street NW., Washington D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), 2000 M Street NW., Room 2214B, Washington, D.C. 20461 (202–254–5201).

Ed Vilade (Media Relations), 12th & Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461 (202–566–9833).

Doug McIver (Entitlements Program Office), 2000 M Street NW., Room 6128I, Washington, D.C. 20461 (202–254–8660).

Nancy Williams (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 7134, Washington, D.C. 20461 (202–566–2454).

SUPPLEMENTARY INFORMATION:

I. Background
II. Proposed Amendment
III. Specific Comments Requested
IV. Comment Procedures.

#### I. BACKGROUND

In Ruling 1976–4 (41 FR 25886, June 23, 1976) FEA set forth its determination that the so-called synthetic fuels (or crude oil substitutes) processed from oil shale, tar sands, coal, and other natural deposits that must be mined before the crude oil substitute can be extracted did not fall within the purview of FEA's authority to establish mandatory petroleum allocation and price regulations. Ruling 1976–4 was based on the conclusion that it was not the intent of Congress that crude oil substitutes should be subject to the regulation required by section 4(a) of the Emergency Petroleum Allocation Act of 1973 (EPAA), since the EPAA was enacted to provide authority to impose allocation and price controls as to only those petroleum resources on which refiners were dependent and which in late 1973 were actually or threatened to be in short supply. In late 1973, crude oil substitutes were not available in commercial quantities for use as refinery or petrochemical feedstocks, and were not expected to become commercially available for several years.

FEA has recently received inquiries from refiners that are currently purchasing or contemplating the purchase of crude oil processed from oil shale for use as a refinery feedstock as to the status of such oil shale crude oil under the entitlements program. Crude oil processed from oil shale is now, in fact, commercially available in the United States in limited quantities.

FEA believed that publication of its statement of position with reference to crude oil substitutes, in Ruling 1976–4, would permit such crude substitutes, when they became available, to sell in the market at levels competitive with price-exempt refinery and petrochemical feedstocks, such as imported and stripper well crude oil. However, based on the recent refiner inquiries, FEA has determined that the crude oil substitutes are not likely to sell at exempt or world market level prices unless refiners receive entitlement issuances for processing such feedstocks under the entitlements program on the same basis as is in effect for all other crude oils. Generally speaking, if refiners do not receive entitlement issuances for the use of this type of feedstock, they will only be willing to pay a price at or about the level of their effective cost (after entitlements) for other feedstocks which they utilize. A refiner's effective cost for a feedstock is calculated by adjusting the price paid for the feedstock by the benefits or obligations the refiner receives or incurs under the entitlements program for use of that feedstock. If refiners will only be willing to pay a price for the crude oil substitutes comparable to their cost (after entitlements) for other feedstocks, the crude substitutes will only sell at that level and will effectively be under a form of price controls. It is apparent that this result would be contrary to FEA's determination, as set forth in Ruling 1976–4, that Congress did not intend for price controls to be imposed on crude oil substitutes.

To avoid this result, FEA proposes to amend the entitlements program so that crude oil processed from oil shale will be treated the same under the program as are all crude oils which are exempt from price controls. To this end, refiners would be allowed to include the volumes of crude oil substitute processed from oil shale deposits that they utilize as a refinery feedstock within their crude oil runs to stills reported under the entitlements program. Since the proposed amendment will allow refiners who utilize oil shale crude oil to receive the cost-equalization benefits of the entitlements program, the amendment will serve to permit the oil shale crude oil to be marketed at a level equivalent to that of exempt and imported crude oils.

This proposal is consistent with the policy objective expressed by Congress in section (2)(3) of the Energy Policy and Conservation Act, i.e., "to increase the supply of fossil fuels in the United States, through price incentives. • • •" It should be noted that synthetic crude oil made from tar sands and imported from Canada was previously made eligible for entitlement issuances effective August 1, 1975 (40 FR 39847, August 29, 1975).

FEA believes the proposed amendment of the entitlements program will also serve to effectuate one of the purposes of the Federal Energy Administration Act of 1974, stated in section 2(a) of that Act:

• • • to promote the expansion of readily usable energy sources, and to assist in developing policies and plans to meet the energy needs of the Nation • • •.

Based on reports submitted by firms which are conducting research on methods of recovering crude oil substitutes from oil shale, tar sands, and coal, FEA believes that crude oil substitutes have the potential to provide an important supplement to the nation's requirements for liquid fuels in the future. Extensive deposits of the requisite source materials are known to exist within the continental United States, and processes currently exist or are being developed which appear to render economically feasible the recovery of liquid fuels from these sources.

#### II. PROPOSED AMENDMENTS

To implement this amendment, FEA proposes to add a definition of "oil shale crude oil" to 10 CFR 211.62, which will define the crude oil substitute proposed to be included as an eligible feedstock under the entitlements program as the initial liquid hydrocarbons which are produced from deposits of oil shale located within the United States. The term "oil shale" will be further defined as: "A fine-grained sedimentary rock containing insoluble organic matter that yields substantial amounts of crude oil by destructive distillation."

FEA also proposes to amend 10 CFR 211.67(d) by adding a subparagraph (8). This will permit domestic refiners to include in their crude oil runs to stills in a particular month the total volume of oil shale crude oil which they utilize in that month as a feedstock in their distillation units. The effect of this amendment will be to allow refiners to be issued entitlements for the volumes of synthetic fuel from oil shale which they use as a feedstock in the same manner as they



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currently receive entitlements on the volumes of all other crude oils which they process. In addition, a refiner will incur no entitlement obligations under 10 CFR 211.67(b) with respect to the inclusion of oil shale crude oil in its crude oil receipts. The treatment of oil shale crude oil under the entitlements program will thus be analogous to the treatment thereunder of the exempt and imported crude oils.

The amendment is proposed to be made effective for crude oil runs to stills in August 1977, for which entitlement transactions take place in October 1977.

### III. Specific Comments Requested

FEA is informed that processes are currently in the developmental stage for recovering synthetic liquid fuels from sources other than oil shale. FEA is not aware that any such other synthetic fuels are currently available in commercial quantites and for this reason is not including these other synthetic fuels in this proposed rulemaking. However, in addition to requesting comments on the proposed rule, FEA also requests comments as to whether any other domestically produced synthetic liquid fuels should be made eligible for inclusion in the entitlements program for the same reasons as the above proposal with respect to oil shale crude oil.

### IV. Comment Procedures

#### A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposal set forth in this notice. Comments should be submitted to the address indicated in the addresses section of this preamble and should be identified on the outside envelope with the designation "Inclusion of Oil Shale Crude Oil as a Feedstock Under the Entitlements Program." Fifteen copies should be submitted. All comments received by FEA will be available for public inspection in the FEA Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

#### B. Public Hearing

1. *Request procedure.* The time and place for the hearing is indicated in the dates section of this preamble. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the first business day following the date of the hearing shown above.

Any person who has an interest in the proposed amendments issued today, or who is a representative of a group or class of persons that has an interest in today's proposed amendments, may make a written request for an opportunity to make an oral presentation. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through the day before the hearing.

Each person selected to be heard will be so notified by the FEA before 4:30 p.m., e.d.t., August 19, 1977 and must submit 100 copies of his or her statement to Regulations Management, Room 2214, 2000 M Street NW., Washington, D.C., before 4:30 p.m., e.d.t. on August 25, 1977.

2. *Conduct of the hearing.* The FEA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing, to Executive Communications before 4:30 p.m., e.d.t., August 24, 1977. Any person who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the FEA and made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments on this proposal.

NOTE.—The FEA has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act. Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., July 26, 1977.

J. Peter Luedtke,
*Acting General Counsel.*

1. Section 211.62 is amended by adding a new definition of "oil shale crude oil" in appropriate alphabetical order to read as follows:

**§ 211.62 Definitions.**

* * * * *

"Oil shale crude oil" means the initial liquid hydrocarbons produced from deposits of oil shale located within the United States. For the purposes of this definition, the term "oil shale" means a fine-grained sedimentary rock containing insoluble organic matter that yields substantial amounts of crude oil by destructive distillation.

* * * * *

2. Section 211.67 is amended in paragraph (d) to add a new subparagraph (8) to read as follows:

**§ 211.67 Allocation of domestic crude oil.**

* * * * *

(d) *Adjustments to volume of crude oil runs to stills.* * * *

(8) The volume of a refiner's crude oil runs to stills in a particular month for purposes of the calculations in subparagraph (1) of paragraph (a) of this section and the calculations for the national domestic crude oil supply ratio shall include the total number of barrels of oil shale crude oil which are utilized in that month as inputs to distillation units by a refiner, measured in accordance with the Bureau of Mines Form 6-1300-M.

[FR Doc.77-21939 Filed 7-28-77;8:45 am]

## CIVIL AERONAUTICS BOARD

**[ 14 CFR Parts 221, 296 ]**

[EDR-330; Docket No. 30362; Dated: July 26, 1977]

### INTERNATIONAL AIR FREIGHT SHIPMENTS

**Advance Notice Concerning Commissions or Other Payments**

AGENCY: Civil Aeronautics Board.

ACTION: Advance Notice of Proposed Rulemaking.





SUMMARY: This advance notice invites comments from international air freight forwarders, international air freight agents, shippers, direct air carriers, the Department of Justice, the Federal Trade Commission, and other governmental agencies, private entities, and interested persons, concerning the Board's policies on the payment by direct air carriers of commissions or other fees in connection with international air freight shipments. This proceeding is being instituted in response to a rulemaking petition filed by the Air Freight Forwarders Association.

DATES: Comments by: September 12, 1977. Reply comments by: October 3, 1977. Requests to be placed on the Service List by: August 8, 1977.

ADDRESSES: Comments should be sent to Docket 30362, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Stephen Babcock, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., 202-673-5442.

SUPPLEMENTARY INFORMATION: Direct air carriers carrying air freight in foreign air transportation outbound from the United States now receive most of that freight from three types of entities: Shippers, international air freight agents [1] and air freight forwarders, both international air freight forwarders (U.S. citizens) and foreign air freight forwarders (foreign citizens) holding operating authorizations or certificates issued by the Board. Shippers, who typically are owners, buyers, or sellers of the freight that they tender, must pay the direct carrier's full tariff rate when they tender freight to the carrier. When shippers tender freight to an IATA agent, the shippers also pay the direct carrier's full tariff rate, and the agent receives a commission (currently, 5 percent of the price of the shipment) from the air carrier. When a shipment is tendered to an international air freight forwarder, however, the shipper is charged the rate established in the forwarder's own tariff, and the direct carrier's charges, which the forwarder in turn must pay, have no necessary connection to the charges that the shipper has paid to the forwarder. Therefore, because the forwarder consolidates a number of shipments into one lot and pays the direct carrier's volume rate for the larger shipment so assembled, while at the same time charging the shipper his own charge for the small shipment, the forwarder's financial return is made from the difference between the two charges.[2] The forwarder may not lawfully receive a commission from the direct carrier, the Board having historically held that a forwarder cannot be both an agent for a direct carrier and an indirect carrier in its own right with respect to the same shipment.[3]

It should be emphasized that the general rules regarding commissions outlined above apply only to international transportation outbound from the United States. Historically, the Board has not actively regulated the indirect air transportation of property in foreign air transportation inbound to the United States, and, in keeping with that policy, amended its rules in 1958 to exempt international air freight forwarders from sections 403 and 404 of the Act in regard to property inbound to the United States.[4] A second fact that should be noted is that the same person or firm may be both an authorized international air freight forwarder and an IATA agent, and the Board's rules (14 CFR 296.4) permit a forwarder to accept a shipment for transportation first, and then to decide whether to ship it as an IATA agent on a direct carrier's bill of lading, or to handle the shipment on its own airbill in its own forwarder service.

The Air Freight Forwarders Association (AFFA) has now filed a petition for rulemaking requesting either the modification of our Economic Regulations (14 CFR § 296.11) to permit payment of commissions to forwarders for consolidated shipments moving from the United States, or, in the alternative the issuance of a Policy Statement recognizing that freight forwarders may be compensated for delivering freight shipments to the direct carriers "ready for carriage."[5] AFFA argues that U.S. forwarders are placed at a competitive disadvantage vis-a-vis freight forwarders in other countries, since the international cargo rate structure of the direct carriers is based on payment of commissions to forwarders for consolidated shipments, as well as on agency traffic. Petitioner stresses that in no other country except the United States are forwarders prohibited from receiving commissions on consolidated shipments.

According to AFFA, the air freight rates established by the direct carrier members of IATA do not provide adequate incentives for the forwarder to solicit or tender consolidated shipments: The general commodity rate structure allows an insufficient spread in weight-breaks to compensate the forwarder; while the specific commodity rates begin at a weight level too high for the volume of traffic normally generated by the forwarder. The IATA rate structure is thus said to be oriented primarily toward individual shipments and large shippers.

AFFA also argues that if forwarders were allowed to receive commissions on outbound consolidated shipments, the status of the forwarders would not be converted from indirect carriers to agents of the direct carriers, as claimed by the opponents of the proposal, since the forwarder would remain a carrier with respect to the underlying shipper. AFFA argues that objections to its proposal on the grounds that commissions would constitute a rebate to the forwarder as a shipper are "merely semantic."

If the Board is unwilling to adopt the proposed amendment to Part 296, AFFA asks, as an alternative, that it adopt a Policy Statement to the effect that the direct carriers may compensate forwarders for their services in providing shipments which are "ready for carriage." These services include such things as containerizing shipments and preparing airbills, manfests, and other documentaton, and the fee would be compensation for those services performed by the forwarders which are otherwise performed by the direct carriers themselves upon receipt of a shipment. AFFA argues that forwarders are not now compensated for these "ready for carriage" services, thereby providing the direct carriers with such services free of charge.

In its answer in support of the AFFA petition, AEI argues that conditions in the international freight forwarding industry have materially changed since the Board denied a similar request by AEI for commissions in 1969.[6] AEI states that the forwarders' operating costs have greatly increased in the past five years alone. For example, labor costs in New York City have increased 77 percent. AEI also cites several other tariff developments that have restricted the forwarders' compensation and have reduced their incentive to consolidate shipments. AEI states that these problems cannot be realistically solved by modifications in the IATA rate structure, and that the relief requested should be granted.

The remaining forwarders answering the petition also strongly support the requested relief. Only one respondent, American Airlines, opposes the request, on the grounds that no inadequacy in

[1] These agents are so designated by International Air Transport Association members, and hence are commonly referred to as "IATA agents."

[2] Even if the forwarder does not consolidate the shipment, the charges might not be the same, since the rate established in the forwarder's tariff for a particular shipment need not be the same as that established by the direct carrier for the same shipment.

[3] Air Freight Forwarders Case (International); 11 C.A.B. 162, 189 (1949).

[4] International Airfreight Forwarder Investigation, 27 C.A.B. 658, 721-22 (1958).

[5] Answers in general support of the petition were filed by Air Express International (AEI), Pan American World Airways, W. R. Zanes & Co. of La., William H. Mason, Inc., DCI International, Target Air Freight, International Customs Service, Globe Shipping, National Customs Brokers and Forwarders Association, and Behring International. American Airlines answered in opposition, and the International Airfreight Agents Association answered in partial support.

[6] See letter from the Secretary of the Board, to counsel for AEI, dated April 18, 1969, Docket 20428.



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compensation has been shown, that discrimination is not present since all forwarders are treated similarly on outbound U.S. shipments, and that the "ready for carriage" fees are not true "additional services" justifying increased compensation.

Upon consideration of the petition, the answers, and all relevant matters, we have decided that there has been a sufficient persuasive showing to lead us to give further consideration to the general question of whether the Board should adopt new regulations or policies concerning the payment of commissions or other compensation to intermediaries such as international forwarders or IATA agents, or to underlying shippers themselves.

It appears that the commission which IATA agents now receive is given because of their performance of services of value to the direct carriers. The services characterized by petitioner as "ready for carriage" services are allegedly also services of value, but are performed for the carriers by international air freight forwarders without compensation. These services are said to include "preparation and rating of the direct air carrier airwaybill; the preparing of the air cargo manifest; compliance with all United States Department of Commerce Regulations, including the preparation of shipper export declarations or their equivalent; preparation and affixing of proper labels on all pieces of freight which include airline airbill number, destination airport, piece count and compliance with, and furnishing the individual shipper's certificate of compliance for, restricted articles procedures; and the providing of terminal handling facilities located on forwarder terminal premises for containerization of small shipments and delivering the loaded container to the IATA carrier." (Petition, at p. 7)

There is, therefore, an apparent disparity in the Board's regulatory treatment of the two similarly situated classes of intermediaries, and we thus wish to solicit the views of the public in order to better inform ourselves on the general question of what kinds and amounts of compensation, if any, should be paid to what classes of agents, forwarders or shippers, for services performed in connection with outbound U.S. air freight transportation. While the issue as phrased here is broader than that proposed by the petitioners, we believe that this broadening is necessary if we are to examine all aspects of the problem with a view to adopting rules that would treat all types of entities tendering freight to the direct carriers equitably.[7]

While we will carefully review all comments relevant to the general issue set forth in the preceding paragraph, we are particularly inviting the views of interested persons to focus on the following questions:

1. What precise kinds of sales, accessorial, "ready for carriage," or other similar services are now usually performed by IATA agents, by international air freight forwarders, by shippers and by the direct carriers?

2. What are the typical costs of each of the services described in answer to question 1, above, to the person or firm performing the service?

3. Identify any differences in costs which would result if the services were performed by a person or firm other than that now performing it (e.g., what net savings results if a particular service is performed by direct carriers, rather than by shippers themselves)?

4. What are, and what should be, the forwarder and direct carrier tariff provisions relating to each of the services identified in answer to question 1, above?

5. Should a system of fees other than the existing percentage commissions be devised?

6. What classes of persons or firms should be eligible to receive those fees?

7. What commission or fee regulations would be most compatible with the purposes of the Federal anti-trust and trade regulation laws?[8]

REQUEST FOR COMMENTS

Interested persons may participate in this proceeding by submitting 20 copies of written data views or arguments addressed to: Docket 30362, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All comments received by September 12, 1977, and reply comments received by October 3, 1977, will be considered by the Board before taking further action.

Those persons planning to participate who wish to be served with the comments of others, and who are willing to serve their own comments and reply comments on others, may, on or before August 8, 1977, request the Docket Section to place them on the Service List. The Service List will be prepared by the Docket Section and mailed to those named on it. Persons filing responsive comments should serve any person whose comment is dealt with in their responsive comment, whether or not either party is on the Service List.

Individual members of the general public who wish to express their interest as consumers may do so by submitting comments in letter form, in the manner and by the dates indicated above, without the necessity of filing additional copies.

(Secs. 204, 401, 403, 404(b), 72 Stat. 743, 754 (as amended), 758 (as amended), 760; (49 U.S.C. 1324, 1371, 1373, 1374).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
*Secretary.*

[FR Doc.77-21943 Filed 7-28-77;8:45 am]

[7] The scope of this rulemaking shall be limited to overseas and foreign air transportation, however, in keeping with the scope of the authority to act as agent for a direct carrier contained in 14 CFR 296.4.

[8] The Board particularly invites the comments of the Federal Trade Commission and the Department of Justice on this question.

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

[ 27 CFR Part 4 ]

[Notice No. 304 amended]

### LABELING AND ADVERTISING OF WINE

### Appellation of Origin, Grape Type Designation, Etc.; Postponement of Hearings

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Proposed rules; postponement of hearings.

SUMMARY: This notice changes the dates of the previously scheduled public hearings as published in the FEDERAL REGISTER on June 15, 1977 (42 FR 30517).

DATES: Submit written comments by December 3, 1977.

WASHINGTON, D.C. HEARING

Submit requests to present oral testimony by September 20, 1977. The hearing will be held on September 27 at 10 a.m. with an evening session commencing at 7:30 p.m.; and on September 28 at 10 a.m.

SAN FRANCISCO HEARING

Submit requests to present oral testimony by October 18, 1977. The hearing will be held on November 1–3 commencing at 10 a.m. with an evening session at 7:30 p.m. on November 1.

The hearing record will close at 5 p.m., December 3, 1977.

ADDRESS: Send comments and requests to testify to Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226.

The Washington, D.C. hearing will be held in Room 5041, Federal Building, 1200 Pennsylvania Avenue NW., Washington, D.C. 20226.

The San Francisco hearing site has been changed to the Sheraton Palace Hotel, 639 Market Street at New Montgomery Street, in the Comstock Room, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT:

The principal author, D. R. Royce, Coordinator, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, D.C. 20226, (202–566–7626).

Signed: July 27, 1977.

REX D. DAVIS,
*Director.*

[FR Doc.77-22010 Filed 7-28-77;8:45 am]

## Fiscal Service

[ 31 CFR Part 214 ]

### FEDERAL RESERVE BANKS AS FEDERAL TAX DEPOSITARIES

### Proposed Rulemaking

AGENCY: Fiscal Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Treasury Department is proposing to amend its regulations governing the use of Federal Reserve Banks as depositaries of Federal taxes, to increase the efficiency of that segment of the Federal Tax Deposit System.

DATES: Comments on this proposal must be received on or before August 29, 1977. The Treasury intends to issue a final rule to be effective on January 1, 1978.

ADDRESSES: Comments or inquiries should be sent to the Fiscal Assistant Secretary, Office of the Secretary, Department of the Treasury, Room 2112, Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT:

Mr. John Kilcoyne, Assistant Fiscal Assistant Secretary (Banking), Office of the Secretary, U.S. Treasury Department, Washington, D.C. 20220, 202–566–2553.

SUPPLEMENTARY INFORMATION: Under the proposed amendments, a taxpayer who mails or delivers a payment of Federal taxes to a Federal Reserve Bank or Branch other than the Bank or Branch servicing the territory from which the payment is mailed or delivered, or who does not make payment in the form of cash, a postal money order, certain Treasury Bills or an immediate credit item, will no longer be able to benefit from the standard of timeliness of payment set forth in 31 CFR § 214.6(b)(3) (date of receipt of the payment at the Federal Reserve Bank), but will be held to a stricter standard, to be set forth in a new paragraph § 214.6(b)(4), (date of actual collection of funds of the payment). An immediate credit item is a check or other payment instrument for which immediate credit is given in accordance with the check collection schedule of the receiving Federal Reserve Bank or Branch.

To give further guidance and background information to the public, the Treasury is setting forth herein an explanation of the tax deposit system of 31 CFR Part 214, and the amendments it is proposing to enhance the efficiency of the system. The Federal Tax Deposit System and the Treasury Tax and Loan Account System provide an efficient collection system for most (approximately 70%) of the Federal Government's revenues. This collection system, which has evolved during the past 30 years and is instituted on the basis of Part 214, is designed to enable tax depositors to make tax deposits, payable under the Federal Tax Deposit System, through the commercial banks with which they maintain their checking accounts. Thus, not only does this system benefit the Government by making possible the efficient inflow of most of its revenues but it also benefits the tax depositor by providing him the convenience of using his own commercial bank. The preferred and most efficient method of deposit is with the tax depositor's commercial bank.

Part 214 also permits—as a secondary place of deposit under the Federal Tax Deposit System—deposits of Federal taxes at Federal Reserve Banks or Branches. Currently, when these deposits are made by check, they may be made at any Federal Reserve Bank with a check drawn on any commercial bank. As compared to a deposit at an authorized commercial bank, the current provisions permit and generally result in a slower availability of funds to the Treasury. Accordingly, the Treasury Department proposes to revise the procedure for depositing Federal taxes directly with Federal Reserve Banks to increase the efficiency of that segment of the collection process.

Specifically, the Treasury proposes to amend 31 CFR 214.6(b)(1) so that Federal Reserve Banks are required to accept only tax deposits (a) mailed or delivered by a taxpayer located within the territorial boundaries of the receiving Federal Reserve Bank (local Federal Reserve Bank) and (b) made in the form of cash, postal money order, certain Treasury Bills, or an immediate credit item. (An immediate credit item is a check or other payment instrument for which immediate credit is given in accordance with the check collection schedule of the receiving Federal Reserve Bank or Branch.)

The Treasury also proposes to amend 31 CFR 214.6(b)(3) to set the date of receipt by the local Federal Reserve Bank of a tax payment made in accordance with (b)(1) as the date of payment. However, if a payment to a local Federal Reserve Bank is made by mail the provisions of 26 U.S.C. 7502 may be applicable. Those provisions credit a taxpayer with payment as of the date a payment is mailed if the deposit is received after the due date but the depositor can prove it was mailed at least two days before the payment was due.

The Treasury also proposes to add a new paragraph (b)(4) to 31 CFR § 214.6. The new paragraph provides that a deposit of Federal taxes which is not made in accordance with (b)(1) will nevertheless be processed by the receiving bank rather than returned to the taxpayer. However, such a tax payment will be credited as paid based upon the date of actual collection of the proceeds of the payment. If such deposit is made by mail, the provision of 26 U.S.C. 7502 will not apply.

In addition, the Treasury proposes an editorial amendment to 31 CFR 214.6(b), which contains the introduction to these deposit requirements, to smooth the transition from the introduction to the four paragraphs of requirements, and to include the definition of an immediate credit item in § 214.2.

The Treasury Department has determined that this proposed rulemaking is not a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OBM Circular A–107.

These amendments are proposed under the authority of Sec. 10, Act of June 11, 1942, Chapter 404, 56 Stat. 356, as amend, (12 U.S.C. 265); Sec. 15, Act of December 23, 1913, Chapter 6, 38 Stat. 265 (12 U.S.C. 391); Sec. 8, Act of September 24, 1917, Chapter 56, 40 Stat. 291, as amended, (31 U.S.C. 771), and § 6302(c), Internal Revenue Code of 1954; and 5 U.S.C. 553.

Accordingly, the Treasury Department proposes to amend 31 CFR Part 214 as follows:

§ 214.2 [Amended]

1. By adding the definition for an "immediate credit item" to § 214.2 to read as follows: "Immediate credit item" means a check or other payment instrument for which immediate credit is given in accordance with the check collection schedule of the receiving Federal Reserve Bank or Branch.

2. By revising paragraphs (b) introductory text, (b)(1), and (b)(3) of § 214.6 to read as follows:

§ 214.6 Handling of deposits of Federal taxes.

* * * * * *

(b) *Deposits with Federal Reserve Banks.* When handling Federal tax deposits, a Federal Reserve Bank, through any of its offices, shall comply with the following requirements:

(1) A Federal Reserve Bank shall accept a tax deposit directly from a taxpayer when such tax deposit is:

(i) Mailed or delivered by a taxpayer located within that Bank's territorial boundaries and,

(ii) In the form of cash, a check drawn to the order of that Bank and considered to be an immediate credit item by that Bank, a postal money order drawn to the order of that Bank, or Treasury Bills, as authorized in Part 309 of this Chapter, covering an amount to be deposited as Federal taxes and,

(iii) Accompanied by a Federal tax deposit form on which the amount of the tax deposit has been properly entered in the space provided.

* * * * * *

(3) When a deposit of Federal taxes is made in accordance with the requirements of paragraph (b)(1) of this section, a Bank shall place in the space provided on the face of each Federal tax deposit form accepted directly from a taxpayer, a stamp impression reflecting the name of the Bank and the date on which the tax deposit was received by the Bank so that the timeliness of the Federal tax payment can be determined. However, if such a deposit is mailed to a Bank, it is subject to the "Timely mailing treated as timely filing and paying" clause of section 7502 of the Internal Revenue Code (26 U.S.C. 7502).

3. By adding a new paragrah (b)(4) to § 214.6 to read as follows:

§ 214.6 Handling of deposits of Federal taxes.

* * * * * *

(b) * * *

(4) When a deposit of Federal taxes is not in accordance with the requirements governing form of payment set forth in paragraph (b)(1) of this section, a Bank shall place in the space provided on the







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face of each Federal tax deposit form a stamp impression reflecting the name of the Bank and the date on which the proceeds of the accompanying payment instrument are collected by the Bank. This date shall be used for the purpose of determining the timeliness of the Federal tax payment.

Dated: July 22, 1977.

DAVID MOSSO,
*Fiscal Assistant Secretary.*

[FR Doc.77-21865 Filed 7-28-77;8:45 am]

## DEPARTMENT OF DEFENSE

### Defense Intelligence Agency

### [ 32 CFR Part 292a ]

[DIA Reg. No. 12-12]

### PART 292a—PRIVACY ACT OF 1974

### Proposed Rule Amendment

AGENCY: Defense Intelligence Agency (DIA).

ACTION: Proposed rule amendment.

SUMMARY: This proposed rule amendment is intended to improve the clarity of existing exemption rules under the Privacy Act of 1974. The present rules are duplicative as to the specific exemption authority (para (k)(1), 5 U.S.C. 552a). The present general exemption rule, as written, is not applicable to any particular identfiable system of records (para (j)(2), 5 U.S.C. 552a). Certain deletions and changes will eliminate the obscurity.

DATES: Comments must be received on or before August 29, 1977.

ADDRESS: Office of the General Counsel, Defense Intelligence Agency, The Pentagon, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT:

Mr. John R. Brock, address as above, or telephone 202-697-3945.

SUPPLEMENTARY INFORMATION: This proposed rule amendment would change § 292a.22 by modifying existing paragraph (a) and deleting existing paragraphs (b) and (d). Existing paragraph (c) contents remain unchanged and will be reidentified as (b). § 292a.23 would be changed by deleting existing specific exemptions of record systems identified in paragraphs (a), (b) and (c) as these record systems are exempted under authority of 5 U.S.C. 552a(k)(1) which is already provided for under existing paragraph (e) which will be redesignated paragraph (b) in § 292a.22. The (k)(1) authority for exemption for record systems in existing paragraphs (d) and (e) are deleted for the same reason.

It is therefore proposed to amend § 292a.22 and § 292a.23 to read as follows:

**§ 292a.22 General information.**

(a) The Director, Defense Intelligence Agency designates the following systems of records listed in § 292a.23 which are maintained by the DIA for exemptions under the specified provisions of the Privacy Act of 1974 (Pub. L. 93-579).

(b) All systems of records maintained by the DIA will be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(k)(1) to the extent that the system contains any information properly classified under Executive Order 11652, "Classification and Declassification of National Security Information and Material," 8 March 1972 (37 FR 10053, 19 May 1972), and which is required by the Executive Order to be kept secret in the interest of national defense or foreign policy. This exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions herein may contain isolated items of information which have been properly classified.

**§ 292a.23 Specific exemptions.**

(a) *ID:* L DIA 0271.

(1) *System name:* Investigations.

(2) *Exemption:* This system of records is exempt from the following provisions of Title 5, U.S.C., Section 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

(3) *Authority:* 5 U.S.C. 552a(k)(2).

(4) *Reasons.* Granting individuals access to information collected and maintained by this Component relating to the enforcement of criminal laws could interfere with orderly investigations, with the orderly administration of justice, and possibly enable suspects to avoid detection or apprehension. Disclosure of this information could result in the concealment, destruction, or fabrication of evidence and jeopardize the safety and well being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources and methods used by this component and could result in the invasion of the privacy of individuals only incidentally related to an investigation. The exemption of the individual's right of access to the complete record and the reasons therefore necessitate the exemption of this system of records from the requirements of the other cited provisions. However, the individual may have access only to that information provided by himself. The files contain properly classified information under Executive Order 11652 and are required by the Executive Order to be kept secret in the interest of national defense.

(b) *ID:* L DIA 0272.

(1) *System name:* Complaints.

(2) *Exemption.* This system of records is exempt from the following provisions of Title 5, U.S.C., Section 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

(3) *Authority.* 5 U.S.C. 552a(k)(2).

(4) *Reasons.* Granting individuals access to information collected and maintained by this Component relating to the enforcement of criminal laws could interfere with orderly investigations, with the orderly administration of justice, and possibly enable suspects to avoid detection or apprehension. Disclosure of this information could result in the concealment, destruction or fabrication of evidence and jeopardize the safety and wellbeing of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffective investigative techniques, sources and methods used by this component and could result in the invasion of the privacy of idnividuals only incidentally related to an investigation. The exemption of the individual's right of access to the complete record and the reasons therefore necessitate the exemption of this system of records from the requirements of the other cited provisions. However, the individual may have access only to that information provided by himself. The files contain properly classified information under Executive Order 11652 and are required by the Executive Order to be kept secret in the interest of national defense.

JOHN B. BROCK,
*General Counsel,*
*Defense Intelligence Agency.*

JULY 26, 1977.

MAURICE W. ROCHE,
*Director, Correspondence and Directives OACD (Comptroller).*

[FR Doc.77-21940 Filed 7-28-77;8:45 am]

## POSTAL SERVICE

### [ 39 CFR Part 111 ]

### IDENTIFICATION STATEMENTS IN SECOND-CLASS AND CONTROLLED CIRCULATION PUBLICATIONS

### Proposed Requirements

AGENCY: United States Postal Service.

ACTION: Proposed rule.

SUMMARY: This notice presents for comment a proposed amendment to Postal Service regulations to modify the requirements concerning the wrapper information and identification statements furnished by the publishers of second-class and controlled circulation publications. The proposed amendment would require the wrapper of each publication to bear the number assigned to that publication by the Director of the Office of Mail Classification, and would specify a location for the publisher's identification statement which must appear in each publication. These provisions would enable the Postal Service to collect more accurate revenue and cost data, and facilitate address correction services.

DATES: Comments must be received on or before August 29, 1977.





ADDRESSES: Director, Office of Mail Classification, Rates and Classification Department, United States Postal Service, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Clent Crocker, 202-245-4394.

SUPPLEMENTAL INFORMATION: Under existing postal regulations, Postal Service Manual § 125.26, the wrapper of a second-class publication must bear the publication's notice of entry, the name of the publication, and the address to which undeliverable copies or change of address notices are to be sent. Because a number of publications have similar names, the Postal Service often directs change of address notices to the wrong publishers, and collects erroneous revenue and cost data. In order to alleviate this problem, the Postal Service proposes to require the sender of a second-class publication to include on the publication wrapper the number assigned to the publication by the Director of the Office of Mail Classification of the Rates and Classification Department. In addition, the Postal Service proposes to amend Postal Service Manual § 133.3 to remedy a similar problem regarding controlled circulation publications by requiring each publication's number to appear in the notice of payment of postage printed or handstamped on its wrapper.

Existing postal regulations, Postal Service Manual §§ 132.25 and 133.3, require a publisher's identification statement to be printed on one of the first five pages of each copy in a position where it "may be easily located by postal employees and other interested persons." In practice, postal employees have experienced difficulty in locating identification statements in some publications. This has increased the costs of providing address correction services and of collecting cost data. In an attempt to correct this situation, the Postal Service proposes to require the publishers' identification statement to be printed in type no smaller than the normal text type in one of the following locations: (1) On one of the first five pages (preferably in the masthead) or (2) in the masthead on the editorial page (provided the location of the editorial page is shown on the front page of the publication in the table of contents).

Accordingly, although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed amendments of the Postal Service Manual:

PART 125—SECOND-CLASS BULK MAILINGS

1. Section 125.26 of the Postal Service Manual is revised to read as follows:

.26 Sealed or unsealed envelopes used as wrappers and sealed wrappers or other sealed covers must show in the upper right corner a notice of entry and the publication number assigned to the publication by the Director, Office of Mail Classification (for example, Second-Class Postage Paid at Cleveland, Ohio: Publication Number 000000). The upper left corner must show the name of the publication and the mailing address to which undeliverable copies or change of address notices are to be sent. See 132.25f and 159.224 for additional instructions.

PART 132—SECOND CLASS

2. Section 132.25 of the Postal Service Manual is revised to read as follows:

.25 Identification Statements in Copies. Copies of publications entered as second-class mail and copies of publications awaiting approval of their Application For Second-Class Mail Privileges must have an identification statement conspicuously shown in type no smaller than the normal text type in one of the following locations: (1) On one of the first five pages (preferably in the masthead) or (2) in the masthead on the editorial page (Provided, The location of the editorial page is shown on the front page of the publication in the table of contents.) The identification statement must contain all of the following items:

a. *Name of publication.* In addition to being included in the identification statements, the name of the publication must also be shown on the front in a position and in a style and size of type that makes it clearly distinguishable from the name of the publisher or other items on the front.

b. *Date of issue.*

c. *Statement of frequency.*

d. *Issue number.* The issues of each publication must be numbered consecutively. The consecutive numbering of published issues may not be broken by assigning numbers to issues unavoidably omitted.

e. *Subscription price,* if the publication has one.

f. *Name of known office of publication and ZIP Code,* including street and number if there is letter carrier service, must be printed in a position or in a style and size of type or with a designation that makes it clearly distinguishable from the names of other offices of the publication. If there is no United States Post Office at the place where published (foreign publication) the name of the post office where mailed must be shown as the office of publication.

g. *Second-class imprint and publication number,* which reads "Second-Class Postage Paid at _____; Publication Number _____". If a publication is mailed at two or more offices, the imprint must read "Second-Class Postage Paid at _____ and at additional mailing offices; Publication Number _____".

OR

*Notice of pending application.* If copies are mailed while an application is pending, a notice must be included which reads "Application To Mail At Second-Class Postage Rates Is Pending At _____".

h. *Mailing address for change of address orders.* A statement, indicating where change of address orders are to be sent, which reads: "POSTMASTER: Publication ID No. _____. Send change of address orders to (*Publication name and mailing address*)." See 125.26 regarding publications which are wrapped.

PART 133—CONTROLLED CIRCULATION PUBLICATIONS

3. Section 133.3 of the Postal Service Manual is revised to read as follows:

133.3 Identification Statements. Copies of publications entered as controlled circulation mail must have an identification statement conspicuously shown in type no smaller than the normal text type in one of the following locations: (1) On one of the first five pages (preferably in the masthead) or (2) in the masthead on the editorial page (provided the location of the editorial page is shown on the front page of the publication in the table of contents). The identification statement must contain all of the following items:

a. *Name of publication.* In addition to being included in the identification statements, the name of the publication must also be shown on the front in a position and in a style and size of type that makes it clearly distinguishable from the name of the publisher or other items on the front.

b. *Date of issue.*

c. *Frequency of issue.*

d. *Address of publisher,* including street and number if there is letter carrier service and the ZIP Code.

e. *Subscription price,* if the publication has one.

f. *Controlled circulation imprint and publication number,* reading: "Controlled Circulation Postage Paid at _____; Publication Number _____." If a publisher has filed applications at more than one post office, and has received authorizations at each office, the imprint must read: "Controlled Circulation Postage Paid at _____; Publication Number _____ and at _____; Publication Number _____".

OR

*Notice of pending application.* If copies are mailed under deposits of money, a statement must be included which reads: "Application To Mail At Controlled Circulation Rates is Pending at _____" A notice must be printed or handstamped on the envelopes or wrappers in which copies are mailed, reading: "Controlled Circulation Postage Paid at _____; Publication Number _____". If a publisher has filed applications at more than one post office and has received authorizations at each office, the notice must read: "Controlled Circulation Postage Paid at _____; Publication Number _____ and at _____; Publication Number _____".



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An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

(39 U.S.C. 401, 404, 3626, 3685.)

W. ALLEN SANDERS,
*Assistant General Counsel, Legislative Division.*

[FR Doc.77-21824 Filed 7-28-77;8:45 am]

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**[ 39 CFR Part 111 ]**

**BUSINESS REPLY MAIL**

**Handling Business Reply Mail With Postage Affixed**

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The proposed rule would specify that business reply mail (BRM) bearing postage will be handled the same way as all other BRM, i.e., applicable business reply postage and fees will be charged without deducting the amount of any postage stamps affixed. However until March 15, 1978 customers may apply for a refund of the postage affixed upon presenting to the postmaster appropriate evidence of the amount of excess postage paid. The business reply fee will not be refunded.

The relatively recent practice of some business reply permit holders in encouraging their correspondents to place stamps on BRM has created difficulties for the Postal Service. Post offices across the country have responded in various ways to the practice. It is the purpose of this proposed rule to discourage the practice and to clarify the response of postal employees handling such mail.

DATE: Comments must be received on or before September 1, 1977.

ADDRESS: Written comments should be directed to the Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Clent Crocker, 202-245-4394.

SUPPLEMENTARY INFORMATION:

Under 131.231 of the Postal Service Manual business reply is a unique service whereby a postal customer may choose to distribute specially printed business reply cards, envelopes, cartons and labels for use by mailers in sending mail to the distributor without prepayment of postage. The Manual also provides that the address side of BRM must be prepared both as to style and content in the particular forms shown. PSM 131.234. The business reply format enables postal employees promptly to recognize BRM so that postage and fees will be collected before delivery. Any use of this format for a purpose other than identifying BRM would tend to defeat the purpose of the distinctive format and would not be authorized by existing postal regulations.

A number of users of BRM have been encouraging their correspondents to place postage stamps on BRM pieces. Placing postage stamps on BRM is basically inconsistent with the concept of postage payment for BRM, which is to authorize mailing without prepaying postage. In addition, if prepayment of postage on BRM were permitted this would render pointless the distinctive format of BRM, which is to identify postage due mail. If BRM with stamps affixed were to be handled like prepaid mail postal employees could no longer automatically associate the business reply format with postage due mail, and regular BRM would mix with the prepaid mail thereby bypassing the postage due unit and getting a free ride to the detriment of postal revenues. On the other hand, if BRM with stamps affixed were to be processed as postage due mail, additional handling would be necessary if the pieces with stamps affixed were to be separated from the regular postage due BRM. However, the cost of any such additional handling would not be covered by the customary business reply postage and fees.

Post offices are now receiving such quantities of BRM with postage stamps affixed that it is necessary to amend postal regulations to specifically prohibit this practice, to collect and retain BRM fees on such mail, and to end refunds for postage affixed to BRM. It is the purpose of the proposed rule to discourage the practice of putting postage on BRM and to explain the procedure for handling any such mail in the future.

Accordingly, although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking, 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revision of the Postal Service Manual:

PART 131—FIRST CLASS

In 131.23 of the Postal Service Manual add new .233g reading as follows:

131.23 Business Reply Mail.

* * * * *

.233 Postage and Fees

* * * * *

g. Mailers shall not affix postage to BRM pieces and business reply permit holders must not encourage the practice. Any BRM having postage affixed shall be handled the same as all other BRM. No effort will be made to identify or separate such pieces. Applicable BRM postage and fees will be charged without deducting the amount of any postage stamps affixed. However, until March 15, 1978 customers may request a credit or refund as provided in 147.22, for the amount of postage affixed to BRM pieces by submitting a completed Form 3533, Application and Voucher for Refund of Postage and Fees to the postmaster along with evidence of payment of the amount of excess postage for which a credit or refund is desired.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

(39 U.S.C. 401(2).)

W. ALLEN SANDERS,
*Assistant General Counsel, Legislative Division.*

[FR Doc.77-21845 Filed 7-28-77;8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

**[ 47 CFR Part 73 ]**

[Docket No. 21323; 77-477]

**TELEVISION TRANSMITTERS**

**Use of Subcarrier Frequencies in the Aural Baseband**

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: Notice was issued as a result of a petition from Boston Broadcasters, Inc., to amend the Commission's Rules to permit use of subcarriers on TV aural transmitters for purposes of cuing and telemetry. An inquiry was instituted to investigate other possible uses for the aural baseband such as stereo TV, foreign language translation, augmented audio for the blind, etc., and to determine the degree of interest there may be in such uses. Additionally, questions were asked concerning technical specifications, costs for equipment, degradation of present service, and equipment considerations.

DATES: Comments must be received on or before August 18, 1977, and Reply comments on or before August 29, 1977.

ADDRESS: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Stanley Schmulewitz, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION: In the matter of the use of subcarrier frequencies in the aural baseband of television transmitters (Docket No. 21323, RM-2836). Notice of inquiry.

Adopted: July 1, 1977.

Released: July 15, 1977.

INTRODUCTION

1. This Inquiry is being instituted as a result of a petition received from Boston Broadcasters, Inc., ("BBI"), licensee of television station WCVB-TV, Channel 5, Boston, Massachusetts. BBI has petitioned the Commission to amend Part 73 of its Rules to permit television stations to use subcarriers on their aural transmitters for the purposes of cuing and corrdinating electronic news gathering (ENG) crews in the field.

2. In support of its petition, BBI calls attention to the burgeoning utilization of ENG in news programming by television stations, a utilization shared by BBI. Further, the petitioner states that in connection with ENG it is vital that television stations have a means of communicating with the crews in the field for the purposes of cuing, coordinating, etc. In lieu of employing auxiliary broadcast facilities for these purposes (and the consequent use of scarce spectrum space allocated to auxiliary broadcast services) BBI proposes use of subcarriers on the aural transmitters of television stations for accomplishing these communications. Subparagraph 73.682(a)(23) of the FCC Rules presently permits multiplexing of the aural carrier for the puprose of transmitting telemetry and alterting signals from the transmitter site to the control point of a television broadcast station authorized to operate by remote control.

3. For more than a year, WCVB-TV, pursuant to special authority from the Commission, has been testing the use of a 67 kHz subcarrier on its aural transmitter for the purposes of cuing and coordinating its ENG crews. This has been done with the simultaneous use of a 39 kHz telemetry subcarrier. The 39 kHz and 67 kHz subcarriers modulated the main carrier (injection levels) 5 percent and 10 percent respectively. In its test reports, BBI submits that the subcarriers do not interfere with each other nor cause interference to the aural or visual portions of the television broadcast.[1] The National Broadcasting Company ("NBC"), American Broadcasting Companies, Inc., ("ABC"), and National Association of Broadcasters ("NAB") filed comments supporting the petition. ABC cited tests, similar to those of BBI, carried out by its owned and operated Station, WABC-TV, New York City with similarly favorable results. The NAB stated:

> Although the Association fully supports the instant proposal, the NAB believes that any Rules and Regulations or technical standards which may be established for the use of the television aural subcarrier for remote pickup purposes should be considered in view of potential future utilization of the audio portion of the television signal. For example there has been some interest in suggesting changes to the television preemphasis curve and some thought of increasing the aural deviation to permit higher fidelity sound and more transmission bandwidth for ancillary signals.

FURTHER APPLICATIONS

4. Since the type of subcarriers proposed by BBI may have additional applications and since there may be other uses for the aural baseband which could be affected by standards developed, it is appropriate that we investigate such applications and uses at this time.

5. *Multi-channel Audio Transmission*—Interest may be developing for stereophonic television sound broadcasting. A Notice of Inquiry, Docket No. 15697, FCC-64-1057, released by the Federal Communications Commission on November 13, 1964, regarding TV stereo elicited few favorable comments and no comments from television broadcasters or their organizations. A Memorandum Opinion and Order, FCC-67803, released July 17, 1967, denied the petitions for rule making that had prompted the Notice, and terminated the proceeding. In its Memorandum Opinion and Order the Commission stated:

> EIA submits that in order to obtain the answers to the technical questions raised by its Broadcast Television System Committee it would take 18 months part time effort of about 100 engineering and scientific personnel and that there is not sufficient interest in the industry to warrant such further study. It urges therefore that the present inquiry be closed without prejudice or deferred to a later date. Among the technical problems which EIA lists for necessary study are compatibility, spectrum utilization, FM carrier deviation, monophonic reception characteristics, receiver and transmitter considerations, transmission effects and field testing * * *

In its concluding remarks the Commission also stated:

> Based upon the character of the responses to our Notice of Inquiry we are convinced that there is no urgent need or demand for adoption of specifications for stereophonic sound for television broadcasting. Not one TV broadcast station or organization of such stations filed any comments. EIA, the representative of most of the TV transmitter and receiver manufacturers, urges us to close the proceeding or defer it to a later date. The Inquiry has, however, served to emphasize the problems that must be solved before material benefits can be derived from the proposed addition of stereo sound. It appears, therefore, that no useful purpose would be served by continuing the present proceeding at this time. In the event that the industry or other interested parties feel that there is sufficient ultimate prospect of TV program improvement through the use of sound stereo, efforts can be directed to the problems referred to above for consideration at a later date.

We are aware that several proposals have been developed through the years for multi-channel TV audio transmission. In the ten years since Docket No. 15697 was terminated, it is possible that technical changes as well as interest by the public and broadcasters in stereo television sound may have occurred. For example, we have noted that recent video tape and videodisc playback equipment has provision for multi-channel sound.

6. *Foreign Language Translation.* Due to the increasing concern with the provision of entertainment and information to minority groups, it appears that there may be an interest in providing a foreign language translation of various telecasts through use of a subcarrier. While the most obvious application is the use of the Spanish language in some parts of the country, other languages may also be desired.

7. *Augmented Audio for the Blind.* Radio dramas were at one time a great source of entertainment which did not involve the use of the visual sense. Since the advent of television, this newer medium has become the primary vehicle for broadcast drama. Since television involves both the visual and aural senses, a person who must depend only upon the aural sense may not be able to completely follow the development of the story. It may, therefore, be useful to the blind to have a subcarrier channel which could augment the information carried by the usual audio portion of the program. The same could apply to sportcasts carried by TV but not radio.

IMPLEMENTATION CONSIDERATIONS

8. The implementation of any of the above applications of TV aural transmitters subcarriers will involve the making of technical evaluations and decisions concerning the feasibility of each application and the most practical method for its implementation. Some of the necessary considerations are listed herein.

9. *Degradation of Service.* It must be determined whether the use of a subcarrier for any purpose will cause degradation of audio or visual transmission or cause interference to adjacent TV channels or other radio services. It is also important to consider the effect that use of aural channel subcarriers will have upon the service area of a TV station: specifically, since modulation of the main aural channel must be reduced to accommodate modulation of the subchannels, to what extent, if any, will aural coverage of the station be affected?

10. *SCA Specifications.* For the use of subcarriers as proposed by BBI. What should the restrictions be for the use of such subcarriers? Also, what should the technical standards be? For example:

(a) To what part of the baseband should such subcarriers be restricted?

(b) What modulation (injection) levels should be authorized?

(c) How many subcarriers may be authorized without causing deterioration of normal television service?

(d) Should we adopt interim standards for the use of subcarriers as proposed by BBI while considering other uses?

11. *Stereo Interest.* We also wish to identify the present interest in stereophonic sound for television as follows:

(a) Is the public interested in stereo TV? Is is sufficiently interested that it would be willing to bear the additional costs involved?

(b) Are broadcasters interested in such transmissions and if so would they make the necessary expenditures to make it a reality?

(c) What system proposals are there that are feasible for implementing stereo TV sound?

(d) What studio-transmitter transmission techniques are now available for local and network programming?

(e) Would such systems lend themselves to quadraphonic sound (such as matrix encoding techniques) to encrease the realism of programs?

(f) If there is a desire for television stereophonic sound, can both stereo as well as subcarriers for other uses be accommodated?

12. *Foreign Language and Augmented Audio Interest*—Is there a need and interest for an aural sub-channel for implementing bi-lingual telecasts and augmented audio for the blind? If so:

What is the best way of accomplishing this? Is there a multi-channel sound scheme that would lend itself to this type of service in a way compatible with stereo transmission?

[1] BBI submitted test reports and data with its petition.







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13. *Other Uses*—What other uses are there for the aural baseband or subcarriers which we have not addressed here? Presently, there is a proceeding pending before the Commission under Docket No. 18877 (FCC 73-1313) which concerns the possible adoption of a rule which would permit the inclusion in the aural transmission of broadcast stations of coded information intended to be received and used in a system for the automatic identification of program segments which include such information. After reviewing that proceeding, it has been concluded that it will have no impact upon this Inquiry.

14. *Equipment Considerations.* If the use of stereophonic audio is adopted for television, what difficulties may be encountered in designing and manufacturing receivers for the reception of such programs? In the interim, is it likely that manufacturers would produce television receivers or special television aural receivers which have output jacks for connection to external stereophonic or quadrophonic equipment? Could similar outputs also be provided for subcarriers used in foreign language transmissions and augmented sound for the blind? Comments on these and other equipment considerations are requested.

INQUIRY

15. In view of the foregoing, we seek to obtain information, views, and recommendations from manufacturers, broadcasters, members of the public, and all other interested parties, in order to assist the Commission in resolving the regulatory and policy questions presented by these new applications of broadcast technology.

16. Pursuant to the applicable procedures set forth in Section 1.415 of the Commission's Rules interested persons may file comments on or before August 18, 1977, and reply comments on or before August 29, 1977. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. The Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

17. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, an original and 5 copies of all comments, replies, or other documents filed in this proceeding shall be furnished to the Commission. Participants filing the required copies who also wish each Commissioner to have a personal copy of the comments may file an additional 6 copies. Members of the general public who wish to express their interest by participating informally in this proceeding may do so by submitting one copy of their comments, without regard to form, provided that the Docket Number is specified in the heading. Such informal participants who wish responsible members of the staff to have a personal copy and to have an extra copy available for the Commissioners may file an additional 5 copies. Responses will be available for public inspection during regular business hours in the Commission's Dockets Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 M Street, N.W.).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

[FR Doc.77-21864 Filed 7-28-77;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### [ 21 CFR Part 108 ]

[Docket No. 75N-0332]

### PICKLED, FERMENTED, AND ACIDIFIED FOODS

### Emergency Permit Control; Reopening of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Reopening of comment period.

SUMMARY: The comment period for an emergency permit control regulation for pickled, fermented and acidified foods is reopened. This action is taken in response to a request by the National Canners Association.

DATES: The comment period closes October 3, 1977.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Melvin R. Johnston, Bureau of Foods (HFF-414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, (202-245-1514).

SUPPLEMENTARY INFORMATION: The Food and Drug Administration issued a proposal in the FEDERAL REGISTER of July 23, 1976 (41 FR 30442) under § 108.25 (formerly § 90.22 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) to establish an emergency permit control for pickled, fermented, and acidified foods. Comments were to be filed on or before September 21, 1976. By notice published in the FEDERAL REGISTER of September 22, 1976 (41 FR 41436), the comment period was extended to November 20, 1976.

The Commissioner received a request to reopen the comment period from the National Canners Association (NCA). Since the close of the previous comment period, questions have arisen concerning the need for pH requirements for certain acid products and on the time for acidified foods to equilibriate at a pH of 4.6 or lower. To gather information on these matters, NCA requested that the comment period be reopened until October 3, 1977.

The Commissioner hereby reopens the period for filing comments on the subject proposal to close of business October 3, 1977.

Interested persons may submit to the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments (preferably four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding the proposal. Received comments may be seen in the Hearing Clerk's office, between 9 a.m. and 4 p.m., Monday through Friday.

This action is taken under the Federal Food, Drug, and Cosmetic Act (secs. 402(a) (3) and (4), 404, 701(a), 52 Stat. 1046, 1048-49, 1055, (21 U.S.C. 342(a) (3) and (4), 344, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: July 21, 1977.

JOSEPH P. HILE,
*Associate Commissioner for Compliance.*

[FR Doc.77-21797 Filed 7-28-77;8:45 am]

### [ 21 CFR Part 113 ]

[Docket No. 75N-0333]

### THERMALLY PROCESSED LOW-ACID FOODS PACKAGED IN HERMETICALLY SEALED CONTAINERS

### Good Manufacturing Practice Regulations; Reopening of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Reopening of comment period.

SUMMARY: The comment period for a good manufacturing practice regulation for thermally processed low-acid foods packaged in hermetically sealed containers is reopened. This action is taken in response to a request by the National Canners Association.

DATES: The comment period closes October 3, 1977.

ADDRESSES: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Melvin R. Johnston, Bureau of Foods HFF-414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, (202-245-1514).

SUPPLEMENTARY INFORMATION: The Food and Drug Administration issued a proposal in the FEDERAL REGISTER of July 23, 1976 (41 FR 30444) under Part 113 (formerly Part 128b prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) to ensure safe manufacturing, processing, and packing procedures for thermally processed low-acid foods packaged in hermetically sealed containers. Comments were to be filed on or before September 21, 1976. By notice published in the FEDERAL REGISTER of September 22, 1976 (41 FR 41436), the comment period was extended to November 20, 1976.

The Commissioner received a request to reopen the comment period from the National Canners Association (NCA). Since the end of the previous comment period, questions have arisen concerning the need of a flow diversion valve for aseptic canning and on the pH requirements for certain unacidified products.

To gather information on these matters, NCA has requested that the comment period be reopened until October 3, 1977.

The Commissioner hereby reopens the period for filing comments on the subject proposal to close of business October 3, 1977.

Interested persons may submit to the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments (preferably four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding the proposal. Received comments may be seen in the Hearing Clerk's office, between 9 a.m. and 4 p.m., Monday through Friday.

This action is taken under the Federal Food, Drug, and Cosmetic Act (secs. 402 (a) (3) and (4), 701(a), 52 Stat. 1046, 1055 (21 U.S.C. 342(a) (3) and (4), 371 (a))) and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: July 21, 1977.

JOSEPH P. HILE,
*Associate Commissioner for Compliance.*

[FR Doc.77-21821 Filed 7-28-77;8:45 am]

### [ 21 CFR Part 114 ]

[Docket No. 75N-0334]

### PICKLED, FERMENTED, AND ACIDIFIED FOODS

### Good Manufacturing Practice Regulations; Reopening of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Reopening of comment period.

SUMMARY: The comment period for a good manufacturing practice regulation for pickled, fermented and acidified foods is reopened. This action was taken in response to a request by the National Canners Association.

DATES: The comment period closes October 3, 1977.

ADDRESSES: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:





Melvin R. Johnston, Bureau of Foods (HFF-414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-245-1514.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration issued a proposal in the FEDERAL REGISTER of July 23, 1976 (41 FR 30457) under Part 114 (formerly Part 128g prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) to ensure safe manufacturing, processing, and packing procedures for pickled, fermented, and acidified foods. Comments were to be filed on or before September 21, 1976. By notice published in the FEDERAL REGISTER of September 22, 1976 (41 FR 41436), the comment period was extended to November 20, 1976.

The Commissioner received a request to reopen the comment period on the proposed good manufacturing practice regulation from the National Canners Association (NCA). Since the close of the previous comment period, questions have arisen concerning the need for pH requirements for certain acid products and on the time for acidified foods to equilibrate at a pH of 4.6 or lower. To gather information on these matters, NCA requested that the comment period be reopened until October 3, 1977.

The Commissioner hereby reopens the period for filing comments on the subject proposal to close of business October 3, 1977.

Interested persons may submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding the proposal. Received comments may be seen in the Hearing Clerk's office, between 9 a.m. and 4 p.m., Monday through Friday.

This action is taken under the Federal Food, Drug, and Cosmetic Act (secs. 402 (a) (3) and (4), 701(a), 52 Stat. 1046, 1055 (21 U.S.C. 342(a) (3) and (4), 371 (a))) and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: July 21, 1977.

JOSEPH P. HILE,
*Associate Commissioner for Compliance.*

[FR Doc.77-21809 Filed 7-28-77;8:45 am]

### [ 21 CFR Parts 145, 150, 172, 180, 189, 310, 430, 510, 589, and 700 ]

[Docket No. 77N-0085]

### SACCHARIN AND ITS SALTS

### Proposed Rule Making; Extension of Comment Period

*Correction*

In FR Doc. 77-18666 appearing in the issue of Friday, July 1, 1977 on page 33768, the last paragraph, the 1st sentence, the citation should read, "• • • FEDERAL REGISTER of April 15, 1977 (42 FR 19996) • • •.".

### [ 21 CFR Parts 172, 182, 184 ]

[Docket No. 77N-0131]

### BEESWAX

### Affirmation of GRAS Status as a Direct Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This is a proposal to affirm the generally recognized as safe (GRAS) status of beeswax (yellow or white) as a direct human food ingredient. The safety of this ingredient has been evaluated pursuant to a comprehensive safety review being conducted by the agency. The proposal would list the ingredient as a direct food substance affirmed as GRAS.

DATE: Comments by September 27, 1977.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-472-4750).

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) is conducting a comprehensive safety review of direct and indirect human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposed regulations published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20040) initiating this review. Pursuant to this review, the safety of beeswax (yellow or white) has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35, formerly 21 CFR 121.40 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), the Commissioner proposes to affirm the GRAS status of this ingredient.

Beeswax is a secretory product of honeybees that is used as a structural material in honeycombs. Beeswax generally refers to wax of the domesticated honey bee, *Apis mellifica*, also referred to as *A. mellifera*, but other species found in Asia—*A. dorsata*, *A. flora*, and *A. indica*—are also sources of commercial beeswax. The Asiatic waxes are known as East Indian beeswax or Ghedda wax. Beeswax is produced domestically and also is imported from Latin America, Africa, Europe, and Asia.

Crude beeswax is prepared from honeycombs emptied of honey by draining or centrifuging. The combs are melted in hot water or steam, or with solar heat, and strained to remove bee



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and cocoon fragments and other foreign material. The crude wax is refined by melting in hot water to which sulfuric acid or alkali may be added to extract impurities. The resulting wax is referred to as yellow beeswax. White beeswax is produced by bleaching the constituent pigments, principally carotenes, of yellow beeswax with peroxides, or preferably it is bleached by sunlight.

Beeswax (yellow) and bleach beeswax (white) are listed in §§ 182.1973 and 182.1975 respectively (formerly, both sections were provided for under § 121.101 (d) (8) (21 CFR 121.101(d) (8)) prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), for use as multiple purpose GRAS food substances pursuant to a regulation published in the FEDERAL REGISTER of January 31, 1961 (26 FR 940). Beeswax, white (*Cire d'abeille*) is listed in § 172.510 (21 CFR 172.510, formerly 21 CFR 121.1163 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) as a natural flavoring substance and adjuvant pursuant to a regulation published in the FEDERAL REGISTER of January 30, 1965 (30 FR 992).

A representative cross section of food manufacturers was surveyed to determine the specific foods in which beeswax (yellow or white) was used and the levels of usage. Information from surveys of consumer consumption was obtained and combined with the manufacturing information to obtain an estimate of consumer exposure to beeswax. The total amount used in food in 1970 was reported to be 27,000 pounds.

Beeswax has been subject of a search of the scientific literature from 1920 to the present; subject matter included: (1) Chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavorial effects, (12) detection, and (13) processing. A total of 129 abstracts on beeswax was reviewed, and 11 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (hereinafter referred to as the Select Committee) selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

Beeswax is considered indigestible in mammals due to the structure of its component compounds which are not susceptible to hydrolysis by enzymes of the alimentary tract and to its insolubility and high melting point which prevent dissolution at body temperature. However, it has been reported that an avian species found in Africa eats beeswax as part of its natural diet and can digest the wax through the action of microflora found in this species and also present in wild African honeycomb.

Solutions of beeswax in oils such as peanut and sesame have been used as vehicles for injection of drugs. Finely powdered heparin was suspended in a 10 percent solution of beeswax in sesame oil and the mixture was injected intramuscularly into 13 dogs. The beeswax was readily phagocytized. One week after injection the beeswax could be easily recognized on dissection of the muscle. Two months later, however, when numerous sections of the muscle were examined to find the site of injection, the beeswax could seldom be positively identified. The areas of injection had become small nodules composed largely of disintegrating phagocytic cells surrounded by a thin capsule.

In a similar study, penicillin suspended in 0.05 to 0.1 ml of 3 percent beeswax in peanut oil was given to 10 hamsters intramuscularly twice daily for 5 days. Typical response was inflammation without necrosis and invasion by polymorphonuclear lymphocytes with progressive removal of beeswax particles by phagocytosis. The mixture was injected into the buttocks of 12 patients without reaction to the vehicle.

Penicillin suspended in corn or cottonseed oil was mixed with 5 percent beeswax and placed in gelatin capsules. No untoward reactions were observed in patients to whom these capsules were administered orally.

Beeswax contaminated with pollen has been presumed to be antigenic. Beeswax shown by microscopic examination to be pollen-free elicited no response in scratch or intracutaneous tests in known pollen-sensitive patients. Beeswax to which pollen extract had been added produced typical allergenic responses in susceptible patients.

The Select Committee is not aware of any reports demonstrating carcinogenicity of beeswax that has resulted from its use as a vehicle for other substances tested as carcinogens. No carcinogenic effects developed in male Donryn rats in which beeswax was immobilized in contact with the mucosa of the glandular stomach for 3 to 4 weeks when the rats were examined after 45 weeks. Implantation of 0.05 ml of a 1:1 beeswax tricaprylic mixture in the lungs of 105 Osborne-Mendel female rats resulted, during a period of 1 year after treatment, in the development of a bland granulomatous infiltrate limited to the surface of the solidified pellets except for two rats in which keratinizing squamous metaplasia were observed. In contrast, 101 rats injected with the wax mixture containing 0.05 mg 3-methylcholanthrene had a 13 percent incidence of keratinizing squamous metaplasia, and 6 percent incidence of keratinizing squamous dysplasia with localized extension, over squamous cell carcinoma and undifferentiated neoplasms. In a study of the carcinogenicity of tobacco and cigarette smoke condensate by the same technique, 66 female Osborne-Mendel rats (controls) that were injected with 0.05 ml of 1:1 beeswax-tricaprylin mixture developed no metaplastic epithelium surrounding the pellet after periods up to 107 weeks whereas 77 of 96 positive controls injected with 0.05 ml wax mixture containing 0.05 mg 3-methylcholanthrene developed keratinizing squamous metaplasia and 16 developed epidermoid carcinomas during the 55-week period after treatment. Threads impregnated with beeswax implanted into the cervical canal and the uterine horns of 35 six-week-old control mice showed the development of invasive squamous carcinoma in one animal after 4 to 6 weeks whereas 59 of 102 mice developed this type carcinoma after implantation of threads impregnated with beeswax containing 20-methylcholanthrene. No observation has been reported of a tumor developing in thousands of instances of injection of beeswax intramuscularly or subcutaneously when beeswax was used as a vehicle for the administration of drugs in human patients.

White beeswax at 0.5 and 1.0 percent concentration was not mutagenic to *Salmonella typhimurium* strains TA-1535, -1537 or -1538 or to *Saccharomyces cerevisiae*, strain D-4, in plate and suspension tests with or without the addition of mouse, rat, or monkey tissue metabolic activation preparations.

No reports on the teratogenicity of beeswax were available to the Select Committee.

All the available safety information on beeswax has been carefully evaluated by qualified scientists of the Select Committee. It is the opinion of the Select Committee that:

There is a paucity of experimental data on the digestion, absorption, metabolism, and short-term or long-term toxicity of beeswax after oral intake by humans or animals; but as a component of comb honey, beeswax has been ingested since ancient times without evidence of harm. Although the composition of beeswax is complex, present knowledge of the processes of digestion suggests that beeswax is not digested or absorbed from the alimentary tract in most animals or man.

Beeswax-containing pollens or oleoresins may be allergenic to sensitive individuals but beeswax alone has not been reported to be allergenic. No studies designed to show teratogenic effects of beeswax have been reported. Numerous injections of beeswax as a vehicle for drugs have not led to reports of tumors at the injection site.

Relatively little comb honey is used as a food in the United States. The use of beeswax in processed food products decreased fourfold in the decade from 1960 to 1970 and presently is very small, amounting to an average estimated per capita daily intake of about 0.16 mg.

It is the conclusion of the Select Committee that there is no evidence in the available information on beeswax (yellow or white) that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.

Based upon his own evaluation of all available information on beeswax, the Commissioner concurs with this conclusion. The Commissioner therefore concludes that no change in the current GRAS status of beeswax is justified.

The Commissioner also concludes that the information generated for this safety review forms a sound scientific basis for affirming the GRAS status of beeswax, white (Cire d'abeille) as a natural flavoring agent and adjuvant. Authority for this use now appears in § 172.510. Therefore, the Commissioner proposes to delete the entry for this substance from that section, as it would be superfluous. He also proposes to delete the entries (21 CFR 182.1973 and 182.1975) for beeswax as a multiple purpose food substance, as these sections would also be superfluous.

Copies of the scientific literature review on beeswax, the mutagenic evaluation, and the report of the Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be purchased from the National Technical Information Service 5285 Port Royal Rd., Springfield, Va. 22151, as follows:





| Title | Order No. | Price code | Price [1] |
|---|---|---|---|
| Beeswax (scientific literature review) | PB-223-854/AS | A03 | $4.00 |
| Beeswax, white (mutagenic evaluation) | PB-245-493/AS | A03 | 4.00 |
| Beeswax (Select Committee report) | PB-262-656/AS | A02 | 3.50 |

[1] Price subject to change.

This proposed action does not affect the present use of beeswax for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Parts 172, 182, and 184 be amended as follows:

## PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

**§ 172.510 [Amended]**

1. In Part 172, § 172.510 Natural flavoring substances and natural substances used in conjunction with flavors is amended by deleting the entry for "Beeswax, white (Cire d'abeille)" from the list of substances in paragraph (b).

## PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

**§§ 182.1973, 182.1975 [Deleted]**

2. In Part 182, by deleting § 182.1973 Beeswax and § 182.1975 Bleached beeswax.

## PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. In Part 184, by adding new § 184.1973 to Subpart B, to read as follows:

**§ 184.1973 Beeswax (yellow and white).**

(a) Beeswax [CAS Registry No. MX 8012-89-3 and MX 8006-40-4] is a secretory product of honey bees used as a structural material in honeycombs. Beeswax is prepared from honeycombs after the removal of honey by draining or centrifuging. The combs are melted in hot water or steam, of with solar heat, and strained. The wax is refined by melting in hot water to which sulfuric acid or alkali may be added to extract impurities. The resulting wax is referred to as yellow beeswax. White beeswax is produced by bleaching the constituent pigments of yellow beeswax with peroxides, or preferably it is bleached by sun light.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. 1972.[1]

(c) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter, lubricant as defined in § 170.3(o)(18) of this chapter, and surface-finishing agent as defined in § 170.3(o)(30) of this chapter.

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current good manufacturing pratcice results in a maximum level, as served, of 0.063 percent for chewing gum as defined in § 170.3(n)(6) of this chapter, .005 percent for confections and frosting as defined in § 170.3(n)(9) of this chapter, 0.04 percent for hard candy as defined in § 170.3(n)(25) of this chapter, 0.1 percent for soft candy as defined in § 170.3(n)(38) of this chapter, and 0.002 percent or less for all other food categories.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of this ingredient in foods under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act (21 U.S.C. 342), and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before September 27, 1977, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: July 22, 1977.

JOSEPH P. HILE,
*Associate Commissioner for Compliance.*

NOTE.—Incorporation by reference provisions approved by the Director of the Office of the Federal Register on July 10, 1973. Copies are on file at the Federal Register's library.

[FR Doc.77-21795 Filed 7-28-77;8:45 am]

## [ 21 CFR Parts 176, 182, 186 ]

[Docket No. 77N-0044]

## SORBOSE

### Proposed Affirmation of GRAS Status As Indirect Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This is a proposal to affirm the generally recognized as safe (GRAS) status of sorbose as an indirect human food ingredient. The safety of these ingredients has been evaluated pursuant to the comprehensive safety review being conducted by the agency. The proposal would list the ingredient as an indirect food substance affirmed as GRAS.

DATE: Comments by September 27, 1977.

ADDRESSES: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is conducting a comprehensive safety review of direct and indirect human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20040), initiating this review. Pursuant to this review, the safety of sorbose has been evaluated. In accordance with the provisions of § 170.35 (formerly § 121.40, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), the Commissioner proposes to affirm the GRAS status of this ingredient.

Sorbose is an orthorhombic, bisphenoidal crystalline hetohexose which occurs naturally in plants as the result of microbial oxidation of sorbitol. It can be synthesized by catalytic hydrogenation of glucose to D-sorbitol. The resulting sorbitol can then be oxidized by either *Acetobacter suboxydans* or by *Acetobacter zylinum*. It is listed in § 182.70 (formerly § 121.101(i), prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), as a GRAS substance migrating to food from cotton and cotton fabrics used in dry food packaging, pursuant to a regulation published in the FEDERAL REGISTER of June 10, 1961 (26 FR 5224), and subsequently



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recodified. It is also listed in § 176.180 (formerly § 121.2571, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), for use as a component of paper and paperboard in contact with dry food, pursuant to a regulation published in the FEDERAL REGISTER of May 8, 1963 (28 FR 4615), and subsequently recodified.

There are no data available indicating the amounts of sorbose in packaging materials (cotton, paper, or paperboard) or as an ingredient in the treatment of packaging materials. However, it is believed that the total amount of sorbose consumed as a result of its migration from dry food packages is extremely small.

Sorbose has been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection and (13) processing. A total of 96 abstracts on sorbose was reviewed and 11 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (hereinafter referred to as the Select Committee), selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

No studies have been directed primarily toward determining the health aspects of the long term use of sorbose as a food ingredient. Inferences on the health aspects of sorbose consumption at its present level may be drawn from reports on its absorption and metabolism by animals and men.

Although certain sugars, such as glucose and galactose, are transported through the hamster's small intestine in vitro against a concentration gradient, sorbose and such sugars as fructose and mannose are not so transported. In isolated guinea pig small intestine, sorbose enters the intestine by diffusion. As determined in dogs via fistulas in the small intestine, the rate of absorption is directly proportional to the lumen concentration. The decrease in serum inorganic phosphate exhibited in dogs following intravenous injection of 1 ml per kg of a 3 molar solution of L-sorbose (about 540 mg per kg of body weight), was similar to the decrease observed when D-glucose was injected.

In a series of ten tests ancillary to biochemical experiments, rats fed a single dose of 13 g of sorbose per kg showed no toxic symptoms. Sorbose was converted to glycogen in the liver when fed to fasted rats for 120 hours at 33 percent of a basal fat diet. Studies on the biosynthesis of ascorbic acid indicated that sorbose is not a direct intermediate as suggested by molecular structure, but is first converted to glucose, then to ascorbic acid. A ketokinase with a high affinity for sorbose has been identified in rat intestine and beef liver. When fed in drinking water, sorbose did not sustain the weight of hypophysectomized rats as did glucose, and it was not absorbed as rapidly from the intestine.

Both healthy and diabetic human subjects absorbed sorbose from the gastrointestinal canal as rapidly as glucose. Sorbose excretion in the urine after 50 g per os in 500 ml of water was nearly complete after six hours and amounted to 14 percent of the dose. At an increased intake (100 g per os in 500 ml) approximately 12 percent of the dose was excreted in six hours. A study of the resorption and net metabolism of D-fructose, L-sorbose and sorbitol in healthy and in hereditary fructose intolerant infants showed that the utilization of sorbose was significantly reduced in the intolerant infants.

No studies have come to the Select Committee's attention on carcinogenicity related to orally administered sorbose. However, in one study, designed to test the carcinogenicity of eight hypertonic sugar solutions including sorbose, the subcutaneous injection of 60 C57BL mice and 60 Bethesda rats with 0.5 and 2.0 ml, respectively, of a 25 percent solution of sorbose (250 mg per ml) in the nape of the neck two or three times a week for up to two years resulted in two rats developing sarcomas at the site of injection after 21 months. The author and a subsequent reviewer, concluded that sorbose and presumably other sugars should not be regarded as carcinogenic on the basis of this experiment.

All of the available safety information on sorbose has been carefully evaluated by qualified scientists of the Select Committee. It is the opinion of the Select Committee that:

The results of sorbose feeding tests with fasted rats showed no acute toxic effects for sorbose given in excess of potential human dietary exposure. The metabolic products of sorbose metabolism in animals do not appear to include toxic substances and the chemical structure of sorbose does not suggest potential hazards. The results of the only study of the carcinogenicity of sorbose, involving parenteral administration in rats, have been judged by the investigators and reviewers to be negative.

It is the conclusion of the Select Committee that there is no evidence in the available information on sorbose that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future. Based upon his own evaluation of all available information on sorbose the Commissioner concurs with this conclusion. He also believes that the information generated for this safety review indicates that the regulated use of sorbose, listed in § 176.180 as a component of paper and paperboard in contact with dry food, would not present a health hazard and should also be considered safe for its intended use. The Commissioner therefore concludes that no change in the current GRAS status of sorbose is justified. The use of sorbose in § 176.180 is therefore proposed for affirmation as GRAS, and its entry in § 176.180(b)(2) proposed for deletion.

Copies of the scientific literature review on sorbose and the report of the Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22151, as follows:

| Title | Order No. | Cost |
|---|---|---|
| Sorbose (scientific literature review). | PB–223–853/AS | $4.75 |
| Sorbose (Select Committee report). | PB–251–525/AS | 4.00 |

This proposed action does not affect the present use of sorbose for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Parts 176, 182 and 186 be amended as follows:

## PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

**§ 176.180 [Amended]**

1. In § 176.180 *Components of paper and paperboard in contact with dry food*, paragraph (b)(2) is amended by deleting the entry for "Sorbose" from the list of substances.

## PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

**§ 182.70 [Amended]**

2. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by deleting the entry for "Sorbose" from the list of substances.

## PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. By adding new § 186.1839 to read as follows:

**§ 186.1839 Sorbose.**

(a) Sorbose (L-sorbose, sorbinose) ($C_6H_{12}O_6$, CAS Reg. No. 000087–79–6) is an orthorhombic, bisphenoidal crystalline ketohexose. It was originally identified in the juice of mature berries from the mountain ash (*Sorbus aucuparia*) where it occurs as the result of microbial oxidation of sorbitol. It also occurs naturally in other plants. Sorbose can be synthesized by the catalytic hydrogenation of glucose to D-sorbitol. The resulting sorbitol can be oxidized by *Acetobacter xylinum* or by *Acetobacter suboxydans*.

(b) The following specifications are recognized by the Food and Drug Administration as suitable for sorbose when permitted for indirect food use:

Assay, not less than 95 percent.
Melting point, 165° C±2°.
Optical rotation, between −42.9° and −43.2° at 20° C.
Density, between 1.650 and 1.654 at 15° C.
Total heavy metals (as lead, Pb), not more than 40 ppm.
Arsenic (as As), not more than 3 ppm.

(c) The ingredient is used or intended for indirect food use as a constituent of cotton, cotton fabrics, paper and paperboard in contact with dry food.

(d) The ingredient migrates to food at levels not to exceed good manufacturing practice.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of this ingredient in foods under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before September 27, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107.

Dated: July 20, 1977.

JOSEPH P. HILE,
*Associated Commissioner for Compliance.*

[FR Doc.77–21706 Filed 7–28–77;8:45 am]





**[ 21 CFR Parts 182 and 184 ]**

[Docket No. 77N–0040]

## CLOVES AND THEIR DERIVATIVES

### Proposed Affirmation of GRAS Status as Direct Human Food Ingredients

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: This is a proposal to affirm as generally recognized as safe (GRAS) cloves and their derivatives as direct human food ingredients. The safety of these ingredients has been evaluated pursuant to the comprehensive safety review being conducted by the agency. The proposal would list the ingredients as direct food substances affirmed as GRAS.

DATES: Comments by September 27, 1977.

ADDRESSES: Written comments to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin Miles, Bureau of Foods (HFF–335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202–472–4750).

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is conducting a comprehensive safety review of direct and indirect human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20040), initiating this review. Pursuant to this review, the safety of cloves and its derivatives has been evaluated. In accordance with the provisions of § 170.35 (formerly § 121.40, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), the Commissioner proposes to affirm the GRAS status of these ingredients.

Cloves are the dried, unopened flower buds and twig tips of the clove tree, *Eugenia caryophyllata* Thunberg, native to tropical Asia. High grade dried buds are usually marketed as whole cloves. The lower quality buds, stems, and leaves are usually used in production of the essential oils. The buds, stems, and leaves are steam distilled to produce their respective oils. The yields from each component vary from 18 percent for clove buds, to 5 percent for clove stems, and to 2 percent for clove leaves. There are differences in composition of these three essential oils.

Clove bud oil contains 70 to 90 percent eugenol, 2 to 17 percent eugenyl acetate, 5 to 12 percent α- and β-caryophyllene, and traces of numerous other compounds. The stem and leaf essential oils contain a higher proportion of free eugenol and little or no eugenyl acetate. Many of the trace compounds in the bud oil are absent or present in much smaller quantities in the stem and leaf oils. Also found in trace amounts in the stem and leaf oils are naphthalene and a sesquiterpene alcohol, which are not present in the bud oil. Two other products of cloves are the bud extract, obtained by solvent extraction, and the bud oleoresin, which contains triglycerides and other lipids in addition to the essential oil.

Cloves are listed in § 182.10 (formerly § 121.101(e)(1), prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), as GRAS for use as natural seasonings and flavorings, pursuant to a regulation published in the FEDERAL REGISTER of January 19, 1960 (25 FR 404), and subsequently recodified. Clove bud, clove leaf, and clove stem are listed in § 182.20 (formerly § 121.101(e)(2), prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), as GRAS for use as essential oils, oleoresins (solvent free), and natural extractives, pursuant to a regulation published in the FEDERAL REGISTER of January 19, 1960 (25 FR 404), and subsequently recodified. Eugenol is listed in § 182.60 (formerly § 121.101(g), prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), as GRAS for use as a synthetic flavoring substance and adjuvant, pursuant to a regulation published in the FEDERAL REGISTER of May 9, 1961 (26 FR 3991), and subsequently recodified.

A representative cross section of food manufacturers was surveyed to determine the specific foods in which cloves and its derivatives were used and the levels of usage. Information from surveys of consumer consumption was obtained and combined with the manufacturing information to obtain an estimate of consumer exposure to cloves and its derivatives. The total amount of cloves, oils and extractives, and eugenol used in food in 1970 was reported to be approximately 866 thousand pounds, 273 thousand pounds, and 96 thousand pounds, respectively.

Cloves, clove oils, oleoresins and extracts have been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 195 abstracts on cloves and oil of cloves was reviewed and 36 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (hereinafter referred to as the Select Committee), selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

Oral toxicity studies on cloves or the essential oils derived from them and from clove stems and leaves have not been reported but animal studies have been conducted on their major constituent eugenol.

Within 24 hours, 44 to 90 percent of the eugenol (1500 to 2500 mg) fed was absorbed, depending on the dose. It was detectable in the blood, lungs, kidneys, and liver of both rabbits and rats for up to several hours after ingestion and was excreted principally in the urine.

The oral $LD_{50}$ of eugenol for fasted rats has been reported to be 1930 mg per kg and 2680 mg per kg; for fasted mice 3000 mg per kg, for fasted guinea pigs 2150 mg per



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kg, and for the dog > 200 mg per kg. An oral $LD_{50}$ of 500 mg per kg for the rat has also been reported.

Short-term (less than half of the life span) oral administration of 10 doses of 200 mg eugenol per kg over a three week period to dogs revealed no observable changes in their activity and behavior, suggesting no cumulative effects of the compound.

Daily oral doses of 895 mg eugenol per kg given to rats over four days produced mild liver lesions, with slight discoloration and blunting of the edges of the lobes. In another study, daily doses of increasing amounts of eugenol, beginning at 1400 mg per kg for 34 days, were orally administered to 20 male rats. Fifteen lived to receive the maximum 4000 mg per kg and eight survived the full term of the study. Pathological studies showed "coalescent areas" in the mucosa of the forestomach with thick flaky white material and minute ulcers at these very high levels. Microscopically, there was a moderately severe degree of hyperkeratosis of the stratified squamous epithelium. A slight degree of osteoporosis was also noted in the bone. In a longer term study, at a level of 10,000 ppm of eugenol in the diet over a nineteen week period, no effect was noted in 10 male and 10 female weanling rats.

Five percent-emulsions of clove oil or eugenol stimulate alkaline secretion of the gastric mucosa, often destroying the mucous barrier through desquamatory action. However, the mucosa was completely resurfaced with new squamous cells 36 hours after removal of the eugenol although additional time was needed to restore normal physiological function. In another study, eugenol was reported to inhibit glucosiduronic acid conjugation, indicating to the investigators, an interference with mucopolysaccharide formation in tissues with possible gastric ulcer formation. Intraperitoneally injected eugenol and isoeugenol were inactive in inhibiting mouse hepatic microsomal enzyme function in contrast to active compounds such as safrole. Both eugenol methyl ether and safrole as well as their isomers, fed to rats at a level of 10,000 ppm in the diet for 15 days, increased the activity of hepatic microsomal hydroxylating enzymes, with the methylenedioxy compounds being the more active. The significance of this enzyme enhancement is unknown.

Despite their irritating effect when applied to the shaved dorsal skin of mice, preliminary studies indicate that clove oil and eugenol were not active as tumor-inducing agents.

No studies have been reported on the mutagenicity, teratogenicity, or carcinogenicity of orally administered cloves or related substances. However, guaiacol, of which eugenol is the allyl derivative, administered subcutaneously in repeated doses of up to 0.4 cc of a 4 percent solution in olive oil, failed to produce tumors in rats in 17 to 19 months.

All the available safety information on cloves and clove oils has beeen carefully evaluated by qualified scientists of the Select Committee. It is the opinion of the Select Committee that:

The available information indicates that orally administered eugenol, the principal ingredient of cloves and products derived from them, is readily absorbed and excreted without accumulation. Eugenol exhibits a low degree of toxicity for the several animal species tested, and only at levels far greater than those occurring in foods, does it appear to be able under some conditions to produce irritation of the squamous epithelium of the gastrointestinal tract. It is to be noted that cloves, clove oils and eugenol have long been used topically as analgesics, germicides, and for other purposes.

It is the conclusion of the Select Committee that there is no evidence in the available information on cloves, clove oils and their principal constituent, eugenol, that demonstrates or suggests reasonable grounds to suspect a hazard to the public when they are used at levels that are now current or at levels that might reasonably be expected in the future. Based upon his own evaluation of all available information on cloves, clove oils and eugenol (including reports of mutagenic and teratogenic tests on clove oil which were not available when Select Committee formed its conclusion), the Commissioner concurs with this conclusion. The Commissioner therefore concludes that no change in the current GRAS status of cloves is justified. He also concludes that the safety data for cloves, eugenol and clove oils form a sound scientific basis for affirming the GRAS status of other derivatives of cloves, provided good manufacturing practices are observed when they are used in foods.

Copies of the scientific literature review on cloves and clove oils, reports of teratogenic and mutagenic tests on oil of cloves, and the report of the Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22151, as follows:

| Title | Order No. | Price code | Price[1] |
|---|---|---|---|
| Oil of cloves (scientific literature review) | PB-221-221 | A03 | $4.00 |
| Oil of cloves (teratology tests) | PB-223-811/AS | A04 | 4.50 |
| Oil of cloves (mutagenic tests) | PB-245-442/AS | A07 | 6.00 |
| Oil of cloves (Select Committee report) | PB-238-792/AS | A02 | 3.50 |

[1] Price subject to change.

This proposed action does not affect the present use of cloves and its derivatives for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371 (a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Parts 182 and 184 be amended as follows:

## PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.10 [Amended]

1a. In § 182.10 *Spices and other natural seasonings and flavorings* by deleting the entry for "cloves."

§ 182.20 [Amended]

b. In § 182.20 *Essential oils, oleoresins (solvent free), and natural extractives (including distillates)* by deleting the entries for "Clove bud," "Clove leaf," and "Clove stem."

§ 182.60 [Amended]

c. In § 182.60 *Synthetic flavoring substances and adjuvants* by deleting the entry for "Eugenol."

## PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. By adding new § 184.1257 to read as follows:

§ 184.1257 Cloves and their derivatives.

(a) Cloves are the dried unopened flavor buds and twig tips, harvested before the flowers have opened, of the clove tree *Eugenia caryophyllata* Thunberg, native to tropical Asia. Their derivatives include essential oils (cloves, CAS Reg. No. MX8000–34–8; buds; leaves, CAS Reg. No. MX8015–97–2; stems, CAS Reg. No. MX8015–98–3; and eugenol, CAS Reg. No. 000097–53–0), oleoresins and natural extractives obtained from clove buds, leaves, and stems.

(b) Clove bud oil, clove leaf oil, clove stem oil and eugenol meet the specifications of the Food Chemicals Codex (FCC), 2d Ed. (1972).[1] Additionally, solvent-free clove bud extract and clove bud oleoresin should have the following specifications:

(1) The assay for phenols, as eugenol, by the FCC test (p. 898) or the volatile oils content by the FCC test (p. 901) should conform to the representation of the vendor;

(2) Specific gravity between 1.038 and 1.060 at 25°/25° C;

(3) Angular rotation between 0 and −1°30′;

(4) Refractive index between 1.527 and 1.533 at 20° C;

(5) Residual solvent free; and

(6) Heavy metals (as Pb), not more than 40 ppm.

(c) Cloves and their derivatives are used as flavoring agents and adjuvants as defined in § 170.3(o)(12) of this chapter.

(d) The ingredients are used in foods at levels not to exceed good manufacturing practices. Current good manufacturing practice results in the following maximum levels, as served:

(1) Cloves, 0.37 percent for baked goods as defined in § 170.3(n)(1) of this chapter, 0.66 percent for condiments and relishes as defined in § 170.3(n)(8) of this chapter, 0.33 percent for meat products as defined in § 170.3(n)(29) of this chapter, and 0.15 percent or less for all other food categories;

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.





(2) Clove stem oil and clove leaf oil 0.3 percent for hard candy as defined in § 170.3(n)(25) of this chapter, and 0.1 percent or less for all other food categories;

(3) Clove bud oil, 1.0 percent for chewing gum as defined in § 170.3(n)(6) of this chapter, and 0.15 percent or less for all other food categories;

(4) Clove bud oleoresin, 0.085 percent or less for all food categories;

(5) Clove bud extract, 0.035 percent or less for all food categories; and

(6) Eugenol, 0.15 percent or less for all food categories.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of these ingredients in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before September 27, 1977, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A–107.

Dated: July 9, 1977.

JOSEPH P. HILE,
*Associate Commissioner for Compliance.*

NOTE.—Incorporation by reference approved by the Director of the Office of the Federal Register on July 10, 1973. Reference material is on file at the Federal Register library.

[FR Doc.77–21705 Filed 7–28–77;8:45 am]



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# notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[PPQ 639]

### SOIL SAMPLES

### List of Approved Laboratories for Receipt of Certain Soil Samples

Purpose: To revise the list of laboratories which are approved to receive interstate shipments of soil samples for processing, testing, or analysis, and also shipments of soil samples from foreign countries under permit for research or analytical purposes.

This doucment lists certain laboratories as indicated herein which are approved by the Deputy Administrator for receipt in interstate commerce of soil samples for processing, testing, or analysis pursuant to §§ 301.48–3, 301.80–3, 301.81–3, 301.85–3, of the Japanese beetle, witchweed, imported fire ant, and golden nematode regulations (7 CFR 301.48–3. 301.80–3, 301.81–3, 301.85–3).

Also, in connection with the regulations relating to the movement into or through the United States of soil from foreign countries or Territories or posessions of the United States (7 CFR 330.-300 et seq.), this document lists certain laboratories as indicated herein which the Deputy Administrator has approved for receipt, under permit, of soil samples for research or analytical purposes in accordance with safeguards and other conditions specified in the permits.

The list is revised by deletions, additions, and changes to read as follows:

LABORATORY AND ADDRESS

A

A & H Corp., Consulting Engineers, Carbondale, IL.
A & H Corp., Consulting Engineers, Champaign, IL.
A & H Corp., Consulting Engineers, Chicago, IL.
A & H Corp., Consulting Engineers, Peoria, IL.
**A & H Engineering Corp., Springfield, IL.**
A & L Laboratory, Memphis, TN[1] (6–30–79).[1]
A & L Midwest Agriculture Laboratory, Inc., Omaha, NE[2] (2–28–78).
Abbott Laboratories, North Chicago, IL[1] (6–30–81).
Ackenhell, A. C., & Associates, Inc., Nitro, WV.
Ackenhell, A. C., & Associates, Inc., Pittsburgh, PA.
Agrico Chemical Co., Washington Courthouse, OH.
Agricultural Environmental Systems, Inc., Raleigh, NC[1] (6–30–81).
Agricultural Service Laboratories, Pharr, TX.
Agricultural Technical Service (ATS), Bakersfield, CA[1] (5–31–79).
Agrimanagment, Yakima, WA.
**Alaska, University of, Agricuture Experiment Station, Palmer, AK[1] (8–31–78).**
Alfred Agricultural and Technical Institute, State University of New York, Department of Agronomy, Alfred, NY.
Allied Chemical Corp., Morristown, NJ.
Allis-Chalmers Corporation, Process Research & Test Center, Oak Creek, WI[1] (1–31–79).
Alum-A-Therm, Westminister, CA.
Ambric Testing & Engineering Associates, Inc., Testing Laboratories, Arlington, VA.
Amchem Products, Inc., Ambler, PA[1] (12–31–77).
American Bio Testing Laboratory, Manville, NJ.
American Cyanamid Co., Princeton, NJ[1] (6–30–80).
American Oil Co., Soil Laboratories, Holland, TX.
American Oil Co., Soil Testing Laboratory, Yoder, IN.
American Testing Engineering Corporation, ATEC Associates, Inc., Indianapolis, IN.
American Testing Engineering Corporation, ATEC Associates, Inc., Atlanta, GA.
American Testing Institute, San Diego, CA[1] (9–30–77).
American Testing Laboratories, Inc., Lancaster, PA.
Ameron, South Gate, CA.
Amoco, Soil Guide Laboratory, Rochelle, GA.
Anaerobe Laboratory, Virginia Polytechnic Institute and State University, Blacksburg, VA.
Analysis Laboratories, Inc., Metairie, LA.
Analytical Biochemistry Laboratories, Inc., Columbia, MO.
Analytical Development Corp., Monument, CO[1] (6–30–79).
Analytical Research Labs., Inc., Monrovia, CA[1] (11–30–78).
Anco Testing Laboratory, Inc., St. Louis, MO.
Applied Agricultural Research, Inc., Lakeland, FL[1] (5–31–79).
Applied Research Laboratories of Florida, Inc., Dade County, FL[1] (5–31–79).
Arizona State University, Tempe, AZ.
Arizona State University, Department of Anthropology, Tempe, AZ[1] (6–30–79).
Arizona Testing Laboratory, Phoenix, AZ.
Arizona, University of, Department of Geosciences, Tucson, AZ[1] (6–30–81).
Department of Plant Pathology, Tucson, AZ.
Arizona, University of, Department of Soils, Water, and Engineering, Tucson, AZ[1] (6–30–80).
Arkansas, University of, Experiment Station, Fayetteville, AR.
Arkansas Highway Department, Materials and Testing Laboratory, Little Rock, AR.
Arkansas Laboratories, Inc., Fort Smith, AR.
Armac Engineering, Inc., Tampa, FL[1] (12–31–77).
Asphalt Institute, College Park, MD[1] (5–31–78).
Astrotech, Inc., Harrisburg, PA.
Atkins Farmlab, Chico, CA.
Atlanta Testing & Engineering Co., Norcross, GA[2] (6–30–81).
Auburn University, Soil Testing Laboratory, Auburn, AL.

B

Babcock, Edward S. & Sons, Riverside, CA.
Baker, Michael, Inc., Rochester, PA.
Barbot, D. C. & Associates, Inc., Florence, SC.
Barringer Research, Inc., Englewood, CO[1] (12–31–78).
Barrow-Agee, Memphis, TN.
Barrow-Agee, Greenville, MS.
Barrow-Agee, Greenwood, MS
Barrow-Agee, Jackson, MS.
Battelle Northwest Laboratory, Richland, WA[2] (4–30–78).
B. C. Laboratories, Inc., Bakerfield, CA[2] (4–30–78).
Bechtel Corp., San Francisco, CA.
Beckman, Inc., Microbics Operations, La Habra, CA.
Belleville Area College Agricultural Club (Dust Kickers), Belleville, IL.
**Benedict, Bowman, Craig and Moos, Columbus, OH.**
Bethany Laboratory of Uni-Royal Chemical, Division of Uni-Royal, Inc., Bethany, CT.
Biological Testing and Research Laboratory, Lindsay, CA.
Bio/dynamics Inc., East Millstone, NJ[2] (3–31–79).
Biospherics, Inc., Rockville, MD[2] (12–31–79).
Boring Soils & Testing Co., Inc., Harrisburg, PA.
Boswell, J. G., Co., Corcoran, CA[1] (12–31–80).
Bowes & Associates, Steamboat Springs, CO.
Bowes, William A., Steamboat Springs, CO[1] (7–31–78).
Bowser-Morner Testing Laboratories, Inc., Dayton, OH.
Boyce Thompson Institute, Yonkers, NY[1] (7–31–78).
Brandley, Reinard W., Sacramento, CA.
Braun Engineering Testing, Minneapolis, MN
Braun, Skaggs, and Kevorkian Engineering, Inc., Fresno, CA.
Brigham Young University, Department of Anthropology and Archeology, Provo, UT (6–30–81).
Bristol Laboratories, Syracuse, NY.
Broeman, F. C., & Co., Cincinnati, OH
Brookhaven National Laboratory, Safety and Environmental Protection Division, Upton, NY[1] (4–30–78).
Brookside Farms Laboratory Association, Inc., New Knoxville, OH[1] (6–30–81).
Brown University, Division of Biological and Medical Sciences, Providence, RI[1] (6–30–78).
Brucker & Associates, St. Louis, MO.
Burton, Joe C., Milwaukee, WI[1] (10–30–77).

C

CIBA-Geigy Corp., Agriculture Division, Greensboro, N.C.
CPC International, Inc., Argo, IL.
Cal-Brea, Brea, CA[1] (12–31–77).
California Department of Food & Agriculture, Chemistry Laboratories, Sacramento, CA.
California Department of Public Works, Division of Highways Materials and Research, Sacramento, CA.
California State Polytechnic College, Department of Biological Sciences, Pomona, CA[1] (6–30–77).
California Testing Laboratories, South El Monte, CA.
California, University of, Agricultural Extension Service, Riverside, CA.
**California, University of, Department of Civil Engineering, Davis, CA[1] (6–30–77).**
California, University of, Department of Food Science and Technology, Davis, CA[1] (6–30–77).





California, University of, Department of Forestry and Resource Management, Berkeley, CA[2] (10–31–78).
California, University of, Department of Geography, Berkeley, CA[1] (6–30–80).
California, University of, Department of Near Eastern Studies, Berkeley, CA[1] (5–31–78).
California, University of, Latin American Center, Los Angeles, CA[1] (4–30–79).
California, University of, Lawrence Livermore Laboratory, Livermore, CA[2] (12–31–78).
California, University of, Museum of Cultural History, Los Angeles, CA[2] (10–31–78).
California, University of (Los Angeles), Laboratory of Nuclear Medicine and Radiation Biology, Los Angeles, CA.
California, University of, School of Engineering and Applied Science, Mechanics and Structures Department, Los Angeles, CA[2] (1–31–79).
California State University, Department of Plant Sciences, School of Agricultural Sciences, Fresno, CA[2] (12–31–81).
Calspan Corp., Buffalo, NY.
Campbell Institute for Agricultural Research, Riverton, NJ[2] (6–30–79).
Cannon Laboratories, Reading, PA.
Capozzoli, Louis J., & Associates, Inc., Baton Rouge, LA.
Carpenter Construction Co., Inc., Virginia Beach, VA.
Carpco, Inc., Jacksonville, FL[2] (2–28–78).
Cascade Agricultural Service Co., Mt. Vernon, WA.
CELPRIL Industries, Inc., Bioagricultural Laboratory, Manteca, CA.
Center for Climatic Research, Madison, WI[2] (6–30–77).
Central Michigan University, Department of Biology, Mount Pleasant, MI[2] (6–30–81).
CH·M Hill, California, Inc., Redding, CA.
CH·M Hill, Inc., Corvallis, OR[1] (4–30–79).
Chemagro, Mobay Chemical Corp., Vero Beach Laboratories, Vero Beach, FL.
Chemagro Corp., Kansas City, MO.
Chembac Laboratories, Charlotte, NC.
CHEM-CRETE Corp., Menlo Park, CA.
Chemical Service Laboratory, Inc., Jeffersonville, IN[2] (3–31–79).
Chemonics Industries, Phoenix, AZ[2] (6–30–78).
Chevron Asphalt Co., Eastern Laboratory, Baltimore, MD[2] (7–31–78).
Chevron Chemical Co., Richmond, CA.
Chevron Oil Field Research Co., La Habra, CA.
Chicago, University of, Oriental Institute, Chicago, IL[2] (4–30–78).
Christian Testing Laboratories, Inc., Montgomery, AL.
Citizens National Bank of Paris Soil Testing Laboratory, Paris, IL.
Clarkson Laboratory & Supply, Inc., San Diego, CA[2] (6–30–80).
C. L. C., Columbus, OH.
Clemson University, Clemson, SC.
Clinton Corn Processing Company, Clinton, IA[2] (6–30–79).
Coenen and Associates—Engineers, Newport News, VA.
Coleman Engineering Laboratories, Inc., Augusta, GA.
Colorado State University, Department of Agronomy, Fort Collins, CO[1] (6–30–81).
Colorado State University, Department of Earth Resources, Fort Collins, CO[1] (6–30–81).
Colorado State University, Department of Economics, Fort Collins, CO.
Colorado State University, Department of Microbiology, Ft. Collins, CO[2] (6–30–80).
Colorado, University of, Department of Geological Sciences, Boulder, CO[2] (6–30–80).
Colorado, University of, Institute of Arctic and Alpine Research, Boulder, CO[2] (5–31–78).
Colorado School of Mines, Research Institute, Golden, CO[2] (6–30–80).
Columbia Glass Company, Inc., Baltimore, MD[2] (11–30–78).
Columbia Research Corporation, Irradiation Service Division, Gaithersburg, MD[1] (9–30–77).
Commercial Testing & Engineering Co., Norfolk, VA.
Commonwealth Laboratory, Inc., Greenville, SC.
Commonwealth Laboratory, Inc., Richmond, VA.
Connecticut, University of, Department of Plant Science, Storrs, CT[2] (6–30–81).
Connecticut, University of, Soil Testing Laboratory, Plant Science Department, College of Agriculture and Natural Resources, Storrs, CT.
Consolidated Cigar Corp., Glastonbury, CT.
Construction Aggregates Corp., Ferrysburg, MI.
Contractors & Engineers Service, Inc., Fayetteville, NC.
Contractors & Engineers Service, Inc., Goldsboro, NC.
Cook Research Laboratories, Inc., Menlo Park, CA.
Cook Associates, Oroville, GA.
Cookwell Strainer, Cincinnati, OH.
Cooper-Clark & Associates, Palo Alto, CA
Coors Spectro-Chemical Laboratory, Denver, CO.
Core Laboratories, Inc., Aurora, CO.
Core Laboratories, Inc., Houma, LA.
Core Laboratories, Inc., Lafayette, LA.
Core Laboratories, Inc., New Orleans, LA.
Core Laboratories, Inc., Shreveport, LA.
Core Laboratories, Inc., Farmington, NM
Core Laboratories, Inc., Hobbs, NM.
Core Laboratories, Inc., Houston, TX.
Core Laboratories, Inc., Dallas, TX.
Core Laboratories, Inc., Casper, WY.
Cornell University, Department of Agronomy, Ithaca, NY[2] (6–30–79).
Cornell University, Department of Floriculture and Oranmental Horticulture, Ithaca, NY[2] (6–30–81).
Craig Testing Laboratories, Mays Landing, NJ.
Craven Laboratories, Austin, TX.
Crobaugh Laboratories, Cleveland, OH
Crop Chemical Testing Services, Inc., Arcola, IL.

D

Dade County Soils Laboratory, Homestead, FL.
Dames & Moore, Denver, CO.
Dames & Moore, Los Angeles, CA[2] (6–30–81).
Dames & Moore, San Francisco, CA[2] (6–30–82).
Dames & Moore, Atlanta, GA[2] (6–30–81).
Dames & Moore, Cincinnati, OH[2] (6–30–81).
Dames & Moore, Portland, OR[2] (3–31–79).
Dames & Moore, Houston, TX[2] (6–30–80).
Dames & Moore, Park Ridge, IL[2] (6–30–78).
Dames & Moore, Cranford, NJ[2] (6–30–80).
Dames & Moore, Seattle, WA[2] (6–30–79).
D'Appolonia, E., Consulting Engineers, Inc., Pittsburgh, PA[2] (6–30–81).
Davey Tree Expert Co., Kent, OH.
Daylin Laboratories, Inc., Los Angeles, CA.
Delaware, University of, Department of Geology, Newark, DE[2] (9–30–82).
Del Monte Corp., San Leandro, CA.
Del Monte Corp., Walnut Creek, CA.
Delta Testing and Inspection, Inc., Baton Rouge, LA.
Delta Testing and Inspection, Inc., Lafayette, LA.
Delta Testing and Inspection, Inc., New Orleans, LA.
Denver, University of, Department of Geography, Denver, CO.
Diamond Shamrock Corp., Painesville, OH.
Dickinson Laboratories, Inc., El Paso, TX[1] (8–31–78).
Dickinson Laboratories, Inc., Mobile, AL.
Dixie Laboratories, Inc., Mobile, AL.
Dow Chemical Co., Walnut Creek, CA.
Dow Chemical Co., Midland, MI[2] (6–30–81).
Duke University, Durham, NC[2] (6–30–80).
Duke University, Department of Botany, Durham, NC.
Duke University, Department of Zoology, Durham, NC[2] (6–30–81).

E

EFCO Laboratories, Tucson, AZ[2] (6–30–78).
Eagle Iron Works, Des Moines, IA.
Eastern Michigan University, Mycology Labs Biology, Ypsilanti, MI[2] (6–30–81).
Ecology Consultants Inc., Ft. Collins, CO
Effingham Equity, Effingham, IL.
E. I. du Pont de Nemours & Co., Inc., Industrial and Biochemicals Department, Foreign Sales, Wilmington, DE[2] (6–30–81).
E. I. du Pont de Nemours & Co., Inc., Plant Research Laboratory, Wilmington, DE[1] (5–31–79).
Eisenhauer Laboratories, Covina, CA.
Elherbe Architect, Bloomington, MN.
Elmira College, Department of Biology, Elmira, NY[2] (6–30–80).
El Paso Chemical Laboratories, El Paso, TX[1] (6–30–78).
Emcon Associates, San Jose, CA.
Empire Soils Investigations, Groton, NY.
Engineering, Surveys, and Services, Columbia, MO.
Engineers Laboratories, Inc., Jackson, MS.
Engineers Testing Laboratories, Phoenix, AZ.
Environmental Engineering, Watchung, NJ[1] (11–30–77).
Environmental Science & Engineering Corp., Mt. Juliet, TN.
Environmental Statement Project, Argonne National Laboratory, Argonne, IL.
Eustis Engineering Co., Metairie, LA.
Evans, L. T., Inc., Los Angeles, CA.
Exxon Production Research Company, Houston, TX[2] (6–30–78).

F

Farm Clinic, West Lafayette, IN
Fayette County Farm Bureau, Vandalia, IL.
Federal Chemical Co., Columbus, OH
Fertilizers, John Taylor, Rio Linda, CA.
Fertilizers, Phosphate, Hainesville, Department of Geology, Tallahassee, FL.
Florida Testing Laboratories, Inc., St. Petersburg, FL.
Florida, University of, Agricultural Research and Education Center, Lake Alfred, FL.
Florida, University of, Agricultural Extension Service, Soil Testing Laboratory, McCarty Hall, Gainesville, FL.
Florida, University of, Department of Geology, Floyd Hall, Gainesville, FL[2] (6–30–79).
Florida, University of, Florida State Museum, Gainesville, FL[2] (2–28–79).
Florida, University of, Soil Science Department, Gainesville, FL[2] (12–31–78).
Flowers Chemical Laboratories, Altamonte Springs, FL.
FMC Corporation, Agricultural Chemical Division, Middleport, NY[2] (5–31–78).
FMC Corporation, Agricultural Chemical Division, Richmond, CA.
Foley, Hubert L., Jr., New Albany, MS.
Foundation Engineering Consultants, Inc., Columbia, SC.
Foundation Service Company, Harrisburg, PA.
Foundation Test Services, Inc., Bethesda, MD.
Frederick Cancer Research Center, Chemotherapy Fermentation Laboratory, Frederick, MD[2] (6–30–78).
Froehling & Robertson, Inc., Richmond, VA.
Fruco & Associates, St. Louis, MO.
Fruco Engineering Co., St. Louis, MO.
Fruin-Colnon Corp., St. Louis, MO.
F. S. Royster Guano Co., Toledo, OH.
Fugro, Inc., Long Beach, CA[2] (12–31–78).



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FUGRO Gulf, Inc., Houston, TX[2] (5–31–79).
Fuller Company, Catasauqua, PA[2] (6–30–80).

G

GREFCO, Inc., Torrance, CA[2] (6–30–78).
GREFCO, Inc., Lompoc, CA[2] (6–30–79).
GX Laboratories, Inc., Golden, CO[2] (6–30–82).
General Foods Corp., Food Products Division, Woodburn, OR[2] (6–30–80).
General Testing Laboratory, Kansas City, MO.
Geochemical Surveys, Dallas, TX.
Geodata International, Inc., Dallas, TX[2] (4–30–79).
Geo-Engineering and Testing, Agana, Guam[2] (4–30–79).
Geologic Associates, Franklin, TN.
Geologic Associates, Knoxville, TN.
Georesearch Laboratories, Inc., Salt Lake City, UT[2] (4–30–79).
Georgia State Department of Transportation, Office of Material and Test, Forest Park, GA.[1]
Georgia Testing Laboratory, Lithonia, GA.
Georgia, University of, Cooperative Extension Service, Plant Pathology, Athens, GA.
Georgia, University of, Department of Agronomy, Athens, GA[2] (6–30–81).
Georgia, University of, Department of Plant Pathology, Nematology Laboratory, Athens, GA.
Georgia, University of, Institute of Ecology, Athens, GA[2] (6–30–80).
Geo-Survey, Inc., Camp Hill, PA.
Geotechnical Consultants, Inc., Burbank, CA.
Geotechnical Engineering-Testing, Inc., Mobile, AL.
Geotechnical Engineers, Inc., Winchester, MA[2] (10–31–78).
Geotek Consultants, Inc., Denver, CO[2] (11–30–78).
Geo-Testing, Inc., San Rafael, CA[2] (6–30–79).
Gillen Engineering Co., Inc., Metairie, LA.
Girdler Foundation & Exploration Co., Lenexa, VA.
Glassmire, S. H., & Associates, Metairie, LA.
Gooch, George W., Laboratory, Ltd., Los Angeles, CA.
Gore Engineering, Inc., Metairie, LA.
Grace, W. R., & Co., Columbia, MD[2] (6–30–82).
Grace, W. R., & Co., Fort Pierce, FL.
Grace, W. R., & Co., Nashville, TN.
Green Engineering Co., Sewickley, PA.
Green Giant Co., Agricultural Research Department, Le Sueur, MN[2] (6–30–82).
Green Thumb Corp., Apopka, FL[2] (6–30–79).
Grimes, Walter B., & Assoicates, Chico, CA.
Growers Chemical Corp., Milan, OH.
Grubbs Consulting Engineers, Little Rock, AR.
Gulf Coast Testing Laboratory, Inc., Corpus Christi, TX.
Gulf Oil Chemicals Company, Crop Protection Products, Merriam, KS[2] (2–28–79).
Gulf South Research Institute, Baton Rouge, LA.
Gulf South Research Institute, New Orleans, LA.

H

Hales Testing Laboratories, Santa Clara, CA.
Halpert, Neyer, & Associates, Consulting Soil and Foundation Engineers, Farmington, MI.
Hanson Engineers, Inc., Springfield, IL[2] (6–30–82).
Harding-Lawson Associates, Houston, TX[2] (10–31–78).
Harding-Lawson Associates, San Rafael, CA[2] (6–30–80).
Harlan, R. C., and Associates, San Francisco, CA.
Harris Laboratories, Inc., Lincoln, NE[2] (7–31–78).
Harris, Frederic R. Inc., Woodbridge, NJ[2] (6–30–81).
Harvard University, Peabody Museum, Cambridge, MA[2] (6–30–78).
Harvard University, Herbaria, Cambridge, MA[2] (6–30–80).
Harza Engineering Co., Chicago, IL[2] (5–31–82).
Hawley & Hawley, Division of Skyline Labs, Inc., Tucson, AZ[2] (3–31–79).
Haynes, John H., Consulting Engineer, Dallas, TX.
Hazen Research Inc., Golden, CO[2] (6–30–78).
Hazelton Laboratories, Inc., Falls Church, VA.
Hector Agricultural Export Co., Miami, FL[2] (6–30–79).
Heinrichs Geoexploration Co., Tuscon, AZ.
Hemphill Corp., Tulsa, OK.
Herbert & Associates, Virginia Beach, VA.
Hercules, Inc., Wilmington, DE.
Herner Analytics, Inc., Rockville, MD[2] (6–30–78).
Hess, John D., Testing Corp., El Centro, CA[2] (5–31–78).
Hoffman-LaRoche, Inc., Nutley, NJ[2] (6–30–78).
Hollywood Testing Laboratories, Hollywood, CA.
Horvitz Research Laboratories, Houston, TX.
Hughes Aircraft Co., Culver City, CA[2] (12–31–77).
Hunt, Robert W., Co., Chicago, IL.
Hunter College, Department of Anthropology, New York, NY.
Hurst-Rosche Engineers, Inc., Hillsboro, IL.

I

IIT Research Institute, Chicago, IL.
IRI Research Institute, Inc., New York, NY.
Illinois Division of Highways, Bureau of Materials, Chicago, IL.
Illinois Division of Highways, Bureau of Materials, Dixon, IL.
Illinois Division of Highways, Bureau of Materials, Effingham, IL.
Illinois Division of Highways, Bureau of Materials, Elgin, IL.
Illinois Division of Highways, Bureau of Materials, Paris, IL.
Illinois Division of Highways, Bureau of Materials, Springfield, IL.
Illinois Division of Highways, Carbondale, IL.
Illinois Division of Highways, East St. Louis, IL.
Illinois Division of Highways, Ottawa, IL.
Illinois Division of Highways, Peoria, IL.
Illinois University of, Department of Agronomy, Urbana, IL.
Illinois, University of, Department of Anthropology, Urbana, IL[2] (6–30–80).
Illinois, University of, at Chicago Circle, Department of Geography, Chicago, IL[2] (6–30–78).
Illinois, University of, at Chicago Circle, Department of Materials Engineering, Geotechnical Engineering Laboratory, Chicago, IL[2] (6–30–81).
Independent Testing Laboratories, Greensboro, NC.
Indiana Farm Bureau Co-op, Indianapolis, IN.
Indiana State Highway Commission, Division of Materials and Testing, Indianapolis, IN.
Indiana University, Department of Geology, Bloomington, IN[2] (6–30–78).
Industrial Laboratories Co., Denver, CO.
Insect and Plant Disease Clinic, Raleigh, NC.
Institute for Research, Inc., Houston, TX.
International Fertilizer Development Center, Muscle Shoals, AL.
International Flavors and Fragrances (R. & D.), Union Beach, NJ[2] (3–31–78).
International Mineral & Chemical Corp., Libertyville, IL.
International Mineral & Chemical Corp., Mulberry, FL.
International Mineral Engineers, Inc., Golden, CO.
International Research Corp., Mattawan, MI.
Iowa State University, Department of Agronomy, Ames, IA.[2] (6–30–80).
Iowa State University, Engineering Research Institute, Ames, IA.[2] (6–30–80).
Iowa Testing Laboratories, Inc., Eagle Grove, IA[2] (4–30–79).

J

Jennings Laboratories, Virginia Beach, VA.
Jersey Testing Laboratories, Atco, NJ.
Jersey Testing Laboratories, Newark, NJ.
Johns Hopkins University, Department of Geography and Environmental Engineering, Baltimore, MD[2] (6–30–77).
Johnson Soil Engineering Laboratory, Palisades Park, NJ.
Jones Ferro Magnetics, Inc., Jacksonville, FL[2] (1–31–78).
Joy Manufacturing Co., Denver Equipment Division, Denver, CO.

K

Kaiser Agricultural Chemical Co., Sullivan, IL.
Kaiser Agricultural Chemicals Corp., Savannah, GA.
Kaiser Aluminum and Chemical Corp., Center for Technology, Pleasanton, GA[2] (6–30–80).
Kalo Laboratories, Inc., Quincy, IL.
Kansas City Testing Laboratory, Inc., Kansas City, MO.
Kansas City Testing Laboratory, Inc., Leawood, KS.
Kansas, University of, Department of Geography-Meteorology, Lawrence, KS.
Kearney Field Station, University of California, Division of Agricultural Sciences, Parlier, CA.
Kelco Co., San Diego, CA[2] (6–30–81).
Kennecott Exploration, Inc., Salt Lake City, UT[2] (2–28–78).
Kentucky, University of, Department of Agronomy, Lexington, KY[2] (1–31–78).
Kentucky, University of, Division of Regulatory Services, Lexington, KY.
Kimlab, Inc., Cincinnati, OH.
Kleinfelder, J. H., & Assoociates, Fresno, CA.
Kleinfelder, J. H., & Associates, Merced, CA.
Kleinfelder, J. H. & Associates, Sacramento, CA.
Kleinfelder, J. H., & Associates, Stockton, CA[2] (6–30–81).

L

LFE Environmental Analysis Laboratory, Richmond, CA.
Lake Ontario Environmental Laboratory, Oswego, NY.
Langan Engineering Associates, Clifton, NJ.
Langford & Meredith Laboratories, Division of The Analysts, Inc., New Orleans, LA.
Larsen, Heriuf T., Enola, PA.
La Salle County Bureau, Soil Testing Laboratory, Ottawa, IL.
Law Engineering Testing Co., Atlanta, GA[1][2] (6–30–78).
Law Engineering Testing Co., Birmingham, AL[2] (4–30–78).
Law Engineering Testing Co., Charlotte, NC[2] (5–31–78).
Law Engineering Testing Co., Houston, TX[2] (5–31–78).
Law Engineering Testing Co., Marietta, GA[2] (5–31–78).
Law Engineering Testing Co., McLean, VA[2] (6–30–79).
Law Engineering Testing Co., Tampa, FL[2] (5–31–78).
Layne-Western Co., Kansas City, MO.





Layne-Western Co., Kirkwood, MO
Lederle Laboratories, Pearl River, NY[2] (6–30–80).
Lerch Brothers Inc., Hibbing, MN[2] (6–30–80).
Lewin, David W., Corp., Geotechnical Engineering, The Arcade, Cleveland, OH.
Libby, McNeill, & Libby, Janesville, WI[2] (6–30–81).
Lilly, Eli, & Co. Greenfield, IN[2] (6–30–79).
Lilly, Eli, & Co., Lilly Research Laboratories, Indianapolis, IN[2] (6–30–80).
Lockwood Corp., Lionel Harris Laboratory, Mitchell, NE[2] (10–31–78).
Louisiana Department of Highways, Baton Rouge, LA.
Louisiana State University, Sedberry, Joe E. Jr., Department of Agronomy, Soil Testing, Laboratory, Baton Rouge, LA[2] (6–30–80).
Louisiana State University, (Caldwell, Dr. A. G.) Department of Agronomy, Baton Rouge, LA[2] (6–30–81).
Louisiana State University, Coastal Studies Institute, Baton Rouge, LA.
Louisiana State University, New Orleans, LA.
Lowney/Kaldveer Associates, Palo Alto, CA.
Lubbock Labs, Lubbock, TX.

M

M&T Chemicals, Inc., Rahway, NJ.
Maine State Highway Commission, Bangor, ME.
Maine, University of, Orono, ME.
Manchester College, Biology Department, North Manchester, IN.
Mapco, Inc., Indiana Point Division, Athens, IL.
Marathon Oil Co., Littleton, CO.
Maryland, University of, Botany Department, College Park, MD[2] (6–30–78).
Maryland, University of, Department of Microbiology, College Park, MD[2] (5–31–78).
Mason-Johnson & Associates, Inc., Dallas, TX[2] (6–30–80).
Massachusetts Department of Public Works, Wellesley Hills, MA.
Massachusetts Institute of Technology, Soil Mechanics Division, Cambridge, MA.
Massachusetts, University of, Department of Anthropology, Amherst, MA[2] (10–31–77).
Massachusetts, University of, Department of Plant and Soil Sciences, Amherst, MA.
Materials Consultants International, Inc., Charlotte, NC[2] (4–30–79).
McBride-Ratcliff and Associates, Houston, TX[2] (2–28–79).
McCallum Inspection Co., Chesapeake, VA[1]
McClelland Engineers, Clayton, MO
McClelland Engineers, Inc., Houston, TX[2] (6–30–79)
McGauthy, Marshall, and McMillian, Norfolk, VA
Medall, S. E. and Associates, Inc., Santa Ana, CA[2] (6–30–77)
Memphis State University, Department of Biology, Memphis, TN
Memphis State University, Department of Civil Engineering, Memphis, TN
Merck Institute for Therapeutic Research, Rahway, NJ[2] (6–30–78)
Merck & Co., Inc., Agri Chemical Development, Rahway, NJ
Miami, University of, IMCE, Coral Gables, FL[2] (6–30–78)
Miami, University of, Institute of Marine Science, Miami Beach, FL[2] (8–31–78).
Michigan Department of Public Health, Bureau of Laboratories, Division of Antibiotics and Fermentation, Lansing, MI[2] 6–30–78).
Michigan State University, Department of Botany and Plant Pathology, East Lansing, MI[2] (6–30–77).
Michigan State University, Crop and Soil Science Department, Soil Testing Laboratory, East Lansing, MI[2] (6–30–81).
Michigan, University of, Botany Department, Ann Arbor, MI[2] (6–30–79).
Michigan, University of, Department of Geology and Mineralogy, Ann Arbor, MI[2] (6–30–81).
Michigan, University of, Department of Zoology, Ann Arbor, MI[2] (3–31–79).
Michigan, University of, Ethnobotanical Laboratory, Ann Arbor, MI[2] (10–31–78).
Michigan Testing Engineers, Inc., Michigan Drilling Division, Detroit, MI.
Midwest Research Institute, Kansas City, MO
Midwest Soil Testing Service, Danforth, IL.
Mier, Ezra, Raleigh, NC.
Miles Laboratories, Inc., Marschall Division, Elkhart, IN[2] (6–30–82).
Miles Laboratories, Inc., Film Laboratory Division, West Haven, CT[2] (6–30–82).
Milwaukee, City of, Sewage Commission, Milwaukee, WI.
Minnesota Department of Highways, Office of Materials, St. Paul, MN.
Minnesota Mining and Manufacturing Co., Agrichemical Laboratories, St. Paul, MN[2] (4–30–78).
Minnesota, University of, Department of Geology and Geophysics, Minneapolis, MN[2] (6–30–80).
Minnesota, University of, Department of Plant Pathology, St. Paul, MN[2] (6–30–80).
Minnesota, University of, Department of Soil Science, St. Paul, MN[2] (6–30–80).
Minnesota, University of, Department of Zoology, Minneapolis, MN[2] (6–30–81).
Mississippi State University, State College, MS.
Mississippi, University of, University, MS.
Missouri Highway Commission, Jefferson City, MO.
Missouri, University of, Department of Agronomy, Columbia, MO[2] (6–30–78).
Missouri, University of, Department of Anthropology, Columbia, MO[2] (6–30–81).
Missouri, University of, Department of Food Sciences and Nutrition, Columbia, MO.
Missouri, University of, Department of Geology, Columbia, MO[2] (6–30–81).
Mobil Chemical Co., Central Research Lab., Edison, NJ[2] (7–31–78).
Monarch Laboratory, Chico, CA
Monsanto Co., Agricultural Division, St. Louis, MO[2] (6–30–78).
Montana, University of, Department of Plant and Soil Science, Bozeman, MT[2] (6–30–81).
Moore, George, Columbus, OH
Moran, Douglas E., Tustin, CA.
Morse Laboratories, Sacramento, CA
Mountain States Research and Development, Tucson, AZ[2] (6–30–80).
Multi-Tech Laboratories, Ukiah, CA.
Mueser, Rutledge, Wentworth, and Johnston, New York, NY[2] (6–30–80).

N

Na-Churs Plant Food Co., Forrest City, AR.
Na-Churs Plant Food Co., Marion, OH[2] (6–30–80).
Na-Churs, Red Oak, IA.
National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA[2] (4–30–79).
National Soil Services, Inc., Dallas, TX.
National Soil Services, Inc., Houston, TX[2] (3–31–79).
National Spectographic, Division of Shiller Industries, Warrenville Heights, OH.
Natural Resources Laboratory, Golden, CO.
Naval Underseas Center, San Diego, CA[2] (11–30–78).
Nebraska Department of Roads, Soil Testing Laboratory, Lincoln, NE.
Nebraska, University of, Department of Agronomy, Keim Hall, Lincoln, NE[2] (6–30–78).
Nebraska, University of, Department of Agronomy, Wheat Studies Laboratory, Lincoln, NE[2] (10–30–77).
Nelson Laboratories, Stockton, CA[2] (6–30–80).
Nevada State Highway Department Laboratory, Carson City, NV.
New Jersey Department of Transportation, Trenton, NJ.
New Mexico State Highway Department, Sante Fe, NM.
New Mexico State University, Soil and Water Testing Laboratory, Las Cruces, NM[2] (5–31–78).
New York Botanical Garden, Cryptogamic Herbarium, Bronx, NY[2] (3–31–78).
New York State, University of, College of Environmental Sciences and Forestry, Department of Forest Botany and Pathology, Syracuse, NY[2] (6–30–80).
Niagara Chemical Division of FMC Corp., Middleport, NY.
NL Industries, Inc., Baroid Division, Channelview, TX[2] (3–31–78).
NL Industries, Inc., Baroid Division, Malvern, AR[2] (3–31–78).
North American Exploration, Inc., Charlottesville, VA[2] (6–30–78).
North Carolina Department of Agriculture, Raleigh, NC.
North Carolina Department of Geology, Raleigh, NC.
North Carolina State University, Department of Plant Pathology, Raleigh, NC[2] (8–31–78).
North Carolina State University, Department of Soil Science, Raleigh, NC[2] (5–31–79).
North Carolina State University, Department of Soil Science, International Soil Testing Project, Raleigh, NC[2] (6–30–81).
North Carolina, University of, Department of Botany, Chapel Hill, NC (Dr. J. N. Couch).
North Carolina, University of, Department of Botany, Chapel Hill, NC (Dr. N. G. Miller)[2] (6–30–80).
North Carolina, University of, Department of Botany, Chapel Hill, NC (Dr. Edward G. Barry).
North Dakota State Highway Department, State Highway Department Laboratory, Bismarck, ND.
Northrop Services, Inc., Houston, TX.
Norvell Plowman Laboratories, Little Rock, AR.
Nu-ag Laboratory, Inc., Rochelle, IL
NUS Corporation, Rockville, MD[2] (9–30–78).
Nutting, H. C., Co., Cincinnati, OH.

O

Oak Ridge National Laboratory, Environmental Sciences Division, Oak Ridge, TN[2] (3–31–78).
Ohio Florist Association, Columbus, OH.
Ohio State University, Botany Department, Columbus, OH[2] (6–30–81).
Ohio State University, Department of Agronomy, Columbus, OH[2] (6–30–80).
Ohio State University, Department of Pathology, Columbus, OH.
Ohio State University, Institute of Polar Studies, Columbus, OH[2] (6–30–81).
Ohio State University, Ohio Extension Service, Columbus, OH.
Ohio State University, Soil Testing Laboratory, Columbus, OH[2] (6–30–78).
Oklahoma State Highway Department, Materials Division, Oklahoma City, OK.
Oklahoma State University, Stillwater, OK.
Oklahoma State University, Department of Agronomy, Stillwater, OK[2] (5–31–79).
Oklahoma State University, School of Civil Engineering, Stillwater, OK.
Oklahoma Soil Testing Laboratories, Oklahoma City, OK.
Oklahoma, University of, School of Civil Engineering and Environmental Science, Norman, OK.
Old Dominion University, Norfolk, VA.
Olson-Dykeman Laboratories, Freeport, IL.
Onondaga Soil Testing, Inc., East Syracuse, NY.
Oregon State Highway Department, Salem, OR.[1]



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UMI

Osborne Laboratories, Inc., Santa Fe Springs, CA.
Owens-Illinois Inc., Technical Center, Toledo, OH[2] (4–30–78).

P

Pacific Spectro Chemical Laboratory, Los Angeles, CA.
Pan American Laboratories, Brownsville, TX[2] (6–30–80).
Parke, Davis, & Co., Res. & Med. Affairs, Biol. R. & D., Detroit, MI[3] (6–30–81).
Parrill, Irwin H., Edwardsville, IL.
Pattison's Laboratories, Inc., Harlingen, TX[2] (6–30–80).
Patzig Testing Laboratories, Inc., Des Moines, IA.
Peabody Testing Services, Memphis, TN.[1]
Pembroke Laboratory, Pembroke, FL.
Penniman & Browne, Inc., Baltimore, MD.
Pennsylvania State University, Department of Agronomy, University Park, PA[2] (6–30–81).
Pennsylvania, University of, Dept. of Geology, Philadelphia, PA[2] (6–30–78).
Perry Laboratory, Los Gatos, CA[2] (6–30–81).
Peters, Robert B., Co., Allentown, PA.
Pfeiffer Foundation, Inc., Threefold Farm, Spring Valley, NY[3] (6–30–78).
Pfizer, Charles, & Co., Inc., Groton, CT[2] (6–30–81).
Phillips Petroleum Co., Phillips Research Center, Bartlesville, OK[2] (6–31–78).
Pickett, Ray, and Silver, St. Peters, MO.
Pioneer Testing Laboratory, Inc., Redlands, CA.
Pittsburgh Testing Laboratory, Pittsburgh, PA.[1]
Plains Laboratory, Lubbock, TX.
Polkowski, George R., NASA Ames Research Center, Moffett Field, CA[2] (6–30–78).
Pope, W. I., Mobile, AL.
Portland State College, Department of Biology, Portland, OR.
PPG Industries, Inc., Chemical Division, Barberton Technical Center, Barberton, OH[2] (2–28–79).
Purdue University, Department of Agronomy, Lafayette, IN[3] (6–30–79).
Purdue University, Department of Entomology, Lafayette, IN[3] (7–31–78).

R

Raba and Associates Consulting Engineers, Inc., San Antonio, TX[2] (1–31–78).
Raba Soil Testing Laboratory, San Antonio, TX.
Radiation Management Corporation, Philadelphia, PA.
Raymond International, St. Louis, MO.
RDS Laboratories, Inc., Exeter, CA[2] (12–31–80).
Reitz and Jens, Clayton, MO.
Resources International, Fresno, CA[2] (6–30–79).
Richfield Oil Corp., Carson, CA.
Ringle and Associates, Chico, CA.
Rochester, University of, Department of Biology, Rochester, NY[2] (6–30–79).
Rocky Mountain Geochemical Corp., Midvale, UT.
Rocky Mountain Geochemical Corp., Prescott, AZ.
Rocky Mountain Geochemical Corp., West Jordan, UT[2] (6–30–80).
Rocky Mountain Technology, Inc., Golden, CO.
Rohm & Haas Corporation, Philadelphia, PA.
Rosner-Hixon Laboratories, Chicago, IL.
Royster Co., Norfolk, VA.[1]
Rummel, Klepper, & Kahl, Lansdowne, MD.
Rutgers, the State University, Department of Microbiology, New Brunswick, NJ[2] (6–30–81).
Rutgers, the State University, Department of Soils and Crops, New Brunswick, NJ[3] (6–30–81).
Rutgers, the State University, Soils Extension Specialist, New Brunswick, NJ.

See footnotes at end of document.

S

San Fernando Valley State College, Department of Biology, Northridge, CA.
Sayre & Sutherland, Inc., Richmond, VA.
Schering Corp., Bloomfield, NJ[3] (6–30–79).
Scientific Agricultural Services, Visalia, CA[2] (9–30–77).
Scientific Associates, Inc., St. Louis, MO[2] (6–30–78).
Scott, O. M., & Sons, Seed Co., Marysville, OH.
Scottland Soil Laboratory, Chrisman, IL.
Seabrook Farms, Seabrook, NJ.
Shankman, Laboratories, Los Angeles, CA.
Shannon & Wilson, Inc., Burlingame, CA.
Shannon & Wilson, Inc., Portland, OR.
Shannon & Wilson, Inc., Seattle, WA[2] (6–30–81).
Shannon & Wilson, Inc., St. Louis, MO.
Shell Development Co., Biological Sciences Research Center, Modesto, CA.
Shilstone Testing Laboratory, Inc., Baton Rouge, LA.
Shilstone Testing Laboratory, Inc., Freeport, TX.
Shilstone Testing Laboratory, Inc., Houston, TX.
Shilstone Testing Laboratory, Inc., Lafayette, LA.
Shilstone Testing Laboratory, Inc., Monroe, LA.
Shilstone Testing Laboratory, Inc., New Orleans, LA.
Skyline Laboratories, Inc., Wheat Ridge, CO[3] (6–30–82).
Skyline Labs, Inc., Hawley & Hawley, Assayers and Chemists Division, Tucson, AZ[2] (4–30–79).
Smith-Douglas, Chesapeake, VA.
Smith-Douglas Co., Division of Borden, Inc., Columbus, OH.
Smith, Kline, & French Laboratories, Swedeland, PA[3] (6–30–79).
Snohomish Farm Veterinary Service, Snohomish, WA.
Soil and Materials Engineers, Detroit, MI.
Soil and Plant Laboratory, Inc., Santa Clara, CA[3] (6–30–80).
Soil Consultants, Inc., Charleston, SC.
Soil Consultants, Inc., Merrifield, VA.
Soil Control Laboratory, Watsonville, CA.
Soil Engineering Services, Decatur, IL.
Soil Exploration Co., St. Paul, MN.
Soil Services, Inc., Mountain View, CA[2] (6–30–78).
Soil Systems, Inc., Marietta, GA.
Soil Test, Moorestown, NJ.
Soil Testing, Burlington, WA
Soil Testing Engineers, Inc., Baton Rouge, LA[2] (11–30–77).
Soil Testing Services, Inc., Northbrook, IL[3] (6–30–81).
South Alabama, University of, Department of Geology, Mobile, AL[2] (6–30–78).
South Carolina, University of, Department of Engineering, Columbia, SC.
South Dakota State Highway Department, Materials and Testing Department, Pierre, SD.
Southern California Testing Lab., Inc., San Diego, CA[2] (5–31–78).
Scuthern Laboratories, Mobile, AL.
Southern Methodist University, Department of Anthropology, Dallas, TX[3] (6–30–81).
Southern Technical Services, Inc., Jackson, MS.
Southern Testing and Research Laboratories, Wilson, NC.
Southern Testing Laboratory, Montgomery, AL.
Southern Turf Nurseries, Tifton, GA[2] (6–30–79).
Southwestern Assayers & Chemists, Inc., Tucson, AZ[2] (6–30–79)
Southwestern Irrigation Field Station, Brawley, CA.
Southwestern Laboratories, Inc., Houston, TX.[1]
Spectograph Laboratory, Hayden, CO.
Squibb, E.R., & Sons, Dept. of Microbiology, Lawrenceville, NJ[3] (6–30–79).
Standard Laboratories, Goodfield, IL.
Stanford University, Department of Civil Engineering, Stanford, CA[3] (12–31–78).
State University of New York at Buffalo, Department of Civil Engineering, Buffalo, NY[2] (6–30–80).
Stauffer Chemical Co., Mountain View, CA.
Stauffer Chemical Co., Richmond, CA.
Stilwell & Gladding, Inc., New York, NY.
Stoner Laboratories, Inc., Santa Clara, CA.
Strawinsky Laboratory Long Beach, CA.
Sverdrup and Parcel & Associates, Inc., St. Louis, MO.
Superior Oil Company, Geophysical Laboratory, Houston, TX[3] (6–30–79).
Syracuse University Research Corp., Syracuse, NY.

T

T-M-T Chemical Co., Inc., Five Points, CA[3] (12–31–78).
Technological Resources, Inc., Camden, NJ.
Tennessee, University of, Department of Geological Sciences, Knoxville, TN[3] (3–31–78).
Tennessee, University of, Soil Testing Laboratory, Nashville, TN.
Tennessee Valley Authority, Materials Engineering Laboratory, Knoxville, TN.
Terrasearch, Inc., San Jose, CA.
Terratech, Inc., San Jose, CA.
Test, Inc., Memphis, TN.
Testing Engineers-San Diego, San Diego, CA[2] (3–31–79).
Testing Engineers, Inc., Oakland, CA.
Testing Engineers, Inc., Santa Clara, CA.
Testing Service Corp., Wheaton, IL.
Tetco, Trinity Engineering Testing Corp., Austin, TX.
Tetco, Trinity Engineering Testing Corp., Corpus Christi, TX.
Texas A & M University, Department of Sociology and Anthropology, College Station, TX[2] (6–30–80).
Texas A & M University, Department of Soil and Crop Sciences, Texas Agricultural Experiment Station, College Station, TX[2] (6–30–80).
Texas A & M University, Soil Testing Laboratory, Agricultural Extension Service and Experiment Station, College Station, TX[3] (6–30–81).
Texasgulf Inc., Golden, CO.
Texas Highway Department, Materials and Tests Engineering Division, Austin, TX.
Texas Soil Laboratory, McAllen, TX[3] (6–30–78).
Texas Tech University, Lubbock, TX[2] (6–30–78).
Texas Tech University, Department of Plant and Soil Science, Lubbock, TX[2] (6–30–82).
Texas Testing Laboratories, Dallas, TX.
Texas, University of, Radiocarbon Laboratory, Balcones Research Center, Austin, TX[2] (6–30–79).
Thompson, Vester J., Jr., Inc., Mobile, AL.
Thornton Laboratories, Inc., Tampa, FL[2] (3–31–79).
Tidewater Testing Laboratory, Inc., Virginia Beach, VA.
Tippetts-Abbett-McCarthy-Stratton, New York, NY[3] (6–30–81).
Tri-County Agricultural Laboratory, Hamilton City, CA.
Trinity Testing Laboratories, Inc., Corpus Christi, TX.
Triple S Laboratory, Inc., Loveland, CO[3] (6–30–79).
Truesdale Laboratories, Inc., Los Angeles, CA.
Tulane University, Department of Geology, New Orleans, LA[3] (5–31–78).
Tulsa, University of, Department of Geology, Tulsa, OK.





Twin City Testing and Engineering Laboratory, Inc., St. Paul, MN.
Twining Laboratories, Inc., Fresno, CA[3] (6–30–79).
Twining Laboratory of Southern California, Long Beach, CA.

U

U.S. Agricultural Consultants Laboratories, San Gabriel, CA.
U.S. Borax Research Corp., Anaheim, CA.
U.S. Plant, Soil, and Nutrition Laboratory, Ithaca, NY.
U.S. Sugar Corporation, Research Department, Clewiston, FL.
U.S. Terrestrial Plants Laboratory, Hanover, NH.
U.S. Testing Co., Inc., Los Angeles, CA.
U.S. Testing Co., Inc., Hoboken, NJ.
U.S. Testing Co., Memphis Laboratory, Memphis, TN[3] (6–30–79).
U.S. Testing Laboratory, Richland, WA.
USS Agri-Chemicals, Belmond, IA.
USS Agri-Chemicals, Decatur, GA.
Union Carbide Corp., Grand Junction, CO[3] (6–30–80).
Union Carbide Corp., Niagara Falls, NY[3] (6–30–80).
Union Carbide Corp., South Charleston, WV.
Union Oil Company of California, Brea, CA.
United Rice Growers and Millers, Maxwell, CA.
Upjohn Co., Pharmaceutical Division, Kalamazoo, MI[3] (6–30–80).
Urban Testing and Construction Engineers, Inc., Atlanta, GA.
Utah State University, College of Engineering, Agriculture and Irrigation Engineering, Logan, UT.
Utah State University, Department of Biology, Logan, UT[2] (6–30–79).
Utah State University, Soil Laboratory, Logan, UT[2] (6–30–81).
Utah State University, Soil and Water Conservation Research, Mechanic Arts, Logan, UT.
Utah State University, Crops Research Laboratory, Logan, UT.
Utah, University of, Department of Anthropology, Salt Lake City, UT[2] (6–30–81).

U.S. GOVERNMENT

U.S. Department of Agriculture, APHIS, Environmental Quality Laboratory, Gulfport, MS.
U.S. Department of Agriculture, APHIS, Westhampton Golden Nematode Facility, Riverhead, NY.
U.S. Department of Agriculture, APHIS, Gypsy Moth Laboratory, Otis AFB, MA.
U.S. Department of Agriculture, APHIS, Southern Methods Development Laboratory, Gulfport, MS.
U.S. Department of Agriculture, ARS, Washington, DC.[1]
U.S. Department of Agriculture, ARS, Southern Piedmont Conservation Research Laboratory, Watkinsville, GA[3] (6–30–78).
U.S. Department of Agriculture, ARS, Subtropical Texas Area, Brownsville, TX[3] (12–31–78).
U.S. Department of Agriculture, ARS, U.S. Water Conservation Lab, Phoenix, AZ[3] (6–30–79).
U.S. Department of Agriculture, FS, Washington, DC.[1]
U.S. Department of Agriculture, SCS, Washington, D.C.[1]
U.S. Department of Agriculture, SCS, Soil Mechanics Laboratory, Lincoln, NE[2] (6–30–81).
U.S. Department of Agriculture, SCS, Soil Survey Investigations Unit, Lincoln, NE[2] (6–30–78).
U.S. Department of Commerce, National Bureau of Standards, Health Physics Section, Gaithersburg, MD[3] (6–30–80).
U.S. Department of Defense, U.S. Air Force, AFCES DL Civil Engineering Center, Tyndall AFB, Panama City, FL[3] (6–30–78).
U.S. Department of Defense, U.S. Air Force, Environmental Health Laboratory, Kelly AFB, TX[2] (10–31–78).
U.S. Department of Defense, U.S. Air Force, Radiological Health Laboratory, Wright-Patterson AFB, OH[2] (6–30–81).
U.S. Department of Defense, U.S. Air Force, Air Force Weapons Laboratory, Kirkland AFB, Albuquerque, NM.
U.S. Department of Defense, U.S. Air Force, Technical Operations Squadron, McClellan AFB, CA[2] (5–31–78).
U.S. Department of Defense, U.S. Army, Cold Regions Research and Engineering Laboratory, Hanover, NH[2] (9–30–78).
U.S. Department of Defense, U.S. Army Corps of Engineers, Washington, D.C.[1]
U.S. Department of Defense, U.S. Army Corps of Engineers, South Atlantic Division Laboratory, Marietta, GA[3] (6–30–81).
U.S. Department of Defense, U.S. Army Corps of Engineers, Engineer Waterways Experiment Station, Vicksburg, MS[2] (4–30–78).
U.S. Department of Defense, U.S. Army, Electronics Command, Institute for Exploratory Research, Fort Monmouth, NJ.
U.S. Department of Defense, U.S. Army Environmental Hygiene Agency, Aberdeen Proving Ground, MD[3] (6–30–80).
U.S. Department of Defense, U.S. Army Facility Engineering Support Agency, Engineering Division, Nuclear Branch, Fort Belvoir, VA[3] (6–30–79).
U.S. Department of Defense, U.S. Army Mobile Equipment Research Development Center, Countermine/Counter Intrusion Dept., Fort Belvoir, VA[3] (6–30–79).
U.S. Department of Defense, U.S. Army, South Pacific Corps of Engineers, Engineering Division Laboratory, Sausalito, CA[3] (6–30–78).
U.S. Department of Defense, U.S. Navy, Naval Facilities Engineering Command, Soil Mechanics and Paving Branch, Norfolk, VA.
U.S. Department of Health, Education, and Welfare, National Communicable Disease Center, Mycology Branch, Atlanta, GA[2] (6–30–78).
U.S. Department of the Interior, Bureau of Indian Affairs, Soil Testing Laboratory, Gallup, NM.
U.S. Department of the Interior, Engineering and Research Center, Bureau of Reclamation, Denver, CO[3] (12–31–77).
U.S. Department of the Interior, Fish and Wildlife Service, Denver Wildlife Research Center, Denver, CO[3] (6–30–78).
U.S. Department of the Interior, Geological Survey, Washington, DC.[1]
U.S. Department of the Interior, U.S. Geological Survey, Denver, CO[3] (3–31–79).
U.S. Department of the Interior, U.S. Geological Survey, Branch of Analytical Laboratories, Reston, VA[3] (5–31–78).
U.S. Department of the Interior, Geological Survey, Branch of Exploration Research, Denver, CO.
U.S. Department of Interior, Geological Survey, Denver, CO[3] (6–30–78).
U.S. Department of the Interior, U.S. Geological Survey, Hydrologic Laboratory, Lakewood, CO[2] (3–31–78).
U.S. Department of the Interior, National Park Service, Ecological Services Division, Bay St. Louis, MS.
U.S. Department of Transportation, Federal Highway Administration, Washington, DC.[1]
U.S. Department of Transportation, Federal Highway Administration, Regional Materials Testing Laboratory, Denver, CO[2] (6–30–81).
U.S. Department of Transportation, Federal Highway Administration, Sevier County Industrial Park, Sevierville, TN[3] (12–31–78).
U.S. Environmental Protection Agency, Pesticides Monitoring Laboratory, Bay St. Louis, MS.
U.S. Environmental Protection Agency, Robert Kerr Laboratories, Ada, OK.

V

Valmont Industries, Inc., Valley, NE.
Value Engineering Company, Alexandria, VA.
Velsicol Chemical Corp., Chicago, IL[3] (6–30–80).
Vermilion Co., Farm Bureau, Danville, IL.
Vermont, University of, Burlington, VT.
Virginia Department of Highways, Richmond, VA.
Virginia Polytechnic Institute and State University, Department of Agronomy, Extension Soil Testing Laboratory, Blacksburg, VA.
Virginia Polytechnic Institute and State University, Department of Agronomy, Soil, and Plant Analysis, Blacksburg, VA[3] (6–30–81).
Virginia Polytechnic Institute and State University, Biology Department, Blacksburg, VA[3] (9–30–77).
Virginia Truck Experiment Station, Painter, VA.
Virginia Truck Experiment Station, Virginia Beach, VA.
Virginia, University of, Department of Environmental Sciences, Charlottesville, VA[3] (5–31–79).
Vistron Company, Lima, OH.
Voss International Corp., St. Louis, MO.
Vulcan Materials Company, Birmingham, AL[3] (1–31–79).

W

Waddoups, Marr and Associates, Inc., Kennewick, WA.
Wahler, W. A., & Associates, Palo Alto, CA[3] (4–30–79).
Walker Laboratories, Columbia, SC.
Walker Laboratories, Florence, SC.
Ward Engineering Testing, Inc., Atlanta, GA.
Ward, Joseph S. and Associates, Caldwell, NJ[2] (6–30–81).
Ward Lind Engineers, Inc., Jackson, MS.
Warf Institute, Inc., Madison, WI.
Washington State University, Department of Anthropology, Geoarchology Laboratory, Pullman, WA[2] (3–31–78).
Washington, University of, Center for the Biology of Natural Systems, St. Louis, MO[2] 6–30–81).
Washington, University of, College of Forest Resources, Seattle, WA[3] (6–30–81).
Washington, University of, Department of Anthropology, St. Louis, MO[3] (12–31–77).
Washington, University of, Laboratory of Radiation Ecology, Seattle, WA.[2] (6–30–80).
Water's Agricultural Laboratory and Consulting Co., Camilla, GA.
Weber State College, Department of Microbiology, Ogden, UT.
Weck, Frederick J., Laboratories, Industry, CA.
Western Agricultural Laboratory, Redlands, CA[2] (12–31–79).
Westfall Engineers, Saratoga, CA.
West Virginia Department of Highways, Charleston, WV.
West Virginia, University of, Soil Testing Laboratory, Morgantown, WV.
Westvaco Corp., Laurel Research Laboratory, Laurel, MD.
Wharton County Junior College, Soil Testing Laboratory, Wharton, TX.
Whitaker Laboratories, Inc., Savannah, GA.
Whittaker Corp., San Diego, CA.
William and Mary, College of, Williamsburg, VA.

See footnotes at end of document.



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Williams, E. V., Co., Inc., Virginia Beach, VA.
Winter, Ed, Metairie, LA[2] (9–30–77).
Wisconsin Department of Transportation, Madison, WI.
Wisconsin, University of, Department of Anthropology, Milwaukee, WI[2] (6–30–79).
Wisconsin, University of, Department of Bacteriology, Madison, WI[2] (6–30–81).
Wisconsin, University of, Department of Sociology Anthropology, La Crosse, WI[2] (8–31–78).
Wisconsin, University of, Department of Soil Science, Madison, WI[2] (6–30–79).
Wisconsin, University of, Department of Geography, Milwaukee, WI[2] (6–30–79).
Wolf's, Dr., Agricultural Laboratories, Fort Lauderdale, FL[2] (6–30–80).
Woodward Research Corp., Herndon, VA.
Woodson-Tenent Laboratories, Memphis, TN[2] (6–30–80).
Woodward-Clyde Consultants, San Francisco, CA.[1]
Woodward-Clyde Consultants, Clifton, NJ[2] (6–30–81).
Woodward-Clyde Consultants, Orange, CA[2] (12–31–80).
Woodward-Clyde Consultants, Plymouth Meeting, PA[2] (6–30–78).
Woodward-Clyde Consultants, San Diego, CA[2] (6–30–80).
Woodward-Clyde Consultants, Houston, TX[2] (6–30–78).
Woodville Lime Products, Woodville, OH.
Wyoming, University of, Department of Botany, Laramie, WY[2] (6–30–81).

Y

Yakima Testing Laboratory, Yakima, WA[2] (6–30–79).
Yale University, Department of Anthropology, New Haven, CT[2] (11–30–78).
Yale University, Department of Geology and Geophysics, New Haven, CT[2] (6–30–78).
Yale University, Greeley Laboratories, New Haven, CT.
Yeshiva University, New York, NY.
Yule, Jordan, and Associates, Camp Hill, PA.

Z

Zoecon Corp., Palo Alto, CA.

NOTE.—The Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Done at Washington, D.C., this 25th day of July 1977.

T. G. DARLING,
*Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.*

FOOTNOTES

[1] Approval includes all branch laboratories in conterminous United States.

[2] Approved to receive soil samples pursuant to Subpart–Movement of Soil, Stone, and Quarry Products (7 CFR 330.300 et seq.) only.

[3] Approved to receive soil samples pursuant to Subpart—Movement of Soil, Stone, and Quarry Products (7 CFR 330.300 et seq.) and pursuant to sections 301.48–3, 301.80–3, 301.81–3, and 301.85–3, of the Japanese beetle, witchweed, imported fire ant, and golden nematode regulations (7 CFR 301.48–3, 301.80–3, 301.81–3, 301.85–3).

NOTE.—All laboratories not designated by footnote [2] are approved to receive soil samples pursuant to sections 301.48–3, 301.80–3, 301.81–3, and 301.85–3, of the Japanese beetle, witchweed, imported fire ant, and golden nematode regulations (7 CFR 301.48–3, 301.80–3, 301.81–3, 301.85–3). A date after a name indicates when approval to receive soil samples pursuant to Subpart—Movement of Soil, Stone, and Quarry Products (7 CFR 330.300 et seq.) expires.

[FR Doc.77–21830 Filed 7–28–77;8:45 am]

## Federal Grain Inspection Service

## GRAIN STANDARDS

### Arizona Grain Inspection Point

State of considerations. On June 3, 1977, there was published in the FEDERAL REGISTER (42 FR 28563) a notice announcing the request of the Hutson Laboratories, that effective June 1, 1977, its designation under section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79 (f)) to operate as an official agency at Yuma, Ariz., be canceled because of its determination that there is not presently sufficient demand for official inspection services to warrant continuation of those inspection services. Interested persons were given until July 5, 1977, to make application for designation to operate as an official agency at Yuma, Ariz., and to submit written views and comments with respect to the proposed cancellation.

No comments were received with respect to the June 3, 1977, notice in the FEDERAL REGISTER. Therefore, the designation of the Hutson Laboratories to operate as an official agency at Yuma, Ariz., is canceled. No person is now designated under section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79(f)) to operate as an official agency at Yuma, Ariz. This notice does not preclude interested persons from making application later for designation to operate as an official agency at Yuma, Ariz., in accordance with the requirements in section 26.96 of the regulations (7 CFR 26.96) under the U.S. Grain Standards Act.

(Sec. 7, 82 Stat. 764, as amended 90 Stat. 2872, 7 U.S.C. 79(f)(2); Sec. 3A, 90 Stat. 2868; 7 U.S.C. 75a.)

Effective date: This notice shall become effective July 29, 1977.

Done in Washington, D.C., on July 25, 1977.

L. E. BARTELT,
*Administrator.*

[FR Doc.77–21920 Filed 7–28–77;8:45 am]

### Iowa Grain Inspection Points

*Statement of considerations.* On June 1, 1977, a notice was published in the Federal Register (42 FR 27976) announcing that (1) the Des Moines Grain Exchange, Inc., the official agency designated pursuant to section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79 (f)) for Des Moines and Iowa Falls, Iowa, requested that its designation be transferred jointly to Messrs. James A. Tuttle and Andy E. McComb, and (2) Messrs. James A. Tuttle and Andy E. McComb applied for designation in accordance with the Act and section 26.96 of the regulations (7 CFR 26.96) to operate the official agency at Des Moines and Iowa Falls, Iowa.

Interested persons were given until July 1, 1977, to submit written views and comments on the requested transfer and/or to make application to become the official agency at Des Moines and/or Iowa Falls, Iowa.

Three written comments were received supporting the requested transfer. No other written views, comments, or additional applications have been received in response to the above notice.

After due consideration of all relevant matters, the official agency designation of the Des Moines Grain Exchange, Inc., Des Moines, Iowa, is hereby transferred to Messrs. James A. Tuttle and Andy E. McComb to operate as the Des Moines Grain Exchange, Inc., 125 Southeast 18th Street, Des Moines, Iowa 50317.

As a point of clarification, it should be noted that the United States Grain Standards Act (7 U.S.C. 71 et seq.), hereinafter referred to as the "Act," has been amended by Pub. L. 94–582, effective November 20, 1976, to extensively modify the official inspection system. The amended Act provides that the Administrator of the newly created Federal Grain Inspection Service (FGIS), after conducting investigations and other studies, will designate official agencies at the various interior points. In implementing these provisions, FGIS is currently in the process of reviewing the designations of all agencies or persons presently designated to provide official inspection services. The amended Act further provides that existing agencies may continue to operate without a designation under the new law until the Administrator either grants or denies such designation to them or sets a period of time for their termination, not to exceed two years from the effective date of the amended Act, provided such agencies pay any required fees to FGIS.

Accordingly, the transfer of designation, which is the subject of this notice, is on an interim basis and will continue until the Administrator of FGIS either grants or denies an official designation under the amended Act to the recipient or sets a period of time for its termination.

(Sec. 7, 82 Stat. 764, as amended 90 Stat. 2870, 7 U.S.C. 79; sec. 3A, 90 Stat. 2868, 7 U.S.C. 75a.)

Effective date: This notice shall become effective July 29, 1977.

Done in Washington, D.C., on July 25, 1977.

L. E. BARTELT,
*Administrator.*

[FR Doc.77–21919 Filed 7–28–77;8:45 am]

## Forest Service

## WESTERN SPRUCE BUDWORM MANAGEMENT PLAN

### Notice of Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 the Forest Service, Department of Agriculture, has prepared a final environmental statement on the Western Spruce Budworm Management Plan for the Northern Region, Forest Service Report Number USDA–FS–R1–FESADM–77–9.

The environmental statement concerns the proposal by the Forest Service to manage western spruce budworm by long-term silvicultural treatments on 934,019 acres out of a total infestation of 3,151,985 acres. This management decision is based on entomological, biological and economic considerations arrived at in cooperation with the Idaho Department of Public Lands and the Montana Department of Natural Resources and Conservation.

This final environmental statement was transmitted to CEQ on July 20, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service,
South Agriculture Building,
12th Street & Independence Avenue SW.,
Washington, D.C. 20250.
USDA, Forest Service,
Northern Region,
Federal Building,
Missoula, Montana 59801.
USDA, Forest Service,
Beaverhead National Forest,
Box 1258,
Dillon, Montana 59725.
USDA, Forest Service,
Bitterroot National Forest,
316 North Third Street,
Hamilton, Montana 59840.
USDA, Forest Service,
Idaho Panhandle National Forests,
Box 310,
Coeur d'Alene, Idaho 83814.
USDA, Forest Service,
Clearwater National Forest,
Route 4,
Orofino, Idaho 83544.
USDA, Forest Service,
Custer National Forest,
Box 2556,
Billings, Montana 59103.
USDA, Forest Service,
Deerlodge National Forest,
Federal Building,
Box 400,
Butte, Montana 59701.
USDA, Forest Service,
Flathead National Forest,
Box 147,
290 North Main,
Kalispell, Montana 59901.
Gallatin National Forest,
Federal Building,
Box 130,
Bozeman, Montana 59715.
USDA, Forest Service, Helena National Forest, Steamboat Block Building, 616 Helena Avenue, Helena, Montana 59601.
USDA, Forest Service, Kootenai National Forest, 418 Mineral Avenue, Libby, Montana 59923.
USDA, Forest Service, Lewis and Clark National Forest, Federal Building, Great Falls, Montana 59403.
USDA, Forest Service, Lolo National Forest, Building 24, Fort Missoula, Missoula, Montana 59801.
USDA, Forest Service, Nezperce National Forest, 310 East Main Street, Grangeville, Idaho 83530.

A limited number of single copies are available upon request to:

USDA, Forest Service, Forest Insect and Disease Management, Federal Building, Missoula, Montana 59801.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

KEITH M. THOMPSON,
*Acting Regional Forester, Northern Region Forest Service.*

JULY 20, 1977.

[FR Doc.77–21816 Filed 7–28–77;8:45 am]

## Office of the Secretary

## NATIONAL ADVISORY COUNCIL ON CHILD NUTRITION

### Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that the National Advisory Council on Child Nutrition, which was established to make a continuing study of the child nutrition programs of the Department of Agriculture, is scheduled to hold a meeting on August 22 and 23, 1977, in Room 645 GHI Building, 500 12th Street SW., Washington, D.C. The meeting will be held from 8:45 a.m. to 4:30 p.m. The meeting will include a review of legislation currently under consideration in Congress, discussion of a comprehensive evaluation of child nutrition programs in preparation for further legislation, nutrition education plans for 1978, an update on Surveys and Studies, and other related matters. The meeting will be open to the public. Additional information can be obtained by contacting the vice chairman, Mr. Lewis B. Straus at 202–447–8384.

Dated: July 27, 1977.

SYDNEY J. BUTLER,
*Acting Assistant Secretary for Food and Consumer Services.*

[FR Doc.77–22079 Filed 7–28–77;8:45 am]

## PACIFIC CREST NATIONAL SCENIC TRAIL ADVISORY COUNCIL

### Intent To Reestablish

The Department of Agriculture proposes to reestablish the Pacific Crest National Scenic Trail Advisory Council for a 2-year period.

This Council was orignally established in 1970, under the National Trails System Act (Pub. L. 90–543), then reestablished under the Secretary's own authority in 1975.

The purpose of this Council is to advise the Secretary of Agriculture on matters pertaining to the development and management of the Pacific Crest Trail. The trail provides for the ever-increasing outdoor recreation needs of our expanding population. It promotes access to, travel within, and enjoyment and appreciation of our great outdoor areas by all users of these areas.

The Secretary has determined that continuation of the Council is necessary and in the public interest in connection with the duties imposed on the Department of Agriculture and the Forest Service by Law.

Comments of interested persons concerning the reestablishment of this council may be submitted to the Forest Service, USDA, Recreation Management Staff, Room 4243–S, P.O. Box 2417, Washington, D.C. 20013, on or before August 29, 1977.

All written submissions made pursuant to this notice will be available for public inspection in the Recreation Management Staff during regular business hours (7 CFR 1.27(b)).

JOHN C. WHITE,
*Deputy Secretary.*

JULY 25, 1977.

[FR Doc.77–21829 Filed 7–28–77;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 30503]

### TIGER INTERNATIONAL, INC., ET AL.

### Proposed Approval

*Correction*

In FR Doc. 77–21668, appearing at page 38199 in the issue of Wednesday, July 27, 1977, on page 38200, in the first column, delete the words "on the 21st day of July, 1977" from the first paragraph.

## COMMISSION ON CIVIL RIGHTS

### CALIFORNIA ADVISORY COMMITTEE

### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the California Advisory Committee (SAC) of the Commission will convene at 10:30 a.m. and will end at 2 p.m. on August 19, 1977, in the Airport Marina Hotel, 8601 Lincoln Boulevard, Los Angeles, California.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is for additional planning and research discussion relative to the immigration project. In addition, assignments will be made in preparation for the planning seminar to be held in early fall 1977.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 25, 1977.

JOHN I. BINKLEY,
*Advisory Committee Management Officer.*

[FR Doc.77–21772 Filed 7–28–77;8:45 am]







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## CIVIL SERVICE COMMISSION

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Executive Assistant for Transition Planning, Immediate Office, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77-21695 Filed 7-28-77;8:45 am]

### DEPARTMENT OF THE INTERIOR

#### Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service on a temporary basis the position of Assistant to the Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77-21696 Filed 7-28-77;8:45 am]

### DEPARTMENT OF THE INTERIOR

#### Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Assistant to the Assistant Secretary—Energy, and Minerals (Minerals), Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77-21697 Filed 7-28-77;8:45 am]

### FEDERAL PREVAILING RATE ADVISORY COMMITTEE

#### Closed Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, August 18, 1977.
Thursday, August 25, 1977.
Thursday, September 1, 1977.

The meetings will convene at 10 a.m., and will be held in Room 5A06A, Civil Service Commission Building, 1900 E Street NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership on the Committee is provided for in section 5347 of the Prevailing Rate Act of 1972 (Pub. L. 92-392).

The Committee's primary responsibility is to review the prevailing rate system and from time to time advise the Civil Service Commission thereon.

At these scheduled meetings, the Committee will consider proposed plans for implementation of the Prevailing Rate Act of 1972 (Pub. L. 92-392), which Law establishes pay systems for Federal prevailing rate employees.

The meetings will be closed to the public on the basis of a determination made by the Chairman of the Civil Service Commission under section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C., section 552b(c)(9)(B), that the closing is necessary in order to provide this labor-management Committee with the opportunity to advance proposals and counter-proposals in meaningful debate on issues related solely to the Federal Wage System with the view toward ultimately formulating advisory policy recommendations for the consideration of the Civil Service Commission.

Summary minutes of these meetings will be made available to the public, upon written request to the Committee Secretary, after the pay policy issues discussed at these meetings have been finalized by Civil Service Commission action. Annually, the Committee publishes for the Civil Service Commission, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Secretary, Federal Prevailing Rate Advisory Committee, Room 1338, 1900 E Street NW., Washington, D.C. 20415 (202-632-9710).

JEROME H. ROSS,
*Chairman, Federal Prevailing Rate Advisory Committee.*

JULY 25, 1977.

[FR Doc.77-21699 Filed 7-28-77;8:45 am]

### GENERAL SERVICES ADMINISTRATION

#### Grant of Authority To Make A Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the General Services Administration to fill by noncareer executive assignment in the excepted service the position of Director of Public Affairs, Office of the Administrator.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77-21698 Filed 7-28-77;8:45 am]

### RENEGOTIATION BOARD

#### Grant of Authority To Make A Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Renegotiation Board to fill by noncareer executive assignment in the excepted service the position of Executive Assistant to the Chairman, Office of the Chairman.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77-21694 Filed 7-28-77;8:45 am]

## DEPARTMENT OF COMMERCE

### Domestic and International Business Administration

### NUMERICALLY CONTROLLED MACHINE TOOL TECHNICAL ADVISORY COMMITTEE

#### Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Numerically Controlled Machine Tool Technical Advisory Committee will be held on Wednesday, August 17, 1977, at 9:00 a.m. in Room 4833, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Numerically Controlled Machine Tool Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to numerically controlled machine tools, including technical data or other information related threto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.





The Committee meeting agenda has five parts:

GENERAL SESSION

(1) Opening remarks by the Committee Chairman.

(2) Presentation of papers or comments by the public. Comments, from builders of industrial robots, control units for industrial robots, and related equipment, are specifically desired to evaluate the current types of industrial robots and the need for establishing controls on particular types of industrial robots. Such comments should be as brief as possible, consistent with clarity, and restricted to the technical aspects of the problem. It would be most helpful if they were repeated in a paper that would be left with the Committee.

(3) Comments on the review of the Export Administration Regulations.

(4) Discussion on availability within the Eastern Bloc of NC computer programs for part programming support.

EXECUTIVE SESSION

(5) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

upon written request to the Freedom of Information Officer, Domestic and Inter-

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230. Telephone 202-377-4196.

The complete Notice of Determination to close meetings or portions of the series of meetings of the Numerically Controlled Machine Tool Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 1, 1977, (42 FR 5991).

Dated: July 26, 1977.

LAWRENCE J. BRADY,
*Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.*

[FR Doc.77-21838 Filed 7-28-77;8:45 am]

### National Oceanic and Atmospheric Administration

### PRELIMINARY MANAGEMENT PLAN FOR ATLANTIC FOREIGN PELAGIC LONGLINE FISHERY

#### Public Hearing

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Oceanic and Atmospheric Administration, Department of Commerce, has prepared a draft environmental impact statement for the proposed implementation of a preliminary management plan (DEIS/PMP) for the Atlantic Foreign Pelagic Longline Fishery. In accordance with provisions of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), this plan will remain in effect until such time as the appropriate Regional Fishery Management Councils develop a fishery management plan for approval and implementation by the Secretary of Commerce.

The environmental statement concerns a proposal to adopt and implement a preliminary management plan for the Atlantic Foreign Pelagic Longline Fishery pursuant to the Fishery Conservation and Management Act of 1976, which extends U.S. jurisdiction over marine fishery resources to 200 nautical miles and established a program for their management. Upon approval, the plan will serve as the basis for regulation of pelagic fishery resources in the western Atlantic Ocean, Gulf of Mexico and Caribbean Sea for optimum yield; and for determination of foreign surplus. The plan recommends certain conservation measures designed to prevent overfishing and to maintain an orderly fishery.

Individuals or organizations wishing to comment on the DEIS/PMP may do so at public meetings to be held in conjunction with the Mid-Atlantic and Caribbean Fishery Management Councils, which are currently working on the fishery management plan for this fishery. The times and locations are listed below:

AUGUST 15, 1977—ST. THOMAS, VI

Game Fishing Club, Red Hook, St. Thomas, VI, 7:30 to 10:00 p.m.

AUGUST 16, 1977—MONTAUK, NEW YORK

Montauk Fire House, Montauk, N.Y. 11954, 7:30 to 10:00 p.m.

AUGUST 17, 1977—ASBURY PARK, NEW JERSEY

Asbury Park Pavillion, Asbury and Ocean Avenue, Asbury Park, N.J. 07712, 7:30 to 10:00 p.m.

AUGUST 18, 1977—OCEAN CITY, MARYLAND

Sheraton Fontainebleau Inn, 10400 Ocean Highway, Ocean City, Maryland 21842, 7:30 to 10:00 p.m.

AUGUST 18, 1977—ST. CROIX, VI

Public Library, Christiansted, St. Croix, VI, 7:30 to 10:00 p.m.

AUGUST 19, 1977—NORFOLK, VIRGINIA

Omni International Hotel, 777 Waterfront Drive, Norfolk, VA 23510, 7:30 to 10:00 p.m.

AUGUST 19, 1977—MAYAGUEZ, PR

Marine Science Auditorium, College of Agriculture, University of Puerto Rico, Mayaguez, PR, 7:30 to 10:00 p.m.

AUGUST 26, 1977—SAN JUAN, PR

Club Nautico, San Juan, PR, 4:00 to 7:00 p.m.

Copies of the DEIS/PMP are available for inspection from the Regional Director, National Marine Fisheries Service, 9450 Gandy Blvd., St. Petersburg, Florida 33702 (Telephone: 813-893-3141). Written comments on the DEIS/PMP from the public may be submitted to the Regional Director not later than September 1, 1977 at the above address.

Dated this 26th day of July 1977, at Washington, D.C.

WINFRED H. MEIBOHM,
*Associate Director, National Marine Fisheries Service.*

[FR Doc.77-21825 Filed 7-28-77;8:45 am]

### Maritime Administration

[Docket No. S-565]

### POLK TANKER CORP.

#### Amended Notice of Application

In FR Doc. 77-20791, appearing in the FEDERAL REGISTER on July 20, 1977 (42 FR 37229) notice was given that Polk Tanker Corporation, on its behalf and that of any successor in interest, as owner of bareboat charterer, had requested approval of the Assistant Secretary for Maritime Affairs of a time charter with The Standard Oil Company, an Ohio Corporation (SOHIO), for the operation of the VLCC STUYVESANT in the Alaska (domestic) trade for a continuous period of three years from date of delivery of the vessel. Interested parties were given until close of business on July 28, 1977 to offer views and comments thereon for consideration by the Maritime Subsidy Board and the Assistant Secretary for Maritime Affairs.

Upon request made and good cause shown by counsel for Shell Oil Company and counsel for Sun Shipbuilding and Dry Dock Co., the date for submission of comments is hereby extended to close of business on August 8, 1977.



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(Catalog of Federal Domestic Assistant Program No. 11.500 Construction Differential Subsidies (CDS).)

By Order of the Maritime Subsidy Board/Assistant Secretary for Maritime Affairs.

Dated: July 26, 1977.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.77-21850 Filed 7-28-77;8:45 am]

## PRACTICAL FIREFIGHTING FACILITY

### Notice of Public Meetings

Open meetings are to be held in Toledo, Ohio and New Orleans, Louisiana, concerning selection of site and participation and development of a proposed Maritime Administration Practical Firefighting Facility in the Great Lakes and Gulf areas. Interested representatives of the maritime industry (management, labor and industry associations), officials of State, City and County/Parish (education and port fire department) and federal agencies are invited.

The first meeting is scheduled to begin at 9:30 a.m., August 30, 1977 at the Maritime Administration Region Radar Training Center, 927 Summit Street, Toledo, Ohio. There will be a five dollar ($5.00) registration fee to cover the cost of a noonday luncheon. The second meeting is scheduled for 9:30 a.m., September 9, 1977 in the Board Room of the Executive Suite of the International Trade Mart, 29th Floor, 2 Canal Street, New Orleans, Louisiana. There will be no registration fee for this meeting.

Further information may be obtained by contacting the Office of Maritime Manpower, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone A C 202-377-5379.

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

Dated: July 25, 1977.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.77-21851 Filed 7-28-77;8:45 am]

## CONSTRUCTION OF ONE RO/RO VESSEL, MA DESIGN C9-S-95a OR ONE LASH TYPE VESSEL, MA DESIGN C9-S-81f; COMPUTATION OF FOREIGN COST

### Notice of Intent

Notice is hereby given of the intent of the Maritime Subsidy Board pursuant to the provisions of Section 501(a) of the Merchant Marine Act, 1936, as amended, to compute the estimated foreign cost of the construction of one RO/RO vessel, MA Design C7-S-95a or one LASH type vessel, MA Design C9-S-81f.

Any person, firm or corporation having any interest (within the meaning of Section 501(a)) in such computations may file written statements by the close of business on September 30, 1977, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets, NW., Washington, D.C. 20230.

Dated: July 26, 1977.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.77-21852 Filed 7-28-77;8:45 am]

## National Oceanic and Atmospheric Administration

## PACIFIC FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE

### Public Meeting

Notice is hereby given of a meeting of the Pacific Fishery Management Council's Scientific and Statistical Committee established under section 302(g) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The Pacific Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone seaward of the States of California, Oregon, and Washington. The Council will, among other things, prepare and submit to the Secretary of Commerce, fishery management plans with respect to the fisheries within its area of authority, prepare comments on foreign fishing applications, and conduct public hearings.

The Scientific and Statistical Committee assists the Council in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to the Council's development and amendment of fishery management plans.

The meeting of the Scientific and Statistical Committee will be held August 18-19, 1977, in Room 369 of the Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 2725 Montlake Boulevard East, Seattle, Wash. The meeting on August 18, will convene at 10 a.m. and adjourn at 5 p.m., and reconvene at 8 a.m. and adjourn about 5 p.m. on August 19, 1977. The meeting may be extended or shortened depending on progress on the plan.

The purpose of the meeting will be to review and discuss an early draft of the 1978 Fishery Management Plan for "Commercial Troll and Recreational Salmon Fisheries off the coasts of Washington, Oregon, and California."

This meeting will be open to the public and there will be seating for approximately 25 public members, on a first-come, first-served basis.

Members of the public having an interest in this plan for discussion are advised that changes are, at times, made prior to the meeting. To receive information on changes, if any, made to this plan, interested members of the public should contact on or about August 8, 1977:

Mr. Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill, Street, Portland, Oreg. 97201 (503-221-6352).

At the discretion of the Committee, interested members of the public may be permitted to speak at times which will allow the orderly conduct of business. Interested members of the public who may wish to submit written statements should do so by addressing Lorry Nakatsu at the above address. To receive due consideration and to facilitate inclusion of these comments in the record of the meetings, typewritten statements should be received within 10 days after the close of the meeting.

Dated: July 27, 1977.

WINFRED H. MEIBOHM,
*Associate Director,*
*National Marine Fisheries Service.*

[FR Doc.77-22082 Filed 7-28-77;8:45 am]

## COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

### PROCUREMENT LIST 1977

### Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1977 commodities to be produced by and services to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 1, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47 (a) (2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1977, November 18, 1976 (41 FR 50975):

*Class 7110*

Tables, Steel, 7110-00-113-0448, 7110-00-113-0454, 7110-00-149-2044, 7110-00-149-2045, 7110-00-149-2046, 7110-00-149-2047.

*SIC 7349*

Janitorial/Custodial Services, K. I. Sawyer Air Force Base, Michigan.





For the following areas:
Bldg. 104, Bomber Alert.
Bldg. 108, Readiness Alert.
Bldg. 400, Alert Hangar.
Bldg. 426, Ready Crew.
Bldg. 708, Post Office.
Bldg. 112, Alert Crew Family Visitation Center.

*NO SIC*

Public Tax Form Order Fulfillment Services. Internal Revenue Service. District of Buffalo, New York.

E. R. ALLEY, Jr.,
*Acting Executive Director.*

[FR Doc.77-21841 Filed 7-28-77;8:45 am]

## COUNCIL ON ENVIRONMENTAL QUALITY

### ENVIRONMENTAL IMPACT STATEMENTS

### Availability

The following is a list of environmental impact statements received by the Council on Environmental Quality from July 18 through July 22, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the *minimum* period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (September 12, 1977) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250, 202-447-6827.

FOREST SERVICE

*Draft*

Waterville Unit Plan, White Mountain National Forest, Grafton, Carroll Counties, N.H., July 19: Proposed is a land use plan for 57,000 acres of National Forest land located in Grafton and Carroll Counties, New Hampshire. Major points under the proposed action include: no recommendation for Wilderness Study, MAIV designation of 4,500 acres, timber sales producing approximately 3.4 million board feet per year, 1,700 acres of timber stand improvement, 15 miles of new hiking trails—deletion of 1.5 miles, and construction of 21 miles of timber access roads. Major impacts include production and harvest of wood fiber on approximately 6,100 acres, and construction of 24 miles of permanent roads. (ELR Order No. 70880).

*Final*

U.S. Borax Mining Access Rd., Quartz Hill Prospect, Alaska, July 18: Proposed, by the United States Borax & Chemical Corporation (in behalf of Pacific Coast Mines, Inc.), is the development of a mining exploration road due east of Ketchikan on the mainland of southeast Alaska. This road is to be used for intensive development drilling of the prospect to depths below 800 feet and for the extraction of about 5000 tons of ore for pilot testing (bulk sampling). The greatest adverse impact will be a major development in an otherwise undeveloped area of the Tongass National Forest. Greater pressure will be put on fish and other aquatic life. Comments made by: DOC, DOI, EPA, HUD, and State and local agencies, and concerned citizens. (ELR Order No. 70876.)

RURAL ELECTRIFICATION ADMINISTRATION

*Draft*

Susquehanna Steam Station, 500 kV line, several counties, Pa., July 19: The proposed action is a loan guarantee commitment to the Allegheny Electric Cooperative, Inc., to finance a ten percent ownership interest in the Susquehanna Steam Electric Station in Salem Township, Luzerne County, Pennsylvania. Plans also include the financing of 42.3 miles of 500 kV transmission line associated with this station. This statement covers the 128 miles of associated 500 kV transmission facilities located in Luzerne, Lackawana, Columbia, Montour, Northumberland, Snyder, Carbon and Northampton Counties in Pennsylvania. Forested areas will be disturbed with the potential for soil erosion and wildlife disturbance. (ELR Order No. 70892.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

*Draft*

Gulf of Alaska Groundfish, PMP, 1978, Alaska, July 18: The proposed action is to adopt and implement a fishery management plan for the groundfish fishery of The Gulf of Alaska. The purpose of the management plan is to manage the groundfish fishery in the Gulf for the optimum yield, and to allocate harvest between domestic and foreign fishermen. No significant adverse effects are anticipated as a result of the proposed action. (ELR Order No. 70877.)

Tanner Crab off Alaska, FMP, Alaska, July 18: Proposed is the adoption and implementation of a fishery management plan for domestic and foreign commercial fisheries for Tanner Crab in the North Pacific Ocean off the coast of Alaska. The plan recommends restriction of foreign harvest in the U.S. Conservation Zone to the area of the eastern Bering Sea north of 58 degrees 00 minutes N. latitute and west of 164 minutes degrees 00 minutes West longitude. This action would effectively eliminate foreign harvest of "C. bairdi", the larger of the two species primarily harvested and the one currently in demand by the U.S. industry, and would remove foreign gear from conflicting areas. (ELR Order No. 70878.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

*Supplement*

Duluth-Superior Harbor, O&M (S-2), Minnesota, July 22: This statement supplements a final EIS filed with CEQ in February 1976. The FEIS proposed two diked dredge disposal facilities to contain in all polluted material dredged from the harbor during the next ten years, in Duluth, Minnesota. Due to concern over the recommended sites, it is now proposed to construct a single dike dredged disposal facility at the Erie Pier Site in Duluth, Minnesota, for polluted dredged material from the entire harbor. (St. Paul District.) (ELR Order No. 70895.)

DELAWARE RIVER BASIN COMMISSION

*Draft*

Bulk Chemical Storage and Distribution, Bordentown, Bordentown County, N.J., July 19: Proposed, by the Dow Chemical Company, is the construction and operation of a bulk chemical storage terminal along the Delaware River in Bordentown Township, New Jersey. Construction would involve dredging 307,000 cubic yards of river sediment to provide access from the channel and to provide a berthing area. Dredge spoil disposal would be to reverine (8 acres) and upland areas. Ocean-going tankers (30 per year) up to 700 feet in length and smaller barges (24 per year) would service the facility. Adverse effects include the slight reduction of air quality around Bordentown Township, and elimination of pre- ---------- (ELR Order No. 70882.)

ENVIRONMENTAL PROTECTION AGENCY

Contact Ms. Rebecca W. Hamner, Director, Office of Federal Activities, Room WSMW 537, 401 M Street SW., Washington, D.C. 20460 202-755-0777.

*Draft*

Greensboro-Guildford Co., 201 Wastewater System, Greensboro, Guilford Counties, N.C., July 22: The proposed project consists of construction of the necessary facilities to process and treat approximately 36 million gallons per day of wastewater for the Greensboro-Guilford County area in North Carolina. Plans call for the upgrading of the existing North Buffalo Creek Treatment Plant to tertiary treatment at 16 MGD, abandonment of the South Buffalo Creek Treatment Plant, and construction of a 60-inch diameter outfall from that plant location to a new 20 MGD plant located 26,000 feet downstream on South Buffalo Creek. Important adverse secondary impacts include increased flooding and the necessity for potentially unsound flood control. (Region IV.) (ELR Order No. 70894).

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410. 202-755-6308.

*Draft*

Highlands North Subdivision, Lincoln County, Nebr., July 20: Proposed is the approval of the Highlands North Subdivision in Lincoln, Nebraska for FHA-HUD home mortgage insurance. Plans call for the development of 1085 acres into single-family lots, apartments, industrial parks, commercial facilities, office park, and public service areas. Major adverse effects include loss of agricultural land, alteration of the biotic community, increased demands on city facilities and services, and increased levels of air and noise pollution. (ELR Order No. 70888.)

*Final*

Vista Verde Subdivision, Dade County, Fla., July 20: Proposed is the development of a subdivision project, Vista Verde, located 14 miles northwest of Miami, Florida. The 240-acre project will include 142 single family detached residences, 306 cluster residences, 833 townhouse units, and a 12-acre school-park site. The completion of the development will create additional demand on utilities, and municipal and community services and facilities. Other impacts include increases in surface water run-off, congestion of traffic, and increases in air and noise



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pollution. Comments made by: USDA, FPC, DOD, AHP, GSA, DOT, State and local agencies and concerned citizens. (ELR Order No. 70890.)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD).

Section 104(h)

*Draft*

Lehi City, Utah, Sewer Sys. Improvements, Utah County, Utah, July 20: The proposed project is construction of a sewer collection system and transmission line on the west side of Lehi City to serve approximately 120 homes presently using septic tanks. A high groundwater level in the area has caused many of the septic systems to fail and a serious health hazard now exists. Short term adverse effects will be generated by the construction of the project and land use changes will take place as agricultural land is used for development projects. (ELR Order No. 70891.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, 202–343–3891.

BUREAU OF INDIAN AFFAIRS

*Final*

Tesuque Indian Pueblo, Santa Fe County, N. Mex., July 18: Proposed is the approval by the Secretary of the Interior of a 99-year lease for 1,342 acres and an option to lease an additional 4,060 acres between Sangre De Cristo Development Co., Inc., and the Tesuque Indian Pueblo. A residential community will be developed for approximately 16,000 people. Impacts will consist of developing a population in an area having none, increased use of water, emissions from home heating systems, sewage discharges, and increased traffic exhaust emissions. Comments made by: DOI, EPA, DOT, State and county agencies and interested parties. (ELR Order No. 70875.)

BONNEVILLE POWER ADMINISTRATION

*Draft*

BPA Role in Pacific NW Power Supply System, July 2: This programmatic DEIS discusses continued participation by BPA in regional inter-utility cooperation. This includes such functions as providing bulk power transmission, peak resources from hydro, load growth and forced outage reserves, and leadership in energy conservation. Also analyzed is BPA's participation in the integration of thermal plants, provision of forced outage reserves, and provision of transmission services. (ELR Order No. 70890.)

NATIONAL AERONAUTICS AND SPACE ADMIN.

Contact: Mr. Nathaniel Cohen, Director, Office of Policy Analysis, National Aeronautics and Space Administration, 400 Maryland Avenue, Washington, D.C. 20546.

*Supplement*

Langley Research Center (S–1), Virginia, July 19: This statement supplements a final EIS filed with CEQ in August 1971. The proposed action is the construction and operation at the NASA Langley Research Center of a steam-generating facility fueled by refuse. The facility will conserve fossil fuels by burning refuse instead of fuel oil and will provide a means of disposing of refuse while reducing requirements for sanitary landfill areas. An area of 3.6 acres of sweet gum-dominated forest will be cleared and construction activities will cause short term impacts. (ELR Order No. 70883.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202–426–4357.

FEDERAL HIGHWAY ADMINISTRATION

*Final*

Pikeville-Wmsville Rd., U.S. 119, U.S. 23 to Caney B, Pike County, Ky., July 19: The proposed action is the construction of a section of highway to connect the cities of Pikeville and Zebulon in Kentucky. The 3.55-mile segment of U.S. 119 will be a 4-lane, partial controlled access section of Appalachian Development Highway Corridor "G". Known as the "Buckley Creek Corridor," it will begin at U.S. 23 and extend to Caney Branch. Negative effects include loss of land suitable for wildlife habitat, development, and agricultural uses; displacement of families and businesses; and construction impacts. (Region 4.) Comments made by: EPA, DOI, USDA, FPC, AHP, State and local agencies and concerned citizens. (ELR Order No. 70885.)

State Highway 641, U.S. 61 to I–10, St. James Parish, St. James County, La., July 20: The proposed action involves the construction of a 3.06 mile extension of State Highway 641 from U.S. 61 (Airline Highway) approximately one mile east of the town of Gramercy, northward on new location to I–10. The action includes the construction of a diamond interchange with I–10 with access only to the south. The project will irreversibly replace 95 acres of cypress-tupelo swamp, and temporarily change 130 acres of swamp to drier forest. There will be some temporary increases in air, water, and noise pollution. (Region 6.) Comments made by: COE, DOC, DOI, FPC, HEW, EPA, DOT, GSA, State and local agencies and concerned citizens. (ELR Order No. 70887.)

Route 169, from Route 5 to New York State Line, Herkimer County, N.Y., July 19: The project proposes to construct a two-lane arterial highway, on new location, to replace a section of Route 189 in Herkimer County, between the City of Little Falls East-West Arterial (Route 5), and the New York State Thruway (I–90) Interchange 29A. The preferred alternative would require no displacement of residences or businesses. Piers would have to be placed near the confluence of the Mohawk River and Barge Canal, to minimize possible inhibition of ice flow and resultant ice jams. (Region 1.) Comments made by: DOT, FPC, COE, EPA, USDA, HUD, DOI, DOC, State and local agencies and concerned citizens. (ELR Order No. 70881.)

State Route 29, State Route 27, Spur-State Route 153, Hamilton County, Tenn., July 20: The proposed highway improvement involves the construction of State Route 29 which is a section of Appalachian Corridor "J" in Hamilton County, Tennessee. The proposed cross-section for this highway project consists for four 12' traffic lanes, with a 64' median on a minimum right-of-way width of 300'. Depending upon the alternate chosen, 37 to 62 families will be displaced by project implementation. Noise and air pollution will be introduced into areas relatively free from these sources of pollution. (Region 4.) Comments made by: EPA, TVA, HEW, HUD, DOI, USDA, State and local agencies and concerned citizens. (ELR Order No. 70889.)

Inter-City Route, Odessa to Midland, Ector and Midland Counties, Tex., July 19: The proposed action will provide for a 4-lane freeway-type inter-city route between Odessa and Midland. The project will extend from near the junction of Parkway Boulevard and Spur 492 in Odessa, northeasterly approximately 14 miles to SH 158 and FM 1369 in Midland. Adverse impacts of the project include the displacement of one family and six businesses, the conversion of patureland to paved roadways, and increased pollution and noise along the right-of-way. (Region 6.) Comments made by: DOT, HEW, COE, USDA, DOI, EPA, State and local agencies and concerned citizens. (ELR Order No. 70897.)

*Supplement*

Woonsocket Industrial Highway (S–1), Providence County, R.I., July 19: This statement supplements an EIS filed with CEQ in 1971. The proposed action involves the construction of a new fully access controlled highway, extending from Route 146 in North Smithfield, Rhode Island approximately 10,000 feet northeasterly to intersect with Route 122 in Cumberland. The supplement reexamines Corridor 2 as proposed in the original EIS and updates the environmental inventory. Plans also call for staged construction and a second phase upgrading of Route 146, including a frontage road system from Route I–295 to the proposed highway, a distance of approximately 10,000 feet. Adverse impacts are displacement of families and businesses. (Region 1.) (ELR Order No. 70886.)

U.S. 7, Sunderland to Manchester, Bennington County, Vt., July 21: This statement supplements a final EIS filed with CEQ in October 1972. The project entails construction of a section of U.S. Route 7 from a point in Sunderland approximately 2 miles northeast of the Glastenbury-Sunderland Town Line and extending northerly on relocation approximately 10 miles to a point on Vermont 11 in the Town of Manchester, approximately 1.4 miles east of the U.S. 7/Vt. 11 intersection. Studies have shown that it would be possible to alleviate somewhat the noise impact from Route 7 on the Lye Brook Wilderness by shifting the initial construction to the southbound lanes. (Region 1.) (ELR Order No. 70893.)

NICHOLAS C. YOST,
*Acting General Counsel.*

[FR Doc.77–21837 Filed 7–28–77;8:45 am]

## ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

### LOW BTU COAL GASIFICATION FACILITY, IRVIN INDUSTRIAL DEVELOPMENT CO., GEORGETOWN, KY.

#### Preparation of Environmental Impact Statement

Notice is hereby given that, in accordance with the National Environmental Policy Act, the Energy Research and Development Administration (ERDA) is commencing the preparation of a draft environmental impact statement for a proposed low Btu coal gasification facility at the Irvin Industrial Development Company site in Georgetown, Ky. The State of Kentucky is proposing to share the cost of the facility with ERDA.

On March 30, 1976, ERDA published a Program Opportunity Notice (PON–FE–4) titled, "Integration and Evaluation of Low Coal Gasification Technologies in Operational Environments." The Irvin Industrial Development Company responded to this Notice in a proposal to:





(a) demonstrate the technical and economic feasibility of low Btu gasification by the production of gas for use as fuel for industrial processing and space heating requirements for a number of varied operations; and (b) to secure as a demonstration plant and data gathering center to advance the present state of the art in the field of low Btu gasification.

The environmental impacts of the proposed gasification facility and the cumulative impacts associated with the development of an industrial park will be assessed in the draft environmental impact statement.

The purpose of this Notice is to present pertient background information regarding the proposed scope and content of the statement and to solicit comments and suggestions for consideration in its preparation. When completed, the draft statement will be circulated for review to Federal, State, and local agencies and interested public organizations and individuals. The comments received on the draft statement will be considered in the preparation of the final statement which will provide environmental input into ERDA decisions affecting ERDA's future participation in the low Btu coal gasification facility at Georgetown, Kentucky.

Copies of documents to be utilized in the preparation of this draft environmental impact statement will be available for inspection at the Fossil Energy Division of Environmental and Socioeconomic Programs ERDA Headquarters, Room 4220, 20 Massachusetts Avenue NW., Washington, D.C. 20545.

A bibliography of documents will be available at the ERDA Public Document Room at 20 Massachusetts Avenue NW., Washington, D.C. 20545.

All interested agencies, organizations, or persons desiring to submit comments or suggestions for consideration in connection with the preparation of the draft environmental impact statement should submit them to W. H. Pennington, Director, Office of NEPA Coordination, U.S. Energy Research and Development Administration, Washington, D.C. 20545, telephone 301–353–4241, on or before August 30, 1977. Those desiring a copy of the draft environmental impact statement when it is issued should notify Mr. Pennington.

Dated at Germantown, Md., this 22d day of July 1977.

For the Energy Research and Development Administration.

JAMES L. LIVERMAN,
*Assistant Administrator for Environment and Safety.*

[FR Doc.77–21860 Filed 7–28–77;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

### WORLD ADMINISTRATIVE RADIO CONFERENCE (WARC–79) ADVISORY COMMITTEES

#### Change in Meeting Dates

JULY 26, 1977,

Two previously announced World Administrative Radio Conference (WARC) advisory committee meetings have been cancelled and new meeting dates have been established.

The TV Broadcasting Service Group, previously scheduled to meet at 9:30 a.m. on Thursday, August 11, 1977, will meet instead on Tuesday, August 23rd at 9:30 a.m. The Auxiliary Broadcasting Service Group, scheduled to meet at 1:30 p.m. on Thursday, August 11th, will meet instead at 1:30 p.m. on Tuesday, August 23rd. Both meetings will be held in room 8210 of the Commission's offices at 2025 "M" Street, N.W., Washington, D.C. 20554.

The Agendas will be as follows:

1. Call to Order and Announcements by the Chairman.
2. Approval of Minutes of Previous Meeting.
3. Discussion of Comments for Fifth Notice of Inquiry in Do. 20271, and possible drafting of Reply Comments.
4. Reports from Task Groups.
5. Further Discussion.
6. Next Meeting Date and Adjournment.

The above meetings are open to the broadcast industry representatives and interested members of the general public. Individuals wishing to present oral or written statements should consult with the committee chairmen before the meetings convene.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

[FR Doc.77–21846 Filed 7–28–77;8:45 am]

## FEDERAL MARITIME COMMISSION

### CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

#### Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to Part 542 of Title 46 CFR and Section 311(p)(1) of the Federal Water Pollution Control Act, as amended.

| *Certificate No.* | *Owner/Operator and vessels* |
|---|---|
| 01015--- | A/S Rederiet Odfjell: *Bow Clipper.* |
| 01017--- | Westfal-Larsen & Co., A/S: *Fossanger, Moldanger.* |
| 01022--- | Smedvigs Tankerederi A/S: *Vestan.* |
| 01026--- | Terkildsen & Olsen A/S: *Onabi.* |
| 01039--- | Den Norske Amerikalinie A/S: *Skiensfjord.* |
| 01059--- | London & Overseas Freighters Ltd.: *London Citizen.* |
| 01088--- | Schulte & Bruns: *Ramsgate.* |
| 01105--- | Tschudi & Eitzen: *Teo 336–4.* |
| 01113--- | A/S J. Ludwig Mowinckels Rederi: *Salta.* |
| 01145--- | Det Bergenske Dampskibsselskab: *Cometa.* |
| 01178--- | Olaf Pedersen's Rederi A/S: *Sunny Lady.* |
| 01185--- | Aksjeselskapet Kosmos: *Jalanta.* |
| 01417--- | Athelking Tankers Co. Ltd.: *Athelking.* |
| 01426--- | Kawait Shipping Co. (S.A.K.): *Al Omariah, Al Salimiah, Ibn Shuhaid, Ibn Bassam, Al Salehiah, Al Shidadiah, Al Aridhiah, Al Khalidiah, Al Gurainiah, Al Rumaithiah, Al Odailiah, Al Shamiah, Al Sabahiah, Al Mansouriah, Al Jabiriah, Ibn Majid, Ibn Rushd, Ibn Tufail, Ibn Zaidoun, Ibn Abdoun, Ibn Qutaibah, Ibn Asakir, Ibn Khaldoon, Ibn Albeitar, Ibn Hazm.* |
| 01306--- | Shaw Savill & Albion Co.: *Hardwicke Grange.* |
| 01441--- | Cottesbrooke Shipping Co., Ltd.: *Conon Forest.* |
| 01465--- | Scottish Ship Management Ltd.: *Baron Inchcape.* |
| 01546--- | Belgian Fruit Lines S.A.: *Frubel Asia.* |
| 01574--- | Fearnley & Eger: *Fernmanor.* |
| 01584--- | Eagle Terminal Tankers Inc.: *Eagle Charger, Eagle Leader.* |
| 01585--- | Sea Transport Corp.: *Eagle Voyager.* |
| 01883--- | S.A.S.D.A. Societa Anonima Sarda S'Armamento: *Chikuma.* |
| 01995--- | Rederi ab Diss: *Scandic Wasa.* |
| 02129--- | Ore Carriers Ltd.: *Orenda Bridge.* |
| 02150--- | Cook Inlet Tug and Barge Co., Inc.: *Sustina.* |
| 02198--- | Peninsula & Oriental Steam Navigation Co.: *Manapouri, Mataura.* |
| 02296--- | Naviera Fierro, C.A.: *Ildefonso Fierro.* |
| 02330--- | Taiwan Marine Corp.: *Fortunstar.* |
| 02404--- | Simms Bros. Towing Co., Inc.: *Simms No. 1.* |
| 02443--- | Panama Transoceanic Co. S.A.: *Betty Conway.* |
| 02475--- | Houston Barge Line, Inc.: *Del Rio.* |
| 02551--- | Ellerman Lines Ltd.: *City of Famagusta, City of Limassol.* |
| 02610--- | Peter Dohle Schiffahrts-KG: *Holmia.* |
| 02715--- | Allied Towing Corp.: *Hot Oil 17.* |
| 02804--- | Northwind Shipping Co. S.A.: *Erotic.* |
| 02829--- | Sociedad Naviera Pan-Europea, S.A.: *Eagle.* |
| 02849--- | Herald Shipping Lines, Ltd.: *Yasukuni.* |
| 02877--- | Nippon Yusen K.K.: *Tsugaru Maru.* |
| 02911--- | Sig. Bergesen D.Y. & Co.: *Bergetun.* |
| 02927--- | Transmarine Holland N.V.: *Risa Paula.* |
| 02958--- | Kawasaki Kisen K.K.: *World Crown.* |
| 02982--- | The Shipping Corp. of India, Ltd.: *Nanak.* |
| 03008--- | Rederi ab Wallrank: *Traviata.* |
| 03137--- | The Cunard Steam-Ship Co. Ltd.: *Cardiff Clipper, Edinburgh Clipper.* |
| 03238--- | Pacific Carriers Corp. of Liberia: *North Emperor.* |
| 03293--- | Maritime Fruit Carriers Co. Ltd.: *Yani.* |
| 03317--- | Belgulf Tankers S.A.: *Belgulf Strength.* |
| 03460--- | Mibae Shosen K.K.: *Asama Maru.* |
| 03441--- | Japan Line K.K.: *Fairfield.* |
| 03447--- | K. K. Kyokuyo: *Chiyoda Maru No. 7.* |
| 03485--- | Sanoyasu Shoji K. K.: *Kinryu Maru.* |
| 03502--- | Shinyei Senpaku K. K.: *Harunasan Maru.* |
| 03568--- | Rederiaktieselskapet Freikoll, A/S Bralanta, A/S Bramora: *Braconda, Branita.* |
| 03691--- | Spentonbush Transport Service, Inc.: *No. 190.* |



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| Certificate No. | Owner/Operator and vessels |
|---|---|
| 03692 | Marmac Corp.: *GBL–1.* |
| 03736 | Bethlehem Steel Corp.: *E–115, E–116, San Pedro Dry Dock No. 1, E–105, E–104, E–106, E–107.* |
| 03834 | Transcontinental Sea Carriers Corp.: *Mantinia.* |
| 04040 | Halfdan Ditlev Simonsen & Co.: *Vinghes.* |
| 04196 | Otto Candies, Inc.: *OC–240.* |
| 04359 | Reederei Nord Klaus E. Oldendorff: *Nordwelle.* |
| 04442 | Wisconsin & Michigan Steamship Co.: *Highway 16. Milwaukee Clipper.* |
| 04549 | Mr. Katsuyoshi Yamazaki: *Kotoshira Maru No. 3.* |
| 04562 | Okada Kaiun Kabushiki Kaisha: *Mighty, Hiroshima Maru, Valiant.* |
| 04767 | Texaco Inc.: *Texaco 793.* |
| 04809 | Williamson Towing Co., Inc.: *Bobby J.* |
| 04939 | Panocean Shipping & Terminals Ltd.: *Post Ranger.* |
| 05168 | Transcontinental Navigation Corp.: *Eastern Eagle.* |
| 05204 | Steuart Transportation Co.: *STC–412.* |
| 05278 | Twin City Barge & Towing Co.: *TCB 67, TCB 68.* |
| 05332 | Northland Navigation Co. Ltd.: *Island Prince.* |
| 06473 | Rakennustoimisto Jussi Ketola: *Finnbuilder.* |
| 05520 | Union Carbide Corp.: *DXE 1110.* |
| 05577 | Far Eastern Shipping Co.: *General Panfilov, Ivan Skuridin, Paramushir, Pavlovo, Partizansk, Przhevalsk, Primorye, Prokopjevsk.* |
| 05624 | Pertamina: *Permina 107.* |
| 06287 | Gates Equipment Corp.: *42, 591.* |
| 06389 | Sears Oil Co., Inc.: *Rome Sears.* |
| 06413 | Nanayo Kisen Kabushiki Kaisha: *Housei Maru, Housho Maru.* |
| 06429 | Ta Cheng Marine Co., Ltd.: *Great Glory, Great Success.* |
| 06877 | Societe Francaise de Transports Maritimes Paris: *Ville de Brest.* |
| 06900 | Cia Heredero de Navegacion S.A.: *Ulo.* |
| 05926 | Maritime Services G.m.b.H. *Atlantica Milano.* |
| 06955 | Shin Ho Marine Enterprise Co. Ltd.: *Pacific Shinho.* |
| 06959 | Crystal Camellia Inc.: *Crystal Camellia.* |
| 07082 | Sail Fisheries Co., Ltd.: *Woojung No. 1, Woojung No. 2, Woojung No. 5, Woojung No. 3.* |
| 07326 | Universal Marines Lines Inc., S.A.: *Mediterranean Sea, Caribbean Sea.* |
| 07353 | Elizalde & Co., Inc.: *Orient Star.* |
| 07765 | Tex-Barge, Inc.: *STCO 200, STCO 202, STCO 201.* |
| 07795 | Oriental Ocean Carriers Inc.: *Lisa.* |
| 07823 | Apex Bulk Carrier Co. Ltd. Inc.: *Cressida.* |
| 08031 | Rederiet Nordegen A/S: *Trollegen.* |
| 08203 | Exportacion de Productos Marinos "Expromar" C.A.: *Umina.* |
| 08599 | Kalamos Compania Naviera S.A. Panama: *Eptanissos.* |
| 08833 | General Metals of Tacoma, Inc.: *Oneida.* |
| 08840 | Bangladesh Shipping Corp.: *Banglar Rego.* |
| 08858 | Miryung Navigation Co. Ltd.: *Topaz.* |
| 08867 | Purple Planet Shipping Ltd.; *Wisteria Purple.* |
| 08929 | Elmo Navigation, Inc.: *Stolt Dragon, Stolt Eagle.* |
| 09050 | Xanadu Cruises, Inc.: *Xanadu.* |
| 09180 | Ursula Shipping Corp.: *Ursula C.* |
| 09201 | Congroup Maritime Co., Ltd.: *Constantinos.* |
| 09217 | Western Tankers Corp.: *Western Energy, Western Ethics.* |
| 09315 | Kaigai Gyogyo K. K.: *Kum Bong No. 32, Kum Bong No. 31, Seabird No. 35, Seabird No. 31.* |
| 09329 | Rederikommanditselskabet Steencoasters: *Jytte Steen.* |
| 09370 | Marine Welding & Repair Works, Inc.: *W–15.* |
| 09371 | Bilbo E. Williamson: *GTC 4.* |
| 09566 | Houshin Kaiun K. K.: *Houmei Maru, Seiyei Maru.* |
| 09661 | Chieh Sheng Maritime S.A.: *Eurychili.* |
| 09704 | Northern Tanker Corp.: *Northern Victory.* |
| 09983 | Jackson Steamship Co.: *Desert Song.* |
| 10070 | Inter Pacific Transport Inc.: *Great River.* |
| 10035 | Escobal Naviera Co., S.A.: *Ryuho.* |
| 10260 | Hollywood Marine, Inc.: *Hollywood 2008.* |
| 10571 | Marpalomo Naviera Oceanica S.A.: *Lady Clio.* |
| 10615 | Clew Bay Shipping Co., Inc. Panama: *Hope Star.* |
| 10651 | Naviera Industrial S.A.: *Lucile.* |
| 10690 | K.G.G. Co., S.A.: *Seabird No. 86, Seabird No. 83.* |
| 10818 | M & M Transeas Navigation Co., Ltd., *Elenia.* |
| 10931 | Hansung Shipping Co., Inc.: *Blue Ace, Blue Kochi, Blue Pegasus.* |
| 11016 | Uiterwyk Lines Ltd.: *Anniesa U.* |
| 11263 | Silver Sea Shipping Co., Ltd.: *Elmare.* |
| 11267 | Hae Woi Industrial Co. Ltd.: *Espoir No. 103, Espoir No. 105.* |
| 11290 | Hae Chang Fisheries Co. Ltd.: *Hae Chang No. 77.* |
| 11510 | Taeping Overseas Services, Inc.: *Taeping.* |
| 11521 | Borg-Warner Corp.: *BWC–102, BWC–101.* |
| 11538 | Hall-Buck Marine Services Co., a joint venture of Leonard J. Buck and Co., Inc. and Hall Marine Corp.: *Mid-River II.* |
| 11555 | N.V. Schip St. Maarten: *Curacao.* |
| 11560 | Greenville Steamship Corp.: *Union Green.* |
| 11635 | L & L Oil Company, Inc.: *Bill Lueck.* |
| 11688 | Ocean Lines Ltd.: *Eskimo.* |
| 12198 | Genuine Shipping S.A.: *Seagirt.* |
| 12503 | Rederiet Helleskov: *Marie Helleskov.* |
| 12525 | Gulf-Intercoastal Marine Services, Inc.: *Gulf-Intercoastal 102.* |

By the Commission.

JOSEPH C. POLKING,
*Acting Secretary.*

[FR Doc.77–21858 Filed 7–28–77;8:45 am]

## EURO-PACIFIC JOINT SERVICE

### Notice of Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 18, 1977. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Edward Schmeltzer, Esquire, Schmeltzer, Aptaker & Sheppard, P.C., 1150 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement No. 9902–7 amends the basic agreement of the above named joint service to provide that (1) in the event Amendment 6 to Agreement No. 9902 which is presently before the Commission has not been approved or disapproved on or before October 1, 1977, the parties may place in service one (1) full containership with a capacity between one thousand (1,000) and eleven hundred (1,100) TEU's as a substitute for one of the six (6) smaller containerships with average capavity of six hundred fifty (650) TEU's each approved pursuant to the Commission's Order of Conditional Approval, dated September 29, 1976; (2) in the event Amendment 6 has not been approved or disapproved on or before January 1, 1978, the parties may place in service a second full containership with a capacity between one thousand (1,000) and eleven hundred (1,100) TEU's as a substitute for a second of the six (6) smaller containerships; (3) in the event Amendment 6 has not been approved or disapproved on or before March 1, 1978, the parties may place in service a third of the six (6) small containerships; (4) in the event Amendment 6 has not been approved or disapproved on or before May 1, 1978, the parties may place in service a fourth full containership with a capacity between one thousand (1,000) and eleven hundred (1,100) TEU's as a substitute for a fourth of the six (6) smaller containerships; (5) should the Commission at any future time disapprove the use by the parties of one or more of the full containerships with a capacity between one thousand (1,000) and eleven hundred (1,100) TEU's in the Euro-Pacific Joint Service, the parties shall within ninety (90) days of such disapproval remove from the Euro-Pacific Joint Service the number of full containerships disapproved by the Commission; and (6) Amendment 7 shall be superseded by Amendment 6 when and if Amendment 6 is approved by the Commission and shall be subject to whatever action is taken by the Commission with respect to Amendment 6.

Amendment 6 is currently under litigation in FMC Docket 77–4, pursuant to an Order of Investigation and Hearing of March 21, 1977. Agreement No. 9902–7 proposes to invoke Amendment 6 in part for an interim period pending approval or disapproval of Amendment 6.

By Order of the Federal Maritime Commission.

Dated: July 26, 1977.

JOSEPH C. POLKING,
*Acting Secretary.*

[FR Doc.77–21855 Filed 7–28–77;8:45 am]

[Independent Ocean Freight Forwarder License No. 1354]

## JOFFROY BROKERS, INC.

### Order of Revocation

By letter dated June 23, 1977, Mr. William Joffroy, President, Joffroy Brokers, Inc., P.O. Box 158, San Ysidro, California 92073 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1354 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before July 22, 1977.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Joffroy Brokers, Inc. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) Section 5.01(c) dated June 30, 1975;

*It is ordered,* That Independent Ocean Freight Forwarder License No. 1354 issued to Joffroy Brokers, Inc. be returned to the Commission for cancellation.

*It is further ordered,* That Independent Ocean Freight Forwarder License No. 1354 be and is hereby revoked effective July 22, 1977.

*It is further ordered,* That a copy of this Order be published in the FEDERAL REGISTER and served upon Joffroy Brokers, Inc.

LEROY F. FULLER,
*Director, Bureau of Certification and Licensing.*

[FR Doc.77–21853 Filed 7–28–77;8:46 am]

## MARYLAND PORT ADMINISTRATION AND PACIFIC MOLASSES CO.

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act ,1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 18, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Richard A. Lidinsky, Jr., Assistant Director of Transportation, Maryland Port Administration, The World Trade Center Baltimore, Baltimore, Maryland 21202.

Agreement No. T–3488, between the Maryland Port Administration (Port) and Pacific Molasses Company (Pacific), provides for the Port's five-year lease to Pacific (with additional five-year renewal options) of certain premises at Dundalk Marine Terminal, Baltimore, Maryland, to be used solely for the storage and minor processing of molasses, vegetable oils and other noninflammable liquids approved by the Port. In addition, Pacific is granted a pipeline easement from the leased premises to Berths 5, 6, 8 and 13 for the purpose of maintaining pipelines for the transportation of its bulk liquids. As compensation, Pacific shall pay the Port a base rental of $521 per month plus a sum as set forth in the agreement, all subject to a guaranteed yearly amount of $9,000. In addition, Pacific shall pay all applicable tariff charges in accordance with the Port's tariff.

A review of Agreement No. T–3488 indicates it may not require this Commission's approval under section 15, Shipping Act, 1916, however, the Commission believes that notice of the filing of Agreement No. T–3488 should be published and an opportunity afforded interested parties to comment thereon if they so desire.

By Order of the Federal Maritime Commission.

JOSEPH C. POLKING,
*Acting Secretary.*

Dated: July 26, 1977.

[FR Doc.77–21856 Filed 7–28–77;8:45 am]

## PORT OF PASCO AND COLUMBIA BASIN CONTAINER CORP.

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before August 18, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularly the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Robert L. Henry, Transportation Consultant, P.O. Box 716, Boise, Idaho 83701.

Agreement No. T–3495 between Port of Pasco (Port) and Columbia Basin Container Corporation (CBCC) provides for the five-year lease with renewal options to CBCC of equipment and facilities located in an area known as Big Pasco Industrial Park as further described in the agreement. CBCC will use the leased premises for operation as a public terminal. As compensation, Port shall receive a minimum monthly rental of $300 which will be based primarily upon the volume







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of containerized cargo shipped from the premises, as detailed in the agreement. Compensation for uncontainerized cargo handled will be negotiated on an individual basis between Port and CBCC. The rental charges will not include wharfage and dockage fees which will also be required of CBCC pursuant to the Port's published tariff. Finally, CBCC will adopt and publish a tariff schedule including fees to be assessed in connection with its operations.

By Order of the Federal Maritime Commission.

JOSEPH C. POLKING,
*Acting Secretary.*

Dated: July 26, 1977.

[FR Doc.77-21854 Filed 7-28-77;8:45 am]

## TAMPA PORT AUTHORITY AND ELLER & COMPANY INC.

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before August 18, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Guy N. Verger, Port Director, Tampa Port Authority, P.O. Box 2192, Tampa, Florida 33601.

Agreement No. T-3079-2, between the Tampa Port Authority (Port) and Eller & Company, Inc., (Eller), modifies the parties' basic agreement which provides for the 25-year lease to Eller of approximately 8.9 acres of land and 100 feet of public dock area located at the Holland Terminal Area, Tampa, Florida. The purpose of the modification is to provide for an enlargement of the leased premises by 3.63 acres as provided for in T-3079, with a corresponding increase in rental of $7,260 per annum.

By Order of the Federal Maritime Commission.

JOSEPH C. POLKING,
*Acting Secretary.*

Dated: July 26, 1977.

[FR Doc.77-21857 Filed 7-28-77;8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. CP77-501]

### ARKANSAS LOUISIANA GAS CO.

#### Application

JULY 22, 1977.

Take notice that on July 11, 1977, Arkansas Louisiana Gas Company (Applicant), P.O. Box 21734, Shreveport, La. 71151, filed in Docket No. CP77-501 an application pursuant to section 7(c) of the Natural Gas Act and section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1978, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $7,000,000 with no single project to exceed $1,500,000. Applicant states that the proposed facilities would be financed from cash on hand and from cash generated from normal internal sources and from short-term bank loans and other short-term borrowings utilized in the normal operation of the Company's total business.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a pary to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHWELL,
*Acting Secretary.*

[FR Doc.77 21807 Filed 7-29-77;8:45 am]

[Docket No. CP77-499]

### COLUMBIA GULF TRANSMISSION CO. AND NORTHERN NATURAL GAS CO.

#### Pipeline Application

JULY 21, 1977.

Take notice that on July 11, 1977, Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Tex. 77027 and Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebr. 68102, hereinafter jointly referred to as Applicants, filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 4.3 miles of 20-inch pipeline from a producer platform in Block 630, West Cameron Area, Offshore Louisiana to an existing underwater tap in Block 617, West Cameron Area, Offshore Louisiana, to attach and transport gas from reserves in said Block 630 to shore through existing facilities from said Block 617 to the Blue Water Project and through the Blue Water Project to shore, in which facilities some or all of Applicants have an interest.

Any person desiring to be heard or to make any protest with reference to said application, on or before August 15, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.





Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21786 Filed 7-28-77;8:45 am]

[Docket No. RI77-20]

### DORFMAN PRODUCTION CO., OPERATOR

#### Amended Petition for Special Relief

JULY 21, 1977.

Take notice that on June 23, 1977, Dorfman Production Company, Operator (Dorfman), 1848 Merchantile Dallas Building, Dallas, Texas 75201, submitted an amendment to its December 27, 1976, petition for special relief filed pursuant to Section 2.76 of the Commission's General Policy and Interpretations in the above-captioned docket. By this amendment Dorfman seeks withdrawal of its petition for relief with respect to nine wells and requests price relief ranging from $.4498 per Mcf to $1.2234 per Mcf for the remaining ten wells.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 8, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will now serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21801 Filed 7-28-77;8:45 am]

[Docket No. CP77-274]

### MICHIGAN CONSOLIDATED GAS CO. INTERSTATE STORAGE DIVISION

#### Amendment to Application

JULY 22, 1977.

Take notice that on July 11, 1977, Michigan Consolidated Gas Company, Interstate Storage Division (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP77-274 an amendment to its application filed in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to provide for the storage of up to 12,400,000 Mcf of natural gas during the 1977-78 storage season for Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the amendment on file with the Commission and open to public inspection.

Applicant indicates that on April 1, 1977, it was granted temporary authorization to receive from, store and redeliver to Panhandle up to 11,000,000 Mcf of natural gas during the 1977-78 storage season pursuant to two gas storage agreements, dated October 31 and November 1, 1976, providing for the storage of up to 6,000,000 Mcf of gas for 100-Day Service and up to 5,000,000 Mcf of gas for Off-Peak Service, respectively.

Applicant states that in order to provide additional storage service needed by Panhandle's customers, Applicant and Panhandle have entered into an amendment to the November 1, 1976 gas storage agreement which increases the maximum volume of gas to be stored for Off-Peak Service from 5,000,000 to 6,400,000 Mcf. Applicants further states that in addition, if Panhandle should elect to defer redelivery from one winter period to the next of any part of the volumes stored, to the extent that these deferred volumes exceed 1,280,000 Mcf, rather than 1,000,000 Mcf as is currently provided in the storage agreement, Panhandle would furnish 2 percent of such excess as compressor fuel, to permit cycling of such excess gas to maintain storage capacity.

No additional facilities are proposed to be constructed to render the increase in storage services nor is there a proposed increase in charge, it is indicated.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before August 12, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21802 Filed 7-28-77;8:45 am]

[Docket No. CP77-500]

### MICHIGAN GAS STORAGE CO.

#### Application

JULY 22, 1977.

Take notice that on July 11, 1977, Michigan Gas Storage Company (Applicant), 212 West Michigan Avenue, Jackson, Michigan 49201, filed in Docket No. CP77-500 an application pursuant to Section 7(b) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the abandonment of 14 Mile Road Measuring and Regulating Station and 330 feet of related 12-inch station piping located in Macomb County, Michigan, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the facilities proposed for abandonment were certificated by the Commission in Docket No. G-1600 and have, since their construction in 1952, been used for the regulation of gas that is sold and delivered into the Consumers Power Company (Consumers) distribution system.

It is indicated that gas passing through the subject measuring and regulating station is now measured by Applicant upstream of said station and for the past five years these facilities have been used only on a stand-by basis to supply the Consumers gas distribution system in the area which is now supplied principally by Consumers' own Red Run City Gate Station. Applicant states that following abandonment of the subject facilities, it would still have the capability of supplying gas to the Consumers distribution system in the area in the event it is needed.

It is indicated that the cost of removing the proposed facility is $9,800.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public con-



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venience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21782 Filed 7-28-77;8:45 am]

[Docket No. CP77-493]

## MISSISSIPPI RIVER TRANSMISSION CORP.

### Application

JULY 21, 1977.

Take notice that on July 6, 1977, Mississippi River Transmission Corporation (Applicant), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP77-493 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon service to W. S. Dickey Clay Mfg. Company (Dickey) and to abandon certain appurtenant metering and delivery facilities installed for such service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that for many years, Dickey has engaged in the manufacture of sewer tile and other clay products at its plant in St. Louis, Missouri. It is stated that Dickey purchased and received natural gas for use in the plant from Applicant under direct sale industrial fuel contracts, and that Applicant's most recent contracts with Dickey are a firm service contract dated May 20, 1976, which provided for firm deliveries of up to 800 Mcf per day, and an interruptible service contracted dated March 15, 1974, as amended by letter dated December 27, 1974 and June 7, 1976. Applicant states that Dickey has discontinued manufacturing operations at the plant, final gas deliveries having been made in August 1976, and that the contracts between Applicant and Dickey were formally cancelled by mutual agreement effective April 2, 1977.

It is indicated that the total cost of the proposed removal and abandonment would be $2,100.00.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 11, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21790 Filed 7-28-77;8:45 am]

[Docket No. CP77-484]

## MISSISSIPPI RIVER TRANSMISSION CORP.

### Application

JULY 21, 1977.

Take notice that on July 1, 1977, Mississippi River Transmission Corporation (Applicant), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP77-484 an application pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the twelve-month period commencing Augusut 16, 1977, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which would not result in changing Applicant's system salable capacity or service from the authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment would not exceed $1,200,000 and that the cost of any single project would not exceed $300,000. These costs would be financed from available funds, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to bet taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21798 Filed 7-28-77;8:45 am]

[Docket No. CP77-485]

## NATURAL GAS PIPELINE COMPANY OF AMERICA

### Petition for Declaratory Order

JULY 21, 1977.

Take notice that on July 5, 1977, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP77-485 a petition pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) for a declaratory order declaring whether Petitioner should continue service to an interruptible direct industrial customer, Northern Gravel Company (Gravel), in light of the year-round curtailment on Petitioner's system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Gravel has been a direct industrial customer of Applicant since 1936, service initially having been rendered under a contract dated August 24, 1936, and that Gravel is presently served under the terms and conditions of a contract dated October 19, 1942. It is further stated that this agreement has been further amended from time to time with respect to price, which is currently $1.45 per Mcf. The contract under which Gravel is being served does not specify any maximum quantity; however, Section 2 Article III does give Petitioner the right to interrupt or discontinue service, in whole or in part, upon written notice, it is said.

Petitioner indicates that it has been curtailing service to its customers since 1970, and that during this time, it has urged Gravel to install alternate fuel facilities and to anticipate interruption. Petition states that to its knowledge, Gravel has not installed alternate fuel facilities despite warnings that deliveries may be interrupted, and that Petitioner has been informed by Gravel that it uses gas primarily in a processing operation, the drying of sand produced by Gravel for use in specialized industrial operations. Gravel had indicated it does not believe a substitute fuel can be utilized, asserting that the use of alternate fuels can result in staining of the sand which makes it unsuitable for specialized uses by Gravel, it is indicated. Petitioner indicates that in a telegram filed with the Commission on January 31, 1977, Gravel alleges that its sand and gravel is used for water filtration and air pollution related equipment and that drying by oil leaves a film which renders the product unacceptable for such uses.

Petitioner states that it commenced winter curtailment on its customers during the winter of 1976-77 for the first time on a scheduled basis, and that as a result of the developing curtailment situation, it has determined that it would be appropriateto interrupt service to Gravel commencing November 1, 1977. Petitioner asserts that Gravel has been advised of this decision, and that Gravel has indicated that it believes that Petitioner must seek abandonment from the Commission before interrupting service.

Petitioner asserts that service to Gravel has never been interrupted in over forty years, and that when Petitioner sought to interrupt service under section 23 of the general terms and conditions, in volume 1 of its FPC Gas Tariff, during its emergency winter curtailment of early 1976, Gravel was granted special relief in Docket No. CP76-58-1 by an order issued January 28, 1976. It also appears, based on representation by Gravel to the Commission, that Gravel may have a high end use for its gas, it is said.

Petitioner states that Gravel is the only interruptible direct industrial customer presently served by Petitioner and its usage is currently about 23,000 Mcf annually. Petitioner further states that because of the minute volumes used by Petitioner's direct interruptible customers in 1970, their treatment was not spelled out in Petitioner's curtailment plan approved in Docket No. RP70-42, section 22, general terms and conditions, volume 1 of Petitioner's FPC Gas Tariff. It is indicated that Section 23, covering emergency curtailment, however, requires that interruptible direct customers be interrupted prior to emergency curtailment of other customers, it is indicated.

Petitioner states that it would not object to a firming up of service to Gravel and requests a declaratory order, in the circumstances involved Gravel:

(a) Continued service is appropriate despite the interruptible nature of Gravel's contract and despite Natural's curtailment.

(b) Service to Gravel should be on a firm basis. However, since Natural is curtailing throughout the year, deliveries to Gravel, presently open-ended but subject to interruption, should be limited to 23,000 Mcf annually and 100 Mcf daily on a firm basis. Petitioner further requests a declaratory order that no additional certificate authorization will be required to continue to serve Gravel on the revised "firmed up" basis.

(c) The provisions of section 23 requiring curtailment of interruptible customers prior to emergency curtailment of any other customer are not applicable to Gravel, rather, section 23 would apply to Gravel on the same basis as it applies to Natural's firm customers.

Petitioner states that in the event the Commission determines that continued service to Gravel is not appropriate in light of the curcumstances described herein, Petitioner, in the alternative, requests hereby that no section 7(b) abandonment authorization is required in said docket before it interrupts and discontinues service to Gravel, as an interruptible direct industrial customer.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 11, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21780 Filed 7-28-77;8:45 am]

[Docket No. CP77-450]

## NORTHERN NATURAL GAS CO.

### Pipeline Application

JULY 21, 1977.

Take notice that on June 20, 1977, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska, filed in Docket No. CP77-450, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant, to sell natural gas to Panhandle Eastern Pipe Line Company (Panhandle). Northern also requests the Commission to grant a Temporary Certificate for the proposed sale, all as more fully set forth in the Application on file with the Commission and open to public inspection.

Applicant has contracted to purchase thirty percent (30%) of Exxon Corporation's (Exxon) production from West Cameron Block 616, South Addition, Offshore Louisiana. In order to accommodate the transportation of such gas from West Cameron Block 616, to Applicant near Applicant's Mullinville compressor station, Applicant has entered into certain transportation arrangements with Panhandle Eastern Pipe Line Company (Panhandle) and Trunkline Gas Company (Trunkline).

As partial consideration for the transportation of Applicant's offshore gas, Panhandle has a continuing option to purchase up to twenty percent (20%) of the volume of Applicant's Block 616 gas received by Trunkline.

Accordingly, Applicant proposes to sell natural gas to Panhandle for resale in interstate commerce. The gas will be sold to Panhandle on a monthly cost of service basis, which cost represents Applicant's cost of gas at the point of delivery to Trunkline. The estimated average cost of service per Mcf for the first year of operations is $1.63.

Any person desiring to be heard or to make any protest with reference to said application, on or before August 15, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commsson's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be







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unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21787 Filed 7-28-77;8:45 am]

[Docket No. CP77-253]

## PANHANDLE EASTERN PIPE LINE CO.

### Amendment to Application

JULY 22, 1977.

Take notice that on July 11, 1977, Panhandle Eastern Pipe Line Company (Applicant), 3000 Bissonnet Street, Houston, Texas 77001, and 3444 Broadway, Kansas City, Missouri 64141, filed in Docket No. CP77-253 an amendment to its application filed in said docket pursuant to Section 7 of the Natural Gas Act so as to provide for amendments to certain gas storage and transportations agreements dated October 31, 1976, among Applicant and Applicant's existing customers, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant indicates that the Amendments with each of its customers listed below relate to a clarification of the billing procedures in the various agreements included in Exhibit P-1 and P-2.

EXHIBIT P-1 (FIRM SERVICE)

Michigan Consolidated Gas Company
Citizens Gas Fuel Company
Michigan Gas Utilities
Village of Morton
Northern Indiana Public Service Co.
Richmond Gas Corporation
Brockway Glass Company
Citizens Gas and Coke Utility
Indiana Gas Company, Inc.
National Distillers and Chemical
Ohio Gas Company

EXHIBIT P-2 (OFF-PEAK SERVICE)

Brockway Glass Company, Inc.
Citizens Gas and Coke Utility
Great River Gas Company
Indiana Gas Company, Inc.
Johns-Manville Sales Corp.
Kokomo Gas and Fuel Co.
Missouri Utilities Company
Ohio Gas Company

It is stated that Michigan Consolidated Gas Company and Applicant have agreed to increase the total storage volumes available to Applicant and its participating customers pursuant to the November 1, 1976, Off-Peak Storage Agreement to 6,400,000 Mcf of natural gas.

The gas storage and transportation agreement or amendments thereof listed below reflect utilization of these additional off-peak storage volumes by certain of Applicant's participating customers, it is indicated.

EXHIBIT P-2 (OFF-PEAK SERVICE)

Michigan Consolidated Gas Company
Citizens Gas and Coke Utility
Missouri Power and Light Company
Missouri Edison Company

It is indicated that pursuant to the terms of the temporary certificate issued to Applicant on April 1, 1977, Applicant would file all of the gas storage and transportation agreements with its participating customers and the gas storage agreements with Michigan Consolidated Gas Company as part of its FPC Gas Tariff, Original Volume No. 2.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before August 11, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21778 Filed 7-28-77;8:45 am]

[Docket No. CI76-597]

## PRODUCER'S GAS CO.

### Petition To Amend Limited-Term Certificate

JULY 22, 1977.

Take notice that on July 15, 1977, Producer's Gas Company (Petitioner), filed in Docket No. CI76-597 a petition to amend its limited-term certificate pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure. The amended certificate would provide for a total price of $1.885 per Mcf at 14.65 psia for all gas sold to United Gas Pipe Line Company (United) from and after July 19, 1977, for sales of gas to United made pursuant to the Commission October 19, 1976 order.

1. At the time Petitioner and United entered into the limited-term Gas Purchase Contract approved by the Commission's order of October 19, 1976, it was contemplated by the parties, and recognized by the Commission in its order, that Western Farmers Electric Cooperative (WFEC) would exercise its right to receive and purchase under its contracts with Petitioner all of the surplus gas on Petitioner's system some time in early 1977 upon the completion of WFEC's three new combined cycle electric generators. In its order the Commission provided in Ordering Paragraph (B) that:

(B) Authorization for the subject sale and facilities shall extend only until the later of July 19, 1977, or the date that Producers (sic) Gas Company commences intrastate sales to WFEC.

2. WFEC's construction program originally anticipated that one new generator would be installed each month in order that all three generators would become operative at the end of the first quarter of 1977. Due to delays in the delivery of equipment and schedule slippages, it is now expected that the first combined cycle unit will not be available for startup prior to July 15, 1977. Assuming that the remaining two generators would thereafter be installed at one-month intervals, all three units would achieve a minimum load by September or October, 1977. Based on communications received by Petitioner from WFEC, it would appear that surplus gas made available to United during the first year of the limited-term sale authorized by the Commission's order of October 19, 1976, will continue to be available for sale to United on an ever-decreasing basis until such time as the gas is required to meet WFEC's full requirements.

3. In light of United's desire to continue purchasing gas from Petitioner and Petitioner's willingness to sell volumes of gas surplus to WFEC's needs on a limited-term basis consistent with the authorization granted herein, Petitioner and United have entered into a Letter Agreement dated July 7, 1977, to become effective upon the expiration of their present gas purchase and sale agreement on July 19, 1977.

4. Petitioner's sale to United was authorized at a total rate of $1.837 per Mcf at 14.65 psia in recognition of Petitioner's weighted average cost of gas purchased in the intrastate market, which was then $1.737 per Mcf, and a further recognition that the 10¢ differential was justified by Petitioner's gathering costs and the fact that its gas costs might be expected to increase, Petitioner's estimated weighted average cost of gas during the remaining period of its limited-term sale to United is expected to be $1.7778086, thereby reducing considerably the 10¢ differential approved by the Commission. In the event that all of Petitioner's gas were to be sold to WFEC commencing August 1, 1977, Petitioner would receive a weighted average sales price of $1.8906472 per Mcf.

5. The Letter Agreement between Petitioner and United dated July 7, 1977 provides for an increase in price from $1.837 to 1.885 per Mcf applicable to all gas delivered by Petitioner to United under the terms of the authorization granted by the Commission's order of October 19, 1976. Petitioner submits that this increase in price is justified and should be allowed.

Any person desiring to be heard or to make any protest with reference to said application, on or before August 8, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene





in accordance with the Commission's Rules.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21808 Filed 7-28-77;8:45 am]

[Docket No. ER77-495]

## PUBLIC SERVICE COMPANY OF INDIANA, INC.

### Proposed Tariff Change

JULY 21, 1977.

Take notice that Public Service Company of Indiana, Inc. (PSCI) on July 5, 1977, tendered for filing pursuant to the Interconnection Agreement between Public Service Company of Indiana, Inc. and Southern Indiana Gas And Electric Company a Fifth Supplemental Agreement proposed to become effective August 1, 1977. PSCI requests waiver of the Commission's notice requirements to allow said Agreement to become effective as of August 1, 1977.

PSCI indicates that said Supplemental Agreement increases the demand charge for Short Term Power from 45¢ per kilowatt per week to 60¢ per kilowatt per week.

According to PSCI copies of the filing were served upon Southern Indiana Gas And Electric Company and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before August 5, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are available for public inspection at the Federal Power Commission.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21791 Filed 7-28-77;8:45 am]

[Docket No. CP76-428]

## SEA ROBIN PIPELINE CO.

### Filing of Original Tariff Sheets

JULY 21, 1977.

Take notice that on July 6, 1977, Sea Robin Pipeline Company (Sea Robin) tendered for filing Original Sheet Nos. 283 through 307 to its FPC Gas Tariff, Original Volume No. 2, being a transportation agreement between Sea Robin and United Gas Pipe Line Company dated June 11, 1976. It is proposed that these tariff sheets become effective on the date the facilities to connect East Cameron Block 335 are completed and the transportation service certificated in Docket No. CP76-428 commences.

The Company states that copies of these tariff sheets have been mailed to United Gas Pipe Line Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 15, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21783 Filed 7-28-77;8:45 am]

[Docket No. CP77-489]

## SOUTHERN NATURAL GAS CO.

### Application

JULY 22, 1977.

Take notice that on July 5, 1977, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Ala. 35202, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Ill. 60603, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Tex. 77001, and United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Tex. 77001, (Applicants) filed in Docket No. CP 77-489 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of 8,000 Mcf of natural gas per day, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that Southern has arranged to purchase gas from Sea Robin Pipeline Company (Sea Robin) at or near the tailgate of Texaco Inc.'s Henry Plant located in Vermillion Parish, La., (Henry Plant), and that Southern has also arranged to purchase gas from Pennzoil Offshore Gas Operators, Inc. (POGO) at West Cameron Block 586, offshore Louisiana. It is further indicated that in order to get these new gas supplies into its pipeline system, Southern has requested transportation and exchange assistance from Natural, United and Columbia Gulf.

Applicants proposes to exchange volumes of natural gas thermally equivalent to the volumes of gas which Southern purchases from Sea Robin at the Henry Plant pursuant to the terms of an exchange agreement dated June 14, 1977. The gas which Sea Robin would sell to Southern is produced from West Cameron Blocks 532, 533, and 586, offshore Louisiana, and would be transported ashore through United's capacity in Stingray Pipeline Company's (Stingray) pipeline system, it is said. Applicants state that the gas would then be transported through an existing interconnection between Stingray and Natural for transportation to the Henry Plant through United's capacity in Natural's pipeline system.

Applicants also propose to exchange volumes of natural gas thermally equivalent to the volumes of gas which Southern purchases from POGO at West Cameron Block 586, offshore Louisiana. Applicants state that this gas would be transported ashore through Southern's capacity in Sea Robin's pipeline system and through United's capacity in Stingray's system. This gas would also be transported through an existing interconnection between Stingray and Natural for transportation to the Henry Plant through United's capacity in Natural's pipeline system, and the gas for delivery and exchange hereunder would be known as "West Cameron Gas", it is said.

It is asserted that Southern would purchase the natural gas from Sea Robin pursuant to Sea Robin's FPC Rate Schedule X-1. It is indicated that in Docket No. CP76-469, the Commission issued to United a temporary certificate authorizing United to transport the gas purchased by Sea Robin from West Cameron Blocks 532, 533, and 586, offshore Louisiana to the Henry Plant where such gas would be sold by Sea Robin to Southern and United. United's authorization from the Commission to transport such gas for Sea Robin was conditioned upon Southern making arrangements to have that portion of gas which Southern is entitled to purchase transported from the Henry Plant to Southern's system, it is said. Applicants assert that the exchange arrangement proposed herein is intended to fulfill this condition and also to provide the means by which Southern can take delivery of the West Cameron Block 586 gas from POGO.

It is stated that Southern's West Cameron Gas would be made available to Southern at or near the tailgate of the Henry Plant pursuant to the exchange agreement in which United has agreed to instruct and authorize Natural to take delivery of Southern's share of the West Cameron Gas at a point of interconnection between Natural and United near the outlet side of the Henry Plant at Erath, La. Natural would then allocate and deliver a thermally equivalent volume of gas to Columbia Gulf at Columbia Gulf's existing interconnection with Natural at the Henry Plant in an existing gas exchange agreement dated October 12, 1973, under which Columbia Gulf and Natural exchange gas at the Henry Plant, it is indicated. It is stated that in exchange for the volume of gas allocated to it by Natural for Southern's account, Columbia Gulf would redeliver to Southern thermally equivalent volumes at an existing interconnection between Southern and Columbia Gulf at the tailgate of the Venice



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Plant located in Plaquemines Parish, Louisiana.

It is stated that Natural and Columbia Gulf have sufficient capacity to exchange gas at the designated locations and in the proposed quantities and, therefore, no new facilities would be required to be constructed by any of the Applicants to implement the terms of the agreement dated June 14, 1977.

For providing its services, Southern has agreed to pay Natural the greater of ½ cent per Mcf of gas received by Natural at Erath or $1,000 per month to cover the administrative cost and overhead and other costs of handling the allocation of Southern's West Cameron Gas to Columbia Gulf, it is stated. It is stated that Columbia Gulf would not charge Southern for the exchange service it provides.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21779 Filed 7-28-77;8:45 am]

[Docket No. CP77-482]

## TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC.

### Pipeline Application

JULY 21, 1977.

Take notice that on July 1, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Tex. 77001, filed an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to construct and operate pipeline and related facilities which, upon completion, will become a part of Applicant's and Columbia Gulf Transmission Company's (Columbia Gulf) existing Blue Water Project (BWP), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to construct and operate (a) 20 miles of 36-inch pipeline looping along the existing East Leg of the BWP beginning at the point of interconnection of the 40.7 miles of 36-inch loop pipeline constructed in 1976, pursuant to authorization issued in Docket No. CP76-349, and the existing BWP facilities in Ship Shoal Block 144 and extending southwesterly in the Gulf of Mexico to Applicant's pipeline platform located in Ship Shoal Block 198; and (b) dehydration and related liquid and gas handling facilities at the existing Cocodrie Compressor Station. The facilities are estimated by Applicant to cost $26,253,000. The cost and ownership of the facilities and the additional capacity resulting therefrom will be borne solely by, and will accrue solely to the benefit of, Applicant.

Applicant states that the proposed facilities will result in a total BWP capacity of 2,088.9 MMcfd, of which Applicant will be entitled to 1,187.4 MMcfd and Columbia Gulf entitled to 901.5 MMcfd. Applicant states that the increased BWP capacity of 503 MMcfd to become available to Applicant will enable it to accommodate deliverability expected to be available from existing gas reserves attached to the BWP and from new supply sources expected to be added to the BWP within the year.

Any person desiring to be heard or to make any protest with reference to said appliction, on or before August 15, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21785 Filed 7-28-77;8:45 am]

[Docket No. CP77-494]

## TEXAS EASTERN TRANSMISSION CORP. AND COLUMBIA GULF TRANSMISSION CO.

### Application

JULY 22, 1977.

Take notice that on July 8, 1977, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Tex. 77001, and Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Tex. 77027, filed in Docket No. CP77-494 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities in order to transport natural gas for Texas Eastern, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that pursuant to an agreement dated June 16, 1977, between Applicants, Columbia Gulf would receive for the account of Texas Eastern 40,000 Mcf of natural gas per day (Contract Demand Quantity) on a firm basis at the point where Columbia Gulf's system connects with the terminus of Sea Robin Pipeline Company's (Sea Robin) system near Erath, Vermilion Parish, La., and that Columbia Gulf would then transport and redeliver to Texas Eastern equivalent, less 0.5 percent for fuel and gas costs, volumes, at a point of interconnection to be constructed where Columbia Gulf's 30-inch pipeline intersects Texas Eastern's 30-inch pipeline in St. Landry Parish, La.

Specifically, Applicants propose:

(1) Construction and operation of measuring and interconnecting facilities at a point located in St. Landry Parish, Louisiana where Columbia Gulf's 30-inch pipeline intersects Texas Eastern's 30-inch pipeline;

(2) The transportation and delivery by Columbia Gulf to Texas Eastern at the point of interconnection pursuant to the transportation agreement of June 16, 1977.

It is stated that construction of the proposed facilities required by Applicants described in (1) above is estimated to cost $170,607, which cost is to be paid for by Texas Eastern. Columbia Gulf would design, construct and operate the facilities and Texas Eastern would reimburse Columbia Gulf for the actual cost and own the facilities, it is said.





It is indicated that Texas Eastern has the right to purchase the gas in Blocks 312, 333, and 334 (Block 333 Field), Eugene Island Area, offshore Louisiana attributable to the respective interests of Mobil Oil Corporation (Mobil) and Mesa Petroleum Company (Mesa). Applicants state that Sea Robin has received authorization at Docket No. CP76-428 to construct facilities to receive this gas at Platform "A" in Block 333 Eugene Island Area, Offshore Louisiana, and that Sea Robin has filed for authorization to transport the contract quantity of 40,000 Mcf of natural gas per day from Platform "A" to a delivery point offshore located at the terminus of Sea Robin's system near Erath, Vermilion Parish, Louisiana.

The transportation agreement between Applicants provides for a monthly demand charge of $.71 per Mcf, it is indicated. It is stated that Texas Eastern would pay Columbia Gulf 2.34 cents per Mcf for each Mcf of gas over the contract demand quantity accepted by Columbia Gulf and transported to Texas Eastern. It is further stated that if Columbia Gulf is unable to transport the contract demand quantity on any day, the monthly bill payable by Texas Eastern would be reduced by an amount equal to 2.34 cents per Mcf for the volumes not transported.

Applicants assert that the proposed interconnection point and transportation of natural gas by Columbia for Texas Eastern would make available to Texas Eastern's customers a new source of gas supply to help offset the effects of Texas Eastern's current curtailments of approximately 350,000 dekatherms per day.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 11, 1977, file with the Federal Power Commision, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21804 Filed 7-28-77;8:45 am]

[Docket No. RI77-110]

## TEXAS ENERGIES, INC.

### Petition for Special Relief

JULY 22, 1977.

Take notice that on July 1, 1977, Texas Energies, Inc. (Petitioner), c/o Ronald D. Nickum, P.O. Box 9317, Amarillo, Texas 79105, filed in Docket No. RI77-110 a petition for special relief pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 C.F.R. § 2.76). Petitioner seeks to collect a rate of 70 cents per Mcf for the sale of natural gas to Colorado Interstate Gas Company from the Adams 1-29 Well located in Meade County, Kansas. Petitioner indicates that the proposed rate increase is necessary in order for Petitioner to rework the well and to install artificial lift equipment to dispose of water in the wellbore.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21805 Filed 7-28-77;8:45 am]

[Docket No. RI77-109]

## TEXAS ENERGIES, INC.

### Petition for Special Relief

JULY 22, 1977.

Take notice that on June 29, 1977, Texas Energies, Inc. (Petitioner), c/o Ronald D. Nickum, P.O. Box 9317, Amarillo, Texas 79105, filed in Docket No. RI77-109 a petition for special relief pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 C.F.R. § 2.76). Petitioner seeks to collect a rate of 97 cents per Mcf for the sale of natural gas to Colorado Interstate Gas Company from the Adams 1-E Well located in Meade County, Kansas. Petitioner indicates that the proposed rate increase is necessary in order for Petitioner to rework the well and to install artificial lift equipment and equipment to maintain continuous compression.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21806 Filed 7-28-77;8:45 am]

[Docket No. CP77-495]

## TRANSCONTINENTAL GAS PIPE LINE CORP.

### Application

JULY 22, 1977.

Take notice that on July 8, 1977, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-495 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation on an interruptible basis of 500,000 dekatherms (dt) equivalent of natural gas during a 3-year term for Delmarva Power & Light Company (Delmarva) (a CD-3 customer of Applicant), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport the proposed volumes of gas for Delmarva, which volumes of synthetic gas Delmarva would purchase from The Brooklyn Union Gas Company (BUG) (also a CD-3 customer of Applicant), pursuant to an agreement among Applicant, Delmarva and BUG, dated May 24, 1977. It is stated that Delmarva would use the subject gas to serve better its high priority markets.

Applicant indicates that BUG would make available to Delmarva up to 10,000 dt per day by reducing its takes from Applicant, and Applicant would deliver equivalent quantities to Delmarva at existing delivery points.

Applicant states Delmarva would pay it an initial charge of 9.55 cents per dt transported and delivered. No additional facilities are required to render the proposed transportation service, it is said.

Applicant indicates that Delmarva is experiencing substantial curtailment in deliveries of contract demand volumes



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for Applicant due to the shortage of flowing gas supplies on Applicant's system, and that the additional gas to be made available by BUG would help offset these curtailments under Applicant's CD-3 rate schedule.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 11, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21803 Filed 7-28-77;8:45 am]

[Docket No. CP77-504]

## TRANSCONTINENTAL GAS PIPE LINE CORP.

### Application

JULY 22, 1977.

Take notice that on July 12, 1977, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396 Houston, Texas 77001, filed in Docket No. CP77-504 an application pursuant to section 7 of the Natural Gas Act and section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 2,000 Mcf of natural gas per day at 15.025 psia on an interruptible basis for 2 years for Owens-Corning Fiberglas Corporation (Owens-Corning), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to render the proposed transportation for Owens-Corning pursuant to a transportation agreement dated June 1, 1977 between the two parties. Applicant indicates that Owens-Corning has purchased from Kilroy Properties, Incorporated (Kilroy), Stuarco Resources Corporation (Stuarco), The Scherck Trust (Sherck), W. S. Farish III (Farish) and C. W. Leisk (Leisk) (all collectively referred to herein as (Kilroy et al.) a total of up to all the gas to be produced from Kilroy et al.'s, interest in the Crown Zellerbach No. 1 Well, E. Chatham Field, Jackson Parish, Louisiana. It is stated that Applicant would deliver the transportation quantities to Owens-Corning's Anderson, South Carolina, Plant.

It is indicated that Owens-Corning would pay Kilroy et al., for each one million Btu's delivered hereunder a price as follows:

(a) Commencing on the date of initial delivery hereunder and continuing for an initial term of 12-months, $2.00;

(b) At the end of the 12-month term provided for in paragraph (a) above the price would be increased 15.0 cents and the price would be increased 15.0 cents each 12-months thereafter.

Applicant states that Owens-Corning manufactures reinforcing fibers and mat products at its' Anderson plant and Owens-Corning would use the subject gas for Priority 2 uses, specifically for process uses, that is, firing of direct melt furnaces, curing of in-process materials, and miscellaneous in-process uses. Present technology does not exist to permit Owens-Corning to utilize alternate fuels other than natural gas in any of its other process operations such as the small direct melt furnace forehearths and channel areas, it is said. It is indicated the flame characteristics and the size of the combustion areas preclude the use of oil and electricity.

Applicant states that it would charge Owens-Corning, initially, 29.8 cents per Dekatherm (dt) equivalent for all quantities delivered, and that this rate is to be applicable to similar transportation services providing for deliveries in its Rate Zone 2. It is stated that Applicant would also retain, initially, 3.8 percent of the quantities received for transporation as make-up for compressor fuel and line loss, and that this percentage is based on Applicant's "Company use" factor for pipeline throughput to and within its Rate Zone 2 in which the transportation deliveries proposes herein would be made.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 3, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21800 Filed 7-28-77;8:45 am]

[Docket No. CP77-453]

## TRANSCONTINENTAL GAS PIPE LINE CORP.

### Pipeline Application

JULY 21, 1977.

Take notice that on June 21, 1977, Transcontinental Gas Pipe Line Corporation (Applicant), Post Office, Box 1396, Houston, Texas 77001, filed in Docket No. CP77-453 an application pursuant to Section 7 of the Natural Gas Act, as amended, and the Rules and Regulations of the Federal Power Commission, for a certificate of public convenience and necessity authorizing Applicant to construct and operate pipeline facilities to extend its Southeast Louisiana Gathering System to Blocks 130 and 132, South Marsh Island Area, South Addition, and to Block 331, Vermilion Area, South Addition, offshore Louisiana and to render transportation services through the proposed facilities and other existing connecting facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to extend its Southeast Louisiana Gathering System in the South Marsh Island Area from Block 66 to Block 106, South Addition, with 17.96 miles of 24-inch pipeline, and to construct a new manifold platform in Block 106. Applicant further proposes to construct pipeline extensions from the Block 106 platform to Blocks 130 and 132, South Marsh Island Area, South Addition, and to Blocks 313 and 331, Vermilion Area, South Addition. To connect Blocks 130 and 132, Applicant proposes to construct 8.62 miles of 16-inch, 6.12 miles of 12-inch and .83 miles of 8-inch pipelines. Applicant proposes to construct 16.11 miles of 20-inch pipeline from Block 106 through Block 313 to Block 331, Vermilion Area, South Addition. Five metering and regulator stations are proposed in Blocks 106, 130 and 132, South Marsh Island Area and in Block 331, Vermilion Area, and .04 miles of 10-inch pipeline is proposed by Applicant extending from Transco's proposed Block 106 manifold platform to Shell Oil Company's (Shell) production Platform A in Block 106, South Marsh Island.

Applicant states that the proposed facilities will have a maximum daily capacity of 240,475 Mcf (14.73 psia) and are estimated to cost $52,000,000 to be financed initially through short-term loans and available cash.

Applicant states that the proposed pipeline facilities will connect to its existing system new natural gas supplies in South Marsh Island Blocks 106, 130 and 132 and Vermilion Block 331, which it has contracted to purchase under precedent agreements or which is committed under advance payment agreements with the producers in those fields. Applicant states that it has precedent gas purchase agreements with Shell for gas to be produced in South Marsh Island Blocks 106, 130 and 132. Applicant also states that advance payment agreements with Transo Exploration Company, Louisiana Land and Exploration Company and Louisiana Land Offshore Exploration Company entitle it to purchase gas attributable to these producer's interests in Blocks 130 and 132, South Marsh Island and Block 331, Vermilion, respectively.

Applicant further states that it proposes to render transportation services through the proposed facilities and the existing connecting facilities of its Southeast Louisiana Gathering System to points onshore for other pipelines which have gas supplies available to them in the fields to which the new facilities will be constructed as follows: for Columbia Gas Transmission Corporation and Consolidated Gas Supply Corporation, gas to be purchased from CNG Producing Company, Texas Gas Exploration Corporation and Columbia Gas Development Corporation in Block 313, Vermilion; and for Texas Eastern Transmission Corporation, gas to be purchased from Marathon Oil Company in Block 331, Vermilion.

Applicant further states that the proposed facilities will connect an estimated average daily volume of 88,700 Mcf in new gas supplies for its system and transport for others 68,700 Mcf in average daily volumes in the second year of operation. It is stated that additional capacity in the proposed facilities is available to accommodate presently uncommitted gas supplies in the areas reached by the extension and in adjacent areas now under active exploration and development.

Construction of the major part of the proposed extension of its Southeast Louisiana Gathering System is proposed by Applicant in 1977. Applicant states that the facilities must be in place by the end of 1977 in order to receive gas which the producers will have available then and in the early months of 1978. Applicant, therefore, states that it proposes to construct all of the extension of its gathering system in 1977, except for .83 miles of 8-inch pipeline in Block 130, South Marsh Island and 5.28 miles of 12-inch pipeline to Block 132, South Marsh Island, both of which will be constructed in 1978. In order to meet its projected construction schedule, Applicant states that it requires authorization to commence construction no later than September 1, 1977, and Applicant has requested a temporary certificate to construct pending issuance of the final certificate.

[FR Doc.77-21784 Filed 7-28-77;8:45 am]

[Docket No. CP77-463]

## TRUNKLINE GAS CO.

### Pipeline Application

JULY 21, 1977.

Take notice that on June 24, 1977, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP77-463, an application pursuant to Section 7 of the Natural Gas Act and the regulations thereunder for a certificate of public convenience and necessity and for a temporary certificate authorizing the exchange of natural gas between Applicant and Gulf Oil Corporation (Gulf) all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant and Gulf have entered into an exchange agreement wherein Applicant will receive up to a maximum of 10,000 Mcf per day of gas attributable to Gulf's interests in Block 266 and 265, West Cameron Area, Offshore Louisiana, and Applicant will redeliver to Gulf equivalent volumes at the existing interconnection between Applicant's facilities and Gulf's facilities at South Timbalier Block 151, Offshore Louisiana. Gulf's deliveries will be made for Applicant's account at an existing underwater valve on the Stingray Pipeline Company system located in West Cameron Block 269, Offshore Louisiana.

Any person desiring to be heard or to make any protest with reference to said application, on or before August 15, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21781 Filed 7-28-77;8:45 am]

[Docket No. CP77-488]

## UNITED GAS PIPE LINE CO.

### Application

JULY 22, 1977.

Take notice that on July 5, 1977, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP77-488 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation 3.1 miles of 4½-inch O.D. pipeline and the installation of a regulator station in Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to install a regulator station and to build 3.1 miles of 3½-inch O.D. pipeline at a cost of approximately $252,100 from its existing 12-inch Iowan Field Line to the Iowa Town Border Station, to be located in Jefferson Davis and Calcasieu Parishes, La., in order to assure the continuation of the present supply of gas to the Town of Iowa, La.

Applicant states that it presently indirectly serves Iowa, La. (Town of Iowa) by selling gas to the Town of Iowa's distributor, Entex, Inc. (Entex), under the terms and conditions of a service agreement, dated November 17, 1971, presently in effect between United and Entex. It is stated that pursuant to its Southern Zone Rate Schedule DG-S, Applicant sells to Entex volumes of natural gas up to a maximum daily quantity (MDQ) of 1,092 Mcf of gas as a supply for the Town of Iowa.

Applicant indicates that it has supplied Entex with gas for the Town of Iowa from volumes of gas produced and processed by Shell Oil Company (Shell) from the nearby Iowa Gas Field (Iowa Field). It is stated that Shell has advised





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Applicant that due to declining gas production from Iowa Field it would no longer be able to assure the continued supply of volumes adequate to serve the Town of Iowa. Applicants deliverability projection also reflects that the Shell-Iowa Field gas supply would be insufficient to meet the future demands of the Town of Iowa, it is said.

Applicant indicates that no additional financing would be required.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21777 Filed 7-28-77;8:45 am]

[Docket No. CP77-491]

**WESTERN GAS INTERSTATE CO.**

**Application**

JULY 21, 1977.

Take notice that on July 5, 1977, Western Gas Interstate Company (Applicant), 1800 First International Building, Dallas, Tex. 75270, filed in Docket No. CP77-491 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)), for a certificate of public convenience and necessity authorizing the construction, during the 12-month period following requested Commission authorization, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in the service presently rendered by Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $100,000, which cost would be financed from funds on hand and by short-term borrowing from Applicant's parent company, Southern Union Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 11, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21788 Filed 7-28-77;8:45 am]

[Docket No. CP77-492]

**WESTERN GAS INTERSTATE CO.**

**Application**

JULY 21, 1977.

Take notice that on July 5, 1977, Western Gas Interstate Company (Applicant), 1800 First International Building, Dallas, Tex. 75270, filed in Docket No. CP77-492 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period next succeeding issuance of such requested certificate and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant. Applicant states that the total cost of the proposed facilities would not exceed $150,000, with no single project to exceed 25 percent of the total authorization. The proposed facilities would be financed from funds on hand and by short-term borrowings from Applicant's parent company, Southern Union Company, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 11, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) as the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21789 Filed 7-28-77;8:45 am]

[Docket No. CP77-490]

**WESTERN GAS INTERSTATE CO.**

**Application**

JULY 21, 1977.

Take notice that on July 5, 1977, Western Gas Interstate Company (Applicant), 1800 First International Building, Dallas, Tex. 75270, filed in Docket No. CP77-490 an application pursuant to Section 7 of the Natural Gas Act, as implemented by Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)), for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the twelve-month period following the date of requested Commission authorization, and operation of field gas compression and related metering and appurtenant facilities all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment would not exceed $500,000 with no single project to exceed $125,000, which costs would be financed from funds on hand and by short-term borrowing from Applicant's parent company, Southern Union Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 11, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
*Acting Secretary.*

[FR Doc.77-21799 Filed 7-28-77;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

[Docket No. 76N-0361; DESI 6146]

**ANTIHISTAMINES FOR PARENTERAL USE**

**Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing; Correction**

AGENCY: Food and Drug Administration (FDA).

ACTION: Correction.

SUMMARY: This document corrects a notice (DESI 6146) that appeared at page 41129 in the FEDERAL REGISTER of Tuesday, September 21, 1976 (FR Doc. 76-27562).

EFFECTIVE DATE: September 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William R. Durbin, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

The following correction is made:

On page 41130, in the left column, under paragraph B.2.b, the indication that reads "Amelioration and prevention of allergic reactions to blood or plasma in patients with a known history of such reactions," should read "Amelioration of allergic reactions to blood or plasma."

Dated: July 20, 1977.

J. RICHARD CROUT,
*Director, Bureau of Drugs.*

[FR Doc.77-21701 Filed 7-28-77;8:45 am]

[Docket No. 76N-0339; DESI 10598]

**ANTIEMETIC COMBINATION PREPARATION CONTAINING DICYCLOMINE HYDROCHLORIDE, DOXYLAMINE SUCCINATE, AND PYRIDOXINE HYDROCHLORIDE**

**Withdrawal of Approval of Part of New Drug Application**

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of the part of the new drug application providing for the antiemetic combination product described below on the basis of lack of substantial evidence of effectiveness for its labeled indication.

DATE: August 10, 1977.

ADDRESSES: Requests for opinion of the applicability of this notice to a specific product should be directed to: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

William R. Durbin, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing which was published in the FEDERAL REGISTER of January 28, 1977 (42 FR 5422), the Director of the Bureau of Drugs proposed to withdraw approval of the following product:

NDA 10-598; that part pertaining to Bendectin Tablets containing dicyclamine hydrochloride, doxylamine, succinate, and pyridoxine hydrochloride; Merrell-National Laboratories, Division of Richardson-Merrell, Inc., 110 East Amity Rd., Cincinnati, OH 45215.

No hearing was requested. Merrell-National Laboratories had earlier supplemented their new drug application to provide for a reformulated product containing only doxylamine succinate and pyridoxine hydrochloride, which was approved on November 4, 1976, through the normal supplemental new drug application procedures.

All drug products that are identical, related, or similar to the drug product named above and not the subject of an approved new drug application are covered by the new drug application reviewed and are subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance.

Neither the holder of the application nor any other person filed a written appearance of election as provided by the January 28, 1977 notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82) (recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)), finds that on the basis of new information before him with respect to the drug product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence the drug





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product will have the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

Therefore, pursuant to the foregoing finding, approval of that part of new drug application 10-598 providing for the drug product described above, and all amendments and supplements applying thereto, is withdrawn effective August 10, 1977.

Shipment in interstate commerce of the above listed product or of any identical, related, or similar product, not the subject of an approved new drug application, will then be unlawful.

Dated: July 20, 1977.

J. RICHARD CROUT,
*Director, Bureau of Drugs.*

[FR Doc.77-21914 Filed 7-28-77;8:45 am]

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[Docket No. 76N-0403; DESI 11250]

## ARGININE GLUTAMATE

### Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug application described below for arginine glutamate on the basis of lack of substantial evidence of effectiveness for its labeled indications. The drug has been used in conditions associated with elevated blood ammonia levels.

DATE: August 10, 1977.

ADDRESSES: Requests for opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 11250 and directed to: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of January 25, 1977 (42 FR 4536), the Director of the Bureau of Drugs offered an opportunity for hearing on the proposal to issue an order withdrawing approval of the following product:

NDA 11-640; Modumate Solution for Injection containing arginine glutamate; Abbott Laboratories, 14th and Sheridan Rd., North Chicago, IL 60064.

All drug products that are identical, related, or similar to the drug product named above, not the subject of an approved new drug application, are covered by the new drug application reviewed and are subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific drug product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

Neither the holder of the application nor any other person filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82), finds that on the basis of new information before him with respect to the drug product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of new drug application 11-640 providing for the drug product named above, and all amendments and supplements applying thereto is withdrawn, effective August 10, 1977.

Shipment in interstate commerce of the above product or of any identical, related, or similar product, not the subject of an approved new drug application, will then be unlawful.

Dated: July 20, 1977.

J. RICHARD CROUT,
*Director, Bureau of Drugs.*

[FR Doc.77-21914 Filed 7-28-77;8:45 am]

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[Docket No. 76N-0110; DESI 11802]

## CERTAIN SOLID DOSAGE FORMS OF ORAL POTASSIUM SALT DRUG PRODUCTS

### Withdrawal of Approval of New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug applications described below for oral potassium salt drug products containing 100 milligrams or more of potassium per dosage unit on the basis of an unfavorable benefit-to-risk ratio.

DATES: Effective August 8, 1977.

ADDRESSES: Requests for opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 11802 and directed to: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of April 6, 1976 (41 FR 14568), the Director of the Bureau of Drugs offered an opportunity for hearing on the proposal to issue an order withdrawing approval of the drug products described below. The basis of the proposed action was that the benefit-to-risk ratio associated with the use of solid oral dosage forms of potassium salt drug products that supply 100 milligrams or more of potassium per dosage unit is unacceptable in consideration of both the high incidents of nonspecific small-bowel lesions and the availability of acceptable alternative therapy. In addition for those combination drug products containing a thiazide and potassium chloride or a thiazide, potassium chloride, and rauwolfia serpentina the basis of the proposed action is also a lack of substantial evidence that these combination drugs will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling. Since a hearing was not requested concerning the following products, approval of the new drug applications for them is now being withdrawn.

1. NDA 16-281; Potassium Chloride Enteric Coated Tablets; previously marketed by Cooper Laboratories, 300 Fairfield Rd., Wayne, N.J. 07470.

2. NDA 16-285; Potassium Chloride Enteric Coated Tablets; previously marketed by Stanley Drug Products, Inc., Division Sperti Drug Products, Inc., P.O. Box 3108, Portland, OR 97208.

3. NDA 16-289; Potassium Chloride Emplet; previously marketed by Parke, Davis & Co., Joseph Campau Ave. at the River, Detroit, MI 48232.

4. NDA 16-292; Potassium Chloride Enteric Coated Tablets; Richlyn Laboratories, 3725 Castor Ave., Philadelphia, PA 19124.

5. NDA 16-302; Potaklor Plus Enteric Coated Tablets containing potassium chloride; Kirkman Laboratories, Inc., 924 Northeast 25th Ave., Portland, OR 97232.

6. NDA 16-313; Potassium Chloride Enteric Coated Tablets; Strong Cobb Arner, Inc., subsidiary of ICN Pharmaceuticals, 11700 Shaker Blvd., Cleveland, OH 44120.

7. NDA 16-314; Potassium Chloride Enteric Coated Tablets; American Pharmaceutical Co., Inc., P.O. Box 448, Passaic, N.J. 07055.

In response to the April 6, 1976 notice, requests for a hearing were submitted for the following drug products:

1. NDA 11-802; Rautrax Tablets containing flumethiazide, potassium chloride, and rauwolfia serpentina;

2. NDA 12-163; Naturetin with K Tablets containing bendroflumethiazide and potassium chloride;

3. NDA 12-243; Di-Ademil-K Tablets containing hydroflumethiazide and potassium chloride;





4. NDA 12-244; Rautrax Improved Tablets and Rautrax Improved 25 Tablets containing hydroflumethiazide, potassium chloride, and rauwolfia serpentina; and

5. NDA 12-320; Rautrax-N Modified Tablets and Rautrax-N Tablets containing bendroflumethiazide, potassium chloride, and rauwolfia serpentina; all marketed by E. R. Squibb & Sons.

6. NDA 16-286; Potassium Chloride Enseals; Eli Lilly & Co.

7. NDA 16-287; Kaon Coated Tablets containing potassium gluconate; Warren-Teed Pharmaceuticals.

In addition, Dr. W. Gordon Walker of The Johns Hopkins University submitted data in support of Warren-Teed's Kaon Coated Tablets. These drug products will be the subject of a subsequent FEDERAL REGISTER notice and are not affected by this notice.

All drug products that are identical, related, or similar to a product named above, not the subject of an approved new drug application, are covered by the new drug applications reviewed and are subject to this notice (21 CFR 310.6), except controlled release dosage forms and those products formulated and labeled for preparation of solution prior to ingestion. Any person who wishes to determine whether a specific drug product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

No other persons filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82) finds that, on the basis of new information before him with respect to these drug products, evaluated together with the evidence available to him when the applications were approved, such drugs are not shown to be safe for use under the conditions of use on the basis of which the applications were approved. In addition, for those combination drug products containing a thiazide and potassium chloride or a thiazide, potassium chloride, and rauwolfia serpentina, such combination drugs lack substantial evidence that they will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing findings, approval of new drug applications 16-281, 16-285, 16-289, 16-292, 16-302, 16-313 and 16-314 providing for the drug products named above (except for new drug applications 11-802, 12-163, 12-243, 12-244, 12-320, 16-286 and 16-287 that are the subject of hearing requests), and all amendments and supplements applying thereto, is withdrawn effective August 8, 1977.

Shipment in interstate commerce of the above listed products or of any identical, related, or similar products, not the subject of an approved new drug application, will then be unlawful.

Dated: July 20, 1977.

J. RICHARD CROUT,
*Director, Bureau of Drugs.*

[FR Doc.77-21702 Filed 7-28-77;8:45 am]

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[Docket No. 76N-0391; DESI 9495]

## CYCLIZINE HYDROCHLORIDE FOR RECTAL USE

### Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug application for cyclizine hydrochloride for rectal use on the basis of lack of substantial evidence of effectiveness.

DATES: Effective August 8, 1977.

ADDRESSES: Requests for opinion of the applicability of this notice to a specific product should be identified with reference number DESI 9495 and directed to: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

William R. Durbin, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857. (301-443-3650).

SUPPLEMENTARY INORMATION: In a notice published in the FEDERAL REGISTER of February 4, 1977 (42 FR 6910), the Director of the Bureau of Drugs offered an opportunity for hearing on a proposal to withdraw approval of the following products.

NDA 9-781; Marezine Suppositories and Pediatric Suppositories containing cyclizine hydrochloride; formerly marketed by Burroughs Wellcome and Co., Inc., 3030 Cornwallis Rd., Research Triangle Park, NC 27709.

In response to the notice, Burroughs Wellcome voluntarily requested withdrawal of approval of the new drug application.

All drug products that are identical, related, or similar to a drug product named above, not the subject of an approved new drug application, are covered by the new drug application reviewed and are subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance at the address given above.

Neither the holder of the application nor any other person filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82) (recodification pulished in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)), finds that, on the basis of new information before him with respect to the drug products, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

Therefore, pursuant to the foregoing finding, approval of new drug application No. 9-781 providing for the drug products named above, and all amendments and supplements applying thereto, is withdrawn effective August 8, 1977.

Shipment in interstate commerce of the above products or of any identical, related, or similar product, not the subject of an approved new drug application, will then be unlawful.

Dated: July 20, 1977.

J. RICHARD CROUT,
*Director, Bureau of Drugs.*

[FR Doc.77-21957 Filed 7-28-77;8:45 am]

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[Docket No. 76N-0349; DESI 6686]

## DIMENHYDRINATE

### Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice sets forth the conditions for marketing prescription drug products of dimenhydrinate for the indication for which they continue to be regarded as effective and offers an opportunity for a hearing concerning those indications reclassified as lacking substantial evidence of effectiveness. The drug is used in motion sickness.

DATES: Hearing requests due on or before August 29, 1977.

Supplements to approved NDA's due on or before September 29, 1977.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 6686, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

**Supplements (identify with NDA number):** Division of Neuropharmacological Drug Products (HFD-120), Rm. 10B-34, Bureau of Drugs.



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Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Science—National Research Council: Public Records and Document Center (HFC-18), Rm. 4-62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 6686; Docket No. FDC-D-317 (now Docket No. 76N-0349)) published in the FEDERAL REGISTER of June 4, 1971 (36 FR 10896), the Food and Drug Administration announced its conclusions that the drug products described below are (1) effective in prophylaxis and treatment of motion sickness; (2) probably effective for the control of nausea and vomiting postoperatively and following radiation and electroshock therapy; (3) possible effective for use in nausea, vomiting, and vertigo associated with Meniere's syndrome, postfenestration syndrome, and migraine; and nausea and vomiting of pregnancy; and (4) lacking substantial evidence of effectiveness for their other labeled indications. The notice also offered an opportunity for a hearing concerning the indications concluded at that time to lack substantial evidence of effectiveness. The manufacturer has deleted all less-than-effective indications from the labeling of the drug products. No data supporting the probably effective and possibly effective indications were submitted, and those indications are now reclassified as lacking substantial evidence of effectiveness.

The notice that follows does not pertain to the indications stated in the June 4, 1971 notice to lack substantial evidence of effectiveness. No person requested a hearing concerning them, and they are no longer allowable in labeling. Any such product labeled for those indications is subject to regulatory action.

1. NDA 8-153; Dramamine Injection; and
2. NDA 8-310; Dramamine Supposicones (suppositories), both containing dimenhydrinate; G. D. Searle & Co., P.O. Box 5110, Chicago, IL 60680.

Dramamine Tablets and Liquid, both over-the-counter (OTC) products, included in the notice of June 4, 1971, are not affected by this notice and are being handled by the OTC Review.

G. D. Searle supplemented the new drug applications to reword the effective indication to read as stated in the labeling conditions below.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug products are effective for the indication in the labeling conditions below. The drug products now lack substantial evidence of effectiveness for the indications evaluated as probably effective and possibly effective in the June 4, 1971 notice.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug products are in suppository or sterile solution form suitable for rectal or parenteral administration respectively.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug products are labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The indication is as follows:

For the prevention and treatment of the nausea, vomiting, or vertigo of motion sickness.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before September 27, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be incord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, (ii) for dimenhydrinate injection a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)), and (iii) for dimenhydrinate suppositories a supplement to provide full updating information with respect to items 6, 7, and 8 of the new drug application from FD-356H.

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such products. For dimenhydrinate suppositories the application shall contain full information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H and in addition, data from appropriate bioavailability studies. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.





In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before August 29, 1977, a written notice of appearance and request for hearing, and (2) on or before September 27, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quadruplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82) (recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)).

Dated: July 20, 1977.

J. RICHARD CROUT,
*Director, Bureau of Drugs.*

[FR Doc.77-21700 Filed 7-28-77;8:45 am]

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[Docket No. 76N-0416; DESI 366]

## EPINEPHRINE AQUEOUS SUSPENSION FOR INJECTION

### Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice reclassifies epinephrine aqueous suspension for injection to effective for a certain indication, sets forth the conditions for marketing the drug for that indication, and offers an opportunity for a hearing concerning the indications reclassified as lacking substantial evidence of effectiveness. The drug is used for symptomatic treatment of bronchial asthma.

DATES: Hearing requests due on or before August 29, 1977.

Supplements to approved NDA's due on or before September 27, 1977.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 366, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Surgical-Dental Drug Products (HFD-160), Rm. 18B-03, Bureau of Drugs.

Original abbreviated new drug applications and notices of claimed investigational exemption for a new drug (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Request for Hearing (identify with docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC-18), Rm. 4-62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 366) published in the FEDERAL REGISTER of July 11, 1972 (37 FR 13564), the Food and Drug Administration announced its conclusion that the drug product described below is probably effective for the symptomatic treatment of bronchial asthma, urticaria, angioedema, and hay fever. Subsequently, the manufacturer submitted clinical studies that provide substantial evidence of effectiveness of the durg for bronchial asthma. No person submitted any data for the other probably effective indicators, and they are now reclassified to lacking substantial evidence of effectiveness. Other drugs included in the July 11, 1972 notice are not affected by this notice, having been previously dealt with.

Accordingly, the July 11, 1972 notice is amended to read as follows insofar as it pertains to epinephrine aqueous suspension:

NDA 7-942; Sus-Phrine Suspension, an aqueous suspension of epinephrine; Cooper Laboratories, 300 Fairfield Rd., Wayne, N.J. 07470.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product



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named in this notice by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indication listed in the labeling conditions below. The drug lacks substantial evidence of effectiveness for its other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplemented to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in sterile aqueous suspension form suitable for parenteral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The indication is as follows:

For the symptomatic treatment of bronchial asthma, and reversible bronchospasm associated with chronic bronchitis and emphysema.

3. *Marketing status.* a. Marketing of such drug product that is now the subject of an approved or effective new drug application may be continued provided that, on or before September 22, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356 H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)). In addition, on or before January 26, 1978, the holders of such applications are required to supplement their applications to provide either evidence demonstrating in vivo bioavailability or information to permit waiver of such evidence.

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Such abbreviated new drug application is required to contain evidence from in vivo studies demonstrating bioequivalence to the reference standard. Such bioavailability studies shall consist of either single- and/or multiple-dose blood level study or comparison of acute pharmacological activity to an appropriate reference material. Multiple-dose studies will require prior submission of protocols to be submitted under a Notice of Claimed Investigational Exemption for a New Drug (IND). Because of inherent toxicological side effects associated with this drug, it is advisable that firms submit a protocol with the ANDA prior to undertaking a single-dose study in human subjects. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before August 29, 1977, a written notice of appearance and request for hearing, and (2) on or before September 27, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given above) between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82) (recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)).

Dated: July 20, 1977.

J. RICHARD CROUT,
*Director, Bureau of Drugs.*

[FR Doc.77-21956 Filed 7-28-77;8:45 am]





[Docket No. 77F-0197]

## INTERNATIONAL PAPER CO.

### Filing of Petition for Food Additive Permitted in Animal Feed

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The International Paper Co. has filed a petition proposing that the regulations for food additives permitted in animal feed be amended to revise specifications for manufacturing hemicellulose extract (wood sugars).

FOR FURTHER INFORMATION CONTACT:

William D. Price, Bureau of Veterinary Medicine (HFV–123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301–443–3442).

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (MF–3657) has been filed by International Paper Co., P.O. Box 16807, Mobile, AL 36616, proposing that § 573.520 Hemicellulose extract (21 CFR 573.520) be amended to expand the temperature and pressure requirements for manufacture of hemicellulose extract.

The Commissioner has reviewed the potential environmental impact of the proposed regulation and has concluded that the proposed action will not significantly affect the quality of the human environment and that an environmental impact statement is not required. Copies of the statement of exemption may be seen in the office of the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 25, 1977.

C. D. VAN HOUWELING,
*Director, Bureau of Veterinary Medicine.*

[FR Doc.77-21954 Filed 7-28-77;8:45 am]

## NORWICH PHARMACAL CO.

### Furaspor Liquid Veterinary; Withdrawal of Approval of New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration, at the request of the manufacturer, withdraws approval of a new aimal drug application (NADA) providing for use of a topical antibacterial antifungal liquid for the treatment of dogs and horses.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Henry C. Hewitt, Bureau of Veterinary Medicine (HFV–112), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301–443–3430).

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.29), the following notice is issued: NADA 7–717 held by Eaton Laboratories, Division of Morton-Norwich Products, Inc., P.O. Box 91, Norwich, NY 13815, provides for the use of Furaspor Liquid Veterinary for the treatment of horses for ringworm and the treatment of dogs for skin disorders caused or complicated by susceptible fungi, bacteria, or mites.

Eaton Laboratories has requested, by letter dated January 17, 1977, that approval of the NADA be withdrawn and waived an opportunity for a hearing because the product is no longer being marketed.

Therefore, in accordance with § 514.115 (21 CFR 514.115), notice is given that approval of NADA 7–717 and all supplements and amendments thereto is hereby withdrawn, effective July 29, 1977.

Dated: July 27, 1977.

C. D. VAN HOUWELING,
*Director, Bureau of Veterinary Medicine.*

[FR Doc.77-21955 Filed 7-28-77;8:45 am]

## PANEL ON REVIEW OF DENTIFRICES AND DENTAL CARE AGENTS

### Meeting Date Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The meeting of the Panel on Review of Dentifrices and Dental Care Agents scheduled for August 25 and 26, 1977 has been changed to August 24 and 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael D. Kennedy, Bureau of Drugs (HFD–510), 5600 Fishers Lane, Rockville, Md. 20857, (301–443–4960).

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration (FDA) announced in a notice published in the FEDERAL REGISTER of July 15, 1977 (42 FR 36551), meetings of FDA public advisory committees and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the meeting of the Panel on Review of Dentifrices and Dental Care Agents scheduled for August 25 and 26, 1977 has been changed to August 24 and 25, 1977. The open public hearing will begin at 9 a.m. on August 24.

Dated: July 20, 1977.

JOSEPH P. HILE,
*Associate Commissioner for Compliance.*

[FR Doc.77-21553 Filed 7-28-77;8:45 am]

### Public Health Service

## QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

Notice is hereby given, pursuant to 42 CFR 110.605, that in the month of June 1977 the following entities have been determined to be qualified health maintenance organizations under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e–9(d)).

LIST OF QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

NAME, ADDRESS, SERVICE AREA, AND DATE OF QUALIFICATION

(Operational Qualified Health Maintenance Organizations: 42 CFR 110.603(a))

1. HMO Illinois, Incorporated, (Individual Practice Association model, see section 1310(b)(2)(A) of the Public Health Service Act), 233 N. Michigan Avenue, Suite 1323, Chicago, Ill. 60601. Service area: The zip codes included in the area are as follows:

| | | | | | |
|---|---|---|---|---|---|
| 60004 | 60005 | 60007 | 60010 | 60015 | 60016 |
| 60018 | 60022 | 60025 | 60026 | 60029 | 60043 |
| 60053 | 60056 | 60062 | 60067 | 60068 | 60069 |
| 60070 | 60076 | 60082 | 60090 | 60091 | 60093 |
| 60101 | 60103 | 60104 | 60106 | 60108 | 60120 |
| 60126 | 60130 | 60131 | 60137 | 60141 | 60143 |
| 60148 | 60153 | 60157 | 60160 | 60162 | 60163 |
| 60164 | 60165 | 60170 | 60171 | 60172 | 60176 |
| 60181 | 60185 | 60187 | 60191 | 60201 | 60202 |
| 60203 | 60301 | 60302 | 60304 | 60305 | 60401 |
| 60402 | 60406 | 60409 | 60411 | 60415 | 60417 |
| 60419 | 60422 | 60423 | 60425 | 60426 | 60429 |
| 60430 | 60432 | 60438 | 60439 | 60441 | 60442 |
| 60443 | 60445 | 60448 | 60449 | 60451 | 60452 |
| 60453 | 60456 | 60457 | 60458 | 60459 | 60461 |
| 60462 | 60463 | 60464 | 60465 | 60466 | 60468 |
| 60469 | 60471 | 60472 | 60473 | 60475 | 60476 |
| 60477 | 60480 | 60482 | 60501 | 60513 | 60514 |
| 60515 | 60521 | 60525 | 60534 | 60546 | 60558 |
| 60559 | 60601 | 60602 | 60603 | 60604 | 60605 |
| 60606 | 60607 | 60608 | 60609 | 60610 | 60611 |
| 60612 | 60613 | 60614 | 60615 | 60616 | 60617 |
| 60618 | 60619 | 60620 | 60621 | 60622 | 60623 |
| 60624 | 60625 | 60626 | 60627 | 60628 | 60629 |
| 60630 | 60631 | 60632 | 60633 | 60634 | 60635 |



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| | | | | | |
|---|---|---|---|---|---|
| 60636 | 60637 | 60638 | 60639 | 60640 | 60641 |
| 60642 | 60643 | 60644 | 60645 | 60647 | 60648 |
| 60649 | 60650 | 60651 | 60652 | 60653 | 60655 |
| 60656 | 60657 | 60658 | 60659 | 60660 | 60686 |
| 46308 | 46307 | 46311 | 46312 | 46319 | 46320 |
| 46321 | 46322 | 46323 | 46324 | 46326 | 46327 |
| 46342 | 46373 | 46375 | 46394 | 46402 | 46404 |
| 46406 | 46407 | 46408 | 46409 | 46410 | |

Date of qualification: June 15, 1977.

2. The Health Maintenance Organization of Pennsylvania, (Individual Practice Association model, see section 1310(b)(2)(A) of the Public Health Service Act), 2500 Maryland Road, Willow Grove, Pa. 19090. Service area: Five counties in and around Philadelphia: Bucks County, Chester County, Delaware County, Montgomery County and Philadelphia County. Date of qualification: June 17, 1977.

3. Group Health Cooperative of South Central Wisconsin, (Staff model, see section 1310(b)(1) of the Public Health Service Act), One South Park Street, Madison, Wis. 53715. Service area: Dane County (includes Metropolitan Madison area); Rock County—Evansville Township; Sauk County—Sauk City and Prairie Du Sac Townships; and Columbia County—Lodi, Arlington, and Poynette Townships. Date of qualification: June 27, 1977.

4. Gem Health Association, Incorporated, (Group model, see section 1310(b)(1) of the Public Health Service Act), 6565 Emerald Street, Boise, Idaho 83704. Service area: Northern half of Ada County including the City of Boise. The Southern boundary line is Kuna-Mora Road. Date of qualification: June 27, 1977.

(Preoperational Qualified Health Maintenance Organization: 42 CFR 110.603(c))

1. Group Health Plan of New Jersey, Incorporated (Staff model, see section 1310(b)(1) of the Public Health Service Act), 501 70th Street, Guttenberg, New Jersey 07093. Service area as follows:

Cliffside PK. 07010, Edgewater 07020, Fairview 07020, Fort Lee 07024, East Newark 07024, Harrison 07024, Hoboken 07030, Kerny 07032, No. Arlington 07032, No. Bergen 07047, Lyndhurst 07071, Carlstadt 07072, E. Rutherford 07073, Moonachie 07074, Union City 07087, Weehawken 07087, Guttenberg 07093, West New York 07093, Secaucus 07094, Jersey City 07302, 07304, 07306, 07307, Teterboro 07608, Little Ferry 07643, Palisades Park 07650, Ridgefield 07657.

Date of qualification: June 27, 1977.

Files containing detailed information regarding the qualified health maintenance organizations will be available for public inspection between the hours of 8:30 a.m. and 5 p.m. Monday through Friday, at the Office of Quality Standards, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Room 16A-08, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Questions about the review process or requests for information about qualified health maintenance organizations should be sent to the same office.

Dated: July 22, 1977.

WILLIAM B. MUNIER, M.D.,
*Director, Office of Quality Standards.*

[FR Doc.77-21912 Filed 7-28-77;8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-77-787, etc.]

### ASTRO MANUFACTURING CO., ET AL.

#### Order and Hearing

In the Matter of: Astro Manufacturing Co. and Bud Rice, Docket No. 77-101-MH; Bendix Home Systems and Thomas V. Malloy, Docket No. 77-102-MH; Castle Industries and John W. Allison, Docket No. 77-103-MH; Central Homes, Inc., and Charles A. Rymes, Docket No. 77-104-MH; Champion Home Builders and Joseph J. Morris, Docket No. 77-105-MH; Charter Industries, Inc., and Ed Pruitt, Docket No. 77-106-MH; Conchemco Homes Group and Donald W. Techentien, Docket No. 77-107-MH; Countryside Industries, Inc., and Shelby Norris, Docket No. 77-108-MH; Fuqua Homes, Inc., and Robert N. West, Docket No. 77-109-MH; Homes by Fisher, Inc., and J. E. Fisher, Jr., Docket No. 77-110-MH; Housing by Vogue, Inc., and Julian Laramore, Docket No. 77-111-MH; Guerdon Industries, Inc., and Jack Dahl, Docket No. 77-112-MH; Kaufman & Broad Home Systems, Inc., and Sanford N. Levine, Docket No. 77-113-MH; Liberty Homes, Inc., and Edward J. Hussey, Docket No. 77-114-MH; Manchester Homes and James L. Clayton, Docket No. 77-115-MH; Wick Building Systems and John F. Wick, Docket No. 77-116-MH; Moduline International, Inc., and L. C. Merta, Docket No. 77-117-MH; Nobility Homes, Inc., and Terry Trexler, Docket No. 77-118-MH; Poloron Products, Inc., and N. David Hanania, Docket No. 77-119-MH; Schult Homes Corp. and Walter E. Wells, Docket No. 77-120-MH; Skyline Corp. and Ronald F. Kloska, Docket No. 77-121-MH; Zimmer Homes Corp. and Paul H. Zimmer, Docket No. 77-122-MH; Burlington Homes of New England and Eugene J. Hamper, Docket No. 77-123-MH; Midland Industries, Inc., and Joseph P. Hayden, Jr., Docket No. 77-124-MH; Fleetwood Homes and William W. Werde, Docket No. 77-125-MH; Havelock Homes Corp. and Gene S. Jackson, Docket No. 77-126-MH; Apeco Corp. and Arthur Nicholas, Docket No. 77-127-MH; R-Anell Homes, Inc., and Rollan L. Jones, Docket No. 77-128-MH; Townhouse, Division of Apeco and Charles L. Youngerman, Docket No. 77-129-MH.

On June 10, 1977, the Secretary, Department of Housing and Urban Development, issued to Respondents a Notice of Preliminary Determination and Opportunity for Hearing alleging noncompliance with 24 CFR 280.404(b)(4)(iv) applicable to emergency egress windows. Respondents requested hearings on the notice. In addition, Respondents Bendix Home Systems, Fuqua Homes, Inc., Housing By Vogue, Inc., and R-Anell Homes, Inc., requested consolidation of the cases into one proceeding. Respondents Bendix Home Systems, R-Anell Homes, Inc., Conchemo Homes Group, Liberty Homes, Inc., and Moduline International, Inc., requested intervention by Philips Industries, Inc., herein Philips, manufacturers of the windows in question. On July 6, 1977, Philips submitted a Petition for Intervention and Consolidation of Proceedings. On July 6, 1977, Manufactured Housing Institute, herein MHI, submitted a Response to Notice of Preliminary Determination and Request for Hearing. MHI alleged that it submitted the response as the authorized representative of Respondents, members of MHI and nonmembers of MHI.

On July 7, 1977, General Counsel, Department of Housing and Urban Development, herein Counsel, responded to the motions of Philips and MHI. Counsel submitted that Philips should be allowed to participate, but reserved the right to object to all participation by Philips should such participation unduly prejudice the rights of the parties directly involved or unnecessarily delay the proceedings. Counsel opposed Philips' motion to consolidate in that Philips is not a party to the proceedings. However, Counsel moved for consolidation of the proceedings. Counsel objected to participation by MHI because its participation would unnecessarily delay the proceedings. Counsel contended that the interest of MHI is identical to that of its members, mobile home manufacturers.

Accordingly, *it is ordered*, That the motions for consolidation are granted. To avoid unnecessary costs and delay, *it is ordered*, That the cases are consolidated in one proceeding.

*It is further ordered*, That the motions for intervention by Philips are granted. *It is ordered*, That, pursuant to 24 CFR 3282.153 (a) and (b), Philips may participate in writing and in the oral portion of the hearing unless it is determined that such participation should be limited so as not to unduly prejudice the rights of the parties directly involved or unnecessarily delay the proceedings.

*It is further ordered*, That the request of MHI for participation as the authorized representative of Respondents, members of MHI and nonmembers of MHI, is denied, unless it is shown that any individual Respondent has chosen MHI to represent it. It is noted that Respondents have responded to the Notice of Proceedings and Opportunity for Hearing individually or by individual counsel. Nevertheless, *it is ordered*, That, pursuant to 24 CFR 3282.153 (a) and (b), MHI may participate in writing and in the oral portion of the hearing unless it is determined that such participation should be limited so as not to unduly prejudice the rights of the parties directly involved or unnecessarily delay the proceedings.

NOTICE OF HEARING

Pursuant to 42 U.S.C. 5414(g) and 24 CFR 3282.152(c), Notice is hereby given that:





1. Respondents above being subject to the provisions of the National Mobile Home Construction and Safety Standards Act of 1974 (Pub. L. 93-383, 42 U.S.C. 5401, et seq.) received a Notice of Preliminary Determination and Opportunity for Hearing issued June 10, 1977, which was sent to the Respondent pursuant to 42 U.S.C. 5414, 24 CFR 3282.-151, 24 CFR 3282.407(A)(2), and 24 CFR 3282.408(b) informing the Respondent of information obtained by the Office of Consumer Affairs and Regulatory Functions—Mobile Home Standards Division alleging that an imminent safety hazard as defined at 24 CFR 3282.7(q) may exist in certain mobile homes manufactured by Respondent.

2. Respondents filed Answers in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer, Respondents requested a hearing on the allegations contained in the Notice of Preliminary Determination and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 42 U.S.C. 5414(g), 24 CFR 3282.-151 and 24 CFR 3282.152(g), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Preliminary Determination and Opportunity for Hearing will be held before Judge James W. Mast in Room 7143, Department of HUD, 451 Seventh Street SW., Washington, D.C., on August 22, 1977, at 10 a.m., and all inquiries concerning these proceedings should be directed to him.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410, on or before August 15, 1977. Copies of all documents filed should be served at the same time on all parties of record.

This notice shall be served upon the Repondent forthwith pursuant to 24 CFR 3282.152(c)(1).

Dated: July 18, 1977

By the Secretary.

JAMES W. MAST,
*Chief, Administrative Law Judge.*

[FR Doc 77-21926 Filed 7-28-77;8:45 am]

[Docket Nos. N-77-783 and 77-68-IS]

### KAMP-A-LOTT

#### Notice of Hearing

In the matter of: Kamp-A-Lott, Diversified Equity Corp., and John C. Christ, trustee respondent, OILSR No. 0-4550-41-60 and (A).

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) Notice is hereby given that:

1. Kamp-A-Lott, Diversified Equity Corporation, and John C. Christ, Trustee, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing dated June 3, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1710.45(a)(1) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing that the Statement of Record and Property Report for Diversified Equity Corp., located in Indianapolis, Ind., contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 8, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street SW., Washington, D.C., on August 12, 1977, at 10 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410, on or before July 29, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: July 14, 1977.

By the Secretary.

JAMES W. MAST,
*Chief, Administrative Law Judge.*

[FR Doc 77-21922 Filed 7-28-77;8:45 am]

[Docket Nos. N-77-782 and 77-99-IS]

### LAVEEN ESTATES EAST

#### Notice of Hearing

In the Matter of: Laveen Estates East, R. W. Cheatham, President and Laveen Development Corp., respondent, OILSR No. 0-03306-02-647.

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) Notice is hereby given that:

1. Laveen Estates East, R .W. Cheatham, President, and Laveen Development Corp., its officers and agents, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing dated June 9, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1710.45(a)(1) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing that the Statement of Record and Property Report for Laveen Estates East, located in Maricopa County, Ariz., contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 1, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street SW., Washington, D.C. on August 16, 1977 at 2:00 p.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before July 29, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: July 14, 1977.

By the Secretary.

JAMES W. MAST,
*Chief, Administrative Law Judge.*

[FR Doc.77-21921 Filed 7-28-77;8:45 am]

[Docket No. N-77-786 and 77-66-IS]

### WHISPERING PINES

#### Notice of Hearing

In the Matter of: Whispering Pines, Whispering Pines, Inc. and A. B. Hardee, President, Respondent, OILSR No. 0-3546-38-190.



V 42 146 JUL 29 77 UMI

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) Notice is hereby given that:

1. Whispering Pines, Whispering Pines, Inc. and A. B. Hardee, President, its officers and agents, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing dated June 1, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1710.45(a)(1) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing that the Statement of Record and Property Report for Whispering Pines, located in Moore County, N.C., contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received June 22, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7143, Department of HUD, 451 Seventh Street SW., Washington, D.C. on August 11, 1977 at 10:00 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before July 29, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: July 14, 1977.

By the Secretary.

JAMES W. MAST,
*Chief, Administrative Law Judge.*

[FR Doc.77-21925 Filed 7-28-77;8:45 am]

[Docket Nos. N-77-784 and 77-84-IS]

**WHITE MOUNTAIN LAKE**

**Notice of Hearing**

In the matter of: White Mountain Lake, White Mountain Lake Subdivision 1, 2, and 3 and James L. Jarvise, Authorized Agent, Respondent, OILSR No. 0-0398-02-63 and (A-B).

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) notice is hereby given that:

1. White Mountain Lake, White Mountain Lake Subdivision 1, 2, and 3, and James L. Jarvise, Authorized Agents, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing dated June 9, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1710.45(a)(1) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing that the Statement of Record and Property Report for White Mountain Lake located in Navajo County, Ariz., contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received June 28, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street SW., Washington, D.C. on August 12, 1977 at 10:00 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before July 29, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: July 14, 1977.

By the Secretary.

JAMES W. MAST,
*Chief, Administrative Law Judge.*

[FR Doc.77-21923 Filed 7-28-77;8:45 am]

[Docket Nos. N-77-785 and 77-82-IS]

**WILLOW VALLEY MOBILE HOME ESTATES**

**Notice of Hearing**

In the Matter of Willow Valley Mobile Home Estates 16, 17, and 18, McKellips Land Co. and Gordon McKellips, President, Respondent, OILSR No. 0-00132-02-32 and (A) and (b).

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) Notice is hereby given that:

1. Willow Valley Mobile Homes Estates 16, 17, and 18, McKellips Land Co. and Gordon McKellips, President, its officers and agents, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701, et seq.) received a Notice of Proceedings and Opportunity for Hearing dated June 9, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1710.45(a)(1) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing that the Statement of Record and Property Report for Willow Valley Mobile Homes Estates 16, 17, and 18, located in Mohave County, Ariz., contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received June 28, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street SW., Washington, D.C. on August 11, 1977 at 10:00 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before July 29, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 C.F.R. 1710.45(b)(1).





This Notice shall be served upon the Respondent forthwith pursuant to 24 C.F.R. 1720.440.

Dated: July 14, 1977.

By the Secretary.

JAMES W. MAST,
*Chief, Administrative Law Judge.*

[FR Doc.77-21924 Filed 7-28-77;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

**SOKAOGON CHIPPEWA COMMUNITY RESERVATION, WISCONSIN**

**Ordinance Legalizing the Introduction, Sale, or Possession of Intoxicants**

In accordance with authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 FR 13938), and in accordance with the Act of August 15, 1953, Pub. L. 277, 83rd Congress, 1st Session (67 Stat. 586), I certify that the following ordinance relating to the application of the Federal Indian Liquor Laws on the Sokaogon Chippewa Community Reservation, Wis., was adopted April 28, 1977, by the Sokaogon Chippewa Community which has jurisdiction over the area of Indian Country included in the Ordinance, reading as follows:

Whereas the provisions of sections 1154, 1156, 3113, 3488, and 3618 of this title shall not apply within any area that is not Indian country, nor to any act or transaction within any area of Indian country provided such act or transaction is in conformity both with the laws of the State in which such act or transaction occurs and with an ordinance duly adopted by the Tribe having jurisdiction over such area of Indian country certified by the Secretary of the Interior, and published in the FEDERAL REGISTER, therefore be it

*Resolved*, That the introduction or possession of intoxicating beverages shall be lawful within the Indian country under the jurisdiction of the Sokaogon Chippewa Community of Wisconsin, provided that such introduction or possession is in conformity with the laws of the State of Wisconsin, and be it further

*Resolved*, That the sale of intoxicating liquors by the Sokaogon Chippewa Community of Wisconsin or such persons as may be licensed by the tribal council as herein provided shall be in conformity with the laws of the State of Wisconsin, and be it further

*Resolved*, That any tribal laws, resolutions or ordinances heretofore enacted which prohibit the sale, introduction, or possession of intoxicating beverages are hereby repealed.

Reservation.

DANIEL H. POLER,
*Secretary, Sokaogon Chippewa Tribal Council.*

Concur:

EDMUND MANYDREDS,
*Superintendent, Great Lakes Agency.*

Dated: July 11, 1977.

RAYMOND V. BUTLER,
*Acting Deputy Commissioner of Indian Affairs.*

JULY 25, 1977.

[FR Doc.77-21867 Filed 7-28-77;8:45 am]

### Bureau of Land Management

[R 3493]

**CALIFORNIA**

**Notice of Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal**

JULY 21, 1977.

The Forest Service, U.S. Department of Agriculture, filed application Serial No. R 3493 on October 21, 1970, for a withdrawal in relation to the following described lands:

SEQUOIA NATIONAL FOREST

BODFISH PIUTE CYPRESS GROVE BOTANICAL AREA, MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 27 S., R. 33 E.,
Sec. 30, lots 1 to 16, inclusive.

The area aggregates 560.95 acres in Kern County, California.

The applicant desires that the land be reserved for the protection of the Bodfish Piute Cypress Grove Botanical Area in California. The Bodfish Grove is the largest known grove of piute cypress and contains some of the oldest living trees.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on December 9, 1970, page 18681, FR Doc. 70-16547.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, on or before August 30, 1977. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 30, 1977.

The above described lands are temporarily segregated from all forms of appropriation under the mining laws (30 U.S.C., Ch. 2), to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

JOAN B. RUSSELL,
*Chief, Lands Section, Branch of Lands and Minerals Operations.*

[FR Doc.77-21815 Filed 7-28-77;8:45 am]

[SAC 076606]

**CALIFORNIA**

**Notice of Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal**

JULY 21, 1977.

The Bureau of Reclamation, U.S. Department of the Interior, filed application Serial No. SAC 076606 on September 9, 1963, for a withdrawal in relation to the following described lands:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 10 N., R. 13 E.,
Sec. 8, NE¼SE¼;
Sec. 9, SE¼SE¼ and S½NE¼SE¼.

The afore-described area aggregates 100 acres.

The applicant desires that the land be reserved for the construction, operation, and maintenance of the Sly Park Unit, American River Division of the Central Valley Project.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on September 26, 1963, page 10430, FR Doc. 63-10233.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, on or before August 30, 1977. All previous comments submitted in connection with the withdrawal application have been included in the record and



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will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 30, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws (30 U.S.C., Ch. 2), to the extent that the withdrawal applied for, if and when effected would prevent any form of disposal or appropriation under such laws. Currently administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

JOAN B. RUSSELL,
*Chief, Lands Section, Branch of Lands and Minerals Operations.*

[FR Doc.77-21817 Filed 7-28-77;8:45 am]

[CA 1568]

## CALIFORNIA

### Notice of Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JULY 20, 1977.

The Forest Service, U.S. Department of Agriculture, filed application Serial No. CA 1568 on February 12, 1974, for a withdrawal in relation to the following described lands:

TAHOE NATIONAL FOREST

SECRET CANYON RECREATION SITE, MOUNT DIABLO BASE AND MERIDIAN, CALIFORNIA

T. 20 N., R. 11 E.,
Sec. 31, S½ lot 5 and S½S½ lot 8.

The area described aggregates 60 acres in Sierra County, California.

The applicant desires that the land be reserved for campground, picnic, and recreation facilities.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on April 15, 1974, page 13566, FR Document 74-8612.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, on or before August 29, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 29, 1977.

The above described lands are temporarily segregated from the operation of the mining laws (30 U.S.C., Ch. 2), to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204 (g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

JOAN B. RUSSELL,
*Chief, Lands Section, Branch of Lands and Minerals Operations.*

[FR Doc.77-21818 Filed 7-28-77;8:45 am]

31152]

## NEW MEXICO

### Notice of Applications

JULY 20, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for five 4½-inch and one 8⅝-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 9 W.,
Sec. 19, lots 5 and 6
Sec. 20, lots 4, 7, 8, 9, and 16;
Sec. 27, lot 7;
Sec. 34, lots 2, 3, 7, and 8;
Sec. 35, lots 5, 11, and 12.
T. 31 N., R. 10 W.
Sec. 22, lots 10, 11, and 15;
Sec. 27, lots 3 and 6.

These pipelines will convey natural gas across 3.087 miles of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-21820 Filed 7-28-77;8:45 am]

[OR 8643]

## OREGON

### Order Providing for Opening of Public Land

*Correction*

In FR Doc. 77-15495, appearing on page 28007 in the issue of Wednesday, June 1, 1977, in the third column, under the heading "Williamette Merdian", the second line should be change so that "NE½" reads "NE¼".

[Utah 34439; Power Site Classification 93; Cancellation 336]

## UTAH

### Order Providing for Opening of Public Lands

By published notice (41 FR 171, September 1, 1976) the U.S. Geological Survey canceled Power Site Classification No. 93 of April 16, 1925 as to part of the lands described therein.

The purpose of this order is to restore to the operation of applicable public land laws the unreserved public lands involved in that notice.

Under the authority delegated by Bureau of Land Management Order No. 701 dated July 23, 1964 (29 FR 10526), as amended, it is ordered as follows:

1. The following described lands are hereby restored to disposition under applicable public land laws, subject to valid existing rights:

SALT LAKE MERIDIAN, UTAH

T. 2 N., R. 23 E.,
Sec. 13, SW¼SE¼ and SW¼;
Sec. 14, S½;
Sec. 23, NE¼NE¼.

The area described aggregates 560 acres in Daggett County.

PAUL L. HOWARD,
*State Director.*

JULY 21, 1977.

[FR Doc.77-21814 Filed 7-28-77;8:45 am]

[Wyoming 60181]

## WYOMING

### Notice of Application

JULY 21, 1977.

Notice is hereby given that pursuant to section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185) Stauffer Chemical Company of Wyoming, Green River, Wyoming filed an application for a 4-inch buried lateral pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 17 N., R. 99 W.,
Sec. 18, lots 5, 6, 7, 8, and SE¼NW¼.
T. 17 N., R. 100W.,
Sec. 24, SE¼NE¼, E½SW¼, SW¼SW¼, N½SE¼.

The pipeline will transport natural gas from an existing well situated in the NW¼, sec. 25, T. 17 N., R. 100 W. to a point on an existing 6-inch line in the NW¼, sec. 18, T. 17 N., R. 99 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 North, Rock Springs, Wyoming 82901.

HAROLD G. STINCHCOMB,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.77-21819 Filed 7-28-77;8:45 am]

[Int DES 77-23]

## GRAZING MANAGEMENT PROGRAM, RIO PUERCO RESOURCE AREA NEW MEXICO

### Notice of Availability of Draft Environment Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared an environmental statement on grazing management in the Rio Puerco Resource Area, New Mexico. Written comments should be received no later than September 14, 1977.

The draft statement analyzes environmental impacts that would result from the implementation of an intensive livestock grazing management program on public lands in the Rio Puerco Resource Area. The proposal involves 393,083 acres of public lands in northwestern New Mexico.

Copies of the draft statement are available for inspection at the following locations:

Office of Information, Bureau of Land Management, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240, telephone 202-343-5717.
New Mexico State Office, Bureau of Land Management, U.S. Post Office, North Federal Place, Santa Fe, New Mexico 87501, telephone 505-988-6215.
Albuquerque District Office, Bureau of Land Management, 3550 Pan American Freeway, NE., Albuquerque, New Mexico 87107, telephone 505-766-2455.
Albuquerque City Libraries, Main Library, 501 Copper Avenue, NW., Albuquerque, New Mexico 87102. Prospect Park Branch, 8205 Apache, NE., Albuquerque, New Mexico 87110.
Grants City Library, 525 West High, Grants, New Mexico 87020.
Santa Fe Public Library, Main Office, 121 Washington Avenue, Santa Fe, New Mexico 87501.

A limited number of single copies of the draft statement can be obtained from the BLM District Manager of the Albuquerque Office, or BLM State Director in Santa Fe.

In addition, oral and written comments will be received at public hearings to be held on August 30, 1977, at 1:00 p.m. and 7:00 p.m. at the Albuquerque Convention Center.

Oral testimony of no more than 10 minutes will be accepted from each witness at the hearings in lieu of (or in addition to) written comments. A complete copy of prepared speeches may be filed with the presiding officer at the hearing.

Speakers will be heard in the order specified on the witness list. After the last witness has been heard, the presiding officer will consider additional requests to testify. Only one witness will be allowed to represent the viewpoints of an organization; however, any witness will be permitted to testify as a private citizen.

Written requests to testify orally should be received at the Albuquerque District Office at the above address prior to 4:30 p.m. on August 26, 1977. Requests should identify the organization represented, the prospective witness, and the approximate time and session during which the testimony will be given. The prospective witness must also sign the request.

Comments on the draft environmental statement will receive equal and careful consideration in the preparation of the final environmental statement.

Dated: July 26, 1977.

LARRY E. MEIEROTTO,
*Deputy Assistant Secretary of the Interior.*

[FR Doc.77-22116 Filed 7-28-77;8:45 am]

## Geological Survey

## GARRISON-ELLISTON, MONTANA

### Known Leasing Area (Phosphate)

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), and 203 Departmental Manual No. 1, and Secretary's Order No. 2948, Federal lands within the State of Montana have been classified as subject to the competitive phosphate leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 211). The name of the area, effective date, and total acreage involved are as follows:

(26) MONTANA

Garrison-Elliston (Montana) Known Leasing Area (Phosphate); December 13, 1976; 15,055 acres.

A diagram showing the boundaries of the area classified for competitive leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, MS 609, Box 25046, Federal Center, Denver, Colorado 80225.

Dated: July 14, 1977.

W. A. RADLINSKI,
*Acting Director.*

[FR Doc.77-21847 Filed 7-28-77;8:45 am]

## National Park Service

### CONSULTING COMMITTEE TO THE NATIONAL SURVEY OF HISTORIC SITES AND BUILDINGS

### Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Consulting Committee to the National Survey of Historic Sites and Buildings will be held at 8:30 a.m. D.S.T., on August 19, 1977, in Conference Room 7000-A in the Department of the Interior Building, Washington, D.C.

The purpose of the Consulting Committee is to review and evaluate studies of potential national historic landmarks prepared by the National Survey. The Committee's evaluation is the initial screening of potential historic landmarks. Its recommendations are forwarded to the Secretary of the Interior's Advisory Board on National Parks, Historic Sites, Buildings, and Monuments for a final review.

The members of the Consulting Committee are:

Dr. Richard H. Howland (Chairman), Washington, D.C.
Dr. Glenn Porter, Greenville, Wilmington, Delaware.
Mr. Herbert E. Kahler, Alexandria, Virginia.
Professor Frederick D. Nichols, Charlottesville, Virginia.
Dr. Henry A. Millon, New York, New York.
Mr. James Biddle, Washington, D.C.
Mr. Charles E. Lee, Columbia, South Carolina.
Major Gen. John W. Huston, Washington, D.C.

The subjects that are to be evaluated are:

1. A segment of the subtheme "Architecture."
2. A part of the subtheme "Commerce and Industry."

The following special studies will also be considered:

1. Piney Woods School, Piney Woods, Mississippi.
2. Lubbock Lake Site, Lubbock, Texas.

The meeting will be open to the public. However, facilities and space for accommodating the public are limited. It is expected that not more than 10 persons will be able to attend the sessions. Any member of the public may file with the Consulting Committee a written statement on the subjects to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact







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Mr. George F. Emery, Chief, Historic Sites Survey Division, 202-523-5295. Minutes of the meeting will be available for public inspection six weeks after the meeting at the office of the Chief, Historic Sites Survey Division, National Park Service, Department of the Interior, Washington, D.C. 20240.

Dated: July 8, 1977.

WILLIAM J. MURTAGH,
*Acting Chief, Office of Archeology and Historic Preservation.*

[FR Doc.77-21994 Filed 7-28-77;8:45 am]

## DEPARTMENT OF LABOR

### Employment and Training Administration

### EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

#### Notice of Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St. NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 25th day of July, 1977.

ERNEST G. GREEN,
*Assistant Secretary for Employment and Training.*

*Applications received during the week ending July 22, 1977*

| Name of applicant | Location of enterprise | Principal product or activity |
|---|---|---|
| Lacy Enterprises, Inc | Marietta, Pa | Restaurant and cocktail lounge. |
| RSB Fiberglass Forms, Inc | LaGrange, Ga | Manufacture of fiberglass outboard and inboard boats. |
| Parker Bros., Inc | Ahoskie, N.C | Newspaper publishing and commercial printing. |
| Big 4 Feed & Implement Co | Scottsville, Ky | Farm sales in feed, seed, fertilizer and farm supply. |
| Wayne P. Rixmann | Fairmont, Minn | Restaurant. |
| Grand Forks Grocery Co | Grand Forks, N. Dak | Wholesale distribution of groceries. |
| Grand Forks Coca-Cola Bottling Co., Inc. | Grand Forks, N. Dak | Manufacture and wholesaling of carbonated soft drinks and beer. |
| Para-Medical Health Care Inc | Lamar, Colo | Nursing home services for older people. |
| Clarkston Grain Terminal Inc | Clarkston, Wash | Storage, buying and/or marketing grain. |

[FR Doc.77-21773 Filed 7-28-77;8:45 am]

### FEDERAL SUPPLEMENTAL BENEFITS (EMERGENCY UNEMPLOYMENT COMPENSATION)

#### Ending of Federal Supplemental Benefit Period in Nevada

This notice announces the ending of the Federal Supplemental Benefit Period n the State of Nevada effective July 30, 1977.

BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Pub. L. 93-572, enacted December 31, 1974) (the Act) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals is up to 13 weeks. A Federal Supplemental Benefit Period commenced in the State of Nevada on January 5, 1975.

The Act also provides that a Federal Supplemental Benefit Period in a State will trigger off when the rate of insured unemployment in the State averages less than 5.0 percent over a period of thirteen consecutive calendar weeks. The benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator, if the benefit period will have been in effect for a minimum duration of 13 weeks.

DETERMINATION OF "OFF" INDICATOR

The employment security agency of the State of Nevada has determined under the Act and 20 CFR 618.19(b) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on July 9, 1977, and the immediately preceding twelve weeks, was less than 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19(b), and as authorized by the Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "off" indicator in the State of Nevada for the week ending July 9, 1977, and that the Federal Supplemental Benefit Period in that State terminates on July 30, 1977.

INFORMATION FOR CLAIMANTS

Any individual to whom Federal Supplemental Benefits or Federal-State Extended Benefits were payable in the State (whether or not any payment actually was made), for any portion of the last week of the Federal Supplemental Benefit Period, will have an additional eligibility period beginning immediately following the end of the Federal Supplemental Benefit Period. During the additional eligibility period the individual will be entitled to Federal Supplemental Benefits to the same extent as if the Federal Supplemental Benefit Period continued to be in effect. The additional eligibility period will have a duration of 13 weeks, unless it is terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period in the State.

Individuals currently filing claims for Federal Supplemental Benefits will receive written notices from the Nevada Employment Security Department of the end of the Federal Supplemental Benefit Period in that State and its effect on their entitlement to Federal Supplemental Benefits. The notice to any individual who will have an additional eligibility period following the Federal Supplemental Benefit Period will include information concerning potential entitlement to Federal Supplemental Benefits during the additional eligibility period.

Persons who wish information about their rights to Federal Supplemental Benefits in the State of Nevada should contact the nearest Employment Office of the Nevada Employment Security Department in their locality.

Signed at Washington, D.C., on July 25, 1977.

ERNEST G. GREEN,
*Assistant Secretary for Employment and Training.*

[FR Doc.77-21915 Filed 7-28-77;8:45 am]





### Office of the Secretary

[TA-W-1968]

### AGGRESSIVE MFG., INC.

#### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1968: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 11, 1977 in response to a worker petition received on April 7, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's, misses' and children's coats at the Hammonton, New Jersey plant of Aggressive Mfg., Inc.

The notice of investigation was published in the FEDERAL REGISTER on April 29, 1977 (42 FR 21872). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Aggressive Mfg., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at the Hammonton, New Jersey plant of Aggressive Mfg., Inc. increased 13.0 percent in 1975 compared to 1974 and increased 1.3 percent in 1976 compared to 1975. Employment started to decline in August 1976. Employment declined 3.4 percent in the third quarter of 1976 compared to the immediate preceding quarter and declined 20.3 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975. All workers were laid off in December 1976 when the plant was permanently shut down.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production, in quantity, decreased 15.2 percent in 1975 compared to 1974 and then increased 6.5 percent in 1976 compared to 1975. Production declined 21.5 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975. Production ceased in December 1976 when the plant was permanently shut down.

INCREASED IMPORTS

U.S. imports of women's, misses' and children's coats and jackets increased from 1,769 thousand dozen in 1972 to 1,807 thousand dozen in 1973, declined to 1,478 thousand dozen in 1974 and then increased to 1,517 thousand dozen and 2,252 thousand dozen, respectively, in 1975 and 1976.

The ratio of imported women's, misses' and children's coats and jackets to domestic production declined from 39.3 percent in 1972 to 30.9 percent in 1974 and then increased to 35.4 percent and 52.2 percent, respectively, in 1975 and 1976.

CONTRIBUTED IMPORTANTLY

A survey of manufacturers that contracted with Aggressive Mfg., Inc. indicated that either they or their customers increased purchases of imported coats while decreasing purchases of coats manufactured by Aggressive Mfg., Inc.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's, misses' and children's coats produced by Aggressive Mfg., Inc., Hammonton, New Jersey, contributed importantly to the total or partial separation of the workers at that firm.

In accordance with the provisions of the Act, I make the following certification:

All employees at the Hammonton, New Jersey plant of Aggressive Mfg., Inc. who became totally or partially separated from employment on or after August 15, 1976, and before January 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of July 1977.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc.77-21868 Filed 7-28-77;8:45 am]

[TA-W-1843]

### AMERACE CORP. ESNA DIVISION

#### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1843: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in secion 222 of the Act.

The investigation was initiated on March 22, 1977 in response to a worker petition received on March 21, 1977 which was filed by the United Auto Workers on behalf of workers and former workers producing aircraft locknuts for the Amerace Corporation, ESNA Division, Union, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18156). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the ESNA Division of the Amerace Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated or are threatened to become totally or partially separated;

(2) That sales, or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or



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threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

The evidence developed in the Department's investigation reveals that there are no imports of aircraft locknuts.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with aircraft locknuts produced by the Amerace Corporation, ESNA Division, Union, New Jersey have not increased either actually or relative to domestic production as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of July 1977.

GLORIA G. PRATT,
*Director, Office of Foreign Economic Policy.*

[FR Doc.77-21869 Filed 7-28-77;8:45 am]

[TA-W-1680]

## A-M FASHIONS, INC.

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1680: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 24, 1977 in response to a worker petition received on February 7, 1977 which was filed by workers and former workers of A-M Fashions, New Britain, Connecticut producing ladies' clothing.

The notice of investigation was published in the FEDERAL REGISTER (42 FR 13081) on March 8, 1977. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of A-M Fashions, the manufacturers who contracted with A-M Fashions, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the criteria have been met, the investigation has revealed that the fourth criterion has not been met.

A-M Fashions is a contractor performing sewing and assembly of ladies' clothing. A-M worked for only 2 firms in 1976. Both firms used A-M to perform small amounts of their total production requirements. Both firms decreased their work with A-M and switched to other domestic companies. Sales at both firms increased in 1976 compared to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' clothing produced at A-M Fashions, Inc., New Britain, Connecticut did not contribute importantly to the total or partial separation of workers of the plant as required in section 222 of the Trade Act of 1975.

Signed at Washington, D.C., this 19th day of July 1977.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc.77-21870 Filed 7-28-77;8:45 am]

[TA-W-2071]

## ARCO AUTO CARRIERS, INC.

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2071: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 16, 1977 in response to a worker petition received on May 16, 1977 which was filed on behalf of workers and former workers at the Kenosha, Wisconsin terminal of Arco Auto Carriers, Incorporated, a subsidiary of Arco Industries, Incorporated, Burr Ridge, Illinois, who were engaged in providing the service of delivering automobiles to dealers.

The notice of investigation was published in the FEDERAL REGISTER on May 24, 1977 (42 FR 26481). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Arco Auto Carriers, Inc. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales, production, or both, of the firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any of the above criteria is not satisfied, a negative determination must be made.

Arco Auto Carriers, Incorporated does not produce an article within the meaning of Section 222(3) of the Act and this Department has already determined that the performance of services are not covered by the adjustment assistance program. See Notice of Determination in Pan American World Airways, Incorporated (TA-W-153, 40 FR 54639). The only question in this case is whether American Motors Corporation, i.e., a firm which produces an article, namely automobiles, and for whom the service is provided, can be considered the "workers' firm." See Notice of Determination in Nu-Car Driveaway, Incorporated (TA-W-393, 41 FR 12749).

Arco Auto Carriers, Incorporated is a transport business licensed and regulated by the Interstate Commerce Commission. Arco Auto Carriers competes for available business with other carriers in the Kenosha, Wisconsin area and each is free to haul for any business requesting their services.

Neither American Motors Corporation nor Arco Auto Carriers is financially or otherwise involved in the business of the other. Arco Auto Carriers either owns or leases the facilities necessary to the operation of its business and owns or leases all its trucks and equipment.

The workers on whose behalf this petition was filed were hired and paid by Arco Auto Carriers, Incorporated. They are supervised by and subject to the control of Arco Auto Carriers personnel only. All employment benefits which they enjoy are provided and maintained by Arco Auto Carriers.

CONCLUSION

After careful review of the issues and facts involved, I have determined that services of the kind provided by Arco Auto Carriers, Incorporated, Kenosha, Wisconsin are not "articles" within the meaning of section 222(3) of the Trade Act of 1974, and that American Motors Corporation cannot be considered the "workers' firm." The petition for trade Adjustment assistance is, therefore, denied.

Signed at Washington, D.C., this 18th day of July 1977.

HOWARD D. SAMUEL,
*Deputy Under Secretary, International Affairs.*

[FR Doc.77-21871 Filed 7-28-77;8:45 am]





[TA-W-1598]

## BETHLEHEM STEEL CORP.

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1598: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 21, 1977 in response to a worker petition received on January 21, 1977 which was filed by the United Steelworkers of America on behalf of workers and former workers producing fabricated structural products at the Pottstown, Pennsylvania plant of the Bethlehem Steel Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on February 8, 1977 (42 FR 8015). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bethlehem Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

4. That such increase imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that without regard to whether any other criteria have been met, criterion (4) has not been met.

The ratio of imports to domestic shipments of fabricated structural steel was very low in the period 1972–1976, ranging from 1.6 percent to 2.2 percent. The Department conducted a survey of customers of the Pottstown plant which accounted for over 90 percent of sales in the period 1974–1976. The comments of these customers confirmed the low import penetration statistic. Most of these customers had not purchased any fabricated structural steel from foreign sources. Many of the firms contacted attributed their decrease in purchases from the Pottstown plant to the decline in demand for fabricated structural steel caused by the decline in new construction in the period 1974–1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with fabricated structural products produced at the Pottstown, Pennsylvania plant of the Bethlehem Steel Corporation did not contribute importantly to the total or partial separations of workers at the plant as required for cerfification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of July 1977.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc.77-21872 Filed 7-28-77;8:45 am]

[TA-W-1956]

## BOSS MANUFACTURING CO.

### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1956: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 7, 1977 in response to a worker petition received on that date which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing work gloves at the Oneida, Tennessee plant of Boss Manufacturing Company.

The Notice of Investigation was published in the FEDERAL REGISTER on April 15, 1977 (42 FR 19939). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Boss Manufacturing Company, the National Association of Glove Manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat, thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers decreased 61 percent in 1975 compared to 1974, and increased 18 percent in 1976 compared to 1975. Employment declined 12, 12, and 2 percent, respectively in the last three quarters of 1976 compared to each like quarter in 1975. Employment declined 2 percent in the first quarter of 1977 compared to the like quarter in 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of fabric work gloves at the Oneida, Tennessee plant decreased 61 percent in quantity in 1975 compared to 1974, and increased 9 percent in 1976 compared to 1975. Production decreased 3, 35 and 25 percent, respectively, in the last three quarters of 1976 compared to each like quarter in 1975. Production decreased 19 percent in the first quarter of 1977 compared to the first quarter of 1976.

No sales data is kept for the Oneida plant since daily production is taken to a central warehouse which also receives gloves from other Boss plants.

INCREASED IMPORTS

Imports of fabric work gloves and mittens increased in quantity both absolutely and relative to domestic production in 1973 and 1974 compared to the previous year. Imports decreased absolutely but increased relatively in 1975 compared to 1974, then increased absolutely from 2,509 thousand dozen pairs in 1975 to 4,959 thousand dozen pairs in 1976, and continued to increase from 1,032 thousand dozen pairs in the first quarter of 1976 to 1,593 thousand dozen pairs in the first quarter of 1977. The ratio of imports to domestic production increased from 11.7 percent in 1975 to 20 percent in 1976.

CONTRIBUTED IMPORTANTLY

In the last three quarters of 1976 and the first quarter of 1977 production of fabric work gloves at the Oneida plant decreased in quantity 3, 35, 25, and 19 percent, respectively, compared to each like quarter in the previous year. During these same quarters company imports of fabric work gloves increased in quantity 3,250, 667, 562, and 13 percent,



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respectively, compared to each like quarter in the previous year. Company imports have included glove styles formerly produced at the Oneida plant.

Company imports of fabric work gloves amounted to 10 percent and 13 percent, respectively, of Oneida production of fabric work gloves in 1975 and 1976.

Boss is discontinuing production of fabric work gloves at the Oneida plant and converting production to that of leather work gloves.

### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with work gloves produced at the Oneida, Tennessee plant of Boss Manufacturing Company contributed importantly to the separations of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Oneida, Tennessee plant of Boss Manufacturing Company who became totally or partially separated from employment on or after March 15, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of July 1977.

BRIAN TURNER,
*Executive Assistant to the Deputy Under Secretary for International Affairs.*

[FR Doc.77-21873 Filed 7-28-77;8:45 am]

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[TA-W-1692]

## COASTAL FISHERIES, INC.

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1692: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 1, 1977 in response to a worker petition received on February 15, 1977 which was filed on behalf of workers and former workers engaged in shrimp fishing at Coastal Fisheries, Incorporated, Port Brownsville, Texas.

The Notice of Investigation was published in the FEDERAL REGISTER on March 11, 1977 (42 FR 13627). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Coastal Fisheries, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although criterion (3) has been met, criteria (1), (2) and (4) have not been met.

### SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The number of workers per ship has remained constant over the 1974–1976 period as insurance regulations require a minimum crew to meet safety standards. Employment records in the shrimp fishing industry are not maintained according to number of hours worked. Therefore employment data are based on gross crew earnings and number of shrimp fishing trips.

Gross crew earnings at Coastal Fisheries, Incorporated increased 5.9 percent in 1975 compared to 1974 and increased 64.8 percent in 1976 compared to 1975. Number of fishing trips declined 95 percent in 1975 compared to 1974 and then increased 47.4 percent in 1976 compared to 1975.

### SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of shrimp in terms of quantity by Coastal Fisheries, Incorporated declined 17.7 percent in 1975 compared to 1974 and then increased 7.4 percent in 1976 compared to 1975. Sales of shrimp in terms of value increased 19.4 percent in 1975 compared to 1974 and increased 59.4 percent in 1976 compared to 1975.

### INCREASED IMPORTS

Imports of shrimp in terms of quantity declined 9.3 percent in 1973 compared to 1972 and then increased 15.9 percent in 1974 compared to 1973. Imports declined 13.6 percent in 1975 compared to 1974 and then increased 17.2 percent in 1976 compared to 1975. The ratio of imports to domestic production increased from 111.4 percent in 1975 to 116.8 percent in 1976. The ratio of imports to domestic consumption declined from 57.0 percent in 1975 to 56.2 percent in 1976.

### CONTRIBUTED IMPORTANTLY

Coastal Fisheries's only customer buys all the shrimp that Coastal is able to catch. Sales to this customer increased in terms of quantity and value in 1976 compared to 1975. This customer purchases imported shrimp when Coastal Fisheries and other domestic sources are unable to meet its requirements.

### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with shrimp produced by Coastal Fisheries, Incorporated, Port Brownsville, Texas have not contributed importantly to the total or partial separations of the workers at that firm as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of July 1977.

HARRY GRUBERT,
*Director, Office of Foreign Economic Research.*

[FR Doc.77-21874 Filed 7-28-77;8:45 am]

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[TA-W-1845]

## CONNELLSVILLE SPORTSWEAR CO.

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1845: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 22, 1977 in response to a worker petition received on March 21, 1977 which was filed on behalf of workers and former workers producing men's and boys' slacks at Connellsville Sportswear Company, Connellsville, Pennsylvania, a division of Campus Sweater and Sportswear Company, New York, New York.

The notice of investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18156). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Connellsville Sportswear Company, Campus Sweater and Sportswear Company, the U.S. International Trade Commission, U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the investigation reveals that the first criterion has not been met.

### SIGNIFICANT TOTAL OR PARTIAL SEPERATIONS

The average number of production workers employed at Connellsville Sportswear Company declined 8.7 percent in 1975 compared to 1974, increased 2.9 percent in 1976 compared to 1975 and then declined 1.2 percent in the first quarter of 1977 compared to the first quarter of 1976. The average weekly hours worked by workers at Connellsville Sportswear Company increased 7.7 percent in 1975 compared to 1974, increased 16.8 percent in 1976 compared to 1975 and then declined 14.3 percent in the first quarter of 1977 compared to the first quarter of 1976. During the twelve month period prior to the date of the petition, less than two percent of the workers at Connellsville were laid off. There is no indication that current workers are threatened with any involuntary separations.

### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of workers at Connellsville Sportswear Company, Connellsville, Pennsylvania, have not become totally or partially separated as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of July 1977.

BRIAN TURNER,
*Executive Assistant to the Deputy Under Secretary for International Affairs.*

[FR Doc.77-21875 Filed 7-28-77;8:45 am]

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[TA-W-1330]

## CRANE CO.

### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1330: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 30, 1976 in response to a worker petition received on November 30, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing valves at the Chicago, Illinois plant of Crane Company, New York, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on December 14, 1976 (41 FR 54555). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Crane Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all four criteria have been met.

### SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers declined 10 percent in 1976 compared to 1975. The average number of production workers declined in the fourth quarter of 1975 and in each quarter of 1976 compared to the same quarter one year earlier.

### SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total sales of all valves produced at the Chicago, Illinois plant of Crane Company declined 15 percent in 1976 compared to 1975. Sales declined in the last quarter of 1975 compared to the same quarter one year earlier.

### INCREASED IMPORTS

U.S. imports of valves and similar devices increased in value from $56.5 million in 1971 to $67.6 million in 1972, $84.9 million in 1973, $136.6 million in 1974 and $165.1 million in 1975. Imports increased from $127.6 million in the first nine months of 1975 to $134.2 million in the first nine months of 1976.

The ratio of imports to domestic production increased from 2.4 percent in 1971 to 2.7 percent in 1972, 2.9 percent in 1973, 4.0 percent in 1974 and 4.7 percent in 1975. The ratio of imports to domestic production declined from 4.9 percent in the first nine months of 1975 to 4.5 percent in the first nine months of 1976.

The valves made at the Chicago plant can be related to three import categories. The categories are: hand operated and check iron and steel valves, hand operated and check copper valves and nuclear valves. There is no available breakdown of domestic production data into these categories.

U.S. imports of hand operated and check iron and steel valves increased from $13.3 million in 1971 to $14.1 million in 1972, $18.2 million in 1973, $47.8 million in 1974 and $75.0 million in 1975. Imports declined from $59.8 million in the first nine months of 1975 to $49.3 million in the first nine months of 1976.

U.S. imports of hand operated and check copper valves increased from $10.4 million in 1971 to $16.6 million in 1972 and declined to $15.0 million in 1973 before increasing to $18.4 million in 1974 and declining to $14.1 million in 1975. Imports increased from $11.0 million in the first nine months of 1975 to $16.8 million in the first nine months of 1976.

There is no separate classification for nuclear valves in the Tariff Schedules of the United States. Imports of nuclear valves are believed to be minimal. Nuclear valves are those valves that meet the standards of the American Society of Mechanical Engineers (ASME) and the Nuclear Regulatory Commission for use in nuclear power plants. The ASME certifies two foreign firms to produce nuclear valves. It is believed that these two firms manufacture nuclear valves for local use and not for export to the United States. Nuclear valves accounted for about 20 percent of plant sales in 1975 and about eleven percent of plant sales in 1976.

### CONTRIBUTED IMPORTANTLY

Customers of Crane Company who were contacted by the Department indicated that they had reduced purchases from Crane Company and increased purchases of imported valves. In addition, several customers indicated that they had lost business to valve distributors who handled imports. The lower prices of imported valves made them attractive to domestic buyers.

### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with valves produced at the Chicago, Illinois plant of Crane Company contributed importantly to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Chicago, Illinois plant of Crane Company who became totally or partially separated from employment on or after November 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of July 1977.

BRIAN TURNER,
*Executive Assistant to the Deputy Under Secretary for International Affairs.*

[FR Doc.77-21876 Filed 7-28-77;8:45 am]







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[TA-W-1846]

## CTS OF ELKHART

### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1846: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 22, 1977 in response to a worker petition received on March 21, 1977 which was filed by the United Automobile, Aerospace, Agricultural, and Implement Workers of America (UAW) on behalf of workers and former workers producing variable resistors and electronic switches at CTS of Elkhart, Elkhart, Indiana, a division of CTS Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18156). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of CTS of Elkhart, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision therof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat therof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at CTS of Elkhart declined 27 percent in 1975 from 1974 and increased 23 percent in 1976 from 1975. Compared to the same quarter of the previous year, employment declined 19 percent in the fourth quarter of 1976 and 22 percent in the first quarter of 1977. Layoffs began at the Elkhart facility in September 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production by CTS of Elkhart declined 9 percent in 1975 from 1974 before increasing 20 percent in 1976 from 1975. Compared to the same quarter of the previous year, production declined 1 percent during the third quarter of 1976, 11 percent during the fourth quarter of 1976, and 19 percent during the first quarter of 1977.

INCREASED IMPORTS

Imports of variable resistors increased from 192,120 thousand units valued at 16,673 thousand dollars in 1975 to 534,401 thousand units valued at 32,654 thousand dollars in 1976. Imports amounted to 34.6 percent of total U.S. production in 1975 and 91.6 percent in 1976. Approximately 95 percent of total plant production consists of variable resistors.

CONTRIBUTED IMPORTANTLY

Customers who decreased purchases from CTS of Elkhart in 1976 and in the first quarter of 1977 increased purchases of imported variable resistors and electronic switches during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with variable resistors and electronic switches produced at CTS of Elkhart, Elkhart, Indiana contributed importantly to the total or partial separations of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of CTS of Elkhart, Elkhart, Indiana who became totally or partially separated from employment on or after September 6, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of July 1977.

BRIAN TURNER,
*Executive Assistant to the Deputy Under Secretary for International Affairs.*

[FR Doc.77-21877 Filed 7-28-77;8:45 am]

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[TA-W-1553]

## DILAVORE SPORTSWEAR CORP.

### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1553: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on January 5, 1977, in response to a worker petition received on that date which was filed by workers on behalf of workers and former workers producing juniors' dresses at DiLavore Sportswear Corp., Elmont, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5449). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of DiLavore Sportswear Corp., its customers, the U.S. Department of Agriculture, the American Textile Manufacturers Institute, the National Cotton Council of America, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATION

Average employment of production workers increased 17 percent in 1975 compared to 1974, then decreased 43 percent in 1976 compared to 1975.

The company closed permanently in August 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales declined 38 percent in quantity in 1975 compared to 1974, and declined 37 percent in 1976 compared to 1975. The company closed permanently in August 1976.

DiLavore Sportswear Corp. was a contractor; therefore, its production was equal to its sales.

INCREASED IMPORTS

Imports of women's and misses' dresses which include juniors' dresses, decreased in quantity both abolutely and relative to domestic production in 1973 compared to 1972, then increased both absolutely and relatively in 1974 and 1975 compared to the previous year. Imports increased 2 percent absolutely in 1976 compared to 1975, while the ratio to domestic production remained unchanged at 4.5 percent.

CONTRIBUTED IMPORTANTLY

Customers of the manufacturer for which DiLavore Sportswear Corp. produced women's sportswear stated that they had switched purchases from this manufacturer to imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the juniors' dresses produced by DiLavore Sportswear Corp. contributed importantly to the total or partial separations of the workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers of DiLavore Sportswear Corporation, Elmont, N.Y., who became totally or partially separated from employment on or after December 10, 1975, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of July 1977.

BRIAN TURNER,
*Executive Assistant to the Deputy Under Secretary for International Affairs.*

[FR Doc.77-21878 Filed 7-28-77;8:45 am]

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[TA-W-1665]

## DELUXE FASHIONS, INC.

### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1665: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 17, 1977, in response to a worker petition received on February 2, 1977, which was filed by the International Ladies Garment Workers' Union on behalf of workers and former workers of the New York, N.Y., plant of Deluxe Fashions, Inc.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13084). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Deluxe Fashions, Inc., its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated; or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The investigation revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the plant remained unchanged from 1974 to 1975, before increasing 9.9 percent in 1976 compared to 1975. Average employment of production workers decreased 3.1 percent and 2 percent in the third and fourth quarters of 1976, respectively compared to the same quarters of 1975. Furthermore, average employment declined 2 percent in the first quarter of 1977 compared to the first quarter of 1976. Average weekly hours worked decreased 2.6 percent in the fourth quarter of 1976 compared to same quarter in 1975 and 6.9 percent in the first quarter of 1977 compared to the same quarter in 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales by Deluxe Fashions, Inc., increased 18.1 percent in value from 1974 to 1975 and decreased 0.3 percent in value from 1975 to 1976. Sales increased 22 percent and 8.8 percent in value in the first and second quarters, respectively, of 1976 compared to the same quarters of 1975 before decreasing 22.9 percent and 14.2 percent in value in the third and fourth quarters, respectively, of 1976 compared to the same quarters of 1975. Furthermore, sales decreased 7.9 percent in value in the first quarter of 1977 compared to the first quarter of 1975.

INCREASED IMPORTS

Imports of girdles and corsets increased every year from 1973 to 1975, from 66 thousand dozen in 1973 to 116 thousand dozen in 1974 and 137 thousand dozen in 1975. Imports increased 68.6 percent in 1976 compared to 1975, from 137 thousand dozen in 1975 to 231 thousand dozen in 1976.

CONTRIBUTED IMPORTANTLY

Customers of Deluxe Fashions, Inc., indicated that most of these customers have increased their purchases of imported girdles while decreasing their purchases of girdles from Deluxe Fashions, Inc.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with girdles produced at the New York, N.Y., plant of Deluxe Fashions, Inc., contributed importantly to the total or partial separation of the workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers at the New York, N.Y., plant of Deluxe Fashions, Inc., who became totally or partially separated from employment on or after May 10, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of July 1977.

BRIAN TURNER,
*Executive Assistant to the Deputy Under Secretary for International Affairs.*

[FR Doc.77-21879 Filed 7-28-77;8:45 am]

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[TA-W-1717]

## "EL COMANCHE"

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1717: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 3, 1977, in response to a worker petition received on February 17, 1977, which was filed on behalf of workers and former workers engaged in shrimp fishing on the *El Comanche*, Port Isabel, Tex.

The notice of investigation was published in the FEDERAL REGISTER on March 15, 1977 (42 FR 14185). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the owner of the *El Comanche*, its customer, the U.S. International Trade Commission, the U.S. Department of Commerce, the U.S. Coast Guard, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the investigation revealed that the fourth criterion has not been met.

The Department's investigation revealed that the decline in the quantity and value of shrimp caught by the *El Comanche* in 1976 and the first quarter of 1977 is attributable to three factors: (1) The shortage of shrimp available in U.S. coastal waters of the Gulf of Mexico; (2) the restrictions imposed by the Mexican government with respect to





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fishing within the 200 mile offshore limits established by Mexico in 1976; and (3) unusually adverse weather conditions in the Guf of Mexico during the winter months of November 1976 to March 1977.

The customer of the *El Comanche* has purchased shrimp from any available source, domestic or foreign, and has purchased all of the shrimp that the *El Comanche* has been able to supply.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with shrimp caught by the *El Comanche*, Port Isabel, Tex., did not contribute importantly to the total or partial separation of the crewmembers of the *El Comanche*.

Signed at Washington, D.C., this 19th day of July 1977.

HARRY GRUBERT,
*Director, Office of Foreign Economic Research.*

[FR Doc 77-21880 Filed 7-28-77;8:45 am]

[TA-W-2024]

## ELTRA OF PUERTO RICO

### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2024: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 25, 1977, in response to a worker petition received on that date which was filed on behalf of workers and former workers producing canvas footwear at the Canovanas, Puerto Rico plant of Eltra of Puerto Rico, Inc., a division of Converse Rubber Co.

The notice of investigation was published in the FEDERAL REGISTER (42 FR 23656) on May 10, 1977. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials and publications of Converse Rubber Co., its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the Canovanas plant of Converse Rubber Co., decreased 33 percent in 1975 from 1974, and increased 11 percent in 1976 from 1975. Employment declined 5 percent in the fourth quarter of 1976 and 39 percent in the first quarter of 1977 compared to the same quarter of the previous year.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of canvas and athletic footwear by Converse Rubber Co. declined 12 percent in quantity and 8 percent in value in 1975 compared to 1974, 13 percent in quantity and 7 percent in value in 1976 compared to 1975 and 7 percent in quantity and 4 percent in value in the first quarter of 1977 compared to the first quarter of 1976.

Production of canvas and athletic footwear at the Canovanas, Puerto Rico plant of Converse Rubber Co. declined 25 percent from 1974 to 1975 and increased 16 percent in 1976 from 1975. Production decreased 8 percent in the fourth quarter of 1976 and 35 percent in the first quarter of 1977 compared to the same quarter of the previous year.

INCREASED IMPORTS

Imports of canvas and athletic footwear by Converse Rubber Co. increased 1,010 percent in quantity and 1,011 percent in value in 1975 compared to 1974 and declined 10 percent in quantity and 12 percent in value in 1976 compared to 1975, and 13 percent in quantity and 22 percent in value in the first quarter of 1977 compared to the first quarter of 1976.

Imports of athletic footwear increased in absolute terms and relative to domestic production each year from 1972 through 1975, except for 1973 when imports increased absolutely but decreased relative to domestic production. In 1975, imports increased 102 percent in absolute terms. The ratio of imports to domestic production increased from 84.3 percent in 1974, to 212.4 percent in 1975. In 1976, imports increased 106 percent in absolute terms. The ratio of imports to domestic production increased from 212.4 percent in 1975 to 333.4 percent in 1976.

Imports of rubber/canvas footwear increased in absolute terms and relative to domestic production each year from 1972 through 1974. Imports decreased in absolute terms from 1974 to 1975 and increased 35 percent in 1976 from 1975. The ratio of imports to domestic production decreased from 1974 to 1975, then increased from 17.6 percent in 1975 to 29.1 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers of Converse Rubber Co. indicated that they have decreased purchases of canvas and athletic footwear from Converse Rubber Co. and have increased their purchases of imported footwear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with canvas and canvas footwear produced at the Canovanas, Puerto Rico plant of Eltra of Puerto Rico, Inc., a division of Converse Rubber Co., contributed importantly to the total or partial separations of the workers of that plant. In accordance with the provisions of the act, I make the following certification:

All workers of the Canovanas, Puerto Rico plant of Eltra of Puerto Rico, Inc., a division of Converse Rubber Co., who became totally or partially separated from employment on or after September 10, 1976, be certified as eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of July, 1977.

HARRY GRUBERT,
*Director, Office of Foreign Economic Research.*

[FR Doc.77-21881 Filed 7-28-77;8:45 am]

[TA-W-1961]

## FROLIC FOOTWEAR, INC.

### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1961: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 7, 1977, in response to a worker petition received on April 5, 1977, which was filed by the Boot and Shoe Workers of America on behalf of workers and former workers producing women's casual footwear at the Jonesboro, Arkansas plant of Frolic Footwear, Inc., a division of Wolverine World Wide, Inc.

The notice of investigation was published in the FEDERAL REGISTER on April 15, 1977 (41 FR 19939). No public hearing was requested, and none was held.

The information upon which the determination was made was obtained principally from officials of the Jonesboro plant of Frolic Footwear, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:





(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales of production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at the Jonesboro plant of Frolic Footwear declined 8.8 percent in 1976 compared to 1975 and declined 48.3 percent in the first three months of 1977 compared to the first three months of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at the Jonesboro plant of Frolic Footwear declined 48.4 percent in 1976 compared to 1975 and declined 55.0 percent in the first three months of 1977 compared to the first three months of 1976.

Sales at the Jonesboro plant of Frolic Footwear declined 5.4 percent in 1976 compared to 1975 and declined 54.1 percent in the first three months of 1977 compared to the first three months of 1976.

INCREASED IMPORTS

Imports of women's casual nonrubber footwear increased from 192.9 million pairs in 1972 to 206.2 million pairs in 1973 but then declined in 1974 to 179.8 million pairs. In 1975, imports increased to 183.5 million pairs and increased again in 1976 to 183.8 million pairs. During the first quarter of 1976, imports totalled to 56.4 million pairs, which declined to 45.5 million pairs in the first quarter of 1977.

Imports as a percentage of domestic production and consumption declined from 119.1 percent and 54.4 percent, respectively, in 1975 to 108.8 percent and 52.1 percent, respectively, in 1976. The ratios of imports to domestic production and consumption increased from 112.8 percent and 53.0 percent, respectively, in the first quarter of 1976 to 120.1 percent and 54.6 percent, respectively, in the first quarter of 1977.

CONTRIBUTED IMPORTANTLY

Customers indicated that their purchases of imported women's dress and casual footwear increased while their purchases from Frolic Footwear, Jonesboro, Ark., decreased. The recent finding of the International Trade Commission based on the very high penetration of imported shoes is that customers of domestic manufacturers such as Frolic Footwear increasingly shifted from domestically produced shoes to imported shoes.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's casual footwear produced by the Jonesboro, Ark., plant of Frolic Footwear contributed importantly to the total or partial separations of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Jonesboro, Ark., plant of Frolic Footwear, Inc., who became totally or partially separated from employment on or after March 29, 1976, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22nd day of July 1977.

GLORIA G. PRATT,
*Director, Office of Foreign Economic Policy.*

[FR Doc 77-21882 Filed 7-28-77;8:45 am]

[TA-W-1730]

## IVAN FREDERICKS, INC.

### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1730: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 1, 1977, in response to a worker petition received on that date which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' dresses, suits, and ensembles at Ivan Fredericks, Inc., Los Angeles, Calif.

The notice of investigation was published in the FEDERAL REGISTER on March 15, 1977 (42 FR 14185). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ivan Fredericks, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at Ivan Fredericks, Inc. declined 5 percent in 1975 from 1974 and declined 22 percent durir.g January–May 1976 compared to January–May 1975. Ivan Fredericks, Inc. was completely closed and all employees were released by the end of June 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Dollar sale by Ivan Fredericks, Inc. declined 16 percent in 1975 from 1974. All company production and sales were discontinued in May 1976. Ivan Fredericks, Inc. was completely closed by the end of June 1976.

INCREASED IMPORTS

Imports of women's, misses', and children's dresses increased from 1,578 thousand dozen in 1974 to 1,655 thousand dozen in 1975. Imports increased 7 percent from 740 thousand dozen during January–June 1975 to 792 thousand dozen during January–June 1976. Imports under TSUSA item 807.00 increased from 325,289 dozen in 1972 to 390,628 dozen in 1976.

Imports of women's, misses', and children's suits increased from 387 thousand dozen in 1974 to 412 thousand dozen in 1975. Imports increased from 91 thousand dozen during January–June 1975 to 92 thousand dozen during January–June 1976. Imports under TSUSA item 807.00 increased from 1,066 dozen in 1972 to 90,988 dozen in 1975.

Imports of women's, misses', and children's skirts increased 100 percent in 1975 from 1974 and increased 137 percent from 205 thousand dozen during January–June 1975 to 486 thousand dozen during January–June 1976.

Imports of women's, misses', and children's slacks and shorts increased from 8,923 thousand dozen in 1974 to 10,067 thousandil dozen in 1975. Imports increased 17 percent from 5,258 thousand dozen during January–June 1975 to 6,142 thousand dozen during January–June 1976.

Imports of women's, misses', and children's blouses and shirts increased from 20,549 thousand dozen in 1974 to 26,113 thousand dozen in 1975. Imports increased 18 percent from 10,627 thousand dozen during January–June 1975 to 12,577 thousand dozen during January–June 1976.

CONTRIBUTED IMPORTANTLY

Sales and employment at Ivan Fredericks, Inc. declined in 1975 from 1974.



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Company sales and production were discontinued in May 1976.

Customers who decreased purchases from Ivan Fredericks, Inc. in 1975 and 1976 indicated they increased purchases of imported ladies' dresses, suits, and ensembles during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' dresses, suits, and ensembles produced at Ivan Fredericks, Inc. contributed importantly to the total or partial separations of the workers of that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers of Ivan Fredericks, Inc., Los Angeles, Calif., who became totally or partially separated from employment on or after February 14, 1976, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of July 1977.

GLORIA G. PRATT,
*Director, Office of Foreign Economic Policy.*

[FR Doc.77 21883 Filed 7-28-77;8:45 am]

[TA-W-1649]

## JEANNIE, INC.

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1649: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 14, 1977, in response to a worker petition received on February 10, 1977, which was filed on behalf of workers and former workers engaged in shrimp fishing at Jeannie, Inc., in Los Fresnos, Tex.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13087). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Jeannie, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the Department's investigation has revealed that criterion (4) has not been met.

CONTRIBUTED IMPORTANTLY

The only customer of Jeannie, Inc. buys all the shrimp Jeannie is able to supply. This customer purchases imported shrimp when Jeannie, Inc. and other domestic suppliers are unable to provide the quantity and types of shrimp required by the customer.

The decline in the quantity of shrimp caught by Jeannie, Inc. in 1976 was due to several factors. Adverse weather conditions occurring during the height of the shrimping season in November and December 1976 kept the trawlers in port, the lack of shrimp in the usual fishing grounds, and the 200 mile fishing restrictions imposed by the Mexican Government preventing domestic shrimpers without special permits from fishing off the Mexican costal waters contributed to reduced shrimp catches.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with shrimp produced by Jeannie, Inc., Los Fresnos, Tex., have not contributed importantly to the total or partial separations of workers of that firm as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of July 1977.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc.77 21884 Filed 7-28-77;8:45 am]

[TA-W-1511]

## JONES & LAUGHLIN STEEL CORP.

### Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1511: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 20, 1976, in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing bars and shapes, hot rolled sheet and skelp products, cold rolled sheets, rods, wire, tin mill products, electrolytic tin plate, continuous weld pipe, seamless pipe and electric weld pipe at the Aliquippa, Pennsylvania plant of Jones and Laughlin Steel Corporation.

The notice of investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3373). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jones and Laughlin Steel Corp., its customers, U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met for workers engaged in employment related to the production of pipe.

The investigation has further revealed that criteria two and three have not been met for workers engaged in employment related to the production of bars and shapes, tin mill products, and electrolytic tin plate. Criterion two has not been met for workers engaged in employment related to the production of hot rolled and skelp products, cold rolled sheets, rods and wire.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Although the average number of production workers increased 4.0 percent in 1976 from 1975, employment declined 1.7 percent and 4.6 percent in the third and fourth quarters, respectively, of 1976 compared to the immediately preceding quarters.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total shipments of carbon steel pipe declined 15.4 percent in 1975 compared to 1974 and declined 29.7 percent in the period January through November 1976 compared to the same period in 1975. Shipments of pipe decreased in each quarter of 1976 compared to the corresponding quarter in 1975. Pipe shipments are made up of seamless pipe, electric weld pipe, and continuous weld pipe.





All other products produced at the Aliquippa Works showed increased shipments in 1976 compared to 1975.

Total shipments of bars and shapes increased 14.2 percent in quantity in the period January through November 1976 compared to the same period in 1975.

Total shipments of tin mill products increased 50.5 percent in the period January through November 1976 compared to the same period in 1975.

Total shipments of hot rolled sheet and skelp products decreased 38.6 percent in quantity in 1975 compared to 1974 and increased 2.4 percent in quantity in the period January through November 1976 compared to the same period in 1975.

Total shipments of cold rolled sheets increased 36.8 percent in quantity in the period January through November 1976 compared to the same period in 1975.

Total shipments of rods increased 51.8 percent in quantity in the period January through November 1976 compared to the same period in 1975.

Total shipments of wire increased 12.7 percent in quantity in the period January through November 1976 compared to the same period in 1975.

INCREASED IMPORTS

Imports of carbon steel pipe and tubing decreased absolutely and relatively in 1973 from 1972 and increased absolutely and relatively in 1974 from 1973. In 1975 imports decreased 13.4 percent from 1974. Imports increased from 1,542.5 thousand short tons in 1975 to 1,820.7 thousand short tons in 1976. The import/shipment and import/consumption ratios increased from 21.5 percent and 19.2 percent, respectively, in 1974 to 22.8 percent and 20.8 percent, respectively, in 1975 and increased to 35.8 percent and 28.0 percent, respectively, in 1976.

Imports of carbon steel hot rolled sheet declined absolutely in each year from 1972 through 1975. Imports declined 14.5 percent in 1975 from 1974 and then increased from 1,509.2 thousand short tons in 1975 to 1,635.9 thousand short tons in 1976. Imports declined relative to domestic shipments and consumption from 1972 to 1973, and increased from 1973 through 1975. The ratios of imports to domestic shipments and consumption declined from 14.0 percent and 12.4 percent, respectively, in 1975 to 11.3 percent and 10.2 percent, respectively, in 1976.

Imports of carbon steel cold rolled sheet declined absolutely in each year from 1972 through 1975. Imports declined 18.9 percent from 1974 to 1975 and then increased from 2,067.1 thousand short tons in 1975 to 2,350.7 thousand short tons in 1976. Imports declined relative to domestic shipments and consumption from 1972 to 1973, and increased from 1973 through 1975. The ratios of imports to domestic shipments and consumption declined from 16.5 percent and 14.2 percent, respectively, in 1975 to 13.2 percent and 11.7 percent, respectively, in 1976.

Imports of carbon steel wire rod decreased both absolutely and relative to domestic shipments and consumption in 1973 from 1972 and increased both absolutely and relatively in 1974 from 1973. Imports decreased 43.8 percent in 1975 from 1974 and increased from 1,027.6 thousand short tons in 1975 to 1,032.9 thousand short tons in 1976. The import/shipment and import/consumption ratios decreased steadily from 71.8 percent and 43.4 percent, respectively, in 1974 to 35.7 percent and 27.0 percent, respectively, in 1976.

Imports of carbon steel wire decreased absolutely and relative to domestic shipments and consumption in 1973 from 1972 and increased both absolutely and relatively in 1974 from 1973. Imports decreased 36.9 percent in 1975 from 1974 and increased from 349.6 thousand short tons in 1975 to 371.8 thousand short tons in 1976. The import/shipment and import/consumption ratios decreased from 22.6 percent and 18.7 percent, respectively, in 1974 to 22.0 percent and 18.3 percent, respectively, in 1975 and then decreased to 19.9 percent and 16.9 percent, respectively, in 1976.

The following products showed both absolute and relative decreases in imports in 1976 compared to 1975.

Imports of carbon hot and cold rolled steel bars decreased steadily from 935.9 thousand short tons in 1972 to 454.5 thousand short tons in 1976. The import/shipment and import/consumption ratios decreased from 12.2 percent and 11.0 percent, respectively, in 1972 to 6.6 percent and 6.3 percent, respectively, in 1976.

Imports of carbon steel bar-size light shapes decreased both absolutely and relative to domestic production and consumption in 1973 from 1972 and increased both absolutely and relatively in 1974 from 1973. Imports decreased 67.9 percent in 1975 from 1974, and decreased from 167.2 thousand short tons in 1975 to 164.3 thousand short tons in 1976. The import/shipment and import/consumption ratios decreased steadily from 53.1 percent and 35.4 percent, respectively, in 1974 to 19.5 percent and 16.7 percent, respectively, in 1976.

Imports of tin plate steel increased both absolutely and relative to domestic shipments and consumption in 1972 from 1971 and then decreased steadily both absolutely from 1973 to 1974. Imports increased 29.0 percent in 1975 from 1974 and decreased from 352.6 thousand short tons in the period January through September 1975 to 230.1 thousand short tons in the same period in 1976. The import/shipment and import/consumption ratios increased from 5.7 percent and 5.9 percent, respectively, in 1974 to 9.8 percent and 9.5 percent, respectively, in 1975. The import/shipment and import/consumption ratios decreased from 11.1 percent and 10.6 percent, respectively, in the period January through September 1975 to 6.2 percent and 6.2 percent, respectively, during the same period in 1976.

CONTRIBUTED IMPORTANTLY

Carbon steel pipe accounted for the only declines in shipments experienced by the Aliquippa Works in 1976 compared to 1975. Carbon steel pipe represented over 25 percent of total shipments in quantity from the Aliquippa Works in 1976. This category is made up of seamless carbon pipe, electric weld pipe and continuous weld pipe. Shipments of pipe declined in each quarter of 1976 compared to the corresponding quarter in 1975.

Customers of the Aliquippa Works who purchase carbon pipe indicated that they have been increasing purchases of these products from foreign sources while decreasing purchases of these same products from Jones and Laughlin.

Shipments of the remaining products produced by the Aliquippa Works showed increases in every quarter of 1976 compared to the corresponding quarters in 1975.

Carbon hot and cold rolled steel bars, bar-size light shapes and tin plated steel represented over 40 percent of total shipments in 1976. Imports of these products decreased both absolutely and relative to domestic shipments and consumption in 1976 compared to 1975.

Customers of the Aliquippa Works who purchase bars and shapes, hot rolled sheet and skelp products, cold rolled sheets, rods, wire, tin mill products and electrolytic tin plate have not reduced purchases from the Aliquippa Works in favor of increasing purchases of these products from foreign sources.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with continuous weld pipe, seamless pipe, and electric weld pipe produced at the Aliquippa, Pennsylvania plant of Jones and Laughlin Steel Corporation contributed importantly to the total or partial separation of workers engaged in production of such products at that plant. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers engaged in employment related to the production of continuous weld pipe, seamless pipe, and electric weld pipe at the Aliquippa, Pennsylvania plant of Jones and Laughlin Steel Corporation who became totally or partially separated from employment on or before June 19, 1976 are certified eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974

I further conclude that imports of articles like or directly competitive with bars and shapes, tin mill products, electrolytic tin plate, hot rolled sheet and skelp products cold rolled carbon steel sheets, rods, and wire did not contribute importantly to declines in production and employment at the Aliquippa, Pennsylvania plant of Jones and Laughlin Steel Corporation.



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Signed at Washington, D.C. this 20th day of July 1977.

HOWARD D. SAMUEL,
*Deputy Under Secretary for International Affairs.*

[FR Doc 77-21885 Filed 7-28-77;8:45 am]

[TA-W-1462]

## LACLEDE STEEL CO.

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1462: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 20, 1976, in response to a worker petition received on that date which was filed on behalf of workers and former workers producing concrete reinforcing bar at Laclede Steel Co.'s Madison, Ill., plant.

The notice of investigation was published in the FEDERAL REGISTER on January 7, 1977 (42 FR 1537). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Laclede Steel Co., its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation has revealed that the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Annual average employment of production workers at the Madison, Ill., plant of Laclede Steel Co. decreased 12.5 percent from 1974 to 1975 and fell 1.1 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of concrete reinforcing bar at the Madison, Ill., plant of Laclede Steel Co. decreased 3.5 percent in quantity from 1974 to 1975 and fell 12.7 percent from 1975 to 1976. Concrete reinforcing bar production increased 1.2 percent in quantity from 1974 to 1975 and then decreased 13.5 percent from 1975 to 1976.

INCREASED IMPORTS

Imports of concrete reinforcing bar decreased 20.0 percent from 1972 to 1973, increased 66.7 percent from 1973 to 1974, fell 70.3 percent from 1974 to 1975, and then rose 35.4 percent from 1975 to 1976.

The ratio of imports to domestic shipments of concrete reinforcing bar decreased from 8.0 percent in 1972 to 5.6 percent in 1973, rose to 9.5 percent in 1974, fell to 3.9 percent in 1975, and then increased to 5.0 percent in 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that major customers of Laclede's Madison, Ill., plant do not buy imported concrete reinforcing bar. Customers that decreased purchases from the Madison plant did so because of a lack of construction activity in the area that the Madison plant supplies and because of a ban on nuclear construction. Customers indicated that they buy reinforcing bar from companies in or near their region of the country. Industry sources have indicated that imports of concrete reinforcing bar have been insignificant in the Med-West region which Laclede supplies.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with concrete reinforcing bar produced at the Madison, Ill., plant of Laclede Steel Co. did not contribute importantly to the total or partial separations of workers producing such articles at that plant.

Signed at Washington, D.C., this 13th day of July 1977.

GLORIA G. PRATT,
*Director, Office of Foreign Economic Policy.*

[FR Doc 77-21887 Filed 7-28-77;8:45 am]

[TA-W-1736]

## "LAURA ANN"

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1736: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 3, 1977, in response to a worker petition received on February 17, 1977, which was filed on behalf of workers and former workers engaged in shrimp fishing on the "Laura Ann," Port Isabel, Tex.

The notice of investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the owner of the "Laura Ann," its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, the U.S. Coast Guard, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the Department's investigation has revealed that criterion (4) has not been met.

The decline in the quantity and value of shrimp caught by the "Laura Ann" in 1976 compared to 1975 and in the first quarter of 1977 compared to the first quarter of 1976 is attributable to three factors: (1) The shortage of shrimp available in U.S. coastal waters of the Gulf of Mexico; (2) the restrictions imposed by the Mexican Government with respect to fishing within the 200-mile offshore limits established by Mexico in 1976; and (3) unusually adverse weather conditions in the Gulf of Mexico during the winter months of December 1976 to March 1977.

Some customers of the "Laura Ann" purchase imported shrimp only as a fill-in when domestic supplies are low. Each of the customers of the "Laura Ann" has purchased all of the shrimp that the "Laura Ann" has been able to supply.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with shrimp caught by the "Laura Ann," Port Isabel, Tex., did not contribute importantly to the total or partial separation of the crewmembers of the "Laura Ann."





Signed at Washington, D.C., this 19th day of July 1977.

HARRY GRUBERT,
*Director, Office of Foreign Economic Research.*

[FR Doc 77-21886 Filed 7-28-77;8:45 am]

[TA-W-1964]

## LESANDE SHOE CO., INC.

### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1964: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 7, 1977, in response to a worker petition received on April 5, 1977, which was filed by workers and former workers producing women's footwear at the Haverhill, Mass., plant of the Lesande Shoe Co., Inc.

The notice of investigation was published in the FEDERAL REGISTER on April 15, 1977 (42 FR 19939). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lesande Shoe Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATION

The average number of hourly production workers declined in the period September–December 1976 by 7.6 percent compared to the period September–December 1975. Employment declined by 13.0 percent in the first quarter of 1977 compared to the same quarter in 1976.

SALES OR PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Sales of women's footwear at the Lesande Shoe Co. Inc., declined by 32.7 percent in the period September–December 1976 compared to the period September–December 1975. Sales declined by 43.2 percent in the first quarter of 1977 compared tothe first quarter of 1976.

INCREASED IMPORTS

Imports of women's nonrubber footwear, except athletic were recorded at 192.9 million pairs in 1972 and increased to 206.2 million pairs in 1973. Imports declined to 179.8 million pairs in 1974 and increased to 183.5 million pairs in 1975. Imports increased by 0.2 percent in 1976 to 183.8 million pairs compared to the 183.5 million pairs imported in 1975.

The ratio of imports to domestic production of women's nonrubber footwear, except athletic, was 99.8 percent in 1972 and increased to 115.0 percent in 1973. The ratio fell to 107.6 percent in 1974 and increased to 119.1 percent in 1975. The ratio was 108.8 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers of Lesande indicated that they purchased imported women's footwear and that they had decreased purchases from Lesande Shoe Co., Inc. A major customer stated that some of the decreased purchases from Lesande were attributable to the loss of sales to competitors who market imported women's footwear at lower prices.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the women's footwear produced at the Haverhill, Mass., plant of Lesande Shoe Co., Inc., contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Haverhill, Mass., plant of Lesande Shoe Co., Inc., who became totally or partially separated from employment on or after August 28, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of July 1977.

BRIAN TURNER,
*Executive Assistant to the Deputy Under Secretary for International Affairs.*

[FR Doc 77-21888 Filed 7-28-77;8:45 am]

[TA-W-1920]

## LOREE FOOTWEAR CORP.

### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1920: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 29, 1977, in response to a worker petition received March 28, 1977, which was filed by Local 14550 of the United Steelworkers of America on behalf of workers and former workers producing women's nonrubber footwear, except athletic at the Big Run, Pa., plant of the Loree Footwear Corp.

The notice of investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19182). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Loree Footwear Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased either actual or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of hourly production workers declined by 8.7 percent in 1975 compared to 1974. Employment declined by 17.9 percent in 1976 compared to 1975. Employment declined by 23 percent in the first quarter of 1977 compared to the first quarter of 1976.

The average number of salaried workers declined by 7.7 percent in 1975 compared to 1974 and declined by 2.1 percent in 1976 compared to 1975. Salaried employment declined by 25 percent in the first quarter of 1977 compared to the same period in 1976.

SALES OR PRODUCTION OR BOTH HAVE DECREASED ABSOLUTELY

Production of women's footwear at the Big Run, Pa., plant of the Loree Footwear Corp. in terms of quantity increased by 22.6 percent in 1975 compared to 1974. Production declined by 19.7 percent in 1976 compared to 1975. Produc-



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tion declined by 50.3 percent in the first quarter of 1977 compared to the same period in 1976.

INCREASED IMPORTS

Imports of women's nonrubber footwear, except athletic, were 192.9 million pairs in 1972 and increased to 206.2 million pairs in 1973. Imports declined to 179.8 million pairs in 1974 and increased to 183.5 million pairs in 1975. Imports increased by 0.2 percent in 1976 to 183.8 million pairs compared to the 183.5 million pairs imported in 1975.

The ratio of imports to domestic production of women's nonrubber footwear, except athletic, was 99.8 percent in 1972 and increased to 115 percent in 1973. The ratio fell to 107.6 percent in 1974 and increased to 119.1 percent in 1975 before falling in 1976 to 108.8 percent.

CONTRIBUTED IMPORTANTLY

The Department conducted a survey of customers of Loree Footwear Corp. Customers indicated that they had increased purchases of imported women's footwear and that they had decreased purchases from the Loree Footwear Corp.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's nonrubber footwear, except athletic produced at the Big Run, Pa. plant of the Loree Footwear Corp. contributed importantly to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Big Run, Pa., plant of the Loree Footwear Corp., who became totally or partially separated from employment on or after August 6, 1976, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of July 1977.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc.77-21889 Filed 7-28-77;8:45 am]

[TA-W-1806]

## MANHATTAN HOSIERY CORP.

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1806: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 15, 1977, in response to a worker petition received on March 14, 1977, which was filed on behalf of workers and former workers producing pantyhose at the Aguadilla, P.R., plant of Manhattan Hosiery Corp.

The notice of investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18155). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Manhattan Hosiery, its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the investigation revealed that the fourth criterion has not been met.

Manhattan Hosiery Corp. consisted of one plant, located in Aguadilla, P.R., which manufactured pantyhose. All production and employment ceased on April 10, 1976, when the facility was shut down.

The Department's investigation revealed that the sole purchaser of pantyhose produced at Manhattan Hosiery does not purchase imported panyhose. This customer now produces pantyhose at its own domestic facility and no longer purchases pantyhose from other sources.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increase of imports like or directly competitive with pantyhose produced at the Aguadilla, P.R. plant of Manhattan Hosiery Corp. did not contribute importantly to the total or partial separations of the workers at that firm.

Signed at Washington, D.C., this 18th day of July 1977.

GLORIA G. PRATT,
*Director, Office of Foreign Economic Policy.*

[FR Doc.77-21890 Filed 7-28-77;8:45 am]

[TA-W-1691]

## MEDALIST ADJUSTABLE CAP DIVISION OF MEDALIST SIKESTON

### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1691: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 1, 1977, in response to a worker petition received on February 7, 1977, which was filed by workers of Medalist Adjustable Cap on behalf of workers and former workers producing caps at the Medalist Adjustable Cap Division of Medalist Sikeston located at Sikeston, Mo. Medalist Sikeston is a division of Medalist Industries.

The Notice of Investigation was published in the FEDERAL REGISTER on March 11, 1977 (42 FR 13628). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Medalist Adjustable Cap Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers declined 45.5 percent in 1976 compared to 1975 and further declined 43.6 percent in the first quarter of 1977 compared to the first quarter of 1976. Workers produce all caps at the Sikeston plant interchangeably.





SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Medalist Adjustable produces two types of caps, a baseball cap and a jean cap.

BASEBALL CAPS

Sales increased in quantity 2.6 percent in 1976 compared to 1975.

No production was recorded at Medalist Adjustable's Sikeston, Mo, plant until the second quarter of 1975. Production of baseball caps decreased 64.4 percent in quantity in the last three quarters of 1976 compared to the same period of 1975 and decreased 9.1 percent in the first quarter of 1977 compared to the first quarter of 1976.

JEAN CAPS

Separate sales records of the jean caps manufactured at Sikeston were not available. Combined sales of the jean cap from Medalist Adjustable and another Medalist Industries' company declined 20.2 percent in 1976 compared to 1975. Sales in the first two months of 1977 declined 84.0 percent compared to the same period of 1976.

Production of the jean cap at the Sikeston plant increased 93.3 percent in quantity in the last three quarters of 1976 compared to the same period in 1975 and decreased 64.7 percent in the first quarter of 1977 compared to the first quarter of 1976.

INCREASED IMPORTS

BASEBALL CAPS

Imports of men's, boys', women's, misses' and juniors' knit headwear, the category including the baseball caps, decreased from 436 thousand dozen in 1972 to 300 thousand dozen in 1973 and increased to 325 thousand dozen in 1974. Imports remained at 325 thousand dozen in 1975 and increased 80.3 percent in compared to 1975, to 586 thousand dozen.

The import to production ratio for men's, boys', women's, misses' and juniors' knit headware declined from 38.6 percent in 1972 to 20.4 percent in 1973 and to 16.4 percent in 1974. The ratio then increased to 18.2 in 1975 and increased to 29.4 in 1976.

JEAN CAPS

Imports of cloth hats and caps, not knit, a category including the jean caps increased from 2.9 million dozen in 1972 to 3.2 million dozen in 1973. After declining to 2.5 million dozen in 1974, imports increased to 2.7 million dozen in 1975 and increased 14.6 percent in 1976 compared to 1975, to 3.1 million dozen.

The import to production ratio for cloth hats and caps, not knit, increased from 41.4 percent in 1972 to 45.9 percent in 1973. After declining to 32 percent in 1974, it increased to 32.8 percent in 1975 and increased to 34.8 percent in 1976.

CONTRIBUTED IMPORTANTLY

Beginning in the second quarter of 1975, Medalist Adjustable Cap contracted out some of the work they had been doing at their Sikeston plant to a firm in Haiti. Throughout 1975 and 1976 Medalist Adjustable Cap became more dependent on these imports as a source of production of baseball caps. Company imports increased 100 percent in quantity in the last three quarters of 1976 compared to the same period of 1975.

Imports as a percent of the total sales of baseball caps by Medalist Adjustable Cap increased from 16.1 percent of sales in the last three quarters of 1975 to 58.3 percent in the same period of 1976. For the full year 1976, imports accounted for 63.5 percent of total sales of baseball caps by Medalist Adjustable.

Production of the baseball caps at the Sikeston plant decreased in the last three quarters of 1976 compared to the same period in 1975 and decreased in the first quarter of 1977 compared to the first quarter of 1976. During this same period company dependence on imports as a source of production increased dramatically.

Total company sales and production of both lines of caps decreased in 1976 compared to 1975 and decreased in the first quarter of 1977 compared to the first quarter of 1976.

Workers at Medalist Adjustable Cap's Sikeston plant are used interchangeably for the production of the two lines of caps.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the baseball caps produced at the Sikeston, Mo., plant of Medalist Adjustable Cap Division of Medalist Sikeston contributed importantly to the total or partial separations of the workers at that plant as required for certification in Section 222 of the Trade Act of 1974. In accordance with the provisions of the Act, I make the following certification:

All workers at the Sikeston, Mo., plant of Medalist Adjustable Cap Division of Medalist Sikeston who became totally or partially separated from employment on or after March 14, 1976, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22nd day of July 1977.

GLORIA G. PRATT,
*Director, Office of Foreign Economic Policy.*

[FR Doc.77-21891 Filed 7-28-77;8:45 am]

[TA-W-1642]

## MICHAEL BERKOWITZ CO., INC.

### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1642: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 10, 1977, in response to a worker petition received on January 24, 1977 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's sleepwear and ladies' sleepwear at the Waynesburg, Pennsylvania plant of the Michael Berkowitz Company, Inc.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13090). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Michael Berkowitz Company, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important, but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

The Waynesburg, Pennsylvania plant of the Michael Berkowitz Company, Inc. produces men's sleepwear and ladies' sleepwear.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at the Waynesburg, Pennsylvania plant declined 3.9 percent in 1975 compared to 1974 and declined 10.8 percent in 1976 compared to 1975. Employment declined 14.7 percent in the first quarter of 1977 compared to the first quarter of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales, in quantity, of men's sleepwear declined 4.0 percent in 1975 compared to 1974 and declined 6.7 percent in 1976 compared to 1975. Company sales, in quantity, of men's sleepwear declined 34.2 percent in the first quarter of 1977 compared to the first quarter of 1976.

Company sales, in quantity, of ladies' sleepwear increased 13.6 percent in 1975 compared to 1974 and then declined 16.7 percent in 1976 compared to 1975. Company sales, in quantity, of ladies' sleep-



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wear declined 19.1 percent in the first quarter of 1977 compared to the first quarter of 1976.

INCREASED IMPORTS

U.S. imports of men's and boys' woven sleepwear were 815.0 thousand dozen in 1972 and declined to 478.6 thousand dozen and 357.4 thousand dozen, respectively, in 1973 and 1974. U.S. imports increased to 415.2 thousand dozen and 457.0 thousand dozen, respectively, in 1975 and 1976.

The ratio of imported men's and boys' woven sleepwear to domestic production was 27.2 percent in 1972 and declined to 17.0 percent and 13.8 percent, respectively, in 1973 and 1974. The ratio of imports to domestic production increased to 17.9 percent and 18.1 percent, respectively, in 1975 and 1976.

U.S. imports of men's and boys' knit sleepwear were 58.4 thousand dozen in 1972 and declined to 21.8 thousand dozen, 11.9 thousand dozen and 2.3 thousand dozen, respectively, in 1973, 1974 and 1975. U.S. imports increased to 50.3 thousand dozen in 1976.

The ratio of imported men's and boys' knit sleepwear to domestic production was 13.0 percent in 1972 and declined to 4.6 percent, 2.4 percent and 0.4 percent, respectively in 1973, 1974 and 1975. The ratio of imports to domestic production increased to 7.9 percent in 1976.

U.S. imports of women's, misses' and juniors' noncotton nightwear, excluding sets with robes, were 270 thousand dozen in 1972 and declined to 265 thousand dozen in 1973. Imports increased to 270 thousand dozen in 1974 and declined to 93 thousand dozen in 1975. U.S. imports increased to 140 thousand dozen in 1976.

U.S. imports of women's, misses' and juniors' noncotton nightwear, excluding sets with robes, were 635.0 thousand dozen in 1972 and declined to 304.2 thousand dozen in 1973 and to 207.8 thousand dozen in 1974. Imports increased to 278.6 thousand dozen in 1975 and to 398.9 thousand dozen in 1976.

CONTRIBUTED IMPORTANTLY

The major customer of the Michael Berkowitz Company, Inc., which purchases approximately 60 percent of the men's and ladies' sleepwear produced by Berkowitz, increased its purchases of imported men's and ladies' sleepwear while decreasing purchases from Berkowitz. This customer increased purchases of imported sleepwear because of lower prices.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of men's and ladies' sleepwear have contributed importantly to the total or partial separation of the workers at the Waynesburg, Pennsylvania plant of the Michael Berkowitz Co., Inc. In accordance with the provisions of the Act, I make the following certification:

All hourly and salaried workers at the Waynesburg, Pennsylvania plant of the Michael Berkowitz Company, Inc. who became totally or partially separated from employment on or after January 18, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of July 1977.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc.77-21892 Filed 7-28-77;8:45 am]

[TA-W-1746]

## "MISS ALTA"

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1746: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 3, 1977, in response to a worker petition received on February 17, 1977, which was filed on behalf of workers and former workers engaged in shrimp fishing on the "Miss Alta", Port Isabel, Texas.

The notice of investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the owner of the "Miss Alta", its customer, the U.S. International Trade Commission, the U.S. Department of Commerce, the U.S. Coast Guard, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the investigation revealed that the fourth criterion has not been met.

The Department's investigation revealed that the decline in the quantity and value of shrimp caught by the "Miss Alta" in 1976 compared to 1975 and in the first two months of 1977 compared to the first two months of 1976 is attributable to three factors: (1) The shortage of shrimp available in U.S. coastal waters of the Gulf of Mexico; (2) the restrictions imposed by the Mexican government with respect to fishing within the 200 mile offshore limits established by Mexico in 1976; and (3) unusually adverse weather conditions in the Gulf of Mexico during the winter months of December 1976 to February 1977.

The customer of the "Miss Alta" has purchased shrimp from any available source, domestic or foreign, and has purchased all of the shrmip that the "Miss Alta" has been able to supply.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with shrimp caught by the "Miss Alta", Port Isabel, Tex., did not contribute importantly to the total or partial separation of the crewmembers of the "Miss Alta".

Signed at Washington, D.C. this 13th day of July 1977.

GLORIA G. PRATT,
*Director, Office of Foreign Economic Policy.*

[FR Doc.77-21893 Filed 7-28-77;8:45 am]

[TA-W-1747]

## "MISS MONICA"

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1747: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 3, 1977, in response to a worker petition received on February 17, 1977, which was filed on behalf of workers and former workers engaged in shrimp fishing on the "Miss Monica", Port Isabel, Texas.

The notice of investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the owner of the "Miss Monica", its customer, the U.S. International Trade Commission, the U.S. Coast Guard, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the investigation revealed that the fourth criterion has not been met.

The Department's investigation revealed that the decline in the quantity and value of shrimp caught by the "Miss Monica" in 1976 compared to 1975 and in the first quarter of 1977 compared to the first quarter of 1976 is attributable to three factors: (1) The shortage of shrimp available in U.S. coastal waters of the Gulf of Mexico; (2) the restrictions imposed by the Mexican government with respect to fishing within the 200 mile offshore limits established by Mexico in 1976; and (3) unusually adverse weather conditions in the Gulf of Mexico during the winter months of December 1976 to March 1977.

The customer of the "Miss Monica" has purchased shrimp from any available source, domestic or foreign, and has purchased all of the shrimp that the "Miss Monica" has been able to supply.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with shrimp caught by the "Miss Monica", Port Isabel, Tex., did not contribute importantly to the total or partial separation of the crewmembers of the "Miss Monica".

Signed at Washington, D.C., this 13th day of July 1977.

GLORIA G. PRATT,
*Director, Office of Foreign Economic Policy.*

[FR Doc.77-21894 Filed 7-28-77;8:45 am]

[TA-W-1696]

## MISS RUTH SEAFOODS

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1696: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 2, 1977, in response to a worker petition received on February 22, 1977, which was filed on behalf of workers and former workers engaged in shrimp fishing at Miss Ruth Seafoods in Port Isabel, Tex.

The notice of investigation was published in the FEDERAL REGISTER on March 11, 1977 (42 FR 13627). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Miss Ruth Seafoods, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof have increased, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separation, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that although criterion (3) has been met, criteria (1), (2) and (4) have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The number of workers per ship has remained constant over the 1974-1976 period as insurance regulations require a minimum crew to meet safety standards. Employment records in the shrimp fishing industry are not mentioned according to number of hours worked. Therefore employment data are based on gross crew earnings and number of shrimp fishing trips.

Gross crew earnings increased 47.3 percent in 1975 compared to 1974 and increased 22.7 percent in 1976 compared to 1975. The number of shrimp fishing trips taken by Miss Ruth's trawlers declined 11.5 percent in 1975 compared to 1974 and then increased 2.2 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OF BOTH, HAVE DECREASED ABSOLUTELY

Company sales in terms of quantity at Miss Ruth Seafoods increased 7.4 percent in 1975 compared to 1974 and then declined 12.7 percent in 1976 compared to 1975. Company sales in terms of value increased 62.3 percent in 1975 compared to 1974 and increased 17.3 percent in 1976 compared to 1975.

INCREASED IMPORTS

Imports of shrimp in terms of quantity declined 9.3 percent in 1973 compared to 1972 and then increased 15.9 percent in 1974 compared to 1973. Imports declined 13.6 percent in 1975 compared to 1974 and then increased 17.2 percent in 1976 compared to 1975. The ratio of imports to domestic production increased from 111.4 percent in 1975 to 116.8 percent in 1976. The ratio of imports to domestic consumption declined from 57.0 percent in 1975 to 56.2 percent in 1976.

CONTRIBUTED IMPORTANTLY

A survey of customers who regularly submit bids on the Port Isabel—Brownsville shrimp market revealed that those customers who increased their purchases of imported shrimp did so because Miss Ruth Seafoods and other domestic suppliers were unable to meet their requirements. Further evidence that the demand for Gulf shrimp exceeded supply in 1976 is provided by the fact that the average price for shrimp increased in 1976 compared to 1975.

The decline in the quantity of shrimp caught by Miss Ruth Seafoods in 1976 was due to several factors, including adverse weather conditions occurring during the height of the shrimp season in November and December which kept the trawlers in port, the lack of shrimp available in the known fishing grounds, and the imposition of a 200 mile fishing restriction by the Mexican government which prevented domestic shrimpers from fishing in Mexican coastal waters.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with shrimp produced by Miss Ruth Seafoods, Port Isabel, Tex., have not contributed importantly to the total or partial separations of the workers of that firm as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of July 1977.

HARRY GRUBERT,
*Director, Office of Foreign Economic Research.*

[FR Doc.77-21895 Filed 7-28-77;8:45 am]

[TA-W-1978]

## NATIONAL FOOTWEAR CORP.

### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1978: Investigation regarding certification of eligibility to apply for





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worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 12, 1976, in response to a worker petition received on April 11, 1976, which was filed on behalf of workers and former workers producing children's and misses' shoes at National Footwear Corp., Epping, N.H. The investigation was expanded to include the Dover, N.H., facility of National Footwear Corp.

The notice of investigation was published in the FEDERAL REGISTER on April 29, 1977 (42 FR 21873). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of National Footwear Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased either actual, or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at the Epping plant increased 31.1 percent in 1976 compared to 1975. The average number of production workers declined 15.9 percent in the first three months of 1977 compared to the first three months of 1976. The Dover plant closed in April 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at National Footwear increased by 67.1 percent in 1976 compared to 1975. Production declined 33.7 percent in the first three months of 1977 compared to the first three months of 1976.

INCREASED IMPORTS

Imports of children's nonrubber footwear increased from 11.1 million pairs in 1975 to 15.8 million pairs in 1976. The ratios of imports to domestic production and consumption increased from 60 percent and 37.5 percent, respectively, in 1975 to 72.1 percent and 41.9 percent, respectively, in 1976. Misses' nonrubber footwear increased from 7.1 million pairs in 1975 to 11.6 million pairs in 1976. The ratios of imports to domestic production and consumption increased from 54.3 percent and 35.2 percent, respectively, in 1975 to 77.6 percent and 43.7 percent, respectively, in 1976.

CONTRIBUTED IMPORTANTLY

The recent finding of the International Trade Commission based on the very high penetration of imported shoes is that customers of domestic manufacturers increasingly shifted from domestically produced shoes to imported shoes. Customers of National Footwear surveyed confirmed that they have shifted from domestically produced shoes to imported shoes. In order to compete more effectively with cheaper imports, National Footwear began importing shoe uppers in 1976. These imported shoe uppers now constitute 40 to 50 percent of the uppers used by National Footwear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with children's and misses' shoes produced by National Footwear contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provision of the Act, I make the following certification:

All workers at the Epping, N.H. and Dover, N.H. plants of National Footwear Corp., who became totally or partially separated from employment on or after January 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of July 1977.

BRIAN TURNER,
*Executive Assistant to the Deputy Under Secretary for International Affairs.*

[FR Doc.77-21896 Filed 7-28-77;8:45 am]

[TA-W-1653]

## NIKKI G.

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1653: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 15, 1977, in response to a worker petition received on February 10, 1977, which was filed on behalf of workers and former workers engaged in shrimp fishing at Nikki G. in Port Isabel, Tex.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13091). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Nikki G., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although criterion (2) and (3) have been met, criteria (1), and (4) have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The number of workers per ship has remained constant over the 1974–1976 period as insurance regulations require a minimum crew to meet safety standards. Employment records in the shrimp fishing industry are not maintained according to number of hours worked. Therefore employment data are based on gross crew earnings.

Gross crew earnings increased 72.4 percent in 1975 compared to 1974 and increased 3.2 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales in terms of quantity at the Nikki G. increased 38.3 percent in 1975 compared to 1974 and then declined 18.8 percent in 1976 compared to 1975. Company sales in terms of value increased 79.9 percent in 1975 compared to 1974 and increased 12.2 percent in 1976 compared to 1975.

INCREASED IMPORTS

Imports of shrimp in terms of quantity declined 9.3 percent in 1973 compared to 1972 and then increased 15.9 percent in 1974 compared to 1973. Imports declined 13.6 percent in 1975 compared to 1974 and then increased 17.2 percent in 1976 compared to 1975. The ratio of imports to domestic production increased form 111.4 percent in 1975 to 116.8 percent in 1976. The ratio of imports to domestic consumption declined from 57 percent in 1975 to 56.2 percent in 1976.

CONTRIBUTED IMPORTANTLY

A survey of customers who regularly submit bids on the Port Isabel-Brownsville shrimp market revealed that customers who increased their purchases of imported shrimp did so because the Nikki G. and other domestic suppliers were unable to meet their requirements. Further evidence that the demand for Gulf shrimp exceeded supply in 1976 is supplied by the fact that the average price for shrimp increase in 1976 compared to 1975.

The decline in the quantity of shrimp caught by the Nikki G. in 1976 was due to several factors, including adverse weather conditions occurring during the height of the shrimp season in November and December which kept the trawlers in port, the lack of shrimp available in the known fishing grounds, and the imposition of a 200 mile fishing restriction by the Mexican Government which prevented domestic shrimpers from fishing in Mexican coastal waters.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with shrimp produced by the Nikki G., Port Isabel, Tex., have not contributed importantly to the total or partial separations of the workers of that firm as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of July 1977.

HARRY GRUBERT,
*Director, Office of Foreign Economic Research.*

[FR Doc.77-21897 Filed 7-28-77;8:45 am]

[TA-W-1503]

## NORTHWESTERN STEEL AND WIRE CO.

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1503: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976, in response to a worker petition received on that date which was filed by the United Steel Workers of America on behalf of workers and former workers producing structural products, bar products, rods and wire, and other wire products at Northwestern Steel and Wire Co., Sterling and Rock Falls, Ill.

The notice of investigation was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2376). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Northwestern Steel and Wire Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales, production or both, of the firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important than any other cause.

Without regard to whether any of the other criteria have been met, the investigation has revealed that the fourth criterion has not been met.

A survey of customers of Northwestern Steel and Wire Co. indicates that most of those customers either do not purchase imported structural products, bar products, rods and wire, or other wire products or have increased purchases from Northwestern. Customers surveyed that increased purchases of imported structural products and rods and decreased purchases from Northwestern constituted 0.18 percent of total sales from Northwestern in 1976 or 0.6 percent of the total sample of sales represented by the customers surveyed.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with structural products, bar products, rods and wire, or other products produced at the Sterling and Rock Falls, Ill., plants of Northwestern Steel and Wire Co. did not contribute importantly to the decline in production or separation of workers of that firm.

Signed at Washington, D.C. this 18th day of July 1977.

HARRY GRUBERT,
*Director, Office of Foreign Economic Research.*

[FR Doc.77-21898 Filed 7-28-77;8:45 am]

[TA-W-1525]

## OHIO FERRO ALLOYS CORP.

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1525: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on December 28, 1976, in response to a worker petition received on December 28, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers producing ferrosilicon and silicon metal at the Brilliant, Ohio, plant of Ohio Ferro Alloys Corp.

The notice of investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3377). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ohio Ferro Alloys Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat, thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that criteria (4) has not been met in relation to silicon metal. The investigation also revealed that without regard to whether any of the other criteria have been met, criteria (2) and (4) have not been met in relation to ferrasilicon.

SIGNIFICANT TOTAL OR PARTIAL SEPARATION

Plant employment of production workers declined 18.7 percent in 1975 compared to 1974 and 0.6 percent in 1976 compared to 1975. Production workers are used interchangeably between silicon metal and ferrosilicon.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

*A. Silicon metal.* Plant sales of silicon metal, in net tons, declined 43.5 percent in 1975 compared to 1974 and 34.4 percent in 1976 compared to 1975.

Plant production of silicon metal, in net tons, declined 37.8 percent in 1975 compared to 1974 and ceased in June







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1976. Production of silicon metal at Ohio Ferro Alloys Corp. increased from 1975 to 1976.

*B. Ferrosilicon.* Plant production of ferrosilicon, in net tons increased 81.6 percent in 1975 compared to 1974 and 36.6 percent in 1976 compared to 1975.

Plant sales of ferrosilicon, in net tons, increased 44.1 percent in 1975 compared to 1974 and 37 percent in 1976 compared to 1975.

INCREASED IMPORTS

*A. Silicon metal.* Imports of silicon metal increased from 15,300 short tons in 1972, to 23,836 short tons in 1973; declined each year to 6,802 short tons in 1975 and increased to 9,526 short tons in 1976.

*B. Ferrosilicon.* Imports of ferrosilicon increased each year, from 39,600 short tons in 1972, to 142,204 short tons in 1974; declined to 70,577 short tons in 1975 and increased to 98,775 short tons in 1976.

CONTRIBUTED IMPORTANTLY

*A. Silicon metal.* Plant production of silicon metal ceased in June 1976 due to the company's decision to transfer production to their new plant in Montgomery, Ala. Production of silicon metal at Ohio Ferro Alloys Corp. increased from 1975 to 1976.

*B. Ferrosilicon.* A representative sample of the plant's customers of ferrosilicon indicated that customers did not switch to imported ferrosilicon.

CONCLUSION

It is concluded that sales and production of ferrosilicon at the Brilliant, Ohio, plant of Ohio Ferro Alloys Corp. have not declined and that increases of imports like or directly competitive with silicon metal produced at that plant did not contribute importantly as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of July 1977.

BRIAN TURNER,
*Executive Assistant to the Deputy Under Secretary for International Affairs.*

[FR Doc.77-21899 Filed 7-28-77;8:45 am]

[TA-W-1394]

## PENN-DIXIE STEEL CORP.

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1394: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on December 13, 1976, in response to a worker petition received on December 13, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon wire and wire products at Penn-Dixie Steel Corp., Kokomo, Ind.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 893). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Penn-Dixie Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that without regard to whether any of the other criteria have been met, the fourth criterion has not been met.

Most customers of Penn-Dixie Steel Corp. surveyed indicated that they do not purchase imported wire and wire products. Those customers which do purchase imports have increased purchases from Penn-Dixie.

The response of customers is consistent with industry trends. U.S. domestic shipments of carbon steel wire rod and wire rod products rose substantially from 1975 to 1976, consequently, imports relative to domestic shipments declined from 65.1 percent in 1975 to 35.7 percent in 1976 for wire rods while the import to shipments ratio for carbon steel wire and wire products remained relatively unchanged from 1975 to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with carbon wire and wire products and rods produced by Penn-Dixie Steel Corp. at the Kokomo, Ind., plant did not contribute importantly to the total or partial separations of the workers at that plant.

Without regard to whether any of the other criteria have been met, the investigation has revealed that criterion (4) has not been met.

The evidence developed during the Department's investigation revealed that most customers of the Plymouth Tube Co. either do not import stainless steel tubing or have increased their purchases from the subject firm while importing this type of tubing. Performance and the ability to meet specifications were the factors that influenced the decision of these customers to buy domestically.

The stainless steel tubing produced at the Dunkirk, N.Y. plant of the Plymouth Tube Co. is used specifically in heat exchangers and feedwater heaters for nuclear and fossil-fueled power plants. Information from the Federal Energy Administration indicates that there has been a decline in construction starts of both nuclear and fossil-fueled power plants in the United States during 1977. Declines in the production of stainless steel tubing at the Dunkirk plant are related to the drop in these construction starts.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of stainless steel tubing have not contributed importantly to the total or partial separations of a significant number of workers or to absolute declines in sales and production at the Dunkirk, N.Y. plant of the Plymouth Tube Co. as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of July 1977.

GLORIA G. PRATT,
*Director, Office of Foreign Economic Policy.*

[FR Doc 77-21901 Filed 7-28-77;8:45 am]

[TA-W-1645]

## RAFAELITO, INC.

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1645: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 14, 1977, in response to a worker petition received on February 6, 1977, which was filed on behalf of workers and former workers engaged in shrimp fishing at Rafaelito, Incorporated in Port Isabel, Tex.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13092). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Rafaelito, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that criteria (1) and (4) have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The number of workers per ship has remained constant over the 1974–1976 period as insurance regulations require a minimum crew to meet safety standards. Employment records in the shrimp fishing industry are not maintained according to number of hours worked. Therefore employment data are based on average crew earnings per boat and average number of shrimp fishing trips per boat.

Average crew earnings per boat increased 53.6 percent in 1975 compared to 1974 and increased 9.6 percent in 1976 compared to 1975. Average number of shrimp fishing trips per boat declined 27.8 percent in 1975 compared to 1974 and then increased 7.7 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

The average shrimp catch per boat in terms of quantity at Rafaelito, Incorporated increased 8.6 percent in 1975 compared to 1974 and then declined 10.1 percent in 1976 compared to 1975. Average catch per boat in terms of value increased 50.0 percent in 1975 compared to 1974 and increased 21.6 percent in 1976 compared to 1975.

INCREASED IMPORTS

Imports of shrimp in terms of quantity declined 9.3 percent in 1973 compared to 1972 and then increased 15.9 percent in 1974 compared to 1973. Imports declined 13.6 percent in 1975 compared to 1974 and then increased 17.2 percent in 1976 compared to 1975. The ratio of imports to domestic production increased from 111.4 percent in 1975 to 116.8 percent in 1976. The ratio imports to domestic consumption declined from 57.0 percent in 1975 to 56.2 percent in 1976.

CONTRIBUTED IMPORTANTLY

Rafaelito's only customer has an unwritten agreement with Rafaelito to purchase all the shrimp that Rafaelito is able to catch, paying the same price that is bid on the open market the day the shrimp is landed. As a result of this agreement, the quantity of shrimp sold by Rafaelito is not subject to import competition. This customer's purchase from Rafaelito in terms of value may be adversely affected if increased imports of shrimp flood the Port Isabel—Brownsville market and cause the bid price of shrimp to decline. However, the average price for shrimp on the Port Isabel—Brownsville market increased in 1976 compared to 1975 and as a result this customer's dollar purchases from Rafaelito increased in 1976 compared to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports like or indirectly competitive with shrimp produced by Rafaelito, Incorporated, Port Isabel, Tex., have not contributed importantly to the total or partial separations of the workers at that firm as required for certification under section 222 of the Trade Act of 1974.

Signed in Washington, D.C., this 21st day of July 1977.

JAMES F. TAYLOR,
*Director, Office of Management, Administration and Planning.*

[FR Doc.77-21902 Filed 7-28-77;8:45 am]

[TA-W-1485]

## REPUBLIC STEEL CORP.

### Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1485: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initated on November 15, 1976, in response to a worker petition received on November 15, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers producing various steel products at the South Chicago, Illinois plant of the Chicago District of Republic Steel Corporation, Cleveland, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2380). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Republic Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have be-





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come totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria were met for carbon and alloy steel pipe and tubing. Without regard to whether any of the other criteria have been met, cirterion (2) was not met for carbon steel bars, alloy steel bars, or carbon steel wire.

SIGNIFICANT TOTAL OR PARTIAL SEPERATIONS

The average number of production workers declined 5 percent from 1974 to 1975 and declined 5 percent from 1975 to 1976. Workers are not identifiable by product line.

SALES, PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

The quantity of carbon bar shipments from the Chicago District declined 19 percent from 1974 to 1975 and then increased 11 percent from 1975 to 1976.

The quantity of alloy bar shipments increased 1 percent from 1974 to 1975 and increased 23 percent from 1975 to 1976.

The qauntity of carbon wire shipments declined 36 percent from 1974 to 1975 and then increased 23 percent from 1975 to 1976.

The quantity of carbon pipe and tubing shipments declined 3 percent from 1974 to 1975 and declined 20 percent from 1975 to 1976.

The quantity of alloy pipe and tubing shipments declined 1 percent from 1974 to 1975 and declined 49 percent from 1975 to 1976.

Total raw steel production at the South Chicago plant declined 10 percent from 1974 to 1975 and then increased 2 percent from 1975 to 1976.

INCREASED IMPORTS

Imports of carbon steel pipe and tubing declined absolutely and relative to domestic shipments from 1972 to 1973 and then increased absolutely and relatively from 1973 to 1974. Imports declined absolutely from 1974 to 1975 and then increased 18 percent from 1975 to 1976. The ratios of imports to domestic shipments and consumption increased from 22.8 percent and 20.8 percent, respectively in 1975 to 35.8 percent and 28.0 percent respectively in 1976.

Imports of alloy steel pipe and tubing increased absolutely and relative to domestic shipments in each year from 1972 through 1976. Imports increased 32 percent from 1975 to 1976. The ratios of imports to domestic shipments and consumption increased from 9.3 percent and 9.1 percent respectively in 1975 to 15.1 percent and 13.9 percent respectively in 1976.

CONTRIBUTED IMPORTANTLY

Customers who purchased pipe and tubing from the Chicago District of Republic Steel indicated that either they purchased imported pipe and tubing in 1975 or 1976 or that their competitors were purchasing imports. Due to the lower price of foreign steel domestic consumers are buying imported steel and tubing.

Pipe and tubing represented 20 percent of total shipments from the South Chicago plant in 1975 and 12 percent in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with caroon and alloy steel pipe and tubing produced at the South Chicago, Illinois plant of Chicago District of Republic Steel Corporation, Cleveland, Ohio contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of carbon and alloy steel pipe and tubing at the South Chicago, Illinois plant of the Chicago District of Republic Steel Corporation, Cleveland, Ohio became totally or partially separated from employment on or after November 15, 1975, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

It is further concluded that shipments of carbon steel bars, alloy steel bars, and carbon wire from the South Chicago plant did not decrease as required for certification under section 222 of the Trade Act of 1974. Therefore, all workers engaged in the production of carbon steel bars, alloy steel bars and carbon steel wire at the South Chicago plant of the Chicago District of Republic Steel Corporation, Cleveland, Ohio are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 18th day of July 1977.

HARRY GRUBERT,
*Director, Office of Foreign Economic Research.*

[FR Doc.77-21903 Filed 7-28-77;8:45 am]

[TA-W-1823]

## RONNIE DRESS CO.

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1823: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 18, 1977, in response to a worker petition received on March 18, 1977, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing junior dresses and sportswear at Ronnie Dress Co., Shickshinny, Pa.

The notice of investigation was published in the FEDERAL REGISTER April 5, 1977 (42 FR 18158). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ronnie Dress Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to the first three criteria, the fourth criterion has not been met.

The evidence developed during the course of the Department's investigation revealed that the apparel manufacturers which contracted with Ronnie Dress Co. do not contract with foreign firms and do not import finished products. These manufacturers reduced contracts with Ronnie Dress Co. and increased contracts with other domestic manufacturers from 1975 to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with junior dresses and sportswear produced at Ronnie Dress Co., Shickshinny, Pa., did not contribute importantly to the total or partial separations of the workers at that firm.

Signed at Washington, D.C., this 19th day of July 1977.

HARRY GRUBERT,
*Director, Office of Foreign Economic Research.*

[FR Doc.77-21904 Filed 7-28-77;8:45 am]





[TA-W-1753]

## SAVINI DRESS MFG., INC.

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1753: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 3, 1977, in response to a worker petition received on February 17, 1977, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's dresses, pantsuits, blouses, and skirts at Savini Dress Mfg., Inc., Belmar, N.J.

The notice of investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Savini Dress Mfg., Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important, but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the Department's investigation revealed that the fourth criterion has not been met.

The Department's investigation revealed that none of the manufacturers that Savini has contracted with use foreign contractors nor do they import finished articles similar to those produced at Savini.

Two of these manufacturers have either increased or maintained contract work with Savini at a steady level. Two manufacturers use Savini only as a fill-in contractor when their usual contractors cannot handle the workload. One manufacturer who reduced contract work with Savini switched to other domestic contractors.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's apparel produced at Savini Dress Mfg., Inc., Belmar, N.J., did not contribute importantly to the total or partial separations of the workers producing such articles at that firm.

Signed at Washington, D.C., this 18th day of July 1977.

HARRY GRUBERT,
*Director, Office of Foreign Economic Research.*

[FR Doc.77-21905 Filed 7-28-77;8:45 am]

[TA-W-1433]

## SOUTH WORKS, U.S. STEEL CORP.

### Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1433: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 15, 1976, in response to a worker petition received on December 15, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers engaged in employment related to the production of carbon steel plate, carbon steel structural shapes, carbon steel piling, and carbon steel wire rod at the South Works of the U.S. Steel Corp. in Chicago, Ill.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 902). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the U.S. Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met for workers engaged in employment related to the production of one of the following products: carbon steel plate, carbon steel structural shapes, or carbon steel pilings. Furthermore, without regard to whether any of the other criteria have been met, criteria (1) and (2) have not been met for workers engaged in employment related to the production of carbon steel wire.

SIGNIFICANT TOTAL OF PARTIAL SEPARATIONS

a. *Carbon Steel Plate.*—Average employment declined 35.1 percent in the fourth quarter of 1975 as compared to the like 1974 quarter and continued to decline 6.4 percent in the first 11 months of 1976 as compared to the like 1975 period.

b. *Carbon Steel Structural Shapes.*—Average employment declined 43.2 percent in the fourth quarter of 1975 as compared to the like 1974 quarter and continued to decline 32.5 percent in the first 11 months of 1976 as compared to the like 1975 period.

c. *Carbon Steel Piling.*—Average employment declined 42.2 percent in the fourth quarter of 1975 as compared to the like 1974 quarter and continued to decline 39.6 percent in the first 11 months of 1976 as compared to the like 1975 period.

d. *Carbon Steel Wire Rod.*—Average employment increased 2184.0 percent in the fourth quarter of 1975 as compared to the like 1974 quarter and continued to increase 180.6 percent in the first 11 months of 1976 as compared to the like 1975 period.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

a. *Carbon Steel Plate.*—Sales declined 50.9 percent in quantity in the fourth quarter of 1975 as compared to the like 1974 quarter and continued to decline 16.4 percent in quantity in the first 11 months of 1976 as compared to the like 1975 period.

b. *Carbon Steel Structural Shapes.*—Sales declined 57.0 percent in the fourth quarter of 1975 as compared to the like 1974 quarter and continued to decline 18.6 percent in quantity in the first 11 months of 1976 as compared to the like 1975 period.

c. *Carbon Steel Piling.*—Sales declined 56.3 percent in quantity in the fourth quarter of 1975 as compared to the like 1974 quarter and continued to decline 37.8 percent in quantity in the first 11 months of 1976 as compared to the like 1975 period.

d. *Carbon Steel Wire Rod.*—Sales increased 1571.4 percent in quantity in the fourth quarter of 1975 as compared to the like 1974 quarter and continued to increase 189.9 percent in quantity in the first 11 months of 1976 as compared to the like 1975 period.

Production data for the above products were not made available.



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INCREASED IMPORTS

a. *Carbon Steel Plates.*—Imports of carbon steel plate decreased from 1.7 million tons in 1972 to 1.3 million tons in 1973. Imports decreased to 1.7 million tons in 1974, then decreased to 1.4 million tons in 1975. In 1976 imports increased 14.3 percent to 1.6 million tons.

The ratio of imports to domestic shipments of carbon steel plate decreased from 26.3 percent in 1972 to 16.4 percent in 1973. In 1974, the ratio increased to 18.8 percent and increased again in 1975 to 19.4 percent. The ratio continued to increase in 1976 to 27.7 percent.

b. *Carbon Steel Structural Shapes.*—Imports of carbon steel structural shapes decreased from 1.6 million tons in 1972 to 1.3 million tons in 1973. In 1974, imports decreased to 1.1 million tons and further decreased to .8 million tons in 1975. In 1976, imports increased 75 percent to 1.4 million tons.

The ratio of imports to domestic shipments of carbon steel structural shapes decreased from 34.1 percent in 1972 to 21.3 percent in 1973. The ratio declined to 19.7 percent in 1974 and further declined to 19.5 percent in 1975. In 1976, the ratio increased to 40.0 percent.

c. *Carbon Steel Piling.*—Imports of carbon steel piling declined from 149,000 tons in 1973 to 112,000 tons in 1974 before increasing to 122,400 tons in 1975. Imports then declined 15.3 percent to 103,700 tons in 1976.

The ratio of imports of carbon steel piling to domestic shipments declined from 31.3 percent in 1973 to 18.2 percent in 1974, increased to 31.0 percent in 1975 and continued to increase to 34.8 percent in 1976.

CONTRIBUTED IMPORTANTLY

The Department conducted a survey of customers who purchased carbon steel structural shapes, carbon steel plate and carbon steel piling from the South Works of the U.S. Steel Corp. Customers for each of these products indicated that they had reduced purchases of each of these three products from the South Works and had switched to imports. Additionally, several customers who do not import the above products stated that they have lost customers to competitors who distribute the imported products. The cheaper prices of the imported products was cited as the reason for switching.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales of carbon steel wire rod produced at the South Works of the U.S. Steel Corp. in Chicago, Ill., have not decreased and employment of workers engaged in the production of carbon steel wire rod has not decreased at the plant as required for certification under section 222 of the Trade Act of 1974.

I further conclude that increased imports of articles like or directly competitive with carbon steel plate, carbon steel structural shapes and carbon steel pilings which are produced at the South Works of the U.S. Steel Corp. in Chicago, Ill., have contributed importantly to the total or partial separations of workers engaged in employment related to the production of carbon steel plate or carbon steel structural shapes or carbon steel pilings at the plant.

In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of one or more of the following products: carbon steel plate; carbon steel structural shapes; or carbon steel pilings at the South Works of the U.S. Steel Corporation in Chicago, Illinois who became totally or partially separated from employment on or after November 15, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of July 1977.

HOWARD D. SAMUEL,
*Deputy Under Secretary for International Affairs.*

[FR Doc.77-21906 Filed 7-28-77;8:45 am]

[TA-W-1719]

## "SUNSHINE"

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1719: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 3, 1977, in response to a worker petition received on February 17, 1977, which was filed on behalf of workers and former workers engaged in shrimp fishing on the "Sunshine," Port Isabel, Tex.

The notice of investigation was published in the FEDERAL REGISTER on March 15, 1977 (42 FR 14185). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the former owner of the "Sunshine," its customer, the U.S. International Trade Commission, the U.S. Department of Commerce, the U.S. Coast Guard, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the investigation revealed that the fourth criterion has not been met.

The trawler "Sunshine," located in Port Isabel, Tex., was engaged in shrimp fishing from April 1976 through December 1976.

The Department's investigation revealed that the owner of "Sunshine" decided to sell the boat after 9 months of operation due to competition from other domestic trawlers for scarce supplies of shrimp in U.S. coastal waters of the Gulf of Mexico.

The sole customer of the "Sunshine" purchased shrimp from any available source, domestic or foreign, and purchased all of the shrimp that "Sunshine" was able to supply.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with shrimp caught by the "Sunshine," Port Isabel, Tex., did not contribute importantly to the total or partial separation of the crewmembers of the "Sunshine."

Signed at Washington, D.C., this 12th day of July 1977.

GLORIA G. PRATT,
*Director, Office of Foreign Economic Policy.*

[FR Doc.77-21907 Filed 7-28-77;8:45 am]

[TA-W-1650]

## TEXALL CORP.

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1650: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 15, 1977, in response to a worker petition received on February 10, 1977, which was filed on behalf of workers and former workers engaged in shrimp fishing at Texall Corp. in Port Isabel, Tex.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13094). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Texall Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although criteria (1) and (3) have been met, criteria (2) and (4) have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The number of workers per ship has remained constant over the 1974–1976 period as insurance regulations require a minimum crew of three to meet safety standards. Employment records in the shrimp fishing industry are not maintained according to number of hours worked. Therefore employment data are based on gross crew earnings.

Gross crew earnings at Texall Corp. increased 61.7 percent in 1975 compared to 1974 and then declined 6.4 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of shrimp in terms of quantity at Texall Corp. declined 3.5 percent in 1975 compared to 1974 and declined 19.7 percent in 1976 compared to 1975. Sales of shrimp in terms of value increased 11.9 percent in 1975 compared to 1974 and increased 5.7 percent in 1976 compared to 1975.

INCREASED IMPORTS

Imports of shrimp, in terms of quantity, decreased 9.3 percent in 1973 compared to 1972 and increased 15.9 percent in 1974 compared to 1973. Imports declined 13.6 percent in 1975 compared to 1974 and increased 17.2 percent in 1976 compared to 1975. The ratio of imports to domestic production increased from 111.4 percent in 1975 to 116.8 percent in 1976. The ratio of imports to domestic consumption decreased from 57.0 percent in 1975 to 56.2 percent in 1976.

CONTRIBUTED IMPORTANTLY

A survey of customers who regularly submit bids on the Port Isabel-Brownsville shrimp market revealed that those customers who increased their purchases of imported shrimp did so because Texall Corp. and other domestic suppliers were unable to meet their requirements. The fact that the average price for shrimp increased in 1976 compared to 1975 provides further evidence that the demand for Gulf shrimp exceeded supply in 1976.

The decline in the quantity of shrimp caught by Texall Corp. in 1976 was due to several factors including adverse weather conditions occurring during the height of the shrimping season in November and December which kept the trawlers in port, the lack of shrimp available in the known fishing grounds, and the imposition of a two hundred mile fishing restriction by the Mexican Government which prevented domestic shrimpers from fishing in Mexican coastal waters.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with shrimp produced by Texall Corp., Port Isabel, Tex., have not contributed importantly to the total or partial separations of workers of that firm as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of July 1977.

JAMES T. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc.77-21908 Filed 7-28-77;8:45 am]

[TA-W-1979]

## TOTSY MANUFACTURING CO., INC.

### Certifications Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1979: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 12, 1977, in response to a worker petition received on April 11, 1977, which was filed by three individual workers on behalf of home workers and former home workers of Totsy Manufacturing Co., Inc., in the Fitchburg, Mass., area. The investigation was expanded to include workers and former workers of the Holyoke, Mass., plant of Totsy Manufacturing Co., Inc., and home workers and former home workers of Totsy Manufacturing Co., Inc., in the Holyoke, Mass., area.

The notice of investigation was published in the FEDERAL REGISTER on April 29, 1977 (42 FR 21873). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Totsy Manufacturing Co., Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers, who worked in their homes in the Fitchburg area declined 40 percent in 1975 compared to 1974 and declined 86 percent in 1976 compared to 1975. Employment remained stable in the first quarter of 1977 compared to the first quarter of 1976, and then increased 243 percent in the second quarter of 1977 compared to the second quarter of 1976.

Average employment of production workers at the Holyoke plant declined 29 percent in 1975 compared to 1974, declined 75 percent in 1976 compared to 1975 and did not change in the first four months of 1977 compared to the first four months of 1976.

Average employment of production workers, who worked in their homes in the Holyoke area declined 23 percent in 1975 compared to 1974, declined 10 percent in 1976 compared to 1975 and declined 10 percent in the first four months of 1977 compared to the first four months of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales, adjusted for price increases declined 23 percent in value in 1975 compared to 1974, declined 4 percent in 1976 compared to 1975 and declined 24 percent in the first four months of 1977 compared to the first four months of 1976. Approximately 90 percent of sales in 1976 was doll clothes. The remaining 10 percent of sales was dolls and accessories (belts, shoes, purses, etc.). All dolls sold by Totsy are imported by the company.

INCREASED IMPORTS

Imports of dolls clothes increased absolutely in 1973, and declined in 1974 when compared to the previous year, declined in 1975 compared to 1974, in-







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creased 31 percent in 1976 compared to 1975 and increased 106 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratio of imports to domestic production increased from 163.2 percent in 1975 to 226.6 percent in 1976 and then further increased to 318.2 percent in the first quarter of 1977.

CONTRIBUTED IMPORTANTLY

Company imports, in unadjusted value, declined 12 percent in 1975, compared to 1974, increased 42 percent in 1976 compared to 1975 and increased 64 percent in the first four months of 1977 compared to the first four months of 1976. Approximately 81 percent of imports consisted of doll clothes.

The ratio of the value of company imports to the value of unadjusted company sales increased from 14.3 percent in 1974 to 14.8 percent in 1975 then increased to 21.3 percent in 1976. The ratio increased from 16.5 percent in the first four months of 1976 to 34.4 percent in the first four months of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with doll clothes produced at the Holyoke, Mass., plant including homeworkers in the Holyoke area and home workers in the Fitchburg, Mass., area of Totsy Manufacturing Co., Inc., contributed importantly to the total or partial separation of the workers of that firm. In accordance with the provisions of the act, I make the following cetifications:

All workers of Totsy Manufacturing Co., Inc., including workers at the Holyoke, Mass., plant and home workers in the Holyoke area who became totally or partially separated from employment on or after April 4, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

All home workers, in the Fitchburg, Mass., area, of Totsy Manufacturing Co., Inc., who became totally or partially separated from employment on or after April 4, 1976, and before April 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All home workers in the Fitchburg area who became totally or partially separated from employment after April 1, 1977, are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 21st day of August 1977.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc.77-21909 Filed 7-28-77;8:45 am]

[TA-W-1760]

## TRUE TEMPER CORP.

### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1760: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 3, 1977, in response to a worker petition received on February 27, 1977, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing citizens band radio antennas at True Temper Corp., Anderson, S.C.

The notice of investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of True Temper Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met in regard to the production of CB antennas.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of workers in the Antenna Department increased 44.8 percent from the first to the second quarter of 1976 and then declined in each month from July through December 1976. Employment declined 42.9 percent in the last quarter of 1976 compared to the previous quarter and then increased in the first quarter of 1977 compared to the previous quarter.

The average number of salaried workers (plant-wide) declined 28 percent from 1975 to 1976 and declined 31 percent in the first quarter of 1977 compared to the same period in 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

In 1974, True Temper produced a fiberglass core component for antennas. In 1975 and 1976, the plant produced CB radio antennas as well as fiberglass rods for use in antennas. Antennas became the principal product manufactured in the Anderson, S.C., plant in 1976.

Total production increased 111.7 percent from 1975 to 1976. Production declined 50.5 percent and 34.7 percent, respectively, in the fourth quarter of 1976 and the first quarter of 1977, compared to the respective quarter of the previous year. Production declined 12.6 percent from the second to the third quarter of 1976 and 67.8 percent from the third to the fourth quarter of 1976.

INCREASED IMPORTS

Imports of citizen band (CB) radio antennas, in terms of value, increased absolutely in each year from 1972 through 1976. The value of imports increased 68.5 percent from 1974 to 1975 and increased 179.4 percent from 1975 to 1976. The ratios of imports to domestic production and consumption increased from 106.5 percent and 51.6 percent, respectively, in 1975 to 242.6 percent and 70.8 percent, respectively, in 1976.

Imports of CB radio antennas, in terms of quantity, increased 159.9 percent from 1975, the first year for which quantity data were available, to 1976.

CONTRIBUTED IMPORTANTLY

Customers of True Temper indicated that imports of CB radio antennas have exerted a definite influence in the market for that product. A major customer of True Temper switched to imported CB radio antennas in the last quarter of 1976 and in the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with CB radio antennas produced at True Temper Corp. contributed importantly to the total or partial separations of the workers at the Anderson, S.C., plant of True Temper Corp. In accordance with the provisions of the act, I make the following certification:

All workers engaged in employment related to the production of CB radio antennas at True Temper Corp., Anderson, S.C., who became totally or partially separated from employment on or after July 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of July 1977.

BRIAN TURNER,
*Executive Assistant to the Deputy Under Secretary for International Affairs.*

[FR Doc.77-21910 Filed 7-28-77;8:45 am]

[TA-W-1771]

## UNITED TECHNOLOGIES CORP.; PRATT & WHITNEY AIRCRAFT DIVISION

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1771: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 7, 1977, in response to a worker petition received on March 4, 1977, which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing aircraft engines at the Middletown, Conn., plant of the Pratt & Whitney Aircraft Division of United Technologies Corp.

The notice of investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16200). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of United Technologies Corp. and the International Association of Machinists and Aerospace Workers.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

With regard to whether any other criteria have been met, criterion (1) has not been met.

The Middletown, Conn., plant of Pratt & Whitney Aircraft produces aircraft engine parts.

Evidence developed in the Department's investigation revealed that no involuntary separations of production workers occurred from February 28, 1976, one year prior to the signature date of the petition, to the present.

Company officials do not anticipate any layoffs at the plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Middletown, Conn., plant of the Pratt & Whitney Aircraft Division of United Technologies Corp. have not become totally or partially separated as required in section 222 of the Trade Act of 1974.





Signed at Washington, D.C., this 15th day of July 1977.

BRIAN TURNER,
*Executive Assistant to the Deputy Under Secretary for International Affairs.*

[FR Doc.77-21911 Filed 7-28-77;8:45 am]

[TA-W-2001]

## WEYENBERG SHOE MANUFACTURING CO.

### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2001: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 20, 1977, in response to a worker petition received on that date which was filed by the Boot and Shoe Workers Union on behalf of workers and former workers producing men's dress shoes at the Adams Street factory, Portage, Wis., of the Weyenberg Shoe Manufacturing Co.

The notice of investigation was published in the FEDERAL REGISTER on May 6, 1977 (42 FR 23216). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Weyenberg Shoe Manufacturing Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at the Adams Street factory of the Weyenberg Shoe Manufacturing Co. increased by 6 percent in 1976 compared to 1975. Employment declined 4 percent in the last quarter of 1976 compared to 1975 and 7 percent in the first quarter of 1977 compared to the first quarter of 1976.

SALES OR PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Sales data is not maintained on a plant by plant basis, but on a company wide basis. Sales increased 10 percent in 1976 compared to 1975. Sales declined 5 percent in the last quarter of 1976 compared to the same quarter of 1975 and 4 percent in the first quarter of 1977 compared to the same quarter of 1976.

Production of men's dress shoes by the Adams Street factory increased 6 percent in 1976 compared to 1975. Production decreased 6 percent in the last 2 quarters of 1976 compared to the same 2 quarters of 1975. Production increased 8 percent in the first quarter of 1977 compared to the first quarter of 1976.

INCREASED IMPORTS

Imports of men's dress and casual footwear with leather uppers increased from 29.7 million pairs in 1974 to 33.2 million pairs in 1975. Imports continued to increase in 1976 to 40.8 million pairs. Imports declined from 10.9 million pairs in the first quarter of 1976 to 10.1 million pairs in the first quarter of 1977.

Imports as a percentage of production increased annually from 47.8 percent in 1974, to 54.7 percent in 1975, and to 63.5 percent in 1976. Imports as a percentage of production increased from 60.9 percent in the first quarter of 1976 to 65.6 percent in the first quarter of 1977.

Imports of shoes by Weyenberg Shoe Manufacturing Co. increased 57 percent in 1976 compared to 1975 and 17 percent in the first quarter of 1977 compared to the first quarter of 1976.

CONTRIBUTED IMPORTANTLY

The customers surveyed indicated that those customers that have decreased purchases from Weyenberg Shoe Manufacturing Co. have increased purchases of imported men's dress shoes.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's shoes produced at Weyenberg Shoe Manufacturing Co., Adams Street factory, Portage, Wis. contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Weyenberg Shoe Manufacturing Co., Adams Street factory, Portage, Wis., who became totally or partially separated on or after October 27, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.



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Signed at Washington, D.C., this 21st day of July 1977.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc.77-21912 Filed 7-28-77;8:45 am]

## NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

### MEETINGS

The National Commission on Electronic Fund Transfers' constituent committees will meet on August 10–12, 1977 in Dining Room E of the Federal Reserve Martin Annex Building in Washington, D.C. beginning at 9:00 a.m. each day to discuss recommendations for the Commission's final report.

As presently scheduled, the Consumers Committee will meet at 9:00 a.m. and the Public Interchange Committee at 4:00 p.m. on August 10; the Suppliers Committee at 9:00 a.m. and the Sharing Committee at 2:00 p.m. on August 11; and the Credit Markets Committee at 9:00 a.m. and the Competitive Impacts Committee at 4:00 p.m. on August 12. The Monetary Policy, International, Cost-Benefit, and Budget Committees may also meet during those 3 days, at times which will be announced during the morning meetings.

The Suppliers Committee meeting will be closed from 9:00 a.m. until approximately 11:00 a.m., pending a determination to this effect by the Director of OMB, so that the Committee can consider certain matters relating to security measures which are now or might be applied in the future to safeguard EFT systems. The remainder of the Suppliers Committee meeting, and all of the other committee meetings, will be open to public observation on a first call basis to the extent that limited space permits. Any person interested in observing should first call Ms. Janet Miller at (202) 254-7400 to check on the availability of space.

Dated: July 26, 1977.

JAMES O. HOWARD, Jr.,
*General Counsel.*

[FR Doc.77-22023 Filed 7-28-77;8:45 am]

## NATIONAL ENDOWMENT FOR THE ARTS AND THE HUMANITIES

### NATIONAL COUNCIL ON THE HUMANITIES ADVISORY COMMITTEE

#### Meeting

JULY 25, 1977.

Pursuant to the Provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the National Council on the Humanities will be conducted at Washington D.C., on August 18–19, 1977.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Shoreham Building, 806 15th Street NW., 1st Floor Conference Room, Washington, D.C. The session of the proposed meeting on August 18, 1977, and the afternoon session on August 19, 1977, will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy. Pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the committee.

The morning session on August 19, 1977, will convene at 9:30 a.m. and will be open to the public. The agenda for the morning session will be as follows:

MINUTES OF THE PREVIOUS MEETING REPORTS

A. Summary of Recent Business and Introduction of New Staff Members.
B. NFAH and NEH Reorganization.
C. Election of Vice-Chairman of the Council.
D. Application Report.
E. Gifts and Matching Report.
F. Challenge Grants—Policy Discussion.
G. Fiscal Year 1978 Appropriations.
H. Jefferson Lecture Selection Procedures.
I. Evaluation.
J. Cooperation with the National Council on the Arts.
K. Federal Reorganization.
L. Dates of Future Council Meetings.

The remainder of the proposed meeting will be closed to the public.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202-724-0256.

JOHN W. JORDAN,
*Advisory Committee, Management Officer.*

[FR Doc.77-21849 Filed 7-28-77;8:45 am]

### NATIONAL COUNCIL ON THE ARTS

#### Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the National Council on the Arts will be held on August 12–13, 1977, from 9 a.m. to 5:30 p.m., and August 14, from 9 a.m. to 1 p.m. in the Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, D.C.

A portion of this meeting will be open to the public on August 12, from 9 a.m. to 5:30 p.m., and August 13, from 9 a.m. to 2:45 p.m., on a space available basis. Accommodations are limited. The agenda for these sessions include Endowment relationships to community and State Arts Programs; Guidelines for Dance Folk Arts, Theatre and Challenge Program and long-range policy planning.

The remaining sessions of this meeting on August 13, from 2:45 p.m. to 5:30 p.m., and August 14, from 9 a.m. to 1 p.m., are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions may be closed to the public pursuant to subsections (c)(4), (6) and 9(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6377.

ROBERT M. SIMS,
*Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.*

JULY 26, 1977.

[FR Doc.77-21944 Filed 7-28-77;8:45 am]

## DEPARTMENT OF THE TREASURY

### Customs Service

[T.D. 77-190]

### EXCESS COST OF PRECLEARANCE OPERATIONS

#### Reimbursable Services

JULY 21, 1977.

Notice is hereby given that pursuant to section 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective the pay period beginning August 14, 1977.

| Installation: | *Biweekly excess cost* |
|---|---|
| Montreal, Canada | $14,922 |
| Toronto, Canada | 24,183 |
| Kindley Field, Bermuda | 5,761 |
| Nassau, Bahama Islands | 11,041 |
| Vancouver, Canada | 7,374 |
| Winnipeg, Canada | 1,336 |

JOHN A. HURLEY,
*Assistant Commissioner of Customs (Administration).*

[FR Doc.77-21866 Filed 7-28-77;8:45 am]

### Internal Revenue Service

### PRIORITY OF PENDING TAX REGULATIONS PROJECTS

#### Invitation for Suggestions

AGENCY: Internal Revenue Service, Treasury.

ACTION: Invitation for suggestions as to priority of pending regulations projects.



SUMMARY: This document contains an invitation for suggestions as to which regulations are most urgently needed of those currently being drafted under the Internal Revenue Code of 1954. The invitation is extended because a backlog has developed in the issuance of regulations as a result of recent tax legislation. The invitation is addressed to all interested persons.

DATES: Written suggestions and comments should be delivered or mailed as soon as possible.

ADDRESS: Send suggestions and comments to: Commission of Internal Revenue, Attention: CC:LR:T, 1111 Constitution Ave., N.W., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

George H. Bradley of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3486).

SUPPLEMENTARY INFORMATION: The enactment of the Tax Reform Act of 1976 and of other tax legislation within the past year has resulted in the establishment of a large number of regulations projects under the Internal Revenue Code of 1954. The careful resolution of the many issues raised by the legislation has prevented the speedy issuance of interpreting regulations. Because of the backlog, the Service is attempting to set priorities on the completion of regulations projects. Projects will be assigned higher priority where there is a compelling need for regulations so that taxpayers can comply with the new legislation or where business transactions cannot be completed with assurance as to the tax consequences without regulatory guidance. On the other hand, where regulations can be deferred without significant adverse impact, or where some guidance is already available through forms or other instructions, projects will receive lower priority.

COMMENTS BY THE PUBLIC

As part of the process of establishing priorities on certain regulations projects, the Internal Revenue Service would appreciate receiving suggestions and comments from all interested persons. Statements of reasons should be included with suggestions as to priorities. All suggestions and comments submitted will be available for public inspection and copying.

Persons who are interested in submitting suggestions and comments are reminded that a monthly publication, Regulations Projects—Status and Disposition Report, is prepared as of the close of each month by the Legislation and Regulations Division of the Office of the IRS Chief Counsel. The report contains a list of brief description of the subject of pending regulations projects and a reference to the statute sections giving rise to the project. Copies of the report may be obtained at a cost of $.10 per page by submitting a request in writing to the Freedom of Information Reading Room, Room 1565, Internal Revenue Service Building, Washington, D.C. 20224. The total cost is ordinarily about $10 to $12.

JEROME KURTZ,
*Commissioner of Internal Revenue.*

[FR Doc.77-21913 Filed 7-28-77;8:45 am]

### Office of Foreign Assets Control

### IMPORTATION FROM BRAZIL OF FERROCHROMIUM AND CHROMIUM-BEARING STEEL PRODUCTS UNDER RHODESIAN SANCTIONS REGULATIONS

#### Issuance by Government of Brazil of Special Certificates Verifying Non-Rhodesian Origin of Chromium Content

Special certificates of origin are now available for importation from Brazil of ferrochromium and specialty steel products under § 530.503 of the Rhodesian Sanctions Regulations. These certificates are issued pursuant to a formal certification agreement between the Government of Brazil and the Government of the United States. They will serve to establish that Brazilian materials exported to the United States do not contain any chromium of Rhodesian origin.

The Government of Brazil has full responsibility for administration of the detailed control measures provided for in the certification agreement. CACEX, an agency of the Government of Brazil, will authorize producers of ferrochromium and specialty steel products to state on the commercial invoice covering products being exported to the United States that the goods have been produced under the agreed certification procedures. This special certification will be presented to Customs at the time of importation. The certificate will state that it is issued pursuant to special certification procedures agreed upon between the Government of Brazil and the Government of the United States.

The agreement replaces the interim arrangements which have been in effect since March 18, 1977, to permit importation of specialty steel products from Brazil. After July 18, 1977, only materials certified under this agreement may be imported under § 530.503 of the Rhodesian Sanctions Regulations (31 CFR 530.503).

Dated: July 20, 1977.

STANLEY L. SOMMERFIELD,
*Acting Director.*

Approved:

BETTE B. ANDERSON,
*Under Secretary.*

[FR Doc.77-21822 Filed 7-26-77;11:05 am]

### IMPORTATION FROM EUROPEAN COMMUNITIES OF FERROCHROMIUM AND CHROMIUM-BEARING STEEL MILL PRODUCTS UNDER THE RHODESIAN SANCTIONS REGULATIONS

#### Availability of Special Certificates for Imports From the United Kingdom

Special certificates issued under the Certification Agreement between the United States and the Commission of the European Communities are available as of July 18, 1977, for imports from the United Kingdom of ferrochromium and chromium-bearing steel mill products. Imports of materials shipped after that date may only be made when accompanied by such special certificates.

Imports of certifiable materials shipped prior to July 18, 1977, may continue to be made under the interim certificates. However, the entry will not be liquidated until the importer presents a special certificate. Such certificate must be obtained from the producer and filed by the importer on or before September 18, 1977, to complete liquidation.

Dated: July 21, 1977.

DENNIS M. O'CONNELL,
*Acting Chief Counsel.*

Approved:

BETTE B. ANDERSON,
*Under Secretary.*

[FR Doc.77-21839 Filed 7-28-77;8:45 am]

## UNITED STATES RAILWAY ASSOCIATION

[Docket 211-15]

### CONSOLIDATED RAIL CORP.

#### Application for a Loan

Subsection (h) of Section 211 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. § 721) (the Act), authorizes the United States Railway Association (Association) to enter into loan agreements with the Consolidated Rail Corporation (ConRail), the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to Section 303(b)(1) of the Act under conditions and for purposes set forth in this Subsection. Subsection (b) of Section 211 requires that the Association publish notice of the receipt of any application thereunder in the FEDERAL REGISTER and afford interested parties an apportunity to comment thereon.

On March 1, 1976, ConRail submitted a preliminary application for a loan under the provisions of Section 211(h) in the amount of $230,000,000. Notice of this application was published in the FEDERAL REGISTER dated March 19, 1976. On March 29, 1976, ConRail supplemented its preliminary application by filing the certifications and exhibits required by "Procedures for Applications for Loans to Pay Obligations of Railroads in Reorganization," 49 C.F.R. Sec. 922 (Loan Procedures), and requested an initial borrowing of $34,024,000. On April 1, 1976, ConRail and the Association entered into a loan agreement which authorized initial borrowings by ConRail of $34,024,000. On April 12, 1976, ConRail further supplemented its loan application with a request that the aggregate amount of the initial borrowings be increased to $51,157,000. On April 15, 1976, the Board of Directors of the Association approved that request.

On July 12, 1976, ConRail filed a Borrowing Application pursuant to Subsec-



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tion 211(h) of the Act requesting, among other things, new borrowings of $35,778,533.21 and an increase of the maximum amount reserved to $230,000,000.00. On July 29, 1976, the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $8,182,352.21.

On November 18, 1976, ConRail filed a Borrowing Application pursuant to Subsection 211(h) of the Act requesting, among other things, new borrowings of $143,804,396.39 and a request for amendment of Section 3.01 of the Loan Agreement to increase the Maximum Borrowing to $203,143,749.60. On December 6, 1976, the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $11,251,396.39.

On February 1, 1977, ConRail filed a Borrowing Application pursuant to Section 211(h) of the Act requesting, among other things, new borrowings of $107,761,877.76. On February 17, 1977, the Executive Committee of the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $107,761,877.76.

On March 16, 1977, ConRail filed a Borrowing Application pursuant to Section 211(h) of the Act requesting new borrowings of $25,333,400.00. On March 31, 1977, the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $25,333,400.00.

On April 25, 1977, ConRail filed a Borrowing Application pursuant to Section 211(h) of the Act requesting new borrowings of $25,888,400.00. On April 29, 1977, the Executive Committee of the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $7,825,000.00, to be effective May 10, 1977.

On June 6, 1977, ConRail filed a Borrowing Application pursuant to Section 211(h) of the Act requesting new borrowings of $10,137,739.43. On June 30, 1977, the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $10,137,739.43.

On June 22, 1977, ConRail filed a Borrowing Application pursuant to Section 211(h) of the Act requesting new borrowings of $15,060,000.00. On June 30, 1977, the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $15,060,000.00.

On July 20, 1977, ConRail filed a new Borrowing Application pursuant to Section 211(h) of the Act requesting new borrowings of $18,030,000.00 to be applied: (i) to the payment of certain non-employee related obligations of the Lehigh Valley Railroad Company; and, (ii) to the payment of certain pre-conveyance employee-related Penn Central Transportation Company obligations.

Interested parties are invited to submit written comments relevant to this application. Any such submission must identify, by its Docket No., the application to which it relates, and must be filed with the Office of General Counsel, United States Railway Association, Room 2222, Transpoint Building, 2100 Second Street SW., Washington, D.C. 20595, on or before August 6, 1977, to enable timely consideration by USRA. The docket containing the original application shall be available for public inspection at that address Monday through Friday (holidays excepted) between 8:30 a.m. and 5 p.m.

Dated at Washington, D.C., this 26th day of July 1977.

EDWIN RECTOR,
*Assistant Secretary.*
*United States Railway Association.*

[FR Doc.77-21842 Filed 7-28-77;8:45 am]

## VETERANS ADMINISTRATION

### STATION COMMITTEE ON EDUCATIONAL

#### Notice of Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on August 16, 1977, at 10 a.m., the San Diego Regional Office Station Committee on Educational Allowances shall at Room 902, 2022 Camino del Rio North, San Diego, California 92108 conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in B&J Imperial Aviation, Inc., 1095 Airport Avenue, Imperial, California 92251 should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: July 20, 1977.

HERBERT R. RAINWATER,
*Director,*
*VA Regional Office.*

[FR Doc.77-21813 Filed 7-28-77;8:45 am]

### STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

#### Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on August 18, 1977, at 10:00 a.m., the San Diego Regional Office Station Committee on Educational Allowances shall at Room 902, 2022 Camino del Rio North, San Diego, California 92108 conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in JIMSAIR, Inc., 2904 Pacific Highway, San Diego, California 92101 should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: July 20, 1977.

HERBERT R. RAINWATER,
*Director, VA Regional Office,*
*2022 Camino del Rio North,*
*San Diego, Calif. 92108.*

[FR Doc.77-21848 Filed 7-28-77;8:45 am]

## INTERSTATE COMMERCE COMMISSION

### Office of Hearings

[No. 447]

### ASSIGNMENT OF HEARINGS

JULY 26, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. 36505, Pioneer Mills v. The Atchison, Topeka, and Santa Fe Railway Co., now assigned September 7, 1977, at Los Angeles, Calif., will be held in Court Room 323, Federal Bldg. and Courthouse, 312 N. Spring Street.

MC 138635 (Sub-No. 34), Carolina Western Express, Inc., now assigned September 12, 1977, at Los Angeles, Calif., will be held in Court Room 323, Federal Bldg. and Courthouse, 312 N. Spring Street.

MC 108207 (Sub-No. 454), Frozen Food Express, Inc., now assigned September 13, 1977, at Los Angeles, Calif., will be held in Court Room 323, Federal Bldg. and Courthouse, 312 N. Spring Street.

MC 141084 (Sub-No. 4) National Freight Lines, Inc., now assigned September 15, 1977, at Los Angeles, Calif., will be held in Court Room 323, Federal Bldg. and Courthouse 312 N. Spring Street.

MC 118288 (Sub-No. 47), Frost Truck Lines, Inc., now assigned September 19, 1977, at Los Angeles, Calif., will be held in Court Room 323, Federal Bldg. and Courthouse, 312 N. Spring Street.

MC 141804 (Sub-No. 42), Western Express, Division of Interstate Rental, Inc., now assigned September 21, 1977, at Los Angeles, Calif., will be held in Court Room 323, Federal Bldg. and Courthouse, 312 N. Spring Street.

MC 140389 (Sub 9), Osborn Transportation, Inc., now being assigned September 26, 1977, for continued hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 116457 (Sub 20), General Transportation, Inc., now being assigned September 21, 1977 (3 days), at Phoenix, Ariz., and will be held at the U.S. Tax Court, Room 235, 2nd Floor, Federal Building and Post Office, 522 North Central Avenue.

MC 124857 (Sub 1), Interstate Towing, Inc., now being assigned September 19, 1977 (2 days), at Phoenix, Ariz., and will be held at the U.S. Tax Court, Room 235, 2nd Floor, Federal Building and Post Office, 522 North Central Avenue.





MC 119792 (Sub 57), Chicago Southern Transportation Co., now being assigned October 17, 1977 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MC 111375 (Sub 84), Pirkle Refrigerated Freight Lines, Inc., now being assigned October 12, 1977 (3 days), at Chicago, Ill., in a hearing room to be later designated.

MC 123407 (Sub-No. 361), Sawyer Transport, Inc., application dismissed.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77-21917 Filed 7-28-77;8:45 am]

### FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 26, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before August 15, 1977.

FSA No. 43402—*Joint Water-Rail Container Rates—Far Eastern Shipping Co.* Filed by Far Eastern Shipping Co. (No. 9), for itself and interested rail carriers. Rates on general commodities, between rail carriers terminals on the U.S. Atlantic and Gulf Coast, and ports in Japan, Hong Kong, Australia, the Philippines, Singapore, Thailand, and West Malaysia.

Grounds for relief—Water competition.

FSA No. 43403—*Ethylene glycol from Channelview, Tex.* Filed by Southwestern Freight Bureau, Agent (No. B-697), for interested rail carriers. Rates on ethylene glycol, in tankcar loads, as described in the application, from Channelview, Tex., to Earl and Fiberton, N.C.; also Darlington and Greer, S.C.

Grounds for relief—Market competition.

Tariff—Supplement 23 to Southwestern Freight Bureau, Agent, tariff 11-H, I.C.C. No. 5242. Rates are published to become effective on September 1, 1977.

By the Commission.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77-21916 Filed 7-28-77;8:45 am]

[AB 19 (Sub-No. 34)]

### PITTSBURG AND WESTERN RAILROAD CO. AND BALTIMORE AND OHIO RAILROAD CO.

#### Abandonment of Railroad Services

JULY 21, 1977.

The Pittsburg and Western Railroad Co. and the Baltimore and Ohio Railroad Co.—Abandonment near Parkers Landing and Mt. Jewett in Armstrong, Clarion, Forest Elk and McKean Counties, Pa.

The Interstate Commerce Commission gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Section of Energy and Environment to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.

Said comments have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7011.

H. G. HOMME, Jr.,
*Acting Secretary.*

[FR Doc.77-21918 Filed 7-28-77;8:45 am]



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# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

FEDERAL MARITIME COMMISSION.

TIME AND DATE: August 3, 1977, 10:00 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agreement 10214: Inter-conference discussion agreement between the U.S. Atlantic and Gulf/Australia-New Zealand Conference and the Pacific Coast-Australasian Tariff Bureau.

2. Proposed Amendments to Rules of Practice and Procedure regarding subpoenas and discovery directed to Commission personnel and regarding replies to appeals of Administrative Law Judge's rulings.

3. Docket No. 74-28: *International Paper Company* v. *Lykes Bros. Steamship Co., Inc.*, and Docket No. 74-39: Petition of Lykes Bros. Steamship Co., Inc. for Declaratory Order. (Complaint alleging unlawful denial of volume rates); determination whether to review order of discontinuance of Administrative Law Judge.

Portions closed to the public:

1. Agreement 10186-1: Modification of a space chartering agreement between the Korea Shipping Corporation and the Orient Overseas Container Line, Inc. to increase number of container slots to be chartered to 200 minimum and 450 maximum.

2. Docket No. 77-5: Agreement No. 9873-3 and Agreement No. 9863, Joint Motion for Modification of Procedural Events and Date-Proponents' Motion for Declaratory Order; and Proponents' Motion for Stay of Discovery.

3. Docket No. 76-32: Arctic Lighterage Company, Proposed Initial Tariff in the Western Alaska Trade, Determination whether to review Administrative Law Judge's order of discontinuance.

4. Docket No. 77-3: State of Alaska on Behalf of Tlingit-Haida Purchasing Association and all Others Similarly Situated v. Pelican Cold Storage, Inc., and Alaska Outports Transportation Association, Inc. (Complaint alleging unlawful refusal of use of wharfare facilities); Determination whether to review Administrative Law Judge's order of discontinuance.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary, 202-523-5727.

[S-999-77 Filed 7-26-77;3:02 pm]

2

OVERSEAS PRIVATE INVESTMENT CORPORATION:

TIME AND DATE: Meeting of the OPIC Board of Directors: Tuesday, August 2, 1977 at 9:00 a.m. (Closed Portion) and 11:00 a.m. (Open Portion).

PLACE: Offices of the Corporation, 7th Floor Board Room, 1129 20th Street NW., Washington, D.C.

STATUS: The first part of the meeting from 9:00 a.m. to 11:00 a.m. will be closed to the public. The open portion of the meeting will start at 11:00 a.m.

MATTERS TO BE CONSIDERED:

(Closed to the Public: 9:00 a.m. to 11:00 a.m.)

1. Personnel Matters.
2. County Eligibility: OPIC Program.
3. Reinsurance Proposal.
4. Underwriting Policy.
5. Insurance of South American project.
6. Claims Reports.
7. Information Reports.

FURTHER MATTERS TO BE CONSIDERED: (Open to the Public: 11:00 a.m.)

1. Approval of Minutes of Previous Meetings.
2. Approval: Scheduled Board Meetings.
3. OPIC By-Laws Amendment.
4. Retrospective Premium Adjustment Plan: Amendment.
5. OPIC Procedures.
6. OPIC Budget FY 78-79: Approval.
7. Financial Statements as of June 30, 1977.
8. Information Report.

CONTACT PERSON FOR INFORMATION:

Information with regard to this meeting may be obtained from the Secretary of the Corporation at 202-632-1839.

ELIZABETH A. BURTON,
*Corporate Secretary.*

JUNE 26, 1977.

[S-997-77 Filed 7-26-77;3:24 pm]

3

FEDERAL POWER COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (Pub. July 25, 1977, 42 FR 37900.)

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: July 26, 1977, 10:00 a.m.

CHANGE IN THE MEETING: The following items have been added:

*Item No., Docket No., and Company*

P-14 E-7740, Indiana & Michigan Electric Company.
P-15 E-9520, Illinois Power Company.
P-16 ER77-516, Florida Power Corporation.
P-17 ER77-407, Ohio Edison Company.
P-18 ER77-523, Puget Sound Power and Light Company.
P-19 ER77-203, Wisconsin Electric Power Company.
P-20 ER77-522, Kansas City Power and Light Company.
P-21 ER77-314, Gulf States Utilities Company.
P-22 ER77-519, Cleveland Electric Illuminating Company.
P-23 ER77-417, Ohio Edison Company.
P-24 ER77-511, New York Power Pool.
P-25 ER77-494 and ER77-480, Brockton Edison Company, Montaup Electric Power Company.
P-26 ER77-521, Arizona Public Service Company.
P-27 ER77-493 and ER77-480, Blackstone Valley Electric Company, Montaup Electric Power Company.
P-28 ER77-488, El Paso Electric Company.
P-29 ER76-151, Delmarva Power & Light Company and Subsidiaries.
P-30 ER77-277, Pennsylvania Power Company.
P-31 Project No. 199, South Carolina Public Service Authority.
M-3 RM77-2, Modification of FPC Form No. 423, Monthly Report Cost and Quality of Fuels for Electric Plants.
M-4 RM76-10, Rate Schedule Analysis on a continuing current basis: FPC Form No. 108.
M-5 RM77-14, Gas Research Institute.
G-46 RP76-89, Northern Natural Gas Company.
G-47 G-2801 and CI72-50, Getty Oil Company, (Operator), et al.
G-10020 and CI71-722 Phillips Petroleum Company (Operator), et al.
G-48 RP74-32, Consolidated Gas Supply Corporation.
G-49 CP75-362, El Paso Natural Gas Company.
G-50 RP75-73, Texas Eastern Transmission Corporation.
G-51 CI75-45, et al., Tenneco Oil Company.

LOIS D. CASHELL,
*Acting Secretary.*

[S-998-77 Filed 7-27-77;9:17 am]

4

FEDERAL HOME LOAN BANK BOARD.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, No. 142, page 37900, Monday, July 25, 1977.





PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., July 27, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 203-376-3012.

CHANGES IN THE MEETING:

The following item has been added to the agenda for the open portion of the meeting:

Consideration of Amendment to mortgage Backed Bond Regulations (§ 563.8-2).

No. 54, July 27, 1977.

[S-999-77 Filed 7-27-77;9:17 am]

5

FEDERAL HOME LOAN MORTGAGE CORPORATION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, No. 140, page 37497, Thursday, July 21, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: At the conclusion of the open meeting to be held at 2:30 p.m., on July 25, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Henry Judy, 202-624-7107.

CHANGES IN THE MEETING:

The following item has been added to the agenda for the closed portion of the meeting:

Consideration of Authorizations of Authority for Personnel.

No. 53, July 25, 1977.

RONALD A. SNIDER,
*Assistant Secretary.*

[S-1000-77 Filed 7-27-77;9:17 am]

6

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 2:30 p.m., Monday, August 1, 1977.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C.

STATUS: Notice of Open Meeting.

MATTER TO BE CONSIDERED:

Division 3, Division Chairman Brown and Commissioners MacFarland and Christian voted unanimously to hold a meeting to consider the following agenda: 1. Review of present Division workload.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Hildred Hersman, Confidential Assistant to Commissioner Brown, Telephone: 202-275-7535.

[S-1001-77 Filed 7-27-77;9:17 am]

7

FOREIGN CLAIMS SETTLEMENT COMMISSION.

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of routine Commission business and other matters specified, as follows:

DATE, TIME, AND SUBJECT MATTER

Wednesday, August 3, 1977, at 10:30 a.m., Routine Business.
Wednesday, August 10, 1977, at 10:30 a.m., Routine Business.
Wednesday, August 17, 1977, at 10:30 a.m., Routine Business.
Wednesday, August 24, 1977, at 10:30 a.m., Routine Business.
Wednesday, August 31, 1977, at 10:30 a.m., Routine Business.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. 20579. Telephone: 202-653-6156.

Dated at Washington, D.C. on July 25, 1977.

FRANCIS T. MASTERSON,
*Executive Director.*

[S-1002-77 Filed 7-27-77;9:56 am]

8

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

TIME AND DATE: 9:30 a.m. (Eastern Time), Tuesday, August 2, 1977.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: A part of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion open to the public:

DESIGNATION OF MODEL DISTRICT OFFICES

The Commission will consider the selection of up to five district offices to be organized in accordance with the plan approved at the meeting of July 20, 1977.

Portions closed to the public:

(1) *Proposed Procurement; Job Evaluation.* Commission approval will be requested to contract with an organization to analyze the comparable worth of dissimilar jobs, in support of EEOC's Seattle District Office.

(2) *Proposed Procurement; Processing of EEO-4 Survey.*—Commission approval will be requested to contract with an organization to process the State and Local Government Information Report, identified as the EEO-4 Survey.

(3) *Litigation Authorization; General Counsel Recommendations.*—Matters closed to the public under Sec. 1612.13(a) of the Commission's regulations (42 FR 13830, March 14, 1977).

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at (202-634-6748).

This Notice Issued July 26, 1977.

[S-1003-77 Filed 7-27-77;10:30 am]

9

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 37614, July 22, 1977; Addendum to be printed July 28, 1977.

PREVIOUS ANNOUNCED TIME AND DATE: July 27, 1977, 2:30 p.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

STATUS: Closed.

CHANGES IN THE MEETING: The following additional matters will be considered by the Commission at the closed meeting: Deliberation concerning fees of court-appointed amici curiae. Freedom of Information Act Appeal.

The following additional matter will be considered by the Commission at the open meeting: Consideration of the extension of Rule 15c2-11(f)(4)(T) until January 31, 1978. This rule conditionally exempts from the "due diligence" requirements certain publication of quotations for securities traded over-the-counter.

Chairman Williams, Commissioners Loomis, Evans, and Pollack determined that Commission business required consideration of these matters and that no earlier notice thereof was possible.

JULY 27, 1977.

[S-1004-77 Filed 7-27-77;11:29 am]

10

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the



V 42 146 JUL 29 77 UMI

Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of August 1, 1977, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Monday, August 1, 1977, at 10 a.m. and on Friday, August 5, 1977, immediately following the open meeting. An open meeting will be held on August 5, 1977, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b (c)(4)(8)(9)A and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams, and Commissioners Pollack, Evans, and Loomis voted to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Monday, August 1, 1977 will be:

Formal orders of investigation.
Institution of injunctive actions.
Settlement of injunctive actions.
Institution of administrative proceedings.
Settlement of administrative proceedings.
Referral of investigative files to Federal, State or Self Regulatory authorities.
Freedom of Information Act Appeals.
Amendment of formal order of investigation.
Application for relief.
Petition for declaratory order.

The subject matter of the open meeting scheduled for Friday, August 5, 1977 will be:

1. Consideration of an extension of time for comments regarding the development of disclosure guidelines for the electric and gas utility industry.

2. Consideration of an application by Plus Products Corporation, pursuant to Section 12(h) of the Securities Exchange Act of 1934 for an order which would exempt the applicant from certain reporting requirements of that Act.

3. Consideration of an application by Inter-Comm Data Corporation, pursuant to Section 12(h) of the Securities Exchange Act of 1934 for an order which would exempt the applicant from certain reporting requirements of that Act.

4. Consideration of an application by Pepper, Hamilton, and Scheetz, pursuant to Section 3(a)(2) of the Securities Act of 1933 for an order which would exempt the applicant from certain reporting requirements regarding interests in retirement and pension plans.

5. Consideration of a proposal to amend the Guidelines for the preparation of Forms S–4 and S–5, to eliminate an undertaking which requires investment companies registering securities on such forms to have an annual or special meeting of shareholders within 180 days of the effectiveness of the investment company's registration statement under the Securities Act of 1933.

6. Consideration of a proposal to request comments on implementation problems encountered in the first reports on replacement costs disclosures to be used in providing additional implementation guidance that would result in more meaningful and consistent disclosures.

7. Consideration of a proposed plan of reorganization, pursuant to Section 11(e) of the Public Utility Holding Company Act of 1935, filed by British American Utilities Corporation and North East Heat and Light Company.

8. Consideration of amendments regarding reporting and inquiry requirements under the Lost and Stolen Securities Program and modifications to reporting Form X–17F–1A. In addition, the Commission will consider the final operating procedures of systems which will implement the Lost and Stolen Securities Program.

9. Consideration of National Securities Clearing Corporation's ("NSCC") response to the July 12, 1977 letter of the Commission, directing NSCC to reply to the petition of the Pacific Stock Exchange, Inc. pertaining to NSCC interface fees.

The subject matter of the closed meeting scheduled for Friday, August 5, 1977 will be:

Consideration of litigation matter.
Regulatory matter arising from and bearing enforcement implications.

FOR FURTHER INFORMATION CONTACT:

Margaret M. Topps at 202–376–8016 or Julian T. Pierce at 202–755–1271.

JULY 26, 1977.

[S–1005–77 Filed 7–27–77;11:29 am]



federal register

FRIDAY, JULY 29, 1977
PART II

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## Federal Insurance Administration

■

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determinations for Various Communities

V42I146 JUL 29 77 UMI

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Federal Insurance Administration

### [ 24 CFR Part 1917 ]

[Docket No. FI-3150]

### TOWN OF PORTVILLE, CATTARAUGUS COUNTY, NEW YORK

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Portville, Cattaraugus County, New York.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Office Building, Portville, New York.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Conrad Linn, Town Supervisor of Portville, Linn Road, Portville, New York.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the town of Portville, Cattaraugus County, New York, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Allegheny River | Downstream corporate limit. | 1,428 |
| | Steam Valley Road Bridge. | 1,432 |
| | Downstream village at Portville corporate limits. | 1,434 |
| | Confluence with Dodge Creek. | 1,435 |
| | Confluence with Oswayo Creek. | 1,437 |
| | Upstream corporate limits. | 1,439 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc 77-21210 Filed 7-28-77;8:45 am]

### [ 24 CFR Part 1917 ]

[Docket No. FI-3151]

### CITY OF SALAMANCA, CATTARAUGUS COUNTY, NEW YORK

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Salamanca, Cattaraugus County, New York. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Salamanca City Municipal Building, 225 Wildwood Avenue, Salamanca, New York. Any person having knowledge, information or wishing to make a comment on these proposed elevations should immediately notify Honorable Ronald I. Yehl, Mayor of Salamanca, Salamanca Municipal Building, 225 Wildwood Avenue, Salamanca, New York 14779.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line, 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Salamanca, Cattaraugus County, New York, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Allegheny River | Center St. | 1,370.3 |
| | Main St. | 1,378.8 |
| | Route 17 | 1,382.6 |
| Little Valley Creek | Washington St. | 1,370.5 |
| | Corporate limits | 1,371.8 |
| Great Valley Creek | Con Rail Bridge (ist) | 1,388.6 |
| | Route 17 | 1,391.1 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21211 Filed 7-28-77;8:49 am]





### [ 24 CFR Part 1917 ]

[Docket No. FI-3152]

### CITY OF NEW BERN, NORTH CAROLINA

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of New Bern, North Carolina. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, New Bern, North Carolina. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Charles Kimbrell, City Hall, P.O. Box 1129, New Bern, North Carolina 28560.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of New Bern, North Carolina in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, New Bern, North Carolina.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Major Charles Kimbrell, City Hall, P.O. Box 1129, New Bern, North Carolina 28560.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Neuse River | Atlantic and East Carolina RR. east of South Glenburnie Rd. | 12 |
| | Broad St. east of U.S. 70–U.S. 17 junction. | 12 |
| | Pembroke Rd. northeast of extraterritorial limits. | 12 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc 77-21212 Filed 7-28-77;8:45 am]

### [ 24 CFR Part 1917 ]

[Docket No. FI-3153]

### CITY OF WILMINGTON, NORTH CAROLINA

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Wilmington, North Carolina. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 102 North 3rd Street, Wilmington, North Carolina 28401. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor B. B. Halterman, City Hall, 102 North 3rd Street, P.O. Box 1810, Wilmington, North Carolina 28401.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Wilmington, North Carolina in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 102 North 3rd Street, Wilmington, North Carolina.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor B. B. Halterman, City Hall, 102 North 3rd Street, Wilmington, North Carolina 28401.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Cape Fear River | U.S. Highways 74 and 76. | 11 |
| Northeast Cape Fear River. | U.S. 117. | 11 |
| | South Carolina Line RR. | 11 |
| Spring Branch | Kerr Ave. | 11 |
| Burnt Mill Creek | Mercer Ave.[1] | 17 |
| | do.[2] | 15 |
| | Colonial Dr. | 13 |
| | Princess Place Dr. | 11 |
| Greenfield Lake | Lakeshore Dr. | 11 |
| | 3d St. | 11 |
| Greenfield Lake, north branch. | 16th St.[1] | 18 |
| | do.[2] | 16 |
| Greenfield Lake, north branch tributary. | do. | 16 |

[1] Upstream.
[2] Downstream.



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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended 42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21213 Filed 7-28-77;8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3154]

## CITY OF GARIBALDI, OREGON

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Garibaldi, Oreg.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 107 Sixth Street, Garibaldi, Oreg.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Russell C. Curnutt, City Hall, P.O. Box 708, 107 Sixth Street, Garibaldi, Oreg. 97118.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Garibaldi, Oreg., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 107 Sixth Street, Garibaldi, Oreg.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Lorren A. Kulland, City Hall, Drawer D, Pacific Way, Gearhart, Oreg. 97138.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Gearhart, Oreg., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Johnson Creek | Acacia Ave. | 11 |
| School Creek | Cypress Ave. | 11 |
| | Highway 101 | 11 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21214 Filed 7-28-77;8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3155]

## CITY OF GEARHART, OREGON

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Gearhart, Oreg.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Pacific Way, Gearhart, Oreg.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Lorren A. Kulland, City Hall, Drawer D, Pacific Way, Gearhart, Oreg. 97138.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Neacoxie Creek | G St. | 12 |
| | Pacific Way | 13 |
| Neawanna Creek | Oster Rd. | 11 |
| | 1st St. | 11 |
| Airport Creek | 6th St. | 12 |
| Pacific Ocean | West of Neacoxie Blvd., north of 5th St. | 26 |
| | West of Neacoxie Blvd., north of Pacific Way. | 23 |
| | West of Ocean Ave., north of E St. | 27 |
| | West of Ocean Ave., near G St. | 29 |
| | Southwest of Ocean Ave. | 22 |
| | South of Ocean Ave | 18 |
| | Southeast of Ocean Ave. | 14 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128) and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21215 Filed 7-28-77;8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3156]

## TOWN OF HAMMOND, OREGON

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Hammond, Oregon. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Office of the Mayor, Town Hall, Hammond, Oregon. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Richard T. Carruthers, Town Hall, Hammond, Oregon 97121.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Hammond, Oregon in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Office of the Mayor, Town Hall, Hammond, Oregon.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Richard T. Carruthers, Town Hall, Hammond, Oregon 97121.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Columbia River | Bank of Columbia River. | 9 |
| Alder Creek | Area near Alfred St. | 4 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21216 Filed 7-28-77;8:45 am]





[ 24 CFR Part 1917 ]

[Docket No. FI-3157]

## CITY OF MANZANITA, OREGON

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Manzanita, Oregon. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 543 Laneda Avenue, Manzanita, Oregon. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Frank S. Foldi, City Hall, 543 Laneda Avenue, P.O. Box C, Manzanita, Oregon 97130.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh St. SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Manzanita, Oregon in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new build-

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ings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 543 Laneda Avenue, Manzanita, Oregon.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Frank S. Foldi, City Hall, 543 Laneda Avenue, P.O. Box C, Manzanita, Oregon 97130.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Pacific Ocean | Beach St | 29 |
| | Ocean Rd | 29 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21217 Filed 7-28-77;8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3158]

## CITY OF ROCKAWAY, OREGON

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Rockaway, Oregon. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 276 South Highway 101, Rockaway, Oregon. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Kenneth O. Christensen, City Hall, 276 South Highway 101, P.O. Box 35, Rockaway, Oregon 97136.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Rockaway, Oregon in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Pacific Ocean | West of Oregon Coast Highway 101: | |
| | 2d St | 37 |
| | North 5th Ave | 37 |
| | Nehalem Ave | 23 |
| | South 7th Ave | 23 |
| | Heitmiller St | 24 |
| Clear Lake | East of Oregon Coast Highway 101: | |
| | South 3d Ave | 14 |
| | South 6th Ave | 14 |
| Rock Creek | North of South 3d Ave.: | |
| | South E St | 18 |
| | South D St | 16 |
| | South C St | 16 |
| Lake Lytle | East of Highway 101 | |
| | North St | 12 |
| | North 6th Ave | 12 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128) and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21218 Filed 7-28-77;8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3159]

## CITY OF TILLAMOOK, OREGON

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Tillamook, Oregon.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Third Street, Tillamook, Oregon.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Walter Ackley, City Hall, Third Street, Tillamook, Oregon 97141.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Tillamook, Oregon, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Third Street, Tillamook, Oregon.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Walter Ackley, City Hall, Third Street, Tillamook, Oregon 97141.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Hoquarton Slough | Hoquarton Slough Bridge (Highway 101). | 11 |
| Trask River | Tone Bridge | 16 |
| | 11th St. (east of Highway 101). | 16 |
| | Miller Ave | 16 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21219 Filed 7-28-77;8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3160]

## CITY OF JEANETTE, PENNSYLVANIA

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Jeanette, Pennsylvania.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 2nd and Clay Avenue, Jeanette, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Richard F. Miaskiewicz, City Hall, 2nd and Clay Avenue, Jeannette, Pennsylvania 15644.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Brush Creek | Brown Ave | 1,017 |
| | Chambers Ave | 997 |
| | 6th St | 983 |
| | 11th St | 973 |
| Bull Run | Harrison Ave | 1,021 |
| | Pitcairn Ave | 1,015 |
| | North 4th St. (upstream). | 1,005 |
| | North 4th St. (downstream). | 1,003 |
| Down Run | Lewis Ave | 1,009 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21220 Filed 7-28-77;8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3161]

## CITY OF PHILADELPHIA, PHILADELPHIA COUNTY, PENNSYLVANIA

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Philadelphia, Philadelphia County, Pennsylvania.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 215 City Hall, Philadelphia, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Frank L. Rizzo, Mayor of Philadelphia, 215 City Hall, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Philadelphia, Philadelphia County, Pennsylvania in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program





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regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurances on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Indian Creek | City Line Ave | 178 |
| | Landsdowne Ave | 128 |
| | Haverford Ave | 112 |
| | Golf course service road. | 98 |
| Cobbs Creek | City Line Ave | 129 |
| | Landsdowne Ave | 103 |
| | Confluence with Indian Creek. | 98 |
| | Market St | 70 |
| | Baltimore Ave | 52 |
| | Cobbs Creek Parkway | 38 |
| | 65th St | 34 |
| | Woodland Ave | 26 |
| Darby Creek | Hook Rd | 21 |
| Wissahickon Creek | Northwestern Ave | 140 |
| | Thomas Mill Rd | 115 |
| | Wissahickon Dr | 79 |
| | Henry Ave | 52 |
| | Confluence with Schuylkill River. | 38 |
| Schuylkill River | Green Lane | 48 |
| | Falls Bridge | 34 |
| | Girard Ave | 27 |
| | Walnut St | 22 |
| | Passyunk Ave | 10 |
| | Confluence with Delaware River. | 10 |
| Tacony Frankford Creek | Adams Ave | 78 |
| | Tabor Rd | 67 |
| | Wyoming Ave | 50 |
| | Castor Ave | 31 |
| | Kensington Ave | 24 |
| | Delaware Expressway | 15 |
| | Confluence with Delaware River. | 10 |
| Wooden Bridge Run | Ashton Rd | 77 |
| | Willits Rd | 56 |
| | Holme Ave | 47 |
| | Confluence with Pennypack Creek. | 33 |
| Pennypack Creek | Pine Rd | 98 |
| | Krewstown Rd | 71 |
| | Roosevelt Blvd | 55 |
| | Holme Ave | 33 |
| | Confluence with Sandy Run. | 18 |
| | Welsh Rd | 38 |
| | Frankford Ave | 25 |
| | State Rd | 18 |
| | Confluence with Delaware River. | 10 |
| Walton Run | Caroline Rd | 117 |
| | Decatur Rd | 92 |
| | Academy Rd | 68 |
| Byberry Creek | Byberry Rd | 109 |
| | Thornton Rd | 94 |
| | Chalfont Drive | 63 |
| | Chesterfield Rd | 51 |
| | Morrell Ave | 35 |
| | Confluence with Poquessing Creek. | 27 |
| Poquessing Creek | City limit | 123 |
| | Roosevelt Blvd | 112 |
| | Cloverdale Rd | 94 |
| | Century Lane | 76 |
| | Byberry Rd | 62 |
| | Red Lion Rd | 39 |
| | Confluence with Delaware River. | 10 |
| Delaware River | Tidal flooding—elevation is constant (to nearest foot). | 10 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21221 Filed 7-28-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI-3162]

## CITY OF HEWITT, McLENNAN COUNTY, TEXAS

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Hewitt, McLennan County, Tex.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Hewitt, Tex.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Marvin R. Lance, P.O. Box 610, Hewitt, Tex. 76643.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Hewitt, McLennan County, Tex., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet above mean sea level |
|---|---|---|
| Chambers Creek | Upstream of West Frontage Rd | 511 |
| | Old Temple Rd | 577 |
| Castleman Creek | Upstream of West Frontage Rd | 564 |
| | Upstream of Earle Rd | 616 |
| | Downstream of Warren St | 656 |

(National Food Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128) and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21222 Filed 7-28-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI-3163]

## TOWN OF JOHNSON, LAMOILLE COUNTY, VERMONT

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the town of Johnson, Lamoille County, Vt.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.





ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Clerk's Office, Pearl Street, Box 226, Johnson, Vt.

Any person having knowledge information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Frank Dodge, Co-Chairman, RFD No. 2, Johnson, Vt. 05656, or Mr. Elsworth DeGoosh Co-chairman RFD No. 1, Johnson, Vt. 05656.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Johnson, Lamoille County, Vt., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected location are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Lamoille River | Vermont Route 15 | 491 |
| | Vermont Northern R.R. | 533 |
| Gihon River | Vermont Route 100C | 577 |
| | Town Highway No. 33. | 617 |
| Ball Brook | Town Highway No. 18. | 577 |
| Foot Brook | Vermont Route No. 15. | 605 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21223 Filed 7-28-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI-3164]

## VILLAGE OF JOHNSON, LAMOILLE COUNTY, VERMONT

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the village of Johnson, Lamoille County, Vt.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Village Clerk's Office, Pearl Street, Box 266, Johnson, Vt.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. George Desmarais, Trustee, Village of Johnson, Village Hall, Box 187, Johnson, Vt. 05656.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the village of Johnson, Lamoille County, Vt., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub.L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Lamoille River | 100 ft downstream of Railroad St. | 498 |
| | 100 ft upstream of Railroad St. | 500 |
| Gihon River | Vermont Route 15 | 498 |
| | Pearl St. | 498 |
| | 50 ft. upstream of School St. | 526 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128) and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21224 Filed 7-28-77;8:45 am]

## [ 24 CFR Part 1917 ]

[Docket No. FI-3165]

## DOOR COUNTY, WISCONSIN

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Door County, Wisc.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the



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flood-prone areas and the proposed base flood elevations are available for review at Door County Courthouse, 138 South Fourth Avenue, Sturgeon Bay, Wisc.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Orville Voeks, County Board Chairman, Door County Courthouse, 138 South Fourth Avenue, Sturgeon Bay, Wisc. 54235.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Door County, Wisc., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Ahnapee River | County Trunk Highway X. | 587 |
| | County Trunk Highway J. | 589 |
| | Forestville Dam | 594 |
| Stony Creek | County Trunk Highway J. | 662 |
| | North Carnot Rd. | 663 |
| Maple Creek | County Trunk Highway T. | 588 |
| | Field Road Bridge | 600 |
| | Haberli Rd. | 601 |
| Fish Creek | State Trunk Highway 42. | 592 |
| Kayes Creek | County Trunk Highway C. | 593 |
| | Pickerel Rd. | 604 |
| | Fox Lane | 606 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21225 Filed 7-28-77;8:45 am]

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## [ 24 CFR Part 1917 ]

[Docket No. FI-3209]

## FLORENCE COUNTY, WISCONSIN

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Florence County, Wisconsin. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Florence County Building, 501 Lake Street, Florence, Wisconsin. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Alfred Lund, County Board Chairman, Florence County, Florence County Building, 501 Lake Street, Florence, Wisconsin 54121.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Florence County, Wisconsin in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Florence County Building, 501 Lake Street, Florence, Wisconsin.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Alfred Lund, County Board Chairman, Florence County, Florence County Building, 501 Lake Street, Florence, Wisconsin 54121.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Menominee River | County Trunk Highway. | 1,048 |
| | Chicago and Northwestern R.R. | 1,070 |
| | U.S. Highway 2 | 1,076 |
| | Old Twin Falls Rd | 1,113 |
| Brule River | Orneis Rd. | 1,208 |
| Fisher Creek | Town Rd. | 1,223 |
| | State Trunk Highway. | 1,279 |
| | Footbridge | 1,277 |
| | Town Rd. | 1,278 |
| | Footbridge | 1,281 |
| | Woodward Ave. | 1,283 |
| | Footbridge | 1,284 |
| | Quinnesec St. | 1,289 |
| | Chicago and Northwestern R.R. | 1,289 |
| | do | 1,292 |
| | Plank Bridge | 1,293 |
| | State Trunk Highway. | 1,293 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21226 Filed 7-28-77;8:45 am]

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## [ 24 CFR Part 1917 ]

[Docket No. FI3166]

## CITY OF RIVER FALLS, WISCONSIN

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of River Falls, Wisconsin. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 115 East Elm Street, River Falls, Wisconsin. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Lawrence Klug, City Hall, 115 East Elm Street, River Falls, Wisconsin 54022.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of River Falls, Wisconsin in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 115 East Elm Street, River Falls, Wisconsin.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Lawrence Klug, City Hall, 115 East Elm Street, River Falls, Wisconsin 54022.

The proposed 100-year flood elevations for selected locations are:





| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Kinnickinnic River. | Maple St. | 876 |
| | Falls St. | 876 |
| South Fork Kinnickinnic River. | Wasson Lane | 894 |
| | South Main St. | 878 |
| Unnamed tributary No. 1. | Division St. | 911 |
| | 6th St. | 901 |
| Unnamed tributary No. 2. | Cudo Ave. | 910 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128) and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc 77-21227 Filed 7-28-77;8:45 am]

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## [ 24 CFR Part 1917 ]

[Docket No. FI-3210]

## CITY OF SUPERIOR, WISCONSIN

### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Superior, Wisconsin. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 1409 Hammond Avenue, Superior, Wisconsin. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Bruce Hagen, City Hall, 1409 Hammond Avenue, Superior, Wisconsin 54880.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Superior, Wisconsin in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 1409 Hammond Avenue, Superior, Wisconsin.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Bruce Hagen, City Hall, 1409 Hammond Avenue, Superior, Wisconsin 54880.

The proposed 100-year flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Bear Creek | Chicago and Northwestern R.R and Duluth Missabe and Iron Range R.R culvert. | 601 |
| | East 3d St culvert | 605 |
| | U.S. Highways 2 and 53, and STH 13 culvert. | 602 |
| | Burlington Northern R.R culvert. | 597 |
| Bluff Creek | Chicago and Northwestern R.R culvert. | 612 |
| | U.S. 53 | 609 |
| | Duluth, Missabe and Iron Range R.R. | 604 |
| | Burlington Northern R.R. | 604 |
| | Itasca St. | 604 |
| Nemadji River | CTH "C" | 628 |
| | Duluth, Missabe and Iron Range R.R. | 626 |
| | Burlington Northern R.R. | 626 |
| | 64th St. | 623 |
| | Soo Line R.R. | 620 |
| | Woodlawn Rd. | 617 |
| | Chicago and Northwestern R.R. | 608 |
| | 88TH St. | 605 |
| | Burlington Northern R.R. | 605 |
| Unnamed tributary. | Tower Ave. | 687 |
| | 31st St. | 682 |
| | Hammond Ave. culvert. | 681 |
| | 29th St. culvert | 646 |
| | Catlin Ave. culvert | 636 |
| | 21st St. culvert | 631 |
| | Soo Line R.R. yard culvert. | 626 |
| | Hill Ave. culvert | 621 |
| Pokegama River | STH 105 | 605 |



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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128) and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: June 28, 1977.

PATRICIA ROBERTS HARRIS,
*Secretary.*

[FR Doc.77-21228 Filed 7-28-77;8:45 am]



federal register

FRIDAY, JULY 29, 1977

PART III

# DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

■

# COASTAL ZONE MANAGEMENT

## Research Study and Training Programs; Funding and Operation

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Title 15—Commerce and Foreign Trade

CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 933—COASTAL ZONE MANAGEMENT RESEARCH AND TECHNICAL ASSISTANCE

## Funding and Operation of Research, Study and Training Programs

AGENCY: National Oceanic and Atmospheric Administration (NOAA). Department of Commerce.

ACTION: Final rule.

SUMMARY: These final regulations establish procedures by which NOAA will fund and operate both national and state research, study and training programs that will enhance state coastal management efforts. It is necessary to issue these new regulations under a new section 310 to the Coastal Zone Management Act of 1972.

EFFECTIVE DATE: August 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Carol Sondheimer; Program Development Officer, State Programs Division, Office of Coastal Zone Management; 202-634-1672.

SUPPLEMENTARY INFORMATION: Pub. L. 94-370, signed July 26, 1976, amended the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), hereinafter referred to as the "Act." These amendments added a new section 310 to the Act; therefore it is necessary to issue these new regulations.

On January 21, 1977, NOAA published proposed regulations (42 FR 4046), under a new Part 933, covering the regulations for a national research and technical assistance program pursuant to subsection 310(a) of the Act, and for State research and technical assistance grants pursuant to subsection 310(b) of the Act.

Written comments were requested by March 21, 1977. As of that date, substantive comments had been received from eleven reviewers, nine of whom commented on the national program and nine of whom commented on the State grant program. These comments have been considered in preparing these final regulations. Major comments and NOAA responses are discussed below.

### Discussion of Major Comments and NOAA Responses

#### NATIONAL RESEARCH AND TECHNICAL ASSISTANCE

(a) *Focus of program.* One commentator objected to the categorization of subsection 310(a) as a national and regional program of research and training, arguing that the Act creates a program of general research and training but does not require it to be national or regional in scope.

*NOAA response.* While NOAA agrees that the Act itself does not make reference to a national program, NOAA believes that the legislative history supports this interpretation. The Report of the House Committee on Merchant Marine and Fisheries (No. 94-878, 94th Congress, 2nd Session, March 4, 1976) specifically directs NOAA to use subsection 310(a) funds to deal with "national or regional studies or training programs." Therefore, no change has been made in the regulations.

(b) *Definition of research.* Two commentators suggested that the discussion of the purpose of research activities in section 933.12(a)(1) be expanded to recognize specifically scientific and academic concerns. A third commentator suggested that research also should include study of the relationship of coastal zone management to other fields.

*NOAA response.* NOAA does not intend section 933.12(a)(1) to preclude scientific and academic investigations, but rather to emphasize that any research or study conducted under subsection 310(a) should have a demonstrable supporting relationship to the development and/or administration of coastal management programs. In section 933.32(c)(1), basic and/or long-term research is specifically prohibited because NOAA does not want to duplicate the efforts of other Federal programs and because of the typically high costs of such research in relationship to the size of the subsection 310(a) authorization. In response to the third commentator, NOAA believes that the relationship of coastal zone management to other fields is more appropriately examined as part of education or training efforts. Accordingly, no changes have been made in the regulations.

(c) *Definition of training.* One commentator considered the definition of training to be inadequate because it did not specify who would do the training, who would be eligible for training, and where such training could take place.

*NOAA response.* In an effort to respond to these concerns, NOAA has rewritten section 933.12(b) to indicate that training is intended for those individuals working in or preparing to work in the field of coastal zone management. Any "person," as defined in section 933.2(d), is eligible to apply for training funds. NOAA sees no need to specify where such training must occur.

(d) *Annual plan.* While supporting the idea of a research plan, three commentators argued that preparing it on an annual basis would be unduly time-consuming. Two of these commentators suggested that the plan be prepared biennially. A fourth commentator suggested that the plan be sufficiently broad in scope to enable its use by other entities to assist them in their funding decisions. A fifth commentator inquired as to how States would participate in the development of the plan.

*NOAA response.* NOAA considers these suggestions valuable and therefore has revised section 933.21. The Associate Administrator will develop a Priorities Plan setting out his/her view of national research and technical assistance priorities over the next three to five years. This Plan will be circulated in draft form to coastal States, other Federal agencies, and other interested parties for their review and comment. Once finalized, this Plan can be expected to guide the operation of the subsection 310(a) program and to assist other entities in making related funding decisions. The Priorities Plan will be reviewed periodically by the Associate Administrator and updated as deemed appropriate, following circulation of such changes for review and comment. Each fiscal year, the Associate Administrator will develop an Annual Spending Plan, consistent with the Priorities Plan and available funds. The Annual Spending Plan and updated Priorities Plan will be made available to interested parties upon request.

(e) *Projects not included in plan.* Two commentators argued against the 10 percent funding limitation on projects that are not included in the Annual Spending Plan. One objected on the grounds that the Plan would be general and subject to administrative interpretation and the other on the grounds that a limit would reduce flexibility.

*NOAA response.* In reassessing section 933.22(b) in light of these comments and the changes made in section 933.21, NOAA agrees that a 10 percent funding limitation is not practical. Therefore, this limitation has been dropped.

(f) *Relationship to interstate grants.* One Commentator inquired whether two States interested in a technical research project on a problem of mutual concern would apply for funding pursuant to subsection 310(a) or section 309.

*NOAA response.* NOAA refers this commentator to section 933.10(b) which states that subsection 310(a) emphasizes technical research while section 309 focuses upon regional cooperation and coordination, particularly with respect to policy coordination. NOAA notes, however, that it will not always be clear which funding section is appropriate in some cases. In such cases, grant applicants should consult with the Associate Administrator.

(g) *Eligible entities and arrangements.* One commentator suggested that section 933.11(a)(1) be deleted since it repeats the definition of "person" contained in section 933.2(d), while a second commentator suggested that the term "other entities" be clarified to include groups of municipalities or counties.

*NOAA response.* NOAA agrees with the first commentator that section 933.11(a)(1) is duplicative and therefore has deleted it. In response to the second commentator, NOAA notes that the definition of "person" in section 933.2(d) includes both local and regional governments and entities of such governments. Accordingly, no change has been made in the regulations.

(h) *Funding limits.* One commentator asked whether there would be either a minimum or a maximum established on the amount of funds granted to a region.

*NOAA response.* For purposes of the national part of the program, NOAA does not plan to make regional allocations.





#### STATE GRANTS FOR RESEARCH AND TECHNICAL ASSISTANCE

(a) *Relationship to program development and administrative grants.* One commentator asked who would determine which activities are to be funded pursuant to sections 305 and 306 of the Act and which activities are to be funded pursuant to section 310(b). This commentator also considered sections 933.30 and 933.32 to be inconsistent because the former appeared to permit funding of management program-related activities while the latter appeared to preclude such funding.

*NOAA Response.* Where questions arise concerning the appropriate section under which funding for a given project should be requested States should consult the Associate Administrator. NOAA does not believe that sections 933.30 and 933.32 are inconsistent. Section 933.30 provides funding pursuant to subsection 310(b) for activities which support or enhance program development and/or administration, while section 933.32 precludes the funding of actual operating costs associated with a State's program. In other words, subsection 310(b) funds may be used to examine problems related to programs administration but may not be used for program administration itself. Accordingly, no change has been made in the regulations.

(b) *Results within one year.* Four commentators questioned the definition of short-term research as that which would show results within one year's time, arguing that this requirement was arbitrary or unduly restrictive. One of the commentators asked further what would constitute "results."

*NOAA response.* NOAA's purpose for establishing a time frame within which a subsection 310(b) project should show results was to emphasize the short-term, applied nature of the research, study and/or training eligible for funding. A one-year time frame was chosen for this purpose in order to be consistent with the length of subsection 310(b) grants. Where results or other findings at the end of one year's effort can be shown to justify additional study, a subsection 310(b) grant can be renewed, assuming funds are available. While NOAA expects a research, study or training effort conducted pursuant to subsection 310(b) to produce "results" through planning or management applications, such "results" need not necessarily be demonstrated within one year, so long as the project itself is producing data or other information useful to program development and/or administration. Accordingly, NOAA has made no change in the regulations.

(c) *Funding of coastal energy impact and estuarine sanctuary research.* One commentator argued that coastal energy impact research should be given low funding priority because of the funding available under section 308; this commentator also asked that the term "not otherwise fundable" pursuant to section 308 be explained. A second commentator suggested that the amount of a grant available for coastal energy impact or estuarine sanctuary research be limited because of the costly nature of such research.

*NOAA response.* In order for such research to be considered for funding under subsection 310(b), it first must be demonstrated that it is either ineligible for funding under sections 305, 306, or 308 or that available funds under those sections have been exhausted. If this can be demonstrated, the project will be judged on its merits including its cost relative to the total amount of funds available under subsection 310(b). NOAA will apply these same criteria to applications for funding of research and studies related to an estuarine sanctuary. Therefore, NOAA has made no changes in the regulations.

(d) *Funding of sea grant research.* One commentator asked whether subsection 310(b) funds could be used to augment relevant ongoing research conducted at a Sea Grant institution.

*NOAA response.* NOAA considers the use of subsection 310(b) funds to augment relevant ongoing research at a Sea Grant or other academic institution to be permissible provided such research would yield results within a year which would be used to further management program development and/or implementation, and that Federal funds from one source not be used to meet match requirements of the other program.

(e) *Training.* One commentator inquired as to how and by whom training would occur, while a second commentator suggested that "attorneys" be added to the list of occupations for which training could take place.

*NOAA response.* NOAA does not wish to restrict the training options which States may consider by specifying eligible training procedures and locations. However, in justifying their requests for funding, States will be expected to demonstrate the usefulness and viability of a given training effort. Therefore, no change has been made in the regulations in response to the first commentator. NOAA does believe, however, that the second commentator's suggested addition of "attorneys" is appropriate and accordingly has added "attorneys" to section 933.32(b)(2).

(f) *Definition of construction.* Two commentators suggested that the term "construction" in section 933.32(b)(3) be defined more narrowly so that some small research-related construction and/or construction project planning not be precluded from funding.

*NOAA response.* Given the fact that no construction is permitted under sections 305 and 306 and that section 310 is intended to further the purposes of sections 305 and 306, it seems logical to extend the prohibition against construction to section 310. In addition, the limited amount of funding available under subsection 310(b) argues against permitting any type of construction. Accordingly, no change has been made in the regulations.

(g) *Acquisition of equipment.* One commentator urged that acquisition of technical and/or site-specific equipment be permitted in section 933.32(c)(5).

*NOAA response.* It is general NOAA policy that the lease or rental of equipment is preferable to its acquisition because the cost/benefit ratio for short-term use normally cannot be shown to justify purchase. Therefore, no change has been made in the regulations.

(h) *Allocation of funds.* One commentator asked whether available funds would be divided equally between research, study and training activities.

*NOAA response.* Available funds will not necessarily be allocated evenly between research, study and training. Allocation will be determined by the nature, number, and cost of subsection 310(b) funding requests received in any given fiscal year.

(i) *Priority for management program-related activities.* On commentator questioned the funding priority given in section 933.32(b) to activities which directly support program development and/or implementation, arguing that this did not adequately recognize the importance of scientific research.

*NOAA response.* This commentator is referred to the discussion in paragraph (b), National Research and Technical Assistance, above.

(j) *Priority for States experiencing difficulty.* Four commentators suggested that the priority assigned in section 933.33(c) to States having difficulty in achieving program approval or in implementing management programs potentially was counter-productive. One of these commentators suggested that this language be removed, while another suggested that it be amended.

*NOAA response.* NOAA agrees that this funding priority does have the potential for being counter-productive to the development and/or implementation of the best possible management programs, and accordingly has deleted § 933.33(c).

(k) *Allocation of funds.* One commentator suggested that funds be made available to States on a "fair share" basis, and subsequently be redistributed if applications were not received by a certain date. A second commentator asked whether there would be either a minimum or maximum established on the amount of funds granted to a State.

*NOAA response.* NOAA does not intend to allocate funds by State nor to establish maximums or minimums. Funding decisions will be made on the basis of the number of applications received, the cost and quality of proposals. Accordingly, no change has been made in the regulations.

(l) *Renewal of grants.* Two commentators asked whether grants would be renewable in order to deal with projects which require more than one year.

*NOAA response.* State grants under subsection 310(b) can be renewed, provided the conditions set out in paragraph (b) above are met.

NOAA has reviewed these regulations pursuant to the National Environmental Policy Act of 1969 and has determined that promulgation of these regulations will not have a significant impact on the environment.

NOAA has determined that this document does not contain a major proposal



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requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

Following consideration of comments received and other relevant information, there are adopted below revised final regulations for the funding and operation of national and State research, study and training programs.

Dated: July 22, 1977.

ROBERT CARNAHAN,
*Acting Assistant Administrator for Administration.*

In consideration of the foregoing, Part 933 is issued as follows:

Subpart A—General

Sec.
933.1 Basic purposes.
933.2 Definitions.

Subpart B—National Research and Technical Assistance Program

933.10 General.
933.11 Eligible entities and arrangements.
933.12 Use of funds.

Subpart C—Operation of National Research and Technical Assistance Program

933.20 Priorities and annual spending plans.
933.21 Funding arrangements.

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AUTHORITY: Sec. 310, Coastal Zone Management Act of 1972 (Pub. L. 92-583, 86 Stat. 1280, as amended by Pub. L. 94-370, 90 Stat. 1013).

## Subpart A—General

### § 933.1 Basic purposes.

(a) This section sets forth the basic purposes for which the national research and technical assistance program, pursuant to subsection 310(a) of the Act, will be operated, and for which State research and technical assistance grants, pursuant to subsection 310(b) of the Act, will be awarded. The basic intent of both subsections is to fund research, study, and training which supports the development and administration of State coastal zone management programs. However, there is a significant difference in focus between the two subsections in that State grants pursuant to subsection 310(b) will be awarded to State coastal zone development or management agencies for the purpose of meeting State-specific research, study and training needs, while the national program pursuant to subsection 310(a) will work with a variety of entities and will endeavor to address needs which are regional or national in scope.

(b) *Comment.* Statutory citation, subsection 310(a):

The Secretary may conduct a program of research, study, and training to support the development and implementation of management programs. * * * The Secretary may enter into contracts or other arrangements with any qualified person for the purposes of carrying out this subsection.

(c) *Comment.* Statutory citation, subsection 310(b).

The Secretary may make grants to coastal states to assist such states in carrying out research, studies, and training required with respect to coastal zone management.

### § 933.2 Definitions.

(a) The term "Act" means the Coastal Zone Management Act of 1972, as amended.

(b) The term "Secretary" means the Secretary of Commerce or his/her designee. Delegations of authority from the Secretary to the Administrator, National Oceanic and Atmospheric Administration (NOAA), have been duly executed by Amendment 5 of Department of Commerce Organization Order 25-5A, dated October 13, 1976, and from the Administrator to the Associate Administrator for Coastal Zone Management, by NOAA Circular 76-82, effective October 13, 1976.

(c) The term "Associate Administrator" means the Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(d) The term "person" is as defined in subsection 304(13) of the Act and means "any individual; any corporation, partnership, association, or other entity organized or existing under the laws of any state, regional, or local government; or any entity of any such Federal, state, regional, or local government."

## Subpart B—National Research and Technical Assistance Program

### § 933.10 General.

(a) The national research and technical assistance program established pursuant to subsection 310(a) of the Act is a program utilizing contracts and other arrangements to support regional and national research, study, and training activities which assist State efforts to develop and/or administer coastal zone management programs.

(1) This program will be conducted so as to complement and support work being done by States using grants under sections 305 or 306 of the Act.

(2) Research, study and training efforts will be expected to address the needs of a group of States, a region, or the entire nation or the national coastal zone management program.

(b) The national research and technical assistance program is differentiated from the interstate grant program, pursuant to section 309 of the Act, by the former's emphasis on technical research, study and training. The interstate program, by contract, focuses upon regional cooperation and coordination with particular attention directed toward the development of compatible coastal zone policies.

### § 933.11 Eligible entities and arrangements.

(a) The Associate Administrator will enter into contracts or make other arrangements with any qualified person for the performance of work pursuant to subsection 310(a) of the Act.

(1) For purposes of this subsection, the term "other arrangements" includes both cost-reimbursable and non-reimbursable arrangements with other Federal agencies. Such arrangements shall include the use of the provisions of the Intergovernmental Personnel Act of 1970 (Pub. L. 91-648; Pub. L. 93-638) both for purposes of training and for providing technical assistance. Other arrangements may also include grants to State agencies or other units of government, or to educational or non-profit institutions.

(b) *Comment.* Statutory citation, subsection 310(a):

Each department, agency, and instrumentality of the executive branch of the Federal Government may assist the Secretary, on a reimbursable basis or otherwise in carrying out the purposes of this section, including, but not limited to, the furnishing of information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position and rating, and the performance of any research, study, and training which does not interfere with the performance of the primary duties of such department, agency or instrumentality.

### § 933.12 Use of funds.

(a) Research and studies under subsection 310(a) shall include studies, pilot or demonstration projects, or other analyses complementing or enhancing development and/or administration of State coastal management programs, but with broader application than research and studies funded pursuant to subsection 310(b). The term "broader application" is intended to imply both a broader geographic coverage and a broader range of problems.

(1) Research and studies funded under subsection 310(a) can be expected to:

(i) Supplement and enhance work geared toward management program development and administration;

(ii) Aid in the resolution of coastal zone management issues;

(iii) Have application to a group of States, a region, or the entire nation;

(iv) Assist in resolving issues related to the administration of the national coastal zone management program; and

(v) Where appropriate, be transferable or usable beyond the study area.

(2) In contrast to State grants pursuant to subsection 310(b), these efforts will not necessarily focus on technical and site-specific studies.

(b) Training under subsection 310(a) shall include study, course-work, or other educational activities geared toward developing and/or improving the capabilities of individuals working in or preparing to work in the field of coastal zone management. Such training need not be limited solely to the short-term, professional skill development anticipated in subsection 310(b).





(1) Training activities funded under subsection 310(a) can be expected to:

(i) Improve the capabilities of personnel currently involved in coastal zone management work,

(ii) Provide for the development of additional trained coastal zone management personnel;

(iii) Contribute to improved understanding of the field of coastal zone management, or

(iv) Meet the needs of, or be transferable to, a group of States, a region, or the entire nation.

(2) Training may include, but need not be limited to, the following:

(i) Internships or other training programs designed to provide actual experience working in the field of coastal zone management;

(ii) Course or curriculum development and testing at the high school, college, and graduate school levels;

(iii) Testing of new approaches to education and training in coastal zone management; and

(iv) Exploration of the relationship of coastal zone management to other related fields.

## Subpart C—Operation of National Research and Technical Assistance Program

### § 933.20 Priorities and annual spending plans.

(a) Periodically, the Associate Administrator will develop a Priorities Plan for the national research and technical assistance program.

(1) This Plan will indicate those coastal zone management issues, subjects, and areas which the Associate Administrator believes should be the subject of research, study, and training over a specific period of time (usually three to five years). Relative priorities will be assigned to major subject areas contained in the Plan.

(2) In order to be responsive to State, regional, and national coastal zone management issues and needs, and to avoid duplication of research being conducted by others, the Priorities Plan will be circulated for comment in draft form to coastal States, other Federal agencies and other interested parties engaged in related research and/or training.

(3) After considering these comments, the Associate Administrator will finalize the Priorities Plan and make it generally available.

(4) The Priorities Plan will be revised periodically by the Associate Administrator and updated as deemed appropriate, following circulation of such changes for review and comment.

(b) *Comment.* Statutory citation, subsection 310(c)(1):

The Secretary shall provide for the coordination of research, studies, and training activities under this section with any other such activities that are conducted by, or subject to the authority of, the Secretary.

(c) Based upon the Priorities Plan, the Associate Administrator will develop an Annual Spending Plan for subsection 310(a) which will indicate planned research and technical assistance activities for that fiscal year in more detail. Where possible, the Spending Plan will also indicate the means by which the Associate Administrator intends to accomplish such studies (i.e., by request for proposals, transfer of funds to other Federal agencies, grants, etc.) and the timing of such actions.

(1) A summary of the Spending Plan and the updated Priorities Plan will be made available to all interested parties upon request.

### § 933.21 Funding arrangements.

(a) To accomplish the national research and technical assistance program, the Associate Administrator may utilize any appropriate procedures which may include:

(1) Competitive procurement.

(2) Sole source procurement.

(3) Grants to State agencies or other units of government, or to educational or non-profit institutions.

(4) Cooperative agreements.

(5) Cost-reimbursement of other Federal agencies, and

(6) Personnel transfers on a reimbursable or non-reimbursable basis.

(b) Because of the variety of funding arrangements available to the Associate Administrator pursuant to subsection 310(a), the specific application procedures will vary depending on the nature of appropriate arrangements, and will be in accordance with prescribed procedures applicable to the Federal Government or pursuant to Department of Commerce or NOAA administrative procedures.

## Subpart D—State Grants for Research and Technical Assistance

### § 933.30 General.

(a) The State research and technical assistance program, pursuant to subsection 310(b) of the Act, is a program of grants to States to support research, study and training activities which improve State capability to develop and/or administer coastal zone management programs.

(1) Research, study and training grant applications should develop from needs identified or problems experienced during program development and/or administration.

(2) Applications should be justified in terms of the usefulness of the anticipated results to basic program efforts.

(b) Because of the highly applied nature of research conducted pursuant to subsection 310(b) of the Act, it may be difficult to judge whether an activity is most appropriately funded pursuant to subsection 310(b) or pursuant to sections 305 and 306 of the Act.

(1) Generally speaking, those activities which are essential to meeting the criteria for program approval or which are integral to operating an approved program should be funded pursuant to sections 305 and 306 of the Act.

(2) Those activities which enhance or improve a State's ability to meet the criteria for approval or to operate an approved program should be funded pursuant to subsection 310(b).

(3) It is anticipated that research and studies funded pursuant to section 310(b) will be more technical in nature or more geographically specific than those activities typically funded pursuant to sections 305 and 306 of the Act.

### § 933.31 Eligible entities.

To be eligible for grants pursuant to subsection 310(b), a State must either be making adequate progress toward the development of a coastal zone management program pursuant to section 305 of the Act or be operating an approved management program pursuant to section 306 of the Act.

### § 933.32 Use of funds.

(a) For purposes of subsection 310(b), research and studies shall include studies, pilot or demonstration projects, or other analyses of short term duration which can be expected to show results within one year's time. Such research or studies shall be derived from State coastal zone management program development and/or administration needs and shall utilize existing materials to the extent possible.

(1) Such research and studies will tend to focus more on technical and site-specific issues rather than on institutional and managerial issues.

(2) Research and studies related to the coastal energy impact program, established pursuant to section 308 of the Act, may be funded pursuant to subsection 310(b) of the Act if such research and studies are clearly related to a State's ongoing management program efforts and if such research and studies are not otherwise fundable pursuant to sections 308, 305 or 306 of the Act.

(3) Research and studies related to or conducted within an estuarine sanctuary established pursuant to section 315(1) of the Act may be funded under subsection 310(b) if such research and studies can be shown to be related to program administration, and otherwise meet the criteria set forth in these regulations.

(b) For purposes of subsection 310(b), training shall refer to the education or other development of such personnel as may be needed to efficiently and effectively develop and/or administer State coastal zone management programs or to administer coastal energy impact funds.

(1) In general, such training should be of short term duration and should be directed toward the development of specific job-related skills.

(2) Such training may be for, but not limited to, the following types of expertise at both the State and local levels: permit reviewers and inspectors, law enforcement officers, natural resource managers, economists, fiscal officers, attorneys, planners, and persons with specialized training in the natural sciences.

(c) Grants issued pursuant to subsection 310(b) of the Act may not be used for the following purposes:

(1) Basic and/or long term research or education efforts;

(2) State management program administration activities;



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(3) Construction;
(4) Land acquisition; or
(5) Permanent equipment acquisitions, unless such acquisitions can also be used for program development and or administration purposes.

**§ 933.33 Funding priorities.**

(a) The Associate Administrator will not establish priorities between nor allocate funds specifically to research and study activities on the one hand or training activities on the other.

(b) Highest funding priority will be given to those research, study and/or training activities which directly support program development and/or administration.

(c) Lower funding priority will be given to the following:

(1) Activities which have a continuing funding dimension and a long time frame for completion; and

(2) Institutional and/or management studies more appropriately funded pursuant to sections 305 and 306 of the Act.

**Subpart E—Application for State Research and Technical Assistance Grants**

**§ 933.10 General.**

(a) The purpose of this section is to define the procedures by which grantees apply for and administer grants under the Act and to provide guidelines regarding the content of applications for State research and technical assistance grants pursuant to subsection 310(b) of the Act. These procedures shall be used and interpreted in conjunction with the Grants Management Manual for Grants under the Coastal Zone Management Act, hereinafter referred to as the "Manual." The Manual incorporates a wide range of Federal requirements, including those established by the Office of Management and Budget, the General Services Administration, the Department of the Treasury, the General Accounting Office, and the Department of Commerce.

(b) Applications for grants under subsection 310(b) of the Act will be accepted by the Associate Administrator at any time during the fiscal year provided that they contain the information required pursuant to § 933.42.

(c) States are encouraged to submit applications for grants under subsection 310(b) at the same time that they submit applications for grants under sections 305 or 306 in order to enable the Associate Administrator to review more comprehensively State management program efforts and to expedite processing at both the State and Federal levels.

(d) States may submit more than one subsection 310(b) application per year if research or technical assistance needs arise that were not anticipated at the time of first application for subsection 310(b) funds.

(e) An application need not contain both research and training elements.

(f) Grants shall not exceed eighty percent of the total cost of the proposed research and/or training. Federal funds received from other sources cannot be used to match subsection 310(b) grants. Match provided by the applicant may consist of cash or in-kind services as provided in the Manual.

(g) Costs claimed as charges to the grant project must be beneficial and necessary to the objectives of the grant project. As used herein the terms "costs" and "grant project" pertain to both the Federal grant and the matching share. The allowability of costs will be determined in accordance with the provisions of FMC–accordance with the provisions of FMC 74–4: Cost Principles Applicable to Grants and Contracts with State and Local Governments.

(h) Grants shall be made for a maximum of one year's duration.

**§ 933.41 Applicant responsibility.**

(a) The application shall designate the entity to receive and administer grants pursuant to subsection 310(b). The applicant for such grants must be that entity designated by the Governor pursuant to 15 CFR 920.52 where a State is developing a coastal management program or that entity designated by the Governor pursuant to section 306(c)(5) of the Act where a coastal State is administering an approved management program. This entity may, in turn, pass through funds to, or subcontract with, other entities.

(b) The grantee will be administratively and fiscally responsible for all aspects of the grant, including any subcontracts made by the grantee.

**§ 933.42 Application procedure.**

(a) All applications are subject to the provisions of OMB Circular A–95 (revised).

(b) The Form SF–424, Application for Federal Assistance (Non-Construction Programs), constitutes the formal application and must be submitted sixty days prior to the desired grant beginning date. The application must be accompanied by evidence of compliance with requirements of OMB Circular A–95, including the resolution of any problems raised about the proposed project. The Associate Administrator will not accept applications that are substantially deficient in adherence to A–95 requirements.

(c) In Part IV, Program Narrative, of the Form SF–424, the applicant shall respond to the following requirements:

(1) A description of the work program to be undertaken during the grant period. This work program shall include:

(i) A precise description of each major research or study task to be undertaken, including an explanation of the need for this task, how it will be accomplished, what existing material it builds on, what results are expected, and how these results will be used in the management program.

(ii) A precise description of each major training task to be undertaken, including an explanation of the need for this training, how it will be accomplished, what existing efforts it builds on, who will benefit from it, and how these benefits will relate to the management program.

(iii) For each task, identify any "Other Entities," as defined in the "Manual," that will be allocated responsibility for carrying out all or portions of the task, and indicate the estimated cost of any subcontract for each allocation. Identify, if any, that portion of the task that will be carried out under contract with consultants and indicate the estimated cost of such contract(s). Where all or part of the work is to be subcontracted, the extent and nature of grantee supervision should be indicated.

(iv) For each task indicate the estimated total cost. Also indicate the estimated total months of effort, if any, allocated to the task from the applicant's staff.

(2) The sum of all tasks in subparagraph (1) above should equal the total estimated grant project cost.

(3) Using two categories, Professional and Clerical, indicate the total number of personnel in each category on the applicant's staff that will be assigned to the grant project. Also indicate the number assigned full-time and the number assigned less than full-time in the two categories. Additionally, indicate the number of new positions created in the two categories as a result of the grant project. Indicate total personnel costs.

**§ 933.43 Approval of applications.**

(a) An application for a state research, study and/or training grant which complies with the policies and requirements of the Act and the guidance contained in this subpart shall be approved by the Associate Administrator, assuming available funding.

(b) Should an application be found deficient, the Associate Administrator will notify the applicant in writing as to the manner in which the application fails to conform to the requirements of the Act or this subpart. Conferences may be held on these matters. Corrections to the application will provide the basis for resubmittal of the application for further consideration and review.

(c) The Associate Administrator may, upon finding extenuating circumstances relating to an application for State research, study and/or training grant, waive appropriate administrative requirements contained herein.

**§ 933.44 Amendments.**

(a) Amendments to an approved application must be submitted to the Associate Administrator prior to initiation of the contemplated change. Requests for substantial changes should be discussed with the Associate Administrator well in advance. While all amendments must be approved in writing by the NOAA Grants Officer, approval may be presumed for minor amendments if the grantee has not been notified of objections within thirty (30) working days of the date of postmark of the request.

**§ 933.45 Copies of products.**

(a) In order to insure the ability of the Associate Administrator to make the results of research conducted pursuant to this subsection available to any interested person, grantees shall supply the Associate Administrator with five (5)





copies of any products, reports, studies, etc. financed in whole or in part by subsection 310(b) monies. Such products shall be received by the Associate Administrator no later than three months after the expiration date of the grant.

(b) *Comment.* Statutory citation, subsection 310(c)(2):

The Secretary shall make the results of research conducted pursuant to this section available to any interested person.

(1) At least one of the copies received by the Associate Administrator shall be transmitted to the National Technical Information Service for purposes of assuring general availability to interested parties.

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PART IV




# NATIONAL SCIENCE FOUNDATION

## GRANT POLICY MANUAL

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## NATIONAL SCIENCE FOUNDATION

### GRANT POLICY MANUAL

AGENCY: National Science Foundation.

ACTION: Final Grant Policy Manual.

SUMMARY: The NSF Grant Policy Manual (GPM) implements OMB Circular A–110 as well as the laws, executive orders and other directives listed in Exhibit I–1. It applies to all NSF grantees and prospective grantees.

EFFECTIVE DATE: October 1, 1977 for new proposals and new grants or amendments to existing grants.

FOR FURTHER INFORMATION CONTACT:

Francis G. Naughten, Grants Policy Officer, National Science Foundation, Washington, D.C. 20550, 202–632–4148.

SUPPLEMENTARY INFORMATION: On January 31, 1977, the National Science Foundation published in the FEDERAL REGISTER the text of the proposed Grant Policy Manual which is to replace the existing Grant Administration Manual. Based upon comments received on the draft, a number of changes have been made. These are summarized under the headings below:

#### 1. General

It was originally contemplated that the Grant Policy Manual would (1) implement OMB Circular A–110 and other pertinent statutes, Executive Orders and directives and (2) be incorporated by reference in each NSF grant. NSF has decided that the Grant Policy Manual will implement A–110 and other pertinent statutes, Executives Orders, and directives, but that it will not be incorporated by reference in each NSF grant. Instead, it will establish proposal submission requirements and provide guidance on the NSF grant process. In addition, each grant that is awarded will contain specific terms and conditions, or will incorporate by reference specific terms and conditions.

#### 2. Other Agreements

References to "other agreements" have been deleted. The Grant Policy Manual covers grants only. However, NSF does plan to use grants and other agreements consistent with the purposes expressed in the "Federal Grant and Cooperative Agreement Act of 1977" now pending in the Congress. Information on requirements for other agreements will be disseminated separately.

#### 3. Approval and Revision Procedures

a. GPM 322, on procurement standards, is clarified to state that, unless the grant instrument contains specific provisions therefor, prior approval for the listed items will be obtained from NSF.

b. GPM 504.6 (now GPM 505) is rewritten to summarize the requirements of FMC 73–7 and of A–110 concerning expenditure controls and budget revisions and to more clearly state the NSF policy regarding prior approvals. Delegation of prior approval authority is expanded to include additional items.

c. A new Exhibit 5–1 has been included to summarize types of prior approvals.

d. GPM 521 has been revised to more fully explain the allowability of costs for alterations and renovations, and a new GPM 523, regarding news release costs, has been added.

e. GPM 613 is reworded to provide that the organizational prior approval system is intended to provide a means of implementing the organization's budget revision, as well as project monitoring, responsibilities. It is also expanded to outline the requirements of an organizational prior approval system.

f. GPM 630–636 (now GPM 630–632). This entire section (changes in the Grant Budget) has been clarified. In addition, and in accordance with OMB A–110 (para. J5), NSF does not choose to restrict transfers of funds among direct cost categories for grants over $100,000 when the cumulative amount of such transfers exceeds or is expected to exceed 5 percent of the total approved budget.

#### 4. Consultant Services

a. GPM 203.5 is reworded to delete "consultant arrangements" from items to be included in the vitae.

b. GPM 204.1 is reworded to require that the need for consultant services be summarized in the proposal narrative and that funds be requested in the proposal budget.

c. GPM 322, on procurement standards, is modified by deletion of all references to consultant services.

d. GPM 516.1 adds a legislative requirement that payment for a consultant's services may not exceed the daily equivalent of the maximum rate paid a U.S. Government GS–18.

#### 5. Property Management

a. Since NSF has statutory authority to vest title to nonexpendable personal property, GPM 332 is recast to eliminate equipment management standards except for Government Property.

b. GPM 512: (1) The definition of "equipment" is modified by insertion of language indicating that organizations subject to the standards of the Cost Accounting Standards Board may use the CASB definition of "nonexpendable personal property" for the purposes of the CASB standards. However, for grant budget, prior approval, and budget revision purposes, the NSF definition of "equipment" and "materials and supplies" will govern.

(2) The definitions of "general purpose equipment" and "special purpose equipment" are clarified by specific reference to the definition for equipment."

c. GPM 513. The definition of "materials and supplies" is clarified by excluding items covered by the definition of "equipment."

d. GPM 772. The language is clarified with respect to the allowability of equipment trade-ins.

#### 6. NSF-Grantee Relationships

a. GPM 233/643.4c(2). These two sections have been combined into a new GPM 233, which provides that a revised and signed proposal budget is only required when changes in the total proposed grant amount exceed 10 percent or $10,000.

b. GPM 614, on NFS Prior Approval System, has been revised in order to correspond with the new Exhibit 5–1 (Summary of Prior Approval Requirements for Direct Charges). GPM 615.3, on significant Changes, Delays, etc., in the project, and GPM 622, changes in the Principal Investigator, have been revised to require endorsement of the Authorized Organizational Representative. GPM 623b (now GPM 623) has been revised to require that any post award request to transfer the project effort be countersigned by the Authorized Organizational Representative and addersed to the NSF Grants Officer.

#### 7. Tuition Remission

GPM 526, (formerly GPM 525) has been omitted pending the issuance of new government-wide cost principles.

#### 8. Cost Sharing and Matching

a. The Proposal Budget format (Exhibit 2–4) has been revised to eliminate the cost sharing line.

b. "Token participation" (GPM 642f, now GPM 642) and "cost sharing" (GPM 643.3) are clarified;

c. GPM 643.4 is recast to more closely reflect present NSF policy on methods of cost sharing (GAM 202.7);

d. GPM 643.5 is revised to more closely reflect the records and reports requirements of OMB Circular A–110 by deleting the requirement for an annual NSF cost-sharing report.

#### 9. Human Subjects, etc.

a. The title of GPM 710 is changed to "Protection of Living Organisms;"

b. An NSF policy on recombinant DNA was promulgated as NSF Important Notice No. 64. Therefore, GPM 712 is revised for conformance and a new Exhibit 7–4 is added.

c. GPM 711c, concerning the use of human subjects, has been revised to allow for more flexibility vis-a-vis proposal submission (i.e., statement of Institutional Review Board not required to be submitted with proposal).

#### 10. Payment and Financial Reporting Requirements

a. GPM 422a, 424e(2) and 424e(4) (all of which discuss the Letter of Credit) have been revised in accordance with revised Treasury Department Regulations.

b. Additional time has been provided for submission of the Federal Cash Transactions Report (GPM 430c).

#### 11. Suspension or Termination Procedures

a. GPM 663.2f (concerning unilateral termination) is deleted.

b. An NSF Termination Review Procedure is added as GPM 665.

#### 12. Summer Salares

GPM 511.1b(2) substitutes the provisions of FMC 73–8, paragraph J.7j concerning base salary for periods outside the Academic Year.

#### 13. Changes in Objectives, Scope, or Methodology

GPM 621.2 is reworded to delete specific time requirements for proposed changes.

#### 14. Publication, Copyright, and Rights in ADP Data Banks and Software

a. The acknowledgement and disclaimer provisions of GPM 753.4 are expanded and relocated as GPM 752.4.

b. The copyright provisions of GPM 753.1 are recast to exclude NSF Fellowships and Traineeships.

c. GPM 754 is clarified to provide: that the investigator who produced the data or software shall have first right of publication; and that any out of pocket costs incurred by the grantee in providing information from ADP data banks to third parties may be charged to the requesting organization.

#### 15. Records, Retention and Audit

a. GPM 682a(2) is revised to provide that records concerning project income shall be retained by the grantee until three years from the end of the grantee's fiscal year in which the income is earned (rather than until final disposition of the Federal share of such income).

b. GPM 682d is similarly revised and amplified to indicate that NSF will negotiate an agreement as to cost reimbursement for those records NSF wishes to have transferred to its custody.

c. GPM 682c is changed to incorporate the records retention requirements of Attachment O to OMB Circular A–110.

#### 16. Flow Down Provisions

GPM 623 has been expanded to provide that, where some of the project effort is transferred to another organization, the contract or other arrangement between the NSF grantee and such organization will provide for appropriate flowdown of provisions.

#### 17. On-Campus/Off-Campus Indirect Costs

a. GPM533.2 is reworded to urge organizations to establish an on-campus/off-campus policy, approved by the cognizant negotiating agency.

b. GPM 534.3 is reworded to state that for projects involving both on and off campus activities, NSF normally will use both on and off campus rates, eliminating the "preponderance of activity" criteria as formerly stated in GAM 334.4 (NSF 73–26) which provided that NSF would apply either the on-campus or off-campus indirect cost rate to entire projects of $100,000 or less per annum depending upon where the preponderance of activity of the project would occur during the period of grant support.

#### 18. Experimental or Innovative Curriculum Development Projects

A new GPM 795 has been added, concerning coordination by local school boards or comparable authority of curriculum development projects involving pre-college students.

#### 19. New Lead Time Requirement for No-Cost Extensions

GPM 244.3 is revised to allow NSF sufficient processing time. It provides that requests for no-cost extensions must be received by the cognizant NSF Program Officer 45 days prior to the expiration date of the grant.

#### 20. Grantee Reporting Requirements

GPM 673 is revised to make reporting requirements more explicit.

#### 21. Miscellaneous Statutory Requirements Relocated

GPM 207 (now GPM 796) Environmental Impact Statement; GPM 208 (now GPM 797) Flood Disaster Protection Act; and GPM 209 (now GPM 798) Protection of Properties in the National Register of Historic Places, have been moved to Chapter VII.

#### 22. Appendices Deleted

NSF has decided not to include as appendices the text of those NSF Regulations cited in the Manual which are already available in 45 CFR Chapter VI.

#### 23. Proposal Format

GPM 203.5—NSF "Notice of Research Project" format for proposal abstracts is included as Exhibit 2–8.

ELDON D. TAYLOR,
*Assistant Director for Administration.*

JULY 21, 1977.

### NEW GRANT POLICY MANUAL

Following is the text of the new Grant Policy Manual (NSF Manual No. 15), including Exhibits on the NSF Proposal Cover Page Format, the Proposal Budget Format, and the Summary of Prior Approval Requirments for Direct Charges.

#### NSF Grant Policy Manual

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**The NSF Assistant Director for Administration is responsible for issuing periodic changes to this Manual to incorporate approved changes in policy and procedure. Questions regarding the Manual should be addressed to the NSF Division of Grants and Contracts.**

RICHARD C. ATKINSON,
*Director.*

PREFACE

This NSF Grant Policy Manual (NSF Manual No. 15) updates and replaces the NSF Grant Administration Manual (NSF 73–26) dated October 1973. It implements OMB Circular A–110 and provides guidance for all NSF grants issued under the authority of the NSF Act of 1950, as amended (42 U.S.C. 1861 et seq.). Proposals for NSF support of projects submitted on and after Oct. 1, 1977 should follow the provisions of Chapter II and section 340 of this Manual. NSF grants and amendments to existing grants will be subject to the provisions contained in the grant instrument which will be consistent with the guidance provided by this Manual.

This Manual has been prepared in looseleaf form, and will be updated periodically by means of numbered transmittal notices. It is being distributed, under a controlled distribution list, in limited numbers of copies to administrative and financial management officials of public and private organizations and institutions to whom NSF grants are awarded for the performance of research or other projects of the types described in the NSF Guide to Programs or applicable program announcements or solicitations.

Major differences between the NSF requirements and procedures contained in this Manual and its predecessor are, in order of their appearance:

1. PROPOSAL SUBMISSION, EVALUATION, AND AWARD

a. While maintaining its traditional policy of prescribing proposal procedures through program announcements and solicitations, NSF recognizes that OMB Circulars A–95, A–110, and A–111 and FMC 74–7 prescribe a standard Federal assistance multipurpose facesheet for certain purposes.

b. Chapter II describes a new Grant Proposal Budget.

c. Chapter II contains additional provisions concerning proposals involving consultant services or expensive special purpose equipment.

2. GRANTEE STANDARDS

a. Chapter III implements the financial management, procurement, and property management standards required by A–110 and FMC 74–7.

b. It refines the certifications required of prospective grantees for greater consistency with the new OMB standards.

3. PAYMENT AND FINANCIAL REPORTING REQUIREMENTS

a. Chapter IV describes payment policy, methods and procedures contained in Treasury Circular 1075 (revised) and A–110. The new Treasury Department Regional Disbursing Office letter of credit system is included.

b. Chapter IV also describes a machine-formated version of the new Federal Cash Transactions Report required by A–110 and FMC 74–7 to replace the traditional NSF Quarterly Expenditure Report.

4. ALLOWABILITY OF COSTS

a. Chapter V describes items of cost of special relevance to NSF grants.

b. It also delegates to grantees authority for certain prior approvals required by the cost principles.

5. PROJECT AND GRANT MANAGEMENT

a. Chapter VI implements the various Parts of FMC 73–7 concerning project direction and management, expenditure approval procedures, and the various Attachments to A–110 and FMC 74–7 concerning those and other post-award administration matters.

b. It describes an organizational prior approval system to implement the monitoring requireemnts of A–110 and FMC 74–7 and the budget revision procedures of those Circulars and of FMC 73–7. It specifies NSF responsibilities for such prior approvals as are not delegated to grantees.

c. It describes the new A–110 suspension and termination procedures replacing the traditional NSF revocation procedures.

d. A new Financial Status Report is prescribed as a part of the grant close-out procedures in lieu of the traditional NSF fiscal report.

6. OTHER CONSIDERATIONS

Chapter VII summarizes various other requirements relevant to NSF grants.

CHAPTER I.—BASIC INFORMATION

This Chapter provides basic information about the National Science Foundation, its organization, grant policies, and this Manual. It consists of the following topics:


100 The National Science Foundation.
110 The NSF Grant Policy Manual.
120 Types of NSF Grants.
130 NSF-Grantee Relationships.
140 NSF Organization.


100 THE NATIONAL SCIENCE FOUNDATION

101 GENERAL

a. The National Science Foundation is an independent agency of the Federal Government established in 1950 to promote and advance scientific progress in the United States. The Foundation fulfills this responsibility promarily by sponsoring scientific research, encouraging and supporting improvements in science education, and fostering scientific information exchange. NSF does not itself conduct research or carry out education projects.

b. NSF has no programs involving the construction of public works in metropolitan areas, no development assistance programs, no programs requiring State plans as a condition of assistance, none involving coordination of planning in multijurisdictional areas, and no programs of grants to State and local governments as defined in Section 106 of the Intergovernmental Cooperation Act.

c. Recipients of NSF support have full responsibility in accordance with the terms of their grants for the conduct of their projects or activities and for the results achieved. However, they may not contract or otherwise transfer any of the research or substantive effort except as provided in GPM 623, "Contracting or Transferring the Project Effort."

102 BASIC AUTHORITY

**a. The basic authority of the National Science Foundation is contained in the National Science Foundation Act of 1950 (Pub. L. 81–507, as amended, 42 U.S.C. 1861 et seq.).**

b. Among other things, Sec. 3a of the NSF Act (42 U.S.C. 1862) authorizes and directs the Foundation to:

(1) Initiate and support basic scientific research and programs to strengthen scientific research potential and science education by making contracts or other arrangements (including grants, loans, and other forms of assistance) to support such scientific activities, without restriction as to the type of performer;

(2) Award scholarships and graduate fellowships in the sciences; and



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(3) Foster the interchange of scientific information among scientists in the United States and foreign countries.

c. Sec. 3c of the Act also authorizes NSF to initiate and support applied research at academic institutions and other nonprofit organizations, and, when so directed by the President, to support applied scientific research relevant to national problems involving the public interest through other appropriate organizations. By letter of April 13, 1972, the President implemented the extended authority of Sec. 3c on the following terms:

The Foundation, in making grants or contracts for applied scientific research relevant to national problems involving the public interest, may support such work at other than academic and nonprofit institutions when the Director of the National Science Foundation determines that it would be advantageous to use the capabilities of such other institutions to accomplish the program objectives.

d. Sec. 3e of the Act prescribes that one of the objectives of the Foundation shall be to strengthen research and education in the sciences throughout the United States and to avoid undue concentration of such research and education.

e. Sec. 11 of the Act (42 U.S.C. 1870) provides broad authority to the Foundation to, among other things:

(1) Enter into contracts or other arrangements for the performance by organizations or individuals in the United States and foreign countries (including other government agencies) of such scientific activities as the Foundation deems necessary, without legal consideration, without performance or other bonds, and without regard to Sec. 3709 of the Revised Statutes;

(2) Make advance, progress, or other payments which relate to scientific activities without regard to Sec. 3648 of the Revised Statutes (31 U.S.C. 529);

(3) Publish or arrange for the publication of scientific and technical information without regard to various statutes.

e. Sec. 14(c) of the Act (42 U.S.C. 1873) precludes the Foundation from operating any laboratories or pilot plants.

## 110 THE NSF GRANT POLICY MANUAL

### 111 PURPOSE, SCOPE, AND APPLICABILITY

a. This NSF Grant Policy Manual implements OMB Circular A–110 by systematizing uniform NSF policies and procedures relating to the award and administration of NSF grants awarded under the authority of the National Science Foundation Act of 1950, as amended. This Manual is issued pursuant to the authority of Sec. 11(a) of the NSF Act (42 U.S.C. 1870).

b. This Manual also implements the Public Laws, Executive Orders, and other directives listed in Exhibit I–1 insofar as they apply to grants.

c. Grant requirements, consistent with this Manual, will be made part of grant letters or will be incorporated by reference in grant letters: Where appropriate, grant letters may modify the standard conditions applying to a specific grant-supported project.

### 112 GENERAL ORGANIZATION AND CITATION

a. This Grant Policy Manual is organized into Chapters which correspond in general to the process from proposal submission through grant closeout. Other considerations which either are not universally applicable or which do not necessarily follow the proposal-award cycle are contained in a separate Chapter VII. Chapters are subdivided into Sections which cover single subjects within the scope of the Chapter. Preceding the numbered Chapters are a Preface, which summarizes changes from the predecessor Grant Administration Manual and states the effective date of this Manual, and the Table of Contents. Following the numbered Chapters are the Index, Distribution List, and Record of Changes.

b. The NSF Grant Policy Manual may be cited as "GPM." Specific Sections may be cited by appending the Section number, e.g., "GPM 112b."

### 113 CHANGES

Changes to this Manual will be issued under serially numbered Transmittal Notices, signed by the Assistant Director for Administration. Each such Notice will describe the new material transmitted, the old material superseded, and the purpose of the change. New material will be printed in looseleaf form, containing revised or additional pages, bearing the change number and date. When required, the Manual will be reissued.

## 120 TYPES OF NSF GRANTS

### 121 BACKGROUND

a. The types of activities funded by the Foundation and the purposes of NSF funding are varied. Consequently, the degree of NSF responsibility for and management control of such activities also varies. NSF traditionally has used grants for its basic research and other support activities. These grants generally have not required significant NSF involvement in the conduct or management of the supported activity.

b. The key factor in determining most of the terms and conditions appropriate to a particular grant for scientific research or related activities is the type of project which is to be conducted, not the type of performing organization which will be the recipient of the grant, or the NSF program recommending the grant.

c. This Manual is based on the premise that, in furtherance of its basic mission to foster the health of science, NSF grant administration requirements should continue to be:

(1) As minimal as possible, consistent with the need to ensure that Federal funds are wisely spent for the purposes intended;

(2) As flexible as possible, to permit optimum freedom for scientific inquiry; and

(3) As consistent as possible among both NSF Programs and categories of grantees to improve mutual understanding and administrative efficiency.

### 122 DEFINITIONS

The following basic terms pertaining to NSF grants have the indicated meanings.

*Grant Instrument.*—The following documents comprise an NSF award:

a. The grant letter, containing special provisions applicable to the award and any numbered amendments thereto (see Exhibit 2–7);

b. The budget, which indicates the amounts, by categories of expense, on which NSF has based its support (see Exhibit 2–4);

c. The proposal referenced in the grant letter;

d. General conditions applicable to the award.

*Continuing Grant.*—A type of grant under which NSF agrees to support a specified level of effort for a specified period of time with a statement of intention to provide additional support of the project, provided funds are available and the results achieved warrant further support.

*Grant.*—An award by which money, or property provided in lieu of money, is paid or furnished by the Federal Government under a program that provides financial assistance, support, or stimulation to accomplish a public purpose where no substantial involvement is anticipated between NSF, acting for the Federal government, and the grantee during performance of the project.

*Grantee.*—The institution, public or private nonprofit organization, or other legally accountable entity that receives a grant, and assumes legal and financial responsibility and accountability both for the awarded funds and for the performance of the grant-supported activity. In certain cases, a grantee may be an individual U.S. scientist.

*Standard Grant.*—A type of award under which NSF agrees to support a specified level of effort for a specified period of time with no statement of NSF intent to provide additional future of support.

## 130 NSF-GRANTEE RELATIONSHIPS

### 131 BASIC REQUIREMENTS

An NSF grant is normally made to an organization, known as the grantee, rather than to the individual principal investigator or project director who proposes to conduct the project. The grant establishes a relationship between NSF and the grantee in which:

a. NSF agrees to provide full or partial financial support for the costs of the project to be performed under the provisions of the grant instrument.

b. The grantee agrees to the performance of the project, to the prudent management of the funds provided by the grant and to the provisions of the grant instrument.

### 132 GRANT ACCEPTANCE

The grantee is free to accept or reject the grant. Normally, action to obtain Federal funds constitutes acceptance of a grant once it is made. However, in some cases, NSF may require written acceptance.

## 140 NSF ORGANIZATION

### 141 GENERAL

a. Reporting to the Director of the National Science Foundation are several staff Offices, the Directorate for Administration, and six scientific/technological Directorates. The current NSF organization chart is at Exhibit 1–2.

b. Of most direct concern to grantees are the Centr. l Processing Section to which formal proposals are sent (GPM 200), the appropriate NSF Program Officer (GPM 142, below), the Division of Grants and Contracts (GPM 143, below), and the Division of Financial and Administrative Management (GPM 144, below).

### 142 NSF PROGRAM OFFICERS

NSF Program Officers are the principal operational personnel in the scientific/technological directorates. They review, evaluate and recommend proposals for grants. When NSF makes a grant, the scientific aspects will be monitored by the appropriate NSF Program Officer, whose name and telephone number are shown in grant instruments.

### 143 DIVISION OF GRANTS AND CONTRACTS

a. The NSF Division of Grants and Contracts has the responsibility for assuring that any proposed grant is consistent with applicable policies, regulations, directives, and fund certifications. The Grants Officer is the only NSF official with delegated authority to issue grant letters and to obligate NSF funds for expenditures under grants.

### 144 DIVISION OF FINANCIAL AND ADMINISTRATIVE MANAGEMENT

The Grantee and Cash Management Branch of the Division of Financial and Administrative Management (telephone 202–632–4066) is available to assist the business officer in matters of payment and financial reporting discussed in Chapter IV.

### 145 OFFICE OF GENERAL COUNSEL

The Office of the General Counsel is responsible for NSF legal matters. It provides legal advice to all NSF offices and makes determinations pertaining to patent matters discussed in GPM 751.





EXHIBITS


| | |
|---|---|
| 1–1 | Public Laws, Executive Orders, and Other Directives |
| 1–2 | NSF Organization Chart |


EXHIBIT I–1.—*Public Laws, executive orders, and other directives*

Following are lists of the various public laws, executive orders, and other directives referred to or implemented by the GPM section indicated.

1. PUBLIC LAWS

| No. | Short title | GPM |
|---|---|---|
| Public Law: | | |
| 81–507 | National Science Foundation Act of 1950 (42 U.S.C. 1861–1875) | 102, 751, 752, 791. |
| 88–352 | Civil Rights Act of 1964, Title VI (42 U.S.C. 2000d) | 700. |
| 89–544 | Laboratory Animal Welfare Act of 1966 as amended by Public Law 91–579, Animal Welfare Act of 1970 (7 U.S.C. 2131 et seq.). | 733. |
| 89–665 | National Historic Preservation Act of 1966 (16 U.S.C. 470) | 708. |
| 89–754 | Demonstration Cities and Metropolitan Development Act of 1966, sec. 204 (42 U.S.C. 3334). | 211. |
| 90–577 | Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4101 et seq.) | 211. |
| 91–190 | National Environmental Policy Act of 1969, sec. 102 (42 U.S.C. 4332) | 705. |
| 91–604 | Clean Air Act of 1970, sec. 306 (42 U.S.C. 1857) | Exhibit 3–2(4j). |
| 92–318 | Education Amendments of 1972, Title IX (20 U.S.C. 1681–1686) | 701. |
| 92–500 | Federal Water Pollution Control Act of 1972, sec. 508 (33 U.S.C. 1368 et seq.). | Exhibit 3–2 (4j). |
| 92–522 | Marine Mammal Protection Act of 1972 (16 U.S.C. 1361) | 714. |
| 93–234 | Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.) | 707. |
| 93–205 | Endangered Species Act of 1973 (16 U.S.C. 1573(c)) | 720. |
| 93–510 | Joint Funding Simplification Act of 1974 (42 U.S.C. 4251–4261) | 220. |
| 93–502 | Freedom of Information Act of 1974 (5 U.S.C. 552) | 722.4. |
| 93–579 | Privacy Act of 1974 (5 U.S.C. 552a) | |
| 93–628 | International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1517) (see also Comptroller General Decision B–138942 of June 17, 1975). | 731.3. |
| 85–800 | Copeland "Anti-Kick Back Act" (18 U.S.C. 874, 40 U.S.C. 276c) | Exhibit 3–2 (4e). |
| 86–624 and 88–349 | Davis Bacon Act (40 U.S.C. 276a) | Exhibit 3–2 (4f). |
| 87–581 | Contract Work Hours and Safety Standards Act of 1962 (40 U.S.C. 327–330). | Exhibit 3–2 (4g). |
| 90–620 | Federal Reports Act (44 U.S.C. 3501–3511 and 31 U.S.C. 18a). | 721. |

2. EXECUTIVE ORDERS

| No. | Short title | GPM |
|---|---|---|
| | | 751. |
| 9429 | Patents | Exhibit 3–2 (4d). |
| 11246 | Nondiscrimination in Employment by Government Contractors and Subcontractors (Construction) (30 FR 12319; amended 32 FR 14303). | 700. |
| 11247 | Civil Rights | Exhibit 3–2 (4j). |
| 11288 | Water Pollution Prevention and Abatement | 797. |
| 11296 | Evaluation of Flood Hazards | Exhibit 3–2 (4d). |
| 11375 | Equal Employment Opportunity (32 FR 14303) | Exhibit 3–2 (4j). |
| 11738, Sept. 10, 1973 | Clean Air Act and Water Pollution Control Act (38 FR 25161) | 700. |
| 11764, Jan. 21, 1974 | Nondiscrimination in Federally Assisted Programs | |
| Apr. 13, 1976 | Preservation of Endangered Species | |

3. OMB CIRCULARS

| | | |
|---|---|---|
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| A–95 | Evaluation, Review, and Coordination of Federal Programs and Projects. | 210. |
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4. FEDERAL MANAGEMENT CIRCULARS (FMC)

(Since most FMC formerly were OMB circulars, the former number is shown in parenthesis under the FMC number. Since all are being codified in Chapter II, Title 34 of the Code of Federal Regulations, the CFR number, when known, also is shown for ease of reference.)

| No. | Short title | 34 CFR | GPM |
|---|---|---|---|
| 73-3 (A-100) | Cost Sharing on Federal Research | 211 | 640, Exhibit 6-1 |
| 73-8 (A-88) | Coordinating Indirect Cost Rates and Audit at Educational Institutions. | 252 | 533.2. |
| 73-7 (A-101) | Administration of College and University Research Grants. | 253 | 620, 630. |
| 73-8 (A-21) | Cost Principles for Educational Institutions. | 254 | 501. |
| 74-4 (A-87) | Cost Principles (for State and Local Governments. | 255 | 501. |
| 74-7 (A-102) | Uniform Administrative Requirement for Grants-in-Aid to State and Local Governments. | 256 | Various (see OMB A-110). |

5. TREASURY DEPARTMENT CIRCULARS

| | | | |
|---|---|---|---|
| 1075 | Withdrawal of Cash from the Treasury for Advances Under Federal Programs. | 420 | |
| 1082 | Notification to States of Grants-in-Aid Information (formerly OMB circular A-98). | 212d | |

6. NSF REGULATIONS (45 CFR, CHAPTER VI)

| No. | Short title | 34 CFR | GPM |
|---|---|---|---|
| 611 | Nondiscrimination in Federally-Assisted Programs. | 702 | |
| 612 | Availability of Records and Information | 722.4 | |
| 613 | Privacy Act Regulations | | |
| 640 | Environmental Impact Statement Policies and Procedures. | 207 | |
| 650 | Patents | 751 | |
| 660 | Project Notification and Review System | 210 | |

7. OTHER NSF DIRECTIVES

| No. | Short title | 34 CFR | GPM |
|---|---|---|---|
| Notice No. 52 July 11, 1973 | Institutional Patent Agreements | | 751.3. |
| Notice No. 57 Sept. 12, 1974 | Salary Information in Proposals | | 206.1. |
| Notice No. 58 Oct. 10, 1974 | Acquisition of Excess Government Property by NSF Grantees. | | 740, exhibit 7-3. |
| Notice No. 59 June 30, 1975 | NSB Resolution on Peer Review Information. | | 236, exhibit 2-10 |
| Notice No. 60 Sept. 4, 1975 | Use of U.S. Flag Carriers in Grant-Supported Activities. | | 731.3. |
| Notice No. 61 Jan. 27, 1976 | Reconsideration of Proposals Declined by NSF. | | 235 |
| Notice No. 62 May 24, 1976 | Submission of Final Fiscal and Technical Reports | | 673, 674, 675 |
| Notice No. 63 Dec. 20, 1976 | Revised Submission Procedures for Final Fiscal and Technical Reports. | | 673, 674, 675 |
| Notice No. 64 Apr. 6, 1977 | Research Involving Recombinant DNA Molecules | | 712, exhibit 7-1 |

## CHAPTER II.—PROPOSAL SUBMISSION, EVALUATION, AND AWARD

This chapter discusses the process by which a proposal becomes a grant and specifically highlights the following topics:

200 Submission of Proposals.
210 Project Notification and Review System.
220 Joint Funding Simplification Act.
230 Evaluation of Proposals.
240 NSF Grant Periods.
250 Additional Funding Support.

### 200 SUBMISSION OF PROPOSALS

#### 201 GENERAL

a. The purpose of a proposal is to provide a statement establishing the objectives and the scientific significance of the proposed activity, the technical qualifications of the project director/principal investigator and his organization and the level of funding required.

b. The proposal should contain sufficient information to persuade the Foundation's scientific and technical staff and members of the scientific community (who will review the proposal and advise the Foundation) that the proposed activity is both sound and worthy of support under the NSF criteria for the selection of projects (Exhibit 2-1), or such other specific criteria as are specified in the applicable proposal generating mechanism. The proposal should be succinct and self contained.

c. Before submitting the proposal to NSF, the authorized organizational representative should determine that, among other things:

(1) The proposed project is consistent with the policies and goals of the submitting organization;

(2) The organization can make available the necessary facilities, general purpose equipment, special purpose equipment, and services (not requested of NSF in the proposal) for the conduct of the project;

(3) The organization can make available the necessary personnel for the amounts of time estimated to be required;

(4) The organization has legal authority to accept grants and the requisite policies, procedures, and personnel to meet the standards shown in Chapter III;

(5) The total costs estimated to be required for the conduct of the project are reasonable and there is a plan for meeting such costs either from grant funds or from some other source;

(6) The submitting organization is willing to share in the costs of such project (as outlined in GPM 643) if the proposal is for research project which has not specifically been solicited by NSF.

(7) The costs which NSF is being asked to support are allowable and the treatment of direct or indirect costs in the proposal budget is consistent with Federal cost principles and with the policies of the submitting organization (see Chapter V).

e. If the submitting organization does not already have an indirect cost base and rate recognized by NSF or by the cognizant Federal negotiating agency, an indirect cost proposal should be separately submitted to the Policy and Cost Analysis Office, Division of Grants and Contracts, NSF. (GPM 340.2j, GPM 532.1b, GPM 533.2.)

f. If not previously done, the submitting organization should also separately furnish the organization and management information described in GPM 340 and the Civil Rights Assurance described in GPM 700.

#### 202 NSF MECHANISMS FOR GENERATING PROPOSALS

202.1 *Program Announcement.* The term includes program brochures, announcements, guidelines for submission of proposals, published program plans, etc. Program Announcements are the primary mechanisms used by NSF to generate unsolicited proposals. The information and general guidance provided may be applicable to an entire program or to a single program element. Program Announcements do not identify specific projects, generally do not contain proposal due dates and tend to have a greater effective life than other proposal generation mechanisms. Proposals submitted in response to program announcements are considered unsolicited and if for research, the resulting awards are subject to statutory cost sharing. (See GPM 640, "Cost Sharing and Matching.") Proposals are evaluated pursuant to general evaluation criteria (see Exhibit 2-1) and compete with each other but less directly than under solicitation mechanisms. Resultant awards generally will be in the form of grants.

202.2 *Program Solicitation.* A program solicitation will be used to generate proposals for NSF support in targeted areas. A program solicitation is more definitive than a program announcement and generally describes types of projects the program wishes to fund. It normally applies for a more limited period of time, with specific proposal due dates, as contrasted with the more open-ended program announcement. Competition among proposals is more focused, and special evaluation and selection procedures are often used. Statutory cost sharing is not required and awards may provide for full costs and fees where appropriate.

202.3 *Request for Proposals.* This is a procurement solicitation mechanism under the Federal Procurement Regulations (Title 41, Chapter 1, CFR). Proposals are usually generated for one specific project or service and are in direct competition with each other for an award for that particular purpose. Statutory cost sharing is not required and awards may provide for full costs and fees where appropriate. Any resultant award will be in the form of a procurement contract. This Manual is not applicable to procurement transactions.

#### 203 BASIC OUTLINE FOR PREPARING AND SUBMITTING PROPOSALS

203.1 *Categories of Applicants.*

a. *Principal Types of Grantees.* Proposals to NSF for support are received from and grants made to the following types of organizations, defined in PM 340.1:

(1) Colleges and Universities;

(2) Other Nonprofit Organizations (such as Independent museums; observatories; research laboratories; hospitals; stock centers; consortia; professional, scientific and educational associations or societies; and similar organizations;

(3) Commercial firms (including small businesses and profit making educational institutions);

(4) State and local governments and agencies thereof.

b. *Foreign Organizations.* The Foundation rarely provides dollar support to foreign institutions. However, support may be provided to foreign institutions utilizing U.S.-owned excess foreign currencies when available (see GPM 730, "International Considerations").

c. *Unaffiliated Scientists.* In addition to providing support (i.e., airline tickets) for international travel directly to individual scientists (see GPM 734), NSF may award grants to individual U.S. citizens provided that the individual is not employed by or affiliated with an organization, and:

(1) The proposed project is sufficiently meritorious and otherwise complies with the conditions of the relevant program announcement or solicitation;

(2) The applicant has demonstrated the capability, and access to any necessary facilities, to carry out the project; and

(3) The applicant agrees to fiscal arrangements which, in the opinion of the NSF Grants Officer, insure responsible management of Federal funds.

d. *Other Federal Agencies.* In carrying out its statutory purposes, NSF is expressly authorized by its own statutory authority to support research performed by other Federal agencies. However, it presently is Foundation policy not to encourage research proposals from other Federal agencies except in pursuit of specific NSF objectives.

203.2 *When to Submit Proposals.* Unsolicited proposals should be formally submitted to NSF in time to allow about 6 to 9 months between submission and the anticipated starting date. Proposals to be funded in a particular fiscal year (ending September 30) normally should be received no later than February of that same year. In some programs deadlines or target dates are established for receipt of proposals. Such deadlines or target dates are published in the NSF Bulletin, published monthly (except July and August). Proposals may be submitted at any time unless they are in response to:

a. A Program Solicitation (frequently used for applied research). Program Solicitations always have fixed deadlines for receipt of proposals by NSF (see GPM 202.2, "Program Solicitation");

b. Those "Program Announcements," "Guides for Preparation of Proposals," etc., that contain fixed deadlines for receipt of proposals by NSF (see GPM 202.1, "Program Announcement"). Most of the proposals received by NSF's Science Education Directorate are in response to "Guides for Preparation of Proposals" containing fixed deadline dates. NSF's Division of Science Information also frequently issues "Program Announcements" with fixed deadline dates.

203.3 *Where to Submit Proposals.* a. Unless stated otherwise in a Program Solicitation, Program Announcement, etc., 15 copies (20 copies for biological, behavioral and social science proposals) of each proposal (including the signed original) should be forwarded to:

Central Processing Section, National Science Foundation, Washington, D.C. 20550.

If there have been prior discussions with a particular NSF program and the proposal is intended for consideration by that program, "For consideration by_____ Program" should be added to the address. If copies of the proposal are mailed in more than one package, the number of packages should be marked on the outside of each package. Any reprints or other materials to be considered with the proposal also should be furnished in sets and attached to the individual copies of the proposal.

b. The Foundation will acknowledge receipt of each proposal and assign an identification registry number which should be referred to in all future correspondence concerning the proposal. Any later inquiries, addenda, revised budgets, etc., should be addressed to the cognizant program office and identified by the NSF registry number.

203.4 *Standard Application Forms.* a. NSF does not have an "application kit" and does not prescribe the use of standard preapplication or application forms, except for proposals to programs covered by the Project Notification and Review System of OMB Circular A-95, and by Attachment M to OMB Circular A-110. See GPM 210, "Project Notification and Review System."

203.5 *NSF Proposal Format.* a. Proposals consist of three parts: cover page, narrative, and budget. Supplemental documents should be placed in one or more appendices.

b. Proposals being forwarded to a particular program in NSF in response to a specific NSF program issuance should follow instructions therein on what to submit.

c. Other proposals should follow the guidelines set forth in appropriate general NSF brochures, such as "Grants for Scientific Research" or "RANN Guidelines for the Preparation of Unsolicited Proposals."

d. A brief synopsis of what to submit follows:

(1) Cover Page—Except for proposals to programs covered by A-95 (see GPM 210), the cover page should follow the general format of Exhibit 2-3, or the applicable Program Announcement, Brochure, Solicitation, etc. The original should be fully signed, as described in GPM 203.6.

(2) Narrative—The Narrative should contain a table of contents, a description of what is being proposed, including objectives and significance, a general plan of achieving these objectives, relation to the current status of the topic the proposal addresses, outline (with pertinent references) of what has been done on the topic to date, plans for making the results of the project known and widely available, assurance that the proper facilities and equipment are available, justification for any consultant services, and equipment as specified in GPM 204, the principal publications of senior personnel during the past five years, location of work to be performed, if off campus or away from headquarters, and vitae of senior personnel. Included with the vitae should be information on all current awards to which time is committed (title of project, beginning and ending date of award, amount of time (man months) being devoted to the project and salary arrangements therefor, source of funds, and annual budget level). In addition, the vitae should provide similar data on all proposed projects which are being considered by or which will be submitted in the near future to other possible sponsors, including other NSF programs.

(3) Proposal Budget—See Exhibit 2-4. Any revised budget should be signed both by the prospective principal investigator/project director and by the authorized organizational representative.

(4) Abstract—A 200-300 word summary of the work being proposed. (See GPM 722.3, NSF Project Summaries and format of "Notice of Research Project" in Exhibit 2-8.)

203.6 *Proposal Signatures.* NSF requires that the original of each proposal for NSF support be signed by the principal investigator (PI), and co-principal investigator if more than one principal investigator is involved in the project, or project director(s) (PD) who wishes to undertake the project, and be endorsed by the authorized organizational representative or his designee. Proposing organizations may have additional signature requirements. The original signed copy must be submitted to NSF. The PI/PD is the individual designated by the performing organization, and approved by NSF, who will be responsible for the scientific or technical direction of the project. The term "principal investigator" generally is used in research projects, while the term "project director" generally is used in science education and other projects. The authorized organizational representative is the administrative official who is empowered to commit the proposing organization to the conduct of a project that NSF is being asked to support.

a. *PI/PD Signature.* The signature of the principal investigator/project director signifies agreement to assume responsibility for the scientific or technical direction of the project and for the preparation of required technical reports.

b. *Organizational Endorsement.* By endorsing the cover sheet, the authorized organizational representative affirms on behalf of the proposing organization that all requirements for handling and managing grants will be met. Note especially GPM 204.2 concerning proposals requesting funds for expensive special purpose equipment.

#### 204 SPECIAL REQUIREMENTS INVOLVING CONSULTANT SERVICES OR EQUIPMENT

204.1 *Consultant Services.* a. Grantees normally are expected to utilize the services of their own officers or employees to the maximum extent in managing and performing the activities supported by NSF grants. Where it is necessary for a grantee to contract for the services of persons who are not its officers or employees, it is expected to do so in accordance with written organizational standards which provide for consideration of the factors outlined in the governing Federal cost principles.

b. If the need for consultant services is anticipated, the proposal narrative should provide appropriate rational, and the Proposal Budget should estimate the amount of funds which may be required for this purpose. To the extent possible, consultant rates should show separate amounts for actual services and each of the components of the rate. See GPM 516, "Consultant Services," for limitation on rate of consultant compensation.

204.2 *Equipment.* If a proposal for NSF support involves the purchase or lease of "expensive special purpose equipment," (having a unit acquisition cost exceeding $10,000) it must contain a certification by the authorized organizational representative that the equipment is (a) essential and not reasonably available and accessible to the project and, if funded by NSF will be subject to (b) reasonable inventory controls and maintenance procedures and (c) organizational policies designed to enhance multiple or shared use on other projects if such other use will not interfere with the work on the project for which the equipment is being acquired (see GPM 332, "Equipment Management Standards," and GPM 512, "Equipment").

#### 205 CONFIDENTIAL ASPECTS OF PROPOSALS AND GRANTS

205.1 *Salary Information and Disclosure.* a. Proposals for NSF support are normally reviewed not only by Foundation staff but also by selected outside reviewers chosen for their knowledge or interest in the subject areas of proposed projects. An integral part of most proposals is a budget which includes the proposed commitment to the project by named senior personnel of a specified







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amount of time or effort for which the proposal requests NSF support and the corresponding salary amounts. Unless the proposing organization itemizes these salary amounts in a separate statement, rather than in the budget itself, this information is available to outside reviewers as part of the evaluation process.

b. Any organization submitting a proposal for support under any NSF program has the option of listing in a separate schedule the salary amounts for named senior project personnel which it proposes be reimbursed through an NSF grant. If this option is selected, the proposal budget may substitute asterisks for salary amounts. In this event, the omitted information is to be furnished in a separate salary schedule with the legend, "It is requested that the following salary information not be released to persons outside the Government." Two copies should be attached to the original proposal budget only. Whether or not the option is exercised, the proposal budget should continue to list the names of senior project personnel and the total senior personnel salaries for which NSF funding is requested.

c. Proposals resulting in NSF grants become part of the grant instrument and will be made available to the public, upon request, pursuant to NSF procedures under the Freedom of Information Act of 1974 (see GPM 732.4, "Freedom of Information Act"). However, any separate salary schedule bearing the legend described in the preceding paragraph will be considered confidential and withheld from release to the extent permitted by law.

205.2 *Other Proprietary Information.* The following is normally of a privileged nature and will be held in confidence to the extent permitted by law. Such information should be appropriately labelled and included as an enclosure to the proposal:

a. records specifically prohibited from disclosure by statute, such as 18 U.S.C. 1905, which prohibits disclosure of information which concerns or relates to the trade secrets, processes, operations, style of work, or apparatus or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation or association;

b. trade secrets and commercial or financial information. Matter subject to this exemption is that which is customarily held in confidence by the originator without regard to whether or not the originator is or is not employed by a nonprofit organization.

c. geological and geophysical information and data (including maps) concerning wells.

### 210 Project Notification and Review System (PNRS)

#### 211 BACKGROUND

a. OMB Circular A-95 (Revised January 2, 1976) implements section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, Title IV of the Intergovernmental Cooperation Act of 1968, and section 102(2)(c) of the National Environmental Policy Act of 1969 by establishing requirements relating to:

(1) A Project Notification and Review System (PNRS) (Part I),
(2) direct Federal development (Part II),
(3) State plans (Part III), and
(4) coordination of planning in multijurisdictional areas (Part IV).

b. Attachment M to OMB Circular A-110 promulgates a standard form (SF 424) to be used as a face sheet for applications for support under programs covered by Part I of Attachment A to A-95, as an optional notification of intent by applicants, and as a Federal report form of actions taken on such applications.

c. Inasmuch as the NSF intergovernmental Science Program meets one or more of the A-95 applicability criteria, it is included among the list of programs covered by the PNRS requirements of A-95 (listed in the Catalog of Federal Domestic Assistance as number 47.036).

d. Treasury Circular 1082 provides procedures for the notification to States of award information. NSF uses the supplemental reporting procedures of subparagraph 6B of TC 1082, summarized in GPM 212 d, below.

e. The NSF regulations to implement OMB Circular A-95 and Treasury Circular 1082 are contained in 45 CFR Part 660.

#### 212 PNRS PROCEDURES

a. Any organization desiring to submit a proposal for support under the Intergovernmental Science Program must (1) notify the appropriate State clearinghouse in Exhibit 2-5 of intent to apply for NSF support, using the notification form and procedures prescribed by the clearinghouse; and (2) use the standard Federal Assistance Application Form (SF 424), reproduced in Exhibit 2-6, as the "face sheet" for the proposal, in lieu of the NSF "cover page" format illustrated in Exhibit 2-3.

b. NSF will return to the originator any formal proposal to the Intergovernmental Science Program which does not contain the State Application Identifier (SAI) number and certification.

c. Within seven days of taking action (declination or award) on the proposal, NSF will complete the SF 424 and return it to the State clearinghouse.

d. To implement the related requirements of Treasury Circular 1082, NSF will furnish to each State Central Information Reception Agency (SCIRA) listed in Exhibit 2-5 a quarterly "Statewide Award Report," summarizing basic data on each award to any institution or organization within the State, under any NSF program.

### 220 Joint Funding Simplification Act

a. The Joint Funding Simplification Act of 1974 (42 U.S.C. 4251 et seq.) provides for State and local governments and nonprofit organizations to combine State and Federal resources in support of projects of common interest to the governments and organizations concerned.

b. OMB Circular A-111 has established procedures for the submission of applications for join funding through State and areawide clearinghouses and Federal Regional Councils.

c. NSF has been unable to identify any of its programs as particularly suitable for funding under the A-111 procedures. Prospective applicants should make preliminary inquiries to the Foundation before initiating formal applications.

### 230 Evaluation of Proposals

#### 231 PEER REVIEW AND MERIT SELECTION

The National Science Foundation's scientists, engineers and other officials evaluate all proposals submitted to the Foundation. To assist them in the evaluation process they generally obtain the advice of scientists and others who are specialists in the fields covered in the proposals. The guidelines for NSF Program Officers on selection of reviewers are shown in Exhibit 2-2. Proposals must contain sufficient detailed information to define the nature and merit of the proposed project. In general, proposals will be supported in order of merit within subareas of science to the extent permitted by available funds. In cases of proposals of substantially equal merit, consideration is given to such factors as geographic distribution and general subject-matter coverage of grants made in that program.

#### 232 CRITERIA

The general criteria used by NSF in the selection of research projects are shown in Exhibit 2-1.

Other and more specific criteria may be contained in Program Solicitations, Program Announcements, Guidebooks for the Preparation of Proposals, etc.

#### 233 REVISIONS TO PROPOSALS MADE DURING REVIEW PROCESS

a. Prior to recommending whether or not NSF should support a particular project, the NSF program officer may engage in discussions with the proposing principal investigator/project director.

b. Should such discussions result in proposed changes which exceed either 10 percent or $10,000 in the total proposed grant amount, a revised proposal budget, signed by both the proposing principal investigator/project director and by the authorized organizational representative, must be submitted, in an original and two copies, to the cognizant NSF Program Officer for incorporation into the proposal file.

c. Should such discussions result in changes in the basic objectives or scope of the project as originally proposed, an appropriate proposal modification, signed and endorsed as in b above, must be submitted to the Program Officer.

#### 234 NSF ACTION TIME ON PROPOSALS

Although more expeditious handling is possible in some instances, normally action on proposals takes six to nine months.

#### 235 RECONSIDERATION OF PROPOSAL DECLINATIONS

A formal procedure for reconsideration of declination actions on proposals was established by NSF Important Notice No. 61 of January 27, 1976 (see Exhibit 2-9).

#### 236 RELEASE OF PEER REVIEW INFORMATION

NSF Important Notice No. 59 of June 30 1975 (see Exhibit 2-10), provided that verbatim copies of reviews requested by NSF after January 1, 1976, excluding the identity of the reviewer, will be made available to the principal investigator/project director upon request.

### 240 NSF Grant Periods

#### 241 BACKGROUND

Most NSF grants show an effective date, an approximate support period (e.g., one year or two years), and an expiration date. The expiration date encompasses both the approximate period of support and an additional period of up to six months to allow for flexibility in the performance of the project and completion of technical reports and publication arrangements. Some grants may not include the flexibility period.

#### 242 DEFINITIONS

The following basic terms pertaining to NSF grant periods have the indicated meanings:

*Effective Date.* The date specified in the grant letter on or after which expenditures may be charged to the grant. If no effective date is specified, then the date of the grant letter is the effective date.

*Expiration Date.* The date specified in the grant letter after which expenditures may not be charged against the grant except to satisfy obligations to pay allowable project costs committed on or before that date. The expiration date is normally the last day of the month.





*Grant Period.* The period of time between the effective date and the expiration date of an NSF grant shown as a number of months.

#### 243 SIGNIFICANCE OF GRANT PERIOD

a. An NSF grant gives authority to the grantee to commit and expend funds for allowable costs (see Chapter V) in support of the project, up to the grant amount specified in the award letter, at any time during the grant period.

b. Except as provided in GPM 504.3, 504.4 or 517, expenditures may not be charged against an NSF grant prior to the effective date or subsequent to the expiration date.

#### 244 CHANGES IN GRANT PERIODS

244.1 *Effective Date.* The effective date of a grant will not be changed unless a change is justified by exceptional circumstances. Any request to change the effective date must contain such justification and be signed by the principal investigator and endorsed by the authorized organizational representative. Two copies of the request should be transmitted to the NSF Grants Officer. If approved, the change will be made by numbered amendment to the grant which is valid only after signature by the NSF Grants Officer (under delegation of authority from the NSF Director). No other commitments regarding effective dates or suggestions that projects be started prior to the time the proposals or requests are fully processed by NSF and signed by the Grants Officer are valid.

244.2 *Expiration Date.* The expiration date may be changed as a result of approval of a request for continued support of a continuing grant; for a no-cost grant extension, or, in some cases, by renewed support of a standard grant or supplemental support. Such approvals will be furnished by numbered amendments to the grant.

244.3 *No-Cost Extension.* If additional time beyond the established expiration date is required to assure adequate completion of the original scope of work within the funds already made available, two copies of a request for no-cost grant extension must be forwarded in time to be received by the NSF Program Officer at least 45 days prior to that date. Such request must contain the signatures both of the principal investigator/project director or his designee and of the authorized organizational representative and should include summaries of progress, funds remaining, and plans to complete that part of the project for which the extension is being requested. The need for an extension of time should be justified. The fact that funds may remain at the expiration of an award is not in itself sufficient justification for an extension. Normally, no single extension may exceed 12 months and only in exceptional cases will more than one extension be allowed for standard grants. If approved, the extension will be in the form of a numbered amendment to the grant, specifying a new expiration date. Grants will not be amended to approve late requests for extensions except in very unusual circumstances. Grantees are cautioned not to make new commitments or incur new expenditures after the expiration date in anticipation of a no-cost extension.

### 250 Additional Funding Support

#### 251 TYPES OF ADDITIONAL FUNDING SUPPORT

Additional funding of a project beyond the original grant period will be in the form of "renewed" support, "continued" support, or "supplemental" support.

#### 252 STANDARD GRANTS

252.1 *Renewed Support.* a. Renewed support is defined as additional funding for a support period subsequent to that provided by a standard grant.

b. Standard grants, as defined in GPM 122d will normally be made for durations up to three years (five years in exceptional cases) with the full grant amount obligated by NSF at the time of the award. They may be renewed one time by amendment of the original grant instrument provided that the cumulative duration does not exceed five years. Subsequent renewals (if any) will be in the form of a new grant with a new grant number.

c. Proposals for renewed support of a project are evaluated in competition with all other pending proposals. Unless there is an explicit provision in the grant instrument or in applicable guidelines or program announcements for a modified format or content, a proposal for renewed support should be documented and endorsed as fully as though the proposer were applying for the first time, with all the information required in a proposal for a new project (see GPM 203.5d). In addition, a summary of progress to date should be included indicating its relation to the proposed work. Reviewers will be asked to consider this summary as well as the proposed work. Renewal requests also should include estimates both of total expenditures and commitments under the existing grant (by major budget category) to the date at which new funding is desired and of the projected residual balance, if any; and a proposed budget for the ensuing period. In estimating the projected residual balance, the proposal should distinguish between deferred expenditures (i.e., those allowable outlays that are still required in support of the project, though they probably will not take place prior to the current expiration date of the grant) and true residues (i.e., budgeted amounts which will not be committed by the expiration date).

d. In order that renewed support may be made in time to provide an uninterrupted flow of Federal funding, proposals normally should be submitted to the NSF Central Processing Section at least six months prior to either:

(1) The time additional Federal funding will be required, or
(2) The expiration date of the current grant, whichever occurs first.

252.2 *Supplemental Support.* a. If funds provided by a grant are insufficient to complete the original scope of work, a request for supplemental funding support may be submitted, with justification of need. If approved, the grant will be amended to provide additional funding for the current support period. The amendment letter will specify both the amount of supplemental funding and the cumulative amount awarded through the expiration date, which normally will remain unchanged. In some cases, the expiration date may be extended, but for no more than six months.

b. A request for supplemental support should be brief (letter format), signed by the PI/PD and the Authorized Organizational Representative. Two copies should be submitted to the cognizant NSF Program Officer at least two months prior to the need for the additional funds.

c. NNSF will not approve requests for supplemental support for such purposes as defraying the costs of increases in salaries, wages or staff benefits or for additional indirect cost reimbursement, whether caused by a change in the indirect cost rate or by changes in direct cost expenditures which affect the indirect cost base. See GPM 504.1, "Maximum Obligation" and GPM 535, "Grantee Reimbursement for Indirect Costs."

d. Only in exceptional cases will more than one supplement be approved.

#### 253 CONTINUING GRANTS

253.1 *Request for Continued Support.* a. Requests for funding increments for projects being supported under a continuing grant, as defined in GPM 122d, receive high priority within NSF and normally are not considered in competition with proposals for renewed support of standard grants.

b. In order to ensure continuity of Federal funding, each request for further support within the overall period of the continuing grant should be forwarded to the cognizant NSF program director via the Central Processing Section at least three months prior to the time additional Federal funding will be required. Two copies of the letter of request should be submitted. One copy must be signed by the principal investigator(s) and by the authorized organizational representative. Unless otherwise specified by the grant or applicable program guidelines, requests for each increment of funds under a continuing grant need only include the following in lieu of the detailed proposal data required for other types of grants:

(1) A brief summary of scientific progress (see GPM 615.1);
(2) A statement of funds estimated to remain unobligated at the end of the period for which NSF currently is providing support;
(3) A proposed budget for the ensuing year; and
(4) Current information about other support of senior personnel (see GPM 203.5d (2)).

c. A request for further support beyond the final increment of the continuing grant should be in the form of a new proposal for a new grant.

253.2 *Funding Adjustments.* a. *Insufficient Funds.* If the funding allocated in any incremental award of a continuing grant is insufficient to fund the project through the end of the support period, a request for continued support should be initiated far enough in advance so that, if approved, the amendment providing additional funding authorization may be awarded in a timely manner (see GPM 252.2). In lieu of this early funding, supplemental support may also be requested for Continuing Grants.

b. *Residual Funds.* If the funding allocated in any increment to a continuing grant is more than enough to continue the project through the current support period, the grantee must notify the cognizant NSF Program Officer. NSF normally will adjust the succeeding incremental award by reducing the funding for the next interim period by the residual amount.

### EXHIBITS

2-1 NSF Criteria for the Selection of Research Proposals (39 FR 42954, Dec. 9, 1974).
2-2 NSF Guidelines for Program Officers on Selection of Reviewers (O/D 76-11).
2-3 NSF Cover Page Format.
2-4 Proposal Budget Format.
2-5 Directory of State Clearinghouses (A-95) and SCIRA (TC 1082).
2-6 Standard Form 424, "Federal Assistance."
2-7 Sample NSF Grant Letter.
2-8 Notice of Research Project.
2-9 Reconsiderations of Proposals Declined by NSF (NSF Notice No. 61).
2-10 National Science Board Resolution on Peer Review Information (NSF Notice No. 59).



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## PROPOSAL TO THE NATIONAL SCIENCE FOUNDATION
### Cover Page

FOR CONSIDERATION BY NSF ORGANIZATIONAL UNIT (please specify):

| PROGRAM ANNOUNCEMENT/SOLICITATION NO.: | CLOSING DATE (IF ANY): |
|---|---|

NAME OF SUBMITTING ORGANIZATION TO WHOM AWARD SHOULD BE MADE (INCLUDE BRANCH/CAMPUS/OTHER COMPONENTS)

ADDRESS OR ORGANIZATION (INCLUDE ZIP CODE)

TITLE OF PROPOSED PROJECT

| REQUESTED AMOUNT | PROPOSED DURATION | DESIRED STARTING DATE |
|---|---|---|
| | | |

| PI/PD NAME AND SOCIAL SECURITY NO. (SSN)* | PI/PD PHONE NO. |
|---|---|
| | |

| PI/PD DEPARTMENT | PI/PD ORGANIZATION |
|---|---|
| | |

| ADDITIONAL PI/PD AND SSN* | ADDITIONAL PI/PD AND SSN* |
|---|---|
| ADDITIONAL PI/PD AND SSN* | ADDITIONAL PI/PD AND SSN* |
| FOR RENEWAL OR CONTINUING AWARD REQUEST, LIST PREVIOUS AWARD NO.: | |

REMARKS: *Submission of social security numbers is voluntary and will not affect the organization's eligibility for an award; However, they are an integral part of the NSF information system and assist in processing the proposal.

| PRINCIPAL INVESTIGATOR/ PROJECT DIRECTOR | AUTHORIZED ORGANIZATIONAL REP. | OTHER ENDORSEMENT (optional) |
|---|---|---|
| NAME | NAME | NAME |
| SIGNATURE | SIGNATURE | SIGNATURE |
| TITLE | TITLE | TITLE |
| DATE | DATE | DATE |

NSF Form 1034 (7-77)

EXHIBIT 2-3





## PROPOSAL BUDGET

| ORGANIZATION AND ADDRESS | PRINCIPAL INVESTIGATOR/PROJECT DIRECTOR |
|---|---|
| | |

| | MAN MONTHS Cal. | Acad. | Sumr. | | NSF FUNDS REQUESTED |
|---|---|---|---|---|---|
| A. SENIOR PERSONNEL SALARIES *(List by name; salary amounts may be listed on separate schedule)* GPM 205.1b | | | | | |
| 1. P.I./P.D. | | | | | $ |
| 2. CO P.I./P.D. | | | | | $ |
| | | | | | $ |
| | | | | | $ |
| 3. Faculty and Other Senior Associates: | | | | | |
| | | | | | $ |
| | | | | | $ |
| | | | | | $ |
| | | | | Subtotal, A | $ |
| B. OTHER SALARIES AND WAGES *(List numbers in brackets)* | | | | | |
| 1. Post Doctoral Associates ( ) | | | | $ | |
| 2. Other Professionals ( ) | | | | $ | |
| 3. Graduate Students ( ) | | | | $ | |
| 4. Undergraduate Students ( ) | | | | $ | |
| 5. Technical and Shop ( ) | | | | $ | |
| 6. Secretarial/Clerical ( ) | | | | $ | |
| | | | | Subtotal, B | $ |
| TOTAL SALARIES AND WAGES (A + B) | | | | | $ |
| C. FRINGE BENEFITS *(If charged as direct costs)* | | | | | $ |
| TOTAL SALARIES, WAGES AND FRINGE BENEFITS (A + B + C) | | | | | $ |
| D. EQUIPMENT *(List items and dollar amount for each item)* | | | | | |
| 1. Special Purpose | | | | | |
| Subtotal, D1 $ | | | | | |
| 2. General Purpose *(Not generally allowable - See GPM 512.4)* | | | | | |
| Subtotal, D2 $ | | | | | |
| TOTAL EQUIPMENT (D1 + D2) | | | | | $ |
| E. MATERIALS AND SUPPLIES | | | | | |
| 1. Laboratory and Instructional Subtotal, E1 $ | | | | | |
| 2. Office Subtotal, E2 $ | | | | | |
| TOTAL MATERIALS AND SUPPLIES (E1 + E2) | | | | | $ |
| F. DOMESTIC TRAVEL | | | | | $ |
| G. FOREIGN TRAVEL *(List destination and amount for each trip; see GPM 731)* | | | | | $ |

NSF Form 1030 (7-77)

EXHIBIT 2-4



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| | |
|---|---|
| H. COMPUTER (ADPE) SERVICES | $ |
| I. CONSULTANT SERVICES *(Identify consultants by name and amount; see GPM 516)* | $ |
| J. PUBLICATION COSTS/PAGE CHARGES | $ |
| K. PARTICIPANT SUPPORT COSTS, IF ALLOWED BY PROGRAM GUIDE *(Itemize)*. | |
| 1. Stipends _____ Subtotal, K1 | $ |
| 2. Travel _____ Subtotal, K2 | $ |
| 3. Subsistence _____ Subtotal, K3 | $ |
| 4. Other - Specify _____ Subtotal, K4 | $ |
| TOTAL PARTICIPANT SUPPORT COSTS (K1 + K2 + K3 + K4) | $ |
| L. ALL OTHER DIRECT COSTS *(List items and dollar amounts. Details of subcontracts, including work statement and budget, should be explained in full in proposal)* | $ |
| | $ |
| | $ |
| | $ |
| TOTAL OTHER DIRECT COSTS | $ |
| M. TOTAL DIRECT COSTS *(A through L)* | $ |
| N. INDIRECT COSTS *(Specify rate(s) and base(s) for on/off campus activity and identify itemized costs included in on/off campus bases where both involved, in Remarks)* | |
| TOTAL INDIRECT COSTS | $ |
| O. TOTAL DIRECT AND INDIRECT COSTS (M + N) | $ |
| P. LESS RESIDUAL FUNDS *(If for renewed or continued support of current project; GPM 252 and 253)* | $ |
| Q. AMOUNT OF THIS REQUEST (O minus P) | $ |
| R. ROUNDED TO | $ |

REMARKS

SIGNATURES BELOW REQUIRED ONLY FOR REVISED PROPOSAL BUDGETS (GPM 233):

| | |
|---|---|
| SIGNATURE OF PRINCIPAL INVESTIGATOR/PROJECT DIRECTOR<br>Date of Signature: | TYPED OR PRINTED NAME AND TITLE |
| SIGNATURE OF AUTHORIZED INSTITUTIONAL REPRESENTATIVE<br>Date of Signature: | TYPED OR PRINTED NAME AND TITLE |

EXHIBIT 2-4





## CHAPTER III.—GRANTEE STANDARDS

### 300 BACKGROUND

a. OMB Circular A–110 prescribes three sets of standards for academic and other nonprofit recipients of Federal grants. These govern financial management systems, procurement policies and procedures and property management. They are analogous to comparable standards prescribed by FMC 74–7 (formerly OMB Circular A–102) for State or local government recipients of Federal grants.

b. NSF requires prospective grantees to furnish basic organization and management information to assist the Grants Officer in assessing their financial and managerial responsibility.

c. Gpm 310–330 implement the OMB standards, and extend their applicability to all types of recipients of NSF grants, including commercial firms and others to whom neither FMC 74–7 nor A–110 is directly applicable. GPM 340 describes revised NSF requirements for the furnishing of organization and management information.

### 310 STANDARDS FOR FINANCIAL MANAGEMENT SYSTEMS

NSF grantees will have financial management systems which meet the requirements of Attachment F to OMB Circular A–110, reproduced as Exhibit 3–1 at the end of this Chapter.

### 320 PROCUREMENT STANDARDS

#### 321 BACKGROUND

Attachment O to OMB Circular A–110, reproduced as Exhibit 3–2, prescribes standards for use by recipients in establishing procedures for the procurement of supplies, equipment, construction, and services with Federal funds.

#### 322 NSF PROCUREMENT REQUIREMENTS

a. NSF grantees will adhere to the requirements of Attachment O to OMB Circular A–110 (Exhibit 3–2).

b. In addition, unless the grant instrument provides otherwise, prior written approval shall be obtained from NSF before:

(1) Any of the research or other substantive project effort is contracted or otherwise transferred. (See GPM 623, "Contracting or Transferring the Project Effort.")

(2) Contracting for the commercial production or distribution of books, films, or similar materials. (See GPM 761, "Production or Distribution.")

### 330 PROPERTY MANAGEMENT STANDARDS

#### 331 BACKGROUND

a. Attachment N to OMB Circular A-110 prescribes uniform standards governing the management by institutions of higher education, hospitals, and other nonprofit organizations of tangible and intangible property furnished by the Federal government or quisition and Control of Material and Supported by a Federal grant.

b. Since NSF grants do not involve the acquisition of real property, the real property standards of OMB Circular A-110 and FMC 74–7 are not applicable to NSF grants.

c. NSF implementation of the OMB standards concerning intangible property and expendable property are contained in GPM 750, "Intangible Property" and 760, "Acquisition and Control of Materials and Supplies."

d. Paragraph 5 of Attachment N to A–110 contains a special category of "exempt property." Under that provision, any Federal agency (such as NSF) which has statutory authority to vest title in an institution of higher education, hospital, or other nonprofit organization, is to do so without restrictions unless (1) it is determined that to do so is not in furtherance of the objectives of the agency, (2) for property costing $1,000 or more, the agency reserves the right to transfer title to the Federal government or to an eligible third party, or (3) it is Federally-owned nonexpendable property (i.e., Government property).

#### 332 EQUIPMENT MANAGEMENT STANDARDS

a. An NSF grantee which is a college or university, a hospital, an other nonprofit organization, or a State or local government (as defined in GPM 340.1), will have no obligation or accountability to the Federal government for the use or disposition of equipment, (except Government Property) acquired through an NSF grant other than as provided in GPM 770, "Equipment Title, Use, and Disposition."

b. Title to equipment acquired through an NSF grant by a small business or other commerical firm (as defined in GPM 340.1) normally will vest in the Government. Grants to such organizations normally will include an appropriate Government Property clause.

c. In the event that NSF furnishes Government Property (other than Excess Government Property) to a grantee, title remains vested in the Federal Government. Such property shall be marked, tagged, or segregated in such manner as to clearly indicate its ownership by the Government. Unless otherwise provided in the grant instrument, such Government Property shall be used only for the performance of the project. The grantee shall submit an annual inventory of such property to the Project Property Section, Division of Grants and Contracts. Upon expiration of the grant, the grantee shall report the property to the Project Property Section for further agency utilization. (See GPM 740, "Excess Government Personal Property.")

### 340 PROSPECTIVE GRANTEE ORGANIZATION AND MANAGEMENT DATA

340.1 *General.* a. Each proposing institution or organization which has not received an NSF award within the previous two years must submit basic organization and management information and certifications to the Division of Grants and Contracts at the time it submits its formal proposal.

b. For the purposes of this requirement, the following terms have the indicated meanings:

(1) *College or university.* A public or private institution of postsecondary education which, if a U.S. college or university, is listed in the current edition of the Education Directory, Colleges and Universities, published by the U.S. Department of Health, Education, and Welfare and available from the Superintendent of Documents, U.S. Government Printing Office.

(2) *Hospital.* An organization which is a member of the American Hospital Association, whether or not it is subject to the control of Federal, State, or local governments.

(3) *Other nonprofit organization.* Any corporation, trust, association, cooperative, or other organization which (1) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest; (2) is not organized primarily for profit; and (3) uses all income exceeding costs to maintain, improve, and/or expand its operations. For this purpose, the term "nonprofit organization" excludes (1) colleges and universities, (2) hospitals, and (3) State, local, and Indian tribal governments. An organization which has tax exemption as a nonprofit organization from the U.S. Internal Revenue Service shall be considered to have met the criteria of this definition.

(4) *Small Business.* A concern, including its affiliates, which is independently owned and operated, is not a "nonprofit organization," is not dominant in the field of operation in which it is transacting business, and can further qualify under the criteria concerning the number of employees, average annual receipts, or other criteria, currently prescribed by the Small Business Administration (SBA). (See CFR, Title 13, Part 121.)

(5) *Other commercial firm.* Any corporation, trust, or other organization which is organized primarily for profit and does not meet the SBA criteria for being a "small business."

(6) *State.* Any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of State institutions of higher education and hospitals.

(7) *Local Government.* A unit of government including specifically a county, municipality, city, town, township, local public authority, school district, special district, interstate district, council of governments, sponsor group representative organization (as defined in 7 CFR 620.2, 40 FR 12472, March 19, 1975), and other regional or interstate government entity, or any agency or instrumentality of a local government exclusive of institutions of higher education and hospitals.

340.2 *Required Information.* The following information is to be submitted:

a. The commonly-used name of the organization, together with the legal (registered) name, if different, and mailing address.

b. *Organization type.* Indicate the appropriate organizational type defined in GPM 340.1, above, or, if some other type, so indicate. If a U.S. college or university, show the Federal Interagency Committee on Education (FICE) code and category of control or affiliation as shown in the most recent Education Directory.

c. *Federal Employes Identification No.* Employer identification number as assigned by Internal Revenue Service (U.S. organizations only).

d. *Congressional District.* (Organizations in the U.S. only.)

e. *Organizational Affiliations.* Describe relationship of the organization to a parent organization or to subsidiaries or other affiliates. If the organization is a successor in interest to a predecessor or if changes in organizational affiliation are anticipated, describe briefly.

f. *Statement of Purposes and Powers.* Enclose an official or published statement of the major purposes of the organization and certify as required in GPM 340.3 as to the powers which have been granted to it to enter into contractual relationships and/or to accept grants (e.g., articles of incorporation, terms of reference, or by-laws).

g. *Key Officials.* List the name, titl. address, and telephone number of the following officials and their alternates (if any):

(1) Chief Executive Officer. (NSF grant letters normally are addressed to the Chief Executive Officer unless another appropriate addressee, such as the authorized organizational representative is so designated by him.)

(2) Authorized Organizational Representative; and

(3) Business Officer.

h. *Affiliations of Key Officials.* If the organization is other than a college or university, a State or local government, or an international organization, indicate whether or not each official listed in (g) above is affiliated with any international, Federal, or State or local agency or with any college or university. If so, describe such affiliation. NSF reserves the right to consult with such affiliated organizations.

i. A representative listing of current or recent Federal awards to the organization in-



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dicating agency, award number, award amount, and title of project.

j. A copy of the most recent indirect cost agreement negotiated between the organization and some Federal agency or, if lacking such an agreement, an indirect cost rate proposal. (See GPM 201e, GPM 532.1b, GPM 533.2)

k. If other than a college or university or a state or local government, also submit the following:

(1) A certified statement of financial condition covering at least the preceding two years; and

(2) Bank or other references.

340.3 *Required Certifications.* In addition to the basic information described in GPM 340.2, above, NSF requires that an organization described in GPM 340.1 a, above, submit a certification substantially as follows, signed by the Chief Executive Officer or authorized organizational representative:

a. I certify that _____ (name of institution or _____ has legal authority to accept organization)
grants as evidenced by the attached _____ and the requisite (describe document)
policies, procedures, and personnel to ensure stewardship of Federal funds and management of Federally supported projects, specifically including standards for financial management and procurement which meet those described in Attachments F and O to OMB Circular A–110.

(NOTE.—In the event this is not the case, list exceptions and provide a realistic estimate of when such standards might be met.)

b. Any proposals to the National Science Foundation will be consistent with the policies and goals of _____ and will be submitted in accordance with its procdeures and pursuant to appropriate authority.

c. In the event the National Science Foundation awards grants as a result of any such proposals, I agree that _____ will:

(1) Make available the necessary facilities, equipment, services, and personnel to conduct the project substantially as outlined in the proposal or such modifications thereof as may be mutually agreed;

(2) Conduct such project oversight as may be appropriate, manage the Federal funding with probity and prudence, and comply with the terms and conditions of the NSF grant; and

(3) Comply with applicable laws and regulations.

d. I further affirm that the "Assurance of Compliance with National Science Foundation Regulations under Title VI of the Civil Rights Act of 1964," attached (or, previously executed by _____ on _____) will be
(title of officer) (date)
fully applicable to any such grants.

(NOTE.—See GPM 700.)

e. If the organization meets SBA criteria and wishes to be considered by NSF as a small business, add a certification that the organization is a small business concern as defined in the appropriate SBA regulations.

_____
(Signature)

_____
(Typed Name and Title)

_____
(date)

EXHIBITS

8–1 Attachment F to OMB Circular A–110: Standards for financial management systems.

8–2 Attachment O to OMB Circular A–110: Procurement standards.

## CHAPTER IV—PAYMENT AND FINANCIAL REPORTING REQUIREMENTS

### 400 INTRODUCTION

#### 401 GENERAL

The acceptance of a grant from NSF creates a legal duty on the part of the grantee organization to use the funds or property made available in accordance with the conditions of the grant. Payments may be made in advance of work performed or as a reimbursement for work performed or costs incurred by the grantee. NSF has a reversionary interest in the unused balance of advance payments, in any funds improperly applied, whether received as an advance or reimbursable payment, and in property acquired through the grant, to which the NSF specifically either retains title or reserves the right to require title transfer as prescribed in GPM 770, "Equipment Title, Use, and Disposition".

#### 402 BASIC AUTHORITIES

The procedures prescribed in this chapter are based largely on selected portions of the uniform administrative requirements contained in Attachments A, G, and I to OMB Circular A–110 and Treasury Circular 1075.

#### 403 SCOPE AND APPLICABILITY

The provisions of this chapter cover all NSF grants, except grants awarded from Special Foreign Currency Program appropriations. Graduate Fellowship agreements with domestic colleges and universities are included, but contracts are excluded. All categories of grantees (academic, nonacademic, profit, and nonprofit) are covered by this chapter. The procedures in this chapter apply primarily to the comptroller or business officer and his staff.

#### 404 DEFINITIONS

The following definitions are either not included elsewhere in the manual or are repeated in this section because of their special applicability to this chapter.

a. *Business Officer.* The financial official of the grantee organization who has primary responsibility for the accountability for and reporting on NSF grant funds.

b. *Cash on Hand.* NSF funds on deposit, imprest funds, and undeposited Treasury checks.

c. *Disbursements.* Payments in cash or by check.

d. *Expenditures (Outlays).* Charges made to the project during a given period for (1) goods and other tangible property received, (2) services performed by employees, contractors, and other payees, and (3) amounts becoming owed for which no current services or performance is required.

e. *Obligations.* The amounts of orders placed, contracts awarded, services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.

f. *Grantee.* The organization to which an NSF grant is awarded.

g. *Unobligated Balance.* The portion of the funds authorized by the grant that has not been obligated by the grantee. It is determined by deducting outlays and unliquidated obligations from the cumulative funds authorized.

h. *Unliquidated Obligations.* For reports prepared on a cash basis, unliquidated obligations represent the amount of obligations incurred by the grantee that have not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the grantee for which an outlay has not been recorded.

#### 410 STANDARDS FOR FINANCIAL MANAGEMENT SYSTEMS

NSF grantees shall have financial management systems which, at a minimum, meet the requirements of Attachment F to OMB Circular A–110, reproduced as Exhibit 8–1 at the end of Chapter III.

### 420 PAYMENT REQUIREMENTS

#### 421 GENERAL

Federal grant and other programs involving advances to various organizations outside the Federal Government constitute a significant portion of the Federal Budget. Advances of cash from the Treasury to such organizations for the purpose of financing current operations under Federal programs have a substantial impact on Treasury financing costs and the level of the public debt. The purpose of this section is to prescribe the timing of such advances and the procedures to be observed to assure that cash withdrawals from the Treasury occur only when essential to meet the needs of a grantee for its actual disbursements.

#### 422 PAYMENT METHODS

Upon determination that advance funding is applicable in accordance with OMB Circulars A–102 and A–110, the method of payment will be applied in accordance with a through d, below.

a. *Letter of Credit.* A letter of credit is a commitment, certified by an authorized official of NSF, specifying a dollar limit available to a designated payee. A letter of credit is the equivalent of cash available to the grantee and is irrevocable to the extent that the grantee has obligated funds in good faith thereunder for the execution of its authorized NSF programs or projects.

Letter of credit funding is used when all of the following conditions exist:

(1) When there is, or will be, a continuing relationship between a grantee and NSF for at least a 12-month period and the total amount of advances expected to be received within that period is $120,000, or more (Treasury Circular 1075), and

(2) When the grantee has established or demonstrated to NSF the willingness and ability to establish procdures that will minimize the time elapsing between the transfer of funds from the Treasury and their disbursement by the grantee (OMB Circulars A–102 and A–110), and

(3) When the grantee's financial management system meets the standards for fund control and accountability prescribed in Attachment F to OMB Circular A–110 (Exhibit 3–1).

b. *Request for Advance.* When a grantee meets all of the requirements specified in GPM 422a, above, except those in GPM 422 a(1), payments will be made in advance of costs incurred by the submission of a Request for Advance, SF 270, to NSF on a monthly, biweekly, or any other regular cycle. (OMB Circulars A–102 and A–110). (See GPM 425 and Exhibit 4–6).

c. *Request for Reimbursement.* When a grantee does not meet the requirements specified in either or both of GPM 422a(2) and GPM 422a(3) or when otherwise considered appropriate by NSF, the grantee shall be required to finance its operations with its own working capital, and payments shall be made to reimburse the grantee for actual cash disbursements based on the submission of a Request for Reimbursement, SF 270, to the NSF (OMB Circulars A–102 and A–110). (See GPM 426 and Exhibit 4–8.)

d. *Working Capital Advance.* In those cases where the reimbursement method described in GPM 442c, above, is not feasible, arrangements may be made whereby the operations of the grantee are financed on a working capital advance basis. On this basis, funds may be advanced to the grantee to cover its estimated disbursement needs for a given initial period. Thereafter, the grantee would be reimbursed for the amount of its actual cash disbursements. The amount of the initial advance shall be geared to the reimbursement cycle so that after the initial period, the advance approximately equals the average amount of the grantee's unreimbursed program disbursements (Treasury Circular 1075).





#### 423 PAYMENT POLICIES

a. *Timing of Payments.* Regardless of the particular method used, advances to a grantee shall be limited to the minimum amounts needed and shall be timed to be in accord with the actual, immediate cash requirements of the grantee in carrying out the purpose of the approve program or project. The timing and amount of cash advances shall be as close as is administratively feasible to actual disbursements for direct program costs and the proportionate share of any allowable indirect costs.

Cash advances made by grantees (those which receive advances directly from the NSF) to others shall conform to the same standards of timing and amount as apply to advances by NSF to primary grantees, including the furnishing of reports of cash disbursements and balances.

b. *Withholding Payments.* NSF reserves right, upon written notice, to withhold future payments after a specified date if the recipient:

(1) Fails to comply with the conditions of an NSF award, including the reporting requirements, or

(2) Is indebted to the U.S. Government.

c. *Safeguarding Funds.* In no case will NSF furnished funds be commingled with the personal funds of, or be used for personal purposes by, any officer, employee, or agent of the grantee; nor will any of these funds be deposited in personal bank accounts for disbursement by personal check.

#### 424 LETTER OF CREDIT

a. *Summary.* The following is a brief outline of the letter of credit procedures under the Treasury Regional Disbursing Office (RDO) System:

(1) NSF makes a determination that a grantee will be funded through a letter of credit and sends the grantee SF 1194, Authorized Signature Card for Payment Vouchers on Letter of Credit, and NSF Form 931, Designation of Depositary for Direct Deposit of Grant and/or Contract Funds. (See Exhibits 4–1 and 4–2.)

(2) The grantee completes SF 1194 and NSF Form 931 and returns them to NSF.

(3) NSF approves the completed SF 1194 and forwards one copy to the designated Treasury Regional Disbursing Office or Center.

(4) NSF prepares a Letter of Credit, TFS 7577 (SF 1193A). Copies are transmitted to the designated Treasury Regional Disbursing Office or Center and to the grantee. (See Exhibit 4–3.)

(5) NSF furnishes the grantee a supply of SF 183, Request for Payment on Letter of Credit and Status of Funds Report.

(6) Following the effective date of the Letter of Credit, the grantee completes Requests for Payment, SF 183, and submits them to the designated Treasury Regional Disbursing Office or Center in order to receive funds to meet immediate cash disbursement needs. (See Exhibit 4–4.)

(7) The Treasury Regional Disbursing Office or Center then mails a Treasury check directly to the grantee's designated depositary (for credit to its account) or directly to the grantee.

b. *Authorized Signature Card.* The Authorized Signature Card for Payment Vouchers on Letter of Credit, SF 1194, must contain the signature(s) of the official(s) authorized by the grantee to sign Request for Payment on Letter of Credit and Status of Funds Report, SF 183. The Treasury Regional Disbursing Office or Center will accept only the Signature(s) of the official(s) named on the current signature card; the number of officials named should be limited to a practical number. A designation must be made, in the blocks provided, as to whether one or two signatures are required on Requests for Payment. New signature cards shall be submitted whenever there is a change, including additions or deletions of the officials authorized to sign Requests for Payment. Change in the title or position does not require a superseding signature card if the official's authority to sign Requests for Payment remains unchanged. SF 1194 and preparation instructions are shown in Exhibit 4–1.

c. *Designation of Depositary.* The direct deposit procedures are for optional use by NSF grantees funded by letter of credit. Grantees electing to utilize the direct deposit procedures must make such election by submitting NSF Form 931, Designation of Depositary for Direct Deposit of Grant and/or Contract Funds, to the NSF.

Under direct deposit procedures, Treasury checks will be mailed directly to the designated depositary for credit to the grantee's bank account. Grantees electing to use the direct deposit procedures shall complete Section I of NSF Form 931 and forward it to the depositary for completion of Section II. After the form is completed, the grantee shall forward it to NSF. A grantee will execute a power of attorney only where the depositary requires such an authorization in order to receive checks directly from the Treasury Regional Disbursing Office or Center for credit to the grantee's bank account. Grantees shall execute a new NSF Form 931 whenever changes to the depositary are necessary. NSF Form 931 and preparation instructions are shown in Exhibit 4–2.

d. *Letter of Credit.* Upon determination by NSF that a grantee shall be funded by a letter of credit (based on the criteria stated in GPM 422a, above) and after receipt of the Completed signature and depositary forms (described in GPM 424b and 424c, respectively) NSF will issue a Letter of Credit, TFS 7577 (SF 1193A), in favor of the grantee.

The "Amount Authorized" is based on the grantee's anticipated cash requirements for the fiscal year and the NSF's cash outlay ceiling imposed by the Office of Management and Budget. The grantee's anticipated cash requirements for the fiscal year are reported to the NSF, in item 22. "Remarks", of SF 272, Federal Cash Transactions Report, which is described in Exhibit 4–7. Cash outlay projections are reported on the second and third quarter FCTR in the manner described in Exhibit 4–10. The combination of total grantee requirements and NSF's cash outlay ceiling will determine the percentage of anticipated recipient requirements to be provided (percentage funding level). When 100 percent coverage cannot be provided by NSF, the grantee has four alternatives:

(1) Defer outlays until the next fiscal year (to the extent possible), or

(2) Use funds from other sources until the next fiscal year, or

(3) Request NSF to defer new project awards until the next fiscal year, or

(4) Use any combination of alternatives (1), (2), and (3).

The Letter of Credit, TFS 7577 (SF 1193A), is illustrated in Exhibit 4–3.

e. *Request for Payment on Letter of Credit.*—(1) *Preparation.* The grantee shall submit a Request for Payment each time funds are needed to meet current expenses. Grantees are expected to exercise sound financial judgment and planning to insure that the requirements for maintaining minimum cash balances are met. In preparing the Request for Payment, careful consideration of such key factors as payroll dates, payments to subgrantees or contractors, and major fixed costs will be required in order to determine when funds will be needed. Careful consideration of mail time required for transmission of the Request for Payment to the Treasury Regional Disbursing Office or Center and for transmission of the Treasury check to the grantee or grantee's bank will also be necessary. For example, if $20,000 will be needed on the fifteenth of the month in order to meet payroll expenses, pay bills on hand, and provide funds to subgrantees to meet their current disbursement needs, and normal mail time from the date the Request for Payment is submitted to the date the Treasury check is received by the grantee is seven days, then these funds should be requested on approximately the eighth of the month. Once the letter of credit system has been in operation a short time, it is expected that the grantee will have determined its disbursing pattern and calculated mail time so that withdrawals will be timed as close as is administratively feasible to actual cash disbursements. Controls should be maintained on a current basis so that cash balances do not exceed the grantee's immediate disbursements needs. An illustration of SF 183 and instructions for completing it are shown in Exhibit 4–4.

(2) *Conditions for Rejection.* The following is a list of conditions which will cause a Request for Payment, SF 183, to be rejected by the Treasury Regional Disbursing Office or Center.

(a) An unauthorized or invalid signature. (Erasures, painting over with correction fluid, or tapeover's are unacceptable).

(b) The name of the payee to whom the check is to be issued is not identical to the name of the payee in the "Treasury Checks To Be Made Payable To" block of the related form SF 1193A, Letter of Credit, or latest amendment thereto.

(c) The available balance on the letter of credit is insufficient.

(d) The Amount Requested block in Section I, Request for Payment is left blank, erased, painted over with correction fluid, or taped over.

(e) Discrepancies exist in Section II, Status of Federal Funds, Section III, Classification of the Amount of the Request, and/or other items in Section I, Request for Payment, and the RDO cannot obtain correct information from NSF and/or its own file.

(f) If the amount requested is more than $5,000,000.00 and the NSF does not provide an amendment to the related letter of credit authorizing drawdowns of more than $5,000,000.00.

(g) Excessive funds in the hands of the grantee organization as determined by Treasury and/or NSF.

(h) A written request from NSF to the Treasury Regional Disbursing Office to withhold payment for a reason other than those listed above. An authorized certifying officer of NSF shall provide signed written confirmation of this request.

A Rejection Notice stating the reason(s) for rejection shall be furnished by the Treasury Disbursing Office to the grantee. A copy of the Rejection Notice shall be sent to NSF and the Special Financing Staff, Banking and Cash Management (Department of the Treasury in Washington, D.C.) along with a copy of the rejected Request for Payment.



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(3) *Distribution of Copies.* Copies of the Request for Payment shall be distributed as follows:

(a) Original, to the Treasury Regional Disbursing Office or Center indicated on the Letter of Credit, TFS 7577 (SF 11934A).

(b) Duplicate, to The Treasury Regional Disbursing Office or Center for transmission to NSF after payment or rejection.

(c) Triplicate, to the National Science Foundation, Division of Financial and Administrative Management, 1800 G Street NW., Washington, D.C. 20550.

(d) Quadruplicate, retained by the grantee.

(e) Quintuplicate, to the Treasury Regional Disbursing Office or Center for transmission to the Special Financing Staff, Banking and Cash Management (the Department of Treasury in Washington, D.C.)

(4) *Emergency Payments.* In the event that a grantee does not receive a Treasury check within a reasonable length of time, the grantee should contact the Grantee and Cash Management Branch (NSF) 202–632–4006. The grantee should provide NSF information regarding the payment in question in order for NSF to aid in the determination of the status of payment.

425 REQUEST FOR ADVANCE

The Request for Advance, SF 270, enables a grantee which meets all of the requirements specified in GPM 422a, except those in GPM 422a(1), to obtain cash in advance to meet current disbursement needs. The grantee's designated official (Accounting Officer, Business Officer, Treasurer, etc.) must submit Requests for Advance to NSF on a periodic basis (monthly, biweekly, or other regular cycle) depending on normal disbursement patterns. Such requests should be limited to the minimum amounts needed and be timed to meet the anticipated cash requirements for allowable charges to active NSF projects. Grantees not qualifying for funding by letter of credit but are otherwise qualified to receive advance payments, are instructed to use the "Alternate Computation for Advance", item 12, instead of lines 11a through j. A copy of SF 270 along with preparation instructions is included in Exhibit 4–6.

426 REQUEST FOR REIMBURSEMENTS

When a grantee fails to meet the requirements specified in either or both of GPM 422 a(3), or when otherwise considered appropriate by NSF, the grantee will be required to finance NSF projects with its own working capital. Reimbursement will be made upon submission of a Request for Reimbursement, SF 270. The amount requested as reimbursement will be reported on line 11l. All other lines in item 11 and the "Alternate Computation for Advances", item 12, will be left blank. A SF 270, with instructions, is included in Exhibit 4–6.

427 WORKING CAPITAL ADVANCE

In those cases when the reimbursement method described in GPM 426 is not feasible, arrangements may be made whereby NSF projects are financed on a working capital advance basis. On this basis, funds may be advanced to cover estimated disbursement needs for a given initial period. Thereafter, reimbursement would be made for the amount of the grantee's disbursements. The amount of the initial advance will be geared to the reimbursement cycle so that after the initial period the advance approximately equals the average amount of unreimbursed disbursements. Under this method of payment, SF 270, item 12, will be used for the initial advance; thereafter, reimbursements will be requested on SF 270, line 11l. SF 270, with instructions is included in Exhibit 4–6.

430 FEDERAL CASH TRANSACTIONS REPORT

*a. General.* Shortly after the end of each calendar quarter, NSF will mail to each grantee a Federal Cash Transactions Report (FCTR) (SF 272 and SF 272A) to be updated and returned to NSF. This report is required whether funds are provided on an advance or a reimbursable basis. The Federal Cash Transactions Report is basically a modification of the traditional NSF Grantees Quarterly Expenditure Report (QER). The new name and the new report elements are in compliance with the new uniform Federal standards applicable to financial reporting by grantees. The FCTR with instructions is shown in Exhibit 4–7 (SF 272) and 4–8 (SF 272A.)

A Status of Final Reports has been added to the FCTR as a means of notifying grantees of due or past due final Technical Reports, Financial Status Reports, and Summaries of Completed Projects. The Status of Final Reports and Instructions are shown in Exhibit 4–9.

*b. Purpose.* In compliance with the new uniform Federal standards and other NSF requirements, the Federal Cash Transactions Report will be used for the following purposes:

(1) To monitor the balances of undisbursed NSF cash advances;

(2) To provide data which will enabe NSF to record on a reasonably current basis the grantee's actual disbursements against individual awards in order to liquidate obligations and advances;

(3) To provide data which can be translated into internal NSF reports to assist program officers and the Division of Grants and Contracts in determining the funding needs of grantees (See "Additional Funding Support", GPM 250);

(4) To report grantee's forecasts of cash requirements to the NSF when funds are advanced by letter of credit;

(5) To report the NSF share of project income which was used in projects supported by the NSF (see "Project Income", GPM 650);

(6) To report interest income to NSF; and

(7) To report grantees advances to subgrantees or contractors.

*c. Distribution and Due Date.* The original and copy 1 of the Federal Cash Transactions Report (SF 272 and SF 272A) and the Status of Final Reports must be completed and returned to the NSF Division of Financial and Administrative Management not later than 15 working days after receipt of the forms from the NSF.

440 CASH REFUNDS AND CREDITS TO NSF

441 FINAL UNOBLIGATED BALANCE

The NSF has a reversionary interest in the unobligated balance of a grant upon expiration or completion of the grant. The unobligated balance of Federal funds as reported on the Financial Status Report (See "Grant Closeout", Chapter VI, GPM 670) will be deducted from the award amount and reported on SFA 272A of the Federal Cash Transactions Report at the end of the quarter in which the Financial Status Report was approved by the Division of Grants and Contracts. The entry reduces the grantees "Balance Authorized" as computed on line 21 of SF 272 of the Federal Cash Transactions Report. (See Exhibit 4–7.)

If the grantee's "Balance Authorized" has been fully advanced and the unobligated balance deduction results in negative "Balance Authorized", the grantee must refund by check (payable to the National Science Foundation) the amount of the negative "Balance Authorized".

442 ERRONEOUS PAYMENTS

Advances or reimbursements made in error must be refunded by check (payable to the National Science Foundation) if the erroneous payment creates an excess cash on hand condition or a negative "Balance Authorized" as computed on line 21 of SF 727. (See Exhibit 4–7.)

443 INTEREST EARNED ON ADVANCE PAYMENTS

Interest earned on advance payments to other than State agencies must be reported to the NSF on the Federal Cash Transaction Report, SF 272, (Exhibit 4–7) and remitted by check payable to the National Science Foundation.

444 PROJECT INCOME

If, in accordance with GPM 653, project income is designated for credit to grant costs, it will be recovered by NSF by crediting costs otherwise chargeable against the grant on the Federal Cash Transactions Report, SF 272 and SF 272A, (Exhibit 4–7 and 4–8). In these cases, income in excess of the grant will be remitted to NSF by check payable to the National Science Foundation.

445 OTHER COST CREDITS

Purchase discounts, rebates, allowances, credits resulting from overhead rate adjustments, and other credits relating to any allowable cost received by or accruing to the grantee shall be credited against NSF grant costs if the grant has not been closed out. A grant is closed out if the three final reports (Financial Status Report, SF 269, Technical Report, and the Summary of Completed Project, NSF Form 98A) have been submitted to and accepted by NSF. If the grant has been closed out, cost credits will be accepted only if the amount is $100 or more. Such credits will be accomplished by the submission of a revised Financial Status Report, SF 269 See GPM 675d

EXHIBITS


4–1 Authorized Signature Card for Payment Vouchers on Letters of Credit (SF 1194)
4–2 Designation of Depositary for Direct Deposit of Grant and/or Contract
4–3 Letter of Credit (TFS Form 7577 or SF 1193A)
4–4 Request for Payment on Letter of Credit (TFS Form 7578 or 183)
4–5 Treasury Disbursement Centers and Regional Offices
4–6 Request for Advance or Reimbursement (SF 270)
4–7 Federal Cash Transactions Report (SF 272—machine formatted version)
4–8 Federal Cash Transactions Report (SF 272A—machine formatted version)
4–9 Status of Final Reports
4–10 Cash Outlay Report


CHAPTER V.—ALLOWABILITY OF COSTS

500 BASIC CONSIDERATIONS

501 FEDERAL COST PRINCIPLES

501.1 *Applicability to Grantees.* Expenditures under NSF grants are governed by the Federal cost principles applicable to specific types of grantees as follows:

a. *Institutions of Higher Education.* Principles for determining the costs applicable to research and development and to training and other educational services performed by colleges and universities under Federal government grants and contracts, are contained in FMC 73–8 (formerly OMB Circular A–21). This circular is applicable to all NSF awards to both public and private institutions of higher education, and is codified in 34 CFR 254, and reproduced in 41 CFR Subparts 1–15.3 and 1–15.8.





b. *Other Nonprofit Organizations.* A proposed set of government-wide cost principles for certain other nonprofit organizations was published for public comment in the Federal Register of Tuesday, April 26, 1977. Pending the promulgation of such government-wide cost principles, expenditures under NSF grants will be governed either by Subpart 1–15.2 of the FPR (41 CFR Subpart 1–15.2) or by the cost principles contained in DHEW publication Guide for Nonprofit Institutions, OSAC–5, or DHEW publication, Guide for Hospitals, OASC–3, as appropriate, in accordance with the following criteria:

(1) Any independent nonacademic nonprofit research organization shown in the current edition of the NSF Surveys of Science Resources Series Federal Support to Universities, Colleges, and Selected Nonprofit Institutions, to have been a recipient of Federal R&D funds totalling $5 million or more during the listed fiscal year will be governed by Subpart 1–15.2 of the FPR.

(2) Any other nonacademic nonprofit organization will be governed by the appropriate DHEW cost principles unless it formally requests the NSF Division of Grants and Contracts to make the provisions of Subpart 1–15.2 applicable to its and such request is approved.

c. *Commercial Firms.* The government-wide cost principles and procedures for use in cost-reimbursement type supply and research contracts with commercial organizations, contained in 41 CFR Subpart 1–15.2 are applicable to NSF grants to commercial firms.

d. *State and Local Governments.* FMC 74–4 (formerly OMB Circular A–87) provides principles and standards for determining costs applicable to grants and contracts with State and local governments. That circular, which is applicable to all NSF awards to State and local government entities (excluding publicly financed colleges and universities and hospitals), is codified in the Code of Federal Regulations as 34 CFR Part 255. It also is reproduced as 41 CFR Subpart 1–15.7.

501.2 *Applicability to Contracts Under Grants.* Grantees are responsible for assuring that costs of all contracts under NSF grants are subject to those cost principles and procedures appropriate to the contract type and contractor organization or institution involved. For example, if the contract is a cost reimbursement type for supplies or services with a commercial concern, Subpart 1–15.2 of FPR would apply; if the contract is for experimental, developmental, or research work with an educational institution, Subpart 1–15.3 of FPR would apply.

501.3 *Conflicting Guidelines.* In the event of any discrepancy between the summary information contained in this chapter and any specific provision of the applicable Federal cost principles, the cost principles in effect as of the effective date of the NSF grant will govern. In case of a discrepancy between the special provisions of an NSF grant and the standards of the applicable cost principles, the special provisions of the grant will govern.

504 OTHER CONSIDERATIONS

504.1 *Maximum Obligation.* The maximum obligation of NSF for support of the project will not exceed the amount specified in the grant instrument, as amended. NSF does not amend grants to provide additional funds for such purposes as reimbursement for unrecovered indirect costs resulting from the establishment of final negotiated rates or for increases in salaries, fringe benefits, and other costs.

504.2 *Applicable Credits.* Purchase discounts, rebates, allowances, and other credits relating to any allowable cost, received by or accruing to the grantee shall be credited to the Government either as a cost reduction or by cash refund, as appropriate. (See GPM 440, "Cash Refunds and Credits to NSF;" GPM 653, "NSF Project Income Provisions"; and GPM 675, "Financial Status Report and Summary.")

504.3 *Preaward Costs.* Expenditures may not be charged against NFS funds prior to the effective date of the grant. However, commitments requiring long lead times, such as for major items of equipment, may be initiated prior to the effective date at the risk of the grantee, for delivery subsequent to that date but in time for use in the project being supported. If a grant is made and such items are approved, Federal funds may be expended for them on or after the effective date of the grant.

504.4 *Post-expiration Costs.* NSF funds may not be expended subsequent to the expiration date of the grant except to liquidate valid commitments which were made on or before the expiration date.

505 PRIOR APPROVAL

505.1 *OMB Directives.* Part II of Attachment A to FMC 73–7 (A–101) prescribes that Government controls and limitations on expenditures for specific items under research projects at educational institutions shall be in accordance with the provisions of FMC 73–8 (A–21). It states that, wherever practical, the approvals should be given at the time of award to avoid undue delays during the course of the project. Subparagraph 3d of Attachment J to OMB Circular A–110 prescribes that Federal agencies may impose approval requirements only if they are consistent with those in FMC 73–8.

505.2 *NSF Prior Approval Policy.* (1) If an expenditure item is proposed in the budget and justified in the narrative, provision for it in the grant constitutes NSF approval unless the grant instrument specifically indicates the contrary.

(2) If provisions is not made in the proposal, prior written approval of the NSF Grants Officer, the NSF Program Officer, or of the Organizational Prior Approval System as appropriate, should be obtained before action is taken to procure any item or service listed in Exhibit 5–1, since it cannot be charged to NSF award funds prior to such approval.

505.3 *Delegation of Authority.* NSF delegates to grantee organizations the authority to grant prior approvals, as prescribed in GPM 613, for the following items of cost for which FMC 73–8 requires colleges and universities to obtain prior approval:

a. Alterations and renovations under $1,000, as defined in GPM 521.

b. Expenditures for otherwise allowable equipment, where the cumulative cost exceeds the total amount budgeted. (See GPM 512.5)

c. Cumulative domestic travel expenditures which exceed the budgeted amount. (See GPM 514c)

506 ADVANCE UNDERSTANDINGS

a. The allowability of the selected items of cost covered in the various cost principles applies broadly to many accounting systems in varying situations. In some cases (e.g., professional and consultant services costs) the various cost principles prescribed specific factors or conditions to be considered in determining the allowability of such costs in specific situations. In such cases, it is important that the stated conditions or factors be adhered to and documented in order to avoid possible subsequent disallowance.

b. In the event a grantee anticipates charging the NSF grant for an item of direct cost which, in light of the above, might subsequently be disputed, the authorized organizational representative should negotiate an advance agreement with the cognizant NSF Grants Officer.

510 ITEMIZED DIRECT COSTS

The following subsections summarize the allowability of frequently encountered direct cost items in the order in which they appear in the grant budget. Exhibit 5–1 summarizes prior approval requirements for selected items of cost.

511 SALARIES, WAGES, AND FRINGE BENEFITS

511.1 *Salaries and Wages.*—a. *All Grantees.* All remuneration paid currently or accrued by the organization for employees working on the NSF supported project during the grant period is allowable to the extent that (1) total compensation to individual employees is reasonable for the work performed and conforms to the established policy of the organization consistently applied to both Government and non-Government activities; and (2) provided that the charges for work performed directly under NSF grants and for other work allocable as indirect costs are determined as provided in the applicable Federal cost principles.

b. *Colleges and Universities.* Section J.7 of FMC 73–8 (FPR Subpart 1–15.309–7) establishes special criteria for work performed on Government projects by faculty members during and outside the academic year. In summary these are:

(1) *Academic Year Salaries.* To be based on the individual faculty member's regular compensation for the continuous period which, under the policy of the institution concerned, constitutes the basis of his/her salary. Except as provided in GPM 516.2, charges to Federal awards, irrespective of the basis of computation, will not exceed the proportionate share of the base salary for that period (J.7.1).

(2) *Periods Outside the Academic Year.* During summer months or other periods not included in the period for which the base salary is paid, salary is to be at a monthly rate not in excess of the base salary divided by the number of months in the period for which the base salary is paid (J.7.j).

511.2 *Fringe Benefits.* Fringe Benefits are allowable as a direct cost (if not included as an indirect cost) in proportion to the salary charged to the grant, to the extent that such payments are made under formally established and consistently applied organizational policies. The NSF share of the estimated fringe benefits is shown in item C of the NSF Budget.

512 EQUIPMENT

512.1 *Background.* The current Federal cost principles vary in their provisions concerning the allowability of capital expenditures, equipment and other facilities, and depreciation and use allowances thereon. Pending changes conform some of them to the provisions of Attachment N to OMB Circular A–110. For consistency of treatment of equipment costs in grants to all types of organizations, the following subsections are applicable to all NSF grants issued on and after the effective date of this Manual.

512.2 *Definitions.* The following definitions, derived from Attachment N to OMB Circular A–110 and from the pending FPR 1–15.911–14 apply to all NSF grants (or amendments thereto) issued on and after the effective date of this Manual. Note that they are different from terms previously used.

a. *Acquisition cost.* The net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is required. Ancillary charges, such as taxes, duty, protective in transit insurance,



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freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular accounting practices.

b. *Equipment.* An article of nonexpendable tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. Grantee organizations subject to Cost Accounting Standards Board regulations may use the CASB standard of $500 per unit and useful life of two years for the purposes prescribed by the CASB standards. However, for the purposes of distinguishing between "general purpose equipment" (GPM 512.4) and materials and supplies for grant budget, prior approval, and budget revision purposes, the primary definition of $300 per unit and useful life of one year shall apply. An organization may use its own definition provided that it at least includes all equipment as defined herein.

c. *General purpose equipment.* Equipment (as defined in b, above) which is usable for other than research, medical, scientific, or technical activities, whether or not special modifications are needed to make it suitable for a particular purpose. Examples of general purpose equipment include office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment.

d. *Special purpose equipment.* Equipment (as defined in b, above) which is usable only for research, medical, scientific, or technical activities. Examples of special purpose equipment include microscopes, X-ray machines, surgical instruments, and spectrometers.

e. *Tangible personal property.* Any property (except land, structures, and appurtenances thereto) having physical existence.

512.3 *Special Purpose Equipment.* Expenditures for special purpose equipment are allowable as direct costs provided that the acquisition of items with a unit cost of $1,000 or more is (1) justified in the proposal and approved in the grant, or (2) approved by the NSF Grants Officer after the grant has been made but prior to acquisition with NSF funds. For special purpose equipment having a unit acquisition cost exceeding $10,000, see certification in GPM 204.2, "Equipment."

512.4 *General Purpose Equipment.* Expenditures for general purpose equipment are unallowable unless (a) justified in the proposal and specifically provided for in the NSF Budget or (b) approved by the NSF Grants Officer after the grant has been made but prior to acquisition with NSF funds.

512.5 *Expenditure Limitations.* Expenditures for allowable equipment from the NSF share may not be increased by more than 25% of the amount allocated in the grant budget, as amended, without prior approval by the grantee's prior approval system. (See GPM 505 and 613)

### 513 MATERIALS AND SUPPLIES

The costs of materials and supplies (tangible personal property other than equipment) necessary to carry out the project are allowable as prescribed in the governing cost principles. The NSF share of such estimated costs is shown in item E of the NSF Budget.

### 514 TRAVEL COSTS

a. Expenses for transportation, lodging, subsistence, and related items incurred by project personnel who are in travel status on business incident to an NSF-supported project are allowable as prescribed in the governing cost principles.

b. Except as provided in the governing cost principles, the difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable. A train, bus, or other surface carrier may be used in lieu of or as a supplement to air travel at the lowest first-class rate by the transportation facility used. However, if such travel could have been performed by air, the allowance will not normally exceed that for jet economy air fare.

c. The NSF share of estimated domestic travel costs is shown in item F of the NSF Budget. Expenditures from the NSF share for domestic travel during any budget period may not be increased by more than 25% of the amount allotted in item F or $500, whichever is greater, without prior approval by the grantee's prior approval system. (See GPM 505 and 613)

d. The NSF share of estimated foreign travel costs is shown in item G of the NSF Budget. Expenditures are allowable only as prescribed in GPM 731, "Travel to Foreign Countries."

e. Foreign travel costs of dependents of project personnel are not allowed without prior NSF approval, which will be granted only under the following circumstances:

(1) The individual scientist is a key person whose full-time presence is essential to the effective performance of the project;

(2) His/her residence in a foreign country for a continuous period of at least six months is essential to the effective performance of the project; and

(3) The payment of a travel allowance for dependents is consistent with the policies of the grantee organization.

### 515 COMPUTER (ADPE) COSTS

515.1 *Automatic Data Processing Equipment (ADPE) Leasing Costs.* The costs of leasing ADPE are allowable, up to the amount that the grantee would be allowed had it purchased the ADPE, and to the extent that the rates are reasonable in light of factors such as those described in FPC 1-15.205-34(c)(1). The NSF share of such estimated costs, if any, is shown in item L of the NSF Grant Budget.

515.2 *Grantee-owned ADPE Facilities.* The costs of services involving the use of highly complex or specialized facilities operated by the organization, such as electronic computers, are allowable provided the charges meet the conditions of FPR 1-15.309-37 or comparable section of other governing cost principles and otherwise take into account any items of income or Federal financing that qualify as applicable credits under the governing cost principles (see GPM 504.2, "Applicable Credits" and GPM 650, "Project Income"). The NSF share of such estimated costs is shown in item H of the NSF Grant Budget.

### 516 CONSULTANT SERVICES

516.1 *Outside Consultants.* (a) Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill and who are not officers or employees of the performing organization are allowable when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government. However, payment for a consultant's services may not exceed the daily equivalent of the maximum rate paid a U.S. Government GS-18, unless specifically authorized by law.

(b) In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors among others are relevant:

(1) The nature and scope of the service rendered in relation to the service required;

(2) The necessity of contracting for the service considering the organization's capability in the particular area;

(3) The past pattern of such costs, particularly in the years prior to the award of Government contracts and grants;

(4) The impact of government contracts and grants on the organization's total activity (i.e., what new problems have arisen);

(5) Whether the proportion of Government work to the organization's total activity is such as to influence the organization in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government contracts and grants;

(6) Whether the service can be performed more economically by employment rather than by consulting;

(7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-government contracts and grants; and

(8) Adequacy of the contractual agreement for the service (e.g., description of the service; estimate of time required, rate of compensation, and termination provisions).

(c) In addition, retainer fees to be allowable must be supported by evidence of bona fide services available or rendered.

(d) Costs of legal, accounting, and consulting services, and related costs, incurred in connection with organization and reorganization, defense of antitrust suits, and the prosecution of claims against the Government, are unallowable. Costs of legal, accounting, and consulting services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the grant.

(e) See also GPM 204, "Special Requirements Involving Consultant Services or Equipment."

(f) The NSF share of estimated consultant costs is shown in item I of the Grant Budget.

516.2 *Intra-University Consulting.* Since intra-university consulting is assumed to be undertaken as a university obligation requiring no compensation in addition to full-time salary, the principle summarized in GPM 511.1b(1), above also applies to those who function as consultants or otherwise contribute to a project conducted by another faculty member of the same institution. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the consultant is in addition to his regular appointment, any charges for such work representing extra compensation above the salary are allowable if consistent with the applicable cost principles. (See limitations on rate of compensation for consultant services, GPM 516.1a)

516.3 *Federal Employees.* Employees of the Federal government (other than NSF) may be utilized as lecturers or staff members on a project and may receive compensation and/or expenses if they obtain prior approval from their agencies to participate, and if services to the project are performed outside their regular working hours or while they are on leave status from official duties. Under no circumstances may NSF employees receive compensation from an NSF-supported project.

### 517 PAGE CHARGES AND PUBLICATION COSTS

a. As indicated in GPM 674, NSF requires both a final technical report and a summary for each project supported by an NSF grant.

b. As indicated in GPM 752.2, NSF encourages and sometimes requires publication and distribution of the results of projects conducted with the support of its grants.

c. Costs of preparing and publishing the results of NSF supported research, including costs of reports, reprints, page charges, and necessary illustrations, are allowable charges against the grant.





d. If requested, specific provisions for funds to cover the costs of such project reports, page charges, etc. may be contained in item J of the NSF Budget.

e. Page charges for scientific journal publication are allowable as a necessary part of research costs, where:

(1) The research papers report work supported by NSF;

(2) The charges are levied impartially on all research papers published by the journal, whether by non-Government or by Government authors; and

(3) The journals involved are not operated for profit.

f. In the event that valid commitments for publication have been incurred, but it is not possible to effect an actual payment for such charges by the time the financial status report is due (see GPM 675), the grantee may transfer from the grant account to an institutional account an amount equal to the commitment and retain such funds for payment of publication charges. If actual publication costs are less than the commitment, the excess funds should be returned to NSF unless the excess amounts to less than $100. If the excess is less than $100, it may be used by the grantee for general scientific research; if more than the commitment any excess will not be reimbursed by NSF. See GPM 752, "Publication."

### 518 PARTICIPANT SUPPORT COSTS

518.1 *General.* a. Participant support costs are direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with meetings, conferences, symposia, or training projects.

b. When appropriate to a particular activity, they may be requested, and if approved, provided in the NSF Budget, (Exhibit 2-4) under line item K. But see GPM 532.2, "Exceptions to Basic Policy," for NSF indirect cost policy.

c. In accordance with OMB Circular A-110, Attachment J, 3e, funds provided for participant support may not be used by grantees for other categories of expense without the specific prior approval of the NSF Program Officer.

d. Participant support allowances may not be paid to trainees who are receiving compensation, either directly or indirectly, from other Federal government sources while participating in the project. Educational benefits from the Veterans Administration and retirement or disability compensation are exempt from this restriction. A Federal employee may receive participant support allowances from grant funds provided there is no duplication of funding of items and provided no single item of participant cost is divided between his/her parent agency and NSF grant funds.

518.2 *Stipends or Subsistence Allowances.* a. To help defray the costs of personal maintenance while participating in a conference or training activity, participants may be paid a stipend, per diem, or subsistence allowance, based on the type and duration of the activity, as outlined in the pertinent program announcement and in the grant instrument. Such allowances must be reasonable, in conformance to the usual policy of the grantee organization, and limited to the days of attendance at the conference plus the actual travel time required to reach the conference location by the most direct route available. Where meals and/or lodgings are furnished without charge or at a nominal cost (e.g., as part of the registration fee), the per diem or subsistence allowance will be correspondingly reduced. (See also GPM 522f, Consultant Services and Speaker Fees.) Grant funds may not be used to pay per diem or similar expenses for local participants in the conference.

b. Costs of amusement, diversion, social activities, ceremonials, and incidental costs related thereto, such as bar charges, and personal telephone calls of participants or guests are unallowable.

518.3 *Travel Allowances.* a. Travel costs of participants may be allowable as outlined in the pertinent program announcement and in the grant instrument. If so, the restrictions regarding class of accommodations (see GPM 514b) and use of U.S. flag carriers (see GPM 731.3) are applicable.

b. In training activities which involve field trips, costs of transportation of individuals are allowable.

### 520 OTHER DIRECT COSTS

The following items summarize the allowability of certain other items of cost about which questions frequently arise:

### 521 ALTERATIONS AND RENOVATION

a. NSF does not normally make grants for construction or facility improvements. However, alteration and renovation costs that do not constitute construction may be allowable under NSF grants to adapt space or utilities within a completed structure to accomplish the objective of the NSF-supported activity. *Provided*, That (1) the grantee is not an individual or a foreign institution, (2) the building has a usable life consistent with project purposes and is architecturally suitable for conversion, (3) the alteration and renovation are essential to the project supported by the grant, and (4) the space involved will actually be occupied by the project. In situations where the space is rented, in order for the costs of the alteration and renovation to be allowable, the grantee must secure a lease for the length of the project. (See GPM 524)

b. Any plans for such rearrangement or alterations should be clearly set forth in the proposal. If approved by NSF, such approval will be indicated in the grant instrument. Note that paragraph 4 of Attachment O to OMB Circular A-110 (Exhibit 3-2) contains various requirements concerning contracts for construction or repair in excess of $2,000.

c. If plans for rearrangement or alterations are not set forth in the proposal and approved in the grant instrument, not more than $1,000 may be rebudgeted for that purpose without the prior written approval of the Grants Officer. Any rebudgeting for that purpose under $1,000 requires organizational prior approval as prescribed in GPM 613, "Organizational Prior Approval System."

### 522 MEETINGS AND CONFERENCES

Because of the frequency with which questions are raised regarding the phrase "facilities for meetings and costs incidental thereto", contained in the various sets of Federal cost principles, the following items summarize the allowability of various items of cost associated with conferences, symposia, workshops or other meetings supported by NSF grants.

a. *Conference Facilities.* Rental of facilities and necessary equipment is allowable. (See GPM 524)

b. *Supplies.* Purchase of expendable materials and supplies necessary for the meeting is allowable.

c. *Conference Services.* Costs of translation services, and of recording and transcribing the proceedings, are allowable.

d. *Publication Costs.* Cost of publishing the proceedings are allowable only if approved in the grant instrument or otherwise specifically approved in writing by the Grants Officer.

e. *Salaries.* Salaries of professional personnel, editorial and clerical assistants, and other staff members are allowable in accordance with GPM 511 above, in proportion to the time or effort devoted to the preparation and conduct of the conference and summarizing its results.

f. *Consultant Services and Speakers Fees.* Reasonable fees and travel allowances are allowable as prescribed in GPM 516 and 514, above.

g. *Meals and Coffee Breaks.* When certain meals are an integral and necessary part of a conference (i.e., working meals where business is transacted), grant funds may be used for such meals. Grant funds may also be used for furnishing a reasonable amount of coffee and/or soft drinks to conference participants and attendees during periodic "coffee breaks."

h. *Participant Support Costs.* Allowable as prescribed in GPM 518, above.

### 523 NEWS RELEASE COSTS

In amplification of the provisions of the various cost principles regarding public information service costs, the cost of news releases announcing the results of an NSF-supported project are allowable with the specific approval of the cognizant NSF Program Officer. In the event the performing organization wishes to join with NSF in a simultaneous news release, arrangements may be made through the NSF Public Information Branch (telephone 202-632-5728).

### 524 RENTAL OR LEASE OF FACILITIES OR SPECIAL PURPOSE EQUIPMENT

a. Normally the grantee is expected to make available appropriate facilities without direct charge to grant funds. However, on occasion, it is necessary to use facilities not under the control of the grantee. Rental of space off-site may be allowed, for example, for a science education project where for the benefit of the participants, the project must be held at locations other than the campus or, for a research project, if laboratory facilities or other work areas of a type or coverage not normally available to the grantee are required. If justification for the rental of space is given in the proposal, and space rental costs are included in the NSF Budget, rental charges may be made in conformance with the organization's policies and in the same manner that similar charges are made to any account, provided that such rental costs are reasonable and otherwise conform to the governing cost principles. If not provided in the Budget, the rental or lease of facilities requires prior approval of the Grants Officer.

b. Rental of special purpose equipment is allowable. See also GPM 515.1, "ADPE Leasing Costs."

### 525 STIPENDS OR SUBSISTENCE ALLOWANCES

a. Stipends or subsistence allowances are authorized in some grants in support of international science activities. Such stipends are treated as "Other Direct Costs," not as "Salaries and Wages."

b. Stipends or subsistence allowances also may be allowable to participants in meetings, conferences, symposia, or training activities. See GPM 518, "Participant Support Costs."

### 530 INDIRECT COSTS

### 531 PREDETERMINED FIXED RATES

In order to simplify the administration of cost-type research and development contracts and grants with educational institutions and to permit more expeditious close-out of awards than is possible under a system of provisional overhead rates for billing purposes subject to post-audit adjustment, Pub.



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L. 87-638 (76 Stat 437) authorized payment of reimbursable indirect costs on the basis of predetermined fixed-percentage rates applied to a portion of the reimbursable costs incurred.

In 1965, the Comptroller General (B-15784) authorized NSF to extend the principles of Pub. L. 87-638 to grants to other nonprofit organizations if the rates are fixed with NSF having no responsibility to make additional funds available regardless of what the total cost may be. In providing for the determination and application of indirect cost rates, the Federal cost principles (except those governing commercial organizations) recommend that consideration be given to the use of predetermined fixed rates where the cost experience and other pertinent facts are sufficient to produce an informed judgment as to the probable level of indirect costs during the ensuing accounting period.

532 NSF "FULL REIMBURSEMENT" POLICY

532.1 *Basic Policy.* a. It is NSF policy that a U.S. grantee is entitled to "full reimbursement" from grant funds for the indirect costs allocable to the NSF share of allowable direct costs of a project except where specifically excluded by GPM 532.2, below.

b. If the grantee organization has executed an indirect cost negotiation agreement with a cognizant Federal negotiating agency, or otherwise agreed to an indirect cost rate and base with some Federal department or agency, NSF will utilize that negotiated agreement as the basis for determining an NSF approved rate for use in NSF grants. When indirect cost rates are established through negotiation with a cognizant negotiating agency or otherwise at a time subsequent to the submission of a proposal to NSF, such rates will be used by NSF: *Provided*, That the new rates have been accepted and approved by NSF for NSF use prior to the final stages of processing the grant. (Normally, the rate in effect on the date the proposal is recommended for award by the NSF Program Officer will be used.)

c. NSF recognizes that the costs of a proposed project, the anticipated period of performance, and the progress to be made are estimates. Nevertheless, NSF will neither amend a grant solely to provide additional funds for subsequent indirect cost rate changes, nor settle indirect costs on a post audit basis except for grants with maximum provisional rates. (See also GPM 504.1, "Maximum Obligation," GPM 534.2b, "Other Organizations," GPM 535, "Grant Reimbursement for Indirect Costs," and GPM 535.2, "Maximum Provisional Rate.")

d. Within the framework of GPM 531, above, NSF implements its "full reimbursement" policy by: (1) Application of the predetermined fixed rate principal in grants to universities and colleges and to those nonprofit organizations where the cost experience and other pertinent facts available are deemed sufficient to determine the probable level of indirect costs during the ensuing accounting period as described in GPM 534, below, and (2) utilization of the latest available rate based on actual past cost experience or, when appropriate, on cost projections, as a maximum provisional rate, in grants to other nonprofit organizations and to profit-making firms.

e. Any negotiations with respect to business and financial matters, including the amount of indirect cost reimbursements, are conducted by the NSF Division of Grants and Contracts with the Authorized Organizational Representative.

f. NSF does not provide for the indirect costs to foreign grantees.

532.2 *Exceptions to Basic Policy.* NSF provides no amounts for indirect costs for the following:

(a) Grants to individuals;

(b) Grants solely for the support of travel, equipment, construction of facilities, or doctoral dissertation research (see GPM 643.1);

(c) Grants in which NSF support is exclusively in the form of fellowships, traineeships, or other fixed amounts such as cost-of-education allowances; and

(d) Participant support costs.

533 INDIRECT COSTS IN PROPOSALS FOR NSF SUPPORT

533.1 *Proposal Budget.* Each proposal for NSF support of a project should include a budget indicating the total amount requested from NSF, with subtotals for direct and indirect costs. The amounts shown opposite the various line items should be the amounts requested from NSF. The amount shown for indirect costs should be calculated by applying the approved indirect cost rate to the approved base.

533.2 *Off-Campus (Off-Site) Activities.* If the proposed project contemplates work to be performed in an environment or in a manner which would generate a significantly different level of indirect costs than the normal work of the organization, such as off-campus (off-site) projects, the proposed budget should calculate the indirect cost portion of the grant on the basis of the organization's on campus/off campus policy, as reflected in the published negotiation agreement. Organizations lacking such a policy are encouraged to establish one, in coordination with the cognizant Federal agency. Responsibility for coordinating the establishment of indirect cost rates and auditing of Federal grants for most colleges and universities was assigned by FMC 73-6 (formerly OMB Circular A-88) to the Department of Health, Education and Welfare (DHEW). (GPM 201e, GPM 532.1b)

534 INDIRECT COSTS IN NSF GRANTS

534.1 *General.* Each grant letter specifies NSF's maximum obligation for its share of the total costs of a project (see GPM 504.1, above). The NSF Budget reflects the categories of costs itemized in the final proposal Budget on which NSF bases its level of support. The amount for indirect costs will be based on the most recent "Federally negotiated" rate(s) accepted by NSF for its use prior to the final stage of processing the grant. Normally these will be the same as those shown in the proposal Budget as revised (see GPM 532.1, above).

534.2 *NSF Calculation of Indirect Cost Amount*—a. *Most Organizations.* In accordance with GPM 532.1, above, NSF implements its indirect cost policy for universities, colleges, and other appropriate nonprofit organizations by application of the predetermined fixed rate principle to the indirect cost rate(s) contained in the current indirect cost negotiation agreement. Such "Federally negotiated" rate(s) will be applied to the support period of each grant and extended through the expiration date as follows:

(1) If the negotiation agreement specifies: (1) A "final" rate which becomes the provisional rate for a later period or (2) a single "predetermined" or "fixed" rate, such rate will be the "predetermined fixed rate" used by NSF in calculating the indirect cost portion of the NSF grant.

(2) If the negotiation agreement provides two or more "predetermined" or "fixed" rates for two or more successive time frames within the NSF grant period, each such rate will be applied to appropriate direct cost expenditures anticipated to be made during each time frame. If the effective period of the negotiation agreement ends prior to the expiration date of the grant, NSF will extend the last of the two or more rates through the expiration date of the grant under preparation.

b. *Other Organizations.* Each NSF grant to a commercial firm or nonprofit organization which does not meet the criteria of GPM 532.1.d, above will contain a maximum provisional indirect cost rate which is subject to downward adjustment only. In some instances NSF may elect to use a fixed dollar amount in lieu of a maximum provisional rate.

534.3 *Off-Campus (Off-Site) Activities*—a. *General.* When a project involves off-campus (off-site) activities, NSF normally will compute the indirect cost amount on the basis of the off-campus rate. When a project involves both on and off campus activities, NSF normally will compute the indirect cost amount on the basis of the on-campus/off-campus policy reflected in the most recent agreement between the organization and the cognizant Federal negotiating agency. In the absence of such an agreed policy, NSF normally will compute the indirect cost amount by applying the on-campus rate to the on-campus base costs and the off-campus rate to the off-campus base costs.

b. *Special Foreign Currency (SFC) Grants.* When a grant involving SFC is made to a U.S. organization, the amount for indirect costs will be calculated by applying the appropriate approved rate(s) to the appropriate base as in a, above, whether in dollars or SFC. The resultant indirect cost amount will be payable in dollars, unless the organization specifically requests that some or all of it be payable in SFC, which can be obtained and expended only in the participating SFC country.

534.4 *Amendment for Additional Funding Support.* As indicated in GPM 250, NSF may grant additional funding support either (a) during the originally contemplated support period or (b) for a subsequent support period. An amendment for "supplemental support" to provide funds for unforeseen expenditures during the originally contemplated support period, will contain the same indirect cost rate as the grant being amended. An amendment for either (a) "renewed support" of a project originally supported for a limited period, or (b) "continued support" of a long-term project will contain the appropriate indirect cost rate for the new support period.

535 GRANTEE REIMBURSEMENT FOR INDIRECT COST

535.1 *Predetermined Fixed Rate.* a. Grantees should charge NSF grants at the predetermined rate(s) stipulated in the grant or amendment budget unless the grant letter states that the indirect cost amount is based on a maximum provisional rate. However, should negotiations between the organization and the cognizant Federal agency result in changes in the approved predetermined indirect cost rate not reflected in the NSF grant, the organization may charge NSF projects at the newly negotiated rate in effect at the time direct cost expenditures are made, provided that this method of charging indirect costs is consistently applied and meets generally accepted accounting principles; and provided further that, to do so would not:

(1) Reduce the scientific scope of the project;

(2) Result in increased cost to NSF during the award period; or

(3) Decrease the period of support as contemplated in the grant instrument.

b. Organizations electing to use this method rather than using the rate stipulated in the grant budget must advise the Policy and Cost Analysis Branch of the NSF Division of Grants and Contracts in writing, and furnish a copy of this advice to the cognizant audit agency. Any subsequent change of method will require prior approval by the PCA Branch of the Division of Grants and Contracts.

535.2 *Maximum Provisional Rate.* Commercial organizations, or others whose grants specify a maximum provisional rate, should charge NSF grants at the lesser of: (1) the maximum provisional rate stated in the grant budget, or (2) the audited rate. In the event the audited rate is lower than the maximum provisional rate, the difference must be reported and credited to NSF as prescribed in GPM 440, "Cash Refunds and Credits to NSF."

535.3 *Under-recoveries of Indirect Cost.* NSF recognizes that any inability to obtain "full reimbursement" for indirect costs at the prevailing negotiated rate means the grantee must absorb the underrecovery. Any such underrecovery may be allocated as part of the organization's required cost-sharing. See GPM 640, "Cost-Sharing and Matching."

EXHIBIT

5-1 Summary of Prior Approval Requirements for Direct Charges Against NSF Grant Funds.

EXHIBIT 5-1.—*Summary of prior approval requirements for direct charges against NSF grant funds*

| Type of expenditures | Prior approval required by | FMC 73-8 | GPM |
|---|---|---|---|
| 1. Alterations and renovations: | | | |
| a. Under $1,000 | OPAS[1] | J. 30 | 521 |
| b. $1,000 or more | Grants officer | | |
| 2. Capital expenditures for land, buildings, or repairs | do | J. 3 | |
| 3. Contractual (3d party) costs | do | [2] | 623 |
| 4. Equipment: | | | |
| a. Special purpose: $1,000 or more | do | J. 13b | 512.3 |
| b. General purpose | do | J. 13a | 512.4 |
| c. Cumulative expenditures which exceed budgeted amount by more than 25 pct. | OPAS | J. 13 | 512.5 |
| 5. News release costs | Program officer | J. 20 | 723 |
| 6. Participant support costs: Transfer of funds to other categories of expense. | do | [3] | 54b |
| 7. Preaward costs | Grants officer | J. 25 | 504.3 |
| 8. Production or distribution of books, films, etc | do | | 740 |
| 9. Rental or lease of facilities | do | | 624 |
| 10. Travel: | | | |
| a. Each foreign trip and its costs | Program officer | J. 44e | 731 |
| b. Cumulative domestic travel expenditures which exceed budgeted amount by $500 or 25 pct., whichever is greater. | OPAS | J. 44f | 714c |
| c. Dependent foreign travel | Program officer | J. 44e | 714e |

[1] Organizational prior approval system—see GPM 613.
[2] FMC 73-7, pt. I.B.3 and A-110, attachment J, par. 4.
[3] A-110, attachment J subpar. 3c.

CHAPTER VI—PROJECT AND GRANT MANAGEMENT

600 BACKGROUND

a. Parts I and II of Attachment A to FMC 73-7 (formerly OMB Circular A-101) contain OMB policies on the review and direction of the research effort in, and expenditure approval procedures for, research projects supported by Federal grants, contracts, and other agreements with educational institutions in the United States.

b. Various attachments to OMB Circular A-110 provide OMB policies, criteria, and procedures affecting those and related aspects of post-award administration and management of grants and other agreements to educational institutions and to other nonprofit organizations. They are comparable to various attachments to FMC 74-7 (formerly OMB Circular A-102) concerning grants to State and local governments.

c. Federal Management Circular 73-3 (formerly OMB Circular A-100) provides guidelines for Federal agencies on cost participation by all types of performing organizations (including commercial firms) in the cost of research supported by Federal agencies.

d. This Chapter implements the above Circulars for all NSF grants to all types of performing organizations. It contains the following principal topics:

610 Monitoring and Reporting Project Performance.
620 Changes in Project Direction or Management.
630 Changes in the Grant Budget.
640 Cost Sharing and Matching.
650 Project Income.
660 Suspension and Termination Procedures.
670 Grant Close-out Procedures.
680 Records Retention and Audit.

610 MONITORING AND REPORTING PROJECT PERFORMANCE

611 BACKGROUND

Succeeding GPM 612 through 615 implement the monitoring and reporting requirements of Attachment H to OMB Circular A-110 (and of Attachment I to FMC 74-7) and describe guidelines for organizational and NSF approval systems to effect them and the budget revision procedures described in GPM 630, below.

612 MONITORING PROJECT PERFORMANCE

612.1 *Grantee.* In implementation of paragraph 2 of Attachment H to OMB Circular A-110, the grantee will monitor the performance of the project to assure adherence to (1) such performance goals, time schedules, or other requirements as may be appropriate to the project and the terms of the grant instrument, and (2) sound management practices and organizational policies.

612.2 *NSF.* a. In implementation of paragraph 7 of Attachment H to OMB Circular A-110, the cognizant NSF Program Officer may make site visits, as appropriate, to keep informed of the progress of the work. Similarly, the cognizant NSF Grants Specialist may make site visits, as appropriate, to review grantee management systems.

b. The NSF Program Officer also will take appropriate action based on his review of progress reports described in GPM 615 and the final technical report described in GPM 674.

613 ORGANIZATIONAL PRIOR APPROVAL SYSTEM

613.1 *Purpose.* In order to carry out its responsibilities for monitoring project performance and for adhering to grant terms and conditions, each performing organization should have a system to ensure that authorized officials provide necessary organizational approvals in advance of any action that would result in either the performance or modification of an NSF-supported activity where such approvals are required by the grant instrument, including the obligation or expenditure of funds where the governing cost principles either prescribe conditions or require approvals. Exhibit 5-1 summarizes both organizational and NSF prior approval requirements for direct charges against NSF grant funds.

613.2 *Implementing Guidelines.* a. The organization should designate an appropriate official or officials to review and approve the types of actions described in GPM 613.1, above. Preferably, the official(s) should be the same official(s) who sign(s) or countersign(s) those types of requests which require submission to, and approval by NSF. In any event, the designated official(s) may not be the principal investigator or project director or any official having direct responsibility for the conduct of the project, or a subordinate of such individual. When independence of the designated official cannot be maintained, such as where the head of the performing organization is also the principal investigator or project director, the Organizational Prior Approval System does not apply to that grant. In such a case or whenever for any reason an organization does not have an Organizational Prior Approval System, all approvals listed in Exhibit 5-1, which would have been given by the Organizational Prior Approval System, will be given by the NSF Program Officer.

b. Types of organizational prior approvals and their documentation are:

(1) Justification of the rebudgeting requested, including identification of the budget categories affected, by the principal investigator.

(2) Review by appropriate official(s) at a management level for policy permissibility and funds availability.

(3) Review for scientific propriety, project relevance, and effective utilization of organizational resources by appropriate official(s) at an administrative level above that of the initiator of the request.

(4) Final approval, by a designated organizational official(s).

c. Grantee organizations may be more, but not less, restrictive concerning approvals of the specified items.

614 NSF PRIOR APPROVAL SYSTEM

In order to carry out that portion of its project monitoring responsibilities which involves furnishing required approvals, NSF utilizes its program and grants management staffs in the following manner:

614.1 *Program Officers.* The cognizant NSF Program Officer will review grantee requests for changes in project direction or management (GPM 620) or for rebudgeting (GPM 630 and Exhibit 5-1). Except where decision is reserved to the NSF Grants Officer, the Program Officer will furnish NSF approval (or disapproval) to the principal investigator/project director, with copies to the Authorized Organizational Representative and the NSF Grants Officer.

614.2 *Grants Officer.* Where the action proposed requires NSF Grants Officer approval, he will coordinate the response with the Program Officer, and furnish the NSF decision to the Authorized Organizational Representative, with copies to the cognizant NSF Program Officer and principal investigator/project director.

615 REPORTING PROJECT PERFORMANCE

In implementation of paragraphs 3 through 5 of Attachment H to OMB Circular







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A-110, principal investigators/project directors will submit progress reports as required by GPM 615.1 through 615.3, below. Such reports will be submitted to the NSF Program Officer specified in the grant instrument in accordance with such procedures as the performing organization may prescribe. See GPM 674 for final technical report requirements.

615.1 *Content of Progress Reports.* Unless otherwise specified in the grant instrument, progress reports should include:

(1) A summary of overall progress, including results obtained to date, and a comparison of actual accomplishments with proposed goals for the period;

(2) An indication of any current problems or favorable or unusual developments;

(3) A summary of work to be performed during the succeeding budget period and

(4) Other information pertinent to the type of project being supported or as specified in the terms and conditions of the grant.

615.2 *Timing of Progress Reports.* Unless otherwise specified in the grant instrument, progress reports shall be submitted in the following frequency:

(a) For Standard Grants with an award period of two years or more, the first report should be submitted no later than 90 days after the anniversary of the effective date of the grant, with succeeding reports annually thereafter, except after the final year. If a request for renewed support (GPM 252.1) is submitted during the final year, the progress report should be attached to such request. Otherwise, only a final report and summary need be submitted.

(b) For Continuing Grants, the progress report should be part of the annual request for continued support, described in GPM 253.1

615.3 *Significant Changes, Delays, or Events of Unusual Interest.* a. In the event the principal investigator project director encounters problems, delays, or adverse conditions that will materially affect the ability to attain the objectives of the project or to meet such time schedules as may have been proposed, he should advise appropriate officials of the grantee organization and, with their endorsement, the cognizant NSF Program Officer.

b. NSF should be informed of any events of unusual interest which occur during the course of the project. Reports, communications, or photographs may be directed to the cognizant Program Officer.

### 620 CHANGES IN PROJECT DIRECTION OR MANAGEMENT

Sections 621 through 623 implement the policies contained in Part I of Attachment A to FMC 73-7 regarding the direction of projects.

### 621 CHANGES IN OBJECTIVES, SCOPE, OR METHODOLOGY

621.1 *Background.* Subpart I.B.1 of FMC 73-7 prescribes restrictions on changes in research methods, procedures, objectives, or phenomena under study. It recognizes that the degree of Government review or direction exercised may vary from project to project. Subparagraph 3a of Attachment J to OMB Circular A-110 also requires prior agency approvals before changes may be made in the scope or objectives of the project.

621.2 *Change in Objectives or Scope.* Neither the phenomenon or phenomena under study nor the objectives of the project stated in the proposal or agreed modifications thereto will be changed without prior NSF approval. Such changes should be proposed to the NSF Program Officer, by the Principal Investigator, in a written communication countersigned by the Authorized Organizational Representative. If approved by NSF, the grant will be appropriately amended.

621.3 *Changes in Methodology.* NSF believes that the principal investigator, operating within the established policies of the grantee, should feel free to pursue interesting and important leads which may arise during the conduct of a scientific research (or other grant-supported) project or to adopt an alternative approach which appears to be a more promising means of achieving the objectives of the project.

Significant changes in methods or procedures should be reported to appropriate grantee official(s) and to the cognizant NSF Program Officer.

### 622 CHANGES IN PRINCIPAL INVESTIGATOR OR LEVEL OF EFFORT

622.1 *Background.* a. The NSF decision as to whether or not to support a proposed project is based to a considerable extent upon its evaluation of the proposed principal investigator's knowledge of the field of study and his capabilities to conduct the project in an efficient and productive manner. This is reflected in Category A of the NSF criteria for the selection of research projects, Exhibit 2-1. NSF desires that the named principal investigator or project leader be continuously responsible for the conduct of the project and be closely involved with the effort. Succeeding GPM 622.2 through 622.7 translate the general FMC 73-7 requirements into NSF requirements for grants.

622.2 *Basic Requirements.* If a named principal investigator or project director plans to, or becomes aware that he will, (1) devote substantially more or less effort to the work than anticipated in the approved proposal, (2) sever his connection with the grantee organization, or (3) otherwise relinquish active direction of the project, he shall advise both the NSF Program Officer and his organization's Authorized Organizational Representative. They shall initiate action appropriate to the situation, under the guidelines which follow.

622.3 *Short-term Absence of Principal Investigator.* If a named principal investigator or project director will be absent from the project for a period of three months or less, he shall notify appropriate officials of his parent organization and the NSF Program Officer of arrangements for conduct of the project during his temporary absence.

622.4 *Long Term Absence of Principal Investigator.* In the event the principal investigator/project director will be away from the project for a period greater than three months (such as on sabbatical leave) but intends to return, arrangements for oversight of the project must be sent to NSF for approval. This information must be provided at least 30 days before departure or as soon as practicable after the prospective absence is known. It should be endorsed by the Authorized Organizational Representative and addressed to the NSF Program Officer. The Program Officer will provide written approval if the arrangements are satisfactory, but no formal amendment to the grant will be made. If the arrangements are not satisfactory to NSF, the grant may be terminated as prescribed in GPM 660, "Suspension and Termination Procedures." If the PI/PD's temporary activities might constitute a conflict of interest (e.g., working for a Federal agency), a substitute PI/PD must be appointed as described in GPM 622.7 below.

622.5 *Change in Level of Effort.* If the PI/PD will devote substantially less effort to the work than anticipated in the proposal, he will consult with appropriate officials of his organization and with the NSF Program Officer. If either determines that the reduction of effort would be substantial enough to impair the successful prosecution of the project, the Program Officer will consult the NSF Grants Officer. The Grants Officer may (1) request the grantee to nominate a replacement principal investigator or project director acceptable to the cognizant NSF Program Officer, (2) initiate the termination procedures described in GPM 660, or (3) negotiate an appropriate modification to the grant.

622.6 *Withdrawal of Principal Investigator.* In the event the named principal investigator or project director severs his connection with the grantee organization or otherwise relinquishes active direction of the project, the Authorized Organizational Representative will notify the NSF Grants Officer, and either:

(a) initiate the grant close-out procedures described by GPM 670 or

(b) nominate a substitute project leader as described in GPM 622.7.

622.7 *Substitute PI/PD.* In the event the grantee desires to continue the project with a substitute PI/PD, the Authorized Organizational Representative will advise the NSF Grants Officer of the name and qualifications of the proposed substitute. If approved by NSF, the grant will be appropriately amended. If not, the termination procedures described in GPM 660 will be initiated.

### 623 CONTRACTING OR TRANSFERRING THE PROJECT EFFORT

a. Excluding the purchase of commercially available supplies, materials, equipment or general support services allowable under the grant, none of the research or substantive effort under an NSF grant may be contracted, or otherwise transferred to another organization without prior NSF approval. Normally, the intent to so contract is fully disclosed in the proposal submission, and evidence of NSF prior approval appears in the grant instrument. In the event the need arises to so contract after a grant has been made, the grantee must submit to the NSF Grants Officer, the proposed performance statement and budget, a statement indicating the basis for selection of the contractor and a justification of the proposed arrangement. The request must be signed by the principal investigator/project director and endorsed by the Authorized Organizational Representative. NSF approval will be indicated by letter from the Grants Officer, which will specify which requirements contained in this Manual must be "flowed-down" to satisfy the purposes of OMB Circular A-110. (See GPM 761.1 requiring patent "flow-down" provisions.)

### 630 CHANGES IN THE GRANT BUDGET

### 631 BACKGROUND

a. Attachment J to OMB Circular A-110 contains criteria and procedures to be followed by Federal agencies in providing post-award changes in grants to non-academic nonprofit organizations, as well as educational institutions, for any type of project. Those criteria and procedures are similar to those prescribed by Attachment K to FMC 74-7 for grants to State and local governments.

b. Some of Attachment J concerns matters which traditionally have been considered in contexts other than that of revisions of financial plans (i.e., budget revisions). Therefore, NSF implementation of those which are mandatory are contained in appropriate sections of this Manual as follows:

(1) Changes in the scope or objectives of the project, GPM 621.2, "Change in Objectives or Scope";





(2) The need for additional Federal funding, GPM 250, "Additional Funding Support;" and

(3) Contracting or transferring the project effort, GPM 623, "Contracting or Transferring the Project Effort."

c. Attachment J to OMB Circular A-110 also contains the following optional requirements which NSF elects not to impose on its grantees:

(1) Prior approval for transfers between direct and indirect cost categories of the grant budget.

(2) Restrictions in transfers of funds among direct cost categories for grants in which the Federal share exceeds $100,000.

d. Since NSF does not make construction grants, the provisions of paragraphs 7 and 8 of Attachment J to A-110 are not applicable.

e. The succeeding GPM 632 contains NSF requirements to implement the remaining portions of Attachment J.

### 632 NSF BUDGET REVISION REQUIREMENTS

#### 632.1 *Grantee/Principal Investigator Requirements*

a. If the Principal Investigator/Project Director or any grantee official wishes to transfer funds from an approved budget line item to one that requires prior approval, such prior approval must be obtained as summarized in Exhibit 5-1.

b. Whenever the amount of Federal funds authorized by an NSF grant is expected to exceed the requirements of the project, as outlined in the approved proposal, by more than $5,000 or 5 percent of the grant amount, whichever is greater, the Principal Investigator/Project Director, with the endorsement of the Authorized Organizational Representative, will promptly notify the NSF Program Officer. If a request for a no-cost extension (GPM 244.3), renewed support (GPM 252.1), or continued support (GPM 253.1) is under preparation, such notification should be included in that request.

632.2 *NSF Requirement.* a. Within 30 calendar days from the date of receipt of a request for the types of budget revisions outlined in 632.1, the NSF Program Officer will review the request and (1) notify the grantee organization of NSF approval/disapproval, if the Program Officer is the approving official, or (2) recommend approval/disapproval to the Grants Officer and advise the proposing official that a decision will be forthcoming, if the Grants Officer is the approving official.

b. If the notification of excess funds is made in connection with a request for renewed or continued support, the NSF Program Officer will recommend appropriate adjustments in the subsequent grant, as prescribed in GPM 253.2b, "Additional Funding Support." Otherwise, the Program Officer will consider recommending a reduction in the grant amount and the return of the excess funds.

### 640 COST SHARING AND MATCHING

### 641 BASES FOR NSF REQUIREMENTS

641.1 *Statutory Requirement.* The Appropriation Acts of the Congress providing funds to NSF and other independent agencies contain the following language:

"None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals for projects not specifically solicited by the Government: Provided, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research."

641.2 *OMB Directives* a. Federal Management Circular 73-3 (formerly OMB Circular A-100) provides basic guidance to Federal agencies for determining:

(1) The amount of cost sharing to be obtained when cost sharing is required by statute; and

(2) Whether performing organizations should be requested to participate in the cost of the research even though cost sharing is not required by statute, and, if so, in what amount. It is applicable to all awards to all kinds of organizations (except other Federal agencies) for all kinds of research, both basic and applied. It is reproduced as Exhibit 6-1.

b. FMC 73-3 also prescribes (7.c.(2)) that the amount of cost participation by a performer may be determined by either of two methods: (1) For each individual research project, or (2) if the supporting agency desires, for the aggregate of all or some of the research projects supported by an agency at a given organization.

c. When the amount of cost sharing is determined for individual projects, OMB authorizes the supporting agency to consider the organization's participation over the total term of the project so that a relatively high contribution in one year may be offset by a relatively low contribution in another year. It also authorizes the Federal agency and the performer to agree that relatively high contributions on some projects may be offset by relatively low contributions on other projects.

d. Attachment E to OMB Circular A-110 supplements FMC 73-3 by prescribing criteria and procedures for the allowability of cash and in-kind contributions in satisfying cost sharing and matching requirements. It is reproduced as Exhibit 6-2.

### 642 DEFINITIONS

For the purposes of interpreting the statutory cost sharing requirement and the two OMB directives, the definitions which follow are used by NSF.

a. *Cost participation.* A generic term denoting any situation where the Government does not fully reimburse the performer for all allowable costs associated with the specified effort. The term encompasses cost sharing, cost matching, cost limitation (direct or indirect), and similar phrases. Cost participation may be in any form, including but not limited to cash, personal property or services, or real property or interest therein, needed for the project, the value of which shall be established by mutual agreement between the agency and the performer.

b. *Cost sharing.* Participation by the performing organization in more than a token amount of project costs.

c. *Federal share.* That portion of project costs that is borne by the Federal Government.

d. *Grantee share.* That portion of verifiable project costs that is borne by the grantee from its own resources or from those of third parties provided that such costs are (1) not included as contributions for any other Federally assisted project and (2) not paid by the Federal Government under another assistance agreement (unless the agreement is authorized by Federal law to be used for cost sharing or matching).

e. *Matching share.* Cost participation by the grantee in a substantial amount of project costs as required by a specific program announcement or solicitation.

f. *Project costs.* All allowable costs (as set forth in the applicable Federal cost principles) incurred by the performing organization, including the value of any in-kind contributions by that organization or non-Federal third parties in accomplishing the objectives of the grant during the project period.

g. *Solicited proposal.* A proposal resulting from a document issued by the Foundation which specifically states that proposals are being solicited. One such document is an NSF Program Solicitation. (See GPM 202, "NSF Mechanisms for Generating Proposals.")

h. *Unsolicited proposal.* A proposal not specifically solicited by a NSF Program Solicitation or a Request for Proposals.

### 643 NSF COST SHARING REQUIREMENTS

643.1 *Unsolicited Research Projects.* In accordance with Congressional requirements (GPM 641.1, above) NSF requires that each grantee share in the costs of each research project when the NSF grant results from an unsolicited proposal. NSF awards which provide funds solely for the following purposes are not considered to be support of "research" for statutory cost-sharing purposes:

a. International travel;

b. Construction, improvement, or operation of facilities;

c. Acquisition of research equipment;

d. Ship operations;

e. Education and training;

f. Publication, distribution, and translation of scientific data and information;

g. Symposia, conferences, and workshops;

h. Special studies authorized or required by Subsections 3a(5) through 3a(7) of the NSF Act, as amended.

As a matter of policy, NSF does not reimburse grantees for the indirect costs associated with grants solely for the support of doctoral dissertation research and considers that as satisfaction of the cost-sharing requirement. (See GPM 532.2(b))

643.2 *Solicited Research Projects.* NSF encourages organizations responding to program solicitations to contribute to the cost of performing the research unless that would be inappropriate because of the circumstances described in subparagraph 7a(2) of Exhibit 6-1. However, unless otherwise specified in a particular program solicitation, cost sharing is not a prerequisite to the award of a grant to support a project resulting from such a program solicitation.

643.3 *Cost Sharing Amount.* On each NSF-supported project requiring cost-sharing, the grantee must share in the costs at a rate not less than one percent of project costs or the amount or percentage specified in the grant. However, NSF expects that grantees will share in the costs at a level which reflects their interest in the research, the potential benefits they may derive, and their ability to cost-share. Institutions and organizations have a great deal of flexibility with regard to their approach to cost-sharing under NSF-supported projects, and thus must assume and exercise responsibility in determining appropriate levels of cost-sharing.

643.4 *Cost Sharing Method.* a. NSF does not utilize "institutional cost sharing agreements," such as those used by some granting agencies, to provide for aggregated cost sharing.

b. Cost-sharing responsibilities are assumed by the grantee upon acceptance of the grant.

643.5 *Cost Sharing Records and Reports—* a. *Grantee Records.* (1) Grantees must maintain records of all research project costs which are claimed by the grantee as being its contribution to cost participation as well as records of costs to be paid by the Government. Such records are subject to audit (Exhibit 6-1, subparagraph 7c(3)).

(2) If the grantee's cost participation includes in-kind contributions, the basis for determining the valuation for volunteer services and donated property must be documented (Exhibit 6-2, paragraph 6).

b. *Grantee Reports.* Unless otherwise required by the grant instrument, the actual



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cost participation by the grantee need not be reported to NSF on SF 269, Financial Status Report (Exhibit 6–5).

644 NSF MATCHING REQUIREMENT

Some NSF programs have a requirement for grantees to match the Federal support in whole or part, as outlined in the specific program announcement. Records and reporting requirements are as in GPM 643.5, above.

650 PROJECT INCOME

651 BACKGROUND

In order to provide equitable treatment both to the Government and to the various types of organizations to which NSF awards grants, NSF will adopt the program income and income reporting provisions which follow.

652 DEFINITIONS

The following terms have the indicated meanings, derived from paragraph 1 of Attachment D to OMB Circular A–110 and from paragraph 5 of Attachment E to FMC 74–7.

a. *Project income.* Gross income earned by the grantee from a project financed in whole or in part with Federal funds. Such earnings include, but are not limited to, income from service fees, sale of commodities, usage or rental fees, and royalties received as a result of copyrights. Project income includes royalty income and other income as defined below. It excludes income derived from the assignment or licensing of patents and interest earned on advance payments (see GPM 751, "Patents and Inventions" and GPM 443, "Interest Earned on Advance Payments").

b. *Royalty income.* Project income earned by the grantee for the right to publish, manufacture, sell or distribute copyrightable materials (whether or not copyright is claimed) developed or produced with NSF support, including payments to the grantee based on sales and any interest earned thereon.

c. *Other income.* Project income other than royalty income.

d. *Total project costs.* The sum of the Federal and grantee shares of all costs (both direct and indirect) of a project, which are allowable in accordance with the applicable Federal cost principles.

653 NSF PROJECT INCOME PROVISIONS

a. *Royalty income.* Unless otherwise specified in the grant instrument, the grantee may retain royalties received as a result of copyrights produced under the grant.

b. *Other income.* Unless otherwise specified in the grant instrument, the Federal share of other project income shall be retained by the grantee and added to the funds committed to the project by NSF and the grantee and be used to further project objectives. The grantee share may be used as desired by the grantee, including financing the non-Federal share of the project. The "federal share" and the "grantee share" will reflect their respective contributions to the cost of the project.

660 SUSPENSION AND TERMINATION PROCEDURES

661 BACKGROUND

a. Succeeding GPM 662 through 664 implement the suspension and termination procedures of Attachment L to OMB Circular A–110, which are substantially the same as those of Attachment L to FMC 74–7.

b. Many NSF grantees are familiar with the general principles applicable to termination for convenience, contained in Subpart 1–8.2 of the Federal Procurement Regulations, which differ from the similarly named procedures of A–110 and FMC 74–7. To avoid confusion, NSF will use the phrase "termination by mutual agreement" instead of "termination for convenience" to implement the procedures prescribed by subparagraph 4.b. of Attachment L to A–110 and subparagraph 5.b. of FMC 74–7.

662 DEFINITIONS

The following terms have the indicated meanings:

a. *Suspension.* An action by NSF that temporarily withholds Federal support of a project pending corrective action by the grantee or a decision by NSF to terminate the grant.

b. *Termination.* The cancellation of a grant, in whole or in part, at any time prior to its expiration.

663 SUSPENSION OR TERMINATION FOR CAUSE

663.1 *NSF Policy.* a. When a grantee has materially failed to comply with the terms and conditions of a grant, NSF may (1) suspend the grant or (2) terminate the grant for cause.

b. NSF prefers that deficiencies be corrected whenever practicable. Therefore, action to suspend or terminate a grant normally will be taken only after the grantee has been informed of the deficiency and given sufficient time to correct it, in accordance with the procedures in GPM 663.2. However, this policy does not preclude immediate suspension or termination when such action is reasonable under the circumstances and necessary to protect the interests of the Government.

c. If a grant is suspended pursuant to this section, no obligations incurred by the grantee during the period of suspension will be allowable under the suspended grant. However, NSF will allow necessary and proper costs which the grantee could not reasonably avoid during the period of suspension; provided that such costs would otherwise be allowable under the applicable Federal cost principles.

d. If a grant is terminated pursuant to this section, financial obligations incurred by the grantee prior to the effective date of termination will be allowable to the extent they would have been allowable had the grant not been terminated, except that no obligations incurred during the period in which the grant was suspended (except those allowed pursuant to c, above) will be allowed. The settlement of termination costs will be in accordance with the applicable Federal cost principles.

663.2 *NSF Procedures.* a. When it is believed that a grantee has failed to comply with one or more of the terms and conditions of a grant, the Grants Officer will advise the grantee by letter of the nature of the problem and that failure to correct the deficiency may result in suspension or termination of the grant. The grantee will be requested to respond in writing within 30 days of the date of such letter, describing the action taken or the plan designed to correct the deficiency. Copies of such correspondence will be furnished to the principal investigator and to the NSF Program Officer.

b. If a satisfactory response is not received within 30 days of receipt of such a letter, the Grants Officer may issue a notice suspending authority to further obligate grant funds, in whole or in part. The notice of suspension will be sent by certified mail (return receipt requested), to the authorized organizational representative, with a copy to the PI/PD. Within the Foundation, copies will be furnished to the Division of Financial and Administrative Management (DFA) and to the Program Officer. The notice will set forth the activities covered by the suspension and its effective date, and the corrective action required by the grantee in order to lift the suspension.

c. The suspension will remain in effect for a maximum of 90 days during which time the grantee will take corrective action to the satisfaction of NSF or give assurances satisfactory to NSF that corrective action will be taken. In that event, the Grants Officer will issue a notification, addressed as in b, above, that the suspension is lifted.

d. In the event the deficiency is not corrected to the satisfaction of NSF, the Grants Officer may issue a notice of termination, addressed as in b, above. The notice will establish the reasons for the action and its effective date.

e. Within 90 days of the effective date of termination, the grantee will furnish an itemized accounting of funds expended for allowable costs and the unexpended grant balance unless request is made for review of the termination decision as prescribed in GPM 665. Within 30 days of a request therefor, the grantee will remit or otherwise credit to NSF any amounts found due, as prescribed in GPM 670, "Grant Closeout Procedures."

664 TERMINATION BY MUTUAL AGREEMENT

664.1 *NSF Policy.* Circumstances may arise in which either NSF wishes to terminate its support of a project or the grantee wishes to terminate its performance of a project. If both parties agree that continuation of the project would not produce results commensurate with the further expenditure of funds, it is NSF policy to terminate the grant by mutual agreement.

664.2 *Procedures.* a. If the grantee wishes to terminate the project, the authorized organizational representative should advise the NSF Grants Officer, with a copy to the NSF Program Officer.

b. If NSF wishes to terminate the project, the Grants Officer will advise the grantee's authorized organizational representative, with copies to the PI PD and the NSF Program Officer.

c. Within 30 days after receipt of request from either party for termination by mutual agreement, the other party will provide an appropriate written response. In the event of disagreement between the parties, the Grants Officer will decide, subject to the review procedures prescribed by GPM 665.

d. Following termination, the close-out procedures of GPM 670 will be initiated.

665 NSF TERMINATION REVIEW PROCEDURE

665.1 *Initiation of Termination Review Procedure.* a. Any request for review of a notice of termination should be addressed to the Assistant Director for Administration, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550. It must be postmarked no later than 30 days after the postmarked date of such notice.

b. The request for review must contain a full statement of the grantee's position and the pertinent facts and reasons in support of such position.

c. The Assistant Director for Administration will promptly acknowledge receipt of the request for review, and appoint the review committee prescribed by GPM 665.2.

d. Pending resolution of the request for review, the notice of termination will have no force or effect, except that NSF may continue to withhold or defer payments under the grant during the review proceedings.

665.2 *NSF Termination Review Committee.* a. The Assistant Director for Administration will appoint a termination review committee, consisting of a minimum of three persons, none of whom may be either from the NSF program which is responsible for recommending and/or monitoring the scientific aspects of the project or from the Branch of the NSF Division of Grants and Contracts which is responsible for monitoring the administrative aspects of the grant.





b. The review committee will request the Grants Officer who issued the notice of termination to provide copies of all relevant background materials and documents. It may, at its discretion, invite representatives of the grantee and the NSF program to discuss pertinent issues and to submit such additional information as it deems appropriate. The chairman of the review committee will insure that all review activities or proceedings are adequately documented.

c. Based on its review, the committee will prepare its recommendations to the Assistant Director for Administration, who will advise the parties concerned of his decision.

670 GRANT CLOSEOUT PROCEDURES

671 BACKGROUND

Succeeding GPM 672 through 675 implement:

a. the closeout procedures of Attachment K to OMB Circular A–110 and of Attachment L to FMC 74–7;

b. the requirements of Attachment H to A–110 and of Attachment I to FMC 74–7 for a final technical or performance report;

c. the requirements of Attachment G to A–110 and of Attachment H to FMC 74–7 for a financial status report; and

d. the requirements of NSF Notice No. 62, as amended by NSF Notice No. 63, for a summary of completed projects.

672 DEFINITIONS

The following definitions apply for the purposes of closeout of NSF grants:

a. *Closeout.* The process by which NSF determines that all applicable administrative actions and all required work of the grant have been completed.

d. *Disallowed costs.* Those charges to a grant which NSF determines to be unallowable, in accordance with the applicable Federal cost principles or other conditions contained in the grant.

e. *Expenditures (Outlays).* Charges made to the project during a given period for (1) goods and other tangible property received, (2) services performed by employees, contractors, and other payees, and (3) valid commitments.

d. *Expiration date.* The date specified in the grant letter after which expenditures may not be charged against the grant except to satisfy obligations of funds to pay allowable project costs committed on or before that date. The expiration date normally is the last day of the month.

e. *Final Technical Report.* The final scientific or technical report of project performance required by Attachment I–1 to A–110 and Attachment I to FMC 74–7.

f. *Financial Status Report.* Standard Form 269,prescribed by Attachment G to A–110 and by Attachment H to FMC 74–7, to report the status of funds for non-construction projects. It replaces the report portion of the Research Grant Budget and Fiscal Report (NSF Form 98), the Education Grant Budget and Fiscal Report (NSF Form 235), and any other NSF fiscal report forms or formats prescribed by any NSF program announcements, program solicitations, or specific grant instruments. It is reproduced as Exhibit 6–5.

g. *Summary of Completed Project.* NSF Form 98A, prescribed by NSF Notice No. 62, to summarize in laymen's language the final technical report in order to answer inquiries by nonscientists as to the nature and significance of the project. It is reproduced as Exhibit 6–3. If the technical report is to be deposited in the National Technical Information Service (NTIS), the Bibliographic Data Sheet (NTIS Form 35); reproduced as Exhibit 6–4, may be substituted.

673 GUARANTEE REQUIREMENTS

a. The grantee must furnish NSF with the following, as described in GPM 674:

(1) Summary of Completed Project (Exhibit 6–3, or 6–4, as appropriate) in two copies, as well as

(2) Final technical report, in two copies.

b. Within 90 days after the expiration date, the grantee also must furnish NSF with the Financial Status Report (Exhibit 6–4) as prescribed in GPM 675, in original and two copies.

c. The summary of Completed Project and the Financial Status Report should be submitted as a single package. Where circumstances warrant, grantees may submit the Final Technical Report separately. The documents listed above will be submitted to:

Projects Branch Division of Grants and Contracts, 1800 G Street NW., Washington, D.C. 20550.

674 FINAL TECHNICAL REPORT AND SUMMARY

674. *Background.* a. For many years, NSF has had requirements, reflected in program announcements such as Grants for Scientific Research and in program solicitations, for the submission of final technical reports. Additionally, as indicated in GPM 752, NSF traditionally has encouraged the publication of research results in the open scientific literature.

b. In recent years, there has been increased interest in providing improved access to information about the results of research supported by public funds. Therefore, NSF Notice No. 62, as amended by NSF Notice No. 63, prescribed for the submission of either a Summary of Completed Projects (NSF Form 98A) or a Bibliographic Data Sheet (Form NTIS–35), in addition to the traditional publication in scientific journals and submission of final technical reports, for grants expiring on or after October 1, 1976.

674.2 *Procedures.* a. Within 90 days following the expiration of the grant, or as otherwise specified in the grant, the grantee must submit the Summary of Completed Project, in accordance with the instructions on the reverse thereof (see Exhibit 6–3), to the address indicated in GPM 673 c, above. In the event that material for publication in the scientific literature has not yet been completed, or has not yet been accepted, the list of publications required by the form should so indicate.

b. Unless otherwise specified in the grant instrument, the final technical report should include appropriate identifying data and the following basic information:

Scientific Description of Research and Results.

Theses (if any).

Scientific Collaborators connected with grant including students (include title or status, e.g., Associate Professor, Graduate Student, etc.)

Comments (include reference to continuation if appropriate, etc.).

Signature of principal investigator and date.

c. At such time as any article resulting from the project is published in a scientific or technical journal, two reprints of the publication should be sent to the cognizant NSF Program Officer. They should be clearly labeled with the grant number and other appropriate identifying information.

675 FINANCIAL STATUS REPORT

a. The Financial Status Report (Exhibit 6–5), in an original and two copies, is to be submitted to the address specified in GPM 673 c, above, within 90 days after the expiration of each grant. The certification in item 13 must be signed by the business officer or other authorized certifying official on at least the original, with his name, title, telephone number and date shown on all copies.

b. After the Financial Status Report has been accepted by the Division of Grants and Contracts (DGC) it becomes the basis for the Division of Financial and Administrative Management (DFA) to make the final dollar adjustment on the official NSF financial records relating to that grant. (See GPM 441, "Final Unobligated Balance.")

c. NSF makes no provisions for any upward or downward adjustments to the Federal share of costs after the Financial Status Report has been accepted by DGC.

d. The administrative expense of reopening closed-out grants is disproportionate when only small sums are involved. Therefore, NSF will not normally reopen a grant account to add or delete costs amounting to $100 or less after the grant has been closed. Any post close-out expenditure adjustments of $100 or less must be absorbed by the grantee. The Federal Cash Transactions Report should remain in agreement with the Financial Status Report.

e. However, NSF retains the right to recover an appropriate amount after fully considering any recommendations on disallowed costs resulting from an audit.

680 RECORDS RETENTION AND AUDIT

681 BACKGROUND

GPM 682 implements the requirements of Attachment C to OMB Circular A–110 and of Attachment C to FMC 74–7 concerning retention and custodial requirements for records concerning grants.

682 NSF REQUIREMENTS

a. Financial records, supporting documents, statistical records, and other records pertinent to a grant will be retained by the grantee for a period of three years from submission of the Financial Status Report described by GPM 675 except that:

(1) Records which relate to audits, appeals, litigation, or the settlement of claims arising out of the performance of the project will be retained until such audits, appeals, litigation, or claims have been disposed of.

(2) Records relating to projects subject to the project income provisions of GPM 653 will be retained until three years from the end of the grantee's fiscal year in which the grant letter requirement for reporting income expires.

b. Unless court action or audit proceedings have been initiated, the grantee may substitute microfilm copies of original records.

c. The NSF Director and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the grantee organization, and of the performing organization, if different, to make audits, examinations excerpts and transcripts. Further, in accordance with subparagraph 4i of Attachment O to OMB A–110, reproduced as Exhibit 3–2, any negotiated contract in excess of $10,000, made by the grantee shall include a provision to the effect that the grantee, NSF, the Comptroller General, or any of their duly authorized representatives, shall have access to pertinent records for similar purposes.

d. In order to avoid duplicate recordkeeping, NSF may make special arrangements with grantees to retain any records which are needed for joint use. NSF may request transfer to its custody of records not needed by the grantee when it determines that the records possess long-term retention value. When the records are transferred to or main-



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tained by NSF, the three-year retention requirement is not applicable to the grantee. In the rare event that these provisions are exercised, NSF will negotiate a mutually-agreeable arrangement with the grantee regarding reimbursement of costs.

EXHIBITS

6-1 FMC 73-3; Cost Sharing on Federal Research
6-2 Attachment E to OMB Circular A-110: Cost Sharing and Matching
6-3 NSF Form 98A: Summary of Completed Project
6-4 Form NTIS-35: Bibliographic Data Sheet
6-5 SF 269: Financial Status Report

## CHAPTER VII.—OTHER CONSIDERATIONS

This chapter discusses aspects of NSF grants not covered in the preceding chapters. Topics covered are:

700 Civil Rights Act of 1964.
710 Protection of Living Organisms.
720 Handling of Information (including questionnaires).
730 International Considerations (including travel awards and use of U.S.-flag carriers).
740 Excess Government Personal Property.
750 Intangible Property (including patents and inventions, publication and copyright, rights in ADP data banks and software).
760 Production or Distribution of Materials.
770 Equipment Title, Use, and Disposition.
780 Acquisition and Control of Materials and Supplies.
790 Miscellaneous (including bonding and insurance, liabilities and losses, tax status, national security, and pre-college students involved in experimental curriculum development projects, environmental impact, flood disaster protection, and protection of properties in the National Register of Historic Places).

### 700 Civil Rights Act of 1964

#### 701 BACKGROUND

Section 602 of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d-1), provides that no person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance, and requires that each Government agency which is empowered to extend such financial assistance shall issue rules or regulations implementing Title VI (Sections 601-605) of the Act with respect to such programs or activities administered by the agency. Subject to certain exceptions regarding admission policies and certain religious and military institutions, Title IX of the Education Amendments of 1972 (Pub. L. 92-318; 20 U.S.C. 1681-1786), prohibits the exclusion of persons on the basis of sex from any education program or activity receiving Federal financial assistance.

#### 702 NSF REGULATIONS

NSF regulations to implement Title VI of the Civil Rights Act are contained in 45 CFR Part 611. Section 611.4 requires that as a condition of approval of an application for assistance, the applicant must execute the Assurance of Compliance form reproduced in Exhibit 7-1, whether or not a comparable assurance form has been filed with another Federal agency.

#### 703 ASSURANCE OF COMPLIANCE

Prospective grantees may either reproduce the Assurance of Compliance form or request copies from the Division of Grants and Contracts. The "applicant" referred to in the form is the organization itself whose Chief Executive Officer or comparable official should sign the Assurance. The name and title of the organization and of the official should be typed on the form. The signed original should be mailed to the NSF Division of Grants and Contracts (see GPM 340.3, "Required Certifications"). Once a properly executed form has been filed with NSF, it will cover all future applications to NSF. Acceptance of a subsequent grant constitutes affirmation that the Assurance of Compliance will be fully applicable to the grant.

#### 704 CIVIL RIGHTS ASSURANCE—SUBRECIPIENT

Each organization that proposes to be or serves as a contractor under an NSF grant (for other than the provision of commercially available supplies, materials, equipment, or general support services) must have filed with the grantee an Assurance of Compliance with Title VI of the Civil Rights Act of 1964 and the regulations thereunder. Such Assurance may be filed in one of two ways: (1) By written notification that the appropriate Assurance of Compliance form has been executed and filed either with NSF or the U.S. Department of Health, Education, and Welfare; or (2) by executing and filing with the grantee an NSF Assurance of Compliance form.

### 710 Protection of Living Organisms

#### 711 HUMAN SUBJECTS (INTERIM PROVISION)

a. The protection of the rights and welfare of human subjects (including students) involved in research, development, and related activities supported by NSF grants is the responsibility of the grantee.

b. The informed consent of the individual is a vital element in the protection of human subjects. Grantees are referred for guidance to DHEW Publication No. (NIH) 72-102, "Institutional Guide to DHEW Policy on Protection of Human Subjects," dated December 1, 1972, as amended by Part 46, Subtitle A of Title 45 of the Code of Federal Regulations, dated March 13, 1975.

c. Before a grant can be made NSF must receive a statement that research involving use of human subjects has been reviewed and approved by the appropriate Institutional Review Board at the grantee organization, and that the grantee assures NSF that it will comply with DHEW policies, as amended, regarding the use of human subjects. This statement should be received prior to the final processing of an award (60 days).

#### 712 RESEARCH INVOLVING RECOMBINANT DNA MOLECULES

With respect to research involving recombinant DNA molecules, NSF grantees and principal investigators shall comply with NSF Important Notice No. 64 (see Exhibit 7-4).

#### 713 LABORATORY ANIMAL WELFARE ACT OF 1966

Any grantee performing research on warm blooded animals will comply with the Laboratory Animal Welfare Act of 1966 (Pub. L. 89-544, as amended, 7 U.S.C. 231 et seq.) and the regulations promulgated thereunder by the Secretary of Agriculture (CFR, Title 9, Subchapter A) pertaining to the care, handling, and treatment of warm blooded animals held or used for research, teaching or other activities supported by Federal awards. The grantee is expected to ensure that the guidelines described in DHEW Publication No. (NIH) 74-23, "Guide for the Care and Use of Laboratory Animals," are followed.

NOTE.—The grantee may request registration of his facility and a current listing of licensed dealers from the Regional Office of the Animal and Plant Health Inspection Service (APHIS), USDA, for the region in which his research facility is located. The location of the appropriate APHIS Regional Office, as well as information concerning this program, may be obtained by contacting the Senior Staff Officer, Animal Care Staff, USDA/APHIS, Federal Center Building, Hyattsville, Md. 20782.

#### 714 MARINE MAMMAL PROTECTION ACT

The protection of marine mammals in research activities supported by NSF grants is the responsibility of the grantee.

Proposals submitted to NSF in support of marine research activities will include a statment that the grantee will comply with the Marine Mammal Protection Act of 1972, Pub. L. 92-522.

### 720 Handling of Information

#### 721 QUESTIONNAIRES.—DATA COLLECTION UNDER NSF GRANTS

721.1 *Background.* In accordance with Attachment A to revised OMB Circular No. A-40, collection of information from 10 or more organizations or individuals through a questionnaire, interview, etc., is deemed to be sponsored by the Federal government when:

a. The grantee or project personnel represent to respondents that the information is being collected for or in association with a Federal agency; or

b. The grantee or project personnel use the report form to collect information requested by a Federal agency for the planning, operation, or evaluation of one of its programs; or

c. The terms and conditions of the grant provide for agency approval of the survey design, questionnaire content or data collection procedures; or

d. The terms and conditions of the grant provide for submission to the agency either of the data for individual respondents or of special tabulations.

721.2 *NSF Policy.* Data collection activities of NSF grantees are the responsibility of grantees and NSF support of a project does not constitute NSF approval of the survey design, questionnaire content or data collection procedures. No representation may be made to respondents that such data are being collected for or in association with the National Science Foundation or the government. However, this requirement is not intended to preclude mention of NSF support of the project in response to an inquiry or acknowledgment of such support in any publication of this data. (See GPM 752.4, "Acknowledgment and Disclaimer.")

#### 722 RELEASE OF INFORMATION BY NSF

722.1 *Routine Information Releases.* a. NSF furnishes to Members of Congress a daily listing of awards (see Exhibit 7-2). This listing, arranged by State and Congressional District, displays opposite each institution or organization the name and department of the principal investigator or project director, number and title of the award, duration (support period) and award amount.

b. Comparable listings are furnished quarterly to the State Central Information Reception Agency (SCIRA) of each State in accordance with the supplemental reporting requirements of Treasury Circular 1082 (Revised). See GPM 210, "Project Notification and Review System."





c. NSF publishes annually a numbered volume, National Science Foundation Grants and Awards (year). This document, obtainable from the Superintendent of Documents, U.S. Government Printing Office, contains a list of all awards made the previous fiscal year, arranged alphabetically by State within the major program headings contained in the NSF Guide to Programs.

722.2 *Press Releases.* Grants for projects which appear to be of special interest to the general public may be made the subject of an NSF or joint NSF/Grantee Organization Press Release to the news media (see GPM 523).

722.3 *NSF Project Summaries.* At the time a grant is made in support of a project involving research, NSF furnishes to the Smithsonian Science Information Exchange (SSIE) a summary of the proposed work. Copies of this "Project Summary," (NSF Form 4, Exhibit 2-8) based on the abstract submitted by the proposing investigator, are furnished to the principal investigator or project director with the grant letter. Copies may be obtained by the general public upon request to SSIE, 1730 M Street NW., Washington, D.C. 20036. Following completion of the project, NSF may disseminate the technical report through the National Technical Information Service (NTIS), as outlined in GPM 722.5.

722.4 *Freedom of Information Act (FOIA) of 1974.* Pursuant to the Freedom of Information Act of 1974 (5 U.S.C. 552), the National Science Foundation will provide agency records, with certain exceptions, if the request is in writing and identified as an FOIA request, and if the records sought are described with sufficient specificity to permit identification. The requester must also agree to pay fees that are chargeable under the NSF regulations. Detailed procedures are contained in 45 CFR Part 612.

722.5 *Release of Technical Reports.* a. It is the policy of the National Science Foundation that the results of Foundation-funded research be made publicly available through appropriate dissemination channels. In implementing this policy, the Foundation encourages grantees to arrange for access to research results through refereed dissemination channels. These include refereed journals; edited books, monographs and other publications; and national data banks operated by government agencies and private organizations (see GPM 752, "Publication" and GPM 753, "Copyright").

Technical Reports also will be made available to others on request. In recognition of the author's interest to be the first to publish the results of his research, NSF will normally honor requests to delay release of these reports.

b. Sometimes normal channels are unable to provide for adequate dissemination of technical reports submitted by grantees. For substantive technical reports (i.e., those reporting new scientific or engineering research results, including policy research and applied research), the Foundation will arrange for dissemination through the National Technical Information Service (NTIS) of the Department of Commerce. The various NSF Program Directorates are responsible for ensuring that the appropriate arrangements for dissemination to NTIS are made. NSF may use its own program funds to meet costs associated with dissemination activities, including payment of page charges to journal publishers and processing charges for furnishing reports to NTIS or other information centers.

### 730 International Considerations

#### 731 TRAVEL TO FOREIGN COUNTRIES

731.1 *Definition.* In grants to U.S. organizations, travel performed to, between, or within a country other than the U.S. is defined as foreign travel. The U.S. includes Guam, American Samoa, Puerto Rico, the Virgin Islands, Canal Zone, and the Trust Territory of the Pacific Islands. For awards to foreign organizations, "foreign travel" means travel outside the boundaries of the country in which the grantee is located.

731.2 *Prior NSF Approval.* If the proposal contemplates specific foreign travel, NSF approval will be indicated in the travel line item of the grant budget (see GPM 514, "Travel Costs"). If not shown the travel line of the grant budget, prior NSF approval in writing is required for each separate foreign trip, except to Canada.

731.3 *Use of United States-Flag Carriers.* a. The Comptroller General of the United States, by Decision B-138942 of June 17, 1975, (as amended) provided guidelines for implementation of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974.

b. Except for transportation services that can be financed only with excess foreign currency, any foreign air transportation of persons or property, the expense of which will be assisted by NSF funding, must be performed on a U.S.-flag carrier if service provided by such carrier is "available."

c. If U.S. flag carriers are unable to perform transportation services that can be financed only with excess foreign currencies, transportation by foreign flag carriers is permissible.

d. For the purposes of this requirement.

(1) Passenger or freight service by a certificated air carrier is considered "available" even though:

(a) Comparable or a different kind of service by a non-certificated air carrier costs less, or

(b) Service by a non-certificated air carrier can be paid for in excess foreign currency, or

(c) Service by a non-certificated air carrier is preferred by the grantee, contractor or traveler needing air transportation, or

(d) Service by a non-certificated air carrier is more convenient for the grantee, contractor, or traveler needing air transportation.

(2) Passenger service by a certificated air carrier is considered to be "unavailable":

(a) When the traveler, while en route, has to wait six hours or more to transfer to a certificated air carrier to proceed to the intended destination, or

(b) When any flight by a certificated air carrier is interrupted by a stop anticipated to be six hours or more for refueling, reloading, repairs, etc., and no other flight by a certificated air carrier is available during the six hour period, or

(c) When the flight of a certificated air carrier, by itself or in combination with other certificated or noncertificated air carriers (if certificated air carriers are "unavailable"), takes 12 or more hours longer from the origin airport to the destination airport to accomplish the Federally funded mission than would service by a non-certificated air carrier or carriers.

e. NSF will no longer consider as an allowable cost under any of its project awards foreign travel (except to Canada) which does not have prior NSF approval.

f. Because of the risk of catastrophic loss, the Foundation does not encourage the use of charter flights as a means of mass transportation for groups of scientists nor does it make arrangements for purchase of charter flight air line tickets.

#### 732 PROJECTS IN A FOREIGN COUNTRY

Prior to undertaking any projects outside the United States, the grantee should ensure that such permits or licenses as may be required by the host country or the political subdivision in which the project will be performed have been obtained and that the researcher(s) will abide by the appropriate ordinances of such foreign countries. Records or evidence that such rules have been complied with should be forwarded to the NSF Program Officer prior to the undertaking of the research. Foundation funds may not be used in support of a project which is prohibited by law in the country where it is undertaken. The NSF Program Officer should be notified in advance of arrangements for the distribution of data, reports and specimens as well as arrangements for the participation of foreign scientists.

#### 733 PASSPORTS AND VISAS

NSF assumes no responsibility for securing passports or visas required by any person because of participation in an NSF-supported project. It should be noted that some countries that normally do not require visas for tourists do require special visas for scientists engaged in research or studies.

#### 734 INTERNATIONAL TRAVEL SUPPORT AWARDS

734.1 *Funding Limitations.* Funds for international travel normally will not exceed the cost of the round trip air fare, at economy class or excursion rates (including applicable surcharges), between an air terminal near the point of origin and one near the point of destination and will usually be in the form of an airline ticket mailed directly to the traveler. NSF international travel support awards may not be supplemented by funds from an NSF project grant or fellowship.

734.2 *Use of U.S.-Flag Carriers Applicable to "ITS" Awards.* Individuals who travel abroad with the financial assistance of an NSF International Travel Support (ITS) shall comply with the requirements of GPM 731.3, "Use of United States-Flag Carriers."

734.3 *Per Diem.* If the traveler is an official U.S. delegate to an international conference, per diem may be provided.

734.4 *Return of Airline Ticket.* In the event the planned trip is canceled, the airline ticket must be returned immediately to the NSF Program Officer.

734.5 *International Travel Support Award Report.* Within sixty days after completion of the foreign travel, the grantee must submit an NSF Questionnaire form (copies of which will be enclosed with the airline ticket) to the NSF Division of International Programs.

### 740 Excess Government Personal Property

As a means of providing additional support and conserving supply and equipment funds on specific projects, NSF may sponsor the transfer of a limited quantity of excess Government personal property to NSF grantees which are public or private institutions of higher education or nonprofit organizations whose primary purpose is the conduct of scientific research. NSF may also arrange for furnishing excess property as Government property. See Important Notice No. 58 (Exhibit 7-3).

### 750 Intangible Property

#### 751 PATENTS AND INVENTIONS

751.1 *Background.* Section 12(a) of the NSF Act requires that every grant which relates to scientific research provide for disposition of investions in a manner calculated to protect the public interest and the equities of the grantee. NSF patent regulations are contained in 45 CFR Part 650. Intangible property management standards are also contained in Attachment N to OMB Circulars A-102 and A-110. Subparagraph 4h of Attachment O to OMB Circular A-110 (Exhibit 3-2), requires patent "flow-down" provisions



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in any substantive contractual agreements under grants. (GPM 623, "Contracting or Transferring the Project Effort," and GPM 751.3b)

751.2 *Applicability of NSF Patent Provisions.* NSF grants which are made for the purpose of supporting experimental or research work or which contain a significant element of any such activity will contain appropriate provisions dealing with rights to inventions made thereunder. An NSF grant made solely for support of one of the following purposes normally will not include NSF patent provisions:

a. Construction, improvement, or operation of facilities;

b. Research equipment;

c. Ship operations;

d. Education and training grants not in support of research;

e. Publication, distribution, and translation of scientific data and information;

f. Symposia and Conferences;

g. Special studies authorized or required by Subsections 3a(5) through 3a(7) of the NSF Act, as amended.

751.3 *NSF Patent Provisions.* Most NSF grants are subject to a provision governing disposition of rights in inventions made under the grant.

Except as otherwise provided in the grant letter, or where an Institutional Patent Agreement has been executed with the grantee (unless the grant letter or the terms of the IPA exclude the grant from the operation of the IPA), the following provisions will apply:

a. Whenever any invention which is, or may be, patentable is conceived or first actually reduced to practice in the course of or under this grant, the grantee shall furnish NSF with complete information thereon; and NSF shall have the right to determine whether or not and where a patent application shall be filed, and to determine the disposition of the invention and title to and rights under any patent application or patent that may result. In making such a determination, NSF shall take into account the public interest and the equities of the grantee. In any case, NSF may arrange to have the invention described in a printed publication.

b. The grantee, for itself and for its employees, agrees that all documents will be executed and all other actions necessary or proper to carry out the determination of NSF will be taken.

Except as otherwise authorized in writing by the Grants Officer, the grantee will insert in each subcontract having experimental, developmental, or research work as one of its purposes, provisions making this article applicable to the subcontractor and its employees and any lower-tier subcontractors and their employees.

Reports of inventions required under these provisions or requests for retention of rights in such inventions, as well as requests for guidance in these matters, should be addressed to the NSF Office of the General Counsel.

752 PUBLICATION

752.1 *Background.* Section 11(g) of the NSF Act authorizes the Foundation to publish or arrange for the publication of scientific and technical information so as to further the full dissemination of information of scientific value consistent with the national interest.

752.2 *NSF Policy.* In furtherance of the foregoing purposes, it is NSF policy to encourage, and, in some cases, require publication and distribution of the results of research conducted under grants. Generally, publication occurs in scientific journals or other news media, which are particularly addressed to the scientific community. Page charges for publication of scientific results in scientific journals may be budgeted for and paid as a necessary part of research costs under NSF grants. See GPM 517, "Page Charges and Publication Costs."

752.3 *Grantee Responsibilities.* The preparation, content, editing, and publication of manuscripts are the responsibilities of the principal investigator, consistent with such policies and procedures as the grantee may prescribe. Review of manuscripts prior to submission for publication will noramlly not be made by NSF. Upon publication, a minimum of two copies of reprints shall be furnished to the cognizant NSF Program Office. Where commercial publication or distribution is planned by the grantee, see GPM 760, "Production or Distribution of Materials," and GPM 650, "Project Income."

752.4 *Acknowledgement and Disclaimer.* a. Regardless of whether material is copyrighted, it will contain the following acknowledgment and disclaimer statement:

"Some (All) of the materials incorporated in this Work were developed with the financial support of the National Science Foundation Grant ----------."

All materials, except scientific articles or papers published in scientific jounrals, must also contain the following:

"However, any opinions, findings, conclusions, or recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of the Foundation."

b. In those instances where the manuscript was submitted to NSF or other Federal agency prior to publication, that should also be stated in the disclaimer clause.

753 COPYRIGHT

753.1 *General.* Unless otherwise provided in the grant instrument, the grantee is free to copyright any books, publications, films, or other copyrightable materials developed in the course of or under an NSF grant. However, except for NSF Fellowship or Traineeships any such copyrighted materials shall be subject to a royalty-free, irrevocable, worldwide, nonexclusive license in the United States Government to reproduce, perform, translate, and otherwise use and to authorize others to use such materials for Government purposes. (See also GPM 760, Production or Distribution of Materials.)

753.2 *Need for Exclusivity.* In some instances, it may be necessary to guarantee exclusivity in order to obtain proper distribution arrangements. In such cases, NSF may be willing to accept a more limited license, and the grant instrument will so provide.

753.3 *Public Domain.* In some instances, NSF will require that the material be publicly disseminated and remain in the public domain, without copyright. In such cases, the grant instrument will so specify.

754 RIGHTS IN ADP DATA BANKS AND SOFTWARE

754.1 *Background.* Some NSF grants support the accumulation of a large body of machine readable data by any of a number of means including literature search, consolidation of existing material, and original creation or collection. Accumulation of such a data bank may itself be a principal purpose of the grant or the data bank may be expected to be so large and comprehensive that it would probably be useful to others for other purposes. A relatively few NSF grants may support projects which produce software as a major end product, such as methodologies for processing data, general purpose programs, and course materials, which can readily be adapted to other computers.

754.2 *NSF Policy.* Data banks and software, produced with the assistance of NSF grants, having utility to others in addition to the grantee, shall be made available to users, at no cost to the grantee, by publication or, on request, by duplication or loan for reproduction by others. The investigator who produced the data or software shall have first right of publication. Grantees will not be required to release finite data banks which are incomplete, or which contain errors, ambiguities, or distortions and will be allowed a reasonable amount of time to make necessary corrections. Privileged or confidential information will be released only in a form which protects the rights of privacy of the individuals involved. Where the collection of such information is anticipated in advance of the award, provisions for handling it should be treated in the proposal. Any dispute over the release or use of data or software will be referred to the Foundation for resolution. Any out of pocket costs incurred by the grantee in providing information to third parties may be charged to the third party. Under certain conditions, a modification or exemption from the above policy may be granted by the Foundation at the time of the award. Such an arrangement will be described in the grant letter and will take into account both the public interest and the equities of the grantee.

760 PRODUCTION OR DISTRIBUTION OF MATERIALS

761 PRODUCTION OR DISTRIBUTION

If a grantee intends to publish, sell or commercially distribute any materials developed under the grant, such may be undertaken only as described in the proposal, or if not so described, with prior NSF approval. Arrangements shall be such as to permit a number of qualified concerns to submit proposals for production and distribution.

Selection of manufacturers, publishers and distributors shall be made so as to assure wide distribution at a reasonable price. NSF may require that it be informed of and approve the plan upon which negotiations will be based, including the companies to be approached, measures to assure that qualified concerns will have an opportunity to submit proposals for production and distribution, and criteria to be used in selecting the successful bidder(s).

762 PUBLICATION OR DISTRIBUTION AGREEMENTS

Where appropriate, NSF awards may require prior NSF approval of publication or distribution agreements. All such agreements will include provisions: (i) Providing the Government with a royalty-free license to use the materials for Government purposes; (ii) granting the Government the right to examine, audit and copy publisher's or distributor's records relative to the NSF supported materials; and (iii) requiring an appropriate acknowledgement of NSF support and a disclaimer similar to that in GPM 752.4.

770 EQUIPMENT TITLE, USE AND DISPOSITION

771 BACKGROUND

a. NSF equipment management standards are contained in GPM 332.

b. Limitations on the acquisition of and the allowability of costs for equipment are contained in GPM 512.

c. This section implements portions of Attachment N to OMB Circular A-110 concerning equipment title, use, and disposition.

772 TITLE TO EQUIPMENT

772.1 *Nonprofit organizations.*—a. *Normal Situations.* Title to equipment purchased or fabricated with NSF grant funds by a college or university or other nonprofit organization normally will vest in the grantee institution, with the understanding that such equipment (or a suitable replacement obtained as a trade-in) will remain in use for the specific project for which it was obtained (subject to the shared use provisions of GPM 204.2).

b. *Special Situations.* In special situations the grant instrument may either (1) require that title to equipment purchased by the grantee with NSF funds pass directly to the Government from the vendor, or (2) reserve the right to require the grantee to transfer title to the Government or to a third party as prescribed in GPM 773, below.

c. *Excess Government Property.* See paragraph 9 of Exhibit 7-3.

773 RIGHT TO TRANSFER TITLE

For items of equipment having a unit acquisition cost of $1,000 or more, the grant instrument may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible by law. Such reservation will be subject to the following conditions prescribed by Attachment N to OMB Circular A-110 (paragraph 6a):

a. The property will be appropriately identified in the grant instrument.

b. The equipment will be subject to the provisions for federally-owned equipment discussed in GPM 332, "Equipment Management Standards."

c. NSF will issue disposition instructions within 120 calendar days after the end of the Federal support of the project for which it was acquired. If NSF fails to issue disposition instructions within the 120 calendar period, title vests in the grantee, subject to the provisions of GPM 772.1, above.

d. When title is transferred either to the Federal Government or to a third party the grantee will be reimbursed by the benefiting Federal agency or other third party with an amount which is computed by applying the percentage of the grantee's participation in the cost of the project to the current fair market value of the equipment, plus any reasonable or interim storage costs incurred.

780 ACQUISITION AND CONTROL OF MATERIALS AND SUPPLIES

Excluding the final inventory of books, films and similar material developed under an NSF grant, title to materials and supplies will vest in the grantee upon acquisition.

790 MISCELLANEOUS

791 BONDING AND INSURANCE

a. Attachment B to OMB Circulars A-102 and A-110 prescribe bonding and insurance requirements for grants involving construction or facility improvement exceeding $100,000 and permit agencies to require fidelity bond insurance.

b. The NSF Act (42 U.S.C. 1870c) provides NSF with authority to enter into grants, contracts or other agreements without performance or other bonds and without regard to Section 3709 of the Revised Statutes.

c. Therefore, unless the grant instrument specifically provides otherwise NSF does not require performance or other bonds or insurance.

792 LIABILITIES AND LOSSES

NSF assumes no liability with respect to accidents, bodily injury, illness, breach of contract or any other damages or loss, or with respect to any claims arising out of any activities undertaken with the financial support of an NSF grant, whether with respect to persons or property of the grantee or third parties. The grantee is advised to insure or otherwise protect itself or others as it may deem desirable.

793 TAX STATUS

Determination of the tax status of an organization or person receiving compensation in any form as a result of an NSF grant is the responsibility of the Internal Revenue Service, State and local tax authorities, and the courts.

794 NATIONAL SECURITY

NSF normally does not support classified projects. When, in the course of an NSF supported project, information or materials are developed which may affect the defense and security of the United States, the grantee must notify the appropriate NSF Program Director immediately. Classified materials should be directed to the NSF Security Officer. The performing organization may wish or need to discontinue the project under these conditions. See GPM 664, "Termination by Mutual Agreement."

795 PRE-COLLEGE STUDENTS AND EXPERIMENTAL CURRICULUM DEVELOPMENT PROJECTS

Grantees of projects which involve precollege students in research or development on, or pilot-testing, evaluation or revision of experimental or innovative curriculum development projects will:

a. Provide to the school board, or comparable authority responsible for the schools considering participation in the project, information concerning the need for and purposes of the particular education project, the proposed content of the material to be used, the expected benefits to be derived, and other information to assist the jurisdiction in arriving at a decision on participation.

b. Obtain, after the reponsible authority has carried out its procedures, written approval for participation in the project activities.

c. Provide information and materials to the responsible school authority to assist it in carrying out its own established procedures regarding the participation of students in project activities.

d. Provide information to the Foundation describing compliance with the above provisions.

e. Provide, in accord with NSF FY 1976 House Authorization Legislation (Pub. L. 94-86), in every publication, testing or distribution agreement involving instructional material developed under a grant (including but not limited to teacher's manuals, textbooks, films, tapes or other supplementary material) that such material will be made available within the school district using such material for inspection by parents or guardians of children engaged in educational programs or projects of that school district.

796 ENVIRONMENTAL IMPACT

a. The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332) requires that Federal agencies add environmental considerations to those criteria which are traditionally used to decide on: (1) New (proposed) actions to be taken, and (2) the continued funding of ongoing actions.

b. If a proposed project may have an environmental impact, the proposal should furnish sufficient information to assist Foundation officials in assessing the environmental consequences of supporting the project. NSF will determine (1) the adequacy of the information submitted; (2) whether or not additional information is needed; and (3) whether or not an environmental statement will be necessary.

c. NSF policies on environmental considerations are contained in regulations in 45 CFR Part 640.

797 FLOOD DISASTER PROTECTION

a. The Flood Disaster Protection Act of 1973 (28 U.S.C. 4001 et. seq.) provides that no Federal agency shall approve any financial assistance for "acquisition or construction" purposes for use in any area identified by the Department of Housing and Urban Development (HUD) as an area having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968 unless the building and any related equipment is covered by adequate flood insurance.

b. NSF grantees located in special flood hazard areas identified by HUD and where the sale of flood insurance has been made available under the National Flood Insurance Act, will:

(1) With respect to NSF grants for the construction of a building or facility, furnish the necessary proof of compliance with the Act before a grant can be made, regardless of the dollar amount of the grant.

(2) With respect to NSF research grants, and any other grant where assistance for repair, alteration, or improvement of a building or facility is incidental, proof of compliance with the Act will be necessary only where the line item amount budgeted for repair, construction or improvement exceeds $10,000.

c. In the above cases where insurance is required, the proposal should contain either a certification that (a) the facilities or equipment are not located in an identified special flood hazard area or (b) adequate flood insurance under this Act has been obtained.

d. Applicants requiring flood insurance coverage should contact their local government or local federally insured financial institutions to determine areas identified as having special flood hazards and the availability of flood insurance in their community.

798 PROTECTION OF PROPERTIES IN THE NATIONAL REGISTER OF HISTORIC PLACES

The National Historic Preservation Act of 1966 (16 U.S.C. § 470) requires that Federal Agencies institute procedures to assure that where as a result of Federal action or assistance a property listed on the National Register of Historic Places (by the Federal Advisory Council on Historic Preservation) is to be substantially altered or demolished, timely steps be taken to make or have made records, including measured drawings, photographs and maps, of the property, and that copy of such records then be deposited in the Library of Congress for future use and reference.

Prospective grantees must provide such information in the proposal on such alterations or demolishments (and any changes that occur during performance of the grant) in order that NSF, in conjunction with the Advisory Council on Historic Preservation, may determine what steps need to be taken by the grantee to protect or establish and preserve the record of the property.

EXHIBITS

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7-2 Congressional Listing (sample page)
7-3 NSF Important Notice No. 58 (Excess Property)
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federal register

FRIDAY, JULY 29, 1977

PART V




# CONSUMER PRODUCT SAFETY COMMISSION

# RESPIRABLE FREE-FORM ASBESTOS

Proposed Rulemaking

V 42 146 JUL 29 77 UMI

## CONSUMER PRODUCT SAFETY COMMISSION

**[ 16 CFR Part 1145 ]**

### RESPIRABLE FREE-FORM ASBESTOS

**Proposed Rules to Regulate Consumer Patching Compounds and Artificial Emberizing Materials (Embers and Ash) Containing Respirable Free-Form Asbestos, Under the Consumer Product Safety Act**

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to regulate consumer patching compounds and artificial emberizing materials (embers and ash) containing respirable free-form asbestos under the Consumer Product Safety Act (CPSA) instead of the Federal Hazardous Substances Act (FHSA), to address the risk of cancer associated with inhalation of asbestos fibers. According to the CPSA, the Commission may not regulate under the CPSA a risk of injury that could be eliminated or reduced to a sufficient extent under the FHSA, unless the Commission finds by rule that it is in the public interest to do so. The Commission has preliminarily found that it is in the public interest to regulate these products under the CPSA.

DATES: Comments concerning this proposal must be received by August 29, 1977.

ADDRESS: Comments should be sent to: Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

John Liskey, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 (301–492–6557).

SUPPLEMENTARY INFORMATION: The purpose of this notice is to propose a rule under section 30(d) of the Consumer Produce Safety Act, (CPSA), 15 U.S.C. 2079(d), to regulate consumer patching compounds and artificial emberizing materials containing respirable free-form asbestos under the CPSA. Although the risk of injury from lung cancer and mesothelioma associated with these products could be eliminated or reduced to a sufficient extent by action under the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261–1274, the Commission has preliminarily determined that it is in the public interest to regulate these products under the CPSA.

The Commission believes that it is in the public interest to regulate these consumer patching compounds and artificial emberizing materials containing respirable free-form asbestos under the CPSA rather than the FHSA, since the rulemaking proceedings appropriate to regulate these products under the FHSA are likely to be lengthy and resource-consuming.

The Commission also believes it is in the public interest to regulate these products under the CPSA since it may be more difficult for interested persons to participate in rulemaking proceedings under the FHSA than the CPSA because the proceedings under the FHSA are likely to be more complex and formal.

In order to ban hazardous household substances under section 2(q)(1)(B) of the FHSA, the Commission must follow the provisions of section 701(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 371(e). Section 701(e) of the FFDCA provides for a two stage rulemaking. After the Commission proposes a regulation, analyzes comments, and issues a final regulation, adversely affected persons may submit objections to the rule and request a public hearing on the objections. If the objections are legally valid, those parts of the regulation objected to are stayed and a hearing is held to receive evidence that is relevant and material to the issues raised by the objections.

After completion of the hearing, the Commission may issue a final regulation. However, this regulation must be based only on substantial evidence of record obtained at the hearing, and must set forth detailed findings of fact on which the order is based. The Commission's past experience with formal rulemaking under section 701(e) has been that these proceedings are lengthy, resource-consuming, and often inefficient in eliciting information on which the Commission may make a decision.

In contrast, section 9(a)(2) of the CPSA requires bans to be issued in accordance with the informal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 553). Although the CPSA requires the Commission to provide an opportunity for oral presentation of comments before issuing a ban, the oral presentation required by section 9(a)(2) is informal and nonadversarial. A ban under section 8 of the CPSA, while providing an adequate opportunity for public participation, is less likely to involve extensive delay, since the Commission is not required to utilize formal rulemaking. In addition, since the proceedings under section 8 of the CPSA are less complex and formal than those under the FHSA, the Commission is more likely to obtain participation from interested persons, including consumers, than if the rulemaking is conducted under the FHSA.

The Commission has also preliminarily determined that it is in the public interest to regulate consumer patching compounds and artificial emberizing materials containing respirable free-form asbestos under the CPSA rather than the FHSA, since the CPSA, unlike the FHSA, provides that persons who knowingly violate the Act are subject to civil penalties. The civil penalty provision may provide additional incentive for compliance under the CPSA.

However, if the Commission does decide to regulate these products under section 8 of the CPSA, the Commission recognizes that automatic repurchase of banned hazardous products would not be available, as it is in the case of a ban under the FHSA. Under section 15 of the FHSA, 15 U.S.C. 1274, and the accompanying regulations at 16 CFR 1500.202 and .203, hazardous substances that have been banned must be repurchased by the manufacturers, distributors, and retailers of the hazardous substance, regardless of whether the substance was banned at the time of its sale. In contrast, a ban under section 8 of the CPSA that bans products distributed in commerce on the effective date of the ban would not provide for repurchase of the banned hazardous products distributed in commerce.

PROPOSAL

The Commission therefore proposes below to regulate consumer patching compounds and artificial emberizing materials containing respirable free-form asbestos under the CPSA instead of the FHSA.

Accordingly, pursuant to provisions of the Consumer Product Safety Act (sec. 30(d), Pub. L. 92–573, 86 Stat. 1231, as amended 90 Stat. 510; 15 U.S.C. 2079(d)), the Commission proposes that Title 16, Chapter II, Subchapter B, Part 1145 be amended by adding the following new § 1145.4:[1]

**§ 1145.4 Consumer patching compounds containing respirable free-form asbestos; risk of cancer associated with inhalation of asbestos fibers.**

The Commission finds that it is in the public interest to regulate the risk of cancer associated with inhalation of asbestos fibers from consumer patching compounds under the Consumer Product Safety Act rather than under the Federal Hazardous Substances Act because of the desirability of avoiding possibly lengthy, resource-consuming, and inefficient rulemaking proceedings under the Federal Hazardous Substances Act and because of the availability of civil penalties under the CPSA.

The Commission also believes that the complexity and formality of the rulemaking proceedings under the FSHA, in contrast to rulemaking proceedings under the CPSA, may make it difficult for interested persons to participate.

Therefore, consumer patching compounds containing asbestos shall be regulated under the CPSA.

(Sec. 30(d), Pub. L. 92–573, 85 Stat. 1231, as amended, 90 Stat. 510 (15 U.S.C. 2079(d)).)

**§ 1145.5 Emberizing materials (embers and ash) containing respirable free-form asbestos; risk of cancer associated with inhalation of asbestos fibers.**

The Commission finds that it is in the public interest to regulate the risk of cancer associated with inhalation of asbestos fibers under the Consumer Product Safety Act rather than under the Federal Hazardous Substances Act because of the desirability of avoiding possibly lengthy, resource-consuming, and inefficient rulemaking proceedings under the Federal Hazardous Substances Act and because of the availability of civil penalties under the CPSA. The Commission also believes that the complexity and formality of the rulemaking proceedings under the FHSA, in contrast to rulemaking proceedings under the CPSA, may make it difficult for interested persons to participate. Therefore, emberizing material containing respirable free-form asbestos shall be regulated under the CPSA.

(Sec. 30(d), Pub. L. 92–573, 86 Stat. 1231 as amended, 90 Stat. 510 (15 U.S.C. 2079(d)))

Interested persons are invited to submit, on or before August 29, 1977 written comments regarding this proposal. Written comments and any accompanying data or material should be submitted preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the Office of the Secretary, Third Floor, 1111 18th St. NW., Washington, D.C. during working hours Monday through Friday.

Dated: July 26, 1977.

SHELDON D. BUTTS,
*Assistant Secretary, Consumer Product Safety Commission.*

[FR Doc.77-21843 Filed 7-28-77;8:45 am]

[1] EDITORIAL NOTE: Part 1145 consisting of §§ 1145.1 and 1145.2 was proposed at 41 FR 33638 (August 10, 1976). Section 1145.3 was proposed at 42 FR 35984 (July 13, 1977).





**[ 16 CFR Parts 1304 and 1305 ]**

### RESPIRABLE FREE-FORM ASBESTOS

**Proposal To Ban Certain Patching Compounds and Artificial Emberizing Materials (Embers and Ash)**

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed banning rules.

SUMMARY: In this document, the Commission proposes to ban two consumer products containing asbestos that can be inhaled (respirable, free-form asbestos): (1) consumer patching compounds used to join or repair interior walls and ceilings (mixing of the product before it is applied and sanding of the product after it is applied releases asbestos fibers that can be inhaled) and (2) artificial emberizing materials (embers and ash) made with respirable free-form asbestos for use in fireplaces to simulate live embers and ash. Based on information discussed in this notice, the Commission believes that certain types of cancer may result from inhaling asbestos fibers released during the use of these products.

Part A of the preamble to this document deals with the general characteristics of asbestos that are applicable to both products proposed to be banned. Part B deals with consumer patching compounds. Part C deals with artificial emberizing materials.

DATES: (1) For consumer patching compounds containing respirable free-form asbestos, the proposed effective date is 30 days after publication of any final banning rule. Written comments on the proposal must be submitted by August 29, 1977. There will be an opportunity for interested persons to orally present data, views, or arguments on Monday, August 15, 1977 at 10 a.m., at the Commission hearing room, 3rd Floor, 1111 18th Street NW., Washington, D.C. Those wishing to make oral presentations should notify the Office of the Secretary by August 8, 1977.

(2) For artificial emberizing materials containing respirable free-form asbestos, the proposed effective date is the day of publication of any final banning rule. Written comments on the proposal must be submitted by August 29, 1977. There will be an opportunity for interested persons to orally present data, views, or arguments on Monday, August 15, 1977 at 10 a.m. Those wishing to make oral presentations should notify the Office of the Secretary by August 8, 1977.

ADDRESSES: Written comments should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Persons wishing to make oral presentations should contact Richard A. Danca in the Office of the Secretary 202–634–7700. All material which the Commission has that is relevant to this proceeding, including any comments that may be received on this proposal, may be seen in, and copies may be obtained from the Office of the Secretary of the Commission, 3rd Floor, 1111 18th Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

John Liskey, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 (301–492–6557).

SUPPLEMENTARY INFORMATION: The Commission has received the following three petitions requesting the banning of consumer patching compounds and artificial emberizing materials (embers and ash) containing respirable free-form asbestos:

*HP 76–18:* On July 15, 1976, the Natural Resources Defense Council (NRDC) and Consumers Union (CU) petitioned the Commission under the Federal Hazardous Substances Act (FHSA) to ban consumer patching compounds containing asbestos that are used for drywall taping, spackling and sealing of points. The petitioners believe that high quantities of asbestos fibers remain in the air after these products are sanded and the the fibers substantially increase the risk of mesothelioma and lung cancer.

*HP 77–9:* On February 9, 1977, the Public Citizens Health Research Group (HRG) petitioned the Commission under the FSHA in part to declare that patching compounds made with tremolitic talc containing asbestos fibers (tremolite asbestos) are banned hazardous products and an imminent hazard to the public health.

*HP 77–11:* On April 15, 1977, a request from Ms. Rachel Scott, that the Commission had investigated as a consumer complaint, was joined by the Environmental Defense Fund (EDF). The Commission designated the requests a petition to ban artificial emberizing materials containing respirable free-form asbestos. This product is used on artifical logs and on fireplace floors beneath them to simulate live embers and ashes.

(The parenthetical numbers listed below are citations to a list of documents consulted by the staff; the list appears below just before Conclusion and Proposal.)

The Commission has granted these petitions regarding asbestos, based on information discussed more fully below. The information consists, primarily, of data on exposure of industrial workers to respirable free-form asbestos (6) and also occasional exposures of families of workers and others in locations where free-form asbestos might be prevalent, as well as in other location (47, 31, 38). Information on exposure of the public to free-form asbestos contained in individual consumer products is limited. However, there is general scientific and medical agreement that there is no known threshold level below which it is safe for people to be exposed to respirable free-form asbestos (35). Therefore, based on the available information the Commission has decided to propose a ban of these two products. In addition, information on other consumer products that may contain respirable free-form asbestos will continue to be developed in order to determine whether further regulation is necessary.

The petitions, relevant scientific and technical information, and Commission conclusions are more fully described below.

Although the three petitions were filed under the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261, et seq., and it appears that the risks of injury from lung cancer and mesothelioma described by petitioners are regulatable under the FHSA, the Commission proposes to ban these products under the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051, et seq. Section 30(d) of the CPSA, 15 U.S.C. 2064(d), as amended, provides that a risk of injury associated with a consumer product which can be eliminated or reduced to a sufficient extent by action under a transferred Act, such as the FHSA, may nevertheless be regulated under the CPSA if the Commission, by rule, determines that regulation under the CPSA is in the public interest. Also published in this issue of the FEDERAL REGISTER are proposed rules issued in accordance with section 30(d) of the CPSA stating the Commission's finding that it is in the public interest to ban the products described herein under the CPSA.

PART A. BACKGROUND

"Asbestos" is a general term for any of several varieties of mineral fibers composed of silica, oxygen, hydrogen, and other elements such as sodium, calcium, iron, or magnesium. The name is derived from the ancient Greek term for



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"incombustible". There are six basic varieties of asbestos minerals which are found in fiber form: chrysotile (the most common variety, and that ordinarily found in asbestos-containing products), amosite, crocidolite, actinolite asbestos, tremolite asbestos, and anthophyllite asbestos. Most of the world supply of commercial asbestos is chrysotile, the fibrous form of serpentine.

Asbestos minerals all have nonfibrous counterparts of the same chemical composition and crystal structure which are more abundant and widespread than the asbestiform variety but the crystallization of these normally nonfibrous minerals into fibrous forms is a rare occurrence in nature. (June 3, 1977, CPSC/Health Sciences, (7).)

Asbestiform minerals are generally characterized by the following properties: their ability to be broken down into smaller fibrils; great elongation; heat resistance; resistance to biotransformation; flexibility; high-tensile strength, and spinnability.

### Diseases Related to Asbestos Exposure

It is important to note that the asbestos content of a given product is not necessarily the sole criterion of that product's relative health risk, for in numerous products the fibers are tightly bound or are encapsulated in the product composition. A potential health risk occurs when asbestos fibers become airborne, such as by mixing, sanding, or cleanup operations when using patching compounds. A single individual engaged in such a process may be exposed to potential asbestos fiber inhalation risk and may also cause exposuré of other individuals in the vicinity.

Certain malignancies are related to exposure to asbestiform minerals. Both animal bioassay data and epidemiological studies support this conclusion.

All commercially available forms of asbestos which have been tested are carcinogenic in mice, rats, hamsters, and rabbits (IARC, 22).

Some conclusions from a Review (Huff, 21) of the major literature on asbestos are:

1. Under experimental conditions, asbestos is pathogenic in animals. Asbestos is known to be carcinogenic in humans, causing lung cancer, mesotheliomas, and pleural lesions.

2. The mechanisms of pathogenicity are poorly understood. The etiological significance of fiber size or type is controversial, and the physiochemical properties of various asbestos types as related to biological effects are incompletely defined.

3. Little is known about the clearance rates of asbestos from tissues, the transport of asbestos within the organism, or the metabolic alteration of asbestos in the body.

4. Animal models necessary to accurately predict the potential effects of asbestos in humans have not been developed.

5. Quantitative dose-response relationships between asbestos inhalation and related diseases have not been determined for animals or humans, and minimal exposure levels required to cause disease are not known.

6. Malignancies can arise 20 years or more after occupational exposure; however, they also reportedly result from indirect, non-occupational exposure.

7. Available data indicate that asbestos is a widespread environmental pollutant.

The most common diseases that might result from asbestos exposure are:

1. Asbestosis: a diffuse, interstitial, nonmalignant, scarring of the lungs;

2. Bronchogenic carcinoma: a malignancy of the interior of the lung;

3. Mesothelioma: a diffuse malignancy of the lining of the chest cavity (pleural mesothelioma), or of the lining of the abdomen (peritoneal mesothelioma);

4. Cancer of the stomach, colon, and rectum.

Asbestosis may be evidenced, in its advanced stages, by characteristic manifestations on X-ray films, by restrictive pulmonary function, or by clinical signs of finger clubbing or rales (dry, cracking sounds within the lung). Its most important symptom is dyspnea, or undue shortness of breath. The disease is progressive, even in the absence of further exposure, as those inhaled fibers which have been trapped within the lung continue their biological action. In its severe forms, death results from the inability of the body to obtain requisite oxygen or from the heart's failure to pump blood through the scarred lungs.

Mesothelioma tumors are diffuse and spread rapidly throughout the cavity of origin. They have yet to be successfully cured by any type of treatment, including chemotherapy, radiation, or surgery. Death usually results within a year of diagnosis. It may account for one death in several thousand in the absence of an environmental or occupational asbestos exposure. In some groups of asbestos workers, it may account for one death in ten.

Once established, the other asbestos-associated cancers differ little from those occurring in the general population, although there may be variations in the location of the primary site. Appropriate treatment and prognosis follow for the particular tumor. There is very limited long term survival from lung cancer therapy; and only somewhat better from treated cancer of the colon or rectum.

Asbestosis and asbestos cancer, whether it be lung cancer, pleural mesothelioma, peritoneal mesothelioma, cancer of the stomach, colon, or rectum usually do not become clinically evident until more than 20 years have passed from onset of exposure. The long latency period is now widely recognized.

While some such cancers may appear during the second decade following onset of occupational exposure, peak incidence is often not noted until 20 years or more from initial exposure. This is true both with regular, long-term, brief or intermittent exposures. While variations in the time of occurrence may depend upon intensity and duration of exposure, with heavier exposure often being associated with shorter latency periods, variations among individual cases make it impossible to predict the latency period for the risk of any particular person.

Clinical data are becoming available concerning asbestos lung scarring in individuals exposed at levels much lower than those of occupational circumstances. Among 210 family contacts of former asbestos factory workers, 38% have been reported to have X-ray changes characteristic of asbestos exposure (Anderson, Selikoff, Lilis and Daum, 1975, (1)).

In humans, the latency period for chemical carcinogens may well extend from 20 to 40 years or more. Analogous latency periods have also been demonstrated in animal studies. This means that the disease may undergo a long period of development before a tumor is actually detected.

Cancer development may be influenced by such factors as the differing susceptibility of various body organs. In animal studies it has been found that individual variability in response to carcinogens is great depending upon factors such as age, sex, hormonal status, diet, and genetic factors. Thus, individuals biologically compromised may be more susceptible than other groups.

### Cancers Associated With Asbestos

In December 1972, important new information on the spectrum of asbestos cancers was presented at the Conference on the Biological Effects of Asbestos, sponsored by the International Agency for Research on Cancer of the World Health Organization. At this conference, and subsequently, data on large groups of asbestos workers became available (Selikoff, Hammond and Seidman, 1973 (41); Enterline, de Coufle and Henderson, 1972 (12)). As expected, the high risk of bronchogenic carcinoma and mesothelioma persisted among groups of factory workers. Moreover, these later studies confirmed the excess gastrointestinal cancer that had been suggested earlier, and extended the spectrum of asbestos related cancers.

(1) Lung cancer. The most important cancer afflicting asbestos workers is cancer of the lung, although mesothelioma has attracted considerable attention because of the high frequency among asbestos workers and infrequent occurrence in the population as a whole.

In many groups of asbestos workers, approximately 20% of all deaths are caused by lung neoplasms. This has been true both among asbestos product factory workers (Selikoff, Hammond and Churg, 1972 (42); and Nicholson, 1976 (35)), and among users of these products (Selikoff, Hammond and Seidman, 1973 (41)). The exact percentage varies with circumstances of exposure, age of the workers, duration of the workers' exposure and, perhaps most of all, according to the duration from the onset of their asbestos work history. In addition, the last several years have seen the discovery of another critical variable affecting the incidence of lung cancer among asbestos workers. In 1968, Selikoff and Hammond (38) reported that lung cancer was not significantly increased in incidence among asbestos workers with no history of cigarette smoking, although when such history was present, the incidence of lung cancer increased markedly over what would be expected among other cigarette smokers, in the absence of asbestos exposure. Thus, these scientists calculated that an asbestos worker who smoked cigarettes had 92 times the risk of dying of lung cancer, as compared with like individuals without cigarette smoking or asbestos work. This finding has been confirmed by larger studies (Hammond and Selikoff, 1973 (17)) where, again, it was found that nonsmoking asbestos workers had few lung cancers while those who smoked had much more lung cancer than would have been expected had they not been asbestos workers. Calculations suggest that cigarette-smoking asbestos workers have aprpoximately eight times the risk of developing lung cancer compared to other cigarette smokers who are not occupationally exposed to asbestos.

(2) Pleural and peritoneal mesothelioma. In 1960 Wagner, Sleggs and Marchand (47) demonstrated an important association between asbestos exposure and pleural mesothelioma. This cancer, which appears to be unrelated to smoking, had previously been considered to be a very rare tumor. Numerous reports have confirmed the finding of Wagner and his colleagues that mesothelioma can be commonly associated with asbestos exposure. A subsequent report by Enticknap and Smither, 1964, (13) concerning workers in a British asbestos factory demonstrated that the same tumor could be commonly found in the abdomen (peritoneal mesothelioma), as well as in the chest.

The exact risk of death of these invariably fatal neoplasms has not been as well defined as has lung cancer, although records of cases from hospitals near one large asbestos factory indicate that it must be very common (Barrow, Conston, Livornese and Schalet, 1967, (3)). Information available from the experience of asbestos insulation workers suggests that approximately five to seven percent of deaths may be due to this neoplasm (Hammond, Selikoff and Churg, (17); Selikoff, Hammond and Seidman, 1973, (41)). More recently, it has been suggested that this estimate is too low, on the basis of the experience of workers in a British asbestos factory where calculations predicted that between 10 and 11 percent of deaths would be due to mesothelioma (Newhouse and Berry, 1975, (30)).

A recent study of mesotheliomas diagnosed in a hospital located in the vicinity of a shipyard reported an increased incidence of diffuse malignant mesothelioma since World War II, not only among exposed shipyard workers, but also among individuals with no occupational exposure. (Hasan, (20)).

(3) Gastro-intestinal cancer. Gastrointestinal cancers (cancer of the stomach, colon and rectum) are also increased in incidence among asbestos workers. A number of studies now indicate that the increase is on the order of two or three times the number of expected tumors (Selikoff, Hammond and Sediman, 1973, (41), Elmes and Simpson, 1971 (9)). Although this increased risk is relatively limited, especially when compared with lung cancer and mesothelioma, it is nevertheless of considerable importance since a two- or three-fold increase in such common tumors becomes an important cause of death for the workers involved.

It has been suggested that other tumors are also increased in incidence among asbestos workers, particularly cancers of the larynx (Stell and McGill, 1973 (45); Newhouse and Berry, 1973 (34)), and of the esophagus (Selikoff, Hammond, and Seidman, 1973 (41)). However, data concerning these neoplasms are less extensive than for lung cancer, mesothelioma and gastro-intestinal cancer and further experiences are awaited. In any case, they are not very common tumors in general and any increase does not weigh heavily on the overall cancer risk of asbestos workers.

### Occupational Exposure

Reports of pulmonary fibrosis or lung scarring, from inhalation of asbestos dust in factories began to appear in the literature in the early part of this century and by 1927 this lung scarring disease was known as "asbestosis" (Newhouse, 31)).

In 1930, the British Home Office Survey by Merewethier and Price (28), found that approximately half of a population of asbestos factory workers were suffering from pulmonary fibrosis, leading to the introduction of the Asbestos Factory Regulations of 1931. The objective of the Regulations, implemented in 1933, was to reduce the risk of asbestosis.

It was recognized, however, that in addition to asbestos-induced lung scarring, there was also increasing evidence of cancer associated with asbestos exposure. Some workers whose deaths were attributed to asbestosis were also found to have had lung cancer. (Nicholson, (35)).

By 1960, through epidemiological studies, an association between asbestos exposure and mesothelima had been demonstrated (Wagner (47)) and was soon substantiated by additional epidemiological studies (Newhouse (31), Selikoff (37)) and clinical diagnosis.

In 1968, the Committee of the British Occupational Hygiene Society evaluated worker exposure data in a large asbestos textile mill dating from implementation of the Asbestos Regulations of 1933 which indicated that there was "comparatively little clinical and/or roentgenological evidence of asbestosis" at that factory in a survey completed in 1966. Based on that data, the Committee concluded by setting a dust exposure level at 100 fiber-years/ml (or 2 fibers/ml for 50 years) it would provide a full working lifetime without substantial risk of developing asbestosis. (OSHA, 1975, (6).)

The National Institute of Occupational Safety and Health (NIOSH) relied heavily on the British Standard in its recommendation for promulgation of the asbestos standard set by OSHA in 1972.

Subsequent to the implementation of the OSHA permanent asbestos standard in 1972, results of a new evaluation of the earlier British factory worker population showed many abnormal X-ray findings of the lungs and pleura.

It is reported that there is now an excess lung cancer mortality rate among workers who became employed at the textile mill after 1933 and whose lack of clinical or X-ray evidence of asbestosis led to the development of the British asbestos standard.

Another report of an ongoing study of workers (and their family members) in a factory producing amosite asbestos between 1941 and 1954, when the factory closed, has shown a high incidence of X-ray abnormalities and 2 pleural mesothelioma deaths have thus far been identified (1).

It is also reported that clinical data are becoming available concerning asbestos lung scarring in individuals exposed at much lower than occupational levels. (Anderson, (1)).

It therefore appears that an exposure thought sufficiently low to reduce the risk of asbestosis has not prevented pathogenic changes, including lung cancer and mesothelioma. (Anderson, (1)).

#### Non-occupational, indirect occupational exposure, or intermittent or brief exposures

Recent data indicate the occurrence of asbestos cancer from exposure to low levels of asbestos, as in environmental circumstances, or from brief or intermittent exposures to higher levels.

In inhalation exposure experiments, rats exposed to asbestos dust were reported to have developed tumors, including mesotheliomas, from as little as a single 7 hours exposure (48).

Analysis of the history of asbestos exposure among individuals in a large series of cases of mesothelioma in Great Britain and South Africa have provided evidence that brief or intermittent exposure to asbestos may, after the passage of decades, result in mesothelioma (Greenberg and Davies, 1974 (16); Webster, 1973, (49)). In such circumstances, it appears that the lifetime exposure was less than 100 fibers-years/ml. The same discrepancy between present projected exposures and the risks of asbestos cancer exists when considering cases of mesothelioma resulting from household contact with asbestos among members of families or asbestos workers (Lillington, 1974 (25)), or among residents living in the vicinity of asbestos plants. Of considerable industrial importance has been the recent description of asbestos disease among shipbuilding and ship repair workers, few of whom actually work with asbestos, but many of whom were, in the past, inadvertently exposed to the asbestos dust resulting from the use of asbestos products by a relatively few of their workmates. In 1968, Harries of







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the Royal Navy (19) reported cases of mesothelioma among shipyard workers at the Royal Navy dockyard in Devenport, in trades which did not directly involves worker exposure to asbestos, but in which there had been occasional opportunity for exposure merely by virtue of working in the same areas. This original finding has been widely confirmed and numerous cases of mesothelioma have since been reported in former shipyard workers (Whitewell and Rawcliffe, 1970 (50)); McEwan et al, 1970 (27)); Stumphius, 1971 (46); Greenberg and Davies, 1974, (16). Studies of populations of current shipyard workers have shown much radiological evidence of asbestos abnormalities among workers in trades only indirectly exposed to asbestos in the yards (Sheers and Templeton, 1968 (44); Fletcher, 1972, (15)).

Further, evidence has indicated that asbestos also acts as a lung carcinogen at levels much below those which will produce asbestosis. Two surveys of shipyard workers who had X-ray evidence of pleural plaques, but generally not of pulmonary fibrosis, showed a 2.5-fold excess risk of death from lung cancer and high risk of mesothelioma. (Fletcher, 1972 (15); Edge, 1975 (8)). In a study of the mortality experience of a large U.S. asbestos products manufacturing facility, it was found that workers in low dust areas, with a minimum risk of death from asbestosis, had the same high risk of death from various cancers as workers in dustier areas (Nicholson, 1975, (35)).

It is extremely difficult, if not impossible, to document brief exposures reported to have occurred 20 or more years before the onset of symptoms. To determine the type and extent of non-occupational exposure, the investigator must generally rely on relatives or persons other than the exposed patient for exposure history.

(Much of the foregoing information on asbestos-related diseases was prepared by the Occupational Safety and Health Administration (OSHA) and published at 40 FR 47651, October 9, 1975, "Occupational Exposure to Asbestos" has been helpful in preparing this proposal (6)).

CONSUMER EXPOSURE

Reports of the hazard, or potential for hazard, from exposure to asbestos resulting from use of asbestos-containing consumer products are very limited. The only known quantitative study of asbestos levels in products regulated by this Commission was reported by Rohl, et al (1975 (36)), of asbestos fiber concentrations measured during the use of consumer spackling patching and taping compounds. This study indicated that airborne fiber concentrations, exceeding the interim OSHA allowable excursion exposure level, were detected during application and cleanup operations. Fibers were detected in adjacent rooms during mixing operations and it was reported that * * * significant concentrations of asbestos remained suspended and could pervade living quarters for a considerable duration of time * * * " The authors suggest that the use of spackling and other patching compounds (in mixing, and sanding and cleanup operations) may expose the user and other members of the household to " * * * significant concentrations of asbestos".

Asbestos in the household presents a great risk due to the presence in the household of persons, such as children, who may be particularly vulnerable to carcinogens. It is generally observed that, because of the long latency period, exposure to inhalable asbestos in the some can be life-shortening for children. In this connection, Dr. Paul Kotin of the Johns-Manville Company, stated to an OSHA Advisory Committee that in his laboratory experience, cancer can be most readily induced in the young (14). This point was further clarified at a briefing before the Commission on June 9, 1977 during which Dr. Kotin stated his belief that the young are doubly vulnerable to carcinogens—first, because of a long lifetime ahead and secondly because young children grow at a more rapid rate than adolescents. Thus, he explained, "A rapidly dividing cell, a cell which has a turnover time shorter when compared to another cell, is perhaps more likely to be subject to the action of a carcinogen."

The Commission concludes that exposure to asbestos from either patching compounds or artificial emberizing materials presents an unreasonable risk of injury sufficient that either product standing alone should be banned. The Commission also notes that consumers are exposed to asbestos from sources other than the products proposed for banning. The asbestos fibers are present in the general environment has been demonstrated by studies such as those by Huff (21), Selikoff, and Harwood (38). Consumers who are exposed to asbestos fibers from artificial embers and ash and patching compounds thus receive additional doses of asbestos and can be presumed to face a greater risk than members of the population who are not so exposed, and a greater cumulative risk than if no asbestos were present in the general environment.

A bibliography of additional scientific and medical literature reviewed by the Commission is noted below and an annotated bibliography is available for review in the Office of the Secretary.

"THRESHOLD" LIMIT

Because of the variability of individual response to carcinogens and other factors, the concept of a "no effect" or "threshold level" of exposure may have little real significance on the basis of existing knowledge. While some level, below which exposure to a carcinogen does not cause cancer, may conceivably exist for any one individual, other individuals may have cancer induced by doses so low as to be effectively zero (35).

In the Proceedings of the Nineteenth Meeting of the Interagency Collaborative Group on Environmental Carcinogenesis devoted to Threshold Evaluated held at the National Institute on August 14, 1975 (23), Dr. H. F. Kraybill, Chairman, states that:

> Investigators in the field of carcinogenesis have doubted the existence of a threshold for a carcinogen or at least have maintained that there are no acceptable procedures for assessment of a safe-dose for a carcinogen (i.e. threshold). Thus, it has been concluded that it is not feasible to prove or disprove the presence or absence of a threshold-dose through downward extrapolation from the dose-response curve in regions of detectably significant dosage. The conservatism in this direction is prompted by certain realizations as to the self-replicating nature of the cancer cell, the possible existence of irreversible effects, the aspects of lasting alteration induced by a tumor-producing event, the perpetuation of the neoplastic lesion after the original inducer has disappeared from the milieu, and finally, the possibility of cancer induction from a mutation in a somatic cell.

These theoretical concepts have a bearing on the asbestos issue, particularly as the question of the existence, or nonexistence, of a threshold level of carcinogenic effect. A "no effect" level theoretically may exist, but it has not been demonstrated. Therefore, there is no known threshold level below which exposure to respirable free-form asbestos would be considered safe.

OTHER FEDERAL AGENCY ACTIONS TO REGULATE EXPOSURE TO ASBESTOS

The Occupational Safety and Health Administration of the Department of Labor (OSHA), the Food and Drug Administration (FDA) and the Environmental Protection Agency (EPA) each has a responsibility to regulate exposure to asbestos.

OSHA regulates exposure to asbestos by workers in all industrial and commercial settings except agriculture. The regulation (29 CFR 1910.1001) states that the 8-hour time-weighted average airborne concentrations of asbestos fibers to which any employee may be exposed shall not exceed two fibers, longer than 5 micrometers, per cubic centimeter of air. In 1975, OSHA proposed an amendment to lower exposure to .5 fibers per cubic centimeter of breathing air. An OSHA proposal to regulate exposure by workers in the building construction industries is expected to be ready for publication within the next few months.

FDA has banned the use of asbestos in filters used in the formulation of parenteral drugs (21 CFR 211.40(j)) and, prior to the establishment of the Consumer Product Safety Commission, banned the use of asbestos in fabric used for general wearing apparel. (16 CFR 1500.17(a)(7)).

EPA regulates asbestos which is released into the air and into the water. These regulations (40 CFR 61, 427, 436) do not set standards for allowable amounts of asbestos in the breathing air but rather minimize or eliminate emissions from industrial locations. These regulations specifically prohibit the presence of asbestos in emissions from plants manufacturing materials for use in building roadways and in manufacturing items such as cloth, textiles, cement, fireproofing and friction products, paper, felt, floor materials, paints, adhesives, sealants, caulks, and a variety of other items.





ASBESTOS REGULATIONS AFFECTING CONSUMER PRODUCTS IN OTHER COUNTRIES

In June, 1976, Canada banned the sale and importation of asbestos-containing products for use by children. In April, 1976, England introduced a voluntary labeling scheme for products containing asbestos.

In Sweden, the use of asbestos-cement products for new work was prohibited as of July, 1976, and for maintenance in existing structures will be discontinued by the end of 1977. Manufacturing of these products is not prohibited. According to the Swedish Standard for Occupational Exposure:

"The TLV of 2f/ml was lowered to 1f/ml as of January, 1977, and is scheduled to be further reduced to 0.5 f/ml by 1 January, 1978." (June 27, 1977, Asbestos Information Association (2).)

PART B. PATCHING COMPOUNDS

Asbestos fibers are used in patching compounds to reinforce a material as it cures, to control shrinkage and cracking, and to reinforce the material as the compound is alternately exposed to heat, cold and moisture after curing. Asbestos also provides a measure of sound and heat insulation to the material, and enhances the workability of the compound, particularly during troweling. The properties considered by industry to be most valuable in the preparation of patching compounds are: asbestos is not affected by fungus, mildew, vapor, etc. and it has low density; good adsorption qualities; high resistance to electricity, fire and alkaline substances; low magnetic permeability; and it is not a smooth fiber.

Patching compounds are mixtures of talcs, pigments, clays, casein, ground marble, mica or other similar materials with water and a binding material such as asbestos. Patching compounds are available in dry form (to be mixed with water by the user) or a ready-mix paste form. The product is used to cover, seal or mask cracks, joints, holes and similar openings in the trim, walls, and ceilings, etc. of building interiors.

In patching compounds, asbestos is released when using the dry form and mixing it with water, or by sanding or scraping the dried patching compound in the process of finishing and smoothing the surface as in remodeling and in cleanup operations. Such activities may present a hazard to consumers when the activity is performed either by a consumer or a professional user of these products.

Patching compounds covered by this ban are those that are customarily produced or distributed for sale to or for the personal use, consumption or enjoyment of consumers in or around a permanent or temporary household or residence, a school, in recreation or otherwise. Patching compounds that are labeled as, marketed, and sold solely for industrial use would not be within the scope of this ban. Information available to the Commission indicates that most patching compounds for industrial use are distributed in such ways that consumers have access to these products. Moreover, merely labeling a patching compound for industrial or professional use only, would not exclude such articles from the ban. If the manufacturer, distributor or retailer fosters or facilitates the product's sale to or use by consumers, the product would be considered a consumer product within the scope of this ban.

Recent court cases have examined the statutory definition of consumer product and indicate that the presence of a product in a consumer environment would be considered a primary determinant of whether that product is a consumer product under the CPSA.[1] In considering the statutory definition and its legislative history in light of these cases, it appears to the Commission that substantially all patching compounds are consumer products under the CPSA.

EVALUATION OF THE RISK

In assessing the degree and nature of the risk of injury to consumers, the Commission has reviewed experimental data and human experience information. In addition, on the basis of data by Rohl, et al. (36), the Commission's Health Sciences staff has calculated an assessment of the risk of consumer exposure which is available at the Office of the Secretary. The calculations are based on the application of a theoretical model (modification of that by Enterline and Henderson, 1976, (11), to epidemiological data cited in the literature. (Skelikoff, Hammond and Seidman, 1973, (41). For purposes of this assessment, the Commission considered the use of patching compounds by a consumer, for six hours a day four times a year, to be a high yet reasonably foreseeable yearly exposure. The increased risk of death from respiratory cancer induced by this yearly eposure is estimated at between 10 and 2,000 per million. For five years of exposure at these levels, the risk increases geometrically and is estimated at between 1,000 and 12,000 per million. Based on current information, the Commission estimates that the lower estimate of 10 per million is closer to the actual risk for a one year exposure. Nevertheless, in view of the seriousness of the injury and the cumulative effects of asbestos exposure, even this minimum figure represents an unacceptable risk. The Commission believes that reducing exposure to respirable free-form asbestos in the home represents a substantial decrease in risk to consumers, since, for many people, the major exposure to inhalable asbestos is in the home.

INDUSTRY RESOURCE CONSIDERATIONS

ASSESSMENT OF SUBSTITUTES

The elimination of asbestos from patching compounds would necessitate the use or development of substitutes which are similar to asbestos, or which impart similar qualities to the product. Several substitutes for asbestos in patching compounds are in current use. The primary economic concerns focus on the effect of substitutions on the utility derived from the product (mainly in terms of performance characteristics) and on the prices of patching compounds.

Asbestos possesses a unique combination of strength, pliability, and heat-cold-, and moisture-resistant qualities; substitutes which have been tested in these product categories often do not last as long, are less workable, and may take a long time to perfect (asbestos-free spackling compounds were at least five years in development). Some products not readily reformulable may be dropped from the market. Availability of substitutes may also be limited temporarily on a regional basis, depending on the paint and building materials industries' ability to reformulate asbestos-containing products. Many producers are, however, either presently marketing asbestos-free materials or expect to in the near future.

Substitution may also lead to higher costs of production and prices for some of these products. The total cost to most patching compound manufacturers of chemically reformulating products is not expected to be large relative to sales; it is, however, expected that some cost increases will occur which will likely be passed on in the form of higher prices (this may be 10 to 15 percent). (Preliminary Economic draft study—subsection on Spackling/Joint Compounds, OSHA, (7).)

Inventories of existing products in distribution channels may vary over a wide range. Similarly, inventory turnover cycles at various points in distribution may vary considerably.

These conditions may be further affected by OSHA's course of action on asbestos. Should a commercial-industrial fiber limit standard be imposed, the industry would probably eliminate asbestos from paints and other building materials as well as from patching compounds.

ENVIRONMENTAL ISSUES

The Commission has studied the environmental effects of this proposal as required by the National Environmental Policy Act. An environmental assessment is on file at the Office of the Secretary of the Commission and indicates, by negative declaration, that no significant effects on the environment are foreseen by the proposals issued below.

Asbestos is an ubiquitous mineral fiber that has been used for many years in the U.S. in occupational settings and in building construction. This has led to low-level, but widespread exposure of the public. Asbestos is found in the air, water, and land (in minute concentrations relative to those found in or near asbestos mines or processing facilities).

The elimination of asbestos from patching compounds available to or used or enjoyed by consumers will significantly reduce household fiber release from mixing, sanding, and clean-up. It will not, however, significantly reduce fiber

[1] *United States of America* v. *The Anaconda Co.*, et al., Misc. No. 77-0024 (D.D.C.), June 15, 1977. *Kaiser Aluminum & Chemical Corp.* v. *CPSC*, Civ. No. 76-44 (D.Dela.) March 11, 1977.



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release or fiber in the general environment from all sources.

Proper disposal of present inventories is also expected to pose no significant problems since it would account for a minor portion of all asbestos disposal.

The potential environmental (i.e., health) effects of the use of substitutes is, however, an issue which merits further study by the Commission and other agencies. No conclusions about the safety of the known substitutes have yet been made. Although the Commission has no evidence that the known substitutes are hazardous, there appears to be some concern in the industry on this point. Laboratory testing may be desirable to verify this point.

The Commission requests comment on other environmental issues as well as those raised here.

EFFECTIVE DATE

The Commission has assessed the possible effects on the relevant industries of banning consumer patching compounds. Staff research indicates that asbestos-free products can probably be in distribution in about six months. The Commission also considered the possible increased hazard to consumers that might result from banning the distribution of patching compounds 30, 180, and 360 days after publication of a final banning rule. The possible increased hazard to consumers that could arise during these different time periods was considered in the context of the assessment that asbestos from patching compounds poses a significant household fiber exposure risk to consumers using or enjoying patching compounds in their homes, although it may not pose a significant environmental fiber exposure hazard. On this basis, the Commission proposes that the manufacture, sale, offering for sale, importation and distribution in commerce of consumer patching compounds be prohibited 30 days after publication by the Commission of a final banning rule. This prohibition would apply to products in inventory as well as to those manufactured after the effective date of the final regulation.

PART C. ARTIFICIAL EMBERIZING MATERIALS (ASH AND EMBERS) CONTAINING RESPIRABLE FREE FORM ASBESTOS

Artificial emberizing materials for fireplaces are generally packaged in "emberizing" kits. The emberizing material is placed under artificial logs in gas-burning fireplace systems or in artificial fireplaces for decorative purposes. The product is also glued to artificial logs, either at a factory, or by a consumer using an emberizing kit. When subjected to high temperatures, the asbestos in this product produces a glow like real embers and ash. Asbestos fibers are released when the emberizing material containing asbestos is sprinkled on the fireplace floor, when glue used by the consumer to attach the material to an artificial log melts at high temperatures, and when ordinary household air currents and downdrafts cause the asbestos in the simulated embers and ash to become airborne. (Not included in this ban are synthetic logs, generally manufactured of cellulosic products and wax, which actually are ignited and consumed by the flames.)

EVALUATION OF THE RISK

Measurements are not available of the amounts of asbestos in the air from asbestos-containing emberizing materials in homes. However, it appears that the amount of airborne asbestos in such homes would increase when air currents in the home are created by downdrafts from a fireplace chimney or other activities that stir air in any room. Since emberizing materials may contain up to 50 percent asbestos, which if not permanently bound into artificial fireplace logs would be in respirable form, the risk associated with emberizing materials is considerable since it continues to exist 24 hours a day.

INDUSTRY RESOURCE CONSIDERATIONS

ASSESSMENT OF SUBSTITUTES

The elimination of asbestos from emberizing material may result in the use of substitutes which are similar to asbestos, or which impart similar qualities to the product. Virtually all of the manufacturers have developed asbestos-free emberizing material as of June, 1977. There are at least three substitutes for asbestos currently being used in artificial emberizing material: fibrous glass, vermiculite and a synthetic fiber with asbestos-like heat-resistant qualities.

It appears that the synthetic-fiber mixture is substantially more costly than the other mixtures, including those containing asbestos. The other two substitute mixtures may be somewhat more costly to produce, depending on local raw material availability, prevailing local prices, etc. The vermiculite-only embers may not be as effective in creating the desired "glowing" look; more of the material may be required to achieve the same degree of effect provided by the asbestos-containing mixture. It is doubtful that the price of emberizing kits will be significantly affected unless a large shift to the use of synthetic-fiber-containing-material occurs.

ENVIRONMENTAL ISSUES

The Commission has assessed the environmental effects of this proposal as required by the National Environmental Policy Act. Its assessment is on file at the Office of the Secretary of the Commission and indicates, by negative declaration, that no significant effects on the environment are foreseen by the proposals issued below.

As noted in Part B, asbestos is a ubiquitous mineral fiber that has been used for many years in the U.S. in occupational settings and in building construction. This has led to low-level, but widespread, exposure of the public. Asbestos is found in the air, water, and land (in minute concentrations relative to those found in or near asbestos mines or processing facilities). The elimination of asbestos from emberizing kits is not expected to reduce free fiber emissions significantly, either nationally or regionally (most of the manufacturers are located in California). A significant portion of household fiber release is accounted for by this product, however, in homes so equipped. The Commission will issue guidelines to minimize consumer exposure to floating fibers during a cleanup and disposal of embers. Significant effects are not expected from the ban itself other than increased safety in individual homes.

The potential environmental (i.e., health) effects of the use of substitutes is, however, an issue which merits further study by the Commission and other agencies. There is little information concerning the safety of the ember material substitutes. Further study is currently under way to collect information about these substitutes and to assess the potential health effects of their use. (Fibrous glass and the synthetic fiber are similar in shape and size to chrysotile, for example).

The Commission requests comment on other environmental issues as well as those raised here.

EFFECTIVE DATE

The Commission has assessed the possible effects on the relevant industries of banning artificial fireplace embers containing free asbestos. It appears that many manufacturers have ceased shipment of asbestos-containing merchandise. The Commission has also considered the possible increased hazard that might result from banning the distribution of this product, 30, 180, and 360 days after publication of a final banning rule. The continuing availability of respirable free-form asbestos to consumers, during these differing time periods and the necessity for developing and transmitting to the public information on environmentally safe means of removing the product from consumers' homes was also reviewed. Based on these considerations, the Commission proposes that the manufacture, sale, offering for sale, importation and distribution in commerce of artificial fireplace emberizing material (embers and ash) containing respirable free-form asbestos be prohibited on the day of publication by the Commission of a final banning rule. This prohibition would apply to products in inventory as well as to those manufactured after the effective date of the final regulation.

PART D. UNREASONABLE RISK OF INJURY AND FEASIBILITY OF STANDARDS

The Commission finds that these products are being and will be distributed in commerce. The Commission has considered all the information currently available to it on the risks of injury concerning respirable free-form asbestos in the products discussed above including the frequency and severity of injuries and the nature of the risks associated with these products. The Commission preliminarily determines that the presence of respirable free-form asbestos in consumer patching compounds and in artificial emberizing materials (embers and ash) for fireplaces presents an unreasonable risk of injury to the public from lung cancer and mesothelioma and that no feasible standard under the CPSA can adequately protect the public from such risk.

The Commission stated in a recently issued consumer product safety rule banning unstable refuse bins (42 FR 30296, June 13, 1977), in discussing the lack of feasibility of a standard, that, "The Commission is not required to look at the entire class of products of which a particular hazardous product is a member. Thus, when the Commission can identify the particular products that present the unreasonable risk of injury by specifying their characteristics in certain performance or design terms, the Commission can ban these articles." With respect to the products now under consideration, the characteristic identified is the presence of respirable free-form asbestos.

The Commission believes that not all patching compounds present an unreasonable risk of injury to the public, only patching compounds containing respirable free-form asbestos. The hazard associated with this product is the free form in which the asbestos appears. While a safe patching compound can be manufactured, it is not possible to manufacture a safe patching compound containing respirable free-form asbestos because a safe level of exposure to free-form asbestos in unknown. Therefore, it does not appear that a standard for patching compounds containing respirable free-form asbestos is feasible at this time.

The product, artificial emberizing materials for fireplaces, containing respirable free-form asbestos, is used only in dry form. Thus, individual asbestos fibers are never bound together. If the asbestos fibers were coated by another material to bind the fibers, it would no longer be the same product. In considering the dry character of the product and the fact that a safe level of exposure to respirable free-form asbestos is not known, it does not appear that a standard for artificial emberizing materials containing respirable free-form asbestos is feasible at this time.

The Commission believes that no standard can render the defined products non-hazardous and concludes that only banning these products can adequately protect the public from unreasonable risks of injury associated with them.

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CONCLUSION AND PROPOSAL

Based on the foregoing information, the Commission proposes to declare that consumer patchnig compounds containing respirable, free-form asbestos and consumer patching compounds containing respirable free-form asbestos are banned hazardous products.

Accordingly, puursuant to provisions of the CPSA (sections 8, 9, 30(d), 86 Stat. 1215–17, 1231, as amended, 90 Stat. 506, 510; 15 U.S.C. 2057, 2058, 2079(d)), the Commission proposes that Title 16, Chapter II, be amended by adding to Subchapter B the following new Parts 1304 and 1305.

## PART 1304—BAN OF CONSUMER PATCHING COMPOUNDS CONTAINING RESPIRABLE FREE-FORM ASBESTOS

Sec.

1304.1 Scope and application.
1304.2 Purpose.
1304.3 Definitions.
1304.4 Consumer patching compounds as banned hazard products.
1304.5 Effective date.

AUTHORITY: Secs. 8, 9, 30(d), Pub. L. 89–573, as amended, Pub. L. 94–284, 86 Stat. 1215–17, 1231 as amended 90 Stat. 506, 510 (15 U.S.C. 2057, 2058, 2079(d)).

### § 1304.1 Scope and application.

(a) In this Part 1304 the Consumer Product Safety Commission declares that consumer patching compounds containing respirable free-form asbestos and designed for use in such a manner that the asbestos fibers can become airborne under reasonably foreseeable conditions of use are banned hazardous products under sections 8 and 9 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2057 and 2058). This ban applies to patching compounds which are (1) used to cover, seal or mask cracks, joints, holes and similar openings in the trim, walls, ceilings, etc. of building interiors, which after drying are sanded to a smooth finish and (2) are produced and distributed for sale to or for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation or otherwise.

(b) The Commission has found that (1) these patching compounds are being or will be distributed in commerce; (2) that they present an unreasonable risk of injury; and (3) that no feasible consumer product safety standard under the CPSA would adequately protect the public from the unreasonable risk of injury associated with these products. The ban applies to patching compounds described in this Part which are in commerce or being distributed in commerce on or after the effective date of the ban.

### § 1304.2 Purpose.

The purpose of this rule is to ban consumer patching compounds containing respirable, free-form asbestos. These products present an unreasonable risk of injury due to inhalation of fibers which increase the risk of developing lung cancer and mesothelioma, diseases which have been demonstrated to be caused by exposure to asbestos fibers.

### § 1304.3 Definitions.

(a) The definitions in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052) apply to this Part 1304.

(b) "Asbestos" means a group of mineral fibers composed of silica, oxygen, hydrogen and other elements such as sodium, iron, magnesium and calcium in diverse combinations and includes the following minerals; amosite, chrysotile, crocidolite, anthrophyllite asbestos, actinolite asbestos, and tremolite asbestos.

(c) "Free-form asbestos" is that which is not bound, woven, or otherwise "locked-in" to a product by resins or other bonding agents, or those from which fibers can readily become airborne with any reasonably foreseeable use.

(d) "Patching compounds" are mixtures of talc, pigments, clays, casein, ground marble, mica or other similar materials and a binding material such as asbestos which are sold in a dry form ready to be mixed with water, or such combinations in ready-mix paste form.

(e) "Consumer patching compounds" are those that are customarily produced or distributed for sale to or for the personal use, consumption or enjoyment of consumers in or around a permanent or temporary household or residence, a school, in recreation or otherwise. The Commission considers that patching compounds for application in these consumer environments are either distributed for sale to consumers or are for the personal use or enjoyment of consumers.

### § 1304.4 Consumer patching compounds as banned hazardous products.

On the basis that airborne asbestos fibers present the hazards of lung cancer and mesothelioma to the public, consumer patching compounds containing respirable free-form asbestos are banned hazardous products.

### § 1304.5 Effective date.

Thirty days after publication of final rule.

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## PART 1305—BAN OF ARTIFICIAL EMBERIZING MATERIALS (ASH AND EMBERS) CONTAINING RESPIRABLE FREE-FORM ASBESTOS

Sec.

1305.1 Scope and application.
1305.2 Purpose.
1305.3 Definitions.
1305.4 Artificial fireplace ash and embers as banned hazardous products.
1305.5 Effective date.

AUTHORITY: Secs. 8, 9, 30(d), Pub. L. 89–573, as amended, Pub. L. 94–284; 86 Stat. 1215–17, 1231 as amended, 90 Stat. 506, 510 (15 U.S.C. 2057, 2058, 2079(d)).

### § 1305.1 Scope and application.

In this Part 1305 the Consumer Product Safety Commission declares that artificial emberizing materials (ash and embers) containing respirable free-form asbestos generally packaged in an emberizing kit for use in fireplaces, and designed for use in such a manner the asbestos fibers can become airborne under reasonably foreseeable conditions of use are banned hazardous products under sections 8 and 9 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2057 and 2058). This ban applies to artificial emberizing materials available in separate kits or with artificial fireplace logs for use in fireplaces and sprinkled or coated by consumers on the artificial logs to simulate live embers and ashes and give a glowing appearance when subjected to high temperatures. Bags of material containing asbestos and sold separately to be sprinkled on and under artificial logs to simulate burning and glowing ashes also come within the scope of this ban.

### § 1305.2 Purpose.

The purpose of this rule is to ban artificial emberizing materials containing respirable free-form asbestos. These products present an unreasonable risk of injury due to inhalation of fibers which increase the risk of developing lung cancer and mesothelioma, diseases which have been demonstrated to be caused by exposure to asbestos fibers.

### § 1305.3 Definitions.

(a) The definitions in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052) apply to this Part 1305.

(b) "Asbestos" means a group of mineral fibers composed of silica, oxygen, hydrogen and other elements such as sodium, iron, magnesium and calcium in diverse combinations and includes the following minerals: amosite, chrysotile, crocidolite, anthophyllite asbestos, actinolite asbestos, and tremolite asbestos.

(c) "Free-form asbestos" is that which is not bound, woven, or otherwise "locked-in" to a product by resins or other bonding agents, or those from which fibers can readily become airborne with any reasonably foreseeable use.

(d) "Emberizing materials" means an asbestos-containing material generally packed in an "emberizing" kit to be placed under artificial logs in gas-burning fireplace systems or in artificial fireplaces for decorative purposes. The product is also glued to artificial logs, either at a factory or by a consumer using an emberizing kit. (Synthetic logs manufactured of cellulosic products which are consumed by flames are not included in this definition.)

### § 1305.4 Artificial fireplace ash and embers as banned hazardous products.

On the basis that airborne asbestos fibers present the hazards of lung cancer and mesothelioma to the public, artificial fireplace ash and embers containing respirable free-form asbestos are banned hazardous products.

### § 1305.5 Effective date.

Date of publication of final rule.

Regarding proposed Parts 1304 and 1305 interested persons are invited to





submit written comments before the close of business August 29, 1977. Comments may be accompanied by written data, views, and arguments and should be submitted preferably in five copies, addressed to Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Received comments and other related material may be seen in the Office of the Secretary, Third Floor, 1111 18th Street NW., Washington, D.C. during working hours Monday through Friday.

*Oral presentations.* Interested persons will be afforded an opportunity to make an oral presentation of data, views, or arguments in addition to the opportunity to make written comments, on any aspect of the proposed ban on August 15, 1977. The proceedings for the oral presentation will be held at 10 a.m. at the Commission's hearing room at 1111 18th Street NW., Washington, D.C. The procedural regulations for oral presentation, 16 CFR Part 1109, promulgated October 14, 1975 (40 FR 49122), shall govern this proceeding.

All persons wishing to make an oral presentation should notify Richard Danca of the Office of the Secretary, 202–634–7700, no later than close of business August 8, 1977 for scheduling purpose. A summary or outline of each oral presentation and an estimate of the length of time it will require should be filed with the Office of the Secretary at least two business days prior to the oral presentation.

Section 9(c) of the CPSA (15 U.S.C. 2058(c)) requires the Commission, prior to promulgating a consumer product safety rule, to consider and make certain findings for inclusion in that rule. In order to aid the Commission in this endeavor, the Commission is particularly interested in soliciting either by written comment or through the oral presentation, additional data, views, and arguments as to the following:

1. The degree and nature of the risk of injury the rule is designed to eliminate or reduce;

2. The approximate number of consumer products, or types of classes thereof, subject to the rule;

3. The need of the public for consumer products subject to such rule and the probable effect of such rule upon the utility, cost, or availability of such products to meet that need;

4. Any means of achieving the objective of the rule while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety;

5. The necessity of the rule to eliminate or reduce the unreasonable risk of injury associated with the consumer products subject to the rule;

6. Whether the rule is in the public interest;

7. The feasibility of a consumer product safety standard under the CPSA to protect the public adequately from the unreasonable risk of injury associated with the products which are the subject of this proposed ban;

8. The potential environmental effects of the rule; and

9. Any adverse effects that this proposed ban will have on elderly and handicapped persons.

Dated: July 26, 1977.

SHELDON D. BUTTS,
*Assistant Secretary, Consumer Product Safety Commission.*

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FRIDAY, JULY 29, 1977

PART VI




# DEPARTMENT OF LABOR

## Pension and Welfare Benefit Programs

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# COLLECTIVELY BARGAINED MULTIPLE EMPLOYER APPRENTICESHIP AND TRAINING PLANS

## Notice of Pendency of Proposed Class Exemption

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## DEPARTMENT OF LABOR

### Pension and Welfare Benefit Programs

[L-548, L-582]

### COLLECTIVELY BARGAINED MULTIPLE EMPLOYER APPRENTICESHIP AND TRAINING PLANS

### Proposed Class Exemption

AGENCY: Department of Labor.

ACTION: Proposed Class Exemption.

SUMMARY: This proposed class exemption would exempt from the prohibited transaction provisions of section 406(a)(1)(A) through (D) of the Employee Retirement Income Security Act of 1974 (the Act) certain transactions between collectively bargained multiple employer apprenticeship plans and employers making contributions to these plans if certain conditions are met. The exemption affects all employers contributing to apprenticeship plans, all employees of such contributing employers, all unions who are signatories to collective bargaining agreements which govern such plans, and all persons enrolled in such plans.

DATES: Proposed effective date: January 1, 1975. Comments must be received on or before September 16, 1977.

ADDRESSES: All written comments (at least six copies) should be addressed to Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application L-548. The applications for exemption referred to herein and all comments relating thereto will be available for public inspection at the Public Documents Room of Pension and Welfare Benefit Programs, Room N-4677, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Forrest Foss, Room C-4508, Plan Benefits Security Division, Office of the Solicitor, Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-6856). (Not a toll free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of Labor (the Department) of an application for a class exemption from the restrictions of sections 406(a)(1)(A) through (D) of the Employee Retirement Income Security Act of 1974 (the Act). The proposed class exemption would exempt from the prohibited transaction provisions of section 406(a)(1)(A) through (D) of the Act: (1) The purchase of personal property by a collectively bargained multiple employer employee welfare benefit plan maintained for the purpose of providing apprenticeship or other training programs (hereinafter referred to as an apprenticeship plan) from an employer who contributes to such plan (hereinafter referred to as a contributing employer) or a wholly-owned subsidiary of such an employer; and (2) the leasing of real property (excluding office space) or personal property by an apprenticeship plan from a contributing employer or a wholly-owned subsidiary of such an employer.

The International Union of Operating Engineers (IUOE), on behalf of 45 local affiliated apprenticeship and/or training plans, and the Laborers' Training and Retraining Trust Fund for Northern California have filed applications for class exemptions based upon representations which are summarized below.[1] In addition, several applications which are pending for individual exemptions contain common representations with regard to the transactions described in the proposed class exemption. If the proposed class exemption is granted, all transactions referred to in individual and class exemption applications which are similar to transactions described in the proposed class exemption will be exempt from the prohibitions of sections 406(a)(1)(A) through (D) of the Act if they satisfy the terms and conditions of the proposed class exemption.[2] Interested persons are referred to the applications for class exemption on file with the Department for the complete representations of the applicants. The applications were filed pursuant to section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

#### DISCUSSION

The applicants represent that apprenticeship and training programs maintained by apprenticeship and other training plans are an essential element in providing trained workers in the industries in which they operate. The proper functioning of these plans requires that, from time-to-time, they purchase goods and lease equipment or other property for use in the training programs which they maintain. It has been customary for these plans, which are jointly sponsored by unions and employers, to obtain such goods and rentals from employers who are contributors to the plans. All such employers are signatories to collective bargaining agreements with the sponsoring unions.

An employer who makes contributions to a plan is a party in interest with respect to such plan by reason of section 3(14) of the Act. As a result, the sale or lease of property between a plan and such an employer is a prohibited transaction under section 406(a) of the Act. Accordingly, without the relief which would be provided by this proposed class exemption, many apprenticeship plans would be forced to obtain the necessary goods and rentals from non-contributing, non-union employers to the exclusion of union employers, thereby requiring apprenticeship plans which were created as a result of collective bargaining to discriminate against union employers. Such a result would be completely contrary to the philosophy of collectively bargained apprenticeship plans.

The proposed class exemption is available only for multiple employer apprenticeship plans. For purposes of this exemption, a multiple employer welfare benefit plan is a welfare plan which is a multiemployer plan within the meaning of section 3(37) of the Act or a welfare plan which meets the requirements of at least subsections 3(37)(A) (i), (ii) and (v) of the Act.

The proposed class exemption is limited to transactions between apprenticeship plans and contributing employers (or wholly-owned subsidiaries of such employers) where neither such persons nor their affiliates are fiduciaries of the plan at the time of the transaction and have not been fiduciaries of the plan for a period extending through two years prior to such transaction. By its exclusion of certain parties in interest in this manner, the exemption is limited to situations in which there is less of a possibility that the party in interest can influence the plan's actions to the plan's detriment. Finally, the proposed class exemption would require that the exempted transaction be at least as favorable to the plan as an arm's-length transaction with an unrelated party would be and that the transaction be appropriate and helpful in carrying out the purposes for which the plan is established or maintained.[3]

[1] Several applications for individual exemptions granted by the Department relate to transactions of the type described in this proposed exemption. The Department has granted exemptions for transactions between apprenticeship plans and contributing employers with respect to the use by a plan, as a training and storage site, of a portion of real property owned by a contributing employer (Dicco, Inc., 41 FR 26291, June 25, 1976), the purchase by a plan of heavy machinery from a contributing employer (R.E. Coulter Gradall Rental, Inc., 41 FR 29502, July 16, 1976) and the lease by a plan of equipment on a short term basis from a contributing employer (Teamsters-Rock Products and Ready Mixed Concrete Industries Training and Upgrading Fund, 42 FR 23217, May 6, 1977).

[2] Under the provisions of section 3.04 of ERISA Proc. 75-1, an application for individual exemption will not ordinarily be considered separately if a class exemption which would encompass the transaction described in the application for an individual exemption is under consideration by the Department. Accordingly, the Department is notifying directly each applicant for an individual exemption of the fact that such applicant's application is not being considered separately from this class exemption and that, following the disposition of this proposed class exemption, such application would ordinarily be closed and, therefore, such applicant's comments with respect to this class exemption are sought by the Department.

[3] The purchasing of goods and the leasing of equipment or other property frequently is accomplished after the solicitation of competitive bids based upon specifications published by the plan. The Department considered imposing such a competitive bidding procedure as an additional condition for exemption. However, because objective standards for the imposition of such a requirement would be difficult to draft and administer on a class basis, because competitive bidding would not be appropriate for all plans in all situations and, more importantly, because a fiduciary with respect to a plan must discharge his duties with respect to such plan solely in the interest of its participants and beneficiaries and in a prudent manner pursuant to section 404(a)(1) of the Act, this requirement was not considered necessary or appropriate in this context. Rather, the proposal permits plan administrators to determine, consistent with their duties under the Act, when and how to solicit bids or otherwise effect the transactions covered by this class exemption.





In their applications, the class applicants requested an exemption from the prohibitions of section 406(a)(1)(A) through (D) of the Act for the provision of services and the lease of property between a contributing employer and an apprenticeship plan. The proposed exemption would not provide relief for the provision of services, including construction or repair services, to an apprenticeship plan by a contributing employer or the leasing of office space by an apprenticeship plan from a contributing employer because these transactions are already covered by the statutory exemption under section 408(b)(2) of the Act and the final regulations issued thereunder (29 CFR 408b-2, 42 FR 32389, June 24, 1977).[4] Under the exemption provided by section 408(b)(2), a party in interest (e.g., a contributing employer) may provide services (e.g. the construction of a training facility) or office space to a plan (including an apprenticeship plan) if certain conditions are met. Accordingly, the class applicants are referred to section 408(b)(2) and the regulations issued thereunder for relief for such transactions.

The proposed exemption, if granted, would be effective retroactively to January 1, 1975.

#### GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) The pending exemption, if granted, will not extend to transactions prohibited under section 406(a)(1)(E), 406(a)(2) or 406(b) of the Act.

(3) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interest of the plan or plans and of their participants and beneficiaries, and protective of the rights of participants and beneficiaries of such plan or plans.

(4) The pending exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

(5) If granted, the pending class exemption will be applicable to a particular transaction only if the transaction satisfies the conditions specified in the exemption.

(6) All interested persons are invited to submit written comments on this pending class exemption to the address and within the time period set forth above. All such comments will be made part of the record. The comments and the applications for exemption will be available for public inspection at the address set forth above.

#### PROPOSED EXEMPTION

Based on the applications referred to and summarized above, the Department has under consideration the granting of the following exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975): Effective January 1, 1975, the restrictions of section 406(a)(1)(A) through (D) of the Act do not apply to the transactions described in section I of this exemption, provided that the conditions set forth in section II of this exemption are met.

*Section I.—Transactions.* (a) The purchase of personal property by a multiple employer welfare benefit plan maintained for the purpose of providing apprenticeship or other training programs (hereinafter referred to as an apprenticeship plan) from an employer who makes contributions to such plan (hereinafter referred to as a contributing employer) or from a wholly-owned subsidiary of such an employer.

(b) The leasing of personal property by an apprenticeship plan from a contributing employer or from a wholly-owned subsidiary of such an employer.

(c) The leasing of real property (other than office space within the contemplation of section 408(b)(2) of the Act) by an apprenticeship plan from a contributing employer or from a wholly-owned subsidiary of such an employer.

*Section II.—Conditions.* (a) With respect to any transaction between a contributing employer or a wholly-owned subsidiary of such an employer and an apprenticeship plan referred to in section I above:

(1) Neither the contributing employer, the wholly-owned subsidiary of the employer nor any affiliate of such employer or subsidiary is a fiduciary with respect to the apprenticeship plan on the date of the transaction or has been a fiduciary respecting the apprenticeship plan at any time during the two years preceding the date of the transaction;

(2) The transaction is on terms at least as favorable to the plan as an arm's-length transaction with an unrelated party would be; and

(3) The transaction is appropriate and helpful in carrying out the purposes for which the plan is established or maintained.

(b) The apprenticeship plan which enters into any of the transactions described in section I above maintains or causes to be maintained for a period of six years from the termination of any such transaction such records as are necessary to enable the persons described in paragraph(c) of this section to determine whether the conditions of this exemption have been met, except that:

(1) This paragraph (b) and paragraph (c) below will not apply to transactions effected prior to (60 days subsequent to the date of grant of the exemption), and

(2) A prohibited transaction will not be deemed to have occurred, if due to circumstances beyond the control of the fiduciaries of such apprenticeship plan, such records are lost or destroyed prior to the end of the six year period.

(c) Notwithstanding anything to the contrary in subsections (a)(2) and (b) section 504 of the Act, the records referred to in paragraph (b) of this section are unconditionally available at their customary location for examination during normal business hours by (1) the Department of Labor, (2) employees on whose behalf contributions are made to the apprenticeship plan involved in the transaction, (3) a contributing employer to the plan, (4) the employee organization any of whose members have contributions made on their behalf to the apprenticeship plan involved in the transaction, and (5) any duly authorized employees or representatives of a person described in (1) through (4) of this paragraph.

*Section III.—Definitions.* For purposes of this exemption: (a) The term "multiple employer welfare benefit plan" means a welfare plan which is a multiemployer plan within the meaning of section 3(37) of the Act, or a welfare plan which meets the requirements of at least subsection 3(37)(A) (i), (ii) and (v) of the Act.

(b) The term "affiliate" of a person includes:

(1) Any person directly or indirectly controlling, controlled by, or under common control with such person;

(2) Any officer, director, partner, employee or relative of such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

[4] Under the exemption provided by section 408(b)(2), a party in interest (e.g., a contributing employer) may provide services (e.g. the construction of a training facility) or office space to a plan (including an apprenticeship plan) if certain conditions are met. Accordingly, the class applicants are referred to section 408(b)(2) and the regulations issued thereunder for relief for such transactions.

[5] As noted above, this proposed exemption would cover the lease of real and personal property, other than office space, by the apprenticeship plan from a contributing employer, because such property is not covered by the statutory exemption afforded by section 408(b)(2) and the regulations adopted thereunder.



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(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act or a brother, a sister or a spouse of a brother or a sister.

Signed at Washington, D.C., this 20th day of July, 1977.

IAN D. LANOFF,
*Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.*

[FR Doc.77-21591 Filed 7-22-77;3:00 pm]



federal register

FRIDAY, JULY 29, 1977
PART VII

# FEDERAL MARITIME COMMISSION

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## FINANCIAL RESPONSIBILITY FOR OIL POLLUTION, ALASKA PIPELINE

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Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[Docket 77-24; General Order 37]

## PART 543—FINANCIAL RESPONSIBILITY FOR OIL POLLUTION, ALASKA PIPELINE

AGENCY: Federal Maritime Commission.

ACTION: Final Rule.

SUMMARY: The Federal Maritime Commission hereby issues regulations which will enable vessel operators to comply with subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act. That subsection makes the owners and operators of vessels which carry oil which has been transported through the trans-Alaska pipeline, jointly, severally, and strictly liable for damages resulting from the discharge of oil from such vessels. That subsection further requires that financial responsibility for $14 million be demonstrated before such oil may be loaded aboard a vessel. This rule is to provide the manner by which that financial responsibility can be demonstrated to the Federal Maritime Commission, and to provide for the issuance of Certificates attesting to that demonstration.

DATES: This rule is effective July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Leroy F. Fuller, Director, Bureau of Certification and Licensing, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573 (202–523–5840).

SUPPLEMENTARY INFORMATION: By publication in the FEDERAL REGISTER of June 15, 1977, the Commission proposed to promulgate a new Part 543 of Title 46 of the Code of Federal Regulations implementing the financial responsibility provisions of the Trans-Alaska Pipeline Authorization Act (the Act). Comments from the public were invited with respect to those proposed rules. Because the Commission was informed that oil from the North Slope of Alaska was to be pumped through the pipeline commencing in June of 1977, with the loading of that oil aboard vessels at Valdez, Alaska, to commence in late July or early August of 1977, the Commission provided that comments were to be filed on or before July 5, 1977. Upon the request of the Water Quality Insurance Syndicate, which asserted that it is the leading pollution liability insurer in the United States, the deadline for the submission of comments was extended to July 8, 1977.

Comments with respect to the proposed rules were received from (1) Atlantic Richfield Company (Arco), (2) Exxon Company, U.S.A., (3) the Standard Oil Company (Sohio), (4) International Ocean Transport Corporation (International), (5) the International Group of Mutual Shipowners Protection and Indemnity Associations, and the International Tanker Indemnity Association, Limited (Group), (6) the Water Quality Insurance Syndicate (Syndicate), (7) the United States Department of the Interior, and (8) the State of Alaska. The comments fall into two main categories: those dealing with procedural matters, and those dealing with the substance of the regulations.

In the first category, Exxon and Sohio informed the Commission that they intend to load oil at Valdez, Alaska on July 28, and July 15, respectively, and requested a waiver of the requirement that applications for certificates be filed 45 days in advance of the loading date.[1] International asserted that a new certificate for liability under the Act is an unnecessary duplication of certificates; that the Commission should not require that the original of the certificate be carried aboard the vessel, but that it be maintained at the home office of the certificant, with a copy aboard the vessel; and that the requirement that the certificates be renewed every two years is an unnecessary burden upon the certificants. The State of Alaska urged that underwriters should be specifically amenable to suit in Alaska, British Columbia, and the three states adjacent to the Pacific Ocean; that the Commission's insurance form and guaranty form should explicitly provide that the termination of insurance or guaranty does not affect the liability of the insurer or guarantor for incidents occurring prior to the date of termination; and that the insurance form appended to the proposed rules should be made the policy of insurance issued by the insurer to the vessel operator, instead of it being only a representation to the Commission that there is such insurance in force.

In the second category, several commentators urged the Commission to require that, in addition to those vessels actually loading oil at the terminal facilities of the pipeline at Valdez, Alaska, any vessels carrying such oil, whether by transshipment, lighterage, or other reason, prior to the time that the oil is first brought ashore at a port under the jurisdiction of the United States, also be required to evidence their financial responsibility in accordance with these regulations. Several commentators also urged that the United States and the Trans-Alaska Pipeline Liability Fund should be the only ones afforded the right of direct action against underwriters, thereby denying any other potential claimant the right of direct action. The Group would go further, and would permit the right of direct action, only if the underwriter shall have the same defenses in an action brought by a claimant against the underwriter, as the underwriter would have in an action brought by the assured against the underwriter, such as, the defense of willful misconduct on the part of the vessel operator. Arco asserted that the "quick assets" test for a self-insurer, found in section 543.6(a)(3) of the proposed rules, is impossible for it or any other oil company to meet. The Group echoed that sentiment, but the State of Alaska favored the quick assets test. The Water Quality Insurance Syndicate, which is comprised of 28 insurance companies selling marine insurance in the United States, stated that it will not provide insurance to cover the liabilities imposed by the Act, but asserted that the Act does not permit a direct action by a claimant against an underwriter.

The most extensive comments were provided by the Group. The International Group of Mutual Shipowners Protection and Indemnity Associations is comprised of 16 mutual protection and indemnity associations, which are each comprised of several shipowning companies. By means of assessments upon each member, insurance is provided to each member. The risks of the Group are further underwritten by the underwriters at Lloyds. The International Tanker Indemnity Association, Limited (ITIA) is the insurance arm of the Tanker Owners Voluntary Agreement Concerning Liability for Oil Pollution (TOVALOP). As its name implies, TOVALOP is an association of companies owning oil tankers, which, among other purposes, was constituted to provide insurance to its members covering the risk of liability for oil pollution. The underwriters at Lloyds also provide excess insurance to ITIA.

In addition to some comments already mentioned above, the Group asserted that the liability of an operator, of an insurer, for both Federal Water Pollution Control Act (FWPCA) liability and Trans-Alaska Pipeline Authorization Act liability, does not exceed $14 million in the aggregate. The Group wished to indicate its insurance of a particular vessel by the issuance of an addendum or amendment to the Commission's existing insurance form FMC–225, which deals with the insurance of the liability of vessels under the FWPCA (46 CFR 542). The Group also wished to change the definition of "operator", so as to expressly include therein an owner and any owner pro hac vice, even if not technically a demise charterer. Lastly, the Group asserted that the insurer should be permitted to cancel its insurance upon 30 days' notice to the Commission.

Oil is currently flowing through the trans-Alaska pipeline enroute to the port of Valdez, Alaska. The Commission is informed that, within the next week, the oil will have reached the port, ready for loading aboard vessels for transportation to other places in the United States. Vessels are not permitted to load oil, unless the owner or operator of that vessel has established its financial responsibility to meet its liability under the Act. These regulations provide the methods by which that financial responsibility may be established, and for the issuance of certificates attesting to that financial responsibility. Without those certificates, the oil may not be loaded aboard the vessels at Valdez. Consequently, the Commission finds that, in order not to delay the transportation of oil from Alaska to other parts of the United States, the public interest requires that these rules

[1] Due to the recent disruption of the operation of the pipeline, Sohio's loading has been delayed until July 26, 1977.





be made effective immediately upon their publication in the FEDERAL REGISTER; and hereby does so provide.

The broad purposes of the Trans-Alaska Pipeline Authorization Act, as gleaned from its text and legislative history, are to provide for the construction of the trans-Alaska pipeline without further environmental challenge; to extract the petroleum located in the reserves of the North Slope of Alaska, so as to make available that petroleum to meet the energy needs of the United States; to protect the environment, property, and persons from injury resulting from the extraction and movement of that petroleum, including injury resulting from its ocean transportation; and to provide for the repair of or compensation for any injury sustained as a result of that extraction and transportation.

The purpose of these regulations is to assure that adequate funds will be available within reach of the courts of the United States, to pay all persons suffering injury as the result of oil pollution occasioned by the transportation of North Slope oil to other parts of the United States. The term "persons" is intended to refer to any individual or entity permitted to make a claim under the provisions of the Act. These regulations are designed to provide the maximum protection to the public, without being unduly burdensome. Any ambiguity in these regulations should be resolved in a manner most likely to provide the maximum protection to the public.

There follows hereafter a section by section analysis of these final rules. The comments received with regard to the proposed rules are discussed in connection with the sections of the rules to which they are applicable.

*Section 543.1, Scope.* The proposed rules required demonstration of financial responsibility only with respect to vessels which actually load oil at terminal facilities of the trans-Alaska pipeline. Comments urged that the requirement to demonstrate financial responsibility be extended to the operators of all vessels, whether or not actually loading oil at the terminal facilities of the pipeline, if those vessels carry North Slope oil during any segment of the journey between the terminal facilities of the pipeline and the point where that North Slope oil is first brought ashore at a port under the jurisdiction of the United States. Paragraph (1) of subsection (c) of section 204 of the Act provides:

> Notwithstanding the provisions of any other law, if oil that has been transported through the trans-Alaska pipeline is loaded on *a vessel at the terminal facilities of the pipeline*, the owner and operator of *the vessel* (jointly and severally) * * * shall be strictly liable without regard to fault * * * for all damages * * * sustained by any person or entity * * * as the result of discharges of oil *from such vessel*. (Emphasis supplied.)

Thus, the first paragraph of the subsection clearly indicates that the owner and operator of the vessel which actually loads oil at the terminal facilities of the pipeline are liable for the discharges of oil from that vessel, but would appear to exclude any on carrying vessel from that strict liability.

However, the seventh paragraph of the subsection provides, that "(s)trict liability under this subsection shall cease when the oil has first been brought ashore at a port under the jurisdiction of the United States." Thus, that seventh paragraph of the subsection was intended to apply only to the vessel originally loading the oil, for if strict liability does not cease until the oil has been first brought ashore, and if the oil is transshipped from the vessel which loaded it in Alaska, to another vessel for on carriage to a U.S. port, the strict liability does not cease, but the vessel which loaded it in Alaska can no longer discharge that oil, and, consequently, cannot be liable for a discharge.

It could be argued that the Congress determined that the greatest risk was to be found in vessels which actually loaded the oil in Alaska, and that discharges from only those vessels were to be protected by the Act, leaving the liability for discharges from any on carrying vessel to be determined under other applicable laws, including the Federal Water Pollution Control Act, and the several state statutes imposing liability for oil pollution. The report of the Committee of Conference, wherein the differences between the House and Senate versions of the Act were resolved, contains language supporting an interpretation that the Act is limited to vessels which originally load the oil in Alaska.[2] There, the conferees stated that:

> It is expected that tankers as large as 250,000 deadweight tons will transport North Slope crude to ports on the West Coast of the United States and elsewhere. Oil discharges from vessels of this size could result in extremely high damages to property and natural resources, including fisheries and amenities, especially if the mishap occurred close to a populated shoreline area.
>
> The Conferees concluded that existing maritime law would not provide adequate compensation to all victims, including residents of Canada, in the event of the kind of *catastrophe which might occur*. (Emphasis supplied)

Conference Report, p. 28. Thus, it can be argued that the Congress, anticipating that supertankers would be loading the oil in Alaska, sought to protect against discharges from those large vessels, and not from the smaller vessels which might be involved in the on carriage of the oil.

However, it can also be argued that the Congress intended that any vessel carrying North Slope crude should be subjected to the strict liability imposed by the Act. It can be argued, as the Department of the Interior does argue, that the specific language in paragraph (7) of subsection (c) of section 204 of the Act, dealing with the cessation of strict liability, should govern the more general imposition of liability contained in paragraph (1) of that subsection. Language can also be found in the Conference Report to support that interpretation. Thus, the Conference Report stated, that "[s]ubsection (c) imposes on the owner or operator of a vessel that is loaded with *any oil* from the trans-Alaska pipeline strict liability without regard to fault for damages sustained by any person as the result of discharges of oil from such vessel." (Emphasis supplied) Conference Report, p. 24. Again, the Conference Report states, that "[s]ection 204(c) provides, for vessels that transport North Slope oil in the coastal trade, liability standards that are much stricter than those that apply to vessels that transport *other oil in the coastal or foreign trade*." (Emphasis supplied). Conference Report, p. 28. Lastly, the conferees stated "[c]onsequently, the Conferees established a rule of strict liability for damages from discharges of the oil *transported through the trans-Alaska Pipeline* up to $100,000,000." (Emphasis supplied). Conference Report, p. 28.

[2] Conference Report, H.R. Rep. No. 93–624, 93d Cong., 1st Sess. (1973).

The Department of the Interior, in its comments to the Commission regarding the proposed rules, stated that it is the agency charged with the implementation and interpretation of the Act, and that it interpreted the Act so as to impose strict liability upon all vessels engaged in any segment of the transportation of North Slope oil, until such time as that oil is first brought ashore at a port under the jurisdiction of the United States. The Department of the Interior, in its rules implementing the Act, provided that strict liability applied to all such vessels. 43 CFR 29.7.

When the broad purposes of the Act are considered, to wit: to push ahead with the construction and operation of the trans-Alaska pipeline without permitting further environmental challenge, and to provide compensation for injuries sustained as a result of the production and transportation of Alaskan oil; and in view of the position taken by the Department of the Interior in its final rules regarding this subject, the Commission concludes that the sounder interpretation of the Act is that its financial responsibility provisions apply to all vessels engaged in any segment of the transportation of trans-Alaska pipeline oil between the terminal facilities of the pipeline and the port under the jurisdiction of the United States where that oil is first brought ashore.

Accordingly, the Commission intends these regulations to apply to any vessel which has on board, oil which has been transported through the trans-Alaska pipeline, at any time between the time the oil is originally loaded at the terminal facilities of the trans-Alaska pipeline and the time it is first brought ashore at a Port under the jurisdictional United States, regardless of the purpose for which the oil is aboard the vessel. These rules shall apply to vessels which originally load the oil in Alaska, as well as to those vessels which receive such oil from any source and for any purpose, until such time as it is first brought ashore at a port under the jurisdiction of the United States. By the words "brought ashore" the Commission means that point where the oil is physically located



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on or above dry land, inland of the mean high tide mark, and at rest in such manner as to preclude the movement of the oil seaward again without the intervention of an intentional act by some person.

*Section 543.2, Definitions.* Most of the definitions contained in this section are self-explanatory. The definition of oil (543.2(h)) is to be given an expansive meaning. The definition of operator (543.2(i)), as it appeared in the proposed rules, was as follows:

> "Operator" or "Vessel Operator" means any person, including a demise charterer, who conducts or who is responsible for the operation of a vessel.

The Group requested that the definition be amended, so as to expressly include within its terms, an owner of a vessel, and any owner *pro hac vice*, whether or not technically a demise charterer. The Commission has not amended the definition in precisely the manner requested by the Group. Any person who conducts or who is responsible for the operation of a vessel is an operator within the meaning of the rule. The Commission has, in these final rules, made express reference to an owner or demise charterer to make it clear that he is to be considered as the operator, only if he is the person who conducts or is responsible for the operation of a vessel. In other words, so long as the person operates the vessel or is responsible for its operation, the person is an operator within the definition, whether or not the person is the titled owner of the vessel, a demise character of the vessel, any other owner *pro hac vice* of the vessel, or any other class of person. This definition of operator ties in with the reference in paragraph (g) of section 543.4 wherein it is stated that only an operator of a vessel may apply for a certificate. The Commission intends to exclude from participation in this certification program persons who do not actually operate a vessel and who are not responsible for its operation.

*Section 543.3, General.* The provisions of this section have been substantially expanded in these final rules. The expansion is in line with, and necessitated by, the expanded scope of the rules. By this section, the Commission intends to prohibit any vessel to receive oil that has been transported through the trans-Alaska pipeline, prior to the time that oil is first brought ashore at a port under the jurisdiction of the United States, unless the vessel actually has on board the original copy of the certificate required by the rules, and can produce that certificate to enforcement officials upon demand. Thus, the section applies to the original loading of that oil in Alaska, the subsequent loading of that oil at any other place, the transportation of that oil, the transfer of that oil from one vessel to another, and merely having the oil on board a vessel whether or not the vessel is transporting the oil, or merely storing it.

In paragraph (b) of section 543.3, the Commission makes reference to "Deepwater Port". That term is not intended to refer to any port with a deep harbor but only to a facility within the scope of the Deepwater Port Act of 1974, Pub. L. 93–627, as defined in paragraph (10) of section 3 of that Act.

*Section 543.4, Certificates, How Obtained.* In this section the Commission sets forth the procedure which persons shall follow in order to obtain an initial certificate or a renewal certificate. The applications may be filed only with the Commission in Washington, D.C., but the appropriate forms may be obtained at any of the Commission's offices. The rules require that the application be completely filled in. Applications with blank spaces will not be accepted for filing. In line with section 543.9, Fees, paragraph (c) of section 543.4 requires only that the application and the evidence of financial responsibility be filed at least 45 days prior to the date upon which the vessel to be certificated will need the certificate.[2] Fees may be paid at any time, but certificates will not be issued until the required fees have been paid. Because an individual may bind himself, and a partner may bind a partnership, and an officer of a corporation may bind the corporation, the Commission does not require any additional authority to be shown if such a person signs the application. However, if anyone else signs the application, the application must be accompanied with documentation of the authority of the signer to sign the application, which documentation must itself be signed by a person authorized to confer the authority.

Only persons who actually conduct or are responsible for the operation of a vessel may apply for a certificate. Owners of vessels may apply for a certificate, but only if the owner also operates the vessel.

The procedure for obtaining a renewal certificate has been moved from section 543.7, Certificates, Issuance, to this section 543.4. The Commission will not accept requests for renewal certificates which are filed more than 60 days prior to the expiration date of the existing certificate. However, requests for renewal certificates must be filed no later than 45 days before the expiration date of the existing certificate. Failure to comply with those time periods might well result in the existing certificate expiring prior to the date a renewal certificate is issued. The request for a renewal certificate must be complete at the time it is filed with the Commission. That is, all information required by the rule must be in the request at the time it is filed with the Commission. For the purposes of this rule, a request shall not be considered to have been filed unless it is complete.

All applicants and certificants have a continuing duty to keep the Commission informed of any change in facts having a bearing upon financial responsibility of the applicant or certificant. In the case of applicants, that duty is specified in paragraph (i) of section 543.4. That paragraph applies to both initial and renewal applications. It is the Commission's intention that the Commission shall be informed of any change in the facts contained in the application or supporting documentation, whether favorable or unfavorable to the applicant, before the Commission issues the certificate for which application has been made. Thus, the applicant should not wait the five days technically permitted by the rule, hoping that a certificate will be issued in the interim, for if such a certificate is issued, it might well be revoked immediately thereafter. Further, if the applicants shall fail to notify the Commission of the change within the five days, the Commission might well deny the application for the certificate. The denial would proceed pursuant to subparagraph (3) of paragraph (a) of section 543.8 of the rules.

*Section 543.5, Financial Responsibility, Amount.* The rules provide that the financial responsibility established under these rules (Part 543) shall be separate from, and in addition to, the financial responsibility, if any, required of a vessel operator by the Federal Water Pollution Control Act (FWPCA) and the Commission's Rules implemented pursuant to that statute (Part 542). Sohio and the Group asserted that the Act establishes a new scheme of liability for vessels carrying North Slope oil, replacing the scheme of liability established by the FWPCA, so long as those vessels are carrying North Slope oil, and that, consequently, vessels should only be required to evidence their financial responsibility in the aggregate amount of $14,000,000, rather than in the amount of $14,000,000 plus whatever amount would be required by the tonnage of the vessel under the FWPCA.

The Act may be interpreted in three different ways. First, it can be argued, as the commentators do, that the Act completely supplants the FWPCA, so long as the vessel is carrying trans-

[2] Because there is insufficient time between the promulgation of these final rules and the date upon which trans-Alaska pipeline oil will be available for loading at Valdez, Alaska, for vessel operators to file application for certificates in accordance with the time requirements of section 543.4 (c) of these rules, and because that lack of time was not caused by those operators, and because one of the purposes of the Act is to expedite the movement of oil from the North Slope of Alaska to other parts of the United States, the Commission finds that the public interest requires that the time period set forth in section 543.4(c) of the rules be waived. Accordingly, that paragraph is waived to the extent necessary to permit operators of vessels which are to load oil on or before September 5, 1977, to file an application for certificates covering those vessels any time during the months of July and August 1977, but, in any event, prior to the loading of oil aboard those vessels. This special waiver of the 45 day filing requirement is not to be construed as a waiver of any of the other requirements in section 543.3 of the rules. Thus, the fact that an application may be filed less than 45 days prior to the anticipated loading date does not mean that it will be possible for the Commission to issue certificates in time to permit the vessel to load as anticipated. Accordingly, operators are urged to file their applications for certificates as soon as possible.





Alaska pipeline oil. Second, it can be argued that the Act provides additional liability for the benefit of substantially different claimants, and for substantially different injuries, so that, in the event of an oil spill, the vessel operator could be liable to all claimants, including the United States, under the Act, and also be liable to the United States under the FWPCA. Thus, the United States would be able to recover its clean-up costs from the vessel operator under the provisions of the FWPCA to the limit of liability provided in that statute, and the United States could also recover any additional cleanup costs, and other claimants could recover their damages, against the vessel under the Trans-Alaska Pipeline Authorization Act, up to the $14,000,000 limit of that Act, even though the claims arose out of the same incident. Third, it could be argued that the strict liability for $14,000,000 imposed upon the vessel operator by the Act is an initial substitute for the strict liability imposed upon the operator under the FWPCA, but that the operator would still be liable under the FWPCA, up to the limits of liability imposed by that statute, for any cleanup costs which exceeded the proportional share of the United States of the $100,000,000 maximum liability under the Act, if the total claims arising out of one incident exceeded that $100,000,000.

Paragraph (3) of subsection (c) of section 204 of the Act provides:

> Strict liability for all claims arising out of any one incident shall not exceed $100,000,000. The owner and operator of the vessel shall be jointly and severally liable for the first $14,000,000 of such claims that are allowed. . . . The Fund shall be liable for the balance of the claims that are allowed up to $100,000,000. If the total claims allowed exceed $100,000,000, they shall be reduced proportionately. The unpaid portion of any claim may be asserted and adjudicated under other applicable Federal or state law.

Paragraph (9) of that subsection provides, that "[t]his subsection shall not be interpreted to preempt the field of strict liability or to preclude any State from imposing additional requirements."

The Conference Report contains language which would tend to support the first argument, that the Act entirely supplants the FWPCA. In the report the conferees stated:

> Strict liability is primarily a question of insurance. The fundamental reason for the limits placed on liability in the Federal Water Quality Improvement Act [$14,000,000] stemmed from the availability, or nonavailability, of marine insurance. Without a readily available commercial source of insurance, liability without a dollar limitation would be meaningless and many independent owners could not operate their vessels. Since the world-wide maritime insurance industry claimed $14 million was the limit of the risk they would assume, this was the limit provided for in the Federal Water Quality Improvement Act. There has been no indication that this level has since increased.
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> Accordingly, the Conferees adopted a liability plan which would make the owner or operator strictly liable for all claims (*for both clean-up costs and damages to public and private parties*) up to $14 million. This limit would provide an incentive to the owner or operator to operate the vessel with due care and would not create too heavy an insurance burden for independent vessel owners lacking the means to self-insure.
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> • • • [The financial responsibility section of the FWPCA] would be used to the extent it is consistent with the purposes of this Act; for example, references to tonnage limitations would not apply. Claims for clean-up costs would take precedence over other claims thereby preserving the provisions of the Federal Water Quality Improvement Act.
>
> • • • The States are expressly not precluded from setting higher limits or from legislating in any manner not inconsistent with the provisions of this Act. (Emphasis supplied)

Conference Report, pp. 28–29. Thus, it can be argued that the language contained in paragraph (9) of subsection (c) of section 204 of the Act, dealing with preemption of the field of strict liability, was not intended to diminish the preemption effected by the Act with regard to strict liability under federal law, but was only to provide that the Act did not preempt the field with regard to state legislation. It can be argued that the Congress recognized that $14,000,000 was the dollar limit which the maritime insurance industry was willing to underwrite. Consequently, the Congress substituted a flat $14,000,000 liability in the Act for the variable $100 per gross ton liability in the FWPCA. Under this interpretation the liability of a vessel under the Act would attach when the vessel loads trans-Alaska pipeline oil, with the liability of vessel under the FWPCA terminating at that point. The liability of the vessel under the Act would continue until such time as the trans-Alaska pipeline oil was offloaded from that vessel, with the FWPCA liability again attaching to the vessel at that point of unloading.

However, that language in the Conference Report is also susceptible of a slightly different interpretation. Thus, according to the second argument, the Congress intended the Act to open strict liability up to claimants other than the United States and for damages other than clean-up. Because of the expanded number of claimants and damages, the Congress increased the liability of the vessel from $100 per gross ton to $14 million. The Congress realized that strict liability was an unrealistic standard unless a dollar limitation was applied to that liability. The emphasis there is on some limitation, not the amount. Because $14 million was the figure used as the maximum liability in the FWPCA, the Congress carried that dollar amount over into this Act. Further, the conferees,

> Expected that tankers as large as 250,000 deadweight tons will transport North Slope crude to ports on the West Coast of the United States and elsewhere. Oil discharges from vessels of this size could result in extremely high damages to property and natural resources, including fisheries and amenities, especially if the mishap occurred close to a populated shoreline area.

Conference Report, p. 28. Thus, it can be argued that the Congress recognized that the damage which might ensue from the transportation of trans-Alaska pipeline oil, including the volume of oil which would have to be cleaned up by the United States, in the event of a discharge from a large tanker, would be much greater than the damage against which the FWPCA was intended to protect. To the extent that the United States was limited to recovery under the Act, other claimants will have a reduced pool of money from which to recover their damages. Consequently, it can be argued that the Congress intended the liability provisions of the Act to be in addition to the liability provisions already existing under the FWPCA.

For purposes of the third interpretation, we have hypothesized a tanker of 40,000 gross tons, which is involved in an incident which results in damages totalling $120 million, including $20 million in clean-up costs to the United States and $100 million in damages, for clean-up or otherwise, to persons other than the United States. Paragraph (3) of subsection (c) of section 204 of the Act provides that the first $14 million of that $120 million liability shall be apportioned to the vessel operator. $86 million of that $120 million liability would be apportioned to the Fund. Because the total claims are $120 million, the Act requires payment to each claimant to be reduced proportionately. As a result, the United States would receive only $16 million for its $20 million clean-up claim. The other claimants would receive only $84 million of their $100 million in claims. The remaining $20 million in claims, consisting of $4 million in claims by the United States for clean-up, and $16 million in claims by other claimants, may, under the Act, "be asserted and adjudicated under other applicable Federal or state law." The Federal Water Pollution Control Act is another Federal law, arguably applicable to the incident. Thus, the United States could proceed against the vessel operator under the FWPCA for an additional $4 million in clean-up costs. Because the vessel was of a size of 40,000 gross tons, the vessel operator would be liable for $100 per gross ton, or $4 million. Thus, it can be argued that, while the Act is intended to supplant the FWPCA so long as the total claims arising out of any one incident do not exceed $100 million, the Act allows the United States to recover for its clean-up costs under the FWPCA if the total damages arising out of any one incident exceed the $100 million limitation of the Trans-Alaska Pipeline Authorization Act.

The Group, being uncertain of the interrelation between the FWPCA and the Trans-Alaska Pipeline Authorization Act, would have the Commission interpret the Act in such a manner so as to conclude that vessel operators are not liable under the FWPCA in any incident covered by the Act. But, in these rules it is not necessary for the Commission to decide the question of liability. The Commission is charged with administering the financial responsibility provisions of both the FWPCA and the Trans-Alaska Pipeline Authorization Act. The Commission does not determine the liability of the vessel operator, but only makes



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certain that the vessel operator has sufficient assets to pay any liability to which it might be subjected by the FWPCA and/or the Act. Since reasonable arguments can be made that liability would attach to a vessel operator under both the FWPCA and the Trans-Alaska Pipeline Authorization Act for damages arising out of the same incident, the Commission must require that financial responsibility for both of those potential liabilities be evidenced, before certificates of financial responsibility are issued. If the Commission does not require evidence of financial responsibility for both potential liabilities, and the Act is later construed as holding an operator liable under both statutes, there might well be insufficient assets to meet that liability.

Thus, section 543.5 requires that an applicant for a certificate under these rules (Part 543) must demonstrate to the Commission that it will be able to pay claimants proceeding under the Act, the $14,000,000 for which the operator is made strictly liable under the Act, and, as a separate and distinct matter, that it will be able to pay claimants proceeding under the FWPCA the amount of money for which the FWPCA makes the applicant strictly liable, which amount is calculated in accordance with Part 542 of the Commission's rules. The evidence of insurance, bond, guaranty, self-insurance, or other method of establishing financial responsibility provided under Part 542 of the Commission's Rules, may NOT be used as evidence of financial responsibility for any portion of the $14,000,000 required to be demonstrated by these rules. However, the Commission does not express thereby any view as to whether the liability of an operator in any one incident shall be greater than $14,000,000.

*Section 543.6, Financial Responsibility, How Established.* This section sets forth the methods whereby the financial responsibility of applicants and certificants may be established and maintained, including reporting requirements and the forms to be used in the various methods. While the Commission will issue a certificate based on a properly completed application, accompanied by the required fees, and supported by evidence of financial responsibility complying strictly with any one of the first four methods set for in paragraph (a) of this section, resort to a combination of methods will only be permitted, in the discretion of the Commission, if the Commission is satisfied that the public will be adequately protected by such combination. If an applicant seeks to establish its financial responsibility by a combination of methods, the applicant may, in the Commission's discretion, be required to furnish additional undertakings.

The methods of establishing financial responsibility are: insurance, bond, guaranty, self-insurance, and any other method, but the last only if it is specially justified to, and found acceptable by, the Commission. The first three methods are demonstrated by the applicant by the filing with the Commission of Forms FMC-225P, FMC-226P, and FMC-227P, respectively. The fourth method, self-insurance, has very extensive and detailed requirements, but drew only brief, albeit blunt, comment. The proposed rules contained the requirement that a vessel operator, wishing to self-insure, maintain, in the United States, quick assets $14 million in excess of current liabilities, and net worth also in the amount of $14 million. Such assets were defined as those which could be converted into United States currency within 30 days. Arco asserted that neither it, nor any other oil company, could meet that test. However, no reasons were given for that assertion. The Group merely echoed that sentiment, also failing to give any reason.

The Commission originally proposed the quick assets test for two purposes. First, the Commission wished to assure that self-insurers would have funds available to pay claims of injured persons expeditiously, without having to delay such payments during an extended period of time to liquidate sufficient assets. Second, the experience of the Commission with self-insurers under the Safety of Life at Sea Act, revealed that the working capital of a certificant can dissipate virtually overnight, and, in any event, well before the Commission would have notice of that change in the financial condition of the certificant. The Commission was of the view that, by requiring that a certificant maintain quick assets in the amount of $14 million, which would only be a portion of the certificant's working capital, a substantial buffer was interposed to alleviate the risk presented by the rapid dissipation of working capital. In line with that second purpose, the proposed rules required more frequent reporting of assets by certificants than is required in the present water pollution certification and passenger vessel certification programs.

However, the precise wording of the self-insurance requirement in the proposed rules, to wit: "quick assets $14 million in excess of current liabilities," went beyond the intent of the Commission. That requirement would impose an unreasonable burden upon applicants. For example, the annual financial reports of two of the largest oil companies in the United States show that these companies each had current assets of approximately $6 billion and current liabilities of approximately $4 billion. That would result in working capital of $2 billion. The precise wording of the proposed rules would require quick assets in the amount of $14 million in excess of the current liabilities. In the case of these two oil companies, this would require their maintaining quick assets of $4,014,000,000, so that their quick assets would exceed current liabilities by $14 million. That was not the intent of the Commission. It was intended that the self-insurer maintain at least $14 million of working capital, and, that at least $14 million of those current assets would be "quick assets."

The Commission has reconsidered the quick assets test altogether and has determined to abandon that test in favor of a modified working capital test. Very few of the claims arising under the Act will be of the type which may be settled within a period of one month from the date of claim. Unlike the nonperformance of passenger transportation, where the amount of the claim of the passenger left stranded on the pier is quickly determined, and provable, by the receipts for the passage monies paid, the validity of a claim of a beach front property owner for damages resulting from oil pollution might well be open to dispute both as to the existence of damage and as to the dollar cost of that damage. Consequently, the Commission no longer perceives the settlement of claims within 30 days as a realistic goal, so one of the bases for its adopting a quick assets requirement in the proposed rules is no longer valid.

Further, the Congress intended that self insurance be a viable alternative method of establishing financial responsibility. The Act makes reference to subsection (p) of section 311 of the Federal Water Pollution Control Act as the mechanism for evidencing financial responsibility under the Act. Paragraph (1) of that subsection specifically provides for self-insurance as a method of evidencing financial responsibility. In the Conference Report on the Act, the conferees stated that, "[t]his limit [$14 million] would provide an incentive to the owner or operator to operate the vessel with due care and would not create too heavy an insurance burden for independent vessel owners *lacking the means to self-insure.*" (Emphasis supplied) Conference Report, p. 29. Lastly, "quick assets" is not a commonly recognized term in accounting. The Commission forsees a virtually unlimited number of disputes as to which assets might properly be included within the term "quick assets." The Commission does not wish to impose a heavy burden upon applicants for certificates, unless that burden is required by, or contributes significantly to, the purposes of the Act. Because of the burden imposed by the quick assets test, and the perceived difficulties in its implementation, the Commission has determined that the financial responsibility of self-insuring applicants should be measured by reference to their working capital and net worth.

While the more frequent reporting requirements imposed by the rules will alleviate in some measure the risk of dissipation of the working capital of a self-insurer, prior to the time when the Commission could take action to revoke a certificate, those reporting requirements do not, alone, adequately balance that risk. One of the goals sought to be achieved by the quick assets test, to wit: a buffer sufficient to permit the Commission to perceive diminishing assets in time to require substitute evidence of financial responsibility before the public is injured, is still an essential concern of the Commission. So as to assure that an applicant is and will continue to be financially able to pay $14,000,000 in damages under the Act, the Commission is now requiring in these





rules that the applicant/certificant demonstrate that it has working capital and net worth each in the amount of $19,000,000 in order to obtain a certificate for only one vessel.

Because the vessel operator is strictly liable for $14,000,000 in damages arising out of each incident, and because the likelihood that an operator will be involved in more than one incident increases with the increase in the number of vessels operated by a particular certificant at any given time, the Commission has required applicants wishing to be issued certificates for more than one vessel to establish that they have additional assets available to pay the damages arising out of multiple incidents. However, because the dollar amount of the probable damages to which an operator may be exposed by reason of the operation of more than one vessel at any given time is not directly proportional to the number of vessels operated, the increase in assets required for self-insured operators of more than one vessel progressively decreases for each additional vessel. Thus, the self-insured operator of more than one vessel is required to have only $5,000,000 in additional assets for the second vessel, $4,000,000 for the third vessel, $3,000,000 for the fourth vessel, $2,000,000 for the fifth vessel, and $1,000,000 for the sixth vessel. No additional assets will be required for the seventh and subsequent vessels. Thus, the maximum amount of working capital and net worth which will be required from a self-insurer is $34,000,000, respectively.

Because one of the purposes of the Act is to provide to claimants a ready source of funds to compensate them for any injuries for which they may be entitled to recover under the Act, the Commission requires that the assets of a self-insurer, which may be included in computing the required working capital and net worth, must be located in the United States. Thus, working capital, acceptable for the purposes of these rules, is calculated by determining the amount of the current assets of the applicant which are located in the United States, and deducting from those current assets all of the current liabilities of the applicant, *wherever they are owed.* Similarly, net worth is calculated by determining the amount of the total assets of the applicant which are located in the United States and deducting from those assets the amount of all liabilities of the applicant, *wherever those liabilities are owed.*

Lastly, the amount required of a self-insurer under these rules is in addition to the amount required of the applicant under Part 542 of the Commission's rules, if the applicant holds a certificate under that Part 542 *as a self-insurer.* For example, an applicant who is required to show $4,000,000 under Part 542, must show the Commission $23,000,000 in working capital and net worth to get a certificate for one vessel under these rules. The requirement of additional assets imposed by subparagraph (3) of paragraph (a) of section 543.6 is different from the general requirement for separate and distinct financial responsibility imposed by section 543.5 of these rules, in that it is limited to applicants and certificants under these rules (Part 543) who are also self-insurers under Part 542 of the Commission's rules. In the event a self-insuring applicant or certificant under these rules (Part 543) holds a certificate under Part 542 of the Commission's rules by reason of insurance, bond, or guaranty, the applicant or certificant under this Part 543 is required only to demonstrate working capital and net worth in the amounts required under section 543.6(a)(3), that is $19,000,000 for one vessel, plus $5,000,000 for the second vessel, etc., so long as the insurance, bond, or guaranty under Part 542 remains in force.

Subparagraph (3) of paragraph (a) of section 543.6 requires an applicant to submit, with its application, its annual financial reports for its last fiscal year preceding the date of application. The Commission recognizes that an application for a certificate might be filed between the end of the applicant's fiscal year and receipt by the applicant of the certified financial reports for that fiscal year. In such an eventuality, it is the intention of the Commission that the applicant shall file, with the application, the certified financial reports for the last fiscal year for which certified reports have been received by the applicant. The applicant would then file with the Commission the certified financial reports for the fiscal year just ending, immediately upon receipt of those reports by the applicant.

The rules provide, in subdivision (iv) of subparagraph (3) of paragraph (a) of section 543.6, that self-insurers shall notify the Commission within five days of the date the self-insurer knew, or had reason to believe, that the amounts of working capital or net worth had fallen below the amounts required by subparagraph (3) of paragraph (a) of section 543.6. That requirement is but a specific example of the general continuing duty imposed upon all applicants and certificants to keep the Commission informed of changes which affect the financial condition of the applicant or certificant. The self-insurer is permitted only five days to make this notification because, in the case of self-insurers, time is of the essence. Similarly, the annual financial reports, the six-month financial reports, and the quarterly affidavits must be filed with the Commission at the stated times. Because the financial condition of a certificant can change drastically with little warning, the Commission intends that the deadlines for these reporting requirements be strictly complied with. The importance of these requirements is forcefully brought home by the provision that the certificates of a self-insurer who fails to timely file the reports required by subdivisions (i) and (ii) will be revoked by the Commission, on short notice to the certificant, *merely because the reports were not timely filed,* whether or not the reports are actually filed later and evidence a satisfactory financial condition. The Commission wants to stress that it expects these reports will be filed on time, and that self-insurers, faced with a deteriorating financial condition, will not delay the filing of their reports in the hope that their financial condition will improve, or in an attempt to load just one more vessel before the deteriorating financial condition is brought to the attention of the Commission. It is to guard against those risks that the revocation of certificates for failure to timely file the reports has been included in these rules and will be strictly enforced.

Because there may exist methods of establishing a vessel operator's financial responsibility other than those specifically set forth in these rules, the Commission has added as a fifth method, a catch-all provision to paragraph (a) of section 543.6. The catch-all method, newly incorporated into the rules, does not extend to modifications of the other four methods of establishing financial responsibility provided for in the rules. Specifically, the catch-all provision does not permit waivers of the amounts of assets required of a self-insurer, or to the reporting requirements imposed upon self-insurers. Rather, the catch-all method is intended to apply to a new method, for example, a letter of credit, or a rider or endorsement to an insurance policy, or some other form of financial responsibility heretofore unexamined by the Commission if, upon examination, the Commission finds it acceptable. The Commission does not intend the catch-all provision to be used with any frequency, and will require that an applicant who wishes to establish his financial responsibility by some means other than those incorporated in subparagraphs (1) through (4) of paragraph (a) of section 543.6 demonstrate that the new method is in the public interest by reference to identifiable and provable factors.

Subparagraph (4) of paragraph (a) of this section permits the filing of a guaranty as evidence of financial responsibility. In this method, one person (the guarantor) promises to stand for the debt of another (the guarantee). Often the guarantor is a parent or other corporate affiliate of the guarantee. By this subparagraph the Commission requires the guarantor to establish that it has the resources to make good on its guaranty. Thus, a guarantor must meet the same requirements as to working capital and net worth and the same reporting requirements as a self-insurer under these rules. Because a guarantor under these rules could also be a self-insurer in its own right under these rules, and/or under Part 542, and/or a guarantor under Part 542, these rules require a guarantor to demonstrate and maintain working capital and net worth each equal to the total of the obligations of the guarantor, as a guarantor and as a self-insurer. When calculating the amount of assets required of a guarantor, the amount shall not be calculated by reference to the total number of vessels which it guarantees or self-insures,



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rather, separate calculations shall be made for each operator which it guarantees and for its own self-insured vessels.

In paragraph (b) of section 543.6 the Commission permits the insurance form or the surety bond form to be signed by more than one insurer or surety, respectively. However, that permission is granted only if those underwriters undertake joint and several liability for the risks evidenced by the documents signed. Because the joint liability undertaken by the underwriters, when executing an insurance form or surety form jointly, will make each of the underwriters liable for the full $14,000,000 evidenced by the document, each underwriter signing must be financially able to carry that $14,000,000 risk, without regard to the specific division of risk agreed to among them.

The proposed rules provided, in section 543.6(c), that any insurance form, guaranty, or bond provided as evidence of financial responsibility under the rules, shall expressly permit direct action by the claimant against the underwriter; and further provided that, in any such direct action, the underwriter will be entitled to invoke only those rights and defenses permitted by the Act. The forms appended to the rules contained a consent to direct action and that limitation on the rights and defenses. The Group and the Water Quality Insurance Syndicate vigorously asserted that direct action is not permitted by the Act. The Syndicate took the position that no direct action is permitted, while the Group would permit a direct action only by the United States and the Trans-Alaska Pipeline Liability Fund, excluding direct action by any other claimant.

The Act provides, in paragraph (3) of subsection (c) of section 204, that the owner and operator of the vessel shall be jointly and severally liable for the first $14 million of claims that are allowable under the Act, and further provides that, "(f) inancial responsibility for $14,000,000 shall be demonstrated in accordance with the provisions of section 311(p) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321(p)) before the oil is loaded." Paragraph (3) of subsection (p) of section 311 of the Federal Water Pollution Control Act provides:

> Any claim for costs incurred by such vessel (a vessel subject to the Federal Water Pollution Control Act) may be brought directly against the insurer or other person providing evidence of financial responsibility as required under this subsection. In the case of any action pursuant to this subsection such insurer or other person shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if an action had been brought against him by the claimant, and which would have been available to him if an action had been brought against him by the owner or operator.

Paragraph (1) of that subsection (p) of section 311 requires certain vessels to evidence their financial responsibility in the amount of the lesser of $100 per gross ton or $14 million, to meet the liability to the United States to which such vessel could be subjected under section 311. Subsections (f) and (g) of that section make vessels, and third parties, liable to the United States has incurred in cleaning up the discharges of oil or hazardous substances from vessels subject to the Federal Water Pollution Control Act. Thus, paragraph (3) of subsection (p) of section 311 of the FWPCA gives to all claimants under that statute, a right of direct action against an underwriter, but permits that underwriter to assert, in any such direct action, any defenses which the vessel operator would have been entitled to assert against the claimant, and any defenses which the underwriter would have been able to assert against the vessel operator, if the claim had been brought against the underwriter by the vessel operator instead of by the claimant.

There is no provision in the Trans-Alaska Pipeline Authorization Act which expressly grants a right of direct action against the underwriter by any claimant. The Act only refers to the FWPCA as the controlling statute with regard to the demonstration of financial responsibility under the Act. In the Conference Report, the House and Senate conferees stated:

> Since the Federal Water Quality Improvement Act has an existing mechanism for establishing proof of financial responsibility, reference was made to the appropriate provision (13 U.S.C. 1321(p)). Such provision would be used *to the extent it is consistent with the purposes of this Act;* for example, references to tonnage limitations would not apply. (Emphasis supplied.)

Conference Report, p. 29. Thus, the Congress intended that the financial responsibility provisions of the FWPCA should be used when establishing financial responsibility under the Act, but only to the extent that those provisions are consistent with the purposes of the Act, apparently recognizing that the purposes of the Trans-Alaska Pipeline Authorization Act were different from those of the FWPCA.

The Water Quality Insurance Syndicate asserted that:

> The Act does not grant, nor does it even suggest, the right of a claimant to make claim directly against the insurer. Section 543.6(c) of the proposed regulations purports to grant to claimants the right to institute claims directly against the insurer. This constitutes an attempt to create a new cause of action against the insurer—this can be done only by the legislature. In the absence of a statute to the contrary, there is no privity between an injured party and a liability insurer and the injured party cannot bring a direct action against the insurer.
>
> It certainly cannot be said that Congress was unmindful of the possibility of direct action against an insurer. Direct action was permitted in the Water Quality Improvement Act of 1970, then was continued by the 1972 amendments. The omission of direct action must be taken as a deliberate act of Congress. On these facts, we feel that your Commission should not deviate from the provisions of the Act.

The concept of privity of contract, generally, would not prevent a cause of action by a person other than the contracting parties, here the insurer and its assured, merely because the other person was not expressly made a party to the contract. The concept of third party beneficiary recognizes that a third person might have been intended to benefit from the contract between two parties, thereby permitting the third party to rely on undertakings in the contract in a claim against the promisor, here the insurer. While the concept of third party beneficiary has not been applied to liability insurers, it has been applied to life insurance companies. Consequently, the concept of an insurer being held to answer directly to one not expressly party to the contract of insurance is not totally alien to the common law. Even so, the Commission, by these rules, does not create a new cause of action against the insurer, rather, the Commission, as a condition of accepting insurance as adequate evidence of financial responsibility under the Trans-Alaska Pipeline Authorization Act, requires the insurers to consent to be sued by claimants. It is, among other reasons, that consent of the insurer which would give rise to the cause of action by the claimant against the insurer, not the regulations of the Commission.

While it can be argued, as the Syndicate has, that the failure of the Congress to mention direct action in the Act was a conscious act precluding direct action, the better interpretation is that the Congress intended all of the provisions of section 311(p) of the FWPCA to apply to the establishment of financial responsibility under the Act, insofar as those provisions are consistent with the purposes of the Act. A grant of direct action by the claimant against the insurer, expressly contained in the FWPCA, is decidely consistent with the purposes of the Act, for one of its purposes was to provide expeditious and easy compensation to claimants suffering injury as a result of discharges of oil. Consequently, the Commission concludes that the claimant has a right of direct action against the underwriter under the Tran-Alaska Pipeline Authorization Act.

However, the Group, while not denying the right of direct action generally, asserted that it is available only to the United States and the Trans-Alaska Pipeline Liability Fund. The Group presented no arguments as to why that should be the case. An argument can be made that, while the right of direct action against the underwriter is included within the Act by reason of the specific provision therefor in the FWPCA, that specific provision only runs to the United States in the FWPCA. Consequently, the argument would go, only the United States has a right of direct action against the underwriter under the Act. It could be further argued that, since the Fund, although established as a nonprofit corporate entity, is actually an instrumentality of the United States, the Fund should enjoy the same rights of direct action as does the United States.

However, the Congress did not use the words "United States" in that paragraph of the FWPCA which provides a right of direct action against the underwriter. The Congress used the word "claimant".





Thus, the FWPCA granted a right of direct action by all claimants under that statute. When that provision was included within the Trans-Alaska Pipeline Authorization Act by reference, the Congress intended, similarly, to grant a right of direct action to all claimants under the latter Act as well. The Commission concludes that the more expansive interpretation is more consistent with the purposes of the Act, and, adopts it in these rules.

There remains the question of what defenses are available to the underwriter in such a direct action. The Group asserted that it should have all the defenses which it would have under the FWPCA. No reasons were given for that assertion. It can be argued that, if a right of direct action against the underwriter is found in the Trans-Alaska Pipeline Authorization Act by reason of its reference to the FWPCA, then the defenses which are permitted to that direct action in the FWPCA must follow the grant of the right of direct action.

Contrarily, the House and Senate conferees stated that the FWPCA's financial responsibility provisions were to be used only to the extent they were consistent with the purposes of the Trans-Alaska Pipeline Authorization Act. The FWPCA granted the vessel operator several defenses not permitted to the vessel operator under the Trans-Alaska Pipeline Authorization Act. Under the Act, the vessel operator may escape strict liability, only if it can prove that the damages were caused (a) by an act of war, (b) by the negligence of the United States or other governmental agency, or (c) with respect to a particular claimant, by the negligence of that claimant. The Trans-Alaska Pipeline Authorization Act did not include the defenses of act of God, and causation in a third party without regard to whether or not that third party was negligent, both of which defenses are available under the FWPCA. Thus, it can be argued that the Congress intended that persons injured by discharges of trans-Alaska pipeline oil should bear a substantially smaller portion of the risk of loss than they do under the FWPCA. If the underwriters are permitted to assert against the claimant all of the defenses they would be permitted to assert against their assured, that shifting of the risk of loss would be diminished.

Thus, on balance, the Commission concludes that, to the same extent that the Act includes the right of a direct action by all claimants against the insured by its reference to section 311(p) of the FWPCA, the Act also includes the defenses to such a direct action which the underwriter would have under the FWPCA, but only to the extent that those defenses are consistent with the purposes of the Trans-Alaska Pipeline Authorization Act, and these final rules so provide. Clearly, the defenses of act of God, and causation in a third party without regard to the negligence of that third party, and causation in any third party other than the United States or other governmental entity, are not consistent with the purposes of the Act, and would not be available to an underwriter in any action brought pursuant to the Act. Further, while certain defenses which an underwriter would have against its assured in an action brought by the assured against the underwriter, which go to the very existence of a contract of insurance, such as, fraud in the execution, might be available to an underwriter in an action brought against the underwriter by a claimant under the Act, not all defenses which an underwriter might have against its assured in an ordinary contract of insurance would be available to the underwriter under the Trans-Alaska Pipeline Authorization Act. For example, the defense of wilful misconduct on the part of the vessel operator is inconsistent with the purposes of the Act. While public policy might favor a defense of wilful misconduct on the part of the vessel operator in an action by the operator against its insurer pursuant to a contract of hull insurance, the policy considerations in the hull insurance situation do not obtain in this situation involving injury to third parties and their property resulting from oil pollution. In the hull insurance situation, public policy dictates that the vessel operator, who wilfully and wrongfully scuttles the vessel in deep water, should bear the full extent of the loss which that wrongful act occasioned, so as to deter others from engaging in similar wrongful acts. If the insurer may escape paying its assured for the scuttled vessel, only the assured will suffer. But, in the oil pollution situation, aside from the loss of the vessel, the wilfully wrongful operator might well not suffer at all, while the injured claimant would bear the full burden of the injuries resulting from the oil which escaped from the scuttled vessel. This is particularly true in the case where the vessel operator is one of those corporations whose sole assets are the vessel operated by the corporation, which vessel is heavily mortgaged. In such a situation, although the vessel operator would be liable up to $14 million to the person injured as a result of the escaping oil, that vessel operator would have no assets, other than insurance, to pay the claimant, because the vessel would no longer exist or, even if it were not a total loss, the mortgagee would recover all or most of the proceeds from the sale of the vessel. Thus, the claimant would receive no monies from the operator, and, if the underwriter was permitted to interpose the defense of wilful misconduct on the part of the vessel operator, no monies from the underwriter either. But, one of the purposes of the Act was to assure that the individual claimant would be compensated, and that the risk of that compensation be borne by those transporting the oil, either as self-insurers, or through the premiums paid to an underwriter. A particular vessel is permitted to carry trans-Alaska pipeline oil only after the United States is informed that the operator of that vessel has sufficient funds, by insurance or otherwise, to pay the damages for which the operator is made liable under the Act. The Commission will issue a certificate attesting to the world that a particular vessel operator, operating a particular vessel, has sufficient funds to pay those damages. The Commission does so, upon the representation of an insurer that the liability of the operator is insured. If the insurer is then permitted to assert, by reason of some act over which the Commission has no control, that the protection of the insurance is no longer there, the purposes of the Act will be soundly defeated. Consequently, the Commission concludes that the Act should not be interpreted so as to include the defense of wilful misconduct on the part of the operator.

In paragraph (f) of this section 543.6 is found another example of the continuing duty of certificants to keep the Commission informed of changes in data relevant to the financial responsibility of those certificants. To the extent the reporting requirements set forth in paragraph (f) are different from the reporting requirements set forth in subdivision (iv) of subparagraph (3) of paragraph (a) of this section, self-insurers must also comply with this paragraph (f).

*Section 543.7, Certificates, Issuance.* This section, among other things, requires that the original copy of the certificate issued pursuant to these rules be carried on board the vessel, provides that the certificate will expire at a date certain, not more than two years from the date of issue, and provides that the certificate will be void if there are any erasures on or alterations of the certificate, or if the certificant is not the operator of the vessel named on the certificate. Those provisions are largely enforcement tools designed to prevent the unlawful use of certificates, and to facilitate a regular check on the validity of certificates. The ultimate purpose of these enforcement tools is to assure that the public is adequately protected.

International Ocean Transport Corporation asserted that it was unnecessary to require a new certificate under these rules, in addition to the existing certificate under Part 542 of the Commission's rules, that the Commission ought to allow any copy rather than the original of the certificate to be carried aboard the vessel, and that the renewal of certificates is an unnecessary burden upon certificants. Because the two statutes, the Act and the FWPCA, cover separate and distinct liabilities, different defenses, and different dollar limitations, and because of the practical problems involved in the revocation of certificates when the insurance covering the liability under one statute is cancelled, but the insurance under the other statute is not cancelled, the Commission concludes that two distinct certificates, one under Part 542 and one under Part 543, is the least burdensome method of carrying out its duties under the two statutes.

By requiring that the original certificate be kept on board the vessel, and that



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all certificates be returned to the Commission every two years, the Commission will be able to prevent the unlawful use of certificates. If the certificant were permitted to have on board the vessel a copy of the original certificate, enforcement officials would not be in a position to know whether the certificate had been returned to the Commission for revocation. Further, permitting the certificant to keep the original at its office, rather than aboard the vessel, would facilitate the deception of enforcement officials, for the certificate could be altered, and a copy of the altered certificate, whereon the alteration would be more difficult to detect, could be kept aboard the vessel. In like manner, expiring certificates will permit the Commission to weed out unused certificates, and will facilitate the enforcement of Commission revocation. Even if the certificant does not return the certificate, eventually, it will be invalid on its face.

Paragraph (b) of section 543.7 provides the procedure to be followed when the certificant ceases to be the operator of the vessel named on the certificate. The certificant is required to return the certificate to the Commission, and, by completing the reverse side of the certificate, inform the Commission of the nature of the change. In the event the certificant is unable to return the certificate, the certificant is required to provide the same information to the Commission by letter or other written means.

*Section 543.8, Certificates, Denial or Revocation.* In this section, the Commission sets forth the five reasons for denying an application for a certificate, or revoking one already issued. Subparagraph (1) of paragraph (a) of that section is intended to have broad effect. Thus, if an applicant or a certificant, or any one acting on their behalf, shall wilfully make any false statement to the Commission in connection with the certificate being applied for, or the certificate held, the Commission may revoke the certificate or deny the application for a certificate, even though the applicant or certificant has demonstrated that it has the assets required by these rules. Although the subparagraph speaks in terms of applications or requests for certificates and the retention of certificates, the subparagraph applies to all dealings between the Commission and applicants or certificants with regard to the certification process.

Similarly, subparagraph (3) of paragraph (a) of this section would permit the Commission to deny or revoke a certificate for failure to comply with the Commission's inquiries, regulations, or orders, without regard to whether the applicant or certificant has demonstrated that it has the assets required by these rules. Subparagraph (4) of paragraph (a) of the section relates only to the annual financial reports, the six-month financial reports, and the quarterly affidavits required of self-insurers by subdivisions (i) and (ii) of subparagraph (3) of paragraph (a) of section 543.6 of these rules. The emphasis here is upon the timely filing of those required documents, and reflects the Commission's intention to closely police self-insurers. Even if the required statements are filed, if they are not filed on time, the certificate may be denied or revoked by the Commission.

Subparagraph (5) of paragraph (a) of this section extends to the cancellation or termination of any undertaking, even if the undertaking were filed as a portion of the evidence of financial responsibility where an applicant or certificant establishes its financial responsibility by a combination of methods, as permitted by paragraph (a) of section 543.6 of these rules. Thus, if an applicant or certificant were to establish its financial responsibility by maintaining in the United States only a portion of the working capital and net worth required by subparagraph (3) of paragraph (a) of section 543.6, with the balance of the assets being evidenced by a surety bond, the certificate would be revoked, if the bond were cancelled or terminated, even though there were no change in the working capital or net worth of the certificant.

Before denying an application for a certificate or revoking a certificate which it has issued, the Commission will inform the applicant or certificant of its intention, and will afford the applicant or certificant a period of time to show the Commission that the basis for its intended denial or revocation is not true. However, the period of time afforded varies according to the urgency of the action. Thus, where the Commission intends to revoke a certificate because an undertaking is to be canceled or terminated, the Commission will revoke the certificate effective either with that cancellation or termination, or ten days after the date of the Commission's notice of intention to revoke, whichever is later. Similarly, if the reason for the intended revocation is the failure of a self-insurer to timely file the annual financial report, or the six-month financial report, or the quarterly affidavits, required by subdivisions (i) and (ii) of subparagraph (3) of paragraph (a) of section 543.6 of the rules, the revocation shall be effective 10 days after the date of the Commission's notice of intention to revoke. In both those situations the certificant shall be afforded the opportunity of a hearing, but that hearing shall be brief and circumscribed. The hearing shall be limited to permitting the certificant to show that, in the first case, the undertaking has not been canceled or terminated, or to produce other evidence of financial responsibility in accordance with these rules, and, in the second situation, that the required financial statements were filed on time. Thus, in both those situations the issues are very limited, and would not require an evidentiary hearing. Indeed, only the briefest of hearings would be required. In both those situations the risk to the public attendant upon permitting a certificant to retain a certificate is so great that expedited resolution of the questions is mandatory.

Before effecting denials of applications or revocations of certificates on any other grounds, the applicant or certificant will be afforded 30 days after the date of the notice of intention to deny or revoke to request a hearing. If a timely request for a hearing is submitted to the Commission, the Commission will grant a hearing. However, the nature of the hearing will depend upon the context of the particular case. For example, the Commission will not order a full scale evidentiary hearing, unless there are disputes as to material facts. Since the Commission, in its notice of intention to deny or revoke, will state the reasons for the intended action, there will not be any disputes as to material facts unless the applicant or certificant, in its request for a hearing, disputes specific facts. A general denial, or vague assertions, will not be sufficient to precipitate lengthy hearings.

In its comments, the Group asserted, with respect to this section, that an insurer should be permitted to cancel an insurance certificate upon 30 days' notice to the Commission. That comment appears to proceed from a misunderstanding of this section. The Group appears to confuse its "certificates of insurance" with the certificates issued by the Commission after an applicant has established its financial responsibility. This section refers to the certificates issued by the Commission, not "certificates of insurance." The cancellation or termination of those latter certificates is provided for in the insurance form appended to, and incorporated within, these rules.

The four forms to be used in complying with these rules have been incorporated within the rules by reference. The forms are to be interpreted so as to be consistent with the rules, and with the purpose of the Act which these rules implement, to wit: the maximum protection of the public. Form FMC–224P, Application for Certificate of Financial Responsibility (Alaska Pipeline), is intended to provide the Commission with information as to the identity, organization, location and vessels of each applicant. The form must be submitted to the Commission when an applicant applies for its first certificate under these rules. Thereafter, so long as the applicant holds at least one certificate, addition of vessels, changes in names of vessels, and deletion of vessels may be accomplished by letter, telegraph, or other writing. The application form is not required for those subsequent changes. Similarly, a certificant applying for a renewal of its existing certificate may do so by letter, telegraph, or other writing. However, when the application form is first submitted it must be complete. That is, all spaces on the application form must be filled in.

Forms FMC–225P, FMC–226P, and FMC–227P are the forms for insurance, surety bond, or guaranty. Each of those forms is an undertaking by an underwriter to provide sufficient monies to compensate persons making claims under the Act. Those undertakings are of indefinite duration, and may be terminated only in accordance with the provisions contained in the undertaking. Specifically, those undertakings may be terminated only by written notice to the Commission and to the vessel operator, received by the Commission at least 30





days prior to the effective date of the termination. However, even though notice of termination might be given to the Commission and the vessel operator, the vessel operator might, prior to the effective date of that termination, load trans-Alaska pipeline oil for a voyage which would continue beyond the stated effective date of termination. Consequently, the forms provide that, notwithstanding the notice given, the undertaking shall not terminate until the voyage, begun prior to the stated termination date, has been completed, and all of the oil off-loaded from the vessel. That provision will assure that there are assets available to pay claims which might arise out of that voyage in progress. The forms designate an agent in the United States empowered to receive process relating to the Act or these rules, and further provide that the Secretary of the Commission will be that agent, in the event the designated agent cannot be served.

The State of Alaska urged that underwriters should be specifically amenable to suit in Alaska, British Columbia, Washington, Oregon and California. Alaska argued that the greatest amount of vessel traffic will occur within, or adjacent to, those five jurisdictions, thereby subjecting those jurisidictions to an increased likelihood of injury. According to Alaska, direct action against an underwriter is of little value to an Alaskan native, when the agent for service of process is located in New York City. The comment of Alaska has some merit, however, its implementation would raise practical difficulties. If the Commission were to require an agent for service of process in those five jurisdictions, in would appear necessary to also require an agent for service of process in other states, such as Georgia and Louisiana, where Deepwater Ports are likely to be constructed, and virtually any other State of the United States perceiving a substantial likelihood of oil pollution injury.

The Department of the Interior's rules regarding claims settlement specifically provide that a claimant may present its claim to the Trans-Alaska Pipeline Liability Fund, in lieu of suing the operator or its underwriter, if the operator or its underwriter does not timely settle the claim of the claimant.[4] Thus, the Alaskan native would be able to receive compensation for injury without leaving the State. The Fund would then proceed against the underwriter wherever the underwriter might be found. Further, while certain operators might make only one call at a given port, it is likely that most of the operators transporting trans-Alaska pipeline oil will return to the various ports on several occasions, thereby permitting the local residents to obtain jurisdiction over the operator in the local courts. Lastly, if the claim exceeds $10,000, jurisdiction would lie in United States district court, either under the federal question rule or, arguably, under subsection (n) of section 311 of the FWPCA, which grants jurisdiction to the district courts for any action arising under that section. In the district courts, venue will lie, among other places, in the district where the cause of action arose, which would include the district where the claimant sustained the injury. Since the jurisdiction of the several district courts extends throughout the United States, the district court for the District of Alaska would have jurisdiction over the agent located in New York City. In the view of the Commission, the increased burden upon underwriters which would result from maintaining agents in the several States, outweighs the benefits to the public which would result from imposing that requirement.

The form of bond, FMC–226P, provides that, "termination (of the bond) shall not affect the liability of the Surety in connection with an incident occurring prior to the date such termination becomes effective." The insurance form, 225P, and the guaranty form, 227P, as proposed, provided that the insurance, or guaranty, are applicable only in relation to incidents giving rise to claims occurring between the effective date of the document and its termination. The insurance and guaranty forms do not contain the specific language, as to liability for incidents prior to termination, which is contained in the bond. Alaska urged the Commission to insert that specific language in the insurance and guaranty forms so as to preclude any argument that the liability is somehow different. As the State of Alaska concedes, the same result is obtained by the language presently contained in the insurance and guaranty forms. However, the addition of the specific language requested by Alaska would make more certain the liability of the insurer or guarantor for incidents occurring prior to the termination of the insurance policy or guaranty, and that language has been incorporated into forms FMC–225P and FMC–227P.

The insurance form, FMC–225P, is a representation from the insurer to the Commission, that it has insured a particular vessel operator for the liabilities to which the vessel operator might be subjected pursuant to the Act. The form is not the actual insurance policy issued by the insurer to its assured. Alaska urged the Commission to require the insurer to file with the Commission a uniform endorsement to existing insurance policies, which would contain the actual language of the policies. Alaska was concerned that the actual policy of the insurer might differ from that represented by the insurer to the Commission.

The Commission's rules on the FWPCA (Part 542) provide that an applicant may evidence its financial responsibility by providing to the Commission a duplicate original of its insurance policy. If the applicant does so, to be acceptable to the Commission, that policy must contain a uniform endorsement incorporating into the policy, the liability imposed by the FWPCA. Alternatively, the applicant may submit to the Commission a certificate of insurance, wherein the insurer represents to the Commission that the applicant is insured by it against the liabilities imposed by the FWPCA. The latter method is that which is incorporated into these rules dealing with trans-Alaska pipeline oil pollution liability (Part 543). Of the more than 25,000 vessels certificated by the Commission under the FWPCA, the Commission has received only one insurance policy containing the uniform endorsement. All other applicants for certificates, relying upon insurance as the evidence of financial responsibility, have submitted the representation of the insurer that the applicant is insured by it. That method has worked well, and has not impaired the claims of the United States against vessel operators and their insurers under the FWPCA. Consequently, the Commission did not include the optional uniform endorsement method within the proposed rules regarding trans-Alaska pipeline oil. In the view of the Commission, the fear of Alaska, that claimants might be injured, if the policy of insurance differed from the representation made to the Commission, is not well founded. Having represented to the Commission, for the purposes of causing the Commission to issue a certificate of financial responsibility, that a policy of insurance containing certain liabilities existed, an insurer is estopped from asserting that such a policy does not exist, or that the policy which does exist has terms and conditions different from those represented to the Commission. Consequently, that comment of Alaska has not been adopted.

The insurance form, FMC–225P, provides insurance to the limit of $14 million per incident. Similarly, the guaranty, Form FMC–227P, has a limit of liability of $14 million per incident. However, the bond is in a definite penal sum, without regard to the number, if any, of incidents in which vessels operated by the principal of the bond are involved. The bond is a schedule bond, and, in accord with the Commission's decision on self-insurance, the penal sum varies with the number of vessels listed in the schedule. For one vessel, the penal sum is $14 million. That sum differs from the $19 million required of a self-insurer for one vessel because the extra $5 million in working capital and net worth required of a self-insurer is intended to be a buffer as protection against the rapid dissipation of the assets of the self-insurer. That protection against dissipation is not required in the case of a bond, as the ability of the surety company to pay, is policed by other governmental agencies. Notwithstanding the maximum penal sum of $29 million, where there are six or more vessels listed in the schedule of the bond, the surety would not be liable for more than $14 million in any one incident, as the vessel operator is not liable for more than that amount. Because the bond is in an inflexible amount, the bond provides that the surety is not discharged of its obligation to pay the penal sum

[4] In any event, the Interior rules provide that *all* claims are to be physically delivered to the Fund, which has an office in Alaska, which will then send the claims on to the owner, operator, and underwriter.



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unless the principal shall pay, or the surety shall keep the Commission informed of all suits filed, judgments rendered, and payments made by the surety under the bond. This requirement is to permit the Commission to require a certificant to obtain additional evidence of financial responsibility where the surety has paid a portion, or all, of its obligation under the bond. If this requirement were not present, the Commission would not know when a surety had paid all that it was obligated to pay under the bond, thereby leaving a certificant without the assets required by the Act.

Accordingly, Subchapter B of Chapter IV of Title 46 of the Code of Federal Regulations is amended by the addition of a new Part 543, as set forth below.

By the Commission.

JOSEPH C. POLKING,
*Acting Secretary.*

## PART 543—FINANCIAL RESPONSIBILITY FOR OIL POLLUTION—ALASKA PIPELINE

Sec.


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APPENDIX—FORMS


AUTHORITY: Sec. 204, Trans-Alaska Pipeline Authorization Act; sec. 311, Federal Water Pollution Control Act (86 Stat. 870); sec. 3, Executive Order 11735.

### § 543.1 Scope.

These regulations implement subsection (c) of section 204 of the Trans-Alaska Pipeline Authorization Act, and apply to all operators of vessels carrying oil which has been transported through the trans-Alaska pipeline, engaged in any segment of the transportation of that oil between the terminal facilities of the trans-Alaska pipeline and the port under the jurisdiction of the United States where the said oil is first brought ashore.

### § 543.2 Definitions.

For purposes of this Part the following terms shall have the below-listed meanings:

(a) "Act" means Title II of P.L. 93-153, the Trans-Alaska Pipeline Authorization Act (87 Stat. 584, et seq.)

(b) "Applicant" means any vessel "operator," as defined in paragraph (i) of this section, who has applied for a Certificate.

(c) "Application" means Application for Certificate of Financial Responsibility (Alaska Pipeline), Form FMC-224P.

(d) "Certificant" means any operator, as defined in paragraph (i) of this section, who has been issued a Certificate.

(e) "Certificate" means a Certificate of Financial Responsibility (Alaska Pipeline) issued by the Federal Maritime Commission pursuant to these regulations.

(f) "Commission" means the Federal Maritime Commission.

(g) "Insurer" means one or more acceptable insurance companies, corporations or associations of underwriters, shipowners' protection and indemnity associations, or other persons acceptable to the Commission.

(h) "Oil" means petroleum in any form.

(i) "Operator" or "vessel operator" means any person, including, but not limited to, an owner or a demise charterer, who conducts or who is responsible for the operation of a vessel.

(j) "Owner" or "vessel owner" means any person holding legal or equitable title to a vessel: *Provided, however,* That a person holding legal or equitable title to a vessel solely as security shall not be deemed to be an owner. In a case where a Certificate of Registry has been issued, the owner shall be deemed to be the person or persons whose name or names appear on the vessel's Certificate of Registry: *Provided, however,* That where a Certificate of Registry has been issued in the name of the President or Secretary of an incorporated company pursuant to 46 U.S.C. 15, such incorporated company will be deemed to be the owner.

(k) "Person" includes, but is not limited to, an individual, a government, a firm, a corporation, an association, a partnership, a joint-stock company, a business trust, or an unincorporated organization.

(l) "Public vessel" means a vessel, not engaged in commerce, the operator of which is the Government of the United States or the government of a foreign nation.

(m) "Underwriter" means an insurer, a surety company, a guarantor, or any other person, other than the operator, which undertakes to pay the liabality of the operator.

(n) "United States" means any place under the jurisdiction of the United States, including, but not limited to, the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, and the Trust Territory of the Pacific Islands.

(o) "Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

### § 543.3 General.

(a) No vessel, except a public vessel, shall load oil at a terminal facility of the trans-Alaska pipeline, unless that vessel has a Certificate covering that vessel and her operator.

(b) No vessel, except a public vessel, shall load, from any source, including, but not limited to, another vessel or a Deepwater Port as defined in the Deepwater Port Act of 1974, 88 Stat. 2126, oil, which, having been once loaded aboard a vessel at a terminal facility of the trans-Alaska pipeline, has not, at the time of such loading, yet been brought ashore at a port under the jurisdiction of the United States, unless the vessel to be loaded has a Certificate covering the vessel to be loaded and her operator.

(c) No vessel, except a public vessel, shall transfer to any other vessel, whether for storage, on carriage, or any other purpose, oil, which having been once loaded aboard a vessel at a terminal facility of the trans-Alaska pipeline, has not, at the time of such transfer, yet been brought ashore at a port under the jurisdiction of the United States, unless the vessel to which the oil is to be transferred has a Certificate covering the vessel to which the oil is to be transferred and her operator.

(d) No vessel, except a public vessel, shall have on board oil, which, having been once loaded aboard a vessel at a terminal facility of the trans-Alaska pipeline, has not yet been brought ashore at a port under the jurisdiction of the United States, unless that vessel has a Certificate covering that vessel and her operator.

(e) For the purposes of this section oil means only oil that has been transported through the trans-Alaska pipeline.

### § 543.4 Certificates, how obtained.

(a) Any operator who wishes to be issued a Certificate shall file, or cause to be filed, with the Commission an application, fees, and evidence of financial responsibility, at the following address:

Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

(b) Application forms may be obtained from the address set forth in paragraph (a) of this section, and at the Commission offices at New York, New York; New Orleans, Louisiana; San Francisco, California; and Hato Rey, Puerto Rico.

(c) A completed application, and evidence of financial responsibility, shall be filed at least 45 days prior to the date upon which the vessel to be covered by the Certificate for which application is made is to load oil which has been transported through the trans-Alaska pipeline. Applications will be processed in the order in which they are filed.

(d) All spaces on the application shall be filled in before filing. Spaces may be filled in only with the information requested, the phrase "Not Applicable," or the word "None." Each application shall contain:

(1) Complete name and mailing address of applicant;

(2) Applicant's form of organization;

(3) Date and state of applicant's incorporation or organization;

(4) Names and addresses of each partner, if applicable;

(5) Name and address of applicant's U.S. agent for service of process;

(6) Identifying data for all vessels to be covered by the Certificates for which application is made; and

(7) Identification of the evidence of financial responsibility upon which the Certificates being applied for are based.





(e) All applications and supporting documents shall be in English. All monetary terms shall be set out in United States currency.

(f) The application shall be signed by the applicant. The title of the signer shall be shown on the application. Except where the signer is disclosed as an individual applicant, a partner in a partnership applicant, or an officer of a corporate applicant, the signer shall accompany the application with a written authority to sign.

(g) Only operators may apply for a Certificate.

(h) Certificants shall request the Commission, in writing, to issue a renewal Certificate. That request shall be filed with the Commission at least 45 days, but not earlier than 60 days, prior to the expiration date of the existing Certificate. That request shall identify any item of information on the application which has changed since the initial application was filed, shall set forth the correct information in full, and shall state that all other items on the application remain correct.

(i) If, prior to the issuance of a Certificate, the applicant becomes aware of a change in any of the facts contained in the application, request for renewal, or supporting documentation, the applicant shall, in writing, within 5 days of becoming aware of the change, notify the Commission of the change.

### § 543.5 Financial responsibility, amount.

Each applicant shall establish that it is able to pay $14 million to meet its liability under subsection (c) of section 204 of the Act. The amount required by this Part is separate from and in addition to the amount, if any, required of the applicant pursuant to Part 542 of this Chapter.

### § 543.6 Financial responsibility, how established.

(a) An applicant shall establish its financial responsibility within the meaning of this Part by any one of, or by any combination acceptable to the Commission of, the following methods:

(1) Filing with the Commission an insurance Form FMC-225P, executed by an insurer which is acceptable to the Commission for purposes of this Part.

(2) Filing with the Commission a surety bond Form FMC-226P, executed by the applicant and by a surety company which is acceptable to the Commission for purposes of this Part. To be acceptable, surety companies, among other things, must be certified by the United States Department of the Treasury with respect to the issuance of Federal bonds in the penal sum of the bond.

(3) By maintaining in the United States working capital and net worth, each in the amounts as set forth below in this subparagraph. The amount of working capital and net worth to be maintained by the applicant shall be determined by the number of vessels operated by the applicant within the meaning of this Part: for one vessel, $19,000,000; for two vessels, $24,000,000; for three vessels, $28,000,000; for four vessels, $31,000,000; for five vessels, $33,000,000; and for six or more vessels, $34,000,000. For the purposes of this subparagraph, "working capital" is defined as the amount of current assets located in the United States, less all current liabilities; and "net worth" is defined as the amount of all assets located in the United States, less all liabilities. The amounts required by this subparagraph are in addition to the amount, if any, required by § 542.5(a)(3) of this chapter. Maintenance of the required working capital and net worth shall be demonstrated by submitting with the initial application the items specified in subdivision (i) of this subparagraph for the last fiscal year preceding the date of application. Thereafter, so long as the application is pending or the certificant is holding a Certificate, the applicant/certificant shall submit the items specified in subdivisions (i) and (ii) of this subparagraph and shall be subject to the provisions of subdivisions (iii), (iv), and (v) of this subparagraph:

(i) An annual, current, nonconsolidated balance sheet and an annual, current, nonconsolidated statement of income and surplus, for each fiscal year certified by an independent Certified Public Accountant. Said financial statements are to be accompanied by an additional statement from the Certified Public Accountant, certifying to the total amount of current assets and total assets included in the accompanying balance sheet, which are located in the United States and acceptable for purposes of this Part. If the balance sheet and statement of income and surplus cannot be submitted in nonconsolidated form, but are submitted in consolidated form, there must also be submitted an additional statement prepared by the involved Certified Public Accountant, certifying to the amount by which the applicant's/certificant's total assets, which are located in the United States and acceptable for purposes of this Part, exceed its total liabilities, and also certifying to the amount by which the applicant's/certificant's current assets, which are located in the United States and acceptable for purposes of this Part, exceed its current liabilities. Such additional statement must specifically name the applicant/certificant, must indicate that the amounts so certified relate only to the applicant/certificant, apart from any other entity, and must identify the consolidated financial statement to which it applies.

(ii) Supplementary statements as follows: First, a statement prepared by the Certified Public Accountant, certifying that, as of the end of the first six months of the applicant's/certificant's current fiscal year, the applicant's/certificant's working capital and net worth have not fallen below the required amounts and, second, a quarterly affidavit filed by the corporate Treasurer or equivalent stating that the working capital and the net worth, have not, as of the close of the quarter, fallen below the required amounts. Such affidavits are required only for the first and third fiscal-year quarters.

(iii) Such additional financial information as the Commission may deem necessary in particular cases shall be submitted.

(iv) All persons subject to the provisions of this subparagraph (3) shall, in addition to all other reporting requirements, notify the Commission within five days of the date such persons knew, or had reason to believe, that the amounts of working capital or net worth have fallen below the amounts required by this subparagraph.

(v) All annual financial statements required under this subparagraph (3) shall be received by the Commission within three calendar months after the close of the applicant's/certificant's fiscal year, and the six-month statements within three calendar months after close of such six-month period. Quarterly affidavits shall be received within 30 days of the close of the quarter being attested to. Upon written request, the Commission may grant a reasonable extension of the time limits imposed by this subdivision (v), provided that the request is received 15 days before the statements are due, and provided further that such request sets forth good and sufficient reason to justify the requested extension, and provided further that such requests include an estimate of the final calculation of working capital and of net worth. In no event, however, will the Commission entertain a request for an extension of more than 30 days.

(vi) Failure to timely file any statement, data, or affidavit required by this subparagraph (3) shall cause the revocation of the Certificate.

(4) Filing with the Commission a guaranty Form FMC-227P, executed by a guarantor acceptable to the Commission for purposes of this Part. To be acceptable a guarantor must comply fully with all of the provisions of subparagraph (3) of this paragraph (a). However, the amounts of working capital and net worth required to be demonstrated by such guarantor shall not be less than the aggregate amounts underwritten as a guarantor pursuant to this Part 543 and Part 542 of this Chapter and as an applicant/certificant pursuant to this Part 543 and Part 542 of this Chapter. Joint guarantors, that is, two or more entities which pool assets in order to qualify as guarantors on behalf of an applicant/certificant, will not be permitted.

(5) Any other method specially justified and acceptable to the Commission.

(b) The Commission's application Form FMC-224P, insurance Form FMC-225P, surety bond Form FMC-226P, and guaranty Form FMC-227P, as set forth in and appended to this Part, are hereby incorporated into this Part. If more than one insurer or surety joins in executing a Form FMC-225P or FMC-226P, respectively, such action shall be permitted only if such underwriters undertake joint and several liability.

(c) Forms FMC-225P, -226P, and -227P and any other undertaking, filed



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pursuant to the provisions of this Part 543, shall expressly permit the commencement of an action in court for claims arising under the provisions of subsection (c) of section 204 of the Act by the claimant directly against the underwriter. Said documents also shall provide that, in the event such action is brought directly against the underwriter, such underwriter shall be entitled to invoke only (i) the rights and defenses permitted by the Act to the operator, and, (ii) the rights and defenses permitted by the Federal Water Pollution Control Act to the underwriter, insofar as those rights and defenses are consistent with the purposes of the Act, if the action were brought against the underwriter by the operator.

(d) Each Form FMC–225P, –226P, and 227P submitted to the Commission under the rules of this Part shall set forth in full the correct name of the applicant to whom Certificates are to be issued.

(e) Except in connection with hearings conducted pursuant to this Chapter, financial data filed by applicants, certificants, and underwriters shall, if specifically requested, be confidential, to the extent permitted by the Freedom of Information Act.

(f) If, at any time after a Certificate has been issued, a certificant becomes aware of a change in any of the facts contained in the application or supporting documentation, the certificant shall notify the Commission, in writing, within 10 days of becoming aware of the change.

§ 513.7 Certificates, issuance.

(a) When financial responsibility as required by this Part has been established in support of a properly completed application, a separate Certificate for each vessel listed on such application shall be issued by the Commission. Certificates will be issued only to vessel operators. The period covered by each Certificate shall be not more than two years from the date of issue, and will be indicated on each Certificate. The original Certificate issued pursuant to this Part shall be carried on the vessel named on the Certificate. Erasures or other alterations on the Certificate are prohibited, and the Certificates are void if any are made thereon.

(b) If for any reason, including a vessel's demise or transfer to a new operator, a certificant ceases to be the operator, as defined in section 543.2 of this Part, of such vessel, the certificant shall, within 30 days, complete the reverse side of the Certificate covering that vessel and return it to the Commission. Such Certificate is void whether or not returned to the Commission, and the use of such Certificate is prohibited. If such Certificate has been lost or destroyed, the certificant shall instead submit the following written information to the Commission.

(1) The number of the Certificate and the name of the vessel.

(2) The date and reason why the certificant ceased to be the operator of the vessel.

(3) The location of the vessel on the date the certificant ceased to be the operator.

(4) The name and mailing address of the person to whom the vessel was sold or transferred, if any.

§ 513.8 Certificates, denial or revocation.

(a) A Certificate shall be denied or revoked for any of the following reasons:

(1) Making any willfully false statement to the Commission in connection with an application for an initial Certificate or a request for a renewal Certificate or the retention of an existing Certificate;

(2) Failure of an applicant or certificant to establish or maintain financial responsibility in accordance with the requirements of this Part;

(3) Failure to comply with or respond to lawful inquiries, regulations, or orders of the Commission;

(4) Failure to timely file the statements or affidavits required by § 543.6(a)(3)(i) and (ii); or

(5) Cancellation or termination of any insurance form, surety bond, guaranty or other undertaking issued pursuant to this Part.

(b) Prior to the denial or revocation of a Certificate, the Commission shall advise the applicant or certificant, in writing, of its intention to deny or revoke the Certificate, and shall state the reason therefor. If the reason for the intended revocation is the cancellation or termination of any insurance, bond, guaranty, or other undertaking (§ 543.8(a)(5)), the revocation shall be effective (1) on the effective date of the cancellation or termination, or (2) 10 days after the date of the notice of intention to revoke, whichever is later, unless the certificant shall, prior to such date, provide acceptable substitute evidence of financial responsibility, or demonstrate that the insurance, bond, guaranty, or other undertaking has not been cancelled or terminated. If the reason for the intended revocation is the failure to file required statements (§ 543.8(a)(4)), the revocation shall be effective 10 days after the date of the notice of intention to revoke, unless the certificant shall, prior to the effective date, demonstrate that the required statements were timely filed. If the intended denial or revocation is based upon any other reason, the applicant or certificant may request, in writing, a hearing to show that the applicant or certificant is in compliance with the provisions of this Part, and, if such request is received within 30 days after the date of the notification of intention to deny or revoke, such hearings shall be granted by the Commission. Hearings pursuant to this Part shall be conducted in accordance with the Commission's Rules of Practice and Procedure (46 CFR Part 502).

§ 513.9 Fees.

(a) This section establishes the application fee which shall be imposed by the Commission for processing application Form FMC–224P, and also establishes the certification fee which shall be imposed for the issuance of Certificates.

(b) No Certificate shall be issued unless the application and/or certification fees set forth in paragraphs (d) and (e) of this section have been paid.

(c) Fees shall be paid in United States Dollars, by check or postal money order made payable to the Federal Maritime Commission.

(d) Each applicant submitting application Form FMC–224P for the first time shall pay an initial application fee of $100, which shall not be refunded. If, at a later date, the same applicant submits a request (including Form FMC–224P) for a Certificate to cover an additional or renamed vessel, an additional application fee shall not be required, whether or not the applicant chooses to submit another Form FMC–224P in connection with that request. However, once an application Form FMC–224P is withdrawn or denied for any reason, and the same applicant, holding no valid Certificates, wishes to reapply for a Certificate covering the same or additional vessels, a new application form and application fee of $100 shall be required.

(e) In addition to the $100 application fee, the applicant shall pay a vessel certification fee of $20 for each vessel listed in, or later added to, the application form. Where it becomes necessary to reissue a Certificate for any reason, including, but not limited to, a change of owner, a name change, or a lost Certificate the certificant shall pay the certification fee of $20 for each reissued Certificate.

(f) Certification fees shall be refunded, upon receipt of a written request, if the application is withdrawn or denied prior to issuance of the Certificates. Overpayments in the application fees and/or the certification fees will be refunded on request only if the refund is $10 or more. However, any overpayments not refunded will be credited, for the applicant's possible future use in connection with the purposes of this Part, for a period of two years from the date of receipt of the monies by the Commission.

§ 513.10 Enforcement.

(a) In the event any vessel, is engaged in any of the activities prohibited by § 543.3, the Secretary of the Department in which the Coast Guard is operating, may (1) deny her entry to any port or place in the United States, or the navigable waters of the United States, and (2) detain her at the port or place in the United States from which she is about to depart for any other port or place in the United States.

(b) Any person subject to this Part, who fails to comply with the provisions of this Part, shall be subject to a fine of not more than $10,000 for each such failure to comply.

§ 513.11 Notice and Service of Process.

(a) Notice to the public of the issuance, denial, or revocation of a Certificate shall be published in the FEDERAL REGISTER.

(b) When executing the required forms, each applicant and underwriter shall designate thereon a person in the United States as its agent for service of process for the purposes of subsection (c) of section 204 of the Act and of this Part. Each such designation shall be acknowledged in writing by the designee unless the designee has furnished the Commission with a "master" or "blanket" concurrence whereby the designee has agreed in advance to act as the United States agent for service of process for certain applicants or underwriters if so designated. In any instance in which the designated agent cannot be served because of death, disability, or unavailability, the Secretary, Federal Maritime Commission, will be deemed to be the agent for service of process. When serving the Secretary of the Federal Maritime Commission, in accordance with the above provision, the server shall also send to the applicant, certificant, or underwriter, as the case may be, by registered mail, postage prepaid, at its address last on file with the Commission, a copy of each document served upon the Secretary, and shall attest to that mailing at the time service is made upon the Secretary.

APPENDIX—FORMS

Form Approved:
OMB NO.:

Form FMC-224P Federal Maritime Commission
Washington, D.C. 20573

APPLICATION FOR CERTIFICATE OF
FINANCIAL RESPONSIBILITY (ALASKA PIPELINE)

EVIDENCE OF FINANCIAL RESPONSIBILITY (PART II OF 4 PARTS)

INSTRUCTIONS: Please type or print clearly in ink and submit, by person application to the Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573. QUESTIONS MUST BE ANSWERED WITH THE INFORMATION REQUESTED OR THE PHRASE "NOT APPLICABLE" OR "NONE." If more space is needed, please attach supplemental sheets.

THIS SPACE FOR USE BY FMC

1.(a) Legal name of applicant (name of operator of all vessels listed in Part II):

(b) English equivalent of legal name if customarily written in language other than English:

(c) Trade name, if any:

2.(a) Is this the first time the above-named applicant is submitting application Form FMC-224P for an Alaska Pipeline Certificate?

☐ Yes ☐ No

If "no," please complete item "b" below.

(b) What FMC control number was assigned to the first Form FMC-224P? _____

3.(a) State applicant's legal form of organization, i.e., whether operating as an individual corporation, partnership, association, joint stock company, business trust, or other organized group of persons (whether incorporated or not), or a receiver, trustee, or other liquidating agent, and briefly describe current business activities and length of time engaged therein:

(b) If a corporation, association, joint stock company, business trust, or other organization, please give:

Name of state or foreign country in which incorporated or organized: | Date of incorporation or organization

(c) If a partnership, please give name and address of each partner:

4. Name and address of applicant's United States agent (person or firm) authorized by applicant to accept legal service in the United States (See Part IV):

5. List each vessel which will carry oil that has been transported through the trans-Alaska pipeline and which will require a Certificate of Financial Responsibility (Alaska Pipeline). Vessels for which the operator named in item 1(a) is not responsible should not be listed in this form. In column (1) indicate the number "1" if the operator is also the registered owner. Indicate "2" in column (1) if the operator is not the registered owner.

| (a) NAME OF VESSEL | (b) TYPE OF VESSEL | (c) COUNTRY OF REGISTRY | (d) REGISTRATION NUMBER | (e) GROSS TONS | (f) "1" or "2" |
|---|---|---|---|---|---|
| | | | | | |

(g) If applicant indicated "2" for any vessel listed above, give:

| NAME OF VESSEL | REGISTERED OWNER | OWNER'S MAILING ADDRESS |
|---|---|---|
| | | |

NOTE: The list of owners must be kept current by applicant.

6. Items 7 through 11 are the optional methods of establishing financial responsibility. Check the appropriate box(es) below and answer only the item(s) which are applicable to this application:

☐ Insurance (Answer item 7) ☐ Surety Bond (Answer item 8) ☐ Guaranty (Answer item 9) ☐ Self-Insurer (Answer item 10) ☐ Other (Answer item 11)

7. Name and address of applicant's insurer (Evidence of insurance acceptable to the Federal Maritime Commission must be filed before a Certificate will be issued):

8.(a) Amount of surety bond (Surety Bond Form FMC-226P must be filed before a Certificate will be issued): $_____

(b) Name and address of applicant's surety:

9.(a) Name and address of applicant's guarantor (Guaranty Form FMC-227P and all required financial data must be filed before a Certificate will be issued):

(b) Guarantor's Fiscal Year: _____ (Month) _____ to _____ (Month) _____ (Day)

10. If applicant intends to qualify as a self-insurer, attach all required financial data and indicate fiscal years:

_____ (Month) _____ (Day) to _____ (Month) _____ (Day)

11. Give a fully detailed explanation of the method desired to be utilized to establish financial responsibility and attach all supporting documentation and schedules.







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DECLARATION (PART III OF 4 PARTS)

| 12.(a) Applicant's mailing address; street, number post office box, city, state, or country (and zip code if in the United States): | (b) Type or print in this space the name and title of the official is signing this application b. |
|---|---|
| | (c) Address of principal office in United States (if any): |
| | (d) Area code and telephone no: |

I declare that I have examined this application, including any accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. Furthermore, I declare that the applicant named in item 1(a) of Part I also is the operator for all vessels now listed in or later added to this application. I agree that in the event the agent designated in item 4 of Part I above, or his replacement as may be appointed later with the approval of the Federal Maritime Commission, cannot be served due to his death, disability or unavailability, the Secretary, Federal Maritime Commission, shall be deemed to be the agent for service of process. I have signed this application in my above-indicated capacity as an authorized official of the applicant, if acting under a power of attorney, pursuant to the power vested in me by the said applicant as evidenced by the attached document.

Date_____ Signature of above official_____

PLEASE NOTE:

-Be sure that Parts I, II, and III have been completed as fully as possible and that Part III has been dated and signed.

-All applicants must complete question 4 concerning U. S. agents for service of process. Any questions should be submitted to the Federal Maritime Commission or the underwriter (insurer, surety, etc.).

-If number "2" appears in column 5(f) for any vessels listed in column 5(a), the registered owners of those vessels must be listed in question 5(g) and kept current.

The statements hereinabove set forth are made subject to penalties prescribed by law any person who knowingly and willfully makes false statements on any matter within the jurisdiction of an agency of the United States (18 USC 1001).

CONCURRENCE OF AGENT (PART IV OF 4 PARTS)

Part IV-A must be completed by the person or firm designated in item 4 of Part I to serve as applicant's United States agent for service of process. Part IV-B must be completed by the applicant. After Parts IV-A and IV-B are completed, Part IV should be submitted to the Commission by the applicant or by the agent, either separately or together with Parts I, II, and III. Part IV-A need not be completed if (1) the agent designated in item 4 of Part I already has submitted to the Commission an acceptable blanket Concurrence of Agent, agreeing to serve on behalf of any applicant who designates such agent, or (2) the appliqant is a United States entity and has appointed itself as agent.

PART IV-A

It is hereby agreed that_____
(type name of United States agent)

shall serve as the herein named applicant's United States agent for service of process pursuant to the provisions of Section 543.11, Title 46, C.F.R. This designation and agreement shall cease immediately in the event that said applicant designates a new agent acceptable and agreed to by the Federal Maritime Commission.

Date:_____

Signature of person signing on behalf of agent:_____

(Title)

(Business address)

Part IV-B TO BE COMPLETED BY APPLICANT

Name of applicant (from item 1(a)):_____

Signature of person signing on behalf of applicant:_____
(Person signing here must also sign in appropriate place on Part III)

Date:_____

Type or print name and title:_____







FEDERAL MARITIME COMMISSION

INSURANCE FORM NO. _____ FURNISHED AS EVIDENCE OF FINANCIAL RESPONSIBILITY UNDER SUBSECTION 204(c) OF THE TRANS-ALASKA PIPELINE AUTHORIZATION ACT (PUBLIC LAW 93-153) 46 C.F.R. 543

_____
(Name of Insurer)

(hereinafter "Insurer") hereby certifies that for purposes of complying with the provisions of subsection 204(c), Trans-Alaska Pipeline Authorization Act (hereinafter "Act"), each of the vessel operators specified in the schedules below is insured by it, in respect to each of the vessels respectively specified therein, against liability to which such vessel operators could be subjected under subsection 204(c) of the Act in the amount of $14 million any one incident.

_____, with offices at _____, is hereby designated as the Insurer's agent for service of process for the purposes of subsection (c) of section 204 of the Act and for the purposes of the Rules of the Federal Maritime Commission (Part 543 of Title 46, Code of Federal Regulations). If the designated agent cannot be served due to his death, disability or unavailability, the Secretary, Federal Maritime Commission, shall be deemed to be the agent for service of process.

The Insurer consents to be sued directly in respect of any claim against any of said operators arising under subsection 204(c) of the Act; *provided, however,* that in any such direct action (a) its liability in any one incident shall not exceed $14 million per vessel and (b) it shall be entitled to invoke only (1) the rights and defenses permitted by subsection 204(c) of the Act to the vessel operator, and (2) the rights and defenses permitted by the Federal Water Pollution Control Act to the Insurer, insofar as those rights and defenses are consistent with the purposes of the Trans-Alaska Pipeline Authorization Act, if an action were brought against the Insurer by the operator.

The insurance evidenced by this document shall be applicable only in relation to incidents giving rise to claims under subsection 204(c) of the Act in respect to any of the below-listed vessels, occurring on or after the effective date of this document, which, as to each of such vessels, shall be the date such vessel is named in Schedule A or added to Schedule B below, and before the termination date of this document, which, as to each of such vessels, shall be the date 30 days after the date of receipt by the Federal Maritime Commission (FMC) of notice in writing that the Insurer has elected to terminate the insurance evidenced by this document in respect to any such vessel, and has so notified such vessel's operator; *provided, however,* no such termination shall become effective with respect to any vessel covered by this document, which, at the time such termination would otherwise become effective, was carrying oil which had been transported through the trans-Alaska pipeline and which had been loaded on board such vessel prior to the time such termination would otherwise become effective; and *provided further,* that such termination shall only become effective when *all* of that oil has been offloaded from such vessel. Termination of this document as to such vessels shall not affect the liability of the Insurer in connection with an incident occurring prior to the date such termination becomes effective.

Form FMC-225P

If during the currency of this document a below-named operator requests that an additional vessel be made subject to this document, and if the Insurer should accede to such request and should so notify FMC, then such vessel shall be deemed included in Schedule B hereof.

If more than one insurer joins in executing this document, such action shall constitute joint and several liability on the part of such insurers.

Effective Date of Coverage for Vessels on Schedule A:_____
day/month/year

_____
(Name of Insurer)

_____
(Mailing Address)

_____

_____

By: _____
(Signature of Official Signing on Behalf of Insurer)

_____
(Typed Name and Title of Signer)

Insurance Form No._____





SCHEDULE B
ADDITIONAL VESSELS

| VESSEL | OPERATOR | GROSS TONS* | DATE ADDED |
|---|---|---|---|

*For identification purposes only.

Insurance Form No._____

SCHEDULE A
VESSELS AND OPERATORS

| VESSEL | OPERATOR | GROSS TONS* |
|---|---|---|

*For identification purposes only.

Insurance Form No._____



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SURETY CO. BOND NO. _____

FEDERAL MARITIME COMMISSION

ALASKA PIPELINE
OIL DISCHARGE SURETY BOND (46 C.F.R. 543)

KNOW ALL MEN BY THESE PRESENTS, that We _____ (Name of Vessel Operator)

_____ of _____ (City),

_____ (State and Country), as Principal (hereinafter called Principal), and _____ (Name of Surety)

a company created and existing under the laws of _____ (State and Country), and authorized to do business in the United States, as Surety (hereinafter called Surety), are held and firmly bound unto the United States of America and other claimants for damages under subsection 204(c) of the Trans-Alaska Pipeline Authorization Act (hereinafter "Act") in the penal sum calculated as follows: if there is one vessel listed in the attached schedule, $14,000,000; if there are two vessels, $19,000,000; if there are three vessels, $23,000,000; if there are four vessels, $26,000,000; if there are five vessels, $28,000,000; if there are six or more vessels, $29,000,000, for which payment, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Form FMC-226P

WHEREAS, the Principal intends to become or is a holder of a Certificate of Financial Responsibility (Alaska Pipeline) pursuant to the provisions of Part 543 of Title 46, Code of Federal Regulations, and has elected to file with the Federal Maritime Commission such a bond as will insure financial responsibility to meet any liability incurred under subsection 204(c) of the Act, and

WHEREAS, this bond is written to assure compliance by the Principal with the requirements of the said subsection 204(c) of the Act, and shall inure to the benefit of claimants under the said subsection 204(c),

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall pay or cause to be paid to claimants any sum or sums for wh the Principal may be held legally liable under subsection 204(c) of the Act, then this obligation, to the extent of such payment, shall be void, otherwise, to remain in full force and effect.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penalty of the bond. In no event shall the Surety's obligation hereunder exceed the amount of said penalty, provid that the Surety furnishes written notice to the Federal Maritime Commission forthwith of all suits filed, judgments rendered, and payments made by said Surety under this bond.

Any claim for damages for which the Principal may be liable under the provisions of subsection 204(c) of the Act may be brought directly against the Surety; *provided, however,* that in the event of such direct claim the Surety shall be entitled to invoke only (1) the rights and defenses permitted by subsection 204(c) of the Act to the vessel operator, and (2) the rights and defenses permitted by the Federal Water Pollution



Control Act to the Surety, insofar as those rights and defenses are consistent with the purposes of the Trans-Alaska Pipeline Authorization Act, if an action were brought against the Surety by the operator.

This bond is effective the _____ day of _____, 19__, 12:01 a.m., standard time at the address of the Principal as stated herein and shall continue in force until terminated as hereinafter provided. The above-named Principal or the Surety may at any time terminate this bond by written notice sent by certified mail to the other party with a copy to the Federal Maritime Commission at its office in Washington, D. C., such termination to become effective thirty (30) days after actual receipt of said notice by the Commission; *provided, however,* that no such termination shall become effective with respect to any vessel covered by this document, which, at the time such termination would otherwise become effective, was carrying oil which had been transported through the trans-Alaska pipeline an which had been loaded on board such vessel prior to the time such terminati would otherwise become effective; and *provided further,* that such terminatic shall only become effective when *all* of that oil has been offloaded from such vessel. The Surety shall not be liable hereunder in connection with an incident occurring after the termination of this bond as herein provided, but such termination shall not affect the liability of the Surety in connection with an incident occurring prior to the date such termination becomes effective.

The Surety designates _____ _____, with offices at _____ _____, as the Surety' agent for service of process for the purposes of subsection (c) of section 7 of the Act and for the purposes of the Rules of the Federal Maritime Commis (Part 543 of Title 46, Code of Federal Regulations). If the designated agen cannot be served due to his death, disability or unavailability, the Secret Federal Maritime Commission, shall be deemed to be the agent for service of process.

If more than one surety company joins in executing this bond, such acti shall constitute joint and several liability on the part of such sureties.

In witness whereof, the above-named Principal and Surety have executed this instrument on the _____ day of _____, 19 ___.

(Please type name of signer under each signature. In the case of a partnership, each partner must sign.)

PRINCIPAL

(Individual Principal or Partner) (Business Address)

(Individual Principal or Partner)

(Individual Principal or Partner)

Corporate Principal

Business Address

By (Affix Corporate Seal)

Title

SURETY

Corporate Surety

Business Address

By (Affix Corporate Seal)

Title

SCHEDULE
VESSELS AND OPERATORS

| VESSEL | OPERATOR | GROSS TONS* |
|---|---|---|

*For identification purposes only.



GUARANTY NO. _____

FEDERAL MARITIME COMMISSION

GUARANTY IN RESPECT OF
LIABILITY FOR DISCHARGE OF OIL
ALASKA PIPELINE
(46 C.F.R. 543)

1. WHEREAS _____
(Name of Vessel Operator)

(hereinafter referred to as the "Operator") is the Operator of the Vessel(s) specified in the annexed schedules (hereinafter "Vessel" or "Vessels"), and the Operator desires to establish its financial responsibility in accordance with subsection 204(c) of the Trans-Alaska Pipeline Authorization Act (hereinafter referred to as "the Act"), the undersigned Guarantor hereby guarantees, subject to the provisions of clause 4 hereof, to discharge the Operator's legal liability in respect to a claim under subsection 204(c) of the Act, in the event that such legal liability has not been discharged by the Operator within 21 days after the claimant has obtained a final judgment (after appeal, if any) against the Operator from a United States Federal or State Court of competent jurisdiction, or has become entitled to payment of a specified sum by virtue of a compromise settlement agreement made with the Operator, with the approval of the Guarantor, whereby, upon payment of the agreed sum, the Operator is to be fully, irrevocably and unconditionally discharged from all further liability to the claimant with respect to such claim.

2. The Guarantor's liability under this Guaranty shall in no event exceed $14 million per incident, provided that the Guarantor furnishes written notice to the Federal Maritime Commission forthwith of all suits filed, judgments rendered, and payments made by said Guarantor under this Guaranty.

3. The Guarantor's liability under this Guaranty shall attach only in relation to incidents giving rise to causes of action against the Operator in respect of any of the Vessels for damages under subsection 204(c) of the Act, occurring on or after the effective date of this Guaranty, which, as to each of such Vessels, shall be the date such Vessel is named in Schedule A or added to Schedule B below, and before the termination date of this Guaranty, which, as to each of such Vessels, shall be the date 30 days after the date of receipt by the Federal Maritime Commission of notice in writing that the Guarantor has elected to terminate this Guaranty, with respect to any such Vessels, and has so notified the Operator; *provided, however,* that no such termination shall become effective with respect to any Vessel covered by this document, which, at the time such termination would otherwise become effective, was carrying oil which had been transported through the trans-Alaska pipeline and which had been loaded on board such Vessel prior to the time such termination would otherwise become effective; and *provided further,* that such termination shall only become effective when *all* of that oil has been offloaded from such Vessel. Termination of this document as to such vessels shall not affect the liability of the Guarantor in connection with an incident occurring prior to the date such termination becomes effective.

4. Any claim for damages for which the Operator may be liable under the provisions of subsection 204(c) of the Act may be brought directly against the Guarantor; *provided, however,* that in the event of such direct claim the Guarantor shall be entitled to invoke only (1) the rights and defenses permitted by subsection 204(c) of the Act to the vessel operator,

FORM FMC-227P

and (2) the rights and defenses permitted by the Federal Water Pollution Control Act to the Guarantor, insofar as those rights and defenses are consistent with the purposes of the Trans-Alaska Pipeline Authorization Act, if the action were brought against the Guarantor by the operator.

5. If, during the currency of this Guaranty, the Operator requests that a vessel operated by the Operator, and not specified in the annexed Schedules A and B, should become subject to this Guaranty, and if the Guarantor accedes to such request and so notifies the Commission in writing, then such vessel shall thereupon be deemed to be one of the Vessels included in Schedule B and subject to this Guaranty.

6. The Guarantor hereby designates _____ _____ with offices at _____ _____, as the Guarantor's agent in the United States for service of process for purposes of subsection (c) of section 204 of the Act and for the purposes of Part 543 of Title 46, Code of Federal Regulations. If the designated agent cannot be served due to his death, disability or unavailability, the Secretary, Federal Maritime Commission, shall be deemed to be the agent for service of process.

EFFECTIVE DATE: _____
(Month/Day/Year and Place of Execution)

_____
(Type Name of Guarantor)

_____
(Type Address of Guarantor)

_____

_____

By: _____
(Signature)

_____
(Type Name and Title of Person Signing Above)

_____





SCHEDULE A
VESSELS INITIALLY LISTED

| VESSELS | GROSS TONS | OPERATOR |
|---|---|---|

NOTE: Gross tons are for identification purposes only.

SCHEDULE B
VESSELS ADDED IN ACCORDANCE WITH CLAUSE 5

| VESSEL | GROSS TONS | OPERATOR | DATE ADDED |
|---|---|---|---|

NOTE: Gross tons are for identification purposes only.

[FR Doc.77-21823 Filed 7-28-77;8:45 am]



V 42 146 JUL 29 77 UMI

federal register

FRIDAY, JULY 29, 1977
PART VIII




# OFFICE OF MANAGEMENT AND BUDGET



## BUDGET RESCISSION AND DEFERRALS

Report to Congress

V42146
JUL 29 77
UMI

## OFFICE OF MANAGEMENT AND BUDGET

### DEPARTMENT OF DEFENSE

### Proposed Budget Rescission

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $105.0 million in missile procurement funds appropriated to the Department of Defense.

The details of the proposed rescission are contained in the attached report.

Jimmy Carter

THE WHITE HOUSE, July 26, 1977.





CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

| Rescission # | Item | Budget Authority |
|---|---|---|
| | Defense - Military: | |
| R77-20 | Missile procurement, Air Force | 105,000 |

* * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * *

SUMMARY OF SPECIAL MESSAGES
FOR FY 1977
(in thousands of dollars)

| | Rescissions | Deferrals |
|---|---|---|
| Seventeenth special message: | | |
| New items | 105,000 | --- |
| Changes to amounts previously submitted | --- | --- |
| Effect of the seventeenth special message | 105,000 | --- |
| Previous special messages | 1,726,930 | 7,470,657 |
| Total amount proposed in special messages | 1,831,930 (in 20 rescission proposals) | 7,470,657 (in 63 deferrals) |

NOTE: All amounts listed represent budget authority except for $134,807,092 consisting of two general revenue sharing deferrals of outlays only (D77-26 and D77-27A). Reports for D77-26 and D77-27A are included in the special messages of October 1, 1976, and December 3, 1976, respectively.



V42I146 JUL2977 UMI

Rescission Proposal No: R77-20

**PROPOSED RESCISSION OF BUDGET AUTHORITY**
Report Pursuant to Section 1012 of P.L. 93-344

| | |
|---|---|
| Agency Department of Defense | New budget authority (P.L. 94-419 ) $1,827,700,000 |
| Bureau | Other budgetary resources 104,630,569 |
| Appropriation title & symbol | Total budgetary resources 1,932,330,569 |
| Missile Procurement, Air Force 1/ | Amount proposed for rescission $ 105,000,000 |
| 577/93020 | |
| OMB identification code: 57-3020-0-1-051 | Legal authority (in addition to sec. 1012): ☐ Antideficiency Act |
| Grant program ☐ Yes ☒ No | ☐ Other |
| Type of account or fund: ☐ Annual | Type of budget authority: ☒ Appropriation |
| ☒ Multiple-year September 30, 1979 (expiration date) | ☐ Contract authority |
| ☐ No-year | ☐ Other |

JUSTIFICATION:

The funds proposed for rescission were appropriated together with another $185.5 million (for a total of $290.5 million), to procure 60 MINUTEMAN III (MM III) Intercontinental Ballistic Missiles (ICBM). This rescission proposal results from a decision that additional MM III missiles -- beyond the ten now in production -- are not required to meet national defense needs. The amount proposed for rescission represents funds that will remain after the estimated termination liabilities are met.

ESTIMATED EFFECTS

If this proposal is accepted, 50 ICBM's will not be procured. This will not adversely affect our national defense position. Air Force requirements for this missile will be satisfied once the ten missiles in production are delivered.

OUTLAY EFFECT (estimated in millions of dollars)

| | |
|---|---|
| Comparison with the President's FY 1978 Budget: | |
| 1. Budget outlay estimate for FY 1977 | $1,642.0 |
| 2. Outlay savings, if any, included in the Budget outlay estimate | 0 |
| Current outlay estimates for FY 1977: | |
| 3. Without rescission | 1,641.7 2/ |
| 4. With rescission | 1,620.5 2/ |
| 5. Current outlay savings (line 3 - line 4) | 21.2 |
| Outlay savings for FY 1978 | 52.6 |
| Outlay savings for FY 1979 | 18.9 |
| Outlay savings for FY 1980 | 8.4 |

1/ This appropriation is the subject of another rescission proposal, R77-19, for $1.4 million.

2/ This outlay estimate is net of the $0.3 million estimated to be saved if the rescission proposal, R77-19, is adopted.





R77-20

2

DEPARTMENT OF DEFENSE-MILITARY

TITLE IV

PROCUREMENT

Missile Procurement, Air Force

(Including Transfer of Funds)

Of the funds appropriated under this head in the Department of Defense Appropriation Act, 1977, $105,000,000 are rescinded.

[FR Doc.77-22014 Filed 7-28-77;8:45 am]



V 42 146 JUL 29 77 UMI

## DEPARTMENT OF COMMERCE AND ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

### Budget Deferrals

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith report one new deferral of budget authority amounting to $11.0 million for the local public works program of the Department of Commerce. In addition, I am reporting a revision to a previously transmitted Energy Research and Development Administration deferral.

The details of each deferral are contained in the attached reports.

Jimmy Carter

THE WHITE HOUSE, July 26, 1977.





CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

| Deferral # | Item | Budget Authority |
|---|---|---|
| | Commerce: | |
| | Economic Development Administration | |
| D77-63 | Local public works program | 11,000 |
| | Energy Research and Development Administration | |
| D77-58A | Operating expenses | 37,400 |
| | Total, deferrals | 48,400 |

* * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * *

SUMMARY OF SPECIAL MESSAGES
FOR FY 1977
(in thousands of dollars)

| | Rescissions | Deferrals |
|---|---|---|
| Sixteenth special message: | | |
| New items | --- | 11,000 |
| Changes to amounts previously submitted | --- | 5,600 |
| Effect of the sixteenth special message | --- | 16,600 |
| Previous special messages | 1,726,930 | 7,454,057 |
| Total amount proposed in special messages | 1,726,930 (in 19 rescission proposals) | 7,470,657 (in 63 deferrals) |

NOTE: All amounts listed represent budget authority except for $134,807,092 consisting of two general revenue sharing deferrals of outlays only (D77-26 and D77-27A). Reports for D77-26 and D77-27A are included in the special messages of October 1, 1976, and December 3, 1976, respectively.



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Deferral No: D77-63

## DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

| | |
|---|---|
| Agency<br>Department of Commerce<br>bureau<br>Economic Development Administration<br>Appropriation title & symbol<br>Local Public Works Program<br>1372052<br>137/92052 | New budget authority (P.L. 95-29) $ 4,000,000,000<br>Other budgetary resources 2,000,000,000<br>Total budgetary resources 6,000,000,000<br>Amount to be deferred:<br>Part of year $ ____<br>Entire year 11,000,000 |
| OMB identification code:<br>13-2052-0-1-452<br>Grant program [X] Yes [ ] No | Legal authority (in addition to sec. 1013):<br>[X] Antideficiency Act<br>[ ] Other ____ |
| Type of account or fund:<br>[X] Annual 1/<br>[X] Multiple-year September 30, 1979 (expiration date)<br>[ ] No-year | Type of budget authority:<br>[X] Appropriation<br>[ ] Contract authority<br>[ ] Other ____ |

Justification:

The Economic Stimulus Appropriations Act,1977, (P.L. 95-29), provided $4 billion in supplemental funding for the Commerce Department's Local public works program (LPW). Of this amount, $15 million was authorized to remain available until September 30, 1979, to cover necessary administrative expenses, including expenses for program evaluation. It is estimated that only $4 million of these funds can be effectively used by the end of FY 1977. The deferral is planned to insure that adequate funds will be available to handle the LPW program's workload that will continue beyond the current fiscal year. This deferral action is taken pursuant to the Antideficiency Act (31 U.S.C. 665).

Estimated Effects:

This deferral will not impact the implementation of the Local public works program. The $11 million will be reserved for the remainder of fiscal year 1977, and made available to meet administrative requirements of the program in the future.

Outlay Effect:

There is no outlay effect resulting from this deferral since funds could not be used if made available.

1/ None of these funds are deferred.





D77-58A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. 77-58 transmitted to the Congress on May 18, 1977, and printed as House Document No. 95-158.

This revision of the Energy Research and Development Administration's Clinch River Breeder Reactor Plant deferral updates the justification for and the amount of the deferral. The justification now indicates that the deferral is submitted pending final resolution of the project objectives. Previously, the duration of the deferral depended on the 45-day period described in section 106 of Public Law 91-273. The amount of the deferral has been increased by $5,600,000 from $31,800,000 to $37,400,000.



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Reference No: D77-58A

## DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

| | |
|---|---|
| Agency Energy Research and Development Administration | New budget authority (P.L. 94-355 & P.L. 94-373) $4,669,338,000 |
| Bureau | Other budgetary resources 1,802,626,059 |
| Appropriation title & symbol<br>Operating Expenses 89X0100<br>Clinch River Breeder Reactor Plant Project | Total budgetary resources 6,471,964,059 |
| | Amount to be deferred:<br>Part of year $ ____<br>Entire year 37,400,000* |
| OMB identification code:<br>89-0100-0-1-999 | Legal authority (in addition to sec. 1013):<br>☐ Antideficiency Act |
| Grant program ☐ Yes ☒ No | ☐ Other ____ |
| Type of account or fund:<br>☐ Annual<br>☐ Multiple-year ____ (expiration date)<br>☒ No-year | Type of budget authority:<br>☒ Appropriation<br>☐ Contract authority<br>☐ Other ____ |

* Justification

The Administration has determined as part of its overall energy policy that construction of the Clinch River Breeder Reactor Plant is not required at this time. The Administration has notified the Congress of its proposed objectives for the Project and the Congress is now considering the proposed objectives. Pending resolution of FY 1978 funding for the Clinch River project, obligation of funds for all new contracts or renewal of existing contracts to continue activities or procurements in support of construction, operations, or licensing of the Clinch River plant is being deferred. The purpose of the deferral is to preclude obligation of funds for activities or procurements that may not be necessary once the project objectives are resolved.

* Estimated Effects

This deferral will have no effect on current contracts but will preclude obligation of funds for new contracts as defined above. The contracts to be deferred are for site preparation and related activities. In addition, an estimated $50 million will not be obligated due to licensing and other delays experienced by the project that are not related to this deferral action.

* Outlay Effect

There is no outlay effect resulting from this deferral because of the brief time (through the end of FY 1977) that the deferral is expected to remain in effect. However, outlays will underrun previous estimates by $7.4 million because of project delays unrelated to this deferral.

* Revised from previous report.

[FR Doc.77-22015 Filed 7-28-77;8:45 am]



register

federal

FRIDAY, JULY 29, 1977

PART IX




# DEPARTMENT OF LABOR

## Employment Standards Administration

## MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

### General Wage Determination Decisions

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## DEPARTMENT OF LABOR

### Employment Standards Administration

### MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

### General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

#### MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

#### NEW GENERAL WAGE DETERMINATION DECISIONS

| | |
|---|---|
| Alabama | AL77–1097 |
| North Carolina | NC77–1095 |

#### MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

| | |
|---|---|
| Alabama: | |
| AL77–1040 | Apr. 1, 1977. |
| AL77–1075 | June 3, 1977. |
| Alaska: | |
| AK77–5052 | May 20, 1977. |
| California: | |
| CA77–5039 | Apr. 22, 1977. |
| Colorado: | |
| CO77–5066; CO77–5067; CO 77–5068; CO77–5069; CO 77–5070. | July 1, 1977. |
| Florida: | |
| FL77–1003 | Jan. 21, 1977. |
| Indiana: | |
| IN77–2083 | May 13, 1977. |
| Maryland: | |
| MD77–3080 | June 24, 1977. |
| Michigan: | |
| MI77–2051 | May 6, 1977. |
| MI77–2052 | May 13, 1977. |
| Minnesota: | |
| MN77–2048 | May 20, 1977. |
| Montana: | |
| MT77–5057 | June 3, 1977. |
| New Hampshire: | |
| NH77–2002; NH77–2011 | Jan. 21, 1977. |
| NH77–2003; NH77–2004 | Jan. 28, 1977. |
| Pennsylvania: | |
| PA77–3029 | Feb. 18, 1977. |
| PA77–3032 | Mar. 25, 1977. |
| PA77–3031; PA77–3043 | Apr. 8, 1977. |
| PA77–3028; PA77–3034 | Apr. 15, 1977. |
| PA77–3049 | Apr. 22, 1977. |
| PA77–3050; PA77–3053; PA 77–3054; PA77–3055; PA 77–3057. | May 13, 1977. |
| PA77–3059 | May 20, 1977. |
| PA77–3061 | June 10, 1977. |
| PA77–3078 | June 24, 1977. |
| PA77–3100 | July 15, 1977. |
| South Dakota: | |
| SD77–5065 | June 17, 1977. |
| Texas: | |
| TX77–4070 | Apr. 1, 1977. |
| TX77–4097; TX77–4098 | May 6, 1977. |
| TX77–4101 | May 13, 1977. |
| TX77–4111 | June 10, 1977. |
| TX77–4137 | July 1, 1977. |
| TX77–4151; TX77–4152; TX 77–4153; TX77–4154; TX 77–4155; TX77–4158. | July 8, 1977. |
| Virginia: | |
| VA77–3082 | June 24, 1977. |

#### SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

| | |
|---|---|
| Louisiana: | |
| LA77–4104 (LA77–4169); LA77–4104 (LA77–4170). | May 20, 1977. |
| New York: | |
| NY77–3012 (NJ77–3110) | May 13, 1977. |
| North Carolina: | |
| NC75–1014 (NC77–1081) | Feb. 7, 1975. |
| NC76–1044 (NC77–1094) | Apr. 2, 1976. |
| NC77–1013 (NC77–1096) | Feb. 4, 1977. |
| Oklahoma: | |
| OK77–4087 (OK77–4168) | Apr. 29, 1977. |
| OK77–4109 (OK77–4171) | June 3, 1977. |

Signed at Washington, D.C., this 22d day of July 1977.

RAY J. DOLAN,
*Assistant Administrator,*
*Wage and Hour Division.*





NEW DECISION

STATE: North Carolina
DECISION NO.: NC77-1095
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.
COUNTIES: *See below
DATE: Date of Publication

*Counties, Cherokee, Clay, Graham, Jackson, Macon, and Swain Counties.

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Bricklayers | 6.00 | | | | |
| Carpenters | 4.32 | | | | |
| Carpet layers | 4.00 | | | | |
| Cement masons | 4.50 | | | | |
| Drywall finisher | 4.00 | | | | |
| Electricians | 6.00 | | | | |
| Insulation installers | 6.12 | | | | |
| Laborers | 4.00 | | | | |
| Painters, brush | 3.75 | | | | |
| Plumbers and fitters | 4.00 | | | | |
| Roofers | 4.50 | | | | |
| Soft floor layers | 3.81 | | | | |
| Tile setters | 4.00 | | | | |
| Truck drivers | 4.00 | | | | |
| | 3.75 | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Backhoe | 4.00 | | | | |
| Bulldozers | 4.50 | | | | |

NEW DECISION

STATE: Alabama
DECISION NUMBER: AL77-1097*
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.
COUNTY: *See below
DATE: Date of Publication

*Counties: Bazbour, Bullock, Coffee, Dale, Geneva, Henry, Houston and Russell.

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Air conditioning mechanic | 3:99 | | | | |
| Bricklayers | 6.00 | | | | |
| Carpenters | 4.00 | | | | |
| Dry wall hanger | 5.00 | | | | |
| Electricians | 3.50 | | | | |
| Insulators | 2.50 | | | | |
| Laborers: | | | | | |
| Laborers | 2.49 | | | | |
| Mason tenders | 3.00 | | | | |
| Painters, brush | 5.00 | | | | |
| Plumbers & pipefitters | 3.00 | | | | |
| Roofers | 3.00 | | | | |
| Sheet metal workers | 4.07 | | | | |
| Soft floor layers | 6.25 | | | | |
| Tile setters | 5.00 | | | | |



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MODIFICATIONS P. 1

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Decision # AL77-1040 - Mod. # 3 (42 FR-17752 - April 1, 1977) Madison County, Alabama | | | | | |
| Change: | | | | | |
| Electricians, Linemen | 10.05 | .40 | 3%+.30 | | .03 |
| Decision # AL77-1075 - Mod. # 1 (42 FR-28756 - June 3, 1977) Blount, Jefferson, Saint Clair, Shelby, Talladega and Walker Counties, Alabama. | | | | | |
| Change: | | | | | |
| Insulation applicators | 3.75 | | | | |
| Laborers: | | | | | |
| Laborers | 3.33 | | | | |
| Painters, brush | 4.50 | | | | |
| DECISION #AK77-5052 - Mod. #3 (42 FR 26115 - May 20, 1977) Statewide, Alaska | | | | | |
| Change: | | | | | |
| Roofers: | | | | | |
| Area I | $15.60 | 1.40 | 2.20 | | .05 |
| Areas II and III | 15.30 | 1.40 | 2.20 | | .05 |

MODIFICATIONS P. 2

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION NO. CA77-5039 - Mod #4 (42 FR 20991 - April 22, 1977) Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterrey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, California | | | | | |
| Change: | | | | | |
| Electricians | | | | | |
| San Mateo County | $13.73 | 1.16 | 3% + 1.00 | | .03 |







MODIFICATIONS P. 3

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION NO. CO77-5066 - Mod. #1 (42 FR 34157 - July 1, 1977) Statewide, Colorado | | | | | |
| Change: | | | | | |
| Electricians: | | | | | |
| Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Gilpin, Grand, Jefferson, Lake, Larimer, Logan, Morgan, Phillips, Sedgwick, Summit, Washington, Weld and Yuma Counties | | | | | |
| Electricians | $ 11.69 | .70 | 3%+.75 | | .02 |
| Cable Splicers | 11.94 | .70 | 3%+.75 | | .02 |
| Delta, Dolores, Garfield, Gunnison, Hinsdale, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkins, Rio Blanco, Routt, San Juan and San Miguel Counties | | | | | |
| Electricians | 11.15 | .62 | 3%+.25 | | 1½% |
| Cable Splicers | 11.40 | .62 | 3%+.25 | | 1½% |
| Archuleta, Baca, Bent, Chaffee, Crowley, Custer, Fremont, Alamosa, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Pueblo, and Rio Grande Counties | | | | | |
| Zone 1 (within 12 miles from Pueblo Main Post Office) | | | | | |
| Electricians | 11.50 | .62 | 3%+.65 | | 1½% |
| Cable Splicers | 12.65 | .62 | 3%+.65 | | 1½% |
| Zone II (12 to 20 miles from Pueblo Main Post Office) | | | | | |
| Electricians | 11.90 | .62 | 3%+.65 | | 1½% |
| Cable Splicers | 13.05 | .62 | 3%+.65 | | 1½% |
| Zone III (30 to 40 miles from Pueblo Main Post Office) | | | | | |
| Electricians | 12.25 | .62 | 3%+.65 | | 1½% |
| Cable Splicers | 13.40 | .62 | 3%+.65 | | 1½% |

MODIFICATIONS P. 4

DECISION NO. CO77-5066 (Cont'd)

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Zone IV (40 miles and over from Pueblo Main Post Office) | | | | | |
| Electricians | $ 13.38 | .62 | 3%+.65 | | 1½% |
| Cable Splicers | 14.53 | .62 | 3%+.65 | | 1½% |
| Electricians on electrical contracts less than $20,000 in Zones III and IV | 11.00 | .62 | 3%+.65 | | 1½% |
| Cheyenne, Elbert, El Paso, Kit Carson, Lincoln, Park, and Teller Counties | | | | | |
| Electricians | 11.50 | .72 | 3%+.50 | | .015 |
| Painters: | | | | | |
| Adams, Arapahoe, Boulder, Clear Creek, Delta, Denver, Douglas, Eagle, Elbert, Garfield, Gilpin, Grand, Gunnison, Jackson, Jefferson, Lake, Larimer, Logan, Mesa, Moffat, Montrose, Morgan, Park (Northern half), Phillips, Pitkin, Rio Blanco, Routt, Sedgwick, Summit, Washington, and Weld Counties | | | | | |
| Brush | 10.38 | .70 | .85 | | .07 |
| Spray, Swing Stage | 10.98 | .70 | .85 | | .07 |
| Baca, Bent, Crowley, Custer, Huerfano, Kiowa, Las Animas, Otero, Prowers and Pueblo Cos | | | | | |
| Brush | 8.07 | .50 | .50 | | .04 |
| Steel Painters | 8.57 | .50 | .50 | | .04 |
| Spray Painters | 9.07 | .50 | .50 | | .04 |
| Steel Spray | 9.57 | .50 | .50 | | .04 |
| Archuleta, Chaffee, Cheyenne, Dolores, El Paso, Fremont, Hinsdale, Kit Carson, La Plata, Lincoln, Mineral, Montezuma, Ouray, Park (Southern half), Rio Grande, Saguache, San Juan, San Miguel and Teller Counties | | | | | |
| Brush | 8.94 | .70 | .50 | | .04 |
| Spray | 9.69 | .70 | .50 | | .04 |
| Steel | 9.44 | .70 | .50 | | .04 |
| Steel Spray | 10.19 | .70 | .50 | | .04 |



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| DECISION NO. CO77-5067 - Mod. #1 (42 FR 34165 - July 1, 1977) Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit and Weld Counties, Colorado | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: | | | | | |
| Electricians: | | | | | |
| Electricians (Elbert and Park Counties) | $ 10.95 | .42 | 3%+.50 | | .015 |
| Electricians (Remaining Counties) | 11.69 | .70 | 3%+.75 | | .02 |
| Cable Splicers (Remaining Counties) | 11.94 | .70 | 3%+.75 | | .02 |
| Glaziers | 11.32 | | | | |
| Marble Setters: | | | | | |
| Elbert, Lake and Park Cos. | 9.86 | .50 | .50 | | |
| Remaining Counties | 10.26 | .90 | .85 | | .04 |
| Painters: | | | | | |
| Park County (Southern half) | | | | | |
| Brush, Roller, Taper, hand texture | 8.94 | .70 | .50 | | .04 |
| Steel and Paperhangers | 9.44 | .70 | .50 | | .04 |
| Spray | 9.69 | .70 | .50 | | .04 |
| Steel Spray | 10.19 | .70 | .50 | | .04 |
| Remaining Counties including NW¼ of Park County* | | | | | |
| Brush, Roller and Drywall Finisher | 10.38 | .70 | .85 | | .07 |
| Spray; Swing Stage, Paperhangers | 10.98 | .70 | .85 | | .07 |
| Sheet Metal Workers | 11.35 | 3%+.50 | 1.41 | | .08 |
| Tile Layers: | | | | | |
| Elbert, Lake and Park Cos. | 9.86 | .50 | .50 | | |
| Remaining Counties | 10.26 | .90 | .85 | | .04 |
| Tile, Marble and Terrazzo Helpers: | | | | | |
| Helpers | 7.85 | .90 | .85 | .50 | |
| Floor Grinders | 8.00 | .90 | .85 | .50 | |
| Base Grinders | 8.55 | .90 | .85 | .50 | |



| DECISION NO. CO77-5068 Mod. #1 (42 FR 34172 - July 1, 1977) El Paso County, Colorado | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: | | | | | |
| Electricians | $ 11.50 | .72 | 3%+.50 | | .015 |
| Marble Setters | 9.86 | .50 | .50 | | |
| Painters: | | | | | |
| Brush and Roller; Tapers, hand texture | 8.94 | .70 | .50 | | .04 |
| Paperhangers; Steel Spray | 9.44 | .70 | .50 | | .04 |
| Spray | 9.69 | .70 | .50 | | .04 |
| Steel Spray | 10.19 | .70 | .50 | | .04 |
| Plumbers; Pipefitters | 10.15 | .75 | .95 | 1.40 | .10 |
| Sheet Metal Workers | 11.35 | 3%+.50 | 1.41 | | .08 |
| Tile Setters | 9.86 | .50 | .50 | | |
| Tile, Marble and Terrazzo Helpers: | | | | | |
| Helpers | 7.85 | .90 | .85 | .50 | |
| Floor Grinders | 8.00 | .90 | .85 | .50 | |
| Base Grinders | 8.55 | .90 | .85 | .50 | |

| DECISION NO. CO77-5069 - Mod. #1 (42 FR 34177 - July 1, 1977) Las Animas, Otero and Pueblo Counties, Colorado | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: | | | | | |
| Electricians: | | | | | |
| Zone I (0-12 miles from P.O.) | | | | | |
| Electricians | 11.50 | .62 | 3%+.65 | | 1% |
| Cable Splicers | 12.65 | .62 | 3%+.85 | | 1% |
| Zone II (12-20 miles from P.O.) | | | | | |
| Electricians | 11.90 | .62 | 3%+.65 | | 1% |
| Cable Splicers | 13.05 | .62 | 3%+.65 | | 1% |
| Zone III (20-40 miles from P.O.) | | | | | |
| Electricians | 12.25 | .61 | 3%+.65 | | 1% |
| Cable Splicers | 13.40 | .62 | 3%+.65 | | 1% |
| Zone IV (Over 40 miles from P.O.) | | | | | |
| Electricians | 13.38 | .62 | 3%+.65 | | 1% |
| Cable Splicers | 14.53 | .62 | 3%+.65 | | 1% |
| Electricial contracts under $20,000 in Zones III and IV | 11.00 | .62 | 3%+.65 | | 1% |
| Glaziers | 11.32 | | | | |



DECISION NO. CO77-5069 (Cont'd)

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Painters: | | | | | |
| Brush, Roller, Tapers, hand texture | $ 8.07 | .50 | .50 | | .04 |
| Steel; Paperhangers | 8.57 | .50 | .50 | | .04 |
| Spray, Tapers using Automatic tools | 9.07 | .50 | .50 | | .04 |
| Spray Steel | 9.57 | .50 | .50 | | .04 |
| Plumbers: | | | | | |
| Zone I (0-15 miles from P. O.) | 11.62 | .75 | .95 | | .08 |
| Zone II (15-20 miles from P. O.) | 12.19 | .75 | .95 | | .08 |
| Zone III (20-40 miles from P. O.) | 12.62 | .75 | .95 | | .08 |
| Zone IV (Over 40 miles from P.O.) | 13.645 | .75 | .95 | | .08 |
| Sheet Metal Workers | 11.35 | 3%+.50 | 1.41 | | .08 |
| Tile, Marble and Terrazzo Workers: | | | | | |
| Helpers | 7.85 | .90 | .85 | .50 | |
| Floor Grinders | 8.00 | .90 | .85 | .50 | |
| Base Grinders | 8.55 | .90 | .85 | .50 | |

| DECISION NO. CO77-5070 - Mod. #1 (42 FR 34182 - July 1, 1977) Delta, Garfield, Gunnison, Mesa, Montrose and Pitkin Counties, Colorado | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: | | | | | |
| Electricians: | | | | | |
| Electricians | $ 11.15 | .62 | 3%+.25 | | 1½ |
| Cable Splicers | 11.40 | .62 | 3%+.25 | | 1½ |
| Glaziers | 11.32 | | | | |
| Marble and Tile Setters, Terrazzo Workers | 10.26 | .90 | .85 | | .04 |
| Painters: | | | | | |
| Brush, Roller and Drywall Finishers | 10.38 | .70 | .85 | | .07 |
| Paperhangers, Spray, Swing Stage | 10.98 | .70 | .85 | | .07 |
| Sheet Metal Workers | 11.35 | 3%+.50 | 1.41 | | .08 |
| Tile, Marble and Terrazzo Helpers: | | | | | |
| Helpers | 7.85 | .90 | .85 | .50 | |
| Floor Grinders | 8.00 | .90 | .85 | .50 | |
| Base Grinders | 8.55 | .90 | .85 | .50 | |



| DECISION #FL77-1003 - Mod. #1 (42 FR 4081 - January 21, 1977) Dade County, Florida | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: | | | | | |
| Electricians | $7.70 | 4½% | 1% + 2% | 8½% | 1% |
| Laborers: | | | | | |
| Mason tenders | 5.025 | 1.00 | .37 | | |
| Pipelayers | 5.025 | 1.00 | .37 | | |
| Plasterers' tenders | 5.16 | 1.00 | .37 | | |
| Laborers | 4.95 | 1.00 | .37 | | |

DECISION NO. IN77-2083 - Mod. #3
(42 FR 24596 - May 13, 1977)
Statewide, except Lake, LaPorte, Porter, & St. Joseph Counties, Indiana

| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Change: | | | | | |
| Carpenters: | | | | | |
| Jasper, Newton, & Starke Cos. | $12.03 | .50 | .57 | | .05 |
| Elkhart County | 8.98 | .60 | .60 | | .05 |
| Bartholomew (Camp Atterbury), Boone, Fountain, Hamilton, Hancock, Hendricks, Johnson (except Edinburg), Marion, Montgomery, Morgan (except Washington), Parke (except portion lying west of a line south and north running through Jessup, Rosedale, Carbondale, and Poland), Putnam, Vermillion (north of the south city limits of Summit Grove), and Warren Cos. | 10.45 | .60 | .50 | | .08 |
| Remaining Counties | 9.88 | .55 | .45 | | .05 |
| Cement masons: | | | | | |
| Elkhart, Kosciusko, & LaGrange Cos. | 10.48 | | .30 | | .02 |
| Greene & Sullivan Cos. | 10.55 | .40 | .70 | | .01 |
| Ironworkers: | | | | | |
| Adams, Allen, Blackford, DeKalb, Delaware (northeastern 1/3 of Co.), Grant (excluding s/w portion), Huntington, LaGrange (eastern ½ of Co.), Noble, Steuben, Wabash, Wells, & Whitley Cos. | 11.20 | .90 | 1.20 | | .02 |
| Elkhart, Fulton, Kosciusko, LaGrange (western ½ of Co.), Marshall, Pulaski, & Starke Cos. | 10.55 | .90 | 1.33 | | .03 |



DECISION NO. IN77-2083 (Cont'd)

| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Benton, Boone (northwestern ½ of Co.), Carroll, Cass, Clinton, (western 2/3 of Co.), Fountain, Jasper (southern ½ of Co.), Miami, Montgomery, Tippecanoe, Warren, & White Cos. | $10.34 | .90 | 1.25 | | .02 |
| Fayette, Jay, Randolph, Union, & Wayne Cos. | 10.95 | .90 | 1.25 | | .04 |
| Clay, Daviess, Greene, Knox, Lawrence (northwestern 1/6 of Co.), Parke, Putnam (western ½ of Co. incl. Greencastle), Sullivan, Vermillion, & Vigo Cos. | 10.80 | .90 | 1.70 | | .10 |
| Dearborn, Decatur (eastern ½ of Co.), Franklin, Ohio, Ripley, & Switzerland Cos. | 11.48 | .90 | 1.05 | | .03 |
| Painters: | | | | | |
| Adams, Allen, DeKalb, Grant, Huntington, LaGrange, Noble, Steuben, Wabash, Whitley, & Wells (northern ½ of Co. to & incl. Bluffton): | | | | | |
| Brush; Paperhangers; Rollers; & Tapers | 8.60 | .42 | .45 | | .10 |
| Sandblasters; Spray | 9.60 | .42 | .45 | | .10 |
| Benton, Clinton, Fountain, Montgomery, Putnam, Tippecanoe, & Warren Cos.: | | | | | |
| Brush; Roller | 9.85 | | | | |
| Structural steel | 10.10 | | | | |
| Sandblasting | 10.85 | | | | |
| Spray | 13.12 | | | | |
| Parke & Vermillion Cos.: | | | | | |
| Brush | 9.65 | | | .25 | |
| Spray | 11.15 | | | .25 | |







DECISION NO. IN77-2083 (Cont'd)

| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Power Equipment Operators: | | | | | |
| Tunnel & Sewer Construction: Adams, Allen, Blackford, DeKalb, Huntington, Jay, Steuben, Wells, & Whitley Cos. | | | | | |
| GROUP I | $10.30 | .40 | .40 | | .05 |
| GROUP II | 9.20 | .40 | .40 | | .05 |
| GROUP III | 8.80 | .40 | .40 | | .05 |
| GROUP IV | 8.00 | .40 | .40 | | .05 |
| Line Construction: Crawford, DuBois, Gibson, Perry, Pike, Posey, Spencer, Vanderburgh, & Warrick Cos. | | | | | |
| Linemen; Line truck ops.; Hole digger; Stool handling cable splicer | 11.65 | .40 | 3% | | |
| Groundman | 10.29 | .40 | 3% | | |
| Truck driver | 10.60 | .40 | 3% | | |



| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| DECISION #MD77-3080 - Mod. #1 (42 FR-32476 - June 24, 1977) Baltimore City, Maryland | | | | | |
| Change: | | | | | |
| Electricians | $10.60 | .70 | 3% + .80 | | ½ of 1% |
| Add: | | | | | |
| Line construction. | | | | | |
| Cable splicers, Linemen, Equipment operators | $11.65 | .45 | 3% | | ½ of 1% |
| Groundmen | 7.34 | .45 | 3% | | ½ of 1% |
| Truck with winch, pole or steel handling | 7.81 | .45 | 3% | | ½ of 1% |
| Truck with no winch | 7.28 | .45 | 3% | | ½ of 1% |
| DECISION #MI77-2051 - Mod. #2 (42 FR 23374 - May 6, 1977) Alger, Baraga, Chippewa, Dickinson, Gogebic, Houghton, Keweenaw, Mackinac, Marquette & Ontongon Counties, Michigan | | | | | |
| CHANGE: | | | | | |
| Sheet Metal Workers | $10.18 | .75+.08 | .55 | | .04 |
| DECISION #MI77-2052 - Mod. #2 (42 FR 24618 - May 13, 1976) Marquette County, Michigan | | | | | |
| CHANGE: | | | | | |
| Sheet Metal Workers | $10.18 | .75+.08 | .55 | | .04 |

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION #MN77-2048 - Mod. #2 (42 FR 26157 - May 20, 1977) Aitken, Anoka, Benton, Blue Earth, Carlton, Carver, Chisago, Cook, Dakota, Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Itasca, Jackson, Kanabec, Koochiching, Lake, LeSueur, Martin, Meeker, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Nobles, Olmsted, Pine, Ramsey, Rice, Rock, Scott, Sherburne, Sibley, Stearns, Steel, St. Louis, Wabasha, Waseca, Washington, Winona & Wright Counties, Minnesota | | | | | |
| OMIT: Under Counties: Jackson County | | | | | |
| CHANGE: Mod. #2 - Volume 42, F.35526, dated July 8, 1977 to Mod. #1 | | | | | |
| DECISION #MT77-5057 - Mod. #4 (42 FR 28769 - June 3, 1977) Cascade, Deer Lodge, Gallatin, Glacier, Hill, Missoula, Silver Bow and Valley Counties, Montana | | | | | |
| Change: PLUMBERS: Cascade, Glacier, Hill and Valley Counties | $11.60 | .65 | .95 | | 1% |
| Remaining Counties | 11.70 | .60 | .75 | | .10 |



| DECISION NO. NH77-2002- Mod #2 (42 FR 2840- January 21, 1977) Merrimack County, New Hampshire | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: Bricklayers, cement masons, marble setters, plasterers, stone masons, terrazzo workers, and tile setters | $8.79 | .55 | .50 | | .01 |
| Glaziers | 8.12 | .57 | .64 | | .03 |
| Laborers (Building): Laborers | 6.76 | .60 | .70 | | .10 |
| Plasterers' tenders | 6.91 | .60 | .70 | | .10 |
| Pipelayers, fence & guard rail erectors | 7.01 | .60 | .70 | | .10 |
| Pneumatic tool ops, pavement breakers, drillers, chipping gun ops, powdermen and blasters, boiler and stack work: | 7.26 | .60 | .70 | | .10 |
| All other pneumatic tool ops on boiler and stack work: | 7.66 | .60 | .70 | | .10 |
| Laborers (Heavy & Highway): Laborers & pipelayers | 6.56 | .50 | .45 | e | .10 |
| Pneumatic tool ops, drillers, concrete vibrators, and electric chipping machines | 7.06 | .50 | .45 | e | .10 |
| Blasterers and powdermen | 7.31 | .50 | .45 | e | .10 |
| Line construction: Linemen | 8.34 | .65 | 1%+.50 | d | 3/8of1% |
| Equipment groundman | 8.24 | .65 | 1%+.50 | d | 3/8of1% |
| Groundman | 5.86 | .65 | 1%+.50 | d | 3/8of1% |
| Driver groundman | 6.38 | .65 | 1%+.50 | d | 3/8of1% |
| Roofers | 6.80 | | | | |
| Add: Footnote: e. Holidays: B,C,E provided employee works days before and after each holiday. | | | | | |



| DECISION NO. NH77-2003- Mod #2 (42 FR 5625- January 28, 1977) Rockingham County, New Hampshire | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: Bricklayers, cement masons, marble masons, plasterers, stonemasons, tile setters, and terrazzo workers | $8.79 | .55 | .50 | | .01 |
| Electricians: Twps. of Exeter, Greenland, Hampton, Hampton Falls, Portsmouth, Newington, Newmarket, Northwood, Nottingham, Rye, Seabrook, Strathan, and S. New Market | 10.50 | .50 | 3%+.10 | | .02 |
| Laborers (Building): Auburn, Candia, Chester, Danville, Deerfield, Center, Derry, E.Derry, Fremont, Hampstead, Londonderry, Raymond, Sandown, W.Epping, & Windham | | | | | |
| Laborers | 6.76 | .60 | .70 | | .10 |
| Plasterers' tenders | 6.91 | .60 | .70 | | .10 |
| Drillers, pavement breakers, pneumatic tool ops, chipping gun ops, blasters and powdermen | 7.26 | .60 | .70 | | .10 |
| All other pneumatic tool ops on boiler and stack work | 7.66 | .60 | .70 | | .10 |
| Pipelayers, fence and guard rail erectors | 7.06 | .60 | .70 | | .10 |
| Laborers (Heavy): Auburn, Candida, Chester, Danville, Deerfield, Center, Derry, E.Derry, Fremont, Hampstead, Londonderry, Raymond, Sandown, W.Epping, and Windham: | | | | | |
| Laborers and pipelayers | 6.56 | .50 | .45 | f | .10 |
| Pneumatic tool ops, drillers, concrete vibrators, & pneumatic breakers | 7.06 | .50 | .45 | f | .10 |
| Blasters and powdermen | 7.31 | .50 | .45 | f | .10 |
| Line construction: Linemen | 8.34 | .65 | 1%+.50 | d | .10 |
| Equipment operator | 8.24 | .65 | 1%+.50 | d | .10 |
| Groundman | 5.86 | .65 | 1%+.50 | d | .10 |
| Driver groundman | 6.38 | .65 | 1%+.50 | d | .10 |
| Plumbers & steamfitters: Windham | 10.50 | .73 | .69 | | .05 |
| Roofers | 6.80 | | | | |
| Add: Footnote: f. Holidays: B,C, & E provide employee works days before and after each holiday. | | | | | |



| DECISION NO. NH77-2004- Mod #2 (42 FR 5629- January 28, 1977) Strafford County, New Hampshire | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: Bricklayers, cement masons, marble setters, plasterers, stone masons, terrazzo workers, and tile setters | $8.79 | .55 | .50 | | .01 |
| Electricians | 10.50 | .60 | 1%+.50 | | .02 |
| Glaziers | 8.12 | .57 | .64 | | .03 |
| Laborers: Laborers | 6.76 | .60 | .70 | | .10 |
| Plasterers' tenders | 6.91 | .60 | .70 | | .10 |
| Boilers, stack work, pneumatic tool ops, driller, pavement breakers, electric chipping ops, blasters, powderman, and creosote work | 7.26 | .60 | .70 | | .10 |
| Pipelayers, fence and guardrail erectors | 7.01 | .60 | .70 | | .10 |
| Pneumatic tools on boiler and stack work | 7.66 | .60 | .70 | | .10 |
| Line construction: Linemen | 8.34 | .65 | 1%+.50 | d | 3/8of1% |
| Equipment operator | 8.24 | .65 | 1%+.50 | d | 3/8of1% |
| Groundman | 5.86 | .65 | 1%+.50 | d | 3/8of1% |
| Driver groundman | 6.38 | .65 | 1%+.50 | d | 3/8of1% |
| Roofers | 6.80 | | | | |

| DECISION NO. NM77-2011- Mod 42 (42 FR 4087- January 21, 1977) Hillsboro County, New Hampshire | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Change: | | | | | |
| Bricklayers, cement masons, marble setters, plasterers, stone masons, terrazzo workers, and tile setters (entire county) | $8.79 | .55 | .50 | | .01 |
| Glaziers | 8.12 | .57 | .64 | | .03 |
| Laborers (Building): | | | | | |
| Common laborers | 6.76 | .60 | .70 | | .10 |
| Plasterers tenders | 6.91 | .60 | .70 | | .10 |
| Pipelayers, fence and guard rail erectors | 7.01 | .60 | .70 | | .10 |
| Drillers, pavement breakers, pneumatic tool ops, chipping gun ops, blasters, and powdermen | 7.26 | .60 | .70 | | .10 |
| All other pneumatic tool operators on boiler and stack work | 7.66 | .60 | .70 | | .10 |
| Laborers (Heavy & Highway): | | | | | |
| Laborers and pipelayers | 6.56 | .50 | .45 | e | .10 |
| Pneumatic tool ops, drillers, pavement breakers, electric chipping hammers | 7.06 | .50 | .45 | e | .10 |
| Plasters and powdermen | 7.31 | .50 | .45 | e | .10 |
| Line construction: | | | | | |
| Linemen | 8.24 | .65 | 1%+.50 | d | 3/of1% |
| Equipment operator | 8.24 | .65 | 1%+.50 | d | 3/of1% |
| Groundman | 5.86 | .65 | 1%+.50 | d | 3/of1% |
| Driver groundman | 6.86 | .65 | 1%+.50 | d | 3/of1% |
| Roofers | 6.00 | | | | |
| Add: | | | | | |
| Footnote: | | | | | |
| e. Holidays: E,C,E provided employee works days before and after each holiday. | | | | | |



| DECISION #PA77-3028 - Mod. # 4 (42 FR 20098 - April 15, 1977) Adams & York Counties, Pennsylvania | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Change: | | | | | |
| Marble, tile & terrazzo workers | $8.20 | .45 | .45 | | |
| DECISION #PA77-3031 - Mod. # 5 (42 FR 18339 - April 8, 1977) Lebanon County, Pennsylvania | | | | | |
| Change: | | | | | |
| Electricians: | | | | | |
| Remainder of County | 9.30 | .45 | 3% | | ½ of 1% |
| Sprinkler Fitters | 11.86 | .65 | .95 | | .08 |
| DECISION #PA77-3037 - Mod. # 4 (42 FR 16373 - March 25, 1977) Lycoming County, Pennsylvania | | | | | |
| Change: | | | | | |
| Roofers & Kettlemen | 9.65 | .85 | .80 | | |
| DECISION #PA77-3028 - Mod. # 5 (42 FR 10263 - February 18, 1977) Berks County, Pennsylvania | | | | | |
| Change: | | | | | |
| Electricians: | | | | | |
| Marion, Tulpehocken & Bethel Twps. | 9.30 | .45 | 3% | | ½ of 1% |
| Sprinkler Fitters | 11.86 | .65 | .95 | | .08 |





| DECISION #PA77-3034 - Mod. # 5 (42 FR 20100 - April 15, 1977) Schuylkill County, Pennsylvania | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Change: | | | | | |
| Electricians: | | | | | |
| Pine Grove Twp. | $9.30 | .45 | 3% | | ½ of 1% |
| Roofers: | | | | | |
| Barry Branch, Butler, Delano, East Brunswick, East Union, Eldred, Foster, Frailey, Hegins, Hubley, Kline, New Castle, North Union, Porter, Hahn, Reilly, Rush, Fremont, Union, Upper Mahantango, West Penn: | | | | | |
| Composition | 9.65 | .85 | .80 | | |
| DECISION #PA77-3043 - Mod. # 3 (42 FR 18783 - April 8, 1977) Carbon, Monroe County, including Tobyhanna Army Depot, and Pike County, Pennsylvania | | | | | |
| Change: | | | | | |
| Electricians | | | | | |
| Zone 4 | 10.65 | .50 | 3%+.50 | .50 | .10 |
| Zone 5 | 10.20 | .50 | 3%+.50 | .50 | .10 |
| Roofers | | | | | |
| Zone 2 | | | | | |
| Composition & Kettlemen | 9.65 | .85 | .80 | | |
| DECISION #PA77-3049 - Mod. # 4 (42 FR 21043 - April 22, 1977) Northumberland County, Pennsylvania | | | | | |
| Change: | | | | | |
| Roofers, Composition | | | | | |
| Remainder of County | 9.65 | .85 | .80 | | |



| DECISION #PA77-3050 - Mod. # 3 (42 FR 24669 - May 13, 1977) Lackawanna, Susquehanna, Wayne, and Wyoming Counties, Pennsylvania | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Change: | | | | | |
| Bricklayers & Stonemasons | | | | | |
| Scranton in Lackawanna County | $10.70 | .75 | .80 | | .01 |
| Electricians | | | | | |
| Lackawanna, Susquehanna, and Wayne Counties | 10.20 | .50 | 3%+.50 | .50 | .10 |
| Wyoming County | | | | | |
| East of Susquehanna River | 10.20 | .50 | 3%+.50 | .50 | .10 |
| Ironworkers | | | | | |
| Lackawanna, Wayne & Wyoming Counties | | | | | |
| Structural & Ornamental | 11.90 | e | | | .10 |
| Reinforcing | 11.80 | e | | | .10 |
| Footnote: | | | | | |
| e. Employer contributes $2.20 to a combined Health & Welfare Fund. | | | | | |
| Piledriverman | 10.77 | 2.13 | 1.30 | d | .12 |
| Soft floor layers | | | | | |
| Wyoming county | 8.88 | .40 | .50 | | .03 |
| Sprinkler Fitters | 11.86 | .65 | .95 | | .08 |

| DECISION #PA77-3053 - Mod. # 3 (42 FR 24672 - May 13, 1977) Elk, Forest, McKean & Warren Counties, Pennsylvania | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Change: | | | | | |
| Sprinkler Fitters | $11.86 | .65 | .95 | | .08 |
| **DECISION #PA77-3054 - Mod. # 3** (42 FR 24672 - May 13, 1977) Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford & Venango Counties, | | | | | |
| Change: | | | | | |
| Cement masons | | | | | |
| Zone 2 | $9.95 | 12% | 6% | | |
| Electricians | | | | | |
| Zone 3 | 12.30 | .50 | 3% | | ½ of 1% |
| Landscape: | | | | | |
| Zone 1 | | | | | |
| Class I | 6.15 | .75 | .60 | | |
| Class II | 6.30 | .75 | .60 | | |
| Class III | 6.65 | .75 | .60 | | |
| Zone 2 | | | | | |
| Class I | 6.05 | .75 | .60 | | |
| Class II | 6.20 | .75 | .60 | | |
| Class III | 6.55 | .75 | .60 | | |
| Zone III (Class I) | 7.80 | 8% | 6.5% | | 3.5% |
| **DECISION #PA77-3055 - Mod. # 3** (42 FR 24688 - May 13, 1977) Greene, Somerset & Futter Counties, Pennsylvania | | | | | |
| Change: | | | | | |
| Cement masons | | | | | |
| Zone II | 9.95 | 12% | 6% | | |
| Steamfitters | | | | | |
| Zone I | 12.19 | .75 | 1.10 | | .11 |
| Sprinkler Fitters | 11.86 | .65 | .95 | | .08 |



| DECISION #PA77-3057 - Mod. # 2 (42 FR 24700 - May 13, 1977) Sullivan County, Pennsylvania | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Change: | | | | | |
| Roofers | $9.65 | .85 | .80 | | |
| Sprinkler Fitters | 11.86 | .65 | .95 | | .08 |
| **DECISION #PA77-3059 - Mod. # 2** (42 FR 25176 - May 20, 1977) Luzerne County, Pennsylvania | | | | | |
| Change: | | | | | |
| Laborers (Hazleton) | | | | | |
| Unskilled and window washers | $7.31 | .30 | .70 | | |
| Mason tenders including scaffold builders | 7.71 | .30 | .70 | | |
| Pneumatic, electrical & mechanical tool operators, 2" pumps-non metallic pipe-laying and making joint clay, terra cotta, ironstone vitrified concrete, handling of burning torches asphalt or other hot materials, cement finishers and blasters helpers, power buggies, walk along hoist | 7.41 | .30 | .70 | | |
| Plasterers tenders, blasters, and wagon drill operators | 7.56 | .30 | .70 | | |
| Roofers: | | | | | |
| Composition & Kettlemen | 9.65 | .85 | .80 | | |
| Plumbers & Steamfitters | | | | | |
| Wilkes-Barre | 11.49 | .40 | .75 | | .04 |
| Pittston | 11.50 | .39 | .75 | | .04 |







| DECISION #PA77-3061 - Mod. # 2 (42 FR 30133 - June 10, 1977) Armstrong, Allegheny, Beaver, Butler, Fayette, Indiana, Washington & Westmoreland Counties, Pennsylvania | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Change: | | | | | |
| Electricians | | | | | |
| Zone 2 | $10.66 | 8% | 3%+.19 | 1.00 | 1½% |
| Landscape | | | | | |
| Landscape laborers | 6.15 | .75 | .60 | | |
| Skilled landscape laborers | 6.30 | .75 | .60 | | |
| Landscape tractor operator | 6.65 | .75 | .60 | | |
| Painters | | | | | |
| Zone 5 | | | | | |
| Commercial | 8.25 | .85 | .70 | .75 | 2% |
| Industrial | 9.90 | .85 | .70 | 1.00 | 2% |
| Painters Zone 5 - to read: Twps. and Borough of Jefferson, Luzerne, Perry, Morgan, West Pike Run, West Bethlehem, East Bethlehem, Washington, Rostraver, Union, Nottingham, Carroll, Fallowfield, Somerset, North Bethlehem, Centerville Borough & California in Washington County | | | | | |
| Steamfitters | | | | | |
| Zone 1 | 12.19 | .75 | 1.10 | | .11 |
| **DECISION #PA77-3078 - Mod. # 1** (42 FR 32478 - June 24, 1977) Lawrence & Mercer Counties, Pennsylvania | | | | | |
| Change: | | | | | |
| Landscaping: | | | | | |
| Landscape laborer | 6.15 | .75 | .60 | | |
| Skilled landscape laborer | 6.30 | .75 | .60 | | |
| Landscape tractor operator | 6.65 | .75 | .60 | | |
| Electricians | | | | | |
| Lawrence County | 10.66 | 8% | 3%+.19 | 1.00 | 1½% |



| DECISION #PA77-3100 - Mod. # 1 (42 FR 36775 - July 15, 1977) Columbia, Montour & Pike Counties, Pennsylvania | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Change: | | | | | |
| Laborers | | | | | |
| Zone I | | | | | |
| Class I | $7.31 | .30 | .70 | | |
| Class II | 7.71 | .30 | .70 | | |
| Class III | 7.41 | .30 | .70 | | |
| Class IV | 7.56 | .30 | .70 | | |
| Roofers | | | | | |
| Zone I | 9.65 | .85 | .80 | | |
| **DECISION NO. SD77-5065 - Mod. #2** (42 FR 31114 - June 17, 1977) Meade and Pennington Counties, South Dakota | | | | | |
| Change: | | | | | |
| Carpenters: | | | | | |
| Carpenters, Acoustical and Drywall Applicators | $9.41 | | .30 | .25 | .05 |
| Piledrivermen | 9.66 | | .30 | .25 | .05 |
| Millwrights | 9.91 | | .30 | .25 | .05 |

MODIFICATIONS P. 25

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION #TX77-4070 - Mod. #3 (42 FR 17785 - April 1, 1977) Bowie County, Texas | | | | | |
| Change: | | | | | |
| Cement masons | $ 8.67 | .25 | | | .03 |
| Power Equipment Operators: | | | | | |
| Group 1 | 7.79 | .40 | .875 | | .10 |
| Group 2 | 8.575 | .40 | .875 | | .10 |
| Group 3 | 8.975 | .40 | .875 | | .10 |
| DECISION #TX77-4097 - Mod. #3 (42 FR 23429 - May 6, 1977) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas | | | | | |
| Change: | | | | | |
| Power Equipment Operators: | | | | | |
| Zone 1: | | | | | |
| Group 3 | 9.25% | .40 | .70 | | |
| DECISION #TX77-4098 - Mod. #3 (42 FR 23433 - May 6, 1977) Jefferson & Orange Cos., Texas | | | | | |
| Change: | | | | | |
| Line Construction: | | | | | |
| Linemen | 11.685 | .40 | 3% | | 1/2% |
| Groundmen | 8.53 | .40 | 3% | | 1/2% |
| Plasterers | 10.50 | .77 | .30 | | .02 |
| Sheet metal workers: | | | | | |
| Commercial | 10.41 | 3%+.40 | .27 | | .10 |
| Work on a single family dwelling or multiple family housing unit less than 3 stories in height where each individual family apartment is individually conditioned by a separate & independent unit or system | 8.98 | 3%+.40 | .27 | | .10 |

MODIFICATIONS P. 26

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION #TX77-4101 - Mod. #5 (42 FR 24705 - May 13, 1977) Bexar County, Texas | | | | | |
| Change: | | | | | |
| Plumbers-Pipefitters | $10.86 | .40 | .55 | | .10 |
| DECISION #TX77-4111 - Mod. #2 (42 FR 30141 - June 10, 1977) Bee, Kleberg & Nueces Cos., Texas | | | | | |
| Change: | | | | | |
| Plumbers & steamfitters | 9.815 | .335 | .35 | | .035 |
| Soft floor layers | 7.59 | .46 | .30 | | .04 |
| DECISION #TX77-4137 - Mod. #2 (42 FR 34243 - July 1, 1977) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas | | | | | |
| Change: | | | | | |
| Sheet metal workers | 8.61 | .35 | .33 | | .10 |
| DECISION #TX77-4151 - Mod. #2 (42 FR 35605 - July 8, 1977) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas | | | | | |
| Change: | | | | | |
| Building Construction: | | | | | |
| Plasterers | 9.54 | .45 | .40 | | .01 |



MODIFICATIONS P. 27

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION #TX77-4152 - Mod. #2 (42 FR 35609 - July 8, 1977) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas | | | | | |
| Change: | | | | | |
| Asbestos workers | $10.00 | .65 | .55 | | .07 |
| Sheet metal workers | 10.17 | .35 | .33 | | .10 |
| DECISION #TX77-4153 - Mod. #2 (42 FR 35612 - July 8, 1977) Brazos County, Texas | | | | | |
| Change: | | | | | |
| Plasterers | 10.50 | .77 | .30 | | .02 |
| DECISION #TX77-4155 - Mod. #2 (42 FR 35615 - July 8, 1977) Lubbock County, Texas | | | | | |
| Change: | | | | | |
| Asbestos workers | 10.00 | .65 | .55 | | .07 |
| Sheet metal workers | 10.17 | .35 | .33 | | .10 |

MODIFICATIONS P. 28

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION #TX77-4154 - Mod. #1 (42 FR 35614 - July 8, 1977) Gregg County, Texas | | | | | |
| Change: | | | | | |
| Carpenters: | | | | | |
| Carpenters | $ 8.00 | | | | .015 |
| Millwrights | 10.25 | | | | .015 |
| Piledrivermen | 8.50 | | | | .015 |
| DECISION #TX77-4158 - Mod. #2 (42 FR 35618 - July 8, 1977) Travis County, Texas | | | | | |
| Change: | | | | | |
| Plasterers | 9.54 | .45 | .40 | | .01 |
| Sheet metal workers | 10.35 | 3%+.35 | .66 | | .07 |
| DECISION NO. VATT-3082-Mod. #1 (42 FR 32510-June 24, 1977) The Independent Cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, and Virginia Beach, Virginia | | | | | |
| Change: | | | | | |
| Carpenter, Structure | $5.50 | | | | |
| Truck Driver: | | | | | |
| Heavy Duty (over 7 cy.) | 3.04 | | | | |
| Cranes, Derricks, and Draglines (lyd. and under) | 4.80 | | | | |





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SUPERSEDEAS DECISION

STATE: Louisiana PARISH: Statewide
DECISION NO.: LA77-4169 DATE: Date of Publication
Supersedes Decision No. LA77-4104, dated May 20, 1977, in 42 FR 26137.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories) and Construction of Highways, Roads, Streets (does not include building structures in rest area projects) and Parking Areas (except those let with a building contract).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS | | | | | |
| ZONE 1 | $10.345 | .475 | .90 | | .04 |
| ZONE 2 | 10.03 | .40 | .76 | | .025 |
| ZONE 3 | 9.45 | .50 | 1.10 | | .05 |
| ZONE 4 | 9.13 | .45 | .50 | | |

AREA COVERED BY ASBESTOS WORKERS ZONES

ZONE 1 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Rapides, Vermilion & Vernon Parishes
ZONE 2 - Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Grant, Jackson, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Union, Webster & Winn Parishes
ZONE 3 - Ascension, Assumption, Avoyelles, Catahoula, Concordia, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 4 - East Carroll, Franklin, Madison, Morehouse, Richland, Tensas & West Carroll Parishes

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| BOILERMAKERS | $10.00 | .50 | 1.00 | | .02 |
| BRICKLAYERS & STONEMASONS | | | | | |
| ZONE 1 | 9.82 | .80 | .25 | | .06 |
| ZONE 2 | 8.55 | .53 | | | |
| ZONE 3 | 10.45 | .48 | .30 | | .02 |
| ZONE 4 | 10.42 | .35 | .20 | | .035 |
| ZONE 5 | 9.25 | | | | |
| ZONE 6 | 8.55 | .53 | | | |
| ZONE 7 | 9.20 | .40 | .45 | | |
| ZONE 8 | 8.25 | | .30 | | |
| ZONE 9 | 9.05 | | .25 | | |
| ZONE 10 | 9.50 | | | | |



DECISION NO. LA77-4169

AREA COVERED BY BRICKLAYERS ZONES

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Evangeline, Pointe Coupee & St. Landry Parishes
ZONE 3 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Parish from the Tangipahoa Parish Line on the west along U.S. Highway 190 through the lower limits of Covington, along State Highway 58, through the lower limits of Abita Springs & Talisheek and on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 5 - St. Tammany (north half including Covington north of Highway 190) & Washington Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Natchitoches & Sabine Parishes
ZONE 9 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 10 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CARPENTERS | | | | | |
| ZONE 1 | $ 8.44 | .30 | | | |
| ZONE 2 | 9.345 | .40 | .33 | | .05 |
| ZONE 3 | 8.85 | .35 | .30 | | |
| ZONE 4 | 9.98 | .35 | .45 | | .04 |
| ZONE 5 | 9.72 | .35 | .30 | | .04 |
| ZONE 6 | 9.555 | .35 | .30 | | .04 |
| ZONE 7 | 8.90 | | | | |
| ZONE 8 | 8.95 | .40 | .30 | | .04 |
| ZONE 9 | 8.80 | | | | |
| ZONE 10 | 8.70 | .50 | .30 | | .05 |

AREA COVERED BY CARPENTERS ZONES

ZONE 1 - Acadia, Evangeline, Iberia (west of the Atchafalaya River), Lafayette, St. Landry, St. Martin (west of the Atchafalaya River), St. Mary (west of the Atchafalaya River) & Vermilion Parishes
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Parish) & Washington Parishes







DECISION NO. LA77-4169

AREA COVERED BY CARPENTERS ZONES (CONT'D)
ZONE 4 - Ascension (north of the Mississippi River), East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes
ZONE 5 - Ascension (south of the Mississippi River), Assumption, Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Mississippi River) & St. John the Baptist Parishes
ZONE 6 - Iberia (northeast of the Atchafalaya River), Lafourche, St. Martin (southern segment), St. Mary (northeast of the Atchafalaya River), St. Tammany (southern portion), Tangipahoa (remainder of Parish not covered by Zone 3) & Terrebonne Parishes
ZONE 7 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 9 - Natchitoches & Sabine Parishes
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CEMENT MASONS (BUILDING CONSTRUCTION) | | | | | |
| ZONE 1 | $ 8.91 | | | | |
| ZONE 2 | 9.15 | | | | |
| ZONE 3 | 8.45 | .35 | .50 | | .05 |
| ZONE 4 | 9.445 | .35 | .30 | | .04 |
| ZONE 5 | 8.35 | | | | |
| ZONE 6 | 6.50 | | | | |
| ZONE 7 | 8.35 | .35 | | | |
| ZONE 8 | 7.77 | | .25 | | |
| ZONE 9 | 6.50 | | .30 | | |

AREA COVERED BY CEMENT MASONS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (the lower half) & Terrebonne Parishes
ZONE 5 - St. Tammany (northern half including Covington north of Highway 190) & Washington Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Natchitoches & Sabine Parishes



DECISION NO. LA77-4169

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CEMENT MASONS (HIGHWAY CONSTRUCTION) | | | | | |
| ZONE 1 | $ 7.25 | | | | |
| On concrete lined ditches | 8.195 | | | | |
| ZONE 2 | 6.45 | | | | |
| ZONE 3 | 7.10 | .30 | | | |
| ZONE 4 | 8.30 | | | | |
| ZONE 5 | 7.60 | | | | |
| On concrete lined ditches | 8.45 | .35 | .50 | | .05 |
| ZONE 6 | 6.30 | | | | |
| ZONE 7 | 5.72 | | | | |

AREA COVERED BY CEMENT MASONS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - Ascension, East Baton Rouge, U.S. Highway 61 in East Feliciana & West Feliciana Parishes
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu & Cameron Parishes
ZONE 5 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 6 - Allen, Assumption, Avoyelles, Beauregard, Bienville, Claiborne, DeSoto, East Feliciana (excluding U.S. Highway 61), Evangeline, Iberville, Jefferson Davis, Lafourche, Lincoln, Livingston, Madison, Natchitoches, Ouachita, Pointe Coupee, Rapides, Red River, Richland, St. Helena, St. James, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne, Vernon, Webster & West Baton Rouge Parishes
ZONE 7 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Morehouse, Sabine, Tensas, Union, Washington, West Carroll & Winn Parishes

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ELECTRICIANS | | | | | |
| Electricians | | | | | |
| ZONE 1 | $11.10 | 5% | 8% | | 3/10% |
| ZONE 2 | 10.00 | | 1% | | |
| ZONE 3 | 12.30 | .35 | 3%+.20 | | 1/10% |
| ZONE 4 | 11.15 | .35 | 3% | | |
| ZONE 5 | 10.60 | .30 | 1%+.30 | | .03 |
| ZONE 6 | 10.05 | .45 | 3% | | 1/2% |
| ZONE 7 | 10.35 | .85 | 3% | | 1% |
| ZONE 8 | 10.25 | | 3% | .30 | 1/2% |





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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Cable splicers | | | | | |
| ZONE 1 | $11.35 | 5% | 8% | | 3/10% |
| ZONE 2 | 10.50 | | 1% | | |
| ZONE 3 | 12.55 | .35 | 3%+.20 | | 1/10% |
| ZONE 4 | 11.40 | .35 | 3% | | |
| ZONE 5 | 10.60 | .30 | 1%+.30 | | .03 |
| ZONE 6 | 10.55 | .45 | 3% | | 1/2% |
| ZONE 7 | 10.85 | .85 | 3% | | 1% |
| ZONE 8 | 10.50 | | 3% | .30 | 1/2% |

AREA COVERED BY ELECTRICIANS ZONES

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 2 - St. Tammany, Tangipahoa & Washington Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ELEVATOR CONSTRUCTORS | | | | | |
| ZONE 1 | | | | | |
| Elevator constructors | $ 9.285 | .495 | .32 | 4%+a+b | .02 |
| Elevator constructors' helpers | 70%JR | .495 | .32 | 4%+a+b | .02 |
| Elevator constructors' helpers (prob.) | 50%JR | | | | |
| ZONE 2 | | | | | |
| Elevator constructors | 8.795 | .545 | .35 | 4%+a+b | .02 |
| Elevator constructors' helpers | 70%JR | .545 | .35 | 4%+a+b | .02 |
| Elevator constructors' helpers (prob.) | 50%JR | | | | |



FOOTNOTES FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays: New Years' Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day

AREA COVERED BY ELEVATOR CONSTRUCTORS ZONES

ZONE 1 - Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GLAZIERS | | | | | |
| ZONE 1 | $ 8.55 | | | | |
| ZONE 2 | 7.80 | | | | .01 |
| ZONE 3 | 9.625 | .17 | .30 | | .01 |
| ZONE 4 | 7.50 | | .30 | | |
| ZONE 5 | 6.80 | | | | |
| ZONE 6 | 8.10 | | | | |

AREA COVERED BY GLAZIERS ZONES

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Ascension (north & west of Highway 22), Assumption (north of Grand Bayou), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north & west of Highway 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City area), Tangipahoa (west of Highway 51), Vermilion, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Assumption (east & south of Highway 22), Assumption (east of Grand Bayou), Jefferson, Lafourche, Livingston (east & south of Highway 22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes
ZONE 5 - Bienville (eastern half), Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn (north half) Parishes
ZONE 6 - St. Tammany (northern portion), Tangipahoa (east of Highway 51) & Washington Parishes





| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| IRONWORKERS (BUILDING CONSTRUCTION) | | | | | |
| ZONE 1 | $ 9.86 | .63 | .35 | | .04 |
| ZONE 2 | 10.69 | .45 | .50 | | .04 |
| ZONE 3 | 10.20 | .45 | .50 | | .04 |
| ZONE 4 | 10.05 | .45 | .65 | | .04 |
| ZONE 5 | 8.15 | .30 | .35 | | .04 |
| ZONE 6 | 9.90 | .35 | .60 | | .025 |

AREA COVERED BY IRONWORKERS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Parishes; Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Parishes (west of a straight line drawn from the Louisiana-Mississippi border, east of the city limits of Warrenton, Louisiana, southwest through Hammond, Louisiana to the Gulf of Mexico)
ZONE 2 - All of Ascension, Assumption, Avoyelles, East Baton Rouge, East Feliciana, Iberia, Iberville, Pointe Coupee, St. Helena, St. Martin, St. Mary, West Baton Rouge & West Feliciana Parishes; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Parishes (east of a line drawn from the meeting point of the boundaries of the Parishes of Rapides, Avoyelles & Evangeline, southeast along the western city limits of Abbeville, Louisiana, to the Gulf of Mexico); Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Parishes (west of a straight line drawn from the Louisiana-Mississippi border, west of the city limits of Warrenton, Louisiana, southwest through Hammond, Louisiana to the Gulf of Mexico); Parts of Catahoula, Concordia & LaSalle Parishes (south of a line drawn from Natchez, Mississippi thru the city of Carter Point to the Rapides Parish Line, then west along the southern border of Rapides Parish)
ZONE 3 - All of Bossier, Caddo, DeSoto, Red River & Webster Parishes; Parts of Bienville, Claiborne, Natchitoches & Winn Parishes (west of a line drawn directly south from the Arkansas-Louisiana border through the cities of Arcadia & Cloutierville); Part of Sabine Parish (north of a line drawn from the Natchitoches Parish boundary west through the city of Peason to the Texas-Louisiana border)
ZONE 4 - All of Caldwell, East Carroll, Franklin, Grant, Jackson, Lincoln, Morehouse, Ouachita, Rapides, Richland, Tensas, Union & West Carroll Parishes; Parts of Bienville, Claiborne, Natchitoches & Winn Parishes (east of a line drawn directly south from the Arkansas-Louisiana border through the cities of Arcadia & Cloutierville); Part of Madison Parish (except the cities of Mound, Delta & adjacent areas); Parts of Catahoula, Concordia & LaSalle Parishes (north of a line drawn from Natchez, Mississippi thru the city of Carter Point to the Rapides Parish line)
ZONE 5 - That part of Madison Parish (including the cities of Mound, Delta & adjacent areas)



AREA COVERED BY IRONWORKERS (BUILDING CONSTRUCTION) ZONES (CONT'D)
ZONE 6 - All of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Parishes (southwest of Rapides Parish & west of a line south of the western most border between Rapides & Evangeline Parishes)

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| IRONWORKERS (HIGHWAY CONSTRUCTION) | | | | | |
| ZONE 1 | $ 8.72 | | | | |
| ZONE 2 | 8.48 | | | | |
| ZONE 3 | 8.70 | | | | |
| ZONE 4 | 8.30 | | | | |
| ZONE 5 | 9.76 | | | | |
| ZONE 6 | 6.99 | | | | |
| ZONE 7 | 6.45 | | | | |
| ZONE 8 | 5.84 | | | | |

AREA COVERED BY IRONWORKERS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson & Orleans Parishes
ZONE 2 - Plaquemines, St. Bernard & St. Charles Parishes
ZONE 3 - East Baton Rouge Parish
ZONE 4 - Calcasieu Parish
ZONE 5 - Bossier & Caddo Parishes
ZONE 6 - Lafayette, Ouachita & Rapides Parishes
ZONE 7 - Acadia, Ascension, Bienville, Cameron, DeSoto, Iberia, Iberville, Jefferson Davis, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia Parish), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
ZONE 8 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia Parish), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes



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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LABORERS (BUILDING CONSTRUCTION) | | | | | |
| ZONE 1 | | | | | |
| GROUP 1 | $ 3.90 | .10 | | | |
| GROUP 2 | 4.05 | .10 | | | |
| GROUP 3 | 4.15 | .10 | | | |
| ZONE 2 | | | | | |
| GROUP 1 | 5.77 | .15 | .10 | | .05 |
| GROUP 2 | 5.97 | .15 | .10 | | .05 |
| ZONE 3 | | | | | |
| GROUP 1 | 7.30 | .15 | .10 | | .05 |
| GROUP 2 | 7.40 | .15 | .10 | | .05 |
| GROUP 3 | 7.45 | .15 | .10 | | .05 |
| GROUP 4 | 8.26 | .15 | .10 | | .05 |
| GROUP 5 | 7.82 | .15 | .10 | | .05 |
| GROUP 6 | 7.56 | .15 | .10 | | .05 |
| GROUP 7 | 7.35 | .15 | .10 | | .05 |
| ZONE 4 | | | | | |
| GROUP 1 | 6.87 | .15 | .27 | | .05 |
| GROUP 2 | 6.97 | .15 | .27 | | .05 |
| GROUP 3 | 7.02 | .15 | .27 | | .05 |
| ZONE 5 | | | | | |
| GROUP 1 | 6.47 | .15 | .27 | | .05 |
| GROUP 2 | 6.57 | .15 | .27 | | .05 |
| GROUP 3 | 6.62 | .15 | .27 | | .05 |
| ZONE 6 | | | | | |
| GROUP 1 | 7.07 | .15 | .20 | | .05 |
| GROUP 2 | 7.17 | .15 | .20 | | .05 |
| GROUP 3 | 7.32 | .15 | .20 | | .05 |
| GROUP 4 | 7.23 | .15 | .20 | | .05 |
| GROUP 5 | 7.33 | .15 | .20 | | .05 |



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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ZONE 7 | | | | | |
| GROUP 1 | $ 6.745 | .15 | .20 | | .05 |
| GROUP 2 | 6.895 | .15 | .20 | | .05 |
| GROUP 3 | 6.945 | .15 | .20 | | .05 |
| ZONE 8 | | | | | |
| GROUP 1 | 5.41 | .15 | .10 | | .05 |
| GROUP 2 | 5.61 | .15 | .10 | | .05 |
| GROUP 3 | 5.66 | .15 | .10 | | .05 |
| GROUP 4 | 5.71 | .15 | .10 | | .05 |
| GROUP 5 | 6.06 | .15 | .10 | | .05 |
| ZONE 9 | | | | | |
| GROUP 1 | 5.95 | .15 | .10 | | .05 |
| GROUP 2 | 6.05 | .15 | .10 | | .05 |
| GROUP 3 | 6.10 | .15 | .10 | | .05 |
| GROUP 4 | 6.15 | .15 | .10 | | .05 |
| ZONE 10 | | | | | |
| GROUP 1 | 5.70 | .15 | .10 | | .05 |
| GROUP 2 | 5.80 | .15 | .10 | | .05 |
| GROUP 3 | 5.95 | .15 | .10 | | .05 |

CLASSIFICATION DEFINITIONS

LABORERS - ZONE 1

GROUP 1 - Building and labor construction

GROUP 2 - Stone mason helpers; mechanical tool operators; sewerman (bottom man, caulkers, tenders, joint wipers, hot pot, grade carriers, layers and ditchers 4 feet or over); tender of all crafts; sandblaster (nozzleman); Sandblaster (pot tender); laying non-metallic pipe over 4 feet deep, including sewer pipe, drain pipe and underground tile; septic tank diggers and installers, over 4 feet deep; gas & oil pipeline laborers and wrappers

GROUP 3 - Gunite tool operators



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LABORERS - ZONE 2

GROUP 1 - Building laborer; rotary drill laborers; foundation drill crewmen

GROUP 2 - Mason mixer; plaster mixer; mechanical tool operator; sandblaster; laying concrete pipe, clay pipe, plastic pipe, asbestos cement pipe, casing pipe and corrugated metal pipe, as sewer pipe, drain pipe, and underground tile (caulkers, joint wrappers, hot pot and pipe layers); gas and oil pipeline laborers, wrappers and dopers

LABORERS - ZONE 3

GROUP 1 - Building and general laborer; tenders (carpenter, plaster, cement finisher, mason); tank and vessel cleaners

GROUP 2 - Air tool operator (except jackhammer); interior of closed tanks and vessels power equipment

GROUP 3 - Mortar mixers and jackhammer operators

GROUP 4 - Blasterers

GROUP 5 - Blaster helpers; concrete cutters behind paving machine and puddlers; form setters and lines asphalt worker

GROUP 6 - Wiping joints, laying pipe and tile from pumpcrete

GROUP 7 - Interior of closed tanks and vessels manually

LABORERS - ZONES 4 & 5

GROUP 1 - Building and general laborers, carpenter tenders

GROUP 2 - Power tool operators (hammer men, tamper, vibrators, power buggies, concrete chippers or cutters, chain saw operators, etc.); pipelayers (non-metallic)

GROUP 3 - Mason tenders, plaster tenders, cement mix (wet or dry) tenders, hod carrier tender; mortar mixers & cement mixers (wet or dry)

LABORERS - ZONE 6

GROUP 1 - Building laborers

GROUP 2 - Laborers handling steel pans, stone masons helpers, mechanical tool operators, sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers and ditchers 4 feet and over), sand blaster (nozzlemen and pot tender); laying non-metallic pipe over 4 feet deep, septic diggers and installers over 4 feet deep, gas and oil pipeline laborers and wrappers

GROUP 3 - Gunite tool operators

GROUP 4 - Bricklayers tenders and mason tenders

GROUP 5 - Hod carriers using prime mover to serve a bricklayer; mortar mixers

LABORERS - ZONE 7

GROUP 1 - Common laborers

GROUP 2 - Jackhammermen, sewermen, mason tenders, plasterer tenders, stone masons helpers, vibratormen

GROUP 3 - Mortar mixers

LABORERS - ZONE 8

GROUP 1 - Common laborers; carpenter helpers; mason tenders (other than cement); Plasterers' tenders; stone mason helpers; concrete workers; scaffold builders

GROUP 2 - Air tool operators (jackhammer, vibrator, and tamper), sewer pipe joiners and setters; concrete cutters; hod carriers; creosote materials handler; acid worker; mason tenders (cement); Mortar mixer (wet or dry); motorized buggy operator; water proofers (mastic); form setters (steel paving forms)

GROUP 3 - Chain saw operator

GROUP 4 - Asphalt raker, tamper, smoother and shovelers; sewer pipe layers; blaster helpers

GROUP 5 - Powdermen

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LABORERS - ZONE 9

GROUP 1 - Building laborers

GROUP 2 - Mason tenders, plasterer tenders; Asphalt rakers, asphalt smoothers

GROUP 3 - Mortar mixers

GROUP 4 - Air jack operators, vibrator operators; Sewer pipe layers, sewer pipe wipers

LABORERS - ZONE 10

GROUP 1 - Laborers, tenders (brickmasons, stonemasons, cement masons, carpenters, plasterers); Stripping & dismantling; concrete form work; loading, unloading, carrying & handling steel & steel mesh; assisting to the setting of cut stone, granite or artifical stone; building scaffolds; shoring

GROUP 2 - Mechanical tool operator (air, electric, motor, engine, etc.); Sewer pipe layers; mortar mixers (hand or machine); gunite operator; tile, terrazzo & marble setters helpers

GROUP 3 - Pipe dopers & burners

AREA COVERED BY LABORERS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - St. Tammany (as far south as Bayou Lacombe and east to the Mississippi State Line at Pearlington), Tangipahoa (except that portion south of a line running due east from the western boundary of Tangipahoa Parish which follows the northern city limits of Independence, Louisiana to 20 miles east of U.S. Highway 51, than running south paralleling Highway 51 at a 20 mile distance to Lake Pontchartrain) & Washington Parishes

ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes

ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 4 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Parishes; Parts of Assumption, St. James, St. John the Baptist Parishes (north of a line drawn from the southern limits of the town of St. James in St. James Parish to the northern limits of the town of Napoleonville, in Assumption Parish & then directly west to the Parish line, all of St. James Parish except that part which is east of a line drawn from Lutcher, Louisiana to U.S. Highway 61 (Airline Highway) then west on U.S. 61 to Blind River and on a direct line to Manchac, Louisiana)

ZONE 5 - Livingston, St. Helena & Tangipahoa (south & west of a line running from the western parish line to a point directly east which touches the northern limits of the town of Independence, then directly south to Lake Pontchartrain) Parishes

ZONE 6 - Jefferson (except Grand Isle), Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist (on the west bank of the Mississippi River and the portion of St. John the Baptist on the east bank of the Mississippi River as far as the Sycamore Inn at Lutcher and north to Blind River and Manchac) & St. Tammany (north as far as Bayou Lacombe, east to the Mississippi State Line at Pearlington) Parishes

ZONE 7 - Assumption (north of Napoleonville), Jefferson (Grand Isle), Lafourche, St. James (on the west bank and including the town of Vacherie) & Terrebonne Parishes

ZONE 8 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides & Winn Parishes

ZONE 9 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Parishes

ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes





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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LABORERS (HIGHWAY CONSTRUCTION) | | | | | |
| GROUP 1 | | | | | |
| ZONE 1 | $ 5.10 | .15 | .10 | | .05 |
| ZONE 2 | 4.80 | .15 | .10 | | .05 |
| ZONE 3 | 4.15 | .15 | .10 | | .05 |
| ZONE 4 | 5.85 | .15 | .10 | | .05 |
| ZONE 5 | 4.10 | .15 | .10 | | .05 |
| ZONE 6 | 3.85 | .15 | .10 | | .05 |
| ZONE 7 | 3.75 | .15 | .10 | | .05 |
| GROUP 2 | | | | | |
| ZONE 1 | 5.20 | .15 | .10 | | .05 |
| ZONE 2 | 4.90 | .15 | .10 | | .05 |
| ZONE 3 | 4.25 | .15 | .10 | | .05 |
| ZONE 4 | 5.95 | .15 | .10 | | .05 |
| ZONE 5 | 4.20 | .15 | .10 | | .05 |
| ZONE 6 | 3.95 | .15 | .10 | | .05 |
| ZONE 7 | 3.85 | .15 | .10 | | .05 |
| GROUP 3 | | | | | |
| ZONE 1 | 5.65 | .15 | .10 | | .05 |
| ZONE 2 | 5.35 | .15 | .10 | | .05 |
| ZONE 3 | 4.70 | .15 | .10 | | .05 |
| ZONE 4 | 6.40 | .15 | .10 | | .05 |
| ZONE 5 | 4.65 | .15 | .10 | | .05 |
| ZONE 6 | 4.40 | .15 | .10 | | .05 |
| ZONE 7 | 4.30 | .15 | .10 | | .05 |
| GROUP 4 | | | | | |
| ZONE 1 | 5.90 | .15 | .10 | | .05 |
| ZONE 2 | 5.60 | .15 | .10 | | .05 |
| ZONE 3 | 4.95 | .15 | .10 | | .05 |
| ZONE 4 | 6.65 | .15 | .10 | | .05 |
| ZONE 5 | 4.85 | .15 | .10 | | .05 |
| ZONE 6 | 4.60 | .15 | .10 | | .05 |
| ZONE 7 | 4.50 | .15 | .10 | | .05 |



CLASSIFICATION DEFINITIONS

GROUP 1 - Laborers, including but not limited to signalman, foundation driller, and demolishing and dismantling man
GROUP 2 - Raker, concrete spreader, carpenters helpers, distributor man, finishers helpers, formsetters helpers, jackhammer operator, jetting laborer, painters helpers, pit man, pipelayer or tile layer, power monkey helper, tamper, tree pruner, stone masons helper, stoker, asphalt raker, concrete shovelers, power tool operator and motorized buggy operator
GROUP 3 - Formsetter, head or master-high type pavement
GROUP 4 - Powderman

AREA COVERED BY LABORERS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - East Baton Rouge Parish
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Lafayette, Ouachita & Rapides Parishes
ZONE 6 - Acadia, Ascension, Bienville, Cameron, DeSoto, Iberia, Iberville, Jefferson Davis, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia Parish), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
ZONE 7 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia Parish), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LATHERS | | | | | |
| ZONE 1 | $ 8.90 | | | | .01 |
| ZONE 2 | 9.08 | .20 | .30 | | .05 |
| ZONE 3 | 9.985 | .30 | | | .01 |
| ZONE 4 | 10.40 | | | | |
| ZONE 5 | 7.90 | | | | .01 |

AREA COVERED BY LATHERS ZONES

ZONE 1 - All of Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, Vermilion, West Baton Rouge & West Feliciana Parishes; Parts of Assumption & St. James Parishes (up to a 40 mile radius of Baton Rouge); Parts of Evangeline & St. Mary Parishes (up to a 40 mile radius of Lafayette)
ZONE 2 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Parishes; Parts of Assumption & St. James Parishes (beyond a 40 mile radius of Baton Rouge); Part of St. Mary Parish (beyond a 40 mile radius of Lafayette)
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Evangeline (that portion beyond a 40 mile radius of Lafayette), Jefferson Davis & Vernon Parishes
ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Lincoln, Natchitoches, Red River & Webster Parishes
ZONE 5 - Rapides Parish







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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LINE CONSTRUCTION | | | | | |
| ZONE 1 | | | | | |
| Linemen | $10.60 | .30 | 1%+.30 | | .03 |
| Operator hole digging equipment; operator, tractor with winch & derrick; operator line truck with winch & derrick working hot lines | 75%JR | .30 | 1%+.30 | | .03 |
| Operator using hole truck & trailer, or pole hauling & setting truck (not in energized lines) | 65%JR | .30 | 1%+.30 | | .03 |
| Operator using truck without winch; Groundmen (starting rate to 1½ years service) | 45%JR | .30 | 1%+.30 | | .03 |
| Groundmen (1½ years service or over) | 50%JR | .30 | 1%+.30 | | .03 |
| ZONE 2 | | | | | |
| Linemen, line equipment & line truck operators | 11.10 | 5% | 8% | | 3/10% |
| Cable splicers | 11.35 | 5% | 8% | | 3/10% |
| ZONE 3 | | | | | |
| Linemen, equipment operators | 12.30 | .35 | 3%+.20 | | 1/10% |
| Cable splicers | 12.55 | .35 | 3%+.20 | | 1/10% |
| Groundmen | 10.30 | .35 | 3%+.20 | | 1/10% |
| ZONE 4 | | | | | |
| Linemen & equipment operators | 11.15 | .35 | 3% | | |
| Cable splicers | 11.40 | .35 | 3% | | |
| Groundmen | 50%JR | .35 | 3% | | |
| ZONE 5 | | | | | |
| Linemen & equipment operators | 10.25 | | 3% | .30 | 1/2% |
| Cable splicers | 10.50 | | 3% | .30 | 1/2% |
| Groundmen | 60%JR | | 3% | .30 | 1/2% |
| ZONE 6 | | | | | |
| Linemen & equipment operators | 10.05 | .45 | 3% | | 1/2% |
| Cable splicers | 10.55 | .45 | 3% | | 1/2% |
| Groundmen, 1st 6 months | 2.85 | .45 | 3% | | 1/2% |
| Groundmen, 2nd 6 months | 3.44 | .45 | 3% | | 1/2% |
| Groundmen, after 1 year | 3.73 | .45 | 3% | | 1/2% |



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ZONE 7 | | | | | |
| Linemen; Operators | $10.35 | .85 | 3% | | 1% |
| Cable splicers | 10.85 | .85 | 3% | | 1% |
| Groundmen | 8.35 | .85 | 3% | | 1% |

AREA COVERED BY LINE CONSTRUCTION ZONES

ZONE 1 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| MARBLE SETTERS | | | | | |
| ZONE 1 | $10.42 | .35 | .20 | | .035 |
| ZONE 2 | 10.45 | .48 | .30 | | .02 |
| ZONE 3 | 9.50 | | | | |
| ZONE 4 | 8.02 | | .25 | | |
| ZONE 5 | 8.20 | .30 | | | |
| ZONE 6 | 9.60 | | | | |

AREA COVERED BY MARBLE SETTERS ZONES

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Parish from the Tangipahoa Parish line on the west along U.S. Highway 190 through the lower limits of Covington, along State Highway 58 through the lower limits of Abita Springs and Talisheek and on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes
ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes

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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| MARBLE SETTERS' FINISHERS | | | | | |
| Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Parish from the Tangipahoa Parish line on the west along U.S. Highway 190 through the lower limits of Covington, along State Highway 58, through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Mississippi State Line), Tangipahoa, Terrebonne, West Baton Rouge & West Feliciana Parishes | $ 6.75 | .25 | | | |
| MILLWRIGHTS | | | | | |
| ZONE 1 | $10.845 | | | | .05 |
| ZONE 2 | 10.09 | .35 | .30 | | .04 |
| ZONE 3 | 11.885 | | | | .07 |
| ZONE 4 | 9.165 | .30 | | | |
| ZONE 5 | 9.65 | | | | |
| ZONE 6 | 9.70 | .40 | .30 | | .04 |
| ZONE 7 | 9.55 | | | | |
| ZONE 8 | 9.60 | .50 | .30 | | .05 |
| ZONE 9 | 10.50 | .35 | .30 | | |



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AREA COVERED BY MILLWRIGHTS ZONES

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Ascension (south of the Mississippi River), Assumption, Iberia (northeast of the Atchafalaya River), Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Mississippi River), St. John the Baptist, St. Martin (southern segment), St. Mary (northeast of the Atchafalaya River), St. Tammany (southern portion), Tangipahoa (remainder of Parish not covered by Zone 9) & Terrebonne Parishes
ZONE 3 - Ascension (north of the Mississippi River), East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes
ZONE 4 - Acadia, Evangeline, Iberia (west of the Atchafalaya River), Lafayette, St. Landry, St. Martin (west of the Atchafalaya River), St. Mary (west of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
ZONE 8 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Parish) & Washington Parishes

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PAINTERS | | | | | |
| ZONE 1 | | | | | |
| GROUP 1 - Brush, wood or wall, rollers | $ 9.96 | | | | |
| GROUP 2 - Brush on steel, buffer on wood or wall | 10.085 | | | | |
| GROUP 3 - Paperhanging, taping & floating | 10.16 | | | | |
| GROUP 4 - Spray, wood & wall | 10.305 | | | | |
| GROUP 5 - Steeplejack, sandblasting, spider operator, rubberizing & pyroflexing, steam jennies, spray on steel | 10.445 | | | | |
| ZONE 2 | | | | | |
| GROUP 1 - Brush; Taping; floating & texture | 8.40 | | .10 | | .05 |
| GROUP 2 - Sandblasting, industrial & steel | 9.27 | | .10 | | .05 |





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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ZONE 3 | | | | | |
| GROUP 1 - Painters, paperhangers & sheetrock tapers & floaters | $ 8.575 | .275 | .30 | | .05 |
| GROUP 2 - Structural steel painters of new buildings under construction; the following overall of 30 feet; tanks, air conditioning, towers, smoke stacks, sprinkler systems, wharves & structural steel in old buildings; spray painters, swing stage painter | 8.95 | .275 | .30 | | .05 |
| GROUP 3 - Industrial | 9.825 | .275 | .30 | | .05 |
| ZONE 4 | | | | | |
| GROUP 1 - Brush | 8.10 | | | | |
| GROUP 2 - Brush swing stage | 8.40 | | | | |
| GROUP 3 - Brush industrial | 8.15 | | | | |
| GROUP 4 - Spray; Spray steel; sandblasting | 9.00 | | | | |
| GROUP 5 - Spray swing stage | 9.25 | | | | |
| GROUP 6 - Paperhanger | 8.55 | | | | |
| GROUP 7 - Sheet rock finishers | 8.40 | | | | |
| ZONE 5 | | | | | |
| GROUP 1 - Painters, paperhangers, tapers, floaters; Commercial steel, such as churches or any commercial building with closed roof deck or walls | 8.00 | | | | |
| GROUP 2 - Other commercial work brush spray, stage, window jacks, flagpoles & steeple work | 8.50 | | | | |
| GROUP 3 - All industrial work including sandblasting or power tools of any kind | 9.00 | | | | |



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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ZONE 6 | | | | | |
| GROUP 1 - Painters, tape & float & paperhangers; stage, window jacks & structural steel | $ 8.55 | .40 | .30 | | .05 |
| GROUP 2 - Stage, window jacks & structural steel over 30 ft. | 8.80 | .40 | .30 | | .05 |
| GROUP 3 - Stage, window jacks & structural steel over 75 ft. | 9.05 | .40 | .30 | | .05 |
| GROUP 4 - Sandblasting, spray | 9.15 | .40 | .30 | | .05 |
| ZONE 7 | | | | | |
| GROUP 1 - Painters, paperhangers, tapers, floaters | 7.05 | | | | |
| GROUP 2 - Stage, window jacks, bosun chairs, structural steel, rollers, equipment painting; sandblasting, spray, stack, sign, tank painting, steeple jack work | 8.05 | | | | |
| GROUP 3 - Structural steel, brush | 7.55 | | | | |

AREA COVERED BY PAINTERS ZONES

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Ascension (north & west of Highway 22), Assumption (north of Grand Bayou), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north & west of Highway 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Highway 51), Vermilion, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Ascension (east & south of Highway 22), Assumption (south of Grand Bayou), Lafourche, Livingston (east & south of Highway 22), Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - St. Tammany (northern portion), Tangipahoa (east of Highway 51) & Washington Parishes
ZONE 5 - Allen (northeast corner), Avoyelles, Catahoula, Evangeline, Grant, LaSalle, Rapides, St. Landry (north half) & Winn (south half) Parishes

ZONE 6 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes
ZONE 7 - Bienville (eastern half), Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn (north half) Parishes

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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PILEDRIVERMEN | | | | | |
| ZONE 1 | $ 9.15 | .35 | .30 | | |
| ZONE 2 | 9.98 | .35 | .45 | | .04 |
| ZONE 3 | 9.82 | .35 | .30 | | .04 |
| ZONE 4 | 9.345 | .40 | .33 | | .05 |
| ZONE 5 | 9.40 | | | | |
| ZONE 6 | 9.20 | .40 | .30 | | .04 |
| ZONE 7 | 9.30 | | | | |
| ZONE 8 | 9.20 | .50 | .30 | | .05 |
| ZONE 9 | 9.495 | .30 | | | |

AREA COVERED BY PILEDRIVERMEN ZONES

ZONE 1 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Parish) & Washington Parishes
ZONE 2 - Ascension (north of the Mississippi River), East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes
ZONE 3 - Ascension (south of the Mississippi River), Assumption, Iberia (northeast of the Atchafalaya River), Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Mississippi River), St. John the Baptist, St. Martin (southern segment), St. Mary (northeast of the Atchafalaya River), St. Tammany (southern portion), Tangipahoa (remainder of Parish not covered by Zone 1) & Terrebonne Parishes
ZONE 4 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 5 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
ZONE 8 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Acadia, Evangeline, Iberia (west of the Atchafalaya River), Lafayette, St. Landry, St. Martin (west of the Atchafalaya River), St. Mary (west of the Atchafalaya River) & Vermilion Parishes



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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PLASTERERS | | | | | |
| ZONE 1 | $ 8.70 | | | | |
| ZONE 2 | 8.00 | | | | .01 |
| ZONE 3 | 9.72 | | | | |
| ZONE 4 | 9.00 | | | | .01 |
| ZONE 5 | 7.05 | .30 | .20 | | .03 |
| ZONE 6 | 6.50 | | | | .01 |
| ZONE 7 | 9.40 | | | 1.00 | |
| ZONE 8 | 9.05 | | .25 | | |
| ZONE 9 | 8.25 | | .30 | | |

AREA COVERED BY PLASTERERS ZONES

ZONE 1 - St. Tammany (northern half including Covington north of Highway 190) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (parish line on the west along U.S. Highway 190 through the lower limits of Covington and Abita Springs along State Highway 435 to Talisheek and on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Natchitoches & Sabine Parishes



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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PLUMBERS & PIPEFITTERS | | | | | |
| ZONE 1 | $10.30 | .45 | .75 | | .08 |
| ZONE 2 | 10.50 | .64 | .825 | | .06 |
| ZONE 3 | 10.30 | .50 | .55 | | .10 |
| ZONE 4 | 9.14 | .40 | .50 | .95 | .09 |
| ZONE 5 | 10.38 | .67 | .72 | | .08 |

AREA COVERED BY PLUMBERS & PIPEFITTERS ZONES

ZONE 1 - Jefferson, Lafourche (except small portion of western part of Parish), Livingston (northeast corner), Orleans, Plaquemines, St. Bernard, St. Charles, St. James (northern 2/3 of Parish), St. John the Baptist, St. Tammany, Tangipahoa (southern 1/2 of Parish), Terrebonne (eastern 1/3 of Parish) & Washington Parishes
ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern 1/2 of Parish), Iberville, Lafourche (small portion of western part of Parish), Livingston (except northeast corner), Pointe Coupee (except northwest corner), St. Helena, St. James (western 1/3 of Parish), St. Landry (eastern 2/3 of Parish), St. Martin (southern part of eastern 1/2 of Parish), St. Mary (except western tip), Tangipahoa (northern 1/2 of Parish), Terrebonne (western 2/3 of Parish), West Baton Rouge & West Feliciana Parishes
ZONE 3 - Allen (northeast corner), Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Evangeline (except southwest corner), Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches (south of Highway 84 & 86 from Winnfield to Natchitoches & southeast from Natchitoches to Anacoco through Bellwood), Ouachita, Rapides, Richland, Tensas, Union, Vernon (northeast of Highway 10), West Carroll & Winn (east of a line drawn from Winnfield to the junction of the Parish boundaries of Winn, Bienville & Jackson) Parishes
ZONE 4 - All of Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Parishes; Parts of Natchitoches & Vernon Parishes (northwest from a line drawn from Natchitoches to Anacoco through Bellwood & north of Highway 111 between Anacoco & Haddens); Part of Winn Parish (west of a line drawn from Winnfield to the junction of the Parish boundaries of Winn, Bienville & Jackson)
ZONE 5 - Acadia, Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Evangeline (southwest corner), Iberia (western 1/2 of Parish), Jefferson Davis, Lafayette, Pointe Coupee (northwest corner), St. Landry (western 1/3 of Parish), St. Martin (west of Highway 31), St. Mary (western tip), Vermilion & Vernon (south of Highway 111 & southwest of Highway 10) Parishes



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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION) | | | | | |
| ZONE 1 | | | | | |
| GROUP 1 | $ 6.81 | .65 | .48 | | .05 |
| GROUP 2 | 7.15 | .65 | .48 | | .05 |
| GROUP 3 | 7.47 | .65 | .48 | | .05 |
| GROUP 4 | 7.55 | .65 | .48 | | .05 |
| GROUP 5 | 7.86 | .65 | .48 | | .05 |
| GROUP 6 | 9.27 | .65 | .48 | | .05 |
| ZONES 2, 3 & 4 | | | | | |
| GROUP 1 | 6.82 | .65 | .48 | | .05 |
| GROUP 2 | 7.15 | .65 | .48 | | .05 |
| GROUP 3 | 7.48 | .65 | .48 | | .05 |
| GROUP 4 | 7.54 | .65 | .48 | | .05 |
| GROUP 5 | 7.87 | .65 | .48 | | .05 |
| GROUP 6 | 9.27 | .65 | .48 | | .05 |
| ZONE 5 | | | | | |
| GROUP 1 | 7.13 | .65 | .48 | | .05 |
| GROUP 2 | 6.82 | .65 | .48 | | .05 |
| GROUP 3 | 6.62 | .65 | .48 | | .05 |
| GROUP 4 | 7.40 | .65 | .48 | | .05 |
| GROUP 5 | 9.695 | .65 | .48 | | .05 |
| GROUP 6 | 7.80 | .65 | .48 | | .05 |
| GROUP 7 | 8.45 | .65 | .48 | | .05 |



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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ZONE 6 | | | | | |
| GROUP 1 | $ 7.54 | .65 | .48 | | .05 |
| GROUP 2 | 6.97 | .65 | .48 | | .05 |
| GROUP 3 | 6.77 | .65 | .48 | | .05 |
| GROUP 4 | 7.25 | .65 | .48 | | .05 |
| GROUP 5 | 7.95 | .65 | .48 | | .05 |
| GROUP 6 | 9.06 | .65 | .48 | | .05 |
| GROUP 7 | 10.11 | .65 | .48 | | .05 |
| GROUP 8 | 10.36 | .65 | .48 | | .05 |
| GROUP 9 | 10.61 | .65 | .48 | | .05 |
| GROUP 10 | 10.86 | .65 | .48 | | .05 |
| ZONE 7 | | | | | |
| GROUP 1 | 9.80 | .45 | .48 | | .05 |
| GROUP 2 | 10.05 | .45 | .48 | | .05 |
| GROUP 3 | 7.12 | .45 | .48 | | .05 |
| GROUP 4 | 7.51 | .45 | .48 | | .05 |
| GROUP 5 | 8.12 | .45 | .48 | | .05 |
| GROUP 6 | 9.55 | .45 | .48 | | .05 |

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS - ZONES 1, 2, 3 & 4

GROUP 1 - Oiler
GROUP 2 - Mechanic helper
GROUP 3 - Oiler-Driver
GROUP 4 - Scaleman
GROUP 5 - Air compressor; Asphalt Plant Operator; Bulldozers, D-4 and equivalent & under; Bullfloats; Concrete Spreader; Finishing Machines; Concrete Mixer (16-s or less); Concrete Saw; Distributors (Bitum Surface); Dowell Bar Machine; Farm-Type Tractor (with all attachments except backhoe);-Fireman; Fork Lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum Buff Machine; Pull Cats; Pump (3" and over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle Buggies; Sweepers on streets & roads (Motorized); Winch Truck, A-Frame (other than handling steel or pipe)
GROUP 6 - Asphalt Spreader; Backhoe; Bulldozer, over D-4 and equivalent; Cableways; Concrete Mixer, over 16-s; Cranes; Derricks; Ditching or Trenching Machines; Draglines; Fork Lifts (setting steel, machinery or pipe); Front-End Loaders (except Farm-type tractors); Grease Serviceman; Hoist, 1 drum, 4 stories or more or 40 feet (on structures other than buildings); Hoist, 2 drums and over; Hydrolifts; Heavy Duty Mechanic; Motor Patrols; Piledrivers; Pump, concrete (6" & over); Road Pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom Cats; Shovels; Tractorvators; Welder, journeyman; Well Point System; Winch Cats (hoisting); Winch Truck, A-Frame (handling steel or pipe)



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POWER EQUIPMENT OPERATORS - ZONE 5

GROUP 1 - Scale Operator; Oiler-Driver on Motor Crane; Batch Plant Operator
GROUP 2 - Pumps under 3 inch suction; Mechanic Helper
GROUP 3 - Oiler
GROUP 4 - Fireman
GROUP 5 - Combination Oiler-Compressor; Combination Oiler-Fireman; Asphalt Spreaders; Backhoe (all types); Bulldozers; Gableways; Cherry Pickers (all types); Concrete Mixers (over 1 sack); Cranes; Deck Winch (2 drums or over); Derricks; Ditching or trenching machines (riding type); Draglines; Dredges; Fork Lifts (other than farm type) outside warehouses; Foundation Drill; Front End Loaders (except farm type); Grease Serviceman; Hoist-1 drum (4 stories or more on buildings); Hoist-1 drum (over 40 feet on structures other than buildings Hoist (2 drum or over); Locomotives (all types); Mechanic; Mixer Plant Operator-Central Mix; Motor Patrols; Piledrivers; Pull Cat; Pump Crete-6" and over discharge; Push Cat; Road Pavers; Rollers (Plant Mix Asphalt); Scrapers; Shovels; Sidebooms; Unit Operator; Welder, Journeyman; Well Point System; Whirleys; Winch Cats (Cat D-4 and over); Winch Truck with A-Frame (5 ton and over); Work Boats-requiring licensed operator
GROUP 6 - Bush Hog; Compressor; Concrete pump-under 6" discharge; Concrete Saw; Deck Winch (1 drum); Distributors; Ditching or trenching machines (non-riding type); Dowel Bar Machine; Farm-type tractors (when used to pull discs, grass-cutters, etc.); Hoist-1 drum (under 4 stories on buildings); Hoist-1 drum (40 feet or under on structures other than buildings); Kolum Buff Machines; Mixers (1 sack and under); Motorized street sweepers self-propelled; Pump (3" and over); Test Pump-Internal combustion engine powered; Water Blast Pumps
GROUP 7 - Asphalt Plant Operator; Boom Trucks; Bull Floats; Concrete Spreader; Farm Type Front End Loaders; Finishing Machines (Roadway, riding type); Roller (other than plant mix asphalt); Straddle Buggies; Winch Truck with A-Frame (under 5 tons); Work Boat-not requiring licensed operator

POWER EQUIPMENT OPERATORS - ZONE 6

GROUP 1 - Snatch Cat; Pumps, 3 inch suction or more
GROUP 2 - Pumps, under 3 inch suction; Mechanic Helper
GROUP 3 - Oiler
GROUP 4 - Batch Plant Operator
GROUP 5 - Air Compressor; Asphalt Plant Engineer; Blade Grader; Distributor (Bitum Surface); Finishing Machine (Concrete, Paving); Hoist - 1 drum, less than 4 stories; Concrete Mixer under 16S; Oiler Driver; Pump Crete; Street & Road Sweeper; Roller (except on asphalt or brick); Roller, asphalt or brick (under 5 tons); Post-hole digger; Tractor operated Bush Hog and similar grass or bush cutting equipment
GROUP 6 - A-Frame Truck; Crew Boat Operator; Fireman; Fork Lift; Straddle Buggy; Traxcavator, Scoopmobile and similar front-end loading equipment with Scoop or Bucket under 1 cubic yard capacity; Locomotive; Well Point System; Unit Operator; Hoist - 1 drum, 4 stories or over
GROUP 7 - Backhoe; Cable Way; Concrete Mixer, 16S and up; Derrick; Crane; Dragline; Dredge; Equipment Maintenance Mechanic; Hoist - 2 drum; Locomotive Crane; Paving Mixer; Piledriver; Road Paver; Roller on asphalt or brick (5 tons or over); Shovel; Sideboom Cat; Bulldozer; Motor Patrol; Scraper; Hydrolift Crane, Hydro-lift Truck, Yard Crane, Cherry Picker, etc.; Foundation, Boring and Reaming Machine; Cement Stabilizer; Trenching Machine; Asphalt Spreader; Traxcavator & similar front end loading equipment with scoop or bucket of 1 cubic yard or more capacity; Tug Boat Operator; Turnapull, Euclid, DW-10 & other similar self-loading earth moving equipment; Concrete Pump (not Pump Crete)





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POWER EQUIPMENT OPERATORS - ZONE 6 (CONT'D)

GROUP 8 - Crane Operator, 60 tons & over; Crane Operator, Boom 100 feet & over; Piledriver Operator, Leads 100 feet & over
GROUP 9 - Crane Operator, 100 tons & over; Crane Operator, Boom 150 feet & over; Piledriver Operator, Leads 150 feet & over
GROUP 10 - Crane Operator, Boom 250 feet & over; Piledriver Operator, Leads over 250 feet

POWER EQUIPMENT OPERATORS - ZONE 7

GROUP 1 - Assistant Master Mechanic
GROUP 2 - Master Mechanic
GROUP 3 - Oilers
GROUP 4 - Batch Plant Operators; Mechanic Helpers; Oilers (Drivers)
GROUP 5 - A-frame truck, except when working with ironworkers or pipefitters; Air Compressor; Asphalt Plant Engineers; Asphalt Finisher, Screed Men; Blade Graders; Boat Operator; Bullfloats; Concrete Joining Machines; Concrete Mixers, 16s and under; Concrete Spreader; Crusher Operator; Deck Winch Operator (1); Distributors, asphalt "Ditch Witch" and similar equipment; Electric Elevators (inside); Finishing Machine; Fireman; Form Graders; Fork Lifts; Hoist, 1 drum, under 4 stories; Power Subgrader; Pug Mill Operators; Pull Tractors; Pump, Pump Crete; Rollers, except on brick and asphalt; Rubber tired Front End Loader (with or without blade attachments) less than 1 cu. yd. capacity; Scale Operator; Scoopmobile; Snatch Cats; Spray Machines; Stabilizers, less than 3 drums; Straddle-Buggy; Track Machines and equivalent Machines; Tractors or Bulldozers smaller than D-6
GROUP 6 - A-Frame Truck, when working with ironworkers and pipefitters; Bull-dozers D-6 and larger; Cable Ways; Concrete Mixers, over 16-s paving machines; Cranes, Derricks; Draglines and Clan Shells; Deck Winches (2); Gradealls; Hi-Ho and similar type equipment; Hoist, 1 drum, 4 stories and over; Hoist, 2 drums or more; Hydro cranes; Mechanic; Motor Patrols; Piledrivers; Rollers on brick and asphalt; Rubber Tired Front End Loader, with or without attach-ments, 1 cu. yd. capacity or more; Scrapers; Shovels; Backhoes (all types); Sideboom Cats; Stabilizers, 3 drums or more; Traxcavators; Trenching Machines; Unit Operator; Welder, journeymen; Well Point Systems (gas, diesel, electric, etc.); Concrete Pump/Boom Combinations

AREA COVERED BY POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 2 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine, St. Landry & Winn Parishes
ZONE 3 - All of Acadia, Lafayette & Vermilion Parishes; Parts of Iberia, St. Martin & St. Mary Parishes (west of a line drawn from the city of Berwick to the junction of the Iberville-St. Landry Parishes border)
ZONE 4 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 5 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Parishes; Parts of Assumption & St. James Parishes (northwest of a straight line drawn from the city of Berwick to the city of Lutcher); Parts of Iberia & southern & northern St. Martin Parishes (east and west of a line from the city of Berwick north to the eastern boundary of the city of Krotz Springs); Parts of Livingston, Tangipahoa & Washington Parishes (west of a line drawn north from the city of Lutcher to the east side of the city of Hammond to the Louisiana-Mississippi border)



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AREA COVERED BY POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION) ZONES (CONT'D)

ZONE 7 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Terrebonne Parishes; Parts of Assumption, Livingston, St. James, St. Martin, St. Mary, Tangipahoa & Washington Parishes (that portion of southeastern Louisiana bounded on the north by the State of Mississippi, on the east by the State of Mississippi and the Mississippi Sound, on the south by the Gulf of Mexico and on the west by a line drawn as follows: beginning at a point on the Louisiana-Mississippi boundary in Washington Parish, Louisiana, due north of the town of Hackley, Louisiana, thence southwesterly in a straight line to a point on the east bank of the Mississippi River at the southernmost point of Lutcher (including Gramercy in the area), thence in a more southwesterly direction in a straight line to midstream of the Atchafalaya River at Morgan City-Berwick (including Morgan City in this area), thence southerly on a line following midstream of the Atchafalaya River to Atchafalaya Bay and in a line due south to the Gulf of Mexico)

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION) | | | | | |
| GROUP 1 | | | | | |
| ZONE 1 | $ 8.45 | .25 | .39 | | .05 |
| ZONE 2 | 8.31 | .25 | .39 | | .05 |
| ZONE 3 | 9.10 | .25 | .48 | | .05 |
| ZONE 4 | 9.08 | .45 | .48 | | .05 |
| ZONE 5 | 6.69 | .25 | .30 | | .05 |
| ZONE 6 | 6.14 | .25 | .30 | | .05 |
| ZONE 7 | 5.53 | .25 | .30 | | .05 |
| GROUP 2 | | | | | |
| ZONE 1 | 8.70 | .25 | .39 | | .05 |
| ZONE 2 | 8.56 | .25 | .39 | | .05 |
| ZONE 3 | 9.35 | .25 | .48 | | .05 |
| ZONE 4 | 9.33 | .45 | .48 | | .05 |
| ZONE 5 | 6.94 | .25 | .30 | | .05 |
| ZONE 6 | 6.39 | .25 | .30 | | .05 |
| ZONE 7 | 5.78 | .25 | .30 | | .05 |

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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GROUP 3 | | | | | |
| ZONE 1 | $ 8.20 | .25 | .39 | | .05 |
| ZONE 2 | 8.06 | .25 | .39 | | .05 |
| ZONE 3 | 8.85 | .25 | .48 | | .05 |
| ZONE 4 | 8.83 | .45 | .48 | | .05 |
| ZONE 5 | 6.44 | .25 | .30 | | .05 |
| ZONE 6 | 5.89 | .25 | .30 | | .05 |
| ZONE 7 | 5.28 | .25 | .30 | | .05 |
| GROUP 4 | | | | | |
| ZONE 1 | 7.20 | .25 | .39 | | .05 |
| ZONE 2 | 7.13 | .25 | .39 | | .05 |
| ZONE 3 | 7.80 | .25 | .48 | | .05 |
| ZONE 4 | 7.61 | .45 | .48 | | .05 |
| ZONE 5 | 5.58 | .25 | .30 | | .05 |
| ZONE 6 | 5.02 | .25 | .30 | | .05 |
| ZONE 7 | 4.46 | .25 | .30 | | .05 |
| GROUP 5 | | | | | |
| ZONE 1 | 6.88 | .25 | .39 | | .05 |
| ZONE 2 | 6.39 | .25 | .39 | | .05 |
| ZONE 3 | 7.21 | .25 | .48 | | .05 |
| ZONE 4 | 7.00 | .45 | .48 | | .05 |
| ZONE 5 | 5.02 | .25 | .30 | | .05 |
| ZONE 6 | 4.48 | .25 | .30 | | .05 |
| ZONE 7 | 3.97 | .25 | .30 | | .05 |
| GROUP 6 | | | | | |
| ZONE 1 | 6.27 | .25 | .39 | | .05 |
| ZONE 2 | 5.75 | .25 | .39 | | .05 |
| ZONE 3 | 6.50 | .25 | .48 | | .05 |
| ZONE 4 | 6.30 | .45 | .48 | | .05 |
| ZONE 5 | 4.86 | .25 | .30 | | .05 |
| ZONE 6 | 4.31 | .25 | .30 | | .05 |
| ZONE 7 | 3.81 | .25 | .30 | | .05 |



DECISION NO. LA77-4169

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GROUP 7 | | | | | |
| ZONE 1 | $ 5.99 | .25 | .39 | | .05 |
| ZONE 2 | 5.46 | .25 | .39 | | .05 |
| ZONE 3 | 6.16 | .25 | .48 | | .05 |
| ZONE 4 | 5.96 | .45 | .48 | | .05 |
| ZONE 5 | 4.86 | .25 | .30 | | .05 |
| ZONE 6 | 4.31 | .25 | .30 | | .05 |
| ZONE 7 | 3.81 | .25 | .30 | | .05 |
| GROUP 8 | | | | | |
| ZONE 1 | 7.20 | .25 | .39 | | .05 |
| ZONE 2 | 7.13 | .25 | .39 | | .05 |
| ZONE 3 | 7.80 | .25 | .48 | | .05 |
| ZONE 4 | 7.61 | .45 | .48 | | .05 |
| ZONE 5 | 5.58 | .25 | .30 | | .05 |
| ZONE 6 | 5.02 | .25 | .30 | | .05 |
| ZONE 7 | 4.46 | .25 | .30 | | .05 |
| GROUP 9 | | | | | |
| ZONE 1 | 7.45 | .25 | .39 | | .05 |
| ZONE 2 | 7.38 | .25 | .39 | | .05 |
| ZONE 3 | 8.05 | .25 | .48 | | .05 |
| ZONE 4 | 7.86 | .45 | .48 | | .05 |
| ZONE 5 | 5.83 | .25 | .30 | | .05 |
| ZONE 6 | 5.27 | .25 | .30 | | .05 |
| ZONE 7 | 4.71 | .25 | .30 | | .05 |
| GROUP 10 | | | | | |
| ZONE 1 | 6.24 | .25 | .39 | | .05 |
| ZONE 2 | 5.71 | .25 | .39 | | .05 |
| ZONE 3 | 6.41 | .25 | .48 | | .05 |
| ZONE 4 | 6.21 | .45 | .48 | | .05 |
| ZONE 5 | 5.11 | .25 | .30 | | .05 |
| ZONE 6 | 4.56 | .25 | .30 | | .05 |
| ZONE 7 | 4.06 | .25 | .30 | | .05 |







DECISION NO. LA77-4169

CLASSIFICATION DEFINITIONS

GROUP 1 - 60 ton crane & over; Crane with 125' boom

GROUP 2 - Crane with 175' boom

GROUP 3 - Heavy Duty Operators-Crane all types; deck winches (2); Hi-Ho and similar type equipment; three drum (or more) stabilizers; pulls all types; concrete mixer one yard and over; all pavers; ditching or trenching machines (track type); mechanics and equipment welders; well-point systems; hoist, two drums or more; hoist, one drum, forty vertical feet or more; scrapers; bull-dozers, rubber-tired or track other than farm-type; scoopmobiles; motor patrol; gradall; rollers on hot mix; asphalt paving machines; front end loaders, other than farm-type, one cubic yard or over; shovels and backhoes, all types, and equivalent equipment; piledriver operator; sideboom cats; A-Frame trucks when handling steel or pipe; work boats requiring licensed operators; tugboats; fork lifts over ten ton capacity; and foundation drilling machines

GROUP 4 - Medium Duty Operators-Two drums stabilizers; front end loaders under 1 cubic yard; A-Frame truck except when handling steel or pipe; finishing machines (concrete); power subgraders; tow tractor (crawler type); one drum hoist under 60 vertical feet; fireman; concrete spreader; pugmill operator; bituminous distributor on surface treatment and equivalent; bull floats and equivalent; job grease man on "Highway Construction"; unit operator (all Highway Zones); work boats not requiring licensed operators; inboard motored crew boats

GROUP 5 - Light Duty Operators-Single drum stabilizers; concrete mixer under one yard; spray curing machines; rollers on subgrade; one air compressor over 125 cubic feet; form graders; asphalt finisher screed man; pump over 4 inches; scale operators; crusher operators; concrete jointing machines; concrete saw; tack machines and equivalent equipment; pump crete; electric elevator (inside); oiler-driver; farm-type, rubber-tired tractor, with attachments, except back-hoes; Kolum buff and similar equipment; fork lifts, ten ton capacity and under; outboard motored crew boats

GROUP 6 - Mechanic Helper; Batch Plant Operator

GROUP 7 - Oiler

GROUP 8 - Fireman

GROUP 9 - Fireman Operating Steam Valve

GROUP 10 - Oiler on Crane Using Air to Drive Piles

AREA COVERED BY POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes

ZONE 2 - Ascension, East Baton Rouge, Iberville & West Baton Rouge Parishes

ZONE 3 - Bossier, Caddo & Red River Parishes

ZONE 4 - Calcasieu, Cameron & Jefferson Davis Parishes

ZONE 5 - Lafayette, Ouachita & Rapides Parishes

ZONE 6 - Acadia, Allenville, DeSoto, Iberia, Livingston, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (north of Iberia Parish), St. Tammany, Tangipahoa, Vermilion, Washington & Webster Parishes

ZONE 7 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (south of Iberia Parish), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes



DECISION NO. LA77-4169

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ROOFERS | | | | | |
| ZONE 1 | | | | | |
| Roofers | $ 9.43 | | .10 | | |
| ZONE 2 | | | | | |
| Roofers | 8.06 | .70 | .65 | .20 | .70 |
| ZONE 3 | | | | | |
| Roofers | 8.16 | .35 | .50 | | .04 |
| ZONE 4 | | | | | |
| Roofers, stump | 7.35 | | | | |
| Roofers, flat | 7.10 | | | | |
| Roofers, kettlemen | 6.85 | | | | |
| ZONE 5 | | | | | |
| Roofers | 8.55 | | .20 | | .02 |
| Kettlemen | 5.93 | | .20 | | .02 |

AREA COVERED BY ROOFERS ZONES

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Vermilion & Vernon Parishes

ZONE 2 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, South St. Martin, St. Mary, St. Tammany, Terrebonne & Washington Parishes

ZONE 3 - Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, North St. Martin, Tangipahoa, West Baton Rouge & West Feliciana Parishes

ZONE 4 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll & Winn Parishes

ZONE 5 - Allenville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes

DECISION NO. LA77-4169

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| SHEET METAL WORKERS | | | | | |
| ZONE 1 | $ 9.97 | .40 | .27 | | .10 |
| ZONE 2 | 10.16 | 3%+.45 | .70 | | .14 |
| ZONE 3 | 10.05 | .40 | .50 | | .12 |
| ZONE 4 | 9.75 | 3%+.55 | .40 | | .16 |

AREA COVERED BY SHEET METAL WORKERS ZONES

ZONE 1 - Calcasieu Parish
ZONE 2 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Allen, Ascension, Assumption, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Mary, Tangipahoa, Vermilion, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| SOFT FLOOR LAYERS | | | | | |
| ZONE 1 | $ 9.345 | .40 | .33 | | .05 |
| ZONE 2 | 9.72 | .35 | .30 | | .04 |
| ZONE 3 | 9.555 | .35 | .30 | | .04 |
| ZONE 4 | 8.85 | .35 | .30 | | |
| ZONE 5 | 8.90 | | | | |
| ZONE 6 | 8.95 | .40 | .30 | | .04 |
| ZONE 7 | 8.80 | | | | |
| ZONE 8 | 8.70 | .50 | .30 | | .05 |



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AREA COVERED BY SOFT FLOOR LAYERS ZONES

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Ascension (south of the Mississippi River), Assumption, Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Mississippi River) & St. John the Baptist Parishes
ZONE 3 - Iberia (northeast of the Atchafalaya River), Lafourche, St. Martin (southern segment), St. Mary (northeast of the Atchafalaya River), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Parish) & Washington Parishes
ZONE 5 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
ZONE 8 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| SPRINKLER FITTERS | $10.35 | .65 | .95 | | .08 |
| TERRAZZO WORKERS | | | | | |
| ZONE 1 | 9.10 | .25 | | | |
| ZONE 2 | 10.45 | .48 | .30 | | .02 |
| ZONE 3 | 7.25 | | | | |
| ZONE 4 | 8.02 | | .25 | | |
| ZONE 5 | 8.20 | .30 | | | |
| ZONE 6 | 9.60 | | | | |

AREA COVERED BY TERRAZZO WORKERS ZONES

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, West St. Tammany & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes
ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes



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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| TERRAZZO WORKERS' FINISHERS | | | | | |
| Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. Helena, St. John the Baptist, West St. Tammany, Tangipahoa, Terrebonne, West Baton Rouge & West Feliciana Parishes | $ 6.75 | .25 | | | |
| TILE SETTERS | | | | | |
| ZONE 1 | 9.10 | .25 | | | |
| ZONE 2 | 7.65 | .48 | .30 | | .02 |
| ZONE 3 | 9.25 | | | | |
| ZONE 4 | 8.02 | | .25 | | |
| ZONE 5 | 8.20 | .30 | | | |
| ZONE 6 | 9.60 | | | | |

AREA COVERED BY TILE SETTERS ZONES

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, West St. Tammany & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - St. Tammany (northern half including Covington north of Highway 190) & Washington Parishes
ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes



DECISION NO. LA77-4169

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| TILE SETTERS' FINISHERS | | | | | |
| Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. Helena, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes | $ 6.75 | .25 | | | |
| TRUCK DRIVERS (BUILDING CONSTRUCTION) | | | | | |
| ZONE 1 | | | | | |
| GROUP 1 | 4.91 | | | | |
| GROUP 2 | 5.34 | | | | |
| GROUP 3 | 5.55 | | | | |
| GROUP 4 | 5.35 | | | | |
| GROUP 5 | 5.45 | | | | |
| GROUP 6 | 5.37 | | | | |
| GROUP 7 | 5.76 | | | | |
| ZONE 2 | | | | | |
| GROUP 1 | 5.20 | | | | |
| GROUP 2 | 5.46 | | | | |
| GROUP 3 | 6.00 | | | | |
| GROUP 4 | 5.86 | | | | |
| GROUP 5 | 6.31 | | | | |
| GROUP 6 | 6.39 | | | | |
| GROUP 7 | 6.68 | | | | |
| GROUP 8 | 6.86 | | | | |

DECISION NO. LA77-4169

| ZONE 3 | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| GROUP 1 | $ 5.47 | | | | |
| GROUP 2 | 5.55 | | | | |
| GROUP 3 | 5.80 | | | | |
| GROUP 4 | 5.95 | | | | |
| GROUP 5 | 6.10 | | | | |
| GROUP 6 | 6.30 | | | | |
| GROUP 7 | 6.65 | | | | |

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS - ZONE 1

GROUP 1 - Teamsters, Pick-up drivers & chauffeurs
GROUP 2 - Stake bodies (all sizes)
GROUP 3 - Trucks trailer & dumps over 8 yds.; Mixers on trucks over 3 yds.; Mississippi wagons & Koehring dumpsters & similar dirt moving equipment (up to and including 8 yds.)
GROUP 4 - Mixers on trucks up to and including 3 yds.
GROUP 5 - Winch trucks
GROUP 6 - Trucks - dump
GROUP 7 - Mississippi wagons & Koehring dumpsters & similar dirt moving equipment over 8 yds.

TRUCK DRIVERS - ZONE 2

GROUP 1 - Teamster, pick-up drivers
GROUP 2 - Stake bodies (all sizes)
GROUP 3 - Truck & trailer; Dump
GROUP 4 - Mixers on trucks, up to and including 3 yds.
GROUP 5 - Mixers over 3 yds.
GROUP 6 - Winch trucks
GROUP 7 - Mississippi wagons & Koehring dumpsters, tandem and similar dirt moving equipment, up to and including 8 yds.
GROUP 8 - Mississippi wagons, Koehring dumpsters, tandem and similar dirt moving equipment, over 8 yds.

TRUCK DRIVERS - ZONE 3

GROUP 1 - Pick-up drivers, spotters & dumpers of dirt, gravel, asphalt & rock
GROUP 2 - Stake bodies; flat beds (all sizes)
GROUP 3 - Single axle dumps & water trucks; transit mix, up to & including 3 yds.
GROUP 4 - Tandem axle dump, batch and water trucks over 3 tons, pickups with trailer
GROUP 5 - Mississippi wagons, floats, tractor trailers; rubber tired tractors and wobble wheels
GROUP 6 - Euclids, lowboys, Dempsey dumpsters, Koehring-dumps, five axle trucks, transit mix over 3 yds., fuel truck
GROUP 7 - Fork lift



AREA COVERED BY TRUCK DRIVERS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

| TRUCK DRIVERS (HIGHWAY CONSTRUCTION) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Ap r. Tr. |
|---|---|---|---|---|---|
| GROUP 1 | | | | | |
| ZONE 1 | $ 5.49 | | | | |
| ZONE 2 | 5.49 | | | | |
| ZONE 3 | 5.26 | | | | |
| ZONE 4 | 6.49 | | | | |
| ZONE 5 | 4.45 | | | | |
| ZONE 6 | 4.35 | | | | |
| ZONE 7 | 4.25 | | | | |
| GROUP 2 | | | | | |
| ZONE 1 | 5.61 | | | | |
| ZONE 2 | 5.61 | | | | |
| ZONE 3 | 5.35 | | | | |
| ZONE 4 | 6.62 | | | | |
| ZONE 5 | 4.56 | | | | |
| ZONE 6 | 4.46 | | | | |
| ZONE 7 | 4.36 | | | | |
| GROUP 3 | | | | | |
| ZONE 1 | 5.66 | | | | |
| ZONE 2 | 5.66 | | | | |
| ZONE 3 | 5.55 | | | | |
| ZONE 4 | 6.68 | | | | |
| ZONE 5 | 4.61 | | | | |
| ZONE 6 | 4.51 | | | | |
| ZONE 7 | 4.41 | | | | |









| GROUP 4 | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| ZONE 1 | $ 5.73 | | | | |
| ZONE 2 | 5.73 | | | | |
| ZONE 3 | 5.73 | | | | |
| ZONE 4 | 6.75 | | | | |
| ZONE 5 | 4.67 | | | | |
| ZONE 6 | 4.57 | | | | |
| ZONE 7 | 4.47 | | | | |
| GROUP 5 | | | | | |
| ZONE 1 | 5.89 | | | | |
| ZONE 2 | 5.89 | | | | |
| ZONE 3 | 6.09 | | | | |
| ZONE 4 | 6.94 | | | | |
| ZONE 5 | 4.83 | | | | |
| ZONE 6 | 4.73 | | | | |
| ZONE 7 | 4.63 | | | | |

CLASSIFICATION DEFINITIONS

GROUP 1 - One ton and under; Warehouseman, material checker, receiving clerk, spotter and dumper
GROUP 2 - One and one-half (1½) tons to and including two (2) tons (exclusive of dump trucks), truck mechanic helper
GROUP 3 - Single axle dump trucks, single axle water trucks
GROUP 4 - Heavy equipment, tandem axle dump and tandem axle water trucks, winch lift, transit mix, floats, pole trailers, four axle trailers and truck mechanic
GROUP 5 - Special equipment, euclids and five axle moving equipment

AREA COVERED BY TRUCK DRIVERS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - East Baton Rouge Parish
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Lafayette, Ouachita & Rapides Parishes
ZONE 6 - Acadia, Ascension, Bienville, Cameron, DeSoto, Iberia, Iberville, Jefferson Davis, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (north of Iberia Parish), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
ZONE 7 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (south of Iberia Parish), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

WELDERS - receive rate prescribed for craft performin operation to which welding is incidental

SUPERSEDEAS DECISION

STATE: Louisiana
DECISION NO.: LA77-4170
PARISHES: Bossier, Caddo & Calcasieu
DATE: Date of Publication
Supersedes Decision No. LA77-4104, dated May 20, 1977, in 42 FR 26137.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS: | | | | | |
| Bossier & Caddo Parishes | $10.03 | .40 | .76 | | .025 |
| Calcasieu Parish | 10.345 | .475 | .90 | | .04 |
| BOILERMAKERS | 10.00 | .50 | 1.00 | | .02 |
| BRICKLAYERS & STONEMASONS: | | | | | |
| Bossier & Caddo Parishes | 9.20 | .40 | .45 | | |
| Calcasieu Parish | 10.45 | .48 | .30 | | .02 |
| CARPENTERS: | | | | | |
| Bossier & Caddo Parishes: | | | | | |
| Carpenters | 8.95 | .40 | .30 | | .04 |
| Millwrights | 9.70 | .40 | .30 | | .04 |
| Piledrivermen | 9.20 | .40 | .30 | | .04 |
| Calcasieu Parish: | | | | | |
| Carpenters & piledrivermen | 9.345 | .40 | .33 | | .05 |
| Millwrights | 10.845 | | | | .05 |
| CEMENT MASONS: | | | | | |
| Bossier & Caddo Parishes | 8.35 | .35 | | | |
| Calcasieu Parish | 9.15 | | | | |
| ELECTRICIANS: | | | | | |
| Bossier & Caddo Parishes: | | | | | |
| Electricians | 10.35 | .85 | 3% | | 1% |
| Cable splicers | 10.85 | .85 | 3% | | 1% |
| Calcasieu Parish: | | | | | |
| Electricians | 12.30 | .35 | 3%+.20 | | 1/10% |
| Cable splicers | 12.55 | .35 | 3%+.20 | | 1/10% |
| ELEVATOR CONSTRUCTORS: | | | | | |
| Bossier & Caddo Parishes: | | | | | |
| Mechanics | 8.795 | .545 | .35 | 4%+a+b | .02 |
| Helpers | 70%JR | .545 | .35 | 4%+a+b | .02 |
| Helpers (Probationary) | 50%JR | | | | |
| Calcasieu Parish: | | | | | |
| Mechanics | 9.285 | .495 | .32 | 4%+a+b | .02 |
| Helpers | 70%JR | .495 | .32 | 4%+a+b | .02 |
| Helpers (Probationary) | 50%JR | | | | |
| GLAZIERS: | | | | | |
| Bossier & Caddo Parishes | 7.50 | | .30 | | |
| Calcasieu Parish | 8.55 | | | | |



DECISION NO. LA77-4170

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| IRONWORKERS: | | | | | |
| Bossier & Caddo Parishes | $10.20 | .45 | .50 | | .04 |
| Calcasieu Parish | 9.90 | .35 | .60 | | .025 |
| LABORERS: | | | | | |
| Bossier & Caddo Parishes: | | | | | |
| GROUP 1 - Building laborers | 5.95 | .15 | .10 | | .05 |
| GROUP 2 - Mason tenders, plasterer tenders; asphalt rakers, asphalt smoothers | 6.05 | .15 | .10 | | .05 |
| GROUP 3 - Mortar mixers | 6.10 | .15 | .10 | | .05 |
| GROUP 4 - Air jack operators, vibrator operators; Sewer pipe layers, sewer pipe wipers | 6.15 | .15 | .10 | | .05 |
| Calcasieu Parish: | | | | | |
| GROUP 1 - Building & general laborer; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners | 7.30 | .15 | .10 | | .05 |
| GROUP 2 - Air tool operator (except jackhammer); interior of closed tanks & vessels power equipment | 7.40 | .15 | .10 | | .05 |
| GROUP 3 - Mortar mixers & jackhammer operators | 7.45 | .15 | .10 | | .05 |
| GROUP 4 - Blasterers | 8.26 | .15 | .10 | | .05 |
| GROUP 5 - Blaster helpers; concrete cutters behind paving machines & puddlers; form setters & lines asphalt worker | 7.82 | .15 | .10 | | .05 |
| GROUP 6 - Wiping joints, laying pipe & tile from pumpcrete | 7.56 | .15 | .10 | | .05 |
| GROUP 7 - Interior of closed tanks & vessels manually | 7.35 | .15 | .10 | | .05 |
| LATHERS: | | | | | |
| Bossier & Caddo Parishes | 10.40 | | | | |
| Calcasieu Parish | 9.985 | .30 | | | .01 |
| MARBLE SETTERS: | | | | | |
| Bossier & Caddo Parishes | 8.20 | .30 | | | |
| Calcasieu Parish | 10.45 | .48 | .30 | | .02 |

NOTICES





DECISION NO. LA77-4170

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PAINTERS: | | | | | |
| Bossier & Caddo Parishes: | | | | | |
| GROUP 1 - Painters, tape & float & paperhangers; stage, window jacks & structural steel | $ 8.55 | .40 | .30 | | .05 |
| GROUP 2 - Stage, window jacks & structural steel over 30 ft. | 8.80 | .40 | .30 | | .05 |
| GROUP 3 - Stage, window jacks & structural steel over 75 ft. | 9.05 | .40 | .30 | | .05 |
| GROUP 4 - Sandblasting, spray | 9.15 | .40 | .30 | | .05 |
| Calcasieu Parish: | | | | | |
| GROUP 1 - Brush, wood or wall; rollers | 9.96 | | | | |
| GROUP 2 - Brush on steel, buffer on wood or wall | 10.085 | | | | |
| GROUP 3 - Paperhanging, taping & floating | 10.16 | | | | |
| GROUP 4 - Spray, wood & wall | 10.305 | | | | |
| GROUP 5 - Steeplejack, sandblasting, spider operator, rubberizing & pyroflexing, steam jennies, spray on steel | 10.445 | | | | |
| PLASTERERS: | | | | | |
| Bossier & Caddo Parishes | 9.40 | | | 1.00 | |
| Calcasieu Parish | 9.72 | | | | |
| PLUMBERS & PIPEFITTERS: | | | | | |
| Bossier & Caddo Parishes | 9.14 | .40 | .50 | .95 | .09 |
| Calcasieu Parish | 10.38 | .67 | .72 | | .08 |
| ROOFERS: | | | | | |
| Bossier & Caddo Parishes: | | | | | |
| Roofers | 8.55 | | .20 | | .02 |
| Kettlemen | 5.93 | | .20 | | .02 |
| Calcasieu Parish: | | | | | |
| Roofers | 9.43 | | .10 | | |
| SHEET METAL WORKERS: | | | | | |
| Bossier & Caddo Parishes | 9.75 | 3%+.55 | .40 | | .16 |
| Calcasieu Parish | 9.97 | .40 | .27 | | .10 |
| SOFT FLOOR LAYERS: | | | | | |
| Bossier & Caddo Parishes | 8.95 | .40 | .30 | | .04 |
| Calcasieu Parish | 9.345 | .40 | .33 | | .05 |



DECISION NO. LA77-4170

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| SPRINKLER FITTERS | $10.35 | .65 | .95 | | .08 |
| TERRAZZO WORKERS: | | | | | |
| Bossier & Caddo Parishes | 8.20 | .30 | | | |
| Calcasieu Parish | 10.45 | .48 | .30 | | .02 |
| TILE SETTERS: | | | | | |
| Bossier & Caddo Parishes | 8.20 | .30 | | | |
| Calcasieu Parish | 7.65 | .48 | .30 | | .02 |
| TRUCK DRIVERS: | | | | | |
| Bossier & Caddo Parishes: | | | | | |
| GROUP 1 - Pick-up drivers, spotters & dumpers of dirt, gravel, asphalt & rock | 5.47 | | | | |
| GROUP 2 - Stack bodies; flat beds (all sizes) | 5.55 | | | | |
| GROUP 3 - Single axle dumps & water trucks; transit mix up to & including 3 yds. | 5.80 | | | | |
| GROUP 4 - Tandem axle, dump, batch & water trucks over 3 tons, pick-ups with trailer | 5.95 | | | | |
| GROUP 5 - Mississippi wagons, floats, tractor trailers; rubber tired tractors & wobble wheels | 6.10 | | | | |
| GROUP 6 - Euclids, lowboys, Dempsey dumpsters, Koehring dumps, five axle trucks, transit mix over 3 yds.; fuel truck | 6.30 | | | | |
| Calcasieu Parish: | | | | | |
| GROUP 1 - Teamsters, pick-up drivers | 4.91 | | | | |
| GROUP 2 - Stake bodies (all sizes) | 5.34 | | | | |
| GROUP 3 - Trucks trailer & dumps over 8 yds.; Mixers on trucks over 3 yds.; Mississippi wagons & Koehring dumpsters & similar dirt moving equipment (up to & including 8 yds) | 5.55 | | | | |

NOTICES

DECISION NO. LA77-4170

| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| TRUCK DRIVERS (CONT'D) | | | | | |
| Calcasieu Parish (Cont'd): | | | | | |
| GROUP 4 - Mixers on trucks up to & including 3 yds. | $ 5.35 | | | | |
| GROUP 5 - Winch trucks | 5.45 | | | | |
| GROUP 6 - Dump trucks | 5.37 | | | | |
| GROUP 7 - Mississippi wagons & Koehring dumpsters & similar dirt moving equipment over 8 yds. | 5.76 | | | | |

FOOTNOTES:
a - 1st 6 mos - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day



DECISION NO. LA77-4170

| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| POWER EQUIPMENT OPERATORS: | | | | | |
| Calcasieu Parish: | | | | | |
| GROUP 1 | $ 7.13 | .65 | .48 | | .05 |
| GROUP 2 | 6.82 | .65 | .48 | | .05 |
| GROUP 3 | 6.62 | .65 | .48 | | .05 |
| GROUP 4 | 7.40 | .65 | .48 | | .05 |
| GROUP 5 | 9.695 | .65 | .48 | | .05 |
| GROUP 6 | 7.80 | .65 | .48 | | .05 |
| GROUP 7 | 8.45 | .65 | .48 | | .05 |

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Scale Operator; Oiler-Driver on Motor Crane; Batch Plant Operator
GROUP 2 - Pumps under 3 inch suction; Mechanic Helper
GROUP 3 - Oiler
GROUP 4 - Fireman
GROUP 5 - Combination Oiler-Compressor; Combination Oiler-Fireman; Asphalt Spreaders; Backhoe (all types); Bulldozers; Gableways; Cherry Pickers (all types); Concrete Mixers (over 1 sack); Cranes; Deck Winch (2 drums or over); Derricks; Ditching or trenching machines (riding type); Draglines; Dredges; Fork Lifts (other than farm type) outside warehouses; Foundation Drill; Front End Loaders (except farm type); Grease Serviceman; Hoist-1 drum (4 stories or more on buildings); Hoist-1 drum (over 40 feet on structures other than building); Hoist (2 drum or over); Locomotives (all types); Mechanic; Mixer Plant Operator-Central Mix; Motor Patrols; Piledrivers; Pull Cat; Pump Crete-6" and over discharge; Push Cat; Road Pavers; Rollers (Plant Mix Asphalt); Scrapers; Shovels; Sidebooms; Unit Operator; Welder, Journeyman; Well Point System; Whirleys; Winch Cats (Cat D-4 and over); Winch Truck with A-Frame (5 ton and over); Work Boats-requiring licensed operator
GROUP 6 - Bush Hog; Compressor; Concrete pump-under 6" discharge; Concrete Saw; Deck Winch (1 drum); Distributors; Ditching or trenching machines (non-riding type); Dowel Bar Machine; Farm-type tractors (when used to pull discs, grass cutters, etc.); Hoist-1 drum (under 4 stories on buildings); Hoist-1 drum (40 feet or under on structures other than buildings); Kolum Buff Machines; Mixers (1 sack and under); Motorized street sweepers self-propelled; Pump (3" and over); Test Pump-Internal combustion engine powered; Water Blast Pumps
GROUP 7 - Asphalt Plant Operator; Boom Trucks; Bull Floats; Concrete Spreader; Farm Type Front End Loaders; Finishing Machines (Roadway, riding type); Roller (other than plant mix asphalt); Straddle Buggies; Winch Truck with A-Frame (under 5 tons); Work Boat-not requiring licensed operator





SUPERSEDEAS DECISION

STATE: NEW YORK — COUNTY: DUTCHESS
DECISION NO.: NY77-3110 — DATE: DATE OF PUBLICATION
Supersedes Decision No. NY77-3012 dated May 13, 1977 in 42 FR 24625
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and Highway construction

| BUILDING, HEAVY AND HIGHWAY CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| ASBESTOS WORKERS | $13.495 | .79 | 1.57 | | |
| BOILERMAKERS | 12.33 | 5% | 15% | 7% | .02 |
| BRICKLAYERS, CEMENT MASONS, MARBLE SETTERS, PLASTERERS, STONE MASONS AND TILE SETTERS | 9.30 | 1.85 | 2.00 | a | .05 |
| CARPENTERS, BUILDING: | | | | | |
| Wappingers Falls, New Hackensack Pawling and Beacon, carpenters, piledrivermen and soft floor layers | 10.88 | .98 | .76 | .85+b+c | .10 |
| Remainder of County: Carpenters and soft floor layers | 10.02 | 7½% | 7½% | .80 | .10 |
| CARPENTERS, HEAVY AND HIGHWAY: | | | | | |
| Wappingers Falls, New Hackensack, Pawling, and Beacon: Carpenters | 10.02 | .85 | .65 | .80+b+c | .10 |
| Remainder of County: Carpenters | 10.02 | 7½% | 7½% | .80 | .10 |
| CEMENT MASONS, BRICKLAYERS, STONE MASONS (HEAVY & HIGHWAY) | 9.80 | 1.85 | 2.00 | d | .05 |
| ELECTRICIANS: | | | | | |
| Twps. of Pawling, Beacon, Fishkill, E. Fishkill | 10.60 | .79 | 3%+.75 | .60 | ½% |
| Remainder of County | 10.00 | .75 | 1%+.85 | 5%+b+a | ½% |
| Entire County: except Beacon and Fishkill: Repair, renovation, alteration and new installations of Electricial systems in light commercial and industrial property, herein defined to include stores, gas stations, motels and hotels | 6.55 | .79 | 3% | .30 | ½% |



DECISION NO. NY77-3110

| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| ELEVATOR CONSTRUCTORS | 10.59 | .495 | .32 | f+g | .02 |
| ELEVATOR CONSTRUCTORS' HELPERS | 7.41 | .495 | .32 | f+g | .02 |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB) | 5.295 | | | | |
| GLAZIERS | 11.20 | .66 | 1.68 | .67 | .01 |
| IRONWORKERS, STRUCTURAL, ORNA. & REINFORCING | 9.75 | 1.48 | 2.02 | 1.50 | |
| LATHERS | 10.80 | | .15 | | .01 |
| LEAD BURNERS | 10.75 | .40 | .25 | | .01 |
| LINE CONSTRUCTIONS: | | | | | |
| Lineman | 11.10 | .50 | 1%+.50 | i | 3/8% |
| Cable splicer | 12.21 | .50 | 1%+.50 | i | 3/8% |
| Groundman digging machine operator | 9.99 | .50 | 1%+.50 | i | 3/8% |
| Groundman mobile equipment operator | 8.88 | .50 | 1%+.50 | i | 3/8% |
| Groundman truck driver | 8.325 | .50 | 1%+.50 | i | 3/8% |
| Groundman dynamite man & Mechanic | 8.88 | .50 | 1%+.50 | i | 3/8% |
| MARBLE SETTERS HELPERS | 10.45 | | | j | |
| PAINTERS: | | | | | |
| Brush | 9.00 | .52 | .20 | k | |
| Bridges, towers, fire escapes, smoke stacks, flag poles, swing state, window jacks, boat swain chair, safety belts, and spray structural steel | 10.08 | .52 | .20 | k | |
| PILEDRIVERMEN: | | | | | |
| Dock & wharf builders | 11.45 | 1.40 | 1.78 | .70 | .04 |
| PLUMBERS AND STEAMFITTERS | 10.00 | 1.50 | .60 | 1.30 | .05 |
| ROOFERS, ASPHALT SHINGLE | 7.65 | 1.00 | 1.65 | 1 | .35 |
| ROOFERS, SLATE & TILE, ASBESTOS, SLAB, ASPHALT BUILTUP | 10.15 | 1.00 | 1.65 | 1 | .35 |
| ROOFERS, PITCH, PITCH BUILTUP | 10.65 | 1.00 | 1.65 | 1 | .35 |
| SHEET METAL WORKERS | 10.24 | 10% | .17% | 10% | .02 |
| SPRINKLER FITTERS | 11.86 | .65 | .95 | | .08 |
| TERRAZZO WORKERS' HELPERS | 10.50 | | | | |
| TILE SETTERS' HELPERS | 10.15 | | | | |
| WELDERS - receive prescribed for craft performing operation to which welding is incidental | | | | | |

Page 3

DECISION NO. WY77-3110

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; Christmas Day.

FOOTNOTES:

a. PAID HOLIDAYS: A through F; (and 2 hours off on election day for the purpose of voting.

b. Employees receive 2 hours off on election day for purpose of voting.

c. PAID HOLIDAYS: A through F providing the employee works 7 days before and after the holiday.

d. PAID HOLIDAYS: A through F; Washington's Birthday; Good Friday; Columbus Day; Veteran's Day and November Election Day.

e. PAID HOLIDAYS: A through F provided the employee is on the payroll 2 weeks prior to the holiday.

f. PAID HOLIDAYS: A through E.

g. Employer contributes 2% of the basic hourly rate for 6 months to 5 years of service or 4% of the basic hourly rate for 5 years or more of service as vacation pay credit.

h. PAID HOLIDAYS: A through F; Washington's Birthday; Good Friday; and Christmas Eve providing the employee has worked 30 full days during the 90 calendar days prior to the holiday, and the regular scheduled work days immediately preceeding and following the holiday.

i. PAID HOLIDAYS: A through F, Washington's Birthday; Election Day for President; and Election of Governor of New York provided the employee works the day before and the day after the holiday.

j. PAID HOLIDAYS: A through F, Washington's Birthday; Lincoln's Birthday; Good Friday; and Columbus Day provided the employee is employed 3 days before the holiday or any of the 3 days following the holiday.

k. PAID HOLIDAYS: Independance Day providing the employee works within the period of June 20 to July 4th.

l. Employee receives 2 hours off with pay on Election Day for the purpose of voting provided the employee has received 4 hours pay that day.

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DECISION NO. WY77-3110

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Laborers: BUILDING | | | | | |
| General laborers | $7.68 | .86 | 1.50 | a +.40 | |
| Hod carriers (plasters' helpers), scaffold builders (padlock & self-supporting scaffold 14 ft. or under all runways), mortar mixers (machine & hand), concrete mixers (by machine under 21-E), vibrators, form setters, pipe layers, asphalt rakers, handling reinforcement rods, working labor foreman, drillers & jackhammer op., signalmen, gunniting, motor buggs, water pump 2" or under, Barco machines, wreckers, paving breakers, power saw operator, other machine operators | 7.93 | .86 | 1.50 | a +.40 | |
| Blasters, laser beam op. | 8.08 | .86 | 1.50 | a +.40 | |

FOOTNOTE:

a. Two hours off with pay on Election Day.

DECISION NO. WY77-3110

SEWER, ROAD, STREET AND HIGHWAY CONSTRUCTION

Page 5

| | Basic Hourly Rates | Fringe Benefits Payment | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. |
| Laborers: | | | | | |
| General laborers | $7.85 | .86 | 1.55 | a | |
| Concrete men, joint setter, signal man, mason tender, pipe layer, riprap and dry stone layers, asphalt workers, screed bar operator, steel tod carrier, jackhammerman, wagon driller, air-trac operator, nippers, powderman, high scalers, power buggy operator, vibratory operator, other compactor, wrecking laborers, gunite and sandblasting, coal passer | 8.10 | .86 | 1.55 | a | |
| Concrete finisher on Highways, blaster, form setter, laser beam operator | 8.45 | .86 | 1.55 | a | |

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

a. Holiday's: A through F and Lincoln's Birthday, Washington's Birthday, Good Friday, Columbus Day, Veteran's Day and November Election Day provided the employee works (7) calendar days before or after the holiday.

Page 6

DECISION NO. NY77-3110

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS, BUILDING: | | | | | |
| GROUP I | $13.48 | 6%+1.00 | 10%+b | a | 1% |
| GROUP II | 12.565 | 6%+1.00 | 10%+b | a | 1% |
| GROUP III | 12.4225 | 6%+1.00 | 10%+b | a | 1% |
| GROUP IV | 12.28 | 6%+1.00 | 10%+b | a | 1% |
| GROUP V | 11.1375 | 6%+1.00 | 10%+b | a | 1% |
| GROUP VI | | | | | |
| A | 14.795 | 6%+1.00 | 10%+b | a | 1% |
| B | 13.9925 | 6%+1.00 | 10%+b | a | 1% |
| C | 9.78 | 6%+1.00 | 10%+b | a | 1% |
| D | 12.9925 | 6%+1.00 | 10%+b | a | 1% |
| E | 11.7075 | 6%+1.00 | 10%+b | a | 1% |
| F | 12.565 | 6%+1.00 | 10%+b | a | 1% |
| G | 17.7075 | 6%+1.00 | 10%+b | a | 1% |
| H | 11.1375 | 6%+1.00 | 10%+b | a | 1% |
| I | 17.4225 | 6%+1.00 | 10%+b | a | 1% |
| J | 15.7075 | 6%+1.00 | 10%+b | a | 1% |
| K | 16.7075 | 6%+1.00 | 10%+b | a | 1% |
| L | 13.98 | 6%+1.00 | 10%+b | a | 1% |
| M | 14.48 | 6%+1.00 | 10%+b | a | 1% |
| GROUP VII | 13.7075 | 6%+1.00 | 10%+b | a | 1% |

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION

GROUP I

Backhoe Oliver 88, Fordson, dynahoe, dual purpose & similar machine, Barber Green loader-euclid loader or similar type, cherry picker (cableway), compressor (steel erection), conway or similar mucking machines, dragline, gradall, shovel, backhoe, etc., (crawler or truck), front end loaders, hydraulic boom, Jersey spreader, Letourneau or Tournapull (scrapers over 20 yds. struck), mucking machines, pavement breaker (air ram), paver (concrete), pulsemeter, push button (buzz box) elevator, road boring machine, road mix machines, Ross carrier & similar machines, post hole digger, shovel (tunnels), side boom, spreader (asphalt), scoopmobile-tractor-shovel over 1-½ yds., trenching machines, tractor type demolition equipment, winch truck "A" Frame

DECISION NO. NY77-3110

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION (CONT'D)

GROUP II
Compactor self-propelled, grader, bulldozer D7 & similar tractors with a draw bar horsepower of 100 & over maintenance engineer, mechanic (outside) all types, welder, scraper-20 yds. struck & under, machine pulling sheep's foot roller, etc., roller 4 ton and over, vib. roller

GROUP III
Asphalt plant, boiler (high pressure), bulldozer D6 & similar tractors with a draw bar horsepower less than 100, compressor, compressor plant, concrete mixing plants, concrete pump, conveyor belt machine-irrespective of motor size, fireman, forklift, forklift (electric), joy drill or similar tractor drilling machine, loader-1-½ yds., & under, lighting unit (portable generator), locomotive (all sizes), mixer concrete-21E & over, portable asphalt plant, portable batch plant, portable crusher, quarry master, stone crusher, welding machine (steel erection excavation), well drilling machine, well point system

GROUP IV
Air tractor drill, batch plant, bending machine, concrete breaker, concrete spreader, compressor to 125 cu. ft., curb cutter machine, dust collector, farm tractor (all types), finishing machine concrete, material hooper-sand-stone-cement, mixer-concrete-under 21E, Mulching grass spreader, heater-all types, pump, pump station (water & sewer), pump-gypsum, etc., concrete, pump-plasterer roller under 4 ton, spreading & fine grading machine, steam Jenny, steel Jenny, steel cuting machine, sweeper, syphon pump air steam, tar joint machine, Turbo jet burner or similar equipment vibrator (1 to 5) fine grading machine

GROUP V
Concrete saw, mechanic's Helper, oiler (fuel truck), oiler (grease truck), paint compressor, welder's Helper

GROUP VI
A. Master mechanic
B. Helicopter hoist op.
C. Oiler, asphalt paver, utility man
D. Welder - certified
E. SEcond engineer on cranes 30 ton and over
F. Cable splicer
G. Helicopter pilot
H. Helicopter signalman
I. Engineer, all tower cranes, all climbing cranes and all cranes of 100 ton and regardless of how the same is rigged (except for pile rigs)



DECISION NO. NY77-3110

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION (CONT'D)

GROUP VI (CONT'D)
J. Cranes (crawlers or truck) 100 ft. but less than 149 ft
K. Cranes (crawlers or truck) 149 ft. and over
L. Loaders op. (over 5 yd. capacity)
M. Shovel op. (over 4 yd. capacity)

GROUP VII
Concrete-portable hoist, crane & hoist engineer-steel (concrete, material, super structure, sub-structure), derrick (stone-steel), elevator & cage, engineer-pile driver, overheadcrane, power House plant, telephies, whirly, hoist (single, double or triple drum), hoist (portable mobile unit), hoist engineer-concrete (crane, derrick, mine hoist), hoist engineer material

FOOTNOTES:
a. Holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, November Election Day, Veteran's Day, Thanksgiving Day and X-Mas Day.

b. Employer contributes $2.00 per day to an Annuity Fund.







DECISION NO. NY77-3110

BUILDING CONSTRUCTION - POWER EQUIPMENT OPERATORS: Remainder of County

GROUP 1: Oilers

GROUP 2: Firemen and heavy duty greasers, all boilers and steam generators

GROUP 3: Pumps, vibrators, concrete mixers, spreaders, concrete finishing machines, mortar mixers, air compressors, dust collectors, welding machines well points, two or more Herman Nelson and like heaters, batch and plant op., seed and mulching machines, generators, temporary light plants, concrete pump, beltcrete power pac (beltcrete system), electric submersible pump 4" and over

GROUP 4: Dinkey locomotives, Barber Greene loaders, loaders and conveyors, tractors, scoopmobiles, bulldozers, road rollers, farm fine graders, power brooms and sweepers

GROUP 5: Black top spreaders, black top rollers, high lifts, fork lifts, one drum hoist or hod hoists, post hole diggers, traxcavators, core and well well drillers (one drum), economobile and similar type machines, elevators, A-L frame winches, power hoisting (single drum)

GROUP 6: LeTourneau graders or scrapers, trenching machines, push cart

GROUP 7: Tractor road pavers, cranes, power road graders, shovels, backhoes, draglines, pile drivers, hoists two or more drums, three drum engines, Hysters, two drum and swinging engines, three drum swinging engine, locomotive cranes, gradalls, hydrocrane, model CHB Vibrotamp or similar, Murphy type diesel generator-beltcrete system, side booms, hydro hamner, tractor mounted drill (quarry master), euclid loaders, concrete pumps, all CMI equipment, concrete central mix plant, automated asphalt, concrete central plant, derrick, whirlies, tower cranes, cableways, hydraulic cranes, power hoisting (2 drum and over), mucking machine

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| GROUP 1 | $9.99 | .85 | .60 | a | .10 |
| GROUP 2 | 10.06 | .85 | .60 | a | .10 |
| GROUP 3 | 10.17 | .85 | .60 | a | .10 |
| GROUP 4 | 10.36 | .85 | .60 | a | .10 |
| GROUP 5 | 10.69 | .85 | .60 | a | .10 |
| GROUP 6 | 10.84 | .85 | .60 | a | .10 |
| GROUP 7 | 11.02 | .85 | .60 | a | .10 |

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F.



DECISION NO. NY77-3110

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS, HEAVY & HIGHWAY | | | | | |
| GROUP I | $11.75 | 6%+1.00 | 9⅛+.25 | a | 1⅛ |
| GROUP II | 10.96 | 6%+1.00 | 9⅛+.25 | a | 1⅛ |
| GROUP III | 10.825 | 6%+1.00 | 9⅛+.25 | a | 1⅛ |
| GROUP IV | 10.70 | 6%+1.00 | 9⅛+.25 | a | 1⅛ |
| GROUP V | 9.70 | 6%+1.00 | 9⅛+.25 | a | 1⅛ |
| GROUP VI | 11.95 | 6%+1.00 | 9⅛+.25 | a | 1⅛ |
| GROUP VII | 11.325 | 6%+1.00 | 9⅛+.25 | a | 1⅛ |
| GROUP VIII | 9.70 | 6%+1.00 | 9⅛+.25 | a | 1⅛ |
| GROUP IX | 11.625 | 6%+1.00 | 9⅛+.25 | a | 1⅛ |
| GROUP X | 10.70 | 6%+1.00 | 9⅛+.25 | a | 1⅛ |
| GROUP XI | 10.575 | 6%+1.00 | 9⅛+.25 | a | 1⅛ |
| GROUP XII | | | | | |
| A | 10.7875 | 6%+1.00 | 9⅛+.25 | a | 1⅛ |
| B | 9.575 | 6%+1.00 | 9⅛+.25 | a | 1⅛ |
| C | 8.75 | 6%+1.00 | 9⅛+.25 | a | 1⅛ |
| D | 15.45 | 6%+1.00 | 9⅛+.25 | a | 1⅛ |
| E | 12.20 | 6%+1.00 | 9⅛+.25 | a | 1⅛ |
| F | 15.20 | 6%+1.00 | 9⅛+.25 | a | 1⅛ |
| G | 12.95 | 6%+1.00 | 9⅛+.25 | a | 1⅛ |

POWER EQUIPMENT OPERATORS - HEAVY AND HIGHWAY

GROUP I
Auger, auto grader, backhoe Oliver 88, Fordson, dynahoe, dual purpose and similar machines, barber green loader-euclid loader or similar type, central mix plant operator, cherry picker (cableway), compactor with blade, concrete portable hoist, C.M.I. or similar Conway or similar mucking machines, crane (crawler or truck) dragline, gradall, shovel backhoe, etc., derrick (stone-steel), elevator & cage, front end loaders, hoist single, double, triple drum, hoist portable mobile unit, hoist engineer-concrete (crane-derrick-mine hoist), hoist engineer-material, hydraulic boom, LeTourneau or Tournapull (scrapers over 20 yards struck), mucking machines, overhead crane, paver (concrete), power house plant, pulsometer, push button (buzz box) elevator, road mix machines, Ross carrier and similar machines, shovel (tunnels), side boom, spreader (Asphalt), scoopmobile-tractor-shovel over 1½ yards, trenching machines, telephies, tractor type demolition equipment, whirly, winch truck "A" Frame

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POWER EQUIPMENT OPERATORS - HEAVY AND HIGHWAY (CONT'D)

GROUP II
Compactor self-propelled, grader, bulldozer D7 and similar tractors with a draw bar horsepower of 100 and over, maintenance engineer, mechanic (outside) all types welder, scrapers 20 yards struck and under, shop foreman, vibratory roller, etc., roller 4 ton and over

GROUP III
Asphalt plant, boiler (high pressure), bulldozer D6 and similar tractors with a draw bar horsepower less than 100, compressor plant, concrete pump, conveyor belt machine-irrespective of motor size, firemen, forklift, forklift (electric), joy drill or similar tractor drilling machine, loader-1½ yds. and under, locomotive (all sizes), machine pulling sheeps foot roller, mixer concrete-21E and over, portable asphalt plant, portable batch plant, portable crusher, quarry master, stone crusher, well drilling machine, well point system

GROUP IV
Air tractor drill, batch plant, bending machine, concrete breaker, concrete spreader, curb cutter machine, farm tractor (all types), finishing machine-concrete, material hopper-sand-stone-cement, mulching grass spreader, roller under 4 ton, shop mechanic (not employed on job site), spreading & fine grading machine, steel cutting machine, sweeper, syphon pump-air-steam, tar joint machine, Turbo jet burner or similar equipment, fine grading machine

GROUP V
Concrete saw, mechanic's helper, miler, oiler (fuel truck), oiler (grease truck)

GROUP VI
Hoist engineer-steel, sub-struct., engineer-pile driver

GROUP VII
Welder-certified crawlers or truck: 100 ft. but less than 149 ft. $2.00 per hour additional crawlers or truck: 149 ft. and over $3.00 per hour additional loader operators: Over 5 cu. yd. capacity $.50 per hour additional shovel operators: Over 4 cu. yd. capacity $1.00 per hour additional



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POWER EQUIPMENT OPERATORS - HEAVY AND HIGHWAY (CONT'D)

GROUP VIII
Stockroom or stockroom attendant, paint compressor, pump under 4" or any combination not equal to 4" roller motorized (walk behind, welder's helper

GROUP IX
Compressor (steel erection)

GROUP X
Compressor, lighting unit (portable and generator), welding machine (steel erection excavation)

GROUP XI
Compressor to 125 cu. ft., dust collector, mixer-concrete under 21E, heater-all types, pump 4" and over, pump station (water and sewer), pump-gypsum, etc., pump-plasterer, steam jenny syphon pump-air-steam, tar-joint machine, vibrator (1 to 5)

GROUP XII
A. Jersey spreader, pavement breaker (air ram), post hole digger
B. Safety man 60 ton crane & over, helicopter signalman
C. Oiler asphalt paver, utility man
D. Helicopter pilot
E. Helicopter assistant operator
F. Engineer, tower crane, 3000 monitowoc or over or similar (rail, truck, or crawler mounted
G. Master mechanic

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Good Friday; Columbus Day; November Election Day and Veteran's Day.









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| POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | Apr. |
|---|---|---|---|---|---|
| REMAINDER OF COUNTY: | | | | | |
| GROUP I | $10.15 | .90 | .60 | a | .15 |
| GROUP II | 9.82 | .90 | .60 | a | .15 |
| GROUP III | 9.10 | .90 | .60 | a | .15 |
| GROUP IV | 8.27 | .90 | .60 | a | .15 |

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays A through F; providing the employee works the working da before and after the holiday

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

Group I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (6" or ov crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar) fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

Group II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under S"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lobs. and over), hoist (one drum) Kolman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stablized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.





POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

Group III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

Group IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet- (concrete or pavement grinder), power broom (towed), power heaterman, revinius widener shell winder, steam cleaner, tractor.

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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| TRUCK DRIVERS | | | | | |
| Drivers on LeTourneau tractors, double barrel Euclids, Athey wagon and similar equipment (except when hooked to scrapers), low beds, I-Beam, pole trailers, road oil distributors, tire trucks tractors and trailers with 5 axle and over | 10.00 | .95 | .95 | a+b | |
| Equipment 25 yards and over up to and including 30 yard bodies cable dump trailers, powder and dynamite trucks | 9.90 | .95 | .95 | a+b | |
| Equipment up to and including 24 yards bodies, mixer trucks, dump crete trucks and similar types of equipment, fuel trucks and all other tractor trailers | 9.70 | .95 | .95 | a+b | |
| Ten wheelers, grease trucks and tiller men | 9.60 | .95 | .95 | a+b | |
| Straight trucks | 9.50 | .95 | .95 | a+b | |
| Pick-up trucks used for hauling material parts escort man over the road | 9.50 | .95 | .95 | a+b | |
| Helpers | 9.40 | .95 | .95 | a+b | |

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day

FOOTNOTE:
a. Holidays: A through F; Washington's Birthday; Election Day; Veteran's Day, Lincoln's Birthday, Election Day, Good Friday.

b. 3 day bereavement pay (spouse, mother, father, mother in law, father in law grandmother, grandfather, sister, brother, children, grandchildren.



SUPERSEDEAS DECISION

STATE: North Carolina COUNTY: See below*
DECSION NUMBER: NC77-1081 DATE: Date of Publication
Supersedeas Decision No.: NC75-1014 dated February 7, 1975 in 40 FR-6111
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

*Counties: Avery, Buncombe, Haywood, Henderson, McDowell, Madison, Mitchell, Transylvania, & Yancey Counties

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Air conditioning mechanic | 5.70 | | | | |
| Bricklayers | 5.75 | | | | |
| Carpenters | 4.50 | | | | |
| Cement masons | 4.60 | | | | |
| Drywall finisher | 5.75 | | | | |
| Drywall hanger | 5.72 | | | | |
| Electricians | 5.10 | | | | |
| Laborers: | | | | | |
| Laborer | 3.10 | | | | |
| Asphalt raker | 3.55 | | | | |
| Mortar mixers | 4.25 | | | | |
| Pipelayers | 4.30 | | | | |
| Painters, brush | 3.81 | | | | |
| Plumbers & fitters | 4.96 | | | | |
| Roofers | 3.95 | | | | |
| Sheet metal workers | 4.87 | | | | |
| Soft floor layers | 5.50 | | | | |
| Tile setters | 6.00 | | | | |
| Truck drivers | 3.10 | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Backhoe | 4.00 | | | | |
| Bulldozer | 4.00 | | | | |
| Front end loader | 4.00 | | | | |
| Rollers | 3.50 | | | | |
| Paving machine | 3.88 | | | | |

SUPERSEDEAS DECISION

STATE: NORTH CAROLINA COUNTY: WAKE
DECISION NO.: NC77-1094 DATE: DATE OF PUBLICATION
Supersedes Decision No. NC76-1044, dated April 2, 1976, in 41 FR 14294.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4-stories).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Air Conditioning Mechanics | $ 5.25 | | | | |
| Bricklayers | 6.00 | | | | |
| Carpenters | 4.99 | | | | |
| Cement Masons | 4.00 | | | | |
| Drywall Mechanics | 5.20 | | | | |
| Electricians | 4.96 | | | | |
| Elevator Constructors: | | | | | |
| Mechanics | 7.44 | .545 | .35 | 4% +a+b | .02 |
| Helpers | 5.21 | .545 | .35 | 4% +a+b | .02 |
| Probationary Helpers | 3.72 | | | | |
| Glaziers | 6.00 | | | | |
| Ironworkers: | | | | | |
| Structural & Ornamental | 5.00 | | | | |
| Reinforcing | 5.50 | | | | |
| Laborers: | | | | | |
| General | 3.00 | | | | |
| Air tool operators (jackhammers, vibrators) | 3.75 | | | | |
| Mason tenders | 3.25 | | | | |
| Mortar mixers | 3.50 | | | | |
| Pipelayers | 3.25 | | | | |
| Lathers | 7.40 | | | | |
| Marble Setters | 6.50 | | | | |
| Painters | 4.00 | | | | |
| Plasterers | 6.25 | | | | |
| Pipefitters | 5.20 | .13 | | .10 | |
| Plumbers | 4.91 | | | | |
| Roofers: | | | | | |
| Roofers | 4.04 | | | | |
| Waterproofers | 4.65 | | | | |
| Sheet Metal Workers | 4.90 | | | | |
| Soft Floor Layers | 5.08 | | | | |
| Terrazzo Workers | 6.50 | | | | |
| Tile Setters | 7.00 | | | | |
| Truck Drivers | 3.00 | | | | |
| Welders - rate for craft | | | | | |



DECISION NO. NC77-1094

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Power Equipment Operators: | | | | | |
| Backhoe | $ 3.94 | | | | |
| Bulldozer | 4.50 | | | | |
| Crane | 5.55 | | | | |
| Finishing machine | 4.50 | | | | |
| Front end loader | 3.75 | | | | |
| Motor grader | 4.75 | | | | |
| Roller | 4.00 | | | | |
| Scraper | 4.00 | | | | |
| Tractor | 4.00 | | | | |

FOOTNOTES:

a. Six Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day.

b. Employer contributes 4% of the basic hourly rate for employees with 5 years or more of service or 2% of the basic hourly rate for employees with 6 months to 5 years of service as Vacation Pay Credit.





SUPERSEDEAS DECISION

STATE: North Carolina COUNTIES: *See below
DECISION NUMBER: NC77-1096 DATE: Date of Publication
Supersedes Decision No.: NC77-1013 dated February 4, 1977 in 42 FR 7065.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

*Counties: Brunswick, New Hanover, & Pender

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Air conditioning mechanic | 5.00 | | | | |
| Bricklayers | 5.00 | | | | |
| Carpenters | 5.00 | | | | |
| Cement masons | 4.00 | | | | |
| Drywall hangers | 5.39 | | | | |
| Drywall finishers | 5.42 | | | | |
| Electricians | 4.60 | | | | |
| Insulation installer | 3.79 | | | | |
| Laborers: | | | | | |
| Laborer | 3.00 | | | | |
| Mason tenders | 3.27 | | | | |
| Mortar mixers | 3.00 | | | | |
| Painters, brush | 4.00 | | | | |
| Plumbers & pipefitters | 5.54 | | | | |
| Roofers | 5.20 | | | | |
| Soft floor layers | 4.50 | | | | |
| Tile setters | 5.16 | | | | |
| Truck drivers | 3.75 | | | | |
| Welders - rate for craft. | | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Backhoe | 5.00 | | | | |
| Bulldozers | 4.50 | | | | |
| Loader, front end | 4.28 | | | | |
| Tractor | 3.50 | | | | |

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTIES: Tulsa, Creek, Craig, Ottawa, Delaware, Mayes, and Rogers

DECISION NO. OK77-4168 DATE: Date of Publication

Supersedes Decision No. OK77-4087 dated April 29, 1977 in 42 FR 22107

DESCRIPTION OF WORK: Building Construction (but does not include single family homes and garden type apartments up to and including 4 stories).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS | $10.80 | .35 | .60 | | .015 |
| BOILERMAKERS | 10.00 | .50 | 1.08 | | .02 |
| BRICKLAYERS-STONEMASONS: | | | | | |
| Tulsa, Delaware, Ottawa, Craig and Rogers Counties | 10.09 | .45 | .40 | .33 | .06 |
| Mayes County | 9.36 | .45 | .40 | .04 | |
| CARPENTERS: | | | | | |
| Area I | 9.18 | .45 | .75 | | .07 |
| Area II | 8.12 | .33 | .30 | | |
| MILLWRIGHTS-PILEDRIVERMEN: | | | | | |
| Area I | 9.48 | .45 | .75 | | .07 |
| AREA II | 8.37 | .33 | .30 | | |

CARPENTERS-MILLWRIGHTS-PILEDRIVERMEN AREA DEFINITIONS

AREA I - Tulsa, Creek, Craig, Rogers and Mayes Counties.
AREA II - Delaware and Ottawa Counties.

| | | | | | |
|---|---|---|---|---|---|
| CEMENT MASONS: | | | | | |
| Cement masons | 9.28 | | .40 | | .06 |
| Power tool operator | 9.53 | | .40 | | .06 |
| ELECTRICIANS: | | | | | |
| Electricians | 10.65 | .46 | 3%+.40 | .30 | .07 |
| Cable splicers | 10.85 | .46 | 3%+.40 | .30 | .07 |
| ELEVATOR CONSTRUCTORS | 9.66 | .545 | .35 | 4%+a+b | .02 |
| ELEVATOR CONSTRUCTORS' HELPER | 70%JR | .545 | .35 | 4%+a+b | .02 |
| ELEVATOR CONSTRUCTORS' HELPER (Probationary 6 months) | 50%JR | | | | |
| GLAZIERS: | | | | | |
| Area I | 9.16 | .50 | .30 | | .01 |
| Area II | 8.05 | | | .25 | |

GLAZIERS AREA DEFINITIONS

AREA I - Tulsa, Creek, Mayes, and Roger Counties.
AREA II - Craig, Delaware and Ottawa Counties

| | | | | | |
|---|---|---|---|---|---|
| IRONWORKERS | 10.10 | .45 | .65 | | .12 |
| LABORERS: | | | | | |
| Group I | 7.20 | .25 | .40 | | |
| Group II | 7.50 | .25 | .40 | | |
| Group III | 7.60 | .25 | .40 | | |
| Group IV | 8.05 | .25 | .40 | | |



LABORERS CLASSIFICATION DEFINITIONS

Group I - All digging and dirt work, firing of salamanders and smudge pots; loading and unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing of concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures; cleaning when the man is directly tenders; and common laborers.

Group II - All machine tool operaturs that come under the jurisdiction of the laborers; all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to 4 inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 feet from the ground or floors; cement finisher helper; work on swinging scaffold; all kettle and pot men, tank cleaning, all pipe doping treating and wrapping, including all men working with dope; mortar and plaster mixing machine, pump-crete machines, and gunite mixing machines, including placing of concrete; handling creosoted or treated materials, liquid acids, or like materials, when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers; all scale men on batch plants; all laborers screening sand, running sand drier, and feeding operating sand blaster, except nozzle; signal men and cutting torch operators in connection with laborers work; concrete grader.

GROUP III - Wagon drill operator
GROUP IV - Powdermen or blaster

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LATHERS | $ 8.65 | | .30 | | .01 |
| LINE CONSTRUCTION: | | | | | |
| Linemen | 9.85 | | 3% | | 1/2% |
| Cable splicers | 10.44 | | 3% | | 1/2% |
| Hole digger operator | 8.94 | | 3% | | 1/2% |
| Heavy equipment operator (pole or cat equivalent) | 8.94 | | 3% | | 1/2% |
| Jack Hammerman | 7.37 | | 3% | | 1/2% |
| Line truck driver (winch op.) | 8.09 | | 3% | | 1/2% |
| Powderman | 8.94 | | 3% | | 1/2% |
| Groundman | 6.57 | | 3% | | 1/2% |
| Truck driver (flat bed ton and half and under) | 7.02 | | 3% | | 1/2% |





| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PAINTERS (Craig, Ottawa and Delaware Counties): | | | | | |
| Brush, roller, tapers, paperhangers | $ 7.92 | | .30 | | |
| Spray, steamclean, sandblast, and pot tenders | 8.295 | | .30 | | |
| PAINTERS (Tulsa, Creek, Rogers and Mayes Counties): | | | | | |
| Brush | 8.55 | | .25 | .85 | .02 |
| Highwork and stage | 8.95 | | .25 | .85 | .02 |
| Spray and sandblasting | 8.95 | | .25 | .85 | .02 |
| Hot or bituminous | 9.85 | | .25 | .85 | .02 |
| Sheetrock handtools | 8.55 | | .25 | .85 | .02 |
| Sheetrock power tools | 8.90 | | .25 | .85 | .02 |
| Hazardous work | 10.75 | | .25 | .85 | .02 |
| PIPEFITTERS | 11.02 | .50 | .65 | | .08 |
| PLASTERERS | 9.15 | | | | .01 |
| PLUMBERS | 11.27 | .35 | .55 | | .08 |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Group I | 10.75 | .45 | .50 | | .12 |
| Group II | 10.50 | .45 | .50 | | .12 |
| Group III | 10.25 | .45 | .50 | | .12 |
| Group IV | 10.00 | .45 | .50 | | .12 |
| Group V | 9.75 | .45 | .50 | | .12 |
| Group VI | 9.50 | .45 | .50 | | .12 |
| Group VII | 9.25 | .45 | .50 | | .12 |
| Group VIII | 8.85 | .45 | .50 | | .12 |
| Group IX | 8.50 | .45 | .50 | | .12 |
| Group X | 8.50 | .45 | .50 | | .12 |
| Group XI | 8.25 | .45 | .50 | | .12 |

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
All crane type equipment with 250' of boom or over (including jib)
GROUP II
All crane type equipment with 200' of boom or over (including jib)
GROUP III
All crane type equipment with 150 - 200' of boom (including jib)
GROUP IV
All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rated by mfg), sideboom (booms (30' & over), guy derrick



POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP V
Heavy duty mechanic, welder, crane-hood & overhead monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd & over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)
GROUP VI
Motor patrol (blade), fork lift (35' & over), dozer (engine h.p. 65 or over) fordson tractor or like equipment with hoe or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or Hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, powder driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications
GROUP VII
Locomotive engineer, boring machine, tug boat, mixer, 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, Battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec., winch truck with A-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of Operating Engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor with or without attachiments, batch plant operator (portable), conveyor-operator duel, continuous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications
GROUP VIII
Greaser, tilt top trailer operator
GROUP IX
Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft., and under (1 or 2), welding machine (1 or 2) pump (1 or 2), fuelman, conveyor operator-single-continuous belt bulk handling
GROUP X
Asphalt lay machine back end man, mechanic helper and welder helper
GROUP XI
Truck crane oiler driver or track crane oiler

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ROOFERS | $ 8.40 | .45 | .25 | | .04 |
| SHEET METAL WORKERS | 9.53 | .50 | .66 | | .10 |
| SOFT FLOOR LAYERS | 7.71 | | .35 | 7+4b | .03 |
| SPRINKLER FITTERS | 11.15 | .65 | .95 | | .08 |
| TERRAZZO WORKERS | 9.90 | | .30 | | |
| TERRAZZO WORKERS' & Tile layers helper | 8.19 | | | | |
| TERRAZZO WORKERS' Helpers floor machine operator | 8.30 | | | | |
| TERRAZZO WORKERS' Helpers base machine operator | 8.51 | | | | |
| TILE LAYERS | 9.90 | | .30 | | |
| TRUCK DRIVERS: (DELAWARE COUNTY) | | | | | |
| Group I | 7.55 | | | | |
| Group II | 7.65 | | | | |
| Group III | 7.75 | | | | |
| Group IV | 7.70 | | | | |
| Group V | 7.85 | | | | |

DELAWARE COUNTY - TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUP I - Pick-up 1½ tons, or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses.
GROUP II - 3 tons or 4 yards and up to but not including 4 tons or 6 yards
GROUP III - 5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, tourner pulls, or other heavy material moving equipment, tractor trailer drivers and similar equipment, such as tractors, ten wheelers
GROUP IV - Ready mix concrete trucks up to but not including 3 yards
GROUP V - Ready mix concrete trucks 3 yards and over

| | | | | | |
|---|---|---|---|---|---|
| TRUCK DRIVERS(TULSA, CREEK, CRAIG, OTTAWA, MAYES & ROGERS COUNTIES) | | | | | |
| Group I | 7.68 | | | | |
| Group II | 7.73 | | | | |
| Group III | 7.83 | | | | |
| Group IV | 7.83 | | | | |
| Group V | 7.83 | | | | |



TULSA, CREEK, CRAIG, OTTAWA, MAYES AND ROGERS COUNTIES - TRUCK DRIVERS CLASSIFICATION DEFINITIONS

Group I - Truck drivers, including pick-up, 1½ tons or 2½ yards up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake body or bus driver.
Group II - 3 tons or 4 yards up to but not including 4 tons or 6 yards.
Group III - 5 tons or 6 yards and over including heavy equipment.
Group IV - Ready mix concrete truck
Group V - Tractor-trailer and similar equipment

FOOTNOTES:
a - 1st 6 mos. none; 6 mos. to 5 yrs. - 2%; over 5 years - 4% of basic hourly rate.
b - Paid Holidays - A through F

PAID HOLIDAYS:
A-New Year's Day; Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.





SUPERSEDEAS DECISION

STATE: Oklahoma COUNTIES: Oklahoma, Cleveland, Caddo, Canadian, Grady, Kingfisher, Logan, Lincoln, McClain, Seminole and Pottawatomie

DECISION NO.: OK77-4171 DATE: Date of Publication
SUPERSEDES DECISION NO. OK77-4109 dated June 3, 1977 in 42 FR 28807
DESCRIPTION OF WORK: Building Construction (but does not include single family homes and garden type apartments up to and including 4 stories)

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS | $11.05 | .45 | 1.00 | | .02 |
| BOILERMAKERS | 10.00 | .50 | 1.00 | | .02 |
| BRICKLAYERS-STONEMASONS: | | | | | |
| Oklahoma, Cleveland, Canadian and McClain Counties | 10.02 | .50 | .50 | | .05 |
| Lincoln, Pottawatomie and Seminole Counties | 9.50 | .50 | .30 | | .05 |
| Kingfisher County | 8.45 | | | | |
| Logan County | 8.90 | .45 | .50 | | .05 |
| Caddo and Grady Counties | 9.10 | .50 | .30 | | .05 |
| CARPENTERS - ZONE I | | | | | |
| Carpenters | 7.95 | .35 | .25 | | .05 |
| Power saw operator | 8.20 | .35 | .25 | | .05 |
| Millwrights-Piledrivermen | 9.50 | .45 | .45 | | .09 |
| CARPENTERS - ZONE II | | | | | |
| Carpenters | 9.25 | .45 | .45 | | .09 |
| Millwrights-Piledrivermen | 9.50 | .45 | .45 | | .09 |
| Power saw operator | 9.50 | .45 | .45 | | .09 |
| CARPENTERS - ZONE III | | | | | |
| Carpenters | 9.11 | .45 | .25 | | .09 |
| Power saw operator | 9.36 | .45 | .25 | | .09 |
| Millwrights-Piledrivermen | 9.36 | .45 | .25 | | .09 |
| CARPENTERS - ZONE IV | | | | | |
| Carpenters | 7.85 | .30 | .25 | | .02 |
| Millwrights-Piledrivermen | 8.675 | .30 | .25 | | .02 |
| CARPENTERS - ZONE V | | | | | |
| Carpenters | 7.25 | | | | |
| Millwrights-Piledrivermen | 9.50 | .45 | .45 | | .09 |

CARPENTERS AREA DEFINITION

ZONE I - Northern 1/2 of Lincoln County bound on the South by Interstate 35 on the East of Highway 99
ZONE II - Pottawatomie County and part of Lincoln County south of Turner Turnpike; the City limits of Moore in Cleveland County; all of Oklahoma, Canadian, Kingfisher and Logan Counties.
ZONE III - McClain County and Cleveland County (except that area covered by the City limits of Moore)
ZONE IV - Seminole County
ZONE V - Caddo and Grady Counties



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CEMENT MASONS: | | | | | |
| Lincoln, Oklahoma, McClain, Caddo, Grady, Cleveland, Canadian, Logan & Kingfisher Cos. | $ 9.23 | .40 | | | |
| ELECTRICIANS: | | | | | |
| Zone I | 10.05 | .50 | 3%+.50 | | 1/2% |
| Zone II | 10.30 | .50 | 3%+.50 | | 1/2% |
| Zone III | 10.55 | .50 | 3%+.50 | | 1/2% |
| CABLE SPLICERS: | | | | | |
| Zone I | 10.30 | .50 | 3%+.50 | | 1/2% |
| Zone II | 10.55 | .50 | 3%+.50 | | 1/2% |
| Zone III | 10.80 | .50 | 3%+.50 | | 1/2% |

ELECTRICIANS-CABLE SPLICERS ZONE DEFINITION

ZONE I - the area within the twelve mile radius of the main Post Office located in one of the cities listed as follows: El Reno, Moore, Norman, and Oklahoma City.
ZONE II - the area between the twelve mile zone 1 radius to thirty mile radius of the zone 1 post office, except where zone 2 intercepts another zone 1 area.
ZONE III - the area outside zones 1 and 2 and within the local union area.

| | | | | | |
|---|---|---|---|---|---|
| ELEVATOR CONSTRUCTORS | 8.855 | .545 | .35 | 2½%+a+b | .02 |
| ELEVATOR CONSTRUCTORS HELPER | 70%JR | .545 | .35 | 2½%+a+b | .02 |
| ELEVATOR CONSTRUCTORS HELPER(PROB.) | 50%JR | | | | |
| GLAZIERS | 8.60 | | | | |
| IRONWORKERS | 10.10 | .45 | .65 | | .12 |
| LABORERS: | | | | | |
| ZONE I | | | | | |
| Group I | 7.20 | .25 | .40 | | |
| Group II | 7.45 | .25 | .40 | | |
| ZONE II | | | | | |
| Group I | 5.95 | .25 | .40 | | |
| Group II | 6.20 | .25 | .40 | | |
| ZONE III | | | | | |
| Group I | 6.10 | .25 | .40 | | |
| Group II | 6.40 | .25 | .40 | | |
| ZONE IV | | | | | |
| Group I | 5.80 | .25 | .40 | | |
| Group II | 6.05 | .25 | .40 | | |







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LABORERS CLASSIFICATION DEFINITION

GROUP I - Unskilled laborers
GROUP II - Air tool operator (jackhammer-vibrator), mason tenders, mortar mixers, pipelayers (concrete and clay), plasterers tenders

AREA COVERED BY LABORERS ZONES

ZONE I - Oklahoma, Canadian, Logan, Pottawatomie, Lincoln and Cleveland Counties.
ZONE II - McClain, Caddo and Grady Counties
ZONE III - Seminole County
ZONE IV - Kingfisher County

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LATHERS | $ 9.00 | | | | .01 |
| LINE CONSTRUCTION: | | | | | |
| Linemen | 9.85 | | 3% | | 1/2% |
| Cable splicers | 10.44 | | 3% | | 1/2% |
| Hole digger operator | 8.94 | | 3% | | 1/2% |
| Heavy equipment operators (or pole cat equivalent) | 8.94 | | 3% | | 1/2% |
| Line truck driver (winch op.) | 8.09 | | 3% | | 1/2% |
| Jack hammerman | 7.37 | | 3% | | 1/2% |
| Powderman | 8.94 | | 3% | | 1/2% |
| Groundman (1st year) | 5.12 | | 3% | | 1/2% |
| Groundman | 6.57 | | 3% | | 1/2% |
| Truck driver (flat bed, ton and half and under) | 7.02 | | 3% | | 1/2% |
| MARBLE MASONS | 9.40 | | .30 | | |
| PAINTERS: | | | | | |
| Brush | 8.45 | .50 | .35 | .35 | .03 |
| Spray under 30 feet | 8.95 | .50 | .35 | .35 | .03 |
| Spray over 30 feet | 9.45 | .50 | .35 | .35 | .03 |
| Sandblasting under 30 feet | 8.95 | .50 | .35 | .35 | .03 |
| Sandblasting over 30 feet | 9.45 | .50 | .35 | .35 | .03 |
| Hazardous work | 8.95 | .50 | .35 | .35 | .03 |
| Paperhanging | 9.45 | .50 | .35 | .35 | .03 |
| Tapers using machine tools | 8.95 | .50 | .35 | .35 | .03 |
| PLASTERERS | 9.30 | | | | .01 |
| PLUMBERS-PIPEFITTERS | 10.97 | .60 | .85 | | .10 |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Group I | 10.75 | .45 | .50 | | .12 |
| Group II | 10.50 | .45 | .50 | | .12 |
| Group III | 10.25 | .45 | .50 | | .12 |
| Group IV | 10.00 | .45 | .50 | | .12 |
| Group V | 9.75 | .45 | .50 | | .12 |
| Group VI | 9.50 | .45 | .50 | | .12 |
| Group VII | 9.25 | .45 | .50 | | .12 |
| Group VIII | 8.85 | .45 | .50 | | .12 |
| Group IX | 8.50 | .45 | .50 | | .12 |
| Group X | 8.50 | .45 | .50 | | .12 |
| Group XI | 8.25 | .45 | .50 | .12 | |



POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
All crane type equipment with 250' of boom or over (including jib)
GROUP II
All crane type equipment with 200' of boom or over (including jib)
GROUP III
All crane type equipment with 150 - 200' of boom (including jib)
GROUP IV
All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rated by mfg), sideboom (booms (30' & over), guy derrick
GROUP V
Heavy duty mechanic, welder, crane-hood & overhead monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd & over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)
GROUP VI
Motor patrol (blade), fork lift (35' & over), dozer (engine h.p. 65 or over) fordson tractor or like equipment with hoe or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or Hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, powder driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications
GROUP VII
Locomotive engineer, boring machine, tug boat, mixer, 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, Battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec., winch truck with A-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of Operating Engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor with or without attachments, batch plant operator (portable), conveyor-operator duel, continuous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications
GROUP VIII
Greaser, tilt top trailer operator
GROUP IX
Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft., and under (1 or 2), welding machine (1 or 2) pump (1 or 2), fuelman, conveyor operator-single-continuous belt bulk handling
GROUP X
Asphalt lay machine back end man, mechanic helper and welder helper
GROUP XI
Truck crane oiler driver or track crane oiler







| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ROOFERS | $ 8.80 | .45 | .25 | | .04 |
| SHEET METAL WORKERS | 10.38 | .45 | .40 | | .05 |
| SOFT FLOOR LAYERS: | | | | | |
| Resilient floor layers and carpet layers | 9.10 | .50 | | .25 | .03 |
| SPRINKLER FITTERS | 11.15 | .65 | .95 | | .08 |
| TERRAZZO WORKERS | 9.40 | | .30 | | |
| TERRAZZO WORKERS FINISHER | 6.98 | | | | |
| TERRAZZO BASE MACHINE MAN | 7.28 | | | | |
| TERRAZZO FLOOR MACHINE MAN | 7.08 | | | | |
| TILE SETTERS | 9.40 | | .30 | | |
| TILE & MARBLE FINISHERS: | | | | | |
| Experienced finishers | 6.65 | | | | |
| TRUCK DRIVERS: | | | | | |
| Group I | 6.92 | | | | |
| Group II | 6.92 | | | | |
| Group III | 6.92 | | | | |

TRUCK DRIVERS CLASSIFICATION DEFINITION

GROUP I - Truck drivers for heavy equipment such as lowboys, heavy winch and floats
GROUP II - Heavy earth moving equipment such as dump trucks and Euclids.
GROUP III - Truck drivers and swampers, such as dump trucks, flat beds, stake bodies, and 3/4, and 1/2 ton pick-up trucks.

WELDERS - received rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:
A. 1st 6 mos. - none; 6 mos. to 5 yrs. 2%; over 5 yrs. - 4% of basic hourly rate.
B. Paid Holidays A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

[FR Doc.77-21605 Filed 7-28-77;8:45 am]

*Just Released*

# CODE OF FEDERAL REGULATIONS

(Revised as of April 1, 1977)

| Quantity | Volume | Price | Amount |
|---|---|---|---|
| _____ | Title 20—Employees' Benefits (Parts 1–399) | $3.25 | $_____ |
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| _____ | Title 26—Internal Revenue (Parts 300–499) | 4.00 | _____ |
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*[A Cumulative checklist of CFR issuances for 1977 appears in the first issue of the Federal Register each month under Title 1]*

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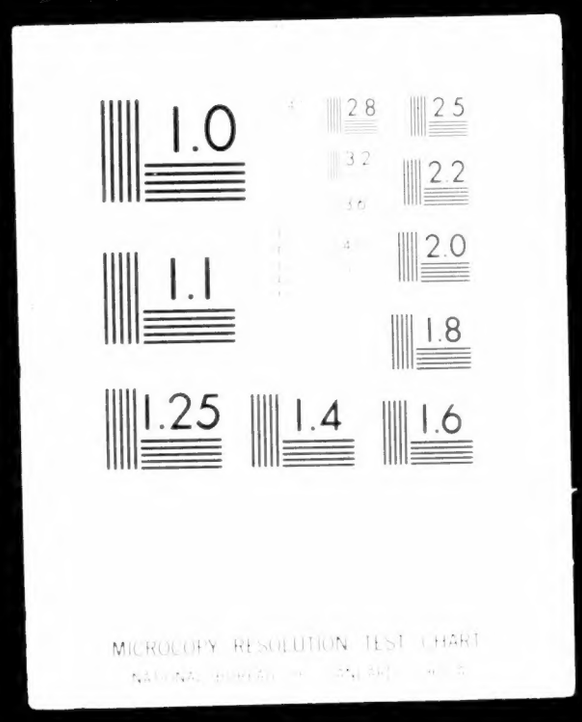
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RESOLUTION CHART




100 MILLIMETERS

**INSTRUCTIONS** Resolution is expressed in terms of the lines per millimeter recorded by a particular film under specified conditions. Numerals in chart indicate the number of lines per millimeter in adjacent "T-shaped" groupings.

In microfilming, it is necessary to determine the reduction ratio and multiply the number of lines in the chart by this value to find the number of lines recorded by the film. As an aid in determining the reduction ratio, the line above is 100 millimeters in length. Measuring this line in the film image and dividing the length into 100 gives the reduction ratio. Example: the line is 20 mm. long in the film image, and 100 20 = 5.

Examine "T-shaped" line groupings in the film with microscope, and note the number adjacent to finest lines recorded sharply and distinctly. Multiply this number by the reduction factor to obtain resolving power in lines per millimeter. Example: 7.9 group of lines is clearly recorded while lines in the 10.0 group are not distinctly separated. Reduction ratio is 5, and 7.9 x 5 = 39.5 lines per millimeter recorded satisfactorily. 10.0 x 5 = 50 lines per millimeter which are not recorded satisfactorily. Under the particular conditions, maximum resolution is between 39.5 and 50 lines per millimeter.

Resolution, as measured on the film, is a test of the entire photographic system, including lens, exposure, processing, and other factors. These rarely utilize maximum resolution of the film. Vibrations during exposure, lack of critical focus, and exposures yielding very dense negatives are to be avoided.